INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

1st AFFIDAVIT OF IAN MCGRAIL

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1st Affidavit:
Ian McGrail
Date: 20th June 2022
Exhibit: 1

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 1
TO THE FIRST AFFIDAVIT OF IAN MCGRAIL

Before me

Callum Smith
Commissioner of Oaths



A Commissioner for Oaths

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

GIBRALTAR POLICE AUTHORITY
(The Community in Policing)

22nd May 2020

Commissioner Ian McGrail OTM MSc
Royal Gibraltar Police
New Mole House

Dear Commissioner McGrail,

Our meeting earlier this morning refers.

In view of the grave concerns expressed by both the Governor and the Chief Minister, in respect of certain aspects of policing that have led to a serious and regrettable loss of confidence in you as Commissioner, the Authority feels that it is left with no option but to exercise the powers afforded to the Authority under Section 34 (1) of the Police Act.

Given the above, the Authority invites you to retire, in the interests of policing in Gibraltar.

Please note that Section 34 (2) states that you shall have an opportunity to make representations before the Authority and that these shall, of course, be fully taken into consideration to allow the Governor, the Chief Minister and the Authority to express a firm and final view.

Should you wish to avail yourself of this provision please make your submission within seven working days from the date of this letter. If you require more time, please indicate this in writing.

Yours,

JJ Britto
Chair
Gibraltar Police Authority

Unit 25B Casemates Square, Gibraltar
Tel: (+350) 20040918, E-mail: secretary@gpa.gi

GIBRALTAR POLICE AUTHORITY
(The Community in Policing)

22nd May 2020

Commissioner Ian McGrail OTM MSc
Royal Gibraltar Police
New Mole House

Dear Commissioner McGrail,

Invitation to Retire : Section 34 of the Police Act ('the Act')

Our meeting earlier this morning refers.

Today I expressed to you that the Gibraltar Police Authority was calling upon you to retire under the provisions of Section 34 of the Act.

I told you that the reason that the Authority was taking this step arose from the communication by the Governor and the Chief Minister to the Authority that BOTH had lost confidence in your ability to run policing in Gibraltar. The reasons which the Governor and the Chief Minister have provided the Authority for their loss of confidence are summarised in the paragraphs numbers 1 to 5 below and address the relevant factors set out in Section 34(1) of the Act.

Additionally, the Authority itself has agreed with the matters raised by the Governor and the Chief Minister and have taken the view that your position is untenable as Commissioner given that you have lost the confidence of BOTH the Governor and the Chief Minister.

Please find below the main issues contributing to the loss of confidence, as expressed to the Authority by the Governor and the Chief Minister.

1. **Efficiency:**

The Governor and the Chief Minister are very concerned about the findings of the HMICFRS Report ('the Report'). It is clear damning in respect of the efficiency of the RGP. A large number of the findings of the Report address 'inefficiency' directly and indirectly. Indeed, the "Overview" of the Report specifically provides a criticism (para 2, page 7) that the Force is not 'as effective or efficient as it could be'.

Unit 25B Casemates Square, Gibraltar
Tel: (+350) 20040918, E-mail: secretary@gpa.gi

In this respect, the position is clear as to responsibility. Under Section 33 of the Act, it is the Commissioner who is responsible for the efficient administration of the Force. That means that responsibility in respect of this failing rests legally, directly with you.

It was also pointed out to the Authority that in your application for the role of Commissioner you would, if successful, immediately set up a working group to ensure that the recommendations of the 2015/6 HMIC Report had been met by the 1st March 2019. This action point was considered by you to be necessary for the RGP to be a 'continuously progressing and professional police force.' Not only have the recommendations and action points set out in the 2015/6 reports not been complied with but now, in addition, new and more serious recommendations have had to be made by the HMICFRS in 2020.

Additionally, and equally importantly, the incident at sea in March, resulting in the death of two individuals, was pointed out as further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction. The Authority notes that the Chief Minister has written to you directly, under Section 15 of the Act (copied to me as Chairman of the Authority), seeking further information on this matter given that neither he or the Governor seem to have a full picture of what actually transpired. The incident has resulted not just in a diplomatic complaint filed against the United Kingdom and Gibraltar, but also to a vessel being out of action, questions as to standard operating procedures in place and all the other concerns contained in the letter sent to you by the Chief Minister. I do not need to repeat that here, but I would refer you to the paragraphs of that letter which specifically set out that the Chief Minister has no confidence in his having been provided with the information expeditiously about this very serious incident. Additionally, the Governor expressed the view that he feels he has been misled by you about this most serious incident which has resulted in loss of life.

2. Effectiveness:

The issues relating to effectiveness were linked by the Governor and the Chief Minister. Additionally, as a result of the above, the RGP found itself without the use of a vessel for some time and the RGP's effectiveness as sea was therefore severely impacted for some time. The effectiveness of the RGP will also now be seriously compromised given the increased legal workload which will arise as a direct result of the claims made and all the corollary effects that they will give rise to.

3. & 4. Probity & Integrity:

It was communicated to me that both the Governor and the Chief Minister felt that their dealings with you have left them with the sense that you are lacking in both probity and integrity – the maritime incident is one case in point. This is very serious indeed. I think you need to reflect carefully on this. The situation we are in is one where BOTH the Governor and the Chief Minister respectively have expressed this view. It is not one of them that has expressed this view, which would be bad enough, but BOTH of them.

Additionally, the Authority is informed that the Attorney General has also expressed the same feelings.

The seriousness of this cannot be underestimated. The Governor and the Chief Minister expressed to the Authority that they consider that the Rule of Law in Gibraltar is compromised by the fact that they lack confidence in your probity and integrity.

5. Independence:

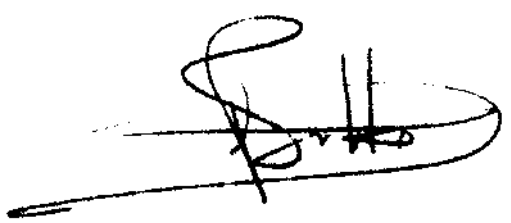
This area of concern was also brought to the attention of the Authority by reference to the parts of the report that deal with the potential for corruption and, consequently, influence, which, given what is identified in the Report, seems not to be completely understood in the RGP. The Governor and the Chief Minister expressed the view that it is not possible for the RGP to claim that it is acts independently in any investigation or matter unless it has properly addressed this recommendation that has remained outstanding for the period of your service.

It is for those reasons that we are calling upon you to retire on the interests of efficiency, effectiveness, probity, integrity and the independence of policing in Gibraltar, but before doing so are giving you an opportunity, as provided for in Section 34(2) of the Act to make representations which we shall consider.

I trust that this serves to clarify matters further.

I look forward to receiving any representations you may wish to make under Section 34(2) of the Act.

Yours,



JJ Britto
Chair
Gibraltar Police Authority

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CHARLES
GOMEZ &
COMPANY
BARRISTERS AT LAW

STRICTLY PRIVATE AND CONFIDENTIAL

29th May 2020

CAG/NG/MM11286

The Gibraltar Police Authority
Unit 25B Casemates Square,
Gibraltar

By Email to secretary@gpa.gi and
[redacted]

Dear Members of the Gibraltar Police Authority,

RE: Invitation to Retire: Section 34 of the Police Act

We write on behalf of our client, Ian McGrail, Commissioner of the Royal Gibraltar Police, in response to the communications to him from the Chair of the Gibraltar Police Authority ('GPA') on 22nd May 2020 which set out the Chair's decision to exercise powers under section 34(1) of the Police Act 2006 ('the 2006 Act'), calling on him to retire and seeking any representations from him under section 34(2). The three communications in question were (1) at a meeting that morning, (2) in a letter ('the first letter') handed to him at the 22 May meeting, and (3) in a further letter, sent to him late that evening ('the second letter').

We thank the Gibraltar Police Authority ('GPA') for giving us the opportunity to make representations. We will explain below why the exercise of the s.34 power vested in the GPA would be wholly unjustified and grossly procedurally unfair. Moreover, there is an extremely troubling aspect to this, of which the Chair is fully aware, and which concerns the rule of law in Gibraltar, and which touches on the fundamental principle of the freedom of the Royal Gibraltar Police ('RGP') to carry out criminal enquiries without interference from politicians or the Attorney General.

[redacted]

At the outset, we wish to impress on the members of the GPA your solemn duties under the Constitution and the 2006 Act. The GPA is one of the few bodies created under the Constitution. The Constitution requires the GPA to "*be independent in the exercise of its functions*". These functions include, under the 2006 Act, that you must "*ensure high standards of integrity, probity and independence of policing in Gibraltar*". You must also, because you are a constitutional body, act in conformity with the Charter of the United Nations and any other applicable international treaties including the European Convention on Human Rights. It should therefore be self-evident that the GPA plays an essential role in protecting the separation of powers between the executive and police, the rule of law and the rights of the citizens of Gibraltar.

It is in this light that you must make the decision whether to call on Mr. McGrail to retire – a decision which (because of section 34(3)) means he "*shall*" retire. You will therefore not just be making a request but giving him an instruction to prematurely end his distinguished 36-year policing career, and you will be removing from office the principal law enforcement officer of the Crown in Gibraltar. In order to fulfil your constitutional duties, you must make the decision independently from the Governor and Chief Minister. You must not be directed by them. That would be quite wrong, and in violation of your obligations under the 2006 Act and the Constitution.

As set out below, we are deeply concerned by the approach of the Chair in the meeting he had with Mr. McGrail on 22 May. The Chair told Mr. McGrail that if he refused to comply with the invitation to retire then the Governor would use his powers under s.13(f) of the 2006 Act to call for his resignation. The decision was presented to Mr. McGrail as a *fait accompli*. The Chair said in effect that it did not matter how he responded – the result would be the end of his career either because he would be forced to retire in accordance with your request or would be called to resign by the Governor using his power under s.13(f). This is not how your power under s.34 works. It only applies if the GPA considers it is "*in the interests of efficiency, effectiveness, probity, integrity, or independence of policing*" to request that the Commissioner retire, following consideration of any representations made by him. If you do not properly consider these representations and do not make an independent decision you will be acting unlawfully and your decision will be vulnerable to a judicial review challenge.

The damage to Gibraltar as a jurisdiction which claims to adhere to the Rule of Law would be incalculable. As people of standing in our community it will be immediately obvious to you already that the removal of the Commissioner of the Royal Gibraltar Police in the way in which the GPA is being pushed to do is a travesty which will bring shame to Gibraltar and international derision when we are always trying to prove our democratic, non-colonial attributes in every international forum up to the United Nations Special Committee on Decolonization.

The background and motivations which we will proceed to explain (subject to the sensitivities of what is ultimately an ongoing very serious criminal investigation) uncover an abuse of power which is possibly unprecedented in Gibraltar.

The approach the Chair has taken thus far has been for the reasons explained below clearly unlawful. This could *potentially* be remedied by taking a fully independent decision now and concluding that Mr. McGrail should not be removed from office. This must be a decision of the full GPA, not the Chair alone, as the section 34 power vests in *"the Authority"*. The GPA must also carefully consider whether any of its members has a conflict of interest which would exclude them from taking part in the decision-making process.

In light of the errors made to date, we respectfully suggest that you seek independent legal advice in order to assist you in making a lawful decision. We emphasise that it would be inappropriate to take advice from the Attorney General because he has already expressed a view on the substantive issues, as is clear from the second letter of 22nd May, and, moreover, he has played a key role in the issues we refer to in Section (d) below, as the Chair is already aware. We respectfully suggest that it may be prudent for you to take advice from lawyers in the United Kingdom given the multiplicity of local interests arising from this unfortunate case (as, indeed, Mr McGrail has done; he is represented by an expert counsel team from Gibraltar and London).

This letter is divided in to five sections:

(a) Preliminary Point – Recusal Issue;

(b) The legal framework;

(c) The invitation to retire;

(d) Fundamental Unfairness, Abuse of Process and Procedural Failings; and

(e) Response to the substantive issues raised by the GPA.

(a) Preliminary point – Recusal Issue

1. There are two preliminary matters concerning recusal.

2. First, Mr. Nick Pyle is currently named as the member of the GPA appointed by the Governor.[1] He has been the interim Governor since February 2020 and he has had personal involvement in the background to this matter, as we summarise in these submissions. He should play no part in decision-making of the Authority under section 34 in any event, given the distinct role of the Governor under that section. We ask for an assurance that the GPA Chair will ensure that Mr. Pyle is not involved in the GPA's decision-making under section 34.

3. Second, and related, we wish at the outset to raise an issue of very significant sensitivity and concern. It relates to a current police investigation. It would therefore be inappropriate to provide specific details of that investigation save as to the limited extent set out below (we address this further in section (d), as it is relevant to this invitation to retire). We know that the Chair is already aware of the background as it was discussed at his and Mr. McGrail's meeting on 22nd May, when he told Mr. McGrail it was discussed at the meeting when the Chief Minister and Governor said that they and the Attorney General had lost confidence in Mr. McGrail. You will understand that it would not be appropriate for Mr. McGrail to provide more detail of a live investigation. However, we can say that it relates to national security and involves an alleged criminal conspiracy which potentially reaches to the highest levels of the community.

4. This is a further reason why it is essential that the Chair provide reassurance to us that Mr. Pyle will not be involved in the GPA's decision-making under section 34. In addition, we suggest that it would be prudent for a further member of the GPA, Ms. Claire Pizzarello, to recuse herself from decision-making in this matter. We do not provide further details at

[1] http://gpa.gi/about-the-gibraltar-police-authority.html.

this stage, and we trust that the Chair will agree that this would be a sensible course of action in the circumstances. (Should further information be required by the Chair, he should inform us of this.) We emphasise that there is no suggestion whatsoever of Ms. Pizzarello having any personal involvement in the matters in question, and this approach is suggested out of an abundance of caution.

(b) <u>The legal framework</u>

The Gibraltar Constitution Order 2006 ('The Constitution')

5. Chapter 1 of the Constitution protects fundamental rights and freedoms. The Preamble states that the people of Gibraltar's right to self-determination must be "*promoted and respected in conformity with the provisions of the Charter of the United Nations and any other applicable international treaties*". The European Convention on Human Rights is an "*applicable international treaty*".

6. The Constitution protects, amongst other rights, the right to privacy (section ('s') 7) and the right to freedom of expression (s.10).

7. The Constitution provides that there shall be a Police Authority for Gibraltar which "*shall be independent in the exercise of its functions*" (s.48(1)).

The Police Act 2006

8. The 2006 Act establishes the GPA (section 3(1)).

9. Part I sets out the **responsibilities and powers of the GPA**. s. 5 relevantly includes responsibilities: "*to secure the maintenance of an efficient and effective police force for Gibraltar*", "*to ensure high standards of integrity, probity and independence of policing in Gibraltar*", "*to establish, operate and supervise the process for investigating complaints against police officers under this Act*" and "*to hold the Commissioner to account for matters which are the responsibility of the Authority.*

10. Part II sets out the **Governor's and the Government's responsibilities** for policing. Section 13 provides for the Governor's powers "*in default by the Authority*", which are exercisable only where the Authority "*has failed to discharge or perform a responsibility imposed on the Authority under this Act*". The powers include "*where in the opinion of the Governor the integrity, probity or independence of the police has been compromised or is at risk, to direct the Force to take appropriate action to remedy the situation or avoid the risk*" and "*to suspend from duty, or call for the resignation of the Commissioner*".

11. Section 15(1) provides that the Chief Minister may exercise various powers on behalf of the Government, including (a) require factual or assessment reports from the Force or the Authority on any policing matter, provided that there may be withheld from any such report any fact disclosure of which is likely to prejudice the effective operation of the Force.

12. Part IV provides for the establishment of the **Royal Gibraltar Police Force**. Section 32(1) provides for the appointment of the **Commissioner of Police** by the Governor, acting on the advice of the Authority, subject to any provision of the Constitution; for such that the Authority may advise and as shall be set out in the instrument of appointment.

13. Section 33(1) provides that the Commissioner shall, subject to the provisions of this Act, have command, superintendence, direction and control of the Force, and shall be responsible for the efficient administration and government of the Force and for the proper expenditure of all public moneys appropriated for the service. (section 33(2)).

14. Section 34 provides for the removal of the Commissioner by the GPA. It is set out in full below:

> *"34.(1) The Authority acting after consultation with the Governor and the Chief Minister and with the agreement of either of them, may call upon the Commissioner to retire, in the interests of efficiency, effectiveness, probity, integrity, or independence of policing in Gibraltar.*

(2) Before seeking the approval of the Governor and the Chief Minister under subsection (1), the Authority shall give the Commissioner an opportunity to make representations and shall consider any representations that he makes.

(3) Where the Commissioner is called upon to retire under subsection (1), he shall retire on such date as the Authority may specify or on such earlier date as may be agreed upon between him and the Authority."

Human rights

15. The European Convention on Human Rights protects the right to respect for private and family life under Article 8 and the right to freedom of expression under Article 10. Both rights can be interfered with by the state by certain situations but only where that interference is lawful, necessary and proportionate in pursuance of a legitimate aim.

16. The European Court of Human Rights and the Council of Europe (which oversees the European Court) have repeatedly emphasised that corruption threatens the rule of law. There have been a number of cases where sanctions imposed on whistleblowers have been found to breach Article 10 ECHR - in cases involving the dismissal of public servants this has sometimes been articulated as an attack on reputation protected by Article 8 ECHR. As you will see below, the law relating to whistleblowers is relevant.

17. In *Guja v. Moldova (No. 1)*[2] the Grand Chamber held unanimously that there had been a violation of Article 10 (freedom of expression). The applicant was Head of the Press Department of the Moldovan Prosecutor General's Office. The case concerned his dismissal for giving a newspaper two letters received by the Prosecutor General's Office which disclosed interference by a high-ranking politician in pending criminal proceedings.

[2] (2011) 53 E.H.R.R. 16.

The Court balanced the conflicting factors under Art.10 and concluded there had been a breach.

> *[72] ... The Court thus considers that the signalling by a civil servant or an employee in the public sector of illegal conduct or wrongdoing in the workplace should, in certain circumstances, enjoy protection. This may be called for where the employee or civil servant concerned is the only person, or part of a small category of persons, aware of what is happening at work and is thus best placed to act in the public interest by alerting the employer or the public at large.*

18. Article 8 ECHR includes the right to protection of reputation.[3] As stated in *Axel Springer AG v. Germany*[4], judgment (Grand Chamber) of 7 February 2012, paras. 83-84:

> *"... [T]he right to protection of reputation is a right which is protected by Article 8 of the Convention as part of the right to respect for private life ... In order for Article 8 to come into play, however, an attack on a person's reputation must attain a certain level of seriousness and in a manner causing prejudice to personal enjoyment of the right to respect for private life ...*

19. The Council of Europe's ***Criminal Law Convention on Corruption*** ('the Corruption Convention") of 27th January 1999 states[5] in its pre-amble that "*corruption threatens the rule of law, democracy and human rights, undermines good governance, fairness and social justice, distorts competition, hinders economic development and endangers the stability of democratic institutions and the moral foundations of society*".

[3] *Denisov v. Ukraine* [GC], paras. 111-112 and 115-117.
[4] [2012] ECHR 227.
[5] https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680071f5.

20. Each Party to the Corruption Convention shall adopt measures to ensure that persons or entities are specialised in the fight against corruption. They shall have the necessary independence in accordance with the fundamental principles of the legal system of the Party, in order for them to be able to carry out their functions effectively and free from any undue pressure.

21. The preamble to the Council of Europe ***Code of Police Ethics***[6] states that "*the criminal justice system plays a key role in safeguarding the rule of law and that the police have an essential role within that system*". Paragraph 15 provides:

> *The police shall enjoy sufficient operational independence from other state bodies in carrying out its given police tasks, for which it should be fully accountable.*

22. Paragraph 34 states:

> *Public authorities shall support police personnel who are subject to ill-founded accusations concerning their duties.*

23. The ***Committee of Ministers' Recommendation on the protection of whistleblowers*** adopted on 30th April 2014 relevantly states in the preamble that "*freedom of expression and the right to seek and receive information are fundamental for the functioning of a genuine democracy*" and recognises that individuals who report or disclose information on threats or harm to the public interest, i.e. whistleblowers, can contribute to strengthening transparency and democratic accountability. Paragraph 21 states:

> *Whistleblowers should be protected against retaliation of any form, whether directly or indirectly, by their employer and by persons working for or acting on behalf of the employer. Forms of such retaliation might include dismissal, suspension, demotion,*

[6] Adopted 19th September 2001: https://rm.coe.int/16805e297e.

loss of promotion opportunities, punitive transfers and reductions in or deductions of wages, harassment or other punitive or discriminatory treatment.

24. Protection from retaliation is clearly a matter of fundamental importance particularly when the potential victim is none other than the principal law enforcement officer of the Crown in Gibraltar.

(c) <u>The invitation to retire</u>

25. On the morning of 22nd May 2020 Mr. McGrail met with the GPA Chair, when the Chair invited him to retire pursuant to s.34(1) of the 2006 Act.

26. The Chair told Mr. McGrail that he had met with the Governor and the Chief Minister on Monday 18th May and they had told him they had lost confidence in Mr. McGrail. He said that he had taken notes of the meeting. It began with the Governor and Chief Minister taking him through the various options under the Police Act and focussing on section 13 (the power of the Governor to suspend from duty or call for the resignation of the Commissioner where the GPA has failed to discharge its duties) and section 34 (the GPA's power to remove the Commissioner from post).

27. The Chair made it very clear that he did not make this decision himself and that in his view the decision was entirely for the Governor and the Chief Minister to make. Although he said Mr. McGrail could make representations, it was made clear to him that if he does not take the offer of retirement then the Governor will trigger his power under s.13 to call for his resignation. It is in effect, an 'offer he can't refuse' – or, to put it another way, it is the equivalent, for an office-holder, of constructive dismissal.

28. It was also made clear to Mr. McGrail that the issue of his handling of the investigation referred to above was an important factor in the decision making by the Governor and Chief Minister. He said that the AG had all lost confidence in him because he had *"lied"* about the particular operation – which he strenuously denied.

29. At the time of the meeting none of the alleged issues with Mr. McGrail's conduct had been put in writing. When Mr. McGrail highlighted that this was unfair, the Chair offered to provide him with his notes of the 18th May meeting. Mr. McGrail asked for the reasons to be put in writing so he could properly respond.

30. At the meeting, Mr. McGrail was handed a letter containing a formal notification of the exercise of the s. 34(1) power ('the first letter'). This was a short letter which provided no detail save for referring to "*grave concerns expressed by both the Governor and the Chief Minister, in respect of certain aspects of policing that have led to a serious and regrettable loss of confidence in you*". It was clear from the letter that a decision had already been reached to invite Mr. McGrail to retire ("*Given the above, the Authority invites you to retire*"), however, confusingly, the letter also invited representations pursuant to s.34(2) which "*shall, of course, be fully taken into consideration to allow the Governor, the Chief Minister and the Authority to express a firm and final view*". Mr. McGrail was given 7 days to respond to the initial letter (i.e. by today, 29th May – a period which included a long weekend) and invited to seek more time if required.

31. Mr. McGrail received a second letter late on Friday night, 22nd May, which provided more detail, relevantly stating:

    a. "*the reason that the Authority was taking this step arose from the communication by the Governor and the Chief Minister to the Authority that BOTH had lost confidence in your ability to run policing in Gibraltar.*"

    b. "*Additionally, the Authority itself has agreed with the matters raised by the Governor and the Chief*

    c. Five "*main issues*" (in reality, these are four issues as two run together) were set out "*contributing to the loss of confidence*", including:

i. Efficiency: "*The Governor and the Chief Minister are very concerned about the findings of the HMICFRS Report ('the Report'). It is clear* (sic) *damning in respect of the efficiency of the RGP....*"

ii. "*Additionally, and equally importantly, the incident at sea in March, resulting in the death of two individuals, was pointed out as further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction.*"

iii. "*I would refer you to the paragraphs of that letter which specifically set out that the Chief Minister has no confidence in his having been provided with the information expeditiously about this very serious incident... [he has] expressed the view that he feels he has been misled by you...*"

iv. Effectiveness: that the RGP found itself without the use of a vessel for some time and will now be "*seriously compromised given the increased legal workload*".

v. Probity and integrity "*It was communicated to me that both the Governor and the Chief Minister felt that their dealings with you have left them with the sense that you are lacking in both probity and integrity -- the maritime incident is one case in point...*

vi. "*additionally, the Authority is informed that the Attorney General has also expressed the same feelings*"

vii. "*The seriousness of this cannot be underestimated. The Governor and the Chief Minister expressed to the Authority that they consider that the Rule of Law in Gibraltar is compromised by the fact that they lack confidence in your probity and integrity.*"

viii. Independence: "*This area of concern was also brought to the attention of the Authority by reference to the parts of the report that deal with the potential for corruption and, consequently, influence, which, given what is identified in the Report, seems not to be completely understood in the RGP. The Governor and the Chief Minister expressed the view that it is not possible for the RGP to claim that it is acts independently in any investigation or matter unless it has properly addressed this recommendation that has remained outstanding for the period of your service.*"

(d) Fundamental Unfairness, Abuse of Process and Procedural Flaws

32. This process has been tainted from the outset by conspicuous unfairness, and it is grossly procedurally unfair. These flaws fall into the category described by Lord Bridge in *Calvin v. Carr* [1979] UKPC 1, [1979] 2 All ER 440: "*when the defect is so flagrant, the consequences so severe, that the most perfect of appeals or rehearings will not be sufficient to produce a just result.*" The approach adopted here amounts to an attack on the Constitution, the rule of law and human rights principles, and it subverts the principle of separation of powers in a number of respects.

i. The Vanishing Reason for the Invitation to Retire

33. First, we indicated at the outset of this letter, when addressing the preliminary matter of recusal, that there is a sensitive matter concerning an ongoing criminal investigation, the detail of which Mr. McGrail does not address herein. The relevance of this issue to the invitation to retire is as follows. This matter was discussed in the 22nd May meeting as forming part of the reasoning behind the Chief Minister and the Governor informing the GPA Chair that he should invite Mr. McGrail to retire. Indeed, Mr. McGrail indicated at that meeting that he understood it to be the real and central reason for the request. However, this reason is, oddly, not cited in the second, detailed letter of 22nd May. Instead, that letter refers expressly only to two other matters – the incident at sea in March 2020 and the inspection report following the inspection in October 2019.

34. The two matters which *are* mentioned have been known to the Chief Minister, Governor and Attorney General ('AG') for months. As is explained below, Mr. McGrail has kept them fully informed in respect of both issues. The important point is that in respect of both issues, at all stages Mr. McGrail has received no criticism at all about his approach. The incident at sea is being investigated independently by the Metropolitan Police, at Mr. McGrail's request, and that report is yet to be received. Mr. McGrail has met regularly with the AG to discuss strategy towards this serious incident – the AG has been nothing but supportive. Equally, when the inspection report came out, Mr. McGrail received no public or even private criticism from authority figures at all – until the 22nd May invitation to retire.

35. By contrast, in recent months, and particularly the past fortnight, Mr. McGrail has received very significant and at times intemperate private criticism from the Chief Minister and Attorney General about a separate matter, namely how the criminal investigation we refer to above has been handled. For many months the AG has been trying (unsuccessfully, we might add) to persuade Mr. McGrail to change his and the RGP's approach to the investigation which would either lead to it being dropped entirely or certain suspects not being prosecuted. Mr. McGrail has rebuffed these attempts and has treated this investigation as he would any other – characteristic of his probity and professionalism. The operational decisions in respect of this investigation have, in any event, been taken by individual officers below Mr. McGrail's rank, acting professionally and appropriately.

36. On 12th May, out of courtesy, Mr. McGrail notified the Chief Minister, the AG and the Minister of Justice of a certain operational action which was taken by the RGP in the case. Both the Chief Minister and AG immediately messaged him to say, in no uncertain terms, that they disapproved of the action. He was immediately called into a meeting with the Chief Minister and the AG. He was very severely criticised for the action that had been taken. The Chief Minister told him that, in his view, Mr. McGrail had handled the investigation "*very very wrongly*". He was told by the AG that he had to this point approved of his work but from that day he could not "*entertain*" Mr. McGrail again. The emotional response from both the Chief Minister and the AG is startling.

37. This was followed by two subsequent meetings with the AG and Director of Public Prosecutions (on 13th and 15th May respectively) where pressure was put on Mr. McGrail by the AG to change the RGP's investigative approach to the operation and he was given the strong impression that the AG was primarily concerned with protecting the Chief Minister and "*Gibraltar PLC*" (the AG's words).

38. It is grossly inappropriate in a jurisdiction under the Rule of Law for politicians to interfere with any live criminal investigation in this way. It tramples over the separation of powers which is an integral feature of our Constitution. However, in this case the Chief Minister has a personal connection to the outcome of the investigation, which makes his intervention even more inappropriate. Not only should he not attempt to influence the investigation, he should completely recuse himself for any decisions or conversations which touch upon it.

39. The reason it is relevant to your decision is that we submit to you that the timing of the use of the s.34 process, which was triggered by the Chief Minister and the Governor and, we understand, came as a complete surprise to the GPA Chair, strongly suggests that the incident at sea and inspection report are fig leaves for the real reason Mr. McGrail is being pressured to retire, i.e. his (proper and reasonable) handling of a live criminal investigation.

40. It is unnecessary for us merely to rely on an inference raised by the timing of the s.34 letter to make this point. The GPA Chair confirmed to Mr. McGrail at their meeting on 22nd May that his handling of the criminal investigation referred to above was spoken about at the Chair's meeting with the Chief Minister and Governor and was one of the reasons they had "*lost confidence*" in Mr. McGrail. The Chair told Mr. McGrail he took a note of his meeting with the Chief Minister and Governor, which we assume he can provide to you for your consideration. It is wholly unclear why this matter is then omitted from the letters sent to Mr. McGrail on 22nd May – although a simple explanation is that it was obvious to those writing the letters that if it were included it would invalidate the entire process. This is a clear breach of the requirements of fairness in itself – this was a factor cited in the meeting on 22nd May, at which no written documents were given to Mr. McGrail, yet the letters omit this material factor.

41. Further, we note that a factor which is cited in the Chair's 22nd May second letter is the Attorney General being said to have *"lost confidence"* in Mr. McGrail, for an unspecified reason: "*Additionally, the Authority is informed that the Attorney General has also expressed the same feelings*". The Chair made clear to Mr. McGrail at the 22nd May meeting that this was entirely because of the criminal investigation matter referred to above and it reflects the comments made to Mr. McGrail by him directly at the meeting on 12th May. In reality, it is clear that this incident is at the heart of this request under section 34, despite it not appearing in the second letter.

42. We note that in the Chair's second letter it is stated "*the Governor and the Chief Minister ... consider that the Rule of Law in Gibraltar is compromised*". Unfortunately, we agree with that statement, and that statement alone, but for significantly different reasons. If the GPA decides to exercise its s.34 power, in the full knowledge that background involves the Chief Minister and AG seeking to interfere with a live criminal investigation, this would indeed be an affront to the rule of law and a breach of your duties under the Constitution. This would be a gross violation of the rule of law, and not the actions of an independent body in a mature democracy.

ii. Independence

43. There are further serious procedural failings. It was made clear to Mr. McGrail at the meeting on 22nd May 2020 that the Chair was proceeding on the basis that this is a decision for the Chief Minister and the Governor, and he has taken his lead from them. This is also clear from the first letter, which followed the meeting. This is a fundamental misunderstanding of the statutory scheme: the section 34 decision is for the Authority. It also disregards the vital importance of the independence of the Authority, enshrined in the Constitution, s. 48(1).

iii. A Settled Decision

44. The process followed on 22nd May is not compliant with section 34. The statute makes clear that submissions must be sought under section 34(2) before the section 34(1) process is followed. The Commissioner is entitled to be given an opportunity to make representations, and for them to be considered. For this to be a meaningful opportunity, the Authority must

not have a closed mind. In this instance, however, the Authority Chair has called upon the Commissioner to retire (under section 34(1)), indicating that this decision has been reached already: *"the Authority feels that it is left with no option but to exercise the powers afforded to the Authority under section 34(1)..."* The wording used is unambiguous. This was clear at the meeting on 22nd May, and it is expressly set out in the first letter of that date.

45. The first letter is instructive. At this meeting, Mr. McGrail was handed this short letter, containing a formal notification of the exercise of the s.34(1) power. This was very brief and provided no detail save for referring to "*grave concerns expressed by both the Governor and the Chief Minister, in respect of certain aspects of policing that have led to a serious and regrettable loss of confidence in you*". It was clear from the letter that a decision had already been reached to invite Mr. McGrail to retire based on the Governor and the Chief Minister's views ("*Given the above, the Authority invites you to retire*"); however, confusingly, the letter also invited representations pursuant to section 34(2) which "*shall, of course, be fully taken into consideration to allow the Governor, the Chief Minister and the Authority to express a firm and final view*". This language, promising to take the submissions into consideration, cannot be squared with the fact that definitive language making clear that the Authority has already set out an invitation to retire under section 34(1).

46. This not only raises concerns under section 34. It also results in a process which is not compliant with the concept of natural justice. Mr. McGrail cannot be penalised by a decision which would have such a devastating impact upon him without him being given prior notice of the case he has to answer, and a fair opportunity to answer it. This has not been the case here.

iv. The Relevance of Section 13

47. At the meeting of 22nd May, the Chair informed Mr. McGrail that this was not a decision for him, but a decision for the Chief Minister and the Governor, and that if he did not invite Mr. McGrail to retire under section 34 then the Governor would exercise his power under s. 13. The Chair made clear that this had informed the decision to trigger section 34. However, this is an extraordinary situation, raising very serious concerns, and it taints the

section 34 decision. The entire point of section 13 is that it only applies when Authority is in default; it is not a mechanism for the Governor to simply use when he disagrees with the Authority, or when he disagrees with an action by the Police Commissioner, and nor is it a power which should be pre-emptively threatened in order to lean on the Authority to trigger section 34.

(e) <u>Response to the issues raised in the letter</u>

48. We have addressed above why we believe that this attempt to remove Mr. McGrail from post is a pretence which would not have occurred but for the Chief Minister and AG's criticism of his handling of a particular live investigation. However, it is of course important and necessary to respond directly to the two issues which are directly mentioned in the 22 May letter. We should emphasise that our client takes both the incident at sea and the inspection report extremely seriously, as can be seen by his immediate and continuing actions in response to them, however we do not accept, even arguably, that either issue could be the basis of the use of the section 34 power to remove Mr. McGrail from his post in the interests of "*efficiency, effectiveness, probity, integrity, or independence of policing in Gibraltar*".

Mr. McGrail's career to date

49. Before addressing the substantive issues, we want to give you some background about Mr. McGrail's career as a police officer. This is so that in considering the issues, you can do so in the context of his record, which can only be described as exemplary. Mr. McGrail has had a long, unblemished and distinguished career in the RGP for 36 years, having joined in 1984. In the first decade of his career he served in front-line policing, and following the "fast launch" public disturbances in the mid-1990s he had particular responsibility for uplifting RGP's capacity and capability in order and personal safety.

50. In 2006, he became the youngest and most junior inspector at the time to be promoted to Chief Inspector. From 2012 he was a Superintendent. In 2015 he was included in the Queen's Birthday State Honours list and was awarded the Overseas Territories Police

Medal for meritorious service. He has been awarded the Queen's Golden and Diamond Jubilee medals and the long service and good conduct medal with first and second clasps. And, as you know his record is exemplary. Mr. McGrail has numerous letters of appreciation throughout his career and been commended five times, including once by the Director of the United States Naval Criminal Investigation Service and on another by the Chief Justice of Gibraltar. All the commendations have been for meritorious investigative work leading to prosecutions. He has throughout his career sought to develop personally and professionally and attended the Federal Bureau of Investigation National Academy Programme for 3 months in Quantico, Virginia 2007 , is a Master of Science in Policing and Public Order with the University of Leicester and in 2013 attended the Strategic Command Course with the UK's College of Policing.

51. What has distinguished Mr McGrail is his dedication to service and ability to innovate and develop new ideas and working practices. In 1995 following the most severe riots in the last twenty years in Gibraltar, Mr McGrail was one of two officers tasked with reviewing and developing the RGP's response to public order situations. He went on to qualify as a public order instructor and also as a public order commander. He created and developed an RGP public order unit, commenced a training and development programme, which continues in the form he devised to this day.

52. His flair for innovation and openness to new working practices saw him create the Corporate Development department. Corporate development being a non-existent concept in the RGP at the time. Mr McGrail was instrumental in creating / drafting policies and guidelines in areas where they were required. In addition, he helped put procedures in place to improve the processes around the detention and custody of persons in police detention.

53. On 1st May 2018, Mr. McGrail was appointed as Commissioner of the RGP for a four-year term of warrant, on the advice of the GPA. In his letter of appointment, it was requested that the GPA conduct a review process against the objectives set out in the vision statement and action plan he provided to the Governor. This was supposed to take place two years into his term, which means it should be taking place now. In his letter, the Governor at the

time, His Excellency General Edward Davis, said he looked forward to working closely with Mr. McGrail "*as we all do our utmost to protect, progress and promote the Rule of Law in Gibraltar*".

54. Since he took up the post of Commissioner, one of the first things he did was present to the Gibraltar Police Authority all the force policies for the Authority to ratify as required in law, something which had not been done previously. This is characteristic of his qualities of openness, transparency and accountability.

55. More recently he has been instrumental in the development of the Force Intelligence Unit, taking it from being a unit of limited capability to professional and proactive unit properly servicing the organisation. Mr McGrail's networking skills have enabled him to draw upon contacts in the U.S., Spain and the U.K. to enhance the RGP's intelligence exchange and law enforcement co-operation mechanisms with all these territories. Very significant cross border operations have been carried under his leadership attracting extensive positive media coverage. These efforts have also been recognised by the Governor, the Chief Minister and Attorney General as it no doubt aids the building of relationships with the Kingdom of Spain in the post-Brexit era. Mr. McGrail is part of the Gibraltar law enforcement delegation to work on delivering the Brexit MOU on law enforcement co-operation with Spain. All these mentioned points have brought improvements to the quality of service delivered by the RGP.

56. In the organisational context Mr. McGrail has pushed for procedural and policy advancements. The RGP's total complement of officers results in officers such as Mr. McGrail having to embark on the tasks described on their own, without the benefit of a supporting team as would be the case in a UK mainland force. Further complicating the task is the distance between the RGP and mainland forces makes it impractical to regularly meet and consult colleagues engaged in similar projects to share experience and knowledge.

57. The year 2019 saw unprecedented levels of demand imposed on the RGP including a total of 85 major events, which included 13 Assemblies/demonstrations, 10 international football matches (including a top 3 with the most ultra-fan base in Europe, who were at the matches in numbers), European Elections, General Elections, Small Island Games that run for a full week, Grace 1 (the first time a vessel had been boarded for contravening EU sanctions), eight large scale music events, major social events such National Day, New Year's Eve Celebrations, the Festival of lights and 14 Public Military Events. Mr McGrail oversaw the planning and execution of all of these events all of which met with the operational aims and objectives. Public security and safety was successfully upheld.

58. He has also been responsible for, in just two years in post:

a. Adopting the UK Home Office counting rules for the recording of crime. The RGP's previous methods had been subject of criticism by HMIC for presenting overly favourable detection rates.;

b. Project Servator which is a community orientated counter-terrorism initiative;

c. Restructuring of the force to release police officers to core policing duties;

d. Restructuring and uplifting of the Economic Crime Unit ('ECU'), to incorporate a fraud and Anti Money Laundering Unit;

e. The creation of the RGP's first ever Wellbeing Strategy 2019-2022;

f. The creation of 16 Wellbeing Champions, spread throughout the force;

g. The creation of a bespoke Mental Health referral procedure with Ocean Views medical facility for all police officers and support staff. No other HMGOG department has this system in place;

h. Significant strides with PSN connectivity – this is connectivity with the UK police service;

i. Partnership building and resources obtained through National Police Co-ordination Centre for Brexit contingency planning, Small Island Games & International football matches;

j. COVID-19 policing – which has seen restrictions in freedom of movement as never seen before in modern history.

59. Additionally, under Mr McGrail's leadership, the RGP has developed and implemented the following new policies and reviewed a further number of them. All of these have met the approval of the GPA:

a. 2018: Response Team Leader Policy (new), Gifts and Hospitality Policy (new), Alcohol and Substance Abuse Policy (new), Taser Policy (New)

b. 2019: Transfer Policy (Reviewed & Amended); Management of Exhibits (Reviewed & Amended); Domestic Violence (Reviewed & Amended); Travel Policy (Reviewed & Amended); Mobile Device Policy (New).

c. 2020: Caution policy (Reviewed & Amended), Travel Policy (Reviewed & Amended); Bullying Policy (New); Grievance policy and Procedure (New); Compromised Persons Policy (New); Mental Wellbeing Policy – New (No police service in the UK has this).

60. During Mr. McGrail's tenure, there has been an 8.3% reduction in crime, a 33% reduction in repeat victimisation, a 33% reduction in repeat offending and a 54% detection rate. These statistics are enviable to any UK police service. Additionally, during his tenure, a good level of public satisfaction has been maintained and in certain areas improved, according to your own public consultation surveys. He has, most recently, appeared on live television delivering public information bulletins for COVID-19 crisis on four occasions: on 9th April with the Deputy Chief Minister, on 21st April with the Deputy Chief Minister, on 3rd May and Minister of Justice and on the 10th May with the Minister of Justice again. If the Government or Chief Minister had lost confidence in his abilities you might reasonably ask why he was allowed to give these important briefings to the whole of Gibraltar.

61. Further, and for the sake of completeness, we remind you of Mr. McGrail's success in promoting international law enforcement cooperation, in an area which has been fraught with difficulties in the past, has been recognised by both the Spanish National Police and the Guardia Civil who have nominated Mr. McGrail for the "La Cruz de la Orden del Mérito Policial con distinctivo Blanco" and "La Orden del Mérito de la Guardia Civil con distinctivo" medals respectively. This is of course unprecedented and underscores the high esteem with which Mr. McGrail is held by his international colleagues in Spain.

The incident at sea

62. On 8th March 2020 at around 03:38 an incident occurred involving a collision at sea between an RGP patrol craft and a smuggling vessel. Two people on the smuggling vessel, Dris Mohamed and Abdeselam Ahmed, reportedly both Spanish nationals, died in the incident and two were injured. The incident occurred outside of British Gibraltar Territorial Waters ('**BGTW**').

63. The March 2020 incident is raised by the 22 May letters in two ways: in itself ("*the incident at sea in March, resulting in the death of two individuals, was pointed out as further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction*"); and in respect of communication (the Governor "*expressed the view that he*

feels he has been misled by you" and raises concerns that he has "*no confidence in his having been provided with the information expeditiously about this very serious incident...* ").

64. As regards the unfortunate incident itself, there is no explanation as to why it is suggested that the actions of individual officers reflect on Mr. McGrail or are indicative of a systemic pattern of acting beyond the remit and jurisdiction of the RGP. There is no particularity at all, meaning it is impossible to respond in any detail save to say that at Mr. McGrail responded to the incident with his usual integrity and transparency. It is simply bizarre to claim that the Governor and Chief Minister have lost confidence in Mr. McGrail because they blame him for the incident itself when (a) at the time of the meeting with the Chair and the 22 May letters the Chief Minister had requested, but had not received, a response to the detailed request for information which was sent to him on 21 May this was the first such request Mr. McGrail has received, and (b) at that time they had not received (and still have not received) the independent report which is being carried out by the Metropolitan Police and was commissioned within days by Mr. McGrail himself or the conclusive report of the independent marine accident expert.

65. A further example is given relating to the RGP being without the use of a vessel, and thus being, *"seriously compromised given the increased legal workload"*. Again, there is no indication as to why this would justify the exceptional step of inviting the Commissioner to retire, and, indeed, this would not address the issue regarding the vessel. In any event, the proposition that the effectiveness of the marine section has been compromised is nonsense. The RGP's Marine Section has resilience. It has other vessels and the fact that one of them has been out of service because of the collision has not hampered capabilities.

66. In any event, it is for the GPA to reach an independent decision in respect of this issue. We submit that it would be highly unfair and contrary to the principles of natural justice for the GPA to pre-emptively blame Mr McGrail for this incident, prior to a detailed consideration of the independent report from the Metropolitan Police. However, and in any event, the fact that the alleged 'loss of confidence' it is so obviously premature and pre-emptive

further proves the point we make above that the real motives behind the action by the Governor and Chief Minister are not this incident. Rather, this incident is serving as a pretext, although on any analysis not a convincing one.

67. As regards communication, we understand that the Section 15 reply (sent shortly before these submissions) comprehensively debunks the suggestion that there was inadequate communication. Mr. McGrail messaged the Governor, the Chief Minister and Attorney General within two hours of the emergency response group being convened and kept them fully informed throughout, promptly responding to all requests for information. He subsequently met with the Attorney General on 17th March to develop a working strategy to deal with the consequences of the incident, which the AG agreed to. He further briefed the AG on 18 March on the progress of the Metropolitan Police investigation. The Metropolitan Police team was also in direct contact with the Governor. On 22nd March Mr. McGrail again met with the Attorney General and DPP to discuss the potential civil legal action arising from the incident. The AG did not want to consider further strategy until the Metropolitan Police's report findings had been received. This has still not been received despite many requests to expedite it the Covid 19 Crisis in the UK has taken its toll on policing as in many other areas of business. A marine investigator's report has also been commissioned and is currently being finalised. The simple point here is that it is premature to reach any conclusions in relation to this incident and it would be highly unfair to dismiss Mr. McGrail on the basis of a wholly unparticularised and vague accusation such as this.

68. In relation to the suggestion that Mr. McGrail has misled the Governor, this is not particularised; it is a vague slur, without explanation. We do not know what it refers to. If it relates to the incident taking place in Spanish waters, it is not possible to follow the rationale. In any event, the Governor was promptly and fully briefed by Mr McGrail on that issue and Mr. McGrail understands that the Metropolitan Police team, who were conducting an independent investigation, also briefed the Governor's office.

69. A further slur is included in relation to Mr. McGrail's *"probity and integrity,"* phrased in a hopelessly vague way, without specificity: "*It was communicated to me that both the Governor and the Chief Minister felt that their dealings with you have left them with the*

sense that you are lacking in both probity and integrity – the maritime incident is one case in point..." Reference is made to the Attorney General, but as we have submitted above this could only refer to the criminal investigation, as the Chair also informed Mr. McGrail.

The HMICFRS Report

70. The claim that confidence in Mr. McGrail's ability to do his job has been lost to a lack of efficiency on the part of the RGP, based on the findings of the HMICFRS, does not stack up. As can be seen from the above, Mr. McGrail has a long and distinguished career. His term as Commissioner has been busy and successful. It is simply absurd to accuse him of failing to take proactive steps to address systemic issues which were identified in the 2016 report, two years before he commenced in office.

71. As regards efficiency, the inspection report is clear that there are long-standing problems, which were identified in the previous (2016) inspection report, have not been fully addressed by the time of the October 2019 inspection. Mr. McGrail had by that time only been in post for a little over a year, and it is simply not credible to suggest that these flaws can and should be laid at his door. Further, during his short period in office prior to the inspection he had to address the July 2019 arrest and investigation of the Iranian Oil Tanker "Grace 1" which was an extraordinary incident, managed by the RGP and supported by the Royal Marines, and which attracted widespread acclaim (see the brief reference at p. 13 of the report).

72. In addition, the report makes clear in respect of efficiency that the RGP is in need of additional resources, from the Government/ FCO.

73. Insofar as it is suggested that Mr. McGrail did not set up a working group, his response is that as a result of the unprecedented demand placed on the RGP during 2019, the RGP has been addressing the issues raised in the Report by merging them in daily work practices. This can be seen by the initiatives referred to above and the results achieved. In addition, as you know Mr. McGrail has provided the Authority and the Minister of Justice with a comprehensive road map for implementing the 2020 report. These have both been agreed

to be the proper procedure and no concerns have been raised. Indeed, some of the recommendations in the Report have since been met and the others are in progress. It would simply be irrational to conclude that this approach would justify forcing him to take early retirement.

74. It is of note that the 22nd May letter was the first Mr. McGrail has heard that either the Chief Minister or Governor – or indeed any member of the Government – lays blame for any of the issues identified in the report with him. None of the conversations he has had around the report have reflected the 22nd May letter which again raises the strong inference that this issue is being used as a pretence to mask the real reason for attempting to remove Mr. McGrail. For example, the Minister for Justice, Samantha Sacramento MP, messaged him on 29 April to say the report "*is shocking reading on the face of it, but if you analyse it deeper it's not that bad, and it's has easy solutions*" and "*it can all be fixed don't worry*". This message reflected the tone and content of the communications around the report. There have also been a number of very recent articles in the press which highlight the exceptional nature of the RGP given the unusually wide range of issues it has to deal with – from drug smuggling and international fraud to world diplomatic incidents involving maritime vessels – and the potential unfairness of applying the same standards as apply to other forces to such an unusual jurisdiction.

75. In addition, we note that an article in the Gibraltar Chronicle of the 28th May 2020 by an independent journalist, Mr. James Neish, who is intimately aware of the work of the RGP, suggests that the Report may have unfairly minimised the unique demands made of the RGP and which it responds to successfully for the most part. The article is titled "*It's always easier to judge from a distance*".

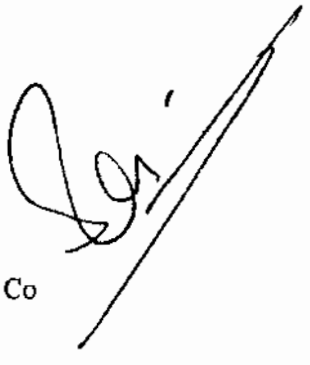
76. As stated above, the GPA must reach an independent conclusion in respect of this issue. It has not carried out the 2-year performance review requested by the Governor at the time of Mr. McGrail's appointment. We submit that there is a complete lack of evidence of Mr. McGrail's culpability for any of the issues highlighted by the inspection report. He has, in any event, taken extensive steps to improve and modernise the RGP. It would therefore be grossly unfair to conclude that, having been in post just over a year before the inspection,

Mr. McGrail is sufficiently blameworthy for the conclusions of the inspection report such that he should be forced to retire *"in the interests of efficiency, effectiveness, probity, integrity, or independence of policing in Gibraltar"*. However, and in any event, in order to reach such a conclusion it would be necessary for the GPA to carry out a full and fair review into Mr. McGrail's record during his time in post.

Conclusion

77. For the reasons stated above there is no possible, valid reason for the GPA to exercise its s.34 power to remove Mr. McGrail from office. The only rational decision for the GPA to reach is to dismiss the request of the Governor and Chief Minister. In any event, the defects in this process are already so flagrant that it would not be possible to reach a just result unless it is to allow Mr. McGrail to remain in post.

Yours faithfully,



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OUR REF JN/IP
YOUR REF CAG/NG/MM11286
DATE 05.06.20
DIRECT EMAIL jn@tsnlaw.com

BY HAND

Dear Sirs

Re: Invitation to Retire: Section 34 of the Police Act

We are instructed by the Gibraltar Police Authority to reply to your letter of 29th May, 2020.

Our Client acknowledges that certain procedural errors have been made and is accordingly withdrawing the current process initiated under section 34 of the Police Act. However, the complaints made against your Client by the Governor and Chief Minister remain live and our Clients will consider how it will proceed in respect of them.

We will not address the substantive points raised in your letter save to state that we are instructed to dispute what your Client alleges was said to him by the Authority's Chairman about the ongoing police investigation Our Client maintains that it is your Client who repeatedly raised this matter and that other than what he had been told by your Client, the Chairman's knowledge of this matter was confined to the allegation that your Client had lied to the Chief Minister and the Attorney General.

Yours faithfully

Nicholas Gomez

From: Charles Gomez
Sent: 05 June 2020 17:24
To: Neish QC, James (jn@tsnlaw.com)
Cc: Nicholas Gomez
Subject: RE: Invitation to Retire: Section 34 of the Police Act

Importance: High

Dear Sir,

We refer to your letter of today's date received after close of business at 16:28. This brief response has been prepared at speed given the timing of receipt of your letter.

We note the withdrawal of the flawed Section 34 process, and the recognition that there have been procedural flaws in the process.

Our client denies "lying" to the Chief Minister or the Attorney General in relation to the "on-going police investigation", or over any other matter.

Your clients are well aware that no particulars have been given to our client of any alleged lies. Our client has therefore had no opportunity to address the allegations which at the moment can only be classified as vague slurs.

An accusation of lying against the principal law enforcement officer of the Crown in Gibraltar is a matter of the highest gravity. Mr. McGrail's service has been recognised by Her Majesty Queen Elizabeth II herself.

We note that your client's Chair now admits to having been informed by the Chief Minister and Attorney General that Mr. McGrail "lied" to them about a police investigation. We also note that your client (we assume deliberately) omitted this allegation, which was plainly central to the Chief Minister's decision-making, from the second letter of 12 May purportedly setting out the detail of the complaint against him. We suggest that the strong inference is that your client knew the matter was constitutionally improper and for that reason left it out.

An allegation of lying in any circumstances is one of the utmost gravity yet our client has no understanding of the specifics of the allegation and has not had the chance to address it. We remain entirely unclear what your clients, the Authority, propose to now do.

Our client is gravely concerned by how he has been treated during this process, and I welcome your frank acknowledgment that there have been procedural flaws. He is an officer of the highest standing, with an impeccable record over the past 36 years. In these circumstances, given how unfairly he has been treated and the improper pressure put upon him to alter the course of a live criminal investigation, our client feels he must apply for early retirement from the Royal Gibraltar Police.

All of Mr. McGrail's rights are reserved.

Yours faithfully,

Charles Gomez.

His Excellency Nick Pyle OBE

Governor & Commander-in-Chief

The Convent
Gibraltar

Tel: [redacted]

Ian McGrail MSc OTPM
Commissioner of Police
(by email)

06 June 2020

Dear Commissioner

Thank you for coming to see my yesterday.

During our discussion you handed to me a copy of an email dated 5 June from Charles Gomez to James Neish under the subject "Invitation to Retire: Section 34 of the Police Act." I have now read that email and note the final 14 words which state "our client feels he must apply for early retirement from the Royal Gibraltar Police."

This matter is of course directly relevant to me as it is the Governor who, under S 32.(1) of the Police Act 2006 and acting on the advice of the Authority, appoints the Commissioner.

Before I review all the papers I have on this matter in advance of our meeting on Monday, can you please confirm to me, by no later than midday tomorrow, whether that is indeed your decision, and, if so, whether you will be tendering your letter of resignation on Monday with immediate effect.

I look forward to hearing from you.

Yours sincerely

Nick Pyle

ianmcgrail@gibtelecom.net

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 07 June 2020 20:27
To: Charles Gomez
Cc: [redacted] Nicholas Gomez
Subject: RE: Commissioner of the Royal Gibraltar Police.

Dear Mr Gomez.

This acknowledges receipt of your email.

Yours sincerely

Nick Pyle

N J Pyle OBE
Governor
The Convent
Gibraltar
[redacted]

From: Charles Gomez <Charles@gomezco.gi>
Sent: 07 June 2020 11:56
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Cc [redacted]; Nicholas Gomez <Nick@gomezco.gi>
Subject: Commissioner of the Royal Gibraltar Police.
Importance: High

"Your Excellency

We continue to represent the Commissioner of the Royal Gibraltar Police, Mr. Ian McGrail.

He instructs us to reply to your letter of yesterday's date sent by email at 14:24 in which you sought a response by midday today Sunday the 7th June 2020.

Frankly, we struggle to understand and are very concerned by the rush.

The history of this unfortunate case begun with the hasty and fundamentally flawed letters sent to Mr. McGrail by the Gibraltar Police Authority on the 22nd of May 2020. Those blunders should have taught us all to the dangers of rushing through major decisions involving the Rule of Law in Gibraltar which, although a small territory, fully expects complete adherence to internationally recognised principles of fairness and due process.

Last Friday day evening the GPA's lawyer wrote conceding that his clients' attempt to remove the Commissioner from office was flawed and the Section 34 procedure was duly withdrawn. Mr. Neish also, extraordinarily, admitted in writing that you and the Chief Minister had alleged that Mr. McGrail had *"lied"* to the Chief Minister and Attorney General in relation to an on-going police investigation, a matter which was (plainly deliberately) left out of the GPA's letters of the 22nd May 2020. That in itself must rank as a disgrace and an embarrassment to the system and as a loyal servant of the Crown our client finds himself not just aggrieved by the way in which he has been treated but also embarrassed that a procedure of such importance should have been so catastrophically mishandled.

For the sake of completeness I should add that in addition to the distress and embarrassment inflicted on Mr. McGrail he has been put to the expense of having to engage expert constitutional lawyers at very short notice to respond to the flawed process. I trust that you will agree that he is entitled to be reimbursed by the GPA for the expense that they have occasioned to him.

Moreover there is no reason that we can see why the process which you appear to be preparing for, i.e. the exercise of your powers under Section 13 notice should be rushed, unless it is because you want to dispose of this very serious matter and with it my client's career and reputation before the swearing in of Sir David Steel as Governor next Thursday.

On any calm and rational analysis this matter is so serious that it requires not haste but scrupulous care and deliberation. In issue is nothing less than the suspension and / or removal of the Queen's principal law enforcement officer in Gibraltar.

The evidential background could not be more defective or forensically troubling. The Commissioner is facing apparent accusations of lying to the Chief Minister and the Attorney General without having been given any detail of the supposed *"lies"* or any opportunity to contest them. One would struggle to find any civilized country in which a kangaroo process on this kind would be accepted as reasonable.

With respect I believe that you are in no position to exercise any power under Section 13 on the basis of unsubstantiated slurs and without giving our client a full opportunity to contest properly articulated accusations within a reasonable time frame.

The foregoing is the substantive background but I should also make very clear that it would be unlawful for you to invoke the Section 13 procedure at all. The procedure is only available to you if the GPA is in default of its duties under the Police Act 2006 – it is not in default, because it has correctly withdrawn the flawed procedure against Mr. McGrail. It has therefore discharged its responsibility. The attempt to use the section 34 procedure was, as we said in our response to the GPA, a sham and we urge to take due cognisance of our concerns which have so far proved to be well founded. The section 13 procedure is obviously not available in such circumstances – indeed, to use it in this way would be unconstitutional and you would be repeating the errors of the GPA.

I would also respectfully remind you that in addition to your position as interim Governor, you have also been involved in the complaint (still to be articulated to our client) which you made to the GPA and led to their ill-fated letters of 22nd May 2020. It was for this reason that at your meeting with Commissioner McGrail on Friday he suggested to you that you should leave this constitutional crisis for Sir David to deal with. I repeat that we see no legitimate reason whatsoever for such astonishing haste.

It will be clear to you from your own personal involvement and from the matters set out in our email of Friday's date to James Neish that Mr. McGrail is being forced to leave his post by a combination of pressures, the most grave of which is the apparent interference with a live criminal investigation involving suspected corruption in the area of national security. Our client would have preferred to avoid detailed reference to that interference in the national interest. However, Mr. Neish's letter has brought the issue into centre stage when he wrote that the allegations of lying to the Chief Minister and to the Attorney General related to discussions which Mr. McGrail had with those two gentlemen in connection with a criminal investigation with national security implications.

In all the circumstances we conclude that it is in everyone's interest, including yours, that you should recuse yourself from this matter. There can be no harm in waiting for the three clear days until Sir David is sworn in and indeed, I expect that you will have already briefed him in connection with this matter which will inevitably shroud his first days in office in the kind of controversy that Gibraltar has never before had to endure.

Because of the immense pressure which has been placed on our client and his family, and the grave realisation that he can no longer count on the impartiality of the most senior members of Gibraltar's Government, he have been left with no choice but to apply for early retirement – he will certainly not be resigning. The process of such a request for retirement will inevitably involve a number of essential pre-requisites such as the financial terms of the early retirement and the withdrawal of the vague allegations of impropriety against him. To be clear, his request for early retirement is subject to satisfactory terms being agreed in advance. However, should appropriate terms be agreed, from his perspective we anticipate that this process could be swift.

I hope that you will appreciate that my client's 36-year career is as important to him and his family as your career is to you and yours and it is not something that should be hastily disposed of on account of whatever expediency and obscure reasons behind this sudden campaign against him.

Mr. McGrail does not want to cause Gibraltar any harm at this difficult time and will be reasonable but expects to be treated reasonably, respectfully and justly.

In order to assist the incoming Governor, Mr. McGrail will be writing to him next week with what he believes will be reasonable terms for his retirement and I would ask you please to ensure that he is fully briefed without delay so that the matter of his forced departure can be dealt with in an honourable manner.

Once again and with all due respect I entreat you to take **independent** legal advice as a matter of urgency and I reserve all Mr. McGrail's rights.

Yours sincerely,

Charles Gomez.

GOMEZ

CHARLES GOMEZ & COMPANY

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From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 07 June 2020 21:49
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: Re: COMMISSIONER-GOVERNOR MEETING: MONDAY 8 JUNE 10.00

Dear Ian

The purpose of tomorrow's meeting is to allow me to hand to you a copy of a letter dated 3 June I sent to the GPA Chair, together with ones sent by the Attorney General and Chief Minister, both dated 5 June.

I suggest we then meet in the afternoon at 16.00 to discuss matters.

I would like both meetings to be just us please. I do not wish to meet with Mr Gomez.

Regards

Nick

N J Pyle
Governor
The Convent
Gibraltar

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: Sunday, June 7, 2020 9:15:05 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: Re: COMMISSIONER-GOVERNOR MEETING: MONDAY 8 JUNE 10.00

YE -
In view of the latest developments I think that it would be helpful for Charles Gomez to be in attendance at our meeting.

His attendance would serve to expedite matters and our conversation would be without prejudice in order to allow us to speak openly and candidly.

My career and the happiness of my family and myself have been very severely prejudiced and I would like us to be able to talk things through in an honest and sincere manner.

Mr. Gomez's attendance at our meeting is not a condition for the meeting to go ahead but I reiterate that I think that he can bring an objective and helpful element to the meeting.

Yours sincerely,
Ian

On 7 Jun 2020, at 20:29, Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk> wrote:

Dear Commissioner

This is a reminder of my request that we meet at my office at the Convent tomorrow at 10.00 hrs.

Regards

Nick

N J Pyle
Governor
The Convent
Gibraltar
[redacted]

This email is intended for the addressee(s) only. All messages sent and received by the Foreign & Commonwealth Office may be monitored in line with relevant U.K. legislation.

The Attorney General
HM Government of Gibraltar

Dr J J Britto
Chairman
Gibraltar Police Authority
Unit 25B Casemates Square
Gibraltar

05th June 2020

Dear Joey,

Re: Commissioner of Police - Letter dated 29th May 2020 from Charles Gomez & Company

Thank you for providing me with a copy of the letter dated 29th May 2020 that you have received from Charles Gomez and Co representing the Commissioner of Police ("COP"), Ian McGrail ("the letter").

I have no formal role under the Police Act in relation to the matters currently before the Authority for consideration. Therefore, whilst my views about the COP are relevant only in so far as the Authority wishes to have regard to them, I cannot allow the Authority's record to stand unrebutted on the basis of the untrue and scurrilous allegations made by the COP. Thank for giving me the opportunity to do so.

The letter makes important and very serious allegations against me, namely, that I have improperly, corruptly and in abuse of my powers "interfered" with an ongoing criminal investigation by:

(i) privately subjecting the COP to "significant and at times intemperate private criticism" about how the criminal investigation has been handled, and

(ii) trying "for many months" to persuade COP to "change his and the RGP's approach to the investigation which would either lead to it being dropped entirely or certain suspects not being prosecuted".

In support of those statements it is said that I have feigned loss of confidence in the COP as a means of disguising my alleged real objective which is said to be, effectively, to "nobble" the investigation and prosecution to which the investigation relates, and that in some way, this should be deduced from

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issues relating to "timing" of actions by others and the allegation (also denied by me) that I have reacted with "startling" emotion and consequential insinuation that this is apt to sustain the fantastic allegations made against me by the COP. I hasten to say that each of them is untrue and without merit or justification.

Part of the narrative of the COP's allegations against me is that I apparently gave him *"the strong impression that I was primarily concerned with protecting the Chief Minister and 'Gibraltar PLC" (the AG's words)*". I am not aware that the Chief Minister is a person in need of protection in the context of the criminal investigation in question. In so far as concerns the fact that I was primarily concerned with protecting "Gibraltar PLC" (which is vernacular for the public interest of Gibraltar) that is absolutely correct. That is my constitutional role and my job (a fact that the COP, and those advising him appear to overlook).

At a personal level, I deeply regret (because I have always enjoyed excellent working and personal relations with him) to have to say that I cannot recognise the truth in the statements and allegations that COP now makes in the letter. They are untrue.

I have a constitutional role both in relation to prosecutions (I have ultimate responsibility and control over them) and for the rule of law (I am the guardian of the laws of Gibraltar and compliance with them). This is important because it renders proper interventions by me which may not be proper if engaged in by others. What the COP is effectively doing, on the basis of pure speculation and assumption on his part, is to cast the gravest aspersions <u>on my motives</u> for my statements, views and actions.

I should comment also that, in any event, the COP is not (as he appears to believe) immune to having his actions "strongly disapproved of" or being "severely criticised for them". Yet he equates both to the improper interference with the conduct of a criminal investigation and a violation of police independence. This, worryingly, shows lack of understanding and judgment by the COP.

Because of my roles described above, and also the fact that I am the Crown's (in all its facets, including the RGP) principal legal adviser in Gibraltar, it has always been customary for the COP and the RGP to seek the Attorney General's advice and to discuss ongoing investigations with him, whenever that is required. Mr McGrail has done so, both before and after becoming COP.

Contrary to what the letter says, I have never said that the COP lied to me. What I have told him is that he has incurred in a serious breach of my trust (which I explain below) as a result of which I have lost confidence in him.

I turn now to what has actually occurred. I first became aware of this criminal investigation on the 11 May 2019, when I received an email from the COP (sent also to the Chief Minister, Minister of Justice, the Chief Secretary, the Financial Secretary and the DPP) asking to meet with us urgently to brief us in relation to certain information that they had obtained in that criminal investigation. That meeting took place on Monday 13 May 2019. At that meeting, or shortly thereafter, I became aware that James Levy QC had shares in one of the companies involved in that dispute and that he was mentioned in communications with the three suspects and was potentially a person of interest to the investigation.

Far from seeking to intervene or interfere for that reason, I had no further involvement with the criminal investigation until over 11 months later when, in early-April 2020, the DPP called me to discuss the Government's position in relation to the ongoing issues about the ownership of a computer platform and its software that HMGOG uses, to which the criminal investigation related.

During that discussion the DPP explained to me that the RGP had drawn up a list of 76 charges (some of which could be impacted by the question of ownership of the platform) and that the RGP were thinking of issuing search warrants against Mr James Levy QC. I was alarmed, both by the number of charges (which would be quite inappropriate in any prosecution) and also by the proposal to obtain and issue a search warrant against a senior lawyer without first seeking voluntary co-operation or voluntary production of evidence. My concern was not because of any sense that lawyers should be exempt from this mechanism, rather it was (as would be the case of any person) that such warrants should reflect the reality of the risk of destruction of evidence unless the person is taken by surprise, or the refusal of the person to provide the evidence voluntarily. Not only can that not be assumed against any person, still less a practising lawyer, but Mr Levy had been aware of the RGP's interest in him for many months, and had had plenty of opportunity to destroy evidence if he were minded or inclined to do so. I have a legitimate public interest role and function (indeed, a responsibility) in respect of both these matters.

I asked to meet with the COP in relation to these two matters, and we did so on 7th April 2019. In that meeting I advised him of my concern about the need to obtain clarity on the issue of ownership of the computer platform since it was clear that that issue would likely have an impact on at least some of the proposed charges, and I also told him that I was worried about the overall number (76) charges, which seemed wholly excessive, not to say absurd. I reminded him of the general wisdom of focusing the

charges appropriately. We also discussed, in the terms that I have described above, the proposal to obtain and execute a search warrant against Mr Levy.

The outcome of that discussion was that we reached a clear understanding that the the RGP would not take any further action until they had considered my advice about the rationalisation of the charges, and then the COP would come back to see me again. It was clear beyond peradventure that nothing would happen until we met again. The next I hear (from COP himself, as it was happening) was that RGP officers were in the process of executing search warrants against Mr Levy at the offices of Hassans and at his home.

I have never said anything to the COP which can be interpreted as anything other than advice and assistance, as has always been the practice. The COP is of course free to take whatever action he considers lawful and appropriate regardless of any advice that I may give him on the matter, and he did so. He unquestionably has that right. What the COP cannot do, and also expect to retain my personal confidence, is to act contrary to an understanding reached between us, as he has done. This, and not my disapproval of his actions (even though I think that they were ill advised), is the reason for my loss of confidence in him.

I have made it explicitly clear to the COP throughout that the conduct of the investigation (including the seeking and execution of search warrants) are, whatever I may advise him, operational matters entirely for him. Nothing that I have ever said to the COP or any other member of the RGP has been even remotely open to the possible (mis)interpretation that I have advised or encouraged, still less that I have interfered to bring about or try to bring about, the curtailment of the investigation, how it is carried out by the RGP or to prevent any person from being charged. It is outrageously wrong and unfair for the COP to allege that I have (let alone that I have done so repeatedly over an extended period of time) and I am shocked and deeply resent that he has done so. This necessarily deepens my loss of confidence in him going forward.

I remain at the Authority's disposal for anything with which I may be able to assist it further by way of clarification or further explanation.

Yours Sincerely,

Michael Llamas QC
Attorney General

HM Government of Gibraltar

THE CHIEF MINISTER

Dr J J Britto
Chairman
Gibraltar Police Authority
Unit 25B Casemates Square
Gibraltar

5th June 2020

Dear Joey,

Re: Letter dated 29th May 2020 from Charles Gomez & Company, on behalf of the Commissioner of Police to the Members of the Gibraltar Police Authority ("the Letter").

Thank you for providing me with a copy of the Letter. Your having done so serves two purposes. Firstly, it fairly provides me with an opportunity to respond to the very serious and vile allegations made against me by the Commissioner of Police ("**COP**"). Secondly, it gives the Authority the opportunity to have whatever regard it considers appropriate to my response when it makes its further decisions (if any) in relation to its invitation to the COP to retire.

Let me say at the very outset that serious as they are, the COP's allegations against me are completely untrue. Like any other person who values the rule of law (of which the independence of operational policing is a key element), I would be the first to admire the courage of a COP who fearlessly makes a stand in defence of the independence of policing and its freedom from political interference. It would be a relief to know that our police force was under such leadership.

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However, this does not provide the COP with licence to elevate the product of his apparently fertile imagination, and the consequent speculative inferences which it leads him to make, to the status of fact, as he does. Still less does it entitle the COP to make (on the basis of such speculation as to the motives of each of them), the very grave allegations that he makes against all of His Excellency the Governor, the Chief Minister, the Attorney General and the Director of Public Prosecutions. It seems to me that such allegations could only properly be made and justified if supported by credible evidence. They are not, as they cannot be because they are untrue. For that reason, they are a fanciful nonsense which self evidently serves to vividly illustrate why the COP is undeserving of my confidence.

I wish to make clear that I stand by and ratify everything that I have previously said to you about my loss of confidence in the COP, and the reasons for it. To those reasons I would now add the extraordinary nature and content of the Letter, on the basis of which my loss of confidence in the COP is further increased and cemented. Furthermore, it is not immediately clear to me how the COP can preside over the efficiency and effectiveness of the RGP in the light of the obvious breakdown of his relationship with each of the Governor, the Government (myself and all other members of my Cabinet), the Attorney General and the Director of Public Prosecutions that necessarily results from the contents of the Letter.

You will have seen in this regard the letter dated 3 June 2020 addressed to you by His Excellency the Governor which His Excellency has shared with me. Of further significance arising from this letter is the entirely unjustified and reckless nature of the allegation against the Governor, who was not at the material time even aware of the criminal investigation interference which is alleged to justify the COP's allegations against him. Yet, such is the nature of the Letter. I made His Excellency aware of that investigation at the same time as I referred the matter to you. I did so in a spirit of complete transparency.

I am, of course, not accountable to the Authority for my conduct as Chief Minister. Nevertheless, from a position of institutional respect for the GPA as the statutory

body responsible for ensuring the independence of policing in Gibraltar, your role in respect of section 34 of the Police Act, and indeed deference to its members, I set out below my response to the COP's allegations in so far as they concern me.

The allegations levelled against me by the COP could not be more serious in nature. He accuses me of corruptly (see para 16- 22) interfering with the conduct by the RGP of a criminal investigation, in an unprecedented "abuse of power", motivated by a wish to retaliate against him (see paras 23 and 24) and a "personal connection with the outcome of the investigation" (para 38). He further accuses me of lying to the Authority about the "real reasons" for "pressuring" the COP to retire which he describes as a "a pretence" (para 48), "a pretext" (para 66) and "fig leaves" for the real reason which he declares to be a desire on my part to impede the COP's proper and reasonable handling of a live criminal investigation (para 39) and, which latter (asserted by him) reason is (as candidly stated by Mr Gomez at para 33) "the real and central reason for the request". In other words, I stand accused by the COP of all of outright dishonesty, wholly improper (indeed potentially unlawful) interference with the RGP and corruption.

Not content to level these grave allegations against me without a shred of evidence to support them, the COP has the temerity to declare that it is unnecessary for him "merely to rely on any inference raised by the timing of the s.34 letter to make this point" because (according to the COP) during your meeting on 22 May you confirmed to him that I had told you that his handling of "the criminal investigation" was "spoken about at the Chair's meeting with the Chief Minister and Governor and was one of the reasons they had lost confidence in Mr McGrail." This is relied on as some sort of "smoking gun" that puts his grave accusations beyond doubt or somehow justify his making them (para 40).

In the context of all the above, that he also accuses me of undermining the rule of law, that my conduct is 'an affront to the rule of law' and of seeking to "direct you" in your decisions (second para on page 2), serious as they are in themselves, pale into relative insignificance.

The COP's allegations are entirely untrue, and the manner in which he describes such interaction as there has been between us is so distorted as to be obvious that it would mislead the Authority.

Let me be absolutely clear, I have at no time or in any manner sought to interfere with the RGP's conduct of the criminal investigation in question in any manner of for any purpose, including (but not limited to) my alleged "personal connection with the outcome of the investigation". That personal connection is, presumably, the fact that Mr James Levy QC, whose conduct is apparently under investigation, is the senior partner of Hassans, a law firm of which I am also a partner although presently on a sabbatical.

At no time have I sought to intervene in or interfere to prevent Mr Levy being investigated or to prevent a search warrant being obtained and executed against him at the offices of Hassans, facts which I first learned about as they were already happening, that is, as the search warrant was being enforced at the offices of Hassans and at Mr Levy's home. This can be best illustrated by reference to the fact that at 12:25 pm on the 12th May 2020 I received a "Whats App" from the COP in which he said to me "CM- before you hear it from anyone else I want to inform you that detectives are executing a search warrant at Hassan for (JL) in relation to the case against Perez, Cornelio & Sanchez".

I responded at 12.34 in the following terms:
"Ian, Thank you for the courtesy of this information. I think that is a bad decision. A search should only have been sought if you believed that the person in question was not going to cooperate and will try to destroy evidence. If, as you say, you are hoping for cooperation, especially in a case involving a senior Silk and head of Gibraltar's largest legal firm, you should, in my view, first have sought to contact that person and obtain cooperation. Given my close personal relationship with JL, I won't comment further."

The COP replied at 12:35 as follows: "Noted CM".

I repeated that view to the COP during a meeting at my office in No 6 later on the same on day, coinciding with his presence in No 6 in connection with a Covid planning meeting in the basement of No 6. I also made it abundantly clear to him that my reaction would have been identical had he taken the same action against any other senior member of the Gibraltar Bar, all of whom, like him, are officers of the court with the legal and ethical obligations consequent to that status. These are the messages and the meeting to which the COP refers, in terms that I do not recognise, in paragraph 36 of the Letter.

The above is the full extent of my communications with the COP or the RGP in relation to the "criminal investigation" since then.

In so far as concerned my alleged motives for doing so, i.e. my personal connection with the outcome of the investigation, the accusation made against me is not sustainable even on the COP's case. In his Whats App at 12:25 (as the events were occurring) he told me that the warrant obtained and executed against Mr Levy was "in relation to the case against Perez, Cornelio & Sanchez". So, when I expressed the view that I did 9 minutes later at 12:34, I had no reason to believe that the investigation was of Mr Levy.

In fact, I am clearly entitled to express the views that I did in the above manner. That does not constitute interfering with the investigation in the grave manner of the allegations made, or at all. I am entitled to express my views to the COP on matters of policing policy in Gibraltar. I did not prevent the obtaining or the execution of the search warrant, both of which had already occurred. I have made no attempt to secure an end to those investigations, against Mr Levy or anyone else. Indeed, when I discovered that one of the persons under investigation was a civil servant, I directed the Chief Secretary that HMGOG should be a complainant to the police in the investigation, which duly occurred. Therefore, the notion that I was motivated by concern for the outcome of the investigation in so far as concerned my alleged personal connection with it is therefore simply unsustainable, as the COP well knows. This was an investigation in which I had insisted my Government should be a

complainant (ie the entity whose interests may have been criminally damaged) and in respect of a National Security facility which I had been instrumental in creating in the public interest of Gibraltar. It is remarkable that the COP could even believe, less still suggest to others, that I might want to interfere with such an investigation.

In my opinion, the obtaining and execution of a search warrant which the COP referred me to in his Whats App in such circumstances (such as I described in my own Whats App response to the COP) is of dubious legality, abusive, unprecedented in policing in Gibraltar, incompatible with public confidence in policing and the good name and reputation of Gibraltar as a business and finance centre. It is noteworthy in this regard that these are policy matters in which, as Chief Minister, I have a legitimate interest, and that in the event of the RGP being sued for the unlawful obtaining and execution of a search warrant, it is HMGOG that has to bear the financial consequences.

Be all the above as it may, serious as they are, and as the COP also well knows, those are not the reasons why I have further lost confidence in him by virtue of this criminal investigation. I have not lost confidence in him because he obtained and executed a search warrant in circumstances in which I believe it was inappropriate to do so. Nor is the reason "how the criminal investigation we refer to above has been handled" (para 35, and elsewhere in the Letter). The primary reason is that the COP has clearly lied to me.

During the meeting to which I refer above, the COP stated to me in explicit terms, in response to my concerns about the propriety of the warrant, that he had obtained and executed the search warrant against Mr Levy in reliance on legal advice from the Director of Public Prosecutions who had confirmed that it was appropriate to seek such a warrant and proceed in that way. I have since determined that this categorical statement from the COP, clearly designed to suggest to me that my views as to the law were wrong and he / his officers had acted properly (and not compromised the investigation or exposed HMGOG to potential claims for civil damages) was wholly untrue. In fact, it is now clearly established that at no time did

the COP or the RGP obtain legal advice from the DPP to that effect, a fact which the COP has now acknowledged in writing to Hassans (and has been separately confirmed to me by the DPP). This is unacceptable to me and goes to the COP's probity and integrity in his dealings with me, and to my ability to have confidence in him. This is unrelated to the nature, direction or conclusion which the investigation might take or reach (which I have been supportive of from the beginning, continue to be and have caused my Government to be a complainant for), as that continues to take its course. The COP has understood that, as evident from the fact that the investigation in question has not been affected in any way and has, rightly, continued unabated.

Additionally, I cannot accept the COP's statements in relation to his briefings to me about the "incident at sea". This was an incident with extremely serious external political consequences and very material potential financial consequences to the Government. I have, since our original discussion, already had to answer questions in the Parliament on this matter and there has been additional media reporting related to it both before and arising from my answer (including on the Spanish national broadcaster, RTVE). It has been the established practice for at least 50 years that Commissioners of Police keep the Chief Minister of the day fully, timeously and spontaneously informed, in detail about incidents of that kind. Had COP properly done so in this case it would not have been necessary for me to exercise the Chief Minister's powers under section 15 of the Police Act for the first ever time, as I confirmed to the Parliament. His Excellency the Governor has complained of the very same thing.

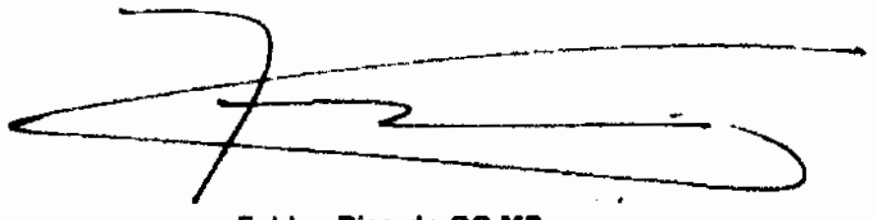
I have already taken you through my deep concerns in relation to the report from HM Inspectorate of Constabulary, which are also deeply concerning to me and relate to the efficacy and effectiveness of the RGP, both of which are the direct, legal responsibility of the COP under the Police Act.

Nothing in the Letter from the COP raises any real issue of interference with the independence of policing in Gibraltar, and the COP cannot raise imaginary

allegations to escape the fact that he has lost the confidence of every relevant authority in Gibraltar, and the proper consequences thereof. His allegations are untrue and are based entirely on speculation on his part as to everyone's motives for forming the views of him that they have. It is in itself wholly improper that he should make such spurious and damaging allegations without evidence commensurate with their gravity (or indeed any evidence). This now also goes to my further lack of confidence in the COP.

Please do not hesitate to ask me to clarify any matter that it would be of assistance to the Authority that I explain further.

With very best wishes,



Fabian Picardo QC MP
Chief Minister

Nick Pyle OBE

Governor & Commander-in-Chief

The Convent
Gibraltar

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Dr J J Britto
Chairman
The Gibraltar Police Authority
Unit 25B Casemates Square
Gibraltar

3 June 2020

Dear Mr. Chairman

Re: Invitation to Retire – section 34 Police Act.

I would like to thank you for providing me with a copy of the letter dated 29 May 2020 sent to you by Mr Charles Gomez, acting on behalf of the Commissioner of Police ('CoP'), on the above-captioned matter (the "Letter").

A number of matters and allegations in the Letter concern me, either directly or indirectly. My position within the GPA (paras 1-4 of the Letter) is one which I assume you will be addressing yourself in the GPA's reply to Mr Gomez. In any event, as you are aware, I wrote to you on 19 February 2020 explaining how I thought we could proceed during such time as I was acting as Governor. For clarity, all my communications with you since 19 February 2020 have been as Governor and NOT as a member of the GPA.

With regard to the remaining contents of the Letter, I would like to address only two specific points at this stage. What I say is without prejudice to further information that I would be happy and able to provide if it were considered necessary to do so. Silence on any point made in Letter is not be interpreted as my acquiescence to any of them.

1. **The relevance of the ongoing criminal investigation and its timing.**

The first issue is the offensive assertion that my lack of confidence in the CoP, and therefore my conviction that he lacks both probity and integrity, is based on the RGP's handling of the so-called ongoing criminal investigation.

My deep concerns with the CoP's leadership qualities have absolutely nothing to do with that investigation. The already-existing concerns that I have had with the CoP were confirmed by the incident at sea (March 2020) and the HMIC Report (published in May 2020)

In relation to the former, the seriousness of the incident of 8 March 2020 does not require explanation. By its own, it has raised grave concerns with wide-reaching political, financial, reputational and sovereignty implications. They raise very serious concerns about the leadership at the RGP.

Furthermore, I suspected at the time of the immediate aftermath of the incident that the CoP's disclosure of information to me was evasive in particular in relation to the critical issue of whether or not the incident had occurred within BGTW. I know that when the CoP was telling me that it was not clear where the incident had occurred, he was informing the Chief Minister that the incident had indeed occurred outside BGTW. Indeed, it occurred some 7.5 nautical miles beyond Gibraltar's baseline and therefore well outside BGTW. I find this evasiveness on a key issue to demonstrate a total lack of respect to the office of Governor particularly since the CoP knew that this was the crucial issue for me and for both the UK and Gibraltar Governments as far as diplomatic relations with Spain were concerned.

In relation to the latter, on 30 April 2020, after having seen a draft of the Report, I wrote to the Chief Minister saying that I found the Report to be "quite damning". Indeed, the day before, I had written to you saying that I did not think that the Report should be published.

I was informed for the first time, of the very existence of the criminal investigation referred to in the Letter on 15 May 2020 (when the matter was raised with me for

information by the Chief Minister, as he thought it right to disclose this to me as we considered matters related to the RGP and CoP).

I want to be clear, therefore, that my lack of confidence in the CoP's probity and integrity, and my conviction that the rule of law is compromised by the fact that I have lost confidence in him, therefore clearly arose well before I was aware of that criminal investigation. It is incorrect and untrue for anyone to suggest otherwise.

For Mr Gomez to therefore suggest, through conjecture and assumption, that the incident at sea and the HMIC Report were "fig leaves for the real reason Mr McGrail is being pressured to retire" (para 39) is an outrageous accusation which I bitterly resent and strongly object to. It is clearly not borne out by the facts and chronology as expressed above. In addition, for Mr Gomez to suggest that I had been aware of the incident at sea and the HMIC Report "for months" (para 34) is a wholly inaccurate statement which may mislead the GPA.

As a final point on this issue, I would also like to reiterate that these two incidents occurred on the back of a growing unease that I had been feeling over the months, in particular with the numerous allegations of bullying and mismanagement that I had picked up on. I have also been gravely concerned by the potential for corruption identified in the HMIC Report which has, tellingly, remained unaddressed by the CoP, despite his lawyer's response casting aspersions and allegations of corruption against others.

The CoP is the person who is ultimately responsible and accountable for all the actions and behaviour of the RGP, including those stated above.

2. The contents and allegations made in the Letter.

The second issue I must address is the tone and content of the Letter. I must place on record that the allegations made in the Letter that I am (or may be) interfering with the independence of the GPA, that I am (or may be) compromising the rule of law in Gibraltar and participating in a plot to discredit the CoP or influence the ongoing criminal investigation are entirely untrue and nothing short of a most scurrilous attack on my integrity. I find such allegations to be malicious and entirely misplaced. I strenuously

refute them and hold each one up as a further demonstration of good reason for my lack of confidence in the CoP and my concerns about his probity and integrity.

To conclude, I communicate to you as Governor that, for all the above stated reasons, the content, tone and style of the Letter have done nothing but cement my lack of confidence in the CoP and my concerns about the integrity, probity and independence of policing in Gibraltar in addition to the matters I have already communicated to you as Governor.

Yours sincerely

His Excellency Nick Pyle OBE

Governor & Commander-in-Chief

The Convent
Gibraltar

Tel: [redacted]

Ian McGrail MSc OTPM
Commissioner of Police

08 June 2020

Dear Commissioner

Thank you for coming to see me today.

We discussed your intention to retire and I agreed that this was the best course of action, adding that I would need a letter to that effect. I asked that your retirement be with effect from 18.00 on the 9th of June, and suggested that you may wish to make an announcement accordingly. Please do let me know if you intend to do so and perhaps we can discuss timing. I will then follow up with the following press release:

"His Excellency the Governor, Nick Pyle OBE, has accepted a request from the Commissioner of Police to retire with effect from 18.00 hrs on Tuesday 09 June.
Recognising the Commissioner's 36 years of service to the Royal Gibraltar Police, and cognisant of him being awarded the Overseas Territories Police Medal for meritous service in 2015, the Governor wishes the Commissioner all the very best for his retirement.
The Assistant Commissioner will perform the duties of the Commissioner until further notice, as set out in the Police Act 2006. "

You agreed to retire as set out above subject to financial terms being agreed which I believe you have done so with the Chief Secretary. I therefore look forward to receiving your letter.

I would like to reaffirm my commitment, notwithstanding the above, to ensure you are treated fairly and with respect at all times.

Yours sincerely

Nick Pyle

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 08 June 2020 19:11
To: (RGP) McGrail, Ian M.Sc (OTM)
Cc: Nick Pyle (Sensitive)
Subject: Re: Your offer of retirement

Dear Ian,

I shall revert on this soonest I can.

Best wishes,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 8 Jun 2020, at 19:01, (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi> wrote:

Dear Darren - I note your email below where the terms I discussed with HE are not acceptable to government, in particular the 22 months salary and the legal costs.

I note you make no reference to my untaken annual leave and days owed in lieu which I would ask should be paid.

In terms of my pension/gratuity I explained to HE that I would ask for this to be worked out on my currently salary. I understand My pension would be taxable until I attain the age of 55yrs.

I terms of the legal costs I would make the follow submission for your consideration:-
The Section 34 Police Act (2006) procedure was withdrawn because it was flawed.

In order to establish this I had to retain lawyers. In fact, it was recommended to me by the GPA Chair that I should get legal advice.

Moreover, the matter was sufficiently complex for the GPA itself to engage a QC who correctly advised that the process was flawed.

As a result of the expense I have had to incur the GPA now has the benefit of legal advice which will ensure that the mistake is not repeated.

The custom in situations such as this is for the public body to pay the cost of the citizen against whom a flawed process was initiated.

Finally, I feel entitled to retire in the same position I would have done so had I not been practically compelled to retire which is why I included the remaining months of salary as a consideration. If this is not possible, would you consider 12 months salary instead?

I look forward to hearing from you. If you feel we can discuss the matter over the phone please do let me know.

Regards
Ian

On 8 Jun 2020, at 17:55, Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk> wrote:

Dear Ian

In view of this correspondence, could you please confirm whether it is still your intention to retire with effect from 18.00 tomorrow (9June).

Regards

Nick

N J Pyle
Governor

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: Monday, June 8, 2020 5:47:12 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Cc: Ian McGrail <Ian.McGrail@royalgib.police.gi>
Subject: Re: Your offer of retirement

Dear Commissioner,

Further to the additional information from the Governor, pension rights is one thing we could consider. Please inform what you have in mind.

Best wishes,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 8 Jun 2020, at 17:42, Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk> wrote:

Dear Chief Secretary

With apologies for not making myself clear, the Commissioner did make reference to pension rights as well.

Regards

Nick

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: Monday, June 8, 2020 5:33:33 PM
To: Ian McGrail <Ian.McGrail@royalgib.police.gi>
Cc: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: Your offer of retirement

Dear Commissioner.

The Governor has informed me of your offer to retire as from 18.00 tomorrow, 9 June 2020, subject to the following terms:

- Payment up until end of contract (April 2022);
- Payment of Legal Fees.

These terms are not acceptable to the Government.

Yours sincerely,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex: [redacted]

[08/06/2020, 20:09:53] Ian McGrail: Darren - I want to end all this saga but I need the terms agreed before I sign my letter to the Governor. Could you please expedite whatever you can so I can firm up my exit? Thanks.

[08/06/2020, 20:11:26] Darrren Grech: Quite understandable. Let me work on it tonight and tomorrow morning Ian. I need to clear with Principal Auditor etc without giving these people details of what I am working on.

[08/06/2020, 20:12:42] Ian McGrail: I am worried when you say that my pension rights are being 'considered' when really I am entitled to it.

[08/06/2020, 20:16:56] Darrren Grech: Don't worry, trust me please.

[08/06/2020, 20:17:49] Ian McGrail: It wouldn't be fair. I wouldn't be able to retire.

[08/06/2020, 20:18:15] Darrren Grech: You will and trust me please

[08/06/2020, 20:18:27] Darrren Grech: Give me this evening and tomorrow morning.

[08/06/2020, 20:20:14] Ian McGrail: Ok.

[08/06/2020, 21:21:50] Darrren Grech: Check your email.

[08/06/2020, 21:23:02] Ian McGrail: Many thanks

[08/06/2020, 21:23:50] Darrren Grech: Thanks Ian

[22/06/2020, 15:32:54] Ian McGrail: Darren - hope you're keeping well. Sorry for the bother but as pay day is coming up this Friday I wanted to ensure the agreed terms of my retirement have been actioned & that I will be getting my pension/gratuity and untaken leave/TOIL on Friday as otherwise I will only be receiving 9 days of pay for this month. I have alot of financial commitments which I do not want to fall behind with. I am sure you will understand. Can I have your assurances that all will be sorted for Friday please ?

Regards

Ian

[22/06/2020, 16:07:31] Darrren Grech: Yes Ian, but notwithstanding will forward to both Charles Santos and Collin Yeo

[22/06/2020, 16:07:43] Darrren Grech: Hope all is well.

[22/06/2020, 16:15:56] Ian McGrail: Thanks. Adjusting to this change in my life, turning a new leaf & looking forward to enjoying my time with my friends & loved ones.

[22/06/2020, 16:26:24] Darrren Grech: Things which are most important like the ones you are now doing should never be at the mercy of those which are less important. One day we have a beer or three.

[25/06/2020, 09:10:37] Ian McGrail: Morning Darren - I haven't recieved my pay slip or confirmation about my pension/gratuity payment & pay day is as from midnight tonight. Could you kindly advise if I will be receiving this information today. Thanks.

[25/06/2020, 09:11:58] Ian McGrail: I signed all the relevant papers when we agreed on the terms of my retirement.

[25/06/2020, 09:14:39] Darrren Grech: Ian I authorized everything. Will check up on you today. I promise you there are no hiccups.

[25/06/2020, 09:22:07] Ian McGrail: Many thanks. Me quedo tranquilo.

[25/06/2020, 09:22:45] Darrren Grech:

[08/06/2020, 16:50:12] Ian McGrail: Nick, I look forward to receiving confirmation of agreement to the financial terms we discussed & the other terms you suggested in your intended letter. Thanks

Rgds

Ian

[08/06/2020, 18:30:56] Ian McGrail: Nick - I have just read the exchange of emails between Darren Grech & ourselves.

I don't think what I am being offered is what I deserve. There isn't even a mention of my untaken leave & days owed being paid to me. Could you revert to Darren and enquire whether at least one year's salary is honoured? Rgds.

[08/06/2020, 18:33: [redacted] Ian. I've forwarded this to Darren. As I said I can't get involved but would hope days leave/toil not a problem.

[08/06/2020, 18:34:05] Ian McGrail: You deleted this message.

[08/06/2020, 18:34:23] Ian McGrail: Thanks

[08/06/2020, 19:17:37] Ian McGrail: Nick - with all the uncertainty I am unable to sign my letter to you. Government are merely considering my pension and untaken leave etc. they haven't committed to agreeing to it. Its an awkward situation which I trust you understand. I have to safeguard my terms 100% whatever they end up being but certainly agree them before signing the letter.

Ian

[08/06/2020, 19:53 [redacted] Ian. Thanks for this. I'd be grateful therefore if you could see me at 09.00 tomorrow. Regards. Nick

[08/06/2020, 20:01:39] Ian McGrail: It isn't right Nick. For them to say that they are 'considering' my pension rights? What is the point of me retiring then. Darren is saying that he will revert as soon as he can - It is not me causing any delay to my intentions. Surely Darren can sort this out. I am not trying to be awkward at all.

[08/06/2020, 20:0[redacted] I gather Darren will be in touch shortly

[08/06/2020, 20:04:31] Ian McGrail: Lets hope so.

[08/06/2020, 20:19:57] Ian McGrail: Darren has informed me that he'll be working on it tonight and tomorrow morning. Shall we give it till midday before we meet again to allow him time to firm everything up?

[08/06/2020, 20:25:12] [redacted] I'll ask him to speed it up and conclude their reply to you terms tonight.

[08/06/2020, 20:26:14] Ian McGrail: Thanks

[08/06/2020, 21:28:57] Ian McGrail: Nick - you will have my letter with the agreed terms by 0830hrs tomorrow morning. Could you now send me the letter you had intended for me. I will relinquish command at 1800hrs tomorrow.

[08/06/2020, 21:34:02] Ian McGrail: Darren has reverted and I have agreed to the terms.

[08/06/2020, 21:34:28] [redacted] Ian. Thanks. I believe that is the correct way forward. I'll go into the office and send the letter once I've finished dinner. Nick

[08/06/2020, 21:34:40] Ian McGrail: Ok

[08/06/2020, 21:35:21] [redacted] I'll tweak it to say you have agreed terms with the CS.

[08/06/2020, 21:46:00] Ian McGrail: Yes please. And that he will expedite the arrangements. Thanks.

[09/06/2020, 08:18:39] Ian McGrail: Morning Nick. Email with scanned letter has been sent. Original on its way to The Convent.

[09/06/2020, 08:28:19] [redacted] Morning. I'll get written confirmation to me re terms then revert accordingly.

[09/06/2020, 09:08:41] Ian McGrail: Are you ok with going out at midday with media release?

[09/06/2020, 09:26:58] [redacted] Maybe an hour or so later but let me check with CM who is in Spain. Can you share please what you will be saying.

[09/06/2020, 09:27:13] Ian McGrail: Yes certainly.

[09/06/2020, 10:11:45] Ian McGrail: I have emailed my press to you.

[09/06/2020, 10:34:39] [redacted] Wrapped up in meetings until @ 11.30. I'll get lines from the CM and share them with you.

[09/06/2020, 10:43:46] Ian McGrail: Thanks

[09/06/2020, 11:41:50] [redacted] Ian. Happy for your release to issue at 13.00. As soon as it has, I will issue mine. GoG will also issue a short statement wishing you well. I will be writing now to accept your retirement. Please do let me know when your statement has issued. Nick

[09/06/2020, 11:47:41] Ian McGrail: Will do.

[09/06/2020, 12:59:08] Ian McGrail: Press statement has been pushed out.

[09/06/2020, 13:16:45] [redacted] Thanks. I'll send mine now

Royal Gibraltar POLICE | *Delivering a Safer Gibraltar through Excellence in Policing*

Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex [redacted] • www.police.gi

9th June 2020

His Excellency Nick Pyle OBE
Governor
The Convent
Gibraltar

Your Excellency,

Further to our meetings, discussions and correspondence of the last weeks and yesterday, I respectfully submit my application for early retirement from my post as Commissioner of the Royal Gibraltar Police on the following terms;

(i) Untaken leave will be paid
(ii) Days off in lieu which have not been taken as leave will be paid.
(iii) Pension will be calculated at current salary. Payments to begin on 1st July 2020.
(iv) A contribution of £2500 towards my legal fees.

Should you agree, I would relinquish command of the RGP by 1800Hrs on Tuesday 9th June 2020.

Yours sincerely

Ian McGrail OTM MSc
Commissioner of Police

1st Affidavit:
Ian McGrail
Date: 20th June 2022
Exhibit: 2

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 2
TO THE FIRST AFFIDAVIT OF IAN MCGRAIL

Before me

Callum Smith
Commissioner of Oaths



A Commissioner for Oaths

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

[01/05/2020, 14:58:13] Ian McGrail: 👍

[12/05/2020, 12:25:15] Ian McGrail: CM - before you hear it from anyone else I want to inform you that detectives are executing a search warrant at Hassans for (JL) in relation to the case against Perez, Cornelio & Sanchez. Its been done in the most discreet of ways and we're hoping there is co-operation.

Rgds

[12/05/2020, 12:34:21] Fabian Picardo: Ian, Thank you for the courtesy of this information. I think that is a bad decision. A search warrant should only have been sought if you believed that the person in question was not going to cooperate and will try destroy evidence. If, as you say, you are hoping for cooperation, especially in a case involving a senior Silk and head of Gibraltar's largest legal firm, you should, in my view, first have sought to contact that person and obtain cooperation. Given my close personal relationship with JL, I won't comment further.

[12/05/2020, 12:35:07] Ian McGrail: Noted CM.

[12/05/2020, 12:25:58] Ian McGrail: Minister - before you hear it from anyone else I want to inform you that detectives are executing a search warrant at Hassans for (JL) in relation to the case against Perez, Cornelio & Sanchez. Its been done in the most discreet of ways and we're hoping there is co-operation. I have also advised CM.

Rgds

[12/05/2020, 12:26:19] Samantha Sacramento: Thank you

[12/05/2020, 12:26:51] Ian McGrail: Michael - before you hear it from anyone else I want to inform you that detectives are executing a search warrant at Hassans for (JL) in relation to the case against Perez, Cornelio & Sanchez. Its been done in the most discreet of ways and we're hoping there is co-operation. I have also advised CM.

Rgds

[12/05/2020, 12:28:20] Michael Llamas: Ian, we had agreed that you would come to me with a rationalisation of the charges before doing anything?

[12/05/2020, 12:29:42] Ian McGrail: We agreed we'd do that when all the loose ends were tied up and this included the enquiries with JL.

[12/05/2020, 12:30:24] Michael Llamas: No. that was not what we agreed.

[12/05/2020, 12:31:43] Ian McGrail: I am in the bunker. Will come round to your office as soon as I finish here.

[12/05/2020, 18:33:49] Ian McGrail: Michael - we both are disappointed but I just can't leave the matter as it is. I'd like to meet face to face. We have to work together & your wrong impressions about me need clearing up.

[12/05/2020, 18:41:41] Michael Llamas: Ian, it would not be constructive to meet, at least not for now. For me it was abundantly clear what we had agreed and there is therefore very little to discuss about that. All I have tried to do is to help you in all of this and to protect Gibraltar plc which is what I have spent all my life doing. I feel very, very let down. A serious breach of trust has occurred.

[12/05/2020, 18:43:21] Ian McGrail: I respect your view not to meet but totally refute any breach of trust. We'll agree to disagree.

1st Affidavit:
Ian McGrail
Date: 20th June 2022
Exhibit: 3

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 3

TO THE FIRST AFFIDAVIT OF IAN MCGRAIL

Before me

Callum Smith
Commissioner of Oaths

A Commissioner for Oaths

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

Lisa Duarte

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 12 May 2020 22:05
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: OFFICIAL - SENSITIVE Op Delhi CM-AG

I, Ian McGrail, am making these self notes on a matter which I am seriously concerned about regarding Operation DELHI (the investigation into the Caine Sanchez CS, John Perez JP , Tommy Cornelio TC and Eddie Asquez EA which is being led by Supt Richardson, Insp Wyan and Sgt Clarke). I am aware Supt Richardson has more comprehensive notes on the investigation proper and I will be requesting him a copy of these for my records.

For quite some time, I have been meeting with HMAG Mr Llamas, at his request, to discuss matters relating to this investigation. Mr Llamas has a view that Caine Sanchez in particular should be dealt with internally via civil service disciplinary mechanisms. To this date, however, The AG, has not been privy to the evidence that the team has gathered against CS or indeed the other suspects – the said evidence has been discussed with the DPP at great lengths who has advised that there is a criminal case for CS, JP and TC to answer and that there is a realistic prospect of conviction if prosecuted on community misuse offences and conspiracy to defraud offences. At most of these meetings with the AG, particularly the latter ones, I have been accompanied by Supt Richardson. The views I have expressed all along have been that the alleged criminal behaviour of all the parties concerned is very serious.

I have also discussed the potential conflict and/or embarrassing situation viz the CM and Fin Sec (and all the other partners of Hassans) being shareholders of the company that is part owner of 36 North who it is alleged would have benefitted from the defrauding process. He has said to me that he is aware of this and is of concern to him from a position of safeguarding the interests and reputation of the CM and Fin Sec both of whom (as indeed the other partners) will no doubt have not been aware of the alleged illegal practices employed by JP, TC, EA, and Jaime Levy - something which I also agree with. He has sais thoi to me in th presence of Supt Richardson and crown counsel Lloyd Devincenzi.

An issue that the investigation team have been wanting to clarify from the very early stages of the investigation is that of the ownership of the NSCIS platform. The DPP advises that it would ideal that this was cleared up before the point of charging but that it is not critical to a prosecution. This is an issue we have been trying address. On the one hand Blands asserts ownership and on the other so does HMGOG. The CM from the outset did say that the complainants on the hacking of the platform were HMGO, however, over 12+ months down the road, HMGOG have not been able to support that they are the owners.

I am aware that the AG has shared with the Ch Sec the correspondence submitted by defence counsel for TC, JP and EA so that he can base the argument that HMGoG are owners of the platform on these same arguments. Ch Sec has informed me that there isn't a single record he can find of how CS was handling the NSCSIS business on behalf of HMGOG. Totally lack of governance and supervision in the administration in this according to Ch Sec – but before his time in office. To this date the Ch Sec has still presented evidence to the investigating team that HMGOG are the owners of the platform.

I get periodic briefs from the investigating on the progress of the investigation. I am fully aware of the full range of sensitivities surrounding the matter because of the personalities involved. At a meeting in the office of the AG, with the DPP present, the AG was suggesting that I stopped the investigation from progressing on the basis that the ownership of the platform had not been established. I told him that I could not do so as I had Blands' versions of events that suggested they were owners and that in the absence of any concrete evidence from HMGOG I had to go along with that. DPP again reiterated that the whole of the did not hinge on the ownership of the platform. I went as far as informing the AG that it was within his power to discontinue a prosecution if he felt the need to – that I could not simply drop the matter because of 'public interest' reasons – that he would have to make that call. The AG asked both me and DPP whether he could enter a *nolle prosequi*. There was also further enquiries that needed to be carried as per evidence package submitted to the DPP – i.e interviewing Jaime Levy (JL) under caution. The rationale

for this is well articulated by the investigating team. I am also aware that the investigating team had discussed with the DPP the detail of how JL was going to be addressed and that the DPP had advised the team accordingly.

At my last meeting with the AG on this matter where Supt Richardson and CC Llyod Devincenzi were present the AG said that he was now taking a step back on this case as he was advising HMGOG on the intellectual property rights of the platform and therefore wanted to steer away from the criminal investigation. Notwithstanding, it was agreed that the team would produce a list of proposed charges so that the DPP/AG would consider. He asking whether from 80 charges these could be brought down to 17 and from these what would CS be facing? I probed his reasoning behind this but he did not elaborate. It was also discussed that we hoped that JL was able to clarify many of the issues in order to mitigate the potential fall out of the sensitive issues surrounding the case.

AG also asked on hypothetical; scenarios; what if the owner of the platform [HMGOG] actually/consented allowed it to be hacked? What would the RGP's view be on this? This further indicated the unwillingness to prosecute the matter. Again I retorted that this was a matter for him to decide. That the RGP would present the evidence and that he wanted to pull that was his prerogative.

I have been aware that the investigating team have been planning to execute a search warrant on JL at his office and at his home. The team have presented the evidence for the application of the warrant to the stipendiary magistrate who has deliberated it contents. The stipendiary has met with Supt Richardson and probed for one and ahalf hours. He has signed the warrant. I am aware that the team have also given serious consideration to ensuring that any material recovered is subjected to independent counsel analysis to ensure any legally privileged data is not compromised.

The date of execution was arranged for 12th May though I was not aware of the time. I advised the team that out of courtesy (not obligation) I would be informing the CM, MoJ and AG of this action given the delicate nature of the intervention.

At 1030hrs today I attended a COVID-19 strategic coordinating group meeting at the Bunker in Number 6 Convent Place. At 1222Hrs whilst still at the meeting, I received notification from Supt Richardson that he was heading to execute the warrant. I then texted the officials referred to. MoJ was at the same meeting I was. She acknowledged the message. The AG replied saying this action was not what had been agreed to which I responded that it was, that we had to close off the lines of enquiry with JL before considering the proposing of charges. He disagreed with me so I said via text that I would go round to his office when I finished the meeting. Whilst texting with the AG I could see that the CM was typing out a message to me. AT 1234Hrs I received a message from the CM saying the following;-

"Ian, thank you for the courtesy of this information. I think that it is a bad decision. A search warrant should only have been sought if you believed that the person in question was not going to co-operate and will destroy evidence. If, as you say, you are hoping for cooperation, especially in a case involving senior Silk and head of Gibraltar's largest legal firm, you should , in my view, first sought to contact the person and obtain cooperation. Given my close personal relationship with JL, I won't comment further. " To this I replied "Noted CM".

A few minutes later, a member of staff of the office of civil contingencies ask me to go up to the CM's office as the CM and AG wanted to see me. I collected my belongings and excused myself from those at the meeting. I went up to the 2nd floor where I was seen to by Ms Amy Bonnich, one of the CM's Pas. She showed me to the board room. A few minutes later the CM and AG entered the room from the CM's office.

The CM states words to the effect in both the English and Spanish language " What are you doing Ian, this is a complete blunder. Why go with a warrant? Do you suspect Jaime has committed a crime? Look Jaime can be many things and he has been in messes before but he is not a criminal. He is a senior Silk, head of the Jewish community, helps out the RGP if needed, he is the head of the biggest law firm and he has a very good reputation as a lawyer. Are you suggesting that Jaime would destroy or dispose of evidence? You know Gibraltar, this will get out and you are managing this investigating very very wrongly. Why didn't you ask him to give you what you needed?" To this I said that what the team were after were devices which we knew JL would not hand over unless compelled to do so with a warrant. CM says words to the effect "but have you asked him?" I felt the CM was questioning an operational decision on a live criminal matter and that this was not appropriate. He said he hoped that I was right and that he was wrong as there would be consequences if he was found to be right, in that that we had not conducted ourselves

properly on this matter. He stated that he would be calling in the senior command team to address us on how inept we were at investigating white collar crime. I advised that the warrant had been signed by a judge who was satisfied that this was the likely method we had to resort to in order to recover the material which could hold evidence and that all the grounsd to deal with JL had been consulted with DPP. CM dismisses this saying that it is very easy to obtain a search warrant. CM was very angry that we had obtained a warrant without considering a voluntary handing over the material we were after. I posed the question whether he genuinely believed JL would be handing over the material if asked without a warrant. CM said he would not. There was a heated debate on whether the actions of the team were proper or not, with me saying they were and the CM saying they were not. I stated that it would be left to a court to decide who was right or wrong. I said this because CM said that JL should not hand over his mobile device to the RGP but would do so to a court.

AG stated that I had betrayed him because the action carried out by the team was not what had been agreed with him. Notwithstanding that what the AG stated was incorrect, the AG has no operational remit and his address to me in this regard is wholly improper, more so when he had said that he was steering clear from the criminal investigation. I felt totally cornered having to explain a tactical decision on a live criminal investigation. AG says words to the effect "Ian, I liked you and how you worked, but as from today I cannot entertain you again". This really shocked and hurt me. The AG couldn't be more mistaken. My hypothesis is that the AG himself is under some form of pressure to ensure that the investigation is terminated and the intervention of JL has shown him up for not having achieved the stopping of the investigation. It is not the RGP that has put itself in this situation. The team has acted appropriately and without fear or favour. I fully understand there could potentially be reputational damage in a number of quarters.

Further comments by the CM

- the AG should have been aware of the intervention as he is the Leader of the Bar and heads the disciplinary committee for the bar.
- I and the RGP are being used by James Gaggero. That the RGP is pursuing a case on behalf of a rich businessman who wants to topple "these two" (I took it he meant TC and JP)
- The action carried by the team out has serious connotations – he referred to the Fins Sec, another minister, a member of the opposition and himself all being partners in Hassans and how those who call us pirates (Spain) would have a field day if this leaked out. He also referred to Rosety from VOX who was already asking parliamentary questions in connection to the collision at sea.
- That if CS was corrupt that I was HMGOG that had to make the complaint. I told CM the charges CS could face were that of misconduct in public office – he said even with that offence, it had to be HMGOG that had to lay the complaint.
- HMGOG were the owners of the platform. We had requested evidence to support this for the outset. It had not been forthcoming and still wasn't. It was not right the RGP were being accused of conducting a flawed investigation.

I have discussed the above with my command team senior officers who are also concerned and worried about the level of interference by the CM and demeanour of the AG..

I have also briefed the Chair of the GPA in person in my office.

My considerations are as follows;
If the GPA, HMGOG, or HE have any concerns about the manner the investigation has been carried I would insist that external police service is asked review the whole of the investigation file.

I have concerns about the impartiality of the OCPL to prosecute the matter given the apparent lack of appetite of the AG to do so. I will respect the decision of not running a prosecution but that decision has to be taken by the DPP or AG. Neither have indicated that they are willing to do so. I am also concerned of reputational issues the RGP and I may face in light of the behaviour of the CM and AG.

The possibility of engaging independent counsel to look after my and the RGP's interests.

I have extended a request to the AG to meet face to face to clear up his mistaken impression of myself but this has been declined. He claims there has been a breach of trust
which I vehemently refute.

The above is my immediate recollection of the events of today which have left me somewhat scarred and shaken. I did not expect the CM or AG to address me in the way they did on a live criminal investigation. More was said, particularly by the CM, but I will add to this text in due course once my recollection revives with further details.

I take this behaviour as a total affront to the operational independence of the RGP and it deeply regrettable that I have to resort to speed type out these notes to safeguard myself from any possible reprisal, wherever that may come from, if indeed it comes and in what shape it manifests itself. I sincerely hope the need does not arise for me to take this matter further. In the meantime, the investigating team in OP Delhi continues with their function. They have carried out a pain staking investigation diligently and professionally. I only have praise for them.

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Nicholas Gomez

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: Wednesday, 13 May 2020 12:20
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: FW: OFFICIAL - SENSITIVE Op Delhi CM-AG

These are further recollections of the meeting with CM and AG on Op DELHI on 12th May 2020. I have also corrected some typos (in red) on my original notes below.

CM asserts very forcefully that the allegations being investigated, particularly the conspiracy to defraud offence, do not meet the criminal liability threshold but rather that they are civil in nature. The CM has not been privy to the evidence secured during the 12+ month long investigation. I therefore cannot comprehend his forceful views on this.

CM states that police officers and lawyers are officers of the court (he included himself), that the approach taken by the investigating team against a fellow officer of the court was not ethical, proper or correct.
That we [the RGP] should focus on others like [redacted] and not JL. That this was not about status – it was irrespective of whether it was Melo Triay or Peter Caruana – that we cannot with a wide brush and sweep up whatever we want under the search warrant. Told him that was not the case, that an sensitive legally privileged material would not be handled or examined by us, this would be done by external counsel and JL would have this explained. CM said "that's what you say" and I said you will have to trust me. He also said he communicated with JL a lot and he'd only been in contact with him that morning discussing the reopening of places of worship.

This morning, I checked my phone to find an email from the AG last night 12 5 20. He was forwarding an email from Mr Lewis Baglietto QC who was making very serious allegations against the investigating team and RGP.

I responded that I would revert to him in writing once I had an opportunity to discuss the matter with the team. AG wanted to meet me with defence counsel at 1000 at his office but I said I would not be ready at that time but would meet him later today.

I will keep adding notes as the matter develops.

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
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From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 12 May 2020 22:05
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: OFFICIAL - SENSITIVE Op Delhi CM-AG

I, Ian McGrail, am making these self notes on a matter which I am seriously concerned about regarding Operation DELHI (the investigation into the Caine Sanchez CS, John Perez JP , Tommy Cornelio TC and Eddie Asquez EA which is being led by Supt Richardson, Insp Wyan and Sgt Clarke). I am aware Supt Richardson has more comprehensive notes on the investigation proper and I will be requesting him a copy of these for my records.

For quite some time, I have been meeting with HMAG Mr Llamas, at his request, to discuss matters relating to this investigation. Mr Llamas has a view that Caine Sanchez in particular should be dealt with internally via civil service disciplinary mechanisms. To this date, however, The AG, has not been privy to the evidence that the team has gathered against CS or indeed the other suspects – the said evidence has been discussed with the DPP at great lengths and he has advised that there is a criminal case for CS, JP and TC to answer and that there is a realistic prospect of conviction if prosecuted on community misuse offences and conspiracy to defraud offences. At most of these meetings with the AG, particularly the latter ones, I have been accompanied by Supt Richardson. The views I have expressed all along have been that the alleged criminal behaviour of all the parties concerned is very serious.

I have also discussed with the AG the potential conflict and/or embarrassing situation viz the CM and Fin Sec (and all the other partners of Hassans) being shareholders of the company that is part owner of 36 North who it is alleged would have benefitted from the defrauding process. He has said to me that he is aware of this and it is of concern to him from a position of safeguarding the interests and reputation of the CM and Fin Sec both of whom (as indeed the other partners) will no doubt have not been aware of the alleged illegal practices employed by JP, TC, EA, and Jaime Levy - something which I also agree with. He has said this to me in the presence of Supt Richardson and crown counsel Lloyd Devincenzi.

An issue that the investigation team have been wanting to clarify from the very early stages of the investigation is that of the ownership of the NSCIS platform. The DPP advises that it would ideal that this was cleared up before the point of charging but that it is not critical to a prosecution. This is an issue we have been trying address. On the one hand Blands asserts ownership and on the other so does HMGOG. The CM from the outset did say that the complainants on the hacking of the platform were HMGO, however, over 12+ months down the road, HMGOG have not been able to support that they are the owners.

I am aware that the AG has shared with the Ch Sec the correspondence submitted by defence counsel for TC, JP and EA so that he can base the argument that HMGoG are owners of the platform on these same arguments. Ch Sec has informed me that there isn't a single record he can find of how CS was handling the NSCSIS business on behalf of HMGOG. Totally lack of governance and supervision in the administration in this according to Ch Sec – but before his time in office. To this date the Ch Sec has still not presented evidence to the investigating team that HMGOG are the owners of the platform.

I get periodic briefs from the investigating on the progress of the investigation. I am fully aware of the full range of sensitivities surrounding the matter because of the personalities involved. At a meeting in the office of the AG, with the DPP present, the AG was suggesting that I stopped the investigation from progressing on the basis that the ownership of the platform had not been established. I told him that I could not do so as I had Blands' versions of events that suggested they were owners and that in the absence of any concrete evidence from HMGOG I had to go along with that. DPP again reiterated that the whole of the evidence did not hinge on the ownership of the platform. I went as far as informing the AG that it was within his power to discontinue a prosecution if he felt the need to – that I could not simply drop the matter because of 'public interest' reasons – that he would have to make that call.

The AG asked both me and DPP whether he could enter a *nolle prosequi.* There was also further enquiries that needed to be carried as per evidence package submitted to the DPP – i.e interviewing Jaime Levy (JL) under caution. The rationale for this is well articulated by the investigating team. I am also aware that the investigating team had discussed with the DPP the detail of how JL was going to be addressed and that the DPP had advised the team accordingly.

At my last meeting with the AG on this matter where Supt Richardson and CC Llyod Devincenzi were present the AG said that he was now taking a step back on this case as he was advising HMGOG on the intellectual property rights of the platform and therefore wanted to steer away from the criminal investigation. Notwithstanding, it was agreed that the team would produce a list of proposed charges so that the DPP/AG would consider. He asked whether from 80 charges these could be brought down to 17 and from these what would CS be facing? I probed his reasoning behind this but he did not elaborate. It was also discussed that we hoped that JL was able to clarify many of the issues in order to mitigate the potential fall out of the sensitive issues surrounding the case.

AG also asked on hypothetical; scenarios; what if the owner of the platform [HMGOG] actually consented/allowed itself to be hacked? What would the RGP's view be on this? This further indicated the unwillingness to prosecute the matter. Again I retorted that this was a matter for him to decide. That the RGP would present the evidence and that if he wanted to pull the case that was his prerogative.

I have been aware that the investigating team have been planning to execute a search warrant on JL at his office and at his home. The team have presented the evidence for the application of the warrant to the stipendiary magistrate who has deliberated it contents. The stipendiary has met with Supt Richardson and probed for one and ahalf hours. He has signed the warrant. I am aware that the team have also given serious consideration to ensuring that any material recovered is subjected to independent counsel analysis to ensure any legally privileged data is not compromised.

The date of execution was arranged for 12th May though I was not aware of the time. I advised the team that out of courtesy (not obligation) I would be informing the CM, MoJ and AG of this action given the delicate nature of the intervention.

At 1030hrs today I attended a COVID-19 strategic coordinating group meeting at the Bunker in Number 6 Convent Place. At 1222Hrs whilst still at the meeting, I received notification from Supt Richardson that he was heading to execute the warrant. I then texted the officials referred to. MoJ was at the same meeting I was. She acknowledged the message. The AG replied saying this action was not what had been agreed to which I responded that it was, that we had to close off the lines of enquiry with JL before considering the proposing of charges. He disagreed with me so I said via text that I would go round to his office when I finished the meeting. Whilst texting with the AG I could see that the CM was typing out a message to me. AT 1234Hrs I received a message from the CM saying the following;-

"Ian, thank you for the courtesy of this information. I think that it is a bad decision. A search warrant should only have been sought if you believed that the person in question was not going to co-operate and will destroy evidence. If, as you say, you are hoping for cooperation, especially in a case involving senior Silk and head of Gibraltar's largest legal firm, you should , in my view, first sought to contact the person and obtain cooperation. Given my close personal relationship with JL, I won't comment further. " To this I replied "Noted CM".

A few minutes later, a member of staff of the office of civil contingencies ask me to go up to the CM's office as the CM and AG wanted to see me. I collected my belongings and excused myself from those at the meeting. I went up to the 2nd floor where I was seen to by Ms Amy Bonnich, one of the CM's PAs. She showed me to the board room. A few minutes later the CM and AG entered the room from the CM's office.

The CM states words to the effect in both the English and Spanish language " What are you doing Ian, this is a complete blunder. Why go with a warrant? Do you suspect Jaime has committed a crime? Look Jaime can be many things and he has been in messes before but he is not a criminal. He is a senior Silk, head of the Jewish community, helps out the RGP if needed, he is the head of the biggest law firm and he has a very good reputation as a lawyer. Are you suggesting that Jaime would destroy or dispose of evidence? You know Gibraltar, this will get out and you are managing this investigating very very wrongly. Why didn't you ask him to give you what you needed?" To this I said that what the team were after were devices which we knew JL would not hand over unless compelled to do so

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Further comments by the CM

- the AG should have been aware of the intervention as he is the Leader of the Bar and heads the disciplinary committee for the bar.
- I and the RGP are being used by James Gaggero. That the RGP is pursuing a case on behalf of a rich businessman who wants to topple "these two" (I took it he meant TC and JP)
- The action carriedout by the team has serious connotations – he referred to the Fins Sec, another minister, a member of the opposition and himself all being partners in Hassans and how those who call us pirates (Spain) would have a field day if this leaked out. He also referred to Rosety from VOX who was already asking parliamentary questions in connection to the collision at sea.
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I have also briefed the Chair of the GPA in person in my office.

My considerations are as follows;
If the GPA, HMGOG, or HE have any concerns about the manner the investigation has been carriedout I would insist thatan external police service is asked review the whole of the investigation file.

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The possibility of engaging independent counsel to look after my and the RGP's interests.

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which I vehemently refute.

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I take this behaviour as a total affront to the operational independence of the RGP and it is deeply regrettable that I have to resort to speed type out these notes to safeguard myself from any possible reprisal, wherever that may come from, if indeed it comes and in what shape it manifests itself. I sincerely hope the need does not arise for me to take this matter further. In the meantime, the investigating team in OP Delhi continues with their function. They have carried out a pain staking investigation diligently and professionally. I only have praise for them.

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1st Affidavit:
Ian McGrail
Date: 20th June 2022
Exhibit: 4

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 4
TO THE FIRST AFFIDAVIT OF IAN MCGRAIL

Before me

Callum Smith
Commissioner of Oaths



A Commissioner for Oaths

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

[08/03/2020, 08:59:10] Ian McGrail: Minister- We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked.

I am invoking Post Incident Procedures and planning for consequence management.

I have advised CM & HE already.

Rgds

Ian

[08/03/2020, 09:25:32] Samantha Sacramento: Ian thanks for letting me know.

[08/03/2020, 09:25:49] Samantha Sacramento: If there is anything you need from me let me know

[08/03/2020, 09:41:10] Ian McGrail: Many thanks

[10/03/2020, 12:20:06] Samantha Sacramento: Hi. How are the officers ?

[10/03/2020, 13:12:04] Ian McGrail: Our officers are ok. We are constantly keeping tabs of their welfare. We are expecting them to come today at some point to provide a detailed account of what occurred. This is in accordance with our force policy on post incident procedure. Thanks for your interest. Its much appreciated.

[10/03/2020, 13:15:57] Samantha Sacramento: By pure co-incidence, last Friday I asked my office to organise on site visits to the traffic and marine sections because I had not yet visited. Probably now best to wait no ?

[10/03/2020, 13:16:56] Ian McGrail: Perhaps we could arrange for next week?

[10/03/2020, 13:52:05] Samantha Sacramento: Yes fine no problem I will ask Natalie to arrange .

[10/03/2020, 14:02:23] Ian McGrail:

[12/03/2020, 20:59:17] Samantha Sacramento: Ian hi.

[08/03/2020, 06:05:57] Ian McGrail: Nick - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked.

I am invoking Post Incident Procedures and planning for consequence management.

Once I have further updates I will let you know.

Rgds

Ian

[08/03/2020, 09:27:56] [redacted] Ian. Thanks for letting me know. Sorry to hear this.

[08/03/2020, 09:29:38 [redacted] And of course if ty need anything from us/HMG just ask. Hope your guys are ok.

[08/03/2020, 09:41:03] Ian McGrail: Thanks Nick.

[08/03/2020, 13:33:57 [redacted] Thanks for the briefing. I'll do a quick note for London for when it hits the press. Line will be. Investigation ongoing. Spanish nationals from Cueta (did you sa one person was Portuguese). Not sure in whose waters incident took place. RGP seeking assistance from UK police authorities. No assistance needed from FCO at this stage.

[08/03/2020, 13:46:59] Ian McGrail: Yes all correct. Indeed one was portuguese.

[08/03/2020, 13:47:23] Ian McGrail: Trying to clarify exact position of the collision.

[08/03/2020, 13:56:38 [redacted] Ok. Thanks.

[09/03/2020, 10:15:56 [redacted] Morning. I was with the AG last night and we wondered whether it would be worth having an update at some stage later this morning. We are keen to reac ioutnto Spain given talks this week in London (please protect).

[09/03/2020, 10:16:1[redacted] Michael and I are happy to come to NMH when convenient for you. Nick

[09/03/2020, 11:25:18] Ian McGrail: Happy for you to come to NMH. I am here now. Please feel free to come round.

[09/03/2020, 11:50:5[redacted] Ian thanks. Michael and I will come to you @ 12.05

[09/03/2020, 11:52:28] Ian McGrail: Let me know when you're downstairs and I will come down to meet you.

[09/03/2020, 11:52:5[redacted] Will do.

[09/03/2020, 12:05:3[redacted] Just arrive in reception

[09/03/2020, 12:05:54] Ian McGrail: Coming down

[10/03/2020, 13:15:28] Ian McGrail: Nick - can you take a call?

[08/03/2020, 06:05:07] Ian McGrail: CM - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked.

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Once I have further updates I will let you know.

Rgds

Ian

[08/03/2020, 07:24:40] Fabian Picardo: Ian. Thank you. What are the nationalities of the deceased? Was it drugs or tobacco? Any GC or SVA involvement?

[08/03/2020, 07:33:49] Ian McGrail: So far we have 3 identified. 2 from Ceuta (moroccan decent) & a Portuguese. No Spanish law enforcement agency involved. RHIB suspected to be involved in drug smuggling. I have also informed The Convent. I have held a "Gold" command meeting in my office to address, welfare of the crew, the investigation that will now follow, security/safety to our law enforcement officers, community impact et al.

Also linked up with GC and CNP more so after the disturbances in La Linea after the other death involving the our customs patrol boat but given that those on the RHIB are not from this region it may not have an impact. I am still waiting for the 4th & (also deceased) to be identified.

[08/03/2020, 07:37:33] Ian McGrail: Just had the ID of the 4th one confirmed. He is also from Ceuta of Moroccan decent.

[08/03/2020, 07:40:51] Fabian Picardo: Thank you. Are our officers safely ashore and seen by med staff if necessary? Are their families informed they are ok, in case social media lets on there has been a fatal collision, so they don't worry?

[08/03/2020, 07:41:46] Fabian Picardo: Also, what time did it occur and was it firmly within BGTW or questionable?

[08/03/2020, 07:42:45] Fabian Picardo: I think we should announce if possible to avoid social media speculation. Have you prepared media release or do you want Stuart's help?

[08/03/2020, 07:42:57] Ian McGrail: Our crew are ok. Their welfare is being totally safeguarded. I am also circulating a notice to all staff to prevent speculation and social media reporting from within. I will issue a very brief press notice shortly.

[08/03/2020, 07:43:49] Fabian Picardo: Ok. Re the two who survived, captured? Hospital or cells?

[08/03/2020, 07:43:50] Ian McGrail: Collision occurred at approx 0340hrs. Location still to be confirmed.

[08/03/2020, 07:44:51] Ian McGrail: The two who survived are in hospital with non critical injuries as far as I am informed.

[08/03/2020, 08:13:44] Fabian Picardo: Arrested, correct?

[08/03/2020, 08:14:28] Ian McGrail: They will be if they haven't been already.

[08/03/2020, 09:49:55] Ian McGrail: CM - the information suggests that the collision took place outside BGTW - approx 6NM east off the runway/Santa Barbara beach.

[08/03/2020, 09:53:23] Ian McGrail: When a death arises from police contact its best practice to engage with an independent investigating team & I am studying how to achieve this.

[08/03/2020, 09:53:35] Fabian Picardo: Ok. We need to liaise with AG on this and ensure we are transparent on this.

[08/03/2020, 09:54:02] Fabian Picardo: Yes, agreed. Any necessary additional expenditure will be approved.

[08/03/2020, 09:54:20] Ian McGrail: Many thanks.

[08/03/2020, 09:00:04] Ian McGrail: Joey - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked.

I am invoking Post Incident Procedures and planning for consequence management.

I have advised HE, CM & MoJ already.

Rgds

Ian

[08/03/2020, 10:31:20] [redacted] Thanks - I saw it on the news feed.

[08/03/2020, 10:34:54] [redacted] This message was deleted.

[08/03/2020, 10:58:54] [redacted] Not asking any questions of you in view that it is under investigation and for Coroner to determine. Just like to say that it is unfortunate, to say the least!

[09/03/2020, 14:33:28] Ian McGrail: Joey - been working through the weekend on this collision case.

I am going to email you, (or if you want Elka), to formally notify you of the incident and refer you the fact that an investigation is underway. For purposes of transparency, this investigation should be independent & therefore I am trying to source out a team willing to take on the task. In UK the IOPC (our PCB) would decide whether the investigation would be wholly independent of managed by them with an external 3rd party (senior officer) overseeing on their behalf. If we applied that locally, it would mean the PCB would manage the investigation and we'd require a senior UK Officer to oversee it on the PCB's behalf. The field work though would be done by RGP Professional Standards. It may not be the best model as the independence element is not total. Then again for practicalities sake it may prove useful. I need to discuss the matter further with you & perhaps Frank too but I'm conscious that you're away.

I have held meetings with the AG & HE (Nick Pyle) and they support my intent to secure the best model to use.

Regards

Ian

[09/03/2020, 14:35:11] [redacted] Thanks - best model to use, in my view, would be to outsource completely

[09/03/2020, 14:35:49] [redacted]: If I'm honest, the PCB would not have the necessary expertise

[09/03/2020, 14:36:15] [redacted]: Neither would anybody in the GPA, if we are honest

[09/03/2020, 14:36:25] Ian McGrail: I agree - I share your views. It would be most unfair on PCB.

[09/03/2020, 14:39:56] Ian McGrail: The GPA/PCB should though retain some control similar to that when they receive a complaint against Police. Technically there isn't a complaint as no family member has yet filed one but it could happen. Even if it didn't happen, the fact that deaths have occurred we should treat this as an external complaint and not as internal one generated by the RGP itself. This aside for the concurrent coroner's investigation that will also take place.

[09/03/2020, 14:40:55] [redacted] There has been another death at sea and GPA was not involved - why is this different ?

[09/03/2020, 14:41:30] Ian McGrail: Because it wasn't arising from contact with the Police. It was Customs.

[09/03/2020, 14:41:42] [redacted] Ok - I see

[09/03/2020, 14:41:55] Ian McGrail: Customs have it easier.

[09/03/2020, 14:42:46] [redacted]: Ok - we would both be back tomorrow-

[09/03/2020, 14:43:42] Ian McGrail: I will work to get an independent team out. ASAP. & we can discuss tomorrow. Time is of essence, will explain in person..... Politics.

[09/03/2020, 14:44:01] [redacted]: We can have a discussion about this tomorrow - I'm sure we'll take your advice anyway

[09/03/2020, 14:44:30] [redacted]: I'll give you a call tomorrow as soon as I get back

[09/03/2020, 14:44:36] Ian McGrail: Many thanks

[09/03/2020, 14:45:04] [redacted]: As I said, whatever is best practice etc

[09/03/2020, 14:45:21] Ian McGrail:

[09/03/2020, 15:15:26] [redacted]: Ian - I'm flying in to Malaga tomorrow at around 5.00 so I'll call you as soon as I'm in Gib - even if it's late in the evening... ok?

[09/03/2020, 15:25:13] Ian McGrail: Ofcourse. No probs.

[09/03/2020, 15:42:27] [redacted]:

[10/03/2020, 11:33:49] [redacted]: Ian I've had to change travel plans and get the AVE instead of flying! I'll be in Gib later than expected - if you prefer, I can go to see you with Frank (hopefully) on Wednesday morning? Let me know if you are ok with this...

[10/03/2020, 12:29:04] Ian McGrail: Yes fine. I am going to forward you an email I have sent to UK NPOC who coordinate requests for assistance. Its just for your information.

[10/03/2020, 12:56:03] [redacted]: Ok

[10/03/2020, 12:59:10] [redacted]: When you can also let me know the time to meet tomorrow

[10/03/2020, 13:09:56] Ian McGrail: Can do anytime. Shall we fix for 9am?

[10/03/2020, 13:17:09] [redacted]: See you then.

[10/03/2020, 13:28:05] [redacted]: Got your email but for some reason I can't reply! Do you need me to do anything? Do you want me to see if Nick can help?

[10/03/2020, 13:28:42] Ian McGrail: Don't need anything from yourself, it was just for your info. Gonna speak with Nick now.

[10/03/2020, 13:28:55] [redacted]: Ok

[10/03/2020, 13:29:23] [redacted]: Count on me - you know that!

[10/03/2020, 13:32:21] Ian McGrail: I know. Many thanks.

[12/03/2020, 15:49:54] Ian McGrail: Joey - just sent you an email with an update press notice I want to send. The Met team coming over asked me to consider this. i have shared it with them too & I'm waiting for a reply.

[17/03/2020, 13:39:49] [redacted]: Ian - how are things?

[17/03/2020, 13:40:50] [redacted]: In terms of coping with demands of Corona and investigation

[17/03/2020, 13:41:55] Ian McGrail: Ploughing on with all thats on our plate. We have 13 officers in self isolation. We are adjusting ourselves accordingly to be as resilient as possible.

[17/03/2020, 13:44:04] [redacted]: Understood. Keep safe, Ian.

[17/03/2020, 13:44:26] [redacted]: Any news on the other fronts?

[17/03/2020, 13:44:36] [redacted]: Or do you prefer I call?

[17/03/2020, 13:45:41] Ian McGrail: Can I brief you later.

[17/03/2020, 13:46:33] [redacted]: I know you are extremely busy - I'll arrange for a call tomorrow at some point -take care.

[17/03/2020, 13:47:10] Ian McGrail:

[17/03/2020, 13:47:37] [redacted]:

[19/03/2020, 13:30:45] Ian McGrail: Michael - Held video conference with GC as they wouldn't meet face to face because of the pandemic.

They were obviously cagey with our UK colleagues but it served well to demonstrate that we were totally transparent. The UK team were happy with the meeting. What I was able to elicit from GC is that a judge is still to be assigned the matter & it is likely that it'll be a judge from La Linea. Again because of their lock down there are delays in their courts.

GC anticipate that when appointed, the judge will request information and accounts from us. What form this will take is not clear - the judge could potentially summons our officers to provide their statements in person or simply request their accounts via police to police channels. What mechanisms we should rely on to facilitate this, were we to oblige, is something we'll need to discuss. GC also expects the family of the deceased to file a complaint in their courts to seek compensation. This will no doubt complicate matters for us as the judge may be swayed to look at the matter from a different perspective in terms of where the collision took place.

GC are requesting from us for photos of the vessels, post mortem reports & statements from those involved in the collision. We have to

carefully study this request and weigh the pros and cons of withholding the data or provide it at some point.

Speak soon.

[19/03/2020, 13:32:32] [redacted] Ok - thanks for this, Ian.

[19/03/2020, 13:32:47] [redacted]: Let's see what happens

[19/03/2020, 13:33:00] Ian McGrail:

[19/03/2020, 13:33:11] [redacted]: Indeed!

[20/03/2020, 10:28:23] [redacted]: Good morning, Ian - just a thought, are you keeping Governor abreast of developments...? Also, maybe send an update to CM via the WhatsApp? Note that this is just my thinking and nobody has actually asked me but I think it would be prudent...?? See what you think

[20/03/2020, 10:54:25] [redacted]: Developments in respect of maritime accident, I meant...

[20/03/2020, 10:58:01] Ian McGrail: Yes The Convent is up to speed and AG too. Michael fed up to CM. By next week the UK Team will have more clarity on what route they will be suggesting this should take locally. That is a good point to provide a more formal update.

[20/03/2020, 10:58:41] [redacted] Ok understood! Thank you, Ian.

[20/03/2020, 10:59:42] [redacted]: As long as both are kept updated, that was my concern...

[20/03/2020, 10:59:49] Ian McGrail:

[20/03/2020, 10:59:55] [redacted]

During the course of a high-speed pursuit shortly afterwards, there was a collision between both vessels, and this resulted in the death 2 of the 4 RHIB's occupants, namely:

[redacted]

The remaining 2 occupants sustained injuries of various types, and were conveyed to St Bernard's Hospital in Gibraltar where they received treatment for their injuries and later discharged.

[redacted]

Both [redacted] and [redacted] were arrested on suspicion of Importing a Prohibited Import (14mt RHIB), Dangerous Navigation and Obstructing Police. [redacted] gave a "No comment" interview at New Mole House Police station and [redacted] gave only a brief account of events stating that he had been 1 of the 4 RHIB's occupants and that they had been chased by Police between Gibraltar and Spanish waters prior to the collision between both vessels.

Both [redacted] and [redacted] were later bailed out in the sum of £2500.00 to return to New Mole House Police Headquarters at 1100hrs on the 4th June 2020 whilst enquiries continue.

A Coroner's investigation is already underway into the deaths of [redacted] and [redacted] and post-mortem examinations will be conducted by a Forensic Pathologist on Wednesday 11th March and Thursday 12th March 2020. The Commissioner of the Royal Gibraltar Police has sought assistance of specialist investigators from the United Kingdom.

ENDS

[11/03/2020, 19:09:56] Ian McGrail: HE (Nick) is asking for confirmation of where collision took place as London are keen to know. I have informed him along the same lines that you advised CM ie that is highly probable that it happened outside BGTW.

[11/03/2020, 19:15:11] Michael Llamas: Ian that seems fine to me. Factual whilst being amenable to further precision once you o Tain further details

[11/03/2020, 19:33:05] Ian McGrail: 👍

[15/03/2020, 13:26:49] Ian McGrail: Michael - Can I come round to see you tomorrow for a quick discussion regarding issues with potential political connotations ref the collision at sea incident?

[15/03/2020, 13:27:19] Michael Llamas: Sure. Anytime

[15/03/2020, 13:28:20] Ian McGrail: Thanks. I know the CM wanted a face to face with me but given all that is happening it'll be difficult for me to reach him.

[16/03/2020, 10:49:27] Ian McGrail: Can I come round to see you Michael?

[16/03/2020, 10:49:52] Michael Llamas: In a virus crisis meeting

[16/03/2020, 10:52:34] Ian McGrail: Ok. Please let me know when I can come round. I am heading to the bunker too to catch up with Ivor.

[16/03/2020, 10:53:37] Michael Llamas: He's in same meeting as me

[16/03/2020, 10:53:55] Ian McGrail: 🤦

[17/03/2020, 12:31:41] Ian McGrail: Michael - can we meet briefly to discuss the progress of the collision at sea investigation.

[17/03/2020, 12:32:22] Michael Llamas: Yes Ian today is better. Come whenever you want I

[17/03/2020, 12:32:39] Ian McGrail: I'll be there by 1pm

[17/03/2020, 13:43:38] Michael Llamas: All good Ian. Proceed as we discussed

[17/03/2020, 13:43:56] Ian McGrail: Ta 👍

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[08/03/2020, 11:40:50] Michael Llamas: Been in New Mole for the last hour or so. Cooperation RGP/Spanish LEAs very good. New RGP Press Release today will say good cooperation with ES, drug related activity, 2 deaths are Spanish nationals of North African descent. Investigation continues.

PR will not say where incident occurred but it is virtually certain it was outside BGTW eastern side opposite runway. It also seems that part of the chase was within BGTW .

[09/03/2020, 11:31:25] Ian McGrail: Morning Michael - Nick Pyle tells me you want to meet. I am here at my office.

[11/03/2020, 17:39:06] Ian McGrail: You deleted this message.

[11/03/2020, 18:02:19] Ian McGrail: Michael - we have still not provided any official account to GC of the incident at sea and they have asked for a brief from us. I am now at a stage where I also require background details of those who were on-board the RHIB as this is being requested by the independent investitagtion team. I can hardly ask them for these details when we haven't released anything official to them. Its only prudent to do so I propose to send them the below details and on the back of this make our request to them. I would appreciate your views on what i propose to send.

STARTS

Ref: Initial Incident Report – Collision at Sea with fatalities

At about 0300hrs on Sunday 8th March 2020, officers from the Royal Gibraltar Police Marine Interceptor Sir John Chapple (Bravo 4) communicated with the Guardia Civil COS in relation to the presence of a suspect susect vessel activity in waters off the Playa de Santa Barbara, near to the eastern side between Gibraltar and La Linea. Bravo 4 deployed and remained ready to engage at a point approximately 3 miles East of the runway. Soon afterwards a chase ensued with the suspect vessel and Bravo 4 challenging the vessel, a 14mt semi-rigid hulled inflatable vessel (RHIB) crewed by 4 occupants, powered by 4 x 300hp engines and fitted with Garmin radar. The said vessel was suspected to be involved in illicit drugs trafficking activity.

GC anticipate that when appointed, the judge will request information and accounts from us. What form this will take is not clear - the judge could potentially summons our officers to provide their statements in person or simply request their accounts via police to police channels. What mechanisms we should rely on to facilitate this, were we to oblige, is something we'll need to discuss. GC also expects the family of the deceased to file a complaint in their courts to seek compensation. This will no doubt complicate matters for us as the judge may be swayed to look at the matter from a different perspective in terms of where the collision took place.

GC are requesting from us for photos of the vessels, post mortem reports & statements from those involved in the collision. We have to

carefully study this request and weigh the pros and cons of withholding the data or provide it at some point.

Speak soon.

WHATSAPP CHAT LOG

"Maritime Incident"

Participants

Fabian Picardo
Joey Britto
Frank Carreras
Darren Grech
Ian McGrail

[09/03/2020, 20:06:18] Maritime Incident : Messages and calls are end-to-end encrypted. No one outside of this chat, not even WhatsApp, can read or listen to them.

[09/03/2020, 20:06:18] Fabian Picardo created group "Maritime Incident "

[09/03/2020, 20:06:18] Fabian Picardo added you

[09/03/2020, 20:06:19] Fabian Picardo changed this group's icon

[09/03/2020, 20:06:50] Fabian Picardo: Gents, have agreed with Joey to set up this channel to make progress on any live issues on this easier.

[09/03/2020, 20:07:05] [redacted] Thanks.

[09/03/2020, 20:07:16] Ian McGrail: 👍

[09/03/2020, 20:08:07] Darrren Grech: Roger

[09/03/2020, 20:08:50] Fabian Picardo: Today I spoke to the British Ambassador in Madrid. He was having Interior Minister Grande Marlaska in for lunch today. He will express our desire for a full and transparent investigation that will assure the families of the deceased that they have the truth relating to their passing. Anything I can report on progress through that channel will be helpful, although, from what I understand, we have Spanish law enforcement on side.

[09/03/2020, 20:09:16] Darrren Grech: 👍

[09/03/2020, 20:13:57] Ian McGrail: On side so far CM. The AG is up to speed on this. I am politely resisting sharing any information with ES LEAs until such time as we are certain oursleves of keys issues eg exact details of the pursuit etc. My own officers have only supplied a very preliminary account shortly after the incident & as per our post incident procedures will providing a more detailed account between tomorrow and Wednesday. Rgdd

[09/03/2020, 20:15:01] Frank Carreras: Noted

[09/03/2020, 20:15:15] [redacted] Thank you, Commissioner - noted as well.

[09/03/2020, 20:15:42] Fabian Picardo: Of course. I played for time saying we were on holiday and we would likely see a ramping up of activity next 48 hrs.

[09/03/2020, 20:19:14] Ian McGrail: We are going through a host of operational actions which include

engaging independent police investigators, sourcing a forensic pathologist, a martime accident investigator, examination of digital devices amongst others.

[09/03/2020, 20:24:40] [redacted] Thank you for update.

[09/03/2020, 20:31:55] Fabian Picardo: Excellent. Thank you. That's the right approach.

[09/03/2020, 20:38:25] Frank Carreras: Thanks for the update

[11/03/2020, 13:49:40] Ian McGrail: A quick upate -

Forensic pathologist has landed & will be performing PM with the GHA pathologist hopefully today if we can convince GHA to carry out a CT scan of the corpses today pre-autopsy. I reckon that as soon as the bodies can be released to the families for burial it'll ease off tensions.

An independent team from Scotland Yard's Professional Standards Directorate have agreed to fly out. They will arrive either tomorrow or Friday & review what we have done so far & then take over the investigation.

Rgds

Ian

[11/03/2020, 13:57:23] Frank Carreras: Thanks for the update.

[11/03/2020, 13:58:07] [redacted] Thank you very much for update.

[11/03/2020, 14:57:55] Darrren Grech: 👍

[11/03/2020, 15:12:26] Fabian Picardo: Noted. Will advice BA Madrid.

[12/03/2020, 16:13:17] Ian McGrail: All - An update for your info:

The post mortems have been carried out & HM Coroner has now released bodies to the famililes. Chris Finch is representing the families.

The independent team from London will be arriving tomorrow morining. They are 5 in number, headed by a superintendent.

The 3 officers are in a bad way psychologically and have not yet provided a full account of the incident though our procedures allow for upto 7 days for them to do so in certain circumstances. The Fed are bringing out a specialist lawyer from UK to advise the off cers and they are being advised not to produce their respective accounts until then. An awkward s tuation indeed.

In terms of the investigation proper the evidence points at the pursuit & collision occurring outside BGTW. Not the best news we wanted to hear.

Rgds

Ian

[12/03/2020, 17:08:15] Frank Carreras: Ian, many thanks for the update.

[12/03/2020, 17:08:51] [redacted] Thank you for the update, Ian.

[12/03/2020, 17:09:47] [redacted] I agree - not the best news...

[12/03/2020, 17:09:47] Fabian Picardo: Thank you Ian. Location does not worry me so much. Helps us in a way. Will discuss directly with you.

[12/03/2020, 17:10:30] Ian McGrail: Many thanks.

[12/03/2020, 17:21:31] Darrren Grech: Thanks

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

SECOND AFFIDAVIT OF IAN MCGRAIL

EXHIBIT INDEX

Exhibit 5

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2	6	5A	Transcription of Audio file
2	6	5B	Transcription of Audio file with translations

Exhibit 6

Page No.	Para No.	Ex No.	Name
3	9	6	Audio file of meeting between Ian McGrail, the Attorney General, the Director of Public Prosecutions, Senior Crown Counsel Lloyd Devincenzi Superintendent Richardson and DI Mark Wyan
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Exhibit 7

Page No.	Para No.	Ex No.	Name
3	10	7	Audio file of meeting between Ian McGrail, the Attorney General, the Director of Public Prosecutions, Senior Crown

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3	10	7A	Transcription of Audio file
3	10	7B	Transcription of Audio file with translations

Exhibit 8

Page No.	Para No.	Ex No.	Name
4	15	8	Audio file of meeting between Ian McGrail and the GPA Chair, Dr. Joey Britto
4	15	8A	Transcription of Audio file
5	15	8B	Transcription of Audio file with translations

2nd Affidavit:

Ian McGrail

Date: 26th September 2022

Exhibit: 5

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 5

TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me



A Commissioner for Oaths

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

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


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Edit
All Recordings
Meeting with GPA Chair 22nd M...
22 May 2020
47:36
Meeting with AG & DPP 20th May
20 May 2020
Meeting with AG & DPP 15th May
15 May 2020
Meeting with A...PP 15th May copy
15 May 2020
Meeting with AG & DPP 13 May
13 May 2020
2:12:56
Meeting with A...DPP 13 May copy
13 May 2020
2:12:56

AUDIO FILE

2nd Affidavit:

Ian McGrail

Date: 26th September 2022

Exhibit: 5A

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 5A

TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me



A Commissioner for Oaths

Keith L. Chichon BA(Hons)TEP
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Suite 5, 3 Turnbull's Lane
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OP DELHI
MEETING 13 MAY IN AG's OFFICE
[ORIGINAL]

		Persons present;- **Attorney General, Mr Michael Llamas** **Director of Public Prosecutions, Mr Christian Rocca** **Senior Crown Counsel, Mr Lloyd Devincenzi** **Commissioner of Police, Ian McGrail** **Detective Superintendent Paul Richardson**
Tape counter times	**Person speaking**	**Text**
00:0125	I McGrail	Hi gents.
	Mr Llamas	Good afternoon, you alright?
00:038		Okay, so with Blands, we've got various documents (inaudible) including the one that you've just emm... (inaudible) I've got others.
		Can I have a glass of water
	Nicole (AG's PA)	Its just
		Ah sorry
	Nicole	No problems. Coffees?
		Cheers
	Mr Llamas	Does anyone want a coffee?
		I'll have one thanks.
	I McGrail	No thanks.
	Supt Richardson Richardson	No thank you.
		(inaudible)
	Mr Rocca	Total.
	Nicole	Do you want sugar Christian?
	Mr Rocca	Have you got sweetener?
	Nicole	We do yeah?
	Mr Rocca	One please. Thank you
	Nicole	Okay.
00:02.19	Mr Llamas	Okay, so, let's take this step by step. Okay, yo, the first thing I'd like to know Ian, is why did you get a search warrant? Why did

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		you go for the most oppressive means of getting that, without asking Jaime Levy for an interview?
	I McGrail	Okay, the, that was considered, the data that we wanted was obtainable on a search warrant, we did not expect him to hand it over willingly. Emm... we are looking at WhatsApp chats y todo, (inaudible) and emm.... the fact that we treated others in the same way, in the same investigation, and we are not looking at the chambers, we are looking at Jaime Levy as the individual. That is the reason why the investigation team, I'll allow Paul to elaborate further, but that's the main reason why the investigation team thought that this was the, the pertinent way to deal with it. He had to be interviewed under, under caution, that was the line of enquiry that we had to emm... carry out and I reiterate, before we proceeded to the proposing of charges. Because it would not make any sense whatsoever to propose charges until we had eliminate it, because he could have... and I was hoping and we were all hoping that he would have potentially cleared up many of the things. He may well have. And in regards the question of the charges may be different in posture to you, so that is something that I have to assert here from the word go. That's, that's my position and I cannot shift from that, because that is the truth.
00:0400	Mr Llamas	Sorry what's the truth?
	I McGrail	That, I would be reverting to you with the proposed charges, once Jaime Levy was dealt with.
	Mr Llamas	That's a separate issue between you and me and emm...we know we disagree in that, it was absolutely clear what we agreed in this room. Pero let's not talk about that.
	I McGrail	Bueno, pero it, it captures it, because emm.. Jaime Levy may be able to eliminate a lot of the issues that we, we have and if he does then, it has the bearing of what I present to you as, or to the DPP for the question of charges, it would have.
	Mr Llamas	For me it was clear, since you raised the matter, I repeat my position, from which I would never budge because I am 200% certain of what we discussed here, in this room, that day. You, both left this room with an agreement that you were going to rationalise the grounds and that you would come. Nothing else would happen, and that once you had rationalised the grounds, reduce the 76 charges to whatever you reduced it. We were going to call Christian in, we were going to assume that ownership emm... to, to the Government and therefore we would have placed ourselves in an absolute legally certain position and you would have advanced with that initially and then with time you would have been able to assess, with time, the question of ownership, would hopefully would have been clarified, which would have opened more doors or not for you. And for me it was clear that your, your, your text of yesterday, whilst all this was happening, emm... Bueno, you know how I feel about it.

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		Pero we are not here to discuss that Ian, we've obviously got very different views about what we discussed. I'm just trying to now get to a position where the likelihood as you have seen is that Hassans are going to be emm... challenging the actions that you've taken. And the first question that I know has caused a lot of bitterness with, with Jaime Levy and with Hassans, is the search warrant. You must have known from me, that I would not have supported that. Christian has not advised you that you, should, should do that, and therefore you have taken that decision on your own as its your right to do. Emm... I mean, this was a part of an investigation, que incluso, Christian and I, often speak about it, we are getting involved in a part of the investigation, which at the end of the day, is your call, we both got involved and I got involved in particular because I think it is a matter that's needs to be dealt with, with a lot of care and attention. And that is, I hope is why you know, I am involved in this and for no other reason. Because sometimes I wonder why you think why am I getting involved in this, I've got millions of other things to do rather than to be occupied over this. So, we think that a first point of challenge is going to be the search warrant, pero our understanding of your, of your narrative here is that you did not actually use it to get the information that he voluntarily. The search warrant was there but not actually used. And they may argue, while there was the threat of the search warrant and whatever, but your decision to get a search warrant was motivated by a fear that he would not cooperate other by doing that.
00:0748	I McGrail	And I, and I (inaudible) the effect of the search warrant is still live, because of the email abstractions. That's, if they do not provide those emails, it shows that the voluntary aspect and we've lost that. We've lost that because we now have to, the capability issues, of not being able to trawl through eighty million emails. We are unable to, that would have taken an inordinate amount of time to go through, and that would not have been practical and therefore Paul put the, the, made the call of saying okay, we are not going to trust you that you are going to extract, the numbering them up on the voluntary basis. But that can, that voluntary basis maybe now potentially be held back, given that not only are they challenging the legality of the warrant, they are now making criminal allegations against us.
	Mr Ilamas	Hmm...
	I McGrail	Hasta ahi llegaria la broma ya. Ahora lo malo somos nosotros. Tela.
	Mr Llamas	Okay so, then they are going to say that, as you know, that...
	I McGrail	What, what, what they have clearly (inaudible) and they make different claim, I make this suggestion very, very, very early on, if there is any doubt on the part of the DPP, on your part, or anybody

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		else's part, or Hassans' part that we have flawed this investigation....
00:0910	Mr Llamas	That you have what?
	I McGrail	Made a flawed investigation, on the process and everything else, what I'll do today is offer my, offer every single paper, every single file, every single exhibit, to an independent police service to look into it. And what I can anticipate that would show, is that we wouldn't, that any other Police force, would not have gone, in the way that we have done. They would have picked up Jaime Levey at six o'clock in the morning. Now if that, that is where this is going, I am now officially asking, that this matter be investigated by an external police service. To see whether the RGP has flawed in this investigation.
	Mr Llamas	Fine.
9.49	I McGrail	I think, because I am getting cornered, being accused of criminality and that is, you, all of you know it here, que that is not on. This is now, trying to, to muscle me out of it. I may not even last in my post, pero Ian McGrail se viste por los pies, my integrity will not, my ethics are at this level and nobody will bring them down. Nobody. Si me tengo que ir me ire, yo me voy a la calle con la cara bien alta. Ian McGrail or the team that have been dealing with it is not corrupt. Eso te lo puedo garantizar. I am passionate of what I'm, what I'm saying. Passionate beyond anybody que se me pueda poner por delante. I have to tell you, because I have to vent my frustration. Its, its, its, this is an affront, this is an affront, to, to, to the legal process. As far as I am concerned.
00:1046	Mr Llamas	You, you have (inaudible) that nobody in this room has emm... questions your, your ethics emm... if Hassans are going to challenge you....
	I McGrail	No pero on the question of the investigation. The question of the investigation, the standards that this investigation has been compiled with, address and dealt with, and more so of how we have dealt with, the, the, the issue of yesterday, whether any police service, any police service, would have acted in the discrete, with the discretion and the, and the, and the approach that we have done.
	DPP	May I, may I
	I McGrail	And I invite...
	DPP	I have been involved, relatively early doors with Delhi, so, so I...probably more so (inaudible) I certainly I have no doubt that (inaudible) no doubt of the integrity of the investigation at all. Its been done properly and what Paul and I agreed at a very early stage was as a result of how the investigation was conducted, Jaime was a legitimate source of enquiry. We agree that Paul.
	I McGrail	As a suspect

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	DPP	I and Michael knows that.
	DPP	As a suspect, I mean he needed to be asked questions to clarify certain issues of the conspiracy and that would either resolve it or it would resolve. Whether I think, and again, I've always made it clear to Paul and to you, I don't get involved in operational matters. My view was that the warrant should come, if at all, post to interview. Look there is an operational matter for you on the ground, therefore my (inaudible)
	Mr Llamas	and that is what's causing the (inaudible)
	I McGrail	And I, I accept that. I accept that. Had we gone to deal with Hassan's as the enterprise, yes I would accept that. Because probably the search warrant would not have been the valid one. That would have been (inaudible) category. But that is not the case. If we go, if we go and we have to be grown, we have to be realistic here. If we go and ask Jaime Levy, because I ask the same question to somebody else yesterday, if I was to ask you, as a senior partner in your previous firm, emm. Chris, would you hand over your mobile device to me voluntarily? What is your genuine answer?
	Mr Rocca	I would have, (inaudible) denied.
	I McGrail	No but, I mean when, when we show up at your office, or your office. Would you hand your mobile voluntarily?
	Mr Rocca	I would ask what, what its for?
	I McGrail	Of course, yes. But we've told you, we've read you that, (inaudible) because the first thing we do is we, we give you under caution, would you by then hand over anything?
	Mr Rocca	(inaudible)
	Supt Richardson	You would sir? You would hand it over?
	Mr Rocca	Sorry?
00:1321	Supt Richardson	You would hand it over?
	Mr Rocca	Why wouldn't I?
	Supt Richardson	Well Jaime Levy didn't hand it over until nine o'clock. Ten hours later.
	Mr Llamas	Bueno because I think the, the approach was...
	Supt Richardson	So that answers the question. He wouldn't hand it over voluntarily. He wouldn't even.
	Mr Llamas	Pero he did, pero he did.
	Supt Richardson	He handed it over after exhausting all legal avenues to challenge it. He wouldn't even come to his own office. He told me he wouldn't come in.

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	Mr Llamas	And do you think his reaction would have been different if you didn't have a search warrant?
	Supt Richardson	Then how would I have forced the issue? It took nine hours of persuading to hand it over with a warrant.
	Mr Llamas	But may be you wouldn't have needed the nine hours without the search warrant.
	Supt Richardson	I can't take that sir. That is sir, with greatest respect, it was an operational decision, I disagreed with the DPP on that, I will be criticised, I could not stand up in court and say, I have dealt with this man differently from this man because of any offence that might be caused and that is exactly what has happened.
	Mr Llamas	Its not because of what offence that may be caused, there is a, I think, I think and I stand to be corrected, there is a difference between Jaime Levy and the others. This is a very senior member of our community and above all, the head of chambers of the biggest law firm in Gibraltar. Whose phone will obviously contain hundreds of privileged
	I McGrail	A lot of sensitive data.
	Mr Llamas	Not just sensitive, Ian, privileged.
00:14:50	I McGrail	Yeah. Absolutely. And that can be protected. And that
	Mr Llamas	Especially…
	I McGrail	And that can be protected.
	Supt Richardson	Let's not lose fact that the fact (inaudible) more than one phone and the phone that he used the messages, doesn't have any more. He didn't know where it was.
	Mr Llamas	But that's besides the point, Paul. The, the point is that you went to one of the most senior guy, legal people in Gibraltar, an officer of the court, okay and you, there are ways in which, I mean I've been involved in a few cases, like this and the way that (inaudible) case; is you go for a production order and you identify the key words that you want to search and information is then provided in relation to them.
	I McGrail	that's when it's the financial institution in terms of banks and
	Mr Llamas	Si that's, that's true.
	I McGrail	Right look, this is not the first time, in the same way that you've, with respect that you've had that experience, I've had the experience of Jaime Levy telling me that the RGP and its investigation, and would never see the light to day, the case, the case would never see the light of day in the Marrache Inquiry. I'm used to this.
	Supt Richardson	The same language that was used yesterday.

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00:1600	I McGrail	And exactly the same, con que, mira. Emm.. que me va venir con una banderita y decirme I'm guilty. I mean, I don't expect him to do that. Pero, we have a job to do. And I...and I'm getting criticised and questioned because of the job that I am doing. And I am doing it on the, on the strength of a court order.
	Supt Richardson	He was treated with kid gloves, he thanked me....
	I McGrail	Como, como
	Supt Richardson	For the, the discretion.
	Mr Llamas	(inaudible)
	I McGrail	No, no, no he says it in between because, pero he has to come across Paul....
	Supt Richardson	We, we didn't even have badges on when we went there
	I McGrail	He used the word terror, he was terrorised.
	Supt Richardson	There was no, there was no searches in his office.
	Mr Rocca	(inaudible) darmelo, or I'll execute the warrant, I can understand that, but look I think we are losing...
	Supt Richardson	But Chris, Chris, if I go to your office and I say, Chris give me your phone, I'm going to execute a warrant and you are feeling threatened to do that, but if you then go out and consult leading counsel in the UK and spend you 20 minutes on the phone with Leading Silk, and come back and say, the means are telling me that this is judicial review, I want to show that I'm helping but and we wait nine hours later and we are still debating. There is no threat there, there is no urgency being applied.
	I McGrail	I'm gonna be honest, I'm gonna be honest, Paul on the way up, and this, he doesn't even know what I'm going to say, Paul on the way dice, I regret, que esta son, pasan cosa and you are gonna remember a particular case, whether we can draw correlation. I regret not getting the phone from the word go.
	Supt Richardson	Hmm...
	I McGrail	Y ahi no se cachondea nadie con nosotros. Que ahora mismito se estan cachondeando. Remember the flawed drug search, in the case Regina versus the late Andrew Bonavia, that you defended?
	Supt Richardson	Yes.
	I McGrail	Where we accommodated....
	Supt Richardson	Yeah, yeah, yeah.
	I McGrail	The plea of the individual, por favor no ponga el perro en la cama, por favor no ponga el perro, y bueno, bueno esta bien, no lo vamos a poner, po vamos a registrar and that turned back on us.

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	Supt Richardson	Yeah.
	I McGrail	Po esto could easily turn back on us because he's been having the phone for nine hours, defence counsel could, will say he could have done anything with that phone. Phone or whatever. And that is something that he would have to live with as C as SIO.
	Supt Richardson	Because he's a senior member of a respected law firm in Gibraltar.
00:1802	I McGrail	Nine hours is practically more than a working day. And for us to be accused de que le habemos puesto presion, pa, pa, presion hubiese sido si yo te lo quito, eh. Eso es lo hubiera hecho cualquiera otra policia. Y eso te lo puedo garantizar eh. Conque como nos van a criticar de ser over bearing and over forceful….
	DPP	(inaudible_
	Supt Richardson	That's fair enough if you don't know the facts, but I was there and Jaime was there, and
	I McGrail	The recorded, the recorded
	Supt Richardson	Nothing was seized and it was handed over, when he gave me, when he gave me his laptop and his ipad in his house, I gave it back to him. I told him James I can't take this from you until you agree to hand it over by consent or if I take it by warrant. That didn't happen until an hour later. And when he signed that we took possession of it, not before.
	Mr Rocca	As we have agreed operationally its your call, that Michael may have handled it differently, that I may have handled it differently. Its your call.
	Supt Richardson	That's, that's fair enough
	Mr Rocca	Igual me estan criticando a mi que al Commissioner.
	Supt Richardson	I'm not a lawyer and you are not a police officer, I think that's a
	Mr Rocca	And you would have handled it differently to (inaudible)
	Supt Richardson	Ahha, ahha.
	Mr Rocca	We take decisions based on, on information available and I think we can part there, you took your decisions, they are nuance decisions. We all accept that but that, moving forwarded where are we? I think the first thing, and Michael and I had a quick chat about it, I think the first, I think we need to write to the Magistrates Court, no advise them…
	I McGrail	We have done that already.
	Mr Rocca	Yeah, advising them that we have, we have clarified that the information was not obtained under the search warrant, therefore the is no basis whatsoever with disclosure of the information they seek. Why are they seeking for disclosure of the search warrant information?

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	Supt Richardson	Why? Because the information that was laid will form the basis of the interview on Monday. And they know that they will have to come in on Monday and they want the questions in advance.
	Mr Rocca	Beside of the tipping of from the investigation, if the warrant was not exercised, wasn't served on Jaime Levy and the information was obtained not under the search warrant, they had no right to have that information under the search warrant.
	Supt Richardson	But the, truly they can't have a right anyway.
	Mr Rocca	If they were in jail they can.
	Supt Richardson	(inaudible)
	I McGrail	But not only that, they will argue that they need that information, because
	Mr Llamas	Because?
00:2007	I McGrail	Because if they are, there case is that they were threatened with the search warrant, then the, the material that was used to apply for it is relevant.
	Supt Richardson	(inaudible)
	I McGrail	So, so, they won't, they will spin it again to say, you had the warrant, even though you didn't use it, but you had it as a, as a lever to make compel us. En esta cosa, y mira me... paso con Waterson...
	Supt Richardson	Well that's exactly what...
	I McGrail	Y me paso, yo tengo ya el court order, I, I execute the warrant, es que we... mañana me, I, I kick myself, I'm kicking myself, bueno he is kicking himself because that's his call, pero, we would kick ourselves the same, etso no nos pasa mas. Y despues nos ponemos blando otra ves; yo tengo un warrant ya puedan decir lo que sea, el warrant is executed.
	Supt Richardson	That's what they do.
	I McGrail	Y ya esta. Y te quita de complicaciones, ni voluntarily, ni si esto, que si lo otro, que si para arriba y para abajo. Pero we execute it, no que ahora estan... claro I was executing, but you didn't execute it, because he volunteered it, pero he volunteered because he was under threat. It's the end game is that we had the data and which was required and...
	Mr Llamas	And the phone where is it now?
00:2017	Supt Richardson	It's in a sealed bag, when I left it was in my office. I mean it hasn't been opened.
	Mr Llamas	And whats gonna happen?
	I McGrail	But that's another thing, that the legal privilege material under special....

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	Mr Rocca	Interest material
	I McGrail	...interest material. Emm... the, the, again my integrity was put into question as you know, because eso es lo que dice tu que tu no lo, sabia nada; yo lo digo aqui ahora and I'll, for the purpose of it being recorded, that that, the data in that emm..phone will not be examined by us. It will be a....and Jaime is fully aware that emm...he was even asked on the advice of Charlie Pitto.
	Supt Richardson	Of the Magistrates.
	I McGrail	Of the, if the Magistrate tells him, correct me if I'm wrong?
	Supt Richardson	Yeah.
	I McGrail	Or tells you, I'm getting this through his briefing, emm... tells him, if you are going to get it and there is and he claims legal privilege material offer him of the option of who does he want it to, to trawl through it; local or external counsel. And he opted for external counsel. Con que that's...
00:2216	Supt Richardson	Which we discussed months ago
	I McGrail	Yeah
	Supt Richardson	And we decided to...
	I McGrail	So he was given that option and he's...he's sort of agreeing that that is the...
	Mr Llamas	So Christian, what are the different channels.
	Mr Rocca	I'm, I'm not, I'm not clear. I'm not clear at all. There are clearly, there's, there's a number of attacks here one is against Paul and misfeasance allegation....
	I McGrail	Bueno I think I have to, I have to
	Mr Rocca	I think you have to investigate that.
	I McGrail	No, no, no, not investigate, not investigate that, that that; that allegation I am taking personally too. He is my officer. I stand in front of him for all of this.
	Mr Rocca	Yeah.
00:2248	I McGrail	Con que vamos a dejarnos de...
	Mr Rocca	No, no
	I McGrail	Que yo tengo dosciento cincuenta y pico de policia
	Supt Richardson	The other thing is, if you want, if you are going to, its suggest that we are going to investigate this ourselves, lets handover everything to a UK force and let them doing that for us.
	Mr Rocca	Si, because the allegations of misfeasance at the moment, are allegations only. And I think they need to make a formal complaint to the investigation before.

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	Supt Richardson	(inaudible)
	Mr Llamas	I, I, I think Ian, to be honest with you, Ian, we are meeting with emm, because you have rightly emm... sought our legal advice, anticipating what most certainly is going to come.
	I McGrail	Yeah.
	Mr Llamas	Whether they are going to fight this any way possible.
	Mr Rocca	(inaudible)
	Mr Rocca	No, I don't know, they don't want the publicity. (inaudible) about Jaime Levy's telephone and ipad.
	Supt Richardson	Do you want this, do you want that affidavit aired in court? That lays out all the communication he's had with Caine Sanchez and everybody else?
	Mr Rocca	(inaudible)
	Mr Llamas	I don't, I don't see it.
	Mr Rocca	I mean I haven't seen the warrant. I haven't seen the information.
	Supt Richardson	I said, I said exactly the same thing to Jaime yesterday. Jaime was...he was talking with me constantly throughout the whole afternoon. And he was asking me what do I do, who shall I speak to, who is going to speak to me? What would you do if I was, and he, and he, I don't know whether to judicially review it. My counsel is advising me this, but I'm thinking the other, I want to be cooperative. Emm... we had the exact same thing came up on the judicial review.
	Mr Rocca	They are simple to try to put pressure on you to push the information. And there are avenues for that.
	Supt Richardson	Because this is, this is...
	Mr Rocca	There are legal avenues...
	I McGrail	And I want to, I want to, because I am..... well I may come across as rigid, but I think you know me deeper than what your thoughts were, a reasonable person, very reasonable and I can; I may not be as intelligent as the others in this room and I'm very reasonable and I can... adonde he llegado me lo he currado and this is the third time; my proposal for this will be put for the third time; we as the investigators, we are doing a job, we produce the evidence, we've consulted with the DPP. The DPP sees that there is, we thought that there is, but confirmed with the DPP, the DPP sees that there is a case to be put to the, to...to...to trial. I get the whole periphery, I get it all. I cannot pull it, you can. You can, Michael.
00:2510	Mr Llamas	Pero no tiene, no teien que llegar a eso Ian.
	I McGrail	Pero bueno, es que who stops it, I cannot stop it. I... I cannot say, I... there is no offence. We have determined there are

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		offences, we've determined that there is a, a, a, a, a, a highly prospect, which is not, even the DPP's call, but he supports that.
	Mr Rocca	Evidential, there's evidential...
	I McGrail	Threshold.
	Mr Rocca	Evidential... passed
	Mr Llamas	Absolutely, and I've known that from the beginning.
	I McGrail	Ahora, ahora, if, if we cannot and I, I would understand and...and I've said it, I've said it before, I would not raise any objections if this is pulled, but I will not pull it, Ian, the RGP cannot pull it. And if there are legal routes to pull it, those, I'm asking why not.
	Mr Llamas	Let me ask you one question if I may? One of the areas you wanted to interview Jaime on, is communications with the Chief Minister.
	I McGrail	I got con...I got to read that post that being served and I questioned that too. Paul would be better to (inaudible)
	Supt Richardson	This isn't, there is no emm... there is no great, assuming we don't uncover anything on the device, which might be worth, a sticking point. But there is no great issue behind that, but what Caine Sanchez and the other persons involved in this have been doing, is to seek Jaime's influence with the Chief Minister to get him an appointment so that he can find out what's happening with the platform. So that, are we gonna get it back? Is the Chief Minister likely to change his mind? There is a lot of messages to him. I don't know what he said back again.
00:2648	I McGrail	Or, or whether, or Jaime Levy actually communicated with him
	Supt Richardson	Acted, he may not have acted with the Chief Minister.
	I McGrail	Precisely. He may not have acted on any of them
	Supt Richardson	So everybody is asking him to do things and he may not have
	I McGrail	A Sanchez (inaudible)
	Mr Llamas	So the other suspects are telling Jaime Levy, to speak to the Chief Minister, to see whether the Chief Minister can change his mind, or they, whether Jaime can influence the Chief Minister in whatever way.
	Supt Richardson	For example, we got no decision, see if you can nudge the Chief Minister, he'll listen to you. Another one is, are we likely to get our platform back. (inaudible) I need my contract back. Yeah. Emm... and Jaime responds in that case, I don't think the Chief Minister will agree to it, and then another one he says, is it, is it likely for the contract to go out for tender now, and he says, yes will try again next month. That's the sort of thing. So it is clear there has been communication between Jaime and the parties involved in this, what we are suspecting in the conspiracy to

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		defraud and there seems to have been some communication between the Chief Minister and Jaime. But I don't know where that is and we haven't with the Chief Minister
	Mr Rocca	And we disagreed on, on where the line, the debate in my office.
	Supt Richardson	Hmm...
	Mr Rocca	Where the line lied in relation to conspiracy to defraud and sharp business practices. Is that the, tu tiene contacto con el Chief Minister, al me un appointment. That for me was not part of a conspiracy to defraud.
	Sup	Ahha....
00:2815	Mr Rocca	But what Paul was looking at was more of the conversation between Jaime and the other people involved.
	Supt Richardson	Yeah, Sanchez and
	I McGrail	And I think and I know, pero aqui hay mas mayores that, that go right over my head. Jaime has on, on video has alluded to that I am under pressure from the Governor to see this investigation through.
	Mr Llamas	You?
	I McGrail	Yeah. No se de adonde viene eso.
	Mr Llamas	Adonde lo ha dicho eso?
	I McGrail	Emm... en, on, on tape delante de toda esta gente ahi en...
	Supt Richardson	Because he was suggesting that this is led from outside, that we are being compelled...
	I McGrail	And, and, and...
	Supt Richardson	...to act in this way.
	Mr Llamas	And where is that in one of the WhatsApp's?
	I McGrail	No, no, this is, te lo digo porque emm... it concerns me, because we've got it on tape, and that is not the case. You know how this investigation has been driven. Aqui no ha habido influencia de, de across the road, at all, at all. That they know that emm.... Governor Ed Davis knew at the time when a, a year, over a year and half ago, I briefed him that we were commencing an investigation. Yes, it is my duty to brief him on national security matters. Yes, pero ese hombre ni me ha preguntado mas, ni me ha dicho mas nada, nada, nada de nada de eso.
	Mr Llamas	I have no...
	I McGrail	For Jaime, no, no es que Jaime said it.
	Supt Richardson	And he was very sensitive about this because David Dumas told me the same thing when he came up to represent John Perez on

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		the same day. That he thought that this was being steered by the, the Foreign Office.
	I McGrail	Okay, its not the case, I tell you its, I....its not the case. I submit myself to being (inaudible) on this. Not the case. Not the case at all. (inaudible) yo he venido ha hablar esta tarde contigo with that agenda, vamos que no. que its not the case.
	Mr Llamas	What I have heard to be very honest, emm... here, that Gaggero had lumbered you into this investigation, that I have heard. In, in, in the investigation.
	Supt Richardson	And Levy said as much yesterday on, on camera. I know where that, what he suggests and he is completely, Gaggero...
00:3024	I McGrail	Innuendo, again. The one of talking to the Chief Minister.
	Supt Richardson	I will, I will, its understood, Gaggero is very apologetic for having spoken to the Chief Minister about this matter, I think it, that was, but I can understand his logic with it and he has apologised over and over again.
	I MgG	(inaudible)
	Supt Richardson	What, what, Gaggero, was taking civil action against all these people. [redacted] Remember that what they had done was they had registered it in different names, they changed the address [redacted]. Emm.. and he, he was commencing his legal action to, to pursue that and obviously protect his civil rights. We had asked him not to take action until we had intervened with the, with the main suspect. Because to do that he would be laying information about the hacking, about I've had people examining this information, this system. So we were saying, please hold on, please hold on, please hold on. Our investigation took longer, longer than; we initially agreed that we would take a month and we would be able to say, in a month you can go ahead with this. The month turned out to be five months before we were in a position. We had to negotiate with the NCA, we don't have the capability to examine devices like that, this is a huge... this is a national scale job in the United Kingdom. So he, we, he was advised, when we were going to be issuing, taking action, but not against who and not how. Just, can you wait until, for example, next Tuesday and by then we shall be in a position to resolve all of this. He foolishly and, and apologies unreservedly and says that I admonished him for this. He saw the Chief Minister outside the emm... No. 6 one day, I think he went up to him and says, I hear its going down today. Thinking that, that emm... that the Chief Minister would be pleased to know tha the matter they had been bringing to his attention with Caine

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		Sanchez going behind his back and believing that this information was going to be addressed. He said this, I think in front of a Special Branch officer, now Jaime is suggesting that because of that I am colluding, we are colluding with James Gaggero. And I have a recording of everything, I have a recording and note of every conversation that I've had with Gaggero and there has not been one time, that he has tried to influence me in anyway at all. On the contrary, he always starts of saying, don't tell me anything, I don't want to know, emm.. I just need to know, is it likely to go on beyond this or are we still on track. Or do you need any more sup...any more support from my staff. That is the only thing that he's, he's raised with us, those sorts of issues.
00:3300	Mr Llamas	Okay, anyway, entonces, lets come back to this. Do you think, they will not, Hassans will not having anything or will not be able to.....
	Mr Rocca	Or its all bluff.
	Mr Llamas	If they were, what will you do? They could challenge the search warrant on the basis that it was used as a sword to get the information
	Mr Rocca	Yeah and the consent wasn't really a consent. They could try that.
	Supt Richardson	Well, that would mean that the Magistrate was completely misled.
	Mr Rocca	I doubt that the JR, I don't see it. Emm...
	I McGrail	At the end of the day you could hold that against a vulnerable person, I mean this is....
	Mr Rocca	Not after consulting with lawyers.
	I McGrail	Exactly and you are the head of the investigation.
	Mr Rocca	No JR (inaudible) for the turn of privilege and specialist material under section 38 which you said, you'll give back anyway.
	I McGrail	Ahha..
	Mr Rocca	So that you can...the problem you've got is, you've got mixed material, if you go to an office and you say I want this, this and, this is not privileged and I want this, ooh, but this, this contains both.
	I McGrail	You see actually he started of saying that the whole of the, the whole of the phone, the data that was in the phone was legally privileged material.
00:3410	Mr Rocca	Well it can't be (inaudible)
	I McGrail	Exactly, exactly. Which is when Paul said, Jaime are you saying that the communications between you and Thirty, Thirty-six North were in... he said no those are business. And then not all of it is legally privileged there must be some matters which are not....

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	Supt Richardson	There are both, you can't have, be a business partner and investing a firm and offering him legal advice.
	Mr Rocca	Legal advice.
	Supt Richardson	Out of the very, very beginning. Yeah.
	Mr Rocca	At the beginning of the investigation. I don't (inaudible) section 38 remedy at the Magistrates Court emm....and they've got a criminal complaint remedy which, it seems to, well is just misfeasance.
	Supt Richardson	Misfeasance.
	I McGrail	No that's it. Abuse of the law, abuse of the law and misfeasance in public office.
	Mr Llamas	Abuse of....power
	Supt Richardson	Abuse of law and abuse of misfeasance in public office.
	I McGrail	Yo, I've held on to that, but I am duty bound to, to act gross...
	Mr Rocca	Gross abuse
	I Mc\Grail	I've got to, I'm duty bound to refer the fact that there is a criminal investigation made to me, against us.
	Mr Llamas	Yes I do, if the...the gross.... is judicial review, I think.
00:3523	I McGrail	Aqui empieza el police complaint, que esta...and if they are looking at me....
	Mr Llamas	At the moment, at the moment you shouldn't do anything.
	I McGrail	I know, I'm not, I'm holding, pero como sigan apretando tuercas yo tengo que ir aflojandolas por otro lado.
	Mr Rocca	No, I think at the end of the day, Michael, you were addressed, where you copied in or addressed to you.
	Supt Richardson	No, this is the letter, that's not, that's not, this is the letter from....
	Mr Rocca	No. the one about misfeasance.
	I McGrail	Esta.
	Mr Rocca	This is it.
	Supt Richardson	This is it
	I McGrail	This is it.
	Mr Rocca	This is the one and also, are you copied into that one?
	Supt Richardson	Emm... I don't know
	Mr Llamas	This one you sent to me.
	Mr Rocca	Yeah that one I sent to you. Which one is the one....

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	Mr Llamas	Its, its original, (inaudible) email of last year.
	Mr Rocca	Its to you. Its to you.
	Mr Llamas	That's directly to me yeah. Now, if there is a suggestion apparent gross abuse of power. (inaudible)
	Mr Rocca	but there is no misfeasance allegation in there is there? I've seen it, I've seen it somewhere
	Supt Richardson	Its here, its here on this one
	Mr Rocca	That one no. yeah. Do they make allegations of misfeasance in the email to you?
	Supt Richardson	No.
00:3632	I McGrail	No.
	Mr Llamas	Does it make allegations of misfeasance?
	I McGrail	I've not read that.
	Mr Llamas	Fuf, no lo lei esto a noche, I haven't had time to read then again this morning.
	I McGrail	No, no I don't recall reading anything of that.
	Supt Richardson	But there are so many things that he said here that are inaccurate. The, the order of events, how things happened.
	Mr Llamas	There is an allegation of misfeasance here....
	Mr Rocca	Yeah, there is one there. and perhaps you need to consider whether you need to be replying to Louis, saying there is an allegation of misfeasance, do you want to make a formal complaint. Then please put that forward formally to me, because on that Ian is right, they have to go hang on a minute, you are investigating, I can't investigate me, you know, you may want to get somebody to investigate
	Mr Llamas	Pero that's for them to call.
	Mr Rocca	For them to call.
	Supt Richardson	No, no sir, with respect, I am the one that's being accused of this.
	Mr Llamas	Yeah.
	Supt Richardson	I don't want to just leave here when we are not just gonna pursue it. If you are gonna make this allegation, make the allegation.
	Mr Rocca	But that's what we are saying. If you are gonna make a formal complaint Ian, Paul Richardson, and I mean Paul Richardson I mean the RGP, then make it. But make a formal misfeasance allegation and go report a crime, because it's a crime.
	Supt Richardson	Si pero I would, I'd have to report it to (inaudible)

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	Mr Rocca	That's right.
	I McGrail	It can't be reported through us.
	Mr Rocca	It can't be with yourselves.
	Supt Richardson	Would that be with you.
	I McGrail	And have it investigated by an external police force.
	Mr Rocca	And have it investigated by an external police force, I believe that is where Michael has to say, if these are the allegations, I've seen a copy of the letter and the allegations between. If these are formal allegations
	Supt Richardson	And if I, if that happens, I would be criticized for not doing my job properly, by not going to Jaime Levy's house at six o'clock in the morning and waking up his family….
	I McGrail	Like the expert….like the expert in the MET…
	Supt Richardson	By not taking a team there and seizing any of his devices.
	I McGrail	…the dog handler that said that that was not the way to run a dog search.
	Mr Rocca	Desde luego.
	I McGrail	Me entiendes. Do you see the correlation?
	Mr Rocca	Yeah, yeah, yeah. Unfortunately…
	Supt Richardson	I'm not knocking on the Chief Ministers door and ask him to explain his emails.
	Mr LLamas	(inaudible) criticising to do things….
	I McGrail	Ahora te lo digo, te lo digo, we are kicking ourselves, pero next time, lo haremos otra ves, porque that's in our nature, how we, we deal with things in the best way possible. Pero it warrants de ser a bit of a firm hand ahi, y decirle, no esto esto es lo que hay, y la friardad que tiene el ingles no la tenemos nosotros. A mi me viene, a mi no me importa quien sea.
	Mr Rocca	But it think the, the two tacts I think it is, your response has to be, I don't get involved in operational matters, those are matters for the police. Emm.. and therefore I leave you to deal with it, be it the Magistrate avenue, whatever you wish to choose, that's with you. If there area allegation of misfeasance please let me know immediately, I'll put them formally in writing. So that I can arrange, for them to investigate it…
	I McGrail	Or to consider whether there is any….
	Mr Rocca	Exactly. Otherwise put up or shut up.
	Mr Llamas	Si pero, how do I know that? I mean I, I know it because sending it to you is like…. essentially, you sent me an email,

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	Mr Rocca	and that's not copied to you either.
	Mr Llamas	No porque a mi me lo mando, because Paul when he replies to that letter copies me in.
	I McGrail	Paul replies to the, Paul replies to the clerk.
	Mr Llamas	So what is your letter to the (inaudible) regarding this.
	Mr Rocca	I've got that. Paul let me have it.
	Supt Richardson	I, send it to him because there are allegations made to the clerk, and I'm saying give it the seriousness and copying in the Magistrate, oh no the Magistrate, the Commissioner and the DPP.
	Mr Rocca	And I think its right given the seriousness of the allegation I copied it to you.
	Mr Llamas	Yeah.
	Mr Rocca	Because there are allegations of misfeasance against the police force. I think that's our, that's our line.,
	Mr Llamas	Okay, so basically other than doing that I think we've anticipated more or less por adonde van a venir los tiros. There may be, a....a challenge to the search warrant, maybe. Emm.. they'll have, we'll see whether they pursue the misfeasance point or not.
	Supt Richardson	Yeah.
	Mr Llamas	We'll find out true enough probably. Y aparte the eso....
00:4023	I McGrail	That was the reason why this chap could not, in my view, Michael and with respect, we couldn't have it (inaudible)
	Mr Llamas	Okay, I am still....
	I McGrail	Now you understand, que estamos, nos estan acusando.
	Mr Llamas	I am still and its the only reason why I am involved in this, es que this is highly sensitive as point 9 here.
	I McGrailL	I agree.
	Mr Llamas	Demonstrates.
	I McGrail	I agree.
	Mr Llamas	In my view, its just a view, completely unjust, unjustifiable to me that this man should be even appearing on a formal document. Emm.. and I will not, if its not legitimate, I want that to disappear immediately. My concern here, is the reputation of this jurisdiction and that passes to the reputation of our Chief Minister. Especially in this moment in time. And for that I shall fight until I die.
	I McGrail	Es que you have the magic wand here. You have it.
	Mr Llamas	I am sure, and if it's the case, I would ask you to get it out of this as soon as possible.

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	I McGrail	The reason we and look…the policy decision made, the fact that we whoever, whoever is pulling here whether its Caine with the golden nugget hidden under his arm, I do not know yet. But emm… we can presume that he can potentially have something up his sleeve to get out of this. To compromise the people we are talking about.
	Mr Llamas	What do you mean? That somebody told them to act like this?
	I McGrail	No, no, no, no. Que el a lo mejor no se, no se lo que puede ser pero… we can toss and turn it in our head and we haven't go the answer. But from the word go, when we did the, interrogation of the devices of Caine and John Perez, the Chief Minister featured, unfortunately. And, llamalo, esto, lo otro. And he….
	Mr Llamas	Not him personally?
	I McGrail	No, no, no, no. There is no communications from the Chief Minister identified, that I can see. But,
	Mr Llamas	Levy?
	I McGrail	Bueno amongst them, amongst them, the, the, the three. And Paul would come and say Paul….
	Supt Richardson	There was, there was some communication.
	I McGrail	Pero you reminded me, you reminded me on this one. Emm…because of me asking you this. Dice well, the question, that the Chief Minister comes very valid, validly asked me…is why didn't you ask me direct, about this. And my, and the response which he has had to drop, dice hombre we had to protect, he has to, he cannot feature as part of, these type of enquiries.
	Mr Rocca	(inaudible)
	I McGrail	Yeah well, well. Exactly, but look, its there now
	Mr Rocca	That's part of…is that what's gone to the court?
	Supt Richardson	No, no, no that was given to me. That is telling Levy, this is what we want you to account for your…your communication with the Chief Minister or…on….
	I McGrail	On this particular matter
00:4320	Supt Richardson	On this particular matter. Where is the contact, (inaudible) I don't… we don't know what the communication is/was.
	Mr Llamas	Do you realise how damaging if this came out? The reference to the Chief Minister is and maybe, I'm prepared to say just maybe, maybe completely unjustified. The first discussion I have with you Ian. It is not what happened here. It's the perception that's going to live and that is potentially very damaging and that, what I wanted to avert, from the beginning. That is the reason why I asked you to rationalise the ground and then to assume that ownership is with the Government. So that, if you did proceed

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		you were doing in a completely secure basis. No que ahora, documents are flying around with things like that.
	Supt Richardson	Sir, the only person that has that document, the only person is Jaime Levy. Nobody else. So if it is flying around, it is because he chooses to fly it around nobody else has had sight of that document. Its not gone to court, its not been discussed with anybody else. It was served to him directly, so that he was able to prepare for an interview to say, these are the areas that we want you to, to account for. Otherwise he was going to turn up to an interview and we are gonna ask him, we now need you to account for these texts. He's gonna say, I didn't know anything about that, why didn't you tell me about it before.
00:4445	Mr Rocca	I think short of the terms that we are in terms of....
	Supt Richardson	Yeah.
	Mr Rocca	On the, their shoes is on their, their boot on their foot, they've got to decide whether they JR, either or they section 38. I don't know whether they will. And Michael will say, if there is misfeasance, and I will, I will appoint someone to investigate. And you need to write to the Magistrates Court, saying look you might need to know the information was not obtained under the warrant, it was handed voluntarily.
	I McGrail	Us, us, we have to write.
	Mr Rocca	I think, further to your email to Maurice, saying its important that I clarify that, that the, that, that the Magistrate be made aware, the information was not obtained under warrant, it was given voluntarily, therefore we don't have a basis upon which to request that information. Even if it were.
00:4530	Supt Richardson	But that would, does that not presuppose that there is a legal right to this. I mean that would mean, everywhere that you obtained....
	Mr Rocca	(inaudible)
	Supt Richardson	(inaudible) and saying appear before the Magistrates Court tomorrow, we are gonna make an application to search your house and you don't have any objections. You have six days to produce something. Its absurd.
	Mr Rocca	No but I think its, its important that Pitto knows that the information you are asking is irrelevant, because you didn't execute the warrant.
	Supt Richardson	Yeah.
	Mr Rocca	So why did you want the information that supported the warrant...
	I McGrailL	But they will argue with the court...
	Mr Rocca	Fine, but let them argue it. (inaudible) to protect your position. Let's make it clear. The next stage is, I think this is more your call Michael, what is the end game here

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	Mr Llamas	Yeah.
	Supt Richardson	I know, that's what I want…
	Mr Rocca	(inaudible) reality. We are gonna get to a stage where we are gonna go through pain, pain, and actually… aqui no hay bastante para empezar con Jaime Levy. Could we possibly…
	I McGrail	We have to porque para que despues no…
	Mr Rocca	Fine.
	I McGrail	In the fairness, in the interest and the fairness of the others.
	Mr Roca	I totally agree with you. And that…and that…
	Supt Richardson	Because (inaudible) on Monday. Because if Jaime comes up with an explanation
	Mr Rocca	Ahi esta.
	Supt Richardson	That holds enough water that doesn't need probing too deeply, this could be put to bed.
	Mr Llamas	This is my point, in the end the game is… by this you mean Jaime Levy's information.
	Supt Richardson	Yes.
	Mr Llamas	I mean the, the case is still there.
	Supt Richardson	Yes.
	Mr Llamas	How, I mean, where are we, where are we going with this? it's a, it's a, it's a fundamental question to ask, where are you going next? I would say, so now what?
	I McGrail	We are, that's it on Monday they interview Jaime, gather force on whatever he says, that should then be… as far as we've been able to achieve…
	Supt Richardson	Its absurd sorry, the allegation against me for misfeasance, Jaime asked me personally why I didn't do the interview on Monday.
	I McGrail	He wanted him to interview him.
	Supt Richardson	And then the day later, he is telling me that I am acting with misfeasance.
	Mr Llamas	Bueno esas cosa pasan no.
	Mr Rocca	(inaudible)
	Mr Llamas	Sorry Ian, carry on
00:4741	I MCGRAIL	Then short of what was needed to be picked up from Robert Fischel's submissions. Hoy mismo habemos recibido lo de Darrien Grech. Hoy, which now needs to be transposed into a proper statement form. Me ha hecho un garabato en un

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		government letter headed form. Eso hay que meterlo en.... Any, any lines that come out from that one, any questions that need to come out from that one or Robert Fischel's submission about the ownership we will push it as far as we can on that.
	Mr Rocca	Bueno
	I McGrail	Once, once, that is done, quedaban algunas cosas que nos vienen o no nos vienen that is from the Microsoft servers in the, in the US. Which we reckon would tell a hell of a story, because Caine used his emm... he made use of his private email a lot. And that will tell ...
	Mr Llamas	Is that the information you requested?
	I McGrail	Yes, through the legal channels through MLA y todo eso, the thing is Covid has slowed everything down. But the, remind me, ahora, ahora, remind me porque tengo la cabeza fatal, remind me about something that's just come in before I came to this office from the FBI. Que yo....
	Mr Llamas	No, no....
	Mr Llamas	Los barcos
	I McGrail	Los barcos.
	Mr Llamas	Cinco.
	I McGrail	A mi me han dicho de uno.
	Mr Llamas	Cinco. One of them has sailed past.
	I McGrail	El Petunia. Bueno.
	Mr Llamas	(inaudible)
	Supt Richardson	Sorry, I'm not doing another, I'm not doing another, what is it you call it
	I McGrail	Grace 1
	Supt Richardson	Grace 1, I'm not doing another one.
	I McGrail	Emm... anyway, entonces....
	Mr Rocca	So we've come to a position where we (inaudible)
	I McGrail	Absolutely, we done that.
	Mr Rocca	There is, and my that its actually being, and Paul knows this, we keep it relatively simple...
	I McGrail	It doesn't make sense that you go...
	Mr Rocca	because its gonna be unmanageable...
	I McGrail	More consequence on, on, if there is a conviction on

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00:4933	Mr Rocca	And once we start bringing in people like, like Jaime, we are gonna have a massive team of lawyers and if one walks, they will all walk. That's the reality of it, so for me, I'd rather get Cornelio, [redacted] without a doubt. Sanchez, I don't know enough about it yet. Perez, I don't know that much, correct.
	I McGrail	Whatever.
	Mr Rocca	Whatever we come out.
	I McGrail	We, we are not, we are not here….
	Mr Rocca	Pero if the long game is that we are gonna get, we are not gonnna do (inaudible) there is not (inaudible) possible to throw that charge in and then charge him but its going to, but when we get there do we feed that back somehow. Do we say…
	I McGrail	Quedate tranquilo that this has to be done.
	Mr Rocca	We need to tick the boxes, we need to do the exercise, so we are not criticised afterwards when we charge certain people. Pero you are not the target, no I'm not gonna say that,
	Supt Richardson	We had to lay information that he is a suspect.
	Mr Rocca	Emm…
	Supt Richardson	We had to lay information that he was a suspect
	Mr Llamas	(inaudible) to you that's just arrived. Emm.. Louis Baglietto has called, because he has been sent a I McGraily and he, he was made aware of this meeting. Originally it was going to be a meeting with him and he says its vital for us to read it, so I'm aksing
	I McGrail	I need to go to the toilet. Adonde esta el toilet?
00:5056 – 00:5300	Toilet break	
	Mr Rocca	Tu que crees que lo estan (inaudible) your gut feeling?
	I McGrail	My gut feeling is that he is being protected.
	Mr Rocca	Not that he's got a golden gun?
	I McGrail	I don't know, or because he has that
	Mr Rocca	Vale, okay.
	I McGrail	I cannot, this is a gut feeling not a, nothing that I…
	Mr Llamas	What would be the golden gun?
	I McGrail	Ni idea. Ni idea.
	Mr Rocca	Embarrassment.

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	I MCGRAIL	Ni idea, it can be from the worst you could imagine to the most inert. From the worst, to the most inert. De una cosa que diga, mira I've thrown... (inaudible)
	Mr Llamas	Ian, yo como veo esto ahora, okay, so there are three strands to this case. We've got the criminal investigation, que es lo tuyo. We have the outstanding contractual issue, on ownership. And as I think you may be aware there is a Data Protection breach.
	I McGrail	Against Gaggero no?
	Mr Llamas	Opened by the GRA. Where you aware of that?
	I McGrail	Because we reported it.
	Mr llamas	Oh did you.
	I McGrail	Yeah.
	Mr Llamas	I wasn't aware of that.
	I McGrail	We were the ones that brought them in because the, 36 North has stole, stolen that data and put it up into their cloud.
	Mr Llamas	In my preliminary view, todo el mundo va salir fatal ahi. Porque the first thing that a data emm...
	I McGrail	Commissioner or
	Mr Llamas	Commission or body would do, with the sensitivity of the data that you've got here and we are dealing, you haven't even got a signed contract, setting out the Data Protection obligation and that will look as bad on the government, as it will on Gaggero, as it will on Blands and everybody else involved in this....
	I MCGRAIL	I agree, I agree.
	Supt Richardson	I suppose we could argue it predates GDPR
	Mr Llamas	Si pero.
	Supt Richardson	I suppose.
	Mr Rocca	But I mean that's a
	Supt Richardson	It predates GDPR (inaudible)
	Mr Llamas	After GDPR (inaudible) so what shall we do, shall we....esto que es la carta de (inaudible)
	Supt Richardson	That has your, it has your email at the back.
	Mr Llamas	Can we read this quickly. So this is to Paul.
	Supt Richardson	Yes. Fine, it seems to be.
00:5545	Mr Rocca	That's exactly what they are doing, they wrote to say that there was a threat.

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	Mr Llamas	Yeah.
	Supt Richardson	Interolis, is that the term. I looked it up this morning.
	Mr Rocca	Interolis.
	Supt Richardson	Si they are saying more of a voluntary cooperation.
00:5616	Supt Richardson	Its got the (inaudible) again.
00:56:50	Mr Llamas	Tu ves, aqui lo que ha causado el agro es el, is the, is the warrant.
	Supt Richardson	Yeah, but it is not possible, to, to do what he is saying and to issue a production order. Because to do a production order…
	Mr Llamas	Its not even that. Its whether, before going for the jugular, you should have gone for a more amicable approach. Yo creo que eso es whats causing all of this.
	Supt Richardson	And if it was….
	Mr Llamas	But that doesn't ….
	Supt Richardson	…any other lawyer?
M	Mr Llamas	(inaudible) pero I'm just saying, we are aware, whether one agrees with it or not, its just a statement of fact.
	Supt Richardson	Yeah.
	Mr Llamas	That's what I'm doing.
	Supt Richardson	Yeah. There's no suggestion here about
	I McGrail	Malfeasance
	Supt Richardson	Malfeasance.
	Mr Rocca	No, which is surprising, given they've asked me to get involved and making an allegation of misfeasance.
	Supt Richardson	Yeah, against me. And now asking for staff they are asking the court to reply to.
57.44	Mr Rocca	Exactly.
	Supt Richardson	May the court has replied to, replied to them saying, we are not going to give it to because…
	Mr Rocca	Have you been copied in?
	Supt Richardson	I haven't, I haven't checked my emails. I don't know. The other…
	I McGrail	If we going to…
	Supt Richardson	Precisely this, its not incorrect in law to say that the only way to obtain special material is through a production order.
	Mr Rocca	That is wrong.

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	Supt Richardson	That is wrong in law. These are the best minds in Gibraltar that are looking at this and they are advising us incorrectly.
	I McGrail	No, advising us no.
	Supt Richardson	Bueno they are telling me, and wrong in law. Surely they know that what they are saying is wrong.
	Mr Rocca	Anyway...
	Supt Richardson	Its an ethical issue, is it not?
	Mr Rocca	I would say it wasn't absent agreement. I suppose...
	Supt Richardson	Yeah.
	Mr Rocca	Even if they were right, they agreed to override it.
	Supt Richardson	Yeah.
	Mr Rocca	And they should have said no.
	I McGrail	Ex...exactly.
	Mr Rocca	This is the...the wrong take on it.
	I McGrail	Exactly, exactly.
	Supt Richardson	Given, given the nature of what we are discussing, shouldn't we, should I be replying directly to this? Surely it's a lawyer that should be replying to this now. I can give the information but, it shouldn't be me reply...replying direct.
	I McGrail	(inaudible) if you want.
	Mr Llamas	And the answer is going to be no on the 7.
	Supt Richardson	7. The substance on the advice given to the RGP, in relation to the purpose of seeking a warrant.
	Mr Llamas	No, no. on all of 7.
00:5900	Supt Richardson	The search warrant, no issue at all. You can have a copyy of the search warrant. Application for the search warrant, no. Because that, that sets out the terms of the investigation, it goes into great lengths to, to, to explain that. So that's not, not, not possible. Any written evidence file in support of the application.
	I McGrail	It's the same
	Supt Richardson	Well that is the...it's the...it's the same document. Any notes taken by the RGP of the hearing; I don't think we made any notes, the information was laid by, by Detective Sergeant Clark. I sat there only because of the sensitivity in the matter and there was an Inspector who authorised it. But I don't think we made any notes at all.

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		Any order or ruling by the Magistrates; the mag...the order by the Magistrate is the, is the warrant.
	Mr Rocca	(inaudible) is the warrant, that would have....
	Supt Richardson	Any instructions or briefing notes issued by the RGP to the officers attending Mr Levy's home office; there aren't, that's an operational matter. I can't disclose that. And the substance of the advice given to the RGP in relation to the merit seeking the warrant;
	Mr Rocca	There was none.
	Supt Richardson	There was none.
01:0000	Mr Llamas	(inaudible) let, let me finish reading the letter.
	I McGrail	The production orders are not....
	Supt Richardson	Seen this, have you seen this (inaudible)
	I McGrail	Yeah, that I refused, he (inaudible) refuses to me. Its not that I refuse, that, that its inappropriate, its inappropriate. Eh?
	Mr Rocca	It is inappropriate.
	I McGrail	Of course it is, I mean, this is...
	Mr Rocca	(inaudible)
	Mr Llamas	And the last thing you've done it already, that's this list.
	I McGrail	Would...,.
	Supt Richardson	(inaudible)
	I MCGRAIL	...would...would he be entitled to more pre-disclosure material?
	Supt Richardson	Well we, we...
	Mr Llamas	No because (inaudible)
	Supt Richardson	Yes at the station prior to interview.
	Mr Llamas	Prior disclosure of the matters proposed to the chambers.
	Supt Richardson	Where set out there, yeah. Yes, exactly
	Mr Rocca	Doesn't do crime at all. But I would normally sit down with the counsel and give them a pre-briefing of the
	Supt Richardson	Again, none of this was done for the other defendants. It was done only for him to give him advance notice.
	Mr Llamas	So, I don't think its problematic this letter, quite frankly, at least to reply to. The only one, is this one, when they ask effectively for the return of the phone.

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	Supt Richardson	I don't think we can; and I tell you... I...I...I set out the reasons for that; we applied to the Magistrates Court and laid information on oath that we suspected that he was involved in a criminal offence and we...we set out the terms of our, one and a three quarter hours, the Magistrate made, made, agreed with that assessment as well as the clerk and issued an order which we were acting on. The fact that we chose not to exercise that power was because we were required by law to seek the consent of the person that, that is there, before exercising the power. And that was sought. And it was debated over a period of hours, including several consultations, as I would have described, leading silk in the UK. And at the end of all that negotiation, he voluntarily handed over that device. So, now we have it, its sat in a sealed bag, but we haven't done anything with it. To hand it over now,
	Mr Rocca	I think there is a simple way to defuse that paragraph, that is the concerning paragraph, you've certainly picked up. I would reply saying, given the allegations you are making, we'll sit the seven day, its in a sealed bag, it will not be touched, if you think you have grounds for making legal application to any court of law, for review, for an appeal...
	I McGrail	Which I was...even, even before this has been discussed, I would say look; we, we...when the warrant was being considered, I asked them, because I...I'm not in to the in-depth detail, but what if, emm...emm... I went through a couple of scenarios; que se levantara Jaime, y se fuera, what are you going to do? And he takes his phone with him. Todo eso, and, and, and he says, no, no me lo va hacer, no me lo va hacer, no me lo va hacer, no. Y bueno, what if they challenge, can they... is there any power that they can stop the warrant from happening? No there isn't, they cannot stop the warrant...
	Supt Richardson	Judicial review.
	I McGrail	They, they had to... pero and, but the point of judicial review, they have to stop, we, we would have to, would we have to grind everything to a halt, meaning no interrogation of devices, the, the, the thing stops. Emm.. y me dicen, no, no you carry on, the, the investigation carries on. The fact that the, the judicial review may come and then come back to haunt you, mira. Pero you...
	Mr Llamas	Okay.
	I MCGRAIL	...you've still got the empowerment...
01:0331	Mr Llamas	Let me ask you one question in relation to that; from Jaime Levy's point of view, what is the best outcome of doing the interview on Monday?
	I McGrail	Going to leave this for you Paul.
	Supt Richardson	From his point of view, from his perspective? He...he would have to give an explanation which accounts for what he has done, which holds some degree of water. In other words, I have been

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		misled, emm… I was told this, he has already said this unofficially through other sources.
	Mr Rocca	I didn't know what I was doing, I didn't manage the platform.
	Supt Richardson	I have been…I have been misled, I have been….
	Mr Rocca	I saw this opportunity…
	Supt Richardson	I have lost half a million pounds with this, I've invested with them. They told me that they were going to bring me carnival cruises, the told me that they were going to bring in business from Santome, they told me they were going to bring in business; none of them have materialised. I've lost all this money, they have deceived me.
	Mr Rocca	I didn't know they were [redacted] ….
	Mr Llamas	And…
	Mr Rocca	I didn't know Sanchez was….
	Mr Llamas	…are you interviewing him, Paul?
	Supt Richardson	No.
	Mr Llamas	No, then, the…and what's the best result then? That the, the, the Police Officer who interviews him comes back to you and says…
	Supt Richardson	I will listen to the interview, I can, I can, I can participate…well not participate, I can monitor it remotely. But it's not appropriate for me to conduct an interview at this, at this level.
	Mr Llamas	So the out come then is, so he…he can convince you on Monday, that he's got nothing to do here. Or its what he has to do is minimal and what then, would you exclude him from the investigation straight away and give him back his phone?
	Supt Richardson	I don't think that would be the prudent thing to do. We would have to make sure that what he is saying is, is… hold some degree of…and I'm saying this with…reservedly; because to discount him completely, would impact on everything else. If it was found that what he was saying was untrue, because the other side might decide to call him and say well, this isn't true what you are saying, you acted emm…emm… biased towards him for whatever reason. So we'd have to have an account that holds…holds some degree of water.
	Mr Rocca	I think what Michael is asking is, if he, if he, if he satisfies you in the interview, would you give the phone back or would you still need to do the sift of the phone? That's the question, I think. No?
	Supt Richardson	I think that would be, dangerous.
	Mr Rocca	So you are saying, you still would have to sift through the phones.
01:06:01	Supt Richardson	Yeah.

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	Mr Llamas	Unless they challenge you and I suppose
	Supt Richardson	And I'm compelled to return them.,
	Mr Rocca	Once you verify what he was saying.
	Supt Richardson	Yeah.
	Mr Rocca	Or denying.
	Supt Richardson	Because to do…
	Mr Rocca	Yeah. I might…I might…
	Mr Llamas	Challenge you in…
	Supt Richardson	(inaudible)
	I McGrail	Y mira, there could be some scope in between. He knows what we, we require, if at the point of interview he presents that to support his story;
	Mr Llamas	What extract, extract….
	I McGrail	Whatever. Whatever…
	Mr Llamas	(inaudible)
	I McGrail	Whatever.
	Mr Llamas	Es que he hasn't go them.
	I McGrail	He has.
	Supt Richardson	He does, he made a copy of his phone before he gave it to us.
	I McGrail	Si el trae todo lo que se le esta pidiendo, y lo presenta, then that pauses, that puts us in a more difficult position, to say a lo mejor no. if…
	Mr Llamas	(inaudible) it's a different phone.
	Supt Richardson	He, he says he has taken the SIM card from one phone to…
	I McGrail	De un telefono, el….el…el telefono crucial no aparece.
	Mr Rocca	Well exactly. So what…
	I McGrail	Ese es el que no aparece.
	Mr Rocca	What are we expecting to find anyway in…
	I McGrail	A cogido vuelo.
	Mr Rocca	…his phone. (inaudible)
	Supt Richardson	No, not necessarily, if its saved on the device, it was also backed up when you, he had it set to back up to the cloud so. Yeah. So there is that. You know there might be all sorts of conversations post the arrest to these people. Remember, when Perez was

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		arrested, the first person his calls is Jaime Levy and the officers who where there called me and I spoke to you on the same day with, we are in a position now where one of our suspects is dealing directly with another suspect. I can't let him speak to him. So I spoke to...to...to Chris and I said look Jaime Levy is trying to speak or... Perez is trying to speak to Levy. We haven't got to the stage where we need to speak to Levy, yet. This is a conflict of interest and you advised that it was up to him to resolve this. As it happened, Jaime didn't turn up at the station, it was David Dumas. And when David Dumas turned up, I don't think he was very well briefed, because he was very happily discussing matters with me, we were preparing, he was preparing statements. We were all, and then he said, this is a conflict of interest for me and then they stopped representing Perez as well.
	Mr Rocca	Because he is a partner in the firm that has an interest in 36 North, no I suppose?
	Supt Richardson	Yeah. He is a partner of the firm, that's...benefits financially from...
	Mr Rocca	And then...
	Supt Richardson	...from the fraud that we are investigating.
01:0811	I McGrail	And the, and the question here is, he is also and we get it all the time, the, the, the conspiracy to defraud, is a, is a none starter on the basis that its, there's no criminal liability, it's a civil, commercial deviance, if you want to put it that way. Emm... I don't know again, I only learnt this today and I think it was you that emm...that, that emm...briefed me this morning. That the law has changed, where commercial deviance is now regarded as criminal deviance.
	Mr Rocca	Can, can be and we've had this debate repeatedly with Wyan?
	Supt Richardson	Yes.
	I McGrail	I've picked up many people in this, with...with an interest in this are aware.
	Mr Llamas	When you say he extracts the information requested; what is the information requested?
	I McGrail	Lo que esta puesto ahi.
	Supt Richardson	Sorry, what are you saying?
	I McGrail	El, el los puntos esto no.
	Mr Llamas	When we were speculating the best case scenario that Jaime Levy....
	Supt Richardson	Oh that you, you said that. That he turns up
	I McGrail	With all the material..

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	Supt Richardson	..he has...he has his phone, he has a copy of his phone, on another phone. He just backed it up on this phone. He...and a nightmare scenario for me is that he has deleted all the stuff on this, because if we look at that phone and find out there has been a load of deletions, after we are executing a warrant, where does that leave me?
	I McGrail	No
	Supt Richardson	In terms...
	I McGrail	Bueno, in...it doesn't, it leave him in a very bad place.
	Mr Llamas	Bueno I think, (inaudible)
	Supt Richardson	Even if I can't, there record there that shows twenty things that have been deleted...
	I McGrail	Deleted...
	Supt Richardson	...after we went to serve a warrant...
	I McGrail	That raises suspicion (inaudible)
	Supt Richardson	Interfering with a court order.
	I McGrail	And that leaves us, even that would probably get challenged, porque esto eran cosas que (inaudible)
	Supt Richardson	Anyway, the ideal situation...
	I McGrail	Pero raises suspicion.
	Supt Richardson	..as he has his own device and he has access to Hassans' servers, and Hassans 250 staff. If he comes up with an explanation that is supportive with the documents we'd be able to go away and look at that and see if that excludes him from our inquiry. Or puts him at a level, where its not quite at the level of the other people. But he needs to stand up and say, I've been deceived in this, this is a....this isn't what I was told.
	I McGrail	Or I wasn't...I wasn't aware of what was happening around him. He...he was just a....
	Supt Richardson	I used my influence with the Chief Minister because we are, he's a friend and I just bump into him and they were asking...people ask me to do this all the time and I didn't...
	DPP	There is nothing wrong with meeting with the Chief Minister
	Supt Richardson	Yeah
	Mr Rocca	(inadible) Michael can you meet with Lloyd, theres...there's nothing wrong with that, that's not corruption. Emm...
	I McGrail	No, we are not saying there is.
	Supt Richardson	No, no.

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	DPP	I bet you are not.
	Supt Richardson	Then if he becomes a witness, he gives a statement, probably not, would he go to court voluntarily and give evidence. That's another matter altogether.
	I McGrail	Whether it gets to court or whether it doesn't, pero the point is that we've got to go through the…
	Mr Rocca	Channels.
	I McGrail	Precisely.
	Mr Llamas	So your position remains the same, is that, you are going to interview him on Monday.
01:1059	Supt Richardson	Assuming he voluntarily attends and if he doesn't that would put us in an impossible position.
	Mr Rocca	Because then you have to arrest him.
	Supt Richardson	We have to arrest him. I'm hoping that we don't get to that. This is why he has been given a week to get ready, to prepare his position.
	Mr Llamas	Okay, then in the meantime, what are you doing with the phone?
	Supt Richardson	Nothing.
	Mr Llamas	At the moment its in a blue bag.
	Sup	No. no this blue bag is advice that he got from the silk in the UK that describes correct procedures; we don't have blue bags, white bags, green bags.
	Mr Llamas	Okay. It is sealed in a bag.
	DPP	(inaudible) blue bag yeah.
	Mr Llamas	So at the moment its sealed in a, in a bag and its going to remain sealed….
	Supt Richardson	Yeah
	Mr Llamas	Until when?
	Supt Richardson	Until…
	Mr Llamas	Until after the interview?
	Supt Richardson	Until we are in a position to get somebody to be able to examine the content of it.
	Mr Llamas	But would you wait until the interview first?
	Supt Richardson	We would do the interview first because that might take, it might take a very long time. As I, as I explained to him yesterday. The suggestion that it would be sent to the UK or anywhere else to be

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		done is absurd, what I explained to him was that the, the only police involvement is to extract a....a...an image of the device, they connect it to computer, it runs overnight. Because he wanted someone to sit there whilst this was being done. I said look I've got no objections but this might take, you might be there for whole night, in the morning when you turn on the device, its corrupted and you start all over again. And its not that the guy that's doing the, the extraction, not extraction, the imaging, isn't doing something else. He connects it and starts working on another job. Six hours later or...or two days later he opens the extraction and if the, if the file works that's it, that's all that we would do. That is then given to a lawyer to, to examine, using certain search terms that we would give them and the defence can provide emm...can have imput to. Exactly the same like what happened with, I keep saying New Flame, what was the name, the Grace I, the Grace I. We produced search terms, they produce search terms, you end up with ten million references and its got to be sifted. That's why we can't delay the interview until this has been...
01:1303	DPP	The, the, idea of responding, we'll give you seven days we know....
	Supt Richardson	Yeah
I	DPP	Its not gonna happen
	Supt Richardson	Yeah
	DPP	Within the next week or two, we'll keep it sealed in a bag, if you think its unlawful, look at the end of the day, the bottom line is, it was seized on the back of a legally obtained warrant, or consensually. Which ever way you look at it, if you want to challenge that, you challenge it. That's it, that has to be the response.
	Mr Llamas	Well I think, the, the first reply to that paragraph has to be that you have not copied or, or downloaded the material. Which are....
	Supt Richardson	That's correct, it just sits, it still sits in....
	I McGrail	I still feel that if we are gonna be dealing on a constant basis with the QC that we need that phone. (inaudible) the quality here needs to be at least Crown Counsel level.
	Supt Richardson	(inaudible) have to do it.
	DPP	I don't mind, except I would potentially be (inaudible)
	I McGrail	Bueno another counsel. Another Crown Counsel que haiga que no pueda...entonces ya nos vamos a meter, aunque por ahora, pero esto, esto lo puede....this can get embroiled. Por ahora he is wrong.

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	DPP	(inaudible) drafted. You are copied in. What if I draft it and copied in or not?
	Mr Llamas	But why should I be…
	DPP	Because in the meantime the statement to the Attoreny General I request the immediate return (inaudible) You are copied in, in that one. I think if Paul replies saying that he can't.
	Mr Llamas	That's not, that's their decision, yo no me voy a meter en esa decision. I think you've got to the diplomatic answer to that, if it gets us anywhere, is to confirm that you have not copied any material, or downloaded, the…the…you can rest assure that nothing is going to be done to this phone until after your interview on Monday.
	I McGrail	Ahha… Paul? Yes. No, no, what I mean to say is that, that's the drill
	Supt Richardson	Yeah.
	Mr Llamas	And that is it misleading to say then that we will review our position after the interview on Monday, because if you say that, that can be interpreted as meaning that you can hand back the phone after the interview on Monday. If that's a none starter then we, you shouldn't say it.
01:1526	Supt Richardson	I think its unlikely that we'll be able to say here it is, because what will, what will, the situation you are describing is, we are asking you to give your account and we are not going to check what you are saying is, is, is true. We've gone to court and filed a an application, we've been granted that, we've chosen not to do it because you've corroborated and now we are not going to check what it is that you are saying. It just supports the argument well come and see me and I'll just give you want you want in the first place and tell you the truth. I'm an officer of the court I wouldn't lie to you. It doesn't mean to say that we couldn't delay the examination of that phone for enough time, until everything else is resolved.
	DPP	I don't think you need to disclose that to the court if don't want to, don't you say its unlawful, go to a court of law. Then you remedy, you remedy exists.
	DPP	There are seven days where we can guarantee we are not going to look into it, no matter what I do afterwards….
	DPP	Seven days, bueno we are going to the interview into any event, pero (inaudible) if you think its unlawful….
	I McGrail	And who would…who would represent the RGP in this legal argument.

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	DPP	That would be, I suppose me. It becomes a rightful lawful challenge of the warrant, in relation to the investigation.
	I McGrail	On the, on whether we have to return the phone or not.
	DPP	Don't see how it couldn't in that regard no.
	I McGrail	Because all these, I'm towing with whether to, to start engaging, silk myself, porque esto lo veo yo de esta manera. Y esto, si me la van a liar a mi yo me tengo que respaldar.
		(inaudible)
	I McGrail	I know that its not mentioned there, pero, pero...
	DPP	I think that's just a
	I McGrailL	This, there's a wake here which we don't know for how many miles its going.
	DPP	Si pero I wouldn't yet. (inaudible)
	I McGrail	I need to start considering
	DPP	But I think Michael needs to reply, I think you need to at the end of the day. If you are alleging misfeasance, I want to know and the, the the investigation if you had (inaudible)
	Mr Llamas	I'll, I'll deal with the malfeasance, misfeasance one.
	DPP	And I, I don't see whey you can't keep a short reply. Its addressed Paul. And perhaps the Commissioner should reply to him brought to my attention emm... the contents of which we note and the simple answers are in our view the production orders are (inaudible) its properly obtained information, orders granted, in the event its consensual. Search warrant here it is, we go through 2,3,4,5,6,7. We confirm that what we won't be doing anything with it for seven days. Giving you the opportunity, reasonable opportunity to make any application that you deem fit, like an injunction or, or an appeal or whatever. Then take your own remedies. A ti que te parece Michael? We look forward to hearing from you further on your interview on...y ya esta.
	Supt Richardson	Confirm your attendance
	DPP	Yeah, look forward to interviewing your client on the 18th. He has advance notice in that document and as per normal practice, in case you are not aware there will be a pre...pre interview briefing held at your offices which you will be fully apprised of that information.
	I McGrail	And should I ask him to bring along anything that supports his account.
	DPP	Yeah. And if there is anything that you wish to bring to our attention at the interview, please feel free to do so. Ya esta, I think no Michael? And we keep it very reasonable and...and... practical.

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	Supt Richardson	Its diff...pero I am...
	DPP	We can't hand the phone back.
	Supt Richardson	It is difficult for me to write in those terms to him this way, when he is writing to the Clerk of the Magistrates Court, saying that I have...
	DPP	That's why we are saying that it should come from Ian. Not you.
	I McGrail	Bueno there are...es que the mal...the malfeasance is...the malfeasances is aimed at Paul.
	Supt Richardson	There is nothing that I can...that I can do without his consent.
	I McGrail	Exactly.
	DPP	That's the letter to the Magistrate.
	Supt Richardson	Yeah.
	Senior Crown Counsel	The benefit of that response to the letter is that you are not playing their game, you are sort of responding...you are talking across him basically. In that sense, if you see...
	DPP	The allegation of misfeasance raises huge questions, of law, misfeasance, extremely wide, it's a very...
	DPP	It's a very...
	DPP	They are not making a formal allegation against Paul or anybody in the police.
	DPP	They are putting a....
	DPP	They are putting a mark and gonna scare you.
	Senior Crown Counsel	Yeah. Exactly.
	DPP	That's the typical (inaudible)
	DPP	And not only... (inaudible) yeah.
	DPP	Well exactly. They have no formal allegation, in fact may there is
	Mr Rocca	I was...I was gonna say...
	DPP	May be, because there is no formal allegation of misfeasance.
	Mr Llamas	Wait, wait for it to happen if...
	DPP	Yeah.
	Mr Llamas	...if....
	DPP	If they want to make a formal complaint, maybe they will do. They may not even go down that road yet.

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01:1915	Supt Richardson	I think that, if I was them that would be the worst possible thing that you could do.
	DPP	Hmm...hmm... Yeah.
	Supt Richardson	Because then you are really going to tie in everybody's hands in this matter and how they will be dealt with. Because if you hand this over and...and as a police officer with...and the Commissioner is the same thirty-five years experience, you give this to another...another police force to investigate, any officer will pull him in on the grounds that we've got. You've laid information for court, a court has signed this, what are you doing? Why isn't that man in cells waiting.... That's how they will look at this. They don't care if you are a QC, or...
	DPP	Let me, let me get to that. I think its all bluff, I think its all bluff.
	Supt Richardson	Hmm...
	DPP	But I think you are right Michael, may be if we don't write asking them to confirm, to confirm the misfeasance, its because they haven't addressed to you it anyway.
	Supt Richardson	Exactly.
	DPP	Directly. You are aware of it....
	Supt Richardson	Not but I've made you aware of it.
	DPP	Yeah but its not...its not yet a criminal investigation Paul (inaudible) but I think you need to reply to Maurice saying, for your information, just so that, that, that the Magistrate has all the information to hand. The Magistrate should be aware that the actual warrant was not exercised. The information was handed over voluntarily by Mr Levy. (inaudible) you can't stop him. You can't stop him.
	Supt Richardson	You can't stop, what the court?
	DPP	The court. And I can't see Charlie giving it.
	I McGrail	No but we wouldn't go to Charlie, we would go and initially, issue the warrant we would go higher.
	Supt Richardson	No the main application is to the Magistrates' Court.
	DPP	You can ask Charlie to...
	I McGrail	Si because he is the custodian of that information, but any application would be made to the higher court.
	DPP	Absolutely let them make it
	Supt Richardson	At the same time, emm.. and this is what I don't understand, they are asking the court for it, and then two hours later, they are asking me for it.
	DPP	Yeah, yeah.

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	Mr Llamas	So, best case scenario for Monday, I will put two scenarios for Monday emm... well there are more, pero he comes, he cooperates, he brings material, and he sort of persuades you que he is not worth pursuing, but even if it got to that you would still not hand over the phone because you want to, you are gonna want to ...
	Supt Richardson	We need to see how the case is going to finish, it might compromise something else. But it doesn't mean to say that we would need to emm...start the ... Even if we started looking at the... put the motions in place, to examine that phone. It might take us weeks to get somebody that is gonna agree to do this. We've got to finish the image.
	Mr Llamas	And the worst case scenario he, he..it goes terribly, he leaves, se alma.
	Supt Richardson	The worst case scenario sir, he doesn't come in and I have to go and arrest him. That is the worst case scenario.
	Mr Llamas	Yeah.
	DPP	(inaudible) that's the consequence.
	DPP	He'd be foolish to do that
	Supt Richardson	Yeah
	I McGrail	Because of the situation we would have been in, if we go de buena fe, to an officer of the court, and he hadn't...and he wouldn't have agreed in giving us the....
	Mr Llamas	Wouldn't you have got a search warrant after that.
	I MCGRAIL	That's....
	Supt Richardson	If he's arrested, you don't need a search warrant, you...you have the powers (inaudible).
	Mr Llamas	What you, what you were saying here si hubieran ido de Buena fe, (inaudible)
	I McGrail	Y si nos dice que no.
	Mr Llamas	Yeah, wouldn't you then get a search warrant...
	I McGrail	No, there I'm arrest him, I'll arrest you. We are trying to avoid the arrest with the process of the search warrant, but they are confusing that.
	Senior Crown Counsel	So you are saying that you could have done even worse, by going
	I McGrail	Of course. Of course.
	Supt Richardson	Si, si, si, even worse, this is the least ...

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	Senior Crown Counsel	You are not cooperating, I am arresting you for and now I'm not going to need a warrant at all or a production order
	DPP	What are the conditions when you can go without a warrant. (inaudible)
	Mr Llamas	Which are met here?
	DPP	I don't know. (inaudible)
	Supt Richardson	For what?
	DPP	For exercising search powers without a warrant?
	Supt Richardson	Si pero if we…if there is arrest,
	DPP	(inaudible)
	Supt Richardson	No, no, no, no Chris, if we are arresting, you have the power to enter the…the residence.
	DPP	Yeah but not to see his…not to see his documents.
	Supt Richardson	What for the legally privileged stuff? We wouldn't be able to examine it, we would have to bag it up and we would arrive at the same situation that we are in now. We would have to get a lawyer to sift through it.
	DPP	I'm not even sure you'd be entitled to enter and take stuff without a warrant. Just because you are arresting someone. There are certain conditions in, in the Police (inaudible) Act, for you to do that. Like you fear that your stuff is going to be destroyed, there's…there's an assailant in the premises, so you would have to tick those boxes first. I don't think its that simple eh? From recollection.
	Supt Richardson	I'm…I'm equally blurred at this, but we do, we do regularly use inspectors authorities, so if somebody has been arrested in….
	DPP	Maybe because you fear that they may destroy the property or the drugs or whatever.
	Supt Richardson	Its to…its to secure evidence, but I'm not going to argue because I'm not, I don't know that law very well, I'm not the inspector so I don't deal with these things on a day to day basis.
	DPP	No I know, because I looked at it before I came over. Emm… I think that the…that the un…unspoken, question is and I'll speaking to you, do we need to be communicating to Louis quietly, that Jaime, although he is ticking the boxes, isn't (inaudible) and that….
	DPP	But you don't know that yet no?
	DPP	I've seen every…I've not seen everything, I've seen a fair amount of documentation that Paul has left with me and summaries, etc. there are questions, I would agree him, there are questions that

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		need to be asked to Jaime that he needs to answer. And there may be [inaudible] to his answer, me trajino Perez, me trajino…
	Supt Richardson	What we are…what we are hoping for.
	I McGrail	We are keeping an open mind.
	DPP	And they are keeping an open mind. But do we need to feed that back quietly to the
	I McGrail	If you…
	Supt Richardson	I don't know.
	I McGrail	Como esta el horno, certainly not from us. The …the reactions we've had as a result of this, no way Jose.
	DPP	I mean are we crossing lines if we do so?
	Mr Llamas	I don't know.
	DPP	It would probably be us, I would have to say.
	DPP	Si no, yeah, I just wanted to ask the question.
	Senior Crown Counsel	I have a gut feeling, that might be appropriate but not
	DPP	Yeah.
	DPP	Just now.
	DPP	Yet.
	Senior Crown Counsel	I wouldn't have thought.
	DPP	Yeah. I don't know.
	Mr Llamas	And with what conviction can we say that?
	DPP	I suppose with the conviction and with the reality is, if we get Jaime Levy in, charged with a conspiracy and we get 20 QCs, Jaime will unleash hell and everything that comes with it. I think the Marrache's will be the biggest barrage of QC;s I'll ever seen to defend him. Emm… are we gonna get any convictions at all? Is it in the public interest? And do we keep it confined when its touch and go anyway. Which at the moment it is, I think. The debate that you and I have Michael, my feeling was evidentially there is a case, would we get passed the jury, emm… I don't know. But its what Jaime says, or no?
	Supt Richardson	Which again is the worst case scenario.
	DPP	Do we, are we gonna give him that feedback, you know. We need to tick these boxes. And if there is a WhatsApp that says 'guilty', 'I did it', I'm conspiring, then yeah, yeah.

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	Senior Crown Counsel	And that's the danger that we are getting in now because if you find it (inaudible) a smoking gun, then you'll have said something which in effect, well hang on a second, aqui no hay nada.
	DPP	There;ll be nothing on his device. I think. Paul has to do this because Paul has to justify later on, in trial,
	Supt Richardson	Yeah
	DPP	That he has explored all the lines of inquiry.
	I Mcgrail	In all....
	DPP	(inaudible) yeah I understand that you have to do this.
	I McGrail	Exactly.
	DPP	I disagree the, the timing, I think for me was difficult, but look it was an operational matter for...for...for Paul and for Ian and we can't interfere with that.
	Supt Richardson	For me the easy way to explain this is this; if you were lawyer acting in the best interest of your client, would you go the way that's likely to cause less emm... offence or would you...
	DPP	Depends who it is.
	Supt Richardson	...would you secure his, his rights. And I'm...we think that we are acting, in the interest of securing the evidence.
	DPP	And that is your call, you know the case better than we do.
	Supt Richardson	Yeah.
	DPP	At the end of the day. Emm... you've got your finger on the pulse, we don't, emm... look que some of us would have done differently, but that's life.
	Supt Richardson	Yeah.
	DPP	You ask ten people the same question and they'll answer you slightly differently perhaps.
01:2746	Senior Crown Counsel	And which is why a JR, even if mounted would probably wouldn't succeed because it wouldn't be that (inaudible) operational, with a reasonable.
	DPP	I haven't seen the application, but I...all I'm saying...
	Supt Richardson	It is very...
	DPP	(inaudible) disclosed everything, every JR, look, you are challenging Paul, they are actually challenging the judge
	Supt Richardson	Yes
	Senior Crown Counsel	Right. Absolutely, yeah, yeah, yeah.

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	Supt Richardson	This wasn't, like I said before, this wasn't go before Mr Capurro or Mr Gareze…
	DPP	Yeah fine.
	Supt Richardson	…two minutes, thank you very much, sign here. This was an hour and three quarters, laying, laying the information.
	I McGrail	After he had had it for days.
	Supt Richardson	And he had it the day before or two days before.
	Senior Crown Counsel	If I may emm…
	I McGrail	If the judge didn't feel that we had….
	Senior Crown Counsel	Yeah.
	I McGrail	…grounds, he would not have signed it.
	DPP	Yeah, yeah, because he would….(inaudible) section 13 of the Production Order, would they, would a judge ever say that to you? You've got the wrong… say, hang on Mr Richardson, this is a…
	I McGrail	This is the wrong route.
	DPP	This is the wrong route, this is a section 12 application, isn't this surely a section 13, because it's a production order.
	Supt Richardson	He, he, he…no he…
	DPP	Would he ever do that to you
	Supt Richardson	Yeah. He asked about how we would deal with the legally privileged material.
	DPP	Hmmm..
	Supt Richardson	And asked, he asked for clarification did we think if it would be compromised if we just asked for the information which we handed over. And for the…the reasons for that are clearly yes. And…and they were borne out yesterday. You know, this wasn't, I'm an officer of the court, here is, our understanding and the argument and therefore…
	DPP	(inaudible) that he has known this for months.
	Supt Richardson	Yes.
	DPP	Entonces if I was, I would say, okay, if you…we're not going to compromise the information, but if this had been knowledge, knowledge from Jaime Levy for months, I would have gone. The ex party requirement, its almost, it goes out the window.
	Supt Richardson	I can't, I can't agree with you, with that Chris,. he knows…
	DPP	He knows exactly whats been going on for months…

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	I McGrail	Pero es que (inaudible) you don't know the substance, neither does, many other people don't know.
	Mr Llamas	Yeah.
	I McGrail	Yo para quedarme tranquilo...tranquilo estoy, porque me conscious is very clear, in that regard, they've done a very diligent emm...emm...investigation. Competent al maximo. No, I can't, I can only knock them por, por being taken for a ride and we are still are, porque ahi tienen ochenta mil, ochenta millones de emails que ya no nos lo van a dar, pero. That will show that they are not as voluntary and compliant as a court officer is.
	Supt Richardson	They should be.
	I McGrail	Eh?
	Supt Richardson	They should be.
	I McGrail	They should be.
	Mr Llamas	So you've got...you've got evidence that
	Supt Richardson	Its started to rain.
	I McGrail	No, no esta lloviendo.
	Supt Richardson	No?
	Mr Llamas	You've got evidence that makes you feel confident.
	I MCGRAIL	Yes. We are...we are not saying that anybody is guilty.
	DPP	Bueno Cornelio is
	I McGrail	We are not saying, bueno
	DPP	Cornelio definitely is.
	I McGrail	Fine.
	Supt Richardson	And Fischel is.
	DPP	And Fischel is as well, yeah.
	I MCGRAIL	I'm giving him the benefit of the doubt
	DPP	What's Fischel?
	Supt Richardson	He's saying that he's laid about eight, ten charges against Gaggero. Saying
	DPP	Oh, Robert Fischel.,
	Supt Richardson	Saying wasting police employment, improperly use of information, hacking into the system. Yeah.
	I McGrail	Pero even, even conque, John Perez era vecino mio de lo Humphries de toda la vida, I...I...I feel for the lad, pero mira, this is beyond esto, esto no es por lastima ni nada, esto es lo que es.

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		What the guys are up to mira. I am…I give them the benefit de que, they are not guilty, pero we have a role to do and this is what I'm trying to stress, we do what we do. And then prosecutors take on the case and judges hear the case and the jury then decides whether they are guilty or not. Emm… as simple as that. And no, no hard feelings. No hard feelings against anybody. Pero lo que no puedo es emm… be…I cannot be hablandolo malamente, like the scape goat here. That this is a flawed investigation, that its, that we don't know how to investigate white collar crime. Because if that's the case, lets hand it over to somebody else. I'm willing to do that, ya.
	Mr Llamas	Shall we wrap up. So and as far as I understand what we've discussed, is that, Paul is going to reply to the…
	I McGrail	No, I will, I will.
	Mr Llamas	So you Ian, is going to reply to emm… this letter. Emm…
	I McGrail	To?
	Supt Richardson	Louis no?
	Mr Llamas	In relation to the first paragraph after the seventh point, saying that no material has been improperly downloaded (inaudible)until after the interview on Monday.
	Supt Richardson	Can you please go a bit slower, cause I want to make sure that I have an…an accurate record of what we've agreed. No material has been downloaded.
	Mr Llamas	Has been…. (inaudible)
	I McGrail	No, the device hasn't been examined or….
	Mr Llamas	(inaudible)
	I McGrail	Or remains sealed.
	Mr Llamas	Yeah, no material has been copied or downloaded.
	I McGrail	Ahha…
	DPP	And remains in a sealed bag no.
	I McGrail	Yeah.
	Mr Llamas	Remains in a sealed bag and will remain in a sealed bag at least until the interview of Mr Levy on Monday.
	DPP	I'd rather you'd give them more time Michael, to make the application. I was going to say and we won't do so for seven days, fourteen days.
	DPP	To give them a more reasonable
	DPP	At least to come across as extremely reasonable. As long as we are concerned its lawful (inaudible) and make the application.

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	Mr Llamas	I thought it applied to everything. (inaudible)
	Supt Richardson	But the warrant also... no there is...
	DPP	I don't think it stops you from section 12.
	Supt Richardson	But it's the schedule 1. It's the schedule 1 warrant that...which is specifically for privilege material.
	DPP	True, yeah.
	Supt Richardson	Specific material caters for that.
	I McGrail	the difference between a production order and a search warrant is under the....
	DPP	(inaudible) interparty ...
	I McGrail	Well assuming that there is an interparty within the search that the...that the...the party ex amount of time will provide you with the data. And the search warrant is on demand. Me lo tienes que dar ya. That's the only difference.
	DPP	And this is personal this time as opposed to a firm.
	Supt Richardson	Yes. This isn't Hassans.
	DPP	Yeah, no, no. Give me, give me (inaudible) Michael Llamas and Christian Rocca.
	Mr Llamas	I don't buy the distinction. I think its un...un...unreasonable and unrealistic to draw a distinction between Jaime Levy and Hassans.
	DPP	Yeah, that was an agreement as well.
	Mr Llamas	Anyway, so, Ian is replying, he's got answers to the seventh points, we went over them so expected a yes for the search warrant, no for 2, no for 3, no for 4, 5 is the warrant itself, 6 there were none and 7 there were none.
	Supt Richardson	Yeah.
	Mr Llamas	And then the first paragraph is that, seven days...
	Supt Richardson	Yes ,
	Mr Llamas	And then confirmation that you have not downloaded or copied...
	I McGrail	I would also refer to the fact that its...its not that I am refusing to it, to the meeting, that I think its inappropriate .
	DPP	Inappropriate.
	DPP	And also sir, that you are comfortable, that you have acted in accordance with the law and...
	I McGrail	Yeah.

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	DPP	But it does suggest highly (inaudible)
	I MCGRAIL	Yeah
	Supt Richardson	Should you be saying that we have met here and you are confident that nothing has been done.
	DPP	I think it just reserves…look at the end of the day (inaudible) if that's what they want to do, I think. Surely your fall back position is that I've got an order.
	I McGrail	That's emm… I alluded to that if…
	DPP	No, no.
	I McGrail	But, I….
	Mr Llamas	Yes and especially lets not go over this again, I… Christian and I feel that it could have been done differently, but lets forget that now. We are where we are now, so yes, there is an agreement of what you are doing makes sense, that we would have done it differently, is a…is a….is another issue. So I would just confine it as Christian is saying, just to the reply, and on the last point what, is just to say that it's the 11th point raised here.
	I McGrail	Paul?
	Supt Richardson	Yes. That…that…that emm… we've…we've all…
	Mr Llamas	Is anyone asking for this, because they've seen this
	Supt Richardson	Can I see it, I haven't, yeah, this is what I was asking for. Sorry. In the meantime, where is this?
	Mr Llamas	The last, the very last paragraph.
	Supt Richardson	Separately in relation to Mr Levy's proposed voluntary interview on the 18th of May, I request prior disclosure of the matters proposed to be (inaudible) I would send him a copy of all of what was given that is precisely what the document was
	Mr Llamas	Hmm…
	Supt Richardson	It was titled, invitation to Police…
	DPP	Yeah.
	Supt Richardson	…interview, setting out the terms and what was going to be discussed.
01:3933	DPP	And you'd been given the opportunity as normal practice.
	Supt Richardson	Yeah.
	DPP	Pre interview briefing.
	I McGrail	And at that point, look if you…and we can bring any material that supports a…. any…any of his responses, pues that will be helpful no?

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	DPP	(inaudible)
	Mr Llamas	I don't intend to
	DPP	You don't intend to reply. Porque te esta pidiendo,
	Mr llamas	No unless I have to.
	DPP	He seems to be asking you ....give me the opportunity,
	Mr llamas	Yeah is it, is it, okay for me to meet him? He's asking for a meeting.
	DPP	With you and the RGP.
	I McGrail	No.
	Mr Llamas	But the RGP does not want to meet
	Senior Crown Counsel	May be you can say... (inaudible) because it seems like a way of saying, its (inaudible)
	Mr Llamas	Yeah.
	Senior Crown Counsel	Its you. (inaudible)
	Mr Llamas	I...if that is the case, its pointless, because I can't (inaudible)
	DPP	(inaudible)
	Mr Llamas	It's just stop them from doing you can agree or disagree with what they've done.
	DPP	Yeah.
	Mr Llamas	Emm.... But its there at this stage, yo, yo como lo veo esto is at three stages here, the first stage which is where we are, its you.
	Supt Richardson	That's fine.
	Mr Llamas	Y ustedes podeis hacer lo que... whatever you think is appropriate in the circumstances. Other people can agree or disagree with what you've done.
	Supt Richardson	Legitimate and proportionate is what we are looking at.
	Mr Llamas	When you do this phase and setting aside the discussions we've been having in meetings with the rationalising y todo. Pero in the normal case, entonces, you do your...your stuff and then you come to the conclusion, there's the case here to ...
	I McGrail	We present.
	Mr Llamas	You go to Christian. Vale, then Christian, has a look at your case, lo discute contigo Ian, po me parece que no, Ian me parece que no, I don't agree....
	I McGrail	We are at that stage. We have been at that stage.

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	Mr Llamas	Pero....emm...
	I McGrail	Short of the little....
	Mr Llamas	And then we prosecute.
	I McGrail	Or not.
	Mr Llamas	Or not. Y si... all we are saying...
	I MCGRAIL	Or not, precisely ...
	Supt Richardson	It doesn't have to end in prosecution. There are other means of dealing with it. Caution, there's all sorts of ways of dealing with...
	Mr Llamas	You are asking...you are asking the wrong person in a sense.
	DPP	(inaudible)
	Mr Llamas	(inaudible)
01:4200	I McGrail	Te digo if its not in the public interest for this to go any further, I cannot make that call.
	DPP	Its not at that stage. That's the point that we are making.
	I McGrail	No, pero bueno, but, but...but we...
	DPP	Its not Michael's call.
	I MCGRAIL	I know, I know.
	DPP	To interfere with you.
	I McGrail	I know. But estamos hablando, of, moving where we are from now. We...we, we interview Jaime, we then assess what he says, we tie up the loose ends, de lo que dijo el Fischel in...in...in his submission. Ernesto Gomez, this and that, tenemos lo de Darrien Grech. Okay, this is what we propose.
	Mr Llamas	Pero, setting aside what...what happened in the last 24 hours. I would still like us to meet with the rationalisation
	I McGrail	That's, that....that's what I'm referring to.
	Mr Llamas	I think it would...it still remains important...
	I McGrail	I ...that's...I agree.
	Mr Llamas	We do that exercise of rationalisation.
	I McGrail	I agree.
	Mr Llamas	And we do also the exercise of assuming the platform is owned by the Government. Emm... que queda, and then, then take a view.
	I MCGRAIL	I've got no, no problems with that.
	Supt Richardson	I think we, we...we

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	I McGrail	I've got no problems. Have you got any problems with that? And there
	DPP	Seventy-five charges no o algo.
	I McGrail	Que es ridiculo. Emm...under normal circumstances, you...we would not, we would deal with them in any other way. Pero, we'll do that. Bien, the...the evidence is perused, porque a lo mejor lo que dice Jaime mañana, it puts a spanner on the works, dice and the DPP dice, mira esto ya no esta tan claro. And you don't want to run with it. It that is the advice that you give to me, I would like that advice in writing, and therefore, that would be the end of the matter for me.
	DPP	Ahi esta lloviendo.
	Supt Richardson	No its raining.
	I McGrail	Me entiendes, that would be the end of the matter for me, pero no de yo decir, no aqui ya, aqui ya no pasa nada. Yo no puedo decir eso. That's the point that I've been saying all along.
	DPP	And Michael can't enter a nolle
	Mr Llamas	Hombre, its something that I'd rather not do, I've been approached several times since I was appointed Attorney General to enter a nolle and in both cases, some of them very sensitive, emm.. and have had no doubt, not to do the nolle because I think the threshold for a nolle is extremely, extremely high. If, if, there...I feel, that a prosecution, exposes the Chief Minister, lo digo claramente aqui, on grounds, which are flimsy, I'll stop it. Eso te lo digo clarisimo. If you've got a smoking gun against the Chief Minister, I can't....
	I McGrail	Yo no,
	Mr Llamas	Can I assure you, you are not gonna have it.
	I McGrail	No, no, no pero lets not...lets...for the record today, that's not the case.
	DPP	Lets looking at the public interest ground.
	I McGrail	Estamos. Am I...am I...
	Supt Richardson	That is the case then.
	I McGrail	That has to be categorical here now, that is not the case
	DPP	The public interest part is probably to justify
	Mr Llamas	I...so at least on those grounds, es que vamos, la escribo mas tranquilo que que. Emm... because it...it would be awful, awful to the...for me personally and awful for the jurisdiction. Emm... because we know whats gonna happen at this critical moment in our history.

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		Other than that, mira, I think we've got all our own views, on some of the characters here. Sin decir mas. Sin decir mas.
	I McGrail	Si, pero that's, that's... that has in a way, not helped esto, the sharing of the views. Porque nosotros again, por ser como somos, de que a lo mejor, this should be, esta es la evidencia, look at it, in the objective way that its meant and lets make a decision. Eso es lo que...lo que...pero estamos, mirandole....dandole le ya,
	DPP	Ahi no estamos lan.
	I McGrail	No, no...
	DPP	Ahi no estamos
	I MCGRAIL	I know, I know, but that's, because if you get the emotions into it, it's where this starts to wobble.
	DPP	You need to complete the investigation and then we need to sit down.
	I McGrail	Si, si. Talk about the proposed charges.
	Mr Llamas	I...I think, for me its very clear, vale, they've done what they've done, we are where we are, there's an interview on Monday. You are going to give them confirmation que el telefono no lo toca nadie for seven days, con que, challenge me.
	I McGrail	Yeah.
	Mr llamas	Eso es lo que te esta diciendo, challenge me.
	I McGrail	Yeah.
	Mr Llamas	The interview is going to take place, y ya veremos.
	Supt Richardson	Yeah.
	Mr Llamas	And if you are wrong you are wrong. You'll have a come back, fine, it won't be the first or the last time.
	DPP	Si
	Mr Llamas	Y el telefono, el telefono, I am telling you in writing que no lo esta tocando.
	I McGrail	No and that's...that's... pero that would have to ....
	Mr Llamas	Escrible lo antes possible.
	I McGrail	Si, ahora cuando llegue para atras lo haremos no?
	DPP	(inaudible)
	Mr Llamas	Exactly. Yo creo que this is the big issue. Con que yo creo que le tienes que dar esa garantia, que esto no lo esta tocando nadie. Que va haber interview, que no lo va tocar nadie, y que at least for seven days, con que challenge me. Y and that's it for now.

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	Supt Richardson	I hope to God we haven't started, because yesterday, this time yesterday I was assuring him that I would process it by today, because he insisted in having the phone back again. The exact opposite.
	I McGrail	No make sure.
	Supt Richardson	The exact opposite.
	I McGrail	Call up and find out, bueno its in your office no?
	Supt Richardson	I'd...I'd be surprised if we were that efficient. But it was in my office locked up when we came out. So, unless someone has opened by office, I can't...
	Mr Llamas	Bueno I hope its not the case.
	Supt Richardson	I'm 99% certain its not, somebody would have...
	DPP	Well I think our strongest position is to say...
	Mr Llamas	Exactly.
	DPP	....we haven't opened it.
	Mr Llamas	Our strongest...
	DPP	Have it legally challenged
	Mr Llamas	Our strongest, totalmente, totalmente.
	Supt Richardson	Yesterday the pressure was the opposite.
	I McGrail	We are lumbered with a
	Mr Llamas	(inaudible)
	DPP	Si no put the...put the...put your money where you mouth is
	I McGrail	I agree, I've said that.
	DPP	Yea, yeah, yeah
	I McGrail	This is what I've been asking, we can't make a decision, let the court make the decision.
	DPP	Absolutely. Okay guys, (inaudible) Emm... so we don't have anything to do, as far as I'm
	Supt Richardson	I think we would want you to check....
	Mr Llamas	To check, Christian will double check the
	DPP	(inaudible) have a look at it. In which case me voy a quedar con esto in response to that no.
	I McGrail	Si.
	DPP	Yeah.

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	I McGrail	(inaudible)
	Mr Llamas	Good to see you gents.
	I McGrail	I'll do it when I get back.
	Supt Richardson	Okay sir, bye-bye.
	I MCGRAIL	Bye-bye.
	Mr Llamas	Bye-bye.
	DPP, Supt & SCC leaving the room	
01:4828	Mr Llamas	Okay, Ian nosotros ahora tenemos un probelma, el Chief Minister is adamant that you said yesterday, to both of us, you were acting on ad...on the search warrant, on advice of the DPP.
	I McGrail	On advice for the investigation all along.
	Mr Llamas	Well, he says, and you've confirmed now that such advise does not exist.
	I MCGRAIL	Yo, le pregunto a los mio, no this is being cleared by the DPP. This...this is the way, he has read, the rationale as to why Jaime has to go through the interview process. The suspicions, what the level of suspicions are. That's, se lo han dado a el, el lo ha mirado. They it says, mira esto es lo que ha hecho este hombre, and he agrees de que
	Mr llamas	Pero he says he never agreed.
	I McGrail	Fine
	Mr Llamas	Yo no, yo no....
	I MCGRAIL	I've never been, I've never been privy to those conversations. But what I know is that he has been advising the team. And that is what I am referring to that, but I also said that I am no shrugging that responsibility, I am saying that we have been in consultation...
	Mr Llamas	No, no, (inaudible) what you told me and him yesterday, you told us yesterday, que the, the....
	I McGrail	No the....
	Mr Llamas	...the decision to do search warrant was on advice of the DPP.
	I MCGRAIL	I....prrfff, I can't remember the words Michael, what I remember saying is that and I've said it in this, I don't need to shrug responsibilities, but this matter had been dealt with in consultation with the DPP. That is what I've said, and I'm referring to an investigation and a....a relationship that has been back and forth on a number of... of times. That is what I'm referring.

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	Mr Llamas	But what you can't categorically say, I think, is that you, you or Paul or any other member of the team…
	I McGrail	Hmm… it…it…it was with…
	Mr Llamas	…asked the DPP, do you agree that a search warrant is the appropriate way in doing this and then the DPP replied saying yes.
	I McGrail	Paul me ha dicho…. Paul me ha dicho, de que… there was conversations about the search warrant. Emm… and…and…and before what's happened…
	Mr Llamas	Pero el se mantiene….
	I McGrail	Esta bien. That….that…se mantendra que no…no lo….no nos dijo…. (inaudible) they held conversations, porque me dijo, lo que me dice Paul a mi.
	Mr Llamas	Basically, porque I want it defuse the situation.
	I McGrail	Of course.
	Mr Llamas	Y esto va hacer un punto gordo con Fabian. And, entonces, lo que yo le voy a tener que decir emm…
	I McGrail	Michael, yo no vengo aqui para crear follon,
	Mr Llamas	Pero lo has creado Ian.
	I McGrail	Pero no comprendo como creen que…que…this is, there is any malice, there's any….
	Mr Llamas	Hombre its high ended. The belief aqui is, including me, including Christian, is you could…you could have tried this, emm… differently. Yo se que the history of the handling, but mira, you could have done this emm.. six months ago, you could have done it in a much stricter….
	I McGrail	Knowing the sensitivities of it….and the reason why Paul
	Mr Llamas	Si pero unfortunately, even then ha cabado mal.
	I McGrail	No, it was never, it was never…look, it was never gonna end up well having to speak to this man and…and…and get what we wanted to get from them. En la vida, (inaudible) and it was going to be awkward. La torreao a Paul alli, se ha levantado, se ha ido, esto, y lo otro, y…
	Mr Llamas	It's the way he is…
	I McGrail	Esta bien, pero… how can he claim that emm….
	Mr Llamas	Yo creo, my gut feeling, Ian, es que, without a search warrant, I mean the voluntary thing that he has done, he would have done it anyway. Pero mira, you can disagree with that, (inaudible) ye eso es lo que esta creando ahora el morbo.

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	I McGrail	Bueno.... No lo hubiera dadp.
	Mr Llamas	No se
	I McGrail	Porque if that's the case....
	Mr Llamas	He's got...
	I McGrail	If that's the case...
	Mr Llamas	He's got too much
	I McGrail	No, no, no. pero espera....if that's the case.
	Mr Llamas	Tu me le hubiera dicho encontes, mira Jaime, yo he venido aqui a las buenas...
	I MCGRAIL	Si, I think that that's....
	Mr Llamas	....ha venido a las buenas por ser tu..eh, y porque se que tu telefono va tener privileged information y todo ese rollo. Y sit u no coopera con migo, lo siento. Y you are giving me no option but to.
	I McGrail	I think that that is more or less what happened. Si pero, si Jaime dice, knowing con Javier y todo, having spoken to silks straight away, y dice, mira emm... emm... no hace falta el warrant, yo te lo doy. Que no hace falta el warrant que ....partelo, yo te lo doy. Was that said? No. No. And we wouldn't es que...el que se lo quiera creer, se lo pueden decir de otra manera mira, que habran punto y manera de....
	Mr Llamas	Y mira Ian, no quiero que te metas en detalles, porque no lo quiero saber pero, de lo que ustedes sabeis, que yo no se, y no quiero saber; you are quite sure que aqui algo hay.
	I McGrail	A mi me huele que alguien, esta tapando algo. Whether....
	Mr Llamas	No, pero no... no estoy hablando de tapar. De que...de los que tu tiene ahi lined up.
	I McGrail	A Sanchez tiene que tener....mira its either that he has something or that they want to save his skin.
	Mr Llamas	Y los demas...pero...you've got to already have, para estar diciendo todo esto....
	I McGrail	Si, si, si....si.
	Mr Llamas	Tu tienes que estar fairly certain...
	I McGrail	Si, si.
	Mr Llamas	Para ir a algo.
	I McGrail	Si. Si.
	Mr Llamas	Whatever it is.

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	I McGrail	But what I mean to say is, is that his emails from the States on el server de Microsoft que estan tardando tanto, emm... because he used to use his own iphone...
	Mr Llamas	Ahi puede...
	I McGrail	Ahi puede haber una bomba, prrfff... pero ahi puede haber algo. Pero mira si if its not obtainable, its not obtainable. Nos han dicho que ahora, things are picking up again and they will come, pero mira. We didn't ask for this emm.. Michael. We didn't ask for this. this has been landed on the RGP, the RGP has not been going hunting ni a Jaime Levy, ni a Caine Sanchez, ni a, ni al Tommy Cornelio ni nada. We haven't asked for this job, this has landed on us. This has been landed on us. This is not a proactive investigation. This is a con...con...vamos.... Y me duele la verdad, que una relacion que debe de existir entre nosotros, te ponga en un compromiso.
	Mr Llamas	Bueno Ian, yo no soy una persona rencorosa...
	I McGrail	Y yo menos.
	Mr Llamas	Emm.. vale, pero... yo no puedo remediar, y por eso no te queria ver por ahora. We've had to y mira, me alegro de...that we've met. Pero para mi estamos muy claro what we agreed in this meeting yesterday. Tu no sabes lo que a mi me entro por cuerpo,cuando vi tu WhatsApp ayer. Forget Attorney General, Commissioner of Police. At a personal level, Ian McGrail a Michael Llamas
	I McGrail	Hmm..hmm...
	Mr Llamas	Eso es lo que te quiero decir, mas que nada, nunca me ha pasado Ian. Yo eventually voy a aceptar, que there was a misunderstanding between us, because esa so...esa es la clase de persona que soy.
	I McGrail	Es que no hay, no hay otra explicasion.
	Mr Llamas	Okay. Pero at the moment para mi eso, tu estabas tan claro, y depronto recibi eso, y no the day before, no esta pasando ahora guys. Fewffff..... Ponte en mi lugar cuando, forget what you did...
	I McGrail	No, no, no...lo que pasa, lo que pasa
	Mr Llamas	(inaudible)
	I McGrail	Yo te he visto Michael, yo te he visto Michael, te...te respeto y a ojala todo esto pase and we can crack on with normal life no. pero te he visto en una postura, jodida, jodida, con esto. En una postura, bastante compremetedora, para ti. And...and....and...
	Mr Llamas	Bueno, I know what you mean, pero tu puedes estar seguro, yo a Fabian....
	I McGrail	Y lo respeto.

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	Mr Llamas	Lo...lo defiendo a la muerte. Vale. Emm... si tu me vienes a mi manana y me dices, mira lo que me he encontrado, yo me voy a hechar a llorar. Estoy seguro que eso no va ha existir anyway. And I'm 100% certain. Pero that's talking about Fabian Picardo. The office of the Chief Minister, ya sea Picardo, ya sea Azzopardi, ya sea Caruana o Hassans.
	I McGrail	That needs protection.
	Mr Llamas	I will protect them.
	I McGrail	Yeah, yeah, yeah.
	Mr Llamas	Por que eso es lo que ha pasado toda la vida.
	I McGrail	Yeah, yeah, yeah.
	Mr Llamas	One of my big regrets de hacer Attorney General, bueno, a ti te gusta el football no? Yo digo, yo me he pasado los veinte años en medio Bruselas, yo jugaba nada mas para la seleccion de Gibraltar. Yo no jugaba aqui para pelearme entre llanitos, and I loved that. I've spent my whole life, defending this jurisdiction and promoting this jurisdiction as a lot of us do. No, no... yo se que no soy el unico. Y al hacer Attorney General me tengo que meter en fregados como esto que no me gusta en nada, porque no es lo que a mi me gustar de hacer. Pero mira, it comes with the job and I assume my responsibilities whole heartedly. But that protection of the jurisdiction and there can be no office, more symbolic of the jurisdiction than that of the Chief Minister, I will defend it.
	I McGrail	Yeah of course. And I...and I respect that. In...in that same way lo...lo....lo...my oath of office which I probably take
	Mr llamas	Yeah...
	I McGrail	more...more serious than my wedding vows.
	Mr Llamas	Yeah, yeah.
	I McGrail	Y dice tu, bueno pero es que... protejer, se proteje. Lo que...igual que yo quiero protejer a los mios. Pero si...if there is any wrong doing de los mios, yo te lo voy a poner por delante. I will not sort of...pro...protejerlo within, within, pero la cuestion de corrupcion y todo eso, como que no, como que no.
	Mr Llamas	Bueno yo voy a trata de calma la cosa, que va se dificil la verdad, y Hassans yo no lo puedo controlar. Yo voy a trata de controla la cosa aqui y espero que we can get to wherever this goes to as soon as possible y que pasen estos dias y que se calme la cosa, y que vaya a se el interview Jaime Levy el Lunes, y que la cosa, y que they challenge you. The best result here is that they challenge your intention of the phone, y ya que lo decida un juez. I think that's a good outcome, por eso esa carta es muy importante. Bueno la que va manda tu ahora. Y lo de Fabian aqui ahora, yo ahora le voy a explica que what you meant was a

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		context, que no que what you meant was, si no lo va llama el y se
	I McGrail	Fine, fine
	Mr Llamas	Se va lia la cosa
	I McGrail	The DPP has been advising
	Mr Llamas	Generally, even though he was not specifically asked. Do u agree that he (inaudible) replied yes pero no habia un context donde they said donde se menciono lo del search warrant, he was of the view que at some point
159:27	I McGrail	The way I understand the Chief Minister, I didn't know that that was the sticking point, the chief minister claiming that there's no crime on the conspiracy to defraud. Yo no me iba pone a porfiar, pero there is evidence to suggest that, entices digo, este hombre alomejor le estan vendiendo una moto que no es. He's talking with hearing one side only. Lo mismo te a pasado a ti. Tu alomejor a visto algo
159:55	Mr Llamas	Yo la verdad Ian, prior to this el ya sabia lo que estaba pasando
	I McGrail	Si, pero perhaps one side
	Mr Llamas	Si, and that I don't know.
	I McGrail	Exactly.
	Mr Llamas	Yo nunca estado en una conversacion con el y alguien mas que le a estado hablando de este caso.
	I McGrail	Poca gente lo saben. Lo unico que lo saben son los que hemos, todavia no se a echo disclosing el package ahi con todo lo findings a such. Son volumes, volumes of papers. I'm happy that weve spoken
	Mr Llamas	Yo creo que el chorizo, my view of the record is
	I McGrail	Cornelio
	Mr Llamas	Eso lo que yo creo.
	I McGrail	Cornelio with the player de Perez, to get things erm
	Mr Llamas	That's the sentiment I get. And if that's the case Ian, if that's the case, the sooner que lo haga confining a eso the better. Que este targeted
	I McGrail	Y Sanchez corupto.
	Mr Llamas	Si no?
	I McGrail	Tu lo ve ahi. Cornelio le hacia los reports [redacted] a Sanchez y Sanchez lo sometia a Albert Mena como si fuera el, (inaudible) Cornelio was already out of the picture. Y

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		accessing with Sanchez credentials. Lo que pasa que Cornelio va dici que el tenia permiso de Caine Sanchez
	Mr Llamas	Pero doesn't the question of ownership then become crucial que vengo diciendo yo
	I McGrail	Con la parte del hacking?
	Mr Llamas	Si
	I McGrail	Yo insisto que no, pero, you're gonna go one way or the other. You're gonna assume de que entose, Darren Grech va dici que yes he would have allowed Caine to invite Tommy Cornelio, contrary to the instructions from the Chief Minister to hack the system. ''' MEETING ENDS with a quick discussion of a totally unrelated matter.

2nd Affidavit:

Ian McGrail

Date: 26th September 2022

Exhibit: 5B

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 5B

TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me



A Commissioner for Oaths

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

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

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		Persons present;- **Attorney General, Mr Michael Llamas** **Director of Public Prosecutions, Mr Christian Rocca** **Senior Cown Counsel, Mr Lloyd Devincenzi** **Commissioner of Police, Ian McGrail** **Detective Superintendent Paul Richardson**
Tape counter times	**Person speaking**	**Text**
00:0125	COP	Hi gents.
	Mr Llamas	Good afternoon, you alright?
00:038		Okay so with Blands, we've got various documents (inaudible) including the one that you've just emm... (inaudible) I've got others.
		Can I have a glass of water
	Nicole	Its just
		Ah sorry
	Nicole	No problems. Coffees?
		Cheers
	Mr Llamas	Does anyone want a coffee?
		I'll have one thanks.
	CoP	No thanks.
	Supt Richardson Richardson	No thank you.
		(inaudible)
	Mr Rocca	Total.
	Nicole	Do you want sugar Christian?
	Mr Rocca	Have you got sweetener?
	Nicole	We do yeah?
	Mr Rocca	One please. Thank you
	Nicole	Okay.
00:02.19	Mr Llamas	Okay so, lets take this step by step. Okay. I, the first thing I'd like to know Ian, is why did you get a search warrant? Why did you

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		go for the most oppressive means of getting that, without asking Jaime Levy for an interview?
	CoP	Okay, the, that was considered, the data that we wanted was obtainable on a search warrant, we did not expect him to hand it over willingly. Emm... we are looking at WhatsApp chats and all, (inaudible) and emm.... the fact that we treated others in the same way, in the same investigation, and we are not looking at the chambers, we are looking at Jaime Levy as the individual. That is the reason why the investigation team, I'll allow Paul to elaborate further, but that's the main reason why the investigation team thought that this was the, the pertinent way to deal with it. He had to be interviewed under, under caution, that was the line of enquiry that we had to emm... carry out and I reiterate, before we proceeded to the proposing of charges. Because it would not make any sense whatsoever to propose charges until we had eliminated it, because he could have... and I was hoping and we were all hoping that he would have potentially cleared up many of the things. He may well have. And in regards the question of the charges, may be different in posture to you, so that is something that I have to assert here from the word go. That's, that's my position and I cannot shift from that, because that is the truth.
00:0400	Mr Llamas	Sorry what's the truth?
	COP	That I would be reverting to you with the proposed charges, once Jaime Levy was dealt with.
	Mr Llamas	That's a separate issue between you and me and emm...we know we disagree in that, it was absolutely clear what we agreed in this room. Pero let's not talk about that.
	Cop	Well, but it, it captures it, because emm.. Jaime Levy may be able to eliminate a lot of the issues that we, we have and if he does then, it has the bearing of what I present to you as, or to the DPP for the question of charges, it would have.
	Mr Llamas	For me it was clear since you raised the matter, I repeat my position, from which I would never budge because I am 200% certain of what we discussed here, in this room, that day. You, both left this room with an agreement that you were going to rationalise the grounds and that you would come. Nothing else would happen, and that once you had rationalised the grounds, reduce the 76 charges to whatever you reduced it. We were going to call Christian in, we were going to assume that ownership emm... to, to the Government and therefore we would have placed ourselves in an absolute legally certain position and you would have advanced with that initially and then with time you would have been able to assess, with time, the question of ownership, would hopefully would have been clarified, which would have opened more doors or not for you. And for me it was

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		clear that your, your, your text of yesterday, whilst all this was happening, emm... Well, you know how I feel about it. But we are not here to discuss that Ian, we've obviously got very different views about what we discussed. I'm just trying to now get to a position where the likelihood as you have seen is that Hassans are going to be emm... challenging the actions that you've taken. And the first question that I know has caused a lot of bitterness with, with Jaime Levy and with Hassans, is the search warrant. You must have known from me, that I would not have supported that. Christian has not advised you that you, should, should do that, and therefore you have taken that decision on your own as its your right to do. Emm... I mean, this was a part of an investigation, who even Christian and I, often speak about it, we are getting involved in a part of the investigation, which at the end of the day, is your call, we both got involved and I got involved in particular because I think it is a matter that's needs to be dealt with, with a lot of care and attention. And that is, I hope is why you know, I am involved in this and for no other reason. Because sometimes I wonder why you think why am I getting involved in this, I've got millions of other things to do rather than to be occupied over this. So, we think that a first point of challenge is going to be the search warrant, but our understanding of your, of your narrative here is that you did not actually use it to get the information that he voluntarily. The search warrant was there but not actually used. And they may argue, while there was the threat of the search warrant and whatever, but your decision to get a search warrant was motivated by a fear that he would not cooperate other by doing that.
00:0748	CoP	And I, and I (inaudible) the effect of the search warrant is still live, because of the email abstractions. That's, if they do not provide those emails, it shows that the voluntary aspect and we've lost that. We've lost that because we now have to, the capability issues, of not being able to trawl through eighty million emails. We are unable to, that would have taken an inordinate amount of time to go through, and that would not have been practical and therefore Paul put the, the, made the call of saying okay, we are not going to trust you that you are going to extract, the numbering them up on the voluntary basis. But that can, that voluntary basis maybe now potentially be held back, given that not only are they challenging the legality of the warrant, they are now making criminal allegations against us.
	Mr Ilamas	Hmm...
	CoP	That is taking the joke too far. We are the bad guys now, unreal.
	Mr Llamas	Okay so, then they are going to say that, as you know, that...

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	CoP	What, what, what they have clearly (inaudible) and they make different claim, I make this suggestion very, very, very early on, if there is any doubt on the part of the DPP, on your part, or anybody else's part, or Hassans' part that we have flawed this investigation….
00:0910	Mr Llamas	That you have what?
	CoP	Made a flawed investigation, on the process and everything else, what I'll do today is offer my, offer every single paper, every single file, every single exhibit, to an independent police service to look into it. And what I can anticipate that would show, is that we wouldn't, that any other Police force, would not have gone, in the way that we have done. They would have picked up Jaime Levey at six o'clock in the morning. Now if that, that is where this is going, I am now officially asking, that this matter be investigated by an external police service. To see whether the RGP has flawed in this investigation.
	Mr Llamas	Fine.
9.49	COP	I think, because I am getting cornered, being accused of criminality and that is, you, all of you know it here,that that is not on. This is now, trying to, to muscle me out of it. I may not even last in my post,but Ian McGrailhas integrity , my integrity will not, my ethics are at this level and nobody will bring them down, nobody. If I have to go, I'll go, but I will leave with my head held up high. Ian McGrail or the team that have been dealing with it is not corrupt. Eso te lo puedo garantizar. I am passionate of what I'm, what I'm saying. Passionate beyondanybody who stands before me . I have to tell you, because I have to vent my frustration. Its, its, its, this is an affront, this is an affront, to, to, to the legal process. As far as I am concerned.
00:1046	Mr Llamas	You, you have (inaudible) that nobody in this room has emm… questions your, your ethics emm… if Hassans are going to challenge you….
	COP	No pero on the question of the investigation. The question of the investigation, the standards that this investigation has been compiled with, addressed and dealt with, and more so of how we have dealt with, the, the, the issue of yesterday, whether any police service, any police service, would have acted in the discrete, with the discretion and the, and the, and the approach that we have done.
	DPP	May I, may I
	COP	And I invite…
	DPP	I have been involved, relatively early doors with Delhi, so, so I…probably more so (inaudible) I certainly I have no doubt that (inaudible) no doubt of the integrity of the investigation at all. Its been done properly and what Paul and I agreed at a very early

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		stage was as a result of how the investigation was conducted, Jaime was a legitimate source of enquiry. We agree that Paul.
	CoP	As a suspect
	DPP	I and Michael knows that.
	DPP	As a suspect, I mean he needed to be asked questions to clarify certain issues of the conspiracy and that would either resolve it or it would resolve. Whether I think, and again, I've always made it clear to Paul and to you, I don't get involved in operational matters. My view was that the warrant should come, if at all, post to interview. Look there is an operational matter for you on the ground, therefore my (inaudible)
	Mr Llamas	and that is what's causing the (inaudible)
	COP	And I, I accept that. I accept that. Had we gone to deal with Hassan's as the enterprise, yes I would accept that. Because probably the search warrant would not have been the valid one. That would have been (inaudible) category. But that is not the case. If we go, if we go and we have to be grown, we have to be realistic here. If we go and ask Jaime Levy, because I ask the same question to somebody else yesterday, if I was to ask you, as a senior partner in your previous firm, emm. Chris, would you hand over your mobile device to me voluntarily? What is your genuine answer?
	Mr Rocca	I would have, (inaudible) denied.
	COP	No but, I mean when, when we show up at your office, or your office. Would you hand your mobile voluntarily?
	Mr Rocca	I would ask what, what its for?
	COP	Of course, yes. But we've told you, we've read you that, (inaudible) because the first thing we do is we, we give you under caution, would you by then hand over anything?
	Mr Rocca	(inaudible)
	Supt Richardson	You would sir? You would hand it over?
	Mr Rocca	Sorry?
00:1321	Supt Richardson	You would hand it over?
	Mr Rocca	Why wouldn't I?
	Supt Richardson	Well Jaime Levy didn't hand it over until nine o'clock. Ten hours later.
	Mr Llamas	Bueno because I think the, the approach was...
	Supt Richardson	So that answers the question. He wouldn't hand it over voluntarily. He wouldn't even.

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	Mr Llamas	Pero he did, pero he did.
	Supt Richardson	He handed it over after exhausting all legal avenues to challenge it. He wouldn't even come to his own office. He told me he wouldn't come in.
	Mr Llamas	And do you think his reaction would have been different if you didn't have a search warrant?
	Supt Richardson	Then how would I have forced the issue? It took nine hours of persuading to hand it over with a warrant.
	Mr Llamas	But may be you wouldn't have needed the nine hours without the search warrant.
	Supt Richardson	I can't take that sir. That is sir, with greatest respect, it was an operational decision, I disagreed with the DPP on that, I will be criticised, I could not stand up in court and say, I have dealt with this man differently from this man because of any offence that might be caused and that is exactly what has happened.
	Mr Llamas	Its not because of what offence that may be caused, there is a, I think, I think and I stand to be corrected, there is a difference between Jaime Levy and the others. This is a very senior member of our community and above all, the head of chambers of the biggest law firm in Gibraltar. Whose phone will obviously contain hundreds of privileged
	Cop	A lot of sensitive data.
	Mr Llamas	Not just sensitive, Ian, privileged.
00:14:50	Cop	Yeah. Absolutely. And that can be protected. And that
	Mr Llamas	Especially...
	CoP	And that can be protected.
	Supt Richardson	Lets not lose fact that the fact (inaudible) more than one phone and the phone that he used the messages, doesn't have any more. He didn't know where it was.
	Mr Llamas	But that's besides the point, Paul. The, the point is that you went to one of the most senior guy, legal people in Gibraltar, an officer of the court, okay and you, there are ways in which, I mean I've been involved in a few cases, like this and the way that (inaudible) case; is you go for a production order and you identify the key words that you want to search and information is then provided in relation to them.
	COP	that's when it's the financial institution in terms of banks and
	Mr Llamas	Si that's, that's true.
	CoP	Right look, this is not the first time, in the same way that you've, with respect that you've had that experience, I've had the

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		experience of Jaime Levy telling me that the RGP and its investigation, and would never see the light to day, the case, the case would never see the light of day in the Marrache Inquiry. I'm used to this.
	Supt Richardson	The same language that was used yesterday.
00:1600	COP	And exactly the same, so look, Emm.. Is he going to come to me waving a flag saying I'm guilty? I mean, I don't expect him to do that. But, we have a job to do. And I...and I'm getting criticised and questioned because of the job that I am doing. And I am doing it on the, on the strength of a court order.
	Supt Richardson	He was treated with kid gloves, he thanked me....
	CoP	What? what?
	Supt Richardson	For the, the discretion.
	Mr Llamas	(inaudible)
	CoP	No, no, no he says it in between because, but he has to come across Paul....
	Supt Richardson	We, we didn't even have badges on when we went there
	CoP	He used the word terror, he was terrorised.
	Supt Richardson	There was no, there was no searches in his office.
	Mr Rocca	(inaudible) give it to me, or I'll execute the warrant, I can understand that, but look I think we are losing...
	Supt Richardson	But Chris, Chris, if I go to your office and I say, Chris give me your phone, I'm gonna execute a warrant and you are feeling threatened to do that, but if you then go out and consult leading counsel in the UK and spend you 20 minutes on the phone with leading Silk, and come back and say, the means are telling me that this is judicial review, I want to show that I'm helping but, and we wait nine hours later and we are still debating. There is no threat there, there is no urgency being applied.
	CoP	I'm gonna be honest, I'm gonna be honest, Paul on the way up, and this, he doesn't even know what I'm going to say, Paul on the waysays , I regret,these things, things happen and you are gonna remember a particular case, where we can draw corrolation. I regret not getting the phone from the word go.
	Supt Richardson	Hmm...
	CoP	And no-one take the mickey out of us. Right now they are taking the piss. Remember the flawed drug search, in the case Regina versus the late Andrew Bonavia, that you defended?
	Supt Richardson	Yes.
	CoP	Where we accommodated....

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	Supt Richardson	Yeah, yeah, yeah.
	CoP	The plea of the individual, please don't put the dog on the bed, please don't put the dog on the bed please don't put the dog, and well, okay, its okay, we won't put it, we are going to search and that turned back on us.
	Supt Richardson	Yeah.
	CoP	Well this could easily turn back on us because he's been having the phone for nine hours, defence counsel could, will say he could have done anything with that phone. Phone or whatever. And that is something that he would have to live with as S as SIO.
	Supt Richardson	Because he's a senior member of a respected law firm in Gibraltar.
00:1802	COP	Nine hours is practically more than a working day. And for us to be accused that we have put him under pressure, that we have pressured him, so, so, pressure would been if they'd taken it off him. That is what any other police service would have done and I can guarantee that. So how are they going to critisise us of being over bearing and forceful
	DPP	(inaudible)
	Supt Richardson	That's fair enough if you don't know the facts, but I was there and Jaime was there, and
	CoP	They recorded, they recorded
	Supt Riachardson	Nothing was seized and it was handed over, when he gave me, when he gave me his laptop and his ipad in his house, I gave it back to him. I told him James I can't take this from you until you agree to hand it over by consent or if I take it by warrant. That didn't happen until an hour later. And when he signed that we took possession of it, not before.
	Mr Rocca	As we have agreed operationally its your call, that Michael may have handled it differently, that I may have handled it differently. It's your call.
	Supt Richardson	That's, that's fair enough
	Mr Rocca	They may be equally criticising me as they are the Commissioner.
	Supt Richardson	I'm not a lawyer and you are not a police officer, I think that's a
	Mr Rocca	And you would have handled it differently to (inaudible)
	Supt Richardson	Ahha, ahha.
	Mr Rocca	We take decisions based on, on information available and I think we can part there, you took your decisions, they are nuance decisions. We all accept that but that, moving forwarded where are we? I think the first thing, and Michael and I had a quick chat

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		about it, I think the first, I think we need to write to the Magistrates Court, no advise them…
	CoP	We have done that already.
	Mr Rocca	Yeah, advising them that we have, we have clarified that the information was not obtained under the search warrant, therefore the is no basis whatsoever with disclosure of the information they seek. Why are they seeking for disclosure of the search warrant information?
	Supt Richardson	Why? Because the information that was laid will form the basis of the interview on Monday. And they know that they will have to come in on Monday and they want the questions in advance.
	Mr Rocca	Beside of the tipping off from the investigation, if the warrant was not exercised, wasn't served on Jaime Levy and the information was obtained not under the search warrant, they had no right to have that information under the search warrant.
	Supt Richardson	But the, truly they can't have a right anyway.
	Mr Rocca	If they were in jail they can.
	Supt Richardson	(inaudible)
	CoP	But not only that, they will argue that they need that information, because
	Mr Llamas	Because?
00:2007	Cop	Because if they are, their case is that they were threatened with the search warrant, then the, the material that was used to apply for it is relevant.
	Supt Richardson	(inaudible)
	COP	So, so, they won't, they will spin it again to say, you had the warrant, even though you didn't use it, but you had it as a, as a lever to make compel us. Look, it happens with these things – it happened with Waterson.
	Supt Richardson	Well that's exactly what…
	COP	And it happened, I have the court order, Y me paso, yo tengo ya el court order, I, I execute the warrant,its that we… tomorrow I , I, I, kick myself, I'm kicking myself, well he is kicking himself because that's his call,but , we would kick ourselves the same, this won't happen to us again And then we go soft again; I have a warrant and they can say what they want the warrant is ececuted.
	Supt Richardson	That's what they do.
	CoP	And that is it, you avoid complications whether it was voluntary or this or that, or up or down. But we execute it, and look now they

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		are…of course I was executing, but you didn't execute it because he volunteered it, but he volunteered because he was under threat. Its….the end game is that we had the data and, which was required and…
	Mr Llamas	And the phone where is it now?
00:2017	Supt Richardson	Its in a sealed bag, when I left it was in my office. I mean it hasn't been opened.
	Mr Llamas	And what's gonna happen?
	CoP	But that's another thing, that the legal privilege material under special….
	Mr Rocca	Interest material
	CoP	…interest material. Emm… the, the, again my integrity was put into question as you know, because that is what you say, that you say you did not know anything; I say it here and now and I'll, for the purpose of it being recorded, that that, the data in that emm..phone will not be examined by us. It will be a….and Jaime is fully aware that emm…he was even asked on the advice of Charlie Pitto.
	Supt Richardson	Of the Magistrates.
	COP	Of the, if the Magistrate tells him, correct me if I'm wrong?
	Supt Richardson	Yeah.
	COP	Or tells you, I'm getting this through his briefing, emm… tells him, if you are going to get it and there is and he claims legal privilege material offer him of the option of who does he want it to, to trawl through it; local or external counsel. And he opted for external counsel. So that's…
00:2216	Supt Richardson	Which we discussed months ago
	COP	Yeah
	Supt Richardson	And we decided to…
	COP	So he was given that option and he's…he's sort of agreeing that that is the…
	Mr Llamas	So Christian, what are the different channels.
	Mr Rocca	I'm, I'm not, I'm not clear. I'm not clear at all. There are clearly, there's, there's a number of attacks here one is against Paul and misfeasance allegation….
	Cop	Bueno I think I have to, I have to
	Mr Rocca	I think you have to investigate that.

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	CoP	No, no, no, not investigate, not investigate that, that that; that allegation I am taking personally too. He is my officer. I stand in front of him for all of this.
	Mr Rocca	Yeah.
00:2248	Cop	So let's not .....
	Mr Rocca	No, no
	COP	I have more or less 250 police officers.
	Supt Richardson	The other thing is, if you want, if you are going to, I suggest that we are going to investigate this ourselves, let's handover everything to a UK force and let them doing that for us.
	Mr Rocca	Si, because the allegations of misfeasance at the moment, are allegations only. And I think they need to make a formal complaint to the investigation before.
	Supt Richardson	(inaudible)
	Mr Llamas	I, I, I think Ian, to be honest with you, Ian, we are meeting with emm, because you have rightly emm... sought our legal advice, anticipating what most certainly is going to come.
	CoP	Yeah.
	Mr Llamas	Whether they are going to fight this any way possible.
	Mr Rocca	(inaudible)
	Mr Rocca	No I don't know, they don't want the publicity. (inaudible) about Jaime Levy's telephone and ipad.
	Supt Richardson	Do you want this, do you want that affidavit aired in court? That lays out all the communication he's had with Caine Sanchez and everybody else?
	Mr Rocca	(inaudible)
	Mr Llamas	I don't, I don't see it.
	Mr Rocca	I mean I haven't seen the warrant. I haven't seen the information.
	Supt Richardson	I said, I said exactly the same thing to Jaime yesterday. Jaime was...he was talking with me constantly throughout the whole afternoon. And he was asking me what do I do, who shall I speak to, who is going to speak to me? What would you do if I was, and he, and he, I don't know whether to judicially review it. My counsel is advising me this, but I'm thinking the other, I want to be cooperative. Emm... we had the exact same thing came up on the judicial review.
	Mr Rocca	They are simple to try to put pressure on you to push the information. And there are avenues for that.

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	Supt Richardson	Because this is, this is…
	Mr Rocca	There are legal avenues…
	COP	And I want to, I want to, because I am….. well I may come across as rigid, but I think you know me deeper than what your thoughts were, a reasonable person, very reasonable and I can; I may not be as intelligent as the others in this room and I'm very reasonable and I can… I have worked very hard to get where I have got to and this is the third time; my proposal for this will be put for the third time; we as the investigators, we are doing a job, we produce the evidence, we've consulted with the DPP. The DPP sees that there is, we thought that there is, but confirmed with the DPP, the DPP sees that there is a case to be put to the, to…to…to trial. I get the whole periphery, I get it all. I cannot pull it, you can. You can, Michael.
00:2510	Mr Llamas	But it hasn't got to, it hasn't got to get to that Ian.
	COP	Well then, then who stops it, I cannot stop it. I… I cannot say, I… there is no offence. We have determined there are offences, we've determined that there is a, a, a, a high prospect, which is not, even the DPP's call, but he supports that.
	Mr Rocca	Evidential, there's evidential…
	COP	Threshold.
	Mr Rocca	Evidential… passed
	Mr Llamas	Absolutely, and I've known that from the beginning.
	COP	Now, now , if, if we cannot and I, I would understand and…and I've said it, I've said it before, I would not raise any objections if this is pulled, but I will not pull it, Ian, the RGP cannot pull it. And if there are legal routes to pull it, those, I'm asking why not.
	Mr Llamas	Let me ask you one question if I may? One of the areas you wanted to interview Jaime on, is communications with the Chief Minister.
	COP	I got con…I got to read that post that being served and I questioned that too. Paul would be better to (inaudible)
	Supt Richardson	This isn't, there is no emm… there is no great, assuming we don't uncover anything on the device, which might be worth, a sticking point. But there is no great issue behind that, but what Caine Sanchez and the other persons involved in this have been doing, is to seek Jaime's influence with the Chief Minister to get him an appointment so that he can find out what's happening with the platform. So that, are we gonna get it back? Is the Chief Minister likely to change his mind? There is a lot of messages to him. I don't know what he said back again.
00:2648	CoP	Or, or whether, or Jaime Levy actually communicated with him

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	Supt Richardson	Acted, he may not have acted with the Chief Minister.
	COP	Precisely. He may not have acted on any of them
	Supt Richardson	So everybody is asking him to do things and he may not have
	COP	A Sanchez (inaudible)
	Mr Llamas	So the other suspects are telling Jaime Levy, to speak to the Chief Minister, to see whether the Chief Minister can change his mind, or they, whether Jaime can influence the Chief Minister in whatever way.
	Supt Richardson	For example, we got no decision, see if you can nudge the Chief Minister, he'll listen to you. Another one is, are we likely to get our platform back? (inaudible) I need my contract back. Yeah. Emm... and Jaime responds in that case, I don't think the Chief Minister will agree to it, and then another one he says, is it, is it likely for the contract to go out for tender now, and he says, yes will try again next month. That's the sort of thing. So it is clear there has been communication between Jaime and the parties involved in this, what we are suspecting in the conspiracy to defraud and there seems to have been some communication between the Chief Minister and Jaime. But I don't know where that is and we haven't with the Chief Minister
	Mr Rocca	And we disagreed on, on where the line, the debate in my office.
	Supt Richardson	Hmm...
	Mr Rocca	Where the line lied in relation to conspiracy to defraud and sharp business practices. Is that the, you have contact with the Chief Minister, make me an appointment. That for me was not part of a conspiracy to defraud.
	Supt Richardson	Ahha....
00:2815	Mr Rocca	But what Paul was looking at was more of the conversation between Jaime and the other people involved.
	Supt Richardson	Yeah, Sanchez and
	COP	And I think and I know, but there's bigger stuff, that go right over my head. Jaime has on, on video has alluded to that I am under pressure from the Governor to see this investigation through.
	Mr Llamas	You?
	COP	Yeah. I do not where that come from.
	Mr Llamas	Where has he said that?
	COP	Emm... en, on, on tape in front of all of them there.
	Supt Richardson	Because he was suggesting that this is led from outside, that we are being compelled...

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	COP	And, and, and...
	Supt Richardson	...to act in this way.
	Mr Llamas	And where is that in one of the WhatsApp's?
	Cop	No, no, this is, I tell you because... it concerns me, because we've got it on tape, and that is not the case. You know how this investigation has been driven. There has been no influence from across the road, at all, at all. That they know that emm.... Governor Ed Davis knew at the time when a, a year, over a year and half ago, I briefed him that we were commencing an investigation. Yes, it is my duty to brief him on national security matters. Yes, but I haven't been asked absolutely anything by that man, nothing at all on the matter.
	Mr Llamas	I have no...
	COP	For Jaime, no, it's that Jaime said it.
	Supt Richardson	And he was very sensitive about this because David Dumas told me the same thing when he came up to represent John Perez on the same day. That he thought that this was being steered by the, the Foreign Office.
	COP	Okay, its not the case, I tell you its, I....its not the case. I submit myself to being (inaudible) on this. Not the case. Not the case at all. (inaudible) I have come this afternoon to talk to talk to you, its not the case, that it's not the case.
	Mr Llamas	What I have heard to be very honest, emm... here, that Gaggero had lumbered you into this investigation, that I have heard. In, in, in the investigation.
	Supt Richardson	And Levy said as much yesterday on, on camera. I know where that, what he suggests and he is completely, Gaggero...
00:3024	CoP	Innuendo, again. The one of talking to the Chief Minister.
	Supt Richardson	I will, I will, its understood, Gaggero is very apologetic for having spoken to the Chief Minister about this matter, I think it, that was, but I can understand his logic with it and he has apologised over and over again.
	COP	(inaudible)
	Supt Richardson	What, what, Gaggero, was taking civil action against all these people. [redacted]. Remember that what they had done was they had registered it in different names, they changed the address [redacted] Emm.. and he, he was commencing his legal action to, to pursue that and obviously protect his civil rights.

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		We had asked him not to take action until we had intervened with the, with the main suspect. Because to do that he would be laying information about the hacking, about I've had people examining this information, this system. So we were saying, please hold on, please hold on, please hold on. Our investigation took longer, longer than; we initially agreed that we would take a month and we would be able to say, in a month you can go ahead with this. The month turned out to be five months before we were in a position. We had to negotiate with the NCA, we don't have the capability to examine devices like that, this is a huge... this is a national scale job in the United Kingdom. So he, we, he was advised, when we were going to be issuing, taking action, but not against who and not how. Just, can you wait until, for example, next Tuesday and by then we shall be in a position to resolve all of this. He foolishly and, and apologies unreservedly and says that I admonished him for this. He saw the Chief Minister outside the emm... No. 6 one day, I think he went up to him and says, I hear its going down today. Thinking that, that emm... that the Chief Minister would be pleased to know that the matter they had been bringing to his attention with Caine Sanchez going behind his back and believing that this information was going to be addressed. He said this, I think in front of a Special Branch officer, now Jaime is suggested that because of that I am colluding, we are colluding with James Gaggero. And I have a recording of everything, I have a recording and note of every conversation that I've had with Gaggero and there has not been one time, that he has tried to influence me in anyway at all. On the contrary, he always starts of saying, don't tell me anything, I don't want to know, emm.. I just need to know, is it likely to go on beyond this or are we still on track. Or do you need any more sup...any more support from my staff. That is the only thing that he's, he's raised with us, those sorts of issues.
00:3300	Mr Llamas	Okay, anyway then , lets come back to this. Do you think, they will not, Hassans will not having anything or will not be able to.....
	Mr Rocca	Or its all bluff.
	Mr Llamas	If they were, what will you do? They could challenge the search warrant on the basis that it was used as a sword to get the information
	Mr Rocca	Yeah and the consent wasn't really a consent. They could try that.
	Supt Richardson	Well, that would mean that the Magistrate was completely misled.
	Mr Rocca	I doubt that the JR, I don't see it. Emm...
	Cop	At the end of the day you could hold that against a vulnerable person, I mean this is....

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	Mr Rocca	Not after consulting with lawyers.
	COP	Exactly and you are the head of the investigation.
	Mr Rocca	No JR (inaudible) for the turn of privilege and specialist material under section 38 which you said, you'll give back anyway.
	COP	Ahha..
	Mr Rocca	So that you can...the problem you've got is, you've got mixed material, if you go to an office and you say I want this, this and, this is not privileged and I want this, ooh, but this, this contains both.
	COP	You see, actually he started of saying that the whole of the, the whole of the phone, the data that was in the phone was legally privileged material.
00:3410	Mr Rocca	Well it can't be (inaudible)
	COP	Exactly, exactly. Which is when Paul said, Jaime are you saying that the communications between you and Thirty, Thirty-six North were in... he said no those are business. And then not all of it is legally privileged there must be some matters which are not....
	Supt Richardson	There are both, you can't have, be a business partner and investing in a firm and offering him legal advice.
	Mr Rocca	Legal advice.
	Supt Richardson	Out of the very, very beginning. Yeah.
	Mr Rocca	At the beginning of the investigation. I don't (inaudible) section 38 remedy at the Magistrates Court emm....and they've got a criminal complaint remedy which, it seems to, well is just misfeasance.
	Supt Richardson	Misfeasance.
	COP	No that's it. Abuse of the law, abuse of the law and misfeasance in public office.
	Mr Llamas	Abuse of....power
	Supt Richardson	Abuse of law and abuse of misfeasance in public office.
	COP	I've held on to that, but I am duty bound to, to act gross...
	Mr Rocca	Gross abuse
	COP	I've got to, I'm duty bound to refer the fact that there is a criminal investigation made to me, against us.
	Mr Llamas	Yes I do, if the...the gross.... is judicial review, I think.
00:3523	COP	This is a start to a complaint against police ...which is ... and if they are looking at me....

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	Mr Llamas	At the moment, at the moment you shouldn't do anything.
	COP	I know, I'm not, I'm holding, but if they keep on tightening bolts I have to start loosening them from elsewhere.
	Mr Rocca	No, I think at the end of the day, Michael, you were addressed, where you copied in or addressed to you.
	Supt Richardson	No, this is the letter, that's not, that's not, this is the letter from….
	Mr Rocca	No. the one about misfeasance.
	CoP	Esta.
	Mr Rocca	This is it.
	Supt Richardson	This is it
	COP	This is it.
	Mr Rocca	This is the one and also, are you copied into that one?
	Supt Richardson	Emm… I don't know
	Mr Llamas	This one you sent to me.
	Mr Rocca	Yeah that one I sent to you. Which one is the one….
	Mr Llamas	Its, its original, (inaudible) email of last year.
	Mr Rocca	Its to you. Its to you.
	Mr Llamas	That's directly to me yeah. Now, if there is a suggestion apparent gross abuse of power. (inaudible)
	Mr Rocca	but there is no misfeasance allegation in there is there? I've seen it, I've seen it somewhere
	Supt Richardson	Its here, its here on this one
	Mr Rocca	That one no. yeah. Do they make allegations of misfeasance in the email to you?
	Supt Richardson	No.
00:3632	CoP	No.
	Mr Llamas	Does it make allegations of misfeasance?
	COP	I've not read that.
	Mr Llamas	Fuf,I did not read that last night . I haven't had time to read then again this morning.
	COP	No, no I don't recall reading anything of that.
	Supt Richardson	But there are so many things that he said here that are inaccurate. The, the order of events, how things happened.

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	Mr Llamas	There is an allegation of misfeasance here....
	Mr Rocca	Yeah there is one there. and perhaps you need to consider whether you need to be replying to Louis, saying there is an allegation of misfeasance, do you want to make a formal complaint. Then please put that forward formally to me, because then Ian is right, they have to go hang on a minute, you are investigating, I can't investigate me, you know, you may want to get somebody to investigate
	Mr Llamas	Pero that's for them to call.
	Mr Rocca	For them to call.
	Supt Richardson	No, no sir, with respect, I am the one that's being accused of this.
	Mr Llamas	Yeah.
	Supt Richardson	I don't want to just leave here when we are not just gonna pursue it. If you are gonna make this allegation, make the allegation.
	Mr Rocca	But that's what we are saying. If you are gonna make a formal complaint Ian, Paul Richardson, and I mean Paul Richardson I mean the RGP, then make it. But make a formal misfeasance allegation and go report a crime, because it's a crime.
	Supt Richardson	Sibut I would, I'd have to report it to (inaudible)
	Mr Rocca	That's right.
	CoP	It can't be reported through us.
	Mr Rocca	It can't be with yourselves.
	Supt Richardson	Would that be with you.
	CoP	And have it investigated by an external police force.
	Mr Rocca	And have it investigated by an external police force, I believe that is where Michael has to say, if these are the allegations, I've seen a copy of the letter and the allegations between. If these are formal allegations
	Supt Richardson	And if I, if that happens, I would be criticized for not doing my job properly, by not going to Jaime Levy's house at six o'clock in the morning and waking up his family....
	COP	Like the expert....like the expert in the MET...
	Supt Richardson	By not taking a team there and seizing any of his devices.
	COP	...the dog handler that said that that was not the way to run a dog search.
	Mr Rocca	Ofcourse
	COP	See what I mean? Do you see the correlation?

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	Mr Rocca	Yeah, yeah, yeah. Unfortunately...
	Supt Richardson	I'm not knocking on the Chief Ministers door and ask him to explain his emails.
	Mr LLamas	(inaudible) criticising to do things....
	COP	I am telling you now, I tell you, we are kicking ourselves, but next time, we'll do it again because that's in our nature, how we, we deal with things in the best way possible. But it warrants going there with a bit of a firm hand, and say, this is what there is, but we do not have same cold approach that the English have. They don't care who they are dealing with.
	Mr Rocca	But it think the, the two tacts I think it is, your response has to be, I don't get involved in operational matters, those are matters for the police. Emm.. and therefore I leave you to deal with it, be it the Magistrate avenue, whatever you wish to choose, that's with you. If there area allegation of misfeasance please let me know immediately, I'll put them formally in writing. So that I can arrange, for them to investigate it...
	COP	Or to consider whether there is any....
	Mr Rocca	Exactly. Otherwise put up or shut up.
	Mr Llamas	Yes but, how do I know that? I mean I, I know it because sending it to you is like.... essentially, you sent me an email,
	Mr Rocca	and that's not copied to you either.
	Mr Llamas	No, because it has been sent to me, because Paul when he replies to that letter copies me in.
	COP	Paul replies to the, Paul replies to the clerk.
	Mr Llamas	So what is your letter to the (inaudible) regarding this.
	Mr Rocca	I've got that. Paul let me have it.
	Supt Richardson	I, send it to him because there are allegations made to the clerk, and I'm saying give it the seriousness and copying in the Magistrate, oh no the Magistrate, the Commissioner and the DPP.
	Mr Rocca	And I think its right given the seriousness of the allegation I copied it to you.
	Mr Llamas	Yeah.
	Mr Rocca	Because there are allegations of misfeasance against the police force. I think that's our, that's our line.,
	Mr Llamas	Okay, so basically other than doing that I think we've anticipated more or lesswhere the shots are coming from . There may be, a....a challenge to the search warrant, maybe. Emm.. they'll have, we'll see whether they pursue the misfeasance point or not.

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	Supt Richardson	Yeah.
	Mr Llamas	We'll find out true enough probably. And apart from that….
00:4023	COP	That was the reason why this chap could not, in my view, Michael and with respect, we couldn't have it (inaudible)
	Mr Llamas	Okay, I am still….
	CoP	Now you understand, we are, they are accusing us.
	Mr Llamas	I am still and its the only reason why I am involved in this, its that this is highly sensitive as point 9 here.
	COP	I agree.
	Mr Llamas	Demonstrates.
	COP	I agree.
	Mr Llamas	In my view, its just a view, completely unjust, unjustifiable to me that this man should be even appearing on a formal document. Emm.. and I will not, if it's not legitimate, I want that to disappear immediately. My concern here, is the reputation of this jurisdiction and that passes to the reputation of our Chief Minister. Especially in this moment in time. And for that I shall fight until I die.
	COP	The thing is you have the magic wand here. You have it.
	Mr Llamas	I am sure, and if it's the case, I would ask you to get it out of this as soon as possible.
	COP	The reason we and look…the policy decision made, the fact that we whoever, whoever is pulling here whether its Caine with the golden nugget hidden under his arm, I do not know yet. But emm… we can presume that he can potentially have something up his sleeve to get out of this. To compromise the people we are talking about.
	Mr Llamas	What do you mean? That somebody told them to act like this?
	Cop	No, no, no, no. That maybe he, I do not know what it could be … we can toss and turn it in our head and we haven't go the answer. But from the word go, when we did the, interrogation of the devices of Caine and John Perez, the Chief Minister featured, unfortunately. And, call it this or that And he….
	Mr Llamas	Not him personally?
	Cop	No, no, no, no. There is no communications from the Chief Minister identified, that I can see. But,
	Mr Llamas	Levy?
	Cop	Bueno amongst them, amongst them, the, the, the three. And Paul would come and say Paul….

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	Supt Richardson	There was, there was some communication.
	CoP	But you reminded me, you reminded me on this one. Emm...because of me asking you this. He says well, the question, that the Chief Minister comes very valid, validly asked me...is why didn't you ask me direct, about this. And my, and the response which he has had to drop, says man, we had to protect, he has to, he cannot feature as part of, these type of enquiries.
	Mr Rocca	(inaudible)
	COP	Yeah well, well. Exactly, but look, its there now
	Mr Rocca	That's part of...is that what's gone to the court?
	Supt Richardson	No, no, no that was given to me. That is telling Levy, this is what we want you to account for your...your communication with the Chief Minister or...on....
	COP	On this particular matter
00:4320	Supt Richardson	On this particular matter. Where is the contact, (inaudible) I don't... we don't know what the communication is/was.
	Mr Llamas	Do you realise how damaging if this came out? The reference to the Chief Minister is and maybe, I'm prepared to say just maybe, maybe completely unjustified. The first discussion I have with you Ian. It is not what happened here. It's the perception that's going to live and that is potentially very damaging and that, what I wanted to avert, from the beginning. That is the reason why I asked you to rationalise the ground and then to assume that ownership is with the Government. So that, if you did proceed you were doing in a completely secure basis. Now there are documents are flying around with things like that.
	Supt Richardson	Sir, the only person that has that document, the only person is Jaime Levy. Nobody else. So if it is flying around, it is because he chooses to fly it around nobody else has had sight of that document. It's not gone to court, it's not been discussed with anybody else. It was served to him directly, so that he was able to prepare for an interview to say, these are the areas that we want you to, to account for. Otherwise he was going to turn up to an interview and we are gonna ask him, we now need you to account for these texts. He's gonna say, I didn't know anything about that, why didn't you tell me about it before.
00:4445	Mr Rocca	I think short of the terms that we are in terms of....
	Supt Richardson	Yeah.
	Mr Rocca	On the, their shoes is on their, their boot on their foot, they've got to decide whether they JR, either or they section 38. I don't know whether they will. And Michael will say, if there is misfeasance, and I will, I will appoint someone to investigate. And you need to write to the Magistrates Court, saying look you might need to

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		know the information was not obtained under the warrant, it was handed voluntarily.
	COP	Us, us, we have to write.
	Mr Rocca	I think, further to your email to Maurice, saying its important that I clarify that, that the, that, that the Magistrate be made aware, the information was not obtained under warrant, it was given voluntarily, therefore we don't have a basis upon which to request that information. Even if it were.
00:4530	Supt Richardson	But that would, does that not presuppose that there is a legal right to this. I mean that would mean, everywhere that you obtained….
	Mr Rocca	(inaudible)
	Supt Richardson	(inaudible) and saying appear before the Magistrates Court tomorrow, we are gonna make an application to search your house and you don't have any objections. You have six days to produce something. Its absurd.
	Mr Rocca	No but I think its, its important that Pitto knows that the information you are asking is irrelevant, because you didn't execute the warrant.
	Supt Richardson	Yeah.
	Mr Rocca	So why did you want the information that supported the warrant…
	COP	But they will argue with the court…
	Mr Rocca	Fine, but let them argue it. (inaudible) to protect your position. Lets make it clear. The next stage is, I think this is more your call Michael, what is the end game here
	Mr Llamas	Yeah.
	Supt Richardson	I know, that's what I want…
	Mr Rocca	(inaudible) reality. We are gonna get to a stage where we are gonna go through pain, pain, and actually… There isn't enough to start with Jaime Levy. Could we possibly…
	CoP	We have to so that later no…
	Mr Rocca	Fine.
	COP	In the fairness, in the interest and the fairness of the others.
	Mr Roca	I totally agree with you. And that…and that…
	Supt Richardson	Because (inaudible) on Monday. Because if Jaime comes up with an explanation
	Mr Rocca	That's it

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	Supt Richardson	That holds enough water that doesn't need probing too deeply, this could be put to bed.
	Mr Llamas	This is my point, in the end the game is… by this you mean Jaime Levy's information.
	Supt Richardson	Yes.
	Mr Llamas	I mean the, the case is still there.
	Supt Richardson	Yes.
	Mr Llamas	How, I mean, where are we, where are we going with this? it's a, it's a, it's a fundamental question to ask, where are you going next? I would say, so now what?
	Cop	We are, that's it on Monday they interview Jaime, gather force on whatever he says, that should then be… as far as we've been able to achieve…
	Supt Richardson	Its absurd sorry, the allegation against me for misfeasance, Jaime asked me personally why I didn't do the interview on Monday.
	CoP	He wanted him to interview him.
	Supt Richardson	And then the day later, he is telling me that I am acting with misfeasance.
	Mr Llamas	Well, those things happen
	Mr Rocca	(inaudible)
	Mr Llamas	Sorry Ian, carry on
00:4741	COP	Then short of what was needed to be picked up from Robert Fischel's submissions. Only today we received the stuff from Darren Grech. which now needs to be transposed into a proper statement form. He's prepared it on Government's letter headed form. It's got to be put in…. Any, any lines that come out from that one, any questions that need to come out from that one or Robert Fischel's submission about the ownership we will push it as far as we can on that.
	Mr Rocca	Bueno
	COP	Once, once, that is done, we were expecting some stuff, whether they were coming or not, that is from the Microsoft servers in the, in the US. Which we reckon would tell a hell of a story, because Caine used his emm… he made use of his private email a lot. And that will tell …
	Mr Llamas	Is that the information you requested?
	COP	Yes through the legal channels through MLA y all that, the thing is Covid as slowed everything down. But the, remind me, now, now, because my head is all over the place, remind, remind me

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		about something that's just come in before I came to this office from the FBI. Which I ....
	Mr Llamas	No, no....
	Mr Llamas	Los barcos
	COP	Los barcos.
	Mr Llamas	Cinco.
	Cop	I've been told of one
	Mr Llamas	Cinco. One of them as sailed passed.
	CoP	El Petunia. Well
	Mr Llamas	(inaudible)
	Supt Richardson	Sorry, I'm not doing another, I'm not doing another, what is it you call it
	CoP	Grace 1
	Supt Richardson	Grace 1, I'm not doing another one.
	COP	Emm... anyway, then ....
	Mr Rocca	So we've come to a position where we (inaudible)
	COP	Absolutely, we done that.
	Mr Rocca	There is, and my that its actually being, and Paul knows this, we keep it relatively simple...
	COP	It doesn't make sense that you go...
	Mr Rocca	because its gonna be unmanageable...
	COP	More consequence on, on, if there is a conviction on
00:4933	Mr Rocca	And once we start bringing in people like, like Jaime, we are gonna have a massive team of lawyers and if one walks, they will all walk. That's the reality of it, so for me, I'd rather get Cornelio, the hacker , without a doubt. Sanchez, I don't know enough about it yet. Perez, I don't know that much, correct.
	COP	Whatever.
	Mr Rocca	Whatever we come out.
	COP	We, we are not, we are not here....
	Mr Rocca	Pero if the long game is that we are gonna get, we are not gonna do (inaudible) there is not (inaudible) possible to throw that charge in and then charge him but its going to, but when we get there do we feed that back somehow. Do we say...
	COP	Stay calm that this has to be done.

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	Mr Rocca	We need to tick the boxes, we need to do the exercise, so we are not criticised afterwards when we charge certain people. Pero you are not the target, no I'm not gonna say that,
	Supt	We had to lay information that he is a suspect.
	Mr Rocca	Emm…
	Supt Richardson	We had to lay information that he was a suspect
	Mr Llamas	(inaudible) to you that's just arrived. Emm.. Louis Baglietto has called, because he has been sent a copy and he, he was made aware of this meeting. Originally it was going to be a meeting with him and he says its vital for us to read it, so I'm asking
	CoP	I need to go to the toilet. Where is the toilet?
00:5056 – 00:5300	Toilet break	
	Mr Rocca	What do you think, are they (inaudible) your gut feeling?
	CoP	My gut feeling is that he is being protected.
	Mr Rocca	Not that he's got a golden gun?
	CoP	I don't know, or because he has that
	Mr Rocca	Vale, okay.
	COP	I cannot, this is a gut feeling not a, nothing that I…
	Mr Llamas	What would be the golden gun?
	COP	No idea. No idea.
	Mr Rocca	Embarrassment.
	COP	No idea, it can be from the worst you could imagine to the most inert. From the worst, to the most inert. From a thing to say look I've thrown… (inaudible)
	Mr Llamas	Ian, the way I see this now, okay, so there are three strands to this case. We've got the criminal investigation, which is yours. We have the outstanding contractual issue, on ownership. And as I think you may be aware there is a Data Protection breach.
	COP	Against Gaggero no?
	Mr Llamas	Opened by the GRA. Where you aware of that?
	Cop	Because we reported it.
	Mr llamas	Oh did you.
	COP	Yeah.
	Mr Llamas	I wasn't aware of that.

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	COP	We were the ones that brought them in because the, 36 North has stolen, stolen that data and put it up into their cloud.
	Mr Llamas	In my preliminary view, everyone is going to come out bad from this. Because the first thing that a data emm…
	COP	Commissioner or
	Mr Llamas	Commission or body would do, with the sensitivity of the data that you've got here and we are dealing, you haven't even got a signed contract, setting out the Data Protection obligation and that will look as bad on the government, as it will on Gaggero, as it will on Blands and everybody else involved in this….
	COP	I agree, I agree.
	Supt Richardson	I suppose we could argue it predates GDPR
	Mr Llamas	Si pero.
	Supt Richardson	I suppose.
	Mr Rocca	But I mean that's a
	Supt Richardson	It predates GDPR (inaudible)
	Mr Llamas	After GDPR (inaudible) so what shall we do, shall we….This is the letter from (inaudible)
	Supt Richardson	That has your, it has your email at the back.
	Mr Llamas	Can we read this quickly. So this is to Paul.
	Supt Richardson	Yes. Fine, it seems to be.
00:5545	Mr Rocca	That's exactly what they are doing, they wrote to say that there was a threat.
	Mr Llamas	Yeah.
	Supt Richardson	Interolis, is that the term. I looked it up this morning.
	Mr Rocca	Interolis.
	Supt Richardson	Yes they are saying more of a voluntary cooperation.
00:5616	Supt Richardson	Its got the (inaudible) again.
00:56:50	Mr Llamas	You see, what has caused the aggro here is the, is the warrant.
	Supt Richardson	Yeah, but it is not possible, to, to do what he is saying and to issue a production order. Because to do a production order…
	Mr Llamas	Its not even that. Its whether, before going for the jugular, you should have gone for a more amicable approach.That is what I think is causing all of this.
	Supt Richardson	And if it was….

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	Mr Llamas	But that doesn't ....
	Supt Richardson	...any other lawyer?
M	Mr Llamas	(inaudible) but I'm just saying, we are aware, whether one agrees with it or not, its just a statement of fact.
	Supt Richardson	Yeah.
	Mr Llamas	That's what I'm doing.
	Supt Richardson	Yeah. There's no suggestion here about
	Cop	Malfeasance
	Supt Richardson	Malfeasance.
	Mr Rocca	No, which is surprising, given they've asked me to get involved and making an allegation of misfeasance.
	Supt Richardson	Yeah, against me. And now asking for staff they are asking the court to reply to.
57.44	Mr Rocca	Exactly.
	Supt Richardson	May the court has replied to, replied to them saying, we are not going to give it to because...
	Mr Rocca	Have you been copied in?
	Supt Richardson	I haven't, I haven't checked my emails. I don't know. The other...
	CoP	If we going to...
	Supt Richardson	Precisely this, it's not incorrect in law to say that the only way to obtain special material is through a production order.
	Mr Rocca	That is wrong.
	Supt Richardson	That is wrong in law. These are the best minds in Gibraltar that are looking at this and they are advising us incorrectly.
	COP	No, advising us no
	Supt Richardson	Bueno they are telling me, and wrong in law. Surely they know that what they are saying is wrong.
	Mr Rocca	Anyway...
	Supt Richardson	Its an ethical issue, is it not?
	Mr Rocca	I would say it wasn't absent agreement. I suppose...
	Supt Richardson	Yeah.
	Mr Rocca	Even if they were right, they agreed to override it.
	Supt Richardson	Yeah.

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	Mr Rocca	And they should have said no.
	CoP	Ex...exactly.
	Mr Rocca	This is the...the wrong take on it.
	COP	Exactly, exactly.
	Supt Richardson	Given, given the nature of what we are discussing, shouldn't we, should I be replying directly to this? Surely it's a lawyer that should be replying to this now. I can give the information but, it shouldn't be me reply...replying direct.
	COP	(inaudible) if you want.
	Mr Llamas	And the answer is going to be no on the 7.
	Supt Richardson	7. The substance on the advice given to the RGP, in relation to the purpose of seeking a warrant.
	Mr Llamas	No, no. on all of 7.
00:5900	Supt Richardson	The search warrant, no issue at all. You can have a copy of the search warrant. Application for the search warrant, no. Because that, that sets out the terms of the investigation, it goes into great lengths to, to, to explain that. So that's not, not, not possible. Any written evidence file in support of the application.
	CoP	It's the same
	Supt Richardson	Well that is the...it's the...it's the same document. Any notes taken by the RGP of the hearing; I don't think we made any notes, the information was laid by, by Detective Sergeant Clark. I sat there only because of the sensitivity in the matter and there was an Inspector who authorised it. But I don't think we made any notes at all. Any order or ruling by the Magistrates; the mag...the order by the Magistrate is the, is the warrant.
	Mr Rocca	(inaudible) is the warrant, that would have....
	Supt Richardson	Any instructions or briefing notes issued by the RGP to the officers attending Mr Levy's home office; there aren't, that's an operational matter. I can't disclose that. And the substance of the advise given to the RGP in relation to the merit seeking the warrant;
	Mr Rocca	There was none.
	Supt Richardson	There was none.
01:0000	Mr Llamas	(inaudible) let, let me finish reading the letter.
	CoP	The production orders are not....

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	Supt Richardson	Seen this, have you seen this (inaudible)
	CoP	Yeah, that I refused, he (inaudible) refuses to me. Its not that I refuse, that, that its inappropriate, its inappropriate. Eh?
	Mr Rocca	It is inappropriate.
	COP	Of course it is, I mean, this is…
	Mr Rocca	(inaudible)
	Mr Llamas	And the last thing you've done it already, that's this list.
	CoP	Would…,.
	Supt Richardson	(inaudible)
	COP	…would…would he be entitled to more pre-disclosure material?
	Supt Richardson	Well we, we…
	Mr Llamas	No because (inaudible)
	Supt Richardson	Yes at the station prior to interview.
	Mr Llamas	Prior disclosure of the matters proposed to the chambers.
	Supt Richardson	Where set out there, yeah. Yes, exactly
	Mr Rocca	Doesn't do crime at all. But I would normally sit down with the counsel and give them a pre-briefing of the
	Supt Richardson	Again, none of this was done for the other defendants. It was done only for him to give him advance notice.
	Mr Llamas	So, I don't think its problematic this letter, quite frankly, at least to reply to. The only one, is this one, when they ask effectively for the return of the phone.
	Supt Richardson	I don't think we can; and I tell you… I…I…I set out the reasons for that; we applied to the Magistrates Court and laid information on oath that we suspected that he was involved in a criminal offence and we…we set out the terms of our, one and a three quarter hours, the Magistrate made, made, agreed with that assessment as well as the clerk and issued an order which we were acting on. The fact that we chose not to exercise that power was because we were required by law to seek the consent of the person that, that is there, before exercising the power. And that was sought. And it was debated over a period of hours, including several consultations, as I would have described, leading silk in the UK. And at the end of all that negotiation, he voluntarily handed over that device. So, now we have it, it's sat in a sealed bag, but we haven't done anything with it. To hand it over now,
	Mr Rocca	I think there is a simple way to defuse that paragraph, that is the concerning paragraph, you've certainly picked up. I would reply saying, given the allegations you are making, we'll sit the seven

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		day, its in a sealed bag, it will not be touched, if you think you have grounds for making legal application to any court of law, for review, for an appeal…
	COP	Which I was…even, even before this has been discussed, I would say look; we, we…when the warrant was being considered, I asked them, because I…I'm not in to the in-depth detail, but what if, emm…emm… I went through a couple of scenarios; what if Jaime got up and left? what are you going to do? And he takes his phone with him. All that, and, and, and he says, no, He won't do that to me, he won't do that to me. And well what if they challenge, can they… is there any power that they can stop the warrant from happening? No there isn't, they cannot stop the warrant…
	Supt Richardson	Judicial review.
	CoP	They, they had to…but and, but the point of judicial review, they have to stop, we, we would have to, would we have to grind everything to a halt, meaning no interrogation of devices, the, the, the thing stops. Emm..and they tell me, no, no you carry on, the, the investigation carries on. The fact that the, the judicial review may come and then come back to haunt you, look. But you…
	Mr Llamas	Okay.
	COP	…you've still got the empowerment…
01:0331	Mr Llamas	Let me ask you one question in relation to that; from Jaime Levy's point of view, what is the best outcome of doing the interview on Monday?
	CoP	Going to leave this for you Paul.
	Supt Richardson	From his point of view, from his perspective? He…he would have to give an explanation which accounts for what he has done, which holds some degree of water. In other words, I have been misled, emm… I was told this, he has already said this unofficially through other sources.
	Mr Rocca	I didn't know what I was doing, I didn't manage the platform.
	Supt Richardson	I have been…I have been misled, I have been….
	Mr Rocca	I saw this opportunity…
	Supt Richardson	I have lost half a million pounds with this, I've invested with them. They told me that they were going to bring me carnival cruises, the told me that they were going to bring in business from San Tome, they told me they were going to bring in business; none of them have materialised. I've lost all this money, they have deceived me.
	Mr Rocca	I didn't know they where[redacted]…

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	Mr Llamas	And…
	Mr Rocca	I didn't know Sanchez was….
	Mr Llamas	…are you interviewing him, Paul?
	Supt Richardson	No.
	Mr Llamas	No, then, the…and what's the best result then? That the, the, the Police Officer who interviews him comes back to you and says…
	Supt Richardson	I will listen to the interview, I can, I can, I can participate…well not participate, I can monitor it remotely. But it's not appropriate for me to conduct an interview at this, at this level.
	Mr Llamas	So the out come then is, so he…he can convince you on Monday, that he's got nothing to do here. Or it's what he has to do is minimal and what then, would you exclude him from the investigation straight away and give him back his phone?
	Supt Richardson	I don't think that would be the prudent thing to do. We would have to make sure that what he is saying is, is… hold some degree of…and I'm saying this with…reservedly; because to discount him completely, would impact on everything else. If it was found that what he was saying was untrue, because the other side might decide to call him and say well, this isn't true what you are saying, you acted emm…emm… biased towards him for whatever reason. So we'd have to have an account that holds…holds some degree of water.
	Mr Rocca	I think what Michael is asking is, if he, if he, if he satisfies you in the interview, would you give the phone back or would you still need to do the sift of the phone? That's the question, I think. No?
	Supt Richardson	I think that would be, dangerous.
	Mr Rocca	So you are saying, you still would have to sift through the phones.
01:06:01	Supt Richardson	Yeah.
	Mr Llamas	Unless they challenge you and I suppose
	Supt Richardson	And I'm compelled to return them.,
	Mr Rocca	Once you verify what he was saying.
	Supt Richardson	Yeah.
	Mr Rocca	Or denying.
	Supt Richardson	Because to do…
	Mr Rocca	Yeah. I might…I might…
	Mr Llamas	Challenge you in…
	Supt Richardson	(inaudible)

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	CoP	And look, there could be some scope in between. He knows what we, we require, if at the point of interview he presents that to support his story;
	Mr Llamas	What extract, extract….
	CoP	Whatever. Whatever…
	Mr Llamas	(inaudible)
	CoP	Whatever.
	Mr Llamas	The thing is he hasn't got them.
	CoP	He has.
	Supt Richardson	He does, he made a copy of his phone before he gave it to us.
	CoP	If he brings in everything which we are asking of him and he presents it, then that pauses, that puts us in a more difficult position, to say maybe if…
	Mr Llamas	(inaudible) it's a different phone.
	Supt Richardson	He, he says he has taken the SIM card from one phone to…
	Cop	From one phone, the, the, the other phone hasn't appeared.
	Mr Rocca	Well exactly. So what…
	Cop	That's the one that hasn't appeared.
	Mr Rocca	What are we expecting to find anyway in…
	COP	It's flown
	Mr Rocca	…his phone. (inaudible)
	Supt R ichardson	No, not necessarily, if its saved on the device, it was also backed up when you, he had it set to back up to the cloud so. Yeah. So there is that. You know there might be all sorts of conversations post the arrest to these people. Remember, when Perez was arrested, the first person his calls is Jaime Levy and the officers who where there called me and I spoke to you on the same day with, we are in a position now where one of our suspects is dealing directly with another suspect. I can't let him speak to him. So I spoke to…to…to Chris and I said look Jaime Levy is trying to speak or… Perez is trying to speak to Levy. We haven't got to the stage where we need to speak to Levy, yet. This is a conflict of interest and you advised that it was up to him to resolve this. As it happened, Jaime didn't turn up at the station, it was David Dumas. And when David Dumas turned up, I don't think he was very well briefed, because he was very happily discussing matters with me, we were preparing, he was preparing statements. We were all, and then he said, this is a conflict of interest for me and then they stopped representing Perez as well.

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	Mr Rocca	Because he is a partner in the firm that has an interest in 36 North, no I suppose?
	Supt Richardson	Yeah. He is a partner of the firm, that's...benefits financially from...
	Mr Rocca	And then...
	Supt Richardson	...from the fraud that we are investigating.
01:0811	CoP	And the, and the question here is, he is also and we get it all the time, the, the, the conspiracy to defraud, is a, is a none starter on the basis that its, there's no criminal liability, it's civil, commercial deviance, if you want to put it that way. Emm... I don't know again, I only learnt this today and I think it was you that emm...that, that emm...briefed me this morning. That the law has changed, where commercial deviance is now regarded as criminal deviance.
	Mr Rocca	Can, can be and we've had this debate repeatedly with Wyan?
	Supt Richardson	Yes.
	CoP	I've picked up many people in this, with...with an interest in this are aware.
	Mr Llamas	When you say he extracts the information requested; what is the information requested?
	COP	What it says there.
	Supt Richardson	Sorry, what are you saying?
	COP	Those points, right?
	Mr Llamas	When we were speculating the best case scenario that Jaime Levy....
	Supt Richardson	Oh that you, you said that. That he turns up
	CoP	With all the material..
	Supt Richardson	..he has...he has his phone, he has a copy of his phone, on another phone. He just backed it up on this phone. He...and a nightmare scenario for me is that he has deleted all the stuff on this, because if we look at that phone and find out there has been a load of deletions, after we are executing a warrant, where does that leave me?
	CoP	No
	Supt Richardson	In terms...
	Cop	Well , in...it doesn't, it leave him in a very bad place.
	Mr Llamas	Bueno I think, (inaudible)

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	Supt Richardson	Even if I can't, there record there that shows twenty things that have been deleted…
	Cop	Deleted…
	Supt Richardson	…after we went to serve a warrant…
	COP	That raises suspicion (inaudible)
	Supt Richardson	Interfering with a court order.
	CoP	And that leaves us, even that would probably get challenged, because that was other things (inaudible)
	Supt Richardson	Anyway, the ideal situation…
	CoP	But raises suspicion.
	Supt Richardson	..as he has his own device and he has access to Hassans' servers, and Hassans 250 staff. If he comes up with an explanation that is supportive with the documents we'd be able to go away and look at that and see if that excludes him from our inquiry. Or puts him at a level, where its not quite at the level of the other people. But he needs to stand up and say, I've been deceived in this, this is a….this isn't what I was told.
	Cop	Or I wasn't…I wasn't aware of what was happening around him. He…he was just a….
	Supt Richardson	I used my influence with the Chief Minister because we are, he's a friend and I just dump into him and they were asking…people ask me to do this all the time and I didn't…
	DPP	There is nothing wrong with meeting with the Chief Minister
	Supt Richardson	Yeah
	Mr Rocca	(inadible) Michael can you meet with Lloyd, theres…there's nothing wrong with that, that's not corruption. Emm…
	COP	No, we are not saying there is.
	Supt Richardson	No, no.
	DPP	I bet you are not.
	Supt Richardson	Then if he becomes a witness, he gives a statement, probably not, would he go to court voluntarily and give evidence. That's another matter altogether.
	COP	Whether it gets to court or whether it doesn't but the point is that we've got to go through the…
	Mr Rocca	Channels.
	CoP	Precisely.

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	Mr Llamas	So your position remains the same, is that, you are going to interview him on Monday.
01:1059	Supt Richardson	Assuming he voluntarily attends and if he doesn't that would put us in an impossible position.
	Mr Rocca	Because then you have to arrest him.
	Supt Richardson	We have to arrest him. I'm hoping that we don't get to that. This is why he has been given a week to get ready, to prepare his position.
	Mr Llamas	Okay, then in the meantime, what are you doing with the phone?
	Supt Richardson	Nothing.
	Mr Llamas	At the moment its in a blue bag.
	Sup	No, no this blue bag is advice that he got from the silk in the UK that describes correct procedures; we don't have blue bags, white bags, green bags.
	Mr Llamas	Okay. It is sealed in a bag.
	DPP	(inaudible) blue bag yeah.
	Mr Llamas	So at the moment its sealed in a, in a bag and its going to remain sealed....
	Supt Richardson	Yeah
	Mr Llamas	Until when?
	Supt Richardson	Until...
	Mr Llamas	Until after the interview?
	Supt Richardson	Until we are in a position to get somebody to be able to examine the content of it.
	Mr Llamas	But would you wait until the interview first?
	Supt Richardson	We would do the interview first because that might take, it might take a very long time. As I, as I explained to him yesterday. The suggestion that it would be sent to the UK or anywhere else to be done is absurd, what I explained to him was that the, the only police involvement is to extract a....a...an image of the device, they connect it to computer, it runs overnight. Because he wanted someone to sit there whilst this was being done. I said look I've got no objections but this might take, you might be there for whole night, in the morning when you turn on the device, its corrupted and you start all over again. And its not that the guy that's doing the, the extraction, not extraction, the imaging, isn't doing something else. He connects it and starts working on another job. Six hours later or...or two days later he opens the extraction and if the, if the file works that's it, that's all that we would do.

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		That is then given to a lawyer to, to examine, using certain search terms that we would give them and the defence can provide emm...can have imput to. Exactly the same like what happened with, I keep saying New Flame, what was the name, the Grace I, the Grace I. We produced search terms, they produce search terms, you end up with ten million references and its got to be sifted. That's why we can't delay the interview until this has been...
01:1303	DPP	The, the, idea of responding, we'll give you seven days we know....
	Supt Richardson	Yeah
I	DPP	It's not gonna happen
	Supt Richardson	Yeah
	DPP	Within the next week or two, we'll keep it sealed in a bag, if you think its unlawful, look at the end of the day, the bottom line is, it was seized on the back of a legally obtained warrant, or consensually. Which ever way you look at it, if you want to challenge that, you challenge it. That's it, that has to be the response.
	Mr Llamas	Well I think, the, the first reply to that paragraph has to be that you have not copied or, or downloaded the material. Which are....
	Supt Richardson	That's correct, it just sits, it still sits in....
	COP	I still feel that we are gonna be dealing on a constant basis with the QC that we need that phone. (inaudible) the quality here needs to be at least Crown Counsel level.
	Supt Richardson	(inaudible) have to do it.
	DPP	I don't mind, except I would potentially be (inaudible)
	CoP	Well, another counsel. Another Crown Counselwho is available who can ....we are then getting in to, although for now, all this can get embroiled. For now he is wrong.
	DPP	(inaudible) drafted. You are copied in. What if I draft it and copied in or not?
	Mr Llamas	But why should I be...
	DPP	Because in the meantime the statement to the Attorney General I request the immediate return (inaudible) You are copied in, in that one. I think if Paul replies saying that he can't.
	Mr Llamas	That's not, that's their decision, I am not going to get involved in that decision.

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		I think you've got to the diplomatic answer to that, if it gets us anywhere, is to confirm that you have not copied any material, or downloaded, the...the...you can rest assure that nothing is going to be done to this phone until after your interview on Monday.
	CoP	Ahha... Paul? Yes. No, no, what I mean to say is that, that's the drill
	Supt Richardson	Yeah.
	Mr Llamas	And that is it misleading to say then that we will review our position after the interview on Monday, because if you say that, that can be interpreted as meaning that you can hand back the phone after the interview on Monday. If that's a none starter then we, you shouldn't say it.
01:1526	Supt Richardson	I think it's unlikely that we'll be able to say here it is, because what will, what will, the situation you are describing is, we are asking you to give your account and we are not going to check what you are saying is, is, is true. We've gone to court and filed a an application, we've been granted that, we've chosen not to do it because you've corroborated and now we are not going to check what it is that you are saying. It just supports the argument well come and see me and I'll just give you want you want in the first place and tell you the truth. I'm an officer of the court I wouldn't lie to you. It doesn't mean to say that we couldn't delay the examination of that phone for enough time, until everything else is resolved.
	DPP	I don't think you need to disclose that to the court if don't want to, don't you say its unlawful, go to a court of law. Then you remedy, you remedy exists.
	DPP	There are seven days where we can guarantee we are not going to look into it, no matter what I do afterwards....
	DPP	Seven days, well we are going to the interview into any event, pero (inaudible) if you think its unlawful....
	Cop	And who would...who would represent the RGP in this legal argument.
	DPP	That would be, I suppose me. It becomes a rightful lawful challenge of the warrant, in relation to the investigation.
	COP	On the, on whether we have to return the phone or not.
	DPP	Don't see how it couldn't in that regard no.
	CoP	Because all these, I'm towing with whether to, to start engaging, Silk myself,because I see it in this way, if they are going to mess me up I need to be safeguarded.
		(inaudible)

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	CoP	I know that it's not mentioned there, but, but, …
	DPP	I think that's just a
	COP	This, there's a wake here which we don't know for how many miles its going.
	DPP	Yes but, I wouldn't yet. (inaudible)
	COP	I need to start considering
	DPP	But I think Michael needs to reply, I think you need to at the end of the day. If you are alleging misfeasance, I want to know and the, the the investigation if you had (inaudible)
	Mr Llamas	I'll, I'll deal with the malfeasance, misfeasance one.
	DPP	And I, I don't see whey you can't keep a short reply. Its addressed to Paul. And perhaps the Commissioner should reply to him brought to my attention emm… the contents of which we note and the simple answers are in our view the production orders are (inaudible) its properly obtained information, orders granted, in the event its consensual. Search warrant here it is, we go through 2,3,4,5,6,7. We confirm that what we won't be doing anything with it for seven days. Giving you the opportunity, reasonable opportunity to make any application that you deem fit, like an injunction or, or an appeal or whatever. Then take your own remedies. What do you think Michael? We look forward to hearing from you further on your interview on… and that is it.
	Supt Richardson	Confirm your attendance
	DPP	Yeah, look forward to interviewing your client on the 18th. He has advance notice in that document and as per normal practice, in case you are not aware there will be a pre…pre interview briefing held at your offices which you will be fully apprised of that information.
	CoP	And should I ask him to bring along anything that supports his account.
	DPP	Yeah. And if there is anything that you wish to bring to our attention at the interview, please feel free to do so. That's it I think no, Michael? And we keep it very reasonable and…and… practical.
	Supt Richardson	Its diff…pero I am…
	DPP	We can't hand the phone back.
	Supt Richardson	It is difficult for me to write in those terms to him this way, when he is writing to the Clerk of the Magistrates Court, saying that I have…
	DPP	That's why we are saying that it should come from Ian. Not you.

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	CoP	Well, there are it's that the mal...the malfeasance is...the malfeasances is aimed at Paul.
	Supt Richardson	There is nothing that I can...that I can do without his consent.
	CoP	Exactly.
	DPP	That's the letter to the Magistrate.
	Supt Richardson	Yeah.
	Senior Crown Counsel	The benefit of that response to the letter is that you are not playing their game, you are sort of responding...you are talking across him basically. In that sense, if you see...
	DPP	The allegation of misfeasance raises huge questions, of law, misfeasance, extremely wide, it's a very...
	DPP	It's a very...
	DPP	They are not making a formal allegation against Paul or anybody in the police.
	DPP	They are putting a....
	DPP	They are putting a mark and gonna scare you.
	Senior Crown Counsel	Yeah. Exactly.
	DPP	That's the typical (inaudible)
	DPP	And not only... (inaudible) yeah.
	DPP	Well exactly. They have no formal allegation, in fact may there is
	Mr Rocca	I was...I was gonna say...
	DPP	May be, because there is no formal allegation of misfeasance.
	Mr Llamas	Wait, wait for it to happen if...
	DPP	Yeah.
	Mr Llamas	...if....
	DPP	If they want to make a formal complaint, maybe they will do. They may not even go down that road yet.
01:1915	Supt Richardson	I think that, if I was them that would be the worst possible thing that you could do.
	DPP	Hmm...hmm... Yeah.
	Supt Richardson	Because then you are really going to tie in everybody's hands in this matter and how they will be dealt with. Because if you hand this over and...and as a police officer with...and the Commissioner is the same thirty-five years experience, you give

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		this to another…another police force to investigate, any officer will pull him in on the grounds that we've got. You've laid information for court, a court has signed this, what are you doing? Why isn't that man in cells waiting…. That's how they will look at this. They don't care if you are a QC, or…
	DPP	Let me, let me get to that. I think its all bluff, I think its all bluff.
	Supt Richardson	Hmm…
	DPP	But I think you are right Michael, may be if we don't write asking them to confirm, to confirm the misfeasance, it's because they haven't addressed to you it anyway.
	Supt Richardson	Exactly.
	DPP	Directly. You are aware of it….
	Supt Richardson	Not but I've made you aware of it.
	DPP	Yeah but its not…its not yet a criminal investigation Paul (inaudible) but I think you need to reply to Maurice saying, for your information, just so that, that, that the Magistrate has all the information to hand. The Magistrate should be aware that the actual warrant was not exercised. The information was handed over voluntarily by Mr Levy. (inaudible) you can't stop him. You can't stop him.
	Supt Richardson	You can't stop, what the court?
	MDPP	The court. And I can't see Charlie giving it.
	CoP	No but we wouldn't go to Charlie, we would go and initially, issue the warrant we would go higher.
	Supt Richardson	No the main application is to the Magistrates' Court.
	DPP	You can ask Charlie to…
	COP	Yes, because he is the custodian of that information, but any application would be made to the higher court.
	DPP	Absolutely let them make it
	Supt Richardson	At the same time, emm.. and this is what I don't understand, they are asking the court for it, and then two hours later, they are asking me for it.
	DPP	Yeah, yeah.
	Mr Llamas	So, best case scenario for Monday, I will put two scenarios for Monday emm… well there are more, but , he comes, he cooperates, he brings material, and he sort of persuades you that he is not worth pursuing, but even if it got to that you would still not hand over the phone because you want to, you are gonna want to …

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	Supt Richardson	We need to see how the case is going to finish, it might compromise something else. But it doesn't mean to say that we would need to emm...start the ... Even if we started looking at the... put the motions in place, to examine that phone. It might take us weeks to get somebody that is gonna agree to do this. We've got to finish the image.
	Mr Llamas	And the worst case scenario he, he... it goes terribly, he leaves, all hell breaks loose.
	Supt Richardson	The worst case scenario sir, he doesn't come in and I have to go and arrest him. That is the worst case scenario.
	Mr Llamas	Yeah.
	DPP	(inaudible) that's the consequence.
	DPP	He'd be foolish to do that
	Supt Richardson	Yeah
	CoP	Because of the situation we would have been in, if we go in good faith, to an officer of the court, and he hadn't...and he wouldn't have agreed in giving us the....
	Mr Llamas	Wouldn't you have got a search warrant after that.
	COP	That's....
	Supt Richardson	If he's arrested, you don't need a search warrant, you...you have the powers (inaudible).
	Mr Llamas	What you, what you were saying here if you'd gone in good faith (inaudible)
	Cop	And he says no .
	Mr Llamas	Yeah, wouldn't you then get a search warrant...
	CoP	No, there I'll arrest him, I'll arrest you. We are trying to avoid the arrest with the process of the search warrant, but they are confusing that.
	Senior Crown Counsel	So you are saying that you could have done even worse, by going
	CoP	Of course. Of course.
	Supt Richardson	Yes, yes, yes , even worse, this is the least ...
	Senior Crown Counsel	You are not cooperating, I am arresting you for and now I'm not going to need a warrant at all or a production order
	DPP	What are the conditions when you can go without a warrant. (inaudible)
	Mr Llamas	Which are met here?

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	DPP	I don't know. (inaudible)
	Supt Richardson	For what?
	DPP	For exercising search powers without a warrant?
	Supt Richardson	Yes but, if we…if there is arrest,
	DPP	(inaudible)
	Supt Richardson	No, no, no, no Chris, if we are arresting, you have the power to enter the…the residence.
	DPP	Yeah but not to see his…not to see his documents.
	Supt Richardson	What for the legally privileged stuff? We wouldn't be able to examine it, we would have to bag it up and we would arrive at the same situation that we are in now. We would have to get a lawyer to sift through it.
	DPP	I'm not even sure you'd be entitled to enter and take stuff without a warrant. Just because you are arresting someone. There are certain conditions in, in the Police (inaudible) Act, for you to do that. Like you fear that your stuff is going to be destroyed, there's…there's an assailant in the premises, so you would have to tick those boxes first. I don't think its that simple eh? From recollection.
	Supt Richardson	I'm…I'm equally blurred at this, but we do, we do regularly use inspectors authorities, so if somebody has been arrested in….
	DPP	Maybe because you fear that they may destroy the property or the drugs or whatever.
	Supt Richardson	Its to…its to secure evidence, but I'm not going to argue because I'm not, I don't know that law very well, I'm not the inspector so I don't deal with these things on a day to day basis.
	DPP	No I know, because I looked at it before I came over. Emm… I think that the…that the un…unspoken, question is and I'll be speaking to you, do we need to be communicating to Louis quietly, that Jaime, although he is ticking the boxes, isn't (inaudible) and that….
	DPP	But you don't know that yet no?
	DPP	I've seen every…I've not seen everything, I've seen a fair amount of documentation that Paul has left with me and summaries, etc. there are questions, I would agree him, there are questions that need to be asked to Jaime that he needs to answer. And there may be failage to his answer, I was conned by Perez
	Supt Richardson	What we are…what we are hoping for.
	COP	We are keeping an open mind.

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	DPP	And they are keeping an open mind. But do we need to feed that back quietly to the
	COP	If you…
	Supt Richardson	I don't know.
	COP	The kiln is really hot, certainly not from us. The …the reactions we've had as a result of this, no way Jose.
	DPP	I mean are we crossing lines if we do so?
	Mr Llamas	I don't know.
	DPP	It would probably be us, I would have to say.
	DPP	Yes no, yeah, I just wanted to ask the question.
	Senior Crown Counsel	I have a gut feeling, that might be appropriate but not
	DPP	Yeah.
	DPP	Just now.
	DPP	Yet.
	Senior Crown Counsel	I wouldn't have thought.
	DPP	Yeah. I don't know.
	Mr Llamas	And with what conviction can we say that?
	DPP	I suppose with the conviction and with the reality is, if we get Jaime Levy in, charged with a conspiracy and we get 20 QCs, Jaime will unleash hell and everything that comes with it. I think the Marrache's will be the biggest barrage of QC;s I'll ever seen to defend him. Emm… are we gonna get any convictions at all? Is it in the public interest? And do we keep it confined when its touch and go anyway. Which at the moment it is, I think. The debate that you and I have Michael, my feeling was evidentially there is a case, would we get passed the jury, emm… I don't know. But its what Jaime says, or no?
	Supt Richardson	Which again is the worst case scenario.
	DPP	Do we, are we gonna give him that feedback, you know. We need to tick these boxes. And if there is a What'sUpp that says 'guilty', 'I did it', I'm conspiring, then yeah, yeah.
	Senior Crown Counsel	And that's the danger that we are getting in now because if you find it (inaudible) a smoking gun, then you'll have said something which in effect, well hang on a second there is nothing here.
	DPP	Ther';ll be nothing on his device. I think. Paul has to do this because Paul has to justify later on, in trial,

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	Supt Richardson	Yeah
	DPP	That he has explored all the lines of inquiry.
	COP	In all....
	DPP	(inaudible) yeah I understand that you have to do this.
	CoP	Exactly.
	DPP	I disagree the, the timing, I think for me was difficult, but look it was an operational matter for...for...for Paul and for Ian and we can't interfere with that.
	Supt Richardson	For me the easy way to explain this is this; if you were lawyer acting in the best interest of your client, would you go the way that's likely to cause less emm... offence or would you...
	DPP	Depends who it is.
	Supt Richardson	...would you secure his, his rights. And I'm...we think that we are acting, in the interest of securing the evidence.
	DPP	And that is your call, you know the case better than we do.
	Supt Richardson	Yeah.
	DPP	At the end of the day. Emm... you've got your finger on the pulse, we don't, emm... look that some of us would have done differently, but that's life.
	Supt Richardson	Yeah.
	DPP	You ask ten people the same question and they'll answer you slightly differently perhaps.
01:2746	Senior Crown Counsel	And which is why a JR, even if mounted would probably wouldn't succeed because it wouldn't be that (inaudible) operational, with a reasonable.
	DPP	I haven't seen the application, but I...all I'm saying...
	Supt Richardson	It is very...
	DPP	(inaudible) disclosed everything, every JR, look, you are challenging Paul, they are actually challenging the judge
	Supt Richardson	Yes
	Senior Crown Counsel	Right. Absolutely, yeah, yeah, yeah.
	Supt Richardson	This wasn't, like I said before, this wasn't go before Mr Capurro or Mr Gareze...
	DPP	Yeah fine.

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	Supt Richardson	...two minutes, thank you very much, sign here. This was an hour and three quarters, laying, laying the information.
	CoP	After he had had it for days.
	Supt Richardson	And he had it the day before or two days before.
	Senior Crown Counsel	If I may emm...
	CoP	If the judge didn't feel that we had....
	Senior Crown Counsel	Yeah.
	CoP	...grounds, he would not have signed it.
	DPP	Yeah, yeah, because he would....(inaudible) section 13 of the Production Order, would they, would a judge ever say that to you? You've got the wrong... say, hang on Mr Richardson, this is a...
	CoP	This is the wrong route.
	DPP	This is the wrong route, this is a section 12 application, isn't this surely a section 13, because it's a production order.
	Supt Richardson	He, he, he...no he...
	DPP	Would he ever do that to you
	Supt Richardson	Yeah. He asked about how we would deal with the legally privileged material.
	DPP	Hmmm..
	Supt Richardson	And asked, he asked for clarification did we think if it would be compromised if we just asked for the information which we handed over. And for the...the reasons for that are clearly yes. And...and they were borne out yesterday. You know, this wasn't, I'm an officer of the court, here is, our understanding and the argument and therefore...
	DPP	(inaudible) that he has known this for months.
	Supt Richardson	Yes.
	DPP	Then if I was, I would say, okay, if you...we're not going to compromise the information, but if this had been knowledge, knowledge from Jaime Levy for months, I would have gone. The ex party requirement, its almost, it goes out the window.
	Supt Richardson	I can't, I can't agree with you, with that Chris.,. he knows...
	DPP	He knows exactly what's been going on for months...
	Supt Richardson	Yes.
	DPP	He knows Cornelio has been interviewed, he knows...

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	Supt Richardson	He knows, I mean he is a partner in the same firm.
	DPP	Exactly, exactly.
	Supt Richardson	But, he we are today, discussing the fact that we had the, the gaul to do the warrant.
	DPP	No, no.
	Supt Richardson	So there made no expectation, clearly there was no expectation ever that it would get to give me your phone and will check those devices.
	COP	That's the...and he's picked up on a point, I don't think anybody expected that this, that it was gonna get to this stage.
	DPP	Or to a warrant.
	COP	No. to, to...
	Mr Llamas	The reaction.
	Cop	No the reaction no, to the findings of where, of where we got to.
	DPP	You mean...
	Cop	Nobody knows (inaudible)
	DPP	Incentivised (inaudible)
	CoP	I don't know, but I'm talking, when I say we, I'm talking about...I don't know the details, I'm probably at the same level as you are.
	DPP	Yeah.
	CoP	But when you look at it, because I...I trust him, when you see what there is , I only referred a couple of messages just to Darren Grech the other day when I met with him and I and Lloyd was there. And Darrien Grech, the man put his hands to his head.
	SCC	I left before you even did that.
	COP	Ah bueno, pero that was the day I referred to.
	Mr Llamas	Again, this....
	COP	And Caine, Caine, what I was saying, if we've taken a hospital worker to court, and its appeared in the newspapers.... Of three hundred pounds worth of, of ....
	Mr Llamas	So, and...and stop me if I'm asking questions I shouldn't be asking and I'd rather not know the answer if I'm asking them.
	COP	The thing is (inaudible) you don't know the substance, neither does, many other people don't know.
	Mr Llamas	Yeah.

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	Cop	For my own peace of mind, I am calm, because my conscious is very clear, in that regard, they've done a very diligent emm...emm...investigation. Competent to the limits. No, I can't, I can only knock them for, for being taken for a ride and we are still are, because they have eighty million, eighty million emails which they no ,onger are going to give, but that will show that they are not as voluntary and compliant as a court officer is.
	Supt Richardson	They should be.
	COP	Eh?
	Supt Richardson	They should be.
	COP	They should be.
	Mr Llamas	So you've got...you've got evidence that
	Supt Richardson	Its started to rain.
	CoP	No, no esta lloviendo.
	Supt Richardson	No?
	Mr Llamas	You've got evidence that makes you feel confident.
	COP	Yes. We are...we are not saying that anybody is guilty.
	DPP	Bueno Cornelio is
	COP	We are not saying, well
	DPP	Cornelio definitely is.
	COP	Fine.
	Supt Richardson	And Fischel is.
	DPP	And Fischel is as well, yeah.
	COP	I'm giving him the benefit of the doubt
	DPP	What's Fischel?
	Supt Richardson	He's saying that he's laid about eight, ten charges against Gaggero, saying
	DPP	Oh, Robert Fischel.,
	Supt Richardson	Saying wasting police employment, improperly use of information, hacking into the system. Yeah.
	COP	But even, even if, John Perezwas a life long neighbour of mine at Humphries , I...I...I feel for the lad,but look , this is beyondall , It's not feeling pitty or anything, it is what it is. What the guys are up to,look, I am...I give them the benefitthat they are not guilty, but we have a role to do and this is what I'm trying to stress, we do what we do. And then prosecutors take on the case and

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		judges hear the case and the jury then decides whether they are guilty or not. Emm... as simple as that. And no, no hard feelings. No hard feelings against anybody. Pero lo que no puedo es emm... be...I cannot be, sinisterly speaking, like the scape goat here. That this is a flawed investigation, that its, that we don't know how to investigate white collar crime. Because if that's the case, lets hand it over to somebody else. I'm willing to do that, now.
	Mr Llamas	Shall we wrap up. So, and as far as I understand what we've discussed, is that, Paul is going to reply to the...
	COP	No, I will, I will.
	Mr Llamas	So you Ian, is going to reply to emm... this letter. Emm...
	COP	To?
	Supt Richardson	Louis no?
	Mr Llamas	In relation to the first paragraph after the seventh point, saying that no material has been improperly downloaded (inaudible)until after the interview on Monday.
	Supt Richardson	Can you please go a bit slower, cause I want to make sure that I have an...an accurate record of what we've agreed. No material has been downloaded.
	Mr Llamas	Has been.... (inaudible)
	COP	No, the device hasn't been examined or....
	Mr Llamas	(inaudible)
	Cop	Or remains sealed.
	Mr Llamas	Yeah, no material has been copied or downloaded.
	COP	Ahha...
	DPP	And remains in a sealed bag no.
	COP	Yeah.
	Mr Llamas	Remains in a sealed bag and will remain in a sealed bag at least until the interview of Mr Levy on Monday.
	DPP	I'd rather you'd give them more time Michael, to make the application. I was going to say and we won't do so for seven days, fourteen days.
	DPP	To give them a more reasonable
	DPP	At least to come across as extremely reasonable. As long as we are concerned its lawful (inaudible) and make the application.
	Supt Richardson	Yeah.

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	DPP	We give them fourteen days.
	Supt Richardson	But we need to take notice that that fourteen days takes us up till June. And the bail date for the other people is coming up and we need to make a decision by then. So this has to be resolved.
	DPP	But they are not gonna get examined before they come back
	Supt Richardson	No, but that, I can justify the delay. Saying, haven't even started work on it, two weeks after I took it...
	DPP	Well give them seven days, seven days for the application will give them time no?
	DPP	Seven days
	Supt Richardson	Yeah.
	Mr Llamas	So, in the seven days they need to decide whether they, they can challenge.
	DPP	If they want to...if they want to make an application that is unlawful to, to the court, I'll give them seven days.
01:3530	COP	Now this is a question I need to know, and maybe its pre-emptive and there's no sign of weakness on my...I'm just trying for my own peace of mind. They, they do file an application.
	DPP	Yeah.
	COP	And the judge says return it. That leaves us exposed, that leaves us, does it
	DPP	No
	COP	Or is it a...a question of, their challenge is...
	Mr Llamas	No I think the challenge...the worst thing that is going to happen is...
	CoP	(inaudible)
	Mr Llamas	....that the judge will tell you hold on, we should have, we should have emm...identified, or you should have asked....
	DPP	A production order, section 14 or you should have this....
	COP	Which you can't because it doesn't apply for What'sUpp messages. It doesn't.
	Mr Llamas	No it doesn't
	Supt Richardson	A production order is for a business, for records, accrued during business conduct, not personal messages.
	DPP	Section 13 actually refers to where there is, when you know there is going to be privileged and special interest material.

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	Mr Llamas	I thought it applied to everything. (inaudible)
	Supt Richardson	But the warrant also… no there is…
	DPP	I don't think it stops you from section 12.
	Supt Richardson	But it's the schedule 1. It's the schedule 1 warrant that…which is specifically for privilege material.
	DPP	True, yeah.
	Supt Richardson	Specific material caters for that.
	CoP	the difference between a production order and a search warrant is under the….
	DPP	(inaudible) interparty …
	COP	Well assuming that there is an interparty within the search that the…that the…the party 'x' amount of time will provide you with the data. And the search warrant is on demand. You've got to give it to me now. That's the only difference.
	DPP	And this is personal this time as opposed to a firm.
	Supt Richardson	Yes. This isn't Hassans.
	DPP	Yeah, no, no. Give me, give me (inaudible) Michael Llamas and Christian Rocca.
	Mr Llamas	I don't buy the distinction. I think its un…un…unreasonable and unrealistic to draw a distinction between Jaime Levy and Hassans.
	DPP	Yeah, that was an agreement as well.
	Mr Llamas	Anyway, so, Ian is replying, he's got answers to the seven points, we went over them so expected a yes for the search warrant, no for 2, no for 3, no for 4, 5 is the warrant itself, 6 there were none and 7 there were none.
	Supt Richardson	Yeah.
	Mr Llamas	And then the first paragraph is that, seven days…
	Supt Richardson	Yes ,
	Mr Llamas	And then confirmation that you have not downloaded or copied…
	COP	I would also refer to the fact that its…it's not that I am refusing to it, to the meeting, that I think it's inappropriate .
	DPP	Inappropriate.
	DPP	And also sir, that you are comfortable, that you have acted in accordance with the law and…
	CoP	Yeah.

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	DPP	But it does suggest highly (inaudible)
	COP	Yeah
	Supt Richardson	Should you be saying that we have met here and you are confident that nothing has been done.
	DPP	I think it just reserves...look at the end of the day (inaudible) if that's what they want to do, I think. Surely your fall back position is that I've got an order.
	Cop	That's emm... I alluded to that if...
	DPP	No, no.
	COP	But, I....
	Mr Llamas	Yes and especially lets not go over this again, I... Christian and I feel that it could have been done differently, but let's forget that now. We are where we are now, so yes, there is an agreement of what you are doing makes sense, that we would have done it differently, is a...is a....is another issue. So I would just confine it as Christian is saying, just to the reply, and on the last point what, is just to say that it's the 11th point raised here.
	COP	Paul?
	Supt Richardson	Yes. That...that...that emm... we've...we've all...
	Mr Llamas	Is anyone asking for this, because they've seen this
	Supt Richardson	Can I see it, I haven't, yeah, this is what I was asking for. Sorry. In the meantime, where is this?
	Mr Llamas	The last, the very last paragraph.
	Supt Richardson	Separately in relation to Mr Levy's proposed voluntary interview on the 18th of May, I request prior disclosure of the matters proposed to be (inaudible) I would send him a copy of all of what was given that is precisely what the document was
	Mr Llamas	Hmm...
	Supt Richardson	It was titled, invitation to Police...
	DPP	Yeah.
	Supt Richardson	...interview, setting out the terms and what was going to be discussed.
01:3933	DPP	And you'd been given the opportunity as normal practice.
	Supt Richardson	Yeah.
	DPP	Pre interview briefing.

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	COP	And at that point, look if you…and we can bring any material that supports a…. any…any of his responses, well that will be helpful wouldn't it?
	DPP	(inaudible)
	Mr Llamas	I don't intend to
	DPP	You don't intend to reply. Because he is asking.
	Mr llamas	No unless I have to.
	DPP	He seems to be asking you ….give me the opportunity,
	Mr llamas	Yeah is it, is it, okay for me to meet him? He's asking for a meeting.
	DPP	With you and the RGP.
	CoP	No.
	Mr Llamas	But the RGP does not want to meet
	Senior Crown Counsel	May be you can say... (inaudible) because it seems like a way of saying, its (inaudible)
	Mr Llamas	Yeah.
	Senior Crown Counsel	Its you. (inaudible)
	Mr Llamas	I…if that is the case, its pointless, because I can't (inaudible)
	DPP	(inaudible)
	Mr Llamas	It's just stop them from doing you can agree or disagree with what they've done.
	DPP	Yeah.
	Mr Llamas	Emm…. But it's there at this stage, the way I see this is at three stages here, the first stage which is where we are, its you.
	Supt Richardson	That's fine.
	Mr Llamas	And you can do whatever you think is appropriate in the circumstances. Other people can agree or disagree with what you've done.
	Supt Richardson	Legitimate and proportionate is what we are looking at.
	Mr Llamas	When you do this phase and setting aside the discussions we've been having in meetings with the rationalising and all. But in the normal case then , you do your…your stuff and then you come to the conclusion, there's the case here to …
	CoP	We present.

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	Mr Llamas	You go to Christian. Vale, then Christian, has a look at your case, He will discuss it with you Ian....,it looks as if there isn't , Ian I don't think there is I don't agree....
	COP	We are at that stage. We have been at that stage.
	Mr Llamas	Pero....emm...
	Cop	Short of the little....
	Mr Llamas	And then we prosecute.
	Cop	Or not.
	Mr Llamas	Or not. Y si... all we are saying...
	COP	Or not, precisely ...
	Supt Richardson	It doesn't have to end in prosecution. There are other means of dealing with it. Caution, there's all sorts of ways of dealing with...
	Mr Llamas	You are asking...you are asking the wrong person in a sense.
	DPP	(inaudible)
	Mr Llamas	(inaudible)
01:4200	Cop	I tell you, if its not in the public interest for this to go any further, I cannot make that call.
	DPP	It's not at that stage. That's the point that we are making.
	Cop	No, but well, but, but...but we...
	DPP	It's not Michael's call.
	COP	I know, I know.
	DPP	To interfere with you.
	Cop	I know. But we are talking, of, moving where we are from now. We...we, we interview Jaime, we then assess what he says, we tie up the loose ends, what Fischel said in...in...in his submission. Ernesto Gomez, this and that, we have, what Darrien Grech submitted. Okay, this is what we propose.
	Mr Llamas	But, setting aside what...what happened in the last 24 hours. I would still like us to meet with the rationalisation
	Cop	That's, that....that's what I'm referring to.
	Mr Llamas	I think it would...it still remains important...
	COP	I ...that's...I agree.
	Mr Llamas	We do that exercise of rationalisation.
	Cop	I agree.

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	Mr Llamas	And we do also the exercise of assuming the platform is owned by the Government. Emm...which still remains, and then, then take a view.
	COP	I've got no, no problems with that.
	Supt Richardson	I think we, we...we
	COP	I've got no problems. Have you got any problems with that? And there
	DPP	Seventy-five charges no o algo.
	Cop	Which is ridiculous Emm...under normal circumstances, you...we would not, we would deal with them in any other way. Pero, we'll do that. Good, the...the evidence is perused, because perhaps with what Jaime says tomorrow it puts a spanner in the works, and the DPP says , looks this isn't so clear anymore. And you don't want to run with it. It that is the advice that you give to me, I would like that advice in writing, and therefore, that would be the end of the matter for me.
	DPP	Its raining
	Supt Richardson	No, its raining.
	COP	Do you get me? that would be the end of the matter for me, but what I cannot say is nothing is going to happen with this. I can't say that. That's the point that I've been saying all along.
	DPP	And Michael can't enter a nolle
	Mr Llamas	Hombre, its something that I'd rather not do, I've been approached several times since I was appointed Attorney General to enter a nolle and in both cases, some of them very sensitive, emm.. and have had no doubt, not to do the nolle because I think the threshold for a nolle is extremely, extremely high. If, if, there...I feel, that a prosecution, exposes the Chief Minister,I say it very clearly here , on grounds, which are flimsy, I'll stop it. I clearly tell you so. If you've got a smoking gun against the Chief Minister, I can't....
	Cop	Yo no,
	Mr Llamas	Can I assure you, you are not gonna have it.
	COP	No, no, nobut not...lets...for the record today, that's not the case.
	DPP	Let's look at the public interest ground.
	COP	Estamos. Am I...am I...
	Supt Richardson	That is the case then.
	Cop	That has to be categorical here now, that is not the case
	DPP	The public interest part is probably to justify

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	Mr Llamas	I...so at least on those grounds, its that I would write it up as cool and collected as you can think Emm... because it...it would be awful, awful to the...for me personally and awful for the jurisdiction. Emm... because we know what's gonna happen at this critical moment in our history. Other than that, look, I think we've got all our own views, on some of the characters here. Without saying anymore, without saying anymore.
	COP	Yes, but that's, that's... that has in a way, not helped this, the sharing of the views. Because being who we are what we should be doing is assessing the evidence in the oibjective way that it is meant and lets make a decision. But instead we are looking at it, turning it.....
	DPP	Ahi no estamos lan.
	COP	No, no...
	DPP	Ahi no estamos
	COP	I know, I know, but that's, because if you get the emotions into it, it's where this starts to wobble.
	DPP	You need to complete the investigation and then we need to sit down.
	COP	Si, si. Talk about the proposed charges.
	Mr Llamas	I...I think, for me its very clear, vale, they've done what they've done, we are where we are, there's an interview on Monday. You are going to give them confirmation that no-one is going to touch the phone for seven days, so, challenge me.
	Cop	Yeah.
	Mr llamas	That is what you are telling them, challenge me
	COP	Yeah.
	Mr Llamas	The interview is going to take place, we'll see.
	Supt Richardson	Yeah.
	Mr Llamas	And if you are wrong you are wrong. You'll have a come back, fine, it won't be the first or the last time.
	DPP	Yes
	Mr Llamas	And the phone, the phone Y el telefono, el telefono, I am telling you in writing that no-one is touching it.
	COP	No and that's...that's...but that would have to ....
	Mr Llamas	Write to him as soon as possible.

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	COP	Yes, when I get back I will do it.
	DPP	(inaudible)
	Mr Llamas	Exactly. I believe this is the big issue. So I believe you have to provide them that guarantee that no-one is touching it That there will be an interview and no-one is going to touch it for at least fro seven days so challenge me And that's it for now.
	Supt Richardson	I hope to God we haven't started, because yesterday, this time yesterday I was assuring him that I would process it by today, because he insisted in having the phone back again. The exact opposite.
	Cop	No, make sure.
	Supt Richardson	The exact opposite.
	COP	Call up and find out, well it's in your office isn't it?
	Supt Richardson	I'd…I'd be surprised if we were that efficient. But it was in my office locked up when we came out. So, unless someone has opened by office, I can't…
	Mr Llamas	Bueno I hope its not the case.
	Supt Richardson	I'm 99% certain its not, somebody would have…
	DPP	Well I think our strongest position is to say…
	Mr Llamas	Exactly.
	DPP	….we haven't opened it.
	Mr Llamas	Our strongest…
	DPP	Have it legally challenged
	Mr Llamas	Our strongest, totally, totally.
	Supt Richardson	Yesterday the pressure was the opposite.
	COP	We are lumbered with a
	Mr Llamas	(inaudible)
	DPP	Yes, no, put the…put the…put your money where you mouth is
	COp	I agree, I've said that.
	DPP	Yea, yeah, yeah
	COP	This is what I've been asking, we can't make a decision, let the court make the decision.
	DPP	Absolutely. Okay guys, (inaudible) Emm… so we don't have anything to do, as far as I'm
	Supt Richardson	I think we would want you to check….

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	Mr Llamas	To check, Christian will double check the
	DPP	(inaudible) have a look at it. In which case me voy a quedar con esto in response to that no.
	CoP	Si.
	DPP	Yeah.
	COP	(inaudible)
	Mr Llamas	Good to see you gents.
	COP	I'll do it when I get back.
	Supt Richardson	Okay sir, bye-bye.
	COP	Bye-bye.
	Mr Llamas	Bye-bye.
01:4828	Mr Llamas	Okay Ianwe now have a problem, the Chief Minister is adamant that you said yesterday, to both of us, you were acting on ad…on the search warrant, on advice of the DPP.
	CoP	On advice for the investigation all along.
	Mr Llamas	Well, he says, and you've confirmed now that such advice does not exist.
	COP	I ask my lot, this this is being cleared by the DPP. This…this is the way, he has read, the rationale as to why Jaime has to go through the interview process. The suspicions, what the level of suspicions are. That's he's be given all that, he's read it. They, it says, look this is what this man has done and he agrees that .....
	Mr llamas	Pero he says he never agreed.
	COP	Fine
	Mr Llamas	Yo no, yo no….
	COP	I've never been, I've never been privy to those conversations. But what I know is that he has been advising the team. And that is what I am referring to that, but I also said that I am not shrugging that responsibility, I am saying that we have been in consultation…
	Mr Llamas	No, no, (inaudible) what you told me and him yesterday, you told us yesterday, que the, the….
	Cop	No the….
	Mr Llamas	…the decision to do search warrant was on advice of the DPP.
	COP	I….prrfff, I can't remember the words Michael, what I remember saying is that and I've said it is this, I don't need to shrug

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		responsibilities, but this matter had been dealt with in consultation with the DPP. That is what I've said, and I'm referring to an investigation and a....a relationship that has been back and forth on a number of... of times. That is what I'm referring.
	Mr Llamas	But what you can't categorically say, I think, is that you, you or Paul or any other member of the team...
	COP	Hmm... it...it...it was with...
	Mr Llamas	...asked the DPP, do you agree that a search warrant is the appropriate way in doing this and then the DPP replied saying yes.
	Cop	Paul has told me that ... there was conversations about the search warrant. Emm... and...and...and before what's happened...
	Mr Llamas	But he insists....
	COP	That is okay. That....that...he may insist that he did not say so (inaudible) they held conversations, because this is what Paul tells me.
	Mr Llamas	Basically, because I want it defuse the situation.
	COP	Of course.
	Mr Llamas	And this is going to be a big sticking point with Fabian. And I will have to tell him em emm...
	COP	Michael I do not come here to create problems.
	Mr Llamas	But you have created them Ian.
	COP	But I can't understand how they can think that....that, this is, there is any malice, there's any....
	Mr Llamas	It's high ended, man . The belief here is, including me, including Christian, is you could...you could have tried this, emm... differently - I know that the history of the handling, but look, you could have done this emm.. six months ago, you could have done it in a much stricter....
	COP	Knowing the sensitivities of it....and the reason why Paul
	Mr Llamas	Yes but unfortunately, even then it has ended badly -
	Cop	No, it was never, it was never...look, it was never gonna end up well having to speak to this man and...and...and get what we wanted to get from them, never in a lifetime, En la vida, (inaudible) and it was going to be awkward. He has eluded Paul there, he's got up, he's left and the other ...
	Mr Llamas	It's the way he is...
	COP	That's okay but ... how can he claim that emm....

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	Mr Llamas	I believe, my gut feeling, Ian, is that, without a search warrant, I mean the voluntary thing that he has done, he would have done it anyway. But look, you can disagree with that, (inaudible) and this is what is creating all the buzz.
	COP	Well, he would not have given it.
	Mr Llamas	I don't know
	COP	Because if that's the case....
	Mr Llamas	He's got...
	COP	If that's the case...
	Mr Llamas	He's got too much
	COP	No, no, no. but wait ....if that's the case.
	Mr Llamas	You would have told him, look Jaime, we've come here in goodf terms.....
	COP	Si, I think that that's....
	Mr Llamas	...we've come in good terms because its you and because we know that your phone will have privileged information and all that stuff. And if you don't cooperate , I'm sorry, you are giving me no option but to.
	Cop	I think that that is more or less what happened. Yes but if, Jaime says, knowing with Javier and all, having spoken to Silk straight away, and he says emm... emm...look there is no need for the warrant, I will give to you.That there is no need for the warrant, break it up I will give it to you. Was that said? No. No. And we wouldn't it's that whoever wants to believe it, he could be told in some other way, there are ways and means....
	Mr Llamas	And look Ian, I do not want you to go in to details, because I do not want to know about what you know which I do not know you are quite sure that there is something?
	Cop	I sense that someone is covering up something. Whether....
	Mr Llamas	No, butno... I am not talking about covering up. It is about those what you have lined up.
	Cop	Sanchez must have, must ....lookits either that he has, its either that he has something or that they want to save his skin.
	Mr Llamas	And the rest? But you've...you've got to already have, to be saying all this.
	COP	Yes, yes, yes, yes.
	Mr Llamas	You must befairly certain...
	COP	Yes, yes

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	Mr Llamas	To take this somewhere.
	Cop	Yes, yes
	Mr Llamas	Whatever it is.
	COP	But what I mean to say is, is that his emails from the States on the server Microsoft which are taking their time to arrive emm… because he used to use his own iphone…
	Mr Llamas	Ahi puede…
	COP	There could be a bomb there…there could be something there. prrfff…. But look if its not obtainable, its not obtainable. We've been told that now things are picking up again and they will come, but look - We didn't ask for this emm.. Michael. We didn't ask for this. This has been landed on the RGP, the RGP has not been going hunting not Jaime Levy, not Caine Sanchez, not even Tommy Cornelio at all. We haven't asked for this job, this has landed on us. This has been landed on us. This is not a proactive investigation. This is a con…con…come on…. And it truly hurts me that a good relationship that should exist between us, you are put in an awkward position.
	Mr Llamas	Well Ian, I am not a person that holds grudges.
	Cop	Me even less
	Mr Llamas	Emm.. okay but, vale, pero… I cannot resist it and that is why I could see you for now. We've had to and look, I am glad…that we've met. But for me it was clear what we agreed in this meeting yesterday. You don't know what went through my body when I saw your whatsapp yesterday. Forget Attorney General, Commissioner of Police. At a personal level, Ian McGrail with Michael Llamas
	Cop	Hmm..hmm…
	Mr Llamas	That is what I want to tell you, more than anything, it has never happened before. I will eventually accept that there was a misunderstanding between us, because that is the type of person I am.
	COP	The thing is there isn't any other explanation.
	Mr Llamas	Okay. But at the moment for me you were so clear and all of a suddent I received that, not the day before, its happening now guys, Fewffff….. Put yourself in my situation, forget what you did…
	COP	No, no, no…the thing is , the thing is …
	Mr Llamas	(inaudible)
	Cop	I've seen you Michael, I've seen you Michael, I respect you and I hope all this passes and we can crack on with normal life, but I

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		have seen you in an awkward position, really awkward with all of this - in quite a compromised position for you And...and....and...
	Mr Llamas	Well, I know what you mean, but you can be sure that Fabian I will .....
	COP	And I will respect
	Mr Llamas	.....defend to death. Okay?. Emm...If tomorrow you come and tell me, look what we've found, I will break in to tears. I am sure that will not exist anyway. And I'm 100% certain. But that's talking about Fabian Picardo. The office of the Chief Minister, ya sea Picardo, ya sea Azzopardi, ya sea Caruana o Hassans.
	Cop	That needs protection.
	Mr Llamas	I will protect them.
	Cop	Yeah, yeah, yeah.
	Mr Llamas	Because that is what has happened always.
	COP	Yeah, yeah, yeah.
	Mr Llamas	One of my big regrets of being Attorney General....well, you like football don't you? I say, I have spent twenty and ahalf years in Brussells and I only played for the Gibraltar national team. I didn't play to fight against Gibraltarians and I loved that. I've spent my whole life, defending this jurisdiction and promoting this jurisdiction as a lot of us do. No, no... I know I am not the only one. And being Attorney General I have to get involved in the messes like this which I don't like in the least because it is not what I like to do. But look, it comes with the job and I assume my responsibilities wholeheartedly. But that protection of the jurisdiction, and there can be no office, more symbolic of the jurisdiction than that of the Chief Minister, I will defend it.
	COP	Yeah of course. And I...and I respect that. In...in that same way lo...lo....lo...my oath of office which I probably take
	Mr llamas	Yeah...
	COP	more...more serious than my wedding vows.
	Mr Llamas	Yeah, yeah.
	COP	And you say protect, well you can protect – in the same way I want to protect my lot. But yes, if there is any wrong doing from my lot, I will hold them to account. I will not protect them from the question of corruption and all that...no way...no way.
	Mr Llamas	Well, I will try to calm things down which in all honesty will be difficult, and I cannot control Hassans. I will try and control things here and hope that we can get to wherever this goes to ss soon as possible and that these days go by and things caclm down and that Jaime Levy goes in for interview on Monday and that they

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		challenge you. The best result here is that they challenge your intention of the phone, and let a judge decide. I think that's a good outcome, that is why that letter is so important. Well, the one you are going to send off today. And with Fabian, I will now explain what you meant was a context, that is what you meant, or else he is going to call him and
	COP	Fine, fine
	Mr Llamas	It is all going to blow up.
	COP	The DPP has been advising
	Mr Llamas	Generally, even though he was not specifically asked. Do you agree that he (inaudible) replied yes but there wasn't a context where they said, where the search warrant was mentioned? he was of the view that at some point.....
159:27	CoP	The way I understand the Chief Minister, I didn't know that that was the sticking point, the Chief Minister claiming that there's no crime on the conspiracy to defraud. I was not start arguing but there is evidence to suggest that, so I say to myself, they may be feeding this man with incorrect information. He's talking with hearing one side only. The same has happened to you. You may have seen something.
159:55	Mr Llamas	The truth Ian, prior to this he knew what was happening.
	CoP	Yes, but perhaps one side
	Mr Llamas	Yes, and that I don't know.
	CoP	Exactly.
	Mr Llamas	I have never been in conversation with him and anyone else who has been talking to him about this case.
	CoP	Very few people are in the know. Those that know are us, we haven't disclosed the package with the findings as such. They are volumes, volumes of papers. I'm happy that we've spoken
	Mr Llamas	I believe, off the record, the crook is....
	CoP	Cornelio
	Mr Llamas	That is what I believe.
	CoP	Cornelio with the flair from Perez, to get things erm
	Mr Llamas	That's the sentiment I get. And if that's the case Ian, if that's the case, the sooner that is confined to that, the better. That it is targeted.
	CoP	And Sanchez is corrupt.
	Mr Llamas	Yes, is he?

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	CoP	You can see it there. Cornelio would do the reports for Sanchez that [redacted] and Sanchez would submit them to Albert Mena as if it was his, (inaudible) Cornelio was already out of the picture and accessing with Sanchez credentials. The thing is that Cornelio will say that he had permission from Caine Sanchez.
	Mr Llamas	But doesn't the question of ownership then become crucial which is what I have been saying all along.
	CoP	About the part of the hacking?
	Mr Llamas	Yes
	CoP	I insist it isn't, but, Y, you're gonna go one way or the other. You're gonna assume that then , Darren Grech is going to say Caine to invite Tommy Cornelio, to contravene instructions from the Chief Minister, to hack the system.

2nd Affidavit:

Ian McGrail

Date: 26th September 2022

Exhibit: 6

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 6

TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me



A Commissioner for Oaths

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Meeting with GPA Chair 22nd M...
22 May 2020
47:36
Meeting with AG & DPP 20th May
20 May 2020
38:46
Meeting with AG & DPP 15th May
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Meeting with A...PP 15th May copy
15 May 2020
Meeting with AG & DPP 13 May
13 May 2020
2:12:56
Meeting with A...DPP 13 May copy
13 May 2020
2:12:56

AUDIO FILE

2nd Affidavit:

Ian McGrail

Date: 26th September 2022

Exhibit: 6A

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 6A

TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me



A Commissioner for Oaths

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

		Persons Present **Attorney General – Mr Michael Llamas** **Director of Public Prosecutions – Mr Christian Rocca** **Senior Crown Counsel – Mr Lloyd Devenicenzi** **Commissioner of Police – Ian McGrail** **Detective Superintendent – Paul Richardson** **Detective Inspector – Mark Wyan**
Tape counter times	**Person speaking**	**Text**
		(inaudible) – introducing Insp Wyan to Mr Llamas and Mr Rocca.
	Mr Llamas	Hi Mark
	CoP	He's the one with probably the most intimate knowledge of the case. You've met?
	Mr Llamas	Si, we've met. When did we meet Mark?
	Insp Wyan	The Armed Forces Act
	Mr Llamas	Armed Forces Act
	CoP	So, he is the terror factor here in person.
	Mr Llamas	Is he.
	CoP	Actually, for whatever its worth, and I don't think you need to have sight of that until, and if it gets to that, I've had a glimpse of, because aveces con un poquito de picardia se avanza un poco, pero basically the issue of having body worn camera recording with his knowledge puts to bed all the arguments that he's saying that there was a threat y todo, porque, just read the transcript and you can hear it, let alone view it and listen to it.
5:12	Mr Llamas	(inaudible) asking if they've been offered anything to drink
5:34	Mr Llamas	Ok, chaps Christian y yo have been spending quite a bit of time together today. We're heading towards a major collision here. Yo creo que esta claro, whether you agree with what they're saying or not, its our view que it's clear that this is going to become very nasty very quickly and we're facing a potential escalation of the whole thing, and therefore we think that's best avoided, we think, and we just wanted to discuss with you now, whether there are things we can do, where you can achieve what you want to achieve, erm whilst avoiding a collision or whether you maintain yourselves in exactly the same position as you were the last time we met. I want us to have a completely relaxed discussion between the 5 of us on the handling of this and the best way to get to where you feel you have to get. So with that in mind what; has your position changed in any way since we met? yo ya ni me acuerdo,
	CoP	Yesterday

	Supt Richardson	Was it yesterday? I thought it was the day before
7:24	CoP	It hasn't. It hasn't changed because we continue with the hope that there are unexplained issues which have an impact on the remaining three, four suspects, and if it is a line of enquiry that can clarify or make worse the situation for those four individuals, we're gonna be left with that in the air if we do not look at this part of the investigation.
8:00	Mr Llamas	Ok, pero, my understanding Ian, and correct me if I'm wrong, is that what you've just said is that you have to carry on with the interview, in other words, that's what you're referring to.
	CoP	It is a line of enquiry that
	Mr Llamas	Which is essential to the investigation
8:11	CoP	To conclude, without anticipating what the outcome is going be of that.
8:17	Mr Llamas	Correct. Christian and I are with you entirely on that. What we think would be helpful for the management of the whole thing is, if that interview would still go ahead, pero not have it under caution.
	Mr Rocca	Is that possible? Can you interview him and then convert it under caution depending on what he says. I know it's not gonna be admissible whatever he tells you
8:44	Supt Richardson	I wouldn't be complying with the codes of practice if I did that
	Mr Rocca	We've done it before
	Supt Richardson	I've already cautioned him. Cautioned him on body worn camera. I've filed documents in court saying that we had reasonable cause to suspect…
	Mr Rocca	We'll come to that. But we have done it before where, for example, the ambulance guy, Haveland, he was a suspect and we interviewed him as a potential witness
	Supt Richardson	What do you mean for the body bag case?
	Mr Rocca	Yeh
	Supt Richardson	No, that was a decision made on purpose; it wasn't because there wasn't evidence, credible evidence to believe that he was a suspect. I know because I reviewed that case and it was the same decision we took when we interviewed the nurses for the KGV death in custody. If we had interviewed him under caution we wouldn't have obtained any evidence at all and it was a balance
	Mr Rocca	And this the point that the AG is going to make now I think. We believe, we're led to believe that if we go under caution he's not gonna say a word, to the extent that he may not even attend. But at the very least if you do arrest him he's not gonna give you anything, entonse we're discussing whether that is good or bad. I think it leaves us with a problem evidentially and I think it leaves us with, in a position whereby I've had my reservations you know, about whether we have enough on Jaime at the moment, I don't

		think were quite across the line with Jaime and we wouldn't proceed, so I would rather get information from him that may either incriminate him if it does, fantastic
10:14	Supt Richardson	How would we use it?
	Mr Rocca	No, no, we take a voluntary statement not under caution, as a witness. If he says things that make it in your view that incriminate him, you caution him, that's possible, no?
	CoP	Looking at it from the point of view that we did, like we were contemplating, or practically contemplating to use Chipol. Was Chipol under caution?
10:47	Insp Wyan	Yep. Entirely under caution. Several times.
	Mr Llamas	We think this gives us, obviously were going to listen to what you have to say, pero we think this gives us a, not a way out, pero a way in which you can obtain the information that you need to obtain to do your investigation and we are totally supportive of you on the need for that interview, but it will allow you to get that information in a way which you might not otherwise get, certainly not on Monday, and with the potential of a tremendous escalation because he may not turn up. And I'm trying to be realistic and practical. As you know I'm learning criminal law procedure on the hoof myself with a very good teacher if I may say so, and I'm just, yo no quiero que esto explote, let's be very clear and I don't think it's in your interest tampoco que esto explote. If there is an alternative way to do it, where you get
11:59	CoP	I think it's also not in his interest que explote. It's not only us.
	Mr Llamas	I agree. it's not in anybody's interest.
12:11	CoP	I don't want to feel cornered because this is not the question entose
	Supt Richardson	Agreed
	Mr Rocca	I agree
	Mr Llamas	Absolutely. And to be done in a way que se le va explica a ellos, if we were able to convince them to do it this way, se le va explica a ellos que this is entirely without prejudice on your views on the original issue of the search warrant and the caution and all that, todo eso se puede cubrir, so it is not seen, in other words, as the RGP backing down from the decision. You're just saying, mira, nosotro lo que queremos es esto, let's do it
13:08	CoP	I think there has to be prejudice here, Because, esto parese que estamo en el mercadillo actually bartering, that's not my law enforcement education at all because, if we take his view, hypothetically now, without prejudice on what I'm saying, if we take the view that yes let's get his version not under caution but to get something of him and on top of that the challenge of the warrant carries on, entose estamo ya hung up to dry
13:22	Mr Rocca	No no no. First and foremost
	CoP	We might aswell collide now

13:27	Mr Rocca	We've discussed that already. We would only run on the basis that they give an undertaking that its done in an order to be co-operative and would not be used to undermine anything, that Paul or anybody did in taking the warrant. Therefore, your (inaudible) suspect of the warrant would not be challenged because you have agreed, in a co-operative manner, to get the information you want. We would require that guarantee from his lawyers and we discussed that
13:53	Supt Richardson	I have no doubt whatsoever that if we put our actions before a court that they will be upheld, that they would see merit in it. I don't think we have anything to lose other than the wider issues here. The person that has something to lose by this is him not us, and for me it would seem to be a travesty that you can put up this barrage of emails that have come today to the Magistrates' Court, to the clerk, to me, to the Attorney General, to the Commissioner, alleging bad conduct, alleging a malicious prosecution, alleging gross breaches of law, to then say alright, were agreeing not to treat you as a suspect, tell us what you want and we can't use it against you, on the understanding that all the other stuff, that you've said, that I don't think holds any water to it anyway, we're gonna ignore. I don't think that's gonna serve the interest to this because we articulated very clearly what Jaime had to account for, all the messages that's there, and in the absence of that we would to rely on the normal conclusion that someone could draw. He has interfered with civil servants, he has used his influence, but there might be an explanation for this. In the absence of this what do we do? we say, we prefer getting your explanation because it's better than nothing, but we've got half of the conversation already.
15:11	Mr Rocca	We would not get a conviction anytime based on what we've got now. If Jaime gives us a no comment, and I'm assuming
	CoP	Maybe, maybe that is (inaudible) maybe tactically if he says no comment and that is the evidence that we cannot, from his account, and we cannot progress him further and stick anything on him, he walks, hablandolo frankamente, yes?
	Supt Richardson	Say that again?
	CoP	If we ask him under caution and he doesn't reply, which we expect him
	Supt Richardson	Which is his right
	CoP	Right. And then on the basis of what we already have right now, a charge would not stick.
15:52	Supt Richardson	With the greatest respect, I'm not sure that I would support that view because some of that evidence is so damning and
	CoP	Pero, pero I'm saying, looking at it from our activity, imagine that the dilemma of doing it under caution or not doesn't come into place, that we go as we are meaning to go and he provides a no comment
16:15	Supt Richardson	Sorry sir to interrupt you, I've had a thought, if that's the case get him to submit his version of events, don't come in for interview

		under caution, were not gonna ask for it. Give us your version of events
	Mr LLamas	In writing ?
	Supt Richardson	Yes
	CoP	Pero let me look at it, because eventually, eventually you want to ask questions on that version, or were gonna be back to square one.
16:38	Mr Llamas	So, just a second. So what does that
	Supt Richardson	What mechanism
	Mr Llamas	Yes, explain to me how that works
	Supt Richardson	This is what the other side have been doing continuously and they're doing it to frustrate the means to be able to obtain evidence by interview, which is prejudiced in Gibraltar, for the reasons that I articulated to you before. We can't ask questions and require answers, we can't put someone in a position because the constitution in Gibraltar doesn't allow that. The law was changed in England specifically to balance the arms of the prosecution and the defence because if you're found in possession of something and you don't give an account, it's not reasonable to provide an account a year later in court when you could have provided that account now. So we can't do that. So what the other side are doing and very frequently done, is they will sit in an interview under caution and say very little.
	Mr Llamas	yeah
17:27	Supt Richardson	And then they'll go away. And they'll come back with a statement and the statement says this, and then we have to interview again and we say you've said this but the evidence says that, you've said this, the evidence says that, they don't give an explanation; they go away, we come back again and this is how, this is how these things drag out. This is quite literally absurd the way that we're dragged through this. Now, the advantage of that for the defence is obviously is that you can't ask them questions and put them on the spot. You're saying this but it's not actually true. They can go away, come back in a months' time and produce something that agrees or disagrees with what we've said, or not at all. In this case what the defence has done, through Fischel, is they have produced volumes of information suggesting that the complainant is the guilty person in this. That he has committed false accounting, he has wasted police time etc. but if all were interested in and I'm not suggesting that that's the only reason behind this conversation, is to obtain Jaime's account without being able to use it under caution, let him produce his own account, but we will still have to speak to him at some point I would suggest on this.
18:	Mr Llamas	Pero esperate Paul, if Jaime on Sunday let's say, vale, he sends you a written statement, addressing the 9 or 10 grounds you got set out there, the first question is, would he be producing that statement under caution,

	Supt Richardson	Yes
	Mr Llamas	That would be under caution
	Supt Richardson	The fact that he's just providing it
19:00	CoP	Precisely – it Becomes evidence. you could use it for whatever.
	Mr Llamas	Ok, pero it's not necessarily being done under caution? If he volunteers, you haven't asked for it right,
	CoP	Bueno but it's a significant statement isn't it?
19:15	Insp Wyan	It's not the ordinary statement. Normally what would happen is if someone wants to produce a statement under caution is, they would prepare it, they would come in to the interview, we would open the interview and the caution would be read out, so it would be under caution.
	CoP	This would be a significant statement
	Supt Richardson	No a significant statement is something that's made for someone who's under arrest
19:33	Mr Rocca	If you give a witness statement or a statement which is co-operative, rather than under caution, all of that automatically becomes disclosable if and when we proceed against Cornelio and Sanchez and the others.
19:45	Insp Wyan	If he provides just a statements to us but not under caution, its inadmissible against him.
	Mr Rocca	Exactly but it would be part of the disclosure bundle so we would need to factor that into account as well. We would have to provide that to
	CoP	That's one option
	Mr Llamas	Esperate, conque, one option is a written statement volunteered in inverted commas, by JL before Monday, or by Monday. Then what do you do?
	Supt Richardson	We would have to see what the content of that was, see how it matches with the evidence that we know, and then decide whether we need to put that to him in an interview. If he gives an explanation, and I have to be honest, which is very unlikely, that would support a lot of the allegations that we need to explore, there might not be a need to speak to him but it is very unlikely. The only way around that, and I don't think we'd be prepared to do that is to disclose what it is that we want to ask about in advance and to get him to answer all those questions in writing. But that really would be a travesty.
	CoP	He has already compounded suspicions without him realising, when these gentlemen went to speak to him and he was under caution.
	Mr Rocca	In what way?
	CoP	I'll keep it for now.

	Mr Rocca	Ah ok.
21:18	CoP	Cuando, he starts making certain comments which are not viable at all because if that made sense then it wouldn't be an issue, but they're not viable because time lines don't work at all and the business venture was orchestrated way before the intent of 36. north, the creation of 36 north for the purpose it was set up and Jaime's involvement in that, what he is claiming, the purposes were for his involvement crash head on, head on. Can you read between?
	Mr Llamas	Yo no se lo que
22:07	CoP	Pero that's, look, that's only, it was transcribed yesterday and we've skim read through it and I wasn't even looking for that. I was looking at the tone to argue the oppressing picture that there is.
	Mr Llamas	Entonce , a written statement which he gives to you by Monday, doesn't go to the interview, this is instead of the interview,
	Supt Richardson	Its like an interim measure, its not the end of it.
	Mr Llamas	Ok, then you consider it and then you take one of two views. You take the view either that ok, he's answered all the questions we've got for him, or no, it doesn't, we still need to interview him. And that interview if it were to happen after,
22:54	Supt Richardson	Would have to be under caution.
	Mr Llamas	Would have to be under caution.
	Supt Richardson	One of the difficulties with us in dealing with the criminal procedure evidence act is that it gives you all the burdens of PACE, but none of the advantages of it, and so if you suspect that somebody has committed an offence you have to caution them, you can only speak to them in an interview, the interview has to be in a police station, and it has to be authorised by a custody sergeant, and it has to follow the form of being recorded and it has to follow a certain programme. We have to do that with comply with the law, so to find a creative way around it may work in some circumstances but I can't see it working in a criminal situation especially when even when we've acted legitimately those things have been twisted and thrown back to suggest that myself and the Commissioner are acting unlawfully. There's even a suggestion here that you advised us not to obtain a warrant.
	Mr Rocca	I read that
	Supt Richardson	We didn't say that. We didn't agree with that. Now where has that come from? who has told
	Mr Llamas	I think they've had a lot of confusion over that from the beginning.
24:02	Supt Richardson	That clearly might be the case, but this is a QC accusing the commissioner of police of acting unlawfully because he's gone against the advice of the DPP
	Mr Rocca	I picked that up

	CoP	Can we go back to...on a couple of instances
	Mr Llamas	That's an assumption that they're making.
	Supt Richardson	How can a QC just throw that out? Saying that the commissioner of police is acting unlawfully
24:25	Mr Rocca	It's almost worse than that, it kind of possibly suggests that I've spoken to Louis Baglietto, which I haven't
	CoP	That's my question. My question is
	Supt Richardson	Where has it come from? It wasn't aired in court
24:38	Mr Llamas	It must come from the conversation with Ian and the chief minister
	CoP	Entonce ya estamos hablando con mas mayores. That was my question. This is your misrepresentation to who and by who? They haven't told them. He hasn't told them, its exactly that.... Estoy vendido, me estan vendiendo, this is beyond belief. Lo tengo aqui.... 'following the threat to execute a warrant ..... on the advice of the DPP'. In page 7. Second paragraph. Anyway, that aside, assuming this is not Jaime Levy and it's another criminal, wouldn't be the first one, we put him in the interview room and we are dependant of him answering questions but he gives us a no comment. We revert, we analyse the evidence and in the global of things we present it to the DPP or discuss with the DPP and say mira si aqui hay evidencia contra este, contra este no, este you have not been able to nail him. Right? Isn't that the normal course of conduct we would say if somebody goes in and just stares at the top corner of the room and doesn't cooperate.... Or doesn't answer any questions. Now, clearly that is not the position he wants to find himself in, pero that
26:13	Mr Llamas	Aqui what's creating the bad atmosphere, bueno bad is an understatement, what's creating the tension here is the concept of Jaime being suspect and therefore being interviewed under caution and we think that if for the sake of the management of this case and you can get the interview not treating him that way there's a possibility of achieving that the you can achieve your aim of getting the interview with him, but that stigma is very oppressive.
	CoP	I accept this por que in a couple of months time we could potentially be discussing this same matter and if we are not, questions will be asked why not, when we talk about another barrister who's in our radar, and if we are handling this barrister in that way, then why isn't another barrister handled in the other way?
	Mr Llamas	I think the answer to that would be is depends on the degree of the suspicion we have of the barrister in question, no?
	CoP	That is what we are at. What degree of suspicion do we have? Of Jaime Levy? Look you don't want to know it, but it has already met that test, because or else we wouldn't have got to this stage.
	Mr Rocca	We all agree he has questions to answer.

	CoP	Yes
	Mr Rocca	He needs to be given the opportunity, like everybody has, to either defend himself or come up with explanations. Its also an exculpatory exercise not just a…..
	CoP	Absolutely
	Mr Rocca	And that's maybe what you need to explain to Jaime. Look there's an opportunity to put the record straight.
	CoP	That's what we've always wanted.
28:18	Mr Rocca	There are texts, there are whatsapps that are a little bit fishy
28:24	CoP	Not only that…I'm learning about the detail and that's why Mark is here but he's coming up with…. If this were to collide, I'm just gonna give you a flavour of what it is. We have Sanchez being requested back from the UK as he was doing some Brexit talks there
	Supt Richardson	Just before he was interviewed
	CoP	He was asked to return and the time between him being asked to return and for him to land in Gibraltar he was wiping up his phone and we have evidence of that.
28:54	Supt Richardson	Including the conversations between him and Jaime.
	Mr Rocca	A concern I have in relation to all this. I've been a defence lawyer so I know how to throw shit and make it stick and usually its all smoke and mirrors but it works with jurors. If there is a sniff of unlawful evidence, of Richardson being a bit naughty and misleading the misrepresenting the position, whether its true or not, that the DPP approved the search warrant or whatever, I don't want that to stick because I think we've got Cornelio, Sanchez, and Perez by the short and curlies, I think. And I don't want it to taint our prosecution; you know how it works, one walks they all tend to walk half the time, but you start throwing the shit, and you have to be careful with it as well.
29:47	Insp Wyan	Can I just interject on a similar point. We need to consider that if we do deal with Mr Levy in a different way to the others, that's likely to impact the case as well and it may backfire on us later on so what their lawyers might be saying is you've treated my client in a particular way, but you've clearly shown preference to (inaudible)
	Mr Llamas	But doesn't, Mark, that depend on the degree of involvement in what's happened. From what I gather I think there's a very clear distinction between what Sanchez, Cornelio and Perez have done and what Levy may or may not have done; even if Levy has been involved in a way that makes you suspicious, still, it seems to me from what I've seen, it cannot be to the same level as these three, I think there's a clear distinction between the three on the one hand and the one the other hand.
	Insp Wyan	I think you're probably right in terms of the evidence certainly in

		respect of some is much stronger. That is for certain. But the problem that we have is we've met that threshold for the suspicion with regards, or we believe we have. And we have to follow a certain procedure such as interviewing under caution and things like that. If we don't follow that procedure as we will normally do, I certainly would, I think the questions would be raised why have you not, and the very fact we went for the warrant shows that we've met that threshold. Now we're suggesting, actually we haven't met that threshold, or were not sure, then somebody's gonna say well you know, are you sure about the rest of your case? Are you sure about the grounds of the other people?
31:28	Mr Llamas	But only in relation to Levy not the others, as Christian said,
	CoP	The only way that that's, if you review the involvement of Levy and before we went through all this, and that is the part that we consulted, no ibamos a toma un paso sin sabe his involvement, and he's got my instructions to consult the DPP, if he's happy that there is sufficient suspicion then we will consider, then we went through the questions of the, of how we went through the mechanics of the warrant. The question of body worn camera, menos mal que tenemos el body worn camera, y menos mal. And so we went through a couple of things. If, now, what we are saying is that there's a review of the level of suspicions that he has
	Mr Llamas	No I'm not saying that
	CoP	Entonces this is the difficulty we find.
	Mr Rocca	I will stand by the conversation that there was in my office where there was sufficient information to question to Jaime Levy. They're asking questions of course they are.
	Mr Llamas	But Christian, the issue is, what Ian has said is that we all agree with that, we all agree that the interview should take place, is what signal is it sending out there that now it would be done without caution and whether that is going to be interpreted as the RGP realising it's made a mistake.
32:59	Supt Richardson	That would be huge. Absolutely huge. We've managed to convince a Judge, that the most senior lawyer, QC in Gibraltar and officer of the court is under reasonable grounds to suspect that he's been involved in a criminal conspiracy and that took one and three quarter hours. So, we managed to do that and now we're saying, well actually, and we've been threatened with legal action and the court has been told you've gross of miscarriage justice, erm miscarriage of justice, the Commissioners acting unlawfully, and now were saying well actually we've thought about this again and we're
	Mr Rocca	We're not saying that Paul. We're saying that if we now know, if we proceed down this line we will get nothing from Levy.
	Supt Richardson	Well then, in any case that we deal with a lawyer were gonna come across the same position.
	CoP	Coming back to the typical interview with no comment, no comment interview. It could, if we have sufficient evidence to

		charge, we wouldn't even need to interview, so if we don't meet the threshold of him having any charges sticking on him then we can't deal with it.
	Mr Llamas	When would you know that? After the interview?
	CoP	Of course. It would be with a no comment, but the devices would still need to be checked.
	Mr Rocca	Exactly, which doesn't deal with the issue of the devices.
34:15	Mr Llamas	The way you're' going to be challenged almost certainly…
	Supt Richardson	So if we haven't addressed the elephant in the room, we went there with the power to execute a warrant; we negotiated not executing the warrant at his request repeatedly, and you'll see it from the body worn cameras, when that was agreed and he sat and read everything, he's now saying he was forced into doing it. The consent that we left Hassans premises with him, which was your IT guys going to deal with my IT guy and now were gonna hand this over to you because we're willing to help has now been withdrawn and we've still got the warrant. Are we supposed to go back now and force the issue a second time? Because all that consent that's been said, then why didn't he just ask me and I would have handed it over? It doesn't exist anymore.
35:04	Mr Llamas	Hombre, because, Paul, first of all they're going to argue and I think the Baglietto letter, it said that the warrant was used as a sword and therefore it was a threat.
	Supt Richardson	But that is absurd sir. When you read the transcript, that is absurd, that suggestion.
	Mr Llamas	Eso una. And I just fear que he's not going to turn up on Monday. Y entonces….
35:50	CoP	I think, if we get to that stage, I think you have to be ,para duermamos todo tranquilo porque esto may be keeping people a bit upsetting, you need to, both of you, need to dip into the real details of the evidence, real detail and get, and then if you feel that there isn't the, I mean I'm not doubting, you've seen the package that we sent, and the rationale for it, but I'm asking you to look at the detail of it, the full detail
	Supt Richardson	All the whatsapps.
	Mr Rocca	It's all in bag in the floor of my office
36:37	CoP	Because if it, it he wants to force the issue, I'm looking at it now from a state point of view, from the RGP point of view, if he is forcing the issue of having us having to go and feel his collar that we know that you know that this is justified.
36:58	Mr Llamas	Christian didn't think it is justified
	Mr Rocca	What?
	Mr Llamas	The, the caution, the search warrant,
	Mr Rocca	I thought it would have been far more practical (inaudible) to

		interview him, because, look I'll be
37:13	Supt Richardson	Chris, can I interrupt you there for just one second please? I understand that that's what you thought and I respect that position. Knowing now what has happened, you think it would have had any effect if I had gone there and said Mr Levy please give me your phone as we, the example we have there, we need to look at it as you're a suspect, he would never have handed it over
	Mr Rocca	Maybe not. The point I was going to make was, look, do I think you will withstand legal challenge? I think you probably will, and I told Michael, I think you would. I think there are arguments to be had about the warrant and whether it was doubtful, but I think at the end of the day it's a JR and I think it's it's been signed by the judge, y mira, judgement calls were made. Look I think it may have been , I would have done it a different way, but I think lawfully you can justify that
	CoP	This is what I mean to say, when you say you would have done it differently, knowing what you know about, when you see the things that Mark is coming up forward which is something that we would provide for you to argue the case that, its not only that he was a suspect, it was that we had already got notion that evidence had already been done away by a close suspect.
	Mr Rocca	By Sanchez, but the reality is, I always thought to myself, he's been investigated for a year,
38:24	Mr Llamas	Yo, sinceramente Ian,
		(Inaudible)
38:43	Mr Llamas	I don't think Jaime Levy could have afforded not to give you a voluntarily interview. Es que I think it would have been madness for him.
	Mr Rocca	We may have said we need to get privileged information out, there may have been (inaudible) material
39:03	Supt Richardson	That wouldn't have precluded the interview Chris .
39:07	Mr Rocca	(inaudible) It's been going on for a year, for me, if there was anything that would have gone. Now, if it's been deleted you will find that out anyway. So the rush to go ex-parte…
	Supt Richardson	…..We will find that out if we open the phone and process it.
	Mr Rocca	….I think is unfounded. That you felt it was right? Fine. We can defend that in court. I think it was wrong but look that is a matter for me.
	Supt Richardson	Let me stop you there because this is touching a nerve now. You know about the other case that we're dealing with the other lawyer? A lawyer that's involved with organised criminal groups of the highest standing in Europe, being accused of laundering million of pounds, that's an officer of the courts, that supports charities and things. Now I go to him now, and I don't apply for an ex-parte warrant?

	Mr Rocca	I think that is very different
		(inaudible)
40:05	Supt Richardson	Well, this evidence, is all about Levy's ethics. He is acting unethical, and he is acting unethical right up to the point of criminality, so where do I say this lawyer we're gonna go under ex parte, this one were gonna ask him please give me your devices, please give me the evidence against you and please answer questions?
		(inaudible)
40:30	Mr Rocca	Does Miles know your coming for him?
	Supt Richardson	I don't know. We suspect he does.
	Mr Rocca	Levy does. Levy does. Levy's known for months.
		(inaudible)
40:36	Mr Rocca	Its chalk and cheese Paul. I think it doesn't work the Miles....(inaudible). Of course you're gonna go ex parte. You've got drug traffickers, you've got
		(inaudible)
40:48	Supt Richardson	Who does Miles work for? Veralls? Is it Veralls? We're not investigating Veralls, we're investigating Miles, and in this case, we're not investigating Hassans, we're investigating Levy. Nobody's saying that Hassans has done anything wrong, and I accept your clarification that distincting one against the other is very very difficult, but threre's no evidence that we've see that suggests that anybody else in Hassans knew about what was happening other than him. And for me that's the same argument. He can't be compelled to hand over his personal device on a production order
41:25	Mr Rocca	He's an officer of the court. In fact Ian asked us yesterday, if I turned up would you hand it over. I actually would and Michael said the same thing actually. And Michael would as well. If I had something to hide, I probably wouldn't. GO and get a warrant.
41:30	Mr Llamas	I'd have concerns on my personal communications
	Mr Rocca	Well exactly. But my point is that Miles is a very different issue.
		(inaudible)
	Supt Richardson	Well, let me put it in a different way because we've been considering this matter. If we had information that the Bishop of Gibraltar was involved in child pornography, high standing member of the community, would we go and ask him can we please see your computer? Can we please search the cathedral?
	Mr Rocca	Of course you wouldn't.
	Supt Richardson	So what's the difference?
	Mr Rocca	If he'd been (inaudible) in front of the clergy for the last year, and the gossip was it's all the clergy, the bishop, its everybody, the

		bishop would have deleted it a year ago, which is what Jaime would have done. If we'd gone ex-parte and Jaime had deleted messages, you would get from the phone.
	Supt Richardson	Chris, Chris sorry. You're assuming, 1, that he's computer savvy which he isn't, and 2, that he thinks that there is no likelihood, that there is some likelihood of us challenging this. Perez, Commanding officer of the Gibraltar Regiment, writing Gibraltar's national security programme, he didn't delete his messages, it was all there, all, it's all laid out
42:42	Mr Rocca	Yeh but you've got without notice
	Supt Richardson	Ah ok.
	Mr Rocca	Didn't you?
42:46	Supt Richardson	Yes
	Mr Rocca	But Jaime Levy has been on notice for a year.
	Supt Richardson	Yes. And there's been no communication since then.
	Mr Rocca	Look, were debating an operational matter, that I would have done it differently like I've just said to Mark, I can understand why you've done it, would I have done it differently? Yes, I would have done. Is your position defensible in law? Yes, it probably is, because you swore an oath that that's what you generally believe and that is fine so I can defend your position, operationally I would have done it differently but you're a policeman and I'm not. Michaels not a policeman, he's the Attorney General. We Perhaps see things slightly different to a policeman, doesn't make it right or wrong Paul
	Supt Richardson	So how do we get past this?
43:24	Mr Rocca	My worry is that it taints the whole... what I don't want it is for someone like Cornelio who's [redacted] in the National security system, and undermine, [redacted] because Corenlio wants the business of Gaggero, eso me toca, de verdad it does.
	Mr Llamas	Absolutely
43:44	Mr Rocca	And for him to walk because there is mud flying around about Richardson misfeasance about Wyan's misfeasance , about Rocca (inaudible)
	CoP	So, we come back to re-assessing the level of suspicion we have on him.
44:00	Mr Rocca	Look, I'm not gonna, I'm not gonna, my integrity is not gonna, I'm not gonna lower my standard integrity, I'm not gonna do it nor are you guys. The advice that I gave at the beginning was that, that I gave Paul and Mark, I'm not gonna back down on. He needs to be asked these questions because he needs to either answer the questions properly, and give a defence, but maybe were not gonna achieve it under caution. And is that for you (inaudible)

	Mr Llamas	Exactly
44:23	Supt Richardson	But to achieve it not under caution serves no purpose.
	Mr Rocca	Well not necessarily. Because you can convert to a caution.
	Supt Richardson	So, hang on. He gives me a version of events, not under caution, and we have a load of information, its all full of bullshit and now I say, Jaime I'm sorry I need to remind you that you're under caution, would you say that again. I'm not saying anything
	Mr Rocca	Correct.
	Supt Richardson	What do I do now?
	Mr Rocca	I agree with you
	Supt Richardson	What do I do now? I've compromised everything.
	Mr Rocca	But it makes your position quite... it makes you understand the position quite clearly
	Supt Richardson	It makes me look like a fool.
	Mr Rocca	He's not gonna say something to incriminate himself.
	Mr Llamas	He's not an idiot
	CoP	I'd rather he says no comment.
	Supt Richardson	He's gonna be put in a position, where he's gonna give his version of events, which as you say, he's not gonna incriminate himself. We're gonna say, thank you for that, can you now answer this, because our evidence says the opposite, and before you answer that I need to caution you, because my evidence says that what you're saying is not true. I'm not answering that question. So I'm left with a version of events, that he will not give an account for
	Mr Llamas	Under caution
45:28	Supt Richardson	Under caution. How do I progress from there?
	Mr Rocca	I understand the problem. We're trying to come up with a solution. Jaime attends without us, without you having to arrest him.
	Supt Richardson	And we don't want that either. No one wants that.
		(inaudible)
	CoP	We want from what he has said very loosely in his, which is under caution, he's already said that, so he has provided an account under caution, saying que, all he did was set these people up and he wasn't interested in what they wanted, it's just, look, that there was problems with the national security platform and I don't know how he knew, pero he knew, and
	Mr Rocca	No, because there texts from (inaudible)
	CoP	No no no, this is the
		(inaudible)

46:18	CoP	That's it
	Mr Rocca	But he would have known [redacted] the platform porque se lo dijo Cornelio. I think Cornelio tells him
		(inaudible)
46:36	CoP	The collision, what happened
	Supt Richardson	I understand (inaudible) you're putting me in an absolute impossible position because it undermines everything else
	Mr Rocca	Which is why I said we can come up with a wording where it says it doesn't undermine you or your actions
	Supt Richardson	No forget that. That's another thing. I think that's just absurd for to say now, you can throw all this shit, and we know its all bullshit
	CoP	For us to reel our necks back in and say ok
	Supt Richardson	As long as you won't go ahead with your shit which we know won't hold water we're gonna allow you to be treated differently from everybody else. We know you can't use anything you say against you. That is just absurd
47:13	Mr Rocca	(inaudible) I think your arguments for non-disclosure (inaudible) it could redact things or even come up with a satisfactory version to the magistrate of saying don't have that over, and if you do hand it over (inaudible) I will defend your warrant. Do I think its unlawful that I don't. (inaudible)
	CoP	Yeh but you wouldn't be asked that question. It's not within your gift to say whether, you're not in a position to decide that.
		(inaudible)
47:47	CoP	It shouldn't even feature that (inaudible)
	Supt Richardson	Can we interview him at Hassans? We can can't we?
47:55	CoP	You can't say you would have done it differently, Eso no puede se, porque
		(inaudible)
	Supt Richardson	Well you see this is
	CoP	I was gonna say. Cant you just do it in his chambers?
	Mr Rocca	No. I thought about that
	CoP	Why not?
	Mr Llamas	Why not?
	Mr Rocca	Why not? Because interviews are required to be done in a police station and recorded. The woman Ochello who's supposed to have taken that child away to England, we looked if we could go it, because of Covid, under Skype or Facetime, and we couldn't do it.
	CoP	We've had interviews under caution done at hotels.

	Supt Richardson	That's probably before PACE, before the (inaudible)
48:30	Insp Wyan	I think there might be something. There might be something.
	Supt Richardson	There is a provision to bring a interview outside of an interview room, if the machine doesn't work, or if the person refuses to leave cells you can take an interview to him.
	Insp Wyan	But I think there is something about, because I remember reading some laws about the UK doing it.
	Supt Richardson	Maybe if somebody is unable to travel or
		(inaudible)
	CoP	Look, Covid is a good angle to look at it because our interview room is confined and even if we agreed that it was only done in the station he's gonna say I can't at 10, because of this that and the other. Covid is a, and perhaps a Board room is bigger.
	Supt Richardson	You mean use that as a .....
	Mr Rocca	That's not a bad idea actually. It might work. Would that work for Jaime? Under caution but in his office?
	Mr Llamas	I don't know.
49:29	Supt Richardson	It still has to be, in theory, with the consent of the Custody Sgt. And we can square that off.
	Mr Rocca	It's a fair point, because it is a small interview isn't it at the end of the day.
49:37	Supt Richardson	It does prejudice our investigation though because there's no opportunity to remote monitor an interview in anything other than a police station.
	Mr Rocca	You can't record it?
49:51	Supt Richardson	No, we could record it with portable equipment, but you can't remote monitor it, so the way these things work
	Mr Rocca	Yeh you watch it and someone comes (inaudible)
49:59	Supt Richardson	Mark, for example who's running the interview will sit and go through these things, he's trying to keep hundreds of volume of, well, twenty volumes of stuff that you've got there in his head and something will be said that he won't pick up on.
	Mr Rocca	This is why you can't remote monitor it by zoom or skype or something. That's why you can't do that. (inaudible)
	Supt Richardson	No, no there's nothing that stops it that from happening, its just
		(inaudible)
50:23	CoP	The logistics
	Supt Richardson	It's the logistics. It should be in the same place so that when you stop the interview.
	Mr Rocca	Bueno you could be in a conference from next door

	Supt Richardson	Using their own wifi no?
50:36	Supt Richardson	That's what we would have to do to do a zoom conference
	CoP	You can do it with 4G?
50:44	Supt Richardson	Ok, well if that's a possibility, we'll work around
	Mr Llamas	I don't think it will
	Supt Richardson	It wont work either?
	Mr Llamas	No, because the issue here is the caution.
50:57	CoP	He, obviously, he genuinely believes, by the looks of it, he genuinely believes, or must genuinely believe that he's done nothing wrong.
	Mr Llamas	Yes. I think so
	CoP	Now, and we have already disclosed. What about if we inch a bit further in what we should, could
51:13	Supt Richardson	Pre-interview disclosure. What if we did pre- interview disclosure to all the partners in Hassans and let them know what they've been exposed to? Because he's saying that they all know what's happened. I'm sure that they haven't, they don't know what's happened. I don't because
51:25	Mr Llamas	I (inaudible)
51:29	Supt Richardson	We're not interviewing them.
	Mr Llamas	I mean, let's not complicate this even more
	Supt Richardson	Ok. Then definitely
	CoP	Paul, if we give more, is it in our interest that we give something? Yes. He wants to give it not under caution, it's not acceptable to us so how can we lure him
	Supt Richardson	You mean. How can we change his position. How can we change his view that he thinks in his mind he has done nothing wrong. To do that will be to disclose the evidence which we rely on beforehand, which is why there's been such a concerted effort to obtain that evidence from the court or from us, or from anybody that's willing to give that information beforehand. Now, yes it would allow him to change his position if he genuinely believes he's done nothing wrong, but if he did something wrong, and knew about it, well then you're giving him all the grounds for our suspicion
52:18	CoP	Ok, ok but we would put it to him and then if it's not going to incriminate himself, he would say no comment, so we would get the same response
52:37	Supt Richardson	I've lost you completely there
	Mr Llamas	I follow what Ian is saying
52:41	CoP	If he's not going to incriminate himself, so once he knows the

		incriminating data, he's gonna offer an explanation, and not incriminate himself, because if he does, then we would question that incrimination
52:57	Supt Richardson	But that would have to be under caution
	CoP	Yeh yeh yeh, I'm just assuming that we give him more which is what he wants so that he knows where we are coming from.
	Supt Richardson	But we still arrive at the same position
53:07	CoP	And then if we have to, if he provides that answer after asking him more data, more pre-disclosure material, of where we are coming from, because it's in our interest to square this off, one way or the other, we give him that extra bit, unorthodoxly, because that's not what we normally do but it suits us, we give him that, he answers or not,
53:38	Mr Llamas	Invite him? Or in any interview?
	Supt Richardson	Let just, and I'm not trying to make this more complicated that it already is, I'm just trying to think about the consequences if we took that cause of action. Let's just assume the best case scenario that we disclose in advance of any interview, information that we wouldn't normally do, but were doing it, not because we're worried about him, but were worried that we want to secure the prosecution of the others, so we're willing to take a hit in the risks that that involves to get to this position. So we give him that and he gives an account, and that account allows us to exclude him from any criminality. And then we ask him for a witness statement and he provides a witness statement for this. Is he gonna go and give evidence in court?
		(inaudible)
54:31	Supt Richardson	Wait wait wait, just think about where this is going. Cornelio and Sanchez will be the defendants there and they know what he's been exposed to because they sent the messages to him.
	CoP	Well, we'd have to subpoena him
54:43	Mr Rocca	It may well be that he gives us nothing of value as a witness. What I think
	Supt Richardson	Well if you're the defendant, would you not call him?
	Mr Rocca	Paul, what I've read, for me, and I'm thinking someone who's been a lawyer in private practice for a number of years and people like Peter Isola and Jaime Levy and Abraham Levy, all these people have interests in many many different projects, they're entrepreneurs, apart from being lawyers, they are venture capitalists. Is Jaime gonna turn around and say I have 50 million business interests, I have investments everywhere, if someone said to me do I want a business interest, to potentially run these platforms, (inaudible) how much, yeh yeh , (inaudible) £100,000 in, as he does all the time, as Peter Isola does, (inaudible) does, do I micro manage what Mark Wyan does, Paul Richardson does, I haven't got a clue what they do, do I know Cornelio I haven't got a clue.

55:34	Supt Richardson	That's ok, until Cornelio tells you, I'm worried that they're gonna prove that I've been hacking the system, and you do nothing.
	Mr Rocca	The wording, I looked at that, the wording is not quite that. Jaime doesn't reply, except with don't worry. It doesn't mean he knows he's [redacted]
	Supt Richardson	No no, I know it doesn't
	Mr Rocca	You have to ask him, and I accept that. Did you know that he was [redacted]? Y te va dici
55;55	CoP	No no but did you know that the system was being hacked? That Tommy was, did you know that Tommy was concerned that the system was being hacked? And he would have to say yes
		(inaudible)
	CoP	Jaime sabia que the system was [redacted], because Tommy was telling him and that somebody had been tampering with, no dijo? That I've been tampering, the word is tampering with the system.
	Mr Llamas	Who had been?
	CoP	Tommy Cornelio tells Jaime, I am worried that they are going to find out that I am going to be suspected of having been tampering, and that Jaime says, it doesn't mean to say that Jaime knows that he's the one that (inaudible). Tommy's worried that they are going to find out that the system has been tampered with, or they are going to suspect that I have tampered with the system, and Jaime says don't worry. Now, eso es un
56:47	Mr Rocca	It requires an explanation from Jaime
56:51	Mr Llamas	We all agree on that. We all agree. It's just this damned, suspect, caution thing. Now, I understand the reasons why you've done it, that with Christian and we've, we wouldn't have done it that way, y entonces Ian, I was starting to like your idea of the written, you provide further information to him on why you want to
57:22	CoP	(inaudible) somehow or another to engage, get him engaged.
	Mr Llamas	Ok con que…..
	CoP	It's in our interest. If it wasn't in our interest entonce mira, its either that or a la tremenda.
57:37	Mr Llamas	Exactly.
57:41	Mr Rocca	How are we going to relinquish Cornelio. Do we risk losing Cornelio, Sanchez and others because of… could this
	Supt Richardson	I think the risk is just as high if we don't.
57:59	Mr Rocca	The Cornelio criminality and the Sanchez criminality
		(inaudible)
	CoP	Mark, with respect, and I know, one second, with respect and I'm talking about in this case in particular. I'm taking hurdle after

		hurdle. Normally we look at, as police officers we feel satisfied that the investigation goes through the whole of the hoops including conviction and even sometimes sentence when you say well, he deserved that. Aqui, im not bothered about any of that. Yo, if best case scenario, as far as I am seeing it as Commissioner now, best case scenario and that is, seria triumfo using the analogy of success in a investigation, is if it got to court. If the case gets to court, against any of them, any of them,
	Mr Llamas	My view is
58:53	CoP	That for me is already
	Mr Llamas	A success
	CoP	My job is done.
58:59	Mr Llamas	And to take up the point (inaudible) it seems that we have a very strong case against Cornelio, and the other idiot. Ok. Vamo enfocarnos en eso. Levy has value as a witness for that and Levy if we don't handle well, has potential to spoil it in relation to those two. See, if that is where we are heading, and I'm talking pure tactics and practicality, porque no nos enfocamos on those two that we are fairly confident we've got them, y Levy, where it's going to be highly unlikely, it seems to me from my discussions with Christian and what I hear, that we are going to be able to have any successful challenge on. Use him as a witness, y vamo usarlo y vamo, and also have the potential of disruptive, porque aqui, preparase, ir preparando todo, aqui van a venir QCs a la pala, a la pala.
1.00:12	Mr Rocca	That's what worries me. (inaudible) imagine if this (inaudible) everything Paul. We've got all these guys bailed for what? another year. No we can't.
	CoP	That is a risk but not, and I welcome the fact that you're consulting it with us, because in other days, in other years by, the AG, before the DPP existed, would have said, he would have been the one who calls the shots on whatever actions I suppose after charge, pero I'm really really grateful that you're consulting this and getting our views. We want to come out good of this too, nosotros no queremos, because we have no concerns for not coming out good, yo se lo digo a ellos, y it's a measure of satisfaction the sleeping factor is good, si puede tu dormir de noche con la consiencia tranquila that says it all. And I think were all in that, everybody. I'm worried de que they can't carry on with what they're meant to be doing which is
	Mr Llamas	Esperate, I'm starting to see this all more clearly now. And I think this is the key issue at a tactical level that we've got today. We have what seems to be a very strong case against Cornelio and, the other one, Sanchez, and possibly Perez. Levy is probably I think, not going to.
	Mr Rocca	Look, you can possibly charge him, but I don't think you're going to get a conviction.... At the moment
1.01:48	Insp Wyan	The charging one is certainly in the balance.

1.01:54	CoP	Esto es importantisimo. If the DPP puts that to me in writing that he feels, because we could dig our heels and say we are charging him, and he's not gonna prosecute, I'm not gonna charge, so if he is saying that Levy is, the likely chances are that Levy's not gonna secure, that were not gonna secure a conviction, I'm not gonna charge Levy
	Supt Richardson	If it gets to that point, you have to explore those positions.
1.02:19	Mr Llamas	Exactly. And then. Entonces that would be taken on its merit, and it seems, it's a possible scenario right, encima it seems que it's going to be touch and go lo de Levy. He's clearly not in the same position as the other three. Bringing him in further va se la guerra, I mean they're gonna be ten QC's from London in Court, and every single breath you take is going to be challenged, that is what they are already doing. Badly, wrongly, no importa. Y entonce, we lose the wood from the trees here. Tenemo un caso fuerte contra estos dos, o estos tres,
1.03:04	CoP	No we, we discussed that, que he has the potential to be (inaudible)
	Mr Llamas	He will.
	CoP	He has. He said it before coming over.
	Mr Llamas	Ian, he will y ensima where his involvement may be in the periphery, mira, you shouldn't have done this or that, pa que, pa que? Pa que? Vamo enfocarno en lo que podemo coge, y parese se que podemo coge estos dos.
1.03:32	CoP	Ahora, how do we justify our activity
1.03:35	Supt Richardson	Sir, sir, before we go any further. Chris, are you satisfied as DPP that if Jaime Levy is a witness in this matter or refuses to give a statement, or refuses to testify in court, that it would not prejudice the prosecution about the ones that we have the strong evidence about, because I think what Fischel will say is he knew all about this, this is now a miscarriage of justice, because you have chosen to deal with him differently.
	Mr Rocca	Which is why I said to you, we ask him the question, we tick the box, you have satisfied yourself that his involvement is this and doesn't meet the threshold. If it does, you can't prove it, and then from that basis you wouldn't charge him.
1.04:17	CoP	Exactly
1.04:18	Supt Richardson	He's gonna have to come up with some very very good explanations.
	CoP	Maybe Paul he does. I'm hoping that he does.
	Mr Rocca	I'll tell you what I think he would say, Which is look I don't micro manage investments. (inaudible)
1.04:34		(inaudible)
1.04:45	Mr Rocca	Is he conspiring to defraud. We get that line of business ethics and conspiracy to defraud. We had a debate about it and I think

		we need more. I said to you, I think we need his version of events.
	Mr Llamas	I think there's a lot of support for the prosecution to continue in relation to Cornelio, Sanchez and possibly Perez. And I think it's going to be a highway. Bringing Levy in is going to convert it into a mountain range
	Mr Rocca	We had this debate in my office remember. I said if we look at how wide we cast the net,
1.05:28	Supt Richardson	Yeh yeh, but I just think were undermining our own position. We've had all these accusations now, and now to change the suspect, change his status now after satisfying a court, on oath, about what we believe, how do we do that?
	Mr Rocca	And I would defend your position.
	Supt Richardson	But how do we do that? how do I look at Charlie Pitto in the face now and say I stood in your office for two hours (inaudible)
1.05:53	Mr Llamas	Again, I can only talk from a strategic point of view, because I'm not knowledgeable enough to speak on the criminal procedure. The answer to your question is because we took a tactical decision that .....for the end game
1.06:08		(inaudible)
	Mr Rocca	In order to get Cornelio, Sanchez etc we needed to go down this road.
	Mr Llamas	Exactly.
	Mr Rocca	Or else we would get no one.
1.06:15	CoP	We can take this in slight changes and this is not gonna be resolved next week if. If he provides us with, if we provide a bit more and he provides us with a statement, which may even expose for more questions to be asked, but we know that we're not gonna get anything, we're gonna be criticised for not asking but we make the call there saying we are just gonna draw the line here.
1.06:46	Mr Rocca	I pose a question at that stage. What do you do with the phone? Do you say to yourself (inaudible) a quarter of a million pounds on a (inaudible) and return it or do you go through it. That's the call.
1.06:58	CoP	Right. I would hope that he also produces something in support of his account.
	Mr Llamas	Maybe that's a way of dealing with that.
	CoP	In which case if he satisfies us with that, I mean, fine, if we are then thinking, as we did with Chipol, the only difference is the caution, no caution,
1.07:22	Insp Wyan	That's a problem. I suppose we could look at it from the point of view that if he gave us a witness statement, or a statement that was so useful to us, that it would be on interest to use him as a witness as opposed to a suspect
	CoP	The statement

1.07:	Supt Richardson	What if he, lif this weekend he sends us a witness statement saying, I am aware that I am under the suspicion and that the police are carrying out an investigation in this matter, notwithstanding this, I have chosen to make the statement voluntarily of my own free will. And he sets out his stall, And he sets out his stall incriminating Cornelio, Perez
1.08:00	Mr Llamas	Or not
	Supt Richardson	Well he's gonna have to do it. How can he say he knew what they were doing. He can either say I knew what they were doing and I was misled, or I didn't know what they were doing. And the thing is, he did know, I think, a lot of what they were doing.
1.08:15	Mr Llamas	So Paul, if he did that, say, on Sunday, or Monday morning,
	Supt Richardson	We wouldn't carry out the interview. Well, we could, and we should but we could delay carrying out any interview until we considered the content of that. If it was sufficiently robust, we could discuss it with Chris,
	Mr Llamas	Well let's combine the various options that we have. He could, out of the blue, send you a witness statement by ten o'clock on Monday, what time's the interview?
1.08:42	Supt Richardson	Ten o'clock on Monday
	Mr Llamas	By 9 o'clock, latest on Monday, preferably by Sunday.
1.08:47	Insp Wyan	That wouldn't be a witness statement. It would be from one of the lawyers effectively setting out his position (inaudible)
	Mr Llamas	A written statement as opposed to a witness.
1.09:01	Supt Richardson	You mean, for Baglietto to say, my client says this, my client's version of events are
	Insp Wyan	We could look at it and say, right where does that leave us
	Supt Richardson	I think that takes us a bit further down the line. That is what Fischel did....
	Mr Rocca	We can't stop him doing that.
	Supt Richardson	No we can't stop him doing it, but to have effect its gonna have to be sufficiently robust, for us to say, hang on there's something in this.
	Mr Llamas	Esperate, let's not jump steps. So what would he produce over the weekend, a witness statement or a written statement a la Fichel?
	Supt Richardson	Sorry Mark. I think it would be really helpful if he says, this is my statement. I have considered the matter which you have brought to my notice and this is what I have to say. In whatever format that
	Mr Llamas	Signed James Levy. A statement. A letter
1.09:47	Insp Wyan	Well, if that's the case, we send him a template of the forms etc and he signs at the bottom of the form.

	CoP	No no no that can be done afterwards. The same as Darren Grech....
		(inaudible)
	Mr Llamas	Hold on, hold on guys. Lets carry on. He sends you a statement. You then reply to him saying in view of the statement we shall delay the interview
	CoP	Postpone.
	Mr Rocca	To consider the matter in your statement.
	Mr Llamas	Then,
	Mr Rocca	He may be able to obtain documents.
1.10:27	CoP	That would be very helpful.
	Insp Wyan	That would be essential. I would say so.
	CoP	Yes. Supporting documents.
	Supt Richardson	The file for 36 North, the money that they lent them, the investment
	Mr Llamasa	Hold on. Then, you consider the statement, and then what happens next?
	CoP	We evaluate whether it is, like Paul said, robust enough where we think, ok we're happy with what he has given us, he's a witness.
1.10;57	Insp Wyan	His value as a witness (inaudible)
	Supt Richardson	That I would be happy with.
	Mr Llamas	Exactly.
	CoP	Whether he goes to court or not....
	Mr Llamas	We'll cross that....(inaudible)
1.11:13	Supt Richardson	But all that other shit has got to go away.
	Mr Llamas	What shit?
	Supt Richardson	The six letters, the exocets flying across the Falklands
	CoP	...the Gaza strip
	Mr Rocca	...the west bank
1.11:28	Insp Wyan	But it has to be sufficient in evidence so that when the others go to court, that
		(inaudible)
1.11:33	Mr Llamas	Yeh but Mark, I think were onto a way of dealing with this now. Even if what you would get on Sunday or Mondays is not enough, he could say I will supplement this with further documents, or you could write back to him, saying thank you very much for this, supplement this this and that with documents.

	Insp Wyan	Yes, we could do that
1.11:55	Mr Llamas	You could enter a dialogue which is not pursuant, which is not under caution, which is not pursuant to a search warrant, even though its alive, you haven't removed it
	CoP	The only issue is if he doesn't co-operate with that.
	Mr Llamas	I think he will
	CoP	Vale. Ok so what we don't lose is, the notion is, Mark you articulated it well, that its in our interest to have him on side, that (inaudible)
	Insp Wyan	Exactly it's a balance.
	CoP	That is a tactical decision that we take. We consult, you say yes…as a team, as a team Chris.
	Mr Llamas	Y se enfocai en
	Mr Rocca	Were all on the same side here. Were all trying to protect injustice, balancing getting Cornelio, keeping the police force healthy and not coming into disputes. If the shit sticks, we all shit sticks
	Supt Richardson	Let's be honest, if the shit starts flying around with this, and what we know here becomes public, the reputation of the police has nothing to worry about compared to the reputation of Hassans.
1..13:00	Mr Llamas	Everybody loses Paul. Everybody Loses.
113:02	CoP	No, pero que, what I mean to say is, que mira
	Mr Rocca	For me, after having read everything, the real bad people here, this is the idea of Sanchez, Cornelio, Perez, they've approached Jaime Levy because Jaime Levy has got contact with the Chief Minister
	CoP	Its pounds shillings and pence
	Mr Rocca	That's the way I would have read everything If I was a
	CoP	Le voy ayudar a estos dos y encima me voy a llevar….
1.13:25	Mr Rocca	I can arrange contact with the Chief Minister (inaudible) yet he says it (inaudible) in December I think.
	Supt Richardson	No, its in March, and in April he says yes I will.
	Mr Rocca	And I think the proof is almost in the (inaudible), and I was saying to Michael, they actually don't get the bloody contract.
	Supt Richardson	But the irony of all this is 36 North is supplying scanners through public expense now.
	Mr Rocca	JBS no?
	CoP	JBS, AquaGib
	Mr Rocca	Yeh, but not Government.

1.13:55	CoP	JBS is Government.
	Mr Llamas	What was that Paul?
	Supt Richardson	36 North, the same firm that were talking about, are supplying scanners from our public expense.
1.14:10	CoP	Bueno, though GJBS, Aquagib, they don't know, they don't kno
	Mr Rocca	No they don't know. That the position I suppose.
	Supt Richardson	Somehow he knows
	Mr Llamas	Leave that with me.
	Mr Llamas	If we can go down this route,
	Supt Richardson	Sorry sir, but this is an important point and I'm (inaudible) you've said that, but do you know what that means to the police officers that are investigating that see a tweet from 36 North supplying
	Mr Llamas	You don't have to tell me
1.14:36	Mr Rocca	Pero es que its (inaudible)
		(inaudible)
1.14:45	Mr Llamas	Lo unico que yo quiero, because now, one is involved in all of this, that we clarify all of this, I don't have the full... because I feel very strongly I don't know, por que ya no se si se poco o mucho, pero ya se mas, so that other things that need to be happening need to happen in relation to three individuals we are talking about, need to happen. As you know there is a serious data protection breach which is a very serious one (inaudible). There's the question of the ownership of the damn platform que estoy I'm desperate to sort out as well as soon a possible, which is why I came in originally if you remember correctly. Entonces, let's get on, let's get on sin que esto becomes a complete earthquake, which will affect the prosecution of the guys who are almost certainly guilty of criminal (inaudible)
	Mr Rocca	Fischel piggy back on this. Fischel will piggy back on this big time, because I would.
1.15.55	Supt Richardson	How do you know?
	Mr Rocca	If this kicks off we'll have court proceedings here for the next six months to twelve months.
	Mr Llamas	(inaudible) and nothing to do with the....
	Mr Rocca	(inaudible) we are not in a position to charge until we resolve all the outstanding issues, surely.
	Supt Richardson	We actually discussed....our position was, we are in a position to charge.
	Mr Rocca	(inaudible)...the charge of conspiracy, you have to name the conspirators.

	CoP	Exactly
	Supt Richardson	We could proceed without Levy
	Mr Llamas	You could proceed without Levy, exactly.
	Mr Rocca	you could
	Supt Richardson	But it would be messy, it would get very messy.
	Mr Llamas	We'll park that until we get there.
	Mr Rocca	Well, exactly.
	Mr Llamas	Pero vamos a quitarnos esto the encima and carry on
	CoP	I'll come back to the serious allegations y todo eso and the reservation of rights to…
	Mr Llamas	My advice, if this happens, I would, Christian and I would write very curt replies; we don't agree with anything that you're saying on a without prejudice basis; we are not proceeding with this…this is no longer relevant…but just for the record, we disagree.
	CoP	Because the bottom line is that the evidence eventually is there . If they want to bring it on…
1.17.25	Mr Rocca	….if you want to judicially review, fine, judicially review the decision of the Magistrate. If you insist in the disclosure of this information, we will file a notice, we've got 14 days to file notice to the Magistrate.
	Supt Richardson	I had got the impression that Maurice had accepted as notice but wanted the clarification on whether…
	Mr Rocca	Yeah, Maurice was saying……we rejected
		inaudible
	Mr Rocca	At least 14 days in which to file notice of an objection. Once its received the court will determine if a hearing is required.
		Inaudible
1.17.56	Mr Rocca	But I hope this will defuse all of that.
	Mr Llamas	I think it will, I think this defuses everything. There's only one thing we need to address….is what happens to the phone during this period?
	Supt Richardson	It will remain sealed. It can remain sealed
	CoP	They are in my safe, in the office safe
	Mr Llamas	In your safe?
	CoP	I am the only keyholder
	Mr Llamas	And that's not affecting Jaime Levy from (inaudible)
	Supt Richardson	He took 6 hours to copy it before handing it over.

	CoP	Y yo me estoy preguntando, bueno, what if he's got his phone cloned now...estoy preguntado por que if there wasn't any merit in retaining it and already has it cloned (inaudible), he got his phone cloned, ya puede hacer lo que le de la gana. He can carry on operating with it. Quiere decir que cuando the examiner picks this phone up, its not going to be anywhere the same it was meant to be when it was first put in that bag, in terms of, because everything happens in the cloud y una cosita o otra, its gonn to look bad que haiga deletions.
	Mr Rocca	Can he?
	Supt Richardson	No, he can't delete something from a phone that is not connected to it. The situation you've described is that his copy of the phone would have different information on it from our copy of the phone and that would just show criminality.
1.19.19	Mr Rocca	He's not stupid enough to do that (inaudible)
	Supt Richardson	Or you gets his knickers in a twist and insists on getting the phone back
	Mr Rocca	Because we didn't go down the inter-parte procedure which you would explore how you dealt with....I remember Tom did with Marrache. I think Sharon Peralta looked at...
	CoP	Errr, she started looking at it, no, with somebody else, there were two counsels
	Mr Rocca	.....legally privileged material. What I do not want to end up is in a position we ended up with Wood and Robinson, where we fucked up because of disclosure...and we lost everything on that because frankly would've (inaudible) in prison. Whichever way you look at it.
	CoP	Can we re-cap?
	Mr Llamas	Yes, this is how I understand the position
	CoP	Mark, are you making notes?
	Insp Wyan	Yes Sir
	Mr Llamas	I will call Louis Baglietto, okay? Stop me if I am saying something
	Supt Richardson	Lets not make notes until we've agreed this, it might be the sensible thing.
	Mr Llamas	Somebody is going to call Louis Baglietto and is going tell him, mira, we reserve , or the RGP, our position..... a litany of (inaudible)
	Supt Richardson	But doing what Chris said, that we believe our actions were lawful and if you don't agree with us
	Mr Llamas	Whatever....We reserve the RGP's position.....and therefore, no se, ...are they going be formally asked to do a witness statement or if the
	Mr Rocca	Volunteer

	Supt Richardson	I don't think you should ask, not in the letter anyway, It has to be asked but not asked.
	Mr Llamas	Can I pick up the phone and tell Louis Baglietto, mira Louis, I have met with Commissioner and the team, you can send a witness statement to the RGP, a statement…
	CoP	That provides them with sufficient data to….
	Mr Llamas	….seriously
	Supt Richardson	Seriously, a detailed account
	Mr Rocca	To assess your involvement….
	Mr Llamas	They will then postpone the meeting, the interview on Monday. They will review it, they may come back to you with….
	CoP	Some subsidiary questions
	Mr Llamas	With subsidiary questions…they may even provide you further elements of….
	CoP	Or direct you where they want….
	Mr Llamas	Or direct you, exactly, all of that… They will then come to a conclusion on Jaime Levy. And they will decide what they decide, but one possible outcome may be that the RGP, looking at the whole of the case, and the strategy of the case, and balancing all interests, may decide that Jaime Levy has more value to this investigation or prosecution as a witness than as a suspect.
	Mr Rocca	Without giving guarantees.
	Mr Llamas	Without giving guarantees obviously
1.22.50	Supt Richardson	If Louis is willing to accept that, it takes us beyond Monday, it takes us beyond the issue of the phone…it takes us to finding out what his account is and with a lot of luck and good will, we might end up with a plausible account, which at least….
	CoP	Which is what we've been after all the time
1.21.20	Mr Rocca	Which is where I think we are going to get to and on that basis it may turn around and you don't go through the whole palava of the telephone
	Insp Wyan	(inaudible)
	Mr Rocca	The first thing you need to tell yourself is actually, you know what boss, (inaudible) he has more value as a witness, lets treat him as a witness. That is where you, and we can't interfere with your decision. Operationally, if he gave you enough in the statement for you to say, I will get, it will help me get Cornelio and Sanchez and the other one.
	CoP	I don't care, si se hechan a pelear ellos. If Jaime says, I didn't know anything or they have conned me, frankamente, whether its tru eor not, that he wants to hold his own, que se le apanen ellos.
	Supt Richardson	He set that argument out too, that he'd be deceived, to me

	CoP	So be it, whether its true or not
	Supt Richardson	That's what he told me
	Mr Llamas	What? On the business case or…
	Supt Richardson	He didn.t go into too much detail. Just said these people had let me down,….. I've lost half a million or a quarter of a million to these people
	Mr Llamas	How much?
	Supt Richardson	Quarter of a million to half a million apparently
	CoP	He's been let down apparently
		(inaudible)
	Mr Llamas	What happens to the phone during all the exchanges
	Supt Richardson	It remains sealed
	CoP	It stays where it is under lock and key
	Mr Llamas	It stays with you?
	CoP	I am the only key holder
	Mr Llamas	And you've already said in this letter that it will remain sealed all the time
	Supt Richardson	For seven days
	CoP	Seven days
	Mr Rocca	We can extend that
	Supt Richardson	(inaudible) …we still haven't got the emails, he can provide that with his account.
	CoP	Supporting documentation
	Mr Llamas	Okay chaps, I think that's worth a try. Ian I'll call you later.
	Supt Richardson	I think it's the best shot as well Sir.
	CoP	There's more to clear up after this. La parte de que nosotros habemos hecho el trabajo bien (inaudible)
1.25.22	Mr Llamas	Si,si, don't worry about that. Certainly that you feel very strongly, that you're very clear that you've done everything properly and that you, ….this, if it works and we're all hoping that it does, is without prejudice to your position in reply to all (inaudible)
	CoP	Because they will say, why didn't….inaudible
	Mr Rocca	Because you didn't have a written statement
	Supt Richardson	We didn't ask for one either
	CoP	If he's known that we were after…that this day was going to come… as an officer of the court, tu sabes que viene esto, vent u y da…..

1.26.38	Supt Richardson	Exactly, you make a really really valid point which he should clarify in the statement he's going to volunteer at the weekend hopefully. He was put on notice by Cornelio, way back in, I think, October 2018. That Cornelio was telling him I'm worried that the forensic experts are going to prove that I've done something to hack the system and to compromise it. Now, he may not have known about it at the time...I suspect that he didn't know about that. But he knows now. Fischel has been writing to him. He knows what the allegations are; he knows that Caine Sanchez has been arrested, he knows that its all...he's done nothing to say, look, I'm an officer of the court, I've had nothing to do with this; here is my version of events.
	Mr Llamas	Bueno mira (inaudible)
	CoP	Pero que digan why didn't we do....(inaudible)
	Mr Rocca	That is inference Paul
	Supt Richardson	Its more than an inference
	Mr Rocca	I don't see that clearly, I never have. There are questions that need to be asked. The inferences that you have drawn are not the inferences that I am drawing.....(inaudible) .....perhaps its because you are a policeman and I am not.
	Supt Richardson	Maybe I have got the sequence of events clear in my mind. There are certain statements that were made that can only make sense if you knew something had happened before.
		(Inaudible)
	Mr Llamas	Yo te llamo despues, I'll call you later. I think to be clear with this scenario, the search warrant remains, it sits there on hold, on in the back ground or whatever you want to call it and we go through this process, y aver adonde salimos.
	Mr Rocca	(Inaudible)
	Supt Richardson	I think you've got to do that before or else you agree to do something....(inaudible)
1.28.29	Mr Llamas	I agree with Paul, and we should do that on Monday. Do that once you receive the statement. i.e. In view of the statement we have received from Mr Levy, we are putting on hold our replies to all your letters...without prejudice of the fact that we are firm in our conviction
	CoP	...(inaudible) trawl through the detail of it..
	Mr Llamas	Esto siempre y cuando, I assume from them....
	Mr Rocca	And we don't deal with the Magistrates Couurt yet. We have 14 days to file...
	Mr Llamas	Bueno, this would take over everything.
	Mr Rocca	We get them to withdraw the application for....on the basis that they are cooperating
	Supt Richardson	Yes, that would be important, because if they purport to be

		helping us now, and we are taking that view, and at the same time, in the background, they are saying, now give me all the evidence of which we are suspected about…they get access…
	Mr Llamas	I think the way out of that Paul, is I may tell them, look, you've got to (inaudible) a very serious (inaudible) statement setting out the things. The RGP may then come back with proper questions and indeed, something you've mentioned, may provide you with further information that they have and specifically ask you which will deal with that point…
	CoP	Direct you…by then…we will have known
		Inaudible
	Supt Richardson	I can't pretend that we don't know about something if they know about it and they lie to me.
	Mr Llamas	I agree with that
	Mr Rocca	Worst case scenario we can agree to give them some redacted, ….(inaudible) the nature of the investigation.
	CoP	Because we will know where he is coming from….(inaudible) …o la temenos cruda…..(inaudible)I'm sorry it makes you look even worse.
	Mr Llamas	Ian, dejate el telefono encendido
	CoP	Ah si, siempre lo tengo encendido
	Mr Llamas	Mark, how's it going? Are you going to leave these people and join us?
	Insp Wyan	(Inaudible)
	Supt Richardson	And got to the dark side
	CoP	You know, that I said that, that if he was a mechanical engineer, or a marketing consultant, or whatever…go to the greener pastures, don't go to law…..I'm sorry that is why I'm a policeman.
		(inaudible and laughs)
	CoP	Ustedes estais acostumbrados….this is not part of our drill.
	Mr Rocca	Good to see you guys
		(inaudible)
1.32.06		Recording stopped

2nd Affidavit:

Ian McGrail

Date: 26th September 2022

Exhibit: 6B

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 6B

TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me



A Commissioner for Oaths

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
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Presented by Charles Gomez & Co, of 5 Secretary's Lane, Gibraltar. Solicitors for Ian McGrail

OP DELHI
Meeting in AG's office on 15th May 2020
[with translated parts in BLUE]

		Persons Present **Attorney General – Mr Michael Llamas** **Director of Public Prosecutions – Mr Christian Rocca** **Senior Crown Counsel – Mr Lloyd Devenicenzi** **Commissioner of Police – Ian McGrail** **Detective Superintendent – Paul Richardson** **Detective Inspector – Mark Wyan**
Tape counter times	**Person speaking**	**Text**
		(inaudible) – introducing Insp Wyan to Mr Llamas and Mr Rocca.
	Mr Llamas	Hi Mark
	CoP	He's the one with probably the most intimate knowledge of the case. You've met?
	Mr Llamas	Yes , we've met. When did we meet Mark?
	Insp Wyan	The Armed Forces Act
	Mr Llamas	Armed Forces Act
	CoP	He is the terror factor here in person. Actually for whatever its worth, and I don't think you need to have sight of that, and if it gets to that, I've had a glimpse of, because sometimes with a bit wittiness we progress a bit, but basically the issue of having body worn camera recording with his knowledge puts to bed all the arguments that he's saying that there was a threat y todo, porque, just read the transcript and you can hear it, let alone view it and listen to it.
5:12	Mr Llamas	(inaudible) asking if they've been offered anything to drink
5:34	Mr Llamas	Ok chaps Christian and I have been spending quite a bit of time together today. We're heading towards a major collision here. I think its clear , whether you agree with what they're saying or not, its our view que it's clear that this is going to become very nasty very quickly and were facing a potential escalation of the whole thing, and therefore we think that's best avoided, we think, and we just wanted to discuss with you now, whether there are things we can do, where you can achieve what you want to achieve, whilst avoiding a collision or whether you maintain yourselves in exactly the same position as you were the last time we met. I want us to have a completely relaxed discussion between the 5 of us on the handling of this and the best way to get to where you feel you have to get, so with that in mind what; has your position changed in any way since we met? I can't even remember now…
	CoP	Yesterday
	Supt Richardson	Was it yesterday? I thought it was the day before

7:24	CoP	It hasn't. It hasn't changed because we continue with the hope that there are unexplained issues which have an impact on the remaining three, four suspects, and if it is a line of enquiry that can clarify or make worse the situation for those four individuals, we're gonna be left with that in the air if we do not look at this part of the investigation.
8:00	Mr Llamas	Ok, but my understanding Ian, and correct me if I'm wrong, is that what you've just said is that you have to carry on with the interview, in other words, that's what you're referring to.
	CoP	It is a line of enquiry that
	Mr Llamas	Which is essential to the investigation
8:11	CoP	To conclude, without anticipating what the outcome is going be of that.
8:17	Mr Llamas	Correct. Christian and I are with you entirely on that. What we think would be helpful for the management of the whole thing is, if that interview would still go ahead,but not have it under caution.
	Mr Rocca	Is that possible? Can you interview him and then convert it under caution depending on what he says. I know it's not gonna be admissible whatever he tells you
8:44	Supt Richardson	I wouldn't be complying with the codes of practice if I did that
	Mr Rocca	We've done it before
	Supt Richardson	I've already cautioned him. Cautioned him on body worn camera. I've filed documents in court saying that we had reasonable cause to suspect…
	Mr Rocca	We'll come to that. But we have done it before where, for example, the ambulance guy, Haveland, he was a suspect and we interviewed him as a potential witness
	Supt Richardson	What do you mean for the body bag case?
	Mr Rocca	Yeh
	Supt Richardson	No that was a decision made on purpose; it wasn't because there wasn't evidence, credible evidence to believe that he was a suspect. I know because I reviewed that case and it was the same decision we took when we interviewed the nurses for the KGV death in custody. If we had interviewed him under caution we wouldn't have obtained any evidence at all and it was a balance
	Mr Rocca	And this the point that the AG is going to make now I think. We believe, we're led to believe that if we go under caution he's not gonna say a word, to the extent that he may not even attend. But at the very least if you do arrest him he's not gonna give you anythingthen we're discussing whether that is good or bad. I think it leaves us with a problem evidentially and I think it leaves us with, in a position whereby I've had my reservations you know, about whether we have enough on Jaime at the moment, I don't

		think were quite across the line with Jaime and we wouldn't proceed, so I would rather get information from him that may either incriminate him if it does, fantastic.
10:14	Supt Richardson	How would we use it?
	Mr Rocca	No no, we take a voluntary statement not under caution, as a witness. If he says things that make it in your view that incriminate him, you caution him, that's possible no?
	CoP	Looking at it from the point of view that we did, like we were contemplating, or practically contemplating to use Chipol. Was Chipol under caution?
10:47	Insp Wyan	Yep. Entirely under caution. Several times.
	Mr Llamas	We think this gives us, obviously were going to listen to what you have to say, but we think this gives us a, not a way out, but a way in which you can obtain the information that you need to obtain to do your investigation and we are totally supportive of you on the need for that interview, but it will allow you to get that information in a way which you might not otherwise get, certainly not on Monday, and with the potential of a tremendous escalation because he may not turn up. And I'm trying to be realistic and practical. As you know I'm learning criminal law procedure on the hoof myself with a very good teacher if I may say so, and I'm just, and I do not want this to explode , let's be very clear and I don't think it's in your interest either that this explodes . If there is an alternative way to do it, where you get
11:59	CoP	I think it's also not in his interest that this explodes . It's not only us.
	Mr Llamas	I agree. it's not in anybody's interest.
12:11	CoP	I don't want to feel cornered because this is not the question then
	Supt Richardson	Agreed
	Mr Llamas	Absolutely. And to be done in a way which is going to be explained to them , if we were able to convince them to do it this way, it will be explained to them that this is entirely without prejudice on your views on the original issue of the search warrant and the caution and all that, all that can be covered , so it is not seen, in other words, as the RGP backing down from the decision. You're just saying, what we want is this, let's do it
13:08	CoP	I think there has to be prejudice here, Because this looks like we are in a small market actually bartering, that's not my law enforcement education at all because, if we take his view, hypothetically now, without prejudice, if we take the view that yes let's get his version not under caution but to get something of him and on top of that the challenge of the warrant carries on, we are then hung up to dry
13:22	Mr Rocca	No no no. First and foremost
	CoP	Collide now

13:27	Mr Rocca	We've discussed that already. We would only run on the basis that they give an undertaking that its done in an order to be co-operative and would not be used to undermine anything, that Paul or anybody did in taking the warrant. Therefore your (inaudible) suspect of the warrant would not be challenged because you have agreed in a co-operative manner to get the information you want. We would require that guarantee from his lawyers and we discussed that.
13:53	Supt Richardson	I have no doubt whatsoever that if we put our actions before a court that they will be upheld, that they would see merit in it. I don't think we have anything to lose other than the wider issues here. The person that has something to lose by this is him not us, and for me it would seem to be a travesty that you can put up this barrage of emails that have come today to the Magistrates' Court, to the clerk, to me, to the AG, to the Commissioner, alleging bad conduct, alleging a malicious prosecution, alleging gross breaches of law, to then say aright, we're agreeing not to treat you as a suspect, tell us what you want and we can't use it against you, on the understanding that all the other stuff, that you've said, that I don't think holds any water to it anyway, we're gonna ignore. I don't think that's gonna serve the interest to this because we articulated very clearly what Jaime had to account for, all the messages that's there, and in the absence of that we would have to rely on the normal conclusion that someone would draw. He has interfered with civil servants, he has used his influence, but there might be an explanation for this. In the absence of this what do we do? We say we prefer getting your explanation because it's better than nothing, but we've got half of the conversation already.
15:11	Mr Rocca	We would not get a conviction anytime based on what we've got now. If Jaime gives us a no comment, and I'm assuming
	CoP	Maybe maybe that is (inaudible) maybe tactically if he says no comment and that is the evidence that we cannot, from his account, and we cannot progress him further and stick anything on him, he walks, frankly speaking, yes?
	Supt Richardson	Say that again?
	CoP	If we ask him under caution and he doesn't reply, which we expect him
	Supt Richardson	Which is his rights
	CoP	Right. And then on the basis of what we already have right now, a charge would not stick.
15:52	Supt Richardson	With the greatest respect, I'm not sure that I would support that view because some of that evidence is so damming and
	CoP	But, but I'm saying, looking at it from our activity, imagine that the dilemma of doing it under caution doesn't come into place, that we go as we are meaning to go and he provides a no comment
16:15	Supt Richardson	Sorry sir to interrupt you, I've had a thought, if that's the case get

		him to submit his version of events, don't come in for interview under caution, we're not gonna ask for it. Give us your version of events
	Mr Rocca	In writing
	Supt Richardson	Yes
	CoP	But let me look at it, because eventually, eventually you want to ask questions on that version, or we're gonna be back to square one.
16:38	Mr Llamas	So, just a second. So what does that
	Supt Richardson	What mechanism
	Mr Llamas	Yes, explain to me how that works
	Supt Richardson	This is what the other side have been doing continuously and they're doing it to frustrate the means to be able to obtain evidence by interview, which is prejudiced in Gibraltar, for the reasons that I articulated to you before. We can't ask questions and require answers, we can't put someone in a position because the constitution in Gibraltar doesn't allow that. The law was changed in England specifically to balance the arms of the prosecution and the defence because if you're found in possession of something and you don't give an account, it's not reasonable to provide an account a year later in court when you could have provided that account now. So we can't do that. So what the other side are doing and very frequently done, is they will sit in an interview under caution and say very little.
	Mr Llamas	yeah
17:27	Supt Richardson	And then they'll go away. And they'll come back with a statement and the statement says this, and then we have to interview again and we say you've said this but the evidence says that, you've said this, the evidence says that, they don't give an explanation; they go away, we come back again and this is how, this is how these things drag out, this is quite literally absurd the way that we're dragged through this. Now, the advantage of that for the defence is obviously is that you can't ask them questions and put them on the spot. You're saying this but it's not actually true. They can go away, come back in a months' time and produce something that agrees or disagrees with what we've said, or not at all. In this case what the defence has done, through Fischel is they have produced volumes of information suggesting that the complainant is the guilty person in this. That he has committed false accounting, he has wasted police time etc. but if all we're interested in and I'm not suggesting that that's the only reason behind this conversation, is to obtain Jaime's account without being able to use it under caution, let him produce his own account, but we will still have to speak to him at some point I would suggest on this.
18:	Mr Llamas	But wait, Paul, if Jaime on Sunday let's say okay , he sends you a written statement, addressing the 9 or 10 grounds you got set out

		there, the first question is, would he be producing that statement under caution,
	Supt Richardson	Yes
	Mr Llamas	That would be under caution
	Supt Richardson	The fact that he's just providing it
19:00	CoP	Precisely – it Becomes evidence. you could use it for whatever.
	Mr Llamas	Ok but it's not necessarily being done under caution? If he volunteers, you haven't asked for it right,
	CoP	Well, but it's a significant statement isn't it?
19:15	Insp Wyan	It's not the ordinary statement. Normally what would happen is if someone wants to produce a statement under caution is, they would prepare it, they would come in to the interview, we would open the interview and the caution would be read out, so it would be under caution.
	CoP	This would be a significant statement
	Supt Richardson	No, a significant statement is something that's made for someone who's under arrest
19:33	Mr Rocca	If you give a witness statement or a statement which is co-operative, rather than under caution, all of that automatically becomes disclosable if and when we proceed against Cornelio and Sanchez and the others.
19:45	Insp Wyan	If he provides witness statements to us but not under caution, its inadmissible against him.
	Mr Rocca	Exactly, but it would be part of the disclosure bundle so we would need to factor that into account as well. We would have to provide that to….
	CoP	That's one option
	Mr Llamas	Wait, so one option is a written statement volunteered in inverted commas, by JL before Monday, or by Monday. Then what do you do?
	Supt Richardson	We would have to see what the content of that was, see how it matches with the evidence that we know, and then decide whether we need to put that to him in an interview. If he gives an explanation, and I have to be honest, which is very unlikely, that would support a lot of the allegations that we need to explore, there might not be a need to speak to him but it is very unlikely. The only way around that, and I don't think we'd be prepared to do that, is to disclose what it is that we want to ask in advance and to get him to answer all those questions in writing. But that really would be a travesty.
	CoP	He has already compounded suspicions without him realising when these gentlemen went to speak to him and he was under caution.

	Mr Rocca	In what way Ian?
	CoP	I'll keep it for now.
	Mr Rocca	Ah ok.
21:18	CoP	When he starts making certain comments which are not viable at all because if that made sense then it wouldn't be an issue, but they're not viable because time lines don't work at all, and the business venture was orchestrated way before the intent of 36 north, the creation of 36 north for the purpose it was set up, and Jaime's involvement in that, what he is claiming, the purposes were for his involvement, crash head on, head on. Can you read between?
	Mr Llamas	I do not know what you saying
22:07	CoP	But look, that's only, it was transcribed yesterday and we've skim read through it and I wasn't even looking for that. I was looking for the tone to argue the oppressing picture that there is.
	Mr Llamas	Well, a written statement which he gives to you by Monday, doesn't go to the interview, this is instead of the interview,
	Supt Richardson	Its like an interim measure, its not the end of it.
	Mr Llamas	OK, then you consider it and then you take one of two views. You take the view either that ok he's answered all the questions we've got for him, or no, it doesn't, we still need to interview him. And that interview if it were to happen,
22:54	Supt Richardson	Would have to be under caution.
	Mr Llamas	Would have to be under caution?
	Supt Richardson	One of the difficulties with us in dealing with the Criminal Procedure Evidence Act is that it gives you all the burdens of PACE, but none of the advantages of it, so if you suspect that somebody has committed an offence you have to caution them, you can only speak to them in an interview, the interview has to be in a police station, and it has to be authorised by a custody sergeant, and it has to follow the form of being recorded and it has to follow a certain programme. We have to do that to with comply with the law so to find a creative way around it may work in some circumstances, but I can't see it working in a criminal situation especially when even when we've acted legitimately those things have been twisted and thrown back to suggest that myself and the Commissioner are acting unlawfully. There's even a suggestion here that you advised us not to obtain a warrant.
	Mr Rocca	I read that
	Supt Richardson	We didn't say that. We didn't agree with that. Now, where has that come from? who has told…..
	Mr Llamas	I think they've had a lot of confusion over that from the beginning.

24:02	Supt Richardson	That clearly might be the case, but this is a QC accusing the commissioner of police of acting unlawfully because he's gone against the advice of the DPP
	Mr Rocca	I picked that up
	CoP	Can we go back to…on a couple of instances
	Mr Llamas	That's an assumption that they're making.
	Supt Richardson	How can a QC just throw that out? Saying that the commissioner of police is acting unlawfully
24:25	Mr Rocca	It's almost worse than that, it kind of possibly suggests that I've spoken to Lewis Baglietto, which I haven't
	CoP	That's my question. My question is…..
	Supt Richardson	Where has it come from? It wasn't aired in court.
24:38	Mr Llamas	It must come from the conversation with Ian and the chief minister
	CoP	Then we are talking big stuff here. Entose ya estamos hablando con mas mayores. That was my question. This is your representation to who and by who? They haven't told them. He hasn't told them, its exactly that….I am sold out, I am being sold out. This is beyond belief. I have it here …. 'following the threat to execute a warrant ..... on the advice of the DPP'. In page 7. Second paragraph. Anyway, that aside, assuming this is not Jaime Levy and it's another criminal, he wouldn't be the first one, we put him in the interview room and we are dependant of him answering questions but he gives us a no comment. We revert, we analyse the evidence and in the global of things we present it to the DPP or discuss with the DPP and say look there is evidence against this one, not against this one, this one you have not been able to nail him. Right? Isn't that the normal course of conduct we would say if somebody goes in and just stares at the top corner of the room and doesn't corroborate…. Or doesn't answer any questions. Now, clearly that is not the position he wants to find himself in but that ……
26:13	Mr Llamas	Here, what's creating the bad atmosphere, well bad is an understatement, what's creating the tension here is the concept of Jaime being suspect and therefore being interviewed under caution and we think that if for the sake of the management of this case and you can get the interview not treating him that way there's a possibility of achieving that the you can achieve your aim of getting the interview with him, but that stigma is very oppressive.
	CoP	I accept this por que in a couple of months time we could potentially be discussing this same matter and if we are not, questions will be asked why not when we talk about another barrister who's in our radar and if we are handling this barrister in that way, then why isn't another barrister handled in the other way?

	Mr Llamas	I think the answer to that would be is depends on the degree of the suspicion we have of the barrister in question, no?
	CoP	That is what we are at. What degree of suspicion do we have? Of Jaime Levy? Look you don't want to know it, but it has already met that test, because or else we wouldn't have got to this stage.
	Mr Rocca	We all agree he has questions to answer.
	CoP	Yes
	Mr Rocca	He needs to be given the opportunity, like everybody has, to either defend himself or come up with explanations. Its also an exculpatory exercise not just a....
	CoP	Absolutely
	Mr Rocca	And that's maybe what you need to explain to Jaime. Look there's an opportunity to put the record straight.
	CoP	That's what we've always wanted.
28:18	Mr Rocca	There are texts, there are whatsapps that are a little bit fishy
28:24	CoP	Not only that...I'm learning about the detail and that's why Mark is here but he's coming up with.... If this were to collide, I'm just gonna give you a flavour of what it is. We have Sanchez being requested back from the UK as he was doing some Brexit talks there
	Supt Richardson	Just Before he was interviewed
	CoP	He was asked to return and between him being asked to return and for him to land in Gibraltar he was wiping up his phone and we have evidence of that.
28:54	Supt Richardson	Including the conversations between him and Jaime.
	Mr Rocca	A concern I have in relation to all this. I've been a defence lawyer so I know how to throw shit and make it stick and usually its all smoke and mirrors but it works with jurors. If there is a sniff of unlawful evidence, Richardson being a bit naughty and misleading the misrepresenting the position, whether its true or not, that the DPP approved the search warrant or whatever, I don't want that to stick because I think we've got Cornelio, Sanchez, and Perez by the short and curlies, I think. And I don't want it to taint our prosecution; you know how it works, one walks they all tend to walk half the time, but you start throwing the shit, and you have to be careful with it as well.
29:47	Insp Wyan	Can I interject on a similar point. We need to consider that if we do deal with Mr Levy in a different way to the others, that's likely to impact the case as well and it may backfire on us later on so what their lawyers might be saying is You've treated my client in a particular way, but you've clearly shown preference to (inaudible)
	Mr Llamas	But doesn't Mark, that depend on the degree of involvement in what's happened. From what I gather I think there's a very clear

		distinction between what Sanchez, Cornelio and Perez have done and what Levy may or may not have done; even if Levy has been involved in a way that makes you suspicious, still, it seems to me from what I've seen, it cannot be to the same level as these three, I think there's a clear distinction between the three on the one hand and the one the other has.
	Insp Wyan	I think you're probably right in terms of the evidence certainly in respect of some is much stronger. That is for certain. But the problem that we have is we've met that threshold for the suspicion with regards, or we believe we have. And we have to follow a certain procedure such as interviewing under caution and things like that. If we don't follow that procedure as we will normally do, I certainly would, I think the questions would be raised why have you not, and the very fact we went for the warrant shows that we've met that threshold. Now we're suggesting, actually we haven't met that threshold, or were not sure, then somebody's gonna say well you know, are you sure about the rest of your case? Are you sure about the grounds of the other people?
31:28	Mr Llamas	But only in relation to Levy not the others, as Christian said,
	CoP	The only way that that's, if you review the involvement of Levy and before we went through all this, and that is the part that we consulted, we were not going to take any step without knowing, and he's got my instructions to consult the DPP if he's happy that there is sufficient suspicion then we will consider, then we went through the questions of the, of how we went through the mechanics of the warrant. The question of body worn camera, thank goodness that we have the body worn camera, thank goodness. And so, we went through a couple of things. If now what we are saying is that there's a review of the level of suspicions that he has
	Mr Llamas	No I'm not saying that
	CoP	Then this is the difficulty we find.
	Mr Rocca	I will stand by the conversation that there was in my office where there was sufficient information to question to Jaime Levy. They're asking questions, of course they are.
	Mr Llamas	But Christian, the issue is, what Ian has said is that we all agree with that, we all agree that the interview should take place, is what signal is it sending out there that now it would be done without caution and whether that is going to be interpreted as the RGP realising it's made a mistake.
32:59	Supt Richardson	That would be huge. Absolutely huge. We've managed to convince a Judge, that the most senior lawyer, QC in Gibraltar and officer of the court is under reasonable grounds to suspect that he's been involved in a criminal conspiracy and that took one and three quarter hours. So, we managed to do that and now we're saying, well actually, and we've been threatened with legal action and the court has been told you've gross of miscarriage justice, erm mis carriage of justice, the Commissioner's acting

		unlawfully, and now were saying well actually we've thought about this again and were
	Mr Rocca	We're not saying that Paul. We're saying that if we now know, if we proceed down this line we will get nothing from Levy.
	Supt Richardson	In any case that we deal with a lawyer we're gonna come across the same position.
	CoP	Coming back to the typical interview with no comment, no comment interview. It could, if we have sufficient evidence to charge, we wouldn't need to interview, so if we don't meet the threshold of him having any charges sticking on him then we can't deal with it.
	Mr Llamas	When would you know that? After the interview?
	CoP	Of course. It would be with a no comment, but the devices would still need to be checked.
	Mr Rocca	Exactly, which doesn't deal with the issue of the devices.
34:15	Mr Llamas	The way you're' going to be challenged almost certainly.
	Supt Richardson	So, if we haven't addressed the elephants in the room, we went there with the power to execute a warrant; we negotiated not executing the warrant at his request repeatedly, and you'll see it from the body worn cameras, when that was agreed and he sat and read everything, he's now saying he was forced into doing it. The consent that we left Hassans premises with him, which was your IT guys going to deal with my IT guy and now were gonna hand this over to you because were willing to help has now been withdrawn and we've still got the warrant. Are we supposed to go back now and force the issue a second time? Because all that consent that's been said, then why didn't he just ask me and I would have handed it over? It doesn't exist anymore.
35:04	Mr Llamas	Hombre because, Paul, first of all they're going to argue and I think the Baglietto letter, it said that the warrant was used as a sword and therefore it was a threat.
	Supt Richardson	But that is absurd sir. When you read the transcript, that is absurd, that suggestion.
	Mr Llamas	That's one, And I just fear que he's not going to turn up on Monday.And then ....
35:50	CoP	I think, if we get to that stage, I think you have to beso that we all sleep well, because this may be keeping people a bit upsetting, you need to, both of you, need to dip into the real details of the evidence, real detail and get, and then if you feel that there isn't the, I mean I'm not doubting you've seen the package that we sent, and the rationale for it, but I'm asking you to action the detail of it, the full detail
	Supt Richardson	All the whatsapps.
	Mr Rocca	It's all in bag in the floor of my office

36:37	CoP	Because if it, it he wants to force the issue, I'm looking at it now from a state point of view, from the RGP point of view, if he is forcing the issue of having us having to go and feel his collar that we know that you know that this is justified.
36:58	Mr Llamas	Christian didn't think it is justified
	Mr Rocca	What?
	Mr Llamas	The, the caution, the search warrant,
	Mr Rocca	I thought it would have been far more practical (inaudible) to interview him, because, look I'll be
37:13	Supt Richardson	Chris, can I interrupt you there for just one second please? I understand that that's what you thought and I respect that position. Knowing now what has happened, you think it would have had any effect if I had gone there and said 'Mr Levy please give me your phone as we, the example we have there, we need to look at it as you're a suspect, he would never have handed it over
	Mr Rocca	Maybe not. The point I was going to make was look, do I think you will withstand legal challenge? I think you probably will, and I told Michael, I think you would. I think there are arguments to be had about the warrant and whether it was doubtful but I think at the end of the day it's a JR and I think it's it's been signed by the judge, and look, judgement calls were made. Look I think it may have been , I would have done it a different way, but I think lawfully you can justify that.
	CoP	This is what I mean to say, when you say you would have done it differently, knowing what you know, but when you see the things that Mark is coming up forward which is something that we would provide for you to argue the case that, its not only that he was a suspect, it was that we had already got notion that evidence had already been done away by a close suspect.
	Mr Rocca	By Sanchez, but the reality is, I always thought to myself, he's been investigated for a year,
38:24	Mr Llamas	Sincerely Ian, I.....
		(Inaudible)
	Supt Richardson	...he would not have come down...
	Mr Llamas	...he would have done...
38:43	Mr Llamas	I don't think Jaime Levy could have afforded not to give you a voluntarily interview.Its that I think it would have been madness for him not to do that.
	Mr Rocca	We may have said we need to get privileged information out, there may have been special interest material
39:03	Supt Richardson	That wouldn't have precluded the interview Chris .
39:07	Mr Rocca	(inaudible) It's been going on for a year, for me you are not going

		to find anything on his phone, that would have gone, if there was anything that would have gone. Now, if it's been deleted you will find that out anyway.
	Supt Richardson	We can only find out if we open the phone and process it
	Mr Rocca	So, the rush to go ex-parte I think is unfounded. That you felt it was right? Fine. We can defend that in court. I think it was wrong but look. That is a matter for me....
	Supt Richardson	...Let me stop you there because this is touching a nerve now. You know about the other case that we're dealing with the other lawyer? A lawyer that's involved with organised criminal groups of the highest standards in Europe, being accused of laundering million of pounds; that's an officer of the courts, that supports charities. Now I go to him now, and I don't apply for an ex-parte warrant?
	Mr Rocca	I think that is very different
		(inaudible)
40:05	Supt Richardson	Well, this evidence, is all about Levy's ethics. He is acting unethical, and he is acting unethical right up to the point of criminality so where do I say, this lawyer we're gonna go under ex parte, this one were gonna ask him please give me your devices, please give me the evidence against you and please answer questions?
		(inaudible)
40:30	Mr Rocca	Does Miles know your coming for him?
	Supt Richardson	I don't know.
	Mr Rocca	Levy does. Levy does. Levy's known for months.
		(inaudible)
40:36	Mr Rocca	Its chalk and cheese Paul. I think it doesn't work (inaudible). Of course you're gonna go ex parte. You've got drug traffickers, you've got....
		(inaudible)
40:48	Supt Richardson	Who does Miles work for? Veralls? Is it Veralls? We're not investigating Veralls, were investigating Miles, and in this case, were not investigating Hassans, were investigating Levy. Nobody's saying that Hassans has done anything wrong, and I accept your clarification that distincting one against the other is very very difficult but threre's no evidence that we've seen that suggests that anybody else in Hassans knew about what was happening other than him. And for me that's the same argument. He can't be compelled to hand over his personal device on a production order.
41:25	Mr Rocca	(inaudible) In fact Ian asked us yesterday, if I turned up would you hand it over. I actually would and Michael said the same thing

		actually. And Michael would as well. If I had something to hide, I probably wouldn't.
41:30	Mr Llamas	I'd have concerns on my personal communications
	Mr Rocca	Well exactly. But my point is that Miles is a very different issue.
		(inaudible)
	Supt Richardson	Well, let me put it in a different way because we've been considering this matter. If we had information that the Bishop of Gibraltar was involved in child pornography, high standing member of the community, would we go and ask him can we please see your computer? Can we please search the cathedral?
	Mr Rocca	Of course you wouldn't.
	Supt Richardson	So what's the difference?
	Mr Rocca	If he'd been (inaudible) in front of the clergy for the last year, and the gossip was it's all the clergy, the bishop, its everybody, the bishop would have deleted it a year ago, which is what Jaime would have done.
	Supt Richardson	Chris Chris sorry. You're assuming, 1, that he's computer savvy which he isn't, and 2, that he thinks that there is no likelihood, that there is some likelihood of us challenging this. Perez, Commanding Officer of the Gibraltar Regiment, writing Gibraltar's national security programme, he didn't delete his messages, it was all there, all, it's all laid out
42:42	Mr Rocca	Yeh but you've got (inaudible)
	Supt Richardson	Ah ok.
	Mr Rocca	Didn't you?
42:46	Supt Richardson	Yes
	Mr Rocca	But Jaime Levy has been on notice for a year.
	Supt Richardson	Yes. And there's been no communication since then.
	Mr Rocca	Look, we're debating an operational matter, that I would have done it differently like I've just said to Mark, I can understand why you've done it, would I have done it differently? Yes, I would have done. Is your position defensible in law? Yes, it probably is, because you swore an oath that that's what you generally believe and that is fine so I can defend your position, operationally I would have done it differently but you're a policeman and I'm not. Michael's not a police man, he's the Attorney General. We perhaps see things slightly different to a police man, doesn't make it right or wrong Paul
	Supt Richardson	So how do we get past this?
43:24	Mr Rocca	My worry is that it taints the whole... what I don't want it is for someone like Cornelio who's [redacted] in the national security system, and undermine, [redacted]

		[redacted] because Corenlio wants the business of Gaggero, that really touches me, honestly it does.
	Mr Llamas	Absolutely
43:44	Mr Rocca	And for him to walk because there is mud flying around about Richardson misfeasance about Wyan's misfeasance , about Rocca (inaudible)
	CoP	So, we come back to re-assessing the level of suspicion we have on him.
44:00	Mr Rocca	Look, I'm not gonna, I'm not gonna, my integrity is not gonna, I'm not gonna lower my standard of integrity, I'm not gonna do it, nor are you guys. The advice that I gave at the beginning was that, that I gave Paul and Mark, I'm not gonna back down on. He needs to be asked these questions because he needs to either answer the questions properly, and give a defence, but maybe we're not gonna achieve it under caution. And is that for you (inaudible)
44:23	Supt Richardson	But to achieve it not under caution serves no purpose.
	Mr Rocca	Well, not necessarily. Because you can convert to a caution.
	Supt Richardson	So hang on. He gives me a version of events, not under caution, and we have a load of information, its all full of bullshit and now I say, Jaime I'm sorry I need to remind you that you're under caution, would you say that again. I'm not saying anything
	Mr Rocca	Correct.
	Supt Richardson	What do I do now?
	Mr Rocca	I agree with you
	Supt Richardson	What do I do now? I've compromised everything.
	Mr Rocca	But it makes your position quite... it makes you understand your position quite clearly
	Supt Richardson	It makes me look like a fool.
	Mr Rocca	He's not gonna say something to incriminate himself.
	Mr Llamas	He's not an idiot
	CoP	I'd rather he says no comment.
	Supt Richardson	He's gonna be put in a position, where he's gonna give his version of events, which as you say, he's not gonna incriminate himself. We're gonna say, thank you for that, can you now answer this, because our evidence says the opposite, and before you answer that I need to caution you, because my evidence says that what you're saying is not true. I'm not answering that question. So I'm left with a version of events, that he will not give an account for

	Mr Llamas	Under caution
45:28	Supt Richardson	Under caution. How do I progress from there?
	Mr Rocca	I understand the problem. We're trying to come up with a solution. Jaime attends without us… without you having to arrest him.
	Supt Richardson	And we don't want that either. No one wants that.
		(inaudible)
	CoP	We want from, what he has said very loosely in his, which is under caution, he's already said that, so he has provided an account under caution, saying that, all he did was set these people up and he wasn't interested in what they wanted, it's just, look, that there was problems with the national security platform and I don't know how he knew, but he knew, and
	Mr Rocca	No because there's texts from (inaudible)
	CoP	No no no, this is the
		(inaudible)
46:18	CoP	That's it
	Mr Rocca	But he would have known [redacted] because he was told by Cornelio. I think Cornelio tells him
		(inaudible)
46:36	CoP	The collision what happened
	Supt Richardson	I understand (inaudible) you're putting me in an absolute impossible position because it undermines everything else
	Mr Rocca	Which is why I said we can come up with a wording where it says it doesn't undermine you or your actions
	Supt Richardson	No forget that. That's another thing. I think that's just absurd for to say now, you can throw all this shit, and we know its all bullshit
	CoP	For us to reel our necks back in and say ok
	Supt Richardson	As long as you won't go ahead with your shit which we know wont hold water we're gonna allow you to be treated differently from everybody else. We know you can't use anything you say against you. That is just absurd …
47:13	Mr Rocca	(inaudible) I think your arguments for non-disclosure (inaudible) it could redact things or even come up with a satisfactory version to the magistrates of saying don't have that over, and if you do hand it over (inaudible) I will defend you warrant. Do I think its unlawful that I don't. (inaudible)
	CoP	Yeh but you wouldn't be asked that question. It's not within your gift to say whether, you're not in a position to decide that.
		(inaudible)

47:47	CoP	It shouldn't even feature that (inaudible)
	Supt Richardson	Can we interview him at Hassans? We can cant we?
47:55	CoP	That can't be, because
		(inaudible)
	Supt Richardson	Well you see this is
	CoP	I was gonna say. Cant you just do it in his chambers?
	Mr Rocca	No. I thought about that
	CoP	Why not?
	Mr Rocca	Why not? Because interviews are required to be done in a police station and recorded. The woman Ochello who's supposed to have taken that child away to England, we looked if we could go it, because of Covid, under Skype or Facetime, and we couldn't do it.
	CoP	We've had interviews under caution done at hotels.
	Supt Richardson	That's probably before PACE, before the (inaudible)
48:30	Insp Wyan	I think there might be something. There might be something.
	Supt Richardson	There is a provision to bring a interview outside of an interview room, if the machine doesn't work or if the person refuses to leave cells you can take an interview to him.
	Insp Wyan	But I think there is something about, because I remember reading some laws about the UK doing it.
	Supt Richardson	Maybe if somebody is unable to travel or
		(inaudible)
	CoP	Look, Covid is a good angle to look at it because our interview room is confined and even if we agreed that it was only done in the station he's gonna say I can't attend, because of this that and the other. Covid is a, and perhaps a Board room is bigger.
	Supt Richardson	You mean use that as a
	Mr Rocca	That's not a bad idea actually. It might work. Would that work for Jaime? Under caution but in his office?
	Mr Llamas	I don't know.
49:29	Supt Richardson	It still has to be, in theory, with the consent of the Custody Sgt. And we can square that off.
	Mr Rocca	It's a fair point, because it is a small interview isn't it at the end of the day.
49:37	Supt Richardson	It does prejudice our investigation though because there's no opportunity to remote monitor an interview in anything other than a police station.

	Mr Rocca	You can't record it?
49:51	Supt Richardson	No, we could record it with portable equipment, but you cant remote monitor it, so the way these things work
	Mr Rocca	Yeh you watch it and someone comes (inaudible)
49:59	Supt Richardson	Mark for example who's running the interview will sit and go through these things, he's trying to keep about hundreds of volume of, well, twenty volumes of stuff that you've got there in his head and something will be said that he won't pick up on.
	Mr Rocca	This is why you can't remote monitor it by zoom or skype or something. That's why you can't do that. (inaudible)
	Supt Richardson	No no there's nothing that stops it that from happening, its just
		(inaudible)
50:23	CoP	The logistics
	Supt Richardson	It's the logistics. It should be in the same place so that when you stop the interview.
	Mr Rocca	Well, you could be in a conference from next door
	Supt Richardson	Using their own wifi no?
50:36	Supt Richardson	That's what we would have to do to do a zoom conference
	CoP	You can do it with 4G?
50:44	Supt Richardson	Ok, well if that's a possibility, well work around
	Mr Llamas	I don't think it will
	Supt Richardson	It wont work either?
	Mr Llamas	No, because the issue here is the caution.
50:57	CoP	He, obviously, he genuinely believes, by the looks of it, he genuinely believes, or must genuinely believe that he's done nothing wrong.
	Mr Llamas	Yes. I think so
	CoP	Now, we have already disclosed. What about if we inch a bit further in what we should, could
51:13	Supt Richardson	(inaudible) disclosure. What if we did (inaudible) disclosure to all the partners in Hassans and let them know what they've been exposed to? Because he's saying that they all know what's happened. I'm sure that they haven't, they don't know what's happened. I don't because...
51:25	Mr Llamas	I (inaudible)
51:29	Supt Richardson	We're not interviewing them.
	Mr Llamas	I mean, let's not complicate this even more

	Supt Richardson	Ok. Then definitely
	CoP	Paul, if we give more, is it in our interest that we give something? Yes. He wants to give it not under caution, its not acceptable to us so how can we lure him
	Supt Richardson	You mean. How can we change his position. How can we change his view that he thinks, in his mind, he has done nothing wrong. To do that will be to disclose the evidence which we rely on beforehand, which is why there's been such a concerted effort to obtain that evidence from the court or from us, or from anybody that's willing to give that information beforehand. Now, yes it would allow him to change his position if he genuinely believes he's done nothing wrong, but if he did something wrong, and knew about it, well then you're giving him all the grounds for our suspicion
52:18	CoP	Ok ok but we would put it to him and then if its not going to incriminate himself, he would say no comment, so we would get the same response
52:37	Supt Richardson	I've lost you completely there
52:41	CoP	If he's not going to incriminate himself, so once he knows the incriminating data, he's gonna offer an explanation, and not incriminate himself, because if he does, then we would question that incrimination
52:57	Supt Richardson	But that would have to be under caution
	CoP	Yeh yeh yeh, im just assuming that we give him more which is what he wants so that he knows where we are coming from.
	Supt Richardson	But we still arrive at the same position
53:07	CoP	And then if we have to, if he provides that answer after asking him more data, more pre-disclosure material, of where we are coming from, because it's in our interest to square this off, one way or the other, we give him that extra bit, unorthodoxly, because that's not what we normally do but it suits us, we give him that, he answers or not,
53:38	Mr Llamas	Invite him? Or in any interview?
	Supt Richardson	Let just, and I'm not trying to make this more complicated that it already is, I'm just trying to think about the consequences if we took that cause of action. Let's just assume the best case scenario that we disclose in advance of any interview, information that we wouldn't normally do, but were doing it, not because were worried about him, but were worried that we want to secure the prosecution of the others, so were willing to take a hit in the risks that that involves to get to this position. So we give him that and he gives an account and that account allows us to exclude him from any criminality. And then we ask him for a witness statement and he provides a witness statement for this. Is he gonna go and give evidence in court?

		(inaudible)
54:31	Supt Richardson	Wait wait wait, just think about where this is going. Cornelio and Sanchez will be the defendants there and they know what he's been exposed to because they sent the messages to him.
	CoP	Well, we'd have to subpoena him
54:43	Mr Rocca	It may well be that he gives us nothing of value as a witness. what I think
	Supt Richardson	Well if you're the defendant, would you not call him
	Mr Rocca	Paul, what I've read, for me, and I'm thinking someone who's been a lawyer in private practice for a number of years and people like Peter Isola and Jaime Levy and Abraham Levy, all these people have interest in many many different projects, they're entrepreneurs, apart from being lawyers, they are venture capitalists. Is Jaime gonna turn around and say I have 50 million business interests, I have investments everywhere, if someone said to me do I want a business interest, to potentially run these platforms, (inaudible) how much, yeh yeh , (inaudible) £100,000 in, as he does all the time, as Peter Isola does, (inaudible) does, do I micro manage what Mark Wyan does, Paul Richardson does, (inaudible) I do, do I know Cornelio (inaudible),
55:34	Supt Richardson	That's ok, until Cornelio tells you, I'm worried that they're gonna prove that I've been hacking the system, and you do nothing.
	Mr Rocca	The wording, I looked at that, the wording is not quite that. Jaime doesn't reply, except with don't worry. It doesn't mean he knows he's [redacted], Paul
	Supt Richardson	No no, I know it doesn't
	Mr Rocca	You have to ask him, and I accept that. Did you know that he was [redacted]? And he will say…
55;55	CoP	No, no, but did you know that the system was being hacked? That Tommy was, did you know that Tommy was concerned that the system was being hacked? And he would have to say yes
		(inaudible)
	CoP	Jaime knew that the system was [redacted], because Tommy was telling him and that somebody had been tampering with it he didn't say that I've been tampering, the word is tampering with the system.
	Mr Llamas	Who had been?
	CoP	Tommy Cornelio tells Jaime, I am worried that they are going to find out that I (inaudible) have been tampering, and that Jaime says, it doesn't mean to say that Jaime knows that he's the one that (inaudible). Tommy's worried that they are going to find out that the system has been tampered with, or they are going to suspect that I have tampered with the system, and Jaime says don't worry. Now that is a

56:47	Mr Rocca	It requires an explanation from Jaime
56:51	Mr Llamas	We all agree on that. We all agree. It's just this damned, suspect, caution thing. I understand the reasons why you've done it, that (inaudible) with Christian and we've, we wouldn't have done it that way, and then Ian, I was starting to like your idea of the written, you provide further information to him on why you want to
57:22	CoP	(inaudible) somehow or another to engage, get him engaged.
	Mr Llamas	Ok, so
	CoP	It's in our interest. If it wasn't in our interest look then, its either that or the other extreme
57:37	Mr Llamas	Exactly.
57:41	Mr Rocca	How are we going to relinquish Cornelio. Do we risk losing Cornelio, Sanchez and others because of... could this
	Supt Richardson	I think the risk is just as high if we don't.
57:59	Mr Rocca	The Cornelio criminality and the Sanchez criminality
		(inaudible)
	CoP	Mark, with respect, and I know, one second, with respect and I'm talking about in this case in particular. I'm taking hurdle after hurdle. Normally we look at, as police officers we feel satisfied that the investigation goes through the whole of the hoops including conviction and even sometimes sentence when you say well, he deserved that.Here , I'm not bothered about any of that. I, if best case scenario, as far as I am seeing it, as Commissioner now, best case scenario and that is, it would be (inaudible) success in the investigation, is if it got to court. If the case gets to court, against any of them, any of them,
	Mr Llamas	My view is
58:53	CoP	That for me is already
	Mr Llamas	A success
	CoP	My job is done.
58:59	Mr Llamas	And to take up the point (inaudible) it seems that we have a very strong case against Cornelio, and the other idiot. Ok Let'as focus on that . Levy has value as a witness for that and Levy if we don't handle well, has potential to spoil it in relation to those two. See, if that is where we are heading, and I'm talking pure tactics and practicality,why don't we focus on porque those two that we are fairly confident we've got them,and Levy, where it's going to be highly unlikely, it seems to me from my discussions with Christian and what I hear, that we are going to be able to have any successful challenge on. Use him as a witness,and use him and lets go and also have the potential of disruptive, because otherwise you prepare yourselves, start preparing everything, there will be QC's coming by the spades full.

1.00:12	Mr Rocca	That's what worries me. (inaudible) imagine if this (inaudible) everything Paul. We've got all these guys bailed for what? another year. No we cant.
	CoP	That is a risk but not, and I welcome the fact that you're consulting it with us, because in other days, in other years by, the AG, before the DPP existed, would have said, he would have been the one who calls the shots on whatever actions I suppose after charge, but I'm really really grateful that you're consulting this and getting our views. We want to come out good of this too, we don't want, because we have no concerns for not coming out good, and I tell them, it's a measure of (inaudible) the sleeping factor is good, whether you can sleep well at night with a clear conscience, that says it all. And I think were all in that, everybody. I'm worried that they can't carry on with what they're meant to be doing which is
	Mr Llamas	Wait, I'm starting to see this all more clearly now. And I think this is the key issue at a tactical level that we've got today. We have what seems to be a very strong case against Cornelio and, the other one, Sanchez, and possibly Perez. Levy is probably I think, not going to.
	Mr Rocca	Look, you can possibly charge him, but I don't think you're going to get a conviction.
1.01:48	Insp Wyan	The charging one is certainly in the balance.
1.01:54	CoP	This is really important . If the DPP puts that to me in writing that he feels, because we could dig our heels and say we are charging him, and he's not gonna prosecute, I'm not gonna charge, so if he is saying that Levy is, the likely chances are that Levy's not gonna secure, that we're not gonna secure a conviction, I'm not gonna charge Levy
	Supt Richardson	If it gets to that point, you have to explore those positions.
1.02:19	Mr Llamas	Exactly. And then,then that would be taken on its merit, and it seems, it's a possible scenario right,moreover it seemsthat it's going to be touch and gowith Levy. He's clearly not in the same position as the other three. Bringing him in furtheris going to be a war, I mean they're gonna be ten QC's from London in Court, and every single breath you take is going to be challenged, that is what they are already doing. Badly, wrongly,it doesn't matter . And then we lose the wood from the trees here.We have a strong case against these two, or these three.
1.03:04	CoP	No we, we discussed that, que he has the potential to be (inaudible)
	Mr Llamas	He will.
	CoP	He has. He said it before coming over.
	Mr Llamas	Ian, he will ymoreover, where his involvement may be in the periphery,look , you shouldn't have done this or that,so what ? Let's focus on what we can get and it appears that we can get

		these two.
1.03:32	CoP	Ahora, how do we justify our activity
1.03:35	Supt Richardson	Sir, sir, before we go any further. Chris, are you satisfied as DPP that if Jaime Levy is a witness in this matter or refuses to give a statement, or refuses to testify in court, that it would not prejudice the prosecution about the ones that we have the strong evidence about, because I think what Fischel will say is he knew all about this, this is now a miscarriage of justice, because you have chosen to deal with him differently.
	Mr Rocca	Which is why I said to you, we ask him the question, we tick the box, you have satisfied yourself that his involvement in this and doesn't meet the threshold. If it does, you can't prove it, and then from that basis you wouldn't charge him.
1.04:17	CoP	Exactly
1.04:18	Supt Richardson	He's gonna have to come up with some very very good explanations.
	CoP	Maybe Paul he does. I'm hoping that he does.
	Mr Rocca	I'll tell you what I think he would say, Which is look I don't micro manage investments. (inaudible)
1.04:34		(inaudible)
1.04:45	Mr Rocca	Is he conspiring to defraud. We get that line of business ethics and conspiracy to defraud. We had a debate about it and I think we need more. I said to you, I think we need his version of events.
	Mr Llamas	I think there's a lot of support for the prosecution to continue in relation to Cornelio, Sanchez and possibly Perez. And I think it's going to be a highway. Bringing Levy in is going to convert it into a mountain range
	Mr Rocca	We had this debate in my office remember. I said if we look at how wide we cast the net,
1.05:28	Supt Richardson	Yeh yeh, but I just think we're undermining our own position. We've had all these accusations now, and now to change the suspect, change his status now after satisfying a court on oath about what we believe, how do we do that?
	Mr Rocca	And I would defend your position.
	Supt Richardson	But how do we do that? how do I look at Charlie Pitto in the face now and say I stood in your office for two hours (inaudible)
1.05:53	Mr Llamas	Again, I can only talk from a strategic point of view, because I'm not knowledgeable enough to speak on the criminal procedure. The answer to your question is because we took a tactical decision that
1.06:08		(inaudible)
	Mr Rocca	In order to get Cornelio, Sanchez etc we needed to go down this

		road.
	Mr Llamas	Exactly.
	Mr Rocca	Or else we would get no one.
1.06:15	CoP	We can take this in slight changes and this is not gonna be resolved next week if.... if he provides us with, if we provide a bit more and he provides us with a statement, which may even expose for more questions to be asked, but we know that we're not gonna get anything, were gonna be criticised for not asking but we make the call there saying we are just gonna draw the line here.
1.06:46	Mr Rocca	A (inaudible) question at that stage. What do you do with the phone? Do you say to yourself (inaudible) a quarter of a million pounds on a (inaudible) and return it or do you go through. That's the call.
1.06:58	CoP	Right. I would hope that he also produces something in support of his account.
	Mr Llamas	Maybe that's a way of dealing with that.
	CoP	In which case if he satisfies us with that, I mean fine, if we are then thinking, as we did with Chipol, the only difference is the caution, no caution,
1.07:22	Insp Wyan	That's a problem. I suppose we could look at it from the point of view that if he gave us a witness statement, or a statement that was so useful to us, that it would be on interest to use him as a witness as opposed to a suspect
	CoP	The statement
1.07:	Supt Richardson	If this weekend he sends us a witness statement saying, I am aware that I am under the suspicion and that the police are carrying out an investigation in this matter, notwithstanding this, I have chosen to make the statement voluntarily of my own free will. And he sets out his (inaudible). And he sets out his (inaudible) incriminating Cornelio, Perez
1.08:00	Mr Llamas	Or not
	Supt Richardson	Well he's gonna have to do it. How can he say he knew what they were doing. He can either say I knew what they were doing and I was misled, or I didn't know what they were doing. And the thing is, he did know, I think, a lot of what they were doing.
1.08:15	Mr Llamas	So, Paul if he did that, say, on Sunday, or Monday morning,
	Supt Richardson	We wouldn't carry out the interview. Well, we could, and we should, but we could delay carrying out any interview until we considered the content of that. If it was sufficiently robust, we could discuss it with Chris,
	Mr Llamas	Well, lets combine the various options that we have. He could, out of the blue, send you a witness statement by ten o'clock on

		Monday, what time's the interview?
1.08:42	Supt Richardson	Ten o'clock on Monday
	Mr Llamas	By 9 o'clock, latest on Monday, preferably by Sunday.
1.08:47	Insp Wyan	That wouldn't be a witness statement. It would be from one of the lawyers effectively setting out his position (inaudible)
	Mr Llamas	A written statement as opposed to a witness.
1.09:01	Supt Richardson	You mean, for Baglietto to say, my client says this, my client's version of events are
	Insp Wyan	We could look at it and say, right where does that leave us
	Supt Richardson	I think that takes us a bit further down the line.
	Mr Rocca	We can't stop him doing that.
	Supt Richardson	No, we can't stop him doing it, but to have effect its gonna have to be sufficiently robust, for us to say, hang on there's something in this.
	Mr Llamas	Wait, let's not jump steps. So what would he produce over the weekend, witness statement or a written statement unofficial?
	Supt Richardson	Sorry Mark. I think it would be really helpful if he says, this is my statement. I have considered the matter which you have brought to my notice and this is what I have to say. In whatever format that
	Mr Llamas	Signed James Levy. A statement. A letter
1.09:47	Insp Wyan	Well, if that's the case, we send him a template of the forms etc and he signs at the bottom of the form.
	CoP	No, no, no ,that can be done afterwards. The same as Darren Grech, he sent me.....
		(inaudible)
	Mr Llamas	Hold on, hold on guys. Lets carry on. He sends you a statement. You then reply to him saying in view of the statement we shall delay the interview
	CoP	Postpone.
	Mr Rocca	To consider the matter in your statement.
	Mr Llamas	Then,
	Mr Rocca	He may be able to append documents.
1.10:27	CoP	That would be very helpful.
	Insp Wyan	That would be essential
	CoP	Yes. Supporting documents.
	Supt Richardson	The file for 36 North, the money that they've lent them, the

		investment
		Hold on. Then, you consider the statement, and then what happens next?
	CoP	We evaluate whether it is, like Paul says, robust enough where we think, ok we're happy with what he has given us - he's a witness.
1.10:57	Insp Wyan	His value as a witness (inaudible)
	Supt Richardson	That I would be happy with.
	Mr Llamas	Exactly.
	CoP	Whether he goes to court or not,
		(inaudible)
1.11:13	Supt Richardson	But all that other shit has got to go away.
	Mr Llamas	What has to go away?
	Supt Richardson	The six letters a day, the exocets flying across
	CoP	The Gaza strip
	Mr Rocca	West bank
1.11:28	Insp Wyan	But it has to be sufficient in evidence so that when the others go to court, that
		(inaudible)
1.11:33	Mr Llamas	Yeh but Mark, I think were onto a way of dealing with this now. Even if what you get on Sunday or Mondays is not enough, he could say I will supplement this with further documents, or you could write back to him, saying thank you very much for this, supplement this this and that with documents.
	Insp Wyan	Yes we could do that
1.11:55	Mr Llamas	You could enter a dialogue which is not under caution, which is not (inaudible) to a search warrant, even though its alive, you haven't removed it
	CoP	The only issue is if he doesn't co-operate with that.
	Mr Llamas	I think he will
	CoP	Ok . Ok so what we don't lose is, Mark you articulated it well, that its in our interest to have him on side, that (inaudible)
	Insp Wyan	Exactly, it's a balance.
	CoP	That is a tactical decision that we take. We consult, you say yes. As a team, as a team Chris.
	Mr Llamas	And you focus on....
	Mr Rocca	We're all on the same side here. We're all trying to protect

		injustice, balancing getting Cornelio, keeping the police force healthy and not coming into disputes. If the shit sticks, (inaudible)
	Supt Richardson	Let's be honest, if the shit starts flying around with this, and what we know here becomes public, the reputation of the police has nothing to worry about compared to the reputation of Hassans.
1..13:00	Mr Rocca	Everybody loses Paul. Everybody loses.
113:02	CoP	No, that what I mean to say is
	Mr Rocca	For me, after having read everything, the real bad people here, this is the idea of Sanchez, Cornelio, Perez, they've approached Jaime Levy because Jaime Levy has got contact with the Chief Minister
		(inaudible)
	Mr Rocca	That's the way I would have read everything if I was a
		(inaudible)
1.13:25	Mr Rocca	I can arrange contact with the Chief Minister (inaudible) yet he says it (inaudible) in December I think.
	Supt Richardson	No, its in March, and in April he says yes he will.
	Mr Rocca	And I think the proof is almost in the (inaudible), and I was saying to Michael, they actually don't get the bloody contract.
	Supt Richardson	But the irony of all this is 36 North is supplying scanners through public expense now. The same firm
	Mr Rocca	JBS no?
	CoP	JBS, AquaGib,
	Mr Rocca	Yeh but not Government.
1.13:55	CoP	JBS is government.
	Mr Llamas	What was that Paul?
	Supt Richardson	36 North, the same firm that were talking about, are supplying scanners from our public expense.
1.14:10	CoP	Well , though GJBS, Aquagib, they don't know, they don't
	Mr Rocca	No they don't know. That's the position I suppose. And they are government.
	Supt Richardson	Somehow he knows
	Mr Llamas	Leave that with me.
	Mr Llamas	If we can go down this route…..
	Supt Richardson	Sorry sir, but this is an important point and I'm (inaudible) you've said that, but do you know what that means to the police officers that are investigating, that see a tweet from 36 north supplying

	Mr Llamas	You don't have to tell me
1.14:36	Mr Rocca	But its that its (inaudible)
		(inaudible)
1.14:45	Mr Llamas	The only thing I want because now, one is involved in all of this, that we clarify all of this, I don't have the full… because I feel very strongly I don't know, because now I don't know whether I know little or too much, But I now know more so that other things that need to be happening need to happen in relation to three individuals we are talking about, need to happen. As you know there is a serious data protection breach which is a very serious one (inaudible). There's the question of the ownership of the damn platform which I'm desperate to sort out as well as soon a possible, which is why I came in originally if you remember correctly. So then let's get on, let's get on without this becoming a complete earthquake, which will affect the prosecution of the guys who are almost certainly guilty of criminal (inaudible)
	Mr Rocca	Fischel piggy back on this. Fischel will piggy back on this big time, because I would.
1.15.55	Supt Richardson	How do you know?
	Mr Rocca	If this kicks off we'll have court proceedings here for the next six months to twelve months.
		(inaudible) and nothing to do with the….
	Mr Rocca	(inaudible) we are not in a position to charge until we resolve all the outstanding issues, surely
	Supt Richardson	We actually discussed….our position was, we are in a position to charge.
	Mr Rocca	(inaudible)…the charge of conspiracy, you have to name the conspirators.
	CoP	Exactly
	Suot Richardson	We could proceed without Levy
		You could proceed without Levy, exactly
		you could
	Supt Richardson	But it would be messy, it would get very messy.
	Mr Llamas	We'll park that until we get there.
	Mr Rocca	Well, exactly.
	Mr Llamas	But let's sort this out and carry on
	CoP	I'll come back to the serious allegations and all that and the reservation of rights to…
	Mr Llamas	My advice, if this happens, I would, Christian and I would write

		very curt replies; we don't agree with anything that you're saying on a without prejudice basis; we are not proceeding with this…this is no longer relevant…but just for the record, we disagree
	CoP	Because the bottom line is that the evidence eventually is there . If they want to bring it on…
1.17.25	Mr Rocca	if you want to judicially review, fine, judicially review the decision of the Magistrate. If you insist in the disclosure of this information, we will file a notice, we've got 14 days to file notice to the Magistrate
	Supt Richardson	I had got the impression that Maurice had accepted as notice but wanted the clarification on whether…
	Mr Rocca	Yeah, Maurice was saying……we rejected
		inaudible
	Mr Rocca	At least 14 days in which to file notice of an objection. Once its received the court will determine if a hearing is required.
		inaudible
1.17.56	Mr Rocca	But I hope this will defuse all of that.
	Mr Llamas	I think it will, I think this defuses everything. There's only one thing we need to address….is what happens to the phone during this period?
	Supt Richardson	It will remain sealed. It can remain sealed
	CoP	They are in my safe, in the office safe
	Mr Llamas	In your safe?
	CoP	I am the only keyholder
	Mr Llamas	And that's not affecting Jaime Levy from (inaudible)
	Supt Richardson	He took 6 hours to copy it before handing it over.
	Cop	And I am asking myself, well, what if he's got his phone cloned now…I am asking because if there wasn't any merit in retaining it and already has it cloned (inaudible), he got his phone cloned,he can do whatever he wants. He can carry on operating with it. What that means is that when the examiner picks this phone up, its not going to be anywhere the same it was meant to be when it was first put in that bag, in terms of, because everything happens in the cloudand one thing or another y una, its gonna to look bad that there are deletions.
	Mr Rocca	Can he?
	Supt Richardson	No, he can't delete something from a phone that is not connected to it. The situation you've described is that his copy of the phone would have different information on it from our copy of the phone and that would just show criminality.

1.19.19	Mr Rocca	He's not stupid enough to do that (inaudible)
	Supt Richardson	Or you gets his knickers in a twist and insists on getting the phone back
	Mr Rocca	Because we didn't go down the inter-parte procedure which you would explore how you dealt with....I remember Tom did with Marrache. I think Sharon Peralta looked at...
	CoP	Errr, she started looking at it, no, with somebody else, there were two counsels
	Mr Rocca	.....legally privileged material. What I do not want to end up is in a position we ended up with Wood and Robinson, where we fucked up because of disclosure...and we lost everything on that because frankly would've (inaudible) in prison. Whichever way you look at it.
	CoP	Can we re-cap?
	Mr Llamas	Yes, this is how I understand the position
	CoP	Mark, are you making notes?
	Insp Wyan	Yes Sir
	Mr Llamas	I will call Louis Baglietto, okay? Stop me if I am saying something
	Supt Richardson	Let's not make notes until we've agreed this, it might be the sensible thing.
	Mr Llamas	Somebody is going to call Louis Baglietto and is going tell him, mira, we reserve , or the RGP, our position..... a litany of (inaudible)
	Supt Richardson	But doing what Chris said, that we believe our actions were lawful and if you don't agree with us
	Mr Llamas	Whatever....We reserve the RGP's position.....and therefore, no se, ...are they going be formally asked to do a witness statement or if the
	Mr Rocca	Volunteer
	Supt Richardson	I don't think you should ask, not in the letter anyway, It has to be asked but not asked.
	Mr Llamas	Can I pick up the phone and tell Louis Baglietto,look, Louis, I have met with Commissioner and the team, you can send a witness statement to the RGP, a statement...
	CoP	That provides them with sufficient data to....
		....seriously
		Seriously, a detailed account
		To assess your involvement....

	Mr Llamas	They will then postpone the meeting, the interview on Monday. They will review it, they may come back to you with….
	CoP	Some subsidiary questions
	Mr Llamas	With subsidiary questions…they may even provide you further elements of….
	CoP	Or direct you where they want….
	Mr Llamas	Or direct you, exactly, all of that… They will then come to a conclusion on Jaime Levy. And they will decide what they decide, but one possible outcome may be that the RGP, looking at the whole of the case, and the strategy of the case, and balancing all interests, may decide that Jaime Levy has more value to this investigation or prosecution as a witness than as a suspect
	Mr Rocca	Without giving guarantees.
	Mr Llamas	Without giving guarantees obviously
1.22.50	Supt Richardson	If Louis is willing to accept that, it takes us beyond Monday, it takes us beyond the issue of the phone…it takes us to finding out what his account is and with a lot of luck and good will, we might end up with a plausible account, which at least….
	CoP	Which is what we've been after all the time
1.21.20	Mr Rocca	Which is where I think we are going to get to and on that basis it may turn around and you don't go through the whole palava of the telephone
		(inaudible)
	Mr Rocca	The first thing you need to tell yourself is actually, you know what boss, (inaudible) he has more value as a witness, lets treat him as a witness. That is where you, and we can't interfere with your decision. Operationally, if he gave you enough in the statement for you to say, I will get, it will help me get Cornelio and Sanchez and the other one
	CoP	I don't care, if they fight amongst themselves . If Jaime says, I didn't know anything or they have conned me, frankly , whether its true or not, that he wants to hold his own, its up to them .
	Supt Richardson	He set that argument out too, that he'd be deceived, to me ….
	CoP	So be it, whether its true or not
	Supt Richardson	That's what he told me
	Mr Llamas	What? On the business case or…
	Supt Richardson	He didn.t go into too much detail. Just said these people had let me down,….. I've lost half a million or a quarter of a million to these people
	Mr Llamas	How much?

	Supt Richardson	Quarter of a million to half a million apparently
	CoP	He's been let down apparently
		(inaudible)
	Mr Llamas	What happens to the phone during all the exchanges
	Supt Richardson	It remains sealed
	CoP	It stays where it is under lock and key
	Mr Llamas	It stays with you?
	CoP	I am the only key holder
	Mr Llamas	And you've already said in this letter that it will remain sealed all the time
	Supt Richardson	For seven days
	CoP	Seven days
	Mr Rocca	We can extend that
	Supt Richardson	(inaudible) ...we still haven't got the emails, he can provide that with his account.
	CoP	Supporting documentation
	Mr Llamas	Okay chaps, I think that's worth a try. Ian I'll call you later.
	Supt Richardson	I think it's the best shot as well Sir.
	CoP	There's more to clear up after this. The part that we've done our job correctly (inaudible)
1.25.22	Mr Llamas	Yes, yes, don't worry about that. Certainly that you feel very strongly, that you're very clear that you've done everything properly and that you, ... this, if it works and we're all hoping that it does, is without prejudice to your position in reply to all (inaudible)
	CoP	Because they will say, why didn't....inaudible
	Mr Rocca	Because you didn't have a written statement
	Supt Richardson	We didn't ask for one either
	CoP	If he's known that we were after...that this day was going to come... as an officer of the court, you this is coming, you come forward and give....
1.26.38	Supt Richardson	Exactly, you make a really really valid point which he should clarify in the statement he's going to volunteer at the weekend hopefully. He was put on notice by Cornelio, way back in, I think, October 2018. That Cornelio was telling him I'm worried that the forensic experts are going to prove that I've done something to hack the system and to compromise it. Now, he may not have known about it at the time...I suspect that he didn't know about

		that. But he knows now. Fischel has been writing to him. He knows what the allegations are; he knows that Caine Sanchez has been arrested, he knows that its all…he's done nothing to say, look, I'm an officer of the court, I've had nothing to do with this; here is my version of events.
	Mr Llamas	Well look (inaudible)
	CoP	But that they say why didn't we do….(inaudible)
	Mr Rocca	That is inference Paul
	Supt Richardson	Its more than an inference
	Mr Rocca	I don't see that clearly, I never have. There are questions that need to be asked. The inferences that you have drawn are not the inferences that I am drawing…..(inaudible) …..perhaps its because you are a policeman and I am not.
	Supt Richardson	Maybe I have got the sequence of events clear in my mind. There are certain statements that were made that can only make sense if you knew something had happened before.
		(Inaudible)
	Mr Llamas	I'll call you later, I'll call you later. I think to be clear with this scenario, the search warrant remains, it sits there on hold, on in the back ground or whatever you want to call it and we go through this process,and let's see where it takes us.
		(Inaudible)
	Supt Richardson	I think you've got to do that before or else you agree to do something….(inaudible)
1.28.29	Mr Llamas	I agree with Paul, and we should do that on Monday. Be that once you receive the statement. i.e. In view of the statement we have received from Mr Levy, we are putting on hold our replies to all your letters…without prejudice of the fact that we are firm in our conviction
	CoP	…(inaudible) trawl through the detail of it..
	Mr Llamas	That is as long as ….. I assume from them….
	Mr Rocca	And we don't deal with the Magistrates Couurt yet. We have 14 days to file…
	Mr Llamas	Bueno, this would take over everything.
	Mr Rocca	We get them to withdraw the application for….on the basis that they are cooperating
	Supt Richardson	Yes, that would be important, because if they purport to be helping us now, and we are taking that view, and at the same time, in the background, they are saying, now give me all the evidence of which we are suspected about…they get access…
	Mr Llamas	I think the way out of that Paul, is I may tell them, look, you've got

		to (inaudible) a very serious (inaudible) statement setting out the things. The RGP may then come back with proper questions and indeed, something you've mentioned, may provide you with further information that they have and specifically ask you which will deal with that point…
	CoP	Direct you…by then…we will have known
		(Inaudible)
	Supt Richardson	I can't pretend that we don't know about something if they know about it and they lie to me.
	Mr Llamas	I agree with that
	Mr Rocca	Worst case scenario we can agree to give them some redacted, ….(inaudible) the nature of the investigation.
	CoP	Because we will know where he is coming from….(inaudible) …we have it difficult…..(inaudible)I'm sorry it makes you look even worse.
	Mr Llamas	Ian, keep you phone on
	CoP	Oh yes, my phone is always on.
	Mr Llamas	Mark, how's it going? Are you going to leave these people and join us?
	Insp Wyan	(inaudible)
	Supt Richardson	And got to the dark side
	CoP	You know, that I said that, that if he was a mechanical engineer, or a marketing consultant, or whatever…go to the greener pastures, don't go to law…..I'm sorry that is why I'm a policeman.
		(inaudible and laughs)
	CoP	You are used to this ….this is not part of our drill.
	Mr Rocca	Good to see you guys
		(inaudible)
1.32.06		Recording stopped

2nd Affidavit:

Ian McGrail

Date: 26th September 2022

Exhibit: 7

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 7

TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

A Commissioner for Oaths
Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

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


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All Recordings
Meeting with GPA Chair 22nd M...
22 May 2020
47:36
Meeting with AG & DPP 20th May
20 May 2020
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Meeting with AG & DPP 15th May
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Meeting with A...PP 15th May copy
15 May 2020
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Meeting with AG & DPP 13 May
13 May 2020
2:12:56
Meeting with A...DPP 13 May copy
13 May 2020
2:12:56

AUDIO FILE

2nd Affidavit:

Ian McGrail

Date: 26th September 2022

Exhibit: 7A

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 7A

TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

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OP DELHI
Transcript of meeting in AG's office on 20th May 2020

		PERSONS PRESENT **Attorney General – Michael Llamas** **Director of Public Prosecutions – Christian Rocca** **Commissioner of Police – Ian McGrail** **Detective Superintendent – Paul Richardson** **Detective Inspector – Mark Wyan**
Tape counter times	Person speaking	Text
		Greetings with AG's PA
		Morning greetings with DPP and AG
01:42	CoP	The saga continues.
	AG	Christian and I were just discussing, erm, how to reply and what we recommend that you reply and we haven't finished our thinking but we are on the same line at least of a, a succinct reply, taking issue with a numbers of statements that they make, but that we've started a process to be erm acting in a cooperative, or whatever language we use, we should let that process conclude and then we will talk or in the meantime we will reply (inaudible), por que si empezamos a meternos aqui ya, en rebutting things that they say entonces everything that we a re trying to do would be, would be undermined, no Christian?
	DPP	Yeah, I got two hats here unfortunately, one is my worry is not being robust if we get to court and us getting (inaudible) but I am very conscious of
	AG	But doesn't a statement to the effect of, we take issue with a number, or even with many of the statements that you make in the letter. By saying something like that, even protects his position….
	CoP	That was my question, the challenge of the warrant which is at the hub of this all….
03:23	DPP	My view is to give them a little bit of a smack…tempered, but a little of errr, saying tranquilo leon, tread carefully, you know. I think there's got to be a bit of gentle gentle…..
	CoP	What they are doing is turning it on its head, that now, that obviously we're not regarding you as a suspect, and that is not necessarily the case.
	DPP	Not necessarily the case
	AG	I agree. I think that's probably the worst comment…
	CoP	Yeah, so what they are saying, that , that we've agreed, and it was an unsolicited account that we were requesting, because that is the understanding; that they were going to provide that, which could or could not clarify a lot of the matters…
	AG	That is one thing we need to make clear in this reply…that was never suggested by anyone.
	Supt Richardson	They've really turned that on its head…from your conversation with

		him…to turning round to the commissioner and say, now, the Attorney General has informed me that you have agreed to treat him as a witness. I mean that is….
	AG	…All I've told them is that …Ian has agreed, the RGP has agreed, to try a written statement. That's all I've told them.
04:47	Supt Richardson	And they've really turned that around
	AG	Yes, I agree. For me that's the most serious issue in the letter, and that we've got to make clear. Eso esta claro
	CoP	Which then brings all the other allegations….and I agree, perhaps, if you want to say, we'll deal with them….
	AG	…we strongly take issue. My concern, again, Christian and I feel a bit uncomfortable in this role, pero we are where we are…is we've tried to put in place a procedure….
	CoP	We've bent over, which we would not have normally done…
	AG	Which would errr… maybe, maybe leads us to a good place…we don't know. We've said, let's give it a try. Y ya esta, eso es todo lo que se a hecho aqui. Why they feel the need to make the assertions at this stage when this hasn't even started, I imagine, they must be drafting the statement now.
05:59	DPP	They are preparing an abuse (inaudible) ….under caution. They are preparing an abuse.
	CoP	And that is what worries me
	DPP	(inaudible)…I think they'd struggle. In law I think they are having difficulty. And therefore what they are trying to do is pick, pick and say yes, yes, yes ….abuse
	CoP	Knock the procedure
	DPP	Exactly
	CoP	And that's my concern too, because, erm, even if they did provide the statement…we would then have to perhaps follow up…
	AG	The view I've taken, with my limited knowledge in this area of the law, is that for so long that that is alive, its alive, you've just parked it for now. Que es el punto ultimo…when they say…erm, that I would therefore be grateful that you will confirm that you will not interview under caution, at a later stage…
	DPP	Es que, es que, they are pick and choosing the bits of the law which, for example, the public interest, the PII application, the PII matter, the interference with the investigation is encapsulated in PII. So, the fact that they are saying that, if we disclose this, it might interfere with the investigation, its not in the public interest to do so. So that ground is caught by the PII. Entonce you know, I think, respond to that, I think we…. Look, thank you for your letter. We are considering providing you with a redacted version to assist – we've done that
	CoP	…we haven't done that…
	DPP	…well Paul and I, we're going to sit down probably tomorrow or this afternoon we can do it…

	Supt Richardson	(inaudible) …is talking about is the information that was laid before the magistrates court. And see whether we can extract from that something which we will not prejudice our case, but having said that, since we talked about that…we've given them so much…(inaudible) other than leeks and potatoes and what its all based on.
08:10	DPP	We can do that exercise…they've had pretty much disclosed everything. Here is a redact…we are considering providing you a redacted version of what was produced to the Magistrate which will enable you to make your own decisions and come to your own conclusions. That defuses that paragraph, I think, we say, we note that your allegations or suggestions about PII. We reserve that position to be argued in court. Our view is that we'll ensure the interference of the investigation is encapsulated in that ground y punto. I wouldn't give 21 days, I think that's weak. I would agree to a give further 7.
	AG	For the statement?
	DPP	No, for the 21 days of assurance, we say no, we call the shots here, 7 days of what you're going to get.
	AG	Yes but hang on…for them that is a massive issue, the, the phone. Entonce, I think if we have embarked on this written statement procedure, I think it makes sense…
	CoP	..to run parallel
	AG	…or at least to wait for the outcome of that. Ya come le vee, el written statement procedure, they are going to submit something to you…
	CoP	Backed perhaps with emails or whatever…
	AG	…whatever. It is likely that you will want to ask further questions. It seems to me, I think that we would be truly optimistic that the first statement is going to …
	CoP	…be too complete
	AG	So I envisage a second round of questions to which they have to reply and then I think you want to draw the line there.
	Supt Richardson	I think Sir, the danger we have got with that is way we came up with this suggestion was that they would offer an explanation when we are asking him to come in for interview and the fact that they'd offered it, we would then consider it. If we then go back with questions, we are conducting an interview, albeit remotely. We are asking new questions that should be put under caution. So I think we have gone beyond that line. What we've done with Fischel, when he has, when we've interviewed his clients, on a couple of occasions, they've gone away and months later they have produced allegations against Gaggero and allegations against other people. But we haven't asked them for questions to clarify this. We are saying we need to interview you, we need to interview you we have finished our investigation. That depends of the output of this. I think we will cross the line if when we get that initial…which was supposed to be an unsolicited account, we will then decide to ask questions on it, because then we are caught by PACE. We are asking questions of somebody who is suspected of being involved in an offence and has to be under caution. I don't know what your views are on that Chris. I'd like to see the Codes of Practice just to make sure…

		(inaudible)
11:09	DPP	….tentatively, I thinks its right. We'll come to that, lets get the letter slowly. Okay, so I didn't mean to get a little bit (inaudible)…14 days? Just so they come back with something – we're calling the shots here. It come across a bit more…14 days subject to further review, if matters are progressing.
	Supt Richardson	Does 14 days take us up to the expiration of the warrant? Because this what they might be pushing. If we take it beyond that, the 21 days, then what do we do? We then go back to court and say can we have another warrant because Hassans agreed to give us stuff but they haven't and now(inaudible)
	DPP	We'll come to that, because I've actually got a note here that I've prepared saying, you're failing to deal with the voluntary disclosure issue – they've not responded to that. Its all being based…they are fighting the battle on the grounds they are wanting to, but they're ignoring the very important question which is (inaudible)…with the warrant, you gave it voluntarily, and therefore all this is smoke and mirrors (inaudible)….and we are not dealing with that. (inaudible)..
	CoP	…I am putting the question, are they withdrawing consent?
	DPP	…well exactly, in which case we would have to consider exercising the warrant (inaudible)
	Supt Richardson	I think they have made it clear that they have withdrawn consent because of their actions that they wanted to take.
12:24	DPP	They've not said it it in black upon white Paul. We need to…I think we need to push back a little bit, in my view, so they realise we are not a soft touch and if we have to defend that position in court, on judicial review or abuse of process, or whatever, we are quite firm, ermm, I don't want to get rail roaded and ……
	CoP	The 3rd paragraph referring to you advising on the warrant…
	AG	(inaudible)
	CoP	…Paul absolutely denies that
	DPP	Its irrelevant
	CoP	No Paul?
	Supt Richardson	What's that?
	CoP	The DPP did not advise you or rather or rather that you said that the DPP had advised.
	Supt Richardson	No, the DPP didn't advise. We discussed this last time.
	DPP	These are not matters for the DPP, these are matters for the RGP and their operational functions…
	Supt Richardson	I think if push came to shove, and I hope that it doesn't, I think we all agreed that on the examination of the evidence, that Jaime's status at this moment in time is a suspect, but we a re willing to reconsider that position depending on what he says, but he won't say anything, so how do we move from this position forward?

13:24	AG	Well, hopefully with the witness statement.
	Supt Richardson	Yes
	DPP	(inaudible) … the DPP irrelevant….operational issues. They then say the seized material cannot be examined until the court has ruled on the propriety of (inaudible) of disclosure that, that's just wrong…we have on the face of it a valid lawful warrant (audible) …with evidence seized…..and as soon as Ian's undertaking expires (inaudible) …he can open it if he wants to.
	Supt Richardson	That leaves us exposed with regards to the corporate records and emails from Hassans. We left there on the understanding that they would give to us in one or two days (inaudible)
	DPP	We refer back to the voluntary (inaudible) cooperation. Because I think that if they do, we will have to, …..(inaudible) to execute the warrant
	Supt Richardson	Maybe, the letter if it had a line that we reserve out rights to revisit that we execute this warrant within the 30 days. We need to resolve this before that…because at the moment…it ius taken us beyond the 30 days.
	CoP	Next 30 days no, before the 7th June.
	Supt Richardson	Yes, it would be wrong for us, I think, to go before the court and say, we need to obtain a warrant again. The first thing they'll do is ask why haven't you executed it?
	DPP	Yeah, yeah (inaudible)
		(Inaudible)
	DPP	…we have given the the opportunity (inaudible)…but its their choice…as has been done by others in the past.
	AG	Como Paul started saying that maybe we should add then that we're keeping an open mind on this until this…
	Supt Richardson	Which we'll always do
	DPP	That's the flavour of the letter that we need to send back, de pegarle un poquito pero…
	Supt Richardson	I think there are also, we talked about some issues in this letter which were wrong in law…there were issues in the other ones which were wrong in law. They said the only way we could proceed with this was by production order; now that's, that's wrong. I'm conscious that we've let these slide, those allegations slide, because we're hoping to deal with this in a (inaudible)
	CoP	What are they thinking? I mean these are just tactics again…what are they thinking? Have we got them on the ropes?
	AG	Yo, mira, I've spoken to Lewis Baglietto as you know and err, my impression was, my impression is, that they welcome this written statement, but that there are, they consider there are issues that need to be dealt with, at the same time, como este in this letter. And my advice, if I can use the word advice, even though it is not advice, es , is what I have told him, is look, its taken Christian and me quite a bit of persuasion of the RGP to go down this path, vamos dejarnos, lets go

		down this process of the written statement. And for me in my mind, and correct me if legally this is wrong, all we are doing here is we are putting on hold the procedure that you started to allow this written statement to come in, and once it comes in then you will assess…and I imagine that you will tell yourself, bueno there's nothing here that really helps us…
	CoP	Or its substantive enough to change his status
	AG	…or, exactly, y entonces you decide whether to unfreeze or let it freeze forever. Ahora si nos meten estos canonazos in that process…, for the sake of transparency I will speak to Lewis and tell him, mira, its not for me to advice you if you felt you had reasons to send a letter such as this one…ya buscare algo para (inaudible)
17:39	CoP	What they are doing is practically leading us back to the path that we agreed we were going to stop. They are forcing the arm. Por eso digo yo, may be they think that they have got us on the ropes.
	AG	I don't think so.
	DPP	Tell me if I'm wrong guys, legally, the written statement….(inaudible) but its not under caution. If we then caution, can we use this statement we can't, but you're saying we can?
	CoP	We can put it into the interview and convert (inaudible)
	DPP	It can be used in evidence
18:14	CoP	The question that you're asking (inaudible)
	DPP	It would be potentially admissible against him, is what he says, that's not the law…
	CoP	Pero, if he makes an unsolicited statement, of course it can.
	DI Wyan	Its not under caution at the minute, this is just…
	Supt Richardson	The thing is, we cautioned straight from what we intended to do which is the danger. We have been clear; we suspect that you have been involved in a criminal offence to such an extent that we obtained the warrant. The warrant, the exercising of the warrant was delayed because we have a requirement to obtain the evidence by consent and you insisted in handing it over by consent over a period of several hours. We left in the belief that we were dealing with consent. Then we started off with the attack and allegations that came with that and the consent seems to have been withdrawn. To move beyond that point we agreed that if he offered us a statement we would, not park what we are doing, that is a dangerous concept, that is like saying we're not going to treat you as a suspect, because I would ask questions of somebody I have to comply with CPE.
	CoP	And the reason why accept that written account was because we'd rather have that…
	DPP	…than nothing…no comment interview
	CoP	Precisely
		(inaudible)
	CoP	And therefore it is an opportunity for him to clear something which

		could be cleared up, or not. But we wanted , that was the essence of it....
	Supt Richardson	Because a no comment interview would really tie your hands, because you can always evidence saying this has happened. A profession to say I am going to help you as much as I can, but when it come s to it I am not going to answer any questions, what do we do, we ignore? We are trying to move forward with this. What we can't say, that, the fact that whatever he says can't be used against him. It has to be under caution, or its an unsolicited request, which is, look, I don't care what you say, this is what we've got to say, use it as your will. But to give that protection that we won't use it becomes absurd. Because, I'll give you an account, I'll look at it and say it doesn't many sense, put it to in interview, you say nothing and then we've got nothing to use. How do I use that against him?
20:22	DPP	I think, just reply to paragraph 7, Mr Levy has and continues to be a person under suspicion. He was given an opportunity to write a statement voluntarily...
	CoP	...An unsolicited statement...
	DPP	...an unsolicited statement, voluntarily, which we understand he's agreed to do, erm, it's a matter for you to advise your client on the effect of that statement. We are not going to deal with guarantees or insurances (inaudible) you advise you client. I think, no?
	AG	(inaudible)
	DPP	...matters for you to advise your client
	CoP	That succinctly put, like the AG wants, but, he had an issue with my letter where he though that I was sending the wrong message that the interview would be not under caution, but they've picked it up, it was because they are referring to any subsequent interview being under caution. So they will read between the lines, so that is good, balanced against saying, erm, that the position on status has not shifted in accordance with the disclosure package that we gave you. That these are matters that suggest...
	DPP	...(inaudible) it's the tail wagging the dog, but at the end of the day Lewis, with respect, you're not here to wag the dog, we're the dog. We've been as reasonable and practical as we possibly can, but don't start wagging the dog. I think that he has to (inaudible) to Lewis. You can't come here telling the Police (inaudible), esta bien, you want to withdraw it, that's for Jaime to tell Lewis. That's what we're facing.
	Supt Richardson	And that's what everyone is trying to avoid
	DPP	Lewis needs to understand, if he pushes them up against a wall, they're going to turn round and say look (inaudible) I'm arresting you.
	CoP	That's what I'm trying to say, they are actually forcing us back to the point where we didn't want to go. Obviously they don't want to do an interview under caution, but maybe its time they reconsider and come in.
022:25	DPP	They want a guarantee and we can't give that guarantee Michael.
	AG	Hombre, I think that the whole point of the written statement is for the

		RGP to assess at that moment whether its necessary or not..
	CoP	Hablando aqui, we are all hopeful for the reasons that we all know, the whole periphery, that that account is as substantive as it can be…
	AG	…and that you don't need to…
	CoP	That
	AG	Es no se puede decir
	CoP	Tampoco vamos a decir hopefully, no le vamos a decir hopefully. Por que the same we would have to tell them others, hopefully if you give an account you're (inaudible)
	AG	Yo creo Christian, based on what Ian has just said and I am totally in that page. By all means, we should…are you going to prepare a draft for Ian?
23:15	DPP	Happy to do so.
		(inaudible)
	Supt Richardson	And I think we have to address some of the…
	AG	…address
	Supt Richardson	(inaudible) in law
	AG	Address some of the issues that you have suggested. Pero, in the conclusion, for all our sake and all our respective sanities , let's contain this, let's…
	CoP	But we are still open minded….
	AG	Si, si si…
	CoP	We, we, unfortunately these are processes that are set…
	AG	Y yo cojere el telefono y decir, Lewis joder, que estamos, the RGP is trying to accommodate his position; take it easy, vamos esperar, concentrate en hacer el statement y no de mandar estas cosas. I am very happy to look at a draft – I don't need to see it pero…
	DPP	What we'll do in the first instance Paul and I will concentrate on getting draft that we think, reflects the ground and we circulate it.
	AG	I am happy to look at it but I leave it up to you (inaudible) Con que, bueno, I think it's a very decent reply (inaudible) stand our ground in the law, giving, err, refuting what we feel we can refute…
	DPP	…unless you think the reply should come from the DPP.
	AG	Sorry?
	DPP	Should the matter, should the reply come from me or should it come from Ian?
	AG	I haven't got a view on that
	Supt Richardson	Unless you reply saying, give the areas in law you raise, you have consulted with the DPP and my advice is as follows.
	DPP	We could do that

	Supt Richardson	That addresses both issues…because at the moment the impression that we are giving them is that it's just us that are dealing with this, they might not be aware of the agreement s behind the scenes.
	CoP	…well they are, because Michael is brokering that (inaudible)
	AG	(inaudible) no, yo lo que le he dicho, si, I've told Lewis que Christian and I are talking to you, of course they know.
	DPP	I'll prepare a draft
25:26	AG	Ok, try to finish it in as positive a (inaudible)
	DPP	Yeah, yeah
	CoP	The open mindedness is…
	AG	Yo creo que, yo creo que ese punto de Ian, Christian, es importante if you can weave that in; that the RGP is waiting for the statement and keeps and open mind. This is not, I mean we are not doing all this for nothing, we are doing it, I mean, careful with the word, pero we are doing it in the hope que va salir algo ayi which will allow us ermm (inaudible) that is fairing dangerous territory. Pero que esto no se esta haciendo for a reason…
	DPP	Would it be fair to say, given an opportunity to provide a voluntary statement, rather than inviting?
	CoP	No, no that they felt it proper…
	DPP	I'm just, I'm just mindful here that we are trying to rope Michael in (inaudible)
	CoP	Was it in relation to the question?
	AG	Si por que, it must be that, because lo del written statement it was I that communicated that to them.
	Supt Richardson	No, no, they're saying in the 2nd paragraph, they refer to the letter to the AG on the 15th and don't want to go through these points again, so they are saying we've made all these complaints to you, we don't intend to rehearse them again, because we've already raised them with the AG, so they still stand.
	AG	Yeah
27:00	DPP	Fair to say that I do not want to misrepresent the position que diga that is not what the AG said, that he was given an opportunity to provide a voluntary statement (inaudible) choice, no?
	AG	It's very simple. We had out meeting on the (inaudible), yo llame a Lewis y le digo, Lewis, had a discussion with the Commissioner, you are, ahora no me voy acordar word for word…
	CoP	…if you provide a statement, they'll accept it…
	AG	Exactly
	CoP	If you provide statement
	AG	Provide (inaudible)
	CoP	It's up to them, we can't…

	AG	Provide a statement
	CoP	They'll consider it…
	AG	Notify the Commissioner that you are going to provide a statement so that when Jaime does not turn up for the interview its already agreed with you, because of the statement, y ya esta, le dije poca cosa mas.
	CoP	Then they put in the word witness statement, which then prompted my…
	AG	And that is a mistake, se lo dije claro, digo no es un witness statement, it's a simple written statement. Yo no se if there is any tactical reason…
	CoP	Si, of course, it changes his status
	DPP	From suspect to witness
	CoP	And all it takes is for that to slip in any correspondence and that is where the abuse starts, because they provided it in the belief that he was a witness.
28:23	DPP	14 days for the date Mr Levy provides a witness statement. We give them 14 days?
	DI Wyan	That takes us very close to the date of the warrant.
	DPP	Ok, 7 days and we then ask them to confirm (inaudible) voluntary disclosure.
	CoP	And not only that, we haven't challenged the court, or rather, we have to challenge the court…
	DPP	…within 14 days, I'll put it in my diary for next week and file notice of objection, formal notice of objection. I'm not sure (inaudible), I think we have to file formal notice say…
	CoP	That's to keep it there…
	DPP	…exactly…I'll put it in my diary fro Monday
	Supt Richardson	Monday is a public holiday
		(inaudible)
	CoP	To challenge the disclosure of the application, the content of the application.
	DPP	Correct. In the meantime, if we can meet tomorrow, if you can bring what we need for the Magistrates Court application to my office, we'll look redacting it5 and look at what we've given in advanced disclosure and then we'll sit down we'll black lines and we copy.
	CoP	Clarke's Clarke's affidavit.
	DPP	Essentially
	CoP	Le estamos dando mas de lo se le da (inaudible) tu imajinate (inaudible)
	AG	Lo que yo comprendi al hablar con Lewis is that they are in a very different place to you. Yo a Lewis le he dicho lo mismo, you've got to

		understand that the RGP is in a very different place to you, and the underlying problem we have here is that. You feel that you are being very (inaudible) and they feel they have been very hard done by, y ya esta. Therefore, however much we patch up today, that underlying sentiment, that is the whole difficulty of keeping this alive during this period. Y para mi in fact se lo voy a decir, contra menos cartas and communications during this period, mejor.
20:45	CoP	Mandarnos el statement
	AG	Concentrate en hacer el statement, para de mandar cartas, concentrate en el statement, y ya veremos que pasa then. Pero, this, this dangerous, to the very vulnerable structure that we've built here.
	CoP	Yeah, its like I said, it makes us, okay, we had an agreement, it's been warped a bit, the let's fall back to plan A (inaudible)
	AG	It's not going to get to that, pero, yay a se lo dije, si tu empieza a mandar cartas de legal traps, the RGP que ya esta donde tu sabes que estan, se van a poner nerviosos y van a decir fuck it.
	DPP	(inaudible) still available, but I think they are preparing an abuse
	AG	That is consistent with (inaudible)
	CoP	An abuse on the fact that we think that, on procedure…
	AG	On the warrant, en todo, todo.
	DPP	The suspect, not suspect, witness, not witness. That's why they are preparing (inaudible)
	CoP	Are we weakening ourselves?
	DPP	At the moment we haven't.
	AG	I don't think so
	DPP	At the moment we haven't. The problem is if they win the abuse it will impact on Sanchez, Perez and erm
	CoP	You don't reckon that we've weakened ourselves by being too kind (inaudible)
	DPP	In an ideal world, Ian, you would have gone like storm troopers as the MET would have done at six in the morning, got him out of bed, you would have executed the warrant, taken him to the station, mira, that's an ideal world, but we don't live in an ideal world.
	AG	Si, pero had you done that estamos ya en Guerra
	DPP	Estarimaos en Guerra
	Supt Richardson	It doesn't seem too different to where we are at the moment.
	AG	No, I think the distinction here, Paul, is that you've already been caught and Jaime Levy with ten top Silks from London defending him and they'd find fault in what you've done, a ti, a el, a mi, a quien sea. When you've got a top team to look at faults you are going to find faults and that is what we are trying to avoid without losing sight, as we discussed on Friday, que there seems to be a very strong case against Cornelio, Sanchez and the other idiot and at the end of the day you

		don't want to damage that. And had you done what Christian had said, you wouldn't have been put in that danger, let's not lose sight of that aswell.
	DPP	(inaudible) I'll put together a draft and circulate
	AG	(inaudible) …I'll be available for this…
	DPP	…We try and get a draft agreed today so we can get it off, no? (inaudible)
	AG	Y yo voy a llamar a Lewis, vale? (inaudible)
	CoP	He needs to ease off a bit.
34:10		MEETING ENDS
38:45		RECORDING STOPPED

2nd Affidavit:

Ian McGrail

Date: 26th September 2022

Exhibit: 7B

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 7B

TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me



A Commissioner for Oaths
Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

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

OP DELHI
Transcript of meeting in AG's office on 20th May 2020
With translated parts in BLUE

		PERSONS PRESENT **Attorney General – Michael Llamas** **Director of Public Prosecutions – Christian Rocca** **Commissioner of Police – Ian McGrail** **Detective Superintendent – Paul Richardson** **Detective Inspector – Mark Wyan**
Tape counter times	Person speaking	Text
		Greetings with AG's PA
		Morning greetings with DPP and AG
01:42	CoP	The saga continues.
	AG	Christian and I were just discussing, erm, how to reply and what we recommend that you reply and we haven't finished our thinking but we are on the same line at least of a, a succinct reply, taking issue with a numbers of statements that they make, but that we've started a process to be erm acting in a cooperative, or whatever language we use, we should let that process conclude and then we will talk or in the meantime we will reply (inaudible),because if we start rebutting things that they saythen everything that we a re trying to do would be, would be undermined,right Christian?
	DPP	Yeah, I got two hats here unfortunately, one is my worry is not being robust if we get to court and us getting (inaudible) but I am very conscious of
	AG	But doesn't a statement to the effect of, we take issue with a number, or even with many of the statements that you make in the letter. By saying something like that, even protects his position….
	CoP	That was my question, the challenge of the warrant which is at the hub of this all….
03:23	DPP	My view is to give them a little bit of a smack…tempered, but a little of errr, sayingtake it easy lion , tread carefully, you know. I think there's got to be a bit of gentle gentle…..
	CoP	What they are doing is turning it on its head, that now, that obviously we're not regarding you as a suspect, and that is not necessarily the case.
	DPP	Not necessarily the case
	AG	I agree. I think that's probably the worst comment…
	CoP	Yeah, so what they are saying, that , that we've agreed, and it was an unsolicited account that we were requesting, because that is the understanding; that they were going to provide that, which could or could not clarify a lot of the matters…
	AG	That is one thing we need to make clear in this reply…that was never suggested by anyone.

	Supt Richardson	They've really turned that on its head…from your conversation with him…to turning round to the commissioner and say, now, the Attorney General has informed me that you have agreed to treat him as a witness. I mean that is….
	AG	…All I've told them is that …Ian has agreed, the RGP has agreed, to try a written statement. That's all I've told them.
04:47	Supt Richardson	And they've really turned that around
	AG	Yes, I agree. For me that's the most serious issue in the letter, and that we've got to make clear. That is clear.
	CoP	Which then brings all the other allegations….and I agree, perhaps, if you want to say, we'll deal with them….
	AG	…we strongly take issue. My concern, again, Christian and I feel a bit uncomfortable in this role, but we are where we are…is we've tried to put in place a procedure….
	CoP	We've bent over, which we would not have normally done…
	AG	Which would errr… maybe, maybe leads us to a good place…we don't know. We've said, let's give it a try. And that's it that's all we've done here. Why they feel the need to make the assertions at this stage when this hasn't even started, I imagine, they must be drafting the statement now.
05:59	DPP	They are preparing an abuse (inaudible) ….under caution. They are preparing an abuse.
	CoP	And that is what worries me
	DPP	(inaudible)…I think they'd struggle. In law I think they are having difficulty. And therefore what they are trying to do is pick, pick and say yes, yes, yes ….abuse
	CoP	Knock the procedure
	DPP	Exactly
	CoP	And that's my concern too, because, erm, even if they did provide the statement…we would then have to perhaps follow up…
	AG	The view I've taken, with my limited knowledge in this area of the law, is that for so long that that is alive, its alive, you've just parked it for now. Which is the last point …when they say…erm, that I would therefore be grateful that you will confirm that you will not interview under caution, at a later stage…
	DPP	Its that, its that , they are pick and choosing the bits of the law which, for example, the public interest, the PII application, the PII matter, the interference with the investigation is encapsulated in PII. So, the fact that they are saying that, if we disclose this, it might interfere with the investigation, its not in the public interest to do so. So that ground is caught by the PII. Then you know, I think, respond to that, I think we…. Look, thank you for your letter. We are considering providing you with a redacted version to assist – we've done that

	CoP	...we haven't done that...
	DPP	...well Paul and I, we're going to sit down probably tomorrow or this afternoon we can do it...
	Supt Richardson	(inaudible) ...is talking about is the information that was laid before the magistrates court. And see whether we can extract from that something which we will not prejudice our case, but having said that, since we talked about that...we've given them so much...(inaudible) other than leeks and potatoes and what its all based on.
08:10	DPP	We can do that exercise...they've had pretty much disclosed everything. Here is a redact...we are considering providing you a redacted version of what was produced to the Magistrate which will enable you to make your own decisions and come to your own conclusions. That defuses that paragraph, I think, we say, we note that your allegations or suggestions about PII. We reserve that position to be argued in court. Our view is that we'll ensure the interference of the investigation is encapsulated in that ground full stop. I wouldn't give 21 days, I think that's weak. I would agree to a give further 7.
	AG	For the statement?
	DPP	No, for the 21 days of assurance, we say no, we call the shots here, 7 days of what you're going to get.
	AG	Yes but hang on...for them that is a massive issue, the, the phone. Then, I think if we have embarked on this written statement procedure, I think it makes sense...
	CoP	..to run parallel
	AG	...or at least to wait for the outcome of that. The way I see it, the written statement procedure, they are going to submit something to you...
	CoP	Backed perhaps with emails or whatever...
	AG	...whatever. It is likely that you will want to ask further questions. It seems to me, I think that we would be truly optimistic that the first statement is going to ...
	CoP	...be too complete
	AG	So I envisage a second round of questions to which they have to reply and then I think you want to draw the line there.
	Supt Richardson	I think Sir, the danger we have got with that is way we came up with this suggestion was that they would offer an explanation when we are asking him to come in for interview and the fact that they'd offered it, we would then consider it. If we then go back with questions, we are conducting an interview, albeit remotely. We are asking new questions that should be put under caution. So I think we have gone beyond that line. What we've done with Fischel, when he has, when we've interviewed his clients, on a couple of occasions, they've gone away and months later they have produced allegations against Gaggero and allegations against other people. But we haven't asked them for questions to clarify this. We are saying we need to interview you, we

		need to interview you we have finished our investigation. That depends of the output of this. I think we will cross the line if when we get that initial…which was supposed to be an unsolicited account, we will then decide to ask questions on it, because then we are caught by PACE. We are asking questions of somebody who is suspected of being involved in an offence and has to be under caution. I don't know what your views are on that Chris. I'd like to see the Codes of Practice just to make sure…
		(inaudible)
11:09	DPP	….tentatively, I thinks its right. We'll come to that, lets get the letter slowly. Okay, so I didn't mean to get a little bit (inaudible)…14 days? Just so they come back with something – we're calling the shots here. It comes across a bit more…14 days subject to further review, if matters are progressing.
	Supt Richardson	Does 14 days take us up to the expiration of the warrant? Because this what they might be pushing. If we take it beyond that, the 21 days, then what do we do? We then go back to court and say can we have another warrant because Hassans agreed to give us stuff but they haven't and now(inaudible)
	DPP	We'll come to that, because I've actually got a note here that I've prepared saying, you're failing to deal with the voluntary disclosure issue – they've not responded to that. Its all being based…they are fighting the battle on the grounds they are wanting to, but they're ignoring the very important question which is (inaudible)…with the warrant, you gave it voluntarily, and therefore all this is smoke and mirrors (inaudible)….and we are not dealing with that. (inaudible)..
	CoP	…I am putting the question, are they withdrawing consent?
	DPP	…well exactly, in which case we would have to consider exercising the warrant (inaudible)
	Supt Richardson	I think they have made it clear that they have withdrawn consent because of their actions that they wanted to take.
12:24	DPP	They've not said it it in black upon white, Paul. We need to…I think we need to push back a little bit, in my view, so they realise we are not a soft touch and if we have to defend that position in court, on judicial review or abuse of process, or whatever, we are quite firm, ermm, I don't want to get rail roaded and ……
	CoP	The 3rd paragraph referring to you advising on the warrant…
	AG	(inaudible)
	CoP	…Paul absolutely denies that
	DPP	It's irrelevant
	CoP	No Paul?
	Supt Richardson	What's that?

	CoP	The DPP did not advise you or rather or rather that you said that the DPP had advised.
	Supt Richardson	No, the DPP didn't advise. We discussed this last time.
	DPP	These are not matters for the DPP, these are matters for the RGP and their operational functions…
	Supt Richardson	I think if push came to shove, and I hope that it doesn't, I think we all agreed that on the examination of the evidence, that Jaime's status at this moment in time is a suspect, but we a re willing to reconsider that position depending on what he says, but he won't say anything, so how do we move from this position forward?
13:24	AG	Well, hopefully with the witness statement.
	Supt Richardson	Yes
	DPP	(inaudible) … the DPP irrelevant….operational issues. They then say the seized material cannot be examined until the court has ruled on the propriety of (inaudible) of disclosure that, that's just wrong…we have on the face of it a valid lawful warrant (audible) …with evidence seized…..and as soon as Ian's undertaking expires (inaudible) …he can open it if he wants to.
	Supt Richardson	That leaves us exposed with regards to the corporate records and emails from Hassans. We left there on the understanding that they would give to us in one or two days (inaudible)
	DPP	We refer back to the voluntary (inaudible) cooperation. Because I think that if they do, we will have to, …..(inaudible) to execute the warrant
	Supt Richardson	Maybe, the letter if it had a line that we reserve out rights to revisit that we execute this warrant within the 30 days. We need to resolve this before that…because at the moment…it ius taken us beyond the 30 days.
	CoP	Next 30 days no, before the 7th June.
	Supt Richardson	Yes, it would be wrong for us, I think, to go before the court and say, we need to obtain a warrant again. The first thing they'll do is ask why haven't you executed it?
	DPP	Yeah, yeah (inaudible)
		(Inaudible)
	DPP	…we have given the, the opportunity (inaudible)…but its their choice…as has been done by others in the past.
	AG	As Paul started saying that maybe we should add then that we're keeping an open mind on this until this…
	Supt Richardson	Which we'll always do
	DPP	That's the flavour of the letter that we need to send backhit back gently, but …
	Supt Richardson	I think there are also, we talked about some issues in this letter which

		were wrong in law…there were issues in the other ones which were wrong in law. They said the only way we could proceed with this was by production order; now that's, that's wrong. I'm conscious that we've let these slide, those allegations slide, because we're hoping to deal with this in a (inaudible)
	CoP	What are they thinking? I mean these are just tactics again…what are they thinking? Have we got them on the ropes?
	AG	Loo, I, I've spoken to Lewis Baglietto as you know and err, my impression was, my impression is, that they welcome this written statement, but that there are, they consider there are issues that need to be dealt with, at the same time, like this in this letter. And my advice, if I can use the word advice, even though it is not advice, is, is what I have told him, is look, its taken Christian and me quite a bit of persuasion of the RGP to go down this path, let's leave it, lets go down this process of the written statement. And for me in my mind, and correct me if legally this is wrong, all we are doing here is we are putting on hold the procedure that you started to allow this written statement to come in, and once it comes in then you will assess…and I imagine that you will tell yourself, bueno there's nothing here that really helps us…
	CoP	Or its substantive enough to change his status
	AG	…or, exactly, and then you decide whether to unfreeze or let it freeze forever. Now, if they fire those cannon balls in that process…, for the sake of transparency I will speak to Lewis and tell him, look, its not for me to advise you if you felt you had reasons to send a letter such as this one…I will look for something to (inaudible)
17:39	CoP	What they are doing is practically leading us back to the path that we agreed we were going to stop. They are forcing the arm. That's why I'm saying , may be they think that they have got us on the ropes.
	AG	I don't think so.
	DPP	Tell me if I'm wrong guys, legally, the written statement….(inaudible) but its not under caution. If we then caution, can we use this statement we can't, but you're saying we can?
	CoP	We can put it into the interview and convert (inaudible)
	DPP	It can be used in evidence
18:14	CoP	The question that you're asking (inaudible)
	DPP	It would be potentially admissible against him, is what he says, that's not the law…
	CoP	But , if he makes an unsolicited statement, of course it can.
	DI Wyan	Its not under caution at the minute, this is just…
	Supt Richardson	The thing is, we cautioned straight from what we intended to do which is the danger. We have been clear; we suspect that you have been involved in a criminal offence to such an extent that we obtained the warrant. The warrant, the exercising of the warrant was delayed

		because we have a requirement to obtain the evidence by consent and you insisted in handing it over by consent over a period of several hours. We left in the belief that we were dealing with consent. Then we started off with the attack and allegations that came with that and the consent seems to have been withdrawn. To move beyond that point we agreed that if he offered us a statement we would, not park what we are doing, that is a dangerous concept, that is like saying we're not going to treat you as a suspect, because I would ask questions of somebody I have to comply with CPE.
	CoP	And the reason why we accepted that written account was because we'd rather have that…
	DPP	…than nothing…no comment interview
	CoP	Precisely
		(inaudible)
	CoP	And therefore it is an opportunity for him to clear something which could be cleared up, or not. But we wanted , that was the essence of it….
	Supt Richardson	Because a no comment interview would really tie your hands, because you can always evidence saying this has happened. A profession to say I am going to help you as much as I can, but when it come s to it I am not going to answer any questions, what do we do, we ignore? We are trying to move forward with this. What we can't say, that, the fact that whatever he says can't be used against him. It has to be under caution, or its an unsolicited request, which is, look, I don't care what you say, this is what we've got to say, use it as your will. But to give that protection that we won't use it becomes absurd. Because, I'll give you an account, I'll look at it and say it doesn't many sense, put it to in interview, you say nothing and then we've got nothing to use. How do I use that against him?
20:22	DPP	I think, just reply to paragraph 7, Mr Levy has and continues to be a person under suspicion. He was given an opportunity to write a statement voluntarily…
	CoP	…An unsolicited statement…
	DPP	…an unsolicited statement, voluntarily, which we understand he's agreed to do, erm, it's a matter for you to advise your client on the effect of that statement. We are not going to deal with guarantees or insurances (inaudible) you advise you client. I think, no?
	AG	(inaudible)
	DPP	…matters for you to advise your client
	CoP	That succinctly put, like the AG wants, but, he had an issue with my letter where he though that I was sending the wrong message that the interview would be not under caution, but they've picked it up, it was because they are referring to any subsequent interview being under caution. So they will read between the lines, so that is good, balanced against saying, erm, that the position on status has not shifted in

		accordance with the disclosure package that we gave you. That these are matters that suggest…
	DPP	…(inaudible) it's the tail wagging the dog, but at the end of the day Lewis, with respect, you're not here to wag the dog, we're the dog. We've been as reasonable and practical as we possibly can, but don't start wagging the dog. I think that he has to (inaudible) to Lewis. You can't come here telling the Police (inaudible), okay, you want to withdraw it, that's for Jaime to tell Lewis. That's what we're facing.
	Supt Richardson	And that's what everyone is trying to avoid
	DPP	Lewis needs to understand, if he pushes them up against a wall, they're going to turn round and say look (inaudible) I'm arresting you.
	CoP	That's what I'm trying to say, they are actually forcing us back to the point where we didn't want to go. Obviously they don't want to do an interview under caution, but maybe its time they reconsider and come in.
022:25	DPP	They want a guarantee and we can't give that guarantee Michael.
	AG	Well, I think that the whole point of the written statement is for the RGP to assess at that moment whether it's necessary or not..
	CoP	Talking here, we are all hopeful for the reasons that we all know, the whole periphery, that that account is as substantive as it can be…
	AG	…and that you don't need to…
	CoP	That
	AG	That can't be said.
	CoP	Neither are wee going to say hopefully,we are not going to say hopefully.Because the same we would have to tell them others, hopefully if you give an account you're (inaudible)
	AG	I believe Christian, based on what Ian has just said and I am totally in that page. By all means, we should…are you going to prepare a draft for Ian?
23:15	DPP	Happy to do so.
		(inaudible)
	Supt Richardson	And I think we have to address some of the…
	AG	…address
	Supt Richardson	(inaudible) in law
	AG	Address some of the issues that you have suggestedBut , in the conclusion, for all our sake and all our respective sanities , let's contain this, let's…
	CoP	But we are still open minded….
	AG	Yes, yes, yes …

OP DELHI
Transcript of meeting in AG's office on 20th May 2020
With translated parts in BLUE

	CoP	We, we, unfortunately these are processes that are set…
	AG	And I will lift up the phone and say, Lewis heck, we are, the RGP is trying to accommodate his position; take it easy, let's wait, concentrate in making the statement and not sending these things. I am very happy to look at a draft – I don't need to see it but…
	DPP	What we'll do in the first instance, Paul and I will concentrate on getting draft that we think reflects the ground and we circulate it.
	AG	I am happy to look at it but I leave it up to you (inaudible) so, well, I think it's a very decent reply (inaudible) stand our ground in the law, giving, err, refuting what we feel we can refute…
	DPP	…unless you think the reply should come from the DPP.
	AG	Sorry?
	DPP	Should the matter, should the reply come from me or should it come from Ian?
	AG	I haven't got a view on that
	Supt Richardson	Unless you reply saying, give the areas in law you raise, you have consulted with the DPP and my advice is as follows.
	DPP	We could do that
	Supt Richardson	That addresses both issues…because at the moment the impression that we are giving them is that it's just us that are dealing with this, they might not be aware of the agreement s behind the scenes.
	CoP	…well they are, because Michael is brokering that (inaudible)
	AG	(inaudible) no, what I have told him is, yes, I've told Lewis que Christian and I are talking to you, of course they know.
	DPP	I'll prepare a draft
25:26	AG	Ok, try to finish it in as positive a (inaudible)
	DPP	Yeah, yeah
	CoP	The open mindedness is…
	AG	I believe, I believe that that point Ian has made , Christian, is important if you can weave that in; that the RGP is waiting for the statement and keeps and open mind. This is not, I mean we are not doing all this for nothing, we are doing it, I mean, careful with the word, but we are doing it in the hope that something will come out which will allow us ermm (inaudible) that is fairing dangerous territory. That this is not being done for …
	DPP	Would it be fair to say, given an opportunity to provide a voluntary statement, rather than inviting?
	CoP	No, no that they felt it proper…
	DPP	I'm just, I'm just mindful here that we are trying to rope Michael in (inaudible)

	CoP	Was it in relation to the question?
	AG	Yes because, it must be that, because about written statement it was I that communicated that to them.
	Supt Richardson	No, no, they're saying in the 2nd paragraph, they refer to the letter to the AG on the 15th and don't want to go through those points again, so they are saying we've made all these complaints to you, we don't intend to rehearse them again, because we've already raised them with the AG, so they still stand.
	AG	Yeah
27:00	DPP	Fair to say that I do not want to misrepresent the position which says that is not what the AG said, that he was given an opportunity to provide a voluntary statement (inaudible) choice, right?
	AG	It's very simple. We had out meeting on the (inaudible), I called Lewis and told him, Lewis, had a discussion with the Commissioner, you are, I am not going to remember word for word…
	CoP	…if you provide a statement, they'll accept it…
	AG	Exactly
	CoP	If you provide statement
	AG	Provide (inaudible)
	CoP	It's up to them, we can't…
	AG	Provide a statement
	CoP	They'll consider it…
	AG	Notify the Commissioner that you are going to provide a statement so that when Jaime does not turn up for the interview its already agreed with you, because of the statement, And that's it, I said little more.
	CoP	Then they put in the word witness statement, which then prompted my…
	AG	And that is a mistake, I clearly told him , I said it's a witness statement, it's a simple written statement. I don't know if there is any tactical reason…
	CoP	Yes , of course, it changes his status
	DPP	From suspect to witness
	CoP	And all it takes is for that to slip in any correspondence and that is where the abuse starts, because they provided it in the belief that he was a witness.
28:23	DPP	14 days for the date Mr Levy provides a witness statement. We give them 14 days?
	DI Wyan	That takes us very close to the date of the warrant.
	DPP	Ok, 7 days and we then ask them to confirm (inaudible) voluntary

		disclosure.
	CoP	And not only that, we haven't challenged the court, or rather, we have to challenge the court…
	DPP	…within 14 days, I'll put it in my diary for next week and file notice of objection, formal notice of objection. I'm not sure (inaudible), I think we have to file formal notice say…
	CoP	That's to keep it there…
	DPP	…exactly…I'll put it in my diary fro Monday
	Supt Richardson	Monday is a public holiday
		(inaudible)
	CoP	To challenge the disclosure of the application, the content of the application.
	DPP	Correct. In the meantime, if we can meet tomorrow, if you can bring what we need for the Magistrates Court application to my office, we'll look redacting it5 and look at what we've given in advanced disclosure and then we'll sit down we'll black lines and we copy.
	CoP	Clarke's Clarke's affidavit.
	DPP	Essentially
	CoP	We are giving them more than we (inaudible)can you imagine (inaudible)
	AG	What I understood from speaking to Lewis is that they are in a very different place to you.I have told Lewis the same , you've got to understand that the RGP is in a very different place to you, and the underlying problem we have here is that. You feel that you are being very (inaudible) and they feel they have been very hard done by,and that's it . Therefore, however much we patch up today, that underlying sentiment, that is the whole difficulty of keeping this alive during this period. Y para mi in factI am going to tell him, the less letters and communications during this period, mejor.
20:45	CoP	Send us the statement
	AG	Concentrate on making statement,stop sending letters para de mandar cartas,concentrate on statement,and we'll see what happens then.But , this, this dangerous, to the very vulnerable structure that we've built here.
	CoP	Yeah, its like I said, it makes us, okay, we had an agreement, it's been warped a bit, the let's fall back to plan A (inaudible)
	AG	It's not going to get to thatbut I've told him, if you start sending letters with legal traps, the RGPwho are where you know they are, they are going to get nervous and will say, fuck it.
	DPP	(inaudible) still available, but I think they are preparing an abuse

OP DELHI
Transcript of meeting in AG's office on 20th May 2020
With translated parts in BLUE

	AG	That is consistent with (inaudible)
	CoP	An abuse on the fact that we think that, on procedure…
	AG	On the warrant, on everything, everything.
	DPP	The suspect, not suspect, witness, not witness. That's why they are preparing (inaudible)
	CoP	Are we weakening ourselves?
	DPP	At the moment we haven't.
	AG	I don't think so
	DPP	At the moment we haven't. The problem is if they win the abuse it will impact on Sanchez, Perez and erm
	CoP	You don't reckon that we've weakened ourselves by being too kind (inaudible)
	DPP	In an ideal world, Ian, you would have gone like storm troopers as the MET would have done at six in the morning, got him out of bed, you would have executed the warrant, taken him to the station, mira, that's an ideal world, but we don't live in an ideal world.
	AG	Yes, but had you done thatwe're at war. estamos ya en Guerra
	DPP	We're at war
	Supt Richardson	It doesn't seem too different to where we are at the moment.
	AG	No, I think the distinction here, Paul, is that you've already been caught and Jaime Levy with ten top Silks from London defending him and they'd find fault in what you've done,on you, on him, on me on anyone . When you've got a top team to look at faults you are going to find faults and that is what we are trying to avoid without losing sight, as we discussed on Friday,that there seems to be a very strong case against Cornelio, Sanchez and the other idiot and at the end of the day you don't want to damage that. And had you done what Christian had said, you wouldn't have been put in that danger, let's not lose sight of that aswell.
	DPP	(inaudible) I'll put together a draft and circulate
	AG	(inaudible) …I'll be available for this…
	DPP	…We try and get a draft agreed today so we can get it off, no? (inaudible)
	AG	And I'm going to call Lewis, okay? (inaudible)
	CoP	He needs to ease off a bit.
34:10		MEETING ENDS
38:45		RECORDING STOPPED

2nd Affidavit:

Ian McGrail

Date: 26th September 2022

Exhibit: 8

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 8

TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

A Commissioner for Oaths

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

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


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All Recordings
Meeting with GPA Chair 22nd M...
22 May 2020
Meeting with AG & DPP 20th May
20 May 2020
Meeting with AG & DPP 15th May
15 May 2020
Meeting with A...PP 15th May copy
15 May 2020
Meeting with AG & DPP 13 May
13 May 2020
Meeting with A...DPP 13 May copy
13 May 2020

AUDIO FILE

2nd Affidavit:

Ian McGrail

Date: 26th September 2022

Exhibit: 8A

INQUIRY INTO THE RETIREMENT OF

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22nd May 2020
Transcript of meeting between GPA Chair and Ian McGrail (CoP) at CoP's office

Tape counter	Person speaking	Text
00:37	GPA Chair	Basically I'm supposed to call you to the Authority y ahi decirte lo que te tengo que decir, pero yo dije this is best face to face, una persona sola, por que de verdad que yo nunca he echo nada igual en mi vida. Me llamaron during the week a un meeting el Gobernador y el Chief Minister pero the meeting was initiated by the Minister en el Convento.
	CoP	The Chief Minister?
	GPA Chair	No, by the Governor sorry, and the Governor said the Chief Minister will also be there; can you make it? Y le digo when? (inaudible) y fui.
1:19	GPA Chair	Y entre los dos me dijeron that they've lost complete confidence, te lo tengo que decir, lost complete confidence in your leadership and management of the RGP. Le dije based on what? Right. Empeso la conversacion, tengo nota eh, explicandome de que hay dos secciones en el Act. Uno el gobernador can simply ask the commissioner to creo que es to resign en section 13 o algo asi, y en section 34 the CoP can be invited to retire, pero commissioner can also make representations to argue the case as to why you shouldn't retire. Me explicaron that Gibraltar had been put in a very very very poor position because of the incident at sea y me dijeron que ahi no me metiera mucho porque they were gonna write to you separately y ayer me dijeron que they had written to you. I'm not sure because I haven't checked mine con que no se si yo e cojido una copia o no. The incident at sea apparently es bastante bastante bastante grave y lo que me explicaron era nothing that you won't know de que its put Gibraltar in a very bad position with Spain y with Britain todo esas cosas, I won't go into detail because technically el Authority no es algo que que we can do anything about. El reporte leads them to believe that reasons regressed instead of progressed, I, clearly yo explique varias, varias cosas de ahi. A couple of things I couldn't answer because I felt that was for you really. Yo no queria menciona a otros comisarios tampoco. They asked me, Bueno, have you any idea why there's still so many recommendations pending from the previous report, y actually le explique, he doesn't want to mention any third parties, there's probably an explanation there. Despues me empesaron a decir, going through the report, the issue of not being alive to corruption I think it's to do, no estoy seguro, I think it's to do with the whole reputation of Gibraltar resting on the police. In fact they went through the report on the issues of even independence of police can be tainted, I've never seen it that way, can be tainted by not being alive to corruption por que somebody might do, do something and it's because they've got, that doesn't mean that it's you who's doing it e. pero en fin they reiterated that they have completely lost confidence, now, como me explicaron, they've put the Authority in a position where we are left with no option, why? Because if the governor asks you to step down he can only do so if the Authority hasn't done its job in default, bueno they said that clearly. But they realise that you may have explanations, so section 34 is where the Authority invites you to retire, right, but gives you time to make representations and unfortunately, I've been asked to hand you

		that letter. Pero hace eso delante de todo el Authority, I've had a couple of meetings with them y tuve que llama por telefono to make sure that the Authority also feels that there is no option and everybody is in agreement. Erm, having said that, the preference is, es que lo que pasa is that retirement is not the same as resignation, if you see what I mean, I don't expect you to answer ni dicirme nada ni nada eh, de verdad, y puedo ve lo incomodo
5:25	CoP	My initial reaction Joey, this is a complete travesty, because there is an underlying
5:36	GPA Chair	Esperate, esperate, the governor was there and he also agreed that he had lost confidence in the leadership and management, erm, this is not one party saying it, it's both of them, now the Authority is bound to do something about it because we've been told we have to, ahora, there's the option of, cuando tu leas la carta you'll see what I mean. There's the option of preparing a response
6:12	CoP	Which for my own integrity I'm bound to do so, I've got to I think
	GPA Chair	Yo no te puedo dar advice
	CoP	No, no, pero what I'm saying is, from what you're telling me
6:21	GPA Chair	Bueno it depends on why you retire, por que alguien puede decir I'm retiring for personal reasons
	CoP	No, no, pero I'm not thinking that, I'm thinking about the, in a way the personal attack that has been levelled at me, and an opportunity to express myself no?
	GPA Chair	Si, si, absolutely pero lo mismo te digo que there's nothing in the Act to stop you from making representations to the Authority either in, yo prefiero que sea in writing y then in person, si quiere tu explica todo.
	CoP	And that. What is that because I haven't even looked at the
	GPA Chair	Bueno, en el Act no dice nada, pero I've been advised que seven days, but if you, espera, espera, if you need more time, que me lo diga y que me diga mira en siete dias no puedo prepara esto. Pero essentially, there's a bit in the report that indirectly calls the, puts the RGP into disrepute. The answer is to why the previous report seems to have been ignored, yo le dije que no, que they had been met. I also said that you already, since you got the report that you met quite a few of the recommendations, I actually said that. I think what's triggered this, apart from anything else por lo que me dijeron, is, actually the incident at sea, according to the governor. The, the meeting was very very long and everything was aired. Yo lo que pasa que
7:54	CoP	When was the meeting held? This meeting?
	GPA Chair	Monday or Tuesday. Monday, lo que pasa que I had to give notice to, porque no pudo ir todo el mundo, so I had to call people, I had to give notice to the Authority so I couldn't meet immediately.
	CoP	I mean the meeting between you and the chief minister I'm referring to.
	GPA Chair	No, no, me and the chief minister no. Me and the governor and the chief minister.
	CoP	That's what I mean.

	GPA chair	That was on Monday. I was called on a Sunday
	CoP	This Monday?
	GPA chair	Si si, esta semana
	CoP	Ok
	GPA Chair	I was called on Monday, erm and was told I had to discuss it with the Authority, and I said si eso es lo que dice en el Act, I need a quorum, the chairperson can't take a decision, erm, pero claro, the position the Authority has been put in, if what the governor and the chief minister is saying that they have no, they've lost
	CoP	But what is the position of the Authority? Is the Authority accepting that? Have you had any concerns about me?
	GPA Chair	No, no, esperate, we would have told you
	CoP	Exactly
	GPA Chair	Exa ctly. We would have told you, con que si tu quiere that can be part of the
	CoP	No, but what I mean to say is, are you expecting me to resign, to retire, are you expecting me to retire, because
	GPA Chair	Esque te voy a decir lo que pasa, if. The meeting started by, because I'm not a lawyer, what was explained to me was that there are two options, for the removal of a commissioner. One is through retirement, the other one is through resignation, and that's the nuclear option, to actually ask the, no ask no, request the commissioner's resignation. So clearly, they feel que the incident at sea is serious enough to warrant that.
	CoP	But but but but
	GPA Chair	Lo que dicen que, basically lo que me dijeron es que you hadn't been (inaudible) with giving them information
	CoP	I've read the letter today and obviously I've started to
	GPA Chair	Es muy larga no?
	CoP	No, no, but it's not that. It's that there's a lot of unfortunate inaccuracies there that this, the catalyst for the chief minister's letter to me arises from a very recent letter of claim, or suggestion of claim from Verralls to us, saying that they are now representing the families and they now want details because they are going to initiate a claim. Now when there's letters of claim of that nature, from what I've learnt throughout the years here, is that we engage with the crown counsel. Normally that's done by someone in the headquarters division. So I assign it to Cathal Yeats to link up with Director of Public Prosecution to say can you appoint a counsel to defend, to sort of to represent the RGP's interest in this and he does that, he goes and sees Christian Rocca and Christian Rocca says look I'm in a bit of a quandary here because I don't know if my chambers could do this, because there could be, we don't know what the final outcome of the recommendation of the independent team coming whether that's going to be a case of organisational learning from a, whether there's going to be conduct issues, there could even be criminal liability and Christian Rocca was a bit uneasy to say, to commit to representing, but that he would consult with the AG to see what the suggestions were, and one of the suggestions, the possibilities was to farm it to

		someone. So that conversation was had between DPP and AG and the AG says well I'll have to tell the RGP to write to me and then I'll consult with the Chief Minister. Because it involves funding. Not that we were asking for funding, it's that we were asking for representations.
11:23	GPA Chair	What you were saying was mira we foresee that there's going be extra expenditure
	CoP	Not so much extra expenditure, que we need a representation. I mean this happens because in the past, like for example, there's been a search warrant and they've broken a door down and the owner of the house claims, there's, civil claims. And that is, there was a reaction from the Chief Minister, a very tough reaction, which I was quite surprised myself, in the sense that he was claiming that I hadn't, that he wasn't up to speed with all these things, but yet again I have been meeting up with Michael and I've been meeting up with Michael throughout and with the DPP of late, expressing my concerns about this and Michael has been my middle person to get to the chief minister
	GPA chair	Lo que, esas cosas because they are part of what I was told, you have to tell the Authority in terms of,
12:14	CoP	I think I have even briefed
	GPA Chair	Si si. No,, n, no, no que you have to tell me about the incident at sea, that this explanation, the reason why the preference is to alert you to a section 34 is because there is provision in the second part, 1 y 2 nada mas, es muy simple, el 1 y 2, y 2 dice the commissioner may make representations to the Authority and, because the Authority has to seek consent from, es que se a hecho alrevez, in other words, they told us we are going to trigger this. There's two ways of doing it. In other words, from the Authority's perspective, we haven't taken a firm view, but this
12:56	CoP	Have I lost my job?
	GPA Chair	Ahora mismo no. ahora mismo no.
	CoP	So what's the situation then?
	GPA Chair	The letter your invited, we have to invite you to resign
	CoP	But
	GPA Chair	But if you don't feel that you can't
	CoP	But what you're giving me 7 days to make a decision?
	GPA Chair	To make no. to make representations, mira
	CoP	Si but what effect does that letter have. Do I know have to hand in everything here and I've got go, or, I don't know
	GPA Chair	No, no, no, you're not suspended ni nada. You now have to. It's an invitation, it's an invitation, I think the other way would be, you would lose your job if the governor
	CoP	This is a travesty Joey. This is a travesty. This is a serious travesty
	GPA Chair	No puedo comentar. Anything that you have to say, de verdad, tell, everybody is going to be there, the Authority. You make the explanations on that, because then, once you make the representations we have to take a view but also go to the governor and the chief minister. Any one of them, en el Act dice

		que both of them can trigger this but any one of them can take the final decision. We need consent so in other words, you can't be removed without anyone's consent, the consent is needed. In fact you can't even retire without having the consent of one of them. The there is no easy way of saying this, because the other route is the Authority is in default and that means simply that not even an, not even chance
14:24	CoP	I have been threatened by the chief minister
	GPA Chair	Pero no me lo diga ahora, dirlo ahi
	CoP	Pero te lo digo ahora as a, pero que I've been threatened, ahora que, this is a situation whether I save my skin and I come forward with absolutely everything?
14:43	GPA Chair	De verdad que I would like to advise you, pero no
	CoP	No, no, no, I'm not asking you to advise
	GPA Chair	I'm conscious that y esto siempre me lo a recordado desde los tiempos de John de que, de que there has to be a quorum there has to be a minimum of 6 people y mas in important decisions, that's why it's taking so long, y mas que hay que explicarle a todo el mundo, mira, but the bottom line is, the bottom line is, that I was called to a meeting, the Authority was called to a meeting, and the view was expressed clearly, very clearly that both sides of government, the governor and the chief minister had lost faith in you, had no faith in you.
15:26	CoP	I've never had that feedback from the governor. I've had the feedback from the chief minister arising from certain Actions that we carried out, executive Actions that we carried out on, which I think I briefed you on and that is the catalyst behind this all in my view but but I've not had a reAction from the governor. On the contrary
15:47	GPA Chair	De verdad que I was just as surprised.
	CoP	Are your surprised?
	GPA Chair	Si si of course, y la gente del Authority tambien, but the thing is that there is no option left, because the other option would be simply to dis-appoint you rather, in the same way you were appointed to dis-appoint you directly by the governor and I think they want to avoid that, they want it to be your choice, erm por lo que veo yo. But the the phrase, 'we have lost faith in in our commissioner' y tambien they're worried that the RGP seems to have regressed, I'm in no position to say because I wasn't there, I've only been lo mismo que tu, two years
	CoP	Regressed in what sense?
	GPA Chair	Bueno, that, rather than regress, que it hasn't progressed as much as they felt it should in terms of policies and all that. Tambien acuerdate tu que
	CoP	One of the first things I did was have the Authority erm, check all the policies, which was never done in the past.
16:51	GPA Chair	Another thing that I, I didn't know this because I wasn't involved, this was brought up, in your application as commissioner you said that immediately, with immediate effect you were going to set up a working party to meet all the recommendations, or most of the recommendations of the previous report and that one question

		that we've been asked to ask you. Was that done and and (inaudible) so that's the other one.
	CoP	Yeh yeh.
17:16	GPA Chair	They clearly are worried about international, asi me lo dice el gobernador, reputation in terms of
17:22	CoP	What's your view of engaging with HMI and finding out that this report warrants my
	GPA Chair	Yo esque I wouldn't be able to do that myself, because it talks about the RGP, I presume you could do it yourself. Mira de verdad I think you need time, si quiere te leo la carta because
	CoP	Valiente shock. Valiente valiente shock joey.
	GPA Chair	Yo llevo 40 años en government and I've never had to do anything like this
	CoP	This is a shock. I'm shocked.
	GPA Chair	No no I know you're shocked, that's why you're not reacting, erm, pero the bottom line is that they, this way is giving you more more leeway because you can make representations to the Authority before a final view is taken. Pero acuerdate, the wording of the letter, it's an invitation to retire right. Ahora, I wouldn't know on what terms you can retire. Pero clearly, you have to give it a lot of thought
18:49	GPA Chair	The important part is lo del firm and final view, that has not erm, happened.
	CoP	I don't see, with respect, with respect, I don't see any, the shots have been called by way above the Authority.
	GPA Chair	But the the governor is the the governor is the person who called me to the meeting and told me the chief minister was going to be there as well by the way. And the governor started the the meeting
	CoP	I could even kick off a constitutional crisis here Joey.
	GPA Chair	Mira, I've had to do what I've been obliged to do, what, how you react is, is up to you, mira te voy a dejar with your own thoughts, lan de verdad.
	CoP	No es justo, no es justo. No es justo. It's not just. It's very unjust.
	GPA Chair	Como te digo
	CoP	Very very unjust.
	GPA Chair	I need you que te tranquilise, to take advice, if you need to, and whatever, pero que que we are willing to listen to your representations and that
	CoP	And what happens? After that, if I, if I make representations, would you consider them?
	GPA Chair	We would consider them and we go to the governor and the chief minister
	CoP	And, bueno they say yes, they say yes, we accept the recommendations, the submissions and we go back, or they say we don't, the invitation to retire still stands

	GPA Chair	No, if they say, put it this way, if you say ahora mismo, no no, yo esto lo voy a ignorar, it's a invitation, it's an invitation, you're not being forced. It's an invitation. I am presuming that they would then trigger the section 13, the governor removes you, I am assuming, I haven't been told that. There must be a reason why the preference is to do it this way, to give you the the the option. Erm pero yo si quiere vete para casa Ian
	CoP	Yo no se.
	GPA Chair	Vete para casa
21:04	CoP	Para casa? Para casa Joey? Esto es una injusticia Joey,
	GPA Chair	No no no no no digo pa
	CoP	Esto es una injusticia. Me he quedado
	GPA Chair	Pues imaginate
	CoP	Tu sabe lo unico que tengo tranquilo? La consiencia. And my ethics which remain up here. I am being muscled out here because there are other underlying issues and that is what I'm toying with. I'm toying with whether if I defend myself, I sink Gibraltar, basically, at this crucial time, or whether I take the hit and save Gibraltar. But that is not going be viewed like that.
	GPA Chair	Pero esperate esperate,
	CoP	That is what I'm toying with. Because
	GPA Chair	You can be perfectly open with the Authority.
	CoP	I cannot be open with the Authority, bueno my first reaction if I was a loose cannon, is go and see the governor with a big file. With a big file and then, pero that is damaging for Gibraltar
22:10	GPA Chair	They, mira, the Authority is acting on the premise that both the governor and the chief minister have categorically stated that both have lost faith in you. And If we don't
22:27	CoP	Have you got that in writing from them?
	GPA Chair	no
	CoP	I need that in writing
	GPA Chair	Ahi esta, that they've lost faith in you.
	CoP	Si pero I need the reasons .
	GPA Chair	The reasons is.
22:45	CoP	No, I would want that in writing to defend my case. I think the reasons have to be (inaudible) to me because me esta dando
	GPA Chair	No, no, esta bien. I was told that you were going to be sent the, the reasons, lo del maritime
	CoP	There's no reference there to
	GPA Chair	No, no
	CoP	Asking me to retire
	GPA Chair	But that is part of what the Authority is
	CoP	Bueno

	GPA Chair	That is what I have to ask you, que que esta pasando
	CoP	Si, si pero that is not linked to this letter. If it is , its not written.
	GPA Chair	No, no I'm not saying its linked.
	CoP	If it is, if it is, if that's one of the reasons you've been told
	GPA Chair	The loss of faith, one of the reasons of the loss of faith, or the loss of confidence in you is the way it's been handled apparently. The maritime incident.
	CoP	Si, pero apparently is not good enough for me. I need to know in writing what the Authority has been asked to consider for you to send me this. Because you've sent me this, pero you've lost that
23:41	GPA Chair	No, no, no, no, it should be enough con decir, yo tengo aqui the main points, pero yo
	CoP	This in respect of certain aspects of policing that have led to serious loss of , I need I need to
	GPA Chair	Mira, great concerns expressed by the governor and chief minister in terms of loss of confidence. The main things that were mentioned, the contents of the report, the incident at sea, then they explain that they've lost confidence in you because mainly failing to inform them of failing to keep them at
24:36	CoP	Pero mira, how can they ask me that if I haven't even responded to that yet? How can they, they've arrived to a certain situation, a very pre-emptive situation when I haven't even had the opportunity to explain. Do you see what I mean? Would you be able to revert and say look if the questions of the, if the content of the report that has regenerated so much concerns which evidently hasn't generated the concerns of the Authority or the governor himself, because the governor has not mentioned it to me
	GPA Chair	No, no, the governor mentioned
	CoP	Right, pero
	GPA Chair	I'll highlight the
	CoP	And and so the report, the contents of the report fine. The report stands on its own. Fine. If it's to do with the handling of the collision at sea , I've been asked by the chief minister to respond to that pero that is the reason why I'm being served this so can
	GPA Chair	One of the reasons.
	CoP	There's two reasons. You've told me there's two reasons. Si o no?
	GPA Chair	Si si there's two main reasons. Pero I took my personal notes, lo que pasa que no me lo e traido, pero I took my own personal notes of the meeting where they gave me the reasons, you can take it from me, pero you don't need to,
	CoP	I need to I need to
	GPA Chair	Yo ahora te lo mando
	CoP	I would be grateful if it was in writing, because this is now a very,
	GPA Chair	When you make representations you can base It on the points that I said

	CoP	The certain aspects of policing I need to know what those certain aspects are, erm , and we were at the point of saying that if I make representations and they are accepted or not accepted, what that, how does that leave me.
	GPA Chair	Te lo dire. If the Authority accepts the recommendations, and say mira no ase falta really que se vaya then we still need to go, because they triggered it, we still need to go to the chief minister and governor, and say mira we don't think que, or we do think or we don't think but then it's up to them, erm
	CoP	Entonces basically you haven't got a say.
	GPA Chair	The meeting started with, por que, the meeting didn't start with saying we've lost confidence, the meeting started with the different ways through the Act in which they can express, if you like, the the loss of confidence in a commissioner, and one is ask them to retire by the Authority or simply remove
	CoP	Si, pero I want to know what has been the cause of loss of confidence
	GPA Chair	Yo, I've got no notes, no me lo he traido, la verdad, con los nervios,
	CoP	no pero notes, lo notes, you've told me, I think I need it in writing no? at least I deserve that in writing
	GPA Chair	No, no definitely. It's my fault eso, it's my fault, es culpa mia por no traermelo. Los tengo. Tengo las rasones clearly laid out. Before, dejame que te las mande. Te la puedo mandar por email no? es mas rapido.
	CoP	Como quiera Joey. This is not right.
	GPA Chair	The the Authority has been put in this position
	CoP	Si, pero even the Authority, yeh I accept that, pero even then you're not gonna have a final say
	GPA Chair	Bueno the Authority can't ever have the final say because were all appointed by the governor and the commissioner is appointed by the governor
	CoP	Si, pero the point of independence, the independence factor here, is the issue.
	GPA Chair	He has the final say through section 13. Entonces and apparently it's one of the two, the Authority needs to consult both of them, but a decision can be taken by one of the two.
	CoP	Which it has been taken, obviously. Who generates this issue?
	GPA Chair	Bueno the governor called me.
	CoP	Yes pero do you know who generates? Did you ask ?
	GPA Chair	The governor called me
	CoP	Is there any reason why you didn't ask?
	GPA Chair	I assumed it was the governor. My assumption it was the governor because he called me. El me llamo and it wasn't in number 6, it was in the Convent.

	CoP	This has all been triggered off from the impromptu meeting that I was called to in the chief minister's chamber with the AG. That is where it all stems from. There's no doubt at all, at all, at all, that that is where this is stemming from. The fact that he has not been in agreement with the way we have been handling the case of the involving Jaime Levy. I was threatened there and then, and I was told that he was going to call call up, in other words there was like, total interference with the operational running. That is against the law itself. Look, ahora this is how the issues
	GPA Chair	Como digo yo, there's nothing, I am assuming, there's nothing stopping you from seeking, mira esto a que viene, mira lo que a hecho el Authority, tampoco van a decir that's up to the Authority, because I've told you that I was called to a meeting and told that section 34 had to be triggered because by default section 13 would be triggered but they both lost confidence in you, the majority of the meeting was to do with the maritime incident and the repercussions for Gibraltar
	CoP	That was it? I've got no issues, I've got the trail of
	GPA Chair	The majority, pero despues that you hadn't been forthright pero its connected with that. Issues to do with the report, to do with the being alive to corruption y cosas asi, that I can write for you, because and we can have answers.
	CoP	The concerns regarding the report.
	GPA Chair	Si si the concerns
	CoP	By the report
	GPA Chair	Ahora yo I did mention tambien que we'd met with the minister for justice to erm, to discuss the contents of the report
	CoP	Does she know
	GPA Chair	She didn't react
	CoP	She did react. She said that she wasn't overly concerned.
	GPA Chair	That's why, digo there were areas in the report where she could actually help and support. There are areas in the report that are quite close to her heart. In the Act the minister for justice doesn't appear me dijeron, digo bueno no no, I'm not telling you because it's that, I'm telling you because
	CoP	She's the minister with responsibility for policing, she deals with resourcing issues y cosas asi.
	GPA Chair	Mira I'm going hold, te voy a manda exactly what
	CoP	Joey this is a complete travesty eh, it's
	GPA Chair	Es que no te puedo da una opinion until que, if you choose to
	CoP	We haven't clarified yet is that if I choose to respond to you provide you with representations which is not a question of challenging anything, it's a question of
	GPA Chair	No, no, pero you might feel so strongly, es que el
	CoP	Pero then the question is then that if it's not accepted then I am fired as opposed to retiring.

	GPA Chair	That's unclear in the Act actually. I see what you mean. You might make representations but,
	CoP	And then retire
	GPA Chair	And then retire
	CoP	Claro, claro. That's what I'm saying. Or not.
	GPA Chair	Si si I see what you mean, because you're not refusing, acuerdate this is not an instruction, esto e un invitation to retire, you're absolutely correct, entonces you're given a certain amount of time, if you need more time, there's a provision que no esta en el Act,
	CoP	And then after providing you with that response, I may say look if these, does your view change? If it changes, then if it doesn't change, then I would have to consider the invitation
	GPA Chair	Exactly. What what was explained to me that we consider the considerations and we go to the governor and the chief minister , with them, pero que tienes razon, it's not that the, the Authority is in a position to say no no were not going to, this is the important part, we're not going to invite him to retire, we don't believe you simply what would have happened was section 13, which is why this allows for representations, it's fair, es que lo que pasa que it's to do with
33:36	CoP	Would the Authority question if you were, for arguments sake, hypothetically, I'm thinking ahead, if I make my response to argue the case that I shouldn't accept the invitation, and convince the Authority, and then you share it with the governor and the chief minister and then they are still of the view, would you ask them any explanations as to why?
	GPA Chair	We would
	CoP	But you would not be able to go against it
33:48	GPA Chair	We may be put in such a position that we would have to stand down if there is a direct erm, conflict, por que
	CoP	Would you do that?
	GPA Chair	I can't speak for the others, I haven't made up
	CoP	Hypothetically, si yo te escribo a ti, y no te convenso al Authority, then mira, la tengo jodida
	GPA Chair	The good thing,
	CoP	If i argue my case that this should not be the case,
	GPA Chair	We would say, we don't see it as sufficient grounds. Having said that the issue here is that it's not the Authority, por eso mensiono los tres, the Authority has to be, has to have full confidence in you, que ahora mismo its completely, como tu, a pasado, but it's the governor and the chief minister, who are the two main principal parties that have to have confidence in the police. Yo te lo pongo,
35:07	CoP	Me tengo que coge abogados y todo Joey. My biggest call here is what I'm telling you. My biggest call here is, do I create a

		constitutional crisis? Because the chief minister is suspected of a crime? estamos?
	GPA Chair	Si quiere
35:34	CoP	No no pero digo, te lo estoy diciendo porque me estoy desahogando un poco no. Me informan que he was aware of all that the, it is alleged that the , Cornelio, John Perez, and that if I create, do do that and affects Gibraltar the way it does or salgo yo mal apaleado, or
	GPA Chair	Pero that that you need to seek advice, what I'm trying to say is de que, if you tell me something now, yo ahora mismo, yo no puedo ir para atras al Authority y dici a dicho esto, esto y esto because you have to think about all the options. Lo que te estoy diciendo es que el Authority can reach up to there and then there's the governor and the chief minister, y basta con one of them not having full confidence, but that's not for this section, that's for section 13.
	CoP	Tu lo ve injusto tambien no?
	GPA Chair	I really can't comment de verdad porque I am relatively new to this. Most chair people have 6 years y yo acaba de empeza, pero que me a cojido de sorpresa si, que te digo. But then again I'm not involved at those levels. What is, como te digo, the core, lo del incident at sea was discussed at length, no tinian mucha informacion de que apparently esto no paso aqui, paso muy lejos, substantially,
	CoP	Si si, Bueno, lo que me indican. Mas transparent de lo que hemos echo, hemos llamado un equipo de afuera que venga. Yo no se que mas quiere que haga. He traido a un accident investigator y el miercoles estuvo hacienda 3D scanning, we are feeding the coroner todo el tiempo. He estado hablando con los Españoles por email preguntandole como va la cosa ahi, que no, que el juez todavia no a recibido instruccion hasta ahora poco. Todo esto se lo estoy diciendo a Michael. Mira Michael todo esto is not going to go away, esto we need to have the strategy in place of how were going to deal with it, as Gibraltar, from the local angle to the Spanish angle. Todo eso se lo estao diciendo yo y Michael agrees with me. Y me dice yes, yes are you going to deal with, I will mention it to the chief minister all these conversations, and me a dicho tambien, dice well let's wait for the final report from the investigating team; yo e hecho todo como debe de ser. Todo todo todo todo
	GPA Chair	Lo que empese por explicarte
	CoP	Esque no entiendo. Te estoy explicando que the trigger has been de que we've gone for the government to ask for representation pero by government lawyers, and government lawyers have said que that they have not been able to represent us, that's the catalyst for all this.
	GPA Chair	Pero esperate, que I have to be clear on one thing and you have to know this y ya tu lo interpreta como tu quiera. Que I was told, I was asked, I was requested by the governor, to go back to the GPA and tell them that they have both lost faith, the reasons why, que era the incident at sea and all that, but if the answer had been no we don't think he should be asked, offered this way,
	CoP	Que they would do it themselves in other words, me voy hace una notita.

	GPA Chair	No, eso te lo voy a mandar yo.
	CoP	Eso me lo tiene que pone. You need to be frank, por que if you didn't, you have been put in a corner basically is what you're saying, because if you didn't do it, they would do it.
	GPA Chair	No, no, no ,me lo dijeron. They explained the two mechanisms of why would they bother the mechanisms. In other words, ultimately I am assuming that this affords a more dignified way out because it's through retirement rather than resignation, entonces the Authority can never ask the commissioner for his resignation, basically por que we don't have the authority to ask for his resignation. The only authority that the Authority has is to invite, under the Act, to invite you to resign. Te voy a dejar.
	CoP	No ,no, yo no voy a ir al meeting ahora. Pero iba ir al meeting, tu sabe que yo iba ir al meeting ahora pa respaldar el chief minister del pastiso este, ahora va tener que ir el superintendent mio y el superintendent mio no se va medir las palabras y se lo va dicir a Michael llamas y se va liar la pajaraca. Yo voy a tener que llama a Michael ahora y dicirle mira Michael I cannot go I'm not in a physical state to go, a mental state to go, I've just been served papers that I've got to retire.
	GPA Chair	Buenos served is a legal term, acuerdate que esto
	CoP	I've been served papers to retire and I obviously can't go
	GPA Chair	Inviting you to retire eh, acuerdate
	CoP	I can't I can't entertain with any
40:21	GPA Chair	It's an option. You can make representations y ya I don't know what the outcome is going to be
	CoP	Si pero la parte esa e importante, que, la parte importante que
	GPA Chair	Lee el Act, its very short
	CoP	Yes but what I mean to say is, you invite me to retire and also invite me to make representations. But once those representations are considered what
	GPA Chair	Por eso dice before the full and final view is
	CoP	Can, can you clarify that for me if I can still retire ?
	GPA Chair	I'll find out
	CoP	You know what I mean
	GPA Chair	Si si que
	CoP	How are you going to find out?
41:01	GPA Chair	Pues preguntando; esque esta claro en el Act no se, a alguien le tendre que pregunta , a alguien le tendre que pregunta
	CoP	Por que I want to know
	GPA Chair	Ayi no dice, you can claim pero es que esta claro en la carta. En la carta, this is taken from the Act, en el Act dice you're invited to reitre, pero si quiere hace representations, y ahi lo dice claro before a full and final view is taken
	CoP	Si, pero a final view of, to accept, of accepting the retirement or

	GPA Chair	There's nothing on, a mi no me han dicho nada to resign, ay i es to do with retirement. It's to do with retirement, pero acuerdate que you're not dealing with a lawyer, con que so you may have to, bueno si quiere, you may have to seek advice. Pero I'm going to, me voy a tener que ir por que I'm not making things any better for you by being here, pero pero tu tiene que sabe que esto no es facil para mi tampoco. Ni pa mi, ni para nadie.
42:02	CoP	Yo creo que si tu habria tenido concerns tu me lo hubiera dicho no? the Authority would have
42:07	GPA Chair	If I had been alive to any concerns, po claro, si no yo somebody else from the Authority
	CoP	And you've keep your abreast tambien con la cuestion del collision at sea diciendote todo lo steps que hemos tomado y todo. The coroner hasn't expressed any concerns tampoco
	GPA Chair	Bueno pero eso, eso es parte de lo de
	CoP	Que digo que why have they gone to this drastic measure, this is what I'm getting at. Why has this been the drastic measure of
42:38	GPA Chair	Possible because Gibraltar doesn't operate in a bubble and whatever we do here affects Spain, Britain and, yo que se, our reputation
	CoP	I know, that's why I've been airing my concerns to the attorney general. In fact I, el chief minister estaba un vez en inglaterra y I said mira chief estoy concerned que esto a pasado en españa, y me dice don't worry I've got something in mind me dijo. le dije fine, pero me dijo que me lo iba explicar y no me lo pudo explicar, y covid vino
	GPA Chair	Porque alomejor se creia que era
43:38	CoP	No no no, y Michael le digo, Michael el chief minister que lo que dicia, no, no, que this was based on co-operation y que it's a defendable matter and Michael's been telling me all along que no, que this is part de lo que se va habla en lo workstreams de de Brexit y todo. Que mal, que mal, que mal, que mal. Tu sabe que yo voy hscer 36 años no? este año. What a way, what a way. No me lo merezco esto Joey
	GPA Chair	No a pasado nada.
	CoP	No! por favor!
	GPA Chair	Nothing's happened. Pero acuerdate que because
	CoP	The underlying issue yo se cual es
	GPA Chair	Fine
44:17	CoP	Ahora I'm been pushed, I am been pushed into a corner, whether I save my skin which ahora mismito digo..... I have to porque yo soy un tio de integridad, a mi que me can a pisotear asi? No me lo merezco, no me lo merezco de verdad que no me lo merezco; simply because I have executed, bueno we've executed a search warrant at the chambers of an individual who's suspected of..... that is the bottom line
	GPA Chair	That's
	CoP	Pero es que te digo que that is the bottom line.

	GPA Chair	Pero that's not
	CoP	Yo lo que quisiera sabe porque no esta, porque no pide esta pregunta, why aren't they concerned about the way we have handled that particular case? And provide details, because that has serious repercussions.
	GPA Chair	The governor seemed to be in the know porque, porque the meeting estaban hablando the way that you handled, because, porque me mensiono que even the AG had lost faith in you con que, so, so they had that conversation. Yo, como no estaba hablando conmigo no tome nota de lo que dijeron ellos.
	CoP	Bueno eso es importante. Bueno tu me lo a dicho ya, y I will make a note of that. Joey, that there's reference to operation Dehli which is the case I'm referring to.
	GPA Chair	Yo no se nada de eso
	CoP	No pero I'm referring to the case que even the AG has lost faith in me
	GPA Chair	Pero he said que he can't speak for the AG
	CoP	But he's said it con que I'm
	GPA Chair	Si si no no pero yo te pongo
	CoP	Yo quiero que tu me diga todo
	GPA Chair	El puede decir si si pero lo que pasa es que a mi no me han dado un carta tampoco, I was taking notes, pero yo te puedo, I can write up the notes on a point by point
	CoP	And please tell me; and if there's reference to that case in question I think it needs, because that is key, that is key
	GPA Chair	No no, what was mentioned is the way you handled cases, que you had lied, you lied basically to the chief minister
	CoP	On what?
	GPA Chair	Or omitted the truth. Erm that's
	CoP	On what esperate, esperate, esperate, on what?
	GPA Chair	I'll find out..... or que you kept the truth from them or que you, vamo que why would they lose faith or, faith no es la palabra, confidence in you
	CoP	I lied in what? in what? in the collision or in that particular case
	GPA Chair	In everything, in in everything

MEETING ENDS

2nd Affidavit:

Ian McGrail

Date: 26th September 2022

Exhibit: 8B

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 8B

TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me



A Commissioner for Oaths

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
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Presented by Charles Gomez & Co, of 5 Secretary's Lane, Gibraltar. Solicitors for Ian McGrail

22nd May 2020
Translated transcript of meeting between GPA Chair Ian McGrail (CoP) at CoP's office
[translated parts in BLUE]

Tape counter times	Person speaking	Text
00:37	GPA Chair	Basically I'm supposed to call you to the Authority and there tell you what I have to you, but I said this is best face to face one person alone because the truth is I have never done anything like this in my life I was called during the week a meeting, the Governor and Chief Minister, but the meeting was initiated by the Minister in the convent.
	CoP	The Chief Minister?
	GPA Chair	No, by the Governor sorry, and the Governor said the Chief Minister will also be there; can you make it? and I said when? (inaudible) and went.
1:19	GPA Chair	And between both of them they said that they've lost complete confidence, I have to tell you lost complete confidence in your leadership and management of the RGP. I asked based on what? Right, the conversation started, I have notes eh, where they explained there are two sections in the Act. One, the Governor can simply ask the commissioner to resign I think under section 13 or something like that and in section 34 the CoP can be invited to retire but the commissioner can also make representations to argue the case as to why u shouldn't retire. They explained that Gibraltar had been put in a very, very, very poor position because of the incident at sea and I was told not to delve too much in this as they were going to write to you separately and yesterday I was told that they had written to you. I'm not sure because I haven't checked mine so I do not know if I have received a copy or not . The incident at sea apparently is very, very, very grave and what they explained is, nothing that you won't know, that its put Gibraltar in a very bad position with Spain and with Britain, all those things. I won't go into detail because technically it's not something the Authority can do anything about. The report leads them to believe that reasons regressed instead of progressed, I, clearly various things, things about this. A couple of things I couldn't answer because I felt that was for you really. I didn't want to mention other commissioners either. Well, they asked me, have you any idea why there's still so many recommendations pending from the previous report, and actually I mentioned, he doesn't want to mention any third parties, there's probably an explanation there. They then went on to say going through the report, the issue of not being alive to corruption I think it's to do, I am not sure its to do with the whole reputation of Gibraltar resting on the police. In fact, they went through the report on the issues of even independence of the police can be tainted, I've never seen it that way, can be tainted by not being alive to corruption because somebody might do, do something and its because they've got, that doesn't mean that its you who's doing it. But essentially they reiterated that they have completely lost confidence, now, as they explained, they've put the Authority in a position where we are left with no option, why? Because if the Governor asks you to step down he can only do so if the Authority hasn't done its job in default, well they said that clearly. But they realise that you may have explanations, so section 34 is where

		the Authority invites you to retire, right, but gives you time to make representations and unfortunately I've been asked to hand you that letter. But to do this in front of the whole of the Authority. I've had a couple of meetings with them and I had to make some phone calls to make sure that the Authority also feels that there is no option and everybody is in agreement. Erm, having said that, the preference is, the thing is retirement is not the same as resignation, if you see what I mean, I don't expect you to answer or say anything at all, honestly, you can see how uncomfortable
5:25	CoP	My initial reaction Joey, this is a complete travesty, because there is an underlying
5:36	GPA Chair	Wait, wait, the Governor was there and he also agreed that he had lost confidence in the leadership and management, erm, this is not one party saying it, its both of them, now the Authority is bound to do something about it because we've been told we have to. Now, there's the option of, when you read the letter you'll see what I mean. There's the option of preparing a response
6:12	CoP	Which for my own integrity I'm bound to do so, I've got to I think
	GPA Chair	I can't give you advice
	CoP	No, no but what I'm saying is, from what you're telling me
6:21	GPA Chair	Well it depends on why you retire, because someone can say I'm retiring for personal reasons
	CoP	No, no but I'm not thinking that, I'm thinking about the, in a way the personal attack that has been levelled at me, and an opportunity to express myself, no?
	GPA Chair	Yes yes absolutely, but I also tell you, there is nothing in the Act to stop you from making representations to the Authority either in, I prefer that it is in writing and then in person but I would prefer it in writing. You can explain everything if you want. .
	CoP	And that. What is that because I haven't even looked at the
	GPA Chair	Well, the Act doesn't say anything but I have been advised that seven days, but if you, wait, wait, if you need more time, you tell me and you say look in seven days I can't prepare this. But essentially, there's a bit in the report that indirectly calls the, puts the RGP into disrepute. The answer is to why the previous report seems to have been ignored, and I said no, that they had been met. I also said that you already, since you got the report that you met quite a few of the recommendations, I actually said that. I think what's triggered this, apart from anything else, from what they said, is, actually the incident at sea, according to the Governor. The the meeting was very, very long and everything was aired. The issue is….
7:54	CoP	When was the meeting held? This meeting?
	GPA Chair	Monday or Tuesday. Monday, The thing is that I had to give notice to, because not everyone could make it, so I had to call people, I had to give notice to the Authority so I couldn't meet immediately.
	CoP	I mean the meeting between you and the chief minister I'm referring to.
	GPA Chair	No no, me and the chief minister no. me and the Governor and the chief minister.

	CoP	That's what I mean.
	GPA chair	That was on Monday. I was called on a Sunday
	CoP	This Monday?
	GPA chair	Si si, esta semana
	CoP	Ok
	GPA Chair	I was called on Monday, erm and was told I had to discuss it with the Authority, and I said yes that is what the Act says, I need a quorum, the chairperson can't take a decision, erm, but then, the position the Authority has been put in, if what the Governor and the chief minister is saying that they have no, they've lost
	CoP	But what is the position of the Authority? Is the Authority accepting that? Have you had any concerns about me?
	GPA Chair	No, no wait, we would have told you
	CoP	Exactly
	GPA Chair	Exactly. We would have told you, so if you want that can be part of the...
	CoP	No, but what I mean to say is, are you expecting me to resign, to retire? are you expecting me to retire? because
	GPA Chair	I have to explain the situation. The meeting started by, because I'm not a lawyer, what was explained to me was that there are two options, for the removal of a commissioner. One is through retirement, the other one is through resignation. And that's the nuclear option, to actually ask the, no ask no, request the commissioner's resignation. So clearly, they feel that the incident at sea is serious enough to warrant that.
	CoP	But, but, but, but
	GPA Chair	What they say, basically what they said is that you hadn't been (inaudible) with giving them information
	CoP	I've read the letter today and obviously I've started to
	GPA Chair	It's very long isn't it?
	CoP	No, no but it's not that. It's that there's a lot of unfortunate inaccuracies there that this, the catalyst for the chief ministers letter to me arises from a very recent letter of claim, or suggestion of claim from Verralls to us, saying that they are now representing the families and they now want details because they are going to initiate a claim. Now when there's letters of claim of that nature, from what I've learnt throughout the years here, is that we engage with the crown counsel. Normally that's done by someone in the headquarters division. So I assign it to Cathal Yeats to link up with Director of Public Prosecution to say can you appoint a counsel to defend, to sort of to represent the RGPs interest in this and he does that, he goes and sees Christian Rocca and Christian Rocca says look I'm in a bit of a quandary here because I don't know if my chambers could do this, because there could be, we don't know what the final outcome of the recommendations of the independent team coming whether that's going to be a case of organisational learning from a, whether there's going to be conduct issues, there could even be criminal liabillty and Christian Rocca was a bit uneasy to say, to commit to representing, but that he would consult with the AG to see what the suggestions were, and one of the suggestions, the possibilities was to farm it to

		someone. So that conversation was had between DPP and AG and the AG says well I'll have to tell the RGP to write to me and then I'll consult with the Chief Minister. Because it involves funding. Not that we were asking for funding, it's that we were asking for representation.
11:23	GPA Chair	What you were saying was look we foresee that there's going to be extra expenditure
	CoP	Not so much extra expenditure, that we need representation. I mean this happens because in the past, like for example, there's been a search warrant and they've broken a door down and the owner of the house claims, there's civil claims. And that is, there was a reaction from the Chief Minister, a very tough reaction, which I was quite surprised myself, in the sense that he was claiming that I hadn't, that he wasn't up to speed with all these things, but yet again I have been meeting up with Michael and I've been meeting up with Michael throughout and with the DPP of lately, expressing my concerns about this and Michael has been my middle person to get to the chief minister
	GPA chair	Those things, because they are part of what I was told, you have to tell the Authority in terms of,
12:14	CoP	I think I have even briefed
	GPA Chair	Yes,yes. No no no, no that you have to tell me about the incident at sea, that this explanation, the reason why the preference is to alert you to a section 34 is because there is provision in the second part, 1 y 2 that's it, it's very simple el 1 y 2, y 2 says the commissioner may make representations to the Authority and, because the Authority has to seek consent from, it's been done the wrong way round, in other words, they told us we are going to trigger this. There's two ways of doing it. In other words, from the Authority's perspective, we haven't taken a firm view, but this
12:56	CoP	Have I lost my job?
	GPA Chair	Right now, no. Right now no.
	CoP	So what's the situation then?
	GPA Chair	The letter you're invited, we have to invited you to resign
	CoP	But
	GPA Chair	But if you don't feel that you can
	CoP	But what you're giving me 7 days to make a decision?
	GPA Chair	To make no. To make representations,look
	CoP	Yes , but what effect does that letter have. Do I know have to hand in everything here and I've got go, or I don't know
	GPA Chair	No, no, no, you're not suspended or anything You now have to, it's an invitation, it's an invitation, I think the other way would be, you would lose your job if the Governor
	CoP	This is a travesty Joey. This is a travesty. This is a serious travesty
	GPA Chair	I can't comment . Honestly, anything that you have to say, tell everybody is going to be there, the Authority. You make the explanations on that, because then, once you make the representations we have to take a view but also go to the Governor and the chief minister. Any one of them, in the act it says any one of them can trigger both of them can trigger this but

		any one of them can take the final decision. We need consent so in other words, you can't be removed without anyone's consent, the consent is needed. In fact, you can't even retire without having the consent of one of them. The, there is no easy way of saying this, because the other route is the Authority is in default and that means simply that not even a, not even a chance
14:24	CoP	I have been threatened by the chief minister
	GPA Chair	But do not tell me now, say it there.
	CoP	But I tell you now, that I have I've been threatened, now what? this is a situation whether I save my skin and I come forward with absolutely everything,
14:43	GPA Chair	Honestly, I would like to advise you, but no
	CoP	No, no, no, I'm not asking you to advise
	GPA Chair	I'm conscious that and this is something I was reminded of in John's times, that there has to be a quorum there has to be a minimum of 6 people and more so in important y more so in important decisions, that's why its taken so long, and more so that everything has to be explained to everyone, but the bottom line is, the bottom line is, that I was called to a meeting, the Authority was called to a meeting, and the view was expressed clearly, very clearly that both sides of government, the Governor and the chief minister had lost faith in you, had no faith in you.
15:26	CoP	I've never had that feedback from the Governor. I've had the feedback from the chief minister arising from certain actions that we carried out, executive actions that we carried out on, which I think I briefed you on and that is the catalyst behind this all in my view but but I've not had a reaction from the Governor. On the contrary
15:47	GPA Chair	Honestly, I was just as surprised.
	CoP	Are you surprised?
	GPA Chair	Yes, yes of course, and so are the Authority members but the thing is that there is no option left, because the other option would be simply to dis-appoint you rather, in the same way you were appointed to dis-appoint you directly by the Governor and I think they want to avoid that, they want it to be your choice, erm from what I can see, but the the phrase, 'we have lost faith in in our commissioner' and they are worried that the RGP seems to have regressed, I'm in no position to say because I wasn't there, I've only been like yourself, two years
	CoP	Regressed in what sense?
	GPA Chair	Well, that, rather than regressed, that it hasn't progressed as much as they felt it should in terms of policies and all that. Also remember that
	CoP	One of the first things I did was have the Authority erm, check all the policies, which was never done in the past.
16:51	GPA Chair	Another thing that I, I didn't know this because I wasn't involved, this was brought up, in your application as commissioner you said that immediately, with immediate effect you were going to set up a working party to meet all the recommendations, or most of the recommendations of the previous report and that one question that we've been asked to ask you. Was that done and and (inaudible) so that's the other one.

	CoP	Yeh yeh.
17:16	GPA Chair	They clearly are worried about international, that's how the Governor tells me, reputation in terms of
17:22	CoP	What's your view of engaging with HMI and finding out that if the report warrants my
	GPA Chair	The thing is. I wouldn't be able to do that myself, because it talks about the RGP, I presume you could do it yourself. Honestly look, I think you need time, If you want I will read the letter
	CoP	What a shock. What a shock Joey.
	GPA Chair	I have worked 40 years in government and never have I had to do anything like this.
	CoP	This is a shock. I'm shocked.
	GPA Chair	No, no, I know you're shocked, that's why you're not reacting, erm , but the bottom line is that they, this way is giving you more more leeway because you can make representations to the Authority before a final view is taken. But remember, the wording of the letter, it's an invitation to retire right. Now, I wouldn't know on what terms you can retire. Pero clearly, you have to give it a lot of thought
18:49	GPA Chair	The important part is about the firm and final view, that has not erm, happened.
	CoP	I don't see, with respect, with respect, I don't see any, the shots have been called by way above the Authority.
	GPA Chair	But the the Governor is the the Governor is the person who called me to the meeting and told me the chief minister was going to be there as well by the way. And the Governor started the the meeting
	CoP	I could even cause a constitutional crisis here Joey.
	GPA Chair	Mira, I've had to do what I've been obliged to do, what, how you react is, is up to you, look, I am going to leave you a with your own thoughts.Honestly Ian.
	CoP	It isn't just, It isn't just, It isn't just. It's not just. It's very unjust.
	GPA Chair	Like I say
	CoP	Very, very unjust.
	GPA Chair	I need you to calm down , to take advice, if you need to, and whatever, but that we are willing to listen to your representations and that
	CoP	And what happens? After that, if I, if I make representations, would you consider them?
	GPA Chair	We would consider them and we go to the Governor and the chief minister
	CoP	And, well, they say yes, they say yes, we accept the recommendations, the submissions and we go back, or they say we don't, the invitation to retire still stands
	GPA Chair	No, if they say, put it this way, if you say right now you are going to ignore this, its an invitation, its an invitation, you're not being forced. It's an invitation. I am presuming that they would then trigger the section 13, the Governor removes you, I am assuming,

		I haven't been told that. There must be a reason why the preference is to do it this way, to give you the the the option. Erm but why don't you go home Ian.
	CoP	I don't know .
	GPA Chair	Go home.
21:04	CoP	Home? Go home Joey? This is an injustice, Joey.
	GPA Chair	No, no, no, no, no, I mean to,
	CoP	This is an injustice, I am shocked
	GPA Chair	You can imagine.
	CoP	Do you know the only thing that I have at peace? my conscience. And my ethics which remain up here. I am being muscled out here because there are other underlying issues and that is what I'm toying with. I'm toying with whether if I defend myself, I sink Gibraltar, basically, at this crucial time, or whether I take the hit and save Gibraltar. But that is not going to be viewed like that.
	GPA Chair	But wait, wait.,
	CoP	That is what I'm toying with. Because
	GPA Chair	You can be perfectly open with the Authority.
	CoP	I cannot be open with the Authority, Well, my first reaction if I was a loose cannon, is go and see the Governor with a big file. With a big file and then, but that is damaging for Gibraltar
22:10	GPA Chair	They, look, the Authority is acting on the premise that both the Governor and the chief minister have categorically stated that both have lost faith in you. And If we don't
22:27	CoP	Have you got that in writing from them?
	GPA Chair	no
	CoP	I need that in writing
	GPA Chair	That's it, that they've lost faith in you.
	CoP	Yes, but I need the reasons .
	GPA Chair	The reasons is.
22:45	CoP	No, I would want that in writing to defend my case. I think the reasons have to be (inaudible) to me becauseyou are giving me
	GPA Chair	No, no okay . I was told that you were going to be sent the, the reasons, about the maritime.....
	CoP	There's no reference there to
	GPA Chair	No no
	CoP	Asking me to retire
	GPA Chair	But that is part of what the Authority is
	CoP	Well
	GPA Chair	That is what I have to ask you, what, what is happening
	CoP	Yes, yes but that is not linked to this letter. If it is , its not written.
	GPA Chair	No, no I'm not saying its linked.

	CoP	If it is, if it is, if that's one of the reasons you've been told
	GPA Chair	The loss of faith, one of the reasons of the loss of faith, or the loss of confidence in you is the way it's been handled apparently. The maritime incident.
	CoP	Yes, but apparently is not good enough for me. I need to know in writing what the Authority has been asked to consider for you to send me this. Because you've sent me this, but you've lost that
23:41	GPA Chair	No, no, no, no it should be enough by me saying I have the main points here., but I
	CoP	This in respect of certain aspects of policing that have lead to serious loss of , I need I need to
	GPA Chair	Look, grave concerns expressed by the Governor and chief minister in terms of loss of confidence. The main things that were mentioned, the contents of the report, the incident at sea, then they explain that they've lost confidence in you because mainly failing to inform them or failing to keep them at
24:36	CoP	But look, how can they ask me that if I haven't even responded to that yet? How can they, they've arrived to a certain situation, a very pre-emptive situation when I haven't even had the opportunity to explain. Do you see what I mean? Would you be able to revert and say look if the questions of the, if the content of the report that has regenerated so much concerns which evidently hasn't generated the concerns of the Authority or the Governor himself, because the Governor has not mentioned it to me
	GPA Chair	No, no the Governor mentioned
	CoP	Right, but
	GPA Chair	I'll highlight the
	CoP	And and so the report, the contents of the report fine. The report stands on its own. Fine. If it's to do with the handling of the collision at sea , I've been asked by the chief minister to respond to that but that is the reason why I'm being served this so can
	GPA Chair	One of the reasons.
	CoP	There's two reasons. You've told me there's two reasons. Yes o no?
	GPA Chair	Yes, yes there's two main reasons.But I took my personal notes, the thing is I haven't brought them with me but I took my own personal notes of the meeting where they gave me the reasons, you can take it from me,but you don't need to .
	CoP	I need to I need to
	GPA Chair	I will send them to you now.
	CoP	I would be grateful if it was in writing, because this is now a very....,
	GPA Chair	When you make representations you can base It on the points that I said
	CoP	The certain aspects of policing I need to know what those certain aspects are, erm , and we were at the point of saying that if I make representations and they are accepted or not accepted, what that, how does that leave me.

	GPA Chair	I will explain, ilf the Authority accepts the recommendations, and say look, there really isn't a need for him to go, because they triggered it, we still need to go to the chief minister and Governor, and say look we don't think that, or we do think or we don't think but then its up to them, erm
	CoP	Then basically you haven't got a say.
	GPA Chair	The meeting started with, that's why, the meeting didn't start with saying we've lost confidence, the meeting started with the different ways through the Act in which they can express, if you like, the the loss of confidence in a commissioner, and one is ask them to retire by the Authority or simply remove
	CoP	Yes, but I want to know what has been the cause of loss of confidence
	GPA Chair	Yo, I've got notes, honestly I have notes, I haven't brought them because of my nerves.
	CoP	No but notes, the notes, you've told me, I think I need it in writing no? at least I deserve that in writing
	GPA Chair	No no definitely. It's my fault that, it's my fault. It's my fault for not having brought them with me. I have them. I have the reasons clearly laid out. Before, let me send them to you, can I send them by email? Its quicker.
	CoP	However you want Joey. This is not right.
	GPA Chair	The the Authority has been put in this position
	CoP	Yes but even the Authority, yeh I accept that,but even then you're not going have a final say
	GPA Chair	Well, the Authority can't ever have the final say because we're all appointed by the Governor and the commissioner is appointed by the Governor
	CoP	Yes but the point of independence, the independence factor here, is the issue.
	GPA Chair	He has the final say through section 13.Then and apparently it's one of the two, the Authority needs to consult both of them, but a decision can be taken by one of the two.
	CoP	Which it has been taken, obviously. Who generates this issue?
	GPA Chair	Well, the Governor called me.
	CoP	Yes, but do you know who generated it? Did you ask ?
	GPA Chair	The Governor called me
	CoP	Is there any reason why you didn't ask?
	GPA Chair	I assumed it was the Governor. My assumption it was the Governor because he called me.He called me and it wasn't in Number 6, it was in the Convent.
	CoP	This has all been triggered off from the impromptu meeting that I was called to in the chief ministers chamber with the AG. That is where it all stems from. There's no doubt at all, at all, at all that that is where this is stemming from. The fact that he has not been in agreement with the way we have been handling the case of the involving Jaime Levy. I was threatened there and then, and I was told that he was going to call up, in other words there was like,

		total interference with the operational running. That is against the law itself. Look, now this is how the issues
	GPA Chair	Like I say, there's nothing, I am assuming, there's nothing stopping you from seeking, what is all this about, look at what the Authority has done, they are not going to say that is up to the Authority, because I've told you that I was called to a meeting and told that section 34 had to be triggered because by default section 13 would be triggered but they both lost confidence in you, the majority of the meeting was to do with the maritime incident and the repercussions for Gibraltar
	CoP	That was it? I've got no issues, I've got the trail of
	GPA Chair	The majority, but then that you hadn't been forth right but its connected with that. Issues to do with the report, to do with the being alive to corruption and things like that, that I can write for you, because and you can have answers.
	CoP	The concerns regarding the report.
	GPA Chair	Yes, yes the concerns
	CoP	By the report
	GPA Chair	Now, I did mention also that we'd met with the Minister for Justice to erm, to discuss the contents of the report
	CoP	Does she know?
	GPA Chair	She didn't react
	CoP	She did react. She said that she wasn't overly concerned.
	GPA Chair	That's why,I said there were areas in the report where she could actually help and support. There are areas in the report that are quite close to her heart. In the Act the Minister for Justice doesn't appearthey said. I said well no,I'm saying, I'm not telling you because it's that, I'm telling you because
	CoP	She's the minister with responsibility for policing, she deals with resourcing issuesand things like that .
	GPA Chair	Look, I'm going hold,I'm going to send you exactly what
	CoP	Joey this is a complete travesty eh, its
	GPA Chair	I just can't give you an opinion, until, if you choose to
	CoP	We haven't clarified yet is that if I choose to respond to you provide you with representations which is not a question of challenging anything, it's a question of
	GPA Chair	No nobut you might feel so strongly, that the
	CoP	But then the question is then that if it's not accepted then I am fired as opposed to retiring.
	GPA Chair	That's unclear in the Act actually. I see what you mean. You might make representations but,
	CoP	And then retire
	GPA Chair	And then retire
	CoP	Claro claro. That's what I'm saying. Or not.
	GPA Chair	Yes, yes I see what you mean, because you're not refusing. Remember this is not an instructionthis is an invitation to retire,

		you're absolutely correct, then you're given a certain amount of time, if you need more time, there's a provision which is not in the Act.
	CoP	And then after providing you with that response, I may say look if these, does your view change? If it changes, then if it doesn't change, then I would have to consider the invitation
	GPA Chair	Exactly. What what was explained to me that we consider the considerations and we go to the Governor and the chief minister, with them, but you're right, it's not that the, the Authority is in a position to say no no were not going to, this is the important part, were not going to invite him to retire, we don't believe you simply what would have happened was section 13, which is why this allows for representations, its fair, the thing is that it's to do with
33:36	CoP	Would the Authority question if you were, for arguments sake, hypothetically, I'm thinking ahead, if I make my response to argue the case that I shouldn't accept the invitation, and convince the Authority, and then you share it with the Governor and the chief minister and then they are still of the view, would you ask them any explanations as to why?
	GPA Chair	We would
	CoP	But you would not be able to go against it?
33:48	GPA Chair	We may be put in such a position that we would have to stand down if there is a direct erm, conflict, because
	CoP	Would you do that?
	GPA Chair	I can't speak for the others, I haven't made up
	CoP	Hypothetically, if I write to you and I do not convince you, then look, I am fucked.
	GPA Chair	The good thing,
	CoP	If I argue my case that this should not be the case,
	GPA Chair	We would say, we don't see it as sufficient grounds. Having said that the issue here is that it's not the Authority, that is why the three were mentioned., the Authority has to be, has to have full confidence in you, which right now its completely, as you, what's happened, but it's the Governor and the chief minister, who are the two main principal parties that have to have confidence in the police. I will put it
35:07	CoP	I will have to get a lawyer and all Joey. My biggest call here is what I'm telling you. My biggest call here is, do I create a constitutional crisis? Because the chief minister is suspected of a crime? ok?
	GPA Chair	If you want
35:34	CoP	No, no but I say, I am telling you because I am letting off a bit of steam. I am informed that he was aware of all that is alleged, it is alleged that the, Cornelio, John Perez, and that if I create, do do that and affects Gibraltar the way it does or it ends up worse for me or
	GPA Chair	Pero that that you need to seek advice, what I'm trying to say is that, if you tell me something now, I can't now go back to the Authority and say he's said this this and that because you have to think about all the options. What I am telling you is that the Authority can reach up to there and then there's the Governor and

		the chief minister, and it only takes one of them, one of them not having full confidence, but that's not for this section, that's for section 13.
	CoP	You also see it unjust don't you?
	GPA Chair	I really can't comment honest because I am relatively new to this. Most chair people have 6 years and I have just started and it has caught me by surprise, what can I say. But then again I'm not involved at those levels. What is, as I say, the core, the incident at sea was discussed at length, they haven't got much information that this did not apparently occur here, it occurred quite far , very far, substantially,
	CoP	Yes, yes well what I'm told. More transparent that what we've been, we've called a team from abroad to come over. I don't know what else they want me to do. I have brought over an accident investigator and on Wednesday he was doing '3D scanning' we are feeding the coroner all the time. I have been speaking with the Spanish via email asking how the matter is going there, they reply that a judge had not been appointed until only recently. I am telling Michael all about this, look Michael, this is not going to go away, we need to have the strategy in place of how were going to deal with it, as Gibraltar, from the local angle to the Spanish angle. I am telling Michael all this and Michael agrees with me. And he says yes, yes are you going to deal with, I will mention it to the chief minister all these conversations, and he has also said well let's wait for the final report from the investigating team; I have done everything as it should be done. Everything, everything, everything everything.
	GPA Chair	What I started to explain
	CoP	The thing is I don't understand, I am explaining that the trigger has been de que we've gone to the government to ask for representation but by government lawyers, and government lawyers have said que that they have not been able to represent us, that's the catalyst for all this.
	GPA Chair	But wait, que I have to be clear on one thing and you have to know this and you interpret this however you want, that I I was told, I was asked, I was requested by the Governor, to go back to the GPA and tell them that they have both lost faith, the reasons why, it was the incident at sea and all that, but if the answer had been no we don't think he should be asked, offered this way,
	CoP	Que they would do it themselves in other words, I am going to make a note of this.
	GPA Chair	No, I am going to send you that.
	CoP	You have to put that. You need to be frank, because if you didn't, you have been put in a corner basically is what you're saying, because if you didn't do it, they would do it.
	GPA Chair	No, no, no, I was told. They explained the two mechanisms of why would they bother the mechanisms. In other words, ultimately I am assuming that this affords a more dignified way out because it's through retirement rather than resignation, then the Authority can never ask the commissioner for his resignation, basically because we don't have the authority to ask for his resignation. The only authority that the Authority has is to invite, under the Act, to invite you to resign. I am going to leave you.

	CoP	No no I am not going to the meeting now. But I was going to the meeting and you know what, I was going to back the chief minister up in this mess. Now my superintendent will have to go and he won't measure his words and he is going to tell Michael Llamas and all hell will break loose. I will have to call Michael and say look Michael, I cannot go, I'm not in a physical state to go, a mental state to go, I've just been served papers that I've got to retire.
	GPA Chair	Well served is a legal term, remember that
	CoP	I've been served papers to retire and I obviously can't go
	GPA Chair	Inviting you to retire eh, remember
	CoP	I can't I can't entertain with any
40:21	GPA Chair	It's an option. You can make representations and then I don't know what the outcome is going to be
	CoP	Yes, but that part is important , the important part that
	GPA Chair	Read the Act, its very short
	CoP	Yes, but what I mean to say is, you invite me to retire and also invite me to make representations. But once those representations are considered what
	GPA Chair	That's why it says before the full and final view is
	CoP	Can can you clarify that for me if I can still retire?
	GPA Chair	I'll find out
	CoP	You know what I mean
	GPA Chair	Yes yes that
	CoP	How are you going to find out?
41:01	GPA Chair	I will have to ask, the thing is it's clear in the Act, I will have to ask someone, I will have to ask someone.
	CoP	Because I want to know
	GPA Chair	It doesn't say, you can claim, but it's clear in the letter. In the letter, this is taken from the Act, in the Act it says you're invited to retire but of you want you can make representations, and it says it clearly before a full and final view is taken
	CoP	Yes but a final view of, to accept, of accepting the retirement or
	GPA Chair	There's nothing on, I have not been told anything about resigning, it's all to do with retirement. It's to do with retirement, but remember you are dealing with a lawyer but you may have to, well, if you want, you may have to seek advice. But I'm going to, I will have to go, because I'm not making things any better for you by being here, but you have to know that this is not easy for me either, not for me or anybody.
42:02	CoP	I think that if you would have had any concerns you would have told me no? the Authority would have
42:07	GPA Chair	If I had been alive to any concerns, of course, if it wasn't me somebody else from the Authority
	CoP	And I've kept your abreast also with the question of the collision at sea informing you of the steps we've taken and all, The coroner hasn't expressed any concerns either.

	GPA Chair	Well, but that is, that is part of the
	CoP	Which is why I ask, why have they gone to this drastic measure, this is what I'm getting at. Why has this been the drastic measure of
42:38	GPA Chair	Possibly because Gibraltar doesn't operate in a bubble and whatever we do here affects Spain, Britain and, I don't know , our reputation
	CoP	I know, that's why I've been airing my concerns to the Attorney General. In fact the chief minister was once in England and I told him look chief, I am concerned that this has happened in Spain and he said, don't worry I've got something in mind. I said fine, He said he would explain what he was thinking but he couldn't explain and Covid came.
	GPA Chair	Maybe because he thought that
43:38	CoP	No no no, and Michael I say , Michael the Chief Minister what was he meaning, no, no that this was based on co-operation and that it's a defendable matter and Michael's been telling me all along that no, that this is part of what is going to be discussed in the Brexit workstreams and all. This is awful, this awful, this awful. Do you know I am going to do 36 years this year? What a way. What a way. I do not deserve this Joey.
	GPA Chair	Nothing has happened. .
	CoP	No? please!
	GPA Chair	Nothing's happened, but remember that because
	CoP	The underlying issue, I know what it is.
	GPA Chair	Fine
44:17	CoP	Now I am being been pushed, I am been pushed into a corner, whether I save my skin which right now I say..... I have to because I am a man of integrity, am I just going to get trampled all over? I do not deserve this. I honestly do not deserve this, I do not deserve this. Simply because I have executed, well, we've executed a search warrant at the chambers of an individual who's suspected of..... that is the bottom line
	GPA Chair	That's
	CoP	But, I'm telling you that is the bottom line.
	GPA Chair	But that's not
	CoP	I would want to know why it isn't, why that question is not being asked, why aren't they concerned about the way we have handled that particular case? And provide details, because that has serious repercussions.
	GPA Chair	The Governor seemed to be in the know because, because at the meeting they were talking about the way that you handled, because, because they mentioned the AG had lost faith in you so, so, so they had that conversation. As they were not talking to me I didn't take note of what they said. .
	CoP	Well , that is important. Well, you have told me now and I will make a note of that. Joey, that there's reference to operation Dehli which is the case I'm referring to
	GPA Chair	I do not know about that.

	CoP	No, but I'm referring to the case that even the AG has lost faith in me
	GPA Chair	But he he said that he can't speak for the AG
	CoP	But he's said it so I'm
	GPA Chair	Yes yes, no no, but i will put
	CoP	I want you to tell me everything
	GPA Chair	He can say yes yes, the thing is they haven't given me a letter either. I was taking notes, but I can give you, I can write up the notes on a point by point.
	CoP	And please tell me; and if there's reference to that case in question I think it needs, because that is key, that is key
	GPA Chair	No no, what was mentioned is the way you handled case, that you had lied, you'd lied basically to the Chief Minister
	CoP	On what?
	GPA Chair	Or omitted the truth. Erm that's
	CoP	On what? Wait, wait, wait, on what?
	GPA Chair	I'll find out..... or that you kept the truth from them or that you, sort of why would they lose faith or, faith it's not the word, confidence in you
	CoP	I lied in what, in what, in the collision or in that particular case
	GPA Chair	In everything, in in everything

MEETING ENDS

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

THIRD AFFIDAVIT OF IAN MCGRAIL

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3rd Affidavit:
Ian McGrail
Date: 4th October 2022
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INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 9
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

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CONFIDENTIAL

1st November 2017

Gibraltar Police Authority
25B Casemates Barracks
Casemates Square
Gibraltar

Dear Sirs,

Re:- Application for appointment as Commissioner of The Royal Gibraltar Police

I refer to your recent invitation to apply for the appointment as Commissioner of the Royal Gibraltar Police (RGP) and would respectfully ask that you accept this letter as my intention to apply for the said appointment.

I feel totally honoured and privileged to be in this position where after over 33 years of public service as a police officer the opportunity arises where I can be considered for the top policing post in Gibraltar. Way back in 1996, when I was competing for promotion to Sergeant, I vividly recall the then Commissioner of Police, the late Joe Canepa QPM, asking where I saw myself in the police service two decades from thereon: I distinctly remember responding bluntly but very focused and saying "right where *you* are sitting Sir.....and serving as Commissioner of Police!". That desire I expressed at that time is still very much alive now, in fact more alive than ever before because of the splendid career I am enjoying and the vacancy arising.

The role of Commissioner of the RGP, a Constitutional appointment, is enshrined in the Police Act 2006 s.33 which explains that the post holder will have overall command, superintendence, direction and control of the Force together with responsibility for the efficient administration and government of the Force including the proper expenditure of public funds used for the provision of policing services. To be able to properly discharge these legal requirements the post holder needs to meet certain criteria; the following list of competences are what I feel are the necessary personal qualities the post holder should possess. I have included some examples as evidence of key personal achievements aligned with the said list of competences to demonstrate my own qualities for your esteemed consideration and evaluation.

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1. **Serving the public**

The Commissioner of the RGP must be an individual who is already well known and respected in the community and not necessarily only known because of his police career; known and respected in other social circles too. He must be engaging and work to serve the public's interests with all the diversity a modern Gibraltarian community presents. The Commissioner must also work to build public confidence in the RGP and work with Government, the GPA and other partners to build on an overall better service to the public.

Personal evidence
My past involvement in the local sporting scene and scouting movement has cemented lifelong relationships outside my professional life. Similarly, my membership of the Royal Gibraltar Regiment which I only recently suspended and the St John's Ambulance Association has expanded my outreach to the community outside the police environment. I have no doubt that this has aided my ability to engage with the public as I have been seen not only as a police officer but also as an inclusive member of wider society.

As a senior police officer and particularly in my incumbent post as commander of the Crime and Protective Service Division I lead a very dedicated team of detectives dealing with a myriad of disciplines in the crime domain. I have on many occasions been the RGP's 'talking head' reporting on matters of concern to the public as well as offering reassurance when this has been necessary.

I sit in multi-agency committees/groups such as (i) the legally constituted Child Protection Committee, (ii) the Strategic Management Board for Sex Offender Management (soon to also incorporate violent offenders) and the Executive Committee of the Gibraltar Contingencies Council (GCC) which is the tier below the GCC proper. I chair the Joint Operating Working Group [Land] which works towards optimising Gibraltar's security posture in the land environment with a view of identifying existing and emerging threats to this posture. I have stimulated multi-agency debate to develop contingency responses for a marauding terrorist attack and designed, co-ordinated and directed both multi-agency table-tops and live exercises to test these responses.

1. Leading strategic change

It is necessary for the Commissioner to have a convincing vision and that this vision is well aligned to the values of the police service and it that provides clear direction. It is not healthy for a police force to remain static in terms of innovation and change. Whilst I am not an advocate of introducing change simply for the sake of it, I equally recognise that the ever shifting landscape requires constant reviews of how policing is conducted and how resources are allocated. Whilst austerity has not [yet] reached Gibraltar, I irrespectively feel it is good management and business practice to always seek to deliver value for money services and save unnecessary public expenditure. My personal vision for the next 5 years is contained in a separate paper and therefore I do not intend to rehearse it in this letter.

Personal evidence
I would refer you to the accompanying vision paper entitled *'Delivering a safer Gibraltar, through excellence in the provision of policing services'*.

For the past 6 years I have been a member of the senior management team which has embedded Commissioner Yome's culture change from a previously micro-managed styled organisation to one that encourages empowerment and inclusion.

During my time as Superintendent in the headquarters and support function and with a view of uplifting our firearms capability, I was able to negotiate with South Wales Police the procurement of (43) firearms making a saving to the RGP of *circa* £75,000. I also prepared a business case to argue with Government for extra funding for armed policing requirements.

I also acted as the RGP's senior point of contact for the construction project of new the Marine Base at Gun Wharf. From planning/design to physical construction, the project required constant liaison with architects, developers, builders etc - the end result being a modern fit for purpose facility which instils a host of positives in terms of working environment and staff morale.

Following a period of consultation with the rank and file over concerns regarding personal safety and comfort of uniforms for the front line officer I embarked on a process of researching and

procuring protective body armour for Force wide issue together with a more comfortable and practical uniform attire. The outcome was well received by the rank and file as indeed the staff association – the workforce now boast stab and ballistic protection vests purpose made for Gibraltar's requirements and climate together with far more practical and comfortable uniform shirts and trousers.

An EU Directive transposed to local legislation placed an extremely administrative cumbersome responsibility on the RGP to do with the provision of case dockets in the native language of the accused person. To overcome this I researched various options and entered in to a contractual arrangement with a translator and interpreter provider in the UK and we now have a 24/7 service to meet all the requirements imposed by law in this regard. Not only does this save significant officer time, the additional enhancement of having translator and interpreter services for most languages spoken in the world is something which in any case would surpass the RGP's or Gibraltar PLC's ability to provide.

Because of the demand and workload carried by certain units currently under my command, I have held consultations with line managers to seek out solutions and have aligned our resources accordingly. This is very evident in the field of Economic Crime where because of new legislations and expectations we have had to restructure the unit to cater for (i) fraud and (ii) money laundering, counter terrorist financing and asset recovery.

I conducted a gap analysis of our existing terrorism laws and provided rationale to Government for their modernisation, a draft of which together with accompanying codes of practice are being considered for enactment. I am also currently engaged with rolling out a programme of capability/capacity uplifting in Counter Terrorism Policing an area which the RGP dearly requires development.

2. Leading the workforce

During my long law enforcement career I have had the privilege of working with and judging different styles of leadership. To a certain extent this experience has allowed for the development of my personal style. Strong leadership is the bedrock of a police service. The Commissioner has to have sufficient character to inspire staff to meet challenges and targets whilst creating an environment of enthusiasm, rewarding good doers and recognising the efforts of staff. Strong leadership is also necessary during challenging/difficult times in order to instil morale. In my view it is important that the Commissioner is visible and connected within the workplace and whilst keeping a strategic outlook, remains sufficiently savvy about the detail and has the ability to dip into it if required.

Personal evidence
A leadership quote which resonates very closely to my thinking is that of the late US General Schwarzkopf, who led a 750,000 strong coalition force to liberate Kuwait when invaded by Iraq in 1991 – the infamous Op Desert Storm. He said, *"Leadership is a potent combination of strategy and character. But if you must be without one, be without the strategy"*. It is sometimes the most simple and overseen actions that can display good leadership. I make it a point of recognising good work by dropping an email to individual officers and when possible I have face to face contact with them, even if these officers are not directly under my command. I have also recommended officers for more formal recognition under the RGP Honours and Awards Policy. Having been a front line officer for most of my career, I know how important it is for senior management to support and be seen to support the front line. To this end and because of the challenges front line officers were facing, I proposed that senior officers made it a point to patrol alongside junior ranks during the most busy periods of the week and this was unanimously accepted and very well received by the staff.

I am the only serving superintendent to have commanded all three divisions in the RGP (Operations – Crime – Support) and can therefore relate to the challenges faced in them together with the different personnel dynamics and leadership traits that have to be applied respectively.

3. Managing performance

A policing vision requires a tactical plan to convert the vision to a reality. The Commissioner should in consultation with his senior team establish a clear strategy with SMART objectives. It is important to navigate through obstacles to performance by removing these obstacles and managing resources to ensure best delivery and value for money. Under-performing officers and the reasons for their poor performance also require attention and intervention in order to redress.

Personal evidence
It is a recognised notion that a happy team reaps better results, so in this regard junior and middle line managers are key to motivating officers – I am a strong promoter of this. In order to better prepare Sergeants and Inspectors as managers/leaders and indeed those constables showing potential as future Sergeants, I organised a series of courses under the auspices of Institute of Leadership and Management which were successfully delivered and completed by 50 officers. The said courses covered personal responsibility in working towards organisational goals – making our managers realise that they are accountable for performance of their teams.

I am a firm believer of turning up for work and putting in an effort for honest day's living and I promulgate this 'philosophy' to my colleagues. Understandingly so, not everyone can produce the same levels of output so I play to the strengths of each individual to extract the best in them.

I am extremely fortunate that Crime and Protective Services Division officers are probably the most self-motivated officers in the organisation and therefore there is very little need for direct intervention on my part. I am, however, very conscious of their welfare as they can become overly engrossed in their tasks to the detriment a reasonable work/life balance. They work in the higher of risk areas and carry the most serious of crime work pulling off great results which significantly contribute to the detection rates published in the annual report.

I have had occasion to address poor performances and lack of commitment to the job, acting to address each instance accordingly with varied levels of success.

4. Professionalism

Honesty, integrity, high values and the best ethical standards depicts the qualities a Commissioner should portray coupled with determination and drive to ensure things get done. Unlike previous eras where it would be unheard of for a Commissioner to acknowledge shortcomings in the service, in my view it is good practice to openly accept any shortcomings and commit to putting them right. During turbulent times, the Commissioner must remain calm and collected when under pressure. He must also take personal responsibility for difficult, contentious or unpopular decisions.

Personal evidence
I have an unblemished discipline record. I was the pioneer in 2001, setting the tone for a wave of senior officers to undertake Higher Education academic studies on police related subjects. In essence, I am of the view that this has enriched the RGP with the setting of higher benchmarks of professionalism and academia to compliment already acquired experience and skill sets.

I encourage the Detective Inspectors in my Division to share their concerns and pressures with me so that [some] of the risk burden is lifted off themselves – this gives them a sense of security whilst I campaign for solutions behind the scenes. They are fully aware that I cannot wave a magic wand and make things happen straight away but they take comfort that senior management have their backs whilst they plough on with criminal case work.

There have been very testing times and situations where the reputation of both the RGP and personal reputation have been at stake. During these times I have always operated with common sense and within the confines of the law, with certainty and conviction and without fear or favour. Similarly, I have managed very sensitive matters keeping operational security in tact.

5. Decision making

The ability to assimilate copious amounts of information and make quick and spontaneous decisions is a competency that a Commissioner must command. There is also a requirement for the decision making process to be justified and rationalised. In assuming responsibility for ultimate decisions, even when these have been made on the back of unclear circumstances, the Commissioner must consider the wider impact and implications that fall out from the decision(s) in question. It is also important that a process is invoked that allows for a review of these critical decisions to ensure that they remain fit for purpose.

Personal evidence
The National Decision Model is the recognised model to follow in the UK police service. The RGP have followed suit and I was the first RGP officer to be exposed to this model in 2011-12 and commence its local application. It is a model that if applied properly can withstand scrutiny at different levels.

I readily accept where my levels of knowledge and experience can take me when it comes to decision making, more so in critical circumstances. Consequently, I have had to rely on advice of more experienced and/or skilled individuals, always retaining the responsibility for the outcome of the decision taken. An example of this was during the recent intervention of a bulk carrier following information disclosed to me by the US Drugs Enforcement Administration that it was laden with a large consignment of Cocaine – the situation warranting an armed intervention to ensure safety of officers.

6. Working with others

The Commissioner must be able to consult and involve others in the decision making process, showing tact, respect and understanding to the views of others. The private sector has a lot to offer in terms of contributions to maintain the jurisdiction safe from crime and enhance security. It is therefore key that the Commissioner is able to work with any sector whose intentions are in the overall interests of Gibraltar's safety, always negotiating effectively, representing the interests of the RGP.

Personal evidence
Cyber dependant and cyber enabled crime is very much under reported in Gibraltar. This phenomenon is not exclusive to Gibraltar and the RGP has a role to raise awareness, reduce and prevent this type of crime from affecting so many victims. In June 2017, the RGP partnered with the private sector to bring to Gibraltar a world class cyber security event. I undertook to be the RGP point of contact with the partnering firm to present this event. 245 delegates from public and private sector attended with the Chief Minister and HE the Governor hailing it as a success and worthwhile project.

The policing of major events requires close co-operation with other essential services, public agencies, organisers and private entities. During my service as Superintendent Operations, I planned and oversaw the execution of the policing arrangements in major events such as the Royal visit of HRH Prince Andrew and the Countess of Wessex, Gibraltar National Week including the Gib Music Festival, National Day rally, general elections, Queen's birthday parades, the 3 Kings Calvacade and Guy Fawkes (when this was renowned for acute anti-social behaviour and violence).

In my present post, I have been assigned responsibility for building relationships with international partners. I have been able to negotiate the reinstatement of the RGP in the very important forum as is the National Counter Terrorism Policing HQ Business Area Meetings where regional UK police chiefs periodically meet with the CT National Co-coordinator, DAC Neil Basu, Assistant Commissioner Mark Rowley who is the most senior CT police officer in UK and SyS and SIS. RGP attendance at this forum had been discontinued over 6 years ago for reasons unknown to me. Closer contact with SO15 Counter Terrorism Command, New Scotland Yard, has also been enhanced. I also keep alive relationships with the USA's FBI and DEA via the US Embassy in Madrid. I am responsible for flourishing Spanish law enforcement relationships and I am very pleased with the progress, particularly with the Servicio Vigilancia Aduanera who on occasions have been rather conflicting and hostile on operations at sea. A very good relationship is also maintained with the Guardia Civil's UC2 responsible for international terrorism as indeed the Cuerpo Nacional de Policia, Comisaria de Informacion in Canillas, their HQ in Madrid. Despite the already known political influences which unfortunately hinders full operational co-operation, I can sincerely state that working with the stated Spanish law enforcement agencies has been very productive. Further work to attempt to formalise these relationships continues with the very kind assistance of the British Embassy in Madrid.

I developed a close working relationship with the police embed in the National Cyber Security Centre (NCSC) and successfully negotiated for the UK's 'Cyber Information Sharing Partnership' to be extended to Gibraltar for the benefit of our business community. I am pleased to report that numerous business entities have already signed up to this initiative and enrolled as members of this platform.

7. Effective communication

As previously alluded to in the 1st of the competencies, the Commissioner has to be visible and ensure that corporate communications are effective both internal and external to organisation. He must be an articulate communicator who is confident is public speaking. Very often, the RGP is fairly criticised in the media – there has to be courage to readily accept this criticism and efforts to put things right. Conversely, it is a known fact that certain media outlets seem to have an unjustified gripe against the Force. With this type of reporting it is my submission that focusing on improving public confidence in the RGP through effective communications and positive actions will by default rebut any adverse media reporting.

Personal evidence
Being one of the trained media officers in the RGP I have had the experience of engagement with all local media outlets, those in the campo region and even some major UK tabloids. I have received letters of appreciation from local media praising my style of communications and my relationship with them during difficult times.

I have formed part of debate panels on live TV programmes such as Viewpoint. Promoting the RGP's good work and particularly in the crime domain, I have given numerous interviews to both radio and TV.

In 2013, I successfully argued for personalisation of social media communications for senior officers and some departments within the Force. In addition to the RGP corporate Twitter account, each senior officer is able to push out information on this very popular social media channel thereby enhancing our contact with the community.

8. Respect for Diversity

The police service is inherently still regarded by many as a male chauvinistic dominated institution. The RGP should aspire for our workforce to be representative, as far as possible, of the make-up

of our community and therefore the Commissioner must show commitment to this aspiration, the outreach of which can be enhanced by ensuring that the RGP respects all sections of society and make them feel included.

Internal culture within the Force has to demonstrate similar vein in terms of fair treatment and respect for all officers and staff in the context of a custom that values diversity and individuality.

Personal evidence
I have formed part of the senior management team that has driven a culture change which has taken the RGP forwards as an organisation with a high ethos of equality and diversity. Perceived barriers to equality are not as blatant as they used to be. As a team we discuss where reasonable adjustments can be made to find ways to help staff members who need particular attention. There is a long way to go and I take this opportunity to express total commitment to continue in this journey in support of equality and diversity both internal and external to the organisation.

In closing this letter in support of my application, I offer the GPA my availability to answer any questions arising or elaborate on any of the points stated above.

Yours faithfully,

[SIGNED ON ORIGINAL]

Ian McGrail *OTM M.Sc.*
Detective Superintendent
Crime & Protective Services Division



A VISION FOR THE ROYAL GIBRALTAR POLICE 2018-2022

Delivering a safer Gibraltar through Excellence in the provision of Policing Services

D/Supt Ian McGrail

2nd November 2017

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"DELIVERING A SAFER GIBRALTAR THROUGH EXCELLENCE IN THE PROVISION OF POLICING SERVICES"

Like with so many aspects of life today, Gibraltar is vastly different from the way it was when the then Gibraltar Police Force was formed 177 years ago. Even in the last 10 years a lot has changed. The trends we see today will have a big impact on the Royal Gibraltar Police (RGP) over the next 5 years and the organisation must respond to them to continue to ensure the jurisdiction remains a safe one.

A strategic analysis of the risks and challenges that the RGP will face in the forthcoming years recognises that our operating environment is changing at quite a pace. Increasing community expectations, population growth, the continued development of Gibraltar as a nation, changes in crime and upholding national security present both challenges and opportunities.

To build on successes of how Gibraltar has been and continues to be the safe place it is for residents to live in, for our visitors and those who venture here to do business, the RGP also needs to move with the times. Any transformation over the next 5 years must involve the way we deliver our services, the way we utilise our officers, how we exploit the use of available technology and very importantly, the way we engage with partners and stakeholders.

This paper sets out my vision for the RGP for the next 5 years – a vision which I truly believe will pave a very positive path for the Force to meet the challenges ahead. The notion behind my vision being that through the provision of excellence in service delivery, Gibraltar will continue to be safe and prosper for existing and future generations. Against the backdrop of my vision I will be alluding to the areas where I view the Force to be strong in, those requiring attention of some sort, the risk areas and challenges/opportunities arising. I will also incorporate key actions to address the main issues, as I see them, which affect the Force

RGP's CORE VALUES

Excellence in policing is not simply acquired off the shelf. Good reputation, good results, continuous organisational improvement and development, wellbeing of the workforce, commitment and a genuine belief in what we stand for are some of the key factors that can drive the Force towards excellence in service delivery. Our organisational Values and Code of Ethics are at the core of the RGP (see Appendix - A). They underpin our policies, procedures and practices and how we interact with the community. There is therefore the need to constantly align all our daily activities to these values. Strong leadership is required to ensure consistency around the Force towards abidance and promulgation of the values with the reasonable expectation that by improving on existing behaviours, professional service delivery in the key areas referred to in this paper will by default be enhanced – the aim being that of optimisation of overall service provision.

STRATEGIC CONTEXT

To support and achieve my vision there are 5 areas of focus the RGP would need to work towards as follows;-

- Effective service delivery – by providing responsive, personal and visible policing services
- Improving community safety – by minimising crime and improving safety
- Working with others – by developing strong partnerships with stakeholders
- People development – by creating a capable, flexible and professional workforce
- Workplace development – by improving systems to make our functions more efficient and effective. By improvements in the physical workplace (real estate).

In order to provide an easy to follow perspective on what I deem to be the *main* issues affecting the RGP and which indeed are aligned to the above 5 areas, I will split these between Operational and Organisational issues.

An action plan to address each of these issues can be found in Appendix – B

OPERATIONAL THREATS

(i) National Security

The existing threat of terrorism to western Europe originating from the conflict in Iraq and Syria neither recognises or respects any borders. Gibraltar sits between two countries that are on high alert because of this threat. Incidentally, this threat is also seriously perceived by the UK, who acting to protect British interests offer advice, via the FCO, to British citizens travelling to or living in Spain and Morocco. Whilst there is no specific intelligence of any terrorist activity in or aimed at Gibraltar, the mere proximity to these two nations together with a host of other reasons puts Gibraltar in a vulnerable position. The re-emergence of Northern Ireland related terrorism (NIRT) has also got be kept in mind as indeed the phenomena of cyber terrorism, for which a Gibraltar strategy is required.

Gibraltar's security apparatus has never been clearer defined as is it now with strategic, tactical and operational tiers established in multi-agency forums. Interoperability amongst the blue light agencies has been subject of praise by staff from the UK's Joint Emergency Services Interoperability Programme who have recognised the great advantage we enjoy because of our personal and close working arrangements, hailing this as a great asset to local critical/major incident management. Regular multi-agency training has strengthened our ability to deal with a terrorist incident – we are now at the stage where emergency service heads should commit to signing the 'Joint Operating Principles' to formalise interoperability in the counter terrorism domain.

A programme to uplift our counter terrorism policing efforts is under way, however, this will take its time to roll out and get officers trained with the necessary skills. Because of the close liaison we enjoy with SO15 Counter Terrorism Command of the Metropolitan Police, opportunities are arising to enhance the RGP's connectivity with the UK's CT network.

Despite all the practical work achieved in enhancing our security posture, we are still lacking in modern and updated terrorism legislation and this places our practitioners at a disadvantage without the tools to carry out their duties.

Arrangements for Military Aid to the Civil Authorities (MACA) need to be firmed up so that our response plans have clarity to what extent the locally based military can be deployed and employed in a CT incident/operation. These arrangements should also incorporate and extend to any UK based military assistance that would be required.

Defusing any identified vulnerabilities whether these are physical, structural or cultural will make Gibraltar a lesser attractive target for potential terrorists which reinforces the need to work towards a tailor made counter terrorism strategy for Gibraltar.

(ii) Child Safeguarding & Sex Offender Risk Management

When attempting to analyse the extent of child sexual exploitation in our jurisdiction we realise that the true picture of any exploitation is unclear. Significant anecdotal information exists which indicates that sharing of sexually explicit photographs occurs frequently between young people and we have dealt with reports in this regard. The ever increasing reliance of social media by young people also uncovers a ready-made platform for grooming activity by sexual predators. Pro-active community engagement to raise awareness is underway sanctioned by the Child Protection Committee.

The successes of our Safeguarding Unit in bringing sex offenders to justice and the numerous convictions secured in court demonstrates the Force's capability to deal with cases of historic abuse. Our efforts should by no means rest with these convictions. Many victims of sexual exploitation tend to suffer in silence and withhold themselves from reporting their ordeals. It is our duty to pro-actively reach out to those silent victims and offer them the reassurance that they will heard and believed.

Our relationship with the National Crime Agency's Child Exploitation and Online Protection Command (CEOP) is outstanding and an established channel for referrals is in place to investigate peer to peer sharing of indecent imagery of children online. The RGP sits as a full member of the UK forum MOSOVO (Management of Sex Offender & Violent Offenders) and has presented case studies on the challenges of cross border management of sex offenders.

The well being of staff who deal with child safeguarding and sex offender management has to remain constantly under review. At present there are no systems in place to ensure these officers remain psychologically fit to continue discharging their duties.

The RGP were the pioneers and stimulators for the creation of Multi-Agency Public Protection Arrangements (MAPPA) and we have developed a specialist niche in this field. The RGP is in fact exporting the Gibraltar model to other overseas territories which is testament of the effectiveness of our practices.

(iii) Economic & Cyber Crime

It is now an accepted notion that Economic Crime is causing an overwhelming effect on police services not only because of the devastating effects it has on victims, but also because of the investigation complexities these crimes present and the drain in police resources required to investigate them – Gibraltar does not escape this problem. The RGP has limited but very competent resources in this field as has been proved in recent very high profile cases which in the United Kingdom would have been handled by a national unit such as the Serious Fraud Office.

As a finance centre, Gibraltar will no doubt attract financial criminality, whether it is locally based or from abroad by making use of banking and other financial institutions here. Cyber fraudsters also avail themselves of a borderless landscape to rip off their victims via a myriad of methods which they keep innovating to outwit law enforcement efforts. The risk therefore amplifies when enforcement capabilities are insufficient to meet the demand with the consequences of reputational damage to the jurisdiction.

The Government's intention to become a member of MONEYVAL is presenting the RGP with unprecedented challenges. MONEYVAL is a Council of Europe committee of experts on the evaluation of anti money laundering and the financing of terrorism. Their evaluation process is ruthless and if aspiring members do not meet their set criteria, they run the risk of becoming blacklisted as an unreliable country to do business with.

It is evident that with our existing resources, the RGP will not be able to meet all the requirements set out by MONEYVAL. A possible solution to this situation is to create a Joint working team comprising of HM Customs, FSC personnel, AG's Chambers, accountants, tax specialists and Police – a sort of Gibraltar Crime Agency. Expertise can also be sought by entering in to formal collaborative arrangements with the City of London Police, the UK's lead force for economic crime.

The RGP has to keep driving forward in raising awareness on cyber crime. Experts predict that this type of crime will soon override traditional crime statistics and this will clearly place extra demand on the RGP. Though known to sometimes be perpetrated by lone actors, cyber crime is now very much being exploited by organised crime groups who because of the anonymity the internet affords, no longer have to expose themselves physically when committing their criminal acts.

(iv) External Affairs

Foreign Affairs have always had an impact on policing in Gibraltar and the current situation with Brexit looming is no exception together Spain's incessant claim over our territory's sovereignty. The Spanish Government's posture is unfortunately one that cannot be trusted even though the incumbent Foreign Secretary has assured that its Spain's intention not to disrupt fluidity at the border because of Brexit. Realistically, Spain has not got to rely on Brexit to make our border a 'hard' one – they can resort to strict compliance with Schengen processes to create the same negative effects. Irrespectively of the stated, a 'hard' border will present challenges to the RGP in terms public order, traffic management, internal security and possibly

even increased crime levels.

(v) Drugs Misuse

I think there can hardly be any disagreement with the fact that drugs misuse in Gibraltar is a social problem and not solely a police related issue as if often perceived by the community. Police enforcement in interrupting the supply chain is only one of the strands of what should constitute a holistic drugs strategy – including that of reducing the demand through education and awareness and providing supporting rehabilitation services. It is therefore evident that partnership working is essential. Notwithstanding this, police enforcement efforts need to be consistent and effective. For this to happen in this day and age, officers must be supported by investigatory tools within their corresponding legal framework. Our contributions to disrupt international drug trafficking have to continue and in fact we will aim for more detections and disruptions in this regard. This intent is necessary as otherwise organised criminal networks can perceive the RGP as weak in this area to the detriment of good social order as has been experienced of late in the Campo area.

(vi) Anti-Social Behaviour & Domestic Violence

Anti-social behaviour is often associated to, or is the indicator of, other criminal activity or social problem. It creates a state of insecurity particularly so in residential areas where the peace and tranquillity of law abiding citizens is hampered. Inaction or ineffective action on the part of the RGP diminishes public confidence in the police. A particular challenge for the RGP and its partnership agencies (Housing Dept, Education etc) is that of the inability to relocate offenders because of the limited housing stock in the jurisdiction. Consistent, intelligence led, focused and high visible patrols of problem areas is a tried and tested policing response that addresses this issue and one that should not be compromised because of other competing demands.

An increase in instances of domestic abuse with calls for our service has been noted. The Force operates a positive action policy in support of victims, however, re-active work needs to run in tandem with pro-activity. In this regard, engagement with Social Services and embarking on a DV awareness/prevention campaign will complement enforcement efforts.

ORGANISATIONAL THREATS

(vii) Human Resources – Recruitment – Retention – Composition – Training

It is an accepted fact that the RGP is a very young service in terms of the average age of its officers. This observation has got to be considered alongside the projected retirements for the RGP which show that a significant proportion of the Senior Management Team could actually retire forthwith, with additional turnover at various other ranks across the Force. Similarly, there are several officers at Constable and Sergeant ranks who are also eligible to retire having the appropriate age in specialist areas such as Special Branch, Crime Scene Investigation Unit, Marine Section and Force Intel Unit.

According to the last HMIC report, 3 Superintendents, 3 Chief Inspectors, 6 Inspectors, 9 Sergeants and 35 Constables are all eligible to retire within the next five years. Annual training

bids are assessed by the training prioritisation board, comprising senior officers. In the recent staff survey, only 44 percent of the workforce was satisfied with their current level of training and development. There is a need to seriously discuss succession planning as soon as possible and invest in the continuous development of our people.

A force restructure recently carried out in consultation with the staff association was designed to align our resources to demand also taking in to account the work-life balance of the staff. This also uncovered the need to increase the establishment of the Force and consequently a business case was prepared for due consideration by Government. I am concerned that the Force will seriously struggle to cope with the existing demand unless extra human resources are hired. The pace at which the Force operates has been the catalyst for dips in retention – this exposes the need to delve deeper in to the abilities and qualities of a new applicant to join the Force so that the recruitment process weeds out those who may be unable to cope with the occupational needs and pressures.

(viii) Legislation

A wave of new pieces of legislation such as the Crimes Act, Criminal Procedure & Evidence Act, and Proceeds of Crime Act has caused the Force to re-adjust its resources to ensure the service delivery arising from them is met. These changes have caused considerable challenges and strains – challenges because officers have had to be re-deployed from the front line and upskilled to cover other duties imposed by the new laws – strains because even though the redeployments have been effected we suffer from resilience issues in these sub-units which incidentally are also under-resourced.

In the pipeline there are other new laws (Terrorism Act, Immigration Act, Regulatory of Investigatory Powers Act) that will challenge the Force even further. Training in the application of these laws will require more instructors who they themselves will require induction in order to teach the subject matter. These challenges will be affronted with positivity and zeal. There will have to be an element of prioritization and delivery programme designed.

(ix) Technology & Workplace

The RGP has historically struggled with challenges arising out of complexity and cost of IT infrastructure, inadequate databases and paper based systems. With the enviable support of the Government together with sheer drive and in-house talent we have managed to revolutionise a crucial part of the criminal justice system. Managing a culture change from antiquated systems to a modern purpose designed platform will have to take its course and already, obstacles and resistance from some quarters is being addressed and overcome.

Technical support is an important cog in the fight against crime and indeed terrorism. Serious consideration will be given to acquiring the necessary equipment which is used by law enforcement agencies worldwide and once the legislation which governs its deployment is passed.

The RGP of today has totally outgrown its headquarters at New Mole House. Despite not being a purpose built facility it was an improvement to the old Central Police Station in Irish Town. New Mole House is an extremely tired building – the environment is not ideal for such a fast

moving organisation. It is welcoming that Government acknowledges this and are committed to a new purpose built building which not necessarily should be wholly RGP occupied. There is scope for conducting a value for money exercise to collaborate with the other emergency services for a joint command and despatch unit, fleet management and other building space.

(x) HMIC recommendations

The inspection of the RGP by HMIC in 2015 revealed various areas for improvement. Whilst some of these recommendations have already been addressed there still remains some requiring further action. It is imperative that a working group is created to see this project through. In my view the most pressing area for improvement, as highlighted in one of the recommendations, is that of the creation of manual of guidance which should represent Force policy in crime investigation standards. This will inherently make officers better at conducting investigations and is positive for their all-round personal development.

(xi) Gibraltar Defence Police

The announcement in the Government's manifesto that the GDP would be transferred directly to Government or into a wholly owned company of the Government raised a number of issues which have been debated at length amongst the RGP's SMT. It is fair to say that the possibility is also being mooted of an eventual full amalgamation of the GDP with the RGP.

I am a strong advocate that if any transfer of the GDP were to materialise that this should take the form of a full amalgamation with the RGP – the opportunities arising far outweighing any disadvantages. My argument rebutting other arrangements such as the GDP forming itself into a [GoG] agency to provide services to the MOD have been documented.

(xii) BREXIT – implications to policing

The uncertainty that BREXIT has unearthed in the UK is to a large extent transferrable to us in Gibraltar. Aside from the issues in the socio-political space, Brexit presents challenges to policing if the UK fail to secure a good exit deal. Key themes that will have a direct impact on policing are listed below in no particular order;

- Schengen (incl SIS, SISII & RGP liaison with Cuerpo Nacional de Policia, Guardia Civil and SVA.
- Prüm (incl Prüm decisions)
- European Criminal Records System (ECRIS)
- European Counter Terrorism Strategy
- Europol engagement
- European Police College
- European Arrest Warrant arrangements
- European Investigation Order (Incl Joint Investigation Teams)

Whilst expectant that the UK's exit deal will not undermine any of the above subject areas, we have to be ready to react if it does. Equally, the situation discloses opportunities for joining up further with the UK on law enforcement matters.

THE RGP RELATIONSHIP WITH THE GPA

The functions and responsibilities of both the RGP and GPA are clearly articulated and enshrined in statute. However, in practice and for the past 8 years or so, the relationship between both has only been limited to consultations and progress reporting on the objectives set out in annual policing plan/annual reports, recruitment and promotion boards. Whilst these activity fall squarely within the statutory responsibilities, there is ample room for the building of a more solid and productive relationship.

Being the independent body that it is, the GPA has to ensure RGP operates to a high standard and as efficiently/effectively as it can within its scope of resourcing. In order to discharge its function fully the GPA has to provide information on police matters to the community. To deliver on this the GPA needs to be kept abreast of policing issues which matter to the community and not solely rely on annual reporting. It is therefore necessary that periodic and prearranged briefs are delivered to the GPA by the RGP's Commissioner. Subject to mutual agreement, the briefing could be delivered on a monthly basis to either the full Authority, or to a sub-group of its members. A proposed structure of topics for these briefings would include;

- an element of operational content
- trends in performance and incidence of crime that may impact on policing plan priorities
- strategic projects/proposals of the commissioner not considered in other forums
- strategic finance
- human resource issues
- strategic policing initiatives
- complaints and matters of discipline

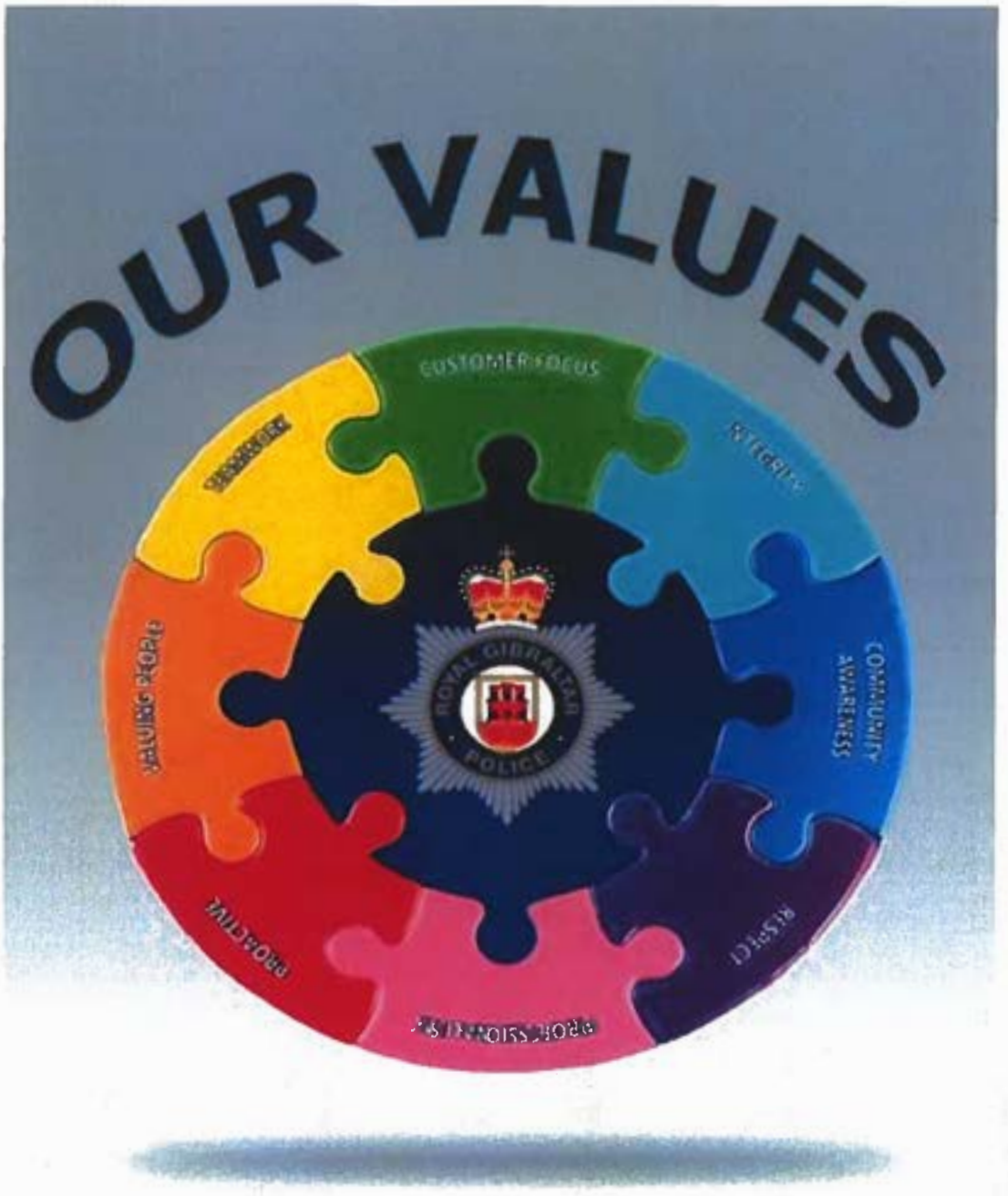
The outcomes of these briefings will very much serve as indicators of approval or conversely, disapproval by the Authority of the manner the RGP is conducting its business.

CONCLUSION

As can be appreciated from the contents of this brief paper, the next 5 years will undoubtedly bring considerable challenges on the RGP. I have distinctly kept to highlighting what I perceive are to be the *main* issues affecting the Force together with a delivery plan that is synced with my Vision. There are a host of other issues which require attention but not to the same degree as the ones referred to in this paper. In policing, things change very quickly and therefore whilst the intention is to deliver on the stipulated actions, unexpected exigencies may warrant a review of these actions.

Simplicity is my Vision's forte – the RGP gets its act right in all its areas of responsibility, and by default, Gibraltar will be an even safer place than it has been in the past ..... to live, to visit and to do business in.

APPENDIX – A
RGP VALUES & CODE OF ETHICS



Working Together To Make Our Community Safer

10

CODE OF ETHICS

Integrity
I recognise my role in policing as being a symbol of public faith and trust and the obligation this places upon me to act with integrity, fairness and respect. I shall behave in a way which reflects the values of policing in Gibraltar. I understand I am personally responsible for my own actions and will appropriately exercise my discretion.

I shall act as a positive role model in delivering a professional, impartial service, placing service to communities before my personal aims. I will not accept any gift or gratuity that could, or could be perceived to, compromise my impartiality. I shall avoid all behaviour, which is or may be reasonably considered as abusive, bullying, harassing or victimising.

I will demonstrate and promote good conduct and I will challenge the conduct of colleagues where I reasonably believe they have fallen below the standards set out in this Code.

Fairness
I will act with courage and composure and shall face all challenges with self-control, tolerance and impartiality. I will promote a positive well-being within the community and service and ensure that all people have fair and equal access to police services according to their needs.

I shall maintain an open attitude and continue to improve my understanding and awareness of cultural, social and community issues. I will carry out my duties in a fair manner, guided by the principles of impartiality and non- discrimination.

Respect
I take pride in working as part of a team dedicated to protecting people. I will show respect for all people and their beliefs, values, cultures and individual needs. I will have respect for all human dignity as I understand that my attitude and the way I behave contributes to the consent communities have for policing. I will respect and uphold the law in order to maintain public confidence and, by enhancing my personal knowledge and experience, contributing to the professional development of policing.

I shall treat all people, including detained people, in a humane and dignified manner. I shall ensure that my relationships with colleagues is based on mutual respect and understanding and shall, therefore, conduct all communications on that basis.

Human Rights
I shall ensure my actions and policing operations respect the human rights of all people and officers whilst understanding that I will also enjoy these same human rights. I will not undertake high-risk activities or use force other than where strictly necessary in order to attain a legitimate objective and only after I have balanced all the competing priorities I am aware of. (Article 2, Gibraltar Constitution Order 2006 & Section 5, Subsection 1 of the Crimes Act 2011)

I will not encourage, instigate or tolerate any act of torture or inhuman or degrading treatment under any circumstance nor will I stand by and allow others to do the same. I understand that the humane treatment of prisoners is an essential element of policing and that the dignity of all those I am trusted to care for remains my responsibility. (Article 5, Gibraltar Constitution Order 2006)

I understand that people have an equal right to liberty and security. Accordingly, I will not deprive any person of that liberty, except in accordance with the law. (Article 1, Gibraltar Constitution 2006) I will investigate crimes objectively and be sensitive to the particular needs of affected individuals whilst following the principle that everyone who is the subject of criminal investigation is innocent until found guilty by a court. (Article 8, Gibraltar Constitution Order 2006)

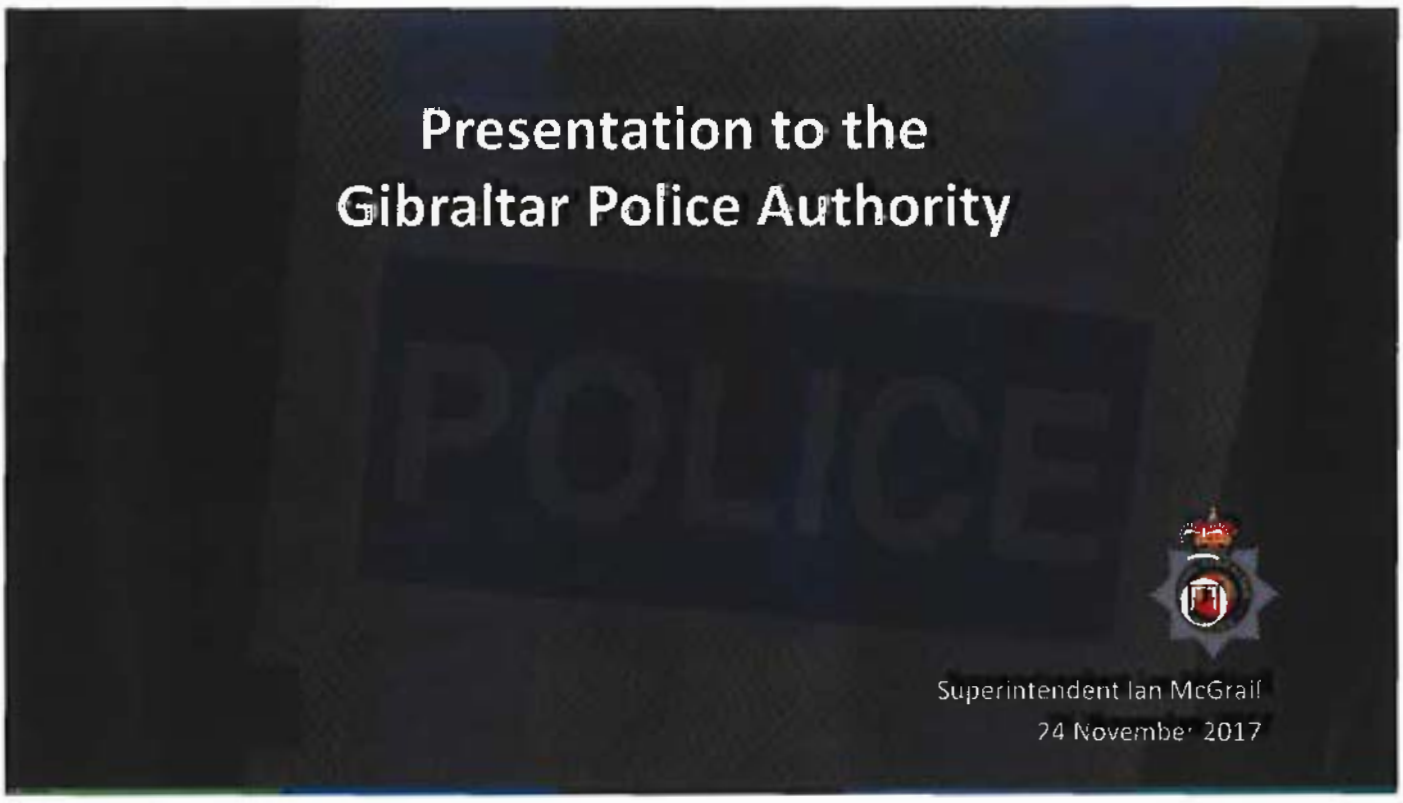
In carrying out my duties I shall respect everyone's fundamental rights. I will only interfere with privacy or family life when I am legally authorized to do so. (Article 3, Gibraltar Constitution Order 2006) I will respect individual freedoms of thought, conscience or religion, expression, peaceful assembly, movement and the peaceful enjoyment of possessions. (Articles 9, 10, 11 Gibraltar Constitution Order 2006)

APPENDIX B – ACTION PLAN

1. Key Actions – National Security	Commencement date	Completion date	Desired outcome
Emergency Services Chiefs to sign the Joint Operating Principles to ratify interoperability arrangements. Continued multi-agency exercising to deal with varied threats	01 01 2018	31 03 2018	Better interoperability and improvement on practical efficiency/effectiveness
Produce a MACA document providing an agreed framework for any support requested from the military	01 01 2018	31 03 2018	Better interoperability and improvement on practical efficiency/effectiveness
Uplifting of RGP CT policing and armed policing capabilities incl. CBRN	30 10 2017	31 12 2021	Improved readiness to deal with a terrorist incident
Survey all Critical National Infrastructure by our Counter Terrorism Security Advisor and provide advice on mitigation measures to Government and other stakeholders.	01 01 2018	31 12 2021	Target harden Gibraltar to deter terrorist interest in our jurisdiction. Instil a security conscious culture within our CNI network.
Lobby for a National Cyber Security Strategy and once published then devise a RGP cyber crime strategy with an up lifting programme in accordance with advice from S015 (NDES) Training Needs Analysis.	01 01 2018	31 12 2020	Enhanced organisational capability to investigate cyber dependent and cyber enabled crimes. Enhance open source intelligence gathering
Pursue the ratification of Gibraltar's Counter Terrorism Strategy – Appoint a RGP lead for each of the 4 strands to the strategy. Launch Project Servator in Gibraltar	01 01 2018	Dependant on publication of CONTEST	A Gibraltar PLC co-ordinated approach to counter terrorism working with key stakeholders to produce outcomes. A safer Gibraltar. Increased public satisfaction/reassurance levels.
Pursue and resolve connectivity issues with UK CT Police and SyS. Explore support mechanisms with the UK to cater for lacking or exhausted local capacity and capability. Continue to build on the liaison with other foreign law enforcement agencies and security services	01 01 2018	2022	Full integration with the UK's CT policing Network. Enhanced intel sharing and operational effectiveness with Spanish, Moroccan counterparts & beyond if required.
2. Key Actions – Child Safeguarding & Sex Offender Mngt	Commencement date	Completion date	Desired outcome
Invest in High Tech crime investigation capability to allow pro-activeness in detecting online sex offenders	01 01 18	2020	Increased investigation capability. Organisational reputation with local partners and international Partners.
Aligned with the Force's welfare policy, implement a support system to periodically psychologically assess investigator of these types of crimes and dedicated risk managers.	01 01 18	30 03 18	Decrease in potential mental health issues amongst staff. Probity within this high risk work environment.
Work towards resilience in human resources to have a more equitable case load distribution,	01 01 18	2022	More timely investigations & less risks of staff burn out.
Continue with the networking with NCA CEOP command & MOSOVO	Ongoing	2022	Continued development in this policing discipline and adaption of updated best practices in such a hi risk area.
Lobby for the establishment of intervention teams to be able to properly management and treat sex offenders.	01 01 2017	01 09 2018	Reduce risks of recidivism.
Engage with schools and parents to promote awareness on the risks and dangers of online child sexual exploitation	01 12 2017	Dec 2018	Reduce instances of sexting & resultant bullying A more conscious and careful young population Deter sexual predators from operating in Gibraltar's space.

5. Key Actions – Economic Crime & Cyber Crime	Commencement date	Completion date	Desired outcome
Explore the creation of a joint task force to work on complex investigations.	01 01 2018	ASAP	More effective & efficiency – improving on Gibraltar's status as Finance Centre.
Increase enforcement & other activities around anti money laundering and terrorist financing	01 01 2018	To remain on-going	Positive evaluation by Moneyval evaluators. Positive reputation for Gibraltar PLC
Build a cyber investigation capability to include crypto currency. Understand the extent of how cyber crime is affecting Gibraltar.	01 01 2018	31 12 2021	An RGP that can take on most types of cyber crime investigations.
Upskill all MLIU officers to Financial Investigator standards Upskill all MLIU officers in criminal and civil asset recovery Upskill all Fraud Officers with accredited fraud training	31 03 18	31 12 2021	Improved Organisational reputation. More timely investigations
Explore collaborative arrangements with the City of London Police. Many officers of their special constabulary possess specialist skills in economic crime.	01 01 2018	01 06 2018	Shared distribution of work with skilled personnel. Timely & less costly investigations Positive for Moneyval evaluation.
4. Key Actions – External Affairs	Commencement date	Completion date	Desired outcome
Embark on an environmental scanning project to gather intel to support future planning of operations and deployments. Explore the acquisition of Open Source Intelligence tools to be aid this project.	01 01 2018	01 11 2018	Better operational readiness leading to intelligence based deployments of resources.
5. Key Actions – Drugs Misuse	Commencement date	Completion date	Desired outcome
Lobby for a Gibraltar Drugs Strategy – to include police processes for drug referrals.	01 01 2018	01 07 2018	A co-ordinated Gibraltar PLC approach to Drugs Misuse
Pursue the enactment of RIPA to allow for more targeted drug enforcement.	01 01 2018	31 12 2018	Increased detection of drug dealers.
Display a robust approach towards organised criminal groups involved in drug trafficking to create a difficult environment for them to operate in.	01 01 2018		Reduced OCG activity in Gibraltar enhancing both Gibraltar's & RGP's reputation and image. Increased public satisfaction.
6. Key Actions – Anti Social Behaviour	Commencement date	Completion date	Desired outcome
Increase detections of establishments who breach their licence by selling alcoholic beverages to under-aged children	ASAP	31 03 2018	Increased levels of public satisfaction & reassurance
Commit to regular, focused, high visibility and supervised patrols to neighbourhoods	ASAP	31 03 2018	Increased levels of public satisfaction & reassurance
Communicate to the community all the activities conducted to curb ASB	ASAP	ongoing	Increased levels of public satisfaction & reassurance
7. Key Actions – HR, Recruitment, Retention, Composition & Training	Commencement date	Completion date	Desired outcome
Devise a succession plan	ASAP	01 05 2018	Identification of future leaders of the RGP to provide stability and resilience in the Force.
Continued personal development programmes in addition to specialist training. Campaign to attract members minority groups to join the RGP. Encourage personnel to undertake Higher Education police or security related studies.	01 01 2018	2022	Enhanced health, safety and well-being of the workforce. Diversity of the workforce that better reflects the community Education and training that reflects the professionalization of policing activities and expected performance standards

8 Key Actions – Legislation	Commencement date	Completion date	Desired outcome
Plan and prepare a programme of instruction for new impending laws	ASAP	Dec 2018	Increase in capabilities to deal with areas of concern.
Plan and prepare a training programme of new impending laws for delivery Force wide	ASAP	Dec 2018	Increase in capabilities to deal with areas of concern.
9 Key Actions – Technology & Workplace	Commencement date	Completion date	Desired outcome
Complete the Cyclops project	On going	June 2020	Optimisation of the platform by users – releasing valuable officer time for core Policing
Research mobile technology to compliment front line officer work	01 01 2020	End of 2022	Improve efficiency of services to the public
Pursue the promise by GoG to build a purpose built police HQ	01 01 2018	End of 2022	Enhanced health, safety and well being of the workforce. Enhancement of morale Enhancement to corporate image
Aim to achieve the Platinum standard in IIP	ASAP	31 12 2018	Enhanced health, safety and well being of the workforce. Enhancement of morale Enhancement to corporate image
10 Key Actions – HMIC recommendations	Commencement date	Completion date	Desired outcome
A working group to complete addressing of all areas for improvement highlighted in 2015 inspection	ASAP	01 03 2019	A continuously progressing & professional police force.
Prepare for a further inspection commissioned by the GPA	2020		A continuously progressing & professional police force.
11 Key Actions – Gibraltar Defence Police	Commencement date	Completion date	Desired outcome
Exploit collaboration opportunities and campaign to generate interest for a full amalgamation	On going	mid 2019	A full amalgamation of the GDP with the RGP
12 Key Actions – BREXIT implications on policing	Commencement date	Completion date	Desired outcome
Support Government in their quest to achieve the best exit deal	On going		Minimal disruptions to existing arrangements


Presentation to the
Gibraltar Police Authority
POLICE
Superintendent Ian McGrail
24 November 2017

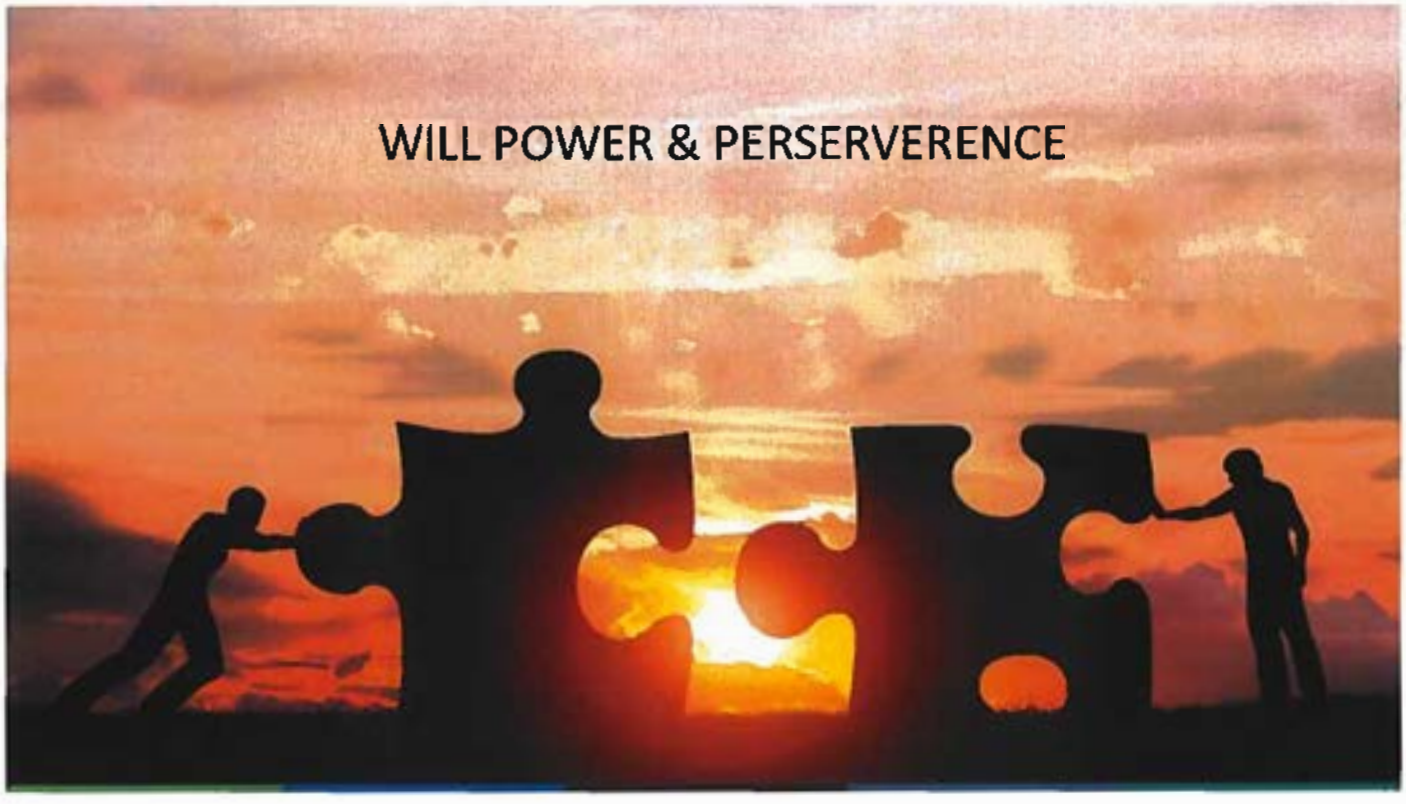

EXCELLENCE

THE APPROACH TO CHANGE

- Understand the need for the required change
- Evaluate the need for the change
- Gauge the impact the change will have internally and externally of the RGP
- Implement the change


POLICE AUTHORITY
GIBRALTAR
GPF
HM Government
of Gibraltar


“A change imposed is a change opposed.
Spencer Johnson”

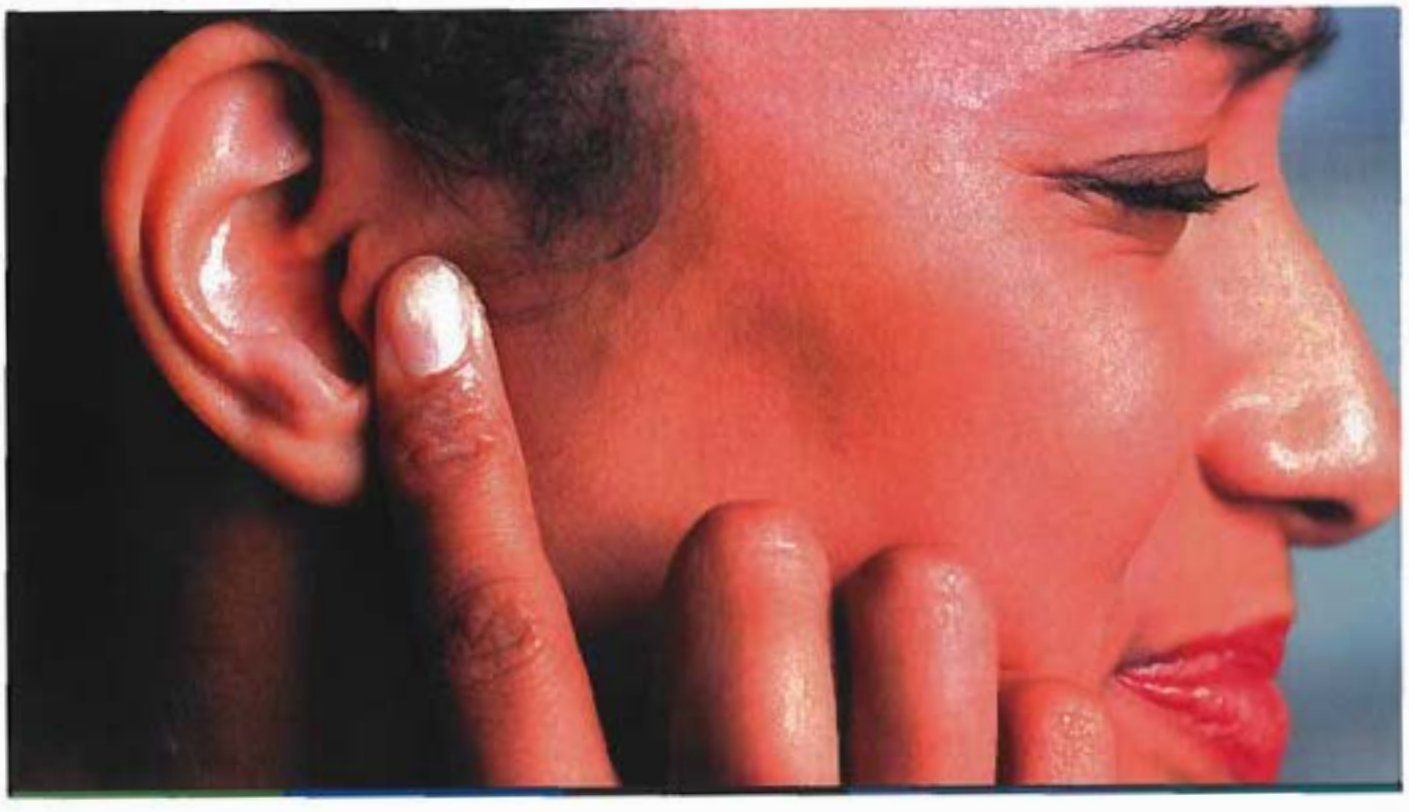

WILL POWER & PERSERVERENCE

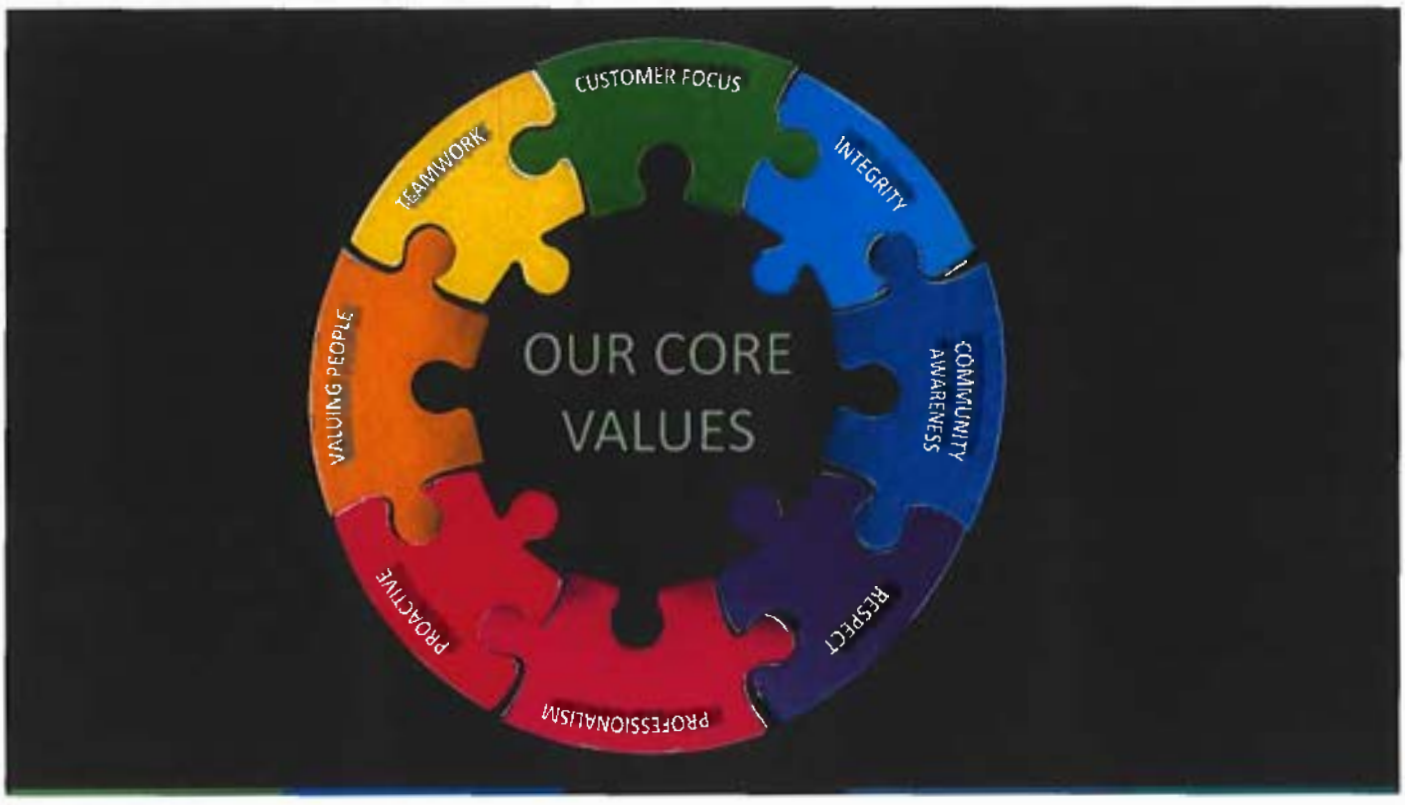

GOOD HONEST LEADERSHIP


CHANGE AGENTS


TOTAL BELIEF IN WHO WE ARE
AND WHAT WE STAND FOR
POLICE






CUSTOMER FOCUS
INTEGRITY
COMMUNITY AWARENESS
RESPECT
PROFESSIONALISM
PROACTIVE
VALUING PEOPLE
TEAMWORK
OUR CORE VALUES

STRATEGIC CONTEXT

- A responsive, personal and visible policing service,
- Reduced crime and improved safety,
- Better partnership functioning,
- Continued development of our people; and
- Workplace development.

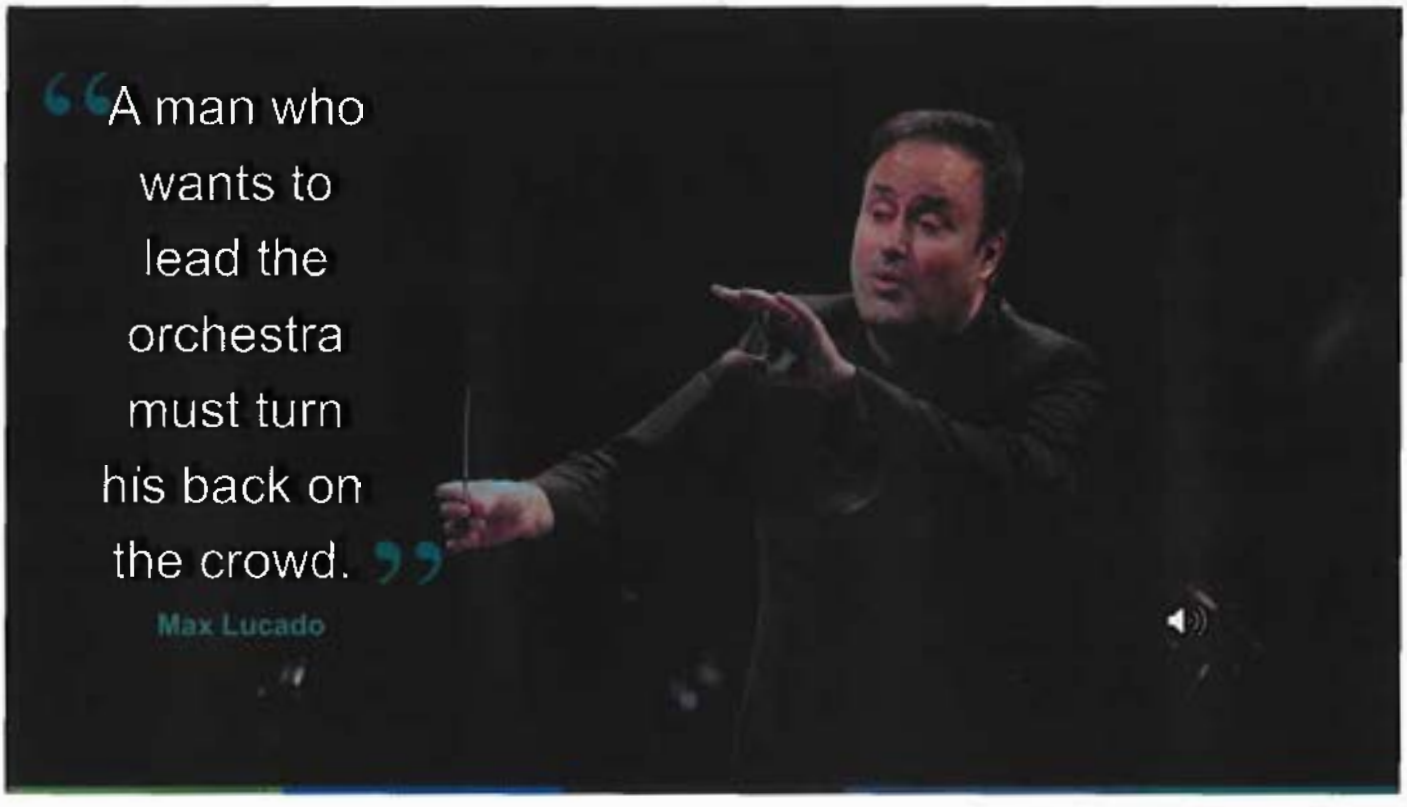
CHANGES FORECASTED TO SEE RGP MOVING FORWARD

- Change in mind-set and culture towards total commitment to our values– restore vocation/passion for policing.
- Restore the collegiate culture
- Seek a devolved budget
- Review the armed policing model
- Continuously review the development of officers who may going expired on core policing skills.

PRIORITIES ON TAKING OVER

- Inward service delivery
- Conduct activities to improve public confidence in the police. Enhance our engagement with the community
- Workforce development & succession planning
- Pursue better working environment – real estate
- Pursue business case for more human resources
- Pursue all actions set out in the National Security risk area


SUMMARY
Improve on service delivery all round –
work towards achieving excellence


"A man who wants to lead the orchestra must turn his back on the crowd."
Max Lucado


Many thanks for your attention.
Questions?

3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 10

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 10
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)



A Commissioner for Oaths

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

His Excellency
Lieutenant General Edward Davis CB CBE KStJ
Governor & Commander-in-Chief

The Convent
Gibraltar
Tel [redacted]
Fax +350 200 47823
Twitter - @Convent_Gib

13th December 2017

Superintendent Ian McGrail
Royal Gibraltar Police
New Mole House
Rosia Road
Gibraltar

Dear Superintendent McGrail,

APPOINTMENT OF COMMISSIONER OF POLICE GIBRALTAR

I am delighted to inform you that you have been selected for the appointment of Commissioner of Police Gibraltar, in succession to Commissioner Yome, as of 1st May 2018 for a four-year term of warrant in this role. I do so, on the advice of Gibraltar's Police Authority (GPA) and having consulted with the Chief Minister.

Both the Chief Minister and I have noted and support your vision statement and associated action plan for your tenure. It aligns with our collective assessment of the Royal Gibraltar Police's (RGP) priority developmental areas. Accordingly, we have requested that the GPA review progress against the objectives set out in these documents at the mid-point of your tenure as Commissioner.

I would wish to assure you of my personal support in the conduct of your vital duties as Commissioner; a sentiment that I have no doubt will be reflected across the whole Gibraltarian Community. I look forward to working closely with you as we all do our utmost to protect, progress and promote the Rule of Law in Gibraltar against the ever-changing Policing challenges of the 21st century.

Matters related to all terms and conditions of employment arising from this appointment, including salary, should be finalised with the Human Resources Department of Her Majesty's Government of Gibraltar.

Finally, may I congratulate on your well-deserved appointment and offer my best wishes for your command of the RGP.

Very respectfully,

Edward Davis

His Excellency
Lieutenant General Edward Davis CB CBE KStJ
Governor & Commander-in-Chief

The Convent
Gibraltar

WARRANT OF APPOINTMENT

COMMISSIONER OF POLICE GIBRALTAR

Pursuant of Section 3.2 of the Gibraltar Police Act 2006, and acting in accordance with the advice of the Gibraltar Police Authority, I hereby appoint you,

Superintendent Ian McGrail MSc OTPM

to be Commissioner of Police Gibraltar for a tenure of four years with effect from the First day of May, 2018, in the Sixty-eighth year of Her Majesty's Reign.

Given under my hand this 26th day of April 2018.

Lieutenant General Edward Davis CB CBE KStJ
Governor and Commander-in-Chief

3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 11

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 11
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

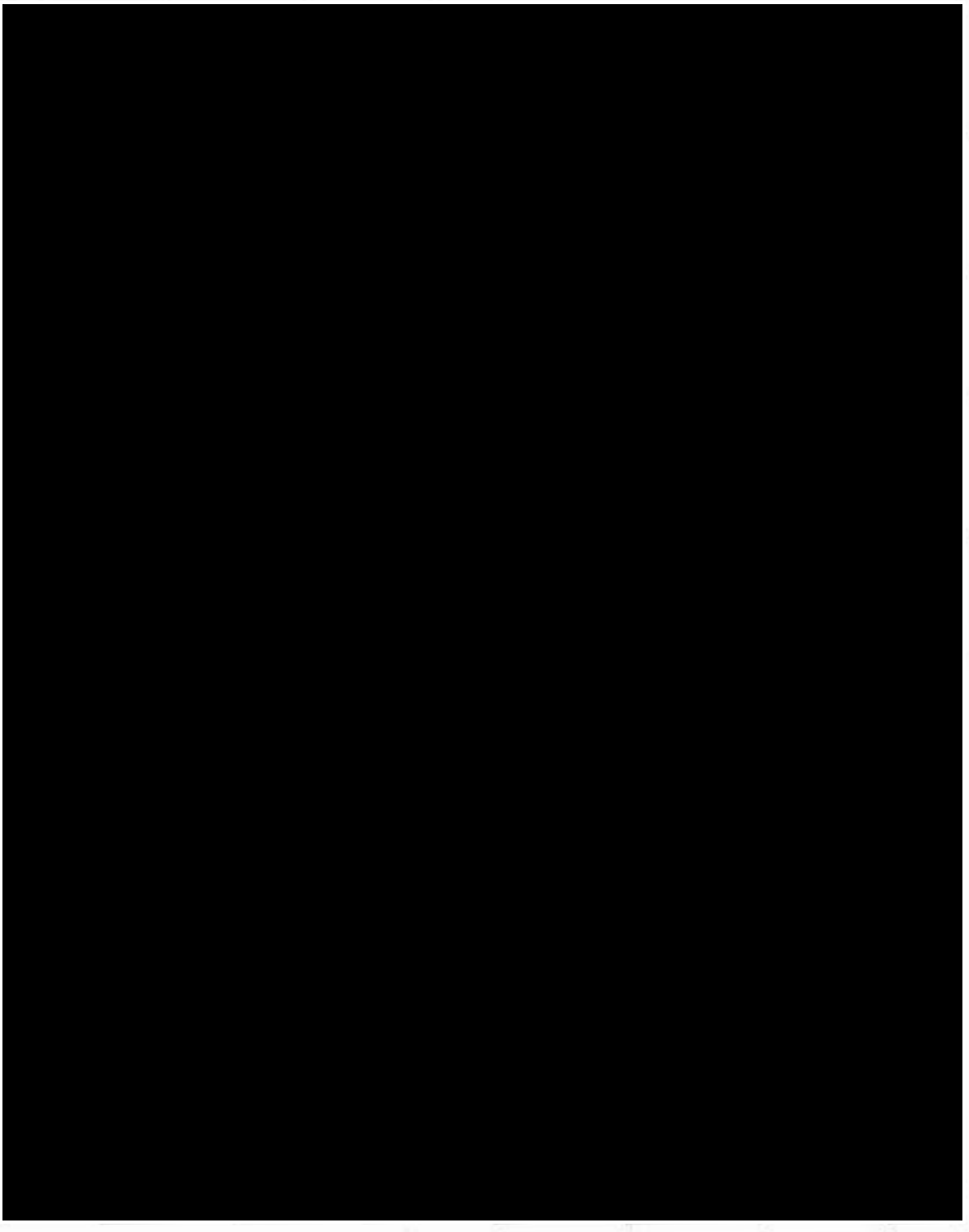
A Commissioner for Oaths

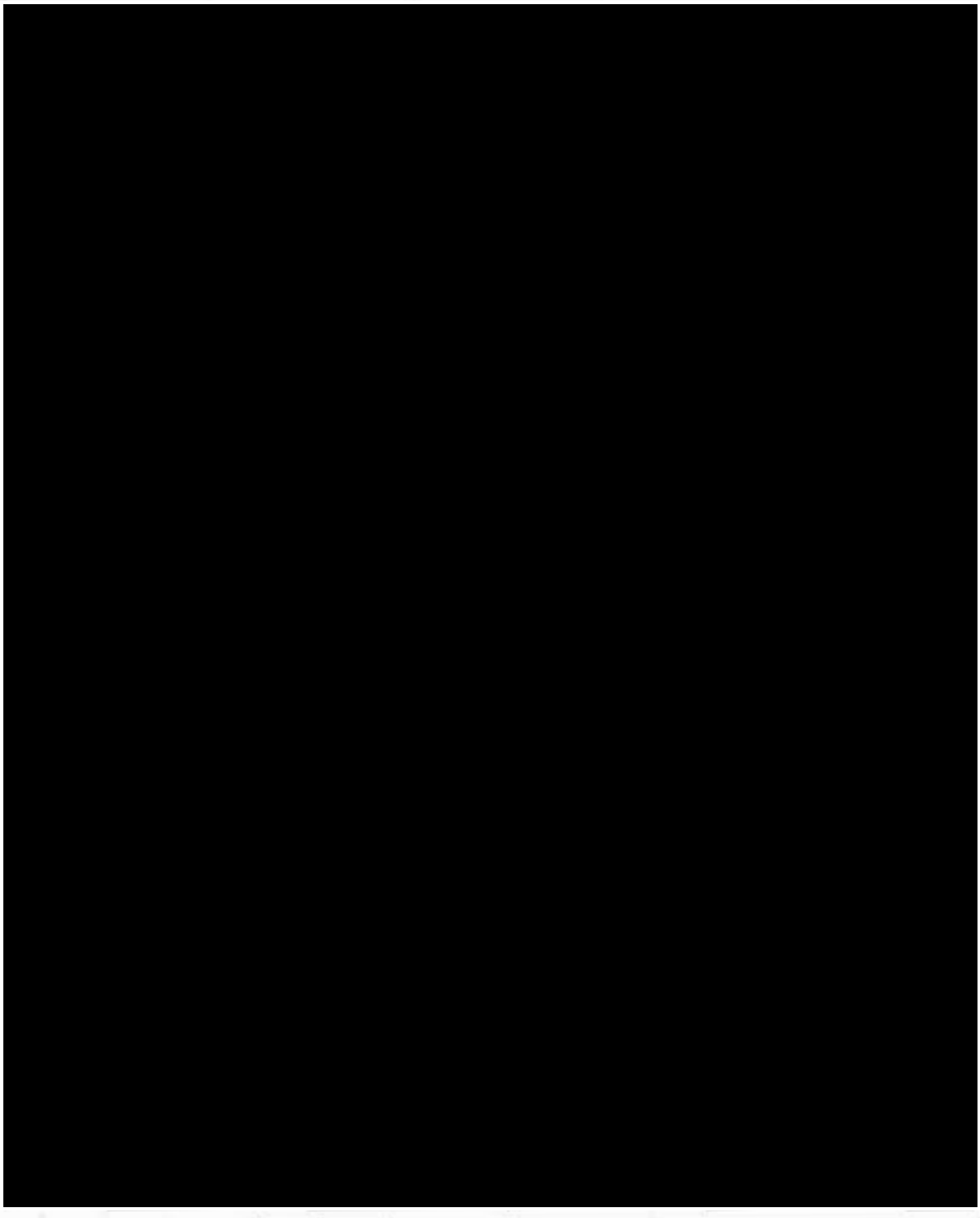
Presented by Charles Gomez & Co, of 5 Secretary's Lane, Gibraltar. Solicitors for Ian McGrail

WHATSAPP CHAT LOG

Ian McGrail and Joey Britto (GPA Chair)

[09/09/2018, 14:25:01] [redacted]: Messages and calls are end-to-end encrypted. No one outside of this chat, not even WhatsApp, can read or listen to them.





[30/10/2018, 16:07:30] [redacted]: Good afternoon, Ian. FYI:

GPA will submit a request for funding in relation to the HMIC inspection; just to let you know that inspection will happen if we get the funding. Can we meet at some point during the week? I'm ok fo Thursday..

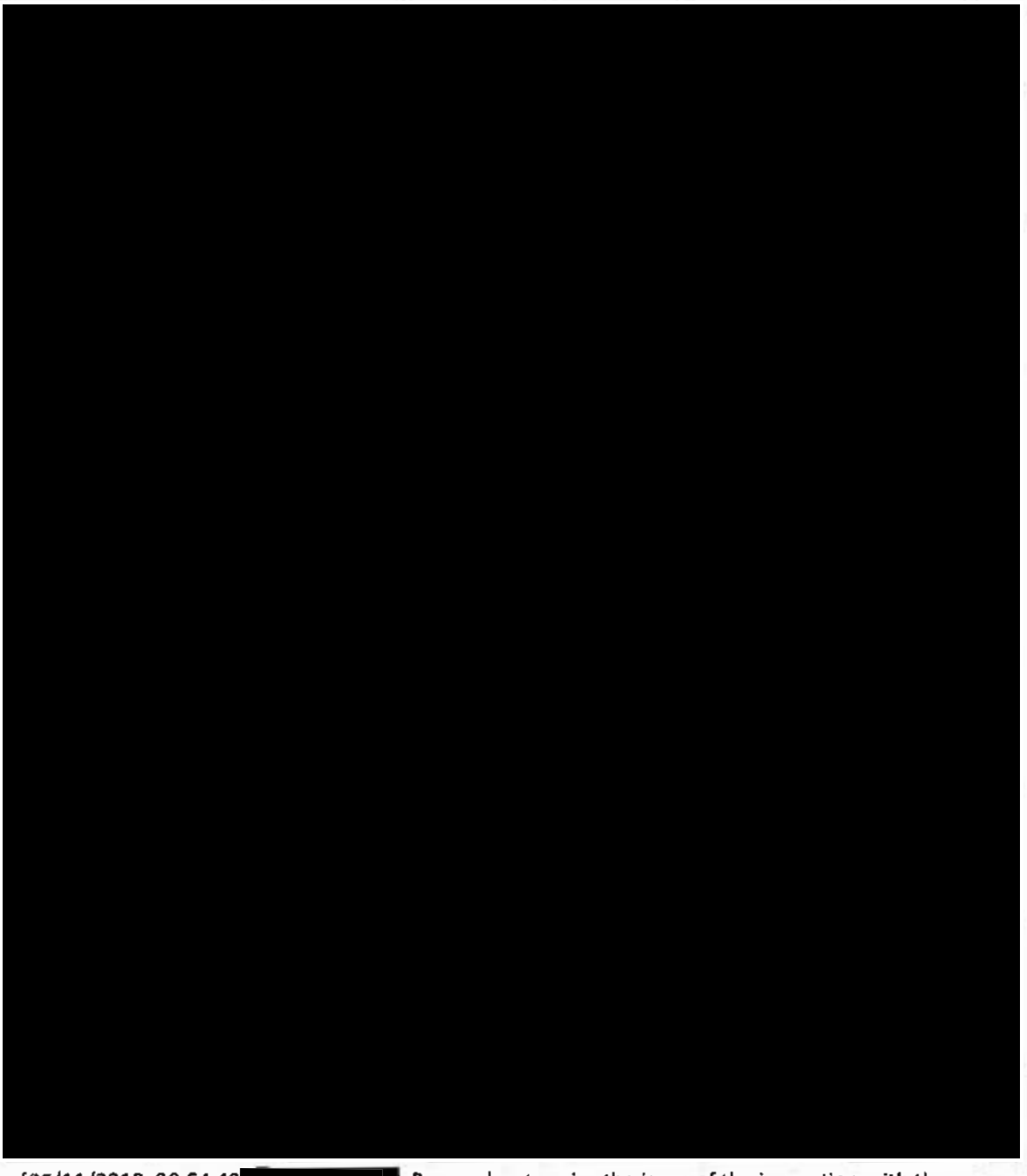
Best

Joey

[30/10/2018, 16:09:23] Ian McGrail: Thursday is good for me? 10am, New Mole or Casemates?

[30/10/2018, 16:37:14] [redacted]: I'll go to NMH. See you at 10.00am - thanks, Ian.

[30/10/2018, 16:53:10] Ian McGrail: 👍



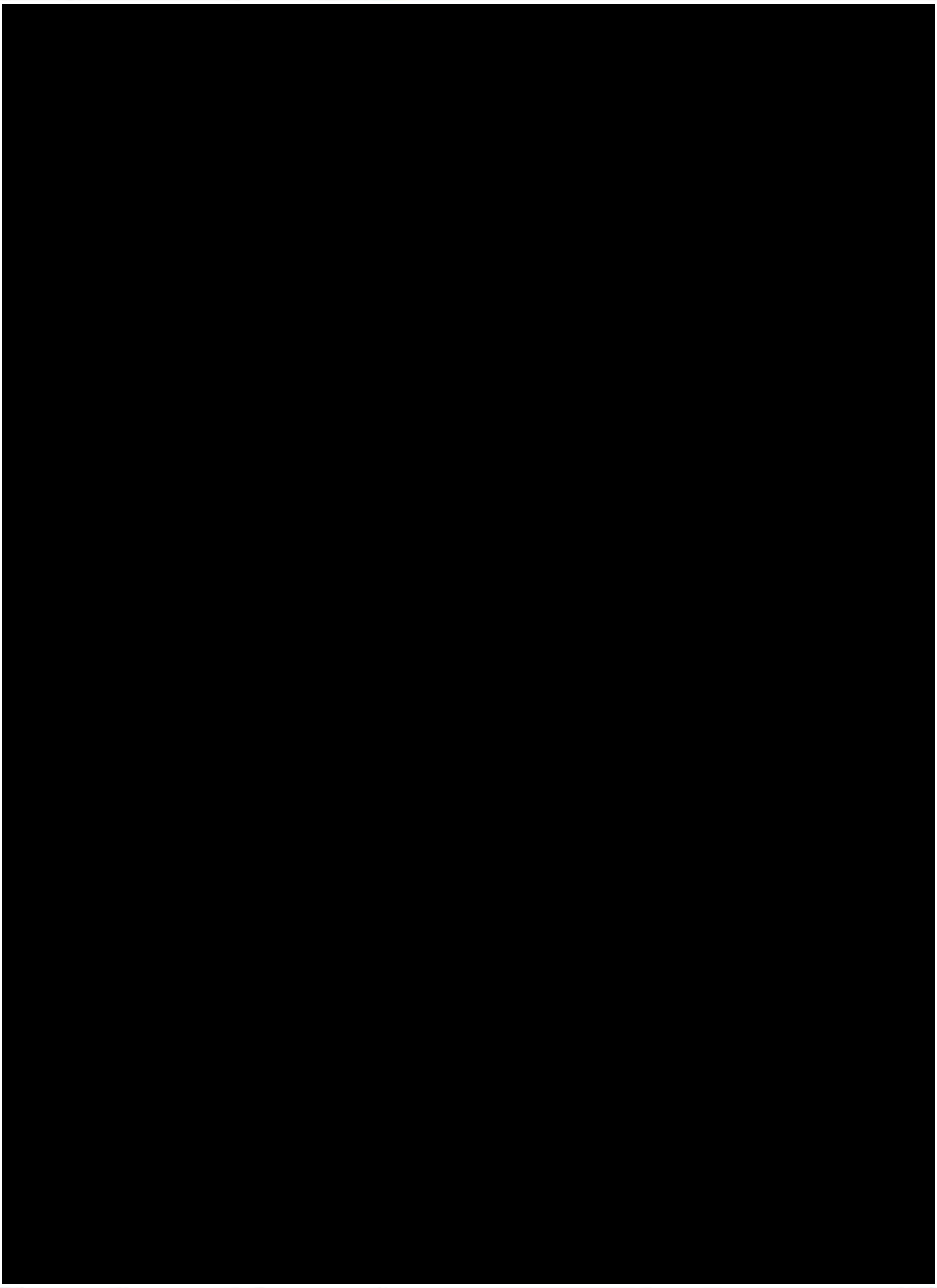
[06/11/2018, 20:54:42[redacted]: Remember to raise the issue of the inspection with the minister tomorrow if you can - thanks

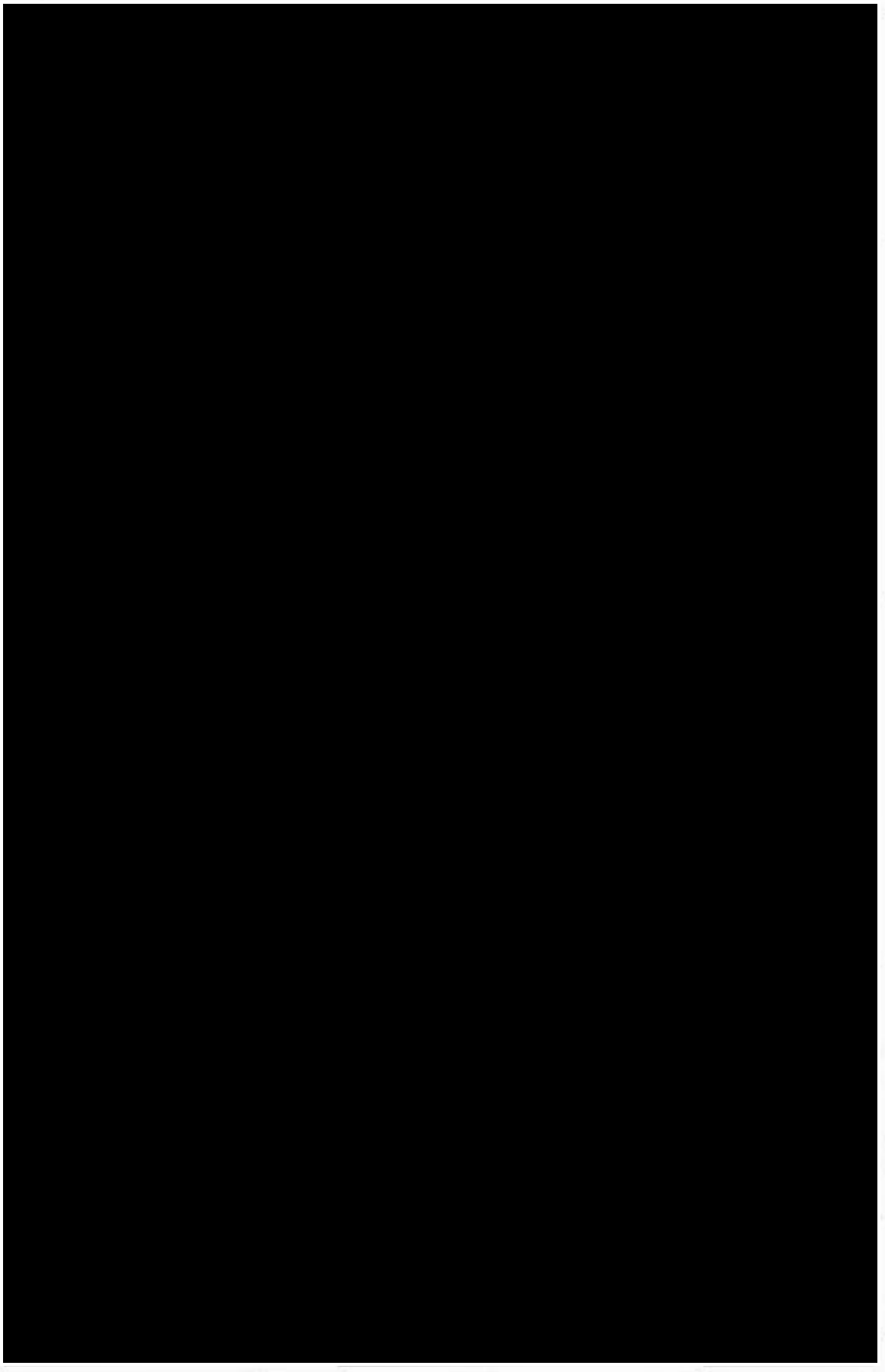
[06/11/2018, 20:56:36] Ian McGrail: Yes will do - its in the agenda

[06/11/2018, 20:57:02[redacted]: I think he wants to make sure you are comfortable with the idea!

[06/11/2018, 20:57:59] Ian McGrail: As you know, I am more than comfortable. 👍

[06/11/2018, 20:58:06] [redacted]: 👍





[12/02/2019, 15:38:43] Ian McGrail: 👍 👍 👍

[12/02/2019, 15:41:04] [redacted]: I plan on letting them know About ToRs and possible dates by the 22nd so they can plan

[12/02/2019, 15:41:29] Ian McGrail: I will send TOR's by tomorrow.

[12/02/2019, 15:41:47] Ian McGrail: Our suggestions that is

[12/02/2019, 15:42:15] [redacted]: Yes, I understand.

By the way, Michelle is sending you the gpa survey - just for your attention

[12/02/2019, 15:43:15] [redacted]: Can you send me suggested ToRs and possible dates by email - I'm going away for a few days

[12/02/2019, 15:43:33] [redacted]: Better than by letter, quicker too!

[12/02/2019, 15:43:51] Ian McGrail: Yes - she has sent it. It doesn't make pleasant reading. But there are quite alot of I dare say 'suspect' responders in the mix. I will share my views when we meet.

[12/02/2019, 15:44:38] [redacted]: Apparently, we similar responses every year ?

[19/02/2019, 11:31:00] [redacted]: Ian - remember to email me the suggestions for HMIC tors...

Thanks

[19/02/2019, 12:00:09] Ian McGrail: I will do today.

[19/02/2019, 12:00:18] [redacted]: Thanks

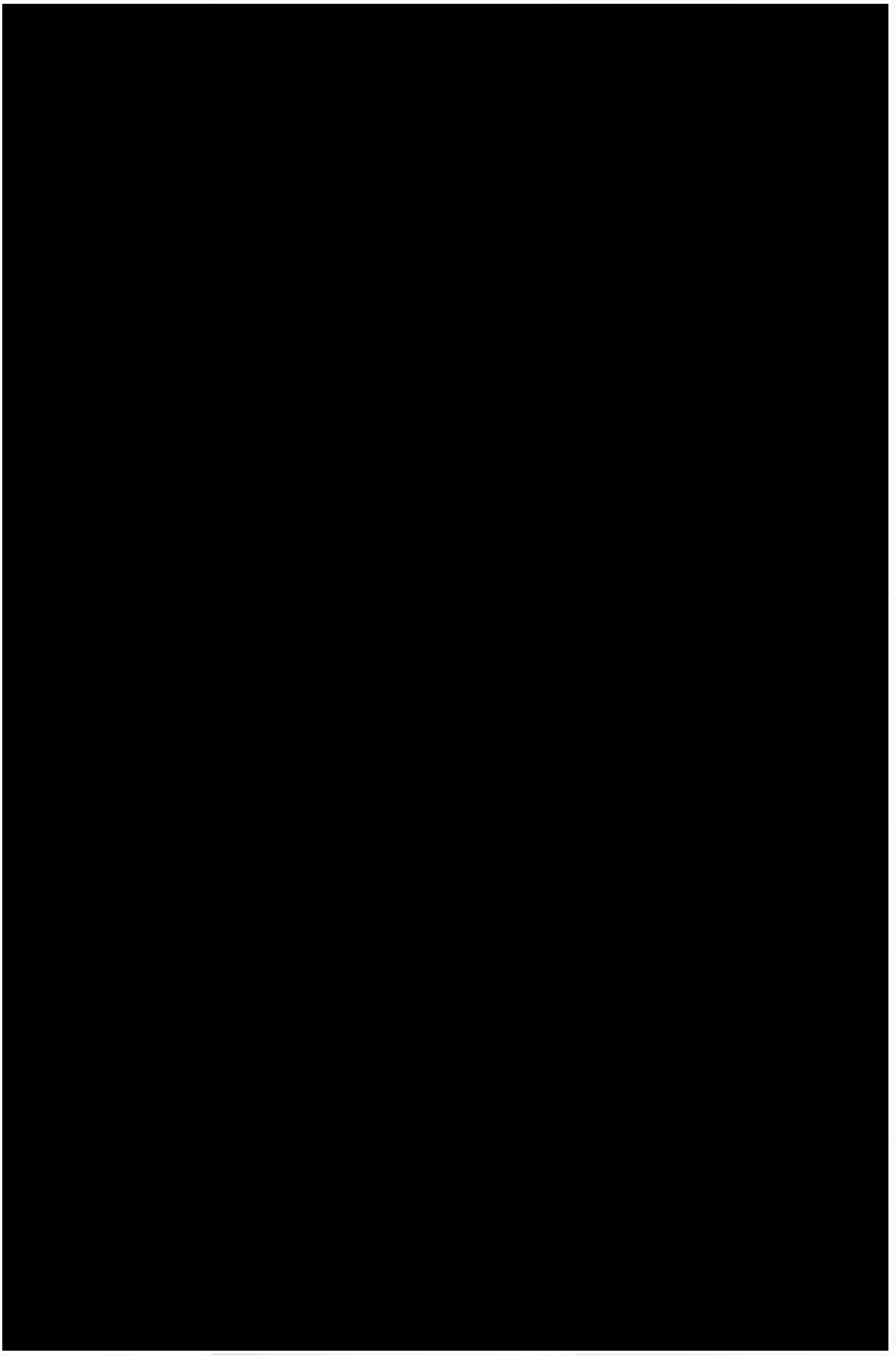
[21/02/2019, 11:13:32] [redacted]: Ian - easier this way - I spoke to Michael - he says to give him a couple of weeks to sort Michelle's move out - this gives us a bit more time to arrange hand over etc

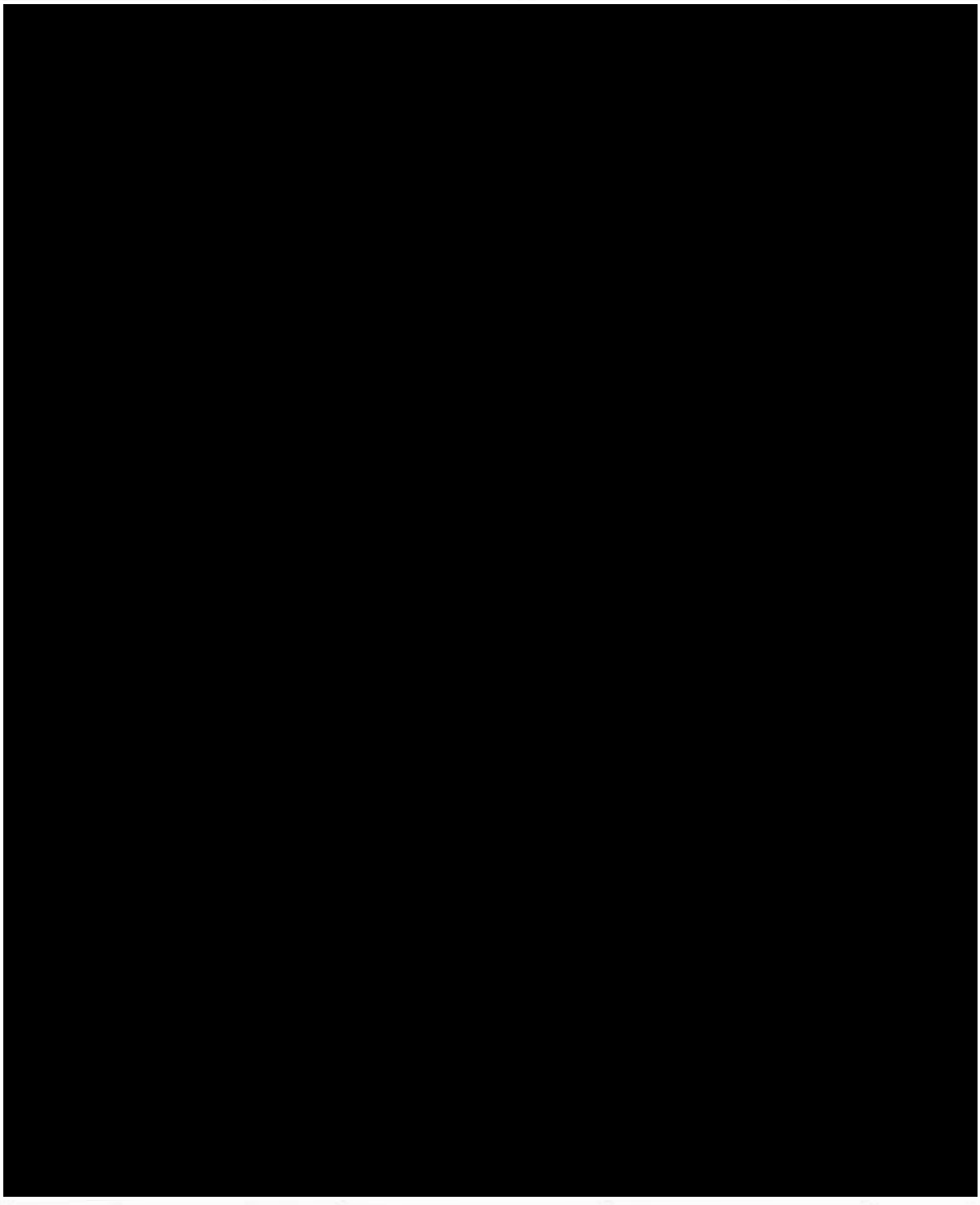
[21/02/2019, 11:15:51] Ian McGrail: 👍 many thanks

[21/02/2019, 11:23:42] [redacted]: Michael has promised !

[21/02/2019, 11:42:23] Ian McGrail: Thank god

[redacted]





[26/03/2019, 17:20:36] [redacted]: Ian - Richard passed on the draft APP - grateful for this to be perused by you so I can seek approval from rest of GPA. HE, Gov and RGP priorities already incorporated..

[26/03/2019, 17:20:47] [redacted]: Thanks

[26/03/2019, 17:30:48] Ian McGrail: I have read it only a few moments ago and will provide my feedback (if any) first thing tomorrow.

[26/03/2019, 17:31:43] [redacted]: Still got to polish up language and punctuation but I hope this gives you a good idea if the final product??

[26/03/2019, 17:31:57] Ian McGrail: Indeed it does.

[26/03/2019, 17:32:17] [redacted]: Thank you, Ian - I look forward to your feedback

[27/03/2019, 10:52:51] [redacted]: Ian - remember APP feedback - I'd like to have it approved etc by the end of the month - thanks

[27/03/2019, 10:53:22] Ian McGrail: Its in hand

[27/03/2019, 10:53:33] [redacted]: Thanks

[27/03/2019, 13:59:03] [redacted]: Ian after talking to Paul Holewell the tor is still too wide ie how effective is the RGP at keeping Gib safe is a full inspection of everything you do..! Could you narrow the scope of what would really help you? Can you give it some more thought please?

[27/03/2019, 14:14:14] [redacted]: I have my own view - linked to an assessment of current procedures relating to staff welfare, grievances procedures etc even if we go over old ground - would this still be helpful?

[10/04/2019, 14:06:09] [redacted]: Missed voice call

[redacted]

[20/05/2019, 15:26:58] Ian McGrail: Good afternoon Joey, are you free to talk at 4pm? Its ref Panoama questions. I have spoken to CM & HE who also have received a set of questions. I wanted to brief you on what we intend to push out. CM

& HE are happy with it.

[20/05/2019, 15:51:32] [redacted]: I'll call you in a few minutes -

[20/05/2019, 15:52:01] [redacted]: I'm not in Gibraltar at present - doing El Camino

[20/05/2019, 15:53:52] [redacted]: I'd rather wait until I get to somewhere private ...

[20/05/2019, 15:54:18] Ian McGrail: No probs

[20/05/2019, 15:54:18] [redacted]: I need a few minutes to get there

[20/05/2019, 15:54:23] [redacted]: Thanks

[20/05/2019, 16:01:15] [redacted]: Ian - I'm not alone and I can't guarantee privacy

[20/05/2019, 16:01:45] [redacted]: Is there any other way we can do this?

[20/05/2019, 16:03:38] Ian McGrail: I will send it to you via whatsapp when I return to the office. HE was going to share his too with you. Not sure if Panorama has also asked questions to GPA.

[20/05/2019, 16:04:49] [redacted]: They normally do

[20/05/2019, 16:05:05] [redacted]: But I won't get them until tomorrow

[20/05/2019, 16:05:20] [redacted]: WhatsApp is better thanks

[20/05/2019, 16:06:18] [redacted]: Is this about fishing?

[20/05/2019, 16:07:37] Ian McGrail: Indeed it is.

[20/05/2019, 16:08:49] [redacted]: I told HE and CM we had discussed it briefly

[20/05/2019, 16:09:37] [redacted]: Truthfully, I trust you, HE and CM implicitly...

[20/05/2019, 16:10:01] [redacted]: But send me a WhatsApp

[20/05/2019, 16:11:05] [redacted]: I really can't get out of being surrounded by a large group... so text better than speech

[20/05/2019, 16:11:49] Ian McGrail: No probs. Will send it in a little while.

[20/05/2019, 16:18:35] [redacted]: Thanks

[20/05/2019, 16:18:42] [redacted]: Sorry about this!

[20/05/2019, 16:19:09] [redacted]: Don't really trust my compatriots

[20/05/2019, 16:19:17] Ian McGrail: No probs. Sorry to have bothered you whilst on a break as you are.

[20/05/2019, 16:19:30] [redacted]: Que va -

[20/05/2019, 16:20:54] Ian McGrail: panorama response.docx • 2 pages document omitted

[20/05/2019, 16:22:00] Ian McGrail: Our responses are in red. Rather than reply to each question I have opted for a paragraph response.

[20/05/2019, 16:29:00] [redacted]: I'm happy with this - it's in accordance with what we discussed....

[20/05/2019, 16:29:44] Ian McGrail: Indeed

[20/05/2019, 16:36:23] [redacted]: Ok with me

[20/05/2019, 16:39:25] [redacted]: Ok just seen the questions and proposed answers

[20/05/2019, 17:58:38] [redacted]: From HE

[20/05/2019, 17:59:00] [redacted]: In accordance with GPA view

[20/05/2019, 17:59:15] Ian McGrail: I take it you've seen the questions that HE recieved. Panorama are clearly after my head. HE's response falls short of what he said he'd put in ie that he supported the posture of the Commissioner. I suppose he is leaving people to read between the lines without explicity saying he supports my approach.

[20/05/2019, 17:59:25] Ian McGrail: Cross texting we are.

[20/05/2019, 18:01:24] [redacted]: Sorry

[20/05/2019, 18:01:46] [redacted]: Crossed texts

[20/05/2019, 18:03:24] [redacted]: GPA's position in respect of this operational issue can only be RGP position - we would not be qualified to say otherwise - my view - no time to consult others

[20/05/2019, 18:29:00] Ian McGrail: 👍

[20/05/2019, 18:30:34] Ian McGrail: The question they are basically putting to HE is whether what they perceive to be the mal handling of the situation warrants a call for head.

[20/05/2019, 18:32:10] [redacted]: In my view, there are more important issues needing the attention of RGP

[20/05/2019, 18:33:01] [redacted]: Should the situation get out of hand and we are inundated by foreign fishing flotillas then we would have to reconsider

[20/05/2019, 18:48:12] Ian McGrail: Indeed. The situation has never been as quiet at sea as it is now

[27/05/2019, 09:46:30] [redacted]: Response to Press Questions.docx • 3 pages document omitted

[27/05/2019, 09:47:59] [redacted]: Ian - I am taking same approach as you - not answering all Qs - before I discuss my response any further - please read and comment etc

Thanks.

Joey

[27/05/2019, 09:54:40] Ian McGrail: Joey - can you take a call?

[27/05/2019, 09:55:16] [redacted] I'll call you

[27/05/2019, 10:11:33] Ian McGrail: Read it - 👍You may have to tweak the last sentence but I can explain tomorrow. In any case, like I explained, Panorama are not following up the questions for the time being. I am not sending my response unless they chase me & by the looks of it that isn't happening.

[27/05/2019, 10:12:16] [redacted] Ok - we'll touch base tomorrow

[28/05/2019, 13:33:30] [redacted] Ian - can you take a call? If so, when's the best time? Nothing to do with fishing..

[28/05/2019, 13:34:01] Ian McGrail: Happy to talk now

[30/05/2019, 15:59:17] [redacted]: Ian - GPA response to last question:

No RGP officers have recently been sentenced in a Spanish Court.

The GPA understands that all matters with regard to the incident you refer to have been dealt with and that no serving RGP officer is the subject of an adverse record in Spain.

Mirrors yours - ok?

[30/05/2019, 16:03:16] [redacted]: No worries - Cathal told me it was ok

[30/05/2019, 16:03:41] [redacted]: I forgot you were travelling!

[30/05/2019, 16:05:17] Ian McGrai[redacted]: Good with me. Panorama on the war path. Estan fatal. Have you read today's edition?

[30/05/2019, 16:05:35] [redacted]: Yes!

[30/05/2019, 16:05:49] [redacted]: Incredible!

[redacted]

[redacted]

[25/06/2019, 09:10:00] Ian McGrail: Morning Joey - the Panorama rhetoric continues today. Will send you the article via email. Happy to discuss it over the phone.

[25/06/2019, 12:11:21] [redacted]: Ian - will call you this afternoon - at interviews in HR all week

[25/06/2019, 12:12:22] [redacted]: Sorry

[25/06/2019, 12:12:52] [redacted]: I finish at 4.00 - I can call you then?

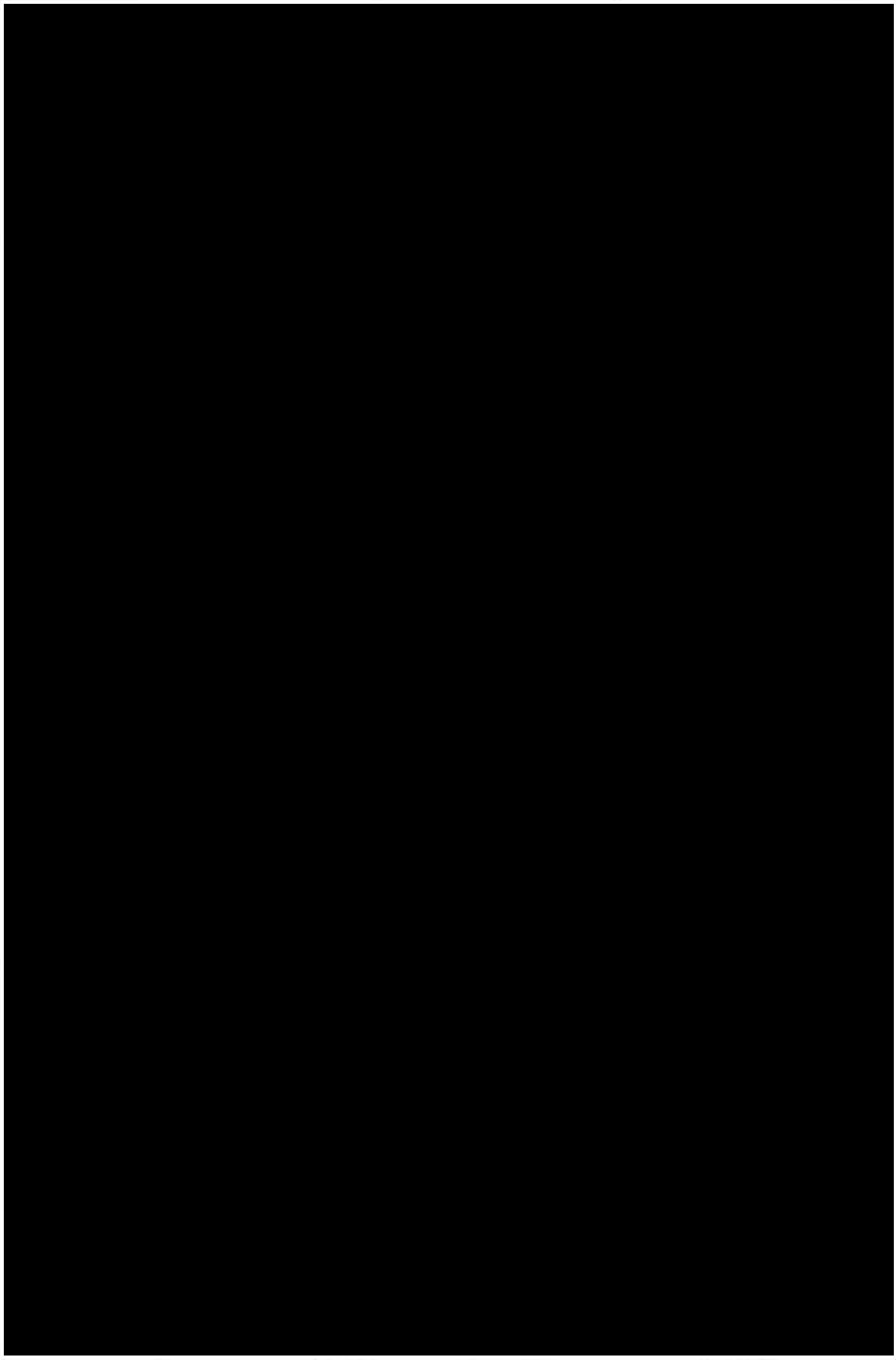
[25/06/2019, 12:16:39] Ian McGrail: No worries - call when you can.

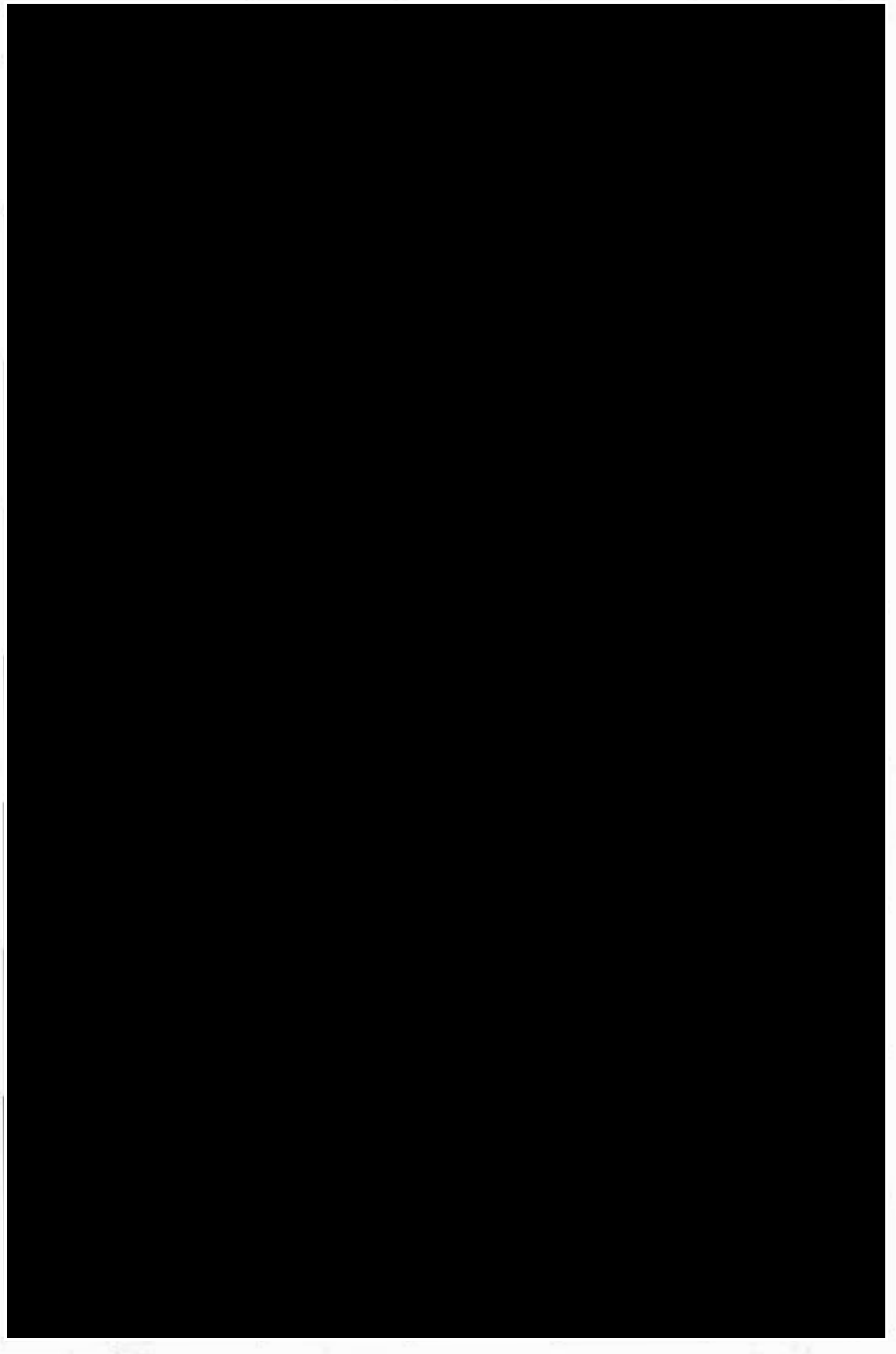
[26/06/2019, 08:29:54] [redacted]: Ian - after reading CM's email - how many commissioners back does this go to? Seems a bit unfair if you were not involved yourself..?

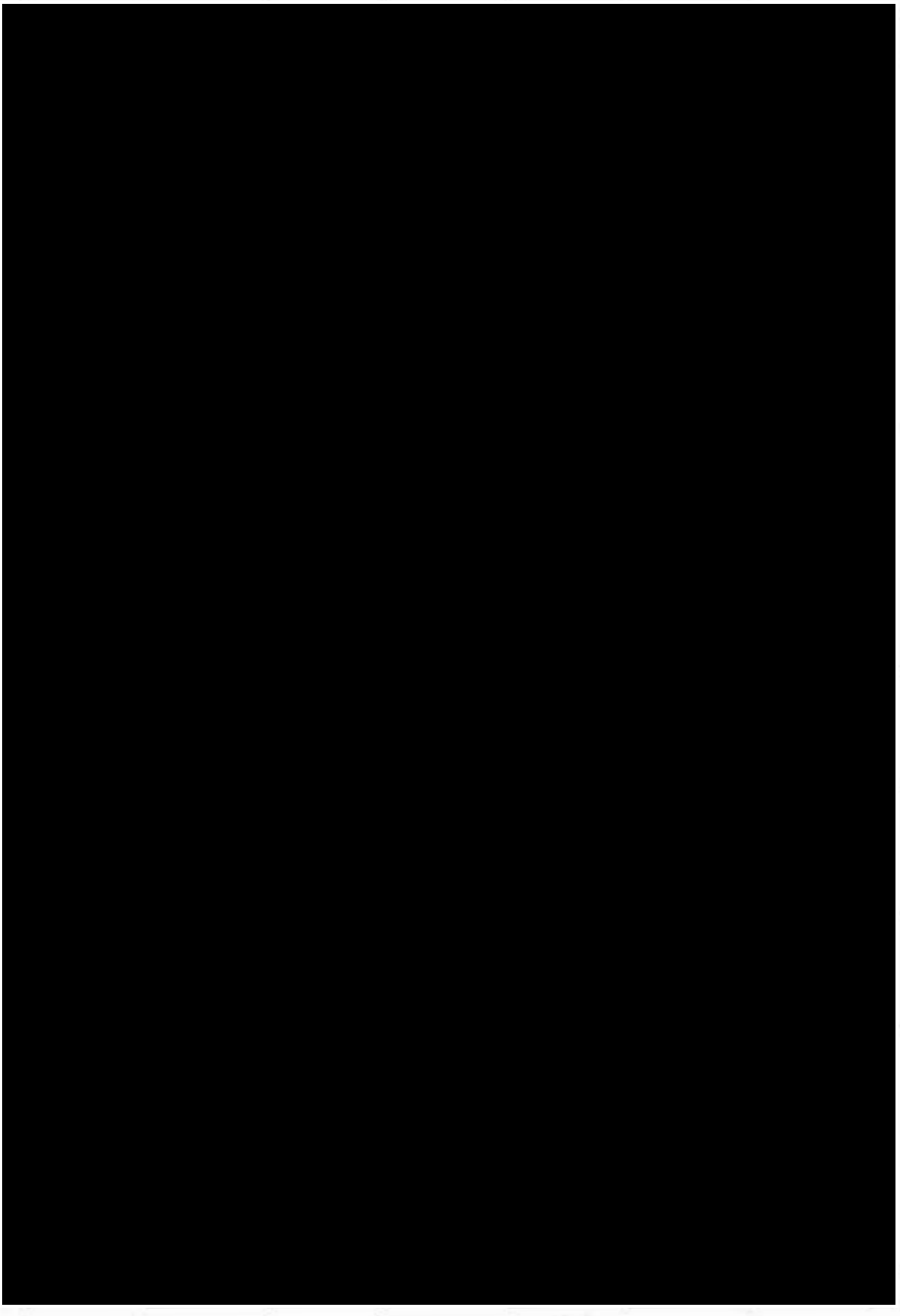
[26/06/2019, 08:33:20] Ian McGrail: This goes back go Louis Wink's time bur hey, I'm in the hot seat now & will accept the fall outs of this and anything else. Funnily enough I was involved in the internal investigation that was carried out of the officers concerned.

[26/06/2019, 08:36:43] [redacted]: Indeed, I think we all find ourselves in a similar situation

[redacted]







[redacted]

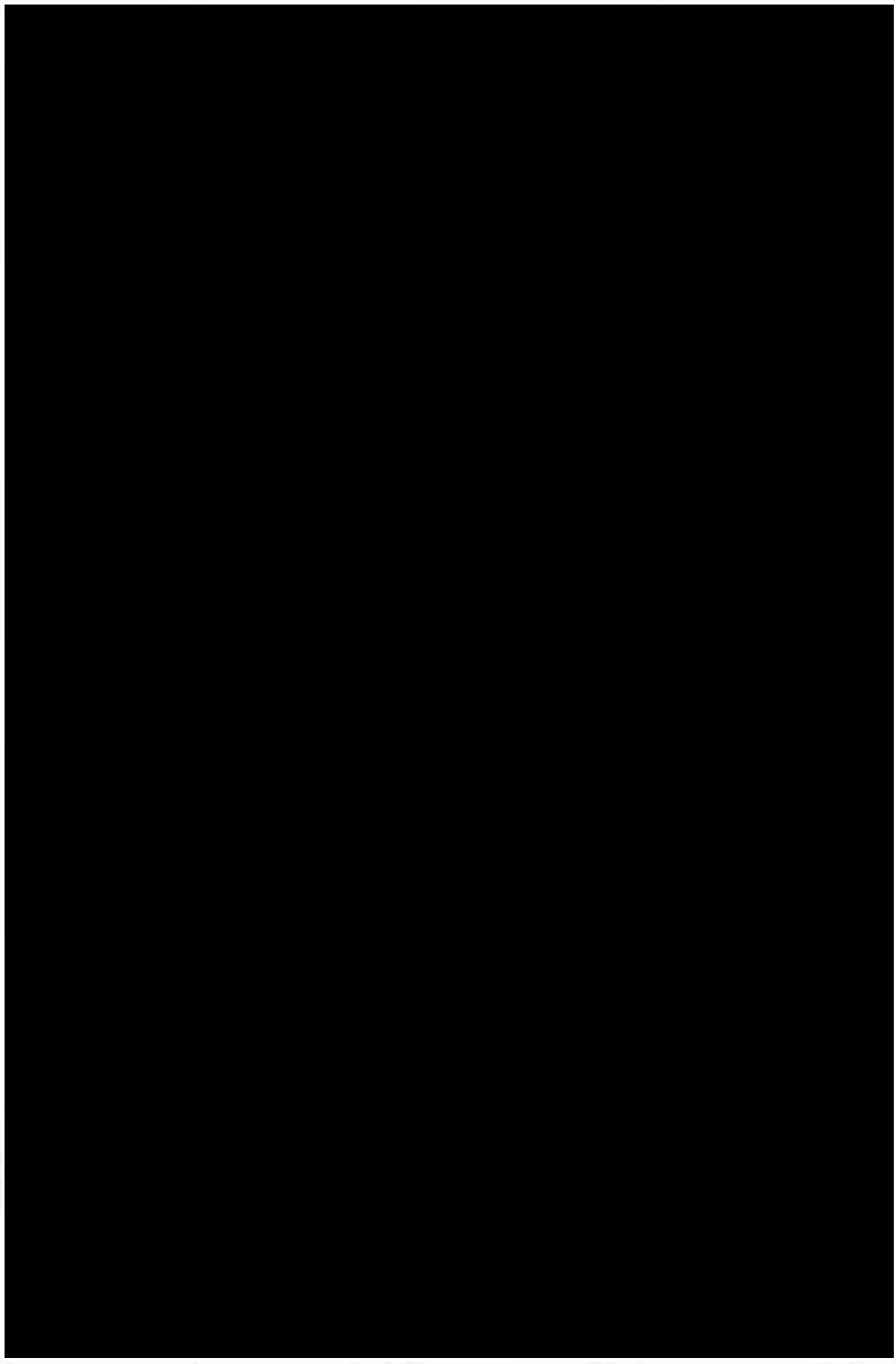
[05/09/2019, 11:45:23] [redacted]: Ian - in another matter: HMIC inspection 14-18 October - are you ok with this? Did you know?

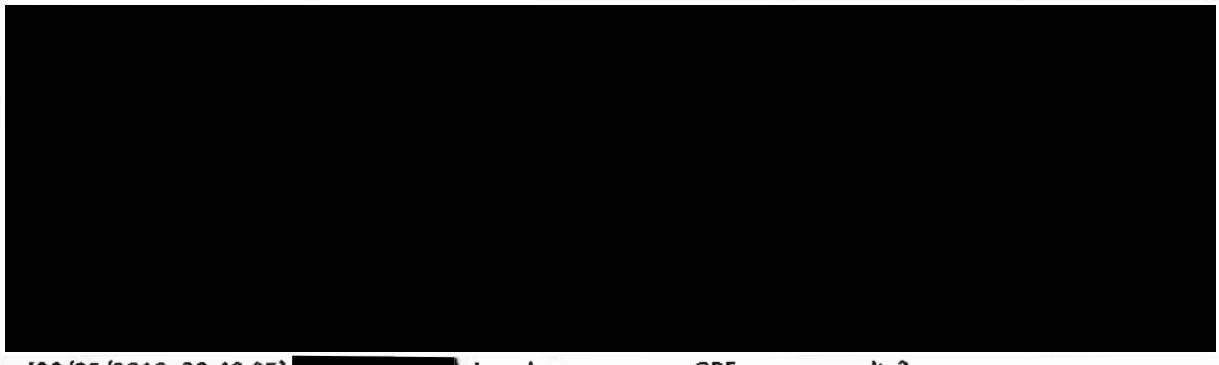
[05/09/2019, 11:45:28] [redacted]: on

[05/09/2019, 11:59:16] Ian McGrail: Yes indeed. We are collating data which they asked for and I have to send it off by 13th sept

[05/09/2019, 12:00:21] [redacted]: Ok thanks. I sent you a separate email advising you, for the record

[redacted]





[30/09/2019, 20:40:05] [redacted]: Ian - have you seen GPF survey results?

[30/09/2019, 20:40:49] Ian McGrail: Yes I have. Very damning again.

[30/09/2019, 20:41:19] [redacted]: They are going to do this every year, it seems

[30/09/2019, 20:41:50] [redacted]: It's quite demoralising from a senior command perspective

[30/09/2019, 20:42:40] [redacted]: They results can't be ignored, though, particularly the bullying part

[30/09/2019, 20:44:27] [redacted]: Perhaps you could come up with a strategy in relation to 'bullying' based on how other forces tackle this issue? The Met, perhaps?

[30/09/2019, 20:47:51] Ian McGrail: It is. Addressing warped perceptions is turning out to be more challenging than expected more so with the contamination being asserted by those set out to cause havoc. Because of the survey design bullying will continue to feature as an issue.

If you ask the same question to a respondent who in a previous year has said he has been bullied, he will reply the same this year & the next. The Fed haven't taken heed of the advice to design the questions appropriately as per recommendations made by AAP.

[30/09/2019, 20:52:36] Ian McGrail: We are working to the recommendations made by AAP to introduce tailor made measurea because they recognised the difficulties of applying UK practices here. Notwithstanding, the Fed have already said that they will advise the membership not to accept any system other than the one suggestes by DAWN (via bullying at work act). So already the Fed is influencing the members not to accept managements proposed changes.

[30/09/2019, 20:54:00] [redacted]: Ok - maybe I can raise with Michael Crome

[30/09/2019, 20:55:02] Ian McGrail: We can certainly have a good chat about the results.

[30/09/2019, 20:55:06] [redacted]: He could advise the fed as to desirability of having a bespoke policy for RGP etc

[30/09/2019, 20:55:31] [redacted]: Speak to you soon - are you in Friday morning?

[30/09/2019, 20:56:14] Ian McGrail: I am though I have the Opening of the Legal Year ceremony which I think is at 11am

[30/09/2019, 20:56:21] [redacted]: True

[30/09/2019, 20:56:24] [redacted]: I forgot

[30/09/2019, 20:56:35] [redacted]: We'll leave it for next week

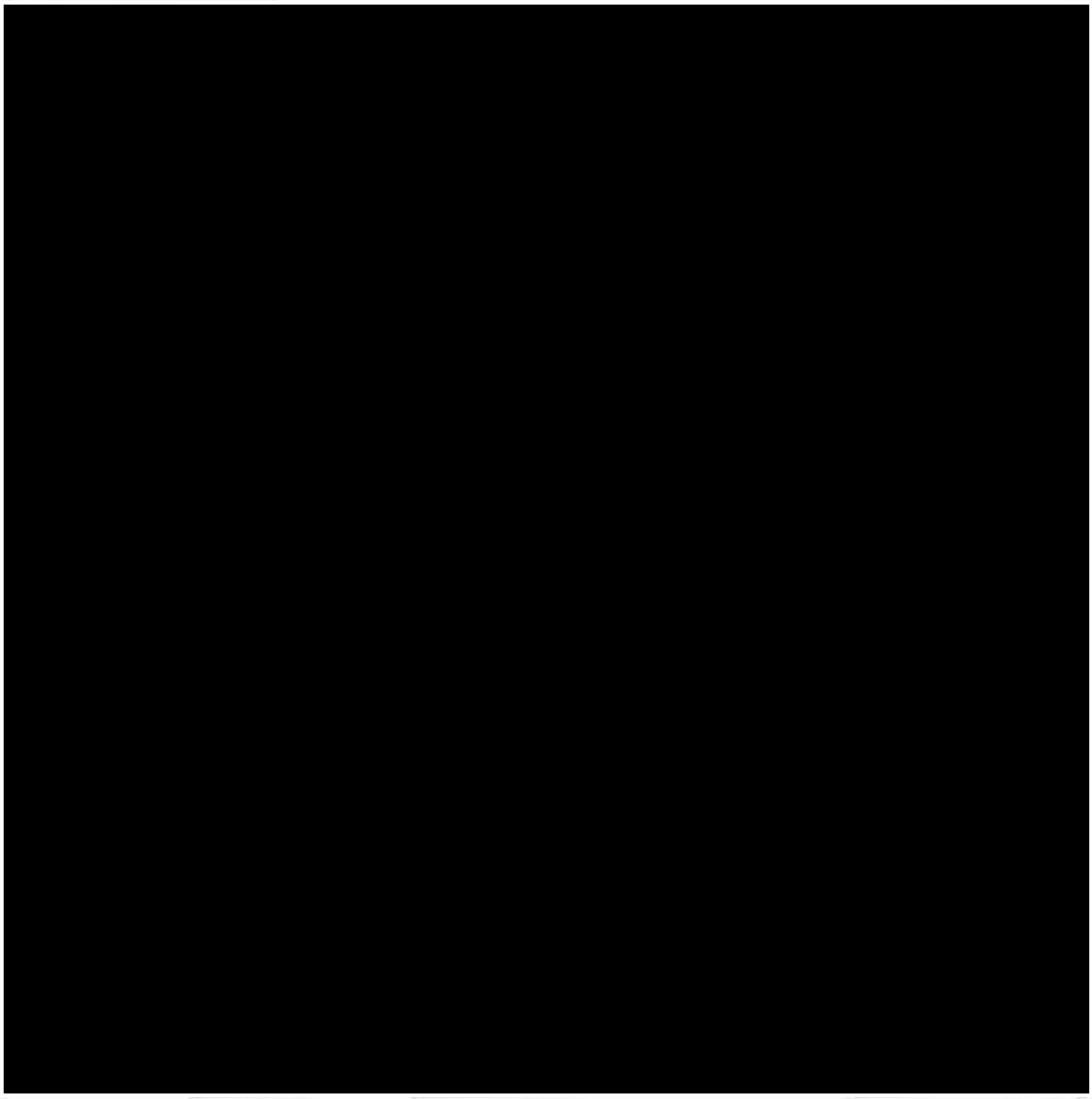
[30/09/2019, 20:56:43] [redacted]: I'll arrange with your sec

[30/09/2019, 20:56:49] Ian McGrail:

[30/09/2019, 20:57:23] [redacted]: Don't hesitate to call me if you need anything in the meantime

[30/09/2019, 20:57:34] Ian McGrail: Many thanks.

[30/09/2019, 20:57:55] [redacted]:



[01/10/2019, 14:48:21] [redacted]: Ian - in case it helps - GGCA have just published a survey als alleging that their members are bullied or feel bullied so it's not just the RGP but public services as well - this may help to put GPF survey into context!!

[01/10/2019, 14:53:02] Ian McGrail: And probably Customs and prison will come out the same. Its the same company being used and all designed to support DAWN. They are behind all of this.

[01/10/2019, 14:53:50] [redacted]: Customs and prison also participated in GGCA survey so yes you are quite correct

[01/10/2019, 14:55:08] [redacted]: At least it's not just RGP.. this puts it into context and dilutes potential sensationalist news reports etc

[01/10/2019, 14:55:16] [redacted]: Hopefully

[01/10/2019, 14:55:52] Ian McGrail: Hopefully election fever clouds both the GGCA & GPF surveys.

[01/10/2019, 14:56:01] [redacted]: Indeed!!

[05/10/2019, 21:02:31] Ian McGrail: Its not always bad news. See the following message from a Temp Commander in the Met Police (equivalent to an Asst Chief Constable) who writes privately on LinkedIn to me. I don't know the man. .....

[05/10/2019, 21:02:44] Ian McGrail: image omitted

[05/10/2019, 21:02:51] Ian McGrail: image omitted

[05/10/2019, 21:03:12] Ian McGrail: The MET wanting to learn from us - que te parece?

[05/10/2019, 21:03:42] [redacted]: Ian - this is really good!

[05/10/2019, 21:04:10] Ian McGrail: And he is an ex HMIC Staff Officer

[05/10/2019, 21:04:28] Ian McGrail: According to his profile

[05/10/2019, 21:04:43] [redacted]: I've been following up on police feeds over twitter and every force seems to be faced with the same issues you/we are

[05/10/2019, 21:05:37] [redacted]: In other words, you are not alone

[05/10/2019, 21:07:17] [redacted]: It seems that police officers all over UK are not happy but it seems to be connected with the sort of people joining the force - a sort of millennial issue

[05/10/2019, 21:07:34] Ian McGrail: I know but the impact here is probably felt more because of our size. Then again many people are telling me they are fed up with the 'anonymous' public sector surveys. Its seems everyone is sooooo unhappy at work !!! & wait for Customs to react after the death at sea enquiry is completed. They'll want salary increase et al.

[05/10/2019, 21:08:07] Ian McGrail: Indeed a generational thing. No longer a job for life as it used to be.

[05/10/2019, 21:08:41] [redacted]: Exactly where I am with this - my take is that all of the public services seem to be unhappy because they resent being told what to do

[05/10/2019, 21:09:11] [redacted]: Same with teachers (some, not all)

[05/10/2019, 21:09:24] Ian McGrail: A culture which needs addressing - the sooner the better. Can't wait post elections.

[05/10/2019, 21:10:09] [redacted]: Yes

[05/10/2019, 21:21:47] [redacted]: Indeed

[05/10/2019, 21:22:28] [redacted]: Anyway - I'll see what the situation is in UK when I meet up with HMIC 👍

[05/10/2019, 21:22:42] [redacted]: Just to compare etc

[05/10/2019, 21:23:04] Ian McGrail: 👍 👍 👍

[05/10/2019, 21:23:21] [redacted] 👍

[05/10/2019, 21:29:34] [redacted]: Take care, Ian - speak to you soon

[05/10/2019, 21:33:16] Ian McGrail: 👍

[08/10/2019, 11:28:03] Ian McGrail: Panorama giving us kisses and hugs again.

[08/10/2019, 11:28:38] [redacted] Haven't seen it

[08/10/2019, 11:29:01] Ian McGrail: Will send you it

[08/10/2019, 11:29:00] [redacted]: It was to be expected, though... easy target etc!!

[08/10/2019, 11:29:07] [redacted]: Thanks

[08/10/2019, 11:29:30] Ian McGrail: img08635.pdf • 1 page document omitted

[08/10/2019, 14:23:05] [redacted]: Ian - we need to discuss this further - whatever the validity of the survey, there must be underlying issues which have to be seen to be addressed - I know you have set up workstreams etc - can we talk about this and how RGP is trying to counter bullying allegations etc? Maybe we could meet up or I could meet up with Richard if you prefer... what do you think??

[08/10/2019, 14:23:51] [redacted]: Or we could consult HMIC to see if this is a trend in other forces as well?

[08/10/2019, 14:24:08] [redacted]: Let me know what you prefer etc

[08/10/2019, 14:32:20] Ian McGrail: I am happy with whatever. We can tell you what we have don so far. The issue here in my view is addressing perceptions. Seek out ways to influence perceptions without necessarily losing comand and control which is what the GPF want by going down the DAWN route for dealing with allegations.

[08/10/2019, 14:34:16] [redacted] Yes I agree - I'll call to arrange a meeting so we can go over this etc - thanks Ian

[08/10/2019, 14:54:15] Ian McGrail: 👍

[09/10/2019, 09:19:27] Ian McGrail: Morning Joey - just for you info, we have now received the barrage of questions from Panorama. Amongst other things they infer that the GPF has engaged with the paper - I received the results of the survey on the same date & in the same Email as you & which included the CM, & that wasn't a week or more before it was published as they say - it was more like 2 days. The Asst Comm has infact engaged with the GPF in my absence and is doing so again in a pre-arranged meeting today. So you can see how they enjoy spreading porkies.

[09/10/2019, 09:20:19] [redacted]: This is very useful - thanks

[09/10/2019, 16:13:41] Ian McGrail: Joey - I have just received very disturbing news from Richard Ullger. He met with the GPF this afternoon and amongst other things the chairman has admitted meeting up with Leo Olivero for a coffee and making very damaging suggestions to him which brin an absolute discredit on the RGP. You will be shocked when you hear it. I understand HE is arrangir a meeting to see both of us?

[09/10/2019, 16:14:35] [redacted]: Yes but I can't make it at 4.30 he can meet us at 5.00 tomorrow

[09/10/2019, 16:15:05] Ian McGrail: Fine by me. Como si me dijiera a la 11pm.

[09/10/2019, 16:15:20] [redacted]: Why would GPF confess to this? I don't understand

[09/10/2019, 16:17:24] Ian McGrail: Exactly - i put it down to them feeling they are on a high and mighty horse right now. They do not recognise boundaries and certainly have lost their moral compass on ethics. But it gives context to their whole game plan which I have been warning about for some time.

[09/10/2019, 16:18:10] [redacted]: I think we also have to tell CM - he's also been asked press questions - happy to leave that in your hands

[09/10/2019, 16:18:19] [redacted]: Or at least warn him

[09/10/2019, 16:19:04] [redacted]: Just to put things in context

[09/10/2019, 16:20:10] Ian McGrail: Indeed. The GPF's feeling of mightiness apparently follows on from a meeting with the CM where they claim he will oblige to all the GPF's claims.

[09/10/2019, 16:22:23] [redacted]: At least tomorrow we can let the Governor know everything you've done as well as the AAP work you commissioned etc

[09/10/2019, 16:23:52] Ian McGrail: That was my intention.

[09/10/2019, 16:29:20] [redacted]: From the line of questioning, panorama doesn't seem to know that you commissioned an independent review??

[09/10/2019, 16:29:57] [redacted]: They insist on an independent investigation so AAP counts seeing as they interviews 150!!

[09/10/2019, 16:30:35] Ian McGrail: Maurice Morello is a very cunning person Joey. He will only rely in things that suit him.

[09/10/2019, 16:31:25] [redacted]: Check emails from Stuart Green ref CM's press reply

[09/10/2019, 16:31:40] Ian McGrail: I have written to CM requesting to see him urgently.

[09/10/2019, 16:31:56] [redacted] Ok best approach, I think

[09/10/2019, 16:32:32] Ian McGrail: Don't seem to have been copied in on this. I haven't received anything from Stuart.

[09/10/2019, 16:32:48] [redacted]: Blind copied he told me

[09/10/2019, 16:35:53] Ian McGrail: Nothing received. Can you forward to me?

[09/10/2019, 16:36:09] [redacted]: Yes

[11/10/2019, 15:56:53] Ian McGrail: Joey - ref Panorama's front page today, the CM has said absolutely nothing to me on the subject. I have written to him and he has responded stating it all skewered by Panorama & that he will be responding later today.

Rgds

[11/10/2019, 16:49:59] [redacted] Thanks - I haven't seen it yet been at hr interviewing all day

[11/10/2019, 16:50:25] Ian McGrail: I will email it to you.

[11/10/2019, 16:50:30] [redacted] Thanks

[11/10/2019, 16:50:44] [redacted]: Just finished now!

[11/10/2019, 16:51:05] Ian McGrail: I have also advised HE.

[11/10/2019, 16:51:27] [redacted] Sorry I've been shut off from the world today

[11/10/2019, 16:51:33] [redacted]: Apologies!

[11/10/2019, 16:52:02] Ian McGrail: No need to apologise.

[11/10/2019, 16:52:22] Ian McGrail: I will show you the screen shot exchange I have had with the CM.

[11/10/2019, 16:52:30] Ian McGrail: image omitted

[11/10/2019, 16:52:30] Ian McGrail: image omitted

[11/10/2019, 16:52:32] [redacted] Ok

[11/10/2019, 16:54:00] [redacted] Thank you Ian - most prudent approach by you,

[15/10/2019, 08:38:56] [redacted] Ian can you spare a few minutes before 9.00 for a brief chat?

[15/10/2019, 08:41:43] Ian McGrail: Ofcourse

[15/10/2019, 08:42:01] [redacted] Almost there

[16/10/2019, 12:04:54] Ian McGrail: Joey - so far so good with HMIC. No doubt they will come up with decent recommendations but in the main I am getting quite positive vibes from feedback. Esta gente no tienen ni un pelo de tontos.

Aside - I have just sent off the letter seeking approval for the promotions. I would like to announce them next week so there still isn't any rush to get the GPA's endorsement - but close of play Friday would be good.

[16/10/2019, 13:09:16] [redacted] Yes understood. I think they will flag last inspection recs that have not been completed as well?

[16/10/2019, 13:10:11] [redacted] image omitted

[16/10/2019, 13:10:30] [redacted]: Just to add joy to your day... just been sent this...

[16/10/2019, 13:10:50] Ian McGrail: Lovely

[16/10/2019, 13:11:58] [redacted] Ya!

[17/10/2019, 10:51:04] Ian McGrail: Rob Allan from the GDP wants to contact you. I won't pass on your mobile phone unless you are happy with it.

[17/10/2019, 11:21:32] [redacted] I'm ok - thanks feel free

[17/10/2019, 14:31:09] [redacted] Sent you an email with proposed reply to panorama - I hadn't seen the questions but now have them - see what you think...

[17/10/2019, 15:25:15] Ian McGrail: Will read them now. Just finished quite a long session with Matt Parr. Again, they'll make recommendations on areas to improve on

but in broad terms they have not found any issues if concern of how we are doing. In his words "there are things you do far better than some big forces in UK and there are others where you need to

improve on." He also explained what the bullying situation is in the UK police and he was quick to say that it is being taken far to extreme

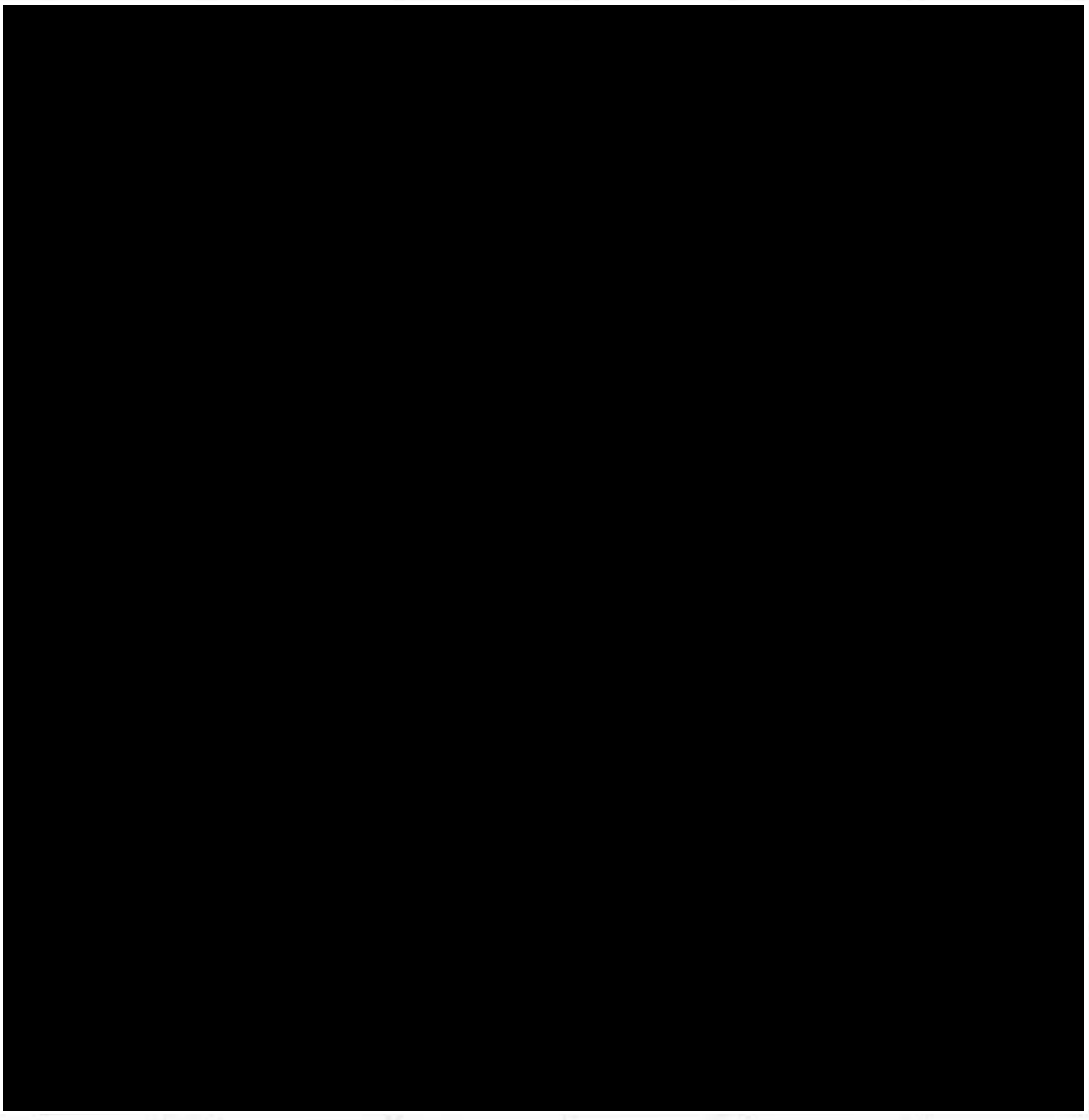
[17/10/2019, 16:00:53] [redacted] Good news

[17/10/2019, 16:01:06] [redacted] I also met with him earlier

[17/10/2019, 16:01:34] Ian McGrail: Hope it went well for you too.

[17/10/2019, 16:01:55] [redacted]: Yes I'll discuss next week with you

[17/10/2019, 16:02:13] Ian McGrail: 👍





[21/10/2019, 21:06:14] Ian McGrail: Good evening Joey - I have today been informed by Supt Cathal Yeats that the PCB have asked that I be investigated following a complaint made by two ex military police officers based in Gib. This is related to the infamous airport incident and subsequent arrest of three senior military officials back in March 2017. I feel duty bound to advise HE, CM & yourself officially of the situation. I will be doing this tomorrow. I am uncertain under what legal provisions I am being investigated as the Commissioner of Police is not subject to Police Discipline Regulations 1991. Needless to say I will be seeking legal advice on the matter to safeguard my interests and that of the RGP. This could potentially bring us into conflict with the PCB. Would you want to meet up to discuss this matter? I will be seeking to meet HE & CM accordingly.

[21/10/2019, 21:10:39] [redacted]: I can certainly meet, of course but I'm interviewing all day tomorrow as from 8.00 but can call you during the lunch break -

[21/10/2019, 21:11:55] [redacted]: I'll find out more for tomorrow

[21/10/2019, 21:13:05] Ian McGrail: I am actually concerned how this is being handled. i am told that the PCB is looking at it because at the time of the incident I was a supt but then again the complaint against me has only been filed a couple of weeks ago.

[22/10/2019, 19:44:29] Ian McGrail: Meeting with [new] MoJ went very well. She was upfront saying she would not intefere with us and would help in any she could. She acknowledged the RGP ran itself & was very happy for it to continue this way. She asked about our relationship with the GPA and I said it was a positive one - that the GPA asked questions of us as they should but also didn't meddle in operational matters. I have invited her to New Mole to show her around so it may be a good opportunity to also ask the new GPA members to

come along we we arrange the visit. We'll do the usual with explaining how we are structured etc.

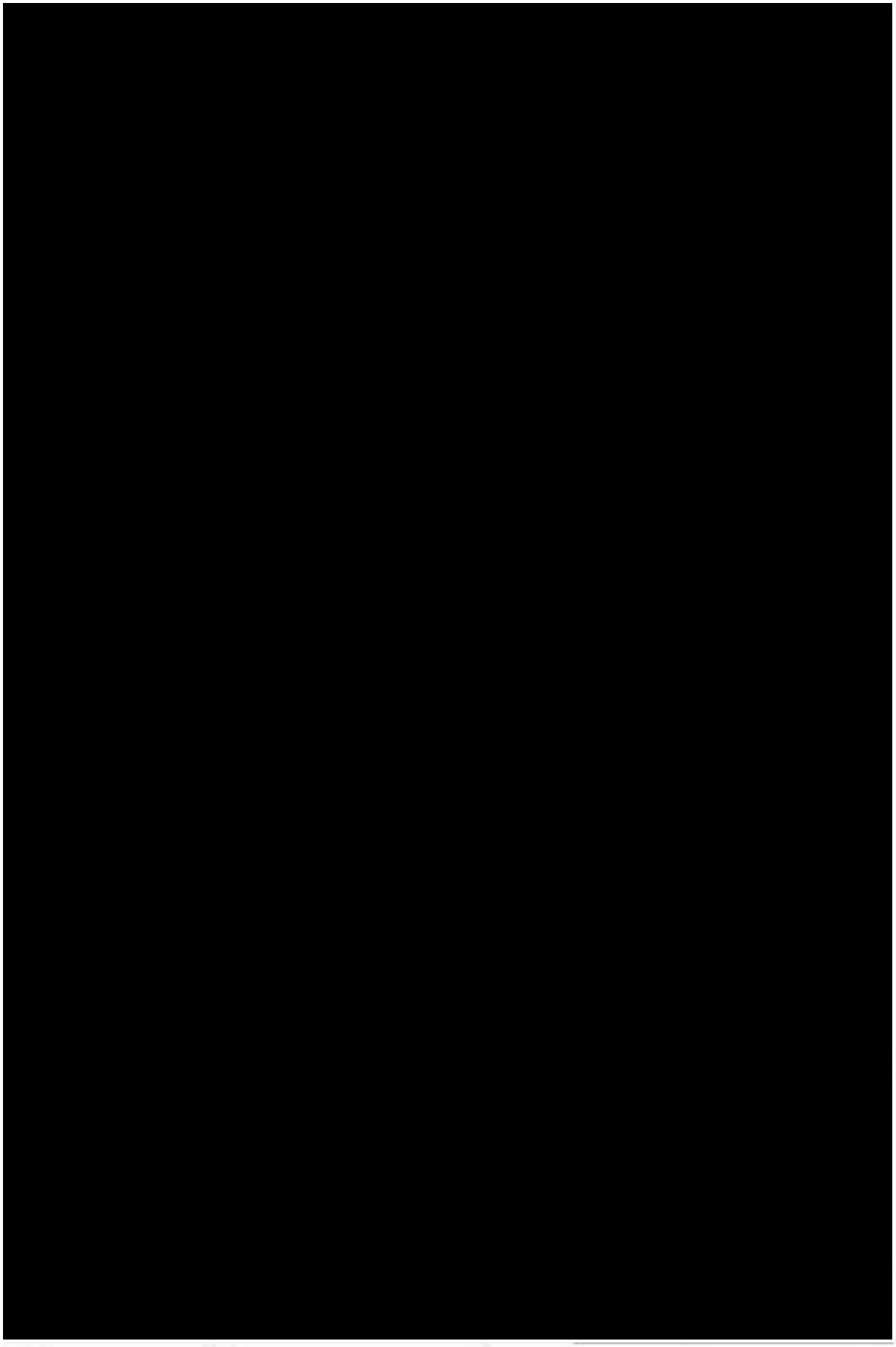
[22/10/2019, 20:22:32] [redacted] Excellent news! Thanks!

[22/10/2019, 20:23:36] [redacted] Hopefully, she can also help push for new premises etc

[22/10/2019, 20:23:55] Ian McGrail: 🔥

[22/10/2019, 20:24:06] [redacted] Indeed!

[redacted]



[27/01/2020, 18:57:11] Ian McGrail: At 11.30am

[27/01/2020, 19:19:18] [redacted]: Pity I can't make it - or else I would try to be there. In any case, I'll call you later to see what her reaction is.

Ian, thinking aloud here and to ensure the official side keeps and is seen to keep the moral high ground

[27/01/2020, 19:21:00] [redacted] I may look into suggesting / recommending a formal mediation process between RGP and GPF - I'm looking into this atm after our chat today but won't move until I discuss fully with you

[27/01/2020, 19:21:43] [redacted]: Just looking at the moment

[27/01/2020, 19:23:17] [redacted]: Of course things may well be past this

[27/01/2020, 19:23:36] [redacted] But no harm in me looking to see what is possible legally

[27/01/2020, 19:24:32] Ian McGrail: It is welcomed but there being a disciplinary process ongoing it may not be desirable. Until such time as they accept that they are police officers and accountable as such there won't, in my honest view, shift from their position. They genuinely beleive they are right and behaving the way they are behaving.

[27/01/2020, 19:26:24] Ian McGrail: We have consulted unofficially with a UK force professional standards dept because we wanted to ensure we weren't being unreasonable with our stance. On the contrary they say, we are to lenient apparently - this behaviour should have been stamped out ages ago they say.

[27/01/2020, 19:29:25] [redacted]: Ok let's see what MfJ meeting comes out with etc

[27/01/2020, 19:29:52] Ian McGrail: Will let you know.

[27/01/2020, 19:30:47] [redacted]: Ok

[27/01/2020, 19:30:52] [redacted] Speak tomorrow

[27/01/2020, 22:29:43] [redacted]: Ian - by the way, any news from HMIC?

[28/01/2020, 00:09:14] Ian McGrail: Yes- Paul Holewell told us the report was being circulated amongst them for a final proof read before they sent it to us to check for accuracy. We are expecting it any time.

[28/01/2020, 10:48:19] [redacted]: Ok

[29/01/2020, 11:30:48] Ian McGrail: Good morning Joey - I have had the meeting with the CM firmed up for 1130am on Wednesday 5th Feb. There have been developments since we last spoke which elevate my concerns and that of my command team to another level. Basically it revolves around the CM potentially legislating to exclude the GPF conveners from discipline procedures. Me deja a la altura del betùn. I am seriously concerned where this is going.

My meeting with MoJ yesterday went well and she seemed totally onside with understanding my concerns. Then again I am sure she will not challenge the CM's position.

Rgds

[29/01/2020, 13:22:06] [redacted]: Ok noted - my advice then is for you not to press ahead with anything that may indeed leave you and senior command in a bad light... ie los malos de la película - wait for me to call you at some point today and I'll explain

[29/01/2020, 14:15:18] [redacted] By the above, I'll explain what I interpret by this - that's what I mean by the way - not that I know anything else you don't



[30/01/2020, 08:09:19] [redacted] Ian - good morning. I'm having to do this via this medium because it is off the record atm: as you know the gpa can proffer official guidance to cop after having discussed with gov and Governor under the act (I haven't done this yet as I prefer my guidance to seem to come from you as I feel it would put you in a good light and would be good from a community opinion perspective) what I'm suggesting is that you offer to meet gpa under mediation arrangements - official and professional mediators- to try and resolve what can only be a battle with no victors - this would probably mean suspending disciplinary investigation etc, I suspect - but anyway, could you at least discuss this with your senior command please? Try to put aside who is right or wrong because this why the community will know you have bent over backwards to try to mend relationships with Fed. Please consider this. You see, if they refuse, you will immediately take the moral high ground! Note that this is not about who is right and who is wrong! At this moment I won't be able to talk until about 6.00 but at least discuss with Richard and Cathal if you can...

food for thought - apologies for sending you this in this way....

[30/01/2020, 08:23:32] Ian McGrail: All noted. I think I need to brief the GPA who still are not fully aware of the story board the GPF have been crafting for the past two years.

[30/01/2020, 08:37:49] Ian McGrail: We have been through attempts to mediate and offered an olive branch on more than one occasion. It simply hasn't been taken by them. All this is evidenced. I

have a view that I will share with you on how this could be resolved. And I beg to differ with you, with these people it is indeed crucial to establish who is right and wrong.

[30/01/2020, 08:46:36] Ian McGrail: Unfortunately it is their lack of knowledge and understanding of how to conduct their side of business & their entrenched positions. If they were reasonable people it would be a different ball game. A police force cannot be unionized at that is what they want.

Notwithstanding, lets have a discussion over this.

[30/01/2020, 10:59:34] [redacted]: Ian - to let you know that as long as you have the high ground and have shown a willingness to fix and resolve then gpa will be happy - thanks

[30/01/2020, 10:59:58] [redacted]: Gpa being me atm, of course

[30/01/2020, 11:00:26] [redacted]: Best if you meet all of us as you suggest - this is appreciated

[30/01/2020, 11:00:31] [redacted]: 👍

[30/01/2020, 13:09:07] Ian McGrail: Thanks.

[03/02/2020, 18:39:32] Ian McGrail: https://www.yourgibraltartv.com/society/20646-unions-concerned-by-disciplinary-action-against-gibraltar-police-federation-leaders

[03/02/2020, 18:43:12] Ian McGrail: Trade Unions associating with the GPF !!! This is totally against the principles of the regualtions governing the GPF.

[03/02/2020, 18:43:56] Ian McGrail: The GPF has to be independent of any other organisation outside the force.

[03/02/2020, 18:45:55] Ian McGrail: The unions feeding out incorrect statement too. Talking about GPF being targetted and censored when they don't know the truth.

[03/02/2020, 18:51:02] [redacted] I saw this coming, Ian. It may well be that you are quite correct in your assessment of the situation, vis a vis, the status of GPF but this is definitely going to escalate with no way of knowing how it is going to end... unions tend to stick together and de facto (not de jure, obviously) GPF is construed to be a union of sorts...

Let's see government's take on this when you meet on Wednesday

[03/02/2020, 18:51:30] [redacted]: No winners with this

[03/02/2020, 18:52:49] [redacted] You see now it's all the unions and not just fed 😩

[03/02/2020, 18:56:09] Ian McGrail: The police service cannot be unionsed. It would be its downfall. What needs sorting out is what their real purpose is - & how they can and cannot do to achieve their aims. Like I was 100% with my assessment of strachan, I can assure you that I know I am not wrong on this. I have researched the matter well and asked questions from UK police forces and fed reps there. Equally i have engaged with other professionals who cannot understand how the situation is unfolding.

[03/02/2020, 18:57:52] [redacted] I completely understand this and know you'll be elaborating on Thursday to rest of GPA, anyway. Perhaps a carefully worded statement is required but I'm not at all sure...

[03/02/2020, 18:59:43] [redacted]: Agree that police can't be unionised but it will depend on how this is explained to the general public because not being unionised can't be interpreted by the general public to mean that officers are unprotected in their rights etc

[03/02/2020, 19:01:45] [redacted]: Hopefully, this can all be discussed at our meeting on Thursday

[03/02/2020, 19:02:12] [redacted]: Only you know the inside and out of the situation etc

[03/02/2020, 19:02:31] Ian McGrail: Indeed. I have to balance out the erroneous statement made by the unions. I will work on this tomorrow.

I also hear that the Inspectors and Ch Inspectors are not at all happy with the GPF Chair and Sec. And that the Inspector's branch board will be writing to the GPA, CM and HE to express their concerns. It'll be difficult to believe this but I nor my senior colleagues have had any influence on them. They are not in agreement with how the convenors are conducting their business and want to express their dissassociation.

[03/02/2020, 19:03:10] [redacted] This is very good news

[03/02/2020, 19:03:25] Ian McGrail: They are asking the convenors to retract their public posts & tweets (something that ain't gonna happen).

[03/02/2020, 19:03:32] [redacted]: It'll show that there are fissures in the fed

[03/02/2020, 19:04:01] Ian McGrail: Agree.

[03/02/2020, 19:04:29] [redacted]: Yes - it'll be a question of explaining this out there properly

[03/02/2020, 19:04:48] [redacted]: Take a deep breath

[03/02/2020, 19:05:02] [redacted]: And don't lose it...!

[03/02/2020, 19:05:37] Ian McGrail: Oh, I am sleeping well, for now at least

[03/02/2020, 19:06:02] [redacted]: At least it's something, Ian

[04/02/2020, 16:14:42] Ian McGrail: Joey, I am sending you a letter by hand to the GPA office tomorrow which I am copying to HE, CM and Min Sacramento. Its sets my views & concerns on the matter. You may wish to discuss the contents with the GPA members before I show up for the meeting.

[04/02/2020, 17:00:47] Ian McGrail: I can forward you the letter by email if you want.

[04/02/2020, 17:29:25] [redacted]: Yes please - this would be most useful.

[04/02/2020, 17:29:28] [redacted]: Thanks

[04/02/2020, 17:38:15] Ian McGrail: Sent

[04/02/2020, 18:01:32] [redacted]: Thanks - I'll make sure we read before you come over - thanks, Ian.

[04/02/2020, 18:01:58] Ian McGrail:

[04/02/2020, 18:09:26] [redacted]: Ian - do you mind if I circulate the electronic version to gpa members today, to give them time to read?

[04/02/2020, 18:19:02] Ian McGrail: Ofcourse I do not mind. The only this is its dated with tomorrow's date.

[04/02/2020, 18:19:35] [redacted]: Of course - I'll circulate first thing tomorrow- you are quite right.

[05/02/2020, 11:04:32] Ian McGrail: Morning Joey, can you speak?

[05/02/2020, 12:45:12] [redacted] Ian still at HR interviewing

[05/02/2020, 12:45:31] [redacted]: Do you need me to leave the room if urgent?

[06/02/2020, 17:27:32] Ian McGrail: Joey - can I give you a quick call?

[06/02/2020, 17:27:42] [redacted] Yes

[07/02/2020, 12:33:18] [redacted] Ian - how did it go?

[07/02/2020, 13:00:36] Ian McGrail: I am now at a meeting at the Bunker. Will call you later.

[07/02/2020, 13:00:59] [redacted]: Thanks - whoever you can

[07/02/2020, 13:01:04] [redacted]: Whenever

[07/02/2020, 17:20:50] Ian McGrail: I have only a few moments ago sent you the letter we spoke about - copied to the same people as the first. Have a good weekend.

[07/02/2020, 17:21:11] [redacted]: Thanks - you too!

[07/02/2020, 17:22:58] [redacted]: Ian I'll wait for hard copies before I circulate or have you distributed electronically?

[07/02/2020, 17:31:41] Ian McGrail: I have just distributed electronically to all those shown as recipients.

[07/02/2020, 17:32:09] [redacted]: Ok

[07/02/2020, 17:32:12] [redacted]: Thanks

[07/02/2020, 17:33:23] Ian McGrail: Happy for you to circulate - will send the original next week. I am not back in the office till Tuesday when I will arrange to meet with the Board.

[07/02/2020, 17:33:47] [redacted]: No problem- thsnks

[10/02/2020, 10:49:14] [redacted]: Ian - re your last letter - think carefully about whether you want to meet: GPA, RGP and Fed ir would you meet up with Fed and then report to GPA? I'm asking in case you want to avoid them thinking that you have been somehow asked by third parties to go down this route... just something I've thought of.. happy with whatever approach you choose, it goes without saying

J

[10/02/2020, 10:49:42] [redacted] Still interviewing!

[10/02/2020, 10:52:37] Ian McGrail: Noted. The reason i say meet with GPA is to show transparency yet again and I will offer it to them in that context. If they are happy we arrange the TOR's between them and us then I would report to GPA accordingly in due course.

[10/02/2020, 10:56:39] [redacted]: Whichever strategy you choose - you have my support

[10/02/2020, 10:56:50] [redacted]: Speak to you when you get back

[10/02/2020, 10:57:11] Ian McGrail: 👍

[10/02/2020, 11:20:45] Ian McGrail: Panorama at it again today and in his usual way, warping all and sundry.

[10/02/2020, 11:25:09] [redacted]: I suspected

[12/02/2020, 08:12:55] Ian McGrail: GPF LETTER REPLY INSPECTORS.doc document omitted

[12/02/2020, 08:15:05] Ian McGrail: Joey, the letter I was referring to yesterday. In confidence. Note the contradictory remarks regarding the need to go public on matters to get things done but conversely stating they have no issues with the command team and work is being advanced.

[12/02/2020, 08:16:30] Ian McGrail: If work is being advanced then why the need to go public. & more importantly, they have been sitting on the draft policy which they are crying out for for over a month!

[12/02/2020, 08:31:48] [redacted]: Understood- thanks for this, Ian.

[13/02/2020, 19:03:25] Ian McGrail: Good evening Joey - met the full Board of the GPF and they have accepted the proposal for the independent review. We will jointly devise TORs for this review & get cracking to bring a team over.

[13/02/2020, 19:06:19] [redacted]: This is the best news I've heard all day - excellent! I'll let the GPA members know 👍

[13/02/2020, 19:08:42] Ian McGrail: 👍

[13/02/2020, 19:09:04] [redacted]: Thank, Ian!

[20/02/2020, 22:55:38] [redacted]: Good evening, Ian - are you still on for meeting tomorrow at 9.30?

[20/02/2020, 22:55:55] [redacted] At NMH?

[21/02/2020, 07:26:51] Ian McGrail: Sorry Joey - just seen your text. Yes I am still on for a 9.30am meet.

[02/03/2020, 08:32:03] Ian McGrail: Morning Joey - Didn't want to bother you at the weekend but I have been reading through the HMIC draft report which they finally sent last week. We are trawling through it checking for accuracy. Would it be possible to meet this week before we revert to them with our comments?

[02/03/2020, 08:45:15] [redacted]: Yes - can you do tomorrow, though? I can go to see you?

[02/03/2020, 08:47:31] [redacted] I'll be away from Gibraltar from Thursday 5th - 10th March, so it'll have to be tomorrow if at all possible?

[02/03/2020, 08:48:20] Ian McGrail: Tomorrow at 11am works for you?

[02/03/2020, 08:58:57] [redacted]: Yes - I'll see you at NMH -

[02/03/2020, 08:59:17] Ian McGrail: 👌

[02/03/2020, 08:59:31] [redacted]: Any surprises/ issues of great concern?

[02/03/2020, 09:00:10] Ian McGrail: Regretablly yes to my liking.

[02/03/2020, 09:01:16] [redacted]: Ok - we'll discuss these tomorrow then

[02/03/2020, 09:01:32] Ian McGrail: 👍

[03/03/2020, 21:44:19] [redacted]: Ian - seeing as GPA was included in the report, could you also add - when you revert - that you are also sure that the GPA will question the comment about the point they make about not having an appetite for modernisation? Seeing as you are going to point out that you have completed the anti bullying statement and policy, your senior command have undertaken management training etc? Also, if GPA has no appetite then why request an inspection? I'll leave the first steps in your capable hands and I'm hoping they submit a draft to me once you have reverted...

Thanks

[03/03/2020, 22:05:45] [redacted]: GPA also advised some time ago about RGP exploring the possibility of placements in UK forces and vice versa, if you recall etc?

[03/03/2020, 22:40:49] Ian McGrail: Indeed Joey. Will include your views and share my intended response before sending it.

Rgds

[03/03/2020, 22:46:34] [redacted]: Thanks

[04/03/2020, 15:43:05] [redacted]: Ian - also tell me at what point you want me to call Matt - I'm conscious that I haven't seen a draft yet, if you see what I mean

[04/03/2020, 16:11:19] Ian McGrail: Ok. I will ask paul H whether I can share the draft report with you

[04/03/2020, 16:12:40] [redacted] Thanks - or at least ask him if after you, I'll be getting a draft as well

[04/03/2020, 16:12:49] [redacted] Thanks

[04/03/2020, 16:46:14] Ian McGrail: 👍

[04/03/2020, 16:47:15] [redacted] Thanks

[05/03/2020, 17:43:30] Ian McGrail: Joey - I've emailed you my proposed response to Paul H. The email has attachments with the draft document and our comments.

[05/03/2020, 18:09:10] [redacted] Thanks, Ian.

[08/03/2020, 09:00:04] Ian McGrail: Joey - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked.

I am invoking Post Incident Procedures and planning for consequence management.

I have advised HE, CM & MoJ already.

Rgds

Ian

[08/03/2020, 10:31:20] [redacted]: Thanks - I saw it on the news feed.

[08/03/2020, 10:34:54] [redacted]: This message was deleted.

[08/03/2020, 10:58:54] [redacted]: Not asking any questions of you in view that it is under investigation and for Coroner to determine. Just like to say that it is unfortunate, to say the least!

[09/03/2020, 14:33:28] Ian McGrail: Joey - been working through the weekend on this collision case.

I am going to email you, (or if you want Elka), to formally notify you of the incident and refer you the fact that an investigation is underway. For purposes of transparency, this investigation should be independent & therefore I am trying to source out a team willing to take on the task. In UK the IOPC (our PCB) would decide whether the investigation would be wholly independent of managed by them with an external 3rd party (senior officer) overseeing on their behalf. If we applied that locally, it would mean the PCB would manage the investigation and we'd require a senior UK Officer to oversee it on the PCB's behalf. The field work though would be done by RGP Professional Standards. It may not be the best model as the independence element is not total. Then again for practicalities sake it may prove useful. I need to discuss the matter further with you & perhaps Frank too but I'm conscious that you're away.

I have held meetings with the AG & HE (Nick Pyle) and they support my intent to secure the best model to use.

Regards

Ian

[09/03/2020, 14:35:11] [redacted]: Thanks - best model to use, in my view, would be to outsource completely

[09/03/2020, 14:35:49] [redacted]: If I'm honest, the PCB would not have the necessary expertise

[09/03/2020, 14:36:15] [redacted]: Neither would anybody in the GPA, if we are honest

[09/03/2020, 14:36:25] Ian McGrail: I agree - I share your views. It would be most unfair on PCB.

[09/03/2020, 14:39:56] Ian McGrail: The GPA/PCB should though retain some control similar to that when they receive a complaint against Police. Technically there isn't a complaint as no family member has yet filed one but it could happen. Even if it didn't happen, the fact that deaths have occurred we should treat this as an external complaint and not as internal one generated by the RGP itself. This aside for the concurrent coroner's investigation that will also take place.

[09/03/2020, 14:40:55] [redacted]: There has been another death at sea and GPA was not involved - why is this different ?

[09/03/2020, 14:41:30] Ian McGrail: Because it wasn't arising from contact with the Police. It was Customs.

[09/03/2020, 14:41:42] [redacted] Ok - I see

[09/03/2020, 14:41:55] Ian McGrail: Customs have it easier.

[09/03/2020, 14:42:46] [redacted]: Ok - we would both be back tomorrow-

[09/03/2020, 14:43:42] Ian McGrail: I will work to get an independent team out. ASAP. & we can discuss tomorrow. Time is of essence, will explain in person..... Politics.

[09/03/2020, 14:44:01] [redacted]: We can have a discussion about this tomorrow - I'm sure we'll take your advice anyway

[09/03/2020, 14:44:30] [redacted]: I'll give you a call tomorrow as soon as I get back

[09/03/2020, 14:44:36] Ian McGrail: Many thanks

[09/03/2020, 14:45:04] [redacted]: As I said, whatever is best practice etc

[09/03/2020, 14:45:21] Ian McGrail:

[redacted]

[09/03/2020, 15:25:13] Ian McGrail: Ofcourse. No probs.

[09/03/2020, 15:42:27] [redacted]:

[10/03/2020, 11:33:49] [redacted]: Ian I've had to change travel plans and get the AVE instead of flying! I'll be in Gib later than expected - if you prefer, I can go to see you with Frank (hopefully) on Wednesday morning? Let me know if you are ok with this...

[10/03/2020, 12:29:04] Ian McGrail: Yes fine. I am going to forward you an email I have sent to UK NPOC who coordinate requests for assistance. Its just for your information.

[10/03/2020, 12:56:03] [redacted] Ok

[10/03/2020, 12:59:10] [redacted] When you can also let me know the time to meet tomorrow

[10/03/2020, 13:09:56] Ian McGrail: Can do anytime. Shall we fix for 9am?

[10/03/2020, 13:17:09] [redacted] See you then.

[10/03/2020, 13:28:05] [redacted] Got your email but for some reason I can't reply! Do you need me to do anything? Do you want me to see if Nick can help?

[10/03/2020, 13:28:42] Ian McGrail: Don't need anything from yourself, it was just for your info. Gonna speak with Nick now.

[10/03/2020, 13:28:55] [redacted] Ok

[10/03/2020, 13:29:23] [redacted] Count on me - you know that!

[10/03/2020, 13:32:21] Ian McGrail: I know. Many thanks.

[12/03/2020, 15:49:54] Ian McGrail: Joey - just sent you an email with an update press notice I want to send. The Met team coming over asked me to consider this. i have shared it with them too & I'm waiting for a reply.

[17/03/2020, 13:39:49] [redacted] Ian - how are things?

[17/03/2020, 13:40:50] [redacted]: In terms of coping with demands of Corona and investigation

[17/03/2020, 13:41:55] Ian McGrail: Ploughing on with all thats on our plate. We have 13 officers in self isolation. We are adjusting ourselves accordingly to be as resilient as possible.

[17/03/2020, 13:44:04] [redacted] Understood. Keep safe, Ian.

[17/03/2020, 13:44:26] [redacted] Any news on the other fronts?

[17/03/2020, 13:44:36] [redacted] Or do you prefer I call?

[17/03/2020, 13:45:41] Ian McGrail: Can I brief you later.

[17/03/2020, 13:46:33] [redacted] I know you are extremely busy - I'll arrange for a call tomorrow at some point -take care.

[17/03/2020, 13:47:10] Ian McGrail:

[17/03/2020, 13:47:37] [redacted]

[19/03/2020, 13:30:45] Ian McGrail: Michael - Held video conference with GC as they wouldn't meet face to face because of the pandemic.

They were obviously cagey with our UK colleagues but it served well to demonstrate that we were totally transparent. The UK team were happy with the meeting. What I was able to elicit from GC is that a judge is still to be assigned the matter & it is likely that it'll be a judge from La Linea. Again because of their lock down there are delays in their courts.

GC anticipate that when appointed, the judge will request information and accounts from us. What form this will take is not clear - the judge could potentially summons our officers to provide their statements in person or simply request their accounts via police to police channels. What mechanisms we should rely on to facilitate this, were we to oblige, is something we'll need to discuss. GC also expects the family of the deceased to file a complaint in their courts to seek compensation. This will no doubt complicate matters for us as the judge may be swayed to look at the matter from a different perspective in terms of where the collision took place.

GC are requesting from us for photos of the vessels, post mortem reports & statements from those involved in the collision. We have to

carefully study this request and weigh the pros and cons of withholding the data or provide it at some point.

Speak soon.

[19/03/2020, 13:32:32] [redacted] Ok - thanks for this, Ian.

[19/03/2020, 13:32:47] [redacted] Let's see what happens

[19/03/2020, 13:33:00] Ian McGrail:

[19/03/2020, 13:33:11] [redacted] Indeed!

[20/03/2020, 10:28:23] [redacted] Good morning, Ian - just a thought, are you keeping Governor abreast of developments...? Also, maybe send an update to CM via the WhatsApp? Note that this is just my thinking and nobody has actually asked me but I think it would be prudent...?? See what you think

[20/03/2020, 10:54:25] [redacted]: Developments in respect of maritime accident, I meant...

[20/03/2020, 10:58:01] Ian McGrail: Yes The Convent is up to speed and AG too. Michael fed up to CM. By next week the UK Team will have more clarity on what route they will be suggesting this should take locally. That is a good point to provide a more formal update.

[20/03/2020, 10:58:41] [redacted] Ok understood! Thank you, Ian.

[20/03/2020, 10:59:42] [redacted] As long as both are kept updated, that was my concern...

[20/03/2020, 10:59:49] Ian McGrail: 👍

[20/03/2020, 10:59:55] [redacted] 👍

[24/03/2020, 14:59:43] Ian McGrail: Joey - How did it go with Paul Holewell?

[24/03/2020, 15:33:54] [redacted] Richard spoke to him and he said that we was going to change language etc - I emailed him and am going to send you copy now but he hasn't replied...

[24/03/2020, 15:35:14] [redacted] Email sent yesterday:

Good morning, Paul,

I have had sight of the initial draft passed on to me on Friday by the Commissioner - as it stands it does not make good reading and I was, quite naturally, disappointed.

I have also had sight of the the RGP's comments and observations which I also feel should be taken on board and afforded due consideration. I do understand you've already been in discussion with them and have agreed to either redact or modify the language used in places where there may have been a factual error or misunderstanding.

I can only say that I found the language used to be quite unfortunate and I'm quite sure the same message can be conveyed in a more constructive tone, especially when referring to issues such as 'corruption'.

I cannot find a reference to the GPA you refer to in page 9 (my copy) but I am assuming that you mean:

"We also found limited enthusiasm from the Gibraltar Police Authority to modernise. Governance (of the force) is noticeably less intrusive than we would expect in England and Wales. The Authority doesn't thoroughly scrutinise the force's financial, business and operational plans. Tighter governance arrangements could help it become more efficient and effective..."

In my copy this appears in page 10 and yes, it is innacurate and, frankly, I was quite disheartened when I saw it - good thing I had already read your email advising me that it had been redacted! Thank you for this.

In any case, Paul, thank you for allowing me to have sight of the first draft.

Please let me know if you require further clarification or anything else that I can assist with.

Regards and keep safe in these difficult times.

Joey

[24/03/2020, 15:40:03] [redacted]: Today I sent him this:

Paul

My previous email refers.

Forgive the omission - these are stressful times!

I should also have said, even though it goes without saying, that the GPA will work with the RGP to ensure that every effort is made to address the points and areas for development raised in the report, in any case.

Many thanks, once again, for allowing me to peruse the initial draft and I look forward to receiving the final version once this is ready.

Keep safe, Paul.

Kind regards

Joey

[24/03/2020, 15:56:02] [redacted] Let me know what you think...

[24/03/2020, 16:20:51] Ian McGrail: Yes - happy with that.

[24/03/2020, 16:22:23] [redacted] He wrote to me to apologise for the GPA comment but I felt I had to mention the whole tone and style of the report as non-constructive,

[24/03/2020, 16:22:57] Ian McGrail: Indeed. I hope the final version will reflect our observations.

[24/03/2020, 16:23:19] [redacted] Venga - keep safe, Ian. Will be in touch.

[24/03/2020, 16:23:28] Ian McGrail: You too.

[09/04/2020, 11:30:46] [redacted] Ian - check your email - HMIC report just submitted by Matt Parr... I haven't read it yet but will do so shortly - let's discuss a after we've both read it...

[09/04/2020, 11:53:03] Ian McGrail: Thanks. With GBC at present. We are featuring tonight in ViewPoint and at 4pm the No6 daily brief.

[09/04/2020, 11:55:19] [redacted] Ok - please contact me once you've read it etc

[09/04/2020, 11:55:37] Ian McGrail: 👍

[09/04/2020, 11:56:07] [redacted] Should I also forward to Richard?

[09/04/2020, 12:01:18] Ian McGrail: Yes please

[09/04/2020, 12:57:49] [redacted] Ok - after you have read it, see if you can call me to we can discuss this - this catches all at a very bad time!

[09/04/2020, 13:47:03] [redacted] After the break, we'll arrange to meet and discuss before I share with third parties etc.

[09/04/2020, 14:31:07] Ian McGrail: Ok joey. No probs.

[14/04/2020, 09:15:05] [redacted] HMIC Report

Good morning, gents.

I hope you've had a reasonably restful Easter.

Would it be possible for us to meet to discuss the above-captioned?

Wednesday, Thursday or Friday - I can work around your availability so just identify a day and a time.

Thanks.

Regards

Joey

[14/04/2020, 09:17:24] [redacted]: Gents,

See you at NMH Thursday at 10.00hrs then thanks.

Regards

Joey

[14/04/2020, 09:24:01] Ian McGrail: 👌

[16/04/2020, 15:29:44] Ian McGrail: Just sent you an email with my draft statement for the press. Sent it to your Gibtelecom address.

Please do let me know your views on it.

[16/04/2020, 15:31:13] [redacted] Yes - thanks - sent the heads up WhatsApp to Cm but no reply yet...if not forthcoming I'll go ahead and submit report (I'll include you) to the three stakeholders as discussed 👍

[16/04/2020, 15:32:17] [redacted] Wil do

[16/04/2020, 15:33:00] Ian McGrail: 👌 👌 👌

[16/04/2020, 15:58:20] [redacted]: Replied via email.

A couple of tracked changes as suggestions for you but happy with it - I'll wait for a response to my message and if I don't get anything we'll go ahead as discussed - as I said, I'll include you in the correspondence

[16/04/2020, 15:59:11] [redacted]: you can then intervene as you feel etc

[16/04/2020, 15:59:50] Ian McGrail: Seen you tracked changes and I am ok with them. Will put this statement on our press notice template and re-send to you.

[16/04/2020, 16:00:04] [redacted]: 👍

[17/04/2020, 11:57:35] [redacted] Ian - no response yet but I'm meeting with Darren this afternoon. I'm thinking of arranging a short mtg with MfJ if I can't access CM - would you wish to attend with me if I can arrange for next week?

[17/04/2020, 11:58:02] Ian McGrail: Yes please

[17/04/2020, 11:58:28] [redacted] Ok - I'll let you know one way or the other this afternoon 👍

[17/04/2020, 11:58:49] Ian McGrail: Thanks

[17/04/2020, 17:53:15] [redacted]: Ok - Ian - Darren is going to try and access him on Monday if no joy then I'll call you to discuss next steps. In any case, I'm going to have to share with GPA on Monday just to ensure we are all on same page etc

[17/04/2020, 18:19:25] Ian McGrail:

[17/04/2020, 18:22:25] [redacted] Ya

[17/04/2020, 18:22:29] [redacted] Ta

[20/04/2020, 10:50:26] [redacted] Ian - FYI: I haven't shared the report with anyone yet but will do so with GPA colleagues at end of play today. I am awaiting a response from government and will wait until end of play today as well at which time I will share report with CM, MfJ and HE first thing tomorrow along with my recommendations, unless I am advised otherwise. It goes without saying that I'll keep you posted...

[20/04/2020, 10:53:34] Ian McGrail: The sooner we go public with it the better. We are on the wave if good public support and in my view its the best time to do it.

[20/04/2020, 10:55:08] [redacted] That'll be my recommendation..

[20/04/2020, 10:56:15] [redacted] I'll copy you in when I share it with them

[20/04/2020, 11:03:14] Ian McGrail: Thanks

[20/04/2020, 15:33:43] [redacted] Ian have decided to email them separately - grateful for comments iro suggested wording to my email- sorry for lengthy message:

Dear

Please find, attached, the HMIC Report which looked at the RGP's internal governance processes. As you will see, the report identifies quite a few areas for development and, in places, makes for uncomfortable reading.

Of note, is that more work is required to ensure there can be no accusations of bullying from the workforce; more work is required on ensuring that the force is better protected from possible allegations of corruption and there needs to be better supervision of criminal investigations. There are other issues which are to be highlighted, such as working towards a corporate definition of 'vulnerability' as well as further developing safeguarding and vetting mechanisms within the organisation.

I have shared it with Senior Command and have discussed the principal issues alluded to in the report. To be fair, RGP have taken it on the chin and are already working towards these recommendations. The GPA shall, of course, monitor this process.

From a GPA perspective, this report provides both the GPA and RGP with a developmental road-map and I have thanked HMIC for their assistance and input.

I should point out that the commissioner has no problems with making the report public via the media. Having said this, given the extraordinary circumstances we are currently experiencing, I am happy to take advice. In view of the unprecedented levels of community support the RGP is currently enjoying, I would not wish to possibly undermine the very evident levels of public confidence (this is my own personal view). The commissioner, however, is confident that he will be able to expound further on the report and answer any press questions with minimal negative coverage and, to this end, he has already prepared a draft PR on the matter. I am sure that he will want to discuss any potential PR issue with yourselves and the GPA whenever anything is issued.

I should be grateful for your views.

Kindest regards,

Joey

[20/04/2020, 15:57:26] Ian McGrail: happy with it Joey

[20/04/2020, 16:18:06] [redacted]: 👍

[20/04/2020, 16:18:58] [redacted]: I'll send out late tonight - you CM and MfJ and separately, HE

[20/04/2020, 16:19:30] [redacted]: Just to give Cm time to recover from today's efforts

[22/04/2020, 10:31:44] [redacted]: Ian - FYI have requested a meeting with MfJ for both of us - I am waiting for a response - all I've said it is to discuss the 'report'

[22/04/2020, 10:32:22] [redacted]: At least this way, you can make your preferences clear, if you see what I mean

[22/04/2020, 10:32:24] Ian McGrail: Good. Thanks

[22/04/2020, 10:32:33] [redacted]: *our

[22/04/2020, 10:33:12] [redacted]: I'll keep you posted -

[22/04/2020, 10:34:12] Ian McGrail: Please do.

[22/04/2020, 18:14:38] [redacted] Ian - FYI - will be sending you and Richard an email asking for your plan of action in response to the report and recommendations - working groups to be set up, how many have already been met etc. This is for the benefit of GPA colleagues - I am sending them the report. I shall also send them the contents of the PR as well. But we are going to need evidence

of how you propose to tackle the addressing of recommendations etc. The more we have prepared, the better. Anyway, I'll email you but just so you know that it'll be for colleagues at GPA - I'll send to tomorrow

[22/04/2020, 18:15:14] [redacted]: Thank you, by the way!

[22/04/2020, 18:33:08] [redacted]: I'm asking because I've said that you are already working on recommendations etc so I'd need your plans etc

[22/04/2020, 19:05:32] Ian McGrail: All noted. Thanks

[22/04/2020, 20:39:24] [redacted] 👍

[23/04/2020, 16:04:06] [redacted] FYI - have just sent a reminder that we gave to meet to MfJ via her secretary

[23/04/2020, 16:12:10] Ian McGrail: Thanks. She is awful to respond, I have to keep chasing on other matters too.

[23/04/2020, 16:12:45] [redacted] I've discretely told Darren as well so he can push

[23/04/2020, 16:13:10] [redacted] He will see her before I do etc

[23/04/2020, 16:13:39] [redacted] and if not, then we'll see if Cm can see you and I...

[23/04/2020, 16:13:44] Ian McGrail: I will next see on Tues

[23/04/2020, 16:14:45] Ian McGrail: When I last spoke to her on the day you emailed the report she hadn't read your email yet.

[23/04/2020, 16:15:22] [redacted] Let's see - she knows that we both need to see her together but if you get the opportunity I have no problem for you to get to her first at all, Ian

[23/04/2020, 16:16:22] Ian McGrail: Ok. I will try my best to get her to meef both of us.

[23/04/2020, 16:17:06] [redacted] The same goes for you seeing CM without me so you don't waste an opportunity - if you find they can meet with you - I mean it - you shouldn't wait for me

[23/04/2020, 16:17:30] Ian McGrail: 💍

[23/04/2020, 16:17:30] [redacted] We are both going to say the same thing

[23/04/2020, 16:17:39] [redacted] 👍

[23/04/2020, 16:18:03] [redacted] Take care

[23/04/2020, 16:18:17] Ian McGrail: You too

[27/04/2020, 10:03:51] [redacted] Ian - meeting with MfJ at 11.00 on Wednesday 29th at No6... you should have an invite...

[27/04/2020, 10:22:57] Ian McGrail: Yes I have just seen it.

[27/04/2020, 10:23:29] [redacted] See you there - it's probably in the bunker

[27/04/2020, 10:23:39] Ian McGrail: Yep probably is.

[27/04/2020, 10:23:53] [redacted] You ok with this mtg?

[27/04/2020, 10:24:02] Ian McGrail: Yes no probs

[27/04/2020, 10:24:16] [redacted] Ok then - see you then 👍

[27/04/2020, 10:24:24] Ian McGrail: 👌

[29/04/2020, 08:59:04] [redacted] Ian -meeting rescheduled for tomorrow - no time set yet.

[29/04/2020, 08:59:19] Ian McGrail: Ok

[29/04/2020, 08:59:45] [redacted] Were you informed?

[29/04/2020, 09:02:09] Ian McGrail: Yes, and was told the minister's PA would advise you too.

[29/04/2020, 09:02:58] [redacted] She just called - I didn't know if you had been told

[29/04/2020, 09:03:14] Ian McGrail: 👌

[29/04/2020, 09:03:28] [redacted] See you tomorrow hopefully 👍

[29/04/2020, 09:03:41] Ian McGrail: Yes. 👍

[29/04/2020, 13:36:15] [redacted] Ian - mtg tomorrow at 14.00 Venue is MfJ Office in Governor's Parade...

[29/04/2020, 13:36:54] Ian McGrail: Just received the meeting request. See you there.

[29/04/2020, 13:37:01] [redacted] 👍

[29/04/2020, 16:14:19] Ian McGrail: Joey can I call you for a quicj word?

[30/04/2020, 14:01:56] [redacted] Ian - are you coming?

[30/04/2020, 14:02:23] Ian McGrail: I am here

[03/05/2020, 16:27:07] [redacted] Ian - excellent today, de verdad!

[03/05/2020, 16:27:26] [redacted] Both of you!!

[03/05/2020, 17:03:32] Ian McGrail: Ta

[03/05/2020, 17:03:50] [redacted] 👍

[04/05/2020, 16:39:18] [redacted] Ian - can you take a quick call...?

[04/05/2020, 17:57:14] [redacted]: Ian - try to copy in MfJ as well as CM and HE seeing as we met with her etc...

[04/05/2020, 18:01:08] Ian McGrail: 👍 👍 👍

[04/05/2020, 18:01:27] [redacted] 👍

[05/05/2020, 08:24:52] Ian McGrail: Morning Joey - I have checked the media release & can confirm that I make no reference to the explanations of why they was little progress in the areas for improvement of the last inspection. I reckon the GPA members may have confused the seperate sheet you requested from me with these details thinking this was also to be shared with the media when as you kno that is not the intention.

Sending off the email to HE, CM & MoJ in a bit.

[05/05/2020, 08:25:51] [redacted] Ok thanks

[05/05/2020, 08:28:51] [redacted] I don't know if they possibly meant at interview then maybe, not sure... doesn't matter

[05/05/2020, 08:29:17] Ian McGrail: 👍

[05/05/2020, 09:44:01] [redacted] Ok got it - I've got to send HMIC a copy of what you intend to go out with but can't until a decision is taken so let me know etc

[05/05/2020, 09:51:39] [redacted] Unless you prefer to advise HMIC directly? Let me know what you prefer...

[05/05/2020, 10:16:23] [redacted] Let me know when I can call you - just got an email from Federation

[05/05/2020, 15:09:03] [redacted] This message was deleted.

[05/05/2020, 15:13:33] [redacted] Ian - before we go ahead with this, would you add to your PR that the report will be made available by GPA at:

www. gpa.gi

It can also be accessed at the HMIC&FRS website.

Let me know if ok with you.

[05/05/2020, 15:15:31] Ian McGrail: Absolutely no issues. I have chased MoJ for her to agree to the report going public.

[05/05/2020, 15:16:10] [redacted] Keep me posted 👍

[05/05/2020, 15:17:14] [redacted] Already in touch with HMIC - no issues from their side but I'll tell them once we go ahead so they can post on website

[05/05/2020, 15:17:32] Ian McGrail: Any reaction from them?

[05/05/2020, 15:18:30] [redacted] Paul replies simply thank me for this and asking me to advise them as soon as we go live

[05/05/2020, 15:18:48] [redacted] Ian when are you issuing force orders?

[05/05/2020, 15:19:01] Ian McGrail: Ok. Un poco frio no?

[05/05/2020, 15:19:10] Ian McGrail: Today

[05/05/2020, 15:19:16] [redacted] Ok

[05/05/2020, 15:19:26] [redacted] So tonight I'll reply to fed?

[05/05/2020, 15:19:52] [redacted] Saying that an announcement will be made shortly?

[05/05/2020, 15:20:08] Ian McGrail: Yes you can because they would have already read the force order entry

[05/05/2020, 15:20:19] [redacted] Ta

[05/05/2020, 15:21:41] [redacted] Sent you Paul's email - no tan frío

[05/05/2020, 15:22:35] [redacted] It's strange noted eh an frío, no?

[05/05/2020, 15:22:51] [redacted] *No tan

[05/05/2020, 15:23:37] Ian McGrail: No se que decirte

[05/05/2020, 17:32:48] [redacted] Ian - let me know when Force Orders are out

[05/05/2020, 17:44:55] Ian McGrail: They are out already

[05/05/2020, 17:51:34] [redacted] Ta - in any case, I'll reply to them later tonight- thanks

[06/05/2020, 08:10:14] Ian McGrail: Morning - Samantha hasn't reacted to my nudge yesterday though she has read my message.

I am on the live conference again this sunday and it would be ideal that I could bat off some questions from the press on the report if they decided to ask (which is most likely).

One other thing. We should aim at pushing the report with my statement simultaneously to avoid a barrage of questions coming both our ways.

[06/05/2020, 09:16:36] [redacted] Just an idea - why don't you message the chief.. as well saying that the Fed already knows Ed gave the Report and they will alert press etc..?

[06/05/2020, 09:16:52] [redacted]: *we have

[06/05/2020, 09:24:12] [redacted]: By the way, I like your idea of the press conference on Sunday... good opportunity!

[06/05/2020, 11:44:08] Ian McGrail: Can I call you Joey?

[06/05/2020, 11:50:58] [redacted]: I'll call you back - in the middle of something at the moment

[06/05/2020, 11:51:14] Ian McGrail: Ok.

[06/05/2020, 14:15:06] Ian McGrail: Spoke to Nick who said he would reply to the email agreeing we should go public.

[06/05/2020, 14:16:14] [redacted] Noted - let's see if that does the trick... no joy on my side.

[06/05/2020, 14:18:02] Ian McGrail: I hope its not that something is bothering the CM about going public...& that its more to do that he is busy with other matters to give this attention.

[06/05/2020, 14:18:38] [redacted] I think it's the second of Darren would have told me

[06/05/2020, 14:19:00] Ian McGrail: Can't Darren also nudge?

[06/05/2020, 14:19:19] [redacted]: Indeed - I'll contact him as well

[06/05/2020, 14:19:24] Ian McGrail: Ta

[06/05/2020, 16:19:01] [redacted] Email sent

[06/05/2020, 16:19:31] Ian McGrail: Will check in a sec

[06/05/2020, 16:19:32] [redacted]: Let's wait for a reply... I'm also waiting for a reply via Darren

[06/05/2020, 16:20:06] Ian McGrail: 👍

[06/05/2020, 16:20:25] [redacted]: Note RGP website - it occurred to me as I was writing - I should have discussed with you...sorry

[06/05/2020, 16:20:44] [redacted]: As an interim thing whilst I sort out gpa

[06/05/2020, 16:22:28] Ian McGrail: Yes ofcourse we could do that. Not sure we have ever published this type of report before but to be honest I have no issue.

[06/05/2020, 16:23:26] [redacted]: We can discuss - thanks I'm worried that gpa website will take too long por eso...

[06/05/2020, 16:26:33] Ian McGrail: I am going to ask how quick we can upload it on our site.

[06/05/2020, 16:30:54] Ian McGrail: Ok, we can upload instantly, so we can make use of that.

[06/05/2020, 16:57:22] [redacted]: Great - e-mailedrest of gpa with draft statement - I've added that you've already started to work on it

[06/05/2020, 16:57:55] [redacted]: Don't forget press list for Elka, please

[06/05/2020, 16:58:28] Ian McGrail: It should have been sent to secretary@gpa.gi

[06/05/2020, 16:58:40] [redacted]: Ok I'll get her to check

[06/05/2020, 17:01:48] [redacted]: Yes she has it

[06/05/2020, 17:02:01] Ian McGrail: 👍

[06/05/2020, 17:28:25] [redacted]: Ian when we go public it is important to that you do so first and then me - if I go first it is going to seem that I am forcing your hand

[06/05/2020, 17:29:11] [redacted]: Or at the same time

[06/05/2020, 17:29:32] Ian McGrail: I would suggest simoutaneously

[06/05/2020, 17:29:39] [redacted]: Yes

[06/05/2020, 17:29:56] [redacted]: That would work

[06/05/2020, 18:16:50] Ian McGrail: Anything from Darren?

[06/05/2020, 18:19:11] [redacted]: Yes

[06/05/2020, 18:27:49] [redacted]: Let's go for 10.30 to give me time to alert HMIC

[06/05/2020, 18:28:09] [redacted]: I'm emailing them now but they won't see it until tomorrow

[06/05/2020, 18:28:22] Ian McGrail: Ok no worries.

[06/05/2020, 18:51:01] [redacted]: Nick ok as well

[06/05/2020, 18:51:36] [redacted]: Advised HMIC as well

[06/05/2020, 18:51:54] Ian McGrail: 👍 So we are good to go tomorrow at 1030. We'll touch base in the morning.

[06/05/2020, 18:52:43] [redacted]: Yes 👍 hopefully, GBC or Chronicle will give you an opportunity for a proper interview

[06/05/2020, 18:53:28] Ian McGrail: I hope so.

[06/05/2020, 18:53:38] [redacted]: 👍

[06/05/2020, 20:54:16] [redacted]: I got direct confirmation that it's ok for tomorrow at 10.30

[06/05/2020, 20:54:47] Ian McGrail: 👌

[07/05/2020, 08:46:15] [redacted]: Good morning, Ian. Could you make sure that both Convent and Gov Press Office are included as well? I'll also do so from my end.

[07/05/2020, 10:10:22] [redacted]: Can you take a call?

[07/05/2020, 10:13:45] [redacted]: Elka - [redacted]

[07/05/2020, 13:51:12] Ian McGrail: No reactions (yet). Its only been put out by YGTV on social media with very little interaction if any at all from the public.

[07/05/2020, 14:02:49] [redacted]: Yes, I noticed..... will let you know if I see or hear anything...

[07/05/2020, 15:31:05] Ian McGrail: Brian Reyes has been on the phone to me. He is preparing an article & is going to send me some questions based on the corruption part of the report, the supervison of investigations and some other areas.

[07/05/2020, 15:36:09] [redacted] That is really good - it'll take a positive note and will take the wind out of the sails of others ...

[07/05/2020, 15:36:29] [redacted]: This message was deleted.

[07/05/2020, 15:37:14] [redacted]: Error

[07/05/2020, 15:37:35] [redacted]: I meant the more extensive the exposure now, the better...

[07/05/2020, 15:38:24] Ian McGrail: It won't be a good report though but I hope to balance it out when i respond to his questions.

[07/05/2020, 15:39:03] [redacted]: Well if not it'll be objective, at least

[07/05/2020, 15:39:15] Ian McGrail: Ya

[07/05/2020, 15:40:10] [redacted]: Try your best... good luck

[07/05/2020, 15:40:42] Ian McGrail: 👍

[07/05/2020, 15:41:38] [redacted]: 👍

[07/05/2020, 20:01:17] Ian McGrail: Hi Ian. Good to talk just now. As discussed, I'll set out below a few questions I hope you can give me some input on for the article I'll write on this. Obviously, feel free to expand on any areas you feel are important and which I may have missed. Once I have your response and I block out the piece, I'll get back to you if there are any areas I feel need additional input. I took note during our conversation of your observation that this process starts with a self-

assessment and that the RGP itself identified many of the areas picked up on by HMIC. And lastly, thanks, as always, for your time and feedback. Brian

[07/05/2020, 20:01:17] Ian McGrail: The HMIC report highlights a number of positive aspects of how the RGP goes about its work and broadly concludes that the RGP was "professional, committed and enthusiastic" about its work. But the report also includes a lengthy list of core areas where HMIC believes the RGP needs to improve. Many of these recommendations focus on management structures, oversight of investigations, care of victims and the need for a deeper understanding of risks and future demands on resources. In broad terms, what is your response to these recommendations? Which of the report's many recommendations are the biggest source of concern for you and your senior management team?

Perhaps one of the most concerning observations in the report is the claim that the RGP does not fully understand its exposure to the risk of corruption and that its professional standards unit lacks both resources and expertise to deal with this. Do you accept this observation and if not, why not? What will you do to address the issues raised by HMIC in this context?

The inspectors said they found no evidence of bullying (albeit this was not part of their remit), but nonetheless noted a perception among a large part of the workforce of a "firm leadership style", to the point that some officers believed senior officers sometimes behaved in an unacceptable manner when dealing with staff, and that there was a degree of "blame culture" in the force. Is this a reality you recognise and accept? How will you tackle this perception, given its corrosive impact irrespective of whether or not it is rooted in fact?

The report points to weaknesses in the RGP's systems, including its IT framework and how it interfaces with other agencies. It also points to areas of policing that might properly be handled by other agencies with their own resources (e.g. policing border queues and elements of the maritime sphere). What additional support from GoG might the RGP need to address these recommendations?

The HMIC inspectors appeared disappointed with the progress in implementing earlier recommendations made in 2016, noting too a reluctance in the force to embrace change. To what extent has this been an issue and how will you tackle it going forward?

[07/05/2020, 20:01:33] Ian McGrail: These are brian reyes' questions

[07/05/2020, 20:02:11] Ian McGrail: I am working on my response which i will share with you before sending.

[07/05/2020, 20:51:16] [redacted]: Of course - thanks

[07/05/2020, 21:17:32] [redacted] Try to avoid being too critical of Gov - remember that HMIC actually see top up funding as a bad thing

[07/05/2020, 21:18:17] Ian McGrail: Oh no, not critical at all. You'll have my response in 2mins

[07/05/2020, 21:18:53] [redacted]: 👍

[07/05/2020, 22:00:31] Ian McGrail: Sorry for the bother Joey. Have you had a chance to read my response? i want to send it tonight.

[07/05/2020, 22:01:14] [redacted]: Yes - just replied to email.

[07/05/2020, 22:01:38] [redacted] Thanks!

[07/05/2020, 22:02:00] Ian McGrail: Ta many thanks. I have tweaked minor bits having received feedback from Rich.

Good night.

[07/05/2020, 22:02:17] [redacted]: Good night!

[08/05/2020, 15:14:18] [redacted]: Ian chronicle Headline (web version: 'Hard-hitting external audit of RGP identifies serious deficiencies, makes wide-ranging recommendations' - a bit sensationalist...

[08/05/2020, 15:16:13] Ian McGrail: It is indeed.

[08/05/2020, 15:16:32] Ian McGrail: Have you read the whole article?

[08/05/2020, 15:21:04] [redacted]: I can't access it via the app

[08/05/2020, 15:21:10] [redacted] Benn trying to

[08/05/2020, 15:21:33] [redacted] Are you ok?

[08/05/2020, 15:22:51] Ian McGrail: Yes fine. Will send you screen shots.

[08/05/2020, 15:23:05] [redacted]: Thanks

[08/05/2020, 15:23:12] Ian McGrail: image omitted

[08/05/2020, 15:23:27] Ian McGrail: image omitted

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[08/05/2020, 15:23:57] Ian McGrail: image omitted

[08/05/2020, 15:25:11] [redacted]: Got them

[08/05/2020, 15:32:34] [redacted]: Ok - read

[08/05/2020, 15:32:50] [redacted]: I suppose it could have been worse!

[08/05/2020, 15:34:42] [redacted]: We just have to carry on and ensure that as many of the recs are addressed as possible in the time frame

[08/05/2020, 15:35:10] Ian McGrail: It was worse. He has picked up some bits of what I sent him in my responses to his questions which has balanced it out a tiny bit. You have read in between the lines to get the balancing.

[08/05/2020, 15:36:36] Ian McGrail: He told me off the record that he smelt of rat about the tone of the report - inferring there was some underlying motive for such negative reporting. I have my theories which I will share with you in due course.

[08/05/2020, 15:36:52] Ian McGrail: We are on it.

[08/05/2020, 15:36:58] [redacted]: And where these can't be met, we have to ensure we have recorded the reasons

[08/05/2020, 15:37:18] Ian McGrail: 👍

[08/05/2020, 15:37:33] [redacted]: I suspect we will be on the same page on this one!

[08/05/2020, 15:37:59] [redacted]: Try and have a good long weekend, Ian

[08/05/2020, 15:38:07] Ian McGrail: 👍

[10/05/2020, 16:43:08] [redacted]: Very good answer from you and brilliantly followed up by MfJ 👍

[10/05/2020, 18:18:44] [redacted]: Ian - by the way, she told me privately what she said in public about supporting

[10/05/2020, 18:23:22] Ian McGrail: It was very kind of her indeed and I thanked her after the briefing. She is on side pero como te dije dame a Neil any time. She takes forever to address our issues which require GoG approval. Incidentally, Neil sent a great message of support yesterday which I really appreciated. So did Ed Davis and other prominent people in Gib. We'll ride the wave and come better out of it - of that i am sure.

[10/05/2020, 18:32:01] [redacted]: I'm glad - I told Neil and he asked as to how you were! Also, good that Ed also contacted you 👍

[10/05/2020, 18:32:30] [redacted]: And if you need me to do anything, let me know, Ian

[10/05/2020, 18:34:43] [redacted]: Has the CM said anything?

[10/05/2020, 18:34:54] Ian McGrail: Just waiting for GBC to react, that is if they do. I have a plan to promote our response to the recommendations as they get accomplished. Will discuss with you whenee next meet.

[10/05/2020, 18:34:59] Ian McGrail: Nope

[10/05/2020, 18:35:30] [redacted]: Brilliant, idea, Ian!

[10/05/2020, 18:36:16] [redacted]: I'll contact you to arrange a meeting towards the end of the week.

[10/05/2020, 18:36:24] Ian McGrail: 👍

[10/05/2020, 18:36:28] [redacted]: 👍

[10/05/2020, 18:38:21] [redacted]: I've got to share a couple of ideas relating to what I think may be behind the tone and style of the report

[10/05/2020, 18:38:41] Ian McGrail: The GPF saying they are perusing the report and may come out with a statement. Veremo ve oor donde salen esta gente !!! Una caja bomba !!!

[10/05/2020, 18:39:11] Ian McGrail: They are probably synced with mine.

[10/05/2020, 18:39:23] [redacted]: Well, the report is also about them!!

[10/05/2020, 18:39:47] [redacted]: We'll chat next week

[10/05/2020, 18:39:55] Ian McGrail: 👍

[11/05/2020, 13:28:27] Ian McGrail: Joey - for your info, GBC coming down to interview this afternoon.

[11/05/2020, 13:30:11] [redacted]: I hope it goes well - thanks for letting me know!

[11/05/2020, 17:18:44] [redacted]: Ian - how did it go??

[11/05/2020, 17:26:05] Ian McGrail: It was ok. It was a 30min interview which he says he will use 3mins for newswatch tonight and the rest maybe for a viewpoint on Thurs.

[11/05/2020, 17:26:31] [redacted] Ok - thanks

[11/05/2020, 17:26:40] [redacted] Will watch tonight

[11/05/2020, 17:27:07] Ian McGrail: 👍

[12/05/2020, 10:08:56] [redacted]: Trying to arrange meeting with you for Friday morning - via Leeanne

[12/05/2020, 10:10:20] [redacted]: Just emailed her

[12/05/2020, 10:10:36] [redacted]: I'll wait for her to revert

[12/05/2020, 10:10:39] [redacted]: 👍

[12/05/2020, 10:10:57] Ian McGrail: Ok. No probs.

[redacted]

[12/05/2020, 14:20:10] Ian McGrail: Joey - sorry for the bother. But I urgently need to speak to you face to face.

[13/05/2020, 19:19:55] Ian McGrail: Joey - met with Ag & others to discuss the matter. I can provide you with a quick update over the phone if you want or would you rather I leave it for Friday when we meet.

[15/05/2020, 10:34:45] [redacted]: Is. I'm downstairs

[15/05/2020, 10:35:00] Ian McGrail: Coming for you

[15/05/2020, 10:35:04] [redacted]: 👍

[21/05/2020, 11:46:40] Ian McGrail: Joey - would it be possible to meet you tomorrow morning?

[21/05/2020, 11:56:26] [redacted]: I planned to - what time?

[21/05/2020, 11:57:17] Ian McGrail: I have a meeting with AG & DPP at 10. Could we do 8.30 or 9am?

[21/05/2020, 11:57:40] [redacted]: 9.00 is fine

[21/05/2020, 11:57:48] Ian McGrail: Ok thanks.

3rd Affidavit:

Ian McGrail

Date: 4th October 2022

Exhibit: 12

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 12

TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

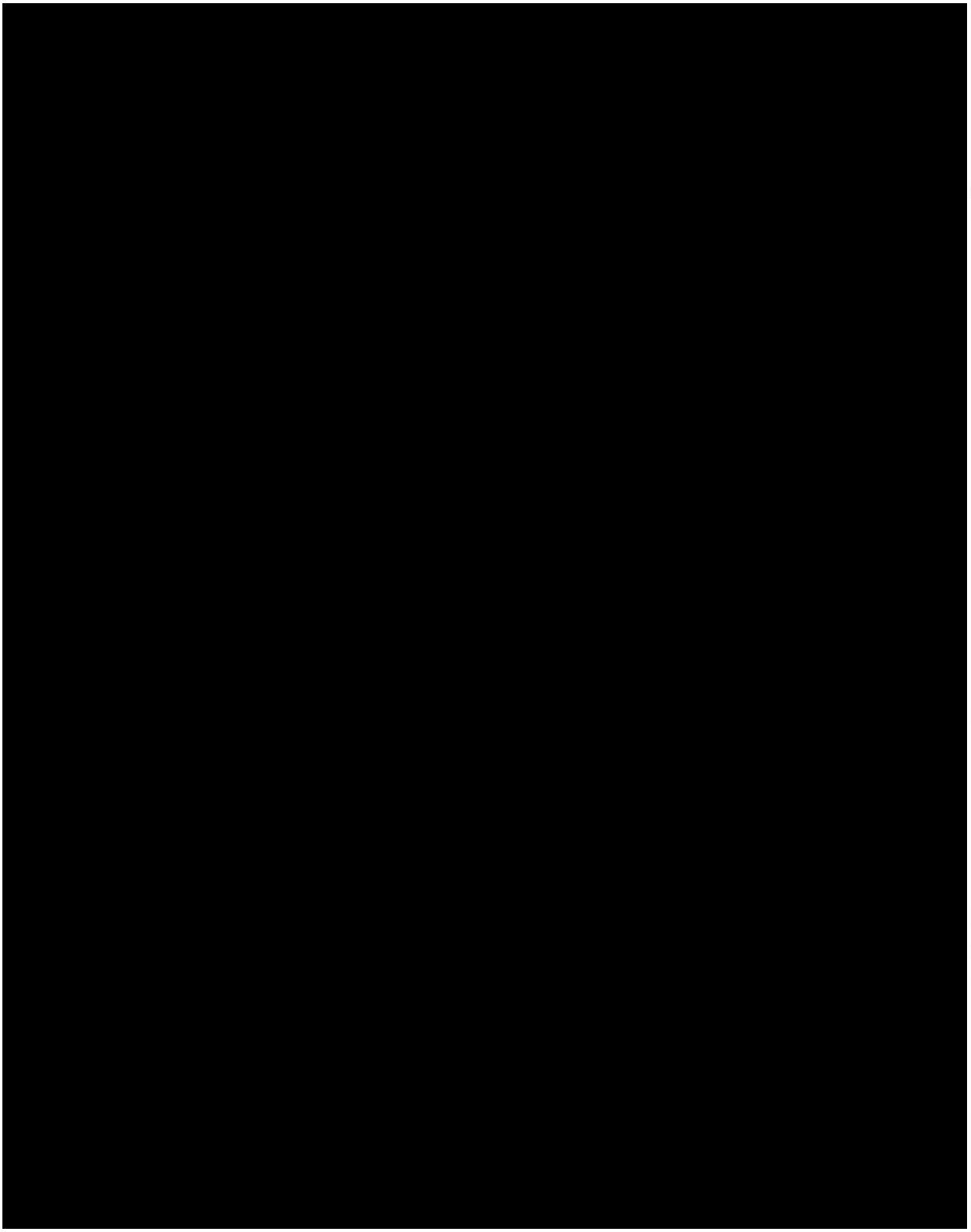
Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

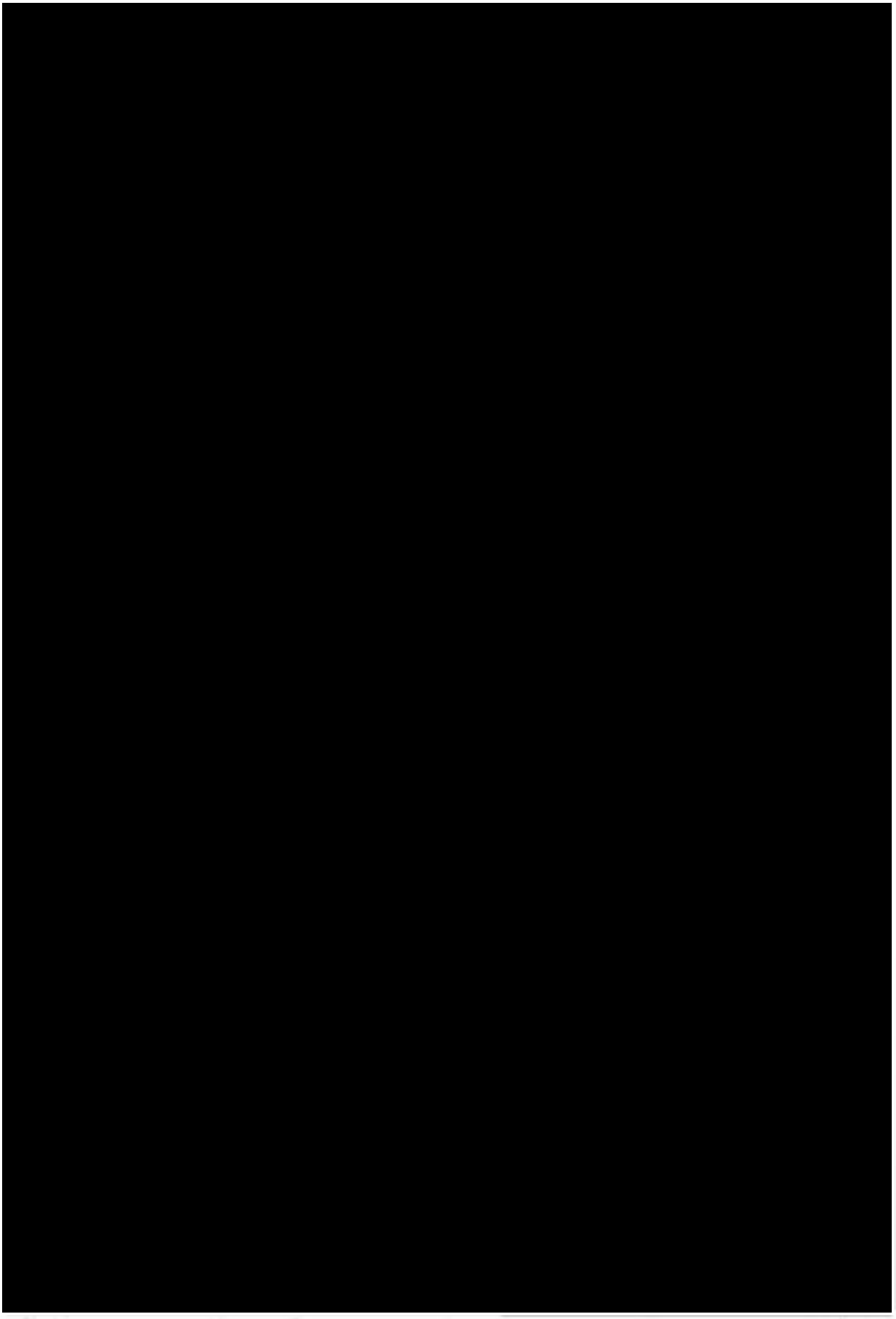
A Commissioner for Oaths

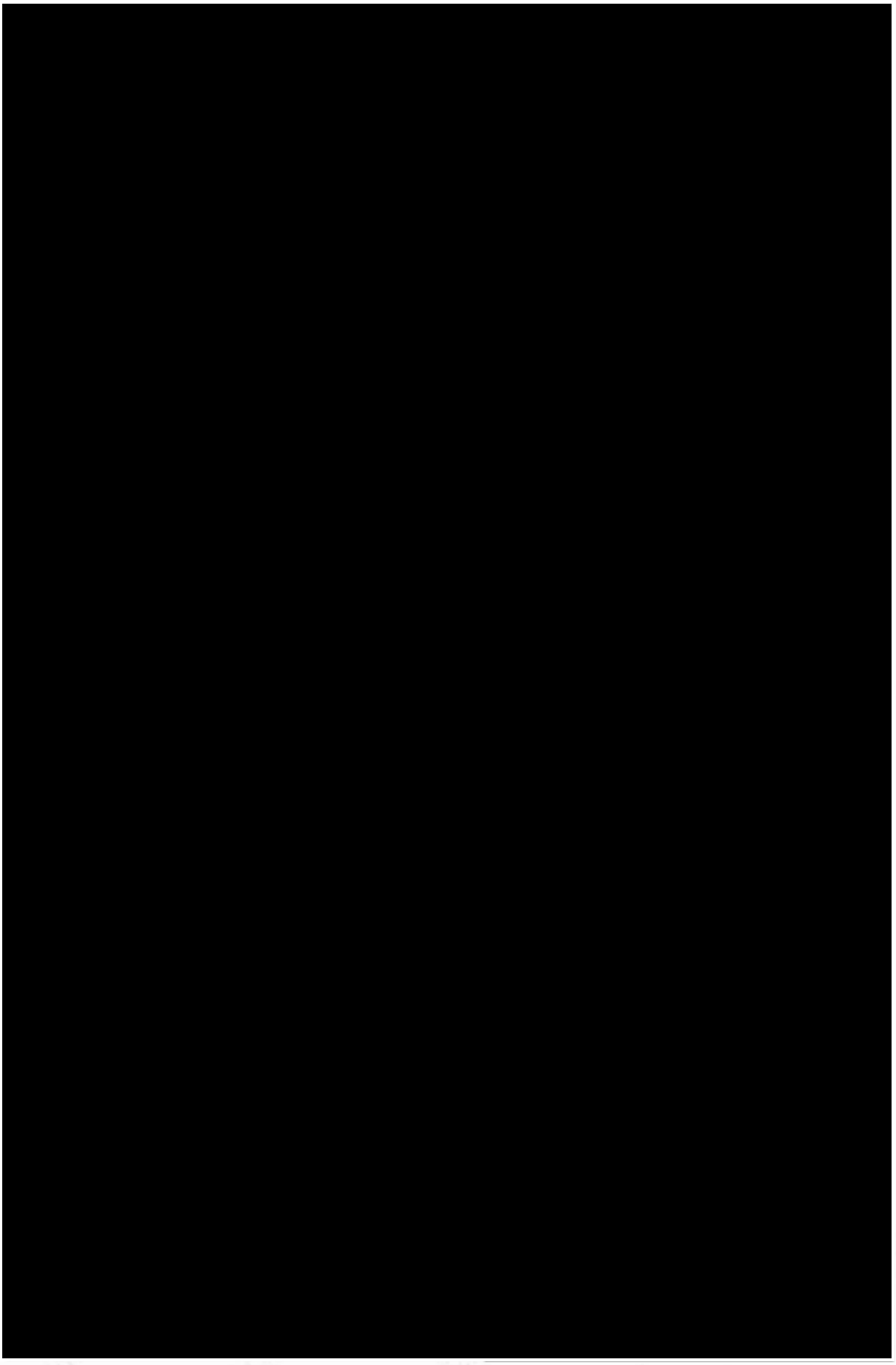
Presented by Charles Gomez & Co, of 5 Secretary's Lane, Gibraltar. Solicitors for Ian McGrail

WHATSAPP CHAT LOG

Ian McGrail & Samantha Sacramento (MoJ)







[redacted]

[28/01/2020, 20:55:50] Ian McGrail: Samantha - many thanks for a very productive meeting today. Apologies for such a lengthy agenda but I am happy we trawled through each of items. Out next meeting shouldn't have such a ling list of items. On the Federation matter I am forwarding you whatsapp message I have sent to the CM a few moments ago so that you are kept informed. Really concerned if what is being bragged about by Sgt Maurice Morello is true. I am awaiting a response from the CM.....

[28/01/2020, 20:56:03] Ian McGrail: CM - I hope all is going well in London. I really feel tight bringing this matter up at this time when you are so tied up with Brexit matters but this issue is picking up considerable adverse traction - I am sure you aware of the latest diatribe viz the Gib Police Federation as exposed on Panorama & social media. I have today briefed Min Sacramento on my concerns, but post to this meeting I have been advised that you are favourably considering legislation to exclude the GPF conveners, who are warranted officers, from from Force discipline regulations. This has been said by the GPF Chair himself in quite an arrogant, defiant and confident tone earlier today. Surely this cannot be true & I sincerely hope this is 100% not the case. I seek your reassurance that this statement by Sgt Maurice Morello is incorrect. I, together with the senior command of the RGP are seriously concerned with the journey the GPF are on. Today Sgt Morello literally said that legislation is sitting on the CM's desk to exclude the conveners from any discipline regulations - you cannot imagine the adverse hype this is causing. Already I have notion of a very fractured GPF Board who are not all in agreement with the way the Chairman and Secretary are running business - this is not a healthy state of affairs at all. I trust we can meet on your return to Gib so that you can hear out the serious concerns we have with the latest developments.

Best rgds

Ian

[28/01/2020, 21:03:09] Samantha Sacramento: Ok thanks for this. I spoke to him earlier, I will ask to meet him when he returns.

[28/01/2020, 21:03:43] Ian McGrail: Many thanks.

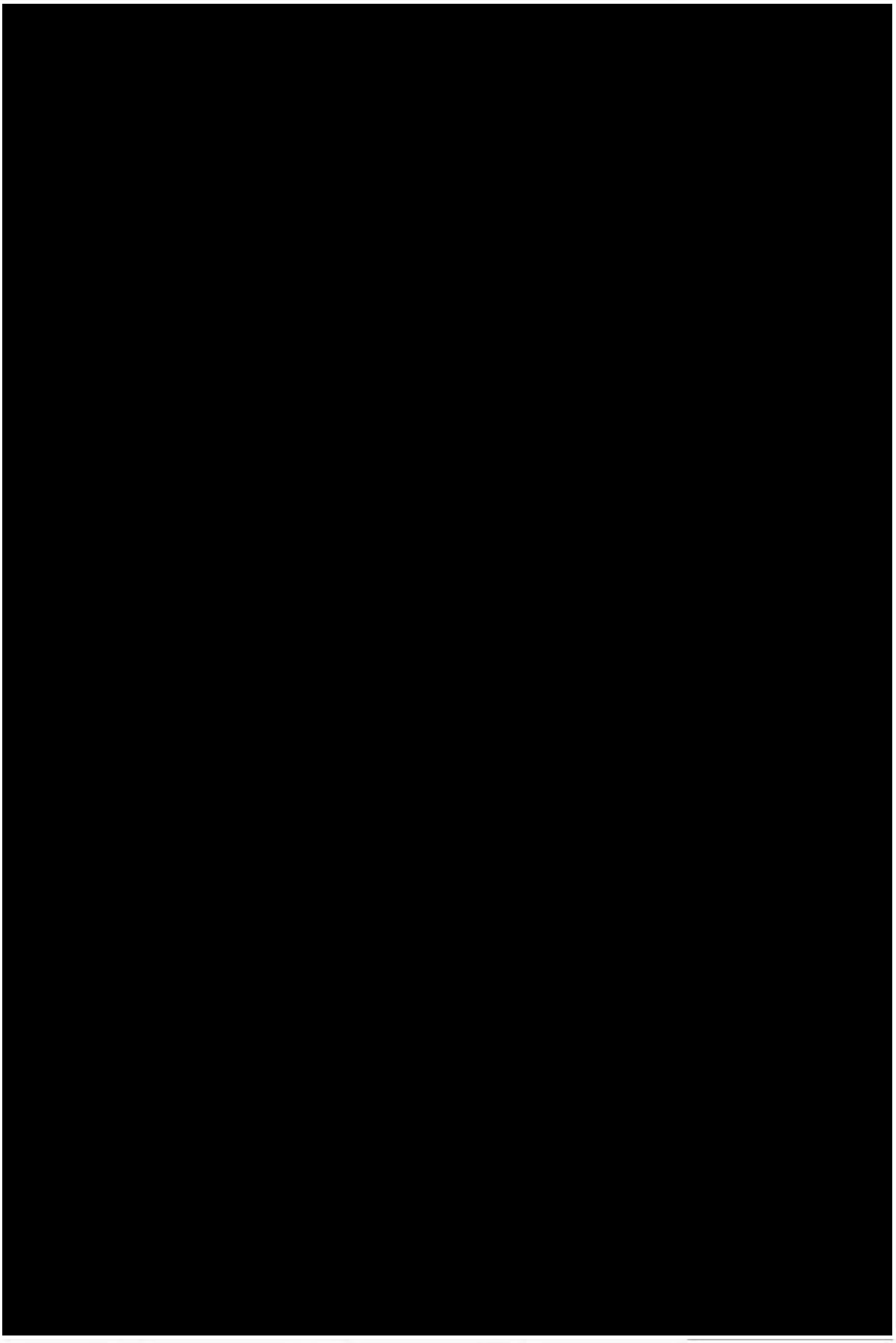
[28/01/2020, 21:04:04] Samantha Sacramento: Thanks for the meeting it was good, there was a lot on the back burner for a while but that's ok. It needs to be done. I have all the time in the world for anything that needs to get done

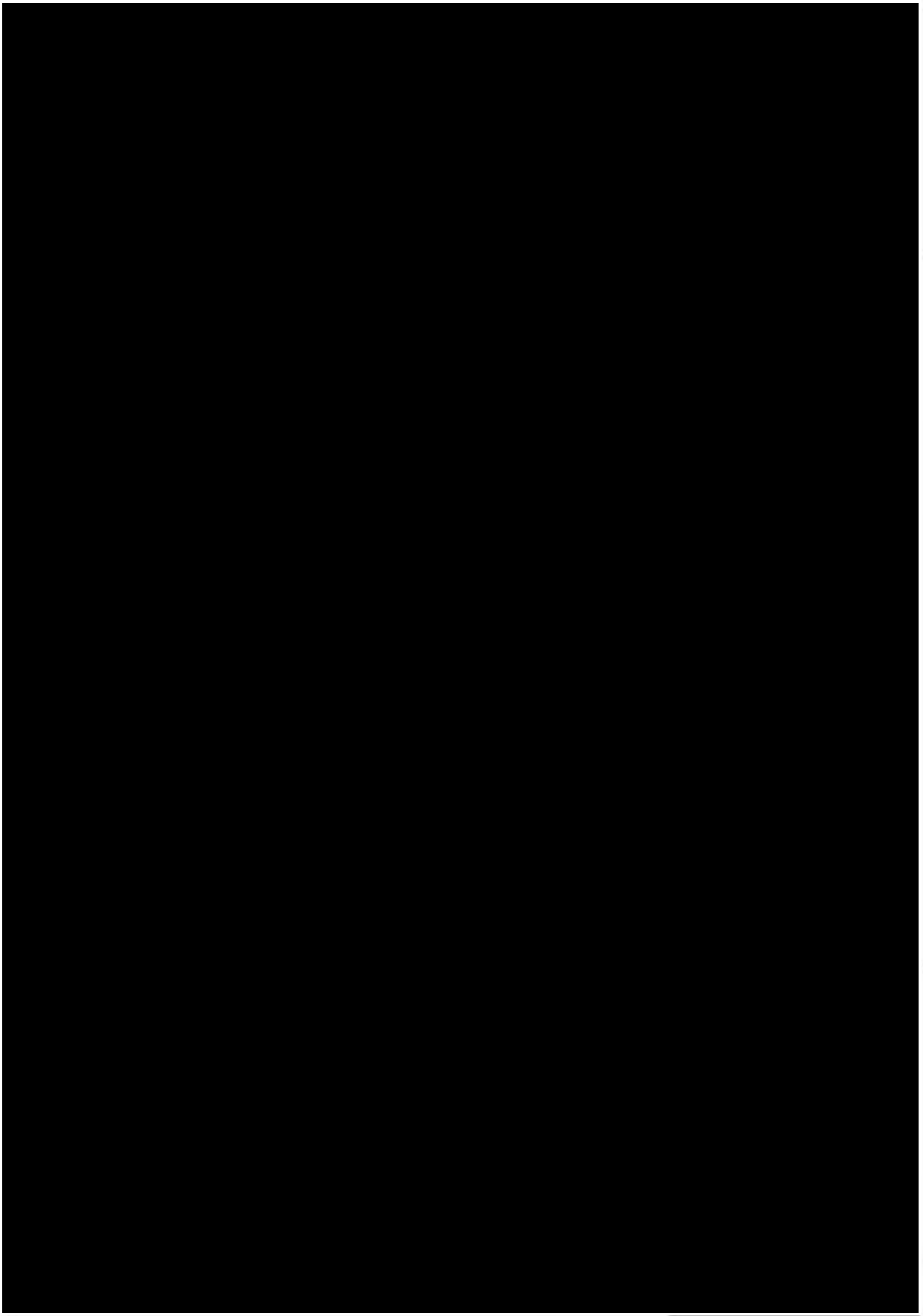
[redacted]

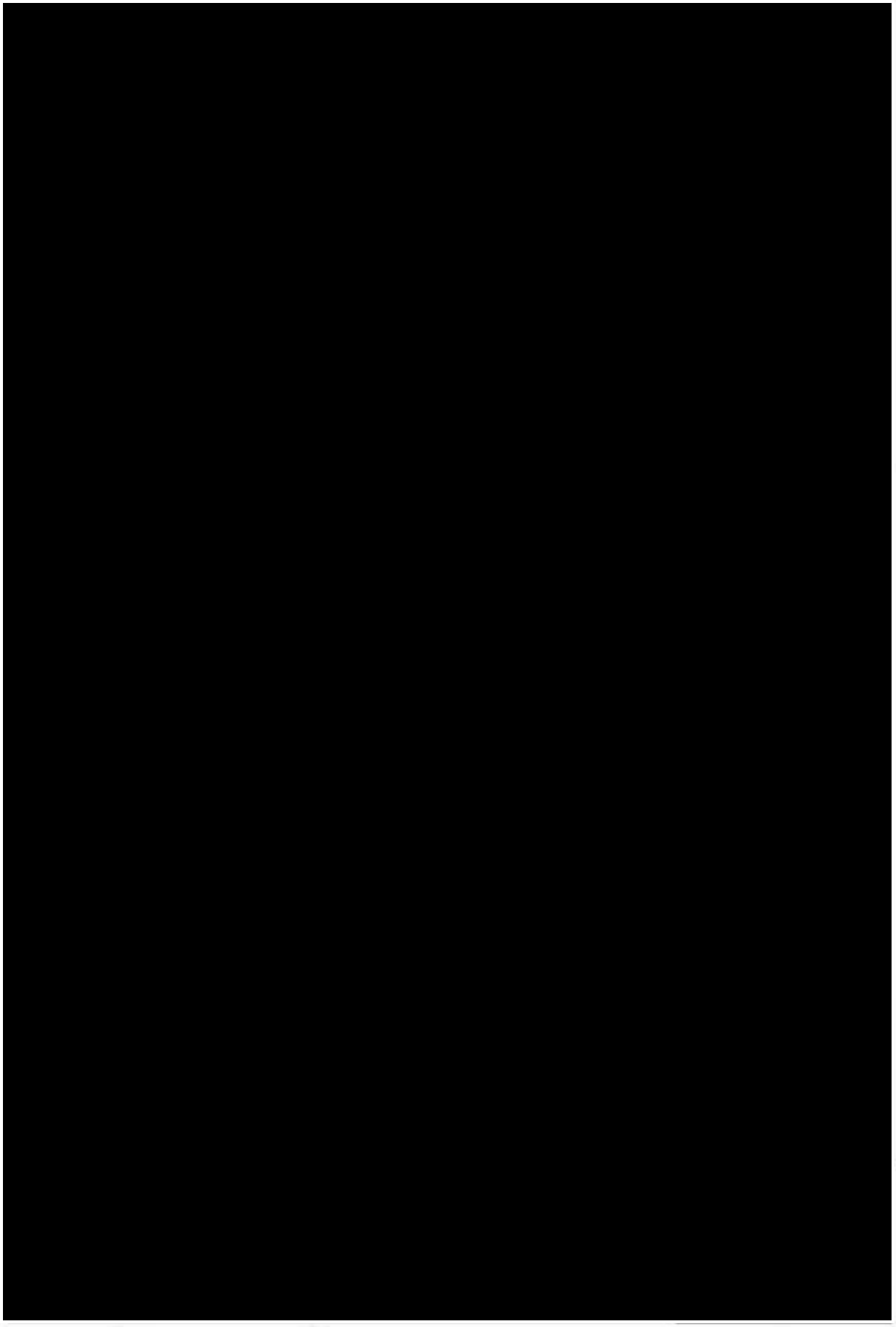
[29/01/2020, 11:23:46] Ian McGrail: Good morning Minister - just to let you know that I have secured a meeting with the CM @ 1130am on Wed 5th Feb.

My colleagues and I are extremely concerned at how things are panning out with the GPF and the consequences of these.

Rgds









[04/02/2020, 15:39:25] Ian McGrail: Good afternoon - I am scheduled to meet with the CM tomorrow regarding the police federation. Will you be there? Its at 1130am.

Were you able to speak to him on the matter?

[05/03/2020, 14:35:36] Samantha Sacramento: Hi. I spoke to chief secretary about Marion this morning

[05/03/2020, 14:48:45] Ian McGrail: Thanks. And what was he reaction? Its actually Darrien.

[05/03/2020, 14:49:28] Samantha Sacramento: Hahaha I wrote that and autocorrect kicked in and I didn't realised

[08/03/2020, 08:59:10] Ian McGrail: Minister- We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked.

I am invoking Post Incident Procedures and planning for consequence management.

I have advised CM & HE already.

Rgds

Ian

[08/03/2020, 09:25:32] Samantha Sacramento: Ian thanks for letting me know.

[08/03/2020, 09:25:49] Samantha Sacramento: If there is anything you need from me let me know

[08/03/2020, 09:41:10] Ian McGrail: Many thanks

[10/03/2020, 12:20:06] Samantha Sacramento: Hi. How are the officers ?

[10/03/2020, 13:12:04] Ian McGrail: Our officers are ok. We are constantly keeping tabs of their welfare. We are expecting them to come today at some point to provide a detailed account of what occurred. This is in accordance with our force policy on post incident procedure. Thanks for your interest. Its much appreciated.

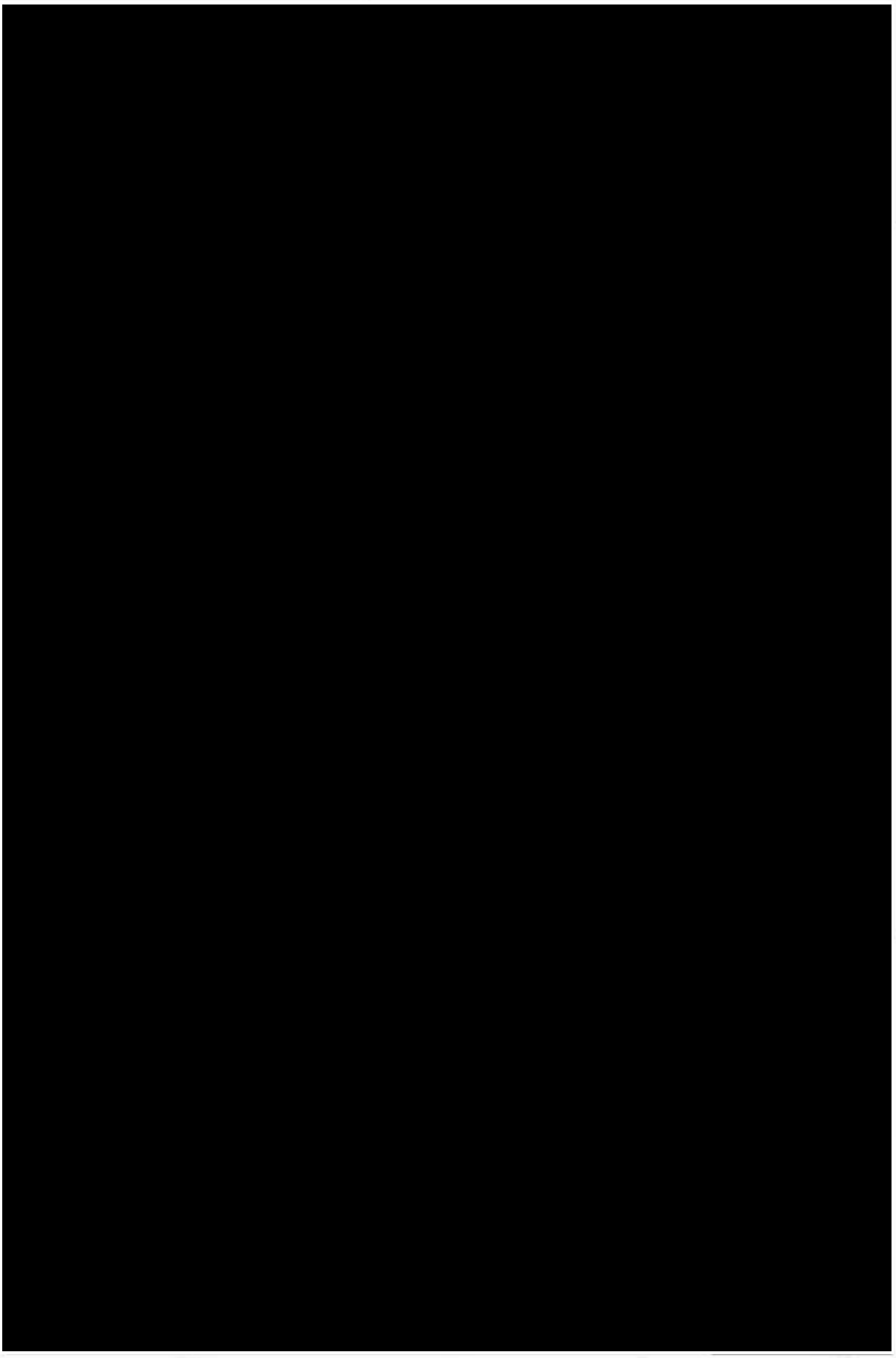
[10/03/2020, 13:15:57] Samantha Sacramento: By pure co-incidence, last Friday I asked my office to organise on site visits to the traffic and marine sections because I had not yet visited. Probably now best to wait no ?

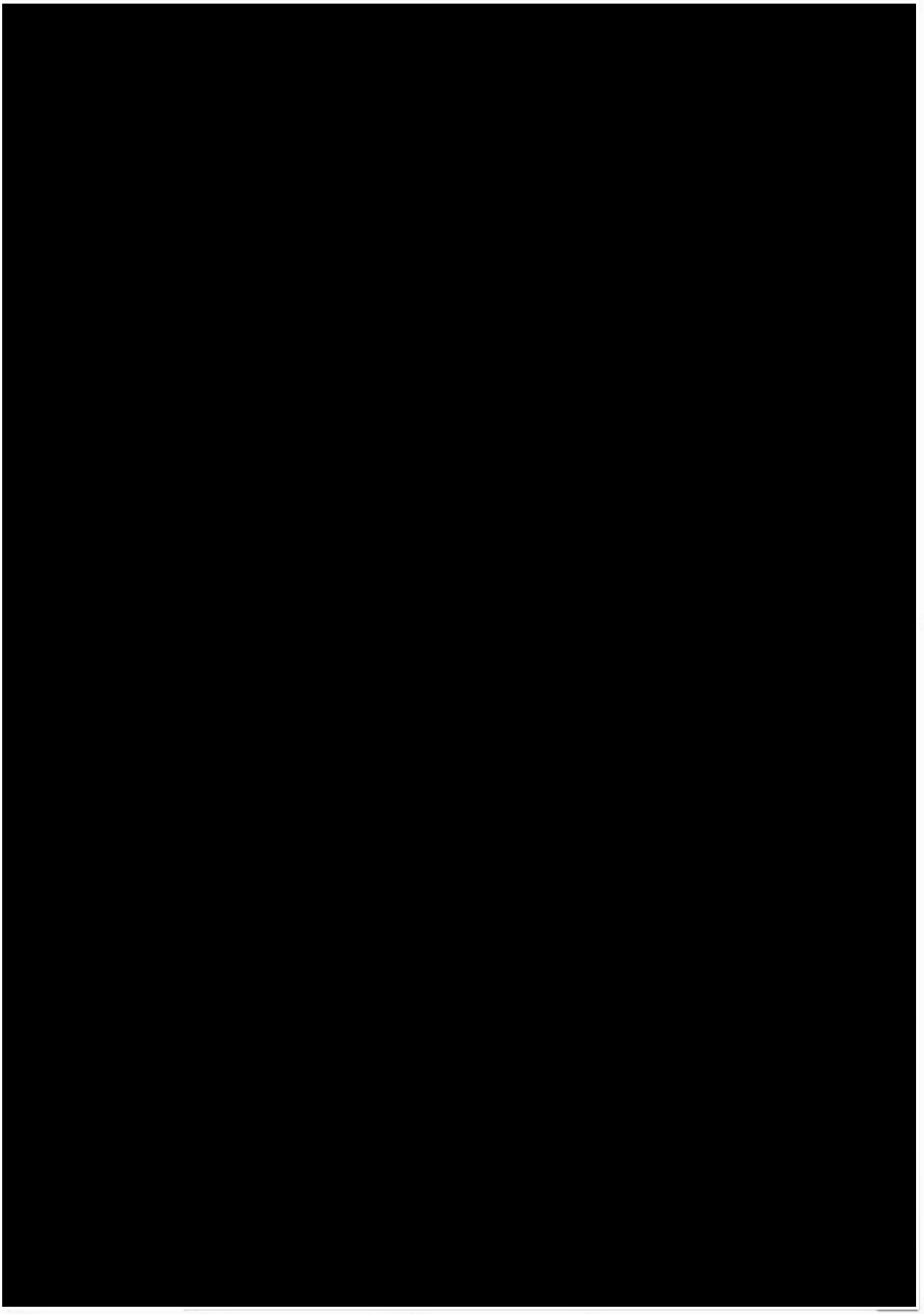
[10/03/2020, 13:16:56] Ian McGrail: Perhaps we could arrange for next week?

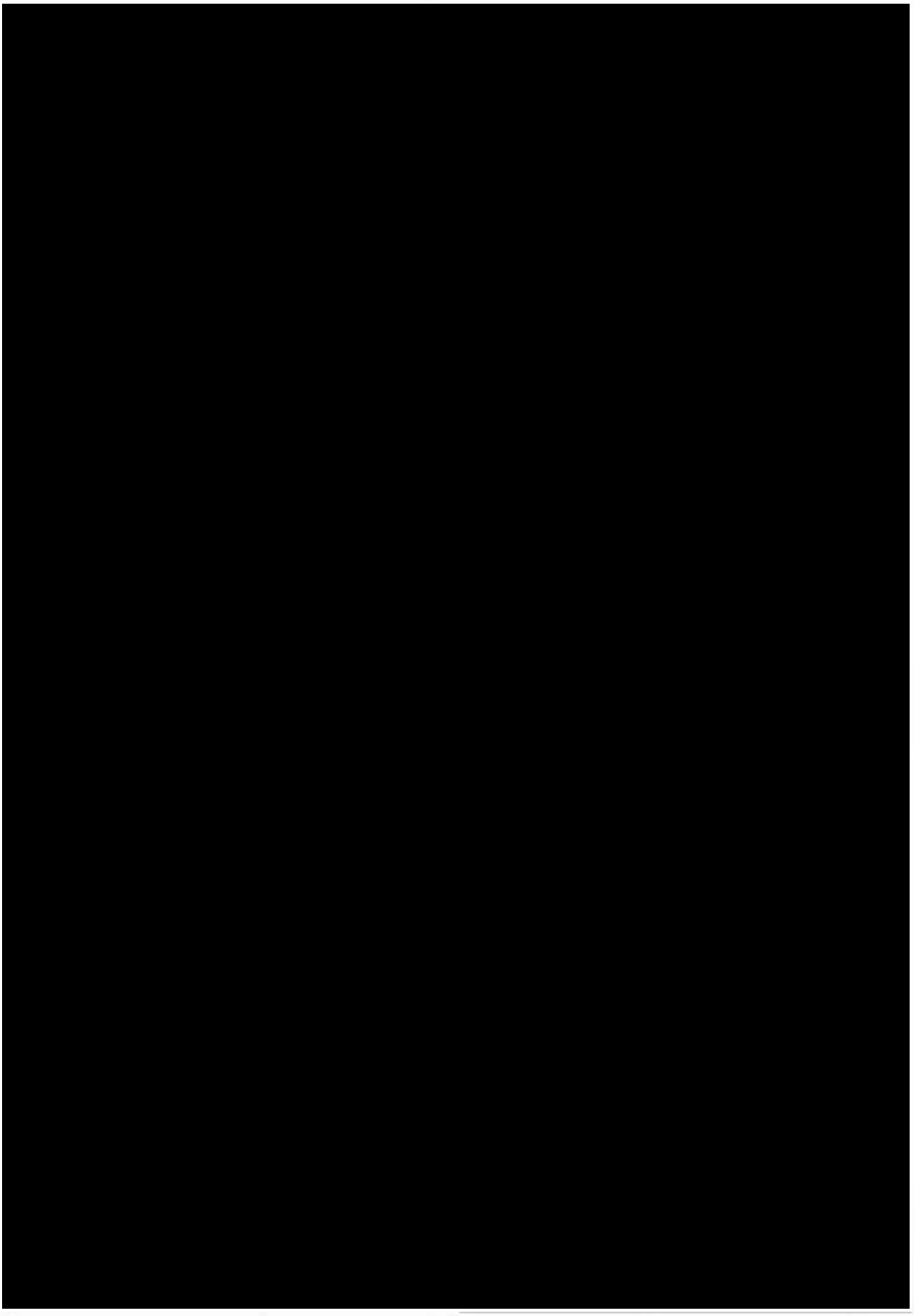
[10/03/2020, 13:52:05] Samantha Sacramento: Yes fine no problem I will ask Natalie to arrange .

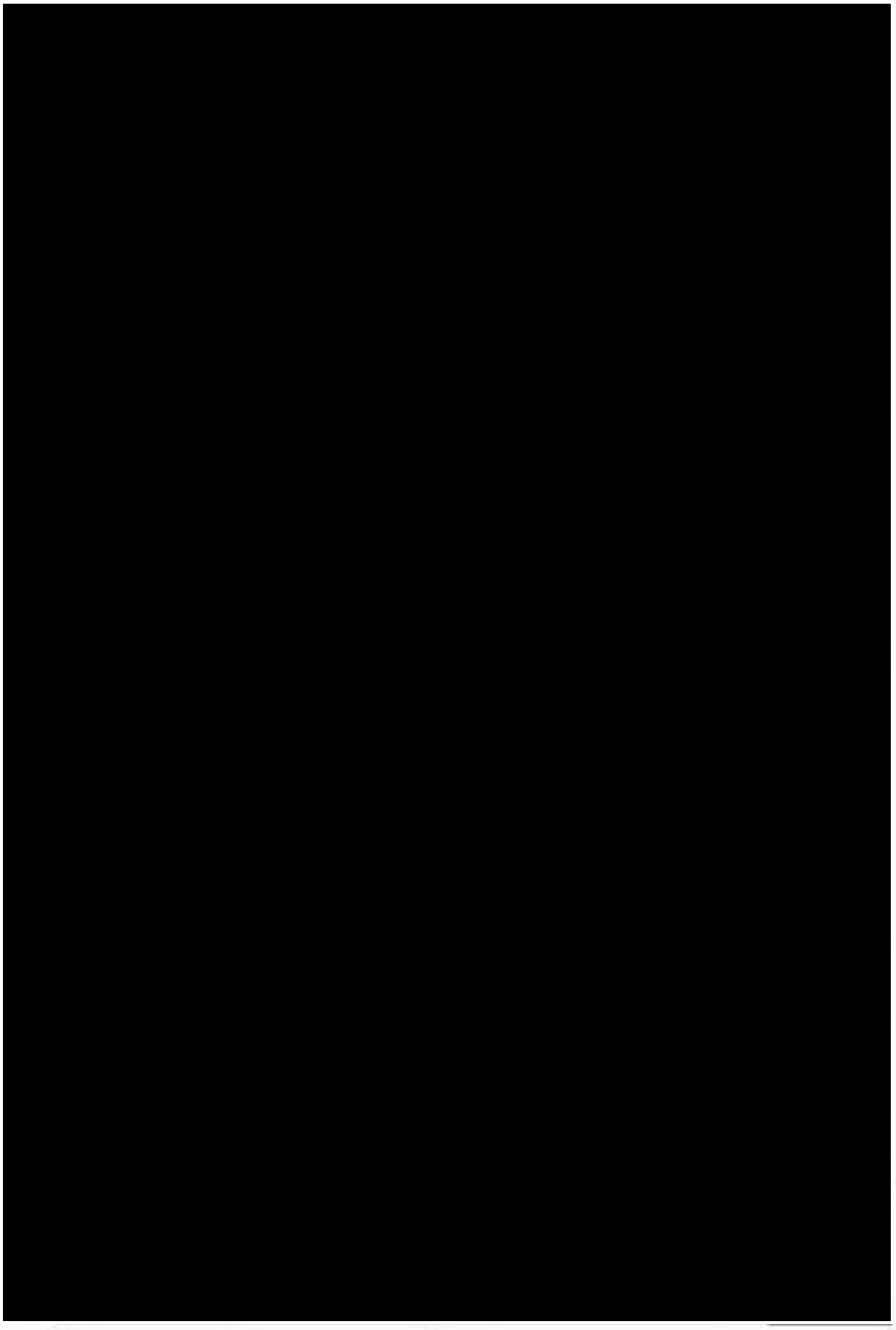
[10/03/2020, 14:02:23] Ian McGrail: 👍

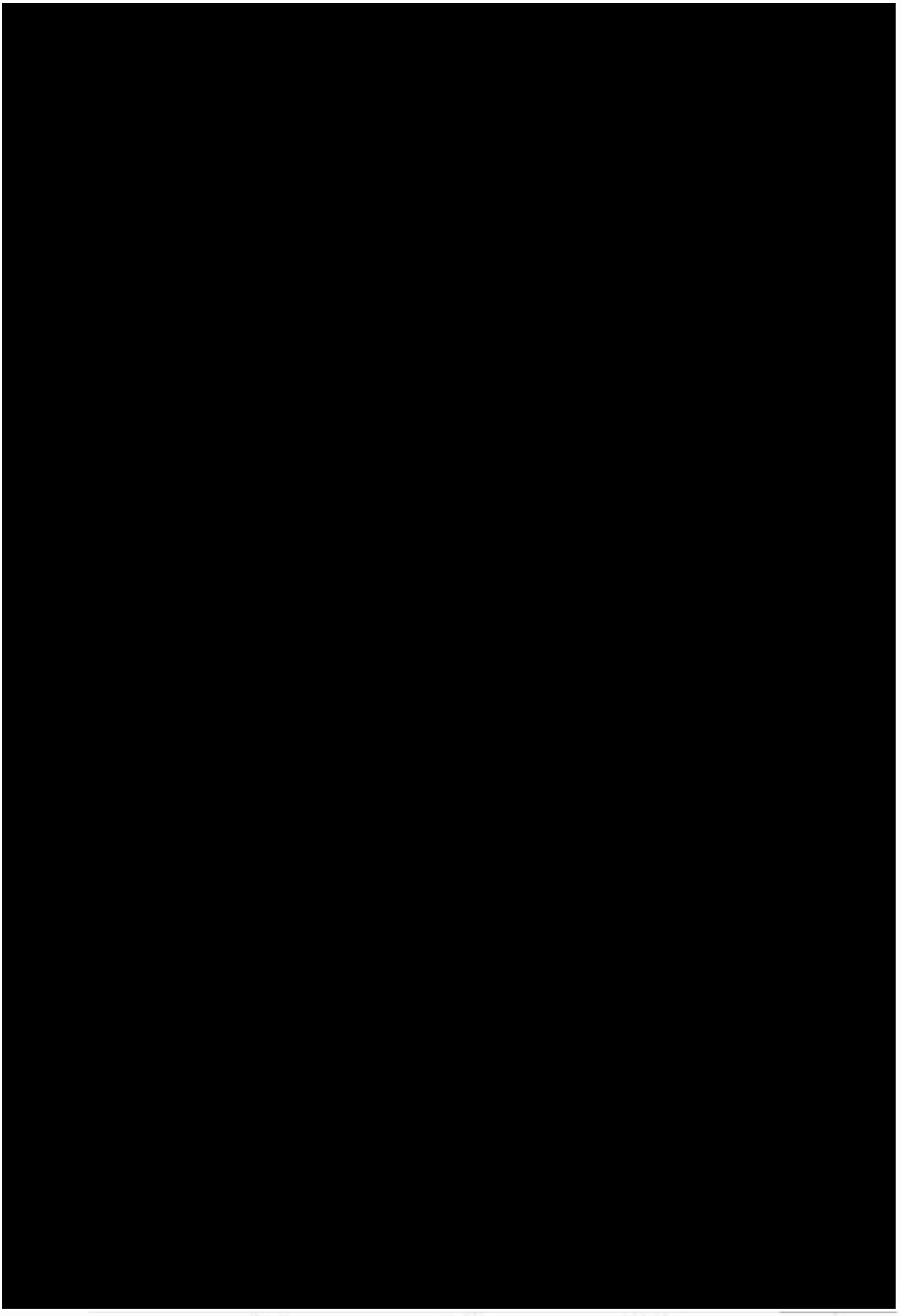
[12/03/2020, 20:59:17] Samantha Sacramento: Ian hi.

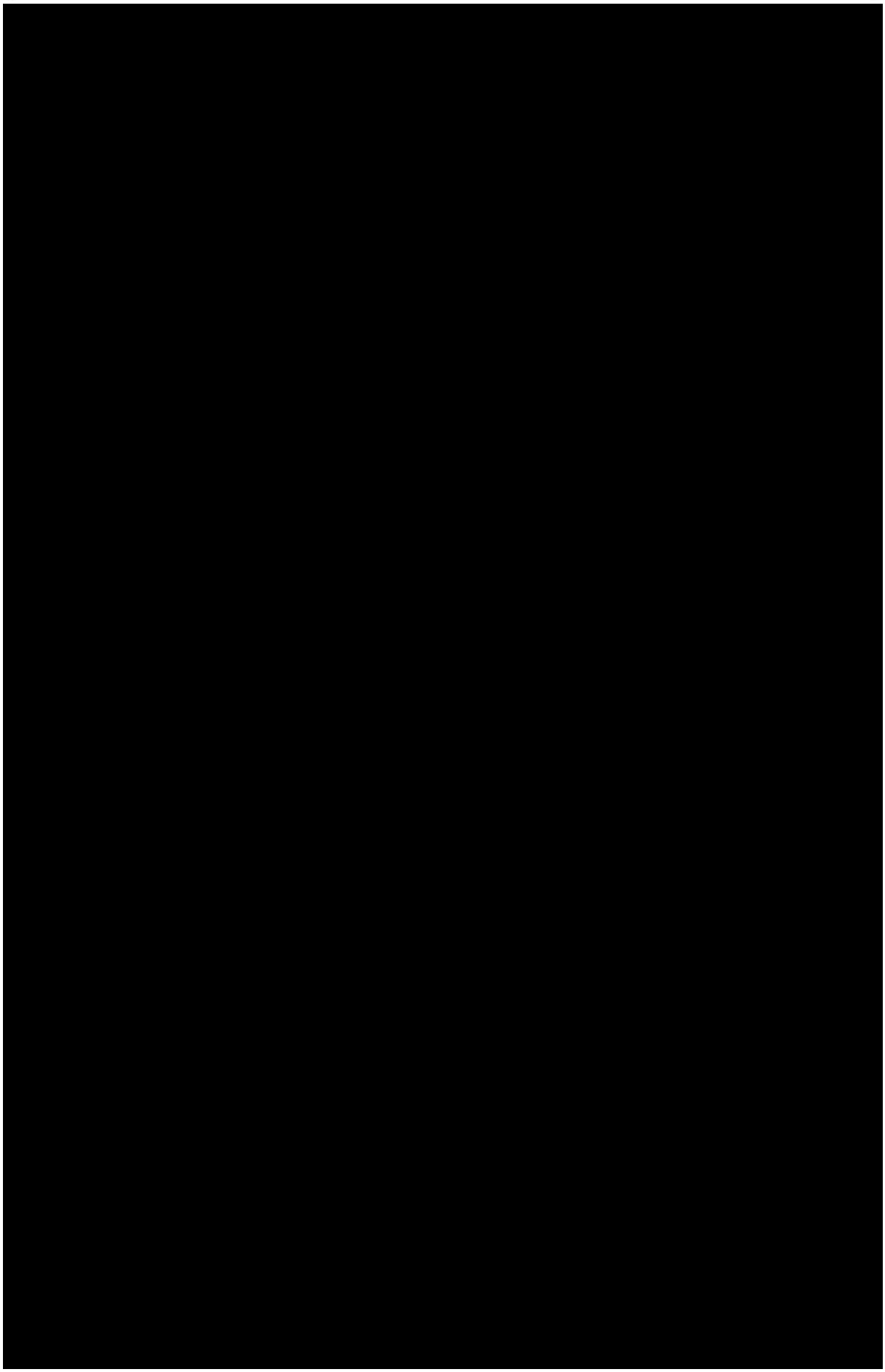


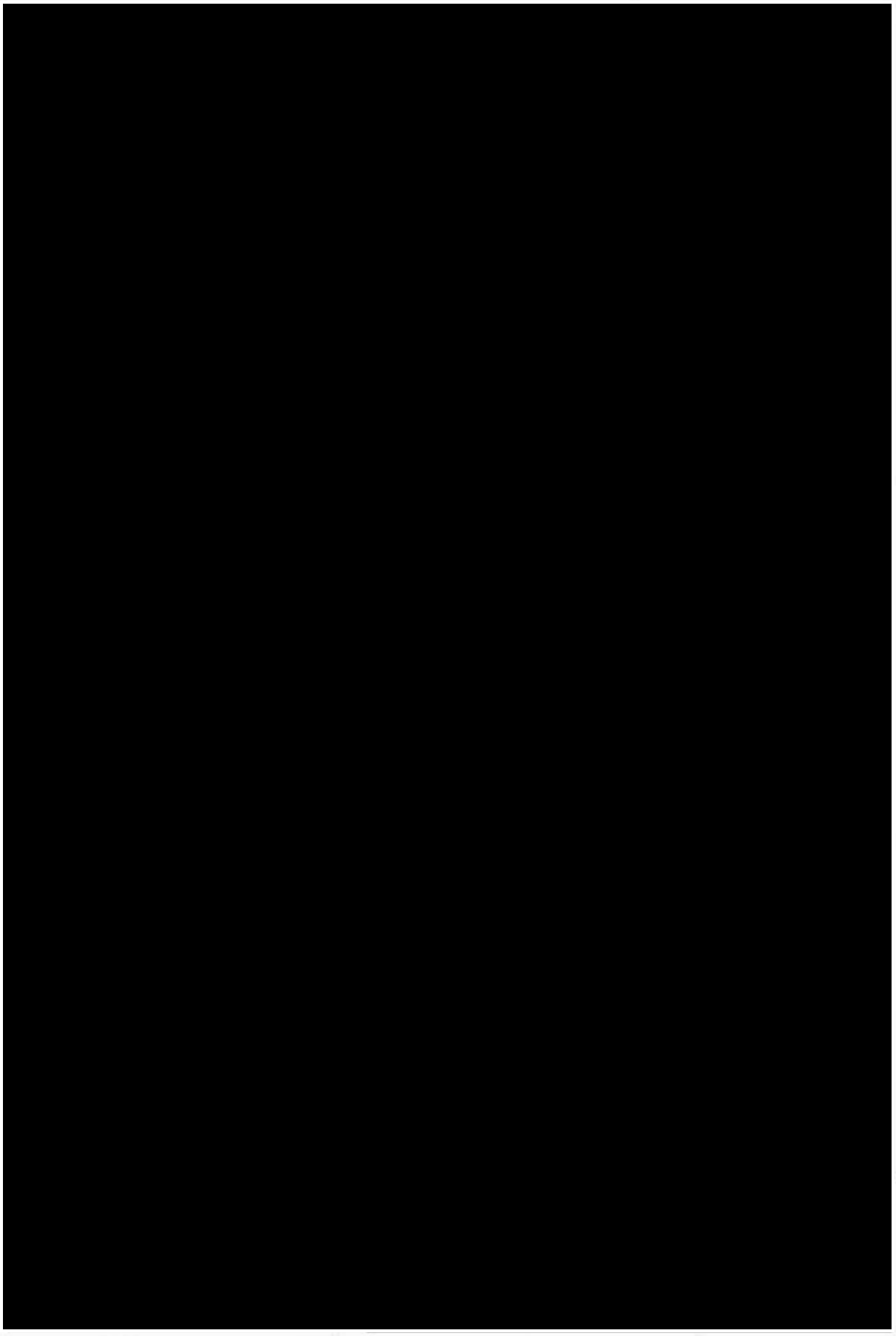


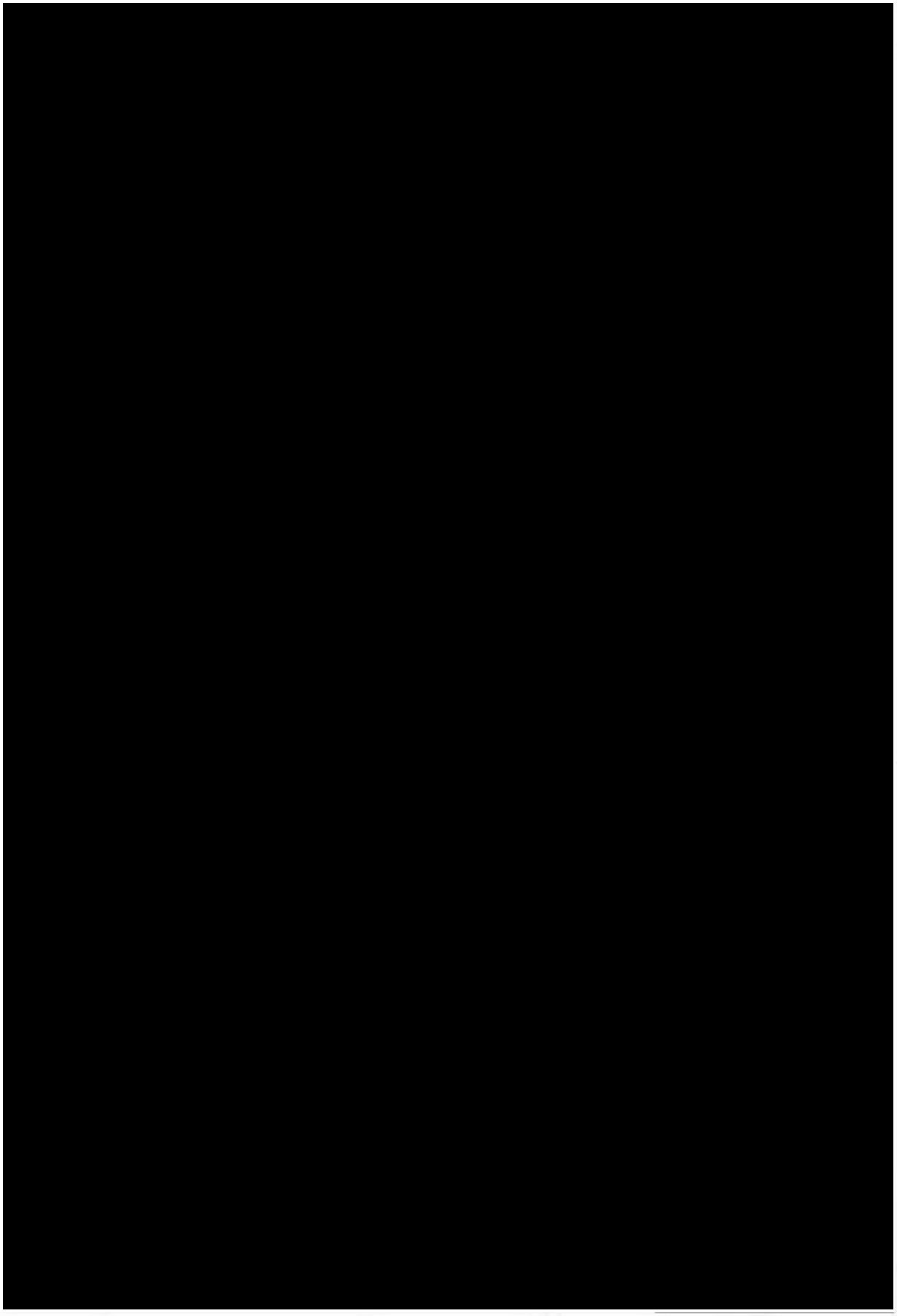


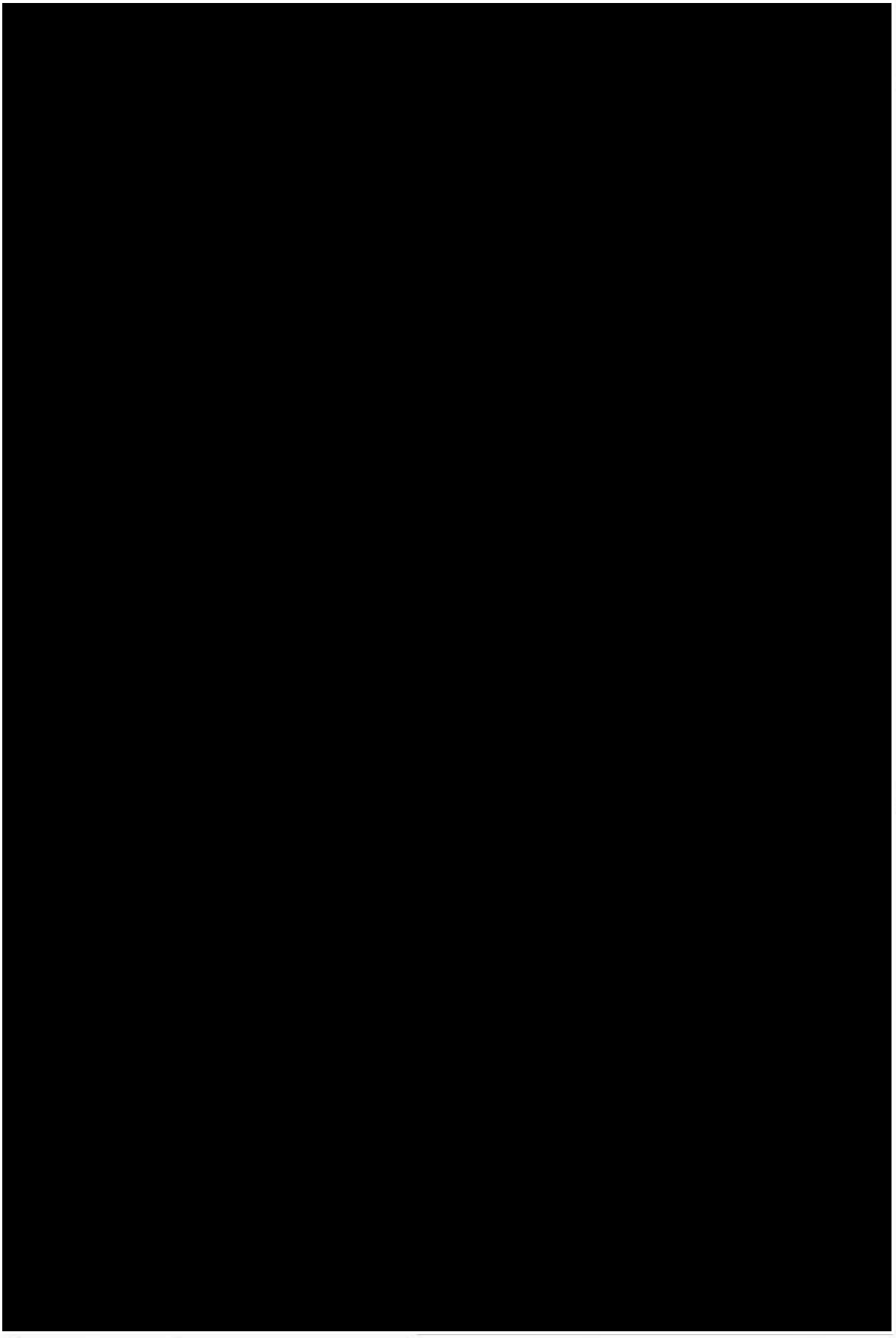


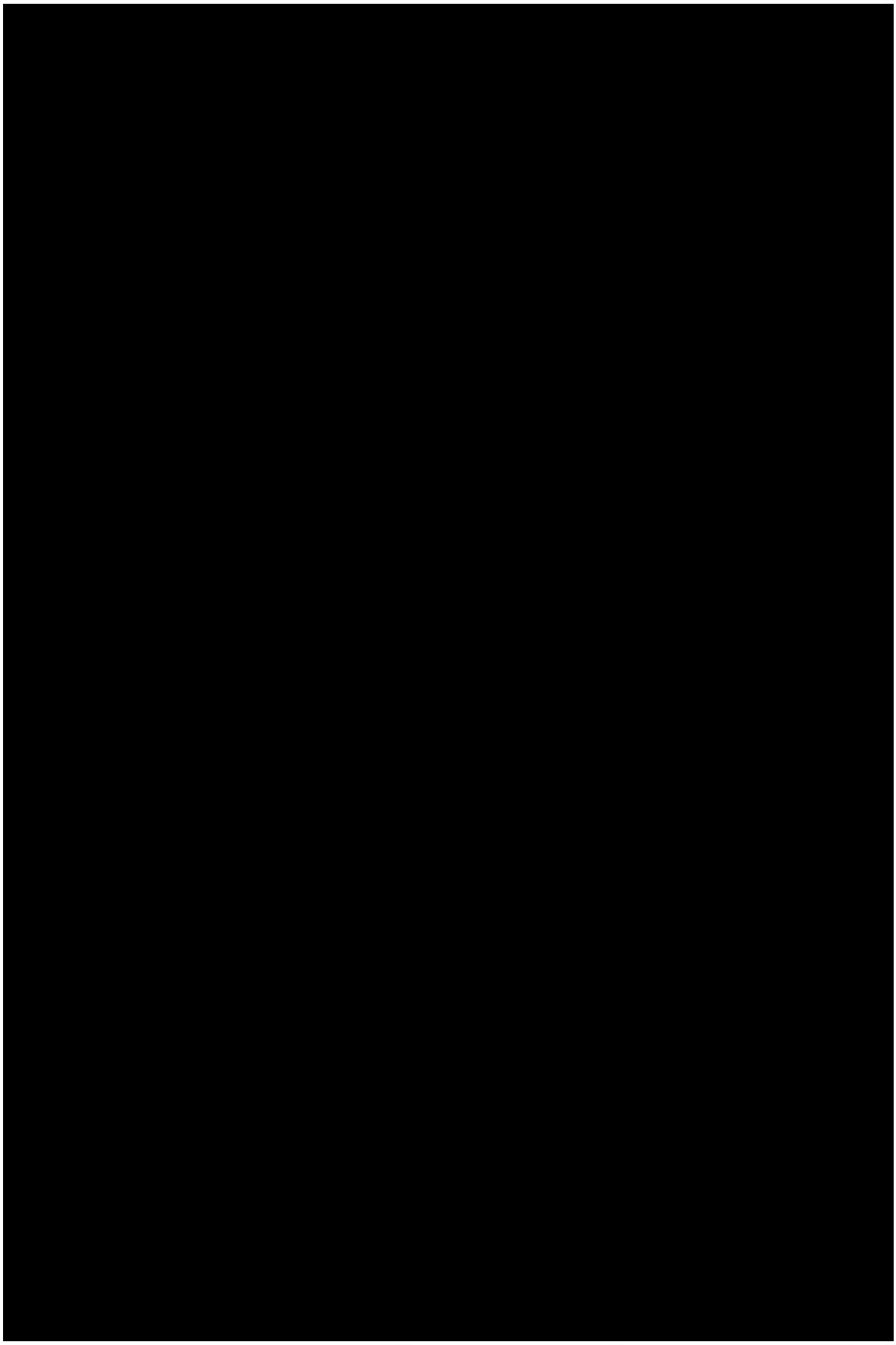


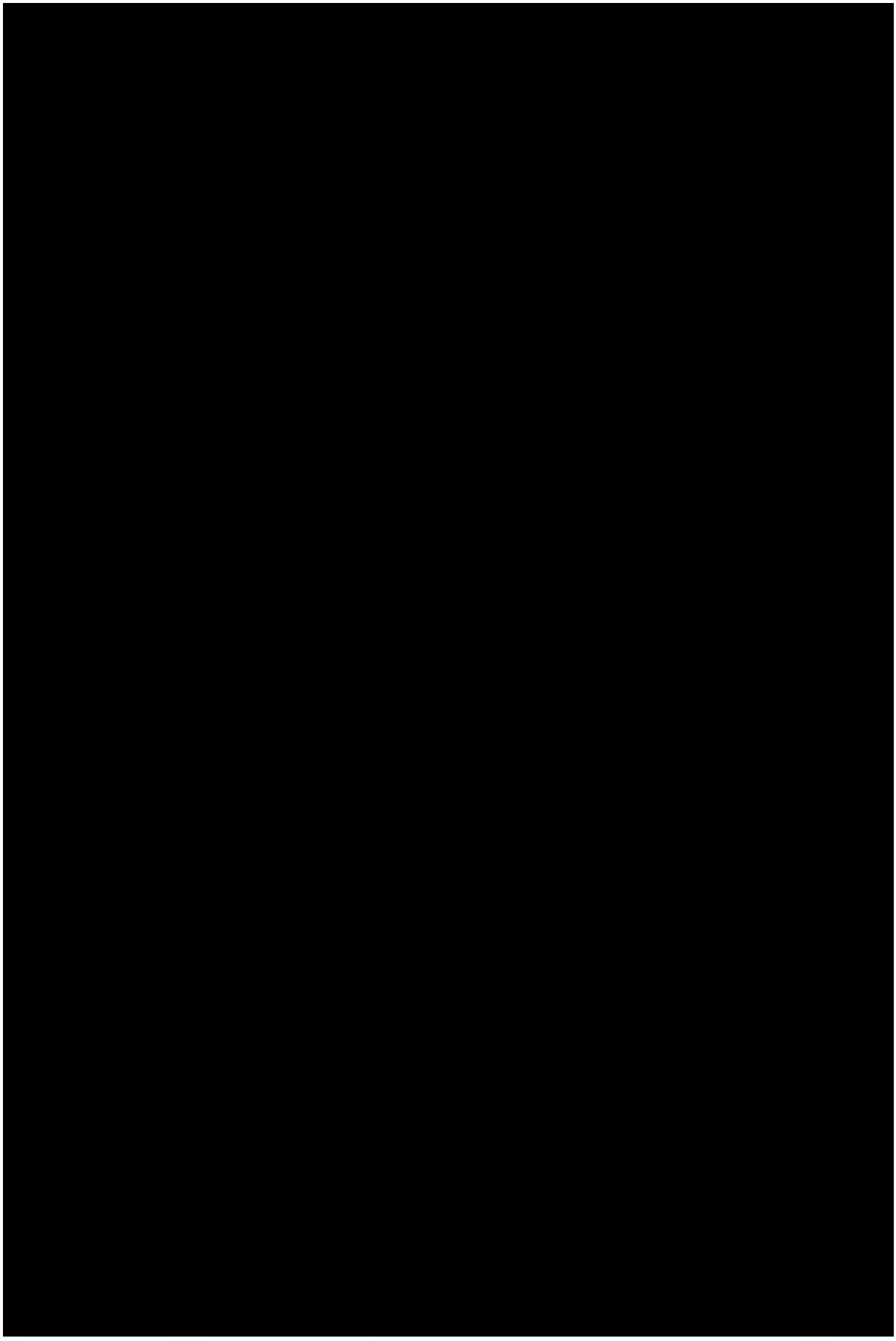


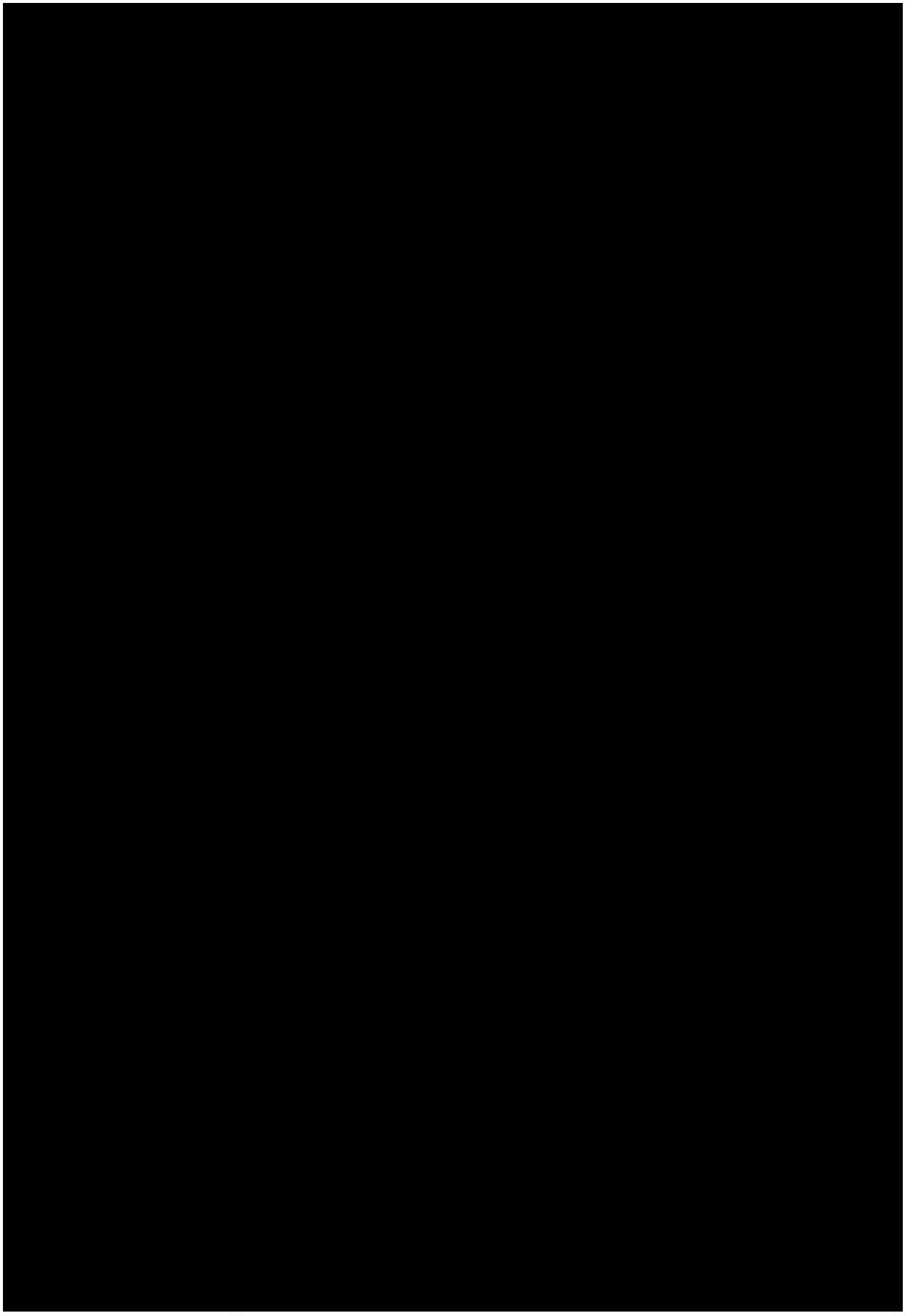


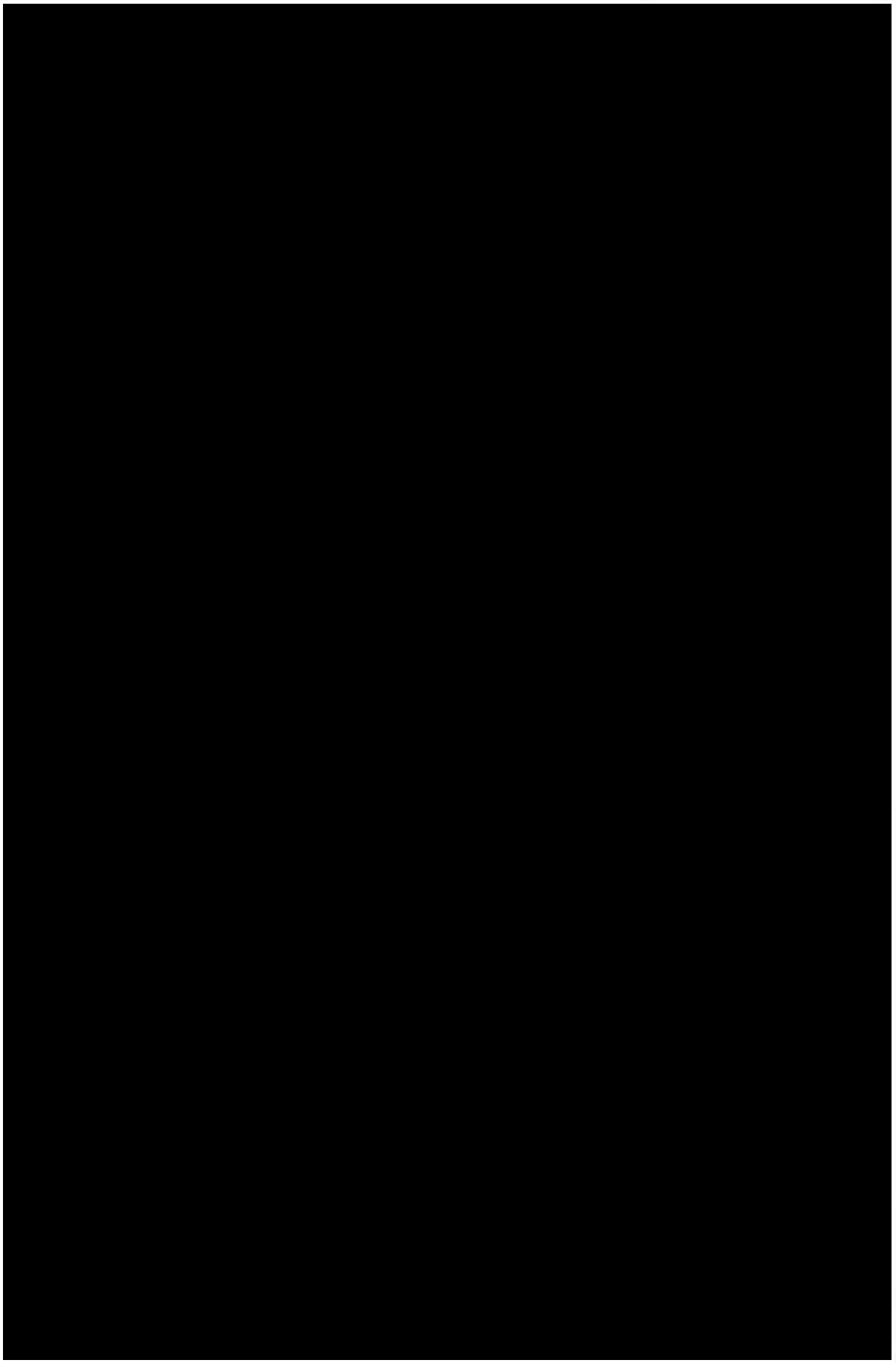


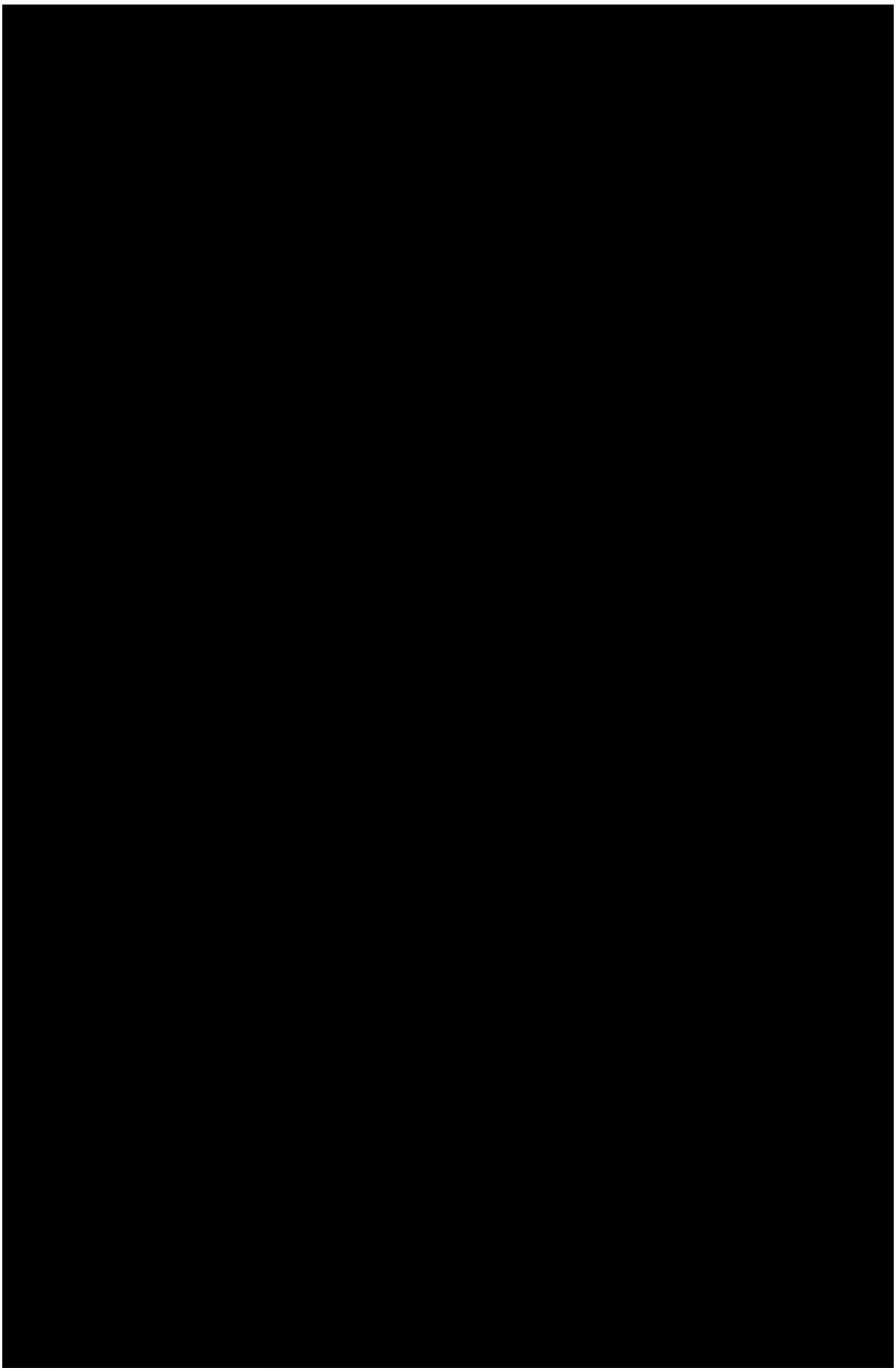


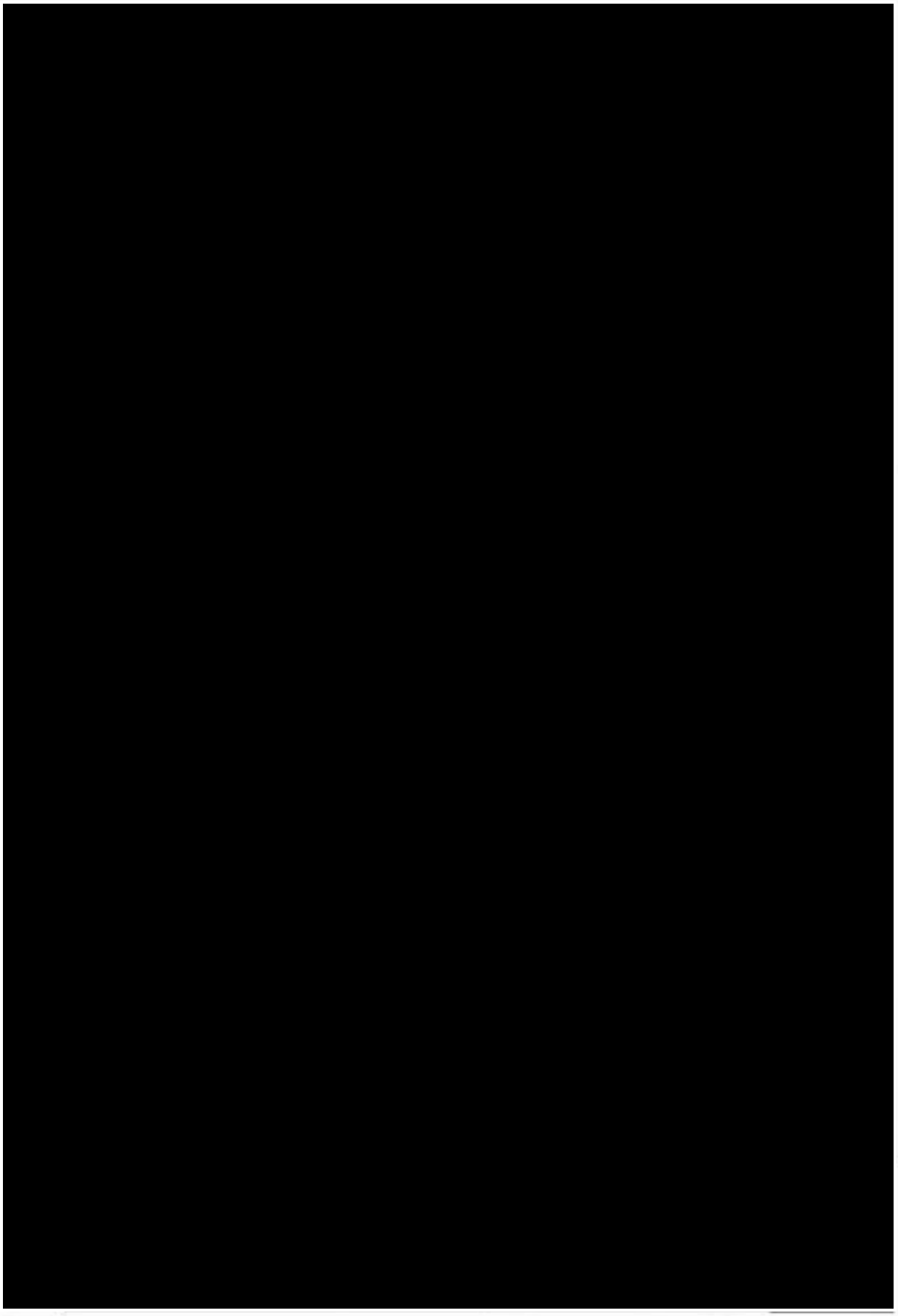


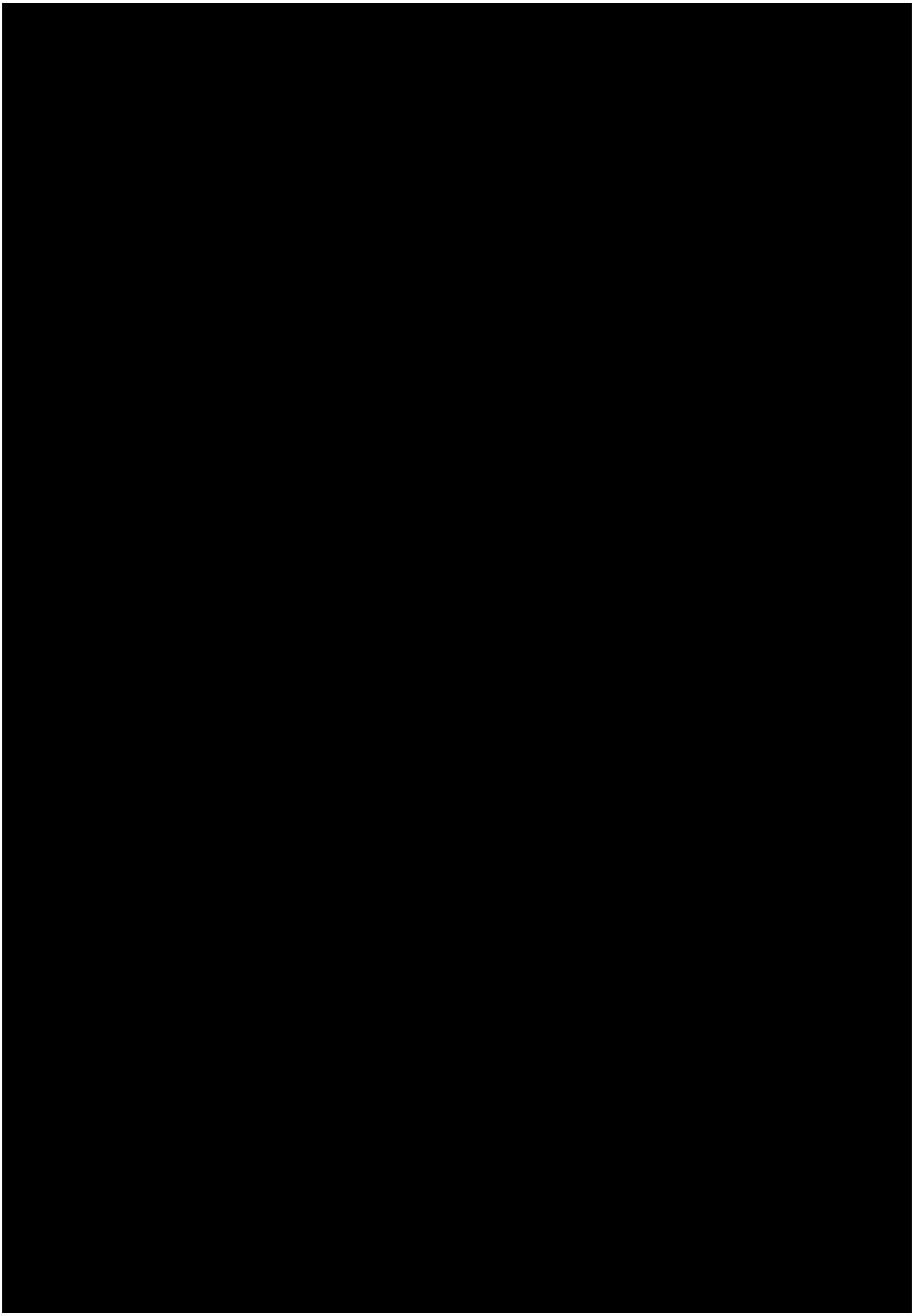


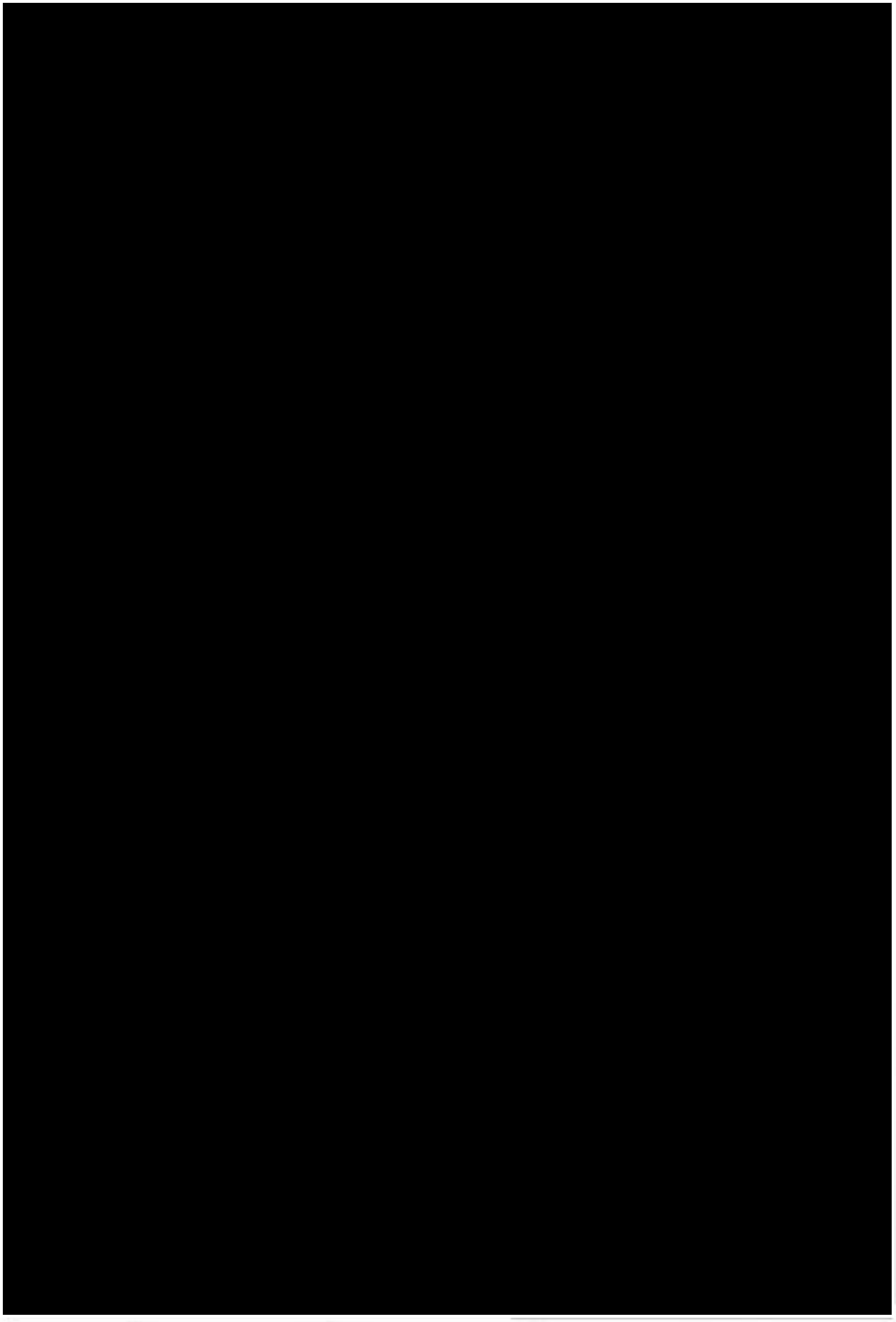


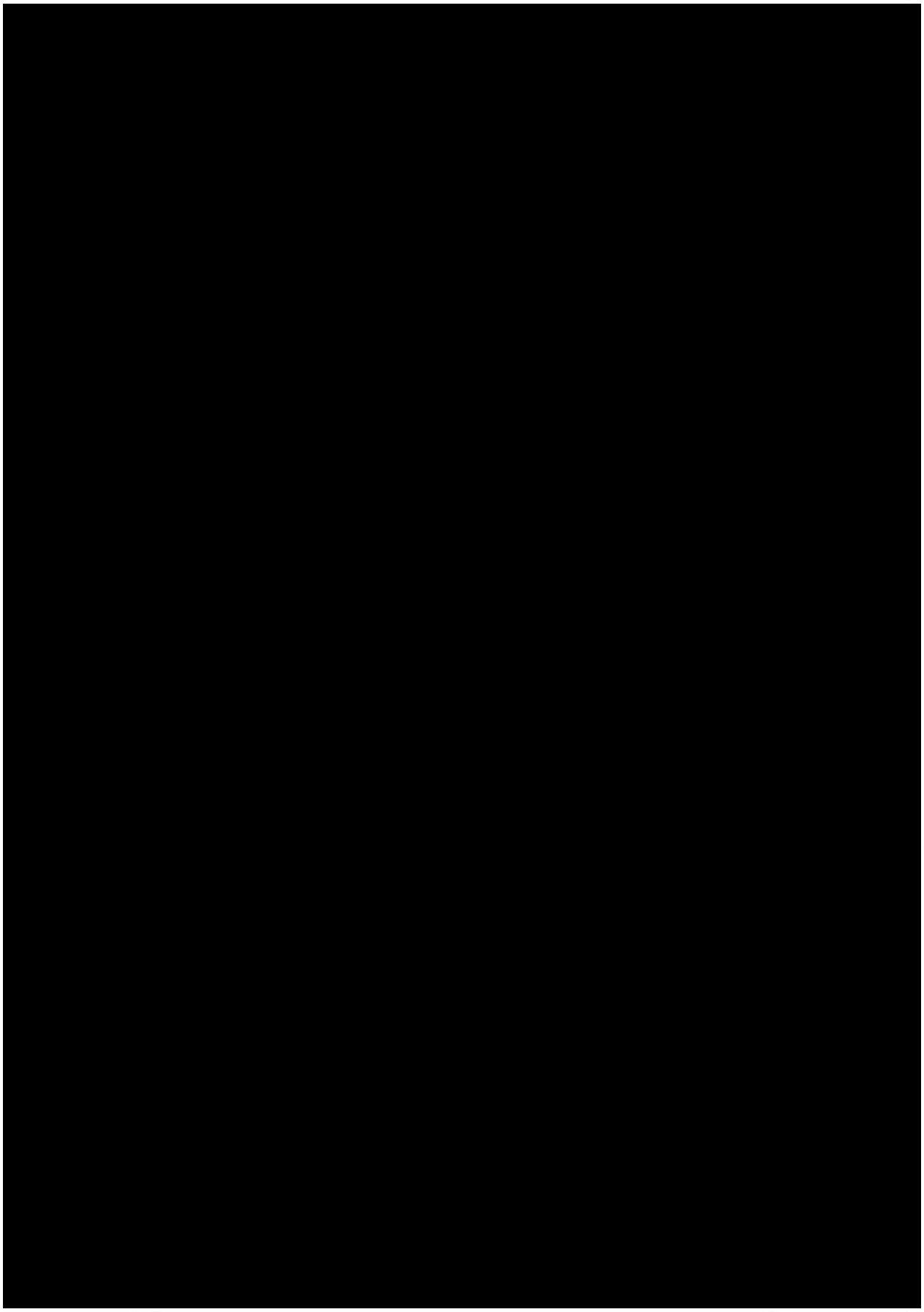


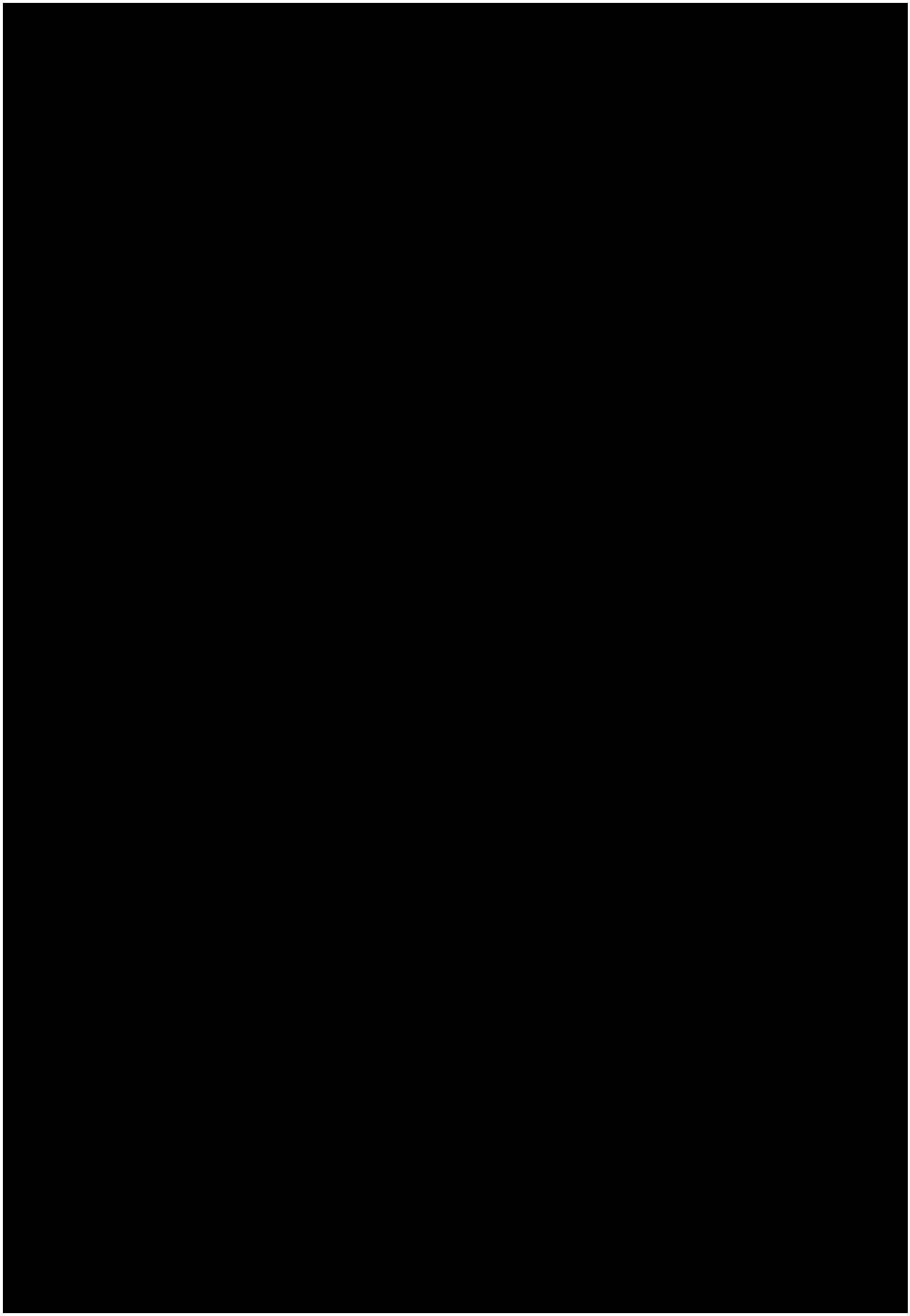


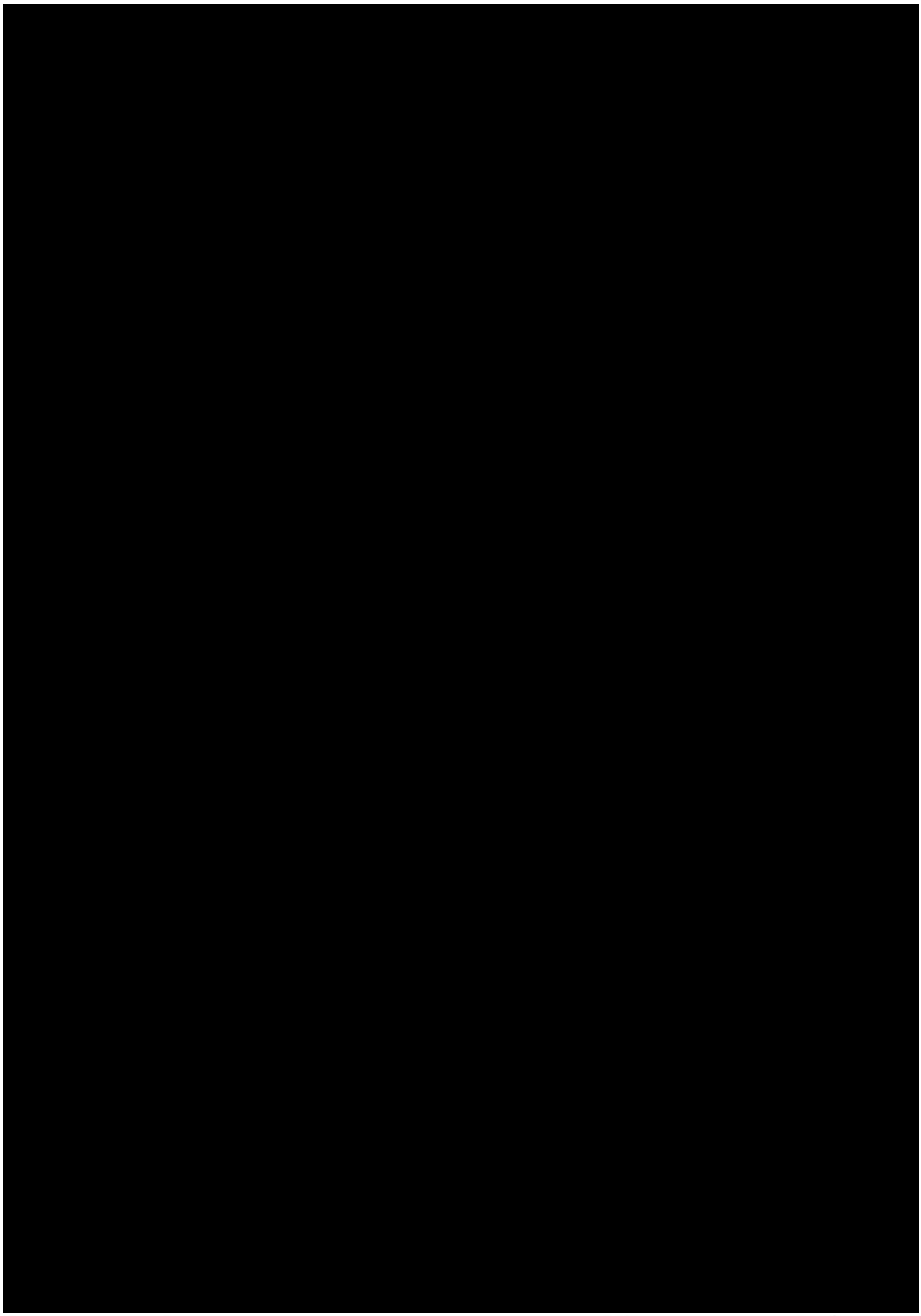


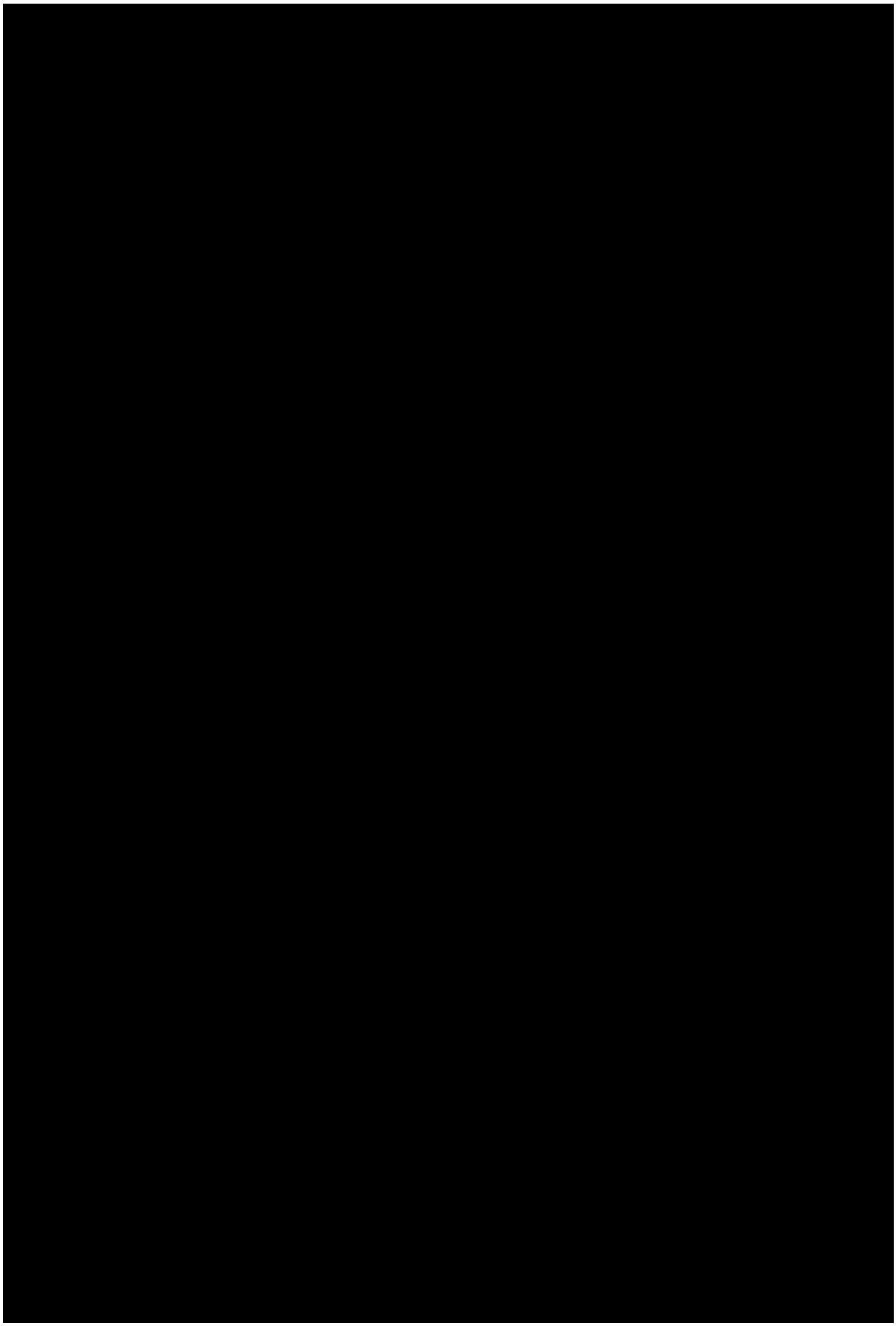








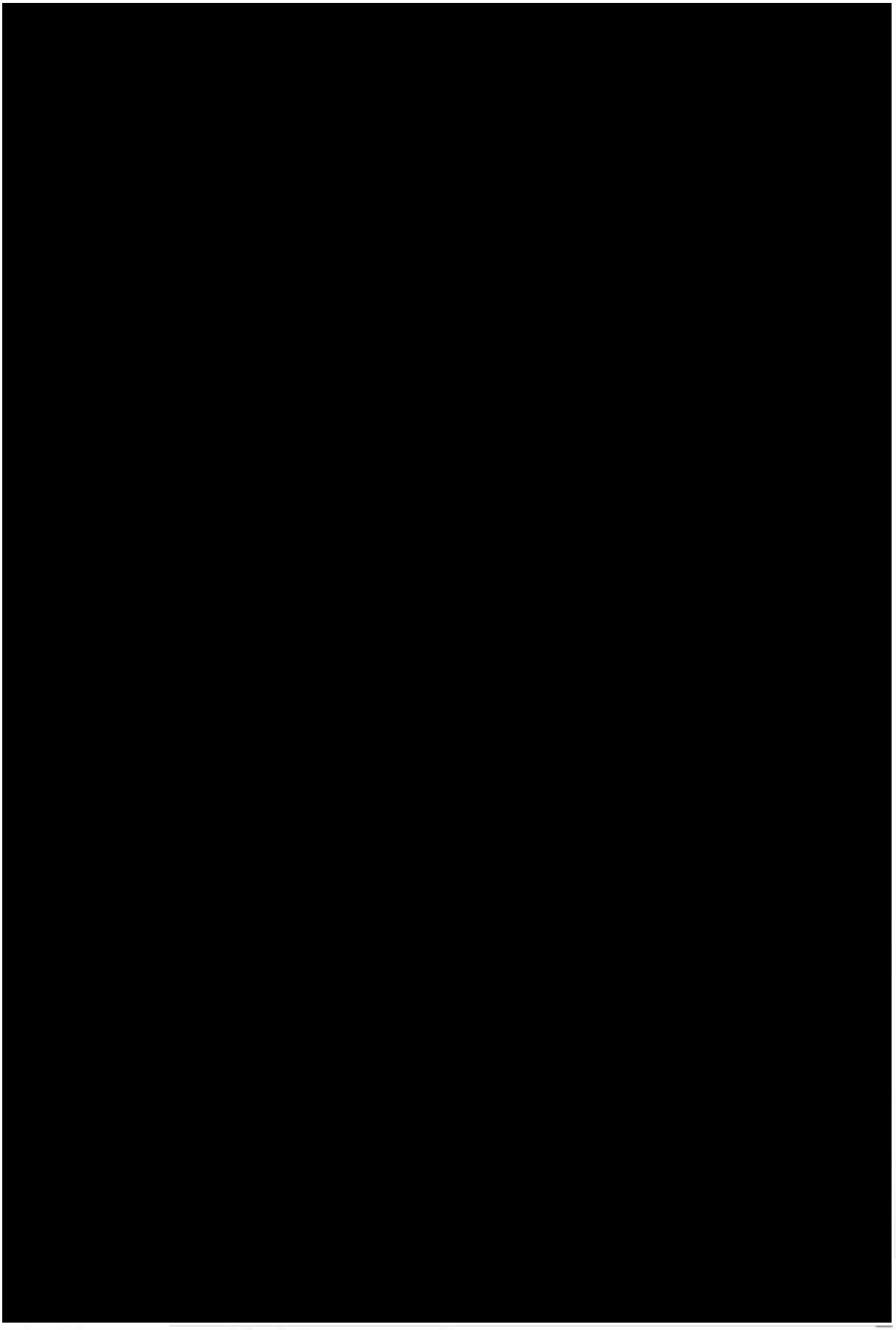


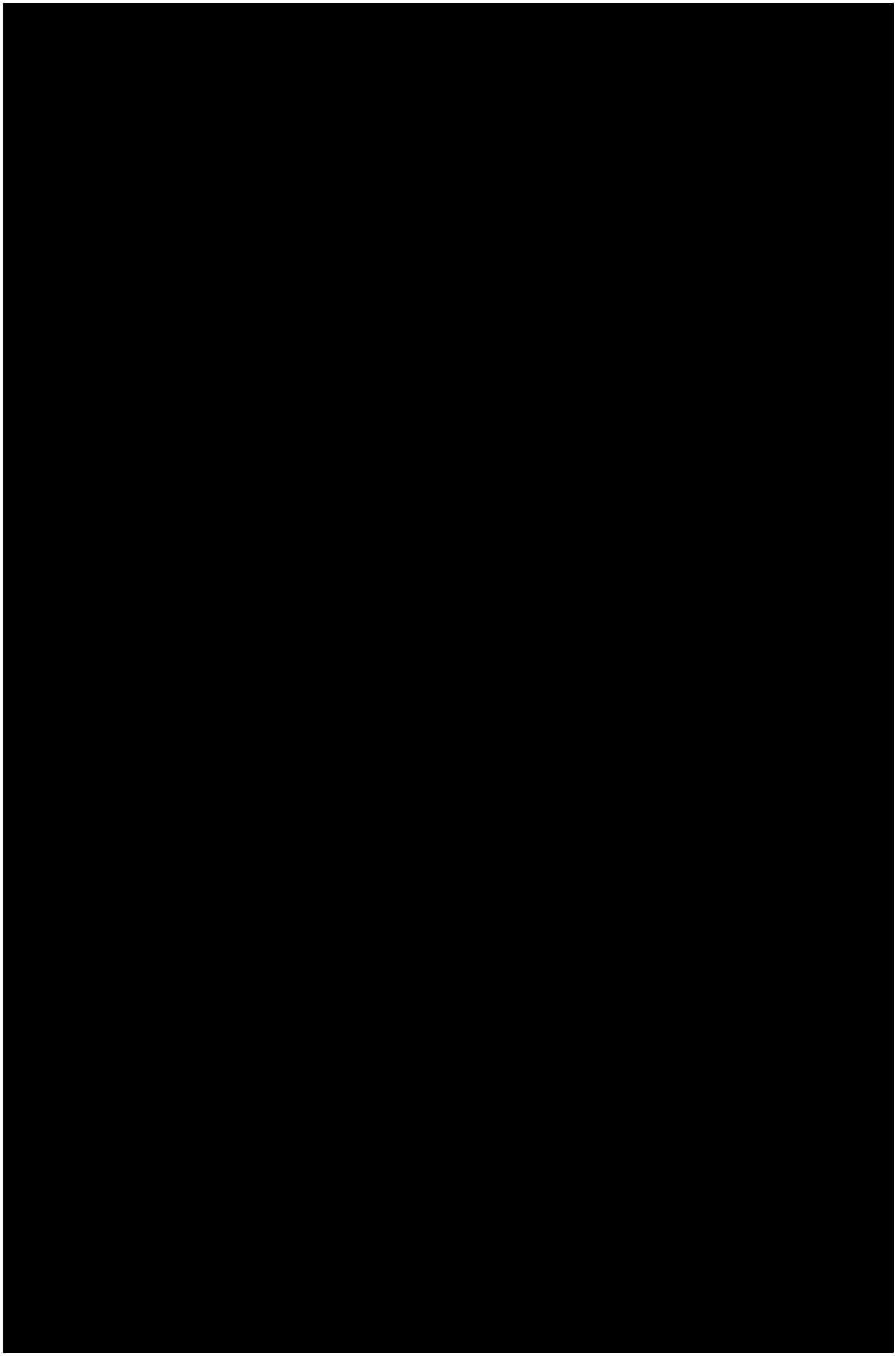


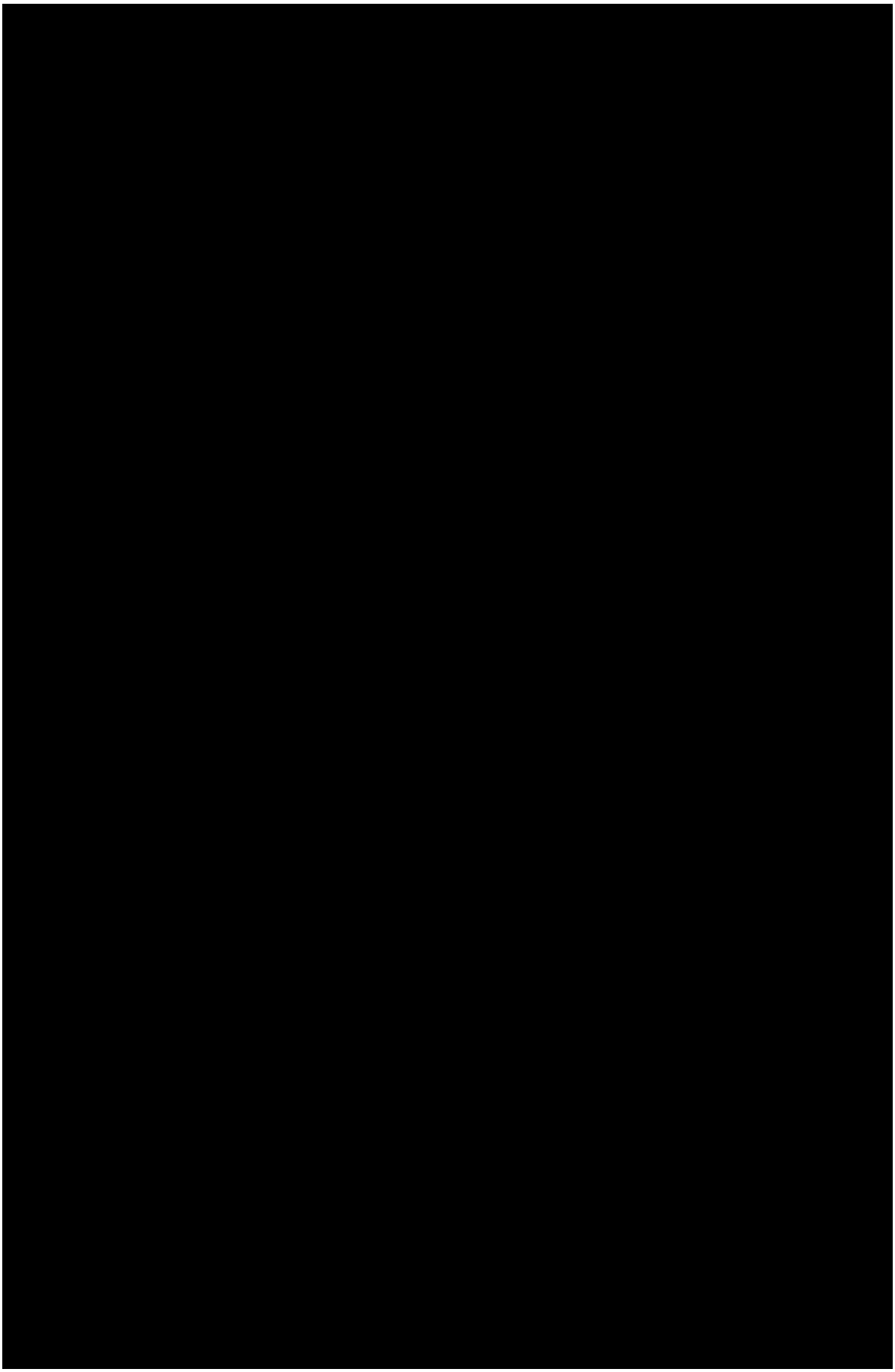


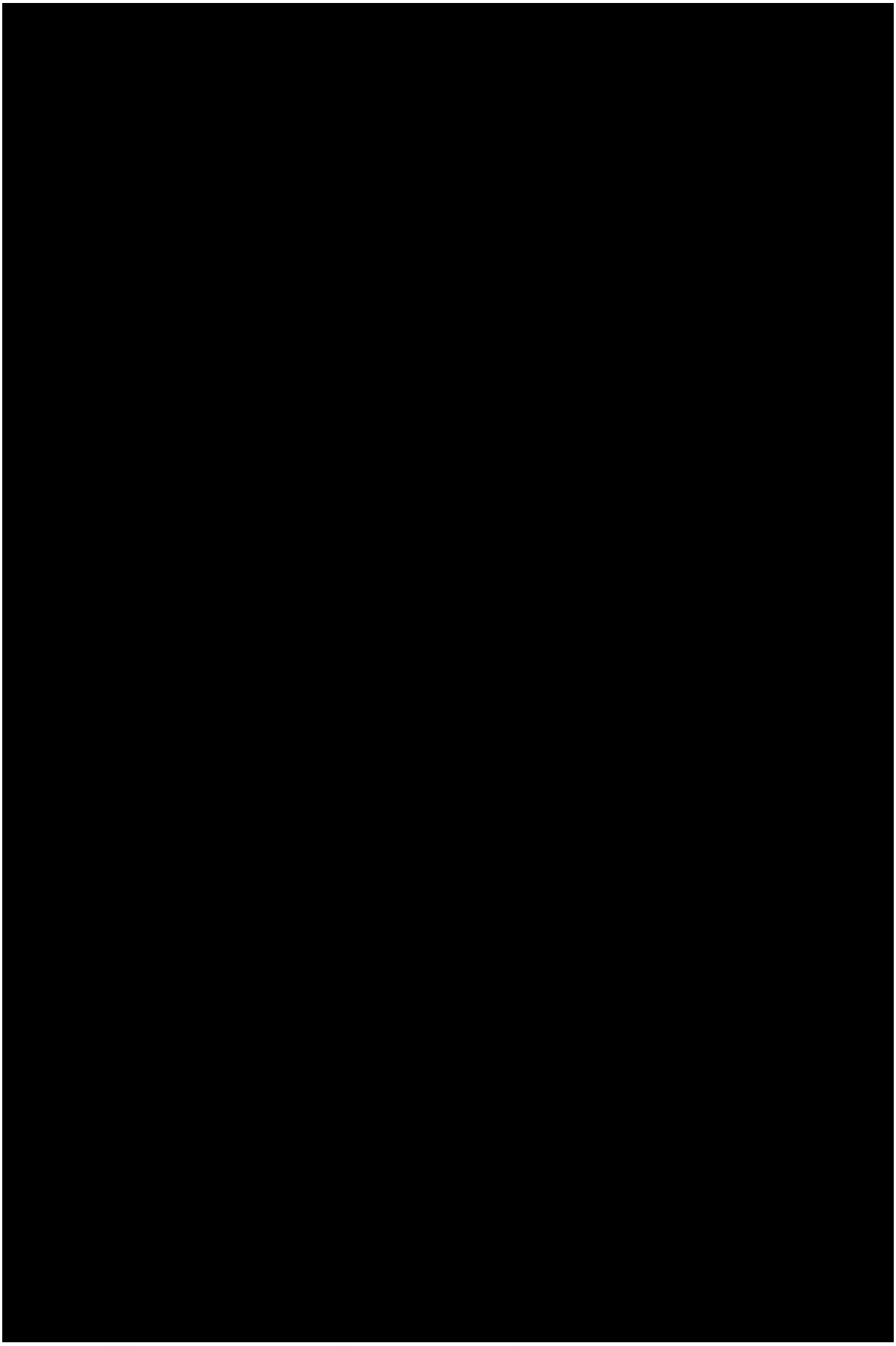
[29/04/2020, 13:08:36] Samantha Sacramento: The report is shocking reading on the face of it I, but if you analyse it deeper it's not that bad, and it's has easy solutions

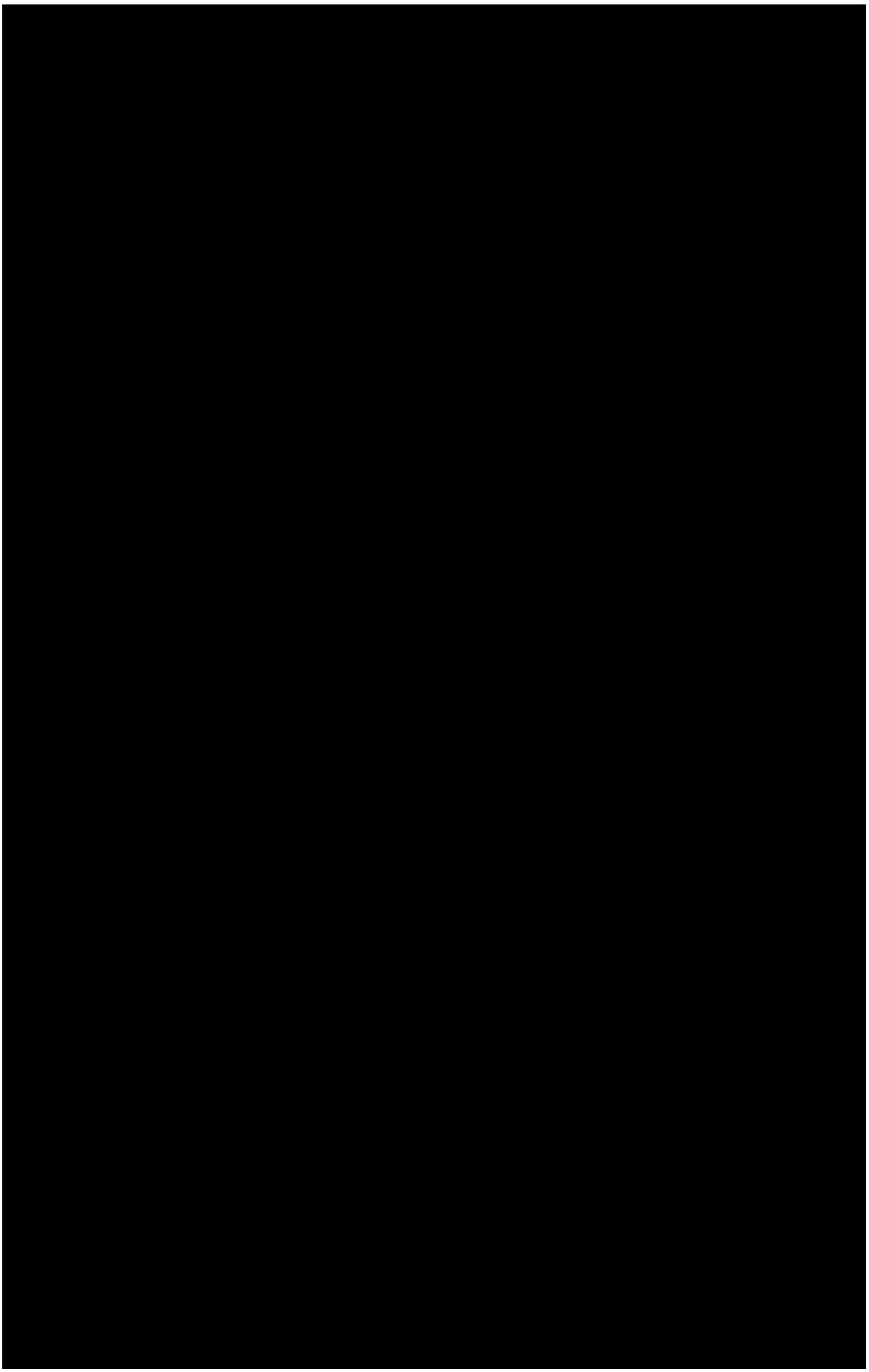


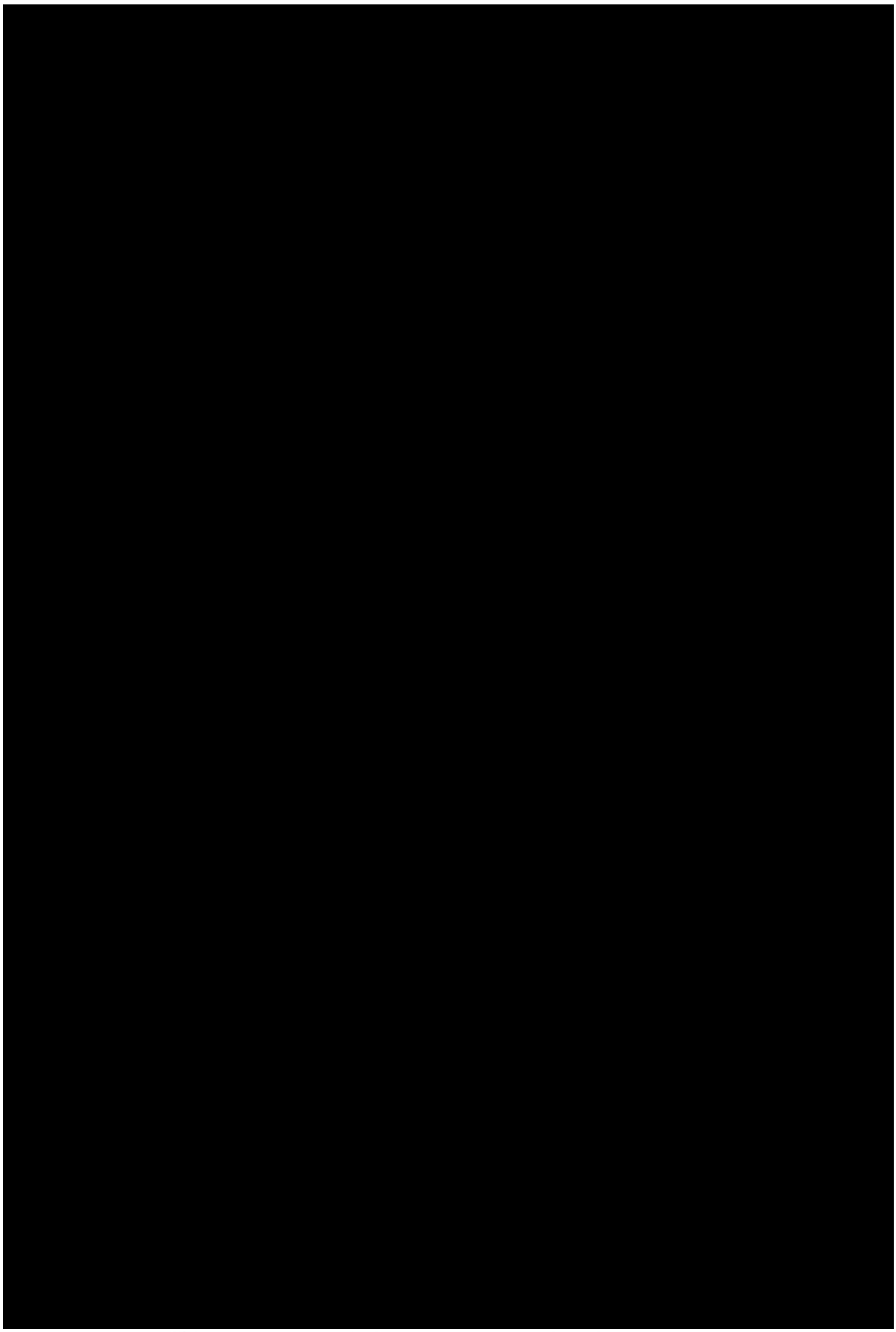


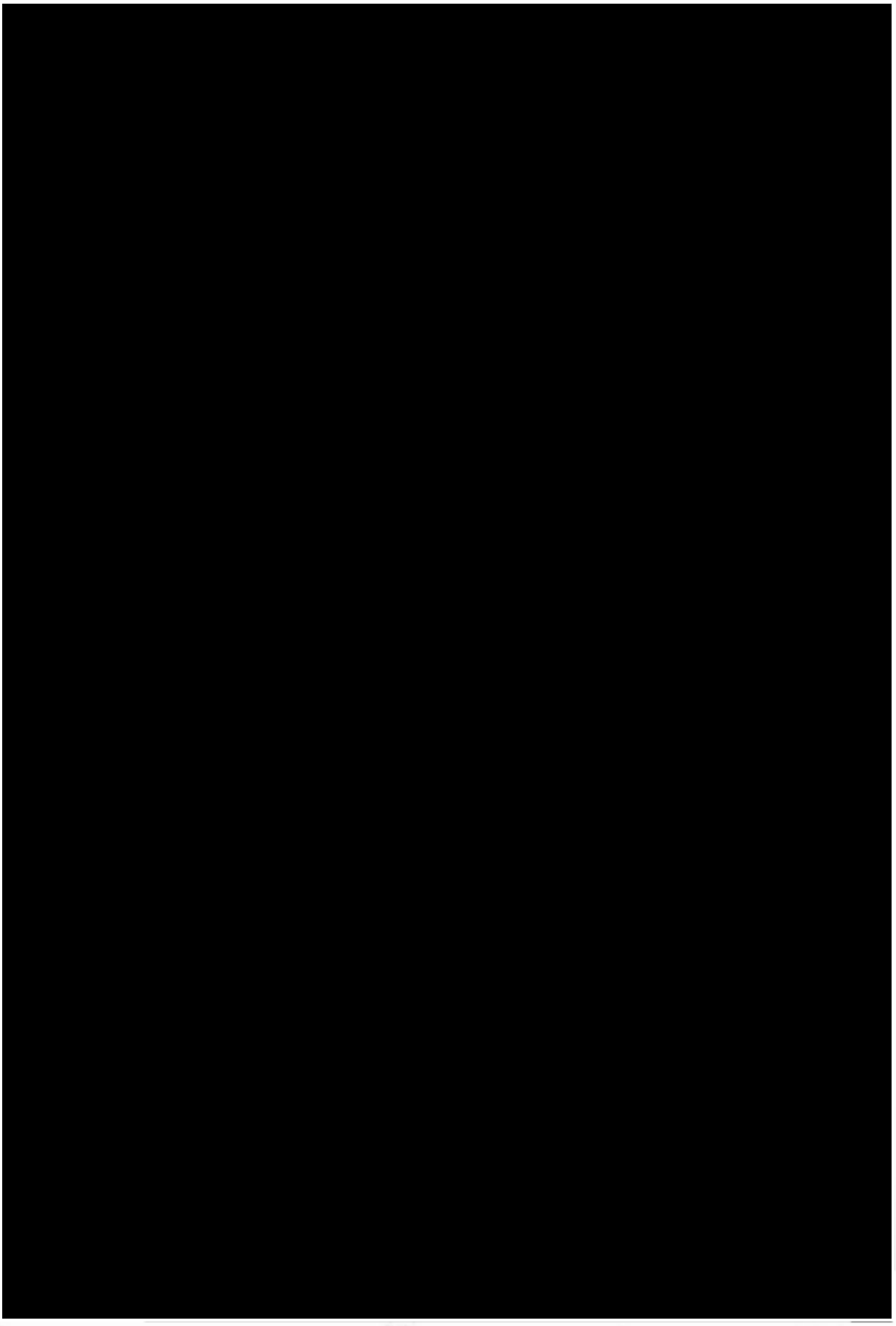


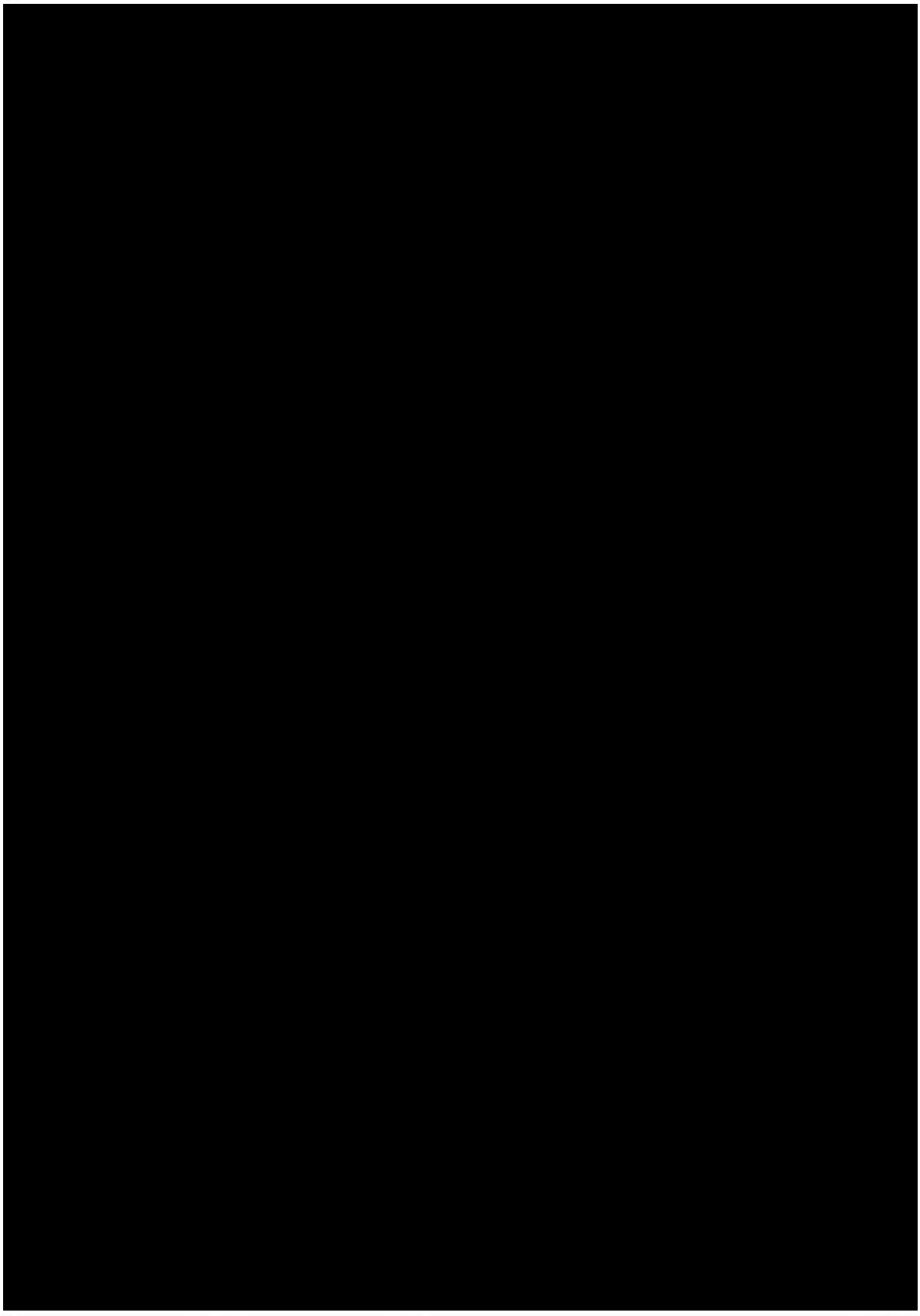


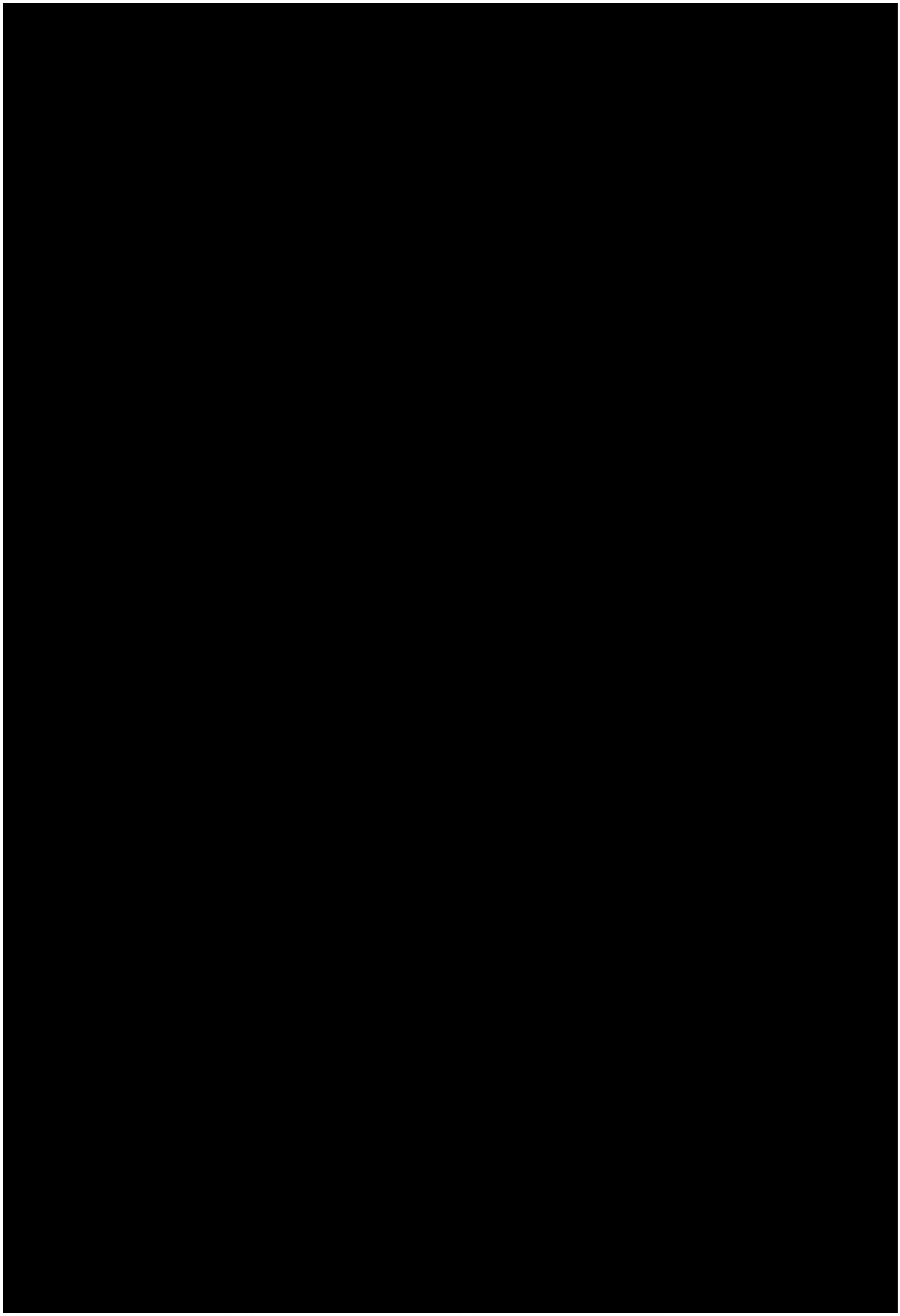


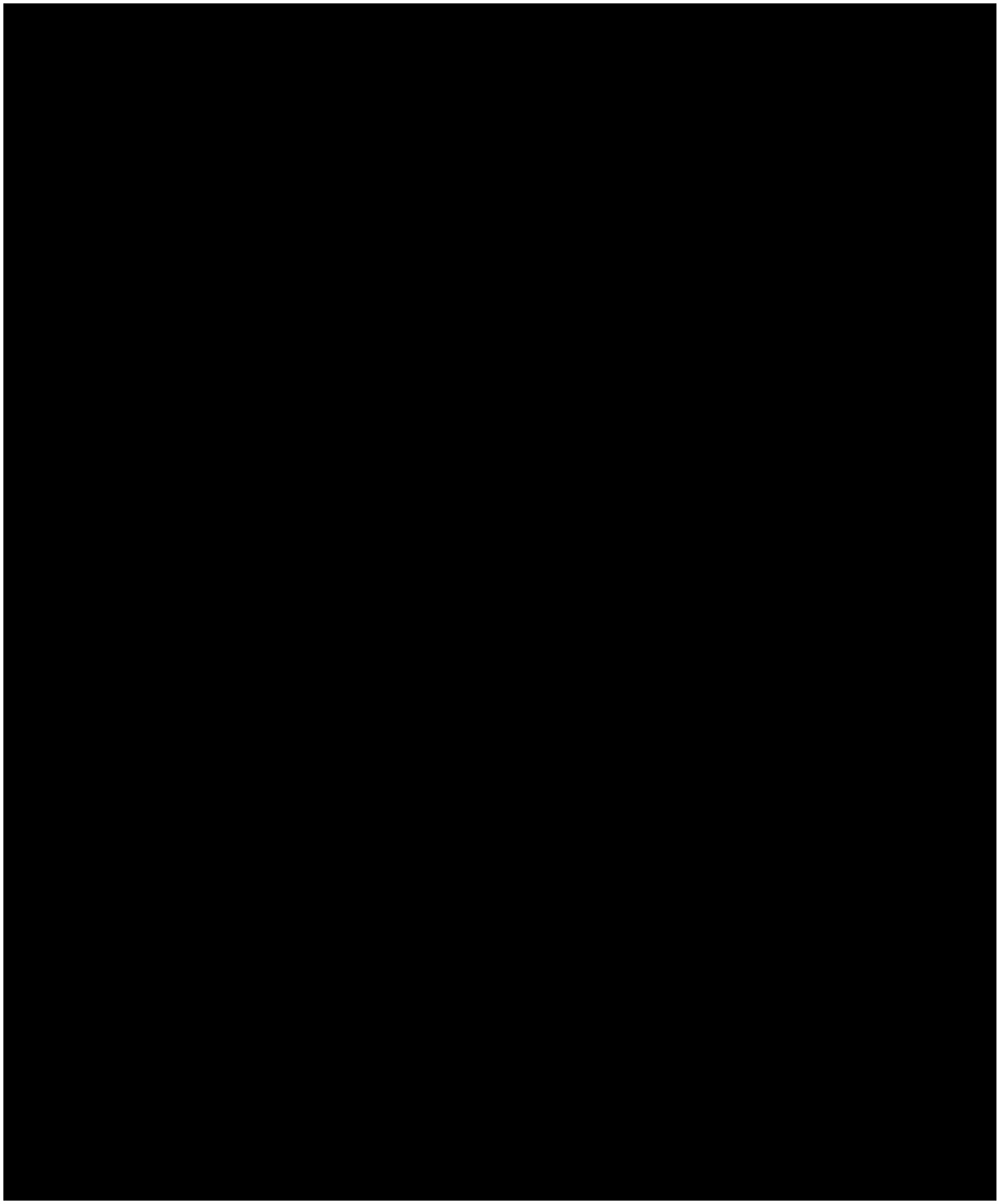








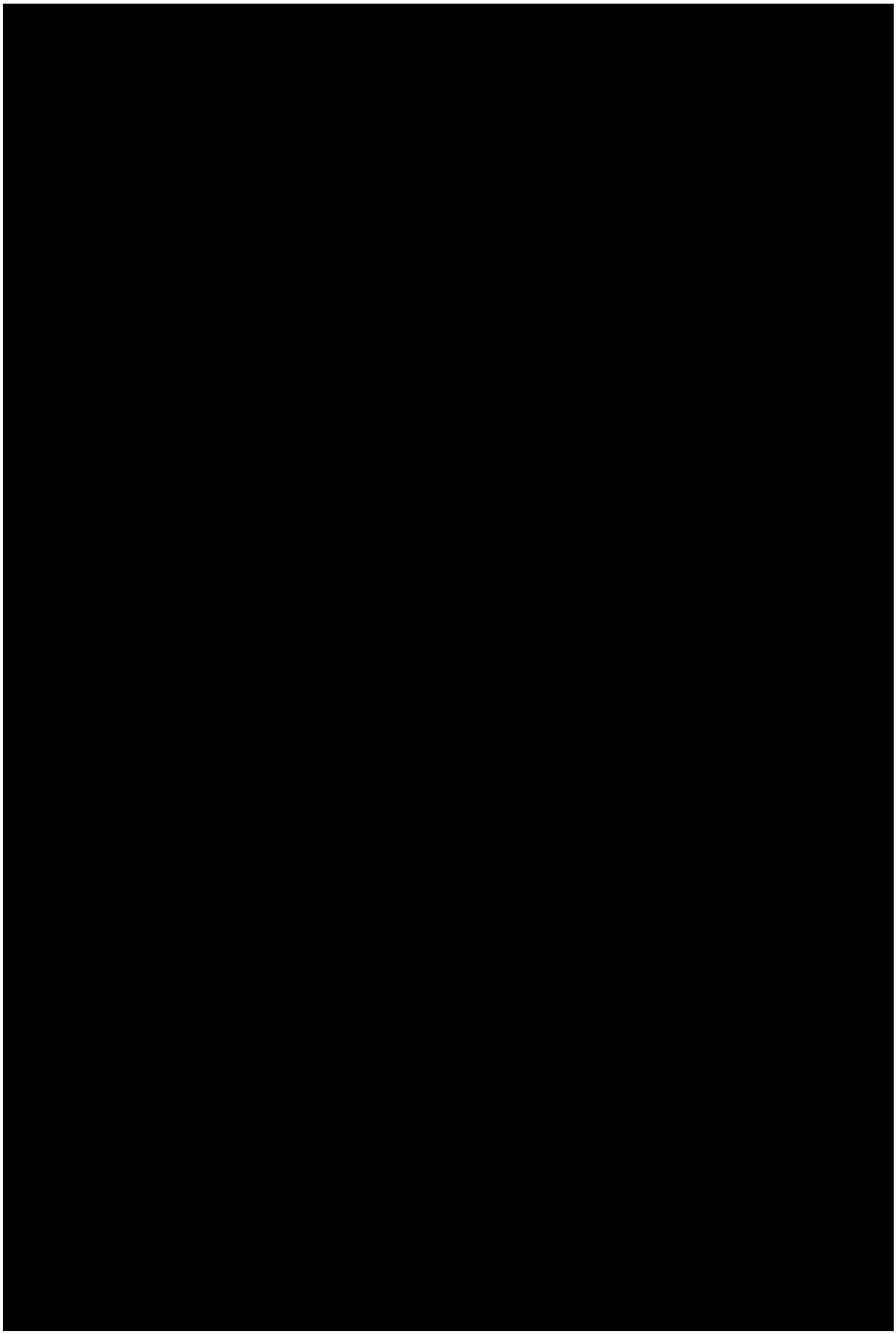


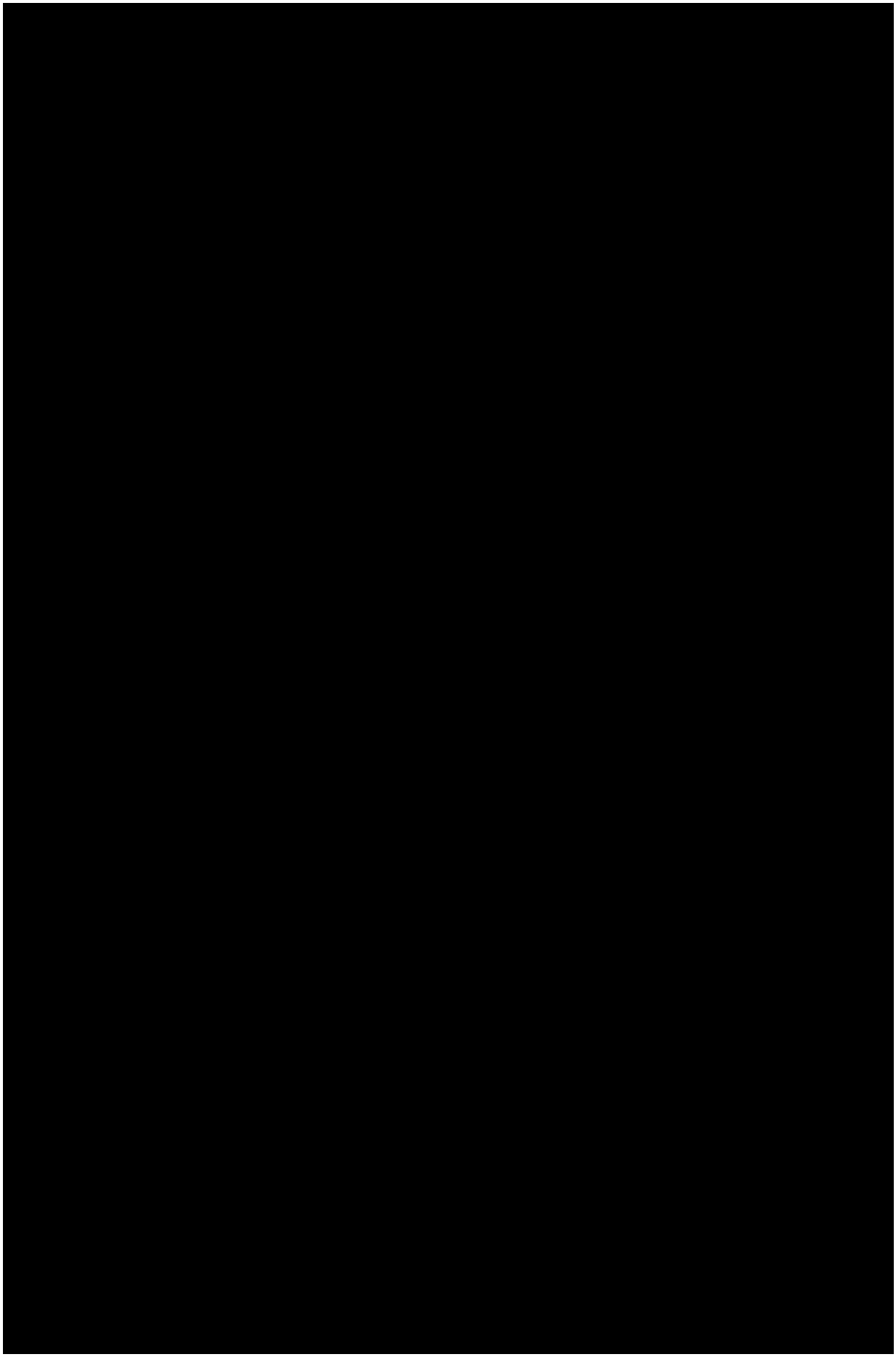


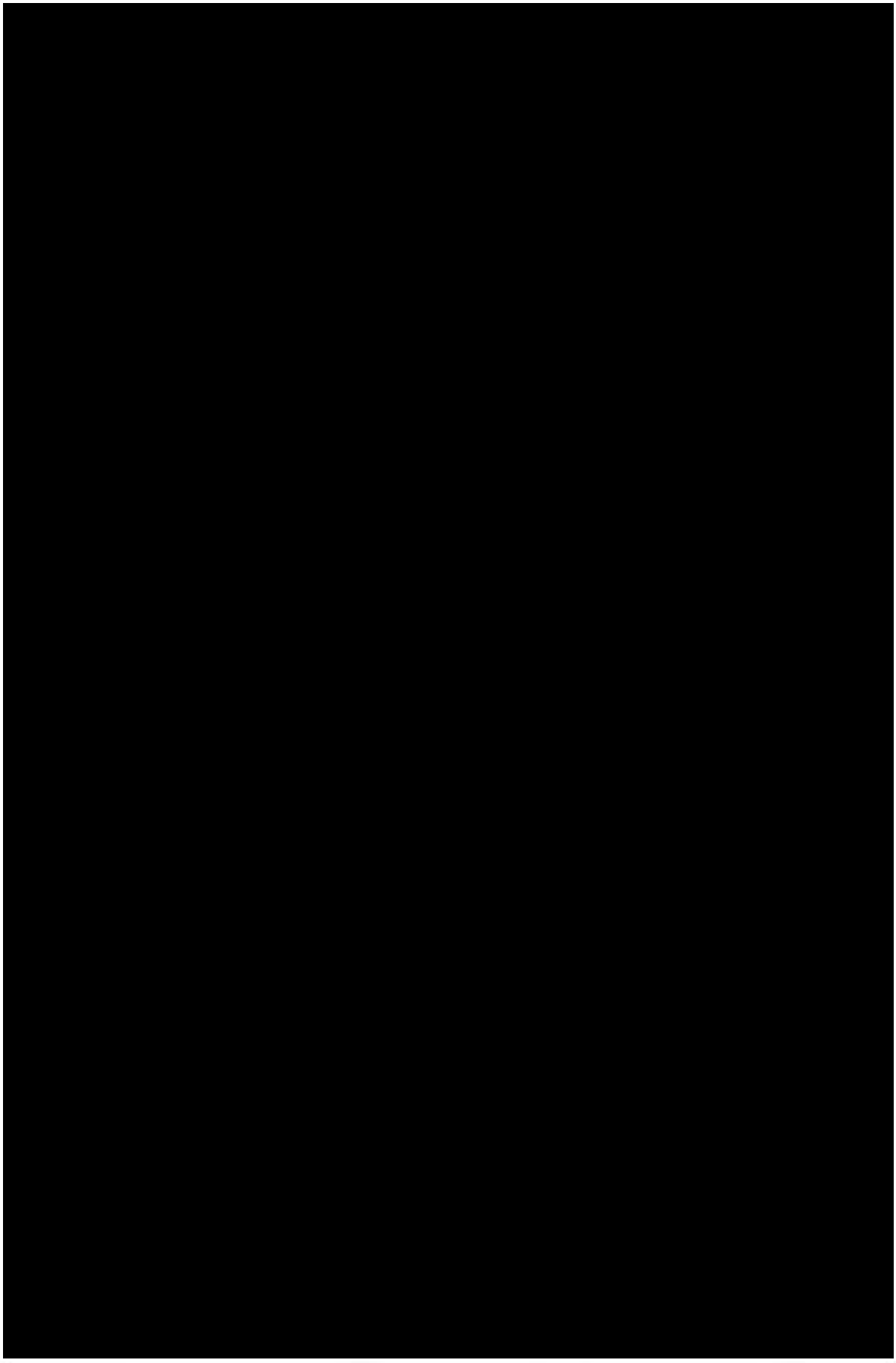
[12/05/2020, 12:25:58] Ian McGrail: Minister - before you hear it from anyone else I want to inform you that detectives are executing a search warrant at Hassans for (JL) in relation to the case against Perez, Cornelio & Sanchez. Its been done in the most discreet of ways and we're hoping there is co-operation. I have also advised CM.

Rgds

[12/05/2020, 12:26:19] Samantha Sacramento: Thank you









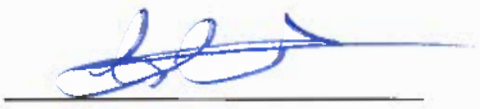
3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 13

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 13
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

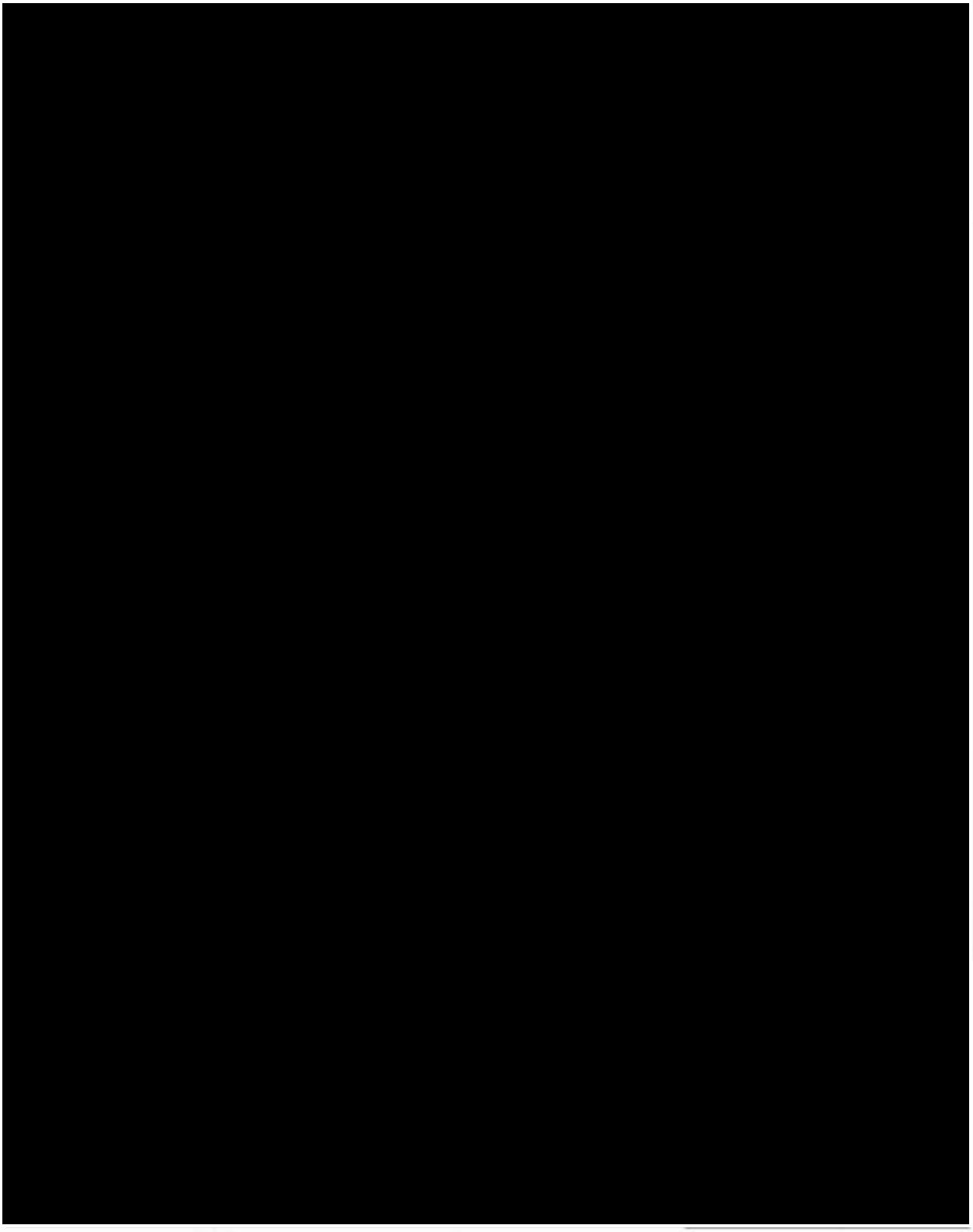


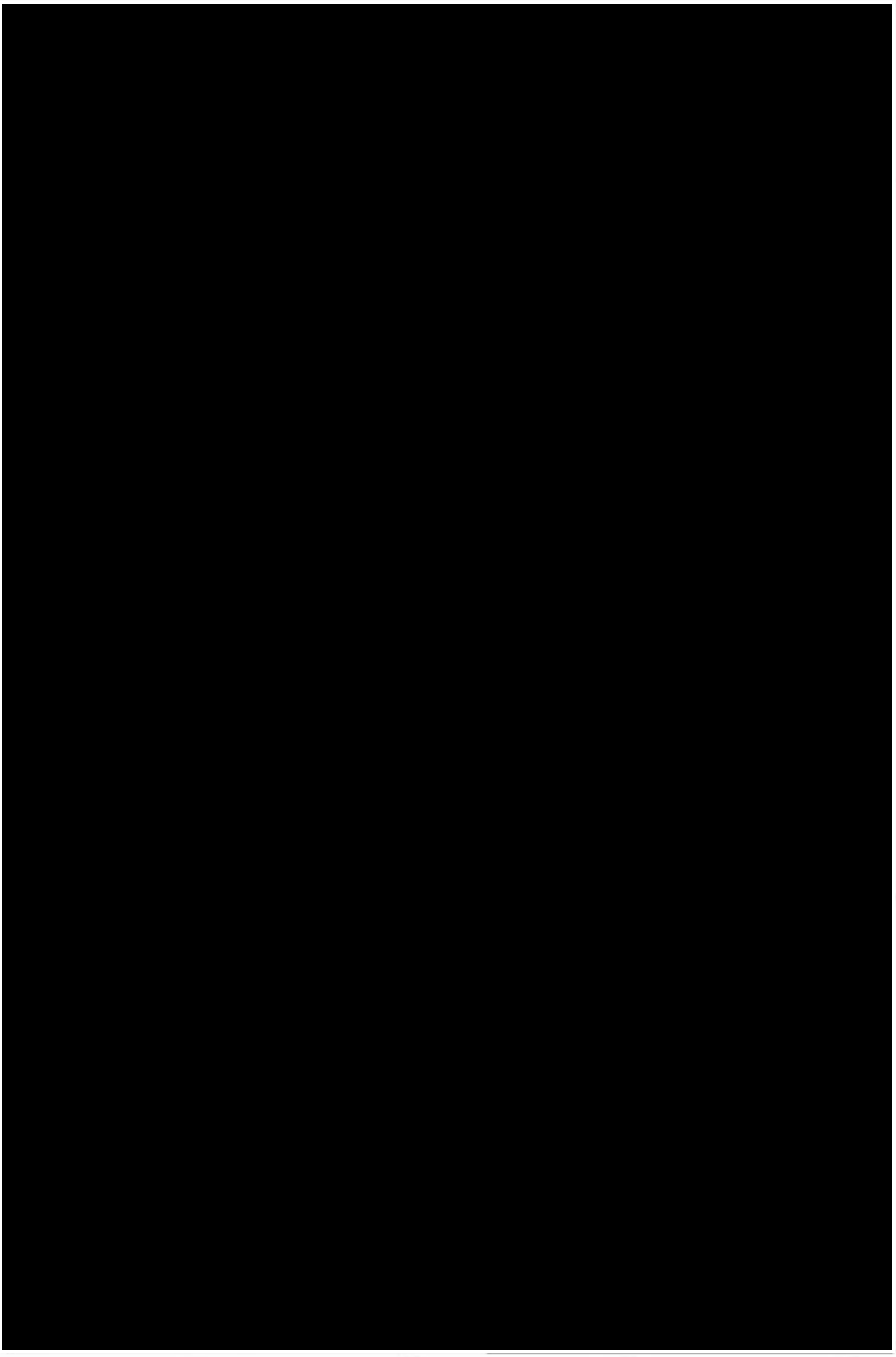
A Commissioner for Oaths

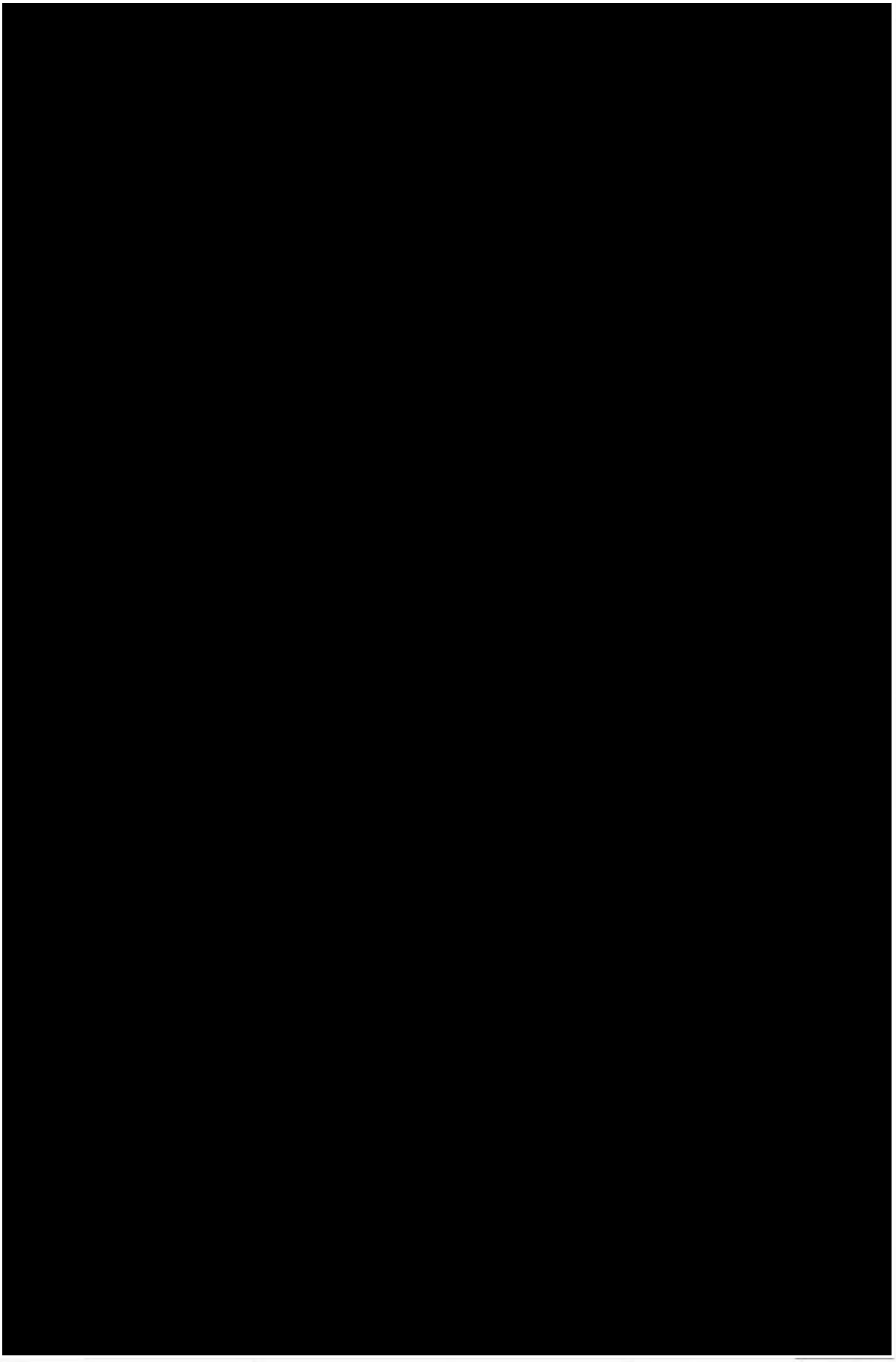
Presented by Charles Gomez & Co, of 5 Secretary's Lane, Gibraltar. Solicitors for Ian McGrail

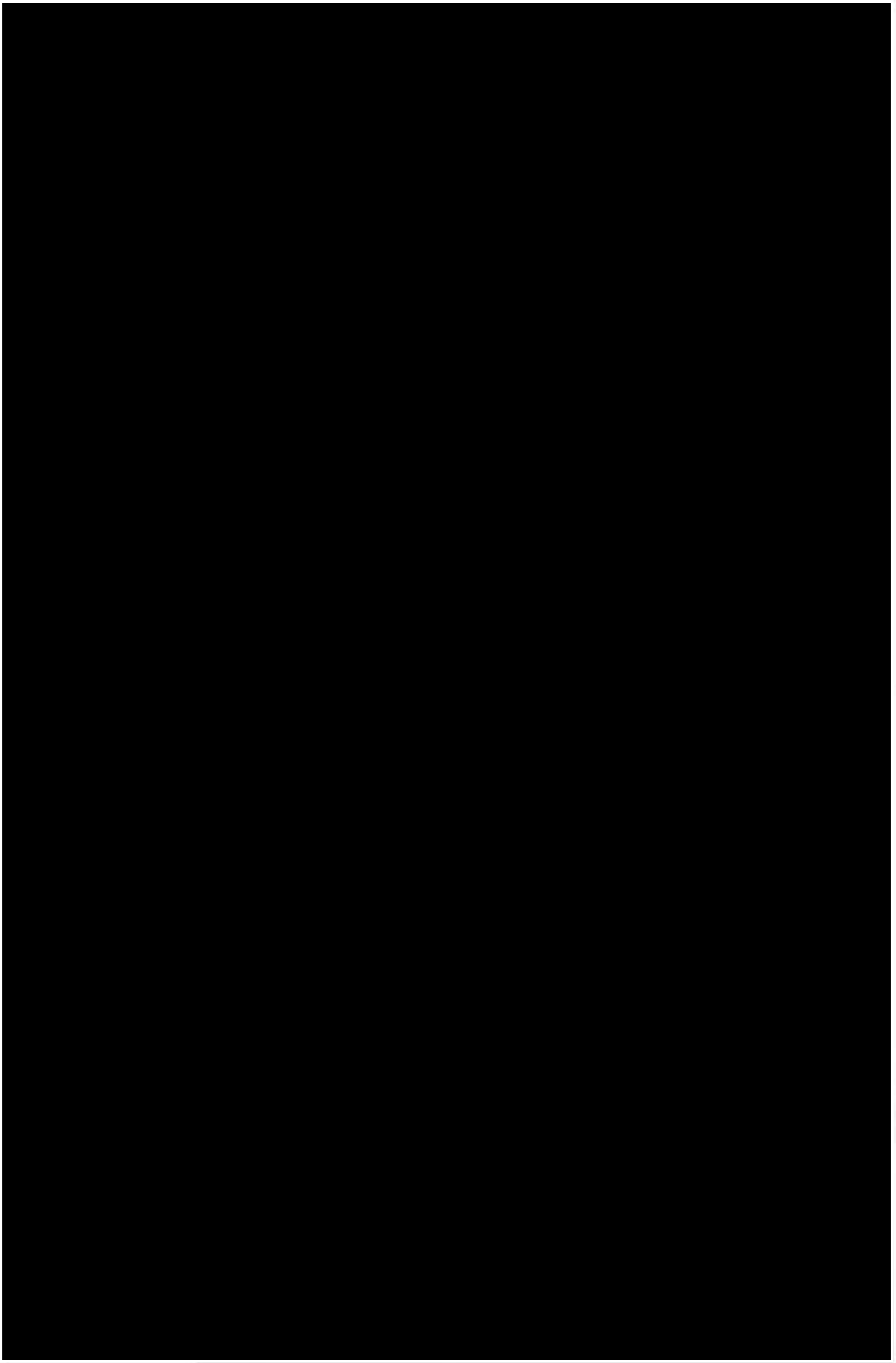
WHATSAPP CHAT LOG

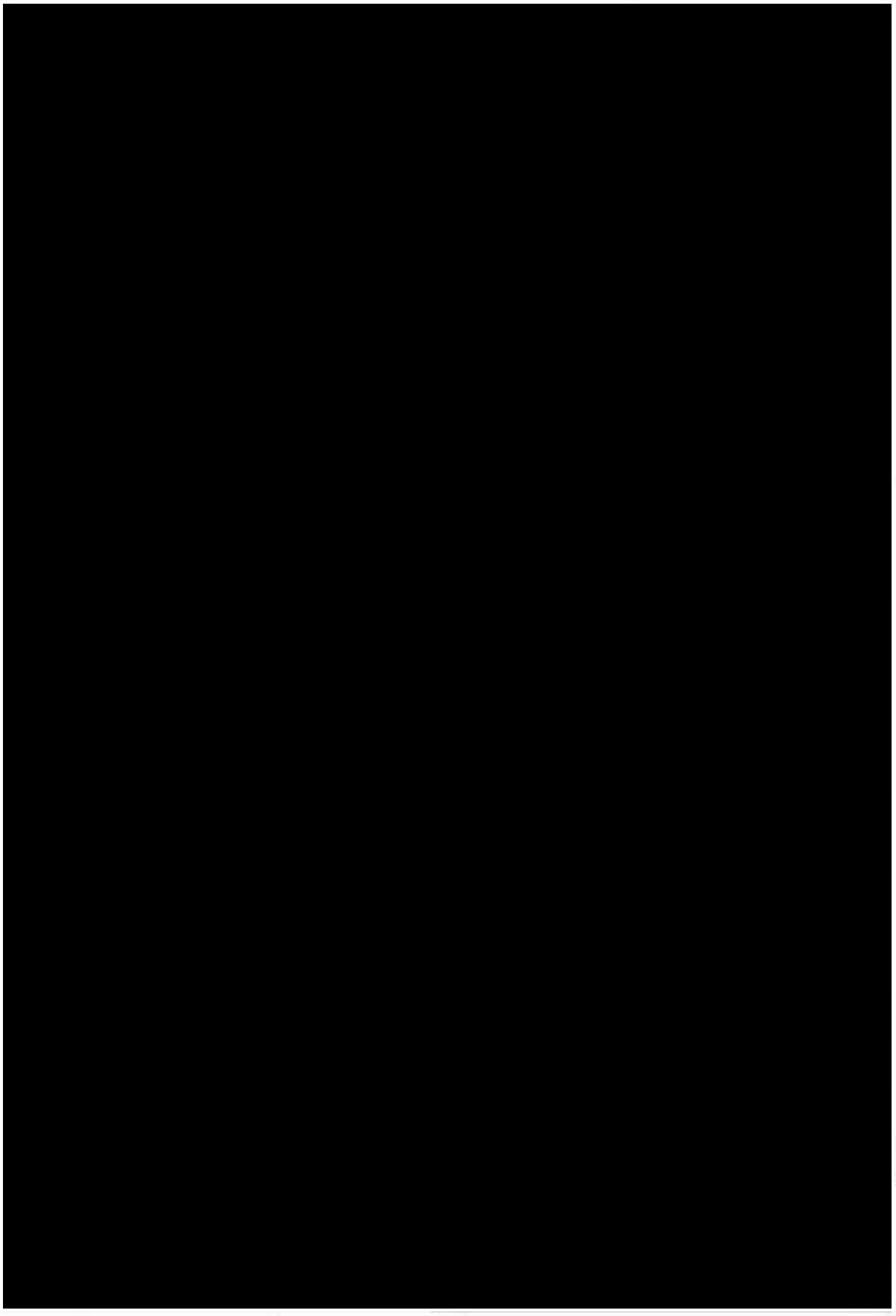
Ian McGrail & Neil Costa (former MoJ)

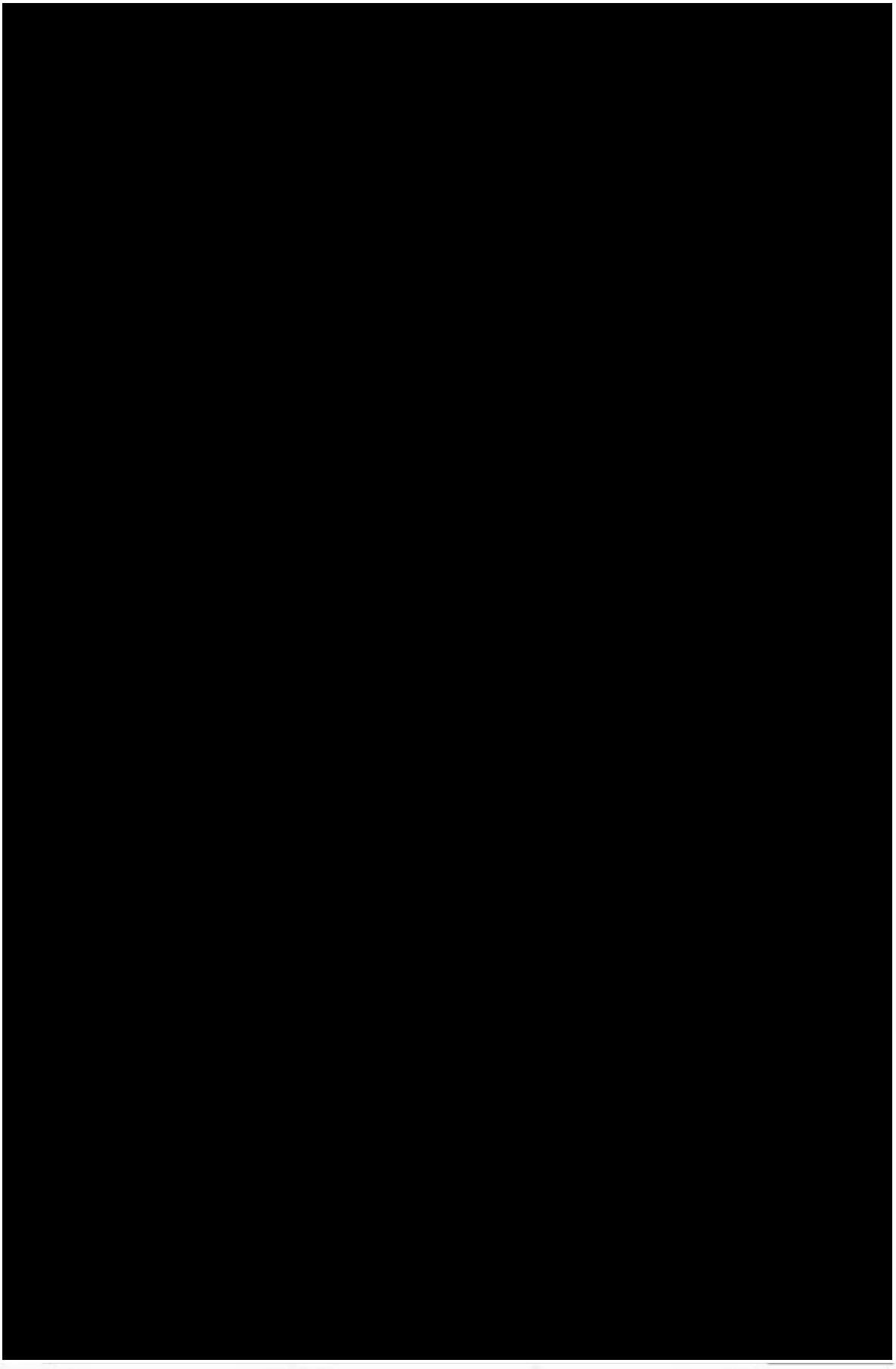


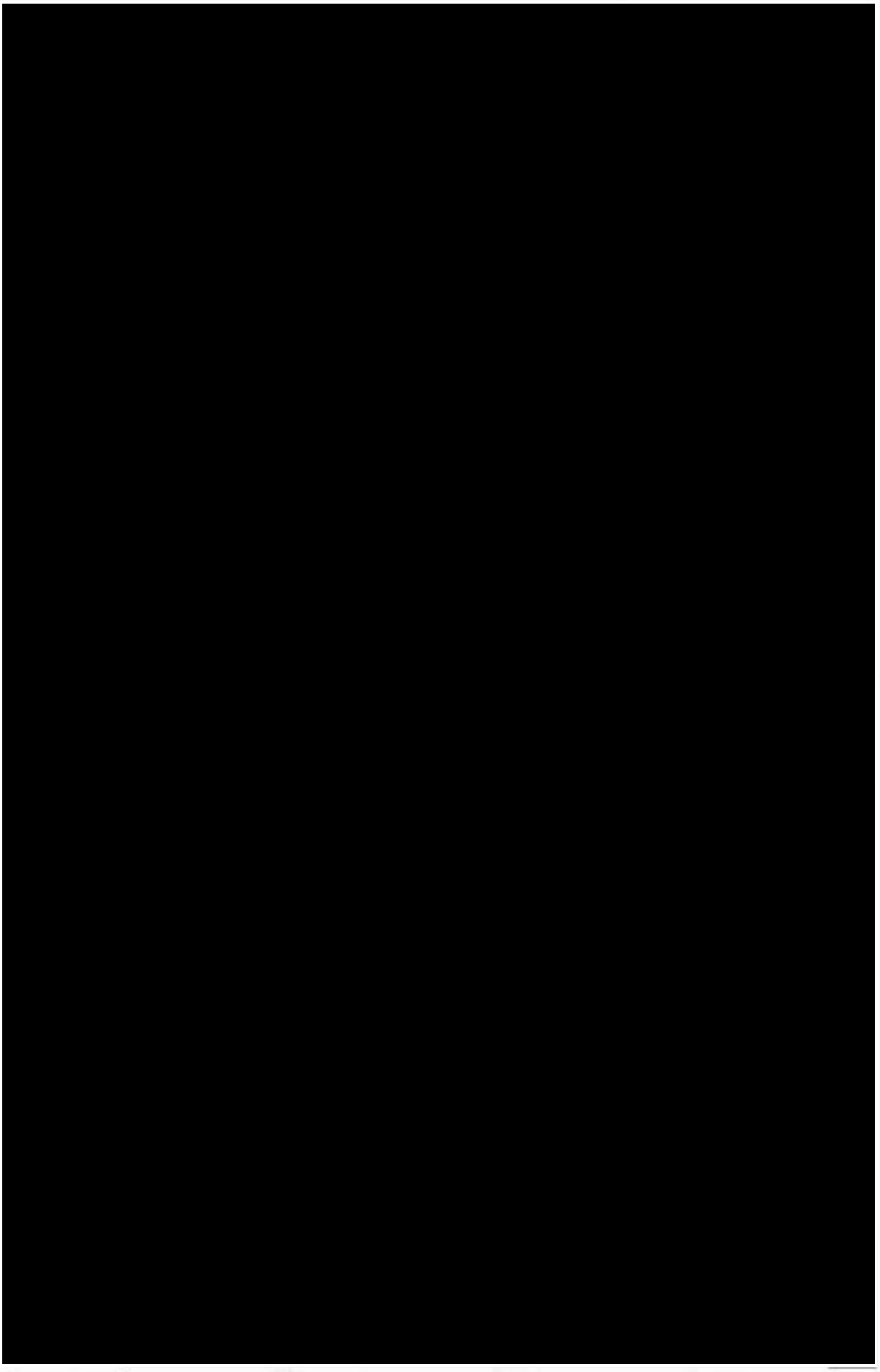


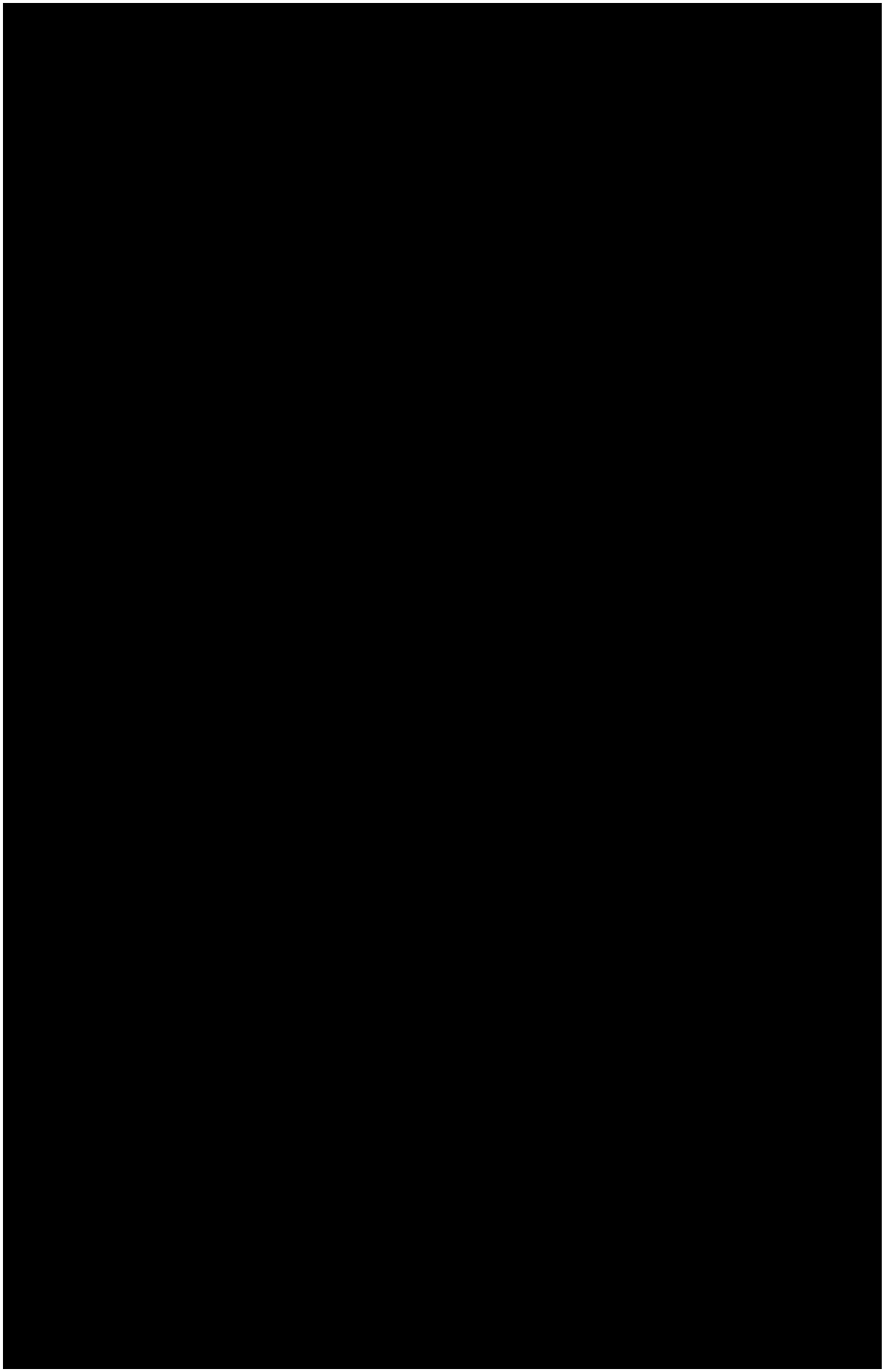


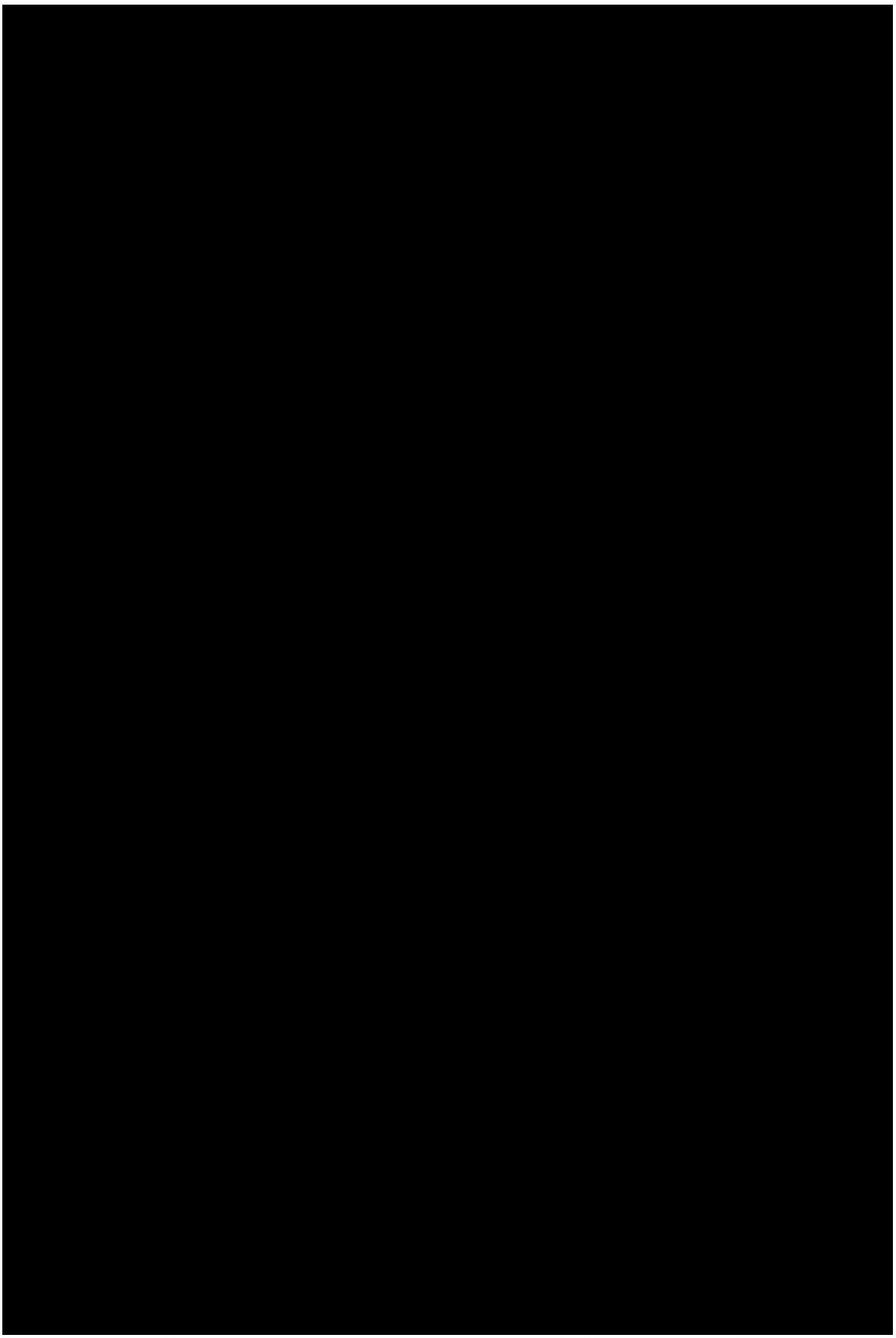


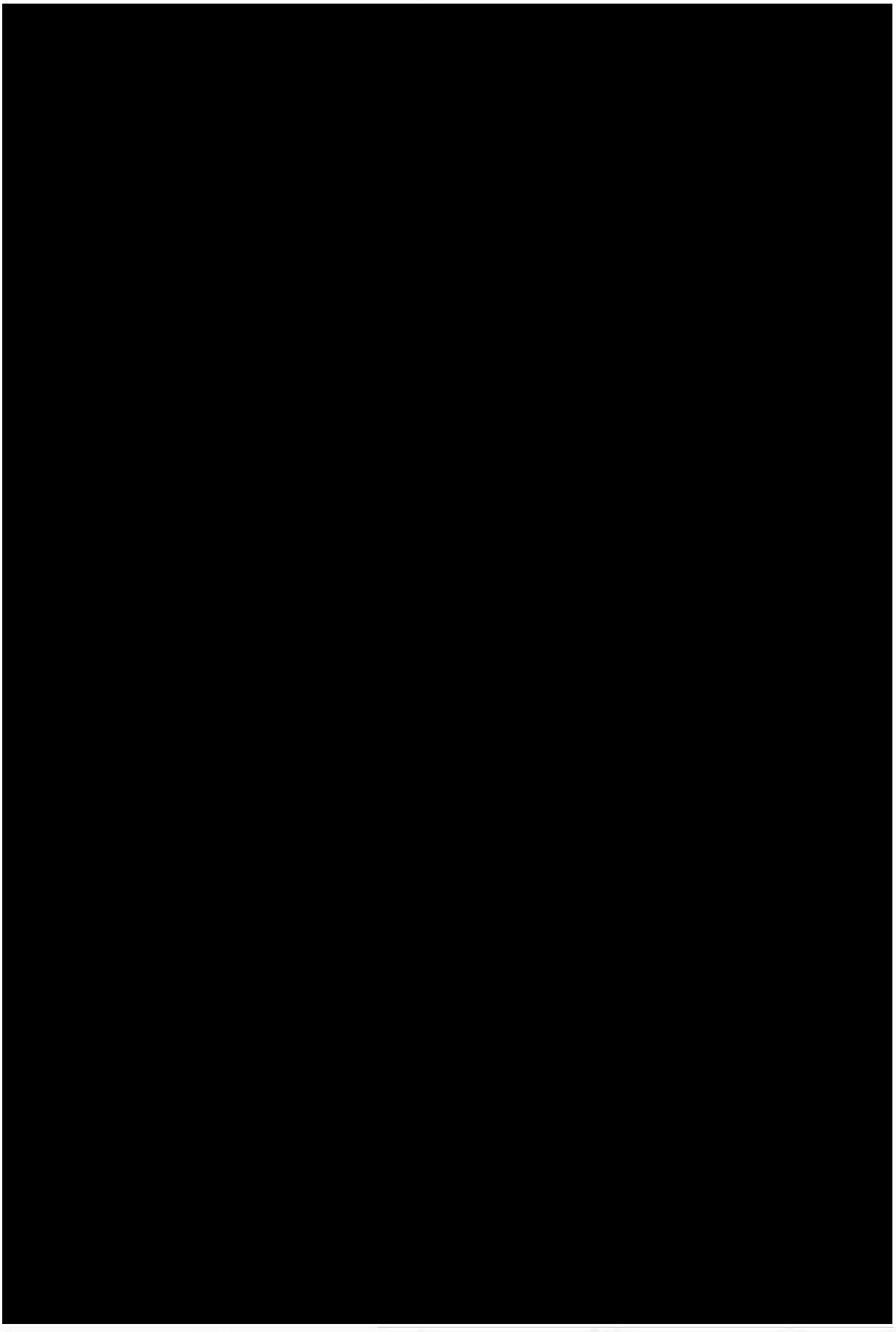


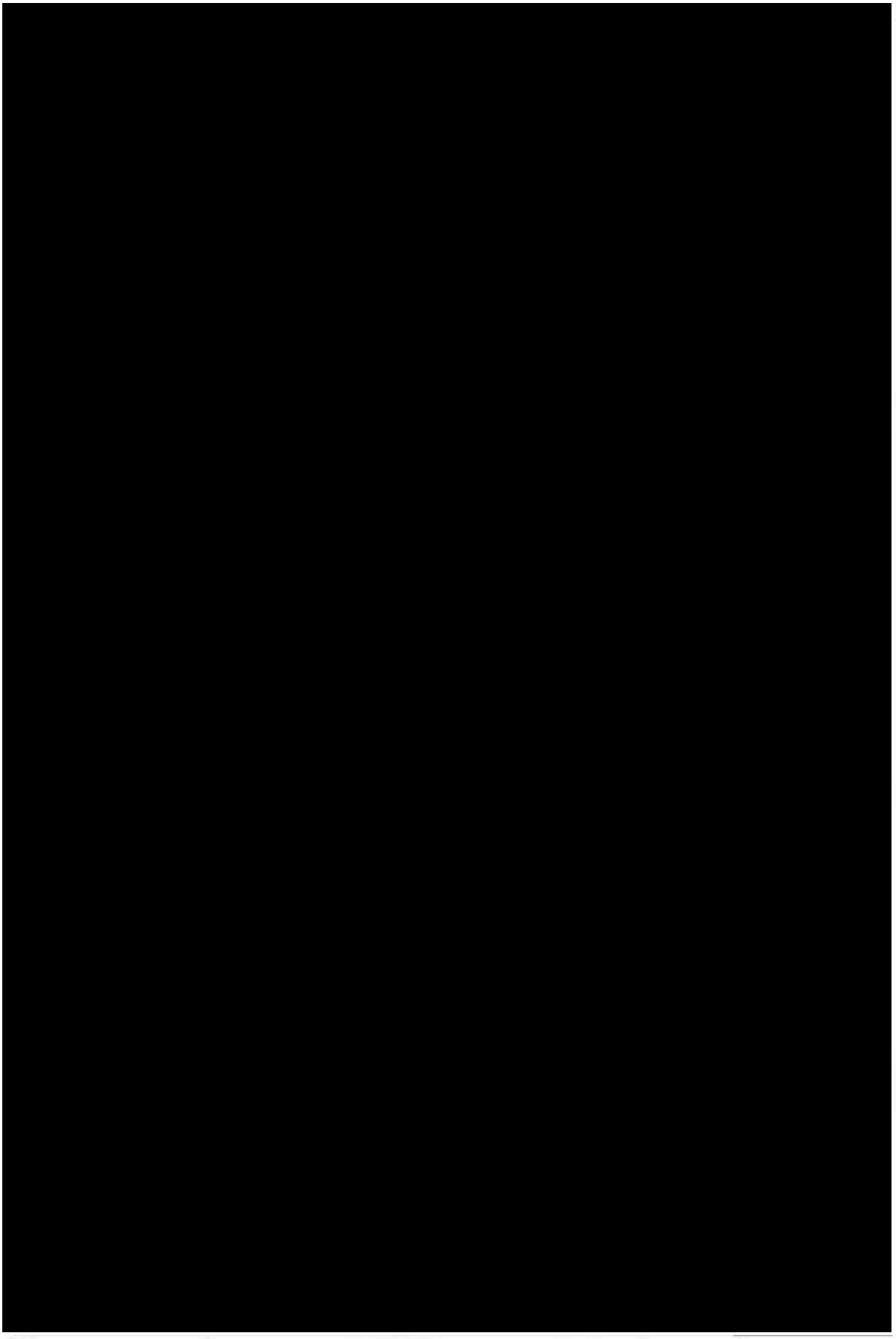


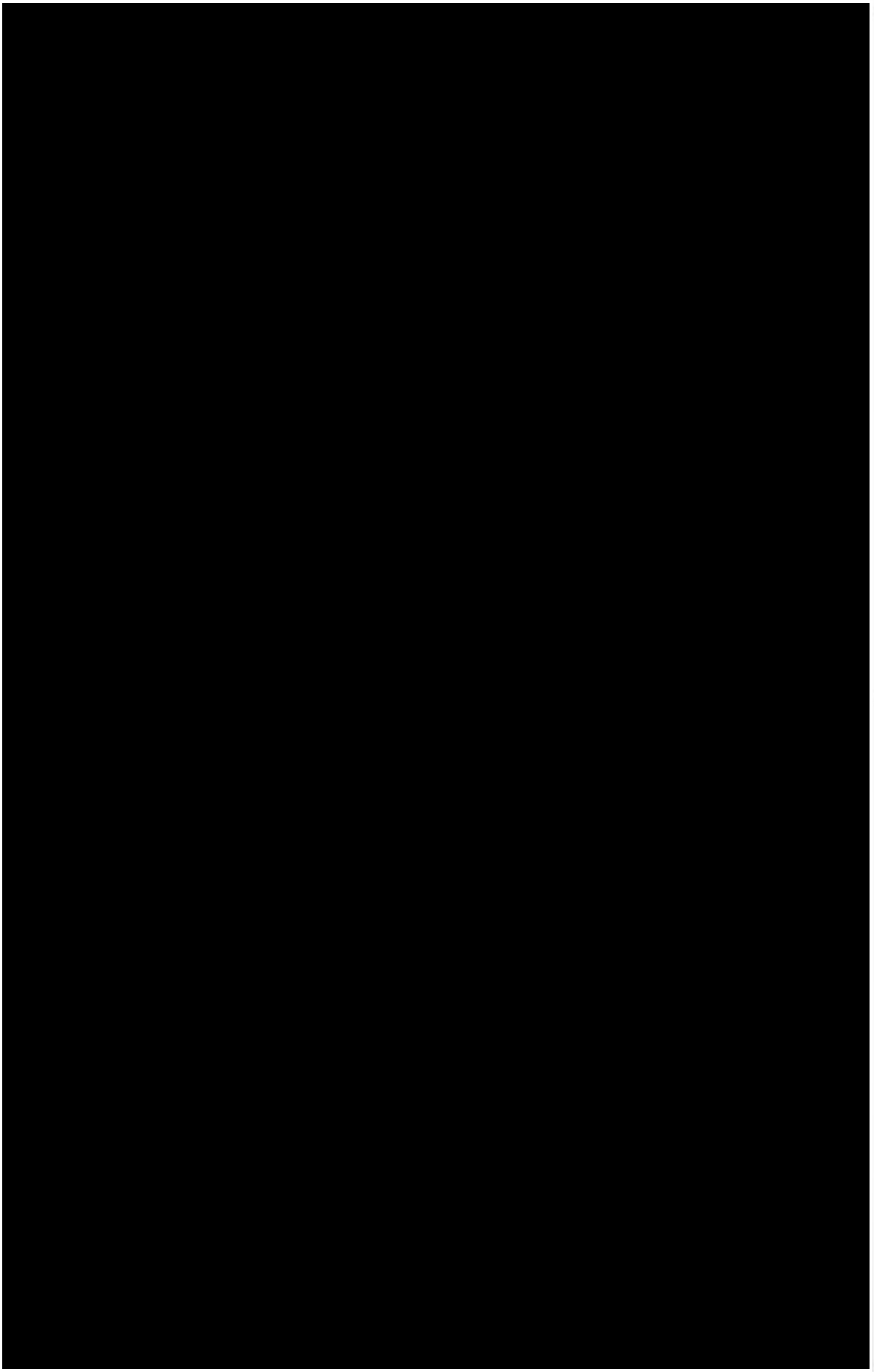


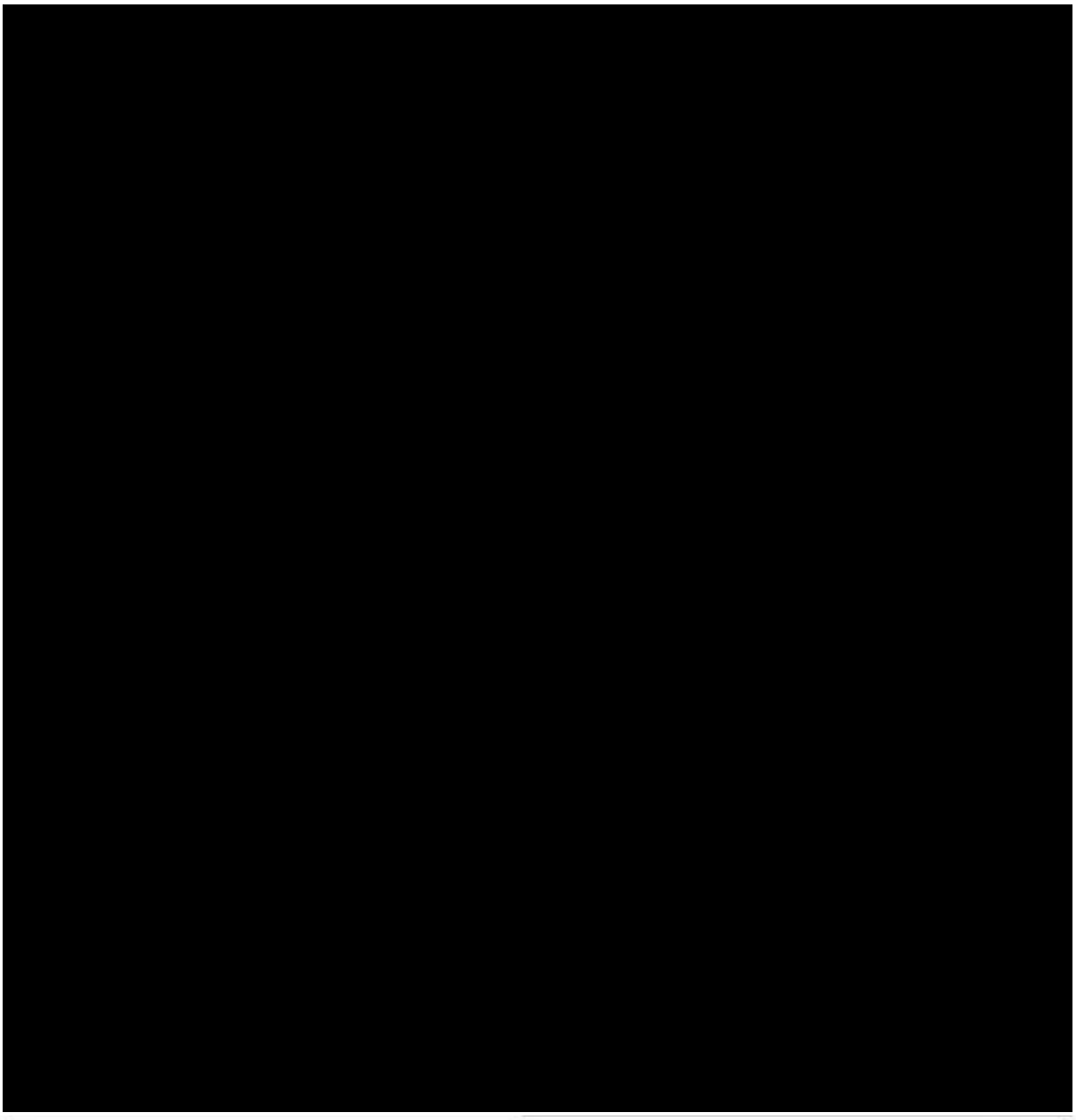












[20/12/2018, 15:48:39] Ian McGrail: Good afternoon Minister - many thanks for your attendance to my reception on Tuesday. I am looking forward to our next meeting as I need to explain, before it reaches you via other means, the incessant path of destruction that the GPF Henry Bautista et al is set on. The Fed Board are hell bent to cause grief and discontent with the latest now being that they are considering court action against me over our operational deployment of personnel for New Year's Eve policing operation. They have written to the whole of the work force in a really damning tone against management despite rationale being given & accepted by Bautista himself - but instead of transmitting this to the membership it is adversley twisted to pretend ill intention bad practice by management.

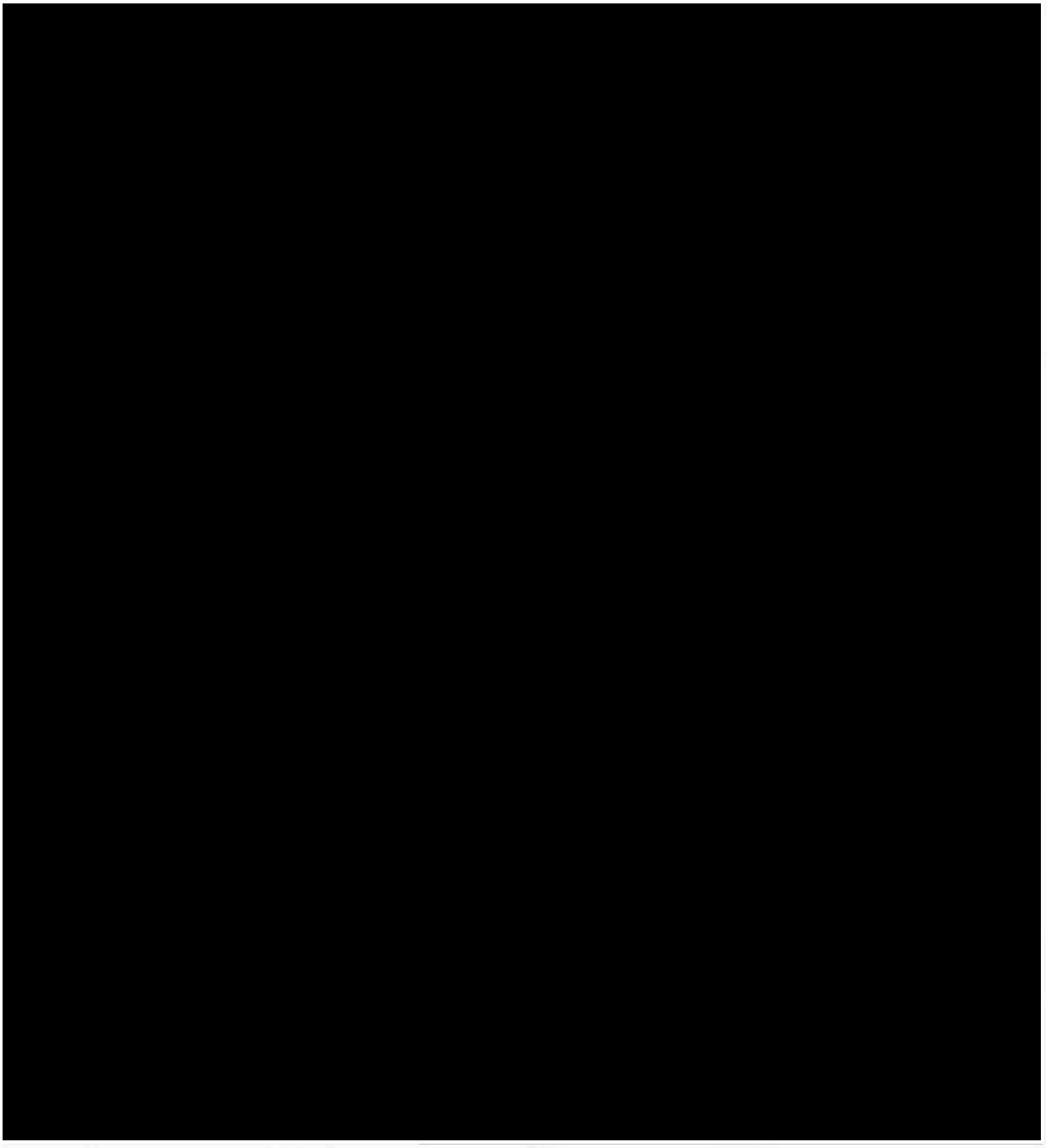
We need to seriously talk about these convenors and their roles/renumeration. They are doing a serious disservice to the organisation.

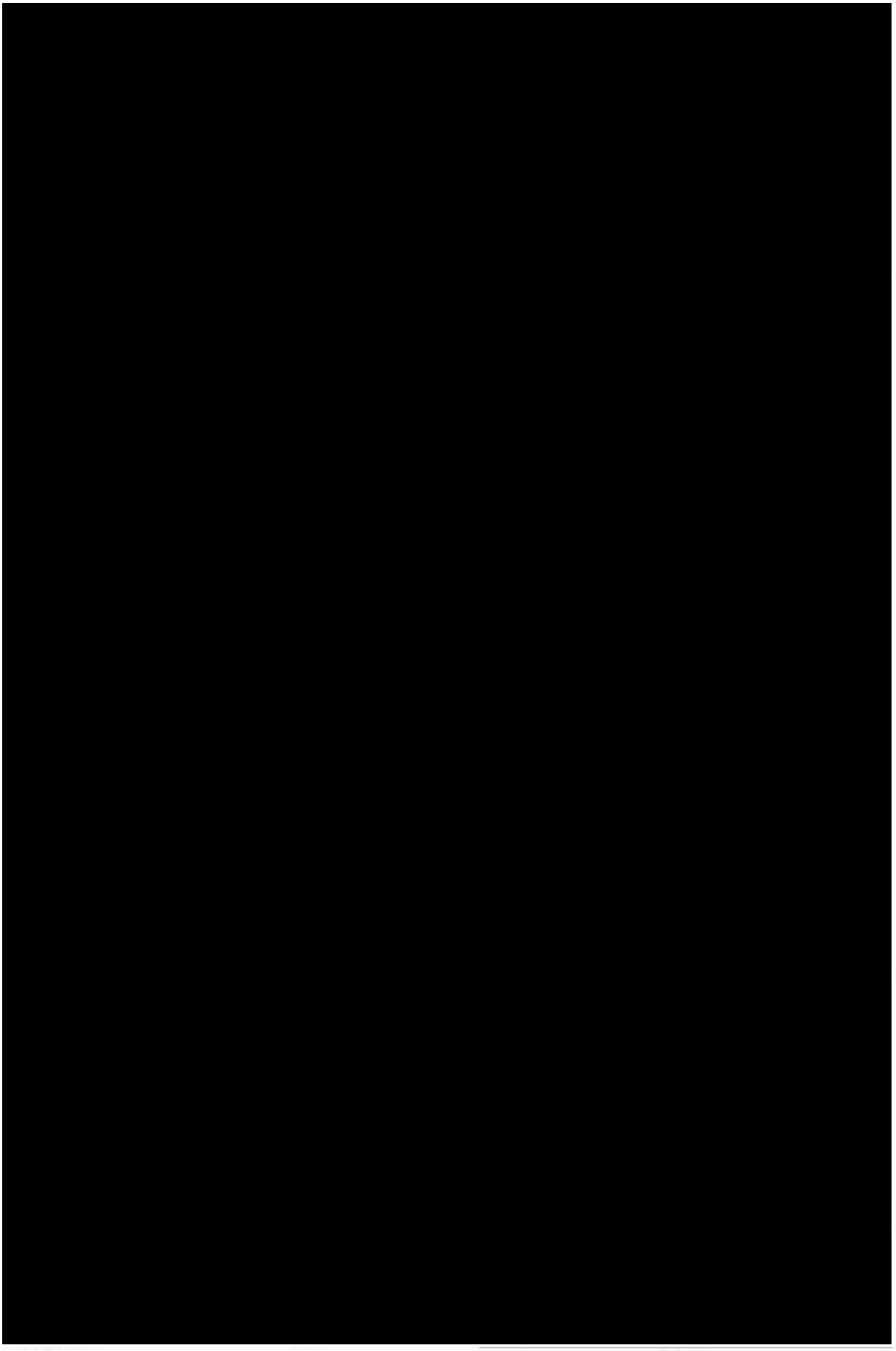
Other than that all is good.

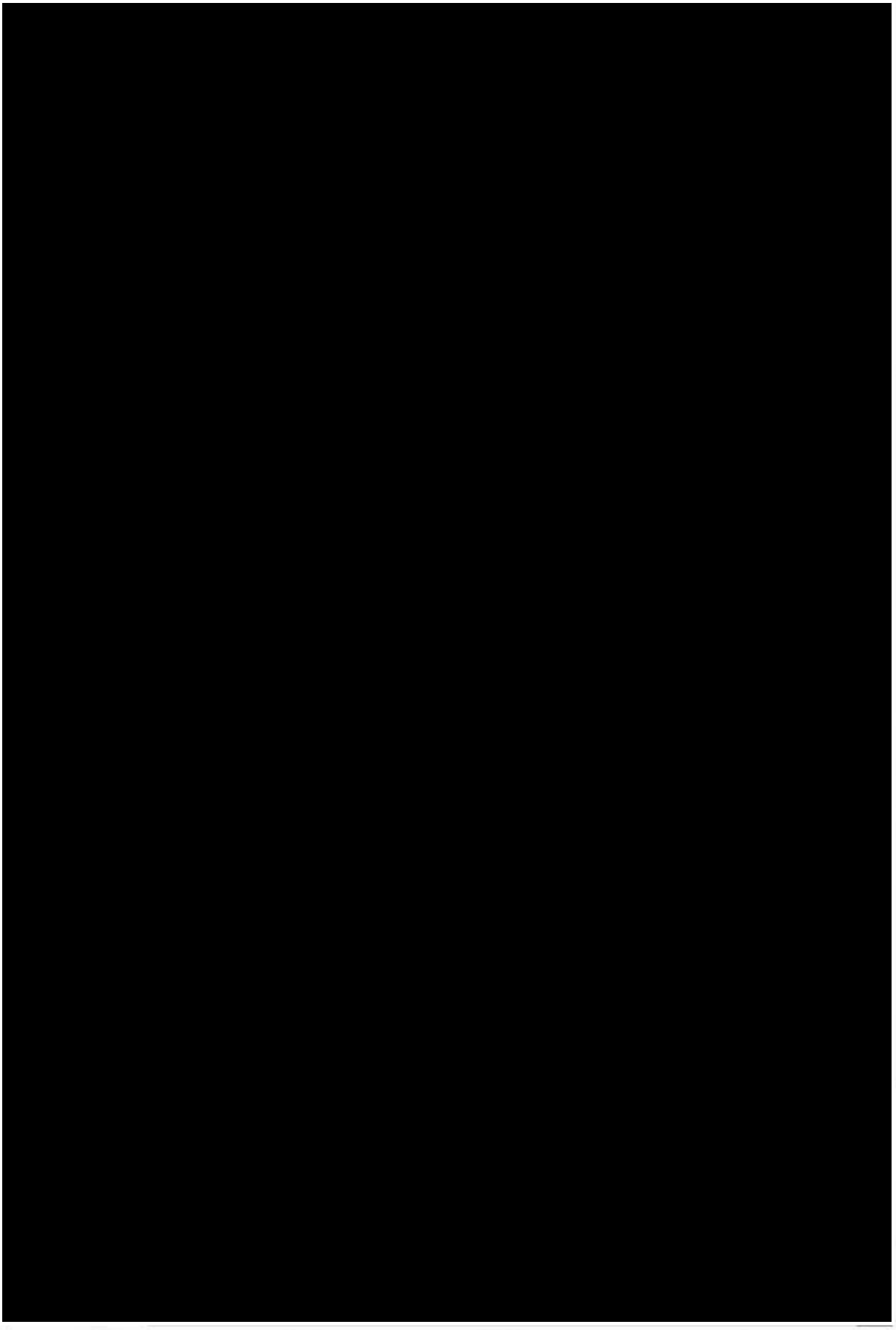
Best regards

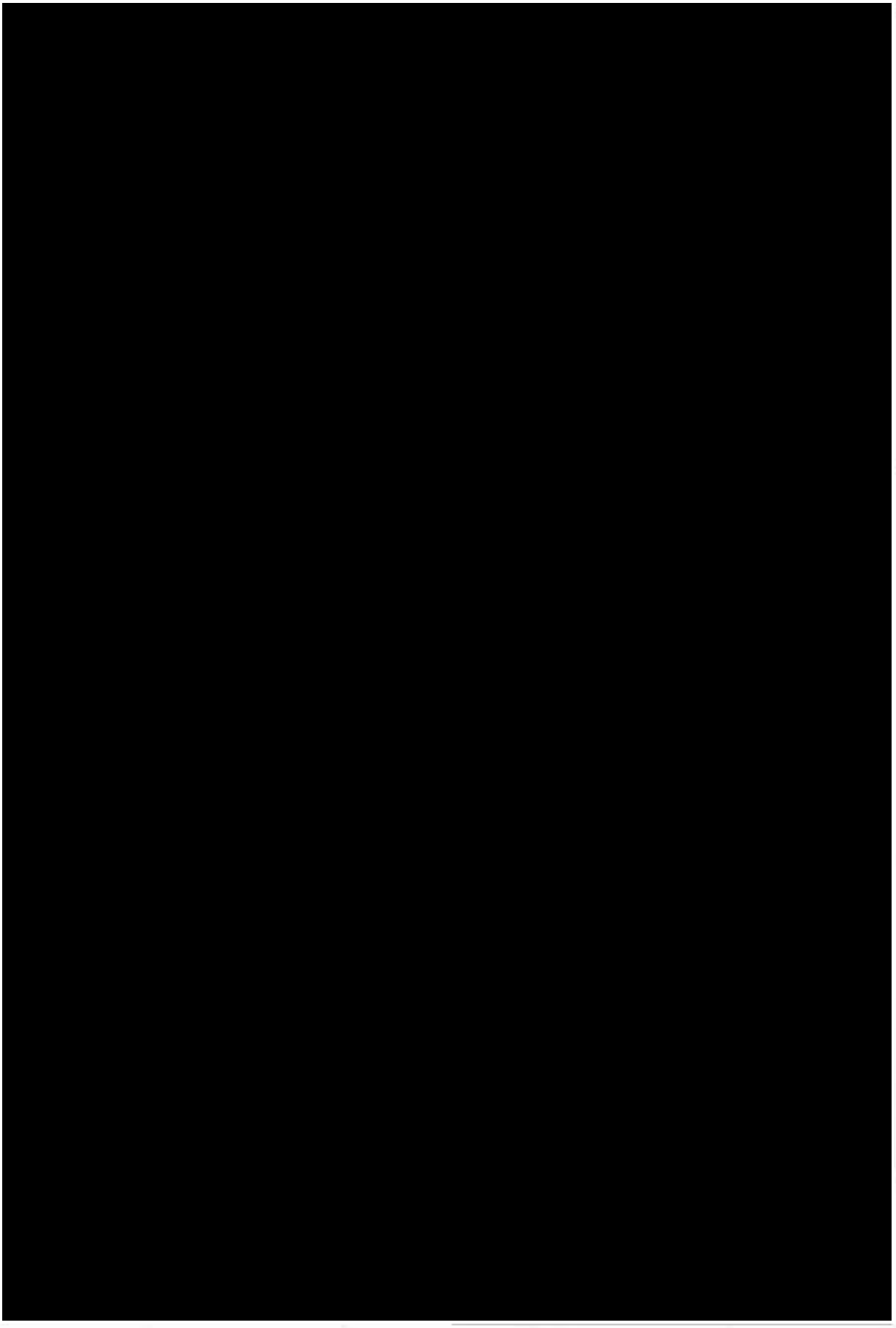
Ian

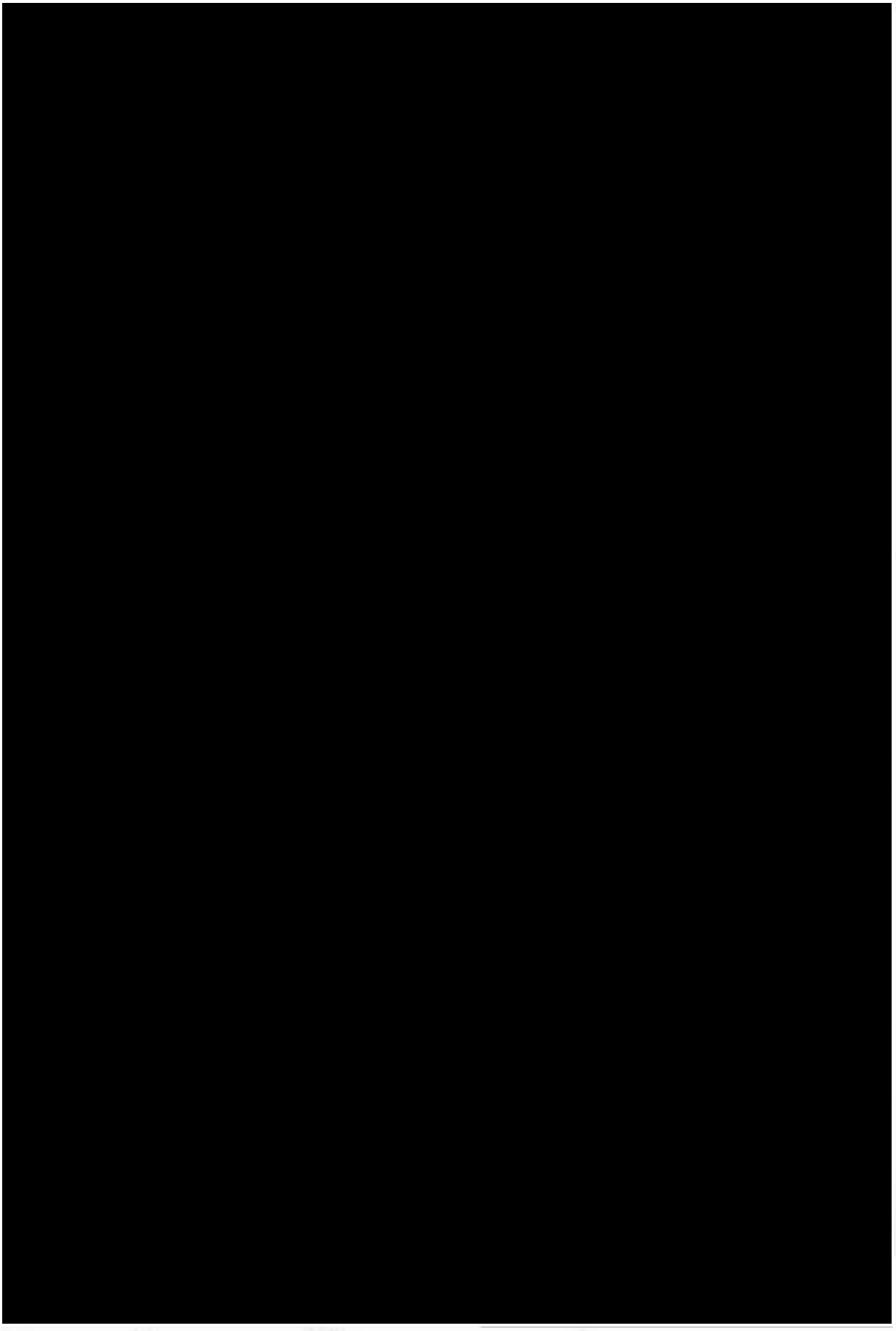
[20/12/2018, 19:11:56] Neil Costa: Dear Ian. This is quite concerning to hear. Do please let me know, if I can be of any assistance. The role of convenors is a CM responsibility, and I will discuss with him at our next bilateral. I look forward to our next meeting, but anything you need, please contact me - there is no need to wait for a formal meeting. With KR

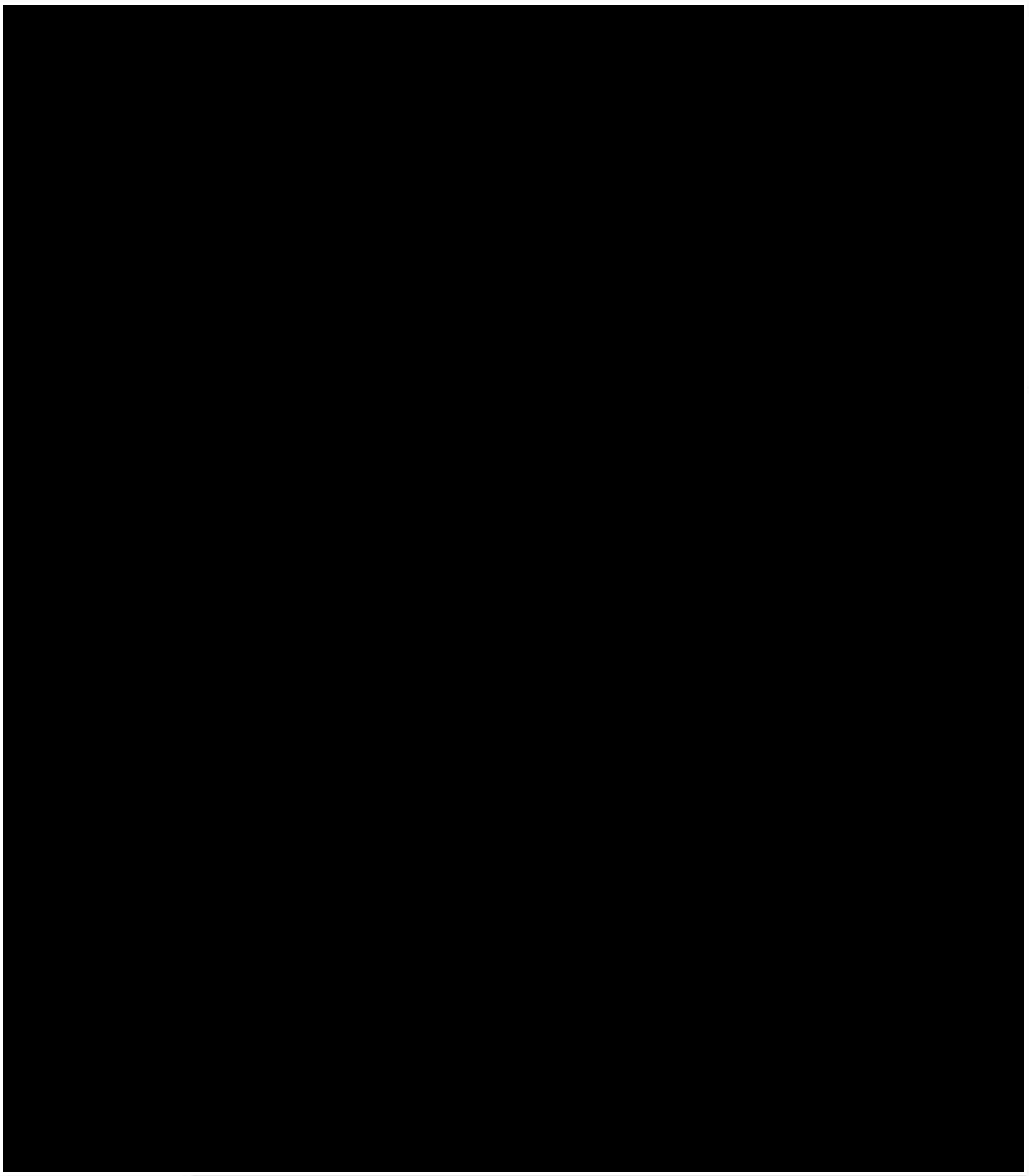












[09/05/2020, 10:45:58] Neil Costa: My dear Ian. I cannot imagine that with all of your hard work and untiring dedication that the report made for pleasant reading for you. For what it may be worth, I will forever vouch for your integrity, honesty, and professionalism. If ever I can be of any assistance to you, you know where I am. With kind regards, Neil

[09/05/2020, 10:52:32] Ian McGrail: Aww - that is ever so kind of you Neil. Indeed, it hurts to read a report with such negative content. HMIC se han pasado more so when Matt Parr told us that we didn't need to worry, that all was good. It makes me wonder what has changed from that conversation I had with him to the end product of the report. But hey, strong chin & broad back and I will turn this around. Thanks for your unstinting support.

Best,

Ian

3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 14

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 14
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

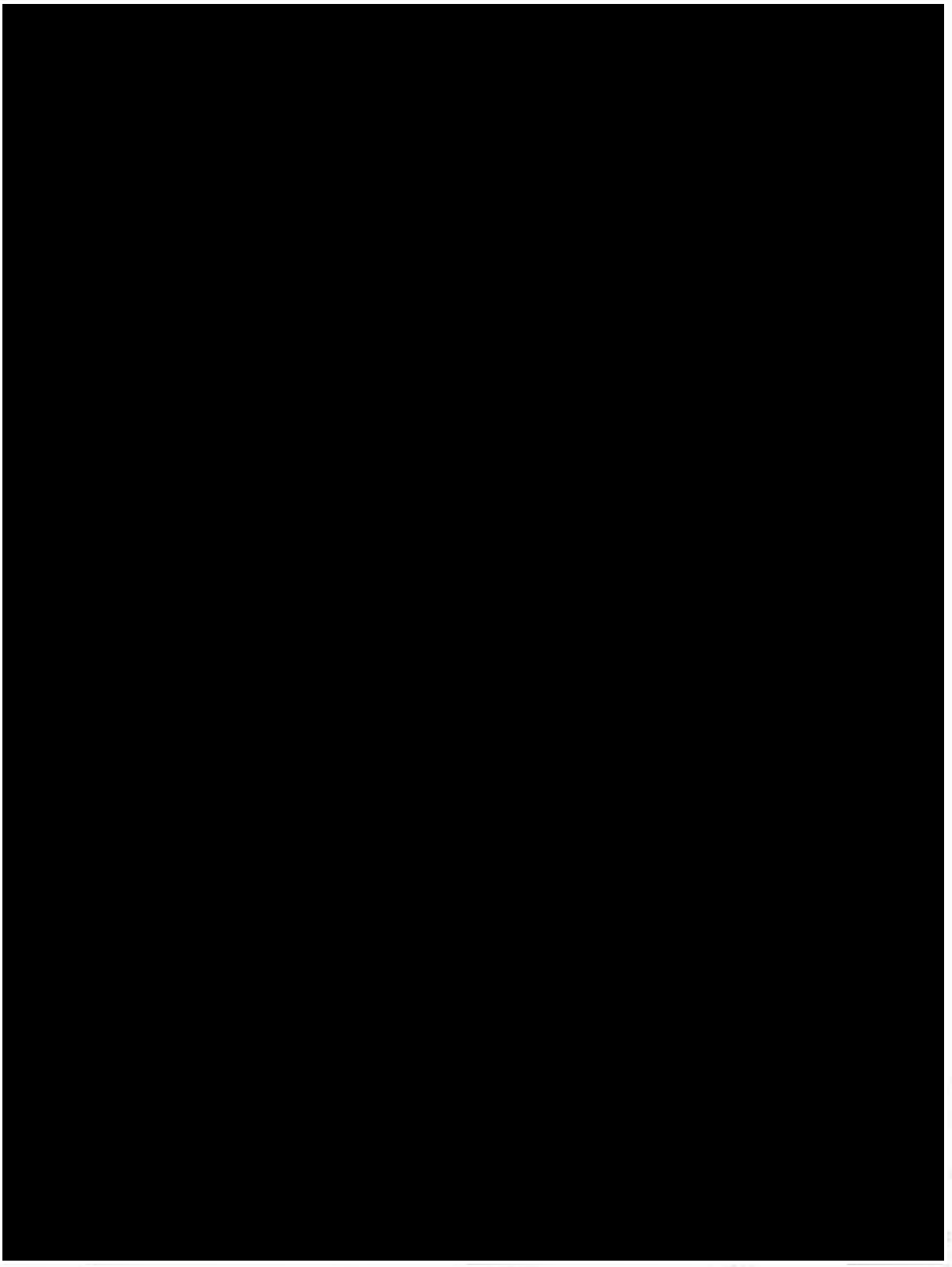


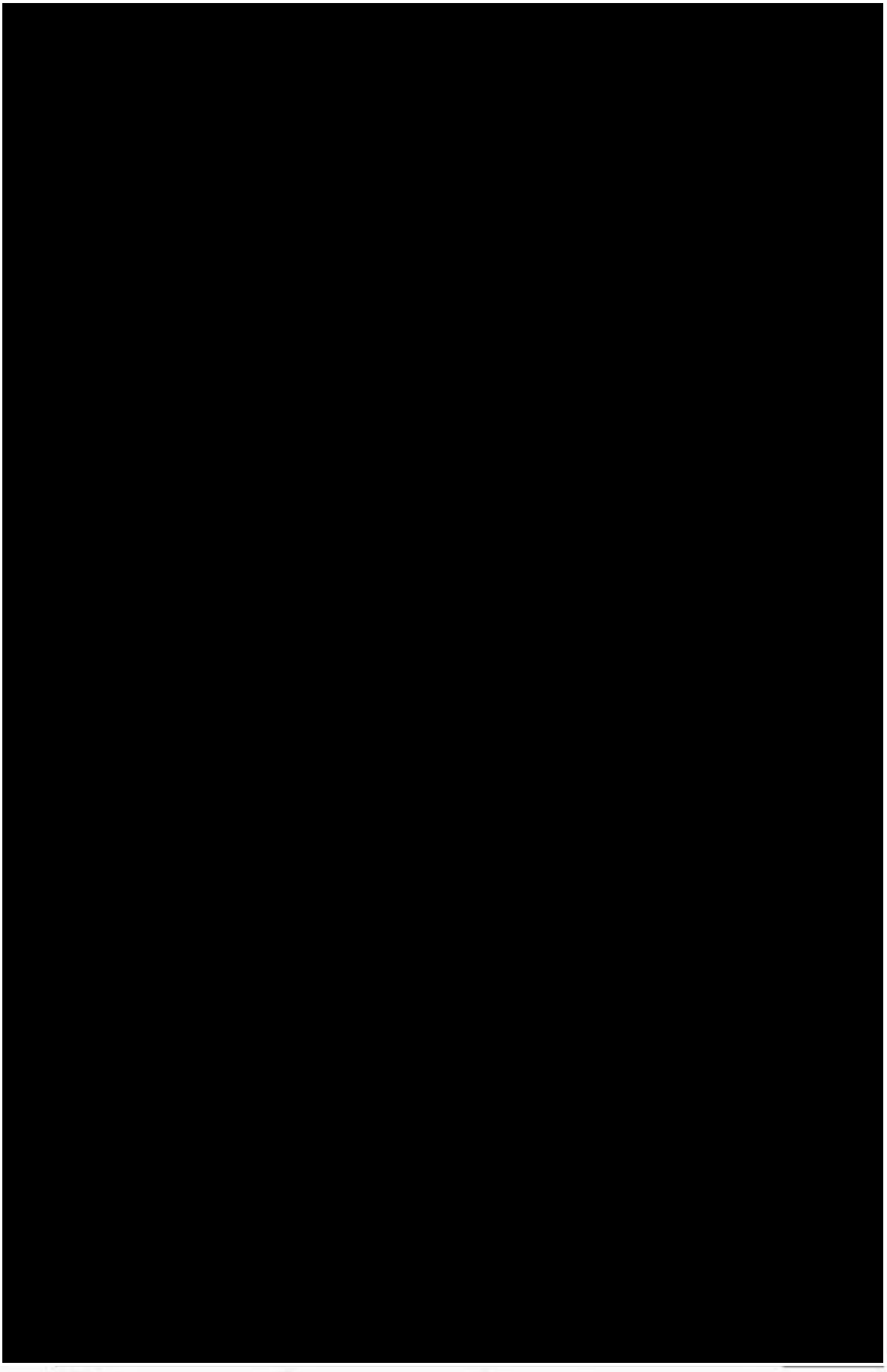
A Commissioner for Oaths

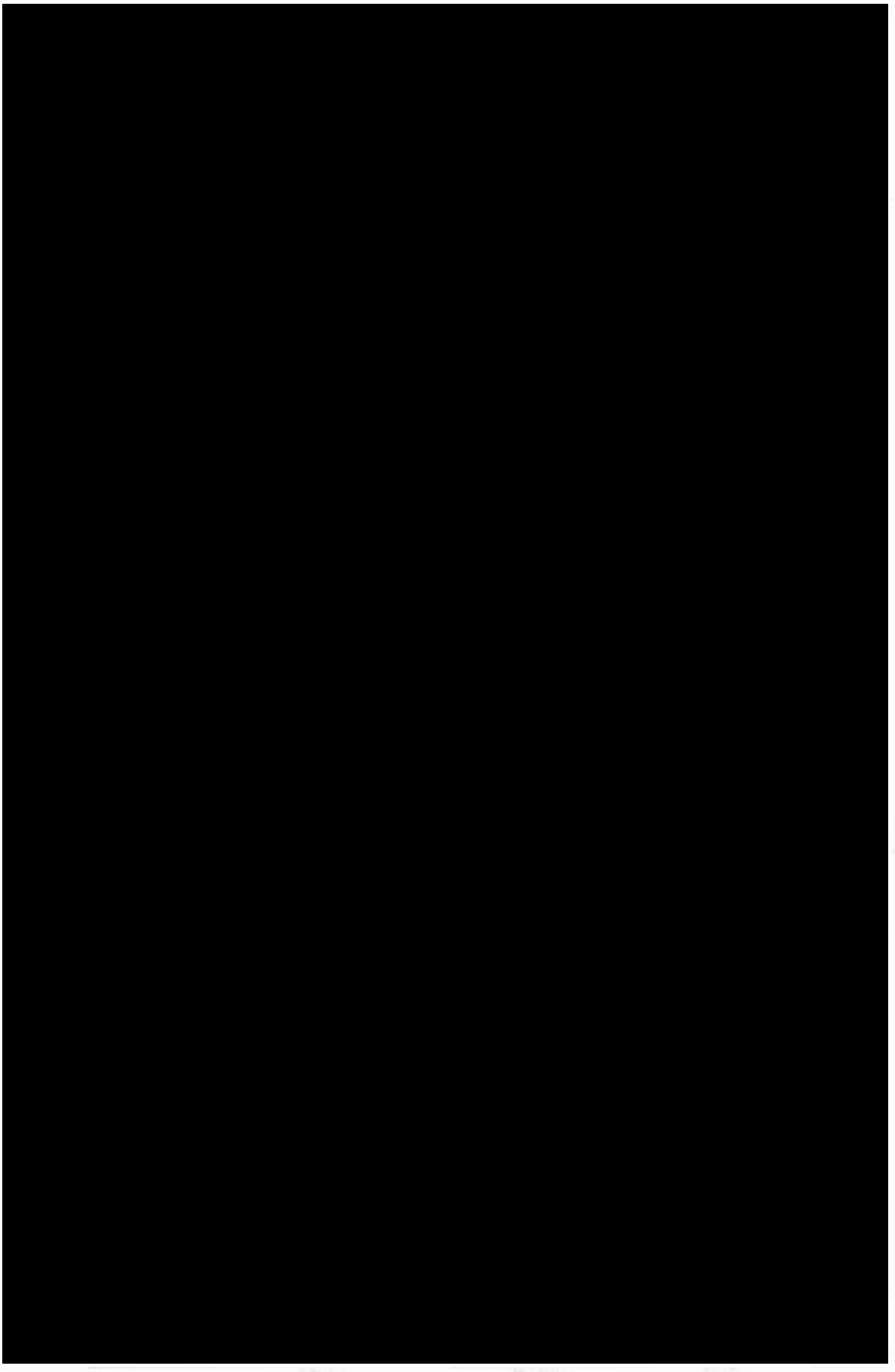
Presented by Charles Gomez & Co, of 5 Secretary's Lane, Gibraltar. Solicitors for Ian McGrail

WHATSAPP CHAT LOG

Ian McGrail & Lt. General Ed Davis











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[08/10/2019, 11:28:29] Ian McGrail: Morning Sir - Panorama giving us kisses and hugs again.

[08/10/2019, 12:22:06] Ed Davis: Indeed. Very useful that Matt Parr is coming soon.

[08/10/2019, 12:30:23] Ian McGrail: Indeed

[08/10/2019, 17:21:54] Ed Davis: Commissioner, just sent some press lines on a long list of Qs from Panorama regarding the GPF survey to your office. Any comments gladly received by midday tomorrow. Assume you /RGP have been asked similar Qs?

Best, Ed

[08/10/2019, 17:26:45] Ian McGrail: You deleted this message.

[08/10/2019, 17:42:04] Ian McGrail: Sir, I am asking my press officer if anything has been fired our way. I did get questions from the Chronicle though and extracts of my response were published on last friday's edition. I'll share with you what I sent to the Chronicle. Rgds

[08/10/2019, 18:06:44] Ian McGrail: You deleted this message.

[08/10/2019, 18:07:21] Ian McGrail: Sir

My media officer has confirmed that we have not received any questions from Panorama. I have already responded to Matthew Bennet's email incorporating my statement to the Chronicle and an observation of a section of your press line which I would ask you to consider.

I note that you intend meeting with the GPF which to discuss the matter. Could I kindly ask whether I would be able

to meet with you beforehand so I can provide you certain documentation and contextual insight from the RGP Command's perspective?

Rgds

Ian

[09/10/2019, 14:29:04] Ed Davis: Thanks for the comment - incorporated. Just forwarded to P. And of course I will chat to you before GPF. Also want to talk to Joey B - with you or separately? Happy either way.

[09/10/2019, 14:31:39] Ian McGrail: Happy either way myself - whatever is more convenient for yourself.

Rgds

[09/10/2019, 14:32:41] Ed Davis: Together, please. I'll get Yasmin to tee up sometime during next week.

[09/10/2019, 14:38:34] Ian McGrail: Ok Sir

[11/10/2019, 15:55:40] Ian McGrail: Sir, ref Panorama's front page today, the CM has said absolutely nothing to me on the subject. I have written to him and he has responded stating it all skewered by Panorama & that he will be responding later today.

Rgds

[11/10/2019, 19:07:58] Ed Davis: Good. As we discussed, we all need to be in lock-step on our messaging. I will tee up a 4-way (CM, you, Joey and me) to agree next collective moves. Have a great weekend.

[02/12/2019, 17:43:58] Ed Davis: Evening Ian, good work on Vox. Thanks.

Do you have an email for Dean Haydon - can't find mine.

Ed

[02/12/2019, 18:06:40] Ian McGrail: Wait one

[02/12/2019, 18:07:09] Ed Davis: Thanks

[02/12/2019, 18:08:55] Ian McGrail: YE - Dean.Haydon@met.pnn.police.uk

[02/12/2019, 18:09:11] Ed Davis: Thanks

[02/12/2019, 18:11:12] Ian McGrail: This is his office's number

0044 2072303235

[02/12/2019, 20:08:52] Ed Davis: Thanks

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[09/05/2020, 14:35:15] Ed Davis: Dear Ian, just thought I'd touch base to, first and foremost, check you, Diane and the family are well given the scourge of CV - we'll done in managing it so well - and second, just to let you know I'm thinking of you and the Force as you lean into taking forward HMIC's report.

Given the resource / capability pressures of assuring such a small national Force, I judge the headlines are fundamentally positive being in step with the Force's innate and unique challenges. But never an easy read for the leadership and officers as such reports, purposely, focus on shortfalls not successes.

Corruption? Well, nothing wrong with tightening mitigation even it's not a problem today.

So, as I know you and RGP will, charge on by embracing-adapting-progressing. Rooting for you from afar, as always, as you walk that path with belief and pride.

Warmest best to you and Diane.

Ed

PS - really enjoying not having to read the Panorama any more!

[09/05/2020, 14:55:03] Ian McGrail: Sir, great to hear from you. All good here thanks. The force is responding very well to the rhythm & tone we set to deal with CV.

The HMICFRS report, well.....obviously disheartened, more so when Matt Parr stated there was nothing to worry about when he was over. But as you allude, I have embraced the recommendations with positivity and have commenced work to address them. Yes, the positives don't feature and in that sense the reading of the report makes it all the harder to swallow. And I agree, pride and belief in abundance !

Many thanks for your unstinting support which I really appreciate.

Diane & I send our best wishes to Lorraine and yourself.

Ian



3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 15

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 15
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)



A Commissioner for Oaths

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

His Excellency
Lieutenant General Edward Davis CB CBE KStJ
Governor & Commander-in-Chief

The Convent
Gibraltar

Tel: [redacted]
Fax:

Twitter - @Convent_Gib
Facebook - @ConventGib

ROYAL GIBRALTAR
OFFICE OF THE
04/02/20
COMMISSIONER OF POLICE
POLICE

31 January 2020

Dear Commissioner,

May I thank you for three things. First, my magnificent RGP officer figurine – I love it. Second, for the inspiration and pride the RGP has given me during my tenure as Governor. It has been a true privilege and immense pleasure to have been a champion for your outstanding Police officers for the last four years. And, finally, on a personal note, thank you for your friendship and support on a sometimes difficult journey. Together, whilst

as ever, much remains to be done, I will be <u>forever</u> grateful for your comradeship in our endeavours to assure the future of the Rock's very special Police Force.

Very respectfully,

EJ

3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 16

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 16
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
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A Commissioner for Oaths

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

OP Kram (collision at sea incident) Time-line

Key:

AG =	Attorney General Michael Llamas
BA =	British Ambassador [Madrid]
BCA =	Borders and Coastguard Agency [Gibraltar]
BGTW =	British Gibraltar Territorial Waters
CAD =	Command and Despatch (the control centre of the Royal Gibraltar Police)
CBF =	Commander British Forces [Gibraltar]
CI =	Chief Inspector
CM =	Chief Minister Fabian Picardo
CNP =	Cuerpo Nacional de Policia (Spanish law enforcement agency)
CoP =	Commissioner of Police Ian McGrail
CSM =	Crime Scene Manager
DCI =	Detective Chief Inspector
DS =	Detective Sergeant
EIO =	European Investigation Order
FCO =	Foreign and Commonwealth Office
FLO =	Family Liaison Officer
GC =	Guardia Civil (Spanish law enforcement agency)
GC COS =	Guardia Civil Central Operativa de Servicios (control centre)
GDP =	Gibraltar Defence Police
GGMS =	Gibraltar Government Marine Station
GHA =	Gibraltar Health Authority
GPA Chair =	Gibraltar Police Authority Chairman Joey Britto
GPF =	Gibraltar Police Federation
HE =	His Excellency the Governor [interim] Nick Pyle
HMC =	Her Majesty's Customs [Gibraltar]
HMGoG =	Her Majesty's Government of Gibraltar
HTCU =	Hi-Tech Crime Unit (IT forensics unit)
Insp =	Police Inspector
LEA =	Law Enforcement Agency
MDP =	Ministry of Defence Police (referred in the time line as the GDP also)
Met =	Metropolitan Police
MLA =	Mutual Legal Assistance
MoJ =	Minister for Justice Samantha Sacramento
MPS DPS =	Metropolitan Police Service – Directorate of Professional Standards
NMH =	New Mole House, Headquarters of the Royal Gibraltar Police
NPoCC =	UK's National Police Co-ordination Centre
PCB =	Police Complaints Board
PM =	Post Mortem examination
PMB =	Police Motor Boat
RHIB =	Rigid Hulled Inflatable Boat
RGP =	Royal Gibraltar Police
SBH =	St Bernard's Hospital
SCO =	Senior Customs Officer [Gibraltar]
SIO =	Senior Investigating Officer
SIVE =	Coastal camera system operation by the GC
SMT =	Senior Management Team [RGP]
SPOC =	Single Point of Contact
Supt =	Police Superintendent

SVA = Servicio Vigilancia Aduanera (Spanish law enforcement agency)
VTS = Vessel Traffic Services [Port Authority]
WHSS = Windmill Hill Signal Station

REFERENCES IN THE COMMENTS COLOUMN REFER TO APPENDICES PROVIDED IN SUPPORT OF THE FACTUAL REPORT REQUESTED BY THE CM UNDER SEC 15 POLICE ACT 2006.

Serial No.	***Date***	***Time***	***Action***	***Comments***
1.	07/03/2020	2200hrs	Officers 1, 2 & 3 parade for duty at New Mole House Police Station where they are briefed as to their deployment and subsequently return to GGMS. They deployed on the Sir John Chapple to Ocean village where the officers carry out foot patrols of the Marina area.	**(Can be found in appendix 15,16 & 17)** officers Statements).
2.	08/03/2020	0200hrs	Afternoon (P) Shift Marine Crew terminated their tour of duty.	**(Can be found in appendix 15,16 & 17)** officers Statements).
3.	08/03/2020	0200hrs	WHSS observes suspect RHIB on Thermal Camera however it is too far away to identify the vessel. It is suspected that the vessel id 3-4 Nautical Miles out of BGTW.	Daniel Ferro mentions this in his statement **(appendix 20)**
4.	08/03/2020	0235hrs	Suspect RHIB heads towards the Spanish Port of La Atunara, La Linea, from its position of 11 nautical miles to the east.	Solis Draft Report based on data obtained from suspect RHIB navigational equipment **(Appendix 19)**. Daniel Ferro states that at 0250hrs he sees vessel heading towards Spanish mainland **(appendix 20)**
5.	08/03/2020	0238hrs	Call from WHSS to RGP PMB Mobile phone. Officer 1 answers phone and receives report of a suspect RHIB seen on the eastern side approximately 3 to 4 miles out of BGTW. Call 1 02:38:02(Duration 1:21) Call 2 02:39:12 (Duration 1:21)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23)**
6.	08/03/2020	0306hrs	PMB Calls WHSS. Duration of call 1:47)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23)**
7.	08/03/2020	0308hrs	Officer One contacts Guardia Civil COS informing them about the information received from WHSS during which time the GC confirm they were monitoring the vessel. (Duration 01:32)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23)**

8.	08/03/2020	0309hrs	Officer One contacts WHSS and confirms that GC are monitoring suspect RHIB and RGP Crew will deploy to Eastern Side of Gibraltar. AIS device not activated. (Duration 00:50)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23).** Daniel Ferro confirms the call to WHSS however he puts the time "at about" 0300hrs **(Appendix 20).** GDP PC Kilpatrick also provides the time frame of "at about" 0300hrs **(Appendix 30)**
9.	08/03/2020	0315hrs	WHSS on their cameras observe suspect RHIB heading towards Atunara Port where they were met by a smaller vessel. Information relayed to the RGP crew. Call 1 03:11:36 (00:17) Call 2 03:12:47 (00:17) Call 3 03:15:27 (00:18) Call 4 06:16:38 (00:18)	Mentioned in statements of Daniel Ferro and GDP PC Kilpatrick. On Officer 1 being informed of the observations, he confirms to WHSS that GC are keeping him informed **(Appendices 20 & 30).** The Gibtelecom logs for the PMB mobile shows four calls originating from [redacted]. **(Appendix 23)** these are MOD telephone numbers which although suspected to refer to calls from WHSS, this cannot be confirmed as they could be MOD exchange numbers. It could not be established which one of the calls the info was relayed. No mentions are made by any officers in their statements of the numerous calls made to PMB mobile during this time frame. This information is reflected in the Solis Report this provides a time of 0316hrs **(Appendix 19).**
10.	08/03/2020	0320hrs	GC Contacts PMB, as they arrive at Eastern Side. Informs crew that the suspect RHIB was by the breakwater at Atunara Port carrying out what they believed to be a crew change and food re-supply and advises PMB to head east. (Duration 46sec)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23)**
11.	08/03/2020	0322hrs	GC Contact PMB and informed RGP vessel to remain at their current position as the Suspect RHIB is heading towards them. (Duration 46 Sec)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23)**

12.	08/03/2020	0326hrs	Suspect RHIB with four crew on board, depart the Port of Atunara and heads initially north and then onto a north easterly heading away from the Spanish Coast.	Solis Draft Report based on data obtained from suspect RHIB navigational equipment **(Appendix 19)**. Daniel Ferro & GDP PC Alan Kilpatrick's statements **(Appendices 20 & 30)** put this event at about 0330hrs.
13.	08/03/2020	0324hrs – 0325hrs	Three calls made to PMB by WHSS. 1. 03:24:08 (36 Sec) 2. 03:25:19 (36 sec) 3. 03:25:22 (16 sec)	There is no mention of these calls in the officers' statements. The details of these calls have been obtained from the call log **(Appendix 23).** The Gibtelecom logs for the PMB mobile shows three calls originating from [redacted]. These are MOD telephone numbers which although suspected to refer to calls from WHSS, this cannot be confirmed as they could be MOD exchange numbers.
14.	08/03/2020	0325hrs	Three calls made by GC COS to PMB Mobile. 1. 03:25:26 (No Duration) 2. 03:25:37 (No Duration) 3. 03:25:48 (No Duration)	According to the call logs **(Appendix 23)** these show no duration to the calls. It may be that the officer never answered the phone at this stage. The officers also make no mention of this in their statements.
15.	08/03/2020	0326hrs	(03:26:15) Call made by WHSS to PMB (Duration 14 Sec)	There is no mention of this call ir the officer's statements (Both RGP and WHSS). The details of these calls have been obtained from the call log **(Appendix 23).** The Gibtelecom logs for the PME mobile shows one call originatin from [redacted]. This is an MOD telephone number which although is suspected to refer to calls from WHSS, this cannot be confirmed as they could be MOC exchange numbers.
16.	08/03/2020	0326hrs	(03:26:17) GC COS calls PMB (No Duration)	There is no mention of this call ir the officer's statements. The details of this calls have been obtained from the call log **(Appendix 23).**
17.	08/03/2020	0326hrs	(03:26:33) Call made by WHSS to PMB Duration 16 secs	There is no mention of this call ir the officer's statements (Both RGP and WHSS). The details of these calls have been obtained from the call log **(Appendix 23).** The Gibtelecom logs for the PME

				mobile shows one call originating from [redacted]. This is an MOD telephone number which although is suspected to refer to calls from WHSS, this cannot be confirmed as they could be MOD exchange numbers.
18.	08/03/2020	0326hrs	3 Calls made from GC COS to PMB at the following times: 03:26:37 No Duration 03:26:48 No Duration 03:26:59 No Duration	There is no mention of this call in the officer's statements. The details of this calls have been obtained from the call log **(Appendix 23).** There is not duration to call.
19.	08/03/2020	0327hrs – 0339hrs	Calls made from GC COS to PMB at the following times: 03:27:12 20 Secs 03:27:25 15 secs 03:27:28 (No Duration) 03:28:22 20 secs 03:38:16 14 secs 03:39:27 14 secs	There is no mention of this call in the officer's statements. The details of this calls have been obtained from the call log **(Appendix 23).** There is not duration to call. The two calls at the end of the list are close to the time of the collision 03:38:56 according to the SOLIS draft report **(Appendix 19).**
20.	08/03/2020	0329hrs	Facts established at a subsequent date by the SOLIS maritime accident investigator. The Sir John Chapple intercepts the Suspect RHIB at Coordinates 36° 11.7'N 005° 18.1'W. Blue beacons activated on PMB. Suspect RHIB performs evasive and dangerous manoeuvres and objects were thrown at Police Vessel by suspect RHIB crew members.	The coordinates and timing are provided are from the SOLIS draft report which has been obtained from the suspect RHIB's navigational equipment **(Appendix 19).** According to WHSS the intercept occurs at 0332hrs **(Appendix 20, 30 & 74).** According to officer 1, PMB commenced to follow the suspect RHIB after the suspect RHIB passed in front of the bow of the PMB at a distance of about 5-10metres **(Appendices 15, 16 & 17).** This contradicts the direction of the suspect RHIB as Meikle's report evidences. Officer one states the vessel is travelling south east and officer three states it was travelling south. WHSS also state that they can observe PMB blue beacon illuminated during the chase. This was also confirmed by the PMB officers and Bruno Miguel Gomes

				Sereno (one of the persons arrested) During the course of the pursuit crew members from the suspect RHIB began to throw objects at the PMB according to the statements from the PMB officers. It has also been noted in the officers' statements and the statements obtained from WHSS that the suspect RHIB carried out erratic and evasive manoeuvres. In the SOLIS report these movements are described as sharp turns.
21.	08/03/2020	0338hrs	According to the marine expert, the collision occurred at around 03:38:56, in position 36° 09.96' N 005° 12.51' W	Initially we are provided similar coordinates by the GC as a result of a telephone call made by DI Chipolina **(DI Chipolina File note)** Subsequently we photographed the suspect RHIB's radar signal last screen and this provides us with a suspected collision coordinate but we could not interpret this data as we did not have an understanding of the unit and had no expertise in this field. This was subsequently verified by Capt. Meikle in his SOLIS draft report. **(Appendix 19).** According to WHSS the pursuit ends at 0342hrs **(Appendix 20, 30 & 74).** Thermal imagery The officers' statements also make reference to the collision and end of the pursuit but they do not provide a time and location.
22.	08/03/2020		Immediately after the collision PMB turns to the suspect RHIB and comes alongside. Officers 1 & 2 jump onto the suspect RHIB and begin to offer medical assistance, after observing the fatality and the seriousness of the second casualty it was decided to convey the persons back to GGMS via towing the suspect RHIB where they could receive medical attention.	These are accounts are from officers 1, 2 & 3 **(appendices 15, 16 & 17).** The decision to not leave any officer on board the suspect RHIB was taken by officer one as he feared for their safety and also taking into account that he and his crew were suffering from shock. There is no mention of calling a May Day by the officers.

23.	08/03/2020	0339hrs	PMB call GC COS at 03:39 (duration 15 seconds)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23).**
24.	08/03/2020	0343hrs	PMB calls WHSS and informs them of the collision with one fatality and a second person seriously injured. Duration 1:10	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23).** None of the officer's mention calling a May day and this is evidenced in the Solis report. This is also reflected in Daniel Ferro and GDP PC Kilpatrick's Statements **(Appendix 20 & 30).**
25.	08/03/2020	0345hrs	PMB calls GC COS. The duration of this call is about 44 seconds however the contents of the conversation is unknown.	There is no Specific mention of this Call by officer 1 however it has been identified from the Gibtelecom call logs **(Appendix 23).** Officer 1 states in his statement that he receives a call (contrary to the telephone log) from the GC COS. He further states that he cannot recall the conversation, he just remembers this being about "something to do with "la Roca" or "enfrente la Roca" **(Appendix 15).**
26.	08/03/2020	0346hrs	Sir John Chapple heads back to Gibraltar with suspect RHIB on tow.	This time has been identified by the SOLIS Draft Report **(Appendix 19).** Officers one's statement makes mention to suffering engine failure following the collision **(Appendix 15)** along
27.	08/03/2020	0348hrs	PMB calls RGP NMH and informs the duty crown sergeant of the incident and one fatality with a second seriously injured and request ambu lance to await arrival at GGMS. Duration 2:24	Although the officer does not make mention of the time. The information in this section is obtained from officer 1's statement **(Appendix 15).** The time of the call has been retrieved from the Gibtelecom phone logs **(Appendix 23).** The Police CAD Logs and PC 117 Fortunato provide a time of 0345hrs **(Appendix 64 & 27).** PS Stone states that he was passed the phone call about 0400hrs **(Appendix 28).** Officer one explains to PS Stone that they

				had been involved in a chase of a smuggling RHIB approximately 3 miles off Europa Point. This is mentioned in the CAD log **(Appendix 64).** This is also explains Officer 1's rationale as to why he did not want to leave an officer aboard the suspect RHIB in case further medical attention was required.
28.	08/03/2020	0350hrs	PS 6 Stone contacts Duty Officer, (Insp Lutkin) and informs him of the incident. Inspector returning to duty and attending Marine Base.	PS Stone's **(Appendix 28)** statement does not provide a time that he informed the Duty Inspector, however the time presented is taken from the notes made in the CAD Log **(Appendix 64).** Inspector Lutkin's statement **(Appendix 58)** states that he received a call "at about" 0345hrs.
29.	08/03/2020	0353hrs	DCI Field (Gold Command on call) is called by Inspector Lutkin and informed of Incident	These details are from DCI Field's Notes
30.	08/03/2020	0353hrs	PS Stone contacts DC 136 Victory (CSI) and informed him of situation.	This is from the CAD Log **(Appendix 64).**
31.	08/03/2020	0355hrs 0356hrs	2x calls made from WHSS to PMB, 1. 03:55:19 (1:10) 2. 03:56:30 (1:10)	There is no mention of these calls in anyone's statements and the time is based on the call log from Gibtelecom **(Appendix 23).** The Gibtelecom logs for the PMB mobile shows the calls originating from [redacted]. This is an MOD telephone number which although is suspected to refer to calls from WHSS, this cannot be confirmed as they could be MOD exchange numbers.
32.	08/03/2020	0355hrs	GPF Chairman is contacted by PMB over the incident.	DCI Field notes
33.	08/03/2020	0356hrs	Call made from PMB to WHSS the duration of this call was 1:11.	There are no details of this call in any officers statements but a call is reflected in Daniel Ferro & GDF PC Kilpatrick's Statements aroun 0350hrs **(Appendices 20 & 30).** This could also be reflected in serial number 22.
34.	08/03/2020	0357hrs	There are a total of four calls made from NMH to PMB: 03:57:55 (no duration) 03:59:06 (no duration)	There is no mention of these call on the CadLog **(Appendix 64).** W do not have any details of call bu In the statement of PS Stone

			03:59:45 (1:59) 04:00:56 (1:59)	**(Appendix 28)** The Crown Sgt contacts PMB, Officer 1 states that he was encountering engine failure and requests for assistance from HM Customs marine unit to deploy and help convey the injured back to GGMS to receive medical treatment. The details of these calls come from the Gibtelecom logs **(Appendix 23).**
35.	08/03/2020	0357hrs	PS Stone contacts DS Garratt (Crime on Call) and apprised of situation.	This is from the CAD Log **(Appendix 64).**
36.	08/03/2020	0400hrs	The Port VTS Supervisor on duty Iain Undery receives a call from Tarifa Traffic where he was informed that they had received a call from an unknown person reporting that there had been a serious incident at sea just off the port of Atunara. As a result of this, Undery contacted PMB and informed him of the report made to him. To this the PMB crew confirm that there had been an incident and they had the vessel on tow.	This is reflected in the statement of Iain Undery **(Appendix 29).** Officer 1 states that he receives a call from the Port Boarding officer but does not recall the conversation **(Appendix 15).** The Gibtelecom log **(Appendix 23)** does not reflect an incoming call from the Port Authority. It does show an outgoing call to Port Boarding officer from PMB at 0413hrs.
37.	08/03/2020	0401hrs	Call made from PMB to NMH Control Room. 04:01:00 Duration 2secs	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
38.	08/03/2020	0405hrs	GHA Ambulance contacted and informed of incident and to attend GGMS and await for arrival of casualties.	This is from the CAD Log **(Appendix 64).**
39.	08/03/2020	0413hrs	Call made by PMB to Port Boarding officer Duration 51 seconds	This is reflected in the Gibtelecom call log **(Appendix 23).** There is no mention of an outgoing call in any officers statement, but could be linked to serial No 33.
40.	08/03/2020	0415hrs	PMB Calls NMH Duration 2:24	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
41.	08/03/2020	0418hrs	PMB contacts HMC Marine Section. Duration 33 secs	The time of the call is from the Gibtelecom Log **(Appendix 23).** Officer 1 makes reference in his statement **(Appendix 15)** to contacting HM Customs marine base, informing him of the

				incident and requested assistance in conveying all injured parties from the suspect RHIB to GGMS to receive medical attention. This is also mentioned in HMC Officer 4's statement **(Appendix 10).**
42.	08/03/2020	0419hrs	PS Stone contacts DCI Field. The crown sergeant provides a brief and informs that HMC vessel will be deployed and if they could assist in the transportation of the injured parties to GGMS. DCI Field asks this to be carried out expeditiously to save lives.	These details are from DCI Field's Notes
43.	08/03/2020	0419hrs – 0420hrs	2x Calls of CAD calling PMB 1. 04:19:24 (duration 45 secs) 2. 04:20:34 (duration 45 secs)	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
44.	08/03/2020	0420hrs	PMB calls NMH CAD duration 46 seconds	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
45.	08/03/2020	0422hrs	DCI Field contacts CoP and briefs him regarding incident. CoP instructs that available SMT to convene at his office for a Gold Strategic meeting.	These details are from DCI Field's Notes
46.	08/03/2020	0423hrs	DCI Field arrives at scene	This is from the CAD Log **(Appendix 64).**
47.	08/03/2020	0425hrs	Customs contact RGP NMH and informs control room that they are deploying to PMB's location.	This is from the CAD Log **(Appendix 64).** It is also mentioned they deployed in HMC Officer 4's Statement **(Appendix 10).**
48.	08/03/2020	0426hrs	DCI Field contacts Supt Richardson and briefs him regarding incident.	These details are from DCI Field's Notes. Supt Richardson then attends NMH.
49.	08/03/2020	0428hrs	GHA Ambulance with EMT's Stuart Ryan and Tanya Noguera arrives at GGMS	This is from the CAD Log **(Appendix 64).**
50.	08/03/2020	0429hrs – 0430hrs	X 2 GC COS contacts PMB. 04:29:15 (41 Seconds) 04:30:26 (41 Seconds)	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
51.	08/03/2020	0430hrs	PMB calls GC COS duration 42 secs	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No

				specific mention of this call in any statements.
52.	08/03/2020		Comment made from one of the DP's made in the hearing of Officer 2 reads as follows "Estan muertos y a mi me duele mucho el costado hay que llevarnos al hospital" ***(they are dead and I have a lot of pain in my side and we need to be taken to the hospital)*** Further on another comment is made to the effect "no tienes la culpa, los motores se pararon, se que no quieren ustedes matar a nadie. Porfavor ayuda a mi tio" ***(it wasn't your fault. The engines stopped, I know you guys wouldn't kill anyone, please help my uncle).*** (I suspect this last comment is made by Nordin as it relates to his uncle.	These comments are referred to the statement of officer Two **(Appendix 16)**
53.	08/03/2020		Comment from one of the DP's suspected to be Nordin due to the reference to "uncle" to Officer 1 prior to HMC Seeker's attendance reads as follows: "Agente fue nuestra culpa que se nos para los motores, no te dimo tiempo de parar, porfavor ayuda mi tio, yo se que ustedes no querian matar a nadie"***(Officer it was our fault as our engines stopped, we didn't give you enough time to stop, please help my uncle, I know you guys didn't want to kill anyone).***	This comment is referred to the statement of officer one **(Appendix 15)**
54.	08/03/2020	0431hrs	PMB stops 1 nautical mile north east of Europa Point where it rendezvous with HMC Seeker and transfers over injured parties. HMC Seeker returns to GGMS at speed and PMB continues towing suspect RHIB with deceased body remaining aboard.	This is from the SOLIS Draft Report **(Appendix 19).** The rendezvous can also be seen on the WHSS thermal footage but the time cannot be established. **This is also reflected in the officers statements (Appendices 10,11,12,13,14, 15,16 & 17)**
55.	08/03/2020		Comments made to HMC officer 5 regarding the collision are as follows: Esto asido un accidente vemos cambiado de tripulacion en alcaidesa y no me han dicho q los motores estaban fallando, consecuentemente se had montado en sima, aqui nadie ha querido matar a nadie, asido un accidente, por favor ayuda mi tio q me estaba hablando hace 10 minutos y estar callado por favour". ***(this has been an accident we have just changed crew in alcaidesa and no one***	This comment is referred to the statement of HMC officer 5 **(Appendix 11)**

			has informed me the engines were failing consequently they have rammed into us, this was not intentional and no one wanted to kill anyone it was an accident. Please help my uncle who I've been speaking to and has gone unresponsive about 10 minutes ago)	
56.	08/03/2020		Comments made to HMC officer 6 regarding the collision are as follows: Nordin said "me duele las costillas" ***(my ribs hurt).*** "Ayuda ami tio tava hablando ase 10 minuto" ***(help my uncle, he was talking 10 minutes ago)*** " soy el Nordin trabajo pa alguien grande in Espana, esto a pasado en espana y tengo todo grabado y se lo mandado ami jefe, llevamos 10 minutos montado en la lancha y el motor estaba fallando, las otras personsas montada ante no me an dicho nada del fallo del motor" ***(I am el nordin, I work for someone big in Spain, this has happened in Spain and I have everything recorded. I've sent it to my boss. We have only been aboard 10 minutes and we have had engine problems. The other crew did not say anything).***	These comments are referred to the statement of HMC officer 6 **(Appendix 12)**
57.	08/03/2020		Comments made to HMC officer 7 regarding the collision are as follows: Soy el Nordin trabajo pa alguien grande en Espana, esto a pasado en Espana y tengo todo grabado y se lo mandado ami jefe, llevamos 10 minutos montado en la lancha y el motor estaba fallando, las otras personsas montada ante no me an dicho nada del fallo del motor" ***(I am el nordin, I work for someone big in Spain, this has happened in Spain and I have everything recorded. I've sent it to my boss. We have only been aboard 10 minutes and we have had engine problems. The other crew did not say anything).***	These comments are referred to the statement of HMC officer 7 **(Appendix 13)**
58.	08/03/2020	0432hrs	GHA Paramedic Fabian Ferro arrives at GGMS	This is from the CAD Log **(Appendix 64).**
59.	08/03/2020	0433hrs	Crime on Call officers DC 182 Victor and 190 Rahmouni called out.	This is from the CAD Log **(Appendix 64).**
60.	08/03/2020	0439hrs	Inspector Lutkin arrives on Scene	This is from the CAD Log **(Appendix 64).**

61.	08/03/2020	0447hrs	PMB Sir John Chapple AIS activated	Stated in statement of Philip Mandleberg **(Appendix 50)**
62.	08/03/2020	0449hrs	DS 15 Garratt arrives on Scene	This is from the CAD Log **(Appendix 64).**
63.	08/03/2020	0451hrs	Customs Vessel arrives at GGMS with Casualties aboard.	This is from the CAD Log **(Appendix 64).** Notes of DCI Field state this time to be 0452hrs.
64.	08/03/2020	0454hrs	DS 15 Reports that 3 injured parties are on board the Customs Vessel.	This is from the CAD Log **(Appendix 64).**
65.	08/03/2020	0459hrs	GDP officers kitting up to deploy and escort PMB back to GGMS	This is from the CAD Log **(Appendix 64).**
66.	08/03/2020	0500hrs	Gold Group Convened,	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
67.	08/03/2020	0508hrs	Second Ambulance now at GGMS	This is reflected in the statement of Stuart Ryan **(Appendix 42).** However the time in the statement states that the ambulance was requested at 0500hrs.
68.	08/03/2020	0511hrs	PMB now 200 metres of the southern entrance to the Harbour.	This is from the CAD Log **(Appendix 64).**
69.	08/03/2020	0512hrs	GDP vessel departs Naval Base.	This is from the CAD Log **(Appendix 64).**
70.	08/03/2020	0513hrs	Third Ambulance arrives at GGMS.	This is from the CAD Log **(Appendix 64).**
71.	08/03/2020	0518hrs	Recognition of Life Extinct on Mustafa DRIS MOHAMED carried out by Paramedics Fabian Ferro, Paul Watson and Sigurd Haveland.	This time is confirmed in the EMT Notes supplied for the PM and in the notes of DS 15 Garratt.
72.	08/03/2020	0520hrs	Call from Duty Officer, Second Fatality confirmed.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)** DCI Field has this noted down at 0525hrs, **(DCI Field Notes)**
73.	08/03/2020	0520hrs	Fourth Ambulance at GGMS	This is from the CAD Log **(Appendix 64).**
74.	08/03/2020	0521hrs	PMB arrives at GGMS together with suspect RHIB	Notes for DS Garratt
75.	08/03/2020	0524hrs	CBF sends a text message to COP	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
76.	08/03/2020	0530hrs	Insp Enriles (PSD) arrives	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
77.	08/03/2020	0530hrs	DC 182 and PC 63 attending SBH in Ambulance.	This is reflected in the statement of DC Victor and PC 63 Myhill **(Appendix 56).**

78.	08/03/2020	0530hrs	PC 100 O'Flaherty had been informed by Nordin [redacted] in the Spanish Language that "this happened at Alcaidesa, we asked your colleagues to travel to Gib quickly to hospital to help uncle. But they were only travelling at around 5 Knots and would not put on the blue lights, (unknown word) Guardia Civil".	Statement of PC 100 O'Flaherty **(Appendix 52).** Notes of DS Garratt.
79.	08/03/2020	0534hrs	GPF Chairman Maurice Morello arrives	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
80.	08/03/2020	0536hrs	COP receives phone call from Collector of Customs John Rodriguez.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
81.	08/03/2020	0538hrs	Ambulance arrives at SBH with two persons from RHIB, officers at SBH 182, 63, 175 and 233.	This is from the CAD Log **(Appendix 64).**
82.	08/03/2020	0540hrs	Recognition of life extinct carried out by PC 71 Canepa, Paramedic Paul Watson and Sigurd Haveland.	These details can be found in the statements of PC 71 Canepa **(Appendix 32)** Paul Watson **(Appendix 34)** & Sigurd Haveland **(Appendix 35&36).**
83.	08/03/2020	0541hrs – 0542hrs	X2 phone calls GC COS contacts PMB 05:41:30 (Duration 1:01) 05:42:41 (Duration 1:01)	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** N specific mention of this call in an statements.
84.	08/03/2020	0543hrs	Call from PMB to GC COS, duration 1:02	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** N specific mention of this call in an statements.
85.	08/03/2020	0545hrs – 0546hrs	2x Calls from Crown Sgt to PMB (No Duration on either)	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** N specific mention of this call in an statements.
86.	08/03/2020	0549hrs	PC 216 Yeo en-route to SBH with one of the deceased.	This is from the CAD Log **(Appendix 64).** It is also reflected in the statement of PC 216 Yeo **(Appendix 55).**
87.	08/03/2020	0555hrs	Insp Tunbridge arrives and is briefed by Supt Richardson	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**

88.	08/03/2020	0555hrs	PC216 Yeo arrives at SBH with Deceased.	This is from the CAD Log **(Appendix 64).** It is also reflected in the statement of PC 216 Yeo **(Appendix 55).**
89.	08/03/2020	0558hrs	Insp Fernandez on his way to NMH with PMB crew	This is from the CAD Log **(Appendix 64).**
90.	08/03/2020	0600hrs	PC 216 Yeo states that Deceased Body of [redacted] has been placed in Mortuary Fridge 2.	This is from the CAD Log **(Appendix 64).**
91.	08/03/2020	0601hrs	FLO PC 195 Passano contacted and attending NMH shortly.	This is from the CAD Log **(Appendix 64).** Notes of FLO stated that she was contacted at 0600hrs.
92.	08/03/2020	0602hrs	Both patients being treated at SBH.	This is from the CAD Log **(Appendix 64).**
93.	08/03/2020	0605hrs	COP notifies Governor and Chief Minister via whatsapp messages. "CM - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked. I am invoking Post Incident Procedures and planning for consequence management. Once I have further updates I will let you know. Rgds Ian" "Nick - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked. I am invoking Post Incident Procedures and planning for consequence management. Once I have further updates I will let you know. Rgds Ian"	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)** Text exchanges between CoP & CM & HE
94.	08/03/2020	0616hrs	COP briefs GDP Chief of Police Rob Allen by phone.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
95.	08/03/2020	0618hrs	COP briefs Spanish COP Policia Nacional by phone	This is from Supt Richardson Notes dated 08/03/2020 at

				1011hrs **(Contained in Appendix 39)**
96.	08/03/2020	0620hrs	DI Perera arrives at PMB.	Notes of DI Perera
97.	08/03/2020	0625hrs	CSM brief's DI Perera	Notes of Crime Scene Manager.
98.	08/03/2020	0630hrs	Cop Visits ABE Suite and speaks to PMB Crew, Insp Fernandez and Supt Richardson present.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)** this is also reflected in officer 1's statement **(Appendix 15)**
99.	08/03/2020	0630hrs	Detainees [redacted] and [redacted] had their clothing seized whilst they were being treated in hospital. This was later photographed and examined by SOCO.	This can be found in the following statements **(Appendices 51, 53 & 63)**
100.	08/03/2020	0632hrs	COP briefs GDP CI Mark Wood ref possible security uplift at HM Naval Base.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
101.	08/03/2020	0635hrs	Comandante Pacheco Polo GC Algerciras contacts DI Perera and enquiries as to incident. The DI confirms collision at sea involving RGP vessel and suspect RHIB with a crew of 4, believed to be Spanish nationals. POLO was informed that there had been two fatalities and two further persons detained. DI Perera informed him he would be provided with more information once he was able to do so. DI Field was informed of this contact and instructed that contacts with the GC would be done through DI Chipolina so as to allow DI Perera to continue with his tasks.	DI Perera's Notes
102.	08/03/2020	0636hrs	Justin Chipolina, senior and BCA contacted and informed	This is from the CAD Log **(Appendix 64).** No mention made of what he was informed about.
103.	08/03/2020	0638hrs	DC Victor informs on the identity of both injured parties and deceased at SBH.	This is from the CAD Log **(Appendix 64).**
104.	08/03/2020	0644hrs	17 and 63 will be manning the vehicle access ramp to A&E, 182 + 233 will be remaining inside A&E with injured parties.	This is from the CAD Log **(Appendix 64).**
105.	08/03/2020	0645hrs	COP Calls GC Colonel Fernando Lopez – Rey Quintero	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
106.	08/03/2020	0645hrs	FLO arrives at NMH, is given a short brief by PS Stone of 2 deaths at sea and 2x persons injured.	FLO PC Passano Notes
107.	08/03/2020	0645hrs	DI Chipolina calls Comandante Pacheco Polo GC Algerciras to confirm awareness	File Note made by DI Chipolina ir **(Appendix 39)**

			of collision at sea and identify himself as Spanish Liaison officer for incident.	
108.	08/03/2020	0650hrs	GOLD update – COP. Supt Richardson, DCI Field, DI Chipolina present. ID of three occupants of the vessel confirmed, all male, two Spanish nationals from Ceuta, one from Portugal and one nationality ID to be confirmed.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
109.	08/03/2020	0650hrs	Coroner Pitto informed of the incident by DI Perera, instructs bodies to be placed in fridge and to make arrangements to be made for Post Mortems to be performed by forensic pathologist.	This is from the CAD Log **(Appendix 64).** However the time in the log states 0654hrs. File note also reflected by Insp Perera. According to email from Supt Richardson **(Appendix 39)** this is at 0655hrs.
110.	08/03/2020	0700hrs	FLO Briefed by DCI Field and CI Romero	FLO Notes
111.	08/03/2020	0705hrs	Crime Scene starts on Suspect RHIB by CSM DC 128 and DC 136.	Crime Scene Manger Notes
112.	08/03/2020	0715hrs	Arrangements made for public order barriers to be taken to PMB and used to seal off Vessels and use Police officers to man crime scenes.	
113.	08/03/2020	0720hrs	DC 182 Victor Arrests [redacted] for the offences of Importing a Prohibited Import, Dangerous Navigation and Obstructing Police. When cautioned made no reply. Subsequently confirmed to have fractured left ribs, Right Knee ligament damage and left shoulder pains and bruises around the body.	[redacted] custody records **(Appendix 39).** In the CAD log an update of both detainees is provided at 0811hrs **(Appendix 65).**
114.	08/03/2020	0724hrs	CM replies to CoP via whatsapp message "Ian. Thank you. What are the nationalities of the deceased? Was it drugs or tobacco? Any GC or SVA involvement?"	CoP - CM whatsapp chat log
115.	08/03/2020	0733hrs	CoP message to CM "So far we have 3 identified. 2 from Ceuta (moroccan descent) & a Portuguese. No Spanish law enforcement agency involved. RHIB suspected to be involved in drug smuggling. I have also informed The Convent. I have held a "Gold" command meeting in my office to address, welfare of the crew, the investigation that will now follow, security/safety to our law enforcement officers, community impact et al. Also linked up with GC and CNP more so after the disturbances in La Linea after the other death involving the our	CoP – CM Whatsapp chat log

			customs patrol boat but given that those on the RHIB are not from this region it may not have an impact. I am still waiting for the 4th & (also deceased) to be identified."	
116.	08/03/2020	0734hrs	DC 190 reports that he attended WHSS and they do not have coordinates of collision, CCTV Footage was available but unaware if it was pointing in right direction. Imagery Radar shows no coordinates in possession of WHSS	Notes of DS 15 Garratt.
117.	08/03/2020	0737hrs	CoP messages CM "Just had the ID of the 4th one confirmed. He is also from Ceuta of Moroccan descent."	CoP – CM whatsapp chat log
118.	08/03/2020	0737hrs	DC 182 Victor Arrests [redacted] for the offences of Importing a Prohibited Import, Dangerous Navigation and Obstructing Police. When cautioned replied "Yo no taba conduciendo, el que conducia era el primero que ha fallecido" (I wasn't driving, the driver has died). Sustained no injuries during the collision.	This time is reflected in the custody records **(Appendix 39).** In the CAD log an update of both detainees is provided at 0811hrs **(Appendix 65).**
119.	08/03/2020	0740hrs	DI Chipolina makes a phonecall to Comandante Pacheco Polo GC Algerciras to provide details of the 4 occupants of the suspect RHIB and request assistance notifying next of Kin. He also requested assistance from GC COS regarding vessel positioning data and previous convictions of the 4 occupants.	File Note made by DI Chipolina in **(Appendix 39**
120.	08/03/2020	0740hrs	CM messages CoP via Whatsapp "Thank you. Are our officers safely ashore and seen by med staff if necessary? Are their families informed they are ok, in case social media lets on there has been a fatal collision, so they don't worry?"	CoP – CM Whatsapp chat log
121.	08/03/2020	0741hrs	CM messages CoP via Whatsapp "Also, what time did it occur and was it firmly within BGTW or questionable?	CoP – CM Whatsapp chat log
122.	08/03/2020	0742hrs	CM messages CoP via Whatsapp "I think we should announce if possible to avoid social media speculation. Have you prepared media release or do you want Stuart's* help? **Stuart is one of HMGoG's press officers*	CoP – CM Whatsapp chat log

123.	08/03/2020	0742hrs	CoP messages CM via Whatsapp "Our crew are ok. Their welfare is being totally safeguarded. I am also circulating a notice to all staff to prevent speculation and social media reporting from within. I will issue a very brief press notice shortly."	CoP – CM Whatsapp chat log
124.	08/03/2020	0743hrs	CM messages CoP via Whatsapp "Ok. Re the two who survived, captured? Hospital or cells?"	CoP – CM Whatsapp chat log
125.	08/03/2020	0743hrs	CoP messages CM via Whatsapp "Collision occurred at approx 0340hrs. Location still to be confirmed."	CoP – CM Whatsapp chat log
126.	08/03/2020	0744hrs	"CoP messages CM via Whatsapp "The two who survived are in hospital with non critical injuries as far as I am informed."	CoP – CM Whatsapp chat log
127.	08/03/2020	0750hrs	Gold Group Reconvened- COP, Supt Richardson, DCI Field, CI Romero, Insp Tunbridge and DI Enriles. Progress from actions discussed, Gold Resilience, PIP update, SIO update, PSD update.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
128.	08/03/2020	0750hrs	Insp Tunbridge tasked to deploy personnel to cover crime scenes and security at NMH and SBH	Tasking form written by DCI Field **(Appendix 39)**
129.	08/03/2020	0800hrs	Seals on body bag of the Late [redacted] were placed. (A37192 and A37191)	Notes of DS 15 Garratt.
130.	08/03/2020	0813hrs	CM messages CoP via Whatsapp "Arrested, correct?"	CoP – CM Whatsapp chat log
131.	08/03/2020	0814hrs	CoP meesages CM via Whatsapp "They will be if they haven't been already"	CoP – CM Whatsapp chat log In fact they had been arrested at 0720hrs and 0737hrs respectivel
132.	08/03/2020	0835hrs	Ambulance arrives at GGMS to convey body of [redacted] to SBH.	This time is recorded in the notes of the Crime Scene Manager. This is also reflected in the CAD Log **(Appendix 65).** However the time noted in the CAD log is 0828hrs.
133.	08/03/2020	0839hrs	[redacted] arrives at New Mole House Custody suite to be processed.	This time is reflected in the custody records **(Appendix 39).**
134.	08/03/2020	0855hrs	Ambulance conveys body of [redacted] to SBH.	This time is recorded in the notes of the Crime Scene Manager. This is also reflected in the CAD Log **(Appendix 65).** The time noted i the CAD log is 0855hrs.
135.	08/03/2020	0859hrs	CoP notifies MoJ via Whatsappa message "Minister- We're dealing with a critical incident - one of our boats has been	CoP – MoJ Whatsapp chat log

			involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked. I am invoking Post Incident Procedures and planning for consequence management. I have advised CM & HE already. Rgds Ian"	
136.	08/03/2020	0900hrs	CoP notifies GPA Chair of the incident informing him CM, HE, and MoJ have been notified. "Joey - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked. I am invoking Post Incident Procedures and planning for consequence management. I have advised HE, CM & MoJ already. Regards Ian"	Text messages between GPA Chair & CoP
137.	08/03/2020	0915hrs	GDP SMT, Supt Johnson, CI Caufield, CI Wood, briefed at COP's office.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
138.	08/3/2020	0927hrs	HE replies to CoP via Whatsapp "Ian. Thanks for letting me know. Sorry to hear this."	CoP – HE whatsapp chat log
139.	08/03/2020	0929hrs	HE messages CoP via Whatsap "And of course if ty need anything from us/HMG just ask. Hope your guys are ok."	CoP – HE whatsapp chat log
140.	08/03/2020	0935hrs	Call received by DI Chipolina from Comandante Pacheco Polo GC Algerciras stating that according to COS radar tracing of the incident the approximate coordinates of the collision were 36 09N 5 12W which was approximately 6.54 miles east of Santa Barbara Beach. GC stated this data was subject to confirmation by technical extraction from their SIVE system. DCI Field contacted and informed of this.	File note from DI Chipolina.

141.	08/03/2020	0940hrs	DCI Field advises that collision occurred at 36' 09 N 5" 12 W" approx... 6.54 East of Playa de Santa Barbara but that this is still subject to confirmation.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
142.	08/03/2020	0941hrs	CoP replies to HE's message "Thanks Nick."	CoP – HE Whatsapp chat logs
143.	08/03/2020	0949hrs	CoP messages CM via Whatsapp "CM – the information suggests that the collision took place outside BGTW – approx. 6NM east the runway/Santa Barbara beach." Note - this information had yet not been verified	Cop – CM Whatsapp chat log
144.	08/03/2020	0953hrs	CoP messages CM via Whatsapp "When a death arises from police contact its best practice to engage with an independent investigating team & I am studying how to achieve this."	CoP – Cm Whatsapp chat log
145.	08/03/2020	0953hrs	CM responds to CoP via Whatsapp "Ok. We need to liaise with AG on this and ensure we are transparent on this."	CoP – CM Whatsapp chat log
146.	08/03/2020	0954hrs	CM messages CoP via Whataspp "Yes, agreed. Any necessary additional expenditure will be approved."	CoP – CM Whatsapp chat log
147.	08/03/2020	0954hrs	CoP responds to CM "Many thanks"	Cop – Whatsapp chat log
148.	08/03/2020	1001hrs	The wife of Nordin, called [redacted], is at SBH with her children. DS 15 Garratt and FLO requested to attend SBH.	This is from the CAD Log **(Appendix 65).**
149.	08/03/2020	1010hrs	COP briefs AG Michael LLAMAS at New Mole House. AG feeds up to the CM HE joins the meeting @ 1215Hrs	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)** & Text messages between AG & CoP
150.	08/03/2020	1010hrs	All Stage 3 accounts submitted to DCI Field	The handing over of these documents is referred in **(Appendix 1)** the documents themselves are included **(Appendices 2-9).**
151.	08/03/2020	1031hrs	GPA Chair messages CoP "Thanks – I saw it on the news feed"	CoP – GPA Chair Whatsapp chat log
152.	08/03/2020	1055hrs	FLO attends SBH and meets with family members who have gathered in the area. Details of those persons have been noted down in the FLO Notes	FLO PC Passano notes
153.	08/03/2020	1058hrs	GPA Chair messages CoP "Not asking any questions of you in view that it is under investigation and for Coroner to determine. Just like to say that it is unfortunate, to say the least!"	CoP – GPA Chair whatsapp chat log.

154.	08/03/2020	1100hrs	Crime Scene on HMC Seeker, followed with pictures taken from Sir John Chapple.	Notes from Crime Scene Manager, DC 108 Vallee Photographs Scene.
155.	08/03/2020	1120hrs	SBH clinical manager on duty Jason Pincho contacted by DI Perera for reassurance. Informed officers within SBH and surrounding area and informed that if Police were required to contact NMH immediately.	Notes of DI Perera. This is also mentioned in the CAD Log **(Appendix 65)**. As 1129hrs.
156.	08/03//2020	1124hrs	[redacted] arrives at New Mole House Custody suite to be processed.	This time is reflected in the custody records **(Appendix 39)**.
157.	08/03/2020	1130hrs	Both vessels brought out of sea and placed on the hard.	Notes from Crime Scene Manager
158.	08/03/2020	1140hrs	AG forwards top CoP a message he had sent to the CM. "Been in New Mole for the last hour or so. Cooperation RGP/Spanish LEAs very good. New RGP Press Release today will say good cooperation with ES, drug related activity, 2 deaths are Spanish nationals of North African descent. Investigation continues. PR will not say where incident occurred but it is virtually certain it was outside BGTW eastern side opposite runway. It also seems that part of the chase was within BGTW.(This is a text the AG sent to CM which he copied to CoP. He sent me the copy straight after he sent it to the CM after I aksed him who was going to brief up to CM)"	CoP – AG whatsapp chat log
159.	08/03/2020	1150hrs	CSI examination on Sir John Chapple by DC 108 Vallee	Notes from Crime Scene Manager
160.	08/03/2020	1205hrs	CoP emails AG "Michael – Attached please find the two press releases we have pushed out on the collision at sea incident."	CoP's emails
161.	08/03/2020	1215hrs	Crime Scene Investigation continues on RHIB CSM DC 128 and DC 136.	Notes from Crime Scene Manager.
162.	08/03/2020	1225hrs	FLO Receives not fication from CAD that more family members have arrived at SBH	FLO PC Passano notes
163.	08/03/2020	1228hrs	FLO receives a WhatsApp message from family member informing her that more family members are at SBH	FLO PC Passano notes
164.	08/03/2020	1333hrs	HE messages CoP "Thanks for the briefing. I'll do a quick note for London for when it hits the press. Line will be. Investigation ongoing. Spanish nationals from Ceuta (did you say one person was Portuguese).	CoP – HE Whatsapp chat log

			Not sure in whose waters incident took place. RGP seeking assistance from UK police authorities. No assistance needed from FCO at this stage."	
165.	08/03/2020	1346hrs	CoP messages HE "Yes all correct. Indeed one was Portuguese"	CoP – HE Whatsapp chat log
166.	08/03/2020	1347hrs	CoP messages HE "Trying to clarify exact position of the collision"	CoP – HE Whatsapp chat log
167.	08/03/2020	1356hrs	HE messages CoP "Ok .Thanks."	CoP – HE Whatsapp chat log
168.	08/03/2020	1406hrs - 1435hrs	Interview with [redacted]: a) Provided the order of persons on the RHIB as 1. [redacted] 2. [redacted], 3. [redacted], 4. [redacted]. b) Stated that he only saw the blue lights of PMB lit for 5-10 seconds. c) He didn't hear any orders from any officers d) Chase was ongoing for approximately 10 mins e) Vessels stopped and police officers boarded to help.	DS 15 Garratt Notes
169.	08/03/2020	1612hrs – 1620hrs	Interview with [redacted] in the presence of Leigh Debono. No comment interview.	Notes of DS 15 Garratt
170.	08/03/2020	1710hrs	[redacted] and [redacted] bailed out to appear at NMH at 1100hrs 4th June 2020	DP Custody Records.
171.	08/03/2020	1915hrs	DPA form handed to WHSS to obtain thermal imagery footage. Footage obtained. This footage shows the suspect RHIB	Notes of DS 15 Garratt
172.	08/03/2020		All mobile phones found in possession of the crewmembers of the suspect RHIB or found strewn on its deck, handed over to HTCU for examination	DC 106 Notes
173.	09/03/2020		Examination on mobile phones commenced.	DC 106 Oton
174.	09/03/2020	1000hrs - 1100hrs	Meeting held at GC HQ between Comandante Pacheco Polo GC Algerciras, Capt. Gomez Fuster, DI Chipolina and DI Perera. RGP confirm identities of the four on board suspect RHIB and identify both deceased. GC were asked whether an incident report had been generated and if they could provide the confirmed	File Note DI from DI Chipolin:

			coordinates for the collision. GC stated that an initial report had been prepared but needed to be referred/ discussed with the designated duty court/ judge. GC stated that the approximate coordinates supplied previously to DI Chipolina stood and that the SIVE technicians had yet to extract and validate such data. They confirmed the approximate collision location was 6 to 6.5 miles off Santa Barbara Beach. GC asked if we could provide initial incident report via Schengen channels and DI Chipolina informed he would refer the request and revert once back in Gibraltar. GC stated the previous convictions of the 4 occupants would be sent by email upon request and through Schengen channels. Prior to ending meeting there was a brief discussion where the structure and conduct of investigations were summarised. GC confirmed they would need to discuss with a judge, yet to be appointed.	
175.	09/03/2020	1015hrs	HE messages CoP "Morning. I was with the AG last night and we wondered whether it would be worth having an update at some stage later this morning. We are keen to reach ioutnto Spain given talks this week in London (please protect)."	CoP – HE Whatsapp chat log
176.	09/03/2020	1016hrs	HE messages CoP "Michael and I are happy to come to NMH when convenient for you. Nick."	CoP – HE Whatsapp chat log
177.	09/03/2020	1125hrs	CoP messages HE "Happy for you to come to NMH. I am here now. Please feel free to come round."	CoP – HE Whatsapp chat log
178.	09/03/2020	1130hrs	DI Perera contacted Comandante Pacheco Polo GC Algerciras via telephone and was asked whether it had been the GC or the RGP who had initiated contact in respect of the suspect RHIB on the night in question. To this he informed that according to the information he had available, it was the RGP who had contacted GC COS enquiring about the RHIB and that the GC were already monitoring the vessel.	DI Perera File Note.
179.	09/03/2020	1131hrs	CoP Messages AG	CoP – AG Whatsapp chat log

			"Morning Michael – Nick Pyle tells me you want to meet. I am here at my office."	
180.	09/03/2020	1150hrs	HE messages CoP Michael and I will come to you @ 12.05"	CoP – HE Whatsapp chat log
181.	09/03/2020	1152hrs	CoP messages HE Let me know when your're downstairs and I will come down to meet you"	CoP – HE Whatsapp chat log
182.	09/03/20	1205Hrs	Meeting at CoP's office attended by HE, AG and Supt Richardson. Update and intentions provided.	Supt Richardson notes
183.	09/03/20	1433Hrs	CoP messages GPA Chair "Joey - been working through the weekend on this collision case. I am going to email you, (or if you want Elka), to formally notify you of the incident and refer you the fact that an investigation is underway. For purposes of transparency, this investigation should be independent & therefore I am trying to source out a team willing to take on the task. In UK the IOPC (our PCB) would decide whether the investigation would be wholly independent of managed by them with an external 3rd party (senior officer) overseeing on their behalf. If we applied that locally, it would mean the PCB would manage the investigation and we'd require a senior UK Officer to oversee it on the PCB's behalf. The field work though would be done by RGP Professional Standards. It may not be the best model as the independence element is not total. Then again for practicalities sake it may prove useful. I need to discuss the matter further with you & perhaps Frank too but I'm conscious that you're away. I have held meetings with the AG & HE (Nick Pyle) and they support my intent to secure the best model to use. Regards Ian"	CoP – GPA Chair Whatsapp chat log.
184.	09/03/2020	1435hrs	GPA Chair messages CoP "Thanks - best model to use, in my view, would be to outsource completely"	CoP – GPA Chair Whatsapp chat log.
185.	09/03/2020	1435hrs	GPA Chair messages CoP "If I'm honest, the PCB would not have the necessary expertise."	CoP – GPA Chair Whatsapp chat log.
186.	09/03/2020	1436hrs	GPA Chair messages CoP	CoP – GPA Chair Whatsapp chat log.

			"Neither would anybody in the GPA, if we are honest."	
187.	09/03/2020	1436hrs	CoP messages GPA Chair "I agree – I share you views. It would be most unfair on the PCB."	CoP – GPA Chair Whatsapp chat log.
188.	09/03/2020	1439hrs	CoP messages GPA Chair The GPA/PCB (Police Complaints Board) should though retain some control similar to that when they receive a complaint against Police. Technically there isn't a complaint as no family member has yet filed one but it could happen. Even if it didn't happen, the fact that deaths have occurred we should treat this as an external complaint and not as internal one generated by the RGP itself. This aside for the concurrent coroner's investigation that will also take place.	CoP – GPA Chair Whatsapp chat log.
189.	09/03/2020	1440hrs	GPA Chair messages CoP "There has been another death at sea and GPA was not involved - why is this different ?	CoP – GPA Chair Whatsapp chat log.
190.	09/03/2020	1441hrs	CoP messages GPA Chair "Because it wasn't arising from contact with the Police. It was Customs."	CoP – GPA Chair Whatsapp chat log.
191.	09/03/2020	1441hrs	GPA Chair messages CoP "OK – I see."	CoP – GPA Chair Whatsapp chat log.
192.	09/03/2020	1441hrs	CoP message GPA Chair " Customs have it easier"	CoP – GPA Chair Whatsapp chat log.
193.	09/03/2020	1442hrs	GPAChair messages CoP "Ok - we would both be back tomorrow – (Referring to Mr Frank Carreras the PCB Chairman and himself. They were away from Gibraltar).	CoP – GPA Chair Whatsapp chat log.
194.	09/03/2020	1443hrs	CoP messages GPA Chair "I will work to get an independent team out. ASAP. & we can discuss tomorrow. Time is of essence, will explain in person..... Politics.	CoP – GPA Chair Whatsapp chat log.
195.	09/03/2020	1444Hrs	GPA Chair messages CoP "We can have a discussion about this tomorrow -I'm sure we'll take your advice an way."	CoP – GPA Chair Whatsapp chat log.
196.	09/03/2020	1444hrs	GPA Chair messages CoP "I'll give you a call tomorrow as soon as I get back."	CoP – GPA Chair Whatsapp chat log.
197.	09/03/2020	1444hrs	CoP messages GPA Chair "Many thanks."	CoP – GPA Chair Whatsapp chat log.

198.	09/03/2020	1445hrs	GPA messages GPA CoP "As I said whatever is best practice"	CoP – GPA Chair Whatsapp chat log.
199.	09/03/2020	1445Hrs	CoP messages GPA Chair "Thumb up" emoji	CoP – GPA Chair Whatsapp chat log.
200.	09/03/2020	1515hrs	GPA Chair messages CoP "Ian - I'm flying in to Malaga tomorrow at around 5.00 so I'll call you as soon as I'm in Gib - even if it's late in the evening... ok?"	CoP – GPA Chair Whatsapp chat log.
201.	09/03/2020	1525hrs	CoP messages GPA Chair "Of course. No probs"	CoP – GPA Chair Whatsapp chat log.
202.	09/03/2020	1542hrs	GPA Chair messages CoP "Thumb up" emoji	CoP – GPA Chair Whatsapp chat log.
203.	09/03/2020		Enquiries as to availability of forensic pathologists conducted with FCO coroner liaison officer who informed DI Perera that this was not her remit.	DI Perera Notes
204.	09/03/2020		DI Perera contacted Dr Lockyer who informed him that the earliest he could attend Gibraltar was on Sunday 22nd March 2020 and Dr Nat Cary who informed that he would not be able to make it anytime sooner than Lockyer. He also stated that he had enquired with other colleagues of his and they were also unable to attend.	DI Perera Notes
205.	09/03/2020	2006hrs	Chief Minister (CM) creates a Whatsapp group called "Maritime Incident" the members of which were CM CoP Chief Sec Darren Grech GPA Chair – Dr J.Britto PCB Chair – Frank Carreras 1st message oin this group if from CM which says;- "Gents, have agreed with Joey to set up this channel to make progress on any live issues on this easier"	CoP's Whatapp chat logs
206.	09/03/2020	2007hrs	Dr Britto, CoP and Chief Sec acknowledge the CM's message	CoP's Whatsapp chat logs
207.	09/03/2020	2008hrs	CM messages on the Maritime Incident chat group the following – " Today I spoke to the British Ambassador in Madrid. He was having Interior Minister Grande Marlaska in for lunch today. He will express our desire	CoP's Whatsapp chat logs

			for a full and transparent investigation that will assure the families of the deceased that they have the truth relating to their passing. Anything I can report on progress through that channel will be helpful, although, from what I understand, we have Spanish law enforcement on side."	
208.	09/03/2020	2009hrs	Ch Secretary acknowledges CM message above.	CoP's Whatsapp chat logs
209.	09/03/2020	2013hrs	CoP replied to the CM with the following;- "On side so far CM. The AG is up to speed on this. I am politely resisting sharing any information with ES LEAs until such time as we are certain ourselves of key issues eg exact details of the pursuit etc. My own officers have only supplied a very preliminary account shortly after the incident & as per our post incident procedures will providing a more detailed account between tomorrow and Wednesday. Rgdd."	CoP's Whatsapp chat logs
210.	09/03/2020	2015hrs	Frank Carreras noted the previous messages. GPA Chair replies "Thank you Commissioner – noted as well". CM replies to CoP "Of course. I played for time saying we were on holiday and we would likely see a ramping up of activity next 48 hrs."	CoP's whatsapp chat logs
211.	09/03/2020	2019hrs	CoP messages the group – "We are going through a host of operational actions which include engaging independent police investigators, sourcing a forensic pathologist, a maritime accident investigator, examination of digital devices amongst others."	CoP's Whatsapp chat logs
212.	09/03/2020	2024hrs	GPA Chair thanks CoP for the update.	CoP's Whatsapp chat logs
213.	09/03/2020	2031hrs	CM replies to CoP – "Excellent. Thank you. That's the right approach."	CoP's Whatsapp chat logs
214.	09/03/2020	2038hrs	Frank Carreras thanks CoP for the update.	CoP's Whatsapp chat logs

215.	10/03/2020	0929hrs	FLO received a message from family member Irene to find out if pathologist had arrived in Gibraltar.	FLO PC Passano notes
216.	10/03/2020	0940hrs	FLO receives a message from family member regarding frustration of delay of pathologist. Claims they have reported the matter to Spanish Authorities and are seeking to speak to RGP bosses regarding these procedures. DCI Field and DI Perera Updated.	FLO PC Passano notes
217.	10/03/2020	1018hrs	COP emails Ch.Supt Nigel Goddard, Head of Unit, NPoCC. He briefs him as to the incident involving the fatal collision at sea and that PIP has been implemented with an SIO being provisionally appointed but highlights the importance for this type of matters being dealt with by an independent team. Goddard is informed that CoP reached out to the Small island Forum Police forces but what was offered was not the ideal scenario, being a 3rd party oversight for a managed type investigation on behalf of the PCB. He explains that the PCBs role in Gibraltar does not have capacity or the capability to carry out investigations. CoP also informs them that the services of the MDP in Gibraltar was sought but their senior management informed they did not have the skills required for such task. Therefore he has requested the assistance of Goddard. He explains that he is looking for an independent force investigation team to take on the task. Lastly, CoP also asked to see if assistance can also be provided by identifying a forensic pathologist who would be able to perform the PMs on both deceased prior to that which has already been arranged for the end of the week, explaining to him that the reasons are to mitigate any threats which might materialise by having the bodies within the hospital mortuary.	CoP's Email
218.	10/03/2020	1133hrs	GPA Chair messages CoP "Ian I've had to change travel plans and get the AVE instead of flying! I'll be in Gib later than expected - if you prefer, I can go to see you with Frank (hopefully) on	CoP – GPA ChairWhatsapp chat logs

			Wednesday morning? Let me know if you are ok with this..."	
219.	10/03/2020	1200hrs	DS Garratt contacted Tim Yates of Sheppard's Marina in relation to ascertaining if he can obtain the navigational data from both vessels.	Notes DS 15 Garratt
220.	10/03/2020	1229hrs	CoP messages GPA Chair "Yes fine. I am going to forward you an email I have sent to UK NPOC who coordinate requests for assistance. Its just for your information."	CoP – GPA Chair Whatsapp chat logs
221.	10/03/2020		Email exchange between CoP & HE on the arrangements to fly out an independent team followed by an official letter from CoP to HE Governor requesting the assistance of the Metropolitan Police in investigating the collision at Sea.	CoP's emails
222.	10/03/2020	1254hrs	Ch.Supt Nigel Goddard, Head of Unit, NPoCC, copies in COP, into an email he sends to Steven Wagstaff from the MPS. Goddard asks the latter to carry out enquires with his Head of OCU and if he could confirm the MPS would be in a position to undertake the task requested by COP. The email from COP is forwarded to him. COP is asked by Ch.Supt Goddard if he has initiated or can initiate the process with HE to submit through the FCO a request to the UK Police for assistance.	CoP's Email
223.	10/03/2020	1256hrs	GPA Chair messages CoP "OK"	CoP – GPA Whatsapp chat logs
224.	10/03/2020	1259hrs	GPA Chair messages CoP "When you can also let me know the time to meet tomorrow"	CoP – GPA Chair Whatsapp chat logs
225.	10/03/2020	1300hrs	COP emails GPA Chair and informs him he has initiated contact with NPoCC and requests him to read the email thread with Ch.Supt Nigel Goddard which is attached.	CoP emails
226.	10/03/2020	1302hrs	CoP emails SCh Supt Nigel Goddard from NPoCC copied to Supt Wagstaff of the Met. "Nigel – many thanks for you prompt action. His Excellency the Governor, Nick Pyle, the FCO's rep in Gibraltar is apprised.	CoP's emails

			Regards Ian"	
227.	10/03/2020	1307hrs	CoP emails HE the Governor "YE – please see below thread (referring to the above emails with NPoCC) with the UK's National Police Coordination Centre in my efforts to source an independent investigation team. It is highly likely that the MPS will be taking on the task. You will read that that I have been asked to alert you of my request so that FCO and HO London link up."	CoP's emails
228.	10/03/2020	1309hrs	CoP messages GPA Chair "Can do anytime. Shall we fix for 9am?"	CoP – GPA Chair Whatsapp chat logs
229.	10/03/2020	1317hrs	GPA Chair messages CoP "See you then"	CoP – GPA Chair Whatsapp chat logs
230.	10/03/2020	1300hrs – 1342hrs	DS Garratt attended GGMS together with CSM and DC 136. Met with Tim Yates who after examination was unable to retrieve the navigational data from both the PMB and the suspect RHIB	Notes of DS 15 Garratt
231.	10/03/2020	1314hrs	Dr Lockyer informed that authority had been granted for him to travel to Gibraltar to carry out the Post Mortems.	DI Perera Notes.
232.	10/03/2020	1315hrs	CoP messages HE "Nick – can you take a call?"	CoP – HE Whatsapp chat logs
233.	10/03/2020	1328hrs	GHA Chair messages CoP "Got your email but for some reason I can't reply! Do you need me to do anything? Do you want me to see if Nick can help?"	CoP – GPA Chair Whatsapp chat group
234.	10/03/2020	1316hrs	HE messages CoP "Happy to but in 10 minutes. Please call mobile."	CoP – HE Whatsapp chat logs
235.	10/03/2020	1317hrs	CoP messages HE "Ok" emoji symbol	CoP – HE Whatsapp chat logs
236.	10/03/2020	1328hrs	CoP messages GPA Chair "Don't need anything from yourself, it was just for your info. Gonna speak with Nick now."	CoP – GPA Whatsapp chat logs
237.	10/03/2020	1336hrs	HE emails CoP "Ian, Thanks. I've asked FCO London to action and also and also if we need anything a touch more formal. I suspect we might need a letter."	CoP's emails
238.	10/03/2020	1347hrs	HE emails CoP "Ian I've heard back from London who have said that they do need a more formal	CoP's emails

			request from you (citing Section 26 Police Act 1996) which we then forward to the Home Office. It can be a very short letter, set out the request and the legal basis. Nick"	
239.	10/03/2020	1500hrs	COP informs that the PM's will be conducted by Dr Rouse, CI Perez informs that HM Coroner has been informed of this and gives permission for it to proceed. The Post Mortem will take place on the 11th March 2020. Change of pathologist is as a result of Dr /Rouse being able to travel to Gibraltar earlier and will mitigate any threats of having the bodies being at SBH.	DI Perera Notes
240.	10/03/2020		Chris Finch from Verralls spoke with DI Perera and informed him that he would like to have his own pathologist present during the Post Mortem examinations. DI Perera informed him that he would have to refer this to the coroner and that arrangements were already in hand to take place the following day. Finch replied that as he would not have any time to arrange for his own pathologist to be present he would be content if he or his partner would be allowed to speak to Dr Rouse prior to the Post Mortem Examinations.	DI Perera Notes
241.	10/03/2020		Coroner Pitto informed of the request made by Chris Finch and authorised this to happen. Mr Finch was subsequently informed of this.	DI Perera Notes
242.	10/03/2020	1515hrs	DS Garratt seized the PMB Patrol Matrix from CAD for the 08/03/2020	Notes of Garratt
243.	10/03/2020	1550hrs	DCI Field and DI Perera inform FLO that Post Mortems will be carried out on 11/03/2020 by UK pathologist	FLO PC Passano notes
244.	10/03/2020	1556hrs	FLO informs families of the deceased arrangements regarding post mortem examinations.	FLO PC Passano notes
245.	10/03/2020	1610hrs	DS Garratt seized MOD Notice from Marine Section	This info is found in **(Appendix 74)** and DS 15 Garratt notes.
246.	10/03/2020	1647hrs	Dr Lockyer is informed that his services are no longer required as another forensic pathologist, namely David Rouse will be attending Gibraltar on the 11th of March 2020 to perform the PMs.	DI Perera Notes
247.	10/03/2020	1922hrs	Acting Deputy Governor Phill Culligan messages CoP	CoP – Phil Culligan whataspp chat logs

			"Hi Ian I've just spoken to D/Supt Steve Wagstaff of MPS who confirmed he can provide a team of max five led by a DI for 4-6 days. We are now staffing the section 26 request and will stay close in touch. Cheers Phil"	
248.	10/3/2020	1942hrs	CoP messages Phil Culligan "That is great Phil. Many thanks."	CoP – Phil Culligan whataspp chat logs
249.	10/03/2020	1952hrs	CoP messages Phil Culligan "Would you know when they could be here?"	CoP – Phil Culligan whataspp chat logs
250.	10/03/2020	1953hrs	Phil Culligan replies to CoP "Should have a better idea in the morning when I've spoken to FCO and HO again. I stressed the urgency.	CoP – Phil Culligan whataspp chat logs
251.	10/03/2020	1954hrs	CoP replies to Phil Culligan "OK, very many thanks"	CoP – Phil Culligan whataspp chat logs
252.	10/03/2020	1958hrs	Authority granted to have Heras fencing placed around the vessels. Heras fencing being rented out from Amco.	DS Garratt Emails.
253.	11/03/2020	1108hrs	Capt. Meikle contacted and informed of the incident and asked if he would be available to travel to Gibraltar to examine the vessels and their navigational devices and to provide a quote.	DS Cottam Email
254.	11/03/2020	1115hrs	At SBH Mortuary the body of [redacted] was ID'd to the Coroner by DI Perera.	DI Perera Notes
255.	11/03/2020	1120hrs	A SBH Mortuary the body of [redacted] was ID'd to the Coroner by DI Perera.	DI Perera Notes
256.	11/03/2020	1200hrs	Pathologist Dr Rouse, briefed by DI Perera at the Mortuary.	DI Perera Notes
257.	11/03/2020	1205hrs	Leigh Debono from Verralls contacted by DI Perera and informed that Dr Rouse was at SBH in the event he wished to speak with him prior to the examinations. Debono informed that he had already done so.	DI Perera Notes
258.	11/03/2020	1240hrs	Post Mortem Examination commences of [redacted]: Undressing of Deceased and documentation of external injuries taken. Halting at 1335hrs to facilitate CT Scanning of the deceased.	Statement from Dr Rouse Pathologist **(Appendix 41).**
259.	11/03/2020		CT Scan on [redacted] conducted	Crime Scene Manger Notes.
260.	11/03/2020		CT Scan on [redacted] conducted	Crime Scene Manager Notes
261.	11/03/2020	1330hrs	FLO speaks with families of deceased outside SBH. They were updated with	FLO PC Passano notes

			details surrounding the Post Mortem for the day. Family then requested that all further communication be through their lawyer Leigh Debono from now on.	
262.	11/03/2020	1335hrs	Undressing of Deceased and documentation of external injuries taken. [redacted] Halting to facilitate CT Scanning of the deceased.	Statement from Dr Rouse Pathologist **(Appendix 40)**.
263.	11/03/2020	1349hrs	CoP message the "Maritime Incident" Whatsapp group chat with an update as follows;- "Forensic pathologist has landed & will be performing PM with the GHA pathologist hopefully today if we can convince GHA to carry out a CT scan of the corpses today pre-autopsy. I reckon that as soon as the bodies can be released to the families for burial it'll ease off tensions. An independent team from Scotland Yard's Professional Standards Directorate have agreed to fly out. They will arrive either tomorrow or Friday & review what we have done so far & then take over the investigation. Rgds Ian"	CoP's whatsapp chat logs
264.	11/03/2020	1357hrs 1358hrs 1457hrs 1512hrs	Frank Carreras replies to CoP's message saying "Thanks for the update" Dr Britto replies " Thank you very much for update." Chief Sec replied acknowledges with a thumbs up emoji CM replies "Noted. Will advise BA Madrid."	CoP's whatsapp chat logs
265.	11/03/2020	1437hrs	FLO provides Lawyer with update regarding hospital delays. Leigh Debono will update family.	FLO PC Passano notes
266.	11/03/2020	1510hrs	CoP messages Phil Culligan the acting Deputy Governor	CoP – Phil Culligan whatsapp chat logs
267.	11/03/2020	1645hrs	Post Mortem examination recommenced on [redacted].	Statement from Dr Rouse Pathologist **(Appendix 41)**. Crime Scene Notes state that PM finished at 1900hrs.
268.	11/03/2020	1802hrs	CoP messages AG	CoP – AG Whatsapp chat logs

			"Michael - we have still not provided any official account to GC of the incident at sea and they have asked for a brief from us. I am now at a stage where I also require background details of those who were on-board the RHIB as this is being requested by the independent investigation team. I can hardly ask them for these details when we haven't released anything official to them. Its only prudent to do so I propose to send them the below details and on the back of this make our request to them. I would appreciate your views on what i propose to send. STARTS Ref: Initial Incident Report – Collision at Sea with fatalities At about 0300hrs on Sunday 8th March 2020, officers from the Royal Gibraltar Police Marine Interceptor Sir John Chapple (Bravo 4) communicated with the Guardia Civil COS in relation to the presence of a suspect susect vessel activity in waters off the Playa de Santa Barbara, near to the eastern side between Gibraltar and La Linea. Bravo 4 deployed and remained ready to engage at a point approximately 3 miles East of the runway. Soon afterwards a chase ensued with the suspect vessel and Bravo 4 challenging the vessel, a 14mt semi-rigid hulled inflatable vessel (RHIB) crewed by 4 occupants, powered by 4 x 300hp engines and fitted with Garmin radar. The said vessel was suspected to be involved in illicit drugs trafficking activity. During the course of a high-speed pursuit shortly afterwards, there was a collision between both vessels, and this resulted in the death 2 of the 4 RHIB's occupants, namely: [redacted]	

[redacted]

The remaining 2 occupants sustained injuries of various types, and were conveyed to St Bernard's Hospital in Gibraltar where they received treatment for their injuries and later discharged.

[redacted]

[redacted]

Both [redacted] and [redacted] were arrested on suspicion of Importing a Prohibited Import (14mt RHIB), Dangerous Navigation and Obstructing Police. [redacted] gave a "No comment" interview at New Mole House Police station and [redacted] gave only a brief account of events stating that he had been 1 of the 4 RHIB's occupants and that they had been chased by Police between Gibraltar and Spanish waters prior to the collision between both vessels.

Both [redacted] and [redacted] were later bailed out in the sum of £2500.00 to return to New Mole House Police Headquarters at 1100hrs on the 4th June 2020 whilst enquiries continue.

A Coroner's investigation is already underway into the deaths of [redacted] and [redacted], and post-mortem examinations will be conducted by a Forensic Pathologist on Wednesday 11th March and Thursday 12th March 2020. The Commissioner of the Royal Gibraltar Police has sought

			assistance of specialist investigators from the United Kingdom. ENDS"	
269.	11/03/2020	1858hrs	HE emails CoP "Ian, Good to hear about progress re Met help. Are we any clearer as to where the collision took place? London are keen to know whether it was inside or outside BGTW and if the latter, approximately by how far. Regards Nick"	CoP's emails
270.	11/03/2020	1907hrs	CoP emails HE "Nick – we are getting there on establishing exact co-ordinates of where collision took place. We are tying up some loose ends and probing further from WHSS and should be able to confirm soon. It is, high probable it did occur out BGTW. We are getting plotted which will provide as better understanding in terms of distance from BGTW. Best regards Ian"	CoP's emails
271.	11/03/2020	1909hrs	CoP messages AG "HE (Nick) is asking for confirmation of where collision took place as London are keen to know. I have informed him along the same lines that you advised CM ie that is highly probable that it happened outside BGTW."	Cop – AG Whatsapp chat logs
272.	11/03/2020	1915hrs	AG messages CoP "Ian that seems fine to me. Factual whilst being amenable to further precision once you obtain further details."	CoP – AG Whatsapp chat logs
273.	11/03/2020	1928hrs	HE emails CoP "OK. Thanks. I'll inform London facts still not established but highly likely to have occurred outside BGTW. Nick"	CoP's emails
274.	11/03/2020	1933hrs	CoP messages AG "OK" thumbs up emoji symbol	CoP – AG Whatsapp chat logs
275.	11/03/2020	2000hrs	FLO updates Leigh Debono regarding first post mortem completed and schedule for second post mortem. DI Perera also requests details of the funeral directors.	FLO PC Passano notes

			Debono also asked to provide these details.	
276.	11/03/2020	2031hrs	Email sent by DI Chipolina to GC containing initial RGP Incident briefing note (with prior approval from COP). In the same email, GC was requested for the previous convictions of the 4 crewmembers of the suspect RHIB and any existing GC incident reports, as well as vessel radar positioning data.	File note made by DI Chipolina **(Appendix 39).**
277.	12/03/2020	0800hrs	Post Mortem examination recommenced on [redacted] and finished at 0950hrs.	Statement from Dr Rouse Pathologist **(Appendix 40).**
278.	12/03/2020	1000hrs	Heras Fencing is taken to PMB and used to be placed around the vessels crime scene.	DS Garratt Emails
279.	12/03/2020	1030hrs	Leigh Debono states that DeHaro funeral directors will be assisting in repatriating the bodies. Debono was also informed that both examinations were completed.	FLO PC Passano notes
280.	12/03/2020	1139hrs	Email sent by DI Perera to HM Coroner informing him of the findings of the pathologist, Dr Rouse, following the PMs performed on both the deceased. Copies of the PM reports, marked as preliminary reports' forwarded to him.	DI Perera Emails
281.	12/03/2020	1147hrs	FLO- DI Perera has emailed the info to coroner's office, including pathologist reports. All details sent to Gerry Rose.	FLO PC Passano notes
282.	12/03/2020	1200hrs	DS Garratt attended the Port Authority and met with Phil Mandleberg. Using the Thermal Footage, he was able to work out the larger vessels displayed in the footage, these were found out to be the Teliri and Seaways Rosalyn which were in Spanish Waters at the time of the incident. DI Perera and DCI Field informed	File Note by DS Garratt **(Appendi 39)**
283.	12/03/2020	1215hrs	Coroner Pitto authorises the bodies of the deceased to be released to the families.	File Note by DI Perera
284.	12/03/2020	1220hrs	DI Perera informed Leigh Debono from Verralls that the bodies had been released by the coroner and arrangements can be made for repatriation. Debono informed DI Perera that Deharo Funeral Directors will be dealing with this matter.	File Note by DI Perera
285.	12/03/2020	1240hrs	Deharo funeral directors contacted by DI Perera and inform that the bodies had	File Note by DI Perera.

			been released and to liaise with the coroner's office.	
286.	12/03/2020	1411hrs	Capt. Meikle is informed that approval has been obtained for him to travel to Gibraltar and carry out examination of the vessels.	DS Cottam Email
287.	12/03/2020	1613hrs	Cop messages the "Maritime Incident" whatsapp group chat with the following;- "All - An update for your info: The post mortems have been carried out & HM Coroner has now released bodies to the famililes. Chris Finch is representing the families. The independent team from London will be arriving tomorrow morining. They are 5 in number, headed by a superintendent. The 3 officers are in a bad way psychologically and have not yet provided a full account of the incident though our procedures allow for upto 7 days for them to do so in certain circumstances. The Fed are bringing out a specialist lawyer from UK to advise the officers and they are being advised not to produce their respective accounts until then. An awkward situation indeed. In terms of the investigation proper the evidence points at the pursuit & collision occurring outside BGTW. Not the best news we wanted to hear. Rgds Ian"	Maritime Incident group Whatsapp chat logs Evidence gathered by DS Garrett and Port Authority. Previous to this, it was still believed that part of the pursuit occurred within BGTW.
288.	12/03/2020	1617hrs	CoP messages HE " Nick – Please let me know when you can take a call"	CoP – HE Whatsapp chat logs *Purpose of call was to update HE in the same vein as the Maritime Incident Whataspp group chat with CM and others – I have no record of what was said in that conversation but I would not have called HE straight after messaging the other officials for any other purpose than to advise him too of what I had told the others.*
289.	12/03/2020	1630hrs	HE messages CoP	CoP – HE Whatsapp chat logs

			"I'll call now"	
290.	12/03/20	1708hrs	Frank Carreras responds in the 'Maritime Incident' group chat. "Ian, many thanks for the update"	Maritime Incident Whatsapp group chat logs
291.	12/03/20	1708hrs	GPA Chair responds in the 'Maritime Incident' with "Thank you for the update Ian"	Maritime Incident Whatsapp group chat logs
292.	12/03/20	1709hrs	GPA further comments "I agree – not the best news..."	Maritime Incident Whatsapp group chat logs
293.	12/03/20	1709hrs	CM responds in the 'Maritime Incident' group chat with **"Thank you Ian. Location does not worry me so much. Helps us in a way. Will discuss directly with you."**	Maritime Incident Whatsapp group chat logs
294.	12/03/20	1710hrs	CoP replies to the above message in the Maritime Incident group chat saying "Many thanks"	Maritime Incident Whatsapp group chat logs
295.	12/03/20	1721hrs	Chief Sec replies in the "Maritime Incident" group chat with "Thanks"	Maritime Incident Whatsapp group chat logs
296.	12/03/2020	1730hrs	Stage 4 Accounts of HMC officer 4, 5, 6, 7 & 8 provided to DCI Field	**PIM Log (Appendix 1)**
297.	12/03/2020	2100hrs	Deharo Funeral directors contact DI Perera and inform him that embalming of the bodies are underway and are being repaired for repatriation. They state that documents from the Spanish Embassy in UK is still pending in order to be able to transfer body to Spain. They would be aiming to carry out repatriation around midday on the 13th of March. They informed that they are in contact with their families and legal representatives. The funeral directors from Ceuta are servicios funerarios Al-Qadar.	DI Perera Notes
298.	13/03/2020	0830hrs	SIO authorises change of Coroners officer from DI Perera to DS Garratt	DI Perera Notes
299.	13/03/2020	0930hrs	DI Perera requested the FLO contact the funeral directors for update on times of repatriation. FLO spoke to "moris", Paperwork at embassy in UK awaiting to be processed. Paperwork with Environment also being processed. DI's Perera and Chipolina apprised.	FLO PC Passano notes
300.	13/03/2020	1000hrs	Met Police Team arrive in Gibraltar, are brought to NMH where they are sworn in as RGP officers and return to hotel.	
301.	13/03/2020	1030hrs	DI Perera meets with Coroner and updates him as to the investigation. Informs him of the UK team from the MPS being brought in by COP. Also	DI Perera Notes

			informs him of change of coroner's officer to which he said that he had none.	
302.	13/03/2020	1312hrs	From DI Chipolina, Spain has authorised the repatriation and the frontier aware.	FLO PC Passano notes
303.	13/03/2020	1350hrs	FLO informs bodies of both deceased repatriated to Spain.	DI Perera Notes and notes of FLO PC Passano .
304.	13/03/2020	1525hrs	At the request of DCI Field and CI Romero. DI Perera contacted Comandante Pacheco Polo GC Algerciras via email. He was informed of the intelligence received regarding threats made against the crew members of the PMB, involved in the collision at sea. This included inflicting harm to the crew members and damaging their properties. GC was informed that intelligence suggested one of the crew members had been identified and those making the threats knew that his parents had a residence in Spain. Their intentions were to set the property alight. GC were provided with the address and details of the parents. They were requested to try and ascertain if these threats were also know to them and carry out patrols of the residence.	File note by DI Perera.
305.	13/03/2020	1830hrs	MET Police team arrive at New Mole House for a briefing by COP and Gold Command	CoP Briefing notes
306.	13/03/2020	2100hrs	Received an email from Comandante Pacheco Polo GC Algerciras containing previous conviction data for all RHIB occupants. Email is acknowledged by him and response sent at 2118hrs requesting confirmation that the positioning data will be provided to RGP separately.	File note made by DI Chipolina **(Appendix 39).**
307.	14/03/2020	0950hrs	Pick up two Met Officers and convey them to PMB Base to meet UK collision expert, examine vessels and discuss terms of reference for expert report.	DCI Field Email
308.	14/03/2020	1030hrs	Meeting with Richard Meikle and briefed as to what is required by SIO.	DI Perera Notes
309.	14/03/2020	1050hrs	Met Team conveyed to MoD Spy Glass to see area of collision.	DCI Field Email.
310.	14/03/2020	1200hrs	ABC cleaners disinfect and clean the suspect RHIB.	DI Perera Notes.
311.	14/03/2020	1507hrs	Dr David ROUSE provides DI Perera, with Initial draft PM reports	DI Perera Emails
312.	14/03/2020		Capt. Meikle conducts examination of both vessels and removes their	CSI Notes

			navigational systems for further examination.	
313.	14/03/2020	1547hrs	Upon instructions from SIO Email sent by DI Perera to Comandante Pacheco Polo GC Algerciras, requesting GC Assistance . He was informed that it was intended to convey the UK team of the MPS on board a HMC vessel to the location where it was suspected the incident took place. This was in order to assist the MPS in gaining a better understanding of the area where it was believed the collision took place. As the location was in Spanish waters his authority was being sought before proceeding. He was guaranteed that no executive action would be taken by local authorities whilst in Spanish waters.	File note by DI Perera.
314.	14/03/2020	1600hrs	Provide Met Team with materials collected as part of investigation.	DCI Field Email
315.	14/03/2020	1700hrs	As requested DI Perera contacted Comandante Pacheco Polo GC Algerciras, he was asked if the GC had a vessel or helicopter that engaged with the suspect RHIB or was in its vicinity on the night in question. He stated that the GC had a vessel near the boundary with Malaga engaged in another matter.	File Note DI Perera.
316.	14/03/2020	1754hrs	Comandante Pacheco Polo GC Algerciras replied to DI Perera's request upon instructions received, the judge dealing with this incident had to be informed. He requested an official email containing details of the vessel that would enter Spanish waters, details of the crew on board and the reasons for such activity. A call was followed from Comandante Pacheco Polo GC Algerciras to DI Perera who stated that this request should also be addressed with UK magistrate liaison in Madrid or the Spanish Embassy in London. In the event that authorisation should be granted the Gibraltar LEA vessel would need to be shadowed by a vessel of GC. Following this conversation, the SIO was informed and directions sought. Shortly after the SIO replied that after consultation with others, it would not be necessary to enter Spanish waters.	File note by DI Perera.

317.	15/03/2020	0915hrs	Met Team conveyed to GGMS to oversee intrusive search of Suspect vessel by HM Customs.	DCI Field Email
318.	15/03/2020	0930hrs	Capt. Meikle attends GGMS and takes measurements of vessels.	CSI Notes
319.	15/03/2020	0930hrs – 1130hrs	DI Perera meets with RGP Drugs Dog handler and HMC Officers under the command of SCO Galia. Intrusive search of suspect RHIB conducted with negative results.	File note DI Perera
320.	15/03/2020	1333hrs	Following a reply from SIO that after consultation with others, it would not be necessary to enter Spanish waters. To which Comandante Pacheco Polo GC Algerciras was informed that the request to enter Spanish waters had been rescinded as there had been a change plans.	File Note by DI Perera.
321.	15/03/2020	1645hrs	Met Team picked up and conveyed to Customs Marine Section to go on vessel.	Email DCI Field
322.	15/03/2020	1326hrs 1327hrs 1328hrs	CoP messages AG "Michael - Can I come round to see you tomorrow for a quick discussion regarding issues with potential political connotations ref the collision at sea incident?" AG responds to CoP "Sure. Anytime." CoP responds to AG "Thanks. I know the CM wanted a face to face with me but given all that is happening it'll be difficult for me to reach him."	CoP – AG Whataspp chat logs
323.	16/03/2020		Capt. Meikle attends GGMS and attempts to restart Navigational systems aboard vessel to no avail and decides to take systems back to the United Kingdom for further examination.	CSI notes
324.	16/03/2020	0845hrs	Met team to visit GGMS and speak with PC's Watson & Warwick. Discuss powers & policies, technical aspects of marine vessels (radar and AIS)	Email DCI Field
325.	16/03/2020	1049hrs 1049hrs	CoP messages AG "Can I come round to see you Michael?" AG replies "In a virus crisis meeting"	CoP – AG Whtasapp chat logs

		1052hrs 1053hrs 1053hrs	CoP responds OK. Please let me know when I can come round. I am heading to the bunker too to catch up with Ivor." AG replies "He's in the same meeting as me." CoP responds "Hand to face" emoji symbol	
326.	16/03/2020	1400hrs	Met Team meet with Coroner	Email DCI Field
327.	16/3/2020		Stage 4 accounts/statements completed by officer's 1,2 & 3 Officer 1: 1820hrs Officer 2: 1752hrs Officer 3: 1700hrs	Officer's Statement **(Appendix 15, 16 & 17)**
328.	17/03/2020	1231hrs 1232hrs 1232hrs 1300hrs

			"In terms of coping with demands and investigation"	
		1341hrs	CoP continues messaging GPA Chair "Ploughing on with all that's on our plate. We have 13 officers in self isolation. We are adjusting ourselves accordingly to be as resilient as possible."	
		1344hrs	GPA responds to CoP "Understood, keep safe Ian"	
		1344hrs	GPA Chair asks CoP "Any news on other fronts? Or do you prefer I call?"	
		1345hrs	CoP replies to GPA Chair "Can I call you later?"	
		1346hrs	GPA Chair replies to CoP "I know you are extremely busy – I'll arrange fro a call tomorrow at some point – take care."	
		1347hrs	CoP acknowledges with an OK emoji symbol.	
		1347hrs	GPA Chair acknowledges with a thumbs up emoji symbol.	
330.	18/03/2020	1000hrs	Capt. Meikle Departs Gibraltar due to impending COVID 19 travel bans	Notes DS Garratt
331.	18/03 2020	1100hrs	GC unable to meet face to face because of Covid-19. A VTC is arranged instead. This is held in CoP's office and is attended by the Met team, DI Chipolina acting as interpreter, Commander Pacheco Polo, a GC Capt and COP. GC advise that they still require their technicians to extract the co-ordinates of where the collision took place. That they have an idea where this occurred but required formal confirmation from technicians. GC inform that no judge has yet been appointed to the case. MET police asked a series of questions.	Notes taken by CoP's PA Met team notes (these are not available to us)
332.	18/03/2020	1330hrs	CoP updates AG of the outcome VTC with GC & Met police "Michael - Held video conference with GC as they wouldn't meet face to face because of the pandemic.	Exchange of texts between AG / CoP

			They were obviously cagey with our UK colleagues but it served well to demonstrate that we were totally transparent. The UK team were happy with the meeting. What I was able to elicit from GC is that a judge is still to be assigned the matter & it is likely that it'll be a judge from La Linea. Again because of their lock down there are delays in their courts. GC anticipate that when appointed, the judge will request information and accounts from us. What form this will take is not clear - the judge could potentially summons our officers to provide their statements in person or simply request their accounts via police to police channels. What mechanisms we should rely on to facilitate this, were we to oblige, is something we'll need to discuss. GC also expects the family of the deceased to file a complaint in their courts to seek compensation. This will no doubt complicate matters for us as the judge may be swayed to look at the matter from a different perspective in terms of where the collision took p lace. GC are requesting from us for photos of the vessels, post mortem reports & statements from those involved in the collision. We have to carefully study this request and weigh the pros and cons of withholding the data or provide it at some point. Speak soon."	
333.	18/03/2020	1600hrs	Met Police Provided with any further material requested	Notes DS Garratt.
334.	19/03/2020	1000hrs	Met Team Depart Gibraltar due to impending COVID travel bans	
335.	19/03/2020	1330hrs	CoP messages GPA Chair forwarding text he had sent to AG the previous day	CoP – GPA Chair whatsapp chat logs

			"Michael - Held video conference with GC as they wouldn't meet face to face because of the pandemic. They were obviously cagey with our UK colleagues but it served well to demonstrate that we were totally transparent. The UK team were happy with the meeting. What I was able to elicit from GC is that a judge is still to be assigned the matter & it is likely that it'll be a judge from La Linea. Again because of their lock down there are delays in their courts. GC anticipate that when appointed, the judge will request information and accounts from us. What form this will take is not clear - the judge could potentially summons our officers to provide their statements in person or simply request their accounts via police to police channels. What mechanisms we should rely on to facilitate this, were we to oblige, is something we'll need to discuss. GC also expects the family of the deceased to file a complaint in their courts to seek compensation. This will no doubt complicate matters for us as the judge may be swayed to look at the matter from a different perspective in terms of where the collision took place. GC are requesting from us for photos of the vessels, post mortem reports & statements from those involved in the collision. We have to carefully study this request and weigh the pros and cons of withholding the data or provide it at some point. Speak soon."	
		1332hrs	GPA Chair responds to CoP	
			"OK – thanks for this Ian"	
		1333hrs	"Lets see what happens"	
		1333hrs	CoP replies with a "fingers crossed" emoji symbol	
			GPA resPonds to CoP	

			"Indeed"	
336.	19/03/2020		The MPS team prematurely return to the UK because of the unfolding lockdown measures which could potentially may have left them stranded in Gibraltar.	
		1249hrs	CoP emails DAC Matt Horne of the MPS DPS informing him that the team is returning and thanking him for the assistance renedered. CoP explains that even though the team has achieved quite a lot it is most likely they will require to come back to Gibraltar again to complete the task.	CoP emails
337.	20/03/2020	1028hrs	GPA Chair messages CoP "Good morning, Ian - just a thought, are you keeping Governor abreast of developments...? Also, maybe send an update to CM via the WhatsApp? Note that this is just my thinking and nobody has actually asked me but I think it would be prudent...?? See what you think"	CoP – GPA Chair Whatsapp chat logs
338.	20/03/2020	1054hrs	GPA Chair messages CoP "Developments in respect of maritime accident, I meant..."	CoP – GPA Chair Whatsapp chat logs
339.	20/03/2020	1058hrs	CoP messages GPA Chair "Yes The Convent is up to speed and AG too. Michael fed up to CM. By next week the UK Team will have more clarity on what route they will be suggesting this should take locally. That is a good point to provide a more formal update.	CoP – GPA Chair Whatsapp chat logs
		1058hrs	GPA Chair responds " OK understood! Thank you, Ian. "	
		1059hrs	"As long as both are kept updated, that was my concern.."	
		1059hrs	CoP replies with a thumbs up emoji symbol.	
340.	25/03/2020	1510hrs	Email link Rapid Reply Construction using the data of the suspect vessels navigational equipment. Screenshot of the situation around the time of the collision showing suspect RHIB proximity to BGTW. 36' 09 95N Latitude, 005'12 51W Longitude.	Email from Capt. Meikle.
341.	26/03/2020	1141hrs	Leigh Debono from Verralls, emailed DI Perera asking to be provided with the medical records o [redacted] as his doctor in Spain was asking for it.	DI Perera Emails

342.	26/03/2020	1256hrs	Mr Finch from Verralls, contacts CI Perez and informs him that he is acting for the families of the deceased and their respective estates in Gibraltar. He also states that he is liaising with Spanish lawyers who are working on this matter in Spain. He requires to be provided with information, if he is to discharge the legal onus in both a criminal and civil context. He looks for an insight into the incident, including whether the coxswain of the RGP vessel has been suspended pending inquiry and whether rye Police will be seeking the adjournment of the Coroner's investigation, as he claims to be normal practice where a criminal offence has been committed.	DI Perera Emails
343.	26/03/2020	1628hrs	Mr Debono from Verralls is informed by DI Perera that as part of the investigation the RGP had not obtained any medical evidence, as the survivors, had been arrested in relation to offences which would not be justified for the RGP to request such information as it would not prove or disprove any of the offences mentioned. He was anyhow informed that if he requires such information, a SAR would have to be submitted to the GHA, as it was were his client had been treated and examined.	DI Perera Emails
344.	26/03/2020	1652hrs	Supt Richardson emails DCI Gary Smith MPS and enquiries whether he wishes for Mr Finch to correspond with him directly or to be filtered by RGP PSD. Supt Richardson informs DCI Smith that given that we no longer have grounds to suspect that any part of the chase took place within BGTW, the RGP intends to recall the survivors and release them from arrest.	Supt Richardson emails
345.	26/03/2020	1713hrs	Mr Debono from Verralls emails DI Perera and informs him that the medical notes he was referring to was that which he had been shown by the Custody Sergeant whilst at NMH.	DI Perera Emails

346.	27/03/2020	1031hrs	CI Perez replied to Mr Finch and informed that COP has instructed that for the purpose of transparency an independent investigation will be carried out to determine the events that lead to the tragic incident. He informed that an approach has been made to UKs NPOC and a team of the MPS was deployed t Gibraltar. It was further added that due to the current pandemic the team had to return to the UK earlier than thought.	DI Perera Emails
347.	27/03/2020	1156hrs	After consultation with the RGP DPO, DI Perera informs Leigh Debono from Verralls, that that the doctor's note he is referring too as being shown in custody has been identified. Anyhow, his client (or through him with his expressed consent), should submit a SAR to the RGP for it to be considered.	DI Perera Emails
348.	01/04/2020	1140hrs	CI Field authorised the release of the two survivors arrested on the day of incident without any charges being preferred against him. This was done by the Custody Sgt through Verralls.	Email from DCI Field
349.	01/04/2020	1856hrs	Gary Smith from MPS team informs COP, Supt Richardson and DCI Field via email to tell the lawyer representing the families Mr Chris Finch to go through RGP PSD rather than link directly with MPS. DCI Gary Smith includes in his email that he is aware that the criminal case against the survivors has discontinued and the family of the deceased/ survivors and are considering legal action against the RGP/ those deployed in the vessel. The Spanish may also be considering a homicide investigation. So restriction/ suspension may occur.	Supt Richardson email
350.	03/04/2020	1123hrs	CI Perez informs Mr Finch that all future communication with the RGP should be channelled through him. In respect to requests made by Mr Finch for the disclosure of PM reports and the opportunity to inspect the vessels, CI informed that the Coroner has indicated that the PM reports will be disclosed once he has received the final report from the pathologist. AS to the vessels, he was told that the Coroner is yet to	DI Perera Emails

			receive the report from the marine expert and once such has been received, a copy will be made available to him.	
351.	06/04/2020	1137hrs	Mr Finch informs CI Perez that as the two survivors have been released from their arrest, they are now asking for their properties to be returned. He also wishes for that of the deceased.	DI Perera emails
352.	06/04/2020	1159hrs	Mr Finch communicates to CI Perez that it should be noted that once a person has been released from his arrest, he is entitled to have all his property returned, unless unlawful per se. He reiterated that there is no power to retain property if it is not of evidence in a carinal case.	DI Perera
353.	06/04/2020	1222hrs	CoP messages AG "Michael - could I come round to meet and discuss the collision at sea matter. I am conscious this won't go away and would like to at least have the strategy in place for when the time comes to act." AG replies to CoP "Now?" CoP replies to AG "No not now, during the course of the week or when you can." AG replies to CoP "OK. I can do now If it suits you." CoP replies to AG " I am at the bunker at a meeting. Will let you know when I'm out if you can still see me." AG replies to CoP "Sure" CoP messages AG "Just leaving the meeting at the bunker. Shall I come round or we leave I t for another day this week?" AG replies to CoP "Another day better" CoP replies to the AG	CoP – AG Whatsapp chat logs

			"OK I will have my PA arrange with yours" AG replies with a thumbs up emoji symbol.	
354.	07/04/2020	1000hrs	Meeting with AG to discuss strategy for Op Kram including the potential consequences for the officers concerned. Latest from GC was that because of Covid19 state of emergency Spanish courts had come to a stop. No judge had been assigned the matter. Discussed previous serious incidents eg the Alcaidesa incident and when GC landed on Gib soil at Harbour Views following a hot pursuit.	Notes from CoP
355.	07/04/2020	1558hrs	Mr Finch emails Maurice Turnock, Clerk of the Magistrates Court requesting for copies of the PM reports.	DI Perera Emails
356.	08/04/2020	1241hrs	Maurice Turnock from the Magistrates' Court, emails Mr Finch and inform shim that all correspondence should be directed to CI Perez.	DI Perera Emails
357.	21/04/2020	1049hrs	Email received from Phil Mandleberg at the Port Authority, he was tasked with viewing the remainder of the footage and identifying the ships which have appeared in the footage. Arrangements made to obtain a statement.	DS Garratt emails
358.	21/04/2020	1430hrs	Meeting held by Supt Richardson, DCI Field, CI Perez and DI Perera. Roles of each of these officers discussed. DCI to act as liaison with Met Police Team. CI Perez to be SPOC for Chris Finch and DI Perera to resume role of Coroners officer. Supt Richardson requested 1. Find out if lawyer was called whilst in custody. 2. Ask GC if an allegation has been made in Spain 3. What is GC's Position	DI Perera Notes
359.	21/04/2020	1530hrs	DI Perera informs FLO that two 10x16 have been released from arrest. Requesting to ascertain from families if they still have the same legal counsel in Gibraltar in case RGP need to contact them.	FLO PC Passano notes

360.	21/04/2020	1540hrs	DI Perera contacts GC and ascertains GC's position to which they reply that they are not aware of any formal complaints made in Spain. Will enquire with authorities and will inform DI Perera. GC also stated that GC had submitted a report but had still not been taken over by any judge. GC currently untasked.	DI Perera Notes
361.	21/04/2020	1553hrs	FLO receives a message from [redacted] (family of [redacted]) to state that they still retain the same Gibraltar lawyers and he does not recall the details of the lawyer in Spain and would communicate this back to the officer (No further information received) Irene does not reply to message.	FLO PC Passano notes
362.	21/04/2020	1600hrs	FLO tasked by DI Perera, (following meeting with Supt Richardson, to try and ascertain from families of deceased what lawyers they were instructing) and to provide families with an update of investigation.	DI Perera Notes
363.	21/04/2020	1850hrs	Update received from HTCU: Due to the current capabilities available to the RGP HTCU, out of the nine phones which were either in possession of the crewmembers of the suspect RHIB or found strewn on its deck, full extractions or unlocking of the devices to access its data have not been possible on four of the phones. In view of this, through HTCU, contact has been made with their counterparts abroad (Cellebrite, to see if they are able to access the phones in question and extract any relevant data held on them. Once a reply is returned and if in the positive, it will be forwarded to HM Coroner for approval in meeting the costs. Another option offered by HTCU with six of the phones, is to request information in respect of SIM cards and their PUK codes, from their service providers (all of which are from Spain). With this their might be a possibility of retrieving call data. However, it must be borne in mind that that requesting this through the official channels, such as EIOs, MLAs, etc, is not an option, as the investigation is not of a criminal nature and there is no	DC 106 Oton

			specific power under the Coroner's Act. . A formal letter could be sent to a foreign authority to seek such information but it is not known whether it will be replied too..	
364.	22/04/2020	1200hrs	Meeting between AG, DPP and CoP ref communications from lawyers representing the deceased indicating that that they would be making a civil claim for damages.. CoP enquires about crown counsel representation and again the need to agree a strategy. DPP states, no civil claim has yet been filed so no immediate need to appoint counsel. AG would give thoughts whether to leave the matter to be discussed at [Brexit] law enforcement group meeting or privately with his Brexit negotiator counterpart.	CoP notes
365.	22/04/2020	1234hrs	DI Perera informs HM Coroner that he has once again resumed the role of Coroner's Officer (as previously told to him by RGP SMT). Mr Pitto is informed that in respect of the mobile phones held in relation to this investigation, due to the software / encryption issues faced by the HTCU, some of these cannot be accessed for the purposes of retrieving date. He has been informed that enquiries will carried out with HTCU counterparts in UK to see if they would be able to do this. The reason to continue pursuing their contents, is to try to establish where each of the crewmembers onboard the suspect RHIB were sat. There might also be a possibility that information may be held on the phones as to messages / location of the chase and / or recordings of the incident. He is also asked if he authorises for the return of personal property which are not of evidential value, to the families of the deceased and survivors. Mr Pitto is also informed of a request from Mr Finch, to be provided with copies of the photographs of both PMs and that that of both vessels involved in the incident. He is asked how to proceed.	DI Perera Emails

366.	22/04/2020	1246hrs	DI Perera instructs FLO not to contact families anymore ref lawyers info, only welfare checks and if they provide lawyer info, the DI Perera to be informed.	FLO PC Passano notes
367.	22/04/2020	1603hrs	HM Coroner is forwarded an email sent by Mr Finch to CI PEREZ. This is for him to be aware of the stance being taken by VERRALLS. In the email, Mr Finch complains of not being provided with information requested and other requests made, including the surveying of the vessels by his own marine expert. He also asks for the location of the vessels at the time of the incident, asking if it happened in Spanish waters. Mr Finch claims that he will be writing to the Coroner as it appears the intention of the RGP is to close down all important avenues of enquires. He also claims that failure to suspend the officers involved in the collision indicates a predetermination of the enquiry from the outset, indicating a partisan approach and not that of an independent approach.	DI Perera Emails
368.	24/04/2020	1245hrs	Mr Finch emails Maurice Turnock from the Magistrates Court. He forwards him an email thread with CI Perez and wants for the Coroner to be informed of what he describes as serious problems he is encountering with the RGP. He states that he considers this case to be of an unlawful killing. He mentions international implications, including ECHR.	DI Perera
369.	24/04/2020	1521hrs	In respect of the email sent to Mr Pitto as to the stance taken by Mr Finch and the complains he is making, the Coroner informs that Mr Finch has been dealt with by necessary implication in a reply sent to him from his Office.	DI Perera Emails
370.	30/04/2020	1519hrs	Update received from HTCU as to enquiries carried out with their counterparts abroad (Cellebrite) in respect of mobile phones held in relation to this investigation.	Dc 106 Oton
371.	05/05/2020	1026hrs	HM Coroner asked if he authorised for 3D scans on both vessels involved in the	DI Perera Emails

			incident. This will provide a better picture of how the collision took place.	
372.	05/05/2020	1118hrs	HM Coroner has been forwarded by DI Perera, the draft copy of the SOLIS report from Capt. Meikle, in respect of his examination of the vessels.	DI Perera Emails
373.	05/05/2020	1202hrs	Approval given by HM Coroner for the 3D scans of the vessels to proceed.	DI Perera Emails
374.	05/05/2020	1258hrs	HM Coroner has been informed of the reply of Cellebrite UK in respect of being able to examine mobile phones held by Police, which were seized during the investigation and which were unable to be accessed by HTCU. He was asked if he authorised for this to be sent over for examination.	DI Perera Emails
375.	05/05/2020	1503hrs	HM Coroner informs that in respect of the examination of mobile phones, he was inclined to say no but would go through the SOLIS report prior to taking a decision.	DI Perera Notes
376.	06/05/2020	1118hrs	Mr Finch emails CI Perez complaining that he is still awaiting for a date for his maritime surveyor to be able to inspect the vessels involved in the collision. He also complains that there is no obvious reasons for the CSI phots taken of the vessels not being supplied to him.	DI Perera Emails
377.	06/05/2020	1614hrs	HM Coroner emails DI PERERA and informs that Mr Finch will be supplied with all necessary reports and information, once the Coroner's investigation was complete. He informed that this reflect the inquisitorial nature of the coronial process and the fact that in an inquest, interested persons are not parties as they might be in atrial. He states that if Mr Finch is interested in pursuing the matter on behalf of his clients civilly or even criminally, he should institute proceedings and acquire the rights of a party at trial in that way. He also stated that he had no difficulty I returning the property (of deceased and survivors), even the phones.	DI Perera Emails

			He wanted to ensure that the views of the investigating team from the MPS were canvassed and that they had no issues on the return of the items.	
378.	06/05/2020	1703hrs	Dr Rouse emails final pathology reports	**(Appendices 40 & 41)**
379.	07/05/2020	1247hrs	DI Perera forward the final reports of the pathologist for both deceased, to HM Coroner.	DI Perera Emails
380.	07/05/2020	1402hrs	Mr Finch emails CI Perez wanting to be given a date for the inspection of the vessels and have sight of the relevant photographs and marine expert report.	DI Perera Emails
381.	10/05/2020	1411hrs	Mr Finch informs CI Perez that legal representatives on behalf of the families are entitle to participate in the investigation into the deaths of their loved ones. He adds that there is no cooperation from the Police. He says this to be a clear abdication of the state's responsibility where the state agents are clearly responsible in fact and law for the deaths of these concerned he says there is no excuse to hold back photographs, marine export report or not allow.	DI Perera Emails
382.	11/05/2020	1353hrs	Email from CoP to CM/AG/MoJ advising on VOX parliamentary questions "CM- MoJ- AG For your information I refer to the attached document which is a response to parliamentary question in Spain. He question was asked by Agustin Rosety from VOX. It has been published by the Senate today. I have not shared it with HE in case you wanted to touch base with him yourselves. I draw your attention to the 3rd paragraph that according the the Spanish Foreigh Ministry had not made a request for support on the night in question. We do, however, have evidence there was a constant exchange of communication between GC and RGP on the movements of the suspect vessel which they were with their SIVE costal cameras and relaying this to our crew.	Email from CoP

			The GC maritime assets deployed in the area that night."	
383.	11/05/2020	2111hrs	MOJ replies to CoP's email "Thank you Ian KR Samantha"	CoP's emails
384.	12/05/2020	0715hrs	AG replies to CoP's email "Thanks Ian"	CoP's emails
385.	12/05/2020	1922hrs	On request from SMT, email sent from DI Perera to HM Coroner. He was informed that due to the sensitive nature of the investigation involving the loss of life and directly involving the RGP, his concerns / views, with regards to impartially and transparency, of having a Coroner's Officer not from the RGP was raised with the MPS. Mr Pitto was informed that the UK informed that they would consider this matter, as long as he contacted them personally informing of the rationale for such request and what their role would entail. He was provided with contact details for the MPS.	DI Perera Emails
386.	14/05/2020	1832hrs	DI Perera emails DCI Field informing him that before he requests from Verralls through SPOC for statements to be provided by the survivors/ family of the deceased, if he wishes to clear this with the team from the MPS.	DI Perera Emails
387.	16/05/2020?		Letter before action – damages claim is received from Verrals, Robert Fischel. The letter is assigned to Supt Cathal Yeats so that he engages with the DPP with a view of identifying a crown counsel to act for the RGP. This has been the norm in other civil claims received by the RGP. Supt Yeats meets up with the DPP on 19th May to discuss the matter.	I do not have the exact date of when this letter was received but from email correspondence it suggests it was received a few days before the 20th May 2020 which is why I have slotted it in in this time frame.
388.	18/05/2020	0900hrs	Capt. Meikle from SOLIS Marine Consultants together with 3D Scanning Specialist Duncan Lees from visualskies conduct 3D scan of PMB Sir John Chapple.	DS Garratt Notes
389.	19/05/2020	1000hrs	SIO meeting with Capt. Meikle, DI Perera and DS Garratt to discuss draft report submitted by him.	
390.	19/05/2020	1400hrs	Capt. Meikle from SOLIS Marine Consultants together with 3D Scanning	DS Garratt Notes

			Specialist Duncan Lees from visualskies conduct 3D scan of Suspect RHIB.	
391.	19/05/2020	0846hrs	Email send from Comandante Alejandro Gamero Rios GC Algerciras to DI Perera. The email informed him that the judiciary in Spain had initiated and The judge was therefore requesting from the authorities in Gibraltar, all information available in respect of the investigation, pathologist reports and the identity of the RGP Marine Section officers involved in the collision. This request was forwarded to SIO and instructions sought into how to proceed.	File Note by DI Perera. Request acknowledged, they were referred to request this information through the proper channels – EIO.
392.	20/05/2020	0956hrs	HM Coroner informed of the official request from the GC, asking for information in respect of the incident being investigated, after being instructed by the 'instructing' judge from La Linea, who has initiated her own investigation. He was informed that if he approved, they would be told that there is an ongoing investigation and if they require anything in relation to it, it should be sought through official channels. This he agreed too on a subsequent phone call with the DI.	DI Perera emails
393.	20/05/2020	1213hrs	Supt Cathal Yeats emails AG "Dear Attorney General, The Commissioner of Police is in receipt of correspondence with regard to a claim for damages following a collision at sea on the 8th of March this year. I understand that the Director of Public Prosecutions has raised the issue of who should represent the RGP to defend the claim. The DPP and I met yesterday to discuss whether it would be appropriate for the Office of Criminal Prosecution and Litigation to do so. We concluded it would not for the following reasons which potentially apply: 1) Prosecuting European Arrest Warrants issued by Spain to	Supt Yeats email copied to CoP

			extradite the officers crewing the vessel. 2) Prosecuting criminal charges against the officers crewing the vessel. 3) Prosecuting disciplinary charges against the officers crewing the vessel. 4) Defending civil actions against the organisation or the individual officers in Spain. Should you agree with our views I would be grateful for your authority to appoint counsel and your advice on who would be best placed to represent the RGP. Finally our experience is that claims made against the RGP have been generally handled by Government. Do you wish this to be the case in this instance or should we manage it ourselves together with appointed counsel? Best regards, Cathal"	
394.	20/05/2020	1253hrs	On instructions from Gold Command DI Perera replies to Comandante Alejandro Gamero Rios GC Algerciras informing him that there was an ongoing investigation into the incident and if they require any information into this incident, they should request this through official channels.	DI Perera.
395.	20/05/2020	1348hrs	AG forwards the email he received from Supt Yeats to the CM	CoP's email thread
396.	20/05/2020	1415hrs	The CM emails the AG "Dear Michael Thank you for copying me into the below. I think it is entirely inappropriate for this matter not to have been raised with me in the first instance by the Commissioner. This matter raises issues of fundamental human rights, the right	CoP's email thread

			to life, potential payment of huge amounts of damages, the potential extradition and liberty of serving police officers being at stake, the issue of Standard Operating Procedures which may be in place and the management thereof. All of that is in addition to the huge potential political exposure that arises for Gibraltar as a result thereof and the concomitant (and dangerous) issues of sovereignty and the United Nations Convention on the Law of the Sea. Indeed, it is difficult to think of an issue as fundamental as this affecting the RGP, certainly in the time I have been in office. There is no consideration in the email below of claims or offences going beyond "the officers crewing the vessel", which is also, in my view an issue that may also need further consideration. As you know, it comes against the backdrop of the very unflattering report from the HMICFRS. I am therefore surprised and greatly disappointed that these issues have not been the subject of a detailed submission to me by the Commissioner in respect of the events in question and the issues which now arise. I shall therefore be writing directly to the Commissioner on this and all other aspects of this matter. In the interim, I do not authorise the incurring of any expenditure in briefing out of this matter at this stage. Please refer both the DPP and Superintendent Yeats to my response.	

			Best wishes Fabian"	
397.	25/05/2020	1054hrs	DCI Field writes to DCI Gary Smith from MPS and refers him to the request submitted by DI Perera of taken statements from the survivors/ families of the deceased and asks if he can instruct for the taking of those statements or whether they would undertake themselves when next in Gibraltar	DI Perera Emails
398.	20/05/2020	1528hrs	The AG forwards the CM's email to Supt Yeats and DPP. "Dear Cathal, Please see Chief Minister's email below which is self-explanatory. Best wishes, Michael"	CoP's email thread
399.	20/05/2020	1605hrs	Supt Yeats forwards the email thread between the CM and AG to CoP. "Sir, The email from the CM via the AG below refers. Best regards, Cathal"	CoP' email thread
400.	20/05/2020	1753hrs	CoP responds to the CM's email "Dear CM I refer to the below thread which includes your response to the AG and which has been forwarded to me. You are evidently very disappointed but I want to reassure you that it has never been my intention to withhold anything from you concermning this very serious matter. I provided you with an overview on the day of the incident, then engaged with the AG as per your suggestion and have been doing so ever since. I will hopefully be in a better position to brief you on the full details of the incident	CoP's email thread (printed copy)

			once I receive the report of the findings of the independent investigation team we called in. This team had to return early to the UK because of the COVID-19 crisis and because of lockdown in the UK, they have been unable to progress the matter as expeditiously as we all would have wanted. The letter from local counsel representing the families and suggesting a future claim for damages was only received a few days ago which is what triggered ourt enquiry with the DPP only yesterday concerning legal representation. I am of course available to discuss the points you allude to at your earliest convenience. Best wishes Ian"	
401.	20/05/2020	1834hrs	CoP messages AG "Michael - aside from Delhi....the CM's response to our 'ask' for legal representation (for Op Kram).... I honestly do not know why he has reacted like this. Have you briefed him of our meetings we've had on the matter?"	CoP – AG whatsapp chat logs
402.	20/05/2020	1838hrs	AG responds to CoP "He is aware you and I have spoken about this. I forwarded to him Cathal's email to me today since it was necessary in view of the wider issues."	CoP – AG Whatsapp chat logs
403.	20/5/2020	1839hrs	CoP messages AG "Good. But the wobbler he's thrown is what I do not understand. Anyway, something for me to take up with him. Thanks."	CoP – AG Whatsapp chat logs
404.	21/05/2020		The CM emails CoP attaching a letter requesting a factual report under section 15(1)(a) Police Act 2006 giving him 7 days to respond.	Letter from CM to CoP
405.	26/05/2020		Met Police are constantly kept updated about any developments in relation to investigation and new leads. All material obtained is provided to them.	
406.	26/05/2020	1004hrs	DCI Smith from MPS replies to DCI Field in respect of the request dated 25th May 2020. Informing him to proceed in taking	DI Perera Emails

			the statements as the coroner will require them and it will service their own investigation.	
407.	27/05/2020	0825hrs	CI Perez emails Chris Finch asking to make arrangements to be able to obtain witness statements from the survivors/ Families of the deceased.	DI Perera Emails
408.	27/05/2020	1017hrs	Chris Finch replies to CI Perez with the following "we have received no information or assistance whatsoever, the RGP claims to be due to directives given by the coroner. Everything we have asked for, despite numerous requests has been refused. Any statements to be taken should be taken by their legal representatives, as the police can no longer be trusted to be independent and objective. The police you say on the instructions of the coroner has deliberately delayed and frustrated our inquiries and access to information, including examination of the boats and the draft PM report and even the names of the boat's crew. These actions constitute serious breaches of fundamental rights which will not go without full redress. Maybe you should advise the coroner what the RGP has done under his assumed direction, because there will be consequences."	DI Perera Emails
409.	27/05/2020	1359hrs	Email from DCI Gary Smith attaching the latest sit-rep	(Appendix 90)
410.	27/05/2020	2025hrs	Email from DCI Gary Smith attached a earlier sit-report dated 23 03 20 which he had only shared with his team and superiors and not with RGP.	(Appendix 91)
411.	28/05/2020	1621hrs	CoP emails the CM attaching the factual report requested on 21st May 2020 "Dear CM, Please find attached the factual report you have requested from me. A garda copy of the report will be accompanying a box containing files of appendices and other material which are referred in the report proper and which I am unable to send to you digitally. This is being delivered by hand. MY PA has engaged with your staff to advise them to expect this box.	CoP' emails

			I have also included two time lines specific to this case, digital versions of which are attached to this email. One cover the whole incident and the other refers to communications I had with officials. Hard copies of these are also included in the box. Sincerely Ian"	
412.	29/05/2020		CoP emails the digital copy of the factual report and the two time lines referred to above to the following receipeints who had been originally copied in to the Section 15 report by the CM;- HE the Governor MoJ AG GPA Chair DPP	CoP's emails
413.	02/06/2020	1054	CoP emails the CM "Dear CM I note that you made an inadvertent error in your statement in Parliament yesterday when you said that the Section 15 report had been sent to you on Friday 29th May when in fact it was emailed and delivered to your office in hard copy on Thursday 28th May within the 7 day period you had specified. I trust that this assists and that any rectifications that have to be made in the parliamentary record are duly effected. Sincerely"	CoP's emails

- Please Note although timings are provided these maybe out of sync as they are taken from multiple sources

3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 17

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 17
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)



A Commissioner for Oaths

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

WHATSAPP CHAT LOG

Ian McGrail & Fabian Picardo

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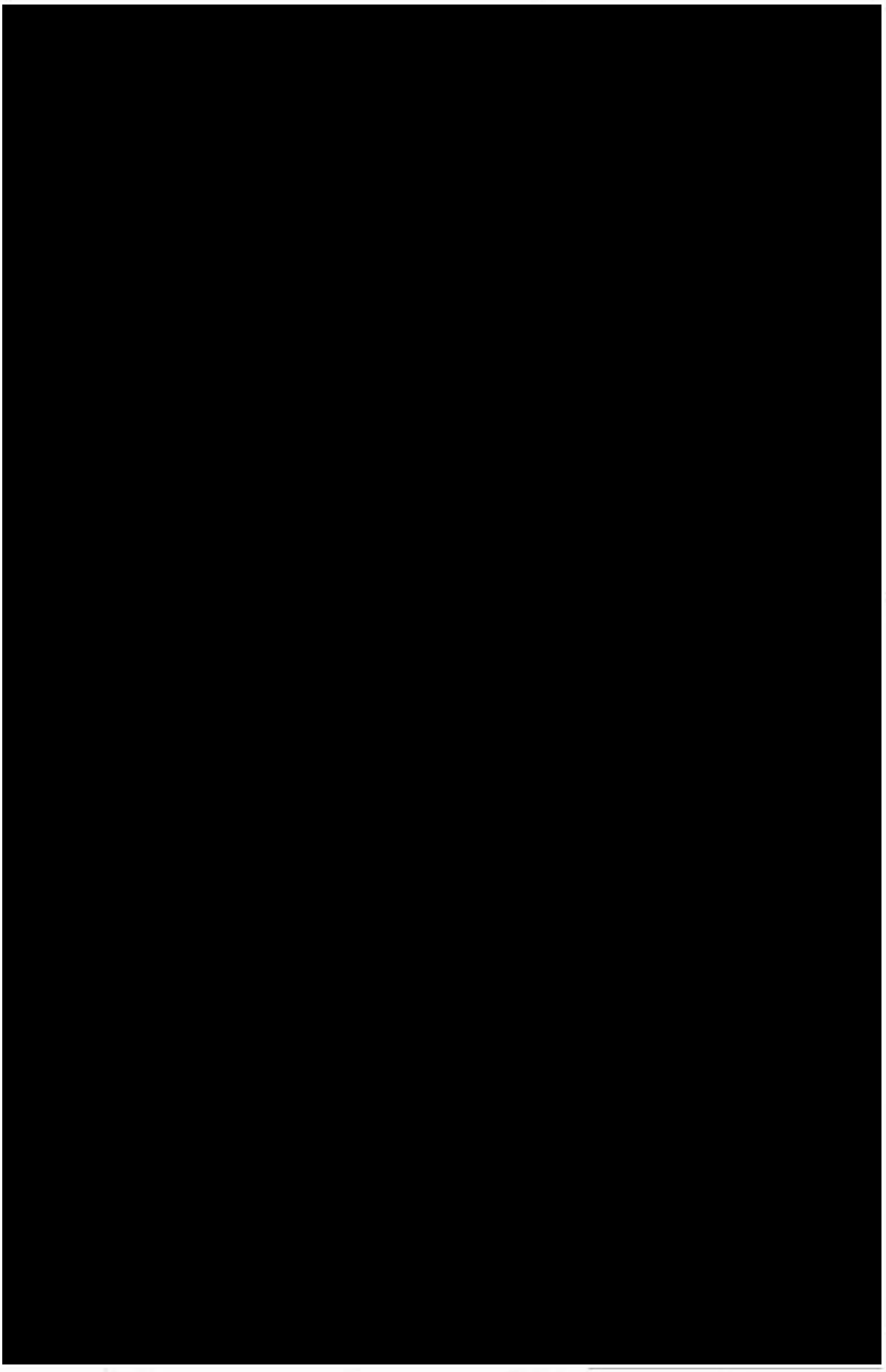

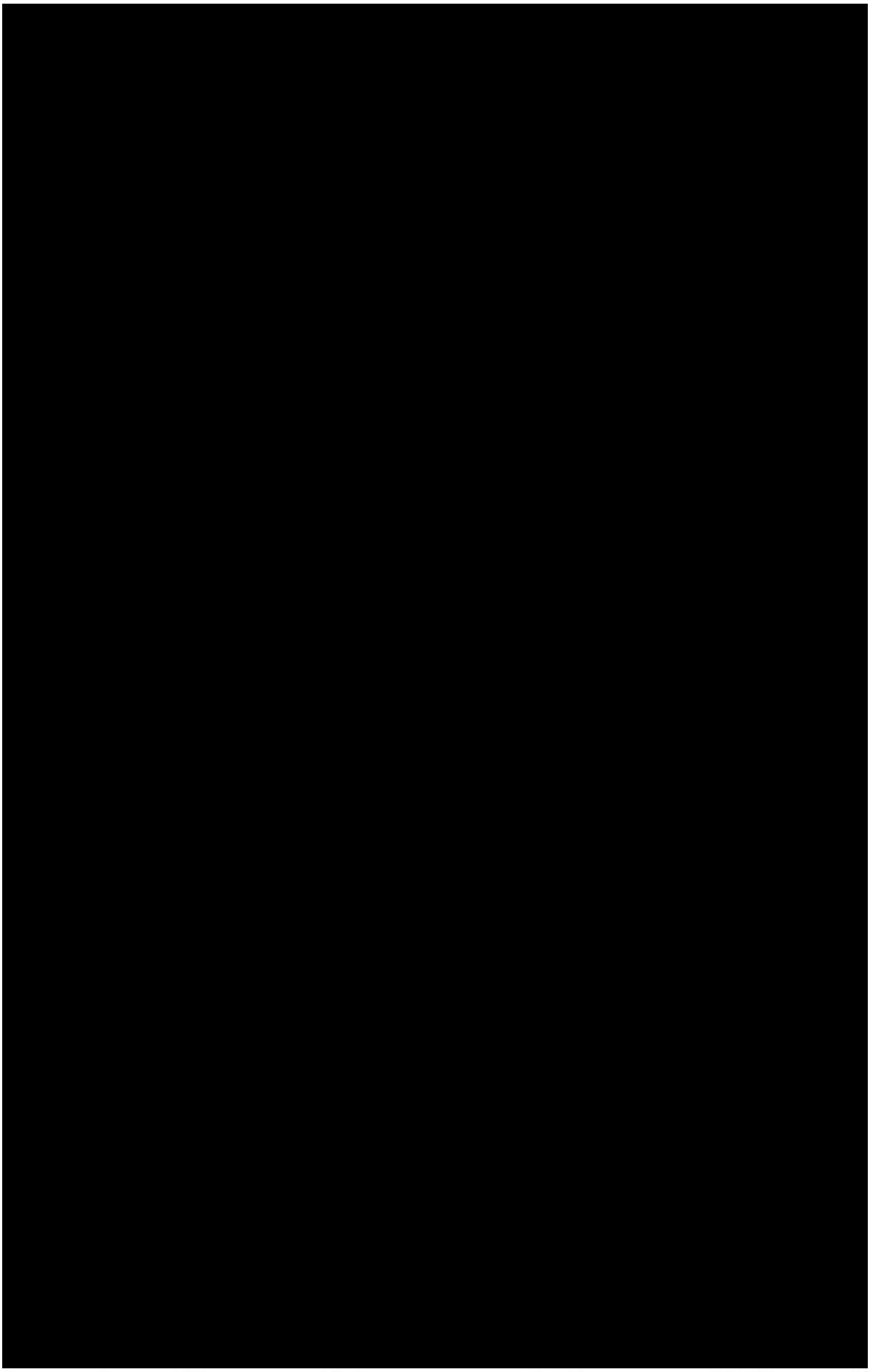





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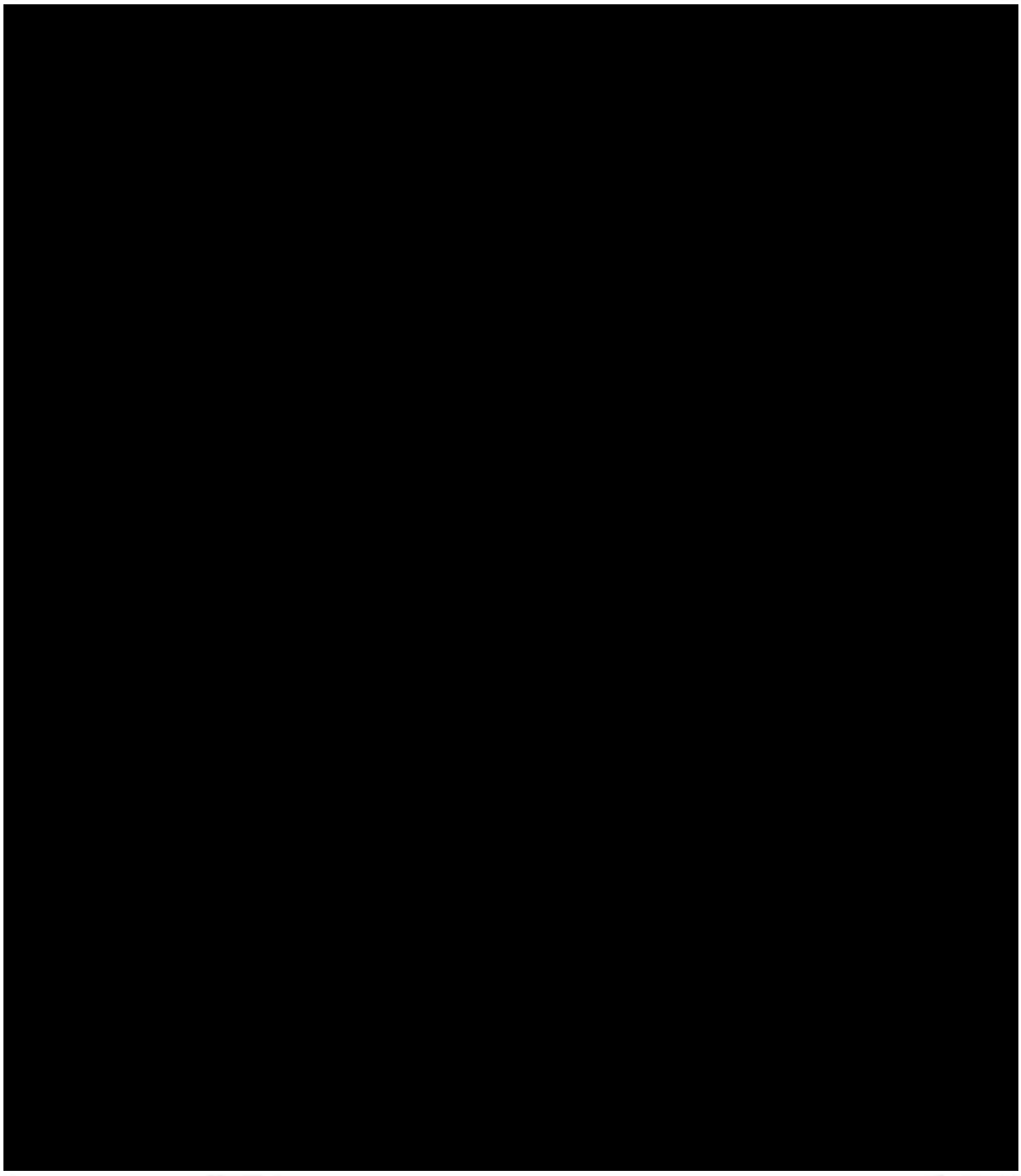

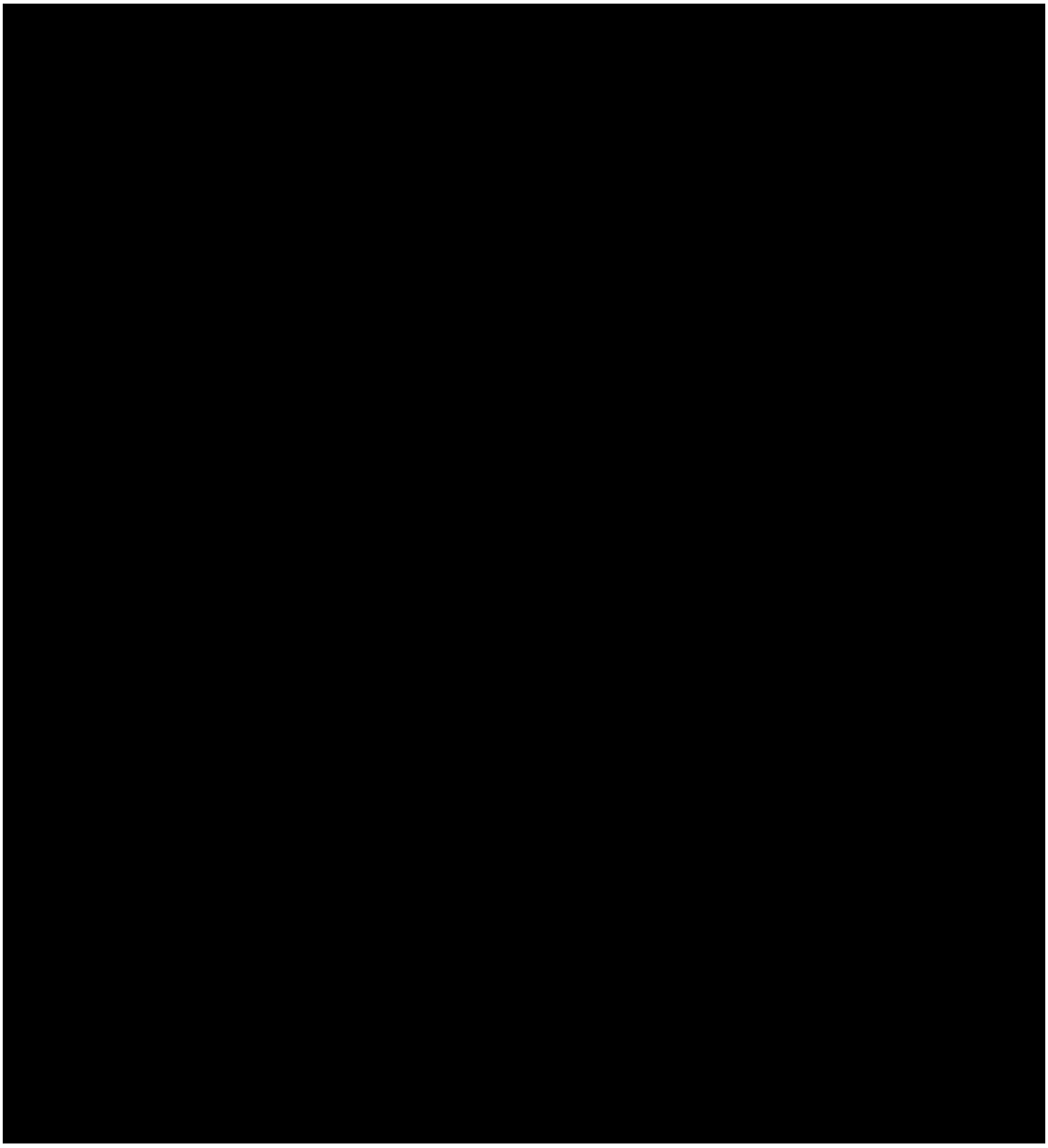

[11/07/2018, 08:36:55] Ian McGrail: CM - we have a situation developing at sea with a spanish fishing vessel. Dept of Environment have

[11/07/2018, 08:37:44] Ian McGrail: Intercepted and boarded a fishing trawler. Its got physical. We have got involved and effected arrests.

[11/07/2018, 08:38:26] Ian McGrail: I am getting fed info as I text. Will provide a more accurate picture when I have it.

[11/07/2018, 08:38:51] Fabian Picardo: Ok. Thanks pls let me have the info as soon as possible.

[11/07/2018, 09:16:43] Ian McGrail: Situation addressed. We have taken executive action which I will explain in detail when we meet in your office at 1030 ahead of GCC. We've had the expected stand-off with 3 GC vessels, the trawler and 3 of ours.

[11/07/2018, 09:22:39] Fabian Picardo: An officer in the sea?

[11/07/2018, 09:25:03] Ian McGrail: Yes, no injuries. Still determining how he went over. My info suggests he fell in of his accord and not because of any aggression.

[11/07/2018, 13:42:22] Ian McGrail: image omitted

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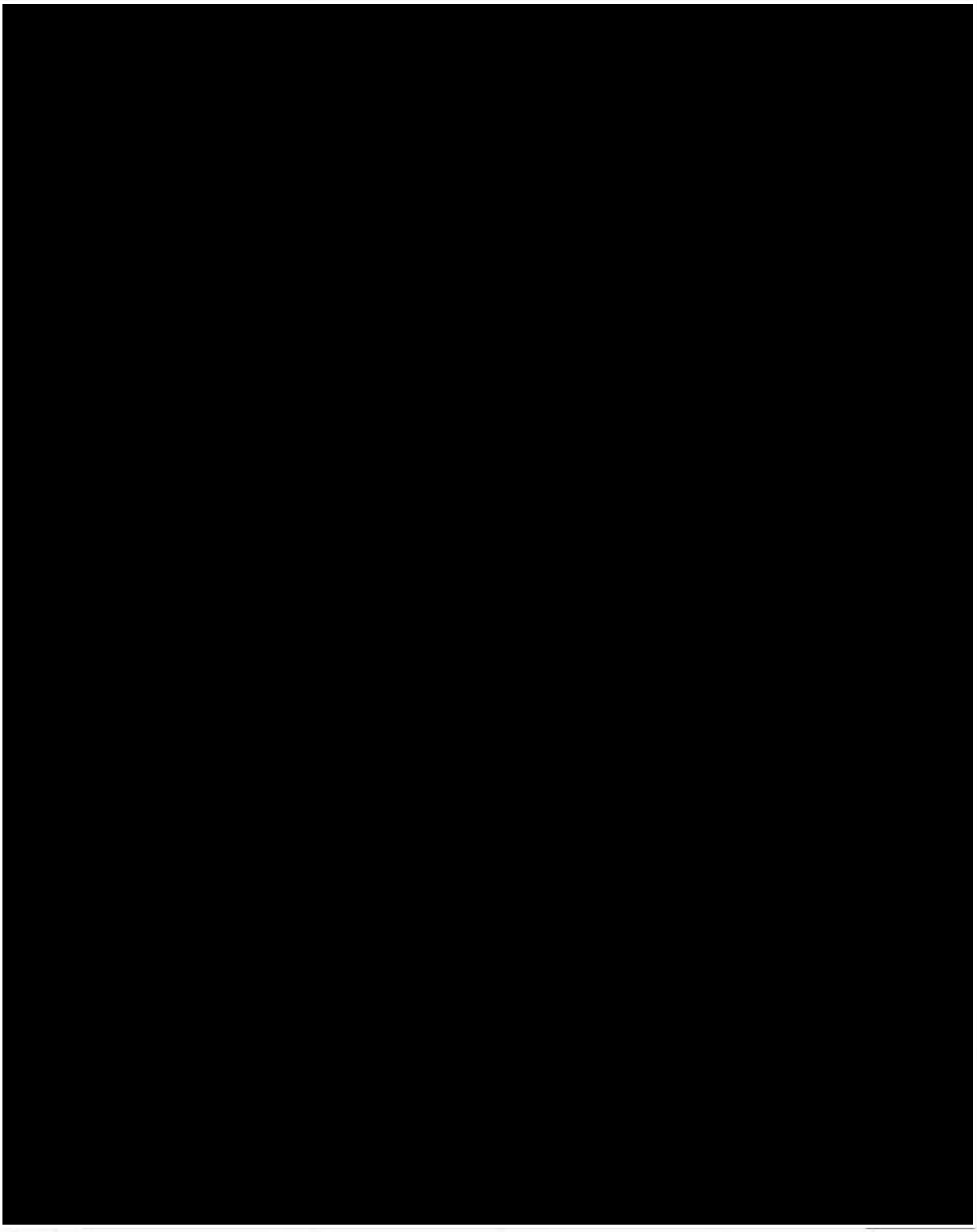

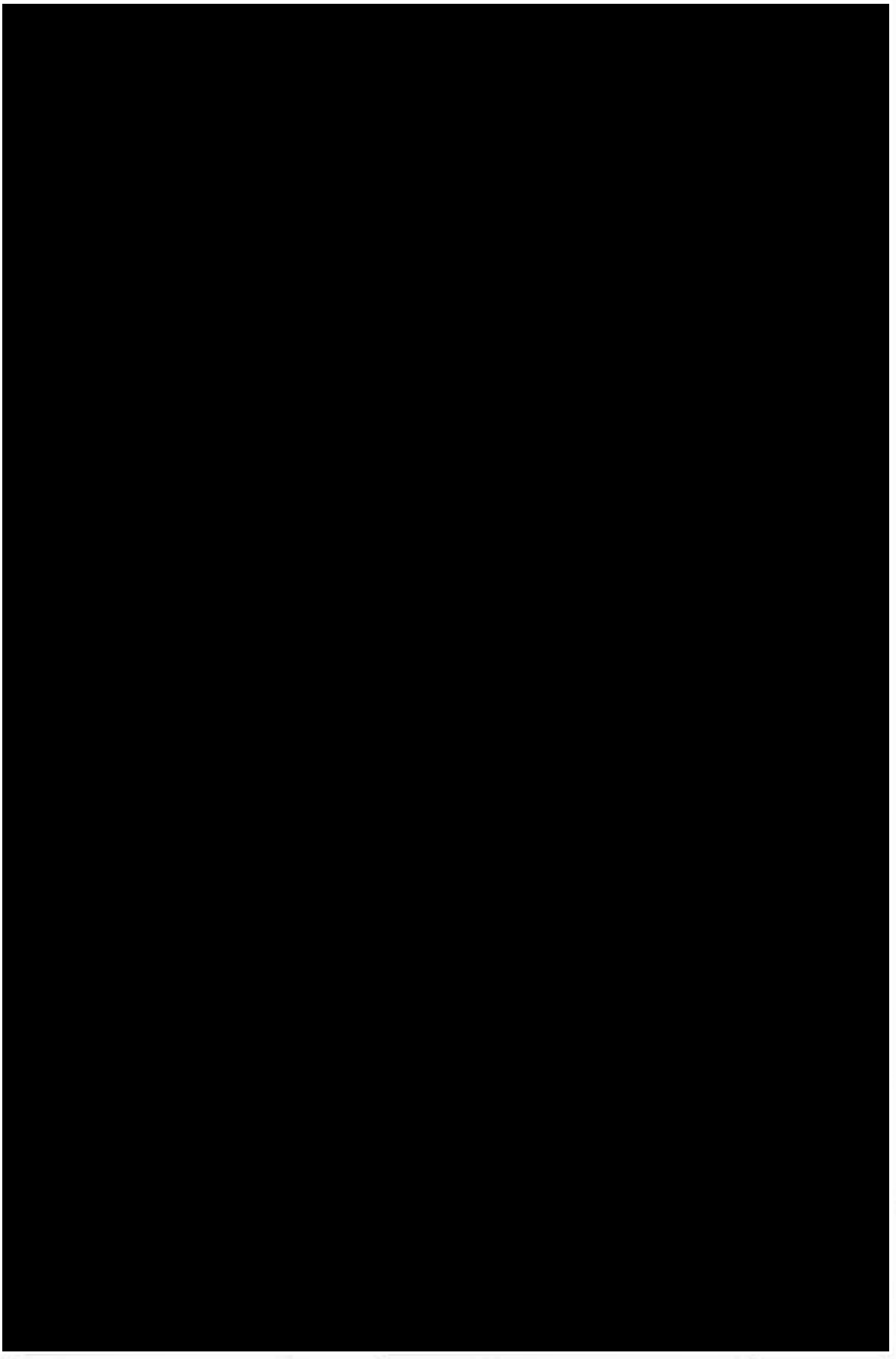



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[22/08/2018, 19:42:53] Ian McGrail: CM - Been off line all day till now as I'm on holiday and spent the day at a secluded cove where there was no signal.

I have seen the Panorama 'Headlines - Top story' and that you have been tagged to their tweet. What a distortion of the truth !!! He has jumped on the back of an article responsibly written by the Chronicle, maliciously spinning it with a personal attack. Just for your information, the Chronicle

interviewed me last week on my first 4 months in office - one of the subjects they asked on was the the murder enquiry. Brian has opted to run this part of the interview separate to the rest of the interview and Joe Garcia has thrown his toys out of the pram because he was not exposed to this interview.

I am not reacting to this because I would be giving him credit when he doesn't deserve it in the slightest on this matter.

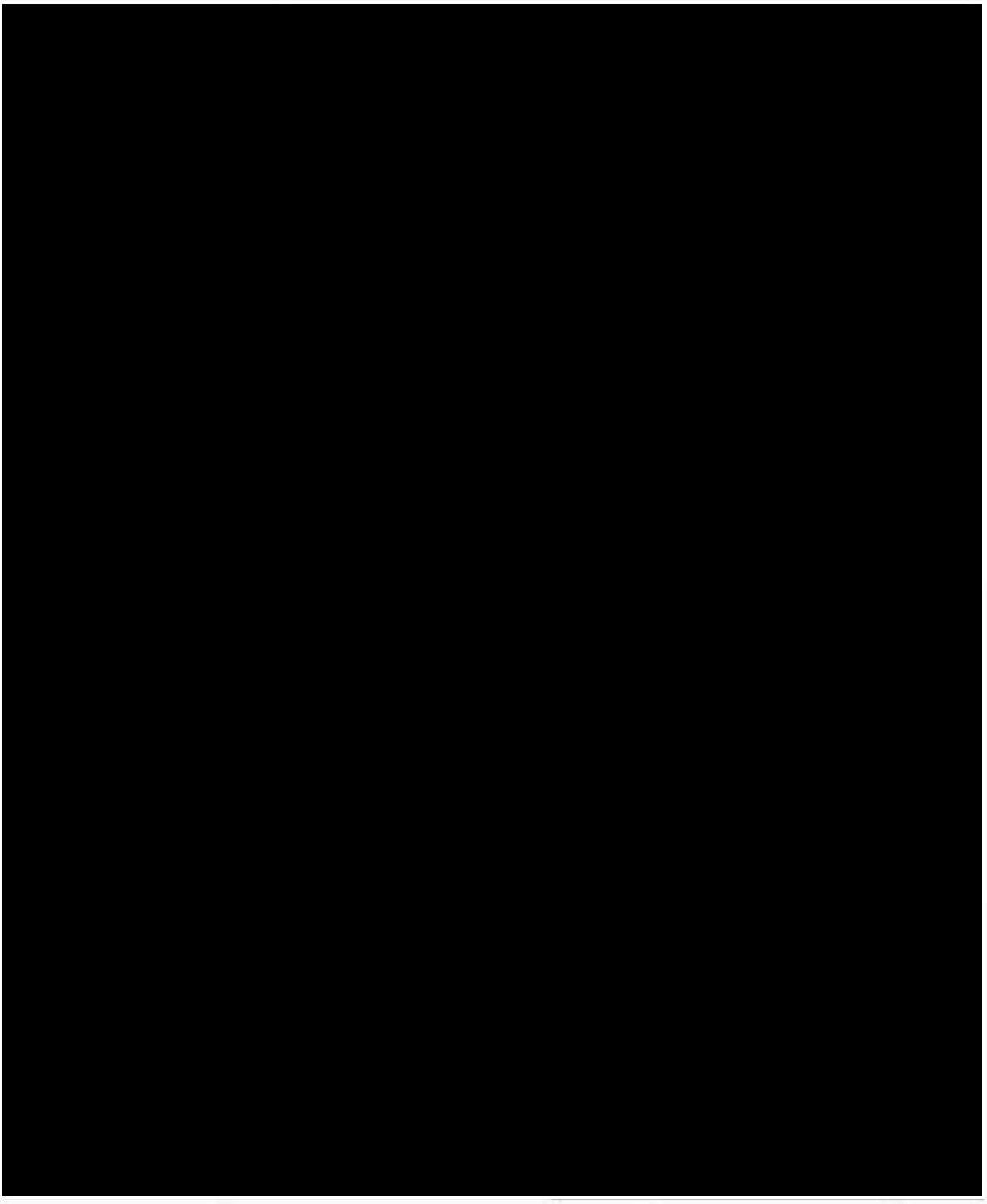
Rgds

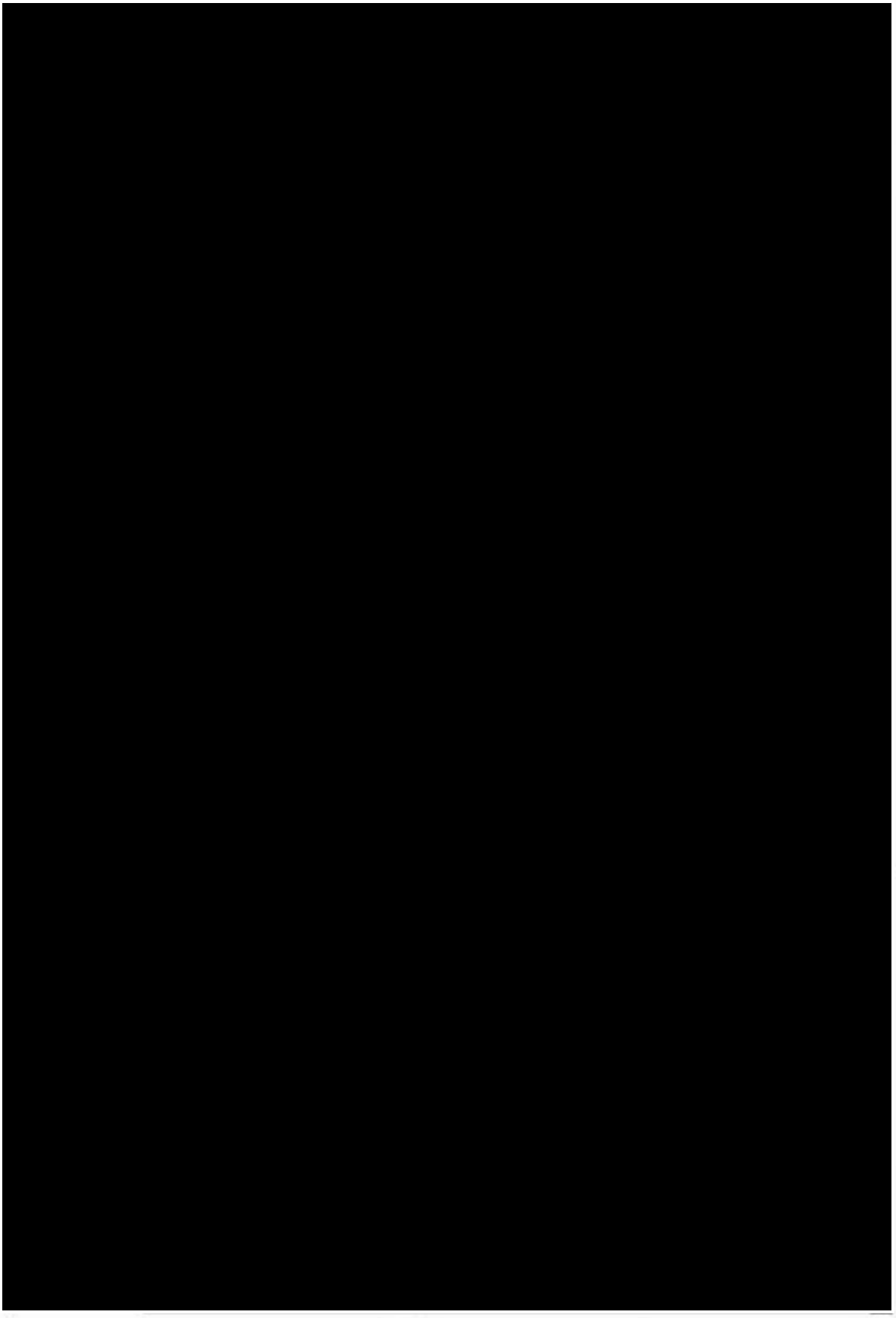
Ian

[22/08/2018, 19:55:45] Fabian Picardo: Hi Ian. Not seen any of this as been away for my 48hrs holiday without the kids! Will see it when I get back in the office tomorrow. Anyway, they tag me every day to their headlines. Today I haven't even looked at Twitter! Whatever it is, you are right not to reply. That makes it worse! Enjoy your time off. Best wishes. Fabian

[22/08/2018, 19:59:19] Ian McGrail: You enjoy your break too. Rgds

[24/08/2018, 14:49:50] Fabian Picardo: Ian. Look at this and the various mentions of Gibraltarians and British Citizens. See what you can find out?







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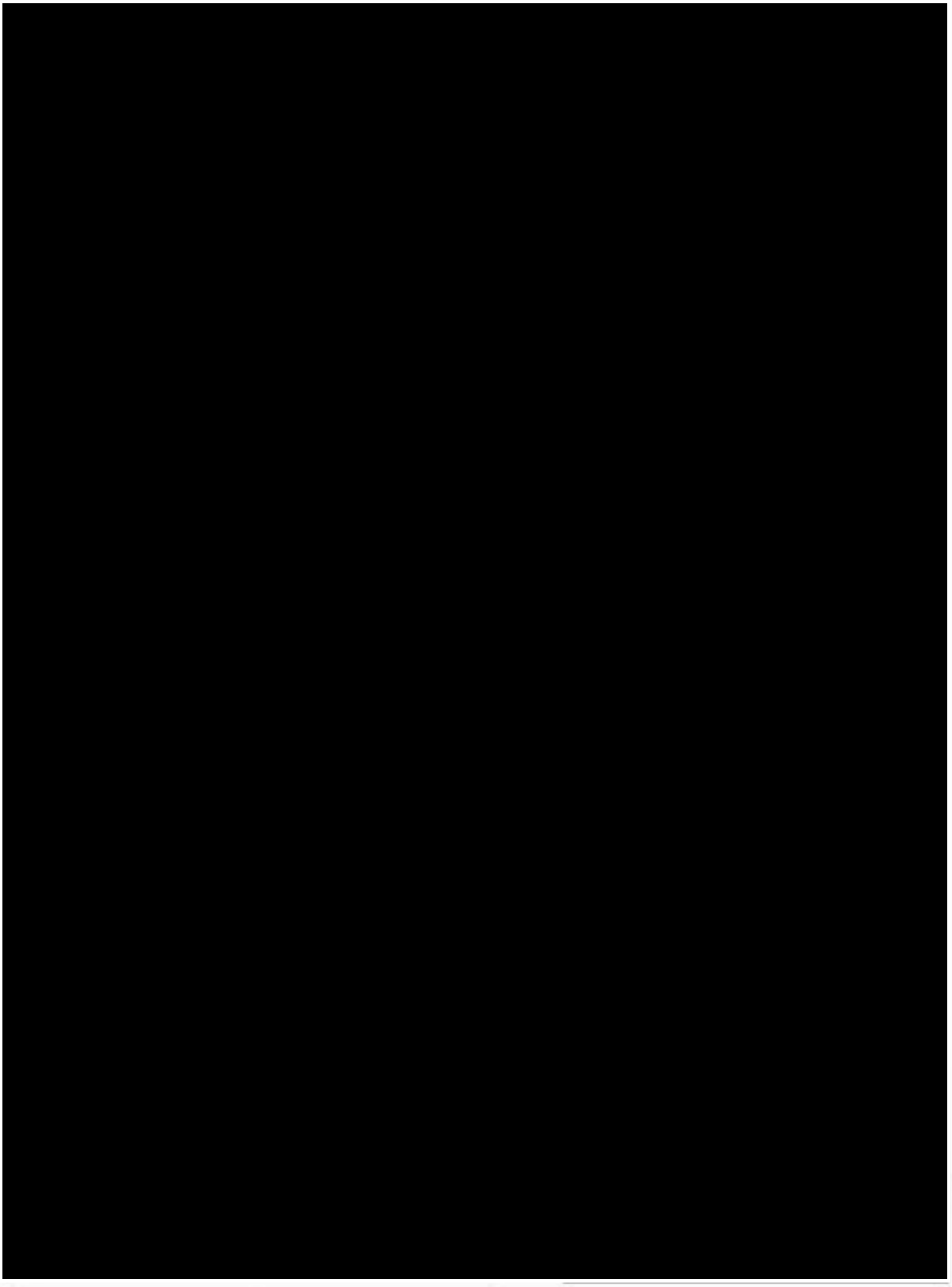

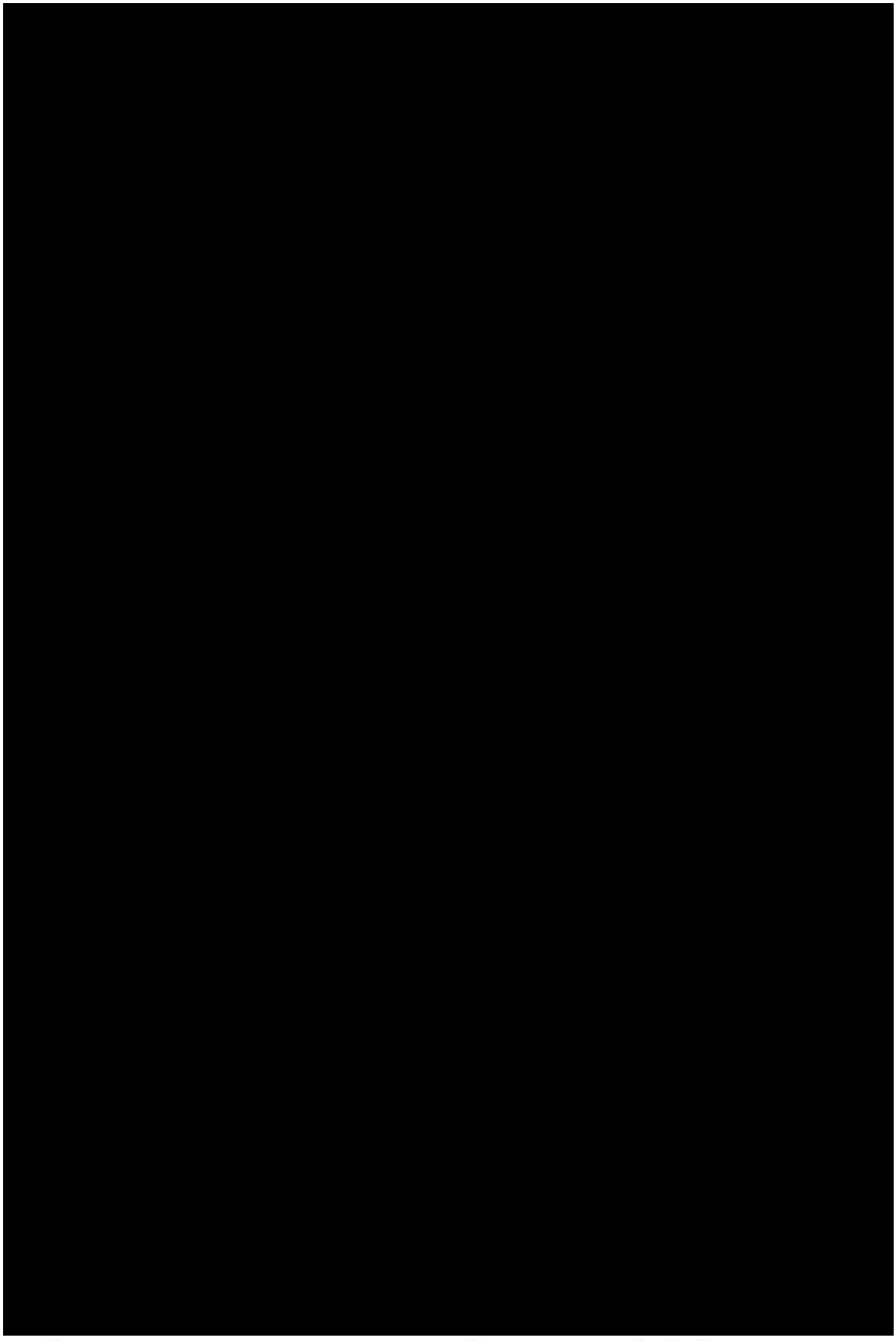

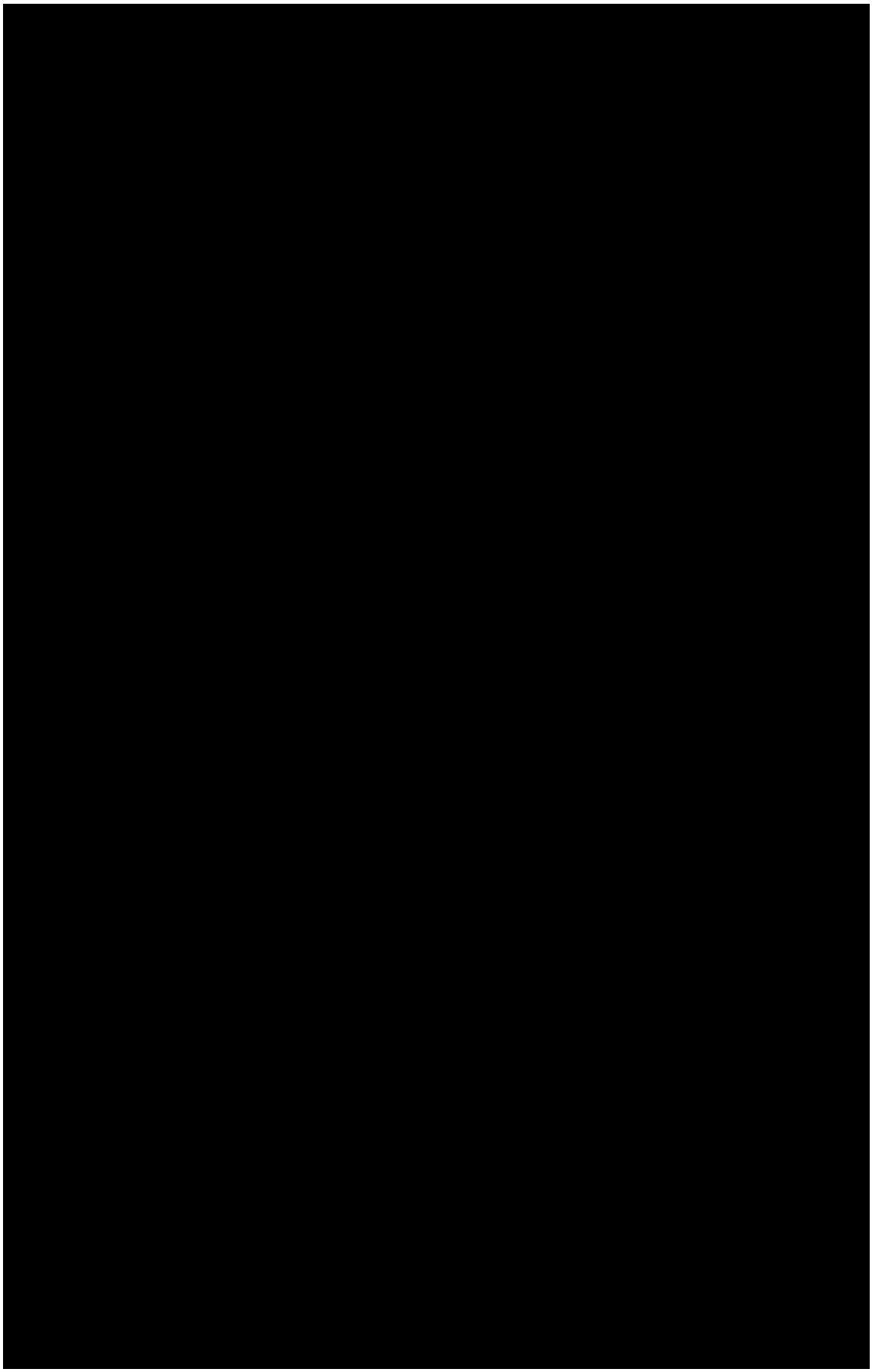

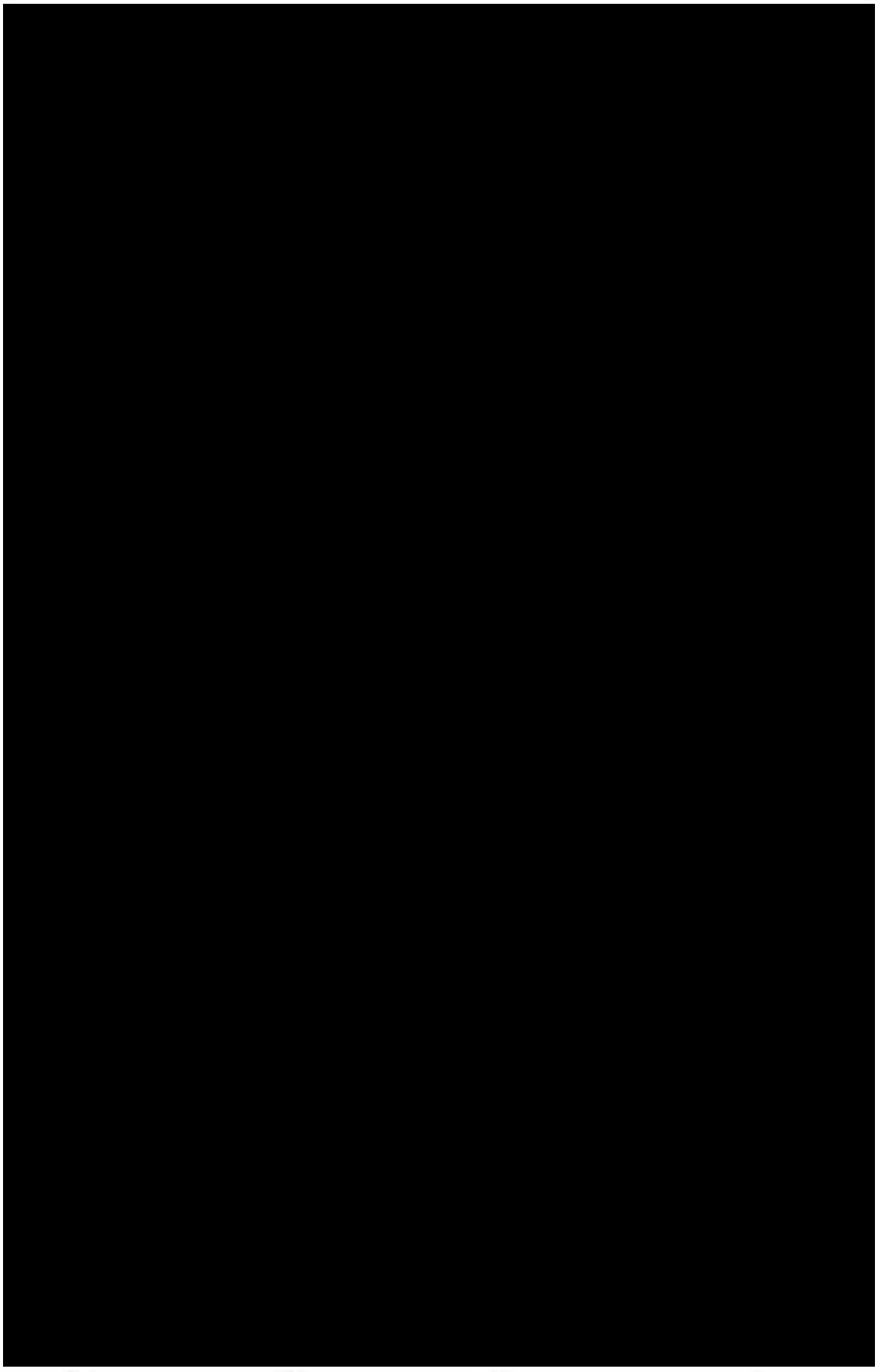

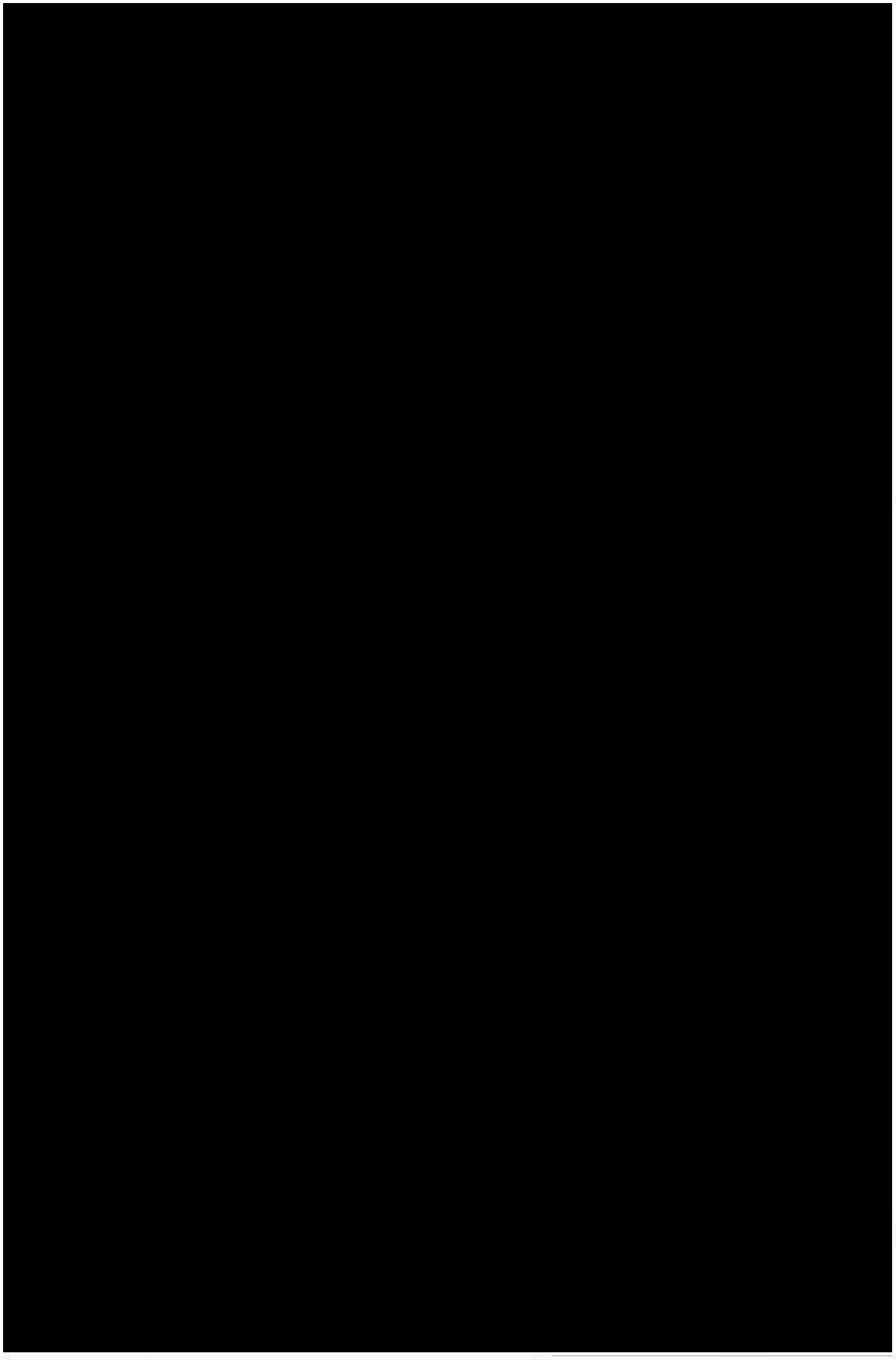



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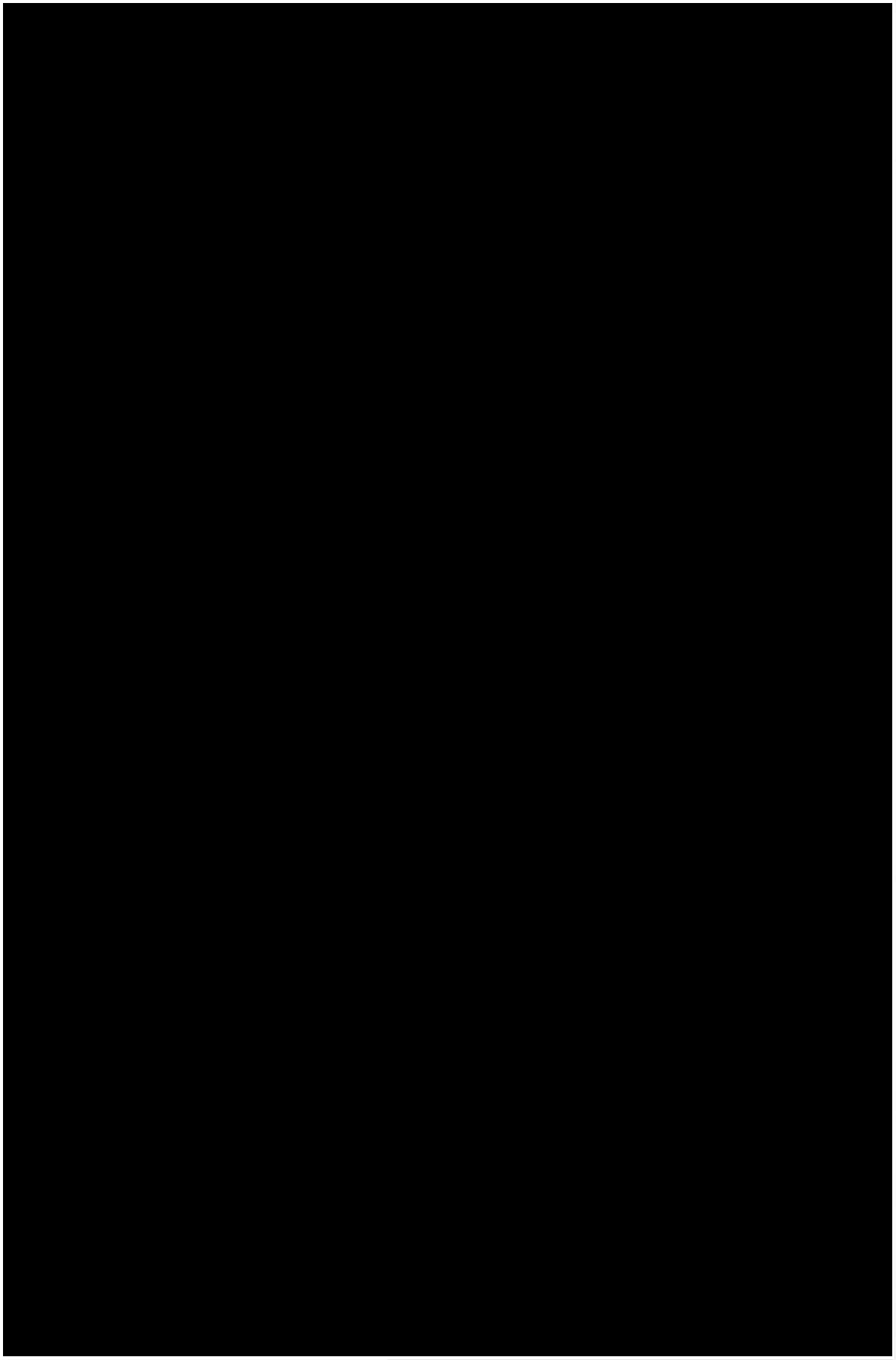



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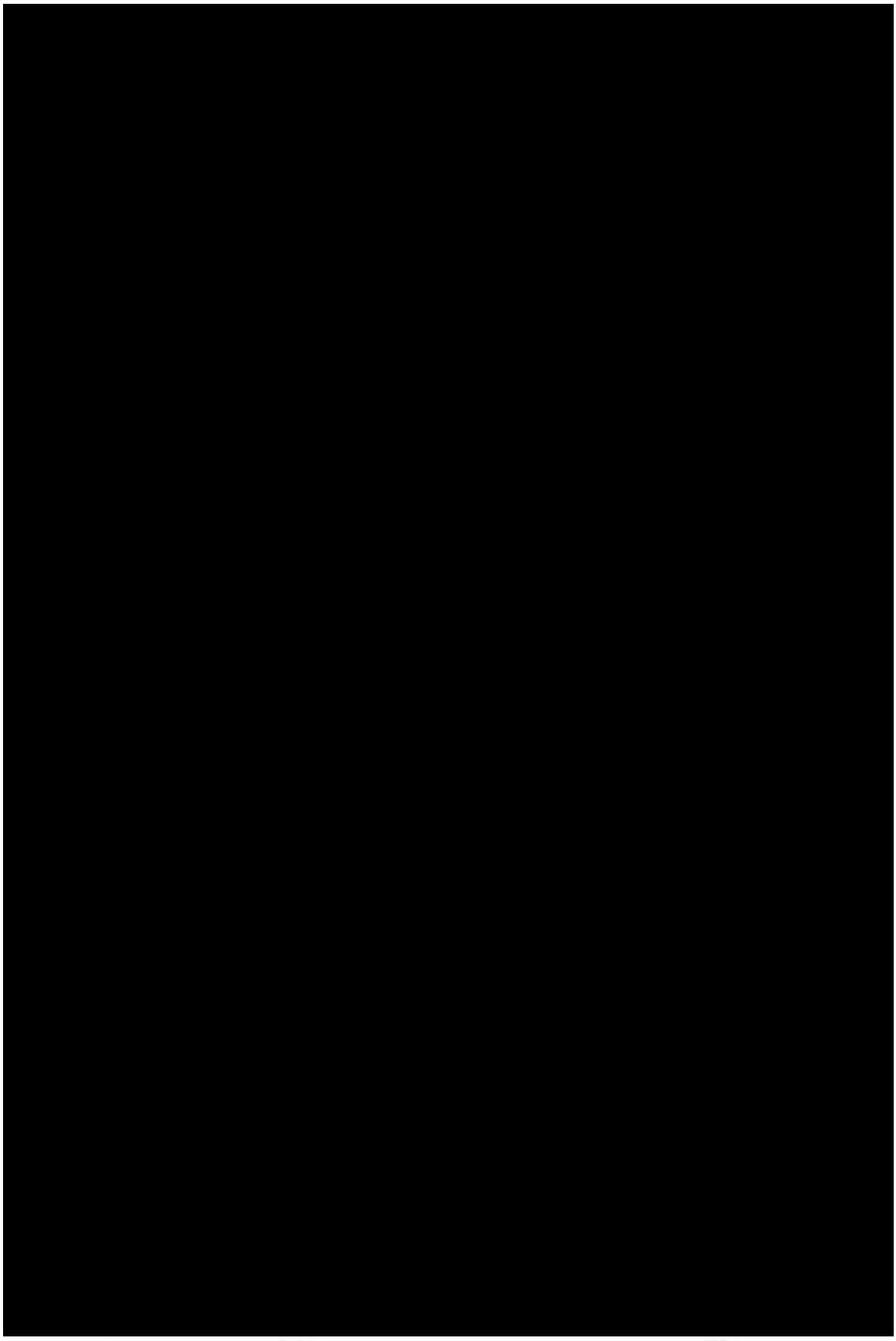


[18/02/2019, 17:59:27] Ian McGrail: CM - in light of the statement on behalf of the PM that it was not an incursion that of the P44 I need to brief you on a discussion I recently had with CBF which I reckon could be a developing posture by UK/MOD. I am at the Bunker tomorrow at 10am. It wouldn't take me more than 5mins. Rgds Ian.

[18/02/2019, 18:00:32] Fabian Picardo: Thanks Ian. Yes, pls come up then. Best wishes. Fabian.

[18/02/2019, 18:00:43] Ian McGrail: 👍

[01/03/2019, 17:07:21] Fabian Picardo: Ian Chronicle are asking me about an incident in the waters with the sva. Do you have any info?

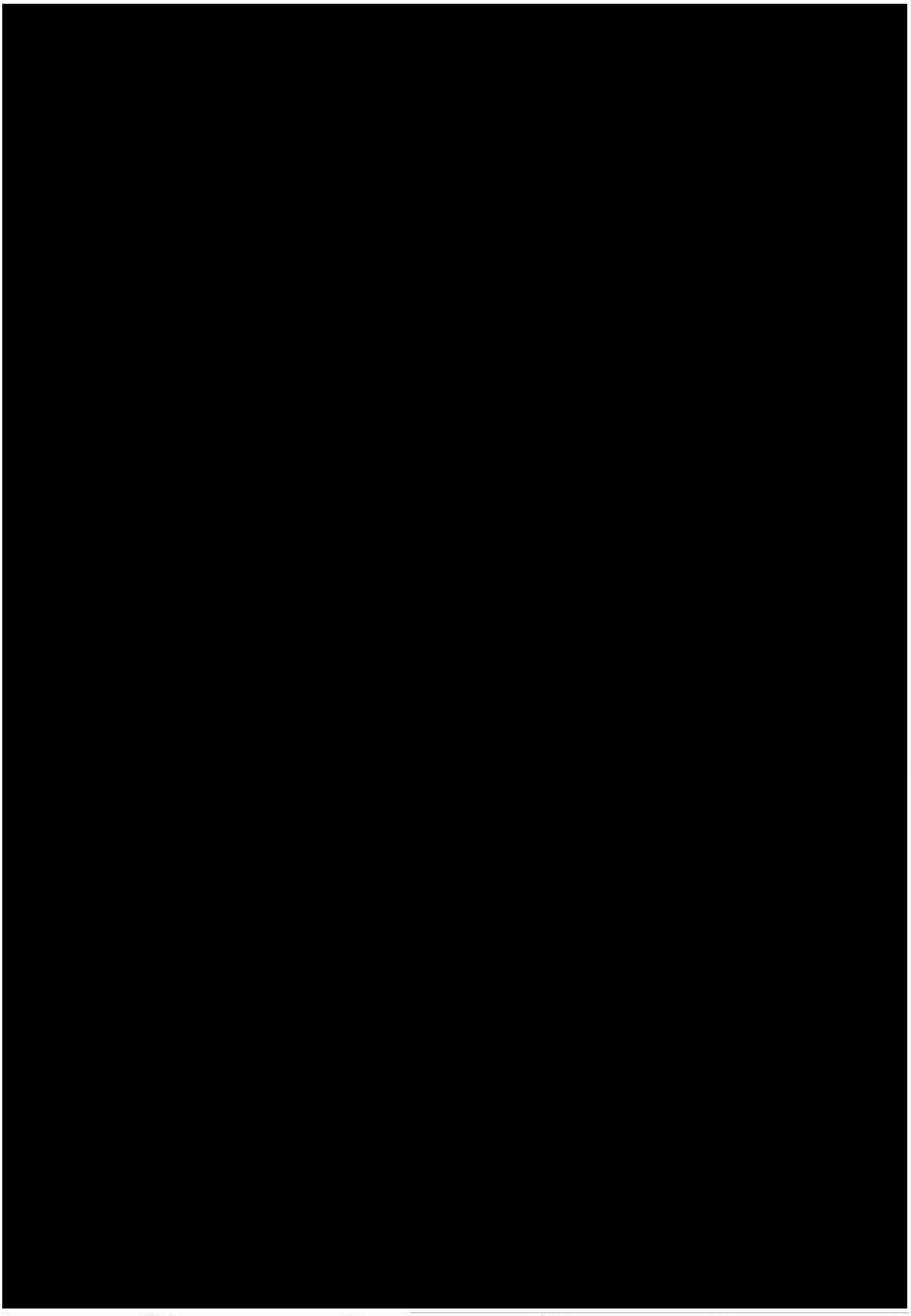
[01/03/2019, 17:09:27] Ian McGrail: Yes - we are preparing a report to send to you. They stopped an american yacht after claiming it took a suspicious course. Both HMC and our vessels attended and asserted ourselves.

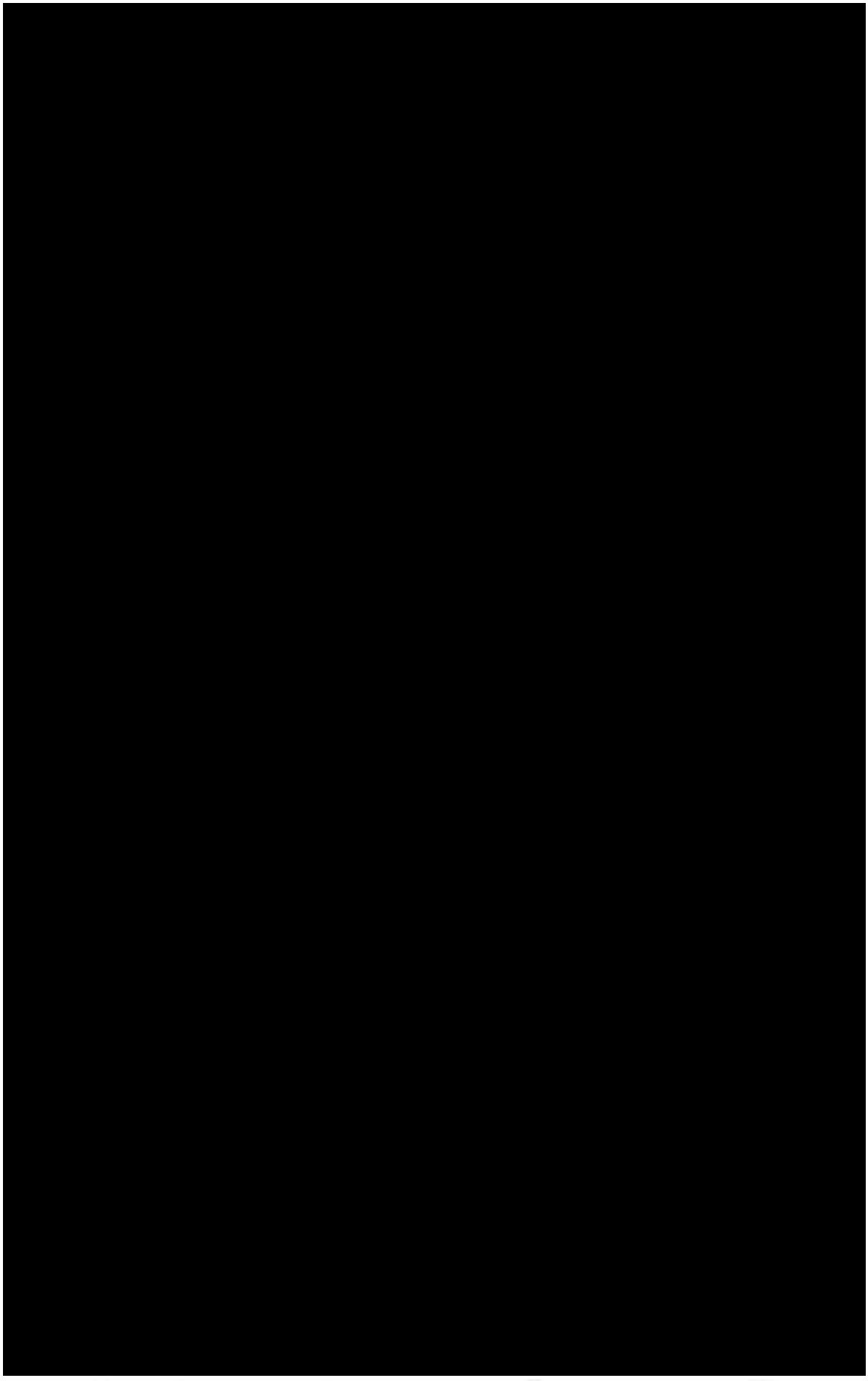
[01/03/2019, 17:16:55] Fabian Picardo: Great. Thanks. Were they very troublesome?

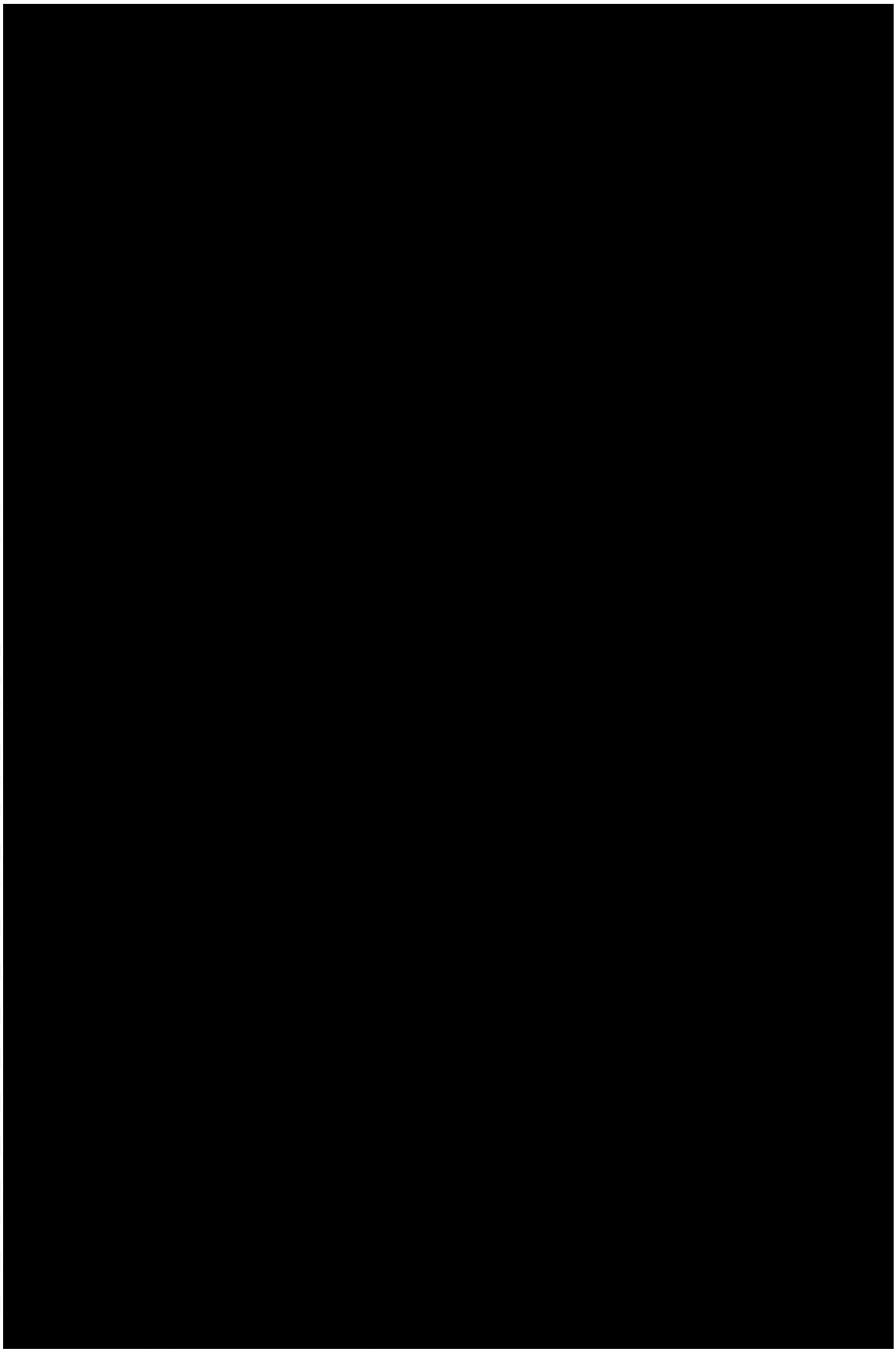
[01/03/2019, 17:18:04] Ian McGrail: No not apparently

[01/03/2019, 17:27:51] Fabian Picardo: 👍



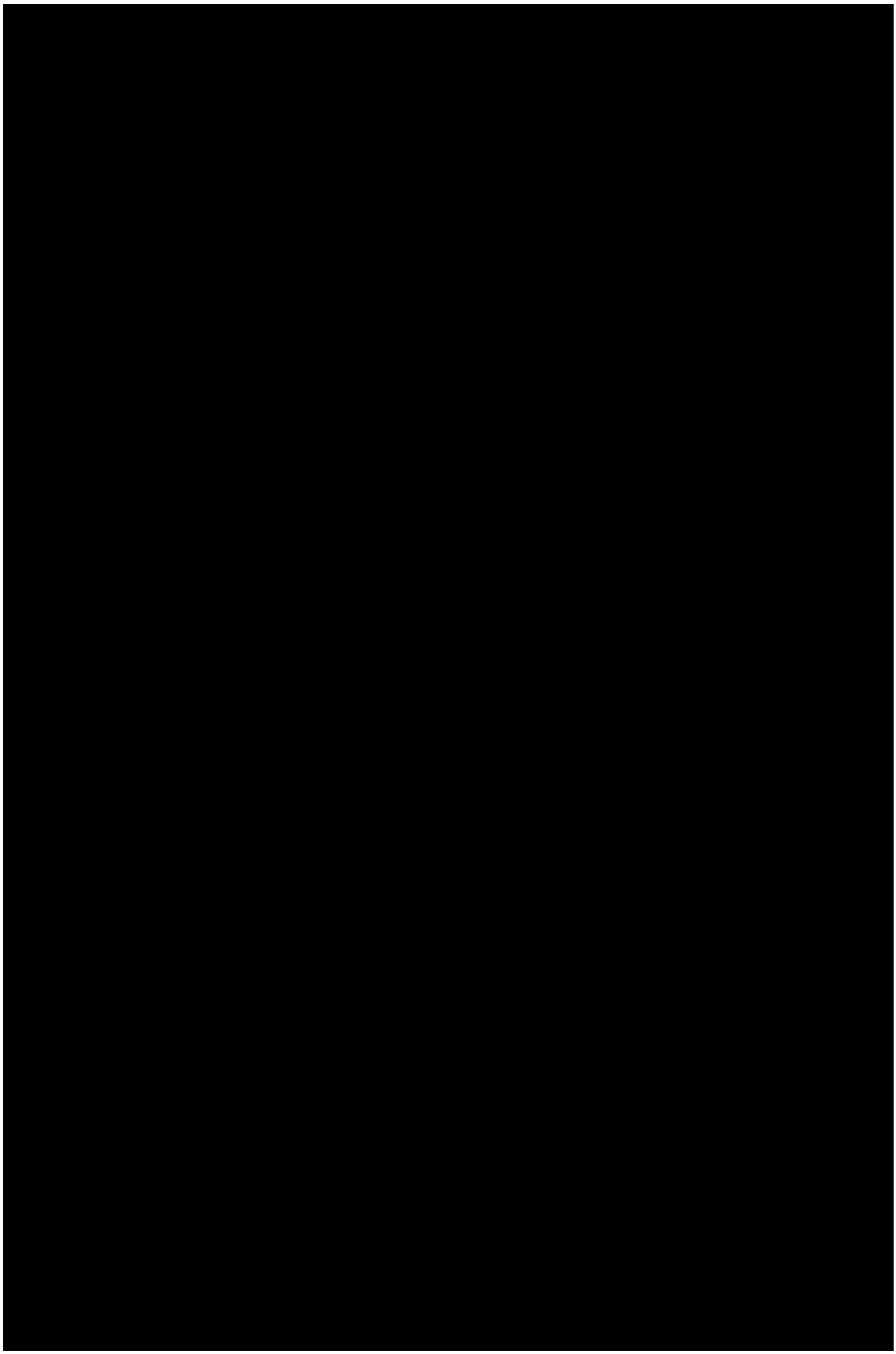


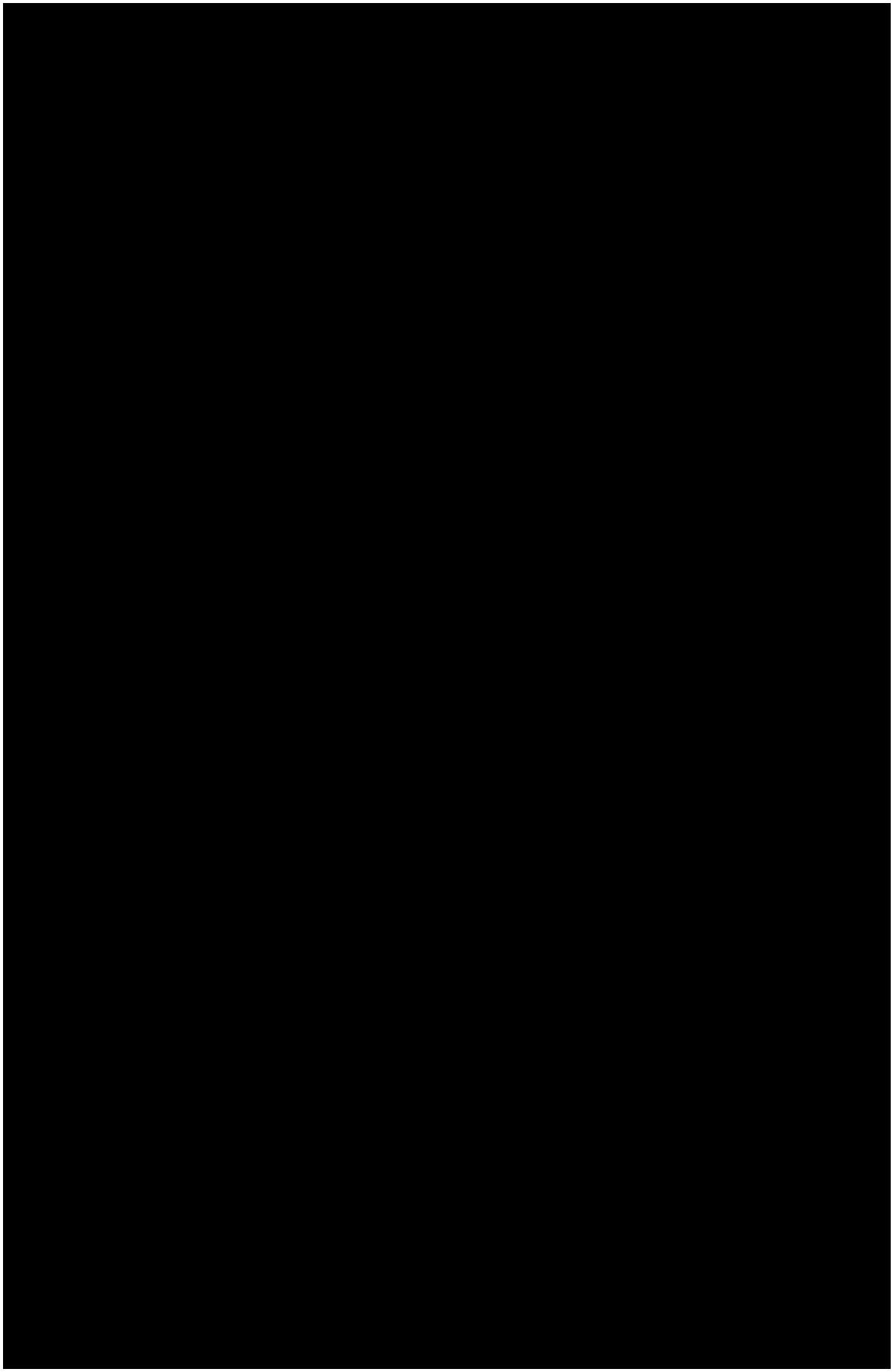












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[22/06/2019, 20:40:12] Ian McGrail: CM - a heads up - please see below text my senior officer on call has sent me

STARTS

There has been an in incident at sea, East side prob within BGTW when Spanish Law enforcement vessel had dealings with local pleasure boat. Details are very sketchy atm however included onboard local vessel. [redacted] apparently filmed the incident and says will forward to CM. I am waiting for a report with the facts and will update then. No persons detained or damage. Spanish vessel appears to have left as we arrived.

ENDS

Rgds

Ian

[22/06/2019, 20:55:53] Fabian Picardo: Got it, thanks. He has. Sent me the footage.

[22/06/2019, 20:55:54] Fabian Picardo: video omitted

[22/06/2019, 20:55:54] Fabian Picardo: video omitted

[22/06/2019, 20:55:55] Fabian Picardo: image omitted

[22/06/2019, 20:55:55] Fabian Picardo: image omitted

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[22/06/2019, 20:55:56] Fabian Picardo: image omitted

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[26/06/2019, 16:43:27] Ian McGrail: CM - Been chatting to Stuart Green ref Panorama questions you have received regarding the Alcaidesa incident & your understanding of it having been dealt

a civil matter? Could we have a quick chat about this. I am currently in the bunker with DCM in a brexit meeting.

[26/06/2019, 16:58:23] Fabian Picardo: Hi Ian. Happy to talk. Give me 5 mins. I didn't say it was a civil matter, I said it progressed as a private prosecution cos the victims insisted. But let's bottom that out.

[26/06/2019, 17:01:05] Ian McGrail: 👍 will call you when i finish witg dcm

[redacted]

[30/06/2019, 17:21:42] Ian McGrail:

[01/07/2019, 11:59:41] Ian McGrail: CM - could you extend a invite to John Rodriguez for GCC at 2pm?

[03/07/2019, 08:28:18] Fabian Picardo: Untitled • 2 pages document omitted

[03/07/2019, 08:28:55] Fabian Picardo: See this just in.

[03/07/2019, 08:33:56] Ian McGrail: They are giving it a total different slant.

[03/07/2019, 08:34:35] Ian McGrail: Are we still on for this afternoon to meet.

[03/07/2019, 08:36:18] Fabian Picardo: Yes. Earlier is necessary.

[03/07/2019, 08:36:46] Ian McGrail: Indeed - what time is best for you?

[03/07/2019, 08:47:08] Fabian Picardo: I can shift everything else. Shall we go for 1115 if we need to? Others I think still aiming for 1430.

[03/07/2019, 08:51:55] Ian McGrail: We'll bring it forward to 1115.

[03/07/2019, 09:01:12] Fabian Picardo: Ok.

[03/07/2019, 09:01:44] Fabian Picardo: You think full gcc?

[03/07/2019, 09:05:40] Ian McGrail: It would keep everyone in the loop. Aside, the Chronicle was asking questions as they've sussed out something is up because of the increase in frequency of senior officials arriving at No6 of late. My officer who took the call played totally oblivious. [redacted] then said he was fishing! But if he latches on the Lloyds article he may link it up.

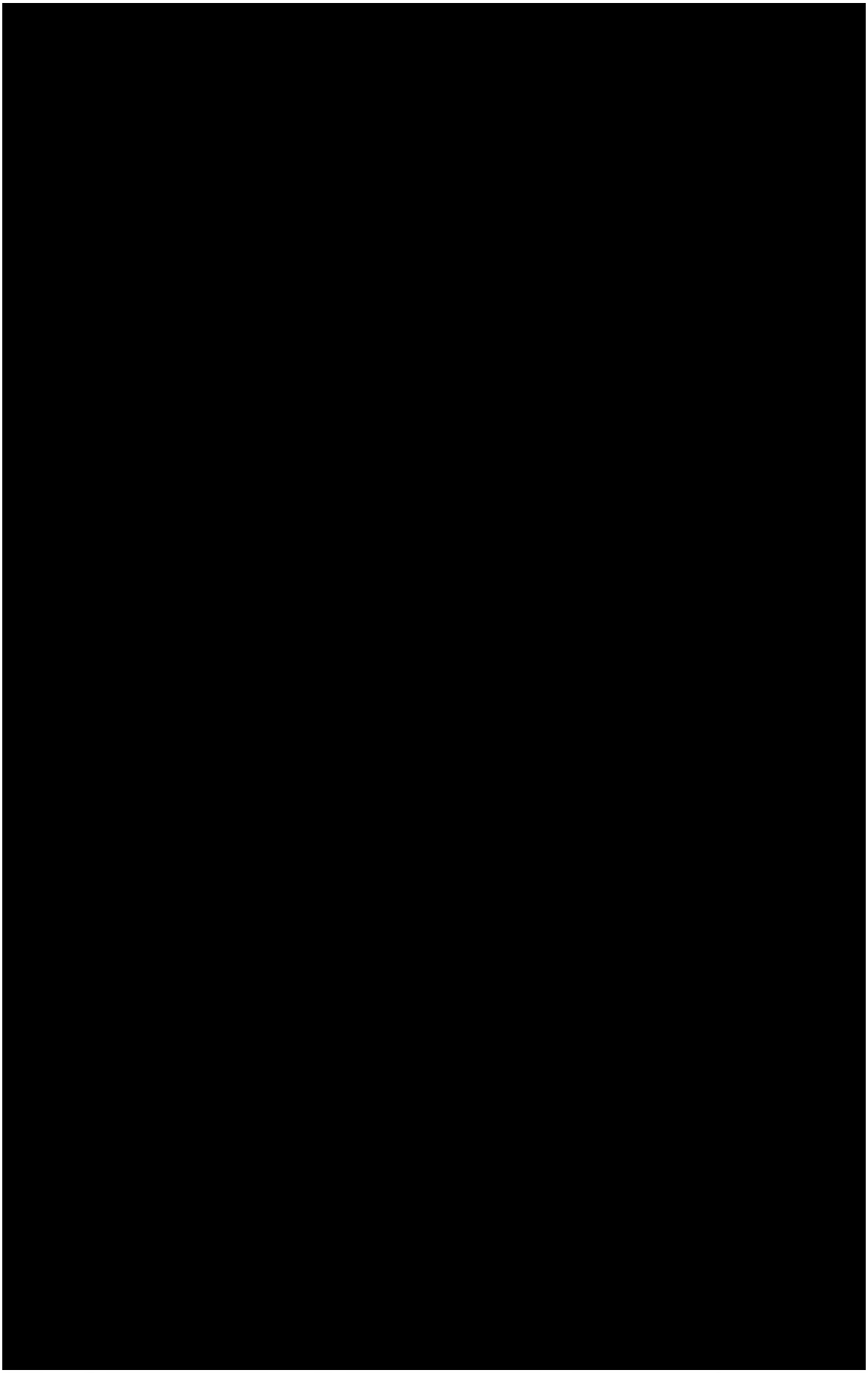
[03/07/2019, 09:06:11] Fabian Picardo: Ok. See you at 1115.

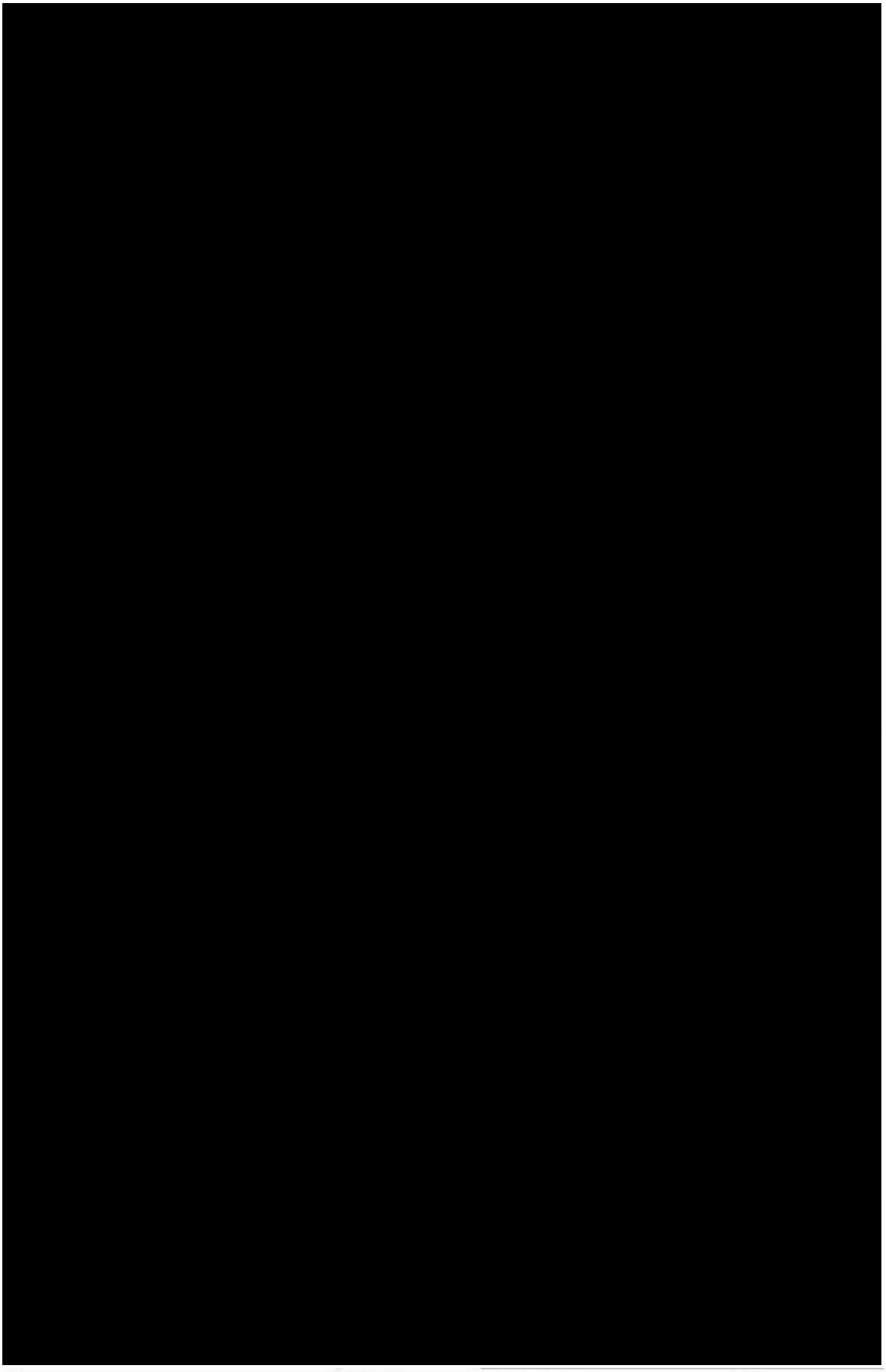
[03/07/2019, 09:06:26] Ian McGrail: HE & CBF can't make it at 1130.

[03/07/2019, 09:06:50] Fabian Picardo: Ok. So let's stick with 1430.

[03/07/2019, 09:07:01] Ian McGrail:







[11/07/2019, 09:29:57] Ian McGrail: Good morning CM - I would be extremely grateful for 5-10mins of your time to discuss what I foresee will become a very undesirable situation with regards to the relationship between the RGP and Gib Police Federation Board. Related to this I have tried seeking out information from Michael Crome on certain admin matters relating to the 2x full time convenors but he has referred me to you.

There is a clear pattern developing which is not heading in a good direction & which is why I feel it important that I explain how I am going to deal with the matter before it reaches you via the Fed Convenors themselves. Rgds Ian.

[11/07/2019, 09:42:16] Fabian Picardo: Hi. Sure. Lol better next week if possible?

[11/07/2019, 09:43:51] Ian McGrail: Yes that's ok. I will ask your office when its most convenient. Many thanks.

[11/07/2019, 09:48:40] Fabian Picardo: Ok. Great performance this week. Many challenges. Great success. F

[11/07/2019, 09:49:08] Ian McGrail: Indeed. Many thanks.



[14/07/2019, 14:32:24] Fabian Picardo: https://www.europasur.es/gibraltar/Gibraltar-Espana-Royal-Navy_0_1372662862.html

[14/07/2019, 14:32:24] Fabian Picardo: Me apuntan que una de las fuentes es el coronel de la Guardia Civil

[14/07/2019, 14:32:38] Fabian Picardo: Ian this is what I am told by my sources in Spain.

[14/07/2019, 14:32:43] Fabian Picardo: The port tell me this/

[14/07/2019, 14:32:54] Fabian Picardo: 25/03/19 at 1500hrs as vessel was called to Gib pilot position master informs us that he has been contacted by Spanish customs who want to board the vessel to the east of the Traffic Separation Scheme (well outside bgtw)

[14/07/2019, 14:32:54] Fabian Picardo: VTS advise vessel to proceed accordingly - and at 1520hrs vessel advises that Spanish customs are onboard the vessel and the vessel is proceeding to ALGECIRAS

[14/07/2019, 14:32:55] Fabian Picardo: At 2200hrs, vessel advises it is released from ALGECIRAS and sails east - cancels call at Gibraltar

[14/07/2019, 14:33:11] Fabian Picardo: That is to say, nothing to do with you and nothing but cooperation from Gibraltar.

[14/07/2019, 14:33:22] Fabian Picardo: Do you think it is worth calling the colonel?

[14/07/2019, 14:36:08] Ian McGrail: Rather than call him, I will

email him & ask if he has any notion it.

[14/07/2019, 14:52:54] Fabian Picardo: Thanks very much.

[14/07/2019, 14:54:39] Ian McGrail: I will also write to the SVA head in Algeciras.

[14/07/2019, 16:23:51] Ian McGrail: I haven't written off yet because information has been trickling in that there was some involvement from ourselves and indeed the Royal Navy. Below is a message from my people regarding the matter.

STARTS

We attended as we had been notified by Windy of an incident tak ng place in international waters. We were then requested by Windy to provide assistance to the RN (Who had two vessels) in shadowing the Spanish vessels out of BGTW. Windy nor RN knew what the incident was about. Neither did we.

It was only later on returning to base that on speaking to PS Stone that he remembered hearing something from HMC.

HMC were contacted and it appears they were aware of the Spanish Op but had not passed on the information to the RGP.

ENDS

I am informed that HMC were monitoring this vessel which was heading to Gib before it was boarded by SVA in international waters Unaware of this, the RN and RGP shadowed them as they transitted BGTW to Algeciras. They may have interpreted this as an interference which they are now captilising on. Under the circumstances it may be best not to respond to the article or enquire any further.

Rgds

Ian

[14/07/2019, 16:27:28] Ian McGrail: They have clearly exaggerated the issue though.

[14/07/2019, 16:36:16] Fabian Picardo: Ok. Thanks.

[14/07/2019, 19:30:27] Fabian Picardo: https://twitter.com/Iran_GOV/status/1150430362612445189?s=08

[14/07/2019, 19:30:27] Fabian Picardo: Not very de-escalatory...

[14/07/2019, 19:31:18] Fabian Picardo: Fyi. We need to be careful when we say things like "we are releasing the four" that we explain they are on bail, still under suspicion etc...

[14/07/2019, 19:32:17] Ian McGrail: Noted.

[redacted]



[redacted]

[13/09/2019, 09:26:22] Ian McGrail: Good morning CM - reading today's paper I note you are meeting with Juan Franco today. A quick heads up that in my contacts with 'el patron de la cofradia' Juan Morente, he mentioned that the fishermen had made representations to JF to raise the matter of commercial fishing with GoG. Thought I'd mention this to you in case it wasn't in the agenda and he springs it on to you.

Rgds

Ian

[13/09/2019, 09:44:08] Fabian Picardo: Thanks.

[15/09/2019, 14:59:38] Ian McGrail: image omitted

[15/09/2019, 14:59:57] Ian McGrail: This guy is a delegado del gobierno !!!

[15/09/2019, 15:21:52] Fabian Picardo: Excellent!

[18/09/2019, 07:49:31] Fabian Picardo: Police lights in the bay? What's up?

[18/09/2019, 08:37:27] Ian McGrail: Morning CM - possible sighting of migrants trying to land. Rgds

[18/09/2019, 08:42:16] Ian McGrail: One migrant in custody having tried to land. There are another 30 on another vessel 6NM south.

[18/09/2019, 09:20:31] Fabian Picardo: Ok

[18/09/2019, 14:34:21] Ian McGrail: CM - I am informed that Maurice Morello of the Gib Pol Fed has sought a meeting with you. I respectfully ask that if he touches on the matter of his allowance as convenor, which is under review, that you take in to account my views and that of the Chief Sec. I had reason to make disciplinary intervention on him on Monday which is also why he may want to off load to you.

I am very disappointed with the way the GPF are conducting themselves - totally confrontational and toxic. Happy to discuss further if you feel the need to do so.

[18/09/2019, 15:09:24] Fabian Picardo: Thanks Ian. Will call you before I see him. Best wishes.

[18/09/2019, 15:10:00] Ian McGrail: Many thanks CM.

[20/09/2019, 10:36:04] Ian McGrail: Good morning CM - I need to brief you up on an operation we are going to strike on. I have spoken to MoJ who said it was best for me speak to you direct. I can do it over the phone or in person. Wouldn't take more than 5mins. However, I am due to fly out the afternoon on a job trip.

[20/09/2019, 10:44:12] Fabian Picardo: I will call you shortly.

[20/09/2019, 10:44:24] Ian McGrail: 👌

[21/09/2019, 20:21:08] Fabian Picardo: https://twitter.com/GBCNewsroom/status/1175471347494989824?s=08

[21/09/2019, 20:21:26] Fabian Picardo: Ian, fyi. Do we know what's up? Conscious you are out of Gibraltar.

[01/10/2019, 01:19:02] Fabian Picardo: Ian, do you know if all our people are ok?

[01/10/2019, 01:32:37] Ian McGrail: CM -

I have a team of my lot called down to look in to the circumstances of a collision at sea between a HMC patrol vessel crewed by 4 custom officers and a patera (number on board as yet unknown). Collision has resulted in a fatality of a man on board the patera. He is believed to be Spanish. No other casualties reported. This occurred at east side after Windy called in that they had seen small boat suspicious activity taking place. HMC attended and a chase of a patera ensued. How the collision occurred is still to be determined but an occupant on board the patera suffered fatal head injuries I am told. I have enquired whether HMC have post incident procedures for their personnel and this is being looked at. The body was brought to gunwharf marine base in HMC vessel where it currently remains until our forensic people do their business.

This is standard procedure in a sudden death.

[01/10/2019, 01:36:25] Fabian Picardo: Thank you Ian. I appreciate you letting me have this information. Now I am aware our people are all ok, I will await more information in the morning. If further information suggests and Gibraltarian is seriously injured or worse, especially if s/he were law enforcement, please let me know on [redacted]. Goodnight.

[01/10/2019, 01:36:56] Ian McGrail: 👍

[01/10/2019, 12:07:34] Fabian Picardo: video omitted

[01/10/2019, 12:07:34] Fabian Picardo: video omitted

[01/10/2019, 13:04:03] Fabian Picardo: audio omitted

[01/10/2019, 13:04:33] Fabian Picardo: FYI, Customs officers concerned after incident last night and a worrying audio recording is going round. Have u heard it?

[01/10/2019, 13:04:34] Fabian Picardo: Not heard. RGP coordinating protection and reaching out. Am v concerned they should not try to do anything here or against our officers (primary concern) or assets (less concern but want to ensure we are secure). If he needs Protection etc, will be done. Does he want to see me?

[01/10/2019, 13:04:43] Fabian Picardo: Ian from Wendy Cumming and my reply.

[01/10/2019, 13:09:33] Ian McGrail: We are on it CM. I am maintaing very close contact with my CNP counterpart in La Linea. Also with HMC on an awareness regarding officer saftey. We are increasing our posture to safeguard assets and officer safety.

[01/10/2019, 13:11:06] Fabian Picardo: Excellent. I think this is a time for our guys to be very visible and armed at the frontier if you think.

[01/10/2019, 13:14:22] Ian McGrail: That is being arranged. Armed at sea too. I have closed down departments to have more boots on ground particulary at night.

Aside - the incident at Glacis is certainly not from today. It could be from yesterday or beyond.

[01/10/2019, 13:16:08] Fabian Picardo: Ok. Thank you. People were getting worried cos of the glacis video. WhatsApp is worse than Facebook! People believe it more.

[01/10/2019, 13:53:56] Ian McGrail: CM - For your info - the officer safety awareness notice we have sent to HMC, GDP & BCA has been irresponsibly shared on social media by one of the recipients, we do not know which of the agencies has put it out there.

[01/10/2019, 13:59:47] Fabian Picardo: Ffs. How can we help people if they won't help themselves!!! Where has it been shared?

[01/10/2019, 16:44:40] Fabian Picardo: Nose cuanta verdad ai en esto pero...

"Guys me han dichho ke alas 6 de la tarde se va a liar heavy en la frontera, a todo lo cars de Gib le van a hacer cosas y pegar tiro"

[01/10/2019, 16:44:48] Fabian Picardo: Ian, this is doing the rounds now...

[01/10/2019, 17:08:57] Ian McGrail: We know. We are in constant touch with CNP & GC. I have officers there now exchanging intel on this and other. If you can take a quick call I can explain a significant development.

[01/10/2019, 18:47:17] Fabian Picardo: Give me a minute.

[02/10/2019, 09:56:18] Fabian Picardo: Only national coverage of Customs incident:

[02/10/2019, 09:56:20] Fabian Picardo: Pages from 191002 El País.pdf • 1 page document omitted

[02/10/2019, 10:13:45] Ian McGrail: El testimonio del acompañante de Alfredo Morodo apunta a un accidente: https://www.europasur.es/lalinea/testimonio-acompanante-alfredo-morodo-accidente_0_1396660770.html

[02/10/2019, 10:56:06] Fabian Picardo: Good news.

[redacted]

[redacted]

[redacted]

[06/10/2019, 15:37:36] Fabian Picardo: video omitted

[06/10/2019, 15:37:36] Fabian Picardo: image omitted

[06/10/2019, 15:37:37] Fabian Picardo: What is it? Immigrants?

[06/10/2019, 15:37:51] Fabian Picardo: video omitted

[06/10/2019, 15:39:14] Ian McGrail: Yes, we are on to it. Apparently they off losded a haul of Cannabis in the spanish coast. They've been picked up by a local car. The search for them is ongoing.

[06/10/2019, 15:41:31] Ian McGrail: Aside, the post mortem of Alfredo Morodo has been completed. The body has been released by the coroner. Family content so far. We maintain close liaison with them via a family liaision officer. Hopefully repatriation will happen later today.

[06/10/2019, 15:46:40] Fabian Picardo: Ok thanks re both.

[06/10/2019, 15:47:40] Fabian Picardo: The assets off shore are ours or GC?

[06/10/2019, 15:49:13] Ian McGrail: Those on photos you've sent aren't ours. They look like SVA to me.

[06/10/2019, 15:59:34] Ian McGrail: The vessel towing the suspect vessel is our. Its being taken in to be forensically examined. We are trawling through CCTV to ID those who jumped ashore & those who picked them up.

[06/10/2019, 16:26:34] Ian McGrail: We've already identified the local who picked up

[06/10/2019, 16:32:23] Fabian Picardo: Excellent work.

[06/10/2019, 16:32:27] Fabian Picardo: Thank you.

[06/10/2019, 17:05:17] Ian McGrail: The local has been nicked for assisting an offender.

[06/10/2019, 17:11:46] Fabian Picardo: Have the others got away now? Back to Spain.

[06/10/2019, 17:12:06] Ian McGrail: We are still on it.

[06/10/2019, 17:34:17] Ian McGrail: video omitted

[06/10/2019, 17:34:58] Ian McGrail: Our guys boarding a second vessel that was being chased by heli after the first incident.

[09/10/2019, 16:29:42] Ian McGrail: CM - I am waiting to fly out from LGW in an hour or so. I have just received very disturbing news from Richard Ullger. He met with the GPF this afternoon and amongst other things the chairman has admitted meeting up with Leo Olivero for a coffee and making very damaging suggestions to him which brings absolute discredit on the RGP. You will be shocked when you hear it. I need to speak to you tomorrow to explain. I am seeing HE tomorrow together with Joey Britto and HE's request.

[10/10/2019, 12:37:00] Fabian Picardo: Noted. All we need.

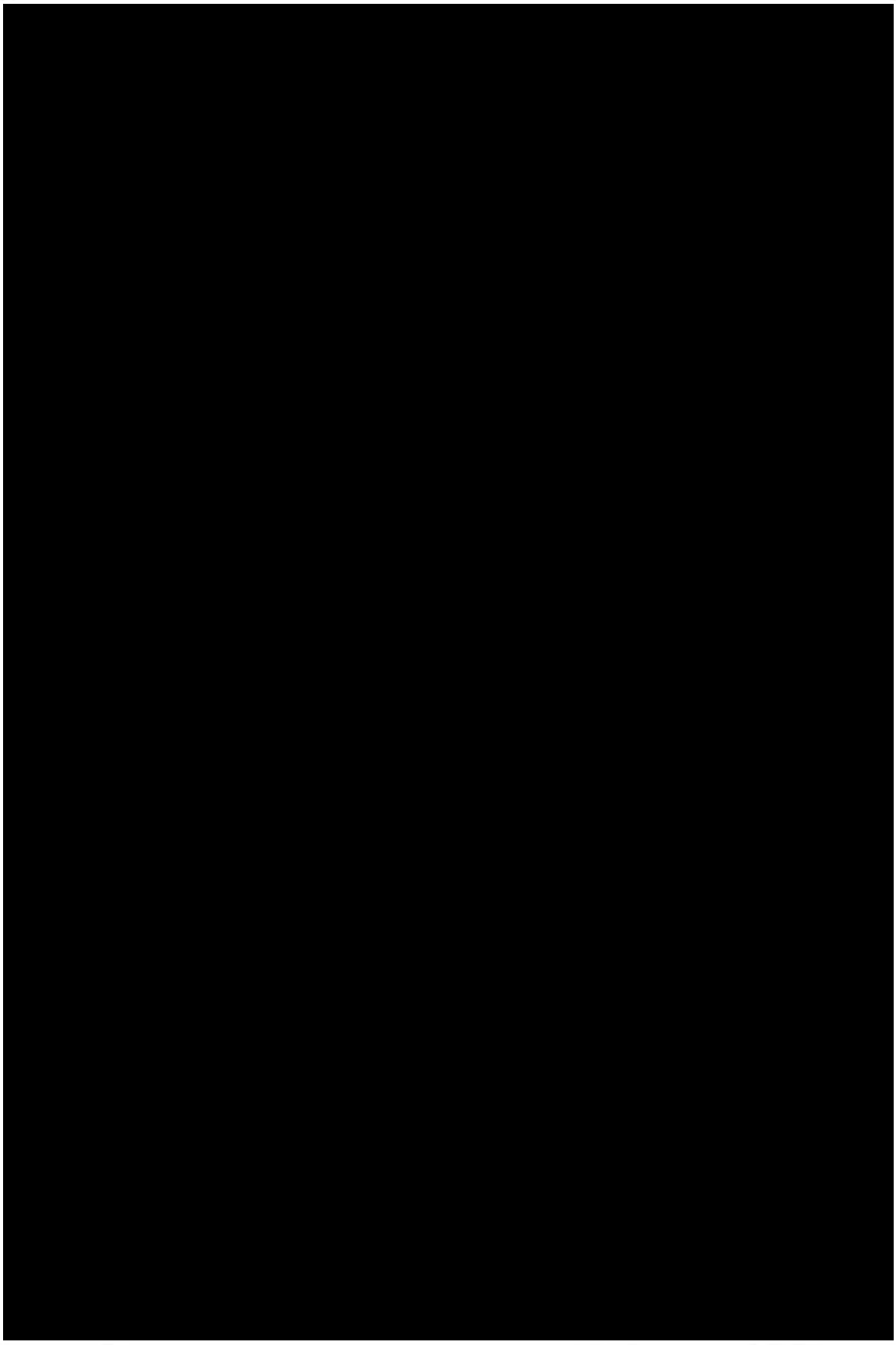
[10/10/2019, 12:41:11] Ian McGrail: I am dealing with Maurice Morello & Leif Simpson via discipline route but needed you to be aware in case you meet with them.

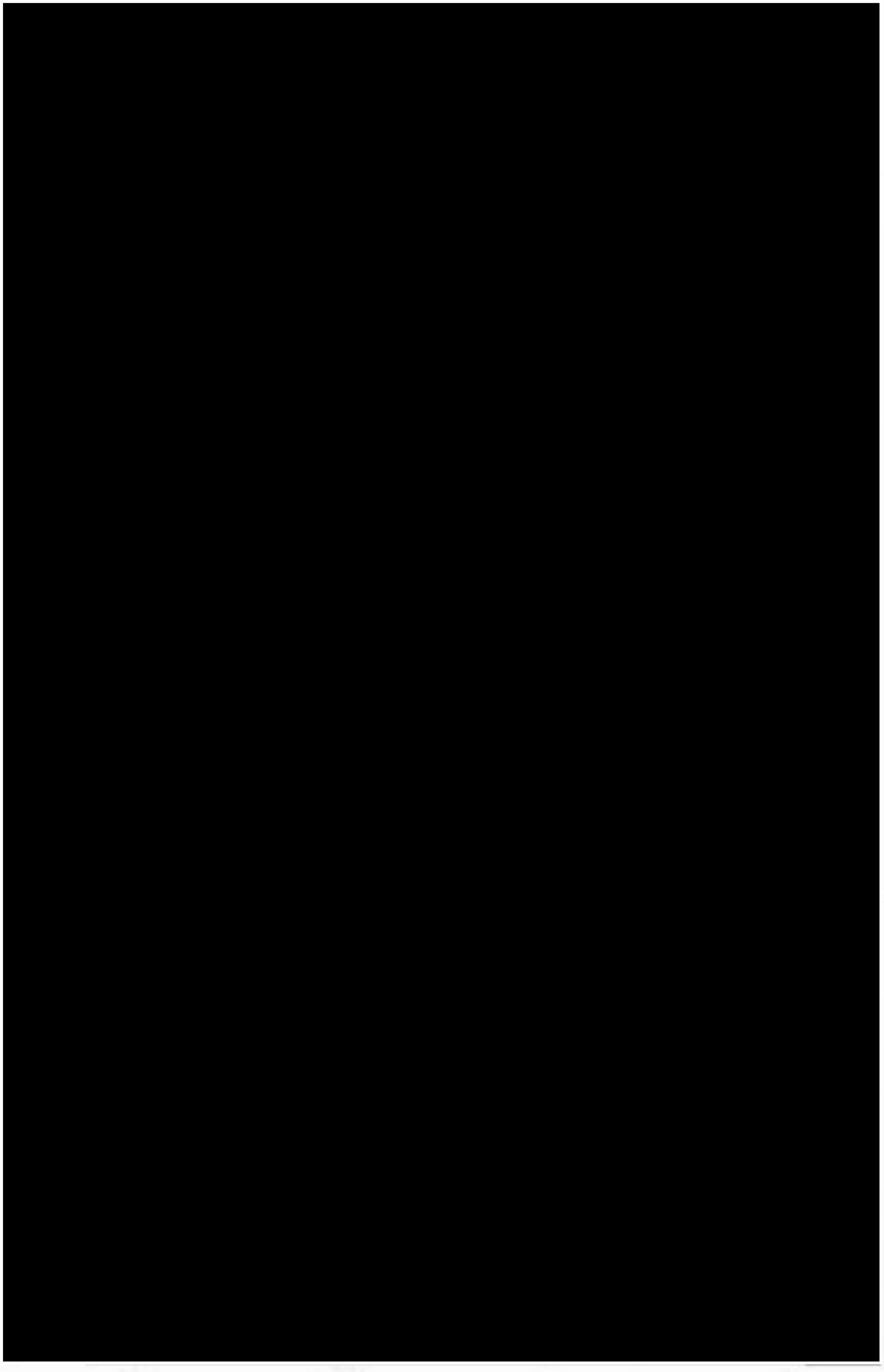
[11/10/2019, 13:24:46] Ian McGrail: CM - Have I missed a supposed communication from you ref not co-operating with Spanish Law Enforcement until they recognise our waters?

[11/10/2019, 13:37:42] Fabian Picardo: Completely skewered by Panorama of course. Utter nonsense. I will send you my full answer later.

[11/10/2019, 13:41:15] Ian McGrail: Many thanks. I do not intend to respond unless you think I should do so simply because as we know, it will just feed him to write further nonsense. It is so evident that they have a policy to try and discredit me at all costs and on all fronts.









[28/01/2020, 19:20:20] Ian McGrail: CM - I hope all is going well in London. I really feel tight bringing this matter up at this time when you are so tied up with Brexit matters but this issue is picking up considerable adverse traction - I am sure you aware of the latest diatribe viz the Gib Police Federation as exposed on Panorama & social media. I have today briefed Min Sacramento on my concerns, but post to this meeting I have been advised that you are favourably considering legislation to exclude the GPF conveners, who are warranted officers, from from Force discipline regulations. This has been said by the GPF Chair himself in quite an arrogant, defiant and confident tone earlier today. Surely this cannot be true & I sincerely hope this is 100% not the case. I seek your reassurance that this statement by Sgt Maurice Morello is incorrect. I, together with the senior command of the RGP are seriously concerned with the journey the GPF are on. Today Sgt Morello literally said that legislation is sitting on the CM's desk to exclude the conveners from any discipline regulations - you cannot imagine the adverse hype this is causing. Already I have notion of a very fractured GPF Board who are not all in agreement with the way the Chairman and Secretary are running business - this is not a healthy state of affairs at all. I trust we can meet on your return to Gib so that you can hear out the serious concerns we have with the latest developments.

Best rgds

Ian

[30/01/2020, 11:31:52] Fabian Picardo: Ian, as you can imagine, the last thing on my mind this week is the GPF. Things are not, in my view, as black and white as your SMT appear to see it or as the GPF see it. I have no legislation on my desk, but I am highly sympathetic to the principle that Union leaders should not be subject to the discipline of those who they represent their people against. I am happy to discuss this and consider with you how best to find a solution that works for all sides here. I also think that "an investigation into who has talked to Panorama" (which I am not saying is happening, but that newspaper has alleged under the pen of Leo Olivero), smacks of Zimbabwe. It's not a good look for a modern police force, in my view. Happy to tell you more when we meet.

[30/01/2020, 13:08:44] Ian McGrail: CM - Many thanks for your text. I strongly sense that you are not fully aware of the circumstances which has led to the assistant commissioner commencing an internal investigation. There has been a course of conduct developing during the past 2 years which we have, through subtle leadership, tried our very best to address. The principles of why the federation was created are being totally abused. Notwithstanding, I have certain suggestions to make when we meet & which can draw the line to all of this - I hope they will meet with your approval. CM, I have self reflected hard over the past few days. I can assure you that my intentions are in the best interests of the RGP and Gibraltar. If you accept my proposal on Wednesday when we meet I am confident that you will align yourself with my views on the matter.

Wishing you and the rest of the delegation a safe return home

Best regards

Ian

[30/01/2020, 13:11:28] Fabian Picardo: 👍

[07/02/2020, 17:25:14] Fabian Picardo: Thank you for the second letter to the GPA. Much appreciated.

[07/02/2020, 17:30:50] Ian McGrail: 👍 wishing you a good weekend.

[08/03/2020, 06:05:07] Ian McGrail: CM - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked.

I am invoking Post Incident Procedures and planning for consequence management.

Once I have further updates I will let you know.

Rgds

Ian

[08/03/2020, 07:24:40] Fabian Picardo: Ian. Thank you. What are the nationalities of the deceased? Was it drugs or tobacco? Any GC or SVA involvement?

[08/03/2020, 07:33:49] Ian McGrail: So far we have 3 identified. 2 from Ceuta (moroccan decent) & a Portuguese. No Spanish law enforcement agency involved. RHIB suspected to be involved in drug smuggling. I have also informed The Convent. I have held a "Gold" command meeting in my office to address, welfare of the crew, the investigation that will now follow, security/safety to our law enforcement officers, community impact et al.

Also linked up with GC and CNP more so after the disturbances in La Linea after the other death involving the our customs patrol boat but given that those on the RHIB are not from this region it may not have an impact. I am still waiting for the 4th & (also deceased) to be identified.

[08/03/2020, 07:37:33] Ian McGrail: Just had the ID of the 4th one confirmed. He is also from Ceuta of Moroccan decent.

[08/03/2020, 07:40:51] Fabian Picardo: Thank you. Are our officers safely ashore and seen by med staff if necessary? Are their families informed they are ok, in case social media lets on there has been a fatal collision, so they don't worry?

[08/03/2020, 07:41:46] Fabian Picardo: Also, what time did it occur and was it firmly within BGTW or questionable?

[08/03/2020, 07:42:45] Fabian Picardo: I think we should announce if possible to avoid social media speculation. Have you prepared media release or do you want Stuart's help?

[08/03/2020, 07:42:57] Ian McGrail: Our crew are ok. Their welfare is being totally safeguarded. I am also circulating a notice to all staff to prevent speculation and social media reporting from within. I will issue a very brief press notice shortly.

[08/03/2020, 07:43:49] Fabian Picardo: Ok. Re the two who survived, captured? Hospital or cells?

[08/03/2020, 07:43:50] Ian McGrail: Collision occurred at approx 0340hrs. Location still to be confirmed.

[08/03/2020, 07:44:51] Ian McGrail: The two who survived are in hospital with non critical injuries as far as I am informed.

[08/03/2020, 08:13:44] Fabian Picardo: Arrested, correct?

[08/03/2020, 08:14:28] Ian McGrail: They will be if they haven't been already.

[08/03/2020, 09:49:55] Ian McGrail: CM - the information suggests that the collision took place outside BGTW - approx 6NM east off the runway/Santa Barbara beach.

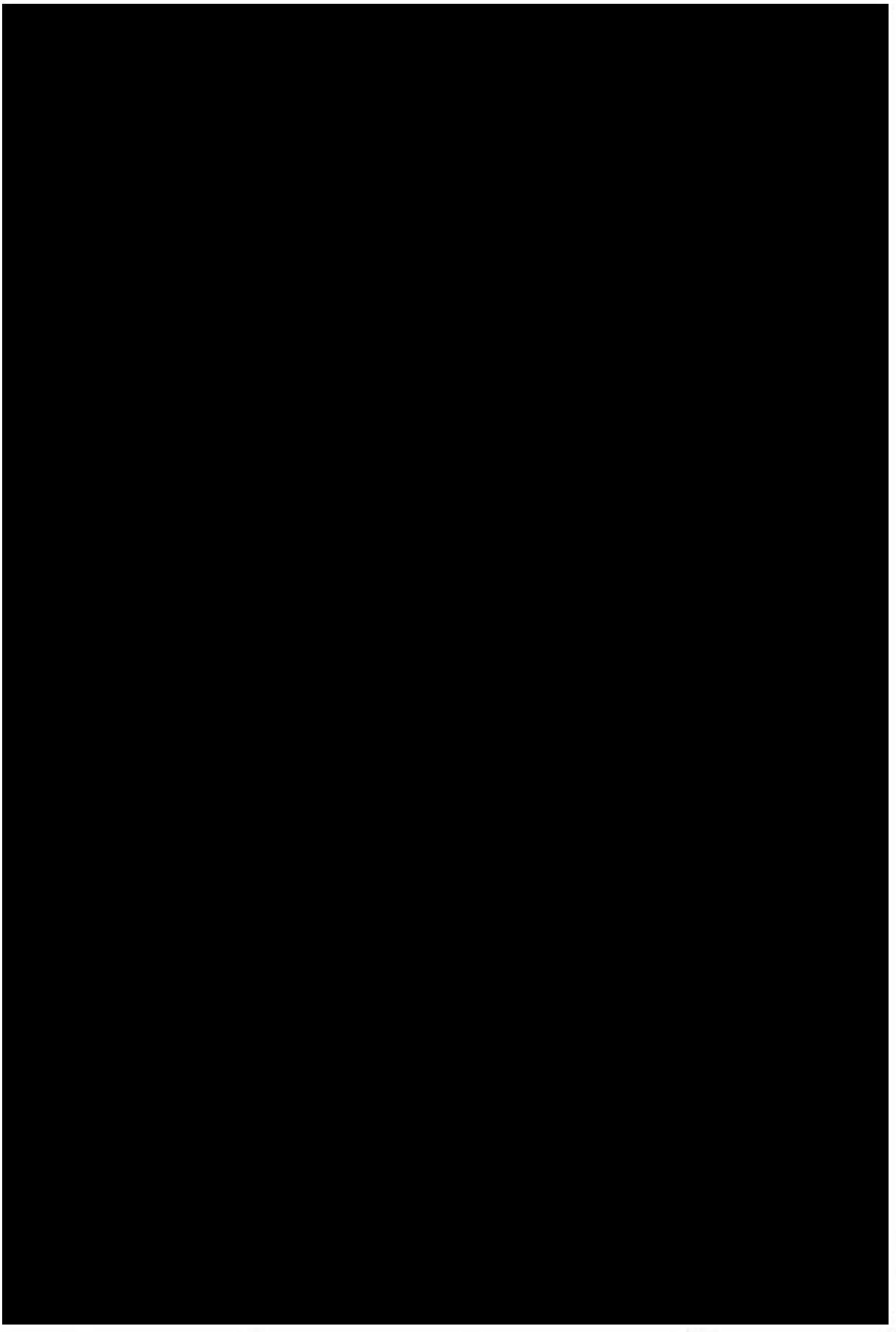
[08/03/2020, 09:53:23] Ian McGrail: When a death arises from police contact its best practice to engage with an independent investigating team & I am studying how to achieve this.

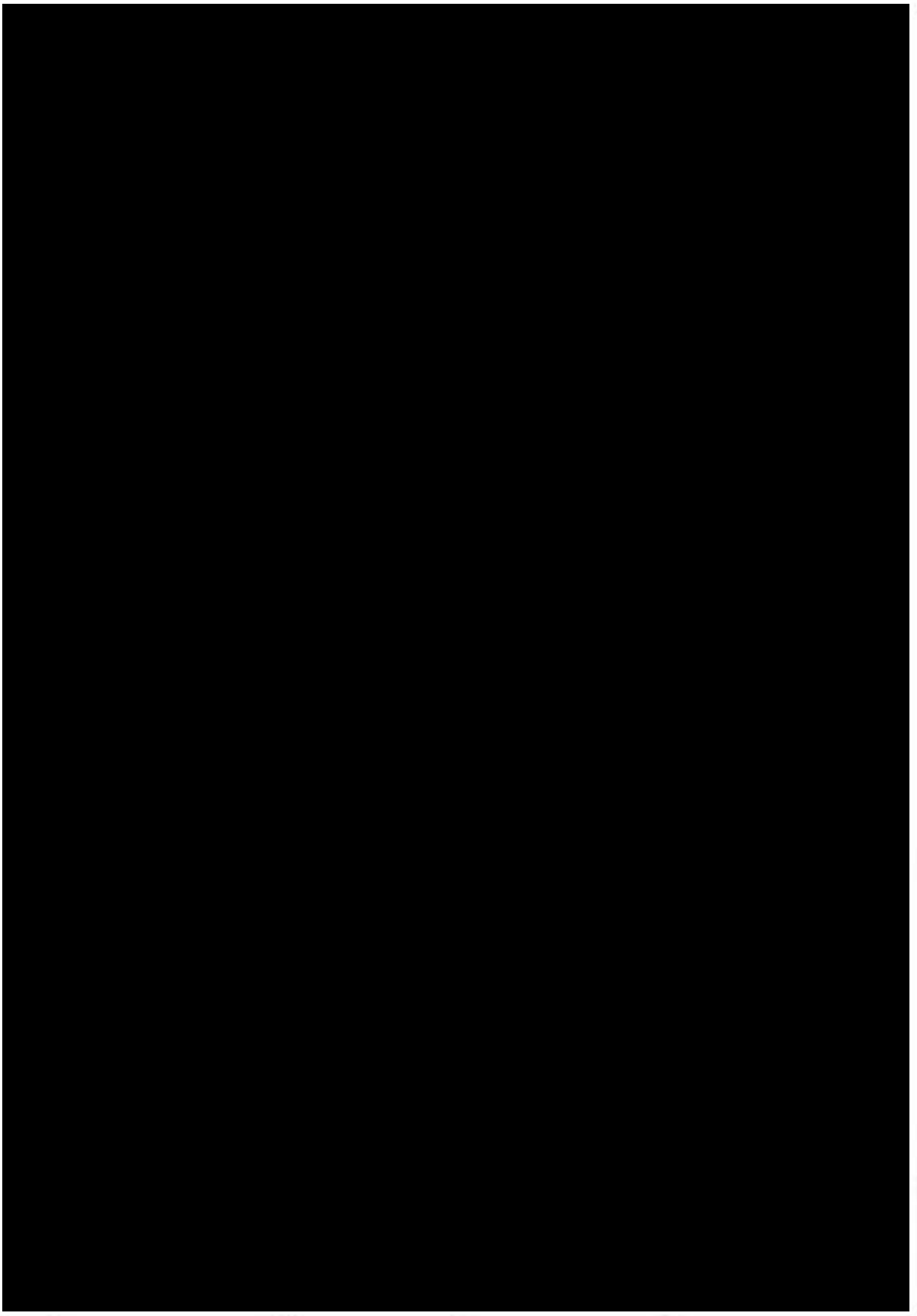
[08/03/2020, 09:53:35] Fabian Picardo: Ok. We need to liaise with AG on this and ensure we are transparent on this.

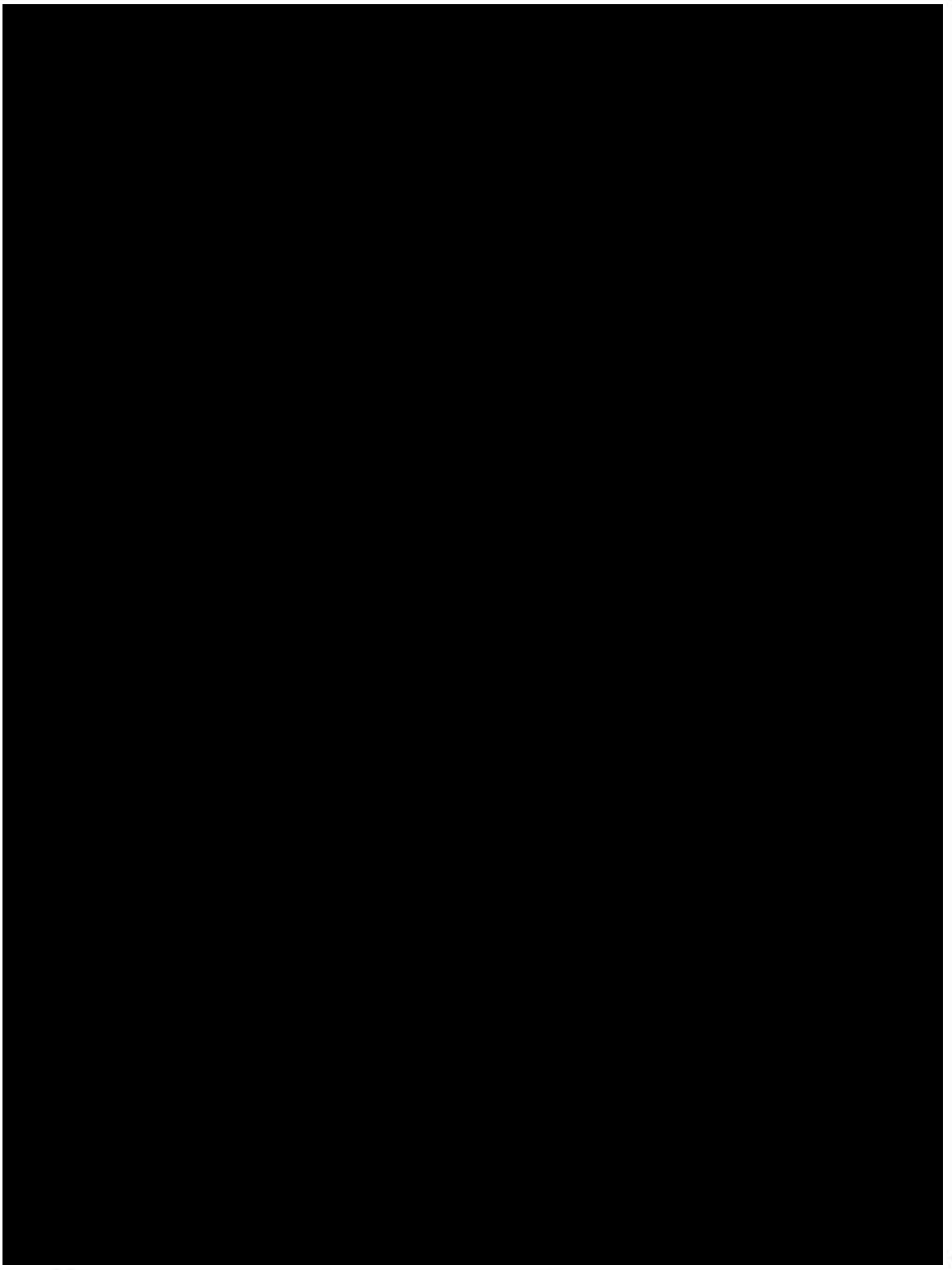
[08/03/2020, 09:54:02] Fabian Picardo: Yes, agreed. Any necessary additional expenditure will be approved.

[08/03/2020, 09:54:20] Ian McGrail: Many thanks.







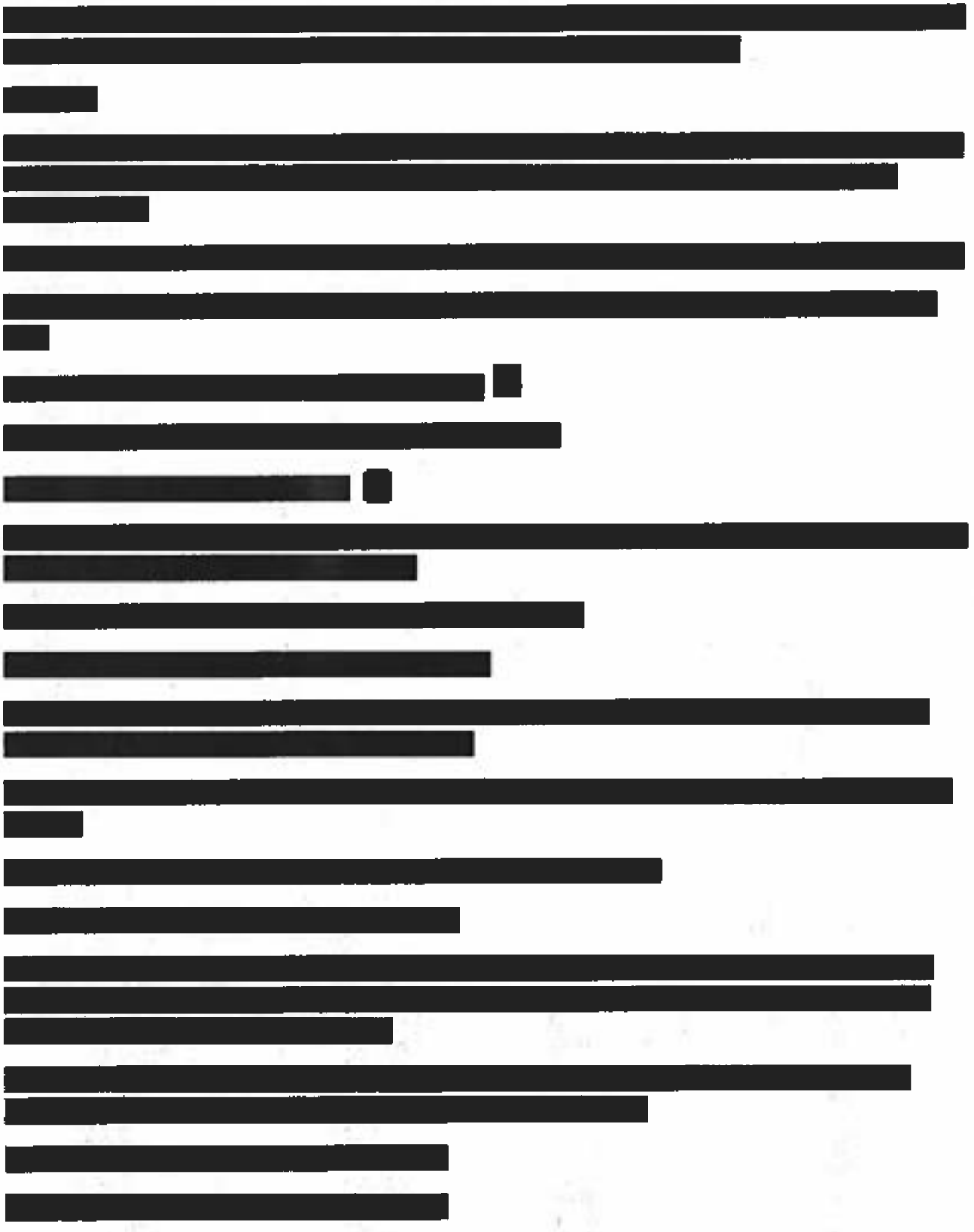


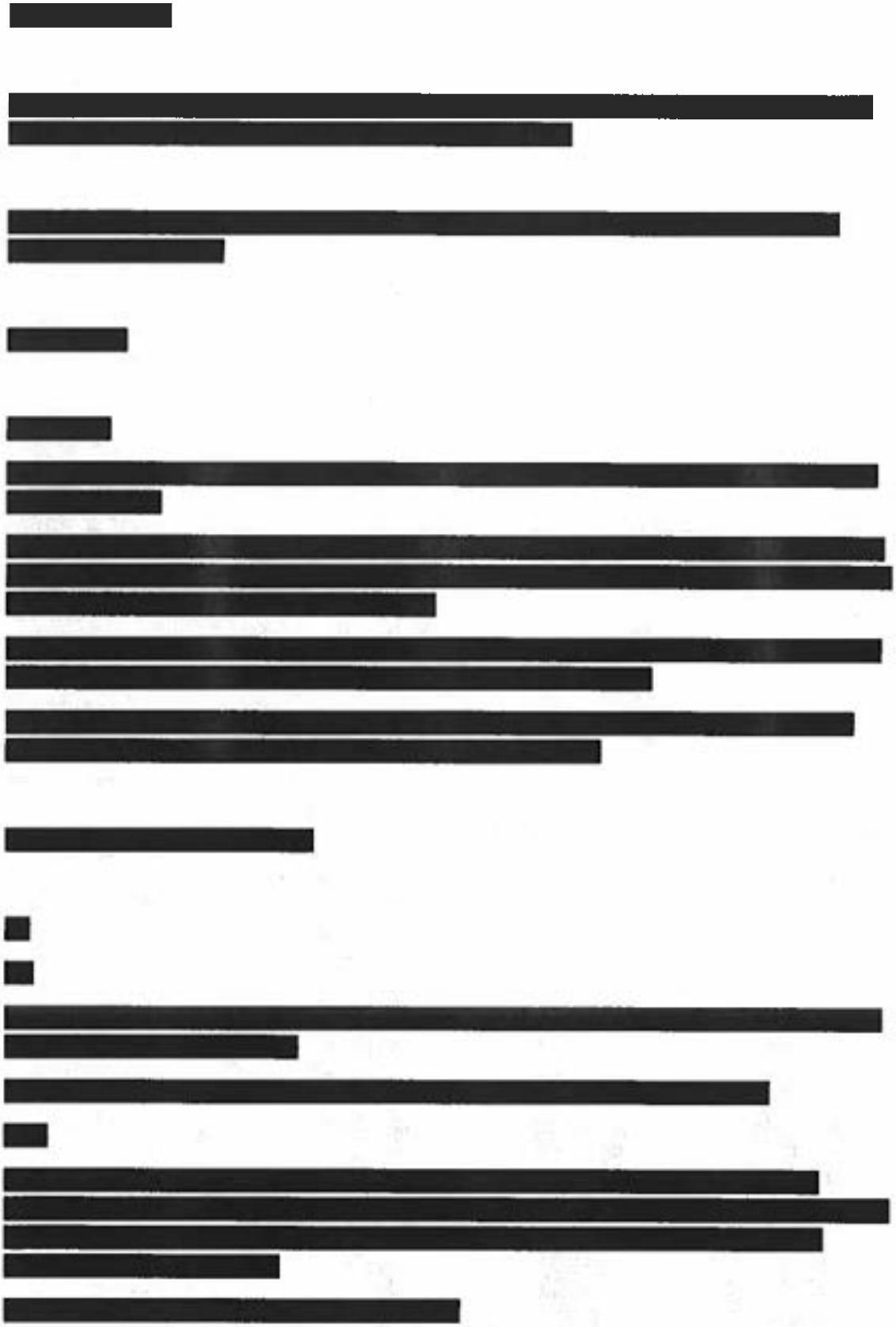
[12/05/2020, 12:25:14] Ian McGrail: CM - before you hear it from anyone else I want to inform you that detectives are executing a search warrant at Hassans for (JL) in relation to the case against Perez, Cornelio & Sanchez. Its been done in the most discreet of ways and we're hoping there is co-operation.

Rgds

[12/05/2020, 12:34:21] Fabian Picardo: Ian, Thank you for the courtesy of this information. I think that is a bad decision. A search warrant should only have been sought if you believed that the person in question was not going to cooperate and will try destroy evidence. If, as you say, you are hoping for cooperation, especially in a case involving a senior Silk and head of Gibraltar's largest legal firm, you should, in my view, first have sought to contact that person and obtain cooperation. Given my close personal relationship with JL, I won't comment further.

[12/05/2020, 12:35:07] Ian McGrail: Noted CM.





3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 18

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 18
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)



A Commissioner for Oaths

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

WHATSAPP CHAT LOG

Ian McGrail & Nick Pyle

[12/08/2019, 21:25:59] [redacted]: Messages and calls are end-to-end encrypted. No one outside of this chat, not even WhatsApp, can read or listen to them.

[12/08/2019, 21:25:59] [redacted]: https://twitter.com/tankertrackers/status/1160910890008547328?s=12

[12/08/2019, 21:26:12] [redacted]: Might be what is sparking interest. Nick

[12/08/2019, 21:26:48] Ian McGrail: Port Authority on it. I will revert to you when they reply.

[12/08/2019, 21:27:19] [redacted]: Thanks.

[12/08/2019, 21:29:51] Ian McGrail: Vessel is not moving at all according to Port Authority.

[12/08/2019, 21:30:05] Ian McGrail: Security team is still on board.

[12/08/2019, 21:30:37] [redacted]: Thanks. Nick

[12/08/2019, 21:46:57] [redacted]: Ian. Can we quote you as above to UK media

[12/08/2019, 21:47:14] Ian McGrail: Indeed.

[12/08/2019, 21:47:42] [redacted]: Thann's. I'll simply

Forward your WhatsApp's to me

[12/08/2019, 21:48:01] Ian McGrail: 👍

[13/08/2019, 16:04:03] [redacted]: Commissioner. Do we know if yesterday's incident with grace was someone simply playing with the AIS transponder?

[13/08/2019, 16:06:52] Ian McGrail: I wouldn't know Nick. I can find out from Port Authority. Are you saying that G1's AIS indicated it was moving?

[13/08/2019, 16:14:07] [redacted] Thanks for your time. Nick

[13/08/2019, 16:15:03] [redacted] Well done. See you tomorrow. You have a suitcase allowance so you can bring stuff but don't put anything valuable in it.

[13/08/2019, 16:15:20] [redacted] Oops meant for my son!

[14/08/2019, 18:35:43] [redacted] Ian/Commissioner. Have those arrested now been released or will that happen tomorrow after court proceedings?

[14/08/2019, 18:52:13] Ian McGrail: They haven't been released yet. My plans are for tomorrow. Will you be advising HE?

[14/08/2019, 18:53:12] [redacted] Yes though I'm acting Governor from 11.00 tomorrow. So after the court hearing and CM statement.

[14/08/2019, 18:55:36] Ian McGrail: Noted. We'll be doing it in two lots as from 1030hrs. First the 2 who are land based followed by the other two who are on board the G1.

[14/08/2019, 18:58:18] [redacted] Thanks. Nick

[08/03/2020, 06:05:57] Ian McGrail: Nick - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked.

I am invoking Post Incident Procedures and planning for consequence management.

Once I have further updates I will let you know.

Rgds

Ian

[08/03/2020, 09:27:56] [redacted]: Ian. Thanks for letting me know. Sorry to hear this.

[08/03/2020, 09:29:38] [redacted]: And of course if ty need anything from us/HMG just ask. Hope your guys are ok.

[08/03/2020, 09:41:03] Ian McGrail: Thanks Nick.

[08/03/2020, 13:33:57] [redacted]: Thanks for the briefing. I'll do a quick note for London for when it hits the press. Line will be. Investigation ongoing. Spanish nationals from Cueta (did you say one person was Portuguese). Not sure in whose waters incident took place. RGP seeking assistance from UK police authorities. No assistance needed from FCO at this stage.

[08/03/2020, 13:46:59] Ian McGrail: Yes all correct. Indeed one was portuguese.

[08/03/2020, 13:47:23] Ian McGrail: Trying to clarify exact position of the collision.

[08/03/2020, 13:56:38] [redacted] Ok. Thanks.

[09/03/2020, 10:15:56] [redacted]: Morning. I was with the AG last night and we wondered whether it would be worth having an update at some stage later this morning. We are keen to reach ioutnto Spain given talks this week in London (please protect).

[09/03/2020, 10:16:15] [redacted] Michael and I are happy to come to NMH when convenient for you. Nick

[09/03/2020, 11:25:18] Ian McGrail: Happy for you to come to NMH. I am here now. Please feel free to come round.

[09/03/2020, 11:50:56] [redacted]: Ian thanks. Michael and I will come to you @ 12.05

[09/03/2020, 11:52:28] Ian McGrail: Let me know when you're downstairs and I will come down to meet you.

[09/03/2020, 11:52:58] [redacted]: Will do.

[09/03/2020, 12:05:30] [redacted] Just arrive in reception

[09/03/2020, 12:05:54] Ian McGrail: Coming down

[10/03/2020, 13:15:28] Ian McGrail: Nick - can you take a call?

[10/03/2020, 13:16:20] [redacted]: Happy to but in 10 minutes. Please call the mobile.

[10/03/2020, 13:17:01] Ian McGrail: 👍

[12/03/2020, 16:17:06] Ian McGrail: Nick - please let me know when you can take a call.

[12/03/2020, 16:30:44] [redacted]: I'll call now

[06/05/2020, 12:23:14] Ian McGrail: YE - could you take a quick call?

[06/05/2020, 13:03:05] [redacted]: I'm on a VTC until 13.30. I'll call as soon as I can afterwards.

[06/06/2020, 15:56:19] [redacted]: Ian. Just to let you know I have sent you a letter via email. I'd be grateful if you could acknowledge receipt. Regards Nick

[06/06/2020, 17:36:44] Ian McGrail: Nick - I have just you sent an acknowledgement. Rgds.

[06/06/2020, 17:56:19] [redacted]: Many thanks.

[08/06/2020, 16:50:12] Ian McGrail: Nick, I look forward to receiving confirmation of agreement to the financial terms we discussed & the other terms you suggested in your intended letter. Thanks

Rgds

Ian

[08/06/2020, 18:30:56] Ian McGrail: Nick - I have just read the exchange of emails between Darren Grech & ourselves.

I don't think what I am being offered is what I deserve. There isn't even a mention of my untaken leave & days owed being paid to me. Could you revert to Darren and enquire whether at least one year's salary is honoured? Rgds.

[08/06/2020, 18:33:37] [redacted] Ian. I've forwarded this to Darren. As I said I can't get involved but would hope days leave/toil not a problem.

[08/06/2020, 18:34:05] Ian McGrail: You deleted this message.

[08/06/2020, 18:34:23] Ian McGrail: Thanks

[08/06/2020, 19:17:37] Ian McGrail: Nick - with all the uncertainty I am unable to sign my letter to you. Government are merely considering my pension and untaken leave etc. they haven't committed to agreeing to it. Its an awkward situation which I trust you understand. I have to safeguard my terms 100% whatever they end up being but certainly agree them before signing the letter.

Ian

[08/06/2020, 19:53:21] [redacted] Ian. Thanks for this. I'd be grateful therefore if you could see me at 09.00 tomorrow. Regards. Nick

[08/06/2020, 20:01:39] Ian McGrail: It isn't right Nick. For them to say that they are 'considering' my pension rights? What is the point of me retiring then. Darren is saying that he will revert as soon as he can - It is not me causing any delay to my intentions. Surely Darren can sort this out. I am not trying to be awkward at all.

[08/06/2020, 20:04:12] [redacted]: I gather Darren will be in touch shortly

[08/06/2020, 20:04:31] Ian McGrail: Lets hope so.

[08/06/2020, 20:19:57] Ian McGrail: Darren has informed me that he'll be working on it tonight and tomorrow morning. Shall we give it till midday before we meet again to allow him time to firm everything up?

[08/06/2020, 20:25:12] [redacted] I'll ask him to speed it up and conclude their reply to you terms tonight.

[08/06/2020, 20:26:14] Ian McGrail: Thanks

[08/06/2020, 21:28:57] Ian McGrail: Nick - you will have my letter with the agreed terms by 0830hrs tomorrow morning. Could you now send me the letter you had intended for me. I will relinquish command at 1800hrs tomorrow.

[08/06/2020, 21:34:02] Ian McGrail: Darren has reverted and I have agreed to the terms.

[08/06/2020, 21:34:28] [redacted]: Ian. Thanks. I believe that is the correct way forward. I'll go into the office and send the letter once I've finished dinner. Nick

[08/06/2020, 21:34:40] Ian McGrail: Ok

[08/06/2020, 21:35:21] [redacted] I'll tweak it to say you have agreed terms with the CS.

[08/06/2020, 21:46:00] Ian McGrail: Yes please. And that he will expedite the arrangements. Thanks.

[09/06/2020, 08:18:39] Ian McGrail: Morning Nick. Email with scanned letter has been sent. Original on its way to The Convent.

[09/06/2020, 08:28:19] [redacted] Morning. I'll get written confirmation to me re terms then revert accordingly.

[09/06/2020, 09:08:41] Ian McGrail: Are you ok with going out at midday with media release?

[09/06/2020, 09:26:58] [redacted] Maybe an hour or so later but let me check with CM who is in Spain. Can you share please what you will be saying.

[09/06/2020, 09:27:13] Ian McGrail: Yes certainly.

[09/06/2020, 10:11:45] Ian McGrail: I have emailed my press to you.

[09/06/2020, 10:34:39] [redacted] Wrapped up in meetings until @ 11.30. I'll get lines from the CM and share them with you.

[09/06/2020, 10:43:46] Ian McGrail: Thanks

[09/06/2020, 11:41:50] [redacted] Ian. Happy for your release to issue at 13.00. As soon as it has, I will issue mine. GoG will also issue a short statement wishing you well. I will be writing now to accept your retirement. Please do let me know when your statement has issued. Nick

[09/06/2020, 11:47:41] Ian McGrail: Will do.

[09/06/2020, 12:59:08] Ian McGrail: Press statement has been pushed out.

[09/06/2020, 13:16:45] [redacted]: Thanks. I'll send mine now

3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 19

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 19
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

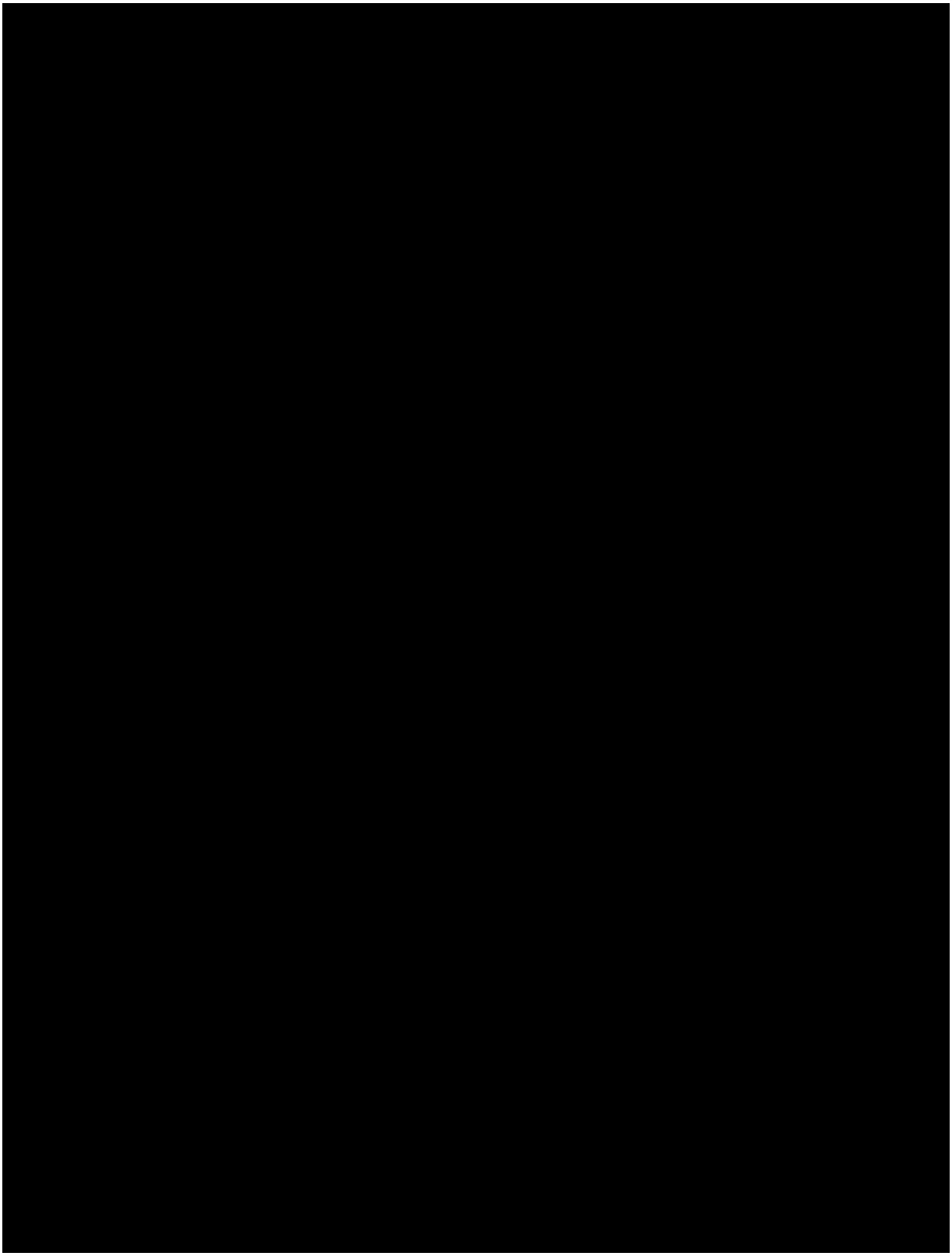
Keith L. Chichon BA(Hons)T
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

A Commissioner for Oaths

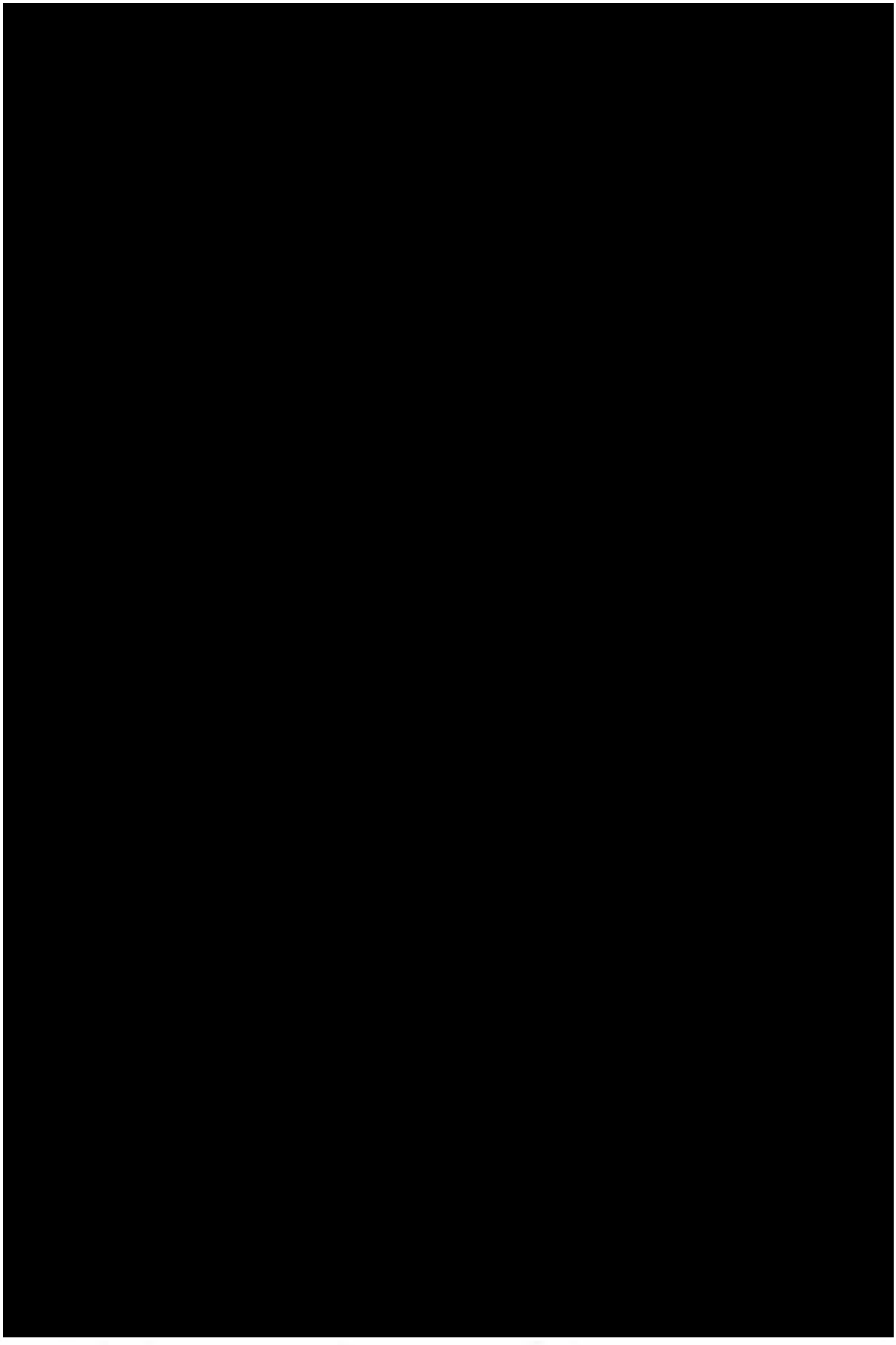
Presented by Charles Gomez & Co, of 5 Secretary's Lane, Gibraltar. Solicitors for Ian McGrail

WHATSAPP CHAT LOGS

Ian McGrail & Michael LLamas









[05/10/2018, 15:31:36] Ian McGrail: Michael - I am in Uk with work. Cathal Yeats would like to have an urgent chat with you to seek some advice. The matter relates to the impending trial in Spain of two of my senior officers who were involved in the infamous Alcaidesa incident. They have met today with their

Lawyers who in no uncertain terms have said that the insistence to proceed with the case is political on the part of the Algeciras fiscal (a guy called Cisneros, believed to be close to Landaluce). Cathal can explain better what the situation is - the complainants have made a statement withdrawing the complaint. Could he go round to see you for 15mins please?

[05/10/2018, 15:33:03] Michael Llamas: Ian I'm in Brussels. Finishing a meeting. Can he call me in 20 mins or so?

[05/10/2018, 15:33:16] Ian McGrail: Ofcourse. Many thanks.

[08/10/2018, 20:49:34] Ian McGrail: image omitted



[redacted]



[17/10/2018, 15:36:00] Michael Llamas: Ian can you speak?

[17/10/2018, 15:38:55] Ian McGrail: Yes

[21/10/2018, 10:54:53] Michael Llamas: Good morning Ian. Can you ask the Spanish lawyers acting for your guys to get you the name of the lady State Prosecutor in Cadiz. Thanks. M

[21/10/2018, 10:55:34] Ian McGrail: My God Michael - I was about to text you her name. Unreal.

[21/10/2018, 10:55:58] Michael Llamas: Gosh!!!!!

[21/10/2018, 10:56:19] Ian McGrail: maria angeles ayuso castillo.

[21/10/2018, 10:56:25] Michael Llamas: 👍

[21/10/2018, 10:57:02] Ian McGrail: She is provincial chief prosecutor. Cisnero's boss.

[21/10/2018, 10:57:31] Michael Llamas: Ok. We are trying something. Keep you posted

[21/10/2018, 10:58:25] Ian McGrail: Brill. Thanks.

[22/10/2018, 12:05:37] Michael Llamas: Ian I have just spoken to Ángeles Ayuso (I tried calling you before I called her, in any event she wanted to speak just to me for now). She was friendly but firm. She said that to discontinue will be impossible but that she would see what she could do. She has asked for all the papers to be sent to her and that she will revert to me. I will call you later. M

[22/10/2018, 13:02:45] Ian McGrail: Sorry i was in a presentation. Spk later.

[22/10/2018, 14:17:15] Ian McGrail: Can i call you Michael?

[22/10/2018, 14:44:24] Michael Llamas: Ian call me on [redacted] in ten minutes

[22/10/2018, 14:44:39] Ian McGrail:

[25/10/2018, 22:59:16] Michael Llamas: Ian sorry I have not written earlier today with this information (it's been another of those days). Got a call from our contact who had spoken to the relevant woman. She said that even if this were to go ahead all they would face is a fine. In any event she's looking at the papers and may well be amenable to meeting us (for lunch perhaps). Keep you posted.

[26/10/2018, 07:44:25] Ian McGrail: Just read your text as I had an early night after one of those days you refer to. Very many thanks. Happy to meet for lunch or whatever with them. Rgds

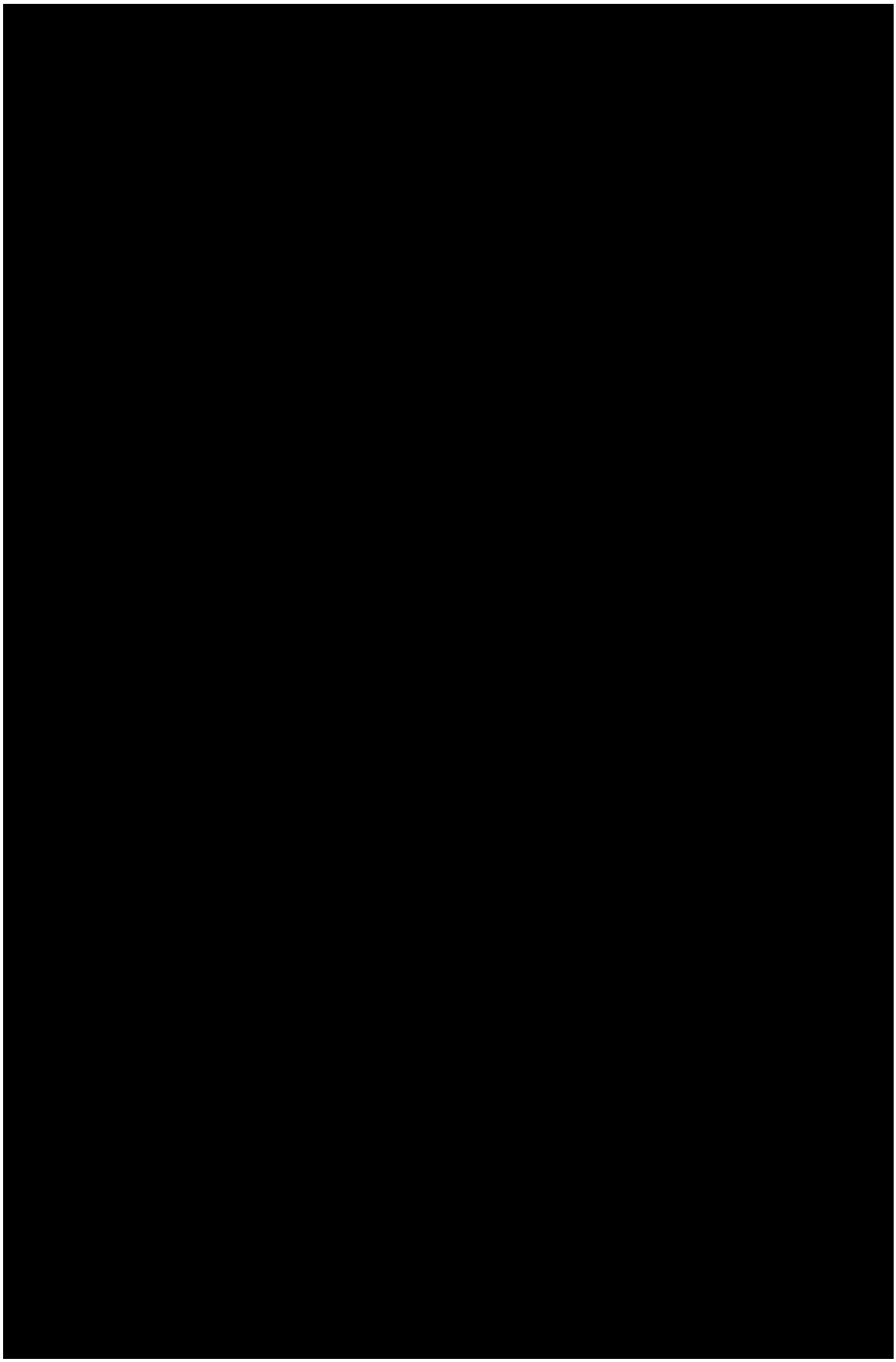
[26/10/2018, 07:44:52] Michael Llamas:

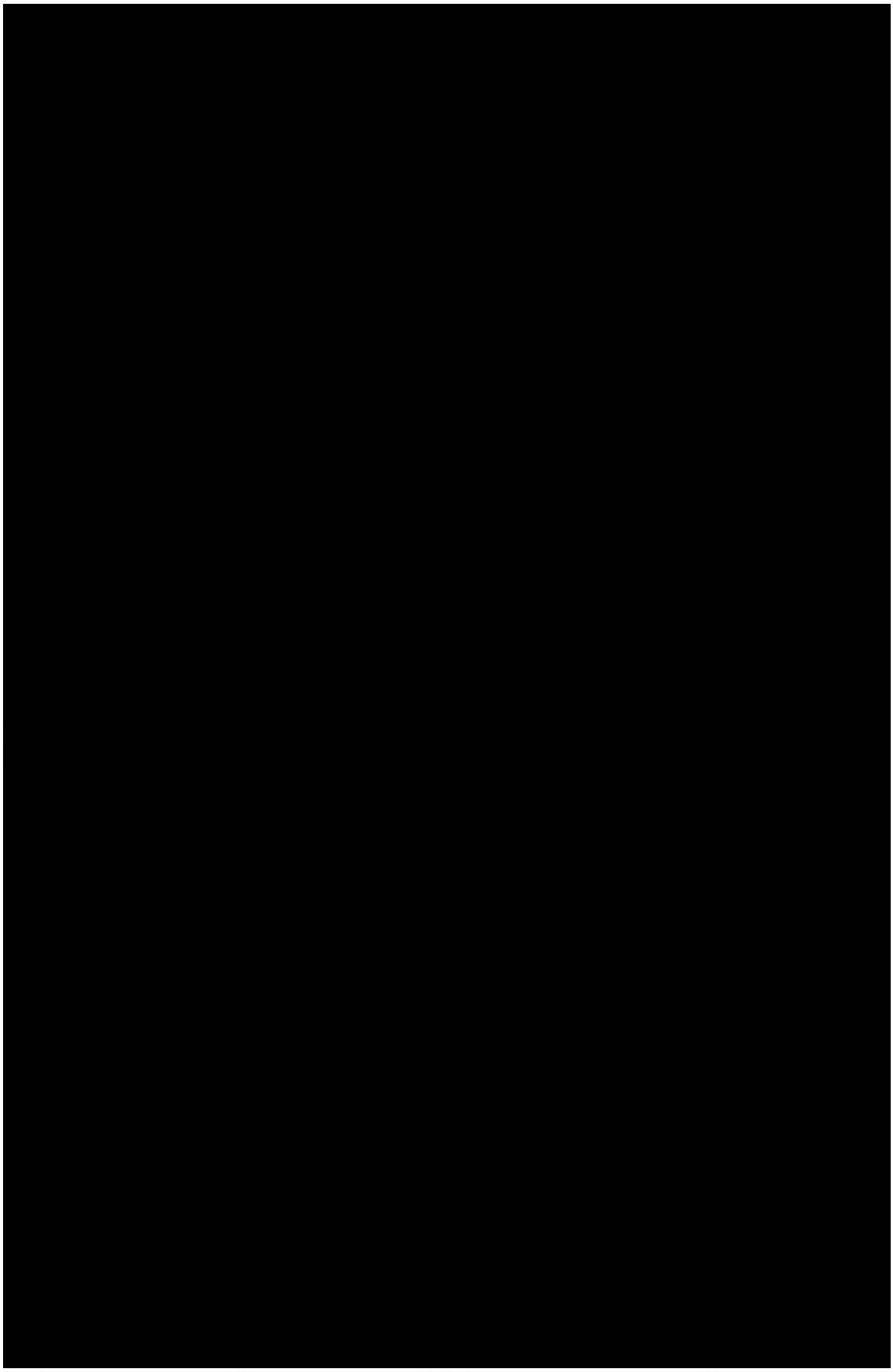


[redacted]

[redacted]

[redacted]







[30/04/2019, 13:15:40] Michael Llamas: Don't want to bother you Ian. It's in relation to [redacted] RGP turned up at GFA HQ today. Perhaps we can speak when you get back?

[30/04/2019, 13:18:20] Ian McGrail: I will get Richard Ullger to see to it if you want.

[30/04/2019, 13:19:40] Michael Llamas: He's been asked to go to New Mole tomorrow and was very embarrassed about the visit to his workplace today

[30/04/2019, 13:19:54] Ian McGrail: Surely they could have called him to attend new mole house & not show up at place of work.

[30/04/2019, 13:20:04] Michael Llamas: Precisely

[30/04/2019, 13:20:21] Ian McGrail: I will get richard ullger to enquire

[30/04/2019, 13:20:27] Michael Llamas: Thanks Ian

[redacted]



[redacted]



[redacted]



[redacted]

[redacted]

[17/07/2019, 17:18:07] Ian McGrail: I can confirm that non of Caine's devices or computers have been sent to the UK for interrogation. However, Caine was mistankenly told that we had. An officer of the investigating team actually confused him for Tommy Cornelio whose devices we have sent - so there is no cause for panic.

[redacted]









[redacted]





[17/01/2020, 16:59:09] Michael Llamas: Ian who will be going with you to Madrid?

[17/01/2020, 17:01:01] Ian McGrail: Cathal would. Did you get a chance to read my email ref the conversation I had the director generaL of the National Crime Agency?

[17/01/2020, 17:01:35] Michael Llamas: Yes. We need to discuss it

[17/01/2020, 17:01:52] Ian McGrail: 👍

[12/02/2020, 08:50:38] Ian McGrail: Out meeting is the bunker or your office?

[12/02/2020, 08:50:52] Michael Llamas: My office

[21/02/2020, 13:05:23] Ian McGrail: Michael - could you please email me the 3 RGP appendices that accompany the document for next week's meeting?

Thanks

[23/02/2020, 12:26:21] Ian McGrail: https://www.europasur.es/opinion/articulos/frontera-invisible_0_1440156068.html

[23/02/2020, 12:27:10] Michael Llamas: Thanks, Ian. Just read it. Unegotiable.

[23/02/2020, 12:27:32] Ian McGrail: I gathered

[08/03/2020, 11:40:50] Michael Llamas: Been in New Mole for the last hour or so. Cooperation RGP/Spanish LEAs very good. New RGP Press Release today will say good cooperation with ES, drug related activity, 2 deaths are Spanish nationals of North African descent. Investigation continues.

PR will not say where incident occurred but it is virtually certain it was outside BGTW eastern side opposite runway. It also seems that part of the chase was within BGTW.

[09/03/2020, 11:31:25] Ian McGrail: Morning Michael - Nick Pyle tells me you want to meet. I am here at my office.

[11/03/2020, 17:39:06] Ian McGrail: You deleted this message.

[11/03/2020, 18:02:19] Ian McGrail: Michael - we have still not provided any official account to GC of the incident at sea and they have asked for a brief from us. I am now at a stage where I also require background details of those who were on-board the RHIB as this is being requested by the independent investitagtion team. I can hardly ask them for these details when we haven't released anything official to them. Its only prudent to do so I propose to send them the below details and on the back of this make our request to them. I would appreciate your views on what i propose to send.

STARTS

Ref: Initial Incident Report – Collision at Sea with fatalities

At about 0300hrs on Sunday 8th March 2020, officers from the Royal Gibraltar Police Marine Interceptor Sir John Chapple (Bravo 4) communicated with the Guardia Civil COS in relation to the presence of a suspect susect vessel activity in waters off the Playa de Santa Barbara, near to the eastern side between Gibraltar and La Linea. Bravo 4 deployed and remained ready to engage at a point approximately 3 miles East of the runway. Soon afterwards a chase ensued with the suspect vessel and Bravo 4 challenging the vessel, a 14mt semi-rigid hulled inflatable vessel (RHIB) crewed by 4 occupants, powered by 4 x 300hp engines and fitted with Garmin radar. The said vessel was suspected to be involved in illicit drugs trafficking activity.

During the course of a high-speed pursuit shortly afterwards, there was a collision between both vessels, and this resulted in the death 2 of the 4 RHIB's occupants, namely:

[redacted]

The remaining 2 occupants sustained injuries of various types, and were conveyed to St Bernard's Hospital in Gibraltar where they received treatment for their injuries and later discharged.

[redacted]

Both [redacted] and [redacted] were arrested on suspicion of Importing a Prohibited Import (14mt RHIB), Dangerous Navigation and Obstructing Police. [redacted] gave a "No comment" interview at New Mole House Police station and [redacted] gave only a brief account of events stating that he had been 1 of the 4 RHIB's occupants and that they had been chased by Police between Gibraltar and Spanish waters prior to the collision between both vessels.

Both [redacted] and [redacted] were later bailed out in the sum of £2500.00 to return to New Mole House Police Headquarters at 1100hrs on the 4th June 2020 whilst enquiries continue.

A Coroner's investigation is already underway into the deaths of [redacted] and [redacted], and post-mortem examinations will be conducted by a Forensic Pathologist on Wednesday 11th March and Thursday 12th March 2020. The Commissioner of the Royal Gibraltar Police has sought assistance of specialist investigators from the United Kingdom.

ENDS

[11/03/2020, 19:09:56] Ian McGrail: HE (Nick) is asking for confirmation of where collision took place as London are keen to know. I have informed him along the same lines that you advised CM ie that is highly probable that it happened outside BGTW.

[11/03/2020, 19:15:11] Michael Llamas: Ian that seems fine to me. Factual whilst being amenable to further precision once you o Tain further details

[11/03/2020, 19:33:05] Ian McGrail: 👍

[15/03/2020, 13:26:49] Ian McGrail: Michael - Can I come round to see you tomorrow for a quick discussion regarding issues with potential political connotations ref the collision at sea incident?

[15/03/2020, 13:27:19] Michael Llamas: Sure. Anytime

[15/03/2020, 13:28:20] Ian McGrail: Thanks. I know the CM wanted a face to face with me but given all that is happening it'll be difficult for me to reach him.

[16/03/2020, 10:49:27] Ian McGrail: Can i come round to see you Michael?

[16/03/2020, 10:49:52] Michael Llamas: In a virus crisis meeting

[16/03/2020, 10:52:34] Ian McGrail: Ok. Please let me know when I can come round. I am heading to the bunker too to catch up with Ivor.

[16/03/2020, 10:53:37] Michael Llamas: He's in same meeting as me

[16/03/2020, 10:53:55] Ian McGrail: 🤦

[17/03/2020, 12:31:41] Ian McGrail: Michael - can we meet briefly to discuss the progress of the collision at sea investigation.

[17/03/2020, 12:32:22] Michael Llamas: Yes Ian today is better. Come whenever you want I

[17/03/2020, 12:32:39] Ian McGrail: I'll be there by 1pm

[17/03/2020, 13:43:38] Michael Llamas: All good Ian. Proceed as we discussed

[17/03/2020, 13:43:56] Ian McGrail: Ta 👍

[18/03/2020, 15:30:21] Ian McGrail: Michael - Held video conference with GC as they wouldn't meet face to face because of the pandemic.

They were obviously cagey with our UK colleagues but it served well to demonstrate that we were totally transparent. The UK team were happy with the meeting. What I was able to elicit from GC is that a judge is still to be assigned the matter & it is likely that it'll be a judge from La Linea. Again because of their lock down there are delays in their courts.

GC anticipate that when appointed, the judge will request information and accounts from us. What form this will take is not clear - the judge could potentially summons our officers to provide their statements in person or simply request their accounts via police to police channels. What mechanisms we should rely on to facilitate this, were we to oblige, is something we'll need to discuss. GC also expects the family of the deceased to file a complaint in their courts to seek compensation. This will no doubt complicate matters for us as the judge may be swayed to look at the matter from a different perspective in terms of where the collision took place.

GC are requesting from us for photos of the vessels, post mortem reports & statements from those involved in the collision. We have to

carefully study this request and weigh the pros and cons of withholding the data or provide it at some point.

Speak soon.

[22/03/2020, 09:36:09] Ian McGrail: Morning Michael - sorry for the bother on a Sunday. I have been called to attend Cabinet meeting at 1100hrs. In anticipation of what could be a lockdown I kindly ask you whether you were able to assign the MOU I emailed you between the RGP/GDP to one of your crown counsels to check for legal viability of what it sets out to acheive. I reckon I will very soon be needing more boots on the ground and this MOU can potentially achieve that by allowing GDP officers to act accordingly.

I was intending to raise this at Cabinet meeting today if there need arose but wanted to check with you beforehand.

Rgds

Ian

[22/03/2020, 09:47:58] Michael Llamas: I will be there too. I need to check with Yvette.

[22/03/2020, 09:51:17] Ian McGrail: Thanks.

[06/04/2020, 12:22:22] Ian McGrail: Michael - could I come round to meet and discuss the collision at sea matter. I am conscious this won't go away and would like to at least have the strategy in place for when the time comes to act.

[06/04/2020, 13:57:36] Michael Llamas: Now?

[06/04/2020, 14:03:42] Ian McGrail: No not now, during the course of the week or when you can.

[06/04/2020, 14:04:22] Michael Llamas: Ok. I can do now if it suits you

[06/04/2020, 14:15:48] Ian McGrail: I am at the bunker at a meeting. Will let you know when I'm out if you can still see me.

[06/04/2020, 14:16:03] Michael Llamas: Sure

[06/04/2020, 15:48:37] Ian McGrail: Just leaving the meeting at the bunker. Shall I come round or we leave it for another day this week?

[06/04/2020, 15:52:46] Michael Llamas: Another day better

[06/04/2020, 15:53:04] Ian McGrail: Ok. I will have my pa arrange with yours

[06/04/2020, 15:53:15] Michael Llamas: 👍

[08/04/2020, 14:29:09] Ian McGrail: Just sent Albert Mena the letter via email. I have copied you in.

[08/04/2020, 14:29:32] Michael Llamas: Thanks, Ian

[09/04/2020, 16:39:20] Michael Llamas: Ian on a more rudimentary point. A friend of mine has a kayak. Hes a well seasoned kayaker. He's just asked me whether he can go out. I'm pretty sure this is covered by "exercise" and almost certainly by "vessel" (2 separate grounds for exemption). Would u agree?

[09/04/2020, 16:51:34] Ian McGrail: I agree. No issues there.

[09/04/2020, 16:51:57] Michael Llamas: Thought so Ian. Many thanks

[21/04/2020, 14:04:55] Michael Llamas: Ian can you talk?

[21/04/2020, 14:07:28] Ian McGrail: Yes i can

[30/04/2020, 12:04:57] Ian McGrail: I am in a covid meeting at the bunker.



[redacted]

[12/05/2020, 12:26:51] Ian McGrail: Michael - before you hear it from anyone else I want to inform you that detectives are executing a search warrant at Hassans for (JL) in relation to the case against Perez, Cornelio & Sanchez. Its been done in the most discreet of ways and we're hoping there is co-operation. I have also advised CM.

Rgds

[12/05/2020, 12:28:20] Michael Llamas: Ian, we had agreed that you would come to me with a rationalisation of the charges before doing anything?

[12/05/2020, 12:29:42] Ian McGrail: We agreed we'd do that when all the loose ends were tied up and this included the enquiries with JL.

[12/05/2020, 12:30:24] Michael Llamas: No. that was not what we agreed.

[12/05/2020, 12:31:43] Ian McGrail: I am in the bunker. Will come round to your office as soon as I finish here.

[12/05/2020, 18:33:49] Ian McGrail: Michael - we both are disappointed but I just can't leave the matter as it is. I'd like to meet face to face. We have to work together & your wrong impressions about me need clearing up.

[12/05/2020, 18:41:41] Michael Llamas: Ian, it would not be constructive to meet, at least not for now. For me it was abundantly clear what we had agreed and there is therefore very little to discuss about that. All I have tried to do is to help you in all of this and to protect Gibraltar plc which is what I have spent all my life doing. I feel very, very let down. A serious breach of trust has occurred.

[12/05/2020, 18:43:21] Ian McGrail: I respect your view not to meet but totally refute any breach of trust. We'll agree to disagree.

[14/05/2020, 08:47:45] Michael Llamas: Ian can I call you? 2 questions one on Brexit the other on yesterday

[14/05/2020, 08:48:24] Ian McGrail: Yes please do so.

[14/05/2020, 10:03:46] Ian McGrail: Do want to see the reviewed version of the document?

[14/05/2020, 10:05:33] Michael Llamas: Sure

[15/05/2020, 12:14:56] Michael Llamas: Ian shall we meet in my office at 5.00pm?

[15/05/2020, 12:23:02] Ian McGrail: Ok. In relation to?

[15/05/2020, 12:24:02] Ian McGrail: Ah ok, just seen the email.

[15/05/2020, 12:24:16] Michael Llamas: Hassans letter today

[15/05/2020, 12:25:08] Ian McGrail: Yes yes, about to read it.

[16/05/2020, 19:47:08] Ian McGrail: Michael - can you call me when you can. Ta

[17/05/2020, 15:56:14] Ian McGrail: I sincerely hope he provides a robust enough account which does not compel us to revert to an interview under caution.

[20/05/2020, 10:48:32] Ian McGrail: I reckon we need to meet to discuss the latest letter from Lewis Baglietto.

[20/05/2020, 11:06:57] Michael Llamas: When do you want to meet? We should have Christian as well

[20/05/2020, 11:09:37] Ian McGrail: Indeed. My diary is flexible today. Shall we say 2.30pm?

[20/05/2020, 11:32:46] Michael Llamas: I can do today until 2.00pm. Otherwise Friday I can do anytime.

[20/05/2020, 11:33:49] Ian McGrail: Lets do midday then. Will you call Chris?

[20/05/2020, 11:34:10] Michael Llamas: Yes

[20/05/2020, 11:34:20] Ian McGrail: 👍

[20/05/2020, 11:35:39] Michael Llamas: 👍

[20/05/2020, 17:26:41] Ian McGrail: Michael, I have emailed you my proposed response to Lewis Baglietto. Let me know if you have any views.

[20/05/2020, 17:58:42] Michael Llamas: Sorry Ian been on a call. Will revert shortly

[20/05/2020, 17:59:02] Ian McGrail: Thanks

[20/05/2020, 18:34:01] Ian McGrail: Michael - aside from Delhi....the CM's response to our 'ask' for legal representation.... I honestly do not know why he has reacted like this. Have you briefed him of our meetings we've had on the matter?

[20/05/2020, 18:38:21] Michael Llamas: He is aware you and I have spoken about this. I forwarded to him Cathal's email to me today since it was necessary in view of the wider issues.

[20/05/2020, 18:39:34] Ian McGrail: Good. But the wobbler he's thrown is what I do not understand Anyway, something for me to take up with him. Thanks.

[21/05/2020, 10:15:17] Ian McGrail: I know you're busy all day today but there is something sensitive we need to discuss about Delhi. Could we come round tomorrow morning? Christian should be there too.

[21/05/2020, 10:18:50] Michael Llamas: Sure. Tomorrow morning is fine with me.

[21/05/2020, 10:19:30] Ian McGrail: Shall we say 10am? Will you let Christian know?

[21/05/2020, 10:19:43] Michael Llamas: Yes and yes

[21/05/2020, 10:19:56] Ian McGrail: Thanks

3rd Affidavit:

Ian McGrail

Date: 4th October 2022

Exhibit: 20

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 20

TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

A Commissioner for Oaths

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

WHATSAPP CHAT LOG

Ian McGrail & Phil Culligan (FCO Gibraltar)

[29/07/2019, 19:09:25] [redacted]: Messages and calls are end-to-end encrypted. No one outside of this chat, not even WhatsApp, can read or listen to them.

[29/07/2019, 19:09:25] [redacted]: Hi Ian. Just wanted to keep you in the loop and let you know that we have engaged with NCA re tech assistance. They stand ready but we are just working through ministerial approval process. Governor and I will keep pushing London team and let you know as soon as have any news. Phil

[29/07/2019, 19:10:29] Ian McGrail: Noted with thanks Phil.

[04/09/2019, 16:51:03] Ian McGrail: Phil - please can you pass on my regrets for not being able to attend the DoE awards this evening. I am stuck at work with stuff that has a very close deadline. Please pass on my regrets to HE. Much obliged.

Rgds

Ian

[04/09/2019, 16:56:46] [redacted]: Ian no problem will do

[04/09/2019, 16:56:57] Ian McGrail: Very many thanks

[10/03/2020, 19:22:36] [redacted] Hi Ian I've just spoken to D/Supt Steve Wagstaff of MPS who confirmed he can provide a team of max five led by a DI for 4-6 days. 👍 We are now staffing the section 26 request and will stay in close touch. Cheers Phil

[10/03/2020, 19:42:48] Ian McGrail: That is great Phil. Many thanks.

[10/03/2020, 19:52:34] Ian McGrail: Would you know when they could be here?

[10/03/2020, 19:53:46] [redacted]: Should have better idea in the morning when I've spoken to FCO and HO again. I stressed the urgency.

[10/03/2020, 19:54:10] Ian McGrail: 👍 very many thanks.

[11/03/2020, 15:09:31] Ian McGrail: Phil - any news on the section 26 request?

[18/03/2020, 22:06:50] Ian McGrail: Phil - many thanks once again for the hospitality. Much appreciated.

[18/03/2020, 22:50:37] [redacted]: Ian Always a pleasure - I enjoyed the evening. I think the guys enjoyed the tour of the Convent too. Phil

[09/04/2020, 22:23:43] [redacted]: Hi Ian Very well said at the press conference today. Let's hope everyone listens and pays heed. 👍 Hope you and all the force stay safe and healthy. Phil

[09/04/2020, 22:27:31] Ian McGrail: Hiya Phil - thanks. lets hope the penny really drops. Keep yourself and yours safe.

3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 21

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 21
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

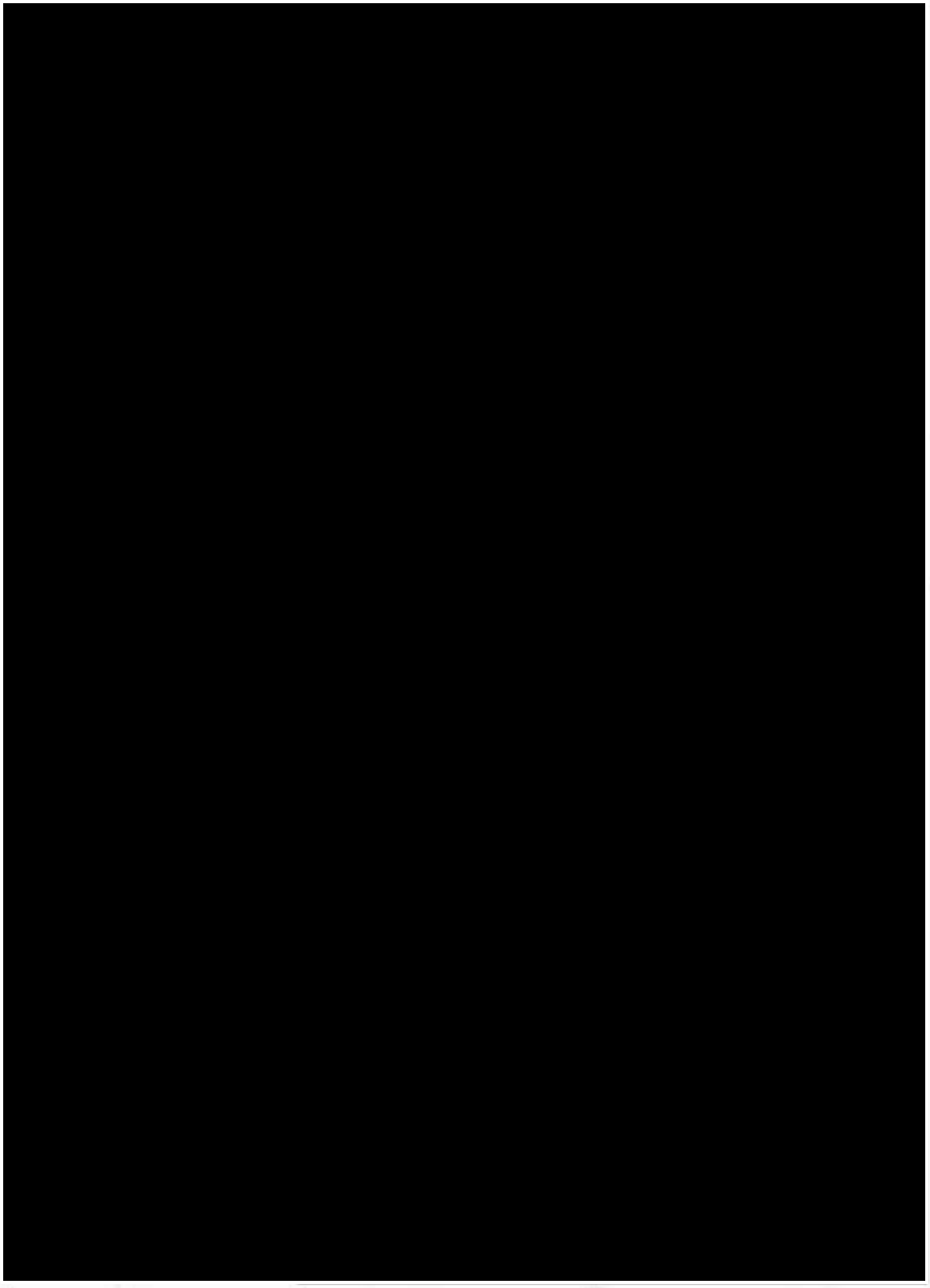


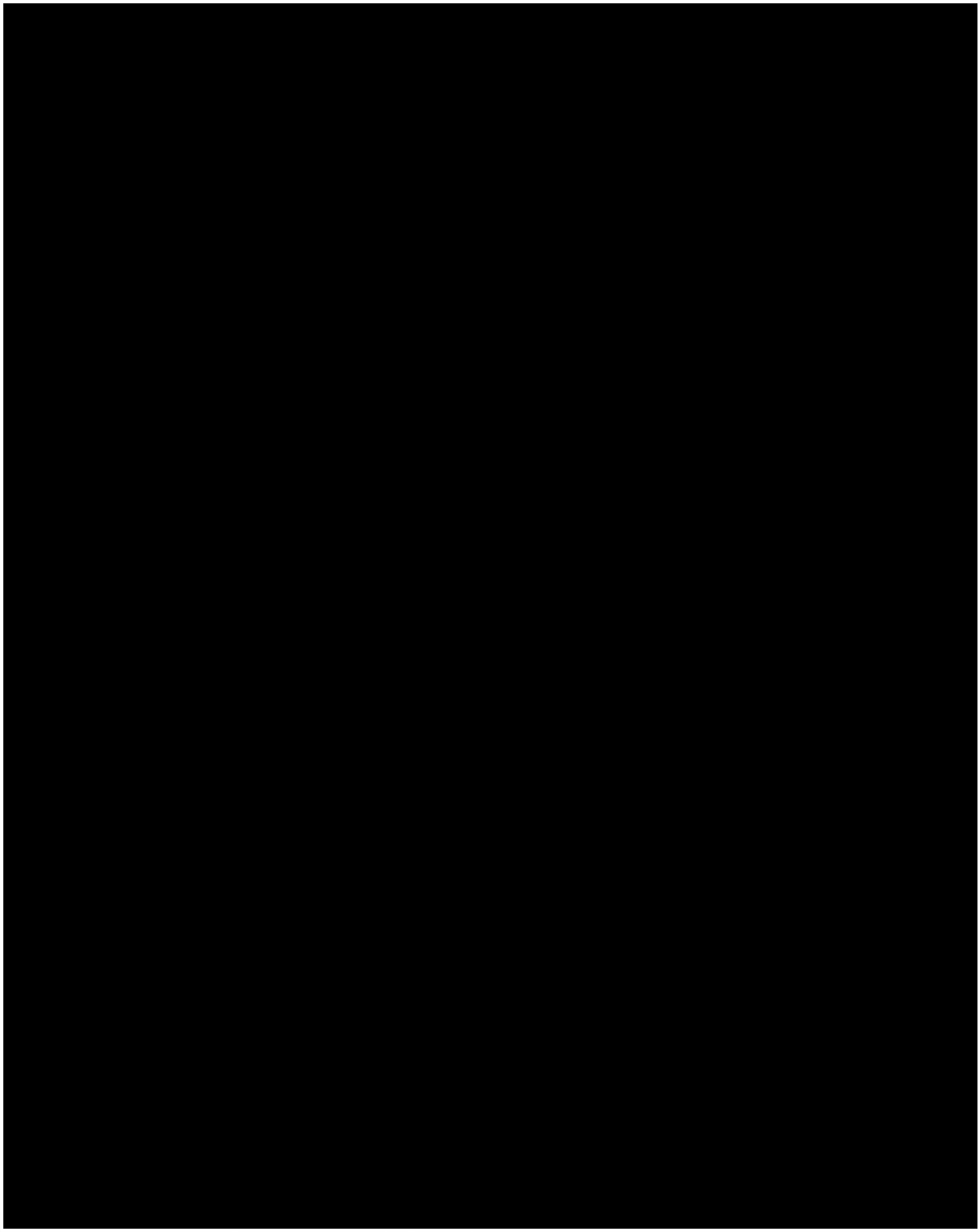
A Commissioner for Oaths

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

Whatsapp Chat Log

Between Ian McGrail and Darren Grech (Chief Secretary)





[11/04/2019, 20:55:42] Darrren Grech: Just trying to find out more from Fco channels

[13/05/2019, 15:06:05] Darrren Grech: Caine when you can it is very important you check your email; I will not be able to communicate with you henceforth by WhatsApp.

[14/05/2019, 21:24:23] Ian McGrail: Darren - he is being bailed out as I text. Obviously bailed out pending further enquires.

Rgds

[14/05/2019, 22:05:57] Darrren Grech: Thanks amigo

[15/05/2019, 10:39:46] Ian McGrail: Morning - Has CS been to see HRM? Has he been interdicted already? Rgds

[15/05/2019, 11:05:23] Darrren Grech: Ian he is seeing HRM this afternoon and will be provisionally interdicted at this point.

[15/05/2019, 11:05:52] Ian McGrail: 👍 👌

[15/05/2019, 11:06:07] Darrren Grech: 👍

[17/07/2019, 17:40:00] Ian McGrail: I can confirm that non of Caine's devices or computers have been sent to the UK for interrogation. However, Caine was mistankenly told that we had. An officer of the investigating team actually confused him for Tommy Cornelio whose devices we have sent - so there is no cause for panic.

[17/07/2019, 17:40:20] Ian McGrail: This is the whatsapp message I have sent the AG before you called.

[17/07/2019, 17:41:44] Darrren Grech: Excellent

[23/07/2019, 08:40:52] Ian McGrail: Morning Darren - my meeting with CM has been put back to 2.30pm. I will nip round to see you at 1.45 if ok with you.

[23/07/2019, 08:42:45] Darrren Grech: Not possible Ian as have to take out top brass FCO to lunch. I can do quick breakfast 9:15-9:45 if you want.

[23/07/2019, 08:43:37] Ian McGrail: Yes - we'll see you at Jury's?

[23/07/2019, 08:44:10] Darrren Grech: Corks

[23/07/2019, 08:44:19] Ian McGrail: Venga even better.

[23/07/2019, 08:44:39] Darrren Grech: 👍

[23/07/2019, 16:02:07] Ian McGrail: Darren - just out of meeting with CM. Quite positive. He agrees in principle with my stance. His suggestion is that you adjudicate the issue as he wants to be kept out of the loop (& rightly so). I will be writing to you with a set of options for consideration. Best, Ian

[23/07/2019, 17:29:21] Darrren Grech: Perfect and thanks for brekkie; next one on me

[23/07/2019, 17:30:07] Ian McGrail: 👌

[24/07/2019, 09:24:08] Ian McGrail: Morning Darren - I am about to press the send button for this email about the Fed to you. Shall I copy in Colin Yeo & Daniel Zammit from HRD too?

[24/07/2019, 09:42:54] Darrren Grech: Yes please

[24/07/2019, 09:48:23] Ian McGrail: 👍

[07/08/2019, 16:48:56] Darrren Grech: Ian without compromising you in any way, please advise if my email below is appropriate at this stage. Further, has he been arrested?

Dear Mark,

sensitive

I am just leaving St Petersburg and have still at least 10 days left of annual leave. Has Mr Sanchez therefore been officially arrested etc? The interdiction I issued was temporary pending further developments.

On the questions you raise I will certainly need to be in Gibraltar to address these properly as I would need to consult a number of people in this respect. If you can afford to wait, then I would happily do this for you as from late next week, when back in Gibraltar, even though still on leave. If not, I would have to delegate this sensitive issue to my acting Chief Secretary, Richard Montado, in copy.

Please revert at your earliest convenience; I do check emails daily but intermittently as I am cruising the Baltic States

Best,

Darren

Darren Grech

Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

On 7 Aug 2019, at 17:24, (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi> wrote:

Dear Mr Grech,

My name is Inspector Mark Wyan and I am the officer in charge of the investigation which has led to the arrest of Cain Sanchez. As part of my investigation I am interested in the following areas:

1) The role / responsibilities of Mr Sanchez (in particular with regards to the NSCIS system);

2) Who he reported to (in particular with regards to the NSCIS system);

3) His level of authority over the NSCIS system (i.e. Did he have complete autonomy?);

4) Whether he had the power to disregard instructions issued by the Chief Minister on the 4th October 2018 (via Peter Canessa) if he felt it necessary to do so;

5) A copy of the Official Secrets Act signed by Mr Sanchez.

I would be very grateful if you could provide me with a witness statement covering the above points. In the event that you are not able to answer particular questions, I would appreciate if you could direct me to someone who may be able to help.

I would be happy to meet at your convenience or alternatively to talk on the phone so that we can discuss further.

Kind Regards,

Mark Wyan

<image001.jpg>

Mark Wyan

Inspector

Resource Management

Operations Division

New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) [redacted] Centrex: [redacted]

<image002.png>

Web: www.police.gi

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<image003.png>

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Please consider the environment before printing this email.

[07/08/2019, 16:56:16] Ian McGrail: Hi Darren - Your email to Insp Wyan is appropriate. Perhaps removing your question "has CS been arrested?" as he has indeed. CS is under arrest and on police bail.

I will engage with the investigators and tell them to wait for your return to deal with their requests.

Enjoy your hols.

Best Ian

[07/08/2019, 16:58:35] Darrren Grech: Sorry Ian , WiFi in Ship skimpy and my original email has already flown so apologies. Regarding CS, the arrest and bale is a new development which happened recently it was this always the case from the beginning? A bit of a Blonde moment; too much wine! D

[07/08/2019, 16:59:00] Darrren Grech: Meant or was it always the ....

[07/08/2019, 17:01:57] Ian McGrail: You interdicted CS on the back of his arrest. & he remains on police bail since then.

[07/08/2019, 17:03:59] Darrren Grech: Sorry this is fine; did not know if further developments.

[31/08/2019, 10:11:06] Darrren Grech: image omitted

[31/08/2019, 10:40:04] Ian McGrail: Yes - I am aware. The information on the signage is being addressed.

[03/09/2019, 19:23:56] Darrren Grech: Watch this

https://www.facebook.com/gibraltargovernment/videos/2346725568714152?sfns=mo

[07/09/2019, 12:35:29] Ian McGrail: image omitted

[07/09/2019, 12:35:49] Ian McGrail: The world has gone totally and utterly mad.

[07/09/2019, 12:38:02] Darrren Grech: I agree my God

[18/09/2019, 22:12:49] Ian McGrail: Sorry I disturbed you today. I was doing promotion boards myself. Needed to chat about some info that reached me. I messaged the CM with the following text

but wanted to give you a heads up too. Also spoke to Michael Crome so he was aware too. I am forwarding you my text to CM.....

[18/09/2019, 22:13:03] Ian McGrail: CM - I am informed that Maurice Morello of the Gib Pol Fed has sought a meeting with you. I respectfully ask that if he touches on the matter of his allowance as convenor, which is under review, that you take in to account my views and that of the Chief Sec. I had reason to make disciplinary intervention on him on Monday which is also why he may want to off load to you.

I am very disappointed with the way the GPF are conducting themselves - totally confrontational and toxic. Happy to discuss further if you feel the need to do so.

[18/09/2019, 22:14:32] Ian McGrail: CM replies saying he'd call me before meeting with Morello.

[18/09/2019, 22:28:07] Darrren Grech: I won't take any crap from any union or federation. Suspect CM will play their game until Oct 17 and then cut them loose!

[18/09/2019, 22:29:06] Ian McGrail: I hope he doesn't go soft with them.

[18/09/2019, 22:30:45] Darrren Grech: He won't, he will play the vote game and then leave me and my scalpel!

[18/09/2019, 22:31:21] Ian McGrail: And my axe in full support

[18/09/2019, 22:32:19] Darrren Grech: 😈😈 a surgical incision (death by a thousand cuts) and then you finish them off.

[18/09/2019, 22:32:36] Ian McGrail: 🤚🤚🤚

[18/09/2019, 22:34:41] Darrren Grech: Wait until Friday 18th October. We are going to change the shape of the public service. Diplomatic immunity will be removed instantly!

[18/09/2019, 22:35:11] Ian McGrail: You have my full backing.

[18/09/2019, 22:35:24] Darrren Grech: I know this Ian

[18/09/2019, 22:35:35] Darrren Grech: A few good men and women still remain

[18/09/2019, 22:35:48] Ian McGrail: Indeed.

[18/09/2019, 22:35:57] Darrren Grech: 👍

[24/09/2019, 16:34:39] Ian McGrail: Darren - Can I share the email thread with Wendy Cummings with my Supt Paul Richardson? In my view CS's reps for the investigation are Phillip's & Co and the GCCA sure cannot have a parallel interest in CS on matters concerning the investigation. She is taking a position suggesting wrongful arrest etc when she is not privvy to the evidence etc. How irresponsible or her. One thing is to argue his personal employment status viz interdiction v re-instatement, but to comment the way she is on the CS's conduct is meddling with defence lawyer matters - my view.

[24/09/2019, 20:55:53] Darrren Grech: And I agree and I am not happy and her time will come! Please do so.

[24/09/2019, 20:56:10] Darrren Grech: I am copying you my reply to her in a moment

[24/09/2019, 20:57:39] Ian McGrail: 👍

[01/10/2019, 01:06:21] Darrren Grech: F just in, am informing Stuart Green too. I have little to go on.

Dear Chief Secretary,

There has been an incident at sea on the eastern side with one of our launches having a collision with a patera, which has unfortunately resulted with the death of the occupant.

I have very little information as yet.Vessels are making their way to the police marine berth.

Thought you might want to inform the CM.

Paul

Sent from my Samsung Galaxy smartphone.

[01/10/2019, 01:32:55] Ian McGrail: CM -

I have a team of my lot called down to look in to the circumstances of a collision at sea between a HMC patrol vessel crewed by 4 custom officers and a patera (number on board as yet unknown). Collision has resulted in a fatality of a man on board the patera. He is believed to be Spanish. No other casualties reported. This occurred at east side after Windy called in that they had seen small boat suspicious activity taking place. HMC attended and a chase of a patera ensued. How the collision occurred is still to be determined but an occupant on board the patera suffered fatal head injuries I am told. I have enquired whether HMC have post incident procedures for their personnel and this is being looked at. The body was brought to gunwharf marine base in HMC vessel where it currently remains until our forensic people do their business.

This is standard procedure in a sudden death.

[01/10/2019, 01:35:42] Darrren Grech: Thanks Ian

[01/10/2019, 01:40:58] Darrren Grech: Its Paul V.

Spoke to Ian McGrail a moment ago. He was not aware of the incident.

Our Officers are ok physically, but one seems to be in shock, but have not spoken to them. We're trying to see whether we can get a welfare officer to speak to them.

Don't know if any counselling has been offered. Don't want to interfere with what the police might be doing right now as part of the investigation.

Initial report from one of our Officers was that there was about 7 to 9 pateras off eastern beach. We reacted to information from Windy.

Our launch was stationary off eastern beach and one of the pateras which was returning to Spain suspected with cigarettes with two persons, tried to get past the bow of our vessel and the groin at speed.

The vessel carried on and one of the occupants ended in the sea. They suspect he hit the bow of our vessel. One of our Officers dived to rescue the person.

Can't expand much more right now. The information might not be entirely correct. We have not spoken to the officers concerned.

[01/10/2019, 01:40:58] Darrren Grech: Thanks Paul, consistent with what Ian McGrail just told me. Have briefed the CM. We want to know if our guy is okay.

[01/10/2019, 01:58:39] Ian McGrail: I have offered my Post Incident Manager to Paul and he has accepted. This role helps the staff involved in terms of safeguarding interest etc. Say it had been a police launch involved in the collision I woukd be involving the PIP manager straight away.

[01/10/2019, 01:59:41] Darrren Grech: Thanks Ian. Going to try and grab a few hours of sleep.

[01/10/2019, 02:00:03] Ian McGrail: 👍

[01/10/2019, 02:00:18] Darrren Grech: 💤 💤 💤 💤 💤

[01/10/2019, 05:40:15] Darrren Grech: Ian no new updates?

[01/10/2019, 08:18:53] Ian McGrail: I am about to be briefed. Will let know if there's anything new.

[01/10/2019, 08:33:13] Darrren Grech: Thanks Ian

[01/10/2019, 08:40:50] Ian McGrail: You deleted this message.

[01/10/2019, 08:59:24] Ian McGrail: Been on the phone with my counterpart in La Linea. They had public disorder in La Linea arising from the incident. They needed to call on extra resources from Algeciras to quell it.

[01/10/2019, 10:06:58] Darrren Grech: Thanks

[01/10/2019, 21:18:23] Ian McGrail: Your civil servants top the RGP officers on bullying 🤣 🤣 🤣 I'm feeling better already !!!

[01/10/2019, 21:21:40] Darrren Grech: Excellent 👍

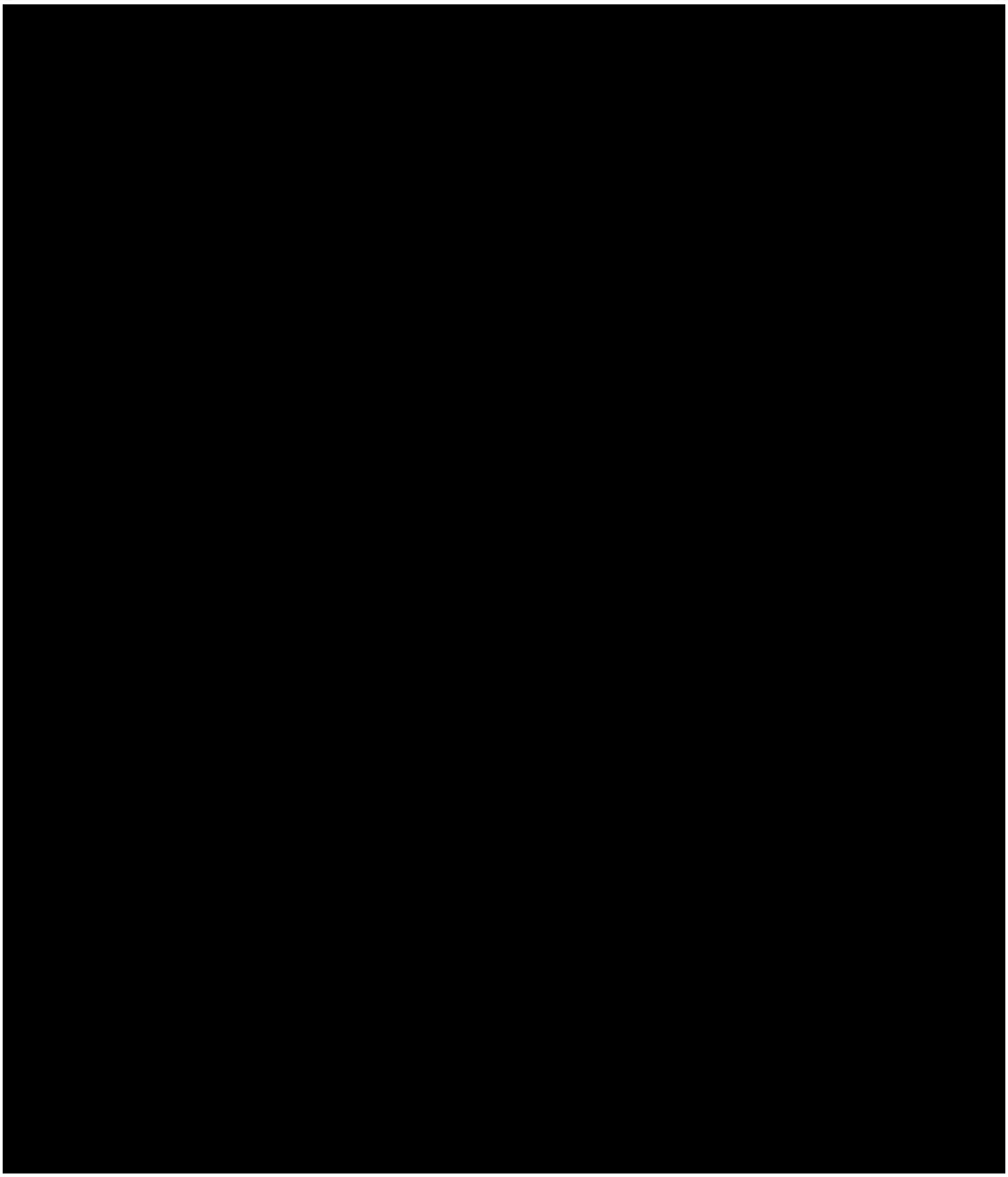
[01/10/2019, 21:37:04] Darrren Grech: Bring it on; scalpel sharpened

[01/10/2019, 21:37:28] Ian McGrail: Can't wait.

[01/10/2019, 21:37:48] Ian McGrail: GIF omitted

[01/10/2019, 21:39:22] Darrren Grech: Neither can I amigo

[03/10/2019, 21:11:19] Ian McGrail: image omitted



[11/11/2019, 17:14:22] Ian McGrail: Darren - I am in London attending meetings. I return to the office Thurs. I have been told that the Police Federation are meeting with Crome (he seems to be more accessible to them than to me). No doubt they are going to discuss the personal remuneration.

I can't let them get their way - its not good for the RGP and by default Gibraltar PLC. Can we meet on my return please. Don't think Crome

is on side at all. Rgds Ian

[11/11/2019, 17:33:14] Darrren Grech: I did not know about this; yes we should meet

[11/11/2019, 17:34:56] Ian McGrail: Can we meet after the opening of parliament?

[11/11/2019, 17:35:44] Darrren Grech: Difficult that one Ian as loaded with meetings; been away all last week on professional business

[11/11/2019, 17:36:42] Ian McGrail: Well let me know when you can. The Fed need stopping on their tracks ASAP.

[11/11/2019, 17:37:48] Darrren Grech: Yep

[14/11/2019, 15:57:19] Ian McGrail: Darren could we meet for 10mins tomorrow first thing?

[14/11/2019, 18:04:05] Darrren Grech: Not first thing Ian. Afternoon perhaps

[14/11/2019, 18:04:15] Darrren Grech: Have honours board but maybe after

[14/11/2019, 19:00:10] Ian McGrail: Ok

[14/11/2019, 19:03:44] Darrren Grech: 👍 WhatsApp me

[14/11/2019, 19:04:20] Ian McGrail: I will.

[15/11/2019, 12:07:58] Ian McGrail: So so disheartened Darren. This is unreal.

[15/11/2019, 17:50:17] Darrren Grech: I know. Politics

[13/01/2020, 16:49:03] Darrren Grech: image omitted

[13/01/2020, 16:49:03] Darrren Grech: image omitted

[13/01/2020, 16:49:03] Darrren Grech: image omitted

[13/01/2020, 16:52:04] Ian McGrail: You still aint platinum member like I am 😜

[13/01/2020, 16:56:23] Darrren Grech: 😡 😡

[03/02/2020, 19:34:33] Darrren Grech: https://www.yourgibraltartv.com/society/20646-unions-concerned-by-disciplinary-action-against-gibraltar-police-federation-leaders

[03/02/2020, 19:38:16] Ian McGrail: Yes, aware. Totally out of order - the unions aren't aware of truth !!!

The GPF has to remain independent of an organisation outside the force. Una poca verguensa.

[03/02/2020, 19:41:39] Darrren Grech: Press release back then!

[03/02/2020, 19:41:42] Darrren Grech: Put it to bed

[03/02/2020, 19:41:57] Ian McGrail: Absolutely

[13/03/2020, 10:20:48] Darrren Grech: Missed call? In contigency

[13/03/2020, 10:21:23] Ian McGrail: When can you talk? I thought the meeting had been cancelled.

[13/03/2020, 10:27:00] Darrren Grech: In a while; only GHA this morning

[18/03/2020, 19:45:14] Ian McGrail: Montado is sorted.

[18/03/2020, 19:45:27] Ian McGrail: audio omitted

[18/03/2020, 19:55:59] Darrren Grech: Perfect!

[18/03/2020, 22:05:08] Ian McGrail: Darren - any chance of getting a full list of public sector essential workers that reside in Spain so that I can share with CNP rather than send them individual details as they reach me? I've had Michael Caetano asking for the same you asked ref Montad in respect of 14 Gibelec contract workers.

[19/03/2020, 01:08:18] Darrren Grech: We could try.

[28/03/2020, 20:02:12] Ian McGrail: Good evening Darren - in a move to boost some morale - would you support the concept of allowing staff who are not able to take their A/L this year to be able to spread the leave over the next 2 years. The UK cops are doing this. Rgds Ian.

[28/03/2020, 22:15:04] Darrren Grech: Yes I would and will get a circular out

[28/03/2020, 22:16:25] Ian McGrail: Many thanks. We can discuss it further on Monday after cabinet meeting.

[28/03/2020, 22:19:43] Darrren Grech: Yes and the wording too

[28/03/2020, 22:19:53] Ian McGrail: 👍

[22/04/2020, 11:11:10] Ian McGrail: Darren - let me know when I can come to brief you on Caine S & the evidence against him.

[22/04/2020, 12:17:01] Darrren Grech: Okay would you mind sending me WhatsApp late this week to set up for early next.

[22/04/2020, 13:14:06] Ian McGrail: Ok

[22/04/2020, 14:30:38] Ian McGrail: We need your additional statement without further delay Darren.

[22/04/2020, 15:35:52] Darrren Grech: 👍 👍

[25/04/2020, 11:51:45] Ian McGrail: What a diatribe .....

I think that public servants & UNITE & GGCA should be aware that those on our salary sscale at present are actually doing more for less. Our predecessors were earning £25k more per annum and didn't have to deal with what we have on our plate. That is simple maths for you !!!!

[25/04/2020, 16:42:48] Darrren Grech: Amigo que te digo! Until the CM decides to show true power here this charades will continue. I said what I said because like you I am convinced. And then out they come pampering to their members who are either too thick or clever, the second being worse than the first. And of course as union officials by so doing they safeguard their own positions indefinitely. We have Wendy on 84k. Why does she not make herself useful and offer her services and experience as a lawyer or in treasury? But it is okay to comment on my salary and the "more for less" sound bite, and have my children witness the shambolic piss take on social media to what on balance was a message that needed to be put across. I would say it again and again. As to the "naughty children" reference, why should I sweeten the pill or dress it up? It is what it is and there

are people out there taking the piss. Pero no, we give them pay rises, we work in partnership and so on. I won't change however and I know you won't either. A few good men and women ...

[25/04/2020, 16:47:47] Ian McGrail: 

[27/04/2020, 14:44:28] Darrren Grech: In confidence and off the record looking for a 2015 document which might throw some light into the C. San. affair. Might even have to go to previous chief secs. I know you are under pressure but this is the reason for the delay because my team can't find it.

[27/04/2020, 14:46:37] Ian McGrail: Light in which direction?

[27/04/2020, 14:47:05] Darrren Grech: Off the record?

[27/04/2020, 14:47:14] Ian McGrail: Yes

[27/04/2020, 14:48:10] Darrren Grech: refers to a "Consultant Services Master Agreement between HMGoG and Bland Group effective 22 November 2015".

[27/04/2020, 14:48:20] Darrren Grech: Can't find it and need to

[27/04/2020, 14:50:07] Ian McGrail: What do you expect this document to say? I ask because we may already have it if Bland ever had a copy of it.

[27/04/2020, 14:53:25] Darrren Grech: Again off the record AG said it would be helpful to establish ownership. Have a dig and see if you have it.

[27/04/2020, 14:53:32] Darrren Grech: Want to out this one to bed

[27/04/2020, 14:53:55] Ian McGrail: I will ask my lot to check.

[27/04/2020, 14:55:01] Darrren Grech: Please

[27/04/2020, 15:30:55] Ian McGrail: Call me when you can

[29/04/2020, 16:50:16] Ian McGrail: image omitted

[08/06/2020, 20:09:53] Ian McGrail: Darren - I want to end all this saga but I need the terms agreed before I sign my letter to the Governor. Could you please expedite whatever you can so I can firm up my exit? Thanks.

[08/06/2020, 20:11:26] Darrren Grech: Quite understandable. Let me work on it tonight and tomorrow morning Ian. I need to clear with Principal Auditor etc without giving these people details of what I am working on.

[08/06/2020, 20:12:42] Ian McGrail: I am worried when you say that my pension rights are being 'considered' when really I am entitled to it.

[08/06/2020, 20:16:56] Darrren Grech: Don't worry, trust me please.

[08/06/2020, 20:17:49] Ian McGrail: It wouldn't be fair. I wouldn't be able to retire.

[08/06/2020, 20:18:15] Darrren Grech: You will and trust me please

[08/06/2020, 20:18:27] Darrren Grech: Give me this evening and tomorrow morning.

[08/06/2020, 20:20:14] Ian McGrail: Ok.

[08/06/2020, 21:21:50] Darrren Grech: Check your email.

[08/06/2020, 21:23:02] Ian McGrail: Many thanks

[08/06/2020, 21:23:50] Darrren Grech: Thanks Ian

[22/06/2020, 15:32:54] Ian McGrail: Darren - hope you're keeping well. Sorry for the bother but as pay day is coming up this Friday I wanted to ensure the agreed terms of my retirement have been actioned & that I will be getting my pension/gratuity and untaken leave/TOIL on Friday as otherwise I will only be receiving 9 days of pay for this month. I have alot of financial commitments which I do not want to fall behind with. I am sure you will understand. Can I have your assurances that all will be sorted for Friday please ?

Regards

Ian

[22/06/2020, 16:07:31] Darrren Grech: Yes Ian, but notwithstanding will forward to both Charles Santos and Collin Yeo

[22/06/2020, 16:07:43] Darrren Grech: Hope all is well.

[22/06/2020, 16:15:56] Ian McGrail: Thanks. Adjusting to this change in my life, turning a new leaf & looking forward to enjoying my time with my friends & loved ones.

[22/06/2020, 16:26:24] Darrren Grech: Things which are most important like the ones you are now doing should never be at the mercy of those which are less important. One day we have a beer or three.

[25/06/2020, 09:10:37] Ian McGrail: Morning Darren - I haven't recieved my pay slip or confirmation about my pension/gratuity payment & pay day is as from midnight tonight. Could you kindly advise if I will be receiving this information today. Thanks.

[25/06/2020, 09:11:58] Ian McGrail: I signed all the relevant papers when we agreed on the terms of my retirement.

[25/06/2020, 09:14:39] Darrren Grech: Ian I authorized everything. Will check up on you today. I promise you there are no hiccups.

[25/06/2020, 09:22:07] Ian McGrail: Many thanks. Me quedo tranquilo.

[25/06/2020, 09:22:45] Darrren Grech: 👍

[13/09/2021, 19:49:34] Darrren Grech: Ian, I have just been with CM and understand he is talking to you and he asked me for you to raise this with him. Thanks D

3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 22

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 22
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)



A Commissioner for Oaths

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

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 09 June 2020 09:41
To: (RGP) All Police Staff; (RGP) All Civilian Staff
Subject: OFFICIAL - Message

Dear all –

In nearly 36 years of service I have seen very many changes in the way we, the RGP, have provided policing for Gibraltar. From the analogue era to the digital and virtual world; from revolvers to semi-automatic weapons; from slow patrol boats to high speed interceptors; from patrolling sat on a wooden box in the patrol van to driving properly kitted out vehicles.

I have also seen many changes in the way we investigate crime, the evolution of forensic science, more accountability of how we deal with suspects and more transparency in practically everything we do.

I suppose that most of the changes could be regarded as materialistic. Throughout these three and a half decades I have adapted to the changes ensuring the purpose of why I joined to police service remained at the forefront of how I performed as a police officer.

What certainly has not changed during all this time have been my ethics, morals and principles. They remain etched in my soul and have got me through thick and thin during my career. I have worn my uniform and badge with immense pride. Doing the "right thing" even when it is not popular or comfortable is tough. It becomes tougher at senior management level.

My time has come to call an end to my service to the RGP and Gibraltar for the sake of my health and well-being. It has been a very difficult decision to make but one which I think is for the better. My principles remain intact and this is extremely important to me as a police officer and a human being.

It has been an honour and privilege to lead you men and women of such an exceptional organisation through very challenging periods.

I want to thank each and every one of you for the contribution you make to ensure Gibraltar remains the safe place that it is. Too often our work is taken for granted, but we do know that we certainly make a key difference.

I wish you and your families and the RGP the very best for the future.

My **Thin Blue Line Family** carries on !

Best wishes

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

Royal Gibraltar POLICE
Delivering a Safer Gibraltar through Excellence in Policing

PROJECT SERVATOR
TOGETHER, WE'VE GOT IT COVERED

3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 23

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 23
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)ITEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

A Commissioner for Oaths

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

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 09 June 2020 12:07
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: APPLICATION FOR EARLY RETIREMENT
Attachments: Governor - CoP Ret 090620.doc

Dear Commissioner

Please find a letter that I trust is self-explanatory.

I will copy the letter separately to the Chief Secretary.

Regards

Nick

N J Pyle OBE
Governor
The Convent
Gibraltar
tel +350 20045440 echo [redacted] mob: [redacted]

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Nick Pyle OBE

Governor & Commander-in-Chief

The Convent
Gibraltar

Tel: [redacted]

Ian McGrail MSc OTPM
Commissioner of Police

09 June 2020

Dear Commissioner

Thank you for your letter of 9 June submitting an application for early retirement from the Royal Gibraltar Police on the following terms as outlined in your letter, namely:

1. Untaken leave will be paid
2. Days off in lieu which have not been taken as leave will be paid
3. Pension will be calculated at current salary. Payments to begin on 1 July 2020
4. A contribution of £2500 towards my legal fees

I approve your application and agree to the terms as listed in full and final settlement of all claims what so ever and how so ever arising.

I therefore note that you will be relinquishing command of the Royal Gibraltar Police at 18.00 hrs this evening.

Yours sincerely

Nick Pyle

3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 24

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 24
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

A Commissioner for Oaths

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

From: Nick Pyle (Sensitive) <[redacted]
Sent: 09 June 2020 12:15
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: RE: APPLICATION FOR EARLY RETIREMENT

Ian

Despite all that has happened, please do take care and I do hope you get any help and support, whether from family, friends and others, that you may need.

My commitments outlined in my letter to you remain.

Regards

Nick

From: Nick Pyle (Sensitive)
Sent: 09 June 2020 12:07
To: (RGP) McGrail, Ian M.Sc (OTM) (Ian.McGrail@royalgib.police.gi) <Ian.McGrail@royalgib.police.gi>
Subject: APPLICATION FOR EARLY RETIREMENT

Dear Commissioner

Please find a letter that I trust is self explanatory.

I will copy the letter separately to the Chief Secretary.

Regards

Nick

N J Pyle OBE
Governor
The Convent
Gibraltar
[redacted]

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3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 25

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 25
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

A Commissioner for Oaths

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

ianmcgrail@gibtelecom.net

From: Charles Gomez <Charles@gomezco.gi>
Sent: 27 July 2020 14:08
To: Michael Llamas (michael.llamas_QC@gibraltar.gov.gi)
Cc: ianmcgrail[redacted]; Richard.Uliger@royalgib.police.gi
Subject: FW: Replies re former Commissioner

Importance: High

Dear Attorney General,

The ex-commissioner of the Royal Gibraltar Police, Mr. Ian McGrail has asked me to reply to the email below directly to you.

Your draft does not reflect Mr. McGrail's position.

Mr. McGrail considers that the matter of the termination of his appointment is a matter of major public importance and agrees that all parliamentary questions should be answered candidly and fully so that the people of Gibraltar have the full information that they deserve and as befits a mature Parliamentary democracy.

To the extent that there may be any Data Protection issues Mr. McGrail hereby waives them in the confidence that Parliament will be given with full, frank, fair and candid answers and that the misguided behaviour of the Gibraltar Police Authority which led to his agreement to retirement should be clearly stated, if reference has to be made to the huge personal stress which Mr. McGrail was put under.

Mr. McGrail believes and has been advised that any complaints against him of not having provided information in relation to the accident at sea which the GPA tried to rely on to force his retirement have no merit. You know this because you were party to emails and WhatsApp messages where Mr. McGrail provided timely and full information in relation to that unfortunate accident.

Similarly as Her Majesty' Inspectorate of Constabulary and Fire and Rescue services will confirm to you their criticisms of the incomplete implementation of the previous year's recommendations were not of a level of seriousness to merit the GPA's conduct in issuing a section 34 notice. You yourself are aware of the extraordinary demands put on the RGP in 2019 including, but not limited to the well-known arrest of the "Grace 1".

Please therefore reassure the Chief Minister that he is free to answer the questions in Parliament fairly and in full.

Having seen his career end in such an unfortunate manner Mr. McGrail wishes to get on with his life but does not want to interfere with the democratic process of the City at whose service he has spent an entire life working.

Yours sincerely,

Charles Gomez

CHARLES GOMEZ

00350 200 74000 www.charlesgomez.gi
charles@gomezco.gi 5 Secretary's Lane, Gibraltar GX11 1AA

CHARLES GOMEZ & COMPANY

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Begin forwarded message:

From: "(RGP) Ullger, Richard" <Richard.Ullger@royalgib.police.gi>
Date: 27 July 2020 at 13:04:49 GMT+2
To: Ian McGrail [redacted]
Subject: Fwd: Replies re former Commissioner

There goes.

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2271**

Web: www.police.gi
Follow Us on Twitter: @rgpolice
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Please consider the environment before printing this email.

Begin forwarded message:

From: "(GLO) Llamas, Michael" <michael.llamas@gibraltar.gov.gi>
Date: 27 July 2020 at 12:57:36 CEST
To: "(RGP) Ullger, Richard" <Richard.Ullger@royalgib.police.gi>
Subject: FW: Replies re former Commissioner

Michael Llamas CMG QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel (+350) 20051118
michael.llamas@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

HM Government of Gibraltar

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From: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Sent: 27 July 2020 12:50
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Subject: Replies re former Commissioner

Answer: The Chief Minister

Mr Speaker, the honourable gentleman has asked 20 questions about the retirement, performance or other aspects of a contract of employment an individual.

It is not appropriate for the House to be considering any matter related to the personal circumstances of an individual, especially an individual who data the government holds as a Data Controller.

This is not a question of not wanting to answer, but a case of what it is appropriate to address in this House.

In preparing this answer, the government has confirmed with the former Commissioner, Mr McGrail, as a relevant Data Subject, that he does not wish matters related to his retirement to form the subject of Government statements or answers in this house.

For the avoidance of doubt, however, Mr McGrail has authorised the Government to disclose that there are no compromise or confidentiality agreements entered into by him and the government other than the usual arrangement for early retirement of any government officer.

Additionally, some of the questions the Honourable Gentleman has asked are out of order as they relate to matters which are public or matters for which the government is not answerable.

For example, the Government is not answerable for the actions of the Governor or the Police Authority.

Another example relates to the Honourable Member's question about whether or not the Chief Minister has exercised any power under section 15 of the Police Act. This is entirely contrary to the rules given that I have already answered - in question xx - that I exercised the power in section 15 of the Police Act.

I refer the honourable gentleman to that answer

Finally, Mr Speaker, I would refer to the House and commend the recent statement from His Excellency the Governor appointing Mr Richard Ullger as Commissioner of Police.

I very much look forward to working with Commissioner Ullger, as I have with all Commissioners of Police with whom I have coincided in office, in the areas on which we will constitutionally jointly endeavour to apply the responsibilities of our respective offices to delivering the safety, security and prosperity of our people.

Ends

Sent from my BlackBerry — the most secure mobile device

3rd Affidavit:

Ian McGrail

Date: 4th October 2022

Exhibit: 26

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 26

TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

A Commissioner for Oaths

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

CHARLES GOMEZ& COMPANY

We are instructed by Mr. Ian McGrail OTM, MSc, the ex-Commissioner of the Royal Gibraltar Police.

Mr. McGrail is deeply concerned by the public confusion as to the reasons for his premature retirement on the 9th June 2020.

The matter has been the subject of Parliamentary questions, press articles and social media commentary.

In light of the public attention which this matter has naturally aroused, Mr. McGrail now firmly believes that the circumstances leading up to the early retirement of the principal law enforcement officer of the Crown in Gibraltar requires a definitive, well informed and detailed assessment.

Just as an example, neither Parliament nor the public via the news media have been told that the notice issued under section 34 of the Police Act by the Gibraltar Police Authority which triggered the entire process was withdrawn by the Gibraltar Police Authority following strong legal representations and the Government paid a contribution to Mr. McGrail's legal costs.

Without an independent judicial assessment there is a real risk to the reputation of Gibraltar as an advanced Parliamentary democracy under the rule of law.

As a loyal servant of the Crown these past 36 years and a loyal Gibraltarian, Mr. McGrail cannot stand by and watch this potential tarnishing of our City.

The matter of the early retirement of a constitutional office holder requires to be taken seriously. Mr. McGrail calls for an independent judicial inquiry by a High Court judge from the United Kingdom to be convened without delay.

He is sure that there can be no reasonable or rational objection to this.

The standing and reputation of our dear Gibraltar requires it.

Lisa Duarte

From: Charles Gomez
Sent: 28 July 2020 12:11
To: Brian Reyes [redacted])
Subject: Re: Press release on behalf of Mr. Ian McGrail OTM; MSc, the ex-Commissioner of the Royal Gibraltar Police

We are instructed by Mr. Ian McGrail OTM; MSc, the ex-Commissioner of the Royal Gibraltar Police.

Mr. McGrail is deeply concerned by the public confusion as to the reasons for his premature retirement on the 9th June 2020.

The matter has been the subject of Parliamentary questions, press articles and social media commentary.

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He is sure that there can be no reasonable or rational objection to this.

The standing and reputation of our dear Gibraltar requires it.

CHARLES GOMEZ
PRINCIPAL BARRISTER

00350-200-74998
www.charlesgomez.gi
charles@gomezco.gi
5 Secretary's Lane, Gibraltar GX 11 1AA

CHARLES GOMEZ & COMPANY

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3rd Affidavit:

Ian McGrail

Date: 4th October 2022

Exhibit: 27

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 27

TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons) TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

A Commissioner for Oaths

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

Charles Gomez

From:	Charles Gomez
Sent:	30 July 2020 14:11
To:	Nick.Pyle@fco.gov.uk
Cc:	Michael Llamas (michael.llamas_QC@gibraltar.gov.gi); (NO6) Canessa, Peter (peter.canessa@gibraltar.gov.gi)
Subject:	Chief Minister's Parliamentary Statement 31 07 2020

Dear Mr. Pyle,

We continue to be instructed by Mr. Ian McGrail.

In view of the public confusion relating to the circumstances of Mr. McGrail's retirement as Commissioner of the Royal Gibraltar Police, he has called for a high level judicial inquiry at which we are sure you will be called to give evidence.

Meanwhile, the matter is the subject of continuing Parliamentary scrutiny and the Chief Minister has given notice that he will be making a statement in Parliament tomorrow.

Although we cannot know what the Chief Minister is going to say, the indications from his replies to questions from the leader of the opposition on Monday indicate that he will be placing principal responsibility for this affair upon your good self.

I trust that you will agree that it is the obligation of us all to ensure that the Chief Minister is fully acquainted with all issues so that he provides absolutely accurate information to Parliament.

For this reason we will proceed to set out what we consider to be the incontrovertible background of your involvement in order to give you the opportunity to comment so as to ensure that the Chief Minister does not inadvertently mislead Parliament.

Background

1. At no time prior to your communications with the Gibraltar Police Authority did you ever express to Mr. McGrail any reservations regarding his performance as the head of the Royal Gibraltar Police in either of your capacities as a member of the Authority or, later, as interim Governor.

2. In your letter of the 3rd June 2020 to the Chairman of the Gibraltar Police Authority you refer to "*already existing concerns that I have had with the CoP*" (see second paragraph on the second page).

3. To Mr. McGrail's knowledge, you have never articulated what those "*existing concerns*" were to either Mr. McGrail or anybody else.

4. The high-water mark of your "*complaint*" to the Gibraltar Police Authority is to be found in the fourth paragraph on the second page of that letter:

> "*Furthermore, I suspected at the time of the immediate aftermath of the incident that the CoP's disclosure of information to me was evasive in particular in relation to the critical issue of whether or not the incident had occurred within BGTW. I know that when the CoP was telling me that it was not clear where the incident had occurred, he was informing the Chief Minister that the incident had indeed occurred outside BGTW. Indeed, it occurred some 7.5 nautical miles beyond Gibraltar's baseline and therefore well outside BGTW. I find this evasiveness on a key issue to demonstrate a total lack of respect to the office of Governor particularly since the CoP knew that this was the crucial issue for me and both the UK and Gibraltar Governments as far as diplomatic relations with Spain were concerned.*"

5. You provide no particulars of the alleged "*evasiveness*" but the record shows that in fact you were kept informed in great detail from the very first moment in person at meetings with Mr. McGrail which you attended together with the Attorney General and later via the information which Mr. McGrail was passing to the Attorney General in real time throughout.

6. As the Attorney General confirmed in his own letter to the Gibraltar Police Authority of the 5th June 2020 he is "*...the Crown's (in all of its facets, including the RGP) principal legal advisor in Gibraltar...*"

7. The self-description of the Attorney General's multifaceted responsibilities to provide legal advice is well known.

8. You yourself confirmed in your email to Mr. McGrail of the 8th June 2020 that even when the dispute arose you would continue to rely on the advice of the Attorney General. ("*To be clear, the AG is my Hon Legal Advisor so yes it is he who a Governor would take legal advice from*")

9. Certainly at all material times Mr. McGrail understood the position to be that all information which he was passing on to the Attorney General was being communicated to you.

10. Mr. McGrail fully briefed you on the information and evidence then available on the very day of the accident, i.e. 8th March 2020 and subsequently provided you with an update in person on the 9th March which you acknowledged and thanked Mr. McGrail for.

11. There is a wealth of communications in the form of e-mails, and text messages to show the extent and detail of the information which Mr. McGrail was passing on to you directly and via the Attorney General. You should have all of this traffic to hand as does the Attorney General and we invite you to provide it all to the Chief Minister so that he is better able to inform Parliament tomorrow.

12. An instructive WhatsApp message which shows that you were at all times working closely with the Attorney General is that which you sent to Mr. McGrail at 10:15 on the 9th March 2020:

> "*Morning. I was with the AG last night and we wondered whether it would be worth having an update at some stage later this morning. We are keen to reach (out) to Spain given talks this week in London (please protect).*"

13. A meeting duly took place that same day.

14. You will not be able to point out to any substantive and confirmed information which Mr. McGrail gave to the Chief Minister which he did not provide at the same time to either you or your lawyer, the Attorney General. This is because no such evidence exists and because far from being evasive Mr. McGrail was careful to keep you informed directly and via the Attorney General at all times.

15. Moreover it is also on the record that the Chief Minister who was working with the Attorney General was keeping the British Ambassador to Spain fully informed of all of the information that the Chief Minister and Attorney General were aware of. All of this in anticipation of a luncheon set to take place between the Ambassador and the Spanish Foreign Minister of the 9th March 2020. It is therefore demonstrably false to suggest that the Chief Minister had any information which your own legal representative did not have.

16. For the sake of completeness we must add that the formula which you use of *suspicion of evasiveness* is a loose one which ill befits the actions which you then proceeded to take by calling on the Gibraltar Police Authority to issue their ill-fated section 34 Notice. Basic principles of natural justice and due process require at the very least an explicit articulation of what your concerns were and how and what evidence you had to support them. Yet as late as the 3rd June 2020 **after** the section 34 Notice had been given you were still unable to provide anything more than a subjective "*suspicion*" and no evidence to support it.

17. We were, moreover deeply troubled to hear the Chief Minister tell Parliament that you had told him that you would be exercising your power under section 13 (1) f "*To suspend from duty, or call for the resignation of the Commissioner*". You appear to have come to the view that Mr. McGrail should be suspended or asked to resign before any of your concerns were put to Mr McGrail so he had the opportunity to answer them and before Mr. McGrail replied (within the time limits given) to the Chief Minister's request for factual information under section 15 of the Act. In any event the matter of the accident at sea was still being investigated by the Independent Team of the Metropolitan Police. By any measure your decision to call for Mr. McGrail's resignation or suspension was grossly premature and therefore fundamentally flawed and illegal.

18. Since the Metropolitan Police investigation is important to the issues which you say caused you concern, I would remind you that in a Situation Report by the Metropolitan Police dated the 23rd May 2020 which was received by the RGP on 27th March 2020 the Senior Investigating Officer reports having been "*in liaison with FCO regarding the political situation*" during their enquiries in Gibraltar.

    The Metropolitan Police was of course aware of all known circumstances regarding the accident including, by then, its location.

19. Our main concern at the moment is to ensure that the Chief Minister is fully briefed for tomorrow's Parliamentary session. However, since this correspondence will inevitably come before the Inquiry we think it proper to give you the opportunity to clarify the following matters:

    a. What were the "*existing deep concerns*" which you referred to in your letter to the Gibraltar Police Authority?

    b. Why were these "*deep concerns*" not raised with Mr. McGrail?
    + when ?

    c. Who did you raise your alleged "*deep concerns*" with?

    d. Did you raise the "*deep concerns*" with any of the Gibraltar Police Authority, the Attorney General or the Chief Minister?

    e. If you did raise the alleged "*deep concerns*" with any of those parties or anyone else at all, what did you tell them?

    f. Has the Metropolitan Police Investigating Team expressed any concerns about Mr. McGrail's handling of the incident? As you know Mr. McGrail asked for UK assistance *immediately* that the accident occurred and within 48 hours of the accident, confirmation had been obtained that the Metropolitan Police was willing to assist. Your suggestion therefore that Mr. McGrail seemed to you to have been "*evasive*" is misconceived and we invite you to review your email exchanges with Mr. McGrail of the 10th March 2020 in which you facilitated the engagement of the police in London.

    g. Having heard the Chief Minister's intervention in Parliament on Monday, it is wholly unclear who triggered the Gibraltar Police Authority section 34 procedure?

    h. The Chief Minister appears to say that the Gibraltar Police Authority initiated the process of its own volition; this is of course not correct. The Gibraltar Police Authority's curt letter of the 22nd May 2020 refers to "*grave concerns expressed by both the Governor and the Chief Minister*". The Chief Minister will no doubt answer to Parliament but we call on you to articulate what you told the Gibraltar Police Authority as to your "*grave concerns*". The Inquiry will no doubt require you to provide full details as to what you said and to whom.

    i. For the sake of good order Mr. McGrail will give evidence which we are sure will not be contradicted by the Chairman of the Gibraltar Police Authority that Mr. Britto told Mr. McGrail that he and all of the members of the Authority had been "*surprised*" by the manner in which you demanded the invoking of section 34.

j. We are forced to speculate that in fact the triggering of the section 34 procedure was not your idea but one which the Chief Minister and/or the Attorney General insinuated to you. We approach this particular point gingerly because the Chief Minister appears to have said in Parliament that it was you who was principally behind the ill-fated section 34 procedure and do not want to cast any doubt on the Chief Minister's word uttered as it was in Parliament. However, it does appear from the confused narrative which you and the Chief Minister have provided separately, that in fact you might have been moved to act as you did by complaints by the Chief Minister and/or the Attorney General. This being the case we urge you to ask the Chief Minister and the Attorney General for their entire files of communications with Mr. McGrail which will show you that far from being critical of Mr. McGrail's performance they were supportive and grateful to him. In particular you should you should ask for copies of the "*group chat*" opened by the Chief Minister himself under the title *"Maritime Incident"*.

In due course there will inevitably be very many more questions which you will be called upon to answer in the proper forum and what appears above should not be treated as a comprehensive and full description of the matters which greatly concern us and will concern the independent inquiry as to your behaviour in this matter.

We note that in your letter to Mr. McGrail of the 8th June 2020 you undertook "*to ensure (that Mr McGrail is) treated fairly and with respect at all times*". You reiterated that in your email to Mr McGrail on 9th June 2020. We count on that commitment which you gave as Governor of Gibraltar to remain the same.

We are copying this email to the Chief Minister's office and the Attorney General.

Yours sincerely,

Charles Gomez

CHARLES GOMEZ
PRINCIPAL BARRISTER
00350-200-74998
charles@gomezco.gi
www.charlesgomez.gi
5 Secretary's Lane, Gibraltar GX 11AA

CHARLES
GOMEZ &
COMPANY

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3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 28

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 28
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

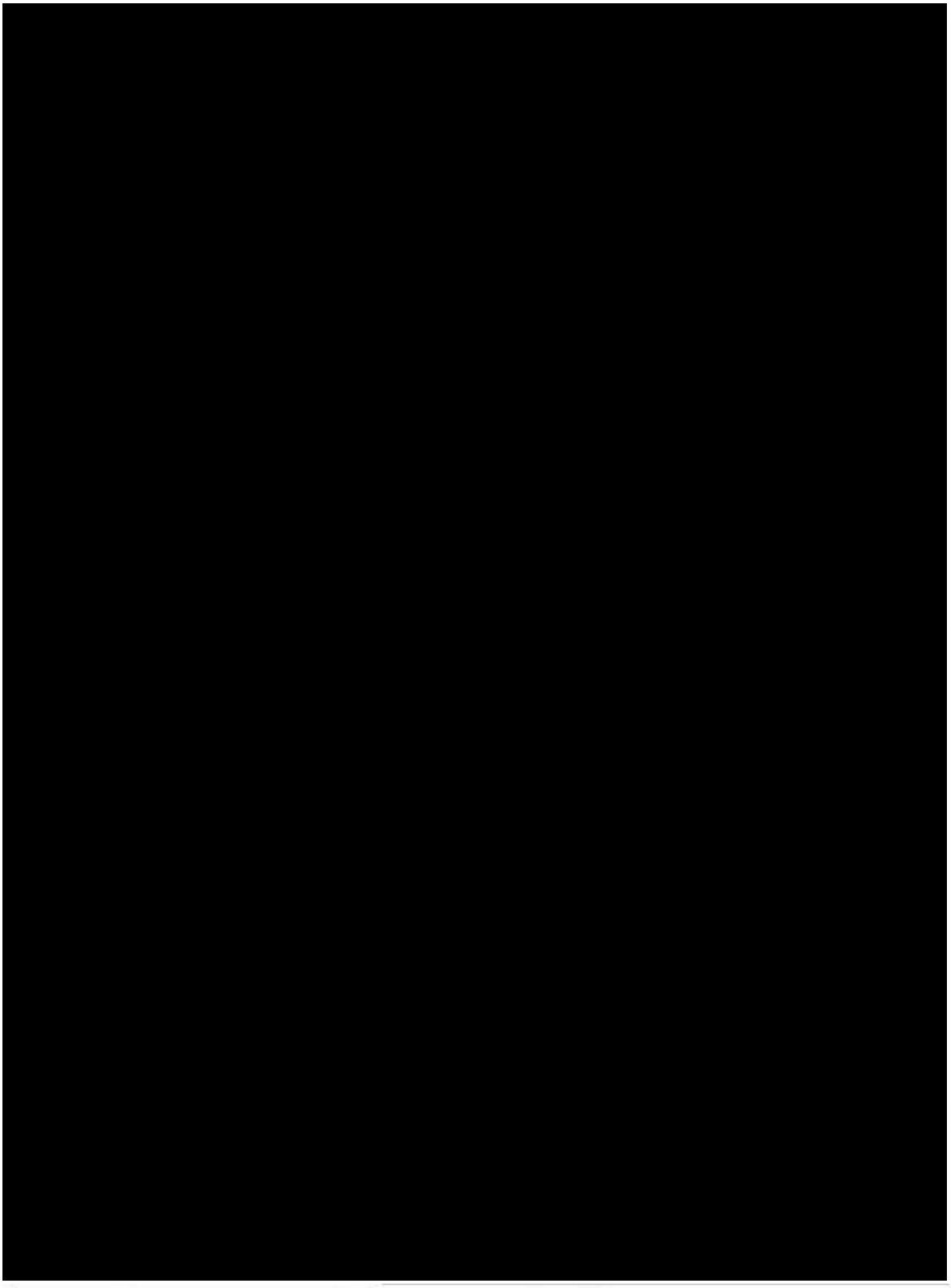


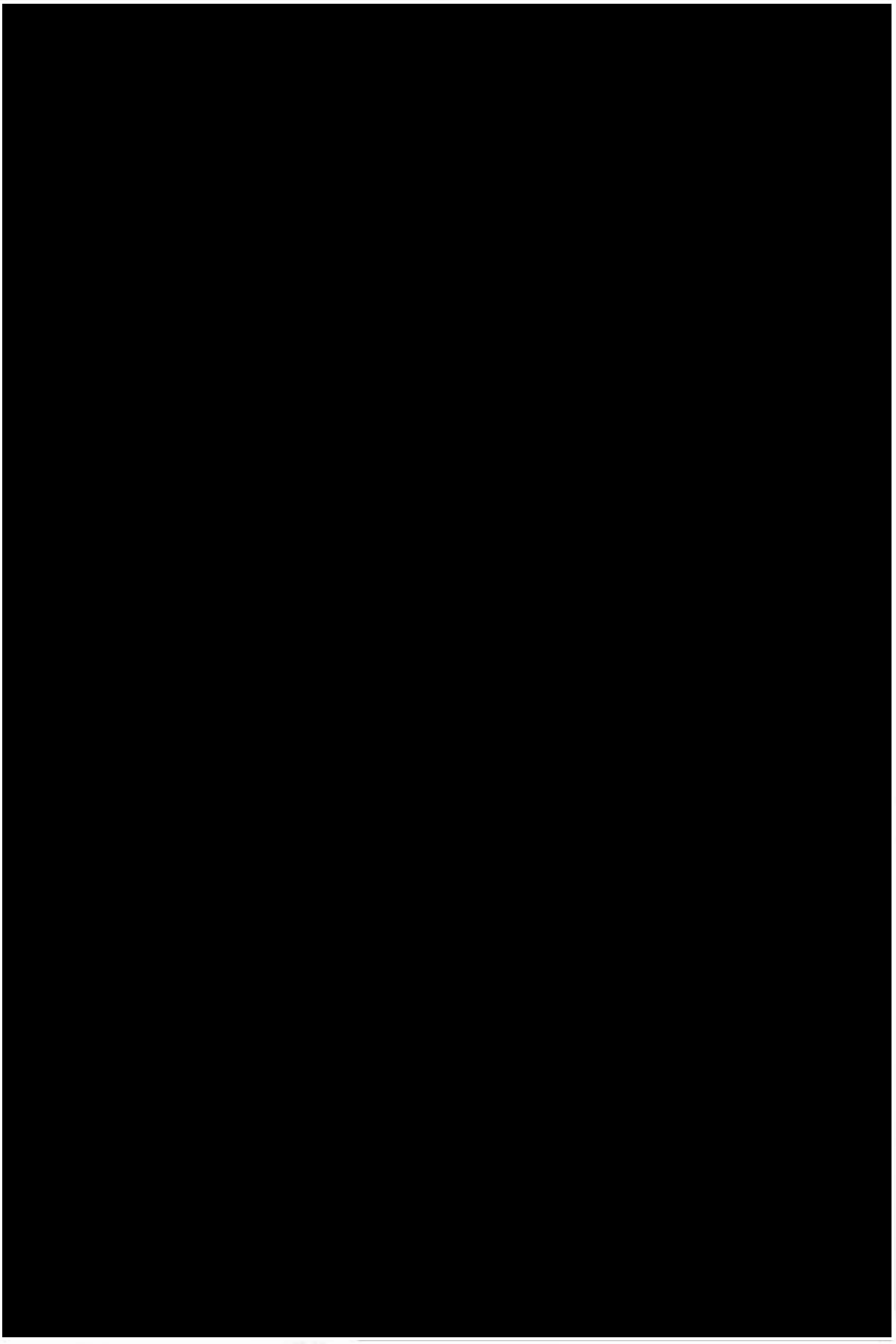
A Commissioner for Oaths

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

WHATSAPP CHAT LOG

Ian McGrail & Chris Rocca (DPP)





[redacted]

[27/01/2020, 15:38:03] Christian Rocca: Ian, r u free for a quick chat regarding operation Delhi?

[27/01/2020, 16:12:20] Ian McGrail: Yes I am [redacted]

[28/02/2020, 17:57:24] Christian Rocca: Hi Ian, can u speak for 5 mins? Thanks, Christian

[28/02/2020, 18:00:42] Ian McGrail: Yes I can

[28/02/2020, 18:01:00] Christian Rocca: Thanks will call u

[13/05/2020, 19:48:32] Ian McGrail: Chris, I have emailed you my proposed response to Lewis Baglietto

[13/05/2020, 19:49:17] Christian Rocca: Hi Ian, just replied with some minor changes. Feel free to call if that helps. Best, C

[13/05/2020, 19:49:31] Ian McGrail: Got it thanks

[13/05/2020, 19:49:44] Ian McGrail: Chat tomorrow if anything. Thanks for today.

[13/05/2020, 19:49:59] Christian Rocca: Perfect

[14/05/2020, 07:57:19] Christian Rocca: Ian I want to make one further minor amendment to the draft letter - will do it this morning and e mail to you

[14/05/2020, 08:08:40] Ian McGrail: Ok cheers.

[14/05/2020, 09:31:56] Ian McGrail: Chris - not meaning to rush you but I am heading into a meeting in an hour which will take me past midday & I want to send the response to Hassans before then.

[14/05/2020, 09:36:31] Christian Rocca: Ian it's only the addition of 1 word - amend "the DPP has been consulted on various non-operational issues....etc"

[14/05/2020, 09:36:59] Christian Rocca: I don't want them to conflict me out by alleging I have advised on operational matters

[14/05/2020, 09:37:09] Ian McGrail: Noted. Consider it done.

[14/05/2020, 09:37:26] Christian Rocca: I also think there is no purpose in reciting why you think he would cooperate

[14/05/2020, 09:37:44] Christian Rocca: Will only antagonize and clearly that must have been your position

[14/05/2020, 09:37:52] Christian Rocca: Would not cooperate

[14/05/2020, 09:38:08] Christian Rocca: I will resent with my recommended removal for you to consider

[14/05/2020, 09:38:33] Ian McGrail: Ok. Please send now if you can.

[14/05/2020, 09:38:41] Christian Rocca: 2 mins

[14/05/2020, 09:41:10] Christian Rocca: Sent

[14/05/2020, 09:43:08] Ian McGrail: Got it ta.

[14/05/2020, 11:25:04] Christian Rocca: Ian, can the AG and I have copies of the letter for the file please. Many thanks, C

[14/05/2020, 11:25:36] Christian Rocca: In case there is a JR of the warrant

[14/05/2020, 11:26:02] Ian McGrail: Sure.

[22/05/2020, 11:48:47] Christian Rocca: Hi Ian, have heard what's happened. Happy to speak if I can assist at all. Best, C

[22/05/2020, 12:44:16] Ian McGrail: Thanks Chris. I am going to take the weekend to reflect on what is happening to me. I will revert early next week.

[22/05/2020, 13:00:33] Christian Rocca: Just wanted you to know that I am always able to speak. Take care, C

3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 29

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 29
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

A Commissioner for Oaths

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

Joanne

From: Charles Gomez
Sent: 04 August 2020 12:49
To: Michael Llamas (michael.llamas_QC@gibraltar.gov.gi)
Cc: (GLO) Rocca, Christian (christian.rocca@gibraltar.gov.gi)
Subject: Press briefings - Commission of Inquiry - Ian McGrail

Importance: High

Dear Mr. Attorney General,

Please find a link to an article which appeared in the Spanish national newspaper, "El País" https://elpais.com/espana/2020-08-03/gibraltar-inicia-una-investigacion-tras-el-choque-mortal-de-una-patrullera-policial-con-una-lancha-espanola.html

We would highlight the following paragraph:

"El accidente motivó además la jubilación anticipada del entonces comisario de la Royal Gibraltar Police, Ian McGrail, después de las "aparentes contradicciones" en su versión de lo ocurrido, según aseguran fuentes cercanas al Gobierno de Fabian Picardo."

Since you were intimately involved with every single exchange relating to the accident at sea from the very day in which the unfortunate event occurred, you will be able to confirm that it is not true that there were any *"contradictions"* in Mr. McGrail's version of the events.

Although we do not suggest that you have any power or responsibility in relation to what the press publishes, the article clearly indicates that someone close to the Chief Minister or the Government of Gibraltar is briefing against Mr. McGrail.

This is, of course, reprehensible *per se*, but particularly serious given that there is a Commission of Inquiry about to be convened and as the Chief Minister himself said in Parliament in more general terms, the matter is *sub judice* for other reasons.

If the source of the information reflected in El País is a public servant, then there is at least a possibility of breaches of the Official Secrets Act and / or General Orders.

We would therefore ask that you convene an investigation into this *"briefing"*.

Mindful of the fact that you clearly have a conflict of interests in this matter, we are copying this letter to the Director of Public Prosecutions, since you might both consider it appropriate that he should take control of the situation.

Certainly from our client's perspective, it is essential that there should be no further *"briefings"* against him.

The whole rationale of the calling of the inquiry was to ensure that relevant matters are dealt with thoroughly and in a judicial context, and not by way of trial by the press or social media which was the situation that prevailed before Mr. McGrail was forced to demand a Public Inquiry.

We expect that the Chief Minister will also have taken a very dim view of anyone associated with him indulging in this reprehensible and cowardly behaviour.

We look forward to hearing from you and Mr. Christian Rocca QC and reserve all our client's rights.

Needless to say, we will want this exchange of correspondence to be brought to the attention of the Commissioner of Inquiry.

Yours sincerely,

Charles Gomez

CHARLES **GOMEZ**
PRINCIPAL BARRISTER

00350-200-74998
www.charlesgomez.gi
charles@gomezco.gi
5 Secretary's Lane, Gibraltar GX11 1AA

CHARLES GOMEZ & COMPANY

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www.caruana.gi

By Hand & Email

Charles Gomez & Co
5, Secretary's Lane,
Gibraltar

For the attention of Mr Charles Gomez

5th August 2020

Dear Sirs,

Retirement of Ian McGrail as Commissioner of Police

We represent HM Government of Gibraltar, the Chief Minister, the Hon Fabian Picardo MP, QC and HM Attorney General for Gibraltar, the Hon Michael Llamas QC in relation to the forthcoming inquiry announced by the Chief Minister into the circumstances leading to the early retirement of your client, Mr McGrail as Commissioner of Police.

We acknowledge receipt of your email dated 4 August 2020 timed at 12:49:15 GMT addressed to HM Attorney General, Michael Llamas to which we are instructed to reply on his behalf.

All of our clients deny that they, or anyone on their behalf, is engaged in what you call "briefing against Mr. McGrail". Having announced an inquiry for that very purpose, it is our clients' position that all relevant aspects of the matter (save those on which they may have a public duty to comment) be dealt with in the context of the inquiry, and not in the press. That said, our clients deny that the latter "was the situation that prevailed before Mr. McGrail was forced to demand a Public Inquiry".

The Attorney General does not consider that it is within his functions or powers, or those of the Director of Public Prosecutions, to convene the investigation that you request. Nor does the Attorney General consider that he has a conflict of interests in that respect. Accordingly, the Attorney General does not consider that it is appropriate that the Director of Public Prosecutions "should take control of the situation", whatever you may understand by that.

For its part, HMGOG considers that it is disproportionate to "convene an investigation into the "briefings"", as you request.

The Hon. Sir Peter Caruana K.C.M.G., Q.C
peter@caruana.gi
Christopher Allan LL.B (Hons)
chris.allan@caruana.gi
Patrick Caruana LL.B (Hons)
patrick@caruana.gi
Georgina Dobbs BA (Hons)
georgina.dobbs@caruana.gi
Philip Dumas BA (Hons)
philip.dumas@caruana.gi

It is entirely a matter for your client whether he seeks to bring this exchange of correspondence to the attention of the Inquiry, and for the Inquiry to decide, in the light of the scope of its terms of reference, whether it is appropriate for him to do so.

Finally, and for your client's information, HMGOG will shortly be consulting with your client (through you) in relation to the Inquiries' terms of reference, which will reflect the statements made in that regard by the Chief Minister in Parliament on 31st July 2020.

Yours faithfully,

Peter Caruana & Co

3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 30

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 30
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)



A Commissioner for Oaths

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

FORM WIT 1

OFFICIAL – CRIME (WHEN COMPLETE)

ROYAL GIBRALTAR POLICE

STATEMENT OF WITNESS

Criminal Procedure and Evidence Act 2011 ss. 187 and 405; Criminal Procedure Rules r 16.2

CR/OB No [ ][ ] – [ ][ ] – [ ][ ][ ][ ][ ][ ][ ][ ] – [ ]

Surname: McGrail Forenames: Ian

Age of witness (if over 18 enter over 18): Over 18

Occupation: Retired Commissioner of Police.

This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 21 day of April 2021

Signed .....

My name is Ian McGrail and I am the above described person.
At 1516hrs on the 20th April 2021, I recieved a communication from Commissioner Richard Vinske asking me if I was aware of graffiti which had been found he did not disclose where this graffiti was located. I replied that I was not aware and enquired where this had occurred to which I was told it was the upper rock.
The ~~[illegible]~~ graffiti was at two different locations in the upper rock. One post had written, in an effort to disguise proper spelling and grammar, "corupted (two stops of paud) Tews XX Comimisoner MAGRAIL THE £TEWS R M coming £4 V" with a carton face at the end. The second graffiti ~~[illegible]~~ stated "COMMISIONER

Signed: _____ Signature Witnessed by: _____ 15

(NOTE: FILL IN PAGE OVERLEAF)

The contents of this document will be processed in strict compliance with the Royal Gibraltar Police's policy on Data Protection, which has been complied in accordance with the provisions of the *Data Protection Act 2004*

OFFICIAL – CRIME (WHEN COMPLETE)

WIT 3

OFFICIAL – CRIME (WHEN COMPLETE)

CR/OB No [ ][ ] – [ ][ ] – [ ][ ][ ][ ][ ][ ][ ][ ] – [ ] Page No: 2

Cont. of statement of: IAN McGrail

MAGRAIL, THE JEW R coming" followed by a Star of David.
It is my understanding that this graffiti was written in the upper rock at a lane branching off Queens Rd.
I FIND THE GRAFFITI to be obscene and whoever the culprit is, is playing dirty and malicious games. i can only link or attribute these comments to my previous role as commissioner of Police, I have never had any issues whatsoever during my personal or professional life with any member of the Jewish faith, moreover, my paternal grandmother was Jewish herself. Notwithstanding, Just before my retirement officers of the RGP were investigating a very complex and in my view serious criminal matter. which drew them to conduct some lines of enquiry, with a prominent Local lawyer and member of local Jewish community. This intervention by RGP officers was received with great resentment as police records on the particular case show. This is the only contentious in their view, issue connected to the Jewish community during my tenure as commissioner. whilst i can not pin point or identify who is behind this obscenity, i can only think of this mentioned matter as the precursor to the graffiti. It causes me grief to the extent where i am concerned about any possible repercussions on myself or members of my family in whatever form this may manifest itself, for simply discharging my role in Law enforcement. I

Signed: _____ Signature Witnessed By: _____

The contents of this document will be processed in strict compliance with the Royal Gibraltar Police's policy on Data Protection, which has been compiled in accordance with the provisions of the *Data Protection Act 2004*

OFFICIAL – CRIME (WHEN COMPLETE)

WIT 3

OFFICIAL – CRIME (WHEN COMPLETE)

CR/OB No [ ][ ] - [ ][ ] - [ ][ ][ ][ ][ ][ ][ ][ ] - [ ]

Page N°: 3

Cont. of statement of: Ian McGuire

I am both wishful and hopeful that the culprits "warning" (me) to me is merely either completely false with a view of causing me distress and alarm and that it does not come to any form of fruitation.

This is an initial statement of complaint, however, if further details are required further on during the subsequent investigation, I will gladly assist with the provision of details...

Graffiti found in the Upper Rock on 20th April 2021




COMMISONER
MOGRAIL
THE
EEN
R
COMING



3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 31

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 31
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

A Commissioner for Oaths

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

Graffiti found at Landport Bridge on 25th June 2021



3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 32

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 32
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
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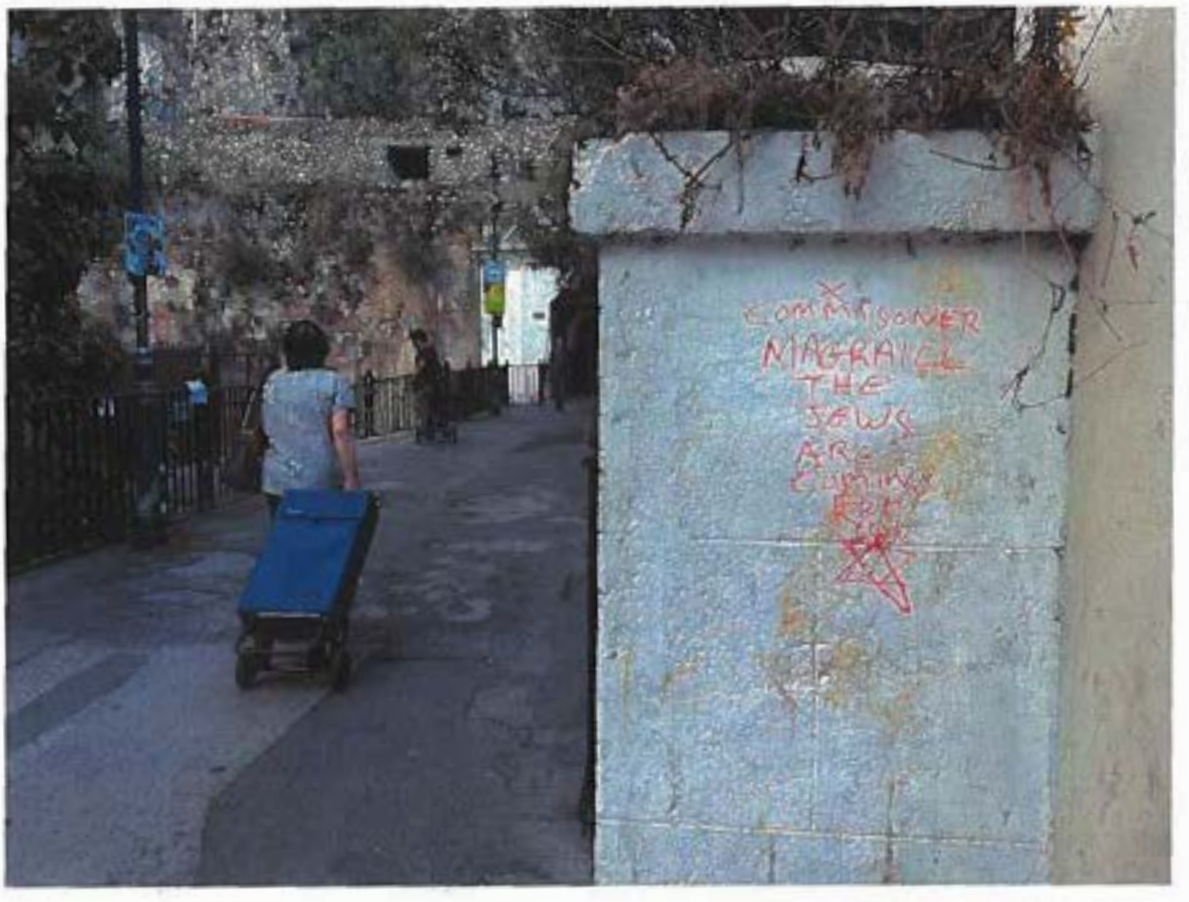
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

A Commissioner for Oaths

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

Graffiti found in Landport Bridge on 1st October 2021



3rd Affidavit:
Ian McGrail
Date: 4th October 2022
Exhibit: 33

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 33
TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
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Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

A Commissioner for Oaths

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

Graffiti found in Landport Bridge on 29th October 2021



3rd Affidavit:

Ian McGrail

Date: 4th October 2022

Exhibit: 34

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 34

TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)



A Commissioner for Oaths

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

❖ On 11 May 2021, at 10:05, [redacted] wrote:

Dear Darren –

I hope this e-mail finds you well.

Time flies and it is practically coming up to a year since I left the RGP. Now that I am 55 years old I have been doing the rounds with the Income Tax Department *viz* my social insurance contributions and tax status in accordance with the instructions I received from the DSS in the pension forecast they provided me. It is for this reason that I am writing to you.

I have been informed by the Social Insurance Contributions Section at the Tax Office that I do not qualify for Essential Credits because I was a head of department and I retired before the compulsory retirement age of 60. This is technically incorrect as in my case I was serving under a Governor's warrant for a term of 4 years [my contract] and therefore my compulsory retirement age would not have been 60 but rather 56. You will agree that my situation as commissioner of police under a specific contract is completely different to that of another head of department and you will be aware that there is precedent for this.

With regards to my tax status I have been informed by PAYE that my code will be amended so that I do not pay tax on my occupational pension. However, the very kind lady attending to me mentioned this would still need approval from SI contributions section and Treasury. Given the position of SI contributions section mentioned above I am concerned that the same interpretation of the compulsory retirement age will be applied to me on this matter too.

You will recall during my final e-mail exchanges with you on 8th June 2020 that I made certain requests on the conditions for my early retirement. These conditions I had also discussed with Nick Pyle who was the interim Governor at the time. He relayed these conditions to you and an exchange of emails between you and I ensued. Of the 5 conditions I put forward you did not accept one and partially accepted another one, i.e. the claim for payment until end of contract and my legal fees. The other conditions were accepted. One of these related to my pension where I asked that this be worked out based on my salary at the time. Under this condition I also expressed my understanding that my pension would be taxable until I attained the age of 55. There was tacit approval from you on this and based of this agreement I worked out my pension/gratuity package for my future income.

It is evident that the compulsory retirement age being referred to by SI contributions section is not applicable to my case for the reasons already alluded to above. I respectfully ask that you impart the conditions of my early retirement to the SI contributions and PAYE sections respectively so that they can action accordingly.

Look forward to hearing from you.

Best wishes

Ian

❖ **From:** "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
Date: 11 May 2021 at 16:37:21 GMT+2
To: [redacted]
Subject: Re: Personal - social insurance contributions & PAYE

Dear Ian,

I hope you are well and enjoying life.

I will action this with SI.

Best wishes,

D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

"I am the master of my fate: I am the captain of my soul."

- On 11 May 2021, at 17:27, Ian McGrail [redacted] wrote:

Darren -
Many thanks for your kind attention and intervention on this matter.

Best wishes

Ian

Sent from my iPhone

- On 18 May 2021, at 12:56, Ian McGrail [redacted] wrote:

Dear Darren -
Would you have an update for me in relation to your intended intervention with the Tax Office as referred to in your email of 11th May 2021.

Regards

Ian

Sent from my iPhone

❖ On 18th May 2021, at 14:08, Darren Grech <Darren.Grech@gibraltar.gov.gi> wrote:

Ian I am waiting on Nicholas Richardson who was on leave. D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

❖ **From:** Ian McGrail [redacted]>
Sent: 18 May 2021 14:23
To: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Cc: (DSS) Richardson, Nicholas <nicholas.richardson@gibraltar.gov.gi>
Subject: Re: Personal - social insurance contributions & PAYE

Darren - noted with many thanks.

Regards

Ian

Sent from my iPhone

❖ On 20 May 2021, at 16:01, [redacted] wrote:

Dear Darren –

By way of update I attach a letter from the Income Tax Office dated 11t May which I have only received in the mail today informing me that my application for Essential Credits has not been approved. As you know, the implications of this non approval is that my pension will remain taxable until I attain the age of 60 which is contrary to what we agreed on my retirement.

I know you are waiting for the Director of Social Insurance, Nicholas Richardson, to return from leave next week to action the conditions we agreed for my retirement but I nonetheless wanted to share with you the correspondence I have received from the Tax Office. Evidently the matter will not be resolved in time for the payment of this month's pension but I trust it will be resolved as soon as possible when Mr Richardson returns to work.

For your information I have also attached a copy of my warrant of appointment, issued by HE The Governor under section 3.2 of the Police Act 2006 (itself a statutory instrument) which highlights the

term of office as four years and which by default confirms that my compulsory retirement age was not 60 years as is being interpreted by the Tax Office.

As you copied Nicholas Richardson in our last exchange I have done likewise in the hope that the matter is expedited on his return to the office.

Best wishes

Ian

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex: 2832
darren.grech@gibraltar.gov.gi
www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

- On 20 May 2021, at 16:50, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Thanks, D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

- On 27 May 2021, at 12:27, Ian McGrail <[redacted]> wrote:

Dear Darren -
Have you any news for me?

Rgds

Ian

Sent from my iPhone

❖ On 27 May 2021, at 17:44, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

I asked Nicholas to give me some options so I could consider. D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

"I am the master of my fate: I am the captain of my soul."

❖ On 3 Jun 2021, at 08:48, Ian McGrail [redacted] wrote:

Good morning Darren -
Was wondering if you had been able to resolve the issue of my tax status and social insurance contributions essential credits.

Regards

Ian

Sent from my iPhone

❖ **From:** (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 03 June 2021 15:59
To: Ian McGrail [redacted]
Subject: Re: Personal - social insurance contributions & PAYE

Ian not an easy puzzle but on it. D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

"I am the master of my fate: I am the captain of my soul."

❖ On 4 Jun 2021, at 13:18, [redacted] wrote:

Dear Darren –

Many thanks for your response yesterday but would you be able to advise me what are the difficulties you are facing to resolve the issue. I merely enquire because it is a matter that was agreed upon when my early retirement was accepted.

In utmost confidence, please note that the CM has asked to see me. I was meant to be seeing him this evening but this has been rescheduled for next Monday and I would sincerely like the matter of my tax status sorted before meeting him.

Under the circumstances I look forward to hearing from you soonest.

Kind regards

Ian

- On 4 Jun 2021, at 16:25, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Thanks Ian; promise to revert quickly. D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

"I am the master of my fate: I am the captain of my soul."

- **From:** Ian McGrail <[redacted]
  Date: 9 June 2021 at 09:33:46 GMT+2
  To: "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
  Subject: Personal - social insurance contributions & PAYE

Dear Darren -
Have you been able progress my matter? I am conscious that by next week Treasury will have prepared all pensions and I do not want to also miss out on this month too.

KR

Ian

Sent from my iPhone

- On 28 Jun 2021, at 09:14, Ian McGrail <[redacted] wrote:

Dear Darren,

I have purposely not chased up our last email exchange of 3 weeks ago (9th June) precisely to allow you plenty of time to resolve my issue.

I would be very grateful if you could advise by when I should expect this to be sorted out bearing in mind that I first raised the matter with you on 11th May.

I trust you fully understand my predicament and concern at resolving this matter as soon as possible.

I look forward to hearing from you and bring closer to this subject.

Kind regards

Ian

Sent from my iPhone

- On 28 Jun 2021, at 09:23, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Good morning Ian,
I do of course understand. We should be closer this week on this. I am interviewing mostly all week with full PSC but kindly remind me please early next week.

I hope you are well.

Best wishes,

D

Darren Grech

Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

"I am the master of my fate: I am the captain of my soul."

- On 28 Jun 2021, at 09:25, Ian McGrail <[redacted]> wrote:

Dear Darren,
Many thanks, and yes, I will follow up next week with you.

Regards

Ian

Sent from my iPhone

❖ On 28 Jun 2021, at 09:32, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Thanks Ian

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

"I am the master of my fate: I am the captain of my soul."

❖ On 5 Jul 2021, at 11:14, Ian McGrail [redacted] wrote:

Good morning Darren -
You asked me to remind you this week about my pending matter. I truly hope that it has now been sorted.

Regards

Ian

Sent from my iPhone

❖ On 5 Jul 2021, at 11:16, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

On its way to sorting. Will let you know. Please don't despair with me. D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

❖ On 5 Jul 2021, at 11:24, Ian McGrail [redacted] wrote:

Darren - most grateful. Just needed the reassurance that it was going to be sorted. Promise I won't despair from hereon.

Sent from my iPhone

❖ On 5 Jul 2021, at 11:26, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Cheers mom ami

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

❖ On 3 Aug 2021, at 08:53, Ian McGrail [redacted] wrote:

Good morning Darren -
It is a month since our last email exchange and I was wondering if you knew whether my tax & social insurance status will be resolved for this month.

Best wishes

Ian

Sent from my iPhone

❖ On 3 Aug 2021, at 17:47, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Good afternoon Ian,
I apologise for the delay; I am awaiting for some final advice on this and will revert soonest.

Please forgive me.

D

Darren Grech

Chief Secretary

❖ On 3 Aug 2021, at 19:32, Ian McGrail [redacted] wrote:

Darren many thanks. I will await to hear from you.

Nearly 4 months have now flown by from when I was meant to have had my tax and SI status amended as per arrangements when I retired. I take it that you will be applying the change retrospectively to 4th May 2021?

I honestly didn't expect this was going to be such an elaborate procedure considering that there is precedence to my circumstances.

Best wishes.

Ian

❖ On 3 Aug 2021, at 19:33, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Yes Ian I will help in every respect. D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

❖ On 3 Aug 2021, at 19:51, Ian McGrail [redacted] wrote:

Much obliged Darren.

KR

Ian

Sent from my iPhone

❖ On 31 Aug 2021, at 10:02, Ian McGrail <[redacted] wrote:

Dear Darren,
Have you any news on my matter? I am conscious that our last communication was 5 weeks ago. I am resisting any despair because you have reassured me that it WILL be sorted but then again I cannot help but feel concerned.
Kind regards
Ian
Sent from my iPhone

❖ On 31 Aug 2021, at 13:07, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

And it will. I need please just a little more. Please. D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

❖ On 31 Aug 2021, at 13:57, Ian McGrail [redacted] wrote:

Dear Darren -

Many thanks. I would be very grateful if you could let me know when can I expect a substantial reply and closure on the subject of my tax and social insurance status which you are addressing for me.

In any event, I would not want this matter, which is one that was agreed at the time of my retirement, to be mixed up with any other issue(s).

KR
Ian

Sent from my iPhone

❖ On 31 Aug 2021, at 13:58, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Indeed Ian. Trust me please. D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

❖ On 13 Sep 2021, at 18:40, Ian McGrail [redacted] wrote:

Dear Darren -
I would be most grateful if you could grant me an appointment to see you face to face, preferably this week.

Please advise if I need to put this request via your PA/Secretary.

Kind regards

Ian

Sent from my iPhone

- On 13 Sep 2021, at 18:46, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

No Ian I will oblige. Give me tomorrow to schedule. D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

- On 13 Sep 2021, at 18:47, Ian McGrail [redacted] wrote:

Darren Many thanks.
Rgds

Ian

Sent from my iPhone

***** At 1949hrs on 13 Sept 2021 I received a whatsapp message from Darren Grech which stated;-**

"Ian I have just been with the CM and understand he is talking to you and he has asked me for you to raise this with him. Thanks D. " ***

- On 13 Sept 2021, at 19:51 (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

See WhatsApp

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

- On 11 Oct 2021, at 16:03, [redacted] wrote:

Dear Darren,

Please see attached letter.

Kind regards

Ian

Mr Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar:

11th October 2021

Dear Chief Secretary,

Re:- My personal tax and social insurance status

Our e-mail exchanges of diverse dates between 11th May and 13th September 2021 refer.

Throughout this correspondence you have repeatedly given me assurances that the matter that I raised with you regarding my tax and social insurance status would be resolved. In our last exchange on the 13th September, following my request to meet you face to face, you advised me that you had spoken to the Chief Minister and that he had asked that I refer this matter to him. Under the circumstances I do not consider it appropriate to re-open discussion and agreements which had already been reached between you and I with the Chief Minister.

Aside from my misgivings as explained above, the Chief Minister has given public notice that he is currently fully focussed on the Brexit discussions and this is another reason why I think it would be inappropriate to try and engage with Mr Picardo. As Chief Secretary of the Government of Gibraltar, I am sure that you will want to avoid involving the political government in a matter which relates to arrangements/entitlements which you have acknowledged. Your asked me to pledge my trust in you and I did.

I look forward to receiving closure on this matter which as you too have acknowledged is taking an inordinate amount of time to resolve. You will no doubt appreciate the obvious implications *viz-a-viz* my Old Age Pension, when the time comes, if this is not resolved as per our agreement.

With anticipated thanks.

Yours faithfully,

Ian McGrail

[redacted]

13

<letter to Chief Sec 11 Oct 2021.pdf>

- **From:** (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
  Sent: 11 October 2021 16:13
  To: [redacted]
  Subject: Re: Personal - letter

Thanks Ian. D

Darren Grech

Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

"I am the master of my fate: I am the captain of my soul."

- On 2 Nov 2021, at 10:12, [redacted] wrote:

Dear Darren

Please see attached.

Regards

Ian

Mr Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar:

2nd November2021

Dear Chief Secretary,

Re:- My personal tax and social insurance status

I refer to my letter to you dated 11th October 2021 a copy of which I attach for ease of reference.

21 days have elapsed and I have not had a response to the letter other than a one worded acknowledgement that you had received it on the same day I sent it to you.

As Chief Secretary you are no doubt dealing with many things simultaneously and I would like to think that your non response to my letter is not intentional. Throughout my correspondence with you over the past 6 months I have always been courteous and patient. Similarly, you have always been very prompt with your responses providing me with much needed reassurances which as you know I have greatly appreciated. It is because of this change in your approach that I regret to say that I cannot help but feel totally disregarded and disrespected. I have been a loyal servant of the Crown and Gibraltar for 36 years and I question what is it that I have done not to merit a response from you to my letter or indeed not be treated fairly as I was assured I would be by HE the Governor back in June 2020.

Given that you non response coincides with you speaking to the Chief Minister about my matter, I am respectfully asking you to please let me know the nature and content of your exchange with Mr Picardo in this regard so that I am aware of where I stand.

Keeping my hopes up and trusting you to respond.

Yours faithfully,

Ian McGrail

[redacted]

❖ On 2 Nov 2021, at 17:16, (NO6) Grech, Darren <darren.[redacted]@gibraltar.gov.[redacted]> wrote:

Dear Ian,

I hope you are well; I am truly sorry for the delay. We should revert shortly.

Best wishes,

D

Darren Grech

Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

"I am the master of my fate: I am the captain of my soul."

- **From:** Ian McGrail [redacted]
  Date: 2 November 2021 at 18:30:07 CET
  To: "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
  Subject: Personal - letter

Dear Darren -

Many thanks for your response but I am afraid that is not good enough.

You told me that I should not worry and that you would resolve this matter several months ago.

If you have changed your position please let me know why. Otherwise please confirm my entitlement as we discussed.

I thank you in advance for your kind attention.

Regards

Ian

- **From:** Ian McGrail [redacted]
  Date: 23 November 2021 at 09:04:38 CET
  To: Darren Grech <darren.grech@gibraltar.gov.gi >
  Subject: Fwd: Personal - letter

Dear Darren -

A further 21 days have now gone by since my last correspondence to you on 2nd November 2021 which was in response to your consistently very short apologetic stance to excuse the lack of progress in resolving my personal tax and social insurance matter dated the same day.

Your response on this day was "Dear Ian, I hope you are well; I am truly sorry for the delay. We should revert shortly". I responded to your email a few moments later expressing my discontent with the manner I was being treated, more so when what I am chasing you about is something you had acknowledged months back. I also enquired from you whether your position in this regard had changed and if it had I was respectfully asking you why this was the case - Conversely, I asked you t confirm what we had discussed back in June 2020 if this was not the case.

Not only have you not responded to my last email, the fact that you stated you would revert shortl but still haven't after 21 days worries me a great deal.

I reiterate my pledge to you as Chief Secretary of HM Government of Gibraltar: What have I done not to be treated fairly in terms of the arrangements reached with you at the time of my retirement? Why can't I get straight forward and clear answers to the questions I am posing you? Do I merit this disdain after 36 loyal years of public service? Surely you will have to agree that it is not me who is being the unreasonable one here.

I look forward to hearing from you and receiving closure once and for all.

Regards
Ian

- On 13 Dec 2021, at 09:46hrs, [redacted] wrote:

Dear Darrren

It has been 41 days since your last corresponded with me saying you would revert shortly.

I did not receive a response from you on 2nd November and neither did you acknowledge my further chaser on 23rd November 2021.

What is happening Darren? What am I supposed to out make of your repeated assurances, promises that you would revert with the matter resolved and your pledge for me to trust you?

I know you hold a very demanding post which is why I have exercised the utmost of patience, but please Darren, why are you treating me like this?

Sincerely

Ian

Sent from my iPhone

- On 13 Dec 2021, at 15:52, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Dear Ian,

I hope you are well and apologies for the tardiness of my reply.

I am not treating you in any way, I am simply under immense pressure on more pressing matters. I will revert on the substance in due course as soon as I can. I cannot promise you a time frame.

Best wishes for Christmas.

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752

Centrex: 2832

darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

- On 13 Dec 2021, at 19:05, Ian McGrail [redacted] wrote:

Dear Darren,

In my many years in the public service I never told anyone that their concerns were less pressing than others.

You have kept me on a string now for 7 months. That is not how gentlemen behave.

Please confirm what you agreed without more delay.

Sincerely,

Ian McGrail

Sent from my iPhone

- On 13 Dec 2021, at 19:19, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Ian, I was referring to the collective needs of Gibraltar amidst Brexit and Covid in particular. D

Darren Grech

Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

❖ 13 Dec 2021, at 2017hrs, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Dear Ian,

I do not think I deserve to be addressed in that manner. I have already set out my position below and do not intend to reply to another intemperate message if you are minded to send one. I reiterate my best wishes for Christmas.

D

Darren Grech

Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

❖ On 2 Feb 2022, at 09:53, Ian McGrail <[redacted] wrote:

Dear Darren -

I hope you have had a good start to the year and that pressures at work have somewhat eased off for you to see to my matter.

I first raised the issue of my tax and social insurance status with you in May 2021. You provided me with repeated assurances that you would resolve the situation for me in accordance with the agreement we entered back in June 2020. You will accept from our email exchanges that you have stated on a number of occasions that the matter was practically resolved, yet I have not heard anything from you confirming it.

Could you please confirm to me that what we agreed is being respected?

I look forward to hearing from you.

Regards

Ian

Sent from my iPhone

❖ On 2 Feb 2022, at 21:19, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Dear Ian,

Sincere thanks. I too hope you are well and enjoying your time off.

I will revert as soon as I can.

With best wishes,

Darren

Darren Grech

Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

❖ **From:** [redacted]
Sent: 01 March 2022 10:29
To: '(NO6) Grech, Darren' <darren.grech@gibraltar.gov.gi>
Subject: My personal tax & social insurance status

Dear Darren –

Our numerous exchanges of communication on this subject refers.

It is now 10 months since I first raised the matter with you and it still remains unresolved despite the repeated assurances that you have given me that you would indeed ensure to abide to the agreement we reached on my retirement in June 2020.

In previous emails you have told me that the matter was practically resolved but then all went cold. You kept telling me not to worry and to trust you - that you were still on my case. 10 months down the road and I am still in limbo. Surely, this is not such an administrative burden on you not to be able to resolve it after so many months!

I look forward to hearing from you.

Best wishes

Ian

❖ On 8 Mar 2022, at 10:22, Ian McGrail [redacted] wrote:

Dear Darren,

I refer to my last email to you of 7 days ago which I have not received a reply.

Please accept this email as a gentle nudge that my matter still remains unresolved by you.

Would you be kind enough to advise me whether the agreement we reached back in June 2020 still stands? Conversely, please confirm if your position and assurances over the past 10 months have changed, and if so, what has driven you to that change. I know that I have mentioned this before in previous emails, but I take this opportunity to remind you again that on two occasions, at the point of my retirement, the Governor told me that he would ensure that I was treated fairly and with respect at all times. I sincerely feel that I am not being treated fairly on this matter which as you wel know preceded any other issue relating to my early retirement.

I look forward to your response.

Kind regards

Ian

- On 8th Apr 2022, at 09:24, Ian McGrail <[redacted] wrote:

Dear Darren –

It is now practically 11 months since I first raised the matter of my personal tax and social insurance status with you. During all this time you have assured me that you would be resolving the matter as per our agreement in June 2020. In fact, you assured me that when you sorted it all out you would apply the change retrospective to May 2021.

You must be fully aware of the financial shortfall I am carrying monthly because of the agreement not being fulfilled. You also acknowledged the implications this would have on my (Old Age Pension) if the matter was not resolved. I continue to be anxious with this void of uncertainty.

You have also not responded to my two last emails I sent you on the 1st and 8th March 2022 where I ask very simple and straight forward questions of you.

During one point in our numerous exchanges in the past 11 months, you asked me not to despair; that you were at the point of having my matter sorted out. I respectfully ask that you give my matter the attention it merits and that you respond to this communication with the news that it has been finally sorted. Any other response that you provide would be unsatisfactory given the inordinate amount of time that you have been dealing with this. I remain extremely worried with the way I am being treated by you.

Regards

Ian

- On 28th May 2022, at 18:52, Ian McGrail [redacted] wrote

Dear Darren,

I hope this email finds you well.

It is regarding my family's get together last night, which you attended, and the fact that you blanked me out as if I was invisible, that I write to enquire why you have behaved like that towards me. I can only assume that it has to do with the fact that the matter of my personal and social security status which you undertook to resolve over a year ago actually remains unresolved - that you have not responded to my latest emails of 1st & 8th March 2022 and 8th April 2022 - and that out of a sense of embarrassment/shame you felt it best to blank me out completely. It even caught the attention of my uncle, who is like a father to me, and who you effusively said good night to whilst I was sitting next to him.

I remind you of the many assurances you provided me that you would arrange for my tax and social security issue to be sorted as per our agreement in June 2020, pledging me to trust you and asking me not to despair as you would indeed deal with it. I suppose that trust has to be earned and the fact that you have still not resolved my situation after over 12 months has indeed caused me to despair. Neither have you answered the very simple and straightforward questions I have put to you concerning this same matter. It is for this reason that I urge you to do the right and honourable thing; keep to your word and to the agreement we reached on the day before I applied to retire from the RGP.

I look forward to hearing from you .

Sincerely,

Ian

- On 28th May 2020, at 19:07, Darren Grech <Darren.Grech@gibraltar.gov.gi> wrote

  Ian,

  Thanks for this.

  Let me please make one thing clear: when I said goodbye to your uncle I honestly did not see you next to him. This is the gospel truth. I have the utmost respect and yes even love for your family. We go back a long time when Kenneth (Junior) and I went to the same Uni and your uncle and lovely auntie invited us to a slap up meal, which after months of hall dining felt like heaven.

  Again with the same honesty, I did see you earlier by the bar and wanted to somehow engage. Embarrassment about what to say took over me given I have not answered your email(s) beyond my original replies, and for this I can only but apologise, because it is certainly not my style, and you must know this as a judge of character and from those who know me well. I actually said hello to Erika who reciprocated.

  I still have not resolved the issues you raised despite promising I would look into these.

  Please continue to trust me.

  D
  Darren Grech
  Chief Secretary
  HM Government of Gibraltar
  No 6 Convent Place
  Gibraltar

From: [redacted]
Date: 1 August 2022 at 15:55:00 CEST
To: "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
Subject: Personal Tax and Social Insurance

Dear Darren,

A further two months have elapsed since we last corresponded and because I have not heard any news I am chasing you up to find out whether you have managed to resolve the issue of my personal tax and social insurance. This issue has been dragging on since May 2021 when I first raised it with you i.e. for over 15 months. You have to agree it is quite inordinate that it has not been resolved despite the repeated assurances and promises that you have provided me.

I sincerely and respectfully seek closure on this arrangement without any further delay.

I look forward to hearing from you.

Regards

Ian

From: Ian McGrail [redacted]
Date: 25 August 2022 at 15:34:36 CEST
To: Darren Grech <darren.grech@gibraltar.gov.gi>
Subject: Personal Tax and Social Insurance

Dear Darren,

I refer to my last email below dated 1st August 2020 which you have not responded to.

I continue to enquire whether after over 1 year & 4 months you have been able to address the issue of my personal tax and social insurance status.

You have previously ask me to continue to trust that you w ll sort it out which is why I continue to chase you up on this.

I look forward to no more de lays and that your agreement with me in June 2020 is respected. I am sure that you cannot disagree with me that the delay is at all reasonable or indeed fair.

Kind regards

Ian

- On 13th September 2022, at 13:28, Ian McGrail [redacted] wrote

Dear Darren -

My last two emails to you as per below have not been responded to or even acknowledged by you. I am referring to the emails of 1st and 25th August 2022.

I find this extremely out of character on your part because you yourself have said this is not your style.

Am I meant to continue to trust you as you have repeatedly asked me to do for you to resolve the very long outstanding matter of my personal tax and social insurance status?

Regards

Ian

Sent from my iPhone

3rd Affidavit:

Ian McGrail

Date: 4th October 2022

Exhibit: 35

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EXHIBIT 35

TO THE SECOND AFFIDAVIT OF IAN MCGRAIL

Before me

Keith L. Chichon BA(Hons)TEP
Commissioner For Oaths
Suite 5, 3 Turnbull's Lane
PO Box 391, Gibraltar
(+350 540 17 842)

A Commissioner for Oaths

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

hand delivered
@ 10[30] 18/2/2022

Ian McGrail
[redacted]
e-mail: [redacted]

Richard Ullger OTM MSc
Commissioner of Police
Royal Gibraltar Police
New Mole House
Rosia Road
Gibraltar

18th February 2022

STRICTLY CONFIDENTIAL

Dear Richard,

I write to you with a sincere sense of apprehension but feel it necessary to raise very serious concerns I am experiencing.

To provide you with some context I want to inform you that shortly after I retired in June 2020, I had reason to deposit, with several high profile personalities locally and abroad, a confidential document I had written which highlighted what at the time I felt was a potential threat to my good reputation and/or personal safety and that of my family – all this borne out from very credible information that I had received.

I wanted my concerns to be on record, albeit confidentially, should anything untoward were to occur to me or my family. Many things crossed my mind not least the murder in 2017, in Malta, of the journalist Daphne Caruana Galizia, who reported on corruption and nepotism in the Maltese Government. Whilst there will be those who will think my thoughts are somewhat sensationalist, I ask that you believe me when I say that it was the information that reached me back then which sowed these concerns in my mind.

You will be aware of the several instances were offensive and threatening graffiti directed at me has appeared in the upper rock and city centre. I have reported these instances to the RGP but unfortunately the culprit(s) have not been detected.

I am also in possession of further very reliable information regarding a conspiracy to tarnish and crush my reputation at the forthcoming public inquiry. Whilst this conspiracy may not be a criminal one, it can certainly become a perjury issue if indeed those involved take to the stand to give evidence. In this regard I am totally at ease and not particularly worried but what I want to put across is that there seems to be a catalogue of issues which appear to focus on causing me harm.

Having provided you with some context to my concerns please allow me to take you to the most serious of issues I want to raise with you.

This relates to increasing reports that my lawyer and I are being "bugged". Those behind this illegal activity are likely to be foreign actors and so issues of national integrity arise aside from all the obvious criminal offences this may disclose.

We have known each other personally and professionally for over 30 years and we know "the Job" made us grow thick skins, but I am being very honest with you when I say that I am very worried about the extremes others are going to in order to try and bring me down. I am taking personal protective measures and safeguarding myself as much as I realistically can but when we are dealing with interception of communications, invasion of privacy and the likes, it is evident that I may be dealing with too big a beast.

I would welcome the opportunity to meet face to face with you and any other senior officer if you feel it necessary so I can elaborate on this further.

I reiterate that I have given this move I am making very serious thought before communicating it to you, but I feel really vulnerable and worried. You know too well that otherwise I would not be bothering you with such a matter.

Yours,

Ian McGrail

STRICTLY CONFIDENTIAL

Received at the door by Hand @ 1530hrs 18/2/2022

Royal Gibraltar POLICE | *Delivering a Safer Gibraltar through Excellence in Policing*

Richard Ullger OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

Our Ref: RU577

18 February 2022

Mr Ian McGrail OTM MSc.
[redacted]

CONFIDENTIAL -

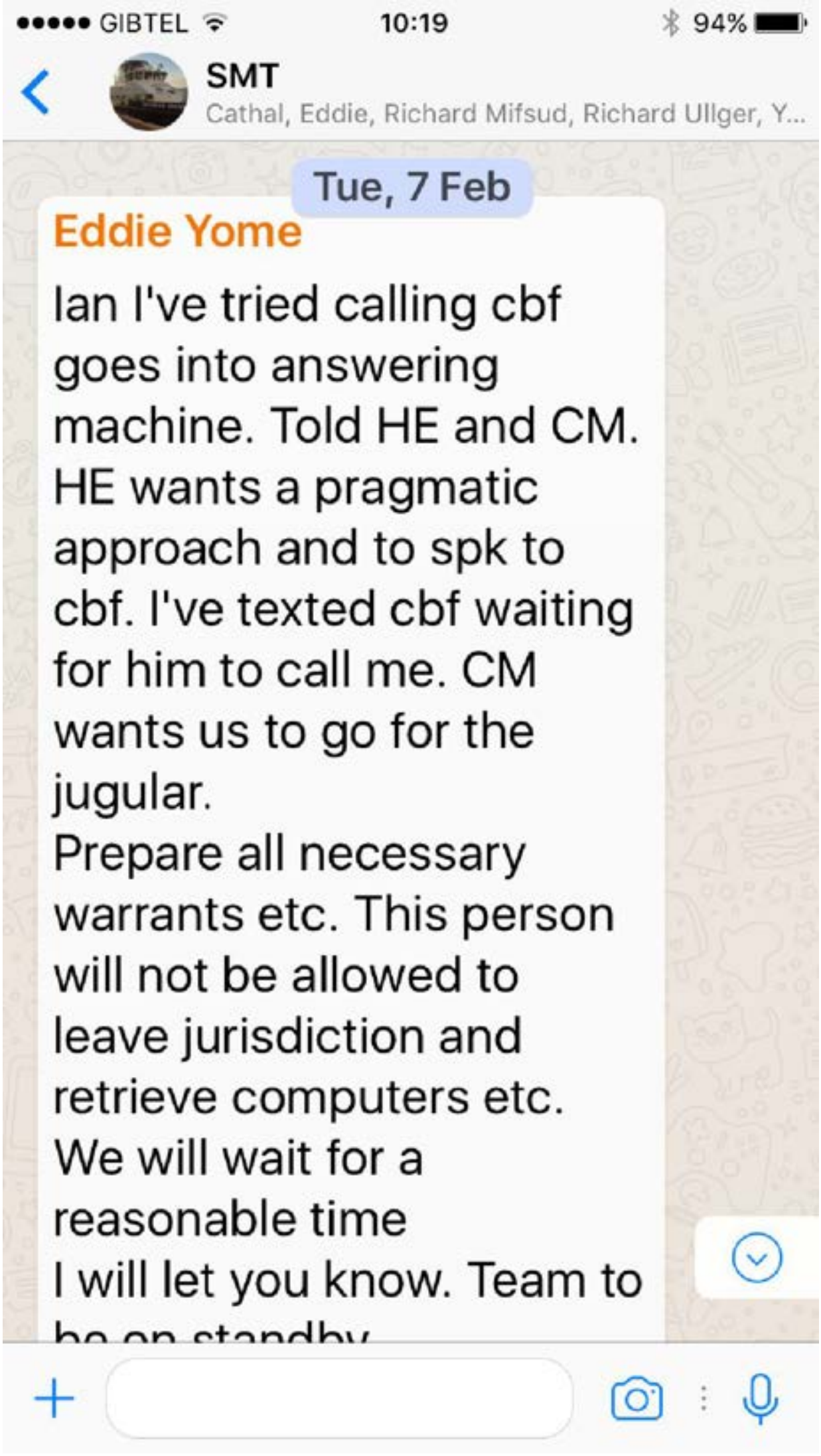
Dear Ian,

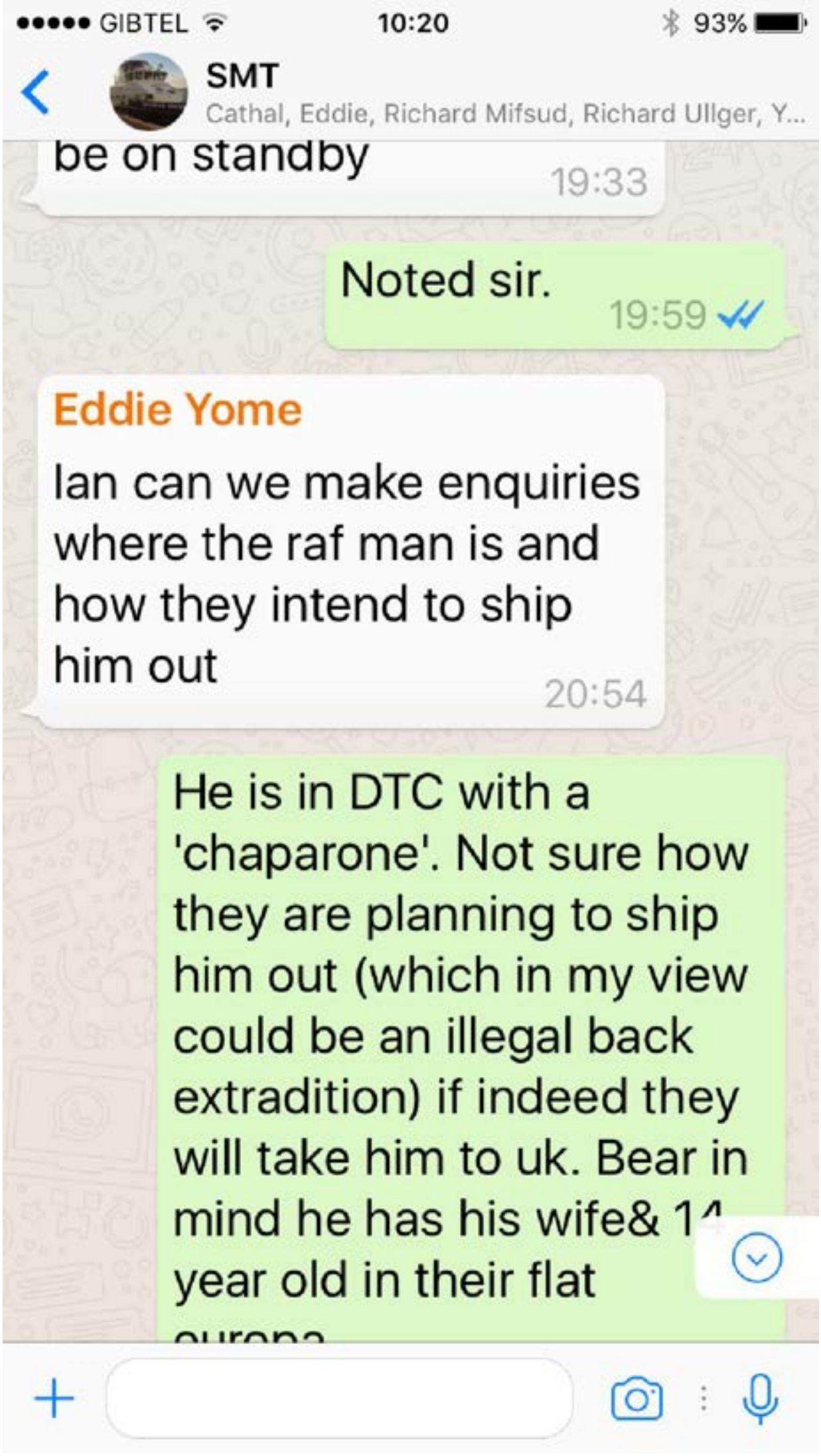
Thank you for your letter to me dated the 18th of April 2022, the contents of which I note.

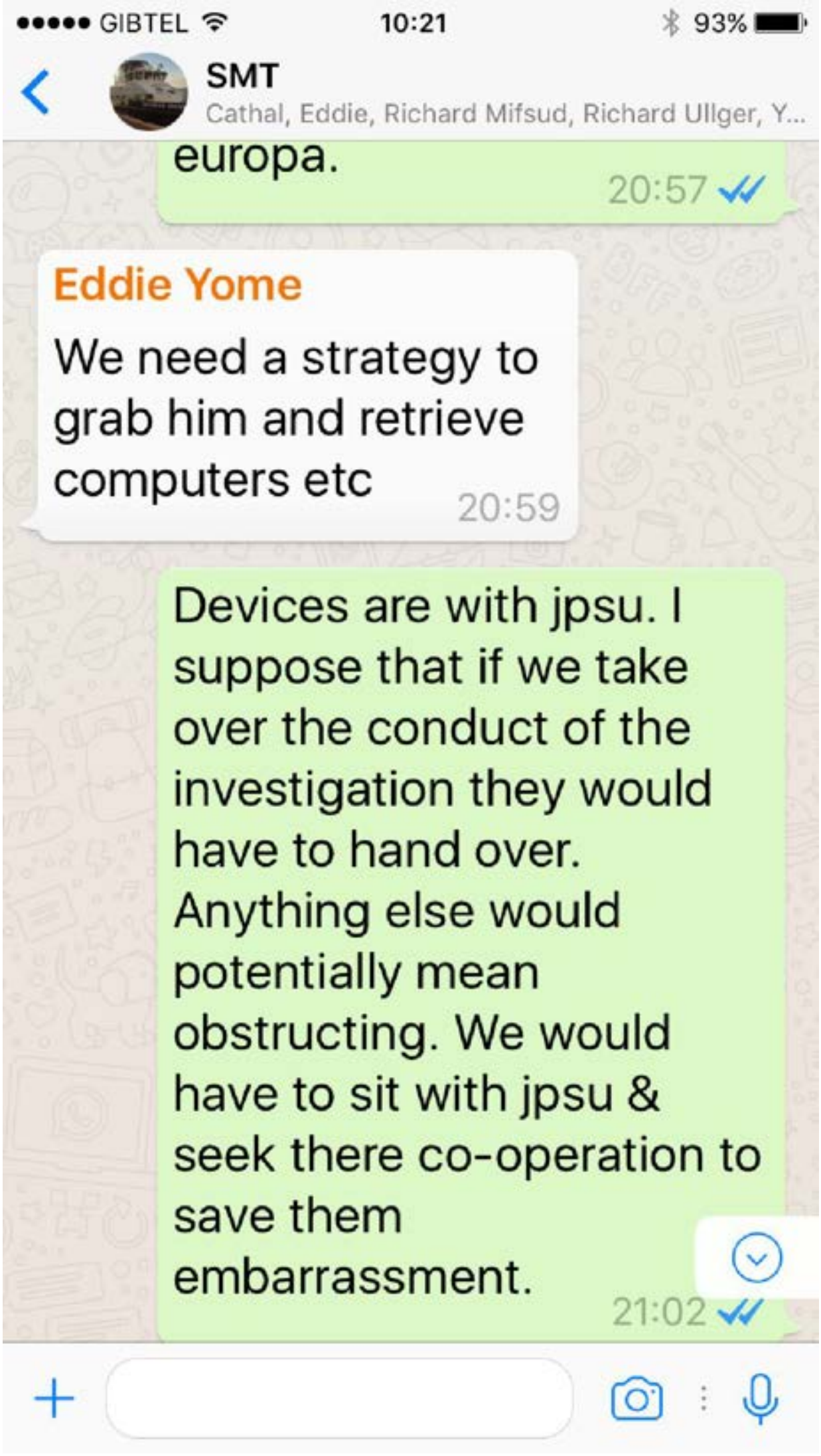
I am sorry to hear that you have concerns for your safety and for that of your family. No one should live in Gibraltar in fear and I take your concerns with the seriousness it deserves. It is for this reason that I will be briefing Superintendent John Field from our Crime and Protective Services on this strictly confidential matter, to make contact with you so that you may provide him with the necessary information to investigate this matter. Strategically, I shall remain independent from your complaint until such time that Superintendent Field needs to brief me on the investigation to elicit my support, should he need to. Please be rest assured, should Superintendent Field deem that you are a potential victim of crime, we will ensure that mitigations are in place to reduce risk/threats and investigate the matter fully.

Yours sincerely

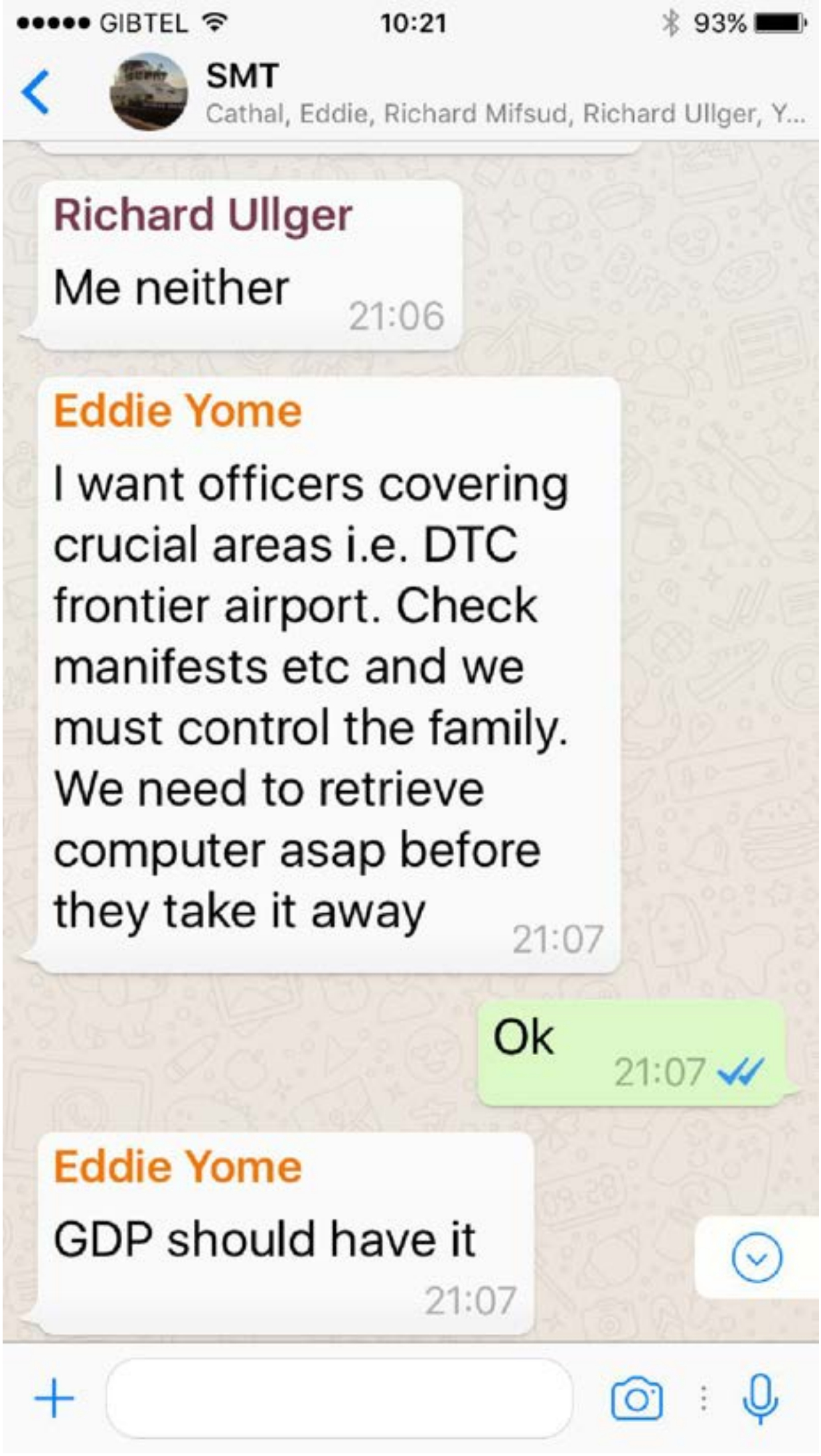
Richard Ullger OTM MSc
Commissioner of Police

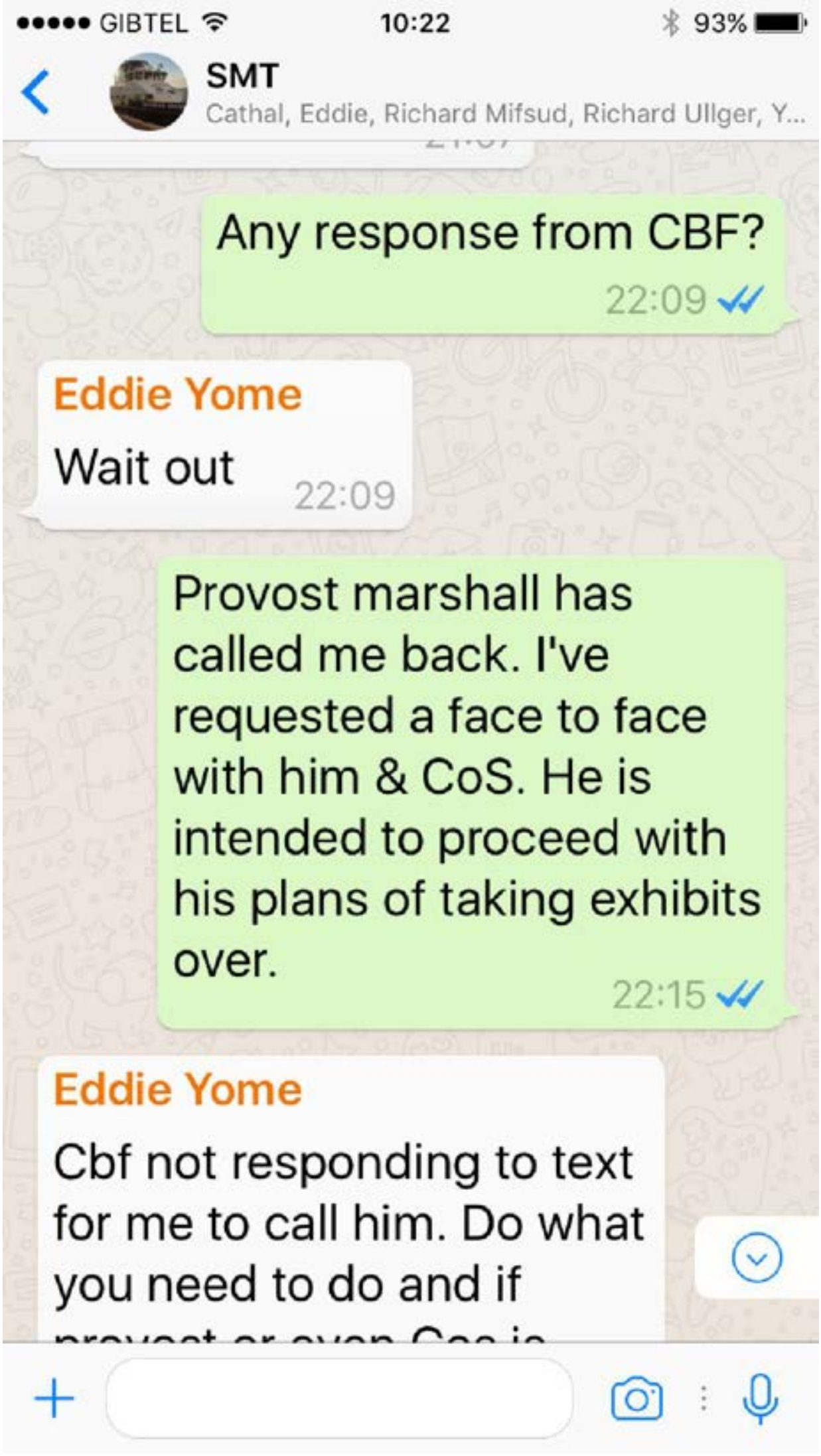

GIBTEL
10:19
94%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Tue, 7 Feb
Eddie Yome
Ian I've tried calling cbf goes into answering machine. Told HE and CM. HE wants a pragmatic approach and to spk to cbf. I've texted cbf waiting for him to call me. CM wants us to go for the jugular.
Prepare all necessary warrants etc. This person will not be allowed to leave jurisdiction and retrieve computers etc.
We will wait for a reasonable time
I will let you know. Team to

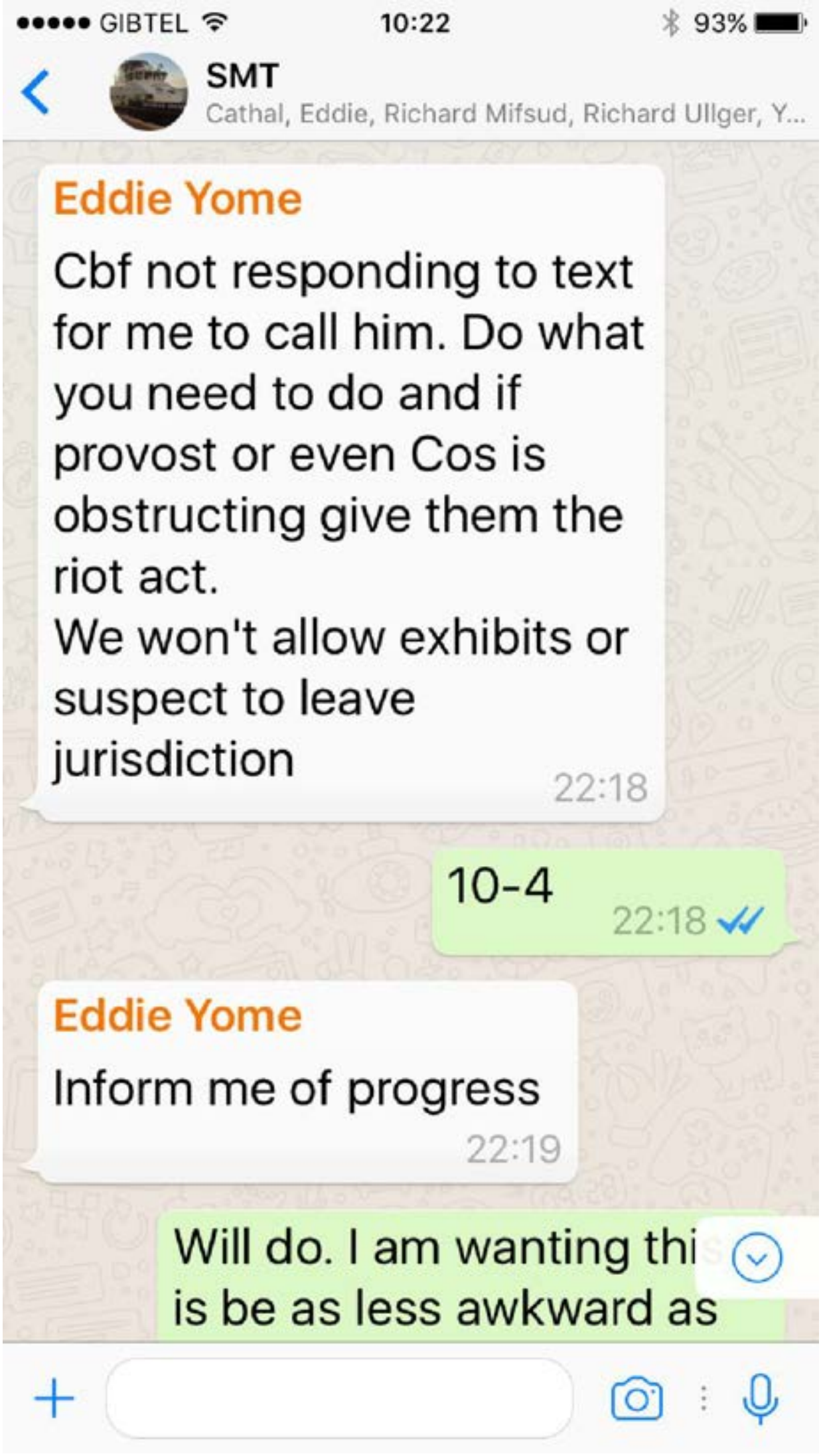

GIBTEL
10:20
93%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
be on standby
19:33
Noted sir.
19:59
Eddie Yome
Ian can we make enquiries where the raf man is and how they intend to ship him out
20:54
He is in DTC with a 'chaparone'. Not sure how they are planning to ship him out (which in my view could be an illegal back extradition) if indeed they will take him to uk. Bear in mind he has his wife& 14 year old in their flat
europa

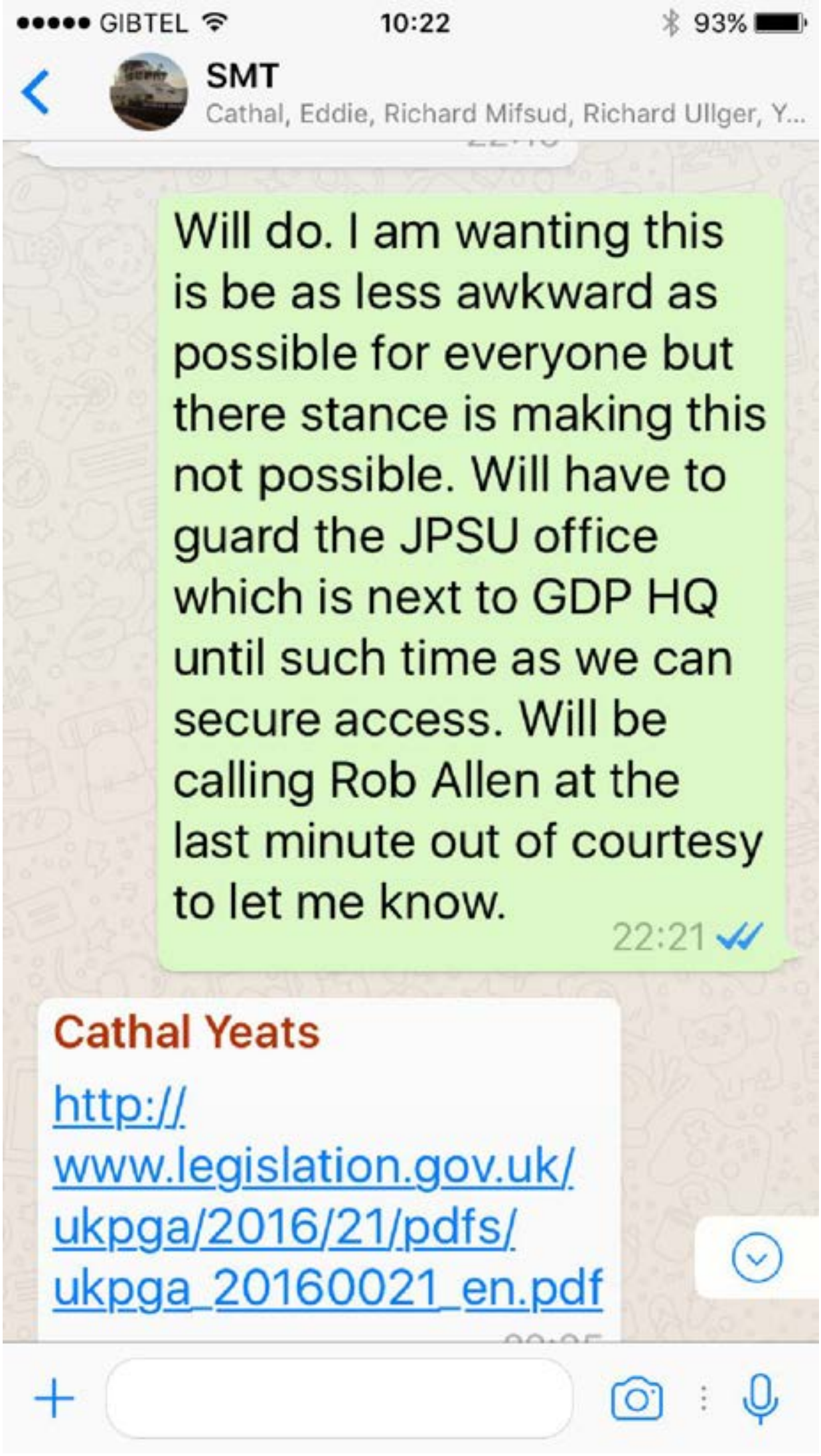

GIBTEL
10:21
93%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
europa.
20:57
Eddie Yome
We need a strategy to grab him and retrieve computers etc
20:59
Devices are with jpsu. I suppose that if we take over the conduct of the investigation they would have to hand over. Anything else would potentially mean obstructing. We would have to sit with jpsu & seek there co-operation to save them embarrassment.
21:02

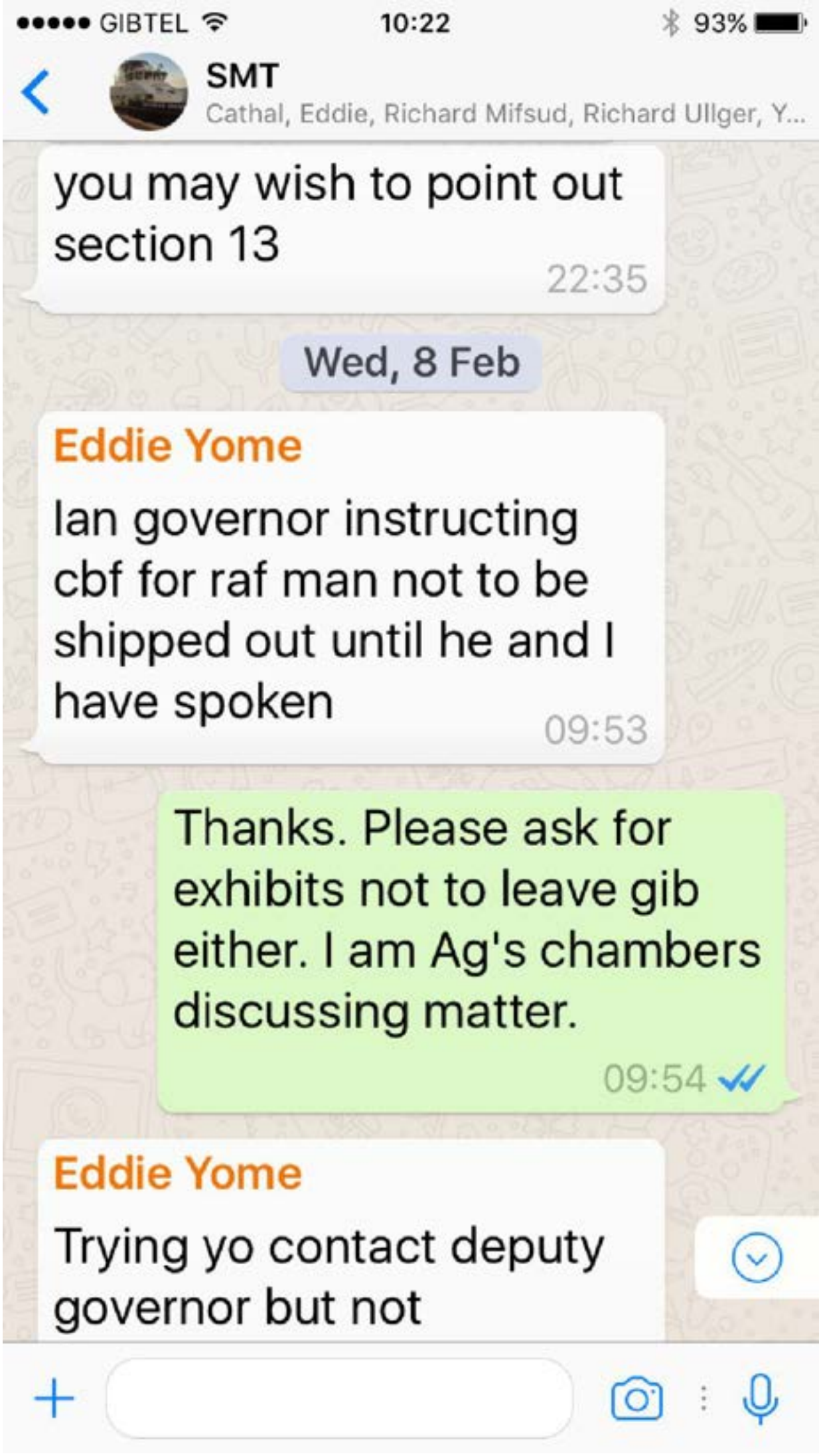

GIBTEL
10:21
93%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
embarrassment.
21:02
Eddie Yome
Then do this. I'm not waiting anymore for cbf to call. Clearly he's avoiding me
21:03
Ok i will rally the troops. & call frank green to meet again with provost marshall.
21:04
Can someone give me frank green's number please.
21:04
Cathal Yeats
sorry havent got it.
21:05

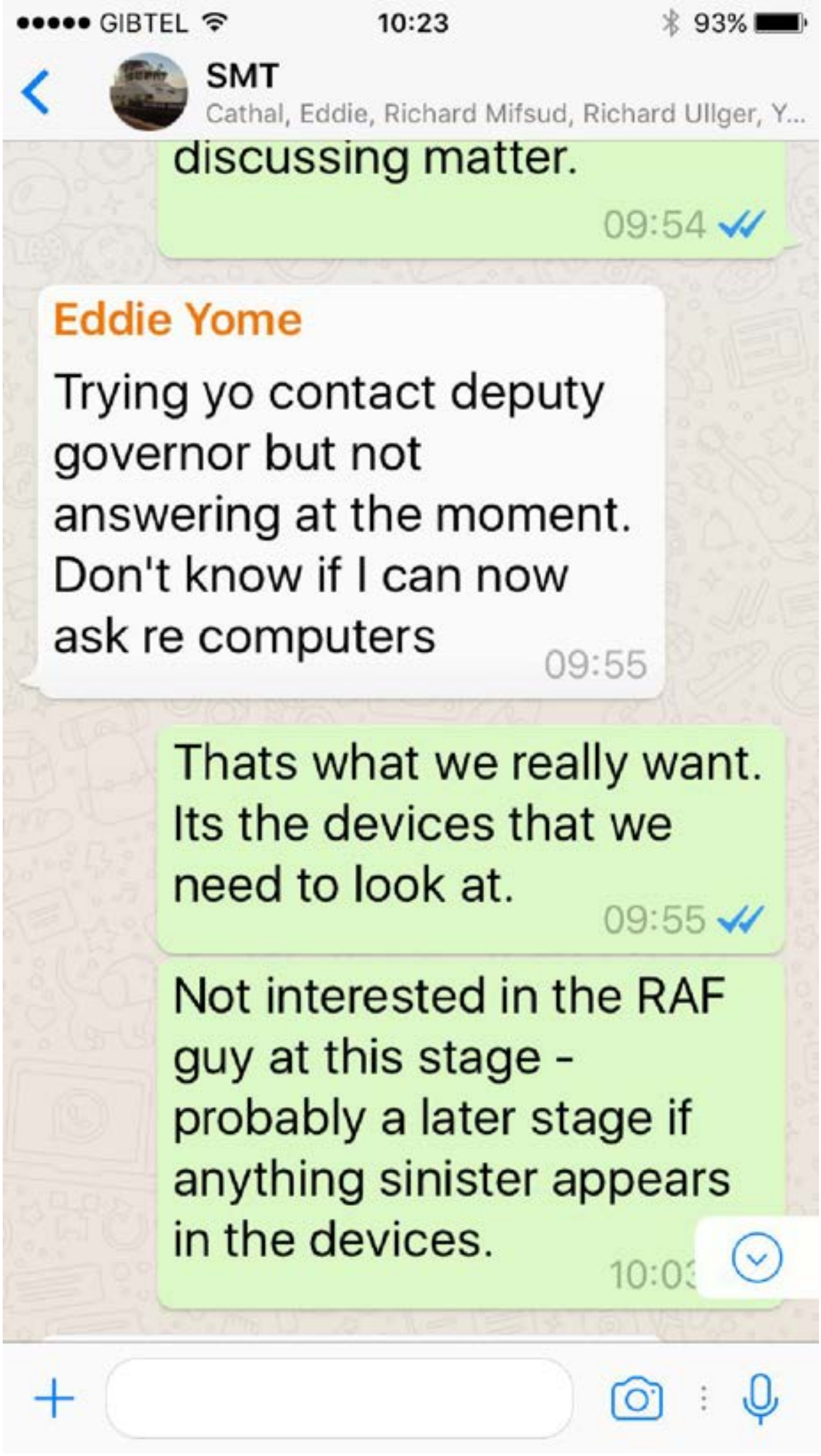

GIBTEL
10:21
93%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Richard Ullger
Me neither
21:06
Eddie Yome
I want officers covering crucial areas i.e. DTC frontier airport. Check manifests etc and we must control the family. We need to retrieve computer asap before they take it away
21:07
Ok
21:07
Eddie Yome
GDP should have it
21:07

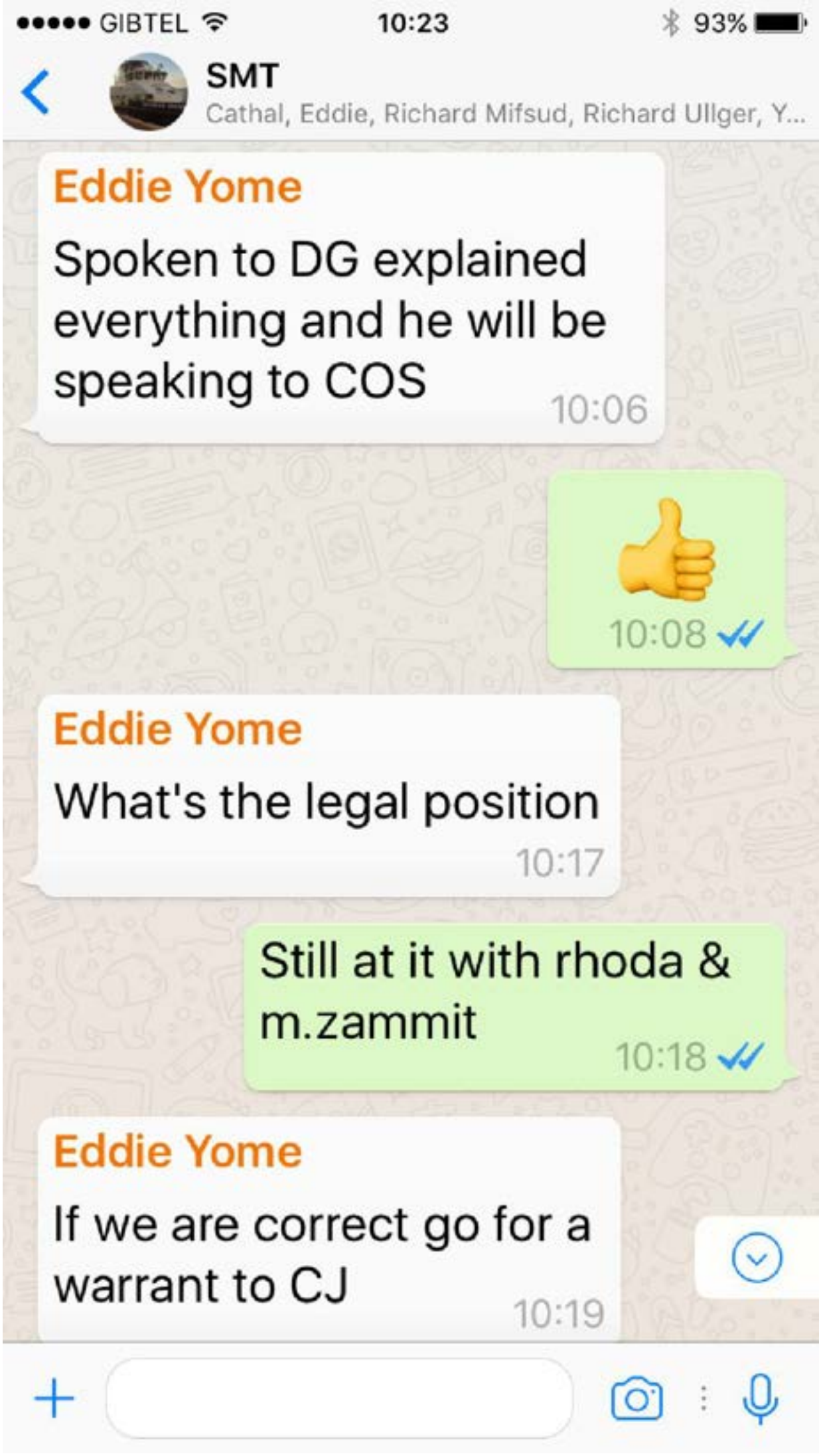

GIBTEL
10:22
93%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Any response from CBF?
22:09
Eddie Yome
Wait out
22:09
Provost marshall has called me back. I've requested a face to face with him & CoS. He is intended to proceed with his plans of taking exhibits over.
22:15
Eddie Yome
Cbf not responding to text for me to call him. Do what you need to do and if

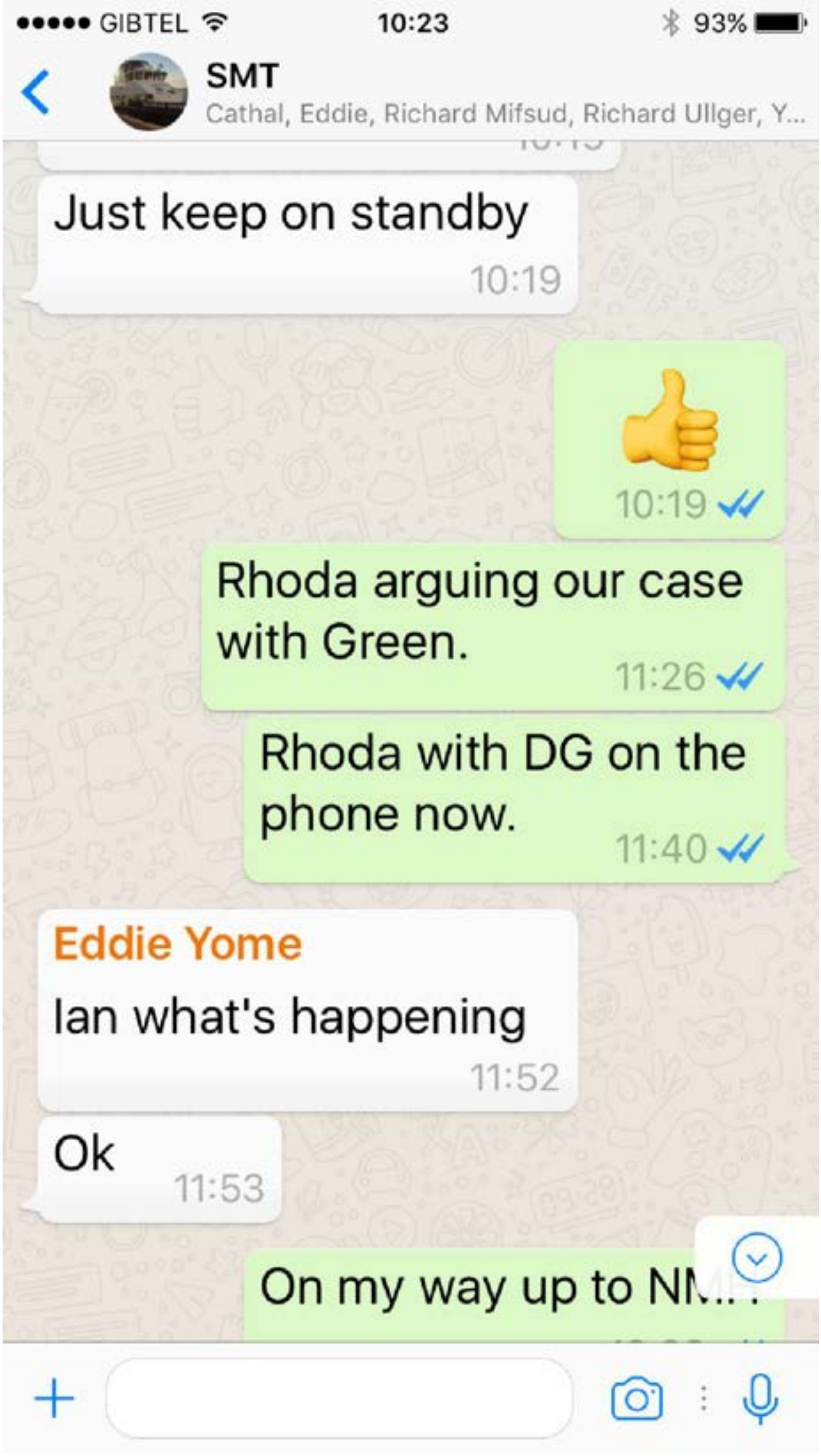

GIBTEL
10:22
93%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Eddie Yome
Cbf not responding to text for me to call him. Do what you need to do and if provost or even Cos is obstructing give them the riot act.
We won't allow exhibits or suspect to leave jurisdiction
22:18
10-4
22:18
Eddie Yome
Inform me of progress
22:19
Will do. I am wanting thi
is be as less awkward as

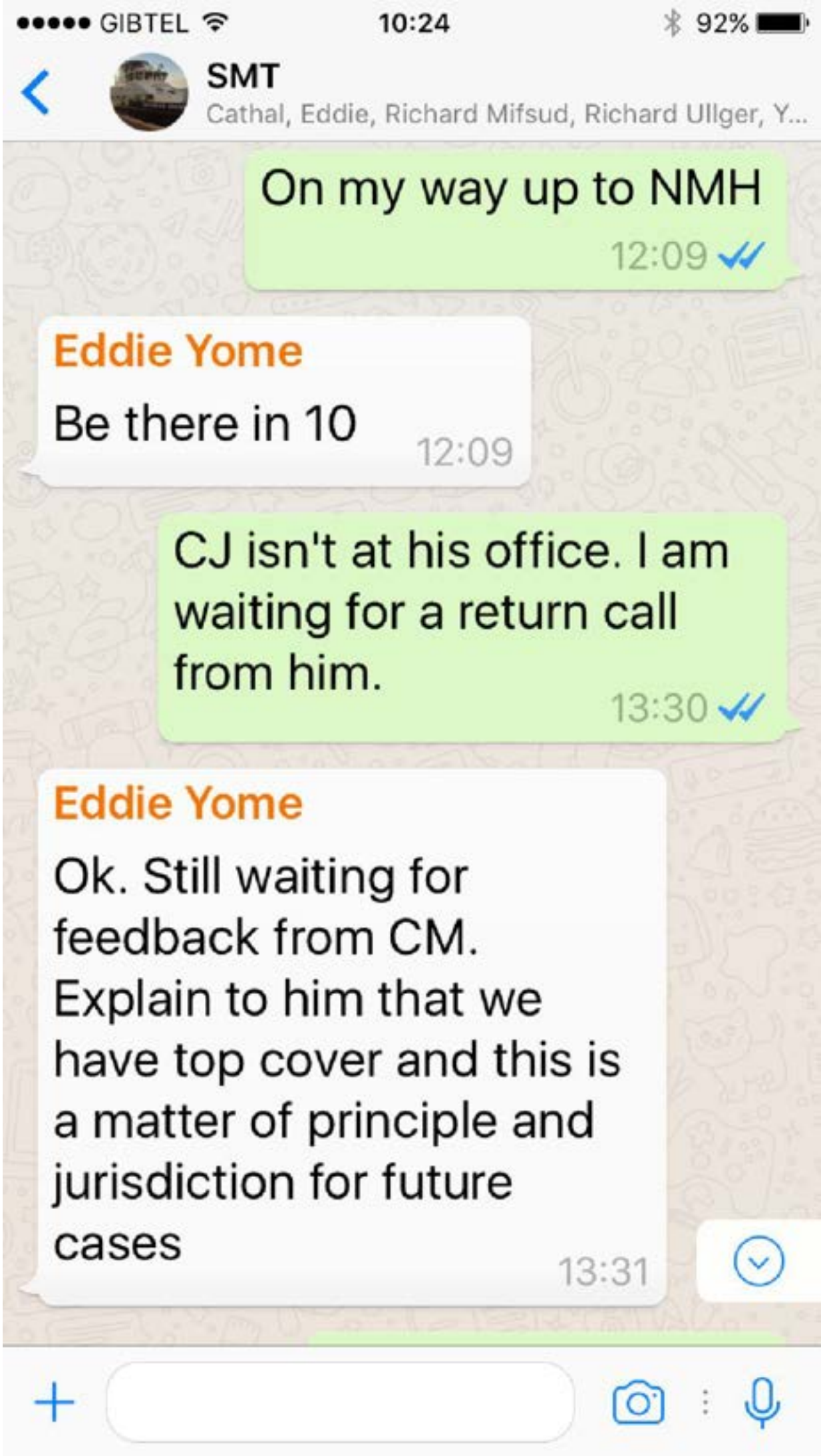

GIBTEL
10:22
93%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Will do. I am wanting this is be as less awkward as possible for everyone but there stance is making this not possible. Will have to guard the JPSU office which is next to GDP HQ until such time as we can secure access. Will be calling Rob Allen at the last minute out of courtesy to let me know.
22:21
Cathal Yeats
http://www.legislation.gov.uk/ukpga/2016/21/pdfs/ukpga_20160021_en.pdf

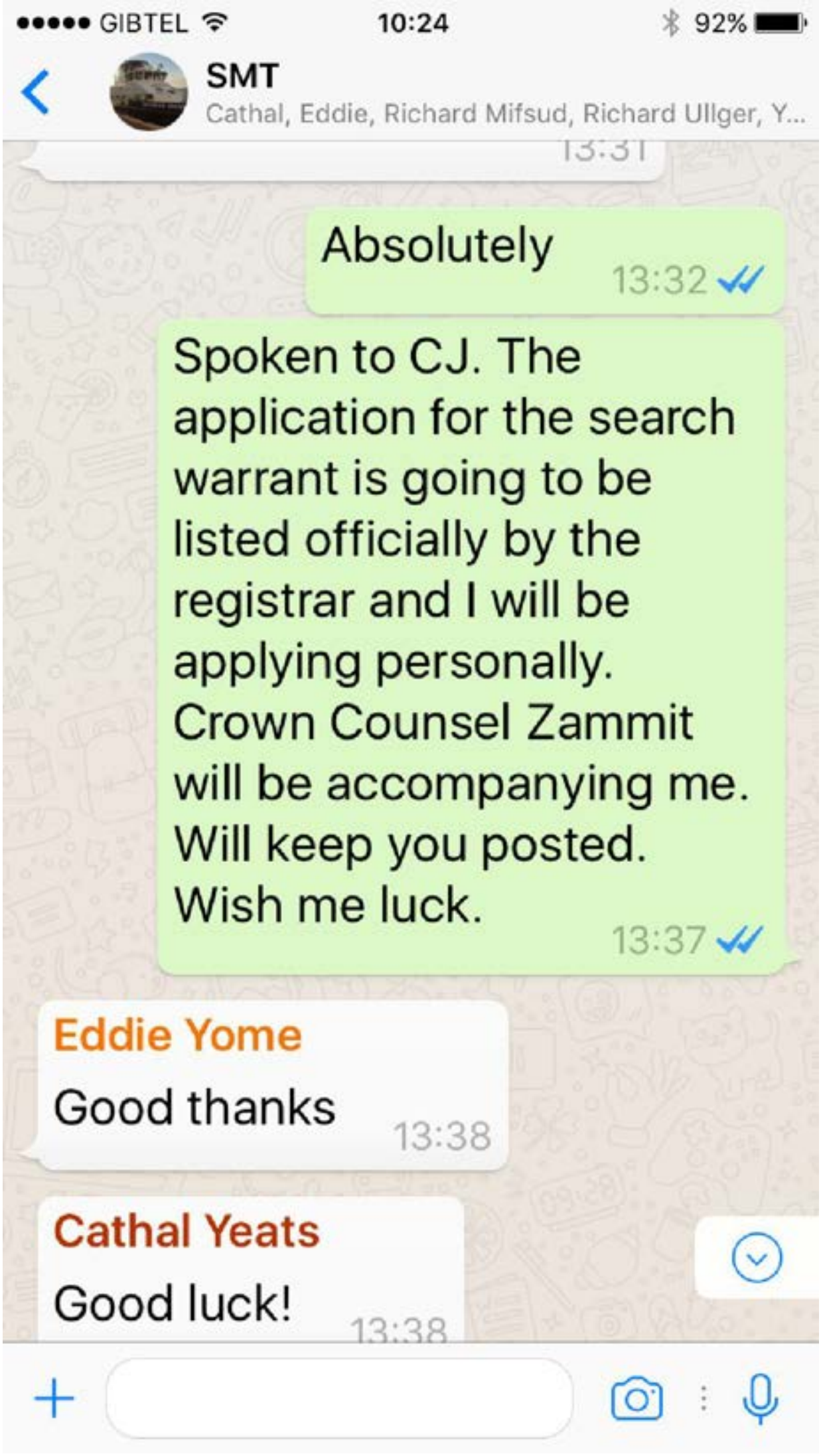

GIBTEL
10:22
93%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
you may wish to point out section 13
22:35
Wed, 8 Feb
Eddie Yome
Ian governor instructing cbf for raf man not to be shipped out until he and I have spoken
09:53
Thanks. Please ask for exhibits not to leave gib either. I am Ag's chambers discussing matter.
09:54
Eddie Yome
Trying yo contact deputy governor but not


GIBTEL
10:23
93%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
discussing matter.
09:54
Eddie Yome
Trying yo contact deputy governor but not answering at the moment. Don't know if I can now ask re computers
09:55
Thats what we really want. Its the devices that we need to look at.
09:55
Not interested in the RAF guy at this stage - probably a later stage if anything sinister appears in the devices.
10:03

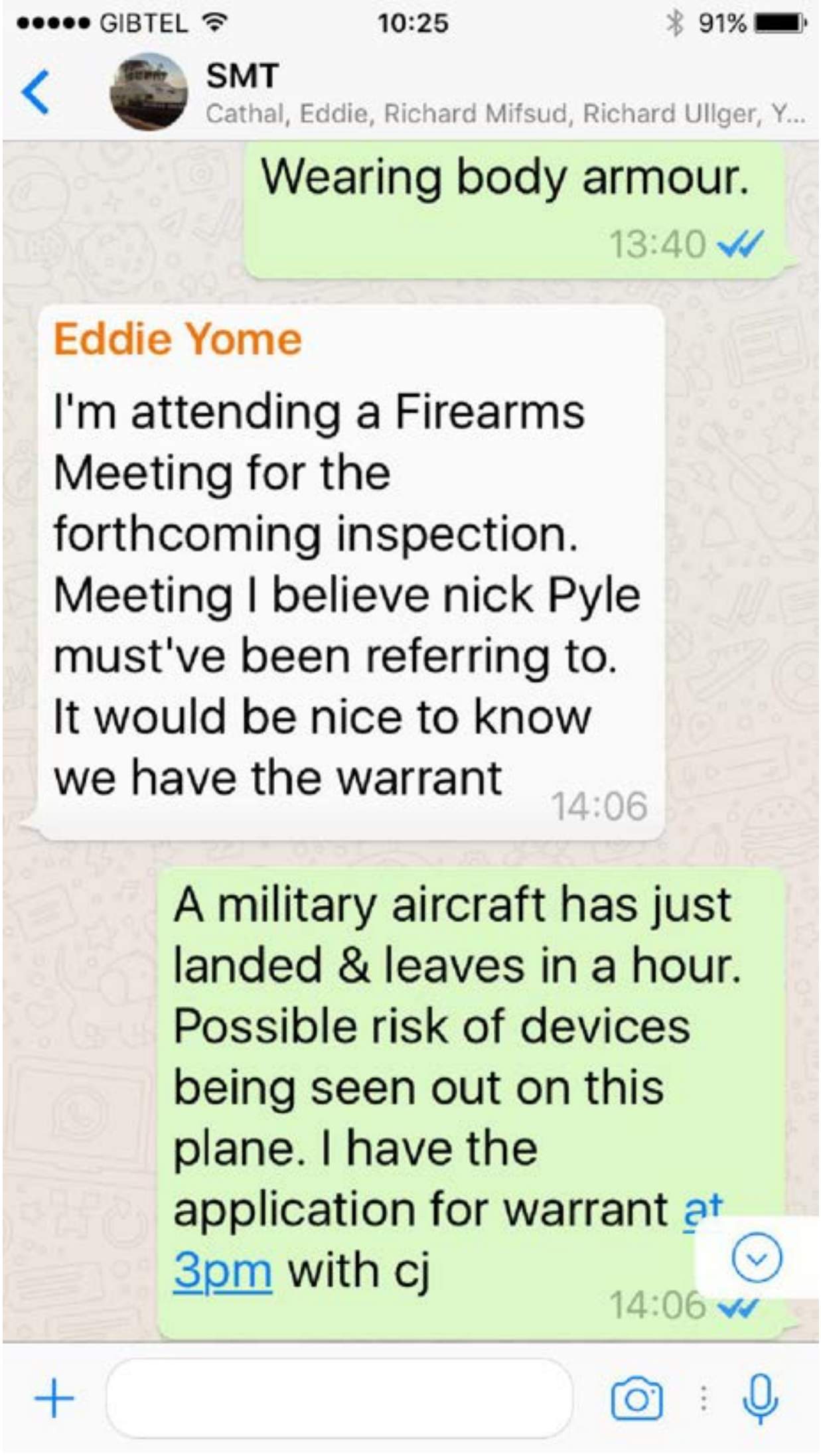

GIBTEL
10:23
93%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Eddie Yome
Spoken to DG explained everything and he will be speaking to COS
10:06
10:08
Eddie Yome
What's the legal position
10:17
Still at it with rhoda & m.zammit
10:18
Eddie Yome
If we are correct go for a warrant to CJ
10:19

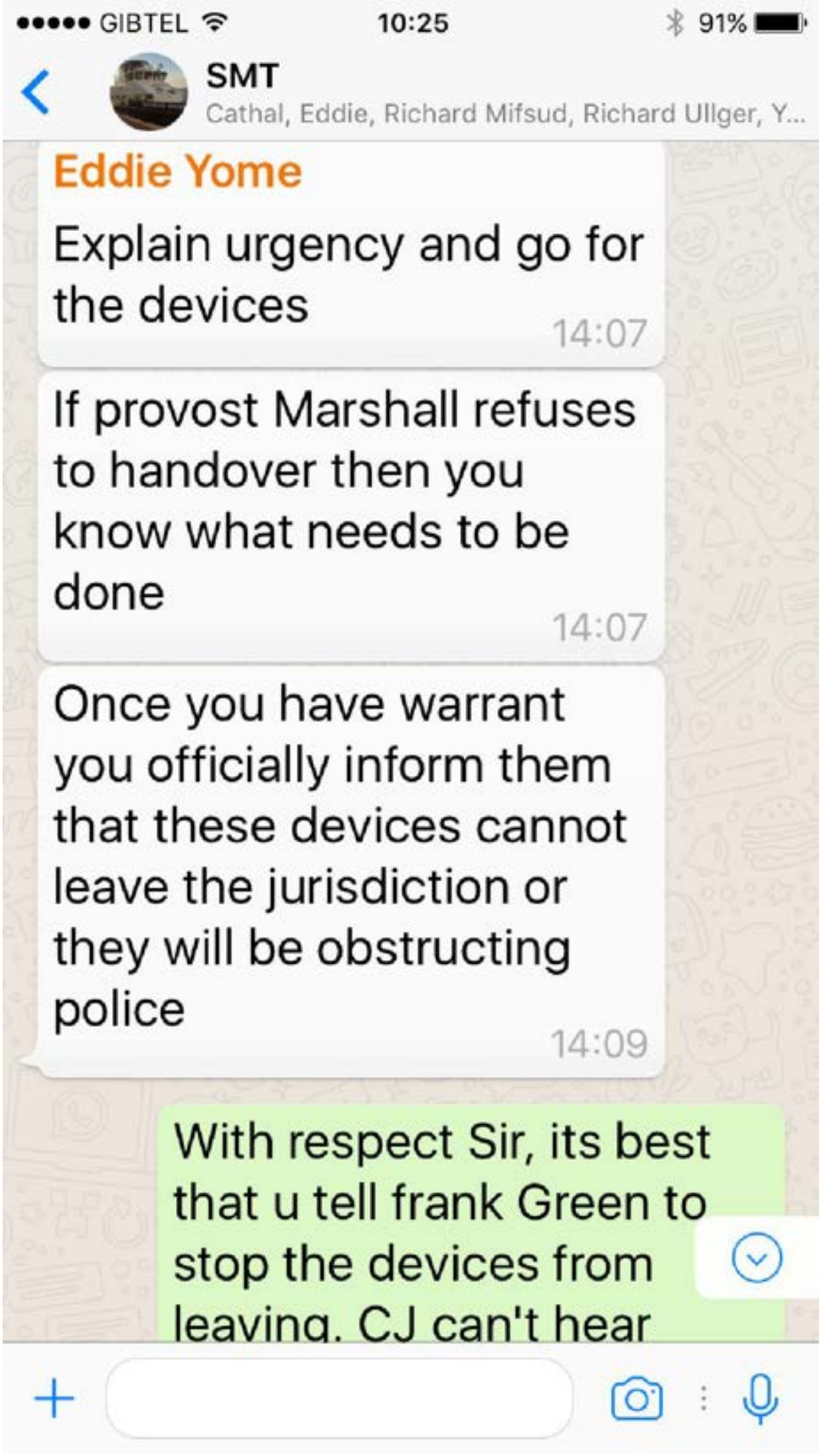

GIBTEL
10:23
93%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Just keep on standby
10:19
10:19
Rhoda arguing our case with Green.
11:26
Rhoda with DG on the phone now.
11:40
Eddie Yome
Ian what's happening
11:52
Ok
11:53
On my way up to NM...

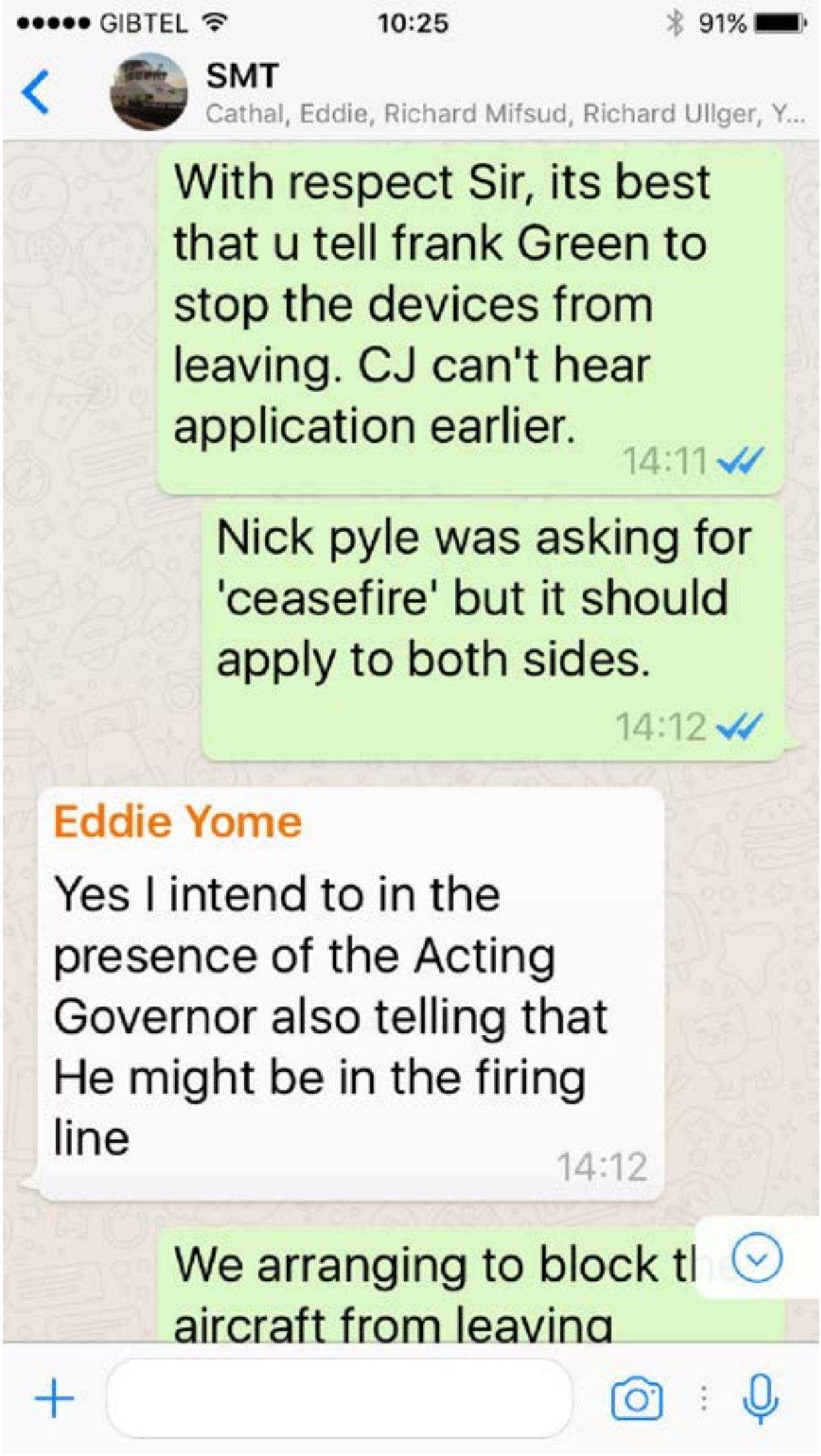

GIBTEL
10:24
92%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
On my way up to NMH
12:09
Eddie Yome
Be there in 10
12:09
CJ isn't at his office. I am waiting for a return call from him.
13:30
Eddie Yome
Ok. Still waiting for feedback from CM. Explain to him that we have top cover and this is a matter of principle and jurisdiction for future cases
13:31

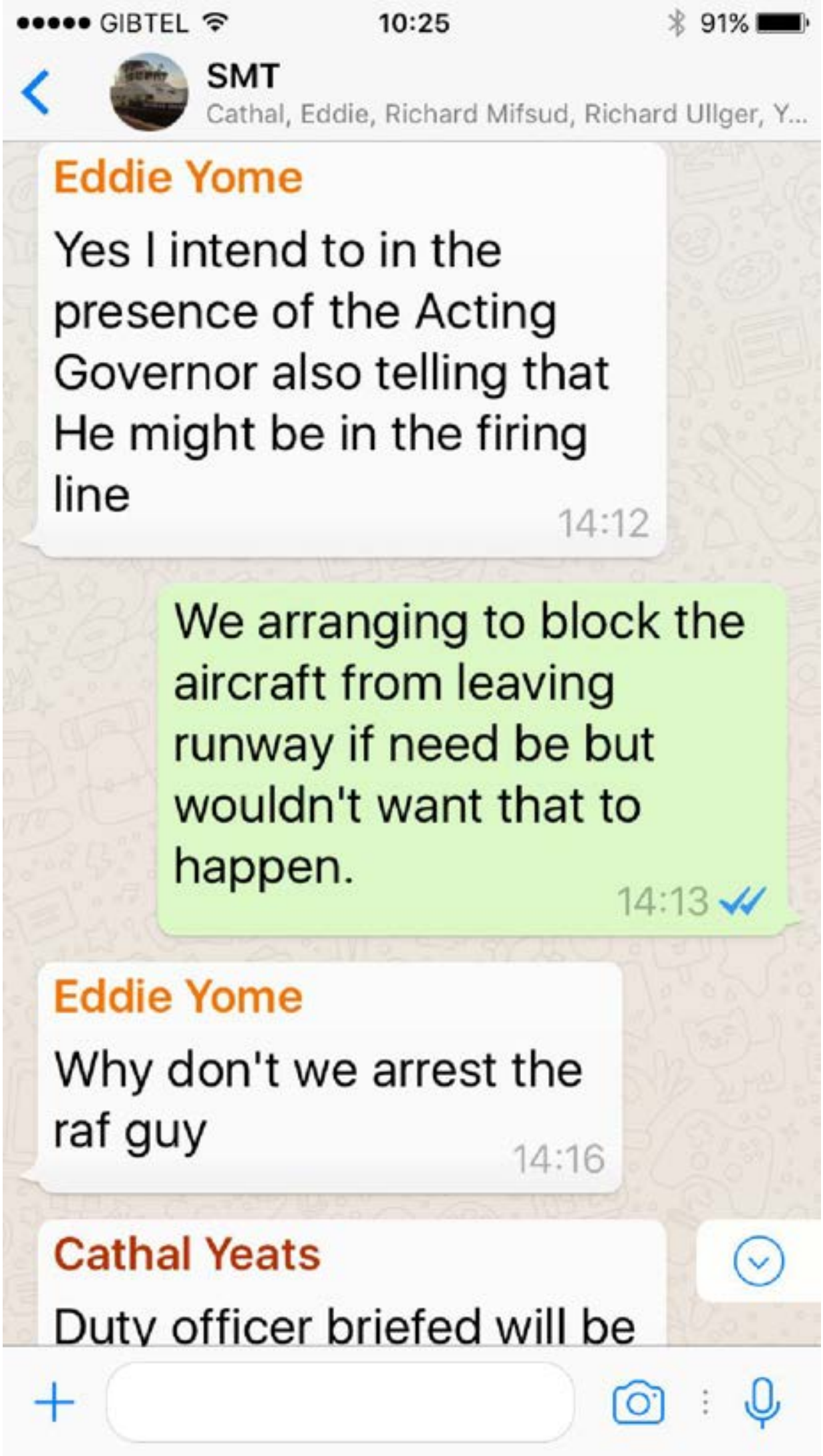

GIBTEL
10:24
92%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
13:31
Absolutely
13:32
Spoken to CJ. The application for the search warrant is going to be listed officially by the registrar and I will be applying personally. Crown Counsel Zammit will be accompanying me. Will keep you posted. Wish me luck.
13:37
Eddie Yome
Good thanks
13:38
Cathal Yeats
Good luck!
13:38


GIBTEL
10:25
92%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Richard Ullger
13:38
And that's because there is no RGP flag
13:39
Eddie Yome
Parece que your going to war lols
13:39
Cathal Yeats
13:39
Richard Ullger
Lol lol yes buana
13:40
Wearing body armour.

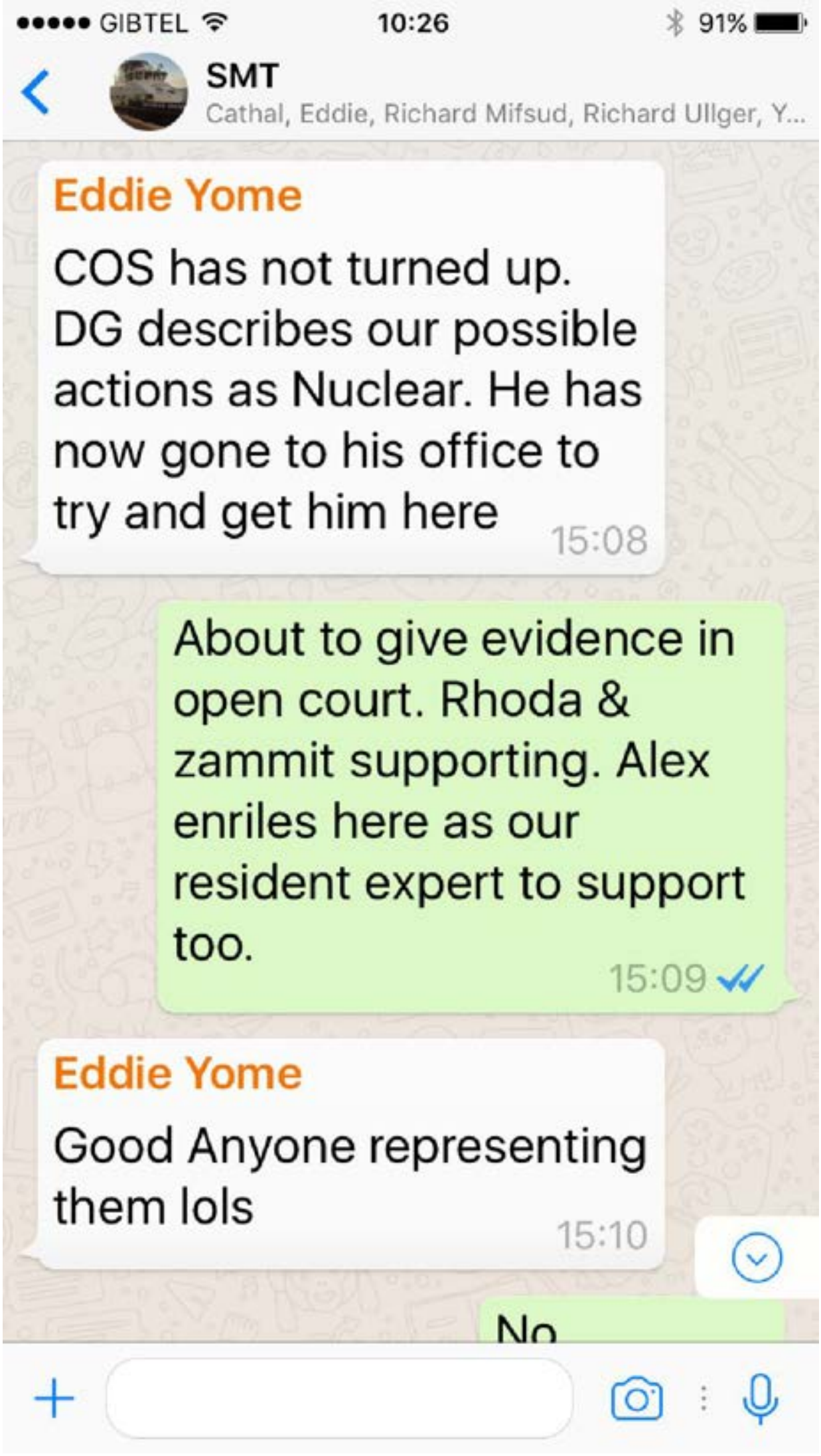

GIBTEL
10:25
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Wearing body armour.
13:40
Eddie Yome
I'm attending a Firearms Meeting for the forthcoming inspection. Meeting I believe nick Pyle must've been referring to. It would be nice to know we have the warrant
14:06
A military aircraft has just landed & leaves in a hour. Possible risk of devices being seen out on this plane. I have the application for warrant at 3pm with cj
14:06

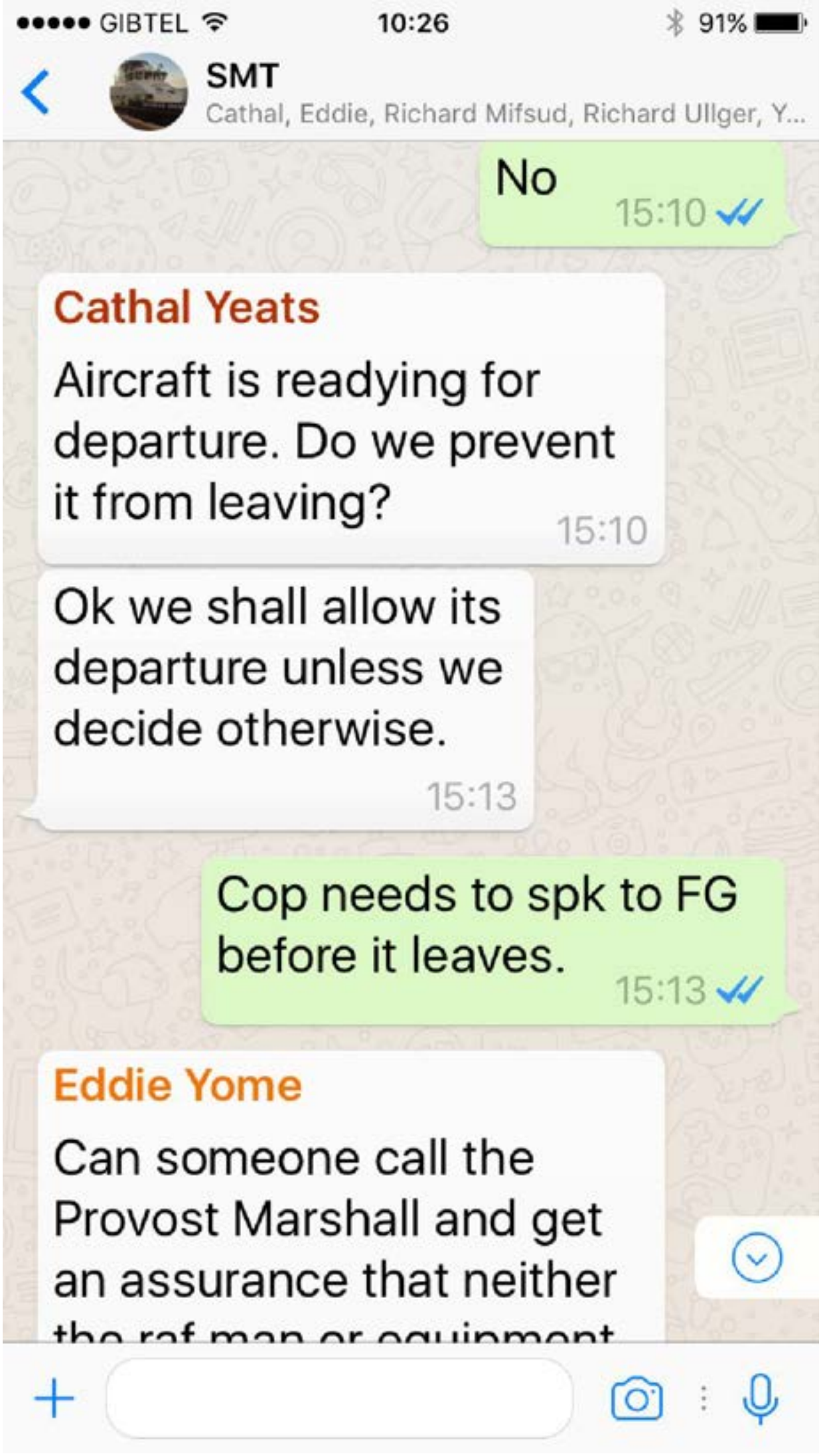

GIBTEL
10:25
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Eddie Yome
Explain urgency and go for the devices
14:07
If provost Marshall refuses to handover then you know what needs to be done
14:07
Once you have warrant you officially inform them that these devices cannot leave the jurisdiction or they will be obstructing police
14:09
With respect Sir, its best that u tell frank Green to stop the devices from leaving. CJ can't hear

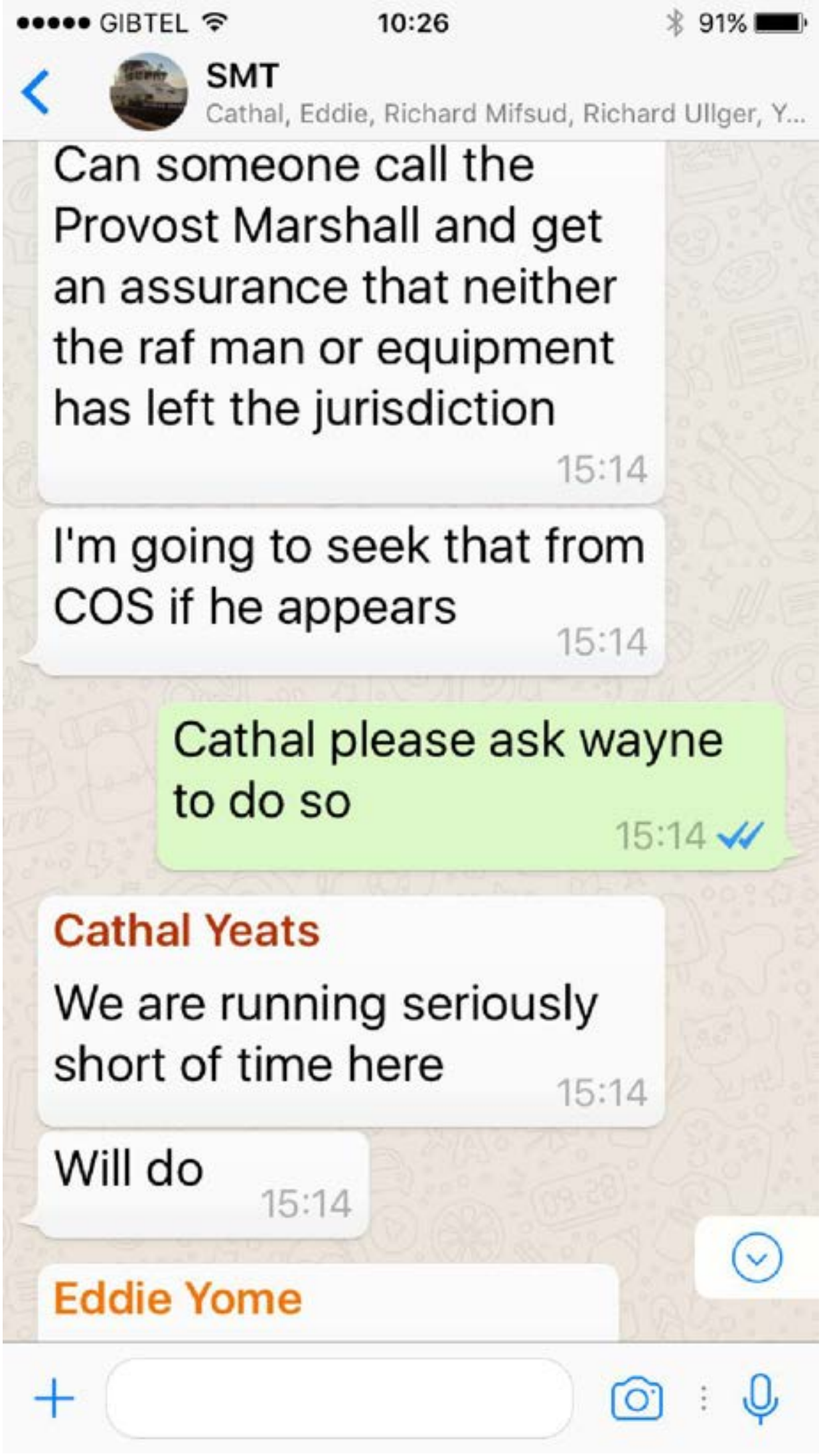

GIBTEL
10:25
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
With respect Sir, its best that u tell frank Green to stop the devices from leaving. CJ can't hear application earlier.
14:11
Nick pyle was asking for 'ceasefire' but it should apply to both sides.
14:12
Eddie Yome
Yes I intend to in the presence of the Acting Governor also telling that He might be in the firing line
14:12
We arranging to block tl
aircraft from leaving

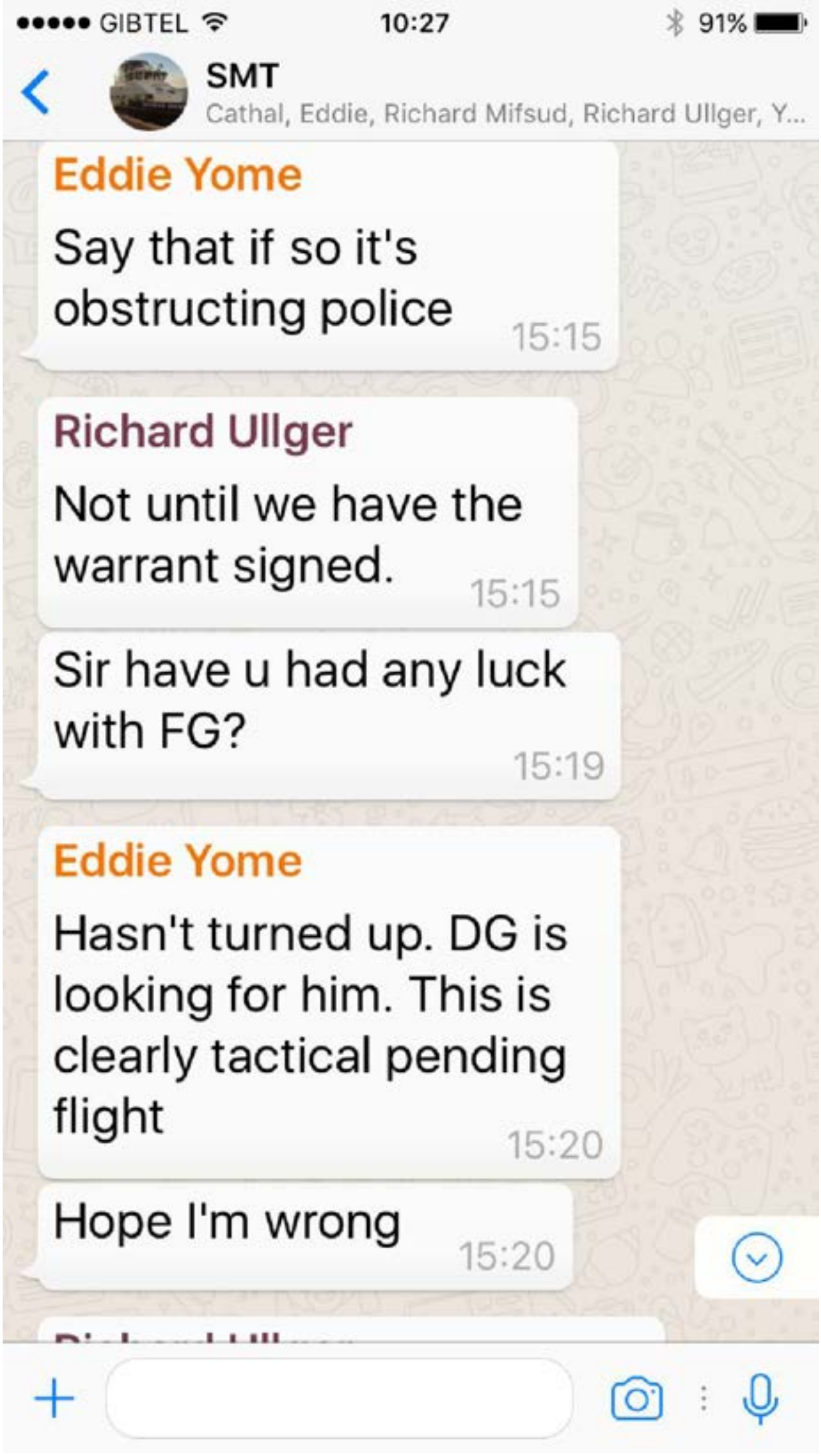

GIBTEL
10:25
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Eddie Yome
Yes I intend to in the presence of the Acting Governor also telling that He might be in the firing line
14:12
We arranging to block the aircraft from leaving runway if need be but wouldn't want that to happen.
14:13
Eddie Yome
Why don't we arrest the raf guy
14:16
Cathal Yeats
Duty officer briefed will be


GIBTEL
10:26
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Cathal Yeats
Duty officer briefed will be parking patrol car by south barrier air side and will await further instructions.
14:22
We have no evidence to arrest (yet)
14:23
Cathal Yeats
Sir you should seek an assurance that the aircraft is not carrying the exhibits.
14:27
Eddie Yome
Yes.
14:28

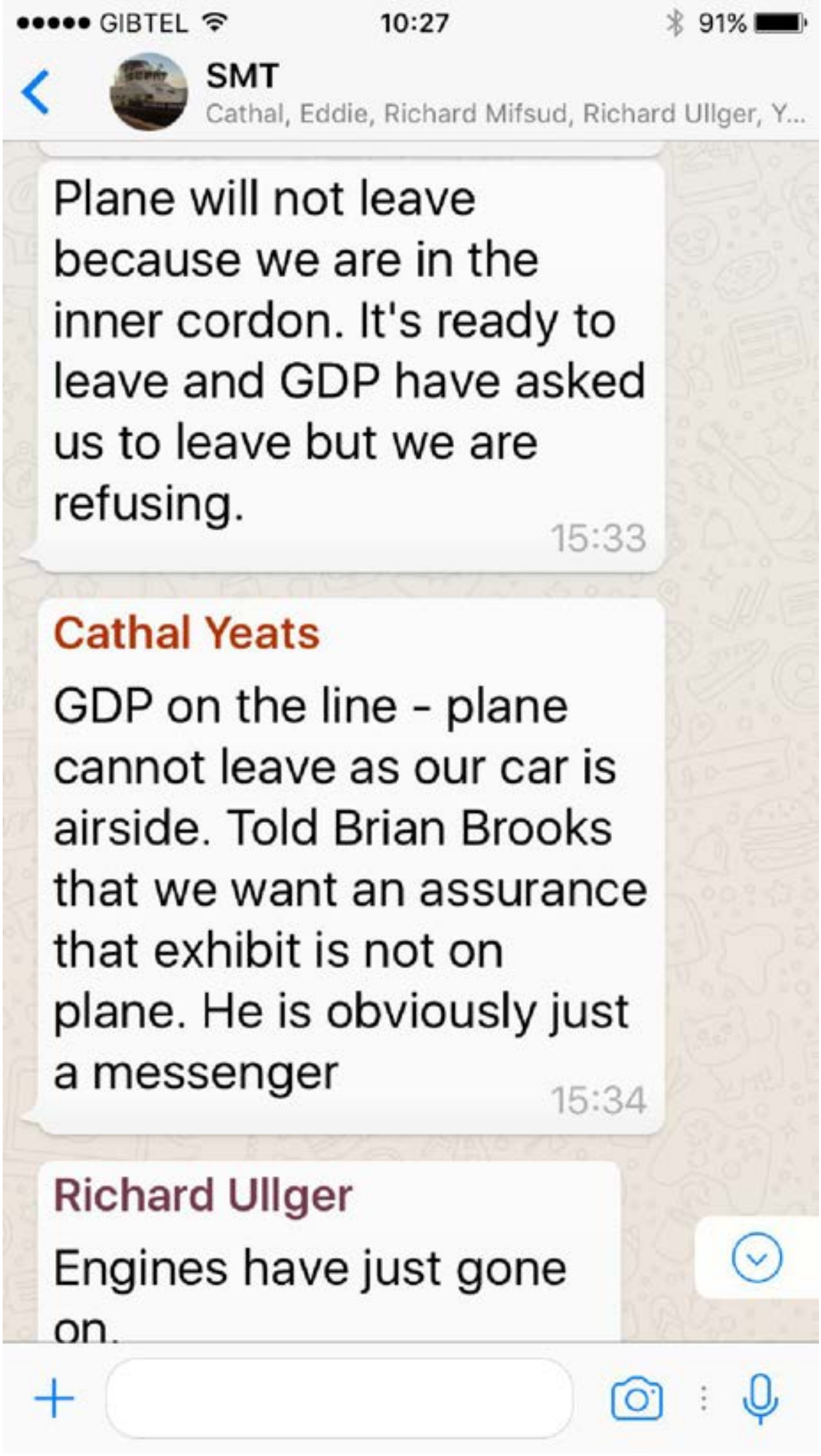

GIBTEL
10:26
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Eddie Yome
COS has not turned up. DG describes our possible actions as Nuclear. He has now gone to his office to try and get him here
15:08
About to give evidence in open court. Rhoda & zammit supporting. Alex enriles here as our resident expert to support too.
15:09
Eddie Yome
Good Anyone representing them lols
15:10
No


GIBTEL
10:26
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
No
15:10
Cathal Yeats
Aircraft is readying for departure. Do we prevent it from leaving?
15:10
Ok we shall allow its departure unless we decide otherwise.
15:13
Cop needs to spk to FG before it leaves.
15:13
Eddie Yome
Can someone call the Provost Marshall and get an assurance that neither

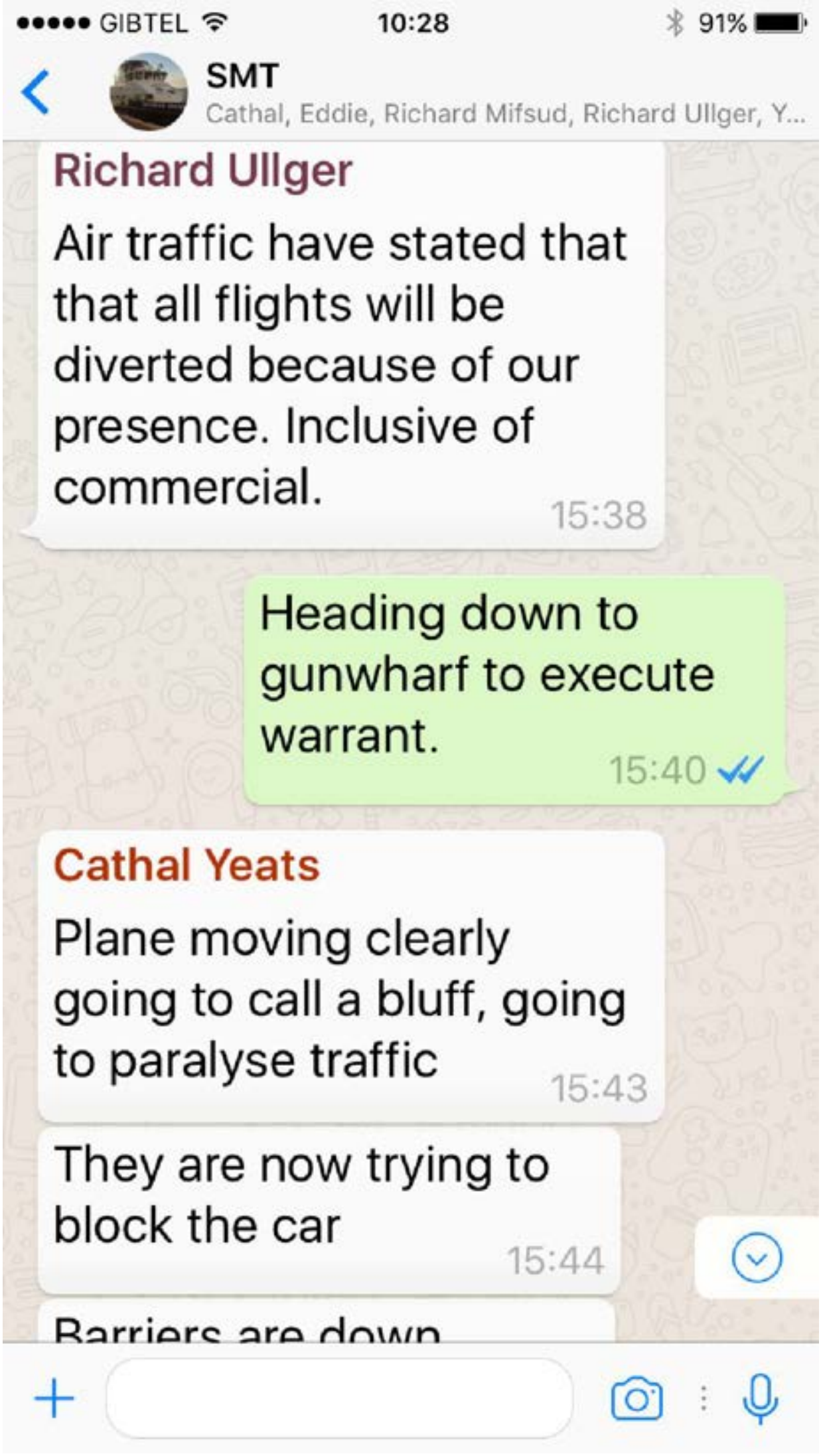

GIBTEL
10:26
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Can someone call the Provost Marshall and get an assurance that neither the raf man or equipment has left the jurisdiction
15:14
I'm going to seek that from COS if he appears
15:14
Cathal please ask wayne to do so
15:14
Cathal Yeats
We are running seriously short of time here
15:14
Will do
15:14
Eddie Yome


GIBTEL
10:27
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Eddie Yome
Say that if so it's obstructing police
15:15
Richard Ullger
Not until we have the warrant signed.
15:15
Sir have u had any luck with FG?
15:19
Eddie Yome
Hasn't turned up. DG is looking for him. This is clearly tactical pending flight
15:20
Hope I'm wrong
15:20

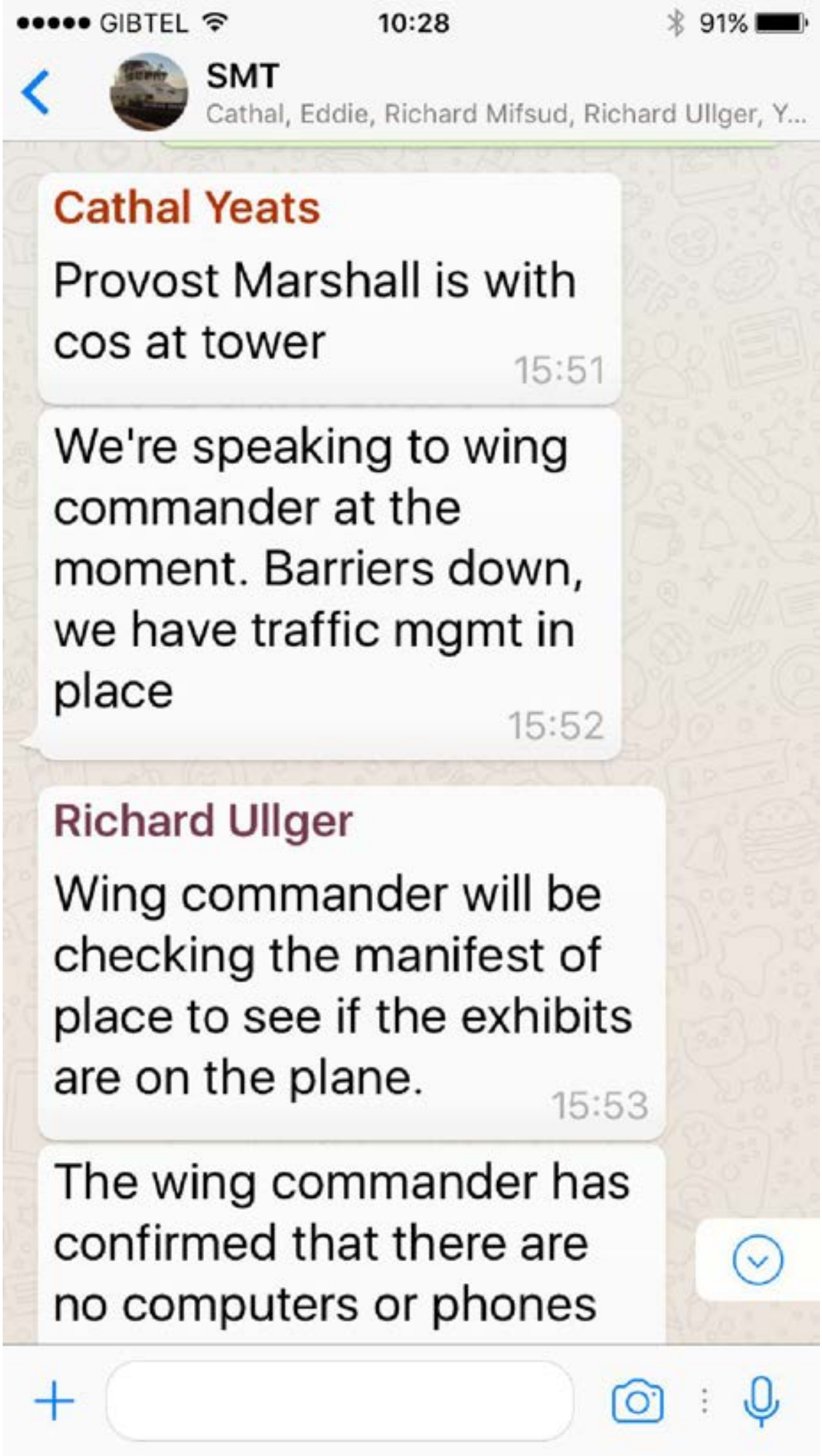

GIBTEL
10:27
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Richard Ullger
Sir ask Ivor for his number he's there with u.
15:21
Eddie Yome
No
15:21
Richard Mifsud
COS [redacted]
15:22
Richard Ullger
Sir have u called FG or do you want us to do so.
15:32
Plane will not leave because we are in the inner cordon. It's ready to leave and GDP have asked

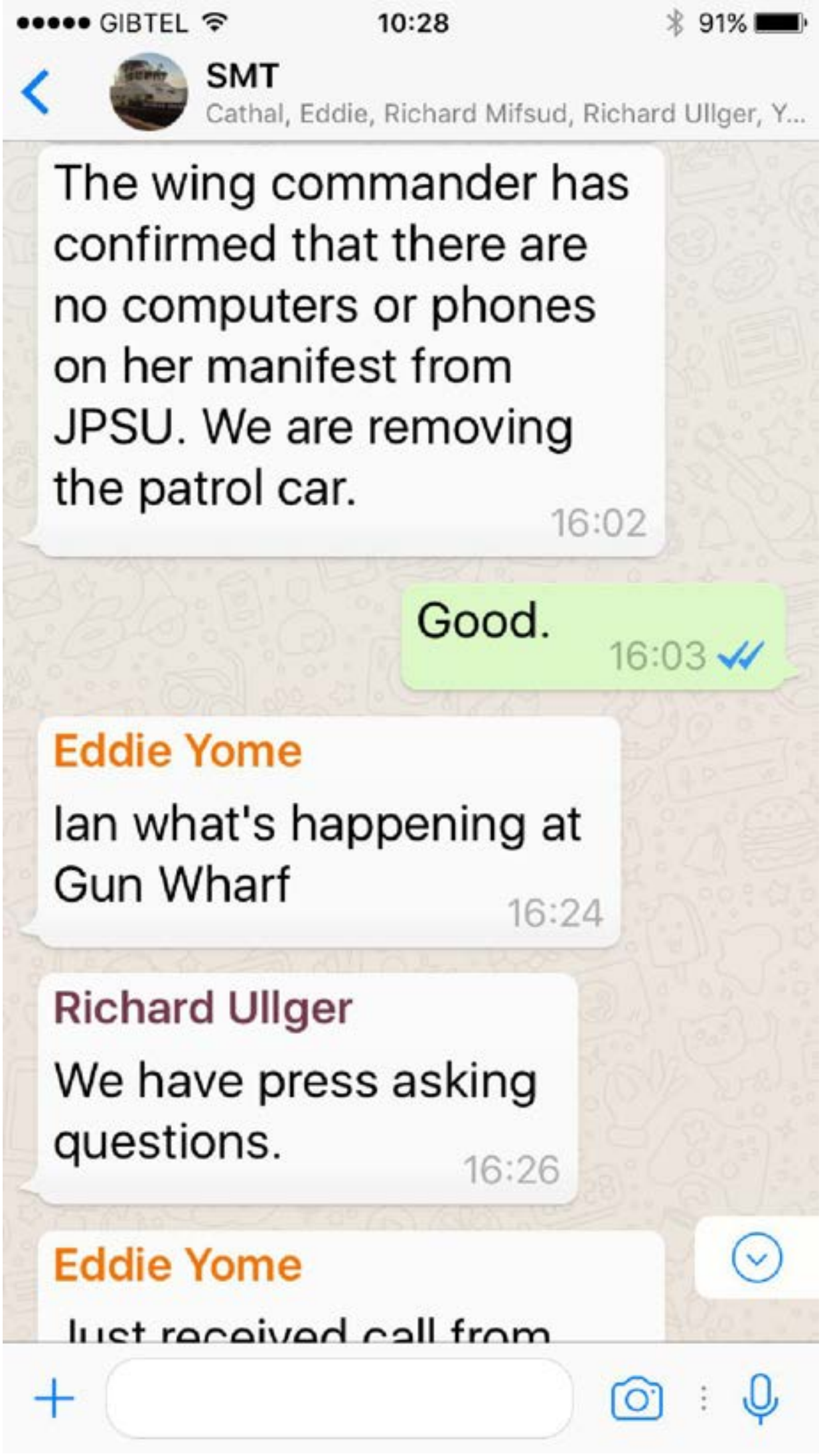

GIBTEL
10:27
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Plane will not leave because we are in the inner cordon. It's ready to leave and GDP have asked us to leave but we are refusing.
15:33
Cathal Yeats
GDP on the line - plane cannot leave as our car is airside. Told Brian Brooks that we want an assurance that exhibit is not on plane. He is obviously just a messenger
15:34
Richard Ullger
Engines have just gone on.

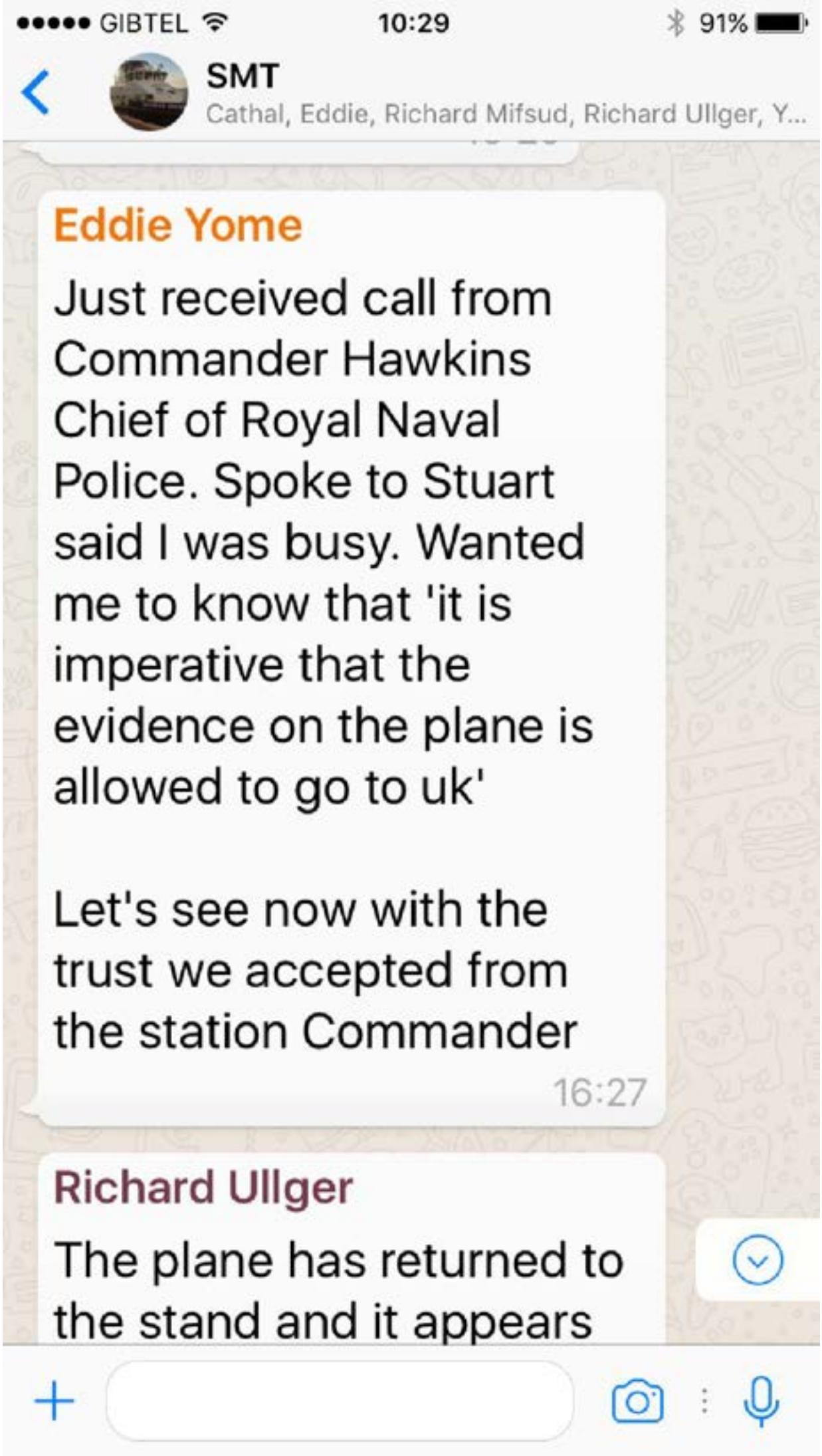

GIBTEL
10:27
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Richard Ullger
Engines have just gone on.
15:35
Cathal Yeats
Apparently CoS hasn't gone to meeting as he is in meetings on the subject.
15:35
Warrant issued in our favour
15:35
Cathal Yeats
Engines started on plane, do we take further preventive action?
15:36
Richard Ullger

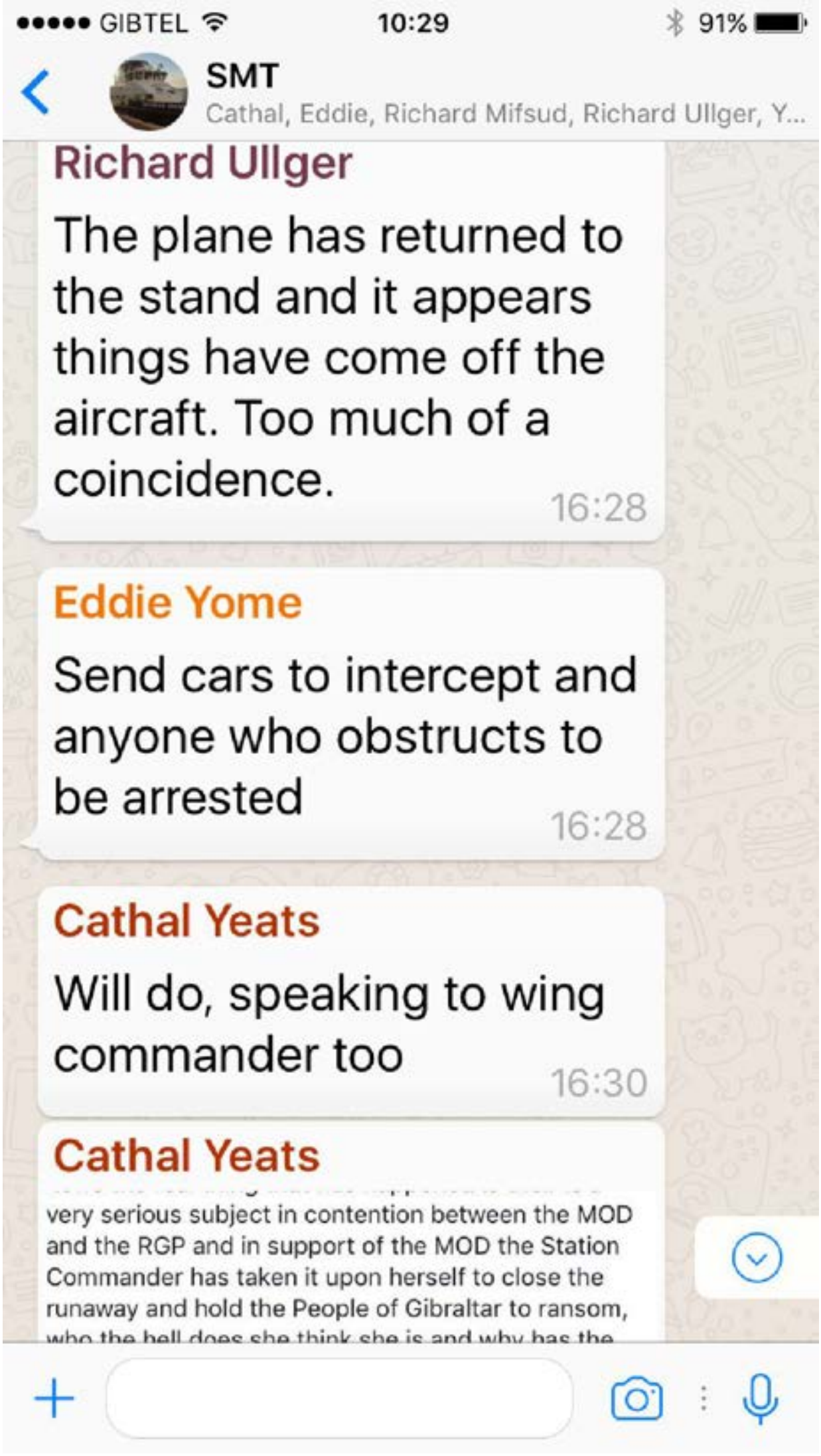

GIBTEL
10:28
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Richard Ullger
Air traffic have stated that that all flights will be diverted because of our presence. Inclusive of commercial.
15:38
Heading down to gunwharf to execute warrant.
15:40
Cathal Yeats
Plane moving clearly going to call a bluff, going to paralyse traffic
15:43
They are now trying to block the car
15:44
Barriers are down

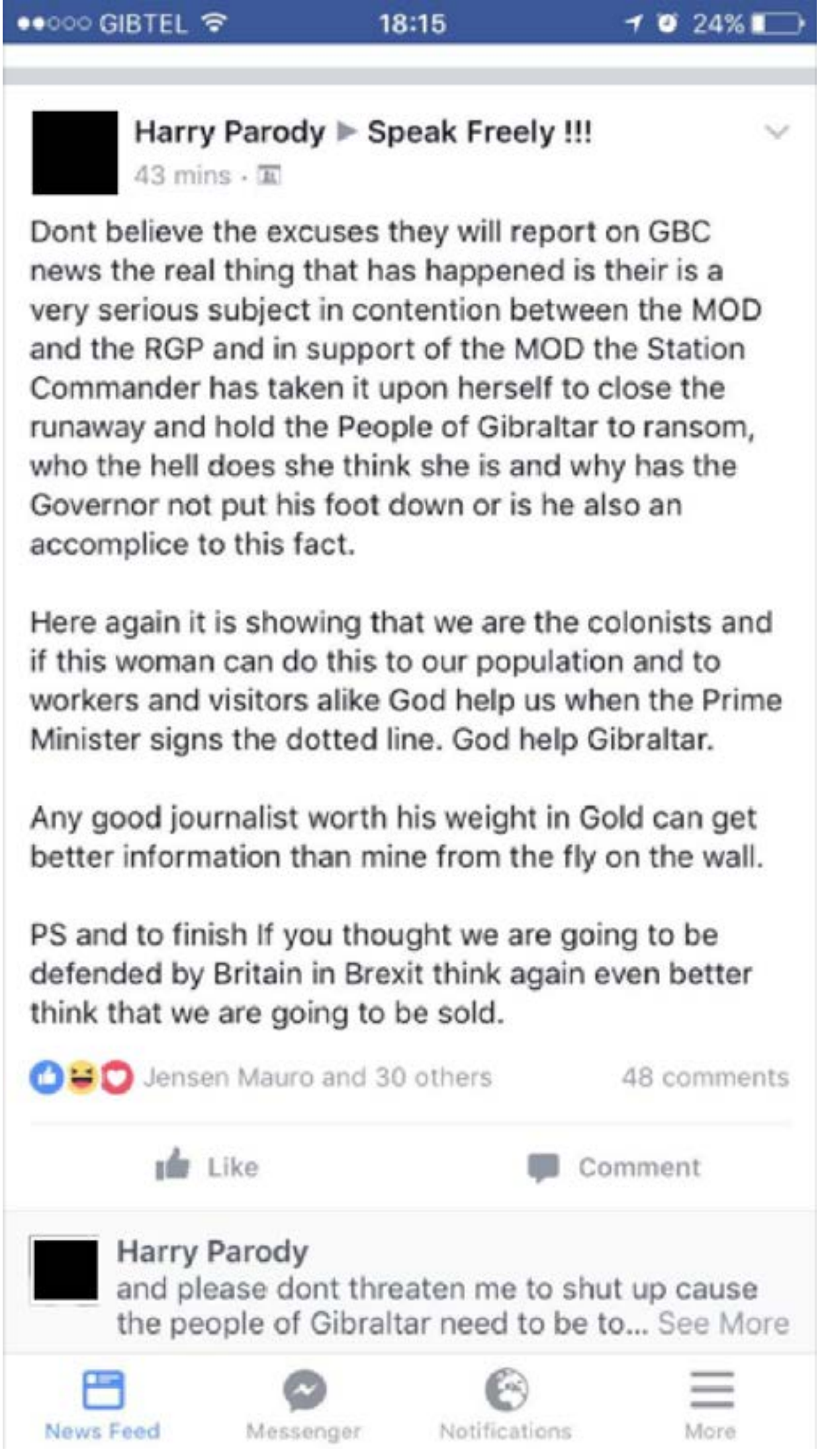

GIBTEL
10:28
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Barriers are down
15:45
Richard Ullger
Tried calling u sir. Our patrol car was blocked by the sweeper.
15:45
It is clear that the exhibits are on the plane.
15:46
Pro marshall not i Jpsu. I agree that stuff is likely to be on plane.
15:51
Cathal Yeats
Provost Marshall is with cos at tower
15:51

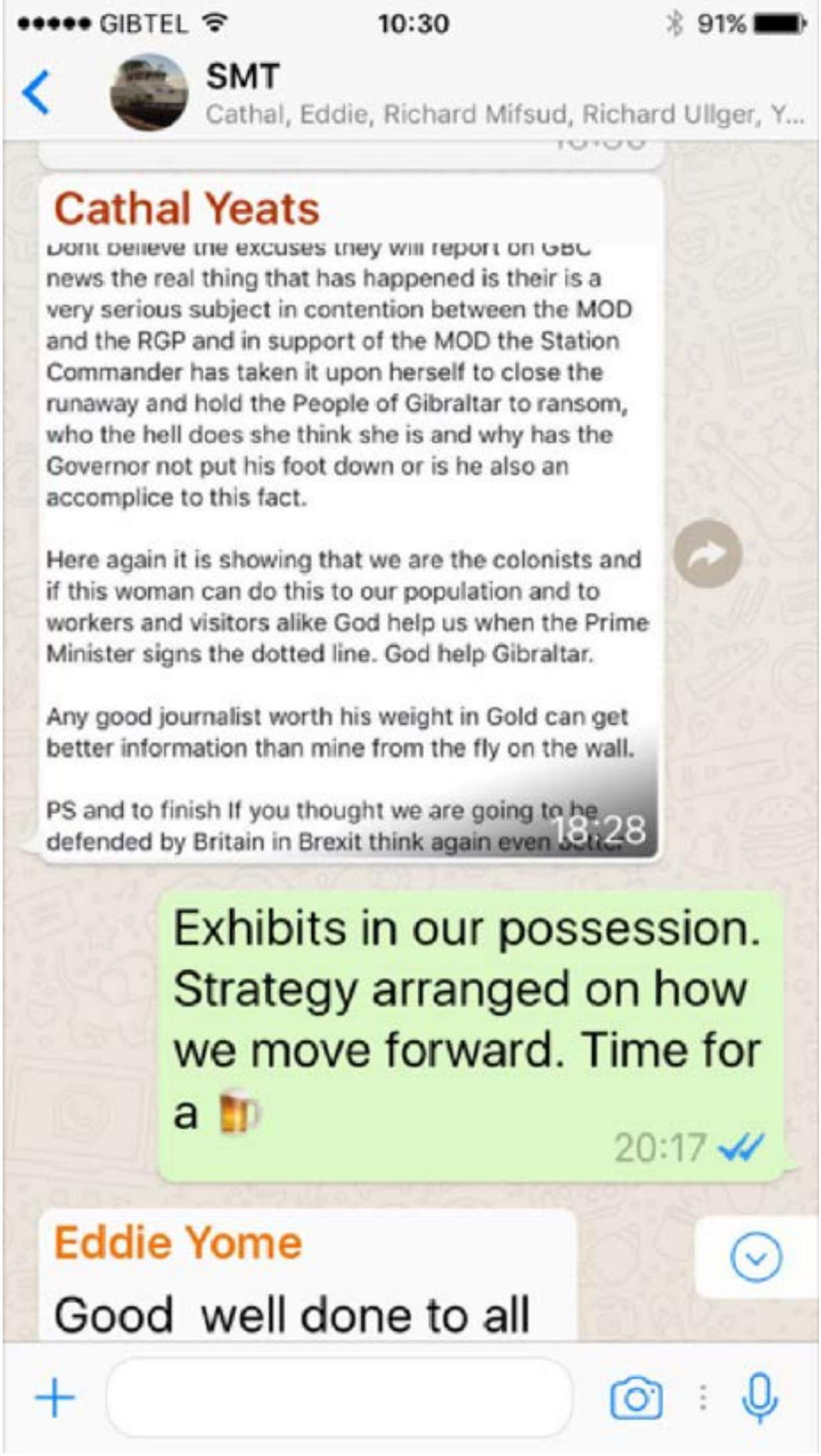

GIBTEL
10:28
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Cathal Yeats
Provost Marshall is with cos at tower
15:51
We're speaking to wing commander at the moment. Barriers down, we have traffic mgmt in place
15:52
Richard Ullger
Wing commander will be checking the manifest of place to see if the exhibits are on the plane.
15:53
The wing commander has confirmed that there are no computers or phones


GIBTEL
10:28
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
The wing commander has confirmed that there are no computers or phones on her manifest from JPSU. We are removing the patrol car.
16:02
Good.
16:03
Eddie Yome
Ian what's happening at Gun Wharf
16:24
Richard Ullger
We have press asking questions.
16:26
Eddie Yome
Just received call from


GIBTEL
10:29
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Eddie Yome
Just received call from Commander Hawkins Chief of Royal Naval Police. Spoke to Stuart said I was busy. Wanted me to know that 'it is imperative that the evidence on the plane is allowed to go to uk'
Let's see now with the trust we accepted from the station Commander
16:27
Richard Ullger
The plane has returned to the stand and it appears


GIBTEL
10:29
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Richard Ullger
The plane has returned to the stand and it appears things have come off the aircraft. Too much of a coincidence.
16:28
Eddie Yome
Send cars to intercept and anyone who obstructs to be arrested
16:28
Cathal Yeats
Will do, speaking to wing commander too
16:30
Cathal Yeats
very serious subject in contention between the MOD and the RGP and in support of the MOD the Station Commander has taken it upon herself to close the runaway and hold the People of Gibraltar to ransom,


GIBTEL
18:15
24%
Harry Parody ▶ Speak Freely !!!
43 mins ·
Dont believe the excuses they will report on GBC news the real thing that has happened is their is a very serious subject in contention between the MOD and the RGP and in support of the MOD the Station Commander has taken it upon herself to close the runaway and hold the People of Gibraltar to ransom, who the hell does she think she is and why has the Governor not put his foot down or is he also an accomplice to this fact.
Here again it is showing that we are the colonists and if this woman can do this to our population and to workers and visitors alike God help us when the Prime Minister signs the dotted line. God help Gibraltar.
Any good journalist worth his weight in Gold can get better information than mine from the fly on the wall.
PS and to finish If you thought we are going to be defended by Britain in Brexit think again even better think that we are going to be sold.
Jensen Mauro and 30 others
48 comments
Like
Comment
Harry Parody
and please dont threaten me to shut up cause the people of Gibraltar need to be to... See More
News Feed
Messenger
Notifications
More


GIBTEL
10:30
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Cathal Yeats
Dont believe the excuses they will report on GBC news the real thing that has happened is their is a very serious subject in contention between the MOD and the RGP and in support of the MOD the Station Commander has taken it upon herself to close the runaway and hold the People of Gibraltar to ransom, who the hell does she think she is and why has the Governor not put his foot down or is he also an accomplice to this fact.
Here again it is showing that we are the colonists and if this woman can do this to our population and to workers and visitors alike God help us when the Prime Minister signs the dotted line. God help Gibraltar.
Any good journalist worth his weight in Gold can get better information than mine from the fly on the wall.
PS and to finish If you thought we are going to be defended by Britain in Brexit think again even
18:28
Exhibits in our possession. Strategy arranged on how we move forward. Time for a
20:17
Eddie Yome
Good well done to all


GIBTEL
10:31
91%
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...
Cathal Yeats
Best I've seen is there was a "stowaway" on the plane!
20:37
Ole
20:58
Eddie Yome
CM has sent a text complimenting all us for a job well done
21:00
Richard Mifsud
21:00
Eddie Yome
Have you received email

●●●●● GIBTEL 10:31 91%

SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, Y...

Eddie Yome

Have you received email from CM

21:43

Cathal Yeats

Yes, reading now

21:43

Richard Ullger



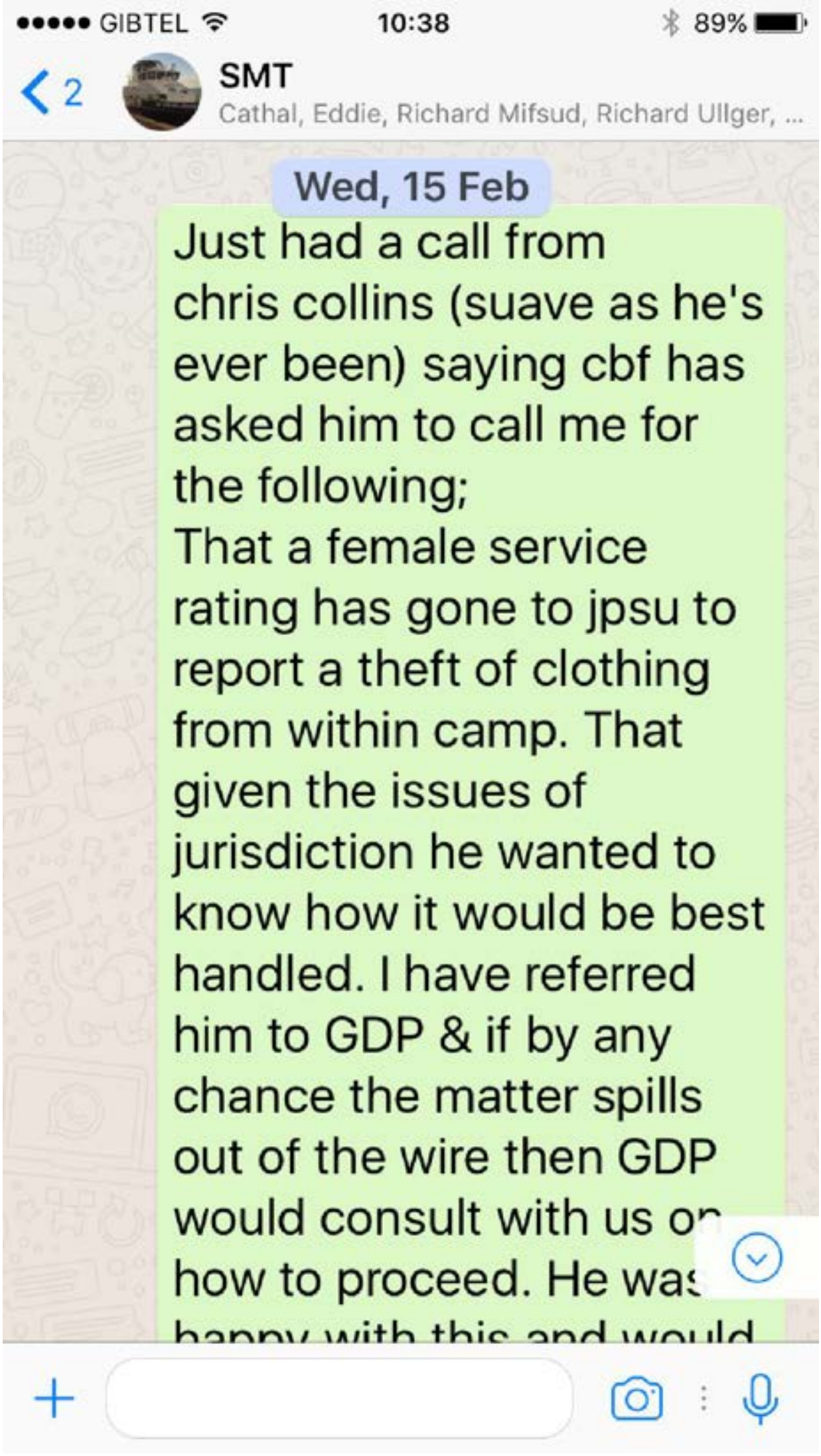
21:43

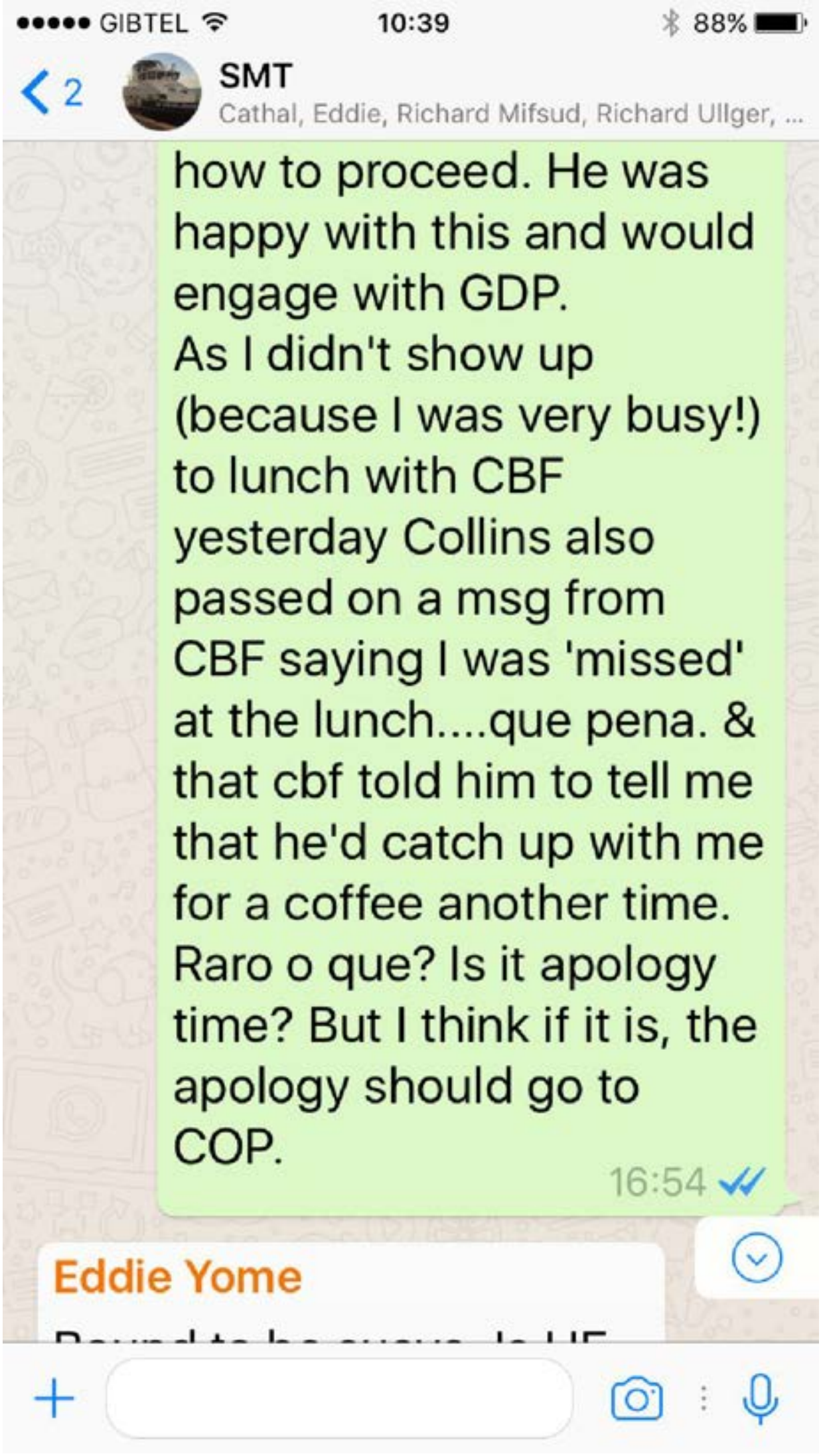
Yes. I have also forwarded to my people + stephen riley, patrick, sean& malcolm.

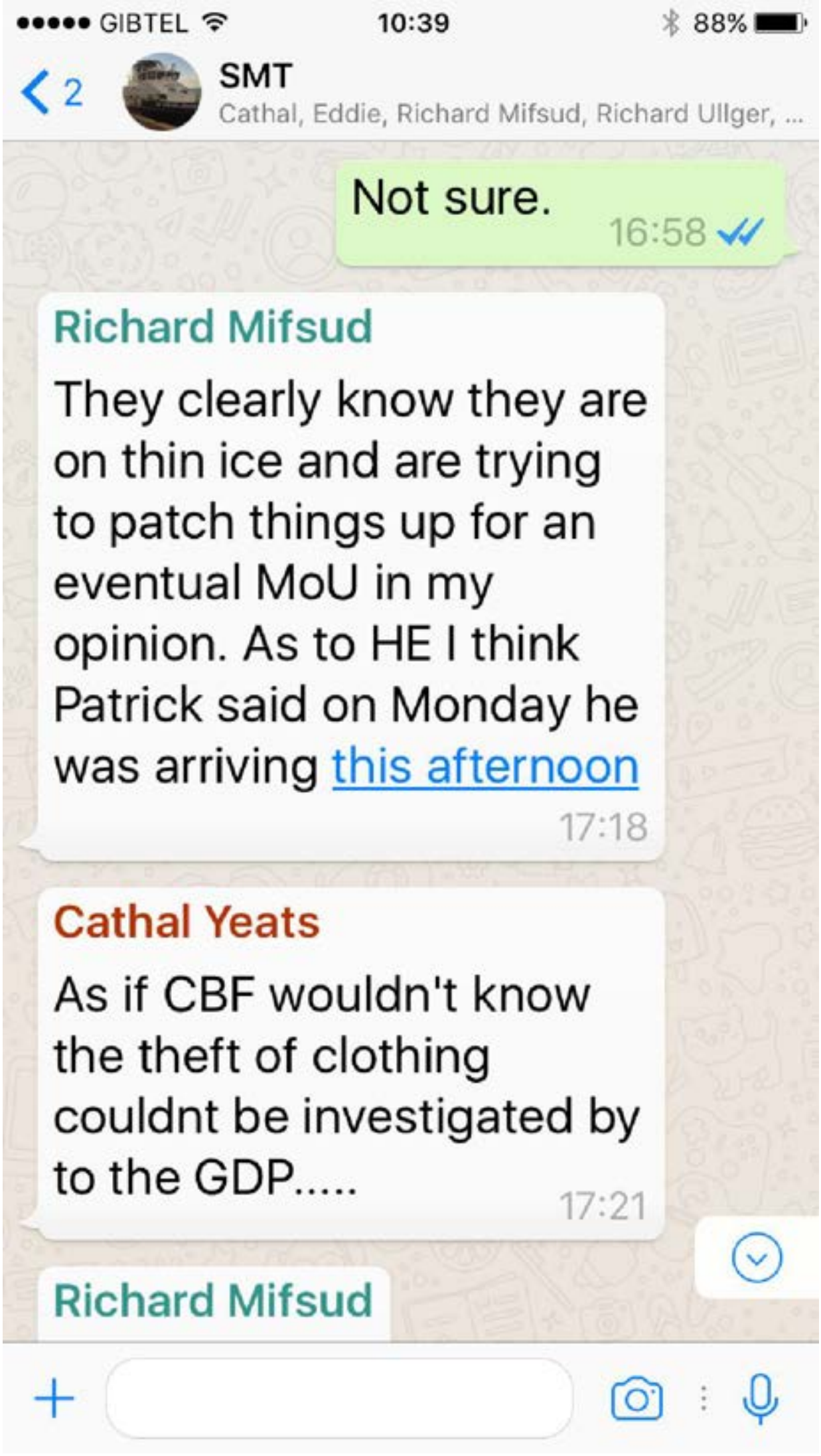
21:44

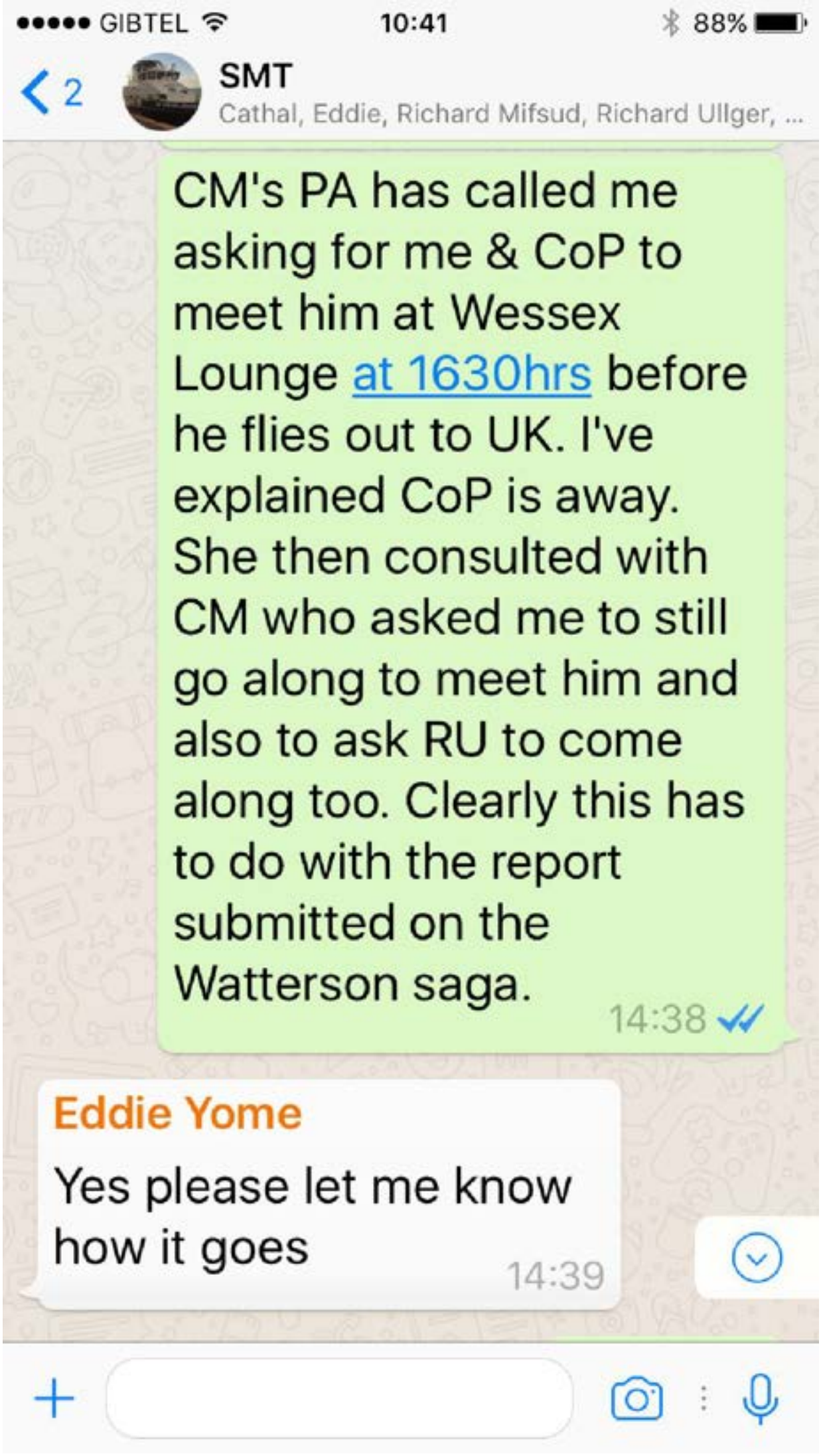
Sat, 11 Feb

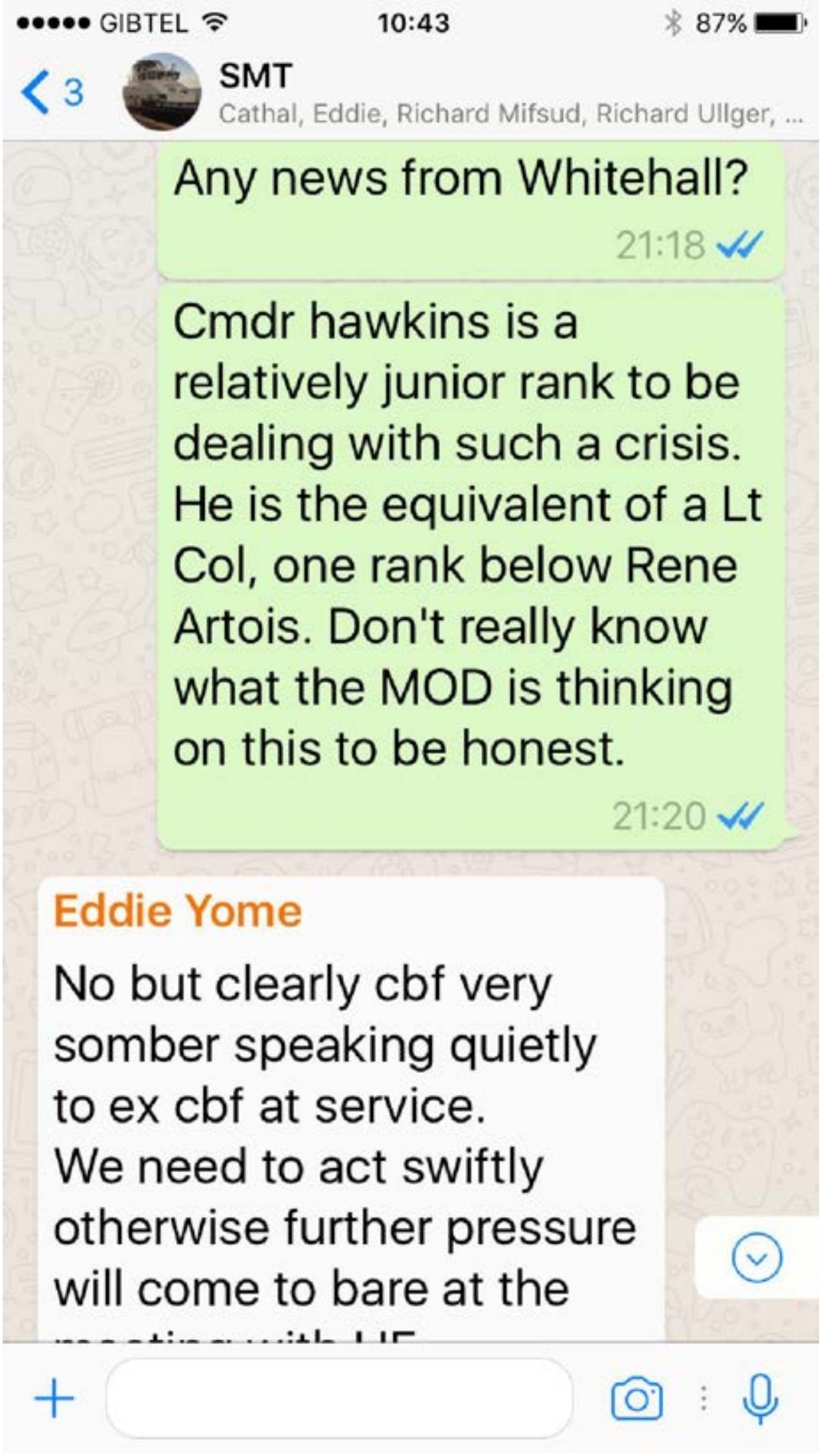


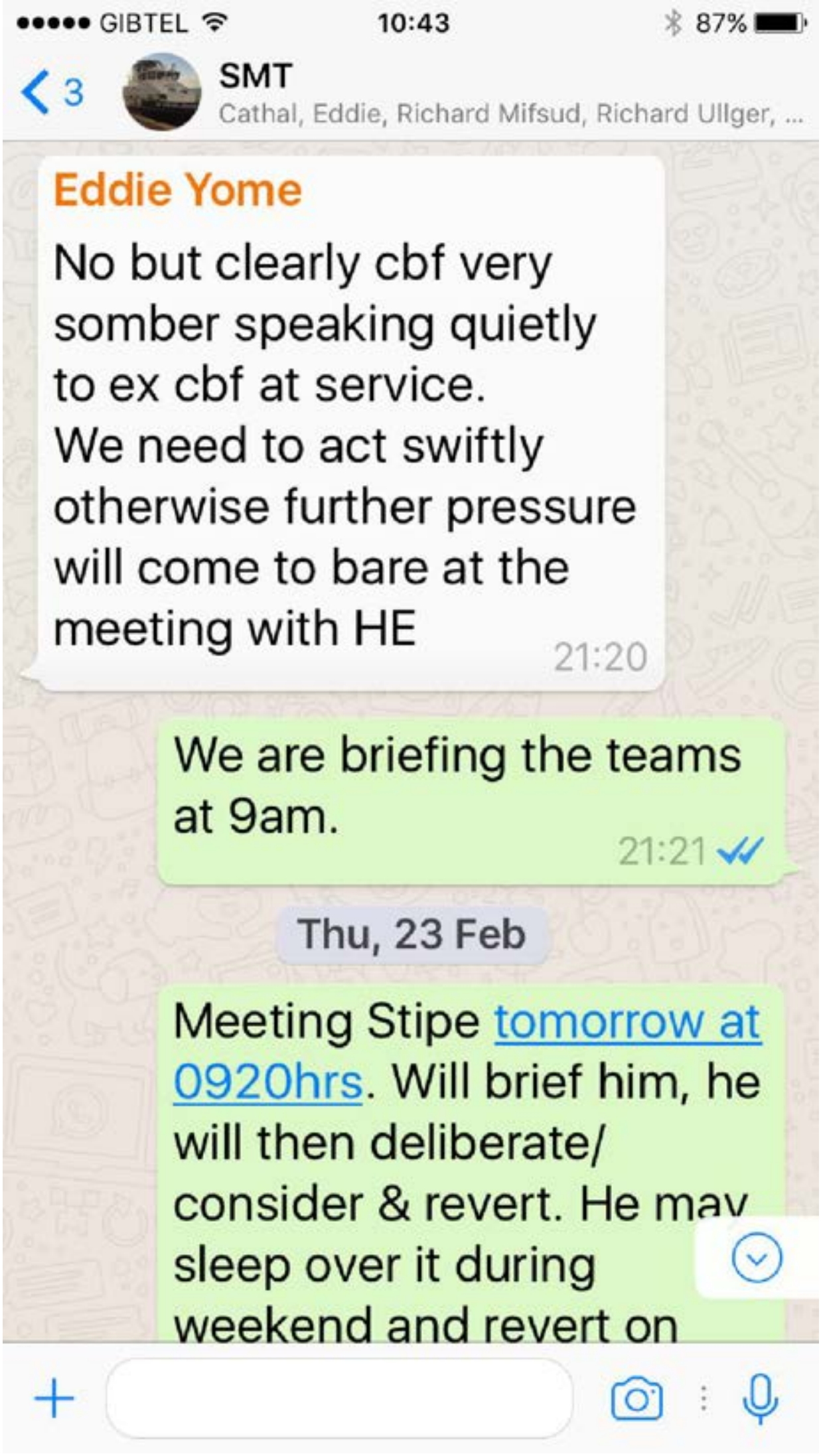

GIBTEL
10:38
89%
2
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Wed, 15 Feb
Just had a call from chris collins (suave as he's ever been) saying cbf has asked him to call me for the following;
That a female service rating has gone to jpsu to report a theft of clothing from within camp. That given the issues of jurisdiction he wanted to know how it would be best handled. I have referred him to GDP & if by any chance the matter spills out of the wire then GDP would consult with us on how to proceed. He was happy with this and would


GIBTEL
10:39
88%
2
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
how to proceed. He was happy with this and would engage with GDP.
As I didn't show up (because I was very busy!) to lunch with CBF yesterday Collins also passed on a msg from CBF saying I was 'missed' at the lunch....que pena. & that cbf told him to tell me that he'd catch up with me for a coffee another time.
Raro o que? Is it apology time? But I think if it is, the apology should go to COP.
16:54
Eddie Yome


GIBTEL
10:39
88%
2
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Not sure.
16:58
Richard Mifsud
They clearly know they are on thin ice and are trying to patch things up for an eventual MoU in my opinion. As to HE I think Patrick said on Monday he was arriving this afternoon
17:18
Cathal Yeats
As if CBF wouldn't know the theft of clothing couldnt be investigated by to the GDP.....
17:21
Richard Mifsud


GIBTEL
10:41
88%
2
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
CM's PA has called me asking for me & CoP to meet him at Wessex Lounge at 1630hrs before he flies out to UK. I've explained CoP is away. She then consulted with CM who asked me to still go along to meet him and also to ask RU to come along too. Clearly this has to do with the report submitted on the Watterson saga.
14:38
Eddie Yome
Yes please let me know how it goes
14:39


GIBTEL
10:43
87%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Any news from Whitehall?
21:18
Cmdr hawkins is a relatively junior rank to be dealing with such a crisis. He is the equivalent of a Lt Col, one rank below Rene Artois. Don't really know what the MOD is thinking on this to be honest.
21:20
Eddie Yome
No but clearly cbf very somber speaking quietly to ex cbf at service.
We need to act swiftly otherwise further pressure will come to bare at the


GIBTEL
10:43
87%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Eddie Yome
No but clearly cbf very somber speaking quietly to ex cbf at service.
We need to act swiftly otherwise further pressure will come to bare at the meeting with HE
21:20
We are briefing the teams at 9am.
21:21
Thu, 23 Feb
Meeting Stipe tomorrow at 0920hrs. Will brief him, he will then deliberate/ consider & revert. He may sleep over it during weekend and revert on

●●●●● GIBTEL 10:43 87%

3 SMT

Cathal, Eddie, Richard Mifsud, Richard Ullger, ...

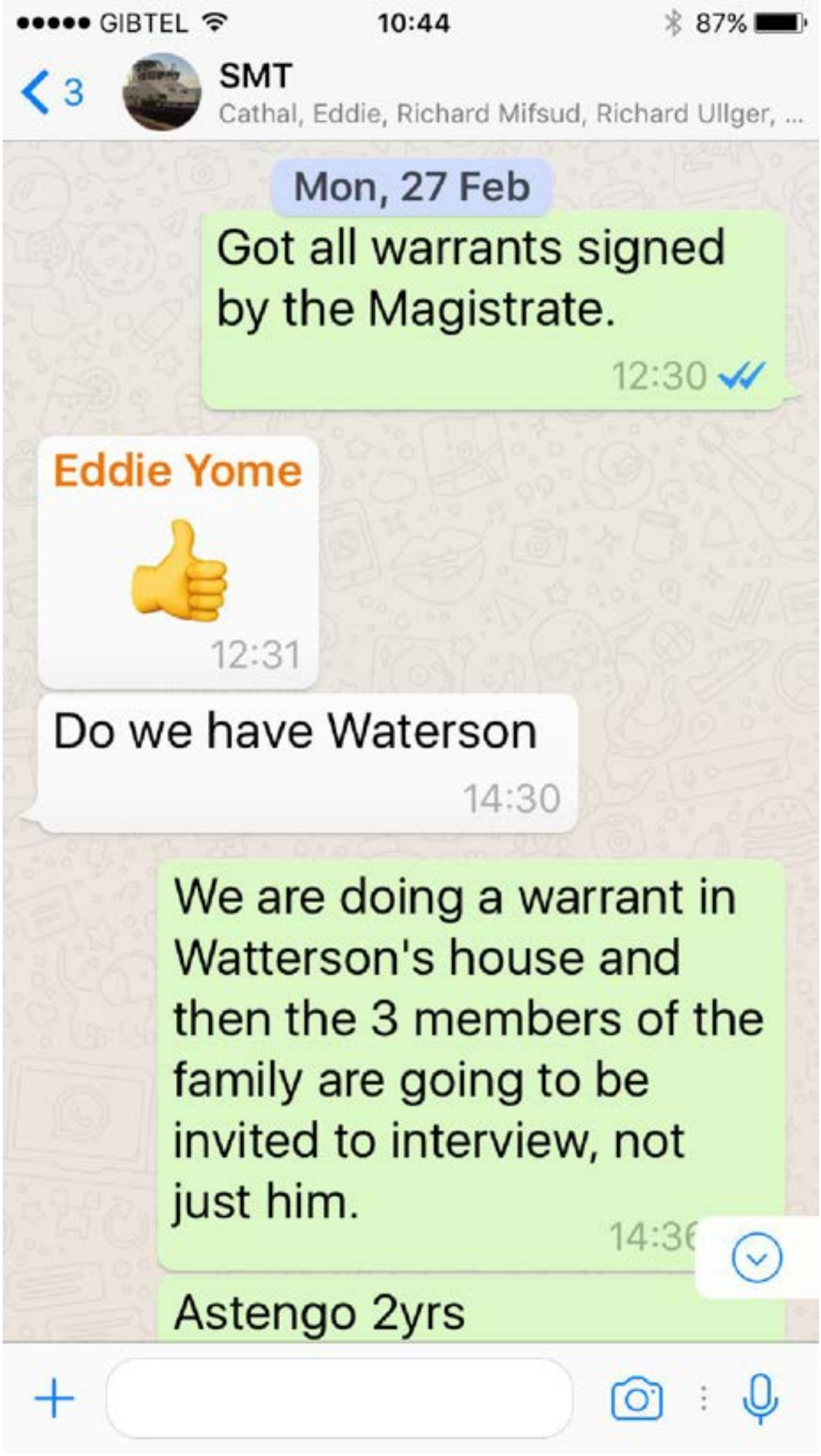
Meeting Stipe tomorrow at 0920hrs. Will brief him, he will then deliberate/ consider & revert. He may sleep over it during weekend and revert on Monday - it all depends how complex he sees the matter. Bo doubt he will be 'speaking' to RR etc.

18:49

Sun, 26 Feb

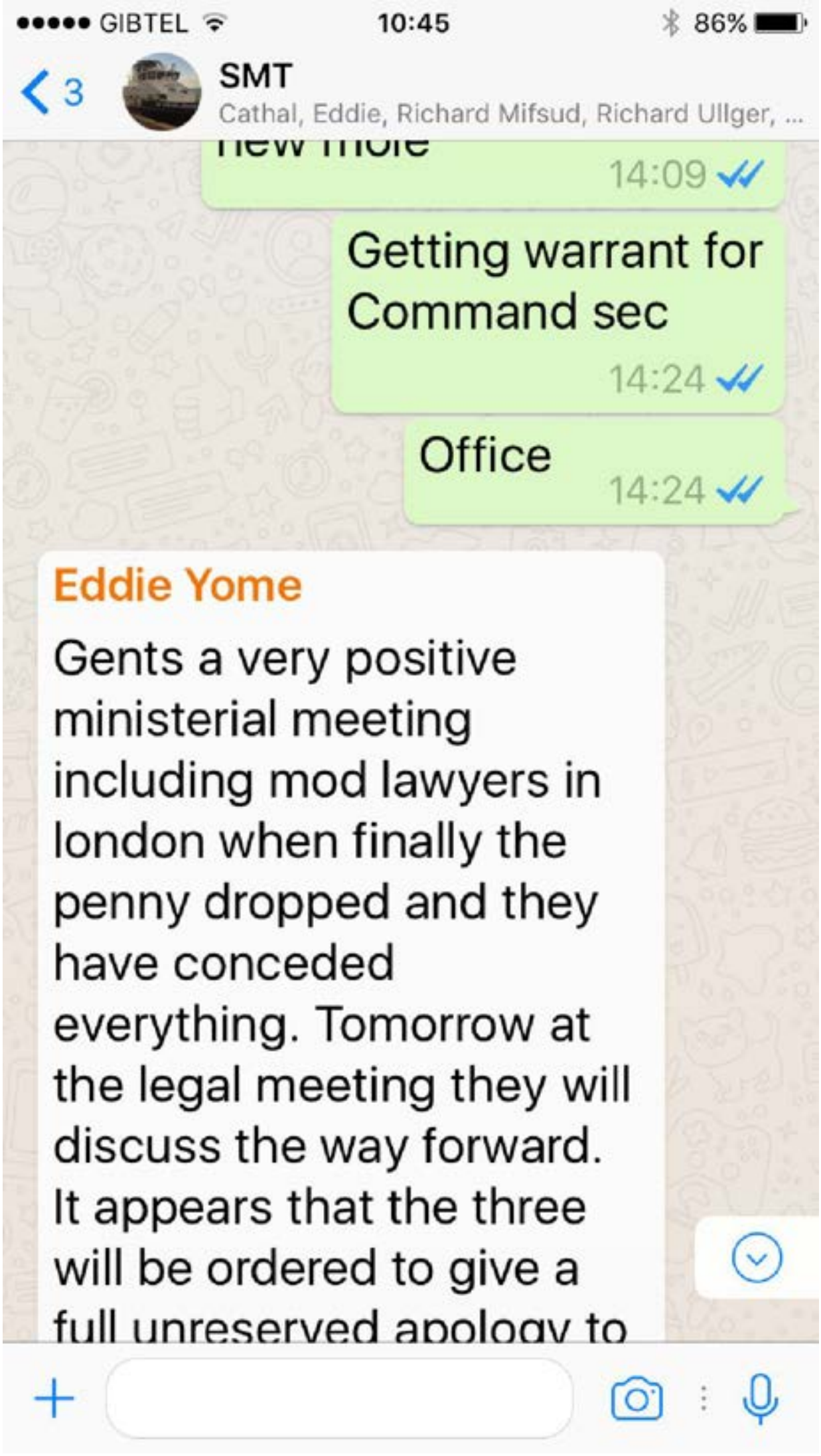
Eddie Yome

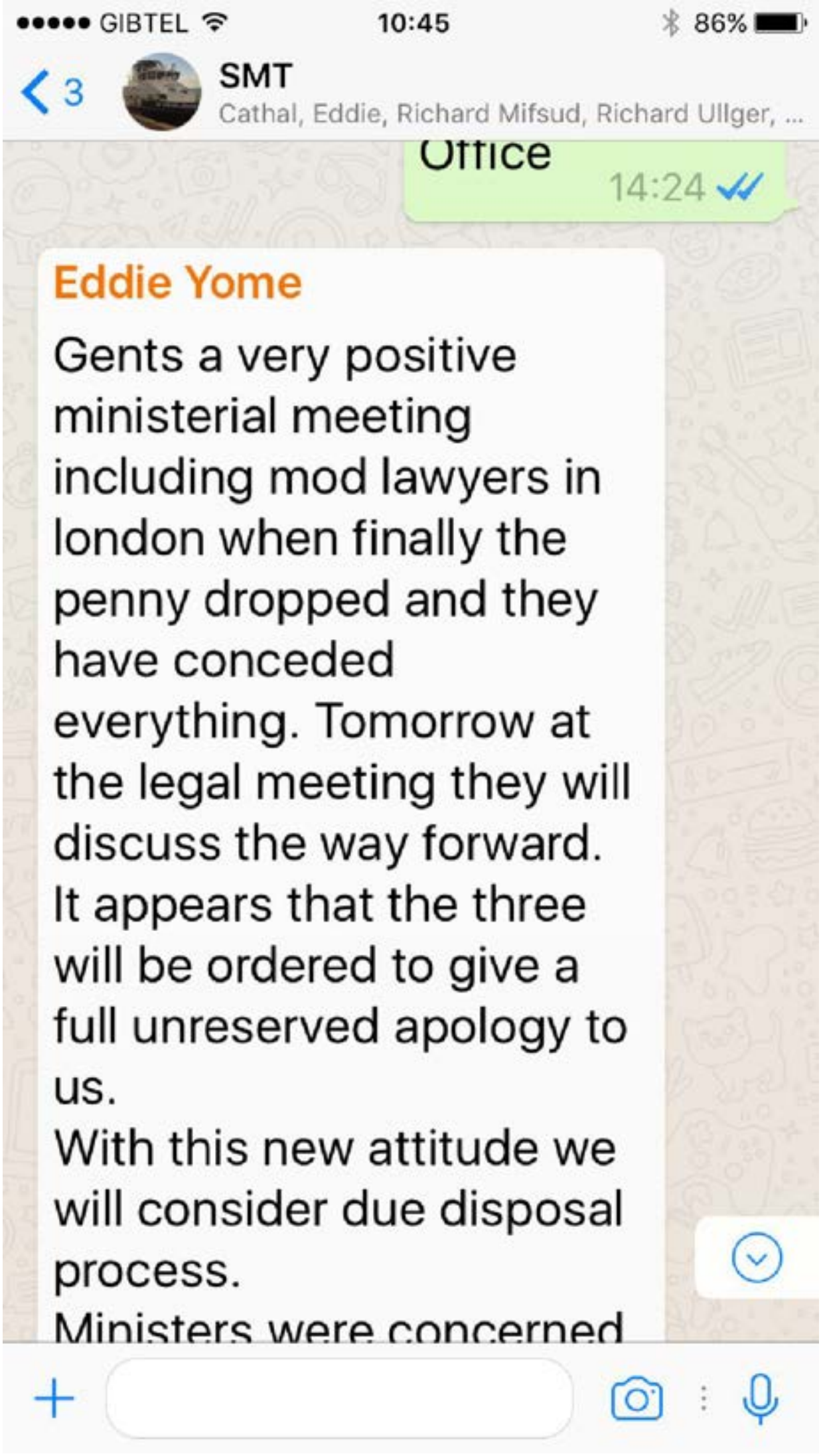


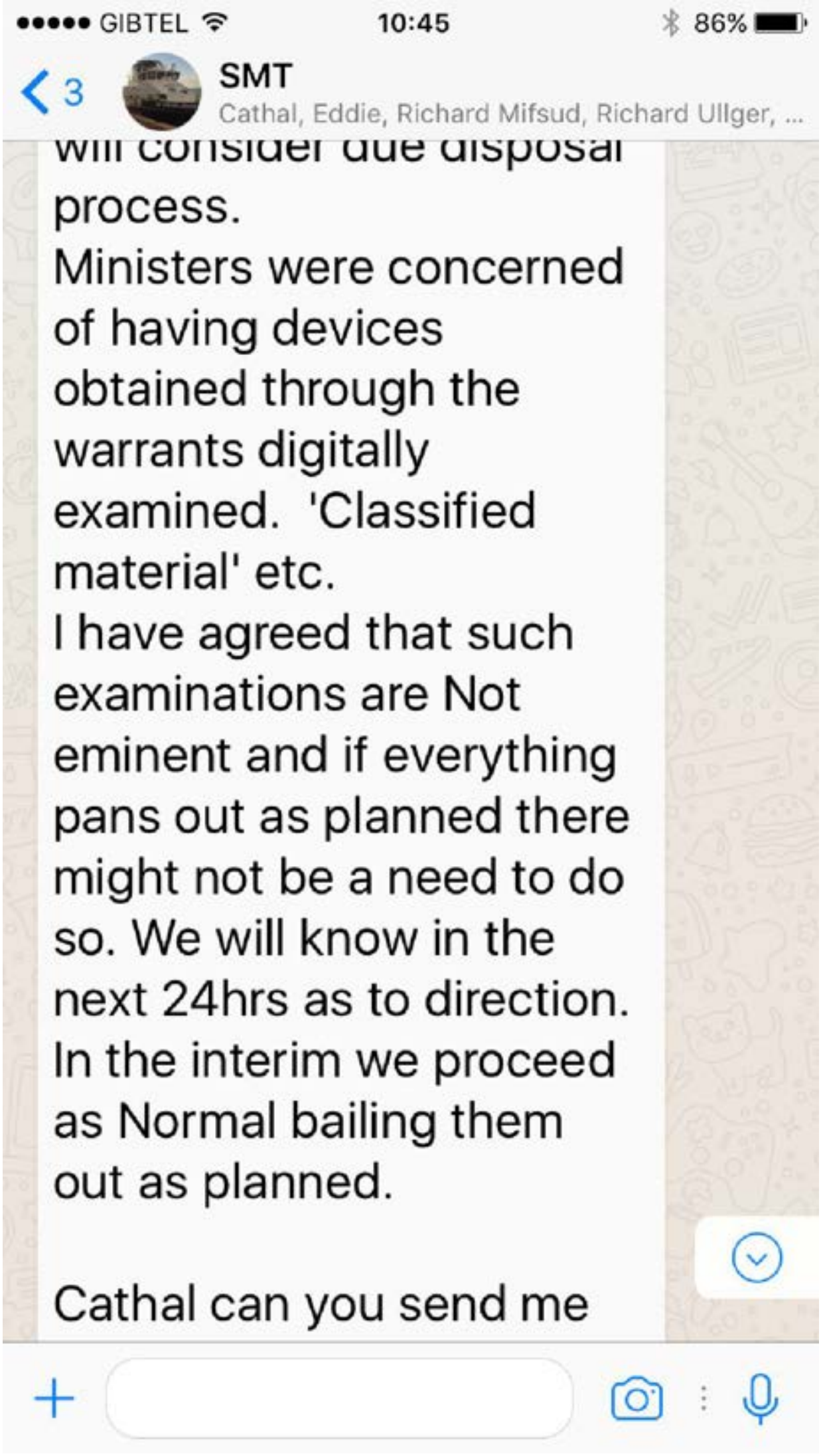

GIBTEL
10:44
87%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Mon, 27 Feb
Got all warrants signed by the Magistrate.
12:30
Eddie Yome
12:31
Do we have Waterson
14:30
We are doing a warrant in Watterson's house and then the 3 members of the family are going to be invited to interview, not just him.
14:36
Astengo 2yrs


GIBTEL
10:44
86%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
calling. Wants to speak to his client the wing commander....
14:06
Eddie Yome
Ian's call
14:09
When she is brought to new mole
14:09
Getting warrant for
I
The
You
Q W E R T Y U I O P
A S D F G H J K L
Z X C V B N M
123
space
return


GIBTEL
10:45
86%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
13:41
CoS Under arrest.
13:59
Cathal Yeats
Charles Gomez has been calling. Wants to speak to his client the wing commander....
14:06
Eddie Yome
Ian's call
14:09
When she is brought to new mole
14:09
Getting warrant for Command sec
14:24

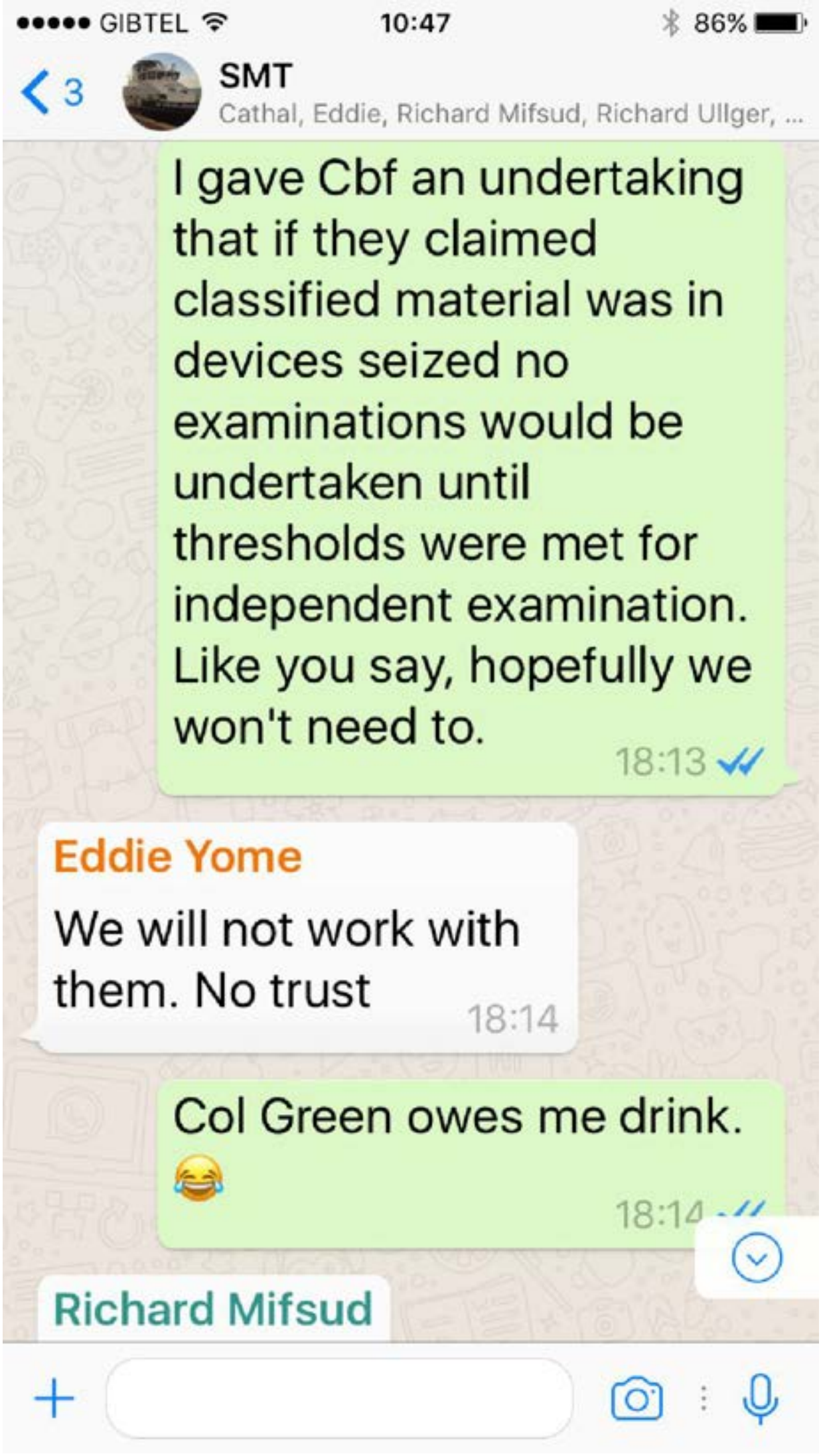

GIBTEL
10:45
86%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
14:09
Getting warrant for Command sec
14:24
Office
14:24
Eddie Yome
Gents a very positive ministerial meeting including mod lawyers in london when finally the penny dropped and they have conceded everything. Tomorrow at the legal meeting they will discuss the way forward. It appears that the three will be ordered to give a full unreserved apology to

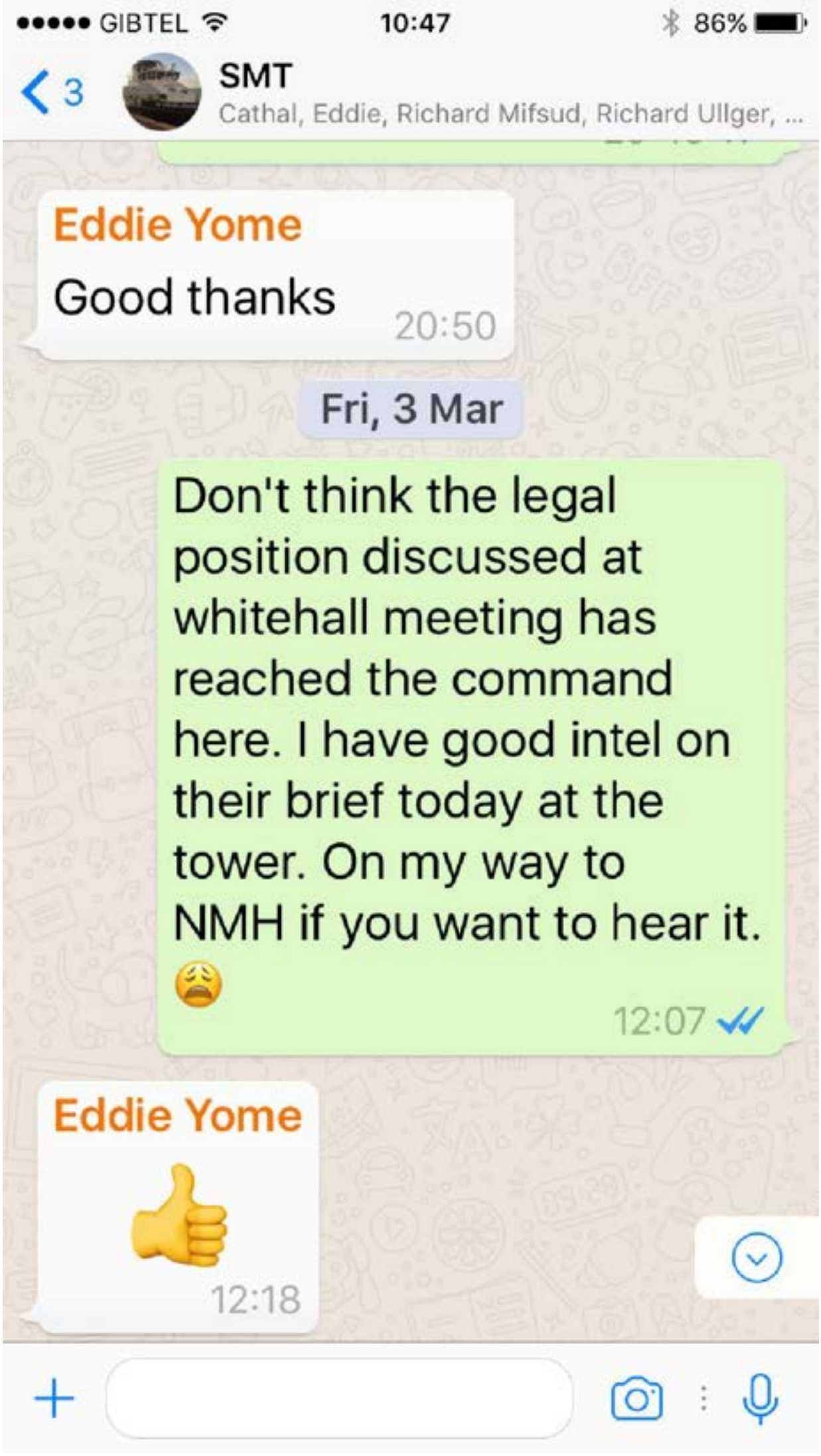

GIBTEL
10:45
86%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Office
14:24
Eddie Yome
Gents a very positive ministerial meeting including mod lawyers in london when finally the penny dropped and they have conceded everything. Tomorrow at the legal meeting they will discuss the way forward. It appears that the three will be ordered to give a full unreserved apology to us.
With this new attitude we will consider due disposal process.
Ministers were concerned

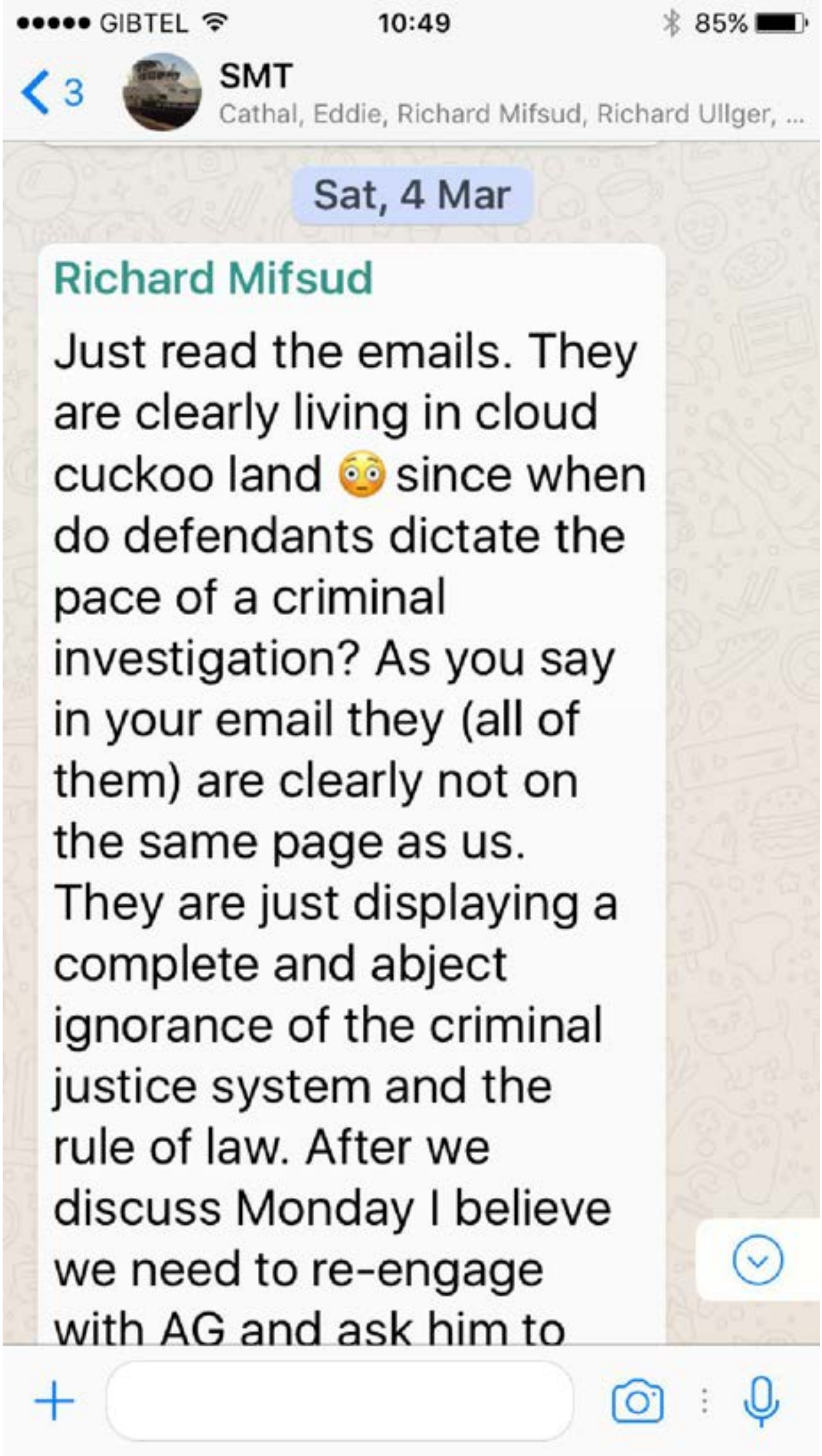

GIBTEL
10:45
86%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
will consider due disposal process.
Ministers were concerned of having devices obtained through the warrants digitally examined. 'Classified material' etc.
I have agreed that such examinations are Not eminent and if everything pans out as planned there might not be a need to do so. We will know in the next 24hrs as to direction. In the interim we proceed as Normal bailing them out as planned.
Cathal can you send me

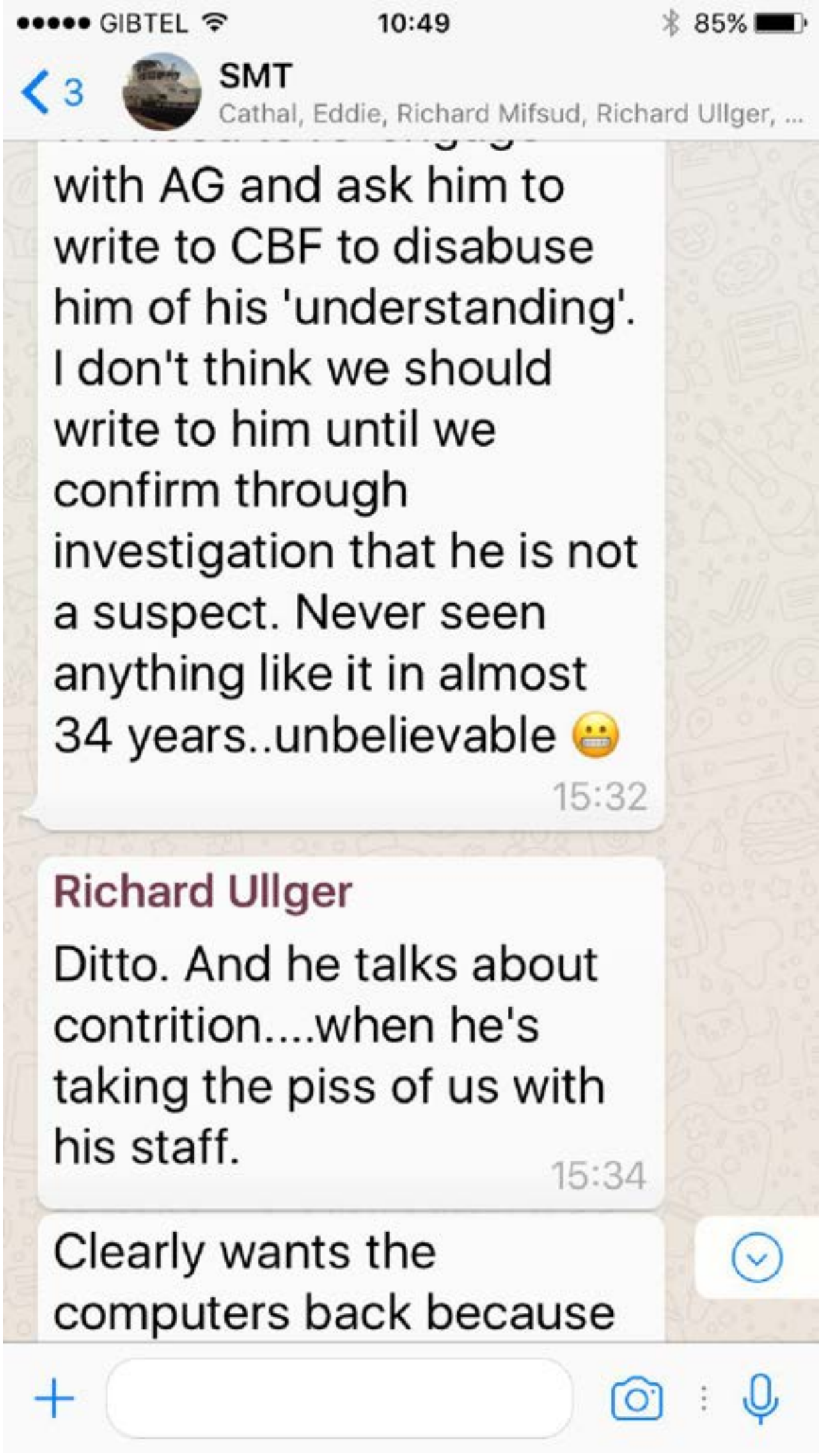

GIBTEL
10:46
86%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
out as planned.
Cathal can you send me separately the revised media release which CM wants to have sight of. I have already told him what it will say but he is going to add a gog line
18:07
Richard Mifsud
18:08
Good news. I hope it resolves itself as the tacañones are suggesting
18:1

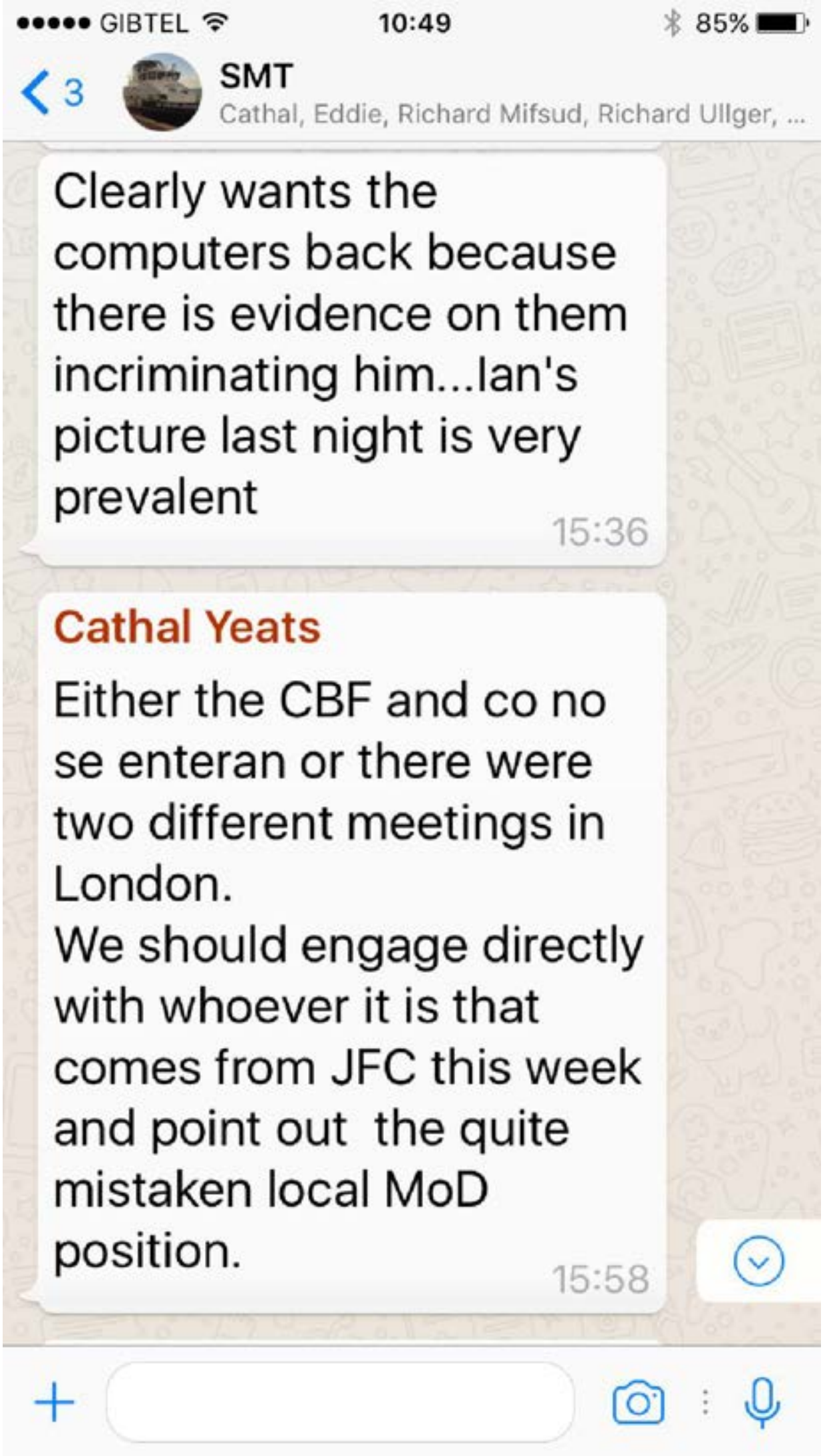

GIBTEL
10:46
86%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Richard Mifsud
Can we assume the 3 will be redeployed away from Gibraltar? To do otherwise would, I think be awkward in the extreme
18:12
Eddie Yome
Cathal I've copied Patrick so that he can send PR to me
18:13
Their stay here is untenable
18:13
I gave Cbf an undertaking that if they claimed classified material was i..


GIBTEL
10:47
86%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
I gave Cbf an undertaking that if they claimed classified material was in devices seized no examinations would be undertaken until thresholds were met for independent examination. Like you say, hopefully we won't need to.
18:13
Eddie Yome
We will not work with them. No trust
18:14
Col Green owes me drink.
18:14
Richard Mifsud


GIBTEL
10:47
86%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Eddie Yome
Good thanks
20:50
Fri, 3 Mar
Don't think the legal position discussed at whitehall meeting has reached the command here. I have good intel on their brief today at the tower. On my way to NMH if you want to hear it.
12:07
Eddie Yome
12:18


GIBTEL
10:49
85%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Sat, 4 Mar
Richard Mifsud
Just read the emails. They are clearly living in cloud cuckoo land 😳 since when do defendants dictate the pace of a criminal investigation? As you say in your email they (all of them) are clearly not on the same page as us. They are just displaying a complete and abject ignorance of the criminal justice system and the rule of law. After we discuss Monday I believe we need to re-engage with AG and ask him to


GIBTEL
10:49
85%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
with AG and ask him to write to CBF to disabuse him of his 'understanding'. I don't think we should write to him until we confirm through investigation that he is not a suspect. Never seen anything like it in almost 34 years..unbelievable 😬
15:32
Richard Ullger
Ditto. And he talks about contrition....when he's taking the piss of us with his staff.
15:34
Clearly wants the computers back because


GIBTEL
10:49
85%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Clearly wants the computers back because there is evidence on them incriminating him...Ian's picture last night is very prevalent
15:36
Cathal Yeats
Either the CBF and co no se enteran or there were two different meetings in London.
We should engage directly with whoever it is that comes from JFC this week and point out the quite mistaken local MoD position.
15:58


GIBTEL
10:50
85%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Cathal Yeats
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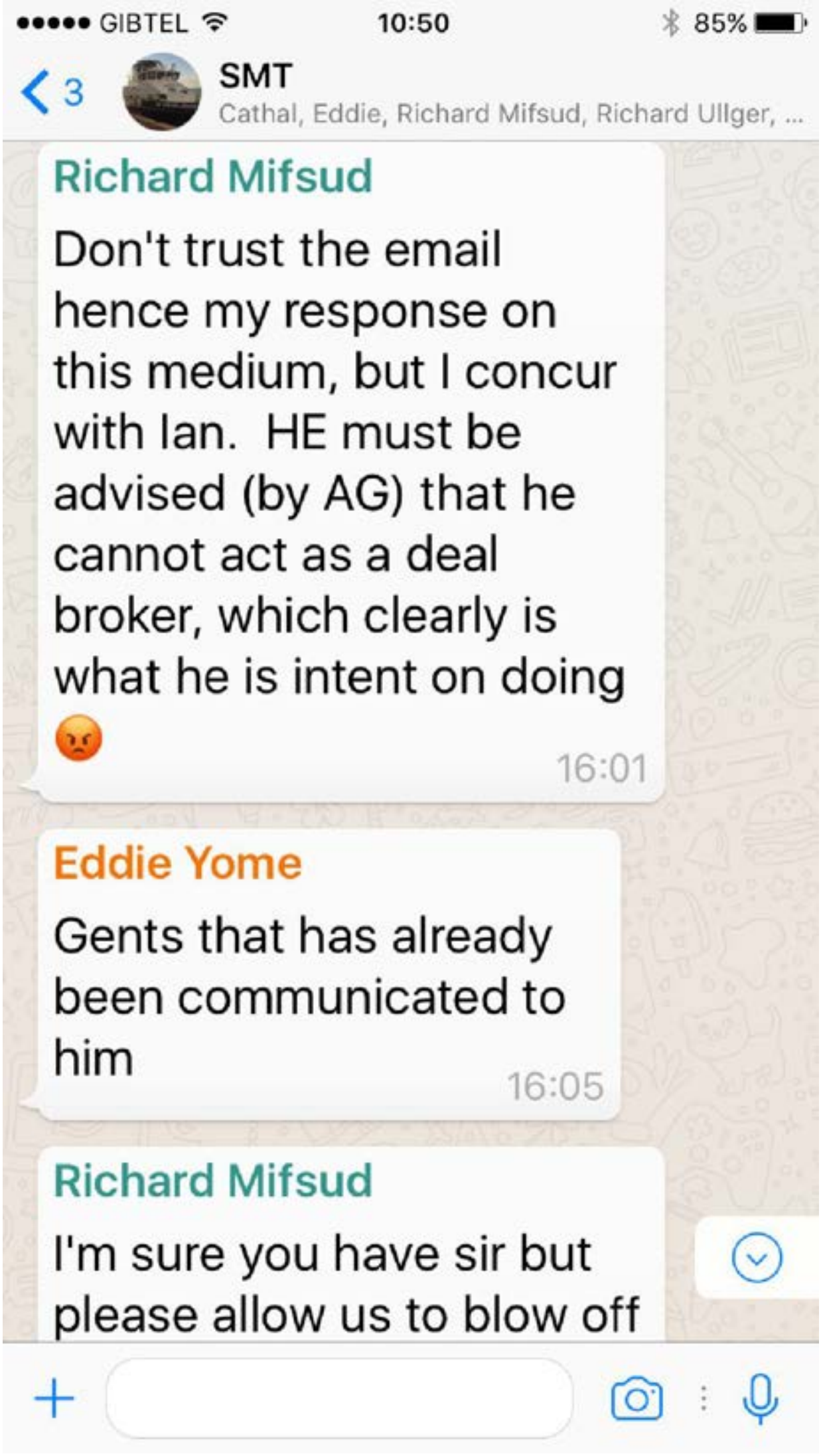
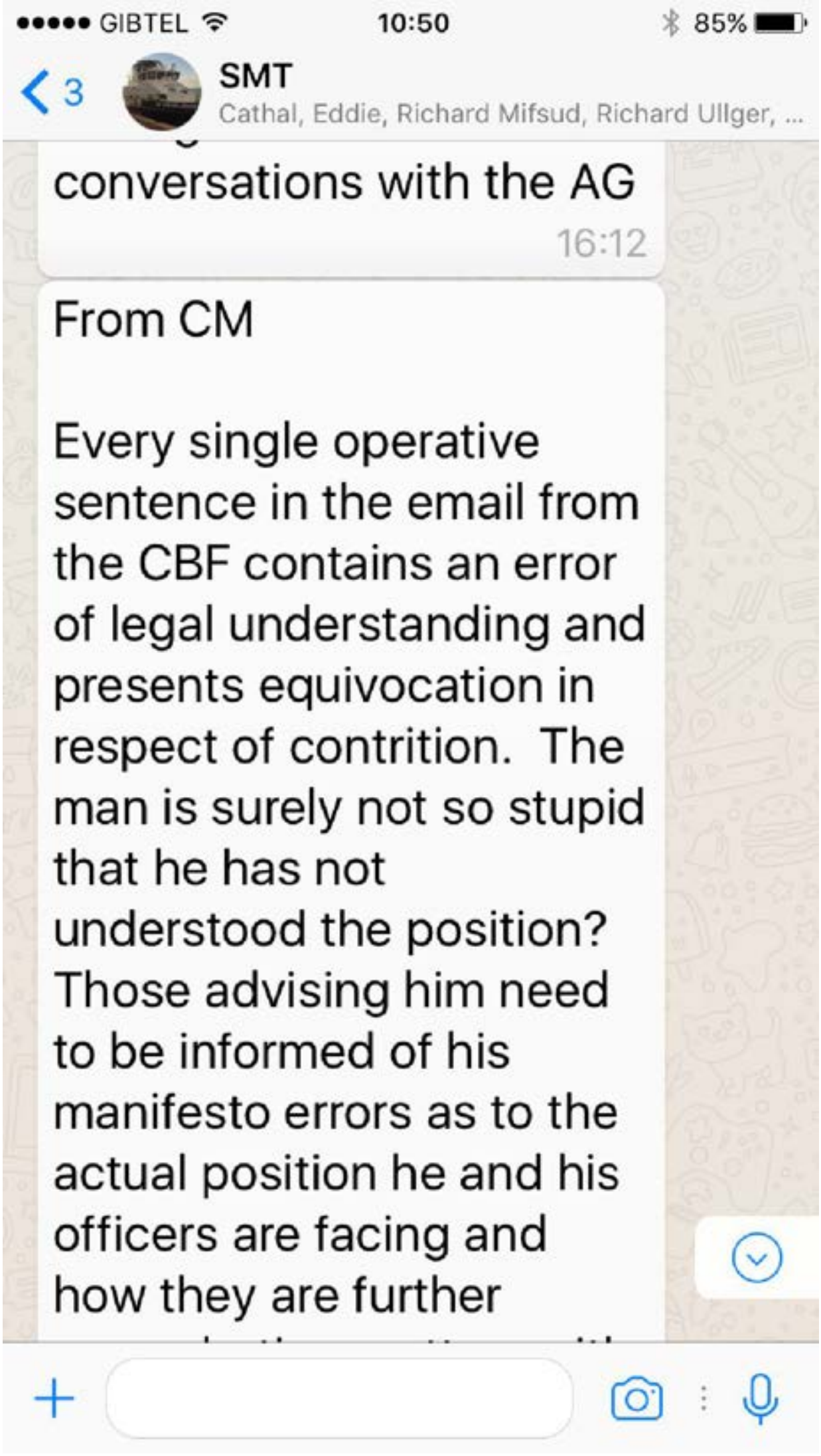
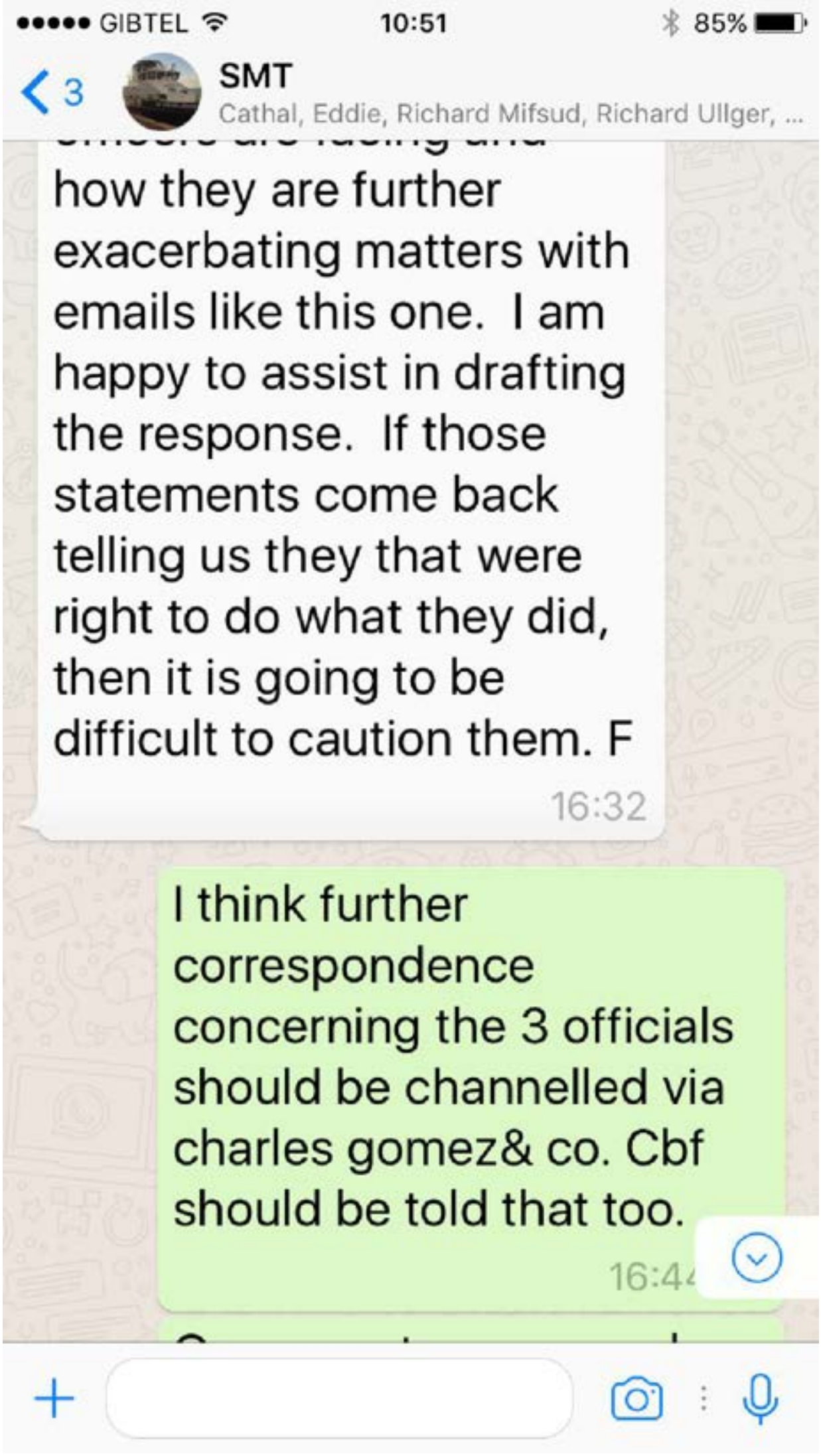
We should engage directly with whoever it is that comes from JFC this week and point out the quite mistaken local MoD position.
15:58
Richard Mifsud
Don't trust the email hence my response on this medium, but I concur with Ian. HE must be advised (by AG) that he cannot act as a deal


GIBTEL
10:50
85%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Richard Mifsud
Don't trust the email hence my response on this medium, but I concur with Ian. HE must be advised (by AG) that he cannot act as a deal broker, which clearly is what he is intent on doing
16:01
Eddie Yome
Gents that has already been communicated to him
16:05
Richard Mifsud
I'm sure you have sir but please allow us to blow off


GIBTEL
10:50
85%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Richard Mifsud
I'm sure you have sir but please allow us to blow off some steam 😤😤😤 we'll have clearer heads when we meet up on Monday 😊
16:08
Eddie Yome
Yes sure. I have been having similar conversations with the AG
16:12
From CM
Every single operative sentence in the email from the CBF contains an error of legal understanding and


●●●●● GIBTEL
10:50
85%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
conversations with the AG
16:12
From CM
Every single operative sentence in the email from the CBF contains an error of legal understanding and presents equivocation in respect of contrition. The man is surely not so stupid that he has not understood the position? Those advising him need to be informed of his manifesto errors as to the actual position he and his officers are facing and how they are further


GIBTEL
10:51
85%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
how they are further exacerbating matters with emails like this one. I am happy to assist in drafting the response. If those statements come back telling us they that were right to do what they did, then it is going to be difficult to caution them. F
16:32
I think further correspondence concerning the 3 officials should be channelled via charles gomez& co. Cbf should be told that too.
16:4


GIBTEL
10:51
85%
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
16:44
Que no estoy yo con el CM eh! pero fijarse como lo que dice es lo que puso yo en email....in oxford uni english though!
16:50
Richard Mifsud
Ay mi niño que listo es 😱
16:51
Oleeeee
16:51
Eddie Yome
My reply to cbf with a little help from a friend.
I would welcome your views straight away
Dear Mike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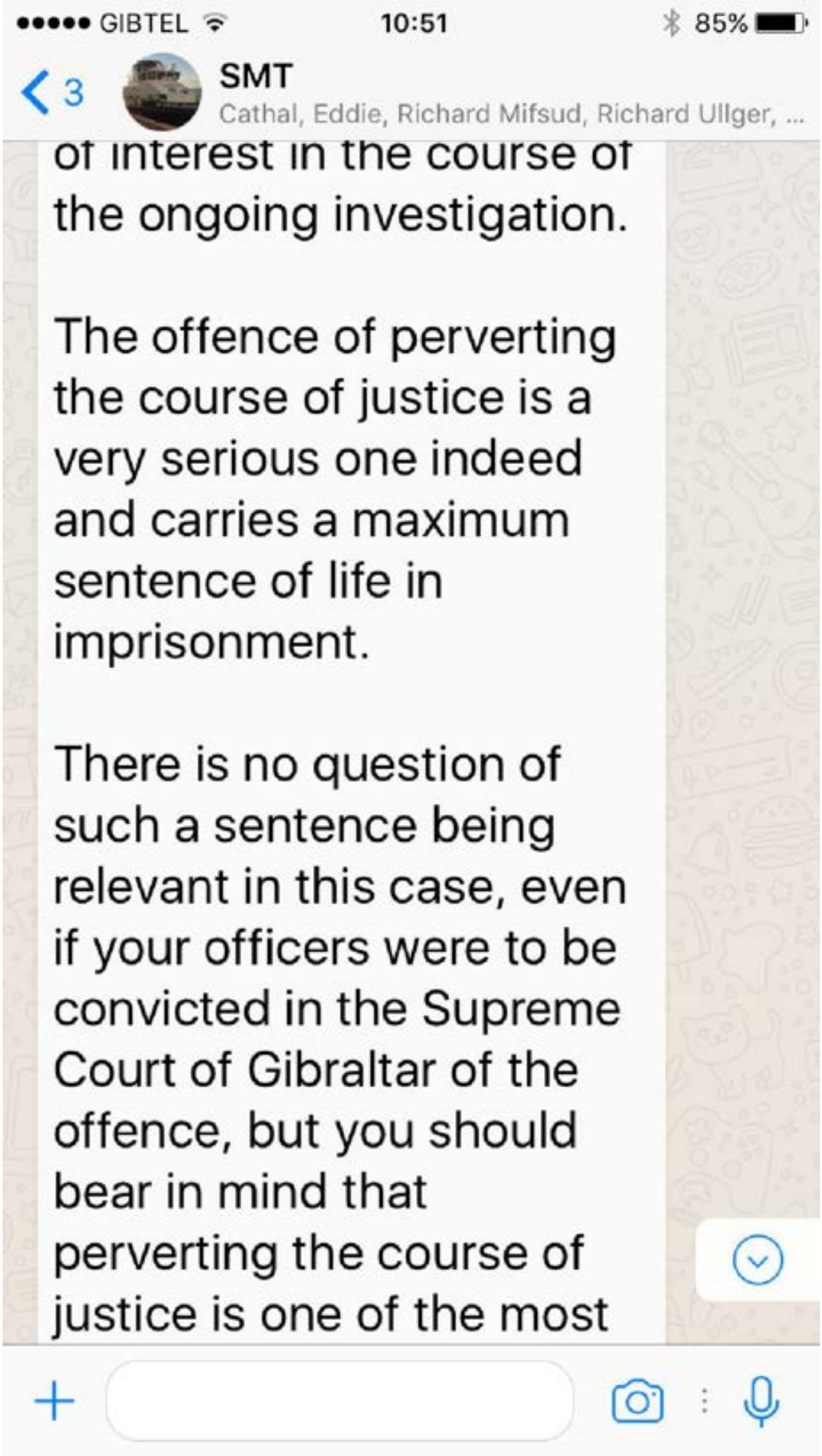
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Eddie Yome
My reply to cbf with a little help from a friend.
I would welcome your views straight away
Dear Mike
I am very disappointed by your email of Saturday which, in my view, simply further exacerbates matters and betrays a deep misunderstanding of the gravity of the situation facing those three of your officers who are presently under arrest and others who may become persons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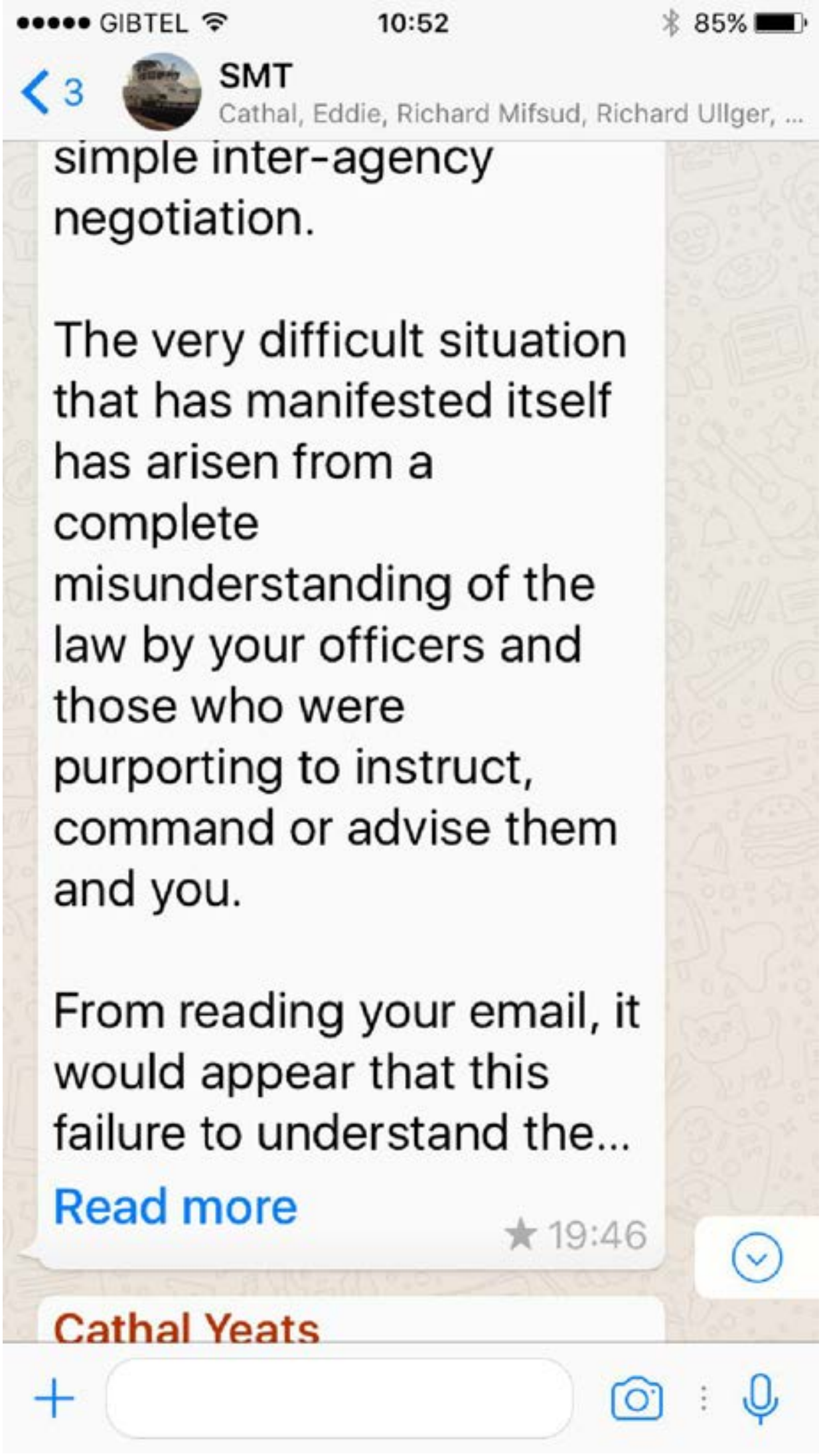
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
of interest in the course of the ongoing investigation.
The offence of perverting the course of justice is a very serious one indeed and carries a maximum sentence of life in imprisonment.
There is no question of such a sentence being relevant in this case, even if your officers were to be convicted in the Supreme Court of Gibraltar of the offence, but you should bear in mind that perverting the course of justice is one of the most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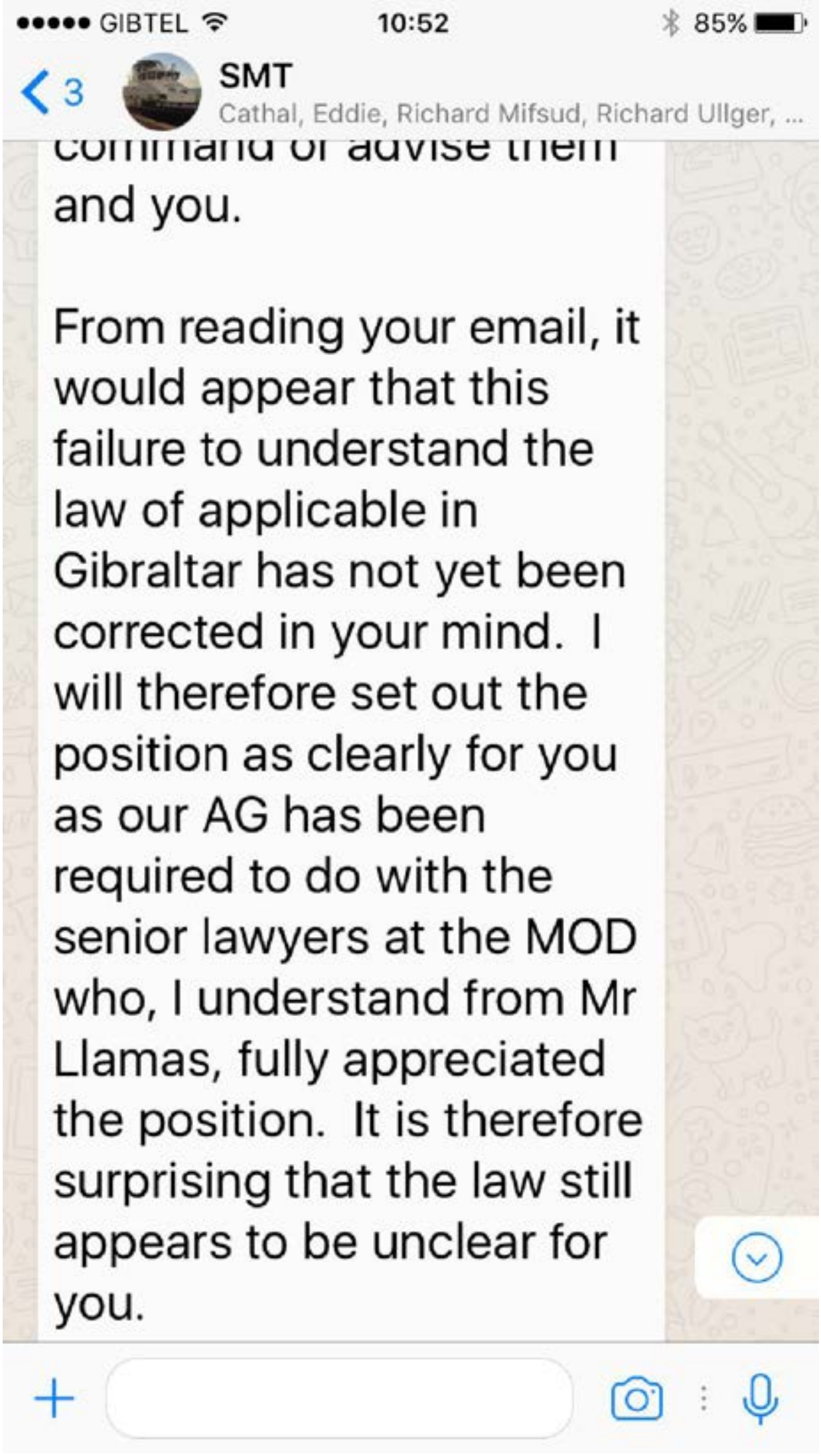
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
simple inter-agency negotiation.
The very difficult situation that has manifested itself has arisen from a complete misunderstanding of the law by your officers and those who were purporting to instruct, command or advise them and you.
From reading your email, it would appear that this failure to understand the...
Read more
19:46
Cathal Yeats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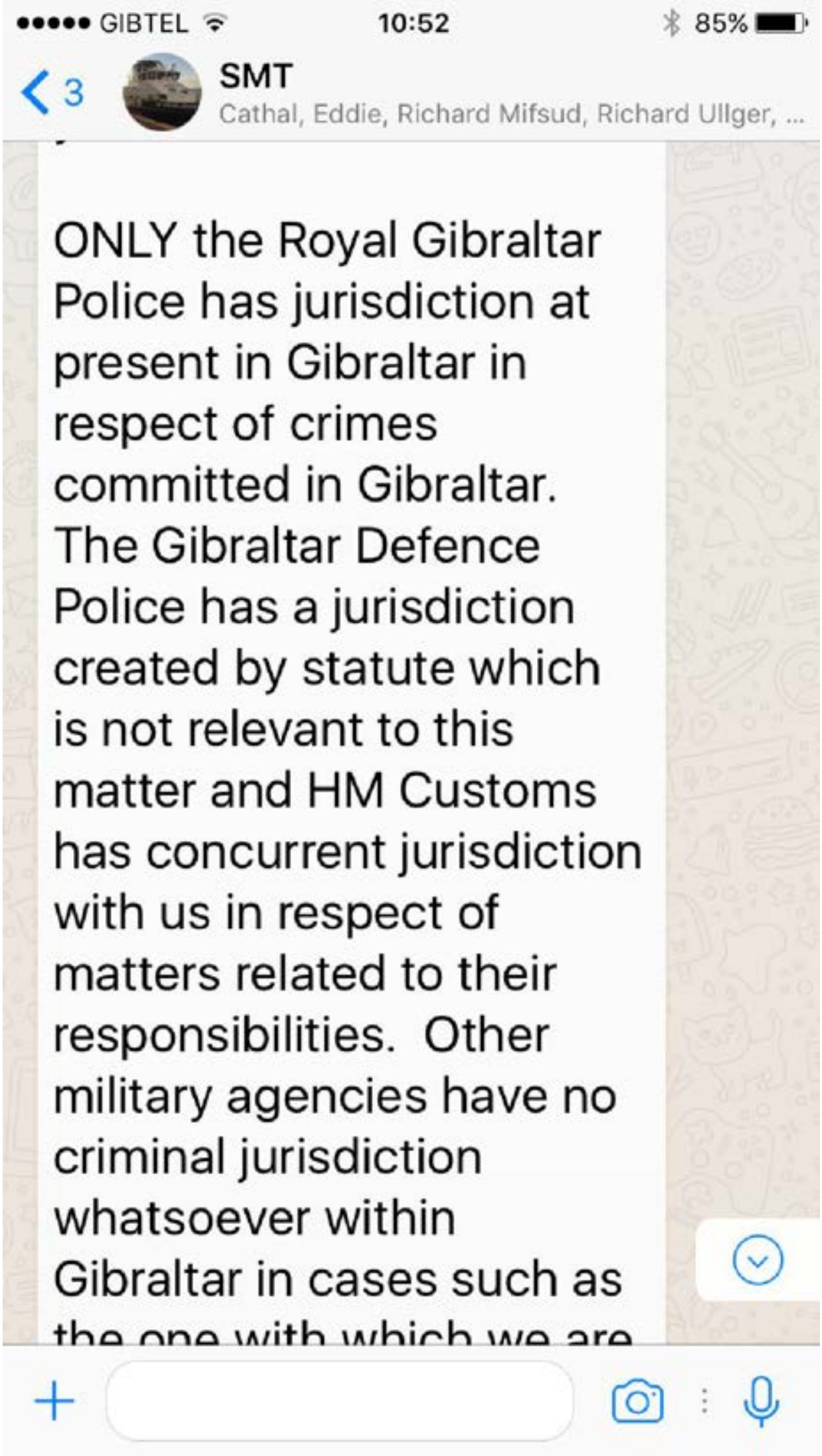
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
command or advise them
and you.
From reading your email, it would appear that this failure to understand the law of applicable in Gibraltar has not yet been corrected in your mind. I will therefore set out the position as clearly for you as our AG has been required to do with the senior lawyers at the MOD who, I understand from Mr Llamas, fully appreciated the position. It is therefore surprising that the law still appears to be unclear for you.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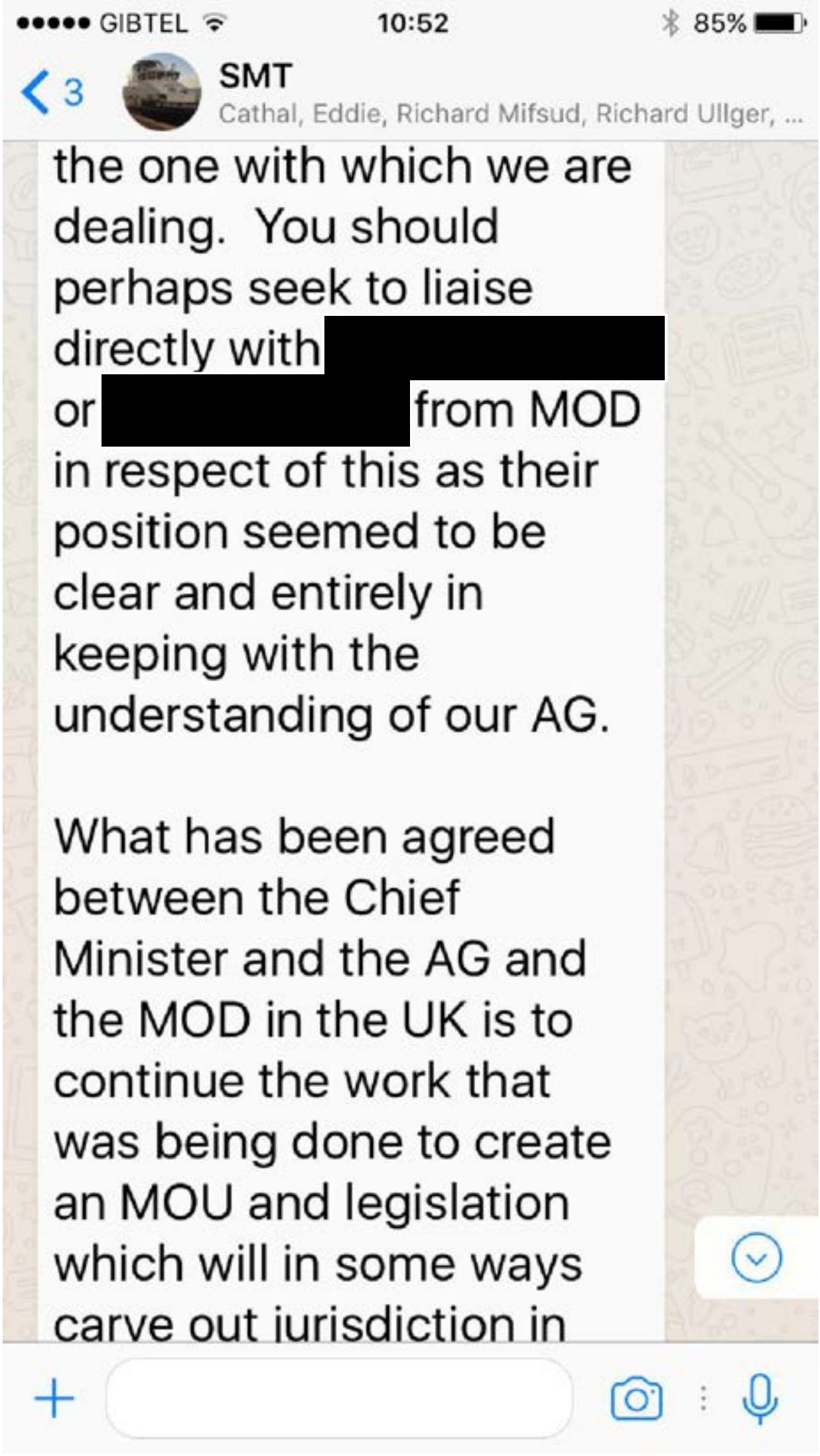
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
ONLY the Royal Gibraltar Police has jurisdiction at present in Gibraltar in respect of crimes committed in Gibraltar. The Gibraltar Defence Police has a jurisdiction created by statute which is not relevant to this matter and HM Customs has concurrent jurisdiction with us in respect of matters related to their responsibilities. Other military agencies have no criminal jurisdiction whatsoever within Gibraltar in cases such as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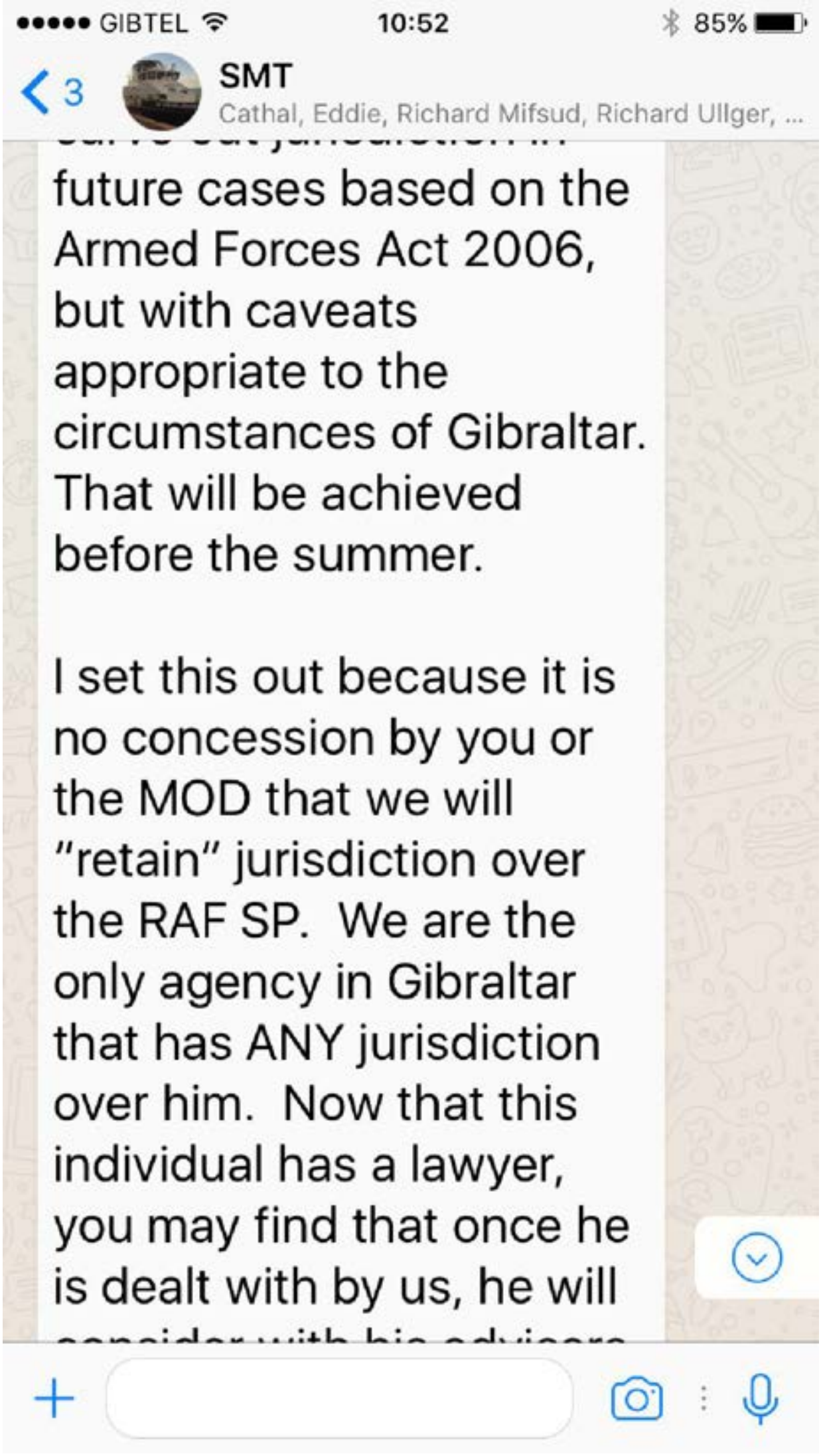
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
the one with which we are dealing. You should perhaps seek to liaise directly with [redacted] or [redacted] from MOD in respect of this as their position seemed to be clear and entirely in keeping with the understanding of our AG.
What has been agreed between the Chief Minister and the AG and the MOD in the UK is to continue the work that was being done to create an MOU and legislation which will in some ways carve out jurisdiction in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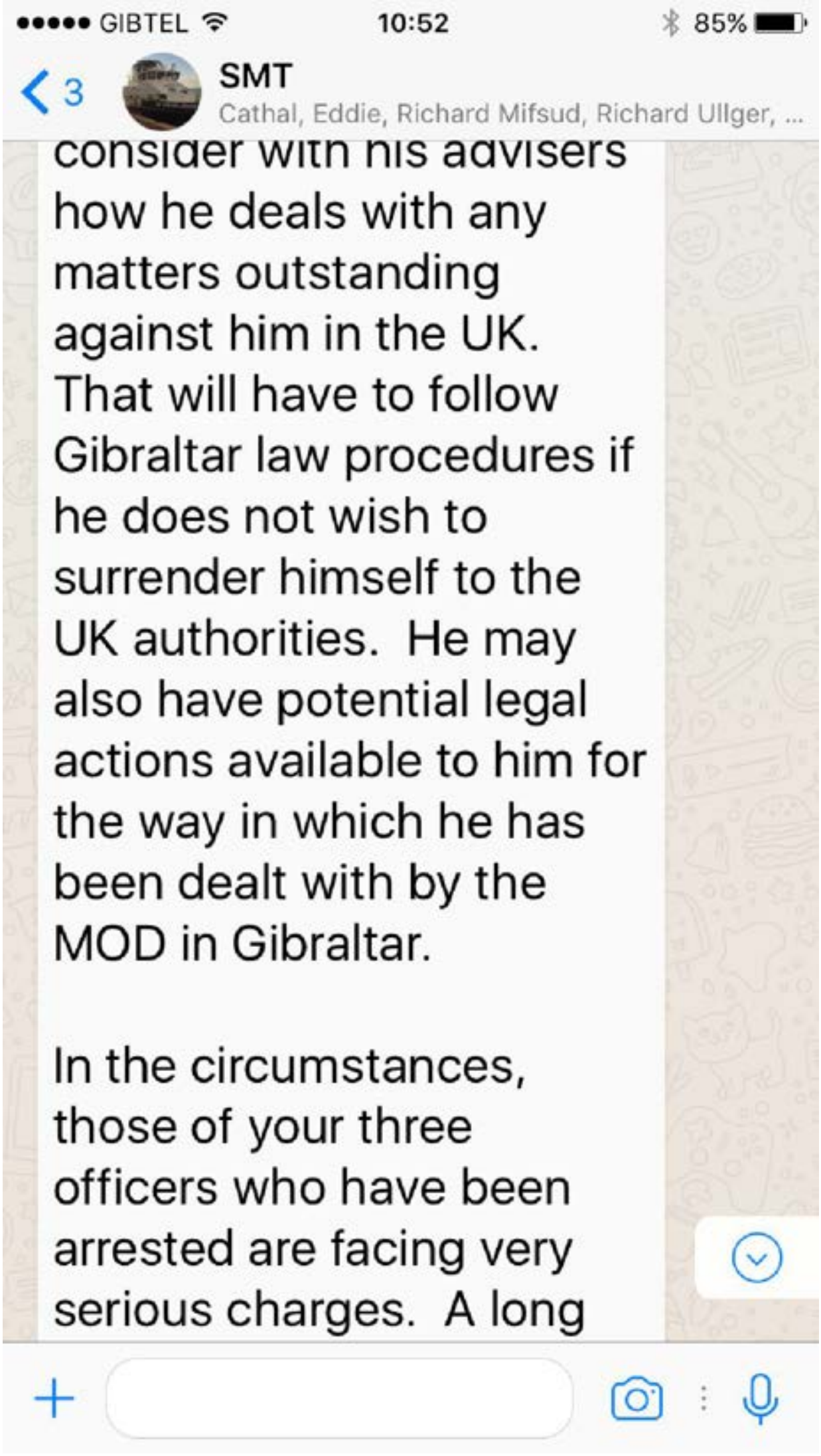
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
future cases based on the Armed Forces Act 2006, but with caveats appropriate to the circumstances of Gibraltar. That will be achieved before the summer.
I set this out because it is no concession by you or the MOD that we will "retain" jurisdiction over the RAF SP. We are the only agency in Gibraltar that has ANY jurisdiction over him. Now that this individual has a lawyer, you may find that once he is dealt with by us, he will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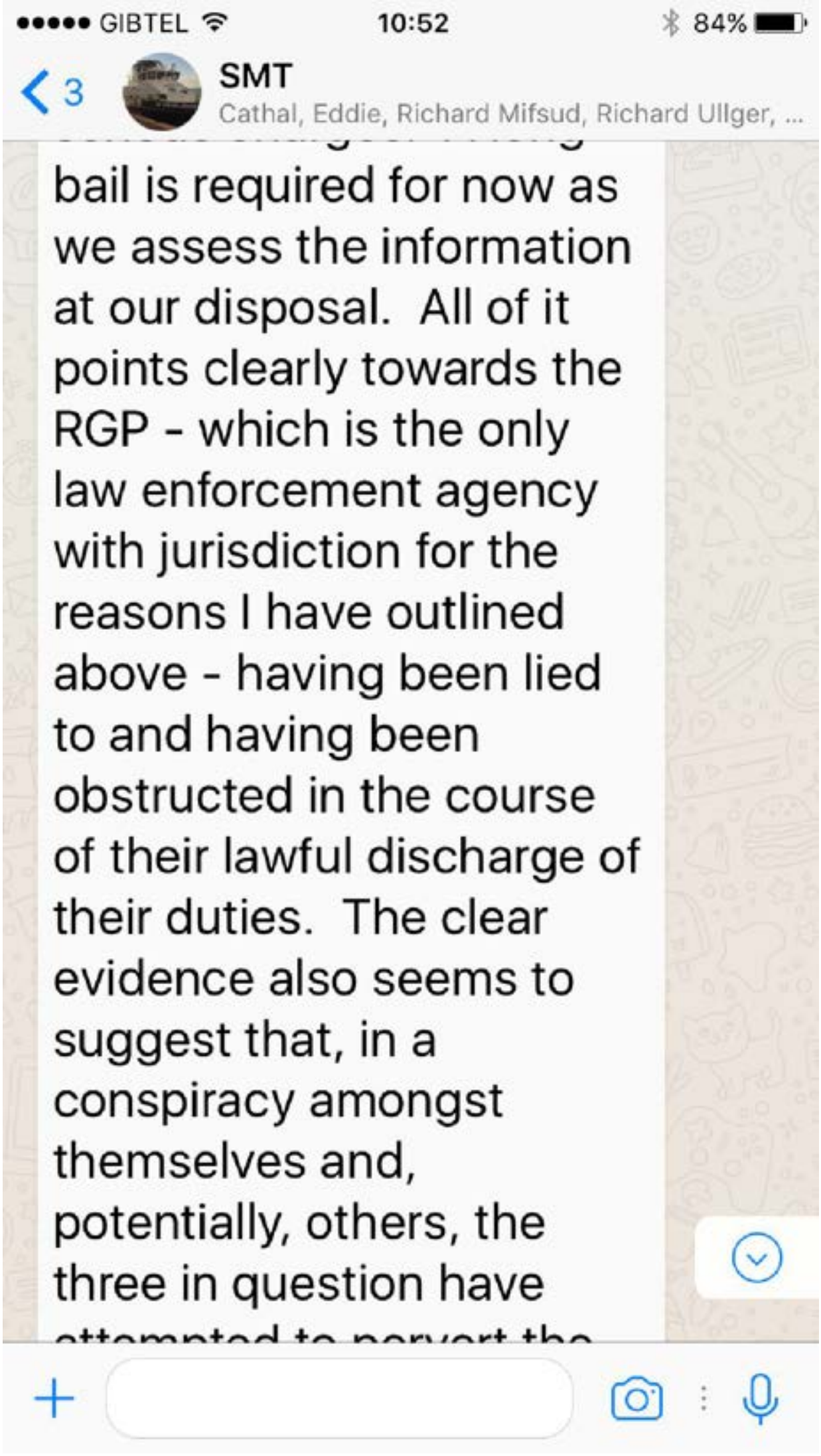
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
consider with his advisers how he deals with any matters outstanding against him in the UK. That will have to follow Gibraltar law procedures if he does not wish to surrender himself to the UK authorities. He may also have potential legal actions available to him for the way in which he has been dealt with by the MOD in Gibraltar.
In the circumstances, those of your three officers who have been arrested are facing very serious charges. A long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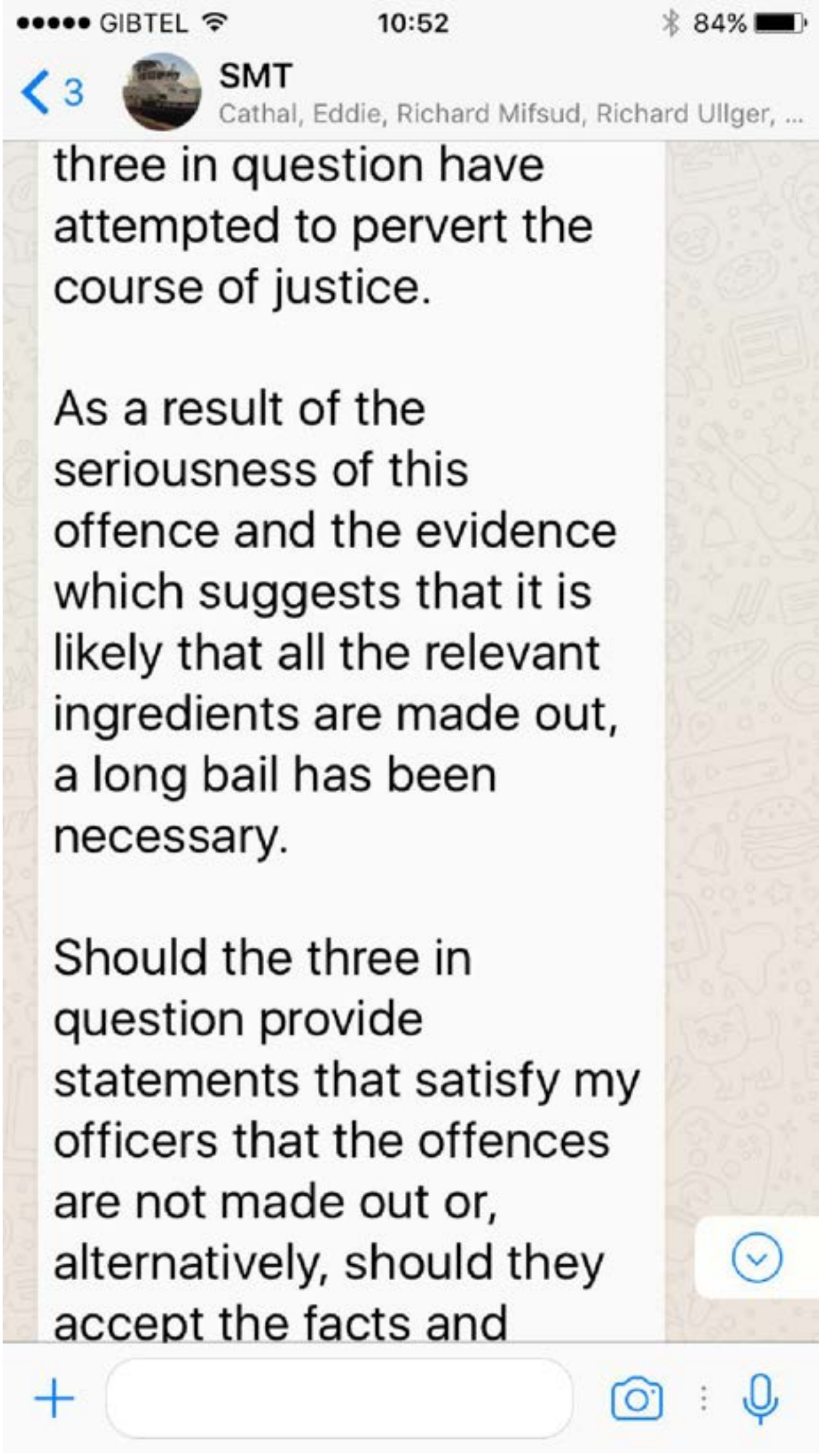
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
bail is required for now as we assess the information at our disposal. All of it points clearly towards the RGP - which is the only law enforcement agency with jurisdiction for the reasons I have outlined above - having been lied to and having been obstructed in the course of their lawful discharge of their duties. The clear evidence also seems to suggest that, in a conspiracy amongst themselves and, potentially, others, the three in question have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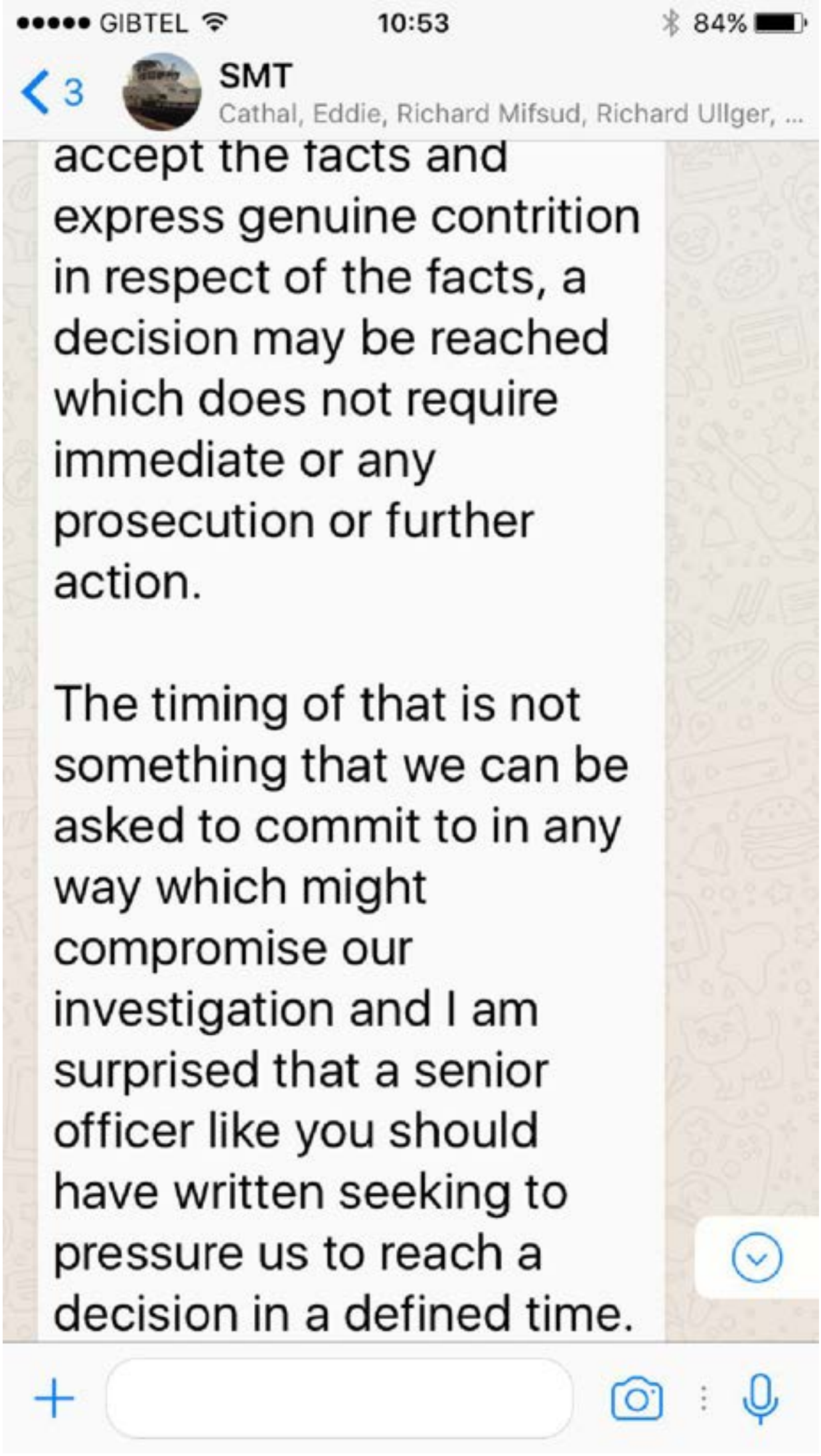
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
three in question have attempted to pervert the course of justice.
As a result of the seriousness of this offence and the evidence which suggests that it is likely that all the relevant ingredients are made out, a long bail has been necessary.
Should the three in question provide statements that satisfy my officers that the offences are not made out or, alternatively, should they accept the facts and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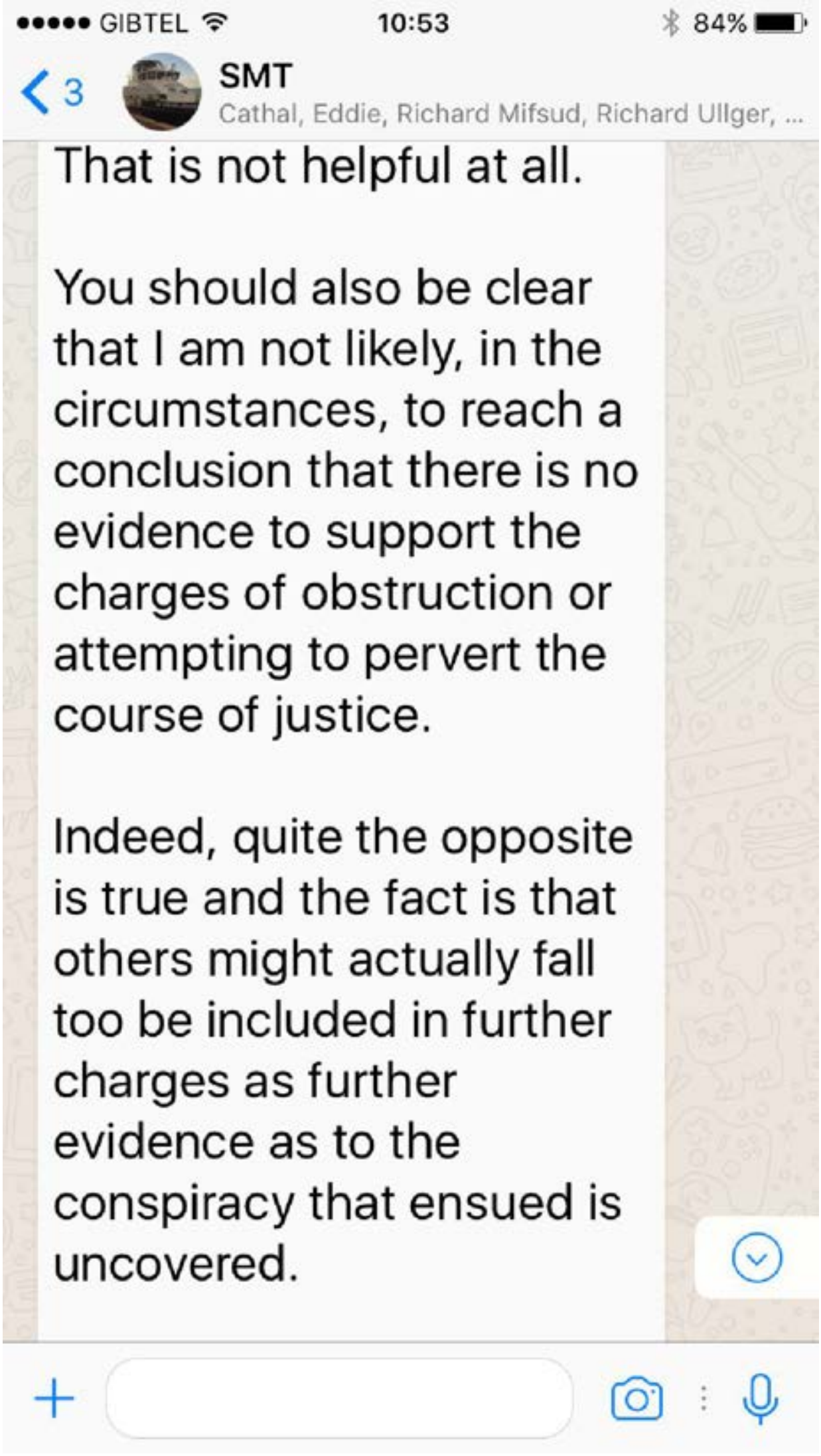
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
accept the facts and express genuine contrition in respect of the facts, a decision may be reached which does not require immediate or any prosecution or further action.
The timing of that is not something that we can be asked to commit to in any way which might compromise our investigation and I am surprised that a senior officer like you should have written seeking to pressure us to reach a decision in a defined time.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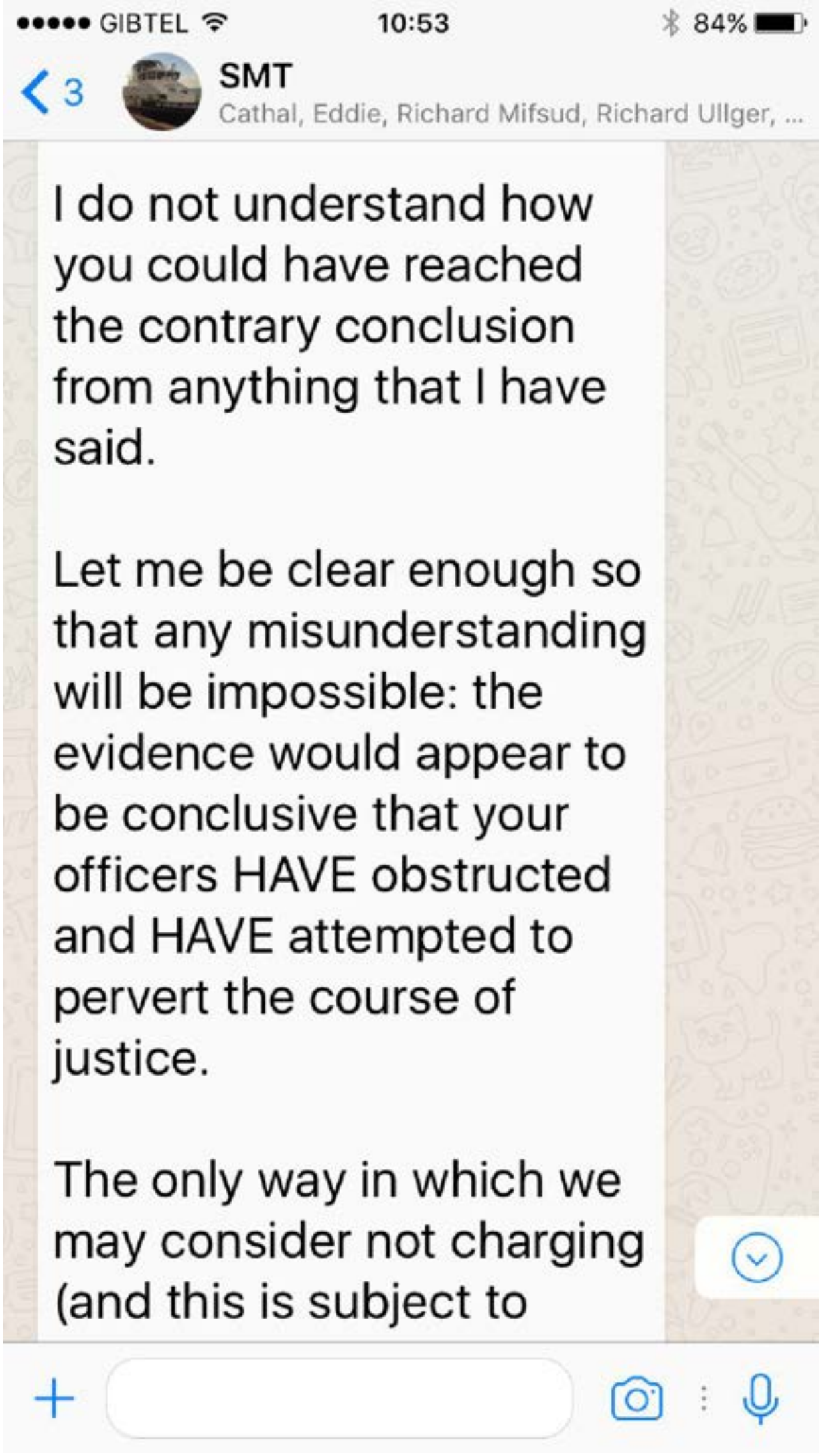
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
That is not helpful at all.
You should also be clear that I am not likely, in the circumstances, to reach a conclusion that there is no evidence to support the charges of obstruction or attempting to pervert the course of justice.
Indeed, quite the opposite is true and the fact is that others might actually fall too be included in further charges as further evidence as to the conspiracy that ensued is uncovered.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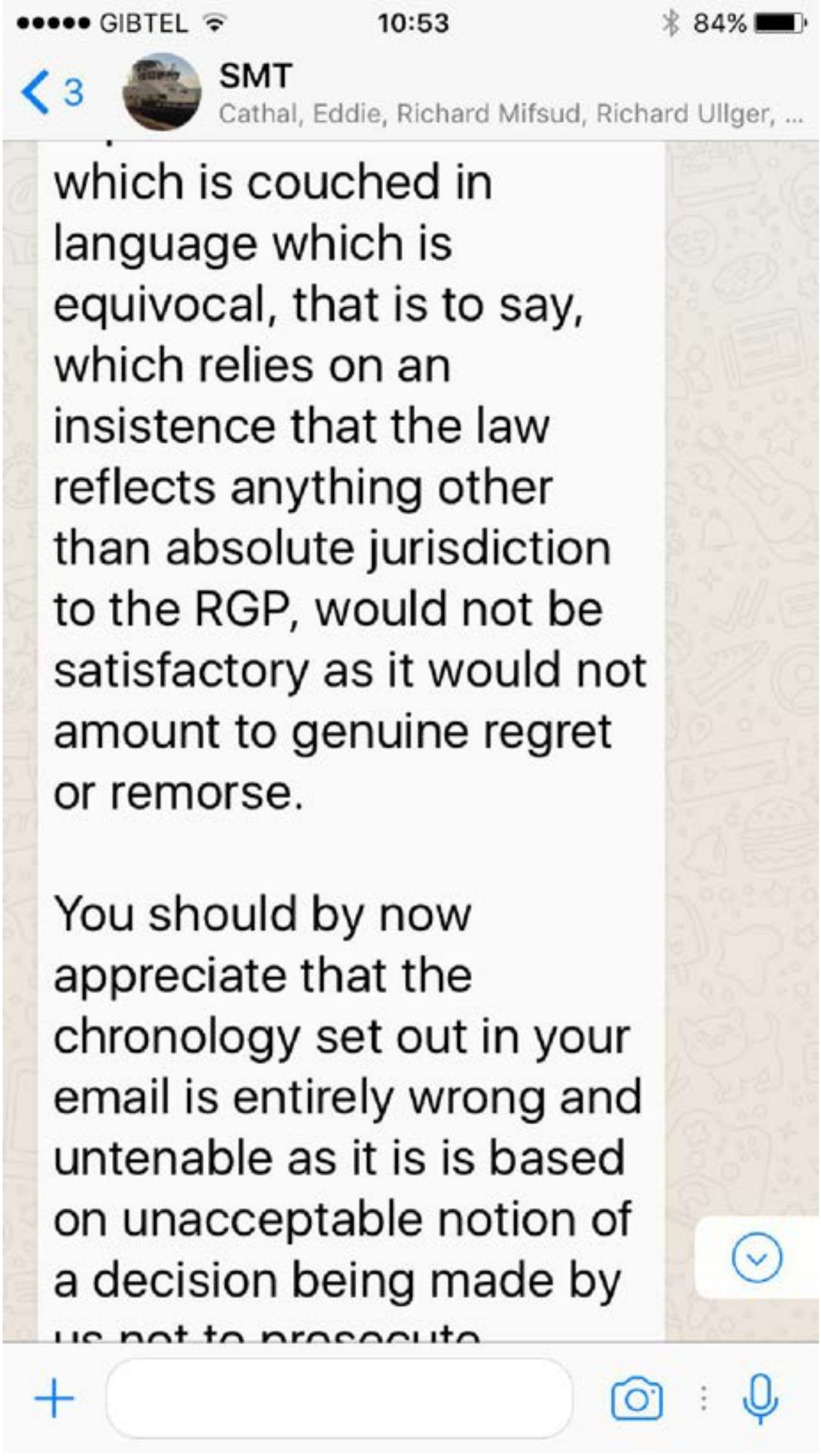
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
I do not understand how you could have reached the contrary conclusion from anything that I have said.
Let me be clear enough so that any misunderstanding will be impossible: the evidence would appear to be conclusive that your officers HAVE obstructed and HAVE attempted to pervert the course of justice.
The only way in which we may consider not charging (and this is subject to

further consideration of the evidence and of the relevant law) is if we are satisfied that there is a GENUINE acceptance of guilt by the individuals in question, of the gravity of the situation and an unequivocal expression of remorse and apology. That can affect an officers discretion in making the decision of whether or not to charge an offender.

In addition you should note that the any expression of contrition which is couched in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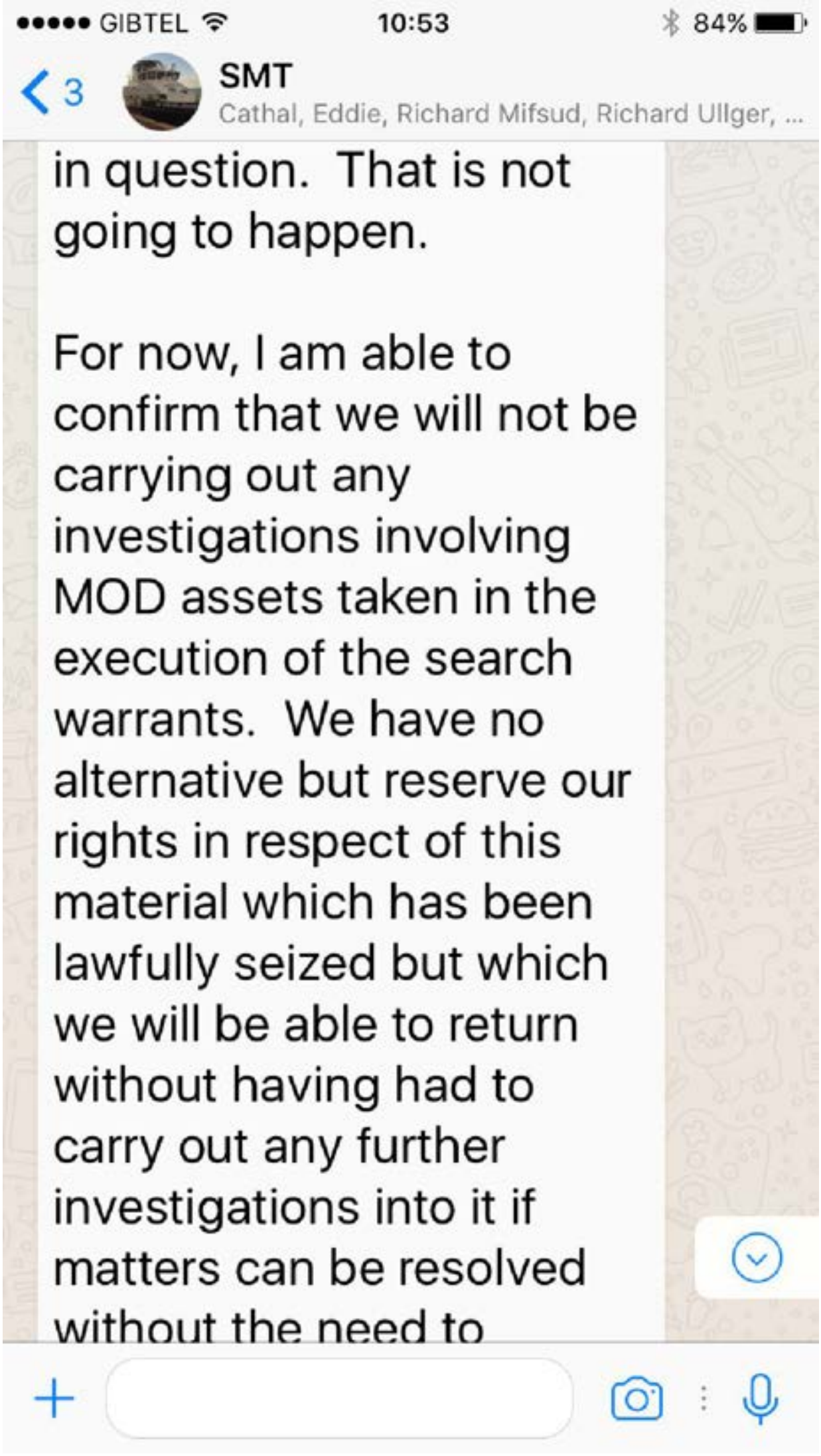
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
which is couched in language which is equivocal, that is to say, which relies on an insistence that the law reflects anything other than absolute jurisdiction to the RGP, would not be satisfactory as it would not amount to genuine regret or remorse.
You should by now appreciate that the chronology set out in your email is entirely wrong and untenable as it is is based on unacceptable notion of a decision being made by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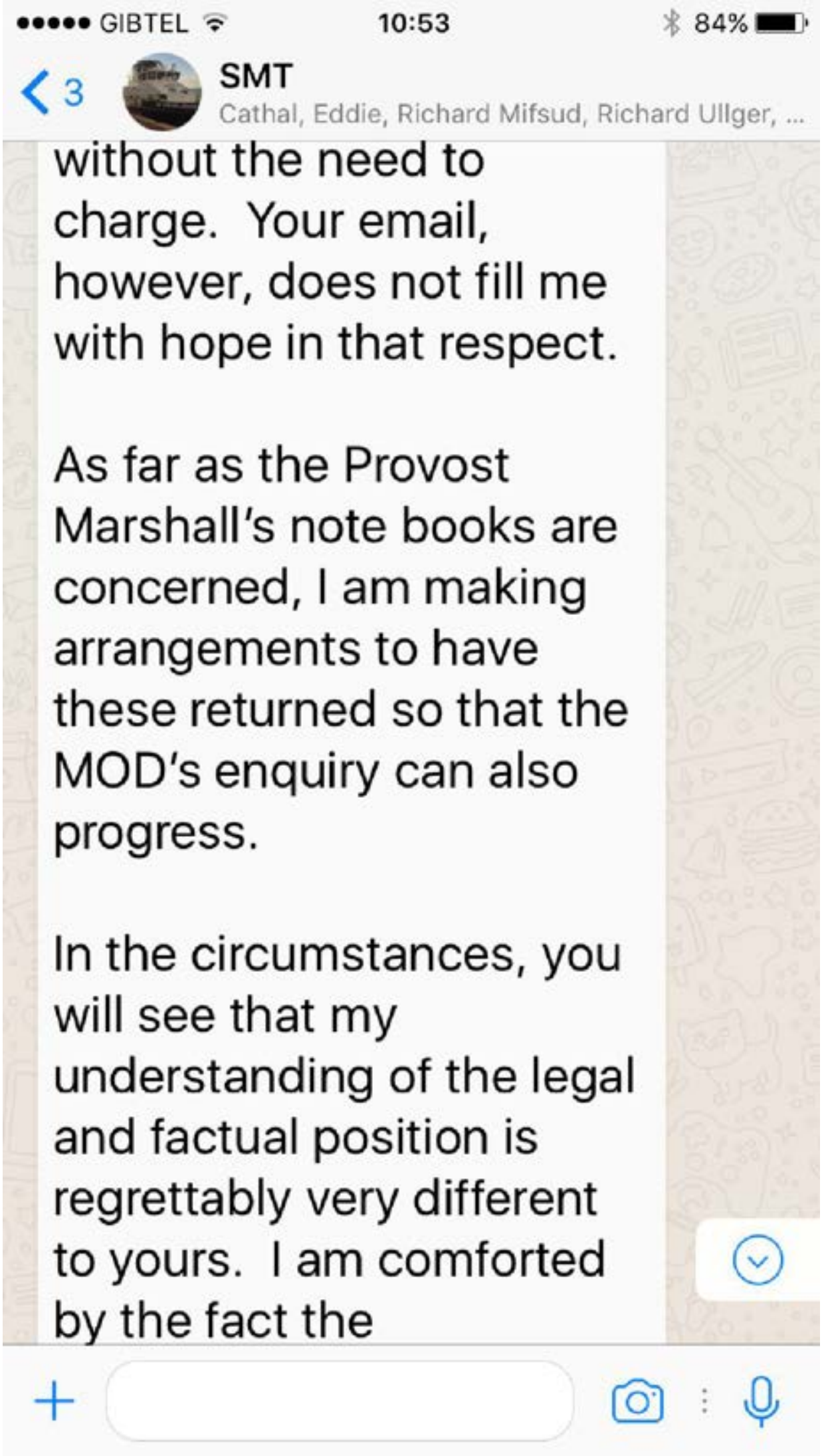
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
in question. That is not going to happen.
For now, I am able to confirm that we will not be carrying out any investigations involving MOD assets taken in the execution of the search warrants. We have no alternative but reserve our rights in respect of this material which has been lawfully seized but which we will be able to return without having had to carry out any further investigations into it if matters can be resolved without the need to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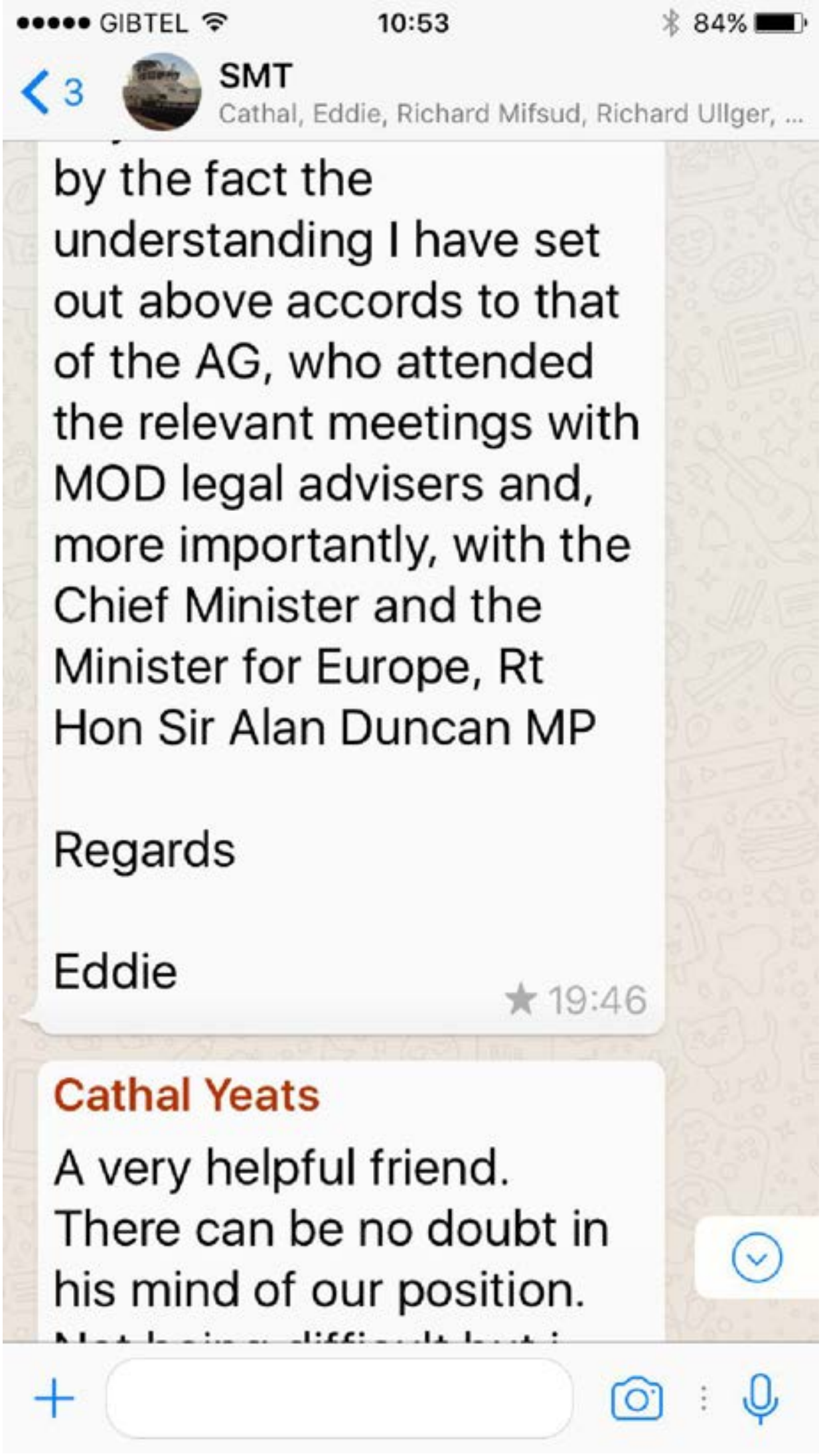
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
without the need to charge. Your email, however, does not fill me with hope in that respect.
As far as the Provost Marshall's note books are concerned, I am making arrangements to have these returned so that the MOD's enquiry can also progress.
In the circumstances, you will see that my understanding of the legal and factual position is regrettably very different to yours. I am comforted by the fact the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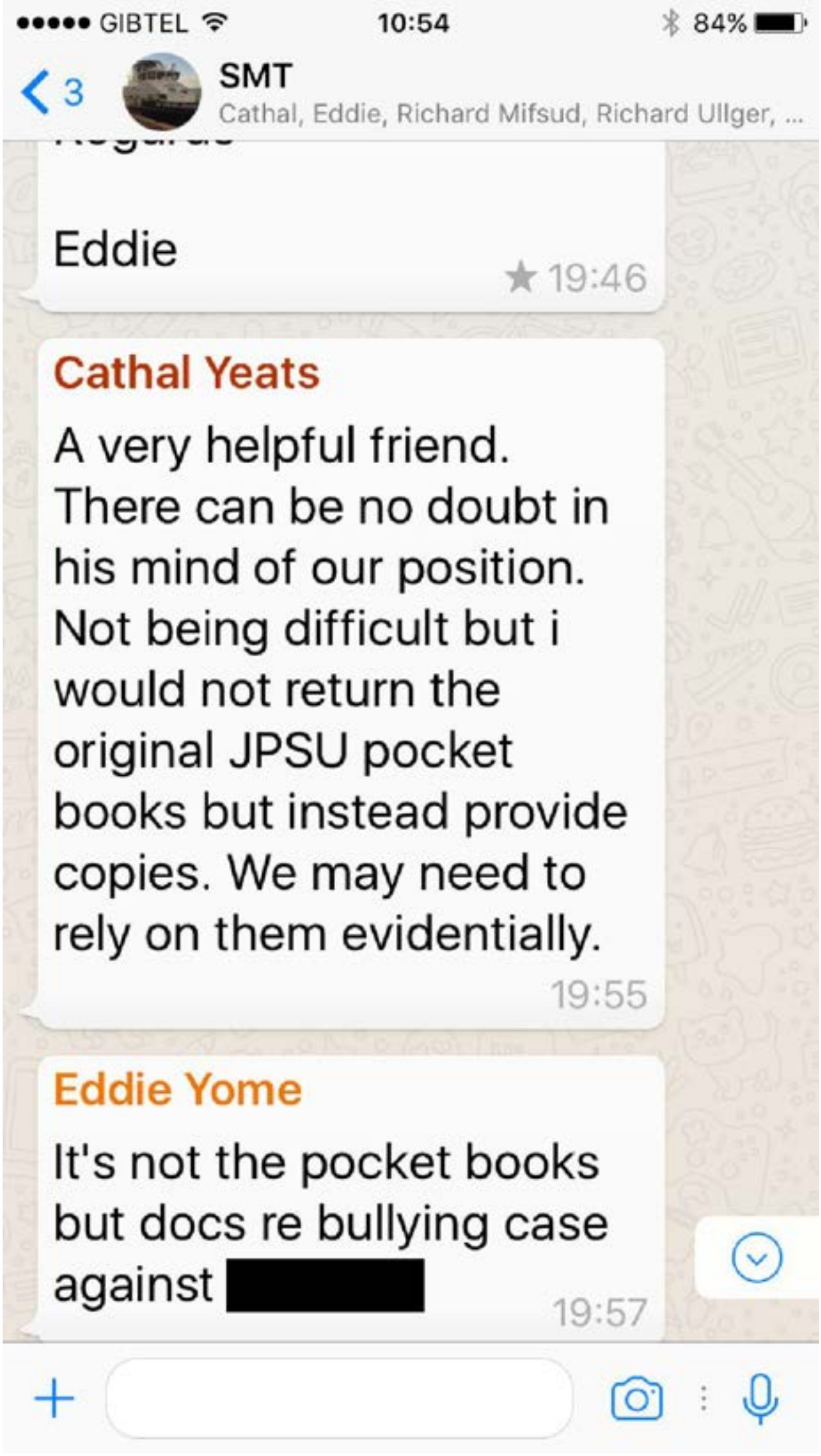
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
by the fact the understanding I have set out above accords to that of the AG, who attended the relevant meetings with MOD legal advisers and, more importantly, with the Chief Minister and the Minister for Europe, Rt Hon Sir Alan Duncan MP
Regards
Eddie
★ 19:46
Cathal Yeats
A very helpful friend. There can be no doubt in his mind of our position.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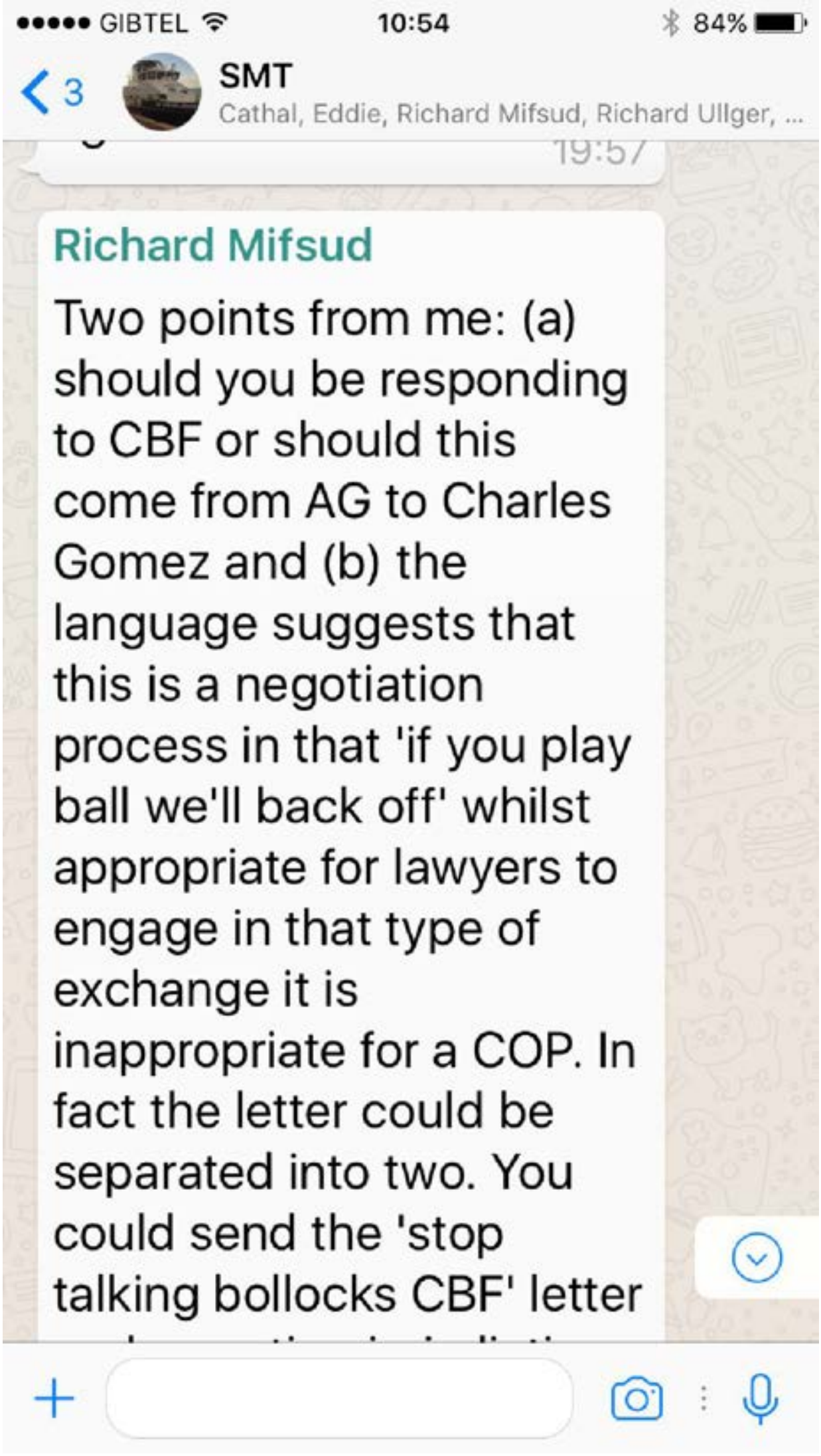
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Eddie
19:46
Cathal Yeats
A very helpful friend. There can be no doubt in his mind of our position. Not being difficult but i would not return the original JPSU pocket books but instead provide copies. We may need to rely on them evidentially.
19:55
Eddie Yome
It's not the pocket books but docs re bullying case against [redacted]
19:57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SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
19:57
Richard Mifsud
Two points from me: (a) should you be responding to CBF or should this come from AG to Charles Gomez and (b) the language suggests that this is a negotiation process in that 'if you play ball we'll back off' whilst appropriate for lawyers to engage in that type of exchange it is inappropriate for a COP. In fact the letter could be separated into two. You could send the 'stop talking bollocks CBF' letter


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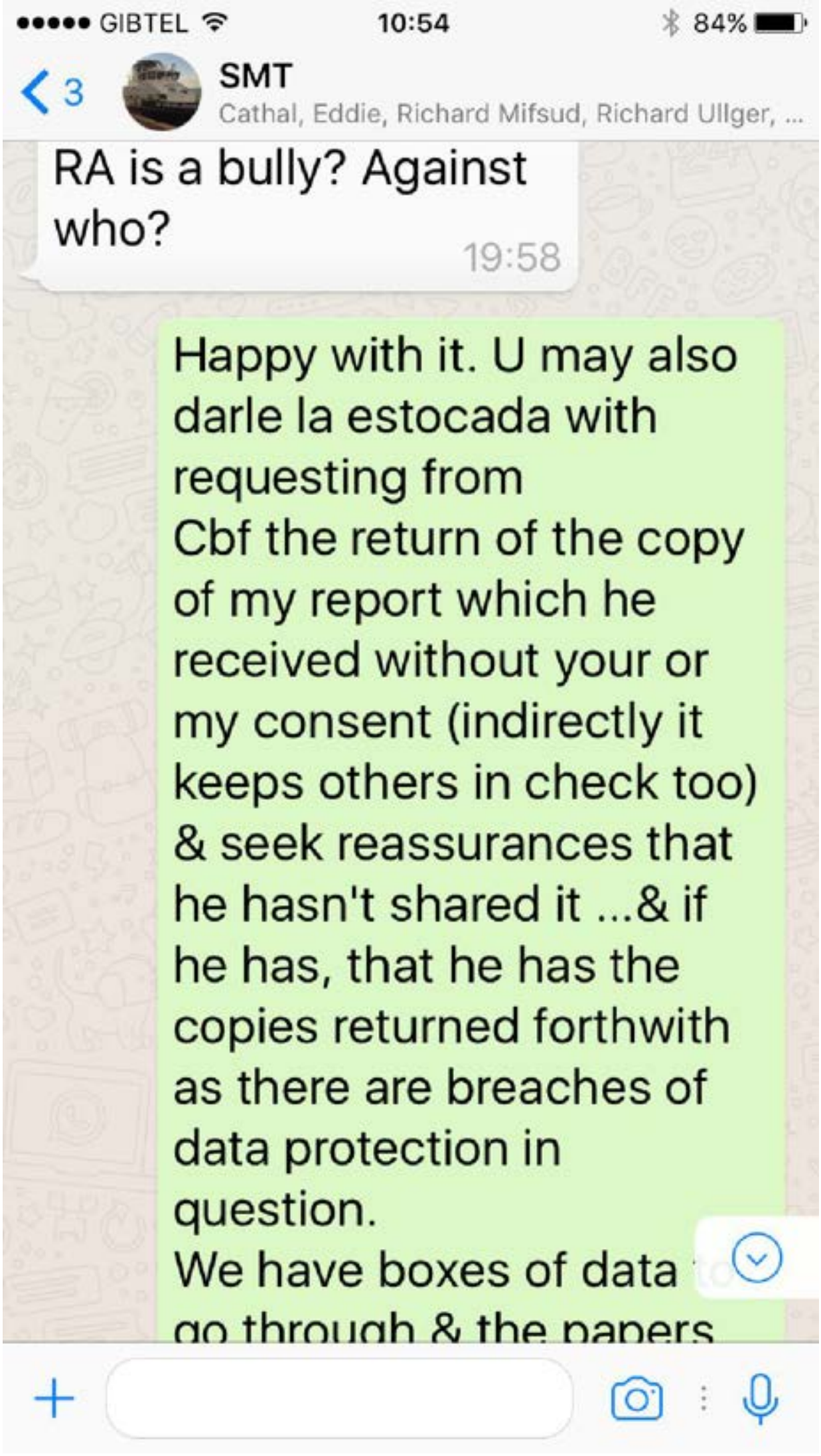
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Cathal Yeats
ah, ok.
19:58
Eddie Yome
Will sleep on it
19:58
Richard Mifsud
RA is a bully? Against who?
19:58
Happy with it. U may also darle la estocada with requesting from
Cbf the return of the copy of my report which he received without your or my consent (indirectly it keeps others in check t
& seek reassurances that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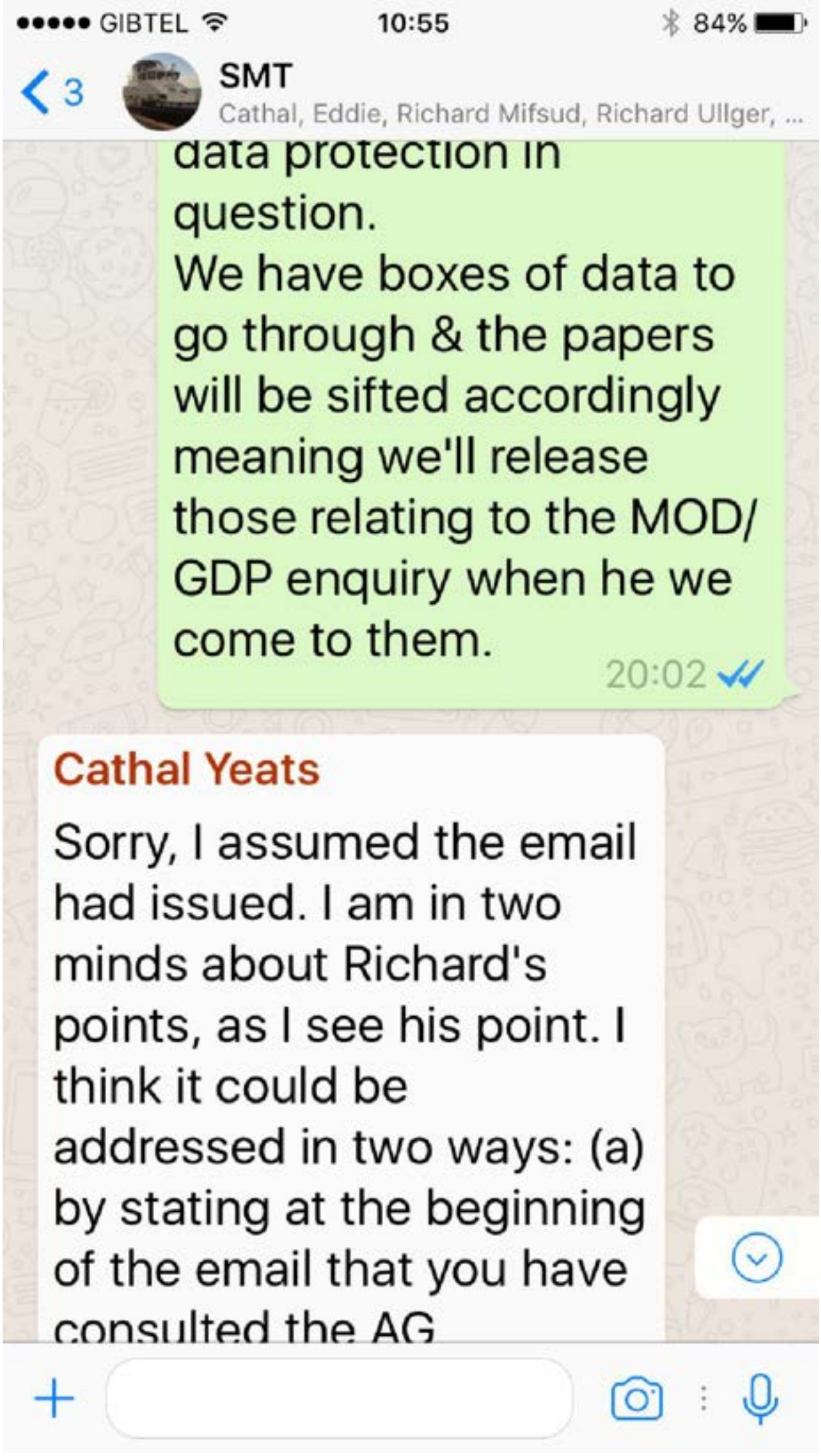
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
RA is a bully? Against who?
19:58
Happy with it. U may also darle la estocada with requesting from
Cbf the return of the copy of my report which he received without your or my consent (indirectly it keeps others in check too) & seek reassurances that he hasn't shared it ...& if he has, that he has the copies returned forthwith as there are breaches of data protection in question.
We have boxes of data
go through & the papers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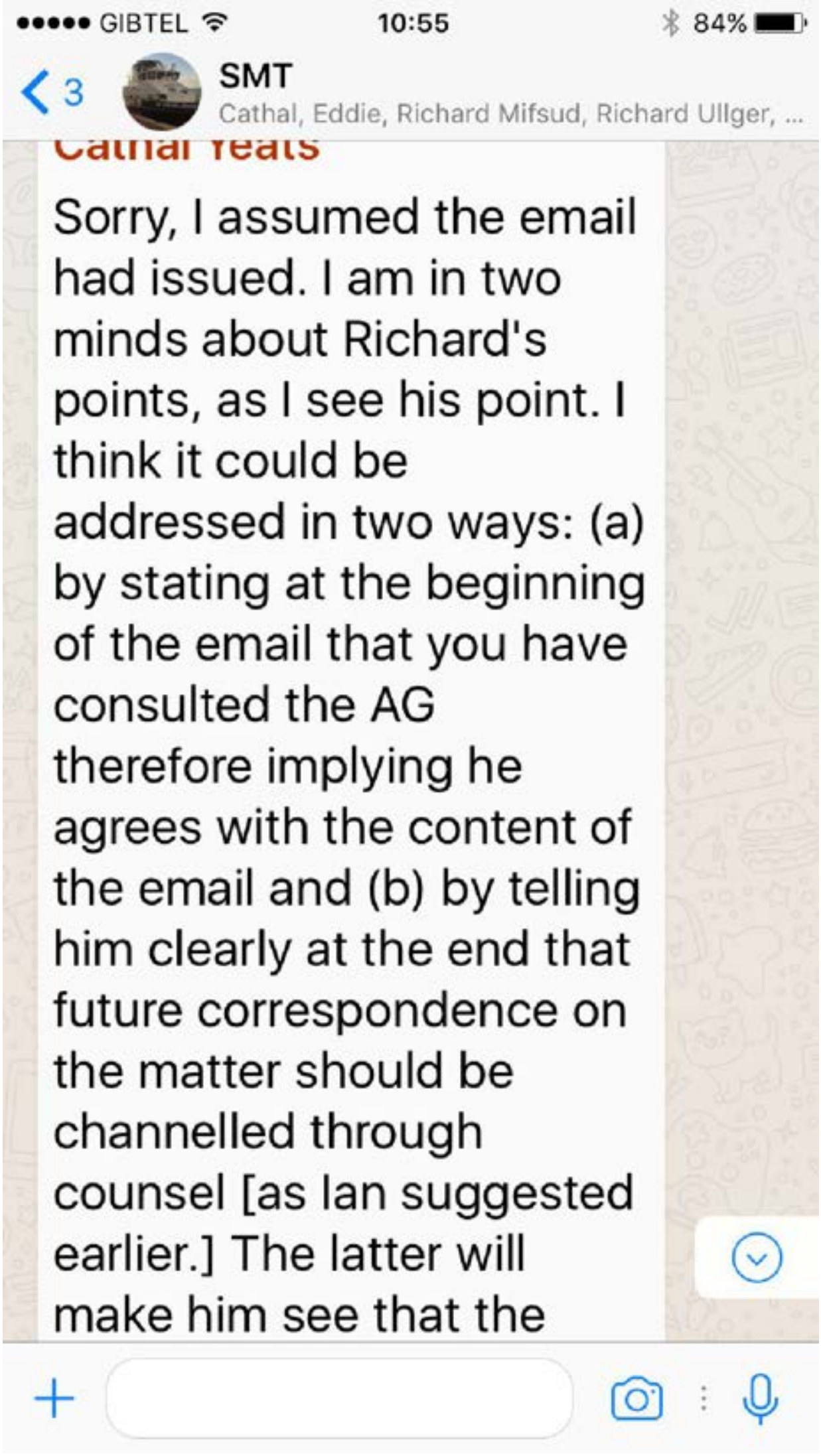
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
data protection in question.
We have boxes of data to go through & the papers will be sifted accordingly meaning we'll release those relating to the MOD/ GDP enquiry when he we come to them.
20:02
Cathal Yeats
Sorry, I assumed the email had issued. I am in two minds about Richard's points, as I see his point. I think it could be addressed in two ways: (a) by stating at the beginning of the email that you have consulted the AG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SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Cathal Yeats
Sorry, I assumed the email had issued. I am in two minds about Richard's points, as I see his point. I think it could be addressed in two ways: (a) by stating at the beginning of the email that you have consulted the AG therefore implying he agrees with the content of the email and (b) by telling him clearly at the end that future correspondence on the matter should be channelled through counsel [as Ian suggested earlier.] The latter will make him see that the


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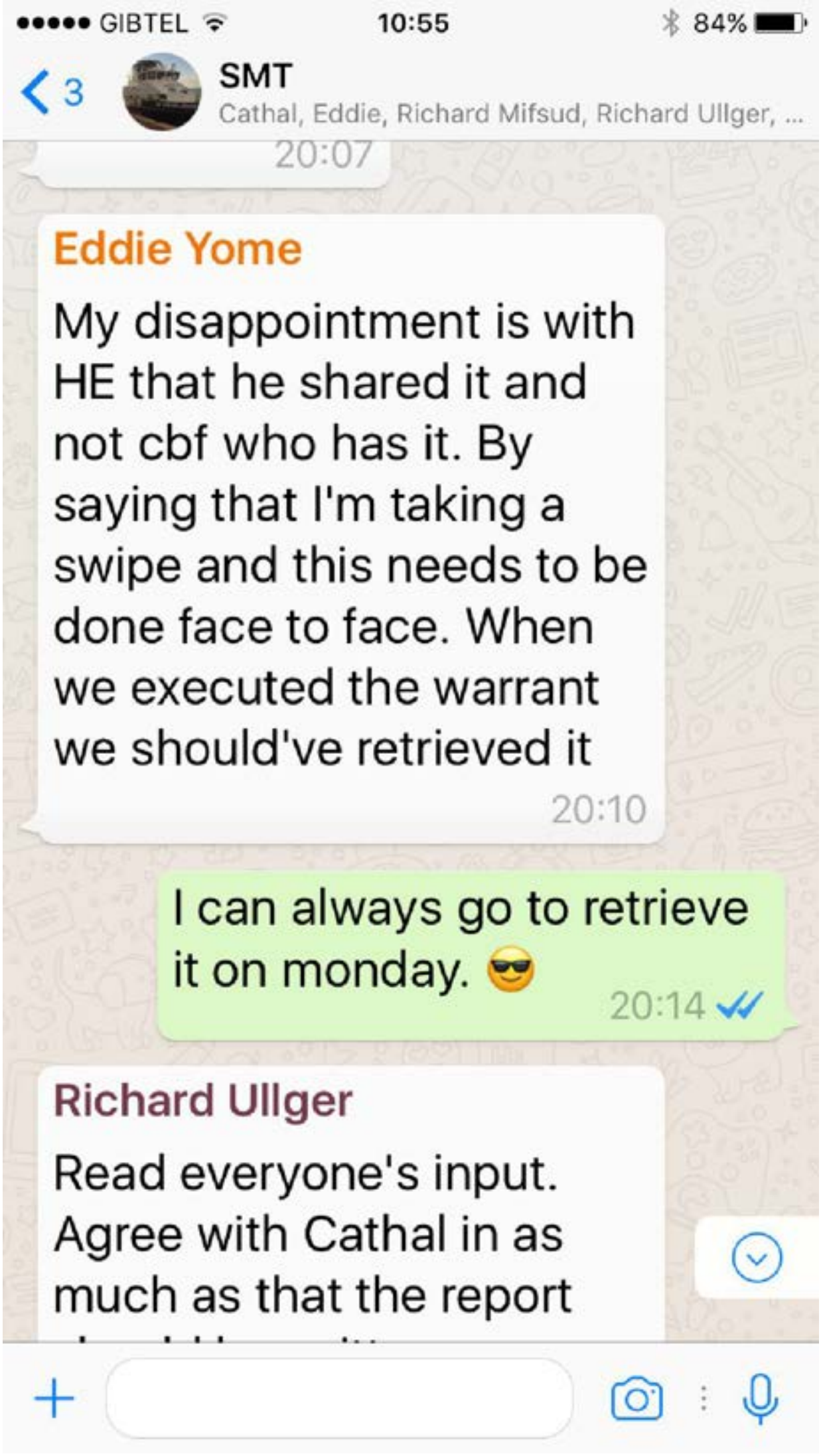
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
counsel [as Ian suggested earlier.] The latter will make him see that the horse trading is for others. I agree with Ian's point on his report. You should express disappointment that a confidential report has been disclosed to interested parties. Others will realise the implication of that statement.
20:06
Richard Mifsud
20:07
Eddie Yome
My disappointment is with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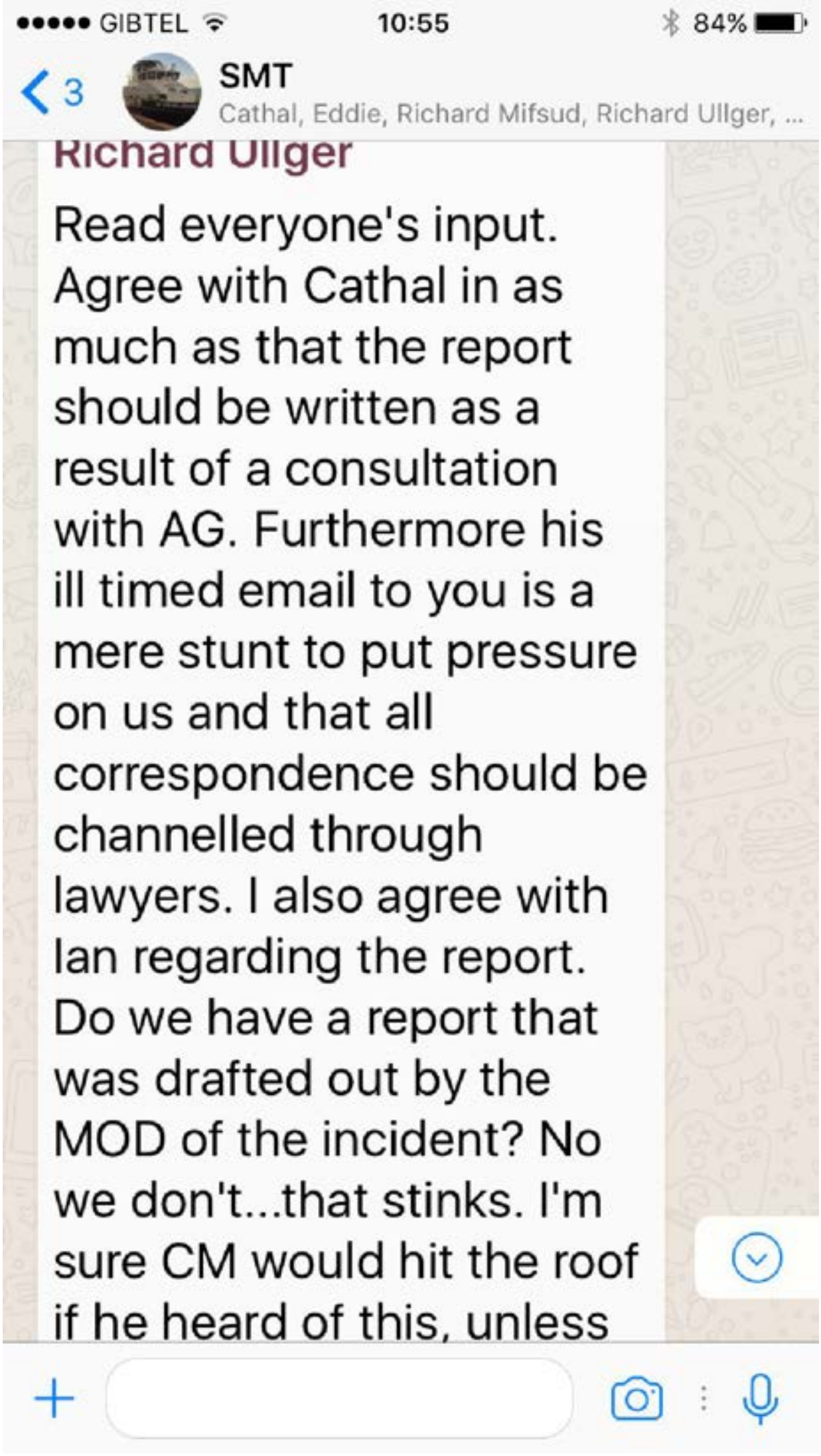
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
20:07
Eddie Yome
My disappointment is with HE that he shared it and not cbf who has it. By saying that I'm taking a swipe and this needs to be done face to face. When we executed the warrant we should've retrieved it
20:10
I can always go to retrieve it on monday.
20:14
Richard Ullger
Read everyone's input. Agree with Cathal in as much as that the report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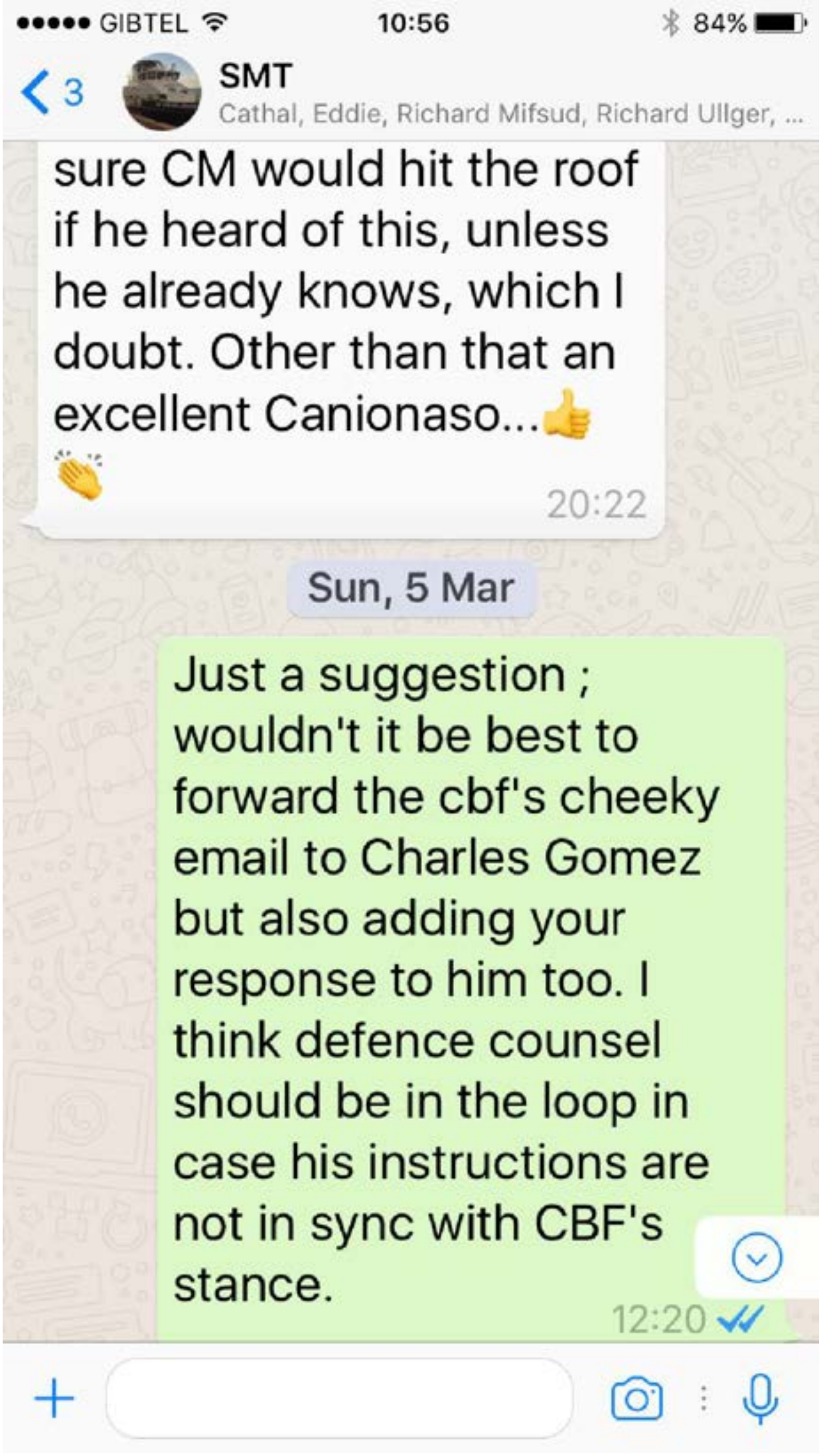
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Richard Ullger
Read everyone's input. Agree with Cathal in as much as that the report should be written as a result of a consultation with AG. Furthermore his ill timed email to you is a mere stunt to put pressure on us and that all correspondence should be channelled through lawyers. I also agree with Ian regarding the report. Do we have a report that was drafted out by the MOD of the incident? No we don't...that stinks. I'm sure CM would hit the roof if he heard of this, unless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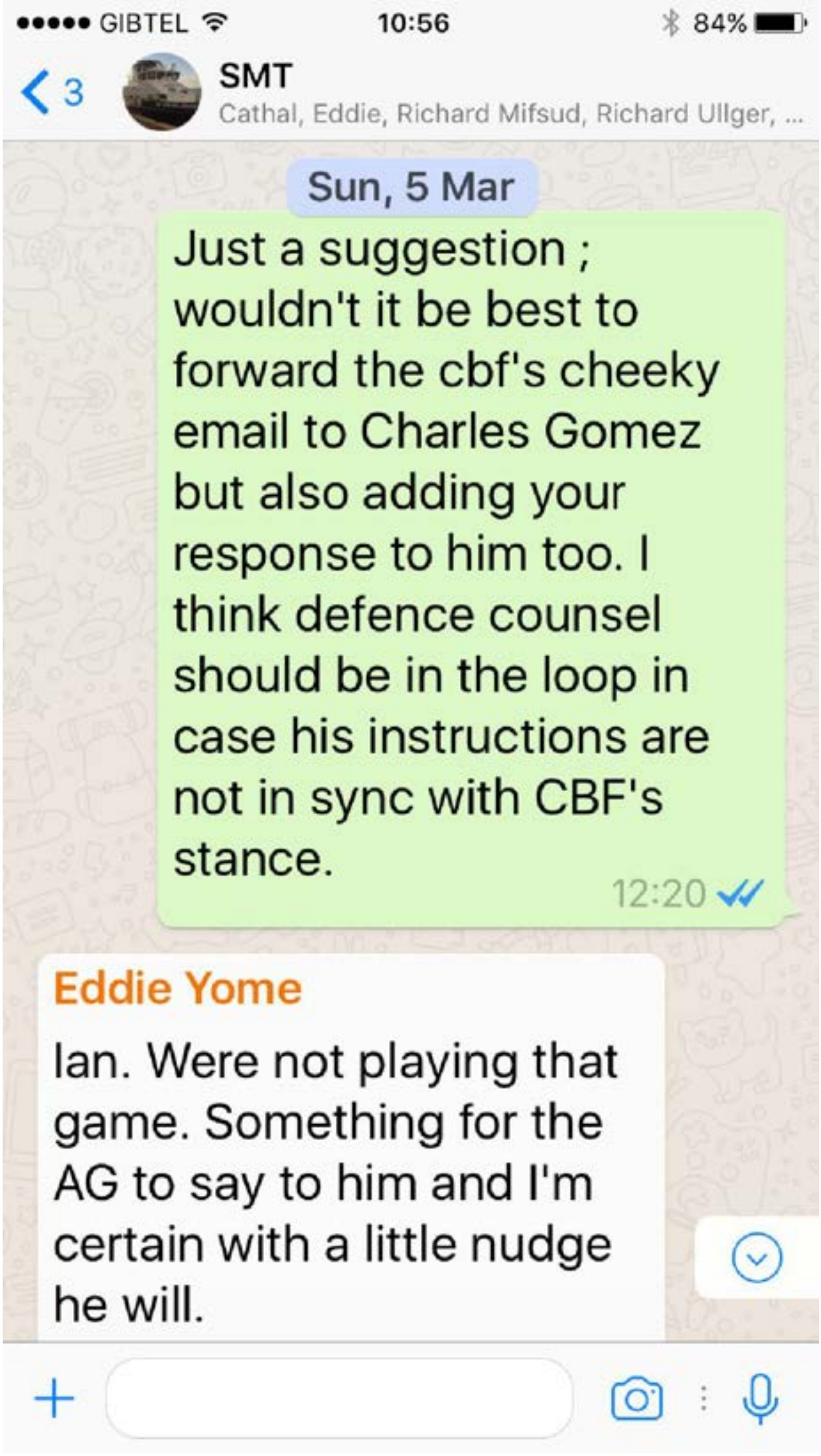
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
sure CM would hit the roof if he heard of this, unless he already knows, which I doubt. Other than that an excellent Canionaso...👍
👏
20:22
Sun, 5 Mar
Just a suggestion ; wouldn't it be best to forward the cbf's cheeky email to Charles Gomez but also adding your response to him too. I think defence counsel should be in the loop in case his instructions are not in sync with CBF's stance.
12:20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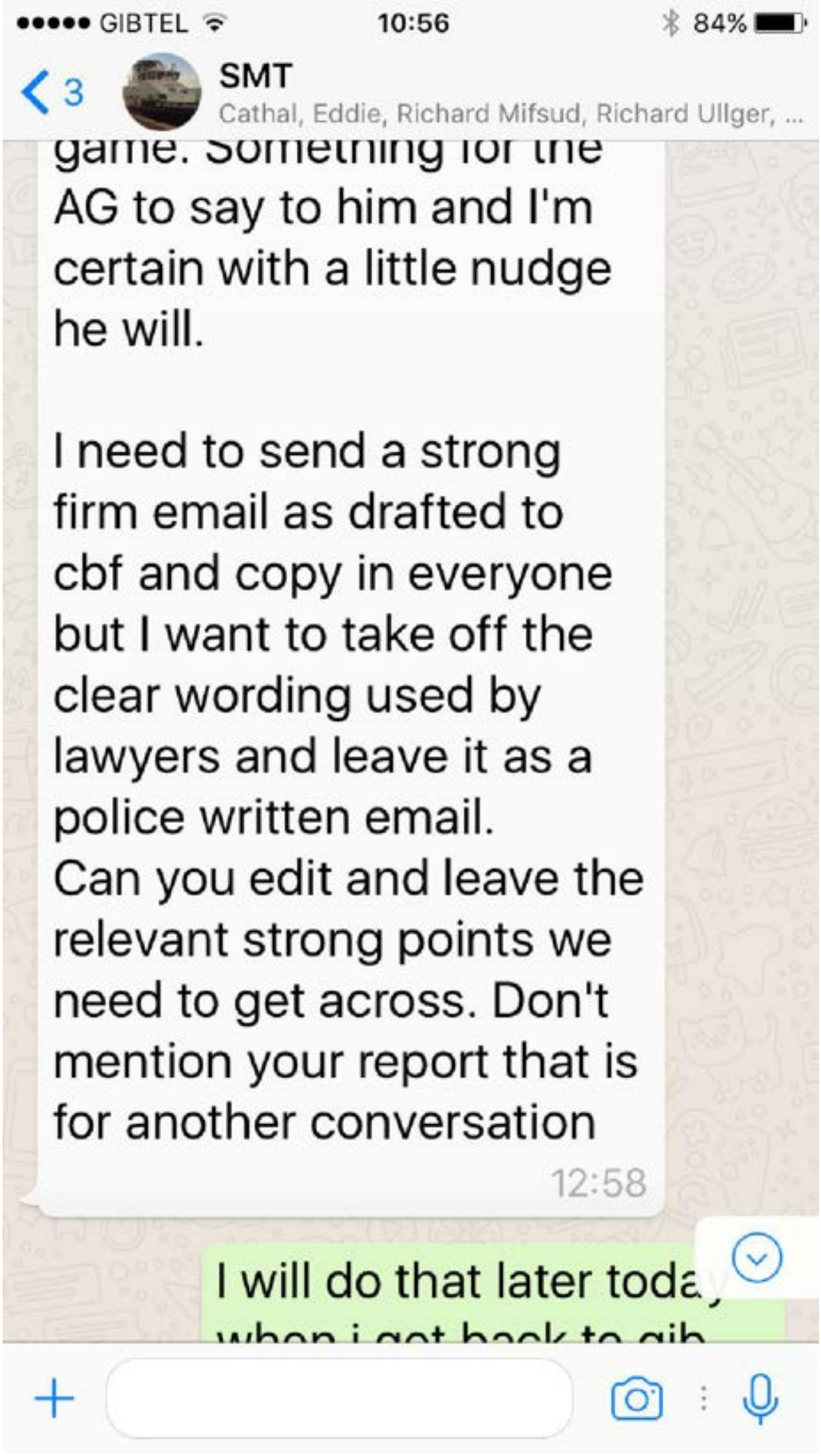
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Sun, 5 Mar
Just a suggestion ; wouldn't it be best to forward the cbf's cheeky email to Charles Gomez but also adding your response to him too. I think defence counsel should be in the loop in case his instructions are not in sync with CBF's stance.
12:20
Eddie Yome
Ian. Were not playing that game. Something for the AG to say to him and I'm certain with a little nudge he will.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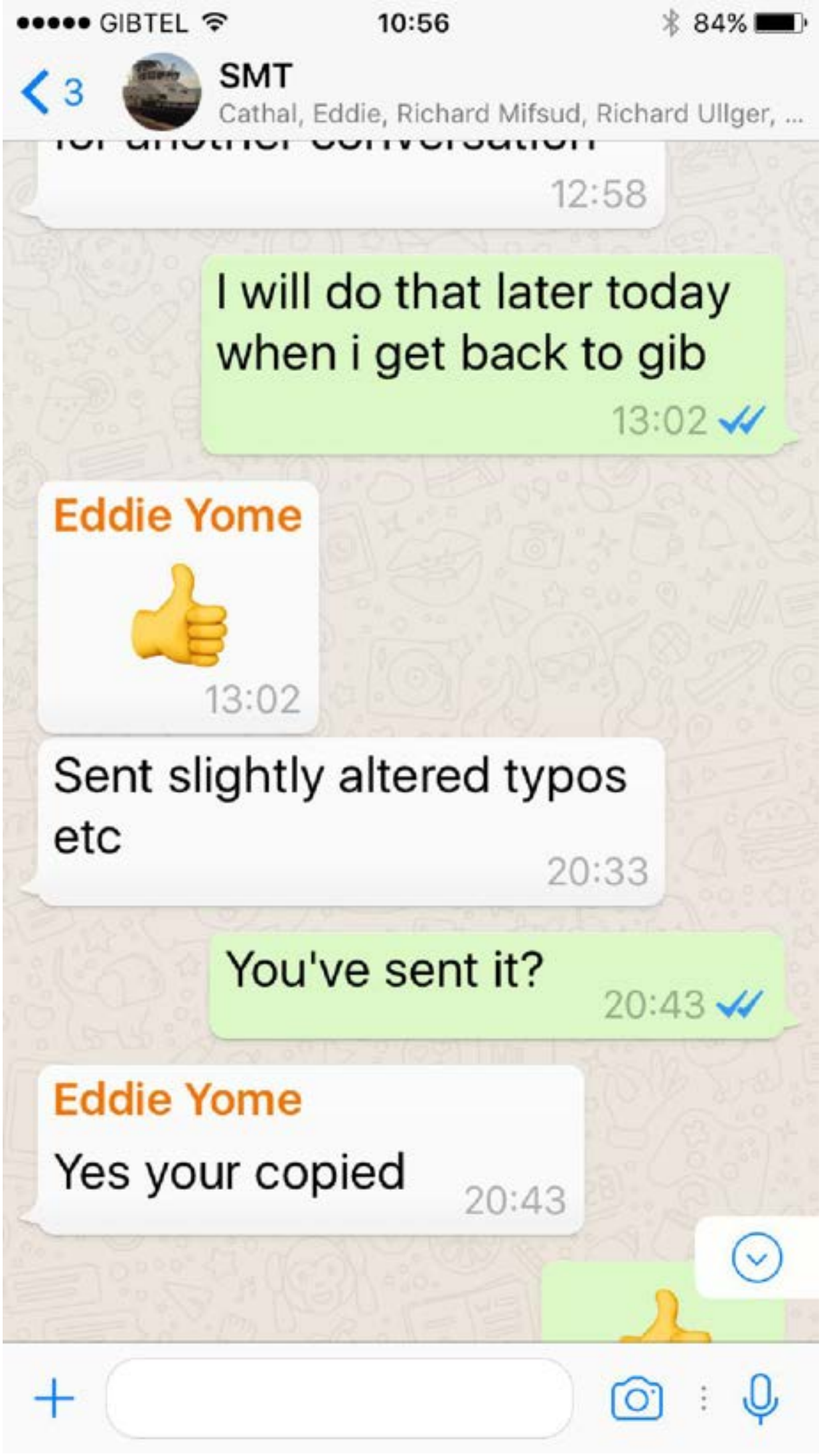
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
game. Something for the AG to say to him and I'm certain with a little nudge he will.
I need to send a strong firm email as drafted to cbf and copy in everyone but I want to take off the clear wording used by lawyers and leave it as a police written email.
Can you edit and leave the relevant strong points we need to get across. Don't mention your report that is for another conversation
12:58
I will do that later toda
when i get back to gib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10:56
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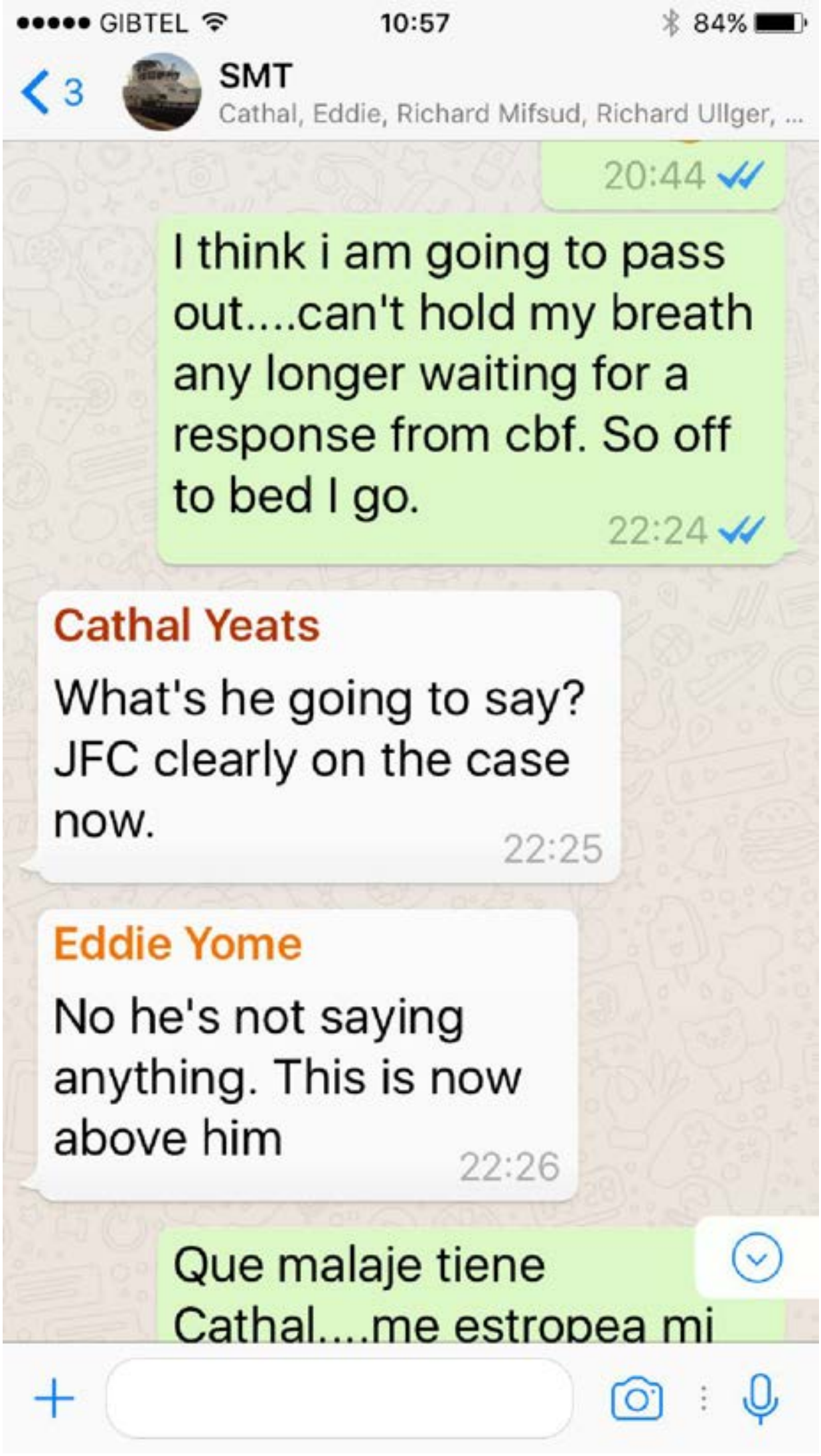
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
12:58
I will do that later today when i get back to gib
13:02
Eddie Yome
13:02
Sent slightly altered typos etc
20:33
You've sent it?
20:43
Eddie Yome
Yes your copied
20:43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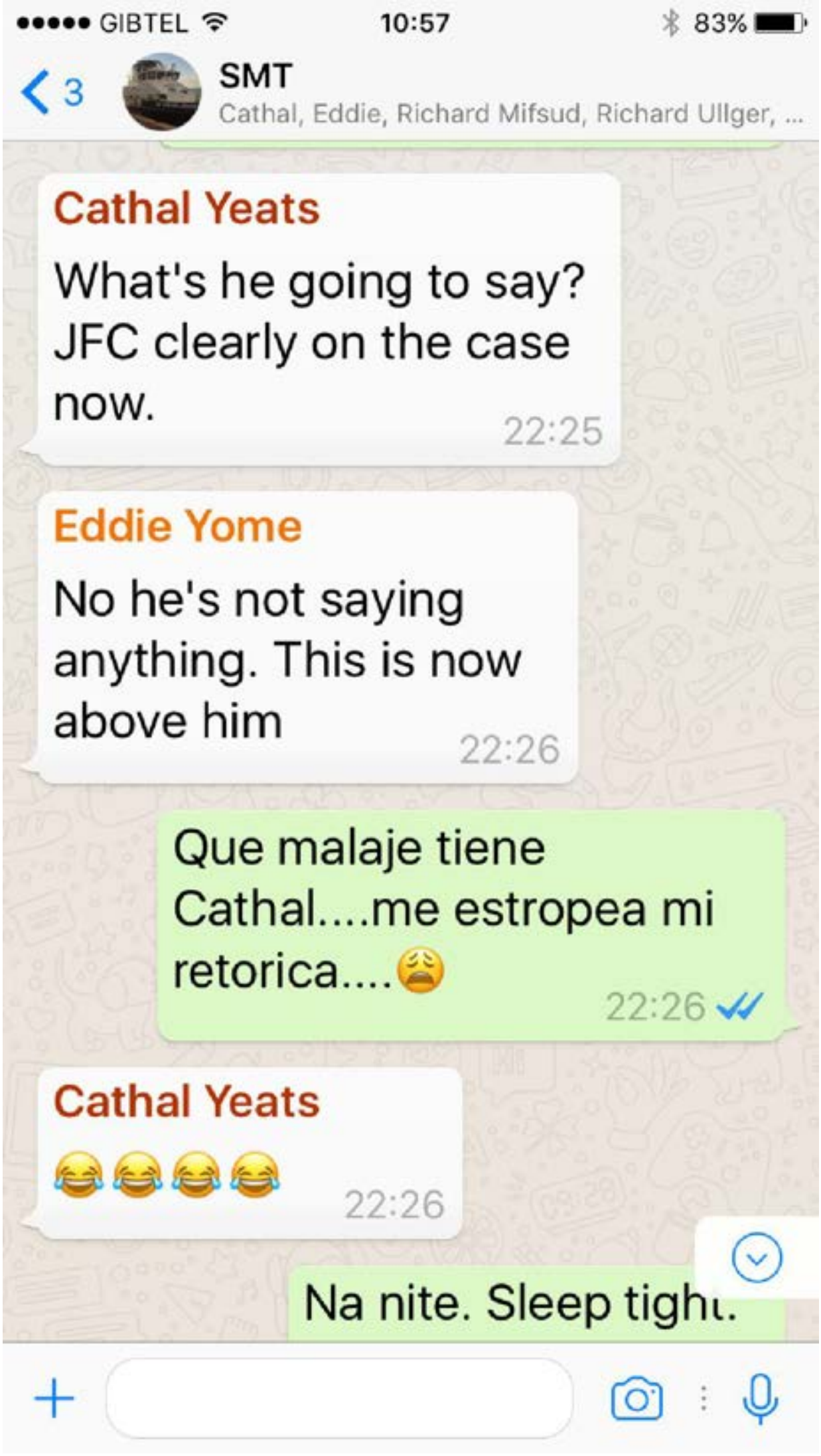
3
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
20:44
I think i am going to pass out....can't hold my breath any longer waiting for a response from cbf. So off to bed I go.
22:24
Cathal Yeats
What's he going to say? JFC clearly on the case now.
22:25
Eddie Yome
No he's not saying anything. This is now above him
22:26
Que malaje tiene Cathal....me estropea mi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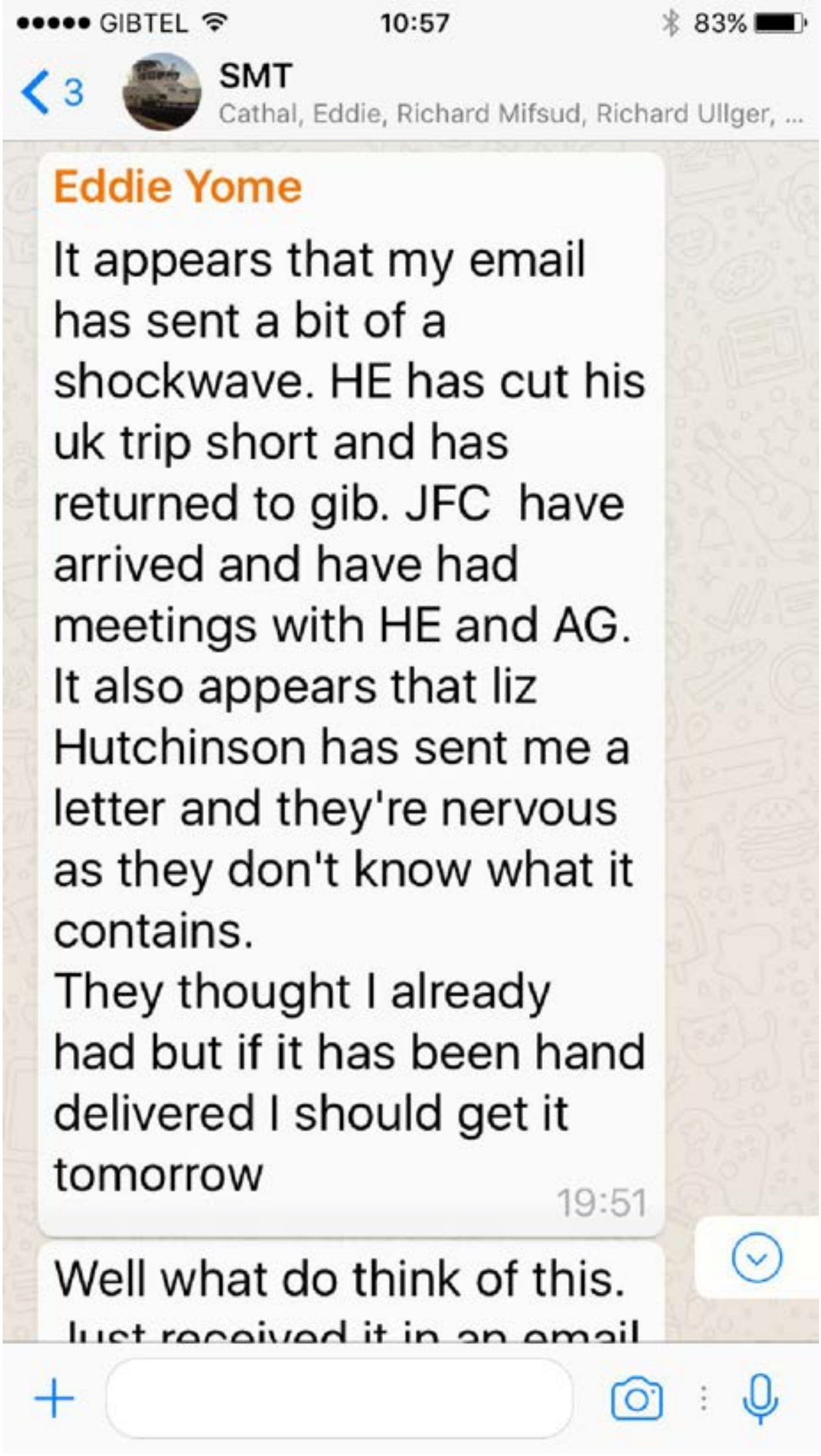
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Cathal Yeats
What's he going to say? JFC clearly on the case now.
22:25
Eddie Yome
No he's not saying anything. This is now above him
22:26
Que malaje tiene Cathal....me estropea mi retorica....😩
22:26
Cathal Yeats
😂😂😂😂
22:26
Na nite. Sleep tight.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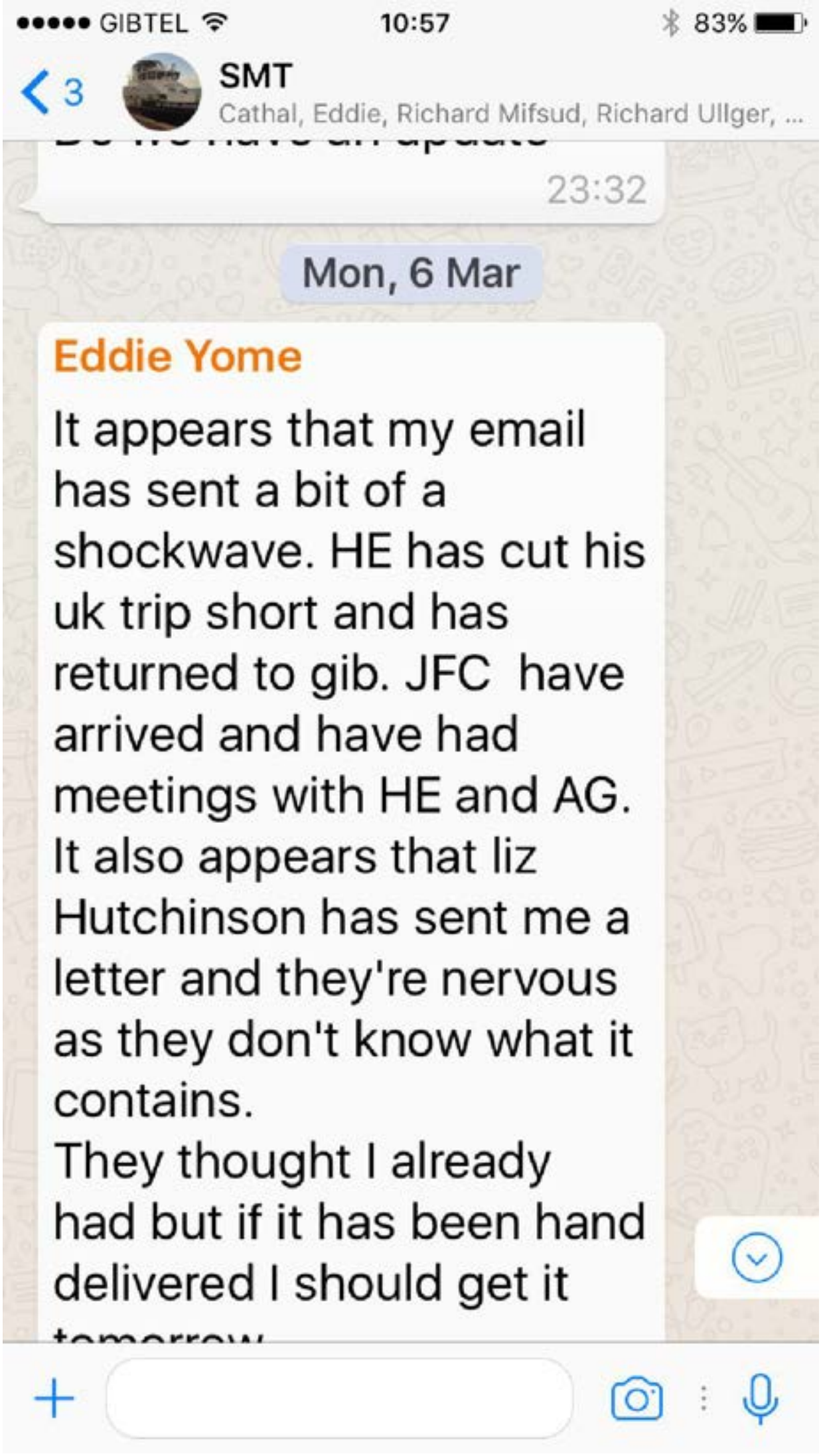
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Eddie Yome
It appears that my email has sent a bit of a shockwave. HE has cut his uk trip short and has returned to gib. JFC have arrived and have had meetings with HE and AG. It also appears that liz Hutchinson has sent me a letter and they're nervous as they don't know what it contains.
They thought I already had but if it has been hand delivered I should get it tomorrow
19:51
Well what do think of this.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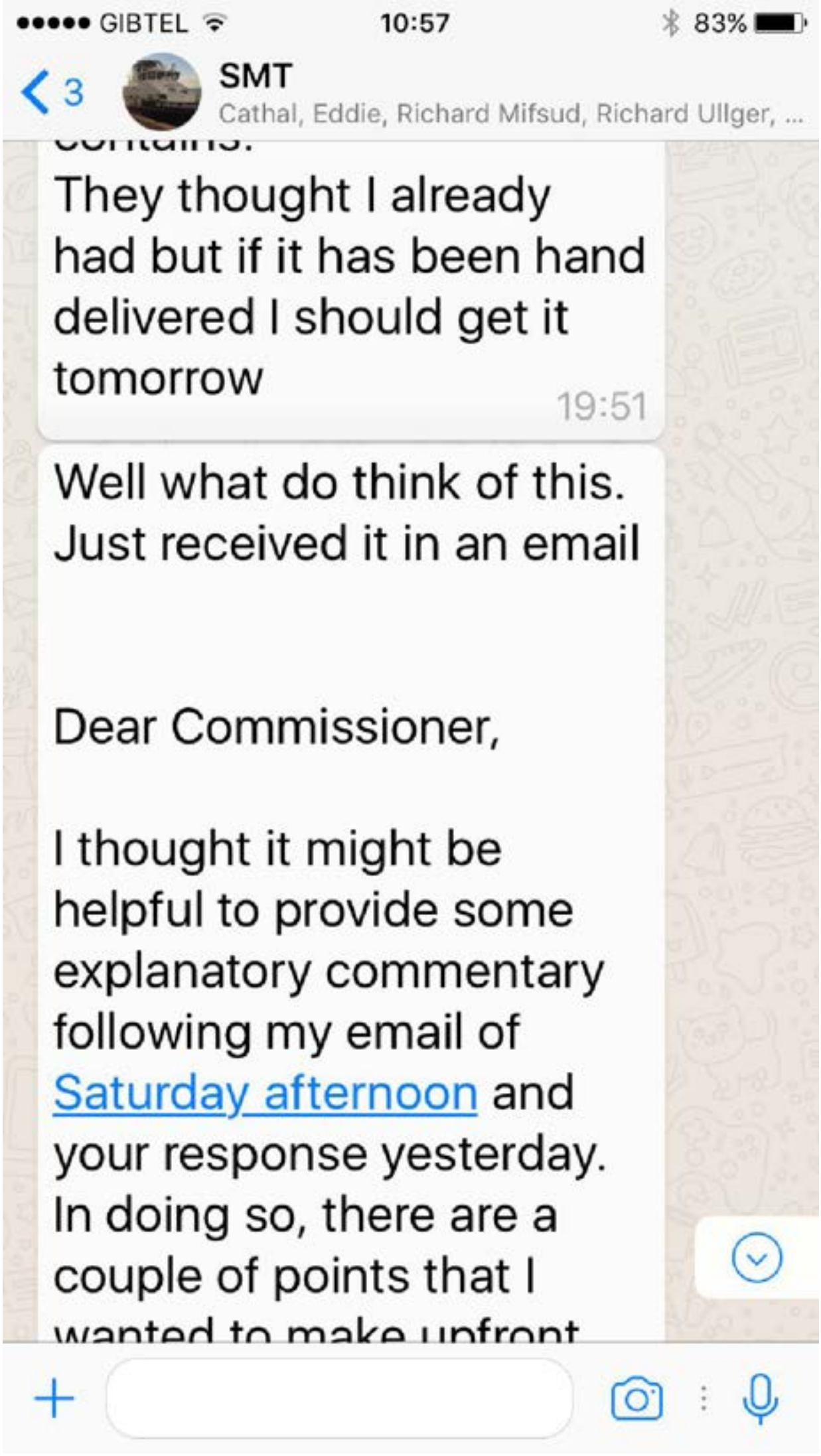
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
23:32
Mon, 6 Mar
Eddie Yome
It appears that my email has sent a bit of a shockwave. HE has cut his uk trip short and has returned to gib. JFC have arrived and have had meetings with HE and AG.
It also appears that liz Hutchinson has sent me a letter and they're nervous as they don't know what it contains.
They thought I already had but if it has been hand delivered I should get it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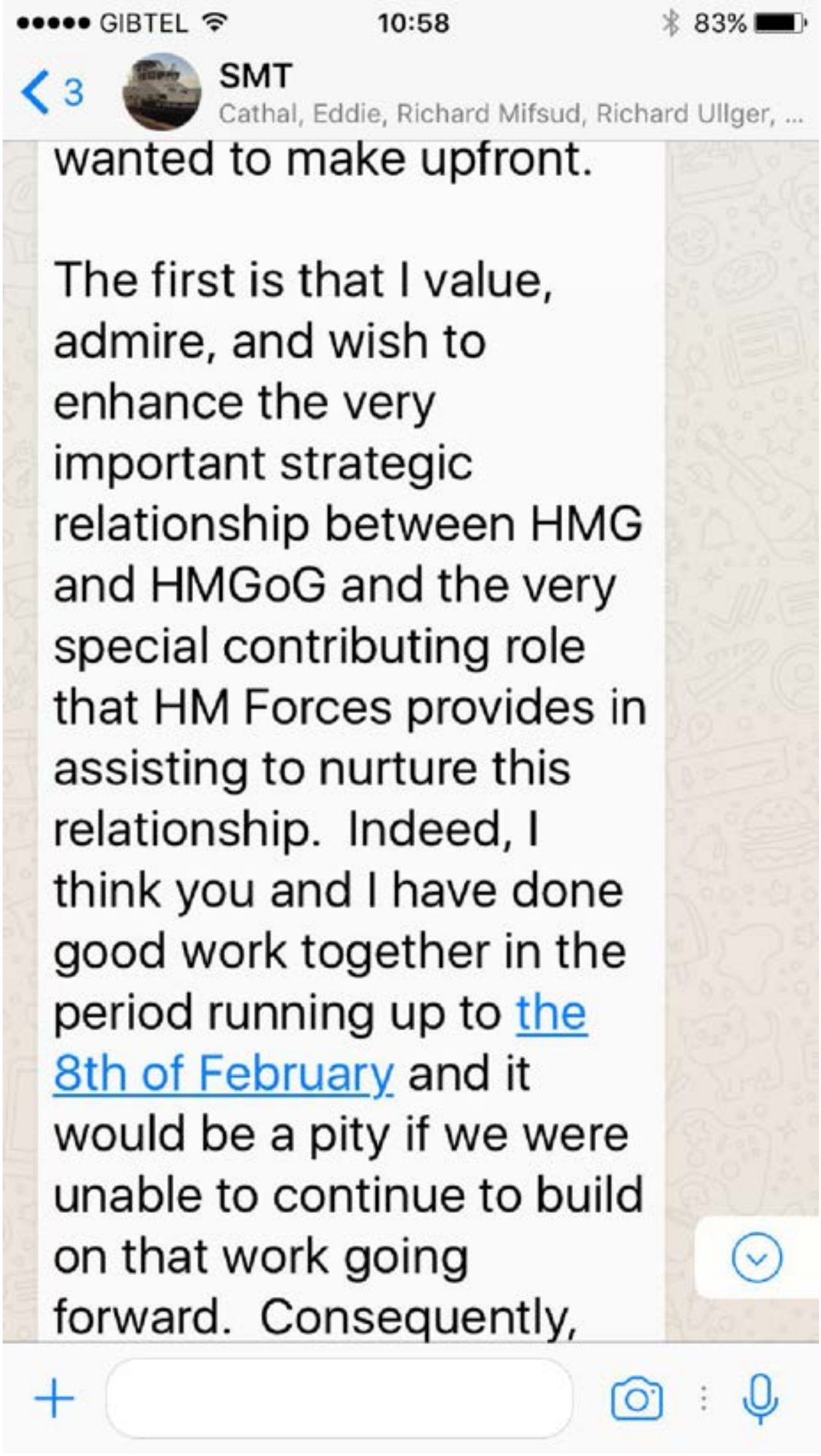
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
They thought I already had but if it has been hand delivered I should get it tomorrow
19:51
Well what do think of this. Just received it in an email
Dear Commissioner,
I thought it might be helpful to provide some explanatory commentary following my email of Saturday afternoon and your response yesterday. In doing so, there are a couple of points that I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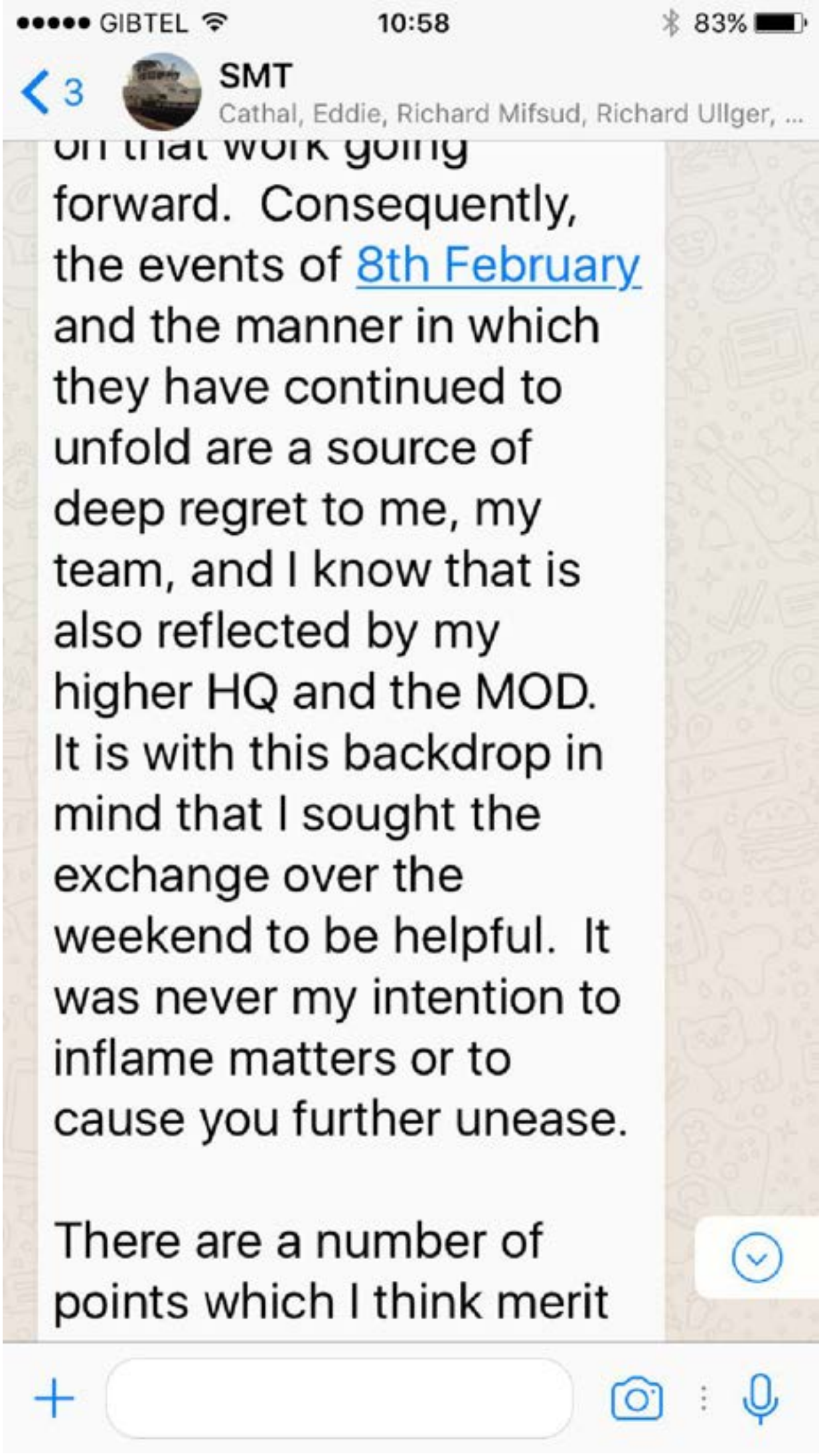
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
wanted to make upfront.
The first is that I value, admire, and wish to enhance the very important strategic relationship between HMG and HMGoG and the very special contributing role that HM Forces provides in assisting to nurture this relationship. Indeed, I think you and I have done good work together in the period running up to the 8th of February and it would be a pity if we were unable to continue to build on that work going forward. Consequently,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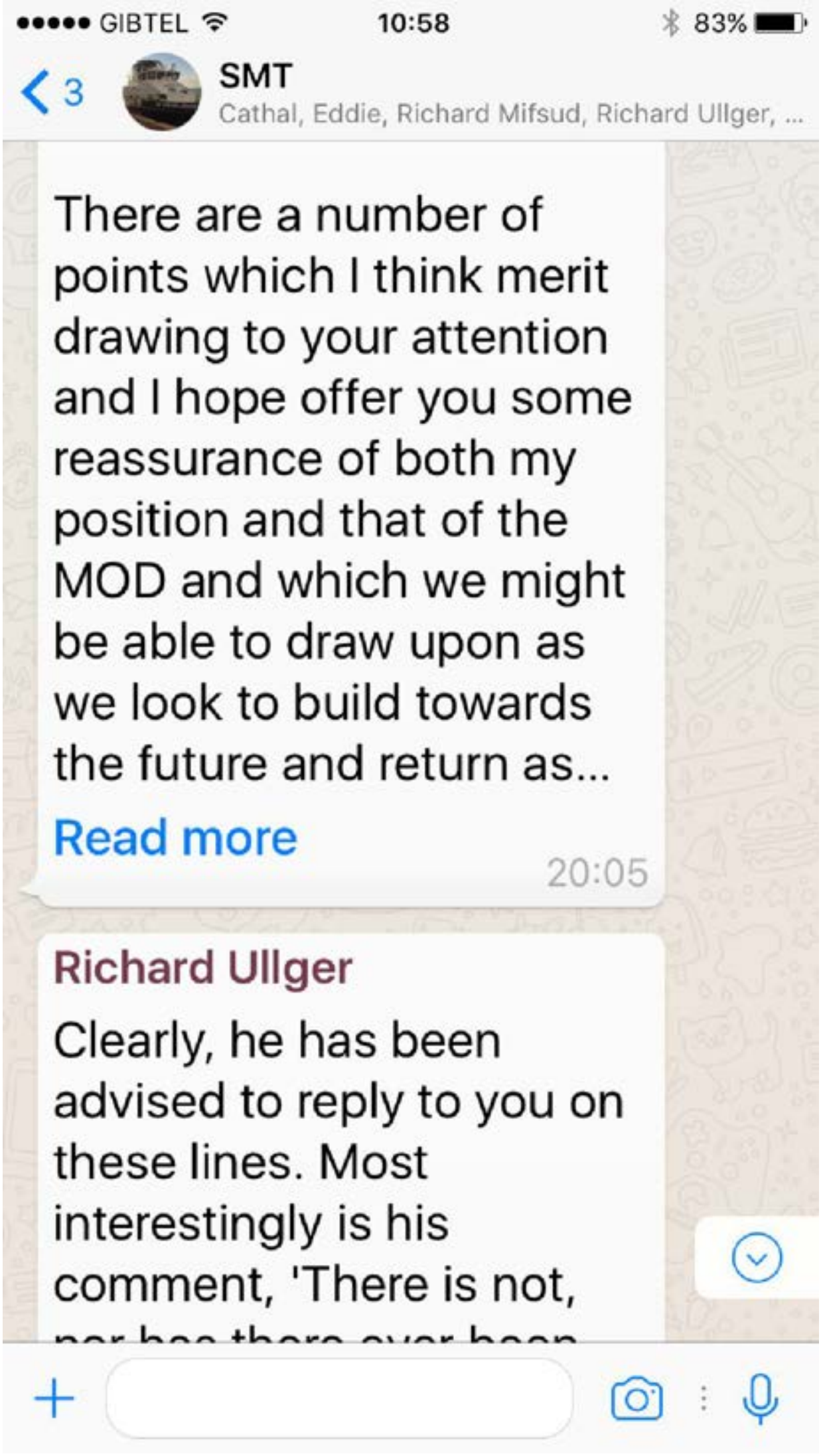
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
on that work going
forward. Consequently,
the events of 8th February
and the manner in which
they have continued to
unfold are a source of
deep regret to me, my
team, and I know that is
also reflected by my
higher HQ and the MOD.
It is with this backdrop in
mind that I sought the
exchange over the
weekend to be helpful. It
was never my intention to
inflame matters or to
cause you further unease.
There are a number of
points which I think merit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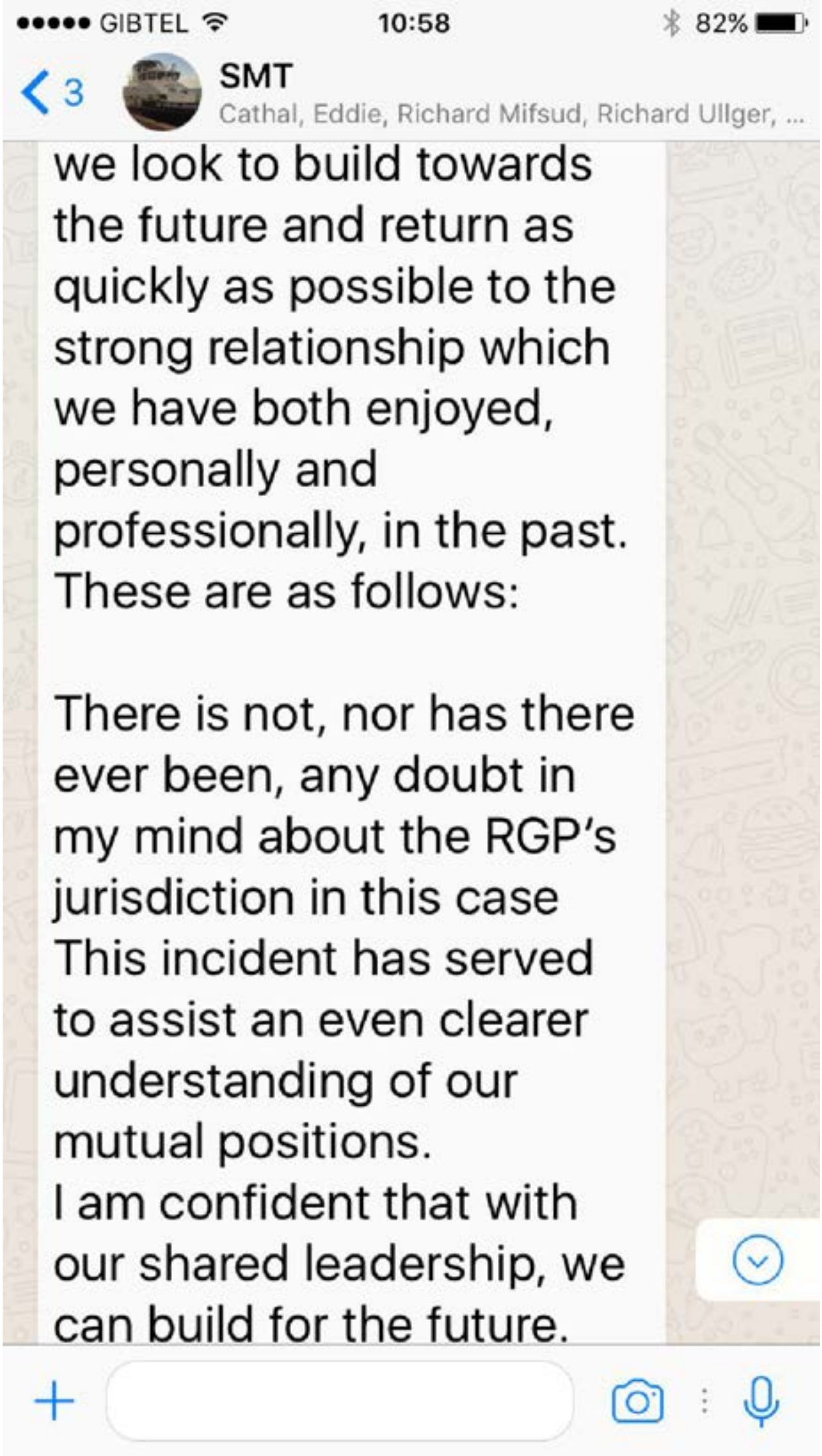
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
There are a number of points which I think merit drawing to your attention and I hope offer you some reassurance of both my position and that of the MOD and which we might be able to draw upon as we look to build towards the future and return as...
Read more
20:05
Richard Ullger
Clearly, he has been advised to reply to you on these lines. Most interestingly is his comment, 'There is not,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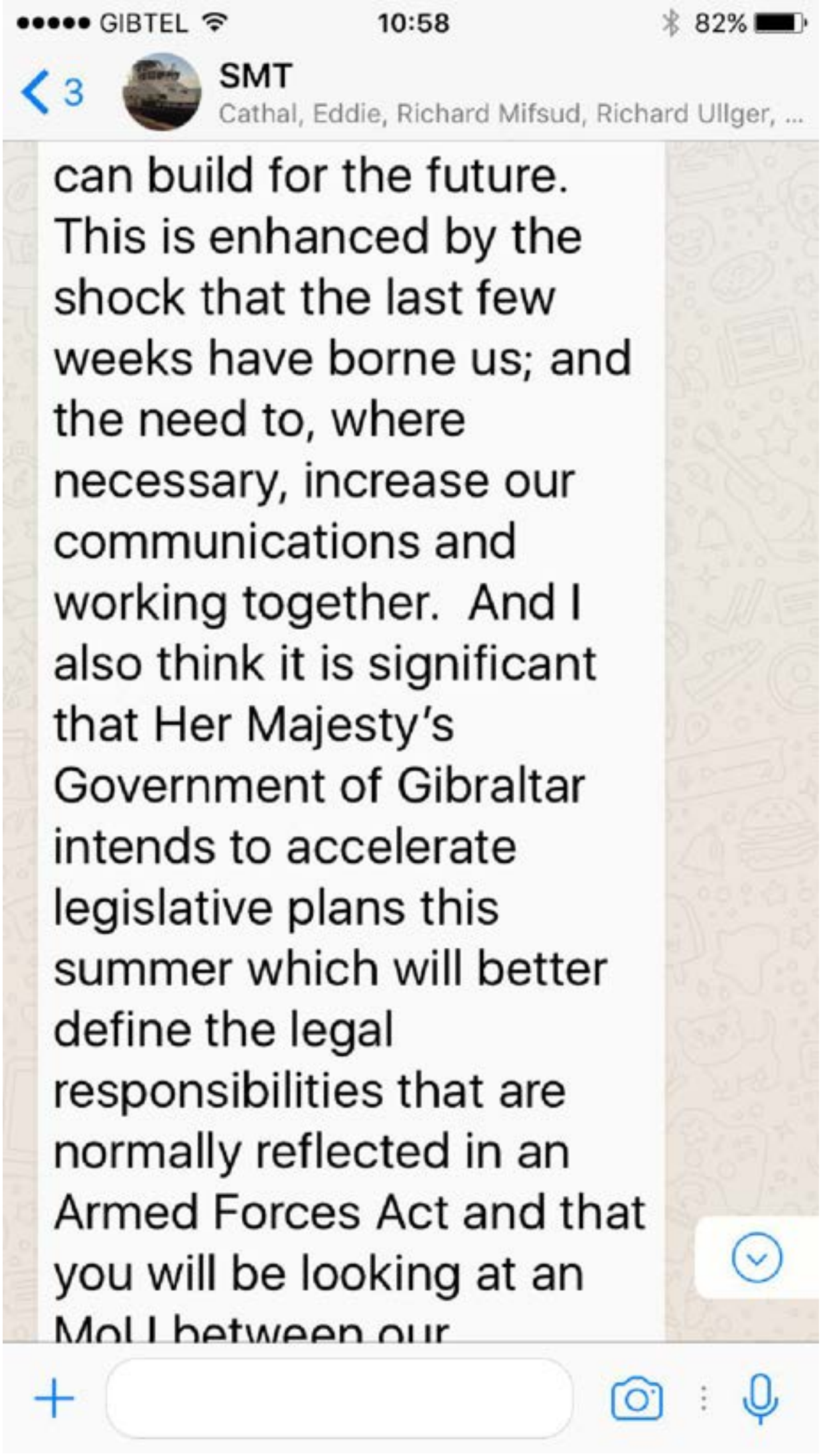
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
we look to build towards the future and return as quickly as possible to the strong relationship which we have both enjoyed, personally and professionally, in the past. These are as follows:
There is not, nor has there ever been, any doubt in my mind about the RGP's jurisdiction in this case
This incident has served to assist an even clearer understanding of our mutual positions.
I am confident that with our shared leadership, we can build for the future.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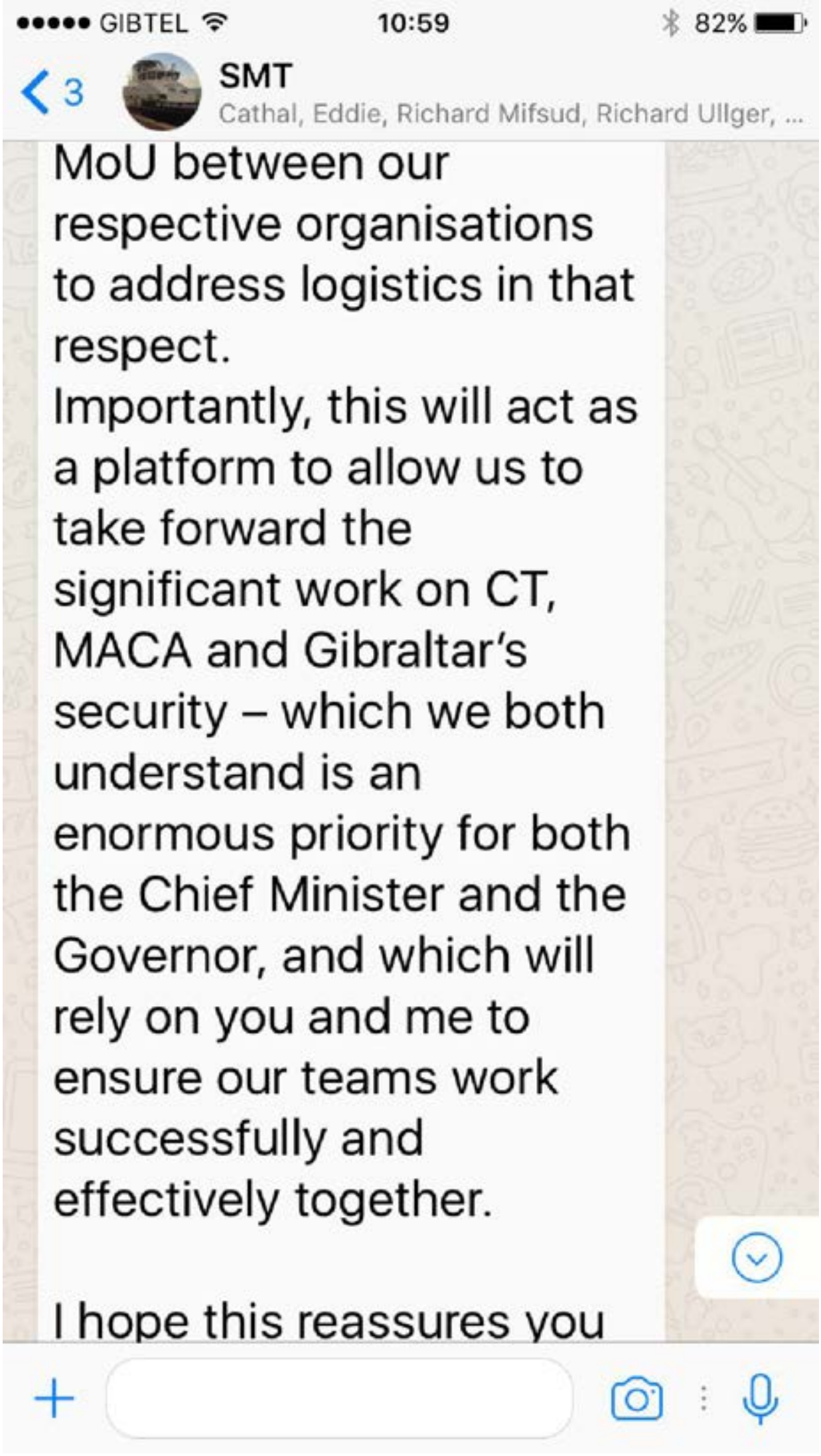
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
can build for the future. This is enhanced by the shock that the last few weeks have borne us; and the need to, where necessary, increase our communications and working together. And I also think it is significant that Her Majesty's Government of Gibraltar intends to accelerate legislative plans this summer which will better define the legal responsibilities that are normally reflected in an Armed Forces Act and that you will be looking at an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SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
MoU between our respective organisations to address logistics in that respect.
Importantly, this will act as a platform to allow us to take forward the significant work on CT, MACA and Gibraltar's security – which we both understand is an enormous priority for both the Chief Minister and the Governor, and which will rely on you and me to ensure our teams work successfully and effectively together.
I hope this reassures you


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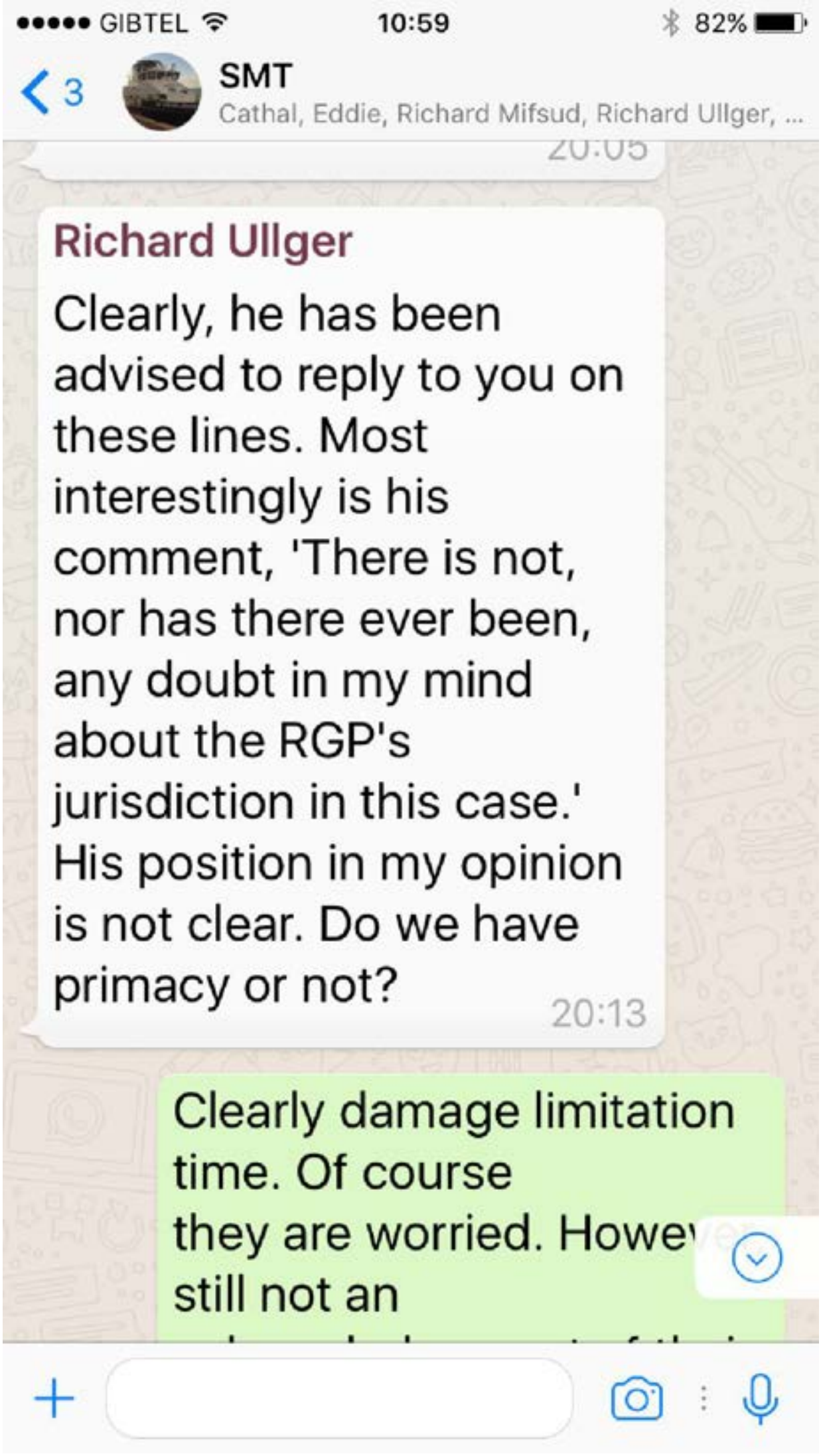
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
I hope this reassures you of my intent and my sincerity in trying to address our current difficulties.
I sincerely apologise if my e-mail on Saturday caused you any alarm or offence. It was absolutely never my intention and, indeed, quite the opposite.
With genuine best wishes, and sincerely hoping that we will soon be working as well together as we have,
Mike
20:05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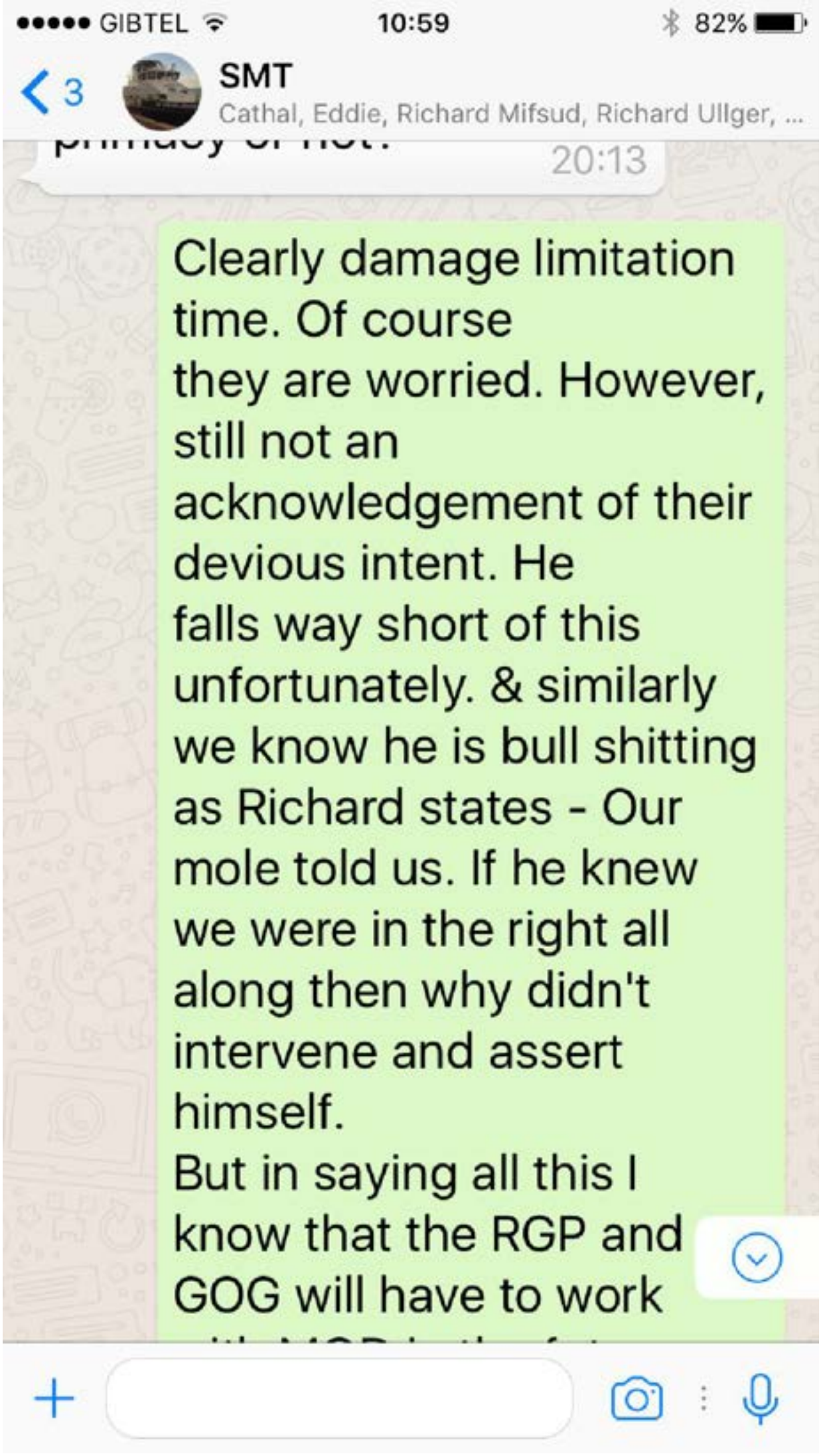
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Richard Ullger
Clearly, he has been advised to reply to you on these lines. Most interestingly is his comment, 'There is not, nor has there ever been, any doubt in my mind about the RGP's jurisdiction in this case.' His position in my opinion is not clear. Do we have primacy or not?
20:13
Clearly damage limitation time. Of course they are worried. Howe
still not an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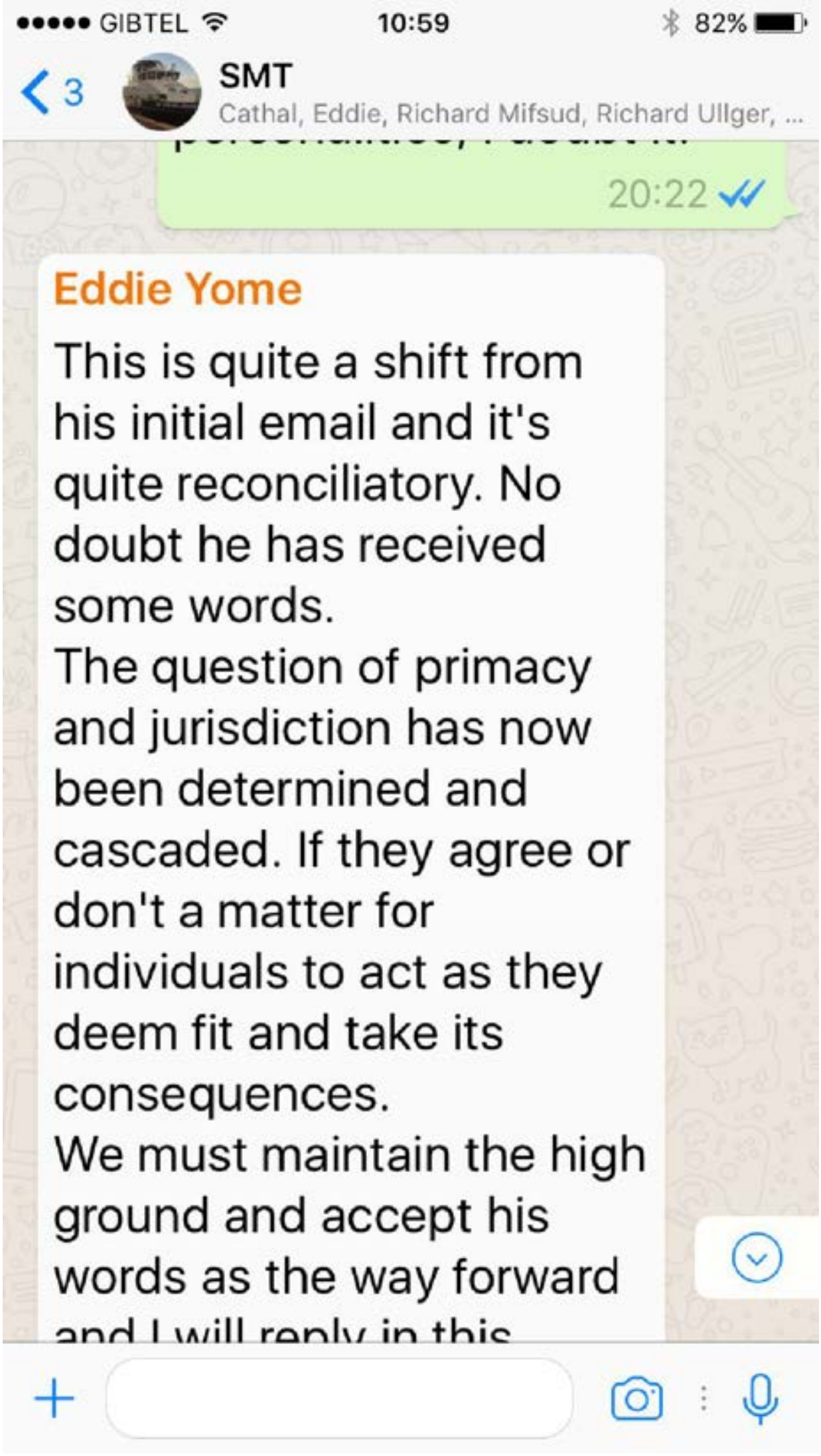
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
20:13
Clearly damage limitation time. Of course they are worried. However, still not an acknowledgement of their devious intent. He falls way short of this unfortunately. & similarly we know he is bull shitting as Richard states - Our mole told us. If he knew we were in the right all along then why didn't intervene and assert himself.
But in saying all this I know that the RGP and GOG will have to work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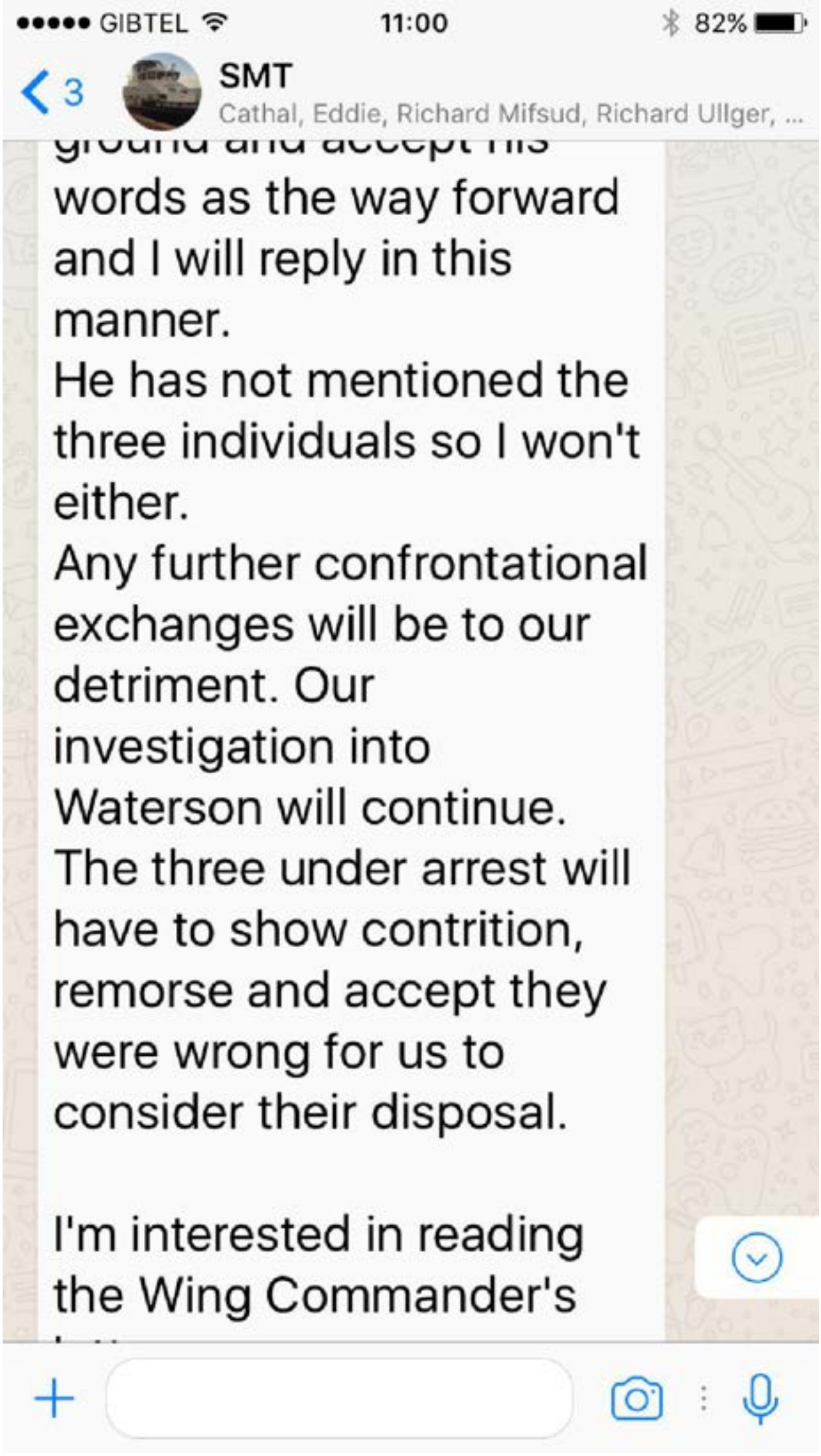
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
20:22
Eddie Yome
This is quite a shift from his initial email and it's quite reconciliatory. No doubt he has received some words.
The question of primacy and jurisdiction has now been determined and cascaded. If they agree or don't a matter for individuals to act as they deem fit and take its consequences.
We must maintain the high ground and accept his words as the way forward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SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
words as the way forward and I will reply in this manner.
He has not mentioned the three individuals so I won't either.
Any further confrontational exchanges will be to our detriment. Our investigation into Waterson will continue.
The three under arrest will have to show contrition, remorse and accept they were wrong for us to consider their disposal.
I'm interested in reading the Wing Commander's


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SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
the Wing Commander's letter.
When the dust settles I'm certain there will be transfers.
20:26
I will reply after I read the letter
20:27
Are then expecting the 3 to show remorse and accept guilt? If they do then I agree we should discontinue the investigation. In the meantime u only say that we continue with the Watterson matter - do v
also continue investigating


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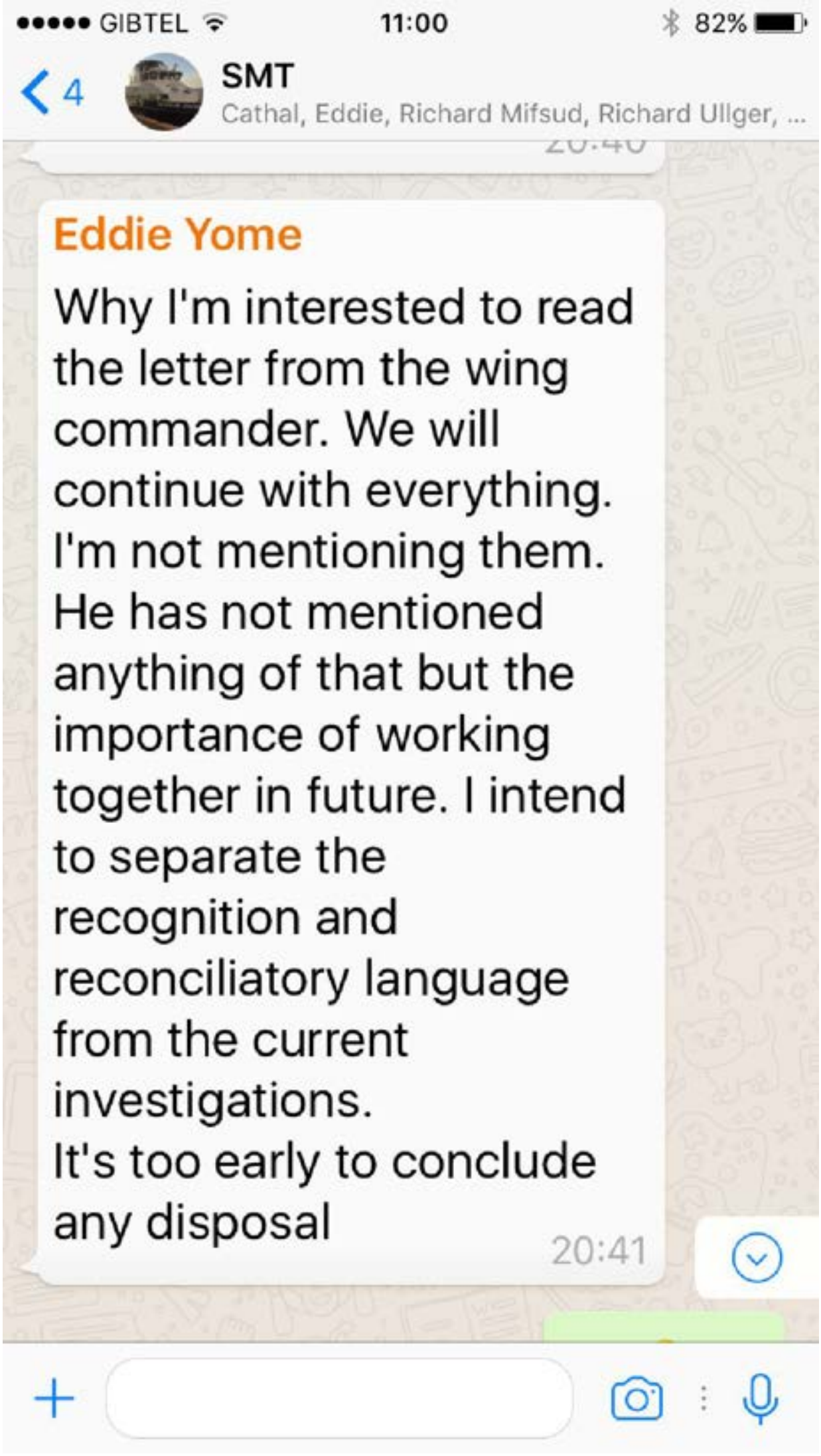
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
such time as we determine the outcome?
20:35
Are we expecting i meant....
20:38
Richard Ullger
Indeed. Climbing the wall when not in bed 😂
20:40
Eddie Yome
Why I'm interested to read the letter from the wing commander. We will continue with everything. I'm not mentioning them. He has not mentioned anything of that but the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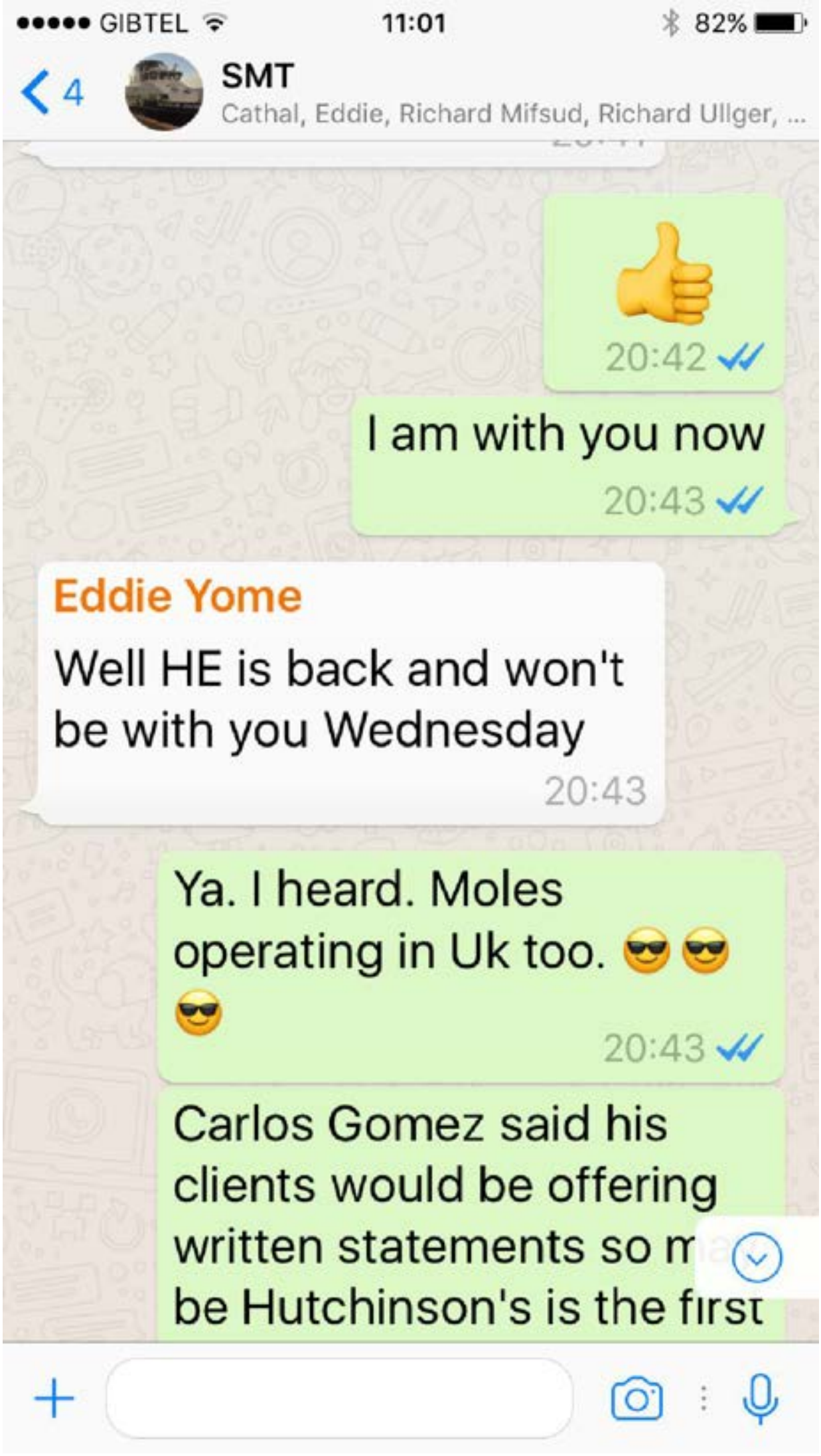
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Eddie Yome
Why I'm interested to read the letter from the wing commander. We will continue with everything. I'm not mentioning them. He has not mentioned anything of that but the importance of working together in future. I intend to separate the recognition and reconciliatory language from the current investigations.
It's too early to conclude any disposal
20:41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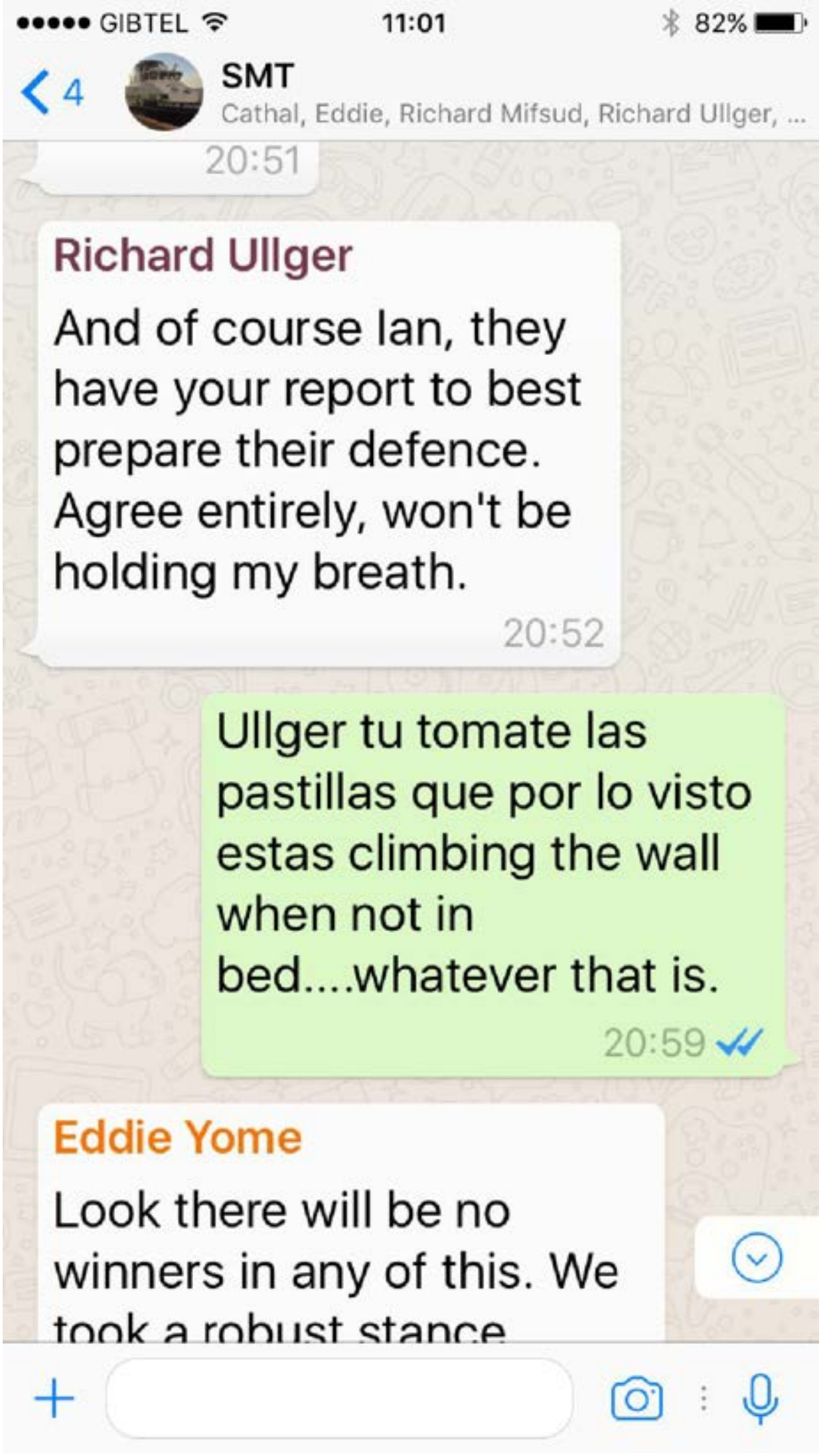
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
20:42
I am with you now
20:43
Eddie Yome
Well HE is back and won't be with you Wednesday
20:43
Ya. I heard. Moles operating in Uk too.
20:43
Carlos Gomez said his clients would be offering written statements so m
be Hutchinson's is the first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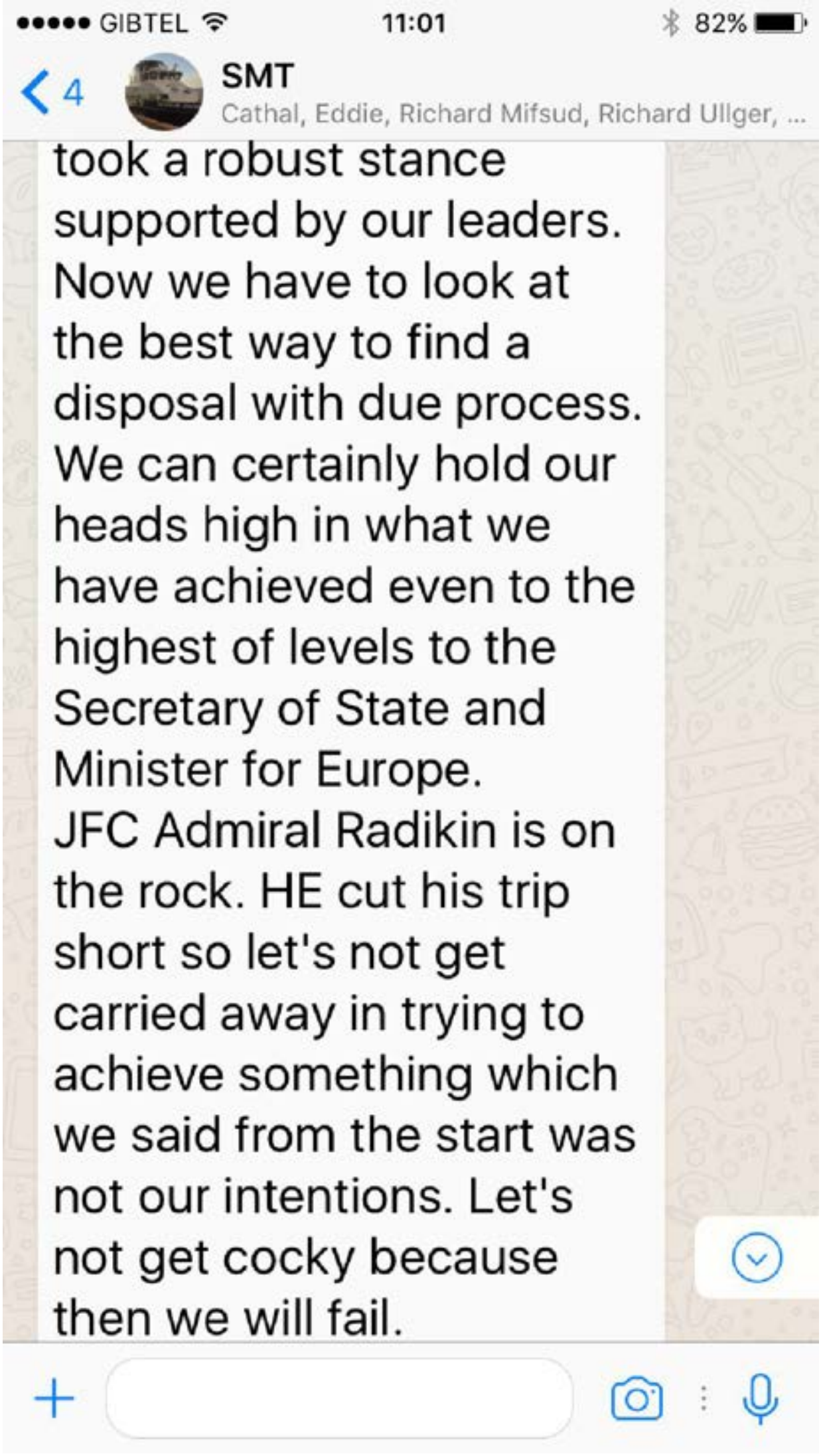
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
20:51
Richard Ullger
And of course Ian, they have your report to best prepare their defence. Agree entirely, won't be holding my breath.
20:52
Ullger tu tomate las pastillas que por lo visto estas climbing the wall when not in bed....whatever that is.
20:59
Eddie Yome
Look there will be no winners in any of this. We took a robust stance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SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
took a robust stance supported by our leaders. Now we have to look at the best way to find a disposal with due process. We can certainly hold our heads high in what we have achieved even to the highest of levels to the Secretary of State and Minister for Europe.
JFC Admiral Radikin is on the rock. HE cut his trip short so let's not get carried away in trying to achieve something which we said from the start was not our intentions. Let's not get cocky because then we will fail.


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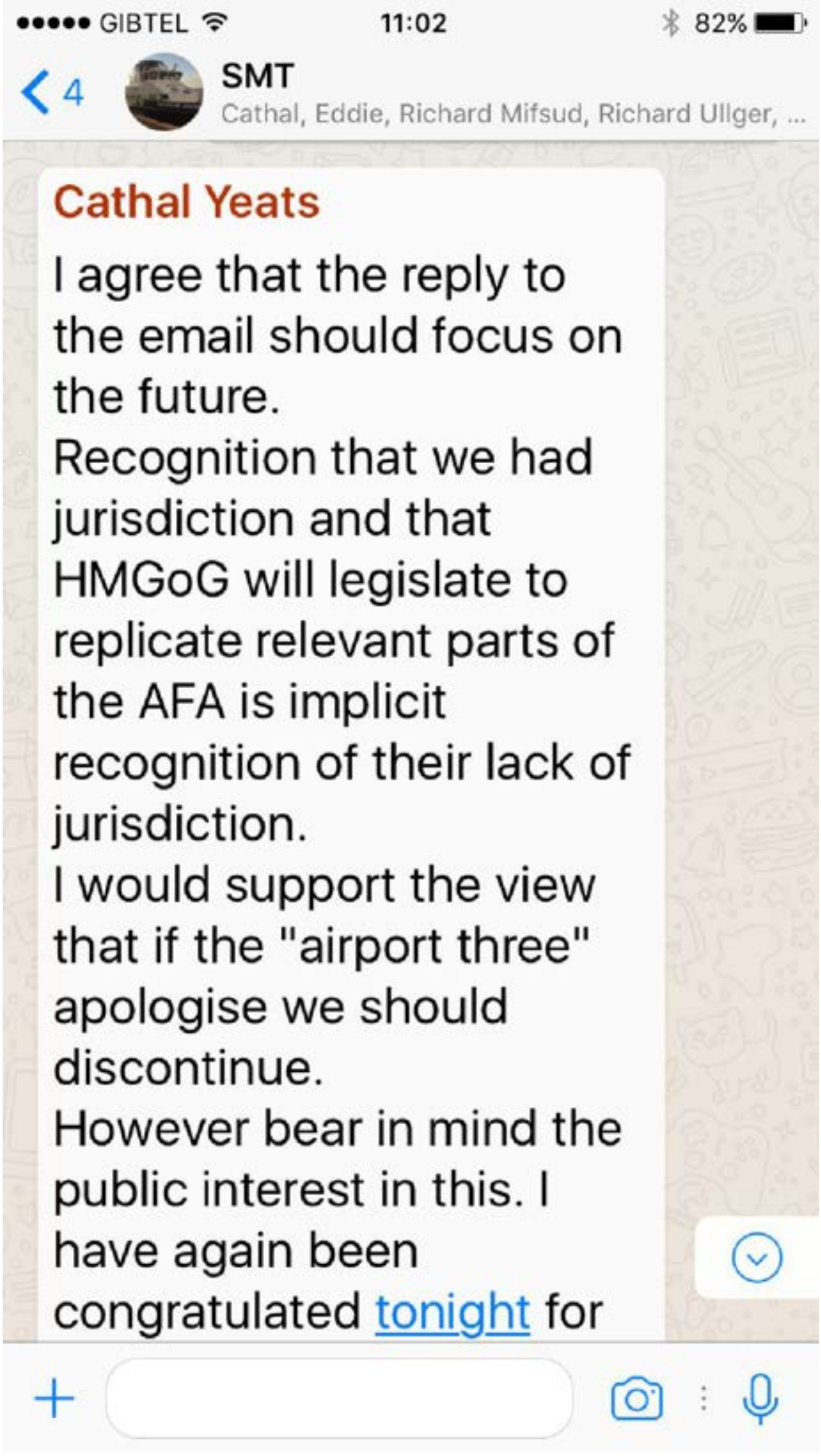
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
we said from the start was not our intentions. Let's not get cocky because then we will fail.
There's still matters to address but one step at a time
21:01
Jefe, cocky yo?.....ese el Ullger que esta empastillao.
21:13
Cathal Yeats
I agree that the reply to the email should focus on the future.
Recognition that we had jurisdiction and that HMGoG will legislate to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SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Cathal Yeats
I agree that the reply to the email should focus on the future.
Recognition that we had jurisdiction and that HMGoG will legislate to replicate relevant parts of the AFA is implicit recognition of their lack of jurisdiction.
I would support the view that if the "airport three" apologise we should discontinue.
However bear in mind the public interest in this. I have again been congratulated tonight for


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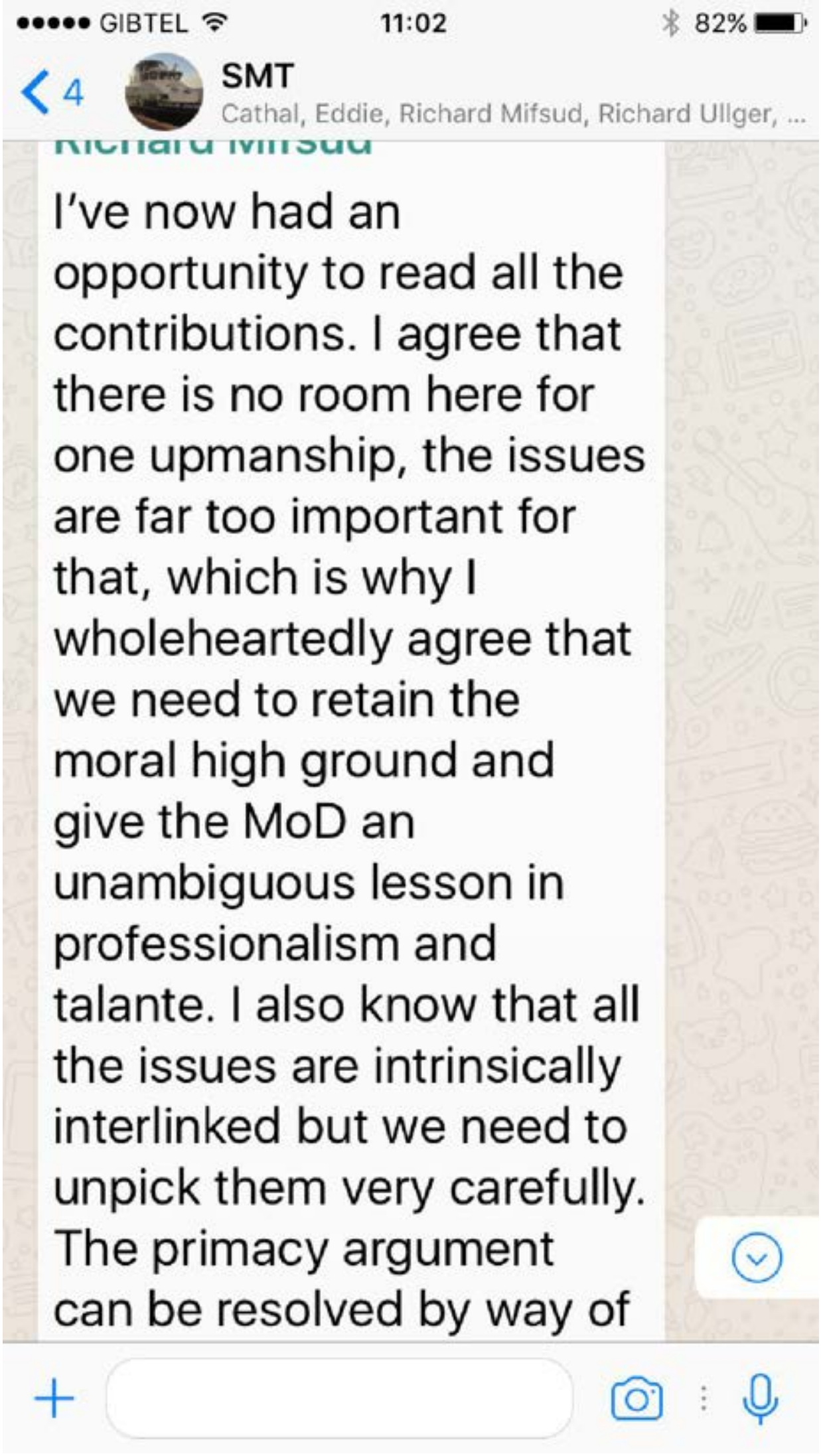
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
congratulated tonight for
the way the RGP has
acted. We cannot be seen
to have climbed down and
allowed the 3 to go scott
free. We will loose
credibility in the eyes of
the community. How that
is managed will be for
discussion.
21:14
Eddie Yome
☝ I agree
21:15
Richard Mifsud
I've now had an
opportunity to read all the
contributions. I agree that
there is no room here for
one upmanship, the issues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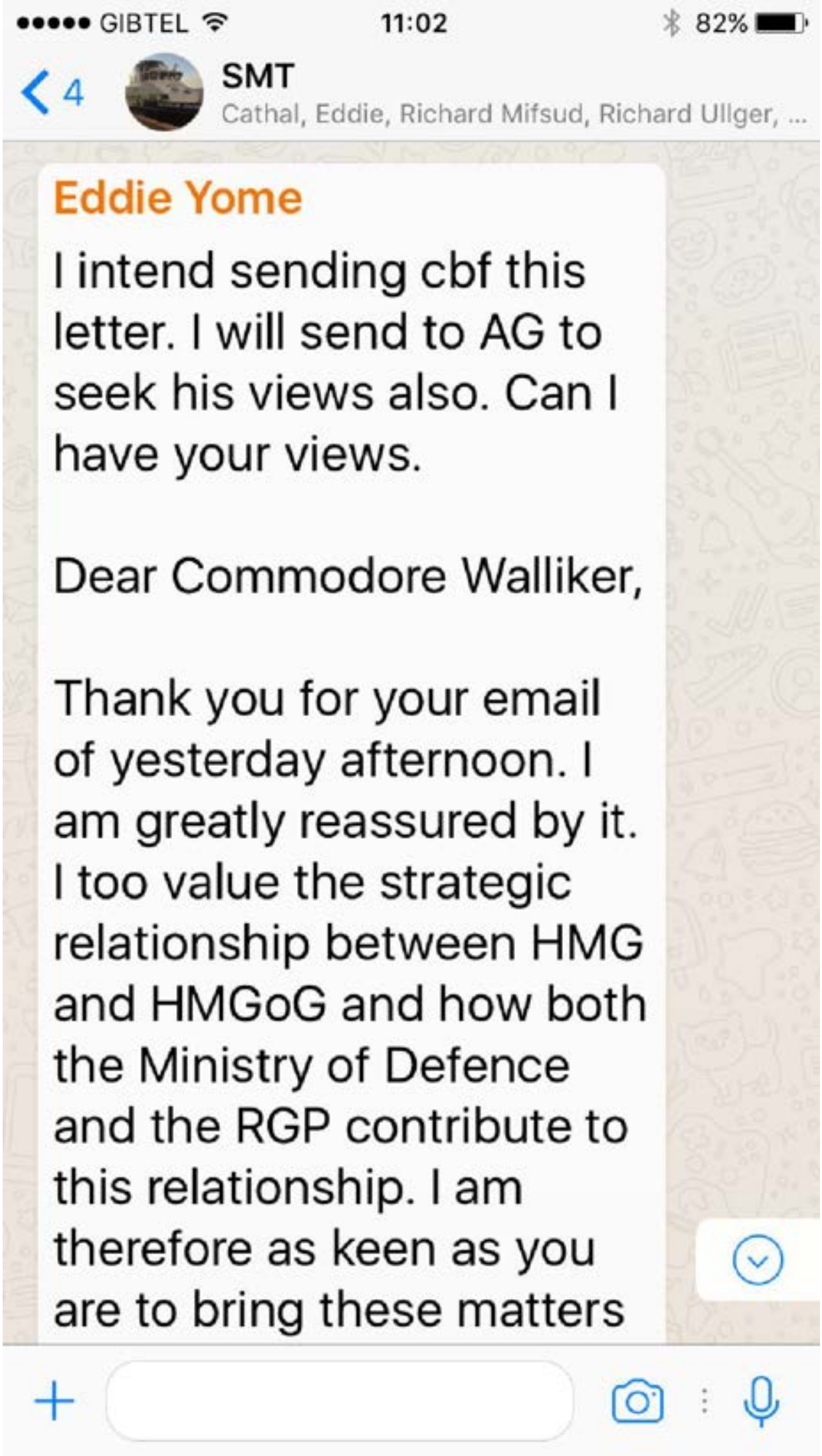
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
I've now had an opportunity to read all the contributions. I agree that there is no room here for one upmanship, the issues are far too important for that, which is why I wholeheartedly agree that we need to retain the moral high ground and give the MoD an unambiguous lesson in professionalism and talante. I also know that all the issues are intrinsically interlinked but we need to unpick them very carefully. The primacy argument can be resolved by way of

can be resolved by way of a letter acknowledging our supremacy. The arrest of the 3 has to be disposed of by one of the methods at our disposal. Quite what form that will take is dependent on what is uncovered from the assessment of the evidence, an acknowledgment on their part of their culpability and their remorse. The successful resolution of these two areas will largely dictate how we move forward because the fact is we are condemned to work together with the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SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Eddie Yome
I intend sending cbf this letter. I will send to AG to seek his views also. Can I have your views.
Dear Commodore Walliker,
Thank you for your email of yesterday afternoon. I am greatly reassured by it. I too value the strategic relationship between HMG and HMGoG and how both the Ministry of Defence and the RGP contribute to this relationship. I am therefore as keen as you are to bring these matters


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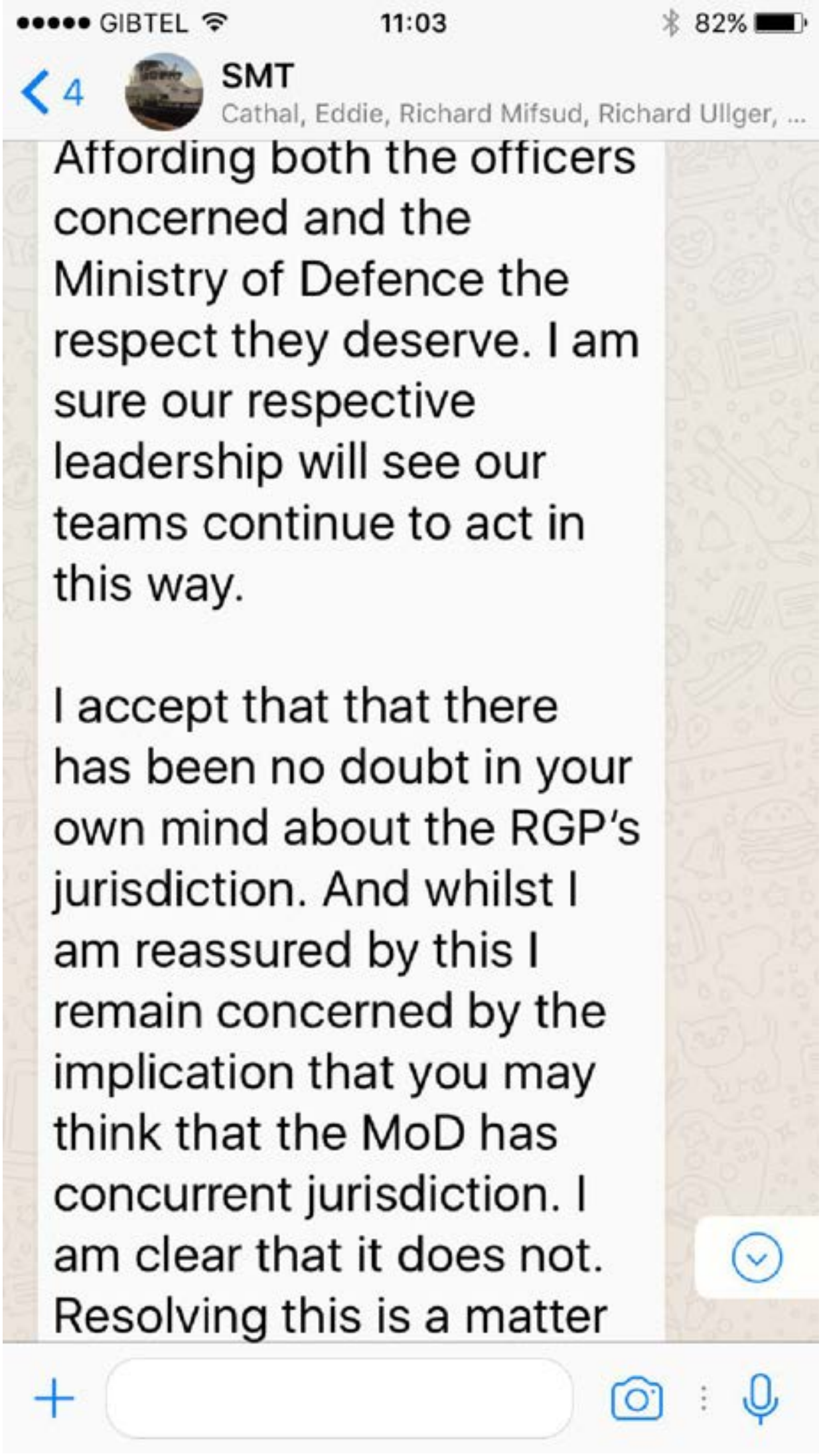
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
are to bring these matters to a close and look positively towards the future, building on the lessons learnt in the past few weeks.
These few weeks have been difficult for both our organisations and in the interests of our future relationship I have insisted that my staff behave professionally at all times. Affording both the officers concerned and the Ministry of Defence the respect they deserve. I am sure our respective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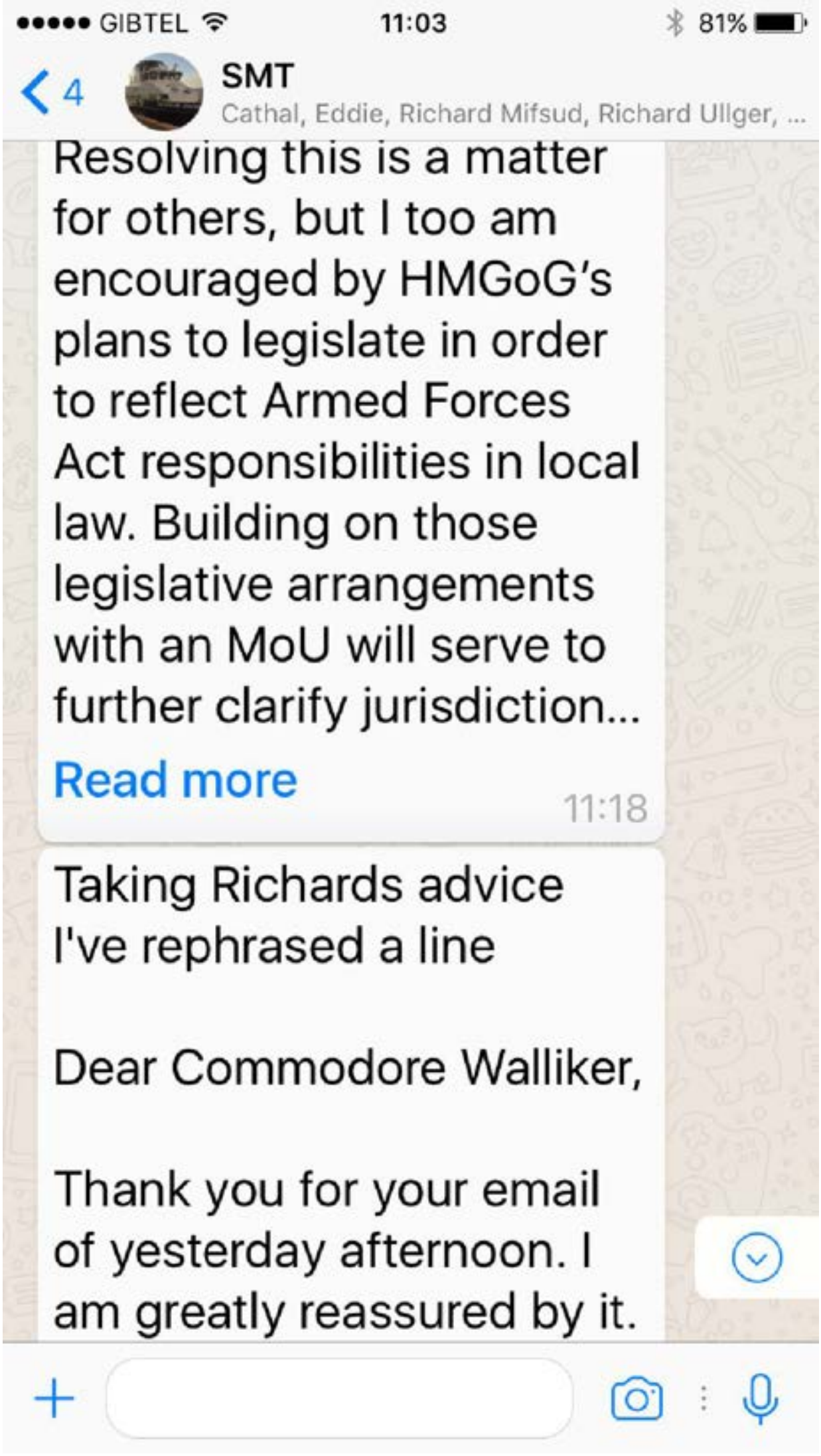
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Affording both the officers concerned and the Ministry of Defence the respect they deserve. I am sure our respective leadership will see our teams continue to act in this way.
I accept that that there has been no doubt in your own mind about the RGP's jurisdiction. And whilst I am reassured by this I remain concerned by the implication that you may think that the MoD has concurrent jurisdiction. I am clear that it does not. Resolving this is a matter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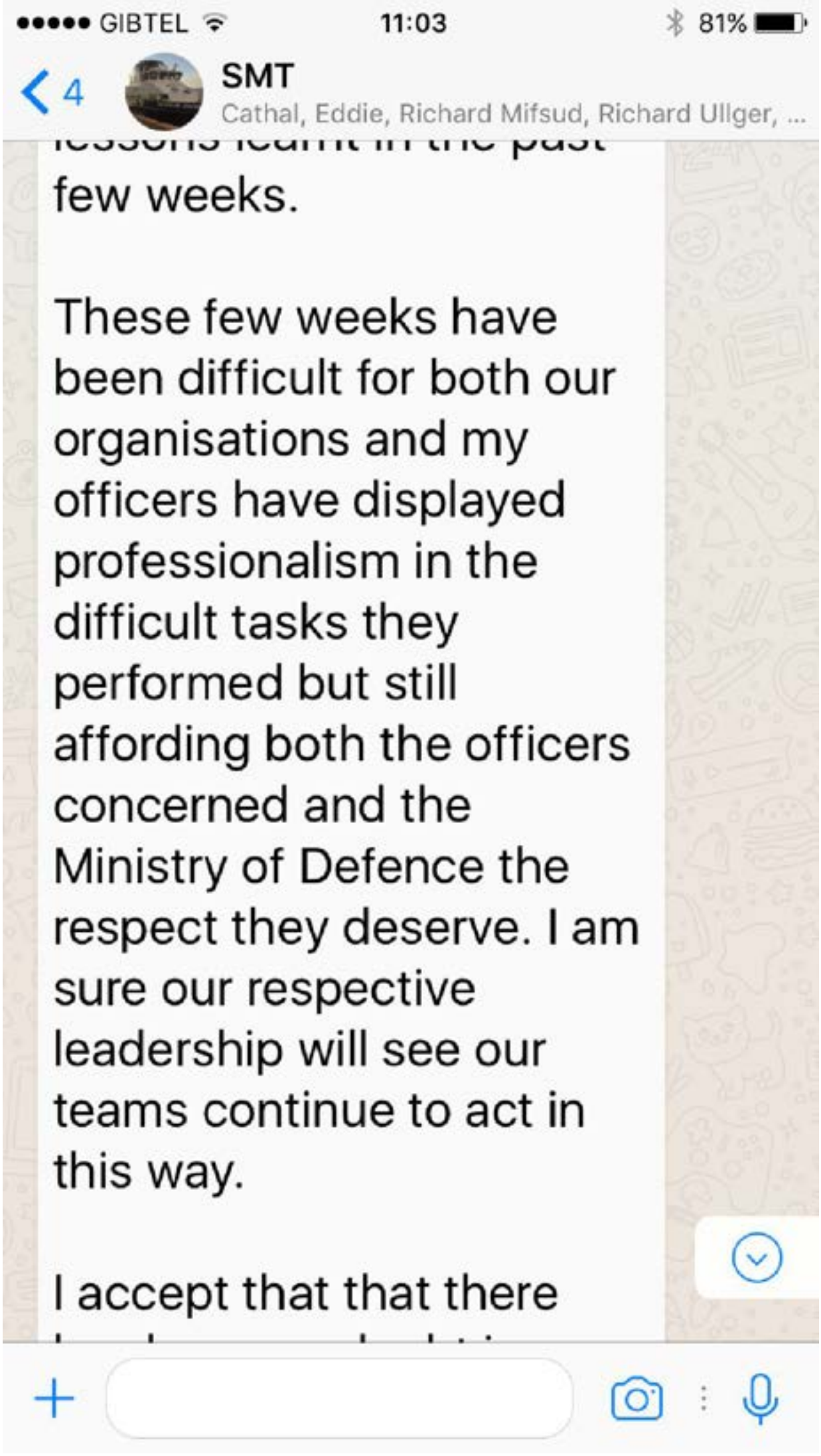
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Resolving this is a matter for others, but I too am encouraged by HMGoG's plans to legislate in order to reflect Armed Forces Act responsibilities in local law. Building on those legislative arrangements with an MoU will serve to further clarify jurisdiction...
Read more
11:18
Taking Richards advice I've rephrased a line
Dear Commodore Walliker,
Thank you for your email of yesterday afternoon. I am greatly reassured by it.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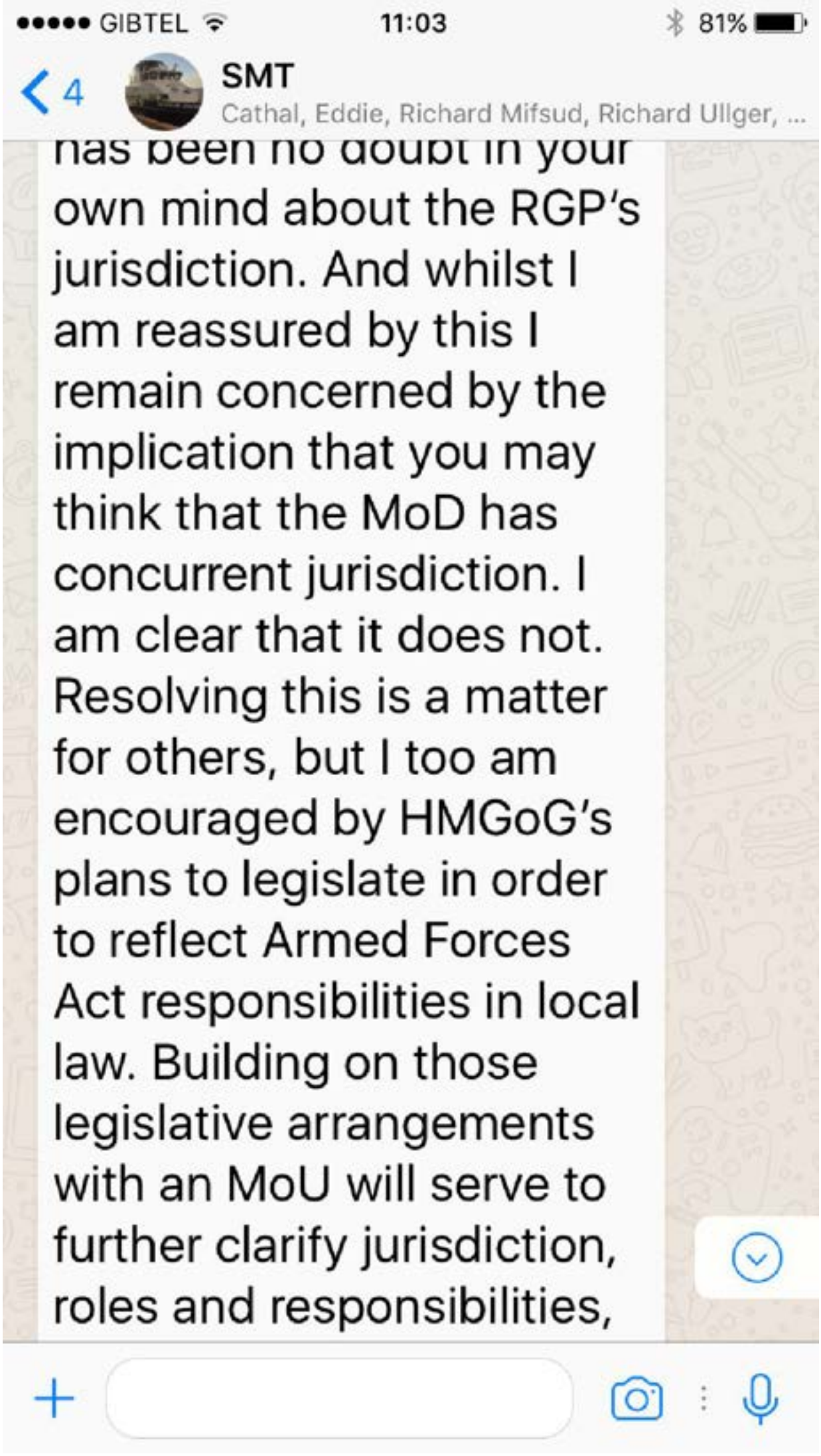
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
few weeks.
These few weeks have been difficult for both our organisations and my officers have displayed professionalism in the difficult tasks they performed but still affording both the officers concerned and the Ministry of Defence the respect they deserve. I am sure our respective leadership will see our teams continue to act in this way.
I accept that that there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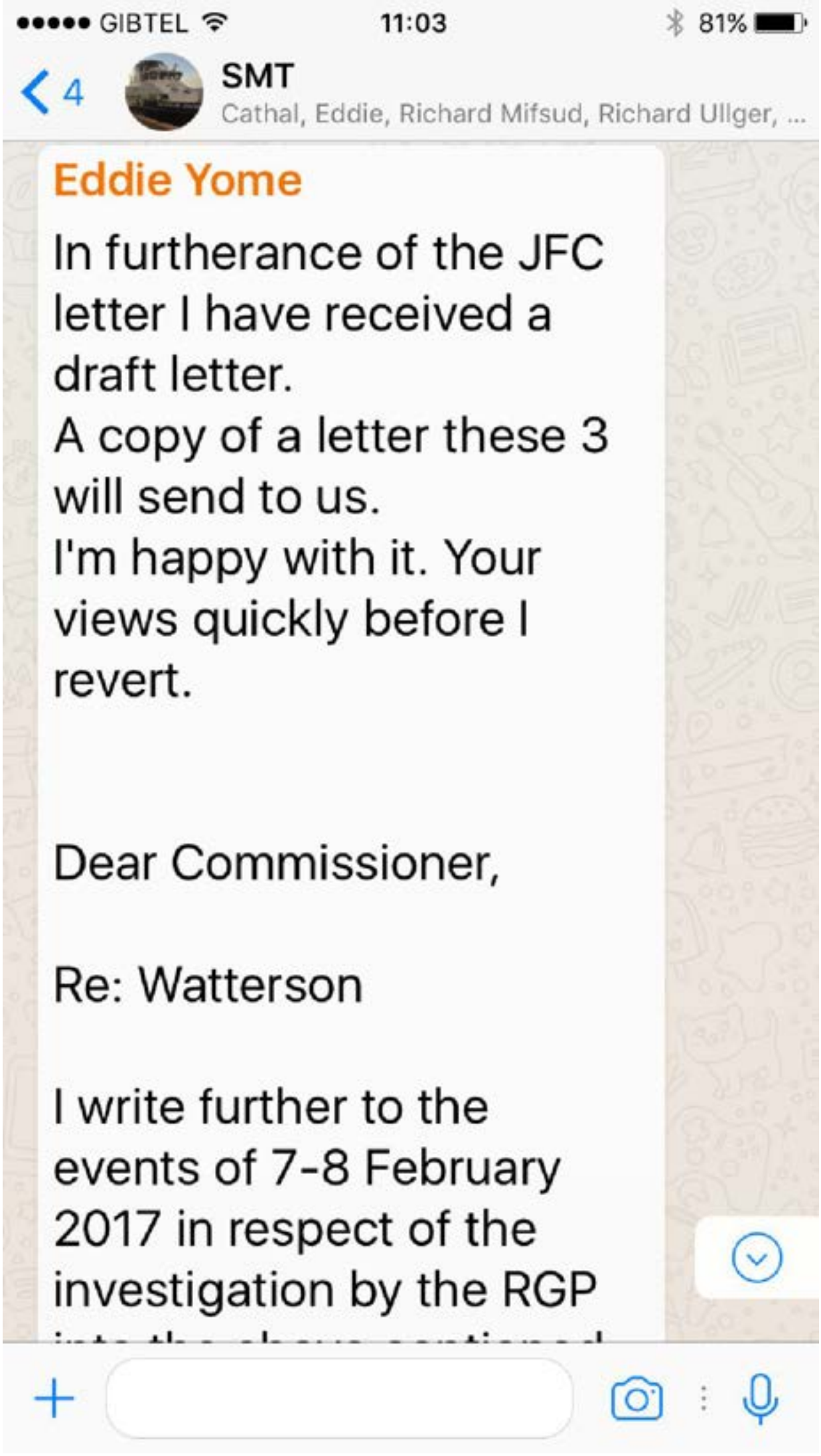
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
has been no doubt in your own mind about the RGP's jurisdiction. And whilst I am reassured by this I remain concerned by the implication that you may think that the MoD has concurrent jurisdiction. I am clear that it does not. Resolving this is a matter for others, but I too am encouraged by HMGoG's plans to legislate in order to reflect Armed Forces Act responsibilities in local law. Building on those legislative arrangements with an MoU will serve to further clarify jurisdiction, roles and responsibilities,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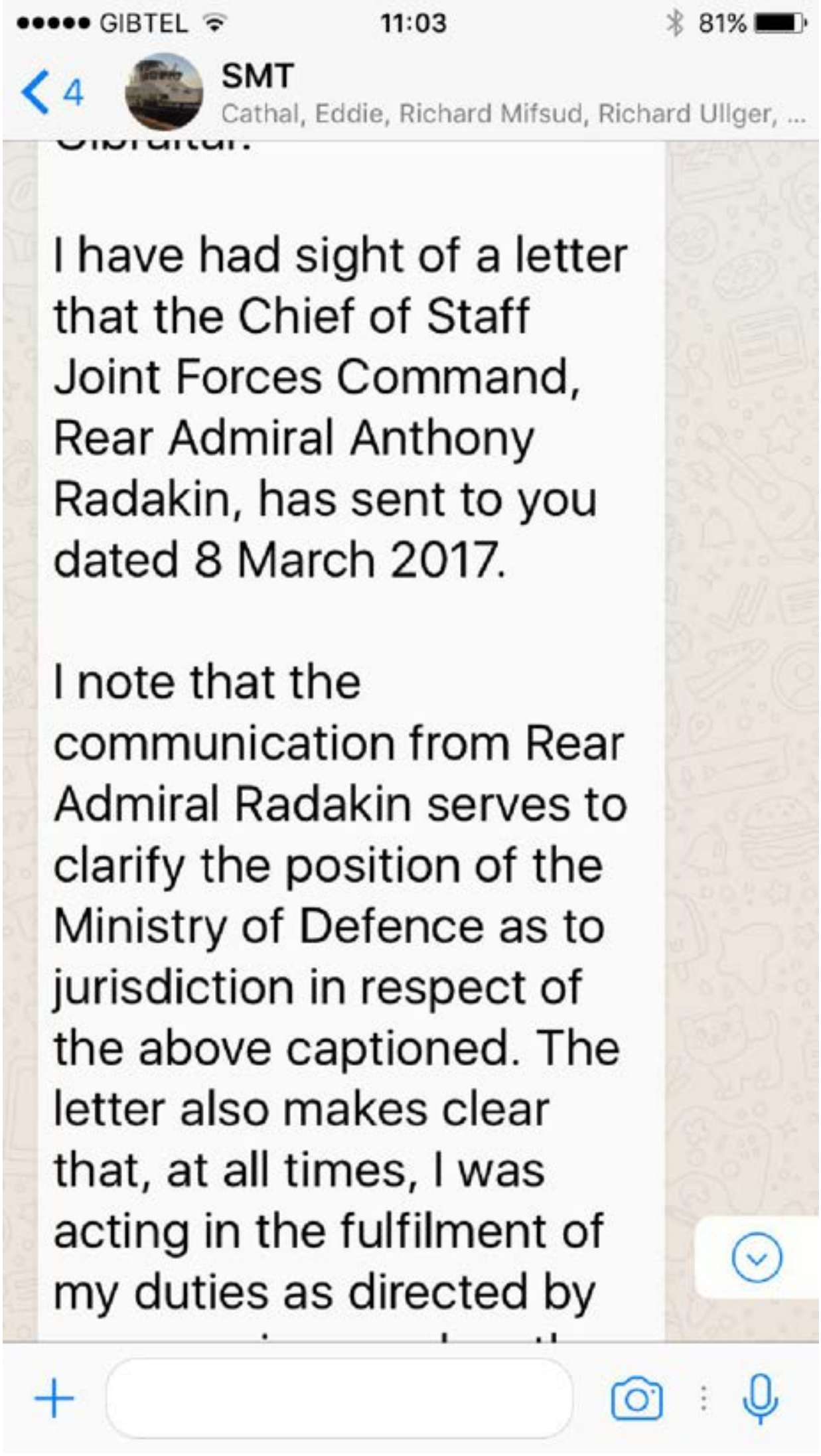
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Eddie Yome
In furtherance of the JFC letter I have received a draft letter.
A copy of a letter these 3 will send to us.
I'm happy with it. Your views quickly before I revert.
Dear Commissioner,
Re: Watterson
I write further to the events of 7-8 February 2017 in respect of the investigation by the RGP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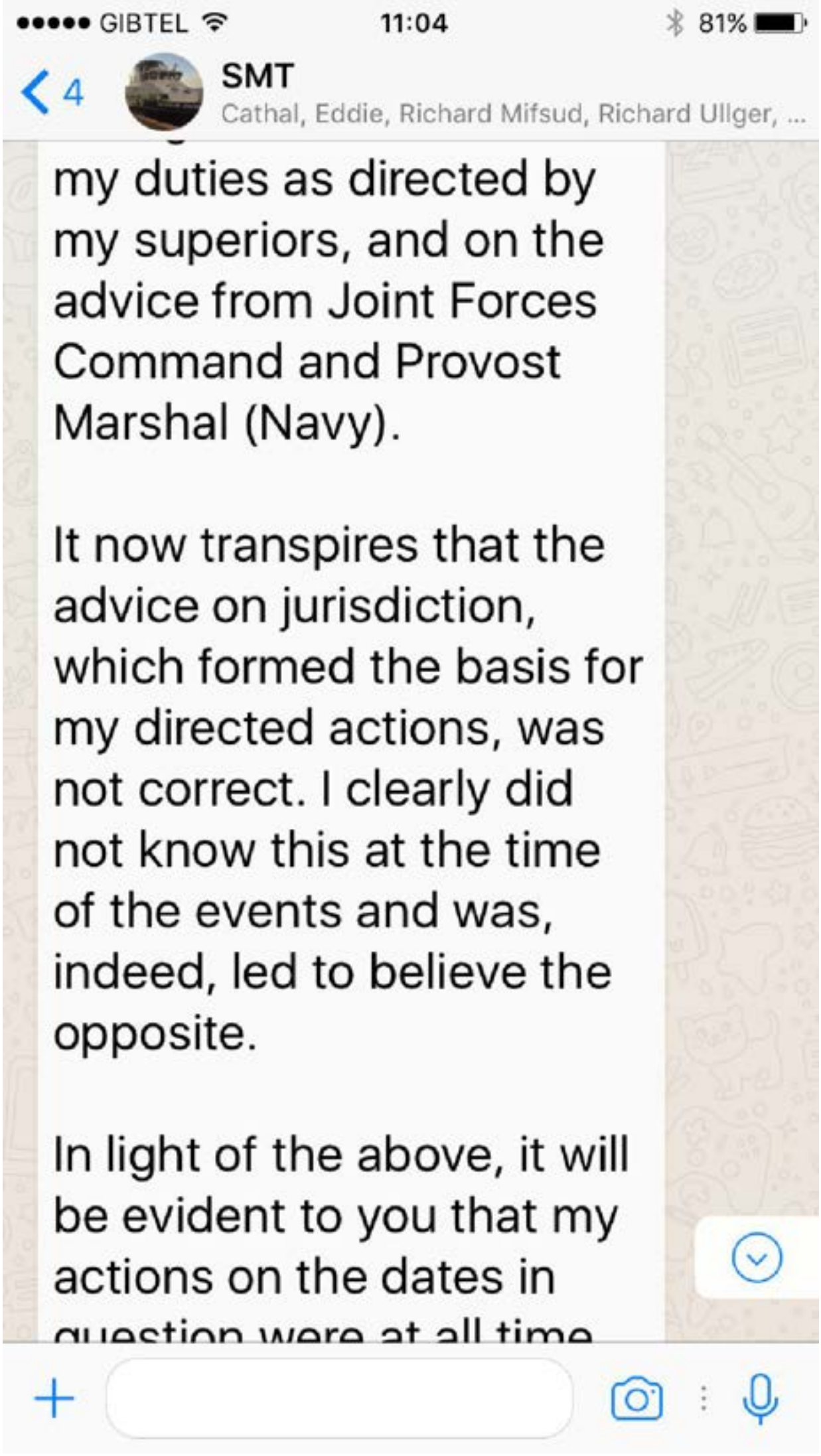
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
I have had sight of a letter that the Chief of Staff Joint Forces Command, Rear Admiral Anthony Radakin, has sent to you dated 8 March 2017.
I note that the communication from Rear Admiral Radakin serves to clarify the position of the Ministry of Defence as to jurisdiction in respect of the above captioned. The letter also makes clear that, at all times, I was acting in the fulfilment of my duties as directed by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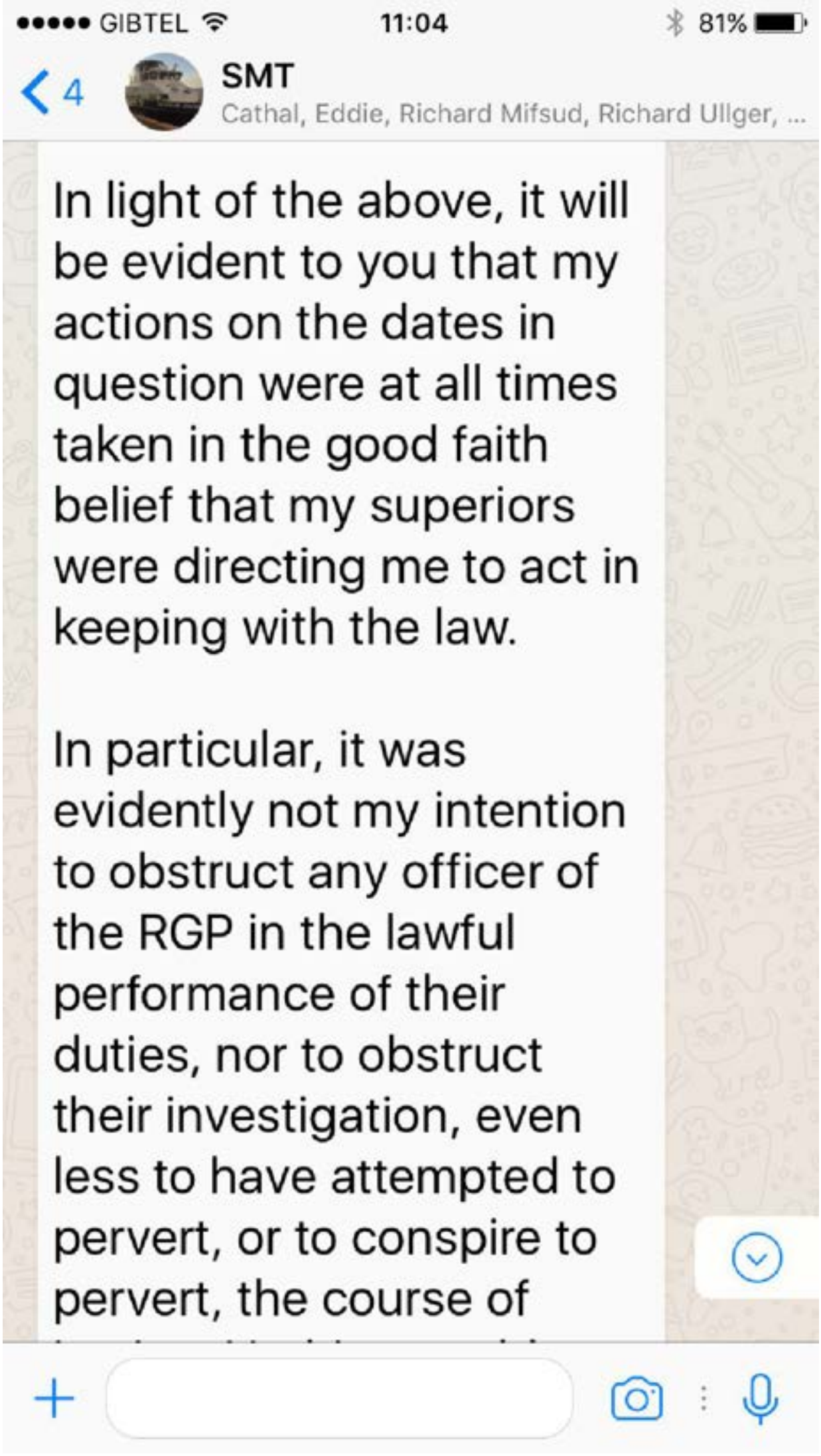
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
my duties as directed by my superiors, and on the advice from Joint Forces Command and Provost Marshal (Navy).
It now transpires that the advice on jurisdiction, which formed the basis for my directed actions, was not correct. I clearly did not know this at the time of the events and was, indeed, led to believe the opposite.
In light of the above, it will be evident to you that my actions on the dates in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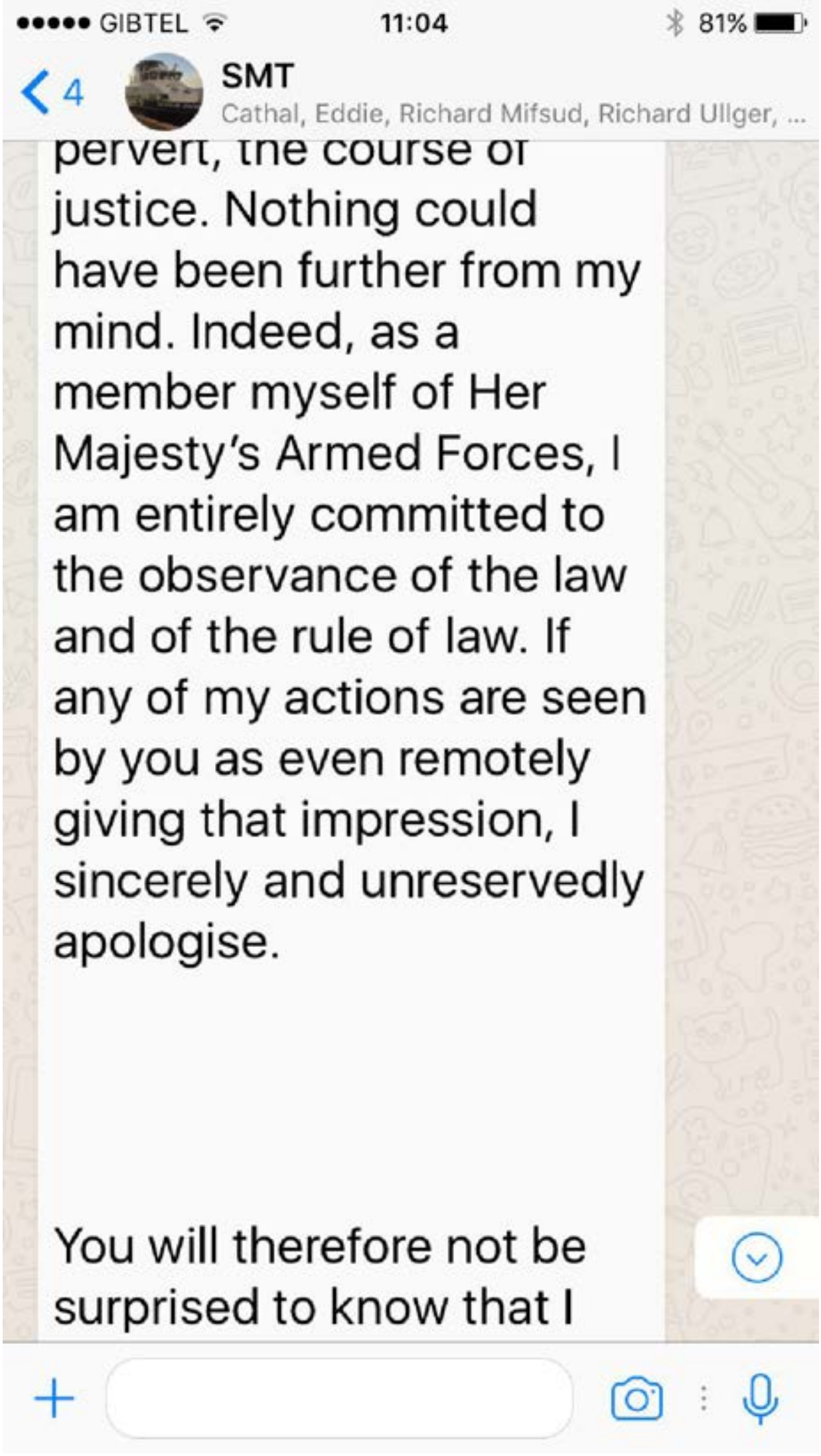
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
In light of the above, it will be evident to you that my actions on the dates in question were at all times taken in the good faith belief that my superiors were directing me to act in keeping with the law.
In particular, it was evidently not my intention to obstruct any officer of the RGP in the lawful performance of their duties, nor to obstruct their investigation, even less to have attempted to pervert, or to conspire to pervert, the course of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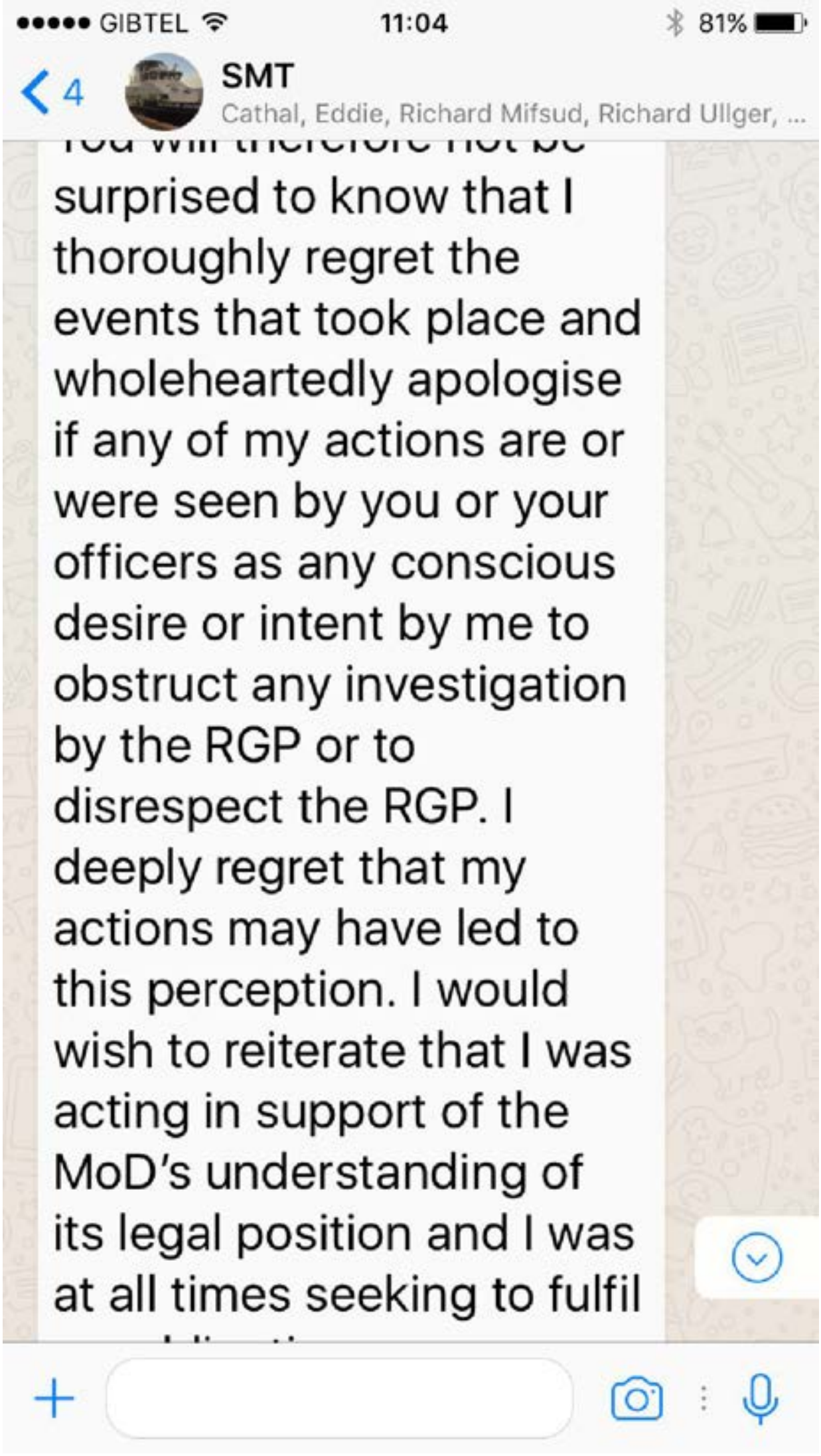
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
pervert, the course of justice. Nothing could have been further from my mind. Indeed, as a member myself of Her Majesty's Armed Forces, I am entirely committed to the observance of the law and of the rule of law. If any of my actions are seen by you as even remotely giving that impression, I sincerely and unreservedly apologise.
You will therefore not be surprised to know that I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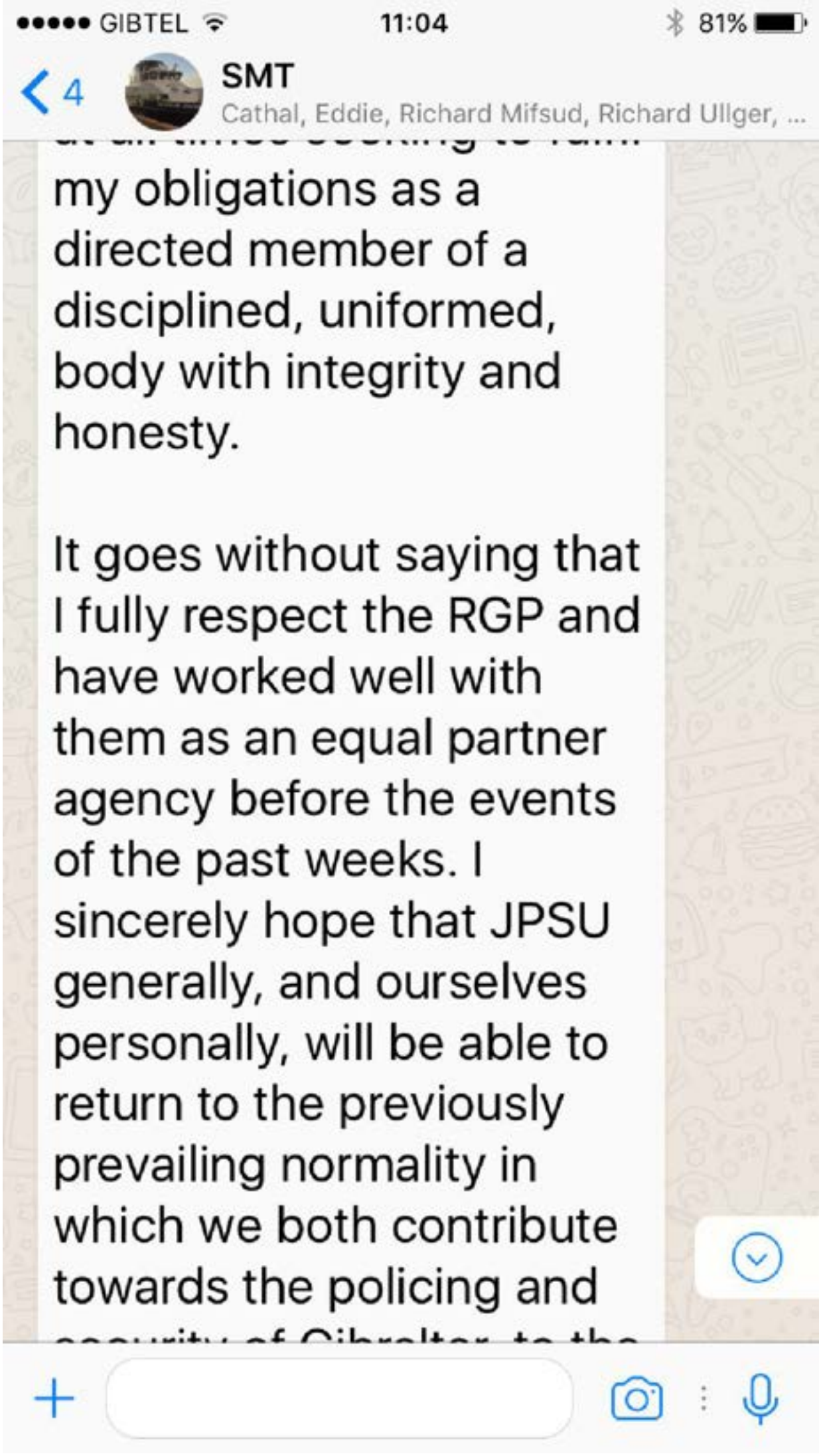
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
surprised to know that I thoroughly regret the events that took place and wholeheartedly apologise if any of my actions are or were seen by you or your officers as any conscious desire or intent by me to obstruct any investigation by the RGP or to disrespect the RGP. I deeply regret that my actions may have led to this perception. I would wish to reiterate that I was acting in support of the MoD's understanding of its legal position and I was at all times seeking to fulfil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Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
my obligations as a directed member of a disciplined, uniformed, body with integrity and honesty.
It goes without saying that I fully respect the RGP and have worked well with them as an equal partner agency before the events of the past weeks. I sincerely hope that JPSU generally, and ourselves personally, will be able to return to the previously prevailing normality in which we both contribute towards the policing and


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Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
security of Gibraltar, to the mutual benefit of this whole community and the United Kingdom. With the benefit of hindsight, if such an event occurred again I would seek to ensure a more constructive dialogue at an earlier stage and would certainly not act as I did on this disagreeable occasion.
I would welcome the opportunity to come to see you for a face-to-face meeting should you wish to hear me express these genuinely contrite views in


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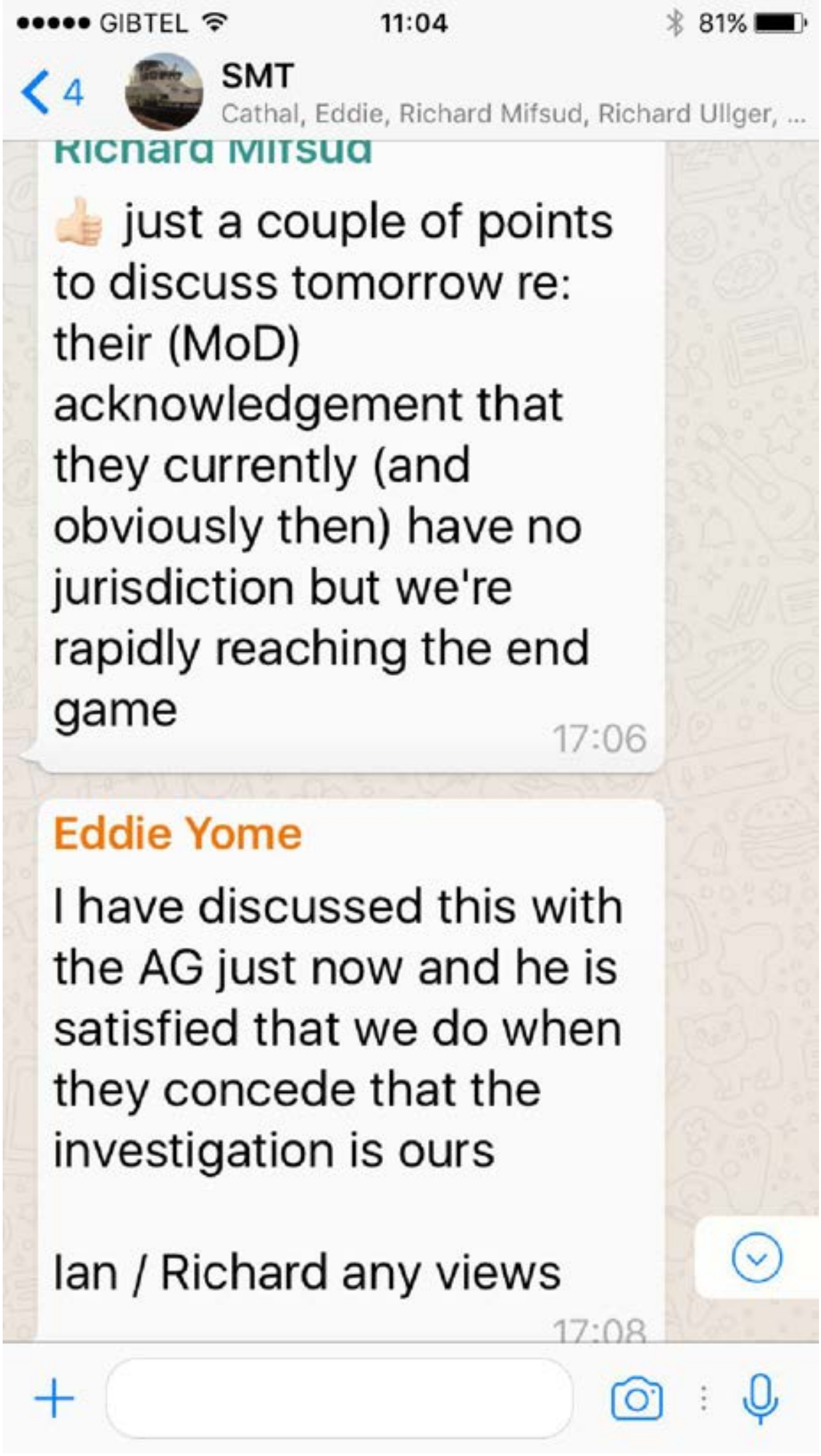
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
see you for a face-to-face meeting should you wish to hear me express these genuinely contrite views in person to you as a further step towards the reconciliation we all seek and the restoration of the excellent relationship I have always enjoyed with the RGP.
Yours sincerely
16:55
Richard Mifsud
just a couple of points to discuss tomorrow re: their (MoD) acknowledgement that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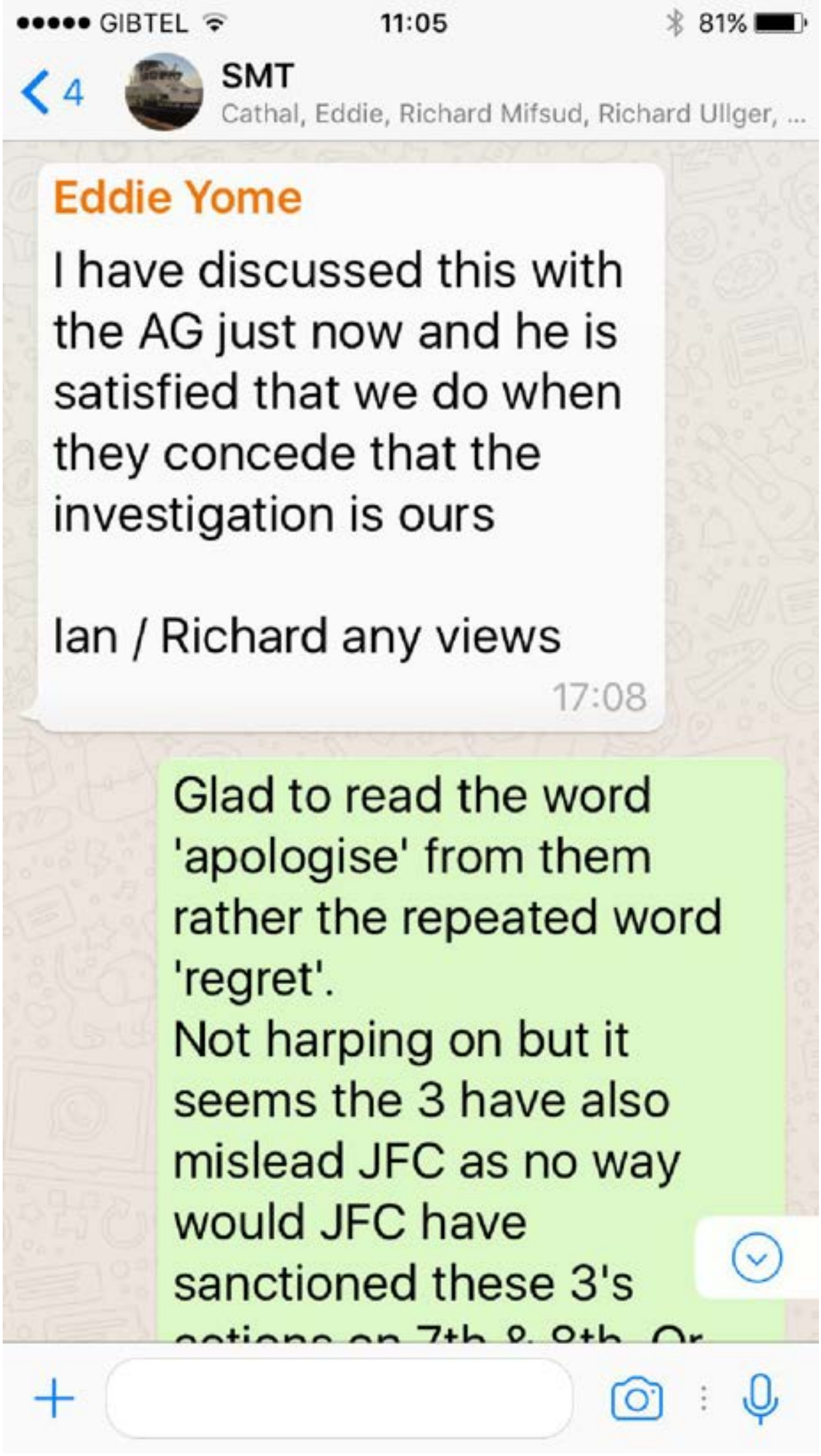
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Richard Mifsud
just a couple of points to discuss tomorrow re: their (MoD) acknowledgement that they currently (and obviously then) have no jurisdiction but we're rapidly reaching the end game
17:06
Eddie Yome
I have discussed this with the AG just now and he is satisfied that we do when they concede that the investigation is ours
Ian / Richard any views
17:08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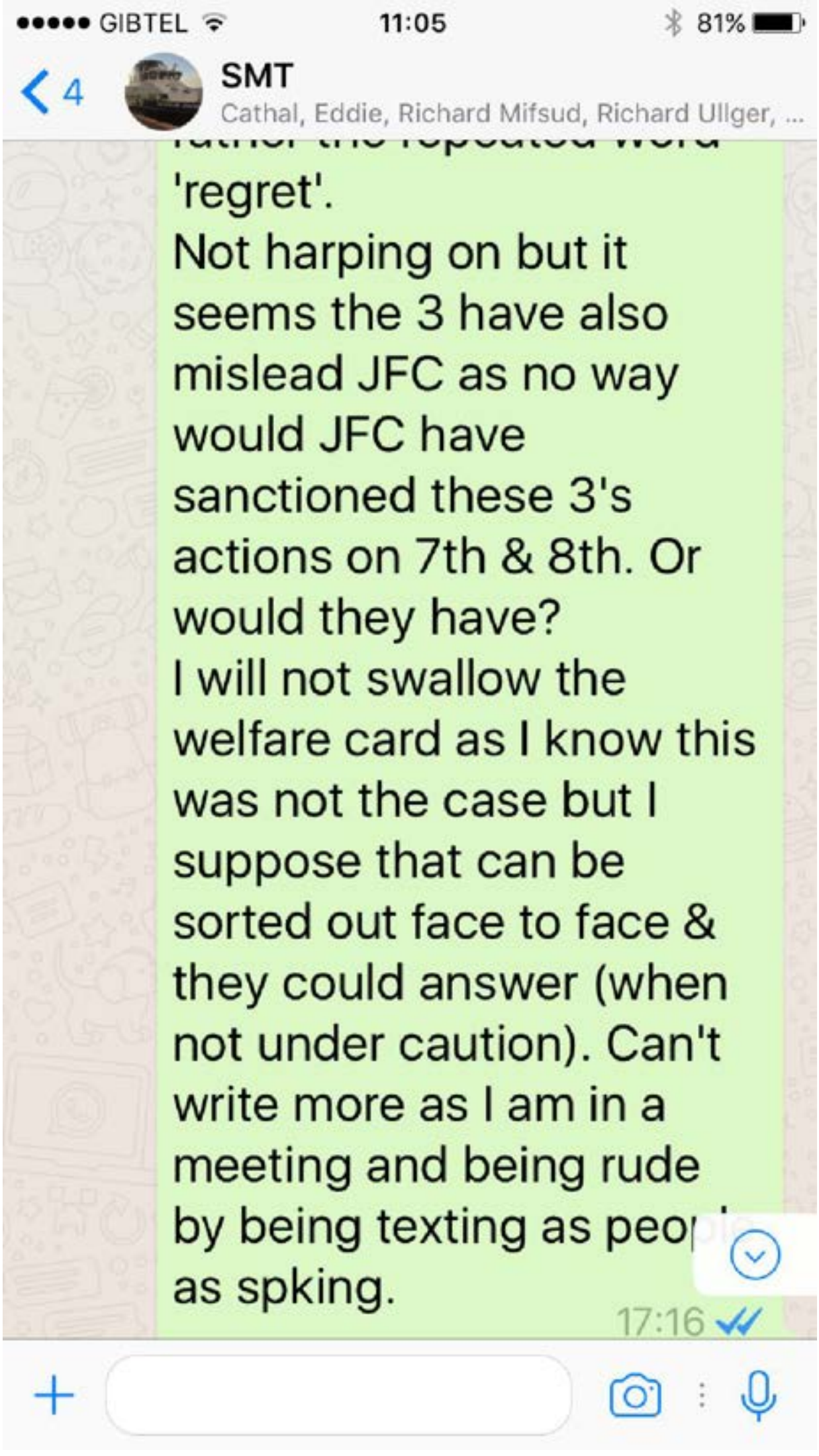
SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
Eddie Yome
I have discussed this with the AG just now and he is satisfied that we do when they concede that the investigation is ours
Ian / Richard any views
17:08
Glad to read the word 'apologise' from them rather the repeated word 'regret'.
Not harping on but it seems the 3 have also mislead JFC as no way would JFC have sanctioned these 3's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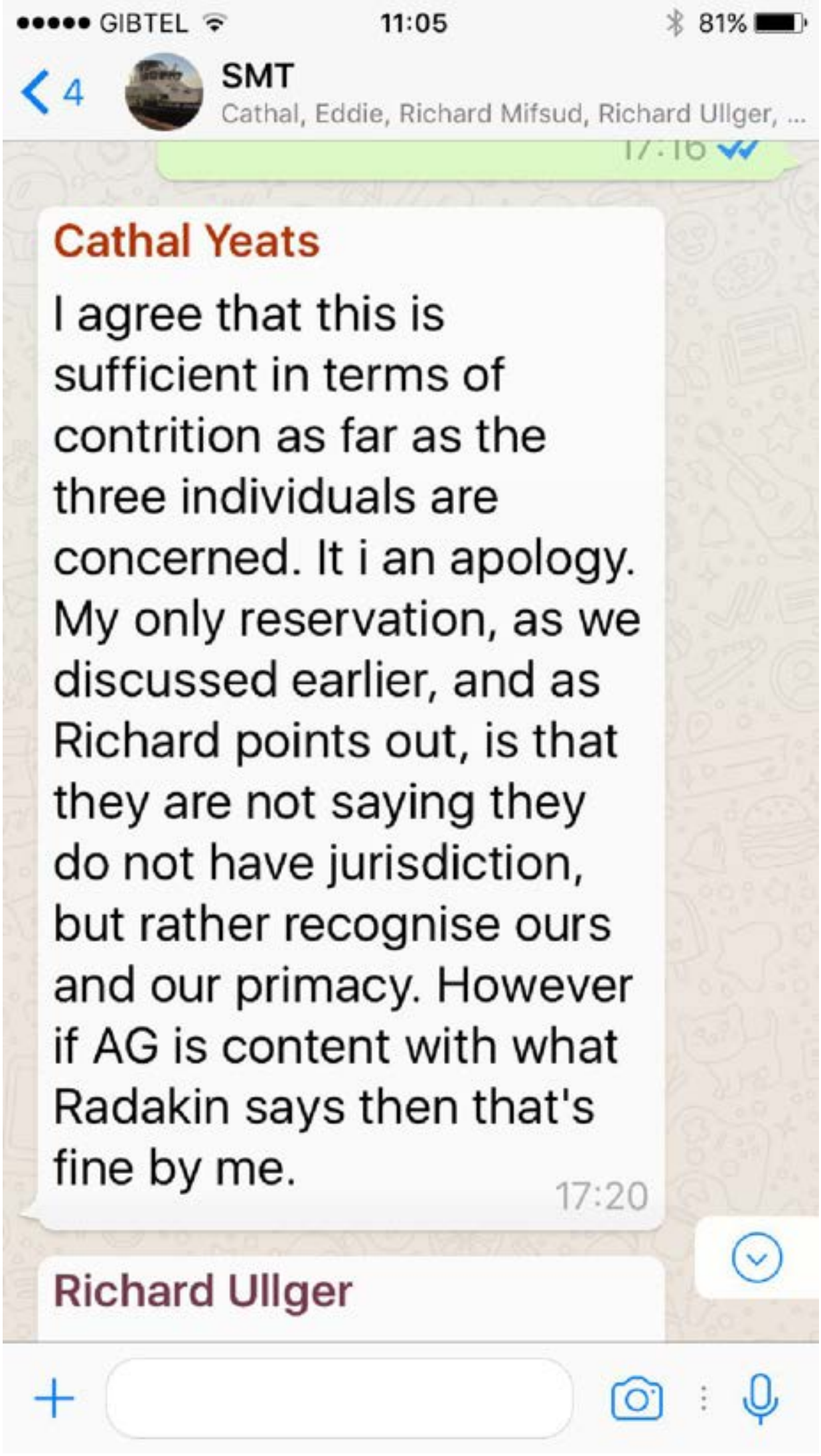
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
'regret'.
Not harping on but it seems the 3 have also mislead JFC as no way would JFC have sanctioned these 3's actions on 7th & 8th. Or would they have?
I will not swallow the welfare card as I know this was not the case but I suppose that can be sorted out face to face & they could answer (when not under caution). Can't write more as I am in a meeting and being rude by being texting as peo
as spking.
17:16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SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
17:16
Cathal Yeats
I agree that this is sufficient in terms of contrition as far as the three individuals are concerned. It i an apology. My only reservation, as we discussed earlier, and as Richard points out, is that they are not saying they do not have jurisdiction, but rather recognise ours and our primacy. However if AG is content with what Radakin says then that's fine by me.
17:20
Richard Ullger


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SMT
Cathal, Eddie, Richard Mifsud, Richard Ullger, ...
do not have jurisdiction, but rather recognise ours and our primacy. However if AG is content with what Radakin says then that's fine by me.
17:20
Richard Ullger
Echo everything that has been said. I guess a step in the right direction. Certainly most notably what Ian suggests, they even tried to pull the wool over JFC eyes. Pero Mira, plenty of apologies which we should recognise.
17:20
Richard Ullger

From: (RGP) Yome, Edward L (CPM)
Sent: 03 March 2017 15:55
To: SMT
Subject: FW: Armed Forces Act 2006

A copy of the email I sent the Ag but I didn't want to copy you in.

Cop

From: (RGP) Yome, Edward L (CPM)
Sent: 03 March 2017 14:56
To: '(GLO) Llamas QC, Michael' <michael.llamas_QC@gibraltar.gov.gi>
Cc: Fabian (MIN) Picardo (fabian.picardo@gibraltar.gov.gi) <fabian.picardo@gibraltar.gov.gi>
Subject: RE: Armed Forces Act 2006

Michael

Hi good afternoon.

First of all I wanted to thank you for the support that you and your staff have given us throughout this unsavoury situation. I don't find any satisfaction for having arrested 3 Top Senior Military Officials. I'm afraid that we are not out of the woods yet for the reason that I will explain now, but I believe it can be easily resolved.

From our recent conversations with the Chief Minister and indeed yourself, it is evident that Gibraltar (I will not say the RGP) has been vindicated in the way we have reacted to this.

I would now ask that we receive official notification in writing of the robust legal position both in the Jurisdiction and of the Primacy of the RGP in the whole of Gibraltar.

This should be disseminated to all concerned including the MOD here in Gibraltar.

We have heard from close Gibraltarian sources (who are in CBF's Command Briefings and must be treated in the strictest of confidence) that this position has not been promulgated to MOD personnel. On the contrary they are behaving with a very bravado attitude still claiming that they have jurisdiction and that the Naval Provost will have full jurisdiction on MOD land.

The attitude stems from the top when it is said that CBF entered the meeting and jokingly said, and I quote, 'Any Police Here' sticking his head through the door and then went onto 'chuckle, chuckle'.

All this is getting back to our officers and tells me that they have not taken the seriousness of the matter in the way they should as a professional body they claim to be.

At the very least in my organisation these officers who have been arrested would have been either Interdicted or Suspended until the matter is resolved. I would have accepted if they had been relieved of their current roles so that business can continue I am informed that as an example COS is still in his office chairing his daily meetings and is business as usual.

For your information, I have instructed that these three individuals are Not to be allowed into New Mole House to any meetings and my officers will Not attend any meetings where any of these three are participating.

I have concerns that my officers will come to a confrontation because such demeanour and attitudes.

To say that I am very disappointed is an understatement and I will not confront CBF on it Now because I will give away the trust that our Gibraltarian colleagues have shown in calling us up.

I trust that this makes sense and by disseminating the outcome of the meetings in London and which have been accepted by their top MOD Legal representatives, will hopefully put them in their place.

This attitude goes against what we are trying to achieve in resolving this particular issue and our future with British Forces Gibraltar.

Kind regards

Eddie

From: (GLO) Llamas QC, Michael [mailto:michael.llamas_QC@gibraltar.gov.gi]
Sent: 01 March 2017 15:06
To: (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi>
Subject: Re: Armed Forces Act 2006

Thanks for letting me know Eddie. Michael

Sent from my iPhone

On 1 Mar 2017, at 14:02, (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi> wrote:

> Michael
>
> As we speak Chief of Staff, Col Green has been arrested as is the Station Commander Squadron Leader Hutchinson. We are waiting for the Provost Marshall Collins to land on the BA flight and he will also be duly arrested.
> We have executed search warrants at various offices and computers, devices and docs have been seized.
>
> Regards
>
> Eddie
>
> ---
>
> **From:** (GLO) Llamas QC, Michael [mailto:michael.llamas_QC@gibraltar.gov.gi]
> **Sent:** 01 March 2017 14:53
> **To:** (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi>
> **Cc:** (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
> **Subject:** FW: Armed Forces Act 2006
>
> Eddie,
>
> Please find attached Lord Pannick's Final Opinion. The only difference with last night's Opinion is the addition of the final para (v), which is very helpful.
>
> Please discard last night's draft.
>
> Best wishes,
>
> Michael

Michael Llamas QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range

Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas_QC@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

HM Government of Gibraltar

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Please consider the environment before printing this email.

From: (RGP) Yome, Edward L (CPM)
Sent: 08 March 2017 15:19
To: SMT
Subject: FW: JFC Gibraltar Investigations - Context Letter Dated 8 Mar 17
Attachments: 20170308-JFC Gibraltar Investigations _Context Letter_Final.doc

Gents

Fyi
Cop

From: JFC-COS (Radakin, Tony R Adm) [mailto:JFC-COS@mod.uk]
Sent: 08 March 2017 15:01
To: (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi>
Cc: 'Edward Davis (Edward.Davis@fco.gsi.gov.uk)' <Edward.Davis@fco.gsi.gov.uk>; '(GLO) Llamas QC, Michael' <michael.llamas_QC@gibraltar.gov.gi>; '[redacted] ([redacted]@fco.gsi.gov.uk)' <[redacted]@fco.gsi.gov.uk>; CLS-D (Letwin, Isabel SCS) <CLS-D@mod.uk>; DISP-DISP (Gurr, Nick Mr) <DISP-DISP@mod.uk>; JFC-COMD-PSO (Beattie, Paul Cpt) <JFC-COMD-PSO@mod.uk>; JFC-DirResPol (Helliwell, Andy SCS) <JFC-DirResPol@mod.uk>; CBF <GIB-HQBFCBF@mod.uk>; EBRX-Hd (Dann, Linda SCS) <EBRX-Hd@mod.uk>
Subject: JFC Gibraltar Investigations - Context Letter Dated 8 Mar 17

Dear Commissioner – Please find attached a letter that I hope is helpful in explaining the context, from a Joint Forces Command perspective, around the events of 7th and 8th February.

Yours,

Tony

Tony Radakin | **Rear Admiral** | **Chief of Staff, Joint Forces Command** | [redacted]: JFC-COS@mod.uk | Headquarters, Joint Forces Command, Building 410, Sandy Lane, Northwood, Middlesex, HA6 3HP.

From: (RGP) Yome, Edward L (CPM)
Sent: 10 March 2017 15:21
To: SMT
Subject: FW: MOD arrests

Gents

Fyi

Cop

From: Edward.Davis@fco.gov.uk [mailto:Edward.Davis@fco.gov.uk]
Sent: 10 March 2017 15:20
To: (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi>; michael.llamas_QC@gibraltar.gov.gi; fabian.picardo@gibraltar.gov.gi
Subject: RE: MOD arrests

Dear Commissioner,

Welcome news, indeed. Thank you.

At the conclusion of a most challenging four weeks, may I offer my deep gratitude to you and your Police Officers for the efficacy and manner in which the RGP has conducted this investigation. I do not underestimate how difficult this period has been, both professionally and personally, for all involved. In short, a very tough job, very well done. Thank you.

Looking forward to visiting Morocco with you next week.

HE

From: (RGP) Yome, Edward L (CPM) [mailto:Edward.Yome@royalgib.police.gi]
Sent: 10 March 2017 13:52
To: (GLO) Llamas QC, Michael; Fabian (MIN) Picardo; Edward Davis (Sensitive)
Subject: Re: MOD arrests

Sirs

All three were recalled from bail and released from their arrests.

They each in turn thanked officers for the professionalism and courtesy showed to them.

Regards

Eddie

Sent from my iPhone

On 10 Mar 2017, at 09:04, (GLO) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi> wrote:

> FYI
>
> ---
>
> **Michael Llamas QC**
> **Attorney General**
>
> Government Law Offices
> HM Government of Gibraltar

40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas_QC@gibraltar.gov.gi

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From: [redacted]@fco.gov.uk [mailto[redacted]@fco.gov.uk]
Sent: 09 March 2017 19:28
To: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Cc: (GLO) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi>; Edward.Davis@fco.gov.uk; [redacted]@fco.gov.uk; [redacted]@fco.gov.uk; Nick.Pyle@fco.gov.uk; [redacted]@fco.gov.uk
Subject: Thank you from Sir Alan Duncan

Dear Chief Minister,

I just went to update Sir Alan Duncan on the latest situation in relation to the events of 8 February and beyond. The Minister was very happy that we appear to have reached a good outcome. He asked me to pass on his personal gratitude to you, and the Commissioner of Police, for helping us get to this point.

Best wishes,

Victoria

[redacted]
[redacted]
Tel: [redacted] | ECHO: [redacted] | Blackberry: [redacted]

I work Mondays - Thursdays

****
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****

From: (RGP) Yome, Edward L (CPM)
Sent: 10 March 2017 09:10
To: SMT
Subject: FW: Thank you from Sir Alan Duncan

Gents

FYI

Cop

From: (GLO) Llamas QC, Michael [mailto:michael.llamas_QC@gibraltar.gov.gi]
Sent: 10 March 2017 09:05
To: (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi>
Subject: FW: Thank you from Sir Alan Duncan

FYI

Michael Llamas QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas_QC@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

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From: [redacted]@fco.gov.uk [mailto:[redacted]@fco.gov.uk]
Sent: 09 March 2017 19:28
To: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Cc: (GLO) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi>; Edward.Davis@fco.gov.uk; [redacted]@fco.gov.uk; [redacted]@fco.gov.uk; Nick.Pyle@fco.gov.uk; [redacted]@fco.gov.uk
Subject: Thank you from Sir Alan Duncan

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Best wishes,

[redacted]

[redacted]
Tel: [redacted] | ECHO: [redacted] | Blackberry: [redacted]

I work Mondays - Thursdays

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****

From: (RGP) Yome, Edward L (CPM)
Sent: 03 March 2017 22:59
To: SMT
Subject: Fwd: Armed Forces Act 2006

Gents

FYI

Cop

Sent from my iPhone

Begin forwarded message:

> **From:** "(MIN) Picardo, Fabian" <fabian.picardo@gibraltar.gov.gi>
> **Date:** 3 March 2017 at 22:36:28 CET
> **To:** "(RGP) Yome, Edward L (CPM)" <Edward.Yome@royalgib.police.gi>, "(GLO) Llamas QC, Michael" <michael.llamas_QC@gibraltar.gov.gi>
> **Subject: Re: Armed Forces Act 2006**
>
> Eddie / Michael
>
> I have now read this and Michael's response.
>
> My impression and clear understanding is that MoD have now fully understood the position and the nonsense and bravado being displayed by fools such as those you refer to below in fact illustrates why and how we have found ourselves in this unnecessarily unpleasant situation.
>
> If it requires another turn of the screw, which I will not hesitate to support you in, it will once again have been brought about by those who fail to recognise the need to show proper and genuine contrition and respect for the RGP and for our Constitution.
>
> Failing to respect our Constitution is not to fail to respect just Gibraltar, it is to fail to respect the UK Parliament and the same Monarch that these clowns in uniform have sworn an oath to.
>
> Let's face to face on Monday (unless you want to do so earlier, Eddie) and agree a way forward.
>
> I can tell you that Minister for Europe and Governor would not be impressed at all if I shared this with them (which I will not do).
>
> I can also tell you that Gibraltar will not be home for the people in question for long and we won't be blocking the tarmac for a moment to delay the plane when the time soon comes for them to wave goodbye to the best place these idiots have ever had the good fortune to live in their petty lives. Good riddance. And goodbye won't come soon enough.
>
> I can tell you one thing Eddie: Gibraltar, it's Chief Minister, it's Government and it's people are proud of their police and the SMT, Commissioner and their Attorney General. The UK as a whole, conversely, has been embarrassed by its senior ranks on the Rock, as can be seen by the reports in the newspapers of the actions taken here.
>
> I would rather be in your shoes than theirs.
>
> Best wishes,

Fabian

Sent from my BlackBerry — the most secure mobile device

From: Edward.Yome@royalgib.police.gi
Sent: 3 March 2017 2:53 p.m.
To: michael.llamas_QC@gibraltar.gov.gi
Cc: fabian.picardo@gibraltar.gov.gi
Subject: RE: Armed Forces Act 2006

Michael

Hi good afternoon.

First of all I wanted to thank you for the support that you and your staff have given us throughout this unsavoury situation. I don't find any satisfaction for having arrested 3 Top Senior Military Officials. I'm afraid that we are not out of the woods yet for the reason that I will explain now, but I believe it can be easily resolved.

From our recent conversations with the Chief Minister and indeed yourself, it is evident that Gibraltar (I will not say the RGP) has been vindicated in the way we have reacted to this.

I would now ask that we receive official notification in writing of the robust legal position both in the Jurisdiction and of the Primacy of the RGP in the whole of Gibraltar.

This should be disseminated to all concerned including the MOD here in Gibraltar.

We have heard from close Gibraltarian sources (who are in CBF's Command Briefings and must be treated in the strictest of confidence) that this position has not been promulgated to MOD personnel. On the contrary they are behaving with a very bravado attitude still claiming that they have jurisdiction and that the Naval Provost will have full jurisdiction on MOD land.

The attitude stems from the top when it is said that CBF entered the meeting and jokingly said, and I quote, 'Any Police Here' sticking his head through the door and then went onto 'chuckle, chuckle'.

All this is getting back to our officers and tells me that they have not taken the seriousness of the matter in the way they should as a professional body they claim to be.

At the very least in my organisation these officers who have been arrested would have been either Interdicted or Suspended until the matter is resolved. I would have accepted if they had been relieved of their current roles so that business can continue I am informed that as an example COS is still in his office chairing his daily meetings and is business as usual.

For your information, I have instructed that these three individuals are Not to be allowed into New Mole House to any meetings and my officers will Not attend any meetings where any of these three are participating.

I have concerns that my officers will come to a confrontation because such demeanour and attitudes.

To say that I am very disappointed is an understatement and I will not confront CBF on it Now because I will give away the trust that our Gibraltarian colleagues have shown in calling us up.

I trust that this makes sense and by disseminating the outcome of the meetings in London and which have been accepted by their top MOD Legal representatives, will hopefully put them in their place.

This attitude goes against what we are trying to achieve in resolving this particular issue and our future with British Forces Gibraltar.

Kind regards

Eddie

From: (GLO) Llamas QC, Michael [mailto:michael.llamas_QC@gibraltar.gov.gi]
Sent: 01 March 2017 15:06
To: (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi>
Subject: Re: Armed Forces Act 2006

Thanks for letting me know Eddie. Michael

Sent from my iPhone

On 1 Mar 2017, at 14:02, (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi> wrote:

> Michael
>
> As we speak Chief of Staff, Col Green has been arrested as is the Station Commander Squadron Leader Hutchinson. We are waiting for the Provost Marshall Collins to land on the BA flight and he will also be duly arrested.
> We have executed search warrants at various offices and computers, devices and docs have been seized.
>
> Regards
>
> Eddie
>
> ---
>
> **From:** (GLO) Llamas QC, Michael [mailto:michael.llamas_QC@gibraltar.gov.gi]
> **Sent:** 01 March 2017 14:53
> **To:** (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi>
> **Cc:** (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
> **Subject:** FW: Armed Forces Act 2006
>
> Eddie,
>
> Please find attached Lord Pannick's Final Opinion. The only difference with last night's Opinion is the addition of the final para (v), which is very helpful.
>
> Please discard last night's draft.
>
> Best wishes,
>
> Michael

Michael Llamas QC
Attorney General

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Gibraltar
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Tel: (+350) 20051118
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The Attorney General

HM Government of Gibraltar

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Please consider the environment before printing this email.

Fabian Picardo QC MP
Chief Minister

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Fax: (+350) 20076396
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Please consider the environment before printing this email.

From: (RGP) Yome, Edward L (CPM)
Sent: 04 March 2017 15:12
To: (RGP) McGrail, Ian M.Sc (OTM)
Cc: SMT
Subject: Fwd: Investigations

Ian

We will discuss Monday but this man is clearly being told other things.

Cop

Sent from my iPhone

Begin forwarded message:

> **From:** "GIB-HQBF CBF (Walliker, Michael Cdre)" <GIB-HQBFCBF@mod.uk>
> **Date:** 4 March 2017 at 14:16:59 CET
> **To:** "'Edward.Yome@royalgib.police.gi'" <Edward.Yome@royalgib.police.gi>
> **Cc:** 'Nick Pyle' <Nick.Pyle@fco.gov.uk>, "JFC-COS (Radakin, Tony R Adm)" <JFC-COS@mod.uk>, "JFC-JCOS-DepHd (Chaudhry, Arfan B1)" <JFC-JCOS-DepHd@mod.uk>, 'Ed Davis' <Edward.Davis@fco.gsi.gov.uk>, "GIB-CMDSEC CS (Johnson, Richard B1)" <GIB-CMDSECCS@mod.uk>, "GIB-HQBF CBF (Walliker, Michael Cdre)" <GIB-HQBFCBF@mod.uk>
> **Subject: RE: Investigations**
>
> Dear Commissioner,
>
> My understanding of what has been a difficult situation for us both, as of lunch-time today is that:
>
> Following their arrest on Weds by RGP, three of my officers have been interviewed and released without charge, but on bail until 6 Jun 17. The conditions of bail with respect to none of them having any contact with the RAF SP under 'suspicion' and his wife and young son, will be difficult to meet operationally, but achievable in the short-term. If the situation continues beyond the middle of next week, please can we discuss the bail terms?
>
> My three will (may already have done so) submit written statements to RGP to (1) answer the comprehensive set of questions put to them at interview, (2) explain their actions and (3) offer a counter to all the allegations laid at their door including that of perverting the course of justice.
>
> Once you have had time to review the statements and take stock, is it possible for you to reach a decision by the middle of next week as to the future plan? As we discussed, I very much hope that you will be in a position to drop all charges against all three, lift the conditions of bail, and inform them that the Investigation has been formally terminated because there is no evidence to support the charges of perverting the course of justice.
>
> If this is achieved, all three will speak personally with you, to express contrition.
>
> Turning to the items seized on Wednesday as evidence, AG Gibraltar confirmed to MoD / FCO officials on Thursday that it had (1) all been sealed, (2) would not form part of the Investigation and (3) would be returned to MoD. Has this happened yet? Please can you ensure that the return includes those personal items that were taken from a Married Quarter, and accommodation at Devil's Tower Camp?
>
> Following on from Chief Superintendent Allen's email to you on Thursday, please could you also return the notebooks taken from the Provost Martial, to allow a separate un-related internal

MoD Inquiry to continue in accordance with mandated dead-lines?

With respect to the on-going investigation into the RAF SP, the same meeting (Thursday, in London) agreed that RGP would retain jurisdiction and - should the evidence support it - interview the individual under caution and arrest him. I think the arrest and interview may already have happened? Are you happy to liaise directly with the appropriate authorities (MoD or UK Civil Police?) to take this case forward to an appropriate legal finish. Do you need anything more from me on this?

I very much hope that my understanding of the situation is similar to yours. I am very happy to discuss it further.

MJDW

-----Original Message-----
From: Edward.Davis@fco.gsi.gov.uk [Edward.Davis@fco.gsi.gov.uk]
Sent: Saturday, March 04, 2017 09:40 AM GMT Standard Time
To: Edward.Yome@royalgib.police.gi; GIB-HQBF CBF (Walliker, Michael Cdre)
Subject: Investigations

Dear COP and CBF,

As I prepare to return to the UK this PM on associated business (returning PM Thursday), and to visit the RG in Folkestone, I wanted to check that we are all of the same mind regarding the way ahead for the ongoing investigations. But, first, may I take this opportunity to thank you both for your endeavours to date regarding the investigations.

As we discussed last Wednesday evening , once you, Eddie, have decided how the investigations are to progress, the next step is for a discussion to take place between you and Mike as to how the way ahead can best be achieved from both an RGP and MoD perspective.

If, at anytime, there are any points of contention please do not hesitate to get in touch if you believe I can be of assistance. Meanwhile, Nick, in my absence, also stands ready to assist if deemed helpful.

Very happy to chat through the above if useful.

Thank you.

HE

****
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This email (with any attachments) is intended for the attention of the addressee(s) only. If you are not the intended recipient, please inform the sender straight away before deleting the message without copying, distributing or disclosing its contents to any other person or organisation. Unauthorised use, disclosure, storage or copying is not permitted.
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Regulations 2000.

****

From: (RGP) Yome, Edward L (CPM)
Sent: 05 March 2017 22:06
To: SMT
Subject: Fwd: Investigations

FYI

Sent from my iPhone

Begin forwarded message:

> **From:** "(MIN) Picardo, Fabian" <fabian.picardo@gibraltar.gov.gi>
> **Date:** 5 March 2017 at 22:04:39 CET
> **To:** "(GLO) Llamas QC, Michael" <michael.llamas_QC@gibraltar.gov.gi>
> **Cc:** "(RGP) Yome, Edward L (CPM)" <Edward.Yome@royalgib.police.gi>
> **Subject: Re: Investigations**
>
> Thanks. At this stage I think a meeting with CBf doesn't work. Tony Radakin is a sensible bloke but they just don't understand the nature of the prosecution process. Michael, I would be happy to see him with you if you want. I have just spoken to Ed and told him they have to allow RGP to have the space to make their own decisions on the criminal aspects of this case. The jurisdictional issues going forward are for all of us. I clearly, there are many more tests for us to come in the next week. Let's keep in touch to ensure that we continue to do Gibraltar proud on all aspects of this matter. F
>
> Sent from my BlackBerry — the most secure mobile device
>
> **From:** michael.llamas_QC@gibraltar.gov.gi
> **Sent:** 5 March 2017 9:52 p.m.
> **To:** fabian.picardo@gibraltar.gov.gi
> **Cc:** Edward.Yome@royalgib.police.gi
> **Subject:** FW: Investigations

Michael Llamas QC
Attorney General

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The Attorney General

HM Government of Gibraltar

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Please consider the environment before printing this email.

From: JFC-COS (Radakin, Tony R Adm) [mailto:JFC-COS@mod.uk]
Sent: 05 March 2017 21:51
To: JFC-DirResPol (Helliwell, Andy SCS) <JFC-DirResPol@mod.uk>
Cc: 'Edward Davis' <Edward.Davis@fco.gsi.gov.uk>; (GLO) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi>
Subject: FW: Investigations

Andy - Please see below. Good to discuss. I think it would be helpful for you to discuss this with the AG and then consider:

- whether I meet with The AG tomorrow, perhaps ahead of a mtg with AG, CBF and CoP.

Of course, it would be helpful to address all these issues as quickly as possible.

Tony

Fabian Picardo QC MP
Chief Minister

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Please consider the environment before printing this email.

-----Original Message-----
From: (RGP) Yome, Edward L (CPM) [Edward.Yome@royalgib.police.gi]
Sent: Sunday, March 05, 2017 07:33 PM GMT Standard Time
To: GIB-HQBF CBF (Walliker, Michael Cdre)
Cc: Nick Pyle; JFC-COS (Radakin, Tony R Adm); JFC-JCOS-DepHd (Chaudhry, Arfan B1); Ed Davis; GIB-CMDSEC CS (Johnson, Richard B1); Fabian (MIN) Picardo; Michael (EUID) Llamas QC; SMT
Subject: Re: Investigations

Dear
Commander British Forces

I am very disappointed by your email of Saturday which, in my view, simply further exacerbates matters and betrays a deep misunderstanding of the gravity of the situation facing those three of your officers who are presently under arrest and others who may become persons of interest as the investigation unfolds.

The offence of perverting the course of justice is a very serious one - the issues that have arisen in this case are not child's play or a matter for simple inter-agency negotiation. The very difficult situation that has manifested itself has arisen from a complete misunderstanding of the law by your officers and those who were purporting to instruct, command or advise them and you.

From reading your email, it would appear that this failure to understand the law applicable in Gibraltar has not yet been corrected in your mind. I will therefore set out the position as clearly for you as our AG has been required to do with the senior lawyers at the MOD who, I understand from Mr Llamas, fully appreciated the position and agreed with it. It is therefore surprising that the law still appears to be unclear for you.

ONLY the Royal Gibraltar Police has jurisdiction and primacy at present in Gibraltar in respect of crimes committed in Gibraltar. The Gibraltar Defence Police has a jurisdiction created by statute which is not relevant to this matter and HM Customs has concurrent jurisdiction with us in respect of matters related to their responsibilities. There is no military unit that enjoys any jurisdiction on criminal matters whatsoever within Gibraltar and this includes cases such as the one with which we are dealing. Perhaps it would be best that you liaised directly with those from the MOD who I understand are Andy Halliwell and/or Isabel Letwin in respect of this as their position seemed to be clear and entirely in keeping with the understanding of HM Attorney General for Gibraltar.

I do also understand that at the recent meeting in London what has been agreed between the Chief Minister and the AG and the MOD in the UK is to continue the work that was being done to create an MOU and legislation which will in some ways carve out jurisdiction in future cases based on the Armed Forces Act 2006, but with caveats appropriate to the circumstances of Gibraltar. I am informed that this will be achieved before the summer.

I feel the need to set this out because it is no concession by you or indeed the MOD that we will "retain" jurisdiction over the RAF SP as you allude to in your email. We are the only agency in Gibraltar that has ANY [criminal] jurisdiction over him. Obviously, the RAF SP in question will have to consider his options with his legal advisers after he has been dealt with by us in terms of any pending matter with the UK authorities. Equally, he may also have scope for potential legal action against the MOD for the *ultra vires* activity he was subjected to here in Gibraltar by the MOD and JPSU in particular.

In the circumstances, your three officers who have been arrested are subject of a very serious investigation which may or may not end up with charges being-proffered against them - obviously this will be determined once the investigation is concluded as is the norm in all criminal investigation my organisation undertakes. A long bail is required for now as we assess the information at our disposal and the investigating team trawls through the copious amounts of documentation and other material seized. I can tell you that so far all of it points clearly towards the RGP - which is the only law enforcement agency with jurisdiction for the reasons I have outlined above - having been lied to and having been obstructed in the course of our lawful discharge of our duties. The clear evidence also seems to suggest that, in a conspiracy amongst themselves and, potentially, others, the three military officers in question have attempted to pervert the course of justice. As a result of the seriousness of this offence and the evidence which suggests that it is likely that all the relevant ingredients are made out, a long bail has been necessary.

Should the three in question provide statements that satisfy my officers that the offences are not made out or, alternatively, should they accept the facts and express genuine contrition in respect

of the facts, a decision may be reached which does not require any prosecution or further action. The timing of that is not something that we can be asked to commit to in any way which might compromise our investigation and I am surprised that a senior officer like you should have written seeking to pressure us to reach a decision in a defined time. That is not helpful at all. You should also be clear that I am not likely, in the circumstances, to reach a conclusion that there is no evidence to support the charges of obstruction or attempting to pervert the course of justice. Indeed, quite the opposite is true and the fact is that others might actually fall to be included in further charges as further evidence as to the conspiracy that ensued is uncovered.

I am quite fazed and quite frankly do not understand how you could have already reached the contrary conclusion from anything that I have said when the investigation has not been completed. Let me be clear enough so that any misunderstanding will be impossible; the evidence would appear to be conclusive that your officers HAVE obstructed and HAVE attempted to pervert the course of justice.

The only way in which we may consider not charging (and this is subject to further consideration of the evidence and of the relevant law) is if we are satisfied that there is a GENUINE acceptance of guilt by the individuals in question,recognition of the gravity of the situation and an unequivocal expression of remorse and apology. That can affect my police powers [of discretion] in making the decision of whether or not to charge an offender.

In addition you should note that any expression of contrition which is couched in language which is equivocal, that is to say, which relies on an insistence that the law reflects anything other than absolute jurisdiction to the RGP, would not be satisfactory as it would not amount to genuine regret or remorse.

You should by now appreciate that the chronology set out in your email is entirely wrong and untenable as it is is based on the unacceptable notion of a decision being made by us not to prosecute actually happening BEFORE an acceptance of guilt and an expression of genuine and unequivocal remorse is made by the MOD officers in question. That is not going to happen.

For now, I am able to confirm that we will not be carrying out any forensic interrogation of the computers taken in the execution of the search warrants. We have no alternative but to reserve our rights in respect of this material which has been lawfully seized but which we will be able to return without having had to carry out any further investigations into them if matters can be resolved without the need to charge. Your email, however, does not fill me with hope in that respect.

As far as the Provost Marshall’s note book is concerned, this will be perused for any evidence pertinent to our investigation and once it is determined that the contents hold no bearing it will be returned so that the MOD’s enquiry can also progress. Alternatively, I can arrange for photocopies to be made of the pages of the PM's book pertinent to the MOD enquiry so that he can continue with this enquiry.

In sum, you will see that my understanding of the legal and factual position is regrettably very different to yours. I am comforted by the fact the understanding I have set out above accords to that of the AG, who attended the relevant meetings with MOD legal advisers and, more importantly, with the Chief Minister and the UK's Minister for Europe, Rt Hon Sir Alan Duncan MP

Regards
Eddie
Commissioner

From: (RGP) Yome, Edward L (CPM)
Sent: 05 March 2017 21:56
To: SMT
Subject: Fwd: Investigations

Clearly having a reaction

Cop

Sent from my iPhone

Begin forwarded message:

> **From:** "(GLO) Llamas QC, Michael" <michael.llamas_QC@gibraltar.gov.gi>
> **Date:** 5 March 2017 at 21:52:43 CET
> **To:** "(MIN) Picardo, Fabian" <fabian.picardo@gibraltar.gov.gi>
> **Cc:** "(RGP) Yome, Edward L (CPM)" <Edward.Yome@royalgib.police.gi>
> **Subject: FW: Investigations**

Michael Llamas QC
Attorney General

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I am quite fazed and quite frankly do not understand how you could have already reached the contrary conclusion from anything that I have said when the investigation has not been completed. Let me be clear enough so that any misunderstanding will be impossible; the evidence would appear to be conclusive that your officers HAVE obstructed and HAVE attempted to pervert the course of justice.

The only way in which we may consider not charging (and this is subject to further consideration of the evidence and of the relevant law) is if we are satisfied that there is a GENUINE acceptance of guilt by the individuals in question,recognition of the gravity of the situation and an unequivocal expression of remorse and apology. That can affect my police powers [of discretion] in making the decision of whether or not to charge an offender.

In addition you should note that any expression of contrition which is couched in language which is equivocal, that is to say, which relies on an insistence that the law reflects anything other than absolute jurisdiction to the RGP, would not be satisfactory as it would not amount to genuine regret or remorse.

You should by now appreciate that the chronology set out in your email is entirely wrong and untenable as it is is based on the unacceptable notion of a decision being made by us not to prosecute actually happening BEFORE an acceptance of guilt and an expression of genuine and unequivocal remorse is made by the MOD officers in question. That is not going to happen.

For now, I am able to confirm that we will not be carrying out any forensic interrogation of the computers taken in the execution of the search warrants. We have no alternative but to reserve our rights in respect of this material which has been lawfully seized but which we will be able to return without having had to carry out any further investigations into them if matters can be resolved without the need to charge. Your email, however, does not fill me with hope in that respect.

As far as the Provost Marshall's note book is concerned, this will be perused for any evidence pertinent to our investigation and once it is determined that the contents hold no bearing it will be returned so that the MOD's enquiry can also progress. Alternatively, I can arrange for photocopies to be made of the pages of the PM's book pertinent to the MOD enquiry so that he can continue with this enquiry.

In sum, you will see that my understanding of the legal and factual position is regrettably very different to yours. I am comforted by the fact the understanding I have set out above accords to that of the AG, who attended the relevant meetings with MOD legal advisers and, more importantly, with the Chief Minister and the UK's Minister for Europe, Rt Hon Sir Alan Duncan MP

Regards
Eddie
Commissioner

From: (RGP) Yome, Edward L (CPM)
Sent: 09 March 2017 19:57
To: SMT
Subject: Fwd: PR

FYI
Your views private to me
Cop

Sent from my iPhone

Begin forwarded message:

> **From:** "(GLO) Llamas QC, Michael" <michael.llamas_QC@gibraltar.gov.gi>
> **Date:** 9 March 2017 at 19:44:11 CET
> **To:** "(RGP) Yome, Edward L (CPM)" <Edward.Yome@royalgib.police.gi>
> **Cc:** "(MIN) Picardo, Fabian" <fabian.picardo@gibraltar.gov.gi>
> **Subject: PR**
>
> Eddie,
>
> CM and I would be very happy with this:
>
> As previously reported, the RGP launched an investigation following the actions taken by senior military officers that precipitated the events of the 8th February 2017 at the airport, which also resulted in lengthy delays for traffic and pedestrians. Pursuant to this investigation, on the 1st March 2017 the RGP arrested three senior military officers currently deployed to British Forces Gibraltar. All three were subsequently granted bail whilst investigations continued.
>
> These investigations have revealed that the actions taken by the three military officers were due to a misconception about jurisdiction which they had received from superiors in their chain of command. In view of that, the three officers have written to the Commissioner of Police apologising for their actions and expressing their regrets, including for the disruption caused to the public on the day. On the basis of all the information now at the RGP's disposal, and in close consultation with the Office of the Attorney General, it has been determined by the Commissioner, in his discretion, that no further action is required. As a consequence all three senior military officers have been recalled from their bail and released from arrest with no charges being proffered against them.
>
> The RGP wishes to reiterate the excellent working relationship that it has always enjoyed with the MOD in Gibraltar and is confident that the events of the last weeks will serve as a platform to grow an even better understanding between our respective organisations and to build an even stronger and mutually respectful and beneficial future together.
>
> Michael

Michael Llamas QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas_QC@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

HM Government of Gibraltar

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Please consider the environment before printing this email.

From: (RGP) Yome, Edward L (CPM)
Sent: 07 March 2017 23:18
To: SMT
Subject: Fwd: Wing Commander E. Hutchison

FYI

Cop

Sent from my iPhone

Begin forwarded message:

> **From:** "(MIN) Picardo, Fabian" <fabian.picardo@gibraltar.gov.gi>
> **Date:** 7 March 2017 at 23:15:27 CET
> **To:** "(RGP) Yome, Edward L (CPM)" <Edward.Yome@royalgib.police.gi>, "(GLO) Llamas QC, Michael" <michael.llamas_QC@gibraltar.gov.gi>
> **Subject: Re: Fwd: Wing Commander E. Hutchison**
>
> This is just a bland "I didn't do anything wrong" which we know does not accord to the facts.
> Michael, I think we need to meet Tony again. F
>
> Sent from my BlackBerry — the most secure mobile device
>
> ---
>
> **From:** Edward.Yome@royalgib.police.gi
> **Sent:** 7 March 2017 8:39 p.m.
> **To:** michael.llamas_QC@gibraltar.gov.gi; fabian.picardo@gibraltar.gov.gi
> **Subject:** Fwd: Wing Commander E. Hutchison
>
> Michael
>
> The statement from Hutchinson was received from Charles Gomez which has now been forwarded to me.
> There are conflicting accounts as to what occurred on the day and she is playing with words clearly shying away from not divulging the presence of Waterson or the evidence on the flight because the right questions were not asked.
>
> Furthermore she claims to have been the one who stopped the flight when we know this was not the case.
> This is certainly not a letter of contrition or apology on the contrary she is defiant and justifies her actions.
>
> JFC should now step in and stamp their authority before we end up entangled in a web where judgement will have to be achieved by a judicial process.
>
> I remain at your disposal to discuss this further but the investigation team is incensed once again.
>
> Regards
>
> Eddie
>
> Sent from my iPhone

Fabian Picardo QC MP
Chief Minister

Office of the Chief Minister
HM Government of Gibraltar
No.6 Convent Place

Gibraltar
GX11 1AA

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Fax: (+350) 20076396
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Office of the Chief Minister

HM Government of Gibraltar

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Please consider the environment before printing this email.

Begin forwarded message:

From: "(RGP) Tunbridge, Wayne" <Wayne.Tunbridge@royalgib.police.gi>
To: "(RGP) Yome, Edward L (CPM)" <Edward.Yome@royalgib.police.gi>
Subject: Fwd: Wing Commander E. Hutchison

Sir,

Attached is the "statement" from Hutchison sent via Charles Gomez.

Wayne

Sent from my iPhone

Begin forwarded message:

From: "(RGP) Richardson, Paul (OTM)" <Paul.Richardson@royalgib.police.gi>
To: "(RGP) Tunbridge, Wayne" <Wayne.Tunbridge@royalgib.police.gi>
Subject: Fw: Wing Commander E. Hutchison

From: (RGP) Support Services
Sent: 06 March 2017 08:13
To: (RGP) Richardson, Paul (OTM); (RGP) Enriles, Alexander (PS013)
Subject: FW: Wing Commander E. Hutchison

Good Morning

Please read e-mail below and attached.

Kind Regards

Lorraine

Lorraine Bosco
AO



Central Registry and Human Resources
Planning, Development and Support Division, New Mole House, Rosia Road, Gibraltar GX11 1AA
t (+350) [redacted] c [redacted] f (+350) [redacted] w www.police.gi

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Please consider the environment before printing this email.

From: Charles Gomez [mailto:Charles@gomezco.gi]
Sent: 04 March 2017 21:08
To: info <info@royalgib.police.gi>
Cc: Daniel Benyunes <Daniel@gomezco.gi>; Lauren Cano <lauren@gomezco.gi>
Subject: Wing Commander E. Hutchison
Importance: High

For the attention of Ch. Insp. Richardson and Insp. Enriles.

Gentlemen,

Please find attached Wing Commander Hutchison's statement (we will deliver the original to New Mole House on Monday).

We hope that it will assist you in your inquiries.

Meanwhile the RAF intend for Sgt. Watterson to return to work next week. This would inevitably put him in contact with the Wing Commander and I would like to discuss with you the possibility of a variation of the bail conditions to allow for contact subject to there being no mention or discussion, directly or otherwise of any of the ongoing enquiries / investigations.

If you want to contact me during the week-end please feel free to phone me on 57483000.

Yours sincerely,

Charles Gomez.

Charles Gomez & Co

PO Box 659
5 Secretary's Lane,
Gibraltar
200 74998
info@gomezco.gi
www.charlesgomez.gi

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From: (RGP) Yome, Edward L (CPM)
Sent: 07 March 2017 20:06
To: SMT
Subject: Fwd: Wing Commander E. Hutchison
Attachments: hutchison_scanned_statement.docx; ATT00001.htm

Gents

Clearly there is a difference in what she is saying to what I was told on the day.
Can I have a clarification of this account before I share it.
She claims to have assisted and not obstructed so a letter of contrition and apology will be unlikely.

Cop

Sent from my iPhone

Begin forwarded message:

> **From:** "(RGP) Tunbridge, Wayne" <Wayne.Tunbridge@royalgib.police.gi>
> **To:** "(RGP) Yome, Edward L (CPM)" <Edward.Yome@royalgib.police.gi>
> **Subject: Fwd: Wing Commander E. Hutchison**
>
> Sir,
>
> Attached is the "statement" from Hutchison sent via Charles Gomez.
>
> Wayne
>
> Sent from my iPhone
>
> Begin forwarded message:
>
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> > **To:** "(RGP) Tunbridge, Wayne" <Wayne.Tunbridge@royalgib.police.gi>
> > **Subject: Fw: Wing Commander E. Hutchison**
> >
> > ---
> >
> > **From:** (RGP) Support Services
> > **Sent:** 06 March 2017 08:13
> > **To:** (RGP) Richardson, Paul (OTM); (RGP) Enriles, Alexander (PS013)
> > **Subject:** FW: Wing Commander E. Hutchison
> >
> > Good Morning
> >
> > Please read e-mail below and attached.
> >
> > Kind Regards
> >
> > Lorraine
> >
> > **Lorraine Bosco**
> > AO



Central Registry and Human Resources
Planning, Development and Support Division, New Mole House, Rosia Road, Gibraltar GX11 1AA
t (+350) [redacted] c [redacted] f (+350) [redacted] w www.police.gi

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We hope that it will assist you in your inquiries.

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If you want to contact me during the week-end please feel free to phone me on 57483000.

Yours sincerely,

Charles Gomez.

Charles Gomez & Co

PO Box 659
5 Secretary's Lane,
Gibraltar
200 74998
info@gomezco.gi
www.charlesgomez.gi

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From: (RGP) Tunbridge, Wayne
Sent: 07 March 2017 19:49
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: Fwd: Wing Commander E. Hutchison
Attachments: hutchison_scanned_statement.docx; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

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To: "(RGP) Tunbridge, Wayne" <Wayne.Tunbridge@royalgib.police.gi>
Subject: Fw: Wing Commander E. Hutchison

From: (RGP) Support Services
Sent: 06 March 2017 08:13
To: (RGP) Richardson, Paul (OTM); (RGP) Enriles, Alexander (PS013)
Subject: FW: Wing Commander E. Hutchison

Good Morning

Please read e-mail below and attached.

Kind Regards

Lorraine

Lorraine Bosco
AO

cid:image002.png@01D06

Central Registry and Human Resources
Planning, Development and Support Division, New Mole House, Rosia Road, Gibraltar GX11 1AA
t (+350) [redacted] c [redacted] f (+350) [redacted] w www.police.gi

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Like us on Facebook: www.facebook.com/royalgibpolice

Gold 2018.png

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Cc: Daniel Benyunes <Daniel@gomezco.gi>; Lauren Cano <lauren@gomezco.gi>
Subject: Wing Commander E. Hutchison
Importance: High

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If you want to contact me during the week-end please feel free to phone me on 57483000.

Yours sincerely,

Charles Gomez.

Charles Gomez & Co

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5 Secretary's Lane,
Gibraltar
200 74998
info@gomezco.gi
www.charlesgomez.gi

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Sent: 07 March 2017 23:18
To: SMT
Subject: Fwd: Wing Commander E. Hutchison

FYI

Cop

Sent from my iPhone

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> **To:** "(RGP) Yome, Edward L (CPM)" <Edward.Yome@royalgib.police.gi>, "(GLO) Llamas QC, Michael" <michael.llamas_QC@gibraltar.gov.gi>
> **Subject: Re: Fwd: Wing Commander E. Hutchison**
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> This is just a bland "I didn't do anything wrong" which we know does not accord to the facts. Michael, I think we need to meet Tony again. F
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> **Sent:** 7 March 2017 8:39 p.m.
> **To:** michael.llamas_QC@gibraltar.gov.gi; fabian.picardo@gibraltar.gov.gi
> **Subject:** Fwd: Wing Commander E. Hutchison
>
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>
> Eddie
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> Sent from my iPhone

Fabian Picardo QC MP
Chief Minister

Office of the Chief Minister
HM Government of Gibraltar
No.6 Convent Place

Gibraltar
GX11 1AA

Tel: (+350) 20070071
Fax: (+350) 20076396
fabian.picardo@gibraltar.gov.gi

www.gibraltar.gov.gi

Office of the Chief Minister

HM Government of Gibraltar

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> > Kind Regards
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> > Lorraine
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> > **Lorraine Bosco**
> > AO



Central Registry and Human Resources
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Importance: High

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If you want to contact me during the week-end please feel free to phone me on 57483000.

Yours sincerely,

Charles Gomez.

Charles Gomez & Co

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From: (RGP) Yome, Edward L (CPM)
Sent: 09 March 2017 14:40
To: SMT
Subject: MOD Report
Attachments: MOD JFC Report.docx

Gents

Please revert with any comments

Cop

Edward Yome CPM
Commissioner of Police
Past President European Association of Airports & Seaports Police (EAASP)
Vice President IAASP
Calpe House Trustee

Royal Gibraltar POLICE
Working Together to make Our Community Safer

Office of the Commissioner of Police, New Mole House Police Headquarters, Rosia Road,
PO Box 47 , Gibraltar GX11 1AA
tel (+350) **20048001** centrex [redacted] fax (+350) [redacted] web www.police.gi

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INVESTORS IN PEOPLE | Gold

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Please consider the environment before printing this email.

From: (RGP) Mifsud, Richard (OTM)
Sent: 09 March 2017 15:51
To: (RGP) Yome, Edward L (CPM); Michael (EUID) Llamas QC (michael.llamas_QC@gibraltar.gov.gi)
Cc: SMT
Subject: OFFICIAL POLICE - Media Strategy

Sir first stab at it please see below:

BEGINS

As previously reported, following the actions taken by senior military officers that precipitated the events of the 8th February 2017 at the airport, which also resulted in lengthy delays for traffic and pedestrians, the RGP launched a criminal investigation. Pursuant to this investigation, on the 1st March 2017 the RGP arrested three senior military officers currently deployed to British Forces Gibraltar for the offences of Attempting to Pervert the Course of Justice and Conspiracy to Pervert the Course of Justice. All three were subsequently granted bail whilst investigations continued.

These investigations have now reached a stage where it has been assessed that the actions taken by the three military officers whilst ostensibly illegal in nature were in fact based on an incorrectly held assumption of jurisdiction, which was pursuant to erroneous legal advice and flawed instructions from their superiors. On the basis of all the information now at the RGP's disposal and in close consultation with the Office of the Attorney General it has been determined that the military officers' actions did not meet the threshold required to progress this prosecution further. As a consequence all three senior military officers have been recalled from their bail and released from arrest with no charges being preferred against them.

The jurisdictional position is now clear to all parties concerned.

ENDS

From: (RGP) Yome, Edward L (CPM)
Sent: 09 March 2017 15:25
To: Michael (EUID) Llamas QC (michael.llamas_QC@gibraltar.gov.gi) <michael.llamas_QC@gibraltar.gov.gi>
Cc: SMT <SMT@royalgib.police.gi>
Subject: Media Strategy

Gents

Can we all pool views and formulate a form of words for the media strategy

Cop

Edward Yome CPM
Commissioner of Police
Past President European Association of Airports & Seaports Police (EAASP)
Vice President IAASP
Calpe House Trustee

Office of the Commissioner of Police, New Mole House Police Headquarters, Rosia Road,
PO Box 47 , Gibraltar GX11 1AA
tel (+350) **20048001** centrex [redacted] fax (+350) **20045615** web www.police.gi

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Sent: 09 March 2017 17:49
To: (RGP) Yome, Edward L (CPM); Michael (EUID) Llamas QC (michael.llamas_QC@gibraltar.gov.gi)
Cc: SMT
Subject: OFFICIAL POLICE - Media Strategy

Sir

Second stab:

BEGINS

Pursuant to the investigation into the events of the 8th February, on the 1st March 2017 the RGP arrested three senior military officers currently deployed to British Forces Gibraltar for the offences of Attempting to Pervert the Course of Justice and Conspiracy to Pervert the Course of Justice. All three were subsequently granted bail whilst investigations continued. These investigations have now reached a stage where it has been assessed that the actions taken by the three military officers whilst ostensibly illegal in nature were in fact based on flawed legal advice and instructions from their superiors.

On the basis of all the information now at the RGP's disposal and in close consultation with the Office of the Attorney General it has been determined that the military officers' actions, for which they have issued a full, contrite and unreserved apology, did not meet the threshold required to progress this prosecution further. As a consequence all three senior military officers have been recalled from their bail and released from arrest with no charges being preferred against them.

The jurisdictional position is now clear to all parties concerned and the RGP looks forward to continuing its excellent working relationship with the Ministry of Defence.

ENDS

From: (RGP) Yome, Edward L (CPM)
Sent: 09 March 2017 15:57
To: (RGP) Mifsud, Richard (OTM) <Richard.Mifsud@royalgib.police.gi>; Michael (EUID) Llamas QC (michael.llamas_QC@gibraltar.gov.gi) <michael.llamas_QC@gibraltar.gov.gi>
Cc: SMT <SMT@royalgib.police.gi>
Subject: RE: OFFICIAL POLICE - Media Strategy

Too lengthy but we must include letters of contrition, regret and apology.

From: (RGP) Mifsud, Richard (OTM)
Sent: 09 March 2017 15:51
To: (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi>; Michael (EUID) Llamas QC (michael.llamas_QC@gibraltar.gov.gi) <michael.llamas_QC@gibraltar.gov.gi>
Cc: SMT <SMT@royalgib.police.gi>
Subject: OFFICIAL POLICE - Media Strategy

Sir first stab at it please see below:

BEGINS

As previously reported, following the actions taken by senior military officers that precipitated the events of the 8th February 2017 at the airport, which also resulted in lengthy delays for traffic and pedestrians, the RGP launched a criminal investigation. Pursuant to this investigation, on the 1st March 2017 the RGP arrested three senior military officers currently deployed to British Forces Gibraltar for the offences of Attempting to Pervert the Course of Justice

and Conspiracy to Pervert the Course of Justice. All three were subsequently granted bail whilst investigations continued.

These investigations have now reached a stage where it has been assessed that the actions taken by the three military officers whilst ostensibly illegal in nature were in fact based on an incorrectly held assumption of jurisdiction, which was pursuant to erroneous legal advice and flawed instructions from their superiors. On the basis of all the information now at the RGP's disposal and in close consultation with the Office of the Attorney General it has been determined that the military officers' actions did not meet the threshold required to progress this prosecution further. As a consequence all three senior military officers have been recalled from their bail and released from arrest with no charges being preferred against them.

The jurisdictional position is now clear to all parties concerned.

ENDS

From: (RGP) Yome, Edward L (CPM)
Sent: 09 March 2017 15:25
To: Michael (EUID) Llamas QC (michael.llamas_QC@gibraltar.gov.gi) <michael.llamas_QC@gibraltar.gov.gi>
Cc: SMT <SMT@royalgib.police.gi>
Subject: Media Strategy

Gents

Can we all pool views and formulate a form of words for the media strategy

Cop

Edward Yome CPM
Commissioner of Police
Past President European Association of Airports & Seaports Police (EAASP)
Vice President IAASP
Calpe House Trustee

Royal Gibraltar POLICE
Working Together to make Our Community Safer

Office of the Commissioner of Police, New Mole House Police Headquarters, Rosia Road,
PO Box 47 , Gibraltar GX11 1AA
tel (+350) **20048001** centrex [redacted] fax (+350) **20045615** web www.police.gi

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INVESTORS IN PEOPLE | Gold

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Please consider the environment before printing this email.

From: (RGP) Mifsud, Richard (OTM)
Sent: 09 March 2017 14:58
To: (RGP) Yome, Edward L (CPM); SMT
Subject: OFFICIAL SENSITIVE - MOD Report
Attachments: MOD JFC Report RM comments.docx

Sir my comments are on the attachment.

Kind Regards

Richard

Richard Mifsud OTM MA
Chief Superintendent

Royal Gibraltar POLICE
Working Together to make Our Community Safer

Office of Chief Superintendent, New Mole House, Rosia Road, Gibraltar GX11 1AA
Tel (+350) **20072500** X [redacted] **Twitter** @ChSuptRMifsud **Web** www.police.gi

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Please consider the environment before printing this email

From: (RGP) Yome, Edward L (CPM)
Sent: 09 March 2017 14:40
To: SMT <SMT@royalgib.police.gi>
Subject: MOD Report

Gents

Please revert with any comments

Cop

Edward Yome CPM
Commissioner of Police
Past President European Association of Airports & Seaports Police (EAASP)
Vice President IAASP
Calpe House Trustee

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Please consider the environment before printing this email.

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 04 March 2017 15:58
To: (RGP) Yome, Edward L (CPM)
Cc: SMT
Subject: Re: Investigations

Sir,
Furthermore, I note that HE is copied in to CBF's response. I feel that HE should be forthcoming in advising CBF that he has to take a step back now on what is solely an operational police matter and that CBF should be made to understand that HE cannot be further involved in this matter.
Rgds
Det/Supt

Sent from my iPad

On 4 Mar 2017, at 3:51 pm, (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi> wrote:

> Ian
>
> Not at all.
> I have taken great exception to this and passed it on to CM and AG asking just that.
> He should write to cbf and really lay the law down and explain the options open to us.
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> > > Ian
> > >
> > > We will discuss Monday but this man is clearly being told other things.

Cop

Sent from my iPhone

Begin forwarded message:

From: "GIB-HQBF CBF (Walliker, Michael Cdre)" <GIB-HQBFCBF@mod.uk>
Date: 4 March 2017 at 14:16:59 CET
To: "'Edward.Yome@royalgib.police.gi'" <Edward.Yome@royalgib.police.gi>
Cc: 'Nick Pyle' <Nick.Pyle@fco.gov.uk>, "JFC-COS (Radakin, Tony R Adm)" <JFC-COS@mod.uk>, "JFC-JCOS-DepHd (Chaudhry, Arfan B1)" <JFC-JCOS-DepHd@mod.uk>, 'Ed Davis' <Edward.Davis@fco.gsi.gov.uk>, "GIB-CMDSEC CS (Johnson, Richard B1)" <GIB-CMDSECCS@mod.uk>, "GIB-HQBF CBF (Walliker, Michael Cdre)" <GIB-HQBFCBF@mod.uk>
Subject: RE: Investigations

Dear Commissioner,

My understanding of what has been a difficult situation for us both, as of lunch-time today is that:

Following their arrest on Weds by RGP, three of my officers have been interviewed and released without charge, but on bail until 6 Jun 17. The conditions of bail with respect to none of them having any contact with the RAF SP under 'suspicion' and his wife and young son, will be difficult to meet operationally, but achievable in the short-term. If the situation continues beyond the middle of next week, please can we discuss the bail terms?

My three will (may already have done so) submit written statements to RGP to (1) answer the comprehensive set of questions put to them at interview, (2) explain their actions and (3) offer a counter to all the allegations laid at their door including that of perverting the course of justice.

Once you have had time to review the statements and take stock, is it possible for you to reach a decision by the middle of next week as to the future plan? As we discussed, I very much hope that you will be in a position to drop all charges against all three, lift the conditions of bail, and inform them that the Investigation has been formally terminated because there is no evidence to support the charges of perverting the course of justice.

If this is achieved, all three will speak personally with you, to express contrition.

Turning to the items seized on Wednesday as evidence, AG Gibraltar confirmed to MoD / FCO officials on Thursday that it had (1) all been sealed, (2) would not form part of the Investigation and (3) would be returned to MoD. Has this happened yet? Please can you ensure that the return includes those personal items that were taken from a Married Quarter, and accommodation at Devil's Tower Camp?

Following on from Chief Superintendent Allen's email to you on Thursday, please could you also return the notebooks taken from the Provost Martial, to allow a separate un-related internal MoD Inquiry to continue in accordance with mandated dead-lines?

With respect to the on-going investigation into the RAF SP, the same meeting (Thursday, in London) agreed that RGP would retain jurisdiction and - should the evidence support it - interview the individual under caution and arrest him. I think the arrest and interview may already have happened? Are you happy to liaise directly with the appropriate authorities (MoD or UK Civil Police?) to take this case forward to an appropriate legal finish. Do you need anything more from me on this?

I very much hope that my understanding of the situation is similar to yours. I am very happy to discuss it further.

MJDW

-----Original Message-----
From: Edward.Davis@fco.gsi.gov.uk [Edward.Davis@fco.gsi.gov.uk]
Sent: Saturday, March 04, 2017 09:40 AM GMT Standard Time
To: Edward.Yome@royalgib.police.gi; GIB-HQBF CBF (Walliker, Michael Cdre)
Subject: Investigations

Dear COP and CBF,

As I prepare to return to the UK this PM on associated business (returning PM Thursday), and to visit the RG in Folkestone, I wanted to check that we are all of the same mind regarding the way ahead for the ongoing investigations. But, first, may I take this opportunity to thank you both for your endeavours to date regarding the investigations.

As we discussed last Wednesday evening , once you, Eddie, have decided how the investigations are to progress, the next step is for a discussion to take place between you and Mike as to how the way ahead can best be achieved from both an RGP and MoD perspective.

If, at anytime, there are any points of contention please do not hesitate to get in touch if you believe I can be of assistance. Meanwhile, Nick, in my absence, also stands ready to assist if deemed helpful.

Very happy to chat through the above if useful.

Thank you.

HE

****
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Cc: SMT
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From: (RGP) Yome, Edward L (CPM)
Sent: 05 March 2017 20:32
To: CBF
Cc: Nick Pyle; JFC-COS (Radakin, Tony R Adm); JFC-JCOS-DepHd (Chaudhry, Arfan B1); Ed Davis; S Argyle Command Sec; Fabian (MIN) Picardo; Michael (EUID) Llamas QC; SMT
Subject: Re: Investigations

Dear
Commander British Forces

I am very disappointed by your email of Saturday which, in my view, simply further exacerbates matters and betrays a deep misunderstanding of the gravity of the situation facing those three of your officers who are presently under arrest and others who may become persons of interest as the investigation unfolds.

The offence of perverting the course of justice is a very serious one - the issues that have arisen in this case are not child's play or a matter for simple inter-agency negotiation. The very difficult situation that has manifested itself has arisen from a complete misunderstanding of the law by your officers and those who were purporting to instruct, command or advise them and you.

From reading your email, it would appear that this failure to understand the law applicable in Gibraltar has not yet been corrected in your mind. I will therefore set out the position as clearly for you as our AG has been required to do with the senior lawyers at the MOD who, I understand from Mr Llamas, fully appreciated the position and agreed with it. It is therefore surprising that the law still appears to be unclear for you.

ONLY the Royal Gibraltar Police has jurisdiction and primacy at present in Gibraltar in respect of crimes committed in Gibraltar. The Gibraltar Defence Police has a jurisdiction created by statute which is not relevant to this matter and HM Customs has concurrent jurisdiction with us in respect of matters related to their responsibilities. There is no military unit that enjoys any jurisdiction on criminal matters whatsoever within Gibraltar and this includes cases such as the one with which we are dealing. Perhaps it would be best that you liaised directly with those from the MOD who I understand are Andy Halliwell and/or Isabel Letwin in respect of this as their position seemed to be clear and entirely in keeping with the understanding of HM Attorney General for Gibraltar.

I do also understand that at the recent meeting in London what has been agreed between the Chief Minister and the AG and the MOD in the UK is to continue the work that was being done to create an MOU and legislation which will in some ways carve out jurisdiction in future cases based on the Armed Forces Act 2006, but with caveats appropriate to the circumstances of Gibraltar. I am informed that this will be achieved before the summer.

I feel the need to set this out because it is no concession by you or indeed the MOD that we will "retain" jurisdiction over the RAF SP as you allude to in your email. We are the only agency in Gibraltar that has ANY [criminal] jurisdiction over him. Obviously, the RAF SP in question will have to consider his options with his legal advisers after he has been dealt with by us in terms of any pending matter with the UK authorities. Equally, he may also have scope for potential legal action against the MOD for the *ultra vires* activity he was subjected to here in Gibraltar by the MOD and JPSU in particular.

In the circumstances, your three officers who have been arrested are subject of a very serious investigation which may or may not end up with charges being-proffered against them - obviously this will be determined once the investigation is concluded as is the norm in all criminal investigation my organisation undertakes. A long bail is required for now as we assess the information at our disposal and the investigating team trawls through the copious amounts of documentation and other material seized. I can tell you that so far all of it points clearly towards the RGP - which is the only law enforcement agency with jurisdiction for the reasons I have outlined above - having been lied to and having been obstructed in the course of our lawful discharge of our duties. The clear evidence also seems to suggest that, in a conspiracy amongst themselves and,

potentially, others, the three military officers in question have attempted to pervert the course of justice. As a result of the seriousness of this offence and the evidence which suggests that it is likely that all the relevant ingredients are made out, a long bail has been necessary.

Should the three in question provide statements that satisfy my officers that the offences are not made out or, alternatively, should they accept the facts and express genuine contrition in respect of the facts, a decision may be reached which does not require any prosecution or further action. The timing of that is not something that we can be asked to commit to in any way which might compromise our investigation and I am surprised that a senior officer like you should have written seeking to pressure us to reach a decision in a defined time. That is not helpful at all. You should also be clear that I am not likely, in the circumstances, to reach a conclusion that there is no evidence to support the charges of obstruction or attempting to pervert the course of justice. Indeed, quite the opposite is true and the fact is that others might actually fall to be included in further charges as further evidence as to the conspiracy that ensued is uncovered.

I am quite fazed and quite frankly do not understand how you could have already reached the contrary conclusion from anything that I have said when the investigation has not been completed. Let me be clear enough so that any misunderstanding will be impossible; the evidence would appear to be conclusive that your officers HAVE obstructed and HAVE attempted to pervert the course of justice.

The only way in which we may consider not charging (and this is subject to further consideration of the evidence and of the relevant law) is if we are satisfied that there is a GENUINE acceptance of guilt by the individuals in question,recognition of the gravity of the situation and an unequivocal expression of remorse and apology. That can affect my police powers [of discretion] in making the decision of whether or not to charge an offender.

In addition you should note that any expression of contrition which is couched in language which is equivocal, that is to say, which relies on an insistence that the law reflects anything other than absolute jurisdiction to the RGP, would not be satisfactory as it would not amount to genuine regret or remorse.

You should by now appreciate that the chronology set out in your email is entirely wrong and untenable as it is is based on the unacceptable notion of a decision being made by us not to prosecute actually happening BEFORE an acceptance of guilt and an expression of genuine and unequivocal remorse is made by the MOD officers in question. That is not going to happen.

For now, I am able to confirm that we will not be carrying out any forensic interrogation of the computers taken in the execution of the search warrants. We have no alternative but to reserve our rights in respect of this material which has been lawfully seized but which we will be able to return without having had to carry out any further investigations into them if matters can be resolved without the need to charge. Your email, however, does not fill me with hope in that respect.

As far as the Provost Marshall’s note book is concerned, this will be perused for any evidence pertinent to our investigation and once it is determined that the contents hold no bearing it will be returned so that the MOD’s enquiry can also progress. Alternatively, I can arrange for photocopies to be made of the pages of the PM's book pertinent to the MOD enquiry so that he can continue with this enquiry.

In sum, you will see that my understanding of the legal and factual position is regrettably very different to yours. I am comforted by the fact the understanding I have set out above accords to that of the AG, who attended the relevant meetings with MOD legal advisers and, more importantly, with the Chief Minister and the UK's Minister for Europe, Rt Hon Sir Alan Duncan MP

Regards
Eddie
Commissioner

From: (RGP) Yome, Edward L (CPM)
Sent: 07 March 2017 11:52
To: CBF
Cc: Nick Pyle (Nick.Pyle@fco.gov.uk); JFC-COS (Radakin, Tony R Adm); JFC-JCOS-DepHd (Chaudhry, Arfan B1); Ed Davis - HE (Edward.Davis@fco.gsi.gov.uk); S Argyle Command Sec; Fabian (MIN) Picardo; Michael (EUID) Llamas QC; SMT; CBF
Subject: RE: Investigations

Dear Commodore

Thank you for your email of yesterday afternoon. I am greatly reassured by it. I too value the strategic relationship between HMG and HMGoG and how both the Ministry of Defence and the RGP contribute to this relationship. I am therefore as keen as you are to bring these matters to a close and look positively towards the future, building on the lessons learnt in the past few weeks.

These few weeks have been difficult for both our organisations and my officers have displayed professionalism in the difficult tasks they performed but still affording both the officers concerned and the Ministry of Defence the respect they deserve. I am sure our respective leadership will see our teams continue to act in this way.

I accept that that there has been no doubt in your own mind about the RGP's jurisdiction. And whilst I am reassured by this I remain concerned by the implication that you may think that the MoD has concurrent jurisdiction. I am clear that it does not. Resolving this is a matter for others, but I too am encouraged by HMGoG's plans to legislate in order to reflect Armed Forces Act responsibilities in local law. Building on those legislative arrangements with an MoU will serve to further clarify jurisdiction, roles and responsibilities, and avoid repetition of the events of the last few weeks. Notwithstanding this I am obliged to seek, precisely to avoid finding ourselves in the same situation, assurances that the Provost Marshall and his staff will not seek to enforce the Armed Forces Act as they sought to do so in this case, until empowered to do so by local law.

With regard to the investigation, this must be seen to follow due process. Without prejudice to my and their respective positions I am of the view that were I to be provided, by the three officers concerned, with letters of apology and contrition, I would be favourably inclined to offer them a written reprimand for their actions of the 7th and 8th of February 2017. This matter would then be placed on file. This would also serve to reassure me that due process has occurred. I will then be in a position to instruct that they are released from arrest and all equipment seized returned to them.

All that said, I am concerned at how the position of these three officers will impact on the rebuilding of the relationship between our respective organisations, in particular our senior teams. Their continued presence in their current roles will make that difficult as we work to re-establish the confidence that must exist between our two organisations. In the interim I will deal with you on all matters, even when, as I will, you will be obliged to leave the jurisdiction on occasion. This will include the arrangement of any meeting that we may attend in our respective capacities.

Finally these unfortunate events have been a matter of great public interest. I will need to satisfy the community that due process has occurred, and should what I describe above be accepted, I intend to do so. In the interests of our future relationship I will share any statement with you prior to issue.

Let me reassure you that I too am keen to put this matter behind us to focus on the future.

I look forward to hearing from you,

Kind regards

Eddie

From: GIB-HQBF CBF (Walliker, Michael Cdre) [mailto:GIB-HQBFCBF@mod.uk]
Sent: 06 March 2017 20:00
To: (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi>
Cc: Nick Pyle (Nick.Pyle@fco.gov.uk) <Nick.Pyle@fco.gov.uk>; JFC-COS (Radakin, Tony R Adm) <JFC-COS@mod.uk>; JFC-JCOS-DepHd (Chaudhry, Arfan B1) <JFC-JCOS-DepHd@mod.uk>; Ed Davis - HE (Edward.Davis@fco.gsi.gov.uk) <Edward.Davis@fco.gsi.gov.uk>; S Argyle Command Sec <GIB-CMDSECCS@mod.uk>; Fabian (MIN) Picardo <fabian.picardo@gibraltar.gov.gi>; Michael (EUID) Llamas QC <michael.llamas_QC@gibraltar.gov.gi>; SMT <SMT@royalgib.police.gi>; CBF <GIB-HQBFCBF@mod.uk>
Subject: RE: Investigations

Dear Commissioner,

I thought it might be helpful to provide some explanatory commentary following my email of Saturday afternoon and your response yesterday. In doing so, there are a couple of points that I wanted to make upfront.

The first is that I value, admire, and wish to enhance the very important strategic relationship between HMG and HMGoG and the very special contributing role that HM Forces provides in assisting to nurture this relationship. Indeed, I think you and I have done good work together in the period running up to the 8th of February and it would be a pity if we were unable to continue to build on that work going forward. Consequently, the events of 8th February and the manner in which they have continued to unfold are a source of deep regret to me, my team, and I know that is also reflected by my higher HQ and the MOD. It is with this backdrop in mind that I sought the exchange over the weekend to be helpful. It was never my intention to inflame matters or to cause you further unease.

There are a number of points which I think merit drawing to your attention and I hope offer you some reassurance of both my position and that of the MOD and which we might be able to draw upon as we look to build towards the future and return as quickly as possible to the strong relationship which we have both enjoyed, personally and professionally, in the past. These are as follows:

- There is not, nor has there ever been, any doubt in my mind about the RGP's jurisdiction in this case This incident has served to assist an even clearer understanding of our mutual positions.
- I am confident that with our shared leadership, we can build for the future. This is enhanced by the shock that the last few weeks have borne us; and the need to, where necessary, increase our communications and working together. And I also think it is significant that Her Majesty's Government of Gibraltar intends to accelerate legislative plans this summer which will better define the legal responsibilities that are normally reflected in an Armed Forces Act and that you will be looking at an MoU between our respective organisations to address logistics in that respect.
- Importantly, this will act as a platform to allow us to take forward the significant work on CT, MACA and Gibraltar's security – which we both understand is an enormous priority for both the Chief Minister and the Governor, and which will rely on you and me to ensure our teams work successfully and effectively together.

I hope this reassures you of my intent and my sincerity in trying to address our current difficulties.

I sincerely apologise if my e-mail on Saturday caused you any alarm or offence. It was absolutely never my intention and, indeed, quite the opposite.

With genuine best wishes, and sincerely hoping that we will soon be working as well together as we have,

Mike

From: (RGP) Yome, Edward L (CPM)
Sent: 09 March 2017 15:21
To: JFC-COS (Radakin, Tony R Adm)
Cc: 'Edward Davis (Edward.Davis@fco.gsi.gov.uk)'; '(GLO) Llamas QC, Michael'; [redacted]@fco.gsi.gov.uk)'; CLS-D (Letwin, Isabel SCS); DISP-DISP (Gurr, Nick Mr); JFC-COMD-PSO (Beattie, Paul Cpt); JFC-DirResPol (Helliwell, Andy SCS); CBF; EBRX-Hd (Dann, Linda SCS); Fabian (MIN) Picardo (fabian.picardo@gibraltar.gov.gi); SMT
Subject: RE: JFC Gibraltar Investigations - Context Letter Dated 8 Mar 17
Attachments: MOD JFC Report.docx

Dear Tony

Please find attached letter that I hope will bring everything to a positive conclusion:

Kind regards

Eddie
Commissioner

From: JFC-COS (Radakin, Tony R Adm) [mailto:JFC-COS@mod.uk]
Sent: 08 March 2017 15:01
To: (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi>
Cc: 'Edward Davis (Edward.Davis@fco.gsi.gov.uk)' <Edward.Davis@fco.gsi.gov.uk>; '(GLO) Llamas QC, Michael' <michael.llamas_QC@gibraltar.gov.gi>; '[redacted]by@fco.gsi.gov.uk)' <[redacted]@fco.gsi.gov.uk>; CLS-D (Letwin, Isabel SCS) <CLS-D@mod.uk>; DISP-DISP (Gurr, Nick Mr) <DISP-DISP@mod.uk>; JFC-COMD-PSO (Beattie, Paul Cpt) <JFC-COMD-PSO@mod.uk>; JFC-DirResPol (Helliwell, Andy SCS) <JFC-DirResPol@mod.uk>; CBF <GIB-HQBFCBF@mod.uk>; EBRX-Hd (Dann, Linda SCS) <EBRX-Hd@mod.uk>
Subject: JFC Gibraltar Investigations - Context Letter Dated 8 Mar 17

Dear Commissioner – Please find attached a letter that I hope is helpful in explaining the context, from a Joint Forces Command perspective, around the events of 7th and 8th February.

Yours,

Tony

Tony Radakin | **Rear Admiral** | **Chief of Staff, Joint Forces Command** | Mil: [redacted] | Civ: [redacted] | Email: JFC-COS@mod.uk | Headquarters, Joint Forces Command, Building 410, Sandy Lane, Northwood, Middlesex, HA6 3HP.

From: (RGP) Yeats, Cathal
Sent: 10 March 2017 16:33
To: (RGP) Yome, Edward L (CPM)
Cc: SMT
Subject: Re: MOD arrests

Sir,

Brian did yesterday. We were provided with numbers and have arranged for additional RGP resources next week. We didn't believe it necessary with Monmouth, they are less than 200 POB.

To be honest I'm not sure what to make of the request. It is either cheeky, we are being misled, or they are not the brightest.

I will reply along the lines of them joining our patrol as observers only.

Regards,

Cathal.

Cathal Yeats
Superintendent
Sent from my iPhone

On 10 Mar 2017, at 16:29, (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi> wrote:

> Cathal
>
> I thought you were going to talk with GDP re Monmouth.
> If we wish to consider historical joint patrols they must understand that they are observers.
>
> Cop
>
> Sent from my iPhone
>
> On 10 Mar 2017, at 15:49, (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi> wrote:
>
> > Sir,
> >
> > All very good but some don't appear to get the message. I've had an email passed on to me by CI Lopez from The Master at Arms, asking to do joint patrols when Ocean is in town next week. Not sure what powers they seek to apply!
> >
> > I will copy you into my reply.
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> > Regards,
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> > Cathal.
> >
> > Cathal Yeats
> > Superintendent
> > Sent from my iPhone
> >
> > On 10 Mar 2017, at 15:20, (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi> wrote:
> >
> > > Gents
> > >
> > > Fyi
> > >
> > > Cop
> > >
> > > ---
> > >
> > > **From:** Edward.Davis@fco.gov.uk [mailto:Edward.Davis@fco.gov.uk]
> > > **Sent:** 10 March 2017 15:20
> > > **To:** (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi>; michael.llamas_QC@gibraltar.gov.gi; fabian.picardo@gibraltar.gov.gi
> > > **Subject:** RE: MOD arrests

Dear Commissioner,

Welcome news, indeed. Thank you.

At the conclusion of a most challenging four weeks, may I offer my deep gratitude to you and your Police Officers for the efficacy and manner in which the RGP has conducted this investigation. I do not underestimate how difficult this period has been, both professionally and personally, for all involved. In short, a very tough job, very well done. Thank you.

Looking forward to visiting Morocco with you next week.

HE

From: (RGP) Yome, Edward L (CPM) [mailto:Edward.Yome@royalgib.police.gi]
Sent: 10 March 2017 13:52
To: (GLO) Llamas QC, Michael; Fabian (MIN) Picardo; Edward Davis (Sensitive)
Subject: Re: MOD arrests

Sirs

All three were recalled from bail and released from their arrests.

They each in turn thanked officers for the professionalism and courtesy showed to them.

Regards

Eddie

Sent from my iPhone

On 10 Mar 2017, at 09:04, (GLO) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi> wrote:

> FYI

Michael Llamas QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas_QC@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

HM Government of Gibraltar

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From: [redacted]@fco.gov.uk [mailto:[redacted]@fco.gov.uk]
Sent: 09 March 2017 19:28
To: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Cc: (GLO) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi>; Edward.Davis@fco.gov.uk; [redacted]@fco.gov.uk; [redacted]@fco.gov.uk; Nick.Pyle@fco.gov.uk; [redacted]@fco.gov.uk
Subject: Thank you from Sir Alan Duncan

Dear Chief Minister,

I just went to update Sir Alan Duncan on the latest situation in relation to the events of 8 February and beyond. The Minister was very happy that we appear to have reached a good outcome. He asked me to pass on his personal gratitude to you, and the Commissioner of Police, for helping us get to this point.

Best wishes,

Victoria

[redacted]

I work Mondays - Thursdays

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****

From: (RGP) Yome, Edward L (CPM)
Sent: 10 March 2017 16:30
To: (RGP) Yeats, Cathal
Cc: SMT
Subject: Re: MOD arrests

Cathal

I thought you were going to talk with GDP re Monmouth.
If we wish to consider historical joint patrols they must understand that they are observers.

Cop

Sent from my iPhone

On 10 Mar 2017, at 15:49, (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi> wrote:

> Sir,
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> All very good but some don't appear to get the message. I've had an email passed on to me by CI Lopez from The Master at Arms, asking to do joint patrols when Ocean is in town next week. Not sure what powers they seek to apply!
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> > Dear Commissioner,
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> > Welcome news, indeed. Thank you.
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> > HE
> >
> > ---
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> > **From:** (RGP) Yome, Edward L (CPM) [mailto:Edward.Yome@royalgib.police.gi]
> > **Sent:** 10 March 2017 13:52

To: (GLO) Llamas QC, Michael; Fabian (MIN) Picardo; Edward Davis (Sensitive)
Subject: Re: MOD arrests

Sirs

All three were recalled from bail and released from their arrests.

They each in turn thanked officers for the professionalism and courtesy showed to them.

Regards

Eddie

Sent from my iPhone

On 10 Mar 2017, at 09:04, (GLO) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi> wrote:

> FYI
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> ---
>
> **Michael Llamas QC**
> **Attorney General**
>
> Government Law Offices
> HM Government of Gibraltar
> 40 Town Range
> Gibraltar
> GX11 1AA
>
> Tel: (+350) 20051118
> michael.llamas_QC@gibraltar.gov.gi
>
> www.gibraltar.gov.gi
>
> **The Attorney General**
>
> ---
>
> **HM Government of Gibraltar**
>
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> [redacted]
>
> [redacted]

[redacted]
Tel: [redacted] | ECHO: [redacted] | Blackberry: [redacted]

I work Mondays - Thursdays

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From: (RGP) Yeats, Cathal
Sent: 10 March 2017 15:50
To: (RGP) Yome, Edward L (CPM)
Cc: SMT
Subject: Re: MOD arrests

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I will copy you into my reply.

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Cathal Yeats
Superintendent
Sent from my iPhone

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> **Sent:** 10 March 2017 13:52
> **To:** (GLO) Llamas QC, Michael; Fabian (MIN) Picardo; Edward Davis (Sensitive)
> **Subject:** Re: MOD arrests
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Eddie

Sent from my iPhone

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FYI

Michael Llamas QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas_QC@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

HM Government of Gibraltar

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Please consider the environment before printing this email.

From: [redacted]@fco.gov.uk [mailto:[redacted]@fco.gov.uk]
Sent: 09 March 2017 19:28
To: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Cc: (GLO) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi>; Edward.Davis@fco.gov.uk; [redacted]@fco.gov.uk; [redacted]@fco.gov.uk; Nick.Pyle@fco.gov.uk; [redacted]@fco.gov.uk
Subject: Thank you from Sir Alan Duncan

Dear Chief Minister,

I just went to update Sir Alan Duncan on the latest situation in relation to the events of 8 February and beyond. The Minister was very happy that we appear to have reached a good outcome. He asked me to pass on his personal gratitude to you, and the Commissioner of Police, for helping us get to this point.

Best wishes,

[redacted]

[redacted]
[redacted]
Tel: [redacted] | ECHO: [redacted] | Blackberry: [redacted]

I work Mondays - Thursdays

****
Visit http://www.gov.uk/fco for British foreign policy news and travel advice and http://blogs.fco.gov.uk to read our blogs.

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All messages sent and received by members of the Foreign & Commonwealth Office and its missions overseas may be automatically logged, monitored and/or recorded in accordance with the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000.
****

RE MOD Report a

From: (RGP) Yome, Edward L (CPM)
Sent: 09 March 2017 14:58
To: (RGP) Yeats, Cathal; SMT
Subject: RE: MOD Report

Cathal

I have mentioned that in my conversations they were truthful and qualify that by saying that in slower time we can into individuals.
There might be a parallel investigation in UK

Cop

From: (RGP) Yeats, Cathal
Sent: 09 March 2017 14:56
To: (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi>; SMT <SMT@royalgib.police.gi>
Subject: RE: MOD Report

Sir,

Fine by me. I think the point about the deceit needs to be made regardless of their expressed justification based on ill advice.

I'm not sure about the last sentence. Are we saying there could be a second or parallel investigation in the UK?

Best regards.

Cathal

Cathal Yeats
Superintendent
Operations Division, New Mole House, Rosia Road, Gibraltar GX11 1AA
t (+350) 20045082 c [redacted] f (+350) 20072428 w www.police.gi

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Working Together to make Our Community Safer

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Please consider the environment before printing this email.

From: (RGP) Yome, Edward L (CPM)
Sent: 09 March 2017 14:40
To: SMT <SMT@royalgib.police.gi>
Subject: MOD Report

Gents

Please revert with any comments

Cop

Edward Yome CPM
Commissioner of Police
Past President European Association of Airports & Seaports Police (EAASP)
Vice President IAASP
Calpe House Trustee

RE MOD Report a

Office of the Commissioner of Police, New Mole House Police Headquarters, Rosia Road,
PO Box 47 , Gibraltar GX11 1AA
tel (+350) **20048001** centrex [redacted] fax (+350) **20045615** web www.police.gi

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Please consider the environment before printing this email.

From: (RGP) Yome, Edward L (CPM)
Sent: 09 March 2017 15:57
To: (RGP) Mifsud, Richard (OTM); Michael (EUID) Llamas QC (michael.llamas_QC@gibraltar.gov.gi)
Cc: SMT
Subject: RE: OFFICIAL POLICE - Media Strategy

Too lengthy but we must include letters of contrition, regret and apology.

From: (RGP) Mifsud, Richard (OTM)
Sent: 09 March 2017 15:51
To: (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi>; Michael (EUID) Llamas QC (michael.llamas_QC@gibraltar.gov.gi) <michael.llamas_QC@gibraltar.gov.gi>
Cc: SMT <SMT@royalgib.police.gi>
Subject: OFFICIAL POLICE - Media Strategy

Sir first stab at it please see below:

BEGINS

As previously reported, following the actions taken by senior military officers that precipitated the events of the 8th February 2017 at the airport, which also resulted in lengthy delays for traffic and pedestrians, the RGP launched a criminal investigation. Pursuant to this investigation, on the 1st March 2017 the RGP arrested three senior military officers currently deployed to British Forces Gibraltar for the offences of Attempting to Pervert the Course of Justice and Conspiracy to Pervert the Course of Justice. All three were subsequently granted bail whilst investigations continued.

These investigations have now reached a stage where it has been assessed that the actions taken by the three military officers whilst ostensibly illegal in nature were in fact based on an incorrectly held assumption of jurisdiction, which was pursuant to erroneous legal advice and flawed instructions from their superiors. On the basis of all the information now at the RGP's disposal and in close consultation with the Office of the Attorney General it has been determined that the military officers' actions did not meet the threshold required to progress this prosecution further. As a consequence all three senior military officers have been recalled from their bail and released from arrest with no charges being preferred against them.

The jurisdictional position is now clear to all parties concerned.

ENDS

From: (RGP) Yome, Edward L (CPM)
Sent: 09 March 2017 15:25
To: Michael (EUID) Llamas QC (michael.llamas_QC@gibraltar.gov.gi) <michael.llamas_QC@gibraltar.gov.gi>
Cc: SMT <SMT@royalgib.police.gi>
Subject: Media Strategy

Gents

Can we all pool views and formulate a form of words for the media strategy

Cop

Edward Yome CPM
Commissioner of Police
Past President European Association of Airports & Seaports Police (EAASP)
Vice President IAASP
Calpe House Trustee

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Please consider the environment before printing this email.

From: (RGP) Ullger, Richard
Sent: 09 March 2017 16:01
To: (RGP) Yome, Edward L (CPM)
Cc: (RGP) Mifsud, Richard (OTM); Michael (EUID) Llamas QC (michael.llamas_QC@gibraltar.gov.gi); SMT
Subject: Re: OFFICIAL POLICE - Media Strategy

Sir,

I would agree. Although Richard includes many salient points, it is maybe in too much detail. I would concentrate on the lessons learnt and the need to move on, seeking Gibraltar's interest at the forefront of everything we have done.

Richard Ullger
Police Superintendent

Planning, Development and Support Division,
New Mole House, Rosia Road, Gibraltar GX11 1AA
t (+350) [redacted] www.police.gi
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>
> ---
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> **Sent:** 09 March 2017 15:51
> **To:** (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi>; Michael (EUID) Llamas QC (michael.llamas_QC@gibraltar.gov.gi) <michael.llamas_QC@gibraltar.gov.gi>
> **Cc:** SMT <SMT@royalgib.police.gi>
> **Subject:** OFFICIAL POLICE - Media Strategy
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Cc: SMT <SMT@royalgib.police.gi>
Subject: Media Strategy

Gents

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Cop

Edward Yome CPM
Commissioner of Police
Past President European Association of Airports & Seaports Police (EAASP)
Vice President IAASP
Calpe House Trustee

<image001.png>

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<image002.png>

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<image003.png>**Please consider the environment before printing this email.**

From: (GLO) Fischel, Robert [robert.fischel@gibraltar.gov.gi]
Sent: 10 March 2017 08:02
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: Re: Op APACHE

Ian

Could we make it at 11 at my office. Have to be in Supreme at 10 for half an hour.

Thanks

Robert

Robert G. Fischel Q.C.
Crown Counsel
Sent from my iPad

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On 6 Mar 2017, at 16:35, (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi> wrote:

Its actually drier and milder than Gib. Whatever, whether my office or yours is fine by me - shall we say 10am?

Sent from my iPhone

On 6 Mar 2017, at 15:08, (GLO) Fischel, Robert <robert.fischel@gibraltar.gov.gi> wrote:

Friday morning works for me. Mine or yours and what time.

Let me know.

Enjoy the wet ?

Best

Robert

From: (RGP) McGrail, Ian M.Sc (OTM) [mailto:Ian.McGrail@royalgib.police.gi]
Sent: 06 March 2017 16:03
To: (GLO) Fischel, Robert; (RGP) Tunbridge, Wayne; (RGP) Yome, Edward L (CPM)
Subject: Re: Op APACHE

Robert,
I am currently in the UK returning to the office most probably on Friday.
We can arrange to meet then and we can brief you accordingly.

It is still early to decide on whether there is evidence to proffer any charge. The investigating team has to sift through plenty of documents seized & piece everything together. Additionally there are many witnesses we need to see. What I can say at this stage is that we have secured some very interesting data which supports our suspicions. As far as their interviews go, well, they were advised to make no comment but they chose to respond to some questions remaining silent on others.

Let me know if Friday morning works for you. The 3 have been bailed until June.

Regards
Ian.

Sent from my iPhone

On 6 Mar 2017, at 14:52, (GLO) Fischel, Robert <robert.fischel@gibraltar.gov.gi> wrote:

> I am interested to know what the three said in interview and the results of the search warrants.
>
> GoG is asking for an advice from Alex Cameron QC and Lord Mcdonald QC, which I am sending off either tonight or tomorrow but will have to forward a resume of any further observations / evidence.
>
> When do you think I can expect this.
>
> Thanks
>
> Robert

Robert Fischel QC
Crown Counsel

Office of Criminal Prosecutions & Litigation
Government Law Offices
HM Government of Gibraltar
Joshua Hassan House
Secretary's Lane
Gibraltar
GX11 1AA

Tel: (+350) 200 78882
Centrex: [redacted]
robert.fischel@gibraltar.gov.gi

www.gibraltar.gov.gi

Government Law Offices

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Please consider the environment before printing this email.

From: (RGP) Mifsud, Richard (OTM)
Sent: 09 March 2017 20:20
To: (RGP) Yome, Edward L (CPM)
Cc: SMT
Subject: Re: PR

Fine by me

Regards

Richard

Richard Mifsud OTM MA
Chief Superintendent

On 9 Mar 2017, at 19:57, (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi> wrote:

> FYI
> Your views private to me
> Cop
>
> Sent from my iPhone
>
> Begin forwarded message:
>
> > **From:** "(GLO) Llamas QC, Michael" <michael.llamas_QC@gibraltar.gov.gi>
> > **Date:** 9 March 2017 at 19:44:11 CET
> > **To:** "(RGP) Yome, Edward L (CPM)" <Edward.Yome@royalgib.police.gi>
> > **Cc:** "(MIN) Picardo, Fabian" <fabian.picardo@gibraltar.gov.gi>
> > **Subject: PR**
> >
> > Eddie,
> >
> > CM and I would be very happy with this:
> >
> > As previously reported, the RGP launched an investigation following the actions taken by senior military officers that precipitated the events of the 8th February 2017 at the airport, which also resulted in lengthy delays for traffic and pedestrians. Pursuant to this investigation, on the 1st March 2017 the RGP arrested three senior military officers currently deployed to British Forces Gibraltar. All three were subsequently granted bail whilst investigations continued.
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> > These investigations have revealed that the actions taken by the three military officers were due to a misconception about jurisdiction which they had received from superiors in their chain of command. In view of that, the three officers have written to the Commissioner of Police apologising for their actions and expressing their regrets, including for the disruption caused to the public on the day. On the basis of all the information now at the RGP's disposal, and in close consultation with the Office of the Attorney General, it has been determined by the Commissioner, in his discretion, that no further action is required. As a consequence all three senior military officers have been recalled from their bail and released from arrest with no charges being proffered against them.
> >
> > The RGP wishes to reiterate the excellent working relationship that it has always enjoyed with the MOD in Gibraltar and is confident that the events of the last weeks will serve as a platform to grow an even better understanding between our respective organisations and to build an even stronger and mutually respectful and beneficial future together.

Michael

Michael Llamas QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas_QC@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

HM Government of Gibraltar

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From: (RGP) Ullger, Richard
Sent: 09 March 2017 20:06
To: (RGP) Yome, Edward L (CPM)
Cc: SMT
Subject: Re: PR

Sir,

Fine with me, particularly the wording of your use of discretion to deal with the matter.

Richard Ullger
Police Superintendent

Planning, Development and Support Division,
New Mole House, Rosia Road, Gibraltar GX11 1AA
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> Cop
>
> Sent from my iPhone
>
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>
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Michael

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The Attorney General

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From: (RGP) Yeats, Cathal
Sent: 09 March 2017 20:32
To: (RGP) Yome, Edward L (CPM)
Cc: SMT
Subject: Re: PR

Sir,

I'm good too.

Regards,

Cathal.

Cathal Yeats
Superintendent
Sent from my iPhone

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Cc: SMT
Subject: Re: PR

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Richard Ullger
Police Superintendent

Planning, Development and Support Division,
New Mole House, Rosia Road, Gibraltar GX11 1AA
t (+350) **20047996** [redacted] www.police.gi
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Please consider the environment before printing this email.

On 9 Mar 2017, at 19:57, (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi> wrote:

> FYI
> Your views private to me
> Cop
>
> Sent from my iPhone
>
> Begin forwarded message:
>
> > **From:** "(GLO) Llamas QC, Michael" <michael.llamas_QC@gibraltar.gov.gi>
> > **Date:** 9 March 2017 at 19:44:11 CET
> > **To:** "(RGP) Yome, Edward L (CPM)" <Edward.Yome@royalgib.police.gi>
> > **Cc:** "(MIN) Picardo, Fabian" <fabian.picardo@gibraltar.gov.gi>
> > **Subject: PR**
> >
> > Eddie,
> >
> > CM and I would be very happy with this:
> >
> > As previously reported, the RGP launched an investigation following the actions taken by senior military officers that precipitated the events of the 8th February 2017 at the airport, which also resulted in lengthy delays for traffic and pedestrians. Pursuant to this investigation, on the 1st March 2017 the RGP arrested three senior military officers currently deployed to British Forces Gibraltar. All three were subsequently granted bail whilst investigations continued.

These investigations have revealed that the actions taken by the three military officers were due to a misconception about jurisdiction which they had received from superiors in their chain of command. In view of that, the three officers have written to the Commissioner of Police apologising for their actions and expressing their regrets, including for the disruption caused to the public on the day. On the basis of all the information now at the RGP's disposal, and in close consultation with the Office of the Attorney General, it has been determined by the Commissioner, in his discretion, that no further action is required. As a consequence all three senior military officers have been recalled from their bail and released from arrest with no charges being proffered against them.

The RGP wishes to reiterate the excellent working relationship that it has always enjoyed with the MOD in Gibraltar and is confident that the events of the last weeks will serve as a platform to grow an even better understanding between our respective organisations and to build an even stronger and mutually respectful and beneficial future together.

Michael

Michael Llamas QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas_QC@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

HM Government of Gibraltar

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Please consider the environment before printing this email.

From: (RGP) Yome, Edward L (CPM)
Sent: 07 March 2017 21:05
To: (RGP) Ullger, Richard
Cc: SMT
Subject: Re: Wing Commander E. Hutchison

Richard

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We need to be ready to rebut anything they say but we are not doing what we should be doing.

I personally instructed Paul Barker to send the DVD discs to uk for a 24 hr turnaround. These transcripts should have been done.
I asked for A4 bullet form factual account to be ready for my meetings. I'm still waiting.

I was waiting for this letter from Hutchinson and it arrived yesterday and I was not informed. I was asked by the AG today about it and I told him that possibly it had been stopped when now I think he knew it had been delivered.

In essence I'm not at all happy and waiting for Ian to return and the review the investigation team.

Cop

Sent from my iPhone

On 7 Mar 2017, at 20:56, (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi> wrote:

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> With all the greatest respect, but what I told you on the day and what is covered in Ian's report of my dealings with the Station Commander is the whole truth and the facts of how things transpired with her. My blood boils at the distortion of facts as she has laid them and I truly hope that you are not doubting my word.
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> She is lying through her teeth. I can go on and on in the discrepancies of her report, but I'll be here all night. Certainly, in our conversation she claimed no knowledge of the JPSU investigation and yet in her report she now claims that she went to a STRAP Meeting in the morning about the case and later authorised the departure of the subject and items subject to the investigation. At no time in our conversation did she confirm to me that the subject was on board or any evidence. On the day I explicitly told her to stop playing with words as she was messing about trying to distort the truth.
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> No me lo creo.....
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Subject: Fwd: Wing Commander E. Hutchison

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Attached is the "statement" from Hutchison sent via Charles Gomez.

Wayne

Sent from my iPhone

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To: "(RGP) Tunbridge, Wayne" <Wayne.Tunbridge@royalgib.police.gi>
Subject: Fw: Wing Commander E. Hutchison

From: (RGP) Support Services
Sent: 06 March 2017 08:13
To: (RGP) Richardson, Paul (OTM); (RGP) Enriles, Alexander (PS013)
Subject: FW: Wing Commander E. Hutchison

Good Morning

Please read e-mail below and attached.

Kind Regards

Lorraine

Lorraine Bosco
AO



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From: Charles Gomez [mailto:Charles@gomezco.gi]
Sent: 04 March 2017 21:08
To: info <info@royalgib.police.gi>
Cc: Daniel Benyunes <Daniel@gomezco.gi>; Lauren Cano <lauren@gomezco.gi>
Subject: Wing Commander E. Hutchison
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If you want to contact me during the week-end please feel free to phone me on 57483000.

Yours sincerely,

Charles Gomez.

Charles Gomez & Co

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Gibraltar
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www.charlesgomez.gi

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<hutchison_scanned_statement.docx>

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Cc: SMT
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Wayne

Sent from my iPhone

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Subject: Fw: Wing Commander E. Hutchison

From: (RGP) Support Services
Sent: 06 March 2017 08:13
To: (RGP) Richardson, Paul (OTM); (RGP) Enriles, Alexander (PS013)
Subject: FW: Wing Commander E. Hutchison

Good Morning

Please read e-mail below and attached.

Kind Regards

Lorraine

Lorraine Bosco
AO

cid:image002.png@01D06

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If you want to contact me during the week-end please feel free to phone me on 57483000.

Yours sincerely,

Charles Gomez.

Charles Gomez & Co

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5 Secretary's Lane,
Gibraltar
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<hutchison_scanned_statement.docx>

From: (RGP) Yome, Edward L (CPM)
Sent: 07 March 2017 20:46
To: (RGP) Yeats, Cathal
Cc: SMT
Subject: Re: Wing Commander E. Hutchison

Yes I know.
I have forwarded this to the AG and CM and basically explained that but also told them that JFC should now stamp their authority or we will end entangled once again which could end up in a judicial process.

Cop

Sent from my iPhone

On 7 Mar 2017, at 20:43, (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi> wrote:

> Sir,
>
> I think we should discuss in slower time in the morning. But she fails to mention that [or so I understand] the plane taxied and was stopped from taking off a second time. She by her own omission in her statement did nothing to either prevent that or indeed inform Richard, with whom she spoke on the phone.
>
> Also, Richard can clarify, but he did ask specifically, and more than once, whether anything related to the investigation was on the aircraft. I can't see how she can imply that Watterson was not part of the investigation.
>
> Best regards,
>
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>
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From: (RGP) Support Services
Sent: 06 March 2017 08:13
To: (RGP) Richardson, Paul (OTM); (RGP) Enriles, Alexander (PS013)
Subject: FW: Wing Commander E. Hutchison

Good Morning

Please read e-mail below and attached.

Kind Regards

Lorraine

Lorraine Bosco
AO

cid:image002.png@01D06

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From: Charles Gomez [mailto:Charles@gomezco.gi]
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Cc: Daniel Benyunes <Daniel@gomezco.gi>; Lauren Cano <lauren@gomezco.gi>

Subject: Wing Commander E. Hutchison
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Yours sincerely,

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Charles Gomez & Co

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<hutchison_scanned_statement.docx>

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> **Police Superintendent**
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Subject: Fwd: Wing Commander E. Hutchison

Sir,

Attached is the "statement" from Hutchison sent via Charles Gomez.

Wayne

Sent from my iPhone

Begin forwarded message:

From: "(RGP) Richardson, Paul (OTM)" <Paul.Richardson@royalgib.police.gi>
To: "(RGP) Tunbridge, Wayne" <Wayne.Tunbridge@royalgib.police.gi>
Subject: Fw: Wing Commander E. Hutchison

From: (RGP) Support Services
Sent: 06 March 2017 08:13
To: (RGP) Richardson, Paul (OTM); (RGP) Enriles, Alexander (PS013)
Subject: FW: Wing Commander E. Hutchison

Good Morning

Please read e-mail below and attached.

Kind Regards

Lorraine

Lorraine Bosco
AO



Central Registry and Human Resources
Planning, Development and Support Division, New Mole House,
Rosia Road, Gibraltar GX11 1AA
t (+350) **20048006** c [redacted] f (+350) **20072428** w www.police.gi

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Please consider the environment before printing this email.

From: Charles Gomez [mailto:Charles@gomezco.gi]
Sent: 04 March 2017 21:08
To: info <info@royalgib.police.gi>
Cc: Daniel Benyunes <Daniel@gomezco.gi>; Lauren Cano <lauren@gomezco.gi>
Subject: Wing Commander E. Hutchison
Importance: High

For the attention of Ch. Insp. Richardson and Insp. Enriles.

Gentlemen,

Please find attached Wing Commander Hutchison's statement (we will deliver the original to New Mole House on Monday).

We hope that it will assist you in your inquiries.

Meanwhile the RAF intend for Sgt. Watterson to return to work next week. This would inevitably put him in contact with the Wing Commander and I would like to discuss with you the possibility of a variation of the bail conditions to allow for contact subject to there being no mention or discussion, directly or otherwise of any of the ongoing enquiries / investigations.

If you want to contact me during the week-end please feel free to phone me on 57483000.

Yours sincerely,

Charles Gomez.

Charles Gomez & Co

PO Box 659
5 Secretary's Lane,
Gibraltar
200 74998
info@gomezco.gi
www.charlesgomez.gi

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this email in error, please inform us immediately and return to this email and any copies to us. Please also delete the said email permanently from your systems.

<hutchison_scanned_statement.docx>

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 05 March 2017 18:58
To: SMT

Sir,
Please see below my attempt to edit the letter to CBF.

"Dear Mike

I am very disappointed by your email of Saturday which, in my view, simply further exacerbates matters and betrays a deep misunderstanding of the gravity of the situation facing those three of your officers who are presently under arrest and others who may become persons of interest as the investigation unfolds.

The offence of perverting the course of justice is a very serious one - the issues that have arisen in this case are not child's play or a matter for simple inter-agency negotiation. The very difficult situation that has manifested itself has arisen from a complete misunderstanding of the law by your officers and those who were purporting to instruct, command or advise them and you.

From reading your email, it would appear that this failure to understand the law applicable in Gibraltar has not yet been corrected in your mind. I will therefore set out the position as clearly for you as our AG has been required to do with the senior lawyers at the MOD who, I understand from Mr Llamas, fully appreciated the position. It is therefore surprising that the law still appears to be unclear for you.

ONLY the Royal Gibraltar Police has jurisdiction and primacy at present in Gibraltar in respect of crimes committed in Gibraltar. The Gibraltar Defence Police has a jurisdiction created by statute which is not relevant to this matter and HM Customs has concurrent jurisdiction with us in respect of matters related to their responsibilities. There is no military unit that enjoys any jurisdiction on criminal matters whatsoever within Gibraltar and this includes cases such as the one with which we are dealing. Perhaps it would be best that you liaised directly with those from the MOD who I understand are Andy Halliwell and/or Isabel Letwin in respect of this as their position seemed to be clear and entirely in keeping with the understanding of HM Attorney General for Gibraltar.

I do also understand that at the recent meeting in London what has been agreed between the Chief Minister and the AG and the MOD in the UK is to continue the work that was being done to create an MOU and legislation which will in some ways carve out jurisdiction in future cases based on the Armed Forces Act 2006, but with caveats appropriate to the circumstances of Gibraltar. I am informed that this will be achieved before the summer.

I feel the need to set this out because it is no concession by you or indeed the MOD that we will "retain" jurisdiction over the RAF SP as you allude to in your email. We are the only agency in Gibraltar that has ANY [criminal] jurisdiction over him. Obviously, the RAF SP in question will have to consider his options with his legal advisers after he has been dealt with by us in terms of any pending matter with the UK authorities. Equally, he may also have scope for potential legal action against the MOD for the *ultra vires* activity he was subjected to here in Gibraltar by the MOD and JPSU in particular.

In the circumstances, your three officers who have been arrested are subject of a very serious investigation which may or may not end up with charges being preferred against them - obviously this will be determined once the investigation is concluded as is the norm in all criminal investigation my organisation undertakes. A long bail is required for now as we assess the information at our disposal and the investigating team trawls through the copious amounts of documentation and other material seized. I can tell you that so far all of it points clearly towards the RGP - which is the only law enforcement agency with jurisdiction for the reasons I have outlined above - having been lied to and having been obstructed in the course of our lawful discharge of our duties. The clear evidence also seems to suggest that, in a conspiracy amongst themselves and, potentially, others, the three military officers in question have attempted to pervert the course of justice. As a result of the seriousness of this offence and the evidence which suggests that it is likely that all the relevant

ingredients are made out, a long bail has been necessary.

Should the three in question provide statements that satisfy my officers that the offences are not made out or, alternatively, should they accept the facts and express genuine contrition in respect of the facts, a decision may be reached which does not require any prosecution or further action. The timing of that is not something that we can be asked to commit to in any way which might compromise our investigation and I am surprised that a senior officer like you should have written seeking to pressure us to reach a decision in a defined time. That is not helpful at all. You should also be clear that I am not likely, in the circumstances, to reach a conclusion that there is no evidence to support the charges of obstruction or attempting to pervert the course of justice. Indeed, quite the opposite is true and the fact is that others might actually fall too be included in further charges as further evidence as to the conspiracy that ensued is uncovered.

I am quite fazed and quite frankly do not understand how you could have already reached the contrary conclusion from anything that I have said when the investigation has not been completed. Let me be clear enough so that any misunderstanding will be impossible; the evidence would appear to be conclusive that your officers HAVE obstructed and HAVE attempted to pervert the course of justice.

The only way in which we may consider not charging (and this is subject to further consideration of the evidence and of the relevant law) is if we are satisfied that there is a GENUINE acceptance of guilt by the individuals in question, of the gravity of the situation and an unequivocal expression of remorse and apology. That can affect my police powers [of discretion] in making the decision of whether or not to charge an offender.

In addition you should note that the any expression of contrition which is couched in language which is equivocal, that is to say, which relies on an insistence that the law reflects anything other than absolute jurisdiction to the RGP, would not be satisfactory as it would not amount to genuine regret or remorse.

You should by now appreciate that the chronology set out in your email is entirely wrong and untenable as it is is based on the unacceptable notion of a decision being made by us not to prosecute actually happening BEFORE an acceptance of guilt and an expression of genuine and unequivocal remorse is made by the MOD officers in question. That is not going to happen.

For now, I am able to confirm that we will not be carrying out any forensic interrogation of the computers taken in the execution of the search warrants. We have no alternative but to reserve our rights in respect of this material which has been lawfully seized but which we will be able to return without having had to carry out any further investigations into them if matters can be resolved without the need to charge. Your email, however, does not fill me with hope in that respect.

As far as the Provost Marshall’s note book is concerned, this will be perused for any evidence pertinent to our investigation and once it is determined that the contents hold no bearing it will be retuned so that the MOD’s enquiry can also progress. Alternatively, I can arrange for photocopies to be made of the pages of the PM's book pertinent to the MOD enquiry so that he can continue with this enquiry.

In sum, you will see that my understanding of the legal and factual position is regrettably very different to yours. I am comforted by the fact the understanding I have set out above accords to that of the AG, who attended the relevant meetings with MOD legal advisers and, more importantly, with the Chief Minister and the UK's Minister for Europe, Rt Hon Sir Alan Duncan MP.

Signed CoP"

Sent from my iPad

5th Affidavit

Ian McGrail

Date: 3rd August 2023

Exhibit 38

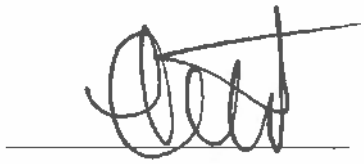
INQUIRY INTO THE RETIREMENT OF

THE FORMER COMMISSIONER OF POLICE

EXHIBIT IM/38

TO THE FIFTH AFFIDAVIT OF IAN McGRAIL

BEFORE ME



A Commissioner for Oaths

Leanne Turnbull LL.B. (Hons)
Commissioner for Oaths
6b Cathedral Square
Gibraltar

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

Daniel Benyunes

From: (MIN) Picardo, Fabian
Sent: 08 February 2017 20:57
To: (RGP) Yome, Edward L (CPM); (RGP) McGrail, Ian M.Sc (OTM); (RGP) Ullger, Richard; (RGP) Yeats, Cathal; (MIN) Costa, Neil; (GLO) Llamas QC, Michael
Subject: Today

Gents

I just want to say as a Gibraltarian, how proud I am of the work you have properly done today. Asserting our jurisdiction properly and reasonably, for all the right reasons and within the law, is what future generations would have expected us to do. It is a pity the MoD have not been more elegant in the way they approached this. We have taught them a number of lessons today. You have done Gibraltar proud.

There are a number of obvious questions arising as to how some people behaved today; whether people lied to you or were lied to themselves is going to be a relevant question in coming days. We must not exacerbate matters but we cannot allow people to get away with having misled the RGP or having obstructed you. The law is the law for all of us, and an armed forced uniform does not suspend application of the law to an individual, of whatever rank. That is what the UK taught us and we are not going to allow them to talk us out of it when it applies to some. But those are issues for tomorrow.

You have enjoyed my full support today at every stage of the way. Excellence work. Please pass my sentiments, if not my email, to those who have been on the front line today.

With best wishes

Fabian

Sent from my BlackBerry — the most secure mobile device

Fabian Picardo QC MP
Chief Minister

Office of the Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

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Office of the Chief Minister

HM Government of Gibraltar

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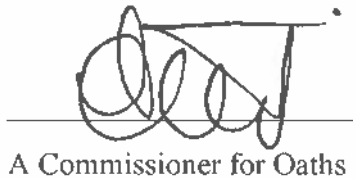
5th Affidavit
Ian McGrail
Date: 3rd August 2023
Exhibit 39

INQUIRY INTO THE RETIREMENT OF

THE FORMER COMMISSIONER OF POLICE

EXHIBIT IM/39
TO THE FIFTH AFFIDAVIT OF IAN McGRAIL

BEFORE ME



A Commissioner for Oaths

Leanne Turnbull LL.B. (Hons)
Commissioner for Oaths
6b Cathedral Square
Gibraltar

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

From: (RGP) Yome, Edward L (CPM)
Sent: 03 March 2017 22:59
To: SMT
Subject: Fwd: Armed Forces Act 2006

Gents

FYI

Cop

Sent from my iPhone

Begin forwarded message:

> **From:** "(MIN) Picardo, Fabian" <fabian.picardo@gibraltar.gov.gi>
> **Date:** 3 March 2017 at 22:36:28 CET
> **To:** "(RGP) Yome, Edward L (CPM)" <Edward.Yome@royalgib.police.gi>, "(GLO) Llamas QC, Michael" <michael.llamas_QC@gibraltar.gov.gi>
> **Subject: Re: Armed Forces Act 2006**
>
> Eddie / Michael
>
> I have now read this and Michael's response.
>
> My impression and clear understanding is that MoD have now fully understood the position and the nonsense and bravado being displayed by fools such as those you refer to below in fact illustrates why and how we have found ourselves in this unnecessarily unpleasant situation.
>
> If it requires another turn of the screw, which I will not hesitate to support you in, it will once again have been brought about by those who fail to recognise the need to show proper and genuine contrition and respect for the RGP and for our Constitution.
>
> Failing to respect our Constitution is not to fail to respect just Gibraltar, it is to fail to respect the UK Parliament and the same Monarch that these clowns in uniform have sworn an oath to.
>
> Let's face to face on Monday (unless you want to do so earlier, Eddie) and agree a way forward.
>
> I can tell you that Minister for Europe and Governor would not be impressed at all if I shared this with them (which I will not do).

I can also tell you that Gibraltar will not be home for the people in question for long and we won't be blocking the tarmac for a moment to delay the plane when the time soon comes for them to wave goodbye to the best place these idiots have ever had the good fortune to live in their petty lives. Good riddance. And goodbye won't come soon enough.

I can tell you one thing Eddie: Gibraltar, it's Chief Minister, it's Government and it's people are proud of their police and the SMT, Commissioner and their Attorney General. The UK as a whole, conversely, has been embarrassed by its senior ranks on the Rock, as can be seen by the reports in the newspapers of the actions taken here.

I would rather be in your shoes than theirs.

Best wishes,

Fabian

Sent from my BlackBerry — the most secure mobile device

From: Edward.Yome@royalgib.police.gi
Sent: 3 March 2017 2:53 p.m.
To: michael.llamas_QC@gibraltar.gov.gi
Cc: fabian.picardo@gibraltar.gov.gi
Subject: RE: Armed Forces Act 2006

Michael

Hi good afternoon.

First of all I wanted to thank you for the support that you and your staff have given us throughout this unsavoury situation. I don't find any satisfaction for having arrested 3 Top Senior Military Officials. I'm afraid that we are not out of the woods yet for the reason that I will explain now, but I believe it can be easily resolved.

From our recent conversations with the Chief Minister and indeed yourself, it is evident that Gibraltar (I will not say the RGP) has been vindicated in the way we have reacted to this.

I would now ask that we receive official notification in writing of the robust legal position both in the Jurisdiction and of the Primacy of the RGP in the whole of Gibraltar.

This should be disseminated to all concerned including the MOD here in Gibraltar.

We have heard from close Gibraltarian sources (who are in CBF's Command Briefings and must be treated in the strictest of confidence) that this position has not been promulgated to MOD personnel. On the contrary they are behaving with a very bravado attitude still claiming that they have jurisdiction and that the Naval Provost will have full jurisdiction on MOD land.

The attitude stems from the top when it is said that CBF entered the meeting and jokingly said, and I quote, 'Any Police Here' sticking his head through the door and then went onto 'chuckle, chuckle'.

All this is getting back to our officers and tells me that they have not taken the seriousness of the matter in the way they should as a professional body they claim to be.

At the very least in my organisation these officers who have been arrested would have been either Interdicted or Suspended until the matter is resolved. I would have accepted if they had been relieved of their current roles so that business can continue I am informed that as an example COS is still in his office chairing his daily meetings and is business as usual.

For your information, I have instructed that these three individuals are Not to be allowed into New Mole House to any meetings and my officers will Not attend any meetings where any of these three are participating.

I have concerns that my officers will come to a confrontation because such demeanour and attitudes.

To say that I am very disappointed is an understatement and I will not confront CBF on it Now because I will give away the trust that our Gibraltarian colleagues have shown in calling us up.

I trust that this makes sense and by disseminating the outcome of the meetings in London and which have been accepted by their top MOD Legal representatives, will hopefully put them in their place.

This attitude goes against what we are trying to achieve in resolving this particular issue and our future with British Forces Gibraltar.

Kind regards

Eddie

From: (GLO) Llamas QC, Michael [mailto:michael.llamas_QC@gibraltar.gov.gi]
Sent: 01 March 2017 15:06
To: (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi>
Subject: Re: Armed Forces Act 2006

Thanks for letting me know Eddie. Michael

Sent from my iPhone

On 1 Mar 2017, at 14:02, (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi> wrote:

> Michael
>
> As we speak Chief of Staff, Col Green has been arrested as is the Station Commander Squadron Leader Hutchinson. We are waiting for the Provost Marshall Collins to land on the BA flight and he will also be duly arrested. We have executed search warrants at various offices and computers, devices and docs have been seized.
>
> Regards
>
> Eddie
>
> **From:** (GLO) Llamas QC, Michael [mailto:michael.llamas_QC@gibraltar.gov.gi]
> **Sent:** 01 March 2017 14:53
> **To:** (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi>
> **Cc:** (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
> **Subject:** FW: Armed Forces Act 2006
>
> Eddie,
>
> Please find attached Lord Pannick's Final Opinion. The only difference with last night's Opinion is the addition of the final para (v), which is very helpful.
>
> Please discard last night's draft.
>
> Best wishes,
>
> Michael

Michael Llamas QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range

Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas_QC@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

HM Government of Gibraltar

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Fabian Picardo QC MP
Chief Minister

Office of the Chief Minister
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No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20070071
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Office of the Chief Minister

HM Government of Gibraltar

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5th Affidavit
Ian McGrail
Date: 3rd August 2023
Exhibit 40

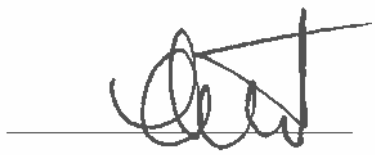
INQUIRY INTO THE RETIREMENT OF

THE FORMER COMMISSIONER OF POLICE

EXHIBIT IM/40

TO THE FIFTH AFFIDAVIT OF IAN McGRAIL

BEFORE ME



A Commissioner for Oaths

Leanne Turnbull LL.B. (Hons)
Commissioner for Oaths
6b Cathedral Square
Gibraltar

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

From: (RGP) Yome, Edward L (CPM)
Sent: 05 March 2017 20:32
To: CBF
Cc: Nick Pyle; JFC-COS (Radakin, Tony R Adm); JFC-JCOS-DepHd (Chaudhry, Arfan B1); Ed Davis; S Argyle Command Sec; Fabian (MIN) Picardo; Michael (EUID) Llamas QC; SMT
Subject: Re: Investigations

Dear
Commander British Forces

I am very disappointed by your email of Saturday which, in my view, simply further exacerbates matters and betrays a deep misunderstanding of the gravity of the situation facing those three of your officers who are presently under arrest and others who may become persons of interest as the investigation unfolds.

The offence of perverting the course of justice is a very serious one - the issues that have arisen in this case are not child's play or a matter for simple inter-agency negotiation. The very difficult situation that has manifested itself has arisen from a complete misunderstanding of the law by your officers and those who were purporting to instruct, command or advise them and you.

From reading your email, it would appear that this failure to understand the law applicable in Gibraltar has not yet been corrected in your mind. I will therefore set out the position as clearly for you as our AG has been required to do with the senior lawyers at the MOD who, I understand from Mr Llamas, fully appreciated the position and agreed with it. It is therefore surprising that the law still appears to be unclear for you.

ONLY the Royal Gibraltar Police has jurisdiction and primacy at present in Gibraltar in respect of crimes committed in Gibraltar. The Gibraltar Defence Police has a jurisdiction created by statute which is not relevant to this matter and HM Customs has concurrent jurisdiction with us in respect of matters related to their responsibilities. There is no military unit that enjoys any jurisdiction on criminal matters whatsoever within Gibraltar and this includes cases such as the one with which we are dealing. Perhaps it would be best that you liaised directly with those from the MOD who I understand are Andy Halliwell and/or Isabel Letwin in respect of this as their position seemed to be clear and entirely in keeping with the understanding of HM Attorney General for Gibraltar.

I do also understand that at the recent meeting in London what has been agreed between the Chief Minister and the AG and the MOD in the UK is to continue the work that was being done to create an MOU and legislation which will in some ways carve out jurisdiction in future cases based on the Armed Forces Act 2006, but with caveats appropriate to the circumstances of Gibraltar. I am informed that this will be achieved before the summer.

I feel the need to set this out because it is no concession by you or indeed the MOD that we

will "retain" jurisdiction over the RAF SP as you allude to in your email. We are the only agency in Gibraltar that has ANY [criminal] jurisdiction over him. Obviously, the RAF SP in question will have to consider his options with his legal advisers after he has been dealt with by us in terms of any pending matter with the UK authorities. Equally, he may also have scope for potential legal action against the MOD for the *ultra vires* activity he was subjected to here in Gibraltar by the MOD and JPSU in particular.

In the circumstances, your three officers who have been arrested are subject of a very serious investigation which may or may not end up with charges being-proffered against them - obviously this will be determined once the investigation is concluded as is the norm in all criminal investigation my organisation undertakes. A long bail is required for now as we assess the information at our disposal and the investigating team trawls through the copious amounts of documentation and other material seized. I can tell you that so far all of it points clearly towards the RGP - which is the only law enforcement agency with jurisdiction for the reasons I have outlined above - having been lied to and having been obstructed in the course of our lawful discharge of our duties. The clear evidence also seems to suggest that, in a conspiracy amongst themselves and, potentially, others, the three military officers in question have attempted to pervert the course of justice. As a result of the seriousness of this offence and the evidence which suggests that it is likely that all the relevant ingredients are made out, a long bail has been necessary.

Should the three in question provide statements that satisfy my officers that the offences are not made out or, alternatively, should they accept the facts and express genuine contrition in respect of the facts, a decision may be reached which does not require any prosecution or further action. The timing of that is not something that we can be asked to commit to in any way which might compromise our investigation and I am surprised that a senior officer like you should have written seeking to pressure us to reach a decision in a defined time. That is not helpful at all. You should also be clear that I am not likely, in the circumstances, to reach a conclusion that there is no evidence to support the charges of obstruction or attempting to pervert the course of justice. Indeed, quite the opposite is true and the fact is that others might actually fall to be included in further charges as further evidence as to the conspiracy that ensued is uncovered.

I am quite fazed and quite frankly do not understand how you could have already reached the contrary conclusion from anything that I have said when the investigation has not been completed. Let me be clear enough so that any misunderstanding will be impossible; the evidence would appear to be conclusive that your officers HAVE obstructed and HAVE attempted to pervert the course of justice.

The only way in which we may consider not charging (and this is subject to further consideration of the evidence and of the relevant law) is if we are satisfied that there is a GENUINE acceptance of guilt by the individuals in question,recognition of the gravity of the situation and an unequivocal expression of remorse and apology. That can affect my police powers [of discretion] in making the decision of whether or not to charge an offender.

In addition you should note that any expression of contrition which is couched in language which is equivocal, that is to say, which relies on an insistence that the law reflects anything other than absolute jurisdiction to the RGP, would not be satisfactory as it would not amount

to genuine regret or remorse.

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In sum, you will see that my understanding of the legal and factual position is regrettably very different to yours. I am comforted by the fact the understanding I have set out above accords to that of the AG, who attended the relevant meetings with MOD legal advisers and, more importantly, with the Chief Minister and the UK's Minister for Europe, Rt Hon Sir Alan Duncan MP

Regards
Eddie
Commissioner

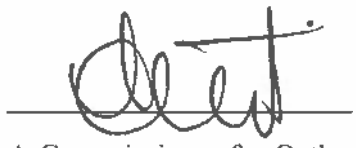
5th Affidavit
Ian McGrail
Date: 3rd August 2023
Exhibit 40A

INQUIRY INTO THE RETIREMENT OF

THE FORMER COMMISSIONER OF POLICE

EXHIBIT IM/40A
TO THE FIFTH AFFIDAVIT OF IAN McGRAIL

BEFORE ME



A Commissioner for Oaths

Leanne Turnbull LL.B. (Hons)
Commissioner for Oaths
6b Cathedral Square
Gibraltar

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

HM Government of Gibraltar

GSD COMMENT ILL INFORMED. INAPPROPRIATE & WRONG - 687/2022

SEPTEMBER 21, 2022

His Majesty's Government of Gibraltar is surprised that the GSD considers it appropriate to comment on a matter which is the subject of a live Statutory Inquiry by a senior retired High Court Judge from the United Kingdom.

The Government considers that all aspects of the independence of policing have been respected and enhanced in its term of office to date and that the findings of the inquiry will vindicate the actions of the then Governor, Chief Minister, Attorney General and other officers whose actions are called into question.

Indeed, the GSD's statement in respect of alleged interference appears to have been made without knowledge that the meeting they refer to was **AFTER** and **NOT BEFORE** the execution of the relevant search warrant and therefore **DID NOT AND COULD NOT LOGICALLY** have been an interference with the execution of it.

It had already happened by the time the meeting in question took place.

The Government will not comment further at this stage in response to GSD's ill informed statement beyond the statement delivered for the Government parties by Sir Peter Caruana KC KCMG, out of respect for the Commissioner of the Inquiry and the job that he has been appointed to do.

The Government would call for others, in particular the elected Opposition, to show the same respect for the Inquiry and not give a running commentary on untested and unproven submissions made by parties represented before the Inquiry.

Finally, the GSD may wish to recall that it is the Government itself that has called this Inquiry. The Government, the then Governor, the Chief Minister, the Attorney General and other officers have absolutely nothing to hide and look forward to all pertinent facts being considered by the Inquiry.

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INQUIRY INTO THE RETIREMENT OF

THE FORMER COMMISSIONER OF POLICE

EXHIBIT IM/41

TO THE FIFTH AFFIDAVIT OF IAN McGRAIL

BEFORE ME



A Commissioner for Oaths

Leanne Turnbull LL.B. (Hons)
Commissioner for Oaths
6b Cathedral Square
Gibraltar

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

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Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

26th October 2018

Our Ref: IM055

See distribution below,

MULTI-AGENCY FINANCIAL INVESTIGATION TASK FORCE

The Economic Crime Unit of the Royal Gibraltar Police are in the process of a complex money laundering investigation involving organized criminality of a cross-border nature, and we suspect, encompassing several other nations, which would impinge on many of our respective competences and potentially prove to be extremely damaging to the reputation of Gibraltar as a jurisdiction.

We now have sufficient evidence to justify prompt executive action but lack depth in resources and skill sets to sustain what would be an elaborate and lengthy investigation of this sort, with countless ramifications in the entire financial fabric of the community.

It is therefore my proposal to set up a multi-disciplinary combined taskforce consisting of personnel from Gibraltar's law enforcement community, Office of the Criminal Prosecution and Litigation, Income Tax, Gibraltar Financial Services Commission, Treasury Department accountants, and high-tech crime experts to plough through all the evidence and ensure that the follow-up investigation processes can be carried out in a diligent and timely manner.

Although this may appear as a grim scenario, it is my belief that we can turn this round into an opportunity to show the rest of Europe and the world that Gibraltar can respond with efficient and authoritative countermeasures to the threat of organized crime, and muster capability to mobilize sufficient resources to take decisive action to combat money laundering. It is already recognized good practice that a multi-disciplinary task force reaps better results and is regarded as a powerful tool in situations such as this.

It will also give us the opportunity to send a signal to would be rogues operating in the fields of finance, that Gibraltar is a tough jurisdiction that acts in a steadfast manner in the detection and suppression of criminal activity.

Such a taskforce would also confirm our disposition for law enforcement cooperation, one of the key areas of the Brexit deal for Gibraltar, and also underscore our determination to protect the Rock's hard earned reputation, casting us in a positive light ahead of the Moneyval inspection scheduled for next year.

I would like to invite you to meet and discuss the above in finer details and instruct our PAs to coordinate a meeting.

In concluding, I await with anticipation to receive your support.

Ian McGrail *OTM MSc*
Commissioner of Police

Distribution to:

HM Attorney General, Michael Llamas QC
GFSC, Samantha Barrass
Financial Secretary, Albert Mena
Collector of Customs, John Rodriguez
Commissioner of Income Tax, John Lester

cc: The Hon Chief Minister Fabian Picardo MP QC
The Hon Neil Costa MP
The Hon Albert Isola MP

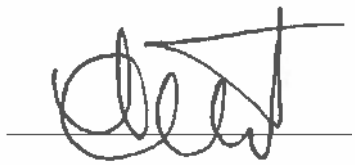
5th Affidavit
Ian McGrail
Date: 3rd August 2023
Exhibit 42

INQUIRY INTO THE RETIREMENT OF

THE FORMER COMMISSIONER OF POLICE

EXHIBIT IM/42
TO THE FIFTH AFFIDAVIT OF IAN McGRAIL

BEFORE ME



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Our Ref: IM148

5th February 2020

Dr J. Britto
Chairperson
Gibraltar Police Authority
25B Casemates Square
Gibraltar

Dear Chairman,

RE – GIBRALTAR POLICE FEDERATION

In light of recent developments and particularly the involvement of the trade unions regarding our ongoing difficulties with the Chair and Secretary of the Gibraltar Police Federation, I feel it is imperative that I set out the official position of the Royal Gibraltar Police, and the reasoning behind it.

The Commissioner of Police and the command team recognise the importance and value of the RGP having a body like the Gibraltar Police Federation to represent the interests of members and address issues concerning officers' pay, allowances, hours of duty, annual leave, working conditions and other conditions of service. We are keen for the Federation to pursue a policing environment where officers can speak and raise concerns through an open and accountable system that demonstrates fairness, by means of a transparent conduct which is independent of other union organisations.

To provide some historical context, police officers have been banned from striking in UK since 1919 and do not have the same employment prerogatives enjoyed by other workers because of the nature of the work we do on behalf of the public. Following a spate of strikes in London and Liverpool when constables and sergeants refused to go on duty, it was the then Prime Minister Lloyd George who established the Federation, not as a union but as a statutory grouping with responsibility to represent its members in matters affecting their welfare and efficiency.

It is clearly stated in the 2014 Normington Report, an independent review into the workings of the Police Federation of England and Wales commissioned by the latter, that its members remain under the discipline of and answerable to their respective Chief Constables. Page 27 of the report states: *"(Federation) Representatives are employees of their local force and subject to force discipline. They can be subject to IPCC investigations and indeed to criminal prosecution."*

In terms of the local context, to remove some of the elected Federation members from the RGPs discipline structure, would endanger the operational independence of the police and risk giving life to all issues for which police officers are prevented from taking industrial action. A GPF board of eight serving officers, where two are temporarily removed from discipline leads to an inequality of how justice would be served and seen to be served. The board could decide to embark on a course of action which could place six of them within reach of a disciplinary process and two without, meaning six would be liable for conduct amounting to an offence in law and the other two would be impervious to legal process.

This raises numerous concerns:

1. Different disciplinary mechanisms and to different standards for essentially the same behaviour.
2. Conduct or behaviour contrary to discipline and incompatible with the office of constables, could occur during the 'disciplinary hiatus' which could undermine the ability to continue to exercise the office of constable on returning to operational duties.
3. A situation could occur where support could be sought from organisations such as trade unions which are able to strike, bringing indirect pressure on the Office of Commissioner, therefore undermining operational independence etc.
4. The situation in point 3 is precisely why there is a statutory provision in the Police Act requiring the Federation to be independent from any similar body without specific authority, and preventing officers from trade union membership. S52 and S55 of the Act.

Furthermore the intent of Section 79 of the Police Act, is that it is the Commissioner who retains responsibility for matters of discipline.

Since the Gibraltar Police Federation was created with the introduction of the Police Federation Regulations 2018, its Chairman and Secretary have erroneously interpreted the nature of the GPF, claiming that they are a completely independent institution which does not come under the control of the Commissioner of Police. There are no legal provisions to support this stance with the contrary actually being the case as stated in s 52(1) of the Police Act 2006; ***"……the Police Federation shall be entirely independent of and unassociated with any body or person outside the Force."*** Furthermore, Reg5(3) of the Police Federation Regulations 2018 states that ***"the chairman and secretary of the Board shall be full time convenors of the Federation and shall continue to have and enjoy all the rights, powers, authorities, privileges and immunities of a constable."***

This means that these two post holders remain warranted officers of the RGP – first and foremost they are police officers, and their second function is to represent members of the GPF. All police officers have to abide by the code of ethics & values, and Discipline Code including the two mentioned posts.

Section 5 (1) of the Police Federation 2018 Regulations, further reinforces that the Chairman and Secretary of the Federation remain as police officers during their tenure.

The correlation drawn by the trade unions describing the GPF conveners as engaged in "activism," is incompatible in terms of law enforcement or the traditional British model of policing and its principles which the RGP has applied for the past 190 years.

We would like to reiterate that it is desirable that a good and productive relationship exists with the GPF towards the realisation of common objectives including the Command Team are seriously and genuinely concerned at the unfolding situation, and how this can gather further momentum in a direction

which can potentially change established principles underpinning Gibraltar's policing model. Changes which could totally compromise the RGPs operational independence.

Notwithstanding, I remain willing to hold discussions with the Gibraltar Police Authority to clarify key areas concerning the Federation.

1. The GPF's status of perceived independence
2. The terms of reference/facility arrangements for convenors
3. Their respective position with regard to the office of constable.

I remain hopeful that this whole saga will be resolved in accordance with the principles expounded in this letter.

Yours,

Ian McGrail OTM MSc
Commissioner of Police

Copy to: HE The Governor
Chief Minister
Minister of Justice

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Ian McGrail OTM MSc
Commissioner of Police
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Our Ref:- IM150

7th February 2020

Dr J. Britto
Chairperson
Gibraltar Police Authority
25B Casemates Square
Gibraltar

Dear Mr Chairman,

RE- Gibraltar Police Federation

I refer to my letter of the 5th February concerning the above captioned and our subsequent discussions with the GPA members.

Firstly, I would like thank you for allowing me the opportunity to answer and/or address any issues the GPA had on the subject matter. Secondly, it is important that I clarify the intention of the letter was certainly not to suggest a curtailment of the prerogative of HMGOG to create new legislation or amend existing ones on matters of the Gibraltar Police Federation (GPF) but rather to inform you of concerns if indeed any changes were being contemplated as intimated in the letter.

As discussed at yesterday's meeting with the GPA, I propose a course of action which will hopefully draw the line under the past two years of what has been a difficult working relationship between the GPF and RGP senior management – all borne out from conflicting standpoints. I am strongly of the opinion that an independent review of the functions of the GPF and their relationship with the RGP is an appropriate vehicle to address the issues concerned. I am glad that the GPA support this approach as indeed HE the Governor and the Chief Minister.

I will be meeting with the full GPF Board to advise them of these intentions and hopefully enlist their support. I would ask that we meet at a mutually convenient time/date for the GPA, GPF and RGP to discuss the terms of reference for this review and intricacies of who is best placed to conduct it. My first thoughts are that the review team should be subject matter experts in policing, preferably serving officers (a Police Federation of England & Wales chairperson of a UK police force and an officer of chief officer rank, ACC or above, who is well acquainted with federation/management matters, protocols, arrangements etc). I mention these two categories of personalities because they will no doubt have mediatory abilities to assist

us all in this journey. To keep the review impartial I further recommend that these individuals should not have had any previous relationship with either RGP senior management or GPF Board members and a declaration should be made to this effect.

I look forward to this process commencing the sooner the better.

Yours,

Ian McGrail OTM MSc
Commissioner of Police

Copy to: HE The Governor
Chief Minister
Minister for Justice

Royal Gibraltar POLICE
• Emergency Tel: 199 • General Enquiries Tel: (+350) 20072500 •
• Email: pacompol@royalgib.police.gi • Website: www.police.gi •
• Facebook: royalgibpolice • Twitter: @rgpolice •

In the Matter of the Commissions of Inquiry Act

and

In the Matter of an Inquiry into the retirement of the former Commissioner of Police convened by a Commission issued by HM Government of Gibraltar on the 4th February 2022 in Legal Notice No 34 of 2022 ("the Inquiry")

EXHIBIT FP1

This is the exhibit marked **"FP1"** referred to in the Affidavit of Fabian Picardo QC MP sworn this 26th day of May 2022.

Before me,

Callum Smith
Commissioner of Oaths

Commissioner for Oaths

Gibraltar Parliament

2 December, 2019

The Hon F R Picardo QC MP
Leader of the House
The Gibraltar Parliament
156 Main Street
Gibraltar

Dear Fabian

RE: DECLARATION OF MEMBERS' INTERESTS

Thank you for your letter on the above.

I can confirm that your submission complies with the notes and the report of Select Committee on the Declaration of Members' of 27th June 1979 that had been previously provided to you.

Should there be any change in your interests, I would be grateful if you could notify me of them.

With best wishes
Yours sincerely

P.E. Martinez
Registrar of Members' Interest

Gibraltar Parliament

Paul Martinez
The Gibraltar Parliament
Parliament House
156 Main Street
Gibraltar

November 2019

BY HAND

Dear Paul

Declaration of Members' Registerable Interests

Please find attached my Declaration of Registerable Interests. I apologise for the fact that the pressure of work has not allowed me to provide you with this sooner.

I trust that you will find that the form has been properly filled in . I have been guided by the notes of Mr Paul Garbarino which I have previously been provided with. These were of the 20th October 1980 and a copy of the report of the Select Committee on the Declaration of Members' Interests of 27th June 1979. I have also ben guided by the UK Code of Conduct for Members of Parliament which was adopted by the House of Commons by resolution on 19th July 1995 (as recommended by the report of the Nolan Committee on Standards in Public Life).

I would be grateful if you would indicate if I now need to do anything further I relation to this declaration.

With best wishes, as ever,
Yours sincerely

Fabian Picardo
Leader of the House

Encl.

REGISTER OF INTERESTS

NOTES:

i. For details of the information which is required to be registered, please see the Report of the Select Committee on the Declaration of Members' Interests.

ii. If there is not enough space in this form for the information needed, other papers can be attached to it; but each paper should carry the Member's signature.

NAME: **FABIAN PICARDO**

Registrable Interest:

*1. Remunerated directorship of companies, public or private.

Details:

Guildtown (International) Ltd

Leiro Ltd

Registrable Interest:

*2. Remunerated employments or offices.

Details:

An interest together with a number of other persons in a trust owing various companies in the Line Group and associated corporations and related entities. Investments arising from the capital in the Hassans legal partnership.

Registrable Interest:

*3. Remunerated trades, professions or vocations.

Details:

None applicable

Registrable Interest:

4. The names of clients when the interests referred to above include personal services by the Member which arise out of or are related in any manner to his membership of the Gibraltar Parliament.

Details:

None applicable

Registrable Interest:

5. Financial sponsorships (a) as a candidate where to the knowledge of the Member the sponsorship in any case exceeds 25 per cent of the candidate's election expenses, or (b) as a Member of the Gibraltar Parliament by any person or organisation, stating whether any such sponsorship includes any payment to the Member or any material benefit or advantage direct or indirect.

Details:

Gibraltar Socialist Labour Party

Registrable Interest:

6. Overseas visits relating to or arising out of membership of the Gibraltar Parliament where the cost of any such visit has not been wholly borne by the Member or by public funds.

Details:

None

Registrable Interest:

7. Any payments or any material benefits or advantages received from or on behalf of foreign Governments, organisations or persons.

Details:

None

Registrable Interest:

8. Land and property of a substantial value or from which a substantial income is derived.

Details:

[redacted] – **home address**

[redacted]

50 % interest i[redacted]

FP1/6

Registrable Interest:

9. The names of companies or other bodies in which the Member to his knowledge has, either himself or with or on behalf of his spouse and infant children, a beneficial interest in shareholdings of a nominal value greater than one-hundredth of the issued share capital.

Details:

Guildtown (International) Ltd

Leiro Ltd

Registrable Interest:

10. Any other interest which you think may affect you in the conduct of your duties as a Member of the Gibraltar Parliament and which you would therefore wish to register.

Details:

None

Date 28.11.19 Signature _____

* In items 1, 2, and 3 remuneration includes taxable expenses, allowances or benefits.

LETTER OF APPLICATION

FP1/8

ROYAL GIBRALTAR POLICE
Detective Superintendent Ian McGrail *OTM M.Sc.*
Crime & Protective Services

Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 20048055, Fax: (350) 20050717
E-mail: ian.mcgrail@royalgib.police.gi

CONFIDENTIAL

1st November 2017

Gibraltar Police Authority
25B Casemates Barracks
Casemates Square
Gibraltar

Dear Sirs,

Re:- Application for appointment as Commissioner of The Royal Gibraltar Police

I refer to your recent invitation to apply for the appointment as Commissioner of the Royal Gibraltar Police (RGP) and would respectfully ask that you accept this letter as my intention to apply for the said appointment.

I feel totally honoured and privileged to be in this position where after over 33 years of public service as a police officer the opportunity arises where I can be considered for the top policing post in Gibraltar. Way back in 1996, when I was competing for promotion to Sergeant, I vividly recall the then Commissioner of Police, the late Joe Canepa QPM, asking where I saw myself in the police service two decades from thereon: I distinctly remember responding bluntly but very focused and saying "right where *you* are sitting Sir.....and serving as Commissioner of Police!". That desire I expressed at that time is still very much alive now, in fact more alive than ever before because of the splendid career I am enjoying and the vacancy arising.

The role of Commissioner of the RGP, a Constitutional appointment, is enshrined in the Police Act 2006 s.33 which explains that the post holder will have overall command, superintendence, direction and control of the Force together with responsibility for the efficient administration and government of the Force including the proper expenditure of public funds used for the provision of policing services. To be able to properly discharge these legal requirements the post holder needs to meet certain criteria; the following list of competences are what I feel are the necessary personal qualities the post holder should possess. I have included some examples as evidence of key personal achievements aligned with the said list of competences to demonstrate my own qualities for your esteemed consideration and evaluation.

1. Serving the public

The Commissioner of the RGP must be an individual who is already well known and respected in the community and not necessarily only known because of his police career; known and respected in other social circles too. He must be engaging and work to serve the public's interests with all the diversity a modern Gibraltarian community presents. The Commissioner must also work to build public confidence in the RGP and work with Government, the GPA and other partners to build on an overall better service to the public.

Personal evidence
My past involvement in the local sporting scene and scouting movement has cemented lifelong relationships outside my professional life. Similarly, my membership of the Royal Gibraltar Regiment which I only recently suspended and the St John's Ambulance Association has expanded my outreach to the community outside the police environment. I have no doubt that this has aided my ability to engage with the public as I have been seen not only as a police officer but also as an inclusive member of wider society.

As a senior police officer and particularly in my incumbent post as commander of the Crime and Protective Service Division I lead a very dedicated team of detectives dealing with a myriad of disciplines in the crime domain. I have on many occasions been the RGP's 'talking head' reporting on matters of concern to the public as well as offering reassurance when this has been necessary.

I sit in multi-agency committees/groups such as (i) the legally constituted Child Protection Committee, (ii) the Strategic Management Board for Sex Offender Management (soon to also incorporate violent offenders) and the Executive Committee of the Gibraltar Contingencies Council (GCC) which is the tier below the GCC proper. I chair the Joint Operating Working Group [Land] which works towards optimising Gibraltar's security posture in the land environment with a view of identifying existing and emerging threats to this posture. I have stimulated multi-agency debate to develop contingency responses for a marauding terrorist attack and designed, co-ordinated and directed both multi-agency table-tops and live exercises to test these responses.

1. Leading strategic change

It is necessary for the Commissioner to have a convincing vision and that this vision is well aligned to the values of the police service and it that provides clear direction. It is not healthy for a police force to remain static in terms of innovation and change. Whilst I am not an advocate of introducing change simply for the sake of it, I equally recognise that the ever shifting landscape requires constant reviews of how policing is conducted and how resources are allocated. Whilst austerity has not [yet] reached Gibraltar, I irrespectively feel it is good management and business practice to always seek to deliver value for money services and save unnecessary public expenditure. My personal vision for the next 5 years is contained in a separate paper and therefore I do not intend to rehearse it in this letter.

Personal evidence
I would refer you to the accompanying vision paper entitled *'Delivering a safer Gibraltar, through excellence in the provision of policing services'.*

For the past 6 years I have been a member of the senior management team which has embedded Commissioner Yome's culture change from a previously micro-managed styled organisation to one that encourages empowerment and inclusion.

During my time as Superintendent in the headquarters and support function and with a view of uplifting our firearms capability, I was able to negotiate with South Wales Police the procurement of (43) firearms making a saving to the RGP of *circa* £75,000. I also prepared a business case to argue with Government for extra funding for armed policing requirements.

I also acted as the RGP's senior point of contact for the construction project of new the Marine Base at Gun Wharf. From planning/design to physical construction, the project required constant liaison with architects, developers, builders etc - the end result being a modern fit for purpose facility which instils a host of positives in terms of working environment and staff morale.

Following a period of consultation with the rank and file over concerns regarding personal safety and comfort of uniforms for the front line officer I embarked on a process of researching and

procuring protective body armour for Force wide issue together with a more comfortable and practical uniform attire. The outcome was well received by the rank and file as indeed the staff association – the workforce now boast stab and ballistic protection vests purpose made for Gibraltar's requirements and climate together with far more practical and comfortable uniform shirts and trousers.

An EU Directive transposed to local legislation placed an extremely administrative cumbersome responsibility on the RGP to do with the provision of case dockets in the native language of the accused person. To overcome this I researched various options and entered in to a contractual arrangement with a translator and interpreter provider in the UK and we now have a 24/7 service to meet all the requirements imposed by law in this regard. Not only does this save significant officer time, the additional enhancement of having translator and interpreter services for most languages spoken in the world is something which in any case would surpass the RGP's or Gibraltar PLC's ability to provide.

Because of the demand and workload carried by certain units currently under my command, I have held consultations with line managers to seek out solutions and have aligned our resources accordingly. This is very evident in the field of Economic Crime where because of new legislations and expectations we have had to restructure the unit to cater for (i) fraud and (ii) money laundering, counter terrorist financing and asset recovery.

I conducted a gap analysis of our existing terrorism laws and provided rationale to Government for their modernisation, a draft of which together with accompanying codes of practice are being considered for enactment. I am also currently engaged with rolling out a programme of capability/capacity uplifting in Counter Terrorism Policing an area which the RGP dearly requires development.

2. Leading the workforce

During my long law enforcement career I have had the privilege of working with and judging different styles of leadership. To a certain extent this experience has allowed for the development of my personal style. Strong leadership is the bedrock of a police service. The Commissioner has to have sufficient character to inspire staff to meet challenges and targets whilst creating an environment of enthusiasm, rewarding good doers and recognising the efforts of staff. Strong leadership is also necessary during challenging/difficult times in order to instil morale. In my view it is important that the Commissioner is visible and connected within the workplace and whilst keeping a strategic outlook, remains sufficiently savvy about the detail and has the ability to dip into it if required.

Personal evidence
A leadership quote which resonates very closely to my thinking is that of the late US General Schwarzkopf, who led a 750,000 strong coalition force to liberate Kuwait when invaded by Iraq in 1991 – the infamous Op Desert Storm. He said, *"Leadership is a potent combination of strategy and character. But if you must be without one, be without the strategy"*. It is sometimes the most simple and overseen actions that can display good leadership. I make it a point of recognising good work by dropping an email to individual officers and when possible I have face to face contact with them, even if these officers are not directly under my command. I have also recommended officers for more formal recognition under the RGP Honours and Awards Policy. Having been a front line officer for most of my career, I know how important it is for senior management to support and be seen to support the front line. To this end and because of the challenges front line officers were facing, I proposed that senior officers made it a point to patrol alongside junior ranks during the most busy periods of the week and this was unanimously accepted and very well received by the staff.

I am the only serving superintendent to have commanded all three divisions in the RGP (Operations – Crime – Support) and can therefore relate to the challenges faced in them together with the different personnel dynamics and leadership traits that have to be applied respectively.

3. Managing performance

A policing vision requires a tactical plan to convert the vision to a reality. The Commissioner should in consultation with his senior team establish a clear strategy with SMART objectives. It is important to navigate through obstacles to performance by removing these obstacles and managing resources to ensure best delivery and value for money. Under-performing officers and the reasons for their poor performance also require attention and intervention in order to redress.

Personal evidence
It is a recognised notion that a happy team reaps better results, so in this regard junior and middle line managers are key to motivating officers – I am a strong promoter of this. In order to better prepare Sergeants and Inspectors as managers/leaders and indeed those constables showing potential as future Sergeants, I organised a series of courses under the auspices of Institute of Leadership and Management which were successfully delivered and completed by 50 officers. The said courses covered personal responsibility in working towards organisational goals – making our managers realise that they are accountable for performance of their teams.

I am a firm believer of turning up for work and putting in an effort for honest day's living and I promulgate this 'philosophy' to my colleagues. Understandingly so, not everyone can produce the same levels of output so I play to the strengths of each individual to extract the best in them.

I am extremely fortunate that Crime and Protective Services Division officers are probably the most self-motivated officers in the organisation and therefore there is very little need for direct intervention on my part. I am, however, very conscious of their welfare as they can become overly engrossed in their tasks to the detriment a reasonable work/life balance. They work in the higher of risk areas and carry the most serious of crime work pulling off great results which significantly contribute to the detection rates published in the annual report.

I have had occasion to address poor performances and lack of commitment to the job, acting to address each instance accordingly with varied levels of success.

4. Professionalism

Honesty, integrity, high values and the best ethical standards depicts the qualities a Commissioner should portray coupled with determination and drive to ensure things get done. Unlike previous eras where it would be unheard of for a Commissioner to acknowledge shortcomings in the service, in my view it is good practice to openly accept any shortcomings and commit to putting them right. During turbulent times, the Commissioner must remain calm and collected when under pressure. He must also take personal responsibility for difficult, contentious or unpopular decisions.

Personal evidence
I have an unblemished discipline record. I was the pioneer in 2001, setting the tone for a wave of senior officers to undertake Higher Education academic studies on police related subjects. In essence, I am of the view that this has enriched the RGP with the setting of higher benchmarks of professionalism and academia to compliment already acquired experience and skill sets.

I encourage the Detective Inspectors in my Division to share their concerns and pressures with me so that [some] of the risk burden is lifted off themselves – this gives them a sense of security whilst I campaign for solutions behind the scenes. They are fully aware that I cannot wave a magic wand and make things happen straight away but they take comfort that senior management have their backs whilst they plough on with criminal case work.

There have been very testing times and situations where the reputation of both the RGP and personal reputation have been at stake. During these times I have always operated with common sense and within the confines of the law, with certainty and conviction and without fear or favour. Similarly, I have managed very sensitive matters keeping operational security in tact.

5. Decision making

The ability to assimilate copious amounts of information and make quick and spontaneous decisions is a competency that a Commissioner must command. There is also a requirement for the decision making process to be justified and rationalised. In assuming responsibility for ultimate decisions, even when these have been made on the back of unclear circumstances, the Commissioner must consider the wider impact and implications that fall out from the decision(s) in question. It is also important that a process is invoked that allows for a review of these critical decisions to ensure that they remain fit for purpose.

Personal evidence
The National Decision Model is the recognised model to follow in the UK police service. The RGP have followed suit and I was the first RGP officer to be exposed to this model in 2011-12 and commence its local application. It is a model that if applied properly can withstand scrutiny at different levels.

I readily accept where my levels of knowledge and experience can take me when it comes to decision making, more so in critical circumstances. Consequently, I have had to rely on advice of more experienced and/or skilled individuals, always retaining the responsibility for the outcome of the decision taken. An example of this was during the recent intervention of a bulk carrier following information disclosed to me by the US Drugs Enforcement Administration that it was laden with a large consignment of Cocaine – the situation warranting an armed intervention to ensure safety of officers.

6. Working with others

The Commissioner must be able to consult and involve others in the decision making process, showing tact, respect and understanding to the views of others. The private sector has a lot to offer in terms of contributions to maintain the jurisdiction safe from crime and enhance security. It is therefore key that the Commissioner is able to work with any sector whose intentions are in the overall interests of Gibraltar's safety, always negotiating effectively, representing the interests of the RGP.

Personal evidence
Cyber dependant and cyber enabled crime is very much under reported in Gibraltar. This phenomenon is not exclusive to Gibraltar and the RGP has a role to raise awareness, reduce and prevent this type of crime from affecting so many victims. In June 2017, the RGP partnered with the private sector to bring to Gibraltar a world class cyber security event. I undertook to be the RGP point of contact with the partnering firm to present this event. 245 delegates from public and private sector attended with the Chief Minister and HE the Governor hailing it as a success and worthwhile project.

The policing of major events requires close co-operation with other essential services, public agencies, organisers and private entities. During my service as Superintendent Operations, I planned and oversaw the execution of the policing arrangements in major events such as the Royal visit of HRH Prince Andrew and the Countess of Wessex, Gibraltar National Week including the Gib Music Festival, National Day rally, general elections, Queen's birthday parades, the 3 Kings Calvacade and Guy Fawkes (when this was renowned for acute anti-social behaviour and violence).

In my present post, I have been assigned responsibility for building relationships with international partners. I have been able to negotiate the reinstatement of the RGP in the very important forum as is the National Counter Terrorism Policing HQ Business Area Meetings where regional UK police chiefs periodically meet with the CT National Co-coordinator, DAC Neil Basu, Assistant Commissioner Mark Rowley who is the most senior CT police officer in UK and SyS and SIS. RGP attendance at this forum had been discontinued over 6 years ago for reasons unknown to me. Closer contact with SO15 Counter Terrorism Command, New Scotland Yard, has also been enhanced. I also keep alive relationships with the USA's FBI and DEA via the US Embassy in Madrid. I am responsible for flourishing Spanish law enforcement relationships and I am very pleased with the progress, particularly with the Servicio Vigilancia Aduanera who on occasions have been rather conflicting and hostile on operations at sea. A very good relationship is also maintained with the Guardia Civil's UC2 responsible for international terrorism as indeed the Cuerpo Nacional de Policia, Comisaria de Informacion in Canillas, their HQ in Madrid. Despite the already known political influences which unfortunately hinders full operational co-operation, I can sincerely state that working with the stated Spanish law enforcement agencies has been very productive. Further work to attempt to formalise these relationships continues with the very kind assistance of the British Embassy in Madrid.

I developed a close working relationship with the police embed in the National Cyber Security Centre (NCSC) and successfully negotiated for the UK's 'Cyber Information Sharing Partnership' to be extended to Gibraltar for the benefit of our business community. I am pleased to report that numerous business entities have already signed up to this initiative and enrolled as members of this platform.

7. Effective communication

As previously alluded to in the 1st of the competencies, the Commissioner has to be visible and ensure that corporate communications are effective both internal and external to organisation. He must be an articulate communicator who is confident is public speaking. Very often, the RGP is fairly criticised in the media – there has to be courage to readily accept this criticism and efforts to put things right. Conversely, it is a known fact that certain media outlets seem to have an unjustified gripe against the Force. With this type of reporting it is my submission that focusing on improving public confidence in the RGP through effective communications and positive actions will by default rebut any adverse media reporting.

Personal evidence
Being one of the trained media officers in the RGP I have had the experience of engagement with all local media outlets, those in the campo region and even some major UK tabloids. I have received letters of appreciation from local media praising my style of communications and my relationship with them during difficult times.

I have formed part of debate panels on live TV programmes such as Viewpoint. Promoting the RGP's good work and particularly in the crime domain, I have given numerous interviews to both radio and TV.

In 2013, I successfully argued for personalisation of social media communications for senior officers and some departments within the Force. In addition to the RGP corporate Twitter account, each senior officer is able to push out information on this very popular social media channel thereby enhancing our contact with the community.

8. Respect for Diversity

The police service is inherently still regarded by many as a male chauvinistic dominated institution. The RGP should aspire for our workforce to be representative, as far as possible, of the make-up

of our community and therefore the Commissioner must show commitment to this aspiration, the outreach of which can be enhanced by ensuring that the RGP respects all sections of society and make them feel included.

Internal culture within the Force has to demonstrate similar vein in terms of fair treatment and respect for all officers and staff in the context of a custom that values diversity and individuality.

Personal evidence
I have formed part of the senior management team that has driven a culture change which has taken the RGP forwards as an organisation with a high ethos of equality and diversity. Perceived barriers to equality are not as blatant as they used to be. As a team we discuss where reasonable adjustments can be made to find ways to help staff members who need particular attention. There is a long way to go and I take this opportunity to express total commitment to continue in this journey in support of equality and diversity both internal and external to the organisation.

In closing this letter in support of my application, I offer the GPA my availability to answer any questions arising or elaborate on any of the points stated above.

Yours faithfully,

[SIGNED ON ORIGINAL]

Ian McGrail *OTM M.Sc.*
Detective Superintendent
Crime & Protective Services Division

CURRICULUM VITAE of
Det/Supt Ian McGrail

FP1/16

Curriculum Vitae

1. PERSONAL DETAILS

SURNAME: **McGrail**	FORNAME: **Ian**
RANK: **Detective Superintendent**	CURRENT POST **Crime & Protective Services**
DATE JOINED SERVICE: **19th October 1984**	DATE PROMOTED: **2012**
DATE OF BIRTH: [redacted]	YEARS OF SERVICE: **33 yrs 1 month**

2. EDUCATION

DATE	INSTITUTION	QUALIFICATION OBTAINED
2007	University of Virginia	Certificate in Criminal Justice Education
2004	University of Leicester Department of Criminology	Master of Science degree in Policing Studies
2003	Cranfield University	Certificate in Contingency Planning
2001	Chartered Management Institute	Certificate in Management
2000	Chartered Management Institute	Certificate in Supervisory Management
1981/82	Secondary School / College of Further Education	5 O-Levels 4 City & Guilds

3. VOCATIONAL QUALIFICATIONS

DATE	INSTITUTION	QUALIFICATION OBTAINED
2013	College of Policing UK	Strategic Command Course
2012	Royal Gibraltar Police	Criminal Procedure & Evidence Act course
2012	Royal Gibraltar Police	Inspectors & Chief Inspectors statutory rights & obligations course
2012	College of Policing UK	Senior Leadership Programme 1 Professional Policing Skills 2 Equality, Diversity & Human Rights
2007	Federal Bureau of Investigation Quantico, USA	1.FBI National Academy Programme 2. Certificate in Conflict & Crisis Management
2006	Lincolnshire Police UK	Police Press Officer
2004	Chartered Institute of Environmental Health UK	Foundation certificate in Health & Safety in the work place
2003	Centrex - Greater Manchester Police UK	Public Order Tactical Advisor
2001	West Yorkshire Police UK	Covert Human Intel Source Handling
1999	National Investigation Service UK HM Customs	Enhanced Surveillance
1998	Cheshire Constabulary UK	Personal Safety Trainer
1995	UK National Policing Training - Metropolitan Police	Public Order Tactical Trainer
1988	Royal Life Saving Society UK	Bronze Medallion

4. SECONDMENTS

DATE	Force	Purpose
2006	Hampshire Constabulary (1 month)	Operational Policing (Public Order/Traffic/CSU)
2009	Greater Manchester Police (2 weeks)	Professional Standards Branch / Training
2013	Her Majesty's Inspectorate of Constabularies	Inspection of the Sovereign Base Areas Police in Cyprus

5. CAREER HISTORY PRÉCIS

DATE	DUTIES
2014 to present	Detective Superintendent - Divisional Commander of the Crime & Protective Services Division responsible for; Special Branch Force Intelligence & Overseas Liaison Economic Crime Unit Drug Squad Criminal Investigation Department Crime Scene Investigation Unit Hi-Tech Crime Unit Sex Offender Management Unit Child Protection Unit
2013 to 2014	Superintendent HQ & Acting Ch Supt – Divisional Commander of the HQ and Support Division responsible for; Training Professional Standards Finance & Administration/Equipment/Property/Estate Corporate Development & Policy Criminal Justice Unit
2012 to 2013	Superintendent Operations – Divisional Commander of the Operations Division responsible for; 24/7 Uniformed Response Policing Neighbourhood Policing Unit Armed Response Unit Marine Section Dog Unit
2010 to 2012	Chief Inspector – Operations & Acting Supt
2008 to 2010	Chief Inspector I/c PSD/Corp Dev/ Training
2007 to 2008	Detective Chief Inspector - Crime Division
2006 to 2007	Chief Inspector - Operations Division
2004 to 2006	Inspector – Operations Division Responsible for the operational management of a response team and also Inspector of the Force's Tactical Firearm's Unit.
2003 to 2004	Sergeant – Corporate Development
1998 to 2003	Detective Sergeant – Drug Squad
1997 to 1998	Sergeant – Operations Division Section Sergeant
1995 to 1997	Detective Constable – Drug Squad
1994 to 1995	Constable – General Police Duties
1988 to 1994	Detective Constable – Criminal Investigation Department
1984 to 1988	Constable – General Police Duties

6. COMMENDATIONS & AWARDS

Date	Issuing authority	Reason
2015	Overseas Territories Medal - HM the Queen	Meritorious Service
2013	2nd Clasp to the Long Service and Good Conduct Medal	30 years of exemplary service
2012	HM the Queen's Diamond Jubilee Medal	Queen's award to serving police/military personnel
2008	RGP Commissioner of Police - Commendation	m/v Fedra rescue operation
2008	1st Clasp to the Long Service and Good Conduct Medal	25 years of exemplary service
2002	Long Service & Good Conduct Medal	18 years of exemplary service
2002	HM Queen's Golden Jubilee Medal	Queen's award to serving police/military personnel
2000	Supreme Court Chief Justice - Commendation	Drugs case Regina v Abudarham
1999	Order of St John Service Medal	10 years of voluntary servcie
1996	US Naval Criminal Investigation Service	Drugs Operation commendation
1995	RGP Commissioner of Police - Commendation	Drugs case Regina v El Selmani
1990	RGP Commissioner of Police - Commendation	Serious sexual assault Regina v Leite

7. OTHER INTERESTS

Cycling	Member of the Gibraltar Cycling Association
Music	Served as a member of the Royal Gibraltar Regiment band as a musician from 2002-2012 achieving the appointment of Drum Major. Recreational bag piper.

8. PREVIOUS EMPLOYMENT(S)

Date	Employer
1982 - 1984	Rock Fire Assurance Ltd (later to merge with Norwich Union) discharging responsibilities as an Insurance and Claims clerk
1983 - 1984	Gibraltar Regiment. Member of the T/A element – Infantry soldier

VISION PAPER

FP1/20

A VISION FOR THE ROYAL GIBRALTAR POLICE 2018-2022

Delivering a safer Gibraltar through Excellence in the provision of Policing Services

D/Supt Ian McGrail

1st November 2017

FP1/21

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"DELIVERING A SAFER GIBRALTAR THROUGH EXCELLENCE IN THE PROVISION OF POLICING SERVICES"

Like with so many aspects of life today, Gibraltar is vastly different from the way it was when the then Gibraltar Police Force was formed 177 years ago. Even in the last 10 years a lot has changed. The trends we see today will have a big impact on the Royal Gibraltar Police (RGP) over the next 5 years and the organisation must respond to them to continue to ensure the jurisdiction remains a safe one.

A strategic analysis of the risks and challenges that the RGP will face in the forthcoming years recognises that our operating environment is changing at quite a pace. Increasing community expectations, population growth, the continued development of Gibraltar as a nation, changes in crime and upholding national security present both challenges and opportunities.

To build on successes of how Gibraltar has been and continues to be the safe place it is for residents to live in, for our visitors and those who venture here to do business, the RGP also needs to move with the times. Any transformation over the next 5 years must involve the way we deliver our services, the way we utilise our officers, how we exploit the use of available technology and very importantly, the way we engage with partners and stakeholders.

This paper sets out my vision for the RGP for the next 5 years – a vision which I truly believe will pave a very positive path for the Force to meet the challenges ahead. The notion behind my vision being that through the provision of excellence in service delivery, Gibraltar will continue to be safe and prosper for existing and future generations. Against the backdrop of my vision I will be alluding to the areas where I view the Force to be strong in, those requiring attention of some sort, the risk areas and challenges/opportunities arising. I will also incorporate key actions to address the main issues, as I see them, which affect the Force

RGP's CORE VALUES

Excellence in policing is not simply acquired off the shelf. Good reputation, good results, continuous organisational improvement and development, wellbeing of the workforce, commitment and a genuine belief in what we stand for are some of the key factors that can drive the Force towards excellence in service delivery. Our organisational Values and Code of Ethics are at the core of the RGP (see Appendix - A). They underpin our policies, procedures and practices and how we interact with the community. There is therefore the need to constantly align all our daily activities to these values. Strong leadership is required to ensure consistency around the Force towards abidance and promulgation of the values with the reasonable expectation that by improving on existing behaviours, professional service delivery in the key areas referred to in this paper will by default be enhanced – the aim being that of optimisation of overall service provision.

STRATEGIC CONTEXT

To support and achieve my vision there are 5 areas of focus the RGP would need to work towards as follows;-

- Effective service delivery – by providing responsive, personal and visible policing services
- Improving community safety – by minimising crime and improving safety
- Working with others – by developing strong partnerships with stakeholders
- People development – by creating a capable, flexible and professional workforce
- Workplace development – by improving systems to make our functions more efficient and effective. By improvements in the physical workplace (real estate).

In order to provide an easy to follow perspective on what I deem to be the *main* issues affecting the RGP and which indeed are aligned to the above 5 areas, I will split these between Operational and Organisational issues.

An action plan to address each of these issues can be found in Appendix – B

OPERATIONAL THREATS

(i) National Security

The existing threat of terrorism to western Europe originating from the conflict in Iraq and Syria neither recognises or respects any borders. Gibraltar sits between two countries that are on high alert because of this threat. Incidentally, this threat is also seriously perceived by the UK, who acting to protect British interests offer advice, via the FCO, to British citizens travelling to or living in Spain and Morocco. Whilst there is no specific intelligence of any terrorist activity in or aimed at Gibraltar, the mere proximity to these two nations together with a host of other reasons puts Gibraltar in a vulnerable position. The re-emergence of Northern Ireland related terrorism (NIRT) has also got be kept in mind as indeed the phenomena of cyber terrorism, for which a Gibraltar strategy is required.

Gibraltar's security apparatus has never been clearer defined as is it now with strategic, tactical and operational tiers established in multi-agency forums. Interoperability amongst the blue light agencies has been subject of praise by staff from the UK's Joint Emergency Services Interoperability Programme who have recognised the great advantage we enjoy because of our personal and close working arrangements, hailing this as a great asset to local critical/major incident management. Regular multi-agency training has strengthened our ability to deal with a terrorist incident – we are now at the stage where emergency service heads should commit to signing the 'Joint Operating Principles' to formalise interoperability in the counter terrorism domain.

A programme to uplift our counter terrorism policing efforts is under way, however, this will take its time to roll out and get officers trained with the necessary skills. Because of the close liaison we enjoy with SO15 Counter Terrorism Command of the Metropolitan Police, opportunities are arising to enhance the RGP's connectivity with the UK's CT network.

Despite all the practical work achieved in enhancing our security posture, we are still lacking in modern and updated terrorism legislation and this places our practitioners at a disadvantage without the tools to carry out their duties.

Arrangements for Military Aid to the Civil Authorities (MACA) need to be firmed up so that our response plans have clarity to what extent the locally based military can be deployed and employed in a CT incident/operation. These arrangements should also incorporate and extend to any UK based military assistance that would be required.

Defusing any identified vulnerabilities whether these are physical, structural or cultural will make Gibraltar a lesser attractive target for potential terrorists which reinforces the need to work towards a tailor made counter terrorism strategy for Gibraltar.

(ii) Child Safeguarding & Sex Offender Risk Management

When attempting to analyse the extent of child sexual exploitation in our jurisdiction we realise that the true picture of any exploitation is unclear. Significant anecdotal information exists which indicates that sharing of sexually explicit photographs occurs frequently between young people and we have dealt with reports in this regard. The ever increasing reliance of social media by young people also uncovers a ready-made platform for grooming activity by sexual predators. Pro-active community engagement to raise awareness is underway sanctioned by the Child Protection Committee.

The successes of our Safeguarding Unit in bringing sex offenders to justice and the numerous convictions secured in court demonstrates the Force's capability to deal with cases of historic abuse. Our efforts should by no means rest with these convictions. Many victims of sexual exploitation tend to suffer in silence and withhold themselves from reporting their ordeals. It is our duty to pro-actively reach out to those silent victims and offer them the reassurance that they will heard and believed.

Our relationship with the National Crime Agency's Child Exploitation and Online Protection Command (CEOP) is outstanding and an established channel for referrals is in place to investigate peer to peer sharing of indecent imagery of children online. The RGP sits as a full member of the UK forum MOSOVO (Management of Sex Offender & Violent Offenders) and has presented case studies on the challenges of cross border management of sex offenders.

The well being of staff who deal with child safeguarding and sex offender management has to remain constantly under review. At present there are no systems in place to ensure these officers remain psychologically fit to continue discharging their duties.

The RGP were the pioneers and stimulators for the creation of Multi-Agency Public Protection Arrangements (MAPPA) and we have developed a specialist niche in this field. The RGP is in fact exporting the Gibraltar model to other overseas territories which is testament of the effectiveness of our practices.

(iii) Economic & Cyber Crime

It is now an accepted notion that Economic Crime is causing an overwhelming effect on police services not only because of the devastating effects it has on victims, but also because of the investigation complexities these crimes present and the drain in police resources required to investigate them – Gibraltar does not escape this problem. The RGP has limited but very competent resources in this field as has been proved in recent very high profile cases which in the United Kingdom would have been handled by a national unit such as the Serious Fraud Office.

As a finance centre, Gibraltar will no doubt attract financial criminality, whether it is locally based or from abroad by making use of banking and other financial institutions here. Cyber fraudsters also avail themselves of a borderless landscape to rip off their victims via a myriad of methods which they keep innovating to outwit law enforcement efforts. The risk therefore amplifies when enforcement capabilities are insufficient to meet the demand with the consequences of reputational damage to the jurisdiction.

The Government's intention to become a member of MONEYVAL is presenting the RGP with unprecedented challenges. MONEYVAL is a Council of Europe committee of experts on the evaluation of anti money laundering and the financing of terrorism. Their evaluation process is ruthless and if aspiring members do not meet their set criteria, they run the risk of becoming blacklisted as an unreliable country to do business with.

It is evident that with our existing resources, the RGP will not be able to meet all the requirements set out by MONEYVAL. A possible solution to this situation is to create a Joint working team comprising of HM Customs, FSC personnel, AG's Chambers, accountants, tax specialists and Police – a sort of Gibraltar Crime Agency. Expertise can also be sought by entering in to formal collaborative arrangements with the City of London Police, the UK's lead force for economic crime.

The RGP has to keep driving forward in raising awareness on cyber crime. Experts predict that this type of crime will soon override traditional crime statistics and this will clearly place extra demand on the RGP. Though known to sometimes be perpetrated by lone actors, cyber crime is now very much being exploited by organised crime groups who because of the anonymity the internet affords, no longer have to expose themselves physically when committing their criminal acts.

(iv) External Affairs

Foreign Affairs have always had an impact on policing in Gibraltar and the current situation with Brexit looming is no exception together Spain's incessant claim over our territory's sovereignty. The Spanish Government's posture is unfortunately one that cannot be trusted even though the incumbent Foreign Secretary has assured that its Spain's intention not to disrupt fluidity at the border because of Brexit. Realistically, Spain has not got to rely on Brexit to make our border a 'hard' one – they can resort to strict compliance with Schengen processes to create the same negative effects. Irrespectively of the stated, a 'hard' border will present challenges to the RGP in terms public order, traffic management, internal security and possibly

even increased crime levels.

(v) Drugs Misuse

I think there can hardly be any disagreement with the fact that drugs misuse in Gibraltar is a social problem and not solely a police related issue as if often perceived by the community. Police enforcement in interrupting the supply chain is only one of the strands of what should constitute a holistic drugs strategy – including that of reducing the demand through education and awareness and providing supporting rehabilitation services. It is therefore evident that partnership working is essential. Notwithstanding this, police enforcement efforts need to be consistent and effective. For this to happen in this day and age, officers must be supported by investigatory tools within their corresponding legal framework. Our contributions to disrupt international drug trafficking have to continue and in fact we will aim for more detections and disruptions in this regard. This intent is necessary as otherwise organised criminal networks can perceive the RGP as weak in this area to the detriment of good social order as has been experienced of late in the Campo area.

(vi) Anti-Social Behaviour & Domestic Violence

Anti-social behaviour is often associated to, or is the indicator of, other criminal activity or social problem. It creates a state of insecurity particularly so in residential areas where the peace and tranquillity of law abiding citizens is hampered. Inaction or ineffective action on the part of the RGP diminishes public confidence in the police. A particular challenge for the RGP and its partnership agencies (Housing Dept, Education etc) is that of the inability to relocate offenders because of the limited housing stock in the jurisdiction. Consistent, intelligence led, focused and high visible patrols of problem areas is a tried and tested policing response that addresses this issue and one that should not be compromised because of other competing demands.

An increase in instances of domestic abuse with calls for our service has been noted. The Force operates a positive action policy in support of victims, however, re-active work needs to run in tandem with pro-activity. In this regard, engagement with Social Services and embarking on a DV awareness/prevention campaign will complement enforcement efforts.

ORGANISATIONAL THREATS

(vii) Human Resources – Recruitment – Retention – Composition – Training

It is an accepted fact that the RGP is a very young service in terms of the average age of its officers. This observation has got to be considered alongside the projected retirements for the RGP which show that a significant proportion of the Senior Management Team could actually retire forthwith, with additional turnover at various other ranks across the Force. Similarly, there are several officers at Constable and Sergeant ranks who are also eligible to retire having the appropriate age in specialist areas such as Special Branch, Crime Scene Investigation Unit, Marine Section and Force Intel Unit.

According to the last HMIC report, 3 Superintendents, 3 Chief Inspectors, 6 Inspectors, 9 Sergeants and 35 Constables are all eligible to retire within the next five years. Annual training

bids are assessed by the training prioritisation board, comprising senior officers. In the recent staff survey, only 44 percent of the workforce was satisfied with their current level of training and development. There is a need to seriously discuss succession planning as soon as possible and invest in the continuous development of our people.

A force restructure recently carried out in consultation with the staff association was designed to align our resources to demand also taking in to account the work-life balance of the staff. This also uncovered the need to increase the establishment of the Force and consequently a business case was prepared for due consideration by Government. I am concerned that the Force will seriously struggle to cope with the existing demand unless extra human resources are hired. The pace at which the Force operates has been the catalyst for dips in retention – this exposes the need to delve deeper in to the abilities and qualities of a new applicant to join the Force so that the recruitment process weeds out those who may be unable to cope with the occupational needs and pressures.

(viii) Legislation

A wave of new pieces of legislation such as the Crimes Act, Criminal Procedure & Evidence Act, and Proceeds of Crime Act has caused the Force to re-adjust its resources to ensure the service delivery arising from them is met. These changes have caused considerable challenges and strains – challenges because officers have had to be re-deployed from the front line and upskilled to cover other duties imposed by the new laws – strains because even though the redeployments have been effected we suffer from resilience issues in these sub-units which incidentally are also under-resourced.

In the pipeline there are other new laws (Terrorism Act, Immigration Act, Regulatory of Investigatory Powers Act) that will challenge the Force even further. Training in the application of these laws will require more instructors who they themselves will require induction in order to teach the subject matter. These challenges will be affronted with positivity and zeal. There will have to be an element of prioritization and delivery programme designed.

(ix) Technology & Workplace

The RGP has historically struggled with challenges arising out of complexity and cost of IT infrastructure, inadequate databases and paper based systems. With the enviable support of the Government together with sheer drive and in-house talent we have managed to revolutionise a crucial part of the criminal justice system. Managing a culture change from antiquated systems to a modern purpose designed platform will have to take its course and already, obstacles and resistance from some quarters is being addressed and overcome.

Technical support is an important cog in the fight against crime and indeed terrorism. Serious consideration will be given to acquiring the necessary equipment which is used by law enforcement agencies worldwide and once the legislation which governs its deployment is passed.

The RGP of today has totally outgrown its headquarters at New Mole House. Despite not being a purpose built facility it was an improvement to the old Central Police Station in Irish Town. New Mole House is an extremely tired building – the environment is not ideal for such a fast

moving organisation. It is welcoming that Government acknowledges this and are committed to a new purpose built building which not necessarily should be wholly RGP occupied. There is scope for conducting a value for money exercise to collaborate with the other emergency services for a joint command and despatch unit, fleet management and other building space.

(x) HMIC recommendations

The inspection of the RGP by HMIC in 2015 revealed various areas for improvement. Whilst some of these recommendations have already been addressed there still remains some requiring further action. It is imperative that a working group is created to see this project through. In my view the most pressing area for improvement, as highlighted in one of the recommendations, is that of the creation of manual of guidance which should represent Force policy in crime investigation standards. This will inherently make officers better at conducting investigations and is positive for their all-round personal development.

(xi) Gibraltar Defence Police

The announcement in the Government's manifesto that the GDP would be transferred directly to Government or into a wholly owned company of the Government raised a number of issues which have been debated at length amongst the RGP's SMT. It is fair to say that the possibility is also being mooted of an eventual full amalgamation of the GDP with the RGP.

I am a strong advocate that if any transfer of the GDP were to materialise that this should take the form of a full amalgamation with the RGP – the opportunities arising far outweighing any disadvantages. My argument rebutting other arrangements such as the GDP forming itself into a [GoG] agency to provide services to the MOD have been documented.

(xii) BREXIT – implications to policing

The uncertainty that BREXIT has unearthed in the UK is to a large extent transferrable to us in Gibraltar. Aside from the issues in the socio-political space, Brexit presents challenges to policing if the UK fail to secure a good exit deal. Key themes that will have a direct impact on policing are listed below in no particular order;

- Schengen (incl SIS, SISII & RGP liaison with Cuerpo Nacional de Policia, Guardia Civil and SVA.
- Prüm (incl Prüm decisions)
- European Criminal Records System (ECRIS)
- European Counter Terrorism Strategy
- Europol engagement
- European Police College
- European Arrest Warrant arrangements
- European Investigation Order (Incl Joint Investigation Teams)

Whilst expectant that the UK's exit deal will not undermine any of the above subject areas, we have to be ready to react if it does. Equally, the situation discloses opportunities for joining up further with the UK on law enforcement matters.

THE RGP RELATIONSHIP WITH THE GPA

The functions and responsibilities of both the RGP and GPA are clearly articulated and enshrined in statute. However, in practice and for the past 8 years or so, the relationship between both has only been limited to consultations and progress reporting on the objectives set out in annual policing plan/annual reports, recruitment and promotion boards. Whilst these activities fall squarely within the statutory responsibilities, there is ample room for the building of a more solid and productive relationship.

Being the independent body that it is, the GPA has to ensure RGP operates to a high standard and as efficiently/effectively as it can within its scope of resourcing. In order to discharge its function fully the GPA has to provide information on police matters to the community. To deliver on this the GPA needs to be kept abreast of policing issues which matter to the community and not solely rely on annual reporting. It is therefore necessary that periodic and prearranged briefs are delivered to the GPA by the RGP's Commissioner. Subject to mutual agreement, the briefing could be delivered on a monthly basis to either the full Authority, or to a sub-group of its members. A proposed structure of topics for these briefings would include;

- an element of operational content
- trends in performance and incidence of crime that may impact on policing plan priorities
- strategic projects/proposals of the commissioner not considered in other forums
- strategic finance
- human resource issues
- strategic policing initiatives
- complaints and matters of discipline

The outcomes of these briefings will very much serve as indicators of approval or conversely, disapproval by the Authority of the manner the RGP is conducting its business.

CONCLUSION

As can be appreciated from the contents of this brief paper, the next 5 years will undoubtedly bring considerable challenges on the RGP. I have distinctly kept to highlighting what I perceive are to be the *main* issues affecting the Force together with a delivery plan that is synced with my Vision. There are a host of other issues which require attention but not to the same degree as the ones referred to in this paper. In policing, things change very quickly and therefore whilst the intention is to deliver on the stipulated actions, unexpected exigencies may warrant a review of these actions.

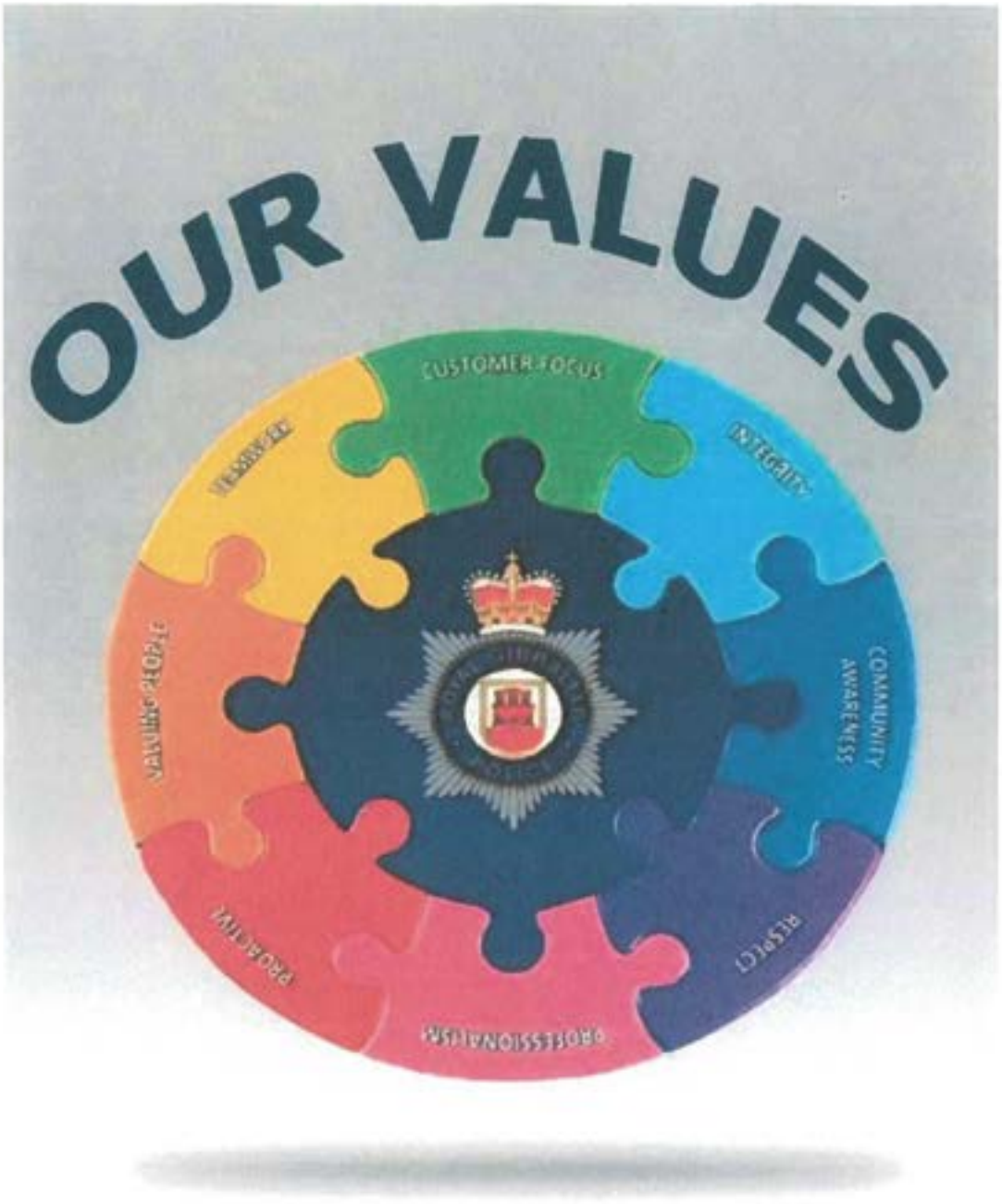
Simplicity is my Vision's forte – the RGP gets its act right in all its areas of responsibility, and by default, Gibraltar will be an even safer place than it has been in the past ..... to live, to visit and to do business in.

APPENDIX – 'A'

RGP Values & Code of Ethics

FP1/31

APPENDIX – A
RGP VALUES & CODE OF ETHICS



Working Together To Make Our Community Safer

CODE OF ETHICS

Integrity
I recognise my role in policing as being a symbol of public faith and trust and the obligation this places upon me to act with integrity, fairness and respect. I shall behave in a way which reflects the values of policing in Gibraltar. I understand I am personally responsible for my own actions and will appropriately exercise my discretion.

I shall act as a positive role model in delivering a professional, impartial service, placing service to communities before my personal aims. I will not accept any gift or gratuity that could, or could be perceived to, compromise my impartiality. I shall avoid all behaviour, which is or may be reasonably considered as abusive, bullying, harassing or victimising.

I will demonstrate and promote good conduct and I will challenge the conduct of colleagues where I reasonably believe they have fallen below the standards set out in this Code.

Fairness
I will act with courage and composure and shall face all challenges with self-control, tolerance and impartiality. I will promote a positive well-being within the community and service and ensure that all people have fair and equal access to police services according to their needs.

I shall maintain an open attitude and continue to improve my understanding and awareness of cultural, social and community issues. I will carry out my duties in a fair manner, guided by the principles of impartiality and non- discrimination.

Respect
I take pride in working as part of a team dedicated to protecting people. I will show respect for all people and their beliefs, values, cultures and individual needs. I will have respect for all human dignity as I understand that my attitude and the way I behave contributes to the consent communities have for policing. I will respect and uphold the law in order to maintain public confidence and, by enhancing my personal knowledge and experience, contributing to the professional development of policing.

I shall treat all people, including detained people, in a humane and dignified manner. I shall ensure that my relationships with colleagues is based on mutual respect and understanding and shall, therefore, conduct all communications on that basis.

Human Rights
I shall ensure my actions and policing operations respect the human rights of all people and officers whilst understanding that I will also enjoy these same human rights. I will not undertake high-risk activities or use force other than where strictly necessary in order to attain a legitimate objective and only after I have balanced all the competing priorities I am aware of. (Article 2, Gibraltar Constitution Order 2006 & Section 5, Subsection 1 of the Crimes Act 2011)

I will not encourage, instigate or tolerate any act of torture or inhuman or degrading treatment under any circumstance nor will I stand by and allow others to do the same. I understand that the humane treatment of prisoners is an essential element of policing and that the dignity of all those I am trusted to care for remains my responsibility. (Article 5, Gibraltar Constitution Order 2006)

I understand that people have an equal right to liberty and security. Accordingly, I will not deprive any person of that liberty, except in accordance with the law. (Article 1, Gibraltar Constitution 2006) I will investigate crimes objectively and be sensitive to the particular needs of affected individuals whilst following the principle that everyone who is the subject of criminal investigation is innocent until found guilty by a court. (Article 8, Gibraltar Constitution Order 2006)

In carrying out my duties I shall respect everyone's fundamental rights. I will only interfere with privacy or family life when I am legally authorized to do so. (Article 3, Gibraltar Constitution Order 2006) I will respect individual freedoms of thought, conscience or religion, expression, peaceful assembly, movement and the peaceful enjoyment of possessions. (Articles 9, 10, 11 Gibraltar Constitution Order 2006)

APPENDIX – 'B'

Action Plan

FP1/34

APPENDIX B – ACTION PLAN

1. Key Actions – National Security	Commencement date	Completion date	Desired outcome
Emergency Services Chiefs to sign the Joint Operating Principles to ratify interoperability arrangements. Continued multi-agency exercising to deal with varied threats	01 01 2018	31 03 2018	Better interoperability and improvement on practical efficiency/effectiveness
Produce a MACA document providing an agreed framework for any support requested from the military	01 01 2018	31 03 2018	Better interoperability and improvement on practical efficiency/effectiveness
Uplifting of RGP CT policing and armed policing capabilities incl. CBRN	30 10 2017	31 12 2021	Improved readiness to deal with a terrorist incident
Survey all Critical National Infrastructure by our Counter Terrorism Security Advisor and provide advice on mitigation measures to Government and other stakeholders.	01 01 2018	31 12 2021	Target harden Gibraltar to deter terrorist interest in our jurisdiction. Instil a security conscious culture within our CNI network.
Lobby for a National Cyber Security Strategy and once published then devise a RGP cyber crime strategy with an up lifting programme in accordance with advice from S015 (NDES) Training Needs Analysis.	01 01 2018	31 12 2020	Enhanced organisational capability to investigate cyber dependent and cyber enabled crimes. Enhance open source intelligence gathering
Pursue the ratification of Gibraltar's Counter Terrorism Strategy – Appoint a RGP lead for each of the 4 strands to the strategy. Launch Project Servator in Gibraltar	01 01 2018	Dependant on publication of CONTEST	A Gibraltar PLC co-ordinated approach to counter terrorism – working with key stakeholders to produce outcomes. A safer Gibraltar. Increased public satisfaction/reassurance levels.
Pursue and resolve connectivity issues with UK CT Police and SyS. Explore support mechanisms with the UK to cater for lacking or exhausted local capacity and capability. Continue to build on the liaison with other foreign law enforcement agencies and security services	01 01 2018	2022	Full integration with the UK's CT policing Network. Enhanced intel sharing and operational effectiveness with Spanish, Moroccan counterparts & beyond if required.
2. Key Actions – Child Safeguarding & Sex Offender Mngt	Commencement date	Completion date	Desired outcome
Invest in High Tech crime investigation capability to allow pro-activeness in detecting online sex offenders	01 01 18	2020	Increased investigation capability. Organisational reputation with local partners and international partners.
Aligned with the Force's welfare policy, implement a support system to periodically psychologically assess investigator of these types of crimes and dedicated risk managers.	01 01 18	30 03 18	Decrease in potential mental health issues amongst staff. Probity within this high risk work environment.
Work towards resilience in human resources to have a more equitable case load distribution,	01 01 18	2022	More timely investigations & less risks of staff burn out.
Continue with the networking with NCA CEOP command & MOSOVO	Ongoing	2022	Continued development in this policing discipline and adaption of updated best practices in such a high risk area.
Lobby for the establishment of intervention teams to be able to properly management and treat sex offenders.	01 01 2017	01 09 2018	Reduce risks of recidivism.
Engage with schools and parents to promote awareness on the risks and dangers of online child sexual exploitation	01 12 2017	Dec 2018	Reduce instances of sexting & resultant bullying A more conscious and careful young population Deter sexual predators from operating in Gibraltar space.

3. Key Actions – Economic Crime & Cyber Crime	Commencement date	Completion date	Desired outcome
Explore the creation of a joint task force to work on complex investigations.	01 01 2018	ASAP	More effective & efficiency – improving on Gibraltar's status as Finance Centre.
Increase enforcement & other activities around anti money laundering and terrorist financing	01 01 2018	To remain on-going	Positive evaluation by Moneyval evaluators. Positive reputation for Gibraltar PLC
Build a cyber investigation capability to include crypto currency. Understand the extent of how cyber crime is affecting Gibraltar.	01 01 2018	31 12 2021	An RGP that can take on most types of cyber crime investigations.
Upskill all MLIU officers to Financial Investigator standards Upskill all MLIU officers in criminal and civil asset recovery Upskill all Fraud Officers with accredited fraud training	31 03 18	31 12 2021	Improved Organisational reputation. More timely investigations
Explore collaborative arrangements with the City of London Police. Many officers of their special constabulary possess specialist skills in economic crime.	01 01 2018	01 06 2018	Shared distribution of work with skilled personnel. Timely & less costly investigations Positive for Moneyval evaluation.
4. Key Actions - External Affairs	Commencement date	Completion date	Desired outcome
Embark on an environmental scanning project to gather intel to support future planning of operations and deployments. Explore the acquisition of Open Source Intelligence tools to be aid this project.	01 01 2018	01 11 2018	Better operational readiness leading to intelligence based deployments of resources.
5. Key Actions – Drugs Misuse	Commencement date	Completion date	Desired outcome
Lobby for a Gibraltar Drugs Strategy – to include police processes for drug referrals.	01 01 2018	01 07 2018	A co-ordinated Gibraltar PLC approach to Drugs Misuse
Pursue the enactment of RIPA to allow for more targeted drug enforcement.	01 01 2018	31 12 2018	Increased detection of drug dealers.
Display a robust approach towards organised criminal groups involved in drug trafficking to create a difficult environment for them to operate in.	01 01 2018		Reduced OCG activity in Gibraltar enhancing both Gibraltar's & RGP's reputation and image. Increased public satisfaction.
6. Key Actions – Anti Social Behaviour	Commencement date	Completion date	Desired outcome
Increase detections of establishments who breach their licence by selling alcoholic beverages to under-aged children	ASAP	31 03 2018	Increased levels of public satisfaction & reassurance
Commit to regular, focused, high visibility and supervised patrols to neighbourhoods	ASAP	31 03 2018	Increased levels of public satisfaction & reassurance
Communicate to the community all the activities conducted to curb ASB	ASAP	on-going	Increased levels of public satisfaction & reassurance
7. Key Actions – HR, Recruitment, Retention, Composition & Training	Commencement date	Completion date	Desired outcome
Devise a succession plan	ASAP	01 05 2018	Identification of future leaders of the RGP to provide stability and resilience in the Force.
Continued personal development programmes in addition to specialist training. Campaign to attract members minority groups to join the RGP. Encourage personnel to undertake Higher Education police or security related studies.	01 01 2018	2022	Enhanced health, safety and well-being of the workforce. Diversity of the workforce that better reflects the community Education and training that reflects the professionalization of policing activities and expected performance standards

8. Key Actions – Legislation	Commencement date	Completion date	Desired outcome
Plan and prepare a programme of instruction for new impending laws	ASAP	Dec 2018	Increase in capabilities to deal with areas of concern.
Plan and prepare a training programme of new impending laws for delivery Force wide	ASAP	Dec 2018	Increase in capabilities to deal with areas of concern.
9. Key Actions – Technology & Workplace	Commencement date	Completion date	Desired outcome
Complete the Cyclops project	On going	June 2020	Optimisation of the platform by users – releasing valuable officer time for core policing.
Research mobile technology to compliment front line officer work	01 01 2020	End of 2022	Improve efficiency of services to the public
Pursue the promise by GoG to build a purpose built police HQ	01 01 2018	End of 2022	Enhanced health, safety and well-being of the workforce. Enhancement of morale Enhancement to corporate image
Aim to achieve the Platinum standard in IIP	ASAP	31 12 2018	Enhanced health, safety and well-being of the workforce. Enhancement of morale Enhancement to corporate image
10. Key Actions – HMIC recommendations	Commencement date	Completion date	Desired outcome
A working group to complete addressing of all areas for improvement highlighted in 2015 inspection	ASAP	01 03 2019	A continuously progressing & professional police force.
Prepare for a further inspection commissioned by the GPA	2020		A continuously progressing & professional police force.
11. Key Actions – Gibraltar Defence Police	Commencement date	Completion date	Desired outcome
Exploit collaboration opportunities and campaign to generate interest for a full amalgamation	On going	mid 2019	A full amalgamation of the GDP with the RGP
12. Key Actions – BREXIT implications on policing	Commencement date	Completion date	Desired outcome
Support Government in their quest to achieve the best exit deal	On going		Minimal disruptions to existing arrangements

GIBRALTAR POLICE AUTHORITY
(The Community in Policing)

INVITATION TO APPLY FOR APPOINTMENT AS THE COMMISSIONER OF THE ROYAL GIBRALTAR POLICE

The Gibraltar Police Authority invites applications from police officers within the Royal Gibraltar Police who have successfully completed a Senior Command Course for appointment to the post of Commissioner of Police, initially on a designate basis until the retirement of the present post-holder in April 2018.

The form in which applications need to be submitted is as follows:-

(a) The application should be in the form of a letter addressed to the Gibraltar Police Authority, which needs to cover what the applicant perceives to be the core competences and areas of responsibility of the Commissioner and the extent to which the applicant satisfies them;

(b) The letter at (a) should enclose a full curriculum vitae;

(c) A paper should be submitted with the application covering the following;

(i) The applicant's vision for the RGP for the next 5 years in the light of the strengths, weaknesses, opportunities and threats facing the RGP;
(ii) The applicant's assessment of the main issues affecting the RGP and an action plan to address them;
(iii) How the applicant intends to interact with the GPA in taking the RGP forward.

The paper must not exceed 3,500 words.

Applications should be marked CONFIDENTIAL and sent or delivered to the secretary of the Gibraltar Police Authority, 1 Casemates House by no later than 12 noon on Friday 3rd November 2017.

No.1, Casemates House, Casemates Square, Gibraltar
Tel: 00 350 20040918, Fax: 00 350 20076847, e-mail: info@gpa.gi

Police Optimisation Project – Vision and Mandate

Vision

Optimised policing arrangements designed to best meet all of Gibraltar's civil policing needs, set within an assured law enforcement framework and including the consideration of the transfer / amalgamation of GDP within RGP.

Programme Objective

To Identify and implement the programme of change necessary to achieve the vision.

Supporting / Enabling Objectives

- establishment of a single statement of policing requirements for Gibraltar.
- development of a blueprint to meet those requirements; the capabilities, capacity, readiness, standards, equipment and facilities that will be needed.
- development of the proposals for the enduring governance architecture necessary to assure HMGoG and HMG.
- identification of any necessary legislative requirements.
- identification of significant risks, along with proposals to manage them.

Informed by the objectives above, the:

- identification of a realistic timetable for implementation.
- identification of the key project milestones necessary to achieve that.
- creation of a shared communications strategy.
- development of proposals for consultation and wider stakeholder engagement.

Responsibilities

Sponsoring Group – HE / CM / CoP / CBF / COS JFC

Project Team – to be confirmed by Sponsoring Group.

Stakeholders – to be confirmed, but a broad 'parish' of all interested parties.

(RGP) McGrail, Ian M.Sc (OTM)

From: (RGP) Yome, Edward L (CPM)
Sent: 04 December 2017 11:40
To: SMT
Subject: FW: 20171020 Draft Police Mandate
Attachments: 20171020 Draft Police Mandate.docx

Gents

Fyi

Cop

From: GIB-HQBF CBF (Walliker, Michael Cdre) [mailto:GIB-HQBFCBF@mod.uk]
Sent: 04 December 2017 11:36
To: (RGP) Yome, Edward L (CPM) <Edward.Yome@royalgib.police.gi>
Cc: S Argyle Command Sec <GIB-CMDSECCS@mod.uk>
Subject: 20171020 Draft Police Mandate

Eddie,

Of the 44 recommendations in "The Hewitt Review," the first (and arguably the single most important) one is to progress the work to optimise policing on The Rock. I am charged by the Minister for the Armed Forces with delivering the recommendations, and I am already cracking on with a number of them, and especially those that require internal management action only. The attachment is self-explanatory but it does require the 'buy-in' of a number of organisations external to MoD, and principally RGP. Both HE and CM are happy that the direction and guidance contained in the attachment is 'good enough' to crack on and establish a Project Team as well as start to bring on board the various stakeholders.

If you are happy with the attachment (noting that both HE and CM have already tweaked the "Vision"), then the next stage is for the two of us to nominate our SME for the Project Team. For my part, it will most likely be Rob Allen. I realise that you may need some time to decide who is best-placed to fulfil the various roles within this project, given the changes at the top of RGP over the next few weeks, but I do know that both CM and HE are keen to demonstrate some early progress.

Turning to the Stakeholders, it would be presentationally very difficult for me if GDPF were not part of that group, and I would expect GPA to wish to be involved, but I have no real feel for who the other stakeholders might be from your perspective. I would also expect to define with clarity the roles and responsibilities of the Project Team, and I would expect to put something similar together when considering who should be formally acknowledged as a stakeholder, rather than just those with an opinion.

I hope you had a good weekend!

Mike

ROYAL GIBRALTAR POLICE

STATEMENT OF WITNESS

Criminal Procedure and Evidence Act 2011 ss. 187 and 405; Criminal Procedure Rules r 16.2

Crime/OB ☐☐ — ☐☐ — ☐☐☐☐☐☐☐ — ☐

Surname: PICARDO	**Forenames:** FABIAN RAYMOND

Age of witness (if over 18 enter over 18): Over 18

Occupation: Chief Minister of Gibraltar

This statement (consisting of 19 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 25th day of June 2021

Signed .....

I am the Chief Minister of Gibraltar and one of Her Majesty's Counsel for Gibraltar.

I have been a member of the Bar in Gibraltar, in private practice with Hassans International Law Firm Ltd, since November 1994 until my election as Chief Minister of Gibraltar on the 9th December 2011.

I make this witness statement following an email sent to me by the Commissioner of Police, Mr Ullger, on the 27th November 2020 through which the investigating team in this matter posed a number of questions that they considered relevant to the ongoing criminal investigation in this matter and on which they believed I might be able to assist.

(In that period, in the run up to the 31st December 2020, my time was, however, entirely taken up by the negotiation of the New Year's Eve Framework Agreement with the UK and Spanish governments, making it impossible for me to finalise a statement at that

Signed: _____ **Signature Witnessed by:** _____

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FP1/41

time. Future arrangements in respect of the EU and other matters have continued to make it impossible for me to provide this statement sooner).

I subsequently met members of the investigating team on the 7th April 2021 to provide my initial responses and for an initial discussion on the issues on which my evidence might be of assistace to the Court and the parties.

Although it is unusual to prepare a statement in this way, for ease of reference I have been asked by the officers in the investigating team to set out the questions they posed (which I do in bold below) followed by my answers to each of the questions. I appreciate this is designed to make it easier for me, given the myriad demands on my time, to be able to assist the Court in the most efficient manner. I will therefore set out these answers to questions in the first part of my statement.

Additionally, I will also set out facts and matters which I consider to be relevant and of which the parties should be aware. I will address these issues in the second part of my statement.

PART I : ANSWERS TO QUESTIONS

1. The defence assert that you expected and communicated that Mr Cornelio should continue running all HMGoG Platforms (including the NSCIS platform) after the 31st August 2018. Could you please clarify:

a. **Whether this is correct; and**
b. **If correct, what precise instruction was given?**

ANSWER: In order to fully answer this question and set out the factual matrix for the purposes of answering all others questions, I will start by providing some background. I first came to know of Mr Thomas Cornelio when, during the development of the frontier monitoring programme, he was referred to me as a 'computer genuis' by both John Perez (who I knew from his time at the Royal Gibraltar Regiment) and James Gaggero (who I knew from my time in public life generally and from various matters on which I had acted against Bland Ltd, most recently in an Industrial Tribunal matter). Both of these referred to Mr Cornelio at different times in 'selling' to me the skills which Bland

Ltd could bring to bear on the development of different aspects of the software that we required for different government departments. It was Mr Gaggero who had initially and consistently referred to Mr Cornelio as a 'computer genius' in his discussions with me.

I, nonetheless, do not believe that I ever gave any express authority for Mr Cornelio to access the NSCIS platform after he terminated his consultancy period with Bland Ltd. In fact, I would not have been involved in the operational day to day of a technological platform such as NSCIS and would not be the person giving authority for access. The NSCIS platform was in the control of Mr Caine Sanchez, the Principal Private Secretary of the Deputy Chief Minister, who had been overseeing the creation, development and running of the frontier monitoring progamme since its inception. In that respect, it is important to note that the genesis of the NSCIS was the decision by my Government to develop an electronic system to enable us to quantify the queuing time into Spain as we reported these matters to the European Commission for alleged breach of the Schengen Border Code by the then Spanish government of the Partido Popular. It was the Government's brainchild and we employed Bland Ltd in the development of this software – which then expanded and grew to the NSCIS – at the instance of my government. It is for this reason that the Government believes that we own the NSCIS software programme and all the relevant intellectual property therein, as the taxpayer has funded its development by Bland Ltd at the bespoke request and instruction of the Government.

By spring or early summer 2018, I knew that there were negotiations between Bland Ltd and 36 North Ltd to take over the running of the platform after the resignations of Mr Cornelio and Mr Perez from Bland Ltd. Mr John Perez had repeatedly advised me that he and Mr Cornelio wanted to establish themselves to provide advanced technological services of the type being offered by Bland Ltd. I was asked by him whether I would support them branching out in this way. I had replied that I was supportive of them setting themselves up on their own but that in doing so they should regularise their position with Mr Gaggero. (Subsequently, I had conversations with both Mr Perez and Mr James Levy QC about Hassans Ltd, of which I am a partner on sabbatical, supporting Mr Perez and Mr Cornelio through an investment in their venture, 36 North Ltd. I was asked by Mr Levy QC whether or not I would object to this. I had confirmed I would not object to such an investment by the partners of Hassans Ltd, but

that this would not affect Government's attitude to 36 North in any positive or negative manner).

I subsequently had a conversation with James Gaggero in respect of the departure of Mr Perez and Mr Cornelio from Bland Ltd on 21st July 2018. That was a Saturday and I recall Mr Gaggero calling me in the morning. It was unusual for him to call me on a Saturday when I was with my family. I therefore decided to make a cursory note of that conversation, which I did not susquently fair into a full file note, at the time that I was talking to Mr Gaggero that morning. I was literally typing whilst holding the telephone to my ear. I now provide a screen shot copy of that note, which I typed on my ipad 'Notes' App and which can be seen not to have been touched since that date, as **EXHIBIT FP1**.

As can be seen from that note, and as more particularly set out in it, during this conversation, Mr Gaggero informed me that, despite seeking to persuade them to stay, Mr Cornelio and Mr Perez had decided to resign from Bland Ltd, which I told Mr Gaggero I was already aware of. Mr Gaggero further articulated that Bland Ltd had invested 8 years into developing software, and it had become a significant part of the business. (In fact, it could not be 8 years, as at that time in 2018 we had not yet been in Government for 6 years). He explained that his main concern was that this would not impact on the Government and asked for time to transition to the new team of Messrs Perez and Cornelio. I made clear to Mr Gaggero that I would be happy to work with both Bland Ltd and the new entity to assist in the 'transition' between them given that although Government's unequivocal position was – and is - that we owned the NSCIS software, (despite Mr Gaggero's assertions to the contrary and his reference to us potentially, 'buying' the software from Bland Ltd), we nonetheless undoubtedly agreed that we had an amount outstanding from the Government to Bland Ltd at that stage.

I considered that the issues between Bland Ltd and Messrs Perez and Cornelio were a matter for them and should not involve me or my colleagues. Her Majesty's Government of Gibraltar had no reason to involve itself in these discussions, in part because there was already an ongoing and developing dispute with Bland Ltd over the ownership of the NSCIS platform. Additionally, as I set out above, given that the new entity that had been established by Messrs Perez and Cornelio, included an investment by the partners of Hassans Ltd (of which I am a partner on sabbatical) and of which I

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was aware. I therefore did not want to become involved in any aspects of the relationship between Bland Ltd and 36 North which were contentious.

After that date I continued to receive communications from Mr Gaggero and Mr Perez. I repeatedly emphasised to both my desire to assist both sides, on the basis that Mr Gaggero had himself set out to me on the 21st July 2018.

Nonetheless, for reasons that become apparent in the meetings and in correspondence in the period from the middle to the end of August 2018, I did not give any instructions for Mr Cornelio to 'take over' or 'continue' running what is referred to in the question as "HMGOG Platforms (including the NSCIS platform)'. I had an exchange of emails and WhatsApp messages with Mr Sanchez where I instructed him to seek legal advice on how to 'transition' from Bland Ltd to 36 North at that time and I give more details of these exchanges, and I exhibit the correspondence, in answer to further questions below.

I wish to add that, to my knowledge, however, I have not ever met Mr Cornelio. I do know that his wife is also a lawyer, who I have met and who has been instructed by the Government at different times, and that she has practiced with Messrs Triay, Stagnetto, Neish. Indeed, I have checked my emails and can confirm that on the 4th April 2019, some eight months after the date referenced in this first question, Mr Cornelio wrote to me directly seeking a meeting. Given how matters had developed by then, and after consideration with the Financial Secretary, Albert Mena, I did not respond to his request for a meeting.

2. To your knowledge, did any other member of HMGoG instruct / request that Mr Cornelio maintain the NSCIS platform following the termination of his consultancy period with Bland Ltd on the 31st August 2018?

ANSWER: I had no express knowledge of any other member of Her Majesty's Government of Gibraltar (meaning Ministers) giving such an instruction or making a request of Mr Cornelio.

I had numerous email communications from Mr Caine Sanchez to the effect that he believed that the management of the system should be migrated to the control of Mr

Cornelio, but I did not reply to these emails as I was aware, principally from Blands Ltd Chairman, Mr James Gaggero, of the developing dispute between Bland Ltd and Messrs Perez and Cornelio and I was leaving matters related to the relationship with Bland Ltd, the functionality of the NSCIS and the dispute as to ownership and payments due to Bland Ltd to the Financial Secretary, Albert Mena, with whom I was in constant contact throughout in respect of the software ownership issue.

An exchange of emails between me and Mr Sanchez reflects a reference, by Mr Sanchez, to a potential claim by Bland Ltd against Government. I made clear in my reply that the tenor of my conversation with Mr Gaggero, on the 21st July, had not been about a claim from Bland Ltd against the Government, but of the need, from his point of view, for us to buy the software from Bland Ltd, arising from the difference between us about the ownership of the software. This exchange also reflects the language of an agreed 'transition' from Bland Ltd to 36 North, which was in keeping with the things that Mr Gaggero had said to me during the course of our telephone conversation on Saturday 21st July 2018.

Further emails from Mr Sanchez followed on 10th and 13th August 2018 about the meeting I was to have that day with Mr Gaggero and others of his Bland Ltd team at which Mr Sanchez wanted to be present given his responsibility for the operation of the system within Government. I agreed to that, I believe through one of my secretaries. Subsequently, I received a number of emails on this subject from Mr Sanchez which I believe I did not access at the time or reply to.

All of the relevant emails from Mr Sanchez in this period and any replies are provided as **EXHIBIT FP2** hereto. I believe these exchanges are self evident in illustrating the gradual breakdown of the relationship between Bland Ltd and Messrs Perez and Cornelio after our meeting of the 13th August 2018. The emails include a draft letter for Senior Crown Counsel to advise on and a proposal from 36 North for their future operation of the NSCIS system. This is what I had suggested to Mr Sanchez in a parallel WhatsApp exchange of 13th August 2018 also should be the result of any complaint as to operability from the relevant departments, including the RGP, the BCA and HM Customs, who were the principal users of this facility. I now provide a copy of this WhatApp exchange between me and Mr Sanchez as **EXHIBIT FP3**.

Additionally, I also now provide as **EXHIBIT FP4** copies of emails involving the inoperability of passport scanners in use by the Borders and Coastguard Agency in mid

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October. These also include references from Bland Ltd as to the reasons for these operational failures.

I should add that I have never seen the NSCIS platform in operation. We were to have an exercise on one occasion when the system, embarrassingly was not working and I have repeatedly been asked to view the platform, but have never had an opportunity to do so. It was the subject of work by individuals when I once visisted OSG's offices at Line Wall Road. I have never, however had a chance to see it working.

3. The defence have drawn our attention to a text message sent from Mr Haim Levy QC to yourself, dated 30th August 2018, in which he stated:

"You should know that I have spoken to Tommy and despite his letter to James G he will continue ensuring that the system is kept going until a solution is found acceptable the government"

The defence rely upon this text as evidence that you were aware of and /or gave authority for Mr Cornelio to access the NSCIS platform after 1st September 2018. However, Bland were not informed of any such arrangement. Can you please comment on your understanding of this text message?

ANSWER: Mr James Levy QC CBE is the senior partner of Hassans Ltd. He has been a legal mentor to me from a young age and a person who I consider a friend as well as a professional colleague and political supporter. Mr Levy has been known to my family since before my birth. He was very much loved and admired by my mother, who knew him, in her capacity as personal secretary to his uncle, Sir Joshua Hassan GBE KCMG LVO QC JP, since he was a young boy. As a result of this deep relationship, I am regularly in contact with Mr Levy QC on matters related to politics and to his attraction to Gibraltar of persons who would establish themselves or their businesses here and on personal matters as a close friend. Mr Levy QC is considered by most individuals at the Bar and in the financial services sector, to be one of the persons principally responsible for the attraction of new business to Gibraltar.

The part of the message quoted in the question is only a partial extract of the text of the WhatsApp sent to me by Mr Levy. The full message from Mr Levy and my reply reads as follows:

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30th August 2018

JAMES LEVY : *You should know that I have spoken to Tommy and despite his letter to James G he will continue ensuring that the system is kept going until a solution is found acceptable to the government. He says that when he meets you and explains to you his solution you will find it easier to make a decision because you will have the right information. He believes that the right information is not getting through to you as he is aware that you are very knowledgeable on technology. He is a sweet boffin Straight out of the movies speaks very fast and with a monotonous voice but he is very honest hard-working and competent. Really got to like him*

FP : *Will look forward to meeting him.* [Albert] *Mena and me are the people who will understand him.*

I now exhibit screenshots showing this exchange as **EXHIBIT FP5.** The redactions are in respect of text that refers to other matters and which are entirely unrelated to this case.

The reference here to a 'decision' was interpreted by me as a reference to the request that the Government should migrate the operation of the NSCIS system from Bland Ltd to the control and operation of 36 North Ltd. In this respect, I had wanted to ensure that any change of control or transition was handled in keeping with our legal advice given that we had a dispute with Bland Ltd as to ownership of the software in question. For that reason I had asked that Mr Caine Sanchez should ensure that each of our relevant departments (the Royal Gibraltar Police, Her Majesty's Customs and the Borders and Coastguard Agency) should refer to Mr Sanchez any necessary request for a transition or transfer from Bland Ltd to 36 North. I asked that those requests should then be sent to Mr Lloyd De Vicenzi or Mr John Paul Fa, both Senior Crown Counsel in the Government, to look at these. I wanted to ensure that any notices were phrased and sent properly and activtated in a manner that did not in any way vitiate our claim to ownership of the NSCIS software. This is reflected in the exchange of WhatsApps on 13th July 2018.

Signed: _____ **Signature Witnessed by:** _____

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As will be evident from the material provided in the exhibits I have already referred to, at different times this 'transition' had been a matter which had appeared to have been agreed between Mr Gaggero for Bland Ltd and Messrs Perez and Cornelio for 36 North. This is the 'transition' that was being referred to by Mr Gaggero in his conversation with me on the morning of the 21st July 2018, which was to take place between Bland Ltd and 36 North in a manner that should not in any way prejudice the Government in the functionality of the operation of the systems should not be in any way compromised as the systems transferred.

Despite the fact that the relationship between Bland Ltd and Mr Gaggero, on the one hand, and 36 North and Messrs Perez and Cornelio, of the other hand, deteriorated (as they negotiated the commercial terms between them (vide Mr Gaggero's reference to Bland Ltd's investment in the software over 8(sic) years in my note of our conversation of the 21st July)), the decision to transfer from Bland Ltd to 36 North was still being put to the Government and as something that was apparently agreed between them. I could sense this was an attempt by both sides to get the Government to act in a manner that helped determine the commercial dispute developing between them. Given – in particular the interest that Hassans Ltd had in 36 North – I was not prepared to enter the fray of that commercial dispute as it was becoming more and more acrimonious. Additionally, and for the reasons referred to relating to the then ongoing negotiations of the Withdrawal Agreement, I was genuinely completely taken up by a matter of much greater importance to the public interest of Gibraltar than the apparently petty commercial dispute emerging between Mr Gaggero and Messrs Perez and Cornelio.

Given that there was no further communication between me and Mr Levy on this matter after the text in the question, Mr Levy sent me a further WhatsApp message on the 4th September. That text provided as follows:

> **4th September 2018**
>
> **JAMES LEVY:** *Have you been able to find a solution with James G?*
>
> **FP:** *Hi. Saw him yesterday. Asked him to give me a bit of time and not to have a row. He is pissed off. ... F*
>
> **JAMES LEVY:** *That is the attitude of la derecha ...*

Signed: _____ **Signature Witnessed by:** _____

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I now also exhibit screenshots showing this exchange as **EXHIBIT FP6**.

I recall that the meeting I had with Mr Gaggero at that time had been an opportunity, at his request, for him to tell me how disappointed he was with Messrs Perez and Cornelio and at the manner in which they were handling their departure from Bland Ltd. He told me – I believe at this time, but it may have been at a subsequent or earlier meeting – that he had found that Mr Perez or Mr Cornelio (I cannot recall which or whether it was both) had been using Bland Ltd's resources for the purposes of setting up their new company. This included the purchase of a book purchased from the online retailer Amazon on entrepreneurship. This was in addition to other minor items of apparently inappropriate expenditure which clearly had annoyed and incensed Mr Gaggero greatly. At this or another meeting, Mr Gaggero also referred me to a report allegedly compiled by PWC which he said suggested that Messrs Perez and Cornelio had acted improperly in some way. I did not seek nor receive a copy of this report to which Mr Gaggero spoke without showing any part of the document.

Subsequently, and given that there were again no further communications between me and Mr Levy on this subject in the interim, Mr Levy sent me a further WhatsApp message on the 12th September 2018. It provides as follows:

> **12th September 2018**
>
> **JAMES LEVY:** *I assume the Gaggero issue is more complicated since I see you are reluctant to discuss it*
>
> **FP:** *No. Just in the thick of the biggest issue in Europe right now.*

I now also exhibit screenshots showing this exchange as **EXHIBIT FP7**. The redactions are in respect of text that refers to other matters.

My reference to 'the biggest issue in Europe right now' was to the state of the Brexit Withdrawal Agreement negotiation, which was then reaching its zenith. At that time we were still negotiating with the UK Government, the Spanish Government and the European Commission the application to Gibraltar of the Withdrawal Agreement, the Gibraltar Protocol etc. For that reason, I was therefore not concentrating on matters

such as the commercial dispute between Bland Ltd and its former employees, Messrs Perez and Cornelio.

4. The defence have drawn our attention to a text message sent from Mr Cornelio to Mr Levy QC (and which refers to the CM), dated 30th August 2018, in which he stated:

"Yep. Please tell him that if we meet I will be able to discuss in person as I feel sometimes the information he is getting is not correct ... if he knew my solution in detail it would make any decision he makes easier also."

In the context of the police investigation, are you able to comment on the '*decision*' that is referred to by Mr Cornelio?

ANSWER: I was not aware of any decision that required my input on or around the 30th August 2018 in respect of the NSCIS platform. The issue that was 'live' was that of who was to take the platform forward following the resignations of Mr Perez and Mr Cornelio, which was a matter for Bland Ltd and 36 North Ltd to determine. I had already set out my position to Mr Caine Sanchez in July for the RGP, Customs and BCA to refer matters to Senior Crown Counsel when the matter was billed as an agreed 'transition'. At that stage, I had no difficulty with either of the two companies maintaining the platform. Also as stated previously, I did not want to become involved in a commercial dispute. During that period there had been terrorist attacks throughout Europe and I was dealing with Brexit. These were the matters that were taking up a considerable amount of my time. Subsequently, in a meeting in my office in the presence of my Principal Private Secretary, Mr Peter Canessa and, I believe, the Financial Secretary, Mr Albert Mena, Mr Gaggero alleged that 36 North had somehow sabotaged / planned to sabotage the operation of the NSCIS system in order to persuade the Government that we should migrate from Bland Ltd to them. I am unable to provide the exact date of that meeting from memory or from my own email records but I am aware that Mr Canessa has provided a statement which reflects the emails I instructed that he should send as a result of those meetings. Faced with this unverified information (the reliability of which I was unable to comment on or assess), I was not prepared to take any risk in respect of the operation of this critical national infrastructure. I gave instructions to ensure that 36 North and Mr Cornelio in particular

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were not to have access to the system, such as it might have been, if they had, indeed, retained any such access of which I had not previously been aware. I rely on the dates and material provided in Mr Canessa's statement as a reliable record of the timeline in respect of the facts and matters deposed to in therein.

5. The defence have argued that you authorised Mr Cornelio to access the NSCIS platform after August 2018. Did you authorise Mr Cornelio to access the NSCIS platform at any time between 31/08/2018 and 04/10/2018?

ANSWER: No express authority was given by me, at least that I can recall or that I can find recorded in writing, for Mr Cornelio to access the NSCIS platform at any time after the termination of his arranagement for access with or through Bland Ltd. I do not believe that any other communication from me can be considered to be ostensible authority from me for anyone to access the system, although I am unable to comment on whether a communication from me could legitimately be interpreted in a manner that could be considered to convey such ostensible or implied authority.

I should add, however, that I did not consider myself the 'gate keeper' of the system from whom access to the system would be sought. As far as I was concerned the NSCIS system was run by Mr Caine Sachez, having grown organically from a frontier monitoring system implemented at the time of lengthy frontier queues prior to 2015 and I have already exhibited and commented on my communications with him in respect of this matter in the relevant period in question. It is likely that Mr Sanchez would have approached me for any seminal changes that might have been necessary and which would involve incurring any expensé (in my capacity as Minister for Finance), together with the Financial Secretary, Albert Mena, who was involved in the settlement of the financial issues arising from the dispute with Bland Ltd on the functionality of the NSCIS system, as can be seen from the exchanges of emails exhibited.

Additionally, as is evident from my note of the conversation with Mr Gaggero on the 21st July 2018, there was, apparently, an agreement at that stage between Bland Ltd and 36 North that there would be a transition in the control of the NSCIS between them. This would appear to have provided for access to be provided to Mr Cornelio for this purpose by Bland Ltd. I am unaware, however, of the route to access to the NSCIS which Mr Cornelio had at different times. Indeed, as I have previously set out, I have not even consciously seen the NSCIS system in operation in any detail.

Signed: _____ **Signature Witnessed by:** _____

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6. To your knowledge, did any representative of HMGoG instruct / authorise Mr Cornelio to extract a copy of the NSCIS data for the purpose of ensuring services could run independently of Bland?

ANSWER: I did not authorise, nor was I aware of authority being provided to extract NSCIS data outside the knowledge of Bland Ltd. I only found out about the mirror platform following information being provided to me by Mr Gaggero in October 2018. I would, nonetheless add that I was at some stage advised, I believe by Mr Caine Sanchez (but I am unable to recall exactly whether it was, in fact, him or when it was said to me) that 36 North were preparing a mirror of the server of the NSCIS in the course of the apparently agreed (as per Mr Gaggero's statements to me of the 21st July 2018) transition of the control of the NSCIS from Bland Ltd to 36 North. I do not know if the establishment of such a parallel server would involve the download of data or not. I am, similarly, unaware and unqualified to opine on the technical need or desirability of such a mirror server or data being established.

7. The defence assert that on or around 30th August 2018 HMGoG asked Mr Cornelio / 36 North Ltd to ensure 'Phoenix' (the NSCIS alternative platform) was ready to take over the NSCIS platform at short notice. Do you have any knowledge of these discussions?

I have no knowledge of any such 'discussions'. Indeed, the first time I recall being referred to the name *'Phoenix'* in this context was as a result of the questions posed by the RGP. I was, however, aware from Mr Gaggero himself (vide my notes of the conversation with him on the 21st July 2018) that he (for Bland Ltd) and Messrs Perez and Cornelio (for 36 North) had, apparently, agreed to a transition between them of the management of the NSCIS system, subject to the agreement of the Government. This transition, for the reasons I set out above, would, I assume (as I am not qualified to opine), likely have involved a new 'system', 'platform' or 'server' being deployed for this purpose or the wholesale takeover of the Bland Ltd 'system', 'platform' or 'server'.

[I do not know with certainty the technical definitions of the terms 'system', 'platform' or 'server' and for that reason I put them in quotation.]

Signed: _____ **Signature Witnessed by:** _____

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8. The defence assert that you met with James Gaggero on a number of occasions between the 9th July 2018 and 4th October 2018 to discuss the NSCIS platform. We understand that meetings took place on the following dates:

a. August 2018
b. 3rd September 2018
c. 27th September 2018

Could you please confirm what was agreed during those meetings in relation to the NSCIS platform?

Unfortunately I cannot confirm all the dates of all the meetings with Mr Gaggero beyond those for which I can find a record in my diary. There may have been meetings which are not recorded in my diary and there may, more likely, have been a number of telephone conversations which would not feature in diary entries.

In terms of dates, I can confirm, as set out in more detail in **EXHIBIT FP1**, that I spoke extensively to Mr Gaggero on the morning of Saturday the 21st July. I recall that the conversation was after I had met with him in the weeks leading up to that date but I cannot recall the details of that meeting. I also cannot find any other entry for a meeting with Mr Gaggero in my diary after the 9th July and before the 21st July. An entry for the 19th July for 'J and G Gaggero' was, I believe, for a meeting with John and George Gaggero of M H Bland Ltd.

A further meeting with Mr Gaggero was held on the 13th August 2018 with me at No 6 Convent Place. Also in attendance were Mr Philip Navas and Mr Jonathan Galliano for Bland Ltd. I believe that Mr John Paul Payas was also present at that meeting.

I subsequently met with Mr Gaggero on the 3rd September at 1000hrs for 30 minutes. This meeting is recorded in my electronic diary and is referred to in the WhatsApp exchanges with Mr Levy of 4th September and a screenshot of which I have already exhibited at **EXHIBIT FP6**.

I further met with Mr Gaggero on the 27th September at 1600hrs for one hour.

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I am unable to point to specific conclusions of each meeting but I can recall that I had asked that the facts and matters referred to in those meetings should not be divulged to third parties by the persons attending with me. I subsequently received information from Mr Gaggero that matters discussed with me in private in those meetings had been referred by Mr Perez to Mr Guy Stagnetto QC of Messrs Triay Stagnetto Neish. I had been attended at that meeting only by Mr Peter Canessa, my Principal Private Secretary and Mr Caine Sanchez. I do not believe that it was Mr Canessa who disclosed the information relating to that meeting to Mr Perez.

It was also during one of the meetings that I recall Mr Gaggero informed me that he had discovered that Mr Perez and Mr Cornelio had been using the resources of Bland Ltd (ie the company credit card) for the purposes of the establishment of 36 North. This seemed to have annoyed Mr Gaggero greatly. I pointed out to him that, although this was clearly not appropriate, it seemed to me be a minor point, especially given the amounts that the Gaggero Foundation invested at that time in 'Young Enterprise' which was a scheme designed to promote young Gibraltarian entrepreneurs. I told Mr Gaggero he should seek return of the funds misapplied by Messrs Perez and Cornelio but not to make a mountain out of that molehill. Mr Gaggero also told me that he had caused a review of the Bland Ltd email accounts to be counducted and that he had found communication indicating that Messrs Perez and Cornelio had long planned to leave the employment of Bland and set up their own company.

9. "On 4th October 2018, you instructed Caine Sanchez (via Peter Canessa) to provide Bland with full control of the management, maintenance and support of the NSCIS Platform. In an two emails from Mr Peter Canessa to Mr Caine Sanchez, dated 04/10/28 he wrote:

"The Chief Minister has instructed that access to our "Azure" system be given to Jonathan Galliano at Bland/OSG immediately. He has also instructed that arrangements be made for any member of that company who will be dealing with HMGoG matters relating to security to sign the Official Secrets Act, if they haven't already done so, without delay."

"Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be

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provided full control of the management, maintenance and support of the NSCIS platform. Please do all the necessary to ensure that Tommy Cornelio fully cooperates in handing over to Jonathan Galliano of Bland Ltd access and control to all services and systems that make up the NSCIS platform immediately. Once the handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform."

Could you please clarify:

a. The reason why this instruction was necessary;
b. The basis on which this decision was made; and
c. Why it was made at that time?"

ANSWER: I gave this instruction as a result of information, provided by Mr Gaggero, that Mr Cornelio had continued to access the NSCIS platform despite his consultancy arrangements having ended with Bland Ltd. At some stage, then or thereafter, we were also told by Mr Gaggero that, in enjoying continued access to the NSCIS system, Mr Cornelio might have sought to sabotage the operation of the system for short periods in order to demonstrate that Bland Ltd were unable to properly operate it. As I have already stated, I am not competent to opine on whether that information was accurate or not, but I could not take a risk that it might be as I considered the NSCIS to be critical national infrastructure. This system was too sensitive to risk allowing Mr Cornelio access in these circumstances, whether or not what we were being told was true. I informed Mr Canessa to send a second email to Mr Sanchez in order to eliminate any ambiguity about my instruction.

PART II : OTHER MATTERS

I think it would be useful for the Court to have available other information which may be relevant to both the Crown and the Defendants. I set out that information in this second part of my statement as follows hereafter.

A: The Complaint.

I want to make it clear that the Government is not a complainant in this matter against any of the Defendants.

When this matter was first presented to me as Chief Minister, by the former Commissioner of Police, Mr Ian McGrail, he told me and the Royal Gibraltar Police were acting on information provided by Bland Ltd. He told me that the allegations included allegations of potential corruption by Government officials and that Mr Caine Sanchez was to be arrested as a result in order that he might assist the police with their inquiries. Also present at that meeting, amongst others, was the Chief Secretary, Darren Grech. I responded to that statement by the Commissioner by saying that if such evidence was presented to the Government, it would be the Government that would be the complainant against such an officer as the damage would have equally been suffered by the Government as by any third party.

The RGP has subsequently caused statements to be published that suggested that the Government was a complainant in this matter.

In fact, however, I want to clarify that the Government, that is to say the elected members of the Parliament of Gibraltar who make up the Council of Ministers, are not complainants in this matter against any of the Defendants in this case.

When the said statements by the RGP were issued, I inquired on what basis they had been made. I was informed that the Chief Secretary had been told by the Commissioner of Police that there was evidence of corruption or misfeasance in public office by Mr Sanchez. As that matter had arisen in August and I was away from the office on annual leave, the Chief Secretary made the decision to agree that the Government was a complainant without referring the matter to me or checking with me or any other Minister. The Cabinet did not have an opportunity to consider whether or not the Government should be a complainant. When I became aware of the fact that the Government was being referred to as a complainant, I sought that the Chief Secretary should provide me with the details of the evidence available to support the complaint. The Chief Secretary referred me to the assertions made to him by the Commissioner, but he was unable to provide me with any detail of any evidence in support of the complaint. I consider this to be unsatisfactory and not a basis on which the Government can agree that it should be a complainant in this matter against any of the Defendants. The Cabinet considered this matter and agreed that I should clarify

that any complaint advanced is therefore not advanced on behalf of the Government but on behalf of the Chief Secretary. I further understand that the Chief Secretary, of his own motion and without any further referral or discussion with me, has since withdrawn his own complaint.

An allegation of corruption or of misfeasance in public office is extraordinarily serious. Given the allegation that such corruption or misfeasance arises in the context of critical national infrastructure, which is how I regard the NSCIS, I believe that the Government has an obligation to satisfy itself that there is evidence of such activity before it can lend itself to any such complaint being advanced in its name. This is especially so, in my view, in respect of a Government which, at the time, included two QCs, a total of five lawyers, a Justice of the Peace and, obviously, also a Minister for Justice as well as a former Chief Minister who has been a Parliamentarian for almost fifty years and is the longest serving government minister in our history since the 1969 Constitution was granted to Gibraltar.

The Director of Public Prosecutions and the Royal Gibraltar Police, no doubt on advice which I do not challenge, responded to requests for such information or prima facie evidence by saying that they were unable to share any information that would show us – the alleged victim of the corruption or misfeasance (given we were being asked to be a complainant) - that these alleged offences would appear to have been carried out. Clearly, we were not asking for anything to be proven to us beyond a reasonable doubt, but that at least the prima facie evidence should be shared with us so that we could consider becoming a complainant.

Given that no such information or evidence has been forthcoming, the Government is not prepared to be considered a complainant in this matter in respect of any of the Defendants. The Crown is, nonetheless, of course able to continue its prosecution if it considers that it has evidence to the standard required to advance its case.

B: The Ownership of 36 North Ltd

I want to ensure that the Court is aware that Hassans Ltd held a share in 36 North. As a partner on sabbatical at Hassans Ltd, I would have had a very small, indirect interest in 36 North. I have routinely disclosed this interest in all the parliamentary questions I have answered in respect of 36 North.

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As I think is transparently obvious from the information and documentation I provide, I did not act at any time in a manner that benefitted 36 North. At every stage I acted in keeping with my view of what was in the public interest of Gibraltar, even giving instructions to exclude 36 North from access to the NSCIS platform on the basis set out in my answers to the questions above.

C: The Contractual Arrangement with Bland Ltd

On the 7th April 2021 I was additionally asked by the Royal Gibraltar Police to comment on whether there was a contractual arrangement in place between HMGoG and Bland Ltd in respect of the NSCIS platform.

Though not reduced to writing, there was clearly an arrangement in place between HMGoG and Bland Ltd.

Whilst the terms of the agreement are disputed – and it is for that reason that we have not executed the agreement - the arrangement is reflected in payments made by the Government to Bland Ltd (adjusted to reflect the functionality problems inherent in the system) but there is no signed contract between us.

As a result of the fact that the said contract has not been signed, because agreement cannot be reached between us on the issue of the ownership of the software, the arrangements were and continue on the basis of a continuing monthly renewal and were and are determinable, in my view (and on the basis of the legal advice received by the Government), by either side without notice.

D: Continued Assistance to the Court.

Despite the fact that I am not presently in practice whilst I hold the office of Chief Minister of Gibraltar, I consider myself to continue to hold the duties of an officer of the Court. I therefore stand ready to assist the Court in any way that it may be determined that I could usefully provide any further information at my disposal or in my recollection.

ENDS : ENDS : ENDS : ENDS : ENDS : ENDS : ENDS : ENDS : ENDS

Signed: _____ **Signature Witnessed by:** _____

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OB No	Royal Gibraltar Police	Exhibits Stores ID No
Exhibit Book No		Identification No
		FP/1

Name of Case

Operation Delhi

Full names of all defendants in case. (Include Forenames and Surname(s).	1) Thomas Cornelio 2) John Perez 3) Caine Sanchez 4) 5) 6)

Officer in Charge of Case:- Supt Mark Wyan

Description of Exhibit: IRAD Notes dated 21/7/2018 relating to a phone call from Mr Caggara

Person producing exhibit:	Fabian Picardo	Signed:
Person Identifying exhibit:	Name, Rank & No.	Signed:
Person Identifying exhibit:	Name, Rank & No.	Signed:

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Court:-

Case:-

Signature of Magistrates/Justice of the Peace/Clerk to the Court	Exhibit No.

Date:

FP1/60

21 July 2018, 11:52

James Gaggero

situation that has arisen in past week
Effect for foreseeable future
John pastures new
Most effective talented people
Fantastic job
Developing rock and new businesses
Boils down to opps Togo it aolne
One area, tech side. ETB, bca, social services
We have invested in 8 years
Software now significant
Totality is quite a big business, not in our 2oo yrs of business
As we built, the software made it efficient
Tommy Cornelio, great Gibraltarian genius
Why do we have to carry all of Blands when we can do this ourselves.
They want to do it themselves
They are heading for the hills.
Joey Benrimoj, first class, fantastic brain.
All are going to go
Very unexpected from me.
Not as engaged in the past six months
Gone to do a lot of trade shows.
We tried to make them partners and shareholders,
But they have been slow in coming back
My main concern is that it will not impact on Government and we will do everything we can in the transition period so that there is no negative effect on the community
We have intellectual property in the software for Blands.
We will have that discussion but we will be supportive
Your govt support of Blands will not be let down
We will support an easy transition to the new team
We will coooperate in every way that we can
It is a lost cause
But there is something financial that will have to be discussed.
We may have to buyout the software
Maybe you buy out the software and you dont have to pay the fees
Why pay two kids 500k a year when you can buy it from us.
...
Desire not to burn bridges
All of them great
Not the end of the world
Some other great people at second rung
Time will be required from me

OB No		Exhibits Stores ID No
Exhibit Book No	**Royal Gibraltar Police**	Identification No
		FP/2

Name of Case

Operation Delhi

Full names of all defendants in case. (Include Forenames and Surname(s).	1) Thomas Cornello 2) John Perez 3) Caine Sanchez 4) 5) 6)

Officer in Charge of Case:- Supt Mark Wyan

Description of Exhibit: SERIES OF EMAILS SENT BY MR SANCHEZ TO THE CHIEF MINISTER RELATING TO THE NSIS PLATFORM.

Person producing exhibit:	Fabian Picardo	Signed:
Person identifying exhibit:	Name, Rank & No.	Signed:
Person identifying exhibit:	Name, Rank & No.	Signed:

FOR COURT USE ONLY

Court:-

Case:-

Signature of Magistrates/Justice of the Peace/Clerk to the Court	Exhibit No.

Date:

FP1/62

(NO6) Martinez, Susan

From: (EDEC) Sanchez, Caine
Sent: 24 July 2018 08:52
To: (MIN) Picardo, Fabian
Cc: (MIN) Garcia, Dr. Joseph
Subject: Re: National Security software

We don't need to buy the software. We have fully paid for it's development. This has been made clear by me to them throughout.

Sent from my Samsung Galaxy smartphone.

------ Original message ------
From: "(MIN) Picardo, Fabian" <fabian.picardo@gibraltar.gov.gi>
Date: 24/07/2018 08:46 (GMT+01:00)
To: "(DCM) Sanchez, Caine" <caine.sanchez@gibraltar.gov.gi>
Cc: "(MIN) Garcia, Dr. Joseph" <joseph.garcia@gibraltar.gov.gi>
Subject: Re: National Security software

Thanks. There was no claim discussed against us. What he proposed was that we buy the software instead of paying licence fees. F

Sent from my iPad

On 24 Jul 2018, at 07:43, (DCM) Sanchez, Caine <caine.sanchez@gibraltar.gov.gi> wrote:

> Dear Chief Minister
>
> Last night I received a call from Mr James Gaggero, Chairman of Bland Group, with regards to their situation on our national security software. As you may be aware their three developers have now resigned as well as their CEO Mr John Perez. We spoke briefly on how the transition period would be dealt with as the management of the software will now be taken over by the new company that Mr Perez has opened with the three developers. This transition would work well for us but I would need to look at some of the processes initially so that I am satisfied that it will be practical for us.
>
> On another note Mr Gaggero mentioned to me that in his conversation with you he stated that he would be looking at claiming loss of earnings from the Government. On this note I would be grateful if I could brief you further prior to your meeting with him as there is no claim to be made on their side.
>
> Kind regards
>
> Caine

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

Office of the Deputy Chief Minister
HM Government of Gibraltar

No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20043055
Centrex: [redacted]
Fax: (+350) 20059271
Mobile: (+[redacted]
caine.sanchez@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Deputy Chief Minister

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Fabian Picardo QC MP
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Office of the Chief Minister

HM Government of Gibraltar

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Please consider the environment before printing this email.

(NO6) Martinez, Susan

From: (EDEC) Sanchez, Caine
Sent: 10 August 2018 14:06
To: (MIN) Picardo, Fabian
Subject: Meeting with James Gaggero

Dear Chief Minister

I understand from Mr Gaggero that you will be meeting with him on the 13th. Grateful if I could brief you prior to your meeting as he is asking for loss of earnings which I believe he has no case for.

Regards

Caine

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

Office of the Deputy Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20043055
Centrex: [redacted]
Fax: (+350) 20059271
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caine.sanchez@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Deputy Chief Minister

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(NO6) Martinez, Susan

From: (EDEC) Sanchez, Caine
Sent: 13 August 2018 10:14
To: (MIN) Picardo, Fabian
Subject: Meeting with James Gaggero

Dear Chief Minister

I understand that Mr Gaggero will be accompanied by one of his IT officers and his finance officer. Please let me know if you wish for me to be present in the meeting as he only has issues with the system that I manage.

Regards

Caine

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

Office of the Deputy Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20043055
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(NO6) Martinez, Susan

From: (EDEC) Sanchez, Caine
Sent: 13 August 2018 15:46
To: (MIN) Picardo, Fabian
Subject: Brief on platforms re: meeting with JG

Dear Chief Minister

As per our meeting today, with regards to the platforms for Employment, Education and DSS I believe that we need to go ahead with Mr Gaggero's advice and subcontract the new company to maintain initially the Employment and Education systems and to finalise the DSS. We can then liaise with our ITLD to see if this is something they can take over.

I will non the less get information for you with regards to the capabilities of each system as well as the pending works for the DSS.

With regards to the Security platform the cleanest way to get out of this is to source another programme that will interact with our hardware. I am afraid that we have little options left as we do not want to prolong this too much due to the sensitivities of the system as well as to the liability. The transition would be seamless with zero downtime.

Only last year the system made us over £1m with regards to truck movements that tried to come through undeclared. So if only for value it is well worth it. It is classified by Interpol as one of the top ten security platforms around.

I will have the information on the DSS platform and the new security system by end of play tomorrow. Will sent it through as and when received.

Please let me know how to proceed.

Kind regards

Caine

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

Office of the Deputy Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20043055
Centrex: [redacted]
Fax: (+350) 20059271
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Please consider the environment before printing this email.

(NO6) Martinez, Susan

From: (EDEC) Sanchez, Caine
Sent: 14 August 2018 15:23
To: (MIN) Picardo, Fabian
Subject: Draft Letter to James Gaggero.docx
Attachments: Draft Letter to James Gaggero.docx

Dear Chief Minister

Attached please find my draft letter to Mr Gaggero. I have still not engaged with John Paul or Lloyd as I want you to be happy with the content.

Kind regards

Caine

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

Office of the Deputy Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20043055
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Please consider the environment before printing this email.

Dear James

RE: Blands maintenance fees for HMGOG Platforms

Thank you for your meeting on the 13th August with the Chief Minister, which was eye opening. In view of the urgency to resolve the maintenance and liability matters, the HM Government of Gibraltar has taken the following position with respect of each of the platforms:

1. Employment and Education platforms - Maintenance of the platform to be contracted directly with the new company with any liability of the work that has been done or going forward to be absorbed by the new company

2. DSS platform - We had several options, as discussed in our meeting, of which the Government will pursue the following:

    a. The new company to assume full responsibility of our platform and we would pay them the outstanding circa £70k to finalise it. The new company will assume ongoing maintenance and full liability for the platform. This would be subject to the new company agreeing to this. If not, full responsibility and liability would lie with Blands.

3. National Security platform - HM Government of Gibraltar has taken the decision to move away from the current platform and go with a new platform, with greater capabilities for our law Enforcement Agencies.

With regards to the transition from Blands to the new provider, this will occur on Monday 20th August. We will then agree to settle all outstanding payments pro-rata.

We would like to thank the Blands group for their services with regards to the above-mentioned platforms and for the ongoing services you provide HM Government of Gibraltar in all other fields.

(NO6) Martinez, Susan

From: (EDEC) Sanchez, Caine
Sent: 15 August 2018 14:55
To: (MIN) Picardo, Fabian
Subject: New security platform
Attachments: HMGOGBorder Management Solution - Proposal V1.pdf; HMGOG Border Management Solution - Cover Letter.pdf

Dear Chief Minister

For your info, attached please find information on the new proposal for our security platform. We will have a saving of approx. £20k per year as well as having ownership of the platform.

Kind regards

Caine

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

Office of the Deputy Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20043055
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Please consider the environment before printing this email.

36north.io phone. (00350) 2000 8046 | email. info@36north.io

36 NORTH

Caine Sanchez
Principal Secretary to the DCM
No 6 Convent Place, Gibraltar, GX11 1AA

August 14, 2018

Dear Mr Sanchez,

I attach for your consideration the HM GOG Border Management System proposal, which includes a breakdown of costs by capability.

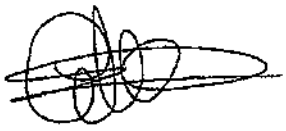
36 North are delighted to be extended the opportunity to submit this proposal and remain confident that our system will meet all your requirements.

With regards to its operational status, it is available and ready to be deployed at short notice. This would be subject to being provided with the relevant access by the Government of Gibraltar.

Maintenance fees attached include the ownership of the code and intellectual property rights of the border management system by HM Government of Gibraltar.

Please let us know if you require any further information and we very much look forward to hearing from you soon.

Yours Sincerely



Thomas Cornelio,
Chief Technology Officer
thomas.cornelio@36north.io

World Trade Center, Unit 1.02, Gibraltar, GX11 1AA

FP1/72

36NORTH.IO
World Trade Center, Unit 1.02
Gibraltar, GX11 1AA

Phone. (00350) 2000 8046
Email. projects@36north.io
www.36north.io

36NORTH

HM GOG BORDER MANAGEMENT SYSTEM PROJECT PROPOSAL

Project ID #001/10001
Government Security Systems.

Prepared for:

Caine Sanchez

Principal Secretary to the DCM
Government of Gibraltar

No 6 Convent Place
Gibraltar, GX11 1AA
www.gibraltar.gov.gi

Project Manager Contact

Thomas Cornelio

Phone. ([redacted])
Email. thomas.cornelio@36north.io

Proposal issued:
14. 08. 2018

Proposal valid to:
31. 08. 2018

FP1/73

B1141

About Us.

36 North is a global leader in the design and implementation of smart border management solutions. We work with various goverments around the world in order to create safe environments through our Phoenix Border Management System.

In today's world, international travel is essential to buissness success. Trade and tourism depend on safe and efficient immigration controls. However Terrorism, identity theft, human and drug traficking pose grave risks to border security. 36 North solves border security challenges with innovative technology solutions that keep our community and travelers safe.

At 36 North we forward deploy cutting – edge biometric technologies and advanced data analytic tools to provide law enforcement agencies with the knowledge to ensure order efficiency exists at our land, sea and air border points.

With expertise in deploying the latest technologies at border entry points and a dedicated team of highly qualified professionals whom are both current and experienced in developing innovative software programs to meet emerging challenges, 36 North is your partner of choice

What We Believe.

In developing advanced software designed to support and empower goverments around the world with smarter high tech solutions that keep travelers safe and borders secure.

What We Do.

- Immigration Control Systems
- Advanced Software Solutions
- Biometric Technology
- Data Mining & Analytical Tools

Our Partners

Technical Director



Thomas Cornelio
Chief Technical Officer

Professional Staff

CTO & Founding member of 36 North, Thomas was a young entrepreneur, successfully running online businesses since the age of 17. His work ethic was recognised by the largest tech company in the region and was awarded a scholarship to work with them and further his studies.

With this scholarship Tommy studied Computer Science at Cardiff University, graduating with a 1st Class Honors degree, he was also selected on various occasions to represent the University and winning an IBM award for the best project.

In 2009 he joined Gibtelecom, the largest telecoms operator in the region. Here he went on to build complete billing and data management platforms for mobile devices, with his works then incorporated by industry giants such as Ericsson. He also developed a country wide Wi-Fi billing platform with Cisco technologies.

His success led to an offer to join Bland Group International in 2012 as a senior software architect. During his time there Tommy engineered complex artificial intelligence platforms and industry leading solutions, most notably in the field of security.

In 2018 Tommy setup 36 North Limited with the aim of designing innovative software solutions to solve sophisticated real world problems.

Achievements

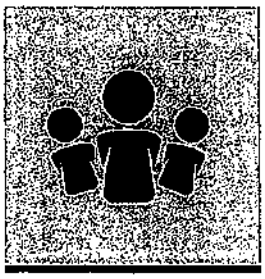
1st Class Honours Computer Science

IBM Best Final Year Project

Microsoft Certified Solutions Expert

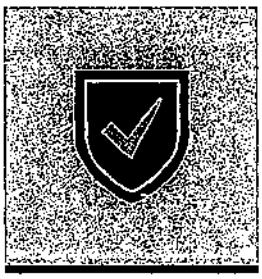
redhat Certified Engineer

Our Services.



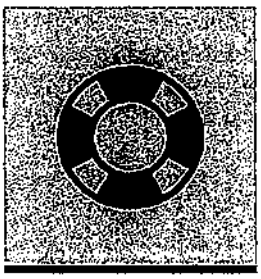
Expert Team Management

We manage our teams effectively in order to ensure all software and updates are delivered on time and bug free.



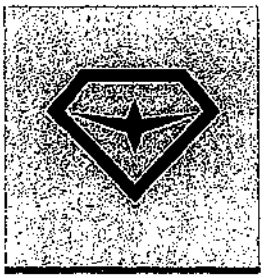
5 Years Product Guarantee

We have complete confidence in our platform. A five year guarantee is offerred on all our code.



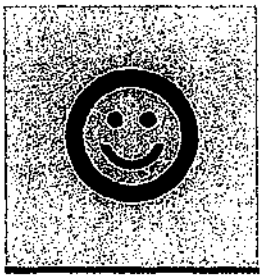
24/7 System Support

Our customer support center offers 24/7 support throughout our services and at no added cost.



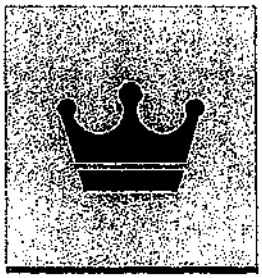
Clean Code Programming

We believe in efficient programming. That is why we constantly improve our code to keep up with the latest innovations.



Friendly Customer support

We treat our clients fairly and are always happy to listen to their feedback. Our staff have immensive experience in working with law enforcement personnel at the highest levels.



Premium Service – Continuous Development

We believe in working and listenting to our clients. And in continuously improving our platforms. Most system upgrades and new modules are provided at no extra cost.

36 NORTH

HM GOG BORDER MANAGEMENT SYSTEM PROJECT PROPOSAL

36NORTH.IO

World Trade Center, Unit 1.02
Gibraltar, GX11 1AA

Phone. (00350) 2000 8046
Email. projects@36north.io
www.36north.io

FP1/80

(NO6) Martinez, Susan

From: (EDEC) Sanchez, Caine
Sent: 15 August 2018 17:36
To: (MIN) Picardo, Fabian
Subject: Fwd: NSCIS Server and Services Events this afternoon

Dear Chief Minister

The situation is now getting untenable and frankly quite ridiculous. Please see string of emails below.

Regards

Caine Sanchez
Principal Secretary Operations
Deputy Chief Minister's Office

Sent from Ipad

Begin forwarded message:

> **From:** "(DCM) Sanchez, Caine" <caine.sanchez@gibraltar.gov.gi>
> **Date:** 15 August 2018 at 17:34:47 GMT+2
> **To:** "jonathan.galliano@blandgroup.com" <jonathan.galliano@blandgroup.com>, James Gaggero <chairman@blandgroup.com>
> **Subject: Fwd: NSCIS Server and Services Events this afternoon**
>
> Dear James
>
> Please see Tommy's email below which is self-explanatory. I need to do further enquiries but I am quite perplexed that access was disabled for him. Although he should have informed Jonathan as to what his actions were going to be, disabling access has placed us again in a vulnerable situation. I will review all this and revert soonest as the situation is now getting untenable.
>
> Regards
>
> Caine Sanchez
> Principal Secretary Operations
> Deputy Chief Minister's Office
>
> Sent from Ipad
>
> Begin forwarded message:
>
> > **From:** Thomas Cornelio <thomas.cornelio@36north.io>
> > **Date:** 15 August 2018 at 17:23:41 GMT+2
> > **To:** "(DCM) Sanchez, Caine" <caine.sanchez@gibraltar.gov.gi>
> > **Subject: Re: NSCIS Server and Services Events this afternoon**
> >
> > Dear Caine,

Access to several servers that was available externally to me was removed by Bland Limited. In order to support NSCIS effectively I re-enabled this access, to the extent that i spent all of last night working on a case with the Borders & Coastguard department in order to assist them in their duties. The server was rebooted to ensure that access was available after a reboot as Bland Ltd had tampered with the settings to ensure that access would not be available to me remotely after a server reboot. Note that 36 North is the computer name of my workstation.

Should you need any further clarification on this matter please do not hesitate to contact me.

Kind Regards

Tommy

On Wed, Aug 15, 2018 at 5:13 PM, (DCM) Sanchez, Caine <caine.sanchez@gibraltar.gov.gi> wrote:
Dear Tommy

Please find email below. Grateful for an explanation on this.

Kind regards

Caine

Sent from my Samsung Galaxy smartphone.

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

Office of the Deputy Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20043055
Centrex: [redacted]
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caine.sanchez@gibraltar.gov.gi

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HM Government of Gibraltar

Office of the Deputy Chief Minister

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Please consider the environment before printing this email.

-------- Original message --------
From: Jonathan Galliano <jonathan.galliano@blandgroup.com>
Date: 15/08/2018 17:10 (GMT+01:00)
To: "(DCM) Sanchez, Caine" <caine.sanchez@gibraltar.gov.gi>
Cc: Chairman <chairman@blandgroup.com>
Subject: NSCIS Server and Services Events this afternoon

Dear Caine,

There have been a series of server reboots and service restarts at Four Corners and the Port during the course of the afternoon that is cause for concern given the understanding we have that no changes to access or otherwise be carried out on NSCIS services and systems without your consent.

Whilst investigating these events it has become evident that external access to NSCIS hardware has now been enabled through other remote management software to a third party by the name of 36 North. Having access to these servers by default also grants access to all other NSCIS hardware within their respective sites/locations. The result of these actions is that Blands going forward can't guarantee (1) from where these systems will be accessed and by whom and (2) there is now no longer a dependency to have Tommy's workstation running in our offices to be able to access any NSCIS hardware as agreed.

Regards

Jonathan Galliano

Head of IT & Infrastructure

Bland Group International

P.O.Box 212,

2nd floor, Cloister Building

Irish Town

Gibraltar, GX11 1AA.

Tel: + 350 200 79200

Fax: +350 200 76189

www.blandgroup.com

BLAND GROUP INTERNATIONAL

EU GDPR
Please be aware that our Privacy Notice has been updated in line with the General Data Protection Regulation (GDPR) requirements. You can view our Privacy Notice here

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Where the content of this message is personal or otherwise unconnected with the companies within the Bland Group, we accept no responsibility or liability for such content.

The Bland Group has taken all reasonable effort to ensure this message and any attached files are free from Viruses. It is highly recommended that, before you open any attached files, you should check for Viruses. The sender does not accept any liability or responsibility for the consequences of the delivery of any viruses.

--

Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

FP1/84

Tel:+350 56001454

36NORTH

EU GDPR

FP1/85

B1153

(NO6) Martinez, Susan

From: (EDEC) Sanchez, Caine
Sent: 15 August 2018 20:08
To: (MIN) Picardo, Fabian
Subject: Urgent James Gaggero

Dear Chief Minister

Please see the chain of emails below. The situation is getting now personal. I have drafted this response but won't send it without your approval.

'Dear James

My sole responsibility is for the functionality of the system that enhances the security capabilities of our law enforcement agencies. As you can imagine the professional relationship that I have with Tommy goes back 6-7years and as such have complete trust in his capabilities. Only last night he worked tirelessly with our law enforcement agencies to assist in an ongoing investigation which was resolved by him. On Friday he managed to solve an issue which you we aware of, that your team could not identify.

I would definitely change your stance on this because he has managed to solve a liability issue for your company.

Seeing that you will no longer be taking responsibility for the platform I will be taking this matter forward immediately so that the necessary changes can be done so that the resilience of our system continues."

Kind regards

Caine Sanchez
Principal Secretary Operations
Deputy Chief Minister's Office

Sent from Ipad

Begin forwarded message:

> **From:** Chairman <chairman@blandgroup.com>
> **Date:** 15 August 2018 at 19:01:38 GMT+2
> **To:** "caine.sanchez@gibraltar.gov.gi" <caine.sanchez@gibraltar.gov.gi>
> **Cc:** Jonathan Galliano <jonathan.galliano@blandgroup.com>
> **Subject: Re: NSCIS Server and Services Events this afternoon**
>
> Private and Confidential
>
> Dear Caine,
> Although I am no longer surprised by Tommy's manipulative behaviour, I am shocked that you appear unwilling to question what he is doing. I believe you are being played.
> For the record no one at Bland has disabled Tommy Cornelio's access to any server (as we agreed with you that we wouldn't) and we have NOT "tampered" with the settings. Both allegations are false.
> I am disappointed that you appear willing to take the word of a man that has been shown to act questionably over a company with a 200 year track record.

I add that we can no longer be held responsible for the situation that has developed completely contrary to the Chief Minister's instructions to us both.
Kind regards
James

On 15 Aug 2018, at 17:34, (DCM) Sanchez, Caine <caine.sanchez@gibraltar.gov.gi> wrote:

Dear James

Please see Tommy's email below which is self-explanatory. I need to do further enquiries but I am quite perplexed that access was disabled for him. Although he should have informed Jonathan as to what his actions were going to be, disabling access has placed us again in a vulnerable situation. I will review all this and revert soonest as the situation is now getting untenable.

Regards

Caine Sanchez
Principal Secretary Operations
Deputy Chief Minister's Office

Sent from Ipad

Begin forwarded message:

> **From:** Thomas Cornelio <thomas.cornelio@36north.io>
> **Date:** 15 August 2018 at 17:23:41 GMT+2
> **To:** "(DCM) Sanchez, Caine" <caine.sanchez@gibraltar.gov.gi>
> **Subject: Re: NSCIS Server and Services Events this afternoon**
>
> Dear Caine,
>
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>
> Should you need any further clarification on this matter please do not hesitate to contact me.
>
> Kind Regards
>
> Tommy
>
> On Wed, Aug 15, 2018 at 5:13 PM, (DCM) Sanchez, Caine <caine.sanchez@gibraltar.gov.gi> wrote:
> Dear Tommy
>
> Please find email below. Grateful for an explanation on this.

Kind regards

Caine

Sent from my Samsung Galaxy smartphone.

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

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HM Government of Gibraltar
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Mobile: (+[redacted]) [redacted]
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HM Government of Gibraltar

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Please consider the environment before printing this email.

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From: Jonathan Galliano <jonathan.galliano@blandgroup.com>
Date: 15/08/2018 17:10 (GMT+01:00)
To: "(DCM) Sanchez, Caine" <caine.sanchez@gibraltar.gov.gi>
Cc: Chairman <chairman@blandgroup.com>
Subject: NSCIS Server and Services Events this afternoon

Dear Caine,

There have been a series of server reboots and service restarts at Four Corners and the Port during the course of the afternoon that is cause for

concern given the understanding we have that no changes to access or otherwise be carried out on NSCIS services and systems without your consent.

Whilst investigating these events it has become evident that external access to NSCIS hardware has now been enabled through other remote management software to a third party by the name of 36 North. Having access to these servers by default also grants access to all other NSCIS hardware within their respective sites/locations. The result of these actions is that Blands going forward can't guarantee (1) from where these systems will be accessed and by whom and (2) there is now no longer a dependency to have Tommy's workstation running in our offices to be able to access any NSCIS hardware as agreed.

Regards

Jonathan Galliano

Head of IT & Infrastructure

Bland Group International

P.O.Box 212,

2nd floor, Cloister Building

Irish Town

Gibraltar, GX11 1AA.

Tel: + 350 200 79200

Fax: +350 200 76189

www.blandgroup.com

<image001.png>

<118081516104100645.png>

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--

Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Tel:+350 56001454

36 NORTH

EU GDPR

EU GDPR
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(NO6) Martinez, Susan

From: (EDEC) Sanchez, Caine
Sent: 17 August 2018 09:29
To: (MIN) Picardo, Fabian; (MIN) Garcia, Dr. Joseph
Subject: James Gaggero

Importance: High

Dear Chief Minister

I spoke to the Deputy Chief Minister this morning and he informed me of the accusations that Mr Gaggero's lawyer made against me with regards to leaking information to Mr Perez. I can categorically deny this. Specifically you instructed me not to relay any information to Mr Perez and that I did. It is the second time this week that he has questioned my professional integrity. Frankly he should be looking at the leak from inside his organisation as I knew more that 80% of the vile accusations that he was going to make before the meeting.

My number one priority is looking after the interest of the Government and this I have done so throughout my 22 years career in the civil service without ever compromising the Government. It is therefore sad to hear these demeaning accusations from someone who does not know me at all.

Moving on to the important factor, which clearly is not in his agenda, is the predicament we are currently in with our software platforms where he has now stated that his company will take no liability on this. We are currently dependent on the good will of an external source to maintain this at no cost.

I therefore urge that a decision is taken to minimise the risks we can have on the four platforms that we currently are paying Blands to maintain.

Kind regards

Caine

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

Office of the Deputy Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20043055
Centrex: [redacted]
Fax: (+350) 20059271
Mobile: (+[redacted]) [redacted]
caine.sanchez@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Deputy Chief Minister

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Please consider the environment before printing this email.

(NO6) Martinez, Susan

From: (EDEC) Sanchez, Caine
Sent: 21 August 2018 20:25
To: (MIN) Picardo, Fabian
Subject: Fwd: DSS

Dear Chief Minister

Please see email below from John Reyes. Grateful fo advice on how to proceed.

Kind regards

Caine

Sent from my Samsung Galaxy smartphone.

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

Office of the Deputy Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20043055
Centrex: [redacted]
Fax: (+350) 20059271
Mobile: (+[redacted]) [redacted]
caine.sanchez@gibraltar.gov.gi

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HM Government of Gibraltar

Office of the Deputy Chief Minister

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-------- Original message --------
From: "(DSS) Reyes, John B." <john.reyes@gibraltar.gov.gi>
Date: 21/08/2018 20:04 (GMT+01:00)
To: "(DCM) Sanchez, Caine" <caine.sanchez@gibraltar.gov.gi>

Subject: Fwd: DSS

Dear Caine,

The project Tommy refers to below is to give effect to the Chief Minister's instructions for pensioners to have the option to have their rent for Government housing deducted from their Old Age Pension. The CM wanted this in place by 1 September. However Tommy is asking what the position is in general regarding the continuation of the new DSS database project.

Over to you. Please advise.

KR

John

John B. Reyes
Director of Social Security

Department of Social Security
HM Government of Gibraltar
14 Governor's Parade
Gibraltar
GX11 1AA

Tel: (+350) 20051149
Fax: (+350) 20074941
john.reyes@gibraltar.gov.gi

www.gibraltar.gov.gi

Department of Social Security

HM Government of Gibraltar

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Please consider the environment before printing this email.

Begin forwarded message:

> **From:** Thomas Cornelio <thomas.cornelio@36north.io>
> **Date:** 21 August 2018 at 15:30:42 GMT+2
> **To:** "(DSS) Reyes, John B." <john.reyes@gibraltar.gov.gi>
> **Subject: DSS**
>
> Dear John,
>
> Before i proceed any further with the DSS module to integrate to the housing database and PCA application could you please get in contact with Caine Sanchez so that he can advise what the government position is with regards to the continuation of the DSS project?
>
> As i believe this needs to be cleared by them beforehand.

FP1/95

Kind Regards

--
Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Tel: +350 2000 8140
Mob:+[redacted]

36NORTH

[redacted]EU GDPR

(NO6) Martinez, Susan

From: (EDEC) Sanchez, Caine
Sent: 28 August 2018 12:47
To: (MIN) Picardo, Fabian
Subject: Security System

Dear Chief Minister

I need to take a decision on whom do I need to make the maintenance payments to with regards to the system. Blands have made themselves no longer liable for the system yet still claim that itbis theirs. Currently it is 90% maintained by Tommy.

Grateful for your advice on how to proceed.

Regards

Caine

Sent from my Samsung Galaxy smartphone.

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

Office of the Deputy Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20043055
Centrex: [redacted]
Fax: (+350) 20059271
Mobile: (+350) [redacted]
caine.sanchez@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Deputy Chief Minister

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(NO6) Martinez, Susan

From: Chairman <chairman@blandgroup.com>
Sent: 30 August 2018 19:29
To: (EDEC) Sanchez, Caine
Subject: Fwd: End of support

Dear Caine,

Thank you for your text.
I wanted to bring this development to your attention without delay.
The following exchange of email is self explanatory.

I am available to speak this evening if this would be helpful or all day tomorrow.

I undertake to do all possible to assist but as you know and accepted, your decision to enable TC to cut Blands out of the loop has seriously set back our ability to help and we now have no idea what actions have been carried out during the last 3 weeks which could be detrimental to or even undermined the platform.

I am truly sorry we find ourselves in this situation

Kind regards

James

Begin forwarded message:

From: Chairman <chairman@blandgroup.com>
Date: 30 August 2018 at 18:56:28 CEST
To: Thomas Cornelio <[redacted]>
Subject: Re: End of support

Dear Tommy,

Thank you for your email.
I fully understand your disappointment that the issues we face have not been resolved by now.
I share your frustration.
Like you I find myself awaiting the outcome of HMGoG's decision as to how they wish to proceed. I can only imagine Brexit is consuming their available time.
On a more positive note the Peter Canessa has only just this afternoon confirmed that the CM is ready to meet me and a date has been set immediately following his return to Gib next week. More anon.

In the meantime I reiterate my appreciation for all you have done to ensure that the NSCIS platform has operated without a single discernible problem since you left the company. Thank you. I will make it plain to the CM the extent of your unfailing commitment during this period.

In return I will of course honour my commitment to you to settle your fees for carrying out these services. And will ensure prompt payment the moment you submit your invoice.

I am sorry you feel you are no longer able to support the platform with effect from 00:00 on the 1st September in any capacity. All the more so when one considers all that is at stake. Naturally I will communicate your decision to Caine Sanchez immediately and the CM when we meet next week.

Regarding your point that you have not heard from me recently: I can only apologise for this but I was led to believe you were away for two weeks. As the platform seemed to be running without problems I did not feel my intervention was required.

I know Bethan has communicated with you re your request under GDPR and that this matter is of course in hand.

Again with many thanks for all you have done to assist the Government and ourselves during this difficult period.

Kind regards

James

Sent on the move by James Gaggero.

On 30 Aug 2018, at 18:12, Thomas Cornelio <[redacted]> wrote:

Dear James,

As you are aware, I have been running and maintaining the NSCIS platform on behalf of Bland Limited as from 00:00 on 11th August 2018. I have done this in good faith in order to allow you time to resolve the issue with the Government and, of course, to ensure that Gibraltar's national security measures are not affected. I have proceeded on the basis that I will be fairly remunerated for this work.

I have done my best to maintain the platform during these difficult times, especially in circumstances where our working relationship has ended and at the same time as setting up my own company. I have to date received no communication from either Bland Limited or the Government of Gibraltar with regard to a possible solution to the problems faced by Bland Limited.

Unfortunately, circumstances are such that it is not possible for me to continue working under the current conditions. Please let this email serve as official notice that as of 00:00 on 1st September 2018 I will no longer be supporting the NSCIS platform in any capacity. Please also note that I will shortly be invoicing Bland Limited in respect of my fees for the period 11 August 2018 to 31 August 2018.

Kind Regards

Tommy

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(NO6) Martinez, Susan

From: (EDEC) Sanchez, Caine
Sent: 18 September 2018 12:00
To: (MIN) Picardo, Fabian
Cc: (MIN) Garcia, Dr. Joseph
Subject: FW: NSCIS

Dear Chief Minister

Grateful if we could have a 10 minute chat over this. [redacted] will be sending me information on the issues that they are having and I will be forwarding this to you.

Regards

Caine

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

Office of the Deputy Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20043055
Centrex: [redacted]
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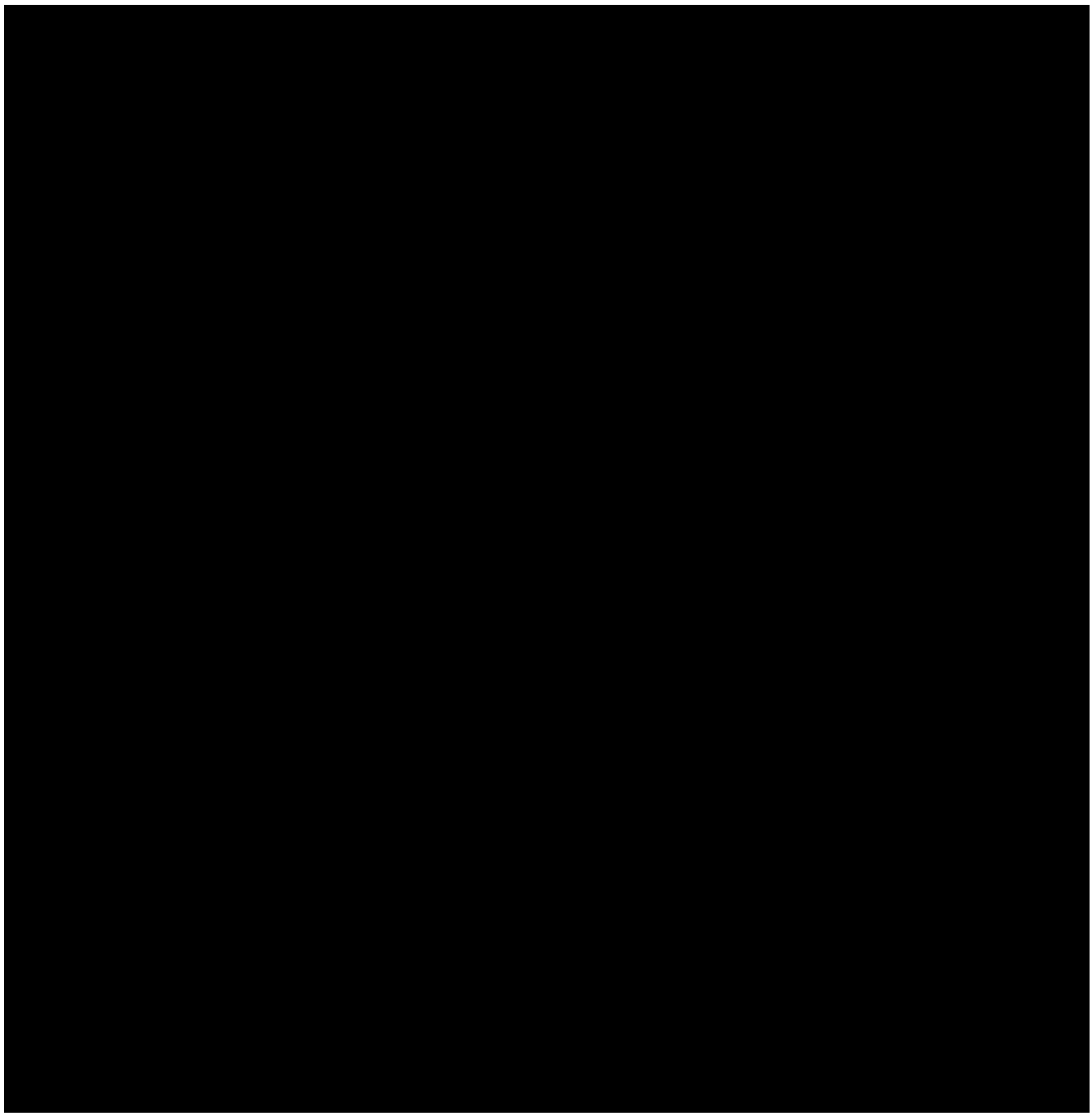
[redacted]



(NO6) Martinez, Susan

From: (EDEC) Sanchez, Caine
Sent: 15 August 2018 20:08
To: (MIN) Picardo, Fabian
Subject: Urgent James Gaggero

Dear Chief Minister

Please see the chain of emails below. The situation is getting now personal. I have drafted this response but won't send it without your approval.

'Dear James

My sole responsibility is for the functionality of the system that enhances the security capabilities of our law enforcement agencies. As you can imagine the professional relationship that I have with Tommy goes back 6-7years and as such have complete trust in his capabilities. Only last night he worked tirelessly with our law enforcement agencies to assist in an ongoing investigation which was resolved by him. On Friday he managed to solve an issue which you we aware of, that your team could not identify.

I would definitely change your stance on this because he has managed to solve a liability issue for your company.

Seeing that you will no longer be taking responsibility for the platform I will be taking this matter forward immediately so that the necessary changes can be done so that the resilience of our system continues."

Kind regards

Caine Sanchez
Principal Secretary Operations
Deputy Chief Minister's Office

Sent from Ipad

Begin forwarded message:

> **From:** Chairman <chairman@blandgroup.com>
> **Date:** 15 August 2018 at 19:01:38 GMT+2
> **To:** "caine.sanchez@gibraltar.gov.gi" <caine.sanchez@gibraltar.gov.gi>
> **Cc:** Jonathan Galliano <jonathan.galliano@blandgroup.com>
> **Subject: Re: NSCIS Server and Services Events this afternoon**
>
> Private and Confidential
>
> Dear Caine,
> Although I am no longer surprised by Tommy's manipulative behaviour, I am shocked that you appear unwilling to question what he is doing. I believe you are being played.
> For the record no one at Bland has disabled Tommy Cornelio's access to any server (as we agreed with you that we wouldn't) and we have NOT "tampered" with the settings. Both allegations are false.
> I am disappointed that you appear willing to take the word of a man that has been shown to act questionably over a company with a 200 year track record.

FP1/103

B1171

I add that we can no longer be held responsible for the situation that has developed completely contrary to the Chief Minister's instructions to us both.
Kind regards
James

On 15 Aug 2018, at 17:34, (DCM) Sanchez, Caine <caine.sanchez@gibraltar.gov.gi> wrote:

Dear James

Please see Tommy's email below which is self-explanatory. I need to do further enquiries but I am quite perplexed that access was disabled for him. Although he should have informed Jonathan as to what his actions were going to be, disabling access has placed us again in a vulnerable situation. I will review all this and revert soonest as the situation is now getting untenable.

Regards

Caine Sanchez
Principal Secretary Operations
Deputy Chief Minister's Office

Sent from Ipad

Begin forwarded message:

> **From:** Thomas Cornelio <thomas.cornelio@36north.io>
> **Date:** 15 August 2018 at 17:23:41 GMT+2
> **To:** "(DCM) Sanchez, Caine" <caine.sanchez@gibraltar.gov.gi>
> **Subject: Re: NSCIS Server and Services Events this afternoon**
>
> Dear Caine,
>
> Access to several servers that was available externally to me was removed by Bland Limited. In order to support NSCIS effectively I re-enabled this access, to the extent that i spent all of last night working on a case with the Borders & Coastguard department in order to assist them in their duties. The server was rebooted to ensure that access was available after a reboot as Bland Ltd had tampered with the settings to ensure that access would not be available to me remotely after a server reboot. Note that 36 North is the computer name of my workstation.
>
> Should you need any further clarification on this matter please do not hesitate to contact me.
>
> Kind Regards
>
> Tommy
>
> On Wed, Aug 15, 2018 at 5:13 PM, (DCM) Sanchez, Caine <caine.sanchez@gibraltar.gov.gi> wrote:
> Dear Tommy
>
> Please find email below. Grateful for an explanation on this.

Kind regards

Caine

Sent from my Samsung Galaxy smartphone.

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

Office of the Deputy Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20043055
Centrex: [redacted]
Fax: (+350) 20059271
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caine.sanchez@gibraltar.gov.gi

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Office of the Deputy Chief Minister

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-------- Original message --------
From: Jonathan Galliano <jonathan.galliano@blandgroup.com>
Date: 15/08/2018 17:10 (GMT+01:00)
To: "(DCM) Sanchez, Caine" <caine.sanchez@gibraltar.gov.gi>
Cc: Chairman <chairman@blandgroup.com>
Subject: NSCIS Server and Services Events this afternoon

Dear Caine,

There have been a series of server reboots and service restarts at Four Corners and the Port during the course of the afternoon that is cause for

FP1/105

concern given the understanding we have that no changes to access or otherwise be carried out on NSCIS services and systems without your consent.

Whilst investigating these events it has become evident that external access to NSCIS hardware has now been enabled through other remote management software to a third party by the name of 36 North. Having access to these servers by default also grants access to all other NSCIS hardware within their respective sites/locations. The result of these actions is that Blands going forward can't guarantee (1) from where these systems will be accessed and by whom and (2) there is now no longer a dependency to have Tommy's workstation running in our offices to be able to access any NSCIS hardware as agreed.

Regards

Jonathan Galliano

Head of IT & Infrastructure

Bland Group International

P.O.Box 212,

2nd floor, Cloister Building

Irish Town

Gibraltar, GX11 1AA.

Tel: + 350 200 79200

Fax: +350 200 76189

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--

Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Tel:+[redacted]

36 NORTH

[redacted]EU GDPR

[redacted]EU GDPR
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OB No	Royal Gibraltar Police	Exhibits Stores ID No
Exhibit Book No		Identification No
		FP/3

Name of Case

Operation Delhi

Full names of all defendants in case. (Include Forenames and Surname(s).	1) Thomas Cornelio
	2) John Perez
	3) Caine Sanchez
	4)
	5)
	6)

Officer in Charge of Case:- Supt Mark Wyan

Description of Exhibit:
WHATSAPP EXCHANGE BETWEEN THE CHIEF MINISTER AND MR SANCHEZ DATED 13/8/2018

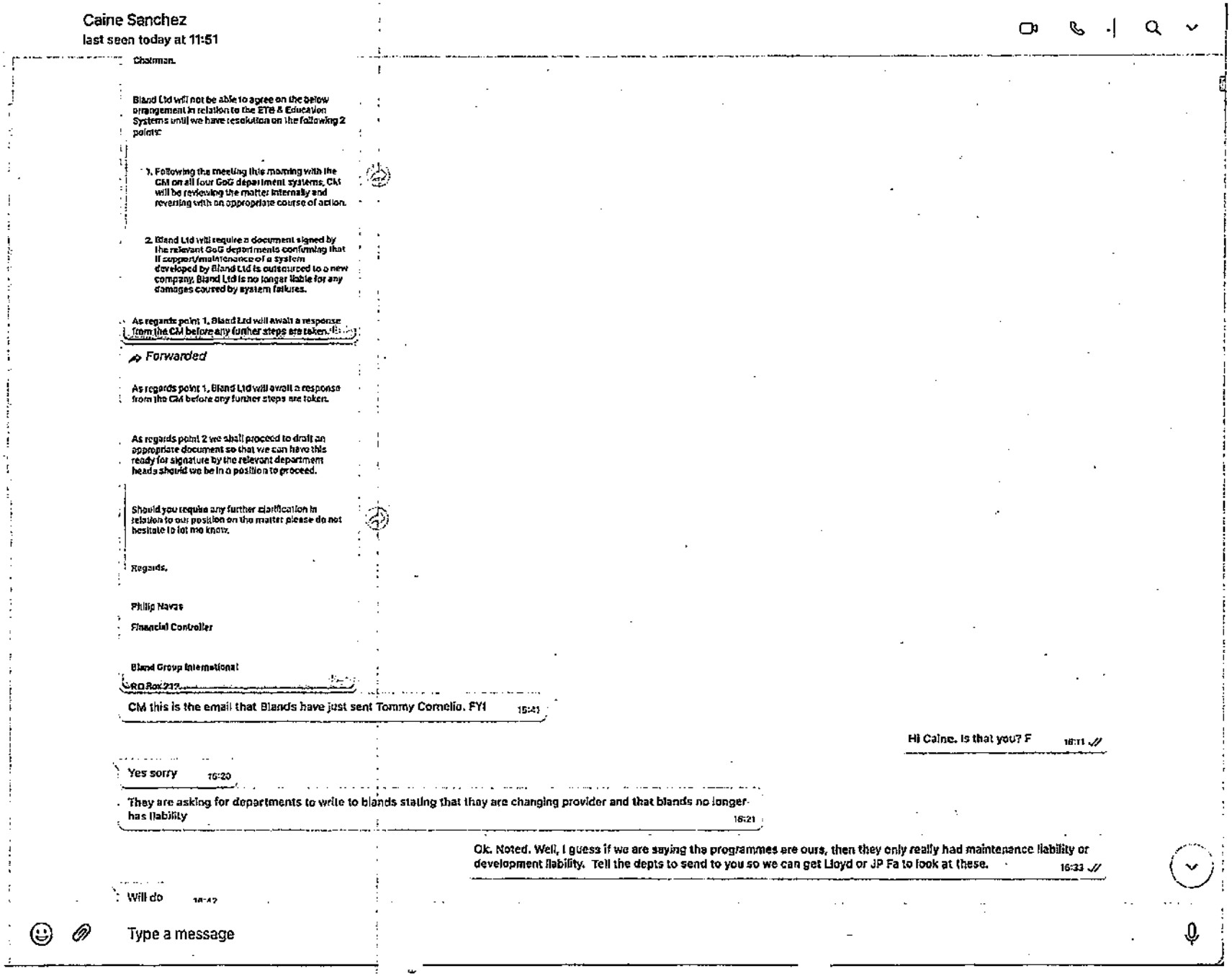
Person producing exhibit:	Fabian Picardo	Signed:
Person Identifying exhibit:	Name, Rank & No.	Signed:
Person Identifying exhibit:	Name, Rank & No.	Signed:

FOR COURT USE ONLY

Court:-

Case:-

Signature of Magistrates/Justice of the Peace/Clerk to the Court	Exhibit No.
Date:	



Caine Sanchez
last seen today at 11:51

Chairman.

Bland Ltd will not be able to agree on the below arrangement in relation to the ETB & Education Systems until we have resolution on the following 2 points:

1. Following the meeting this morning with the CM on all four GoG department systems, CM will be reviewing the matter internally and reverting with an appropriate course of action.

2. Bland Ltd will require a document signed by the relevant GoG departments confirming that if support/maintenance of a system developed by Bland Ltd is outsourced to a new company, Bland Ltd is no longer liable for any damages caused by system failures.

As regards point 1, Bland Ltd will await a response from the CM before any further steps are taken.

Forwarded

As regards point 1, Bland Ltd will await a response from the CM before any further steps are taken.

As regards point 2 we shall proceed to draft an appropriate document so that we can have this ready for signature by the relevant department heads should we be in a position to proceed.

Should you require any further clarification in relation to our position on the matter please do not hesitate to let me know.

Regards,

Philip Navas

Financial Controller

Bland Group International

PO Box 212,

CM this is the email that Blands have just sent Tommy Cornelio. FYI 15:41

Hi Caine. Is that you? F 16:11

Yes sorry 16:20

They are asking for departments to write to blands stating that they are changing provider and that blands no longer has liability 16:21

Ok. Noted. Well, I guess if we are saying the programmes are ours, then they only really had maintenance liability or development liability. Tell the depts to send to you so we can get Lloyd or JP Fa to look at these. 16:33

Will do 16:42

Type a message

OB No	Royal Gibraltar Police	Exhibits Stores ID No
Exhibit Book No		Identification No
		FP/4

Name of Case

Operation Delhi

Full names of all defendants in case. (Include Forenames and Surname(s).	1) Thomas Cornelio 2) John Perez 3) Caine Sanchez 4) 5) 6)

Officer in Charge of Case:- Supt Mark Wyan

Description of Exhibit:
EMAILS RELATING TO THE INOPERABILITY OF PASSPORT SCANNERS

Person producing exhibit:	Fabian Picardo	Signed:
Person identifying exhibit:	Name, Rank & No.	Signed:
Person identifying exhibit:	Name, Rank & No.	Signed:

FOR COURT USE ONLY

Court:-

Case:-

Signature of Magistrates/Justice of the Peace/Clerk to the Court	Exhibit No.
Date:	

FP1/111

OB No		Exhibits Stores ID No
	Royal Gibraltar Police	
Exhibit Book No		Identification No
		FP/5

Name of Case

Operation Delhi

Full names of all defendants in case. (Include Forenames and Surname(s).	1) Thomas Cornelio 2) John Perez 3) Caine Sanchez 4) 5) 6)

Officer in Charge of Case:- Supt Mark Wyan

Description of Exhibit:
EXTRACT OF A WHATSAPP MESSAGE BETWEEN MR LEVY AND THE CHIEF MINISTER DATED 30/8/2018

Person producing exhibit:	Fabian Picardo	Signed:
Person identifying exhibit:	Name, Rank & No.	Signed:
Person identifying exhibit:	Name, Rank & No.	Signed:

FOR COURT USE ONLY

Court:-

Case:-

Signature of Magistrates/Justice of the Peace/Clerk to the Court	Exhibit No.
Date:	

FP1/131

30/08/2018

Forwarded

Perhaps best if i met the CM alone? John appears to be a bit conflicted at the moment?

15:10

I received this from Tommy Cornelio 15:11

[redacted] 17:13

[redacted] 17:48



17:48

[redacted] 8:50

You should know that I have spoken to Tommy and despite his letter to James G he will continue ensuring that the system is kept going until a solution is found acceptable to the government. He says that when he meets you and explains to you his solution you will find it easier to make a decision because you will have the right information. He believes that the right information is not getting through to you as he is aware that you are very knowledgeable on technology. He is a sweet boffin Straight out of the movies speaks very fast and with a monotonous voice but he is very honest hard-working and competent. Really got to like him

22:22

[redacted] 22:36

> James Levy Current
> You should know that I have spoken to Tommy and despite his letter to James G he will continue ensuring that the system is kept going until a solution is found acceptable to the government. He says that when he ...

Will look forward to meeting him. Mena and me are the people who will understand him.

22:37

OB No	Royal Gibraltar Police	Exhibits Stores ID No
Exhibit Book No		Identification No
		FP/6

Name of Case

Operation Delhi

Full names of all defendants in case. (Include Forenames and Surname(s).	1) Thomas Cornelio
	2) John Perez
	3) Caine Sanchez
	4)
	5)
	6)

Officer in Charge of Case:- Supt Mark Wyan

Description of Exhibit:
EXTRACTS OF A WHATSAPP MESSAGE BETWEEN MR LENT AND THE CHIEF MINISTER DATED 4/9/18

Person producing exhibit:	Fabian Picardo	Signed:
Person identifying exhibit:	Name, Rank & No.	Signed:
Person identifying exhibit:	Name, Rank & No.	Signed:

FOR COURT USE ONLY

Court:-

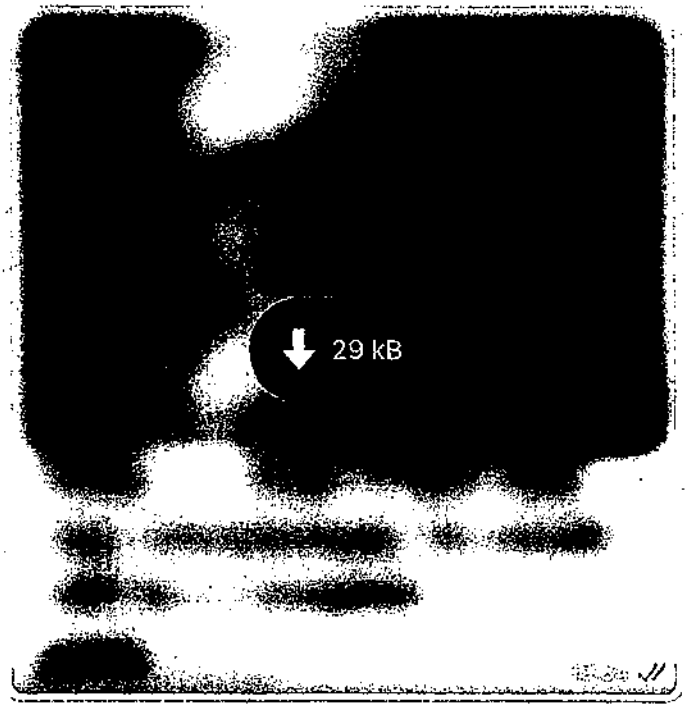
Case:-

Signature of Magistrates/Justice of the Peace/Clerk to the Court	Exhibit No.
Date:	

FP1/133

66%

James Levy Current



01/09/2018

23:13

03/09/2018

Have you been able to find a solution with James G? 18:41

04/09/2018

Hi. Saw him yesterday. Asked him to give me a bit of time and not to have a row. He is pissed off. We need a lunch with Joe G Snr. And a dinner with Sir J! F 12:00

That is the attitude of la derecha - will organise 12:09

FP1/134

OB No	Royal Gibraltar Police	Exhibits Stores ID No
Exhibit Book No		Identification No
		FP/7

Name of Case

Operation Delhi

Full names of all defendants in case. (Include Forenames and Surname(s).	1) Thomas Cornelio 2) John Perez 3) Caine Sanchez 4) 5) 6)

Officer in Charge of Case:- Supt Mark Wyan

Description of Exhibit:
EXTRACTS OF A WHATSAPP MESSAGE BETWEEN MR LEVY AND THE CHIEF MINISTER DATED 12/9/18

Person producing exhibit:	Fabian Picardo	Signed:
Person identifying exhibit:	Name, Rank & No.	Signed:
Person identifying exhibit:	Name, Rank & No.	Signed:

FOR COURT USE ONLY

Court:-

Case:-

Signature of Magistrates/Justice of the Peace/Clerk to the Court	Exhibit No.
Date:	

FP1/135

66%

James Levy Current

11/09/2018

[redacted] I assume the Gaggero issue is more complicated since I see you are reluctant to discuss it

18:27

No. Just in the thick of the biggest issue in Europe right now. C

18:32

Good luck - happy to help in anything you need However small

18:35

Thanks. PG we are getting there.

18:35

They denounce for the crime of reckless homicide to the Gibraltar Police after the death of two ceutíes

The family of one of the deceased of Ceuta is person as a Private Accusation and asks that the Civil Guard can examine the boat that was run over "in Spanish waters"

They want justice and they are not going to stop until they get it. **The family** of one of the deceased from Ceuta after his boat was hit by a Gibraltar patrol boat, **on March 8**, is going all out as long as the facts are clarified and all the details of the event in which Mustafa and Mohamed lost their lives are investigated to the end, two neighbors of Ceuta who have left behind shattered families.
Before the Court of Instruction number 4 of La Línea de la Concepción, competent in the investigation already judicialized, the family of Mustafa Dris has appeared as a Private Accusation and has requested that four investigative measures be carried out, as confirmed by judicial sources to *El Faro de Ceuta*, requesting that the European Investigation Order (OEI) be sent to the competent judicial authority of the United Kingdom or through a liaison magistrate. The family has denounced the facts and requests, through the lawyer who defends their interests, to identify the agents of the Royal Gibraltar Police who in the early morning of that March 8 were in the patrol boat that was involved in the event "occurred in Spanish waters" and that ran over the boat occupied by three Ceutis and a Portuguese, two of them died from their injuries and the other two were injured.

They also demand that full testimony be sent of the proceedings processed by the Court of Gibraltar on the facts related to the event "consisting of police reports.

FP1/137

B1205

hospitals, forensic report of the autopsies of the deceased, expert reports of the boat run over or those that were made on the effects carried by the victims and other proceedings that appear on the facts".

It has also been requested that the agents of the **Civil Guard** who have instructed the proceedings, commissioned by the Court for its transfer to Gibraltar, be authorized to examine the boat run over and prepare the corresponding expert report, as well as to be delivered the effects of the victims. To facilitate this expert report, it has been requested in court that the necessary precautionary measures be adopted for the conservation of the boat that is in the port of Gibraltar.

The Private Prosecution has also requested that the only two survivors, witnesses of what happened, be heard to provide clear details of what happened. They consider that the facts constitute an alleged crime of homicide that they attribute to the "agents of the Royal Gibraltar Police" who that morning of March 8 "caused the death" of the two Ceutis "when, violently, disproportionately and without warning, they rammed and ran over with the patrol boat that captained the boat in which they traveled" the deceased and two companions.

These facts that, they insist, occurred "in Spanish waters" as evidenced by the inquiries carried out, are being investigated by the Organic Unit of the Judicial Police, Criminal Investigation Section, People area, of the Command of the Civil Guard of Algeciras.

The latest official version given by the Government of Gibraltar on these events alluded to its intention to approach the investigation "with transparency" by requesting the mediation of an independent investigation team.

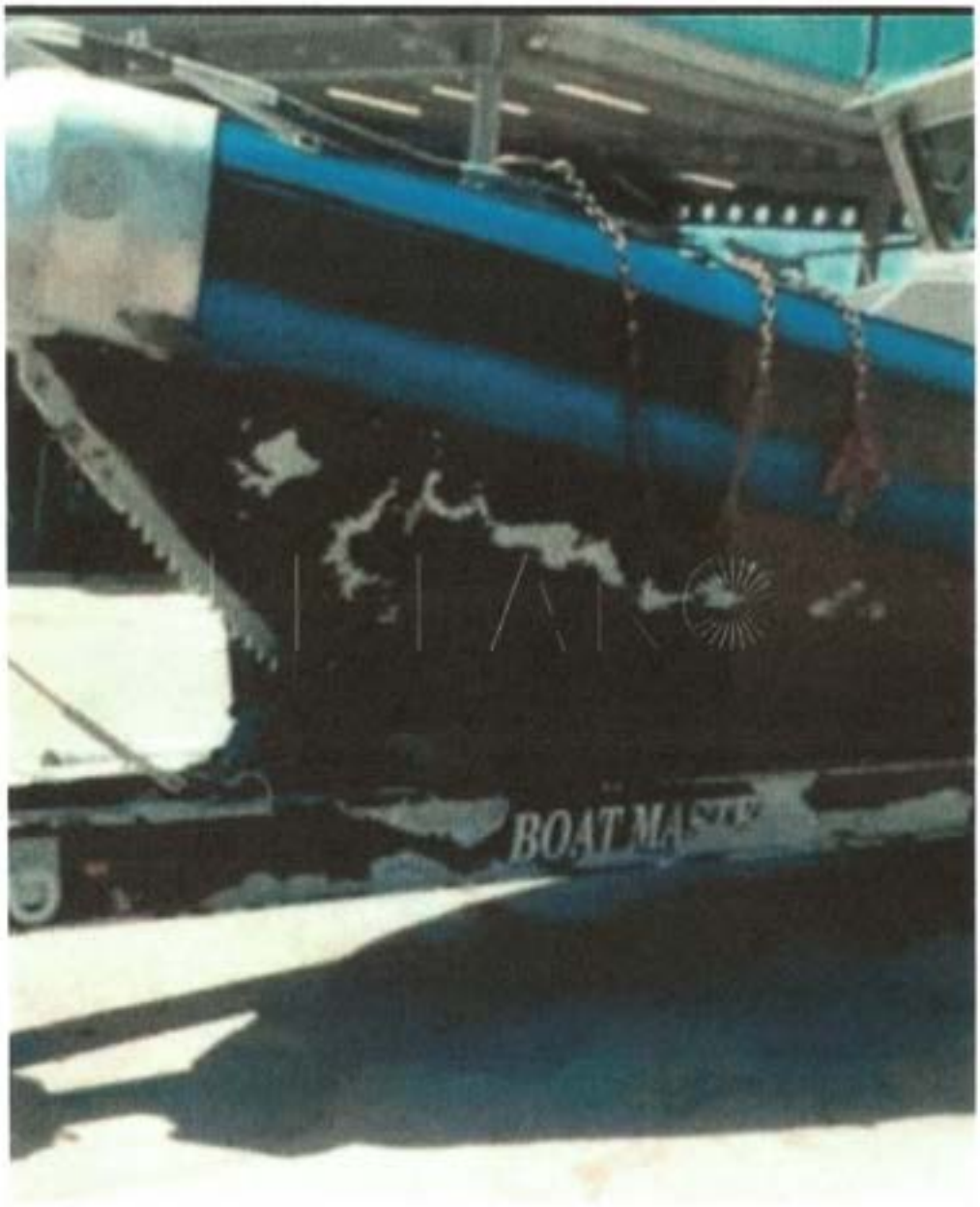
The keys

Investigation: The family wants the truth to be known
The facts that are being investigated seek to clarify what happened in the early morning of March 8 and, therefore, to bring to light all details about the death of these two Ceutis. The family of one of them has already appeared as a Private Prosecutor in the Court of La Linea that carries out the investigation. The facts are denounced in Spain and Gibraltar.

Data: Deceased and patrol boat, in Gibraltar
Both the bodies of the two Ceutis and the bodies of the injured were taken by the Gibraltar Police patrol boat to their port. Now it is requested that investigative proceedings be carried out that allow the Civil Guard, for example, to analyze the boat run over as well as access all the reports that were carried out, including those of the bodies.

March 2020: Two months
Two months after these deaths, no new information has been known about what happened or, officially, progress in the investigation.

The violence of an event in Spanish waters



The version offered by the Government of Gibraltar clashed from the beginning with the one provided by relatives of the deceased to El Faro and with which one of the survivors of this tragedy facilitated that he spoke clearly to specify that the approach did not occur in Gibraltarian waters but in Spanish waters and claim the reports of the SIVE that supported his version.

The nephew of one of the deceased and a Portuguese subject were the only survivors of this event. In conversation with El Faro, he recalled that they were sailing about two miles from land, in Spanish waters when they were warned that the Gibraltar patrol boat was approaching. "We were empty." When we "had it on top" they tried to dodge it but then they were "stopped". "The patrol car positioned itself and 'put us in' at full speed. I felt the blow on my back and the Portuguese and I fell to the ground. My uncle and the other pilot stayed there and the patrol car cut them in half," the survivor explained.

"When they hit us at no time did they light the pirulos or stop us," he added. The Private Prosecution wants the survivors to be able to testify before the court that is investigating the case in Spain, providing data that leads to the identification of the Gibraltarian agents who occupied the patrol boat. According to the testimony of Mustafa Dris' nephew, he was still alive during the journey of up to 45 minutes that ended in the port of Gibraltar. They never wanted to escape, something they would have achieved given the characteristics of their boat, equipped with 4 engines.

The violent connotations that marked this event are now trying to be clarified. Those affected highlight other events in which there have been fatalities and Gibraltar patrol boats have also been involved. Events in which not only civilians but components of the security forces have been affected, with arrests even of agents of the Civil Guard by linking them with maritime occupation of their spaces.

The last mass burial before the state of alarm was decreed



Thousands of people attended **the burial of the two Ceutis run over** by the Gibraltar Police patrol car. **It was one of the burials with the highest attendance** and precisely the last mass that was allowed before the state of alarm was decreed. The two bodies were transferred to Ceuta after the Gibraltar authorities allowed their burial in our city, following the practice of autopsies. The families claim to know the results in detail as well as the content of the police reports that were carried out. They also want the Court of La Línea that carries out the investigation of the case to allow the entry of the investigators of the Civil Guard to, among other needs, be able to analyze the 4-engine boat in which the deceased were traveling, as well as access the internal reports that were carried out.

The complaint, filed in Spain, was also filed in Gibraltar. Now it only remains to know the judicial response that will be given to the requests for the practice of investigative measures that have already been

FP1/141

(NO6) Debono, Georgina

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 17 May 2020 18:47
To: (MIN) Picardo, Fabian
Subject: THE RGP

Dear CM

As promised, herewith my thoughts ahead of our meeting tomorrow with the Chair of the GPA, Joey Britto. Joey has confirmed his attendance (09.30 at the Convent) but I have not briefed him as to why we are meeting. I'm quite happy to do so and can ask him to come in 15 minutes beforehand to give him the sense of issue (without mentioning any details of the ongoing cases). Or I could prime him by email tonight. Thoughts welcome on that point.

As to the issue, and without getting ahead of myself, Section 34 of the Police Act allows for the GPA, after consultation with us, to call upon the Commissioner to retire. Within this, Section 13.(1) (f) of the Police Act gives me the authority to call for the resignation of the Commissioner where the Authority has failed to discharge its responsibility. But you know all that!

So, as I see it and to my untrained eye, it is for the GPA to take this forward in the first instance. I agree with you that it is important we follow the process to the letter, not look to pre-judge and allow the Commissioner to put forward a defence etc - the last thing we want is to face a charge of constructive dismissal. I suggest we therefore say to Joey tomorrow that we have lost confidence in the Commissioner, set out why, and task him to consider options as to the way forward.

I've spoken to the Met Police re their investigation into the recent incident that resulted in the unfortunate deaths of two Spanish Nationals and told that a claim has been filed. Their report, for various reasons, has unfortunately not been finalised. They will also not be issuing an interim report. Having stressed the urgency, I have however been promised an update by email, including emerging conclusions, in the next few days. This of course also has to be handled sensitively.

I've also spoken to the FCO OT Police Advisor, [redacted], who is based in Miami. Andrew has offered thoughts on how best to recruit a replacement should we end up in that space. There are various options via the College of Policing, National Police Chiefs Council and the Police Superintendents Association. It is also possible to recruit via a specialist recruitment agency which whilst expensive, has been used very successfully recently including by TCI. A secondment of a serving senior office may also be possible but that would be on a full cost recovery basis.

Andrew has offered to help in drawing up a job requirements/description, suggesting it focusses on the need for transformational change management and leadership skills rather than policing skills per se. Andrew believes there would be no shortage of applicants. He recommended keeping within the UK police system rather than go for an "external" recruitment, not least given the already established synergies and links.

Much to consider and discuss tomorrow. In the meantime, I hope this helps.

Regards

Nick

N J Pyle
Governor
The Convent
Gibraltar

(NO6) Debono, Georgina

From: (MIN) Picardo, Fabian
Sent: 17 May 2020 23:53
To: Nick Pyle (Sensitive)
Subject: Re: THE RGP
Attachments: Viewpoint 14.5.20 Interview with Ian McGrail.docx

Dear Governor

Thanks for the below note of your thinking. I have read papers again over the weekend.

In order to expedite my response, I have commented in red below each relevant paragraph of your email.

I am also sending you, attached, the transcript of the Commission's interview on Viewpoint on the HMICFRS Report.

Very best wishes.

Fabian

Sent from my BlackBerry — the most secure mobile device

From: Nick.Pyle@fco.gov.uk
Sent: 17 May 2020 18:47
To: fabian.picardo@gibraltar.gov.gi
Subject: THE RGP

Dear CM

As promised, herewith my thoughts ahead of our meeting tomorrow with the Chair of the GPA, Joey Britto. Joey has confirmed his attendance (09.30 at the Convent) but I have not briefed him as to why we are meeting. I'm quite happy to do so and can ask him to come in 15 minutes beforehand to give him the sense of issue (without mentioning any details of the ongoing cases). Or I could prime him by email tonight. Thoughts welcome on that point.

The sequence of events that we need to relay and the consequences for our confidence in the RGP and, in particular, in the Commissioner, are - in my respectful submission - best addressed directly in person by both of us together with Joey. The first thing I want to avoid is any suggestion that this issue is somehow a product of by-gone colonialism returning in disguise. It clearly is not and we must not allow any suggestion of that by acting other than very closely together, and being seen to act closely together.

As to the issue, and without getting ahead of myself, Section 34 of the Police Act allows for the GPA, after consultation with us, to call upon the Commissioner to retire. Within this, Section 13.(1) (f) of the Police

Act gives me the authority to call for the resignation of the Commissioner where the Authority has failed to discharge its responsibility. But you know all that!

Important that we are particularly alive to the not so subtle differences between a 'retirement' and a 'resignation'. The effect may be the same but the route and signposting is markedly different. So we need to understand that the power of the Governor is much more explicit, for good reason.

The GPA "remove" (as per the heading, which is not relevant to interpretation) by inviting "retirement". They do so in the interests of policing in Gibraltar when seen through the prism of 5 key elements. We need to consider whether in our consultation with the GPA we and they believe that all OR any (note it is a disjunctive, not a conjunctive list) of the following 5 have been impacted. Additionally, then it will also be necessary to consider whether any representation the Commissioner might make after the opportunity provided for in S 34(2) for him to make representations to the GPA has kicked in.

This is my preliminary view on the five criteria on an individual (where possible) basis:

1. Efficiency: The HMICFRS Report ('the Report') could not be clearer in my view in respect of the efficiency of the RGP. A large number of the findings of the Report go directly to efficiency. I am happy to go through them with you and the Chairman of the GPA tomorrow or later as appropriate. It is, however, shocking to see the explicit reference in the first sentence of the second paragraph of the 'Overview' on page 7 of the Report to both 'efficiency' and 'effectiveness' (see 2). This makes out a clear basis for serious concern on this issue (and 2) given the rank the Commissioner held in 2016 and the fact that he has held the helm at the police since 2018.

2. Effectiveness: On this limb of the considerations, the points in re 1 above are linked, in particular in the sentence at the begining of paragraph 2 of the 'Overview'. The report is similarly laced with matters referring to this aspect of the interest of policing in Gibraltar.

3. Probity: This is best considered with 4, in my view, as it is inextricably linked to integrity.

4. Integrity: In the context of the Report (in particular its references to a failure to even understand the potential for, let alone the actual instances of, corruption) and the matters relating to the reporting to us of the events at sea involving the death of two Spanish nationals, this is an area of huge concern. I have shared with you also the reasons this week why I have lost confidence in the probity and integrity of the Commissioner himself (re James Levy QC warrants). As I told you, I believe that view is shared also by the Attorney General but with whom I have not yet discussed my Police Act concerns. (On the latter, I think we should also find time to seek Michael's advice - if he is able to carve out time given the other demands on his time (vide Brexit) - to us on this subject). This is possibly the issue of deepest concern to me as it goes to the integrity and probity of a key individual in the maintenance of the respect for the Rule of Law. Additionally, that individual, as Commissioner is at the head of the organisation that is institutionally

one of the guardians of the Rule of Law alongside the Executive and the Judiciary. To an extent the police becomes a fourth branch of government in the maintenance and preservation of the Rule of Law. Without the Rule of Law we are unrecognisable as a nation. I can imagine no greater concern than this in the context of my ability to discharge my oath to the Crown and to the People as Chief Minister.

5. Independence: This area of concern is highlighted in the parts of the report that deal with the potential for corruption and, consequently, influence, which, given the answers set out in the Report, is clearly not even understood in the RGP. Again, these concerns can cut across the Rule of Law in a meaningful way.

So, as I see it and to my untrained eye, it is for the GPA to take this forward in the first instance. I agree with you that it is important we follow the process to the letter, not look to pre-judge and allow the Commissioner to put forward a defence etc - the last thing we want is to face a charge of constructive dismissal. I suggest we therefore say to Joey tomorrow that we have lost confidence in the Commissioner, set out why, and task him to consider options as to the way forward.

Yes, chronologically that is exactly right. Section 34 specifically provides that the GPA's action to "call upon" the Commissioner to retire cannot be commenced until we have BOTH been consulted and ONE of us has agreed. (The part of the clause that relates to consultation is conjunctive and the part that relates to agreement is disjunctive)

We should, however, at this stage limit ourselves to setting out our concerns. We should also seek to understanding the concerns of the GPA also, as I understand that the Chairman has been trying to speak to me about the Report in the past two weeks, but I have simply been unable to speak to him. It will then be a matter for the the GPA to decide how to act and if they were - acting independently and in their own discretion and on proper advice - to decide that they want to engage the S.34(1) power, then that is when they would need to consult BOTH of us and then seek the agreement of ONE of us. We would then also have the benefit of any representation that the Commissioner might have made under S.34(2). That would mean that any decision you might make to engage your own powers, if the GPA were not to discharge their functions properly (which I have no reason to doubt they will certainly see to do), would be better informed and would enjoy the benefit of explanations / information provided by the Commissioner in the course of his representations under S.34(2).

I've spoken to the Met Police re their investigation into the recent incident that resulted in the unfortunate deaths of two Spanish Nationals and told that a claim has been filed. Their report, for various reasons, has unfortunately not been finalised. They will also not be issuing an interim report. Having stressed the urgency, I have however been promised an update by email, including emerging conclusions, in the next few days. This of course also has to be handled sensitively.

This is concerning. The issue is a pressing one. They delay suggests we should consider progressing with the exercise of my S.15(1)(a) powers to seek a factual report or assessment. Let's discuss. I do want to see the ***note verbal*** as soon as possible. I am, in any event, required, to keep you informed of my exercise of this power. Hence my discussing with you my consideration of this upon news of the filing of the legal

papers in Spain on behalf of the families of the deceased and what this can mean for the officers involved, what it says about SOPs, management and the risk of loss to the public purse and the political and sovereignty implications.

I've also spoken to the FCO OT Police Advisor, [redacted], who is based in Miami. Andrew has offered thoughts on how best to recruit a replacement should we end up in that space. There are various options via the College of Policing, National Police Chiefs Council and the Police Superintendents Association. It is also possible to recruit via a specialist recruitment agency which whilst expensive, has been used very successfully recently including by TCI. A secondment of a serving senior office may also be possible but that would be on a full cost recovery basis.

Andrew has offered to help in drawing up a job requirements/description, suggesting it focusses on the need for transformational change management and leadership skills rather than policing skills per se. Andrew believes there would be no shortage of applicants. He recommended keeping within the UK police system rather than go for an "external" recruitment, not least given the already established synergies and links.

These two final paragraphs are helpful in understanding that we can put in place a mechanism to quickly recover from this crisis if it reaches a final decision to move as we are unfortunately having to consider, subject of course to substance of the representations the GPA may receive from the Commissioner which they - and if appropriate, we - will have to fully consider and give due regard to. Much appreciated.

Much to consider and discuss tomorrow. In the meantime, I hope this helps.

Regards

Nick

N J Pyle

Governor

The Convent

Gibraltar

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HM Government of Gibraltar

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FP1/147

Viewpoint 14.5.20 Interview with Ian McGrail

IM – Ian McGrail

JS: Jonathan Scott

IM We welcome the report in its entirety and the recommendations in a very constructive way, because we see it as a platform that will allow us to improve and develop from our current position.

IM The RGP's ever evolving. Yes, the report says that they would have expected more change and more advancement since the last time. I accept that. But it also qualifies why that hasn't been able to be carried out. Some of the reasons they offer is that of resourcing, I.T. infrastructure and other issues. So in the main, it's a report that identifies areas where both in consultation with the police authority and myself. We provided terms to Her Majesty's Inspectorate of Constabularies for them to look at those particular issues that we felt required looking into. You'll see that there's very few references, if any, to successes. And therefore, that is the type of inspection that we submitted ourselves to. There's no point in asking them to come and inspect our detection rates for argument's sake, because we are more than satisfied and they are too, that our detection of crime is quite high. So I've taken it in as indeed my command team colleagues have taken it in a very constructive way.

JS OK. So you mentioned resources and improving your information, communications technology or that that would be a reason for these suggested areas of improvement from the previous report not having been advanced as much as the auditors would have liked and I'm sure as you would have liked. Are you going to use this report to try to lobby for more resource, better resources, more finances from the Gibraltar Government?

IM The government has been very supportive towards us. And in fact, at the time when the inspectors were here in October, we were already in the middle of that uplift that the business case that we submitted to government had produced. So we are we've already assumed the first tranche of that uplift and there's another two, it was going to be rolled out over a three year phased out period. And we are now in the second year. But obviously understanding that we live in the real world and that COVID has slowed everything down. So we are looking at ways of means to readjusting our intent of boosting those resources in accordance with the agreed principles of the business case that government agreed to.

JS So does that mean that you're not necessarily counting on getting those resources?

IM I do not know yet. I mean, all our own energy and time is now dedicated to coming out of this lockdown and returning to some form of normality. I'm sure that I'm going to be engaging with the police authority and the Minister for Justice and government and to see where we can pick up where we were.

JS But can you confirm that you are now counting crime in the same way as it would be counted in the UK?

IM Indeed, indeed. That was one of the recommendations that we took on board from the previous inspection. And we are now compliant to the hilt with that in terms of counting rules, Home Office counting rules. And again, I have to harp on the fact that even with those

new counting rules in place, our efforts and the efforts of the rank and file of the RGP are sort of showing way above any of the levels of detection in the United Kingdom. So when we are being compared apples with apples, even though the report says that there's not being much comparison drawn, you will read that many of it is based on UK, England and Wales practice. At this point, I want to also without meaning to sound defensive by all means but sounding the fact that blowing our own trumpet, that we excel and we have admirable detection rates compared to the UK.

JS The inspectors said they had reservations about the police's budgeting.

IM The inspectors find it difficult to understand or not difficult to understand but finding it not the most appropriate model of funding for a modern day police service as they apply a devolved budget to all the 42 different Home County forces in the United Kingdom, they would want to see something similar to that happening in Gibraltar. It's got, it's got its advantages. But look, at this moment in time, the RGP is well-funded. The government has always, both this one and in previous administrations has always supported the RGP in the funding of, even when we go over and above our budget for exigencies. So they do not see that as good business sense. They would want to see us managing through the police authority, the budget ourselves. So in effect would have devolved budget would do, for argument's sake, is not commit us to a year's planning beforehand. Although you forecast so much of your intended expenditure and recurrent expenditure, the devolved budget would allow the chief officer in my case, in this case myself here, to decide on a yearly basis where that money is going to be spent. So if I have a crisis with regards to recruitment and I want to invest in the recruiting 10 bodies rather than buying five patrol cars or six patrol cars or vice versa, that autonomy is allowed with the devolved budget system. Whilst the current structures which are applied to all the public sector, I might say, it's that it's regulated in law in Gibraltar of how public sector is funded through government and that is not so flexible. And that's the difference between them. That is where the HMIC inspectorate feels that there could be more scope for devolved financing.

JS So I am sure that you would be keen to point out the police's independence, but effectively the devolution of that budget to you would give you even greater autonomy and independence.

IM It does in a way, but it doesn't come with a devolved budget on its own because it could vary. The government could very easily in the same way as they apply to the UK, allow their budget for the police service and that the police service have already built up reserves and so forth. They can do a good sort of account of themselves for and take stock and take hits. We are not here for a profit. We cannot make any profit and therefore what we make, any efficiency that we make along the year return to government coffers so-to-speak. So it's a different model. But having said that, look, whenever myself or in previous years, other commissioners, have made bids for supplementary funding for projects, for exigencies that have appeared government has also always been very supportive. So they don't see that, the HMIC does not see that feature as encouraging us to be more efficient simply because we knock on government's door and they respond. It's say a positive for us which has been turned into a negative by HMIC and I can understand their reasoning, don't get me wrong, it's not that I'm knocking it, but it's a situation where they feel that efficiencies could be made in a different way.

JS It would give you that a little bit more incentive to do so if you're self-managing. The inspectors thought that you're doing a lot of work that arguably could or maybe should be done by other organisations and that you're doing work which is not, strictly speaking, within your remit.

IM We don't sit comfortable that expensive and expensive resources and commodities like our police officers are not exploited to their limits. So having an officer directing traffic on a frontier queue for me, is not money's worth, while spending in that regard, if you know what I mean. I'm not saying that the job is not important but he could be allocated, he or she could be allocated a core policing task as opposed to a more traffic management task. The same applies with our detention officers. We have officers in our custody suites who are fully sworn, fully empowered to act as police officers but that role does not necessarily have to be carried out by a police officer as long as there is a custody sergeant, which is what is required in law there, his assistant, the jailer, can also be a unsworn, non-police officer. And there are other rules within the service which are lobbying continuously to have changed. They pick it up and that didn't concern me too much in the reports.

JS Among the six areas of improvement in which the RGP has fallen short of the mark, according to the inspectors. They talk about the treatment of vulnerable and repeat victims. And they suggest that perhaps you might want to try to implement locally the domestic violence prevention orders.

IM Domestic violence featured as probably one of our highest risk areas in the last policing year. The Minister for Justice is the lead. She's taking a very leading role in this and I'm meeting her to complement her strategy on domestic violence. Certainly we want to improve our, all our abilities and capabilities to ensure that domestic violence doesn't show the level that it is showing now and has shown in the past where, just to give you an example, at least two or three or the most serious of cases that we've dealt with have arisen from domestic violence incidents. So we are very aware of that and so any measures that can assist us and by default has an impact in the community, we will follow through.

JS In respect of adopting the UK's code of practice for victims of crime. Is that something that you think is possible, likely?

IM That requires a sort of key stakeholder approach? It is not only in position on the RGP, the law suggests that it involves the Courts, the Care Agency, the Office of the Attorney-General's Chambers and so forth, and the RGP is and other partner in that framework. We are lobbying for that to happen but irrespective of whether that progresses with the other stakeholders or not, the RGP will proceed on its own until such time as the others can join up and keep on that journey.

JS So you will adopt the UK code of practice?

IM We will adopt the principles of it and adapt it to Gibraltar's needs. We haven't got all the mechanisms that the UK public service have in that regard, so we will adopt the principles of it adopting it for local needs.

JS Most of the interview, I think all of it so far has focussed on part 1 of the report. Part two arguably might give you an even bigger headache because it is, I think, internal and looking at things which are within your control. I mean, you can only do so much to try to get more

financing from the government. But let's put some of the issues that I think the inspectors think the commissioner could bring, bring about improvements in. Let's talk about corruption, the risk of countering corruption inside the force. The inspectors express concern that not enough is being done and that perhaps your officers and your senior team are not alive enough to the possibility of corruption existing in your force.

IM I accept that perhaps there is like in all the other areas, room for improvement in that regard. What the report doesn't say is that they've identified any issues or they've asked is about systems and processes in place. Look, the RGP has never had an anti-corruption capability. That we are getting inspected through these with a fine tooth comb and highlight areas where you can mitigate the small pockets that could arise, of course, I welcome that because it'll give us more awareness. It will give us more focus on what things to look out for.

JS It says that it doesn't really appear to be a concern for the RGP, despite an environment that, according to the inspectors, might permit or even promote corruption.

IM Well, there was some from what I understand, there were some views expressed by other officers that the small topography and the demographics of Gibraltar and the population, the dense population, that would expose any potential corruption far in an easier way than if it was a bigger jurisdiction. The team did not agree with that. We respect that but the fact that we are complacent is not something that we take kindly to because we know that we are not ...

JS You disagree with that?

IM I'm not going to say I disagree because I respect the findings but we have to give a lot of context to this, because the history speaks for itself. And we've had numerous anti-corruption interventions of serving police officers that are no longer in service, way back to over 20, 30 years, at least since I've known it. And never, ever has corruption been swept under the carpet here or any indication of any corrupt activity swept, on the country. If I can reassure the public is that when there is a whiff in the New Mole House of any potential corrupt officer, we ourselves go to town more on that then what we would on a normal criminal because we know the impact this would have, the adverse impact this would have on public respect towards the police and public opinion towards police.

JS They're asking you to make recommendations by November. Are you satisfied with that timeline?

IM To set ourselves up in that way, as they are suggesting, requires training and we are looking at sending our officers to commander's courses for anti-corruption. It requires resources and therefore we will have to readjust ourselves to accommodate for that. It will also require buy in from the frontline itself, from the officers themselves. They will have to understand that what we are doing is for the better of policing in Gibraltar, for the better of the organisation.

JS OK, so so you're going to take action, but you're not sure whether it's going to be by November?

IM Well, we've got a timeline which has now set a roadmap for the recommendations to kick into place. The seed has been sort of planted. We are living with this every day. So we are

under sort of a commitment to the Police Authority to Gibraltar. We are committed to the service and to Gibraltar, that we will deliver.

JS You mentioned the blame culture, perceived blame culture. There is a perception the report highlighted among junior officers that sometimes senior officers were too quick to apportion blame when things go wrong. How do you feel about that?

IM It's a perception that we are keen to address and it's that, it is a perception because the report says that they did not find evidence of that but perceptions are equally important. So that's one of the recommendations that we have completed even before the report came out, because we had an idea that it was heading this way and therefore, we've put the systems in place, new systems in place after extensive consultation to ensure that people have their say, their workforce have their say in an environment where they feel protected. We all make mistakes and we will make mistakes. It's the type of mistake and the level of those mistakes or whether there is negligence involved or malice involved that will have to be dealt with accordingly. And therefore, that's why discipline regulations exist, disciplinary processes exist. So the systems that we are now putting in place are designed to distinguish between firm leadership and this blame culture, bullying, sort of that attracts bullying connotations.

JS In respect of managing risk, the inspectors seem to think that the RGP hadn't recognised the potential that exists for your own employees. You've got a large workforce, for them to perpetrate sexual violence. That's worrying.

IM This subject area arises from problems that the UK police service encountered a few years ago. The RGP has never been inspected or even considered for this matter. Neither had the UK police until there was a cause for it to be reviewed when officers were engaging in inappropriate behaviour with informants and witnesses or victims and they thought that that was not proper practice. In Gibraltar what it says, the report says, is that officers are aware that it is unethical to engage in that type of behaviour, to abuse your position for such and purposes. They are aware what they couldn't articulate to the officers is what they need to be looking out for. Now, look, I understand that inspectors can be, seem somewhat overbearing when you're asking questions or that you don't really expect them along the lines of this sort but if an officer knows that this is unethical, how does he know that it is unethical? He knows it is unethical because he is feeling the vibes and he can see what's happening, he's unethical. Otherwise, he wouldn't see it as unethical. But there is a checklist that we will be applying and there will be training that we will be applying.

JS They've asked you to improve your vetting process for new recruits and also for officers seeking promotion. Is that something you think you can do?

IM There is already a level of vetting which we carry out and we are going to develop on that. We are going to be more intrusive.

JS There are positive findings. The inspectors feel that the workforce is professional, committed, enthusiastic about the police work and I suppose that must be gratifying for you to hear that the officers are proud to serve.

IM Not only do they say that the service is professional, the officers are professional, that they are enthusiastic and committed. They also say that the RGP provide a good service to

Gibraltar. Now, that has to be the counterbalance to all this ineffectivity that is been raised from the points that we've asked to be inspected on. Just to reinforce that point is that you don't have any ineffective police service that, as I said, initially detects crime at 54 percent. You don't have an ineffective police service that reduces overall crime, reduces overall crime at 8.5 percent per year. You don't have a police service, an ineffective police service that reduces repeat victimization by 33 percent. And you don't have an ineffective police service that reduces repeat offending by 33 percent. And finally, as another example, you don't have an ineffective police service that enjoys the high levels of public satisfaction.

JS You don't want to challenge the finding of the inspectorate, but you think that people need to look at those statistics as well as the report?

IM Absolutely. I think the report has to be correlated with the outcomes that the service delivers. And when you read that, that is the objective picture that you get, the objective reality that you get out of it all. Look, we are going to embrace as I've said, we are going to embrace all the recommendations because I am confident that as soon as we address them, we are going to come out better at the other side and hopefully then the service will be even better delivered to the community and to our own officers.

JS Commissioner, we've spent quite a lot of time talking about areas that the RGP could improve. But I guess out of fairness to you, it must be said that you're quite an exceptional organisation and that you invite HMIC to come in and review areas that you think need improving and you ask them for their suggestions as to as to how you could improve.

IM Absolutely. I think we value that we submit ourselves to this external audit for the benefits of progression and development. It would be very easy not to call them in and to remain in a plateau but why do that if we are aspiring to develop and improve? Why? Why hide away from submitting yourself to that type of audit.

(NO6) Debono, Georgina

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 18 May 2020 08:40
To: (MIN) Picardo, Fabian
Subject: Re: THE RGP

Dear Chief Minister

Thank you for such a comprehensive response and for attaching a transcript of the Commissioner's Viewpoint interview which I have now read. I have also just watched the interview on television.

I agree fully with your detailed responses to my remarks and in particular on the importance of a joint approach which, as you state, we must demonstrate at all times. As I hope I have evidenced during my 3 1/2 years here, working cooperatively and collegiately are two of my guiding principles.

Thank you also for your preliminary views on the five criteria with I concur and in particular on the issue of integrity.

I also agree that we should take the AG's advice at the appropriate time.

I will impress again upon the Met Police the importance of their report which we need to see as quickly as possible.

I will also dig out the 2015 HMIC inspection report not least for comparative reasons but also in view of the position the Commissioner held at the time.

As agreed, much to talk through and consider.

Best Regards

Nick

N J Pyle
Governor
The Convent
Gibraltar

From: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Sent: Sunday, May 17, 2020 2:52:50 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: Re: THE RGP

Dear Governor

Thanks for the below note of your thinking. I have read papers again over the weekend.

In order to expedite my response, I have commented in red below each relevant paragraph of your email.

I am also sending you, attached, the transcript of the Commission's interview on Viewpoint on the HMICFRS Report.

Very best wishes.

Fabian

Sent from my BlackBerry — the most secure mobile device

From: Nick.Pyle@fco.gov.uk
Sent: 17 May 2020 18:47
To: fabian.picardo@gibraltar.gov.gi
Subject: THE RGP

Dear CM

As promised, herewith my thoughts ahead of our meeting tomorrow with the Chair of the GPA, Joey Britto. Joey has confirmed his attendance (09.30 at the Convent) but I have not briefed him as to why we are meeting. I'm quite happy to do so and can ask him to come in 15 minutes beforehand to give him the sense of issue (without mentioning any details of the ongoing cases). Or I could prime him by email tonight. Thoughts welcome on that point.

The sequence of events that we need to relay and the consequences for our confidence in the RGP and, in particular, in the Commissioner, are - in my respectful submission - best addressed directly in person by both of us together with Joey. The first thing I want to avoid is any suggestion that this issue is somehow a product of by-gone colonialism returning in disguise. It clearly is not and we must not allow any suggestion of that by acting other than very closely together, and being seen to act closely together.

As to the issue, and without getting ahead of myself, Section 34 of the Police Act allows for the GPA, after consultation with us, to call upon the Commissioner to retire. Within this, Section 13.(1) (f) of the Police Act gives me the authority to call for the resignation of the Commissioner where the Authority has failed to discharge its responsibility. But you know all that!

Important that we are particularly alive to the not so subtle differences between a 'retirement' and a 'resignation'. The effect may be the same but the route and signposting is markedly different. So we need to understand that the power of the Governor is much more explicit, for good reason.

The GPA "remove" (as per the heading, which is not relevant to interpretation) by inviting "retirement". They do so in the interests of policing in Gibraltar when seen through the prism of 5 key elements. We need to consider whether in our consultation with the GPA we and they believe that all OR any (note it is a disjunctive, not a conjunctive list) of the following 5 have been impacted. Additionally,

then it will also be necessary to consider whether any representation the Commissioner might make after the opportunity provided for in S.34(2) for him to make representations to the GPA has kicked in.

This is my preliminary view on the five criteria on an individual (where possible) basis:

1. Efficiency: The HMICFRS Report ('the Report') could not be clearer in my view in respect of the efficiency of the RGP. A large number of the findings of the Report go directly to efficiency. I am happy to go through them with you and the Chairman of the GPA tomorrow or later as appropriate. It is, however, shocking to see the explicit reference in the first sentence of the second paragraph of the 'Overview' on page 7 of the Report to both 'efficiency' and 'effectiveness' (see 2). This makes out a clear basis for serious concern on this issue (and 2) given the rank the Commissioner held in 2016 and the fact that he has held the helm at the police since 2018.

2. Effectiveness: On this limb of the considerations, the points in re 1 above are linked, in particular in the sentence at the begining of paragraph 2 of the 'Overview'. The report is similarly laced with matters referring to this aspect of the interest of policing in Gibraltar.

3. Probity: This is best considered with 4, in my view, as it is inextricably linked to integrity.

4. Integrity: In the context of the Report (in particular its references to a failure to even understand the potential for, let alone the actual instances of, corruption) and the matters relating to the reporting to us of the events at sea involving the death of two Spanish nationals, this is an area of huge concern. I have shared with you also the reasons this week why I have lost confidence in the probity and integrity of the Commissioner himself (re James Levy QC warrants). As I told you, I believe that view is shared also by the Attorney General but with whom I have not yet discussed my Police Act concerns. (On the latter, I think we should also find time to seek Michael's advice - if he is able to carve out time given the other demands on his time (vide Brexit) - to us on this subject). This is possibly the issue of deepest concern to me as it goes to the integrity and probity of a key individual in the maintenance of the respect for the Rule of Law. Additionally, that individual, as Commissioner is at the head of the organisation that is institutionally one of the guardians of the Rule of Law alongside the Executive and the Judiciary. To an extent the police becomes a fourth branch of government in the maintenance and preservation of the Rule of Law. Without the Rule of Law we are unrecognisable as a nation. I can imagine no greater concern than this in the context of my ability to discharge my oath to the Crown and to the People as Chief Minister.

5. Independence: This area of concern is highlighted in the parts of the report that deal with the potential for corruption and, consequently, influence, which, given the answers set out in the Report, is clearly not even understood in the RGP. Again, these concerns can cut across the Rule of Law in a meaningful way.

So, as I see it and to my untrained eye, it is for the GPA to take this forward in the first instance. I agree with you that it is important we follow the process to the letter, not look to pre-judge and allow the

Commissioner to put forward a defence etc - the last thing we want is to face a charge of constructive dismissal. I suggest we therefore say to Joey tomorrow that we have lost confidence in the Commissioner, set out why, and task him to consider options as to the way forward.

Yes, chronologically that is exactly right. Section 34 specifically provides that the GPA's action to "call upon" the Commissioner to retire cannot be commenced until we have BOTH been consulted and ONE of us has agreed. (The part of the clause that relates to consultation is conjunctive and the part that relates to agreement is disjunctive)

We should, however, at this stage limit ourselves to setting out our concerns. We should also seek to understanding the concerns of the GPA also, as I understand that the Chairman has been trying to speak to me about the Report in the past two weeks, but I have simply been unable to speak to him. It will then be a matter for the the GPA to decide how to act and if they were - acting independently and in their own discretion and on proper advice - to decide that they want to engage the S.34(1) power, then that is when they would need to consult BOTH of us and then seek the agreement of ONE of us. We would then also have the benefit of any representation that the Commissioner might have made under S.34(2). That would mean that any decision you might make to engage your own powers, if the GPA were not to discharge their functions properly (which I have no reason to doubt they will certainly see to do), would be better informed and would enjoy the benefit of explanations / information provided by the Commissioner in the course of his representations under S.34(2).

I've spoken to the Met Police re their investigation into the recent incident that resulted in the unfortunate deaths of two Spanish Nationals and told that a claim has been filed. Their report, for various reasons, has unfortunately not been finalised. They will also not be issuing an interim report. Having stressed the urgency, I have however been promised an update by email, including emerging conclusions, in the next few days. This of course also has to be handled sensitively.

This is concerning. The issue is a pressing one. They delay suggests we should consider progressing with the exercise of my S.15(1)(a) powers to seek a factual report or assessment. Let's discuss. I do want to see the ***note verbal*** as soon as possible. I am, in any event, required, to keep you informed of my exercise of this power. Hence my discussing with you my consideration of this upon news of the filing of the legal papers in Spain on behalf of the families of the deceased and what this can mean for the officers involved, what it says about SOPs, management and the risk of loss to the public purse and the political and sovereignty implications.

I've also spoken to the FCO OT Police Advisor [redacted], who is based in Miami. Andrew has offered thoughts on how best to recruit a replacement should we end up in that space. There are various options via the College of Policing, National Police Chiefs Council and the Police Superintendents Association. It is also possible to recruit via a specialist recruitment agency which whilst expensive, has been used very successfully recently including by TCI. A secondment of a serving senior office may also be possible but that would be on a full cost recovery basis.

Andrew has offered to help in drawing up a job requirements/description, suggesting it focusses on the need for transformational change management and leadership skills rather than policing skills per se. Andrew believes there would be no shortage of applicants. He recommended keeping within the UK police system rather than go for an "external" recruitment, not least given the already established synergies and links.

These two final paragraphs are helpful in understanding that we can put in place a mechanism to quickly recover from this crisis if it reaches a final decision to move as we are unfortunately having to consider, subject of course to substance of the representations the GPA may receive from the Commissioner which they - and if appropriate, we - will have to fully consider and give due regard to. Much appreciated.

Much to consider and discuss tomorrow. In the meantime, I hope this helps.

Regards

Nick

N J Pyle

Governor

The Convent

Gibraltar

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Fabian Picardo QC MP
Chief Minister

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Office of the Chief Minister

HM Government of Gibraltar

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(NO6) Debono, Georgina

From: (GLO) Llamas, Michael
Sent: 20 May 2020 13:49
To: (MIN) Picardo, Fabian
Subject: FW: OFFICIAL: Letter before action - damages claim

From: (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Sent: 20 May 2020 12:13
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Cc: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: OFFICIAL: Letter before action - damages claim

Dear Attorney General,

The Commissioner of Police is in receipt of correspondence with regard to a claim for damages following a collision at sea on the 8th of March this year. I understand that the Director of Public Prosecutions has raised the issue of who should represent the RGP to defend the claim. The DPP and I met yesterday to discuss whether it would be appropriate for the Office of Criminal Prosecution and Litigation to do so. We concluded it would not for the following reasons which potentially apply:

1) Prosecuting European Arrest Warrants issued by Spain to extradite the officers crewing the vessel.
2) Prosecuting criminal charges against the officers crewing the vessel.
3) Prosecuting disciplinary charges against the officers crewing the vessel.
4) Defending civil actions against the organisation or the individual officers in Spain.

Should you agree with our views I would be grateful for your authority to appoint counsel and your advice on who would be best placed to represent the RGP. Finally our experience is that claims made against the RGP have been generally handled by Government. Do you wish this to be the case in this instance or should we manage it ourselves together with appointed counsel?

Best regards,

Cathal

Cathal Yeats
Superintendent

Organisational Development
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20045082 Centrex: [redacted]

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(NO6) Debono, Georgina

From: (MIN) Picardo, Fabian
Sent: 20 May 2020 14:15
To: (GLO) Llamas, Michael
Subject: Re: OFFICIAL: Letter before action - damages claim

Dear Michael

Thank you for copying me into the below.

I think it is entirely inappropriate for this matter not to have been raised with me in the first instance by the Commissioner.

This matter raises issues of fundamental human rights, the right to life, potential payment of huge amounts of damages, the potential extradition and liberty of serving police officers being at stake, the issue of Standard Operating Procedures which may be in place and the management thereof. All of that is in addition to the huge potential political exposure that arises for Gibraltar as a result thereof and the concomitant (and dangerous) issues of sovereignty and the United Nations Convention on the Law of the Sea.

Indeed, it is difficult to think of an issue as fundamental as this affecting the RGP, certainly in the time I have been in office. There is no consideration in the email below of claims or offences going beyond "the officers crewing the vessel", which is also, in my view an issue that may also need further consideration.

As you know, it comes against the backdrop of the very unflattering report from the HMICFRS.

I am therefore surprised and greatly disappointed that these issues have not been the subject of a detailed submission to me by the Commissioner in respect of the events in question and the issues which now arise.

I shall therefore be writing directly to the Commissioner on this and all other aspects of this matter. In the interim, I do not authorise the incurring of any expenditure in briefing out of this matter at this stage.

Please refer both the DPP and Superintendent Yeats to my response.

Best wishes

Fabian

Sent from my BlackBerry — the most secure mobile device

From: michael.llamas@gibraltar.gov.gi
Sent: 20 May 2020 13:48
To: fabian.picardo@gibraltar.gov.gi
Subject: FW: OFFICIAL: Letter before action - damages claim

From: (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Sent: 20 May 2020 12:13
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>

Cc: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
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Superintendent

Organisational Development
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Fabian Picardo QC MP
Chief Minister

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(NO6) Debono, Georgina

From: (MIN) Picardo, Fabian
Sent: 20 May 2020 14:16
To: Nick.Pyle (Nick.Pyle_fco.gov.uk)
Subject: Fw: OFFICIAL: Letter before action - damages claim

Dear Governor

Given our ongoing discussions, you need to be aware of the below.

Very best wishes, as ever,

Fabian

Sent from my BlackBerry — the most secure mobile device

From: fabian.picardo@gibraltar.gov.gi
Sent: 20 May 2020 14:14
To: michael.llamas@gibraltar.gov.gi
Subject: Re: OFFICIAL: Letter before action - damages claim

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Best regards,

Cathal

Cathal Yeats

Superintendent

Organisational Development

New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) 20045082 Centrex [redacted]

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Fabian Picardo QC MP
Chief Minister

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FP1/168

(NO6) Debono, Georgina

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 20 May 2020 17:54
To: (MIN) Picardo, Fabian
Subject: FW: OFFICIAL: Letter before action - damages claim

Dear CM –
I refer to the below thread which includes you response to the AG and which has been forwarded to me.

You are evidently very disappointed but I want to reassure you that it has never been my intention to withhold anything from you concerning this very serious matter. I provided you with an overview on the day of the incident, then engaged with the AG as per your suggestion and have been doing so ever since. I will hopefully be in a better position to brief you on the full details of the incident once I receive the report of the findings of independent investigation team we called in. This team had to return early to the UK because of the COVID-19 crisis and because of the lockdown in UK, they have been unable to progress the matter as expeditiously as we all would have wanted.

The letter from local counsel representing the families and suggesting a future claim for damages was only received a few days ago which is what triggered our enquiry with the DPP only yesterday concerning legal representation.

I am of course available to discuss all the points you allude to at your earliest convenience.

Best wishes
Ian

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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From: (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Sent: 20 May 2020 16:06

To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: Fwd: OFFICIAL: Letter before action - damages claim

Sir,

I refer to the email below from the AG.

Best regards,

Cathal

Cathal Yeats
Superintendent
Planning Development and Support
Royal Gibraltar Police

Sent from a mobile device.

From: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Sent: Wednesday, 20 May 2020, 15:27
To: Cathal Yeats (external)
Cc: (GLO) Rocca, Christian
Subject: FW: OFFICIAL: Letter before action - damages claim

Dear Cathal,

Please see Chief Minister's email below which is self-explanatory.

Best wishes,

Michael

From: (MIN) Picardo, Fabian
Sent: 20 May 2020 14:15
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Subject: Re: OFFICIAL: Letter before action - damages claim

Dear Michael

Thank you for copying me into the below.

I think it is entirely inappropriate for this matter not to have been raised with me in the first instance by the Commissioner.

This matter raises issues of fundamental human rights, the right to life, potential payment of huge amounts of damages, the potential extradition and liberty of serving police officers being at stake, the issue of Standard Operating Procedures which may be in place and the management thereof. All of that is in addition to the huge potential political exposure that arises for Gibraltar as a result thereof and the concomitant (and dangerous) issues of sovereignty and the United Nations Convention on the Law of the Sea.

Indeed, it is difficult to think of an issue as fundamental as this affecting the RGP, certainly in the time I have been in office. There is no consideration in the email below of claims or offences going beyond "the officers crewing the vessel", which is also, in my view an issue that may also need further consideration.

As you know, it comes against the backdrop of the very unflattering report from the HMICFRS.

I am therefore surprised and greatly disappointed that these issues have not been the subject of a detailed submission to me by the Commissioner in respect of the events in question and the issues which now arise.

I shall therefore be writing directly to the Commissioner on this and all other aspects of this matter. In the interim, I do not authorise the incurring of any expenditure in briefing out of this matter at this stage.

Please refer both the DPP and Superintendent Yeats to my response.

Best wishes

Fabian

Sent from my BlackBerry — the most secure mobile device

From: michael.llamas@gibraltar.gov.gi
Sent: 20 May 2020 13:48
To: fabian.picardo@gibraltar.gov.gi
Subject: FW: OFFICIAL: Letter before action - damages claim

From: (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Sent: 20 May 2020 12:13
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Cc: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: OFFICIAL: Letter before action - damages claim

Dear Attorney General,

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1) Prosecuting European Arrest Warrants issued by Spain to extradite the officers crewing the vessel.
2) Prosecuting criminal charges against the officers crewing the vessel.
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Should you agree with our views I would be grateful for your authority to appoint counsel and your advice on who would be best placed to represent the RGP. Finally our experience is that claims made against the RGP have been generally handled by Government. Do you wish this to be the case in this instance or should we manage it ourselves together with appointed counsel?

Best regards,

Cathal

FP1/171

Cathal Yeats
Superintendent

Organisational Development
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20045082 Centrex: [redacted]

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Office of the Chief Minister

HM Government of Gibraltar

[illegible]

[illegible]

(NO6) Debono, Georgina

From: (MIN) Picardo, Fabian
Sent: 20 May 2020 18:55
To: Nick Pyle (Sensitive)
Subject: Fw: OFFICIAL: Letter before action - damages claim

Dear Governor

Please see below which I have just received from the CoP. Given the seriousness of the matter, I would appreciate the opportunity to discuss with you my intended response. I consider this is a trigger the only appropriate response to which will be the exercise of my powers under s.15(1)(a).

Happy to speaker later or tomorrow (after I have recorded my ministerial statement).

Best wishes

Fabian

Sent from my BlackBerry — the most secure mobile device

From: Ian.McGrail@royalgib.police.gi
Sent: 20 May 2020 17:53
To: fabian.picardo@gibraltar.gov.gi
Subject: FW: OFFICIAL: Letter before action - damages claim

Dear CM –

I refer to the below thread which includes you response to the AG and which has been forwarded to me.

You are evidently very disappointed but I want to reassure you that it has never been my intention to withhold anything from you concerning this very serious matter. I provided you with an overview on the day of the incident, then engaged with the AG as per your suggestion and have been doing so ever since. I will hopefully be in a better position to brief you on the full details of the incident once I receive the report of the findings of independent investigation team we called in. This team had to return early to the UK because of the COVID-19 crisis and because of the lockdown in UK, they have been unable to progress the matter as expeditiously as we all would have wanted.

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Ian McGrail ***OTM MSc***

Commissioner of Police

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Sent: 20 May 2020 16:06
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Cc: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: Fwd: OFFICIAL: Letter before action - damages claim

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Cathal

Cathal Yeats
Superintendent
Planning Development and Support
Royal Gibraltar Police

Sent from a mobile device.

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Sent: Wednesday, 20 May 2020, 15:27
To: Cathal Yeats (external)
Cc: (GLO) Rocca, Christian
Subject: FW: OFFICIAL: Letter before action - damages claim

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Cathal Yeats

Superintendent

Organisational Development

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FP1/180

HM Government of Gibraltar

THE CHIEF MINISTER

The Commissioner of Police
The Royal Gibraltar Police
New Mole House
Gibraltar

21st May 2020

By email: Ian.McGrail@royalgib.police.gi

Dear Commissioner

REQUIREMENT TO PROVIDE A FACTUAL REPORT THE POLICE ACT 2006, Section.15 (1)(a)

I write in respect of the incident at sea which occurred in the early hours of 8th March 2020 and your subsequent email of yesterday's date.

I. THE FACTS

The incident in question involved marine assets and officers of the Royal Gibraltar Police ('RGP') and resulted in the death of two Spanish nationals and the injury of another two individuals, one of whom is also a Spanish national and the fourth of Portuguese nationality ('the Incident').

The vessel in which the deceased and injured were travelling was not loaded with narcotics. The vessel was a 14 metre Semi Rigid Hull Inflatable Boat (or RHIB) of the type commonly employed in drugs trafficking activity, powered by four 300hp outboard engines and fitted with radar equipment. This type of vessel is a prohibited import in Gibraltar.

The initial reporting of the Incident would appear to show that it occurred outside of British Gibraltar Territorial Waters ('BGTW'). Your own initial

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report to me suggested that the events may indeed have occurred as far as 6 nautical miles to the East of Gibraltar (at the height of the runway). I understand that reports now suggest that the location of the incident may be different and, notably, further away from BGTW. It is not clear if the RHIB and its occupants were ever in BGTW and, if so, for how long and in what location/s.

II. THE POWERS OF THE GOVERNMENT

In writing this letter in response to your emails I am conscious of the powers set out in **Section 15** of the Act.

Section 15 (1) provides that the Chief Minister may exercise the following powers on behalf of the Government, namely:

> ***'(a) to require factual or assessment reports from the Force or the Authority on any policing matter.'***

Section 15 (2) provides that:

> ***'the Chief Minister will keep the Governor informed of any exercise by him of a power under the section and shall provide to the Governor a copy of any report produced as a consequence of thereof.'.***

For that reason I am copying this letter to His Excellency the Governor, Nick Pyle, and also to the Chairman of the Gibraltar Police Authority, Joseph Britto. I have already discussed with both of them that I will be sending you this letter.

III. REASONS FOR EXERCISE OF SECTION 15 POWERS

This **REQUIREMENT** to provide a factual report is addressed by me to the Royal Gibraltar Police under the provisions of **Section 15(1)(a)** of the Police Act 2006 as a result of:

(a) reports in the Spanish and Gibraltar media to the effect that a civil claim for damages arising from illegal homicide has been commenced against the Royal Gibraltar Police in the Spanish Courts (filed in the autonomous region of Ceuta) by relatives of

the 2 Spanish citizens who were killed in a chase recently 'off Gibraltar' involving officers and marine assets of the RGP;

(b) questions (**see attached, Annex 1**) posed in the Spanish Congress of Deputies in which the Parliamentary Group 'Vox' ask about a number of aspects of the Incident;

(c) an answer (**see attached, Annex 2**) provided in the Spanish Congress of Deputies in which the Spanish Government responds to the questions referred to at (b) above;

(d) a diplomatic *Note Verbale* transmitted by the Spanish Minister of Foreign Affairs, the European Union and Co-operation to the Embassy of the United Kingdom in Madrid on the 9th March 2020 which sets out a protest in respect of the actions of the RGP in relation to the Incident, reserves the possibility of the adoption of such measures as the seriousness of the Incident merit and calls on the British authorities to take such necessary precautions to ensure that incidents of this nature do not recur; and

(e) email communications, culminating in an email from you addressed to me dated 20th May 2020 (**see attached, Annex 3**), in which it has been brought to my attention – initially by the Attorney General - that you are seeking funding for legal representation in a potential plethora of multi-jurisdictional legal proceedings, both civil and potentially also criminal, arising out the Incident. This funding was initially requested from the Director of Public Prosecutions, and subsequently the Attorney General, neither of whose roles involve the making of such decisions in respect of the commitment of public funds.

As a result, in light of the above, I have no confidence that you have expeditiously provided me with all the information and documentation that I should have been provided with in the context of the seriousness of the events in question.

In particular, I have no confidence that either the Government or the office of the Governor (with whom I have discussed this matter at length) have had the timely candor and transparency we would have expected from you in the circumstances arising in respect of the Incident.

Therefore, in exercise of my power under **Section 15(1) (a)** of the Act, I hereby on behalf of the Government require the RGP to provide a Factual Report in respect of the events in question as provided for in Part VI below.

IV. THE TERRITORIAL & JURISDICTIONAL ISSUE

In particular, I wish to record that the Government is concerned about the fact that the Incident has occurred outside of the BGTW. In this respect, I refer you to **Part 4** of the **Police Act 2006** ('the Act'), **'Constitution and Employment of the Force'**.

Section 29 of the Act sets out that ***'[t]he force shall be employed in and throughout Gibraltar...'***.

It is in the nature of laws made by the Gibraltar Parliament that they cannot be extraterritorial, although that rule is subject to the principle that any such laws which purport to have an extraterritorial operation, application or effect will be valid if they bear a substantial relationship to the peace, order and good government of the territory concerned, whether generally or in respect of particular subjects[1].

As a result the establishment of the force and the composition of its officers[2] has, in principle, effect only in and in respect of the territory of Gibraltar, although it may be arguable that the extraterritoriality extends in the limited way set out in the preceding paragraph.

Under public international law, in the United Nations Convention on the Law of the Sea, the United Kingdom, as the administering power in Gibraltar, has claimed 3 nm of territorial sea for Gibraltar. The territory

---

[1] Policing **may** come into this ambit. In Croft v Dunphy [1933] AC 156, 162 the Court decided that: '*[W]hatever be the limits of territorial waters in the international sense, it has long been recognised that for certain purposes, notably those of police, revenue, public health and fisheries, a state may enact laws affecting the seas surrounding its coasts to a distance seaward which exceeds the ordinary limits of its territory.*' The principle was further considered and applied in Australian authorities such as Bonser v La Macchia (1969) 122 CLR 177, 189 and 224–5; New South Wales v The Commonwealth of Australia (1975) 135 CLR 337; Robinson v Western Australian Museum (1977) 138 CLR 283, although the Court of Appeal erred in the present case in thinking that the legislation was upheld in the last case. Broadly, a subordinate legislature may legislate with extraterritorial effect where the legislation has in nature and effect a sufficiently substantial relationship with the peace, order and good government of the relevant territory and is for a purpose for which the subordinate legislature has power to legislate.

[2] Provided for in Section 30(1).

of Gibraltar, therefore, does not extend beyond 3 nm East of the runway. It is, therefore, apparent that the ostensible jurisdiction of the RGP does not extend to the area in which the Incident occurred.

For that reason, it is important for the Government to determine on what basis the RGP were operating beyond that distance from Gibraltar, especially when the equipment now provided by Her Majesty's Government of Gibraltar enables officers to know their exact location whilst out on operations at sea.

Additionally, it will be important to determine whether or not the RGP were operating inside the Spanish Territorial Sea, as alleged by the response of the Spanish Government at Annex 2, at the invitation of, or with the express or tacit consent (or both, or neither) of the Spanish law enforcement agencies (and if so which and how was this communicated to the RGP). Please note that the position set out in the answer to the question in the Spanish Parliament states that there was no such tacit or express invitation.

V. THE CONCERNS OF THE GOVERNMENT

In all of the circumstances set out above the Incident raises many concerns for the Government and for me as Chief Minister and as Minister for Finance.

First and foremost I am concerned about the physical and mental welfare of the officers of the RGP in question that night and of the potential for multi-jurisdictional legal action against them. The Government will agree to fund the legal advice and representation that the individual officers may require on a 'without prejudice' basis and on such other basis or conditions which the Attorney General may consider and advise may be appropriate. The Government will also assist with any support required in respect of the mental or physical health of the officers in question.

I want to specifically record that the Government fully supports our frontline police officers, especially those who risk their own lives at sea in keeping Gibraltar safe and keeping drug traffickers from using our waters to transship narcotics.

In particular, however, the Incident:

(a) may give rise to breaches of the Act and to very large potential claims in damages against HMGoG which will be funded by the tax payers of Gibraltar;

(b) raises serious issues as to the operational welfare of officers of the RGP at sea;

(c) additionally given the sensitivities of the relationship between Gibraltar, Spain and the United Kingdom, I am concerned that the events in question can provide grounds for a serious setback for Gibraltar in the context of the relationship with our Spanish counterparts at a political level – as evidenced in the answer provided in by the Spanish Government to the Vox parliamentary question and the *note verbale* presented to the United Kingdom by the Spanish government;

(d) moreover, given the contents of the paragraphs on territoriality above, the Government is concerned that officers of the RGP who find themselves operating outside of the territory of Gibraltar may in fact not have the powers or protections provided for them in the Act; and

(e) finally, the Government is concerned about the sovereignty implications for Gibraltar and the United Kingdom. I will not further detail the nature of those concerns here as they are particularly sensitive.

VI. THE FACTUAL REPORT REQUIRED

In light of all the above, I therefore require the RGP to provide me with a Factual Report as to each of the following:

(i) a statement on the current status of the officers in question (i.e. whether they continue to be on active duty or are suspended or stood down pending finalization of any inquiries into this matter);

(ii) the exact location where the incident happened;

(iii) confirmation, therefore, of whether the incident happened inside or outside of BGTW;

(iv) a full report of the facts of the Incident, including details of whether the RHIB in question entered BGTW and if so where and when and how long it was in BGTW;

(v) copies of any report or reports provided by the Metropolitan Police in respect of this incident as a result of the investigation sanctioned by the Government in relation to the Incident;

(vi) copies of any internal reports or documentation produced to date in respect of the Incident;

(vii) copies of any incident logs that may have been kept of the actions relating to the Incident;

(viii) copies of any call logs that may have been kept of the actions relating to the Incident;

(ix) details of any conversations or other operational communications with Spanish law enforcement or other agencies and whether that led to any actual or tacit invitation to enter the Spanish Territorial Sea, providing exact details of any such actual or tacit invitation, or the absence thereof;

(x) a statement (or copy if they are in printed or printable form) of what standing instructions are given to officers in respect of operations outside of BGTW;

(xi) copies of any such or any other relevant instructions or other standard operating procedures;

(xii) documentation or confirmation in writing of the instructions provided to officers of the Marine Section by senior management as to the procedures to be followed when suspects who are being chased inside BGTW fail to stop and exit BGTW and what position the RGP take or have taken (until the time of the Incident) in respect of 'hot pursuit' from BGTW into International Water, Spanish Territorial Waters and / or Moroccan Territorial Waters and on what basis and on what advice such a position, if any, has been taken. (It is essential for

the Government to understand what training was provided to the officers in question in respect of their ensuring that they operated solely within the territorial limits of Gibraltar. I want to know what the RGP's standard operating procedures are in such instances);

(xiii) alternatively, an explanation of why no such position has been taken, given the prevalence of such activities;

(xiv) what assessment senior management have made of such operations occurring, in particular where there is not an express invitation from another police force (whether that is the Spanish police force or the Moroccan police force) for operations to continue outside of BGTW in Spanish Territorial Waters, International Waters or Moroccan Territorial Waters. (The Government is very concerned to understand what the Senior Management Team of the RGP has done in respect of continued incidents of operations outside of BGTW before the events in question and thereafter, in particular if there has been any change in standing instructions or posture as a result); and

(xv) any other relevant information, reports or documents (whether existing in documentary, printed or digital form) which the RGP consider the Government should have available in considering the facts and matters which arise from the Incident and planning to address the same in the Public Interest of Gibraltar.

The Government views the events in question with the utmost seriousness. We will not allow deaths of individuals in circumstances involving the RGP not to be accounted for entirely properly and timeously, even if that means that the Government of Gibraltar and the Gibraltar tax payer is exposed to damages and costs as a result thereof. Such matters go to the very foundation of the Rule of Law and the protection of the right to life, whether inside or outside the territory of Gibraltar. It is for that reason that, as a start, I have approved the expenditure of the preparation of the Independent Report by the Metropolitan Police and the additional expenditure that I will authorise to properly deal with this matter.

The Government considers that this is the only way to properly deal with the issues that arise. Once in receipt of the RGP's Factual Report, as required by this letter, I will be in a better position as Minister for Finance

to assess whether and if so what funding is required for independent representation of the RGP and or any of its officers in respect of the incident.

To date I have already confirmed funding for the external investigation from the Metropolitan Police as initially requested by you. It may be that there is also a coroner's investigation presently on foot. Both of these must also run their course. The fact that those are running their course should not, however, in any way interfere with or delay the RGP's ability to urgently provide the Factual Report I require in the exercise of my powers under the Act in the time that I have set out below.

VII. TIMING FOR A RESPONSE

I shall look forward to hearing from you and I would expect to have:

(a) formal confirmation of receipt of this REQUIRMENT within the next twenty four hours; and

(b) within 7 days of the date of this letter a detailed response containing the factual report from the RGP in respect of this matter.

If more time is required in respect of any aspect of this Factual Report sought from the RGP, please write to me to seek such an extension of time setting out the reasons why it is not possible to provide the information requested in the time allotted.

In the interim, I shall look forward to hearing from you in the time allotted.

Sincerely,

FABIAN PICARDO QC MP
CHIEF MINISTER

cc: **His Excellency the Governor**
The Minister for Justice
The Chairman of the Gibraltar Police Authority
The Attorney General
The Director of Public Prosecutions

ANNEX 1
QUESTIONS POSED IN SPANISH PARLIAMENT

GRUPO PARLAMENTARIO

PREGUNTA CON RESPUESTA POR ESCRITO

A LA MESA DEL CONGRESO DE LOS DIPUTADOS

D. AGUSTÍN ROSETY FERNÁNDEZ DE CASTRO y D. ALBERTO ASARTA CUEVAS, en su condición de Diputados del **Grupo Parlamentario VOX (GPVOX)**, al amparo de lo establecido en los artículos 185 y siguientes del vigente Reglamento del Congreso de los Diputados, presentan la siguiente **pregunta para la que solicitan respuesta por escrito.**

C.DIP 17026 20/03/2020 10:30

EXPOSICIÓN DE MOTIVOS

Según informaciones de prensa, durante la noche del 7 al 8 de marzo, un patrullero de la Policía de Gibraltar ha abordado una embarcación semirrígida, de las conocidas como narcolanchas, a levante del Peñón, frente al puerto linense de La Atunara. El abordaje se ha saldado con dos muertos y dos heridos. Apresada la embarcación por el patrullero británico, fue conducida junto con los supervivientes y los cadáveres a Gibraltar.

En virtud del Tratado de Utretch, España no reconoce mar territorial alguno al Reino Unido en el litoral de la colonia. Aun así, dada la proximidad a la Atunara, el incidente ha debido tener lugar necesariamente fuera de las tres millas náuticas que el Reino Unido, aunque sin título alguno, viene reivindicando.

Grupo Parlamentario VOX, Carrera de San Jerónimo s/n 28071 Madrid
Telf. 91 390 57 63 /91 390 76 42
gpvox@congreso.es

Ante esta evidencia de una flagrante violación de la soberanía nacional de España, con resultado de muerte, cometida en su mar territorial por la Policía de Gibraltar, presentamos las siguientes

PREGUNTAS

1. ¿En qué posición tuvo lugar el abordaje?

2. ¿Existe acaso algún convenio de colaboración entre España y el Reino Unido que pueda amparar actuaciones como la referida?

3. En cualquier caso, ¿solicitaron las autoridades británicas autorización para emprender una persecución en aguas españolas?

4. De no ser así, ¿ha presentado el Gobierno, en reivindicación de la soberanía nacional de España, la oportuna protesta ante el Reino Unido?

Palacio del Congreso de los Diputados, a 18 de marzo de 2020.

D. Alberto Asarta Cuevas
Diputado GPVOX

D. Agustín Rosety Fernández de Castro
Diputado GPVOX

Macarena Olona Choclán
Portavoz Adjunta GPVOX

Grupo Parlamentario VOX, Carrera de San Jerónimo s/n 28071 Madrid
Telf. 91 390 77 63 /91 390 76 42
gpvox@congreso.es

C.DIP 17026 20/03/2020 10:30

ANNEX 2
ANSWER PROVIDED IN SPANISH PARLIAMENT

FP1/193

B1261

SECRETARÍA DE ESTADO DE
CONGRESO DE LOS DIPUTADOS, CORTES Y
SECRETARÍA GENERAL CONSTITUCIONALES
REGISTRO GENERAL
28 ABR. 2020 17:41:23
Entrada 24855

RESPUESTA DEL GOBIERNO

(184) PREGUNTA ESCRITA CONGRESO

184/6945 **20/03/2020** **17026**

AUTOR/A: ROSETY FERNÁNDEZ DE CASTRO, Agustín (GVOX); ASARTA CUEVAS, Alberto Teófilo (GVOX)

RESPUESTA:

En relación con la pregunta formulada, se señala que de acuerdo con la información recibida en el Ministerio de Asuntos Exteriores Unión Europea y Cooperación (MAUC), la colisión se produjo en las coordenadas 36° 09' N – 5° 12' W.

Respecto a los convenios de colaboración mencionados, cabe indicar que no hay suscrito ningún acuerdo entre España y el Reino Unido que permita la actuación de la policía gibraltareña en aguas territoriales españolas.

Respecto a la información recabada por el MAUC no hubo requerimiento previo alguno de apoyo a la Guardia Civil.

Dada la gravedad de los hechos acaecidos, el Ministerio presentó con fecha 9 de marzo ante la Embajada del Reino Unido una nota verbal protestando en los términos más enérgicos por la inaceptable actuación de la policía gibraltareña, reservándose la adopción de las medidas oportunas si fuera necesario y requiriendo que las autoridades británicas relevantes tomen las medidas adecuadas para que comportamientos de este tipo no vuelvan a tener lugar.

Madrid, 27 de abril de 2020



ANNEX 3
EMAIL EXCHANGES ON FUNDING OF REPRESENTATION

FP1/195

(NO6) Martinez, Susan

Subject: FW: OFFICIAL: Letter before action - damages claim

From: "(RGP) McGrail, Ian M.Sc (OTM)" <Ian.McGrail@royalgib.police.gi>
Date: Wednesday, 20 May 2020 at 17:53
To: "(MIN) Picardo, Fabian" <fabian.picardo@gibraltar.gov.gi>
Subject: FW: OFFICIAL: Letter before action - damages claim

Dear CM –
I refer to the below thread which includes you response to the AG and which has been forwarded to me.

You are evidently very disappointed but I want to reassure you that it has never been my intention to withhold anything from you concerning this very serious matter. I provided you with an overview on the day of the incident, then engaged with the AG as per your suggestion and have been doing so ever since. I will hopefully be in a better position to brief you on the full details of the incident once I receive the report of the findings of independent investigation team we called in. This team had to return early to the UK because of the COVID-19 crisis and because of the lockdown in UK, they have been unable to progress the matter as expeditiously as we all would have wanted.

The letter from local counsel representing the families and suggesting a future claim for damages was only received a few days ago which is what triggered our enquiry with the DPP only yesterday concerning legal representation.

I am of course available to discuss all the points you allude to at your earliest convenience.

Best wishes
Ian

Ian McGrail *OTM MSc*
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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From: (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Sent: 20 May 2020 16:06
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: Fwd: OFFICIAL: Letter before action - damages claim

Sir,

I refer to the email below from the AG.

Best regards,

Cathal

Cathal Yeats
Superintendent
Planning Development and Support
Royal Gibraltar Police

Sent from a mobile device.

From: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Sent: Wednesday, 20 May 2020, 15:27
To: Cathal Yeats (external)
Cc: (GLO) Rocca, Christian
Subject: FW: OFFICIAL: Letter before action - damages claim

Dear Cathal,

Please see Chief Minister's email below which is self explanatory.

Best wishes,

Michael

From: (MIN) Picardo, Fabian
Sent: 20 May 2020 14:15
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Subject: Re: OFFICIAL: Letter before action - damages claim

Dear Michael

Thank you for copying me into the below.

I think it is entirely inappropriate for this matter not to have been raised with me in the first instance by the Commissioner.

This matter raises issues of fundamental human rights, the right to life, potential payment of huge amounts of damages, the potential extradition and liberty of serving police officers being at stake, the issue of

Standard Operating Procedures which may be in place and the management thereof. All of that is in addition to the huge potential political exposure that arises for Gibraltar as a result thereof and the concomitant (and dangerous) issues of sovereignty and the United Nations Convention on the Law of the Sea.

Indeed, it is difficult to think of an issue as fundamental as this affecting the RGP, certainly in the time I have been in office. There is no consideration in the email below of claims or offences going beyond "the officers crewing the vessel", which is also, in my view an issue that may also need further consideration.

As you know, it comes against the backdrop of the very unflattering report from the HMICFRS.

I am therefore surprised and greatly disappointed that these issues have not been the subject of a detailed submission to me by the Commissioner in respect of the events in question and the issues which now arise.

I shall therefore be writing directly to the Commissioner on this and all other aspects of this matter. In the interim, I do not authorise the incurring of any expenditure in briefing out of this matter at this stage.

Please refer both the DPP and Superintendent Yeats to my response.

Best wishes

Fabian

Sent from my BlackBerry — the most secure mobile device

From: michael.llamas@gibraltar.gov.gi
Sent: 20 May 2020 13:48
To: fabian.picardo@gibraltar.gov.gi
Subject: FW: OFFICIAL: Letter before action - damages claim

From: (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Sent: 20 May 2020 12:13
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Cc: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: OFFICIAL: Letter before action - damages claim

Dear Attorney General,

The Commissioner of Police is in receipt of correspondence with regard to a claim for damages following a collision at sea on the 8th of March this year. I understand that the Director of Public Prosecutions has raised the issue of who should represent the RGP to defend the claim. The DPP and I met yesterday to discuss whether it would be appropriate for the Office of Criminal Prosecution and Litigation to do so. We concluded it would not for the following reasons which potentially apply:

1) Prosecuting European Arrest Warrants issued by Spain to extradite the officers crewing the vessel.
2) Prosecuting criminal charges against the officers crewing the vessel.
3) Prosecuting disciplinary charges against the officers crewing the vessel
4) Defending civil actions against the organisation or the individual officers in Spain.

Should you agree with our views I would be grateful for your authority to appoint counsel and your advice on who would be best placed to represent the RGP. Finally our experience is that claims made against the RGP have been

generally handled by Government. Do you wish this to be the case in this instance or should we manage it ourselves together with appointed counsel?

Best regards,

Cathal

Cathal Yeats
Superintendent

Organisational Development
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20045082 Centrex [redacted]

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Fabian Picardo QC MP
Chief Minister

Office of the Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20070071
Fax: (+350) 20076396

fabian.picardo@gibraltar.gov.gi

www.gibraltar.gov.gi

Office of the Chief Minister

HM Government of Gibraltar

[redacted]

(NO6) Debono, Georgina

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 22 May 2020 10:21
To: (MIN) Picardo, Fabian
Subject: RE: Please see attached

Dear CM –
I duly acknowledge receipt of your letter dated 21st May 2020 the contents of which are duly noted.
I will revert with the factual report as requested.
Sincerely

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Please consider the environment before printing this email.

From: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Sent: 21 May 2020 20:58
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: Please see attached

Please see attached.

(NO6) Debono, Georgina

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 28 May 2020 16:21
To: (MIN) Picardo, Fabian
Subject: OFFICIAL - Factual report
Attachments: IM169 - Factual Report to CM.pdf; Op Kram Time Line.pdf; Timeline of communications for CM Op Kram (002).pdf

Dear CM,
Please find attached the factual report you have requested from me.
A hard copy of the report will be accompanying a box containing files of appendices and other material which are referred in the report proper and which I am unable to send to you digitally. This is being delivered by hand. My PA has engaged with you staff to advise them to expect this box.
I have also included two time lines specific to this case, digital versions of which are attached to this email. One covers the whole incident and the other refers to communications I had with officials. Hard copies of these are also included in the box.
Sincerely
Ian

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 22 May 2020 10:21
To: '(MIN) Picardo, Fabian' <fabian.picardo@gibraltar.gov.gi>
Subject: RE: Please see attached

Dear CM –
I duly acknowledge receipt of your letter dated 21st May 2020 the contents of which are duly noted.
I will revert with the factual report as requested.

Sincerely

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Please consider the environment before printing this email.

From: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Sent: 21 May 2020 20:58
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: Please see attached

Please see attached.

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Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

27th May 2020

Our Ref: IM169

The Hon Fabian Picardo QC
Chief Minister
No. 6 Convent Place
Gibraltar

Dear Chief Minister,

REQUIREMENT TO PROVIDE A FACTUAL REPORT THE POLICE ACT 2006, Section 15 (1)(a)

1. I refer to your letter of the 21st May 2020 informing me of the requirement to provide a factual report pursuant to S.15(1)(a) Police Act 2006 concerning the death at sea of two Spanish Nationals on the 8th March 2020.

2. I would like to point out that notwithstanding the fact that I have briefed the Hon. Attorney General on several occasions (as suggested by you from the outset), apprised the Chairman of the Gibraltar Police Authority and consulted with the Director of Public Prosecutions, I have not been asked for further details or a factual report until now.

3. For ease of reading, I will address the concerns of the Government and the points listed in part VI (the Factual Report Required) in a chronological order as far as possible.

4. **Point (iv): A full report of the facts of the incident, including details of whether the RHIB in question entered BGTW and if so where and when and how long it was in BGTW.**
   a. At about 0238Hrs on the 8th March 2020 RGP Marine Section officers received a verbal report from Windmill Hill Signal Station (WHSS) concerning a suspect vessel in the vicinity of BGTW **(Appendices 15, 20, 21, 22 and 74 refer)**. As a result of this report the Police Motor Boat (PMB) crew, deployed on motor vessel Sir John Chapple to the eastern side of Gibraltar.

   b. The RGP crew made direct contact by telephone with the Guardia Civil (GC) *Central Operativa de Servicios* (COS) and it was confirmed by the latter that they were also

monitoring the said vessel. The RGP interceptor positioned itself within the limits of BGTW by Grid A8 **(Appendices 2 and 15 refer)**.

c. There were numerous exchanges of mobile telephone communications between the RGP crew and GC COS which included the positioning and movements of the suspect vessel **(Appendices 23 and 24 refer)**.

d. At about 0329Hrs a chase commenced between the Sir John Chapple and the suspect vessel. The RGP applied its blue lights **(Appendices 15, 16, 17 and 74 refer)**. According to the coxswain (referred to as 'Officer One' in the Post Incident Procedure), the suspect vessel displayed no navigational lights and due to its length and engine capacity was a prohibited import known colloquially as a *Narco Launch*. The vessel was a RHIB of 14 metres in length with 4x 300 hp outboard engines. Four crew members were aboard.

e. The crewmembers of the suspect RHIB were later identified as:

- [redacted]
- [redacted]
- [redacted]
- [redacted]

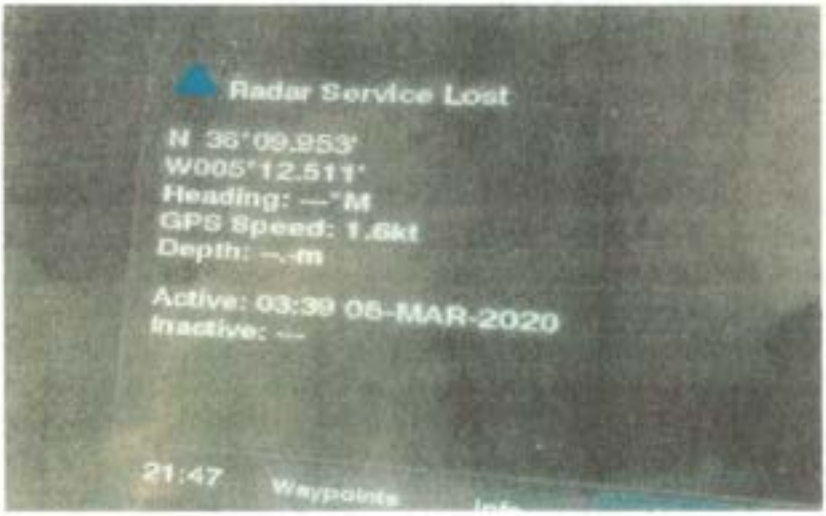
f. The coxswain's intention was to identify the suspects and determine whether they were carrying an illegal cargo **(Appendices 15 and 16 refer)**.

g. As the chase ensued, the suspect RHIB performed evasive and dangerous manoeuvres and its crewmembers threw objects at the Police vessel **(Appendices 15, 16, 17, 19, 20 and 74 refer)**.

h. The chase ended in a collision between both vessels (which according to the marine expert, occurred at around 03:38:56, in position 36° 09.96' N 005° 12.51' W **(Appendix 19 refers)**. These coordinates are in Spanish waters. At the relevant time this information was not available to the Command Team as the police interceptor's AIS had not been activated. This is contrary to standing orders. It was assumed that the

collision was likely to have taken place outside of BGTW as the radar screen of the suspect vessel displayed coordinates indicating this, but this required technical confirmation.

i.



j. The intelligence picture at that stage was unclear and confusing with the limited facts recounted by the PMB crew being out of sync with other facts. Such confusion is common in the initial stages of a serious investigation and for this reason Post Incident Procedures (PIP's) are initiated and officers do not provide detailed accounts until they have had time to rest and take advice.

k. Following the collision, crew members from the Sir John Chapple boarded the suspect RHIB to assess the situation and found the lifeless body of a male person, later identified as [redacted]. He had an open head wound. There was also a further crewmember, namely [redacted] who appeared seriously injured, with visible open wounds to his back/shoulder, lying on the hull. The RGP crew were not physically harmed but were in shock **(Appendices 15 to 17 refer)**.

l. The coxswain then took the decision of removing his officers from on board the suspect vessel as he feared for their safety **(Appendices 15, 25 and 26 refers)**.

m. A tow-line was connected to the suspect RHIB for it to be towed to land and ensure the injured received medical attention **(Appendices 15 to 17 refer)**.

n. At 0343Hrs the RGP crew contacted WHSS and reported the incident adding that they would be returning to the Gibraltar Government Marine Section (GGMS). **(Appendices**

15, 20 and 74 refer). As a result of the collision the police vessel had mounted the suspect RHIB and landed on its starboard side causing the police vessel taking in water.

o. No Mayday call was broadcasted by the police marine officers. It is assumed at this stage that this was due to the state of shock that they must have been in.

p. At about 0345hrs, Officer One (coxswain) called the RGP Command and Dispatch Unit at New Mole House (NMH) Police Headquarters, and apprised the Crown Sergeant about the collision and of the need of having the ambulance awaiting their arrival **(Appendices 15, 25, 26 and 27 refer)**.

q. [redacted]

r. The RGP vessel then commenced to tow the suspect RHIB but its towing speed was reported to be reduced as one of its engines had failed following the collision **(Appendix 15 refers)**.

s. Consequently, the assistance of the HMC Marine Section was sought and HMC vessel Seeker met with the Sir John Chapple by which stage was within BGTW. **(Appendices 15 and 27 refer)**.

t. All crewmembers from the suspect RHIB, except for the deceased, were transferred on to the HMC vessel for them to be taken ashore for treatment.

u. First Aid was administered to the crew of the suspect RHIB by the HMC officers **(Appendices 10 to 17, 20, and 28 to 31 refer)**.

v. At about 0355Hrs the on call Gold Commander Detective Chief Inspector Field was contacted and attended the Police Marine Base. As soon as he had assessed the situation he called me at 0425Hrs.

w. I immediately recalled all available senior managers and convened a Gold Command meeting.

x. A command structure was put in place with a number of senior officers being tasked with specific roles. For the purpose of leading the investigation during the 'Golden Hour', DCI Field was provisionally appointed as Senior Investigating Officer.

y. For the purposes of transparency, immediate consideration was given to requesting an independent body to lead the investigation.

z. A critical incident was declared and the following additional persons recalled to duty:

CI	Nolan Romero. Post Incident Procedure Manager (PIP)
DI	Paul Chipolina (Head Special Branch) International liaison with Spain
DI	Alex Enriles – PSD cover
Insp	Thomas Tunbridge – Operational Logistics
Insp	Albert Fernandez - Bronze commander Marine Base
Insp	Paul Barker – Media
PS	Maurice Morello – Chairman Gibraltar Police Federation – welfare.

aa. Steps were then made to secure the Marine Base, the hospital and Police HQ. On a previous recent occasion involving a fatal collision with an HMC vessel and another smuggling craft, the vicinity outside Police Headquarters and hospital were inundated with family members who either belong to or are related to Organised Criminal Groups (OCG).

bb. The following established command protocols were initiated.

Gold Commander	Commissioner Ian McGrail
Deputy Gold	D/Supt Paul Richardson
SIO - provisional	DCI John Field
Coroner's Officer	DI Sean Perera
Family Liaison Officer	Natalie Passano

cc. The following fast track actions were commenced:

1. Critical Incident declared
2. Consider calling UK force to investigate - (Small Islands/Hampshire considered initially)
3. Post Incident Procedure (PIP) procedure to be initiated for:
    a. ECHR considerations
    b. Safeguard ID of officers (retaliation by OCG feared)
4. Welfare of officers
5. Security NMH, PMB Base, SBH
6. Advise:
    a. CM
    b. HE
    c. CBF
    d. GDP CPO
    e. Police Fed
7. Advise Windmill Hill and Port to secure evidence.
8. Commissioner to issue message of reassurance to workforce

9. Intel circular to be published for officer safety reasons.
10. Resilience issues to be considered for Gold command cover and Ops personnel
11. Press statement
12. Provisional SIO to consider ECHR implications and by extension Gibraltar Constitution
13. Need to determine location of incident ASAP.
14. SLOWER TIME ACTIONS:
    a. Extract training records for PMB crew
    b. Extract standing instructions for chase at sea.

dd. At about 0540Hrs and shortly after arrival at the Marine Base, DRIS MOHAMED was pronounced life extinct by paramedics on scene. The other two crew members were conveyed to St. Bernard's Hospital to be medically examined **(Appendices 32 to 36 refer)**.

ee. HM Coroner Mr PITTO, was apprised and gave instruction for the bodies of the deceased to be placed in the mortuary fridge pending examination by a Forensic Pathologist.

ff. At 0605Hrs I notified HE and yourself and we engaged in an exchange of messages as from 0724hrs.

gg. At 0630Hrs I personally went to speak to the officers involved in the collision and reassured them that their well-being was at the forefront of our concerns.

hh. At 1010Hrs I met with the Attorney General Michael Llamas in my office and briefed him fully as to what was known at that stage. We were joined by the Governor Nick Pyle at 1215Hrs.

ii. Following medical treatment the two remaining surviving crew members were arrested on suspicion of having committed the offences below:

- Importing a Prohibited Import, contrary to Section 14 (1) (f) and (2) of the Imports and Exports Act 1986.
- Dangerous navigation, contrary to Section 10 of the Seaside Pleasure Boat Rules 1989.
- Obstructing Police, Contrary to Section 177 (2) and (4) of the Crimes Act.

This is because at that time it was believed that the suspect vessel had entered BGTW at some point during or before the police chase ensued and therefore some criminality had occurred within Gibraltar's jurisdiction. (The CAD log records that the incident took place some 3 miles south of Europa Point as reported by the crew – this was later found to be incorrect see Appendix 64, record 5 of 97)

jj. On the 1st April 2020 once it was clear that no criminality had occurred within BGTW, the two remaining survivors were recalled from bail and released without charge. **(Appendices 37 and 38 refer)**.

kk. At 1205Hrs 9th March 2020 I held a briefing in my office with The Governor and Attorney General and updated them with the details I had available.

ll. As part of the Post Incident Procedure (PIP) the RGP crew members provided an initial account on the same day followed by a detailed account some days later. For safety reasons the officers are identified as Officer One (coxswain), Officer Two (2nd qualified crew member) and Officer Three (unqualified crew member). This is to prevent their identities being transmitted to organised crime groups who have been known to take personal vengeance against law enforcement officers.

mm. The HMC crew also took part in the PIP process.

nn. For reasons of independence, transparency and impartiality on the 10th March 2020 arrangements were made with for an independent investigation to be led by the Metropolitan Police Service, Directorate of Professionals Standards. This was after attempts to obtain support from the chiefs of other small jurisdictions failed.

oo. The **terms of reference** for the independent investigation are as follows:

1) *To review what the Royal Gibraltar Police has actioned so far in to the causes and circumstances of the collision at sea in the early hours of 8th March 2020 between RGP interceptor Sir John Chapple and a 14m rigid-hulled inflatable boat, which resulted in the deaths of two of the four men on board and to assume the lead in this investigation from thereon.*

2) *To investigate the actions and decisions of Royal Gibraltar Police officers and/or staff in relation to the collision at sea on 8th March 2020, and the degree to which, if at all, the actions and decisions caused or contributed to the two deaths and injuries of other parties aboard the rigid-hulled inflatable boat.*

3) *To assess whether the police officers and staff acted in accordance with police policies, guidance and legislation.*

4) *To assess whether any police officers or staff have committed criminal offences or behaved in a manner justifying the bringing of disciplinary proceedings.*

5) *To identify any opportunities for organisational learning, and any good practice that could be highlighted and shared.*

pp. At around the same time the services of a maritime collision expert were engaged - Captain Richard Meikle (the same expert who investigated the HMC vessel fatal collision off Eastern Beach).

qq. The Metropolitan Police investigation team arrived in Gibraltar on 13th March 2020 and comprised of an acting detective superintendent, several other police officers and a civilian investigator.

rr. The maritime collision expert arrived on the same flight as the Metropolitan Police team and on arrival they were put in touch with each other.

ss. The Metropolitan Police officers were sworn in as RGP officers in order to grant them constabulary powers. The acting D/Supt assumed conduct of the investigation following a comprehensive briefing and handover of all relevant material. The RGP provisional SIO, DCI Field was appointed as liaison officer to assist the team with their investigation in Gibraltar.

tt. The vessels involved in the collision, as well as the HMC vessel involved in the towing of the suspect vessel, were examined by RGP Crime Scene Officers. They were later brought out of the sea onto the 'hard' and treated as crime scenes for them to be further examined at a later date, by the maritime expert.

uu. From the onset, and is usual in serious cases, the families of the deceased were approached by a Family Liaison Officer (FLO) appointed by the RGP. This role involves providing support and acting as a liaising point between the investigating team and the family. It should be noted, that local counsel representing the families of the deceased (as well as the two persons in custody) insisted on all contact to be done via their chambers. Christopher FINCH from VERRALLS is leading on this, with the assistance of Leigh DEBONO.

vv. Dr David ROUSE, Consultant in Forensic Medicine and Pathology performed post mortem examinations on both deceased on the 11th and 12th March 2020 and has provided his witness statements/post mortem reports (**Appendices 40 and 41 refer**).

ww. In respect of [redacted], in his opinion:

- [redacted]
- [redacted]

- [redacted]

xx. In respect of [redacted], in his opinion:

- [redacted]

yy. On the 17th March 2020 I met with the Attorney General and discussed the progress of the investigation and its various strands including the Coroner's investigation, possible civil action, professional standards enquiry, Spanish judicial action, law enforcement co-operation angle (Brexit- working group) and the political dimension. The aim was to develop a working strategy to deal with all of this. I proposed to meet face to face with GC to gather more information and try to elicit where they were taking the matter. The Metropolitan Police also wanted to meet them too. Given the obvious political sensitivities I wanted to run this past you. The AG advised me that he would consult with you and revert.

zz. Shortly after this meeting the AG informed me by text to proceed as we had discussed.

aaa. On the 18th March 2020, having been unable to meet with the GC face to face because of the Covid19 crisis, I briefed the AG on the video conference that we had held between the Metropolitan Police team, the RGP and the Guardia Civil. That briefing included reference to the Spanish investigating judge potentially summons the RGP officers to give their accounts, or request their accounts in writing.

bbb. On the 19th March 2020, I forwarded the same information as discussed in the preceding paragraph to the Chairman of the Gibraltar Police Authority. The GPA Chairman asked me whether the Governor was aware of this and I informed him that the Metropolitan Police would brief his office directly given that Phil Culligan had invited the team round to his house.

ccc. On the 19th March 2020 the Metropolitan Police team left Gibraltar prematurely due to the Covid19 world health emergency. Since then the team lead Supt Ag Gary Smith has been reallocated other duties by their UK commanders and the team has been subject to UK lockdown rules. This has caused significant delays to the investigation.

ddd. On the 22nd April 2020 I met again with the Attorney General and DPP and we discussed a potential civil action by Christopher Finch on behalf of the surviving crew members. The question of crown counsel representation was first discussed at that meeting and I was advised by the DPP that *'we were not at that point yet'* – that a claim had not been filed. We discussed the need to have a strategy to deal with all the strands the Coroner's enquiry, Spanish Lawyers, the likelihood that RGP officers would be summoned to Spain to testify and the political implication of the location of the incident. The AG would give thoughts on whether to bring the matter up in the law enforcement co-operation working groups and/or to tactfully engage with his Brexit negotiator counterpart. He undertook to advise you too reassuring me that he had quick direct access to yourself. This was at the height of the Covid 19 crisis locally.

eee. The AG did not want to consider further strategy until we had receipt of the Metropolitan Police's report with their findings. This has still not been received despite many requests to expedite the Covid 19 Crisis in the UK has taken its toll on policing as in many other areas of business. I have received a sit-rep update from the UK team on 27th May 2020 **(Appendix -90)**

fff. The marine investigator's draft investigation report was submitted for comments to the UK team and the RGP on the 30th April 2020 and is currently being revised following discussion between the interested parties.

ggg. On the 14th of May Robert Fischel of Verrals wrote to me enclosing a letter of claim on behalf of [redacted], [redacted] was aboard the RHIB involved in the collision with the Sir John Chapple on the 8th of March 2020. On Friday the 15th of May, Supt. Yeats sought to arrange a meeting with the DPP to "discuss how to progress the defence of this claim." The DPP replied on Sunday the 17th saying he was available during the week of the 18th of May, with the meeting being arranged for the 19th of May. At that meeting the DPP was of the view that he would be unable to represent the RGP on the matter as he was likely to be brought into conflict at some future date, he gave three potential reasons:

a. having to prosecute EAWs against the officers if the Kingdom of Spain sought to extradite,
b. prosecuting the officers locally for criminal offences and thirdly,
c. prosecuting in disciplinary proceedings.

We accepted his position. The DPP was of the opinion that the issue of the claim should be briefed out, but he wished to discuss the matter with the Attorney General.

hhh. On Wednesday the 20th of May Supt. Yeats spoke to the DPP and he asked that we write to the AG explaining why there may be conflict and seeking authority to brief out the matter. The AG would then raise the matter with the CM. This was done.

15. **Point (l): A statement on the current status of the officers in question (i.e. whether they continue to be on active duty or are suspended or stood down pending finalization of any enquires into this matter).**

a. As soon as I became aware of the seriousness of the situation I instructed that a Post Incident Procedure (PIP) commence and appointed Chief Inspector Nolan Romero, a qualified Post Incident Manager (PIM)

b. In accordance with approved practice post incident investigations are instigated when certain criteria are met, one of which includes any non-firearms incident where the Police have been involved and this deployment has resulted in death or serious injury. **(Appendix 62 refers)**.

c. The aim of this approved practice is to detail the management arrangements for such incidents and relate to the safety and security of person(s), property/critical infrastructure and include and are not limited to various instances, including:
   - Pursuits.
   - Accidents during operational activity.
   - Serious collisions. .
   - Any situation where a critical incident has been declared.

d. The objectives of the procedure are to:
   - Look after the welfare of Key Police Witnesses
   - Facilitate the investigation
   - Ensure the integrity of the procedure

e. One of the PIM's responsibilities is to ensure that the officers' wellbeing and safeguards are considered at every stage of the process. The PIM gathers all relevant and available information, make assessments and rationalises his decisions in a log **(Appendix 1 refers)**.

f. In this instance it was decided to afford the officers anonymity to mitigate the risk of their names being disclosed to persons involved in criminality. Accordingly as part of the PIP process the officers were identified as Officers One (coxswain, Officer Two (qualified crew member) and Officer three (3rd crew member). Gibraltar Police Federation (GPF) representatives were also present at the initiation of the PIP process.

g. On the same morning of the incident, the officers provided their initial Stage three accounts **(Appendices 2 to 4 refer respectively)** and arrangements were made to contact them the following day. They were then sent home. Stage 1 account is the report made to the PIM on appointment and the Stage 2 account is the PIM's initial brief to the SIO (Senior Investigating Officer).

h. The HMC Marine Section Officers who assisted in the tow of the suspect RGIB were also included in the PIP and were also afforded anonymity. They are referred to as HMC Officer Four, Five, Six, Seven and Eight. These officers also provided initial accounts **(Appendices 5 to 9 refer respectively)**.

i. The RGP Marine Section officers involved in the incident, were stood down and allowed to commence their cycle of rest days and a return to work strategy was implemented which included restricting their duties to non-operational and non-public facing duties. All of the officers were offered professional counselling.

j. On the 10th March 2020, RGP Officers One, Two and Three, met with the PIM, his assistant and GPF representatives. The welfare of the officers concerned was discussed and counselling was requested and this was arranged by management. This took place shortly after through the Gibraltar Health Authority (GHA).

k. The officers met with their legal representative appointed by the GPF.

l. On the 11th March 2020, arrangements were made for RGP officers One, Two and Three, to provide their Stage 4 accounts at the office of the GPF. This was scheduled for the 12th March 2020. That same day, Officer Three, stated that he was fit to return to work.

m. On the 12th March 2020 the PIM was advised that the officers' legal representative in Gibraltar had engaged the services of a PIP Specialist from the UK and the Stage four accounts would be delayed until his arrival to Gibraltar.

n. Assistant Commissioner ULLGER met with the officers at the office of the GPF. The officers were provided with reassurance and welfare support with the intentions of them returning to work as quickly as possible.

o. The Stage four accounts of HMC Officers Four, Five, Six, Seven and Eight were subsequently provided on 12th March 2020 **(Appendices 10 to 14 refer respectively)**.

p. On the 12th March 2020, intelligence was received to the effect that threats had been made against the officers involved in the collision. This included damaging a residence in Spain, linked to one of the officers. As a result of this, the Guardia Civil (GC) contact point for the RGP was informed of this and their assistance sought in trying to provide regular patrols of the address in question.

q. On the 16th March 2020, RGP Officers One, Two and Three, provided their Stage four accounts in the presence of their UK counsel and GPF representatives. They declined to allow officers from the Met Police team to be present during the provision of their account and did not cover all of the areas that they had been asked to by the Metropolitan Police interviewing team, including the location of where the collision occurred and question on the operating of the AIS. **(Appendices 15 to 17 refer respectively**.

r. On the 23rd March 2020, arrangements for the officers to return to work were made on a slow integration basis whilst they continued receiving counselling. They are currently on non-front line duties and their progress is being monitored.

- Officers One and Two were deployed to assist in the RGP stores.
- Officer Three was deployed to Resource Management on the 24th March.

s. The Metropolitan Police Team from the Directorate of Professional Standards is currently investigating the officers' conduct. We are still waiting for their return to Gibraltar and progress this investigation. This has been delayed due to the COVID -19 pandemic and the travel restrictions.

t. At this stage the officers have not been served with formal notices of investigation under the Police (Discipline) Regulations 1991 which is the under consideration of the Metropolitan Police team

5. **Point (ii): The exact location where the incident happened; and Point (iii): Confirmation, therefore, of whether the incident happened inside or outside of BGTW.**

a. Captain MEIKEL (SOLIS Marine Consultants), have produced a Rapid Replay reconstruction using the data that was recovered from the GPS from the suspect RHIB. Below is a screenshot of the situation around the suspected time of the collision **(Appendix 18)**.



b. As can be seen the collision occurred outside of BGTW the limits of which are demarcated on the chart.

c. The actual point of collision is described as point 'B' this being:
   - Latitude 36°10.10 N
   - Longitude 005°12.50 W

d. Capt. MEIKEL cannot make reference to any positions of the RGP interceptor, Sir John Chapple, as its Automatic Identification System (AIS) was not connected during the incident. This contrary to instructions.

e. In his draft report, Capt. MEIKLE **(Appendix 19 refers)** states that the Sir John Chapple intercepted the suspect RHIB in position 36° 11.7'N 005° 18.1'W at around 03:29:15. The collision occurred at around 03:38:56, in position 36° 09.96' N 005° 12.51' W (36° 10.0' N 005° 12.5' W when rounded off to one decimal place of a minute). Therefore, this positions the vessels during the intercept, pursuit and collision in Spanish waters.

f. This coincides with the last position displayed on suspect RHIB's chart plotter (see paragraph 4(i). It is suspected that the loss of signal occurred as a result of the collision whereby the radar mast was damaged.

g. Neither the Gibraltar Port Authority nor WHSS could assist in plotting the course of either vessel as they had not been detected through their AIS tracking. WHSS did, however, record the chase through their infra-red thermal cameras. Although they cannot plot the chase, by referencing to vessels anchored out at sea and captured in the footage, they were able to place the chase outside BGTW.
A statement from Mr. MANDELBERG to this effect is currently being prepared.

h. It is important to note that the AIS (Automatic identification System) of the Sir John Chapple was turned on after it returned to BGTW. The officers were asked to account but did not respond to it in the Stage 4 account.

i. The first plotting of the AIS of the suspect RHIB is out at sea in Spanish Waters. There is no previous plotting, accordingly it is not known with any degree of certainty whether the vessel ever entered our jurisdiction prior to that plot.

6. **Point (v): Copies of any report or reports provided by the Metropolitan Police in respect of this incident as a result of the investigation sanctioned by the Government in relation to the incident.**

a. A brief sit-rep update was received from the Metropolitan Police at 1359hrs on 27.05.20 – **Appendix 90 refers.** In this situation report reference is made to a previous sit-rep dated 23.03.20. The Met team had not shared this with me – this had only been circulated amongst the investigation team and their superiors. At 2025hrs on 27 May 2020, the Met Police SIO emailed the situation report of the 23.03.20 which briefly captures their enquiries in Gibraltar including "liaison with FCO regarding the political situation." **Appendix 91 refers**

7. **Point (vi): Copies of any internal reports or documentation produced to date in respect of the Incident.**

a. A copy of the provisional SIO Policy / Action file, which is issued to manage the investigative response, resources associated with the investigation, strategies and procedures to be adopted is included at **Appendix 39**.

b. The Post Incident Manager's (PIM) log where he recorded information available to him as to the incident, as well as actions, assessments and decisions made by him and the rationale behind them is included at **Appendix 1**.

c. The custody records of the two survivors, [redacted] and [redacted], who were arrested on the date of the incident are included at **Appendices 37 and 38.**

d. Marine Collision expert Capt. MEIKLE from SOLIS Marine Consultants has produced a draft report following his examination of both vessels on the 14th March 2020 and subsequent examination of the navigational systems, His draft report was received on the 30th April 2020 and is included at **Appendix 19**.

e. His provisional conclusions are summarised hereunder, however, they are under having been subjected to comment by MPS and RGP:

I. 'SIR JOHN CHAPPLE' intercepted the 'SUSPECT RHIB' in position 36° 11.7'N 005° 18.1'W at around 03:29:15. The collision occurred at around 03:38:56, in position 36° 10.0' N 005° 12.5' W. The intercept, pursuit and collision took place in Spanish waters.

II. It would have been clear to the officers on board 'SIR JOHN CHAPPLE', as they were familiar with the waters, even when navigating by eye that they were well outside of BGTW.

III. 'SIR JOHN CHAPPLE's starboard bow collided with the port quarter of 'SUSPECT RHIB'. The speed of 'SIR JOHN CHAPPLE' led it to pass over the top of 'SUSPECT RHIB' during the collision and, once clear, landing on their starboard side at an angle which led to the water ingress into the cabin.

IV. It cannot be stated with any certainty who the coxswain of 'SUSPECT RHIB' was; however, it is likely to have been [redacted]. The crewman in seat two was, by elimination, likely to be [redacted] who died shortly after the collision.

V. It is not known why the two forward jockey seats on 'SUSPECT RHIB', where the two dead crewmen were seated, had very little damage when compared with the heavily damaged aft two seats.

VI. To establish, with greater certainty, the angle of incidence, and the path of 'SIR JOHN CHAPPLE' in relation to 'SUSPECT RHIB' additional modelling of the two vessels would be required. The creation of 3-D models using Rhino software could be utilised to show the relative positions and aspects of the two vessels prior to, during, and after the collision. (This has now taken place).

VII. Officer One did not turn on 'SIR JOHN CHAPPLE's AIS for the duration of the operation in contravention of Marine Section Instructions.

VIII. The crew of 'SIR JOHN CHAPPLE', in not using all the available navigation equipment showed a poor standard of navigation.

IX. The Instructions stated that the safety of the crew was the priority; however, the crew of 'SIR JOHN CHAPPLE' in continuing to pursue at very close range, with limited visibility, and unable to respond to a quick turn by the 'SUSPECT RHIB' did not comply with those Instructions.

X. There was no proper training in pursuits of suspect vessels for the coxswains who would be required to take evasive action. (*This is not our understanding and is subject to review. We believe that the training provided deals with this area of seamanship).*

XI. From the evidence reviewed to date, it appears that Marine Section managers did not have an effective oversight of how their patrols were being carried out. *(This is currently being further looked into by Capt Meikle in respect of job descriptions and governance of the unit).*

XII. Once Officer One realised that there was immediate risk to life, he should have broadcast a Mayday relay call to all vessels in the area.

XIII. The instructions and guidance provided to the Response Teams, oversight of operations (patrols and high-speed pursuits) and the management's review processes should be better understood.

XIV. A study of AIS data, over a period of several months would provide an insight into the operating patterns of these vessels and the frequency at which they operate outside BGTW. (This is taking place).

XV. A review of previous incident reports, investigations and actions taken by RGP senior officers would be beneficial to the investigation. (Currently accessing and being looked into).

XVI. Capt. MEIKEL returned to Gibraltar, with 3D scanning specialists, Visual Skies, to obtain 3D scans of both vessels involved in the incident. These were performed on the 18th and 19th May 2020 and will provide images / animation which will assist in giving a clearer picture of the actual collision impact.

f. **Witness statements** have been obtained from numerous experts, officers and civilians. These include:

- Officers One, Two and Three from the RGP. (Officers were on board the Sir John Chapple, being the vessel involved in the collision, and have provided PIP stages

three and four accounts in respect of the incident). **(Appendices 2 to 4 and 15 to 17 refer).**

- HMC Four, Five, Six, Seven and Eight from HMC. (Officers were on board HMC Seeker and provided assistance to transport the casualties on board the suspect RHIB to the GGMS – PIP stages three and four accounts). **(Appendices 5 to 14 refer).**

- Paramedics Fabian FERRO, Paul WATSON and Sigurd HAVELAND from the GHA. (Involved in the treatment and triage of the three crewmembers of the suspect RHIB who were transferred to the GGMS by HMC. WATSON and HAVELAND also recognised life extinct on both the deceased). **(Appendices 33 to 36 refer).**

- GDP Communications Assistant Daniel FERRO GDPC 105 KILPATRICK, from WHSS. (Officers manning WHSS on the night of the incident. They make initial call to RGP informing them of suspect vessel. The movements of the suspect vessel and part of the chase is monitored by them through thermal cameras. Following the collision, they are contacted by the RGP crew and informed of the Incident involving a fatality **(Appendices 20 to 22 and 30 and 31 refer respectively).**

- Emergency Medical Technicians (EMT) from the GHA, Stuart RYAN, Tanya NOGUERA, Leslie BRUZON and Paul LLANELO, together with Care Assistant Wilson OLVEIRA. (Involved in the triage and treatment of the three crewmembers of the suspect RHIB who were transferred to the GGMS by HMC). **(Appendices 42 to 46 refer respectively).**

- Damian CHIPOLINA and Jose Luis MOLINA RUS from Tarik Shipping Services Ltd. (They were on board a service vessel in the eastern side on the night of the Incident and witnessed blue flashing lights at a distance. The time of this, was post collision. Nothing else was witnessed by them). **(Appendices 47 and 48 refer respectively).**

- Robert COLLIS and Dylan SHARP from Tarik Shipping Services Ltd (Did not provide witness statement but gave the same account as Damian CHIPOLINA and Jose Luis MOLINA RUS. COLLIS further provided the RGP with a small video clip he had taken of blue lights being seen at a distance. A file note of this was made). **(Appendices 75 and 76 refer).**

- Daniel RUDMAN, Chief Metrological Officer. (Provides information on weather and sea conditions on the night of the Incident). **(Appendix 49 refers).**

- Philip MANDELBERG from the Gibraltar Port Authority. (Produces screenshots showing coordinates supplied by the RGP and explains that the Port Authority could not track the course taken by the RGP or suspect RHIB vessel during the incident). **(Appendix 50 refers).**

- PC 117 FORTUNATO from the RGP. (Duty controller at CAD who received calls from Officer ONE following the fatal collision at sea). **(Appendix 27 refers).**

- PS 6 STONE from the RGP. (Duty Crown Sergeant who was apprised of the situation by Officer One, following the fatal collision at sea. He also arranged for assistance to be provided by HMC and the GHA). **(Appendix 28 refers).**

- PC 167 RISSO from the RGP. (Duty controller at CAD who received a telephone call from Officer One prior to the incident and also witnessed PS STONE and PC FORTUNATO dealing with incoming calls from Officer One). **(Appendix 60 refers).**

- PC 182 VICTOR from the RGP. (Formed part of the initial RGP investigating team). **(Appendix 51 refers).**

- Insp John LUTKIN from the RGP. (Duty Officer on the night of the incident). **(Appendix 58 refers).**

- PCs 71 CANEPA and 100 O'FLAHERTY from the RGP. (Both officers assisted with the casualties upon their arrival at the GGMS. PC CANEPA also recognised life extinct on ABDESELAM AHMED). **(Appendices 32 and 52 refer respectively).**

- PCs 175 LANE, 216 YEO, 63 MYHILL, 55 CHAPPORY from the RGP. (These officers from the Area Response Team on duty on the night in question, provided assistance as and when requested in respect of the incident, such as covering crime scenes). **(Appendices 53, 55, 56 and 57 refer).**
- DC 127 GARCIA-WHITE from the RGP. (The officer obtained copies of the CT scans performed on the bodies of both deceased). **(Appendix 59 refers).**

- DC 169 KINGSLEY from the RGP. (Translated the witness statement from Jose Luis MOLINA RUS from Tarik Shipping Services Ltd, from the Spanish into the English language). **(Appendix 54 refers).**

- PC 186 PARKER from the RGP. (Obtained audio files from CAD containing the calls made from and to Officer One, following the collision at sea). **(Appendix 61 refers).**

- Iain UNDERY, VTS Supervisor from the Gibraltar Port Authority. (He receives a report from Tarifa Traffic, informing him that they had received a call from an unknown person reporting that there had been a serious incident off La Atunara). **(Appendix 29 refers).**

g. **Coroner's officer**, Insp Sean Perera, has been providing briefing notes/updates on the coroner's investigation to Supt Richardson, since the 21st April 2020 **(Appendix 63 refers)**. This includes and is not limited to:

- Communication between the RGP and the officers of the MPS Directorate of Professional Standards, tasked in investigating this Incident, including requests made by either side, supplying of any material of evidential value to the investigation, etc.

- Communication between the RGP and the legal representatives of both the families of the deceased and the survivors. Amongst other things, this has seen local counsels from VERRALLS, requesting/demanding for information on this investigation, requesting the return of property and for their own experts to be allowed to carry out examinations of both vessels involved in the collision.

- Communication with HM Coroner and the Coroner's Officer. This includes updates on the investigation or anything relating to the incident, proposals and requests for authorisation to be granted to open up other lines of enquires, authorisation for costs/expenses which might be incurred during the investigation to be met or deferred to another party. Communication and actions/findings by the marine expert commissioned to investigate this matter. Informing of requests made by the Spanish authorities and legal representatives of the families of the deceased and the survivors and advice on how to proceed.

- Anything else of interest or crucial to the investigation.

8. (a) **Point (vii): Copies of any incident logs that may have been kept of the actions in respect of the Incident.**

   (b) Point (viii): Copies of any call logs that may have been kept of the actions relating to the Incident.

   a. A CAD log, with serial number CD/20/00018587/P, was immediately opened by the RGP duty controllers following the initial telephone call made to them by Officer One. This was at 03.45:41hrs on the 8th March 2020, following the collision at sea, during which he reported a fatality **(Appendix 64 refers)**. The RGP has no ability to record radio traffic.

   b. All telephone calls since then relating to the incident, including relevant information received and subsequent deployments and the call out of off duty officers were recorded. This includes Officer One, speaking with the duty Crown Sergeant, and informing him of the chase of a RHIB, at approximately 3 miles off Europa Point and culminating in a collision where a person had died and another was seriously injured. During the conversation the officer requests the ambulance to await their arrival at the GGMS, as they tow the suspect RHIB. This call log was closed at 07.16:42 hrs as a

result of instructions given by the PIM in order to afford anonymity to the officers on the Sir John Chapple **(Appendix 1 refers)**.

c. Whilst this was occurring, a second call log was opened with serial number CD/20/00018589/R at 07.13:50 hrs **(Appendix 65 refers)**. As with the previous log, anything relevant to the incident was recorded.

d. Audio files from CAD containing the recording of the calls made from and to Officer One immediately after the fatal collision were also secured **(Appendices 61 and 66 to 69 refers)**. Transcripts of the conversations have been produced **(Appendices 70 to 73 refers)**.

e. The provisional SIO, Policy/action files, which records decisions, tasking and rationale is included at **Appendix 39:** These include:

- Policy File 11126: Offers an introduction into the Incident and initial briefing provided by the Duty Officer. As a result of this COP and other SMT officers were contacted.
- Policy File 11127: Stipulates Gold Command / role designation.
- Policy File 11128: Requires for the identity of the deceased and persons detained on board suspect RHIB; Carry out forensic and retrieve clothing; Crime Scene forensics and securing; and arrest strategy and obtain evidence by questioning.
- Policy File 11129: Requires liaison with PIP Manager and obtaining initial accounts from the crew on board the Sir John Chapple and HMC Seeker; GPF in attendance assisting PIMs assistant; and deployment of FLO.
- Policy File 11130: Enquiries with Spanish counterparts to identify next of kin of the deceased, evidence gathering and establishing exact location of Incident.
- Policy File 11131: Consider resilience issues to secure PMB, GHA and NMH.
- Policy File 11132: Media strategy.
- Policy File 11133: Enquiries with WHSS, Port Authority and Tarifa Trafico.
- Policy File 11134: Consider ECHR implications and by extension the Gibraltar Constitution.
- Policy File 11135: Secure audio files from CAD and PMB appertaining to the Incident.

- Policy File 11136: Intrusive search of vessel through HMC.
- Policy File 11137: Obtain expert collision report.
- Policy File 11138: Enquiries with PMB.
- Policy File 11139: Expedite and facilitate repatriation of the bodies of the deceased.

The contents for each specific task is contained within **Appendix 39**.

9. Point (ix): **Details of any conversations or other operational communications with Spanish law enforcement or other agencies and whether that led to any actual or tacit invitation to enter the Spanish Territorial Sea, providing exact details of such actual or tacit invitation, or the absences thereof.**

a. The initial call which initiated the actions taken by the RGP crew of the Sir John Chapple, came from WHSS **(Appendices 15, 20, 23, 30 refer)**. According to the call logs from the mobile telephone held by the RGP officers, this was at 0238 hrs on the 8th March 2020 **(Appendix 23 refers)**. The officers were informed of a suspect vessel seen in the eastern side without navigational lights. The vessel was first spotted by the WHSS personnel at approximately 3 to 4 miles out of BGTW. WHSS personnel were then instructed to keep observations on the vessel.

b. Following this, the RGP crew contacted GC COS. According to the call logs, the first call to them prior to the actual chase, was at 0308 hrs. During the conversation, it was confirmed by the GC that they were monitoring the vessel. Officer One states that the GC informed that there was a large RHIB heading at speed towards land **(Appendix 15 and 24 refer)**.

c. As a result of the observations being carried out by WHSS, on their thermal imaging cameras they observed the suspect vessel heading towards the Atunara Port, where they were met by a smaller vessel. This information was relayed to the RGP crew at about 0315 hrs **(Appendix 20 refers)**.

d. According to Officer One, as the Sir John Chapple arrived at the eastern side, they received two further calls from the GC. This is captured on the call log as being at 0320 hrs and 0322 hrs **(Appendix 23 refers)**. In the first of these two calls, they were informed by the GC that the suspect RHIB was by the breakwater at La Atunara carrying out what they believed to be a crew change and food resupply. The call that followed, according to Officer One, was for the RGP vessel to remain at their current position. He was then requested to head east **(Appendix 15 refers)**.

e. The call logs show further calls being made to the RGP Marine Section mobile telephone by both WHSS and the GC **(Appendix 23 refers)**.

f. Officer One reports that soon after the collision, the GC contacted him but he does not recall the conversation **(Appendix 15 refers)**. The call logs show two calls at 0338:47 and 0339 hrs from the GC to the RGP crew **(Appendix 23 refers)**. (NB. according to the marine expert's draft report, the collision between both vessels took place at around 0338:56 hrs **(Appendix 19 refers))**. Officer One advises that he received a call from the Gibraltar Port Authority but again does not recall the conversation.

g. According to WHSS personnel, they received a call from the RGP crew informing them of the collision and that there was a fatality and possibly another and that they were returning with the suspect RHIB on tow **(Appendix 20 refers)**.

h. Following the incident, the GC contact point in Algeciras contacted the RGP requesting information, including the identity of the crewmembers on board the suspect RHIB. He was informed that as soon as they were in a position to provide the necessary information it would be supplied to them. Shortly after, an RGP contact officer was appointed and the GC were provided verbally with the identity of those concerned. Their assistance was requested in order to notify the next of kin of each of the deceased. The GC was also requested to provide information as to the vessel's positioning data and the previous convictions of the occupants on the suspect RHIB **(Appendix 77 refers)**. An email followed from the RGP to the GC contact point, requesting once again any previous convictions, any existing GC incident report and the vessel radar positioning data. In relation to this, only the previous convictions were provided **(Appendix 78 refers)**.

i. On the 9th March 2020, the GC contact point with the RGP was specifically asked if it had been the GC or the RGP who had initiated contact on the night in question in respect of the suspect RHIB. He replied that according to the information available to him, it was the RGP Marine Section who had contacted COS enquiring as to the RHIB. The RGP was informed by the contact point them, that the GC were already monitoring the vessel on their cameras **(Appendix 24 refers)**.

j. On the 12th March 2020, following on from an SIO tasking **(Appendix 81 refers)** and in order to try and establish the location of the Incident, it was decided to enter Spanish waters with the authority of the GC COS on a RGP vessel and try and ascertain if there was radio and telephone coverage. A number of positions were tested surrounding the coordinates were the collision took place. Coverage was available on all locations, except on one of them were only emergency calls were able to be received or made. **(Appendix 79 refers)**. Subsequently whilst this was taking place, the GC despite having granted

authority previously, made contact with the RGP vessel and questioned their reasons for being in Spanish waters. An explanation was given to them and accepted. The RGP terminated their line of enquiry and returned to BGTW.

k. On the 16th March 2020, the GC contact officer informed the RGP that the vessel's positioning data would be supplied once available **(Appendix 80 refer)**.

l. Notwithstanding the account of Officer One which indicates certain directions given to them by the GC, there is no evidence to suggest that there was any actual invitation to enter Spanish Territorial Waters. To accept such an invitation would contravene RGP instructions.

10. (a) **Point (x): A statement (or copy if they are in printed or printable form) of what standing instructions are given to officers in respect of operations outside of BGTW.**

(b) Point (xi): Copies of any such or any other relevant instructions or other standard operating procedures.
(c) Point (xii): Documentation or confirmation in writing of the instructions provided to officers of the Marine Section by senior management as to the procedures to be followed when suspects who are being chased inside BGTW fail to stop and exit BGTW and what position the RGP take or have taken (until the time of the incident) in respect of 'hot pursuit' from BGTW into International Waters, Spanish Territorial waters and / or into Moroccan Territorial Waters and on what basis and on what advice such a position , if any, has been taken. (It is essential for the Government to understand what training was provided to the officers in question in respect of their ensuring that they operated solely within the territorial limits of Gibraltar. I want to know what the RGP's standard operating procedures are in such instances).

a. [redacted]

b.

c. In respect of drugs and human trafficking officers are to patrol BGTW and should officers encounter any suspect vessels then they will be pursued in a determined and safe manner within territorial waters and to liaise with the Spanish Authorities.

d. These instructions cover other such topics as incursions by Spanish state vessels, Search and Rescue operations, summer bathing season, health and safety and fishing vessels. **(Appendix 82 refers).**

e. On the 17th February 2016, officers were reminded via email of the extant instructions in relation to not patrolling outside BGTW other than in a search and rescue operation. Officers were also informed that the vessel in which the officers are carrying out patrols must have the Automatic Identification System (AIS) on at all times. ***This document can be found at Appendix 83***.

f. On the 8th of July 2016, the Marine Section Instructions were updated and provided to the duty crew members. These instructions cover various topics concerned with carrying out duties within BGTW. (**Appendix 84 refers**). The instructions state that the objectives of any RGP marine crew are to only operate in British Gibraltar Territorial Waters (BGTW) and are to provide:

- Reassurance of beach users and legitimate seafarers.
- Prevention and detection of crime at sea and law enforcement.
- Support Royal Navy challenges to sovereignty.
- Support Environmental Agency operations.
- Support HM Customs and GDP Operations.

International Waters

Officers are not authorised to operate outside BGTW and in International Waters unless when responding to a situation as described below:

- Participating in a Search and Rescue Operation
- Responding to an incident where there is an imminent and serious risk to life.

Spanish Territorial Waters

Officers are not authorised to operate outside BGTW and in Spanish Waters unless when responding to a situation as described below:

- Participation in a search and rescue operation at the invitation of Spanish Authorities.

The instructions go on to cover such areas as the Rules of Engagement with Spanish Law Enforcement Vessels and Health Safety.

Marine Section Officers were again reminded of the policing instructions (issued on the 28th July 2016) by Sgt Stone on the 16th September 2019. These were followed up by an email from Ch Insp Finlayson to the Marine Section Insp and Sergeant on 21st January 2020. **(Appendix 85).**

Training

a. In [redacted] several officers from the marine section received training and qualified as instructors in boat handling. The bespoke course was endorsed by the Gibraltar Maritime Authority and its syllabus was designed for RGP and HMC marine section officers.

b. In March [redacted] RGP officers delivered this course to a number of RGP officers which included including Officer 1, to certified coxswain level. On successful completion of the course, the candidates would be able to satisfactorily operate twin engine and above RHIB's under law enforcement conditions in a manner which is deemed to be responsible and safe for the coxswains, crews and other users.

c. The course comprises various elements that are outlined in the documents provided to the candidates. These include theory and practical work as well as exam and practical assessment. It is designed around several scheduled mini courses, training days and in-house training during working hours. The course is not time specific and is dependent on the students learning capacity and time constraints placed by operational commitments.

d. Students complete a two day induction course which aims to acquaint the student with the different aspects of work involved in the safe operation of in and around RHIBs, provide an idea of the health and safety requirements and to allow the student to reach a competent level to work on power boats.

e. The student is then required to complete 30 hours of handling a small single engine vessel fitted with a lesser HP engine. The aim is for the student to obtain a decent working knowledge of how to operate a single engine RHIB which would include the approaching and leaving a berth and close quarters manoeuvring.

f. The candidate is then required to complete a further 60 hours on a larger vessel fitted with a fitted higher powered single engine. This will allow the student to observe how what he has learned previously affects a vessel with larger dimensions and engine capacity. The student will also begin to control a vessel with a more powerful engine and will learn how this affects handling in a safe manner.

g. The candidate will be assessed and progression form 1 will be completed, entering all the subjects undertaken with the use of single engine.

h. The student will then complete approximately 60 hours of handling a twin engine RHIB. The student should understand the use of twin engines and engine selection. Students to acquaint themselves with handling a more capable vessel, which possess more power whilst emphasizing its safe operation.

i. Towards the end of this stage the candidate will attend a scheduled training day for an introduction onto pacing. At the end of the stage the candidate will be assessed on progression assessment form 2 entering all the subjects undertaken.

j. The student will undertake a further 50 hours of handling a RHIB of two or more engines, during this stage the candidate should understand the use of several engines and how throttles control these during various manoeuvres. This vessel is much more powerful and should be part of the operational fleet. Practical lessons should also take place during day and night to further enhance the experience of the candidate. The student should continue another scheduled training day to continue the introduction to pacing.

k. The candidate will then proceed onto the final two week qualification course where prior to this stage they should be deemed to be sufficiently competent at handling a RHIB. The course will cover all aspects and material in depth in both practical and theory based lessons. Students will be tested and signed off on the different subjects as they successfully complete them. Candidates must prove to be competent in handling a RHIB at this advanced level of powerboating and be able to plan and navigate Gibraltar waters in different sea and weather conditions during the day and night. The designated assessor must complete the final assessment form.

l. The topics which are covered in two week final qualification course include:

Module 1 – Introduction to Marine Section and Vessel Familiarisation. This is a theory based lesson which allows students to obtain an understanding of their role within the marine section. To familiarise themselves with the type of vessels and equipment carried on board and their general maintenance.

Module 2 – Introduction to Marine Section and Vessel Familiarisation. This is a practical based lesson which allows students to obtain an understanding of their role within the marine section. To familiarise themselves with the type of vessels and equipment carried on board and their general maintenance.

Module 3 – Rope Work. This is both a theory and practical based lesson which enables the students to learn how to perform the different types of knots available and its correct use for different situations – mooring, anchoring, etc.

Module 4 – International Rules for Prevention of Collisions at Sea (IRPCS). This is a theory based lesson which aims for students to acknowledge the importance of observing safety

at sea for themselves and other water users to prevent a collision at sea by understanding the rules of IRPCS.

Module 5 – Buoyage – International Association of Lighthouse Authorities (IALA). This is a theory based lesson which allows students to familiarise themselves with daytime and night-time buoyage signage and their different purposes.

Module 6 – Buoyage – International Association of Lighthouse Authorities (IALA). This is a practical based lesson which allows students to familiarise themselves with daytime and night-time buoyage signage and their different purposes whilst navigating.

Module 7 – Chart work and Navigation. This is both a theory and practical based lesson which provides for students to understand the terms used within a navigation chart to be able to interpret basic techniques in navigation.

Module 8 – Distress Signals. A theory and practical lesson which allows the students to understand the interpretation of each different types of distress signals and how to apply them should they find themselves is a dangerous situation.

Module 9 – RHIB Launch and Recovery – (Use of Trailer and Crane). A theory and practical lesson which is aimed for students to understand the importance of all safety features when launching and recovering RHIB from sea through means of a slipway and trailer or via lifting with a crane.

Module 10 – Controlled Handling Drills – Single Engine RHIB. This is a theory and practical based lesson for students to demonstrate a level of competence in controlled handling and slow speed precision manoeuvres of RHIB's in a confined space.

Module 11 – Rough Sea Passage. A theory based lesson which allows students to understand the importance of controlled speeds of RHIB's in varying weather/ sea conditions and their safety and all of others on board.

Module 12 – Rough Sea Passage. A practical lesson for students to demonstrate competency in the safe and controlled handling approach of RHIB's at various speeds in varying sea/ weather conditions. To develop an understanding of when to "Power On" and "Power Off".

Module 13 – Anchoring. Both a theory and practical based lesson for students to understand the correct use of anchor and anchor line depending on seabed and/ or weather conditions.

Module 14 – Man Overboard Manoeuvres & Casualty Rescue. A theory based lesson which teaches students the importance of safety of everyone on board a RHIB and of the

consequent rescue approach and procedures should a casualty fall overboard from a moving RHIB.

Module 15 – Man Overboard Manoeuvres & Casualty Rescue. A practical lesson which requires the student to achieve an understanding of the procedures required to perform a man overboard rescue. Students to be able to demonstrate their competence in demonstrating the above.

Module 16 – Search and Rescue Patterns. A theory based lesson which requires the students to understand how to apply correct search and rescue pattern methods whilst observing own safety. Factors to consider i.e. weather conditions, number of casualties and communications with other agencies.

Module 17 – Search and Rescue Patterns. A practical based lesson which allows students to demonstrate their competence in the correct application of the different search and rescue pattern methods.

Module 18 – Controlled Handling Drills – Twin Engine RHIB. A theory and practical based lesson for students to demonstrate a level of competence in controlled handling and slow speed precision manoeuvres of RHIB's in a confined area.

Module 19 – Prisoner Handling. A theory and practical lesson which allows students to understand the importance of their own safety and that of prisoners when on board a RHIB.

Module 20 – Towing. A theory lesson which provides for students to understand the importance on towing methods in relation different types of vessels and emergency situations.

Module 21 – Towing. A practical based lesson for the students to demonstrate competency in the safe and controlled handling of different towing situations involving small crafts.

Module 22 – Climbing a Pilot Ladder. Both a theory and practical based lesson for students to understand the importance of all safety aspects when climbing a pilot ladder and dangers involved.

Module 23 Pacing Manoeuvres- A) Pacing Parallel B) Pacing Alongside. This is a theory based lesson for students to achieve and understanding of the skills required to perform pacing manoeuvres; parallel and alongside.

Module 24 Pacing Manoeuvres- A) Pacing Parallel B) Pacing Alongside. A practical lesson which allows students to demonstrate a safe handling of vessels when performing pacing

manoeuvres in following areas; a) when performing the approach, b) parallel pacing of target vessel, c) coming alongside target vessel, d) departing target vessel.

Module 25 Helicopter SAR Recovery Operations. A theory based lesson which enables the student to demonstrate an understanding of safety aspects and the dangers involved during helicopter operations and the actions to be taken; a) prior to the helicopters arrival b) during the helicopters approach c) whilst recovering a casualty d) on the helicopters departure.

m. Upon completion of the course the officers are presented with their certificates relating to the different topics covered in the syllabus. These include RYA qualifications of Day Skipper/ Watch Leader and an RYA Radar Course, Personal Survival techniques, Fire Prevention and Fire Fighting, Personal Safety and Social Responsibilities, First Aid and Coxswain Certificates covering the different stages of the RHIB Handling Course. Redacted Copies of certificates presented to Officers One and Two are available **(Appendices 86 and 87 refer respectively)**.

n. It should be noted that although there is no specific lesson plan for Fast Speed Handling, it is mentioned as part of the competency criteria and both officers were accredited with these qualifications as the certificates show. It is expected that this will be clarified by the Metropolitan Police investigation team when they interview the officers and trainers.

o. Officer 3 was only covering marine section duties on the night in question and had no prior marine experience. He has only received first aid training which forms part of the core RGP syllabus prior to commencement of operational duties **(Appendix 88 refers)**.

p. The instructors keep the training manual of students, which shows that the officers have been signed off in the relevant sections required to complete the course.

q. The manual for Officer Two is included as **Appendix 89** however the record for officer one cannot be located as it has been removed by some person(s) fro the marine section filing system. That said, there is evidence that he has passed these courses by the production of the certificates (see **Appendix 86**).

r. Officer One has stated he had no hot pursuit training and this was repeated by Capt. MEIKLE in his report. We have asked the Captain what course he was referring to and that would capture hot pursuit training. Capt. MEIKLE was unable to answer this as he did not know. The officers from the Metropolitan Police Service have been written to, asking them to consider looking into this area. It could well be that our local training course captured

this area either in the pacing or fast speed handling competency area that is recorded in the manual. They would need to approach our trainers if they have not already done so.

Point (xiii): Alternatively, an explanation of why no such position has been taken, given the prevalence of such activities.
Answer: Not applicable. (See answers for Points (x), (xi) and (xii)).

11. **Point (xiv): What assessment senior management have made of such operations occurring, in particular where there is not an express invitation from another police force (whether that is the Spanish police force or the Moroccan police force) for operations to continue outside of BGTW in Spanish Territorial Waters, International Waters or Moroccan Territorial Waters. (The Government is very concerned to understand what the Senior Management Team of the RGP has done in respect of continued incidents of operations outside of BGTW before the events in questions and thereafter, in particular if there has been any change in standing instructions or posture as a result).**

    a. [redacted]

    b. Since 2016 the RGP do not **authorize** any deployment outside BGTW including at the request of a foreign LEA.

    c. The **only exception** would be to assist the Gibraltar Port Authority in a search and rescue operation.

    d. To date, there have been many instances where we have undertaken chases out at sea and within BGTW. The moment the pursued vessel departs our waters we have disengaged allowing the vessel to escape.

    e. We have also monitored many vessels passing outside our jurisdiction without us being involved, we have solely shadowed them from within our limits and deterred them from coming into our jurisdiction.

12. **Point (xv): Any other relevant information, reports or documents (whether existing in documentary, printed or digital form) which the RGP consider the Government should have available in considering the facts and matters which arise from the Incident and planning to address the same in the Public Interest of Gibraltar.**

    A timeline and supporting documentation including list of appendices have been included.

On the 11th May 2020, it was brought to my notice that a Spanish Parliamentary question had been asked by VOX and responded to by Government. I emailed you, the AG and MOJ advising you of this.

Toxicology results have been received for the deceased [redacted] on 27th May 2020. These have been forwarded to the forensic pathologists. The results suggests no recent use of cannabis. the toxicology report for the deceased [redacted] are not expected until the 10th of June 2020.

You will have noted that in this report I have referred to the RGP crew as Officers one, two and three. However, because of the limited time to produce this report for you, I have been unable to redact any reference to their identities in the appendices. I would therefore respectfully ask that you bear this in mind when handling these documents with a view to continue safeguarding their anonymity.

Whilst the above points are factual and I hope will satisfy the requirements you asked of me, we are still awaiting the final report and/or further actions from the independent team and marine expert. The latter's conclusive report is expected around mid June 2020.

Should any points in this report require further explanations, I will endeavour to provide them.

Yours sincerely

Ian McGrail OTM MSc
Commissioner of Police

OP Kram (collision at sea incident) Time-line

Serial No.	***Date***	***Time***	***Action***	***Comments***
1.	07/03/2020	2200hrs	Officers 1, 2 & 3 parade for duty at New Mole House Police Station where they are briefed as to their deployment and subsequently return to GGMS. They deployed on the Sir John Chapple to Ocean village where the officers carry out foot patrols of the Marina area.	**(Can be found in appendix 15,16 & 17)** officers Statements).
2.	08/03/2020	0200hrs	Afternoon (P) Shift Marine Crew terminated their tour of duty.	**(Can be found in appendix 15,16 & 17)** officers Statements).
3.	08/03/2020	0200hrs	WHSS observes suspect RHIB on Thermal Camera however it is too far away to identify the vessel. It is suspected that the vessel id 3-4 Nautical Miles out of BGTW.	Daniel Ferro mentions this in his statement **(appendix 20)**
4.	08/03/2020	0235hrs	Suspect RHIB heads towards the Spanish Port of La Atunara, La Linea, from its position of 11 nautical miles to the east.	Solis Draft Report based on data obtained from suspect RHIB navigational equipment **(Appendix 19)**. Daniel Ferro states that at 0250hrs he sees vessel heading towards Spanish mainland **(appendix 20)**
5.	08/03/2020	0238hrs	Call from WHSS to RGP PMB Mobile phone. Officer 1 answers phone and receives report of a suspect RHIB seen on the eastern side approximately 3 to 4 miles out of BGTW. Call 1 02:38:02 (Duration 1:21) Call 2 02:39:12 (Duration 1:21)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23)**
6.	08/03/2020	0306hrs	PMB Calls WHSS. (Duration of call 1:47)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23)**
7.	08/03/2020	0308hrs	Officer One contacts Guardia Civil COS informing them about the information received from WHSS during which time the GC confirm they were monitoring the vessel. (Duration 01:32)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23)**
8.	08/03/2020	0309hrs	Officer One contacts WHSS and confirms that GC are monitoring suspect RHIB and RGP Crew will deploy to Eastern Side of Gibraltar. AIS device not activated. (Duration 00:50)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23)**. Daniel Ferro confirms the call to WHSS however he puts the time "at

				about" 0300hrs **(Appendix 20).** GDP PC Kilpatrick also provides the time frame of "at about" 0300hrs **(Appendix 30)**
9.	08/03/2020	0315hrs	WHSS on their cameras observe suspect RHIB heading towards Atunara Port where they were met by a smaller vessel. Information relayed to the RGP crew. Call 1 03:11:36 (00:17) Call 2 03:12:47 (00:17) Call 3 03:15:27 (00:18) Call 4 06:16:38 (00:18)	Mentioned in statements of Daniel Ferro and GDP PC Kilpatrick. On Officer 1 being informed of the observations, he confirms to WHSS that GC are keeping him informed **(Appendices 20 & 30).** The Gibtelecom logs for the PMB mobile shows four calls originating from 20055000. **(Appendix 23)** these are MOD telephone numbers which although suspected to refer to calls from WHSS, this cannot be confirmed as they could be MOD exchange numbers. It could not be established which one of the calls the info was relayed. No mentions are made by any officers in their statements of the numerous calls made to PMB mobile during this time frame. This information is reflected in the Solis Report this provides a time of 0316hrs **(Appendix 19).**
10.	08/03/2020	0320hrs	GC Contacts PMB, as they arrive at Eastern Side. Informs crew that the suspect RHIB was by the breakwater at Atunara Port carrying out what they believed to be a crew change and food re-supply and advises PMB to head east. (Duration 46sec)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23)**
11.	08/03/2020	0322hrs	GC Contact PMB and informed RGP vessel to remain at their current position as the Suspect RHIB is heading towards them. (Duration 46 Sec)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23)**
12.	08/03/2020	0326hrs	Suspect RHIB with four crew on board, depart the Port of Atunara and heads initially north and then onto a north easterly heading away from the Spanish Coast.	Solis Draft Report based on data obtained from suspect RHIB navigational equipment **(Appendix 19).** Daniel Ferro & GDP PC Alan Kilpatrick's statements **(Appendices 20 & 30)** put this event at about 0330hrs.

13.	08/03/2020	0324hrs – 0325hrs	Three calls made to PMB by WHSS. 1. 03:24:08 (36 Sec) 2. 03:25:19 (36 sec) 3. 03:25:22 (16 sec)	There is no mention of these calls in the officers' statements. The details of these calls have been obtained from the call log **(Appendix 23).** The Gibtelecom logs for the PMB mobile shows three calls originating from 20055000. These are MOD telephone numbers which although suspected to refer to calls from WHSS, this cannot be confirmed as they could be MOD exchange numbers.
14.	08/03/2020	0325hrs	Three calls made by GC COS to PMB Mobile. 1. 03:25:26 (No Duration) 2. 03:25:37 (No Duration) 3. 03:25:48 (No Duration)	According to the call logs **(Appendix 23)** these show no duration to the calls. It may be that the officer never answered the phone at this stage. The officers also make no mention of this in their statements.
15.	08/03/2020	0326hrs	(03:26:15) Call made by WHSS to PMB (Duration 14 Sec)	There is no mention of this call in the officer's statements (Both RGP and WHSS). The details of these calls have been obtained from the call log **(Appendix 23).** The Gibtelecom logs for the PMB mobile shows one call originating from 20055000. This is an MOD telephone number which although is suspected to refer to calls from WHSS, this cannot be confirmed as they could be MOD exchange numbers.
16.	08/03/2020	0326hrs	(03:26:17) GC COS calls PMB (No Duration)	There is no mention of this call in the officer's statements. The details of this call have been obtained from the call log **(Appendix 23).**
17.	08/03/2020	0326hrs	(03:26:33) Call made by WHSS to PMB Duration 16 secs	There is no mention of this call in the officer's statements (Both RGP and WHSS). The details of these calls have been obtained from the call log **(Appendix 23).** The Gibtelecom logs for the PMB mobile shows one call originating from 20055000. This is an MOD telephone number which although is suspected to refer to calls from WHSS, this cannot be confirmed as they could be MOD exchange numbers.

18.	08/03/2020	0326hrs	3 Calls made from GC COS to PMB at the following times: 03:26:37 No Duration 03:26:48 No Duration 03:26:59 No Duration	There is no mention of this call in the officer's statements. The details of this calls have been obtained from the call log **(Appendix 23).** There is not duration to call.
19.	08/03/2020	0327hrs – 0339hrs	Calls made from GC COS to PMB at the following times: 03:27:12 20 Secs 03:27:25 15 secs 03:27:28 (No Duration) 03:28:22 20 secs 03:38:16 14 secs 03:39:27 14 secs	There is no mention of this call in the officer's statements. The details of this calls have been obtained from the call log **(Appendix 23).** There is not duration to call. The two calls at the end of the list are close to the time of the collision 03:38:56 according to the SOLIS draft report **(Appendix 19).**
20.	08/03/2020	0329hrs	The Sir John Chapple intercepts the Suspect RHIB at Coordinates 36° 11.7'N 005° 18.1'W. Blue beacons activated on PMB. Suspect RHIB performs evasive and dangerous manoeuvres and objects were thrown at Police Vessel by suspect RHIB crew members.	The coordinates and timings are provided from the SOLIS draft report which has been obtained from the suspect RHIB's navigational equipment **(Appendix 19).** According to WHSS the intercept occurs at 0332hrs **(Appendix 20, 30 & 74).** According to officer 1, PMB commenced to follow the suspect RHIB after the suspect RHIB passed in front of the bow of the PMB at a distance of about 5-10metres **(Appendices 15, 16 & 17).** This contradicts the direction of the suspect RHIB as Meikle's report evidences. Officer one states the vessel is travelling south east and officer three states it was travelling south. WHSS also state that they can observe PMB blue beacon illuminated during the chase. This was also confirmed by the PMB officers and Bruno Miguel Gomes Sereno (one of the persons arrested). During the course of the pursuit crew members from the suspect RHIB began to throw objects at the PMB according to the statements from the PMB officers. It has also been noted in

				the officers' statements and the statements obtained from WHSS that the suspect RHIB carried out erratic and evasive manoeuvres. In the SOLIS report these movements are described as sharp turns.
21.	08/03/2020	0338hrs	According to the marine expert, the collision occurred at around 03:38:56, in position 36° 09.96' N 005° 12.51' W	Initially we are provided similar coordinates by the GC as a result of a telephone call made by DI Chipolina **(DI Chipolina File note)** Subsequently we photographed the suspect RHIB's radar signal lost screen and this provides us with a suspected collision coordinate but we could not interpret this data as we did not have an understanding of the unit and had no expertise in this field. This was subsequently verified by Capt. Meikle in his SOLIS draft report. **(Appendix 19).** According to WHSS the pursuit ends at 0342hrs **(Appendix 20, 30 & 74).** Thermal imagery The officers' statements also make reference to the collision and end of the pursuit but they do not provide a time and location.
22.	08/03/2020		Immediately after the collision PMB turns to the suspect RHIB and comes alongside. Officers 1 & 2 jump onto the suspect RHIB and begin to offer medical assistance, after observing the fatality and the seriousness of the second casualty it was decided to convey the persons back to GGMS via towing the suspect RHIB where they could receive medical attention.	These accounts are from officers 1, 2 & 3 **(appendices 15, 16 & 17).** The decision to not leave any officer on board the suspect RHIB was taken by officer one as he feared for their safety and also taking into account that he and his crew were suffering from shock. There is no mention of calling a May Day by the officers.
23.	08/03/2020	0339hrs	PMB call GC COS at 03:39 (duration 15 seconds)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23).**
24.	08/03/2020	0343hrs	PMB calls WHSS and informs them of the collision with one fatality and a second person seriously injured. Duration 1:10	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23).** None

				of the officer's mention calling a May day and this is evidenced in the Solis report. This is also reflected in Daniel Ferro and GDP PC Kilpatrick's Statements **(Appendix 20 & 30).**
25.	08/03/2020	0345hrs	PMB calls GC COS. The duration of this call is about 44 seconds; however the contents of the conversation is unknown.	There is no Specific mention of this Call by officer 1 however it has been identified from the Gibtelecom call logs **(Appendix 23).** Officer 1 states in his statement that he receives a call (contrary to the telephone log) from the GC COS. He further states that he cannot recall the conversation, he just remembers this being about "something to do with "la Roca" or "enfrente la Roca" **(Appendix 15).**
26.	08/03/2020	0346hrs	Sir John Chapple heads back to Gibraltar with suspect RHIB on tow.	This time has been identified by the SOLIS Draft Report **(Appendix 19).** Officer one's statement makes mention to suffering engine failure following the collision **(Appendix 15)** along
27.	08/03/2020	0348hrs	PMB calls RGP NMH and informs the duty crown sergeant of the incident and one fatality with a second seriously injured and request ambulance to await arrival at GGMS. Duration 2:24	Although the officer does not make mention of the time, the information in this section is obtained from officer 1's statement **(Appendix 15).** The time of the call has been retrieved from the Gibtelecom phone logs **(Appendix 23).** The Police CAD Logs and PC 117 Fortunato provide a time of 0345hrs **(Appendix 64 & 27).** PS Stone states that he was passed the phone call about 0400hrs **(Appendix 28).** Officer one explains to PS Stone that they had been involved in a chase of a smuggling RHIB approximately 3 miles off Europa Point. This is mentioned in the CAD log **(Appendix 64).** This also explains Officer 1's rationale as to why he did not want to leave an officer aboard the suspect RHIB in case further medical attention was required.

28.	08/03/2020	0350hrs	PS 6 Stone contacts Duty Officer, (Insp Lutkin) and informs him of the incident. Inspector Returning to duty and attending Marine Base.	PS Stone's **(Appendix 28)** statement does not provide a time that he informed the Duty Inspector, however the time presented is taken from the notes made in the CAD Log **(Appendix 64).** Inspector Lutkin's statement **(Appendix 58)** states that he received a call "at about" 0345hrs.
29.	08/03/2020	0353hrs	DCI Field (Gold Command on call) is called by Inspector Lutkin and informed of Incident	These details are from DCI Field's Notes
30.	08/03/2020	0353hrs	PS Stone contacts DC 136 Victory (CSI) and informed him of situation.	This is from the CAD Log **(Appendix 64).**
31.	08/03/2020	0355hrs 0356hrs	2x calls made from WHSS to PMB, 1. 03:55:19 (1:10) 2. 03:56:30 (1:10)	There is no mention of these calls in anyone's statements and the time is based on the call log from Gibtelecom **(Appendix 23).** The Gibtelecom logs for the PMB mobile shows the calls originating from 20055000. This is an MOD telephone number which although is suspected to refer to calls from WHSS, this cannot be confirmed as they could be MOD exchange numbers.
32.	08/03/2020	0355hrs	GPF Chairman is contacted by PMB over the incident.	DCI Field notes
33.	08/03/2020	0356hrs	Call made from PMB to WHSS the duration of this call was 1:11.	There are no details of this call in any officers statements but a call is reflected in Daniel Ferro & GDP PC Kilpatrick's Statements around 0350hrs **(Appendices 20 & 30).** This could also be reflected in serial number 22.
34.	08/03/2020	0357hrs	There are a total of four calls made from NMH to PMB: 03:57:55 (no duration) 03:59:06 (no duration) 03:59:45 (1:59) 04:00:56 (1:59)	There is no mention of these calls on the CadLog **(Appendix 64).** We do not have any details of call but In the statement of PS Stone **(Appendix 28)** the Crown Sgt contacts PMB, Officer 1 states that he was encountering engine failure and requests for assistance from HM Customs marine unit to deploy and help convey the injured back to GGMS to receive medical treatment.

				The details of these calls come from the Gibtelecom logs **(Appendix 23).**
35.	08/03/2020	0357hrs	PS Stone contacts DS Garratt (Crime on Call) and apprised of situation.	This is from the CAD Log **(Appendix 64).**
36.	08/03/2020	0400hrs	The Port VTS Supervisor on duty Iain Undery receives a call from Tarifa Traffic where he was informed that they had received a call from an unknown person reporting that there had been a serious incident at sea just off the port of Atunara. As a result of this, Undery contacted PMB and informed him of the report made to him. To this the PMB crew confirm that there had been an incident and they had the vessel on tow.	This is reflected in the statement of Iain Undery **(Appendix 29).** Officer 1 states that he receives a call from the Port Boarding officer but does not recall the conversation **(Appendix 15).** The Gibtelecom log **(Appendix 23)** does not reflect an incoming call from the Port Authority. It does show an outgoing call to Port Boarding officer from PMB at 0413hrs.
37.	08/03/2020	0401hrs	Call made from PMB to NMH Control Room. 04:01:00 Duration 2secs	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
38.	08/03/2020	0405hrs	GHA Ambulance contacted and informed of incident and to attend GGMS and await for arrival of casualties.	This is from the CAD Log **(Appendix 64).**
39.	08/03/2020	0413hrs	Call made by PMB to Port Boarding officer Duration 51 seconds	This is reflected in the Gibtelecom call log **(Appendix 23).** There is no mention of an outgoing call in any officers statement, but could be linked to serial No 33.
40.	08/03/2020	0415hrs	PMB Calls NMH Duration 2:24	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
41.	08/03/2020	0418hrs	PMB contacts HMC Marine Section. Duration 33 secs	The time of the call is from the Gibtelecom Log **(Appendix 23).** Officer 1 makes reference in his statement **(Appendix 15)** to contacting HM Customs marine base, informing him of the incident and requested assistance in conveying all injured parties from the suspect RHIB to GGMS to receive medical attention. This is also mentioned in HMC Officer 4's statement **(Appendix 10).**

42.	08/03/2020	0419hrs	PS Stone contacts DCI Field. The crown sergeant provides a brief and informs that HMC vessel will be deployed and if they could assist in the transportation of the injured parties to GGMS. DCI Field asks this to be carried out expeditiously to save lives.	These details are from DCI Field's Notes.
43.	08/03/2020	0419hrs – 0420hrs	2x Calls of CAD calling PMB 1. 04:19:24 (duration 45 secs) 2. 04:20:34 (duration 45 secs)	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
44.	08/03/2020	0420hrs	PMB calls NMH CAD duration 46 seconds	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
45.	08/03/2020	0422hrs	DCI Field contacts COP and briefs him regarding incident. COP instructs available SMT to convene at his office for a Gold Strategic meeting.	These details are from DCI Field's Notes
46.	08/03/2020	0423hrs	DCI Field arrives at scene	This is from the CAD Log **(Appendix 64).**
47.	08/03/2020	0425hrs	Customs contact RGP NMH and informs control room that they are deploying to PMB's location.	This is from the CAD Log **(Appendix 64).** It is also mentioned they deployed in HMC Officer 4's Statement **(Appendix 10).**
48.	08/03/2020	0426hrs	DCI Field contacts Supt Richardson and briefs him regarding incident.	These details are from DCI Field's Notes. Supt Richardson then attends NMH.
49.	08/03/2020	0428hrs	GHA Ambulance with EMT's Stuart Ryan and Tanya Noguera arrives at GGMS	This is from the CAD Log **(Appendix 64).**
50.	08/03/2020	0429hrs – 0430hrs	X 2 GC COS contacts PMB. 04:29:15 (41 Seconds) 04:30:26 (41 Seconds)	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
51.	08/03/2020	0430hrs	PMB calls GC COS duration 42 secs	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
52.	08/03/2020		Comment made from one of the DP's made in the hearing of Officer 2 reads as follows "Estan muertos y a mi me duele mucho el costado hay que	These comments are referred to the statement of officer Two **(Appendix 16)**

			llevarnos al hospital" ***(they are dead and I have a lot of pain in my side and we need to be taken to the hospital)*** Further on another comment is made to the effect "no tienes la culpa, los motores se pararon, se que no quieren ustedes matar a nadie. Porfavor ayuda a mi tio" ***(it wasn't your fault. The engines stopped, I know you guys wouldn't kill anyone, please help my uncle).*** (I suspect this last comment is made by Nordin as it relates to his uncle.	
53.	08/03/2020		Comment from one of the DP's (Suspected to be Nordin due to the reference to uncle" to Officer 1 prior to HMC Seeker's attendance reads as follows: "Agente fue neustra culpa que se nos para los motores, no te dimos tiempo de parar, porfavor ayuda a mi tio, yo se que ustedes no querian matar a nadie"***(Officer it was our fault as our engines stopped, we didn't give you enough time to stop, please help my uncle, I know you guys didn't want to kill anyone).***	This comment is referred to the statement of officer one **(Appendix 15)**
54.	08/03/2020	0431hrs	PMB stops 1 nautical mile north east of Europa Point where it rendezvous with HMC Seeker and transfers over Injured parties. HMC Seeker returns to GGMS at speed and PMB continues towing Suspect RHIB with deceased body remaining aboard.	This is from the SOLIS Draft Report **(Appendix 19).** The rendezvous can also be seen on the WHSS thermal footage but the time cannot be established. **This is also reflected in the officers statements (Appendices 10,11,12,13,14, 15,16 & 17)**
55.	08/03/2020		Comments made to HMC officer 5 regarding the collision are as follows: Esto a sido un acidente hemos cambiado de tripulacion en alcaidesa y no me han dicho que los motores estaban fallando, consecuentemente se han montado encima, aqui nadie ha querido matar a nadie, a sido un acidente, por favor ayuda a mi tio que me estaba hablando hace 10 minutos y esta callado por favor". ***(this has been an accident we have just changed crew in alcaidesa and no one has informed me the engines were failing consequently they have rammed into us, this was not intentional and no one wanted to kill anyone it was an***	This comment is referred to the statement of HMC officer 5 **(Appendix 11)**

			accident. Please help my uncle who I've been speaking to and has gone unresponsive about 10 minutes ago)	
56.	08/03/2020		Comments made to HMC officer 6 regarding the collision are as follows: Nordin said "me duele las costillas" ***(my ribs hurt).*** "Ayuda ami tio tava hablando hace 10 minutos" ***(help my uncle, he was talking 10 minutes ago)*** " soy el Nordin trabajo para alguien grande en Espana, esto a pasado en Espana y tengo todo grabado y se lo e mandado a mi jefe, llevamos 10 minutos montado en la lancha y el motor estaba fallando, las otras personsas montada ante no me han dicho nada del fallo del motor" ***(I am el nordin, I work for someone big in Spain, this has happened in Spain and I have everything recorded. I've sent it to my boss. We have only been aboard 10 minutes and we have had engine problems. The other crew did not say anything).***	These comments are referred to the statement of HMC officer 6 **(Appendix 12)**
57.	08/03/2020		Comments made to HMC officer 7 regarding the collision are as follows: Soy el Nordin trabajo para alguien grande en Espana, esto a pasado en Espana y tengo todo grabado y se lo e mandado a mi jefe, llevamos 10 minutos montado en la lancha y el motor estaba fallando, las otras personsas montada ante no me han dicho nada del fallo del motor" ***(I am el nordin, I work for someone big in Spain, this has happened in Spain and I have everything recorded. I've sent it to my boss. We have only been aboard 10 minutes and we have had engine problems. The other crew did not say anything).***	These comments are referred to the statement of HMC officer 7 **(Appendix 13)**
58.	08/03/2020	0432hrs	GHA Paramedic Fabian Ferro arrives at GGMS	This is from the CAD Log **(Appendix 64).**
59.	08/03/2020	0433hrs	Crime on Call officers DC 182 Victor and 190 Rahmouni called out.	This is from the CAD Log **(Appendix 64).**
60.	08/03/2020	0439hrs	Inspector Lutkin arrives on Scene	This is from the CAD Log **(Appendix 64).**
61.	08/03/2020	0447hrs	PMB Sir John Chapple AIS activated	Stated in statement of Philip Mandleberg **(Appendix 50)**

62.	08/03/2020	0449hrs	DS 15 Garratt arrives on Scene	This is from the CAD Log **(Appendix 64).**
63.	08/03/2020	0451hrs	Customs Vessel arrives at GGMS with Casualties aboard.	This is from the CAD Log **(Appendix 64).** Notes of DCI Field state this time to be 0452hrs.
64.	08/03/2020	0454hrs	DS 15 Reports that 3 injured parties are on board the Customs Vessel.	This is from the CAD Log **(Appendix 64).**
65.	08/03/2020	0459hrs	GDP officers kitting up to deploy and escort PMB back to GGMS	This is from the CAD Log **(Appendix 64).**
66.	08/03/2020	0500hrs	Gold Group Convened,	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
67.	08/03/2020	0508hrs	Second Ambulance now at GGMS	This is reflected in the statement of Stuart Ryan **(Appendix 42).** However the time in the statement states that the ambulance was requested at 0500hrs.
68.	08/03/2020	0511hrs	PMB now 200 metres of the southern entrance to the Harbour.	This is from the CAD Log **(Appendix 64).**
69.	08/03/2020	0512hrs	GDP vessel departs Naval Base.	This is from the CAD Log **(Appendix 64).**
70.	08/03/2020	0513hrs	Third Ambulance arrives at GGMS.	This is from the CAD Log **(Appendix 64).**
71.	08/03/2020	0518hrs	Recognition of Life Extinct on [redacted] carried out by Paramedics Fabian Ferro, Paul Watson and Sigurd Haveland.	This time is confirmed in the EMT Notes supplied for the PM and in the notes of DS 15 Garratt.
72.	08/03/2020	0520hrs	Call from Duty Officer, Second Fatality confirmed.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)** DCI Field has this noted down at 0525hrs, **(DCI Field Notes)**
73.	08/03/2020	0520hrs	Fourth Ambulance at GGMS	This is from the CAD Log **(Appendix 64).**
74.	08/03/2020	0521hrs	PMB arrives at GGMS together with suspect RHiB	Notes for DS Garratt
75.	08/03/2020	0524hrs	CBF sends a text message to COP	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
76.	08/03/2020	0530hrs	Insp Enriles (PSD) arrives	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
77.	08/03/2020	0530hrs	DC 182 and PC 63 attending SBH in Ambulance.	This is reflected in the statement of DC Victor and PC 63 Myhill **(Appendix 56).**
78.	08/03/2020	0530hrs	PC 100 O'Flaherty had been informed by [redacted] in the	Statement of PC 100 O'Flaherty **(Appendix 52).**

			Spanish Language that "this happened at Alcaidesa, we asked your colleagues to travel to Gib quickly to hospital to help uncle. But they were only travelling at around 5 Knots and would not put on the blue lights, (unknown word) Guardia Civil".	Notes of DS Garratt.
79.	08/03/2020	0534hrs	GPF Chairman Maurice Morello arrives	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
80.	08/03/2020	0536hrs	COP receives phone call from Collector of Customs John Rodriguez.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
81.	08/03/2020	0538hrs	Ambulance arrives at SBH with two persons from RHIB, officers at SBH 182, 63, 175 and 233.	This is from the CAD Log **(Appendix 64).**
82.	08/03/2020	0540hrs	Recognition of life extinct carried out by PC 71 Canepa, Paramedic Paul Watson and Sigurd Haveland.	These details can be found in the statements of PC 71 Canepa **(Appendix 32)** Paul Watson **(Appendix 34)** & Sigurd Haveland **(Appendix 35&36).**
83.	08/03/2020	0541hrs – 0542hrs	X2 phone calls GC COS contacts PMB 05:41:30 (Duration 1:01) 05:42:41 (Duration 1:01)	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
84.	08/03/2020	0543hrs	Call from PMB to GC COS, duration 1:02	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
85.	08/03/2020	0545hrs – 0546hrs	2x Calls from Crown Sgt to PMB (No Duration on either)	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
86.	08/03/2020	0549hrs	PC 216 Yeo en-route to SBH with one of the deceased.	This is from the CAD Log **(Appendix 64).** It is also reflected in the statement of PC 216 Yeo **(Appendix 55).**
87.	08/03/2020	0555hrs	Insp Tunbridge arrives and is briefed by Supt Richardson	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
88.	08/03/2020	0555hrs	PC216 Yeo arrives at SBH with Deceased.	This is from the CAD Log **(Appendix 64).** It is also reflected

				in the statement of PC 216 Yeo **(Appendix 55).**
89.	08/03/2020	0558hrs	Insp Fernandez on his way to NMH with PMB crew	This is from the CAD Log **(Appendix 64).**
90.	08/03/2020	0600hrs	PC 216 Yeo states that Deceased Body of [redacted] has been placed in Mortuary Fridge 2.	This is from the CAD Log **(Appendix 64).**
91.	08/03/2020	0601hrs	FLO PC 195 Passano contacted and attending NMH shortly.	This is from the CAD Log **(Appendix 64).** Notes of FLO stated that she was contacted at 0600hrs.
92.	08/03/2020	0602hrs	Both patients being treated at SBH.	This is from the CAD Log **(Appendix 64).**
93.	08/03/2020	0605hrs	COP notifies Governor and Chief Minister via whatsapp messages	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)** Text exchanges between CoP & CM
94.	08/03/2020	0616hrs	COP briefs GDP Chief of Police Rob Allen	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
95.	08/03/2020	0618hrs	COP briefs Spanish COP Policia Nacional	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
96.	08/03/2020	0620hrs	DI Perera arrives at PMB.	Notes of DI Perera
97.	08/03/2020	0625hrs	CSM brief's DI Perera	Notes of Crime Scene Manager.
98.	08/03/2020	0630hrs	Cop Visits ABE Suite and speaks to PMB Crew, Insp Fernandez and Supt Richardson present.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)** this is also reflected in officer 1's statement **(Appendix 15)**
99.	08/03/2020	0630hrs	Detainees [redacted] and [redacted] had their clothing seized whilst they were being treated in hospital. This was later photographed and examined by SOCO.	This can be found in the following statements **(Appendices 51, 53 & 63)**
100.	08/03/2020	0632hrs	COP briefs GDP CI Mark Wood ref possible security uplift at HM Naval Base.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
101.	08/03/2020	0635hrs	Comandante Pacheco Polo GC Algerciras contacts DI Perera and enquiries as to incident. The DI confirms collision at sea involving RGP vessel and suspect RHIB with a crew of 4, believed to be Spanish nationals. POLO was informed that there had been two fatalities and two further persons detained. DI Perera informed him he	DI Perera's Notes

			would be provided with more information once he was able to do so. DI Field was informed of this contact and instructed that contacts with the GC would be done through DI Chipolina so as to allow DI Perera to continue with his tasks.	
102.	08/03/2020	0636hrs	Justin Chipolina, senior and BCA contacted in informed	This is from the CAD Log **(Appendix 64).** No mention made of what he was informed about.
103.	08/03/2020	0638hrs	DC Victor informs of the Identity of both injured parties and deceased at SBH.	This is from the CAD Log **(Appendix 64).**
104.	08/03/2020	0644hrs	17 and 63 will be manning the vehicle access ramp to A&E, 182 + 233 will be remaining inside A&E with injured parties.	This is from the CAD Log **(Appendix 64).**
105.	08/03/2020	0645hrs	COP Calls GC Colonel Fernando Lopez – Rey Quintero	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
106.	08/03/2020	0645hrs	FLO arrives at NMH, is given a short brief by PS Stone of 2 deaths at sea and 2x persons injured.	FLO PC Passano Notes
107.	08/03/2020	0645hrs	DI Chipolina calls Comandante Pacheco Polo GC Algerciras to confirm awareness of collision at sea and identify himself as Spanish Liaison officer for incident.	File Note made by DI Chipolina in **(Appendix 39)**
108.	08/03/2020	0650hrs	GOLD update – COP. Supt Richardson, DCI Field, DI Chipolina present. ID of three occupants of the vessel confirmed, all male, two Spanish nationals from Ceuta, one from Portugal and one nationality ID to be confirmed.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
109.	08/03/2020	0650hrs	Coroner Pitto informed of the incident by DI Perera, instructs bodies to be placed in fridge and to make arrangements to be made for Post Mortems to be performed by forensic pathologist.	This is from the CAD Log **(Appendix 64).** However the time in the log states 0654hrs. File note also reflected by Insp Perera. According to email from Supt Richardson **(Appendix 39)** this is at 0655hrs.
110.	08/03/2020	0700hrs	FLO Briefed by DCI Field and CI Romero	FLO Notes
111.	08/03/2020	0705hrs	Crime Scene starts on Suspect RHIB by CSM DC 128 and DC 136.	Crime Scene Manger Notes
112.	08/03/2020	0715hrs	Arrangements made for public order barriers to be taken to PMB and used to seal off Vessels and use Police officers to man crime scenes.	
113.	08/03/2020	0720hrs	DC 182 Victor Arrests [redacted] for the offences of Importing a	This time is reflected in the custody records **(Appendix 39).** In

			Prohibited Import, Dangerous Navigation and Obstructing Police. When cautioned made no reply. Subsequently confirmed to have fractured left ribs, Right Knee ligament damage and left shoulder pains and bruises around the body.	the CAD log an update of both detainees is provided at 0811hrs **(Appendix 65).**
114.	08/03/2020	0734hrs	DC 190 reports that he attended WHSS and they do not have coordinates of collision, CCTV Footage was available but unaware if it was pointing in right direction. Imagery Radar shows no coordinates in possession of WHSS	Notes of DS 15 Garratt.
115.	08/03/2020	0737hrs	DC 182 Victor Arrests [redacted] for the offences of Importing a Prohibited Import, Dangerous Navigation and Obstructing Police. When cautioned replied "Yo no taba conduciendo, el que conducia era el primero que ha fallecido" (I wasn't driving, the driver has died). Sustained no injuries during the collision.	This time is reflected in the custody records **(Appendix 39).** In the CAD log an update of both detainees is provided at 0811hrs **(Appendix 65).**
116.	08/03/2020	0740hrs	DI Chipolina makes a phone call to Comandante Pacheco Polo GC Algeciras to provide details of the 4 occupants of the suspect RHIB and request assistance notifying next of Kin. He also requested assistance from GC COS regarding vessel positioning data and previous convictions of the 4 occupants.	File Note made by DI Chipolina in **(Appendix 39)**
117.	08/03/2020	0750hrs	Gold Group Reconvened- COP, Supt Richardson, DCI Field, CI Romero, Insp Tunbridge and DI Enriles. Progress from actions discussed, Gold Resilience, PIP update, SIO update, PSD update.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
118.	08/03/2020	0750hrs	Insp Tunbridge tasked to deploy personnel to cover crime scenes and security at NMH and SBH.	Tasking form written by DCI Field **(Appendix 39)**
119.	08/03/2020	0800hrs	Seals on body bag of the Late [redacted] were placed. (A37192 and A37191)	Notes of DS 15 Garratt.
120.	08/03/2020	0835hrs	Ambulance arrives at GGMS to convey body of [redacted] to SBH.	This time is recorded in the notes of the Crime Scene Manager. This is also reflected in the CAD Log **(Appendix 65).** However the time noted in the CAD log is 0828hrs.

121.	08/03/2020	0839hrs	[redacted] arrives at New Mole House Custody suite to be processed.	This time is reflected in the custody records **(Appendix 39).**
122.	08/03/2020	0855hrs	Ambulance conveys body of [redacted] to SBH.	This time is recorded in the notes of the Crime Scene Manager. This is also reflected in the CAD Log **(Appendix 65).** The time noted in the CAD log is 0855hrs.
123.	08/03/2020	0900hrs	CoP notifies GPA Chair of the incident informing him CM & HE have been notified	Text messages between GPA Chair & CoP
124.	08/03/2020	0915hrs	GDP SMT, Supt Johnson, CI Caufield, CI Wood, briefed at COP's office.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
125.	08/03/2020	0935hrs	Call received by DI Chipolina from Comandante Pacheco Polo GC Algerciras stating that according to COS radar tracing of the incident the approximate coordinates of the collision were 36 09N 5 12W which was approximately 6.54 miles east of Santa Barbara Beach. GC stated this data was subject to confirmation by technical extraction from their SIVE system. DCI Field contacted and informed of this.	File note from DI Chipolina.
126.	08/03/2020	0940hrs	DCI Field advises that collision occurred at 36' 09 N 5" 12 W" approx... 6.54 East of Playa de Santa Barbara.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
127.	08/03/2020	1001hrs	The wife of [redacted], called [redacted] is at SBH with her children. DS 15 Garratt and FLO requested to attend SBH.	This is from the CAD Log **(Appendix 65).**
128.	08/03/2020	1010hrs	COP briefs AG Michael LLAMAS at New Mole House. AG feeds up to the CM. HE joins the meeting @ 1215Hrs.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)** & Text messages between AG & CoP
129.	08/03/2020	1010hrs	All Stage 3 accounts submitted to DCI Field	The handing over of these documents is referred in **(Appendix 1)** the documents themselves are included **(Appendices 2-9).**
130.	08/03/2020	1055hrs	FLO attends SBH and meets with family members who have gathered in the area. Details of those persons have been noted down in the FLO Notes	FLO PC Passano notes
131.	08/03/2020	1100hrs	Crime Scene on HMC Seeker, followed with pictures taken from Sir John Chapple.	Notes from Crime Scene Manager, DC 108 Vallee Photographs Scene.

132.	08/03/2020	1120hrs	SBH clinical manager on duty Jason Pincho contacted by DI Perera for reassurance. Informed officers within SBH and surrounding area and informed that if Police were required to contact NMH immediately.	Notes of DI Perera. This is also mentioned in the CAD Log **(Appendix 65).** As 1129hrs.
133.	08/03//2020	1124hrs	[redacted] arrives at New Mole House Custody suite to be processed.	This time is reflected in the custody records **(Appendix 39).**
134.	08/03/2020	1130hrs	Both vessels brought out of sea and placed on the hard.	Notes from Crime Scene Manager
135.	08/03/2020	1150hrs	CSI examination on Sir John Chapple by DC 108 Vallee	Notes from Crime Scene Manager
136.	08/03/2020	1215hrs	Crime Scene Investigation continues on RHIB CSM DC 128 and DC 136.	Notes from Crime Scene Manager.
137.	08/03/2020	1225hrs	FLO Receives notification from CAD that more family members have arrived at SBH	FLO PC Passano notes
138.	08/03/2020	1228hrs	FLO receives a WhatsApp message from family member informing her that more family members are at SBH	FLO PC Passano notes
139.	08/03/2020	1406hrs - 1435hrs	Interview with [redacted] a) Provided the order of persons on the RHIB as 1. [redacted] b) Stated that he only saw the blue lights of PMB lit for 5-10 seconds. c) He didn't hear any orders from any officers d) Chase was ongoing for approximately 10 mins e) Vessels stopped and police officers boarded to help.	DS 15 Garratt Notes
140.	08/03/2020	1612hrs – 1620hrs	Interview with [redacted] in the presence of Leigh Debono. No comment interview.	Notes of DS 15 Garratt
141.	08/03/2020	1710hrs	[redacted] and [redacted] bailed out to appear at NMH at 1100hrs 4th June 2020	DP Custody Records.
142.	08/03/2020	1915hrs	DPA form handed to WHSS to obtain thermal imagery footage. Footage obtained. This footage shows the suspect RHIB	Notes of DS 15 Garratt
143.	08/03/2020		All mobile phones found in possession of the crewmembers of the suspect RHIB or found strewn on its	DC 106 Notes

			deck, handed over to HTCU for examination	
144.	09/03/2020		Examination on mobile phones commenced.	DC 106 Oton
145.	09/03/2020	1000hrs - 1100hrs	Meeting held at GC HQ between Comandante Pacheco Polo GC Algerciras, Capt. Gomez Fuster, DI Chipolina and DI Perera. RGP confirm identities of the four on board suspect RHIB and identify both deceased. GC were asked whether an incident report had been generated and if they could provide the confirmed coordinates for the collision. GC stated that an initial report had been prepared but needed to be referred/ discussed with the designated duty court/ judge. GC stated that the approximate coordinates supplied previously to DI Chipolina stood and that the SIVE technicians had yet to extract and validate such data. They confirmed the approximate collision location was 6 to 6.5 miles off Santa Barbara Beach. GC asked if we could provide initial incident report via Schengen channels and DI Chipolina informed he would refer the request and revert once back in Gibraltar. GC stated the previous convictions of the 4 occupants would be sent by email upon request and through Schengen channels. Prior to ending meeting there was a brief discussion where the structure and conduct of investigations were summarised. GC confirmed they would need to discuss with a judge, yet to be appointed.	File Note DI from DI Chipolina.
146.	09/03/2020	1130hrs	DI Perera contacted Comandante Pacheco Polo GC Algerciras via telephone and was asked whether it had been the GC or the RGP who had initiated contact in respect of the suspect RHIB on the night in question. To this he informed that according to the information he had available, it was the RGP who had contacted GC COS enquiring about the RHIB and that the GC were already monitoring the vessel.	DI Perera File Note.
147.	09/03/20	1205Hrs	Meeting at CoP's office attended by HE, AG and Supt Richardson. Update and intentions provided.	Supt Richardson notes

148.	09/03/20	1433Hrs	CoP communicates with GPA Chair and discussed intentions to bring over an independent investigation team and the potential involvement of the PCB.	Text messages between CoP and GPA Chair
149.	09/03/2020		Enquiries as to availability of forensic pathologists conducted with FCO coroner liaison officer who informed DI Perera that this was not her remit.	DI Perera Notes
150.	09/03/2020		DI Perera contacted Dr Lockyer who informed him that the earliest he could attend Gibraltar was on Sunday 22nd March 2020 and Dr Nat Cary who informed that he would not be able to make it anytime sooner than Lockyer. He also stated that he had enquired with other colleagues of his and they were also unable to attend.	DI Perera Notes
151.	10/03/2020	0929hrs	FLO received a message from family member [redacted] to find out if pathologist had arrived in Gibraltar.	FLO PC Passano notes
152.	10/03/2020	0940hrs	FLO receives a message from family member regarding frustration of delay of pathologist. Claims they have reported the matter to Spanish Authorities and are seeking to speak to RGP bosses regarding these procedures. DCI Field and DI Perera Updated.	FLO PC Passano notes
153.	10/03/2020	1018hrs	COP emails Ch.Supt Nigel Goddard, Head of Unit, NPoCC. He briefs him as to the incident involving the fatal collision at sea and that PIP has been implemented with an SIO being provisionally appointed but highlights the importance for this type of matters being dealt with by an independent team. Goddard is informed that COP reached out to the Small Island Forum Police forces but what was offered was not the ideal scenario, being a 3rd party oversight for a managed type investigation on behalf of the PCB. He explains that the PCBs role in Gibraltar does not have capacity or the capability to carry out investigations. COP also informs them that the services of the MDP in Gibraltar was sought but their senior management informed they did not have the skills required for such task.	COP Email

			Therefore he has requested the assistance of Goddard. He explains that he is looking for an independent force investigation team to take on the task. Lastly, COP also asked to see if assistance can also be provided by identifying a forensic pathologist who would be able to perform the PMs on both deceased prior to that which has already been arranged for the end of the week, explaining to him that the reasons are to mitigate any threats which might materialise by having the bodies within the hospital mortuary.	
154.	10/03/2020	1200hrs	DS Garratt contacted Tim Yates of Sheppard's Marina in relation to ascertaining if he can obtain the navigational data from both vessels.	Notes DS 15 Garratt
155.	10/03/2020		Email exchange between COP & HE on the arrangements to fly out an independent team followed by an official letter from COP to HE Governor requesting the assistance of the Metropolitan Police in investigating the collision at Sea.	OP Kram Misc File
156.	10/03/2020	1254hrs	Ch.Supt Nigel Goddard, Head of Unit, NPoCC, copies in COP, into an email he sends to Steven Wagstaff from the MPS. Goddard asks the latter to carry out enquires with his Head of OCU and if he could confirm the MPS would be in a position to undertake the task requested by COP. The email from COP is forwarded to him. COP is asked by Ch.Supt Goddard if he has initiated or can initiate the process with HE to submit through the FCO a request to the UP Police for assistance.	COP Email
157.	10/03/2020	1300hrs	COP emails Joseph BRITTO GPA chair and informs him he has initiated contact with NPoCC and requests him to read the email thread with Ch.Supt Nigel Goddard which is attached.	COP Email
158.	10/03/2020	1300hrs – 1342hrs	DS Garratt attended GGMS together with CSM and DC 136. Met with Tim Yates who after examination was unable to retrieve the navigational data	Notes of DS 15 Garratt

			from both the PMB and the suspect RHIB	
159.	10/03/2020	1314hrs	Dr Lockyer informed that authority had been granted for him to travel to Gibraltar to carry out the Post Mortems.	DI Perera Notes.
160.	10/03/2020	1500hrs	COP informs that the PM's will be conducted by Dr Rouse, CI Perez informs that HM Coroner has been informed of this and gives permission for it to proceed. The Post Mortem will take place on the 11th March 2020. Change of pathologist is as a result of Dr Rouse being able to travel to Gibraltar earlier and will mitigate any threats of having the bodies being at SBH.	DI Perera Notes
161.	10/03/2020		Chris Finch from Verralls spoke with DI Perera and informed him that he would like to have his own pathologist present during the Post Mortem examinations. DI Perera informed him that he would have to refer this to the coroner and that arrangements were already in hand to take place the following day. Finch replied that as he would not have any time to arrange for his own pathologist to be present he would be content if he or his partner would be allowed to speak to Dr Rouse prior to the Post Mortem Examinations.	DI Perera Notes
162.	10/03/2020		Coroner Pitto informed of the request made by Chris Finch and authorised this to happen. Mr Finch was subsequently informed of this.	DI Perera Notes
163.	10/03/2020	1515hrs	DS Garratt seized the PMB Patrol Matrix from CAD for the 08/03/2020	Notes of Garratt
164.	10/03/2020	1550hrs	DCI Field and DI Perera inform FLO that Post Mortems will be carried out on 11/03/2020 by UK pathologist	FLO PC Passano notes
165.	10/03/2020	1556hrs	FLO informs families of the deceased arrangements regarding post mortem examinations.	FLO PC Passano notes
166.	10/03/2020	1610hrs	DS Garratt seized MOD Notice from Marine Section	This info is found in **(Appendix 74)** and DS 15 Garratt notes.
167.	10/03/2020	1647hrs	Dr Lockyer is informed that his services are no longer required as another forensic pathologist, namely David Rouse will be attending Gibraltar on the 11th of March 2020 to inform the PM.	DI Perera Notes

168.	10/03/2020	1958hrs	Authority granted to have Heras fencing placed around the vessels. Heras fencing being rented out from Amco.	DS Garratt Emails.
169.	11/03/2020	1108hrs	Capt. Meikle contacted and informed of the incident and asked if he would be available to travel to Gibraltar to examine the vessels and their navigational devices and to provide a quote.	DS Cottam Email
170.	11/03/2020	1115hrs	At SBH Mortuary the body of [redacted] was ID'd to the Coroner by DI Perera.	DI Perera Notes
171.	11/03/2020	1120hrs	At SBH Mortuary the body of [redacted] was ID'd to the Coroner by DI Perera.	DI Perera Notes
172.	11/03/2020	1200hrs	Pathologist Dr Rouse, briefed by DI Perera at the Mortuary.	DI Perera Notes
173.	11/03/2020	1205hrs	Leigh Debono from Verralls contacted by DI Perera and informed that Dr Rouse was at SBH in the event he wished to speak with him prior to the examinations. Debono informed that he had already done so.	DI Perera Notes
174.	11/03/2020	1240hrs	Post Mortem Examination commences of [redacted]. Undressing of Deceased and documentation of external injuries taken. Halting at 1335hrs to facilitate CT Scanning of the deceased.	Statement from Dr Rouse Pathologist **(Appendix 41).**
175.	11/03/2020		CT Scan on [redacted] conducted.	Crime Scene Manger Notes.
176.	11/03/2020		CT Scan on [redacted] conducted.	Crime Scene Manager Notes.
177.	11/03/2020	1330hrs	FLO speaks with families of deceased outside SBH. They were updated with details surrounding the Post Mortem for the day. Family then requested that all further communication be through their lawyer Leigh Debono from now on.	FLO PC Passano notes
178.	11/03/2020	1335hrs	Undressing of Deceased and documentation of external injuries taken. [redacted]. Halting to facilitate CT Scanning of the deceased.	Statement from Dr Rouse Pathologist **(Appendix 40).**
179.	11/03/2020	1437hrs	FLO provides Lawyer with update regarding hospital delays. Leigh Debono will update family.	FLO PC Passano notes
180.	11/03/2020	1645hrs	Post Mortem examination recommenced on [redacted].	Statement from Dr Rouse Pathologist **(Appendix 41).** Crime

				Scene Notes state that PM finished at 1900hrs.
181.	11/03/2020	2000hrs	FLO updates Leigh Debono regarding first post mortem completed and schedule for second post mortem. DI Perera also requests details of the funeral directors. Debono also asked to provide these details.	FLO PC Passano notes
182.	11/03/2020	2031hrs	Email sent by DI Chipolina to GC containing initial RGP Incident briefing note (with prior approval from COP). In the same email, GC was requested for the previous convictions of the 4 crew members of the suspect RHIB and any existing GC incident reports, as well as vessel radar positioning data.	File note made by DI Chipolina **(Appendix 39).**
183.	12/03/2020	0800hrs	Post Mortem examination recommenced on [redacted] and finished at 0950hrs.	Statement from Dr Rouse Pathologist **(Appendix 40).**
184.	12/03/2020	1000hrs	Heras Fencing is taken to PMB and used to be placed around the vessels crime scene.	DS Garratt Emails
185.	12/03/2020	1030hrs	Leigh Debono states that DeHaro funeral directors will be assisting in repatriating the bodies. Debono was also informed that both examinations were completed.	FLO PC Passano notes
186.	12/03/2020	1139hrs	Email sent by DI Perera to HM Coroner informing him of the findings of the pathologist, Dr Rouse, following the PMs performed on both the deceased. Copies of the PM reports, marked as preliminary reports' forwarded to him.	DI Perera Emails
187.	12/03/2020	1147hrs	FLO - DI Perera has emailed the info to coroner's office, including pathologist reports. All details sent to Gerry Rose.	FLO PC Passano notes
188.	12/03/2020	1200hrs	DS Garratt Attended the Port Authority and met with Phil Mandleberg. Using the Thermal Footage, he was able to work out the larger vessels displayed in the footage, these were found out to be the Teliri and Seaways Rosalyn which were in Spanish Waters at the time of the incident. DI Perera and DCI Field informed	File Note by DS Garratt **(Appendix 39)**
189.	12/03/2020	1215hrs	Coroner Pitto authorises the bodies of the deceased to be released to the families.	File Note by DI Perera
190.	12/03/2020	1220hrs	DI Perera informed Leigh Debono from Verralls that the bodies had been	File Note by DI Perera

			released by the coroner and arrangements can be made for repatriation. Debono informed DI Perera that Deharo Funeral Directors will be dealing with this matter.	
191.	12/03/2020	1240hrs	Deharo funeral directors contacted by DI Perera and inform that the bodies had been released and to liaise with the coroner's office.	File Note by DI Perera.
192.	12/03/2020	1411hrs	Capt. Meikle is informed that approval has been obtained for him to travel to Gibraltar and carry out examination of the vessels.	DS Cottam Email
193.	12/03/2020	1730hrs	Stage 4 Accounts of HMC officer 4, 5, 6, 7 & 8 provided to DCI Field	PIM Log **(Appendix 1)**
194.	12/03/2020	2100hrs	Deharo Funeral directors contact DI Perera and inform him that embalming of the bodies are underway and are being repaired for repatriation. They state that documents from the Spanish Embassy in UK is still pending in order to be able to transfer body to Spain. They would be aiming to carry out repatriation around midday on the 13th of March. They informed that they are in contact with their families and legal representatives. The funeral directors from Ceuta are servicios funerarios Al-Qadar.	DI Perera Notes
195.	13/03/2020	0830hrs	SIO authorises change of Coroners officer from DI Perera to DS Garratt	DI Perera Notes
196.	13/03/2020	0930hrs	DI Perera requested the FLO contact the funeral directors for update on times of repatriation. FLO spoke to "moris", Paperwork at embassy in UK awaiting to be processed. Paperwork with Environment also being processed. DI's Perera and Chipolina apprised.	FLO PC Passano notes
197.	13/03/2020	1000hrs	Met Police Team arrive in Gibraltar, are brought to NMH where they are sworn in as RGP officers and return to hotel.	
198.	13/03/2020	1030hrs	DI Perera meets with Coroner and updates him as to the investigation. Informs him of the UK team from the MPS being brought in by COP. Also informs him of change of coroner's officer to which he said that he had none.	DI Perera Notes
199.	13/03/2020	1312hrs	From DI Chipolina, Spain has authorised the repatriation and the frontier aware.	FLO PC Passano notes

200.	13/03/2020	1350hrs	FLO informs bodies of both deceased repatriated to Spain.	DI Perera Notes and notes of FLO PC Passano .
201.	13/03/2020	1525hrs	At the request of DCI Field and CI Romero, DI Perera contacted Comandante Pacheco Polo GC Algerciras via email. He was informed of the intelligence received regarding threats made against the crew members of the PMB, involved in the collision at sea. This included inflicting harm to the crew members and damaging their properties. GC was informed that intelligence suggested one of the crew members had been identified and those making the threats knew that his parents had a residence in Spain. Their intentions were to set the property alight. GC were provided with the address and details of the parents. They were requested to try and ascertain if these threats were also known to them and carry out patrols of the residence.	File note by DI Perera.
202.	13/03/2020	1830hrs	MET Police team arrive at New Mole House for a briefing by COP and Gold Command	
203.	13/03/2020	2100hrs	Received an email from Comandante Pacheco Polo GC Algerciras containing previous conviction data for all RHIB occupants. Email is acknowledged by him and response sent at 2118hrs requesting confirmation that the positioning data will be provided to RGP separately.	File note made by DI Chipolina **(Appendix 39)**.
204.	14/03/2020	0950hrs	Pick up two Met Officers and convey them to PMB Base to meet UK collision expert, examine vessels and discuss terms of reference for expert report.	DCI Field Email
205.	14/03/2020	1030hrs	Meeting with Richard Meikle and briefed as to what is required by SIO.	DI Perera Notes
206.	14/03/2020	1050hrs	Met Team conveyed to Mod Spy Glass to see area of collision.	DCI Field Email.
207.	14/03/2020	1200hrs	ABC cleaners disinfect and clean the suspect RHIB.	DI Perera Notes.
208.	14/03/2020	1507hrs	Dr David ROUSE provides DI Perera, with Initial draft PM reports	DI Perera Emails
209.	14/03/2020		Capt. Meikle conducts examination of both vessels and removes their navigational systems for further examination.	CSI Notes

210.	14/03/2020	1547hrs	Upon instructions from SIO Email sent by DI Perera to Comandante Pacheco Polo GC Algerciras, requesting GC Assistance . He was informed that it was intended to convey the UK team of the MPS on board a HMC vessel to the location where it was suspected the incident took place. This was in order to assist the MPS in their own investigation. As the location was in Spanish waters his authority was being sought before proceeding. He was guaranteed that no executive action would be taken by local authorities whilst in Spanish waters.	File note by DI Perera.
211.	14/03/2020	1600hrs	Provide Met Team with materials collected as part of investigation.	DCI Field Email
212.	14/03/2020	1700hrs	As requested DI Perera contacted Comandante Pacheco Polo GC Algerciras, he was asked if the GC had a vessel or helicopter who engaged with the suspect RHIB or was in its vicinity on the night in question. He stated that the GC had a vessel near the boundary with Malaga engaged in another matter.	File Note DI Perera.
213.	14/03/2020	1754hrs	Comandante Pacheco Polo GC Algerciras replied to DI Perera's request upon instructions received, the judge dealing with this incident had to be informed. He requested an official email containing details of the vessel that would enter Spanish waters, details of the crew on board and the reasons for such activity. A call was followed from Comandante Pacheco Polo GC Algerciras to DI Perera who stated that this request should also be addressed with UK magistrate liaison in Madrid or the Spanish Embassy in London. In the event that authorisation should be granted the Gibraltar LEA vessel would need to be shadowed by a vessel of GC. Following this conversation, the SIO was informed and directions sought. Shortly after the SIO replied that after consultation with others, it would not be necessary to enter Spanish waters.	File note by DI Perera.
214.	15/03/2020	0915hrs	Met Team conveyed to GGMS to oversee intrusive search of Suspect vessel by HM Customs.	DCI Field Email

215.	15/03/2020	0930hrs	Capt. Meikle attends GGMS and takes measurements of vessels.	CSI Notes
216.	15/03/2020	0930hrs – 1130hrs	DI Perera meets with RGP Drugs Dog handler and HMC Officers under the command of SCO Galia. Intrusive search of suspect RHIB conducted with negative results.	File note DI Perera
217.	15/03/2020	1333hrs	Following a reply from SIO that after consultation with others, it would not be necessary to enter Spanish waters. To which Comandante Pacheco Polo GC Algerciras was informed that the request to enter Spanish waters had been rescinded as there had been a change of plans.	File Note by DI Perera.
218.	15/03/2020	1645hrs	Met Team picked up and conveyed to Customs Marine Section to go on vessel.	Email DCI Field
219.	16/03/2020		Capt. Meikle attends GGMS and attempts to restart Navigational systems aboard vessel to no avail and decides to take systems back to the United Kingdom for further examination.	CSI notes
220.	16/03/2020	0845hrs	Met team to visit GGMS and speak with PC's Watson & Warwick. Discuss powers & policies, technical aspects of marine vessels (radar and AIS)	Email DCI Field
221.	16/03/2020	1400hrs	Met Team meet with Coroner	Email DCI Field
222.	17/03/2020	1300hrs	Meeting between AG & CoP to discuss progress of the investigation and the various strands to it viz, Coroner, possible civil action, professional standards enquiry, Spanish judicial action, law enforcement co-operation angle (Brexit- working group) and political dimension. Desire to work out a strategy to deal with all of this. CoP proposes to meet face to face with GC to gather more information and try to elicit where they are taking the matter. Met Police want to meet them too. AG advises he will consult with CM. Shortly after meeting AG informs CoP to proceed as discussed.	Text exchange between AG & CoP
223.	16/03/2020		Stage 4 accounts/statements completed by officer's 1,2 & 3 Officer 1: 1820hrs Officer 2: 1752hrs Officer 3: 1700hrs	Officer's Statement (**Appendix 15, 16 & 17**)

224.	18/03/2020	1000hrs	Capt. Meikle Departs Gibraltar due to impending COVID 19 travel bans.	Notes DS Garratt
225.	18/03 2020	1100hrs	GC unable to meet face to face because of Covid-19. A VTC is arranged instead. This is held in CoP's office and is attended by the Met team, DI Chipolina acting as interpreter, Commander Pacheco Polo, a GC Capt and COP. GC advise that they still require their technicians to extract the co-ordinates of where the collision took place. That they have an idea where this occurred but required formal confirmation from technicians. GC inform that no judge has yet been appointed to the case. MET police asked a series of questions.	Notes taken by CoP's PA Met team notes (these are not available to us)
226.	18/03/2020	1530hrs	CoP updates AG and GPA Ch of the outcome VTC with GC & Met police	Exchange of texts between AG / GPA Chair / CoP
227.	18/03/2020	1600hrs	Met Police Provided with any further material requested	Notes DS Garratt.
228.	19/03/2020	1000hrs	Met Team Depart Gibraltar due to impending COVID travel bans	
229.	25/03/2020	1510hrs	Email link Rapid Reply Construction using the data of the suspect vessels navigational equipment. Screenshot of the situation around the time of the collision showing suspect RHIB proximity to BGTW. 36' 09 95N Latitude, 005'12 51W Longitude.	Email from Capt. Meikle.
230.	26/03/2020	1141hrs	Leigh Debono from Verralls, emailed DI Perera asking to be provided with the medical records of [redacted] as his doctor in Spain was asking for it.	DI Perera Emails
231.	26/03/2020	1256hrs	Mr Finch from Verralls, contacts CI Perez and informs him that he is acting for the families of the deceased and their respective estates in Gibraltar. He also states that he is liaising with Spanish lawyers who are working on this matter in Spain. He requires to be provided with information, if he is to discharge the legal onus in both a criminal and civil context. He looks for an insight into the incident, including whether the coxswain of the RGP vessel has been suspended pending inquiry and whether the Police will be seeking the adjournment of the Coroner's investigation, as he claims to	DI Perera Emails

			be normal practice where a criminal offence has been committed.	
232.	26/03/2020	1628hrs	Mr Debono from Verralls is informed by DI Perera that as part of the investigation the RGP had not obtained any medical evidence, as the survivors, had been arrested in relation to offences which would not be justified for the RGP to request such information as it would not prove or disprove any of the offences mentioned. He was anyhow informed that if he requires such information, a SAR would have to be submitted to the GHA, as it was where his client had been treated and examined.	DI Perera Emails
233.	26/03/2020	1652hrs	Supt Richardson emails DCI Gary Smith MPS and enquiries whether he wishes for Mr Finch to correspond with him directly or to be filtered by RGP PSD. Supt Richardson informs DCI Smith that given that we no longer have grounds to suspect that any part of the chase took place within BGTW, the RGP intends to recall the survivors and release them from arrest.	Supt Richardson emails
234.	26/03/2020	1713hrs	Mr Debono from Verralls emails DI Perera and informs him that the medical notes he was referring to was that which he had been shown by the Custody Sergeant whilst at NMH.	DI Perera Emails
235.	27/03/2020	1031hrs	CI Perez replied to Mr Finch and informed that COP has instructed that for the purpose of transparency an independent investigation will be carried out to determine the events that lead to the tragic incident. He informed that an approach has been made to UKs NPOC and a team of the MPS was deployed to Gibraltar. It was further added that due to the current pandemic the team had to return to the UK earlier than thought.	DI Perera Emails
236.	27/03/2020	1156hrs	After consultation with the RGP DPO, DI Perera informs Leigh Debono from Verralls, that that the doctor's note he is referring to as being shown in custody	DI Perera Emails

			has been identified. Anyhow, his client (or through him with his expressed consent), should submit a SAR to the RGP for it to be considered.	
237.	01/04/2020	1140hrs	CI Field authorised the release of the two survivors arrested on the day of incident without any charges being preferred against him. This was done by the Custody Sgt through Verralls.	Email from DCI Field
238.	01/04/2020	1856hrs	Gary Smith from MPS team informs COP, Supt Richardson and DCI Field via email to tell the lawyer representing the families Mr Chris Finch to go through RGP PSD rather than link directly with MPS. DCI Gary Smith includes in his email that he is aware that the criminal case against the survivors has discontinued and the family of the deceased / survivors and are considering legal action against the RGP / those deployed in the vessel. The Spanish may also be considering a homicide investigation, so restriction/ suspension may occur.	Supt Richardson email
239.	03/04/2020	1123hrs	CI Perez informs Mr Finch that all future communication with the RGP should be channelled through him. In respect to requests made by Mr Finch for the disclosure of PM reports and the opportunity to inspect the vessels, CI informed that the Coroner has indicated that the PM reports will be disclosed once he has received the final report from the pathologist. AS to the vessels, he was told that the Coroner is yet to receive the report from the marine expert and once such has been received, a copy will be made available to him.	DI Perera Emails
240.	06/04/2020	1137hrs	Mr Finch informs CI Perez that as the two survivors have been released from their arrest, they are now asking for their properties to be returned. He also wishes for that of the deceased.	DI Perera emails
241.	06/04/2020	1159hrs	Mr Finch communicates to CI Perez that it should be noted that once a person has been released from his arrest, he is entitled to have all his property returned, unless unlawful per se. He	DI Perera

			reiterated that there is no power to retain property if it is not of evidence in a carinal case.	
242.	07/04/2020	1000hrs	Meeting with AG to discuss strategy for Op Kram including the potential consequences for the officers concerned. Latest from GC was that because of Covid19 state of emergency Spanish courts had come to a stop. No judge had been assigned the matter. Discussed previous serious incidents eg the Alcaidesa incident and when GC landed on Gib soil at Harbour Views following a hot pursuit.	Notes from CoP
243.	07/04/2020	1558hrs	Mr Finch emails Maurice Turnock, Clerk of the Magistrates Court requesting for copies of the PM reports.	DI Perera Emails
244.	08/04/2020	1241hrs	Maurice Turnock from the Magistrates' Court, emails Mr Finch and inform shim that all correspondence should be directed to CI Perez.	DI Perera Emails
245.	21/04/2020	1049hrs	Email received from Phil Mandleberg at the Port Authority, he was tasked with viewing the remainder of the footage and identifying the ships which have appeared in the footage. Arrangements made to obtain a statement.	DS Garratt emails
246.	21/04/2020	1430hrs	Meeting held by Supt Richardson, DCI Field, CI Perez and DI Perera. Roles of each of these officers discussed. DCI to act as liaison with Met Police Team. CI Perez to be SPOC for Chris Finch and DI Perera to resume role of Coroners officer. Supt Richardson requested 1. Find out if lawyer was called whilst in custody. 2. Ask GC if an allegation has been made in Spain 3. What is GC's Position	DI Perera Notes
247.	21/04/2020	1530hrs	DI Perera informs FLO that two 10x16 have been released from arrest. Requesting to ascertain from families if they still have the same legal counsel in Gibraltar in case RGP need to contact them.	FLO PC Passano notes
248.	21/04/2020	1540hrs	DI Perera contacts GC and ascertains GC's position to which they reply that	DI Perera Notes

			they are not aware of any formal complaints made in Spain. Will enquire with authorities and will inform DI Perera. GC also stated that GC had submitted a report but had still not been taken over by any judge. GC currently untasked.	
249.	21/04/2020	1553hrs	FLO receives a message from [redacted] (family of [redacted]) to state that they still retain the same Gibraltar lawyers and he does not recall the details of the lawyer in Spain and would communicate this back to the officer (No further information received) Irene does not reply to message.	FLO PC Passano notes
250.	21/04/2020	1600hrs	FLO tasked by DI Perera, (following meeting with Supt Richardson, to try and ascertain from families of deceased what lawyers they were instructing) and to provide families with an update of investigation.	DI Perera Notes
251.	21/04/2020	1850hrs	Update received from HTCU: Due to the current capabilities available to the RGP HTCU, out of the nine phones which were either in possession of the crewmembers of the suspect RHIB or found strewn on its deck, full extractions or unlocking of the devices to access its data have not been possible on four of the phones. In view of this, through HTCU, contact has been made with their counterparts abroad (Cellebrite, to see if they are able to access the phones in question and extract any relevant data held on them. Once a reply is returned and if in the positive, it will be forwarded to HM Coroner for approval in meeting the costs. Another option offered by HTCU with six of the phones, is to request information in respect of SIM cards and their PUK codes, from their service providers (all of which are from Spain). With this there might be a possibility of retrieving call data. However, it must be borne in mind that requesting this through the official channels, such as EIOs, MLAs, etc, is not an option, as the investigation is not of a criminal nature	DC 106 Oton

			and there is no specific power under the Coroner's Act. A formal letter could be sent to a foreign authority to seek such information but it is not known whether it will be replied to.	
252.	22/04/2020	1200hrs	Meeting between AG, DPP and CoP ref communications from lawyers representing the deceased indicating that they would be making a civil claim for damages. CoP enquires about crown counsel representation and again the need to agree a strategy. DPP states, no civil claim has yet been filed so there is no immediate need to appoint counsel. AG would give thoughts whether to leave the matter to be discussed at [Brexit] law enforcement group meeting or privately with his Brexit negotiator counterpart.	CoP notes
253.	22/04/2020	1234hrs	DI Perera informs HM Coroner that he has once again resumed the role of Coroner's Officer (as previously told to him by RGP SMT). Mr Pitto is informed that in respect of the mobile phones held in relation to this investigation, due to the software / encryption issues faced by the HTCU, some of these cannot be accessed for the purposes of retrieving date. He has been informed that enquiries will be carried out with HTCU counterparts in UK to see if they would be able to do this. The reason to continue pursuing their contents, is to try to establish where each of the crewmembers on board the suspect RHIB were sat. There might also be a possibility that information may be held on the phones as to messages / location of the chase and / or recordings of the incident. He is also asked if the authorises for the return of personal property which are not of evidential value, to the families of the deceased and survivors. Mr Pitto is also informed of a request from Mr Finch, to be provided with copies of the photographs of both PMs and that that of both vessels involved in	DI Perera Emails

			the incident. He is asked how to proceed.	
254.	22/04/2020	1246hrs	DI Perera instructs FLO not to contact families anymore ref lawyers info, only welfare checks and if they provide lawyer info, the DI Perera to be informed.	FLO PC Passano notes
255.	22/04/2020	1603hrs	HM Coroner is forwarded an email sent by Mr Finch to CI PEREZ. This is for him to be aware of the stance being taken by VERRALLS. In the email, Mr Finch complains of not being provided with information requested and other requests made, including the surveying of the vessels by his own marine expert. He also asks for the location of the vessels at the time of the incident, asking if it happened in Spanish waters. Mr Finch claims that he will be writing to the Coroner as it appears the intention of the RGP is to close down all important avenues of enquires. He also claims that failure to suspend the officers involved in the collision indicates a predetermination of the enquiry from the outset, indicating a partisan approach and not that of an independent approach.	DI Perera Emails
256.	24/04/2020	1245hrs	Mr Finch emails Maurice Turnock from the Magistrates Court. He forwards him an email thread with CI Perez and wants the Coroner to be informed of what he describes as serious problems he is encountering with the RGP. He states that he considers this case to be of an unlawful killing. He mentions international implications, including ECHR.	DI Perera
257.	24/04/2020	1521hrs	In respect of the email sent to Mr Pitto as to the stance taken by Mr Finch and the complaints he is making, the Coroner informs that Mr Finch has been dealt with by necessary implication in a reply sent to him from his office.	DI Perera Emails
258.	30/04/2020	1519hrs	Update received from HTCU as to enquiries carried out with their counterparts abroad (Cellebrite) in	Dc 106 Oton

			respect of mobile phones held in relation to this investigation.	
259.	05/05/2020	1026hrs	HM Coroner asked if he authorised for 3D scans on both vessels involved in the incident. This will provide a better picture of how the collision took place.	DI Perera Emails
260.	05/05/2020	1118hrs	HM Coroner has been forwarded by DI Perera, the draft copy of the SOLIS report from Capt. Meikle, in respect of his examination of the vessels.	DI Perera Emails
261.	05/05/2020	1202hrs	Approval given by HM Coroner for the 3D scans of the vessels to proceed.	DI Perera Emails
262.	05/05/2020	1258hrs	HM Coroner has been informed of the reply of Cellebrite UK in respect of being able to examine mobile phones held by Police, which were seized during the investigation and which were unable to be accessed by HTCU. He was asked if he authorised for this to be sent over for examination.	DI Perera Emails
263.	05/05/2020	1503hrs	HM Coroner informs that in respect of the examination of mobile phones, he was inclined to say no but would go through the SOLIS report prior to taking a decision.	DI Perera Notes
264.	06/05/2020	1118hrs	Mr Finch emails CI Perez complaining that he is still awaiting for a date for his maritime surveyor to be able to inspect the vessels involved in the collision. He also complains that there is no obvious reasons for the CSI phots taken of the vessels not being supplied to him.	DI Perera Emails
265.	06/05/2020	1614hrs	HM Coroner emails DI PERERA and informs that Mr Finch will be supplied with all necessary reports and information, once the Coroner's investigation was complete. He informed that this reflect the inquisitorial nature of the coronial process and the fact that in an inquest, interested persons are not parties as they might be in atrial. He states that if Mr Finch is interested in pursuing the matter on behalf of his clients civilly or even criminally, he should institute	DI Perera Emails

			proceedings and acquire the rights of a party at trial in that way. He also stated that he had no difficulty in returning the property (of deceased and survivors), even the phones. He wanted to ensure that the views of the investigating team from the MPS were canvassed and that they had no issues on the return of the items.	
266.	06/05/2020	1703hrs	Dr Rouse emails final pathology reports,	**(Appendices 40 & 41)**
267.	07/05/2020	1247hrs	DI Perera forward the final reports of the pathologist for both deceased, to HM Coroner.	DI Perera Emails
268.	07/05/2020	1402hrs	Mr Finch emails CI Perez wanting to be given a date for the inspection of the vessels and have sight of the relevant photographs and marine expert report.	DI Perera Emails
269.	10/05/2020	1411hrs	Mr Finch informs CI Perez that legal representatives on behalf of the families are entitled to participate in the investigation into the deaths of their loved ones. He adds that there is no cooperation from the Police. He says this to be a clear abdication of the state's responsibility where the state agents are clearly responsible in fact and law for the deaths of these concerned. He says there is no excuse to hold back photographs, marine expert report or not allow his own Marine expert to view the vessels.	DI Perera Emails
270.	11/05/2020	1353hrs	Email from CoP to CM/AG/MoJ advising on VOX parliamentary questions	Email from CoP
271.	12/05/2020	1922hrs	On request from SMT, email sent from DI Perera to HM Coroner. He was informed that due to the sensitive nature of the investigation involving the loss of life and directly involving the RGP, his concerns / views, with regards to impartially and transparency, of having a Coroner's Officer not from the RGP was raised with the MPS. Mr Pitto was informed that the UK informed that they would consider this matter, as long as he contacted them personally informing of the rationale for such request and what their role would	DI Perera Emails

			entail. He was provided with contact details for the MPS.	
272.	14/05/2020	1832hrs	DI Perera emails DCI Field informing him that before he requests from Verralls through SPOC for statements to be provided by the survivors/ family of the deceased, if he wishes to clear this with the team from the MPS.	DI Perera Emails
273.	18/05/2020	0900hrs	Capt. Meikle from SOLIS Marine Consultants together with 3D Scanning Specialist Duncan Lees from visualskies conduct 3D scan of PMB Sir John Chapple.	DS Garratt Notes
274.	19/05/2020	1000hrs	SIO meeting with Capt. Meikle, DI Perera and DS Garratt to discuss draft report submitted by him.	
275.	19/05/2020	1400hrs	Capt. Meikle from SOLIS Marine Consultants together with 3D Scanning Specialist Duncan Lees from visualskies conduct 3D scan of Suspect RHIB.	DS Garratt Notes
276.	19/05/2020	0846hrs	Email send from Comandante Alejandro Gamero Rios GC Algerciras to DI Perera. The email informed him that the judiciary in Spain had initiated and The judge was therefore requesting from the authorities in Gibraltar, all information available in respect of the investigation, pathologist reports and the identity of the RGP Marine Section officers involved in the collision. This request was forwarded to SIO and instructions sought into how to proceed.	File Note by DI Perera. Request acknowledged, they were referred to request this information through the proper channels – EIO.
277.	20/05/2020	0956hrs	HM Coroner informed of the official request from the GC, asking for information in respect of the incident being investigated, after being instructed by the 'instructing' judge from La Linea, who has initiated her own investigation. He was informed that if he approved, they would be told that there is an ongoing investigation and if they require anything in relation to it, it should be sought through official channels. This he agreed too on a subsequent phone call with the DI.	DI Perera emails

278.	20/05/2020	1253hrs	On instructions from Gold Command DI Perera replies to Comandante Alejandro Gamero Rios GC Algerciras informing him that there was an ongoing investigation into the incident and if they require any information into this incident, they should request this through official channels.	DI Perera.
279.	25/05/2020	1054hrs	DCI Field writes to DCI Gary Smith from MPS and refers him to the request submitted by DI Perera of taken statements from the survivors/ families of the deceased and asks if he can instruct for the taking of those statements or whether they would undertake themselves when next in Gibraltar	DI Perera Emails
280.	26/05/2020		Met Police are constantly kept updated about any developments in relation to investigation and new leads. All material obtained is provided to them.	
281.	26/05/2020	1004hrs	DCI Smith from MPS replies to DCI Field in respect of the request dated 25th May 2020 informing him to proceed in taking the statements as the coroner will require them and it will service their own investigation.	DI Perera Emails
282.	27/05/2020	0825hrs	CI Perez emails Chris Finch asking to make arrangements to be able to obtain witness statements from the survivors/ families of the deceased.	DI Perera Emails
283.	27/05/2020	0827hrs	Results of the Toxicology Samples [redacted] reference to toxic[redacted]logy reports [redacted]	CSM DC Palmer emails Toxicology report is at **(Appendix** [redacted]
284.	27/05/2020	1017hrs	Chris Finch replies to CI Perez with the following "we have received no information or assistance whatsoever, the RGP claims to be due to directives	

			given by the coroner. Everything we have asked for, despite numerous requests has been refused. Any statements to be taken should be taken by their legal representatives, as the police can no longer be trusted to be independent and objective. The police you say on the instructions of the coroner has deliberately delayed and frustrated our inquiries and access to information, including examination of the boats and the draft PM report and even the names of the boat's crew. These actions constitute serious breaches of fundamental rights which will not go without full redress. Maybe you should advise the coroner what the RGP has done under his assumed direction, because there will be consequences."	
285.	27/05/2020	1359hrs	Email from DCI Gary Smith attaching the latest sit-rep	(Appendix 90)
286.	27/05/20220	1313hrs	Email from CI Perez to Chris Finch requesting a suitable time to drop off properties (not including digital devices containing data) belonging to the deceased and the two survivors of the collision.	DI Perera Emails
287.	27/05/2020	1446hrs	Email from Robert Fischel QC confirming arrangements made to drop properties off at Verralls offices on 28th of May at 1130hrs.	DI Perera Emails
288.	27/05/2020	2025hrs	Email from DCI Gary Smith attached, an earlier sit-report dated 23/03/20 which he had only shared with his team and superiors and not with RGP.	(Appendix 91)

- Please Note although timings are provided these may be out of sync as they are taken from multiple sources.

Timeline of communications between CoP & officials

Ref: Specific for Op Kram (collision at sea)

Key:

HE = His Excellency the Governor Nick Pyle
CM = Chief Minister Fabian Picardo
AG = Attorney General Michael Llamas
MoJ = Minister for Justice Samantha Sacramento
GPA CH = Gibraltar Police Authority Chairman Joey Britto
CoP = Commissioner of Police Ian McGrail
MPS DPS = Metropolitan Police Service – Directorate of Professional Standards
NPoCC = UK's National Police Co-ordination Centre

Date/Time	From	To	Content
08 03 20 0605Hrs	CoP	CM	Whatsapp message "CM - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked. I am invoking Post Incident Procedures and planning for consequence management. Once I have further updates I will let you know. Rgds Ian"
08 03 20 0605Hrs	CoP	HE	Whatsapp message Nick - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked. I am invoking Post Incident Procedures and planning for consequence management. Once I have further updates I will let you know. Rgds Ian
08 03 20 0724Hrs	CM	CoP	Whatsapp message Ian. Thank you. What are the nationalities of the deceased? Was it drugs or tobacco? Any GC or SVA involvement?
08 03 20 0733Hrs	CoP	CM	Whatsapp message So far we have 3 identified. 2 from Ceuta (moroccan descent) & a Portuguese. No Spanish law enforcement agency involved. RHIB suspected to be involved in drug smuggling. I have also informed The Convent. I have held a "Gold" command meeting in my office to address, welfare of the crew, the investigation that will now follow, security/safety to our law enforcement officers, community impact et al. Also linked up with GC and CNP more so after the disturbances in La Linea after the other death involving the our customs patrol

			boat but given that those on the RHIB are not from this region it may not have an impact. I am still waiting for the 4th & (also deceased) to be identified.
08 03 20 0737Hrs	CoP	CM	Whatsapp message Just had the ID of the 4th one confirmed. He is also from Ceuta of Moroccan descent.
08 03 20 0740Hrs	CM	CoP	Whatsapp message Thank you. Are our officers safely ashore and seen by med staff if necessary? Are their families informed they are ok, in case social media lets on there has been a fatal collision, so they don't worry?
08 03 20 0741Hrs	CM	CoP	Whatsapp message Also, what time did it occur and was it firmly within BGTW or questionable?
08 03 20 0742Hrs	CM	CoP	Whatsapp message I think we should announce if possible to avoid social media speculation. Have you prepared media release or do you want Stuart's help?
08 03 20 0742Hrs	CoP	CM	Whatsapp message Our crew are ok. Their welfare is being totally safeguarded. I am also circulating a notice to all staff to prevent speculation and social media reporting from within. I will issue a very brief press notice shortly.
08 03 20 0743Hrs	CM	CoP	Whatsapp message Ok. Re the two who survived, captured? Hospital or cells?
08 03 20 0743Hrs	CoP	CM	Whatsapp message Collision occurred at approx 0340hrs. Location still to be confirmed.
08 03 20 0744Hrs	CoP	CM	Whatsapp message The two who survived are in hospital with non critical injuries as far as I am informed.
08 03 20 0813Hrs	CM	CoP	Whatsapp message Arrested, correct?
08 03 20 0814Hrs	CoP	CM	Whatsapp message They will be if they haven't been already.
08 03 20	CoP	MoJ	Whatsapp message Minsiter - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked. I am invoking Post Incident Procedures and planning for consequence management. I have advised CM & HE Rgds Ian
08 03 20 0900Hrs	CoP	GPA Ch	Whatsapp message Joey - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked. I am invoking Post Incident Procedures and planning for consequence management.

			I have advised HE, CM & MoJ already. Regards Ian
08 03 20 0925Hrs	MoJ	CoP	Whatsapp message an thanks for letting me know. If there is anything you need from me let me know.
08 03 20 0927Hrs	HE	CoP	Whatsapp message Ian. Thanks for letting me know. Sorry to hear this.
08 03 20 0929Hrs	HE	CoP	Whatsapp message And of course if ty need anything from us/HMG just ask. Hope your guys are ok.
08 03 20 0941Hrs	CoP	HE	Whatsapp message Thanks Nick.
08 03 20 0949Hrs	CoP	CM	Whatsapp message CM - the information suggests that the collision took place outside BGTW - approx 6NM east off the runway/Santa Barbara beach. (Note this is information and not yet confirmed evidence)
08 03 20 0953Hrs	CoP	CM	Whatsapp message When a death arises from police contact its best practice to engage with an independent investigating team & I am studying how to achieve this.
08 03 20 0953Hrs	CM	CoP	Whatsapp message Ok. We need to liaise with AG on this and ensure we are transparent on this.
08 03 20 0954Hrs	CM	CoP	Whatsapp message Yes, agreed. Any necessary additional expenditure will be approved.
08 03 20 0954Hrs	CoP	CM	Whatsapp message Many thanks.
08 03 20 1031Hrs	GPA Ch	CoP	Whatsapp message Thanks - I saw it on the news feed.
08 03 20 1058Hrs	GPA CH	CoP	Whatsapp message Not asking any questions of you in view that it is under investigation and for Coroner to determine. Just like to say that it is unfortunate, to say the least!
08 03 20 1140Hrs	AG	CoP	Whatsapp message Been in New Mole for the last hour or so. Cooperation RGP/Spanish LEAs very good. New RGP Press Release today will say good cooperation with ES, drug related activity, 2 deaths are Spanish nationals of North African descent. Investigation continues. PR will not say where incident occurred but it is virtually certain it was outside BGTW eastern side opposite runway. It also seems that part of the chase was within BGTW. (This is a text the AG sent to CM which he copied to CoP. He sent me the copy straight after he sent it to the CM after I asked him who was going to brief up to CM)
08 03 20 1220Hrs	MoJ	CoP	Whatsapp message Hi. How are the officers?
08 03 20 1312Hrs	CoP	MoJ	Whatsapp message

			Our officers are ok. We are constantly keeping tabs of their welfare. We are expecting them to come today at some point to provide a detailed account of what occurred. This is in accordance with our force policy on post incident procedure. Thanks fro your interest. Its much appreciated.
08 03 20 1333Hrs	HE	CoP	Whatsapp message Thanks for the briefing. I'll do a quick note for London for when it hits the press. Line will be. Investigation ongoing. Spanish nationals from Ceuta (did you say one person was Portuguese). Not sure in whose waters incident took place. RGP seeking assistance from UK police authorities. No assistance needed from FCO at this stage.
08 03 20 1346Hrs	CoP	HE	Whatsapp message Yes all correct. Indeed one was Portuguese.
08 03 20 1347Hrs	CoP	HE	Whatsapp message Trying to clarify exact position of the collision.
08 03 20 1356Hrs	HE	CoP	Whatsapp message Ok. Thanks.
09 03 20 1015Hrs	HE	CoP	Whatsapp message Morning. I was with the AG last night and we wondered whether it would be worth having an update at some stage later this morning. We are keen to reach ioutnto Spain given talks this week in London (please protect).
09 03 20 1016Hrs	HE	CoP	Whatsapp message Michael and I are happy to come to NMH when convenient for you. Nick
09 03 20 1125Hrs	CoP	HE	Whatsapp message Happy for you to come to NMH. I am here now. Please feel free to come round.
09 03 20 1150Hrs	HE	CoP	Whatsapp message Michael and I will come to you @ 12.05
09 03 20 1131Hrs	CoP	AG	Whatsapp message Morning Michael - Nick Pyle tells me you want to meet. I am here at my office.
09 03 20 1152Hrs	CoP	HE	Whatsapp message Let me know when you're downstairs and I will come down to meet you.
09 03 20 1152hrs	HE	CoP	Whatsapp message Will do.
09 03 20 1205Hrs	HE	CoP	Whatsapp message Just arrive in reception
09 03 20 1205	CoP	HE	Whatsapp message Coming down
09 03 20 1433Hrs	CoP	GPA CH	Whatsapp message Joey - been working through the weekend on this collision case. I am going to email you, (or if you want Elka), to formally notify you of the incident and refer you the fact that an investigation is underway. For purposes of transparency, this investigation should be independent & therefore I am trying to source out a team willing to take on the task. In UK the IOPC (our PCB) would decide

			whether the investigation would be wholly independent of managed by them with an external 3rd party (senior officer) overseeing on their behalf. If we applied that locally, it would mean the PCB would manage the investigation and we'd require a senior UK Officer to oversee it on the PCB's behalf. The field work though would be done by RGP Professional Standards. It may not be the best model as the independence element is not total. Then again for practicalities sake it may prove useful. I need to discuss the matter further with you & perhaps Frank too but I'm conscious that you're away. I have held meetings with the AG & HE (Nick Pyle) and they support my intent to secure the best model to use. Regards Ian
09 03 20 1435Hrs	GPA CH	CoP	Whatsapp message Thanks - best model to use, in my view, would be to outsource completely
09 03 20 1435Hrs	GPA CH	CoP	Whatsapp message If I'm honest, the PCB would not have the necessary expertise
09 03 20 1436Hrs	GPA CH	CoP	Whatsapp message Neither would anybody in the GPA, if we are honest
09 03 20 1436Hrs	CoP	GPA CH	Whatsapp message I agree - I share your views. It would be most unfair on PCB.
09 03 20 1439Hrs	CoP	GPA CH	Whatsapp message The GPA/PCB (Police Complaints Board) should though retain some control similar to that when they receive a complaint against Police. Technically there isn't a complaint as no family member has yet filed one but it could happen. Even if it didn't happen, the fact that deaths have occurred we should treat this as an external complaint and not as internal one generated by the RGP itself. This aside for the concurrent coroner's investigation that will also take place.
09 03 20 1440Hrs	GPA CH	CoP	Whatsapp message There has been another death at sea and GPA was not involved - why is this different ?
09 03 20 1441Hrs	CoP	GPA CH	Whatsapp message Because it wasn't arising from contact with the Police. It was Customs.
09 03 20 1441Hrs	GPA CH	CoP	Whatsapp message OK- I see
09 03 20 1441Hrs	CoP	GPA CH	Whatsapp message Customs have it easier
09 03 20 1442Hrs	GPA CH	CoP	Whatsapp message Ok - we would both be back tomorrow – (Referring to Mr Frank Carreras the PCB Chairman and himself. They were away from Gibraltar).
09 03 20 1443Hrs	CoP	GPA CH	Whatsapp message I will work to get an independent team out. ASAP. & we can discuss tomorrow. Time is of essence, will explain in person..... Politics.

09 03 20 1444Hrs	GPA CH	CoP	Whatsapp message We can have a discussion about this tomorrow - I'm sure we'll take your advice anyway
09 03 20 1444Hrs	GPA CH	CoP	Whatsapp message I'll give you a call tomorrow as soon as I get back
09 03 20 1444Hrs	CoP	GPA CH	Whatsapp message Many thanks
09 03 20 1445Hrs	GPA CH	CoP	Whatsapp message As I said, whatever is best practice etc
09 03 20 1445Hrs	CoP	GPA CH	Whatsapp message Thumb up emoji
09 03 20 1515Hrs	GPA CH	CoP	Whatsapp message Ian - I'm flying in to Malaga tomorrow at around 5.00 so I'll call you as soon as I'm in Gib - even if it's late in the evening... ok?
09 03 20 1525Hrs	CoP	GPA CH	Whatsapp message Of course. No probs.
09 03 20 1542	GPA CH	CoP	Thumb up emoji
10 03 20 1018Hrs	CoP	NPocc	Email Email sent to Ch Supt Goddard of the National Police Coordination Centre in the United Kingdom requesting aid for Op Kram. The ask is for an independent team to fly out to Gibraltar and assume conduct of the investigation.
10 03 20 1133Hrs	GPA CH	CoP	Whatsapp message Ian I've had to change travel plans and get the AVE instead of flying! I'll be in Gib later than expected - if you prefer, I can go to see you with Frank (hopefully) on Wednesday morning? Let me know if you are ok with this...
10 03 20 1229Hrs	CoP	GPA CH	Whatsapp message Yes fine. I am going to forward you an email I have sent to UK NPOC who coordinate requests for assistance. Its just for your information.
10 03 20 1256Hrs	GPA CH	CoP	Whatsapp message OK
10 03 20 1259Hrs	GPA CH	CoP	Whatsapp message When you can also let me know the time to meet tomorrow
10 03 20 1309Hrs	CoP	GPA CH	Whatsapp message Can do anytime. Shall we fix for 9am?
10 03 20 1317Hrs	GPA CH	CoP	Whatsapp message See you then.
10 03 20 1328Hrs	GPA CH	CoP	Whatsapp message Got your email but for some reason I can't reply! Do you need me to do anything? Do you want me to see if Nick can help?
10 03 20 1328Hrs	CoP	GPA CH	Whatsapp message Don't need anything from yourself, it was just for your info. Gonna speak with Nick now.
10 03 20 1328Hrs	GPA CH	CoP	Whatsapp message OK.

10 03 20 1329Hrs	GPA CH	CoP	Whatsapp message Count on me – you know that
10 03 20 1332Hrs	CoP	GPA CH	Whatsapp message I know. Many Thanks.
10 03 20 1254Hrs	NPocc	MPS DPS CoP	Email – Email from Ch Supt Goddard of Npo advising the Metropolitan Police Directorate of Professional Standards that the RGP will be making a request for assistance via the FCO.
10 03 20 1302Hrs	CoP	NPocc MPS	Email – Email from CoP to Ch Supt Goddard of NPocc copied to Supt Wagstaff of the Met. *Nigel – many thanks for you prompt action. His Excellency the Governor, Nick Pyle, the FCO's rep in Gibraltar is apprised.* *Regards* *Ian*
10 03 20 1307Hrs	CoP	HE	Email YE – please see below thread (referring to the above emails with NPoCC) with the UK's National Police Coordination Centre in my efforts to source an independent investigation team. It is highly likely that the MPS will be taking on the task. You will read that that I have been asked to alert you of my request so that FCO and HO London link up. Best wishes Ian
10 03 20 1315Hrs	CoP	HE	Whatsapp message Nick – can you take a call?
10 03 20 1316Hrs	HE	CoP	Whatsapp message Happy to but in 10 minutes. Please call the mobile.
10 03 20 1317Hrs	CoP	HE	Whatsapp message OK (emoji symbol)
10 03 20 1336Hrs	HE	CoP	Email Ian, Thanks. I have asked FCO London to action and also and also if we need anything a touch more formal. I suspect we might need a letter.
11 03 20 1802Hrs	CoP	AG	Whatsapp message Michael - we have still not provided any official account to GC of the incident at sea and they have asked for a brief from us. I am now at a stage where I also require background details of those who were on-board the RHIB as this is being requested by the independent investitagtion team. I can hardly ask them for these details when we haven't released anything official to them. Its only prudent to do so I propose to send them the below details and on the back of this make our request to them. I would appreciate your views on what I propose to send. STARTS Ref: Initial Incident Report – Collision at Sea with fatalities At about 0300hrs on Sunday 8th March 2020, officers from the Royal Gibraltar Police Marine Interceptor Sir John Chapple (Bravo

			4) communicated with the Guardia Civil COS in relation to the presence of a suspect susect vessel activity in waters off the Playa de Santa Barbara, near to the eastern side between Gibraltar and La Linea. Bravo 4 deployed and remained ready to engage at a point approximately 3 miles East of the runway. Soon afterwards a chase ensued with the suspect vessel and Bravo 4 challenging the vessel, a 14mt semi-rigid hulled inflatable vessel (RHIB) crewed by 4 occupants, powered by 4 x 300hp engines and fitted with Garmin radar. The said vessel was suspected to be involved in illicit drugs trafficking activity. During the course of a high-speed pursuit shortly afterwards, there was a collision between both vessels, and this resulted in the death 2 of the 4 RHIB's occupants, namely: [redacted] [redacted] The remaining 2 occupants sustained injuries of various types, and were conveyed to St Bernard's Hospital in Gibraltar where they received treatment for their injuries and later discharged. [redacted] [redacted] Both [redacted] and [redacted] were arrested on suspicion of Importing a Prohibited Import (14mt RHIB), Dangerous Navigation and Obstructing Police. [redacted] gave a "No comment" interview at New Mole House Police station and [redacted] gave only a brief account of events stating that he had been 1 of the 4 RHIB's occupants and that they had been chased by Police between Gibraltar and Spanish waters prior to the collision between both vessels. Both [redacted] and [redacted] were later bailed out in the sum of £2500.00 to return to New Mole House Police Headquarters at 1100hrs on the 4th June 2020 whilst enquiries continue.

			A Coroner's investigation is already underway into the deaths of [redacted] and [redacted], and post-mortem examinations will be conducted by a Forensic Pathologist on Wednesday 11th March and Thursday 12th March 2020. The Commissioner of the Royal Gibraltar Police has sought assistance of specialist investigators from the United Kingdom. ENDS
11 03 20 1858Hrs	HE	CoP	Email Ian, Good to hear about progress re Met help. Are we any clearer as to where the collision took place? London are keen to know whether it was inside or outside BGTW and if the latter, approximately by how far. Regards Nick
11 03 20 1907Hrs	CoP	HE	Email response Nick – we are getting there on establishing exact co-ordinates of where collision took place. We are tying up some loose ends and probing further from WHSS and should be able to confirm soon. It is, high probable it did occur out BGTW. We are getting plotted which will provide as better understanding in terms of distance from BGTW. Best regards Ian
11 03 20 1909Hrs	CoP	AG	Whatsapp message HE (Nick) is asking for confirmation of where collision took place as London are keen to know. I have informed him along the same lines that you advised CM ie that is highly probable that it happened outside BGTW.
11 03 20 1915Hrs	AG	CoP	Whatsapp message Ian that seems fine to me. Factual whilst being amenable to further precision once you o Tain further details.
11 03 20 1933Hrs	CoP	AG	Whatsapp message Ok (Thumb up emoji)
12 03 20 1549Hrs	CoP	GPA CH	Whatsapp message Joey - just sent you an email with an update press notice I want to send. The Met team coming over asked me to consider this. i have shared it with them too & I'm waiting for a reply.
12 03 20 1617Hrs	CoP	HE	Whatsapp message Nick – Please let me know when you can take a call.
12 03 20 1630Hrs	HE	CoP	Whatsapp message I'll call now
15 03 20 1326Hrs	CoP	AG	Whatsapp message Michael - Can I come round to see you tomorrow for a quick discussion regarding issues with potential political connotations ref the collision at sea incident?
15 03 20 1327Hrs	AG	CoP	Whatsapp message Sure. Anytime

15 03 20 1328Hrs	CoP	AG	Whatsapp message Thanks. I know the CM wanted a face to face with me but given all that is happening it'll be difficult for me to reach him.
16 03 20 1049Hrs	CoP	AG	Whatsapp message Can i come round to see Michael?
16 03 20 1049Hrs	AG	CoP	Whatsapp message In a virus crisis meeting
16 03 20 1052Hrs	CoP	AG	Whatsapp message Ok. Please let me know when I can come round. I am heading to the bunker too to catch up with Ivor.
16 03 20 1053Hrs	AG	CoP	Whatsapp message He's in same meeting as me
16 03 20 1053Hrs	CoP	Ag	Whatsapp message (Hand to face emoji)
17 03 20 1231Hrs	CoP	AG	Whatsapp message Michael - can we meet briefly to discuss the progress of the collision at sea investigation.
17 03 20 1232Hrs	AG	CoP	Whatsapp message Yes Ian today is better. Come whenever you want I
17 03 20 1232Hrs	CoP	AG	Whatsapp message I'll be there by 1pm
17 03 20 1343Hrs	AG	CoP	Whatsapp message All good Ian. Proceed as we discussed (This message relates to the the AG who is reverting to me after briefing up the CM on my intended approach with the Guardia Civil. I was going to have a face to face meeting with GC and also introduce the Met Police team who wanted to engage with GC. Purpose of meeting was to try and get a good understanding of what the GC and/or the Spanish courts were contemplating to do.
17 03 20 1343Hrs	CoP	AG	Whatsapp message Ta. OK (emoji symbol)
17 03 20 1339Hrs	GPA CH	CoP	Whatsapp message Ian – how are things?
17 03 20 1340Hrs	CoP	GPA Ch	Whatsapp message In terms of coping with demands and investigation.
17 03 20 1341Hrs	CoP	GPA CH	Whatsapp message Ploughing on with all thats on our plate. We have 13 officers in self isolation. We are adjusting ourselves accordingly to be as resilient as possible.
17 03 20 1344Hrs	GPA CH	CoP	Whatsapp message Understood, keep safe Ian.
17 03 20 1334Hrs	GPA CH	CoP	Whatsapp message Any news on the other fronts
17 03 20 1344Hrs	GPA CH	CoP	Whatsapp message Or do you prefer I call?
17 03 20 1345Hrs	CoP	GPA CH	Whatsapp message Can I brief you later.
17 03 20	GPA	CoP	Whatsapp message

1346Hrs	CH		I know you are extremely busy - I'll arrange for a call tomorrow at some point -take care.
17 03 20 1347Hrs	CoP	GPA CH	Whatsapp message OK (emoji symbol)
17 03 20 1347Hrs	GPA CH	CoP	Whatsapp message Thumbs up emoji
18 03 20 1530Hrs	CoP	AG	Whatsapp message Michael - Held video conference with GC as they wouldn't meet face to face because of the pandemic. They were obviously cagey with our UK colleagues but it served well to demonstrate that we were totally transparent. The UK team were happy with the meeting. What I was able to elicit from GC is that a judge is still to be assigned the matter & it is likely that it'll be a judge from La Linea. Again because of their lock down there are delays in their courts. GC anticipate that when appointed, the judge will request information and accounts from us. What form this will take is not clear - the judge could potentially summons our officers to provide their statements in person or simply request their accounts via police to police channels. What mechanisms we should rely on to facilitate this, were we to oblige, is something we'll need to discuss. GC also expects the family of the deceased to file a complaint in their courts to seek compensation. This will no doubt complicate matters for us as the judge may be swayed to look at the matter from a different perspective in terms of where the collision took place. GC are requesting from us for photos of the vessels, post mortem reports & statements from those involved in the collision. We have to carefully study this request and weigh the pros and cons of withholding the data or provide it at some point. Speak soon.
19 03 20 1330Hrs	Cop	GPA CH	Whatsapp message (copied text I sent to AG) Michael - Held video conference with GC as they wouldn't meet face to face because of the pandemic. They were obviously cagey with our UK colleagues but it served well to demonstrate that we were totally transparent. The UK team were happy with the meeting. What I was able to elicit from GC is that a judge is still to be assigned the matter & it is likely that it'll be a judge from La Linea. Again because of their lock down there are delays in their courts. GC anticipate that when appointed, the judge will request information and accounts from us. What form this will take is not clear - the judge could potentially summons our officers to provide their statements in person or simply request their accounts via police to police channels. What mechanisms we should rely on to facilitate this, were we to oblige, is something we'll need to discuss. GC also expects the family of the deceased to file a complaint in their courts to seek compensation. This will no doubt complicate matters for us as the judge may be swayed to look at

			the matter from a different perspective in terms of where the collision took place. GC are requesting from us for photos of the vessels, post mortem reports & statements from those involved in the collision. We have to carefully study this request and weigh the pros and cons of withholding the data or provide it at some point. Speak soon.
19 03 20 1332Hrs	GPA CH	CoP	Whatsapp message OK – thanks for this Ian
19 03 20 1332Hrs	GPA CH	CoP	Whatsapp message
20 03 20 1028Hrs	GPA CH	CoP	Whatsapp message Good morning, Ian - just a thought, are you keeping Governor abreast of developments...? Also, maybe send an update to CM via the WhatsApp? Note that this is just my thinking and nobody has actually asked me but I think it would be prudent...?? See what you think
20 03 20 1054Hrs	GPA CH	CoP	Whatsapp message Developments in respect of maritime accident, I meant...
20 03 20 1058Hrs	CoP	GPA CH	Whatsapp message Yes The Convent is up to speed and AG too. Michael fed up to CM. By next week the UK Team will have more clarity on what route they will be suggesting this should take locally. That is a good point to provide a more formal update.
20 03 20 1058Hrs	GPA CH	CoP	Whatsapp message Ok understood! Thank you, Ian.
20 03 20 1059Hrs	GPA CH	CoP	Whatsapp message As long as both are kept updated, that was my concern...
20 03 20 1059Hrs	CoP	GPA CH	Whatsapp message Thumb up emoji
06 04 20 1222Hrs	CoP	AG	Whatsapp message Michael - could I come round to meet and discuss the collision at sea matter. I am conscious this won't go away and would like to at least have the strategy in place for when the time comes to act.
06 04 20 1357Hrs	AG	CoP	Whatsapp message Now?
06 04 20 1403Hrs	CoP	AG	Whatsapp message No not now, during the course of the week or when you can.
06 04 20 1404Hrs	AG	CoP	Whatsapp message Ok. I can do now if it suits you
06 04 20 1415Hrs	CoP	AG	Whatsapp message I am at the bunker at a meeting. Will let you know when I'm out if you can still see me.
06 04 20	AG	CoP	Whatsapp message

1416Hrs			Sure
06 04 20 1548Hrs	CoP	AG	Whatsapp message Just leaving the meeting at the bunker. Shall I come round or we leave it for another day this week?
06 04 20 1552Hrs	AG	CoP	Whatsapp message Another day better
06 04 20 1553Hrs	CoP	AG	Whatsapp message Ok. I will have my pa arrange with yours
06 04 20 1553Hrs	AG	CoP	Whatsapp message (Thumb up emoji)
07 04 20 1000Hrs	AG	CoP	Meeting To discuss strategy of how we were going to deal with the Op Kram. I expressed concern with what my officers could be facing once a Spanish judge was assigned to the case. AG was stressing that we had to focus that this was a joint effort by GC and RGP to tackle organised crime and that yes, perhaps the RGP went too far by going out of BGTW but in essence they were discharging a law enforcement role and he would be happy to defend that position. Discussed the correlations with the Alcaidesa incident where RGP officers also went beyond their remit in to Spain and how that particular case had dragged on for 10 years and therefore I wanted a Gibraltar PLC strategy to deal with the case if only to keep on file until such time as we had to activate it. AG fully agreed with me and undertook to discuss with the CM whom he had quick access to.
22 04 20 1200Hrs	AG DPP	CoP	Meeting – To discuss Op Kram. Correspondence being received from the lawyers representing the families indicating that they would be making civil claims for damages. I enquired about legal representation and again the need to agree a [Gibraltar] strategy given all the strands the matter had (i) Coroners inquiry, (ii) Professional Standards investigation, (iii) the Spanish dimension in terms of courts and politics AG undertook to keep the matter alive with CM pending any developments on the political front. Spanish judge had still not been appointed because of the Covid19 lockdown measures in Spain. DPP said the civil claim hadn't been filed yet so there was no need to engage counsel as yet. AG wanted to have sight of the final investigation report from the UK before giving further thought to the strategy.
11 05 20 1353Hrs	CoP	CM MoJ AG	Email CM- MoJ- AG For your information I refer to the attached document which is a response to parliamentary question in Spain. He question was asked by Agustin Rosety from VOX. It has been published by the Senate today. I have not shared it with HE in case you wanted to

			touch base with him yourselves. I draw your attention to the 3rd paragraph that according the the Spanish Foreigh Ministry had not made a request for support on the night in question. We do, however, have evidence there was a constant exchange of communication between GC and RGP on the movements of the suspect vessel which they were with their SIVE costal cameras and relaying this to our crew. The GC maritime assets deployed in the area that night. I am asking SB to monitor social media because no Rosety will take to posting about the matter. Regards Ian
11 05 20 2111Hrs	MoJ	CoP	Email response Thank you Ian KR Samantha
12 05 20 0715Hrs	AG	CoP	Email response Thanks Ian

Informal Record of Meeting with HE the Governor and the Chief Minister, Monday 18th May 2020.

The Governor called on the Chairman of the Gibraltar Police Authority to meet with him and the Chief Minister.

The purpose of the meeting was to express grave concerns about certain aspects of policing in Gibraltar which had come to a head in the week before.

The first is the publication of the HMICFRS Report into the RGP.

The second is the publication of news of the filing of legal claims in Spain by the relatives of the Spanish citizens killed in an incident at sea (which undoubtedly happened outside of BGTW).

The Governor expressed his view that the Chief Minister should introduce the subject for both, as both had already spoken, as required under the Police Act.

The Chief Minister said that the position was that BOTH the Governor and the Chief Minister had lost confidence in the Commissioner of Police.

The Chief Minister set out what his concerns were by reference to the provisions of Section 34 of the Police Act given that this is the provision that allows for the GPA, after consultation with the Governor and the Chief Minister, to call upon the Commissioner to retire – and that these are the best objective criteria of 'confidence' available.

Ahead of that the Chief Minister noted that Section 13 (1) (f) of the Police Act also gives the Governor authority to call for the **resignation** of the Commissioner where the Authority has failed to discharge its responsibility.

The Chief Minister explained that both the Governor and he were particularly alive to the not so subtle differences between a 'retirement' (S.34) and a 'resignation' (S.13). The effect may be the same, but the route and signposting is markedly different. Both have recorded that the power of the Governor is much more explicit, for good reason.

The Chief Minster further explained that the GPA have power to "remove" a Commissioner (as per the heading of S.34, which is not relevant to interpretation) by inviting "retirement". The GPA would do so in the

interests of policing in Gibraltar when seen through the prism of 5 key elements.

The GPA are therefore being invited by the Governor and the Chief Minister together to consider whether they believe that all OR any (note it is a disjunctive, not a conjunctive list) of the following 5 have been impacted.

The Chief Minister's view on the five criteria were clear.

1. The first criteria is Efficiency:

(a) The HMICFRS Report ('the Report') could not be clearer in the Chief Minister's view in respect of the efficiency of the RGP. A large number of the findings of the Report go directly to efficiency directly and indirectly. It is, however, shocking to see the explicit reference in the first sentence of the second paragraph of the Report, marked 'Overview' on page 7 of the Report, to both 'efficiency' and 'effectiveness' (see item 2 below). This makes out a clear basis for serious concern on this issue (and item 2) given the rank the Commissioner held in 2016 and the fact that he has held the helm at the police since 2018. Additionally, it is equally explicitly stated under S.33(1)(a) of the Act that the buck stops with the Commissioner on efficiency:

> S.33(1)***The Commissioner*** *shall, subject to the provisions of this Act, have command, superintendence, direction and control of the Force, and* ***shall be responsible for the efficient administration and government of the Force*** *and for the proper expenditure of all public moneys appropriated for the service thereof.*

Indeed, in his application for the role of Commissioner, the Chief Minister reminded, the now Commissioner had set out (as his 'Key Action 10') that he would immediately upon appointment establish a working group to ensure that the recommendations of the 2015/6 HMIC Report had been implemented by the **1st March 2019**. This date had not been met and it is not clear if the working group had even been established. This 'Key Action' was considered by the Commissioner to be necessary for the RGP to be a 'continuously progressing and professional police force.' Despite that, not only have the 2015/6 reports not been complied with, new and more serious recommendations have had to be made by the HMICFRS in 2020.

(b) The incident at sea is further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction. The effect of the events at sea will create great financial and operational difficulties for the RGP. The RGP has already had to expend funds (which it has sought as supplementary or additional funds from Government) in an external report into the incident at sea. This is being provided by the Met Police in London. Additionally, the RGP is now facing the potential for its officers to be investigated and prosecuted in Gibraltar and / or Spain, officers potentially be legally extradited to Spain for homicide, the resulting high level of legal fees to be incurred and the potentially huge payments of damages to the families which will arise as a result and which will have to be met by the Gibraltar tax payer. An investigation will also be required into what Standard Operating Procedures are in place – approved by senior management – in respect of operations at sea. All of this vitiates efficiency entirely. The issue is a pressing one. The Metropolitan Police are already carrying out an investigation. The delay in that report being provided, and Spanish press reports of claims already filed, may lead to the Chief Minister exercising his powers udner S.15(1)(a) powers to seek a factual report or assessment. The Chief Minister has already raised this with the Governor. A ***note verbal*** complaint has been filed by the Spanish authorities on these events which the Chief Minister is waiting to see before he decides whether to exercise his powers, given he as received scant information until now from the Commissioner. It would be the first time since the Police Act came into effect that this power has been exercised.

2. Effectiveness:

(a) In respect of the HMICFRS Report, on this limb of the considerations, the points in re 1 above are linked, in particular in the sentence at the beginning of paragraph 2 of the 'Overview'. The report is similarly laced with matters referring to this aspect of the interest of policing in Gibraltar.

(b) In respect of the incident at sea, the effectiveness of the RGP is impacted as already set out in point 1 above. Additionally the RGP found itself without a key marine asset for some time and its effectiveness as sea was therefore even more severely impacted. Effectiveness of the RGP will now be seriously under threat given the onslaught of legal work which will be required in order to address the claims made, as well as those likely to be made, in respect of this incident.

3. & 4. Probity & Integrity: The Chief Minister felt it was best to consider limbs 3 & 4 together as, in his view, they are inextricably linked.

(a) & (b) In the context of the Report (in particular its references to a failure to even understand the potential for, let alone the actual instances of, corruption) and the matters relating to the reporting to us of the events at sea involving the death of two Spanish nationals, this is an area of huge concern to both the Governor and the Chief Minister. Both feel that their respective dealings with the Commissioner have left them with the sense that he is lacking in both probity and integrity in his dealings with them. The Chief Minister indicated that he had held discussions with the Attorney General which led him to believe that Mr Llamas felt the same way, although he obviously could not speak for him.

(c) The Chief Minister also shared another event occurring last week which had left him also in a situation where the Commissioner had expressly misled him and which left him unable to believe the Commissioner.

The Chief Minister stated that for him this is possibly the issue of deepest concern as it goes to the integrity and probity of a key individual in the maintenance of the respect for the Rule of Law. Additionally, that individual, as Commissioner is, in the Chief Minister's view, at the head of the organisation that is institutionally one of the guardians of the Rule of Law alongside the Executive and the Judiciary. For the Chief Minister, to an extent the police becomes a fourth branch of government in the maintenance and preservation of the Rule of Law. The Chief Minister stated that without the Rule of Law we are unrecognisable as a nation. The Chief Minister said that he can imagine no greater concern than this in the context of his ability to discharge his oath to the Crown and to the People as Chief Minister.

5. Independence:

(a) This area of concern is highlighted in the parts of the report that deal with the potential for corruption and, consequently, influence, which, given the answers set out in the Report, is clearly not even understood in the RGP. Again, these concerns can cut across the Rule of Law in a meaningful way. It is not possible for the RGP to assert that it is acting independently in any investigation or matter unless it has properly addressed this recommendation that has remained outstanding for the period of the Commissioner's service to date – despite his assertions of wanting to address the issues in his application.

His Excellency then expressed his views.

The Governor said that the Chief Minister had expressed views he entirely shared.

His Excellency stated that, in addition, he had felt misled when the incident at sea had occurred and that he felt he had not received all information available to the RGP in respect of that event. He said that there had been no proactivity in addressing the events especially given the serious outcome which had resulted in loss of life. He felt he had been left with no choice but to seek further information when this should have been forthcoming without the need with persistent enquiry from him. He said he felt this left a lot to be desired.

As a result, the Governor and the Chief Minister consider that, given the views that they have now expressed it is for the GPA to take this forward in the first instance.

They ask the GPA to consider these extremely serious concerns and issues and that the GPA should engage its powers under Section 34 of the Act which specifically provides that the GPA's action to "call upon" the Commissioner to retire cannot be commenced until BOTH the Governor and the Chief Minister have been consulted and ONE of has agreed. (The part of the clause that relates to consultation is conjunctive and the part that relates to agreement is disjunctive). BOTH in fact agree that the Commissioner should be invited to retire by the GPA.

It is now a matter for the GPA to decide how to act and to decide that they want to engage the S.34(1) power.

If the GPA decide to go down this road, the first step is to allow the Commissioner to make representations, if he wishes, under S.34(2).

It will of course be necessary for the GPA to consider any representation the Commissioner might make.

Thereafter, if the GPA are of the view that the Commissioner should be invited to retire, then that is when they would need to consult BOTH of the Governor and the Chief Minister and then seek the agreement of ONE of them. The Governor and the Chief Minister would then also have the benefit of any representation that the Commissioner might have made under S.34(2) in expressing a final and firm view.

ENDS

GIBRALTAR POLICE AUTHORITY
(The Community in Policing)

22nd May 2020

Commissioner Ian McGrail OTM MSc
Royal Gibraltar Police
New Mole House

Dear Commissioner McGrail,

Our meeting earlier this morning refers.

Please find below the main issues contributing to the loss of confidence, as expressed to the Authority by the Governor and the Chief Minister:

Efficiency:

The HMICFRS Report is clear in respect of the efficiency of the RGP. A large number of the findings of the Report point directly to 'inefficiency' directly and indirectly.

It was also pointed out to the Authority that in your application for the role of Commissioner you would, if successful, immediately set up a working group to ensure that the recommendations of the 2015/6 HMIC Report had been met by the 1st March 2019. This action point was considered by you to be necessary for the RGP to be a 'continuously progressing and professional police force.' Not only have the recommendations and action points set out in the 2015/6 reports not been complied with but now, in addition, new and more serious recommendations have had to be made by the HMICFRS in 2020.

The incident at sea was pointed out as further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction. The Authority notes that the Chief Minister has written to you, seeking further information on this matter given that neither he or the Governor seem to have a full picture of what actually transpired.

Effectiveness:

As a result of the above, as well, the RGP found itself without the use of a vessel for some time and the RGP's effectiveness as sea was therefore severely impacted. The effectiveness of the RGP will also now be seriously compromised given the increased

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legal workload which will arise as a direct result of the claims made and all the corollary effects that they will give rise to.

Probity & Integrity:
It was communicated to me that both the Governor and the Chief Minister felt that their dealings with you have left them with the sense that you are lacking in both probity and integrity – the maritime incident is a case in point.

Independence:
This area of concern was also brought to the attention of the Authority by reference to the parts of the report that deal with the potential for corruption and, consequently, influence, which, given what is identified in the Report, seems not to be completely understood in the RGP. They expressed the view that it is not possible for the RGP to claim that it is acts independently in any investigation or matter unless it has properly addressed this recommendation that has remained outstanding for the period of your service.

I trust that this serves to clarify matters further.

Yours,

JJ Britto
Chair
Gibraltar Police Authority

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GIBRALTAR POLICE AUTHORITY
(The Community in Policing)

22nd May 2020

Commissioner Ian McGrail OTM MSc
Royal Gibraltar Police
New Mole House

Dear Commissioner McGrail,

Invitation to Retire : Section 34 of the Police Act ('the Act')

Our meeting earlier this morning refers.

Today I expressed to you that the Gibraltar Police Authority was calling upon you to retire under the provisions of Section 34 of the Act.

I told you that the reason that the Authority was taking this step arose from the communication by the Governor and the Chief Minister to the Authority that BOTH had lost confidence in your ability to run policing in Gibraltar. The reasons which the Governor and the Chief Minister have provided the Authority for their loss of confidence are summarised in the paragraphs numbers 1 to 5 below and address the relevant factors set out in Section 34(1) of the Act.

Additionally, the Authority itself has agreed with the matters raised by the Governor and the Chief Minister and have taken the view that your position is untenable as Commissioner given that you have lost the confidence of BOTH the Governor and the Chief Minister.

Please find below the main issues contributing to the loss of confidence, as expressed to the Authority by the Governor and the Chief Minister.

1. **Efficiency:**

The Governor and the Chief Minister are very concerned about the findings of the HMICFRS Report ('the Report'). It is clear damning in respect of the efficiency of the RGP. A large number of the findings of the Report address 'inefficiency' directly and indirectly. Indeed, the "Overview" of the Report specifically provides a criticism (para 2, page 7) that the Force is not 'as effective or efficient as it could be'.

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In this respect, the position is clear as to responsibility. Under Section 33 of the Act, it is the Commissioner who is responsible for the efficient administration of the Force. That means that responsibility in respect of this failing rests legally, directly with you.

It was also pointed out to the Authority that in your application for the role of Commissioner you would, if successful, immediately set up a working group to ensure that the recommendations of the 2015/6 HMIC Report had been met by the 1st March 2019. This action point was considered by you to be necessary for the RGP to be a 'continuously progressing and professional police force.' Not only have the recommendations and action points set out in the 2015/6 reports not been complied with but now, in addition, new and more serious recommendations have had to be made by the HMICFRS in 2020.

Additionally, and equally importantly, the incident at sea in March, resulting in the death of two individuals, was pointed out as further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction. The Authority notes that the Chief Minister has written to you directly, under Section 15 of the Act (copied to me as Chairman of the Authority), seeking further information on this matter given that neither he or the Governor seem to have a full picture of what actually transpired. The incident has resulted not just in a diplomatic complaint filed against the United Kingdom and Gibraltar, but also to a vessel being out of action, questions as to standard operating procedures in place and all the other concerns contained in the letter sent to you by the Chief Minister. I do not need to repeat that here, but I would refer you to the paragraphs of that letter which specifically set out that the Chief Minister has no confidence in his having been provided with the information expeditiously about this very serious incident. Additionally, the Governor expressed the view that he feels he has been misled by you about this most serious incident which has resulted in loss of life.

2. Effectiveness:

The issues relating to effectiveness were linked by the Governor and the Chief Minister. Additionally, as a result of the above, the RGP found itself without the use of a vessel for some time and the RGP's effectiveness as sea was therefore severely impacted for some time. The effectiveness of the RGP will also now be seriously compromised given the increased legal workload which will arise as a direct result of the claims made and all the corollary effects that they will give rise to.

3. & 4. Probity & Integrity:

It was communicated to me that both the Governor and the Chief Minister felt that their dealings with you have left them with the sense that you are lacking in both probity and integrity – the maritime incident is one case in point. This is very serious indeed. I think you need to reflect carefully on this. The situation we are in is one where BOTH the Governor and the Chief Minister respectively have expressed this view. It is not one of them that has expressed this view, which would be bad enough, but BOTH of them.

Additionally, the Authority is informed that the Attorney General has also expressed the same feelings.

The seriousness of this cannot be underestimated. The Governor and the Chief Minister expressed to the Authority that they consider that the Rule of Law in Gibraltar is compromised by the fact that they lack confidence in your probity and integrity.

5. Independence:

This area of concern was also brought to the attention of the Authority by reference to the parts of the report that deal with the potential for corruption and, consequently, influence, which, given what is identified in the Report, seems not to be completely understood in the RGP. The Governor and the Chief Minister expressed the view that it is not possible for the RGP to claim that it is acts independently in any investigation or matter unless it has properly addressed this recommendation that has remained outstanding for the period of your service.

It is for those reasons that we are calling upon you to retire on the interests of efficiency, effectiveness, probity, integrity and the independence of policing in Gibraltar, but before doing so are giving you an opportunity, as provided for in Section 34(2) of the Act to make representations which we shall consider.

I trust that this serves to clarify matters further.

I look forward to receiving any representations you may wish to make under Section 34(2) of the Act.

Yours,

JJ Britto
Chair
Gibraltar Police Authority

Unit 25B Casemates Square, Gibraltar
Tel: (+350) 20040918, E-mail: secretary@gpa.gi

CHARLES GOMEZ & COMPANY
BARRISTERS AT LAW

STRICTLY PRIVATE AND CONFIDENTIAL

29th May 2020

Your Ref: CAG/NG/MM11286

Our Ref:

The Gibraltar Police Authority
Unit 25B Casemates Square,
Gibraltar

By Email to secretary@gpa.gi and
[redacted]

Dear Members of the Gibraltar Police Authority,

RE: Invitation to Retire: Section 34 of the Police Act

We write on behalf of our client, Ian McGrail, Commissioner of the Royal Gibraltar Police, in response to the communications to him from the Chair of the Gibraltar Police Authority ('GPA') on 22nd May 2020 which set out the Chair's decision to exercise powers under section 34(1) of the Police Act 2006 ('the 2006 Act'), calling on him to retire and seeking any representations from him under section 34(2). The three communications in question were (1) at a meeting that morning, (2) in a letter ('the first letter') handed to him at the 22 May meeting, and (3) in a further letter, sent to him late that evening ('the second letter').

We thank the Gibraltar Police Authority ('GPA') for giving us the opportunity to make representations. We will explain below why the exercise of the s.34 power vested in the GPA would be wholly unjustified and grossly procedurally unfair. Moreover, there is an extremely troubling aspect to this, of which the Chair is fully aware, and which concerns the rule of law in Gibraltar, and which touches on the fundamental principle of the freedom of the Royal Gibraltar Police ('RGP') to carry out criminal enquiries without interference from politicians or the Attorney General.

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FP1/299

At the outset, we wish to impress on the members of the GPA your solemn duties under the Constitution and the 2006 Act. The GPA is one of the few bodies created under the Constitution. The Constitution requires the GPA to "*be independent in the exercise of its functions*". These functions include, under the 2006 Act, that you must "*ensure high standards of integrity, probity and independence of policing in Gibraltar*". You must also, because you are a constitutional body, act in conformity with the Charter of the United Nations and any other applicable international treaties including the European Convention on Human Rights. It should therefore be self-evident that the GPA plays an essential role in protecting the separation of powers between the executive and police, the rule of law and the rights of the citizens of Gibraltar.

It is in this light that you must make the decision whether to call on Mr. McGrail to retire – a decision which (because of section 34(3)) means he "*shall*" retire. You will therefore not just be making a request but giving him an instruction to prematurely end his distinguished 36-year policing career, and you will be removing from office the principal law enforcement officer of the Crown in Gibraltar. In order to fulfil your constitutional duties, you must make the decision independently from the Governor and Chief Minister. You must not be directed by them. That would be quite wrong, and in violation of your obligations under the 2006 Act and the Constitution.

As set out below, we are deeply concerned by the approach of the Chair in the meeting he had with Mr. McGrail on 22 May. The Chair told Mr. McGrail that if he refused to comply with the invitation to retire then the Governor would use his powers under s.13(f) of the 2006 Act to call for his resignation. The decision was presented to Mr. McGrail as a *fait accompli*. The Chair said in effect that it did not matter how he responded – the result would be the end of his career either because he would be forced to retire in accordance with your request or would be called to resign by the Governor using his power under s.13(f). This is not how your power under s.34 works. It only applies if the GPA considers it is "*in the interests of efficiency, effectiveness, probity, integrity, or independence of policing*" to request that the Commissioner retire, following consideration of any representations made by him. If you do not properly consider these representations and do not make an independent decision you will be acting unlawfully and your decision will be vulnerable to a judicial review challenge.

The damage to Gibraltar as a jurisdiction which claims to adhere to the Rule of Law would be incalculable. As people of standing in our community it will be immediately obvious to you already that the removal of the Commissioner of the Royal Gibraltar Police in the way in which the GPA is being pushed to do is a travesty which will bring shame to Gibraltar and international derision when we are always trying to prove our democratic, non-colonial attributes in every international forum up to the United Nations Special Committee on Decolonization.

The background and motivations which we will proceed to explain (subject to the sensitivities of what is ultimately an ongoing very serious criminal investigation) uncover an abuse of power which is possibly unprecedented in Gibraltar.

The approach the Chair has taken thus far has been for the reasons explained below clearly unlawful. This could *potentially* be remedied by taking a fully independent decision now and concluding that Mr. McGrail should not be removed from office. This must be a decision of the full GPA, not the Chair alone, as the section 34 power vests in *"the Authority"*. The GPA must also carefully consider whether any of its members has a conflict of interest which would exclude them from taking part in the decision-making process.

In light of the errors made to date, we respectfully suggest that you seek independent legal advice in order to assist you in making a lawful decision. We emphasise that it would be inappropriate to take advice from the Attorney General because he has already expressed a view on the substantive issues, as is clear from the second letter of 22nd May, and, moreover, he has played a key role in the issues we refer to in Section (d) below, as the Chair is already aware. We respectfully suggest that it may be prudent for you to take advice from lawyers in the United Kingdom given the multiplicity of local interests arising from this unfortunate case (as, indeed, Mr McGrail has done; he is represented by an expert counsel team from Gibraltar and London).

This letter is divided in to five sections:

(a) Preliminary Point - Recusal Issue;

(b) The legal framework;

(c) The invitation to retire;

(d) Fundamental Unfairness, Abuse of Process and Procedural Failings; and

(e) Response to the substantive issues raised by the GPA.

(a) Preliminary point – Recusal Issue

1. There are two preliminary matters concerning recusal.

2. First, Mr. Nick Pyle is currently named as the member of the GPA appointed by the Governor.[1] He has been the interim Governor since February 2020 and he has had personal involvement in the background to this matter, as we summarise in these submissions. He should play no part in decision-making of the Authority under section 34 in any event, given the distinct role of the Governor under that section. We ask for an assurance that the GPA Chair will ensure that Mr. Pyle is not involved in the GPA's decision-making under section 34.

3. Second, and related, we wish at the outset to raise an issue of very significant sensitivity and concern. It relates to a current police investigation. It would therefore be inappropriate to provide specific details of that investigation save as to the limited extent set out below (we address this further in section (d), as it is relevant to this invitation to retire). We know that the Chair is already aware of the background as it was discussed at his and Mr. McGrail's meeting on 22nd May, when he told Mr. McGrail it was discussed at the meeting when the Chief Minister and Governor said that they and the Attorney General had lost confidence in Mr. McGrail. You will understand that it would not be appropriate for Mr. McGrail to provide more detail of a live investigation. However, we can say that it relates to national security and involves an alleged criminal conspiracy which potentially reaches to the highest levels of the community.

4. This is a further reason why it is essential that the Chair provide reassurance to us that Mr. Pyle will not be involved in the GPA's decision-making under section 34. In addition, we suggest that it would be prudent for a further member of the GPA, Ms. Claire Pizzarello, to recuse herself from decision-making in this matter. We do not provide further details at

[1] http://gpa.gi/about-the-gibraltar-police-authority.html.

this stage, and we trust that the Chair will agree that this would be a sensible course of action in the circumstances. (Should further information be required by the Chair, he should inform us of this.) We emphasise that there is no suggestion whatsoever of Ms. Pizzarello having any personal involvement in the matters in question, and this approach is suggested out of an abundance of caution.

(b) <u>The legal framework</u>

The Gibraltar Constitution Order 2006 ('The Constitution')

5. Chapter 1 of the Constitution protects fundamental rights and freedoms. The Preamble states that the people of Gibraltar's right to self-determination must be "*promoted and respected in conformity with the provisions of the Charter of the United Nations and any other applicable international treaties*". The European Convention on Human Rights is an "*applicable international treaty*".

6. The Constitution protects, amongst other rights, the right to privacy (section ('s') 7) and the right to freedom of expression (s.10).

7. The Constitution provides that there shall be a Police Authority for Gibraltar which "*shall be independent in the exercise of its functions*" (s.48(1)).

The Police Act 2006

8. The 2006 Act establishes the GPA (section 3(1)).

9. Part I sets out the **responsibilities and powers of the GPA**. s. 5 relevantly includes responsibilities: "*to secure the maintenance of an efficient and effective police force for Gibraltar*", "*to ensure high standards of integrity, probity and independence of policing in Gibraltar*", "*to establish, operate and supervise the process for investigating complaints against police officers under this Act*" and "*to hold the Commissioner to account for matters which are the responsibility of the Authority.*

10. Part II sets out the **Governor's and the Government's responsibilities** for policing. Section 13 provides for the Governor's powers "*in default by the Authority*", which are exercisable only where the Authority "*has failed to discharge or perform a responsibility imposed on the Authority under this Act*". The powers include "*where in the opinion of the Governor the integrity, probity or independence of the police has been compromised or is at risk, to direct the Force to take appropriate action to remedy the situation or avoid the risk*" and "*to suspend from duty, or call for the resignation of the Commissioner*".

11. Section 15(1) provides that the Chief Minister may exercise various powers on behalf of the Government, including (a) require factual or assessment reports from the Force or the Authority on any policing matter, provided that there may be withheld from any such report any fact disclosure of which is likely to prejudice the effective operation of the Force.

12. Part IV provides for the establishment of the **Royal Gibraltar Police Force**. Section 32(1) provides for the appointment of the **Commissioner of Police** by the Governor, acting on the advice of the Authority, subject to any provision of the Constitution; for such that the Authority may advise and as shall be set out in the instrument of appointment.

13. Section 33(1) provides that the Commissioner shall, subject to the provisions of this Act, have command, superintendence, direction and control of the Force, and shall be responsible for the efficient administration and government of the Force and for the proper expenditure of all public moneys appropriated for the service. (section 33(2)).

14. Section 34 provides for the removal of the Commissioner by the GPA. It is set out in full below:

> *"34.(1) The Authority acting after consultation with the Governor and the Chief Minister and with the agreement of either of them, may call upon the Commissioner to retire, in the interests of efficiency, effectiveness, probity, integrity, or independence of policing in Gibraltar.*

(2) Before seeking the approval of the Governor and the Chief Minister under subsection (1), the Authority shall give the Commissioner an opportunity to make representations and shall consider any representations that he makes.

(3) Where the Commissioner is called upon to retire under subsection (1), he shall retire on such date as the Authority may specify or on such earlier date as may be agreed upon between him and the Authority."

Human rights

15. The European Convention on Human Rights protects the right to respect for private and family life under Article 8 and the right to freedom of expression under Article 10. Both rights can be interfered with by the state by certain situations but only where that interference is lawful, necessary and proportionate in pursuance of a legitimate aim.

16. The European Court of Human Rights and the Council of Europe (which oversees the European Court) have repeatedly emphasised that corruption threatens the rule of law. There have been a number of cases where sanctions imposed on whistleblowers have been found to breach Article 10 ECHR in cases involving the dismissal of public servants this has sometimes been articulated as an attack on reputation protected by Article 8 ECHR. As you will see below, the law relating to whistleblowers is relevant.

17. In *Guja v. Moldova (No. 1)*[2] the Grand Chamber held unanimously that there had been a violation of Article 10 (freedom of expression). The applicant was Head of the Press Department of the Moldovan Prosecutor General's Office. The case concerned his dismissal for giving a newspaper two letters received by the Prosecutor General's Office which disclosed interference by a high-ranking politician in pending criminal proceedings.

[2] (2011) 53 E.H.R.R. 16.

The Court balanced the conflicting factors under Art.10 and concluded there had been a breach.

> *[72] ... The Court thus considers that the signalling by a civil servant or an employee in the public sector of illegal conduct or wrongdoing in the workplace should, in certain circumstances, enjoy protection. This may be called for where the employee or civil servant concerned is the only person, or part of a small category of persons, aware of what is happening at work and is thus best placed to act in the public interest by alerting the employer or the public at large.*

18. Article 8 ECHR includes the right to protection of reputation.[3] As stated in *Axel Springer AG v. Germany*[4], judgment (Grand Chamber) of 7 February 2012, paras. 83-84:

> *"... [T]he right to protection of reputation is a right which is protected by Article 8 of the Convention as part of the right to respect for private life ... In order for Article 8 to come into play, however, an attack on a person's reputation must attain a certain level of seriousness and in a manner causing prejudice to personal enjoyment of the right to respect for private life ...*

19. The Council of Europe's ***Criminal Law Convention on Corruption*** ("the Corruption Convention") of 27th January 1999 states[5] in its pre-amble that "*corruption threatens the rule of law, democracy and human rights, undermines good governance, fairness and social justice, distorts competition, hinders economic development and endangers the stability of democratic institutions and the moral foundations of society*".

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[3] *Denisov v. Ukraine* [GC], paras. 111-112 and 115-117.
[4] [2012] ECHR 227.
[5] https: www.coe.int en web conventions full list - conventions.rms 0900001680071f15.

20. Each Party to the Corruption Convention shall adopt measures to ensure that persons or entities are specialised in the fight against corruption. They shall have the necessary independence in accordance with the fundamental principles of the legal system of the Party, in order for them to be able to carry out their functions effectively and free from any undue pressure.

21. The preamble to the Council of Europe ***Code of Police Ethics***[6] states that "*the criminal justice system plays a key role in safeguarding the rule of law and that the police have an essential role within that system*". Paragraph 15 provides:

> *The police shall enjoy sufficient operational independence from other state bodies in carrying out its given police tasks, for which it should be fully accountable.*

22. Paragraph 34 states:

> *Public authorities shall support police personnel who are subject to ill-founded accusations concerning their duties.*

23. The ***Committee of Ministers' Recommendation on the protection of whistleblowers*** adopted on 30th April 2014 relevantly states in the preamble that "*freedom of expression and the right to seek and receive information are fundamental for the functioning of a genuine democracy*" and recognises that individuals who report or disclose information on threats or harm to the public interest, i.e. whistleblowers, can contribute to strengthening transparency and democratic accountability. Paragraph 21 states:

> *Whistleblowers should be protected against retaliation of any form, whether directly or indirectly, by their employer and by persons working for or acting on behalf of the employer. Forms of such retaliation might include dismissal, suspension, demotion,*

[6] Adopted 19th September 2001: https://rm.coe.int/16805e297e.

loss of promotion opportunities, punitive transfers and reductions in or deductions of wages, harassment or other punitive or discriminatory treatment.

24. Protection from retaliation is clearly a matter of fundamental importance particularly when the potential victim is none other than the principal law enforcement officer of the Crown in Gibraltar.

(c) **The invitation to retire**

25. On the morning of 22nd May 2020 Mr. McGrail met with the GPA Chair, when the Chair invited him to retire pursuant to s.34(1) of the 2006 Act.

26. The Chair told Mr. McGrail that he had met with the Governor and the Chief Minister on Monday 18th May and they had told him they had lost confidence in Mr. McGrail. He said that he had taken notes of the meeting. It began with the Governor and Chief Minister taking him through the various options under the Police Act and focussing on section 13 (the power of the Governor to suspend from duty or call for the resignation of the Commissioner where the GPA has failed to discharge its duties) and section 34 (the GPA's power to remove the Commissioner from post).

27. The Chair made it very clear that he did not make this decision himself and that in his view the decision was entirely for the Governor and the Chief Minister to make. Although he said Mr. McGrail could make representations, it was made clear to him that if he does not take the offer of retirement then the Governor will trigger his power under s.13 to call for his resignation. It is in effect, an 'offer he can't refuse' – or, to put it another way, it is the equivalent, for an office-holder, of constructive dismissal.

28. It was also made clear to Mr. McGrail that the issue of his handling of the investigation referred to above was an important factor in the decision making by the Governor and Chief Minister. He said that the AG had all lost confidence in him because he had *"lied"* about the particular operation – which he strenuously denied.

29. At the time of the meeting none of the alleged issues with Mr. McGrail's conduct had been put in writing. When Mr. McGrail highlighted that this was unfair, the Chair offered to provide him with his notes of the 18th May meeting. Mr. McGrail asked for the reasons to be put in writing so he could properly respond.

30. At the meeting, Mr. McGrail was handed a letter containing a formal notification of the exercise of the s. 34(1) power ('the first letter'). This was a short letter which provided no detail save for referring to "*grave concerns expressed by both the Governor and the Chief Minister, in respect of certain aspects of policing that have led to a serious and regrettable loss of confidence in you*". It was clear from the letter that a decision had already been reached to invite Mr. McGrail to retire ("*Given the above, the Authority invites you to retire*"), however, confusingly, the letter also invited representations pursuant to s.34(2) which "*shall, of course, be fully taken into consideration to allow the Governor, the Chief Minister and the Authority to express a firm and final view*". Mr. McGrail was given 7 days to respond to the initial letter (i.e. by today, 29th May – a period which included a long weekend) and invited to seek more time if required.

31. Mr. McGrail received a second letter late on Friday night, 22nd May, which provided more detail, relevantly stating:

    a. "*the reason that the Authority was taking this step arose from the communication by the Governor and the Chief Minister to the Authority that BOTH had lost confidence in your ability to run policing in Gibraltar.*"

    b. "*Additionally, the Authority itself has agreed with the matters raised by the Governor and the Chief*

    c. Five "*main issues*" (in reality, these are four issues as two run together) were set out "*contributing to the loss of confidence*", including:

i. Efficiency: "*The Governor and the Chief Minister are very concerned about the findings of the HMICFRS Report ('the Report'). It is clear* (sic) *damning in respect of the efficiency of the RGP....*"

ii. "*Additionally, and equally importantly, the incident at sea in March, resulting in the death of two individuals, was pointed out as further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction.*"

iii. "*I would refer you to the paragraphs of that letter which specifically set out that the Chief Minister has no confidence in his having been provided with the information expeditiously about this very serious incident... [he has] expressed the view that he feels he has been misled by you...*"

iv. Effectiveness: that the RGP found itself without the use of a vessel for some time and will now be "*seriously compromised given the increased legal workload*".

v. Probity and integrity "*It was communicated to me that both the Governor and the Chief Minister felt that their dealings with you have left them with the sense that you are lacking in both probity and integrity – the maritime incident is one case in point...*

vi. "*additionally, the Authority is informed that the Attorney General has also expressed the same feelings*"

vii. "*The seriousness of this cannot be underestimated. The Governor and the Chief Minister expressed to the Authority that they consider that the Rule of Law in Gibraltar is compromised by the fact that they lack confidence in your probity and integrity.*"

viii. Independence: "*This area of concern was also brought to the attention of the Authority by reference to the parts of the report that deal with the potential for corruption and, consequently, influence, which, given what is identified in the Report, seems not to be completely understood in the RGP. The Governor and the Chief Minister expressed the view that it is not possible for the RGP to claim that it is acts independently in any investigation or matter unless it has properly addressed this recommendation that has remained outstanding for the period of your service.*"

(d) Fundamental Unfairness, Abuse of Process and Procedural Flaws

32. This process has been tainted from the outset by conspicuous unfairness, and it is grossly procedurally unfair. These flaws fall into the category described by Lord Bridge in *Calvin v. Carr* [1979] UKPC 1, [1979] 2 All ER 440: "*when the defect is so flagrant, the consequences so severe, that the most perfect of appeals or rehearings will not be sufficient to produce a just result.*" The approach adopted here amounts to an attack on the Constitution, the rule of law and human rights principles, and it subverts the principle of separation of powers in a number of respects.

i. The Vanishing Reason for the Invitation to Retire

33. First, we indicated at the outset of this letter, when addressing the preliminary matter of recusal, that there is a sensitive matter concerning an ongoing criminal investigation, the detail of which Mr. McGrail does not address herein. The relevance of this issue to the invitation to retire is as follows. This matter was discussed in the 22nd May meeting as forming part of the reasoning behind the Chief Minister and the Governor informing the GPA Chair that he should invite Mr. McGrail to retire. Indeed, Mr. McGrail indicated at that meeting that he understood it to be the real and central reason for the request. However, this reason is, oddly, not cited in the second, detailed letter of 22nd May. Instead, that letter refers expressly only to two other matters – the incident at sea in March 2020 and the inspection report following the inspection in October 2019.

34. The two matters which *are* mentioned have been known to the Chief Minister, Governor and Attorney General ('AG') for months. As is explained below, Mr. McGrail has kept them fully informed in respect of both issues. The important point is that in respect of both issues, at all stages Mr. McGrail has received no criticism at all about his approach. The incident at sea is being investigated independently by the Metropolitan Police, at Mr. McGrail's request, and that report is yet to be received. Mr. McGrail has met regularly with the AG to discuss strategy towards this serious incident - the AG has been nothing but supportive. Equally, when the inspection report came out, Mr. McGrail received no public or even private criticism from authority figures at all – until the 22nd May invitation to retire.

35. By contrast, in recent months, and particularly the past fortnight, Mr. McGrail has received very significant and at times intemperate private criticism from the Chief Minister and Attorney General about a separate matter, namely how the criminal investigation we refer to above has been handled. For many months the AG has been trying (unsuccessfully, we might add) to persuade Mr. McGrail to change his and the RGP's approach to the investigation which would either lead to it being dropped entirely or certain suspects not being prosecuted. Mr. McGrail has rebuffed these attempts and has treated this investigation as he would any other - characteristic of his probity and professionalism. The operational decisions in respect of this investigation have, in any event, been taken by individual officers below Mr. McGrail's rank, acting professionally and appropriately.

36. On 12th May, out of courtesy, Mr. McGrail notified the Chief Minister, the AG and the Minister of Justice of a certain operational action which was taken by the RGP in the case. Both the Chief Minister and AG immediately messaged him to say, in no uncertain terms, that they disapproved of the action. He was immediately called into a meeting with the Chief Minister and the AG. He was very severely criticised for the action that had been taken. The Chief Minister told him that, in his view, Mr. McGrail had handled the investigation "*very very wrongly*". He was told by the AG that he had to this point approved of his work but from that day he could not "*entertain*" Mr. McGrail again. The emotional response from both the Chief Minister and the AG is startling.

37. This was followed by two subsequent meetings with the AG and Director of Public Prosecutions (on 13th and 15th May respectively) where pressure was put on Mr. McGrail by the AG to change the RGP's investigative approach to the operation and he was given the strong impression that the AG was primarily concerned with protecting the Chief Minister and "*Gibraltar PLC*" (the AG's words).

38. It is grossly inappropriate in a jurisdiction under the Rule of Law for politicians to interfere with any live criminal investigation in this way. It tramples over the separation of powers which is an integral feature of our Constitution. However, in this case the Chief Minister has a personal connection to the outcome of the investigation, which makes his intervention even more inappropriate. Not only should he not attempt to influence the investigation, he should completely recuse himself for any decisions or conversations which touch upon it.

39. The reason it is relevant to your decision is that we submit to you that the timing of the use of the s.34 process, which was triggered by the Chief Minister and the Governor and, we understand, came as a complete surprise to the GPA Chair, strongly suggests that the incident at sea and inspection report are fig leaves for the real reason Mr. McGrail is being pressured to retire, i.e. his (proper and reasonable) handling of a live criminal investigation.

40. It is unnecessary for us merely to rely on an inference raised by the timing of the s.34 letter to make this point. The GPA Chair confirmed to Mr. McGrail at their meeting on 22nd May that his handling of the criminal investigation referred to above was spoken about at the Chair's meeting with the Chief Minister and Governor and was one of the reasons they had "*lost confidence*" in Mr. McGrail. The Chair told Mr. McGrail he took a note of his meeting with the Chief Minister and Governor, which we assume he can provide to you for your consideration. It is wholly unclear why this matter is then omitted from the letters sent to Mr. McGrail on 22nd May – although a simple explanation is that it was obvious to those writing the letters that if it were included it would invalidate the entire process. This is a clear breach of the requirements of fairness in itself – this was a factor cited in the meeting on 22nd May, at which no written documents were given to Mr. McGrail, yet the letters omit this material factor.

41. Further, we note that a factor which is cited in the Chair's 22nd May second letter is the Attorney General being said to have "*lost confidence*" in Mr. McGrail, for an unspecified reason: "*Additionally, the Authority is informed that the Attorney General has also expressed the same feelings*". The Chair made clear to Mr. McGrail at the 22nd May meeting that this was entirely because of the criminal investigation matter referred to above and it reflects the comments made to Mr. McGrail by him directly at the meeting on 12th May. In reality, it is clear that this incident is at the heart of this request under section 34, despite it not appearing in the second letter.

42. We note that in the Chair's second letter it is stated "*the Governor and the Chief Minister ... consider that the Rule of Law in Gibraltar is compromised*". Unfortunately, we agree with that statement, and that statement alone, but for significantly different reasons. If the GPA decides to exercise its s.34 power, in the full knowledge that background involves the Chief Minister and AG seeking to interfere with a live criminal investigation, this would indeed be an affront to the rule of law and a breach of your duties under the Constitution. This would be a gross violation of the rule of law, and not the actions of an independent body in a mature democracy.

ii. Independence

43. There are further serious procedural failings. It was made clear to Mr. McGrail at the meeting on 22nd May 2020 that the Chair was proceeding on the basis that this is a decision for the Chief Minister and the Governor, and he has taken his lead from them. This is also clear from the first letter, which followed the meeting. This is a fundamental misunderstanding of the statutory scheme: the section 34 decision is for the Authority. It also disregards the vital importance of the independence of the Authority, enshrined in the Constitution, s. 48(1).

iii. A Settled Decision

44. The process followed on 22nd May is not compliant with section 34. The statute makes clear that submissions must be sought under section 34(2) before the section 34(1) process is followed. The Commissioner is entitled to be given an opportunity to make representations, and for them to be considered. For this to be a meaningful opportunity, the Authority must

not have a closed mind. In this instance, however, the Authority Chair has called upon the Commissioner to retire (under section 34(1)), indicating that this decision has been reached already: *"the Authority feels that it is left with no option but to exercise the powers afforded to the Authority under section 34(1)..."* The wording used is unambiguous. This was clear at the meeting on 22nd May, and it is expressly set out in the first letter of that date.

45. The first letter is instructive. At this meeting, Mr. McGrail was handed this short letter, containing a formal notification of the exercise of the s.34(1) power. This was very brief and provided no detail save for referring to "*grave concerns expressed by both the Governor and the Chief Minister, in respect of certain aspects of policing that have led to a serious and regrettable loss of confidence in you*". It was clear from the letter that a decision had already been reached to invite Mr. McGrail to retire based on the Governor and the Chief Minister's views ("*Given the above, the Authority invites you to retire*"); however, confusingly, the letter also invited representations pursuant to section 34(2) which "*shall, of course, be fully taken into consideration to allow the Governor, the Chief Minister and the Authority to express a firm and final view*". This language, promising to take the submissions into consideration, cannot be squared with the fact that definitive language making clear that the Authority has already set out an invitation to retire under section 34(1).

46. This not only raises concerns under section 34. It also results in a process which is not compliant with the concept of natural justice. Mr. McGrail cannot be penalised by a decision which would have such a devastating impact upon him without him being given prior notice of the case he has to answer, and a fair opportunity to answer it. This has not been the case here.

iv. The Relevance of Section 13

47. At the meeting of 22nd May, the Chair informed Mr. McGrail that this was not a decision for him, but a decision for the Chief Minister and the Governor, and that if he did not invite Mr. McGrail to retire under section 34 then the Governor would exercise his power under s. 13. The Chair made clear that this had informed the decision to trigger section 34. However, this is an extraordinary situation, raising very serious concerns, and it taints the

section 34 decision. The entire point of section 13 is that it only applies when Authority is in default; it is not a mechanism for the Governor to simply use when he disagrees with the Authority, or when he disagrees with an action by the Police Commissioner, and nor is it a power which should be pre-emptively threatened in order to lean on the Authority to trigger section 34.

(e) Response to the issues raised in the letter

48. We have addressed above why we believe that this attempt to remove Mr. McGrail from post is a pretence which would not have occurred but for the Chief Minister and AG's criticism of his handling of a particular live investigation. However, it is of course important and necessary to respond directly to the two issues which are directly mentioned in the 22 May letter. We should emphasise that our client takes both the incident at sea and the inspection report extremely seriously, as can be seen by his immediate and continuing actions in response to them, however we do not accept, even arguably, that either issue could be the basis of the use of the section 34 power to remove Mr. McGrail from his post in the interests of "*efficiency, effectiveness, probity, integrity, or independence of policing in Gibraltar*".

Mr. McGrail's career to date

49. Before addressing the substantive issues, we want to give you some background about Mr. McGrail's career as a police officer. This is so that in considering the issues, you can do so in the context of his record, which can only be described as exemplary. Mr. McGrail has had a long, unblemished and distinguished career in the RGP for 36 years, having joined in 1984. In the first decade of his career he served in front-line policing, and following the "fast launch" public disturbances in the mid-1990s he had particular responsibility for uplifting RGP's capacity and capability in order and personal safety.

50. In 2006, he became the youngest and most junior inspector at the time to be promoted to Chief Inspector. From 2012 he was a Superintendent. In 2015 he was included in the Queen's Birthday State Honours list and was awarded the Overseas Territories Police

Medal for meritorious service. He has been awarded the Queen's Golden and Diamond Jubilee medals and the long service and good conduct medal with first and second clasps. And, as you know his record is exemplary. Mr. McGrail has numerous letters of appreciation throughout his career and been commended five times, including once by the Director of the United States Naval Criminal Investigation Service and on another by the Chief Justice of Gibraltar. All the commendations have been for meritorious investigative work leading to prosecutions. He has throughout his career sought to develop personally and professionally and attended the Federal Bureau of Investigation National Academy Programme for 3 months in Quantico, Virginia 2007 , is a Master of Science in Policing and Public Order with the University of Leicester and in 2013 attended the Strategic Command Course with the UK's College of Policing.

51. What has distinguished Mr McGrail is his dedication to service and ability to innovate and develop new ideas and working practices. In 1995 following the most severe riots in the last twenty years in Gibraltar, Mr McGrail was one of two officers tasked with reviewing and developing the RGP's response to public order situations. He went on to qualify as a public order instructor and also as a public order commander. He created and developed an RGP public order unit, commenced a training and development programme, which continues in the form he devised to this day.

52. His flair for innovation and openness to new working practices saw him create the Corporate Development department. Corporate development being a non-existent concept in the RGP at the time. Mr McGrail was instrumental in creating / drafting policies and guidelines in areas where they were required. In addition, he helped put procedures in place to improve the processes around the detention and custody of persons in police detention.

53. On 1st May 2018, Mr. McGrail was appointed as Commissioner of the RGP for a four-year term of warrant, on the advice of the GPA. In his letter of appointment, it was requested that the GPA conduct a review process against the objectives set out in the vision statement and action plan he provided to the Governor. This was supposed to take place two years into his term, which means it should be taking place now. In his letter, the Governor at the

time, His Excellency General Edward Davis, said he looked forward to working closely with Mr. McGrail "*as we all do our utmost to protect, progress and promote the Rule of Law in Gibraltar*".

54. Since he took up the post of Commissioner, one of the first things he did was present to the Gibraltar Police Authority all the force policies for the Authority to ratify as required in law, something which had not been done previously. This is characteristic of his qualities of openness, transparency and accountability.

55. More recently he has been instrumental in the development of the Force Intelligence Unit, taking it from being a unit of limited capability to professional and proactive unit properly servicing the organisation. Mr McGrail's networking skills have enabled him to draw upon contacts in the U.S., Spain and the U.K. to enhance the RGP's intelligence exchange and law enforcement co-operation mechanisms with all these territories. Very significant cross border operations have been carried under his leadership attracting extensive positive media coverage. These efforts have also been recognised by the Governor, the Chief Minister and Attorney General as it no doubt aids the building of relationships with the Kingdom of Spain in the post-Brexit era. Mr. McGrail is part of the Gibraltar law enforcement delegation to work on delivering the Brexit MOU on law enforcement co-operation with Spain. All these mentioned points have brought improvements to the quality of service delivered by the RGP.

56. In the organisational context Mr. McGrail has pushed for procedural and policy advancements. The RGP's total complement of officers results in officers such as Mr. McGrail having to embark on the tasks described on their own, without the benefit of a supporting team as would be the case in a UK mainland force. Further complicating the task is the distance between the RGP and mainland forces makes it impractical to regularly meet and consult colleagues engaged in similar projects to share experience and knowledge.

57. The year 2019 saw unprecedented levels of demand imposed on the RGP including a total of 85 major events, which included 13 Assemblies/demonstrations, 10 international football matches (including a top 3 with the most ultra-fan base in Europe, who were at the matches in numbers), European Elections, General Elections, Small Island Games that run for a full week, Grace 1 (the first time a vessel had been boarded for contravening EU sanctions), eight large scale music events, major social events such National Day, New Year's Eve Celebrations, the Festival of lights and 14 Public Military Events. Mr McGrail oversaw the planning and execution of all of these events all of which met with the operational aims and objectives. Public security and safety was successfully upheld.

58. He has also been responsible for, in just two years in post:

a. Adopting the UK Home Office counting rules for the recording of crime. The RGP's previous methods had been subject of criticism by HMIC for presenting overly favourable detection rates.;

b. Project Servator which is a community orientated counter-terrorism initiative;

c. Restructuring of the force to release police officers to core policing duties;

d. Restructuring and uplifting of the Economic Crime Unit ('ECU'), to incorporate a fraud and Anti Money Laundering Unit;

e. The creation of the RGP's first ever Wellbeing Strategy 2019/2022;

f. The creation of 16 Wellbeing Champions, spread throughout the force;

g. The creation of a bespoke Mental Health referral procedure with Ocean Views medical facility for all police officers and support staff. No other HMGOG department has this system in place;

h. Significant strides with PSN connectivity this is connectivity with the UK police service;

i. Partnership building and resources obtained through National Police Co-ordination Centre for Brexit contingency planning, Small Island Games & International football matches;

j. COVID-19 policing – which has seen restrictions in freedom of movement as never seen before in modern history.

59. Additionally, under Mr McGrail's leadership, the RGP has developed and implemented the following new policies and reviewed a further number of them. All of these have met the approval of the GPA:

a. 2018: Response Team Leader Policy (new), Gifts and Hospitality Policy (new), Alcohol and Substance Abuse Policy (new), Taser Policy (New)

b. 2019: Transfer Policy (Reviewed & Amended); Management of Exhibits (Reviewed & Amended); Domestic Violence (Reviewed & Amended); Travel Policy (Reviewed & Amended); Mobile Device Policy (New).

c. 2020: Caution policy (Reviewed & Amended), Travel Policy (Reviewed & Amended); Bullying Policy (New); Grievance policy and Procedure (New); Compromised Persons Policy (New); Mental Wellbeing Policy New (No police service in the UK has this).

60. During Mr. McGrail's tenure, there has been an 8.3% reduction in crime, a 33% reduction in repeat victimisation, a 33% reduction in repeat offending and a 54% detection rate. These statistics are enviable to any UK police service. Additionally, during his tenure, a good level of public satisfaction has been maintained and in certain areas improved, according to your own public consultation surveys. He has, most recently, appeared on live television delivering public information bulletins for COVID-19 crisis on four occasions: on 9th April with the Deputy Chief Minister, on 21st April with the Deputy Chief Minister, on 3rd May and Minister of Justice and on the 10th May with the Minister of Justice again. If the Government or Chief Minister had lost confidence in his abilities you might reasonably ask why he was allowed to give these important briefings to the whole of Gibraltar.

61. Further, and for the sake of completeness, we remind you of Mr. McGrail's success in promoting international law enforcement cooperation, in an area which has been fraught with difficulties in the past, has been recognised by both the Spanish National Police and the Guardia Civil who have nominated Mr. McGrail for the "La Cruz de la Orden del Mérito Policial con distinctivo Blanco" and "La Orden del Mérito de la Guardia Civil con distinctivo" medals respectively. This is of course unprecedented and underscores the high esteem with which Mr. McGrail is held by his international colleagues in Spain.

The incident at sea

62. On 8th March 2020 at around 03:38 an incident occurred involving a collision at sea between an RGP patrol craft and a smuggling vessel. Two people on the smuggling vessel, Dris Mohamed and Abdeselam Ahmed, reportedly both Spanish nationals, died in the incident and two were injured. The incident occurred outside of British Gibraltar Territorial Waters (**'BGTW'**).

63. The March 2020 incident is raised by the 22 May letters in two ways: in itself (*"the incident at sea in March, resulting in the death of two individuals, was pointed out as further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction"*); and in respect of communication (the Governor *"expressed the view that he*

feels he has been misled by you" and raises concerns that he has "*no confidence in his having been provided with the information expeditiously about this very serious incident...*").

64. As regards the unfortunate incident itself, there is no explanation as to why it is suggested that the actions of individual officers reflect on Mr. McGrail or are indicative of a systemic pattern of acting beyond the remit and jurisdiction of the RGP. There is no particularity at all, meaning it is impossible to respond in any detail save to say that at Mr. McGrail responded to the incident with his usual integrity and transparency. It is simply bizarre to claim that the Governor and Chief Minister have lost confidence in Mr. McGrail because they blame him for the incident itself when (a) at the time of the meeting with the Chair and the 22 May letters the Chief Minister had requested, but had not received, a response to the detailed request for information which was sent to him on 21 May this was the first such request Mr. McGrail has received, and (b) at that time they had not received (and still have not received) the independent report which is being carried out by the Metropolitan Police and was commissioned within days by Mr. McGrail himself or the conclusive report of the independent marine accident expert.

65. A further example is given relating to the RGP being without the use of a vessel, and thus being, *"seriously compromised given the increased legal workload"*. Again, there is no indication as to why this would justify the exceptional step of inviting the Commissioner to retire, and, indeed, this would not address the issue regarding the vessel. In any event, the proposition that the effectiveness of the marine section has been compromised is nonsense. The RGP's Marine Section has resilience. It has other vessels and the fact that one of them has been out of service because of the collision has not hampered capabilities.

66. In any event, it is for the GPA to reach an independent decision in respect of this issue. We submit that it would be highly unfair and contrary to the principles of natural justice for the GPA to pre-emptively blame Mr McGrail for this incident, prior to a detailed consideration of the independent report from the Metropolitan Police. However, and in any event, the fact that the alleged 'loss of confidence' it is so obviously premature and pre-emptive

further proves the point we make above that the real motives behind the action by the Governor and Chief Minister are not this incident. Rather, this incident is serving as a pretext, although on any analysis not a convincing one.

67. As regards communication, we understand that the Section 15 reply (sent shortly before these submissions) comprehensively debunks the suggestion that there was inadequate communication. Mr. McGrail messaged the Governor, the Chief Minister and Attorney General within two hours of the emergency response group being convened and kept them fully informed throughout, promptly responding to all requests for information. He subsequently met with the Attorney General on 17th March to develop a working strategy to deal with the consequences of the incident, which the AG agreed to. He further briefed the AG on 18 March on the progress of the Metropolitan Police investigation. The Metropolitan Police team was also in direct contact with the Governor. On 22nd March Mr. McGrail again met with the Attorney General and DPP to discuss the potential civil legal action arising from the incident. The AG did not want to consider further strategy until the Metropolitan Police's report findings had been received. This has still not been received despite many requests to expedite it the Covid 19 Crisis in the UK has taken its toll on policing as in many other areas of business. A marine investigator's report has also been commissioned and is currently being finalised. The simple point here is that it is premature to reach any conclusions in relation to this incident and it would be highly unfair to dismiss Mr. McGrail on the basis of a wholly unparticularised and vague accusation such as this.

68. In relation to the suggestion that Mr. McGrail has misled the Governor, this is not particularised; it is a vague slur, without explanation. We do not know what it refers to. If it relates to the incident taking place in Spanish waters, it is not possible to follow the rationale. In any event, the Governor was promptly and fully briefed by Mr McGrail on that issue and Mr. McGrail understands that the Metropolitan Police team, who were conducting an independent investigation, also briefed the Governor's office.

69. A further slur is included in relation to Mr. McGrail's *"probity and integrity,"* phrased in a hopelessly vague way, without specificity: "*It was communicated to me that both the Governor and the Chief Minister felt that their dealings with you have left them with the*

sense that you are lacking in both probity and integrity - the maritime incident is one case in point..." Reference is made to the Attorney General, but as we have submitted above this could only refer to the criminal investigation, as the Chair also informed Mr. McGrail.

The HMICFRS Report

70. The claim that confidence in Mr. McGrail's ability to do his job has been lost to a lack of efficiency on the part of the RGP, based on the findings of the HMICFRS, does not stack up. As can be seen from the above, Mr. McGrail has a long and distinguished career. His term as Commissioner has been busy and successful. It is simply absurd to accuse him of failing to take proactive steps to address systemic issues which were identified in the 2016 report, two years before he commenced in office.

71. As regards efficiency, the inspection report is clear that there are long-standing problems, which were identified in the previous (2016) inspection report, have not been fully addressed by the time of the October 2019 inspection. Mr. McGrail had by that time only been in post for a little over a year, and it is simply not credible to suggest that these flaws can and should be laid at his door. Further, during his short period in office prior to the inspection he had to address the July 2019 arrest and investigation of the Iranian Oil Tanker "Grace 1" which was an extraordinary incident, managed by the RGP and supported by the Royal Marines, and which attracted widespread acclaim (see the brief reference at p. 13 of the report).

72. In addition, the report makes clear in respect of efficiency that the RGP is in need of additional resources, from the Government/ FCO.

73. Insofar as it is suggested that Mr. McGrail did not set up a working group, his response is that as a result of the unprecedented demand placed on the RGP during 2019, the RGP has been addressing the issues raised in the Report by merging them in daily work practices. This can be seen by the initiatives referred to above and the results achieved. In addition, as you know Mr. McGrail has provided the Authority and the Minister of Justice with a comprehensive road map for implementing the 2020 report. These have both been agreed

to be the proper procedure and no concerns have been raised. Indeed, some of the recommendations in the Report have since been met and the others are in progress. It would simply be irrational to conclude that this approach would justify forcing him to take early retirement.

74. It is of note that the 22nd May letter was the first Mr. McGrail has heard that either the Chief Minister or Governor - or indeed any member of the Government - lays blame for any of the issues identified in the report with him. None of the conversations he has had around the report have reflected the 22nd May letter which again raises the strong inference that this issue is being used as a pretence to mask the real reason for attempting to remove Mr. McGrail. For example, the Minister for Justice, Samantha Sacramento MP, messaged him on 29 April to say the report "*is shocking reading on the face of it, but if you analyse it deeper it's not that bad, and it's has easy solutions*" and "*it can all be fixed don't worry*". This message reflected the tone and content of the communications around the report. There have also been a number of very recent articles in the press which highlight the exceptional nature of the RGP given the unusually wide range of issues it has to deal with – from drug smuggling and international fraud to world diplomatic incidents involving maritime vessels and the potential unfairness of applying the same standards as apply to other forces to such an unusual jurisdiction.

75. In addition, we note that an article in the Gibraltar Chronicle of the 28th May 2020 by an independent journalist, Mr. James Neish, who is intimately aware of the work of the RGP, suggests that the Report may have unfairly minimised the unique demands made of the RGP and which it responds to successfully for the most part. The article is titled "*It's always easier to judge from a distance*".

76. As stated above, the GPA must reach an independent conclusion in respect of this issue. It has not carried out the 2-year performance review requested by the Governor at the time of Mr. McGrail's appointment. We submit that there is a complete lack of evidence of Mr. McGrail's culpability for any of the issues highlighted by the inspection report. He has, in any event, taken extensive steps to improve and modernise the RGP. It would therefore be grossly unfair to conclude that, having been in post just over a year before the inspection,

Mr. McGrail is sufficiently blameworthy for the conclusions of the inspection report such that he should be forced to retire *"in the interests of efficiency, effectiveness, probity, integrity, or independence of policing in Gibraltar"*. However, and in any event, in order to reach such a conclusion it would be necessary for the GPA to carry out a full and fair review into Mr. McGrail's record during his time in post.

Conclusion

77. For the reasons stated above there is no possible, valid reason for the GPA to exercise its s.34 power to remove Mr. McGrail from office. The only rational decision for the GPA to reach is to dismiss the request of the Governor and Chief Minister. In any event, the defects in this process are already so flagrant that it would not be possible to reach a just result unless it is to allow Mr. McGrail to remain in post.

Yours faithfully,



Charles Gomez
Charles Gomez & Co

HM Government of Gibraltar

THE CHIEF MINISTER

Dr J J Britto
Chairman
Gibraltar Police Authority
Unit 25B Casemates Square
Gibraltar

5th June 2020

Dear Joey,

Re: Letter dated 29th May 2020 from Charles Gomez & Company, on behalf of the Commissioner of Police to the Members of the Gibraltar Police Authority ("the Letter").

Thank you for providing me with a copy of the Letter. Your having done so serves two purposes. Firstly, it fairly provides me with an opportunity to respond to the very serious and vile allegations made against me by the Commissioner of Police ("**COP**"). Secondly, it gives the Authority the opportunity to have whatever regard it considers appropriate to my response when it makes its further decisions (if any) in relation to its invitation to the COP to retire.

Let me say at the very outset that serious as they are, the COP's allegations against me are completely untrue. Like any other person who values the rule of law (of which the independence of operational policing is a key element), I would be the first to admire the courage of a COP who fearlessly makes a stand in defence of the independence of policing and its freedom from political interference. It would be a relief to know that our police force was under such leadership.

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However, this does not provide the COP with licence to elevate the product of his apparently fertile imagination, and the consequent speculative inferences which it leads him to make, to the status of fact, as he does. Still less does it entitle the COP to make (on the basis of such speculation as to the motives of each of them), the very grave allegations that he makes against all of His Excellency the Governor, the Chief Minister, the Attorney General and the Director of Public Prosecutions. It seems to me that such allegations could only properly be made and justified if supported by credible evidence. They are not, as they cannot be because they are untrue. For that reason, they are a fanciful nonsense which self evidently serves to vividly illustrate why the COP is undeserving of my confidence.

I wish to make clear that I stand by and ratify everything that I have previously said to you about my loss of confidence in the COP, and the reasons for it. To those reasons I would now add the extraordinary nature and content of the Letter, on the basis of which my loss of confidence in the COP is further increased and cemented. Furthermore, it is not immediately clear to me how the COP can preside over the efficiency and effectiveness of the RGP in the light of the obvious breakdown of his relationship with each of the Governor, the Government (myself and all other members of my Cabinet), the Attorney General and the Director of Public Prosecutions that necessarily results from the contents of the Letter.

You will have seen in this regard the letter dated 3 June 2020 addressed to you by His Excellency the Governor which His Excellency has shared with me. Of further significance arising from this letter is the entirely unjustified and reckless nature of the allegation against the Governor, who was not at the material time even aware of the criminal investigation interference which is alleged to justify the COP's allegations against him. Yet, such is the nature of the Letter. I made His Excellency aware of that investigation at the same time as I referred the matter to you. I did so in a spirit of complete transparency.

I am, of course, not accountable to the Authority for my conduct as Chief Minister. Nevertheless, from a position of institutional respect for the GPA as the statutory

body responsible for ensuring the independence of policing in Gibraltar, your role in respect of section 34 of the Police Act, and indeed deference to its members, I set out below my response to the COP's allegations in so far as they concern me.

The allegations levelled against me by the COP could not be more serious in nature. He accuses me of corruptly (see para 16- 22) interfering with the conduct by the RGP of a criminal investigation, in an unprecedented "abuse of power", motivated by a wish to retaliate against him (see paras 23 and 24) and a "personal connection with the outcome of the investigation" (para 38). He further accuses me of lying to the Authority about the "real reasons" for "pressuring" the COP to retire which he describes as a "a pretence" (para 48), "a pretext" (para 66) and "fig leaves" for the real reason which he declares to be a desire on my part to impede the COP's proper and reasonable handling of a live criminal investigation (para 39) and, which latter (asserted by him) reason is (as candidly stated by Mr Gomez at para 33) "the real and central reason for the request". In other words, I stand accused by the COP of all of outright dishonesty, wholly improper (indeed potentially unlawful) interference with the RGP and corruption.

Not content to level these grave allegations against me without a shred of evidence to support them, the COP has the temerity to declare that it is unnecessary for him "merely to rely on any inference raised by the timing of the s.34 letter to make this point" because (according to the COP) during your meeting on 22 May you confirmed to him that I had told you that his handling of "the criminal investigation" was "spoken about at the Chair's meeting with the Chief Minister and Governor and was one of the reasons they had lost confidence in Mr McGrail." This is relied on as some sort of "smoking gun" that puts his grave accusations beyond doubt or somehow justify his making them (para 40).

In the context of all the above, that he also accuses me of undermining the rule of law, that my conduct is 'an affront to the rule of law' and of seeking to "direct you" in your decisions (second para on page 2), serious as they are in themselves, pale into relative insignificance.

The COP's allegations are entirely untrue, and the manner in which he describes such interaction as there has been between us is so distorted as to be obvious that it would mislead the Authority.

Let me be absolutely clear, I have at no time or in any manner sought to interfere with the RGP's conduct of the criminal investigation in question in any manner of for any purpose, including (but not limited to) my alleged "personal connection with the outcome of the investigation". That personal connection is, presumably, the fact that Mr James Levy QC, whose conduct is apparently under investigation, is the senior partner of Hassans, a law firm of which I am also a partner although presently on a sabbatical.

At no time have I sought to intervene in or interfere to prevent Mr Levy being investigated or to prevent a search warrant being obtained and executed against him at the offices of Hassans, facts which I first learned about as they were already happening, that is, as the search warrant was being enforced at the offices of Hassans and at Mr Levy's home. This can be best illustrated by reference to the fact that at 12:25 pm on the 12th May 2020 I received a "Whats App" from the COP in which he said to me "CM- before you hear it from anyone else I want to inform you that detectives are executing a search warrant at Hassan for (JL) in relation to the case against Perez, Cornelio & Sanchez".

I responded at 12.34 in the following terms:
"Ian, Thank you for the courtesy of this information. I think that is a bad decision. A search should only have been sought if you believed that the person in question was not going to cooperate and will try to destroy evidence. If, as you say, you are hoping for cooperation, especially in a case involving a senior Silk and head of Gibraltar's largest legal firm, you should, in my view, first have sought to contact that person and obtain cooperation. Given my close personal relationship with JL, I won't comment further."

The COP replied at 12:35 as follows: "Noted CM".

I repeated that view to the COP during a meeting at my office in No 6 later on the same on day, coinciding with his presence in No 6 in connection with a Covid planning meeting in the basement of No 6. I also made it abundantly clear to him that my reaction would have been identical had he taken the same action against any other senior member of the Gibraltar Bar, all of whom, like him, are officers of the court with the legal and ethical obligations consequent to that status. These are the messages and the meeting to which the COP refers, in terms that I do not recognise, in paragraph 36 of the Letter.

The above is the full extent of my communications with the COP or the RGP in relation to the "criminal investigation" since then.

In so far as concerned my alleged motives for doing so, i.e. my personal connection with the outcome of the investigation, the accusation made against me is not sustainable even on the COP's case. In his Whats App at 12:25 (as the events were occurring) he told me that the warrant obtained and executed against Mr Levy was "in relation to the case against Perez, Cornelio & Sanchez". So, when I expressed the view that I did 9 minutes later at 12:34, I had no reason to believe that the investigation was of Mr Levy.

In fact, I am clearly entitled to express the views that I did in the above manner. That does not constitute interfering with the investigation in the grave manner of the allegations made, or at all. I am entitled to express my views to the COP on matters of policing policy in Gibraltar. I did not prevent the obtaining or the execution of the search warrant, both of which had already occurred. I have made no attempt to secure an end to those investigations, against Mr Levy or anyone else. Indeed, when I discovered that one of the persons under investigation was a civil servant, I directed the Chief Secretary that HMGOG should be a complainant to the police in the investigation, which duly occurred. Therefore, the notion that I was motivated by concern for the outcome of the investigation in so far as concerned my alleged personal connection with it is therefore simply unsustainable, as the COP well knows. This was an investigation in which I had insisted my Government should be a

complainant (ie the entity whose interests may have been criminally damaged) and in respect of a National Security facility which I had been instrumental in creating in the public interest of Gibraltar. It is remarkable that the COP could even believe, less still suggest to others, that I might want to interfere with such an investigation.

In my opinion, the obtaining and execution of a search warrant which the COP referred me to in his Whats App in such circumstances (such as I described in my own Whats App response to the COP) is of dubious legality, abusive, unprecedented in policing in Gibraltar, incompatible with public confidence in policing and the good name and reputation of Gibraltar as a business and finance centre. It is noteworthy in this regard that these are policy matters in which, as Chief Minister, I have a legitimate interest, and that in the event of the RGP being sued for the unlawful obtaining and execution of a search warrant, it is HMGOG that has to bear the financial consequences.

Be all the above as it may, serious as they are, and as the COP also well knows, those are <u>not</u> the reasons why I have further lost confidence in him by virtue of this criminal investigation. I have not lost confidence in him because he obtained and executed a search warrant in circumstances in which I believe it was inappropriate to do so. Nor is the reason "how the criminal investigation we refer to above has been handled" (para 35, and elsewhere in the Letter). The primary reason is that the COP has clearly lied to me.

During the meeting to which I refer above, the COP stated to me in explicit terms, in response to my concerns about the propriety of the warrant, that he had obtained and executed the search warrant against Mr Levy in reliance on legal advice from the Director of Public Prosecutions who had confirmed that it was appropriate to seek such a warrant and proceed in that way. I have since determined that this categorical statement from the COP, clearly designed to suggest to me that my views as to the law were wrong and he / his officers had acted properly (and not compromised the investigation or exposed HMGOG to potential claims for civil damages) was wholly untrue. In fact, it is now clearly established that at no time did

the COP or the RGP obtain legal advice from the DPP to that effect, a fact which the COP has now acknowledged in writing to Hassans (and has been separately confirmed to me by the DPP). This is unacceptable to me and goes to the COP's probity and integrity in his dealings with me, and to my ability to have confidence in him. This is unrelated to the nature, direction or conclusion which the investigation might take or reach (which I have been supportive of from the beginning, continue to be and have caused my Government to be a complainant for), as that continues to take its course. The COP has understood that, as evident from the fact that the investigation in question has not been affected in any way and has, rightly, continued unabated.

Additionally, I cannot accept the COP's statements in relation to his briefings to me about the "incident at sea". This was an incident with extremely serious external political consequences and very material potential financial consequences to the Government. I have, since our original discussion, already had to answer questions in the Parliament on this matter and there has been additional media reporting related to it both before and arising from my answer (including on the Spanish national broadcaster, RTVE). It has been the established practice for at least 50 years that Commissioners of Police keep the Chief Minister of the day fully, timeously and spontaneously informed, in detail about incidents of that kind. Had COP properly done so in this case it would not have been necessary for me to exercise the Chief Minister's powers under section 15 of the Police Act for the first ever time, as I confirmed to the Parliament. His Excellency the Governor has complained of the very same thing.

I have already taken you through my deep concerns in relation to the report from HM Inspectorate of Constabulary, which are also deeply concerning to me and relate to the efficacy and effectiveness of the RGP, both of which are the direct, legal responsibility of the COP under the Police Act.

Nothing in the Letter from the COP raises any real issue of interference with the independence of policing in Gibraltar, and the COP cannot raise imaginary

allegations to escape the fact that he has lost the confidence of every relevant authority in Gibraltar, and the proper consequences thereof. His allegations are untrue and are based entirely on speculation on his part as to everyone's motives for forming the views of him that they have. It is in itself wholly improper that he should make such spurious and damaging allegations without evidence commensurate with their gravity (or indeed any evidence). This now also goes to my further lack of confidence in the COP.

Please do not hesitate to ask me to clarify any matter that it would be of assistance to the Authority that I explain further.

With very best wishes,



Fabian Picardo QC MP
Chief Minister

Nick Pyle OBE

Governor & Commander-in-Chief

The Convent
Gibraltar

Tel: [redacted]

Dr J J Britto
Chairman
The Gibraltar Police Authority
Unit 25B Casemates Square
Gibraltar

3 June 2020

Dear Mr. Chairman

Re: Invitation to Retire – section 34 Police Act.

I would like to thank you for providing me with a copy of the letter dated 29 May 2020 sent to you by Mr Charles Gomez, acting on behalf of the Commissioner of Police ("CoP"), on the above-captioned matter (the "Letter").

A number of matters and allegations in the Letter concern me, either directly or indirectly. My position within the GPA (paras 1-4 of the Letter) is one which I assume you will be addressing yourself in the GPA's reply to Mr Gomez. In any event, as you are aware, I wrote to you on 19 February 2020 explaining how I thought we could proceed during such time as I was acting as Governor. For clarity, all my communications with you since 19 February 2020 have been as Governor and NOT as a member of the GPA. attached

With regard to the remaining contents of the Letter, I would like to address only two specific points at this stage. What I say is without prejudice to further information that I would be happy and able to provide if it were considered necessary to do so. Silence on any point made in Letter is not be interpreted as my acquiescence to any of them.

FP1/335

1. The relevance of the ongoing criminal investigation and its timing.

The first issue is the offensive assertion that my lack of confidence in the CoP, and therefore my conviction that he lacks both probity and integrity, is based on the RGP's handling of the so-called ongoing criminal investigation.

My deep concerns with the CoP's leadership qualities have absolutely nothing to do with that investigation. The already-existing concerns that I have had with the CoP were confirmed by the incident at sea (March 2020) and the HMIC Report (published in May 2020).

In relation to the former, the seriousness of the incident of 8 March 2020 does not require explanation. By its own, it has raised grave concerns with wide-reaching political, financial, reputational and sovereignty implications. They raise very serious concerns about the leadership at the RGP.

Furthermore, I suspected at the time of the immediate aftermath of the incident that the CoP's disclosure of information to me was evasive in particular in relation to the critical issue of whether or not the incident had occurred within BGTW. I know that when the CoP was telling me that it was not clear where the incident had occurred, he was informing the Chief Minister that the incident had indeed occurred outside BGTW. Indeed, it occurred some 7.5 nautical miles beyond Gibraltar's baseline and therefore well outside BGTW. I find this evasiveness on a key issue to demonstrate a total lack of respect to the office of Governor particularly since the CoP knew that this was the crucial issue for me and for both the UK and Gibraltar Governments as far as diplomatic relations with Spain were concerned.

In relation to the latter, on 30 April 2020, after having seen a draft of the Report, I wrote to the Chief Minister saying that I found the Report to be "quite damning". Indeed, the day before, I had written to you saying that I did not think that the Report should be published.

I was informed, for the first time, of the very existence of the criminal investigation referred to in the Letter on 15 May 2020 (when the matter was raised with me for

information by the Chief Minister, as he thought it right to disclose this to me as we considered matters related to the RGP and CoP).

I want to be clear, therefore, that my lack of confidence in the CoP's probity and integrity, and my conviction that the rule of law is compromised by the fact that I have lost confidence in him, therefore clearly arose well before I was aware of that criminal investigation. It is incorrect and untrue for anyone to suggest otherwise.

For Mr Gomez to therefore suggest, through conjecture and assumption, that the incident at sea and the HMIC Report were "fig leaves for the real reason Mr McGrail is being pressured to retire" (para 39) is an outrageous accusation which I bitterly resent and strongly object to. It is clearly not borne out by the facts and chronology as expressed above. In addition, for Mr Gomez to suggest that I had been aware of the incident at sea and the HMIC Report "for months" (para 34) is a wholly inaccurate statement which may mislead the GPA.

As a final point on this issue, I would also like to reiterate that these two incidents occurred on the back of a growing unease that I had been feeling over the months, in particular with the numerous allegations of bullying and mismanagement that I had picked up on. I have also been gravely concerned by the potential for corruption identified in the HMIC Report which has, tellingly, remained unaddressed by the CoP, despite his lawyer's response casting aspersions and allegations of corruption against others.

The CoP is the person who is ultimately responsible and accountable for all the actions and behaviour of the RGP, including those stated above.

2. The contents and allegations made in the Letter.

The second issue I must address is the tone and content of the Letter. I must place on record that the allegations made in the Letter that I am (or may be) interfering with the independence of the GPA, that I am (or may be) compromising the rule of law in Gibraltar and participating in a plot to discredit the CoP or influence the ongoing criminal investigation are entirely untrue and nothing short of a most scurrilous attack on my integrity. I find such allegations to be malicious and entirely misplaced. I strenuously

refute them and hold each one up as a further demonstration of good reason for my lack of confidence in the CoP and my concerns about his probity and integrity.

To conclude, I communicate to you as Governor that, for all the above stated reasons, the content, tone and style of the Letter have done nothing but cement my lack of confidence in the CoP and my concerns about the integrity, probity and independence of policing in Gibraltar in addition to the matters I have already communicated to you as Governor.

Yours sincerely

The Attorney General
HM Government of Gibraltar

Dr J J Britto
Chairman
Gibraltar Police Authority
Unit 25B Casemates Square
Gibraltar

05th June 2020

Dear Joey,

Re: Commissioner of Police - Letter dated 29th May 2020 from Charles Gomez & Company

Thank you for providing me with a copy of the letter dated 29th May 2020 that you have received from Charles Gomez and Co representing the Commissioner of Police ("COP"), Ian McGrail ("the letter").

I have no formal role under the Police Act in relation to the matters currently before the Authority for consideration. Therefore, whilst my views about the COP are relevant only in so far as the Authority wishes to have regard to them, I cannot allow the Authority's record to stand unrebutted on the basis of the untrue and scurrilous allegations made by the COP. Thank for giving me the opportunity to do so.

The letter makes important and very serious allegations against me, namely, that I have improperly, corruptly and in abuse of my powers "interfered" with an ongoing criminal investigation by:

(i) privately subjecting the COP to "significant and at times intemperate private criticism" about how the criminal investigation has been handled; and
(ii) trying "for many months" to persuade COP to "change his and the RGP's approach to the investigation which would either lead to it being dropped entirely or certain suspects not being prosecuted".

In support of those statements it is said that I have feigned loss of confidence in the COP as a means of disguising my alleged real objective which is said to be, effectively, to "nobble" the investigation and prosecution to which the investigation relates, and that in some way, this should be deduced from

The Attorney General
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issues relating to "timing" of actions by others and the allegation (also denied by me) that I have reacted with "startling" emotion and consequential insinuation that this is apt to sustain the fantastic allegations made against me by the COP. I hasten to say that each of them is untrue and without merit or justification.

Part of the narrative of the COP's allegations against me is that I apparently gave him "*the strong impression that I was primarily concerned with protecting the Chief Minister and 'Gibraltar PLC" (the AG's words)*". I am not aware that the Chief Minister is a person in need of protection in the context of the criminal investigation in question. In so far as concerns the fact that I was primarily concerned with protecting "Gibraltar PLC' (which is vernacular for the public interest of Gibraltar) that is absolutely correct. That is my constitutional role and my job (a fact that the COP, and those advising him appear to overlook).

At a personal level, I deeply regret (because I have always enjoyed excellent working and personal relations with him) to have to say that I cannot recognise the truth in the statements and allegations that COP now makes in the letter. They are untrue.

I have a constitutional role both in relation to prosecutions (I have ultimate responsibility and control over them) and for the rule of law (I am the guardian of the laws of Gibraltar and compliance with them). This is important because it renders proper interventions by me which may not be proper if engaged in by others. What the COP is effectively doing, on the basis of pure speculation and assumption on his part, is to cast the gravest aspersions on my motives for my statements, views and actions.

I should comment also that, in any event, the COP is not (as he appears to believe) immune to having his actions "strongly disapproved of" or being "severely criticised for them". Yet he equates both to the improper interference with the conduct of a criminal investigation and a violation of police independence. This, worryingly, shows lack of understanding and judgment by the COP.

Because of my roles described above, and also the fact that I am the Crown's (in all its facets, including the RGP) principal legal adviser in Gibraltar, it has always been customary for the COP and the RGP to seek the Attorney General's advice and to discuss ongoing investigations with him, whenever that is required. Mr McGrail has done so, both before and after becoming COP.

Contrary to what the letter says, I have never said that the COP lied to me. What I have told him is that he has incurred in a serious breach of my trust (which I explain below) as a result of which I have lost confidence in him.

I turn now to what has actually occurred. I first became aware of this criminal investigation on the 11 May 2019, when I received an email from the COP (sent also to the Chief Minister, Minister of Justice, the Chief Secretary, the Financial Secretary and the DPP) asking to meet with us urgently to brief us in relation to certain information that they had obtained in that criminal investigation. That meeting took place on Monday 13 May 2019. At that meeting, or shortly thereafter, I became aware that James Levy QC had shares in one of the companies involved in that dispute and that he was mentioned in communications with the three suspects and was potentially a person of interest to the investigation.

Far from seeking to intervene or interfere for that reason, I had no further involvement with the criminal investigation until over 11 months later when, in early-April 2020, the DPP called me to discuss the Government's position in relation to the ongoing issues about the ownership of a computer platform and its software that HMGOG uses, to which the criminal investigation related.

During that discussion the DPP explained to me that the RGP had drawn up a list of 76 charges (some of which could be impacted by the question of ownership of the platform) and that the RGP were thinking of issuing search warrants against Mr James Levy QC. I was alarmed, both by the number of charges (which would be quite inappropriate in any prosecution) and also by the proposal to obtain and issue a search warrant against a senior lawyer without first seeking voluntary co-operation or voluntary production of evidence. My concern was not because of any sense that lawyers should be exempt from this mechanism, rather it was (as would be the case of any person) that such warrants should reflect the reality of the risk of destruction of evidence unless the person is taken by surprise, or the refusal of the person to provide the evidence voluntarily. Not only can that not be assumed against any person, still less a practising lawyer, but Mr Levy had been aware of the RGP's interest in him for many months, and had had plenty of opportunity to destroy evidence if he were minded or inclined to do so. I have a legitimate public interest role and function (indeed, a responsibility) in respect of both these matters.

I asked to meet with the COP in relation to these two matters, and we did so on 7th April 2019. In that meeting I advised him of my concern about the need to obtain clarity on the issue of ownership of the computer platform since it was clear that that issue would likely have an impact on at least some of the proposed charges, and I also told him that I was worried about the overall number (76) charges, which seemed wholly excessive, not to say absurd. I reminded him of the general wisdom of focusing the

charges appropriately. We also discussed, in the terms that I have described above, the proposal to obtain and execute a search warrant against Mr Levy.

The outcome of that discussion was that we reached a clear understanding that the the RGP would not take any further action until they had considered my advice about the rationalisation of the charges, and then the COP would come back to see me again. It was clear beyond peradventure that nothing would happen until we met again. The next I hear (from COP himself, as it was happening) was that RGP officers were in the process of executing search warrants against Mr Levy at the offices of Hassans and at his home.

I have never said anything to the COP which can be interpreted as anything other than advice and assistance, as has always been the practice. The COP is of course free to take whatever action he considers lawful and appropriate regardless of any advice that I may give him on the matter, and he did so. He unquestionably has that right. What the COP cannot do, and also expect to retain my personal confidence, is to act contrary to an understanding reached between us, as he has done. This, and not my disapproval of his actions (even though I think that they were ill advised), is the reason for my loss of confidence in him.

I have made it explicitly clear to the COP throughout that the conduct of the investigation (including the seeking and execution of search warrants) are, whatever I may advise him, operational matters entirely for him. Nothing that I have ever said to the COP or any other member of the RGP has been even remotely open to the possible (mis)interpretation that I have advised or encouraged, still less that I have interfered to bring about or try to bring about, the curtailment of the investigation, how it is carried out by the RGP or to prevent any person from being charged. It is outrageously wrong and unfair for the COP to allege that I have (let alone that I have done so repeatedly over an extended period of time) and I am shocked and deeply resent that he has done so. This necessarily deepens my loss of confidence in him going forward.

I remain at the Authority's disposal for anything with which I may be able to assist it further by way of clarification or further explanation.

Yours Sincerely,

Michael Llamas QC
Attorney General

GIBRALTAR POLICE AUTHORITY

Unit 25B Casemates Square
Gibraltar

5th June, 2020

H.E. Mr Nick Pyle OBE
Governor & Commander-in-Chief
The Convent
Gibraltar

Your Excellency

Re: Complaints made by you and the Chief Minister against the Commissioner of Police

I refer to the complaints made verbally to me as Chairman of the Gibraltar Police Authority on 18th May, 2020, by you and the Chief Minister against the Commissioner of Police.

The Authority commenced a process under section 34 of the Police Act in accordance with a decision taken at a meeting of the Authority held on 21st May, 2020. The decision was taken by five members of the Authority personally present at the meeting and four others by telephone after the meeting. The only member who did not participate was you, who as Governor, was one of the complainants. Pursuant to this decision, on 22nd May, 2020, I, on behalf of the Authority, invited the Commissioner to retire. I did this at a meeting with him held on 22nd May, 2020, at the Commissioner's office followed up by two letters to him that same day. In my second letter I stated the grounds advanced to me by you and the Chief Minister for your respective loss of confidence in him. I also invited him to make representations which we would consider before taking a final decision.

On 29th May, 2020, Charles Gomez & Company wrote to the Authority attacking the process on the grounds of fundamental unfairness, abuse of process and procedural flaws. Bias was not expressly alleged but it was impliedly so given that the Authority was accused of effectively doing what the you and the Chief Minister wanted and reaching a decision without considering representations by the Commissioner.

We have taken independent legal advice and have been advised that the process which we have adopted under section 34 of the Police Act is fundamentally flawed and should be withdrawn. However, we are also advised that the complaints by you and the Chief Minister remain live and have to be determined. We have also been advised that the Authority, as presently constituted, is vulnerable to challenge on the grounds of bias. The Authority considers that as presently constituted it is unable to process the complaints without being vulnerable to legal challenge and is not therefore prepared to do so.

Yours faithfully

Chairman

His Excellency Nick Pyle OBE

Governor & Commander-in-Chief

The Convent
Gibraltar

Tel: [redacted]

Ian McGrail MSc OTPM
Commissioner of Police
(by email)

06 June 2020

Dear Commissioner

Thank you for coming to see my yesterday.

During our discussion you handed to me a copy of an email dated 5 June from Charles Gomez to James Neish under the subject "Invitation to Retire: Section 34 of the Police Act." I have now read that email and note the final 14 words which state "our client feels he must apply for early retirement from the Royal Gibraltar Police."

This matter is of course directly relevant to me as it is the Governor who, under S 32.(1) of the Police Act 2006 and acting on the advice of the Authority, appoints the Commissioner.

Before I review all the papers I have on this matter in advance of our meeting on Monday, can you please confirm to me, by no later than midday tomorrow, whether that is indeed your decision, and, if so, whether you will be tendering your letter of resignation on Monday with immediate effect.

I look forward to hearing from you.

Yours sincerely

Nick Pyle

FP1/344

His Excellency Nick Pyle OBE

Governor & Commander-in-Chief

The Convent
Gibraltar

Tel: [redacted]

Ian McGrail MSc OTPM
Commissioner of Police

08 June 2020

Dear Commissioner

Thank you for coming to see me today.

We discussed your intention to retire and I agreed that this was the best course of action, adding that I would need a letter to that effect. I asked that your retirement be with effect from 18.00 on the 9th of June, and suggested that you may wish to make an announcement accordingly. Please do let me know if you intend to do so and perhaps we can discuss timing. I will then follow up with the following press release:

"His Excellency the Governor, Nick Pyle OBE, has accepted a request from the Commissioner of Police to retire with effect from 18.00 hrs on Tuesday 09 June.
Recognising the Commissioner's 36 years of service to the Royal Gibraltar Police, and cognisant of him being awarded the Overseas Territories Police Medal for meritous service in 2015, the Governor wishes the Commissioner all the very best for his retirement.
The Assistant Commissioner will perform the duties of the Commissioner until further notice, as set out in the Police Act 2006."

You agreed to retire as set out above subject to financial terms being agreed which I believe you have done so with the Chief Secretary. I therefore look forward to receiving your letter.

I would like to reaffirm my commitment, notwithstanding the above, to ensure you are treated fairly and with respect at all times.

Yours sincerely

Nick Pyle

FP1/345

Nick Pyle OBE

Governor & Commander-In-Chief

The Convent
Gibraltar

Tel: [redacted]

Ian McGrail MSc OTPM
Commissioner of Police

09 June 2020

Dear Commissioner

Thank you for your letter of 9 June submitting an application for early retirement from the Royal Gibraltar Police on the following terms as outlined in your letter, namely:

1. Untaken leave will be paid
2. Days off in lieu which have not been taken as leave will be paid
3. Pension will be calculated at current salary. Payments to begin on 1 July 2020
4. A contribution of £2500 towards my legal fees

I approve your application and agree to the terms as listed in full and final settlement of all claims what so ever and how so ever arising.

I therefore note that you will be relinquishing command of the Royal Gibraltar Police at 18.00 hrs this evening.

Yours sincerely

Nick Pyle

FP1/346

F. Picardo
3rd Affidavit
Exhibit FP3
15 November 2023

In the Matter of the Commissions of Inquiry Act

-and-

In the Matter of an Inquiry into the retirement of the former Commissioner of Police convened by a Commission issued by HM Government of Gibraltar on 4 February 2022 in Legal Notice No 34 of 2022 ("the Inquiry")

EXHIBIT FP3

This is the exhibit marked "FP3" referred to in the Affidavit of Fabian Picardo KC MP, sworn this 15 day of November 2023

Before me,

Commissioner for Oaths

JAMES P. HAMMOND
COMMISSIONER FOR OATHS
GIBRALTAR

INDEX EXHIBIT FP3

WhatsApp messages from the Chief Minister's chat logs with:

1. Michael Llamas: pages FP3/1-5
2. Lewis Baglietto: pages FP3/6-7
3. Albert Mena: pages FP3/ 8-9
4. Darren Grech: pages FP3/10-11
5. Ian McGrail: pages FP3/12-16
6. Joey Britto: pages FP3/17-22
7. Nick Pyle (chat named Deputy Governor): pages FP3/23-29
8. Richard Ullger: FP3/page 30

Michael Llamas

12/05/2020, 12:29 - Michael Llamas: Are you free? 2 mins?

12/05/2020, 15:41 - Michael Llamas: Spoken to DPP. He is categorical that whilst he told RGP that an interview with JL would likely be necessary, he strongly advised against a search warrant.

12/05/2020, 15:42 - Fabian Picardo: Pues entonces nos mintio a los dos.

12/05/2020, 15:43 - Michael Llamas: Exactly he certainly gave us the impression that sw decision was sanctioned by DPP.

12/05/2020, 15:43 - Michael Llamas: CoP has since called DPP. Trying to cover his back with him

12/05/2020, 15:44 - Michael Llamas: I've told DPP not to say or do anything without speaking to me first

12/05/2020, 15:50 - Fabian Picardo: Incredible. There is some game afoot here...

12/05/2020, 18:42 - Michael Llamas: Michael - we both are disappointed but I just can't leave the matter as it is. I'd like to meet face to face. We have to work together & your wrong impressions about me need clearing up.

12/05/2020, 18:42 - Michael Llamas: Ian, it would not be constructive to meet, at least not for now. For me it was abundantly clear what we had agreed and there is therefore very little to discuss about that. All I have tried to do is to help you in all of this and to protect Gibraltar plc which is what I have spent all my life doing. I feel very, very let down. A serious breach of trust has occurred.

14/05/2020, 09:36 - Fabian Picardo: https://elfarodeceuta.es/denuncian-policia-gibraltar-muerte-dos-ceuties/

14/05/2020, 09:36 - Fabian Picardo: This has appeared TODAY!

14/05/2020, 09:44 - Michael Llamas: Couldn't make it up

14/05/2020, 09:49 - Fabian Picardo: Hi. This article has just appeared. A civil claim has been filed in Spain (in Ceuta) by the families of the deceased in the incident with the RGP off the Eastside. This is obviously going to cause us huge issues. Damages claims, political problems etc. I am totally there to support the officers on the front line. I am starting to have huge concerns about the senior management of the RGP. I will alert to a particular matter when we meet, but in terms of the past few months alone: (i) this case of deaths occasioned outside of BGTW (where the statute gives them no status as police officer; (ii) the HMIC inspection issues; (iii) the Federation bullying allegations; (iv) the runway incident, where we had to go in to bat for them despite all aspects having clearly been mishandled by the RGP (and parts of MoD also); and (v) the continuing saga of the Alcaidesa claims. I think I will be asking Ian MacGrail to provide more detail and in writing as to what happened here and what they are going to do to engage with these claims before there is any requirement that they do so. I am starting lose confidence here. Best wishes. Fabian

FP3/1

14/05/2020, 09:50 - Fabian Picardo: Just sent to Deputy Governor.

17/05/2020, 22:48 - Fabian Picardo: <Media omitted>

17/05/2020, 22:48 - Fabian Picardo: That is page 13 of the HMIC report published last week. Look at the bit I have highlighted in red. Boom.

17/05/2020, 23:39 - Michael Llamas: Hardly encouraging. I understand that technical experts can say when a phone has been accessed or otherwise tampered with

18/05/2020, 00:35 - Fabian Picardo: To discuss

18/05/2020, 00:36 - Fabian Picardo: <Media omitted>

18/05/2020, 00:37 - Michael Llamas: (2)(b)?

18/05/2020, 00:49 - Fabian Picardo: Exactly. In re a search warrant as a 'proceeding'

18/05/2020, 00:52 - Michael Llamas: We need to check what "such" means in that context

20/05/2020, 13:02 - Michael Llamas: I have an email I want you to see. Are you having docs sent to you?

20/05/2020, 13:27 - Fabian Picardo: Ahora te llamo

20/05/2020, 14:19 - Michael Llamas: To be clear I can forward your email to DPP and Yeats?

20/05/2020, 14:52 - Fabian Picardo: Yes.

20/05/2020, 18:49 - Michael Llamas: Michael - aside from Delhi....the CM's response to our 'ask' for legal representation.... I honestly do not know why he has reacted like this. Have you briefed him of our meetings we've had on the matter?

20/05/2020, 18:49 - Michael Llamas: He is aware you and I have spoken about this. I forwarded to him Cathal's email to me today since it was necessary in view of the wider issues.

20/05/2020, 18:49 - Michael Llamas: Good. But the wobbler he's thrown is what I do not understand. Anyway, something for me to take up with him. Thanks.

20/05/2020, 18:49 - Michael Llamas: Exchange just now with CoP

20/05/2020, 18:51 - Fabian Picardo: "Wobbler" ...

20/05/2020, 18:51 - Michael Llamas: Ya

20/05/2020, 18:56 - Michael Llamas: They are very stubborn. I can't understand why he's said wobbler

20/05/2020, 18:59 - Michael Llamas: Just seen his email to you. Does not address the issue.

20/05/2020, 21:17 - Fabian Picardo: I have sent the reply to the governor. Will likely reply with the 15(1)(a) notice.

20/05/2020, 21:18 - Michael Llamas: 👍

FP3/2

21/05/2020, 19:21 - Michael Llamas: Haven't received it

21/05/2020, 19:30 - Fabian Picardo: Just finishing it

21/05/2020, 19:51 - Fabian Picardo: <Media omitted>

21/05/2020, 19:51 - Fabian Picardo: Can you review?

21/05/2020, 19:52 - Fabian Picardo: It contains references to you and want to make sure you are comfortable.

21/05/2020, 19:52 - Michael Llamas: Sure. Straightaway

21/05/2020, 19:52 - Michael Llamas: 👍

21/05/2020, 20:13 - Michael Llamas: <Media omitted>

21/05/2020, 20:13 - Michael Llamas: call you now

21/05/2020, 20:17 - Michael Llamas: just called you. Call me when you can

21/05/2020, 20:28 - Fabian Picardo: Discussed with Nick. I don't want them to come up with that as if I was not aware of it, so I am going to leave it in.

21/05/2020, 20:30 - Michael Llamas: Ok

21/05/2020, 21:01 - Fabian Picardo: Also sent by email.

21/05/2020, 21:01 - Fabian Picardo: <Media omitted>

21/05/2020, 21:01 - Michael Llamas: 👍

22/05/2020, 10:24 - Michael Llamas: He hasn't turned up

22/05/2020, 10:27 - Fabian Picardo: See ur email. The casual nature of his reply is just remarkable.

22/05/2020, 10:48 - Michael Llamas: Spoken to CoP. Call me when you can.

22/05/2020, 12:30 - Michael Llamas: Call me when u can

04/06/2020, 16:52 - Fabian Picardo: Let's meet 1730hrs here with Nick Pyle.

04/06/2020, 17:03 - Michael Llamas: Sure. He's here with me. We can go earlier if you wish

04/06/2020, 17:04 - Fabian Picardo: Doing a gbc interview first on tax treaty.

04/06/2020, 17:04 - Michael Llamas: Ok

FP3/3

05/06/2020, 13:41 - Fabian Picardo: Any news from GPA?

05/06/2020, 13:41 - Michael Llamas: No

05/06/2020, 13:41 - Fabian Picardo: Ffs

05/06/2020, 13:41 - Michael Llamas: They started meeting at midday

05/06/2020, 13:41 - Fabian Picardo: Ah. Ok.

07/06/2020, 12:29 - Michael Llamas: Nick will call you to arrange a time to meet

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08/06/2020, 18:55 - Michael Llamas: Nick - I have just read the exchange of emails between Darren Grech & ourselves.

I don't think what I am being offered is what I deserve. There isn't even a mention of my untaken leave & days owed being paid to me. Could you revert to Darren and enquire whether at least one year's salary is honoured? Rgds.

09/06/2020, 16:40 - Fabian Picardo: <Media omitted>

09/06/2020, 16:42 - Michael Llamas: So predictable

31/07/2020, 08:50 - Michael Llamas: Just spoken to Ullger. Can I call u?

31/07/2020, 08:51 - Fabian Picardo: Coming out of shower. Ahora te llamo.

31/07/2020, 11:54 - Fabian Picardo: It has to be clear he is withdrawing from the Inquiry otherwise I am going ahead. I will not allow anyone to pretend I have anything to hide here. If they are difficult, we go ahead.

16/03/2021, 16:57 - Michael Llamas: Hi M, hope you are well. The RGP have asked to meet with me re: Op Delhi as they are getting nothing back from CM and CS on their witness statements. These were sought months ago. This may have a detrimental impact on the dismissal application to be held in June. Without their statements the crown's case is weaker. Additionally, without their statements, the Crown would need to consider whether it would apply for summonses to have both attend court and testify at the trial. Grateful if we could discuss. Best, C

16/03/2021, 16:57 - Michael Llamas: From DPP

FP3/4

16/03/2021, 17:02 - Fabian Picardo: I have not had time ffs.

FP3/5

Lewis Baglietto

12/05/2020, 21:18 - Fabian Picardo: <Media omitted>

12/05/2020, 21:18 - Fabian Picardo: Here is a quick-read guide to our measures to 'Unlock the Rock'.

13/05/2020, 12:36 - Lewis Baglietto: Can you talk?

13/05/2020, 15:50 - Lewis Baglietto: Can you talk?

13/05/2020, 15:52 - Fabian Picardo: Give me 5.

13/05/2020, 15:52 - Lewis Baglietto: Ok

14/05/2020, 16:55 - Fabian Picardo: The last limb refers:

14/05/2020, 16:55 - Fabian Picardo: Dismissal with total loss or reduction of Pension Benefits forfeiture of Pension Benefits will be used as a disciplinary measure only in owes where the Police Officer is convicted of treason or some other offence which is gravely injurious to the State or is liable to lead to serious loss of confidence in the Police Force.

14/05/2020, 18:23 - Lewis Baglietto: Many thanks

14/05/2020, 18:41 - Fabian Picardo: Section 76 Police Act

14/05/2020, 18:42 - Fabian Picardo: Power to make orders with respect to property in possession of Police. 76. Where any property has come into the possession of the Police in connection with any criminal charge or under any statutory provision or rule of law, the magistrates' court may, on the application either by a member of the Force or by a claimant of the property make an order for the delivery of the property to the person appearing to the court to be the owner thereof, or, if the owner cannot be ascertained, make such order with respect to the property as the court may think fit.

14/05/2020, 18:45 - Lewis Baglietto: Thanks, we are drafting letter. Let me think about this provision but we prefer not to have to go to court but for CPO to return due to clear unlawfulness

14/05/2020, 18:54 - Fabian Picardo: Yes. I understand.

16/05/2020, 23:20 - Lewis Baglietto: Bro. Sorry to disturb but Can we speak some time tomorrow morning?

17/05/2020, 08:04 - Fabian Picardo: Sure. What time is good for you?

17/05/2020, 09:06 - Lewis Baglietto: Thanks. Anytime. And what's the best way? WhatsApp call?

17/05/2020, 09:07 - Lewis Baglietto: Or landline?

17/05/2020, 09:43 - Fabian Picardo: I don't mind. Ahora te llamo.

17/05/2020, 09:44 - Lewis Baglietto: Perfect. Thanks. Mobile or [redacted]

17/05/2020, 09:51 - Lewis Baglietto: 12 noon he says

17/05/2020, 09:51 - Lewis Baglietto: Missed voice call

FP3/6

17/05/2020, 09:52 - Lewis Baglietto: Missed voice call

17/05/2020, 09:54 - Lewis Baglietto: Missed voice call

17/05/2020, 09:59 - Lewis Baglietto: Missed voice call

17/05/2020, 10:04 - Fabian Picardo: Ok

17/05/2020, 11:42 - Fabian Picardo: Let me know when you are on your way up.

17/05/2020, 11:57 - Lewis Baglietto: Ok

17/05/2020, 12:09 - Fabian Picardo: Como vais?

17/05/2020, 14:03 - Lewis Baglietto: Picking Up now

17/05/2020, 22:47 - Fabian Picardo: <Media omitted>

17/05/2020, 22:48 - Fabian Picardo: That is page 13 of the HMIC report published last week. Look at the bit I have highlighted in red. Boom.

17/05/2020, 22:52 - Lewis Baglietto: Shocking but sadly doesn't come as a surprise! Thanks for your time today bro. I think it reassured him a lot!

17/05/2020, 23:02 - Fabian Picardo: I think the above is of major to the issues raised this week. It will be important. Remember the HMIC report is public.

17/05/2020, 23:03 - Lewis Baglietto: Yes, excellent. We can put it to good use for sure!

17/05/2020, 23:10 - Fabian Picardo: I have sent to JL. Let me know if he sees it.

17/05/2020, 23:12 - Lewis Baglietto: 👍

FP3/7

Albert Mena

16/04/2019, 22:36 - Albert Mena: Have John Perez asking to talk to me. Advice please

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14/05/2020, 09:49 - Fabian Picardo: Hi. This article has just appeared. A civil claim has been filed in Spain (in Ceuta) by the families of the deceased in the incident with the RGP off the Eastside. This is obviously going to cause us huge issues. Damages claims, political problems etc. I am totally there to support the officers on the front line. I am starting to have huge concerns about the senior management of the RGP. I will alert to a particular matter when we meet, but in terms of the past few months alone: (i) this case of deaths occasioned outside of BGTW (where the statute gives them no status as police officer; (ii) the HMIC inspection issues; (iii) the Federation bullying allegations; (iv) the runway incident, where we had to go in to bat for them despite all aspects having clearly been mishandled by the RGP (and parts of MoD also); and (v) the continuing saga of the Alcaidesa claims. I think I will be asking Ian MacGrail to provide more detail and in writing as to what happened here and what they are going to do to engage with these claims before there is any requirement that they do so. I am starting lose confidence here. Best wishes. Fabian

14/05/2020, 09:49 - Fabian Picardo: https://elfarodeceuta.es/denuncian-policia-gibraltar-muerte-dos-ceuties/

29/10/2020, 15:52 - Fabian Picardo: Dear Mr Baglietto QC,

You will no doubt be aware that the police investigation involving 36 North Ltd has resulted in three persons being charged with conspiracy to defraud Bland Ltd and that they have now appeared before the Supreme Court of Gibraltar.

Following an extensive investigation we have concluded that Mr Levy is no longer considered a suspect in this matter. Given that Mr Levy has already provided a written submission further to questions posed by the investigating team, I should be grateful if you would consider editing Mr Levy's account with a view of it being included in the evidence in the form of a witness statement.

Finally, in the circumstances it is our intention to return the devices that were handed over to police voluntarily on the 12th May 2020. These items (which remain unexamined) may be collected from NMH during normal office hours or alternatively I could arrange for them to be dropped off to you.

Kind Regards,

Mark

Mark Wyan

Chief Inspector

FP3/8

27/11/2020, 10:17 - Fabian Picardo: Good morning Chief, I have been asked to forward to you a letter regarding a request from the investigating team into the fraud investigation surrounding the NSCIS. The team claim that the defence and defendants have cited you, as we expected them to do and therefore they have a duty to follow reasonable lines of enquiries. They have provided you with a list of questions and a guidance document, but they are at your disposal, as I am should you need to discuss this with us. Richard.

27/11/2020, 10:17 - Fabian Picardo: Thanks Richard. Delighted to help with any relevant lines of inquiry. Best wishes. Fabian

27/11/2020, 10:17 - Fabian Picardo: Thank you Sir, most kind.

FP3/9

Darren Grech

20/03/2018, 18:20 - Darren Grech: F did you send through a response to Chair if GPA regarding the "report" into the airfield incident? They raised this with me to close the book so to speak; strangely (or not so) Dep Gov raised with me as well. Best D

20/03/2018, 18:41 - Fabian Picardo: No let's discuss.

20/04/2020, 18:22 - Darren Grech: F Joey after me concerned about RGP report which he needs to make available to Nick etc. Wanted you to peruse and elicit opinion. Says he has emailed you but does not want to push because he knows you have a mountain to climb. D

20/04/2020, 19:08 - Fabian Picardo: Is this the annual policing plan?

20/04/2020, 19:09 - Darren Grech: No it is the outcome of an inspection "God knows why" commissioned by Ian, which I have not seen but which Joey days does not make for good reading.

20/04/2020, 19:11 - Fabian Picardo: Fuff. Ok. Can u ask him to reforward to me...

20/04/2020, 19:12 - Darren Grech: 😊 yes

20/05/2020, 16:45 - Fabian Picardo: Darren, when Joey speaks tomorrow at the GPA, he is going to explain my views on a sensitive subject. Your support for me on this is key. I have grave, grave concerns.

20/05/2020, 16:46 - Darren Grech: I know and they are my concerns too for a whole range of reasons. 👍 You have this support.

20/05/2020, 16:47 - Fabian Picardo: 👍

21/05/2020, 12:28 - Darren Grech: Made my position very clear this morning: HIS position untenable with the massive loss of confidence all over. [redacted]

FP3/10

08/06/2020, 21:32 - Darren Grech: Cheers. Did not consult principal auditor which was my original reason for delay. But like you say merely a formality. If he wants to bring this up in any reports he can. Horse has bolted anyway.

08/06/2020, 21:51 - Darren Grech: Favourable reply received; all is well, for now

08/06/2020, 21:59 - Fabian Picardo: Very good news.

08/06/2020, 22:02 - Darren Grech: It is and it goes say with my job, but at the end of the day you also have a feeling there is a human being there who sure has made mistakes but must be hurting. But like I said if you don't want to take these decisions then deliver pizzas or something. And also have to think of the interest of Gib.

08/06/2020, 22:18 - Fabian Picardo: Ya. I have felt for him, although he will never believe it.

08/06/2020, 22:40 - Darren Grech: I think the guiding compass has to be doing what is right for the right reasons and still feel that connection to the human being whose future you have in your hands. So I guess feeling sad is still acceptable having taken the right decision.

08/06/2020, 22:45 - Fabian Picardo: Yes. That is the balance.

08/06/2020, 22:54 - Darren Grech: Enjoy bike ride; keep at it you are doing great

09/06/2020, 09:26 - Darren Grech: If the person ticks all the other boxes then the RGP needs a woman of substance at the top for a period of time to cut through all the male testosterone nonsense and cowboy behaviour!

09/06/2020, 09:28 - Fabian Picardo: Indeed

09/06/2020, 11:42 - Darren Grech: F, happy for this to go out as soon as Ian releases his statement which should happen at 1pm? So slightly after then? Governor will release his as soon as Ian's as well?

Her Majesty's Government of Gibraltar notes the decision announced today by Ian McGrail to retire as Commissioner of Police. After 36 years of service to Gibraltar, the Government wishes Mr McGrail well in his retirement.

09/06/2020, 12:23 - Fabian Picardo: Yes, as soon as Ian's is out, and the Governor's is out, then issue ours.

09/06/2020, 12:26 - Darren Grech: Perfect

Ian McGrail

26/06/2019, 16:43 - Ian McGrail: CM - Been chatting to Stuart Green ref Panorama questions you have received regarding the Alcaidesa incident & your understanding of it having been dealt

a civil matter? Could we have a quick chat about this. I am currently in the bunker with DCM in a brexit meeting.

26/06/2019, 16:58 - Fabian Picardo: Hi Ian. Happy to talk. Give me 5 mins. I didn't say it was a civil matter, I said it progressed as a private prosecution cos the victims insisted. But let's bottom that out.

26/06/2019, 17:01 - Ian McGrail: 👍 will call you when i finish witg dcm

27/06/2019, 23:18 - Ian McGrail: Cm - Confirmed meeting at 10am at The Tower.

27/06/2019, 23:20 - Fabian Picardo: Thanks! See you then.

29/06/2019, 16:07 - Ian McGrail: CM - before you shoot off to the wedding reception, I have a hard copy update to share with you and AG ref Op Florence. Would also like to brief you both in respect of certain issues/observations.

29/06/2019, 17:13 - Fabian Picardo: Ok. Just seen. What shall we do? Shall I come to the office?

29/06/2019, 17:16 - Ian McGrail: Just left michael's office & discussed the issues with him. Its basically same issues he is toying with & which he says you are fully aware of so i reckon we don't need to meet til monday unless something major develops.

29/06/2019, 17:17 - Fabian Picardo: Ok. Even better. I will be in touch with him and am seeing JL Ghio tonight.

29/06/2019, 17:17 - Ian McGrail: 👍

11/07/2019, 09:29 - Ian McGrail: Good morning CM - I would be extremely grateful for 5-10mins of your time to discuss what I foresee will become a very undesirable situation with regards to the relationship between the RGP and Gib Police Federation Board. Related to this I have tried seeking out information from Michael Crome on certain admin matters relating to the 2x full time convenors but he has referred me to you.

There is a clear pattern developing which is not heading in a good direction & which is why I feel it important that I explain how I am going to deal with the matter before it reaches you via the Fed Convenors themselves. Rgds Ian.

11/07/2019, 09:42 - Fabian Picardo: Hi. Sure. Lol better next week if possible?

FP3/12

11/07/2019, 09:43 - Ian McGrail: Yes that's ok. I will ask your office when its most convenient. Many thanks.

11/07/2019, 09:48 - Fabian Picardo: Ok. Great performance this week. Many challenges. Great success. F

11/07/2019, 09:49 - Ian McGrail: Indeed. Many thanks.

18/09/2019, 14:34 - Ian McGrail: CM - I am informed that Maurice Morello of the Gib Pol Fed has sought a meeting with you. I respectfully ask that if he touches on the matter of his allowance as convenor, which is under review, that you take in to account my views and that of the Chief Sec. I had reason to make disciplinary intervention on him on Monday which is also why he may want to off load to you.

I am very disappointed with the way the GPF are conducting themselves - totally confrontational and toxic. Happy to discuss further if you feel the need to do so.

18/09/2019, 15:09 - Fabian Picardo: Thanks Ian. Will call you before I see him. Best wishes.

18/09/2019, 15:10 - Ian McGrail: Many thanks CM.

20/09/2019, 10:36 - Ian McGrail: Good morning CM - I need to brief you up on an operation we are going to strike on. I have spoken to MoJ who said it was best for me speak to you direct. I can do it over the phone or in person. Wouldn't take more than 5mins. However, I am due to fly out the afternoon on a job trip.

20/09/2019, 10:44 - Fabian Picardo: I will call you shortly.

20/09/2019, 10:44 - Ian McGrail: 🤙

09/10/2019, 16:29 - Ian McGrail: CM - I am waiting to fly out from LGW in an hour or so. I have just received very disturbing news from Richard Ullger. He met with the GPF this afternoon and amongst other things the chairman has admitted meeting up with Leo Olivero for a coffee and making very damaging suggestions to him which brings absolute discredit on the RGP. You will be shocked when you hear it. I need to speak to you tomorrow to explain. I am seeing HE tomorrow together with Joey Britto and HE's request.

10/10/2019, 12:37 - Fabian Picardo: Noted. All we need.

10/10/2019, 12:41 - Ian McGrail: I am dealing with Maurice Morello & Leif Simpson via discipline route but needed you to be aware in case you meet with them.

11/10/2019, 13:24 - Ian McGrail: CM - Have I missed a supposed communication from you ref not co-operating with Spanish Law Enforcement until they recognise our waters?

11/10/2019, 13:37 - Fabian Picardo: Completely skewered by Panorama of course. Utter nonsense. I will send you my full answer later.

FP3/13

11/10/2019, 13:41 - Ian McGrail: Many thanks. I do not intend to respond unless you think I should do so simply because as we know, it will just feed him to write further nonsense. It is so evident that they have a policy to try and discredit me at all costs and on all fronts.

28/01/2020, 19:20 - Ian McGrail: CM - I hope all is going well in London. I really feel tight bringing this matter up at this time when you are so tied up with Brexit matters but this issue is picking up considerable adverse traction - I am sure you aware of the latest diatribe viz the Gib Police Federation as exposed on Panorama & social media. I have today briefed Min Sacramento on my concerns, but post to this meeting I have been advised that you are favourably considering legislation to exclude the GPF conveners, who are warranted officers, from from Force discipline regulations. This has been said by the GPF Chair himself in quite an arrogant, defiant and confident tone earlier today. Surely this cannot be true & I sincerely hope this is 100% not the case. I seek your reassurance that this statement by Sgt Maurice Morello is incorrect. I, together with the senior command of the RGP are seriously concerned with the journey the GPF are on. Today Sgt Morello literally said that legislation is sitting on the CM's desk to exclude the conveners from any discipline regulations - you cannot imagine the adverse hype this is causing. Already I have notion of a very fractured GPF Board who are not all in agreement with the way the Chairman and Secretary are running business - this is not a healthy state of affairs at all. I trust we can meet on your return to Gib so that you can hear out the serious concerns we have with the latest developments.

Best rgds

Ian

30/01/2020, 11:31 - Fabian Picardo: Ian, as you can imagine, the last thing on my mind this week is the GPF. Things are not, in my view, as black and white as your SMT appear to see it or as the GPF see it. I have no legislation on my desk, but I am highly sympathetic to the principle that Union leaders should not be subject to the discipline of those who they represent their people against. I am happy to discuss this and consider with you how best to find a solution that works for all sides here. I also think that "an investigation into who has talked to Panorama" (which I am not saying is happening, but that newspaper has alleged under the pen of Leo Olivero), smacks of Zimbabwe. It's not a good look for a modern police force, in my view. Happy to tell you more when we meet.

30/01/2020, 13:08 - Ian McGrail: CM - Many thanks for your text. I strongly sense that you are not fully aware of the circumstances which has led to the assistant commissioner commencing an internal investigation. There has been a course of conduct developing during the past 2 years which we have, through subtle leadership, tried our very best to address. The principles of why the federation was created are being totally abused. Notwithstanding, I have certain suggestions to make when we meet & which can draw the line to all of this - I hope they will meet with your approval. CM, I have self reflected hard over the past few days. I can assure you that my intentions are in the best interests of the RGP and Gibraltar. If you accept my proposal on Wednesday when we meet I am confident that you will align yourself with my views on the matter.

Wishing you and the rest of the delegation a safe return home

Best regards

Ian

FP3/14

30/01/2020, 13:11 - Fabian Picardo: 👍

08/03/2020, 06:05 - Ian McGrail: CM - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked.

I am invoking Post Incident Procedures and planning for consequence management.

Once I have further updates I will let you know.

Rgds

Ian

08/03/2020, 07:24 - Fabian Picardo: Ian. Thank you. What are the nationalities of the deceased? Was it drugs or tobacco? Any GC or SVA involvement?

08/03/2020, 07:33 - Ian McGrail: So far we have 3 identified. 2 from Ceuta (moroccan decent) & a Portuguese. No Spanish law enforcement agency involved. RHIB suspected to be involved in drug smuggling. I have also informed The Convent. I have held a "Gold" command meeting in my office to address, welfare of the crew, the investigation that will now follow, security/safety to our law enforcement officers, community impact et al.

Also linked up with GC and CNP more so after the disturbances in La Linea after the other death involving the our customs patrol boat but given that those on the RHIB are not from this region it may not have an impact. I am still waiting for the 4th & (also deceased) to be identified.

08/03/2020, 07:37 - Ian McGrail: Just had the ID of the 4th one confirmed. He is also from Ceuta of Moroccan decent.

08/03/2020, 07:40 - Fabian Picardo: Thank you. Are our officers safely ashore and seen by med staff if necessary? Are their families informed they are ok, in case social media lets on there has been a fatal collision, so they don't worry?

08/03/2020, 07:41 - Fabian Picardo: Also, what time did it occur and was it firmly within BGTW or questionable?

08/03/2020, 07:42 - Fabian Picardo: I think we should announce if possible to avoid social media speculation. Have you prepared media release or do you want Stuart's help?

08/03/2020, 07:42 - Ian McGrail: Our crew are ok. Their welfare is being totally safeguarded. I am also circulating a notice to all staff to prevent speculation and social media reporting from within. I will issue a very brief press notice shortly.

08/03/2020, 07:43 - Fabian Picardo: Ok. Re the two who survived, captured? Hospital or cells?

08/03/2020, 07:43 - Ian McGrail: Collision occurred at approx 0340hrs. Location still to be confirmed.

08/03/2020, 07:44 - Ian McGrail: The two who survived are in hospital with non critical injuries as far as I am informed.

08/03/2020, 08:13 - Fabian Picardo: Arrested, correct?

FP3/15

08/03/2020, 08:14 - Ian McGrail: They will be if they haven't been already.

08/03/2020, 09:49 - Ian McGrail: CM - the information suggests that the collision took place outside BGTW - approx 6NM east off the runway/Santa Barbara beach.

08/03/2020, 09:53 - Ian McGrail: When a death arises from police contact its best practice to engage with an independent investigating team & I am studying how to achieve this.

08/03/2020, 09:53 - Fabian Picardo: Ok. We need to liaise with AG on this and ensure we are transparent on this.

08/03/2020, 09:54 - Fabian Picardo: Yes, agreed. Any necessary additional expenditure will be approved.

08/03/2020, 09:54 - Ian McGrail: Many thanks.

07/04/2020, 19:22 - Ian McGrail: CM - I hope you're keeping well - its been quite a while since we've been in touch. I feel you ought to be aware of this.....

Not sure if you have been advised that only a short while ago we received a complaint that the MD of Casais has tried to bribe or has already bribed one of the senior surveyors contracted by HMGoG to oversee the Westside/Bayside schools project.

07/04/2020, 19:26 - Fabian Picardo: Hi Ian. Albert Mena advised me of this early afternoon. Very concerning. Jaw dropping.

07/04/2020, 19:27 - Ian McGrail: Indeed.

12/05/2020, 12:25 - Ian McGrail: CM - before you hear it from anyone else I want to inform you that detectives are executing a search warrant at Hassans for (JL) in relation to the case against Perez, Cornelio & Sanchez. Its been done in the most discreet of ways and we're hoping there is co-operation.

Rgds

12/05/2020, 12:34 - Fabian Picardo: Ian, Thank you for the courtesy of this information. I think that is a bad decision. A search warrant should only have been sought if you believed that the person in question was not going to cooperate and will try destroy evidence. If, as you say, you are hoping for cooperation, especially in a case involving a senior Silk and head of Gibraltar's largest legal firm, you should, in my view, first have sought to contact that person and obtain cooperation. Given my close personal relationship with JL, I won't comment further.

12/05/2020, 12:35 - Ian McGrail: Noted CM.

Joey Britto

13/02/2020, 19:24 - Joey Britto: Dear Fabian - just to keep you posted - CoP and Federation today agreed on a review of their working relationship via mediation - so for now they have at least agreed on something!

Best wishes

Joey

13/02/2020, 19:26 - Joey Britto: This is obviously quite separate to anything you may wish to do in terms of legislation etc - I'm just concerned with them seeing eye to eye for now.

13/02/2020, 19:33 - Fabian Picardo: Thanks!

13/02/2020, 19:35 - Joey Britto: I'll alway try to give you good news!

13/02/2020, 19:36 - Fabian Picardo: <Media omitted>

13/02/2020, 19:41 - Joey Britto:

09/03/2020, 17:54 - Joey Britto: Fabian - I have been kept informed of tragic incident at sea by CoP - just so you know - I'm working with CoP on best possible model for independent investigation into circumstances surrounding this. Will of course consult you via Darren, if that's ok.

Best

Joey

09/03/2020, 18:46 - Fabian Picardo: Thanks. Or via here. Shall I set up a WhatsApp group?

09/03/2020, 18:47 - Joey Britto: Sure - if you don't mind

09/03/2020, 18:48 - Fabian Picardo: Commissioner, you and me?

09/03/2020, 18:48 - Joey Britto: Do you want to include Darren as well?

09/03/2020, 19:59 - Joey Britto: CoP mentioned Frank as chair of PCB - what do you think?

09/03/2020, 19:59 - Joey Britto: I mean - to include in group

09/03/2020, 20:03 - Fabian Picardo: Ok. Will do.

09/03/2020, 20:04 - Joey Britto:

16/04/2020, 14:00 - Joey Britto: Dear Fabian,

FP3/17

Once again forgive the intrusion - I realise you have far more pressing matters than this but I'm asking in the light of all the praise and positivity that RGP is receiving from the community and HMGoG - I would welcome a steer so I know I am not putting my foot in it, so to speak!

I have received the HMIC report on the RGP: they have pulled no punches and have highlighted several areas for development, in relation to internal governance, and have expressed themselves in no uncertain terms!

I have naturally discussed this with CoP and my initial thinking is to submit, by email, a copy of the report along with my recommendations on how to deal with it, from a public perspective, to you, Nick (as Governor) and Samantha (with CoP) in copy.

Maybe I'm being over cautious but the report could have been better - to be fair, RGP have taken it on the chin and are already working towards all the recommendations.

My question is: are you ok for me to submit to you, MfI and the Governor at the same time?

Happy to meet if you feel we should...

Apologies for bothering you!

Best wishes,

Joey

20/04/2020, 19:28 - Joey Britto: Good evening, have sent email as advised by Darren ref HMIC report...

20/04/2020, 19:31 - Fabian Picardo: Thanks Joey. Will review asap my friend.

20/04/2020, 19:33 - Joey Britto: Thank you very much.

20/04/2020, 19:37 - Joey Britto: CoP seems to be quite comfortable and amenable to dealing with this, in case you are wondering and you wish to speak to him...

FP3/18

21/04/2020, 08:31 - Joey Britto: Dear Fabian, I trust you are well. I need to send MfJ a copy of the inspection report as well: police will want to discuss some of the areas identified for development and improvement with her: vetting, safeguarding, vulnerable people, domestic violence etc etc....

21/04/2020, 08:55 - Fabian Picardo: Ok to send to her.

21/04/2020, 08:55 - Joey Britto: Will do

06/05/2020, 18:34 - Joey Britto: Fabian - Darren spoke to me - just a heads up - we are going to issue PR by RGP on report tomorrow at around 10.30 - I'll also issue a short supporting statement from GPA as well. De verdad, apologies for all the hassle!

KR

Joey

06/05/2020, 19:42 - Fabian Picardo: No problem.

06/05/2020, 19:42 - Joey Britto: 😊

06/05/2020, 19:42 - Joey Britto: Thanks

18/05/2020, 11:37 - Joey Britto: FYI - I'm meeting them this Thursday morning - some of them work so I've had to allow notice

KR

Joey

18/05/2020, 11:52 - Fabian Picardo: Thank you. Much appreciated. I am happy to prepare a note for you if you think that would be helpful.

18/05/2020, 12:05 - Joey Britto: Would you? Only if it's no trouble...?

18/05/2020, 12:07 - Joey Britto: I know what I have to say to them but would be good to have something for me to act as a summary of sorts

18/05/2020, 12:12 - Fabian Picardo: Sure. I will set out a file note of this morning so you can use it to reflect what we told you.

18/05/2020, 12:12 - Joey Britto: Thank you

20/05/2020, 08:35 - Joey Britto: Fabian - remember the notes you were going to send me either via WhatsApp or email - I don't want to get this wrong, please... thanks. Meeting my colleagues tomorrow at 9.30...

KR Joey

FP3/19

20/05/2020, 08:38 - Fabian Picardo: Yup. Onto it already.

20/05/2020, 08:45 - Joey Britto: Thanks

20/05/2020, 16:40 - Fabian Picardo: <Media omitted>

20/05/2020, 16:40 - Fabian Picardo: Joey, Just for you. Its an informal record converting the notes I had.

20/05/2020, 16:41 - Joey Britto: Thank you very much. I shall revert as soon as I've had the GPA meeting

20/05/2020, 16:42 - Fabian Picardo: Thank you.

20/05/2020, 17:32 - Fabian Picardo: I still worry about syntax, spelling etc when I write something you are going to see!

20/05/2020, 18:25 - Joey Britto: Well, you know you shouldn't - you write extremely well!

20/05/2020, 18:50 - Fabian Picardo: I have picked up my own typos! I will send corrected version later!

20/05/2020, 19:18 - Joey Britto: Thanks.

20/05/2020, 23:29 - Fabian Picardo: <Media omitted>

20/05/2020, 23:30 - Fabian Picardo: Joey, amended. All were really typos except for the important removal of the word 'not' in p3, in the third line. That changed the tense of the sentence to the direct opposite of what I meant. Very best wishes. Fabian

20/05/2020, 23:42 - Joey Britto: Thank you, Fabian. I'll revert ASAP after the meeting I'll have to call a couple of members who can't actually make it tomorrow first but will get back to you and Nick soon after.

KR

Joey

21/05/2020, 11:58 - Joey Britto: Fabian - could I possibly see you this afternoon when Ernest goes to see you at 4.00?

21/05/2020, 11:59 - Joey Britto: Or around that time?

21/05/2020, 12:02 - Fabian Picardo: Yes. Sure. See you then.

21/05/2020, 12:02 - Joey Britto: Thanks see you at 4.00

21/05/2020, 18:26 - Joey Britto: <Media omitted>

21/05/2020, 18:30 - Fabian Picardo: Hi. Yes. That is what you will, in effect be doing. You come back to us to seek our consent after the representations have been received. I will write the sequencing down for you as I see it if you wish. I am just going to finish a note first.

21/05/2020, 18:42 - Joey Britto: <Media omitted>

21/05/2020, 18:42 - Joey Britto: In any case, I'm sending you text of draft letter I plan on giving him after my meeting - grateful for your once over?

FP3/20

21/05/2020, 19:17 - Joey Britto: Perhaps my letter should say ..you shall be invited to retire unless you wish to make representations as to why you should not within xx days?

21/05/2020, 19:18 - Joey Britto: PS - be patient with me!

21/05/2020, 19:31 - Fabian Picardo: Lol. Give me a few minutes as I am finishing something.

21/05/2020, 19:34 - Joey Britto: Sorry 😐

21/05/2020, 21:00 - Fabian Picardo: <Media omitted>

21/05/2020, 21:00 - Fabian Picardo: Also sent by email. See references to loss of confidence by me and the Governor.

21/05/2020, 21:00 - Joey Britto: Oh - so you've sent this already?

21/05/2020, 21:00 - Fabian Picardo: Yes.

21/05/2020, 21:02 - Joey Britto: <Media omitted>

21/05/2020, 21:02 - Joey Britto: So this would make more sense now:

21/05/2020, 21:03 - Fabian Picardo: Yes. Exactly. I would suggest that you provide 7 days at the end. If he considers more time is required he should write to you asking for more time. This is to serious to let it ride. Best wishes. Fabian

21/05/2020, 21:04 - Joey Britto: Ok 🤙

22/05/2020, 09:50 - Joey Britto: Can I see you today before lose of play - I've given him letter but he is asking for details in writing - alone about getting a lawyer etc I need to discuss a couple of issues he's raised please

22/05/2020, 09:59 - Fabian Picardo: Hi Joey. Sure. Shall we meet at 2pm?

22/05/2020, 09:59 - Joey Britto: See you then - thanks

22/05/2020, 15:32 - Joey Britto: <Media omitted>

22/05/2020, 15:33 - Joey Britto: Fabian - please see nain points I felt were the most relevant to put in writing

22/05/2020, 15:38 - Joey Britto: There's a 'neither nor' that slipped in - typo

22/05/2020, 15:59 - Fabian Picardo: There are some "his" rather than yours.

22/05/2020, 16:05 - Joey Britto: Yes sorry - I'll fix it of course - but as summary is it ok?

22/05/2020, 16:06 - Fabian Picardo: Cant read fully for another hour. In a celac meeting.

22/05/2020, 16:09 - Joey Britto: Ok sorry

22/05/2020, 18:19 - Joey Britto: <Media omitted>

22/05/2020, 18:19 - Joey Britto: Fixed - this is a summary of main points but I suspect he'll want much more almost expecting something like a charge sheet... see if you feel I can send him this...

22/05/2020, 18:47 - Joey Britto: Apart from everything I feel worse having to bother you so much - I apologise for this

22/05/2020, 18:55 - Fabian Picardo: Dont worry. I am checking it now.

22/05/2020, 19:36 - Fabian Picardo: <Media omitted>

22/05/2020, 19:37 - Fabian Picardo: I have added a little more so that he knows the case he has to meet.

22/05/2020, 19:37 - Joey Britto: Thank you very much and once again, I really appreciate this!

22/05/2020, 19:39 - Fabian Picardo: Least I could do

22/05/2020, 19:39 - Fabian Picardo: .We

22/05/2020, 19:39 - Joey Britto: De verdad

22/05/2020, 19:39 - Fabian Picardo: must get it right and he deserves to be given the picture he has to address.

22/05/2020, 19:40 - Joey Britto: indeed - he has it verbally and now in writing

22/05/2020, 19:40 - Joey Britto: Thank you once again

29/05/2020, 11:43 - Joey Britto: Dear Fabian - I feel I should share report from CoP with GPA colleagues under strict confidentiality- given I was copied in I feel obliged to do so... seeing as it was addressed to you, I would need your permission.

29/05/2020, 11:44 - Fabian Picardo: Of course. I fully agree.

29/05/2020, 11:44 - Joey Britto: Thank you

29/05/2020, 17:52 - Joey Britto: F - I have just received a letter from CoP as well as a letter from Bicholas Gomez who is representing him. Naturally I shall share with GOA colleagues for their views but I am going to forward to you, Nick and Michael as well. Is this ok?

29/05/2020, 17:52 - Fabian Picardo: Yes please.

29/05/2020, 17:52 - Joey Britto: *Nicholas

29/05/2020, 17:52 - Joey Britto: Will email it to the three

29/05/2020, 18:15 - Fabian Picardo: Thanks. Got it.

29/05/2020, 18:23 - Joey Britto: Can I call you?

29/05/2020, 18:38 - Fabian Picardo: Hang on cos in Platinum now. Will call u asap.

29/05/2020, 18:39 - Joey Britto: Ok thank you

Nick Pyle (Chat with Deputy Governor)

30/04/2020, 15:05 - Deputy Governor Mobile: UK decision on C-19 travel restriction delayed possibly until next week. I suspect due to disagreement! We also need to speak about the HMIC inspection

Report of the RGP. I'll email my thoughts.

30/04/2020, 15:08 - Fabian Picardo: THanks. I understand the latter does not make for positive reading...

05/05/2020, 09:07 - Deputy Governor Mobile: Morning. Hope you were not up too late finalising Unlock the Rock. I meant to tell you I'd spoken to Joey Britto re the RGP inspection report and didn't think we therefore needed to meet with the Commissioner. I haven't read CoP's press statement but my advice was that it should not be backward looking and try to explain the past, it should simply focus on the way forward.

14/05/2020, 09:49 - Fabian Picardo: Hi. This article has just appeared. A civil claim has been filed in Spain (in Ceuta) by the families of the deceased in the incident with the RGP off the Eastside. This is obviously going to cause us huge issues. Damages claims, political problems etc. I am totally there to support the officers on the front line. I am starting to have huge concerns about the senior management of the RGP. I will alert to a particular matter when we meet, but in terms of the past few months alone: (i) this case of deaths occasioned outside of BGTW (where the statute gives them no status as police officer; (ii) the HMIC inspection issues; (iii) the Federation bullying allegations; (iv) the runway incident, where we had to go in to bat for them despite all aspects having clearly been mishandled by the RGP (and parts of MoD also); and (v) the continuing saga of the Alcaidesa claims. I think I will be asking Ian MacGrail to provide more detail and in writing as to what happened here and what they are going to do to engage with these claims before there is any requirement that they do so. I am starting lose confidence here. Best wishes. Fabian

14/05/2020, 09:49 - Fabian Picardo: https://elfarodeceuta.es/denuncian-policia-gibraltar-muerte-dos-ceuties/

14/05/2020, 09:58 - Deputy Governor Mobile: Agree. As we thought at the time, wrong appointment. Remind me to tell you about the recruitment process which was abject. Should we meet tomorrow after or before platinum?

FP3/23

15/05/2020, 11:02 - Deputy Governor Mobile: Re the RGP, I'm still happy of course to meet after platinum. I've asked the Met where things are with their independent report. Commissioner has not mentioned it to me.

15/05/2020, 11:17 - Fabian Picardo: We should meet. It's very concerning. Evidence of a deeper malaise I fear. Come over after platinum.

15/05/2020, 11:37 - Deputy Governor Mobile: 👍

15/05/2020, 20:03 - Deputy Governor Mobile: Good as always to catch up. I don't see any option re CoP given the evidence. I'll speak to Joey carefully sometime next week. Quite bizarrely, the Federation could end up "defending"Ian! Have a good weekend. Nick

15/05/2020, 20:42 - Fabian Picardo: Thanks Nick.

I think you have probably seen this coming before I have. To extent I allowed too much of the benefit of the doubt here and strained the most important relationship Gibraltar has (with the UK) in doing so.

I sincerely hope the Federation doesn't make such a mistake, because it would lead me not to have confidence in it if they did. Again, we shall have to set out our thinking clearly and then I doubt anyone would see this cumulative record of behaviour as defensible. But loss of life really puts us now in different territory.

I never would have thought I would be of this view, especially post Castree - but it feels like the RGP has gone backwards not forwards. A real pity for the good people in there who need nurturing and good leadership.

Have brought papers home to get under the skin of this.

Try to have a break this weekend if you can.

Best wishes.

Fabian

15/05/2020, 20:57 - Deputy Governor Mobile: Thanks. Agree we need to approach this correctly and carefully (but that's a given in my opinion). It's good to have faith in human nature but sometimes we need a reminder that not everyone has the same ethics / morality they should have and group think doesn't help (within the RGP). I will get some rest. I hope you too. Enjoy your bbq. Best. Nick

16/05/2020, 11:47 - Fabian Picardo: My pillow always gives me the best advice: if we are going to do this, do we very discretely at your end, line someone up. We cannot have it headless.

16/05/2020, 13:58 - Deputy Governor Mobile: Thinking about it quite a lot. Need to discretely bring Joey Britto into our thinking. I'm happy to do that Monday.

16/05/2020, 14:04 - Fabian Picardo: Yes. Agreed. Shall we do so early? Morning coffee the three of us in my or yours?

16/05/2020, 14:05 - Deputy Governor Mobile: Let's do mine. 09.30?

16/05/2020, 14:06 - Fabian Picardo: Yes. Agreed. Shall I ask him or will you?

16/05/2020, 14:08 - Deputy Governor Mobile: I've just asked him. I'll also try to speak to our OT Police Advisor based in Miami. I'll update you on my thinking before we meet

16/05/2020, 14:09 - Fabian Picardo: Ok. I will try to fair that draft I have prepared also for discussion. Any news on the Met's report?

16/05/2020, 14:17 - Deputy Governor Mobile: Nothing yet re Met report. Will call them if necessary.

18/05/2020, 22:23 - Deputy Governor Mobile: ....now onto the next challenge. It will be interesting to see what Joey come back with. Enjoy your days off. Long walk with the dog for me tomorrow.

18/05/2020, 22:28 - Fabian Picardo: Thank you. Didn't have time to prep better cos of pesky VTC! Lol. Have promised to send Joey a note of what I said so he can relay to GPA. Not hard given I have written it out for us. Will share with you to ensure it is not contentious between us. Enjoy the walk!

19/05/2020, 11:44 - Fabian Picardo: On the other, what's your instinct on the 15(1)(a) report? Shall I seek it given Met report isn't imminent? I am in two minds.

19/05/2020, 12:15 - Deputy Governor Mobile: I'm sure (or hope) CoP has done his own internal investigation and therefore has an internal report. You could a) ask on the basis of the claim being filed as the peg or b) wait until say Friday to see what Joey comes up with. Slight preference to leave this to the GPA but worried they will not be timely enough. Using 15.(1)(a) would speed things up and on balance, I'd go for that.

19/05/2020, 13:59 - Fabian Picardo: Yes re both. But on CoP issue, we cannot allow ourselves to be at daggers drawn for too long - that would be institutionally bad for Gibraltar and the rule of law. I will ensure in what I prepare for Joey that I propose a timetable: 48 hours or 7 days to provide reasons?

19/05/2020, 14:23 - Deputy Governor Mobile: Given there should be some sort of report/paperwork already compiled, 48 hours is not unreasonable as it should just be a question of pulling it together.

19/05/2020, 14:24 - Fabian Picardo: Exactly

20/05/2020, 16:47 - Fabian Picardo: Nick, is someone attending in your place tomorrow? Phil?

20/05/2020, 16:48 - Fabian Picardo: This is the note I have sent Joey:

20/05/2020, 16:48 - Fabian Picardo: <Media omitted>

20/05/2020, 16:49 - Fabian Picardo: If it needs amending, happy to send him a version with changes. Just need to ensure that we send it to him before tomorrow. He was having kittens about it so have sent it to him as a prop at least for now.

20/05/2020, 17:01 - Deputy Governor Mobile: I've a 17.00 call. I'll look at the note immediately afterwards and revert by 17.30

20/05/2020, 17:13 - Fabian Picardo: Thanks. I meant the GPA.

20/05/2020, 17:47 - Deputy Governor Mobile: Sorry - didn't know GPA was meeting. I stepped out of the GPA on 18 Feb. Phil not attending. Some typos in your note and there is a not in 3rd sentence on page 3 that should not be there.

20/05/2020, 17:48 - Deputy Governor Mobile: Want to talk through typos or I could type it up?

20/05/2020, 17:48 - Fabian Picardo: Damn. My english teacher is going to take me to task. Can you point out the typos? I am on a bicycle! Just stopped to read ur message...

20/05/2020, 17:49 - Deputy Governor Mobile: I'll email if OK

20/05/2020, 17:49 - Fabian Picardo: Sure.

20/05/2020, 18:03 - Deputy Governor Mobile: Sent.

20/05/2020, 21:56 - Deputy Governor Mobile: It was Verralis who were engaged at the time.

20/05/2020, 22:05 - Fabian Picardo: Ok. Noted.

20/05/2020, 22:06 - Fabian Picardo: (Not surprised).

20/05/2020, 23:28 - Fabian Picardo: <Media omitted>

20/05/2020, 23:28 - Fabian Picardo: With amendments. The superfluous 'not' on p3 was very well spotted!

20/05/2020, 23:44 - Deputy Governor Mobile: 👍 save bottom of page 2. HMICFRS inspection was 2019 not 2020. Sorry, should have spotted that first time.

21/05/2020, 12:39 - Deputy Governor Mobile: The Met have promised a formal report of findings to date by next Wednesday latest. I said important they send to CoP first as the requester etc.

21/05/2020, 12:39 - Fabian Picardo: Ok. Noted. Lots of local issues.

21/05/2020, 12:39 - Fabian Picardo: Alongside the investigation I mean. E.g., the local lawyers instructed etc.

21/05/2020, 12:58 - Deputy Governor Mobile: It's only going to grow and get more complicated.

21/05/2020, 19:55 - Fabian Picardo: See your email. Sent draft there. Its here also if easier:

21/05/2020, 19:55 - Fabian Picardo: <Media omitted>

21/05/2020, 19:56 - Deputy Governor Mobile: Ok. Will look at it now.

21/05/2020, 20:12 - Deputy Governor Mobile: 👍. 1 typo. 1. The facts. Para 3 first line there is a to missing.

21/05/2020, 21:00 - Fabian Picardo: <Media omitted>

21/05/2020, 21:00 - Fabian Picardo: Also sent by email.

21/05/2020, 21:10 - Deputy Governor Mobile: Thanks. Have a good evening.

22/05/2020, 10:27 - Fabian Picardo: Can I see you today before lose of play - I've given him letter but he is asking for details in writing - alone about getting a lawyer etc I need to discuss a couple of issues he's raised please

22/05/2020, 10:29 - Fabian Picardo: Nick, that is from Joey. I am going to see him at 2pm and will brief you after. [***THE REMAINDER OF THIS MESSAGE HAS BEEN REMOVED***]

22/05/2020, 20:39 - Fabian Picardo: <Media omitted>

22/05/2020, 20:40 - Fabian Picardo: Nick, above the letter Joey is sending the Commissioner. He has drafted it from our note. He asked me to read it over and confirm it sets out the position we communicate accurately. I felt it did.

22/05/2020, 20:40 - Fabian Picardo: I am left with such a bad taste in the mouth. Anyway. It has to be done for reasons we have debated at length.

22/05/2020, 22:07 - Deputy Governor Mobile: This is the first issue for many a year that has conflicted me and troubled my nights and weekends - I'm very good at switchcomg off. But I am absolutely sure that we are doing the right thing in the right way. My conscience is clear. This is the right thing for the RGP and for Gibraltar, painful though it is.

22/05/2020, 22:08 - Deputy Governor Mobile: I also fear a leak to the press. As a result, I've briefed Sarah and asked her to put a short note up to the Minister. As we have done, bettter to get ahead of things.

22/05/2020, 22:24 - Fabian Picardo: Thank you for those notes. Really helped me. F

27/05/2020, 17:44 - Fabian Picardo: Today is the day they were supposed to receive the report of the Met Police... Have you received anything from the RGP? Or can you try to obtain directly? At the end of the day, GoG is paying but I bet you they wont send it to me today as a result of my letter...

27/05/2020, 18:59 - Deputy Governor Mobile: Evening. Ive spent the afternoon submerged in audit stuff, so quite a lot of emails to wade through but nothing from RGP so I am trying to obtain direct. I've managed to get a copy of the ToRs which I'll forward by email. Had a good meeting with a Joey who agrees with our approach re secondment. Joey gave CoP 7 working days to respond so I suspect we will not know his next moves until Wednesday given the public holiday.

27/05/2020, 19:01 - Deputy Governor Mobile: OT police advisor will work behind to scenes to indentify candidates for the us/GPA to consider. I'll will not formally request him to help until CoP's future confirmed so we are seen to be following procedures.

27/05/2020, 19:17 - Fabian Picardo: Just seen the TORs. I think I am even more worried now. If you wanted to design a brief to try to avoid a proper review, you would do it in that way. Poor in form and in substance. I trust Met will see through that and provide the detail required.

27/05/2020, 19:22 - Deputy Governor Mobile: I deleted my comments on the ToR's as I didn't know how to express them politely. My language was not appropriate for an email! As well as breach of trust and loss of confidence, CoP has demonstrated significant lacking in leadership competences which I think can be summed up in abject decision making capabilities.

27/05/2020, 20:02 - Deputy Governor Mobile: Ps. Met have sent report to Ian. Don't know when but they have said they will send to me.

27/05/2020, 20:19 - Fabian Picardo: Great. Lets see if he immediately sends to us or not. Given that we are paying and the Section 15 request for info, if he does not send it in the next few hours it will be even more damning...

27/05/2020, 20:40 - Deputy Governor Mobile: Report sent to Ian lunchtime today!

27/05/2020, 20:54 - Fabian Picardo: Remarkable.

28/05/2020, 14:22 - Fabian Picardo: Anything from Met or McGrail?

28/05/2020, 14:44 - Deputy Governor Mobile: I've got 2 sitrepsfrom the Met, one dated 23/3 the other 19/5. Not clear when first was sent to CoP. I'll forward with comments once I've studied them (later today).

28/05/2020, 15:10 - Fabian Picardo: Thanks. Incredible he hasn't sent the report to us yet.

28/05/2020, 16:50 - Fabian Picardo: Ian has sent me the factual report I asked for. I am trying to download it, but I cannot. I am trying to forward it to you, but I think it is not getting through. Very strange. And I think no Met Report (unless it is part of their response and in the same document).

28/05/2020, 18:07 - Deputy Governor Mobile: There is no met report - more a record of some actions taken and not of what more is needed. Not particularly satisfactory. I'll forward what I but I've not studied in dept - end of year audit deadline tomorrow and sign off is to PUS. Worth grabbing a coffee tomorrrow?

02/06/2020, 09:02 - Deputy Governor Mobile: <Media omitted>

02/06/2020, 10:04 - Fabian Picardo: Midday? AG and Joey?

02/06/2020, 10:17 - Deputy Governor Mobile: Works for me. I'll check with he others.

02/06/2020, 10:18 - Fabian Picardo: Thanks!

08/06/2020, 20:22 - Deputy Governor Mobile: Darren has informed me that he'll be working on it tonight and tomorrow morning. Shall we give it till midday before we meet again to allow him time to firm everything up?

08/06/2020, 21:31 - Deputy Governor Mobile: Nick - you will have my letter with the agreed terms by 0830hrs tomorrow morning. Could you now send me the letter you had intended for me. I will relinquish command at 1800hrs tomorrow.

26/11/2021, 16:10 - Deputy Governor Mobile: OT Police Advisor read through some of my files on the McGrail matter. He is categorical in his belief we took "the correc course of action".

26/11/2021, 16:22 - Fabian Picardo: That is great to hear!

26/11/2021, 16:25 - Deputy Governor Mobile: Also based on his engagement with RGP. It was a very productive visit.

Richard Ullger

27/11/2020, 09:58 - Richard Ullger: Good morning Chief, I have been asked to forward to you a letter regarding a request from the investigating team into the fraud investigation surrounding the NSCIS. The team claim that the defence and defendants have cited you, as we expected them to do and therefore they have a duty to follow reasonable lines of enquiries. They have provided you with a list of questions and a guidance document, but they are at your disposal, as I am should you need to discuss this with us. Richard.

27/11/2020, 10:15 - Fabian Picardo: Thanks Richard. Delighted to help with any relevant lines of inquiry. Best wishes. Fabian

27/11/2020, 10:17 - Richard Ullger: Thank you Sir, most kind.

FP3/30

In the Matter of the Commissions of Inquiry Act

and

In the Matter of an Inquiry into the retirement of the former Commissioner of Police convened by a Commission issued by HM Government of Gibraltar on the 4th February 2022 in Legal Notice No 34 of 2022 ("the Inquiry")

EXHIBIT NP1

This is the exhibit marked **"NP1"** referred to in the Affidavit of Nicholas Pyle sworn this 12th day of May 2022.

Before me,

Commissioner for Oaths

Dhiraj S. Nagrani
Barrister-at-Law
Commissioner for Oaths
28 Irish Town
Gibraltar

Informal Record of Meeting with HE the Governor and the Chief Minister, Monday 18th May 2020.

The Governor called on the Chairman of the Gibraltar Police Authority to meet with him and the Chief Minister.

The purpose of the meeting was to express grave concerns about certain aspects of policing in Gibraltar which had come to a head in the week before.

The first is the publication of the HMICFRS Report into the RGP.

The second is the publication of news of the filing of legal claims in Spain by the relatives of the Spanish citizens killed in an incident at sea (which undoubtedly happened outside of BGTW).

The Governor expressed his view that the Chief Minister should introduce the subject for both, as both had already spoken, as required under the Police Act.

The Chief Minister said that the position was that BOTH the Governor and the Chief Minister had lost confidence in the Commissioner of Police.

The Chief Minister set out what his concerns were by reference to the provisions of Section 34 of the Police Act given that this is the provision that allows for the GPA, after consultation with the Governor and the Chief Minister, to call upon the Commissioner to retire – and that these are the best objective criteria of 'confidence' available.

Ahead of that the Chief Minister noted that Section 13 (1) (f) of the Police Act also gives the Governor authority to call for the **resignation** of the Commissioner where the Authority has failed to discharge its responsibility.

The Chief Minister explained that both the Governor and he were particularly alive to the not so subtle differences between a 'retirement' (S.34) and a 'resignation' (S.13). The effect may be the same, but the route and signposting is markedly different. Both have recorded that the power of the Governor is much more explicit, for good reason.

The Chief Minster further explained that the GPA have power to "remove" a Commissioner (as per the heading of S.34, which is not relevant to interpretation) by inviting "retirement". The GPA would do so in the

interests of policing in Gibraltar when seen through the prism of 5 key elements.

The GPA are therefore being invited by the Governor and the Chief Minister together to consider whether they believe that all OR any (note it is a disjunctive, not a conjunctive list) of the following 5 have been impacted.

The Chief Minister's view on the five criteria were clear.

1. The first criteria is Efficiency:

(a) The HMICFRS Report ('the Report') could not be clearer in the Chief Minister's view in respect of the efficiency of the RGP. A large number of the findings of the Report go directly to efficiency directly and indirectly. It is, however, shocking to see the explicit reference in the first sentence of the second paragraph of the Report, marked 'Overview' on page 7 of the Report, to both 'efficiency' and 'effectiveness' (see item 2 below). This makes out a clear basis for serious concern on this issue (and item 2) given the rank the Commissioner held in 2016 and the fact that he has held the helm at the police since 2018. Additionally, it is equally explicitly stated under S.33(1)(a) of the Act that the buck stops with the Commissioner on efficiency:

> S.33(1)***The Commissioner*** *shall, subject to the provisions of this Act, have command, superintendence, direction and control of the Force, and* ***shall be responsible for the efficient administration and government of the Force*** *and for the proper expenditure of all public moneys appropriated for the service thereof.*

Indeed, in his application for the role of Commissioner, the Chief Minister reminded, the now Commissioner had set out (as his 'Key Action 10') that he would immediately upon appointment establish a working group to ensure that the recommendations of the 2015/6 HMIC Report had been implemented by the **1st March 2019**. This date had not been met and it is not clear if the working group had even been established. This 'Key Action' was considered by the Commissioner to be necessary for the RGP to be a 'continuously progressing and professional police force.' Despite that, not only have the 2015/6 reports not been complied with, new and more serious recommendations have had to be made by the HMICFRS in 2020.

(b) The incident at sea is further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction. The effect of the events at sea will create great financial and operational difficulties for the RGP. The RGP has already had to expend funds (which it has sought as supplementary or additional funds from Government) in an external report into the incident at sea. This is being provided by the Met Police in London. Additionally, the RGP is now facing the potential for its officers to be investigated and prosecuted in Gibraltar and / or Spain, officers potentially be legally extradited to Spain for homicide, the resulting high level of legal fees to be incurred and the potentially huge payments of damages to the families which will arise as a result and which will have to be met by the Gibraltar tax payer. An investigation will also be required into what Standard Operating Procedures are in place – approved by senior management – in respect of operations at sea. All of this vitiates efficiency entirely. The issue is a pressing one. The Metropolitan Police are already carrying out an investigation. The delay in that report being provided, and Spanish press reports of claims already filed, may lead to the Chief Minister exercising his powers udner S.15(1)(a) powers to seek a factual report or assessment. The Chief Minister has already raised this with the Governor. A ***note verbal*** complaint has been filed by the Spanish authorities on these events which the Chief Minister is waiting to see before he decides whether to exercise his powers, given he as received scant information until now from the Commissioner . It would be the first time since the Police Act came into effect that this power has been exercised.

2. Effectiveness:

(a) In respect of the HMICFRS Report, on this limb of the considerations, the points in re 1 above are linked, in particular in the sentence at the beginning of paragraph 2 of the 'Overview'. The report is similarly laced with matters referring to this aspect of the interest of policing in Gibraltar.

(b) In respect of the incident at sea, the effectiveness of the RGP is impacted as already set out in point 1 above. Additionally the RGP found itself without a key marine asset for some time and its effectiveness as sea was therefore even more severely impacted. Effectiveness of the RGP will now be seriously under threat given the onslaught of legal work which will be required in order to address the claims made, as well as those likely to be made, in respect of this incident.

3. & 4. Probity & Integrity: The Chief Minister felt it was best to consider limbs 3 & 4 together as, in his view, they are inextricably linked.

(a) & (b) In the context of the Report (in particular its references to a failure to even understand the potential for, let alone the actual instances of, corruption) and the matters relating to the reporting to us of the events at sea involving the death of two Spanish nationals, this is an area of huge concern to both the Governor and the Chief Minister. Both feel that their respective dealings with the Commissioner have left them with the sense that he is lacking in both probity and integrity in his dealings with them. The Chief Minister indicated that he had held discussions with the Attorney General which led him to believe that Mr Llamas felt the same way, although he obviously could not speak for him.

(c) The Chief Minister also shared another event occurring last week which had left him also in a situation where the Commissioner had expressly misled him and which left him unable to believe the Commissioner.

The Chief Minister stated that for him this is possibly the issue of deepest concern as it goes to the integrity and probity of a key individual in the maintenance of the respect for the Rule of Law. Additionally, that individual, as Commissioner is, in the Chief Minister's view, at the head of the organisation that is institutionally one of the guardians of the Rule of Law alongside the Executive and the Judiciary. For the Chief Minister, to an extent the police becomes a fourth branch of government in the maintenance and preservation of the Rule of Law. The Chief Minister stated that without the Rule of Law we are unrecognisable as a nation. The Chief Minister said that he can imagine no greater concern than this in the context of his ability to discharge his oath to the Crown and to the People as Chief Minister.

5. Independence:

(a) This area of concern is highlighted in the parts of the report that deal with the potential for corruption and, consequently, influence, which, given the answers set out in the Report, is clearly not even understood in the RGP. Again, these concerns can cut across the Rule of Law in a meaningful way. It is not possible for the RGP to assert that it is acting independently in any investigation or matter unless it has properly addressed this recommendation that has remained outstanding for the period of the Commissioner's service to date – despite his assertions of wanting to address the issues in his application.

His Excellency then expressed his views.

The Governor said that the Chief Minister had expressed views he entirely shared.

His Excellency stated that, in addition, he had felt misled when the incident at sea had occurred and that he felt he had not received all information available to the RGP in respect of that event. He said that there had been no proactivity in addressing the events especially given the serious outcome which had resulted in loss of life. He felt he had been left with no choice but to seek further information when this should have been forthcoming without the need with persistent enquiry from him. He said he felt this left a lot to be desired.

As a result, the Governor and the Chief Minister consider that, given the views that they have now expressed it is for the GPA to take this forward in the first instance.

They ask the GPA to consider these extremely serious concerns and issues and that the GPA should engage its powers under Section 34 of the Act which specifically provides that the GPA's action to "call upon" the Commissioner to retire cannot be commenced until BOTH the Governor and the Chief Minister have been consulted and ONE of has agreed. (The part of the clause that relates to consultation is conjunctive and the part that relates to agreement is disjunctive). BOTH in fact agree that the Commissioner should be invited to retire by the GPA.

It is now a matter for the GPA to decide how to act and to decide that they want to engage the S.34(1) power.

If the GPA decide to go down this road, the first step is to allow the Commissioner to make representations, if he wishes, under S.34(2).

It will of course be necessary for the GPA to consider any representation the Commissioner might make.

Thereafter, if the GPA are of the view that the Commissioner should be invited to retire, then that is when they would need to consult BOTH of the Governor and the Chief Minister and then seek the agreement of ONE of them. The Governor and the Chief Minister would then also have the benefit of any representation that the Commissioner might have made under S.34(2) in expressing a final and firm view.

ENDS

NP1/5

Nick Pyle (Sensitive)

From: Nick Pyle (Sensitive)
Sent: 21 May 2020 17:57
To: [redacted] (Sensitive)
Cc: [redacted] (Sensitive); DL Gibraltar Political (Sensitive); DL Europe - (S) Gibraltar (Sensitive); [redacted] (Sensitive); [redacted] (Sensitive); [redacted] (Sensitive); [redacted] (Sensitive); [redacted] (Sensitive); [redacted] (Sensitive); [redacted] (Sensitive); [redacted] (Sensitive); [redacted] (Sensitive)
Subject: RE: March 2020 fatal collision between RGP and alleged Spanish smugglers; filing of civil case

[redacted]

As an update, the CM and I met last Friday and, following a long discussion about the RGP and its recent performance, concluded that we had lost confidence in the Commissioner of Police and that we would ask the GPA to call for his retirement. I therefore asked Joey Britto, the Chairman of the Gibraltar Police Authority (GPA), to meet with the CM and I. The meeting took place in the Convent on Monday.

At my request, the CM set out the issues of concern, namely the damning HMIC report, the fatal collision, Police Federation allegations of bullying, and the mishandling of a high-profile ongoing investigation in which the Commissioner apparently went against the advice of the Attorney General and Director of Public Prosecutions. The CM then went into detail by linking our concerns to relevant sections of the Police Act. The CM concluded by stating that as a result, we had both lost confidence in the Commissioner and were therefore requesting the GPA to consider using the powers available to them under Section 34 of the Police Act (2006) to call upon the Commissioner to retire. The CM reminded the Chair that should this not happen, the Act gave the Governor powers to call for the resignation of the Commissioner.

I endorsed the CM's position and said that there had to be accountability for the failings, not least given the loss of life. I said the collision incident alone raised grave concerns and has wide-reaching political, financial, reputational and sovereignty implications which may not go well for Gibraltar. I said the common thread through all the issues appeared to be a lack of management and leadership and therefore in my opinion, it is the Commissioner who has to held accountable. I said should the GPA determine that a call to retire was not appropriate, I would consider using the powers available to me under Section 13.(1)(f) which allowed me to call for the resignation of the Commissioner and that as things stood, I would need strong and persuasive arguments not to do so. I said whilst I was not looking to pre-judge the deliberations of the GPA and was mindful that the Commissioner is allowed to make representations as Section 34 allows, the GPA should be in no doubt as to the strength of my feelings. I concluded by saying the powers I have under Section 13.(1)(f) only come into play "in default by the Authority" and as such, the GPA was under some scrutiny.

A clearly shocked Chair said he took note, could see where we were coming from and would convene a meeting of the GPA as soon as practicable, commenting that the Commissioner would most likely fight this.

Comment. The CM was visibly angry during our meeting on Friday and is clearly worried at the political, financial and sovereignty damage the fatal collision incident could do to Gibraltar. Invoking Governor's powers will not go down well and is likely to provoke a backlash. The CM and I recognise the difficulties that lie ahead and have agreed we must be completely as one on this. The Police Act was carefully written shortly after the Constitution was revised and gives us each powers with some overlap. But I agree with the CM and it is important we are seen to be as one on this issue. The RGP, which has many decent and capable officers, is in need of fresh modern leadership and someone skilled in transformational change management. When discussing this the CM rather surprisingly said "we should look externally for a replacement". I was shot down by the former GPA Chair when I recommended this in early 2018

NP1/6

Without doubt, the CM has the bit between his teeth and wants the Commissioner removed from his position as soon as possible. As a result, the CM asked me to postpone the Gibraltar Contingency Council meeting we were due to have tomorrow. I believe the GPA is meeting tomorrow.

I do not think we need to brief the Minister at this stage but should probably do so should the Commissioner step down, hence the length of this email which gives the detail should things take a turn for the worse.

Regards

Nick

N J Pyle
Governor
The Convent
Gibraltar
tel: +350 20045440 echo: [redacted] mob: [redacted]

NP1/7

CHARLES GOMEZ & COMPANY
BARRISTERS AT LAW

STRICTLY PRIVATE AND CONFIDENTIAL

29th May 2020

Your Ref CAG/NG/MM11286

Our Ref The Gibraltar Police Authority
Unit 25B Casemates Square,
Gibraltar

By Email to secretary@gpa.gi and
[redacted]

Dear Members of the Gibraltar Police Authority,

RE: Invitation to Retire: Section 34 of the Police Act

We write on behalf of our client, Ian McGrail, Commissioner of the Royal Gibraltar Police, in response to the communications to him from the Chair of the Gibraltar Police Authority ('GPA') on 22nd May 2020 which set out the Chair's decision to exercise powers under section 34(1) of the Police Act 2006 ('the 2006 Act'), calling on him to retire and seeking any representations from him under section 34(2). The three communications in question were (1) at a meeting that morning, (2) in a letter ('the first letter') handed to him at the 22 May meeting, and (3) in a further letter, sent to him late that evening ('the second letter').

We thank the Gibraltar Police Authority ('GPA') for giving us the opportunity to make representations. We will explain below why the exercise of the s.34 power vested in the GPA would be wholly unjustified and grossly procedurally unfair. Moreover, there is an extremely troubling aspect to this, of which the Chair is fully aware, and which concerns the rule of law in Gibraltar, and which touches on the fundamental principle of the freedom of the Royal Gibraltar Police ('RGP') to carry out criminal enquiries without interference from politicians or the Attorney General.

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NP1/8

At the outset, we wish to impress on the members of the GPA your solemn duties under the Constitution and the 2006 Act. The GPA is one of the few bodies created under the Constitution. The Constitution requires the GPA to "*be independent in the exercise of its functions*". These functions include, under the 2006 Act, that you must "*ensure high standards of integrity, probity and independence of policing in Gibraltar*". You must also, because you are a constitutional body, act in conformity with the Charter of the United Nations and any other applicable international treaties including the European Convention on Human Rights. It should therefore be self-evident that the GPA plays an essential role in protecting the separation of powers between the executive and police, the rule of law and the rights of the citizens of Gibraltar.

It is in this light that you must make the decision whether to call on Mr. McGrail to retire – a decision which (because of section 34(3)) means he "*shall*" retire. You will therefore not just be making a request but giving him an instruction to prematurely end his distinguished 36-year policing career, and you will be removing from office the principal law enforcement officer of the Crown in Gibraltar. In order to fulfil your constitutional duties, you must make the decision independently from the Governor and Chief Minister. You must not be directed by them. That would be quite wrong, and in violation of your obligations under the 2006 Act and the Constitution.

As set out below, we are deeply concerned by the approach of the Chair in the meeting he had with Mr. McGrail on 22 May. The Chair told Mr. McGrail that if he refused to comply with the invitation to retire then the Governor would use his powers under s.13(f) of the 2006 Act to call for his resignation. The decision was presented to Mr. McGrail as a *fait accompli*. The Chair said in effect that it did not matter how he responded – the result would be the end of his career either because he would be forced to retire in accordance with your request or would be called to resign by the Governor using his power under s.13(f). This is not how your power under s.34 works. It only applies if the GPA considers it is "*in the interests of efficiency, effectiveness, probity, integrity, or independence of policing*" to request that the Commissioner retire, following consideration of any representations made by him. If you do not properly consider these representations and do not make an independent decision you will be acting unlawfully and your decision will be vulnerable to a judicial review challenge.

The damage to Gibraltar as a jurisdiction which claims to adhere to the Rule of Law would be incalculable. As people of standing in our community it will be immediately obvious to you already that the removal of the Commissioner of the Royal Gibraltar Police in the way in which the GPA is being pushed to do is a travesty which will bring shame to Gibraltar and international derision when we are always trying to prove our democratic, non-colonial attributes in every international forum up to the United Nations Special Committee on Decolonization.

The background and motivations which we will proceed to explain (subject to the sensitivities of what is ultimately an ongoing very serious criminal investigation) uncover an abuse of power which is possibly unprecedented in Gibraltar.

The approach the Chair has taken thus far has been for the reasons explained below clearly unlawful. This could *potentially* be remedied by taking a fully independent decision now and concluding that Mr. McGrail should not be removed from office. This must be a decision of the full GPA, not the Chair alone, as the section 34 power vests in *"the Authority"*. The GPA must also carefully consider whether any of its members has a conflict of interest which would exclude them from taking part in the decision-making process.

In light of the errors made to date, we respectfully suggest that you seek independent legal advice in order to assist you in making a lawful decision. We emphasise that it would be inappropriate to take advice from the Attorney General because he has already expressed a view on the substantive issues, as is clear from the second letter of 22nd May, and, moreover, he has played a key role in the issues we refer to in Section (d) below, as the Chair is already aware. We respectfully suggest that it may be prudent for you to take advice from lawyers in the United Kingdom given the multiplicity of local interests arising from this unfortunate case (as, indeed, Mr McGrail has done; he is represented by an expert counsel team from Gibraltar and London).

This letter is divided in to five sections:

(a) Preliminary Point – Recusal Issue;

(b) The legal framework;

(c) The invitation to retire;

(d) Fundamental Unfairness, Abuse of Process and Procedural Failings; and

(e) Response to the substantive issues raised by the GPA.

(a) Preliminary point – Recusal Issue

1. There are two preliminary matters concerning recusal.

2. First, Mr. Nick Pyle is currently named as the member of the GPA appointed by the Governor.[1] He has been the interim Governor since February 2020 and he has had personal involvement in the background to this matter, as we summarise in these submissions. He should play no part in decision-making of the Authority under section 34 in any event, given the distinct role of the Governor under that section. We ask for an assurance that the GPA Chair will ensure that Mr. Pyle is not involved in the GPA's decision-making under section 34.

3. Second, and related, we wish at the outset to raise an issue of very significant sensitivity and concern. It relates to a current police investigation. It would therefore be inappropriate to provide specific details of that investigation save as to the limited extent set out below (we address this further in section (d), as it is relevant to this invitation to retire). We know that the Chair is already aware of the background as it was discussed at his and Mr. McGrail's meeting on 22nd May, when he told Mr. McGrail it was discussed at the meeting when the Chief Minister and Governor said that they and the Attorney General had lost confidence in Mr. McGrail. You will understand that it would not be appropriate for Mr. McGrail to provide more detail of a live investigation. However, we can say that it relates to national security and involves an alleged criminal conspiracy which potentially reaches to the highest levels of the community.

4. This is a further reason why it is essential that the Chair provide reassurance to us that Mr. Pyle will not be involved in the GPA's decision-making under section 34. In addition, we suggest that it would be prudent for a further member of the GPA, Ms. Claire Pizzarello, to recuse herself from decision-making in this matter. We do not provide further details at

[1] http://gpa.gi/about-the-gibraltar-police-authority.html.

this stage, and we trust that the Chair will agree that this would be a sensible course of action in the circumstances. (Should further information be required by the Chair, he should inform us of this.) We emphasise that there is no suggestion whatsoever of Ms. Pizzarello having any personal involvement in the matters in question, and this approach is suggested out of an abundance of caution.

(b) <u>The legal framework</u>

The Gibraltar Constitution Order 2006 ('The Constitution')

5. Chapter 1 of the Constitution protects fundamental rights and freedoms. The Preamble states that the people of Gibraltar's right to self-determination must be "*promoted and respected in conformity with the provisions of the Charter of the United Nations and any other applicable international treaties*". The European Convention on Human Rights is an "*applicable international treaty*".

6. The Constitution protects, amongst other rights, the right to privacy (section ('s') 7) and the right to freedom of expression (s.10).

7. The Constitution provides that there shall be a Police Authority for Gibraltar which "*shall be independent in the exercise of its functions*" (s.48(1)).

The Police Act 2006

8. The 2006 Act establishes the GPA (section 3(1)).

9. Part I sets out the **responsibilities and powers of the GPA**. s. 5 relevantly includes responsibilities: "*to secure the maintenance of an efficient and effective police force for Gibraltar*", "*to ensure high standards of integrity, probity and independence of policing in Gibraltar*", "*to establish, operate and supervise the process for investigating complaints against police officers under this Act*" and "*to hold the Commissioner to account for matters which are the responsibility of the Authority.*

10. Part II sets out the **Governor's and the Government's responsibilities** for policing. Section 13 provides for the Governor's powers "*in default by the Authority*", which are exercisable only where the Authority "*has failed to discharge or perform a responsibility imposed on the Authority under this Act*". The powers include "*where in the opinion of the Governor the integrity, probity or independence of the police has been compromised or is at risk, to direct the Force to take appropriate action to remedy the situation or avoid the risk*" and "*to suspend from duty, or call for the resignation of the Commissioner*".

11. Section 15(1) provides that the Chief Minister may exercise various powers on behalf of the Government, including (a) require factual or assessment reports from the Force or the Authority on any policing matter, provided that there may be withheld from any such report any fact disclosure of which is likely to prejudice the effective operation of the Force.

12. Part IV provides for the establishment of the **Royal Gibraltar Police Force**. Section 32(1) provides for the appointment of the **Commissioner of Police** by the Governor, acting on the advice of the Authority, subject to any provision of the Constitution; for such that the Authority may advise and as shall be set out in the instrument of appointment.

13. Section 33(1) provides that the Commissioner shall, subject to the provisions of this Act, have command, superintendence, direction and control of the Force, and shall be responsible for the efficient administration and government of the Force and for the proper expenditure of all public moneys appropriated for the service. (section 33(2)).

14. Section 34 provides for the removal of the Commissioner by the GPA. It is set out in full below:

> *"34.(1) The Authority acting after consultation with the Governor and the Chief Minister and with the agreement of either of them, may call upon the Commissioner to retire, in the interests of efficiency, effectiveness, probity, integrity, or independence of policing in Gibraltar.*

(2) Before seeking the approval of the Governor and the Chief Minister under subsection (1), the Authority shall give the Commissioner an opportunity to make representations and shall consider any representations that he makes.

(3) Where the Commissioner is called upon to retire under subsection (1), he shall retire on such date as the Authority may specify or on such earlier date as may be agreed upon between him and the Authority."

Human rights

15. The European Convention on Human Rights protects the right to respect for private and family life under Article 8 and the right to freedom of expression under Article 10. Both rights can be interfered with by the state by certain situations but only where that interference is lawful, necessary and proportionate in pursuance of a legitimate aim.

16. The European Court of Human Rights and the Council of Europe (which oversees the European Court) have repeatedly emphasised that corruption threatens the rule of law. There have been a number of cases where sanctions imposed on whistleblowers have been found to breach Article 10 ECHR – in cases involving the dismissal of public servants this has sometimes been articulated as an attack on reputation protected by Article 8 ECHR. As you will see below, the law relating to whistleblowers is relevant.

17. In *Guja v. Moldova (No. 1)*[2] the Grand Chamber held unanimously that there had been a violation of Article 10 (freedom of expression). The applicant was Head of the Press Department of the Moldovan Prosecutor General's Office. The case concerned his dismissal for giving a newspaper two letters received by the Prosecutor General's Office which disclosed interference by a high-ranking politician in pending criminal proceedings.

[2] (2011) 53 E.H.R.R. 16.

The Court balanced the conflicting factors under Art.10 and concluded there had been a breach.

> *[72] ... The Court thus considers that the signalling by a civil servant or an employee in the public sector of illegal conduct or wrongdoing in the workplace should, in certain circumstances, enjoy protection. This may be called for where the employee or civil servant concerned is the only person, or part of a small category of persons, aware of what is happening at work and is thus best placed to act in the public interest by alerting the employer or the public at large.*

18. Article 8 ECHR includes the right to protection of reputation.[3] As stated in *Axel Springer AG v. Germany*[4], judgment (Grand Chamber) of 7 February 2012, paras. 83-84:

> *"... [T]he right to protection of reputation is a right which is protected by Article 8 of the Convention as part of the right to respect for private life ... In order for Article 8 to come into play, however, an attack on a person's reputation must attain a certain level of seriousness and in a manner causing prejudice to personal enjoyment of the right to respect for private life ...*

19. The Council of Europe's ***Criminal Law Convention on Corruption*** ("the Corruption Convention") of 27th January 1999 states[5] in its pre-amble that "*corruption threatens the rule of law, democracy and human rights, undermines good governance, fairness and social justice, distorts competition, hinders economic development and endangers the stability of democratic institutions and the moral foundations of society*".

[3] *Denisov v. Ukraine* [GC], paras. 111-112 and 115-117.
[4] [2012] ECHR 227.
[5] https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680007f3f.

20. Each Party to the Corruption Convention shall adopt measures to ensure that persons or entities are specialised in the fight against corruption. They shall have the necessary independence in accordance with the fundamental principles of the legal system of the Party, in order for them to be able to carry out their functions effectively and free from any undue pressure.

21. The preamble to the Council of Europe ***Code of Police Ethics***[6] states that "*the criminal justice system plays a key role in safeguarding the rule of law and that the police have an essential role within that system*". Paragraph 15 provides:

> *The police shall enjoy sufficient operational independence from other state bodies in carrying out its given police tasks, for which it should be fully accountable.*

22. Paragraph 34 states:

> *Public authorities shall support police personnel who are subject to ill-founded accusations concerning their duties.*

23. The ***Committee of Ministers' Recommendation on the protection of whistleblowers*** adopted on 30th April 2014 relevantly states in the preamble that "*freedom of expression and the right to seek and receive information are fundamental for the functioning of a genuine democracy*" and recognises that individuals who report or disclose information on threats or harm to the public interest, i.e. whistleblowers, can contribute to strengthening transparency and democratic accountability. Paragraph 21 states:

> *Whistleblowers should be protected against retaliation of any form, whether directly or indirectly, by their employer and by persons working for or acting on behalf of the employer. Forms of such retaliation might include dismissal, suspension, demotion,*

[6] Adopted 19th September 2001: https://rm.coe.int/16805e297e.

loss of promotion opportunities, punitive transfers and reductions in or deductions of wages, harassment or other punitive or discriminatory treatment.

24. Protection from retaliation is clearly a matter of fundamental importance particularly when the potential victim is none other than the principal law enforcement officer of the Crown in Gibraltar.

(c) <u>The invitation to retire</u>

25. On the morning of 22nd May 2020 Mr. McGrail met with the GPA Chair, when the Chair invited him to retire pursuant to s.34(1) of the 2006 Act.

26. The Chair told Mr. McGrail that he had met with the Governor and the Chief Minister on Monday 18th May and they had told him they had lost confidence in Mr. McGrail. He said that he had taken notes of the meeting. It began with the Governor and Chief Minister taking him through the various options under the Police Act and focussing on section 13 (the power of the Governor to suspend from duty or call for the resignation of the Commissioner where the GPA has failed to discharge its duties) and section 34 (the GPA's power to remove the Commissioner from post).

27. The Chair made it very clear that he did not make this decision himself and that in his view the decision was entirely for the Governor and the Chief Minister to make. Although he said Mr. McGrail could make representations, it was made clear to him that if he does not take the offer of retirement then the Governor will trigger his power under s.13 to call for his resignation. It is in effect, an 'offer he can't refuse' – or, to put it another way, it is the equivalent, for an office-holder, of constructive dismissal.

28. It was also made clear to Mr. McGrail that the issue of his handling of the investigation referred to above was an important factor in the decision making by the Governor and Chief Minister. He said that the AG had all lost confidence in him because he had *"lied"* about the particular operation – which he strenuously denied.

29. At the time of the meeting none of the alleged issues with Mr. McGrail's conduct had been put in writing. When Mr. McGrail highlighted that this was unfair, the Chair offered to provide him with his notes of the 18th May meeting. Mr. McGrail asked for the reasons to be put in writing so he could properly respond.

30. At the meeting, Mr. McGrail was handed a letter containing a formal notification of the exercise of the s. 34(1) power ('the first letter'). This was a short letter which provided no detail save for referring to "*grave concerns expressed by both the Governor and the Chief Minister, in respect of certain aspects of policing that have led to a serious and regrettable loss of confidence in you*". It was clear from the letter that a decision had already been reached to invite Mr. McGrail to retire ("*Given the above, the Authority invites you to retire*"), however, confusingly, the letter also invited representations pursuant to s.34(2) which "*shall, of course, be fully taken into consideration to allow the Governor, the Chief Minister and the Authority to express a firm and final view*". Mr. McGrail was given 7 days to respond to the initial letter (i.e. by today, 29th May – a period which included a long weekend) and invited to seek more time if required.

31. Mr. McGrail received a second letter late on Friday night, 22nd May, which provided more detail, relevantly stating:

    a. "*the reason that the Authority was taking this step arose from the communication by the Governor and the Chief Minister to the Authority that BOTH had lost confidence in your ability to run policing in Gibraltar.*"

    b. "*Additionally, the Authority itself has agreed with the matters raised by the Governor and the Chief*

    c. Five "*main issues*" (in reality, these are four issues as two run together) were set out "*contributing to the loss of confidence*", including:

i. Efficiency: "*The Governor and the Chief Minister are very concerned about the findings of the HMICFRS Report ('the Report'). It is clear* (sic) *damning in respect of the efficiency of the RGP....*"

ii. "*Additionally, and equally importantly, the incident at sea in March, resulting in the death of two individuals, was pointed out as further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction.*"

iii. "*I would refer you to the paragraphs of that letter which specifically set out that the Chief Minister has no confidence in his having been provided with the information expeditiously about this very serious incident... [he has] expressed the view that he feels he has been misled by you...*"

iv. Effectiveness: that the RGP found itself without the use of a vessel for some time and will now be "*seriously compromised given the increased legal workload*".

v. Probity and integrity "*It was communicated to me that both the Governor and the Chief Minister felt that their dealings with you have left them with the sense that you are lacking in both probity and integrity – the maritime incident is one case in point...*

vi. "*additionally, the Authority is informed that the Attorney General has also expressed the same feelings*"

vii. "*The seriousness of this cannot be underestimated. The Governor and the Chief Minister expressed to the Authority that they consider that the Rule of Law in Gibraltar is compromised by the fact that they lack confidence in your probity and integrity.*"

viii. Independence: *"This area of concern was also brought to the attention of the Authority by reference to the parts of the report that deal with the potential for corruption and, consequently, influence, which, given what is identified in the Report, seems not to be completely understood in the RGP. The Governor and the Chief Minister expressed the view that it is not possible for the RGP to claim that it is acts independently in any investigation or matter unless it has properly addressed this recommendation that has remained outstanding for the period of your service."*

(d) Fundamental Unfairness, Abuse of Process and Procedural Flaws

32. This process has been tainted from the outset by conspicuous unfairness, and it is grossly procedurally unfair. These flaws fall into the category described by Lord Bridge in *Calvin v. Carr* [1979] UKPC 1, [1979] 2 All ER 440: *"when the defect is so flagrant, the consequences so severe, that the most perfect of appeals or rehearings will not be sufficient to produce a just result."* The approach adopted here amounts to an attack on the Constitution, the rule of law and human rights principles, and it subverts the principle of separation of powers in a number of respects.

i. The Vanishing Reason for the Invitation to Retire

33. First, we indicated at the outset of this letter, when addressing the preliminary matter of recusal, that there is a sensitive matter concerning an ongoing criminal investigation, the detail of which Mr. McGrail does not address herein. The relevance of this issue to the invitation to retire is as follows. This matter was discussed in the 22nd May meeting as forming part of the reasoning behind the Chief Minister and the Governor informing the GPA Chair that he should invite Mr. McGrail to retire. Indeed, Mr. McGrail indicated at that meeting that he understood it to be the real and central reason for the request. However, this reason is, oddly, not cited in the second, detailed letter of 22nd May. Instead, that letter refers expressly only to two other matters – the incident at sea in March 2020 and the inspection report following the inspection in October 2019.

34. The two matters which *are* mentioned have been known to the Chief Minister, Governor and Attorney General ('AG') for months. As is explained below, Mr. McGrail has kept them fully informed in respect of both issues. The important point is that in respect of both issues, at all stages Mr. McGrail has received no criticism at all about his approach. The incident at sea is being investigated independently by the Metropolitan Police, at Mr. McGrail's request, and that report is yet to be received. Mr. McGrail has met regularly with the AG to discuss strategy towards this serious incident – the AG has been nothing but supportive. Equally, when the inspection report came out, Mr. McGrail received no public or even private criticism from authority figures at all – until the 22nd May invitation to retire.

35. By contrast, in recent months, and particularly the past fortnight, Mr. McGrail has received very significant and at times intemperate private criticism from the Chief Minister and Attorney General about a separate matter, namely how the criminal investigation we refer to above has been handled. For many months the AG has been trying (unsuccessfully, we might add) to persuade Mr. McGrail to change his and the RGP's approach to the investigation which would either lead to it being dropped entirely or certain suspects not being prosecuted. Mr. McGrail has rebuffed these attempts and has treated this investigation as he would any other – characteristic of his probity and professionalism. The operational decisions in respect of this investigation have, in any event, been taken by individual officers below Mr. McGrail's rank, acting professionally and appropriately.

36. On 12th May, out of courtesy, Mr. McGrail notified the Chief Minister, the AG and the Minister of Justice of a certain operational action which was taken by the RGP in the case. Both the Chief Minister and AG immediately messaged him to say, in no uncertain terms, that they disapproved of the action. He was immediately called into a meeting with the Chief Minister and the AG. He was very severely criticised for the action that had been taken. The Chief Minister told him that, in his view, Mr. McGrail had handled the investigation "*very very wrongly*". He was told by the AG that he had to this point approved of his work but from that day he could not "*entertain*" Mr. McGrail again. The emotional response from both the Chief Minister and the AG is startling.

37. This was followed by two subsequent meetings with the AG and Director of Public Prosecutions (on 13th and 15th May respectively) where pressure was put on Mr. McGrail by the AG to change the RGP's investigative approach to the operation and he was given the strong impression that the AG was primarily concerned with protecting the Chief Minister and "*Gibraltar PLC*" (the AG's words).

38. It is grossly inappropriate in a jurisdiction under the Rule of Law for politicians to interfere with any live criminal investigation in this way. It tramples over the separation of powers which is an integral feature of our Constitution. However, in this case the Chief Minister has a personal connection to the outcome of the investigation, which makes his intervention even more inappropriate. Not only should he not attempt to influence the investigation, he should completely recuse himself for any decisions or conversations which touch upon it.

39. The reason it is relevant to your decision is that we submit to you that the timing of the use of the s.34 process, which was triggered by the Chief Minister and the Governor and, we understand, came as a complete surprise to the GPA Chair, strongly suggests that the incident at sea and inspection report are fig leaves for the real reason Mr. McGrail is being pressured to retire, i.e. his (proper and reasonable) handling of a live criminal investigation.

40. It is unnecessary for us merely to rely on an inference raised by the timing of the s.34 letter to make this point. The GPA Chair confirmed to Mr. McGrail at their meeting on 22nd May that his handling of the criminal investigation referred to above was spoken about at the Chair's meeting with the Chief Minister and Governor and was one of the reasons they had "*lost confidence*" in Mr. McGrail. The Chair told Mr. McGrail he took a note of his meeting with the Chief Minister and Governor, which we assume he can provide to you for your consideration. It is wholly unclear why this matter is then omitted from the letters sent to Mr. McGrail on 22nd May – although a simple explanation is that it was obvious to those writing the letters that if it were included it would invalidate the entire process. This is a clear breach of the requirements of fairness in itself – this was a factor cited in the meeting on 22nd May, at which no written documents were given to Mr. McGrail, yet the letters omit this material factor.

41. Further, we note that a factor which is cited in the Chair's 22nd May second letter is the Attorney General being said to have *"lost confidence"* in Mr. McGrail, for an unspecified reason: *"Additionally, the Authority is informed that the Attorney General has also expressed the same feelings"*. The Chair made clear to Mr. McGrail at the 22nd May meeting that this was entirely because of the criminal investigation matter referred to above and it reflects the comments made to Mr. McGrail by him directly at the meeting on 12th May. In reality, it is clear that this incident is at the heart of this request under section 34, despite it not appearing in the second letter.

42. We note that in the Chair's second letter it is stated *"the Governor and the Chief Minister ... consider that the Rule of Law in Gibraltar is compromised"*. Unfortunately, we agree with that statement, and that statement alone, but for significantly different reasons. If the GPA decides to exercise its s.34 power, in the full knowledge that background involves the Chief Minister and AG seeking to interfere with a live criminal investigation, this would indeed be an affront to the rule of law and a breach of your duties under the Constitution. This would be a gross violation of the rule of law, and not the actions of an independent body in a mature democracy.

ii. Independence

43. There are further serious procedural failings. It was made clear to Mr. McGrail at the meeting on 22nd May 2020 that the Chair was proceeding on the basis that this is a decision for the Chief Minister and the Governor, and he has taken his lead from them. This is also clear from the first letter, which followed the meeting. This is a fundamental misunderstanding of the statutory scheme: the section 34 decision is for the Authority. It also disregards the vital importance of the independence of the Authority, enshrined in the Constitution, s. 48(1).

iii. A Settled Decision

44. The process followed on 22nd May is not compliant with section 34. The statute makes clear that submissions must be sought under section 34(2) before the section 34(1) process is followed. The Commissioner is entitled to be given an opportunity to make representations, and for them to be considered. For this to be a meaningful opportunity, the Authority must

not have a closed mind. In this instance, however, the Authority Chair has called upon the Commissioner to retire (under section 34(1)), indicating that this decision has been reached already: *"the Authority feels that it is left with no option but to exercise the powers afforded to the Authority under section 34(1)..."* The wording used is unambiguous. This was clear at the meeting on 22nd May, and it is expressly set out in the first letter of that date.

45. The first letter is instructive. At this meeting, Mr. McGrail was handed this short letter, containing a formal notification of the exercise of the s.34(1) power. This was very brief and provided no detail save for referring to *"grave concerns expressed by both the Governor and the Chief Minister, in respect of certain aspects of policing that have led to a serious and regrettable loss of confidence in you"*. It was clear from the letter that a decision had already been reached to invite Mr. McGrail to retire based on the Governor and the Chief Minister's views (*"Given the above, the Authority invites you to retire"*); however, confusingly, the letter also invited representations pursuant to section 34(2) which *"shall, of course, be fully taken into consideration to allow the Governor, the Chief Minister and the Authority to express a firm and final view"*. This language, promising to take the submissions into consideration, cannot be squared with the fact that definitive language making clear that the Authority has already set out an invitation to retire under section 34(1).

46. This not only raises concerns under section 34. It also results in a process which is not compliant with the concept of natural justice. Mr. McGrail cannot be penalised by a decision which would have such a devastating impact upon him without him being given prior notice of the case he has to answer, and a fair opportunity to answer it. This has not been the case here.

iv. The Relevance of Section 13

47. At the meeting of 22nd May, the Chair informed Mr. McGrail that this was not a decision for him, but a decision for the Chief Minister and the Governor, and that if he did not invite Mr. McGrail to retire under section 34 then the Governor would exercise his power under s. 13. The Chair made clear that this had informed the decision to trigger section 34. However, this is an extraordinary situation, raising very serious concerns, and it taints the

section 34 decision. The entire point of section 13 is that it only applies when Authority is in default; it is not a mechanism for the Governor to simply use when he disagrees with the Authority, or when he disagrees with an action by the Police Commissioner, and nor is it a power which should be pre-emptively threatened in order to lean on the Authority to trigger section 34.

(e) Response to the issues raised in the letter

48. We have addressed above why we believe that this attempt to remove Mr. McGrail from post is a pretence which would not have occurred but for the Chief Minister and AG's criticism of his handling of a particular live investigation. However, it is of course important and necessary to respond directly to the two issues which are directly mentioned in the 22 May letter. We should emphasise that our client takes both the incident at sea and the inspection report extremely seriously, as can be seen by his immediate and continuing actions in response to them, however we do not accept, even arguably, that either issue could be the basis of the use of the section 34 power to remove Mr. McGrail from his post in the interests of "*efficiency, effectiveness, probity, integrity, or independence of policing in Gibraltar*".

Mr. McGrail's career to date

49. Before addressing the substantive issues, we want to give you some background about Mr. McGrail's career as a police officer. This is so that in considering the issues, you can do so in the context of his record, which can only be described as exemplary. Mr. McGrail has had a long, unblemished and distinguished career in the RGP for 36 years, having joined in 1984. In the first decade of his career he served in front-line policing, and following the "fast launch" public disturbances in the mid-1990s he had particular responsibility for uplifting RGP's capacity and capability in order and personal safety.

50. In 2006, he became the youngest and most junior inspector at the time to be promoted to Chief Inspector. From 2012 he was a Superintendent. In 2015 he was included in the Queen's Birthday State Honours list and was awarded the Overseas Territories Police

Medal for meritorious service. He has been awarded the Queen's Golden and Diamond Jubilee medals and the long service and good conduct medal with first and second clasps. And, as you know his record is exemplary. Mr. McGrail has numerous letters of appreciation throughout his career and been commended five times, including once by the Director of the United States Naval Criminal Investigation Service and on another by the Chief Justice of Gibraltar. All the commendations have been for meritorious investigative work leading to prosecutions. He has throughout his career sought to develop personally and professionally and attended the Federal Bureau of Investigation National Academy Programme for 3 months in Quantico, Virginia 2007 , is a Master of Science in Policing and Public Order with the University of Leicester and in 2013 attended the Strategic Command Course with the UK's College of Policing.

51. What has distinguished Mr McGrail is his dedication to service and ability to innovate and develop new ideas and working practices. In 1995 following the most severe riots in the last twenty years in Gibraltar, Mr McGrail was one of two officers tasked with reviewing and developing the RGP's response to public order situations. He went on to qualify as a public order instructor and also as a public order commander. He created and developed an RGP public order unit, commenced a training and development programme, which continues in the form he devised to this day.

52. His flair for innovation and openness to new working practices saw him create the Corporate Development department. Corporate development being a non-existent concept in the RGP at the time. Mr McGrail was instrumental in creating / drafting policies and guidelines in areas where they were required. In addition, he helped put procedures in place to improve the processes around the detention and custody of persons in police detention.

53. On 1st May 2018, Mr. McGrail was appointed as Commissioner of the RGP for a four-year term of warrant, on the advice of the GPA. In his letter of appointment, it was requested that the GPA conduct a review process against the objectives set out in the vision statement and action plan he provided to the Governor. This was supposed to take place two years into his term, which means it should be taking place now. In his letter, the Governor at the

time, His Excellency General Edward Davis, said he looked forward to working closely with Mr. McGrail "*as we all do our utmost to protect, progress and promote the Rule of Law in Gibraltar*".

54. Since he took up the post of Commissioner, one of the first things he did was present to the Gibraltar Police Authority all the force policies for the Authority to ratify as required in law, something which had not been done previously. This is characteristic of his qualities of openness, transparency and accountability.

55. More recently he has been instrumental in the development of the Force Intelligence Unit, taking it from being a unit of limited capability to professional and proactive unit properly servicing the organisation. Mr McGrail's networking skills have enabled him to draw upon contacts in the U.S., Spain and the U.K. to enhance the RGP's intelligence exchange and law enforcement co-operation mechanisms with all these territories. Very significant cross border operations have been carried under his leadership attracting extensive positive media coverage. These efforts have also been recognised by the Governor, the Chief Minister and Attorney General as it no doubt aids the building of relationships with the Kingdom of Spain in the post-Brexit era. Mr. McGrail is part of the Gibraltar law enforcement delegation to work on delivering the Brexit MOU on law enforcement co-operation with Spain. All these mentioned points have brought improvements to the quality of service delivered by the RGP.

56. In the organisational context Mr. McGrail has pushed for procedural and policy advancements. The RGP's total complement of officers results in officers such as Mr. McGrail having to embark on the tasks described on their own, without the benefit of a supporting team as would be the case in a UK mainland force. Further complicating the task is the distance between the RGP and mainland forces makes it impractical to regularly meet and consult colleagues engaged in similar projects to share experience and knowledge.

57. The year 2019 saw unprecedented levels of demand imposed on the RGP including a total of 85 major events, which included 13 Assemblies/demonstrations, 10 international football matches (including a top 3 with the most ultra-fan base in Europe, who were at the matches in numbers), European Elections, General Elections, Small Island Games that run for a full week, Grace 1 (the first time a vessel had been boarded for contravening EU sanctions), eight large scale music events, major social events such National Day, New Year's Eve Celebrations, the Festival of lights and 14 Public Military Events. Mr McGrail oversaw the planning and execution of all of these events all of which met with the operational aims and objectives. Public security and safety was successfully upheld.

58. He has also been responsible for, in just two years in post:

a. Adopting the UK Home Office counting rules for the recording of crime. The RGP's previous methods had been subject of criticism by HMIC for presenting overly favourable detection rates.;

b. Project Servator which is a community orientated counter-terrorism initiative;

c. Restructuring of the force to release police officers to core policing duties;

d. Restructuring and uplifting of the Economic Crime Unit ('ECU'), to incorporate a fraud and Anti Money Laundering Unit;

e. The creation of the RGP's first ever Wellbeing Strategy 2019-2022;

f. The creation of 16 Wellbeing Champions, spread throughout the force;

g. The creation of a bespoke Mental Health referral procedure with Ocean Views medical facility for all police officers and support staff. No other HMGOG department has this system in place;

h. Significant strides with PSN connectivity – this is connectivity with the UK police service;

i. Partnership building and resources obtained through National Police Co-ordination Centre for Brexit contingency planning, Small Island Games & International football matches;

j. COVID-19 policing – which has seen restrictions in freedom of movement as never seen before in modern history.

59. Additionally, under Mr McGrail's leadership, the RGP has developed and implemented the following new policies and reviewed a further number of them. All of these have met the approval of the GPA:

a. 2018: Response Team Leader Policy (new), Gifts and Hospitality Policy (new), Alcohol and Substance Abuse Policy (new), Taser Policy (New)

b. 2019: Transfer Policy (Reviewed & Amended); Management of Exhibits (Reviewed & Amended); Domestic Violence (Reviewed & Amended); Travel Policy (Reviewed & Amended); Mobile Device Policy (New).

c. 2020: Caution policy (Reviewed & Amended), Travel Policy (Reviewed & Amended); Bullying Policy (New); Grievance policy and Procedure (New); Compromised Persons Policy (New); Mental Wellbeing Policy - New (No police service in the UK has this).

60. During Mr. McGrail's tenure, there has been an 8.3% reduction in crime, a 33% reduction in repeat victimisation, a 33% reduction in repeat offending and a 54% detection rate. These statistics are enviable to any UK police service. Additionally, during his tenure, a good level of public satisfaction has been maintained and in certain areas improved, according to your own public consultation surveys. He has, most recently, appeared on live television delivering public information bulletins for COVID-19 crisis on four occasions: on 9th April with the Deputy Chief Minister, on 21st April with the Deputy Chief Minister, on 3rd May and Minister of Justice and on the 10th May with the Minister of Justice again. If the Government or Chief Minister had lost confidence in his abilities you might reasonably ask why he was allowed to give these important briefings to the whole of Gibraltar.

61. Further, and for the sake of completeness, we remind you of Mr. McGrail's success in promoting international law enforcement cooperation, in an area which has been fraught with difficulties in the past, has been recognised by both the Spanish National Police and the Guardia Civil who have nominated Mr. McGrail for the "La Cruz de la Orden del Mérito Policial con distinctivo Blanco" and "La Orden del Mérito de la Guardia Civil con distinctivo" medals respectively. This is of course unprecedented and underscores the high esteem with which Mr. McGrail is held by his international colleagues in Spain.

The incident at sea

62. On 8th March 2020 at around 03:38 an incident occurred involving a collision at sea between an RGP patrol craft and a smuggling vessel. Two people on the smuggling vessel, Dris Mohamed and Abdeselam Ahmed, reportedly both Spanish nationals, died in the incident and two were injured. The incident occurred outside of British Gibraltar Territorial Waters ('**BGTW**').

63. The March 2020 incident is raised by the 22 May letters in two ways: in itself ("*the incident at sea in March, resulting in the death of two individuals, was pointed out as further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction*"); and in respect of communication (the Governor "*expressed the view that he*

feels he has been misled by you" and raises concerns that he has *"no confidence in his having been provided with the information expeditiously about this very serious incident..."*).

64. As regards the unfortunate incident itself, there is no explanation as to why it is suggested that the actions of individual officers reflect on Mr. McGrail or are indicative of a systemic pattern of acting beyond the remit and jurisdiction of the RGP. There is no particularity at all, meaning it is impossible to respond in any detail save to say that at Mr. McGrail responded to the incident with his usual integrity and transparency. It is simply bizarre to claim that the Governor and Chief Minister have lost confidence in Mr. McGrail because they blame him for the incident itself when (a) at the time of the meeting with the Chair and the 22 May letters the Chief Minister had requested, but had not received, a response to the detailed request for information which was sent to him on 21 May this was the first such request Mr. McGrail has received, and (b) at that time they had not received (and still have not received) the independent report which is being carried out by the Metropolitan Police and was commissioned within days by Mr. McGrail himself or the conclusive report of the independent marine accident expert.

65. A further example is given relating to the RGP being without the use of a vessel, and thus being, *"seriously compromised given the increased legal workload"*. Again, there is no indication as to why this would justify the exceptional step of inviting the Commissioner to retire, and, indeed, this would not address the issue regarding the vessel. In any event, the proposition that the effectiveness of the marine section has been compromised is nonsense. The RGP's Marine Section has resilience. It has other vessels and the fact that one of them has been out of service because of the collision has not hampered capabilities.

66. In any event, it is for the GPA to reach an independent decision in respect of this issue. We submit that it would be highly unfair and contrary to the principles of natural justice for the GPA to pre-emptively blame Mr McGrail for this incident, prior to a detailed consideration of the independent report from the Metropolitan Police. However, and in any event, the fact that the alleged 'loss of confidence' it is so obviously premature and pre-emptive

further proves the point we make above that the real motives behind the action by the Governor and Chief Minister are not this incident. Rather, this incident is serving as a pretext, although on any analysis not a convincing one.

67. As regards communication, we understand that the Section 15 reply (sent shortly before these submissions) comprehensively debunks the suggestion that there was inadequate communication. Mr. McGrail messaged the Governor, the Chief Minister and Attorney General within two hours of the emergency response group being convened and kept them fully informed throughout, promptly responding to all requests for information. He subsequently met with the Attorney General on 17th March to develop a working strategy to deal with the consequences of the incident, which the AG agreed to. He further briefed the AG on 18 March on the progress of the Metropolitan Police investigation. The Metropolitan Police team was also in direct contact with the Governor. On 22nd March Mr. McGrail again met with the Attorney General and DPP to discuss the potential civil legal action arising from the incident. The AG did not want to consider further strategy until the Metropolitan Police's report findings had been received. This has still not been received despite many requests to expedite it the Covid 19 Crisis in the UK has taken its toll on policing as in many other areas of business. A marine investigator's report has also been commissioned and is currently being finalised. The simple point here is that it is premature to reach any conclusions in relation to this incident and it would be highly unfair to dismiss Mr. McGrail on the basis of a wholly unparticularised and vague accusation such as this.

68. In relation to the suggestion that Mr. McGrail has misled the Governor, this is not particularised; it is a vague slur, without explanation. We do not know what it refers to. If it relates to the incident taking place in Spanish waters, it is not possible to follow the rationale. In any event, the Governor was promptly and fully briefed by Mr McGrail on that issue and Mr. McGrail understands that the Metropolitan Police team, who were conducting an independent investigation, also briefed the Governor's office.

69. A further slur is included in relation to Mr. McGrail's *"probity and integrity,"* phrased in a hopelessly vague way, without specificity: *"It was communicated to me that both the Governor and the Chief Minister felt that their dealings with you have left them with the*

sense that you are lacking in both probity and integrity – the maritime incident is one case in point..." Reference is made to the Attorney General, but as we have submitted above this could only refer to the criminal investigation, as the Chair also informed Mr. McGrail.

The HMICFRS Report

70. The claim that confidence in Mr. McGrail's ability to do his job has been lost to a lack of efficiency on the part of the RGP, based on the findings of the HMICFRS, does not stack up. As can be seen from the above, Mr. McGrail has a long and distinguished career. His term as Commissioner has been busy and successful. It is simply absurd to accuse him of failing to take proactive steps to address systemic issues which were identified in the 2016 report, two years before he commenced in office.

71. As regards efficiency, the inspection report is clear that there are long-standing problems, which were identified in the previous (2016) inspection report, have not been fully addressed by the time of the October 2019 inspection. Mr. McGrail had by that time only been in post for a little over a year, and it is simply not credible to suggest that these flaws can and should be laid at his door. Further, during his short period in office prior to the inspection he had to address the July 2019 arrest and investigation of the Iranian Oil Tanker "Grace 1" which was an extraordinary incident, managed by the RGP and supported by the Royal Marines, and which attracted widespread acclaim (see the brief reference at p. 13 of the report).

72. In addition, the report makes clear in respect of efficiency that the RGP is in need of additional resources, from the Government/ FCO.

73. Insofar as it is suggested that Mr. McGrail did not set up a working group, his response is that as a result of the unprecedented demand placed on the RGP during 2019, the RGP has been addressing the issues raised in the Report by merging them in daily work practices. This can be seen by the initiatives referred to above and the results achieved. In addition, as you know Mr. McGrail has provided the Authority and the Minister of Justice with a comprehensive road map for implementing the 2020 report. These have both been agreed

to be the proper procedure and no concerns have been raised. Indeed, some of the recommendations in the Report have since been met and the others are in progress. It would simply be irrational to conclude that this approach would justify forcing him to take early retirement.

74. It is of note that the 22nd May letter was the first Mr. McGrail has heard that either the Chief Minister or Governor – or indeed any member of the Government – lays blame for any of the issues identified in the report with him. None of the conversations he has had around the report have reflected the 22nd May letter which again raises the strong inference that this issue is being used as a pretence to mask the real reason for attempting to remove Mr. McGrail. For example, the Minister for Justice, Samantha Sacramento MP, messaged him on 29 April to say the report "*is shocking reading on the face of it, but if you analyse it deeper it's not that bad, and it's has easy solutions*" and "*it can all be fixed don't worry*". This message reflected the tone and content of the communications around the report. There have also been a number of very recent articles in the press which highlight the exceptional nature of the RGP given the unusually wide range of issues it has to deal with – from drug smuggling and international fraud to world diplomatic incidents involving maritime vessels – and the potential unfairness of applying the same standards as apply to other forces to such an unusual jurisdiction.

75. In addition, we note that an article in the Gibraltar Chronicle of the 28th May 2020 by an independent journalist, Mr. James Neish, who is intimately aware of the work of the RGP, suggests that the Report may have unfairly minimised the unique demands made of the RGP and which it responds to successfully for the most part. The article is titled "*It's always easier to judge from a distance*".

76. As stated above, the GPA must reach an independent conclusion in respect of this issue. It has not carried out the 2-year performance review requested by the Governor at the time of Mr. McGrail's appointment. We submit that there is a complete lack of evidence of Mr. McGrail's culpability for any of the issues highlighted by the inspection report. He has, in any event, taken extensive steps to improve and modernise the RGP. It would therefore be grossly unfair to conclude that, having been in post just over a year before the inspection,

Mr. McGrail is sufficiently blameworthy for the conclusions of the inspection report such that he should be forced to retire *"in the interests of efficiency, effectiveness, probity, integrity, or independence of policing in Gibraltar"*. However, and in any event, in order to reach such a conclusion it would be necessary for the GPA to carry out a full and fair review into Mr. McGrail's record during his time in post.

Conclusion

77. For the reasons stated above there is no possible, valid reason for the GPA to exercise its s.34 power to remove Mr. McGrail from office. The only rational decision for the GPA to reach is to dismiss the request of the Governor and Chief Minister. In any event, the defects in this process are already so flagrant that it would not be possible to reach a just result unless it is to allow Mr. McGrail to remain in post.

Yours faithfully,



Charles Gomez
Charles Gomez & Co

Nick Pyle OBE

Governor & Commander-in-Chief

The Convent
Gibraltar

Tel: [redacted]

Dr J J Britto
Chairman
The Gibraltar Police Authority
Unit 25B Casemates Square
Gibraltar

3 June 2020

Dear Mr. Chairman

Re: Invitation to Retire – section 34 Police Act.

I would like to thank you for providing me with a copy of the letter dated 29 May 2020 sent to you by Mr Charles Gomez, acting on behalf of the Commissioner of Police ("CoP"), on the above-captioned matter (the "Letter").

A number of matters and allegations in the Letter concern me, either directly or indirectly. My position within the GPA (paras 1-4 of the Letter) is one which I assume you will be addressing yourself in the GPA's reply to Mr Gomez. In any event, as you are aware, I wrote to you on 19 February 2020 explaining how I thought we could proceed during such time as I was acting as Governor. For clarity, all my communications with you since 19 February 2020 have been as Governor and NOT as a member of the GPA.

attached

With regard to the remaining contents of the Letter, I would like to address only two specific points at this stage. What I say is without prejudice to further information that I would be happy and able to provide if it were considered necessary to do so. Silence on any point made in Letter is not be interpreted as my acquiescence to any of them.

NP1/36

1. The relevance of the ongoing criminal investigation and its timing.

The first issue is the offensive assertion that my lack of confidence in the CoP, and therefore my conviction that he lacks both probity and integrity, is based on the RGP's handling of the so-called ongoing criminal investigation.

My deep concerns with the CoP's leadership qualities have absolutely nothing to do with that investigation. The already-existing concerns that I have had with the CoP were confirmed by the incident at sea (March 2020) and the HMIC Report (published in May 2020).

In relation to the former, the seriousness of the incident of 8 March 2020 does not require explanation. By its own, it has raised grave concerns with wide-reaching political, financial, reputational and sovereignty implications. They raise very serious concerns about the leadership at the RGP.

Furthermore, I suspected at the time of the immediate aftermath of the incident that the CoP's disclosure of information to me was evasive in particular in relation to the critical issue of whether or not the incident had occurred within BGTW. I know that when the CoP was telling me that it was not clear where the incident had occurred, he was informing the Chief Minister that the incident had indeed occurred outside BGTW. Indeed, it occurred some 7.5 nautical miles beyond Gibraltar's baseline and therefore well outside BGTW. I find this evasiveness on a key issue to demonstrate a total lack of respect to the office of Governor particularly since the CoP knew that this was the drucial issue for me and for both the UK and Gibraltar Governments as far as diplomatic relations with Spain were concerned.

In relation to the latter, on 30 April 2020, after having seen a draft of the Report, I wrote to the Chief Minister saying that I found the Report to be "quite damning". Indeed, the day before, I had written to you saying that I did not think that the Report should be published.

I was informed, for the first time, of the very existence of the criminal investigation referred to in the Letter on 15 May 2020 (when the matter was raised with me for

information by the Chief Minister, as he thought it right to disclose this to me as we considered matters related to the RGP and CoP).

I want to be clear, therefore, that my lack of confidence in the CoP's probity and integrity, and my conviction that the rule of law is compromised by the fact that I have lost confidence in him, therefore clearly arose well before I was aware of that criminal investigation. It is incorrect and untrue for anyone to suggest otherwise.

For Mr Gomez to therefore suggest, through conjecture and assumption, that the incident at sea and the HMIC Report were "fig leaves for the real reason Mr McGrail is being pressured to retire" (para 39) is an outrageous accusation which I bitterly resent and strongly object to. It is clearly not borne out by the facts and chronology as expressed above. In addition, for Mr Gomez to suggest that I had been aware of the incident at sea and the HMIC Report "for months" (para 34) is a wholly inaccurate statement which may mislead the GPA.

As a final point on this issue, I would also like to reiterate that these two incidents occurred on the back of a growing unease that I had been feeling over the months, in particular with the numerous allegations of bullying and mismanagement that I had picked up on. I have also been gravely concerned by the potential for corruption identified in the HMIC Report which has, tellingly, remained unaddressed by the CoP, despite his lawyer's response casting aspersions and allegations of corruption against others.

The CoP is the person who is ultimately responsible and accountable for all the actions and behaviour of the RGP, including those stated above.

2. The contents and allegations made in the Letter.

The second issue I must address is the tone and content of the Letter. I must place on record that the allegations made in the Letter that I am (or may be) interfering with the independence of the GPA, that I am (or may be) compromising the rule of law in Gibraltar and participating in a plot to discredit the CoP or influence the ongoing criminal investigation are entirely untrue and nothing short of a most scurrilous attack on my integrity. I find such allegations to be malicious and entirely misplaced. I strenuously

refute them and hold each one up as a further demonstration of good reason for my lack of confidence in the CoP and my concerns about his probity and integrity.

To conclude, I communicate to you as Governor that, for all the above stated reasons, the content, tone and style of the Letter have done nothing but cement my lack of confidence in the CoP and my concerns about the integrity, probity and independence of policing in Gibraltar in addition to the matters I have already communicated to you as Governor.

Yours sincerely

GIBRALTAR POLICE AUTHORITY

Unit 25B Casemates Square
Gibraltar

5th June, 2020

H.E. Mr Nick Pyle OBE
Governor & Commander-in-Chief
The Convent
Gibraltar

Your Excellency

Re: Complaints made by you and the Chief Minister against the Commissioner of Police

I refer to the complaints made verbally to me as Chairman of the Gibraltar Police Authority on 18th May 2020 by you and the Chief Minister against the Commissioner of Police.

The Authority commenced a process under section 34 of the Police Act in accordance with a decision taken at a meeting of the Authority held on 21st May 2020. The decision was taken by five members of the Authority personally present at the meeting and four others by telephone after the meeting. The only member who did not participate was you, who as Governor, was one of the complainants. Pursuant to this decision on 22nd May, 2020 I, on behalf of the Authority, invited the Commissioner to retire. I did this at a meeting with him held on 22nd May, 2020 at the Commissioner's office followed up by two letters to him that same day. In my second letter I stated the grounds advanced to me by you and the Chief Minister for your respective loss of confidence in him. I also invited him to make representations which we would consider before taking a final decision.

On 29th May 2020 Charles Gomez & Company wrote to the Authority attacking the process on the grounds of fundamental unfairness, abuse of process and procedural flaws. Bias was not expressly alleged but it was impliedly so given that the Authority was accused of effectively doing what the you and the Chief Minister wanted and reaching a decision without considering representations by the Commissioner.

We have taken independent legal advice and have been advised that the process which we have adopted under section 34 of the Police Act is fundamentally flawed and should be withdrawn. However, we are also advised that the complaints by you and the Chief Minister remain live and have to be determined. We have also been advised that the Authority, as presently constituted, is vulnerable to challenge on the grounds of bias. The Authority considers that as presently constituted it is unable to process the complaints without being vulnerable to legal challenge and is not therefore prepared to do so.

Yours faithfully

Chairman

NP1/40

HM Government of Gibraltar

THE CHIEF MINISTER

Dr J J Britto
Chairman
Gibraltar Police Authority
Unit 25B Casemates Square
Gibraltar

5th June 2020

Dear Joey,

Re: Letter dated 29th May 2020 from Charles Gomez & Company, on behalf of the Commissioner of Police to the Members of the Gibraltar Police Authority ("the Letter').

Thank you for providing me with a copy of the Letter. Your having done so serves two purposes. Firstly, it fairly provides me with an opportunity to respond to the very serious and vile allegations made against me by the Commissioner of Police ("**COP**"). Secondly, it gives the Authority the opportunity to have whatever regard it considers appropriate to my response when it makes its further decisions (if any) in relation to its invitation to the COP to retire.

Let me say at the very outset that serious as they are, the COP's allegations against me are completely untrue. Like any other person who values the rule of law (of which the independence of operational policing is a key element), I would be the first to admire the courage of a COP who fearlessly makes a stand in defence of the independence of policing and its freedom from political interference. It would be a relief to know that our police force was under such leadership.

HM Government of Gibraltar • 6 Convent Place • Gibraltar GX11 1AA
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However, this does not provide the COP with licence to elevate the product of his apparently fertile imagination, and the consequent speculative inferences which it leads him to make, to the status of fact, as he does. Still less does it entitle the COP to make (on the basis of such speculation as to the motives of each of them), the very grave allegations that he makes against all of His Excellency the Governor, the Chief Minister, the Attorney General and the Director of Public Prosecutions. It seems to me that such allegations could only properly be made and justified if supported by credible evidence. They are not, as they cannot be because they are untrue. For that reason, they are a fanciful nonsense which self evidently serves to vividly illustrate why the COP is undeserving of my confidence.

I wish to make clear that I stand by and ratify everything that I have previously said to you about my loss of confidence in the COP, and the reasons for it. To those reasons I would now add the extraordinary nature and content of the Letter, on the basis of which my loss of confidence in the COP is further increased and cemented. Furthermore, it is not immediately clear to me how the COP can preside over the efficiency and effectiveness of the RGP in the light of the obvious breakdown of his relationship with each of the Governor, the Government (myself and all other members of my Cabinet), the Attorney General and the Director of Public Prosecutions that necessarily results from the contents of the Letter.

You will have seen in this regard the letter dated 3 June 2020 addressed to you by His Excellency the Governor which His Excellency has shared with me. Of further significance arising from this letter is the entirely unjustified and reckless nature of the allegation against the Governor, who was not at the material time even aware of the criminal investigation interference which is alleged to justify the COP's allegations against him. Yet, such is the nature of the Letter. I made His Excellency aware of that investigation at the same time as I referred the matter to you. I did so in a spirit of complete transparency.

I am, of course, not accountable to the Authority for my conduct as Chief Minister. Nevertheless, from a position of institutional respect for the GPA as the statutory

body responsible for ensuring the independence of policing in Gibraltar, your role in respect of section 34 of the Police Act, and indeed deference to its members, I set out below my response to the COP's allegations in so far as they concern me.

The allegations levelled against me by the COP could not be more serious in nature. He accuses me of corruptly (see para 16- 22) interfering with the conduct by the RGP of a criminal investigation, in an unprecedented "abuse of power", motivated by a wish to retaliate against him (see paras 23 and 24) and a "personal connection with the outcome of the investigation" (para 38). He further accuses me of lying to the Authority about the "real reasons" for "pressuring" the COP to retire which he describes as a "a pretence" (para 48), "a pretext" (para 66) and "fig leaves" for the real reason which he declares to be a desire on my part to impede the COP's proper and reasonable handling of a live criminal investigation (para 39) and, which latter (asserted by him) reason is (as candidly stated by Mr Gomez at para 33) "the real and central reason for the request". In other words, I stand accused by the COP of all of outright dishonesty, wholly improper (indeed potentially unlawful) interference with the RGP and corruption.

Not content to level these grave allegations against me without a shred of evidence to support them, the COP has the temerity to declare that it is unnecessary for him "merely to rely on any inference raised by the timing of the s.34 letter to make this point" because (according to the COP) during your meeting on 22 May you confirmed to him that I had told you that his handling of "the criminal investigation" was "spoken about at the Chair's meeting with the Chief Minister and Governor and was one of the reasons they had lost confidence in Mr McGrail." This is relied on as some sort of "smoking gun" that puts his grave accusations beyond doubt or somehow justify his making them (para 40).

In the context of all the above, that he also accuses me of undermining the rule of law, that my conduct is 'an affront to the rule of law' and of seeking to "direct you" in your decisions (second para on page 2), serious as they are in themselves, pale into relative insignificance.

The COP's allegations are entirely untrue, and the manner in which he describes such interaction as there has been between us is so distorted as to be obvious that it would mislead the Authority.

Let me be absolutely clear, I have at no time or in any manner sought to interfere with the RGP's conduct of the criminal investigation in question in any manner of for any purpose, including (but not limited to) my alleged "personal connection with the outcome of the investigation". That personal connection is, presumably, the fact that Mr James Levy QC, whose conduct is apparently under investigation, is the senior partner of Hassans, a law firm of which I am also a partner although presently on a sabbatical.

At no time have I sought to intervene in or interfere to prevent Mr Levy being investigated or to prevent a search warrant being obtained and executed against him at the offices of Hassans, facts which I first learned about as they were already happening, that is, as the search warrant was being enforced at the offices of Hassans and at Mr Levy's home. This can be best illustrated by reference to the fact that at 12:25 pm on the 12th May 2020 I received a "Whats App" from the COP in which he said to me "CM- before you hear it from anyone else I want to inform you that detectives are executing a search warrant at Hassan for (JL) in relation to the case against Perez, Cornelio & Sanchez".

I responded at 12.34 in the following terms:
"Ian, Thank you for the courtesy of this information. I think that is a bad decision. A search should only have been sought if you believed that the person in question was not going to cooperate and will try to destroy evidence. If, as you say, you are hoping for cooperation, especially in a case involving a senior Silk and head of Gibraltar's largest legal firm, you should, in my view, first have sought to contact that person and obtain cooperation. Given my close personal relationship with JL, I won't comment further."

The COP replied at 12:35 as follows: "Noted CM".

I repeated that view to the COP during a meeting at my office in No 6 later on the same on day, coinciding with his presence in No 6 in connection with a Covid planning meeting in the basement of No 6. I also made it abundantly clear to him that my reaction would have been identical had he taken the same action against any other senior member of the Gibraltar Bar, all of whom, like him, are officers of the court with the legal and ethical obligations consequent to that status. These are the messages and the meeting to which the COP refers, in terms that I do not recognise, in paragraph 36 of the Letter.

The above is the full extent of my communications with the COP or the RGP in relation to the "criminal investigation" since then.

In so far as concerned my alleged motives for doing so, i.e. my personal connection with the outcome of the investigation, the accusation made against me is not sustainable even on the COP's case. In his Whats App at 12:25 (as the events were occurring) he told me that the warrant obtained and executed against Mr Levy was "in relation to the case against Perez, Cornelio & Sanchez". So, when I expressed the view that I did 9 minutes later at 12:34, I had no reason to believe that the investigation was of Mr Levy.

In fact, I am clearly entitled to express the views that I did in the above manner. That does not constitute interfering with the investigation in the grave manner of the allegations made, or at all. I am entitled to express my views to the COP on matters of policing policy in Gibraltar. I did not prevent the obtaining or the execution of the search warrant, both of which had already occurred. I have made no attempt to secure an end to those investigations, against Mr Levy or anyone else. Indeed, when I discovered that one of the persons under investigation was a civil servant, I directed the Chief Secretary that HMGOG should be a complainant to the police in the investigation, which duly occurred. Therefore, the notion that I was motivated by concern for the outcome of the investigation in so far as concerned my alleged personal connection with it is therefore simply unsustainable, as the COP well knows. This was an investigation in which I had insisted my Government should be a

complainant (ie the entity whose interests may have been criminally damaged) and in respect of a National Security facility which I had been instrumental in creating in the public interest of Gibraltar. It is remarkable that the COP could even believe, less still suggest to others, that I might want to interfere with such an investigation.

In my opinion, the obtaining and execution of a search warrant which the COP referred me to in his Whats App in such circumstances (such as I described in my own Whats App response to the COP) is of dubious legality, abusive, unprecedented in policing in Gibraltar, incompatible with public confidence in policing and the good name and reputation of Gibraltar as a business and finance centre. It is noteworthy in this regard that these are policy matters in which, as Chief Minister, I have a legitimate interest, and that in the event of the RGP being sued for the unlawful obtaining and execution of a search warrant, it is HMGOG that has to bear the financial consequences.

Be all the above as it may, serious as they are, and as the COP also well knows, those are not the reasons why I have further lost confidence in him by virtue of this criminal investigation. I have not lost confidence in him because he obtained and executed a search warrant in circumstances in which I believe it was inappropriate to do so. Nor is the reason "how the criminal investigation we refer to above has been handled" (para 35, and elsewhere in the Letter). The primary reason is that the COP has clearly lied to me.

During the meeting to which I refer above, the COP stated to me in explicit terms, in response to my concerns about the propriety of the warrant, that he had obtained and executed the search warrant against Mr Levy in reliance on legal advice from the Director of Public Prosecutions who had confirmed that it was appropriate to seek such a warrant and proceed in that way. I have since determined that this categorical statement from the COP, clearly designed to suggest to me that my views as to the law were wrong and he / his officers had acted properly (and not compromised the investigation or exposed HMGOG to potential claims for civil damages) was wholly untrue. In fact, it is now clearly established that at no time did

the COP or the RGP obtain legal advice from the DPP to that effect, a fact which the COP has now acknowledged in writing to Hassans (and has been separately confirmed to me by the DPP). This is unacceptable to me and goes to the COP's probity and integrity in his dealings with me, and to my ability to have confidence in him. This is unrelated to the nature, direction or conclusion which the investigation might take or reach (which I have been supportive of from the beginning, continue to be and have caused my Government to be a complainant for), as that continues to take its course. The COP has understood that, as evident from the fact that the investigation in question has not been affected in any way and has, rightly, continued unabated.

Additionally, I cannot accept the COP's statements in relation to his briefings to me about the "incident at sea". This was an incident with extremely serious external political consequences and very material potential financial consequences to the Government. I have, since our original discussion, already had to answer questions in the Parliament on this matter and there has been additional media reporting related to it both before and arising from my answer (including on the Spanish national broadcaster, RTVE). It has been the established practice for at least 50 years that Commissioners of Police keep the Chief Minister of the day fully, timeously and spontaneously informed, in detail about incidents of that kind. Had COP properly done so in this case it would not have been necessary for me to exercise the Chief Minister's powers under section 15 of the Police Act for the first ever time, as I confirmed to the Parliament. His Excellency the Governor has complained of the very same thing.

I have already taken you through my deep concerns in relation to the report from HM Inspectorate of Constabulary, which are also deeply concerning to me and relate to the efficacy and effectiveness of the RGP, both of which are the direct, legal responsibility of the COP under the Police Act.

Nothing in the Letter from the COP raises any real issue of interference with the independence of policing in Gibraltar, and the COP cannot raise imaginary

allegations to escape the fact that he has lost the confidence of every relevant authority in Gibraltar, and the proper consequences thereof. His allegations are untrue and are based entirely on speculation on his part as to everyone's motives for forming the views of him that they have. It is in itself wholly improper that he should make such spurious and damaging allegations without evidence commensurate with their gravity (or indeed any evidence). This now also goes to my further lack of confidence in the COP.

Please do not hesitate to ask me to clarify any matter that it would be of assistance to the Authority that I explain further.

With very best wishes,



Fabian Picardo QC MP
Chief Minister

The Attorney General
HM Government of Gibraltar

Dr J J Britto
Chairman
Gibraltar Police Authority
Unit 25B Casemates Square
Gibraltar

05th June 2020

Dear Joey,

Re: Commissioner of Police - Letter dated 29th May 2020 from Charles Gomez & Company

Thank you for providing me with a copy of the letter dated 29th May 2020 that you have received from Charles Gomez and Co representing the Commissioner of Police ("COP"), Ian McGrail ("the letter").

I have no formal role under the Police Act in relation to the matters currently before the Authority for consideration. Therefore, whilst my views about the COP are relevant only in so far as the Authority wishes to have regard to them, I cannot allow the Authority's record to stand unrebutted on the basis of the untrue and scurrilous allegations made by the COP. Thank for giving me the opportunity to do so.

The letter makes important and very serious allegations against me, namely, that I have improperly, corruptly and in abuse of my powers "interfered" with an ongoing criminal investigation by:

(i) privately subjecting the COP to "significant and at times intemperate private criticism" about how the criminal investigation has been handled; and

(ii) trying "for many months" to persuade COP to "change his and the RGP's approach to the investigation which would either lead to it being dropped entirely or certain suspects not being prosecuted".

In support of those statements it is said that I have feigned loss of confidence in the COP as a means of disguising my alleged real objective which is said to be, effectively, to "nobble" the investigation and prosecution to which the investigation relates, and that in some way, this should be deduced from

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issues relating to "timing" of actions by others and the allegation (also denied by me) that I have reacted with "startling" emotion and consequential insinuation that this is apt to sustain the fantastic allegations made against me by the COP. I hasten to say that each of them is untrue and without merit or justification.

Part of the narrative of the COP's allegations against me is that I apparently gave him *"the strong impression that I was primarily concerned with protecting the Chief Minister and 'Gibraltar PLC" (the AG's words)"*. I am not aware that the Chief Minister is a person in need of protection in the context of the criminal investigation in question. In so far as concerns the fact that I was primarily concerned with protecting "Gibraltar PLC' (which is vernacular for the public interest of Gibraltar) that is absolutely correct. That is my constitutional role and my job (a fact that the COP, and those advising him appear to overlook).

At a personal level, I deeply regret (because I have always enjoyed excellent working and personal relations with him) to have to say that I cannot recognise the truth in the statements and allegations that COP now makes in the letter. They are untrue.

I have a constitutional role both in relation to prosecutions (I have ultimate responsibility and control over them) and for the rule of law (I am the guardian of the laws of Gibraltar and compliance with them). This is important because it renders proper interventions by me which may not be proper if engaged in by others. What the COP is effectively doing, on the basis of pure speculation and assumption on his part, is to cast the gravest aspersions <u>on my motives</u> for my statements, views and actions.

I should comment also that, in any event, the COP is not (as he appears to believe) immune to having his actions "strongly disapproved of" or being "severely criticised for them". Yet he equates both to the improper interference with the conduct of a criminal investigation and a violation of police independence. This, worryingly, shows lack of understanding and judgment by the COP.

Because of my roles described above, and also the fact that I am the Crown's (in all its facets, including the RGP) principal legal adviser in Gibraltar, it has always been customary for the COP and the RGP to seek the Attorney General's advice and to discuss ongoing investigations with him, whenever that is required. Mr McGrail has done so, both before and after becoming COP.

Contrary to what the letter says, I have never said that the COP lied to me. What I have told him is that he has incurred in a serious breach of my trust (which I explain below) as a result of which I have lost confidence in him.

I turn now to what has actually occurred. I first became aware of this criminal investigation on the 11 May 2019, when I received an email from the COP (sent also to the Chief Minister, Minister of Justice, the Chief Secretary, the Financial Secretary and the DPP) asking to meet with us urgently to brief us in relation to certain information that they had obtained in that criminal investigation. That meeting took place on Monday 13 May 2019. At that meeting, or shortly thereafter, I became aware that James Levy QC had shares in one of the companies involved in that dispute and that he was mentioned in communications with the three suspects and was potentially a person of interest to the investigation.

Far from seeking to intervene or interfere for that reason, I had no further involvement with the criminal investigation until over 11 months later when, in early-April 2020, the DPP called me to discuss the Government's position in relation to the ongoing issues about the ownership of a computer platform and its software that HMGOG uses, to which the criminal investigation related.

During that discussion the DPP explained to me that the RGP had drawn up a list of 76 charges (some of which could be impacted by the question of ownership of the platform) and that the RGP were thinking of issuing search warrants against Mr James Levy QC. I was alarmed, both by the number of charges (which would be quite inappropriate in any prosecution) and also by the proposal to obtain and issue a search warrant against a senior lawyer without first seeking voluntary co-operation or voluntary production of evidence. My concern was not because of any sense that lawyers should be exempt from this mechanism, rather it was (as would be the case of any person) that such warrants should reflect the reality of the risk of destruction of evidence unless the person is taken by surprise, or the refusal of the person to provide the evidence voluntarily. Not only can that not be assumed against any person, still less a practising lawyer, but Mr Levy had been aware of the RGP's interest in him for many months, and had had plenty of opportunity to destroy evidence if he were minded or inclined to do so. I have a legitimate public interest role and function (indeed, a responsibility) in respect of both these matters.

I asked to meet with the COP in relation to these two matters, and we did so on 7th April 2019. In that meeting I advised him of my concern about the need to obtain clarity on the issue of ownership of the computer platform since it was clear that that issue would likely have an impact on at least some of the proposed charges, and I also told him that I was worried about the overall number (76) charges, which seemed wholly excessive, not to say absurd. I reminded him of the general wisdom of focusing the

charges appropriately. We also discussed, in the terms that I have described above, the proposal to obtain and execute a search warrant against Mr Levy.

The outcome of that discussion was that we reached a clear understanding that the the RGP would not take any further action until they had considered my advice about the rationalisation of the charges, and then the COP would come back to see me again. It was clear beyond peradventure that nothing would happen until we met again. The next I hear (from COP himself, as it was happening) was that RGP officers were in the process of executing search warrants against Mr Levy at the offices of Hassans and at his home.

I have never said anything to the COP which can be interpreted as anything other than advice and assistance, as has always been the practice. The COP is of course free to take whatever action he considers lawful and appropriate regardless of any advice that I may give him on the matter, and he did so. He unquestionably has that right. What the COP cannot do, and also expect to retain my personal confidence, is to act contrary to an understanding reached between us, as he has done. This, and not my disapproval of his actions (even though I think that they were ill advised), is the reason for my loss of confidence in him.

I have made it explicitly clear to the COP throughout that the conduct of the investigation (including the seeking and execution of search warrants) are, whatever I may advise him, operational matters entirely for him. Nothing that I have ever said to the COP or any other member of the RGP has been even remotely open to the possible (mis)interpretation that I have advised or encouraged, still less that I have interfered to bring about or try to bring about, the curtailment of the investigation, how it is carried out by the RGP or to prevent any person from being charged. It is outrageously wrong and unfair for the COP to allege that I have (let alone that I have done so repeatedly over an extended period of time) and I am shocked and deeply resent that he has done so. This necessarily deepens my loss of confidence in him going forward.

I remain at the Authority's disposal for anything with which I may be able to assist it further by way of clarification or further explanation.

Yours Sincerely,

Michael Llamas QC
Attorney General

Charles Gomez

From: Charles Gomez
Sent: 05 June 2020 17:24
To: Neish QC, James (jn@tsnlaw.com)
Cc: Nicholas Gomez
Subject: RE: Invitation to Retire: Section 34 of the Police Act

Importance: High

Dear Sir,

We refer to your letter of today's date received after close of business at 16:26. This brief response has been prepared at speed given the timing of receipt of your letter.

We note the withdrawal of the flawed Section 34 process, and the recognition that there have been procedural flaws in the process.

Our client denies "lying" to the Chief Minister or the Attorney General in relation to the "on-going police investigation", or over any other matter.

Your clients are well aware that no particulars have been given to our client of any alleged lies. Our client has therefore had no opportunity to address the allegations which at the moment can only be classified as vague slurs.

An accusation of lying against the principal law enforcement officer of the Crown in Gibraltar is a matter of the highest gravity. Mr. McGrail's service has been recognised by Her Majesty Queen Elizabeth II herself.

We note that your client's Chair now admits to having been informed by the Chief Minister and Attorney General that Mr. McGrail "lied" to them about a police investigation. We also note that your client (we assume deliberately) omitted this allegation, which was plainly central to the Chief Minister's decision-making, from the second letter of 12 May purportedly setting out the detail of the complaint against him. We suggest that the strong inference is that your client knew the matter was constitutionally improper and for that reason left it out.

An allegation of lying in any circumstances is one of the utmost gravity yet our client has no understanding of the specifics of the allegation and has not had the chance to address it. We remain entirely unclear what your clients, the Authority, propose to now do.

Our client is gravely concerned by how he has been treated during this process, and I welcome your frank acknowledgment that there have been procedural flaws. He is an officer of the highest standing, with an impeccable record over the past 36 years. In these circumstances, given how unfairly he has been treated and the improper pressure put upon him to alter the course of a live criminal investigation, our client feels he must apply for early retirement from the Royal Gibraltar Police.

All of Mr. McGrail's rights are reserved.

Yours faithfully,

Charles Gomez.

CHARLES GOMEZ

CHARLES
GOMEZ &
COMPANY

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His Excellency Nick Pyle OBE

Governor & Commander-in-Chief

The Convent
Gibraltar

Tel: [redacted]

Ian McGrail MSc OTPM
Commissioner of Police
(by email)

06 June 2020

Dear Commissioner

Thank you for coming to see me yesterday.

During our discussion you handed to me a copy of an email dated 5 June from Charles Gomez to James Neish under the subject "Invitation to Retire: Section 34 of the Police Act." I have now read that email and note the final 14 words which state "our client feels he must apply for early retirement from the Royal Gibraltar Police."

This matter is of course directly relevant to me as it is the Governor who, under S 32.(1) of the Police Act 2006 and acting on the advice of the Authority, appoints the Commissioner.

Before I review all the papers I have on this matter in advance of our meeting on Monday, can you please confirm to me, by no later than midday tomorrow, whether that is indeed your decision, and, if so, whether you will be tendering your letter of resignation on Monday with immediate effect.

I look forward to hearing from you.

Yours sincerely

Nick Pyle

NP1/54a

His Excellency Nick Pyle OBE

Governor & Commander-in-Chief

The Convent
Gibraltar

Tel: [redacted]

Ian McGrail MSc OTPM
Commissioner of Police

08 June 2020

Dear Commissioner

Thank you for coming to see me today.

We discussed your intention to retire and I agreed that this was the best course of action, adding that I would need a letter to that effect. I asked that your retirement be with effect from 18.00 on the 9th of June, and suggested that you may wish to make an announcement accordingly. Please do let me know if you intend to do so and perhaps we can discuss timing. I will then follow up with the following press release:

"His Excellency the Governor, Nick Pyle OBE, has accepted a request from the Commissioner of Police to retire with effect from 18.00 hrs on Tuesday 09 June.
Recognising the Commissioner's 36 years of service to the Royal Gibraltar Police, and cognisant of him being awarded the Overseas Territories Police Medal for meritous service in 2015, the Governor wishes the Commissioner all the very best for his retirement.
The Assistant Commissioner will perform the duties of the Commissioner until further notice, as set out in the Police Act 2006."

You agreed to retire as set out above subject to financial terms being agreed which I believe you have done so with the Chief Secretary. I therefore look forward to receiving your letter.

I would like to reaffirm my commitment, notwithstanding the above, to ensure you are treated fairly and with respect at all times.

Yours sincerely

Nick Pyle

NP1/55

Nick Pyle (Sensitive)

From: Nick Pyle (Sensitive)
Sent: 09 June 2020 12:15
To: '(RGP) McGrail, Ian M.Sc (OTM) (Ian.McGrail@royalgib.police.gi)'
Subject: RE: APPLICATION FOR EARLY RETIREMENT

Ian

Despite all that has happened, please do take care and I do hope you get any help and support, whether from family, friends and others, that you may need.

My commitments outlined in my letter to you remain.

Regards

Nick

From: Nick Pyle (Sensitive)
Sent: 09 June 2020 12:07
To: (RGP) McGrail, Ian M.Sc (OTM) (Ian.McGrail@royalgib.police.gi) <Ian.McGrail@royalgib.police.gi>
Subject: APPLICATION FOR EARLY RETIREMENT

Dear Commissioner

Please find a letter that I trust is self-explanatory.

I will copy the letter separately to the Chief Secretary.

Regards

Nick

N J Pyle OBE
Governor
The Convent
Gibraltar
tel: +350 20045440 echo: [redacted] mob: [redacted]

NP1/56

Nick Pyle OBE

Governor & Commander-in-Chief

The Convent
Gibraltar

Tel: [redacted]

Ian McGrail MSc OTPM
Commissioner of Police

09 June 2020

Dear Commissioner

Thank you for your letter of 9 June submitting an application for early retirement from the Royal Gibraltar Police on the following terms as outlined in your letter, namely:

1. Untaken leave will be paid
2. Days off in lieu which have not been taken as leave will be paid
3. Pension will be calculated at current salary. Payments to begin on 1 July 2020
4. A contribution of £2500 towards my legal fees

I approve your application and agree to the terms as listed in full and final settlement of all claims what so ever and how so ever arising.

I therefore note that you will be relinquishing command of the Royal Gibraltar Police at 18.00 hrs this evening.

Yours sincerely

Nick Pyle

NP1/57

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Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex [redacted] • www.police.gi

9th June 2020

His Excellency Nick Pyle OBE
Governor
The Convent
Gibraltar

Your Excellency,

Further to our meetings, discussions and correspondence of the last weeks and yesterday, I respectfully submit my application for early retirement from my post as Commissioner of the Royal Gibraltar Police on the following terms;

(i) Untaken leave will be paid
(ii) Days off in lieu which have not been taken as leave will be paid.
(iii) Pension will be calculated at current salary. Payments to begin on 1st July 2020.
(iv) A contribution of £2500 towards my legal fees.

Should you agree, I would relinquish command of the RGP by 1800Hrs on Tuesday 9th June 2020.

Yours sincerely

Ian McGrail OTM MSc
Commissioner of Police

From: (GPA) Hanglin, Elka <elka.hanglin@gpa.gi>
Sent: 11 May 2022 11:07
To: Dr Joey Britto [redacted]>
Cc: Nick Pyle (Sensitive) <nick.pyle@fco.gov.uk>
Subject: FW: COMMAND GPF RELATIONSHIP

Begin forwarded message:

From: Federation Chairman <chair@gibpolfed.org>
Date: 22 June 2020 at 10:14:07 CEST
To: Dr Joseph J Britto [redacted]>
Cc: Federation Secretary <secretary@gibpolfed.org>
Subject: COMMAND GPF RELATIONSHIP

Dear Joey,

I trust that you are well.

I thought I should give you an update as to the present relationship between the interim Commissioner and the Gibraltar Police Federation.

Last week after the resignation of Mr McGrail, Federation convenors have met up on two occasions with Mr Ullger. One was a meeting we had scheduled with him and the second was a meeting we had scheduled with the Commissioner with regards to some pending issues, which Mr Ullger sat in as interim Commissioner.

In those meetings, it was mooted that there was a possibility of a Commissioner from the UK to take over for a short period of time.

It is no secret that we have had numerous issues with Mr McGrail due to his management style and the lack of respect which he demonstrated towards the Gibraltar Police Federation, and especially towards the Secretary, Leif Simpson and myself as Chairman. As a result, the relationship between Command and the Federation was strained at best, over these last two years.

Everything we proposed in the last year was thrown back at us with little or no consideration, so we had to revert to legal advice on several issues we were requesting to be looked into by Command.

I have known Mr Ullger for a very long time, and have worked under him on Shift and in Special Branch. Having worked with Mr Ullger for over 20 years I can assure you that his management style is completely different to that of Mr McGrail.

He is always fair, and more assertive when this is required, but he always treats people with the utmost respect.

And this is exactly what the officers are calling out for. They want to be treated with respect as individuals, not treated as numbers, and for their work to go recognised.

We have achieved more in two meetings with Mr Ullger in a week than we did in a whole year with Mr McGrail. This is not about management giving in to Federation demands, or requests, but a real willingness to work alongside the Federation for the benefit of the officers. There will be occasions where Federation requests will not be taken on board, but I can accept this, when a reasonable explanation is given.

During April and May this year, we have worked tirelessly together on the revamped Grievance Policy and Procedures and the Bullying at Work Policy, where we went through both policies line by line. Mr Ullger agreed to numerous suggestions the Federation had in respect of both policies, and these were included, some of which are still on the draft version of HMGoG's revised Bullying at Work Policy, and still not approved.

I do not believe that bringing over a Commissioner from the UK for a short period of time is the answer. He may bring some fresh ideas, but policing in Gibraltar is not the same as in the UK. Federation reps carry out their training at Leatherhead in the UK and I can assure you that we do not want to operate like a UK force. What may work in the UK may not necessarily work in Gibraltar. Any good policies and procedures they may have could be implemented but always tweaking this to suit our policing.

It would also be difficult for someone coming over from the UK to understand the people, the culture and the way we operate in a short period of time. The organisation requires an understanding, empathetic Commissioner at the helm, with local knowledge and understanding. I believe we have the right officer for this role in our ranks.

Happy to discuss this further.

Kind Regards

<image001.gif>

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<image002.jpg>

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Nick Pyle (Sensitive)

From: Nick Pyle (Sensitive)
Sent: 29 April 2020 19:39
To: Dr Joseph J Britto
Subject: HMIC

Joey

I've read the report twice. I don't think it should be published in full. Let's chat tomorrow.

Nick

NP1/62

Nick Pyle (Sensitive)

From: Nick Pyle (Sensitive)
Sent: 30 April 2020 17:11
To: Fabian (MIN) Picardo (fabian.picardo@gibraltar.gov.gi)
Subject: HMIC 2019 REPORT ON THE RGP

Dear CM

As you may know, Her Majesty's Inspectorate of Constabulary, Fire and Rescue Services, inspected the RGP in October 2019. This was at the request of the Gibraltar Police Authority which asked HMIC to assess progress the RGP had made in implementing the recommendations of their 2016 report.

Having studied the report, I find it to be quite damning and it will need careful handling. In essence, HMIC found the RGP to have only met two out of the eight areas for improvement identified in 2016. My own sense is that HMIC were very disappointed indeed to find so little progress had been made since their last inspection. This is a shame and their willingness to help the RGP in the future may have diminished as a result. This is something we must help correct.

But I don't think the issue is as bad as the headline suggests and believe it is an issue of culture and leadership more than anything else. Most of the issues should be relatively easy to fix though it will take a collective effort, driven bottom up from within the RGP as much as from its leadership which needs to be both more strategic and directive. Quite simply, as I see it, the RGP needs to "modernise" in all senses of the word.

But the inspection report will undoubtedly become public at some stage. It is important therefore that we (Commissioner, GPA, CM, Governor) are all ready to respond collectively and as one when it does. This means being upfront and honest about the issues and challenges as well as displaying a commitment to put things right. If we do not, I think the credibility of the RGP is at risk.

Given your pre-occupations, I'm happy to discuss how best to take this forward with the Chair of the GPA and perhaps the Chief Secretary, in the first instance. My initial thought is to suggest the Commissioner makes the report public at the same time he publishes his roadmap on the way forward. So being proactive rather than reactive.

Happy to discuss when we next catch up on Business as Usual issues.

Regards

Nick

N J Pyle
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HMIC Inspecting policing in the public interest

Royal Gibraltar Police

An inspection of leadership, crime management, demand and resources

July 2016

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NP1/64

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1. Introduction

Our commission

1.1. HMIC independently assesses police forces in the public interest and examines policing activity from neighbourhood teams to serious crime and the fight against terrorism.

1.2. In preparing our reports, we ask the questions which citizens would ask, and publish the answers in accessible form, using our expertise to interpret the evidence.

1.3. HMIC is independent of government and the police. HM Inspectors of Constabulary are appointed by the Crown; they are not employees of the police service or government.

Background

1.4. Gibraltar is a British Overseas Territory on the southern end of the Iberian Peninsula. It is home to over 30,000 people. Thousands more commute daily across the land border with Spain.

1.5. Gibraltar has one of the fastest growing economies in the world. Gibraltar's gross domestic product increased by 12.3 percent in 2014 and 10.3 percent in 2015. This growth has been driven by expansion of the online gaming and financial services industries as well as by significant investment in construction of new buildings.

1.6. Located at the entrance to the Mediterranean Sea, Gibraltar is a major tourism and leisure destination, which receives approximately 10.5 million visitors a year, many of whom arrive on cruise ships.

1.7. These factors create a unique policing challenge for the Royal Gibraltar Police (also referred to in this report as 'the force'), which is responsible for:

(a) the preservation of the peace;

(b) the maintenance of law and order;

(c) the prevention and detection of crime;

(d) the apprehension and guarding of offenders; and

(e) the protection of property.[1]

[1] Section 29, Police Act 2006.

1.8. In order to enable the Royal Gibraltar Police to assemble the resources needed to discharge these responsibilities, the force has a budget of £15.127m (in 2015/16). This provides for 238 officers and 36 members of support staff.

1.9. The Royal Gibraltar Police is led by a commissioner of police and is overseen by the Gibraltar Police Authority (also referred to in this report as 'the Authority'). The Gibraltar Police Authority is an independent body that is responsible for ensuring that the force operates as efficiently and effectively as possible.[2]

1.10. The Police Act 2006 requires that the priorities for the force concerning crime prevention and investigation are contained in a policing plan published by the Authority.

1.11. The priorities in the policing plan for 2015/16 include:

- "security throughout Gibraltar;
- tackling crime;
- community at the centre of policing;
- roads policing;
- professional service delivery;
- public protection; and
- communication".[3]

1.12. Each of these priorities has a separate plan which describes the actions the police need to take to meet the priorities.

Our terms of reference

1.13. HMIC was invited by the Gibraltar Police Authority to inspect the Royal Gibraltar Police. Our terms of reference were to conduct:

(a) a review of leadership and associated human resources working practices including the complaints procedure, provision for the wellbeing of staff and an ethical culture;

[2] Section 5, Police Act 2006

[3] Gibraltar Policing Plan 2015.

(b) a review of crime prevention and investigation performance, an audit of crime recording, and an assessment of victim care and support; and

(c) an assessment of demand, of resource capacity and capability, and how resource is matched to meet demand.

1.14. This inspection supports the policy of HM Government to assist the development of policing in British Overseas Territories and Crown Dependencies.[4]

Methodology

1.15. We visited Gibraltar in June 2015 to familiarise the inspection team with the environment and receive a briefing on the structure and role of the force.

1.16. Following this we examined a series of documents supplied to us by the force and we reviewed information we found on the internet concerning Gibraltar and the force. This aspect of our inspection included a review of the results of a recent staff survey.

1.17. We returned to Gibraltar in October 2015, when we conducted interviews with various senior leaders and focus groups with junior personnel.

1.18. We examined the content of various case files, conducted an audit of crime reports and undertook other checks on the information provided to us such as attending meetings and engaging with police officers and members of public.

1.19. Because of the unique policing challenge faced by the Royal Gibraltar Police, a direct comparison with police forces in England and Wales is not appropriate. However, that is not to say that lessons cannot be learned from elsewhere. Consequently, at the various stages in this inspection where it was relevant and appropriate to do so, we evaluated the work of the Royal Gibraltar Police against the standards that are commonly applied to policing in England and Wales. We did so using the Home Office's 'crime counting rules' and 'authorised professional practice', which are provided by the College of Policing.[5]

[4] The Overseas Territories and the Home Office, April 2012.

[5] See www.gov.uk/government/publications/counting-rules-for-recorded-crime and www.app.college.police.uk

2. Leadership, vision, values and culture

Introduction

2.1. We examined the quality of the Royal Gibraltar Police leadership and looked for a clear vision that was well understood and shared by the workforce. We examined the extent to which the conduct of personnel reflected the standards and values that leaders sought to imbue in them and that the public would expect. We also assessed how well the force promoted an ethical culture in how it treats its staff.

2.2. In order to help us form a view on these matters, we looked closely at: how senior officers led the organisation; how they communicated their expectations; how they cared for personnel; how they dealt with officers and staff whose conduct fell short of expectations; and how they ensured that working practices and procedures were fair.

Findings

2.3. We found that the Royal Gibraltar Police was generally well led. Senior officers were visible and had good oversight of policing activity. There was a committed workforce, actively engaged with the public, with a strong sense of pride, a clear direction and, as it was described to us, a 'one team' culture.

Leadership

2.4. Through our observations and interviews, it quickly became clear to us that the commissioner adopted an open, transparent and constructive approach, and that he actively promoted such an approach by other leaders.

2.5. We found that senior officers were readily available to the workforce. They were visible in police buildings and mingled with personnel in communal areas such as canteens.

2.6. Senior officers demonstrated good levels of staff engagement across all levels of the force. Documents we read showed that they used events such as regular meetings, the staff survey, surgeries and workshops to involve as many of the workforce as possible in discussions concerning issues of significance, such as changes to the response team shift system (discussed at paragraph 4.23).

2.7. A benefit of their approach was that senior officers had good oversight of policing activity, ensuring that resources were aligned to tackling the policing plan priorities. Furthermore, our interviews and observations revealed that these priorities were strongly supported; officers we spoke with knew the

priorities as well as the locations where incidents of crime and anti-social behaviour were occurring regularly and the areas in which they were expected to patrol. We also found evidence of good efforts to trace and arrest people wanted for criminal offences.

2.8. Senior officers also promoted an 'open door' policy. We saw professional and formal, yet supportive and open, engagement between senior officers and other staff which confirmed that this was a reality, rather than a mere aspiration. This was further evidenced in the staff survey, where the majority of respondents felt confident that their ideas and suggestions would be listened to.

2.9. Staff we spoke with expressed the view that, when mistakes were made, the emphasis was on putting the matter right and learning from the experience rather than finding blame. We saw evidence of this in an incident report where initial enquiries had been insufficient. The officer was appropriately guided and the enquiries were properly completed. This approach enables supervisors to make decisions in appropriate circumstances without the fear of unwarranted criticism. We saw the results of this in many enthusiastic staff who felt trusted and empowered. This is evidence of an ethical culture within the force.

2.10. The force has invested in a leadership training programme for all ranks. Such a scheme is to be welcomed, particularly because, at the time of our inspection, there was a significant number of new officers and staff. This included new supervisors, who were generally inexperienced and needed to be trained.

Vision

2.11. The commissioner's vision is to prevent crime and divert potential offenders in the longer term by educating and influencing young people through early intervention. When we spoke with officers and support staff we found that they had a clear sense of the future direction of the force. This was supported by the findings of the 2015 staff survey, where the majority of respondents were aware of the commissioner's vision, and by the documents we saw which had been circulated to staff. These described the role of the force and reinforced the vision of the commissioner. (The policing activity to achieve the vision is discussed at paragraph 3.4)

2.12. We found, through observation and reading documents, that as part of the vision, the force tended to operate as one team. Officers assisted each other when called upon, and were ready to undertake different roles when this was necessary; for example, in addition to their main role, some officers were trained to deal with firearms, public disorder, specialist search or forensic examination. Such an approach is necessary in Gibraltar. This is because the

Royal Gibraltar Police is a small force that, unlike most police forces in the United Kingdom, cannot rely on police forces in neighbouring areas for assistance.

Code of professional standards and values

2.13. The commissioner has defined a code of professional standards for officers. These are laid out in a policy document, a summary of which was on posters we saw displayed prominently in offices.

2.14. The code of professional standards includes expectations of behaviour concerning:

- responsibility and accountability;
- honesty and integrity;
- lawful orders;
- use of force;
- authority, respect and courtesy;
- equality;
- confidentiality;
- fitness for duty;
- general conduct; and
- challenging and reporting improper conduct.

2.15. This code is based, in part, on standards for forces in England and Wales. We found that officers knew and understood these standards and, by observation, that senior officers reinforced these standards in their own conduct.

2.16. We also saw posters and documents describing the values that the commissioner of police promotes. These are intended to underpin the code of professional standards and further highlight to officers how they should behave. These values were being introduced gradually in order to prompt awareness and debate among the workforce.

2.17. We found strong evidence that senior officers were committed to improving how the force operates concerning values and standards. The force was awarded an Investors in People bronze award in 2012 and senior officers were, at the time of our inspection, seeking the gold award (an application for which was to be submitted before the end of 2015). We examined documents to support this application and it included evidence of policies and procedures

that ensured the fairness of systems and the way that staff are treated, such as selection for posts and promotion.

2.18. As a consequence of the focus on values and standards, we found that personnel were treated fairly and equitably in terms of the skills development and career opportunities made available to them. In particular, female staff we interviewed and spoke with all considered this was the case and they saw the force to be a place to work where their skills and abilities were acknowledged and valued. This is further evidence of an ethical culture within the force.

2.19. The commissioner had, prior to our inspection, publically announced his ambition to appoint Gibraltar's first female police inspector before 2017.

2.20. We also found that diversity within the workforce had increased since our last inspection; the force has recruited a number of officers of Moroccan and UK descent.

2.21. While in Gibraltar we also sought the views of the public about the Royal Gibraltar Police. Those we spoke with reported a high level of confidence in the force in general. In particular, there was a high level of satisfaction in how the force interacts with the public.

2.22. Those we spoke with told us that the force is responsive to calls for assistance and regularly communicates with the public about crime and other problems. This appears to have generated a high degree of trust. It was clear to us that the public felt the force was committed to protecting and helping the community. (We explore the high public expectations of Royal Gibraltar Police, and the challenges this creates, in paragraph 4.12.)

Wellbeing of staff

2.23. We learned that senior officers had, through the staff survey, asked the workforce about issues of concern to them. This has provided the leadership team members with a good understanding of such issues and has enabled them to respond. In addition to the response team shift pattern discussed earlier, the poor fabric of police buildings and insufficient refresher courses for officer safety training were highlighted as issues of concern; personnel reported that these matters had a detrimental impact on their wellbeing. We found that plans were in place to build a new police headquarters and to provide additional training.

2.24. We found that, in an effort to improve engagement and wellbeing, senior officers had implemented two new policies: the welfare policy that defines the role of the welfare officer; and the rewards policy that defines how commendations and other awards can be made. These new policies were considered to be positive improvements by officers and staff.

2.25. In addition, we found that the welfare of personnel was clearly a priority for the commissioner; he was in personal contact with sick and injured colleagues on a regular basis. This was another aspect of his leadership that was recognised and welcomed by the workforce.

2.26. The welfare of personnel absent through illness, and especially those injured on duty, was a topic of discussion at daily management meetings. Finally, a dedicated welfare officer manages the needs of staff such as regular contact, access to occupational health support and advice concerning return to work.

Complaints, misconduct and unprofessional behaviour

2.27. We conducted a review of documents and found that complaints and other allegations were investigated appropriately and fairly. A Police Complaints Board (also referred to in this report as "the board") was established under the Gibraltar Police Authority in accordance with the provisions of the Police Act 2006. The procedures under which the board operates are set out in the Police Complaints Board Regulations 2008 (the Regulations). The board is independent of the force and oversees the investigation of complaints and allegations of misconduct against police officers. Under the board's supervision, complaints are investigated by the Royal Gibraltar Police professional standards department. It is our view that police officers are held to account in a proper manner.

2.28. We found that, during 2014, there were 28 recorded complaints which had been investigated formally, with a further two awaiting investigation once court cases had been heard. There were also four complaints of a minor nature. These were informally resolved at meetings held between the respective complainants, members of the board and representatives of the professional standards department. The number of complaints recorded compares favourably with police forces in England and Wales. During 2013/14 there was one complaint for every three officers in England and Wales but one for every seven officers of the Royal Gibraltar Police.[6]

2.29. Of the 28 recorded complaints, 15 were allegations of discreditable conduct, 10 were allegations of abuse of authority, and three were allegations of neglect of duty.

2.30. Of these 28 complaints, 20 had been found to have no substance. However, three complaints were substantiated and the officers concerned were disciplined. The remaining five complaints were (at the time of our inspection) still under investigation by the professional standards department.

---

[6] The Independent Police Complaints Commission Annual Report 2014 and The National Statistics Police Complaints Report 2014.

2.31. Officers we spoke with were clear about the professional standards expected of them and of the behaviour they expected of each other. This is evidenced in the relatively low number of complaints compared to police forces in England and Wales.

2.32. Finally, across all of our fieldwork we did not encounter any suggestion of bullying or harassment. Instead, there was a general view that the force had an ethical culture and was a good place to work. This positive view is supported by the evidence mentioned above.

3. Crime prevention, investigation and victim care

Introduction

3.1. For this aspect of our inspection, we examined how effectively the Royal Gibraltar Police managed crime.

3.2. The public expects the force to prevent crime and when it is not able to do so, to: record crimes accurately; investigate them diligently; bring offenders to justice; and, with other services and agencies, provide care for victims. Consequently we looked closely at the quality of the force's work in: crime prevention; crime recording; crime investigation; and victim care.

Findings

3.3. We found that, generally, the prevention and investigation of crime and care for victims was effective. However there were five areas where we found scope for the force to make improvements. These areas were the:

- auditing of crime records;
- recording practice for detected crime;
- supervision of investigations;
- identification of vulnerable and repeat victims; and
- extent of partnership working.

Crime prevention

3.4. The commissioner's vision is to prevent crime and divert potential offenders in the long term by educating and influencing young people through early intervention. We saw examples of regular police involvement with schools and youth clubs as well as the development of a 'Mini Olympiad', a sporting event for young people. These activities had the support of the members of public we spoke with, partly because they were seen to develop a respect for the rule of law among young people.

3.5. In addition, we found evidence that the force's priority of preventing crime was being carried out on the ground by officers. Activities such as 'Operation Gibwatch' have developed as a brand over time, which we saw in the media and displayed across Gibraltar. Examples we were shown included a programme of crime prevention projects in the summer and at Christmas. We

also learned of a drugs awareness campaign, during which 200 community meetings took place in 2014.[7]

3.6. We also found that the force used a broad range of effective tactics to prevent crime; for example, 'hotspot' patrols at times of high risk to deter criminality and reassure the public took place 1465 times over the last 12 months.[8] In addition, organised crime was prevented through a number of high-profile patrol operations involving both police resources and those from other organisations, for example HM Customs Gibraltar.

3.7. Officers we spoke with working in neighbourhood policing were aware of crime activity within their areas such as drug dealing. They had good knowledge of relevant intelligence and were assigned tasks to disrupt the activities of groups and individuals. An example of the tasks was the targeted use of stop and search powers.

3.8. We found that the force also conducted assessments of risks to communities following serious incidents, and made use of resources to provide public reassurance and prevent further occurrences. An example was seen on national television where officers were given the task of reassuring the public following a multiple murder and associated suicide.

Crime recording

3.9. In 2014/15, there were 3,603 crimes recorded by Royal Gibraltar Police.[9]

3.10. Through our review of documents we found that the force sought to promote accurate and consistent crime recording and a victim-oriented approach.

3.11. Crime recording standards were defined in a crime counting rules policy document. This policy is based in part on standards for forces in England and Wales.

3.12. We also found that the counting rules policy was comprehensive and (at the time of our inspection) up-to-date. The policy linked its purpose with policing values. It was clear on the standards required for accuracy and timeliness of crime recording, and was detailed concerning disposals of crime and relevant links to annual crime statistics.

3.13. We conducted a crime audit that comprised an examination of a pre-determined number of crime reports chosen from a broad selection that we requested from the force.

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[7] The Royal Gibraltar Police Annual Report 2014/15.

[8] *ibid*

[9] *ibid*

3.14. We found that there was a paper-based system in use, supported by a database which only suitably authorised officers in the records department can update with a result or outcome of an investigation.

3.15. We did not find any pressure on officers to under-record crime in order to show a reduction.

3.16. We also found that, prior to being filed as 'no crime'[10] (in circumstances where it was appropriate to do so), previously recorded crimes were scrutinised by the records department sergeant, who reviewed each one.

3.17. We saw records of an audit of crime reports that is held every few months by the records department sergeant. This audit was not specific, such as a review of high-risk crime types, but was a general overview of outstanding crimes compared to incidents logged.

3.18. During our crime audit we found various administrative errors: some records had the wrong crime classification; the outcome of an investigation was not updated; certain crimes were filed as detected when they were marked undetected and *vice versa*. In addition, there were other shortcomings: some crime records were submitted later than the counting rules policy allowed; some records did not include important information concerning the needs of victims; and in certain other instances, the matter should not have been recorded as a crime.

Area for improvement 1

By July 2016, the commissioner should augment the existing arrangements for crime recording by establishing and beginning operation of a comprehensive system for auditing crime records. Audits should be conducted regularly and led by a senior officer.

3.19. We also found that the force's usual practice was to record the end results of crime investigations in such a way that would maximise the detection rate. For example, where an offender committed affray, assaulting four people in the

[10] Home Office counting rules provide for when it may become apparent that a crime never actually happened. For example, an item initially recorded as stolen was then found to have been mislaid. In these circumstances the police may show in the crime record that there was "no-crime". There are six criteria for a 'no crime' set out in the HOCR, with the key one being if "additional verifiable information is available which determines that no notifiable crime has been committed". If, for example, following an investigation of a reported rape the police are 'unclear' as to whether an offence has taken place, then the crime record should remain open, because being "unclear" does not constitute additional verifiable information which determines that the offence did not take place.

process, the force recorded five crimes (one for each assault and a further crime for affray). This meant that five crimes rather than one would be detected. Another example we saw involved seven people being arrested for serious assault and violent disorder against two victims. In this instance, 22 separate crimes were recorded and shown as detected.

3.20. Although this practice was allowed by the counting rules policy, it runs the risk of creating an inaccurate impression of the force's performance on crime detection (it is also not the usual practice of police forces in the England and Wales).

Area for improvement 2

By July 2016, the commissioner should align the counting rules policy more closely with Home Office standards, in particular those concerning the recording of detected crimes where multiple offences have taken place in single incidents.

Crime investigation

3.21. Of the 3603 recorded crimes in 2014/15, the force detected 57percent.[11] In particular, there were 1007 serious crimes recorded and 55 percent detected and 391 drug-related crimes reported with 81 percent detected. This detection rate (which exceeds that of any force in England and Wales) is, in part, a consequence of the problematic recording practices we describe in paragraph 3.19.

3.22. Despite these practices, we found through our audit that, in common with other police forces, some serious offences had far lower detection rates such as rape (29 percent), as did some of the most frequent crimes such as theft (21 percent), damage (19 percent) and burglary (24 percent).

3.23. We noted an acknowledgement among senior leaders of the high workloads carried by individual units and their timeliness. In management documents we found, for example: the crime investigation department had 34 live investigations, of which seven were urgent; the serious crime unit had 71 live investigations, of which 24 were urgent; the safeguarding unit had 17 live investigations, of which three were urgent; and the public protection unit had four live investigations, none of which were urgent.

3.24. We also found evidence of high workloads in more complex investigations. For example, the force was dealing with 14 high-tech crime cases, some of which had more than 100 computer exhibits awaiting forensic examination. There were 16 counter-terrorism investigations, 17 organised crime

[11] The Royal Gibraltar Police Annual Report 2014/15

investigations, 20 investigations involving international Letters of Request,[12] and 284 financial disclosures that could lead to asset confiscation. In addition, the public protection unit was managing 17 registered sex offenders and monitoring a further 70 people of interest.

3.25. We conducted a case file review of a number of investigations of our choice. We reviewed the outcome of 36 crimes and we particularly examined the investigation surrounding a further seven serious crimes concerning assaults and sex offences.

3.26. The case file review revealed various examples of good police work and appropriate decision-making. These examples included two allegations of rapes that were investigated very thoroughly and professionally.

3.27. However, in spite of the good work we found there were examples of inadequate investigations. For example, we found one case where a complaint of harassment was not fully investigated and a counter-allegation of assault, which was admitted by the offender, had been closed as it was decided there was insufficient evidence to prosecute.

3.28. In some instances we found no investigation plan and insufficient supervisory checks. These are important as in some of the cases we reviewed, more could have been done to investigate the crime, care for the victim and secure a prosecution.

3.29. We consider that, without more effective supervision, the force will not be as effective as it needs to be to assure the quality of all investigations. This is a further area in which improvements should be made, in order to bring offenders to justice as promptly as possible and secure higher levels of victim care.

Area for improvement 3

By October 2016, the commissioner should ensure that robust arrangements for the supervisory oversight of investigations are introduced. These arrangements should include the creation of investigation plans, regular supervisory checks and constructive challenge to decisions by officers concerning investigations.

[12] Mutual Legal Assistance (MLA) is a method of co-operation between States for obtaining assistance in the investigation or prosecution of criminal offences. MLA is generally used to obtain material that cannot be obtained on a law enforcement (police-to-police) basis, particularly enquiries that require coercive means. Requests are made by a formal international Letter of Request.

Victim care

3.30. We found that the force has a strong and improving focus on the needs of victims. It is a feature of the policing plan and was evident in some of the policies and procedures we reviewed.

3.31. We also found evidence that the force used a wide range of techniques to communicate with victims (as well as to obtain feedback from the public). These included Facebook, email, web forums, telephone and face-to-face contact through neighbourhood policing teams. We examined these techniques and found them to be up-to-date and used extensively. The force was (at the time our inspection) about to use a new method to gauge user satisfaction.

3.32. Also, the force has made a commitment to visit all victims. We learned that in 2014/15, neighbourhood teams made 802 such visits and a further 514 visits to vulnerable adults.[13] Officers we spoke with showed an understanding of the importance of victim care and their responsibilities in meeting victims' needs.

3.33. Victim contact was largely co-ordinated by one officer, who we found to be maintaining good oversight of victims and their needs, and arranging visits to them when required. This arrangement was generally effective but, when neighbourhood officers had to perform response team duties, visits to victims often had to be postponed.

3.34. Some of the members of the public with whom we spoke had been victims of crime. Most were satisfied with the service they received from the Royal Gibraltar Police.

3.35. However, we found that there was not any specific training for officers or support staff to identify vulnerable victims or a clear arrangement for the identification of vulnerable or repeat victims. In addition, during our case file review, we did not find evidence that the vulnerability of victims was considered consistently by officers. In particular, some of the cases of assault and sex offences we reviewed were related to domestic abuse. In these, identification of vulnerability, risk assessments and support was lacking.

3.36. It is our view that knowing who is a repeat and/or vulnerable victim is important as it influences the investigation and the type of victim support that the force and partner agencies need to give, and it can help to prevent future victimisation.

3.37. The Royal Gibraltar Police's approach to the identification of repeat and vulnerable victims is a further area in which improvements should be made:

[13] The Royal Gibraltar Police Annual Report 2014/15.

Area for improvement 4

By July 2016, the commissioner should define in policy and procedures how vulnerable and repeat victims will be identified, how risks to them will be assessed and how appropriate support will be provided. Operation of the policy and procedures should begin as soon as possible thereafter.

Partnership working

3.38. In common with other police forces, the Royal Gibraltar Police acknowledges that it cannot work alone; other agencies have a part to play in the prevention and detection of crime. When the police and these agencies work together, their combined efforts lead to improved services.

3.39. We found that the force had joint working arrangements with some partner agencies and was seeking new agreements with others.

3.40. For example, there was a formal agreement in operation with the Youth Service to ensure the joint safeguarding unit dealt with all child and domestic abuse incidents. The force also had a formal agreement with the Care Agency (and Youth Service) to provide support to victims.

3.41. In addition, we saw evidence that 36 meetings of the Gibraltar Public Protection Panel had taken place to deal jointly with the 17 registered sex offenders and the 70 persons of interest. This has enabled good oversight by the responsible agencies and effective management of the risks presented by these individuals.

3.42. We found that new agreements were under discussion with the Financial Services Commission, the Borders & Coastguard Agency and the South East [of England] Counter Terrorism Unit.

3.43. Where partnership working was already happening, we found that there were good working relationships between the force and its partners, as evidenced above. However, we confirmed that information about victims and crimes was not always shared in a consistent manner. We learned of examples where vulnerable people and repeat victims, who were known to partners, only came to the attention of the police when a crime was reported. Sometimes, crimes were reported to the police long after the partner agency became aware that they had been committed.

3.44. We consider that this is another area for improvement. The force should seek to extend its partnership approach. More effective arrangements would help to identify people vulnerable to crime, or repeat victims, in order to minimise the likelihood of further crime. They may also improve reporting of hidden crime such as child sexual exploitation.

3.45. We recognise the challenges faced by the Royal Gibraltar Police in securing commitment from other agencies in Gibraltar where, unlike England and Wales, there is not any legislation to compel agencies to create a partnership to deal with crime and disorder.[14]

3.46. We suggest that the three bodies charged with the oversight of the force under the Police Act 2006 – HM Governor of Gibraltar, the Chief Minister, and the Gibraltar Police Authority – work together to secure the extension to Royal Gibraltar Police's partnership approach.

[14] Partnership approaches to tackling crime are now strongly embedded in the way in which local areas in England and Wales approach community safety. The Crime and Disorder Act (1998) defines the core group of agencies involved in these partnerships as well as their functions and role at the local level.

4. Demand and resources

Introduction

4.1. This chapter examines the extent to which the Royal Gibraltar Police understands the demands it faces. We considered the demands upon the force at the time of the inspection - and those it may face in the future. We then explored the manner in which the force assembles and deploys the resources it has been allocated in order to meet that demand.

4.2. This balance between demand and resources gives an indication of police efficiency.

4.3. In order to examine demand we looked at how the police respond to those incidents and investigations that are reported on a daily basis. In this report, we refer to this demand as 'daily demand'.

4.4. We also examined how well the force understands the types of crime and problems found within local communities. As some crimes and problems are less likely to be reported, the police should work with local communities to identify and understand this demand. Finally, we explored the force's understanding of how the demands it faces may change in the future. Such an understanding is necessary in order for the force to plan ahead, shaping its workforce and budget accordingly.

4.5. In order to explain what we found, we have focussed on the three types of demand described above:

- daily demand;
- types of crimes and problems; and
- future demand.

Findings

4.6. We found that the Royal Gibraltar Police was committed to meeting all demands, which led to high levels of public confidence and satisfaction but placed major pressures on the workforce.

4.7. The force was not well placed to understand the demands it faced due to the limitations created by paper-based systems and computer databases that were not integrated. Also, while the Gibraltar economy continues to grow – which brings a commensurate increase in demands on the police – constraints in the police funding arrangements became apparent. In this part of the inspection we identified various areas in which there is scope for the

force (and in one instance the Authority and the Government of Gibraltar) to make improvements. These areas were the:

- assessment and prioritisation of daily demand;
- prediction of future demand: and
- police funding arrangements.

Daily demand

4.8. We reviewed police documents, interviewed officers and support staff and spoke to members of the public to gain an understanding of daily demand.

4.9. Police documents showed that some of the daily demand for policing involved calls for assistance from the public, dealing with crime and attending road traffic collisions. Examples of daily demand and the total volume of each type for the 12 months of 2014/15 are listed below.

Type of Demand	Volume per year
Enquiry calls from the public	8392
Recording and dealing with crime	3603
Arrests	2676
Persons searched	1639
Attending non-crime incidents	1064
Emergency calls for assistance	606
Road Traffic Collision	572

4.10. We learned that, in addition, the force deals with a wide variety of other daily functions such as public and military events (for example Freedom of the City, National Day, Ceremony of the Keys), court duty, school crossing patrols, frontier queues, music festivals, football matches and the arrival of cruise liners.

4.11. We used information we gathered in the course of the inspection to help us to analyse the demands faced by the force. Because of the limitations in the information systems we described earlier (paragraph 4.7) our analysis is incomplete. Nonetheless, it provides a useful starting point for the comprehensive assessment of future demand. As a result, we have included our analysis at: Annex A – an assessment of demand.

4.12. When we spoke with the public we found that the force had a strong connection with the local community, and that the community had very high expectations of the police. There was a strong sense among the public that the police should do everything asked of them, but equally there was an understanding by some that this is sometimes difficult to achieve.

4.13. The members of the public we spoke to, who included victims and others who were involved in incidents attended by police officers, were mainly positive about how well the force responded to their needs.

4.14. During our inspection we found that the use of police resources to respond to daily demand was not prioritised according to an assessment of the threat and risk of harm to individuals. This meant that the police attended nearly every call, and that calls were attended mainly in the order they were received rather than prioritised according to the threat of risk of harm. Furthermore, we found that, while much of this daily demand related to policing matters, a significant proportion did not.

4.15. This was difficult to quantify as the force's systems did not hold sufficient details to make a thorough analysis possible. However, officers we spoke with gave us examples of some of the non-crime calls that they had been required to attend. These included: dissatisfaction in the way a spill on a communal floor of a block of apartments had been mopped; response to personal panic alarms reporting leaking pipes; lost keys; and late meals. In addition, we were told there were many calls about parking and tobacco smuggling that were suitable for others to deal with, such as traffic enforcement officers and customs officers. This was confirmed by observation and audit work by the inspection team in the force control room.

4.16. We found that this daily demand is stretching the capacity of the force, particularly the response teams, to the point where officer welfare is adversely affected through sickness and stress. To support this, we found that the rate of uncertified sickness among response police officers in Gibraltar was approximately double the rate for support staff.

4.17. Work had been done by senior officers to identify some police responsibilities that could be dealt with by other agencies, such as enforcement work concerning unlawful feeding of the Barbary macaques and illegal fishing. In addition, we found that risk assessments were being used to reduce the policing commitment to some public events, beach patrols and minor traffic collisions.

4.18. This work was welcomed by personnel, who saw it as a positive start to a much-needed process of prioritising the demands to which the force would respond.

4.19. However, by prioritising demand on a more formal basis, being clear with the public and with officers about the types of calls that must be dealt with first (and those calls that would better be dealt with by other public bodies) demand can be better managed and even reduced.

4.20. We understand that officers and staff will want to provide the best service possible, and that responding to the public when they call for assistance is an important priority for the commissioner and for the Authority. However it is our view that the Royal Gibraltar Police's approach, that is, trying to meet all daily demands without prioritisation, is a further area in which improvements should be made.

Area for improvement 5

By October 2016, the commissioner should agree with the Authority a policy and procedure to prioritise – and in so doing match – resources to demand, particularly for response teams.

4.21. When we assessed the number of officers available to respond to daily demand, we found that there were 110 officers available. This included 60 officers working on response teams that operate on shifts covering the 24-hour period, 20 neighbourhood officers that work in specific geographical areas of Gibraltar and 30 officers providing specialist support for example in marine, firearms and traffic duties

4.22. However, we did not find that the number available to be deployed to deal with daily demand was based on an assessment of the likely volume and types of incidents during a particular period of time. This meant that the response team shift system provided the same number of officers across the 24-hour period irrespective of demand. There was also an impact on neighbourhood policing as officers from neighbourhood teams were often used to fill gaps in response teams owing to leave, training and sickness.

4.23. In addition, when speaking with response team officers we were told how unpopular the shift system was. We examined the shift pattern and found that it allowed for few weekends off, less than eight hours rest from the end of one shift to the start of another shift and long periods of night duty. With cancelled rest days, unexpected shift changes and overtime some officers told us that their shifts often became 16 hours long, and that they worked up to nine shifts before a day off.

4.24. We learned that senior officers were already aware of these issues and that in 2014, they commissioned an external review of the response team shift system. This was done by a company of human resources experts who proposed a number of shift patterns. However, the company concluded that

there were insufficient officers on response teams to cope with the high level of demand.[15] If no prioritisation or reduction of demand is made then we tend to agree with this conclusion.

4.25. We also examined other internal human resource reviews and proposals to the Authority for additional resources. However, we understand that these proposals were not supported by the government and the number of police officers has not been increased.

4.26. As a consequence of our findings in relation to daily demand and the response shift pattern, we consider this to be an area for improvement.

Area for improvement 6

By October 2016, the commissioner should establish an effective way to assess how busy the force is likely to be, by using a range of tools to understand daily calls for service and patterns in their demand. This should include: analysing calls for service and recorded crime figures; identifying peak or seasonal demand; and understanding factors affecting demand such as major events. Once this information is available, judgments should be made about the optimum shift patterns and the numbers of officers required for the shift patterns.

Types of crimes and problems

4.27. While recorded crime levels have remained relatively stable in Gibraltar, we found that the complexity involved in tackling crime had increased. This was because of factors such as the internet and mobile communications, which are exploited by criminals. Also, those crime reports and case files we reviewed revealed new and more complex – yet often less visible – problems. These included: cyber-crime; fraud and financial crime; management of high-risk sex offenders; and calls requiring protracted enquiries such as children missing from care.

4.28. We found that the force recognised that its understanding of the demand from less visible or more complex crime was less developed. We understand that this demand is harder to analyse as it may be less likely to be reported to the force for a variety of reasons, for example because of the nature of the offending or the victims involved, or because victims can report the incident to a different organisation.

4.29. However, neighbourhood officers were aware of the difficulties in understanding this demand and we found that they were working closely with communities to develop relationships so less visible and more complex

[15] Working-time-solutions Report 2014.

crimes, such as sexual abuse, are more likely to be reported. In addition, crime prevention schemes we were shown involving school and community groups were raising awareness of certain types of issues and crimes, for example how children can protect themselves from exploitation through cyber-crime.

4.30. With regard to the capacity (numbers of officers and staff) and capability (their skills and equipment) needed to deal with crime and problems, we examined a number of documents. These included strategic threat and risk assessments that went some way to describing police activity in response to types of crimes and problems, but all the documents we examined stopped short of assessing the capacity and capability needed by the force to match those demands. This is important as without an understanding of what resources and skills are needed to deal with crime and problems it is difficult to ensure that all crimes and problems are being dealt with effectively and efficiently.

4.31. We found that, from its existing resources, the force was able to develop new capabilities such as public protection, high-tech crime investigation and financial investigation. These capabilities were helping the force to better understand and respond to these less visible and more complex crimes.

4.32. However, from our document review we found that there was limited capacity and backlogs of work in these units. Consequently, insufficient training and insufficient numbers of staff were the main concerns of those we spoke with. This was reflected across other functions of policing such as response team and neighbourhood officers. The lack of training opportunities also featured highly on the 2015 staff survey.

4.33. While training for staff was seen as a priority by senior officers, the force had only £100,000 allocated to its training budget.

4.34. While training opportunities are available, the most specialised courses can only be found outside Gibraltar, which creates additional travel costs and time for those attending. Therefore it is our view that the training budget may not be sufficient to fund the training needs of the force.

Future demand

4.35. Understanding likely future demand is important because this should help to determine what capacity and capability the force needs to have in the future. The gap between current and likely future demand should inform planning regarding money, recruitment, skills, information and communication technology, and organisational structures. These capabilities can take time to build, therefore the force needs to plan well in advance on the basis of the demand they are likely to face in the future.

4.36. We recognise that understanding future demand is not straightforward. Data and threat assessments cannot predict the future with certainty. Assumptions need constant refreshing if they are not to mislead. The unexpected will often happen, and the pressure of responding to current problems can dominate.

4.37. We found that, within the strategic threat and risk assessment, there were indications of likely trends in serious and organised crime and references to emerging crime types, such as cyber-crime and child sexual exploitation, as well as likely demographic changes. This provided useful insight into future demands but it did not amount to a comprehensive understanding. As a consequence, we did not see a plan to respond to future demand in terms of money, recruitment and structures, apart from a proposal for a new police headquarters.

4.38. Similarly, future training plans that we examined were based on filling skill gaps brought about by retirements over a five-year period, rather than on what capabilities and capacity the force will need in the future.

4.39. We also found that the force used 14 separate databases, none of which were linked to each other. Functions such as crime recording and custody were paper based. It was difficult to collect information from these systems to help assess demand.

4.40. There was good evidence that the force was seeking to overcome this, through investment in some of the infrastructure that will be required for the future. We examined plans for a new computer database (Cyclops) that manages calls, crime, cases, intelligence and incidents.

4.41. Cyclops is a system that spans the criminal justice network and so the project requires government support.

4.42. It is our view that without a comprehensive understanding of likely future demand the force cannot be certain it is able to build the capacity and capability needed. We consider that this is a further area for improvement in the Royal Gibraltar Police.

Area for improvement 7

By October 2016, the commissioner should compile a comprehensive prediction of future demand. This should be used to define the capacity and capability the force will need, which will enable the creation of plans for funding, skills, structure, estates, information and communication technology and other equipment.

Resources

4.43. The 2015/16 budget for the force is £15.127m, an increase of £0.634m on the budget for 2014/15; nearly £11m is taken up in police salaries, with another £1.3m allocated for police overtime, the equivalent of 30 full-time officers' salaries.

4.44. The Authority determines, in consultation with the commissioner of police, the number and rank structure of the personnel employed by the force then the Authority submits to the Minister for public finance an annual budget bid for the force.[16]

4.45. The Royal Gibraltar Police has 238 officers and 36 members of support staff, a decrease of five staff from 2014. The number of officers has remained relatively stable since 1946 when there were 232 officers; however, policing demands have changed significantly since then.

4.46. While the numbers of staff have changed little, the budget for the force has increased year on year. However, we found a number of constraints on how the budget can be used and on how resources can be increased to match demand.

4.47. The commissioner of police is given a budget for all aspects of policing but we found that it is not a fully devolved budget. There is no flexibility in how the force can use the funds to improve its service to the public or move money from one police function to another to better manage demand.

4.48. We found through our document review that the force relied on a significant overtime budget to manage peaks of demand and fill gaps when officers were on leave, sick or training. However, we believe this could be reduced if the force was better able to match resource to demand, or it could be converted into police officer posts if demand outstrips available resources.

4.49. Also, we found that there were limited opportunities for the force to generate income from policing activity to better manage demand. For example, where commercial enterprises required policing support such as escorting cranes, management of queues at music festivals or crowd control at football matches, any income generated from policing was paid to the government. In addition, because legislation concerning the proceeds of crime was not (at the time of our inspection) enacted, the force was unable to benefit from its work in seizing criminal assets.

4.50. We saw evidence that senior officers and the senior finance manager had effective ways to review and control overall expenditure. These often involved

[16] Section 5, Police Act 2003.

regular senior-level discussions between the finance department and other departments involved in human resources, corporate development and operational matters. Control of overtime spend was devolved to senior officers so that the risk of overspend was minimised and that it was used only for appropriate reasons.

4.51. We consider that, in an environment where the economy is growing rapidly and where it can reasonably be expected that demand for policing will also grow, the Royal Gibraltar Police needs guidance that sets out the funding formula, including the associated criteria, thresholds and conditions that need to be met for the resources it needs.

Area for improvement 8

By July 2016, the Minister for Finance should set out the funding formula, including the associated criteria, thresholds and conditions that need to be met for resources required to police Gibraltar.

5. Conclusion

Leadership, vision, values and culture

5.1. This inspection revealed strengths in the Royal Gibraltar Police, in particular the clarity of vision from the commissioner and the conduct of senior officers; it was clear they had won the support and respect of their personnel by investing time in building relationships and involving people in decision-making.

5.2. The quality of leadership was also evident in other ways: the 'one team' culture; professional behaviours with a strong set of values; a keen focus on welfare and a robust complaints process; and the manner in which the force, at all levels, clearly set out to meet the high expectations of the public.

5.3. We conclude that, in general, Royal Gibraltar Police is well led and this leads to a good standard of policing for the public.

Crime management

5.4. The good awareness among officers of crime activity and intelligence relevant to their areas, and their application of effective tactics to prevent crime, revealed further strengths in the force.

5.5. These strengths were reinforced by the evidence of reassurance activity and early intervention work with young people in particular, which also attracted the support of the public, as did Operation Gibwatch.

5.6. Overall, the evidence in this part of our inspection revealed a force that is working with the public in an effective way to prevent crime. The various examples of good practice to prevent and investigate crime were all reassuring.

5.7. However, this reassuring evidence was offset by our findings in five respects: the limited evidence of crime auditing (which had allowed errors to go un-noticed); the recording practice for detected crime (which may lead to a false impression of detection rates); the insufficient levels of supervision of crime investigations; the force's approach to the identification of vulnerable and repeat victims; and the extent of partnership working.

5.8. The evidence in this part of our inspection led us to conclude that, although the Royal Gibraltar Police clearly takes crime seriously, there is scope for the force to improve its effectiveness on crime auditing, crime recording, supervision of investigations, the identification of vulnerable and repeat victims and the extent of partnership working. Consequently, we highlight a

number of areas for improvement which are intended to assist the force to become more effective in these areas.

5.9. We also conclude that there is further scope to improve effectiveness by building upon the already strong partnership working. For this, the force needs the help of the Gibraltar Police Authority, the Chief Minister and HM Governor where appropriate.

Demand and resources

5.10. We found that the Royal Gibraltar Police was committed to meeting all public expectations, which led to high levels of public confidence and satisfaction but placed major pressures on the workforce.

5.11. There was a strong sense among the public that the police should do everything asked of them, but equally there was an understanding by some that this is sometimes difficult to achieve.

5.12. During our inspection we found that the use of police resources to respond to daily demand was not prioritised according to an assessment of the threat and risk of harm to individuals and that this daily demand is stretching the capacity and capability of the force, particularly the response teams, to the point where officer wellbeing is adversely affected through sickness and stress. This is an area in which improvements should be made.

5.13. We found that the complexity involved in tackling crime had increased and there was limited capacity and capability as well as backlogs of work in some units. Consequently, officers and support staff were concerned about insufficient training and insufficient numbers of staff.

5.14. While training for staff was seen as a priority by senior officers, the force had only £100,000 allocated to its training budget. Therefore, it is our view that the training budget may not be sufficient to fund the training needs of the force.

5.15. Understanding likely future demand is important because this should help to determine what capacity and capability the force needs to have in the future.

5.16. We conclude that, while the force could provide useful insight into future demands, it did not amount to a comprehensive understanding. As a consequence we did not see a plan to respond to future demand in terms of money, recruitment and structures, apart from a proposal for a new police headquarters.

Annex A – an assessment of demand (12-month period – 2014/15)

Demand/Activity/Risk	Capacity & capability	Comment
Counter terrorism	On-going protective security reviews, counter-terrorist patrols, 16 operations &/or investigations, crisis-handling exercise (August), counter-terrorism exercise (November), and a review of policies, procedures and training for joint working.[17]	Gibraltar is at alert state 'substantial', however the significant effort invested by the force to meet the demands of this threat level has not been assessed in terms of time. The capacity and capability needed to manage future demands has also yet to be assessed.
Organised crime	Ranges from drug and tobacco smuggling to financial and cyber-crime. Currently 284 financial disclosures, 71 live investigations and 20 International Letters of Request, are being dealt with, as well as preventive and intelligence-led patrols.	A strategic threat and risk assessment sets out the threats in broad terms but the capacity and capability needed to manage future demands has yet to be assessed.
Public & Child Protection	The safeguarding unit deals with all child and domestic abuse. Formal agreements with Care Agency and Youth Services ensure joint working.	As above, assessments of capacity and capability to manage future demands have yet to be made.
Management of sex offenders	Currently, 17 registered sex offenders are being managed and over 70	So far, 36 meetings of the Gibraltar public protection panel have

[17] Royal Gibraltar Police meeting note.

	persons of interest are being monitored.	taken place. As above, assessments of capacity and capability to manage future demands have yet to be made.
Crime recorded by the force (2014/15)	3902 (3603 confirmed)[18] The force record over 150 different offence/crime types, the most serious include child abduction (1 reported – nil detected), child cruelty (2 reported – 1 detected), Class A drug offences (49 reported – 42 detected), importing firearms (6 reported – 6 detected) wounding (33 reported – 52 percent detected), rape (7 reported – 29 percent detected) child sex crimes (9 reported – 40 percent detected) The most frequent include theft (398 reported – 21 percent detected), criminal damage (302 reported – 19 percent detected), possession of class B drugs (271 reported – 82 percent detected), common assault (165 reported – 52 percent detected) being drunk and disorderly (134 reported – 93 percent	Attending crimes, conducting initial and ongoing enquiries or pursuing complex and lengthy investigations, leading to trial takes considerable time, however we did not find an accurate means of recording this. Proactive policing and preventive patrols working on intelligence targeted hotspots of crime activity on 1406 occasions, and neighbourhood policing teams visited 802 victims of crime and visited 514 vulnerable adults. In addition 200 drug awareness campaign meetings and presentations took place (2014/15). We did find that the crime investigation department had 34 live investigations of which 7 were now urgent, the serious crime unit had 71 live investigations of which 24 were now

[18] Royal Gibraltar Police Annual Report 2014/15.

	detected) and burglary (104 reported – 24 percent detected). 16 offences types concern tobacco alone, the most prevalent is possession of commercial quantities (122 reported – 62 percent detected)[19]. However, the force searched 979 people, seized 75 vehicles and 188 boxes of cigarettes.	urgent, the child protection unit had 17 live investigations of which 3 were now urgent, and the public protection unit had 4 live investigations but none needed immediate work.
Crime shown as detected by the force	57 percent[20]	We conducted a crime audit and case file review. The findings are discussed in Chapter 2
Enquiry calls recorded by the force (2014/15)	8392[21] In 12 months, the force dealt with 1064 incidents that did not amount to a crime and executed 2540 warrants.[22]	The types of calls received is discussed in Chapter 3
Emergency calls attended by the force (2014/15)	606[23]	Prioritisation of calls is discussed in Chapter 3 The police response teams operate 24 hours a day on a shift system. Work was done with Working-time-solutions

[19] *ibid*

[20] *ibid*

[21] *ibid*

[22] *ibid*

[23] *ibid*

		Ltd to assess demand and the number of officers needed to meet that demand. It relied on call/task data by hour, day and week. The conclusion was that for the preferred shift system, there were insufficient resources to meet demand.
Road traffic collisions (2014/15)	572[24]	There has been an overall decrease in road traffic collisions year on year by 28 percent. As above, assessments of capacity and capability to manage future demands have yet to be made.
Operation Roadwatch activity	50 offences reported in one week and 125 parking tickets[25]. Year on year the force has seen increases reported for drink-driving (38 percent), speeding (180 percent), using a phone (40 percent) and no seat belt (31 percent).[26]	Operation Roadwatch is a roads policing scheme to prevent injury and to enforce the law. Officers are deployed on the basis of intelligence and statistics; however, it has been difficult for us to determine the amount of time spent on this work.
Searches carried under Section 5 (2014/15)	Total number of stops – 944, total number of persons searched - 1639, total of arrests -	These range from tobacco smuggling to theft, drugs and offensive weapons

[24] *ibid*

[25] Royal Gibraltar Police meeting note.

[26] Royal Gibraltar Police Annual Report 2014/15.

Persons arrested (2014/15)	2676[27]	The processing of detained persons to the point of release and the resultant paperwork has not been assessed. As above, assessments of capacity and capability to manage future demands have yet to be made.
Persons charged	1482[28]	As above
Persons released	450[29]	As above
Persons cautioned	278[30]	As above
Drugs work (2014/15)	361 serious drug offences reported or discovered by police, with 83 percent detected[31].	Offences mainly committed by local British men aged 18-25 in possession of cannabis resin mainly on Fridays and Saturdays. Use and price of drugs has remained stable for the last five years.[32]
Public events and daily tasks.	Freedom of the City, National Day, Ceremony of the Keys, Court duty, School Crossing Patrols, Frontier queues, Mini Olympiad, music	Ceremonial duty takes up a proportion of police time, however, the force has negotiated and reduced the number of officers required for

[27] *ibid*

[28] *ibid*

[29] *ibid*

[30] *ibid*

[31] *ibid*

[32] Strategic Threat & Risk Assessment, 2015.

	festivals, EUFA matches and arrivals of cruise liners[33]	certain duties. Policing commercial events is increasing and the force is seeking cost recovery.
Initial Training demand	20 weeks for each entrant[34]	
Succession planning and current training	The force has assessed that the training required to replace the capability lost and to maintain current training needs would involve over one hundred different courses, sixty of which would be in the UK. The estimated cost is £537,866.	Three superintendents, three chief inspectors, six inspectors, 9 sergeants and 35 constables are eligible to retire in the next five years.[35] Annual training bids are assessed by the training prioritisation board made up of senior officers. In the recent staff survey, only 44 percent of the workforce was satisfied with their current level of training and development.[36]

[33] *ibid*

[34] Royal Gibraltar Police Training Programme 2016

[35] Royal Gibraltar Police Training Needs Analysis 2014

[36] Royal Gibraltar Police Staff Survey 2015

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Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services

The Royal Gibraltar Police inspection 2020

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Summary

The first part of this report is about the progress the Royal Gibraltar Police has made since our 2016 inspection. When we revisited the force in 2019, we found that it had met two out of eight areas for improvement. We expected the force to have done more to assess and understand demand, risk and vulnerability. We also expected it to be better at supervising investigations and managing capacity. We have made five new recommendations relating to those issues.

The second part of the report is a new inspection of the force's legitimacy. It includes eight areas for improvement and makes five recommendations intended to help the force better promote ethics, fairness and transparency.

We have summarised our findings on how the force has addressed the 2016 areas for improvement, along with the legitimacy-related themes we inspected in 2019, in the list below.

Progress on the 2016 areas for improvement

1. Auditing of crime and incident recording

- Auditing of crime and incident reporting is still an area for improvement.
- The force should perform more detailed crime record audits and (continue to) train officers and staff.
- The force should increase resilience in this area by appointing a deputy crime desk manager – this is a new area for improvement.

2. Counting rules

- The force met this area for improvement by aligning its counting rules more closely to Home Office standards.
- The force should make sure that all calls for service are recorded on CAD, its computer aided dispatch system – this is a new recommendation.

3. Supervisory oversight of investigations

- Supervisory oversight of investigations is still an area for improvement.
- Insufficient supervision can mean that cases aren't allocated to those with the most investigative capacity, and delay cases coming to court.
- The force should create a policy that states the frequency and depth of supervision needed, including dip-sampling of files – this is a new recommendation.

- The force's senior leadership team should adopt the Code of Practice for Victims of Crime (the victims' code) and conduct victim surveys – this is also a new recommendation.

4. Policy and procedure around vulnerable and repeat victims

- The treatment of vulnerable and repeat victims is still an area for improvement.
- The force should develop a corporate definition of vulnerability (and related processes) to ensure that officers can identify it and intervene – this is a new recommendation.
- The force should evaluate all domestic violence incidents and use the data to establish whether domestic violence prevention orders or notices (DVPOs or DVPNs) would have provided additional protection for victims. If yes, the Government should consider incorporating them into Gibraltar law. This is also a new recommendation.

5. Assessing risk and prioritising response

- Assessing risk and prioritising response is still an area for improvement.
- It is good that the force is using THRIVE, a risk assessment process used by forces in England and Wales, to assess risk and prioritise its response to calls. However, it could be better at assessing risk.
- The force should be firmer about managing partner and public expectations – it is doing a lot of work that (arguably) other organisations should be doing, as well as a lot of work that is expected of it but not within its remit.

6. Understanding the full range of demand

- Understanding the full range of demand is still an area for improvement.
- It is good that the force knows when it receives most calls for service and has amended shift patterns accordingly. However, it still doesn't fully understand other demand and therefore cannot know if it is resourcing effectively.

7. Predicting future demand

- Predicting future demand is still an area for improvement (it wasn't met because the force hasn't compiled a comprehensive prediction of future demand).
- The force should update its strategic threat and risk assessment to more effectively plan for the skills / structure/ ICT it will need in future.

8. Budgeting

- Budgeting is still an area for improvement.
- The force has tried to address this area for improvement, but it isn't one it can do alone – it needs input and a funding formula from the Minister for Finance.
- Budgets should be devolved and allow the force to generate income.

How the police promote and reinforce integrity

Ethics, value and culture

- **Code of ethics:** The force has adopted the College of Policing Code of Ethics as its new code of ethics policy. But it hasn't fully integrated the code into its policies and processes. We make three recommendations to help the force apply the code to its operational environment and promote and make sure people understand it throughout the organisation.
- **Abuse of position for a sexual purpose:** The force has not briefed or trained its workforce on the risks posed by abuse of position for a sexual purpose. Our recommendation is that it give officers and staff more guidance on appropriate behaviour – that is, what to watch out for in themselves and others.
- **Business interests and notifiable associations:** This is an area for improvement. The force is not doing enough to counter the risk of corruption. The senior leadership team should produce business interests and notifiable associations policies that mandate recording of such issues and regular review of registers.
- **Role models:** We were told of a "firm leadership style" in the force. And some of the workforce perceive that some managers seek too readily to blame and reprimand. We didn't encounter any evidence of bullying, although looking for it didn't fall within our terms of reference. Leadership development is an area of improvement for the force and it might benefit from exchanges with officers in England and Wales about these subjects. Our additional recommendation is that the senior leadership team produce an anti-bullying statement and improve processes to prevent bullying.
- **Gifts and hospitality:** This is an area for improvement. The senior leadership team should make sure that gifts and hospitality registers are monitored more regularly to ensure the workforce is complying with policy.

Ethical and lawful behaviour

- **Vetting:** The Royal Gibraltar Police doesn't have a consistent vetting process. Our recommendation is that the senior leadership team review vetting procedures and consider adopting the College of Policing's authorised professional practice (APP) on vetting.
- **Tackling misconduct and corruption:** This is an area for improvement. The force doesn't fully understand its exposure to the risk of corruption. Its professional standards unit lacks the resource and expertise to develop a full understanding of the risk, or to monitor and mitigate the threat. Our recommendation is that the senior leadership team determine the best model for providing counter-corruption capability, to identify and pursue corrupt employees, or employees who are susceptible to corruption.

Also, under the heading Tackling misconduct and corruption:

- Confidential reporting is an area for improvement. The force doesn't have confidential reporting mechanisms in place. The senior leadership team should develop such a mechanism, perhaps managed independently to avoid scepticism or distrust.

- Understanding the risk of corruption is an area for improvement. The senior leadership team should create a workforce briefing based on the College of Policing's APP on counter corruption.

Introduction

Our commission

Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) is an independent inspectorate. We conduct statutory inspections of police forces and other law enforcement agencies in England and Wales. We also inspect law enforcement arrangements in British Overseas Territories and Crown Dependencies on invitation from the relevant government.

In early 2019, the Gibraltar Police Authority (GPA), an independent body appointed by HM Government of Gibraltar, invited us to inspect the Royal Gibraltar Police. We agreed terms of reference and a methodology before conducting the fieldwork between 14 and 18 October 2019.

Our terms of reference were:

- how well the Royal Gibraltar Police had implemented the areas for improvement highlighted in our 2016 report; and
- how well it promotes and ensures ethical behaviour.

About the Royal Gibraltar Police

The Royal Gibraltar Police is the oldest Commonwealth police force outside the UK. It was formed in 1830. There are 248 police officers in the force, supported by a small number of police staff who are directly employed by the Gibraltar Government.

It is not the only policing body in Gibraltar. The Gibraltar Defence Police is a force that guards and enforces law on Ministry of Defence installations in Gibraltar. There is also a Joint Provost and Security Unit, which includes officers from Royal Navy Police, Royal Military Police, and RAF Police.

The Royal Gibraltar Police is a relatively small force and its capacity and capability have limitations. So, we don't compare it directly with other forces, or grade it.

This is our third inspection. We previously inspected the force in 2016 and 2011.

Methodology

We conducted the fieldwork for this inspection in October 2019. We:

- interviewed staff at all levels of the force;
- attended management meetings and staff briefings;
- consulted other law enforcement and criminal justice organisations;

- spoke with partner agencies and community representatives; and
- met with the GPA and the Gibraltar Police Federation.

We also analysed data and documents, including a self-assessment provided by the force. And we audited a series of its crime investigation files and reviewed calls from the control room.

In reaching our judgments we have, where appropriate, made comparisons with police practices in other British Overseas Territories and Crown Dependencies, and in England and Wales. We have also drawn on the College of Policing's guidance to police forces (known as APPs) as well as referring to findings from other inspection reports.

This report

This report has two sections:

1. The first describes the overall progress the force has made since our last inspection and then reviews each of the eight areas for improvement, including background information, our 2019 findings and judgments, and any new or revised recommendations.
2. The second includes our findings on the force's legitimacy, including its ethical behaviour. This part of the inspection closely resembles other PEEL inspections, but reflects the size of the Royal Gibraltar Police and the context in which it operates.

The Royal Gibraltar Police's progress on the 2016 areas for improvement

Overview

Gibraltar is a relatively safe place and the Royal Gibraltar Police offers a good level of service to the public. But there are areas where it could improve. It has made some progress in meeting the areas for improvement we highlighted in 2016. Limited resources and poor-quality technology and infrastructure have delayed progress, as have competing demands. However, we expected to see that rather more had been achieved when we revisited in 2019.

The force isn't as effective or efficient as it could be. We found that some areas for improvement had progressed as a result of other events rather than through deliberate action. A more structured approach – including plans with accountable, responsible officers – would have helped the force achieve more, more quickly.

The force's senior leadership team states its commitment to identifying and implementing best practice; and developing effective policy and process for the organisation. However, we found that poor and outdated practice often curtails officers' effectiveness. Policing in Gibraltar has changed relatively slowly in recent years and this influences the force culture. There is, we believe, limited appetite to challenge this culture or modernise.

The force underestimated the challenge of getting the workforce to adapt to changes in ways of working when it introduced its new ICT platform in 2017. And the platform presented further challenges, such as slow operating speed, use of dual systems and duplication.

The force must invest more energy in getting the workforce to understand and use the new platform. It has the potential to make the force more efficient and effective, as well as help complete the areas for improvement.

We found little incentive for the force to become more efficient and effective. The Government meets additional expenditure if it overspends. And the Government receives any savings or income the force generates; for example, from policing events.

Area for improvement 1

By July 2016, the commissioner should augment the existing arrangements for crime recording by establishing and beginning operation of a comprehensive system for auditing crime records. Audits should be conducted regularly and led by a senior officer.

Background

During our 2016 inspection, we saw the records of an audit of crime reports. The records department sergeant performed the audit every few months to give an overview of outstanding crimes compared to incidents logged. Their audit didn't review specific areas, such as high-risk crime.

We found several administrative errors:

- some records had the wrong crime classification;
- the outcome of an investigation was not always updated; and
- certain crimes were filed as detected when they were marked undetected, and vice versa.

In addition:

- some records were submitted later than the counting rules policy allowed;
- some records did not include important information concerning the needs of victims; and
- in some instances, the matter should not have been recorded as a crime.

Our findings in 2019

The assistant commissioner performed an audit in 2019 that highlighted similar problems to those we found in 2016. For example, there was incorrect classification of some crimes and the wrong status shown on others.

The Royal Gibraltar Police audit also revealed that not all officers were including all the necessary information in crime reports or checking comments from their supervisors. In some cases, it was apparent that supervisors hadn't checked the crime reports well enough before filing them as complete.

The force had taken corrective action and established a steering group to improve crime recording. Minutes from the group's 2019 meeting identified, among other things, the need for more detailed audits as well as additional training for police officers and their supervisors. This training has taken place.

The steering group provides guidance to the recently appointed crime desk manager, who is an experienced investigator and supervisor. They are responsible for checking the validity and correctness of crime reports, as well as performing regular audits. But they hadn't had the relevant College of Policing training to be able to perform robust crime recording audits when we met. (Their training is scheduled for March 2020.)

Each day, the crime desk manager reviews all crimes recorded, cancelled and closed in the previous 24 hours. As the force receives a relatively small number of crime reports, they should be able to audit all the crimes in the system on a regular basis.

The force doesn't dip-sample reported incidents, such as disturbances, to check if they should be recorded as a crime. It would be good practice for the crime desk manager to do this.

The crime desk manager also performs other duties. When they are absent, no audits or checks take place. Instead, the checks must be done on their return. We recognise the force's limited resources, but the commissioner should consider appointing a deputy crime desk manager to cover periods when the crime desk manager is absent or required to fulfil other duties.

New area for improvement 1

The lack of resilience for the Royal Gibraltar Police crime desk manager position is an area for improvement. The Royal Gibraltar Police's senior leadership team should appoint a deputy crime desk manager to conduct audits and checks during long-term abstractions.

Judgment

The Royal Gibraltar Police's auditing of crime and incident recording is still an area for improvement.

Area for improvement 2

By July 2016, the commissioner should align the counting rules policy more closely with Home Office standards, in particular those concerning recording detected crimes where multiple offences have taken place in single incidents.

Background

During our 2016 inspection, we found that the force's usual practice was to record the end results of crime investigations in a way that would maximise the detection rate. For example, where an offender committed affray, assaulting four people in the process, the force recorded five crimes (one for each assault and a further crime for affray). This meant that five crimes rather than one would be detected.

Another example involved seven people being arrested for serious assault and violent disorder against two victims. In this instance, 22 separate crimes were recorded and shown as detected.

Although this practice was allowed by the counting rules policy, it risked creating an inaccurate – and overly optimistic – impression of the force's performance on crime detection. It is also not the usual practice among police forces in England and Wales.

Our findings in 2019

The Royal Gibraltar Police's counting rules now align more closely with the Home Office counting rules for recorded crime. The section of the force's rules that outlines the one-crime-per-victim rule is an almost verbatim copy of the Home Office rules.

We performed an audit of crime reports for a variety of offences, using methodology that we apply to policing in England and Wales. We found greater similarity in how crimes are recorded than in our 2016 inspection. This includes classifying crimes according to certain types, even where the local legislation and definition of offences differ slightly from UK laws.

We also examined crime reports for single incidents that contained multiple offences. In our sample audit, all crimes were correctly recorded and the ICT system, Cyclops, accurately linked them. This demonstrates more ethical crime recording as well as greater accessibility and consistency of information.

Our audit only highlighted one problem. This related to recording incidents on the Computer Aided Dispatch (CAD) system.

CAD is an ICT system that records calls from the public, incident reports by police officers, and other demands for police services. During our analysis of the system and observations of its use, we weren't convinced that all calls for service were recorded, although we couldn't estimate the number missing. We witnessed calls being received that were recorded on paper and which didn't later appear on CAD. These included calls where officers were dispatched.

A failure to accurately record incidents undermines the force's ability to understand demand. There is also the potential that incidents that should be recorded as crimes will go unrecorded. This could lead to crimes being recorded inaccurately and victims of crime not receiving the appropriate level of service.

While the force has a clear policy on this matter, it is inconsistently followed by staff and supervisors in the control room.

See also area for improvement 5, which is about demand and resources.

Judgment

The Royal Gibraltar Police has aligned its counting rules policy more closely with Home Office standards. This means the force has addressed the area for improvement we highlighted in 2016.

However, it should make sure that officers record all calls for service recorded on CAD.

New recommendation 1

With immediate effect, the Royal Gibraltar Police's senior leadership team should make sure that all calls for service are recorded on the force's Computer Aided Dispatch system.

Area for improvement 3

By October 2016, the commissioner should make sure that robust arrangements for the supervisory oversight of investigations are introduced. These arrangements should include the creation of investigation plans, regular supervisory checks and constructive challenge to decisions by officers concerning investigations.

Background

Our 2016 inspection examined how the Royal Gibraltar Police investigates crime. This included a case file review.

The review revealed examples of good police work and high-quality decision making, such as two allegations of rapes that were investigated very thoroughly and professionally. But we also found examples of inadequate investigation work.

Sergeants were not conducting robust supervision of all investigations. The review revealed many cases where not enough supervisory checks had been conducted and investigation plans hadn't been created.

We concluded that without more effective supervision, the force wouldn't be able to assure the quality of all investigations. Improvements should be made to bring offenders to justice as promptly as possible and provide higher levels of victim care.

Our findings in 2019

We went beyond the wording of the 2016 area for improvement when we revisited the force in 2019. We wanted to see if the quality of investigation had improved, as well as supervision. We inspected supervision; case allocation and investigative capacity; investigative support; the force's relationship with Crown Counsel; and victim support.

Supervisory oversight

When we reviewed crime reports and investigation case files, we found greater supervisory involvement at sergeant and inspector level than was evident in our 2016 inspection.

Officers supervise response teams by providing signed notes that include guidance for the investigator. But in most cases, these notes were a list of tasks rather than an investigation plan.

While welcome, these enhanced supervisory checks could delay case files being submitted to the state prosecutor, known as Crown Counsel in Gibraltar. We found that, in some circumstances, investigators could wait for up to three weeks for the sergeant and then the inspector to check a file before returning it. These delays worsened when the Crown Counsel returned files with points of correction that supervisors should have identified.

Delays and omissions were more evident in case files prepared by officers from response teams than officers from specialist units. When we spoke with the criminal investigation department (CID), public protection, fraud and economic crime units, we found that supervisors had a more detailed understanding of the cases under investigation. Specialist officers had more investigative experience and

generally more time to complete case files. In contrast, officers from response teams were generally less experienced as investigating crime was one of many priorities they had to manage.

Such problems are not uncommon in other forces. But they may be more acute in low crime environments such as Gibraltar, where investigators have less opportunity to build investigative skills and experience. This makes effective supervision even more important.

Response officers usually conducted effective early evidence collection when initially attending crime scenes. But when officers were allocated a case to investigate further, time, ability and supervisory support were often lacking.

The force has not provided all officers who investigate or supervise criminal investigations with enough training or continuous professional development. This is a cause for concern.

New recommendation 2

By 1 August 2020, the Royal Gibraltar Police's senior leadership team should set clear expectations in policy for supervisors about the frequency and depth of supervision needed. In addition, supervisors should be trained where necessary. Inspectors should carry out monthly dip-sampling of investigations to provide assurance that these expectations are met.

Case allocation and investigative capacity

The Royal Gibraltar Police doesn't have a consistent approach to make sure that officers with the right skills and experience are allocated crimes for investigation.

The force didn't have a crime allocation policy at the time of our inspection, although an officer was writing one. There was limited evidence of the force matching demand with investigative capacity. Current practice differs from the aspirations of the draft policy. This meant some inexperienced officers had been investigating serious crimes, creating risk for the investigation and the force.

We also found that some specialist units are stretched to capacity due to high levels of demand, volume and complexity. This was a problem for the safeguarding team and economic crime unit (ECU).

Gibraltar faces difficulties in maintaining compliance with MONEYVAL and FATF. MONEYVAL is a monitoring body of the Council of Europe. It assesses compliance with the principal international standards to counter money laundering and the financing of terrorism. FATF is the Financial Action Task Force, a G7 initiative with similar aims to MONEYVAL.

In its 2019 report on Gibraltar, MONEYVAL stated:

> The law enforcement and prosecuting authorities responsible for the detection, investigation and prosecution of money laundering are highly motivated to

investigate and prosecute domestic proceed generating crime but have insufficient resources to conduct major money laundering investigations.

We concur that ECU doesn't have the resources to conduct investigations that are commensurate with Gibraltar's risk profile. Roles such as forensic accountant and lawyer, which we would expect to see in the economic crime departments of national agencies, were absent. Should this situation continue, it could damage the reputation of Gibraltar's financial sector. This is a matter for HM Government of Gibraltar to resolve.

CID doesn't have the same capacity problems as ECU and the safeguarding team. But officers are regularly unable to progress their investigations as they are required to perform other duties. In the weeks prior to our inspection, the whole unit had been investigating an Iranian oil tanker suspected of carrying oil bound for Syria.

Investigative support

Scenes of crime officers provide a good forensic service. But the force often has to wait a long time to receive the results of forensic submissions it makes to the UK. This frequently prolongs investigations.

The force's hi-tech crime unit, which examines digital devices, also provides a good service although it lacks capacity to do so quickly.

We found officers using their personal devices to examine offenders' phones. This isn't good practice and doesn't meet best evidence standards.

Crown Counsel

There is an effective, professional working relationship between the Royal Gibraltar Police and Crown Counsel, particularly in feeding back common themes of omissions of evidence found in case files. But it isn't always efficient.

For example, Crown Counsel asks for paper copies of case files, which sees officers photocopying and taking them to court in police cars. This is inefficient, considering that the force's Cyclops case management system was designed to be used by the police and Crown Counsel to avoid paper-based prosecution files. The force should negotiate a return to Cyclops.

Victims

The Royal Gibraltar Police should do more to make sure that victims of crime get the service they need.

Some officers on response teams and in specialist posts told us of their concerns that victims weren't at the heart of investigations. This is most acute for response officers, many of whom struggle to find time to regularly update victims about the progress of investigations. Senior officers are aware of the problem and acknowledged that officers don't contact victims regularly enough.

Officers also lack guidance on what service should they should provide. Gibraltar's Victims in Criminal Proceedings Regulations 2015 sets out a range

of victim entitlements but isn't specific enough to guide officers and omits important elements of the victims' code.

The victims' code, formally known as the Code of Practice for Victims of Crime, was introduced in the UK in 2016. It outlines a range of victim entitlements, including updates on police investigation. Police and other bodies should provide an enhanced service to victims of serious crime, persistently targeted victims, and vulnerable or intimidated victims. These enhanced entitlements include special measures to help vulnerable or intimidated witnesses give their best evidence in court.

The force would improve the quality of victim contact with increased supervision and oversight. Officers should record details of victim contact on the Cyclops case management system, but this rarely happens.

We found no evidence that the Royal Gibraltar Police monitors the quality of service it provides to victims. In other police forces, regular victim surveys and more comprehensive victim contact provide an overall assessment of victim care.

New recommendation 3

By 1 August 2020, the Royal Gibraltar Police's senior leadership team should adopt the Code of Practice for Victims of Crime and conduct victim surveys.

Judgment

Supervisory oversight of investigations is still an area of improvement for the Royal Gibraltar Police.

The force should improve supervisory oversight of investigations and case files to make sure victims receive appropriate care. Its staff need ongoing training; time to properly complete files; and clearer and more efficient policies and procedures, including a local version of the victims' code.

Area for improvement 4

By July 2016, the commissioner should define in policy and procedures how vulnerable and repeat victims will be identified, how risks to them will be assessed and how appropriate support will be provided. Operation of the policy and procedures should begin as soon as possible thereafter.

Background

Our 2016 inspection examined how the Royal Gibraltar Police dealt with vulnerable and repeat victims. The way it identifies, assesses and supports them was an area for improvement.

There wasn't specific training for officers or support staff to identify vulnerable victims, or a clear arrangement for identifying vulnerable or repeat victims. During our case file review, we didn't find evidence that the vulnerability of victims was considered consistently by officers.

Some of the assault and sex offence cases we reviewed were related to domestic abuse. Knowing who is a repeat and/or vulnerable victim is important as it influences the investigation and the type of victim support that the force and partner agencies need to give. It can also help prevent future victimisation.

Our findings in 2019: Identification and assessment

The Royal Gibraltar Police doesn't have its own definition of vulnerability. Forces in England, Wales and British Crown Dependencies use several different definitions. Many adopt the College of Policing's definition:

> A person is vulnerable if, as a result of their situation or circumstances, they are unable to take care of or protect themselves or others from harm or exploitation.

Although many officers knew of the range of factors that could cause a person to be vulnerable, the force should adopt this definition of vulnerability or create its own. Its definition should form the basis of a strategy to enable all force staff to more easily identify and respond to vulnerable people.

The force introduced THRIVE, a formal risk assessment process, in the control room in 2019. THRIVE, which stands for Threat, Harm, Risk, Investigation Opportunity, Vulnerability and opportunity to Engage, is commonly used in police forces across England and Wales. It helps make sure the police response is proportionate to the risk in every case. It considers whether the victim is vulnerable and whether there are realistic opportunities to investigate a crime or engage with the community.

Officers we spoke with appeared to use THRIVE appropriately to prioritise calls for a more immediate response where necessary. However, the force lacks comprehensive processes to routinely risk assess all potentially vulnerable victims at initial response.

The force has adopted the DASH risk assessment form that frontline officers in the UK use to help identify high risk cases of domestic abuse, stalking, harassment and so-called honour-based violence. But officers are not required to conduct similar risk assessments when they attend other incidents. So officers aren't identifying all the vulnerabilities of the victims, witnesses, and suspects they encounter. As a result, these people are unlikely to receive the appropriate response, whether it be referral for multi-agency intervention or other safeguarding measures.

Forces in England and Wales follow processes to try and ensure they identify and assess such vulnerabilities at an early stage to maximise early intervention opportunities and help prevent victimisation. For example, the Metropolitan Police Service expects its staff to conduct a vulnerability assessment when attending incidents. Officers measure vulnerability across five areas and the assessment suggests action(s) if the score meets certain thresholds.

The Royal Gibraltar Police records the number of repeat victims and compares it year on year. But operational information for officers isn't consistent. For example, the command aided despatch ICT doesn't flag or highlight if a caller is a repeat or vulnerable victim. In addition, the system doesn't allow searches against names and addresses to establish if a repeat or vulnerable victim is involved.

New recommendation 4

By 1 August 2020, the Royal Gibraltar Police's senior leadership team should develop a corporate definition of vulnerability and develop processes to make sure officers identify any vulnerabilities of the victims, witnesses, and suspects they encounter, and make appropriate interventions.

Immediate safeguarding

Officers understand their safeguarding responsibilities to victims of domestic abuse. They regularly take positive action when attending domestic abuse incidents, to help and protect victims and any other vulnerable people present. This is encouraging. Our crime file review showed that officers routinely safeguard domestic abuse victims by arresting and removing offenders when they have the opportunity. The public protection unit (PPU) reviews all immediate safeguarding actions and agrees any further actions needed. All PPU officers are trained in Achieving Best Evidence (ABE).[1]

The force's response to reports of children absent from care homes wasn't as good, although it has a clear and accessible policy on recording such cases.

A new report should be raised every time a child goes missing. Some children absent themselves repeatedly. For example, we found many more than the 14 instances recorded since January 2019. This was because the repeat instances were being added as notes to the initial report of the child going missing, rather than prompting new reports.

We spoke to officers who knew who the children were and largely relied on them returning to their care homes voluntarily. But we found at least one case where a child had crossed the border to deal drugs.

The force should supervise this problem much more closely as the risk of becoming involved in criminality is high for such vulnerable children. And the risk of becoming a victim of sexual exploitation is even higher.

The Royal Gibraltar Police uses body-worn video cameras to record injuries to victims and the behaviour of perpetrators, when appropriate. The force has a policy that says when officers should use body-worn video. But not all of them understood it. We were also told that much of the body-worn video equipment was unusable.

Domestic violence prevention orders and notices

Since 2010, police officers in England and Wales have had additional powers to protect victims of domestic abuse.

[1] The visually recorded statement of young victims and witnesses with the police is usually described as the ABE DVD. It is usually played as their evidence-in-chief at trial. Tier 2 is a level of interview expertise that means that an officer is competent to conduct interviews in serious and complex cases (PIP level 2).

DVPOs and DVPNs give similar powers to emergency banning orders, which are used in many European jurisdictions and recommended by the Council of Europe. But there is no equivalent in Gibraltar. This means the Royal Gibraltar Police and the courts are unable to give victims of domestic violence in Gibraltar the level of protection given to victims of domestic violence elsewhere.[2]

New recommendation 5

By 1 November 2020, the Royal Gibraltar Police's senior leadership team should evaluate all reported domestic violence incidents in Gibraltar. Based on this data, the most appropriate agency should establish whether DVPOs and DVPNs would have provided valuable additional protection for victims. If the evaluation shows they would have done so, the Government of Gibraltar should consider pursuing changes to legislation to enable their introduction as soon as possible thereafter.

Working in partnership

The Royal Gibraltar Police works well with several partner organisations to protect vulnerable people. The partner organisations told us that the force does its best to safeguard vulnerable people through partnership work. We found evidence that multi-agency risk assessment conferences (MARACs) were well established to manage high-risk domestic abuse offenders.

We appreciate that other partnership functions commonly found in England and Wales such as multi-agency safeguarding hubs (MASHs), sexual assault referral clinics (SARCs)[3] and independent domestic violence advisors (IDVAs)[4] aren't yet established in Gibraltar. But there is a foundation for the force and its partner organisations to build on as their work together increases.

There were two notable absences in the multi-agency arrangements:

1. There is no youth offending team (YOT) with trained youth case managers to identify a child's vulnerabilities and needs: for example, mental health, victimisation, and speech and language therapy. This limits opportunities for the force to offer out-of-court disposals to divert young people from offending.
2. There is no victim support scheme. So police officers are responsible for victim support from the initial report through to the court case, which is not a sustainable or efficient use of their time (see area for improvement 3, above). A witness care or victim support service would improve victim satisfaction and free officers from this commitment.

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[2] Authorised Professional Practice: Using domestic violence protection notices and domestic violence protection orders to make victims safer, College of Policing, 2015.

[3] SARCs provide victims of sexual offences with a range of services, including conducting forensics examinations and retaining this evidence.

[4] IDVAs handle the safety of domestic abuse victims at risk of harm from partners and family. They regularly review the risk assessments that officers attending medium and high-risk domestic abuse incidents have made. They refer appropriate cases to the MARAC.

Judgment

The way the Royal Gibraltar Police identifies, risk-assesses and supports repeat and vulnerable victims is still an area for improvement. While some progress has been made, much more should be done.

Area for improvement 5

By October 2016, the commissioner should agree with the Gibraltar Police Authority a policy and procedure to prioritise – and in so doing, match – resources to demand, particularly for response teams.

Background

Our 2016 inspection examined demand management. We found the force wanted to give the best service possible yet tried to meet its daily demands without prioritising. We concluded that this was an area for improvement.

The force didn't prioritise its response to daily demand based on an assessment of threat and risk of harm to individuals. This meant that police attended nearly every call, mainly in the order they were received. We also found that a significant proportion of work that the force undertook was not a policing matter.

Officers gave us examples of the non-crime calls they had been told to attend. These included dissatisfaction in the way a spill on a communal floor of a block of apartments had been mopped; response to personal panic alarms; reporting leaking pipes; lost keys; and late meals.

In addition, we were told there were many calls about parking and tobacco smuggling that were suitable for others to deal with, such as traffic enforcement and customs officers. The inspection team confirmed this with observation and audit work in the force control room.

Daily demand was stretching capacity, particularly in the force's response teams. Senior officers had done some work to identify police responsibilities that could be dealt with by other agencies, such as unlawful feeding of the Barbary macaques and illegal fishing. In addition, we found that risk assessments were being used to reduce the policing commitment to some public events, beach patrols and minor traffic collisions.

We advised that prioritising demand on a more formal basis, being clear with the public and with officers about the types of calls that must be dealt with first (and those calls that would better be dealt with by other public bodies) would help the force better manage and maybe even reduce demand.

Our findings in 2019

We were encouraged to see that the Royal Gibraltar Police had taken steps to better match resources to demand and prioritise how it responds to the public. The force has made progress by trying to make sure that incidents are assessed fully and attended to in order of priority. But it should do more to systematically apply these principles and make best use of its resources.

Assessing risk

THRIVE has given the force a procedure for prioritising the response team's response to demand. It is a good step forward that helps call takers more accurately assess calls for service. It also makes sure each caller either receives the right level and speed of police response or is referred to another agency when a police officer isn't needed.

We found most calls were appropriately graded and responded to in order of priority. There were far fewer examples of the police attending non-crime and very minor incidents than in 2016.

Another benefit of a systematic risk assessment such as THRIVE is that it gives the police an opportunity to record important factors such as vulnerability and repeat victimisation. It also gives a fuller picture if future incidents involve the same victims or offenders. This is important because vulnerability and repeat victimisation present increased risk and need a higher priority response.

It was disappointing that the procedures for recording THRIVE assessments weren't consistently applied in the control room. Staff didn't always record their reasons for grading calls, which means the force can't assure itself that calls are being properly assessed and appropriately dealt with.

Additionally, the force can't be confident that every call for service is being recorded on the system, which means it may not have a full picture of all the demands on its time.

Working with others

Police resources can be significantly enhanced by working with other agencies, both within Government and other law enforcement bodies. Unlike in England and Wales, there is no statutory duty for law enforcement bodies to work together in the jurisdiction of Gibraltar.

The Royal Gibraltar Police has nevertheless established collaborative working arrangements to provide joined-up services and add resilience to its capabilities. We found constructive working arrangements with a range of partner agencies including the Spanish national police, Guardia Civil, the National Crime Agency and the Gibraltar Defence Police, as well as government bodies including the Care Agency, Health Board and the Gibraltar sports and leisure authority.

However, a sizeable portion of police officer resources were still being used to support work that could be done by others. For example:

- routinely directing traffic at the border;
- taking calls from the public in the control room;
- marine call-outs for other agencies with marine capabilities;
- guarding remand prisoners at court on behalf of the prison service, in certain circumstances; and
- escorting vehicles with abnormal loads.

The Royal Gibraltar Police should examine the potential for allowing civilian staff to undertake some posts or handing some responsibilities to other government bodies.

Managing expectations

The public has high expectations of the Royal Gibraltar Police. There is a culture in Gibraltar where police attend incidents that forces in England and Wales would not. But the force has started to take difficult decisions about how it responds to calls for service, and which calls it can no longer allocate resources to. For example, it won't send a police officer to attend a minor traffic collision where there are no injuries. And it is exploring the use of fixed penalty notices (rather than court proceedings) for minor offences.

The force has some unique demands. One example is managing traffic queues at the frontier with Spain. Officers are often deployed to the frontier after a full day's work, which affects officer wellbeing and the overtime budget. As this traffic management role doesn't need warranted officers, the commissioner has tried negotiating with the Government of Gibraltar and partner agencies to find a more appropriate agency to take it on.

The Royal Gibraltar Police should do further work on demand management, supported by the Government of Gibraltar, HM Governor and the GPA.

Judgment

THRIVE has given the force a procedure to prioritise response team resources. But the force should do more to manage demand. This includes better assessment of risk, greater partnership working and continually managing public expectations.

Area for improvement 6

> By October 2016, the commissioner should establish an effective way to assess how busy the force is likely to be, by using a range of tools to understand daily calls for service and patterns in their demand. This should include: analysing calls for service and recorded crime figures; identifying peak or seasonal demand; and understanding factors affecting demand such as major events. Once this information is available, judgments should be made about optimum shift patterns and the number of officers needed for those shift patterns.

Background

Our 2016 inspection examined the force's shift system. We concluded that it was an area for improvement as it wasn't based on an assessment of daily demand.

We found that the number of response officers available for deployment (to deal with daily demand) wasn't based on an assessment of the likely volume and types of incident during a particular period. Instead, the response team shift system provided the same number of officers across a 24-hour period, irrespective of demand.

Senior officers were already aware of these issues as they had commissioned an external review of the response team shift system in 2014. This review proposed

several shift patterns, and concluded that there were insufficient officers on response teams to cope with the high level of demand.

Our findings in 2019: Understanding current demand

Shortcomings in the force's ICT systems limit its ability to comprehensively understand demand (that is, all demand from all sources).

In 2016, the force analysed demand through a labour-intensive, manual exercise designed to give it a picture of the typical demands facing the police. This gave it evidence for making a business case to the Government for additional resources. The exercise found an additional 50 police officers were needed to meet demand at that time and identified what roles they should fulfil.

The force has made limited efforts to monitor and review demand, and map hotspots. It periodically measures:

- the volume of calls from the public;
- crimes; and
- time spent on policing events.

However, it hasn't updated its 2016 analysis and doesn't have a comprehensive understanding of all its demands, which include:

- specialist investigations;
- safeguarding;
- hidden and under-reported crimes;
- internal demand;
- bureaucracy; and
- demands that others should deal with.

The force has considered engaging experts to help capture and analyse data and map demand more precisely. Unfortunately, this is currently cost prohibitive. A recent review of the force's resource management unit by an independent consultancy praised its efforts in forward planning and demand management.

Matching resource to demand

The force has made progress in matching resource to the demand it is aware of. It changed officers' shift patterns to achieve more capacity at peak times and give them a more manageable working arrangement while providing a sustainable 24/7 police response capability.

The new shift pattern has succeeded in making more officers available to respond when demand is greatest. But that has been done at a cost to the neighbourhood policing function, which has been reduced from 20 to two police officers serving an area. This enables the response team to better meet demand. But it also means some tasks formerly done by neighbourhood officers – for example, victim contact and safeguarding – have become the responsibility of response officers. And some proactive neighbourhood functions aren't being carried out at all.

It is relatively straightforward to measure the benefits of having greater capacity to respond to incidents. But it is less easy to evaluate the effect of losing proactive neighbourhood policing capability on the force's ability to:

- prevent crime and anti-social behaviour;
- engage with local communities; and
- gather local intelligence and problem solve.

Officers are still stretched and carrying heavy workloads, despite the force's new shift system and improved approach to prioritisation. Some supervisory officers struggle to respond effectively to or manage demand. We found that:

- some non-police calls were still being attended, even with THRIVE to help prioritise;
- officers' deployments lacked enough flexibility to allow them to manage their time and workload and investigate crime; this is because they are responding to so many calls that they don't have time to investigate crime; and
- case files were returned from Crown Counsel with pending enquiries or omissions that should have been spotted on first submission.

The force was using a high level of overtime – more than an extra 10 percent of salaries – to fill gaps in capacity. We found that officers regularly work overtime at the end of their shift to in excess of 12-hour days. This isn't restricted to response staff.

Officers and supervisors from every department are taken away from their routine work to cover additional duties. For example, football match policing, dealing with traffic queues at the border, and Servator patrols.[5] This is because of the small size of the force. The strain is felt throughout and important work, such as preventing and detecting crime, is suffering.

Judgment

The Royal Gibraltar Police's understanding of the full range of its demand is still an area for improvement.

The force has evaluated when it receives most calls for service and amended shift patterns and officer numbers accordingly. But until it has a complete understanding of the full range of demands it faces, it can't assure itself that it has the right staff with the right skills in the right place to meet those demands.

Area for improvement 7

By October 2016, the commissioner should compile a comprehensive prediction of future demand. This should be used to define the capacity and capability the force will need, which will enable the creation of plans for funding, skills, structure, estates, ICT and other equipment.

[5] Project Servator patrols are unpredictable, highly visible police deployments, designed to disrupt a range of criminal activity, including terrorism.

Background

In 2016, we inspected how the Royal Gibraltar Police maps future demand for its services. We considered it to be an area for improvement.

The force's strategic threat and risk assessment indicated likely trends in serious and organised crime (SOC). It referenced emerging crime types such as cyber crime and child sexual exploitation, as well as likely demographic changes. It provided a useful insight but not a comprehensive understanding of likely future demand.

Consequently, we didn't see a plan to respond to future demand in terms of money, recruitment and structures, apart from a proposal for a new police headquarters. We also found that future training plans were based on filling skill gaps brought about by retirements over a five-year period, rather than on the capabilities and capacity the force would need in future.

Our findings in 2019: Future growth

The force recently secured funding to increase police officer numbers to cope with growing demand. It received approval to recruit 25 new police officers and to reassign the duties conducted by 25 police officers to civilian members of staff. Posts which have been civilianised include call handlers and despatchers in the control room, and detention officers. Although the force's establishment of police officers is only set to grow by 25, it has effectively increased its strength by 50 posts, as the police officers from the civilianised posts will be released into the pool for reallocation to frontline policing duties.

The increase in police officer numbers gives the force a significant opportunity to change the way it polices Gibraltar, better address demand and fulfil its priorities.

It is vital that the force manages and leads this change effectively. It will be critical for the force to refresh its understanding of demand, as it last conducted a strategic assessment of the threats and risks facing its communities in 2016.

The force hasn't analysed likely future demand, or how it will shape the skills and capabilities it needs in its workforce. As it doesn't have a comprehensive understanding of its current workforce skills, it isn't able to plan to fill any future gaps.

The force's training plans are limited by the budget available. They are based on an annual assessment of operational and tactical skills needs. There are no plans to develop leadership and management skills. Officers do not have formal or regular performance and development assessments. Without them, the Royal Gibraltar Police won't be able to understand the skills it has, and which staff need training for the future.

Understanding skills and training requirements is of critical importance as the force is about to recruit and train its largest increase in police officer numbers in decades. It should design simple, effective processes to help structure and measure its training and training needs. It should also develop overarching plans to give leadership and direction at this critical period of change so that senior leaders and the GPA can oversee and manage the change effectively.

ICT infrastructure and support

ICT problems lessen the force's ability to effectively meet demand. Software runs slowly, and access to servers and the internet is also slow and unstable.

The force relies on centralised government ICT staff to provide support when requested. It is now in the third year of a phased implementation of a new ICT system, which has been slower than anticipated and hasn't yet achieved the expected benefits.

The Royal Gibraltar Police has no ICT strategy to guide future planning and investment. Decisions on IT procurement tend to be ad-hoc and based on the funding available in the coming year, rather than part of a wider strategy to future-proof policing. For example, many body-worn video cameras were purchased because video evidence can be crucial in bringing offenders to justice. However, a large number are now broken because insufficient thought was given to how they would be used or maintained.

Judgment

The Royal Gibraltar Police's understanding of future demand is still an area for improvement.

The force has yet to compile a comprehensive prediction of future demand (part of the 2016 area for improvement). It should update its strategic threat and risk assessment to more effectively plan for the skills, structures and ICT it will need in future.

Area for improvement 8

> By July 2016, the Minister for Finance should set out the funding formula, including the associated criteria, thresholds and conditions that need to be met for resources needed to police Gibraltar.

Background

Our 2016 inspection examined the force's funding arrangements.

We found that the GPA determines, in consultation with the commissioner of police, the number and rank structure of personnel employed by the force. The Authority then submits an annual budget for the force to the Minister for public finance.

The Government gives the commissioner of police a budget for all aspects of policing. But this was not a fully devolved budget in 2016. There was no flexibility in how the force could use the funds; for example to improve its service or move money from one police function to another to better manage demand.

The force relied on a significant overtime budget to manage peaks of demand and fill gaps when officers were on leave, sick or training. We believed this could be reduced if the force were better able to match resource to demand, or the funds could be converted to police officer posts if demand outstripped available resource.

There were limited opportunities for the force to generate income from policing activity. For example, when commercial enterprises needed policing support, such as

escorting cranes, managing queues at music festivals or crowd control at football matches, any income generated from policing was paid to the Government. In addition, because legislation concerning the proceeds of crime was not (at the time of our inspection) enacted, the force was unable to benefit from its work in seizing criminal assets.

We concluded that in an environment where the economy was growing rapidly and it could reasonably be expected that demand for policing would grow, the Royal Gibraltar Police needed guidance that set out the funding formula (including the associated criteria, thresholds and conditions) for the resources it needed.

Our findings in 2019: Funding

The Government sets the budget annually after a bidding process. Annual allocations tend to be based on the previous years' budget and there are limited freedoms and flexibilities to manage the budget in-year as the Government does the financial planning and budget monitoring.

The GPA has little influence over the funding available but it retains responsibility for policing. And the commissioner of police has little ability to influence how resources are allocated yet is accountable for managing the budget. The commissioner doesn't have a senior financial manager on his leadership team.

As a result, the Royal Gibraltar Police can only conduct short-term financial planning as it doesn't know what resources may be available in future. There is no medium-term financial planning that might enable a more strategic approach to ensure the force can adapt to changing demand and be fit for purpose.

This situation makes it very difficult for the GPA and the force to develop longer term change plans and align financial plans with other key strategies, such as workforce and ICT. It also means that capital investment in infrastructure is hampered. This includes the long overdue plans to build a fit-for-purpose police station.

There is no incentive for the force to reduce spending or use its resources more efficiently. The police budget is monitored, and the Government routinely considers its financial reports. But any overspends are covered by central government funds at the end of each year and any underspent budgets are returned to central funds.

Judgment

The Minister for Finance hasn't set out a funding formula. This limits the Royal Gibraltar Police's ability to conduct the type of financial planning we would expect from English and Welsh forces.

How the Royal Gibraltar Police promotes the right ethics, values and culture

Research by the College of Policing shows the best way to make sure that police workforces behave ethically and lawfully is to promote the right behaviour to officers and staff. It recommends taking a preventative approach to misconduct and corruption, rather than focusing on apprehending and disciplining those responsible.

Police leaders need to promote ethical principles and behaviour and act as role models, in line with the Code of Ethics.[6] Officers and staff should feel confident about applying these principles to their decision making.

Code of Ethics

In 2019, the Royal Gibraltar Police replaced its code and values document with a new policy. Its code of ethics policy is a verbatim copy of the College of Policing Code of Ethics that includes a statement that the code has been adopted as best practice.

The force hasn't adopted large sections of the Code of Ethics. It hasn't reviewed and updated its procedures and policies to reflect the new policy. For example, it isn't integrated into the appraisal system, recruitment or promotion processes. We found force policies that contradict it.[7] And the senior leadership team told us that some aspects of it cannot be implemented in Gibraltar despite it now being enshrined in force policy.

New recommendation 6

By 1 August 2020, the Royal Gibraltar Police's senior leadership team should amend the Royal Gibraltar Police's code of ethics policy to reflect the force's operational environment and make sure that the revised policy is incorporated into other policies and processes.

[6] This code is used by forces across England and Wales to promote the highest standards of behaviour amongst its police officers and police staff. It is a benchmark for what is expected of those who work in the police service. It compliments other policies, processes and legislation relating to standards and discipline of police officers and staff. The ethos of the Code of Ethics is to encourage positive behaviours so that police officers and staff do not find themselves subject to poor performance or disciplinary proceedings.

[7] See sections on business interests and reportable associations, below.

Promoting the Code of Ethics

The force's senior leadership team promoted the old code and values, which were incorporated into a range of training courses and referenced in corporate policies and procedures, before creating the new code of ethics policy.

The senior leadership team had started to promote the new policy at the time of our inspection:

- the assistant commissioner had started a series of presentations that the force planned all officers would have attended by the end of Autumn 2019;
- posters summarising the code were displayed across the force's headquarters;
- force orders were being used to remind officers of their responsibility to comply with the Code of Ethics; and
- the force's officer promotion process had been redesigned to follow the College of Policing's competencies and values framework, which is based on the code.

However, the new code wasn't yet fully integrated across the force. Many officers knew about it but didn't understand how to apply it to their work. They felt they would benefit from a clearer explanation how to link police practice with accepted behaviour.

Staff working for Royal Gibraltar Police who are not police officers are civil servants, employed by the Government rather than the force. They told us they didn't see the relevance of the Code of Ethics and that it hadn't been promoted to them. Senior force leaders told us that, in principle, the code applies to these staff members but that, in practice, it can't discipline them and has no way of making them comply.

This is a misunderstanding. The College of Policing's Code of Ethics, and therefore the force's own new policy, states:

> The Code of Ethics (…) applies to every individual who works in policing, whether a warranted officer, member of police staff, volunteer or someone contracted to work in a police force.

The force should consider establishing a network of ethics champions, representing officers and staff across all departments, who would meet to share learning. This has worked well in the UK. It should also consider making the Code of Ethics an agenda item in senior management meetings and form a committee focused exclusively on ethics and equality.

New area for improvement 2

The Royal Gibraltar Police workforce's understanding of the Code of Ethics is an area for improvement. Its senior management team should make sure that the code of ethics policy is embedded across the entire workforce.

New area for improvement 3

Embedding the Code of Ethics in the Royal Gibraltar Police's activity is an area for improvement. The force's senior leadership team should consider establishing a network of ethics champions, representing officers and staff across departments, who would meet to share learning. Additionally, the force should consider having the Code of Ethics as an agenda item in senior management meetings and form a committee that focuses exclusively on ethics and equality.

Abuse of position for a sexual purpose

In 2012, the Independent Police Complaints Commission (IPCC) published *The abuse of police powers to perpetrate sexual violence*. This report states that "the abuse of police powers for purposes of sexual exploitation, or even violence, is something that fundamentally betrays the trust that communities and individuals place in the police".

The College of Policing's Code of Ethics, which has been adopted by the Royal Gibraltar Police, states that policing professionals must "not establish or pursue an improper sexual or emotional relationship with a person with whom [they] come into contact in the course of [their] work who may be vulnerable to an abuse of trust or power".

The force hasn't recognised the potential for its employees to abuse their position in this way. Unlike most forces across the UK, the Royal Gibraltar Police hasn't briefed or trained its workforce to raise awareness of the issue.

When we explained to officers and staff what abuse of position for a sexual purpose meant, they understood that such behaviour would be unethical. However, the force hadn't told them the signs to look for that could:

- affect their ability to recognise matters of concern that should be reported; or
- understand the boundaries for their own behaviour.

New area for improvement 4

The Royal Gibraltar Police workforce's understanding of abuse of position for a sexual purpose is an area for improvement. The Royal Gibraltar Police's senior leadership team should provide more guidance to its workforce to increase understanding of the risks posed by abuse of position for a sexual purpose.

Business interests and reportable associations

The code of ethics policy states that: "people working (…) can have business interests as long as those interests are authorised and there is no conflict with an individual's police work and responsibilities".[8]

[8] *Code of Ethics Policy*, Royal Gibraltar Police, 2019, page 10. Unpublished.

It is common practice to record, monitor and review business interests in police forces across England and Wales. This isn't routine practice in the Royal Gibraltar Police. We think it should be and see this as an area for improvement.

The code of ethics policy also states that: "Membership of groups or societies, or associations with groups or individuals, mustn't create an actual or apparent conflict of interest with police work and responsibilities."[9]

Policies in forces across England and Wales require officers and staff to submit details of associations – often referred to as notifiable associations – that fall within certain criteria. For example, if an officer became aware that a relative was in a relationship with a known criminal, they would be expected to inform the force. Any potential risks would then be considered and managed accordingly.

Some senior managers and officers told us it would be impractical to tell officers and staff to notify the force and register their notifiable associations. It was said that Gibraltar's small and close-knit population meant that everyone knows everyone else. So attempting to apply such a policy would be unworkable, bureaucratic and ineffective.

We were told that this operational environment mitigates the threat of corruption, as any corrupt activity would quickly be reported by the public. We have strong reservations about this analysis.

Corruption takes many forms and can include unconscious bias towards or against others. Gibraltar's small size creates an environment where the potential for corruption can exist, particularly in a subconscious way. We acknowledge that many people know each other in a personal as well as professional context.

The first step in mitigating the potential for corruption and protecting officers and staff from allegations of corruption is to have a clear and well applied policy on reporting notifiable associations. Officers in UK forces are required to highlight these associations. By doing so, they demonstrate ethics and integrity and it allows the force to consider the level of risk and what, if any, mitigating action to take. Officers in Gibraltar are not required to do this. The force's current position is that individuals should recognise and assess any risk and manage it themselves. This position isn't appropriate and increases officers' personal exposure to allegations of corruption.

We are concerned that the Royal Gibraltar Police is not doing enough to counter the risk of corruption. It should do more to protect the public, its organisation and staff from corruption and allegations of corruption.

[9] As above, page 10.

New area for improvement 5

The Royal Gibraltar Police's management of business interests and notifiable associations is an area for improvement. The force's senior leadership team should produce business interests and notifiable associations policies that mandate recording of such issues and regular review of the registers on which they are recorded.

Role models

The force's senior leaders have signed up to a command team leadership contract, which sets the principles they will adhere to. These include:

- being consultative, trustworthy, accessible and cohesive; and
- embodying the Code of Ethics.

Their signed contract is prominently displayed in the police station. It is a positive step to promoting ethical behaviours. We encourage the Royal Gibraltar Police to extend the contract to sergeants and inspectors.

We were told by some, less senior staff that the phrase "firm leadership" is occasionally used to describe management behaviours that, in a small number of cases, may have amounted to bullying.

We examined the last two staff surveys conducted by the Gibraltar Police Federation. A perception exists among an apparently large number of officers that some senior officers sometimes behave in an unacceptable manner when dealing with their staff. Whether true or not, this perception is a cause for concern.

We understand that the commissioner of police and the chair of the federation have met to develop a plan to deal with this. The force has established several workstreams to better understand the problem. Shortly before our inspection, an external review concluded that there wasn't systematic bullying in the force. But it did find some evidence of bullying and harassment by a minority of managers, supervisors and peers that was not being reported and consequently not addressed. It made recommendations for the commissioner to:

- acknowledge that the force takes the federation's concerns about bullying seriously;
- improve processes to prevent bullying;
- implement an effective grievance procedure; and
- work more closely with the Gibraltar Police Federation to investigate claims of bullying.

HM Governor and the GPA should support the commissioner and the force in resolving this problem to ensure that any unacceptable behaviour is dealt with.

New recommendation 7

With immediate effect, the Royal Gibraltar Police's senior leadership team should produce an anti-bullying statement and improve the force's processes to prevent bullying.

Leadership style and culture

The daily management meeting considers any lessons to be learnt from the previous 24 hours. We found encouraging evidence of lessons learnt following operational incidents when the force changed procedures and adopted new ways of working.

However, many junior officers perceived that some senior officers were sometimes too ready to apportion blame when something goes wrong. We were unable to determine whether, or to what extent, there is a 'blame culture' within the force. However, staff perceptions are important. We are pleased that the force's leadership recognises this and has invited the Police Federation to raise any instances of the perceived blame culture with it.

We also saw elements of a culture where change happens slowly, sometimes with resistance. Staff said, "We've no time to change" and, "We've always done it this way." And, "We tried that and failed, so no point repeating." They also described an environment where they were so busy with their duties that they were too busy to change.

That said, on the whole we found a workforce that was professional, committed and enthusiastic about their work and the force they worked in.

New area for improvement 6

The leadership development provided to the Royal Gibraltar Police workforce is an area for improvement. Operational exchange at inspector and chief inspector rank should be encouraged with British police forces for up to six months. This will allow managers to experience different management styles in other forces, as well as bring skilled managers into the force from England and Wales.

Gifts and hospitality

The Royal Gibraltar Police has a system for monitoring gifts and hospitality. The policy requires officers and staff to record all gifts and hospitality in a central register. But we found that the register wasn't being used routinely.

New area for improvement 7

The Royal Gibraltar Police's management of gifts and hospitality is an area for improvement. The Royal Gibraltar Police's senior leadership team should make sure that its gifts and hospitality registers are monitored regularly to make sure staff are complying with force policy.

How the Royal Gibraltar Police makes sure its officers behave ethically and lawfully

Vetting

The integrity and ethical standards of a police force are underpinned by its ability to recruit, retain and promote a workforce with the right values and behaviours. This starts with vetting policies and practices.

In England and Wales, the approach to vetting is governed by the College of Policing's APP on vetting.

The Royal Gibraltar Police doesn't have a consistent vetting process. We were told that vetting happens at initial entry for police officers but was sometimes disjointed because it was conducted by several units. We were also told that additional vetting takes place for some specialist posts but was not systematic.

Regardless of the special circumstances in Gibraltar, the force must be able to properly vet applicants. It must also be able to vet officers and staff seeking promotion or moving post, where it is necessary to do so.

Vetting is highlighted as a concern on the force's risk register. It has put controls in place to mitigate the risks of it not being done or not being done properly. These controls include:

- raising awareness;
- encouraging officers to report issues that might affect vetting; and
- developing better policy and procedures.

New recommendation 8

By 1 August 2020, the Royal Gibraltar Police's senior leadership team should review the force's vetting procedures. It should consider adopting the College of Policing's Authorised Professional Practice on vetting.

Tackling misconduct and corruption

The issue of corruption, even at a low or subconscious level, didn't appear to be a concern for the force. This was despite an environment that might permit or even promote corruption.

Gibraltar's small population and recruitment pool, the presence of transnational organised crime, and the links and associations between the population and those serving in the force creates the potential for infiltration, corruption, blurring of ethical lines and inappropriate interventions by senior figures in the community.

The force doesn't fully understand its exposure to the risk of corruption. Its professional standards unit lacks the resource and expertise needed to develop such an understanding or monitor and mitigate the threat.

New area for improvement 8

The Royal Gibraltar Police's understanding of the corruption risks it faces is an area for improvement. The Royal Gibraltar Police's senior leadership team should compile a comprehensive, local, counter-corruption threat assessment and control strategy to evaluate and manage the full range of risks to the integrity of its organisation.

The Royal Gibraltar Police was unable to proactively identify individuals who are corrupt or susceptible to corruption. It lacks processes (commonplace in England and Wales) to collect intelligence, analyse workforce data and disciplinary records or carry out integrity testing. This represents a risk to the force.

The force was also unable to effectively audit police systems. IT passwords are frequently shared among employees, thus increasing the risk of computer misuse. In the absence of a system to monitor keystrokes, the force should at least consider:

- periodically auditing the Cyclops system; and
- outlining what is and isn't acceptable use of police systems.

The force's professional standards unit, particularly its counter-corruption capability, should be reviewed to make sure there are enough resources to promote ethical standards; challenge poor behaviours; and monitor and target corruption. This review should set clear expectations for governance and leadership. The force may benefit from external expertise and could identify good practice from forces in England and Wales.

The Royal Gibraltar Police isn't unique among the British Overseas Territories or Crown Dependencies in lacking the capability to conduct proactive counter-corruption operations. Such forces and the Foreign and Commonwealth Office may wish to consider creating a joint or remote capability to fill this gap. In the interim, the force should develop better vetting, business interests and notifiable associations policies. Along with effective use of ICT auditing, these can mitigate some of the risks from corruption.

New recommendation 9

By 1 November 2020, the Royal Gibraltar Police's senior leadership team should determine the best model for providing a counter-corruption capability to proactively identify and pursue employees who are corrupt or susceptible to corruption.

Reporting mechanisms

Confidential reporting mechanisms are common in UK police forces. They give the workforce a way to anonymously report issues of concern, whether related to corruption, poor behaviour, bullying or abuse of power for sexual gain. Such mechanisms also give other forces' professional standards units a useful intelligence-gathering opportunity.

The Royal Gibraltar Police lacks such mechanisms. It should develop a method for staff to anonymously and confidentially report concerns about integrity, by telephone or email or both. There are electronic systems available that protect the identity of an individual making a report.

To avoid scepticism and distrust about the anonymity of reporting mechanisms or systems, it is important to communicate what they are for, how they work and what makes them secure. It may also be beneficial if the reporting system were managed independently. The force may wish to collaborate with a police force(s) in England and Wales, British Overseas Territories or Crown Dependencies if it is not feasible for it to introduce its own system.

New recommendation 10

By 1 November 2020, the Royal Gibraltar Police's senior leadership team should develop a method of anonymously and confidentially reporting integrity issues, either by telephone or email or both. To avoid scepticism and distrust about the anonymity of reporting systems, it would be beneficial if this facility were managed independently.

To report and prevent corruption, staff need to be able to identify risks and signs of corruption. The Royal Gibraltar Police workforce lacked a thorough understanding of these issues.

New area for improvement 9

The Royal Gibraltar Police workforce's understanding of corruption is an area for improvement. The Royal Gibraltar Police's senior leadership team should provide a briefing about corruption risks and signs of corruption to the workforce, based on the College of Policing's APP on counter corruption.

Annex A: New areas for improvement

1. The lack of resilience for the Royal Gibraltar Police crime desk manager position is an area for improvement. The Royal Gibraltar Police's senior leadership team should appoint a deputy crime desk manager to conduct audits and checks during long-term abstractions.
2. The Royal Gibraltar Police workforce's understanding of the Code of Ethics is an area for improvement. Its senior management team should make sure that the code of ethics policy is embedded across the entire workforce.
3. Embedding the Code of Ethics in the Royal Gibraltar Police's activity is an area for improvement. The force's senior leadership team should consider establishing a network of ethics champions, representing officers and staff across departments, who would meet to share learning. Additionally, the force should consider having the Code of Ethics as an agenda item in senior management meetings and form a committee that focuses exclusively on ethics and equality.
4. Abuse of position for a sexual purpose is an area for improvement. The Royal Gibraltar Police's senior leadership team should provide more guidance to its workforce to increase understanding of the risks posed by abuse of position for a sexual purpose.
5. The Royal Gibraltar Police's management of business interests and notifiable associations is an area for improvement. The force's senior leadership team should produce business interests and notifiable associations policies that mandate recording of such issues and regular review of the registers on which they are recorded.
6. The leadership training provided to the Royal Gibraltar Police workforce is an area for improvement. Operational exchange at inspector and chief inspector rank should be encouraged with British police forces for up to six months. This will allow managers to experience different management styles in other forces, as well as bring skilled managers into the force from England and Wales.
7. The Royal Gibraltar Police's management of gifts and hospitality is an area for improvement. The Royal Gibraltar Police's senior leadership team should make sure that its gifts and hospitality registers are monitored regularly to make sure that staff are complying with force policy.
8. The Royal Gibraltar Police's understanding of the corruption risks it faces is an area for improvement. The Royal Gibraltar Police's senior leadership team should compile a comprehensive, local, counter-corruption threat assessment and control strategy to evaluate and manage the full range of risks to the integrity of its organisation.

9. The Royal Gibraltar Police workforce's understanding of corruption is an area for improvement. The Royal Gibraltar Police's senior leadership team should provide a briefing about corruption risks and signs of corruption to the workforce, based on the College of Policing's APP on counter corruption.

Annex B: New recommendations

1. With immediate effect, the Royal Gibraltar Police's senior leadership team should make sure that all calls for service are recorded on the force's Computer Aided Dispatch system.
2. By 1 August 2020, the Royal Gibraltar Police's senior leadership team should set clear expectations in policy for supervisors about the frequency and depth of supervision needed. In addition, supervisors should be trained where necessary. Inspectors should carry out monthly dip-sampling of investigations to provide assurance that these expectations are met.
3. By 1 August 2020, the Royal Gibraltar Police's senior leadership team should adopt the Code of Practice for Victims of Crime and conduct victim surveys.
4. By 1 August 2020, the Royal Gibraltar Police's senior leadership team should develop a corporate definition of vulnerability and develop processes to make sure officers identify any vulnerabilities of the victims, witnesses, and suspects they encounter, and make appropriate interventions.
5. By 1 November 2020, the Royal Gibraltar Police's senior leadership team should evaluate all reported domestic violence incidents in Gibraltar. Based on this data, the most appropriate agency should establish whether DVPOs and DVPNs would have provided valuable additional protection for victims. If the evaluation shows they would have done so, the Government of Gibraltar should consider pursuing changes to legislation to enable their introduction as soon as possible thereafter.
6. By 1 August 2020, the Royal Gibraltar Police's senior leadership team should amend the Royal Gibraltar Police's code of ethics policy to reflect the force's operational environment and make sure that the revised policy is incorporated into other policies and processes.
7. With immediate effect, the Royal Gibraltar Police's senior leadership team should produce an anti-bullying statement and improve the force's processes to prevent bullying.
8. By 1 August 2020, the Royal Gibraltar Police's senior leadership team should review the force's vetting procedures. It should consider adopting the College of Policing's Authorised Professional Practice for vetting.
9. By 1 November 2020, the Royal Gibraltar Police's senior leadership team should determine the best model for providing a counter-corruption capability to proactively identify and pursue employees who are corrupt or susceptible to corruption.

10. By 1 November 2020, the Royal Gibraltar Police's senior leadership team should develop a method of anonymously and confidentially reporting integrity issues, either by telephone or email or both. To avoid scepticism and distrust about the anonymity of reporting systems, it would be beneficial if this facility were managed independently.

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NP1/140

Nick Pyle (Sensitive)

From: Nick Pyle (Sensitive)
Sent: 08 March 2020 14:09
To: Kathy Leach (Sensitive); [redacted] (Sensitive)
Cc: [redacted] (Sensitive); DL Gibraltar Political (Sensitive); [redacted] (Sensitive)
Subject: Re: Fatal collision between Royal Gib Police and Spanish smugglers

Kathy

I've just met with the Commissioner of Police who kindly gave me a briefing on the incident. The facts have yet to be determined and the investigation is ongoing, but initial headlines are as follows:

The incident happened at @ 04.00 hours though it is not yet known whether it took place in BGTW waters or just outside.

Four pax involved - three Spanish from Cueta (Moroccan descent) and one Portuguese.

Two fatalities (one instant). Two others initially hospitalised but are now in police custody. The Spanish nationals are from Ceuta, of Moroccan descent and known to the local Spanish authorities.

Given those involved are not from the area, the incident is not expected to impact on the border as a similar incident did last October.

RGP/Spanish cooperation is good though the Spanish are understandably conducting their own parallel investigation.

Given the loss of life, the RGP are actively approaching UK police authorities to conduct the enquiry. I said they could state in any request that such an approach has our support.

No action for us at this stage.

The Commissioner was grateful for my visit.

Regards

Nick

From: Kathy Leach (Sensitive) <[redacted]@fco.gov.uk>
Sent: Sunday, March 8, 2020 9:31:28 AM
To: [redacted] (Sensitive) <[redacted]@fco.gov.uk>

NP1/141

Nick Pyle (Sensitive)

From:	Nick Pyle (Sensitive)
Sent:	09 March 2020 16:42
To:	[redacted] (Sensitive); [redacted] (Sensitive); Kathy Leach (Sensitive)
Cc:	DL Gibraltar Political (Sensitive); [redacted] (Sensitive)
Subject:	Re: Fatal collision between Royal Gib Police and Spanish smugglers
Follow Up Flag:	Follow up
Flag Status:	Flagged

[redacted]

The AG and I received a further briefing from the Commissioner of Police (CoP) this morning (at my request). Headlines are as follows:

CoP started by saying he had sent two Inspectors to Algeciras to establish face to face contact wth the Guardia Civil. The GC confirmed they had opened up an investigation which they would pursue regardless of where the collision took place. This infers even they are not sure where it happened.

According to the Portuguese person arrested, the 4 pax were a "crew change" for an illegal activity (assume drugs). They were picked up at Atuna beach which is on the outskirts of La Linea.

According to the CoP, there was nothing on board the vessel save fuel.
The Spanish Nationals belonged to the Castinitas (sp?) a powerful OCG.
A "notorious" (CoP's word) Gibraltar legal company Verralls, have been engaged by those detained.
A Pathologist, Coroner and Marine Accident Investigator have all been retained. The intent was to release the bodies of the deceased for burial asap (Muslim culture).
The RGP helmsmen did not for report the start of the chase to Ops Centre as per SoPs. CoP brushed this off to an oversight due to the pressure of the moment. I was less forgiving.
The RGP officers will be interviewed tomorrow or Wednesday.
CoP confirmed that the exact location has still to be determined as were details of the chase which lasted 10 minutes.

I said it was important that before Thursday's meetings in London we had one single and agreed version of the facts. I welcomed the fact that there had been communications between the GC and RGP before and since the collision.

The AG said it was clear, with the entry at some point of the vessel into BGTW, that the law had been broken and that therefore the chase was legitimate. He said it was important we are able to present this to the Spanish as "cooperation". He stressed the need for details of the communication between the GC and RGP and especially who instigated it.

I suspect this is as much as we will get until the investigation, including the interviews of the RGP and the mining of phones and IAS, have been completed.

Nick

Nick Pyle (Sensitive)

From: Nick Pyle (Sensitive)
Sent: 11 March 2020 19:28
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: Re: Collision & Assistance

Ok. Thanks. I'll inform London facts still not established but highly likely to have occurred out side BGTW.

Nick

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: Wednesday, March 11, 2020 7:07:47 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: Re: Collision & Assistance

Nick - we are getting there on establishing exact co-ordinates of where collision took place. We are tying up some loose ends and probing further from WHSS and should be able to confirm soon. It is, highly probable it did occur out BGTW. We are getting it plotted which will provide a better understanding in terms if distance from BGTW.

Best regards
Ian

Sent from my iPhone

> On 11 Mar 2020. at 18:58. Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk> wrote:
>
> Ian
>
> Good to hear about progress re Met help.
>
> Are we any clearer as to where the collision took place? London are keen to know whether it was inside or outside BGTW and if the latter. approximately by how far.
>
> Regards
>
> Nick

[illegible]

Nick Pyle (Sensitive)

From: Nick Pyle (Sensitive)
Sent: 12 March 2020 16:50
To: [redacted] (Sensitive)
Cc: [redacted] (Sensitive); Kathy Leach (Sensitive); [redacted] (Sensitive)
Subject: Re: RGP Collision

[redacted]

I've just had an update from the Commissioner of Police who confirmed our suspicions that not only did the collision take place in Spanish waters, so did the pursuit. The Commissioner also confirmed that SOPs/Protocols we're not followed. I refrained from saying what was on my mind (no s..t Sherlock) but this is not good news and will complicate matters. The Commissioner added that the Spanish are "not kicking off at the moment and playing it down". I think the Commissioner is worried a touch.

I said that given the imminent arrival of the Met Police Team, we can use the line to any enquiries, official or otherwise, that it would not be right to comment until the investigation has been completed. The Commissioner said he was issuing a press release, agreed with the Met, acknowledging the arrival of the team and saying just that.

The better news is that the autopsies have been completed and the bodies are being repatriated.

We should try to get 5 mins with the AG tomorrow to take his view on this.

BA has landed which has lifted my mood a bit! Not many people in the departure lounge though many who are here of Far Eastern descent are wearing masks.

Nick

From: Nick Pyle (Sensitive)
Sent: Thursday, March 12, 2020 8:49:15 AM
To: Kathy Leach (Sensitive) <[redacted]
Cc: [redacted] (Sensitive) [redacted]; (GLO) Llamas QC, Michael <michael.llamas_qc@gibraltar.gov.gi>
Subject: RGP Collision

Kathy

I'm not sure to what degree if any the issue of Sunday's collision at sea which resulted in two Spanish deaths will come up today.

I asked the Commissioner of Police yesterday if he could, 3 days on, confirm the location of the collision, as per the meeting Michael and I had with him on Monday. He could not and restricted himself to saying more work needed to be done but "it is highly probable it was outside BGTW".

What I can add is that based on a formal request from the RGP, a team of 6 from the Met will be arriving tomorrow to conduct an independent investigation into the incident. This is a positive move.

I have to say I cant quite understand why we still don't definitively know whether the incident took place inside or outside of BGTW. The exact coordinates don't matter that this savage - it's a matter of inside or out. This leaves me worried that it was significantly outside.

NP1/144

Nick Pyle (Sensitive)

From: [redacted] (Sensitive)
Sent: 21 May 2020 15:30
To: Nick Pyle (Sensitive)
Subject: RGP MARINE COLLISION

Nick

As discussed, here is a bullet point record of the rushed initial debrief we had from Acting D/Supt Gary Smith on 20 March:

- His team had examined two incident logs and 25 call logs relating to the incident;
- They had been out on the water on other marine assets during the daylight and dark hours to get a feel for the operating environment;
- The Spanish (not specified) had given intelligence (not specified) on the suspected narco vessel movement to Gibraltar via WHSS – (NB he didn't say whether the Spanish had requested RGP assistance);
- His team had prepared questions for the four officers involved on: the collision, location, who authorised the operation etc. but these had not been answered on legal advice from a UK based lawyer engaged by the officers;
- His initial feeling was that there was at least a conduct/discipline matter to be answered and the next step would be to serve the officers with a formal notice of this so that they could receive police federation and legal advice/support;
- He said there were several stages to this procedure;
- Further interviews would then be conducted and statements taken;
- Given the deaths and serious injury involved there would be a local criminal investigation as well as a Spanish investigation;
- His team had not had a conversation with the Spanish at that stage as they had not yet allocated a magistrate to lead the investigation. He had offered to brief the magistrate at an appropriate time;
- All indications were that the incident had happened in Spanish waters possibly up to 3 miles out of BGTW;
- His investigation had only just begun and there would need to a be a further visit with much more to be done.

When I spoke to Gary again this morning, he said he had completed his update note (NB not an interim report, there would only be a final report) but still needed to run it by his boss. He hoped to share it with us tomorrow or immediately after the bank holiday.

Regards

[redacted]

[redacted] | [redacted] | **Office of the Governor | Gibraltar**
The Convent | Main Street | Gibraltar | GX1 1AA
Direct: +350 [redacted] | Mobile: [redacted] | ECHO: [redacted] | [redacted]@fco.gov.uk

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I sometimes choose to send emails at different times of the day and night as part of my work/life balance. There is no expectation of a response or action, outside of normal working hours.

NP1/145

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Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex [redacted] • www.police.gi

27th May 2020

Our Ref: IM169

The Hon Fabian Picardo QC
Chief Minister
No. 6 Convent Place
Gibraltar

Dear Chief Minister,

REQUIREMENT TO PROVIDE A FACTUAL REPORT THE POLICE ACT 2006, Section 15 (1)(a)

1. I refer to your letter of the 21st May 2020 informing me of the requirement to provide a factual report pursuant to S.15(1)(a) Police Act 2006 concerning the death at sea of two Spanish Nationals on the 8th March 2020.

2. I would like to point out that notwithstanding the fact that I have briefed the Hon. Attorney General on several occasions (as suggested by you from the outset), apprised the Chairman of the Gibraltar Police Authority and consulted with the Director of Public Prosecutions, I have not been asked for further details or a factual report until now.

3. For ease of reading, I will address the concerns of the Government and the points listed in part VI (the Factual Report Required) in a chronological order as far as possible.

4. **Point (iv): A full report of the facts of the incident, including details of whether the RHIB in question entered BGTW and if so where and when and how long it was in BGTW.**
   a. At about 0238Hrs on the 8th March 2020 RGP Marine Section officers received a verbal report from Windmill Hill Signal Station (WHSS) concerning a suspect vessel in the vicinity of BGTW **(Appendices 15, 20, 21, 22 and 74 refer)**. As a result of this report the Police Motor Boat (PMB) crew, deployed on motor vessel Sir John Chapple to the eastern side of Gibraltar.

   b. The RGP crew made direct contact by telephone with the Guardia Civil (GC) *Central Operativa de Servicios* (COS) and it was confirmed by the latter that they were also

monitoring the said vessel. The RGP interceptor positioned itself within the limits of BGTW by Grid A8 **(Appendices 2 and 15 refer)**.

c. There were numerous exchanges of mobile telephone communications between the RGP crew and GC COS which included the positioning and movements of the suspect vessel **(Appendices 23 and 24 refer)**.

d. At about 0329Hrs a chase commenced between the Sir John Chapple and the suspect vessel. The RGP applied its blue lights **(Appendices 15, 16, 17 and 74 refer)**. According to the coxswain (referred to as 'Officer One' in the Post Incident Procedure), the suspect vessel displayed no navigational lights and due to its length and engine capacity was a prohibited import known colloquially as a *Narco Launch*. The vessel was a RHIB of 14 metres in length with 4x 300 hp outboard engines. Four crew members were aboard.

e. The crewmembers of the suspect RHIB were later identified as:

- [redacted]
- [redacted]
- [redacted]
- [redacted]

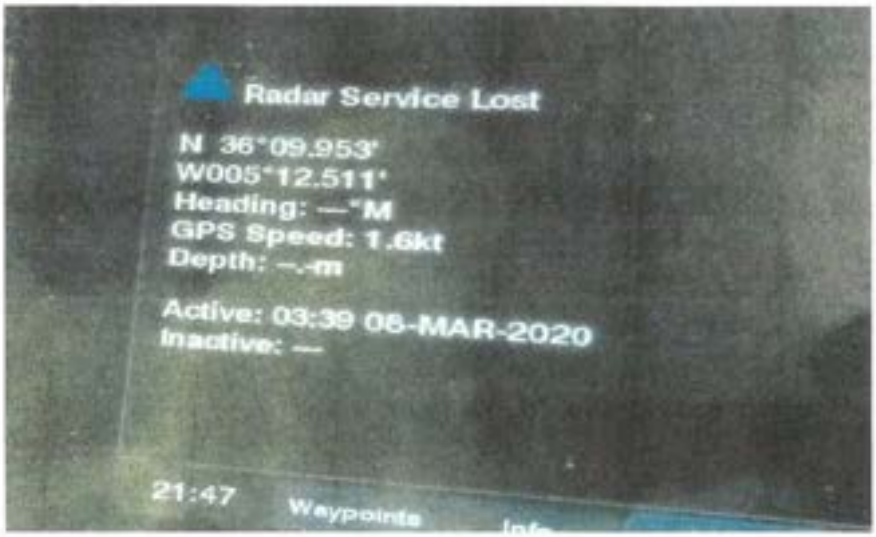
f. The coxswain's intention was to identify the suspects and determine whether they were carrying an illegal cargo **(Appendices 15 and 16 refer)**.

g. As the chase ensued, the suspect RHIB performed evasive and dangerous manoeuvres and its crewmembers threw objects at the Police vessel **(Appendices 15, 16, 17, 19, 20 and 74 refer)**.

h. The chase ended in a collision between both vessels (which according to the marine expert, occurred at around 03:38:56, in position 36° 09.96' N 005° 12.51' W **(Appendix 19 refers)**. These coordinates are in Spanish waters. At the relevant time this information was not available to the Command Team as the police interceptor's AIS had not been activated. This is contrary to standing orders. It was assumed that the

collision was likely to have taken place outside of BGTW as the radar screen of the suspect vessel displayed coordinates indicating this, but this required technical confirmation.

i.



j. The intelligence picture at that stage was unclear and confusing with the limited facts recounted by the PMB crew being out of sync with other facts. Such confusion is common in the initial stages of a serious investigation and for this reason Post Incident Procedures (PIP's) are initiated and officers do not provide detailed accounts until they have had time to rest and take advice.

k. Following the collision, crew members from the Sir John Chapple boarded the suspect RHIB to assess the situation and found the lifeless body of a male person, later identified as [redacted]. He had an open head wound. There was also a further crewmember, namely [redacted], who appeared seriously injured, with visible open wounds to his back/shoulder, lying on the hull. The RGP crew were not physically harmed but were in shock **(Appendices 15 to 17 refer)**.

l. The coxswain then took the decision of removing his officers from on board the suspect vessel as he feared for their safety **(Appendices 15, 25 and 26 refers)**.

m. A tow-line was connected to the suspect RHIB for it to be towed to land and ensure the injured received medical attention **(Appendices 15 to 17 refer)**.

n. At 0343Hrs the RGP crew contacted WHSS and reported the incident adding that they would be returning to the Gibraltar Government Marine Section (GGMS). **(Appendices**

15, 20 and 74 refer). As a result of the collision the police vessel had mounted the suspect RHIB and landed on its starboard side causing the police vessel taking in water.

o. No Mayday call was broadcasted by the police marine officers. It is assumed at this stage that this was due to the state of shock that they must have been in.

p. At about 0345hrs, Officer One (coxswain) called the RGP Command and Dispatch Unit at New Mole House (NMH) Police Headquarters, and apprised the Crown Sergeant about the collision and of the need of having the ambulance awaiting their arrival **(Appendices 15, 25, 26 and 27 refer)**.

q. [redacted]

r. The RGP vessel then commenced to tow the suspect RHIB but its towing speed was reported to be reduced as one of its engines had failed following the collision **(Appendix 15 refers)**.

s. Consequently, the assistance of the HMC Marine Section was sought and HMC vessel Seeker met with the Sir John Chapple by which stage was within BGTW. **(Appendices 15 and 27 refer)**.

t. All crewmembers from the suspect RHIB, except for the deceased, were transferred on to the HMC vessel for them to be taken ashore for treatment.

u. First Aid was administered to the crew of the suspect RHIB by the HMC officers **(Appendices 10 to 17, 20, and 28 to 31 refer)**.

v. At about 0355Hrs the on call Gold Commander Detective Chief Inspector Field was contacted and attended the Police Marine Base. As soon as he had assessed the situation he called me at 0425Hrs.

w. I immediately recalled all available senior managers and convened a Gold Command meeting.

x. A command structure was put in place with a number of senior officers being tasked with specific roles. For the purpose of leading the investigation during the 'Golden Hour', DCI Field was provisionally appointed as Senior Investigating Officer.

y. For the purposes of transparency, immediate consideration was given to requesting an independent body to lead the investigation.

z. A critical incident was declared and the following additional persons recalled to duty:

CI	Nolan Romero. Post Incident Procedure Manager (PIP)
DI	Paul Chipolina (Head Special Branch) International liaison with Spain
DI	Alex Enriles – PSD cover
Insp	Thomas Tunbridge – Operational Logistics
Insp	Albert Fernandez - Bronze commander Marine Base
Insp	Paul Barker – Media
PS	Maurice Morello – Chairman Gibraltar Police Federation – welfare.

aa. Steps were then made to secure the Marine Base, the hospital and Police HQ. On a previous recent occasion involving a fatal collision with an HMC vessel and another smuggling craft, the vicinity outside Police Headquarters and hospital were inundated with family members who either belong to or are related to Organised Criminal Groups (OCG).

bb. The following established command protocols were initiated.

Gold Commander	Commissioner Ian McGrail
Deputy Gold	D/Supt Paul Richardson
SIO - provisional	DCI John Field
Coroner's Officer	DI Sean Perera
Family Liaison Officer	Natalie Passano

cc. The following fast track actions were commenced:

1. Critical Incident declared
2. Consider calling UK force to investigate - (Small Islands/Hampshire considered initially)
3. Post Incident Procedure (PIP) procedure to be initiated for:
    a. ECHR considerations
    b. Safeguard ID of officers (retaliation by OCG feared)
4. Welfare of officers
5. Security NMH, PMB Base, SBH
6. Advise:
    a. CM
    b. HE
    c. CBF
    d. GDP CPO
    e. Police Fed
7. Advise Windmill Hill and Port to secure evidence.
8. Commissioner to issue message of reassurance to workforce

9. Intel circular to be published for officer safety reasons.
10. Resilience issues to be considered for Gold command cover and Ops personnel
11. Press statement
12. Provisional SIO to consider ECHR implications and by extension Gibraltar Constitution
13. Need to determine location of incident ASAP.
14. SLOWER TIME ACTIONS:
    a. Extract training records for PMB crew
    b. Extract standing instructions for chase at sea.

dd. At about 0540Hrs and shortly after arrival at the Marine Base, [redacted] was pronounced life extinct by paramedics on scene. The other two crew members were conveyed to St. Bernard's Hospital to be medically examined **(Appendices 32 to 36 refer)**.

ee. HM Coroner Mr PITTO, was apprised and gave instruction for the bodies of the deceased to be placed in the mortuary fridge pending examination by a Forensic Pathologist.

ff. At 0605Hrs I notified HE and yourself and we engaged in an exchange of messages as from 0724hrs.

gg. At 0630Hrs I personally went to speak to the officers involved in the collision and reassured them that their well-being was at the forefront of our concerns.

hh. At 1010Hrs I met with the Attorney General Michael Llamas in my office and briefed him fully as to what was known at that stage. We were joined by the Governor Nick Pyle at 1215Hrs.

ii. Following medical `treatment the two remaining surviving crew members were arrested on suspicion of having committed the offences below:

- Importing a Prohibited Import, contrary to Section 14 (1) (f) and (2) of the Imports and Exports Act 1986.
- Dangerous navigation, contrary to Section 10 of the Seaside Pleasure Boat Rules 1989.
- Obstructing Police, Contrary to Section 177 (2) and (4) of the Crimes Act.

This is because at that time it was believed that the suspect vessel had entered BGTW at some point during or before the police chase ensued and therefore some criminality had occurred within Gibraltar's jurisdiction. (The CAD log records that the incident took place some 3 miles south of Europa Point as reported by the crew – this was later found to be incorrect see Appendix 64, record 5 of 97)

jj. On the 1st April 2020 once it was clear that no criminality had occurred within BGTW, the two remaining survivors were recalled from bail and released without charge. **(Appendices 37 and 38 refer)**.

kk. At 1205Hrs 9th March 2020 I held a briefing in my office with The Governor and Attorney General and updated them with the details I had available.

ll. As part of the Post Incident Procedure (PIP) the RGP crew members provided an initial account on the same day followed by a detailed account some days later. For safety reasons the officers are identified as Officer One (coxswain), Officer Two (2nd qualified crew member) and Officer Three (unqualified crew member). This is to prevent their identities being transmitted to organised crime groups who have been known to take personal vengeance against law enforcement officers.

mm. The HMC crew also took part in the PIP process.

nn. For reasons of independence, transparency and impartiality on the 10th March 2020 arrangements were made with for an independent investigation to be led by the Metropolitan Police Service, Directorate of Professionals Standards. This was after attempts to obtain support from the chiefs of other small jurisdictions failed.

oo. The **terms of reference** for the independent investigation are as follows:

1) *To review what the Royal Gibraltar Police has actioned so far in to the causes and circumstances of the collision at sea in the early hours of 8th March 2020 between RGP interceptor Sir John Chapple and a 14m rigid-hulled inflatable boat, which resulted in the deaths of two of the four men on board and to assume the lead in this investigation from thereon.*

2) *To investigate the actions and decisions of Royal Gibraltar Police officers and/or staff in relation to the collision at sea on 8th March 2020, and the degree to which, if at all, the actions and decisions caused or contributed to the two deaths and injuries of other parties aboard the rigid-hulled inflatable boat.*

3) *To assess whether the police officers and staff acted in accordance with police policies, guidance and legislation.*

4) *To assess whether any police officers or staff have committed criminal offences or behaved in a manner justifying the bringing of disciplinary proceedings.*

5) *To identify any opportunities for organisational learning, and any good practice that could be highlighted and shared.*

pp. At around the same time the services of a maritime collision expert were engaged - Captain Richard Meikle (the same expert who investigated the HMC vessel fatal collision off Eastern Beach).

qq. The Metropolitan Police investigation team arrived in Gibraltar on 13th March 2020 and comprised of an acting detective superintendent, several other police officers and a civilian investigator.

rr. The maritime collision expert arrived on the same flight as the Metropolitan Police team and on arrival they were put in touch with each other.

ss. The Metropolitan Police officers were sworn in as RGP officers in order to grant them constabulary powers. The acting D/Supt assumed conduct of the investigation following a comprehensive briefing and handover of all relevant material. The RGP provisional SIO, DCI Field was appointed as liaison officer to assist the team with their investigation in Gibraltar.

tt. The vessels involved in the collision, as well as the HMC vessel involved in the towing of the suspect vessel, were examined by RGP Crime Scene Officers. They were later brought out of the sea onto the 'hard' and treated as crime scenes for them to be further examined at a later date, by the maritime expert.

uu. From the onset, and is usual in serious cases, the families of the deceased were approached by a Family Liaison Officer (FLO) appointed by the RGP. This role involves providing support and acting as a liaising point between the investigating team and the family. It should be noted, that local counsel representing the families of the deceased (as well as the two persons in custody) insisted on all contact to be done via their chambers. Christopher FINCH from VERRALLS is leading on this, with the assistance of Leigh DEBONO.

vv. Dr David ROUSE, Consultant in Forensic Medicine and Pathology performed post mortem examinations on both deceased on the 11th and 12th March 2020 and has provided his witness statements/post mortem reports **(Appendices 40 and 41 refer).**

ww. In respect of [redacted], in his opinion:

- [redacted]
- [redacted]

- [redacted]

xx. In respect of [redacted], in his opinion:

- [redacted]

yy. On the 17th March 2020 I met with the Attorney General and discussed the progress of the investigation and its various strands including the Coroner's investigation, possible civil action, professional standards enquiry, Spanish judicial action, law enforcement co-operation angle (Brexit- working group) and the political dimension. The aim was to develop a working strategy to deal with all of this. I proposed to meet face to face with GC to gather more information and try to elicit where they were taking the matter. The Metropolitan Police also wanted to meet them too. Given the obvious political sensitivities I wanted to run this past you. The AG advised me that he would consult with you and revert.

zz. Shortly after this meeting the AG informed me by text to proceed as we had discussed.

aaa. On the 18th March 2020, having been unable to meet with the GC face to face because of the Covid19 crisis, I briefed the AG on the video conference that we had held between the Metropolitan Police team, the RGP and the Guardia Civil. That briefing included reference to the Spanish investigating judge potentially summons the RGP officers to give their accounts, or request their accounts in writing.

bbb. On the 19th March 2020, I forwarded the same information as discussed in the preceding paragraph to the Chairman of the Gibraltar Police Authority. The GPA Chairman asked me whether the Governor was aware of this and I informed him that the Metropolitan Police would brief his office directly given that [redacted] had invited the team round to his house.

ccc. On the 19th March 2020 the Metropolitan Police team left Gibraltar prematurely due to the Covid19 world health emergency. Since then the team lead Supt Ag Gary Smith has been reallocated other duties by their UK commanders and the team has been subject to UK lockdown rules. This has caused significant delays to the investigation.

ddd. On the 22nd April 2020 I met again with the Attorney General and DPP and we discussed a potential civil action by Christopher Finch on behalf of the surviving crew members. The question of crown counsel representation was first discussed at that meeting and I was advised by the DPP that *'we were not at that point yet'* – that a claim had not been filed. We discussed the need to have a strategy to deal with all the strands the Coroner's enquiry, Spanish Lawyers, the likelihood that RGP officers would be summoned to Spain to testify and the political implication of the location of the incident. The AG would give thoughts on whether to bring the matter up in the law enforcement co-operation working groups and/or to tactfully engage with his Brexit negotiator counterpart. He undertook to advise you too reassuring me that he had quick direct access to yourself. This was at the height of the Covid 19 crisis locally.

eee. The AG did not want to consider further strategy until we had receipt of the Metropolitan Police's report with their findings. This has still not been received despite many requests to expedite the Covid 19 Crisis in the UK has taken its toll on policing as in many other areas of business. I have received a sit-rep update from the UK team on 27th May 2020 **(Appendix -90)**

fff. The marine investigator's draft investigation report was submitted for comments to the UK team and the RGP on the 30th April 2020 and is currently being revised following discussion between the interested parties.

ggg. On the 14th of May Robert Fischel of Verrals wrote to me enclosing a letter of claim on behalf of [redacted]. [redacted] was aboard the RHIB involved in the collision with the Sir John Chapple on the 8th of March 2020. On Friday the 15th of May, Supt. Yeats sought to arrange a meeting with the DPP to "discuss how to progress the defence of this claim." The DPP replied on Sunday the 17th saying he was available during the week of the 18th of May, with the meeting being arranged for the 19th of May. At that meeting the DPP was of the view that he would be unable to represent the RGP on the matter as he was likely to be brought into conflict at some future date, he gave three potential reasons:

a. having to prosecute EAWs against the officers if the Kingdom of Spain sought to extradite,
b. prosecuting the officers locally for criminal offences and thirdly,
c. prosecuting in disciplinary proceedings.

We accepted his position. The DPP was of the opinion that the issue of the claim should be briefed out, but he wished to discuss the matter with the Attorney General.

hhh. On Wednesday the 20th of May Supt. Yeats spoke to the DPP and he asked that we write to the AG explaining why there may be conflict and seeking authority to brief out the matter. The AG would then raise the matter with the CM. This was done.

15. Point (i): A statement on the current status of the officers in question (i.e. whether they continue to be on active duty or are suspended or stood down pending finalization of any enquires into this matter).

a. As soon as I became aware of the seriousness of the situation I instructed that a Post Incident Procedure (PIP) commence and appointed Chief Inspector Nolan Romero, a qualified Post Incident Manager (PIM)

b. In accordance with approved practice post incident investigations are instigated when certain criteria are met, one of which includes any non-firearms incident where the Police have been involved and this deployment has resulted in death or serious injury. **(Appendix 62 refers).**

c. The aim of this approved practice is to detail the management arrangements for such incidents and relate to the safety and security of person(s), property/critical infrastructure and include and are not limited to various instances, including:
   - Pursuits.
   - Accidents during operational activity.
   - Serious collisions. .
   - Any situation where a critical incident has been declared.

d. The objectives of the procedure are to:
   - Look after the welfare of Key Police Witnesses
   - Facilitate the investigation
   - Ensure the integrity of the procedure

e. One of the PIM's responsibilities is to ensure that the officers' wellbeing and safeguards are considered at every stage of the process. The PIM gathers all relevant and available information, make assessments and rationalises his decisions in a log **(Appendix 1 refers).**

f. In this instance it was decided to afford the officers anonymity to mitigate the risk of their names being disclosed to persons involved in criminality. Accordingly as part of the PIP process the officers were identified as Officers One (coxswain, Officer Two (qualified crew member) and Officer three (3rd crew member). Gibraltar Police Federation (GPF) representatives were also present at the initiation of the PIP process.

g. On the same morning of the incident, the officers provided their initial Stage three accounts **(Appendices 2 to 4 refer respectively)** and arrangements were made to contact them the following day. They were then sent home. Stage 1 account is the report made to the PIM on appointment and the Stage 2 account is the PIM's initial brief to the SIO (Senior Investigating Officer).

h. The HMC Marine Section Officers who assisted in the tow of the suspect RGIB were also included in the PIP and were also afforded anonymity. They are referred to as HMC Officer Four, Five, Six, Seven and Eight. These officers also provided initial accounts **(Appendices 5 to 9 refer respectively)**.

i. The RGP Marine Section officers involved in the incident, were stood down and allowed to commence their cycle of rest days and a return to work strategy was implemented which included restricting their duties to non-operational and non-public facing duties. All of the officers were offered professional counselling.

j. On the 10th March 2020, RGP Officers One, Two and Three, met with the PIM, his assistant and GPF representatives. The welfare of the officers concerned was discussed and counselling was requested and this was arranged by management. This took place shortly after through the Gibraltar Health Authority (GHA).

k. The officers met with their legal representative appointed by the GPF.

l. On the 11th March 2020, arrangements were made for RGP officers One, Two and Three, to provide their Stage 4 accounts at the office of the GPF. This was scheduled for the 12th March 2020. That same day, Officer Three, stated that he was fit to return to work.

m. On the 12th March 2020 the PIM was advised that the officers' legal representative in Gibraltar had engaged the services of a PIP Specialist from the UK and the Stage four accounts would be delayed until his arrival to Gibraltar.

n. Assistant Commissioner ULLGER met with the officers at the office of the GPF. The officers were provided with reassurance and welfare support with the intentions of them returning to work as quickly as possible.

o. The Stage four accounts of HMC Officers Four, Five, Six, Seven and Eight were subsequently provided on 12th March 2020 **(Appendices 10 to 14 refer respectively)**.

p. On the 12th March 2020, intelligence was received to the effect that threats had been made against the officers involved in the collision. This included damaging a residence in Spain, linked to one of the officers. As a result of this, the Guardia Civil (GC) contact point for the RGP was informed of this and their assistance sought in trying to provide regular patrols of the address in question.

q. On the 16th March 2020, RGP Officers One, Two and Three, provided their Stage four accounts in the presence of their UK counsel and GPF representatives. They declined to allow officers from the Met Police team to be present during the provision of their account and did not cover all of the areas that they had been asked to by the Metropolitan Police interviewing team, including the location of where the collision occurred and question on the operating of the AIS. **(Appendices 15 to 17 refer respectively.**

r. On the 23rd March 2020, arrangements for the officers to return to work were made on a slow integration basis whilst they continued receiving counselling. They are currently on non-front line duties and their progress is being monitored.

- Officers One and Two were deployed to assist in the RGP stores.
- Officer Three was deployed to Resource Management on the 24th March.

s. The Metropolitan Police Team from the Directorate of Professional Standards is currently investigating the officers' conduct. We are still waiting for their return to Gibraltar and progress this investigation. This has been delayed due to the COVID -19 pandemic and the travel restrictions.

t. At this stage the officers have not been served with formal notices of investigation under the Police (Discipline) Regulations 1991 which is the under consideration of the Metropolitan Police team

5. **Point (ii): The exact location where the incident happened; and Point (iii): Confirmation, therefore, of whether the incident happened inside or outside of BGTW.**

a. Captain MEIKEL (SOLIS Marine Consultants), have produced a Rapid Replay reconstruction using the data that was recovered from the GPS from the suspect RHIB. Below is a screenshot of the situation around the suspected time of the collision **(Appendix 18)**.



b. As can be seen the collision occurred outside of BGTW the limits of which are demarcated on the chart.

c. The actual point of collision is described as point 'B' this being:
   - Latitude 36°10.10 N
   - Longitude 005°12.50 W

d. Capt. MEIKEL cannot make reference to any positions of the RGP interceptor, Sir John Chapple, as its Automatic Identification System (AIS) was not connected during the incident. This contrary to instructions.

e. In his draft report, Capt. MEIKLE **(Appendix 19 refers)** states that the Sir John Chapple intercepted the suspect RHIB in position 36° 11.7'N 005° 18.1'W at around 03:29:15. The collision occurred at around 03:38:56, in position 36° 09.96' N 005° 12.51' W (36° 10.0' N 005° 12.5' W when rounded off to one decimal place of a minute). Therefore, this positions the vessels during the intercept, pursuit and collision in Spanish waters.

f. This coincides with the last position displayed on suspect RHIB's chart plotter (see paragraph 4(i). It is suspected that the loss of signal occurred as a result of the collision whereby the radar mast was damaged.

g. Neither the Gibraltar Port Authority nor WHSS could assist in plotting the course of either vessel as they had not been detected through their AIS tracking. WHSS did, however, record the chase through their infra-red thermal cameras. Although they cannot plot the chase, by referencing to vessels anchored out at sea and captured in the footage, they were able to place the chase outside BGTW.
A statement from Mr. MANDELBERG to this effect is currently being prepared.

h. It is important to note that the AIS (Automatic identification System) of the Sir John Chapple was turned on after it returned to BGTW. The officers were asked to account but did not respond to it in the Stage 4 account.

i. The first plotting of the AIS of the suspect RHIB is out at sea in Spanish Waters. There is no previous plotting, accordingly it is not known with any degree of certainty whether the vessel ever entered our jurisdiction prior to that plot.

6. **Point (v): Copies of any report or reports provided by the Metropolitan Police in respect of this incident as a result of the investigation sanctioned by the Government in relation to the incident.**

a. A brief sit-rep update was received from the Metropolitan Police at 1359hrs on 27.05.20 – **Appendix 90 refers.** In this situation report reference is made to a previous sit-rep dated 23.03.20. The Met team had not shared this with me – this had only been circulated amongst the investigation team and their superiors. At 2025hrs on 27 May 2020, the Met Police SIO emailed the situation report of the 23.03.20 which briefly captures their enquiries in Gibraltar including "liaison with FCO regarding the political situation." **Appendix 91 refers**

7. **Point (vi): Copies of any internal reports or documentation produced to date in respect of the Incident.**

a. A copy of the provisional SIO Policy / Action file, which is issued to manage the investigative response, resources associated with the investigation, strategies and procedures to be adopted is included at **Appendix 39.**

b. The Post incident Manager's (PIM) log where he recorded information available to him as to the incident, as well as actions, assessments and decisions made by him and the rationale behind them is included at **Appendix 1.**

c. The custody records of the two survivors, [redacted] and [redacted], who were arrested on the date of the incident are included at **Appendices 37 and 38.**

d. Marine Collision expert Capt. MEIKLE from SOLIS Marine Consultants has produced a draft report following his examination of both vessels on the 14th March 2020 and subsequent examination of the navigational systems, His draft report was received on the 30th April 2020 and is included at **Appendix 19.**

e. His provisional conclusions are summarised hereunder, however, they are under having been subjected to comment by MPS and RGP:

I. 'SIR JOHN CHAPPLE' intercepted the 'SUSPECT RHIB' in position 36° 11.7'N 005° 18.1'W at around 03:29:15. The collision occurred at around 03:38:56, in position 36° 10.0' N 005° 12.5' W. The intercept, pursuit and collision took place in Spanish waters.

II. It would have been clear to the officers on board 'SIR JOHN CHAPPLE', as they were familiar with the waters, even when navigating by eye that they were well outside of BGTW.

III. 'SIR JOHN CHAPPLE's starboard bow collided with the port quarter of 'SUSPECT RHIB'. The speed of 'SIR JOHN CHAPPLE' led it to pass over the top of 'SUSPECT RHIB' during the collision and, once clear, landing on their starboard side at an angle which led to the water ingress into the cabin.

IV. It cannot be stated with any certainty who the coxswain of 'SUSPECT RHIB' was; however, it is likely to have been [redacted]. The crewman in seat two was, by elimination, likely to be [redacted], who died shortly after the collision.

V. It is not known why the two forward jockey seats on 'SUSPECT RHIB', where the two dead crewmen were seated, had very little damage when compared with the heavily damaged aft two seats.

VI. To establish, with greater certainty, the angle of incidence, and the path of 'SIR JOHN CHAPPLE' in relation to 'SUSPECT RHIB' additional modelling of the two vessels would be required. The creation of 3-D models using Rhino software could be utilised to show the relative positions and aspects of the two vessels prior to, during, and after the collision. (This has now taken place).

VII. Officer One did not turn on 'SIR JOHN CHAPPLE's AIS for the duration of the operation in contravention of Marine Section Instructions.

VIII. The crew of 'SIR JOHN CHAPPLE', in not using all the available navigation equipment showed a poor standard of navigation.

IX. The Instructions stated that the safety of the crew was the priority; however, the crew of 'SIR JOHN CHAPPLE' in continuing to pursue at very close range, with limited visibility, and unable to respond to a quick turn by the 'SUSPECT RHIB' did not comply with those Instructions.

X. There was no proper training in pursuits of suspect vessels for the coxswains who would be required to take evasive action. (*This is not our understanding and is subject to review. We believe that the training provided deals with this area of seamanship).*

XI. From the evidence reviewed to date, it appears that Marine Section managers did not have an effective oversight of how their patrols were being carried out. *(This is currently being further looked into by Capt Meikle in respect of job descriptions and governance of the unit).*

XII. Once Officer One realised that there was immediate risk to life, he should have broadcast a Mayday relay call to all vessels in the area.

XIII. The Instructions and guidance provided to the Response Teams, oversight of operations (patrols and high-speed pursuits) and the management's review processes should be better understood.

XIV. A study of AIS data, over a period of several months would provide an insight into the operating patterns of these vessels and the frequency at which they operate outside BGTW. (This is taking place).

XV. A review of previous incident reports, investigations and actions taken by RGP senior officers would be beneficial to the investigation. (Currently accessing and being looked into).

XVI. Capt. MEIKEL returned to Gibraltar, with 3D scanning specialists, Visual Skies, to obtain 3D scans of both vessels involved in the incident. These were performed on the 18th and 19th May 2020 and will provide images / animation which will assist in giving a clearer picture of the actual collision impact.

f. **Witness statements** have been obtained from numerous experts, officers and civilians. These include:

- Officers One, Two and Three from the RGP. (Officers were on board the Sir John Chapple, being the vessel involved in the collision, and have provided PIP stages

three and four accounts in respect of the incident). **(Appendices 2 to 4 and 15 to 17 refer).**

- HMC Four, Five, Six, Seven and Eight from HMC. (Officers were on board HMC Seeker and provided assistance to transport the casualties on board the suspect RHIB to the GGMS – PIP stages three and four accounts). **(Appendices 5 to 14 refer).**

- Paramedics Fabian FERRO, Paul WATSON and Sigurd HAVELAND from the GHA. (Involved in the treatment and triage of the three crewmembers of the suspect RHIB who were transferred to the GGMS by HMC. WATSON and HAVELAND also recognised life extinct on both the deceased). **(Appendices 33 to 36 refer).**

- GDP Communications Assistant Daniel FERRO GDPC 105 KILPATRICK, from WHSS. (Officers manning WHSS on the night of the incident. They make initial call to RGP informing them of suspect vessel. The movements of the suspect vessel and part of the chase is monitored by them through thermal cameras. Following the collision, they are contacted by the RGP crew and informed of the Incident involving a fatality **(Appendices 20 to 22 and 30 and 31 refer respectively).**

- Emergency Medical Technicians (EMT) from the GHA, Stuart RYAN, Tanya NOGUERA, Leslie BRUZON and Paul LLANELO, together with Care Assistant Wilson OLVEIRA. (Involved in the triage and treatment of the three crewmembers of the suspect RHIB who were transferred to the GGMS by HMC). **(Appendices 42 to 46 refer respectively).**

- Damian CHIPOLINA and Jose Luis MOLINA RUS from Tarik Shipping Services Ltd. (They were on board a service vessel in the eastern side on the night of the Incident and witnessed blue flashing lights at a distance. The time of this, was post collision. Nothing else was witnessed by them). **(Appendices 47 and 48 refer respectively).**

- Robert COLLIS and Dylan SHARP from Tarik Shipping Services Ltd (Did not provide witness statement but gave the same account as Damian CHIPOLINA and Jose Luis MOLINA RUS. COLLIS further provided the RGP with a small video clip he had taken of blue lights being seen at a distance. A file note of this was made). **(Appendices 75 and 76 refer).**

- Daniel RUDMAN, Chief Metrological Officer. (Provides information on weather and sea conditions on the night of the Incident). **(Appendix 49 refers).**

- Philip MANDELBERG from the Gibraltar Port Authority. (Produces screenshots showing coordinates supplied by the RGP and explains that the Port Authority could not track the course taken by the RGP or suspect RHIB vessel during the incident). **(Appendix 50 refers).**

- PC 117 FORTUNATO from the RGP. (Duty controller at CAD who received calls from Officer ONE following the fatal collision at sea). **(Appendix 27 refers).**

- PS 6 STONE from the RGP. (Duty Crown Sergeant who was apprised of the situation by Officer One, following the fatal collision at sea. He also arranged for assistance to be provided by HMC and the GHA). **(Appendix 28 refers).**

- PC 167 RISSO from the RGP. (Duty controller at CAD who received a telephone call from Officer One prior to the incident and also witnessed PS STONE and PC FORTUNATO dealing with incoming calls from Officer One). **(Appendix 60 refers).**

- PC 182 VICTOR from the RGP. (Formed part of the initial RGP investigating team). **(Appendix 51 refers).**

- Insp John LUTKIN from the RGP. (Duty Officer on the night of the incident). **(Appendix 58 refers).**

- PCs 71 CANEPA and 100 O'FLAHERTY from the RGP. (Both officers assisted with the casualties upon their arrival at the GGMS. PC CANEPA also recognised life extinct on ABDESELAM AHMED). **(Appendices 32 and 52 refer respectively).**

- PCs 175 LANE, 216 YEO, 63 MYHILL, 55 CHAPPORY from the RGP. (These officers from the Area Response Team on duty on the night in question, provided assistance as and when requested in respect of the incident, such as covering crime scenes). **(Appendices 53, 55, 56 and 57 refer).**
- DC 127 GARCIA-WHITE from the RGP. (The officer obtained copies of the CT scans performed on the bodies of both deceased). **(Appendix 59 refers).**

- DC 169 KINGSLEY from the RGP. (Translated the witness statement from Jose Luis MOLINA RUS from Tarik Shipping Services Ltd, from the Spanish into the English language). **(Appendix 54 refers).**

- PC 186 PARKER from the RGP. (Obtained audio files from CAD containing the calls made from and to Officer One, following the collision at sea). **(Appendix 61 refers).**

- Iain UNDERY, VTS Supervisor from the Gibraltar Port Authority. (He receives a report from Tarifa Traffic, informing him that they had received a call from an unknown person reporting that there had been a serious incident off La Atunara). **(Appendix 29 refers).**

g. **Coroner's officer**, Insp Sean Perera, has been providing briefing notes/updates on the coroner's investigation to Supt Richardson, since the 21st April 2020 **(Appendix 63 refers)**. This includes and is not limited to:

- Communication between the RGP and the officers of the MPS Directorate of Professional Standards, tasked in investigating this Incident, including requests made by either side, supplying of any material of evidential value to the investigation, etc.

- Communication between the RGP and the legal representatives of both the families of the deceased and the survivors. Amongst other things, this has seen local counsels from VERRALLS, requesting/demanding for information on this investigation, requesting the return of property and for their own experts to be allowed to carry out examinations of both vessels involved in the collision.

- Communication with HM Coroner and the Coroner's Officer. This includes updates on the investigation or anything relating to the incident, proposals and requests for authorisation to be granted to open up other lines of enquires, authorisation for costs/expenses which might be incurred during the investigation to be met or deferred to another party. Communication and actions/findings by the marine expert commissioned to investigate this matter. Informing of requests made by the Spanish authorities and legal representatives of the families of the deceased and the survivors and advice on how to proceed.

- Anything else of interest or crucial to the investigation.

8. **(a) Point (vii): Copies of any incident logs that may have been kept of the actions in respect of the Incident.**

   (b) Point (viii): Copies of any call logs that may have been kept of the actions relating to the Incident.

   a. A CAD log, with serial number CD/20/00018587/P, was immediately opened by the RGP duty controllers following the initial telephone call made to them by Officer One. This was at 03.45:41hrs on the 8th March 2020, following the collision at sea, during which he reported a fatality **(Appendix 64 refers)**. The RGP has no ability to record radio traffic.

   b. All telephone calls since then relating to the incident, including relevant information received and subsequent deployments and the call out of off duty officers were recorded. This includes Officer One, speaking with the duty Crown Sergeant, and informing him of the chase of a RHIB, at approximately 3 miles off Europa Point and culminating in a collision where a person had died and another was seriously injured. During the conversation the officer requests the ambulance to await their arrival at the GGMS, as they tow the suspect RHIB. This call log was closed at 07.16:42 hrs as a

result of instructions given by the PIM in order to afford anonymity to the officers on the Sir John Chapple **(Appendix 1 refers)**.

c. Whilst this was occurring, a second call log was opened with serial number CD/20/00018589/R at 07.13:50 hrs **(Appendix 65 refers)**. As with the previous log, anything relevant to the incident was recorded.

d. Audio files from CAD containing the recording of the calls made from and to Officer One immediately after the fatal collision were also secured **(Appendices 61 and 66 to 69 refers)**. Transcripts of the conversations have been produced **(Appendices 70 to 73 refers)**.

e. The provisional SIO, Policy/action files, which records decisions, tasking and rationale is included at **Appendix 39:** These include:

- Policy File 11126: Offers an introduction into the Incident and initial briefing provided by the Duty Officer. As a result of this COP and other SMT officers were contacted.
- Policy File 11127: Stipulates Gold Command / role designation.
- Policy File 11128: Requires for the identity of the deceased and persons detained on board suspect RHIB; Carry out forensic and retrieve clothing; Crime Scene forensics and securing; and arrest strategy and obtain evidence by questioning.
- Policy File 11129: Requires liaison with PIP Manager and obtaining initial accounts from the crew on board the Sir John Chapple and HMC Seeker; GPF in attendance assisting PIMs assistant; and deployment of FLO.
- Policy File 11130: Enquiries with Spanish counterparts to identify next of kin of the deceased, evidence gathering and establishing exact location of Incident.
- Policy File 11131: Consider resilience issues to secure PMB, GHA and NMH.
- Policy File 11132: Media strategy.
- Policy File 11133: Enquiries with WHSS, Port Authority and Tarifa Trafico.
- Policy File 11134: Consider ECHR implications and by extension the Gibraltar Constitution.
- Policy File 11135: Secure audio files from CAD and PMB appertaining to the Incident.

- Policy File 11136: Intrusive search of vessel through HMC.
- Policy File 11137: Obtain expert collision report.
- Policy File 11138: Enquiries with PMB.
- Policy File 11139: Expedite and facilitate repatriation of the bodies of the deceased.

The contents for each specific task is contained within **Appendix 39.**

9. **Point (ix): Details of any conversations or other operational communications with Spanish law enforcement or other agencies and whether that led to any actual or tacit invitation to enter the Spanish Territorial Sea, providing exact details of such actual or tacit invitation, or the absences thereof.**

a. The initial call which initiated the actions taken by the RGP crew of the Sir John Chapple, came from WHSS **(Appendices 15, 20, 23, 30 refer)**. According to the call logs from the mobile telephone held by the RGP officers, this was at 0238 hrs on the 8th March 2020 **(Appendix 23 refers)**. The officers were informed of a suspect vessel seen in the eastern side without navigational lights. The vessel was first spotted by the WHSS personnel at approximately 3 to 4 miles out of BGTW. WHSS personnel were then instructed to keep observations on the vessel.

b. Following this, the RGP crew contacted GC COS. According to the call logs, the first call to them prior to the actual chase, was at 0308 hrs. During the conversation, it was confirmed by the GC that they were monitoring the vessel. Officer One states that the GC informed that there was a large RHIB heading at speed towards land **(Appendix 15 and 24 refer)**.

c. As a result of the observations being carried out by WHSS, on their thermal imaging cameras they observed the suspect vessel heading towards the Atunara Port, where they were met by a smaller vessel. This information was relayed to the RGP crew at about 0315 hrs **(Appendix 20 refers)**.

d. According to Officer One, as the Sir John Chapple arrived at the eastern side, they received two further calls from the GC. This is captured on the call log as being at 0320 hrs and 0322 hrs **(Appendix 23 refers)**. In the first of these two calls, they were informed by the GC that the suspect RHIB was by the breakwater at La Atunara carrying out what they believed to be a crew change and food resupply. The call that followed, according to Officer One, was for the RGP vessel to remain at their current position. He was then requested to head east **(Appendix 15 refers)**.

e. The call logs show further calls being made to the RGP Marine Section mobile telephone by both WHSS and the GC **(Appendix 23 refers)**.

f. Officer One reports that soon after the collision, the GC contacted him but he does not recall the conversation **(Appendix 15 refers)**. The call logs show two calls at 0338:47 and 0339 hrs from the GC to the RGP crew **(Appendix 23 refers)**. (NB. according to the marine expert's draft report, the collision between both vessels took place at around 0338:56 hrs **(Appendix 19 refers)**). Officer One advises that he received a call from the Gibraltar Port Authority but again does not recall the conversation.

g. According to WHSS personnel, they received a call from the RGP crew informing them of the collision and that there was a fatality and possibly another and that they were returning with the suspect RHIB on tow **(Appendix 20 refers)**.

h. Following the incident, the GC contact point in Algeciras contacted the RGP requesting information, including the identity of the crewmembers on board the suspect RHIB. He was informed that as soon as they were in a position to provide the necessary information it would be supplied to them. Shortly after, an RGP contact officer was appointed and the GC were provided verbally with the identity of those concerned. Their assistance was requested in order to notify the next of kin of each of the deceased. The GC was also requested to provide information as to the vessel's positioning data and the previous convictions of the occupants on the suspect RHIB **(Appendix 77 refers)**. An email followed from the RGP to the GC contact point, requesting once again any previous convictions, any existing GC incident report and the vessel radar positioning data. In relation to this, only the previous convictions were provided **(Appendix 78 refers)**.

i. On the 9th March 2020, the GC contact point with the RGP was specifically asked if it had been the GC or the RGP who had initiated contact on the night in question in respect of the suspect RHIB. He replied that according to the information available to him, it was the RGP Marine Section who had contacted COS enquiring as to the RHIB. The RGP was informed by the contact point them, that the GC were already monitoring the vessel on their cameras **(Appendix 24 refers)**.

j. On the 12th March 2020, following on from an SIO tasking **(Appendix 81 refers)** and in order to try and establish the location of the Incident, it was decided to enter Spanish waters with the authority of the GC COS on a RGP vessel and try and ascertain if there was radio and telephone coverage. A number of positions were tested surrounding the coordinates were the collision took place. Coverage was available on all locations, except on one of them were only emergency calls were able to be received or made. **(Appendix 79 refers)**. Subsequently whilst this was taking place, the GC despite having granted

authority previously, made contact with the RGP vessel and questioned their reasons for being in Spanish waters. An explanation was given to them and accepted. The RGP terminated their line of enquiry and returned to BGTW.

k. On the 16th March 2020, the GC contact officer informed the RGP that the vessel's positioning data would be supplied once available **(Appendix 80 refer)**.

l. Notwithstanding the account of Officer One which indicates certain directions given to them by the GC, there is no evidence to suggest that there was any actual invitation to enter Spanish Territorial Waters. To accept such an invitation would contravene RGP instructions.

10. **(a) Point (x): A statement (or copy if they are in printed or printable form) of what standing instructions are given to officers in respect of operations outside of BGTW.**

(b) Point (xi): Copies of any such or any other relevant instructions or other standard operating procedures.
(c) Point (xii): Documentation or confirmation in writing of the instructions provided to officers of the Marine Section by senior management as to the procedures to be followed when suspects who are being chased inside BGTW fail to stop and exit BGTW and what position the RGP take or have taken (until the time of the Incident) in respect of 'hot pursuit' from BGTW into International Waters, Spanish Territorial waters and / or into Moroccan Territorial Waters and on what basis and on what advice such a position , if any, has been taken. (It is essential for the Government to understand what training was provided to the officers in question in respect of their ensuring that they operated solely within the territorial limits of Gibraltar. I want to know what the RGP's standard operating procedures are in such instances).

a. [redacted]

b.

c. In respect of drugs and human trafficking officers are to patrol BGTW and should officers encounter any suspect vessels then they will be pursued in a determined and safe manner within territorial waters and to liaise with the Spanish Authorities.

d. These instructions cover other such topics as incursions by Spanish state vessels, Search and Rescue operations, summer bathing season, health and safety and fishing vessels. **(Appendix 82 refers).**

e. On the 17th February 2016, officers were reminded via email of the extant instructions in relation to not patrolling outside BGTW other than in a search and rescue operation. Officers were also informed that the vessel in which the officers are carrying out patrols must have the Automatic Identification System (AIS) on at all times. ***This document can be found at Appendix 83.***

f. On the 8th of July 2016, the Marine Section Instructions were updated and provided to the duty crew members. These instructions cover various topics concerned with carrying out duties within BGTW. **(Appendix 84 refers).** The instructions state that the objectives of any RGP marine crew are to only operate in British Gibraltar Territorial Waters (BGTW) and are to provide:

- Reassurance of beach users and legitimate seafarers.
- Prevention and detection of crime at sea and law enforcement.
- Support Royal Navy challenges to sovereignty.
- Support Environmental Agency operations.
- Support HM Customs and GDP Operations.

International Waters

Officers are not authorised to operate outside BGTW and in International Waters unless when responding to a situation as described below:

- Participating in a Search and Rescue Operation
- Responding to an incident where there is an imminent and serious risk to life.

Spanish Territorial Waters

Officers are not authorised to operate outside BGTW and in Spanish Waters unless when responding to a situation as described below:

- Participation in a search and rescue operation at the invitation of Spanish Authorities.

The instructions go on to cover such areas as the Rules of Engagement with Spanish Law Enforcement Vessels and Health Safety.

Marine Section Officers were again reminded of the policing instructions (issued on the 28th July 2016) by Sgt Stone on the 16th September 2019. These were followed up by an email from Ch Insp Finlayson to the Marine Section Insp and Sergeant on 21st January 2020. **(Appendix 85).**

Training

a. In [redacted] several officers from the marine section received training and qualified as instructors in boat handling. The bespoke course was endorsed by the Gibraltar Maritime Authority and its syllabus was designed for RGP and HMC marine section officers.

b. In March [redacted] RGP officers delivered this course to a number of RGP officers which included including Officer 1, to certified coxswain level. On successful completion of the course, the candidates would be able to satisfactorily operate twin engine and above RHIB's under law enforcement conditions in a manner which is deemed to be responsible and safe for the coxswains, crews and other users.

c. The course comprises various elements that are outlined in the documents provided to the candidates. These include theory and practical work as well as exam and practical assessment. It is designed around several scheduled mini courses, training days and in-house training during working hours. The course is not time specific and is dependent on the students learning capacity and time constraints placed by operational commitments.

d. Students complete a two day induction course which aims to acquaint the student with the different aspects of work involved in the safe operation of in and around RHIBs, provide an idea of the health and safety requirements and to allow the student to reach a competent level to work on power boats.

e. The student is then required to complete 30 hours of handling a small single engine vessel fitted with a lesser HP engine. The aim is for the student to obtain a decent working knowledge of how to operate a single engine RHIB which would include the approaching and leaving a berth and close quarters manoeuvring.

f. The candidate is then required to complete a further 60 hours on a larger vessel fitted with a fitted higher powered single engine. This will allow the student to observe how what he has learned previously affects a vessel with larger dimensions and engine capacity. The student will also begin to control a vessel with a more powerful engine and will learn how this affects handling in a safe manner.

g. The candidate will be assessed and progression form 1 will be completed, entering all the subjects undertaken with the use of single engine.

h. The student will then complete approximately 60 hours of handling a twin engine RHIB. The student should understand the use of twin engines and engine selection. Students to acquaint themselves with handling a more capable vessel, which possess more power whilst emphasizing its safe operation.

i. Towards the end of this stage the candidate will attend a scheduled training day for an introduction onto pacing. At the end of the stage the candidate will be assessed on progression assessment form 2 entering all the subjects undertaken.

j. The student will undertake a further 50 hours of handling a RHIB of two or more engines, during this stage the candidate should understand the use of several engines and how throttles control these during various manoeuvres. This vessel is much more powerful and should be part of the operational fleet. Practical lessons should also take place during day and night to further enhance the experience of the candidate. The student should continue another scheduled training day to continue the introduction to pacing.

k. The candidate will then proceed onto the final two week qualification course where prior to this stage they should be deemed to be sufficiently competent at handling a RHIB. The course will cover all aspects and material in depth in both practical and theory based lessons. Students will be tested and signed off on the different subjects as they successfully complete them. Candidates must prove to be competent in handling a RHIB at this advanced level of powerboating and be able to plan and navigate Gibraltar waters in different sea and weather conditions during the day and night. The designated assessor must complete the final assessment form.

l. The topics which are covered in two week final qualification course include:

Module 1 – Introduction to Marine Section and Vessel Familiarisation. This is a theory based lesson which allows students to obtain an understanding of their role within the marine section. To familiarise themselves with the type of vessels and equipment carried on board and their general maintenance.

Module 2 – Introduction to Marine Section and Vessel Familiarisation. This is a practical based lesson which allows students to obtain an understanding of their role within the marine section. To familiarise themselves with the type of vessels and equipment carried on board and their general maintenance.

Module 3 – Rope Work. This is both a theory and practical based lesson which enables the students to learn how to perform the different types of knots available and its correct use for different situations – mooring, anchoring, etc.

Module 4 – International Rules for Prevention of Collisions at Sea (IRPCS). This is a theory based lesson which aims for students to acknowledge the importance of observing safety

at sea for themselves and other water users to prevent a collision at sea by understanding the rules of IRPCS.

Module 5 – Buoyage – International Association of Lighthouse Authorities (IALA). This is a theory based lesson which allows students to familiarise themselves with daytime and night-time buoyage signage and their different purposes.

Module 6 – Buoyage – International Association of Lighthouse Authorities (IALA). This is a practical based lesson which allows students to familiarise themselves with daytime and night-time buoyage signage and their different purposes whilst navigating.

Module 7 – Chart work and Navigation. This is both a theory and practical based lesson which provides for students to understand the terms used within a navigation chart to be able to interpret basic techniques in navigation.

Module 8 – Distress Signals. A theory and practical lesson which allows the students to understand the interpretation of each different types of distress signals and how to apply them should they find themselves is a dangerous situation.

Module 9 – RHIB Launch and Recovery – (Use of Trailer and Crane). A theory and practical lesson which is aimed for students to understand the importance of all safety features when launching and recovering RHIB from sea through means of a slipway and trailer or via lifting with a crane.

Module 10 – Controlled Handling Drills – Single Engine RHIB. This is a theory and practical based lesson for students to demonstrate a level of competence in controlled handling and slow speed precision manoeuvres of RHIB's in a confined space.

Module 11 – Rough Sea Passage. A theory based lesson which allows students to understand the importance of controlled speeds of RHIB's in varying weather/ sea conditions and their safety and all of others on board.

Module 12 – Rough Sea Passage. A practical lesson for students to demonstrate competency in the safe and controlled handling approach of RHIB's at various speeds in varying sea/ weather conditions. To develop an understanding of when to "Power On" and "Power Off".

Module 13 – Anchoring. Both a theory and practical based lesson for students to understand the correct use of anchor and anchor line depending on seabed and/ or weather conditions.

Module 14 – Man Overboard Manoeuvres & Casualty Rescue. A theory based lesson which teaches students the importance of safety of everyone on board a RHIB and of the

consequent rescue approach and procedures should a casualty fall overboard from a moving RHIB.

Module 15 – Man Overboard Manoeuvres & Casualty Rescue. A practical lesson which requires the student to achieve an understanding of the procedures required to perform a man overboard rescue. Students to be able to demonstrate their competence in demonstrating the above.

Module 16 – Search and Rescue Patterns. A theory based lesson which requires the students to understand how to apply correct search and rescue pattern methods whilst observing own safety. Factors to consider i.e. weather conditions, number of casualties and communications with other agencies.

Module 17 – Search and Rescue Patterns. A practical based lesson which allows students to demonstrate their competence in the correct application of the different search and rescue pattern methods.

Module 18 – Controlled Handling Drills – Twin Engine RHIB. A theory and practical based lesson for students to demonstrate a level of competence in controlled handling and slow speed precision manoeuvres of RHIB's in a confined area.

Module 19 – Prisoner Handling. A theory and practical lesson which allows students to understand the importance of their own safety and that of prisoners when on board a RHIB.

Module 20 – Towing. A theory lesson which provides for students to understand the importance on towing methods in relation different types of vessels and emergency situations.

Module 21 – Towing. A practical based lesson for the students to demonstrate competency in the safe and controlled handling of different towing situations involving small crafts.

Module 22 – Climbing a Pilot Ladder. Both a theory and practical based lesson for students to understand the importance of all safety aspects when climbing a pilot ladder and dangers involved.

Module 23 Pacing Manoeuvres- A) Pacing Parallel B) Pacing Alongside. This is a theory based lesson for students to achieve and understanding of the skills required to perform pacing manoeuvres; parallel and alongside.

Module 24 Pacing Manoeuvres- A) Pacing Parallel B) Pacing Alongside. A practical lesson which allows students to demonstrate a safe handling of vessels when performing pacing

manoeuvres in following areas; a) when performing the approach, b) parallel pacing of target vessel, c) coming alongside target vessel, d) departing target vessel.

Module 25 Helicopter SAR Recovery Operations. A theory based lesson which enables the student to demonstrate an understanding of safety aspects and the dangers involved during helicopter operations and the actions to be taken; a) prior to the helicopters arrival b) during the helicopters approach c) whilst recovering a casualty d) on the helicopters departure.

m. Upon completion of the course the officers are presented with their certificates relating to the different topics covered in the syllabus. These include RYA qualifications of Day Skipper/ Watch Leader and an RYA Radar Course, Personal Survival techniques, Fire Prevention and Fire Fighting, Personal Safety and Social Responsibilities, First Aid and Coxswain Certificates covering the different stages of the RHIB Handling Course. Redacted Copies of certificates presented to Officers One and Two are available **(Appendices 86 and 87 refer respectively).**

n. It should be noted that although there is no specific lesson plan for Fast Speed Handling, it is mentioned as part of the competency criteria and both officers were accredited with these qualifications as the certificates show. It is expected that this will be clarified by the Metropolitan Police investigation team when they interview the officers and trainers.

o. Officer 3 was only covering marine section duties on the night in question and had no prior marine experience. He has only received first aid training which forms part of the core RGP syllabus prior to commencement of operational duties **(Appendix 88 refers).**

p. The instructors keep the training manual of students, which shows that the officers have been signed off in the relevant sections required to complete the course.

q. The manual for Officer Two is included as **Appendix 89** however the record for officer one cannot be located as it has been removed by some person(s) fro the marine section filing system. That said, there is evidence that he has passed these courses by the production of the certificates (see **Appendix 86**).

r. Officer One has stated he had no hot pursuit training and this was repeated by Capt. MEIKLE in his report. We have asked the Captain what course he was referring to and that would capture hot pursuit training. Capt. MEIKLE was unable to answer this as he did not know. The officers from the Metropolitan Police Service have been written to, asking them to consider looking into this area. It could well be that our local training course captured

this area either in the pacing or fast speed handling competency area that is recorded in the manual. They would need to approach our trainers if they have not already done so.

Point (xiii): Alternatively, an explanation of why no such position has been taken, given the prevalence of such activities.
Answer: Not applicable. (See answers for Points (x), (xi) and (xii)).

11. **Point (xiv): What assessment senior management have made of such operations occurring, in particular where there is not an express invitation from another police force (whether that is the Spanish police force or the Moroccan police force) for operations to continue outside of BGTW in Spanish Territorial Waters, International Waters or Moroccan Territorial Waters. (The Government is very concerned to understand what the Senior Management Team of the RGP has done in respect of continued incidents of operations outside of BGTW before the events in questions and thereafter, in particular if there has been any change in standing instructions or posture as a result).**

    a. [redacted]

    b. Since 2016 the RGP do not **authorize** any deployment outside BGTW including at the request of a foreign LEA.

    c. The **only exception** would be to assist the Gibraltar Port Authority in a search and rescue operation.

    d. To date, there have been many instances where we have undertaken chases out at sea and within BGTW. The moment the pursued vessel departs our waters we have disengaged allowing the vessel to escape.

    e. We have also monitored many vessels passing outside our jurisdiction without us being involved, we have solely shadowed them from within our limits and deterred them from coming into our jurisdiction.

12. **Point (xv): Any other relevant information, reports or documents (whether existing in documentary, printed or digital form) which the RGP consider the Government should have available in considering the facts and matters which arise from the Incident and planning to address the same in the Public Interest of Gibraltar.**

    A timeline and supporting documentation including list of appendices have been included.

On the 11th May 2020, it was brought to my notice that a Spanish Parliamentary question had been asked by VOX and responded to by Government. I emailed you, the AG and MOJ advising you of this.

Toxicology results have been received for the deceased [redacted] on 27th May 2020. These have been forwarded to the forensic pathologists. [redacted] the toxicology report for the deceased [redacted] are not expected until the 10th of June 2020.

You will have noted that in this report I have referred to the RGP crew as Officers one, two and three. However, because of the limited time to produce this report for you, I have been unable to redact any reference to their identities in the appendices. I would therefore respectfully ask that you bear this in mind when handling these documents with a view to continue safeguarding their anonymity.

Whilst the above points are factual and I hope will satisfy the requirements you asked of me, we are still awaiting the final report and/or further actions from the independent team and marine expert. The latter's conclusive report is expected around mid June 2020.

Should any points in this report require further explanations, I will endeavour to provide them.

Yours sincerely

Ian McGrail OTM MSc
Commissioner of Police

OP Kram (collision at sea incident) Time-line

Serial No.	Date	Time	Action	Comments
1.	07/03/2020	2200hrs	Officers 1, 2 & 3 parade for duty at New Mole House Police Station where they are briefed as to their deployment and subsequently return to GGMS. They deployed on the Sir John Chapple to Ocean village where the officers carry out foot patrols of the Marina area.	**(Can be found in appendix 15,16 & 17)** officers Statements).
2.	08/03/2020	0200hrs	Afternoon (P) Shift Marine Crew terminated their tour of duty.	**(Can be found in appendix 15,16 & 17)** officers Statements).
3.	08/03/2020	0200hrs	WHSS observes suspect RHIB on Thermal Camera however it is too far away to identify the vessel. It is suspected that the vessel id 3-4 Nautical Miles out of BGTW.	Daniel Ferro mentions this in his statement **(appendix 20)**
4.	08/03/2020	0235hrs	Suspect RHIB heads towards the Spanish Port of La Atunara, La Linea, from its position of 11 nautical miles to the east.	Solis Draft Report based on data obtained from suspect RHIB navigational equipment **(Appendix 19)**. Daniel Ferro states that at 0250hrs he sees vessel heading towards Spanish mainland **(appendix 20)**
5.	08/03/2020	0238hrs	Call from WHSS to RGP PMB Mobile phone. Officer 1 answers phone and receives report of a suspect RHIB seen on the eastern side approximately 3 to 4 miles out of BGTW. Call 1 02:38:02 (Duration 1:21) Call 2 02:39:12 (Duration 1:21)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23)**
6.	08/03/2020	0306hrs	PMB Calls WHSS. (Duration of call 1:47)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23)**
7.	08/03/2020	0308hrs	Officer One contacts Guardia Civil COS informing them about the information received from WHSS during which time the GC confirm they were monitoring the vessel. (Duration 01:32)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23)**
8.	08/03/2020	0309hrs	Officer One contacts WHSS and confirms that GC are monitoring suspect RHIB and RGP Crew will deploy to Eastern Side of Gibraltar. AIS device not activated. (Duration 00:50)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23).** Daniel Ferro confirms the call to WHSS however he puts the time "at

				about" 0300hrs **(Appendix 20).** GDP PC Kilpatrick also provides the time frame of "at about" 0300hrs **(Appendix 30)**
9.	08/03/2020	0315hrs	WHSS on their cameras observe suspect RHIB heading towards Atunara Port where they were met by a smaller vessel. Information relayed to the RGP crew. Call 1 03:11:36 (00:17) Call 2 03:12:47 (00:17) Call 3 03:15:27 (00:18) Call 4 06:16:38 (00:18)	Mentioned in statements of Daniel Ferro and GDP PC Kilpatrick. On Officer 1 being informed of the observations, he confirms to WHSS that GC are keeping him informed **(Appendices 20 & 30).** The Gibtelecom logs for the PMB mobile shows four calls originating from 20055000. **(Appendix 23)** these are MOD telephone numbers which although suspected to refer to calls from WHSS, this cannot be confirmed as they could be MOD exchange numbers. It could not be established which one of the calls the info was relayed. No mentions are made by any officers in their statements of the numerous calls made to PMB mobile during this time frame. This information is reflected in the Solis Report this provides a time of 0316hrs **(Appendix 19).**
10.	08/03/2020	0320hrs	GC Contacts PMB, as they arrive at Eastern Side. Informs crew that the suspect RHIB was by the breakwater at Atunara Port carrying out what they believed to be a crew change and food re-supply and advises PMB to head east. (Duration 46sec)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23)**
11.	08/03/2020	0322hrs	GC Contact PMB and informed RGP vessel to remain at their current position as the Suspect RHIB is heading towards them. (Duration 46 Sec)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23)**
12.	08/03/2020	0326hrs	Suspect RHIB with four crew on board, depart the Port of Atunara and heads initially north and then onto a north easterly heading away from the Spanish Coast.	Solis Draft Report based on data obtained from suspect RHIB navigational equipment **(Appendix 19).** Daniel Ferro & GDP PC Alan Kilpatrick's statements **(Appendices 20 & 30)** put this event at about 0330hrs.

13.	08/03/2020	0324hrs – 0325hrs	Three calls made to PMB by WHSS. 1. 03:24:08 (36 Sec) 2. 03:25:19 (36 sec) 3. 03:25:22 (16 sec)	There is no mention of these calls in the officers' statements. The details of these calls have been obtained from the call log **(Appendix 23).** The Gibtelecom logs for the PMB mobile shows three calls originating from 20055000. These are MOD telephone numbers which although suspected to refer to calls from WHSS, this cannot be confirmed as they could be MOD exchange numbers.
14.	08/03/2020	0325hrs	Three calls made by GC COS to PMB Mobile. 1. 03:25:26 (No Duration) 2. 03:25:37 (No Duration) 3. 03:25:48 (No Duration)	According to the call logs **(Appendix 23)** these show no duration to the calls. It may be that the officer never answered the phone at this stage. The officers also make no mention of this in their statements.
15.	08/03/2020	0326hrs	(03:26:15) Call made by WHSS to PMB (Duration 14 Sec)	There is no mention of this call in the officer's statements (Both RGP and WHSS). The details of these calls have been obtained from the call log **(Appendix 23).** The Gibtelecom logs for the PMB mobile shows one call originating from 20055000. This is an MOD telephone number which although is suspected to refer to calls from WHSS, this cannot be confirmed as they could be MOD exchange numbers.
16.	08/03/2020	0326hrs	(03:26:17) GC COS calls PMB (No Duration)	There is no mention of this call in the officer's statements. The details of this call have been obtained from the call log **(Appendix 23).**
17.	08/03/2020	0326hrs	(03:26:33) Call made by WHSS to PMB Duration 16 secs	There is no mention of this call in the officer's statements (Both RGP and WHSS). The details of these calls have been obtained from the call log **(Appendix 23).** The Gibtelecom logs for the PMB mobile shows one call originating from 20055000. This is an MOD telephone number which although is suspected to refer to calls from WHSS, this cannot be confirmed as they could be MOD exchange numbers.

18.	08/03/2020	0326hrs	3 Calls made from GC COS to PMB at the following times: 03:26:37 No Duration 03:26:48 No Duration 03:26:59 No Duration	There is no mention of this call in the officer's statements. The details of this calls have been obtained from the call log **(Appendix 23).** There is not duration to call.
19.	08/03/2020	0327hrs – 0339hrs	Calls made from GC COS to PMB at the following times: 03:27:12 20 Secs 03:27:25 15 secs 03:27:28 (No Duration) 03:28:22 20 secs 03:38:16 14 secs 03:39:27 14 secs	There is no mention of this call in the officer's statements. The details of this calls have been obtained from the call log **(Appendix 23).** There is not duration to call. The two calls at the end of the list are close to the time of the collision 03:38:56 according to the SOLIS draft report **(Appendix 19).**
20.	08/03/2020	0329hrs	The Sir John Chapple intercepts the Suspect RHIB at Coordinates 36° 11.7'N 005° 18.1'W. Blue beacons activated on PMB. Suspect RHIB performs evasive and dangerous manoeuvres and objects were thrown at Police Vessel by suspect RHIB crew members.	The coordinates and timings are provided from the SOLIS draft report which has been obtained from the suspect RHIB's navigational equipment **(Appendix 19).** According to WHSS the intercept occurs at 0332hrs **(Appendix 20, 30 & 74).** According to officer 1, PMB commenced to follow the suspect RHIB after the suspect RHIB passed in front of the bow of the PMB at a distance of about 5-10metres **(Appendices 15, 16 & 17).** This contradicts the direction of the suspect RHIB as Meikle's report evidences. Officer one states the vessel is travelling south east and officer three states it was travelling south. WHSS also state that they can observe PMB blue beacon illuminated during the chase. This was also confirmed by the PMB officers and Bruno Miguel Gomes Sereno (one of the persons arrested). During the course of the pursuit crew members from the suspect RHIB began to throw objects at the PMB according to the statements from the PMB officers. It has also been noted in

				the officers' statements and the statements obtained from WHSS that the suspect RHIB carried out erratic and evasive manoeuvres. In the SOLIS report these movements are described as sharp turns.
21.	08/03/2020	0338hrs	According to the marine expert, the collision occurred at around 03:38:56, in position 36° 09.96' N 005° 12.51' W	Initially we are provided similar coordinates by the GC as a result of a telephone call made by DI Chipolina **(DI Chipolina File note)** Subsequently we photographed the suspect RHIB's radar signal lost screen and this provides us with a suspected collision coordinate but we could not interpret this data as we did not have an understanding of the unit and had no expertise in this field. This was subsequently verified by Capt. Meikle in his SOLIS draft report. **(Appendix 19).** According to WHSS the pursuit ends at 0342hrs **(Appendix 20, 30 & 74).** Thermal imagery The officers' statements also make reference to the collision and end of the pursuit but they do not provide a time and location.
22.	08/03/2020		Immediately after the collision PMB turns to the suspect RHIB and comes alongside. Officers 1 & 2 jump onto the suspect RHIB and begin to offer medical assistance, after observing the fatality and the seriousness of the second casualty it was decided to convey the persons back to GGMS via towing the suspect RHIB where they could receive medical attention.	These accounts are from officers 1, 2 & 3 **(appendices 15, 16 & 17).** The decision to not leave any officer on board the suspect RHIB was taken by officer one as he feared for their safety and also taking into account that he and his crew were suffering from shock. There is no mention of calling a May Day by the officers.
23.	08/03/2020	0339hrs	PMB call GC COS at 03:39 (duration 15 seconds)	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23).**
24.	08/03/2020	0343hrs	PMB calls WHSS and informs them of the collision with one fatality and a second person seriously injured. Duration 1:10	Officer's 1 statement **(Appendix 15)** does not provide a specific time for this event and the time is based on the call log from Gibtelecom **(Appendix 23).** None

				of the officer's mention calling a May day and this is evidenced in the Solis report. This is also reflected in Daniel Ferro and GDP PC Kilpatrick's Statements **(Appendix 20 & 30).**
25.	08/03/2020	0345hrs	PMB calls GC COS. The duration of this call is about 44 seconds; however the contents of the conversation is unknown.	There is no Specific mention of this Call by officer 1 however it has been identified from the Gibtelecom call logs **(Appendix 23).** Officer 1 states in his statement that he receives a call (contrary to the telephone log) from the GC COS. He further states that he cannot recall the conversation, he just remembers this being about "something to do with "la Roca" or "enfrente la Roca" **(Appendix 15).**
26.	08/03/2020	0346hrs	Sir John Chapple heads back to Gibraltar with suspect RHIB on tow.	This time has been identified by the SOLIS Draft Report **(Appendix 19).** Officer one's statement makes mention to suffering engine failure following the collision **(Appendix 15)** along
27.	08/03/2020	0348hrs	PMB calls RGP NMH and informs the duty crown sergeant of the incident and one fatality with a second seriously injured and request ambulance to await arrival at GGMS. Duration 2:24	Although the officer does not make mention of the time, the information in this section is obtained from officer 1's statement **(Appendix 15).** The time of the call has been retrieved from the Gibtelecom phone logs **(Appendix 23).** The Police CAD Logs and PC 117 Fortunato provide a time of 0345hrs **(Appendix 64 & 27).** PS Stone states that he was passed the phone call about 0400hrs **(Appendix 28).** Officer one explains to PS Stone that they had been involved in a chase of a smuggling RHIB approximately 3 miles off Europa Point. This is mentioned in the CAD log **(Appendix 64).** This also explains Officer 1's rationale as to why he did not want to leave an officer aboard the suspect RHIB in case further medical attention was required.

28.	08/03/2020	0350hrs	PS 6 Stone contacts Duty Officer, (Insp Lutkin) and informs him of the incident. Inspector Returning to duty and attending Marine Base.	PS Stone's **(Appendix 28)** statement does not provide a time that he informed the Duty Inspector, however the time presented is taken from the notes made in the CAD Log **(Appendix 64).** Inspector Lutkin's statement **(Appendix 58)** states that he received a call "at about" 0345hrs.
29.	08/03/2020	0353hrs	DCI Field (Gold Command on call) is called by Inspector Lutkin and informed of Incident	These details are from DCI Field's Notes
30.	08/03/2020	0353hrs	PS Stone contacts DC 136 Victory (CSI) and informed him of situation.	This is from the CAD Log **(Appendix 64).**
31.	08/03/2020	0355hrs 0356hrs	2x calls made from WHSS to PMB, 1. 03:55:19 (1:10) 2. 03:56:30 (1:10)	There is no mention of these calls in anyone's statements and the time is based on the call log from Gibtelecom **(Appendix 23).** The Gibtelecom logs for the PMB mobile shows the calls originating from 20055000. This is an MOD telephone number which although is suspected to refer to calls from WHSS, this cannot be confirmed as they could be MOD exchange numbers.
32.	08/03/2020	0355hrs	GPF Chairman is contacted by PMB over the incident.	DCI Field notes
33.	08/03/2020	0356hrs	Call made from PMB to WHSS the duration of this call was 1:11.	There are no details of this call in any officers statements but a call is reflected in Daniel Ferro & GDP PC Kilpatrick's Statements around 0350hrs **(Appendices 20 & 30).** This could also be reflected in serial number 22.
34.	08/03/2020	0357hrs	There are a total of four calls made from NMH to PMB: 03:57:55 (no duration) 03:59:06 (no duration) 03:59:45 (1:59) 04:00:56 (1:59)	There is no mention of these calls on the CadLog **(Appendix 64).** We do not have any details of call but In the statement of PS Stone **(Appendix 28)** the Crown Sgt contacts PMB, Officer 1 states that he was encountering engine failure and requests for assistance from HM Customs marine unit to deploy and help convey the injured back to GGMS to receive medical treatment.

				The details of these calls come from the Gibtelecom logs **(Appendix 23).**
35.	08/03/2020	0357hrs	PS Stone contacts DS Garratt (Crime on Call) and apprised of situation.	This is from the CAD Log **(Appendix 64).**
36.	08/03/2020	0400hrs	The Port VTS Supervisor on duty Iain Undery receives a call from Tarifa Traffic where he was informed that they had received a call from an unknown person reporting that there had been a serious incident at sea just off the port of Atunara. As a result of this, Undery contacted PMB and informed him of the report made to him. To this the PMB crew confirm that there had been an incident and they had the vessel on tow.	This is reflected in the statement of Iain Undery **(Appendix 29).** Officer 1 states that he receives a call from the Port Boarding officer but does not recall the conversation **(Appendix 15).** The Gibtelecom log **(Appendix 23)** does not reflect an incoming call from the Port Authority. It does show an outgoing call to Port Boarding officer from PMB at 0413hrs.
37.	08/03/2020	0401hrs	Call made from PMB to NMH Control Room. 04:01:00 Duration 2secs	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
38.	08/03/2020	0405hrs	GHA Ambulance contacted and informed of incident and to attend GGMS and await for arrival of casualties.	This is from the CAD Log **(Appendix 64).**
39.	08/03/2020	0413hrs	Call made by PMB to Port Boarding officer Duration 51 seconds	This is reflected in the Gibtelecom call log **(Appendix 23).** There is no mention of an outgoing call in any officers statement, but could be linked to serial No 33.
40.	08/03/2020	0415hrs	PMB Calls NMH Duration 2:24	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
41.	08/03/2020	0418hrs	PMB contacts HMC Marine Section. Duration 33 secs	The time of the call is from the Gibtelecom Log **(Appendix 23).** Officer 1 makes reference in his statement **(Appendix 15)** to contacting HM Customs marine base, informing him of the incident and requested assistance in conveying all injured parties from the suspect RHIB to GGMS to receive medical attention. This is also mentioned in HMC Officer 4's statement **(Appendix 10).**

42.	08/03/2020	0419hrs	PS Stone contacts DCI Field. The crown sergeant provides a brief and informs that HMC vessel will be deployed and if they could assist in the transportation of the injured parties to GGMS. DCI Field asks this to be carried out expeditiously to save lives.	These details are from DCI Field's Notes.
43.	08/03/2020	0419hrs – 0420hrs	2x Calls of CAD calling PMB 1. 04:19:24 (duration 45 secs) 2. 04:20:34 (duration 45 secs)	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
44.	08/03/2020	0420hrs	PMB calls NMH CAD duration 46 seconds	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
45.	08/03/2020	0422hrs	DCI Field contacts COP and briefs him regarding incident. COP instructs available SMT to convene at his office for a Gold Strategic meeting.	These details are from DCI Field's Notes
46.	08/03/2020	0423hrs	DCI Field arrives at scene	This is from the CAD Log **(Appendix 64).**
47.	08/03/2020	0425hrs	Customs contact RGP NMH and informs control room that they are deploying to PMB's location.	This is from the CAD Log **(Appendix 64).** It is also mentioned they deployed in HMC Officer 4's Statement **(Appendix 10).**
48.	08/03/2020	0426hrs	DCI Field contacts Supt Richardson and briefs him regarding incident.	These details are from DCI Field's Notes. Supt Richardson then attends NMH.
49.	08/03/2020	0428hrs	GHA Ambulance with EMT's Stuart Ryan and Tanya Noguera arrives at GGMS	This is from the CAD Log **(Appendix 64).**
50.	08/03/2020	0429hrs – 0430hrs	X 2 GC COS contacts PMB. 04:29:15 (41 Seconds) 04:30:26 (41 Seconds)	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
51.	08/03/2020	0430hrs	PMB calls GC COS duration 42 secs	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
52.	08/03/2020		Comment made from one of the DP's made in the hearing of Officer 2 reads as follows "Estan muertos y a mi me duele mucho el costado hay que	These comments are referred to the statement of officer Two **(Appendix 16)**

			llevarnos al hospital" ***(they are dead and I have a lot of pain in my side and we need to be taken to the hospital)*** Further on another comment is made to the effect "no tienes la culpa, los motores se pararon, se que no quieren ustedes matar a nadie. Porfavor ayuda a mi tio" ***(it wasn't your fault. The engines stopped, I know you guys wouldn't kill anyone, please help my uncle).*** (I suspect this last comment is made by [redacted] as it relates to his uncle.	
53.	08/03/2020		Comment from one of the DP's (Suspected to be [redacted] due to the reference to uncle" to Officer 1 prior to HMC Seeker's attendance reads as follows: "Agente fue neustra culpa que se nos para los motores, no te dimos tiempo de parar, porfavor ayuda a mi tio, yo se que ustedes no querian matar a nadie"***(Officer it was our fault as our engines stopped, we didn't give you enough time to stop, please help my uncle, I know you guys didn't want to kill anyone).***	This comment is referred to the statement of officer one **(Appendix 15)**
54.	08/03/2020	0431hrs	PMB stops 1 nautical mile north east of Europa Point where it rendezvous with HMC Seeker and transfers over injured parties. HMC Seeker returns to GGMS at speed and PMB continues towing Suspect RHIB with deceased body remaining aboard.	This is from the SOLIS Draft Report **(Appendix 19).** The rendezvous can also be seen on the WHSS thermal footage but the time cannot be established. **This is also reflected in the officers statements (Appendices 10,11,12,13,14, 15,16 & 17)**
55.	08/03/2020		Comments made to HMC officer 5 regarding the collision are as follows: Esto a sido un acidente hemos cambiado de tripulacion en alcaidesa y no me han dicho que los motores estaban fallando, consecuentemente se han montado encima, aqui nadie ha querido matar a nadie, a sido un acidente, por favor ayuda a mi tio que me estaba hablando hace 10 minutos y esta callado por favor". ***(this has been an accident we have just changed crew in alcaidesa and no one has informed me the engines were failing consequently they have rammed into us, this was not intentional and no one wanted to kill anyone it was an***	This comment is referred to the statement of HMC officer 5 **(Appendix 11)**

			accident. Please help my uncle who I've been speaking to and has gone unresponsive about 10 minutes ago)	
56.	08/03/2020		Comments made to HMC officer 6 regarding the collision are as follows: [redacted] said "me duele las costillas" ***(my ribs hurt).*** "Ayuda ami tio tava hablando hace 10 minutos" ***(help my uncle, he was talking 10 minutes ago)*** " soy el [redacted] trabajo para alguien grande en Espana, esto a pasado en Espana y tengo todo grabado y se lo e mandado a mi jefe, llevamos 10 minutos montado en la lancha y el motor estaba fallando, las otras personsas montada ante no me han dicho nada del fallo del motor" ***(I am el [redacted], I work for someone big in Spain, this has happened in Spain and I have everything recorded. I've sent it to my boss. We have only been aboard 10 minutes and we have had engine problems. The other crew did not say anything).***	These comments are referred to the statement of HMC officer 6 **(Appendix 12)**
57.	08/03/2020		Comments made to HMC officer 7 regarding the collision are as follows: Soy el [redacted] trabajo para alguien grande en Espana, esto a pasado en Espana y tengo todo grabado y se lo e mandado a mi jefe, llevamos 10 minutos montado en la lancha y el motor estaba fallando, las otras personsas montada ante no me han dicho nada del fallo del motor" ***(I am el [redacted], I work for someone big in Spain, this has happened in Spain and I have everything recorded. I've sent it to my boss. We have only been aboard 10 minutes and we have had engine problems. The other crew did not say anything).***	These comments are referred to the statement of HMC officer 7 **(Appendix 13)**
58.	08/03/2020	0432hrs	GHA Paramedic Fabian Ferro arrives at GGMS	This is from the CAD Log **(Appendix 64).**
59.	08/03/2020	0433hrs	Crime on Call officers DC 182 Victor and 190 Rahmouni called out.	This is from the CAD Log **(Appendix 64).**
60.	08/03/2020	0439hrs	Inspector Lutkin arrives on Scene	This is from the CAD Log **(Appendix 64).**
61.	08/03/2020	0447hrs	PMB Sir John Chapple AIS activated	Stated in statement of Philip Mandleberg **(Appendix 50)**

62.	08/03/2020	0449hrs	DS 15 Garratt arrives on Scene	This is from the CAD Log **(Appendix 64).**
63.	08/03/2020	0451hrs	Customs Vessel arrives at GGMS with Casualties aboard.	This is from the CAD Log **(Appendix 64).** Notes of DCI Field state this time to be 0452hrs.
64.	08/03/2020	0454hrs	DS 15 Reports that 3 injured parties are on board the Customs Vessel.	This is from the CAD Log **(Appendix 64).**
65.	08/03/2020	0459hrs	GDP officers kitting up to deploy and escort PMB back to GGMS	This is from the CAD Log **(Appendix 64).**
66.	08/03/2020	0500hrs	Gold Group Convened,	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
67.	08/03/2020	0508hrs	Second Ambulance now at GGMS	This is reflected in the statement of Stuart Ryan **(Appendix 42).** However the time in the statement states that the ambulance was requested at 0500hrs.
68.	08/03/2020	0511hrs	PMB now 200 metres of the southern entrance to the Harbour.	This is from the CAD Log **(Appendix 64).**
69.	08/03/2020	0512hrs	GDP vessel departs Naval Base.	This is from the CAD Log **(Appendix 64).**
70.	08/03/2020	0513hrs	Third Ambulance arrives at GGMS.	This is from the CAD Log **(Appendix 64).**
71.	08/03/2020	0518hrs	Recognition of Life Extinct on [redacted] carried out by Paramedics Fabian Ferro, Paul Watson and Sigurd Haveland.	This time is confirmed in the EMT Notes supplied for the PM and in the notes of DS 15 Garratt.
72.	08/03/2020	0520hrs	Call from Duty Officer, Second Fatality confirmed.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)** DCI Field has this noted down at 0525hrs, **(DCI Field Notes)**
73.	08/03/2020	0520hrs	Fourth Ambulance at GGMS	This is from the CAD Log **(Appendix 64).**
74.	08/03/2020	0521hrs	PMB arrives at GGMS together with suspect RHIB	Notes for DS Garratt
75.	08/03/2020	0524hrs	CBF sends a text message to COP	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
76.	08/03/2020	0530hrs	Insp Enriles (PSD) arrives	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
77.	08/03/2020	0530hrs	DC 182 and PC 63 attending SBH in Ambulance.	This is reflected in the statement of DC Victor and PC 63 Myhill **(Appendix 56).**
78.	08/03/2020	0530hrs	PC 100 O'Flaherty had been informed by [redacted] in the	Statement of PC 100 O'Flaherty **(Appendix 52).**

			Spanish Language that "this happened at Alcaidesa, we asked your colleagues to travel to Gib quickly to hospital to help uncle. But they were only travelling at around 5 Knots and would not put on the blue lights, (unknown word) Guardia Civil".	Notes of DS Garratt.
79.	08/03/2020	0534hrs	GPF Chairman Maurice Morello arrives	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
80.	08/03/2020	0536hrs	COP receives phone call from Collector of Customs John Rodriguez.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
81.	08/03/2020	0538hrs	Ambulance arrives at SBH with two persons from RHIB, officers at SBH 182, 63, 175 and 233.	This is from the CAD Log **(Appendix 64).**
82.	08/03/2020	0540hrs	Recognition of life extinct carried out by PC 71 Canepa, Paramedic Paul Watson and Sigurd Haveland.	These details can be found in the statements of PC 71 Canepa **(Appendix 32)** Paul Watson **(Appendix 34)** & Sigurd Haveland **(Appendix 35&36).**
83.	08/03/2020	0541hrs – 0542hrs	X2 phone calls GC COS contacts PMB 05:41:30 (Duration 1:01) 05:42:41 (Duration 1:01)	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
84.	08/03/2020	0543hrs	Call from PMB to GC COS, duration 1:02	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
85.	08/03/2020	0545hrs – 0546hrs	2x Calls from Crown Sgt to PMB (No Duration on either)	This information is from the Gibtelecom Log **(Appendix 23).** No mention can be found in the CAD Log either **(Appendix 64).** No specific mention of this call in any statements.
86.	08/03/2020	0549hrs	PC 216 Yeo en-route to SBH with one of the deceased.	This is from the CAD Log **(Appendix 64).** It is also reflected in the statement of PC 216 Yeo **(Appendix 55).**
87.	08/03/2020	0555hrs	Insp Tunbridge arrives and is briefed by Supt Richardson	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
88.	08/03/2020	0555hrs	PC216 Yeo arrives at SBH with Deceased.	This is from the CAD Log **(Appendix 64).** It is also reflected

				in the statement of PC 216 Yeo **(Appendix 55).**
89.	08/03/2020	0558hrs	Insp Fernandez on his way to NMH with PMB crew	This is from the CAD Log **(Appendix 64).**
90.	08/03/2020	0600hrs	PC 216 Yeo states that Deceased Body of Mustafa DRIS MOHAMED has been placed in Mortuary Fridge 2.	This is from the CAD Log **(Appendix 64).**
91.	08/03/2020	0601hrs	FLO PC 195 Passano contacted and attending NMH shortly.	This is from the CAD Log **(Appendix 64).** Notes of FLO stated that she was contacted at 0600hrs.
92.	08/03/2020	0602hrs	Both patients being treated at SBH.	This is from the CAD Log **(Appendix 64).**
93.	08/03/2020	0605hrs	COP notifies Governor and Chief Minister via whatsapp messages	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)** Text exchanges between CoP & CM
94.	08/03/2020	0616hrs	COP briefs GDP Chief of Police Rob Allen	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
95.	08/03/2020	0618hrs	COP briefs Spanish COP Policia Nacional	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
96.	08/03/2020	0620hrs	DI Perera arrives at PMB.	Notes of DI Perera
97.	08/03/2020	0625hrs	CSM brief's DI Perera	Notes of Crime Scene Manager.
98.	08/03/2020	0630hrs	Cop Visits ABE Suite and speaks to PMB Crew, Insp Fernandez and Supt Richardson present.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)** this is also reflected in officer 1's statement **(Appendix 15)**
99.	08/03/2020	0630hrs	Detainees [redacted] and [redacted] had their clothing seized whilst they were being treated in hospital. This was later photographed and examined by SOCO.	This can be found in the following statements **(Appendices 51, 53 & 63)**
100.	08/03/2020	0632hrs	COP briefs GDP CI Mark Wood ref possible security uplift at HM Naval Base.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
101.	08/03/2020	0635hrs	Comandante Pacheco Polo GC Algerciras contacts DI Perera and enquiries as to incident. The DI confirms collision at sea involving RGP vessel and suspect RHIB with a crew of 4, believed to be Spanish nationals. POLO was informed that there had been two fatalities and two further persons detained. DI Perera informed him he	DI Perera's Notes

			would be provided with more information once he was able to do so. DI Field was informed of this contact and instructed that contacts with the GC would be done through DI Chipolina so as to allow DI Perera to continue with his tasks.	
102.	08/03/2020	0636hrs	Justin Chipolina, senior and BCA contacted in informed	This is from the CAD Log **(Appendix 64).** No mention made of what he was informed about.
103.	08/03/2020	0638hrs	DC Victor informs of the Identity of both injured parties and deceased at SBH.	This is from the CAD Log **(Appendix 64).**
104.	08/03/2020	0644hrs	17 and 63 will be manning the vehicle access ramp to A&E, 182 + 233 will be remaining inside A&E with injured parties.	This is from the CAD Log **(Appendix 64).**
105.	08/03/2020	0645hrs	COP Calls GC Colonel Fernando Lopez – Rey Quintero	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
106.	08/03/2020	0645hrs	FLO arrives at NMH, is given a short brief by PS Stone of 2 deaths at sea and 2x persons injured.	FLO PC Passano Notes
107.	08/03/2020	0645hrs	DI Chipolina calls Comandante Pacheco Polo GC Algerciras to confirm awareness of collision at sea and identify himself as Spanish Liaison officer for incident.	File Note made by DI Chipolina in **(Appendix 39)**
108.	08/03/2020	0650hrs	GOLD update – COP. Supt Richardson, DCI Field, DI Chipolina present. ID of three occupants of the vessel confirmed, all male, two Spanish nationals from Ceuta, one from Portugal and one nationality ID to be confirmed.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
109.	08/03/2020	0650hrs	Coroner Pitto informed of the incident by DI Perera, instructs bodies to be placed in fridge and to make arrangements to be made for Post Mortems to be performed by forensic pathologist.	This is from the CAD Log **(Appendix 64).** However the time in the log states 0654hrs. File note also reflected by Insp Perera. According to email from Supt Richardson **(Appendix 39)** this is at 0655hrs.
110.	08/03/2020	0700hrs	FLO Briefed by DCI Field and CI Romero	FLO Notes
111.	08/03/2020	0705hrs	Crime Scene starts on Suspect RHIB by CSM DC 128 and DC 136.	Crime Scene Manger Notes
112.	08/03/2020	0715hrs	Arrangements made for public order barriers to be taken to PMB and used to seal off Vessels and use Police officers to man crime scenes.	
113.	08/03/2020	0720hrs	DC 182 Victor Arrests [redacted] for the offences of Importing a	This time is reflected in the custody records **(Appendix 39).** In

			Prohibited Import, Dangerous Navigation and Obstructing Police. When cautioned made no reply. Subsequently confirmed to have fractured left ribs, Right Knee ligament damage and left shoulder pains and bruises around the body.	the CAD log an update of both detainees is provided at 0811hrs **(Appendix 65).**
114.	08/03/2020	0734hrs	DC 190 reports that he attended WHSS and they do not have coordinates of collision, CCTV Footage was available but unaware if it was pointing in right direction. Imagery Radar shows no coordinates in possession of WHSS	Notes of DS 15 Garratt.
115.	08/03/2020	0737hrs	DC 182 Victor Arrests [redacted] for the offences of Importing a Prohibited Import, Dangerous Navigation and Obstructing Police. When cautioned replied "Yo no taba conduciendo, el que conducia era el primero que ha fallecido" (I wasn't driving, the driver has died). Sustained no injuries during the collision.	This time is reflected in the custody records **(Appendix 39).** In the CAD log an update of both detainees is provided at 0811hrs **(Appendix 65).**
116.	08/03/2020	0740hrs	DI Chipolina makes a phone call to Comandante Pacheco Polo GC Algerciras to provide details of the 4 occupants of the suspect RHIB and request assistance notifying next of Kin. He also requested assistance from GC COS regarding vessel positioning data and previous convictions of the 4 occupants.	File Note made by DI Chipolina in **(Appendix 39)**
117.	08/03/2020	0750hrs	Gold Group Reconvened- COP, Supt Richardson, DCI Field, CI Romero, Insp Tunbridge and DI Enriles. Progress from actions discussed, Gold Resilience, PIP update, SIO update, PSD update.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
118.	08/03/2020	0750hrs	Insp Tunbridge tasked to deploy personnel to cover crime scenes and security at NMH and SBH.	Tasking form written by DCI Field **(Appendix 39)**
119.	08/03/2020	0800hrs	Seals on body bag of the Late [redacted] were placed. (A37192 and A37191)	Notes of DS 15 Garratt.
120.	08/03/2020	0835hrs	Ambulance arrives at GGMS to convey body of [redacted] to SBH.	This time is recorded in the notes of the Crime Scene Manager. This is also reflected in the CAD Log **(Appendix 65).** However the time noted in the CAD log is 0828hrs.

121.	08/03/2020	0839hrs	[redacted] arrives at New Mole House Custody suite to be processed.	This time is reflected in the custody records **(Appendix 39).**
122.	08/03/2020	0855hrs	Ambulance conveys body of [redacted] to SBH.	This time is recorded in the notes of the Crime Scene Manager. This is also reflected in the CAD Log **(Appendix 65).** The time noted in the CAD log is 0855hrs.
123.	08/03/2020	0900hrs	CoP notifies GPA Chair of the incident informing him CM & HE have been notified	Text messages between GPA Chair & CoP
124.	08/03/2020	0915hrs	GDP SMT, Supt Johnson, CI Caufield, CI Wood, briefed at COP's office.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
125.	08/03/2020	0935hrs	Call received by DI Chipolina from Comandante Pacheco Polo GC Algerciras stating that according to COS radar tracing of the incident the approximate coordinates of the collision were 36 09N 5 12W which was approximately 6.54 miles east of Santa Barbara Beach. GC stated this data was subject to confirmation by technical extraction from their SIVE system. DCI Field contacted and informed of this.	File note from DI Chipolina.
126.	08/03/2020	0940hrs	DCI Field advises that collision occurred at 36' 09 N 5" 12 W" approx... 6.54 East of Playa de Santa Barbara.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)**
127.	08/03/2020	1001hrs	The wife of [redacted], called [redacted], is at SBH with her children. DS 15 Garratt and FLO requested to attend SBH.	This is from the CAD Log **(Appendix 65).**
128.	08/03/2020	1010hrs	COP briefs AG Michael LLAMAS at New Mole House. AG feeds up to the CM. HE joins the meeting @ 1215Hrs.	This is from Supt Richardson Notes dated 08/03/2020 at 1011hrs **(Contained in Appendix 39)** & Text messages between AG & CoP
129.	08/03/2020	1010hrs	All Stage 3 accounts submitted to DCI Field	The handing over of these documents is referred in **(Appendix 1)** the documents themselves are included **(Appendices 2-9).**
130.	08/03/2020	1055hrs	FLO attends SBH and meets with family members who have gathered in the area. Details of those persons have been noted down in the FLO Notes	FLO PC Passano notes
131.	08/03/2020	1100hrs	Crime Scene on HMC Seeker, followed with pictures taken from Sir John Chapple.	Notes from Crime Scene Manager, DC 108 Vallee Photographs Scene.

132.	08/03/2020	1120hrs	SBH clinical manager on duty Jason Pincho contacted by DI Perera for reassurance. Informed officers within SBH and surrounding area and informed that if Police were required to contact NMH immediately.	Notes of DI Perera. This is also mentioned in the CAD Log **(Appendix 65).** As 1129hrs.
133.	08/03//2020	1124hrs	[redacted] arrives at New Mole House Custody suite to be processed.	This time is reflected in the custody records **(Appendix 39).**
134.	08/03/2020	1130hrs	Both vessels brought out of sea and placed on the hard.	Notes from Crime Scene Manager
135.	08/03/2020	1150hrs	CSI examination on Sir John Chapple by DC 108 Vallee	Notes from Crime Scene Manager
136.	08/03/2020	1215hrs	Crime Scene Investigation continues on RHIB CSM DC 128 and DC 136.	Notes from Crime Scene Manager.
137.	08/03/2020	1225hrs	FLO Receives notification from CAD that more family members have arrived at SBH	FLO PC Passano notes
138.	08/03/2020	1228hrs	FLO receives a WhatsApp message from family member informing her that more family members are at SBH	FLO PC Passano notes
139.	08/03/2020	1406hrs - 1435hrs	Interview with Bruno Miguel GOMEZ SERRENO: a) Provided the order of persons on the RHIB as 1. [redacted] 2. [redacted] 3. [redacted], 4. [redacted]. b) Stated that he only saw the blue lights of PMB lit for 5-10 seconds. c) He didn't hear any orders from any officers d) Chase was ongoing for approximately 10 mins e) Vessels stopped and police officers boarded to help.	DS 15 Garratt Notes
140.	08/03/2020	1612hrs -- 1620hrs	Interview with [redacted] in the presence of Leigh Debono. No comment interview.	Notes of DS 15 Garratt
141.	08/03/2020	1710hrs	[redacted] and [redacted] bailed out to appear at NMH at 1100hrs 4th June 2020	DP Custody Records.
142.	08/03/2020	1915hrs	DPA form handed to WHSS to obtain thermal imagery footage. Footage obtained. This footage shows the suspect RHIB	Notes of DS 15 Garratt
143.	08/03/2020		All mobile phones found in possession of the crewmembers of the suspect RHIB or found strewn on its	DC 106 Notes

			deck, handed over to HTCU for examination	
144.	09/03/2020		Examination on mobile phones commenced.	DC 106 Oton
145.	09/03/2020	1000hrs - 1100hrs	Meeting held at GC HQ between Comandante Pacheco Polo GC Algerciras, Capt. Gomez Fuster, DI Chipolina and DI Perera. RGP confirm identities of the four on board suspect RHIB and identify both deceased. GC were asked whether an incident report had been generated and if they could provide the confirmed coordinates for the collision. GC stated that an initial report had been prepared but needed to be referred/ discussed with the designated duty court/ judge. GC stated that the approximate coordinates supplied previously to DI Chipolina stood and that the SIVE technicians had yet to extract and validate such data. They confirmed the approximate collision location was 6 to 6.5 miles off Santa Barbara Beach. GC asked if we could provide initial incident report via Schengen channels and DI Chipolina informed he would refer the request and revert once back in Gibraltar. GC stated the previous convictions of the 4 occupants would be sent by email upon request and through Schengen channels. Prior to ending meeting there was a brief discussion where the structure and conduct of investigations were summarised. GC confirmed they would need to discuss with a judge, yet to be appointed.	File Note DI from DI Chipolina.
146.	09/03/2020	1130hrs	DI Perera contacted Comandante Pacheco Polo GC Algerciras via telephone and was asked whether it had been the GC or the RGP who had initiated contact in respect of the suspect RHIB on the night in question. To this he informed that according to the information he had available, it was the RGP who had contacted GC COS enquiring about the RHIB and that the GC were already monitoring the vessel.	DI Perera File Note.
147.	09/03/20	1205Hrs	Meeting at CoP's office attended by HE, AG and Supt Richardson. Update and intentions provided.	Supt Richardson notes

148.	09/03/20	1433Hrs	CoP communicates with GPA Chair and discussed intentions to bring over an independent investigation team and the potential involvement of the PCB.	Text messages between CoP and GPA Chair
149.	09/03/2020		Enquiries as to availability of forensic pathologists conducted with FCO coroner liaison officer who informed DI Perera that this was not her remit.	DI Perera Notes
150.	09/03/2020		DI Perera contacted Dr Lockyer who informed him that the earliest he could attend Gibraltar was on Sunday 22nd March 2020 and Dr Nat Cary who informed that he would not be able to make it anytime sooner than Lockyer. He also stated that he had enquired with other colleagues of his and they were also unable to attend.	DI Perera Notes
151.	10/03/2020	0929hrs	FLO received a message from family member Irene to find out if pathologist had arrived in Gibraltar.	FLO PC Passano notes
152.	10/03/2020	0940hrs	FLO receives a message from family member regarding frustration of delay of pathologist. Claims they have reported the matter to Spanish Authorities and are seeking to speak to RGP bosses regarding these procedures. DCI Field and DI Perera Updated.	FLO PC Passano notes
153.	10/03/2020	1018hrs	COP emails Ch.Supt Nigel Goddard, Head of Unit, NPoCC. He briefs him as to the incident involving the fatal collision at sea and that PIP has been implemented with an SIO being provisionally appointed but highlights the importance for this type of matters being dealt with by an independent team. Goddard is informed that COP reached out to the Small Island Forum Police forces but what was offered was not the ideal scenario, being a 3rd party oversight for a managed type investigation on behalf of the PCB. He explains that the PCBs role in Gibraltar does not have capacity or the capability to carry out investigations. COP also informs them that the services of the MDP in Gibraltar was sought but their senior management informed they did not have the skills required for such task.	COP Email

			Therefore he has requested the assistance of Goddard. He explains that he is looking for an independent force investigation team to take on the task. Lastly, COP also asked to see if assistance can also be provided by identifying a forensic pathologist who would be able to perform the PMs on both deceased prior to that which has already been arranged for the end of the week, explaining to him that the reasons are to mitigate any threats which might materialise by having the bodies within the hospital mortuary.	
154.	10/03/2020	1200hrs	DS Garratt contacted Tim Yates of Sheppard's Marina in relation to ascertaining if he can obtain the navigational data from both vessels.	Notes DS 15 Garratt
155.	10/03/2020		Email exchange between COP & HE on the arrangements to fly out an independent team followed by an official letter from COP to HE Governor requesting the assistance of the Metropolitan Police in investigating the collision at Sea.	OP Kram Misc File
156.	10/03/2020	1254hrs	Ch.Supt Nigel Goddard, Head of Unit, NPoCC, copies in COP, into an email he sends to Steven Wagstaff from the MPS. Goddard asks the latter to carry out enquires with his Head of OCU and if he could confirm the MPS would be in a position to undertake the task requested by COP. The email from COP is forwarded to him. COP is asked by Ch.Supt Goddard if he has initiated or can initiate the process with HE to submit through the FCO a request to the UP Police for assistance.	COP Email
157.	10/03/2020	1300hrs	COP emails Joseph BRITTO GPA chair and informs him he has initiated contact with NPoCC and requests him to read the email thread with Ch.Supt Nigel Goddard which is attached.	COP Email
158.	10/03/2020	1300hrs – 1342hrs	DS Garratt attended GGMS together with CSM and DC 136. Met with Tim Yates who after examination was unable to retrieve the navigational data	Notes of DS 15 Garratt

			from both the PMB and the suspect RHIB	
159.	10/03/2020	1314hrs	Dr Lockyer informed that authority had been granted for him to travel to Gibraltar to carry out the Post Mortems.	DI Perera Notes.
160.	10/03/2020	1500hrs	COP informs that the PM's will be conducted by Dr Rouse, CI Perez informs that HM Coroner has been informed of this and gives permission for it to proceed. The Post Mortem will take place on the 11th March 2020. Change of pathologist is as a result of Dr Rouse being able to travel to Gibraltar earlier and will mitigate any threats of having the bodies being at SBH.	DI Perera Notes
161.	10/03/2020		Chris Finch from Verralls spoke with DI Perera and informed him that he would like to have his own pathologist present during the Post Mortem examinations. DI Perera informed him that he would have to refer this to the coroner and that arrangements were already in hand to take place the following day. Finch replied that as he would not have any time to arrange for his own pathologist to be present he would be content if he or his partner would be allowed to speak to Dr Rouse prior to the Post Mortem Examinations.	DI Perera Notes
162.	10/03/2020		Coroner Pitto informed of the request made by Chris Finch and authorised this to happen. Mr Finch was subsequently informed of this.	DI Perera Notes
163.	10/03/2020	1515hrs	DS Garratt seized the PMB Patrol Matrix from CAD for the 08/03/2020	Notes of Garratt
164.	10/03/2020	1550hrs	DCI Field and DI Perera inform FLO that Post Mortems will be carried out on 11/03/2020 by UK pathologist	FLO PC Passano notes
165.	10/03/2020	1556hrs	FLO informs families of the deceased arrangements regarding post mortem examinations.	FLO PC Passano notes
166.	10/03/2020	1610hrs	DS Garratt seized MOD Notice from Marine Section	This info is found in **(Appendix 74)** and DS 15 Garratt notes.
167.	10/03/2020	1647hrs	Dr Lockyer is informed that his services are no longer required as another forensic pathologist, namely David Rouse will be attending Gibraltar on the 11th of March 2020 to inform the PM.	DI Perera Notes

168.	10/03/2020	1958hrs	Authority granted to have Heras fencing placed around the vessels. Heras fencing being rented out from Amco.	DS Garratt Emails.
169.	11/03/2020	1108hrs	Capt. Meikle contacted and informed of the incident and asked if he would be available to travel to Gibraltar to examine the vessels and their navigational devices and to provide a quote.	DS Cottam Email
170.	11/03/2020	1115hrs	At SBH Mortuary the body of [redacted] was ID'd to the Coroner by DI Perera.	DI Perera Notes
171.	11/03/2020	1120hrs	At SBH Mortuary the body of [redacted] was ID'd to the Coroner by DI Perera.	DI Perera Notes
172.	11/03/2020	1200hrs	Pathologist Dr Rouse, briefed by DI Perera at the Mortuary.	DI Perera Notes
173.	11/03/2020	1205hrs	Leigh Debono from Verralls contacted by DI Perera and informed that Dr Rouse was at SBH in the event he wished to speak with him prior to the examinations. Debono informed that he had already done so.	DI Perera Notes
174.	11/03/2020	1240hrs	Post Mortem Examination commences of [redacted] Undressing of Deceased and documentation of external injuries taken. Halting at 1335hrs to facilitate CT Scanning of the deceased.	Statement from Dr Rouse Pathologist **(Appendix 41).**
175.	11/03/2020		CT Scan on [redacted] conducted.	Crime Scene Manger Notes.
176.	11/03/2020		CT Scan on [redacted] conducted.	Crime Scene Manager Notes.
177.	11/03/2020	1330hrs	FLO speaks with families of deceased outside SBH. They were updated with details surrounding the Post Mortem for the day. Family then requested that all further communication be through their lawyer Leigh Debono from now on.	FLO PC Passano notes
178.	11/03/2020	1335hrs	Undressing of Deceased and documentation of external injuries taken. [redacted] Halting to facilitate CT Scanning of the deceased.	Statement from Dr Rouse Pathologist **(Appendix 40).**
179.	11/03/2020	1437hrs	FLO provides Lawyer with update regarding hospital delays. Leigh Debono will update family.	FLO PC Passano notes
180.	11/03/2020	1645hrs	Post Mortem examination recommenced on [redacted].	Statement from Dr Rouse Pathologist **(Appendix 41).** Crime

				Scene Notes state that PM finished at 1900hrs.
181.	11/03/2020	2000hrs	FLO updates Leigh Debono regarding first post mortem completed and schedule for second post mortem. DI Perera also requests details of the funeral directors. Debono also asked to provide these details.	FLO PC Passano notes
182.	11/03/2020	2031hrs	Email sent by DI Chipolina to GC containing initial RGP Incident briefing note (with prior approval from COP). In the same email, GC was requested for the previous convictions of the 4 crew members of the suspect RHIB and any existing GC incident reports, as well as vessel radar positioning data.	File note made by DI Chipolina **(Appendix 39).**
183.	12/03/2020	0800hrs	Post Mortem examination recommenced on [redacted] and finished at 0950hrs.	Statement from Dr Rouse Pathologist **(Appendix 40).**
184.	12/03/2020	1000hrs	Heras Fencing is taken to PMB and used to be placed around the vessels crime scene.	DS Garratt Emails
185.	12/03/2020	1030hrs	Leigh Debono states that DeHaro funeral directors will be assisting in repatriating the bodies. Debono was also informed that both examinations were completed.	FLO PC Passano notes
186.	12/03/2020	1139hrs	Email sent by DI Perera to HM Coroner informing him of the findings of the pathologist, Dr Rouse, following the PMs performed on both the deceased. Copies of the PM reports, marked as preliminary reports' forwarded to him.	DI Perera Emails
187.	12/03/2020	1147hrs	FLO - DI Perera has emailed the info to coroner's office, including pathologist reports. All details sent to Gerry Rose.	FLO PC Passano notes
188.	12/03/2020	1200hrs	DS Garratt Attended the Port Authority and met with Phil Mandleberg. Using the Thermal Footage, he was able to work out the larger vessels displayed in the footage, these were found out to be the Teliri and Seaways Rosalyn which were in Spanish Waters at the time of the incident. DI Perera and DCI Field informed	File Note by DS Garratt **(Appendix 39)**
189.	12/03/2020	1215hrs	Coroner Pitto authorises the bodies of the deceased to be released to the families.	File Note by DI Perera
190.	12/03/2020	1220hrs	DI Perera informed Leigh Debono from Verralls that the bodies had been	File Note by DI Perera

			released by the coroner and arrangements can be made for repatriation. Debono informed DI Perera that Deharo Funeral Directors will be dealing with this matter.	
191.	12/03/2020	1240hrs	Deharo funeral directors contacted by DI Perera and inform that the bodies had been released and to liaise with the coroner's office.	File Note by DI Perera.
192.	12/03/2020	1411hrs	Capt. Meikle is informed that approval has been obtained for him to travel to Gibraltar and carry out examination of the vessels.	DS Cottam Email
193.	12/03/2020	1730hrs	Stage 4 Accounts of HMC officer 4, 5, 6, 7 & 8 provided to DCI Field	PIM Log **(Appendix 1)**
194.	12/03/2020	2100hrs	Deharo Funeral directors contact DI Perera and inform him that embalming of the bodies are underway and are being repaired for repatriation. They state that documents from the Spanish Embassy in UK is still pending in order to be able to transfer body to Spain. They would be aiming to carry out repatriation around midday on the 13th of March. They informed that they are in contact with their families and legal representatives. The funeral directors from Ceuta are servicios funerarios Al-Qadar.	DI Perera Notes
195.	13/03/2020	0830hrs	SIO authorises change of Coroners officer from DI Perera to DS Garratt	DI Perera Notes
196.	13/03/2020	0930hrs	DI Perera requested the FLO contact the funeral directors for update on times of repatriation. FLO spoke to "moris", Paperwork at embassy in UK awaiting to be processed. Paperwork with Environment also being processed. DI's Perera and Chipolina apprised.	FLO PC Passano notes
197.	13/03/2020	1000hrs	Met Police Team arrive in Gibraltar, are brought to NMH where they are sworn in as RGP officers and return to hotel.	
198.	13/03/2020	1030hrs	DI Perera meets with Coroner and updates him as to the investigation. Informs him of the UK team from the MPS being brought in by COP. Also informs him of change of coroner's officer to which he said that he had none.	DI Perera Notes
199.	13/03/2020	1312hrs	From DI Chipolina, Spain has authorised the repatriation and the frontier aware.	FLO PC Passano notes

200.	13/03/2020	1350hrs	FLO informs bodies of both deceased repatriated to Spain.	DI Perera Notes and notes of FLO PC Passano .
201.	13/03/2020	1525hrs	At the request of DCI Field and CI Romero, DI Perera contacted Comandante Pacheco Polo GC Algerciras via email. He was informed of the intelligence received regarding threats made against the crew members of the PMB, involved in the collision at sea. This included inflicting harm to the crew members and damaging their properties. GC was informed that intelligence suggested one of the crew members had been identified and those making the threats knew that his parents had a residence in Spain. Their intentions were to set the property alight. GC were provided with the address and details of the parents. They were requested to try and ascertain if these threats were also known to them and carry out patrols of the residence.	File note by DI Perera.
202.	13/03/2020	1830hrs	MET Police team arrive at New Mole House for a briefing by COP and Gold Command	
203.	13/03/2020	2100hrs	Received an email from Comandante Pacheco Polo GC Algerciras containing previous conviction data for all RHIB occupants. Email is acknowledged by him and response sent at 2118hrs requesting confirmation that the positioning data will be provided to RGP separately.	File note made by DI Chipolina **(Appendix 39).**
204.	14/03/2020	0950hrs	Pick up two Met Officers and convey them to PMB Base to meet UK collision expert, examine vessels and discuss terms of reference for expert report.	DCI Field Email
205.	14/03/2020	1030hrs	Meeting with Richard Meikle and briefed as to what is required by SIO.	DI Perera Notes
206.	14/03/2020	1050hrs	Met Team conveyed to Mod Spy Glass to see area of collision.	DCI Field Email.
207.	14/03/2020	1200hrs	ABC cleaners disinfect and clean the suspect RHIB.	DI Perera Notes.
208.	14/03/2020	1507hrs	Dr David ROUSE provides DI Perera, with Initial draft PM reports	DI Perera Emails
209.	14/03/2020		Capt. Meikle conducts examination of both vessels and removes their navigational systems for further examination.	CSI Notes

210.	14/03/2020	1547hrs	Upon instructions from SIO Email sent by DI Perera to Comandante Pacheco Polo GC Algerciras, requesting GC Assistance . He was informed that it was intended to convey the UK team of the MPS on board a HMC vessel to the location where it was suspected the incident took place. This was in order to assist the MPS in their own investigation. As the location was in Spanish waters his authority was being sought before proceeding. He was guaranteed that no executive action would be taken by local authorities whilst in Spanish waters.	File note by DI Perera.
211.	14/03/2020	1600hrs	Provide Met Team with materials collected as part of investigation.	DCI Field Email
212.	14/03/2020	1700hrs	As requested DI Perera contacted Comandante Pacheco Polo GC Algerciras, he was asked if the GC had a vessel or helicopter who engaged with the suspect RHIB or was in its vicinity on the night in question. He stated that the GC had a vessel near the boundary with Malaga engaged in another matter.	File Note DI Perera.
213.	14/03/2020	1754hrs	Comandante Pacheco Polo GC Algerciras replied to DI Perera's request upon instructions received, the judge dealing with this incident had to be informed. He requested an official email containing details of the vessel that would enter Spanish waters, details of the crew on board and the reasons for such activity. A call was followed from Comandante Pacheco Polo GC Algerciras to DI Perera who stated that this request should also be addressed with UK magistrate liaison in Madrid or the Spanish Embassy in London. In the event that authorisation should be granted the Gibraltar LEA vessel would need to be shadowed by a vessel of GC. Following this conversation, the SIO was informed and directions sought. Shortly after the SIO replied that after consultation with others, it would not be necessary to enter Spanish waters.	File note by DI Perera.
214.	15/03/2020	0915hrs	Met Team conveyed to GGMS to oversee intrusive search of Suspect vessel by HM Customs.	DCI Field Email

215.	15/03/2020	0930hrs	Capt. Meikle attends GGMS and takes measurements of vessels.	CSI Notes
216.	15/03/2020	0930hrs – 1130hrs	DI Perera meets with RGP Drugs Dog handler and HMC Officers under the command of SCO Galia. Intrusive search of suspect RHIB conducted with negative results.	File note DI Perera
217.	15/03/2020	1333hrs	Following a reply from SIO that after consultation with others, it would not be necessary to enter Spanish waters. To which Comandante Pacheco Polo GC Algerciras was informed that the request to enter Spanish waters had been rescinded as there had been a change of plans.	File Note by DI Perera.
218.	15/03/2020	1645hrs	Met Team picked up and conveyed to Customs Marine Section to go on vessel.	Email DCI Field
219.	16/03/2020		Capt. Meikle attends GGMS and attempts to restart Navigational systems aboard vessel to no avail and decides to take systems back to the United Kingdom for further examination.	CSI notes
220.	16/03/2020	0845hrs	Met team to visit GGMS and speak with PC's Watson & Warwick. Discuss powers & policies, technical aspects of marine vessels (radar and AIS)	Email DCI Field
221.	16/03/2020	1400hrs	Met Team meet with Coroner	Email DCI Field
222.	17/03/2020	1300hrs	Meeting between AG & CoP to discuss progress of the investigation and the various strands to it viz, Coroner, possible civil action, professional standards enquiry, Spanish judicial action, law enforcement co-operation angle (Brexit- working group) and political dimension. Desire to work out a strategy to deal with all of this. CoP proposes to meet face to face with GC to gather more information and try to elicit where they are taking the matter. Met Police want to meet them too. AG advises he will consult with CM. Shortly after meeting AG informs CoP to proceed as discussed.	Text exchange between AG & CoP
223.	16/03/2020		Stage 4 accounts/statements completed by officer's 1,2 & 3 Officer 1: 1820hrs Officer 2: 1752hrs Officer 3: 1700hrs	Officer's Statement **(Appendix 15, 16 & 17)**

224.	18/03/2020	1000hrs	Capt. Meikle Departs Gibraltar due to impending COVID 19 travel bans.	Notes DS Garratt
225.	18/03 2020	1100hrs	GC unable to meet face to face because of Covid-19. A VTC is arranged instead. This is held in CoP's office and is attended by the Met team, DI Chipolina acting as interpreter, Commander Pacheco Polo, a GC Capt and COP. GC advise that they still require their technicians to extract the co-ordinates of where the collision took place. That they have an idea where this occurred but required formal confirmation from technicians. GC inform that no judge has yet been appointed to the case. MET police asked a series of questions.	Notes taken by CoP's PA Met team notes (these are not available to us)
226.	18/03/2020	1530hrs	CoP updates AG and GPA Ch of the outcome VTC with GC & Met police	Exchange of texts between AG / GPA Chair / CoP
227.	18/03/2020	1600hrs	Met Police Provided with any further material requested	Notes DS Garratt.
228.	19/03/2020	1000hrs	Met Team Depart Gibraltar due to impending COVID travel bans	
229.	25/03/2020	1510hrs	Email link Rapid Reply Construction using the data of the suspect vessels navigational equipment. Screenshot of the situation around the time of the collision showing suspect RHIB proximity to BGTW. 36' 09 95N Latitude, 005'12 51W Longitude.	Email from Capt. Meikle.
230.	26/03/2020	1141hrs	Leigh Debono from Verralls, emailed DI Perera asking to be provided with the medical records of Mr Dris, as his doctor in Spain was asking for it.	DI Perera Emails
231.	26/03/2020	1256hrs	Mr Finch from Verralls, contacts CI Perez and informs him that he is acting for the families of the deceased and their respective estates in Gibraltar. He also states that he is liaising with Spanish lawyers who are working on this matter in Spain. He requires to be provided with information, if he is to discharge the legal onus in both a criminal and civil context. He looks for an insight into the incident, including whether the coxswain of the RGP vessel has been suspended pending inquiry and whether the Police will be seeking the adjournment of the Coroner's investigation, as he claims to	DI Perera Emails

			be normal practice where a criminal offence has been committed.	
232.	26/03/2020	1628hrs	Mr Debono from Verralls is informed by DI Perera that as part of the investigation the RGP had not obtained any medical evidence, as the survivors, had been arrested in relation to offences which would not be justified for the RGP to request such information as it would not prove or disprove any of the offences mentioned. He was anyhow informed that if he requires such information, a SAR would have to be submitted to the GHA, as it was where his client had been treated and examined.	DI Perera Emails
233.	26/03/2020	1652hrs	Supt Richardson emails DCI Gary Smith MPS and enquiries whether he wishes for Mr Finch to correspond with him directly or to be filtered by RGP PSD. Supt Richardson informs DCI Smith that given that we no longer have grounds to suspect that any part of the chase took place within BGTW, the RGP intends to recall the survivors and release them from arrest.	Supt Richardson emails
234.	26/03/2020	1713hrs	Mr Debono from Verralls emails DI Perera and informs him that the medical notes he was referring to was that which he had been shown by the Custody Sergeant whilst at NMH.	DI Perera Emails
235.	27/03/2020	1031hrs	CI Perez replied to Mr Finch and informed that COP has instructed that for the purpose of transparency an independent investigation will be carried out to determine the events that lead to the tragic incident. He informed that an approach has been made to UKs NPOC and a team of the MPS was deployed to Gibraltar. It was further added that due to the current pandemic the team had to return to the UK earlier than thought.	DI Perera Emails
236.	27/03/2020	1156hrs	After consultation with the RGP DPO, DI Perera informs Leigh Debono from Verralls, that that the doctor's note he is referring to as being shown in custody	DI Perera Emails

			has been identified. Anyhow, his client (or through him with his expressed consent), should submit a SAR to the RGP for it to be considered.	
237.	01/04/2020	1140hrs	CI Field authorised the release of the two survivors arrested on the day of incident without any charges being preferred against him. This was done by the Custody Sgt through Verralls.	Email from DCI Field
238.	01/04/2020	1856hrs	Gary Smith from MPS team informs COP, Supt Richardson and DCI Field via email to tell the lawyer representing the families Mr Chris Finch to go through RGP PSD rather than link directly with MPS. DCI Gary Smith includes in his email that he is aware that the criminal case against the survivors has discontinued and the family of the deceased / survivors and are considering legal action against the RGP / those deployed in the vessel. The Spanish may also be considering a homicide investigation, so restriction/ suspension may occur.	Supt Richardson email
239.	03/04/2020	1123hrs	CI Perez informs Mr Finch that all future communication with the RGP should be channelled through him. In respect to requests made by Mr Finch for the disclosure of PM reports and the opportunity to inspect the vessels, CI informed that the Coroner has indicated that the PM reports will be disclosed once he has received the final report from the pathologist. AS to the vessels, he was told that the Coroner is yet to receive the report from the marine expert and once such has been received, a copy will be made available to him.	DI Perera Emails
240.	06/04/2020	1137hrs	Mr Finch informs CI Perez that as the two survivors have been released from their arrest, they are now asking for their properties to be returned. He also wishes for that of the deceased.	DI Perera emails
241.	06/04/2020	1159hrs	Mr Finch communicates to CI Perez that it should be noted that once a person has been released from his arrest, he is entitled to have all his property returned, unless unlawful per se. He	DI Perera

			reiterated that there is no power to retain property if it is not of evidence in a carinal case.	
242.	07/04/2020	1000hrs	Meeting with AG to discuss strategy for Op Kram including the potential consequences for the officers concerned. Latest from GC was that because of Covid19 state of emergency Spanish courts had come to a stop. No judge had been assigned the matter. Discussed previous serious incidents eg the Alcaidesa incident and when GC landed on Gib soil at Harbour Views following a hot pursuit.	Notes from CoP
243.	07/04/2020	1558hrs	Mr Finch emails Maurice Turnock, Clerk of the Magistrates Court requesting for copies of the PM reports.	DI Perera Emails
244.	08/04/2020	1241hrs	Maurice Turnock from the Magistrates' Court, emails Mr Finch and inform shim that all correspondence should be directed to CI Perez.	DI Perera Emails
245.	21/04/2020	1049hrs	Email received from Phil Mandleberg at the Port Authority, he was tasked with viewing the remainder of the footage and identifying the ships which have appeared in the footage. Arrangements made to obtain a statement.	DS Garratt emails
246.	21/04/2020	1430hrs	Meeting held by Supt Richardson, DCI Field, CI Perez and DI Perera. Roles of each of these officers discussed. DCI to act as liaison with Met Police Team. CI Perez to be SPOC for Chris Finch and DI Perera to resume role of Coroners officer. Supt Richardson requested 1. Find out if lawyer was called whilst in custody. 2. Ask GC if an allegation has been made in Spain 3. What is GC's Position	DI Perera Notes
247.	21/04/2020	1530hrs	DI Perera informs FLO that two 10x16 have been released from arrest. Requesting to ascertain from families if they still have the same legal counsel in Gibraltar in case RGP need to contact them.	FLO PC Passano notes
248.	21/04/2020	1540hrs	DI Perera contacts GC and ascertains GC's position to which they reply that	DI Perera Notes

			they are not aware of any formal complaints made in Spain. Will enquire with authorities and will inform DI Perera. GC also stated that GC had submitted a report but had still not been taken over by any judge. GC currently untasked.	
249.	21/04/2020	1553hrs	FLO receives a message from [redacted] (family of [redacted]) to state that they still retain the same Gibraltar lawyers and he does not recall the details of the lawyer in Spain and would communicate this back to the officer (No further information received) Irene does not reply to message.	FLO PC Passano notes
250.	21/04/2020	1600hrs	FLO tasked by Di Perera, (following meeting with Supt Richardson, to try and ascertain from families of deceased what lawyers they were instructing) and to provide families with an update of investigation.	DI Perera Notes
251.	21/04/2020	1850hrs	Update received from HTCU: Due to the current capabilities available to the RGP HTCU, out of the nine phones which were either in possession of the crewmembers of the suspect RHIB or found strewn on its deck, full extractions or unlocking of the devices to access its data have not been possible on four of the phones. In view of this, through HTCU, contact has been made with their counterparts abroad (Cellebrite, to see if they are able to access the phones in question and extract any relevant data held on them. Once a reply is returned and if in the positive, it will be forwarded to HM Coroner for approval in meeting the costs. Another option offered by HTCU with six of the phones, is to request information in respect of SIM cards and their PUK codes, from their service providers (all of which are from Spain). With this there might be a possibility of retrieving call data. However, it must be borne in mind that requesting this through the official channels, such as EIOs, MLAs, etc, is not an option, as the investigation is not of a criminal nature	DC 106 Oton

			and there is no specific power under the Coroner's Act. A formal letter could be sent to a foreign authority to seek such information but it is not known whether it will be replied to.	
252.	22/04/2020	1200hrs	Meeting between AG, DPP and CoP ref communications from lawyers representing the deceased indicating that they would be making a civil claim for damages. CoP enquires about crown counsel representation and again the need to agree a strategy. DPP states, no civil claim has yet been filed so there is no immediate need to appoint counsel. AG would give thoughts whether to leave the matter to be discussed at [Brexit] law enforcement group meeting or privately with his Brexit negotiator counterpart.	CoP notes
253.	22/04/2020	1234hrs	DI Perera informs HM Coroner that he has once again resumed the role of Coroner's Officer (as previously told to him by RGP SMT). Mr Pitto is informed that in respect of the mobile phones held in relation to this investigation, due to the software / encryption issues faced by the HTCU, some of these cannot be accessed for the purposes of retrieving date. He has been informed that enquiries will be carried out with HTCU counterparts in UK to see if they would be able to do this. The reason to continue pursuing their contents, is to try to establish where each of the crewmembers on board the suspect RHIB were sat. There might also be a possibility that information may be held on the phones as to messages / location of the chase and / or recordings of the incident. He is also asked if the authorises for the return of personal property which are not of evidential value, to the families of the deceased and survivors. Mr Pitto is also informed of a request from Mr Finch, to be provided with copies of the photographs of both PMs and that that of both vessels involved in	DI Perera Emails

			the incident. He is asked how to proceed.	
254.	22/04/2020	1246hrs	DI Perera instructs FLO not to contact families anymore ref lawyers info, only welfare checks and if they provide lawyer info, the DI Perera to be informed.	FLO PC Passano notes
255.	22/04/2020	1603hrs	HM Coroner is forwarded an email sent by Mr Finch to CI PEREZ. This is for him to be aware of the stance being taken by VERRALLS. In the email, Mr Finch complains of not being provided with information requested and other requests made, including the surveying of the vessels by his own marine expert. He also asks for the location of the vessels at the time of the incident, asking if it happened in Spanish waters. Mr Finch claims that he will be writing to the Coroner as it appears the intention of the RGP is to close down all important avenues of enquires. He also claims that failure to suspend the officers involved in the collision indicates a predetermination of the enquiry from the outset, indicating a partisan approach and not that of an independent approach.	DI Perera Emails
256.	24/04/2020	1245hrs	Mr Finch emails Maurice Turnock from the Magistrates Court. He forwards him an email thread with CI Perez and wants the Coroner to be informed of what he describes as serious problems he is encountering with the RGP. He states that he considers this case to be of an unlawful killing. He mentions international implications, including ECHR.	DI Perera
257.	24/04/2020	1521hrs	In respect of the email sent to Mr Pitto as to the stance taken by Mr Finch and the complaints he is making, the Coroner informs that Mr Finch has been dealt with by necessary implication in a reply sent to him from his office.	DI Perera Emails
258.	30/04/2020	1519hrs	Update received from HTCU as to enquiries carried out with their counterparts abroad (Cellebrite) in	Dc 106 Oton

			respect of mobile phones held in relation to this investigation.	
259.	05/05/2020	1026hrs	HM Coroner asked if he authorised for 3D scans on both vessels involved in the incident. This will provide a better picture of how the collision took place.	DI Perera Emails
260.	05/05/2020	1118hrs	HM Coroner has been forwarded by DI Perera, the draft copy of the SOLIS report from Capt. Meikle, in respect of his examination of the vessels.	DI Perera Emails
261.	05/05/2020	1202hrs	Approval given by HM Coroner for the 3D scans of the vessels to proceed.	DI Perera Emails
262.	05/05/2020	1258hrs	HM Coroner has been informed of the reply of Cellebrite UK in respect of being able to examine mobile phones held by Police, which were seized during the investigation and which were unable to be accessed by HTCU. He was asked if he authorised for this to be sent over for examination.	DI Perera Emails
263.	05/05/2020	1503hrs	HM Coroner informs that in respect of the examination of mobile phones, he was inclined to say no but would go through the SOLIS report prior to taking a decision.	DI Perera Notes
264.	06/05/2020	1118hrs	Mr Finch emails CI Perez complaining that he is still awaiting for a date for his maritime surveyor to be able to inspect the vessels involved in the collision. He also complains that there is no obvious reasons for the CSI phots taken of the vessels not being supplied to him.	DI Perera Emails
265.	06/05/2020	1614hrs	HM Coroner emails DI PERERA and informs that Mr Finch will be supplied with all necessary reports and information, once the Coroner's investigation was complete. He informed that this reflect the inquisitorial nature of the coronial process and the fact that in an inquest, interested persons are not parties as they might be in atrial. He states that if Mr Finch is interested in pursuing the matter on behalf of his clients civilly or even criminally, he should institute	DI Perera Emails

			proceedings and acquire the rights of a party at trial in that way. He also stated that he had no difficulty in returning the property (of deceased and survivors), even the phones. He wanted to ensure that the views of the investigating team from the MPS were canvassed and that they had no issues on the return of the items.	
266.	06/05/2020	1703hrs	Dr Rouse emails final pathology reports,	**(Appendices 40 & 41)**
267.	07/05/2020	1247hrs	DI Perera forward the final reports of the pathologist for both deceased, to HM Coroner.	DI Perera Emails
268.	07/05/2020	1402hrs	Mr Finch emails CI Perez wanting to be given a date for the inspection of the vessels and have sight of the relevant photographs and marine expert report.	DI Perera Emails
269.	10/05/2020	1411hrs	Mr Finch informs CI Perez that legal representatives on behalf of the families are entitled to participate in the investigation into the deaths of their loved ones. He adds that there is no cooperation from the Police. He says this to be a clear abdication of the state's responsibility where the state agents are clearly responsible in fact and law for the deaths of these concerned. He says there is no excuse to hold back photographs, marine expert report or not allow his own Marine expert to view the vessels.	DI Perera Emails
270.	11/05/2020	1353hrs	Email from CoP to CM/AG/MoJ advising on VOX parliamentary questions	Email from CoP
271.	12/05/2020	1922hrs	On request from SMT, email sent from DI Perera to HM Coroner. He was informed that due to the sensitive nature of the investigation involving the loss of life and directly involving the RGP, his concerns / views, with regards to impartially and transparency, of having a Coroner's Officer not from the RGP was raised with the MPS. Mr Pitto was informed that the UK informed that they would consider this matter, as long as he contacted them personally informing of the rationale for such request and what their role would	DI Perera Emails

			entail. He was provided with contact details for the MPS.	
272.	14/05/2020	1832hrs	DI Perera emails DCI Field informing him that before he requests from Verralls through SPOC for statements to be provided by the survivors/ family of the deceased, if he wishes to clear this with the team from the MPS.	DI Perera Emails
273.	18/05/2020	0900hrs	Capt. Meikle from SOLIS Marine Consultants together with 3D Scanning Specialist Duncan Lees from visualskies conduct 3D scan of PMB Sir John Chapple.	DS Garratt Notes
274.	19/05/2020	1000hrs	SIO meeting with Capt. Meikle, DI Perera and DS Garratt to discuss draft report submitted by him.	
275.	19/05/2020	1400hrs	Capt. Meikle from SOLIS Marine Consultants together with 3D Scanning Specialist Duncan Lees from visualskies conduct 3D scan of Suspect RHIB.	DS Garratt Notes
276.	19/05/2020	0846hrs	Email send from Comandante Alejandro Gamero Rios GC Algerciras to DI Perera. The email informed him that the judiciary in Spain had initiated and The judge was therefore requesting from the authorities in Gibraltar, all information available in respect of the investigation, pathologist reports and the identity of the RGP Marine Section officers involved in the collision. This request was forwarded to SIO and instructions sought into how to proceed.	File Note by DI Perera. Request acknowledged, they were referred to request this information through the proper channels – EIO.
277.	20/05/2020	0956hrs	HM Coroner informed of the official request from the GC, asking for information in respect of the incident being investigated, after being instructed by the 'instructing' judge from La Linea, who has initiated her own investigation. He was informed that if he approved, they would be told that there is an ongoing investigation and if they require anything in relation to it, it should be sought through official channels. This he agreed too on a subsequent phone call with the DI.	DI Perera emails

278.	20/05/2020	1253hrs	On instructions from Gold Command DI Perera replies to Comandante Alejandro Gamero Rios GC Algerciras informing him that there was an ongoing investigation into the incident and if they require any information into this incident, they should request this through official channels.	DI Perera.
279.	25/05/2020	1054hrs	DCI Field writes to DCI Gary Smith from MPS and refers him to the request submitted by DI Perera of taken statements from the survivors/ families of the deceased and asks if he can instruct for the taking of those statements or whether they would undertake themselves when next in Gibraltar	DI Perera Emails
280.	26/05/2020		Met Police are constantly kept updated about any developments in relation to investigation and new leads. All material obtained is provided to them.	
281.	26/05/2020	1004hrs	DCI Smith from MPS replies to DCI Field in respect of the request dated 25th May 2020 informing him to proceed in taking the statements as the coroner will require them and it will service their own investigation.	DI Perera Emails
282.	27/05/2020	0825hrs	CI Perez emails Chris Finch asking to make arrangements to be able to obtain witness statements from the survivors/ families of the deceased.	DI Perera Emails
283.	27/05/2020	0827hrs	Results of the Toxicology Samples [redacted] [redacted]	CSM DC Palmer emails Toxicology report is at **(Appendix 92)**
284.	27/05/2020	1017hrs	Chris Finch replies to CI Perez with the following "we have received no information or assistance whatsoever, the RGP claims to be due to directives	

			given by the coroner. Everything we have asked for, despite numerous requests has been refused. Any statements to be taken should be taken by their legal representatives, as the police can no longer be trusted to be independent and objective. The police you say on the instructions of the coroner has deliberately delayed and frustrated our inquiries and access to information, including examination of the boats and the draft PM report and even the names of the boat's crew. These actions constitute serious breaches of fundamental rights which will not go without full redress. Maybe you should advise the coroner what the RGP has done under his assumed direction, because there will be consequences."	
285.	27/05/2020	1359hrs	Email from DCI Gary Smith attaching the latest sit-rep	(Appendix 90)
286.	27/05/20220	1313hrs	Email from CI Perez to Chris Finch requesting a suitable time to drop off properties (not including digital devices containing data) belonging to the deceased and the two survivors of the collision.	DI Perera Emails
287.	27/05/2020	1446hrs	Email from Robert Fischel QC confirming arrangements made to drop properties off at Verrails offices on 28th of May at 1130hrs.	DI Perera Emails
288.	27/05/2020	2025hrs	Email from DCI Gary Smith attached, an earlier sit-report dated 23/03/20 which he had only shared with his team and superiors and not with RGP.	(Appendix 91)

- Please Note although timings are provided these may be out of sync as they are taken from multiple sources.

Timeline of communications between CoP & officials

Ref: Specific for Op Kram (collision at sea)

Key:

HE = His Excellency the Governor Nick Pyle
CM = Chief Minister Fabian Picardo
AG = Attorney General Michael Llamas
MoJ = Minister for Justice Samantha Sacramento
GPA CH = Gibraltar Police Authority Chairman Joey Britto
CoP = Commissioner of Police Ian McGrail
MPS DPS = Metropolitan Police Service – Directorate of Professional Standards
NPoCC = UK's National Police Co-ordination Centre

Date/Time	From	To	Content
08 03 20 0605Hrs	CoP	CM	Whatsapp message "CM - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked. I am invoking Post Incident Procedures and planning for consequence management. Once I have further updates I will let you know. Rgds Ian"
08 03 20 0605Hrs	CoP	HE	Whatsapp message Nick - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked. I am invoking Post Incident Procedures and planning for consequence management. Once I have further updates I will let you know. Rgds Ian
08 03 20 0724Hrs	CM	CoP	Whatsapp message Ian. Thank you. What are the nationalities of the deceased? Was it drugs or tobacco? Any GC or SVA involvement?
08 03 20 0733Hrs	CoP	CM	Whatsapp message So far we have 3 identified. 2 from Ceuta (moroccan descent) & a Portuguese. No Spanish law enforcement agency involved. RHIB suspected to be involved in drug smuggling. I have also informed The Convent. I have held a "Gold" command meeting in my office to address, welfare of the crew, the investigation that will now follow, security/safety to our law enforcement officers, community impact et al. Also linked up with GC and CNP more so after the disturbances in La Linea after the other death involving the our customs patrol

			boat but given that those on the RHIB are not from this region it may not have an impact. I am still waiting for the 4th & (also deceased) to be identified.
08 03 20 0737Hrs	CoP	CM	Whatsapp message Just had the ID of the 4th one confirmed. He is also from Ceuta of Moroccan descent.
08 03 20 0740Hrs	CM	CoP	Whatsapp message Thank you. Are our officers safely ashore and seen by med staff if necessary? Are their families informed they are ok, in case social media lets on there has been a fatal collision, so they don't worry?
08 03 20 0741Hrs	CM	CoP	Whatsapp message Also, what time did it occur and was it firmly within BGTW or questionable?
08 03 20 0742Hrs	CM	CoP	Whatsapp message I think we should announce if possible to avoid social media speculation. Have you prepared media release or do you want Stuart's help?
08 03 20 0742Hrs	CoP	CM	Whatsapp message Our crew are ok. Their welfare is being totally safeguarded. I am also circulating a notice to all staff to prevent speculation and social media reporting from within. I will issue a very brief press notice shortly.
08 03 20 0743Hrs	CM	CoP	Whatsapp message Ok. Re the two who survived, captured? Hospital or cells?
08 03 20 0743Hrs	CoP	CM	Whatsapp message Collision occurred at approx 0340hrs. Location still to be confirmed.
08 03 20 0744Hrs	CoP	CM	Whatsapp message The two who survived are in hospital with non critical injuries as far as I am informed.
08 03 20 0813Hrs	CM	CoP	Whatsapp message Arrested, correct?
08 03 20 0814Hrs	CoP	CM	Whatsapp message They will be if they haven't been already.
08 03 20	CoP	MoJ	Whatsapp message Minsiter - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked. I am invoking Post Incident Procedures and planning for consequence management. I have advised CM & HE Rgds Ian
08 03 20 0900Hrs	CoP	GPA Ch	Whatsapp message Joey - We're dealing with a critical incident - one of our boats has been involved in a collision with a smuggling RHIB with 4 on board. 2 on the smuggling RHIB are fatalities. Our crew are uninjured but clearly shaken & shocked. I am invoking Post Incident Procedures and planning for consequence management.

			I have advised HE, CM & MoJ already. Regards Ian
08 03 20 0925Hrs	MoJ	CoP	Whatsapp message an thanks for letting me know. If there is anything you need from me let me know.
08 03 20 0927Hrs	HE	CoP	Whatsapp message Ian. Thanks for letting me know. Sorry to hear this.
08 03 20 0929Hrs	HE	CoP	Whatsapp message And of course if ty need anything from us/HMG just ask. Hope your guys are ok.
08 03 20 0941Hrs	CoP	HE	Whatsapp message Thanks Nick.
08 03 20 0949Hrs	CoP	CM	Whatsapp message CM - the information suggests that the collision took place outside BGTW - approx 6NM east off the runway/Santa Barbara beach. (Note this is information and not yet confirmed evidence)
08 03 20 0953Hrs	CoP	CM	Whatsapp message When a death arises from police contact its best practice to engage with an independent investigating team & I am studying how to achieve this.
08 03 20 0953Hrs	CM	CoP	Whatsapp message Ok. We need to liaise with AG on this and ensure we are transparent on this.
08 03 20 0954Hrs	CM	CoP	Whatsapp message Yes, agreed. Any necessary additional expenditure will be approved.
08 03 20 0954Hrs	CoP	CM	Whatsapp message Many thanks.
08 03 20 1031Hrs	GPA Ch	CoP	Whatsapp message Thanks - I saw it on the news feed.
08 03 20 1058Hrs	GPA CH	CoP	Whatsapp message Not asking any questions of you in view that it is under investigation and for Coroner to determine. Just like to say that it is unfortunate, to say the least!
08 03 20 1140Hrs	AG	CoP	Whatsapp message Been in New Mole for the last hour or so. Cooperation RGP/Spanish LEAs very good. New RGP Press Release today will say good cooperation with ES, drug related activity, 2 deaths are Spanish nationals of North African descent. Investigation continues. PR will not say where incident occurred but it is virtually certain it was outside BGTW eastern side opposite runway. It also seems that part of the chase was within BGTW. (This is a text the AG sent to CM which he copied to CoP. He sent me the copy straight after he sent it to the CM after I asked him who was going to brief up to CM)
08 03 20 1220Hrs	MoJ	CoP	Whatsapp message Hi. How are the officers?
08 03 20 1312Hrs	CoP	MoJ	Whatsapp message

			Our officers are ok. We are constantly keeping tabs of their welfare. We are expecting them to come today at some point to provide a detailed account of what occurred. This is in accordance with our force policy on post incident procedure. Thanks fro your interest. Its much appreciated.
08 03 20 1333Hrs	HE	CoP	Whatsapp message Thanks for the briefing. I'll do a quick note for London for when it hits the press. Line will be. Investigation ongoing. Spanish nationals from Ceuta (did you say one person was Portuguese). Not sure in whose waters incident took place. RGP seeking assistance from UK police authorities. No assistance needed from FCO at this stage.
08 03 20 1346Hrs	CoP	HE	Whatsapp message Yes all correct. Indeed one was Portuguese.
08 03 20 1347Hrs	CoP	HE	Whatsapp message Trying to clarify exact position of the collision.
08 03 20 1356Hrs	HE	CoP	Whatsapp message Ok. Thanks.
09 03 20 1015Hrs	HE	CoP	Whatsapp message Morning. I was with the AG last night and we wondered whether it would be worth having an update at some stage later this morning. We are keen to reach ioutnto Spain given talks this week in London (please protect).
09 03 20 1016Hrs	HE	CoP	Whatsapp message Michael and I are happy to come to NMH when convenient for you. Nick
09 03 20 1125Hrs	CoP	HE	Whatsapp message Happy for you to come to NMH. I am here now. Please feel free to come round.
09 03 20 1150Hrs	HE	CoP	Whatsapp message Michael and I will come to you @ 12.05
09 03 20 1131Hrs	CoP	AG	Whatsapp message Morning Michael - Nick Pyle tells me you want to meet. I am here at my office.
09 03 20 1152Hrs	CoP	HE	Whatsapp message Let me know when you're downstairs and I will come down to meet you.
09 03 20 1152hrs	HE	CoP	Whatsapp message Will do.
09 03 20 1205Hrs	HE	CoP	Whatsapp message Just arrive in reception
09 03 20 1205	CoP	HE	Whatsapp message Coming down
09 03 20 1433Hrs	CoP	GPA CH	Whatsapp message Joey - been working through the weekend on this collision case. I am going to email you, (or if you want Elka), to formally notify you of the incident and refer you the fact that an investigation is underway. For purposes of transparency, this investigation should be independent & therefore I am trying to source out a team willing to take on the task. In UK the IOPC (our PCB) would decide

			whether the investigation would be wholly independent of managed by them with an external 3rd party (senior officer) overseeing on their behalf. If we applied that locally, it would mean the PCB would manage the investigation and we'd require a senior UK Officer to oversee it on the PCB's behalf. The field work though would be done by RGP Professional Standards. It may not be the best model as the independence element is not total. Then again for practicalities sake it may prove useful. I need to discuss the matter further with you & perhaps Frank too but I'm conscious that you're away. I have held meetings with the AG & HE (Nick Pyle) and they support my intent to secure the best model to use. Regards Ian
09 03 20 1435Hrs	GPA CH	CoP	Whatsapp message Thanks - best model to use, in my view, would be to outsource completely
09 03 20 1435Hrs	GPA CH	CoP	Whatsapp message If I'm honest, the PCB would not have the necessary expertise
09 03 20 1436Hrs	GPA CH	CoP	Whatsapp message Neither would anybody in the GPA, if we are honest
09 03 20 1436Hrs	CoP	GPA CH	Whatsapp message I agree - I share your views. It would be most unfair on PCB.
09 03 20 1439Hrs	CoP	GPA CH	Whatsapp message The GPA/PCB (Police Complaints Board) should though retain some control similar to that when they receive a complaint against Police. Technically there isn't a complaint as no family member has yet filed one but it could happen. Even if it didn't happen, the fact that deaths have occurred we should treat this as an external complaint and not as internal one generated by the RGP itself. This aside for the concurrent coroner's investigation that will also take place.
09 03 20 1440Hrs	GPA CH	CoP	Whatsapp message There has been another death at sea and GPA was not involved - why is this different ?
09 03 20 1441Hrs	CoP	GPA CH	Whatsapp message Because it wasn't arising from contact with the Police. It was Customs.
09 03 20 1441Hrs	GPA CH	CoP	Whatsapp message OK- I see
09 03 20 1441Hrs	CoP	GPA CH	Whatsapp message Customs have it easier
09 03 20 1442Hrs	GPA CH	CoP	Whatsapp message Ok - we would both be back tomorrow – (Referring to Mr Frank Carreras the PCB Chairman and himself. They were away from Gibraltar).
09 03 20 1443Hrs	CoP	GPA CH	Whatsapp message I will work to get an independent team out. ASAP. & we can discuss tomorrow. Time is of essence, will explain in person..... Politics.

09 03 20 1444Hrs	GPA CH	CoP	Whatsapp message We can have a discussion about this tomorrow - I'm sure we'll take your advice anyway
09 03 20 1444Hrs	GPA CH	CoP	Whatsapp message I'll give you a call tomorrow as soon as I get back
09 03 20 1444Hrs	CoP	GPA CH	Whatsapp message Many thanks
09 03 20 1445Hrs	GPA CH	CoP	Whatsapp message As I said, whatever is best practice etc
09 03 20 1445Hrs	CoP	GPA CH	Whatsapp message Thumb up emoji
09 03 20 1515Hrs	GPA CH	CoP	Whatsapp message Ian - I'm flying in to Malaga tomorrow at around 5.00 so I'll call you as soon as I'm in Gib - even if it's late in the evening... ok?
09 03 20 1525Hrs	CoP	GPA CH	Whatsapp message Of course. No probs.
09 03 20 1542	GPA CH	CoP	Thumb up emoji
10 03 20 1018Hrs	CoP	NPocc	Email Email sent to Ch Supt Goddard of the National Police Coordination Centre in the United Kingdom requesting aid for Op Kram. The ask is for an independent team to fly out to Gibraltar and assume conduct of the investigation.
10 03 20 1133Hrs	GPA CH	CoP	Whatsapp message Ian I've had to change travel plans and get the AVE instead of flying! I'll be in Gib later than expected - if you prefer, I can go to see you with Frank (hopefully) on Wednesday morning? Let me know if you are ok with this...
10 03 20 1229Hrs	CoP	GPA CH	Whatsapp message Yes fine. I am going to forward you an email I have sent to UK NPOC who coordinate requests for assistance. Its just for your information.
10 03 20 1256Hrs	GPA CH	CoP	Whatsapp message OK
10 03 20 1259Hrs	GPA CH	CoP	Whatsapp message When you can also let me know the time to meet tomorrow
10 03 20 1309Hrs	CoP	GPA CH	Whatsapp message Can do anytime. Shall we fix for 9am?
10 03 20 1317Hrs	GPA CH	CoP	Whatsapp message See you then.
10 03 20 1328Hrs	GPA CH	CoP	Whatsapp message Got your email but for some reason I can't reply! Do you need me to do anything? Do you want me to see if Nick can help?
10 03 20 1328Hrs	CoP	GPA CH	Whatsapp message Don't need anything from yourself, it was just for your info. Gonna speak with Nick now.
10 03 20 1328Hrs	GPA CH	CoP	Whatsapp message OK.

10 03 20 1329Hrs	GPA CH	CoP	Whatsapp message Count on me – you know that
10 03 20 1332Hrs	CoP	GPA CH	Whatsapp message I know. Many Thanks.
10 03 20 1254Hrs	NPocc	MPS DPS CoP	Email – Email from Ch Supt Goddard of Npo advising the Metropolitan Police Directorate of Professional Standards that the RGP will be making a request for assistance via the FCO.
10 03 20 1302Hrs	CoP	NPocc MPS	Email – Email from CoP to Ch Supt Goddard of NPocc copied to Supt Wagstaff of the Met. *Nigel – many thanks for you prompt action. His Excellency the Governor, Nick Pyle, the FCO's rep in Gibraltar is apprised.* *Regards* *Ian*
10 03 20 1307Hrs	CoP	HE	Email YE – please see below thread (referring to the above emails with NPoCC) with the UK's National Police Coordination Centre in my efforts to source an independent investigation team. It is highly likely that the MPS will be taking on the task. You will read that that I have been asked to alert you of my request so that FCO and HO London link up. Best wishes Ian
10 03 20 1315Hrs	CoP	HE	Whatsapp message Nick – can you take a call?
10 03 20 1316Hrs	HE	CoP	Whatsapp message Happy to but in 10 minutes. Please call the mobile.
10 03 20 1317Hrs	CoP	HE	Whatsapp message OK (emoji symbol)
10 03 20 1336Hrs	HE	CoP	Email Ian, Thanks. I have asked FCO London to action and also and also if we need anything a touch more formal. I suspect we might need a letter.
11 03 20 1802Hrs	CoP	AG	Whatsapp message Michael - we have still not provided any official account to GC of the incident at sea and they have asked for a brief from us. I am now at a stage where I also require background details of those who were on-board the RHIB as this is being requested by the independent investitagtion team. I can hardly ask them for these details when we haven't released anything official to them. Its only prudent to do so I propose to send them the below details and on the back of this make our request to them. I would appreciate your views on what I propose to send. STARTS Ref: Initial Incident Report – Collision at Sea with fatalities At about 0300hrs on Sunday 8th March 2020, officers from the Royal Gibraltar Police Marine Interceptor Sir John Chapple (Bravo

			4) communicated with the Guardia Civil COS in relation to the presence of a suspect susect vessel activity in waters off the Playa de Santa Barbara, near to the eastern side between Gibraltar and La Linea. Bravo 4 deployed and remained ready to engage at a point approximately 3 miles East of the runway. Soon afterwards a chase ensued with the suspect vessel and Bravo 4 challenging the vessel, a 14mt semi-rigid hulled inflatable vessel (RHIB) crewed by 4 occupants, powered by 4 x 300hp engines and fitted with Garmin radar. The said vessel was suspected to be involved in illicit drugs trafficking activity. During the course of a high-speed pursuit shortly afterwards, there was a collision between both vessels, and this resulted in the death 2 of the 4 RHIB's occupants, namely: [redacted] [redacted] The remaining 2 occupants sustained injuries of various types, and were conveyed to St Bernard's Hospital in Gibraltar where they received treatment for their injuries and later discharged. [redacted] Both [redacted] and [redacted] were arrested on suspicion of Importing a Prohibited Import (14mt RHIB), Dangerous Navigation and Obstructing Police. [redacted] gave a "No comment" interview at New Mole House Police station and [redacted] gave only a brief account of events stating that he had been 1 of the 4 RHIB's occupants and that they had been chased by Police between Gibraltar and Spanish waters prior to the collision between both vessels. Both [redacted] and [redacted] were later bailed out in the sum of £2500.00 to return to New Mole House Police Headquarters at 1100hrs on the 4th June 2020 whilst enquiries continue.

			A Coroner's investigation is already underway into the deaths of [redacted] and [redacted], and post-mortem examinations will be conducted by a Forensic Pathologist on Wednesday 11th March and Thursday 12th March 2020. The Commissioner of the Royal Gibraltar Police has sought assistance of specialist investigators from the United Kingdom. ENDS
11 03 20 1858Hrs	HE	CoP	Email Ian, Good to hear about progress re Met help. Are we any clearer as to where the collision took place? London are keen to know whether it was inside or outside BGTW and if the latter, approximately by how far. Regards Nick
11 03 20 1907Hrs	CoP	HE	Email response Nick – we are getting there on establishing exact co-ordinates of where collision took place. We are tying up some loose ends and probing further from WHSS and should be able to confirm soon. It is, high probable it did occur out BGTW. We are getting plotted which will provide as better understanding in terms of distance from BGTW. Best regards Ian
11 03 20 1909Hrs	CoP	AG	Whatsapp message HE (Nick) is asking for confirmation of where collision took place as London are keen to know. I have informed him along the same lines that you advised CM ie that is highly probable that it happened outside BGTW.
11 03 20 1915Hrs	AG	CoP	Whatsapp message Ian that seems fine to me. Factual whilst being amenable to further precision once you o Tain further details.
11 03 20 1933Hrs	CoP	AG	Whatsapp message Ok (Thumb up emoji)
12 03 20 1549Hrs	CoP	GPA CH	Whatsapp message Joey - just sent you an email with an update press notice I want to send. The Met team coming over asked me to consider this. I have shared it with them too & I'm waiting for a reply.
12 03 20 1617Hrs	CoP	HE	Whatsapp message Nick – Please let me know when you can take a call.
12 03 20 1630Hrs	HE	CoP	Whatsapp message I'll call now
15 03 20 1326Hrs	CoP	AG	Whatsapp message Michael - Can I come round to see you tomorrow for a quick discussion regarding issues with potential political connotations ref the collision at sea incident?
15 03 20 1327Hrs	AG	CoP	Whatsapp message Sure. Anytime

15 03 20 1328Hrs	CoP	AG	Whatsapp message Thanks. I know the CM wanted a face to face with me but given all that is happening it'll be difficult for me to reach him.
16 03 20 1049Hrs	CoP	AG	Whatsapp message Can i come round to see Michael?
16 03 20 1049Hrs	AG	CoP	Whatsapp message In a virus crisis meeting
16 03 20 1052Hrs	CoP	AG	Whatsapp message Ok. Please let me know when I can come round. I am heading to the bunker too to catch up with Ivor.
16 03 20 1053Hrs	AG	CoP	Whatsapp message He's in same meeting as me
16 03 20 1053Hrs	CoP	Ag	Whatsapp message (Hand to face emoji)
17 03 20 1231Hrs	CoP	AG	Whatsapp message Michael - can we meet briefly to discuss the progress of the collision at sea investigation.
17 03 20 1232Hrs	AG	CoP	Whatsapp message Yes Ian today is better. Come whenever you want I
17 03 20 1232Hrs	CoP	AG	Whatsapp message I'll be there by 1pm
17 03 20 1343Hrs	AG	CoP	Whatsapp message All good Ian. Proceed as we discussed (This message relates to the the AG who is reverting to me after briefing up the CM on my intended approach with the Guardia Civil. I was going to have a face to face meeting with GC and also introduce the Met Police team who wanted to engage with GC. Purpose of meeting was to try and get a good understanding of what the GC and/or the Spanish courts were contemplating to do.
17 03 20 1343Hrs	CoP	AG	Whatsapp message Ta. OK (emoji symbol)
17 03 20 1339Hrs	GPA CH	CoP	Whatsapp message Ian – how are things?
17 03 20 1340Hrs	CoP	GPA Ch	Whatsapp message In terms of coping with demands and investigation.
17 03 20 1341Hrs	CoP	GPA CH	Whatsapp message Ploughing on with all thats on our plate. We have 13 officers in self isolation. We are adjusting ourselves accordingly to be as resilient as possible.
17 03 20 1344Hrs	GPA CH	CoP	Whatsapp message Understood, keep safe Ian.
17 03 20 1334Hrs	GPA CH	CoP	Whatsapp message Any news on the other fronts
17 03 20 1344Hrs	GPA CH	CoP	Whatsapp message Or do you prefer I call?
17 03 20 1345Hrs	CoP	GPA CH	Whatsapp message Can I brief you later.
17 03 20	GPA	CoP	Whatsapp message

1346Hrs	CH		I know you are extremely busy - I'll arrange for a call tomorrow at some point -take care.
17 03 20 1347Hrs	CoP	GPA CH	Whatsapp message OK (emoji symbol)
17 03 20 1347Hrs	GPA CH	CoP	Whatsapp message Thumbs up emoji
18 03 20 1530Hrs	CoP	AG	Whatsapp message Michael - Held video conference with GC as they wouldn't meet face to face because of the pandemic. They were obviously cagey with our UK colleagues but it served well to demonstrate that we were totally transparent. The UK team were happy with the meeting. What I was able to elicit from GC is that a judge is still to be assigned the matter & it is likely that it'll be a judge from La Linea. Again because of their lock down there are delays in their courts. GC anticipate that when appointed, the judge will request information and accounts from us. What form this will take is not clear - the judge could potentially summons our officers to provide their statements in person or simply request their accounts via police to police channels. What mechanisms we should rely on to facilitate this, were we to oblige, is something we'll need to discuss. GC also expects the family of the deceased to file a complaint in their courts to seek compensation. This will no doubt complicate matters for us as the judge may be swayed to look at the matter from a different perspective in terms of where the collision took place. GC are requesting from us for photos of the vessels, post mortem reports & statements from those involved in the collision. We have to carefully study this request and weigh the pros and cons of withholding the data or provide it at some point. Speak soon.
19 03 20 1330Hrs	Cop	GPA CH	Whatsapp message (copied text I sent to AG) Michael - Held video conference with GC as they wouldn't meet face to face because of the pandemic. They were obviously cagey with our UK colleagues but it served well to demonstrate that we were totally transparent. The UK team were happy with the meeting. What I was able to elicit from GC is that a judge is still to be assigned the matter & it is likely that it'll be a judge from La Linea. Again because of their lock down there are delays in their courts. GC anticipate that when appointed, the judge will request information and accounts from us. What form this will take is not clear - the judge could potentially summons our officers to provide their statements in person or simply request their accounts via police to police channels. What mechanisms we should rely on to facilitate this, were we to oblige, is something we'll need to discuss. GC also expects the family of the deceased to file a complaint in their courts to seek compensation. This will no doubt complicate matters for us as the judge may be swayed to look at

			the matter from a different perspective in terms of where the collision took place. GC are requesting from us for photos of the vessels, post mortem reports & statements from those involved in the collision. We have to carefully study this request and weigh the pros and cons of withholding the data or provide it at some point. Speak soon.
19 03 20 1332Hrs	GPA CH	CoP	Whatsapp message OK – thanks for this Ian
19 03 20 1332Hrs	GPA CH	CoP	Whatsapp message
20 03 20 1028Hrs	GPA CH	CoP	Whatsapp message Good morning, Ian - just a thought, are you keeping Governor abreast of developments...? Also, maybe send an update to CM via the WhatsApp? Note that this is just my thinking and nobody has actually asked me but I think it would be prudent...?? See what you think
20 03 20 1054Hrs	GPA CH	CoP	Whatsapp message Developments in respect of maritime accident, I meant...
20 03 20 1058Hrs	CoP	GPA CH	Whatsapp message Yes The Convent is up to speed and AG too. Michael fed up to CM. By next week the UK Team will have more clarity on what route they will be suggesting this should take locally. That is a good point to provide a more formal update.
20 03 20 1058Hrs	GPA CH	CoP	Whatsapp message Ok understood! Thank you, Ian.
20 03 20 1059Hrs	GPA CH	CoP	Whatsapp message As long as both are kept updated, that was my concern...
20 03 20 1059Hrs	CoP	GPA CH	Whatsapp message Thumb up emoji
06 04 20 1222Hrs	CoP	AG	Whatsapp message Michael - could I come round to meet and discuss the collision at sea matter. I am conscious this won't go away and would like to at least have the strategy in place for when the time comes to act.
06 04 20 1357Hrs	AG	CoP	Whatsapp message Now?
06 04 20 1403Hrs	CoP	AG	Whatsapp message No not now, during the course of the week or when you can.
06 04 20 1404Hrs	AG	CoP	Whatsapp message Ok. I can do now if it suits you
06 04 20 1415Hrs	CoP	AG	Whatsapp message I am at the bunker at a meeting. Will let you know when I'm out if you can still see me.
06 04 20	AG	CoP	Whatsapp message

1416Hrs			Sure
06 04 20 1548Hrs	CoP	AG	Whatsapp message Just leaving the meeting at the bunker. Shall I come round or we leave it for another day this week?
06 04 20 1552Hrs	AG	CoP	Whatsapp message Another day better
06 04 20 1553Hrs	CoP	AG	Whatsapp message Ok. I will have my pa arrange with yours
06 04 20 1553Hrs	AG	CoP	Whatsapp message (Thumb up emoji)
07 04 20 1000Hrs	AG	CoP	Meeting To discuss strategy of how we were going to deal with the Op Kram. I expressed concern with what my officers could be facing once a Spanish judge was assigned to the case. AG was stressing that we had to focus that this was a joint effort by GC and RGP to tackle organised crime and that yes, perhaps the RGP went too far by going out of BGTW but in essence they were discharging a law enforcement role and he would be happy to defend that position. Discussed the correlations with the Alcaidesa incident where RGP officers also went beyond their remit in to Spain and how that particular case had dragged on for 10 years and therefore I wanted a Gibraltar PLC strategy to deal with the case if only to keep on file until such time as we had to activate it. AG fully agreed with me and undertook to discuss with the CM whom he had quick access to.
22 04 20 1200Hrs	AG DPP	CoP	Meeting – To discuss Op Kram. Correspondence being received from the lawyers representing the families indicating that they would be making civil claims for damages. I enquired about legal representation and again the need to agree a [Gibraltar] strategy given all the strands the matter had (i) Coroners inquiry, (ii) Professional Standards investigation, (iii) the Spanish dimension in terms of courts and politics AG undertook to keep the matter alive with CM pending any developments on the political front. Spanish judge had still not been appointed because of the Covid19 lockdown measures in Spain. DPP said the civil claim hadn't been filed yet so there was no need to engage counsel as yet. AG wanted to have sight of the final investigation report from the UK before giving further thought to the strategy.
11 05 20 1353Jts	CoP	CM MoJ AG	Email CM- MoJ- AG For your information I refer to the attached document which is a response to parliamentary question in Spain. He question was asked by Agustin Rosety from VOX. It has been published by the Senate today. I have not shared it with HE in case you wanted to

			touch base with him yourselves. I draw your attention to the 3rd paragraph that according the the Spanish Foreigh Ministry had not made a request for support on the night in question. We do, however, have evidence there was a constant exchange of communication between GC and RGP on the movements of the suspect vessel which they were with their SIVE costal carneras and relaying this to our crew. The GC maritime assets deployed in the area that night. I am asking SB to monitor social media because no Rosety will take to posting about the matter. Regards Ian
11 05 20 2111Hrs	MoJ	CoP	Email response Thank you Ian KR Samantha
12 05 20 0715Hrs	AG	CoP	Email response Thanks Ian

(RGP) Field, John

From: (RGP) Richardson, Paul (OTM)
Sent: 08 March 2020 10:11
To: (RGP) McGrail, Ian M.Sc (OTM)
Cc: (RGP) Ullger, Richard; (RGP) Field, John
Subject: Gold Actions - collision at sea

Gold meeting convened: COP'S Office

Date & time: Sunday 8th March 2020 0500

Attending: COP; Supt Richardson; CI Field

BRIEF

A collision at sea occurred at approx. 0340 today between RGP bravo and suspect vessel following a chase. Incident believed to have occurred at approx. 3NM within BGTW. One fatality from the suspect vessel and one male occupant serious injuries with open fracture of shoulder. Deceased person and injured party conveyed to PMB base by HMC vessel. A second male died whilst being conveyed to SBH on-tow by HMC vessel.

Role Designation:

Gold	COP
Deputy Gold	Supt Richardson
SIO	DCI Field
Coroner Officer	DI Perea
PSD	DI Enriles
PIP Manager	CI Romero
Spanish Liaison	DI Chipolina
Media	DI Chipolina (Barker in Chiclana)
HR	Insp Tunbridge
FLO	195 Passano

ACTIONS:

1. Critical Incident declared
2. COP to consider calling UK force to investigate - Small Islands/Hampshire (ACC Ben Snuggs)
3. PIP procedure to be initiated ECHR considerations
    a. Safeguard ID of officers (retaliation by OCG feared)
4. Welfare of officers
5. Security NMH, Pmb Base, SBH
6. Advise:
    a. CM
    b. HE
    c. CBF
    d. GDP CPO
    e. Police Fed
7. Advise Windmill Hill and Port to secure evidence.
8. COP to issue message of reassurance to workforce
9. Intel circular to be published.
10. Resilience issues to be considered for Gold command cover and Ops personnel
11. Press statement

NEW:

12. SIP to consider ECHR implications and by extension Gibraltar Constitution
13. Need to determine location of incident ASAP.
14. SLOWER TIME ACTIONS:
    a. Extract training records for PMB crew
    b. Extract standing instructions for chase at sea.

LOG:

0500 GOLD group convened
0520 Call from duty officer – 2nd fatality confirmed
0524 CBF texts COP
0530 tbc Insp Enriles PSD arrives
0534 GPF Chair Morello arrives
0536 COP received call from John Rodrigues
0555 Insp Tunbridge arrives and briefed by PR
0605 COP briefs HE and CM
0616 COP briefs GDP CPO Rob Allen
0618 COP briefs Spanish COP Policia Nacional
0632 COP Briefs GDP CI Mark Wood re: possible security uplift at HHMB
0630 COP visits ABE suite and speaks to PMB CVrew, PC's Balban, Alvarez, Bartram. Also present Insp Fernandez, Supt PR
0645 COP calls Fernando Lopez-Rey Quintero - GC Colonel
0650 Gold update – IM PR JF Insp. Paul Chipolina. ID of three occupants of the vessel confirmed. All male: 2 Spanish Nationals from Ceuta (1 RIP), 1 Portugal, 1 RIP nationality/i.d. tbc.
0655 HM Coroner advised
0750 Gold group reconvened IM PR JF NR TT AE
0915 GDP SMT briefed at COP's office – Supt Brian Johnson, CI John Caufield, CI Mark wood
0940 JF advises that collision occurred 36' 09 N 5" 12"W approx.. 6.54 East of Play de Santa Barbara.
1010 COP briefs AG Michael Llamas.

GOLD Update @ 0750

- Progress from actions list discussed
- GOLD resilience
  - PR to assume Gold in absence of COP
  - JF to continue with SIO
  - TT to assume CI Ops function
  - NR to continue as PIP manager but assist with OPS as far as possible.
- <u>PIP update</u>
  - Short statement provided by crew. This was read but only includes on and off duty-
  - Need to establish the location of incident with accuracy.
  - RTW strategy being considered – redeployment to non-PMB role
- <u>SIO Update</u>
  - All 4 male occupants now identified:

    [redacted]
  - GC/PN engaged to advise next of kin
  - Collision appears to have happened with front of PMB striking rear of suspect vessel
  - Suspect vessel – 14m 4 x 300HP outboard motors. V Good radar system. Appears to be been carrying fuel.
  - PMB – Brave 4 collar damaged
  - Windy/Port have no coordinates – AIS either switched off or faulty.

- Ian Underlay – Gib Port – reports that he was advised of an incident in Alcaidesa by Tarifa Control uncertain whether this is same incident as the collision.
- 1st fatality remains on board PMB

- **PSD Update**
  - 1st contact from PMB crew to CAD is to advise of fatality. Previous contact only reporting on duty.
  - PMC coxswain stated would not send officer with injured party on their vessel whilst undertow with HMC for safety concerns. This person dies en-route to SBH.

SOLIS
MARINE CONSULTANTS

Solis Marine Consultants
Temple Chambers, 3-7 Temple Avenue, London, EC4Y 0DA

DRAFT REPORT

'SIR JOHN CHAPPLE' Collision with a Suspect RHIB

In the Western Mediterranean.

Position 36° 10.0' N 005° 12.5' W

8 March 2020





Date: 30 April 2020

Ref: SOLIS/6316/RM/R01

NP1/235

B1683

SOLIS
MARINE CONSULTANTS

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Temple Chambers, 3-7 Temple Avenue, London, EC4Y 0DA

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Our Ref: SOLIS/6316/RM/R01

1. INTRODUCTION

1.1. Instructions Received

1.1.1. I have been instructed by the Royal Gibraltar Police (RGP) to investigate the collision between the RGP vessel 'SIR JOHN CHAPPLE' and an RHIB suspected of illegal drug activity ('SUSPECT RHIB') in the western Mediterranean Sea.

1.1.2. I am to provide my opinion on:

i. The events leading to the collision

ii. The territorial waters where the incident occurred

iii. The role of the RGP Officers in the collision

iv. The other factors that may have contributed to the collision

1.1.3. I have not been instructed to consider the policing and/or legal background to the illegal drug trade and I have not done so.

1.1.4. My qualifications and experience are described in my curriculum vitae which is included as Appendix A of this report. In summary, I have previously investigated fatal accidents that have occurred on vessels at sea, primarily while as an Inspector of Marine Accidents at the UK's Marine Accident Investigation Branch (MAIB). I have also attended Coroner's Courts to support my reports. I have also previously investigated a fatal marine accident in Gibraltar that involved a government operated patrol vessel.

1.2. Scope of this Report

1.2.1. I open this report by giving the background to the sequence of events at the material time.

1.2.2. My conclusions are contained at Section 5 of this report.

1.2.3. I am aware of my duty to the Court and have signed a statement of truth to that effect at Section 6 of this report.

1.3. Background

1.3.1. I have outlined the sequence of events, as I understand them, below. All times are local, that is UTC +1 hour unless otherwise stated.

1.3.2. The Police Officers on board 'SIR JOHN CHAPPLE', as required by the RGPs Post Incident Procedures (PIP), are referred to as Officer One, Officer Two and Officer Three.

1.3.3. The drugs trade between Morocco and Spain is well known, and well established. The use of high-speed craft to import illegal drugs from Morocco into Spain has been established over a long period.

1.4. Position Data Recovered from 'SUSPECT RHIB'

1.4.1. All the navigation systems found on board 'SIR JOHN CHAPPLE' were checked; however, no relevant data, as the Automatic Identification System (AIS) and Global Positioning System (GPS) systems were apparently turned off, was available to be recovered.

1.5. Position Data Recovered from 'SUSPECT RHIB'

1.5.1. 'SUSPECT RHIB' was fitted with a Garmin NAVnet 3D radar/chart plotter which saved only its position data; therefore, the GPS position, speed-over-the-ground and course-over-the-ground were not recorded.

1.6. Track of the 'SUSPECT RHIB' – Rapid Replay Reconstruction

1.6.1. A Solis Marine Rapid Replay reconstruction was produced to show the track of the 'SUSPECT RHIB' for the time of the incident (Figure 1). The reconstruction used the GPS position data recovered from the 'SUSPECT RHIB's radar/chart plotter. The technical comments on the Rapid Replay reconstruction are contained at Appendix B and the data recovered from the NAVnet 3D chart plotter is at Appendix C.

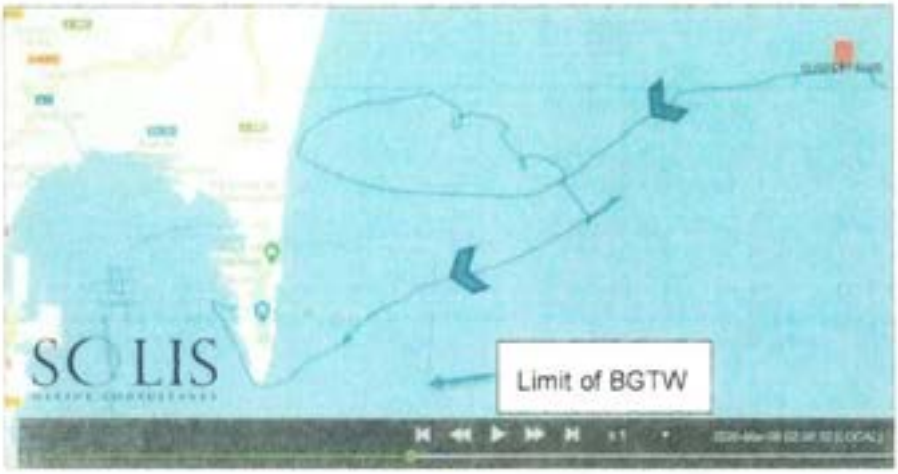

Figure 1 Rapid Replay reconstruction of the track of 'SUSPECT RHIB'

1.7. WHSS Infrared CCTV Footage

1.7.1. Infrared CCTV was recorded from two cameras that were controlled from Windy Hill Signal Station (WHSS). [redacted]

1.8. Narrative

1.8.1. On Saturday 7 March, at around 22:00, the crew of 'SIR JOHN CHAPPLE' reported for duty at New Mole House, before they deployed to the RGP Marine Base at Gun Wharf Quay, also known as Gibraltar Government Maritime Station (GGMS). Shortly after 22:00 'SIR JOHN CHAPPLE' departed from RGP Marine Base to carry out patrols of Ocean Village.

1.8.2. At around 01:30 on 8 March, at around 01:30, 'SIR JOHN CHAPPLE' departed from Ocean Village and returned to Gun Wharf Quay to relieve the afternoon crew at the conclusion of their shift at 02:00. At 02:35, 'SUSPECT RHIB' headed towards the Spanish port of Puerto de La Atunara from her position 11 nautical miles (NM) to the east.

1.8.3. A mobile phone call, at an unknown time, was received on the RGP Marine section mobile phone from WHSS stating that there was an unknown vessel without navigation lights on the eastern side of Gibraltar, heading westwards towards the coast.

1.8.4. The Coxswain, Senior Coxswain (Officer One), called the Spanish Guardia Civil by the marine section mobile phone and informed them of the information they had received from WHSS. The sighting, presumably by infrared CCTV, of the unlit vessel was then confirmed by Guardia Civil.

Officer One then advised Guardia Civil that he would deploy to the Eastern Side of Gibraltar; however, the objective of the deployment is unknown.

1.8.5. The three-man crew boarded 'SIR JOHN CHAPPLE' at the Marine Base and deployed to the Eastern Side of Gibraltar. Officer Two had the Inter-operations handheld police radio; Officer Three had the police operations handheld radio. Officers Two and Three were supplied with hand-held LED torches.

1.8.6. The radar was turned on, and the GPS chart plotter was left off as Officer 1 stated that the equipment reduced his night vision. The chart plotter also activated the vessel's AIS, which was therefore also not turned on. The crew of 'SIR JOHN CHAPPLE' carried out pre-departure checks that included: engine and fuel status; condition of the vessel's foam collar; that portable VHF radio's batteries were charged, and that functioning torches were available.

1.8.7. Officer One sat in the conning position (starboard forward), Officer Two was on the port side forward position and Officer Three sat in the seat on the starboard side behind Officer One.

1.8.8. At 03:16 the Rapid Replay reconstruction and CCTV showed that 'SUSPECT RHIB' arrived off Puerto de La Atunara (Figure 2), in a position close to the breakwater of the port.

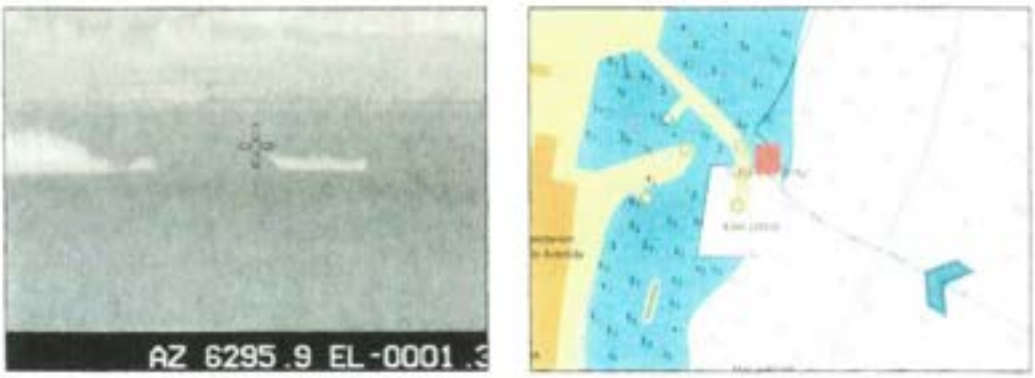

Figure 2 'SUSPECT RHIB' arriving at Puerto de La Atunara as seen on Infrared CCTV and Rapid Replay

1.8.9. As 'SIR JOHN CHAPPLE' arrived on the eastern side of Gibraltar, Officer One received a mobile phone call from the Guardia Civil stating that 'SUSPECT RHIB' was by the Puerto de La Atunara breakwater for, what they believed to be, a change of crew and a resupply of food. The Guardia Civil asked 'SIR JOHN CHAPPLE' to head to the east of the port and to wait.

1.8.10. At 03:26:16, 'SUSPECT RHIB' (Figure 3) with four crew on board departed Puerto de La Atunara and headed north and then north-easterly away from the Spanish coast.

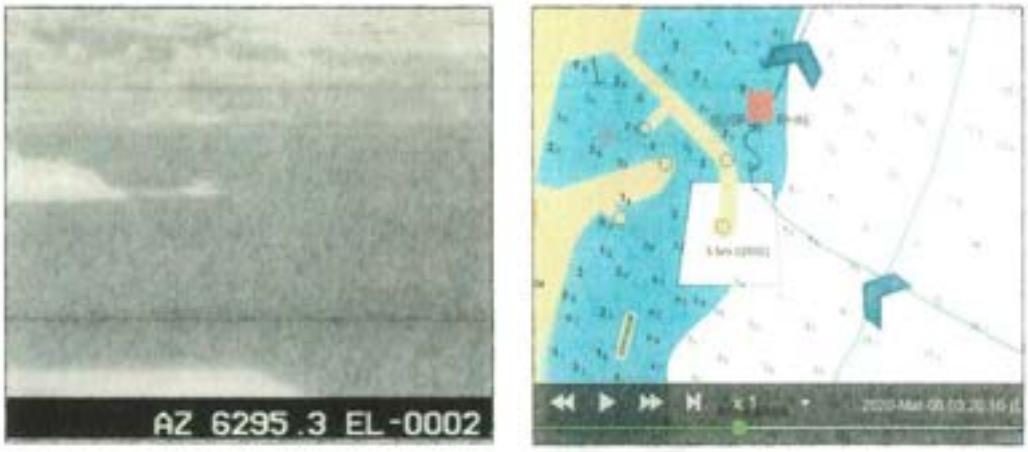

Figure 3 'SUSPECT RHIB' arriving at Puerto de La Atunara as seen on Infrared CCTV and Rapid Replay

1.8.11. Officer One reported that he received another call from the Guardia Civil who stated (it is not known whether this was a request or an instruction) that 'SIR JOHN CHAPPLE' was to remain in their current location as 'SUSPECT RHIB' was heading directly for their location.

1.8.12. [redacted]

1.8.13. Officer One reported that 'SUSPECT RHIB' then passed between 5 metres and 10 metres in front of the bow of 'SIR JOHN CHAPPLE'. 'SIR JOHN CHAPPLE then followed the 'SUSPECT RHIB' in a high speed 'hot' pursuit.

1.8.14. Officer One stated that his intention was to identify the suspects and determine whether 'SUSPECT RHIB' was carrying an illegal cargo. Officer One noted in his statement that 'SUSPECT RHIB' appeared to be:

> *"...either a prohibited import over 6m in length, a fast launch having an engine capacity over 200 horsepower and in any event was not displaying any navigational lights".*

1.8.15. Officer One gauged that the heading of 'SUSPECT RHIB' was in a south-easterly direction, and he expected 'SUSPECT RHIB' was heading towards Morocco. Officer two reported that 'SIR JOHN CHAPPLE' was positioned on the 'SUSPECT RHIB's starboard side.

1.8.16. Officer One reported that 'SIR JOHN CHAPPLE' then approached the 'SUSPECT RHIB's port side. Officer two opened the port side door and shone his Dragon torch on to the vessel.

1.8.17. 'SUSPECT RHIB' was illuminated by the blue beacon lights and the Dragon torch held by Officer Three. Objects were thrown by the 'SUSPECT RHIB's most aft crewman and the objects were hitting 'SIR JOHN CHAPPLE'.

1.8.18. At 03:31, as shown by the Rapid Replay (Figure 4), 'SUSPECT RHIB' made a sharp turn to starboard. The evading manoeuvres of 'SUSPECT RHIB' sprayed seawater onto 'SIR JOHN CHAPPLE' which reduced the visibility and therefore force it to slow down. Officer One trimmed down his outboard engines and slowed down when necessary, which provided him greater manoeuvrability with greater water plane area. Officer One also observed that 'SUSPECT RHIB's outboard engines were still trimmed up, which produced significant spray at slower speeds.



Figure 4 'SUSPECT RHIB's first turn to starboard

1.8.19. Three minutes later, at 03:34 (Figure 5), a second sharp turn to starboard by 'SUSPECT RHIB' was recorded, followed by another turn to starboard at 03:37.



Figure 5 'SUSPECT RHIB' third turn to starboard at 03:37

1.8.20. Officer One then stated that following the two turns made to starboard he saw the 'SUSPECT RHIB' make a sharp turn to port, he therefore placed the propulsion into neutral and attempted to turn to starboard to avoid 'SUSPECT RHIB' by slowing down and turning away. Officer Two stated that the 'SUSPECT RHIB' passed very close to 'SIR JOHN CHAPPLE' and that the spray created caused the windows to be covered and removed any visibility. It is not known whether the fitted window wipers were operated, or whether they were effective. Officer Two stated that he:

> *"then felt an extremely large and sudden impact that caused our vessel to stop abruptly and noticed that we immediately began to tilt to starboard".*

1.8.21. Officer Three stated that he:

> *"felt a sudden impact and heard a short creaking sound as we continued rolling to the right".*

And then:

> *"the starboard side window slam* [sic] *into the water with a sudden impact. A large amount of dark water flushed into the cabin..."*

1.8.22. At 03:38:56, the Rapid Replay reconstruction (Figure 6) shows a very sharp turn to port, followed almost immediately by the collision when the 'SUSPECT RHIB' is seen to stop in position 36° 10.0' N 005° 12.5' W, around 6.1 NM east of Puerto de La Atunara.



Figure 6 Position' SUSPECT RHIB' at the time of the collision - Rapid Replay

1.8.23. Officer One stated that he felt the impact and that 'SIR JOHN CHAPPLE' then heeled heavily to starboard. There was then a significant ingress of seawater through the open windows on the starboard side. The crewman Gomes Serena of 'SUSPECT RHIB' stated that the 'SIR JOHN CHAPPLE' collided with the "rear left-hand side", and "went over" 'SUSPECT RHIB'.

1.8.24. 'SIR JOHN CHAPPLE' then righted, and Officer One saw 'SUSPECT RHIB' on his port side and could hear of the 'SUSPECT RHIB's crew men shouting. 'SIR JOHN CHAPPLE' manoeuvred her starboard side alongside 'SUSPECT RHIB's starboard side. Officer Two only then realised that there had been a collision.

1.8.25. Officer Two boarded the bow of the 'SUSPECT RHIB' from the stern of 'SIR JOHN CHAPPLE', while Officer Three held the two vessels alongside each other. Two crewmen were seen to be the centre console of the 'SUSPECT RHIB'; one was apparently dead, the second seriously injured. Officer One and Officer Two, apparently shocked at the situation they faced, advised the other two 'SUSPECT RHIB' crewmen standing at the bow that they would tow them back to Gibraltar where they would be met by an ambulance.

1.8.26. Officer One and Officer Two re-boarded 'SIR JOHN CHAPPLE' and Officers Two and Three connected a long tow line from the stern of the vessel to the 'D' Ring on the bow of 'SUSPECT RHIB'. Officer One then contacted WHSS and informed them that there was one fatality and possibly a second and that they were heading back to the RGP Marine Base. Officer One then contacted his duty Sergeant to arrange an ambulance crew to stand by for their arrival at the Base. Officer One then received mobile phone calls from the Guardia Civil and the Port Boarding Officer, although the purpose of the calls is unknown.

1.8.27. At 03:46, about 7 minutes after the collision, 'SIR JOHN CHAPPLE' headed back to Gibraltar with the 'SUSPECT RHIB' in tow around 30 metres astern, with Officer Three watching 'SUSPECT RHIB' from the stern of 'SIR JOHN CHAPPLE'. 'SIR JOHN CHAPPLE's starboard outer outboard engine apparently failed following the collision, and the towing speed was reduced.

1.8.28. At 04:31, 'SIR JOHN CHAPPLE' stopped around 1 NM north-east of Europa Point and was met by the Her Majesty's Customs (HMC) vessel 'HMC SEEKER' (Figure 7), which then came alongside 'SIR JOHN CHAPPLE's starboard side. Officer Two instructed the Customs Officers to manoeuvre 'HMC SEEKER' alongside the 'SUSPECT RHIB', then to transfer all the crew to their vessel and take them ashore for treatment.



Figure 7 'HMC SEEKER's rendezvous with 'SIR JOHN CHAPPLE'

1.8.29. Officer Two, Officer Three and the Customs Officers transferred the seriously injured crewman and the two other crewmen to 'HMC SEEKER' which headed back towards Gibraltar at a fast speed. The dead crewman was left onboard the 'SUSPECT RHIB'. At 04:41 'SIR JOHN CHAPPLE' resumed a heading towards Gibraltar with 'SUSPECT RHIB' in tow. At 04:36, 'SIR JOHN CHAPPLE' crossed into British Gibraltar Territorial Waters (BGTW) and at 04:57, passed south of Europa Point. At 05:20, 'SIR JOHN CHAPPLE' berthed alongside the RGP Marine Base with the assistance of a Gibraltar Defence Police RHIB.

1.8.30. Shortly after their arrival the three officers were informed that a PIP process had been initiated and on the morning of 8 March the officers provided initial Stage 3 statements. One of the crew of 'SUSPECT RHIB' provided a statement to the RGP on 8 March. RGP Stage 4 PIP statements were taken from the three RGP Officers on 16 March.

1.9. Environmental Conditions

1.9.1. Two of 'SIR JOHN CHAPPLE's crew reported the conditions to be moonlit with calm seas and good visibility. The weather conditions at the time have yet to be verified.

1.10. Post-mortem Report

1.10.1. A preliminary post-mortem was carried out on the two dead crew from the 'SUSPECT RHIB' on 11 and 12 March 2020 (Appendix E). [redacted], believed to be dead immediately following the collision, was stated to be 40 years old with death due to:

> *"extensive head injuries as well as to the left shoulder. The injuries are consistent with forceful impact to posterior left aspect of the trunk / head..." such injuries are non-survivable and would likely have caused immediate loss of consciousness and/or death".*

1.10.2. [redacted], who was found seriously injured immediately following the collision, was stated to be 49 years old, with death due to:

> *"...extensive chest, spine and upper limb injuries. The injuries are consistent with forceful impact to the back with the suggestion of repeated pattern, possibly associated with a rotating object... Such injuries are not survivable but may have been associated with limited consciousness. Any delays in resuscitation are unlikely to have affected the outcome".*

2. Background Information

2.1. Crew of 'SIR JOHN CHAPPLE'

2.1.1. Officer One was a Senior Coxswain and was the coxswain in control of the vessel at the time of the collision. He had been a Police Officer since [redacted] and joined the Marine Section in [redacted] becoming a fully qualified coxswain in [redacted]. His training included Royal Yachting Association (RYA) operated STCW 95 (Standards of Training, Certification and Watchkeeping for Seafarers) courses in sea survival, first aid, navigation and firefighting as well as a week-long course that included radar and VHF radio training which included a practical assessment. Officer One also successfully completed a two-week long fast RHIB course which included high speed navigation and pacing (pacing is the manoeuvring alongside of two patrol vessels at speed). No pursuit training was provided.

2.1.2. Officer Two joined the RGP in [redacted] He gained an RYA Powerboat Level 2 qualification, RYA Day Skipper Theory qualification and was trained to STCW 95 standard in sea survival, first aid, navigation and firefighting in [redacted]. Officer Two qualified as a Gibraltar Maritime Administration (GMA) Boat Master in [redacted] and completed an RGP in-house GMA Interceptor RHIB course in [redacted]. He also held valid VHF radio and radar operator qualifications.

2.1.3. Officer Three was a Police Officer in the United Kingdom from [redacted]. He joined the RGP in [redacted]. Officer Three had no marine qualifications.

2.2. Crew of 'SUSPECT RHIB'

2.2.1. The crew of 'SUSPECT RHIB' consisted of four crewmen. One of the surviving crewmen, [redacted], identified the crew as [redacted](Coxswain) - seat 1 (forward), [redacted] seat 2, [redacted] - seat 3, [redacted]) - Seat 4 (aft), (Figure 8).

www.solis-marine.com



Figure 8 Jockey seats on the 'SUSPECT RHIB' - looking forward

2.3 Position Data Recovered from 'SIR JOHN CHAPPLE'

2.3.1 'SIR JOHN CHAPPLE' was fitted with a Chart Plotter; however, the GPS that provided the navigation data to the radar plotter and the chart plotter was turned off. No navigation data was recovered from the vessel. No AIS data was transmitted, and therefore the GPS position, speed-over-the-ground, heading and course-over-the-ground were not recorded.

2.4. The Royal Gibraltar Police - Marine Section Vessels

2.4.1. The RGP Marine Section operates the following vessels with the AIS systems as fitted onboard:

[redacted]

2.4.2. The RGP Marine Section also consists of five Response Teams, with a support Section. The reporting structure of the Marine Section is shown at (Figure 9).

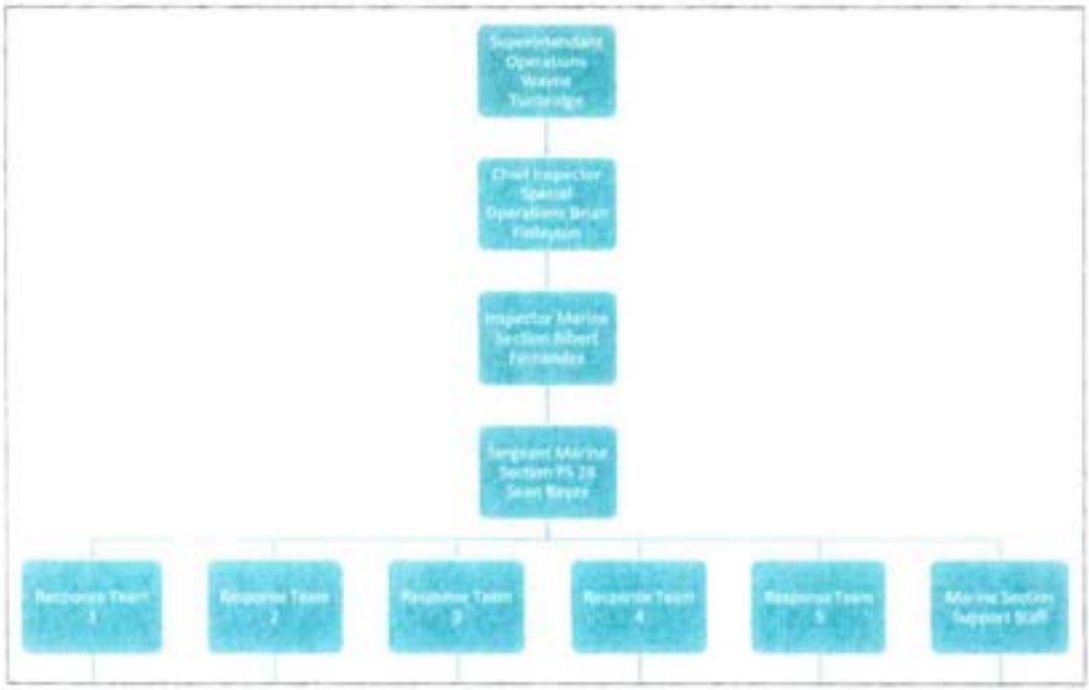

Figure 9 Organogram showing the management structure of RGP's Marine Section

2.5. RGP - Marine Training

2.5.1. [redacted]

2.5.2.

2.5.3.

2.6. RGP MARINE SECTION - Manning

2.6.1. [redacted]

2.7. RGP Marine Section - Shift Pattern

2.7.1. [redacted]

2.8. RGP Marine Section - Pre-departure Checks

2.8.1. Prior to the deployment of a vessel one of the marine trained crew will carry out 'pre-checks'. That is intended to ensure that the vessel has enough fuel and that the fitted equipment, including navigation and radar equipment, is working.

2.9. RGP Marine Section - Records

2.9.1. While communications are recorded by WHSS, and an end of shift email sent, no logbooks or records were apparently kept on board 'SIR JOHN CHAPPLE'.

2.10. RGP Marine Section - Instructions

2.10.1. The RGP Marine Section Instructions (The Instructions), described by RGP Police Sergeant Mr. Stewart Stone in an email as 'Rules of Engagement' which were issued on 8 July 2016 and are at Appendix D.

2.10.2. The Instructions stated inter-alia:

> *"Deployment into different jurisdictions surrounding the territory of Gibraltar are described below. Officers will only operate within BGTW unless in accordance with the specific situations described in paragraphs 3 and 4 below. These instructions will be adhered to until further notice. All previous instructions are rescinded.*
>
> *...Officers are **NOT** authorised to operate outside BGTW and in International Waters unless when responding to a situation as described in 3(a) or 3(b)*
>
> *[3] a. Participating in a Search and Rescue operation*
>
> *[3] b. Responding to an incident where there is an imminent and serious risk to life. Officers are NOT authorised to operate outside BGTW and in Spanish Waters unless responding to a situation as described in paragraph 4(a).*
>
> *[4] a. Participating in a Search and Rescue operation at the invitation of Spanish authorities."*

2.10.3. On 17 February 2016 RGP Marine Sections' Inspector Albert J Buhagiar sent an email to the Marine Section that stated:

> *"I would like to remind **ALL** of the current and existing instructions that under no circumstances are you allowed to police/patrol outside the limits of BGTW. The only exception would be in a GPA led SAR [search and rescue] operation or of a vessel or person(s) in distress. In any case, you should first seek authority from either myself, Sgt. Stone or the Duty Officer.*
>
> *Furthermore, the AIS on the vessel being used will be **switched-on** at all times..."*

2.10.4. The defined area of operation, as used by all government operated vessels based in Gibraltar, was shown on a map located in the cabin of 'SIR JOHN Chapple' (Figure 10).

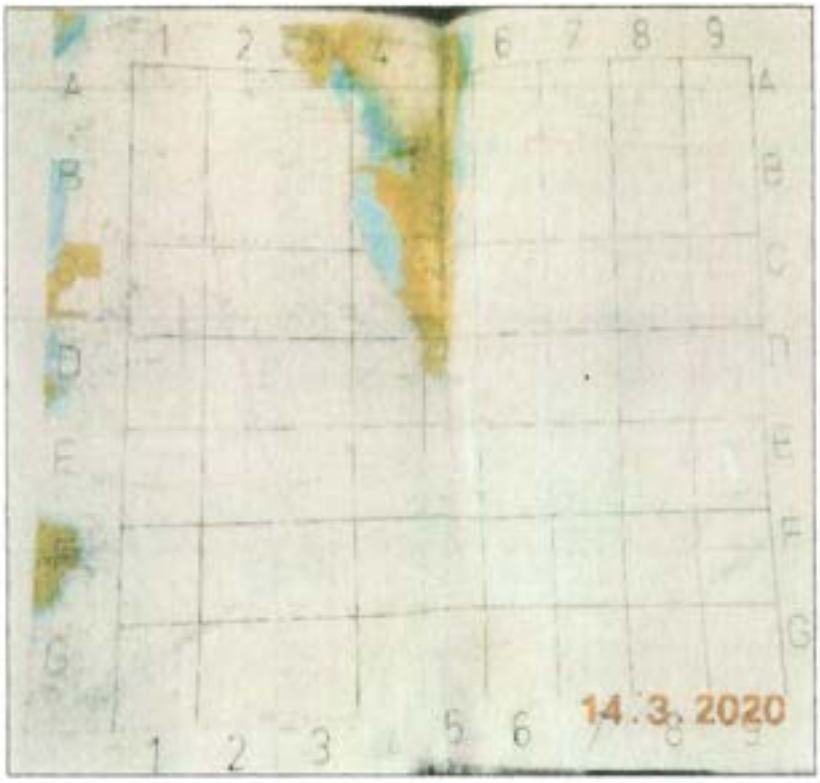

Figure 10 RGP Marine Section's area of operation

2.10.5. An RGP File Note created on 12 March 2020, four days after the collision, stated that RGP Police Officer DC62 APAP had reviewed all DTGMs on the police network back to 10 April 2016 relating to hot pursuits and BGTW. The DTGM dated 19 April 2017 stated that the Marine Section must only use vessels with AIS. Also, a DTGM, dated 15 November 2019, stated that following incidents where missiles were thrown at crews during a pursuit, that all marine crew wear their PPE and helmets.

2.10.6. An undated Marine Section Standard Operating Procedures (Appendix... stated:

'Marine crews are to conduct systematic periodic patrols of Gibraltar's coastlines throughout their tour of duty.

Drugs trafficking

The straits of Gibraltar and its environs is a well-known smuggling route with drug and human trafficking taking place from the North African coastline and territorial waters

throughout there [sic] *tour of Duty. They will pursue suspect vessels in a determined though safe manner within our territorial waters and liaise with our Spanish counterparts."*

2.10.7. Anecdotal evidence from the RGP Marine Support Unit's Senior Marine Mechanic stated that 'hot pursuits' into Spanish waters could be permitted with the approval of the Guardia Civil.

2.11. Tactical Contact

2.11.1. The Marine Support Unit Officer stated that there was a 'No Force' policy for contact; however, no procedure detailing the actions that can be taken has been identified in the documentation made available. The normal operating procedure was stated, by the Marine Support Unit Officer, [redacted]

2.12. RGP/Guardia Civil Operational Agreements

2.12.1. [redacted]

2.12.2. [redacted]

2.12.3.

2.12.4 [redacted]

2.12.5 [redacted]

[redacted]

2.14. Vessel Particulars - 'SUSPECT RHIB'

2.14.1. [redacted]

2.14.2

2.14.3.

[redacted]

NP1/261

3. CONSIDERATIONS

3.1. Position of the Interception

3.1.1. The Rapid Replay showed that 'SUSPECT RHIB' headed north from Puerto de La Atunara 03:26:16 (Figure 3). The CCTV recorded this at 14minutes 00seconds (14m:00s) into the recording (Figure 16).



Figure 16 Infrared CCTV image showing 'SUSPECT RHIB' departing Puerto de La Atunara

3.1.2. The Infrared CCTV (Figure 17) shows the time of interception as 16m 59s into the recording. This time is 2m 59s after the departure of the 'SUSPECT RHIB' from Puerto de La Atunara, at 03:26:16. Therefore, the time of the interception is around 03:29:15.



Figure 17 Infrared CCTV image showing the interception of 'SUSPECT RHIB' by 'SIR JOHN CHAPPLE'

3.1.3 The Rapid Replay for the position of the interception, at the same time of 03:29:15 is shown below at Figure 18. The approximate position of 'SIR JOHN CHAPPLE' at this time, close to the position of 'SUSPECT RHIB', is 36° 11.73'N 005° 18.14'W.

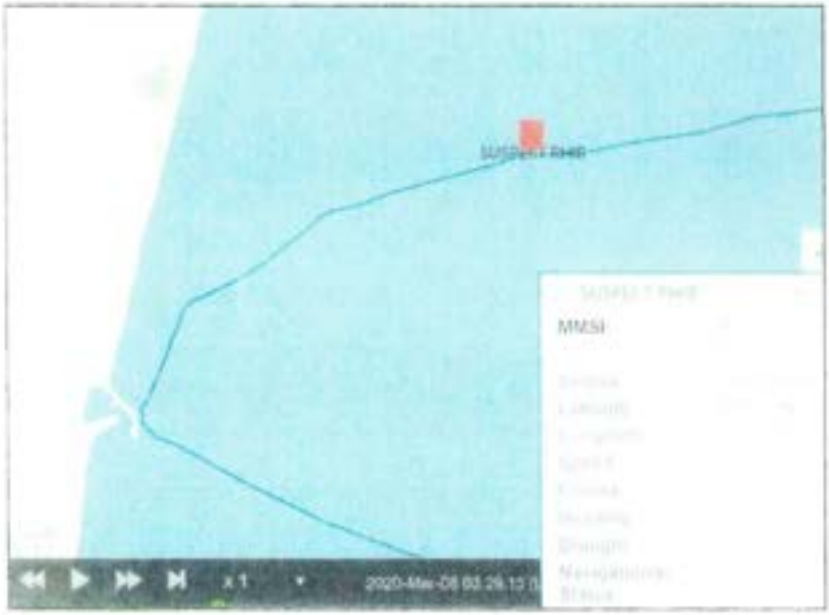

Figure 18 Rapid Replay position of the interception of 'SUSPECT RHIB' by 'SIR JOHN CHAPPLE'

3.2. Position of the Collision

3.2.1. The Rapid Replay (Figure 19) indicates that the point of the collision between the two vessels, at around 03:38:56, was 36° 09.96' N 005° 12.51' W.



Figure 19 Position of the collision - Rapid Replay

3.2.2. The collision was recorded by the southern CCTV operated by WHSS. The point of collision is shown at the cropped image of the collision at 02m 32s into the CCTV recording.

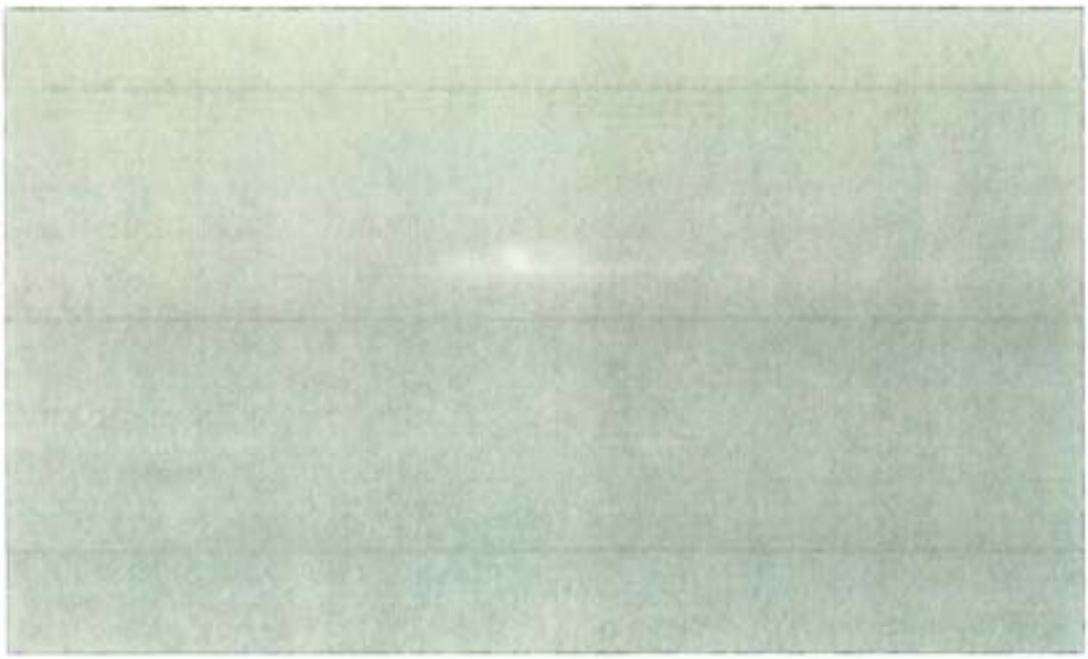

Figure 20 Cropped infrared CCTV image of the collision at 02m 32s into the CCTV recording

3.2.3. From the Rapid Replay, 'SIR JOHN CHAPPLE', towing the 'SUSPECT RHIB can be seen to stop when it rendezvoused with 'HMC SEARCHER' at around 04:30 as shown at Figure 21 below. It would have been clear to the officers, with significant experience of operating in the area, that they were in Spanish waters and well to the north of BGTW. It would also have been clear to the officers, with significant experience of operating in the area, that they were in Spanish waters and well to the north of BGTW.



Figure 21 Rendezvous time of 'HMC SEEKER' and 'SIR JOHN CHAPPLE'

3.2.4 The time of and position of the collision was verified with the continuous WHSS infrared CCTV footage, maintained from the collision time until the rendezvous of 'SIR JOHN CHAPPLE' with 'HMC SEEKER'. The video showed that the two vessels rendezvoused around 50 minutes after the collision at 04:29 (Figure 22), therefore confirming the time of the collision as occurring at around 03:39.

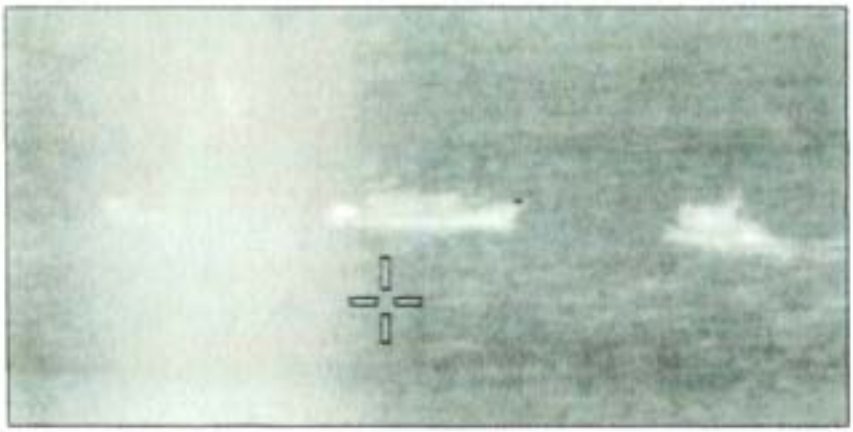

Figure 22 Infrared CCTV image of the rendezvous of 'HMC SEARCHER' and 'SIR JOHN CHAPPLE' at 04:29

3.2.5. During the collision, as discussed at 3.9.6, 'SUSPECT RHIB's radar was heavily damaged. The Garmin GPSmap radar/chart plotter recorded and displayed the loss of radar signal as an alarm. The alarm recorded the time as 03:39 on 8 March 2020 in position 36°09.953' N 005° 12.511' W (Figure 23).



Figure 23 'Radar Service Lost' time shown on 'SUSPECT RHIB's radar / chart plotter

3.2.6 The position is in the same location as identified by the Rapid Replay reconstruction (Figure 19). The 'Radar Service Lost' alarm also confirms both the time and the position of the collision.

3.3 Position of the Interception, Chase and Collision

3.3.1 While there was no digital evidence recovered from 'SIR JOHN CHAPPLE', the digital data recovered from 'SUSPECT RHIB', and the proximity of the two vessels shown in the CCTV recording, confirmed the position of the two vessels throughout the pursuit. 'SIR JOHN CHAPPLE's chart plotter, turned off at the time of the collision, showed the limits of BGTW (Figure 24).

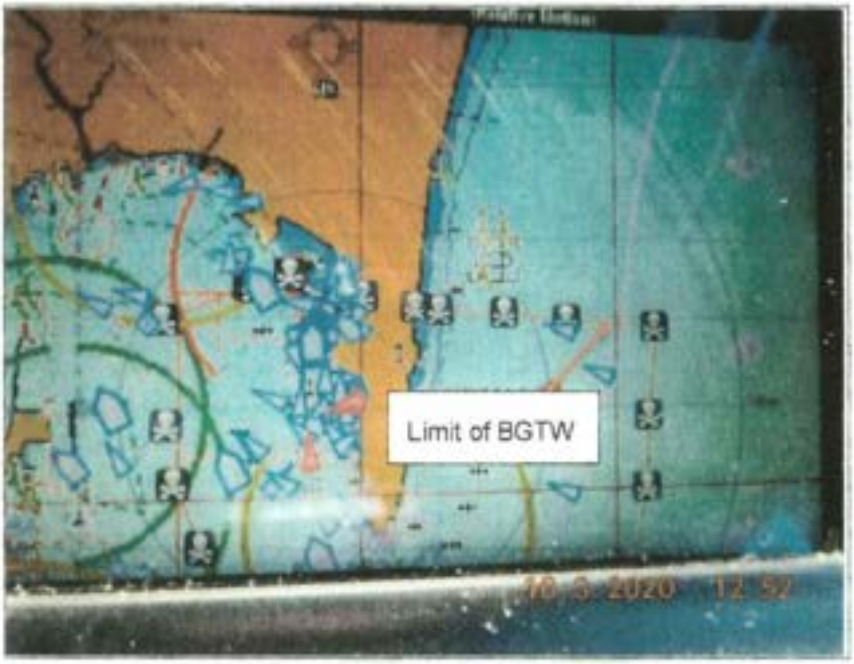

Figure 24 'SIR JOHN CHAPPLE's chart plotter showing the BGTW limits

3.3.2. While the limits of BGTW were known to the crew of 'SIR JOHN CHAPPLE' the engagement, chase and collision with 'SUSPECT RHIB were all carried out at least 1.5 NM beyond the limits of BGTW in Spanish waters.

3.3.3. While the limits of BGTW were not visible to the coxswain on the chart plotter the area of the northern limit of BGTW is generally indicated by reference to the lights from Gibraltar airport. As 'SIR JOHN CHAPPLE' was significantly to the north of the airport and off the Spanish port, it would have been clear to the officers, with significant experience of operating in the area, that they were in Spanish waters and well to the north of BGTW.

3.4. Identification of the 'SUSPECT RHIB' Crew

3.4.1. The crew of the 'SUSPECT RHIB' were seen by the crew of 'SIR JOHN CHAPPLE' to be seated in tandem during the chase. Due to the speed and tight rapid turns made during the pursuit it is probable that the crew were seated at the time of the collision.

3.4.2. [redacted] stated that he was in seat 4 and [redacted] (full name unknown), the other survivor, was in Seat 3. The two deceased crewmen were, therefore, located in seat 1 and in seat 2. It cannot be stated with any certainty who the coxswain was; however, the Coxswain - in Seat 1 - was likely, due to the head injuries he sustained and the available evidence of

human remains around the console visor, to be [redacted]. The crewman in seat two who was found alive - but died shortly after the collision - was, by elimination, most likely to be [redacted].

3.5. Condition of 'SIR JOHN CHAPPLE' - Post Collision

3.5.1. The starboard bow of 'SIR JOHN CHAPPLE' was damaged with indentations close to the serrated log defenders fitted to the stem (Figure 25).



Figure 25 'SIR JOHN CHAPPLE' seen from the starboard bow after the collision

3.5.2. The starboard bow was marked with regular deep indentations, around 10mm apart, with heavy -apparently recent- gouges in the same area (Figure 26).

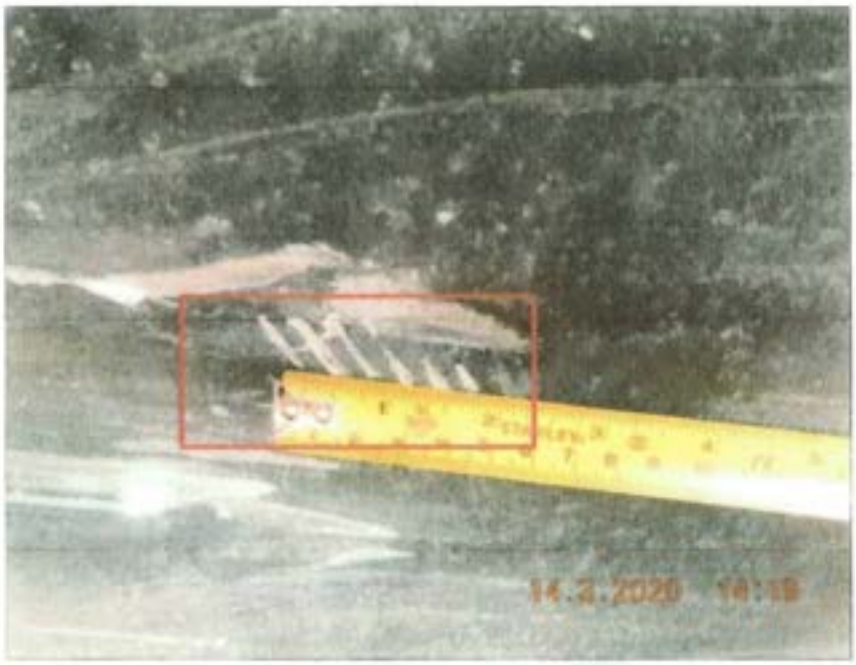

Figure 26 Close-up of the witness marks on the starboard bow of 'SIR JOHN CHAPPLE'

3.5.3. Scratch marks were evident along almost the full length of the starboard hull of 'SIR JOHN CHAPPLE' (Figure 27).

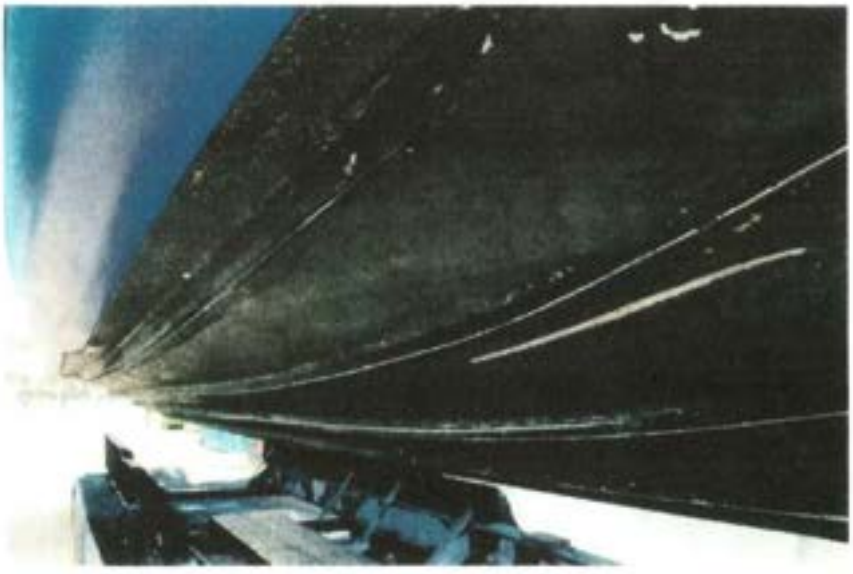

Figure 27 Scratch marks along the starboard side hull of 'SIR JOHN CHAPPLE'

3.5.4. 'SIR JOHN CHAPPLE's starboard quarter inflatable collar was damaged forward of the starboard outboard engine (Figure 28).



Figure 28 Starboard aft collar of 'SIR JOHN CHAPPLE'

3.5.5. The starboard outboard engine gearbox casing of 'SIR JOHN CHAPPLE' was found to be damaged at the forward end (Figure 29).



Figure 29 Starboard outer engine of 'SIR JOHN CHAPPLE' - post collision

3.5.6. The coxswain of 'SIR JOHN CHAPPLE' stated that the starboard engine did not work after the collision. The port outboard propeller was damaged; however, it is not known for certain when that damage occurred. It is considered likely, as the damage would cause notable vibration at speed, that this occurred at the time of the collision.

3.5.7. Water was evident in the forward cabin of 'SIR JOHN CHAPPLE'. This water flooded into the cabin following the ingress of water through the starboard side windows, indicating a significant starboard heel during and immediately after the collision with the 'SUSPECT RHIB'.

3.6. Condition of 'SUSPECT RHIB' – Post Collision

3.6.1. In addition to the four crew, the RHIB was loaded, in the stern section and immediately forward of the console, with a total weight of 801Kg that was made up of:

i. Fuel – 448 kg (in 27 containers)

ii. Food and drinks – 298kg

iii. Clothing and other items – 55kg

3.6.2. While fitted with navigation lights, there was evidence that a significant effort had been made to ensure that no lights were visible from the vessel, including the displays and indicator lights (Figure 30).

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Figure 30 Engine start on 'SUSPECT RHIB' showing covering of indicator lights

3.7. 'SUSPECT RHIB' – Collision Damage

3.7.1. The port quarter, and stern section, were significantly damaged as shown at Figure 31.



Figure 31 Damage to the port quarter of 'SUSPECT RHIB'

3.7.2. The port outboard engine sustained the most significant damage, with the engine mountings broken (Figure 32).



Figure 32 Damage to the two port engines of 'SUSPECT RHIB'

3.7.3. The port outboard engine flywheel was heavily damaged (Figure 33); the engine would have stopped instantly following the collision. The port inboard engine was also damaged; with the timing belt broken so that this engine would also have stopped immediately.



Figure 33 Damage to the flywheel of the port outboard engine on 'SUSPECT RHIB'

3.7.4. The jockey seats that formed part of the centre console and battery storage were heavily damaged (Figure 34). The aft two, of the four seats, were bent and distorted. It is noticeable that the two forward jockey seats, where the crewmen were seated, had very little damage when compared with the heavily damaged aft two seats where the two surviving crewmen were seated. The reason for that inconsistency is not known.



Figure 34 Damage to the jockey seating on 'SUSPECT RHIB'

3.7.5. The Furuno radar was heavily damaged and would have stopped working immediately after the collision (Figure 35). The starboard inflatable collar was damaged. That damage is likely to have been caused by the collapsing radar mast, or during the initial contact with 'SIR JOHN CHAPPLE'.

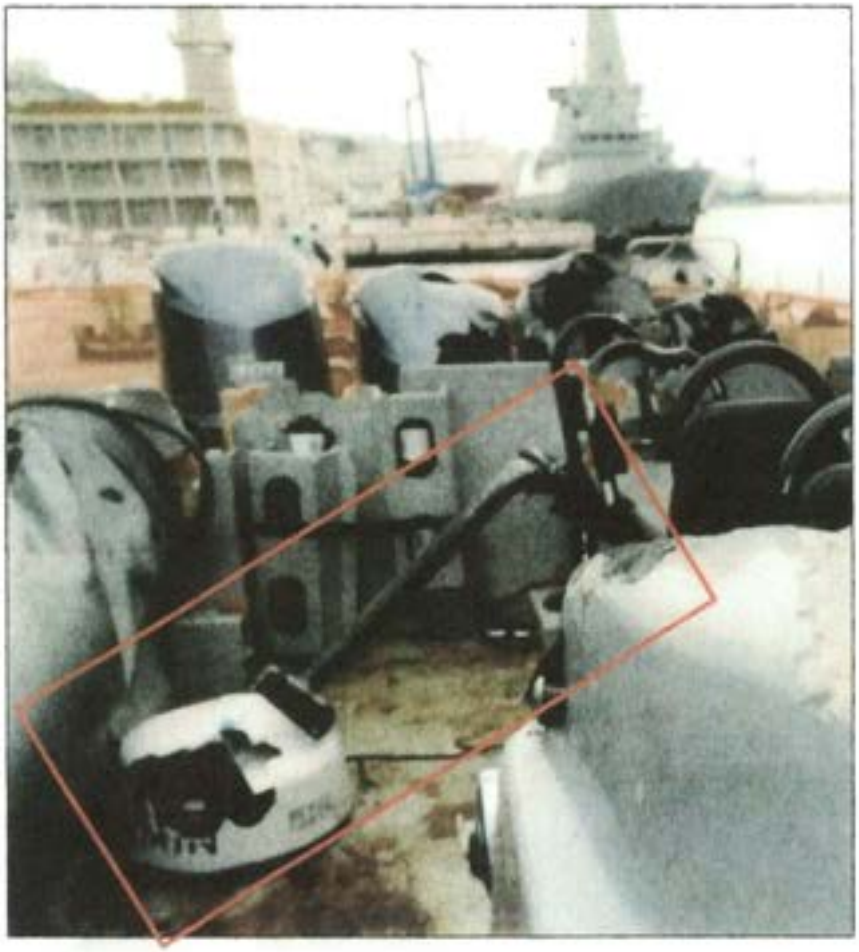

Figure 35 Damage to the Furuno radar scanner and mast

3.7.6. The Navigation Console Screen, which provided some protection at the front of the console (Figure 36) was smashed and broken off.

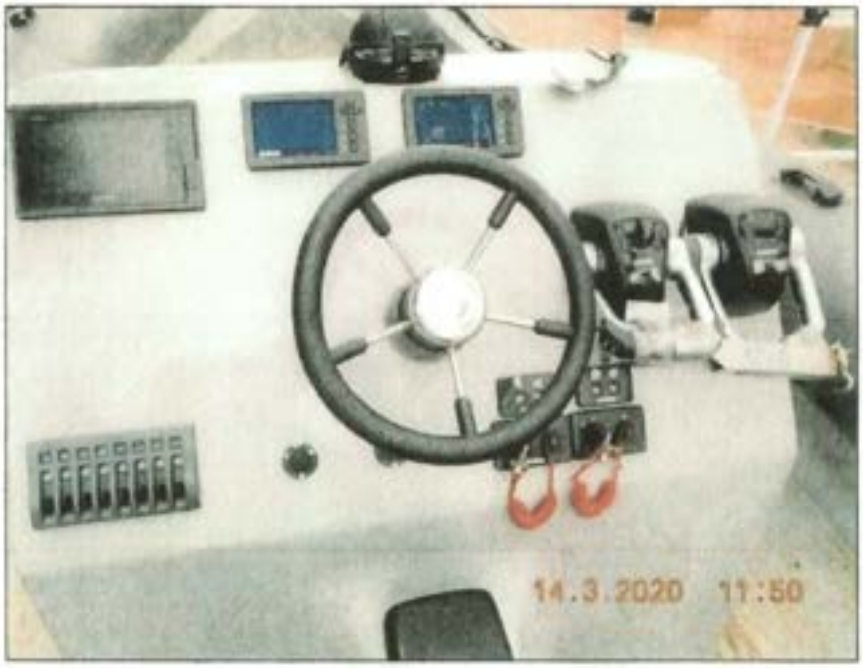

Figure 36 Broken screen on the top of the navigation console

3.7.7. A gouge on the starboard console is likely to be a witness mark from the (starboard) hull of 'SIR JOHN CHAPPLE' (Figure 37).



Figure 37 Scratch mark on the starboard side top of the navigation console on 'SUSPECT RHIB'

3.7.8. The steering wheel (Figure 36) and in close up at Figure 38 can be seen to have been damaged; it is likely that this damage was caused by a significant force, and possibly the coxswain's body, pushing the steering wheel into the console.

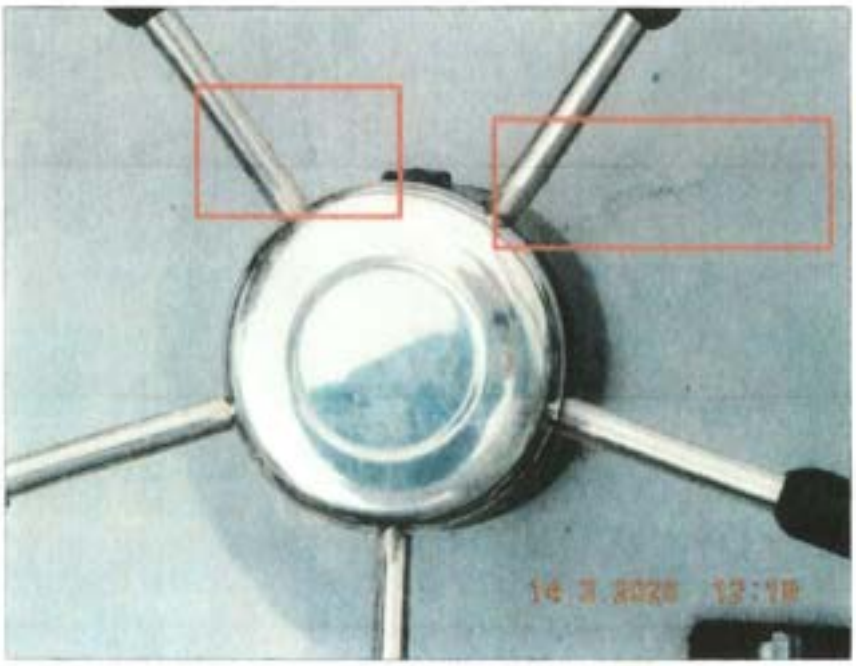

Figure 38 Steering wheel on 'SUSPECT RHIB showing cracks to the surrounding structure

3.7.9. The starboard forward collar was damaged, as seen at Figure 39



Figure 39 Starboard deflated collar of 'SUSPECT RHIB'

3.7.10. It is considered likely that this damage was more likely caused as the two vessels came alongside after the collision, or when 'HMC SEARCHER' berthed alongside starboard to starboard after the incident. This is supported by the direction of the damage shown at (Figure 40)

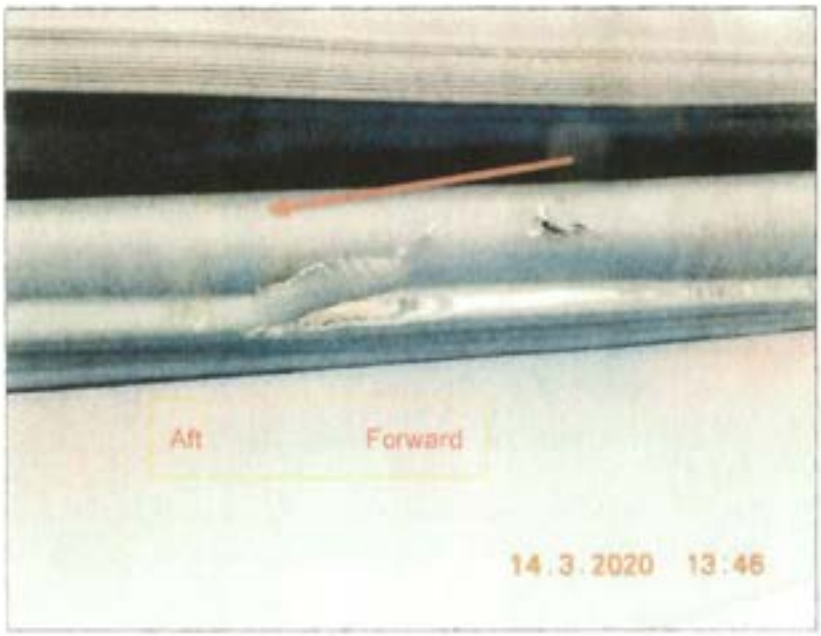

Figure 40 Damage to the starboard collar of 'SUSPECT RHIB'

The bodies of the deceased and badly injured crewmen were found on the starboard side aft between the seating and the collar (Figure 41).

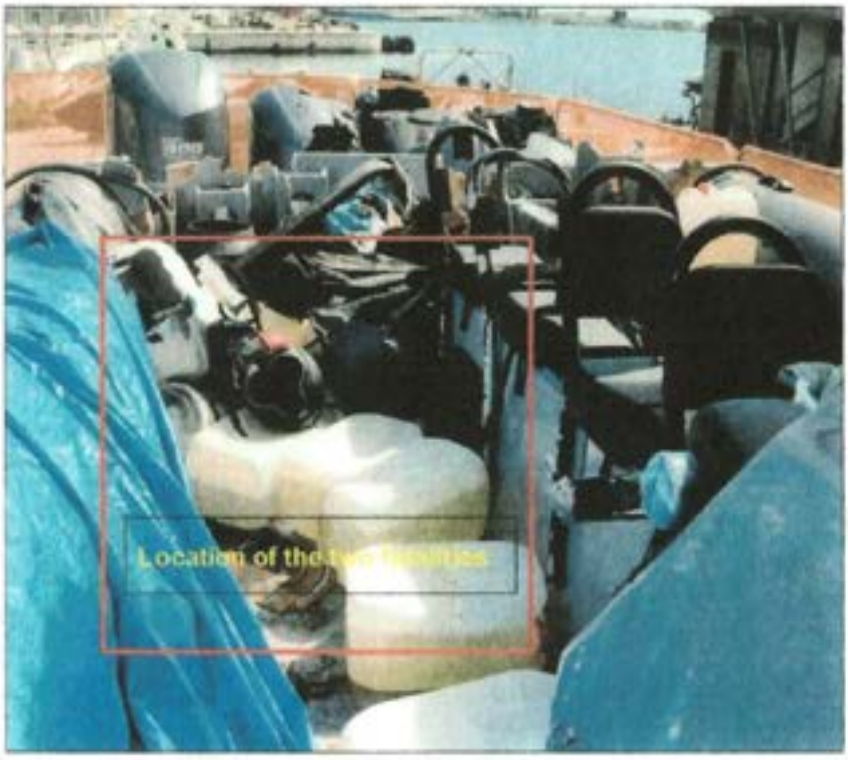

Figure 41 Position of the two fatally wounded crewmen on board 'SUSPECT RHIB'

3.8 Events onboard 'SIR JOHN CHAPPLE' Prior to the Collision

3.8.1 Following the initial communication from WHSS, Officer One started the response to proceed to the eastern side of Gibraltar. The communication from Guardia Civil confirmed the location of the 'SUSPECT RHIB' which was clearly in Spanish waters.

3.8.2 The Rapid Replay and CCTV evidence showed that the 'SUSPECT RHIB' was outside of BGTW and that the objective of 'SIR JOHN CHAPPLE' was to wait for the departing 'SUSPECT RHIB' and to intercept the vessel if possible, regardless of the marine authority responsible for the area of operation.

3.8.3 The pursuit was made at high speed with 'SIR JOHN CHAPPLE' initially catching up with the 'SUSPECT RHIB'. The close pursuit, with blue lights on, with Officer Two and Officer Three using the Dragon Torches was close enough to observe the occupants, and for 'SUSPECT RHIB's crew to respond by throwing objects and making sharp turns to deter the RGP vessel.

3.8.4. The officers on board 'SIR JOHN CHAPPLE' responded to the thrown objects by closing the doors and windows. When the rapid turns were made by 'SUSPECT RHIB' the officers responded by trimming the engines down, to make the vessel more manoeuvrable and able to respond to the fast turns of the 'SUSPECT RHIB'.

3.8.5. The quick turns of 'SUSPECT RHIB' produced spray which significantly reduced the visibility of Officer One and Officer Two. The reduced visibility in the cabin considerably increased the risk of collision with the evasive 'SUSPECT RHIB'. Only by slowing down substantially, and increasing the distance from 'SUSPECT RHIB' would the risk of collision been appreciably reduced.

3.8.6. When 'SUSPECT RHIB' turned immediately in front of 'SIR JOHN CHAPPLE' the spray, as reported by Officer One and Officer Two reduced the visibility to zero. None of the RGP Officers could recall witnessing the collision occur.

3.8.7. Although Officer One stated that he took avoiding action by stopping and turning to starboard, his actions were insufficient to avoid the collision. The speed of the collision led to 'SIR JOHN CHAPPLE' passing over the top of 'SUSPECT RHIB' and, once clear, landing on their starboard side at a large angle which led to the water ingress into the cabin.

3.9. Events on 'SUSPECT RHIB' Prior to the Collision

3.9.1. The 'SUSPECT RHIB' displaying no navigation, or other lights and accelerating away from 'SIR JOHN CHAPPLE' was navigating in a manner which would arouse suspicion as to its activities. The RHIB was of a size, type and with an engine power of vessels used to transport drugs from Morocco to Spain. During the chase, missiles were thrown from 'SUSPECT RHIB' and the evasive action taken was enough to reduce the visibility of the crew of 'SIR JOHN CHAPPLE'.

3.9.2. The 'SUSPECT RHIB', as would be expected, did not have the capability to transmit AIS data.

3.9.3. The Rapid Replay (Figure 6) shows a change of track, which indicates a rapid turn to port, following the two turns made to starboard, immediately prior to the collision.

3.9.4. It was reported by the coxswain of 'SIR JOHN CHAPPLE' that the 'SUSPECT RHIB' was operating with the outboard engines 'trim up'. It would be expected that when travelling at speed, on a steady heading, that the vessel would be operating with the outboard engine trimmed up (away from the hull). While manoeuvring trimmed up the boat would be less manoeuvrable; however, as the vessel turned it would also produce a wash spray that might disorientate a

pursuing vessel by reducing its visibility.

3.9.5. The CCTV of the collision is unclear as to the manoeuvres of either vessel immediately prior to the collision.

3.10. The Angle of Incidence of the Collision

3.10.1. It is apparent that, for the injuries and damage to both vessels to have occurred, and the splash of water seen on the video, that 'SIR JOHN CHAPPLE' passed, at least partly over the top of 'SUSPECT RHIB'. The crewman from 'SUSPECT RHIB' stated that 'SIR JOHN CHAPPLE' collided with the port quarter of 'SUSPECT RHIB'. Without video or additional digital evidence, it is not possible to say with certainty how the two vessels collided. The witness mark on the console indicates the possible angle of the hull of 'SIR JOHN CHAPPLE' as it then passed over 'SUSPECT RHIB' (Figure 42).



Figure 42 Possible line of the angle of incidence on 'SUSPECT RHIB'

3.10.2. Marks from 'SUSPECT RHIB's port outboard engine's damaged fly wheel very closely matched the markings on the starboard bow of 'SIR JOHN CHAPPLE' (Figure 43). That also matches the statement of the crewman of the 'SUSPECT RHIB' that the bow of 'SIR JOHN CHAPPLE' collided with the port quarter of 'SUSPECT RHIB'.

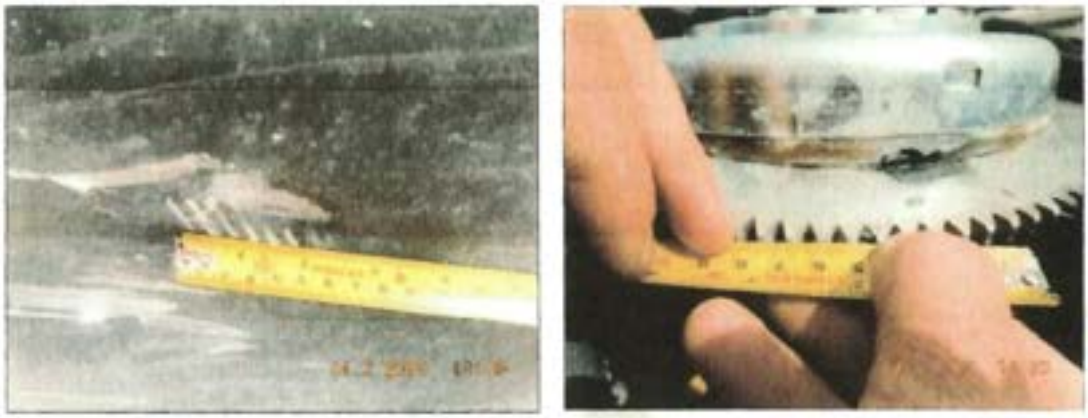

Figure 43 Marks on 'SIR JOHN CHAPPLE' compared with the teeth of the flywheel on 'SUSPECT RHIB's engine

3.10.3. Following the collision, all the crew of 'SIR JOHN CHAPPLE' reported that the vessel rolled to starboard and then hit the water with significant force. After 'SIR JOHN CHAPPLE' righted, the vessel's crew stated that they observed the 'SUSPECT RHIB' on 'SIR JOHN CHAPPLE's port side.

3.10.4. To establish, with further certainty, the angle of incidence and the path of 'SIR JOHN CHAPPLE' in relation to 'SUSPECT RHIB' additional modelling of the two vessels would be required to produce an accurate picture of how the two vessels probably interacted.

3.11. RGP Marine Section - Use of AIS

3.11.1. Prior to departure from the RGP Marine Base, Officer One turned on the radar, however, he did not turn on the chart plotter or the GPS that supplied the Radar Unit with position data, stating that it interfered with his night vision. By leaving the chart plotter off, 'SIR JOHN CHAPPLE' did not transmit AIS data, which would have allowed the vessel's position data to be tracked and recorded. It was also possible that the 'SUSPECT RHIB' would have been able to detect and track 'SIR JOHN CHAPPLE' by AIS as they approached.

3.11.2. There has been no evidence produced to support Officer One's statement that the brightness of the chart plotter interfered with night vision, or that the alleged issue had previously been reported to managers. There was a clear instruction that the vessel's AIS system should always be turned on when in service and neither Officer One nor Officer Two complied with that instruction.

3.12 RGP Marine Section - Use of Navigation Equipment

3.12.1. The chart plotter and the GPS unit that fed the radar display were turned off for the duration of the deployment. With no GPS and no chart plotter displayed, the two marine officers were reliant on visual navigation and the radar picture. Officer One stated that the range of the radar was set to [redacted]. That range setting would have been suitable for detecting vessels within the range, but not the land, or for assessing whether a risk of collision existed. The officers were therefore solely reliant on visual navigation. However, the limits of BGTW were shown on the chart plotter. There were apparently no guidance/instruction/orders as to what navigation equipment was to be used when on patrol, either in daylight or at night.

3.12.2. 'SIR JOHN CHAPPLE' was fitted with a magnetic compass which would have shown the vessel's heading. Officer One stated that he was travelling in a south-easterly direction; Officer Three stated that 'SUSPECT RHIB' was travelling in a southerly direction, both of which were incorrect.

3.12.3. By not using the available navigation equipment while navigating at night with no position monitoring, other than by eye, the crew of 'SIR JOHN CHAPPLE' showed that a poor standard of navigation was being practiced at the material time.

3.13. RGP Marine Section - Application of the Instructions

3.13.1. The Instructions were clear that the area of operation for law enforcement was solely within BGTW. It is not known why the coxswain and the two officers headed into Spanish waters to intercept 'SUSPECT RHIB' and to continue to chase the RHIB in Spanish waters until the time of the collision.

3.13.2. The Instructions stated that "*They will pursue suspect vessels in a determined though safe manner within our territorial waters and liaise with our Spanish counterparts*". The Instructions also stated that the safety of the crew was the priority; however, the crew of 'SIR JOHN CHAPPLE' placed themselves so close to the 'SUSPECT RHIB' as to place themselves and the crew of 'SUSPECT RHIB' in considerable danger.

3.13.3. The crew of 'SIR JOHN CHAPPLE' did not comply with the Instructions that were issued.

3.14. RGP Marine Section - Equipment Provided

3.14.1. [redacted]

3.14.2.

3.15. Pursuit Training

3.15.1. The two qualified marine crew had training in professional skills and for pacing at speed. However, there was no training in carrying out pursuits of suspect vessels who would be taking evasive action to avoid being apprehended. While numerous pursuits have been carried out, the coxswains' experience in pursuits was learned on the job, watching more experienced coxswains as they trained. Pursuit methods are therefore developed and understood by the coxswains, but without RGP Marine Section management standards or proper established oversight in place.

3.16. 'SIR JOHN CHAPPLE' - Actions Following the Collision

3.16.1. Following the collision, two of the crew boarded the 'SUSPECT RHIB'. It was clear to the crew, due to the severity of their injuries, that one crewman was dead, a second was very seriously injured and that the two other crewmen were injured and in a state of shock. The crew of 'SIR JOHN CHAPPLE' were also apparently shocked by the situation they faced, they did report the accident and then decided how to tow the 'SUSPECT RHIB' back to the base. However, there was no attempt to provide the seriously injured crewman with first aid.

3.16.2. While the situation the crew of 'SIR JOHN CHAPPLE' faced was understandably shocking, the correct marine response would have been to issue a mayday relay call alerting all vessels in the area that there was a serious risk to life and that immediate assistance was required.

3.17. RGP Marine Section - Management Oversight

3.17.1. From the actions on the night of the collision, the Coxswain and crew of 'SIR JOHN CHAPPLE' considered it appropriate to leave GBTW to pursue a suspect RHIB positioned close to a Spanish port. There were clear instructions that, without higher management approval, no pursuits should be carried out in Spanish waters. It is not known why the crew did not comply with the Instructions.

3.17.2. Once the highspeed pursuit had started, in Spanish waters, the coxswain, who was not trained in high speed pursuits with suspect vessels, was close enough to the 'SUSPECT RHIB' that objects thrown from the suspect boat were able to hit his vessel. While the guidance was that the safety of marine crews was the priority, the proximity of the two vessels during the pursuit placed the crews of both vessels as well as the vessels themselves in considerable danger.

3.17.3. Marine Section senior officers had provided instructions, on several occasions, that the AIS was to be turned on; however, the coxswain and crew operated 'SIR JOHN CHAPPLE' with the AIS turned off.

3.17.4. While there are no explicit instructions, it would be reasonable to assume that Marine Section Senior Officers would have expected that all available navigation equipment, particularly when navigating at night, would be used; however, the available GPS and chart plotter navigation systems were not turned on.

3.17.5. From the Instructions provided to Marine crews, the Marine Section Senior Officers were aware and accepted that the highspeed pursuits were being routinely carried out. Instructions had been issued for the use of PPE when faced with missiles being thrown. They must also have been aware that pursuits also strayed into Spanish waters and records should exist internally, or with the Guardia Civil of any previous operations taking place where boundaries were crossed.

3.17.6. From the evidence reviewed to date, it appears that Marines Section Managers did not apply effective oversight into how their patrols were being carried out.

4. ANALYSIS – POSSIBLE FURTHER WORK

4.1. Collision Analysis

4.1.1. Due to the lack of digital data, witness accounts, or video recordings it has not been possible to say with certainty how the two vessels collided and provide an insight into the events during the collision which led to the fatal injuries to two of the crew of the 'SUSPECT RHIB'.

4.1.2. 'SIR JOHN CHAPPLE' was purchased as a second-hand vessel and there are no detailed drawings available. 'SUSPECT RHIB' was built to transport illegal drugs, therefore there are probably no manufacturers' drawings or other construction data available.

4.1.3. Modelling the two vessels using 3-D scanning technology would be capable of producing an accurate representation of their hull and superstructures. The 3-D models can then be created using available software (Rhino is an industry standard program) to show the relative positions and aspects of the two vessels prior to, during, and after the collision.

4.2. Management Oversight

4.2.1. The RGP Marine Section's management structure and operation requires further examination. The instructions and guidance provided to the Response Teams, oversight of operations (patrols and high-speed pursuits) and the management's review processes should be better understood.

4.2.2. The operational arrangements, both formal and informal, that exist between the RGP and the Guardia Civil requires further investigation.

4.3. Historic AIS data for RGP Marine Section Vessels

4.3.1. The contact, chase and collision were known to have been carried out in Spanish waters. It is not known how often RGP Marine vessels operate outside of BGTW. A study of AIS data, over a period of several months would provide an insight into the operating patterns of these vessels and the frequency at which they operate outside BGTW. A preliminary analysis has identified that AIS data is available to provide an effective study (Figure 44).



Figure 44 RGP - Marine Section AIS Analysis

4.4. Previous Incidents

4.4.1. It is known, from brief internet searches, that there have been previous collisions between RGP Marine Section vessels and suspect vessels. A review of previous incident reports, investigations and actions taken by RGP senior officers would be beneficial to the investigation.

5. CONCLUSIONS

5.1. 'SIR JOHN CHAPPLE' intercepted the 'SUSPECT RHIB' in position 36° 11.7'N 005° 18.1'W at around 03:29:15. The collision occurred at around 03:38:56, in position 36° 10.0' N 005° 12.5' W. The intercept, pursuit and collision took place in Spanish waters.

5.2. It would have been clear to the officers on board 'SIR JOHN CHAPPLE', as they were familiar with the waters, even when navigating by eye that they were well outside of BGTW.

5.3. 'SIR JOHN CHAPPLE's starboard bow collided with the port quarter of 'SUSPECT RHIB'. The speed of 'SIR JOHN CHAPPLE' led it to pass over the top of 'SUSPECT RHIB' during the collision and, once clear, landing on their starboard side at a large angle which led to the water ingress into the cabin.

5.4. It cannot be stated with any certainty who the coxswain of 'SUSPECT RHIB' was; however, it is likely to have been Mr. Mohamed Abdeselam Ahmed. The crewman in seat two was, by elimination, likely to be Mr. Mustafa Das Mohamed, who died shortly after the collision.

5.5. It is not known why the two forward jockey seats on 'SUSPECT RHIB', where the two dead crewmen were seated, had very little damage when compared with the heavily damaged aft two seats.

5.6. To establish, with greater certainty, the angle of incidence, and the path of 'SIR JOHN CHAPPLE' in relation to 'SUSPECT RHIB' additional modelling of the two vessels would be required. The creation of 3-D models using Rhino software could be utilised to show the relative positions and aspects of the two vessels prior to, during, and after the collision.

5.7. Officer One did not turn on 'SIR JOHN CHAPPLE's AIS for the duration of the operation in contravention of Marine Section Instructions.

5.8. The crew of 'SIR JOHN CHAPPLE', in not using all the available navigation equipment showed a poor standard of navigation.

5.9. The Instructions stated that the safety of the crew was the priority; however, the crew of 'SIR JOHN CHAPPLE' in continuing to pursue at very close range, with limited visibility, and unable to respond to a quick turn by the 'SUSPECT RHIB' did not comply with those Instructions

5.10. There was no proper training in pursuits of suspect vessels for the coxswains who would be required to take evasive action.

www.solis-training.com

5.11. From the evidence reviewed to date, it appears that Marines Section Managers did not have an effective oversight of how their patrols were being carried out.

5.12. Once Officer One realised that there was immediate risk to life, he should have broadcast a Mayday relay call to all vessels in the area.

5.13. The Instructions and guidance provided to the Response Teams, oversight of operations (patrols and high-speed pursuits) and the management's review processes should be better understood.

5.14. A study of AIS data, over a period of several months would provide an insight into the operating patterns of these vessels and the frequency at which they operate outside BGTW.

5.15. A review of previous incident reports, investigations and actions taken by RGP senior officers would be beneficial to the investigation.

6. STATEMENT BY THE AUTHOR OF THIS REPORT

My qualifications and experience are described in my C.V., which appears at Appendix A.

I understand my duty to the Court and have complied, and will continue to comply, with that duty.

I am aware of the requirements of Part 35 of the Civil Procedure Rules, Practice Direction 35, and the Practice Direction on Pre-Action Conduct.

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.



Richard Meikle

Solis Marine Consultants

30 April 2020

'SIR JOHN CHAPPLE'

Our Ref: SOLIS/6316/RM/R01

APPENDIX A

Curriculum Vitae of the Author

NP1/292

'SIR JOHN CHAPPLE'

Our Ref: SOLIS/6316/RM/R01

APPENDIX B

Rapid Replay – Technical Comments

www.solis-marine.com

NP1/293

'SIR JOHN CHAPPLE'

Our Ref: SOLIS/6316/RM/R01

APPENDIX C

Rapid Replay – AIS data

www.solas-mgn.com

NP1/294

'SIR JOHN CHAPPLE'

Our Ref: SOLIS/6316/RM/R01

APPENDIX D

RGP Standard Operating Procedures

www.solis-marine.com

NP1/295

B1743

APPENDIX E

Post-mortem Examinations

www.sgh-mgmt.com

N. Pyle
2nd Affidavit
Exhibit: NP2
4 July 2023

In the Matter of the Commissions of Inquiry Act

-and-

In the Matter of an Inquiry into the retirement of the former Commissioner of Police convened by a Commission issued by HM Government of Gibraltar on 4 February 2022 in Legal Notice No 34 of 2022 ("the Inquiry")

EXHIBIT NP2

This is the bundle of exhibits marked **"NP2"** referred to in the Second Affidavit of Nicholas Pyle OBE, dated this 4th day of July 2022.

Before me,

THOMAS STAGNETTO
Commissioner for Oaths

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Sunday, 8 March 2020 14:09
To: [redacted]
Cc: [redacted] DL Gibraltar Political (Sensitive); [redacted]
Subject: Re: Fatal collision between Royal Gib Police and Spanish smugglers

[redacted]

I've just met with the Commissioner of Police who kindly gave me a briefing on the incident. The facts have yet to be determined and the investigation is ongoing, but initial headlines are as follows:

The incident happened at @ 04.00 hours though it is not yet known whether it took place in BGTW waters or just outside.

Four pax involved - three Spanish from Cueta (Moroccan descent) and one Portuguese.

Two fatalities (one instant). Two others initially hospitalised but are now in police custody. The Spanish nationals are from Ceuta, of Moroccan descent and known to the local Spanish authorities.

Given those involved are not from the area, the incident is not expected to impact on the border as a similar incident did last October.

RGP/Spanish cooperation is good though the Spanish are understandably conducting their own parallel investigation.

Given the loss of life, the RGP are actively approaching UK police authorities to conduct the enquiry. I said they could state in any request that such an approach has our support.

No action for us at this stage.

The Commissioner was grateful for my visit.

Regards

Nick

From: [redacted]
Sent: Sunday, March 8, 2020 9:31:28 AM
To: [redacted]
Cc: [redacted] DL Gibraltar Political (Sensitive)

[redacted]; [redacted]

Subject: Fatal collision between Royal Gib Police and Spanish smugglers

Matt, Gib Chief Minister has let us know there were two fatalities on the water (Spanish nationals) and two more smugglers in hospital. They are in touch with local Spanish police. We'll need to keep an eye on press, and probably look at some kind of tweet from Governor and/or Amb in Madrid tomorrow when facts clear.

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Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Monday, 9 March 2020 07:57
To: [redacted]
Cc: [redacted] DL Gibraltar Political (Sensitive); [redacted]
Subject: Re: Fatal collision between Royal Gib Police and Spanish smugglers

[redacted]

There may be complications around yesterday's incident in that it might have happened as much as six miles inside Spanish waters.

If true, it's hard to fathom quite what the RGP were doing chasing a vessel so deep into Spanish waters and one can only hope that it was at the invitation of the Spanish. But this may be why GoG have kept details very close and have asked for no social media speculation. The only comment so far has been a tweet from Marlene Hassan MP who regretted the loss of life and commended the RGP.

Let's hope this is all resolved quickly between the agencies and that there is no negative impact on Thursday's talks with the Spanish.
I'll continue to monitor and will report accordingly. I will be reactive only to any media enquiries with a line of inappropriate to comment given the investigation into the incident is ongoing. At some stage a tweet similar to Marlene's may be appropriate.

Nick

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: Sunday, March 8, 2020 2:08:49 PM
To: [redacted]
Cc: [redacted] DL Gibraltar Political (Sensitive)
[redacted]; [redacted]
Subject: Re: Fatal collision between Royal Gib Police and Spanish smugglers
[redacted]

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Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Monday, 9 March 2020 10:21
To: [redacted]
Cc: [redacted]
Subject: Re: Fatal collision between Royal Gib Police and Spanish smugglers

No further details at the moment. I've asked for a briefing from the Commissioner and have invited the AG as well. More when I get it. Happy to chat after the briefing.

Nick

From: [redacted]
Sent: Monday, March 9, 2020 10:14:34 AM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Cc: [redacted]
Subject: RE: Fatal collision between Royal Gib Police and Spanish smugglers

Nick,
Have any more details emerged in the last 24 hours? It would be useful to speak on the phone this morning if there's a convenient time.
Many thanks
[redacted]

From: [redacted]
Sent: 09 March 2020 08:13
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>; [redacted]
Cc: [redacted] DL Gibraltar Political (Sensitive)
[redacted]
Subject: RE: Fatal collision between Royal Gib Police and Spanish smugglers

Nick – thanks for heads up. I'm now copying to [redacted], covering for [redacted] as head of Europe South and Gib bilateral, and [redacted] – grateful if you could keep in close touch with Nick on this. It is uncanny that this incident has happened now, when we also had a fatality just ahead of the Spanish talks in Madrid in October. Whatever happens, we will need some good advice on any media/tweets we should do today and some lines to take for Thursday's talks with Spain.

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 09 March 2020 06:57
To: [redacted]
Cc: [redacted] DL Gibraltar Political (Sensitive)
[redacted]
Subject: Re: Fatal collision between Royal Gib Police and Spanish smugglers

[redacted]

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Let's hope this is all resolved quickly between the agencies and that there is no negative impact on Thursday's talks with the Spanish.

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Cc: [redacted] DL Gibraltar Political (Sensitive)
[redacted]
Subject: Fatal collision between Royal Gib Police and Spanish smugglers
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Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Monday, 9 March 2020 13:16
To: [redacted]
Cc:
Subject: Re: EFE- Los familiares de los fallecidos tras chocar patrullera piden investigación

Sorry, not particularly dexterous on the phone.

I've just left a meeting with the Commissioner at which Michael was present. Michael referred to a Spanish press release which I've attached.

I'll do a record later this afternoon, but we are unlikely to have the facts until tomorrow at the earliest. 2 RGP Inspectors are on their way back from Algeciras so local communication if not cooperation looks to be firmly established.

Nick

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: Monday, March 9, 2020 1:11:20 PM
To: [redacted]
Cc: [redacted]
Subject: Fwd: EFE- Los familiares de los fallecidos tras chocar patrullera piden investigación
[redacted]

I've

From: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Sent: Monday, March 9, 2020 12:22:12 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>; Ian M.Sc McGrail <Ian.McGrail@royalgib.police.gi>
Subject: Fwd: EFE- Los familiares de los fallecidos tras chocar patrullera piden investigación

Sent from my iPhone

Michael Llamas CMG QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas@gibraltar.gov.gi

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The Attorney General

HM Government of Gibraltar

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Cc: Miguel Vermehren <mvermehren@grupoalbion.net>, Sandra Balvín <sandra@infogibraltar.com>, Eva Reyes <eva@infogibraltar.com>, Álvaro <alvaro@infogibraltar.com>
Subject: EFE- Los familiares de los fallecidos tras chocar patrullera piden investigación

Gibraltar

CEU-GIBRALTAR SUCESOS

Los familiares de los fallecidos tras chocar patrullera piden investigación

Ceuta, 9 mar (EFE).- Los familiares de los dos fallecidos en la colisión de una patrullera de la policía de Gibraltar con una embarcación semirrígida, ocurrida este domingo en aguas del Peñón, han pedido la apertura de una investigación "clara" para conocer a fondo el suceso.

Los fallecidos son españoles residentes en Ceuta y sus familiares han reclamado a través de las redes sociales que se abra una investigación para esclarecer el origen de la colisión que provocó el fatal desenlace.
Se trata de dos jóvenes y sus amigos han manifestado en las redes sociales que en la embarcación no había absolutamente nada de hachís ni de otro tipo de sustancia estupefaciente.
Las familias de ambos fallecidos se han desplazados ya hasta el Peñón.
Los otros dos heridos en este accidente son otro ciudadano español también vecino de Ceuta y un varón portugués, quienes se encuentran bajo custodia policial tras su detención.
A los detenidos se les imputan los delitos de navegación peligrosa, importación de bienes prohibidos y obstrucción a la policía, según las autoridades gibraltareñas.
El suceso tuvo lugar a primeras horas de la mañana de ayer, durante una persecución a gran velocidad entre ambas embarcaciones en aguas del Estrecho de Gibraltar, al sospechar los agentes que se trataba de una lancha neumática dedicada al narcotráfico.
La Unidad Marítima de la Policía Real de Gibraltar actuó al detectar la presencia en aguas cercanas al Peñón de una embarcación inflable de casco semirrígido, de 14 metros de eslora, propulsada por cuatro motores fueraborda de 300 caballos y equipada con un equipo de radar, de las habitualmente utilizadas para el narcotráfico. EFE

.....

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Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Monday, 9 March 2020 14:30
To: [redacted]
Cc: [redacted]
Subject: Re: EFE- Los familiares de los fallecidos tras chocar patrullera piden investigación

[redacted]

That looks fine. As discussed, I'm not inclined to tweet. It doesn't feel right to me at this stage.

Nick

From: [redacted]
Sent: Monday, March 9, 2020 2:02:19 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Cc: [redacted]
Subject: RE: EFE- Los familiares de los fallecidos tras chocar patrullera piden investigación

Thanks Nick. Was about to put up a brief note to Minister, which I'll amend slightly on back of your note. Does this look accurate to you. Is there anything I can say about the press release (is it purely factual, or in any way provocative?):

The Minister will want to be aware that in the early hours of Sunday, two people died following a collision between a Royal Gibraltar Police (RGP) interceptor vessel and a rigid-hulled inflatable (RHIB) vessel during a high-speed chase. The RHIB occupants were from Spain and Portugal. The surviving RHIB occupants are in police custody following their arrest for offences relating to dangerous navigation, importing a prohibited import and obstructing police. Although details are still not confirmed, it seems that the pursuit happened after the suspect vessel was challenged whilst supporting drug trafficking, and that there was cooperation between the RGP and Spanish law enforcement. A senior investigating officer has been appointed and the forensics examination is ongoing. The interim Governor has received a briefing from the Police Commissioner.

Chief Minister Fabian Picardo reacted on Twitter , including sending his condolences to the families of the deceased. Spanish authorities issued a press release and we have prepared defensive press lines. HMA Madrid has also tweeted ("I want to echo the condolences of FP for the families of the two Spaniards who died in the collision with a patrol boat of the RGP. An investigation has been opened to clarify what happened.") and Embassy officials will discuss the incident with their Spanish counterparts during other meetings today. We do not recommend any further action at this stage.

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 09 March 2020 12:56
To: [redacted]
Cc: [redacted]
Subject: Fwd: EFE- Los familiares de los fallecidos tras chocar patrullera piden investigación

---

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: Monday, March 9, 2020 1:16:09 PM
To: [redacted]
Cc: [redacted]
Subject: Re: EFE- Los familiares de los fallecidos tras chocar patrullera piden investigación

Sorry, not particularly dexterous on the phone.
I've just left a meeting with the Commissioner at which Michael was present. Michael referred to a Spanish press release which I've attached.
I'll do a record later this afternoon, but we are unlikely to have the facts until tomorrow at the earliest. 2 RGP Inspectors are on their way back from Algeciras so local communication if not cooperation looks to be firmly established.
Nick

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: Monday, March 9, 2020 1:11:20 PM
To: [redacted]
Cc: [redacted]
Subject: Fwd: EFE- Los familiares de los fallecidos tras chocar patrullera piden investigación

[redacted]
I've

From: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Sent: Monday, March 9, 2020 12:22:12 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>; Ian M.Sc McGrail <Ian.McGrail@royalgib.police.gi>
Subject: Fwd: EFE- Los familiares de los fallecidos tras chocar patrullera piden investigación

Sent from my iPhone

Michael Llamas CMG QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

HM Government of Gibraltar

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Please consider the environment before printing this email.

Begin forwarded message:

> **From:** InfoGibraltar Nacho <nacho@infogibraltar.com>
> **Date:** 9 March 2020 at 10:42:05 GMT+1
> **To:** "(MIN) Picardo, Fabian" <fabian.picardo@gibraltar.gov.gi>, "(NO6) Golt, Clive" <clive.golt@gibraltar.gov.gi>, [redacted], "(MIN)

Garcia, Dr. Joseph" <joseph.garcia@gibraltar.gov.gi>, "(GLO) Llamas, Michael" <michael.llamas@gibraltar.gov.gi>, "(NO6) Canessa, Peter" <peter.canessa@gibraltar.gov.gi>, [redacted], "[redacted]", "(No6) Haynes, Tim" <tim.haynes@gibraltar.gov.gi>, "(GIBUK) Duarte, Tyrone" <tyrone.duarte@gibraltar.gov.gi>, "(GOVEU) D'Amato, Daniel" <daniel.damato@gibraltar.gov.gi>, "(GOVEU) Patron, Paul" <paul.patron@gibraltar.gov.gi>
Cc: Miguel Vermehren <mvermehren@grupoalbion.net>, Sandra Balvín <sandra@infogibraltar.com>, Eva Reyes <eva@infogibraltar.com>, Álvaro <alvaro@infogibraltar.com>
Subject: EFE- Los familiares de los fallecidos tras chocar patrullera piden investigación

Gibraltar

CEU-GIBRALTAR SUCESOS

Los familiares de los fallecidos tras chocar patrullera piden investigación

Ceuta, 9 mar (EFE).- Los familiares de los dos fallecidos en la colisión de una patrullera de la policía de Gibraltar con una embarcación semirrígida, ocurrida este domingo en aguas del Peñón, han pedido la apertura de una investigación "clara" para conocer a fondo el suceso.

Los fallecidos son españoles residentes en Ceuta y sus familiares han reclamado a través de las redes sociales que se abra una investigación para esclarecer el origen de la colisión que provocó el fatal desenlace.
Se trata de dos jóvenes y sus amigos han manifestado en las redes sociales que en la embarcación no había absolutamente nada de hachís ni de otro tipo de sustancia estupefaciente.
Las familias de ambos fallecidos se han desplazados ya hasta el Peñón.
Los otros dos heridos en este accidente son otro ciudadano español también vecino de Ceuta y un varón portugués, quienes se encuentran bajo custodia policial tras su detención.
A los detenidos se les imputan los delitos de navegación peligrosa, importación de bienes prohibidos y obstrucción a la policía, según las autoridades gibraltareñas.
El suceso tuvo lugar a primeras horas de la mañana de ayer, durante una persecución a gran velocidad entre ambas embarcaciones en aguas del Estrecho de Gibraltar, al sospechar los agentes que se trataba de una lancha neumática dedicada al narcotráfico.
La Unidad Marítima de la Policía Real de Gibraltar actuó al detectar la presencia en aguas cercanas al Peñón de una embarcación inflable de casco semirrígido, de 14 metros de eslora, propulsada por cuatro motores fueraborda de 300 caballos y equipada con un equipo de radar, de las habitualmente utilizadas para el narcotráfico. EFE

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Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Monday, 9 March 2020 16:42
To: [redacted]
Cc: DL Gibraltar Political (Sensitive); [redacted]
Subject: Re: Fatal collision between Royal Gib Police and Spanish smugglers

Follow Up Flag: Follow up
Flag Status: Flagged

[redacted]

The AG and I received a further briefing from the Commissioner of Police (CoP) this morning (at my request). Headlines are as follows:

CoP started by saying he had sent two Inspectors to Algeciras to establish face to face contact wth the Guardia Civil. The GC confirmed they had opened up an investigation which they would pursue regardless of where the collision took place. This infers even they are not sure where it happened.

According to the Portuguese person arrested, the 4 pax were a "crew change" for an illegal activity (assume drugs). They were picked up at Atuna beach which is on the outskirts of La Linea.

According to the CoP, there was nothing on board the vessel save fuel.
The Spanish Nationals belonged to the Castinitas (sp?) a powerful OCG.
A "notorious" (CoP's word) Gibraltar legal company Verralls, have been engaged by those detained.
A Pathologist, Coroner and Marine Accident Investigator have all been retained. The intent was to release the bodies of the deceased for burial asap (Muslim culture).
The RGP helmsmen did not for report the start of the chase to Ops Centre as per SoPs. CoP brushed this off to an oversight due to the pressure of the moment. I was less forgiving.
The RGP officers will be interviewed tomorrow or Wednesday.
CoP confirmed that the exact location has still to be determined as were details of the chase which lasted 10 minutes.

I said it was important that before Thursday's meetings in London we had one single and agreed version of the facts. I welcomed the fact that there had been communications between the GC and RGP before and since the collision.

The AG said it was clear, with the entry at some point of the vessel into BGTW, that the law had been broken and that therefore the chase was legitimate. He said it was important we are able to present this to the Spanish as "cooperation". He stressed the need for details of the communication between the GC and RGP and especially who instigated it.

I suspect this is as much as we will get until the investigation, including the interviews of the RGP and the mining of phones and IAS, have been completed.

Nick

From: [redacted]
Sent: Monday, March 9, 2020 9:43:48 AM
To: [redacted] Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>; [redacted]
Cc: DL Gibraltar Political (Sensitive) [redacted]

NP2/12

[redacted]
Subject: Re: Fatal collision between Royal Gib Police and Spanish smugglers
Thanks, [redacted]. Sounds good.

[redacted]

[redacted]

From: [redacted]
Sent: Monday, March 9, 2020 8:42:25 AM
To: [redacted] Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>; [redacted]
Cc: DL Gibraltar Political (Sensitive)[redacted]
Subject: Re: Fatal collision between Royal Gib Police and Spanish smugglers
Not yet. At this point I am hoping we can get a few more details (am in touch separately with Nick) then take a decision on whether to reach out proactively, or see if/when someone contacts us. My preference I think at this point would be to call [redacted] informally later today.

Get Outlook for iOS

From: [redacted]
Sent: Monday, March 9, 2020 9:28 am
To: Nick Pyle (Sensitive); [redacted]
Cc:[redacted] DL Gibraltar Political (Sensitive); [redacted]
Subject: Re: Fatal collision between Royal Gib Police and Spanish smugglers
Nick,

thanks for the update.

[redacted]: has there been any Spanish reaction yet?

Many thanks,
[redacted]

[redacted]

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: Monday, March 9, 2020 6:56:33 AM
To: [redacted]
Cc: [redacted] DL Gibraltar Political (Sensitive)
[redacted]
Subject: Re: Fatal collision between Royal Gib Police and Spanish smugglers
[redacted]

There may be complications around yesterday's incident in that it might have happened as much as six miles inside Spanish waters.

If true, it's hard to fathom quite what the RGP were doing chasing a vessel so deep into Spanish waters and one can only hope that it was at the invitation of the Spanish. But this may be why GoG have kept details very close and have asked for no social media speculation. The only comment so far has been a tweet from Marlene Hassan MP who regretted the loss of life and commended the RGP.

Let's hope this is all resolved quickly between the agencies and that there is no negative impact on Thursday's talks with the Spanish.
I'll continue to monitor and will report accordingly. I will be reactive only to any media enquiries with a line of inappropriate to comment given the investigation into the incident is ongoing. At some stage a tweet similar to Marlene's may be appropriate.

Nick

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: Sunday, March 8, 2020 2:08:49 PM
To: [redacted]
Cc: [redacted] DL Gibraltar Political (Sensitive)
[redacted]
Subject: Re: Fatal collision between Royal Gib Police and Spanish smugglers
Kathy

I've just met with the Commissioner of Police who kindly gave me a briefing on the incident. The facts have yet to be determined and the investigation is ongoing, but initial headlines are as follows:

The incident happened at @ 04.00 hours though it is not yet known whether it took place in BGTW waters or just outside.

Four pax involved - three Spanish from Cueta (Moroccan descent) and one Portuguese.

Two fatalities (one instant). Two others initially hospitalised but are now in police custody. The Spanish nationals are from Ceuta, of Moroccan descent and known to the local Spanish authorities.

Given those involved are not from the area, the incident is not expected to impact on the border as a similar incident did last October.

RGP/Spanish cooperation is good though the Spanish are understandably conducting their own parallel investigation.

Given the loss of life, the RGP are actively approaching UK police authorities to conduct the enquiry. I said they could state in any request that such an approach has our support.

No action for us at this stage.

The Commissioner was grateful for my visit.

Regards

Nick

From: [redacted]
Sent: Sunday, March 8, 2020 9:31:28 AM
To: [redacted]
Cc: [redacted] DL Gibraltar Political (Sensitive)
[redacted]
Subject: Fatal collision between Royal Gib Police and Spanish smugglers
Matt, Gib Chief Minister has let us know there were two fatalities on the water (Spanish nationals) and two more smugglers in hospital. They are in touch with local Spanish police. We'll need to keep an eye on press, and probably look at some kind of tweet from Governor and/or Amb in Madrid tomorrow when facts clear.

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Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Thursday, 12 March 2020 08:49
To: [redacted]
Cc: [redacted] (GLO) Llamas QC, Michael
Subject: RGP Collision

[redacted]

I'm not sure to what degree if any the issue of Sunday's collision at sea which resulted in two Spanish deaths will come up today.

I asked the Commissioner of Police yesterday if he could, 3 days on, confirm the location of the collision, as per the meeting Michael and I had with him on Monday. He could not and restricted himself to saying more work needed to be done but "it is highly probable it was outside BGTW".

What I can add is that based on a formal request from the RGP, a team of 6 from the Met will be arriving tomorrow to conduct an independent investigation into the incident. This is a positive move.

I have to say I cant quite understand why we still don't definitively know whether the incident took place inside or outside of BGTW. The exact coordinates don't matter that this savage - it's a matter of inside or out. This leaves me worried that it was significantly outside.

The Commissioner also did not say which side instigated comms which is also relevant and a question put to him by Michael on Monday.

I've copied Michael in should he know more than I.

Good luck today and I shall see you tomorrow for the JMC.

Nick

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Thursday, 12 March 2020 16:50
To: [redacted]
Cc: [redacted]
Subject: Re: RGP Collision

[redacted]

I've just had an update from the Commissioner of Police who confirmed our suspicions that not only did the collision take place in Spanish waters, so did the pursuit. The Commissioner also confirmed that SOPs/Protocols we're not followed. I refrained from saying what was on my mind (no s..t Sherlock) but this is not good news and will complicate matters. The Commissioner added that the Spanish are "not kicking off at the moment and playing it down". I think the Commissioner is worried a touch.

I said that given the imminent arrival of the Met Police Team, we can use the line to any enquiries, official or otherwise, that it would not be right to comment until the investigation has been completed. The Commissioner said he was issuing a press release, agreed with the Met, acknowledging the arrival of the team and saying just that.

The better news is that the autopsies have been completed and the bodies are being repatriated.

We should try to get 5 mins with the AG tomorrow to take his view on this.

BA has landed which has lifted my mood a bit! Not many people in the departure lounge though many who are here of Far Eastern descent are wearing masks.

Nick

From: Nick Pyle (Sensitive)
Sent: Thursday, March 12, 2020 8:49:15 AM
To: [redacted]
Cc: [redacted]; (GLO) Llamas QC, Michael <michael.llamas_qc@gibraltar.gov.gi>
Subject: RGP Collision
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Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Friday, 15 May 2020 10:59
To: [redacted]
Cc: [redacted] DL Gibraltar Political (Sensitive); DL Gibraltar Political (Sensitive)
Subject: Fatal collision between Royal Gib Police and Spanish smugglers
Attachments: 200514 El Faro de Ceuta (translation).pdf; Re: Fatal collision between Royal Gib Police and Spanish smugglers

[redacted]

We spoke about this yesterday and as you know, the CM has now informed by WhatsApp the senior wider group of the filing of a case as per the attached. I've also attached my email to you of 9 March for ease of reference. I am meeting the CM later today to discuss this and other issues relating to the behaviour of the RGP and in particular its leadership. I'll report thereafter. Needless to say, he is extremely worried about many aspects of the case which we agreed is not good news and will require extremely careful handling.

As you may remember, the Met Police carried out an independent investigation into the RGP operation. We've asked for sight of their report.

Regards

Nick

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Monday, 9 March 2020 16:42
To: [redacted]
Cc: DL Gibraltar Political (Sensitive); [redacted]
Subject: Re: Fatal collision between Royal Gib Police and Spanish smugglers

Follow Up Flag: Follow up
Flag Status: Flagged

[redacted]

The AG and I received a further briefing from the Commissioner of Police (CoP) this morning (at my request). Headlines are as follows:

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Cc: DL Gibraltar Political (Sensitive) [redacted]

NP2/20

[redacted]
Subject: Re: Fatal collision between Royal Gib Police and Spanish smugglers
Thanks, Matt. Sounds good.

[redacted]

[redacted]

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Sent: Monday, March 9, 2020 8:42:25 AM
To: [redacted] Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>; [redacted]
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From: [redacted]
Sent: Monday, March 9, 2020 9:28 am
To: Nick Pyle (Sensitive); [redacted]
Cc: [redacted] DL Gibraltar Political (Sensitive);[redacted]
Subject: Re: Fatal collision between Royal Gib Police and Spanish smugglers
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[redacted]
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Nick

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[redacted]
Subject: Fatal collision between Royal Gib Police and Spanish smugglers
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GetOutlook for iOS

Philip Dumas

From: [redacted]
Sent: Friday, 15 May 2020 14:04
To: Nick Pyle (Sensitive); [redacted]
Cc: [redacted] DL Gibraltar Political (Sensitive); DL Europe - (S) Gibraltar (Sensitive); [redacted]
Subject: OS: March 2020 fatal collision between RGP and alleged Spanish smugglers; filing of civil case
Attachments: 200514 El Faro de Ceuta (translation).pdf; Re: Fatal collision between Royal Gib Police and Spanish smugglers

Nick,

many thanks for your email. I have copied it to Legal Adviser and Europe South Spain colleagues.

For the wider chain, the CM's WhatsApp message is as follows. *I am very concerned about the effect that this can have. I understand that there is a note verbale. Grateful if it could be shared. We must be entirely transparent on this to the interior ministry, the Ceuta autonomy and the families, to ensure we grow the relationship from this and not hamper it. I am minded to seek a report from the RGP (I have the power to do this under the Police Act). There is also a pending inquest, although it may be ultra vires, given the incident happened well outside BGTW.*

Points for action.

- [redacted]: the CM mentions a Note Verbale. It's not clear whether this might have arrived in BE Madrid from the MFA or in FCO London from the Spanish Embassy. Grateful if you could check and let me know. (I'm conscious today is a holiday in Spain, so BE Madrid is closed; Monday is fine to check this there.)

- [redacted]: I think Nick is clear that the CM does have the right under the Police Act to seek a report from the RGP. Grateful if you could confirm that.

- Nick[redacted]: I note you've asked for sight of the Met. Police report on its investigation into the incident. Please let us know if you need us to follow up here.

The CM's instincts on handling look spot on: handling it transparently and being seen to do so. Once we're had sight of the Note Verbale and know what the Spanish are saying/asking, we should have an initial meeting to discuss handling from our end (including what should rightly be left to GoG and what should be done by FCO). [redacted]: grateful if you could provisionally set something up for Monday afternoon (us, Convent, [redacted], [redacted], Spain Team, BE Madrid), so that we can have a quick first run through the issues. We'll probably then need to do an update para. for Ministers, and flag to Media Office.

Please shout if you think there's any immediate points that I've missed.

Many thanks,
[redacted]

[redacted]

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 15 May 2020 09:59
To: [redacted]
Cc: [redacted]; DL Gibraltar Political (Sensitive) [redacted]; DL Gibraltar Political (Sensitive)

NP2/24

[redacted]

Subject: Fatal collision between Royal Gib Police and Spanish smugglers

[redacted]

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From: Nick Pyle (Sensitive)
Sent: Saturday, 16 May 2020 15:47
To: [redacted]
Subject: Re: GIBRALTAR

Thanks. I'll email and the. We can perhaps have a chat. Basically and on a cumulative basis. Both the Chief Minister and I have lost faith in the Commissioner of Police. All highly sensitive and only the AG knows. One question is how best to quickly recruit a replacement. CM agrees we should look outside Gibraltar.

Nick

From: [redacted]
Sent: Saturday, May 16, 2020 3:34:00 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: RE: GIBRALTAR

Good morning Nick,
I am in Miami and happy to assist.
Hoping you are safe and well.
Kindest regards

[redacted]

OFFICIAL

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 16 May 2020 08:43
To: [redacted]
Subject: GIBRALTAR

[redacted]

I hope this finds you well. Apologies for emailing out of the blue but we have an extremely sensitive policing issue in Gibraltar on which I'd welcome your advice. But before starting anything, I thought I'd check whether you were in Miami and working - I hope you are as it would mean you are well!
Regards
Nick
N J Pyle OBE
Governor
Gibraltar

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Saturday, 16 May 2020 23:29
To: [redacted]
Subject: Re: GIBRALTAR

Andrew

Thanks for your time today. I'll send the HMIC report to you tomorrow.

Enjoy the rest of your weekend.

Nick

From: [redacted]
Sent: Saturday, May 16, 2020 4:04:47 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: RE: GIBRALTAR

Nick,
I am sorry to hear the situation has reached such a critical point. Please feel free to call me any time that is convenient for you. There are a few options around recruitment to consider, if you were to look outside Gibraltar there would be strong interest from UK applicants.
The need for confidentiality in this matter is duly noted.
Kind regards

[redacted]

OFFICIAL

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 16 May 2020 09:47
To: [redacted]
Subject: Re: GIBRALTAR

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N J Pyle OBE
Governor
Gibraltar

Philip Dumas

From: [redacted]
Sent: Tuesday, 19 May 2020 15:12
To: [redacted]
Cc: [redacted] Nick Pyle (Sensitive); [redacted]
Subject: RE: NV FROM SPAIN: RGP MARITIME COLLISION

Hi [redacted]

I was just speaking to the editor of the Gibraltar Chronicle on other business and he mentioned that he is planning to run an article on the RGP collision (probably on Thursday this week). He said he would put some questions to us in writing. I was non-committal in response and said that we would most likely be very limited in what if anything we could say given legal proceedings in play. He had picked up that there had been a PQ asked in the Spanish parliament which referred to a NV being sent to BE Madrid. He promised to send me a copy of the PQ but I haven't seen it yet. Maybe Fi could try to dig it out and see if it says any more than the NV.

Regards

[redacted]

[redacted]

GOV.UK/FCO | FCO YouTube | FCO Flickr | FCO on Twitter | FCO on Facebook

I sometimes choose to send emails at different times of the day and night as part of my work/life balance.There is no expectation of a response or action, outside of normal working hours.

From: [redacted]
Sent: 19 May 2020 14:35
To: [redacted] Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Cc: [redacted]
Subject: RE: NV

Thanks [redacted] - yes good idea, will ask if any other Gib related NVs since two months. (He can't accuse us of not being keen.)

[redacted]

From: [redacted]
Sent: 19 May 2020 14:31
To: [redacted] Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Cc: [redacted]
Subject: RE: NV

Thanks

NP2/29

B1774

I can confirm I have not seen this NV before. I'll draft a reply once we have the official translation (as it's so late another couple of days should be fine).

Do BE Madrid want to check with [redacted] to see if there are any other missing replies?

Regards
[redacted]

From: [redacted]
Sent: 19 May 2020 13:21
To: [redacted] Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Cc: [redacted]
Subject: RE: NV

Hi Nick, [redacted], [redacted]
After enquiring with MFA about the NV on 8 March incident that the CM said should be on its way, [redacted] today sent the attached NV dated March 9, directly after the accident. (He said delayed due to having no one in the office to move papers around physically – makes sense as we were wfh as of 10th.) I've asked [redacted] to translate officially but in the meantime google isn't bad. It doesn't mentioned anything about the legal case/claim. Spoke to [redacted] separately and we are checking we didn't receive already.
[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

From: [redacted]
Sent: 18 May 2020 09:09
To: [redacted]
Cc: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: Fwd: NV

Can you look into this? Apparently we may have received a note verbal about a court case brought by the families of those who were killed in the collision at sea. If not received can you call [redacted]?

Get Outlook for iOS

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: Monday, May 18, 2020 7:59:20 AM
To: [redacted]
Subject: NV

[redacted]

I hope you had a good long weekend. Couldn't it or someone from the Embassy please forward the NV re the RGP collision claim.

Thanks

Nick

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Thursday, 21 May 2020 17:57
To: [redacted]
Cc: [redacted] DL Gibraltar Political (Sensitive); DL Europe - (S) Gibraltar (Sensitive); [redacted]
Subject: RE: March 2020 fatal collision between RGP and alleged Spanish smugglers; filing of civil case

[redacted]

As an update, the CM and I met last Friday and, following a long discussion about the RGP and its recent performance, concluded that we had lost confidence in the Commissioner of Police and that we would ask the GPA to call for his retirement. I therefore asked Joey Britto, the Chairman of the Gibraltar Police Authority (GPA), to meet with the CM and I. The meeting took place in the Convent on Monday.

At my request, the CM set out the issues of concern, namely the damning HMIC report, the fatal collision, Police Federation allegations of bullying, and the mishandling of a high-profile ongoing investigation in which the Commissioner apparently went against the advice of the Attorney General and Director of Public Prosecutions. The CM then went into detail by linking our concerns to relevant sections of the Police Act. The CM concluded by stating that as a result, we had both lost confidence in the Commissioner and were therefore requesting the GPA to consider using the powers available to them under Section 34 of the Police Act (2006) to call upon the Commissioner to retire. The CM reminded the Chair that should this not happen, the Act gave the Governor powers to call for the resignation of the Commissioner.

I endorsed the CM's position and said that there had to be accountability for the failings, not least given the loss of life. I said the collision incident alone raised grave concerns and has wide-reaching political, financial, reputational and sovereignty implications which may not go well for Gibraltar. I said the common thread through all the issues appeared to be a lack of management and leadership and therefore in my opinion, it is the Commissioner who has to held accountable. I said should the GPA determine that a call to retire was not appropriate, I would consider using the powers available to me under Section 13.(1)(f) which allowed me to call for the resignation of the Commissioner and that as things stood, I would need strong and persuasive arguments not to do so. I said whilst I was not looking to pre-judge the deliberations of the GPA and was mindful that the Commissioner is allowed to make representations as Section 34 allows, the GPA should be in no doubt as to the strength of my feelings. I concluded by saying the powers I have under Section 13.(1)(f) only come into play "in default by the Authority" and as such, the GPA was under some scrutiny.

A clearly shocked Chair said he took note, could see where we were coming from and would convene a meeting of the GPA as soon as practicable, commenting that the Commissioner would most likely fight this.

Comment. The CM was visibly angry during our meeting on Friday and is clearly worried at the political, financial and sovereignty damage the fatal collision incident could do to Gibraltar. Invoking Governor's powers will not go down well and is likely to provoke a backlash. The CM and I recognise the difficulties that lie ahead and have agreed we must be completely as one on this. The Police Act was carefully written shortly after the Constitution was revised and gives us each powers with some overlap. But I agree with the CM and it is important we are seen to be as one on this issue. The RGP, which has many decent and capable officers, is in need of fresh modern leadership and someone skilled in transformational change management. When discussing this the CM rather surprisingly said "we should look externally for a replacement". I was shot down by the former GPA Chair when I recommended this in early 2018.

Without doubt, the CM has the bit between his teeth and wants the Commissioner removed from his position as soon as possible. As a result, the CM asked me to postpone the Gibraltar Contingency Council meeting we were due to have tomorrow. I believe the GPA is meeting tomorrow.

I do not think we need to brief the Minister at this stage but should probably do so should the Commissioner step down, hence the length of this email which gives the detail should things take a turn for the worse.

Regards

Nick

N J Pyle
Governor
The Convent
Gibraltar
tel: +350 20045440 [redacted]

From: [redacted]
Sent: 15 May 2020 14:04
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>; [redacted] DL Gibraltar Political (Sensitive) [redacted]; DL Europe - (S) Gibraltar (Sensitive) [redacted]
Subject: OS: March 2020 fatal collision between RGP and alleged Spanish smugglers; filing of civil case

Nick,

many thanks for your email. I have copied it to Legal Adviser and Europe South Spain colleagues.

For the wider chain, the CM's WhatsApp message is as follows. *I am very concerned about the effect that this can have. I understand that there is a note verbale. Grateful if it could be shared. We must be entirely transparent on this to the interior ministry, the Ceuta autonomy and the families, to ensure we grow the relationship from this and not hamper it. I am minded to seek a report from the RGP (I have the power to do this under the Police Act). There is also a pending inquest, although it may be ultra vires, given the incident happened well outside BGTW.*

Points for action.

- [redacted]: the CM mentions a Note Verbale. It's not clear whether this might have arrived in BE Madrid from the MFA or in FCO London from the Spanish Embassy. Grateful if you could check and let me know. (I'm conscious today is a holiday in Spain, so BE Madrid is closed; Monday is fine to check this there.)

- [redacted]: I think Nick is clear that the CM does have the right under the Police Act to seek a report from the RGP. Grateful if you could confirm that.

- Nick[redacted]: I note you've asked for sight of the Met. Police report on its investigation into the incident. Please let us know if you need us to follow up here.

The CM's instincts on handling look spot on: handling it transparently and being seen to do so. Once we're had sight of the Note Verbale and know what the Spanish are saying/asking, we should have an initial meeting to discuss handling from our end (including what should rightly be left to GoG and what should be done by FCO). [redacted]: grateful if you could provisionally set something up for Monday afternoon (us, Convent, [redacted], [redacted], Spain Team, BE Madrid), so that we can have a quick first run through the issues. We'll probably then need to do an update para. for Ministers, and flag to Media Office.

Please shout if you think there's any immediate points that I've missed.

Many thanks,
[redacted]

[redacted]

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 15 May 2020 09:59
To: [redacted]
Cc: [redacted] DL Gibraltar Political (Sensitive) [redacted]; DL Gibraltar Political (Sensitive) [redacted]
Subject: Fatal collision between Royal Gib Police and Spanish smugglers

[redacted]

We spoke about this yesterday and as you know, the CM has now informed by WhatsApp the senior wider group of the filing of a case as per the attached. I've also attached my email to you of 9 March for ease of reference. I am meeting the CM later today to discuss this and other issues relating to the behaviour of the RGP and in particular its leadership. I'll report thereafter. Needless to say, he is extremely worried about many aspects of the case which we agreed is not good news and will require extremely careful handling.

As you may remember, the Met Police carried out an independent investigation into the RGP operation. We've asked for sight of their report.

Regards

Nick

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Friday, 22 May 2020 15:21
To: [redacted]
Cc: [redacted]

Subject: RE: March 2020 fatal collision between RGP and alleged Spanish smugglers; filing of civil case

[redacted]

An update

- The CM has instructed Sir Peter Caruana to act for him in this matter on the basis that he wanted to "get it right and having Sir Peter in my corner means he won't be in the other one".
- The GPA at its meeting yesterday agreed to call for the Commissioner's retirement.
- The Chair of the GPA met with the Commissioner this morning to inform of him of their decision.
- The Commissioner has asked for a detailed written explanation as to the reasons behind the loss of confidence.
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- The Commissioner has engaged a solicitor (and first approached Sir Peter Caruana) citing "a huge constitutional crisis".
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There is no constitutional crisis as the CM and I are in full agreement, but given lawyers are now involved and others aware, news is likely to break and this will be a big story. A quick para to the Minister as discussed may therefore be appropriate.

Regards

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tel: +350 20045440 [redacted]

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Cc: [redacted] DL Gibraltar Political (Sensitive)
[redacted] DL Europe - (S) Gibraltar (Sensitive)
[redacted]
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Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Friday, 22 May 2020 15:53
To: [redacted]
Subject: RE: THE COMMISSIONER OF POLICE: CALL FOR RETIREMENT

[redacted]

Very interesting. It's the James Levy angle as well that is interesting. I'm also a touch nervous given that the CM has firmly taken the lead on a competence that is more towards us than them. But we've agreed this approach which on balance is right. It also raises issues about the GPA who should have been monitoring the CoP. But I can't seeing it ending well for anyone.

Have a good weekend.

Nick

From: [redacted]
Sent: 22 May 2020 15:47
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: RE: THE COMMISSIONER OF POLICE: CALL FOR RETIREMENT

Thanks Nick- I had a feeling I wasn't getting it right….

Interesting times…
Helen

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 22 May 2020 14:45
To: [redacted]
Cc: [redacted]
Subject: THE COMMISSIONER OF POLICE: CALL FOR RETIREMENT

Helen

Sir Peter will be acting for the CM on the issue of the call for the retirement of the Commissioner of Police which may end up as a constructive dismissal case. I've changed the title of the email chain to reflect this. Apologies for not making this clearer.

Nick

From: [redacted]
Sent: 22 May 2020 15:41
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>; [redacted]
Cc: [redacted]
Subject: RE: March 2020 fatal collision between RGP and alleged Spanish smugglers; filing of civil case

Nick, [redacted],

If I have understood correctly Sir Peter Caruana will be acting for the CM in the civil case in Spain? That's of course the CM's decision and I can well understand the reasons behind it. But just to remind everyone though that politically Sir Peter Caruana has a certain reputation in relation to territorial waters in Spain , having been very outspoken on this subject in the last years of the Trilateral and accused of trying to turn himself into a "sovereignty actor". That could however add to the significance of the CM's transparent handling approach.

[redacted]

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Regards

Nick

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NP2/41

B1786

Gibraltar
tel: +350 20045440 [redacted]0

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Nick,

many thanks for your email. I have copied it to Legal Adviser and Europe South Spain colleagues.

For the wider chain, the CM's WhatsApp message is as follows. *I am very concerned about the effect that this can have. I understand that there is a note verbale. Grateful if it could be shared. We must be entirely transparent on this to the interior ministry, the Ceuta autonomy and the families, to ensure we grow the relationship from this and not hamper it. I am minded to seek a report from the RGP (I have the power to do this under the Police Act). There is also a pending inquest, although it may be ultra vires, given the incident happened well outside BGTW.*

Points for action.

- [redacted]/[redacted]: the CM mentions a Note Verbale. It's not clear whether this might have arrived in BE Madrid from the MFA or in FCO London from the Spanish Embassy. Grateful if you could check and let me know. (I'm conscious today is a holiday in Spain, so BE Madrid is closed; Monday is fine to check this there.)

- [redacted]: I think Nick is clear that the CM does have the right under the Police Act to seek a report from the RGP. Grateful if you could confirm that.

- Nick[redacted]: I note you've asked for sight of the Met. Police report on its investigation into the incident. Please let us know if you need us to follow up here.

The CM's instincts on handling look spot on: handling it transparently and being seen to do so. Once we're had sight of the Note Verbale and know what the Spanish are saying/asking, we should have an initial meeting to discuss handling from our end (including what should rightly be left to GoG and what should be done by FCO). [redacted]: grateful if you could provisionally set something up for Monday afternoon (us, Convent, [redacted], [redacted], Spain Team, BE Madrid), so that we can have a quick first run through the issues. We'll probably then need to do an update para. for Ministers, and flag to Media Office.

Please shout if you think there's any immediate points that I've missed.

Many thanks,
[redacted]

[redacted]

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 15 May 2020 09:59
To: [redacted]
Cc: [redacted] DL Gibraltar Political (Sensitive) [redacted]; DL Gibraltar Political (Sensitive)

[redacted]

Subject: Fatal collision between Royal Gib Police and Spanish smugglers

[redacted]

We spoke about this yesterday and as you know, the CM has now informed by WhatsApp the senior wider group of the filing of a case as per the attached. I've also attached my email to you of 9 March for ease of reference. I am meeting the CM later today to discuss this and other issues relating to the behaviour of the RGP and in particular its leadership. I'll report thereafter. Needless to say, he is extremely worried about many aspects of the case which we agreed is not good news and will require extremely careful handling.

As you may remember, the Met Police carried out an independent investigation into the RGP operation. We've asked for sight of their report.

Regards

Nick

Philip Dumas

From: [redacted]
Sent: Friday, 22 May 2020 19:32
To: [redacted]
Cc: PS Minister Heaton-Harris - Action (Sensitive); DL Europe - (S) Gibraltar (Sensitive); DL Gibraltar Political (Sensitive); [redacted]
Subject: Update paragraph: Royal Gibraltar Police and March 2020 fatal collision: developments

[redacted]

we provided an update (below) to the Minister in early March, immediately after a fatal collision at sea involving the Royal Gibraltar Police (RGP). Two Spanish nationals (who were allegedly smuggling drugs) were killed. Since then, it has emerged that the collision happened outside British Gibraltar Territorial Waters (BGTW), and there appear to have been other anomalies in the handling of the pursuit and internal processes afterwards. The Metropolitan Police sent out a team to conduct an investigation; we await its final report. The family of one of the Spanish nationals who died has filed a civil claim in a Spanish court against the RGP. The Chief Minister (CM) has been clear in discussions with the Governor that the Government of Gibraltar (GoG) and RGP must handle this in a transparent manner with Spain. There is no role for HMG UK in this civil case, though we will maintain a watching brief, given the potential for the case to take place in parallel with discussions with Gibraltar and Spain on Gibraltar's future relationship with the EU.

The handing of this incident has though compounded existing concerns of the CM and Governor about the leadership of the RGP. The RGP has not acted on some significant recommendations in a 2016 HM Inspectorate of Constabulary report; there are Police Federation allegations of bullying; and the RGP Commissioner apparently went against the Attorney General and the Director of Public Prosecutions in an ongoing investigation. The CM and the Governor have considered at length, and concluded that they had lost confidence in the Commissioner; they called in the Gibraltar Police Authority (GPA), setting out their concerns, linked to Gibraltar's Police Act, and requesting that the GPA consider using its powers to call for the Commissioner to retire. The GPA has subsequently done so. The Commissioner has engaged a lawyer, and the CM has done likewise for GoG (engaging former CM Sir Peter Caruana). As with the civil case, there is no role for HMG UK in this RGP matter (because the CM and the Governor are in agreement about the course of action, there are no genuine constitutional tensions in play; though some in Gibraltar may seek to suggest otherwise). But this will likely become a significant issue in Gibraltar, and may attract UK media coverage; we will prepare defensive press lines.

[redacted]

[redacted]

From: [redacted]
Sent: 09 March 2020 13:52
To: [redacted] PS Minister Morton - Action (Sensitive)
[redacted]
Cc: [redacted] Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>; DL Europe - (S) Gibraltar (Sensitive) [redacted]
Subject: Fatal Collision

The Minister will want to be aware that in the early hours of Sunday, two people died following a collision between a Royal Gibraltar Police (RGP) interceptor vessel and a rigid-hulled inflatable (RHIB) vessel during a high-speed chase. The RHIB occupants were from Spain and Portugal. The surviving RHIB occupants are in police custody following their arrest for offences relating to dangerous navigation, importing a prohibited import and obstructing police. Although details are still not confirmed, it seems that the pursuit happened after the suspect vessel was challenged whilst supporting drug trafficking, and that there was cooperation between the RGP and Spanish law enforcement. A senior investigating officer has been appointed and the forensics examination is ongoing. The interim Governor has received a briefing from the Police Commissioner.

Chief Minister Fabian Picardo reacted on Twitter , including sending his condolences to the families of the deceased. Spanish authorities have issued a press release, setting out the facts as currently known. HMA Madrid has also tweeted (“I want to echo the condolences of FP for the families of the two Spaniards who died in the collision with a patrol boat of the RGP. An investigation has been opened to clarify what happened.”) and Embassy officials will discuss the incident with their Spanish counterparts during other meetings today. We have prepared defensive press lines but do not recommend any further action at this stage.

[redacted]

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Monday, 25 May 2020 23:31
To: [redacted]
Subject: Fwd: PRESS STATEMENT AND HMICFRS REPORT
Attachments: PR FROM GPA on HMICFRS REPORT 2020.doc; royal-gibraltar-police-inspection-2020.pdf

Andrew

Apologies once again.

More after my meeting tomorrow.

Nick

From: Dr Joey Britto <joey.britto@gibtelecom.net>
Sent: Thursday, May 7, 2020 10:38:16 AM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: Fwd: PRESS STATEMENT AND HMICFRS REPORT
Dear Nick

Please see attached - this was issued a few minutes ago.

Regards

Joey

Begin forwarded message:

> **From:** "(GPA) Hanglin, Elka" <elka.hanglin@gpa.gi>
> **Date:** 7 May 2020 at 10:32:01 CEST
> **To:** Dr Joseph J Britto <[redacted]>
> **Subject: Fw: PRESS STATEMENT AND HMICFRS REPORT**

> **From:** (GPA) Hanglin, Elka
> **Sent:** 07 May 2020 10:31
> **To:** news@gbc.gi; news@chronicle.gi; breyes@chronicle.gi; Christina.cortes@gbc.gi; christine.vasquez@gbc.gi; Jonathan.scott@gbc.gi; (NO6) Golt, Clive; press@infogibraltar.com; editorial@panorama.gi; gibnews@panorama.gi; media@royalgib.police.gi; newsdesk@theolivepress.es; matthew@thespainreport.com; giordano@yourgibraltartv.com; redaccion@grupodiarioarea.info; (NO6) Searle, Dominique; [redacted]; news@rockradio.gi; [redacted]
> **Subject:** PRESS STATEMENT AND HMICFRS REPORT
>
> Dear Sirs,

Attached please find a copy of the HMICFRS report on the RGP, as well as an accompanying statement from the GPA.

This is in relation to the press statement issued by the Commissioner on receipt of the said report.

Kind regards

Ms. E. Hanglin
Secretary

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Wednesday, 27 May 2020 18:16
To: [redacted]
Subject: RE: DRAFT email to Legal Advisers on the RGP civil case

[redacted]

Dear [redacted]

[redacted]

NP2/48

B1793

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Thursday, 28 May 2020 08:08
To: [redacted]
Subject: Fwd: Gibraltar: RGP civil case: possible involvement of HMG UK?

FYI. You should be part of this.

Nick

From: [redacted]
Sent: Wednesday, May 27, 2020 10:29:33 PM
To: [redacted]
Cc: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>; [redacted]
Subject: Gibraltar: RGP civil case: possible involvement of HMG UK?

[redacted]

[redacted]

[redacted]

NP2/49

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Thursday, 28 May 2020 08:10
To: [redacted]
Cc: DL Europe - (S) Gibraltar (Sensitive); DL Gibraltar Political (Sensitive); [redacted]
Subject: RGP Collision At Sea

[redacted]

[redacted]

Nick

NP2/50

B1795

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Thursday, 28 May 2020 09:32
To: [redacted]
Cc: [redacted]

Subject: RE: RGP Collision At Sea
Attachments: Pq2

[redacted]

[redacted]

NP2/51

[redacted]

Subject: RGP Collision At Sea

[redacted]

[redacted]

Philip Dumas

From: [redacted]
Sent: Thursday, 28 May 2020 09:36
To: [redacted]
Cc: Nick Pyle (Sensitive); [redacted]
Subject: RE: Gibraltar: RGP civil case: possible involvement of HMG UK?

Dear [redacted]

[redacted]

NP2/53

B1798

[redacted]

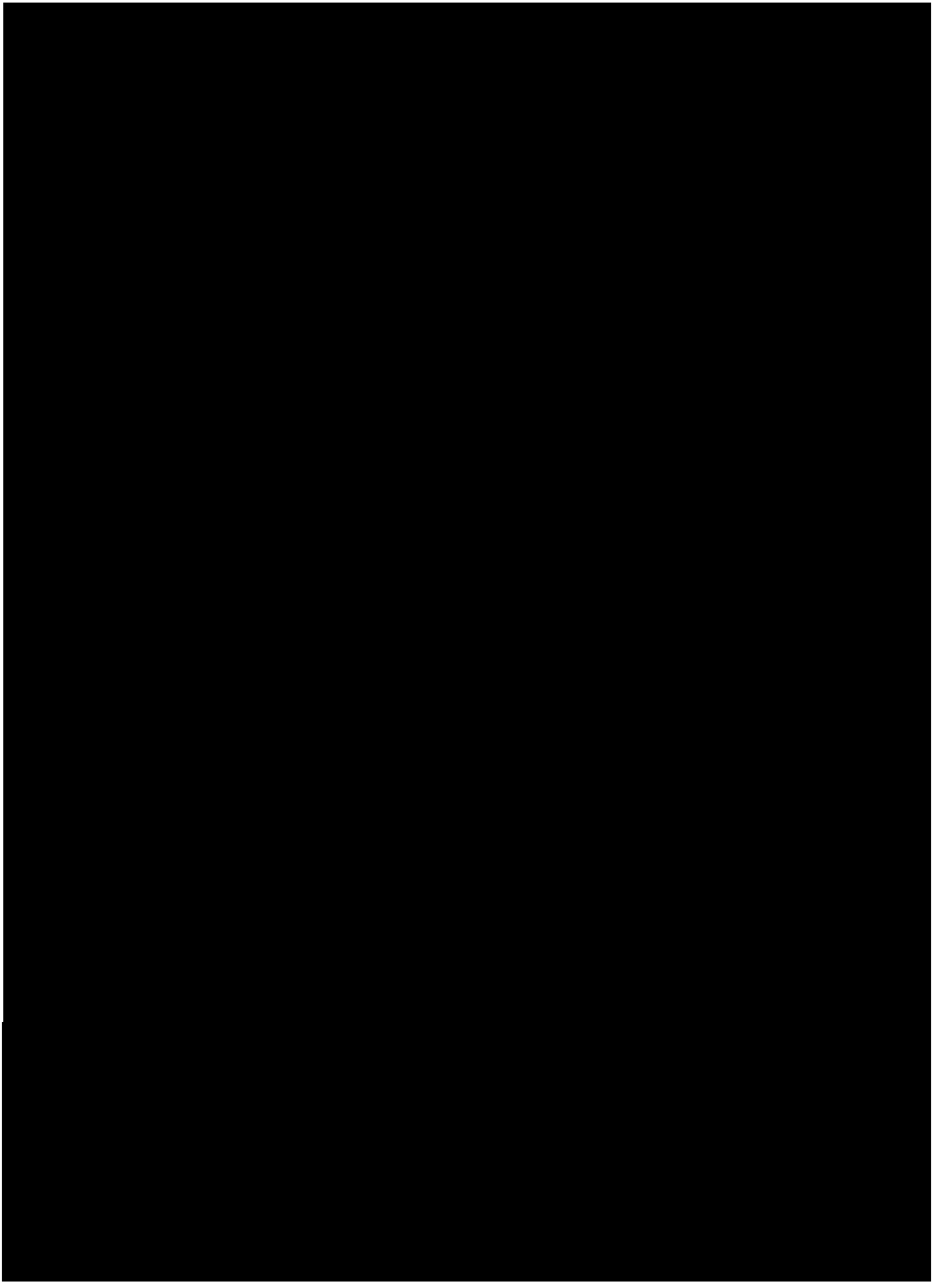
Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Thursday, 28 May 2020 12:46
To: [redacted]
Cc: [redacted]
Subject: RE: RGP Collision At Sea

[redacted]

[redacted]

NP2/55



Regards

Nick

Philip Dumas

From: [redacted]
Sent: Thursday, 28 May 2020 15:47
To: Nick Pyle (Sensitive)
Subject: RE: GIBRALTAR: POTENTIAL COMMISSIONER OF POLICE RECRUITMENT

Dear Nick,

I note your updates and will make further contact with appropriate chief officers in the National Police Chiefs' Council around the secondment process. In particular I will get outline estimates of costs and possible ranks of seconded officers. The enquiries will be discrete and the confidential nature of the situation respected.

Kind regards

[redacted]

OFFICIAL

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 28 May 2020 09:09
To: [redacted]
Subject: GIBRALTAR: POTENTIAL COMMISSIONER OF POLICE RECRUITMENT

Dear [redacted]

Thank you for your time both yesterday and previously.

As I said, I have spoken to the Chief Minister and Chairman of the Gibraltar Police Authority and whilst due process has to be followed, it is looking increasingly likely that we may need to recruit a new Commissioner of Police in the near future. The Chief Minister and GPA Chair both agree, as I do, with your suggestion that a secondment would be the best course of action.

As such, I would be grateful if you could discretely look to start the process of identifying suitable candidates as per our discussion. As soon as I am able, I will formally confirm matters with you. I will also forward a job description as soon as I receive if from the GPA Chair.

Thank you again for your assistance in this matter. It is greatly appreciate.

Regards

Nick

N J Pyle
Governor
The Convent
Gibraltar
tel: +350 20045440 [redacted]

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Thursday, 28 May 2020 19:03
To: [redacted]
Cc: [redacted]

Subject: Re: RGP Collision At Sea

[redacted]

NP2/60

B1805



Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Friday, 29 May 2020 14:24
To: [redacted]
Subject: CoP Job description
Attachments: Job Description CoP.doc; THE POST OF COMMISSIONER OF THE.doc

[redacted]

These were drawn up for the last recruitment process. Do let me know if you need more.

Regards

Nick

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Friday, 29 May 2020 21:19
To: [redacted]
Cc: DL Europe - (S) Gibraltar (Sensitive); DL Gibraltar Political (Sensitive); [redacted]
Subject: Re: RGP Collision At Sea

[redacted]

To update you further, the Chair of the GPA received at 18.00 hrs this evening, a 28 page letter from the Commissioner of Police's legal representative declining the Gibraltar Police Authority's request to retire. Whilst I will of course consider his representations, it looks as if I will have to exercise my powers under the Police Act.

The CM and I have agreed that we should meet early next week with the AG (as our Hon. Legal Advisor) and Chair of the GPA to discuss a response and will be doing so on Tuesday at the Convent.

Not unexpected but disappointing, not least as the letter calls into question my conduct and impartiality of which I am certain, as is the AG, that I have nothing to worry about.

I'll keep you updated.

Regards

Nick

From: Nick Pyle (Sensitive)
Sent: Thursday, May 28, 2020 8:09:51 AM
To: [redacted]
Cc: DL Europe - (S) Gibraltar (Sensitive) [redacted]; DL Gibraltar Political (Sensitive) [redacted]
Subject: RGP Collision At Sea
[redacted]

[redacted]

Nick

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Thursday, 4 June 2020 16:32
To: [redacted]
Cc:
Subject: COMMISSIONER OF POLICE: CALL FOR RESIGNATION
Attachments: Gov - GPA CoP-Gomez.docx.doc

[redacted]

I attach a copy of a letter I sent to the Chair of the GPA yesterday. I'll update tomorrow on the state of play on the issue.

Nick

N J Pyle
Governor
The Convent
Gibraltar
tel: +350 20045440 [redacted]

Philip Dumas

From: [redacted]
Sent: Friday, 5 June 2020 02:28
To: Nick Pyle (Sensitive)
Subject: RE: COMMISSIONER OF POLICE: CALL FOR RESIGNATION

Nick,

Thank you for sharing the response, it gives me useful context and helps me understand the situation. I am continuing to progress discrete enquiries with UK police chief officers to lay the ground should a secondment be sought.

Kind regards

[redacted]

OFFICIAL

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 04 June 2020 13:39
To: [redacted]
Subject: Fwd: COMMISSIONER OF POLICE: CALL FOR RESIGNATION

[redacted]

This was my response to a 29 page letter to the GPA from CoP's lawyer.

Nick

N J Pyle

Governor

The Convent

Gibraltar

tel: +350 20045440 [redacted]

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Friday, 5 June 2020 11:38
To: Sir David Steel [redacted]
Subject: FW: COMMISSIONER OF POLICE: LOSS OF CONFIDENCE/CALL FOR RESIGNATION
Attachments: Fwd: Response to GPA Invitation to Retire ; Gov - GPA CoP-Gomez.docx.doc; Police Act

Dear David

Apologies for my silence, but there is a lot going on and I thought I'd leave you in the hands of our very capable team.

This should bring you up to speed with the issue of the Commissioner.

Happy to chat at any time should you wish.

Regards

Nick

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 05 June 2020 09:54
To: [redacted]
Cc: [redacted]
Subject: Re: COMMISSIONER OF POLICE: LOSS OF CONFIDENCE/CALL FOR RESIGNATION

[redacted]

As discussed yesterday, things have taken a turn for the worse. The AG told me yesterday the Gibraltar Police Authority (GPA) meeting that was held last week to consider the position of the Commissioner of Police was not quorate. It's deliberations are therefore null and void and the Chair of the GPA should therefore not have called for the Commissioner of Police to resign. I should get a letter this morning from the Chair informing me of this.

The AG advised there is no point in looking to appoint new GPA members as they are chosen by the Public Services Commissioner from a list proposed by the CM and I. They are then appointed by the Governor. Any new GPA members would therefore likely be perceived as biased, not least by a court. This leaves Section 13(1)(f) of the Police Act as the only way forward to secure the resignation of the Commissioner should it be determined that this is the best way forward. The relevant Sections of the Police Act are attached.

I also attach the letter from the Commissioner's lawyer together with my response for ease of reference. The GPA, CM and AG will be also responding to it. My intent at the moment is to ask to see those letters before summoning the Commissioner. I would therefore have all the relevant information to hand to enable me to take a considered and reflected decision. I think this is important, not least to demonstrate to the Commissioner that I have taken all representations into account one final time. The AG agrees with this approach. Should I call for the Commissioner to resign, I would simply issue a factual statement announcing the fact. The CM will then deploy supporting press lines.

This is the talk of the town and subject to media speculation though the focus at the moment is on the CM. This will shift significantly should I use the powers available to me and there will be intense scrutiny of my actions which some will look to make mischief from. Luckily the CM and I are as one on this and therefore there should not be any constitutional issues. What is clear is that the Police Act needs updating. I will ask for work to start on that as a priority.

Whilst I do not see any option and sensed this is where we would end up, I wouldn't mind a final chat through this

before I take any action we may later come to regret. Would you be available to do so via Teams sometime today before 14.00 (BST)? Apologies for the timeframe, but with a media storm brewing, I would like to resolve this as soon as possible and certainly before Sir David Steel arrives on Wednesday.

Regards

Nick

N J Pyle
Governor
The Convent
Gibraltar
tel: +350 20045440 [redacted]

Philip Dumas

From: Sir David Steel [redacted]
Sent: Friday, 5 June 2020 12:50
To: Nick Pyle (Sensitive)
Subject: Re: COMMISSIONER OF POLICE: LOSS OF CONFIDENCE/CALL FOR RESIGNATION

Dear Nick,

Thank you. This matter has been the reason that I too have not been troubling you, as I know that you have much on your plate at the moment. I discussed the whole issue with [redacted] this morning, as well as with PUS. Both think you are doing a cracking job in difficult circumstances. I just hope that the actions you are taking will address the issue.

Take good care and an extra pair of hands to help you are flying out next Wednesday!

David

On 5 Jun 2020, at 10:37, <Nick.Pyle@fco.gov.uk> <Nick.Pyle@fco.gov.uk> wrote:

> <Gov - GPA CoP-Gomez.docx.doc>

Philip Dumas

From: Nick Pyle (Sensitive) <Nick.Pyle@fcdo.gov.uk>
Sent: Friday, 5 June 2020 15:09
To: [redacted]
Cc:
Subject: RE: COMMISSIONER OF POLICE: LOSS OF CONFIDENCE/CALL FOR RESIGNATION

[redacted]

I have just spoken to the Attorney General (AG).

We have agreed that I will summon the Commissioner at 17.30 today to inform him that I have received copies of his representations and the responses to them from the AG, CM as well as a letter from the Chair of the GPA. I will tell him I will study them over the weekend and reflect. I will let him know of my considered determination on Monday.

The Chief Minister is however slightly worried that the Commissioner will use the weekend to seek an injunction. I said I did not think one could be sought let alone approved as I would not be disclosing my intent to the Commissioner and would merely be following the process as per the Police Act. I am meeting the CM and AG at 17.00 to talk through this but told the AG my strong preference was to create a gap for the reasons we discussed.

Finally, the AG accepted that there could be the perception of a conflict between his role as our HLA and his involvement in proceedings. He thought advice from Paola well worth seeking.

Regards

Nick

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 05 June 2020 09:54
To: [redacted]
Cc: [redacted]
Subject: Re: COMMISSIONER OF POLICE: LOSS OF CONFIDENCE/CALL FOR RESIGNATION

[redacted]

As discussed yesterday, things have taken a turn for the worse. The AG told me yesterday the Gibraltar Police Authority (GPA) meeting that was held last week to consider the position of the Commissioner of Police was not quorate. It's deliberations are therefore null and void and the Chair of the GPA should therefore not have called for the Commissioner of Police to resign. I should get a letter this morning from the Chair informing me of this.

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I also attach the letter from the Commissioner's lawyer together with my response for ease of reference. The GPA, CM and AG will be also responding to it. My intent at the moment is to ask to see those letters before summoning the Commissioner. I would therefore have all the relevant information to hand to enable me to take a considered and reflected decision. I think this is important, not least to demonstrate to the Commissioner that I have taken all representations into account one final time. The AG agrees with this approach. Should I call for the Commissioner to resign, I would simply issue a factual statement announcing the fact. The CM will then deploy supporting press lines.

This is the talk of the town and subject to media speculation though the focus at the moment is on the CM. This will shift significantly should I use the powers available to me and there will be intense scrutiny of my actions which some will look to make mischief from. Luckily the CM and I are as one on this and therefore there should not be any constitutional issues. What is clear is that the Police Act needs updating. I will ask for work to start on that as a priority.

Whilst I do not see any option and sensed this is where we would end up, I wouldn't mind a final chat through this before I take any action we may later come to regret. Would you be available to do so via Teams sometime today before 14.00 (BST)? Apologies for the timeframe, but with a media storm brewing, I would like to resolve this as soon as possible and certainly before Sir David Steel arrives on Wednesday.

Regards

Nick

N J Pyle
Governor
The Convent
Gibraltar
tel: +350 20045440 [redacted]

Philip Dumas

From: [redacted]
Sent: Friday, 5 June 2020 19:51
To: PS Minister Heaton-Harris - Action (Sensitive); [redacted]
Cc: [redacted] DL Europe - (S) Gibraltar (Sensitive); DL Gibraltar Political (Sensitive); [redacted]
Subject: Update paragraph: Royal Gibraltar Police: latest developments

[redacted],

the Minister may welcome a further update para. on the Royal Gibraltar Police Commissioner issue. If there are further developments over the weekend, we will update the Minister's Duty PS.

[redacted]

There have been further developments on the Royal Gibraltar Police (RGP) Commissioner. Having lost confidence in the Commissioner, the Chief Minister (CM) and Governor asked the Gibraltar Police Authority (GPA) to consider calling for him to retire; the GPA did so. He refused, and has engaged a lawyer. His lawyer has written to the Governor, CM, Gibraltar's Attorney General (AG)and GPA, detailing the Commissioner's concerns about the process, and making a number of allegations, including of political interference in the RGP's work. The Governor, CM and Attorney General have all replied to the letter; the GPA has subsequently advised the Governor that the meeting at which it decided to call for the Commissioner's retirement was not quorate. This means the process moves sooner than expected to the Governor, who can invoke his powers under the Police Act to request the Commissioner's resignation. The Governor has today (5 June) told the Commissioner that he will consider his letter, and those of the CM, AG and GPA, over the weekend before making his decision. Some in Gibraltar may seek to use this issue as evidence of constitutional tensions between the UK and Gibraltar. The issue has already been picked up in the local press, and may therefore attract UK media attention. We can say that we are aware of the issue, but it would not be appropriate to comment further while the process is ongoing.

[redacted]

[redacted]

From: [redacted]
Sent: 27 May 2020 23:29
To: PS Minister Morton - Action (Sensitive) [redacted]
Cc: [redacted]
Subject: RE: Update paragraph: Royal Gibraltar Police and March 2020 fatal collision: developments

[redacted]

abridged version of the update para. as requested.

In March 2020, two Spanish nationals (alleged drug smugglers) were killed in a sea collision involving the Royal Gibraltar Police (RGP), apparently outside British Gibraltar Territorial Waters (BGTW), and with other handling anomalies. We await a Metropolitan Police investigation report. One of the families has filed a civil claim in a Spanish court against the RGP. The Chief Minister (CM) and Governor agree they must handle the case transparently with Spain. This incident has compounded existing CM and Governor concerns about the RGP Commissioner. He has not acted on a 2016 HM Inspectorate of Constabulary report; there are Police Federation bullying allegations; and he apparently went against the Attorney General and Director of Public Prosecutions in an ongoing investigation. The CM and Governor concluded they had lost confidence in him, and asked the Gibraltar Police Authority to consider

calling for his retirement; it did so. The Commissioner has engaged a lawyer. The CM has engaged former CM Caruana. There is no immediate HMG UK role in the civil case or the internal RGP matter. But the former may run in parallel to engagement with Spain on Gibraltar's future EU relationship. While there are no constitutional tensions in the latter (the CM and Governor agree on handling), some in Gibraltar may suggest otherwise. Both will likely become significant issues in Gibraltar, and may attract UK media coverage; we will prepare defensive press lines.

[redacted]

From: PS Minister Morton - Action (Sensitive) [redacted]
Sent: 25 May 2020 18:58
To: [redacted]
Cc: PS Minister Morton - Action (Sensitive) [redacted]
Subject: RE: Update paragraph: Royal Gibraltar Police and March 2020 fatal collision: developments

[redacted]

Thanks very much for this. Very happy to put this to the Minister but could I just ask:

- Could you tweak it so it's self-contained without reference to the previous update (as the Minister probably won't remember the March incident)
- Shorten so it's just one para and ideally no more than 150 words.

Thanks!

[redacted]

Need templates for the Minister? Briefings | Letters | Submissions (FCO only, DFID links coming soon). Please remember to also copy [redacted] *on all emails and call if you need an urgent response. Find details of our full private office team here for FCO and here for DFID.*

It is the responsibility of the lead department to register any comments made on the original correspondence. In line with FCO guidance, the Minister's office will not register this email chain or any attachments.

From: [redacted]
Sent: 22 May 2020 18:32
To: [redacted]
Cc: PS Minister Morton - Action (Sensitive) [redacted] DL Europe - (S) Gibraltar (Sensitive) [redacted] DL Gibraltar Political (Sensitive) [redacted]
Subject: Update paragraph: Royal Gibraltar Police and March 2020 fatal collision: developments

[redacted],

we provided an update (below) to the Minister in early March, immediately after a fatal collision at sea involving the Royal Gibraltar Police (RGP). Two Spanish nationals (who were allegedly smuggling drugs) were killed. Since then, it has emerged that the collision happened outside British Gibraltar Territorial Waters (BGTW), and there appear to have been other anomalies in the handling of the pursuit and internal processes afterwards. The Metropolitan Police sent out a team to conduct an investigation; we await its final report. The family of one of the Spanish nationals who died has filed a civil claim in a Spanish court against the RGP. The Chief Minister (CM) has been clear in discussions with the Governor that the Government of Gibraltar (GoG) and RGP must handle this in a transparent manner with Spain. There is no role for HMG UK in this civil case, though we will maintain a watching brief, given the potential for the case to take place in parallel with discussions with Gibraltar and Spain on Gibraltar's future relationship with the EU.

The handing of this incident has though compounded existing concerns of the CM and Governor about the leadership of the RGP. The RGP has not acted on some significant recommendations in a 2016 HM Inspectorate of Constabulary report; there are Police Federation allegations of bullying; and the RGP Commissioner apparently went against the Attorney General and the Director of Public Prosecutions in an ongoing investigation. The CM and the Governor have considered at length, and concluded that they had lost confidence in the Commissioner; they called in the Gibraltar Police Authority (GPA), setting out their concerns, linked to Gibraltar's Police Act, and requesting that the GPA consider using its powers to call for the Commissioner to retire. The GPA has subsequently done so. The Commissioner has engaged a lawyer, and the CM has done likewise for GoG (engaging former CM Sir Peter Caruana). As with the civil case, there is no role for HMG UK in this RGP matter (because the CM and the Governor are in agreement about the course of action, there are no genuine constitutional tensions in play; though some in Gibraltar may seek to suggest otherwise). But this will likely become a significant issue in Gibraltar, and may attract UK media coverage; we will prepare defensive press lines.

[redacted]

[redacted]

From: [redacted]
Sent: 09 March 2020 13:52
To: [redacted] PS Minister Morton - Action (Sensitive)
[redacted]
Cc: [redacted] Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>; DL Europe - (S) Gibraltar (Sensitive) [redacted]
[redacted]
Subject: Fatal Collision

The Minister will want to be aware that in the early hours of Sunday, two people died following a collision between a Royal Gibraltar Police (RGP) interceptor vessel and a rigid-hulled inflatable (RHIB) vessel during a high-speed chase. The RHIB occupants were from Spain and Portugal. The surviving RHIB occupants are in police custody following their arrest for offences relating to dangerous navigation, importing a prohibited import and obstructing police. Although details are still not confirmed, it seems that the pursuit happened after the suspect vessel was challenged whilst supporting drug trafficking, and that there was cooperation between the RGP and Spanish law enforcement. A senior investigating officer has been appointed and the forensics examination is ongoing. The interim Governor has received a briefing from the Police Commissioner.

Chief Minister Fabian Picardo reacted on Twitter , including sending his condolences to the families of the deceased. Spanish authorities have issued a press release, setting out the facts as currently known. HMA Madrid has also tweeted ("I want to echo the condolences of FP for the families of the

two Spaniards who died in the collision with a patrol boat of the RGP. An investigation has been opened to clarify what happened.") and Embassy officials will discuss the incident with their Spanish counterparts during other meetings today. We have prepared defensive press lines but do not recommend any further action at this stage.

[redacted]

Philip Dumas

From: [redacted]
Sent: Friday, 5 June 2020 22:04
To: Nick Pyle (Sensitive); [redacted]
Cc: [redacted]
Subject: RE: COMMISSIONER OF POLICE: LOSS OF CONFIDENCE/CALL FOR RESIGNATION

Dear Nick

[redacted]

[redacted]

[redacted]

It is the responsibility of the lead policy department to register legal advice. In line with FCO guidance, Legal Directorate will not register this email chain or any attachments. This email and any attachments may contain legally privileged material and should not be forwarded or disclosed to other recipients outside the FCO without Legal Directorate consent.

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 05 June 2020 14:09
To: [redacted]
Cc: [redacted]
Subject: RE: COMMISSIONER OF POLICE: LOSS OF CONFIDENCE/CALL FOR RESIGNATION

[redacted]

I have just spoken to the Attorney General (AG).

We have agreed that I will summon the Commissioner at 17.30 today to inform him that I have received copies of his representations and the responses to them from the AG, CM as well as a letter from the Chair of the GPA. I will tell him I will study them over the weekend and reflect. I will let him know of my considered determination on Monday.

The Chief Minister is however slightly worried that the Commissioner will use the weekend to seek an injunction. I said I did not think one could be sought let alone approved as I would not be disclosing my intent to the Commissioner and would merely be following the process as per the Police Act. I am meeting the CM and AG at 17.00 to talk through this but told the AG my strong preference was to create a gap for the reasons we discussed.

Finally, the AG accepted that there could be the perception of a conflict between his role as our HLA and his involvement in proceedings. He thought advice from [redacted] well worth seeking.

Regards

Nick

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 05 June 2020 09:54
To: [redacted]
Cc: [redacted]
Subject: Re: COMMISSIONER OF POLICE: LOSS OF CONFIDENCE/CALL FOR RESIGNATION

[redacted]

As discussed yesterday, things have taken a turn for the worse. The AG told me yesterday the Gibraltar Police Authority (GPA) meeting that was held last week to consider the position of the Commissioner of Police was not quorate. It's deliberations are therefore null and void and the Chair of the GPA should therefore not have called for the Commissioner of Police to resign. I should get a letter this morning from the Chair informing me of this.

The AG advised there is no point in looking to appoint new GPA members as they are chosen by the Public Services Commissioner from a list proposed by the CM and I. They are then appointed by the Governor. Any new GPA members would therefore likely be perceived as biased, not least by a court. This leaves Section 13(1)(f) of the Police Act as the only way forward to secure the resignation of the Commissioner should it be determined that this is the best way forward. The relevant Sections of the Police Act are attached.

I also attach the letter from the Commissioner's lawyer together with my response for ease of reference. The GPA, CM and AG will be also responding to it. My intent at the moment is to ask to see those letters before summoning the Commissioner. I would therefore have all the relevant information to hand to enable me to take a considered and reflected decision. I think this is important, not least to demonstrate to the Commissioner that I have taken all representations into account one final time. The AG agrees with this approach. Should I call for the Commissioner to resign, I would simply issue a factual statement announcing the fact. The CM will then deploy supporting press lines.

This is the talk of the town and subject to media speculation though the focus at the moment is on the CM. This will shift significantly should I use the powers available to me and there will be intense scrutiny of my actions which some will look to make mischief from. Luckily the CM and I are as one on this and therefore there should not be any constitutional issues. What is clear is that the Police Act needs updating. I will ask for work to start on that as a priority.

Whilst I do not see any option and sensed this is where we would end up, I wouldn't mind a final chat through this before I take any action we may later come to regret. Would you be available to do so via Teams sometime today before 14.00 (BST)? Apologies for the timeframe, but with a media storm brewing, I would like to resolve this as soon as possible and certainly before Sir David Steel arrives on Wednesday.

Regards

Nick

N J Pyle
Governor
The Convent
Gibraltar
tel: +350 20045440 [redacted]

Philip Dumas

From: Nick Pyle (Sensitive) <Nick.Pyle@fcdo.gov.uk>
Sent: Sunday, 7 June 2020 12:35
To: [redacted]
Cc:
Subject: Fwd: Gomez-Neish
Attachments: Scan Jun 7, 2020.pdf

[redacted]

The good news is confirmation that the CoP intends to retire and the issue now is how to achieve this.

My instinct is to allow CoP time to work out a deal, but this then means Sir David will have arrived. What we don't want is CoP to withdraw his request and lobby Sir David to keep his position.

I just spoken to the AG and CM and we have agreed to meet this evening to talk through options.

I intend to ask the Commissioner to see me tomorrow afternoon at 15.00.

Thoughts and advice most welcome.

Regards

NIck

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: Sunday, June 7, 2020 12:29:15 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: Gomez-Neish

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Sunday, 7 June 2020 12:52
To: [redacted]
Cc:
Subject: Fwd: Collision at Sea Investigation Op Kram/Op Bomere update
Attachments: image001.png; ATT00001.htm; Op Bomere - Letter to Commissioner.docx; ATT00002.htm

Relevant to our Teams meeting on Wednesday.

Not unexpected having read the marine accident report.

Nick

From: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Sent: Sunday, June 7, 2020 9:32:54 AM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: Fwd: Collision at Sea Investigation Op Kram/Op Bomere update
Dear Governor

Please see attached which has been received overnight.

Best wishes,

Fabian

Sent from my iPad

Begin forwarded message:

> **From:** "(RGP) Ullger, Richard" <Richard.Ullger@royalgib.police.gi>
> **Date:** 7 June 2020 at 01:23:14 CEST
> **To:** "(MIN) Picardo, Fabian" <fabian.picardo@gibraltar.gov.gi>
> **Cc:** "(GLO) Llamas, Michael" <michael.llamas@gibraltar.gov.gi>
> **Subject: Collision at Sea Investigation Op Kram/Op Bomere update**
>
> Dear Chief Minister,
> The thread below and attached letter contains details of the proposed action by the Metropolitan Police Investigating team with regards to the collision at sea. At present it is unclear which part of the Merchant Shipping Act they are referring to, but I suspect it could very well be Section 27, Misconduct, Endangering Ships, Persons or Structures. I have copied the AG who has already been notified by the Commissioner and as soon as we have clarification from the Met Police I shall duly inform you.
> I am at your disposal should you wish to discuss this further.
> With best wishes
> *Richard*
>
> **Richard Ullger OTM, MSc**
> **Assistant Commissioner**
> New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) 20072500 Centrex: **2271**

Philip Dumas

From: [redacted]
Sent: Sunday, 7 June 2020 14:00
To: Nick Pyle (Sensitive)
Cc: [redacted]
Subject: RE: Gomez-Neish

Dear Nick

Many thanks for your emails.

I fully support your approach to allow time to negotiate the Commissioner's early retirement. It's unfortunate that this matter coincides with the new Governor's arrival, but allowing time for the negotiations still leaves the new Governor with the option to use his power under section 13(f) in the event of a stalemate.

Would you like me to join part of this evening's meeting with the CM and Michael when considering the options?

[redacted]

[redacted]

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From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 07 June 2020 11:35
To: [redacted]
Cc: [redacted]
Subject: Fwd: Gomez-Neish

[redacted]

The good news is confirmation that the CoP intends to retire and the issue now is how to achieve this.

My instinct is to allow CoP time to work out a deal, but this then means Sir David will have arrived. What we don't want is CoP to withdraw his request and lobby Sir David to keep his position.

I just spoken to the AG and CM and we have agreed to meet this evening to talk through options.

I intend to ask the Commissioner to see me tomorrow afternoon at 15.00.

Thoughts and advice most welcome.

Regards

NIck

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: Sunday, June 7, 2020 12:29:15 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: Gomez-Neish

Philip Dumas

From: [redacted]
Sent: Sunday, 7 June 2020 14:00
To: Nick Pyle (Sensitive); [redacted]
Cc: [redacted]
Subject: Re: Gomez-Neish

Nick,

thanks for sending through all the documents.

Would you find it useful to have a conversation with us before you see the CM and AG this afternoon?

[redacted]

[redacted]

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: Sunday, June 7, 2020 11:35:13 AM
To: [redacted]
Cc: [redacted]
Subject: Fwd: Gomez-Neish
[redacted]

The good news is confirmation that the CoP intends to retire and the issue now is how to achieve this.

My instinct is to allow CoP time to work out a deal, but this then means Sir David will have arrived. What we don't want is CoP to withdraw his request and lobby Sir David to keep his position.

I just spoken to the AG and CM and we have agreed to meet this evening to talk through options.

I intend to ask the Commissioner to see me tomorrow afternoon at 15.00.

Thoughts and advice most welcome.

Regards

NIck

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: Sunday, June 7, 2020 12:29:15 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: Gomez-Neish

Philip Dumas

From: [redacted]
Sent: Sunday, 7 June 2020 18:08
To: [redacted] Nick Pyle (Sensitive)
Cc: [redacted]
Subject: RE: Gomez-Neish

Dear Nick

I set out below a summary of the options and their merits in advance of your meeting this evening with the CM and AG.

1. Call for Commissioner's retirement by GPA pursuant to section 34(1) Police Act 2006
2. Commissioner's suspension or call for resignation by Governor pursuant to section 13(f) Police Act 2006
3. Commissioner's early retirement (subject to negotiated terms)

Option 1

As discussed during our call on Friday, the GPA meeting which was called to vote on exercising their section 34(1) power to call for the Commissioner's retirement was not quorate which rendered that decision invalid. In the GPA's 5 June letter to you, the Chair indicates that the GPA has sought independent legal advice which concludes that:

1. The process undertaken pursuant to section 34(1) is flawed and should be withdrawn.
2. The GPA as presently constituted is vulnerable to legal challenge on the grounds of bias (as detailed further below).

For these reasons the GPA Chair states that the GPA is unwilling to proceed with the Commissioner's removal pursuant to section 34(1).

Option 2

Section 13(f) gives you as Governor the power to either suspend the Commissioner from duty, or call for his resignation where the GPA *'has failed to discharge or perform a responsibility imposed on the Authority under this Act'.* The GPA's responsibilities and powers are set out in section 5 and include ensuring the *'high standards of integrity, probity and independence of policing in Gibraltar'* and holding *'the Commissioner to account for matters which are the responsibility of the Authority'.*

Although any exercise of the Governor's power under section 13(f) is distinct to the removal procedure under section 34(1) (where the GPA has to secure the Governor's or the Chief Minister's approval to call for the Commissioner to retire), the exercise of that power nevertheless risks being liable to challenge for the reasons set out in paragraph 47 of the Commissioner's lawyer's 29 May letter to the GPA, namely '*it is not a mechanism for the Governor to simply use when he disagrees with the Authority, or when he disagrees with an action by the Police Commissioner, and nor is it a power which should be pre-emptively threatened in order to lean on the Authority to trigger section 34.'*

Although you have justifiable grounds on which to exercise your section 13(f) power, there remains a risk that it could be challenged by the Commissioner.

Option 3

In his 5 and 7 June emails, the Commissioner's lawyer indicates that the Commissioner intends to apply for early retirement on terms addressed to the incoming Governor.

NP2/83

Although it is unfortunate that this matter coincides with the new Governor's arrival, a negotiation about the Commissioner's early retirement has the advantage that in the event of a stalemate the incoming Governor still has recourse to suspend the Commissioner pursuant to section 13(f) with a limited risk of a challenge, given he has not been involved in this situation to date.

I share your view that option 3 is the preferred approach and I am ready to speak at 17.30 on Teams if that is helpful.

[redacted]

[redacted]

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From: [redacted]
Sent: 07 June 2020 13:50
To: [redacted] Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Cc: [redacted]
Subject: Re: Gomez-Neish

I can join at 1730 if helpful. Though equally happy if you want to focus on the legal side.

[redacted]

[redacted]

From: [redacted]
Sent: Sunday, June 7, 2020 1:39:00 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>; [redacted]
Cc: [redacted]
Subject: RE: Gomez-Neish

17.30 UK works for me.

[redacted]

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From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 07 June 2020 13:25
To: [redacted]
Cc: [redacted]
Subject: Re: Gomez-Neish

Thanks for the offer of joining my meeting but I'm pretty sure of my approach though suspect I'll come under pressure from the CM in particular to act quickly.

But perhaps we could have a Teams at 17.30 (UK)?

Nick

From: [redacted]
Sent: Sunday, June 7, 2020 2:01:25 PM
To: [redacted] Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Cc: [redacted]
Subject: Re: Gomez-Neish

Thanks, [redacted]. See our emails crossed!

[redacted]

From: [redacted]
Sent: Sunday, June 7, 2020 12:59:30 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Cc: [redacted]
Subject: RE: Gomez-Neish

Dear Nick

Many thanks for your emails.

I fully support your approach to allow time to negotiate the Commissioner's early retirement. It's unfortunate that this matter coincides with the new Governor's arrival, but allowing time for the negotiations still leaves the new Governor with the option to use his power under section 13(f) in the event of a stalemate.

Would you like me to join part of this evening's meeting with the CM and Michael when considering the options?

[redacted]

[redacted]

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From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 07 June 2020 11:35
To: [redacted]
Cc: [redacted]
Subject: Fwd: Gomez-Neish

[redacted]

The good news is confirmation that the CoP intends to retire and the issue now is how to achieve this.

My instinct is to allow CoP time to work out a deal, but this then means Sir David will have arrived. What we don't want is CoP to withdraw his request and lobby Sir David to keep his position.

I just spoken to the AG and CM and we have agreed to meet this evening to talk through options.

I intend to ask the Commissioner to see me tomorrow afternoon at 15.00.

Thoughts and advice most welcome.

Regards

NIck

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: Sunday, June 7, 2020 12:29:15 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: Gomez-Neish

Philip Dumas

From: Nick Pyle (Sensitive) <Nick.Pyle@fcdo.gov.uk>
Sent: Sunday, 7 June 2020 20:26
To: [redacted]
Cc: [redacted]
Subject: RE: Gomez-Neish

[redacted]

I've just met with the AG and CM. We agreed that, on balance, we needed to protect Sir David and felt that should CoP still be in office after his swearing in, he would more likely than not retract his request to retire and appeal to Sir David, thus taking us back to square one. The issue is also in the public domain with rumours and accusations beginning to circulate. We agreed we needed to stop this and the only way to do so to conclude proceedings before Sir David's swearing in on Thursday.

On the back of this, I have asked the Commissioner to see me tomorrow at 10.00 when I will hand over copies of the letters the Attorney General, Chief Minister and I sent to the Chairman of the GPA setting out our position (we surmised that the Chairman did not forward these letters on to the Commissioner's lawyer). I will carefully get the message across that he either confirms in writing his request for early retirement with immediate effect with details to be confirmed, or I will use the powers available to me under Section 13.(1)(f). I will ask that he returns to the Convent at 16.00 to let me know his decision.

We agreed that, should I have to invoke my powers, I will suspend the Commissioner with immediate effect. I will not call for his resignation and suspension will allow the Commissioner to lobby Sir David but not take us back to square one.

The CM, clearly angry at the email from Gomez to me, is keen that we have a clear way forward that results in the removal of the Commissioner before he meets the Spanish on Tuesday in Malaga at 10.00. In light of the case in Spain in relation to the RGP collision, and news of a criminal case here, he wants to tell JPMM in the margins that we are taking decisive action.

I do remain slightly uncomfortable and hope the Commissioner sees sense. I don't think he will and I reluctantly think this is now the best way forward.

Regards

Nick

From: [redacted]
Sent: 07 June 2020 14:00
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Cc: [redacted]
Subject: RE: Gomez-Neish

Dear Nick

Many thanks for your emails.

I fully support your approach to allow time to negotiate the Commissioner's early retirement. It's unfortunate that this matter coincides with the new Governor's arrival, but allowing time for the negotiations still leaves the new Governor with the option to use his power under section 13(f) in the event of a stalemate.

Would you like me to join part of this evening's meeting with the CM and Michael when considering the options?

[redacted]

[redacted]

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From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 07 June 2020 11:35
To: [redacted]
Cc: [redacted]
Subject: Fwd: Gomez-Neish

[redacted]

The good news is confirmation that the CoP intends to retire and the issue now is how to achieve this.

My instinct is to allow CoP time to work out a deal, but this then means Sir David will have arrived. What we don't want is CoP to withdraw his request and lobby Sir David to keep his position.

I just spoken to the AG and CM and we have agreed to meet this evening to talk through options.

I intend to ask the Commissioner to see me tomorrow afternoon at 15.00.

Thoughts and advice most welcome.

Regards

NIck

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: Sunday, June 7, 2020 12:29:15 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: Gomez-Neish

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Monday, 8 June 2020 19:19
To: [redacted]
Cc: [redacted]
Subject: COMMISSIONER OF POLICE
Attachments: Governor - CoP Call to Resign 080620.doc

All

I met with the CoP at 16.00. He was assured and confident. I said I could set out what I wanted from the meeting by showing him a note I had prepared in advance (attached) that might form a record of our meeting and invited him to read it. He did so and agreed to retire as long as his financial terms were agreed. These were payment up to end of contract (2 years), legal costs covered and enhanced pension rights. As you will see from the note, I said I could not be involved in any negotiations around terms.

I then went to see the Chief Secretary, AG and CM. Whilst the AG and CM thought we should look to accommodate the Commissioner to some degree, the CM rejected all terms. The Chief Secretary confirmed this in writing to the Commissioner. With the AG's support, I subsequently advised the CM to try and accommodate the Commissioner in some way. The CM is now prepared to offer enhanced pension if it can be cleared with the Auditor.

The Chief Secretary has written to the Commissioner saying all matters relating to terms of settlement must be routed through him and not the Governor.

The CM has determined that an enhanced pension is the final offer. I said that I would keep out of that debate but that if the Commissioner did not provide a letter in writing to me asking for early retirement, I will call him in tomorrow and suspend him.

We'll see how the evening plays out.

Nick

Regards

Nick

N J Pyle
Governor
The Convent
Gibraltar
tel: +350 20045440 [redacted]

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Tuesday, 9 June 2020 13:09
To: DL Europe - (S) Gibraltar (Sensitive)
Cc: [redacted]
Subject: COMMISSIONER OF POLICE
Attachments: Governor - CoP Ret 090620.doc; 07-2020_RGP_Commissioner_Retirement.pdf

[redacted]

The Commissioner of Police submitted a formal written request for early retirement to me this morning which I have accepted. The Commissioner will be relinquishing command of the Royal Gibraltar Police with effect from 18.00 this evening. I attach my acceptance and press release which will issue as soon as the Commissioner makes a statement.

Regards

Nick

N J Pyle
Governor
The Convent
Gibraltar
tel: +350 20045440[redacted]

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Tuesday, 9 June 2020 13:47
To: [redacted]
Subject: Fwd: COMMISSIONER OF POLICE
Attachments: Governor - CoP Ret 090620.doc; 07-2020_RGP_Commissioner_Retirement.pdf

[redacted]

Phew! I'm meeting with the GPA on Friday and will ask the Chair to get in touch with you to take things forward.

Happy to chat after the GPA. New Governor arrives tomorrow. It will also give time for the flak to die down!

Nick

From: Nick Pyle (Sensitive)
Sent: Tuesday, June 9, 2020 1:08:50 PM
To: DL Europe - (S) Gibraltar (Sensitive)[redacted]
Cc: [redacted]
Subject: COMMISSIONER OF POLICE

[redacted]

The Commissioner of Police submitted a formal written request for early retirement to me this morning which I have accepted. The Commissioner will be relinquishing command of the Royal Gibraltar Police with effect from 18.00 this evening. I attach my acceptance and press release which will issue as soon as the Commissioner makes a statement.
Regards
Nick
N J Pyle
Governor
The Convent
Gibraltar
tel: +350 20045440 [redacted]

Philip Dumas

From: [redacted]
Sent: Tuesday, 9 June 2020 13:55
To: Nick Pyle (Sensitive)
Cc: [redacted]
Subject: FW: COMMISSIONER OF POLICE
Attachments: Governor - CoP Ret 090620.doc; 07-2020_RGP_Commissioner_Retirement.pdf

Nick,

Thank you for all you have done to manage this complex issue. I'm glad that a resolution has been reached.

[redacted]

[redacted]

GOV.UK/FCO | FCO YouTube | FCO Flickr | FCO on Twitter | FCO on Facebook

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 09 June 2020 12:09
To: DL Europe - (S) Gibraltar (Sensitive) [redacted]
Cc: [redacted]

Subject: COMMISSIONER OF POLICE

[redacted]

The Commissioner of Police submitted a formal written request for early retirement to me this morning which I have accepted. The Commissioner will be relinquishing command of the Royal Gibraltar Police with effect from 18.00 this evening. I attach my acceptance and press release which will issue as soon as the Commissioner makes a statement.
Regards
Nick
N J Pyle
Governor
The Convent
Gibraltar
tel: +350 20045440 [redacted]

Philip Dumas

From: [redacted]
Sent: Tuesday, 9 June 2020 20:32
To: Nick Pyle (Sensitive)
Subject: FW: OFFICIAL_SENSITIVE GIBRALTAR: EARLY RETIREMENT OF THE COMMISSIONER OF POLICE [DIPTEL 2002496]

Nick,

Reading the Diptel made me think of something my company commander at Sandhurst used to frequently say, " the right thing to do is often the hardest think to do", that certainly resonates when I think of this situation. A challenging situation but without doubt the right course of action.

I am ready to assist with the next steps and have UK police chiefs ready to progress when necessary. This now opens up the opportunity to get a Commissioner in post who has the leadership and values that the RGP deserves.

My kindest regards

[redacted]

OFFICIAL

From: Diptel GIBRALTAR (Sensitive) [redacted]
Sent: 09 June 2020 12:41
To: Diptel FCO (Sensitive) [redacted]
Subject: OFFICIAL_SENSITIVE GIBRALTAR: EARLY RETIREMENT OF THE COMMISSIONER OF POLICE [DIPTEL 2002496]

Diptel GIBRALTAR (Sensitive)

Foreign & Commonwealth Office Diplomatic Telegram

Summary

Following a number of incidents, the Chief Minister and I lose confidence in the Commissioner of Police. After protracted legal toing and froing, the Commissioner submits an application to retire early. I accept, avoiding the need to exercise my powers. Gaps in the 2006 Police Act exposed. Whilst some will look to make mischief out of this for both the Chief Minister and I, this is in the best interests of the Royal Gibraltar Police which is in serious need of modernisation, both operationally and culturally.

Background

1. In March 2020, two Spanish nationals (alleged drug smugglers) were killed in a sea collision involving the Royal Gibraltar Police (RGP), 4.5 nm outside British Gibraltar Territorial Waters. One of the families has filed a civil claim in a Spanish court against the RGP which has significant sovereignty and political implications. The Metropolitan Police, called in to investigate the incident have recommended criminal charges against the officers involved. This incident compounded existing concerns the Chief Minister and I had about the Commissioner. He has not acted on a 2016 HM Inspectorate of Constabulary report; there are Police Federation bullying allegations; and he went against the advice of the AG and DPP in an ongoing and high profile investigation. The CM and I concluded we had lost confidence in him, and asked the Gibraltar Police Authority (GPA) to consider calling for his retirement which it did. The Commissioner immediately engaged a lawyer who wrote to the GPA rejecting the request. The letter detailed concerns about the process and made a number of allegations against the CM and I including that I was interfering with the independence of the GPA, involved in a plot to discredit the Commissioner and looking to influence an ongoing criminal investigation. The letter threatened a Judicial Review. A subsequent letter accused me of abuse of powers, acting unlawfully and asked I recuse myself from proceedings.

2. The GPA has however not covered itself in glory. Its meeting to consider requesting the Commissioner to resign was not quorate rendering its deliberations and subsequent actions null and void. I then told the Commissioner, as a result of the GPA being in default, I was considering using the powers given to me under the Police Act which allowed me to suspend him or ask for his resignation. I said I would consider all representations as well as the letters submitted to the GPA by the CM, AG and myself which I subsequently gave him in order to be transparent.

3. The Commissioner subsequently informed me of his intention to ask for early retirement which I asked him to confirm in writing. After eventually agreeing terms, he did so this morning. I have accepted his request.

Next Steps

4. The CM agreed, immediately and surprisingly, with my suggestion that we replace the Commissioner in the short term (18-24 months) with an external candidate which I will take forward with the OT Police Advisor in Miami who has kindly advised me on this matter. The intention is to second for two years a serving senior officer experienced in transformational change management. We will advertise for a new local Commissioner at the end of this year. This will give senior RGP officers an umbrella to prove their worth or expose their part in the malaise that had set in.

Comment

5. This is a good outcome and I am thankful that I did not have to use Governor's powers which would not have gone down well locally. As difficult as the process was, there are some positives that have come out of it. The first is that it has demonstrated the strength of the HMG-GoG relationship. Too easily mischief could have been made as has happened in the past. That the CM and I have been as one throughout has averted what could have potentially resulted in a constitutional crisis. The outcome also plays well into our ongoing negotiations with Spain. Another positive is that it has been concluded before the arrival tomorrow of Governor-Designate, Sir David Steel, who will be able to immediately set about the task, with the CM and GPA, of rebuilding the RGP.

6. This has been an interesting if not challenging interim Governorship that was only supposed to last 2-3 weeks. Four months on all I can say that it has not been the Governorship I was anticipating. In the midst of complex negotiations with Spain on Gibraltar's future relationship with the EU which are forever in the background, Gibraltar has, to date, survived Covid-19 thanks to help from HMG including from British Forces Gibraltar and weathered this storm. Working on OT issues is challenging and complex. More often than not, success of failure depends on the relationship as much as the issue. The relationship here is strong. And whist this episode has sent a shock wave throughout the Rock, we will get over it and initial media reporting has been balanced.

7. More broadly, the Convent Team is in good shape; enthused and excited about the future and the arrival of a new Governor could not come at a better time. I'm extremely grateful to the team here as well as FCO Gib Unit and BE Madrid colleagues for their help and support during this testing period which has demonstrated collegiate working at its best.

PYLE

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Contact
Nick Pyle | Governor | nick.pyle@fco.gov.uk | 329 4203

Action
[redacted]

Cc
Diptel FCO Europe (Sensitive)
Diptel FCO Overseas Territories (Sensitive)
Diptel OGD MOD (Sensitive)
Diptel OGD HO (Sensitive)
Diptel MADRID (Sensitive)
Diptel OTD Posts (Sensitive)
[redacted]

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Friday, 12 June 2020 15:45
To: [redacted]
Cc: [redacted]
Subject: RE: RGP Collision - Questions

[redacted]

[redacted]

Nick

From: [redacted]
Sent: 12 June 2020 10:03
To: [redacted] Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>; [redacted]
Subject: RGP Collision - Questions

[redacted]

NP2/96

[redacted]

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Friday, 12 June 2020 16:44
To: [redacted]
Subject: GIBRALTAR: COMMISSIONER OF POLICE

[redacted]

The GPA met today and a briefed them on how we got to where we were. The CM has backtracked slightly on the suggestion we parachute someone in. Acting Commissioner Richard Ulger has proposed he remains on top and help is sent in below him. The GPA have asked the two deputies to present their vision as to the way forward on 22 June. I stuck to my (your) proposal which got a lot of traction. But it is crucial that it is the GPA which takes the decision and that the two deputies have an opportunity to present their case. So we should have a decision on the way forward by 24/25 June.

Regards

Nick

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 09 June 2020 13:47
To: [redacted]
Subject: Fwd: COMMISSIONER OF POLICE

[redacted]

Phew! I'm meeting with the GPA on Friday and will ask the Chair to get in touch with you to take things forward.

Happy to chat after the GPA. New Governor arrives tomorrow. It will also give time for the flak to die down!

Nick

From: Nick Pyle (Sensitive)
Sent: Tuesday, June 9, 2020 1:08:50 PM
To: DL Europe - (S) Gibraltar (Sensitive) [redacted]
Cc: [redacted]
Subject: COMMISSIONER OF POLICE

[redacted]

The Commissioner of Police submitted a formal written request for early retirement to me this morning which I have accepted. The Commissioner will be relinquishing command of the Royal Gibraltar Police with effect from 18.00 this evening. I attach my acceptance and press release which will issue as soon as the Commissioner makes a statement.

Regards

Nick

N J Pyle

Governor
The Convent
Gibraltar
tel: +350 20045440 [redacted]

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Saturday, 13 June 2020 13:45
To: [redacted]
Subject: Re: GIBRALTAR: COMMISSIONER OF POLICE

[redacted]. Thanks. My worry is that they do not think there is anything wrong or much to put right!

Nick

From: [redacted]
Sent: Friday, June 12, 2020 6:25:28 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: RE: GIBRALTAR: COMMISSIONER OF POLICE

[redacted]

Thank you for the update. I will provide a detailed update over the weekend when I have time to pen a proper reply.[redacted] Aside from the matters within the HMIC report and leadership which require significant levels of expertise, RGP face remarkable challenges in the next few years. Looking ahead the Commissioner needs to steer RGP through the impact of Brexit, supporting the Government of Gibraltar in establishing Gib in a new global position, actively playing a part in Spanish Border negotiations, etc etc.[redacted]

Have a good weekend.
Kindest regards

[redacted]

OFFICIAL

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To: [redacted]
Subject: GIBRALTAR: COMMISSIONER OF POLICE

[redacted]

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Regards
Nick
N J Pyle
Governor
The Convent
Gibraltar
tel: +350 20045440 [redacted]

Philip Dumas

From: [redacted]
Sent: Sunday, 14 June 2020 18:29
To: Nick Pyle (Sensitive)
Subject: Recruiting RGP Commissioner of Police
Attachments: RGP Commissioner recruitment June 2020.docx

Good morning Nick,

1. Please find attached a short briefing paper where I have captured some of my observations regarding the recruitment of the RGP Commissioner of Police.

2. My observations are collected in the report under the following headings:

    a. **RGP performance and standards**. The HMICFRS 2020 report is damming and the current SMT are partly accountable for not delivering the 2016 recommendations. RGP has some hard work to get to the standards it needs to be at and the Commissioner will be key to making that happen. RGP needs to become an internationally renowned police force. It has the raw ingredients in its staff, it just needs the strength of leadership to make it happen.

    b. **Royal Gibraltar Police priorities and challenges**. RGP needs to clearly set out its priorities and challenges as part of addressing the HMICFRS recommendations and to make sure it is set to face the enormous demands the next few years will face. Of all the British Overseas Territories, Gibraltar is sat in possibly the most exposed political position (Brexit) and faces extraordinary threats from serious organised crime based in North Africa or southern Europe. The consequences of RGP officers being in confrontation with Spanish authorities are clear, but if priorities and objectives are not set to ensure improvements are made then adverse incidents become more likely. The fatal marine collision or putting a police car on a runway to stop a military flight are examples that bring into question culture and leadership.

    c. **The Role of Commissioner of Police.** The role needs to be clearly defined. This is an executive post of national influence. The previous incumbent worked at a very operational level which is not what is now required as Gibraltar faces 2021 onwards.

    d. **Performance framework for Commissioner of Police.** In addition to defining the role a clear performance framework needs establishing for the Commissioner and the whole rank and file of RGP. Professionalising the framework will reward the diligent and professional while singling out those not performing at the required standard. The framework supports with CPD and structured improvement programme, rather than immediately reverting to conduct proceedings.

    e. **Essential personal qualities**. These set the baseline for the Commissioner. Defining “essential” and “desirable” gives clear messaging as to what capability and standards of executive leader the GPA seek to recruit.

    f. Essential qualifications

    g. Essential experience

    h. Desirable qualifications

NP2/102

i. **Desirable experience**

j. **Recruitment process**. It is my recommendation that the recruitment process be focused to UK Chief Officers, preferably a serving ACC.

3. The political sensitivities of recruiting from outside serving RGP officers is fully understood.
[redacted]

4. I hope this is of assistance as you navigate the recruitment negotiations with the GPA. Please do not hesitate to contact me if there is anything at all I can assist with further.

Have a good weekend and stay safe.

Kindest regards

[redacted]

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□□□□It is s□ggested t□□t t□e selection process □sed to recr□it t□e next RGP Co□ □issioner of Police □□s e□ □edded □it□in it t□e intended co□petency □nd □□l□es fr□□ e□or□t□□t □ill □e □sed to □ssess □nd □onitor t□e perfor□ □nce of t□e s□ccessf□l c□ndid□te once t□ey □re □ppointed in to t□e post□T□is s□o□ld □lso □e □sed for □ll RGP officers □nd st□ff□

□□□□T□e College of Policing Co□petency □nd □□l□es Fr□□e□or□ □C□F[1] pro□ides □n est□□lis□ed fr□□ e□or□ t□□t ens□res t□ere □re cle□r expect□tions of indi□id□□ls □ □ic□ in t□rn □ill le□d to st□nd□rds □eing r□ised for t□e □enefit □nd s□fety of t□e p□□lic□C□F is str□ct□red in t□ree le□els□pr□ctitioner□ s□per□isor□□ iddle □ □n□ger □nd senior □ □n□ger□exec□ti□e□T□e co□petences □ll contri□□te to i□pro□ed st□nd□rds of p□□lic ser□ice □nd p□□lic s□fety□

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Policing

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[2] SLDP □ttps□□□□□□college□police□□□□□□ □□t□□e□do□Le□rning□Profession□l□Tr□ining□Le□ders□ip□De□elop□ent□P□ges□Le□ders□ip□Progr□□ □e□□spx

[3] M□GIC □ttps□□□□□□college□police□□□□□□ □□t□□e□do□Le□rning□Profession□l□Tr□ining□Co□ □ □nd□P□ges□M□lti□gency□Gold□Incident□Co□ □ □nd□□spx

- Operational Enforcement Command at senior level in policing initiation of a Chief Officer for at least years
- Experience of successfully engaging with and influencing the community and multiagency partnerships at national level To include displaying an understanding of the wider political social and economic context
- Some evidence of successfully leading transformational change in challenging financial climate To include experience of implementing successful organisational development change and innovation
- An understanding of changing crime and threat patterns and the protection of the most vulnerable
- Some evidence of lasting commitment to respecting and valuing difference and inclusion
- The successful track record of working with diverse communities to achieve positive outcomes
- Track record of accountability and confident decision making

Desirable

It is desirable for eligible candidates to have the following qualifications

Education and qualifications

- Masters degree
- Formal qualification in problem solving
- Qualification in disaster management and/or civil contingencies

Leadership and command

- Strategic Command Course (SCC)[1]
- Senior Investigation Officer Development Program the PIP Accreditation[2]
- Strategic Firearms Commander (SFC)[3]
- Gold Public Order Safety Command Course[4]

Desirable

It is desirable for the successful candidate to have the following experience

[1] SCC https://www.college.police.uk/Learning/Corrical/Leadership/Strategic-Command-Course/Pages/Strategic-Command-Course.aspx
[2] SIODP https://www.college.police.uk/Learning/Professional-Training/Investigation/SIODP/Pages/SIODP.aspx
[3] SFC https://www.college.police.uk/Learning/Professional-Training/Command/Pages/Strategic-Firearms-Command-Course.aspx
[4] Gold Public Order https://www.college.police.uk/Learning/Professional-Training/Command/Pages/Gold-Public-Order-Commanders-Course.aspx

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- □xperience of policing t□e response to □ n□t□r□l dis□ster or ci□il contingencies e□ergency

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□□T□e l□c□ of resilience for t□e Roy□l Gi□r□lt□r Police cri□e des□□ □n□ger position is an area for improvement. The Royal Gibraltar Police's senior leadership te□□ s□o□ld □ppoint □ dep□ty cri□e des□□ □n□ger to cond□ct □□dits □nd c□ec□s d□ring long□ter□ □□str□ctions□

2. The Royal Gibraltar Police workforce's understanding of the Code of Ethics is an □re□ for i□ pro□e□ent□Its senior □ □n□ge□ent te□□ s□o□ld □ □□e s□re t□□t t□e code of et□ics policy is e□ □edded □cross t□e entire □or□force□

3. Embedding the Code of Ethics in the Royal Gibraltar Police's activity is an area for improvement. The force's senior leadership team should consider establishing a net□or□ of et□ics c□□□ pions□representing officers □nd st□ff □cross dep□rt□ents□ □□o □o□ld □eet to s□□re le□rning□□ddition□lly□t□e force s□o□ld consider □□□ing t□e Code of □t□ics □s □n □gend□ite□ in senior □ □n□ge□ent □eetings □nd for□ □ co□ □ittee t□□t foc□ses excl□si□ely on et□ics □nd e□□□lity□

□□□□□se of position for □ sex□□l p□rpose is □n □re□ for i□ pro□e□ent□T□e Roy□l Gibraltar Police's senior leadership team should provide more guidance to its □or□force to incre□se □nderst□nding of t□e ris□s posed □y □□□se of position for □ sex□□l p□rpose□

5. The Royal Gibraltar Police's management of business interests and notifiable associations is an area for improvement. The force's senior leadership team should prod□ce □□siness interests □nd notifi□□le □ssoci□tions policies t□□t □ □nd□te recording of s□c□ iss□es □nd reg□l□r re□ie□ of t□e registers on □□ic□ t□ey □re recorded□

□□T□e le□ders□ip tr□ining pro□ided to t□e Roy□l Gi□r□lt□r Police □or□force is □n □re□ for i□ pro□e□ent□Oper□tion□l exc□□nge □t inspector □nd c□ief inspector r□n□s□o□ld □e enco□r□ged □it□ □ritis□ police forces for □p to six □ont□s□T□is □ill □llo□ □ □n□gers to experience different □ □n□ge□ent styles in ot□er forces□□s □ell □s □ring s□illed □ □n□gers into t□e force fro□ □ngl□nd □nd □ □les□

□□T□e Roy□l Gibraltar Police's management of gifts and hospitality is an area for improvement. The Royal Gibraltar Police's senior leadership team should make sure t□□t its gifts □nd □ospit□lity registers □re □onitored reg□l□rly to □ □□e s□re t□□t st□ff □re co□plying □it□ force policy□

8. The Royal Gibraltar Police's understanding of the corruption risks it faces is an area for improvement. The Royal Gibraltar Police's senior leadership team should co□pile □ co□pre□ensi□e□loc□l□co□nter□corr□ption t□re□t □ssess□ent □nd control str□tegy to e□□l□□te □nd □ □n□ge t□e f□ll r□nge of ris□s to t□e integrity of its org□nis□tion□

9. The Royal Gibraltar Police workforce's understanding of corruption is an area for improvement. The Royal Gibraltar Police's senior leadership team sho□ld pro□ide □

□riefing □□o□t corr□ption ris□s □nd signs of corr□ption to t□e □or□force□□□sed on t□e College of Policing's APP on counter corruption.

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1. With immediate effect, the Royal Gibraltar Police's senior leadership team should make sure that all calls for service are recorded on the force's Computer Aided Disp□tc□ syste□ □

2. By 1 August 2020, the Royal Gibraltar Police's senior leadership team s□o□ld set cle□r expect□tions in policy for s□per□isors □□o□t t□e fre□□ency □nd dept□ of s□per□ision needed□In □ddition□s□per□isors s□o□ld □e tr□ined □□ere necess□ry□ Inspectors s□o□ld c□rry o□t □ ont□ly dip□s□□ pling of in□estig□tions to pro□ide □ss□r□nce t□□t t□ese expect□tions □re □et□

3. By 1 August 2020, the Royal Gibraltar Police's senior leadership team should □dopt t□e Code of Pr□ctice for □icti□ s of Cri□e □nd cond□ct □icti□ s□r□eys□

4. By 1 August 2020, the Royal Gibraltar Police's senior leaders□ip te□□ s□o□ld de□elop □ corpor□te definition of □□ner□□ility □nd de□elop processes to □ □□e s□re officers identify □ny □□ner□□ilities of t□e □icti□ s□□itnesses□□nd s□spects t□ey enco□nter□□nd □ □□e □ppropri□te inter□entions□

□□□y □ □o□e□ □er □□□□□t□e Royal Gibraltar Police's senior leadership team should e□□l□□te □ll reported do□estic □iolence incidents in Gi□r□lt□r□□□sed on t□is d□t□□t□e □ost □ppropri□te □gency s□o□ld est□□lis□ □ □et□er D□POs □nd D□P□s □o□ld □□□e pro□ided □□l□□□le □ddition□l protection for □icti□ s□lf t□e e□□l□□tion s□o□s t□ey □o□ld □□□e done so□t□e Go□ern□ent of Gi□r□lt□r s□o□ld consider p□rs□ing c□□nges to legisl□tion to en□□le t□eir introd□ction □s soon □s possi□le t□ere□fter□

6. By 1 August 2020, the Royal Gibraltar Police's senior le□ders□ip te□□ s□o□ld amend the Royal Gibraltar Police's code of ethics policy to reflect the force's oper□tion□l en□iron□ent □nd □ □□e s□re t□□t t□e re□ised policy is incorpor□ted into ot□er policies □nd processes□

□□□ it□ i□ □edi□te effect□t□e Roy□l Gibraltar Police's senior leadership team should prod□ce □n □nti□bullying statement and improve the force's processes to prevent □□llying□

8. By 1 August 2020, the Royal Gibraltar Police's senior leadership team should review the force's vetting procedures□It s□o□ld consider □dopting t□e College of Policing's Authorised Professional Practice for vetting.

9. By 1 November 2020, the Royal Gibraltar Police's senior leadership team should deter□ine t□e □est □odel for pro□iding □co□nter□corr□ption c□p□□ility to pro□cti□ely identify □nd p□rs□e e□ployees □□o □re corr□pt or s□scepti□le to corr□ption□

10. By 1 November 2020, the Royal Gibraltar Police's senior leadership team should de□elop □ □et□od of □nony□o□sly □nd confidenti□lly reporting integrity iss□es□eit□er □y telep□one or e□ □il or □ot□□To □□oid scepticis□ □nd distr□st □□o□t t□e □nony□ity

of reporting syste□ s□it □o□ld □e □enefici□l if t□is f□cility □ere □ □n□ged independently□

Philip Dumas

From: Nick Pyle (Sensitive)
Sent: Monday, 15 June 2020 13:01
To: Fabian (MIN) Picardo (fabian.picardo@gibraltar.gov.gi)
Cc: (GLO) Llamas, Michael; David Steel (Sensitive)
Subject: Fwd: RGP MARINE COLLISION
Attachments: 20200614-COLLISON POSIT.pptx

CM

As we suspected of not knew but a good question to ask.

Regards

Nick

From: [redacted]
Sent: Monday, June 15, 2020 12:54:56 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>; [redacted]
Cc: DL Gibraltar Political (Sensitive) [redacted]; DL Europe - (S) Gibraltar (Sensitive) [redacted]
Subject: Fwd: RGP MARINE COLLISION
Nick/[redacted]

Jon Taylor (QHM) has very kindly plotted the position of the RGP collision on the attached chart for me. It's clearly in Spanish waters and not the funnel of international waters.

This was one of the actions from the recent meeting.

[redacted]
Get Outlook for iOS

From: Taylor, Jon Lt Cdr (GIB-HQBF SO2J3J5 MAR) [redacted]
Sent: Sunday, June 14, 2020 3:28 pm
To: [redacted]
Subject: RE: RGOP MARINE COLLISION
[redacted]
PFA, regret to report that this position is within Spanish TW.
Kind regards
[redacted]

From: [redacted]
Sent: 12 June 2020 16:07
To: Taylor, Jon Lt Cdr (GIB-HQBF SO2J3J5 MAR) [redacted]
Subject: RGOP MARINE COLLISION
Jon
We spoke earlier.
I would be grateful if you could advise whether the RGP marine collision in March took place within the "funnel" of international waters that we could claim if we had a 12 mile (as opposed to a 3 mile) limit or within Spanish waters to the north of this. The collision took place at 36.09N - 5.12W.

[redacted]

NP2/115

If you were able to mark the position on the attached chart that would be most helpful.
Another favour to add to my ever growing beer chit!
Best regards

[redacted]

GOV.UK/FCO | FCO YouTube | FCO Flickr | FCO on Twitter | FCO on Facebook

I sometimes choose to send emails at different times of the day and night as part of my work/life balance.There is no expectation of a response or action, outside of normal working hours.

This email is intended for the addressee(s) only. All messages sent and received by the Foreign & Commonwealth Office may be monitored in line with relevant UK legislation

In the Matter of the Commissions of Inquiry Act

and

In the Matter of an Inquiry into the retirement of the former Commissioner of Police convened by a Commission issued by HM Government of Gibraltar on the 4th February 2022 in Legal Notice No 34 of 2022 ("the Inquiry")

EXHIBIT MLL1

This is the bundle of exhibits marked **"MLL1"** referred to in the Affidavit of Michael Llamas CMG QC sworn this 24th day of June 2022.

Before me,

JENNY L. ALLEN
COMMISSIONER FOR OATHS
GIBRALTAR

Commissioner for Oaths

The Attorney General
HM Government of Gibraltar

Dr J J Britto
Chairman
Gibraltar Police Authority
Unit 25B Casemates Square
Gibraltar

05th June 2020

Dear Joey,

Re: Commissioner of Police - Letter dated 29th May 2020 from Charles Gomez & Company

Thank you for providing me with a copy of the letter dated 29th May 2020 that you have received from Charles Gomez and Co representing the Commissioner of Police ("COP"), Ian McGrail ("the letter").

I have no formal role under the Police Act in relation to the matters currently before the Authority for consideration. Therefore, whilst my views about the COP are relevant only in so far as the Authority wishes to have regard to them, I cannot allow the Authority's record to stand unrebutted on the basis of the untrue and scurrilous allegations made by the COP. Thank for giving me the opportunity to do so.

The letter makes important and very serious allegations against me, namely, that I have improperly, corruptly and in abuse of my powers "interfered" with an ongoing criminal investigation by:

(i) privately subjecting the COP to "significant and at times intemperate private criticism" about how the criminal investigation has been handled; and

(ii) trying "for many months" to persuade COP to "change his and the RGP's approach to the investigation which would either lead to it being dropped entirely or certain suspects not being prosecuted".

In support of those statements it is said that I have feigned loss of confidence in the COP as a means of disguising my alleged real objective which is said to be, effectively, to "nobble" the investigation and prosecution to which the investigation relates, and that in some way, this should be deduced from

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MLL1/1

issues relating to "timing" of actions by others and the allegation (also denied by me) that I have reacted with "startling" emotion and consequential insinuation that this is apt to sustain the fantastic allegations made against me by the COP. I hasten to say that each of them is untrue and without merit or justification.

Part of the narrative of the COP's allegations against me is that I apparently gave him *"the strong impression that I was primarily concerned with protecting the Chief Minister and 'Gibraltar PLC" (the AG's words)"*. I am not aware that the Chief Minister is a person in need of protection in the context of the criminal investigation in question. In so far as concerns the fact that I was primarily concerned with protecting "Gibraltar PLC' (which is vernacular for the public interest of Gibraltar) that is absolutely correct. That is my constitutional role and my job (a fact that the COP, and those advising him appear to overlook).

At a personal level, I deeply regret (because I have always enjoyed excellent working and personal relations with him) to have to say that I cannot recognise the truth in the statements and allegations that COP now makes in the letter. They are untrue.

I have a constitutional role both in relation to prosecutions (I have ultimate responsibility and control over them) and for the rule of law (I am the guardian of the laws of Gibraltar and compliance with them). This is important because it renders proper interventions by me which may not be proper if engaged in by others. What the COP is effectively doing, on the basis of pure speculation and assumption on his part, is to cast the gravest aspersions <u>on my motives</u> for my statements, views and actions.

I should comment also that, in any event, the COP is not (as he appears to believe) immune to having his actions "strongly disapproved of" or being "severely criticised for them". Yet he equates both to the improper interference with the conduct of a criminal investigation and a violation of police independence. This, worryingly, shows lack of understanding and judgment by the COP.

Because of my roles described above, and also the fact that I am the Crown's (in all its facets, including the RGP) principal legal adviser in Gibraltar, it has always been customary for the COP and the RGP to seek the Attorney General's advice and to discuss ongoing investigations with him, whenever that is required. Mr McGrail has done so, both before and after becoming COP.

MLL1/2

Contrary to what the letter says, I have never said that the COP lied to me. What I have told him is that he has incurred in a serious breach of my trust (which I explain below) as a result of which I have lost confidence in him.

I turn now to what has actually occurred. I first became aware of this criminal investigation on the 11 May 2019, when I received an email from the COP (sent also to the Chief Minister, Minister of Justice, the Chief Secretary, the Financial Secretary and the DPP) asking to meet with us urgently to brief us in relation to certain information that they had obtained in that criminal investigation. That meeting took place on Monday 13 May 2019. At that meeting, or shortly thereafter, I became aware that James Levy QC had shares in one of the companies involved in that dispute and that he was mentioned in communications with the three suspects and was potentially a person of interest to the investigation.

Far from seeking to intervene or interfere for that reason, I had no further involvement with the criminal investigation until over 11 months later when, in early-April 2020, the DPP called me to discuss the Government's position in relation to the ongoing issues about the ownership of a computer platform and its software that HMGOG uses, to which the criminal investigation related.

During that discussion the DPP explained to me that the RGP had drawn up a list of 76 charges (some of which could be impacted by the question of ownership of the platform) and that the RGP were thinking of issuing search warrants against Mr James Levy QC. I was alarmed, both by the number of charges (which would be quite inappropriate in any prosecution) and also by the proposal to obtain and issue a search warrant against a senior lawyer without first seeking voluntary co-operation or voluntary production of evidence. My concern was not because of any sense that lawyers should be exempt from this mechanism, rather it was (as would be the case of any person) that such warrants should reflect the reality of the risk of destruction of evidence unless the person is taken by surprise, or the refusal of the person to provide the evidence voluntarily. Not only can that not be assumed against any person, still less a practising lawyer, but Mr Levy had been aware of the RGP's interest in him for many months, and had had plenty of opportunity to destroy evidence if he were minded or inclined to do so. I have a legitimate public interest role and function (indeed, a responsibility) in respect of both these matters.

I asked to meet with the COP in relation to these two matters, and we did so on 7th April 2019. In that meeting I advised him of my concern about the need to obtain clarity on the issue of ownership of the computer platform since it was clear that that issue would likely have an impact on at least some of the proposed charges, and I also told him that I was worried about the overall number (76) charges, which seemed wholly excessive, not to say absurd. I reminded him of the general wisdom of focusing the

charges appropriately. We also discussed, in the terms that I have described above, the proposal to obtain and execute a search warrant against Mr Levy.

The outcome of that discussion was that we reached a clear understanding that the the RGP would not take any further action until they had considered my advice about the rationalisation of the charges, and then the COP would come back to see me again. It was clear beyond peradventure that nothing would happen until we met again. The next I hear (from COP himself, as it was happening) was that RGP officers were in the process of executing search warrants against Mr Levy at the offices of Hassans and at his home.

I have never said anything to the COP which can be interpreted as anything other than advice and assistance, as has always been the practice. The COP is of course free to take whatever action he considers lawful and appropriate regardless of any advice that I may give him on the matter, and he did so. He unquestionably has that right. What the COP cannot do, and also expect to retain my personal confidence, is to act contrary to an understanding reached between us, as he has done. This, and not my disapproval of his actions (even though I think that they were ill advised), is the reason for my loss of confidence in him.

I have made it explicitly clear to the COP throughout that the conduct of the investigation (including the seeking and execution of search warrants) are, whatever I may advise him, operational matters entirely for him. Nothing that I have ever said to the COP or any other member of the RGP has been even remotely open to the possible (mis)interpretation that I have advised or encouraged, still less that I have interfered to bring about or try to bring about, the curtailment of the investigation, how it is carried out by the RGP or to prevent any person from being charged. It is outrageously wrong and unfair for the COP to allege that I have (let alone that I have done so repeatedly over an extended period of time) and I am shocked and deeply resent that he has done so. This necessarily deepens my loss of confidence in him going forward.

I remain at the Authority's disposal for anything with which I may be able to assist it further by way of clarification or further explanation.

Yours Sincerely,

Michael Llamas QC
Attorney General

MLL1/4

CHARLES GOMEZ & COMPANY
BARRISTERS AT LAW

STRICTLY PRIVATE AND CONFIDENTIAL

29th May 2020

Your Ref: CAG/NG/MM11286

Our Ref:

The Gibraltar Police Authority
Unit 25B Casemates Square,
Gibraltar

By Email to secretary@gpa.gi and
[redacted]

Dear Members of the Gibraltar Police Authority,

RE: Invitation to Retire: Section 34 of the Police Act

We write on behalf of our client, Ian McGrail, Commissioner of the Royal Gibraltar Police, in response to the communications to him from the Chair of the Gibraltar Police Authority ('GPA') on 22nd May 2020 which set out the Chair's decision to exercise powers under section 34(1) of the Police Act 2006 ('the 2006 Act'), calling on him to retire and seeking any representations from him under section 34(2). The three communications in question were (1) at a meeting that morning, (2) in a letter ('the first letter') handed to him at the 22 May meeting, and (3) in a further letter, sent to him late that evening ('the second letter').

We thank the Gibraltar Police Authority ('GPA') for giving us the opportunity to make representations. We will explain below why the exercise of the s.34 power vested in the GPA would be wholly unjustified and grossly procedurally unfair. Moreover, there is an extremely troubling aspect to this, of which the Chair is fully aware, and which concerns the rule of law in Gibraltar, and which touches on the fundamental principle of the freedom of the Royal Gibraltar Police ('RGP') to carry out criminal enquiries without interference from politicians or the Attorney General.

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MLL1/5

At the outset, we wish to impress on the members of the GPA your solemn duties under the Constitution and the 2006 Act. The GPA is one of the few bodies created under the Constitution. The Constitution requires the GPA to "*be independent in the exercise of its functions*". These functions include, under the 2006 Act, that you must "*ensure high standards of integrity, probity and independence of policing in Gibraltar*". You must also, because you are a constitutional body, act in conformity with the Charter of the United Nations and any other applicable international treaties including the European Convention on Human Rights. It should therefore be self-evident that the GPA plays an essential role in protecting the separation of powers between the executive and police, the rule of law and the rights of the citizens of Gibraltar.

It is in this light that you must make the decision whether to call on Mr. McGrail to retire – a decision which (because of section 34(3)) means he "*shall*" retire. You will therefore not just be making a request but giving him an instruction to prematurely end his distinguished 36-year policing career, and you will be removing from office the principal law enforcement officer of the Crown in Gibraltar. In order to fulfil your constitutional duties, you must make the decision independently from the Governor and Chief Minister. You must not be directed by them. That would be quite wrong, and in violation of your obligations under the 2006 Act and the Constitution.

As set out below, we are deeply concerned by the approach of the Chair in the meeting he had with Mr. McGrail on 22 May. The Chair told Mr. McGrail that if he refused to comply with the invitation to retire then the Governor would use his powers under s.13(f) of the 2006 Act to call for his resignation. The decision was presented to Mr. McGrail as a *fait accompli*. The Chair said in effect that it did not matter how he responded – the result would be the end of his career either because he would be forced to retire in accordance with your request or would be called to resign by the Governor using his power under s.13(f). This is not how your power under s.34 works. It only applies if the GPA considers it is "*in the interests of efficiency, effectiveness, probity, integrity, or independence of policing*" to request that the Commissioner retire, following consideration of any representations made by him. If you do not properly consider these representations and do not make an independent decision you will be acting unlawfully and your decision will be vulnerable to a judicial review challenge.

The damage to Gibraltar as a jurisdiction which claims to adhere to the Rule of Law would be incalculable. As people of standing in our community it will be immediately obvious to you already that the removal of the Commissioner of the Royal Gibraltar Police in the way in which the GPA is being pushed to do is a travesty which will bring shame to Gibraltar and international derision when we are always trying to prove our democratic, non-colonial attributes in every international forum up to the United Nations Special Committee on Decolonization.

The background and motivations which we will proceed to explain (subject to the sensitivities of what is ultimately an ongoing very serious criminal investigation) uncover an abuse of power which is possibly unprecedented in Gibraltar.

The approach the Chair has taken thus far has been for the reasons explained below clearly unlawful. This could *potentially* be remedied by taking a fully independent decision now and concluding that Mr. McGrail should not be removed from office. This must be a decision of the full GPA, not the Chair alone, as the section 34 power vests in "*the Authority*". The GPA must also carefully consider whether any of its members has a conflict of interest which would exclude them from taking part in the decision-making process.

In light of the errors made to date, we respectfully suggest that you seek independent legal advice in order to assist you in making a lawful decision. We emphasise that it would be inappropriate to take advice from the Attorney General because he has already expressed a view on the substantive issues, as is clear from the second letter of 22nd May, and, moreover, he has played a key role in the issues we refer to in Section (d) below, as the Chair is already aware. We respectfully suggest that it may be prudent for you to take advice from lawyers in the United Kingdom given the multiplicity of local interests arising from this unfortunate case (as, indeed, Mr McGrail has done; he is represented by an expert counsel team from Gibraltar and London).

This letter is divided in to five sections:

(a) Preliminary Point - Recusal Issue;

(b) The legal framework;

(c) The invitation to retire;

(d) Fundamental Unfairness, Abuse of Process and Procedural Failings; and

(e) Response to the substantive issues raised by the GPA.

(a) <u>Preliminary point – Recusal Issue</u>

1. There are two preliminary matters concerning recusal.

2. First, Mr. Nick Pyle is currently named as the member of the GPA appointed by the Governor.[1] He has been the interim Governor since February 2020 and he has had personal involvement in the background to this matter, as we summarise in these submissions. He should play no part in decision-making of the Authority under section 34 in any event, given the distinct role of the Governor under that section. We ask for an assurance that the GPA Chair will ensure that Mr. Pyle is not involved in the GPA's decision-making under section 34.

3. Second, and related, we wish at the outset to raise an issue of very significant sensitivity and concern. It relates to a current police investigation. It would therefore be inappropriate to provide specific details of that investigation save as to the limited extent set out below (we address this further in section (d), as it is relevant to this invitation to retire). We know that the Chair is already aware of the background as it was discussed at his and Mr. McGrail's meeting on 22nd May, when he told Mr. McGrail it was discussed at the meeting when the Chief Minister and Governor said that they and the Attorney General had lost confidence in Mr. McGrail. You will understand that it would not be appropriate for Mr. McGrail to provide more detail of a live investigation. However, we can say that it relates to national security and involves an alleged criminal conspiracy which potentially reaches to the highest levels of the community.

4. This is a further reason why it is essential that the Chair provide reassurance to us that Mr. Pyle will not be involved in the GPA's decision-making under section 34. In addition, we suggest that it would be prudent for a further member of the GPA, Ms. Claire Pizzarello, to recuse herself from decision-making in this matter. We do not provide further details at

[1] http://gpa.gi/about-the-gibraltar-police-authority.html.

this stage, and we trust that the Chair will agree that this would be a sensible course of action in the circumstances. (Should further information be required by the Chair, he should inform us of this.) We emphasise that there is no suggestion whatsoever of Ms. Pizzarello having any personal involvement in the matters in question, and this approach is suggested out of an abundance of caution.

(b) <u>The legal framework</u>

The Gibraltar Constitution Order 2006 ('The Constitution')

5. Chapter 1 of the Constitution protects fundamental rights and freedoms. The Preamble states that the people of Gibraltar's right to self-determination must be "*promoted and respected in conformity with the provisions of the Charter of the United Nations and any other applicable international treaties*". The European Convention on Human Rights is an "*applicable international treaty*".

6. The Constitution protects, amongst other rights, the right to privacy (section ('s') 7) and the right to freedom of expression (s.10).

7. The Constitution provides that there shall be a Police Authority for Gibraltar which "*shall be independent in the exercise of its functions*" (s.48(1)).

The Police Act 2006

8. The 2006 Act establishes the GPA (section 3(1)).

9. Part I sets out the **responsibilities and powers of the GPA.** s. 5 relevantly includes responsibilities: "*to secure the maintenance of an efficient and effective police force for Gibraltar*", "*to ensure high standards of integrity, probity and independence of policing in Gibraltar*", "*to establish, operate and supervise the process for investigating complaints against police officers under this Act*" and "*to hold the Commissioner to account for matters which are the responsibility of the Authority.*

10. Part II sets out the **Governor's and the Government's responsibilities** for policing. Section 13 provides for the Governor's powers "*in default by the Authority*", which are exercisable only where the Authority "*has failed to discharge or perform a responsibility imposed on the Authority under this Act*". The powers include "*where in the opinion of the Governor the integrity, probity or independence of the police has been compromised or is at risk, to direct the Force to take appropriate action to remedy the situation or avoid the risk*" and "*to suspend from duty, or call for the resignation of the Commissioner*".

11. Section 15(1) provides that the Chief Minister may exercise various powers on behalf of the Government, including (a) require factual or assessment reports from the Force or the Authority on any policing matter, provided that there may be withheld from any such report any fact disclosure of which is likely to prejudice the effective operation of the Force.

12. Part IV provides for the establishment of the **Royal Gibraltar Police Force**. Section 32(1) provides for the appointment of the **Commissioner of Police** by the Governor, acting on the advice of the Authority, subject to any provision of the Constitution; for such that the Authority may advise and as shall be set out in the instrument of appointment.

13. Section 33(1) provides that the Commissioner shall, subject to the provisions of this Act, have command, superintendence, direction and control of the Force, and shall be responsible for the efficient administration and government of the Force and for the proper expenditure of all public moneys appropriated for the service. (section 33(2)).

14. Section 34 provides for the removal of the Commissioner by the GPA. It is set out in full below:

> *"34.(1) The Authority acting after consultation with the Governor and the Chief Minister and with the agreement of either of them, may call upon the Commissioner to retire, in the interests of efficiency, effectiveness, probity, integrity, or independence of policing in Gibraltar.*

(2) Before seeking the approval of the Governor and the Chief Minister under subsection (1), the Authority shall give the Commissioner an opportunity to make representations and shall consider any representations that he makes.

(3) Where the Commissioner is called upon to retire under subsection (1), he shall retire on such date as the Authority may specify or on such earlier date as may be agreed upon between him and the Authority."

Human rights

15. The European Convention on Human Rights protects the right to respect for private and family life under Article 8 and the right to freedom of expression under Article 10. Both rights can be interfered with by the state by certain situations but only where that interference is lawful, necessary and proportionate in pursuance of a legitimate aim.

16. The European Court of Human Rights and the Council of Europe (which oversees the European Court) have repeatedly emphasised that corruption threatens the rule of law. There have been a number of cases where sanctions imposed on whistleblowers have been found to breach Article 10 ECHR - in cases involving the dismissal of public servants this has sometimes been articulated as an attack on reputation protected by Article 8 ECHR. As you will see below, the law relating to whistleblowers is relevant.

17. In *Guja v. Moldova (No. 1)*[2] the Grand Chamber held unanimously that there had been a violation of Article 10 (freedom of expression). The applicant was Head of the Press Department of the Moldovan Prosecutor General's Office. The case concerned his dismissal for giving a newspaper two letters received by the Prosecutor General's Office which disclosed interference by a high-ranking politician in pending criminal proceedings.

[2] (2011) 53 E.H.R.R. 16.

The Court balanced the conflicting factors under Art.10 and concluded there had been a breach.

> *[72] ... The Court thus considers that the signalling by a civil servant or an employee in the public sector of illegal conduct or wrongdoing in the workplace should, in certain circumstances, enjoy protection. This may be called for where the employee or civil servant concerned is the only person, or part of a small category of persons, aware of what is happening at work and is thus best placed to act in the public interest by alerting the employer or the public at large.*

18. Article 8 ECHR includes the right to protection of reputation.[3] As stated in *Axel Springer AG v. Germany*[4], judgment (Grand Chamber) of 7 February 2012, paras. 83-84:

> *"... [T]he right to protection of reputation is a right which is protected by Article 8 of the Convention as part of the right to respect for private life ... In order for Article 8 to come into play, however, an attack on a person's reputation must attain a certain level of seriousness and in a manner causing prejudice to personal enjoyment of the right to respect for private life ...*

19. The Council of Europe's ***Criminal Law Convention on Corruption*** ('the Corruption Convention") of 27th January 1999 states[5] in its pre-amble that "*corruption threatens the rule of law, democracy and human rights, undermines good governance, fairness and social justice, distorts competition, hinders economic development and endangers the stability of democratic institutions and the moral foundations of society*".

[3] *Denisov v. Ukraine* [GC], paras. 111-112 and 115-117.
[4] [2012] ECHR 227.
[5] https: www.coe.int.en web conventions full list - conventions.rms 090000168007f3f5.

20. Each Party to the Corruption Convention shall adopt measures to ensure that persons or entities are specialised in the fight against corruption. They shall have the necessary independence in accordance with the fundamental principles of the legal system of the Party, in order for them to be able to carry out their functions effectively and free from any undue pressure.

21. The preamble to the Council of Europe ***Code of Police Ethics***[6] states that "*the criminal justice system plays a key role in safeguarding the rule of law and that the police have an essential role within that system*". Paragraph 15 provides:

> *The police shall enjoy sufficient operational independence from other state bodies in carrying out its given police tasks, for which it should be fully accountable.*

22. Paragraph 34 states:

> *Public authorities shall support police personnel who are subject to ill-founded accusations concerning their duties.*

23. The ***Committee of Ministers' Recommendation on the protection of whistleblowers*** adopted on 30th April 2014 relevantly states in the preamble that "*freedom of expression and the right to seek and receive information are fundamental for the functioning of a genuine democracy*" and recognises that individuals who report or disclose information on threats or harm to the public interest, i.e. whistleblowers, can contribute to strengthening transparency and democratic accountability. Paragraph 21 states:

> *Whistleblowers should be protected against retaliation of any form, whether directly or indirectly, by their employer and by persons working for or acting on behalf of the employer. Forms of such retaliation might include dismissal, suspension, demotion,*

[6] Adopted 19th September 2001: https://rm.coe.int/16805e297e.

loss of promotion opportunities, punitive transfers and reductions in or deductions of wages, harassment or other punitive or discriminatory treatment.

24. Protection from retaliation is clearly a matter of fundamental importance particularly when the potential victim is none other than the principal law enforcement officer of the Crown in Gibraltar.

(c) <u>The invitation to retire</u>

25. On the morning of 22nd May 2020 Mr. McGrail met with the GPA Chair, when the Chair invited him to retire pursuant to s.34(1) of the 2006 Act.

26. The Chair told Mr. McGrail that he had met with the Governor and the Chief Minister on Monday 18th May and they had told him they had lost confidence in Mr. McGrail. He said that he had taken notes of the meeting. It began with the Governor and Chief Minister taking him through the various options under the Police Act and focussing on section 13 (the power of the Governor to suspend from duty or call for the resignation of the Commissioner where the GPA has failed to discharge its duties) and section 34 (the GPA's power to remove the Commissioner from post).

27. The Chair made it very clear that he did not make this decision himself and that in his view the decision was entirely for the Governor and the Chief Minister to make. Although he said Mr. McGrail could make representations, it was made clear to him that if he does not take the offer of retirement then the Governor will trigger his power under s.13 to call for his resignation. It is in effect, an 'offer he can't refuse' – or, to put it another way, it is the equivalent, for an office-holder, of constructive dismissal.

28. It was also made clear to Mr. McGrail that the issue of his handling of the investigation referred to above was an important factor in the decision making by the Governor and Chief Minister. He said that the AG had all lost confidence in him because he had *"lied"* about the particular operation – which he strenuously denied.

29. At the time of the meeting none of the alleged issues with Mr. McGrail's conduct had been put in writing. When Mr. McGrail highlighted that this was unfair, the Chair offered to provide him with his notes of the 18th May meeting. Mr. McGrail asked for the reasons to be put in writing so he could properly respond.

30. At the meeting, Mr. McGrail was handed a letter containing a formal notification of the exercise of the s. 34(1) power ('the first letter'). This was a short letter which provided no detail save for referring to "*grave concerns expressed by both the Governor and the Chief Minister, in respect of certain aspects of policing that have led to a serious and regrettable loss of confidence in you*". It was clear from the letter that a decision had already been reached to invite Mr. McGrail to retire ("*Given the above, the Authority invites you to retire*"), however, confusingly, the letter also invited representations pursuant to s.34(2) which "*shall, of course, be fully taken into consideration to allow the Governor, the Chief Minister and the Authority to express a firm and final view*". Mr. McGrail was given 7 days to respond to the initial letter (i.e. by today, 29th May – a period which included a long weekend) and invited to seek more time if required.

31. Mr. McGrail received a second letter late on Friday night, 22nd May, which provided more detail, relevantly stating:

    a. "*the reason that the Authority was taking this step arose from the communication by the Governor and the Chief Minister to the Authority that BOTH had lost confidence in your ability to run policing in Gibraltar.*"

    b. "*Additionally, the Authority itself has agreed with the matters raised by the Governor and the Chief*

    c. Five "*main issues*" (in reality, these are four issues as two run together) were set out "*contributing to the loss of confidence*", including:

i. Efficiency: "*The Governor and the Chief Minister are very concerned about the findings of the HMICFRS Report ('the Report'). It is clear* (sic) *damning in respect of the efficiency of the RGP....*"

ii. "*Additionally, and equally importantly, the incident at sea in March, resulting in the death of two individuals, was pointed out as further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction.*"

iii. "*I would refer you to the paragraphs of that letter which specifically set out that the Chief Minister has no confidence in his having been provided with the information expeditiously about this very serious incident... [he has] expressed the view that he feels he has been misled by you...*"

iv. Effectiveness: that the RGP found itself without the use of a vessel for some time and will now be "*seriously compromised given the increased legal workload*".

v. Probity and integrity "*It was communicated to me that both the Governor and the Chief Minister felt that their dealings with you have left them with the sense that you are lacking in both probity and integrity – the maritime incident is one case in point...*

vi. "*additionally, the Authority is informed that the Attorney General has also expressed the same feelings*"

vii. "*The seriousness of this cannot be underestimated. The Governor and the Chief Minister expressed to the Authority that they consider that the Rule of Law in Gibraltar is compromised by the fact that they lack confidence in your probity and integrity.*"

viii. Independence: "*This area of concern was also brought to the attention of the Authority by reference to the parts of the report that deal with the potential for corruption and, consequently, influence, which, given what is identified in the Report, seems not to be completely understood in the RGP. The Governor and the Chief Minister expressed the view that it is not possible for the RGP to claim that it is acts independently in any investigation or matter unless it has properly addressed this recommendation that has remained outstanding for the period of your service.*"

(d) Fundamental Unfairness, Abuse of Process and Procedural Flaws

32. This process has been tainted from the outset by conspicuous unfairness, and it is grossly procedurally unfair. These flaws fall into the category described by Lord Bridge in *Calvin v. Carr* [1979] UKPC 1, [1979] 2 All ER 440: "*when the defect is so flagrant, the consequences so severe, that the most perfect of appeals or rehearings will not be sufficient to produce a just result.*" The approach adopted here amounts to an attack on the Constitution, the rule of law and human rights principles, and it subverts the principle of separation of powers in a number of respects.

i. The Vanishing Reason for the Invitation to Retire

33. First, we indicated at the outset of this letter, when addressing the preliminary matter of recusal, that there is a sensitive matter concerning an ongoing criminal investigation, the detail of which Mr. McGrail does not address herein. The relevance of this issue to the invitation to retire is as follows. This matter was discussed in the 22nd May meeting as forming part of the reasoning behind the Chief Minister and the Governor informing the GPA Chair that he should invite Mr. McGrail to retire. Indeed, Mr. McGrail indicated at that meeting that he understood it to be the real and central reason for the request. However, this reason is, oddly, not cited in the second, detailed letter of 22nd May. Instead, that letter refers expressly only to two other matters – the incident at sea in March 2020 and the inspection report following the inspection in October 2019.

34. The two matters which *are* mentioned have been known to the Chief Minister, Governor and Attorney General ('AG') for months. As is explained below, Mr. McGrail has kept them fully informed in respect of both issues. The important point is that in respect of both issues, at all stages Mr. McGrail has received no criticism at all about his approach. The incident at sea is being investigated independently by the Metropolitan Police, at Mr. McGrail's request, and that report is yet to be received. Mr. McGrail has met regularly with the AG to discuss strategy towards this serious incident – the AG has been nothing but supportive. Equally, when the inspection report came out, Mr. McGrail received no public or even private criticism from authority figures at all – until the 22nd May invitation to retire.

35. By contrast, in recent months, and particularly the past fortnight, Mr. McGrail has received very significant and at times intemperate private criticism from the Chief Minister and Attorney General about a separate matter, namely how the criminal investigation we refer to above has been handled. For many months the AG has been trying (unsuccessfully, we might add) to persuade Mr. McGrail to change his and the RGP's approach to the investigation which would either lead to it being dropped entirely or certain suspects not being prosecuted. Mr. McGrail has rebuffed these attempts and has treated this investigation as he would any other - characteristic of his probity and professionalism. The operational decisions in respect of this investigation have, in any event, been taken by individual officers below Mr. McGrail's rank, acting professionally and appropriately.

36. On 12th May, out of courtesy, Mr. McGrail notified the Chief Minister, the AG and the Minister of Justice of a certain operational action which was taken by the RGP in the case. Both the Chief Minister and AG immediately messaged him to say, in no uncertain terms, that they disapproved of the action. He was immediately called into a meeting with the Chief Minister and the AG. He was very severely criticised for the action that had been taken. The Chief Minister told him that, in his view, Mr. McGrail had handled the investigation "*very very wrongly*". He was told by the AG that he had to this point approved of his work but from that day he could not "*entertain*" Mr. McGrail again. The emotional response from both the Chief Minister and the AG is startling.

37. This was followed by two subsequent meetings with the AG and Director of Public Prosecutions (on 13th and 15th May respectively) where pressure was put on Mr. McGrail by the AG to change the RGP's investigative approach to the operation and he was given the strong impression that the AG was primarily concerned with protecting the Chief Minister and "*Gibraltar PLC*" (the AG's words).

38. It is grossly inappropriate in a jurisdiction under the Rule of Law for politicians to interfere with any live criminal investigation in this way. It tramples over the separation of powers which is an integral feature of our Constitution. However, in this case the Chief Minister has a personal connection to the outcome of the investigation, which makes his intervention even more inappropriate. Not only should he not attempt to influence the investigation, he should completely recuse himself for any decisions or conversations which touch upon it.

39. The reason it is relevant to your decision is that we submit to you that the timing of the use of the s.34 process, which was triggered by the Chief Minister and the Governor and, we understand, came as a complete surprise to the GPA Chair, strongly suggests that the incident at sea and inspection report are fig leaves for the real reason Mr. McGrail is being pressured to retire, i.e. his (proper and reasonable) handling of a live criminal investigation.

40. It is unnecessary for us merely to rely on an inference raised by the timing of the s.34 letter to make this point. The GPA Chair confirmed to Mr. McGrail at their meeting on 22nd May that his handling of the criminal investigation referred to above was spoken about at the Chair's meeting with the Chief Minister and Governor and was one of the reasons they had "*lost confidence*" in Mr. McGrail. The Chair told Mr. McGrail he took a note of his meeting with the Chief Minister and Governor, which we assume he can provide to you for your consideration. It is wholly unclear why this matter is then omitted from the letters sent to Mr. McGrail on 22nd May – although a simple explanation is that it was obvious to those writing the letters that if it were included it would invalidate the entire process. This is a clear breach of the requirements of fairness in itself – this was a factor cited in the meeting on 22nd May, at which no written documents were given to Mr. McGrail, yet the letters omit this material factor.

41. Further, we note that a factor which is cited in the Chair's 22nd May second letter is the Attorney General being said to have *"lost confidence"* in Mr. McGrail, for an unspecified reason: *"Additionally, the Authority is informed that the Attorney General has also expressed the same feelings"*. The Chair made clear to Mr. McGrail at the 22nd May meeting that this was entirely because of the criminal investigation matter referred to above and it reflects the comments made to Mr. McGrail by him directly at the meeting on 12th May. In reality, it is clear that this incident is at the heart of this request under section 34, despite it not appearing in the second letter.

42. We note that in the Chair's second letter it is stated *"the Governor and the Chief Minister ... consider that the Rule of Law in Gibraltar is compromised"*. Unfortunately, we agree with that statement, and that statement alone, but for significantly different reasons. If the GPA decides to exercise its s.34 power, in the full knowledge that background involves the Chief Minister and AG seeking to interfere with a live criminal investigation, this would indeed be an affront to the rule of law and a breach of your duties under the Constitution. This would be a gross violation of the rule of law, and not the actions of an independent body in a mature democracy.

ii. Independence

43. There are further serious procedural failings. It was made clear to Mr. McGrail at the meeting on 22nd May 2020 that the Chair was proceeding on the basis that this is a decision for the Chief Minister and the Governor, and he has taken his lead from them. This is also clear from the first letter, which followed the meeting. This is a fundamental misunderstanding of the statutory scheme: the section 34 decision is for the Authority. It also disregards the vital importance of the independence of the Authority, enshrined in the Constitution, s. 48(1).

iii. A Settled Decision

44. The process followed on 22nd May is not compliant with section 34. The statute makes clear that submissions must be sought under section 34(2) before the section 34(1) process is followed. The Commissioner is entitled to be given an opportunity to make representations, and for them to be considered. For this to be a meaningful opportunity, the Authority must

not have a closed mind. In this instance, however, the Authority Chair has called upon the Commissioner to retire (under section 34(1)), indicating that this decision has been reached already: *"the Authority feels that it is left with no option but to exercise the powers afforded to the Authority under section 34(1)..."* The wording used is unambiguous. This was clear at the meeting on 22nd May, and it is expressly set out in the first letter of that date.

45. The first letter is instructive. At this meeting, Mr. McGrail was handed this short letter, containing a formal notification of the exercise of the s.34(1) power. This was very brief and provided no detail save for referring to "*grave concerns expressed by both the Governor and the Chief Minister, in respect of certain aspects of policing that have led to a serious and regrettable loss of confidence in you*". It was clear from the letter that a decision had already been reached to invite Mr. McGrail to retire based on the Governor and the Chief Minister's views ("*Given the above, the Authority invites you to retire*"); however, confusingly, the letter also invited representations pursuant to section 34(2) which "*shall, of course, be fully taken into consideration to allow the Governor, the Chief Minister and the Authority to express a firm and final view*". This language, promising to take the submissions into consideration, cannot be squared with the fact that definitive language making clear that the Authority has already set out an invitation to retire under section 34(1).

46. This not only raises concerns under section 34. It also results in a process which is not compliant with the concept of natural justice. Mr. McGrail cannot be penalised by a decision which would have such a devastating impact upon him without him being given prior notice of the case he has to answer, and a fair opportunity to answer it. This has not been the case here.

iv. The Relevance of Section 13

47. At the meeting of 22nd May, the Chair informed Mr. McGrail that this was not a decision for him, but a decision for the Chief Minister and the Governor, and that if he did not invite Mr. McGrail to retire under section 34 then the Governor would exercise his power under s. 13. The Chair made clear that this had informed the decision to trigger section 34. However, this is an extraordinary situation, raising very serious concerns, and it taints the

section 34 decision. The entire point of section 13 is that it only applies when Authority is in default; it is not a mechanism for the Governor to simply use when he disagrees with the Authority, or when he disagrees with an action by the Police Commissioner, and nor is it a power which should be pre-emptively threatened in order to lean on the Authority to trigger section 34.

(e) Response to the issues raised in the letter

48. We have addressed above why we believe that this attempt to remove Mr. McGrail from post is a pretence which would not have occurred but for the Chief Minister and AG's criticism of his handling of a particular live investigation. However, it is of course important and necessary to respond directly to the two issues which are directly mentioned in the 22 May letter. We should emphasise that our client takes both the incident at sea and the inspection report extremely seriously, as can be seen by his immediate and continuing actions in response to them, however we do not accept, even arguably, that either issue could be the basis of the use of the section 34 power to remove Mr. McGrail from his post in the interests of "*efficiency, effectiveness, probity, integrity, or independence of policing in Gibraltar*".

Mr. McGrail's career to date

49. Before addressing the substantive issues, we want to give you some background about Mr. McGrail's career as a police officer. This is so that in considering the issues, you can do so in the context of his record, which can only be described as exemplary. Mr. McGrail has had a long, unblemished and distinguished career in the RGP for 36 years, having joined in 1984. In the first decade of his career he served in front-line policing, and following the "fast launch" public disturbances in the mid-1990s he had particular responsibility for uplifting RGP's capacity and capability in order and personal safety.

50. In 2006, he became the youngest and most junior inspector at the time to be promoted to Chief Inspector. From 2012 he was a Superintendent. In 2015 he was included in the Queen's Birthday State Honours list and was awarded the Overseas Territories Police

Medal for meritorious service. He has been awarded the Queen's Golden and Diamond Jubilee medals and the long service and good conduct medal with first and second clasps. And, as you know his record is exemplary. Mr. McGrail has numerous letters of appreciation throughout his career and been commended five times, including once by the Director of the United States Naval Criminal Investigation Service and on another by the Chief Justice of Gibraltar. All the commendations have been for meritorious investigative work leading to prosecutions. He has throughout his career sought to develop personally and professionally and attended the Federal Bureau of Investigation National Academy Programme for 3 months in Quantico, Virginia 2007 , is a Master of Science in Policing and Public Order with the University of Leicester and in 2013 attended the Strategic Command Course with the UK's College of Policing.

51. What has distinguished Mr McGrail is his dedication to service and ability to innovate and develop new ideas and working practices. In 1995 following the most severe riots in the last twenty years in Gibraltar, Mr McGrail was one of two officers tasked with reviewing and developing the RGP's response to public order situations. He went on to qualify as a public order instructor and also as a public order commander. He created and developed an RGP public order unit, commenced a training and development programme, which continues in the form he devised to this day.

52. His flair for innovation and openness to new working practices saw him create the Corporate Development department. Corporate development being a non-existent concept in the RGP at the time. Mr McGrail was instrumental in creating / drafting policies and guidelines in areas where they were required. In addition, he helped put procedures in place to improve the processes around the detention and custody of persons in police detention.

53. On 1st May 2018, Mr. McGrail was appointed as Commissioner of the RGP for a four-year term of warrant, on the advice of the GPA. In his letter of appointment, it was requested that the GPA conduct a review process against the objectives set out in the vision statement and action plan he provided to the Governor. This was supposed to take place two years into his term, which means it should be taking place now. In his letter, the Governor at the

time, His Excellency General Edward Davis, said he looked forward to working closely with Mr. McGrail "*as we all do our utmost to protect, progress and promote the Rule of Law in Gibraltar*".

54. Since he took up the post of Commissioner, one of the first things he did was present to the Gibraltar Police Authority all the force policies for the Authority to ratify as required in law, something which had not been done previously. This is characteristic of his qualities of openness, transparency and accountability.

55. More recently he has been instrumental in the development of the Force Intelligence Unit, taking it from being a unit of limited capability to professional and proactive unit properly servicing the organisation. Mr McGrail's networking skills have enabled him to draw upon contacts in the U.S., Spain and the U.K. to enhance the RGP's intelligence exchange and law enforcement co-operation mechanisms with all these territories. Very significant cross border operations have been carried under his leadership attracting extensive positive media coverage. These efforts have also been recognised by the Governor, the Chief Minister and Attorney General as it no doubt aids the building of relationships with the Kingdom of Spain in the post-Brexit era. Mr. McGrail is part of the Gibraltar law enforcement delegation to work on delivering the Brexit MOU on law enforcement co-operation with Spain. All these mentioned points have brought improvements to the quality of service delivered by the RGP.

56. In the organisational context Mr. McGrail has pushed for procedural and policy advancements. The RGP's total complement of officers results in officers such as Mr. McGrail having to embark on the tasks described on their own, without the benefit of a supporting team as would be the case in a UK mainland force. Further complicating the task is the distance between the RGP and mainland forces makes it impractical to regularly meet and consult colleagues engaged in similar projects to share experience and knowledge.

57. The year 2019 saw unprecedented levels of demand imposed on the RGP including a total of 85 major events, which included 13 Assemblies/demonstrations, 10 international football matches (including a top 3 with the most ultra-fan base in Europe, who were at the matches in numbers), European Elections, General Elections, Small Island Games that run for a full week, Grace 1 (the first time a vessel had been boarded for contravening EU sanctions), eight large scale music events, major social events such National Day, New Year's Eve Celebrations, the Festival of lights and 14 Public Military Events. Mr McGrail oversaw the planning and execution of all of these events all of which met with the operational aims and objectives. Public security and safety was successfully upheld.

58. He has also been responsible for, in just two years in post:

a. Adopting the UK Home Office counting rules for the recording of crime. The RGP's previous methods had been subject of criticism by HMIC for presenting overly favourable detection rates.;

b. Project Servator which is a community orientated counter-terrorism initiative;

c. Restructuring of the force to release police officers to core policing duties;

d. Restructuring and uplifting of the Economic Crime Unit ('ECU'), to incorporate a fraud and Anti Money Laundering Unit;

e. The creation of the RGP's first ever Wellbeing Strategy 2019/2022;

f. The creation of 16 Wellbeing Champions, spread throughout the force;

g. The creation of a bespoke Mental Health referral procedure with Ocean Views medical facility for all police officers and support staff. No other HMGOG department has this system in place;

h. Significant strides with PSN connectivity this is connectivity with the UK police service;

i. Partnership building and resources obtained through National Police Co-ordination Centre for Brexit contingency planning, Small Island Games & International football matches;

j. COVID-19 policing – which has seen restrictions in freedom of movement as never seen before in modern history.

59. Additionally, under Mr McGrail's leadership, the RGP has developed and implemented the following new policies and reviewed a further number of them. All of these have met the approval of the GPA:

a. 2018: Response Team Leader Policy (new), Gifts and Hospitality Policy (new), Alcohol and Substance Abuse Policy (new), Taser Policy (New)

b. 2019: Transfer Policy (Reviewed & Amended); Management of Exhibits (Reviewed & Amended); Domestic Violence (Reviewed & Amended); Travel Policy (Reviewed & Amended); Mobile Device Policy (New).

c. 2020: Caution policy (Reviewed & Amended), Travel Policy (Reviewed & Amended); Bullying Policy (New); Grievance policy and Procedure (New); Compromised Persons Policy (New); Mental Wellbeing Policy New (No police service in the UK has this).

60. During Mr. McGrail's tenure, there has been an 8.3% reduction in crime, a 33% reduction in repeat victimisation, a 33% reduction in repeat offending and a 54% detection rate. These statistics are enviable to any UK police service. Additionally, during his tenure, a good level of public satisfaction has been maintained and in certain areas improved, according to your own public consultation surveys. He has, most recently, appeared on live television delivering public information bulletins for COVID-19 crisis on four occasions: on 9th April with the Deputy Chief Minister, on 21st April with the Deputy Chief Minister, on 3rd May and Minister of Justice and on the 10th May with the Minister of Justice again. If the Government or Chief Minister had lost confidence in his abilities you might reasonably ask why he was allowed to give these important briefings to the whole of Gibraltar.

61. Further, and for the sake of completeness, we remind you of Mr. McGrail's success in promoting international law enforcement cooperation, in an area which has been fraught with difficulties in the past, has been recognised by both the Spanish National Police and the Guardia Civil who have nominated Mr. McGrail for the "La Cruz de la Orden del Mérito Policial con distinctivo Blanco" and "La Orden del Mérito de la Guardia Civil con distinctivo" medals respectively. This is of course unprecedented and underscores the high esteem with which Mr. McGrail is held by his international colleagues in Spain.

The incident at sea

62. On 8th March 2020 at around 03:38 an incident occurred involving a collision at sea between an RGP patrol craft and a smuggling vessel. Two people on the smuggling vessel, Dris Mohamed and Abdeselam Ahmed, reportedly both Spanish nationals, died in the incident and two were injured. The incident occurred outside of British Gibraltar Territorial Waters ('**BGTW**').

63. The March 2020 incident is raised by the 22 May letters in two ways: in itself ("*the incident at sea in March, resulting in the death of two individuals, was pointed out as further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction*"); and in respect of communication (the Governor "*expressed the view that he*

feels he has been misled by you" and raises concerns that he has "*no confidence in his having been provided with the information expeditiously about this very serious incident...* ").

64. As regards the unfortunate incident itself, there is no explanation as to why it is suggested that the actions of individual officers reflect on Mr. McGrail or are indicative of a systemic pattern of acting beyond the remit and jurisdiction of the RGP. There is no particularity at all, meaning it is impossible to respond in any detail save to say that at Mr. McGrail responded to the incident with his usual integrity and transparency. It is simply bizarre to claim that the Governor and Chief Minister have lost confidence in Mr. McGrail because they blame him for the incident itself when (a) at the time of the meeting with the Chair and the 22 May letters the Chief Minister had requested, but had not received, a response to the detailed request for information which was sent to him on 21 May this was the first such request Mr. McGrail has received, and (b) at that time they had not received (and still have not received) the independent report which is being carried out by the Metropolitan Police and was commissioned within days by Mr. McGrail himself or the conclusive report of the independent marine accident expert.

65. A further example is given relating to the RGP being without the use of a vessel, and thus being, *"seriously compromised given the increased legal workload"*. Again, there is no indication as to why this would justify the exceptional step of inviting the Commissioner to retire, and, indeed, this would not address the issue regarding the vessel. In any event, the proposition that the effectiveness of the marine section has been compromised is nonsense. The RGP's Marine Section has resilience. It has other vessels and the fact that one of them has been out of service because of the collision has not hampered capabilities.

66. In any event, it is for the GPA to reach an independent decision in respect of this issue. We submit that it would be highly unfair and contrary to the principles of natural justice for the GPA to pre-emptively blame Mr McGrail for this incident, prior to a detailed consideration of the independent report from the Metropolitan Police. However, and in any event, the fact that the alleged 'loss of confidence' it is so obviously premature and pre-emptive

further proves the point we make above that the real motives behind the action by the Governor and Chief Minister are not this incident. Rather, this incident is serving as a pretext, although on any analysis not a convincing one.

67. As regards communication, we understand that the Section 15 reply (sent shortly before these submissions) comprehensively debunks the suggestion that there was inadequate communication. Mr. McGrail messaged the Governor, the Chief Minister and Attorney General within two hours of the emergency response group being convened and kept them fully informed throughout, promptly responding to all requests for information. He subsequently met with the Attorney General on 17th March to develop a working strategy to deal with the consequences of the incident, which the AG agreed to. He further briefed the AG on 18 March on the progress of the Metropolitan Police investigation. The Metropolitan Police team was also in direct contact with the Governor. On 22nd March Mr. McGrail again met with the Attorney General and DPP to discuss the potential civil legal action arising from the incident. The AG did not want to consider further strategy until the Metropolitan Police's report findings had been received. This has still not been received despite many requests to expedite it the Covid 19 Crisis in the UK has taken its toll on policing as in many other areas of business. A marine investigator's report has also been commissioned and is currently being finalised. The simple point here is that it is premature to reach any conclusions in relation to this incident and it would be highly unfair to dismiss Mr. McGrail on the basis of a wholly unparticularised and vague accusation such as this.

68. In relation to the suggestion that Mr. McGrail has misled the Governor, this is not particularised; it is a vague slur, without explanation. We do not know what it refers to. If it relates to the incident taking place in Spanish waters, it is not possible to follow the rationale. In any event, the Governor was promptly and fully briefed by Mr McGrail on that issue and Mr. McGrail understands that the Metropolitan Police team, who were conducting an independent investigation, also briefed the Governor's office.

69. A further slur is included in relation to Mr. McGrail's *"probity and integrity,"* phrased in a hopelessly vague way, without specificity: "*It was communicated to me that both the Governor and the Chief Minister felt that their dealings with you have left them with the*

sense that you are lacking in both probity and integrity – the maritime incident is one case in point..." Reference is made to the Attorney General, but as we have submitted above this could only refer to the criminal investigation, as the Chair also informed Mr. McGrail.

The HMICFRS Report

70. The claim that confidence in Mr. McGrail's ability to do his job has been lost to a lack of efficiency on the part of the RGP, based on the findings of the HMICFRS, does not stack up. As can be seen from the above, Mr. McGrail has a long and distinguished career. His term as Commissioner has been busy and successful. It is simply absurd to accuse him of failing to take proactive steps to address systemic issues which were identified in the 2016 report, two years before he commenced in office.

71. As regards efficiency, the inspection report is clear that there are long-standing problems, which were identified in the previous (2016) inspection report, have not been fully addressed by the time of the October 2019 inspection. Mr. McGrail had by that time only been in post for a little over a year, and it is simply not credible to suggest that these flaws can and should be laid at his door. Further, during his short period in office prior to the inspection he had to address the July 2019 arrest and investigation of the Iranian Oil Tanker "Grace 1" which was an extraordinary incident, managed by the RGP and supported by the Royal Marines, and which attracted widespread acclaim (see the brief reference at p. 13 of the report).

72. In addition, the report makes clear in respect of efficiency that the RGP is in need of additional resources, from the Government/ FCO.

73. Insofar as it is suggested that Mr. McGrail did not set up a working group, his response is that as a result of the unprecedented demand placed on the RGP during 2019, the RGP has been addressing the issues raised in the Report by merging them in daily work practices. This can be seen by the initiatives referred to above and the results achieved. In addition, as you know Mr. McGrail has provided the Authority and the Minister of Justice with a comprehensive road map for implementing the 2020 report. These have both been agreed

to be the proper procedure and no concerns have been raised. Indeed, some of the recommendations in the Report have since been met and the others are in progress. It would simply be irrational to conclude that this approach would justify forcing him to take early retirement.

74. It is of note that the 22nd May letter was the first Mr. McGrail has heard that either the Chief Minister or Governor or indeed any member of the Government lays blame for any of the issues identified in the report with him. None of the conversations he has had around the report have reflected the 22nd May letter which again raises the strong inference that this issue is being used as a pretence to mask the real reason for attempting to remove Mr. McGrail. For example, the Minister for Justice, Samantha Sacramento MP, messaged him on 29 April to say the report "*is shocking reading on the face of it, but if you analyse it deeper it's not that bad, and it's has easy solutions*" and "*it can all be fixed don't worry*". This message reflected the tone and content of the communications around the report. There have also been a number of very recent articles in the press which highlight the exceptional nature of the RGP given the unusually wide range of issues it has to deal with – from drug smuggling and international fraud to world diplomatic incidents involving maritime vessels and the potential unfairness of applying the same standards as apply to other forces to such an unusual jurisdiction.

75. In addition, we note that an article in the Gibraltar Chronicle of the 28th May 2020 by an independent journalist, Mr. James Neish, who is intimately aware of the work of the RGP, suggests that the Report may have unfairly minimised the unique demands made of the RGP and which it responds to successfully for the most part. The article is titled "*It's always easier to judge from a distance*".

76. As stated above, the GPA must reach an independent conclusion in respect of this issue. It has not carried out the 2-year performance review requested by the Governor at the time of Mr. McGrail's appointment. We submit that there is a complete lack of evidence of Mr. McGrail's culpability for any of the issues highlighted by the inspection report. He has, in any event, taken extensive steps to improve and modernise the RGP. It would therefore be grossly unfair to conclude that, having been in post just over a year before the inspection,

Mr. McGrail is sufficiently blameworthy for the conclusions of the inspection report such that he should be forced to retire *"in the interests of efficiency, effectiveness, probity, integrity, or independence of policing in Gibraltar"*. However, and in any event, in order to reach such a conclusion it would be necessary for the GPA to carry out a full and fair review into Mr. McGrail's record during his time in post.

Conclusion

77. For the reasons stated above there is no possible, valid reason for the GPA to exercise its s.34 power to remove Mr. McGrail from office. The only rational decision for the GPA to reach is to dismiss the request of the Governor and Chief Minister. In any event, the defects in this process are already so flagrant that it would not be possible to reach a just result unless it is to allow Mr. McGrail to remain in post.

Yours faithfully,



Charles Gomez
Charles Gomez & Co

GIBRALTAR POLICE AUTHORITY
(The Community in Policing)

22nd May 2020

Commissioner Ian McGrail OTM MSc
Royal Gibraltar Police
New Mole House

Dear Commissioner McGrail,

Invitation to Retire : Section 34 of the Police Act ('the Act')

Our meeting earlier this morning refers.

Today I expressed to you that the Gibraltar Police Authority was calling upon you to retire under the provisions of Section 34 of the Act.

I told you that the reason that the Authority was taking this step arose from the communication by the Governor and the Chief Minister to the Authority that BOTH had lost confidence in your ability to run policing in Gibraltar. The reasons which the Governor and the Chief Minister have provided the Authority for their loss of confidence are summarised in the paragraphs numbers 1 to 5 below and address the relevant factors set out in Section 34(1) of the Act.

Additionally, the Authority itself has agreed with the matters raised by the Governor and the Chief Minister and have taken the view that your position is untenable as Commissioner given that you have lost the confidence of BOTH the Governor and the Chief Minister.

Please find below the main issues contributing to the loss of confidence, as expressed to the Authority by the Governor and the Chief Minister.

1. **Efficiency:**

The Governor and the Chief Minister are very concerned about the findings of the HMICFRS Report ('the Report'). It is clear damning in respect of the efficiency of the RGP. A large number of the findings of the Report address 'inefficiency' directly and indirectly. Indeed, the "Overview" of the Report specifically provides a criticism (para 2, page 7) that the Force is not 'as effective or efficient as it could be'.

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MLL1/33

In this respect, the position is clear as to responsibility. Under Section 33 of the Act, it is the Commissioner who is responsible for the efficient administration of the Force. That means that responsibility in respect of this failing rests legally, directly with you.

It was also pointed out to the Authority that in your application for the role of Commissioner you would, if successful, immediately set up a working group to ensure that the recommendations of the 2015/6 HMIC Report had been met by the 1st March 2019. This action point was considered by you to be necessary for the RGP to be a 'continuously progressing and professional police force.' Not only have the recommendations and action points set out in the 2015/6 reports not been complied with but now, in addition, new and more serious recommendations have had to be made by the HMICFRS in 2020.

Additionally, and equally importantly, the incident at sea in March, resulting in the death of two individuals, was pointed out as further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction. The Authority notes that the Chief Minister has written to you directly, under Section 15 of the Act (copied to me as Chairman of the Authority), seeking further information on this matter given that neither he or the Governor seem to have a full picture of what actually transpired. The incident has resulted not just in a diplomatic complaint filed against the United Kingdom and Gibraltar, but also to a vessel being out of action, questions as to standard operating procedures in place and all the other concerns contained in the letter sent to you by the Chief Minister. I do not need to repeat that here, but I would refer you to the paragraphs of that letter which specifically set out that the Chief Minister has no confidence in his having been provided with the information expeditiously about this very serious incident. Additionally, the Governor expressed the view that he feels he has been misled by you about this most serious incident which has resulted in loss of life.

2. Effectiveness:

The issues relating to effectiveness were linked by the Governor and the Chief Minister. Additionally, as a result of the above, the RGP found itself without the use of a vessel for some time and the RGP's effectiveness as sea was therefore severely impacted for some time. The effectiveness of the RGP will also now be seriously compromised given the increased legal workload which will arise as a direct result of the claims made and all the corollary effects that they will give rise to.

3. & 4. Probity & Integrity:

It was communicated to me that both the Governor and the Chief Minister felt that their dealings with you have left them with the sense that you are lacking in both probity and integrity – the maritime incident is one case in point. This is very serious indeed. I think you need to reflect carefully on this. The situation we are in is one where BOTH the Governor and the Chief Minister respectively have expressed this view. It is not one of them that has expressed this view, which would be bad enough, but BOTH of them.

Additionally, the Authority is informed that the Attorney General has also expressed the same feelings.

The seriousness of this cannot be underestimated. The Governor and the Chief Minister expressed to the Authority that they consider that the Rule of Law in Gibraltar is compromised by the fact that they lack confidence in your probity and integrity.

5. Independence:

This area of concern was also brought to the attention of the Authority by reference to the parts of the report that deal with the potential for corruption and, consequently, influence, which, given what is identified in the Report, seems not to be completely understood in the RGP. The Governor and the Chief Minister expressed the view that it is not possible for the RGP to claim that it is acts independently in any investigation or matter unless it has properly addressed this recommendation that has remained outstanding for the period of your service.

It is for those reasons that we are calling upon you to retire on the interests of efficiency, effectiveness, probity, integrity and the independence of policing in Gibraltar, but before doing so are giving you an opportunity, as provided for in Section 34(2) of the Act to make representations which we shall consider.

I trust that this serves to clarify matters further.

I look forward to receiving any representations you may wish to make under Section 34(2) of the Act.

Yours,



JJ Britto
Chair
Gibraltar Police Authority

Unit 25B Casemates Square, Gibraltar
Tel: (+350) 20040918, E-mail: secretary@gpa.gi

MLL1/35

(GLO) Llamas, Michael

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 11 May 2019 18:30
To: (MIN) Picardo, Fabian; (MIN) Costa, Neil; (GLO) Llamas QC, Michael; (MOF) Mena, Albert; (NO6) Grech, Darren; (GLO) Rocca, Christian
Subject: OFFICIAL - SENSITIVE - Op Delhi

Dear all –

I believe you are aware of the investigation we are conducting following a complaint filed by James Gaggero, Chairman of the Bland Group. Yesterday, we carried out executive action on three ex-Bland Group employees and they are now on police bail. Immediate enquires post to our intervention have revealed issues of serious concern which I require to brief you on. Please advise when we could meet - the sooner the better. I would also ask that this request to meet is not shared with anyone other than those copied in this email.

KR
Ian

Ian McGrail *OTM MSc*
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex [redacted]

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MLL1/36

Philip Dumas

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: Wednesday, 8 April 2020 14:28
To: (MOF) Mena, Albert
Cc: (GLO) Llamas, Michael
Subject: OFFICIAL - Op DELHI NSCIS hacking investigation
Attachments: Letter to FS - ref Op Dehli.pdf; Fwd: RGP Statement (1.01 MB)

Dear Albert –
I hope this email finds you well. Please find attached a scanned copy of a letter regarding a key issue that remains pending in the investigation of the hacking of the NSCIS platform. HM Attorney General asked to be copied in.

The original will follow via mail.

Best wishes
Ian

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

Our Ref: IM155

8th April 2020

Mr Albert Mena
Financial Secretary
Government of Gibraltar
No 6 Convent Place
Gibraltar

Dear Albert,

Re: Op Delhi - Hacking of NSCIS platform

Amidst the current pandemic crisis, we find ourselves having to also deal with a host of 'normal' matters and it is on this note that I write to you to try resolve and a key issue concerning an on-going investigation the RGP is conducting.

You will recall the investigation the RGP commenced in late December 2018 into an alleged attempt to defraud Bland Limited of the National Security Central Intelligence System ("the NSCIS platform") maintenance contract and computer hacking related offences. In furtherance of this, former employees of Bland Limited, John Perez, Thomas Cornelio and Edward Asquez were arrested on the 10th May 2019.

On the 13th May 2019, you and I attended a meeting with the Chief Minster, together with Minister Costa (the then MoJ), the Director of Public Prosecutions, Mr Rocca, the Chief Secretary, Mr Grech, and Superintendent Richardson. During this meeting I outlined our suspicion that Caine Sanchez may have committed criminal offences and of our intent to arrest him. The Chief Minister mentioned his belief that the ownership of the NSCIS platform was in dispute and that HMGoG should be the complainant in this matter.

On the 17th July 2019 you met with Detective Inspector Wyan and Detective Sergeant Clarke of our Crime Division with regards to a witness statement in support of the investigation. One of the lines of enquiry we needed to close was that of the ownership of the platform, an issue which was discussed at this meeting. On the 17th October 2019 you provided a draft copy of your statement, however, the issue of ownership was not covered. As a result, on the 22nd October, DI Wyan sought clarification as to whether you would consider outlining the position of HMGoG in this regard. You responded on the 27th October 2019, stating that you did not feel it necessary to give a view on ownership, nor that it was the appropriate forum to air any differences. A copy of your response is attached.

During the course of this investigation Bland Limited have made clear the legal basis on which they assert ownership as well providing evidence in support. This includes a master software development and maintenance agreement, which although unsigned, reflected their understanding of the terms and conditions upon which the NSCIS platform was provided to HMGoG. This is further corroborated by monthly payments made by HMGoG to Bland Limited (in respect of the NSCIS platform) under the head "Software Licence Fee." They have also provided additional evidence by way of correspondence in support of their position including correspondence with Caine Sanchez.

The Director of Public Prosecutions has advised that the issue of ownership of the platform is integral to the prosecution of this case. This is based, in part, on statements made on 26th July 2019 by two of the subjects under investigation that the platform is owned by HMGoG. You will appreciate that this point needs clarification in fairness to the accused.

Those arrested continue on police bail. The RGP finds itself in an awkward position - in the absence of a definitive response, and by this I mean a witness statement by HMGoG as to the ownership of the NSCIS platform, we will have to rely upon the evidence provided by Bland Limited, who have emphatically asserted their ownership of the platform from the onset of this investigation and on whose evidence we have based all our activity.

I look forward to hearing from you at your earliest convenience.

Yours,

Ian McGrail OTM MSc
Commissioner of Police

cc HM Attorney General

Philip Dumas

From: Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Sent: Tuesday, 12 May 2020 23:03
To: (GLO) Llamas, Michael
Subject: James Levy
Attachments: Scanned from a Xerox Multifunction Printer.pdf

Dear Attorney

I write on behalf of my firm's senior partner James Levy QC in relation to the attendance of RGP at his home and office addresses earlier today.

The officers who attended informed him that they were investigating the offence of conspiracy to defraud in connection with the dishonest obtaining of a maintenance contract relating to the NCSIS platform. They told him, in terrorem, that they were in possession of a search warrant (although they left with him a copy of a proforma relating to section 21 warrants of arrest, it is plain that the warrant which they claim to have had must have been a section 12 warrant), and told him that unless he cooperated, the warrant would be executed. As you would expect of a person of Mr Levy QC's stature and standing, he agreed to cooperate. He permitted them to enter his home address, and to search it, which they did. Despite threatening to execute the warrant, the police officers declined to provide him with a copy, even though they left the proforma. They seized an ipad, and then left to search his office. At Hassans' offices, they entered his personal office, and asked for his iphone and copies of documents. Again, Mr Levy QC agreed to cooperate, and provided his phone, with the sim card removed (so as to allow him to continue to work).

I am extremely concerned by the apparent gross abuse of power that this conduct amounts to, and that the RGP has seen fit to proceed in this manner. Although Mr Levy has asked me to confirm that the officers in attendance were personally courteous to him at all times, it is absolutely unconscionable that they should have threatened to execute a warrant in order to secure entry so that police search powers could be used. Moreover, it is completely inexplicable how the RGP could have thought that any warrant was proper, let alone that any court could have considered that the statutory pre-conditions for the issue of a warrant were met. The issue of a warrant was unnecessary, oppressive and highly distressing to Mr Levy and his family. It directly impugned Mr Levy's reputation and dignity as an officer of the court, the senior partner of Gibraltar's largest law firm and a highly respected member of the local community. Putting aside the ridiculous notion that he is suspected of having been involved in this serious criminal activity, it is not even clear that a production order under section 13 could have been properly obtained. How could it have even been properly suggested that entry to the premises would not be granted unless a warrant was produced, or that the purpose of a search would be frustrated or seriously prejudiced?

Mr Levy and my firm are, in addition, highly aggrieved at the fact that the RGP have taken Mr Levy's tablet and mobile telephone, which, as you will appreciate, contain a vast amount of privileged and irrelevant information to which the RGP is clearly not entitled as a matter of trite law. Although the RGP undertook to engage an independent counsel in the UK to examine the material for LPP, this completely fails to provide the necessary assurances that LPP material, or unrelated personal, private and privileged information, will be adequately protected. Not only was the material not 'blue-bagged' in his presence (presumably because the RGP intend to copy the device thereafter elsewhere) but the exercise appears to be intended to be carried out outside Gibraltar.

As you know, legal professional privilege is sacrosanct. The prohibition on the production of privileged material in the Criminal Procedure Act and under the general law are total and the firm's many clients are entitled to have the protection of their privileged and confidential affairs guaranteed in any disclosure process.

I am therefore writing to you in your capacity as guardian of the public interest to seek your urgent intervention with a view to ensuring that all the seized material is returned forthwith. Notwithstanding Mr Levy's open and sincere cooperation (which continues), the RGP were simply not entitled to take the material. To the extent that

RGP wishes to obtain the material afresh, then consideration should be given by it to the making of a proper inter partes section 13/Schedule 1 production order application.

To that end, I would be grateful if you could give me the opportunity to urgently meet with a view to further discussing the above concerns with you and the RGP. I would venture to say that we are dealing with a serious abuse of law and power here.

Kind regards,

Lewis Baglietto

GDPR IMPORTANT CHANGES TO OUR PRIVACY POLICIES

We have updated our Privacy Policy in line with the GDPR.
This document explains how and why we collect, store, use and share personal data and it explains your rights, and how to contact us or supervisory authorities if you have a complaint. Please read it carefully. To find out more please visit our website to view our Privacy Policy.

This e-mail is confidential and may also be privileged. If you are not the intended recipient, please notify us immediately by return e-mail or by calling +350 20079000.
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Crime Division

New Mole House, Rosia Road, Gibraltar • Tel 200 52181 • Centrex 2340 • www.police.gi

12th May 2020

VOLUNTARY ATTENDANCE FOR POLICE INTERVIEW UNDER CAUTION

You are not obliged to say anything unless you wish to do so, but what you say may be put into writing and given in evidence.

The RGP are investigating offences against Part 15 of the Crimes Act 2011 (Computer Misuse) and Conspiracy to Defraud. This follows a complaint made in 2018.

In October 2018 Bland Limited uncovered evidence of computer misuse within the National Security Central Intelligence System ("NSCIS"). This system is an integral part of the national security of Gibraltar. The evidence suggests that without authority the NSCIS platform had been tampered with so that sensitive information would be diverted to unauthorised servers. In addition the performance of the platform was compromised by sabotage thereby undermining Gibraltar's national security.

A complaint was made to the Royal Gibraltar Police and in May 2019, John Perez, Thomas Corneli [redacted] (all former employees of Bland Limited) and Caine Sanchez (a senior civil servant) were arrested on suspicion of conspiracy to defraud Bland Limited of the NSCIS platform maintenance contract and for related offences pursuant to Part 15 of the Crimes Act 2011 (Computer Misuse).

Search warrants were executed at home and business addresses as a result of which numerous digital devices were seized. The evidence recovered has been forensically examined and affords reasonable grounds to suspect that you may have been involved in the said conspiracy, particularly in the planning and preparation stages and by improperly using your influence with a civil servant and others.

The evidence suggests that the conspiracy was to dishonestly obtain the NSCIS platform maintenance contract, and to have it transferred to 36 North Limited. According to Companies House records you are a shareholder of this company by virtue of a company wholly owned by Hassans named Astelon Limited, which owns 33% of the shares in 36 North Limited. You thereby hold over 10% of the shareholding in 36 North Limited and stood to directly benefit from the revenue created by the transfer of the NSCIS maintenance contract.

Whilst the evidence so far indicates that you may have been involved in conspiring to dishonestly obtain the NSCIS maintenance contract, the RGP are keeping an open mind and have a duty to follow all reasonable lines of enquiry.

The topic areas which we seek to explore in formal interview under caution include (but are not limited to) the following:

1. Your role and responsibilities with regard to Hassans International Law Firm
2. 36 North Limited (incl. the company formation / financing / business)
3. Astelon Limited (incl. the company formation / business)
4. Icode Limited
5. Communication / relationship with Thomas Cornelio
6. Communication / relationship with John Perez
7. Communication / relationship with Caine Sanchez
8. The National Security Central Intelligence System (NSCIS)
9. Communication with the Chief Minister in relation to any of the above
10. Evidence gathered from the search of your residence and workplace
11. Any other area relevant to this investigation

You are hereby invited to attend a voluntary interview under caution at New Mole House police station at 1000Hrs on Monday the 18th May 2020.

In the event that you unable to attend at this time please contact Detective Inspector Wyan by email at mark.wyan@royalgibpolice.gi.

The content disclosed in this document has been provided in order to assist you in responding to the police enquiries, and instructing legal representation. This is an ongoing police investigation and the information provided herein must not be disclosed to any third party without authority of the Royal Gibraltar Police.

STATUTORY POWERS OF POLICE TO SEARCH PREMISES AND THE RIGHTS OF OCCUPIERS

THE OCCUPIER SHOULD KEEP THIS FORM IN A SAFE PLACE IN CASE IT IS NEEDED FOR FUTURE REFERENCE. THE STATUTORY POWERS TO SEARCH PREMISES AND OF THE RIGHTS OF OCCUPIERS ARE SUMMARISED BELOW

SUMMARY OF POWERS OF SEARCH UNDER THE CRIMINAL PROCEDURE AND EVIDENCE ACT 2011

Statutory Powers: The following summaries are taken from the Sections shown.

1. **Section 21 (Entry for purposes of arrest, etc):** A Police Officer may enter and search any premises for the purpose of:
   a) Executing a warrant of arrest issued in connection with or arising out of criminal proceedings / or a warrant of commitment issued under Section 52 of the Magistrates' Courts Act 1980;
   b) Arresting a person for an indictable offence; or
   c) Arresting a person for an offence under Section 79 of the Crimes Act 2011 (Prohibition of uniforms in connection with political objects), Sections 532, 533, 539, 540 or 541 of the Crimes Act 2011 (Offences relating to trespass on property), Section 53(3) of the Traffic Act 2005 (Failure to stop when required to do so by a Police Officer in uniform), and Section 62 of the Traffic Act 2005 (Driving, or being in charge, when under the influence of drink or drugs);
   d) Arresting any juvenile who has been remanded or detained under this Act;
   e) Recapturing a person who is, or is deemed for any purpose to be, unlawfully at large while liable to be detained in a prison or other place of detention;
   f) Recapturing a person who is unlawfully at large and whom the officer is pursuing; or
   g) Preventing death or personal injury or serious damage to property.
2. **Section 22(1) (Entry and Search after arrest – Inspector's PRIOR written authority required):** A Police Officer may enter and search any premises occupied or controlled by a person under arrest for an indictable offence, if he has reasonable grounds for suspecting there is on the premises evidence, other than items subject to legal privilege, that relates to that offence or to some other indictable offence connected with or similar to that offence. Except as provided by Section 22(5) (below), no search may take place under this Section unless an officer of the rank of Inspector or above has given written authority.
3. **Section 22(5) (Entry and Search after arrest – Inspector's prior authority not required but MUST be informed as soon as practicable after search):** A Police Officer may conduct a search as shown in paragraph 2 above without obtaining the written authority of an Inspector or above where the arrested person has not yet been taken to the Police Station and his/her presence is necessary elsewhere for the effective investigation of the offence.
4. **Section 54(2)(b) (Search upon arrest):** Where a person has been arrested for an indictable offence at a place other than a Police Station, Police Officer shall have the power to enter and search any premises in which he was when arrested, or immediately before he was arrested, for evidence relating to that offence for which he has been arrested.
5. **Reasonable Force:** In the exercise of a power to search premises, Police may use reasonable force to enter the premises and carry out the search.
6. **With Consent:** A Police Officer may enter and search any premises with the written consent of a person entitled to grant entry to the premises.

SUMMARY OF POWERS OF SEIZURE UNDER THE CRIMINAL PROCEDURE AND EVIDENCE ACT 2011

1. Where a Police Officer is searching premises under the powers conferred by Section 22, he may seize and retain evidence relating to the indictable offence for which the person is under arrest or evidence relating to another indictable offence connected with or similar to the indictable offence for which the person is under arrest.
2. Where a Police Officer is lawfully on premises, he may seize anything which he has reasonable grounds for believing:
   a) Has been obtained in consequence of an offence and that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed; or
   b) Is evidence in relation to an offence which he is investigating, or any other, being concealed, lost, altered or destroyed.
3. Instead of seizing property, an officer may require that the holder of the property retains it. If the holder then disposes, alters or destroys it, he may be liable to civil or criminal proceedings (Para. 7.4 of Code B – Codes of Practice).
4. Normally, no item may be seized which is subject to legal privilege (as defined in Section 14) (Para. 7.2 of Code B – Codes of Practice). There are, however, some exceptions to this rule (e.g. when powers are exercised under Sections 29 to 40 of the Criminal Procedure and Evidence Act 2011).
5. An officer may photograph or copy, or have photographed or copied, any document which he has the power to seize (Para. 7.5 of Code B – Codes of Practice).
6. Where information is held on a computer, an officer may require it to be produced in a legible form so that it can be taken away (Para. 7.6 of Code B – Codes of Practice).

RIGHTS OF THE OCCUPIER / OWNER OF PROPERTY

1. **General:** Searches must be made at a reasonable hour unless this might frustrate the purpose of the search (Para. 5.2 of Code B – Codes of Practice). If any of your property is kept by the Police, you are entitled, on request, to be provided with a list or description of the property within a reasonable time (Para. 7.16 of Code B – Codes of Practice). If you wish, you, or your representative will be allowed supervised access to your property so that you can examine it or have it photographed or copied. Alternatively you may be provided with a photograph or copy. In either case, you are responsible for the costs. Access, etc, will not be allowed if the officer in charge of an investigation believes that this would prejudice the investigation of an offence or any criminal proceedings (Para. 7.17 of Code B – Codes of Practice).
2. **Search Warrant:** A copy of the warrant should, if practicable, be given to the occupier before the search begins (Para. 6.8 of Code B – Codes of Practice). If the occupier is not present, copies of the warrant and this Notice should be left in a prominent place (Para. 6.8 of Code B – Codes of Practice).
3. **Search with Consent:** Consent to a search must be given in writing (Para. 5.1 of Code B – Codes of Practice). Consent must not be obtained under duress (Para. 5.3 of Code B – Codes of Practice). Where consent is withdrawn before the search is completed, the search must stop (Para. 5.3 of Code B – Codes of Practice). If you reside in a lodging house or similar accommodation, your landlord can consent to your room (or rooms) being searched if you are unavailable at the time and the matter is urgent (Note for Guidance 5A to Code B – Codes of Practice).
4. **Compensation for Damage:** Compensation may be payable in appropriate cases for damage caused in entering and searching premises. An application for compensation may be made in writing to: The Commissioner of Police; Police Headquarters; New Mole House Police Station; Gibraltar.
5. **Codes of Practice:** A copy of the "*Code of Practice for the Searching of Premises by Police Officers and the Seizure of Property found by Police Officers on Persons or Premises*" – Code B, is available for you to consult at any Police Station. This Notice is a summary only of the main provisions of the Code, which should be consulted if you require further details (Para. 6.7(e) of Code B – Codes of Practice).

The contents of this document will be processed in strict compliance with the Royal Gibraltar Police's policy on Data Protection, which has been complied in accordance with the provisions of the *Data Protection Act 2004*.

(GLO) Llamas, Michael

From:	(RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent:	13 May 2020 14:12
To:	(GLO) Llamas, Michael
Cc:	(GLO) Rocca, Christian
Subject:	OFFICIAL - SENSITIVE RE: James Levy

Dear AG,

Further to my email this morning I now able to provide the substantive response that I promised.

Mr Baglietto is incorrect in the sequence of events and we would also argue incorrect with the conclusions that are drawn from them. Body worn video footage was taken yesterday and this will provide an accurate record and corroborate the following version of events:

1. Mr Levy was requested to attend his office in order to execute a warrant issued by the Magistrates' Court. He initially refused to attend stating that he was busy that day and offered to try and meet on the following day asserting that the officers did not know what they were doing and that there would be serious repercussions. The execution of the warrant was planned and executed in the most tactful and least intrusive way possible and all persons were treated with the utmost respect and courtesy. After initially refusing to attend, Mr Levy asked for time to consider and agreed to revert to the officers in due course. After some fifteen minutes he capitulated and agreed to attend his own office.

2. On his arrival Mr Levy was cautioned as is required by law and a prepared summary of the relevant facts on which it was suspected that he may have taken part in a criminal conspiracy were read over to him and this recorded on a body worn camera. It was stressed that the police were keeping an open mind and that any explanation that he provided may cause the investigation to proceed in a different direction.

3. The purpose of the warrant and the material searched for was discussed and Mr Levy declared that as an officer of the court he would of course comply but needed to consider the rights of his clients as the material we sought was subject to legal privilege. The means by which legally privileged material is seized and handled was discussed and his views were sought as to whether local or UK counsel should be chosen to examine the content seized and he declared a preference for UK counsel.

4. Mr Levy pressed for an explanation as to why we had not simply obtained a production order and therefore not need to use a warrant; the reasons are as follows:
    a. Search warrants were used for all other suspects in this case and he was subject to the investigation as an individual and this does not necessarily imply that Hassan's as an entity were suspect of criminal liability.
    b. There was a need to seize his devices at that time, not ask for them to be handed over on request.
    c. Production Orders are obtained through an inter-party application and this would involve disclosing details of the investigation to an interested party in advance of any formal police interview and thereby potentially compromise any line of questioning.

5. Although Mr Levy asserted his willingness to cooperate he asked to consult privately with Mr Chincotta and left the room with him. Some twenty minutes later they returned and advised that they had consulted with a top UK Silk and that even though he had been advised that the execution of a warrant was an abuse of process the means to challenge it was by judicial review. He therefore

wanted to cooperate but was still uncertain as to whether to handover the items voluntarily or be compelled to do so by warrant.

6. After much discussion with Javier Chincotta it was decided to try and come to an arrangement with Hassan's IT technician and the RGP IT forensic examiner to extract the items required from Hassan's servers on a voluntary basis. As this involved technical cooperation Mr Levy asked that in the meantime that his office was searched, assuring the officers that he never used the computer located there. Insp Wyan sought clarity as to whether this would amount to a voluntary search or whether the warrant would be executed and Mr Levy stated that he wanted the search to be on a voluntary basis and would sign the relevant sections of the warrant after the issue of extracting the emails was resolved. He asked that only Supt. Richardson accompany him to his office and this was agreed. In the office he opened the cupboards and drawers and declared that nothing concerning 36 North was held within. A cursory visual examination satisfied the officer that it was unlikely that the material sought was there.

7. Once back in the boardroom it was noted that the IT staff were still trying to determine the best way to address the problem and both men left to pursue this. As they left, and at the request of Mr Levy, Supt. Richardson and Mr Levy left for a search of his home office. Once again the terms of the search were discussed and again Mr Levy asserted that he wanted the search to be on a voluntary basis and that he would sign the relevant form once the email situation was concluded. Inside his office a rudimentary search was conducted with Mr Levy opening drawers and storage areas and explaining their content. Nothing was removed from the office and Mr Levy was asked to produce his iPad and a telephone which had been used to send messages to the other persons subject to this investigation. After initially declaring that he did not recognise the telephone number subject to the investigation (a UK based number) he asked his family who informed him that it was a number that he had previously used for WhatsApp as his Blackberry (which he previously used) did not have that function. He was however unable to remember what had happened to that phone and could not provide it.

8. The ipad was handed over to him by his wife and he volunteered the PIN code. The device was not taken into police custody at that stage as Mr Levy had still not formally agreed to hand over the items on a voluntary basis by signing the necessary form.

9. Once Mr Levy and Supt. Richardson returned to the board room at Hassans, Mr Levy agreed that he would provide the items on a voluntary basis and signed the relevant forms in the presence and with the agreement of Mr Chincotta.

10. The warrant has been obtained pursuant to schedule 1 paragraph 12 the Criminal Procedure and Evidence Act 2011. Mr Baglietto appears to be confused by the copy of the form provided to Mr Levy entitled "Statutory Powers of Police to Search Premises and the Rights of Occupiers which caters for warrants other than the one in issue and includes a reference at paragraph 6 to the With Consent searches. Mr Levy signed to consent to a search by consent at 1700 and at this point handed over his IPad. He retained his iPhone until he had made arrangements with his own IT specialist to obtain a backup copy. The phone was handed over to police, again on a voluntary basis at 2100Hrs at NMH.

11. The issue of the emails is still live given that Hassans declared that they had over 80,000,000 emails and the time to extract the relevant ones may take several days. At the time of writing we are under the belief that these would be hand over voluntarily, however given the contents of Mr Baglietto's letter to the Clerk of the Magistrates' Court this would seem to be unlikely.

12. The warrant was issued by the Magistrates' Court and followed the correct process where a substantial affidavit was produced and examined by the Magistrate over a period exceeding 90 minutes having been provided with a copy of it in advance. You will note that Mr Baglietto is

seeking to obtain a copy of the information laid before the Magistrate and making the absurd allegation that there has been misfeasance in public office. This investigation will be severely prejudiced should this information be is provided at this stage and the DPP and the Clerk to the Magistrates' Court has been informed.

13. Finally I am informed that no copy of the warrant was provided and neither was it asked for. This is because it was not relied on as the items were handed over voluntarily.

I hope the chronology of events as recorded by the team and explained above provides you with the details you require fro our meeting in a short while.

Sincerely,

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex [redacted]

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From: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Sent: 13 May 2020 12:41
To: (RGP) McGrail, Ian M.Sc (OTM) <ian.McGrail@royalgib.police.gi>
Cc: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Subject: RE: James Levy

Yes. That works. Thanks. See you here.

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 13 May 2020 12:37
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Cc: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Subject: Re: James Levy

AG - would 3pm work for you?
Rgds

MLL1/47

On 13 May 2020, at 11:56, (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi> wrote:

Dear Commissioner,

With all due respect, I can formulate my own view on what is, or is not, appropriate. Be that as it may, yes we should meet. The DPP (copied) will also be present.

Please let me know at what time you wish to meet.

Yours sincerely,

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 13 May 2020 11:27
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Subject: RE: James Levy

Dear AG –

I have now had an opportunity to discuss the contents of your email sent at 2312Hrs yesterday and which I only read this morning. I am confident that Mr Baglietto is incorrect in some of the facts he sets out and the conclusions that he draws from them. I have seen nothing to suggest that the investigating team have acted improperly and refute in the strongest terms that there has been a serious abuse of law or power.

My response will be on the understanding that is in your capacity as guardian of the public interest, as this is how Lewis Baglietto has sought urgent intervention from yourself, in what is a protracted and serious live criminal investigation.

In my view, it would not be appropriate for the Commissioner of Police and the Attorney General to meet with counsel representing a person under investigation to discuss matters concerning a live investigation and which may be subject a legal challenge at later date. This is particularly so as Mr Levy has indicated that he is likely to ask Mr Baglietto to represent him in the formal police interview under caution scheduled for next week. That said it would be appropriate for you and I to meet and discuss the preparation of legal arguments to defend any possible legal challenge following on from yesterday's intervention.

I am working to provide a substantive response and would ask for your patience whilst I prepare this: I aim to revert to you by close of play today if not earlier.

Yours sincerely,


Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centre [redacted]


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Commissioner of Police
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14th May 2020

Our Ref: IM160

Mr Lewis Baglietto QC
PO Box 199
Madison Building
Midtown, Queensway
Gibraltar

Dear Sir,

I have been forwarded a copy of your letter addressed to Detective Superintendent Paul Richardson dated 13 May 2020 the contents of which have been noted.

I have been fully briefed as to the conduct of the investigation and given the seriousness of the allegations made and the matters raised. I have seen fit to respond directly.

At the outset I must point out that the sequence of events are not as you have described and I do not agree with you that there were reasonable grounds to believe that Mr Levy would have simply handed over his devices and documents.

Notwithstanding the fact the police attended with a search warrant issued by the Magistrates Court, an attempt was made to try and deal with the matter by consent. This involved Mr Levy consulting with 'senior silk' in private and informing the officers that he would consent to handing over the items sought as long as the interests of his clients were protected. Once the means in which they would be achieved was clear Mr Levy signed the relevant form after reading it and consulting with Mr Chincotta. Accordingly the search warrant was not executed but rather Mr Levy chose to hand over his devices voluntarily, albeit after some time and after extensive consultation.

I do not agree with you that warrant was excessive, unjustified or unlawful and in my view the action taken was both legitimate and proportionate in the circumstances. I do not think it would serve any purpose to enter into a discussion on the use of Productions Orders as opposed to a Search Warrant.

In relation to the items that you have requested I have attached a copy of the search warrant to this email. I am unable at this time to comply with your request for a copy of the application for the search warrant or any other written evidence as this could potentially compromise an ongoing investigation as Mr Levy has yet to be interviewed. The same applies to point 4 (any notes taken by the RGP of the hearing). The only order or ruling that I am aware of made by the Stipendiary Magistrate was the warrant itself. Although the DPP has been consulted on various non-operational issues concerning this investigation including the

status of various parties he has not provided advice on the application of a search warrant which remains an operational matter.

Please rest assured that the RGP has not copied or downloaded any material so far and in fact the devices remain sealed and I have assumed safe custody of them. I remain convinced of the legality of our course of conduct but undertake to postpone their submission to be examined for seven days from the date of this letter in the event that you may wish to make any legal challenge to this decision.

I would also ask you to please note that it is not a question of me refusing to meet with you and the Attorney General, but rather I view it as inappropriate given the circumstances in which we find ourselves which I trust you understand.

I enclose a copy of a notice regarding voluntary attendance for police interview. This sets out the topic areas which we seek to explore in the formal police interview. I should point that we have not shared this document with any other party. It would be very helpful if Mr Levy brings any material with him that may support his account or provide it in advance of his attendance. Additionally, as would be normal practice counsel will be provided with a pre-interview briefing

Finally, as you will no doubt be aware, Mr Levy undertook to voluntarily extract the relevant emails and other documents from Hassans servers and provide these to police along with all files concerning Astelon Ltd and 36 North Ltd. Grateful if you advise when these will be supplied to assist with our investigation.

Yours faithfully

Ian McGrail OTM MSc
Commissioner of Police

In The

Magistrates' Court, 32-36 Town Range, Gibraltar.

On Thursday 7th May 2020

Warrant to Enter and Search A Premises – Single Premises
Criminal Procedure and Evidence Act 2011, Schedule 1, Paragraph 12(a)

An application having been made by Detective Sergeant Paul Clarke of the Royal Gibraltar Police, I am satisfied that:-

The first set of access conditions specified in Paragraph 2 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are satisfied, and, that at least one of the further conditions set out in Paragraph 14 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are also fulfilled.

That there is at:-
[redacted]

material likely to be relevant evidence which is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

Authority is hereby given for any Constable to enter within one month from the date of this warrant the said premises and to search them and to seize material in respect of which the application is made.

The Constable may be accompanied by up to six other Constables or designated persons.

STIPENDIARY MAGISTRATE * GIBRALTAR *

Signature of Judge/Magistrate .....

Date 7th May 2020

MLL1/51

This Warrant consists of 4 page(s)

In The Magistrates' Court, 32-36 Town Range, Gibraltar.

Information in support of application for a 'Single Premises' search warrant

Criminal Procedure and Evidence Act Schedule 1 Paragraph 12(a) (first set of access conditions)

The information of Detective Sergeant Paul Clarke of the Royal Gibraltar Police, who upon oath states that:-

(a). There are reasonable grounds for believing:-

i. That an indictable offence has been committed, namely Conspiracy to Defraud contrary to Common Law;

ii. That there is material to which this information relates which consists of Special Procedure Material or includes Special Procedure Material and does not include Excluded Material on the premises specified in the application; or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify);

iii. That the material is likely to be of substantial value to the investigation in connection with which the application is made; and

iv. That the material is likely to be relevant evidence.

(b). Other methods of obtaining the material have not been tried because it appeared they were bound to fail;

(c). It is in the public interest, having regard:-

i. To the benefit likely to accrue to the investigation if the material is obtained; and

ii. To the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given.

AND that of the further conditions mentioned in para 12(a)(ii) of Schedule 1 of the Act, namely:-

a). that it is not practicable to communicate with any person entitled to grant entry to the premises to which the application relates;

b). that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material;

c). that the material contains information which;
i) is subject to a restriction or obligation such as is mentioned in section 15(2)(b) of the Criminal Procedure and Evidence Act 2011; and
ii) is likely to be disclosed in breach of it if a warrant is not issued;

d). that the service of notice of an application for an order under paragraph 4 of Schedule 1 to the Act may seriously prejudice the investigation.

The further conditions at **b, & d,** above apply.

The material to which this application relates is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

The premises to which this application relates is:-

[redacted]

Signature of officer applying — Date: 07/05/2020

Signature of officer approving application (inspector or above) — Date: 07/05/2020

Craig Goodwin.

Name of officer approving application

MLL1/53

ENDORSEMENT

(To be returned to the court of issue with the original copy of the Warrant)

1 The following items / No items* were found at:

.....

....

2 The following items other than items which were sought were seized
No other item was seized*

3 The search was conducted on (date) .....
between ..... am / pm* and ..... am / pm*
by (name all officers present)

4 A copy of this warrant was handed to the occupier / person in charge of the premises / left on the premises* (specify whereabouts)

Signature of Constable ..... Date .....

Name, Rank, No .....

Unit to which attached .....

* Delete as applicable

In The

Magistrates' Court, 32-36 Town Range, Gibraltar.

On Thursday 7th May 2020

Warrant to Enter and Search A Premises – Single Premises
Criminal Procedure and Evidence Act 2011, Schedule 1, Paragraph 12(a)

An application having been made by Detective Sergeant Paul Clarke of the Royal Gibraltar Police, I am satisfied that:-

The first set of access conditions specified in Paragraph 2 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are satisfied, and, that at least one of the further conditions set out in Paragraph 14 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are also fulfilled.

That there is at:-

Hassans International Law Firm, Madison Building, Midtown, Queensway, Gibraltar

material likely to be relevant evidence which is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

Authority is hereby given for any Constable to enter within one month from the date of this warrant the said premises and to search them and to seize material in respect of which the application is made.

The Constable may be accompanied by up to six other Constables or designated persons.

STIPENDIARY MAGISTRATE * GIBRALTAR *

Signature of Judge/Magistrate .....

Date 7th May 2020

In The Magistrates' Court, 32-36 Town Range, Gibraltar.

Information in support of application for a 'Single Premises' search warrant

Criminal Procedure and Evidence Act Schedule 1 Paragraph 12(a) (first set of access conditions)

The information of Detective Sergeant Paul Clarke of the Royal Gibraltar Police, who upon oath states that:-

(a). There are reasonable grounds for believing:-

i. That an indictable offence has been committed, namely Conspiracy to Defraud contrary to Common Law;

ii. That there is material to which this information relates which consists of Special Procedure Material or includes Special Procedure Material and does not include Excluded Material on the premises specified in the application; or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify);

iii. That the material is likely to be of substantial value to the investigation in connection with which the application is made; and

iv. That the material is likely to be relevant evidence.

(b). Other methods of obtaining the material have not been tried because it appeared they were bound to fail;

(c). It is in the public interest, having regard:-

i. To the benefit likely to accrue to the investigation if the material is obtained; and

ii. To the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given.

AND that of the further conditions mentioned in para 12(a)(ii) of Schedule 1 of the Act, namely:-

a). that it is not practicable to communicate with any person entitled to grant entry to the premises to which the application relates;

b). that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material;

c). that the material contains information which;
i) is subject to a restriction or obligation such as is mentioned in section 15(2)(b) of the Criminal Procedure and Evidence Act 2011; and
ii) is likely to be disclosed in breach of it if a warrant is not issued;

d). that the service of notice of an application for an order under paragraph 4 of Schedule 1 to the Act may seriously prejudice the investigation.

The further conditions at **b & d,** above apply.

The material to which this application relates is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

The premises to which this application relates is:-

Hassans International Law Firm, Madison Building, Midtown, Queensway, Gibraltar

Signature of officer applying — Date 07/05/2020

Signature of officer approving application (inspector or above) — Date 07/05/2020

Craig Goldwin

Name of officer approving application

MLL1/57

ENDORSEMENT
(To be returned to the court of issue with the original copy of the Warrant)

1 The following items / No items* were found at:

.....

....

2 The following items other than items which were sought were seized
No other item was seized*

3 The search was conducted on (date) .....
between ..... am / pm* and ..... am / pm*
by (name all officers present)

4 A copy of this warrant was handed to the occupier / person in charge of the premises / left on the premises* (specify whereabouts)

Signature of Constable ..... Date .....

Name, Rank, No .....

Unit to which attached .....

* Delete as applicable

MLL1/58

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Crime Division

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12th May 2020

VOLUNTARY ATTENDANCE FOR POLICE INTERVIEW UNDER CAUTION

You are not obliged to say anything unless you wish to do so, but what you say may be put into writing and given in evidence.

The RGP are investigating offences against Part 15 of the Crimes Act 2011 (Computer Misuse) and Conspiracy to Defraud. This follows a complaint made in 2018.

In October 2018 Bland Limited uncovered evidence of computer misuse within the National Security Central Intelligence System ("NSCIS"). This system is an integral part of the national security of Gibraltar. The evidence suggests that without authority the NSCIS platform had been tampered with so that sensitive information would be diverted to unauthorised servers. In addition the performance of the platform was compromised by sabotage thereby undermining Gibraltar's national security.

A complaint was made to the Royal Gibraltar Police and in May 2019, John Perez, Thomas Cornelio [redacted] (all former employees of Bland Limited) and Caine Sanchez (a senior civil servant) were arrested on suspicion of conspiracy to defraud Bland Limited of the NSCIS platform maintenance contract and for related offences pursuant to Part 15 of the Crimes Act 2011 (Computer Misuse).

Search warrants were executed at home and business addresses as a result of which numerous digital devices were seized. The evidence recovered has been forensically examined and affords reasonable grounds to suspect that you may have been involved in the said conspiracy, particularly in the planning and preparation stages and by improperly using your influence with a civil servant and others.

The evidence suggests that the conspiracy was to dishonestly obtain the NSCIS platform maintenance contract, and to have it transferred to 36 North Limited. According to Companies House records you are a shareholder of this company by virtue of a company wholly owned by Hassans named Astelon Limited, which owns 33% of the shares in 36 North Limited. You thereby hold over 10% of the shareholding in 36 North Limited and stood to directly benefit from the revenue created by the transfer of the NSCIS maintenance contract.

Whilst the evidence so far indicates that you may have been involved in conspiring to dishonestly obtain the NSCIS maintenance contract, the RGP are keeping an open mind and have a duty to follow all reasonable lines of enquiry.

The topic areas which we seek to explore in formal interview under caution include (but are not limited to) the following:

1. Your role and responsibilities with regard to Hassans International Law Firm
2. 36 North Limited (incl. the company formation / financing / business)
3. Astelon Limited (incl. the company formation / business)
4. Icode Limited
5. Communication / relationship with Thomas Cornelio
6. Communication / relationship with John Perez
7. Communication / relationship with Caine Sanchez
8. The National Security Central Intelligence System (NSCIS)
9. Communication with any other person in relation to any of the above
10. Evidence gathered from the search of your residence and workplace
11. Any other area relevant to this investigation

You are hereby invited to attend a voluntary interview under caution at New Mole House police station at 1000Hrs on Monday the 18th May 2020.

In the event that you unable to attend at this time please contact Detective Inspector Wyan by email at mark.wyan@royalgibpolice.gi.

The content disclosed in this document has been provided in order to assist you in responding to the police enquiries, and instructing legal representation. This is an ongoing police investigation and the information provided herein must not be disclosed to any third party without authority of the Royal Gibraltar Police.

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Ian McGrail OTM MSc
Commissioner of Police
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21st May 2020

Our Ref: IM166

Mr Lewis Baglietto QC
PO Box 199
Madison Building
Midtown, Queensway
Gibraltar

Dear Mr Baglietto,

Re - Mr James Levy QC

Thank you for your letter dated 20th May 2020, the contents of which are noted. Given some of the matters of law raised in your letter I have sought advice from the DPP.

I do not propose to repeat the RGP's position regarding the legality of the search warrant, suffice to say that our position remains that the warrant was properly and lawfully obtained.

You are correct to say that the RGP has objected to the disclosure of the documents used in support of the application of the warrant and that continues to be the RGP's fundamental position regarding full provision of all material. Notwithstanding this, I have instructed my officers to consider, if possible, making available a redacted version of those documents which may satisfy you regarding the basis upon which the application was made. Additionally, you have had made available to you substantial information in the pre-interview disclosure information. I hope that this combined will make the application to the Magistrate unnecessary. However, I must reiterate that any application for full disclosure of the documents will be resisted on the basis previously set out. Our view is that our objection is encapsulated within the Criminal Procedure Rules provisions identified by you in your letter.

As already explained, the DPP's advice was not sought in relation to whether a warrant should be applied for or how it would be executed. Such matters are operational in nature. The DPP's advice was however sought at various times in relation to status of all persons subject to the investigation. In this regard we remain convinced that the RGP's actions were lawful.

I note your request for further assurances from me regarding the examination etc of the material voluntarily provided by your client. In this regard, I can assure you that the material will not be examined without my giving you 7 days notice in advance of our intention to do so. This will give you ample opportunity to take whatever action you may deem necessary in the event that you are put on notice given that already 8 days since the items were handed over voluntarily.

MLL1/61

Whilst on the matter of the material provided, I note that you have failed to respond to the point raised in earlier correspondence, namely that the material was provided voluntarily by your client and the warrant was not executed. On that basis I would be grateful if you would clarify the relevance of the challenge of the warrant. You will appreciate that this is an important issue for a number of reasons and clarity is required. Any suggestion that Mr Levy was coerced in to acting against his will and under threat of the execution of a warrant is strongly denied and will be apparent from any viewing of the Body Worn Video footage that was taken at the time.

Finally, for the avoidance of doubt, your client continues to be a suspect in this investigation. Your client has been given an opportunity to provide a prepared statement which may assist in the RGP's enquiries and clarify any involvement he may have had in the matter under investigation. Needless to say, the RGP must reserve the right to interview Mr Levy under caution at any time and it is a matter for you to advise your client on the effect of any statements he may or may not provide to the RGP. I must repeat that notwithstanding the above the RGP have an open mind and will review our position as and when evidence becomes available to us.

Yours sincerely

Ian McGrail OTM MSc
Commissioner of Police

MLL1/62

Philip Dumas

From: (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Sent: Wednesday, 20 May 2020 12:13
To: (GLO) Llamas, Michael
Cc: (RGP) McGrail, Ian M.Sc (OTM)
Subject: OFFICIAL: Letter before action - damages claim

Dear Attorney General,

The Commissioner of Police is in receipt of correspondence with regard to a claim for damages following a collision at sea on the 8th of March this year. I understand that the Director of Public Prosecutions has raised the issue of who should represent the RGP to defend the claim. The DPP and I met yesterday to discuss whether it would be appropriate for the Office of Criminal Prosecution and Litigation to do so. We concluded it would not for the following reasons which potentially apply:

1) Prosecuting European Arrest Warrants issued by Spain to extradite the officers crewing the vessel.
2) Prosecuting criminal charges against the officers crewing the vessel.
3) Prosecuting disciplinary charges against the officers crewing the vessel.
4) Defending civil actions against the organisation or the individual officers in Spain.

Should you agree with our views I would be grateful for your authority to appoint counsel and your advice on who would be best placed to represent the RGP. Finally our experience is that claims made against the RGP have been generally handled by Government. Do you wish this to be the case in this instance or should we manage it ourselves together with appointed counsel?

Best regards,

Cathal

Cathal Yeats
Superintendent

Organisational Development
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20045082 Centrex: [redacted]

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Philip Dumas

From: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Sent: Wednesday, 20 May 2020 14:15
To: (GLO) Llamas, Michael
Subject: Re: OFFICIAL: Letter before action - damages claim
Attachments: image002.png; image001.jpg

Dear Michael

Thank you for copying me into the below.

I think it is entirely inappropriate for this matter not to have been raised with me in the first instance by the Commissioner.

This matter raises issues of fundamental human rights, the right to life, potential payment of huge amounts of damages, the potential extradition and liberty of serving police officers being at stake, the issue of Standard Operating Procedures which may be in place and the management thereof. All of that is in addition to the huge potential political exposure that arises for Gibraltar as a result thereof and the concomitant (and dangerous) issues of sovereignty and the United Nations Convention on the Law of the Sea.

Indeed, it is difficult to think of an issue as fundamental as this affecting the RGP, certainly in the time I have been in office. There is no consideration in the email below of claims or offences going beyond "the officers crewing the vessel", which is also, in my view an issue that may also need further consideration.

As you know, it comes against the backdrop of the very unflattering report from the HMICFRS.

I am therefore surprised and greatly disappointed that these issues have not been the subject of a detailed submission to me by the Commissioner in respect of the events in question and the issues which now arise.

I shall therefore be writing directly to the Commissioner on this and all other aspects of this matter. In the interim, I do not authorise the incurring of any expenditure in briefing out of this matter at this stage.

Please refer both the DPP and Superintendent Yeats to my response.

Best wishes

Fabian

Sent from my BlackBerry — the most secure mobile device
From: michael.llamas@gibraltar.gov.gi
Sent: 20 May 2020 13:48
To: fabian.picardo@gibraltar.gov.gi
Subject: FW: OFFICIAL: Letter before action - damages claim

From: (RGP) Yeats, Cathal
Sent: 20 May 2020 12:13
To: (GLO) Llamas, Michael
Cc: (RGP) McGrail, Ian M.Sc (OTM)
Subject: OFFICIAL: Letter before action - damages claim
Dear Attorney General,
The Commissioner of Police is in receipt of correspondence with regard to a claim for damages following a collision at sea on the 8th of March this year. I understand that the Director of Public Prosecutions has raised the issue of who

MLL1/64

should represent the RGP to defend the claim. The DPP and I met yesterday to discuss whether it would be appropriate for the Office of Criminal Prosecution and Litigation to do so. We concluded it would not for the following reasons which potentially apply:

1) Prosecuting European Arrest Warrants issued by Spain to extradite the officers crewing the vessel.
2) Prosecuting criminal charges against the officers crewing the vessel.
3) Prosecuting disciplinary charges against the officers crewing the vessel.
4) Defending civil actions against the organisation or the individual officers in Spain.

Should you agree with our views I would be grateful for your authority to appoint counsel and your advice on who would be best placed to represent the RGP. Finally our experience is that claims made against the RGP have been generally handled by Government. Do you wish this to be the case in this instance or should we manage it ourselves together with appointed counsel?

Best regards,

Cathal

Cathal Yeats
Superintendent
Organisational Development
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20045082 Centrex [redacted]

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Please consider the environment before printing this email.

Fabian Picardo QC MP
Chief Minister

Office of the Chief Minister
HM Government of Gibraltar
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Tel: (+350) 20070071
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Office of the Chief Minister

HM Government of Gibraltar

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Please consider the environment before printing this email.

Philip Dumas

From: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Sent: Wednesday, 20 May 2020 18:53
To: (GLO) Llamas, Michael
Subject: Fw: OFFICIAL: Letter before action - damages claim

Fyi. I will shall revert shortly.

Sent from my BlackBerry — the most secure mobile device
From: Ian.McGrail@royalgib.police.gi
Sent: 20 May 2020 17:53
To: fabian.picardo@gibraltar.gov.gi
Subject: FW: OFFICIAL: Letter before action - damages claim

Dear CM –

I refer to the below thread which includes you response to the AG and which has been forwarded to me.

You are evidently very disappointed but I want to reassure you that it has never been my intention to withhold anything from you concerning this very serious matter. I provided you with an overview on the day of the incident, then engaged with the AG as per your suggestion and have been doing so ever since. I will hopefully be in a better position to brief you on the full details of the incident once I receive the report of the findings of independent investigation team we called in. This team had to return early to the UK because of the COVID-19 crisis and because of the lockdown in UK, they have been unable to progress the matter as expeditiously as we all would have wanted.

The letter from local counsel representing the families and suggesting a future claim for damages was only received a few days ago which is what triggered our enquiry with the DPP only yesterday concerning legal representation.

I am of course available to discuss all the points you allude to at your earliest convenience.

Best wishes

Ian

Ian McGrail ***OTM MSc***

Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) 20072500 Centrex [redacted]

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From: (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Sent: 20 May 2020 16:06
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: Fwd: OFFICIAL: Letter before action - damages claim

Sir,

I refer to the email below from the AG.

Best regards,

Cathal

Cathal Yeats
Superintendent
Planning Development and Support
Royal Gibraltar Police

Sent from a mobile device.

From: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Sent: Wednesday, 20 May 2020, 15:27
To: Cathal Yeats (external)
Cc: (GLO) Rocca, Christian
Subject: FW: OFFICIAL: Letter before action - damages claim

Dear Cathal,

Please see Chief Minister's email below which is self-explanatory.

Best wishes,

Michael

From: (MIN) Picardo, Fabian
Sent: 20 May 2020 14:15

MLL1/68

To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Subject: Re: OFFICIAL: Letter before action - damages claim

Dear Michael

Thank you for copying me into the below.

I think it is entirely inappropriate for this matter not to have been raised with me in the first instance by the Commissioner.

This matter raises issues of fundamental human rights, the right to life, potential payment of huge amounts of damages, the potential extradition and liberty of serving police officers being at stake, the issue of Standard Operating Procedures which may be in place and the management thereof. All of that is in addition to the huge potential political exposure that arises for Gibraltar as a result thereof and the concomitant (and dangerous) issues of sovereignty and the United Nations Convention on the Law of the Sea.

Indeed, it is difficult to think of an issue as fundamental as this affecting the RGP, certainly in the time I have been in office. There is no consideration in the email below of claims or offences going beyond "the officers crewing the vessel", which is also, in my view an issue that may also need further consideration.

As you know, it comes against the backdrop of the very unflattering report from the HMICFRS.

I am therefore surprised and greatly disappointed that these issues have not been the subject of a detailed submission to me by the Commissioner in respect of the events in question and the issues which now arise.

I shall therefore be writing directly to the Commissioner on this and all other aspects of this matter. In the interim, I do not authorise the incurring of any expenditure in briefing out of this matter at this stage.

Please refer both the DPP and Superintendent Yeats to my response.

Best wishes

Fabian

Sent from my BlackBerry — the most secure mobile device

From: michael.llamas@gibraltar.gov.gi

Sent: 20 May 2020 13:48

To: fabian.picardo@gibraltar.gov.gi

Subject: FW: OFFICIAL: Letter before action - damages claim

From: (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Sent: 20 May 2020 12:13
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Cc: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: OFFICIAL: Letter before action - damages claim

MLL1/69

Dear Attorney General,

The Commissioner of Police is in receipt of correspondence with regard to a claim for damages following a collision at sea on the 8th of March this year. I understand that the Director of Public Prosecutions has raised the issue of who should represent the RGP to defend the claim. The DPP and I met yesterday to discuss whether it would be appropriate for the Office of Criminal Prosecution and Litigation to do so. We concluded it would not for the following reasons which potentially apply:

1) Prosecuting European Arrest Warrants issued by Spain to extradite the officers crewing the vessel.

2) Prosecuting criminal charges against the officers crewing the vessel.

3) Prosecuting disciplinary charges against the officers crewing the vessel.

4) Defending civil actions against the organisation or the individual officers in Spain.

Should you agree with our views I would be grateful for your authority to appoint counsel and your advice on who would be best placed to represent the RGP. Finally our experience is that claims made against the RGP have been generally handled by Government. Do you wish this to be the case in this instance or should we manage it ourselves together with appointed counsel?

Best regards,

Cathal

Cathal Yeats

Superintendent

Organisational Development

New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) 20045082 Centrex [redacted]

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Fabian Picardo QC MP
Chief Minister

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Office of the Chief Minister

HM Government of Gibraltar

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Philip Dumas

From: Nick Pyle (Sensitive) · [redacted]
Sent: Friday, 29 May 2020 15:00
To: (MIN) Picardo, Fabian
Cc: (GLO) Llamas, Michael
Subject: RGP MARITIME COLLISION
Attachments: 20200519-FCO POSIT GRAPHIC.pptx

CM

According to the Spanish NV, the collision took place at 36.09N - 5.12W. This appears to be confirmed by the photograph on page 3 of CoP's report/letter to you dated 27 March.

The graphic attached shows where those coordinates relate to.

Not quite where I was expecting the collision to have taken place.

Nick

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Posit:
7.5nm ENE
Of Europa Point
Mayorga
Palmones
Campamento
La Línea de la Concepción
Rock of Gibraltar
Gibraltar
Algeciras
Bay of Gibraltar
Saint Michael's Cave
Measure distance
Total distance: 13.87 km (8.62 mi)

MLL1/73

M. Llamas
2nd Affidavit
Exhibit: MLL2
4 July 2023

In the Matter of the Commissions of Inquiry Act

-and-

In the Matter of an Inquiry into the retirement of the former Commissioner of Police convened by a Commission issued by HM Government of Gibraltar on 4 February 2022 in Legal Notice No 34 of 2022 ("the Inquiry")

EXHIBIT MLL2

This is the bundle of exhibits marked **"MLL2"** referred to in the Second Affidavit of Michael Llamas CMG KC, dated this 4th day of July 2022.

Before me,

THOMAS STAGNETTO
Commissioner for Oaths

In the Matter of the Commissions of Inquiry Act

-and-

In the Matter of an Inquiry into the retirement of the former Commissioner of Police convened by a Commission issued by HM Government of Gibraltar on 4 February 2022 in Legal Notice No 34 of 2022 ("the Inquiry")

INDEX TO EXHIBIT MLL2

Abbreviations:

- CM: Fabian Picardo KC MP, Chief Minister
- AG: Michael Llamas CMG KC, HM Attorney-General
- CG: Charles Gomez, Solicitor for IM

No.	Description	Date (Time)	Affid. Para.	Page no(s).
1.	Email from CM to AG	27.07.2020 (12:50)	50.2	MLL2/1
2.	Email from CG to AG	27.07.2020 (14:08)	50.3	MLL2/2-6
3.	Email from CG to AG	27.07.2020 (13:33)	50.4	MLL2/7
4.	Email from CG to AG	31.07.2020 (13:21)	50.5	MLL2/13

Philip Dumas

From: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Sent: 27 July 2020 12:50
To: (GLO) Llamas, Michael
Subject: Replies re former Commissioner

Answer: The Chief Minister

Mr Speaker, the honourable gentleman has asked 20 questions about the retirement, performance or other aspects of a contract of employment an individual.

It is not appropriate for the House to be considering any matter related to the personal circumstances of an individual, especially an individual who data the government holds as a Data Controller.

This is not a question of not wanting to answer, but a case of what it is appropriate to address in this House.

In preparing this answer, the government has confirmed with the former Commissioner, Mr McGrail, as a relevant Data Subject, that he does not wish matters related to his retirement to form the subject of Government statements or answers in this house.

For the avoidance of doubt, however, Mr McGrail has authorised the Government to disclose that there are no compromise or confidentiality agreements entered into by him and the government other than the usual arrangement for early retirement of any government officer.

Additionally, some of the questions the Honourable Gentleman has asked are out of order as they relate to matters which are public or matters for which the government is not answerable.

For example, the Government is not answerable for the actions of the Governor or the Police Authority.

Another example relates to the Honourable Member's question about whether or not the Chief Minister has exercised any power under section 15 of the Police Act. This is entirely contrary to the rules given that I have already answered - in question xx - that I exercised the power in section 15 of the Police Act.

I refer the honourable gentleman to that answer

Finally, Mr Speaker, I would refer to the House and commend the recent statement from His Excellency the Governor appointing Mr Richard Ullger as Commissioner of Police.

I very much look forward to working with Commissioner Ullger, as I have with all Commissioners of Police with whom I have coincided in office, in the areas on which we will constitutionally jointly endeavour to apply the responsibilities of our respective offices to delivering the safety, security and prosperity of our people.

Ends

Sent from my BlackBerry — the most secure mobile device

MLL2/1

Philip Dumas

From: Charles Gomez <Charles@gomezco.gi>
Sent: 27 July 2020 14:08
To: (GLO) Llamas, Michael
Cc: ianmcgrail [redacted] Richard.Ullger@royalgib.police.gi
Subject: FW: Replies re former Commissioner

Importance: High

Dear Attorney General,

The ex-commissioner of the Royal Gibraltar Police, Mr. Ian McGrail has asked me to reply to the email below directly to you.

Your draft does **not** reflect Mr. McGrail's position.

Mr. McGrail considers that the matter of the termination of his appointment is a matter of major public importance and agrees that all parliamentary questions should be answered candidly and fully so that the people of Gibraltar have the full information that they deserve and as befits a mature Parliamentary democracy.

To the extent that there may be any Data Protection issues Mr. McGrail hereby waives them in the confidence that Parliament will be given with full, frank, fair and candid answers and that the misguided behaviour of the Gibraltar Police Authority which led to his agreement to retirement should be clearly stated, if reference has to be made to the huge personal stress which Mr. McGrail was put under.

Mr. McGrail believes and has been advised that any complaints against him of not having provided information in relation to the accident at sea which the GPA tried to rely on to force his retirement have no merit. You know this because you were party to emails and WhatsApp messages where Mr. McGrail provided timely and full information in relation to that unfortunate accident.

Similarly as Her Majesty' Inspectorate of Constabulary and Fire and Rescue services will confirm to you their criticisms of the incomplete implementation of the previous year's recommendations were not of a level of seriousness to merit the GPA's conduct in issuing a section 34 notice. You yourself are aware of the extraordinary demands put on the RGP in 2019 including, but not limited to the well-known arrest of the "Grace 1".

Please therefore reassure the Chief Minister that he is free to answer the questions in Parliament fairly and in full.

Having seen his career end in such an unfortunate manner Mr. McGrail wishes to get on with his life but does not want to interfere with the democratic process of the City at whose service he has spent an entire life working.

Yours sincerely,

Charles Gomez

MLL2/2

CHARLES GOMEZ
PRINCIPAL BARRISTER

00350-200-74998 www.charlesgomez.gi
charles@gomezco.gi 5 Secretary's Lane, Gibraltar GX11 1AA

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Begin forwarded message:

From: "(RGP) Ullger, Richard"
Date: 27 July 2020 at 13:04:49 GMT+2
To: Ian McGrail
Subject: Fwd: Replies re former Commissioner

There goes.

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2271**



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Begin forwarded message:

From: "(GLO) Llamas, Michael"
Date: 27 July 2020 at 12:57:36 CEST
To: "(RGP) Ullger, Richard"
Subject: FW: Replies re former Commissioner

Michael Llamas CMG QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas@gibraltar.gov.gi

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The Attorney General

HM Government of Gibraltar

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From: (MIN) Picardo, Fabian
Sent: 27 July 2020 12:50
To: (GLO) Llamas, Michael
Subject: Replies re former Commissioner

Answer: The Chief Minister

Mr Speaker, the honourable gentleman has asked 20 questions about the retirement, performance or other aspects of a contract of employment an individual.

It is not appropriate for the House to be considering any matter related to the personal circumstances of an individual, especially an individual who data the government holds as a Data Controller.

This is not a question of not wanting to answer, but a case of what it is appropriate to address in this House.

In preparing this answer, the government has confirmed with the former Commissioner, Mr McGrail, as a relevant Data Subject, that he does not wish matters related to his retirement to form the subject of Government statements or answers in this house.

For the avoidance of doubt, however, Mr McGrail has authorised the Government to disclose that there are no compromise or confidentiality agreements entered into by him and the government other than the usual arrangement for early retirement of any government officer.

Additionally, some of the questions the Honourable Gentleman has asked are out of order as they relate to matters which are public or matters for which the government is not answerable.

For example, the Government is not answerable for the actions of the Governor or the Police Authority.

Another example relates to the Honourable Member's question about whether or not the Chief Minister has exercised any power under section 15 of the Police Act. This is entirely contrary to the rules given that I have already answered - in question xx - that I exercised the power in section 15 of the Police Act.

I refer the honourable gentleman to that answer

Finally, Mr Speaker, I would refer to the House and commend the recent statement from His Excellency the Governor appointing Mr Richard Ullger as Commissioner of Police.

I very much look forward to working with Commissioner Ullger, as I have with all Commissioners of Police with whom I have coincided in office, in the

MLL2/5

areas on which we will constitutionally jointly endeavour to apply the responsibilities of our respective offices to delivering the safety, security and prosperity of our people.

Ends

Sent from my BlackBerry — the most secure mobile device

MLL2/6

B1943

Philip Dumas

From: Charles Gomez <Charles@gomezco.gi>
Sent: 29 July 2020 13:33
To: (GLO) Llamas, Michael
Subject: Re: Replies re former Commissioner

Importance: High

Dear Attorney-General,

I note with surprise that you have not acknowledged my email below.

I think it proper, however, given the highly politicised nature that this matter has developed into to take you to task for the manner in which you caused the Chief Minister's draft statement to be sent to our client via the current Commissioner of Police.

As and when the matter of Mr. McGrail's retirement is dealt with by an independent inquiry, this email thread will undoubtedly figure large in the inquiry's assessment of your involvement in it.

That said, our client is eager to ensure that no further damage is caused to the reputation of and adherence to the rule of law in Gibraltar.

We consider the manner in which you got the current Commissioner of Police involved as kind of "*messenger of the messenger*" to be wholly inappropriate and a breach of established constitutional conventions and limitations. Your own understanding of your constitutional position as Attorney-General and the distance that Her Majesty's Attorney-General for Gibraltar should keep from elected politicians is a matter which we would ask you to reflect on carefully.

However, your involvement of the current Commissioner of Police in what is effectively a parliamentary and therefore a political matter was inappropriate.

You have at all times been aware that we represent Mr. McGrail and it is therefore surprising to say the least that you should forward the Chief Minister's email message to you, to Mr. Ullger, a serving police officer and indeed the Crown's principal law enforcement officer in Gibraltar.

Please ensure that all further communications with our client are channelled through us.

We reserve all of Mr. McGrail's rights and look forward to hearing from you by return.

Yours faithfully,

Charles Gomez

MLL2/7

CHARLES GOMEZ
PRINCIPAL BARRISTER

00350-200-74998 www.charlesgomez.gi
charles@gomezco.gi 5 Secretary's Lane, Gibraltar GX111AA

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From: Charles Gomez
Sent: 27 July 2020 14:08
To: Michael Llamas (michael.llamas_QC@gibraltar.gov.gi)
Cc: ianmcgrail [redacted] 'Richard.Ullger@royalgib.police.gi'
Subject: FW: Replies re former Commissioner
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MLL2/8

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Having seen his career end in such an unfortunate manner Mr. McGrail wishes to get on with his life but does not want to interfere with the democratic process of the City at whose service he has spent an entire life working.

Yours sincerely,

Charles Gomez

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MLL2/9



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Michael Llamas CMG QC
Attorney General

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The Attorney General

HM Government of Gibraltar

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Ends

Sent from my BlackBerry — the most secure mobile device

Philip Dumas

From: Charles Gomez <Charles@gomezco.gi>
Sent: 31 July 2020 13:21
To: (GLO) Llamas, Michael
Cc: Nicholas Gomez
Subject: Re: Public Inquiry

Importance: High

Dear Attorney-General,

I refer to our meeting earlier.

In the draft proposed statement which you handed to me you included the words *"it was also Mr. McGrail's position that no further statements be made"*.

As I mentioned to you there and then, I found this sentence surprising because Mr. McGrail had never suggested that he did not want further statements to be made. Indeed, when you sent me the draft statement initially intended to be read out by the Chief Minister on Monday, I wrote back in the clearest terms, on instructions stating that Mr. McGrail did not wish to curtail any parliamentary discussion on the crucially important matter of the termination of his employment.

I have just spoken to Mr. McGrail to inform him that the Chief Minister's position is a demand for what is tantamount to unconditional surrender whereby Mr. McGrail merely withdraws his call for a public inquiry.

Mr. McGrail has asked me to make it very clear to you that at no time has his position been that *"no further statements be made"* and expects that the Chief Minister will not tell Parliament otherwise.

For the sake of good order, I will add that the Chief Minister appears to have completely misunderstood the principled position that Mr. McGrail has taken. When Mr. McGrail asked us to call for a public inquiry he did not do so for effect but on the basis of substance i.e. that at the very least his name should be completely cleared following the vicious campaign mounted against him during the months of May and June.

To ask him to withdraw that request without exonerating him fully is to completely misunderstand Mr. McGrail's motivation and principled position.

When you telephoned 30 minutes ago to tell me that the Chief Minister would accept nothing short of an unconditional surrender, I asked you to let me have a copy of the Chief Minister's intended statement this afternoon and you told me that this was not yet ready.

I appreciate that our meeting earlier was not without prejudice and expect that if the Chief Minister is to make reference to it, which if course he is entitled to, he should make reference to everything that was said including the fact that you called us to meet up with you and that we laid down Mr. McGrail's position clearly in terms of the requirement for an express exoneration as a pre-condition of any withdrawal of his request for a judicial inquiry.

Finally and for the sake of completeness, I should add that from the very substantial amount of documentation which we have, it is clear that all criticism (poorly articulated as it has been) is completely lacking in substance and extremely unfair.

I take it that as lawyer for His Excellency the Governor, you will keep him fully informed of what has transpired today.

MLL2/13

I reserve all my client's rights.

Yours sincerely,

Charles Gomez

CHARLES GOMEZ
PRINCIPAL BARRISTER

00350-200-74998
www.charlesgomez.gi
charles@gomezco.gi
5 Secretary's Lane, Gibraltar GX111AA

CHARLES GOMEZ & COMPANY

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COMMISSIONS OF INQUIRY ACT

RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

ISSUE OF COMMISSION

This is the appendix marked "Appendix A" referred to in the Sworn Witness Statement of Dr Joey Britto sworn this 13th day of May 2022.

Before me

COMMISSIONER FOR OATHS

JAMES P. HAMMOND
COMMISSIONER FOR OATHS
GIBRALTAR

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Expressions and terms set out herein shall have the same meaning as in the sworn witness statement of Dr Joey Britto

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01 August 2021 – Dr Britto's term as Chairman of the GPA was renewed□

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COMMISSIONS OF INQUIRY ACT

RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

ISSUE OF COMMISSION

This is the appendix marked "Appendix B" referred to in the Sworn Witness Statement of Dr Joey Britto sworn this 13th day of May 2022.

Before me

COMMISSIONER FOR OATHS

JAMES P. HAMMOND
COMMISSIONER FOR OATHS
GIBRALTAR

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Ingrid Pecino

From: Dr Joey Britto <[redacted]
Sent: 04 June 2020 12:30
To: James J Neish
Subject: Fwd: DG TO GOVERNOR

Email to GPA from Nick Pyle

Regards

Joey

Begin forwarded message:

From: "Nick Pyle (Sensitive)" <Nick.Pyle@fco.gov.uk>
Date: 19 February 2020 at 11:45:05 CET
To: Dr Joseph J Britto [redacted]
Cc: "darren.grech@gibraltar.gov.gi" <darren.grech@gibraltar.gov.gi>
Subject: DG TO GOVERNOR

Joey

I was thinking about the best way forward in terms of maintaining (or not) my role/interest in the GPA as Governor and have a suggestion for you.

Why don't you send an email to all GPA members save me, stating that for as long as I am Governor, you intend to omit me from general GPA correspondence etc but that I have offered to continue to attend GPA meetings, recusing myself as necessary or at anyone's request. I'd put it as a suggestion and ask for their views. One objection to my attendance should be enough to preclude it. This gives the GPA a say in how it operates.

Regardless of what the GPA's view is, we should keep our current channels open. I'm a big believer in consulting as much as we need to before a course of action is considered or recommended and I'm more than happy to give you a steer on any issue.

I'm happy to meet you and Darren for a breakfast, lunch or dinner or even just start with a coffee at the office to talk through things. Happy to leave that to you and Darren as to format and timing - I'm more flexible than you may think.

Nick

-----Original Message-----
From: Dr Joseph J Britto [redacted]
Sent: 19 February 2020 11:00
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: Re: Police Act

Dear Nick,

Please ignore my previous email below.

I think that discussing potential amendments with you and the CS beforehand would work much better.

Apologies for confusion - I realise how extremely busy you must be.

Kind regards

Joey

On 19 Feb 2020, at 09:49, Dr Joseph J Britto <[redacted] wrote:

Nick,

Congratulations on your appointment as interim Governor!

I'm going to circulate my first thoughts on potential 'tweaks' to Police Act - one section only, this covers, essentially the main role and responsibility of the Authority.

They will not seem to be significant but to my mind, they have the effect of reflecting what actually happens currently but going forwardI think the new wording will helps the Police take more 'ownership' esp. in areas such as community engagement (they already undertake this but my wording would make it more 'official' etc.

I realise that you will not be in a position to reply or provide feedback at this point in time. If you are OK with my doing so, I can omit you from the circulation and send this to you separately? Just let me know what you prefer - you may even not wish to see anything or even involve yourself at this point in time.

Note that these are my suggestions and I have not discussed with anyone else - I felt it appropriate to see what GPA members feel, first before even considering next steps.

Let me know.

Kind regards,

Joey

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From: Dr Joey Britto [redacted]
Subject: Re: Meeting with Governor and CM
Date: 17 May 2020 at 08:26
To: Nick Pyle (Sensitive) Nick.Pyle@fco.gov.uk

JB

Nick

Confirmed.

Regards

Joey

> On 16 May 2020, at 14:07, Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk> wrote
>
> Joey
>
> Can you make a meeting at the Convent with the CM and I on Monday at 9.30?
>
> Nick
>
> This email is intended for the addressee(s) only. All messages sent and received by the Foreign & Commonwealth Office may be monitored in line with relevant UK legislation

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Informal Record of Meeting with HE the Governor and the Chief Minister, Monday 18th May 2020.

The Governor called on the Chairman of the Gibraltar Police Authority to meet with him and the Chief Minister.

The purpose of the meeting was to express grave concerns about certain aspects of policing in Gibraltar which had come to a head in the week before.

The first is the publication of the HMICFRS Report into the RGP.

The second is the publication of news of the filing of legal claims in Spain by the relatives of the Spanish citizens killed in an incident at sea (which undoubtedly happened outside of BGTW).

The Governor expressed his view that the Chief Minister should introduce the subject for both, as both had already spoken, as required under the Police Act.

The Chief Minister said that the position was that BOTH the Governor and the Chief Minister had lost confidence in the Commissioner of Police.

The Chief Minister set out what his concerns were by reference to the provisions of Section 34 of the Police Act given that this is the provision that allows for the GPA, after consultation with the Governor and the Chief Minister, to call upon the Commissioner to retire – and that these are the best objective criteria of 'confidence' available.

Ahead of that the Chief Minister noted that Section 13 (1) (f) of the Police Act also gives the Governor authority to call for the **resignation** of the Commissioner where the Authority has failed to discharge its responsibility.

The Chief Minister explained that both the Governor and he were particularly alive to the not so subtle differences between a 'retirement' (S.34) and a 'resignation' (S.13). The effect may be the same, but the route and signposting is markedly different. Both have recorded that the power of the Governor is much more explicit, for good reason.

The Chief Minster further explained that the GPA have power to "remove" a Commissioner (as per the heading of S.34, which is not relevant to interpretation) by inviting "retirement". The GPA would do so in the

interests of policing in Gibraltar when seen through the prism of 5 key elements.

The GPA are therefore being invited by the Governor and the Chief Minister together to consider whether they believe that all OR any (note it is a disjunctive, not a conjunctive list) of the following 5 have been impacted.

The Chief Minister's view on the five criteria were clear.

1. The first criteria is Efficiency:

(a) The HMICFRS Report ('the Report') could not be clearer in the Chief Minister's view in respect of the efficiency of the RGP. A large number of the findings of the Report go directly to efficiency directly and indirectly. It is, however, shocking to see the explicit reference in the first sentence of the second paragraph of the Report, marked 'Overview' on page 7 of the Report, to both 'efficiency' and 'effectiveness' (see item 2 below). This makes out a clear basis for serious concern on this issue (and item 2) given the rank the Commissioner held in 2016 and the fact that he has held the helm at the police since 2018. Additionally, it is equally explicitly stated under S.33(1)(a) of the Act that the buck stops with the Commissioner on efficiency:

> S.33(1)***The Commissioner*** *shall, subject to the provisions of this Act, have command, superintendence, direction and control of the Force, and* ***shall be responsible for the efficient administration and government of the Force*** *and for the proper expenditure of all public moneys appropriated for the service thereof.*

Indeed, in his application for the role of Commissioner, the Chief Minister reminded, the now Commissioner had set out (as his 'Key Action 10') that he would immediately upon appointment establish a working group to ensure that the recommendations of the 2015/6 HMIC Report had been implemented by the **1st March 2019**. This date had not been met and it is not clear if the working group had even been established. This 'Key Action' was considered by the Commissioner to be necessary for the RGP to be a 'continuously progressing and professional police force.' Despite that, not only have the 2015/6 reports not been complied with, new and more serious recommendations have had to be made by the HMICFRS in 2020.

(b) The incident at sea is further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction. The effect of the events at sea will create great financial and operational difficulties for the RGP. The RGP has already had to expend funds (which it has sought as supplementary or additional funds from Government) in an external report into the incident at sea. This is being provided by the Met Police in London. Additionally, the RGP is now facing the potential for its officers to be investigated and prosecuted in Gibraltar and / or Spain, officers potentially be legally extradited to Spain for homicide, the resulting high level of legal fees to be incurred and the potentially huge payments of damages to the families which will arise as a result and which will have to be met by the Gibraltar tax payer. An investigation will also be required into what Standard Operating Procedures are in place – approved by senior management – in respect of operations at sea. All of this vitiates efficiency entirely. The issue is a pressing one. The Metropolitan Police are already carrying out an investigation. The delay in that report being provided, and Spanish press reports of claims already filed, may lead to the Chief Minister exercising his powers udner S.15(1)(a) powers to seek a factual report or assessment. The Chief Minister has already raised this with the Governor. A ***note verbal*** complaint has been filed by the Spanish authorities on these events which the Chief Minister is waiting to see before he decides whether to exercise his powers, given he as received scant information until now from the Commissioner . It would be the first time since the Police Act came into effect that this power has been exercised.

2. Effectiveness:

(a) In respect of the HMICFRS Report, on this limb of the considerations, the points in re 1 above are linked, in particular in the sentence at the beginning of paragraph 2 of the 'Overview'. The report is similarly laced with matters referring to this aspect of the interest of policing in Gibraltar.

(b) In respect of the incident at sea, the effectiveness of the RGP is impacted as already set out in point 1 above. Additionally the RGP found itself without a key marine asset for some time and its effectiveness as sea was therefore even more severely impacted. Effectiveness of the RGP will now be seriously under threat given the onslaught of legal work which will be required in order to address the claims made, as well as those likely to be made, in respect of this incident.

3. & 4. Probity & Integrity: The Chief Minister felt it was best to consider limbs 3 & 4 together as, in his view, they are inextricably linked.

(a) & (b) In the context of the Report (in particular its references to a failure to even understand the potential for, let alone the actual instances of, corruption) and the matters relating to the reporting to us of the events at sea involving the death of two Spanish nationals, this is an area of huge concern to both the Governor and the Chief Minister. Both feel that their respective dealings with the Commissioner have left them with the sense that he is lacking in both probity and integrity in his dealings with them. The Chief Minister indicated that he had held discussions with the Attorney General which led him to believe that Mr Llamas felt the same way, although he obviously could not speak for him.

(c) The Chief Minister also shared another event occurring last week which had left him also in a situation where the Commissioner had expressly misled him and which left him unable to believe the Commissioner.

The Chief Minister stated that for him this is possibly the issue of deepest concern as it goes to the integrity and probity of a key individual in the maintenance of the respect for the Rule of Law. Additionally, that individual, as Commissioner is, in the Chief Minister's view, at the head of the organisation that is institutionally one of the guardians of the Rule of Law alongside the Executive and the Judiciary. For the Chief Minister, to an extent the police becomes a fourth branch of government in the maintenance and preservation of the Rule of Law. The Chief Minister stated that without the Rule of Law we are unrecognisable as a nation. The Chief Minister said that he can imagine no greater concern than this in the context of his ability to discharge his oath to the Crown and to the People as Chief Minister.

5. Independence:

(a) This area of concern is highlighted in the parts of the report that deal with the potential for corruption and, consequently, influence, which, given the answers set out in the Report, is clearly not even understood in the RGP. Again, these concerns can cut across the Rule of Law in a meaningful way. It is not possible for the RGP to assert that it is acting independently in any investigation or matter unless it has properly addressed this recommendation that has remained outstanding for the period of the Commissioner's service to date – despite his assertions of wanting to address the issues in his application.

His Excellency then expressed his views.

The Governor said that the Chief Minister had expressed views he entirely shared.

His Excellency stated that, in addition, he had felt misled when the incident at sea had occurred and that he felt he had not received all information available to the RGP in respect of that event. He said that there had been no proactivity in addressing the events especially given the serious outcome which had resulted in loss of life. He felt he had been left with no choice but to seek further information when this should have been forthcoming without the need with persistent enquiry from him. He said he felt this left a lot to be desired.

As a result, the Governor and the Chief Minister consider that, given the views that they have now expressed it is for the GPA to take this forward in the first instance.

They ask the GPA to consider these extremely serious concerns and issues and that the GPA should engage its powers under Section 34 of the Act which specifically provides that the GPA's action to "call upon" the Commissioner to retire cannot be commenced until BOTH the Governor and the Chief Minister have been consulted and ONE of has agreed. (The part of the clause that relates to consultation is conjunctive and the part that relates to agreement is disjunctive). BOTH in fact agree that the Commissioner should be invited to retire by the GPA.

It is now a matter for the GPA to decide how to act and to decide that they want to engage the S.34(1) power.

If the GPA decide to go down this road, the first step is to allow the Commissioner to make representations, if he wishes, under S.34(2).

It will of course be necessary for the GPA to consider any representation the Commissioner might make.

Thereafter, if the GPA are of the view that the Commissioner should be invited to retire, then that is when they would need to consult BOTH of the Governor and the Chief Minister and then seek the agreement of ONE of them. The Governor and the Chief Minister would then also have the benefit of any representation that the Commissioner might have made under S.34(2) in expressing a final and firm view.

ENDS

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Gibraltar Police Authority

Record of emergency meeting of Thursday 21st May at 9.30am

In attendance:

Joey Britto (Chair)
Darren Grech
Ernest Gomez
Frank Carreras
Nadine Collado

Apologies: Claire Pizarello
Edgar Lavarello
Julio Alcantara
Rebecca Figueras

Purpose of the meeting:

1. An emergency meeting was called to discuss a meeting to which the Chair had been called to on Monday 18th May.
2. The Chair explained that he had been called to a meeting by the Governor at the Convent and told that the Chief Minister would also be present.
3. The Chair explained to the members what had transpired at the meeting with the Governor and relayed the information, as expressed to him, by both the Governor and Chief Minister. He explained that both the Governor and Chief Minister, in no uncertain terms, had expressed that they had lost all confidence in the Commissioner. The reasons for this are given in the file note and this was read to all present.
4. After the chair read out the file note and fully explained what had been discussed, including the fact that the Commissioner had claimed at a previous meeting, that 'they' were trying to interfere in an investigation in which, allegedly, a senior partner in a law firm was, allegedly, involved. It was felt that the Commissioner would find it very difficult to continue to work with Government and the Governor given their lack of confidence in him and for the reasons expressed to the Chair. The GPA felt that the maritime incident seemed to be far more serious in its repercussions, overall, than we had previously been alive to and felt that this was the major factor in our decision.
5. After discussion and based on what had been expressed by the Governor and Chief Minister and the contents of the file note, it was felt that the best course of action would be to activate Section 34 of the Act and invite the Commissioner to retire but always affording him the opportunity to make representations to GPA so we could arrive at a firm and final decision and able to make recommendations to Governor. The GPA felt that this recourse was better and 'gentler' than the Governor potentially activating Section 13 which allows him to seek his resignation.
6. It was also agreed that it would be more dignified for the Chair to seek a meeting with the Commissioner rather than summon him to GPA offices.
7. It was agreed that the Chair would also consult the members not present and if they were in agreement, GPA would proceed with Section 34.

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GIBRALTAR POLICE AUTHORITY
(The Community in Policing)

22nd May 2020

Commissioner Ian McGrail OTM MSc
Royal Gibraltar Police
New Mole House

Dear Commissioner McGrail,

Our meeting earlier this morning refers.

In view of the grave concerns expressed by both the Governor and the Chief Minister, in respect of certain aspects of policing that have led to a serious and regrettable loss of confidence in you as Commissioner, the Authority feels that it is left with no option but to exercise the powers afforded to the Authority under Section 34 (1) of the Police Act.

Given the above, the Authority invites you to retire, in the interests of policing in Gibraltar.

Please note that Section 34 (2) states that you shall have an opportunity to make representations before the Authority and that these shall, of course, be fully taken into consideration to allow the Governor, the Chief Minister and the Authority to express a firm and final view.

Should you wish to avail yourself of this provision please make your submission within seven working days from the date of this letter. If you require more time, please indicate this in writing.

Yours,

JJ Britto
Chair
Gibraltar Police Authority

Unit 25B Casemates Square, Gibraltar
Tel: (+350) 20040918, E-mail: secretary@gpa.gi

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GIBRALTAR POLICE AUTHORITY
(The Community in Policing)

22nd May 2020

Commissioner Ian McGrail OTM MSc
Royal Gibraltar Police
New Mole House

Dear Commissioner McGrail,

Invitation to Retire : Section 34 of the Police Act ('the Act')

Our meeting earlier this morning refers.

Today I expressed to you that the Gibraltar Police Authority was calling upon you to retire under the provisions of Section 34 of the Act.

I told you that the reason that the Authority was taking this step arose from the communication by the Governor and the Chief Minister to the Authority that BOTH had lost confidence in your ability to run policing in Gibraltar. The reasons which the Governor and the Chief Minister have provided the Authority for their loss of confidence are summarised in the paragraphs numbers 1 to 5 below and address the relevant factors set out in Section 34(1) of the Act.

Additionally, the Authority itself has agreed with the matters raised by the Governor and the Chief Minister and have taken the view that your position is untenable as Commissioner given that you have lost the confidence of BOTH the Governor and the Chief Minister.

Please find below the main issues contributing to the loss of confidence, as expressed to the Authority by the Governor and the Chief Minister.

1. **Efficiency:**

The Governor and the Chief Minister are very concerned about the findings of the HMICFRS Report ('the Report'). It is clear damning in respect of the efficiency of the RGP. A large number of the findings of the Report address 'inefficiency' directly and indirectly. Indeed, the "Overview" of the Report specifically provides a criticism (para 2, page 7) that the Force is not 'as effective or efficient as it could be'.

Unit 25B Casemates Square, Gibraltar
Tel: (+350) 20040918, E-mail: secretary@gpa.gi

In this respect, the position is clear as to responsibility. Under Section 33 of the Act, it is the Commissioner who is responsible for the efficient administration of the Force. That means that responsibility in respect of this failing rests legally, directly with you.

It was also pointed out to the Authority that in your application for the role of Commissioner you would, if successful, immediately set up a working group to ensure that the recommendations of the 2015/6 HMIC Report had been met by the 1st March 2019. This action point was considered by you to be necessary for the RGP to be a 'continuously progressing and professional police force.' Not only have the recommendations and action points set out in the 2015/6 reports not been complied with but now, in addition, new and more serious recommendations have had to be made by the HMICFRS in 2020.

Additionally, and equally importantly, the incident at sea in March, resulting in the death of two individuals, was pointed out as further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction. The Authority notes that the Chief Minister has written to you directly, under Section 15 of the Act (copied to me as Chairman of the Authority), seeking further information on this matter given that neither he or the Governor seem to have a full picture of what actually transpired. The incident has resulted not just in a diplomatic complaint filed against the United Kingdom and Gibraltar, but also to a vessel being out of action, questions as to standard operating procedures in place and all the other concerns contained in the letter sent to you by the Chief Minister. I do not need to repeat that here, but I would refer you to the paragraphs of that letter which specifically set out that the Chief Minister has no confidence in his having been provided with the information expeditiously about this very serious incident. Additionally, the Governor expressed the view that he feels he has been misled by you about this most serious incident which has resulted in loss of life.

2. Effectiveness:

The issues relating to effectiveness were linked by the Governor and the Chief Minister. Additionally, as a result of the above, the RGP found itself without the use of a vessel for some time and the RGP's effectiveness as sea was therefore severely impacted for some time. The effectiveness of the RGP will also now be seriously compromised given the increased legal workload which will arise as a direct result of the claims made and all the corollary effects that they will give rise to.

3. & 4. Probity & Integrity:

It was communicated to me that both the Governor and the Chief Minister felt that their dealings with you have left them with the sense that you are lacking in both probity and integrity – the maritime incident is one case in point. This is very serious indeed. I think you need to reflect carefully on this. The situation we are in is one where BOTH the Governor and the Chief Minister respectively have expressed this view. It is not one of them that has expressed this view, which would be bad enough, but BOTH of them.

Additionally, the Authority is informed that the Attorney General has also expressed the same feelings.

The seriousness of this cannot be underestimated. The Governor and the Chief Minister expressed to the Authority that they consider that the Rule of Law in Gibraltar is compromised by the fact that they lack confidence in your probity and integrity.

5. Independence:

This area of concern was also brought to the attention of the Authority by reference to the parts of the report that deal with the potential for corruption and, consequently, influence, which, given what is identified in the Report, seems not to be completely understood in the RGP. The Governor and the Chief Minister expressed the view that it is not possible for the RGP to claim that it is acts independently in any investigation or matter unless it has properly addressed this recommendation that has remained outstanding for the period of your service.

It is for those reasons that we are calling upon you to retire on the interests of efficiency, effectiveness, probity, integrity and the independence of policing in Gibraltar, but before doing so are giving you an opportunity, as provided for in Section 34(2) of the Act to make representations which we shall consider.

I trust that this serves to clarify matters further.

I look forward to receiving any representations you may wish to make under Section 34(2) of the Act.

Yours,



JJ Britto
Chair
Gibraltar Police Authority

Unit 25B Casemates Square, Gibraltar
Tel: (+350) 20040918, E-mail: secretary@gpa.gi

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From: Dr J J Britto [redacted]
Subject: Main points summary of issues
Date: 22 May 2020 at 19:58
To: (RGP) McGrail, Ian M.Sc (OTM) Ian.McGrail@royalgib.police.gi

Dear commissioner,

Our meeting of this morning refers.

Please find summary of main issues in writing, as discussed.

Yours,

J J Britto

Main points.pdf

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CHARLES GOMEZ & COMPANY
BARRISTERS AT LAW

STRICTLY PRIVATE AND CONFIDENTIAL

29th May 2020

Our Ref: CAG/NG/MM11286

Your Ref:

The Gibraltar Police Authority
Unit 25B Casemates Square,
Gibraltar

By Email to secretary@gpa.gi and
[redacted]

Dear Members of the Gibraltar Police Authority,

RE: Invitation to Retire: Section 34 of the Police Act

We write on behalf of our client, Ian McGrail, Commissioner of the Royal Gibraltar Police, in response to the communications to him from the Chair of the Gibraltar Police Authority ('GPA') on 22nd May 2020 which set out the Chair's decision to exercise powers under section 34(1) of the Police Act 2006 ('the 2006 Act'), calling on him to retire and seeking any representations from him under section 34(2). The three communications in question were (1) at a meeting that morning, (2) in a letter ('the first letter') handed to him at the 22 May meeting, and (3) in a further letter, sent to him late that evening ('the second letter').

We thank the Gibraltar Police Authority ('GPA') for giving us the opportunity to make representations. We will explain below why the exercise of the s.34 power vested in the GPA would be wholly unjustified and grossly procedurally unfair. Moreover, there is an extremely troubling aspect to this, of which the Chair is fully aware, and which concerns the rule of law in Gibraltar, and which touches on the fundamental principle of the freedom of the Royal Gibraltar Police ('RGP') to carry out criminal enquiries without interference from politicians or the Attorney General.

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At the outset, we wish to impress on the members of the GPA your solemn duties under the Constitution and the 2006 Act. The GPA is one of the few bodies created under the Constitution. The Constitution requires the GPA to "*be independent in the exercise of its functions*". These functions include, under the 2006 Act, that you must "*ensure high standards of integrity, probity and independence of policing in Gibraltar*". You must also, because you are a constitutional body, act in conformity with the Charter of the United Nations and any other applicable international treaties including the European Convention on Human Rights. It should therefore be self-evident that the GPA plays an essential role in protecting the separation of powers between the executive and police, the rule of law and the rights of the citizens of Gibraltar.

It is in this light that you must make the decision whether to call on Mr. McGrail to retire – a decision which (because of section 34(3)) means he "*shall*" retire. You will therefore not just be making a request but giving him an instruction to prematurely end his distinguished 36-year policing career, and you will be removing from office the principal law enforcement officer of the Crown in Gibraltar. In order to fulfil your constitutional duties, you must make the decision independently from the Governor and Chief Minister. You must not be directed by them. That would be quite wrong, and in violation of your obligations under the 2006 Act and the Constitution.

As set out below, we are deeply concerned by the approach of the Chair in the meeting he had with Mr. McGrail on 22 May. The Chair told Mr. McGrail that if he refused to comply with the invitation to retire then the Governor would use his powers under s.13(f) of the 2006 Act to call for his resignation. The decision was presented to Mr. McGrail as a *fait accompli*. The Chair said in effect that it did not matter how he responded – the result would be the end of his career either because he would be forced to retire in accordance with your request or would be called to resign by the Governor using his power under s.13(f). This is not how your power under s.34 works. It only applies if the GPA considers it is "*in the interests of efficiency, effectiveness, probity, integrity, or independence of policing*" to request that the Commissioner retire, following consideration of any representations made by him. If you do not properly consider these representations and do not make an independent decision you will be acting unlawfully and your decision will be vulnerable to a judicial review challenge.

The damage to Gibraltar as a jurisdiction which claims to adhere to the Rule of Law would be incalculable. As people of standing in our community it will be immediately obvious to you already that the removal of the Commissioner of the Royal Gibraltar Police in the way in which the GPA is being pushed to do is a travesty which will bring shame to Gibraltar and international derision when we are always trying to prove our democratic, non-colonial attributes in every international forum up to the United Nations Special Committee on Decolonization.

The background and motivations which we will proceed to explain (subject to the sensitivities of what is ultimately an ongoing very serious criminal investigation) uncover an abuse of power which is possibly unprecedented in Gibraltar.

The approach the Chair has taken thus far has been for the reasons explained below clearly unlawful. This could *potentially* be remedied by taking a fully independent decision now and concluding that Mr. McGrail should not be removed from office. This must be a decision of the full GPA, not the Chair alone, as the section 34 power vests in *"the Authority"*. The GPA must also carefully consider whether any of its members has a conflict of interest which would exclude them from taking part in the decision-making process.

In light of the errors made to date, we respectfully suggest that you seek independent legal advice in order to assist you in making a lawful decision. We emphasise that it would be inappropriate to take advice from the Attorney General because he has already expressed a view on the substantive issues, as is clear from the second letter of 22nd May, and, moreover, he has played a key role in the issues we refer to in Section (d) below, as the Chair is already aware. We respectfully suggest that it may be prudent for you to take advice from lawyers in the United Kingdom given the multiplicity of local interests arising from this unfortunate case (as, indeed, Mr McGrail has done; he is represented by an expert counsel team from Gibraltar and London).

This letter is divided in to five sections:

(a) Preliminary Point – Recusal Issue;

(b) The legal framework;

(c) The invitation to retire;

(d) Fundamental Unfairness, Abuse of Process and Procedural Failings; and

(e) Response to the substantive issues raised by the GPA.

(a) Preliminary point – Recusal Issue

1. There are two preliminary matters concerning recusal.

2. First, Mr. Nick Pyle is currently named as the member of the GPA appointed by the Governor.[1] He has been the interim Governor since February 2020 and he has had personal involvement in the background to this matter, as we summarise in these submissions. He should play no part in decision-making of the Authority under section 34 in any event, given the distinct role of the Governor under that section. We ask for an assurance that the GPA Chair will ensure that Mr. Pyle is not involved in the GPA's decision-making under section 34.

3. Second, and related, we wish at the outset to raise an issue of very significant sensitivity and concern. It relates to a current police investigation. It would therefore be inappropriate to provide specific details of that investigation save as to the limited extent set out below (we address this further in section (d), as it is relevant to this invitation to retire). We know that the Chair is already aware of the background as it was discussed at his and Mr. McGrail's meeting on 22nd May, when he told Mr. McGrail it was discussed at the meeting when the Chief Minister and Governor said that they and the Attorney General had lost confidence in Mr. McGrail. You will understand that it would not be appropriate for Mr. McGrail to provide more detail of a live investigation. However, we can say that it relates to national security and involves an alleged criminal conspiracy which potentially reaches to the highest levels of the community.

4. This is a further reason why it is essential that the Chair provide reassurance to us that Mr. Pyle will not be involved in the GPA's decision-making under section 34. In addition, we suggest that it would be prudent for a further member of the GPA, Ms. Claire Pizzarello, to recuse herself from decision-making in this matter. We do not provide further details at

[1] http://gpa.gi/about-the-gibraltar-police-authority.html.

this stage, and we trust that the Chair will agree that this would be a sensible course of action in the circumstances. (Should further information be required by the Chair, he should inform us of this.) We emphasise that there is no suggestion whatsoever of Ms. Pizzarello having any personal involvement in the matters in question, and this approach is suggested out of an abundance of caution.

(b) <u>The legal framework</u>

The Gibraltar Constitution Order 2006 ('The Constitution')

5. Chapter 1 of the Constitution protects fundamental rights and freedoms. The Preamble states that the people of Gibraltar's right to self-determination must be "*promoted and respected in conformity with the provisions of the Charter of the United Nations and any other applicable international treaties*". The European Convention on Human Rights is an "*applicable international treaty*".

6. The Constitution protects, amongst other rights, the right to privacy (section ('s') 7) and the right to freedom of expression (s.10).

7. The Constitution provides that there shall be a Police Authority for Gibraltar which "*shall be independent in the exercise of its functions*" (s.48(1)).

The Police Act 2006

8. The 2006 Act establishes the GPA (section 3(1)).

9. Part 1 sets out the **responsibilities and powers of the GPA**. s. 5 relevantly includes responsibilities: "*to secure the maintenance of an efficient and effective police force for Gibraltar*", "*to ensure high standards of integrity, probity and independence of policing in Gibraltar*", "*to establish, operate and supervise the process for investigating complaints against police officers under this Act*" and "*to hold the Commissioner to account for matters which are the responsibility of the Authority.*

10. Part II sets out the **Governor's and the Government's responsibilities** for policing. Section 13 provides for the Governor's powers "*in default by the Authority*", which are exercisable only where the Authority "*has failed to discharge or perform a responsibility imposed on the Authority under this Act*". The powers include "*where in the opinion of the Governor the integrity, probity or independence of the police has been compromised or is at risk, to direct the Force to take appropriate action to remedy the situation or avoid the risk*" and "*to suspend from duty, or call for the resignation of the Commissioner*".

11. Section 15(1) provides that the Chief Minister may exercise various powers on behalf of the Government, including (a) require factual or assessment reports from the Force or the Authority on any policing matter, provided that there may be withheld from any such report any fact disclosure of which is likely to prejudice the effective operation of the Force.

12. Part IV provides for the establishment of the **Royal Gibraltar Police Force**. Section 32(1) provides for the appointment of the **Commissioner of Police** by the Governor, acting on the advice of the Authority, subject to any provision of the Constitution; for such that the Authority may advise and as shall be set out in the instrument of appointment.

13. Section 33(1) provides that the Commissioner shall, subject to the provisions of this Act, have command, superintendence, direction and control of the Force, and shall be responsible for the efficient administration and government of the Force and for the proper expenditure of all public moneys appropriated for the service. (section 33(2)).

14. Section 34 provides for the removal of the Commissioner by the GPA. It is set out in full below:

> *"34.(1) The Authority acting after consultation with the Governor and the Chief Minister and with the agreement of either of them, may call upon the Commissioner to retire, in the interests of efficiency, effectiveness, probity, integrity, or independence of policing in Gibraltar.*

(2) Before seeking the approval of the Governor and the Chief Minister under subsection (1), the Authority shall give the Commissioner an opportunity to make representations and shall consider any representations that he makes.

(3) Where the Commissioner is called upon to retire under subsection (1), he shall retire on such date as the Authority may specify or on such earlier date as may be agreed upon between him and the Authority."

Human rights

15. The European Convention on Human Rights protects the right to respect for private and family life under Article 8 and the right to freedom of expression under Article 10. Both rights can be interfered with by the state by certain situations but only where that interference is lawful, necessary and proportionate in pursuance of a legitimate aim.

16. The European Court of Human Rights and the Council of Europe (which oversees the European Court) have repeatedly emphasised that corruption threatens the rule of law. There have been a number of cases where sanctions imposed on whistleblowers have been found to breach Article 10 ECHR – in cases involving the dismissal of public servants this has sometimes been articulated as an attack on reputation protected by Article 8 ECHR. As you will see below, the law relating to whistleblowers is relevant.

17. In *Guja v. Moldova (No. 1)*[2] the Grand Chamber held unanimously that there had been a violation of Article 10 (freedom of expression). The applicant was Head of the Press Department of the Moldovan Prosecutor General's Office. The case concerned his dismissal for giving a newspaper two letters received by the Prosecutor General's Office which disclosed interference by a high-ranking politician in pending criminal proceedings.

[2] (2011) 53 E.H.R.R. 16.

The Court balanced the conflicting factors under Art.10 and concluded there had been a breach.

> *[72] ... The Court thus considers that the signalling by a civil servant or an employee in the public sector of illegal conduct or wrongdoing in the workplace should, in certain circumstances, enjoy protection. This may be called for where the employee or civil servant concerned is the only person, or part of a small category of persons, aware of what is happening at work and is thus best placed to act in the public interest by alerting the employer or the public at large.*

18. Article 8 ECHR includes the right to protection of reputation.[3] As stated in *Axel Springer AG v. Germany*[4], judgment (Grand Chamber) of 7 February 2012, paras. 83-84:

> *"... [T]he right to protection of reputation is a right which is protected by Article 8 of the Convention as part of the right to respect for private life ... In order for Article 8 to come into play, however, an attack on a person's reputation must attain a certain level of seriousness and in a manner causing prejudice to personal enjoyment of the right to respect for private life ...*

19. The Council of Europe's ***Criminal Law Convention on Corruption*** ('the Corruption Convention") of 27th January 1999 states[5] in its pre-amble that "*corruption threatens the rule of law, democracy and human rights, undermines good governance, fairness and social justice, distorts competition, hinders economic development and endangers the stability of democratic institutions and the moral foundations of society*".

[3] *Denisov v. Ukraine* [GC], paras. 111-112 and 115-117.
[4] [2012] ECHR 227.
[5] https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680007f3f5.

20. Each Party to the Corruption Convention shall adopt measures to ensure that persons or entities are specialised in the fight against corruption. They shall have the necessary independence in accordance with the fundamental principles of the legal system of the Party, in order for them to be able to carry out their functions effectively and free from any undue pressure.

21. The preamble to the Council of Europe ***Code of Police Ethics***[4] states that "*the criminal justice system plays a key role in safeguarding the rule of law and that the police have an essential role within that system*". Paragraph 15 provides:

> *The police shall enjoy sufficient operational independence from other state bodies in carrying out its given police tasks, for which it should be fully accountable.*

22. Paragraph 34 states:

> *Public authorities shall support police personnel who are subject to ill-founded accusations concerning their duties.*

23. The ***Committee of Ministers' Recommendation on the protection of whistleblowers*** adopted on 30th April 2014 relevantly states in the preamble that "*freedom of expression and the right to seek and receive information are fundamental for the functioning of a genuine democracy*" and recognises that individuals who report or disclose information on threats or harm to the public interest, i.e. whistleblowers, can contribute to strengthening transparency and democratic accountability. Paragraph 21 states:

> *Whistleblowers should be protected against retaliation of any form, whether directly or indirectly, by their employer and by persons working for or acting on behalf of the employer. Forms of such retaliation might include dismissal, suspension, demotion,*

[4] Adopted 19th September 2001: https://rm.coe.int/16805e297e.

loss of promotion opportunities, punitive transfers and reductions in or deductions of wages, harassment or other punitive or discriminatory treatment.

24. Protection from retaliation is clearly a matter of fundamental importance particularly when the potential victim is none other than the principal law enforcement officer of the Crown in Gibraltar.

(c) <u>The invitation to retire</u>

25. On the morning of 22nd May 2020 Mr. McGrail met with the GPA Chair, when the Chair invited him to retire pursuant to s.34(1) of the 2006 Act.

26. The Chair told Mr. McGrail that he had met with the Governor and the Chief Minister on Monday 18th May and they had told him they had lost confidence in Mr. McGrail. He said that he had taken notes of the meeting. It began with the Governor and Chief Minister taking him through the various options under the Police Act and focussing on section 13 (the power of the Governor to suspend from duty or call for the resignation of the Commissioner where the GPA has failed to discharge its duties) and section 34 (the GPA's power to remove the Commissioner from post).

27. The Chair made it very clear that he did not make this decision himself and that in his view the decision was entirely for the Governor and the Chief Minister to make. Although he said Mr. McGrail could make representations, it was made clear to him that if he does not take the offer of retirement then the Governor will trigger his power under s.13 to call for his resignation. It is in effect, an 'offer he can't refuse' – or, to put it another way, it is the equivalent, for an office-holder, of constructive dismissal.

28. It was also made clear to Mr. McGrail that the issue of his handling of the investigation referred to above was an important factor in the decision making by the Governor and Chief Minister. He said that the AG had all lost confidence in him because he had *"lied"* about the particular operation – which he strenuously denied.

29. At the time of the meeting none of the alleged issues with Mr. McGrail's conduct had been put in writing. When Mr. McGrail highlighted that this was unfair, the Chair offered to provide him with his notes of the 18th May meeting. Mr. McGrail asked for the reasons to be put in writing so he could properly respond.

30. At the meeting, Mr. McGrail was handed a letter containing a formal notification of the exercise of the s. 34(1) power ('the first letter'). This was a short letter which provided no detail save for referring to "*grave concerns expressed by both the Governor and the Chief Minister, in respect of certain aspects of policing that have led to a serious and regrettable loss of confidence in you*". It was clear from the letter that a decision had already been reached to invite Mr. McGrail to retire ("*Given the above, the Authority invites you to retire*"), however, confusingly, the letter also invited representations pursuant to s.34(2) which "*shall, of course, be fully taken into consideration to allow the Governor, the Chief Minister and the Authority to express a firm and final view*". Mr. McGrail was given 7 days to respond to the initial letter (i.e. by today, 29th May – a period which included a long weekend) and invited to seek more time if required.

31. Mr. McGrail received a second letter late on Friday night, 22nd May, which provided more detail, relevantly stating:

    a. "*the reason that the Authority was taking this step arose from the communication by the Governor and the Chief Minister to the Authority that BOTH had lost confidence in your ability to run policing in Gibraltar.*"

    b. "*Additionally, the Authority itself has agreed with the matters raised by the Governor and the Chief*

    c. Five "*main issues*" (in reality, these are four issues as two run together) were set out "*contributing to the loss of confidence*", including:

i. Efficiency: "*The Governor and the Chief Minister are very concerned about the findings of the HMICFRS Report ('the Report'). It is clear* (sic) *damning in respect of the efficiency of the RGP....*"

ii. "*Additionally, and equally importantly, the incident at sea in March, resulting in the death of two individuals, was pointed out as further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction.*"

iii. "*I would refer you to the paragraphs of that letter which specifically set out that the Chief Minister has no confidence in his having been provided with the information expeditiously about this very serious incident... [he has] expressed the view that he feels he has been misled by you...*"

iv. Effectiveness: that the RGP found itself without the use of a vessel for some time and will now be "*seriously compromised given the increased legal workload*".

v. Probity and integrity "*It was communicated to me that both the Governor and the Chief Minister felt that their dealings with you have left them with the sense that you are lacking in both probity and integrity – the maritime incident is one case in point...*

vi. "*additionally, the Authority is informed that the Attorney General has also expressed the same feelings*"

vii. "*The seriousness of this cannot be underestimated. The Governor and the Chief Minister expressed to the Authority that they consider that the Rule of Law in Gibraltar is compromised by the fact that they lack confidence in your probity and integrity.*"

viii. Independence: "*This area of concern was also brought to the attention of the Authority by reference to the parts of the report that deal with the potential for corruption and, consequently, influence, which, given what is identified in the Report, seems not to be completely understood in the RGP. The Governor and the Chief Minister expressed the view that it is not possible for the RGP to claim that it is acts independently in any investigation or matter unless it has properly addressed this recommendation that has remained outstanding for the period of your service.*"

(d) Fundamental Unfairness, Abuse of Process and Procedural Flaws

32. This process has been tainted from the outset by conspicuous unfairness, and it is grossly procedurally unfair. These flaws fall into the category described by Lord Bridge in *Calvin v. Carr* [1979] UKPC 1, [1979] 2 All ER 440: "*when the defect is so flagrant, the consequences so severe, that the most perfect of appeals or rehearings will not be sufficient to produce a just result.*" The approach adopted here amounts to an attack on the Constitution, the rule of law and human rights principles, and it subverts the principle of separation of powers in a number of respects.

*i. **The Vanishing Reason for the Invitation to Retire***

33. First, we indicated at the outset of this letter, when addressing the preliminary matter of recusal, that there is a sensitive matter concerning an ongoing criminal investigation, the detail of which Mr. McGrail does not address herein. The relevance of this issue to the invitation to retire is as follows. This matter was discussed in the 22nd May meeting as forming part of the reasoning behind the Chief Minister and the Governor informing the GPA Chair that he should invite Mr. McGrail to retire. Indeed, Mr. McGrail indicated at that meeting that he understood it to be the real and central reason for the request. However, this reason is, oddly, not cited in the second, detailed letter of 22nd May. Instead, that letter refers expressly only to two other matters – the incident at sea in March 2020 and the inspection report following the inspection in October 2019.

34. The two matters which *are* mentioned have been known to the Chief Minister, Governor and Attorney General ('AG') for months. As is explained below, Mr. McGrail has kept them fully informed in respect of both issues. The important point is that in respect of both issues, at all stages Mr. McGrail has received no criticism at all about his approach. The incident at sea is being investigated independently by the Metropolitan Police, at Mr. McGrail's request, and that report is yet to be received. Mr. McGrail has met regularly with the AG to discuss strategy towards this serious incident – the AG has been nothing but supportive. Equally, when the inspection report came out, Mr. McGrail received no public or even private criticism from authority figures at all – until the 22nd May invitation to retire.

35. By contrast, in recent months, and particularly the past fortnight, Mr. McGrail has received very significant and at times intemperate private criticism from the Chief Minister and Attorney General about a separate matter, namely how the criminal investigation we refer to above has been handled. For many months the AG has been trying (unsuccessfully, we might add) to persuade Mr. McGrail to change his and the RGP's approach to the investigation which would either lead to it being dropped entirely or certain suspects not being prosecuted. Mr. McGrail has rebuffed these attempts and has treated this investigation as he would any other – characteristic of his probity and professionalism. The operational decisions in respect of this investigation have, in any event, been taken by individual officers below Mr. McGrail's rank, acting professionally and appropriately.

36. On 12th May, out of courtesy, Mr. McGrail notified the Chief Minister, the AG and the Minister of Justice of a certain operational action which was taken by the RGP in the case. Both the Chief Minister and AG immediately messaged him to say, in no uncertain terms, that they disapproved of the action. He was immediately called into a meeting with the Chief Minister and the AG. He was very severely criticised for the action that had been taken. The Chief Minister told him that, in his view, Mr. McGrail had handled the investigation "*very very wrongly*". He was told by the AG that he had to this point approved of his work but from that day he could not "*entertain*" Mr. McGrail again. The emotional response from both the Chief Minister and the AG is startling.

37. This was followed by two subsequent meetings with the AG and Director of Public Prosecutions (on 13th and 15th May respectively) where pressure was put on Mr. McGrail by the AG to change the RGP's investigative approach to the operation and he was given the strong impression that the AG was primarily concerned with protecting the Chief Minister and "*Gibraltar PLC*" (the AG's words).

38. It is grossly inappropriate in a jurisdiction under the Rule of Law for politicians to interfere with any live criminal investigation in this way. It tramples over the separation of powers which is an integral feature of our Constitution. However, in this case the Chief Minister has a personal connection to the outcome of the investigation, which makes his intervention even more inappropriate. Not only should he not attempt to influence the investigation, he should completely recuse himself for any decisions or conversations which touch upon it.

39. The reason it is relevant to your decision is that we submit to you that the timing of the use of the s.34 process, which was triggered by the Chief Minister and the Governor and, we understand, came as a complete surprise to the GPA Chair, strongly suggests that the incident at sea and inspection report are fig leaves for the real reason Mr. McGrail is being pressured to retire, i.e. his (proper and reasonable) handling of a live criminal investigation.

40. It is unnecessary for us merely to rely on an inference raised by the timing of the s.34 letter to make this point. The GPA Chair confirmed to Mr. McGrail at their meeting on 22nd May that his handling of the criminal investigation referred to above was spoken about at the Chair's meeting with the Chief Minister and Governor and was one of the reasons they had "*lost confidence*" in Mr. McGrail. The Chair told Mr. McGrail he took a note of his meeting with the Chief Minister and Governor, which we assume he can provide to you for your consideration. It is wholly unclear why this matter is then omitted from the letters sent to Mr. McGrail on 22nd May – although a simple explanation is that it was obvious to those writing the letters that if it were included it would invalidate the entire process. This is a clear breach of the requirements of fairness in itself – this was a factor cited in the meeting on 22nd May, at which no written documents were given to Mr. McGrail, yet the letters omit this material factor.

41. Further, we note that a factor which is cited in the Chair's 22nd May second letter is the Attorney General being said to have *"lost confidence"* in Mr. McGrail, for an unspecified reason: *"Additionally, the Authority is informed that the Attorney General has also expressed the same feelings"*. The Chair made clear to Mr. McGrail at the 22nd May meeting that this was entirely because of the criminal investigation matter referred to above and it reflects the comments made to Mr. McGrail by him directly at the meeting on 12th May. In reality, it is clear that this incident is at the heart of this request under section 34, despite it not appearing in the second letter.

42. We note that in the Chair's second letter it is stated *"the Governor and the Chief Minister ... consider that the Rule of Law in Gibraltar is compromised"*. Unfortunately, we agree with that statement, and that statement alone, but for significantly different reasons. If the GPA decides to exercise its s.34 power, in the full knowledge that background involves the Chief Minister and AG seeking to interfere with a live criminal investigation, this would indeed be an affront to the rule of law and a breach of your duties under the Constitution. This would be a gross violation of the rule of law, and not the actions of an independent body in a mature democracy.

ii. ***Independence***

43. There are further serious procedural failings. It was made clear to Mr. McGrail at the meeting on 22nd May 2020 that the Chair was proceeding on the basis that this is a decision for the Chief Minister and the Governor, and he has taken his lead from them. This is also clear from the first letter, which followed the meeting. This is a fundamental misunderstanding of the statutory scheme: the section 34 decision is for the Authority. It also disregards the vital importance of the independence of the Authority, enshrined in the Constitution, s. 48(1).

iii. ***A Settled Decision***

44. The process followed on 22nd May is not compliant with section 34. The statute makes clear that submissions must be sought under section 34(2) before the section 34(1) process is followed. The Commissioner is entitled to be given an opportunity to make representations, and for them to be considered. For this to be a meaningful opportunity, the Authority must

not have a closed mind. In this instance, however, the Authority Chair has called upon the Commissioner to retire (under section 34(1)), indicating that this decision has been reached already: *"the Authority feels that it is left with no option but to exercise the powers afforded to the Authority under section 34(1)..."* The wording used is unambiguous. This was clear at the meeting on 22nd May, and it is expressly set out in the first letter of that date.

45. The first letter is instructive. At this meeting, Mr. McGrail was handed this short letter, containing a formal notification of the exercise of the s.34(1) power. This was very brief and provided no detail save for referring to *"grave concerns expressed by both the Governor and the Chief Minister, in respect of certain aspects of policing that have led to a serious and regrettable loss of confidence in you"*. It was clear from the letter that a decision had already been reached to invite Mr. McGrail to retire based on the Governor and the Chief Minister's views (*"Given the above, the Authority invites you to retire"*); however, confusingly, the letter also invited representations pursuant to section 34(2) which *"shall, of course, be fully taken into consideration to allow the Governor, the Chief Minister and the Authority to express a firm and final view"*. This language, promising to take the submissions into consideration, cannot be squared with the fact that definitive language making clear that the Authority has already set out an invitation to retire under section 34(1).

46. This not only raises concerns under section 34. It also results in a process which is not compliant with the concept of natural justice. Mr. McGrail cannot be penalised by a decision which would have such a devastating impact upon him without him being given prior notice of the case he has to answer, and a fair opportunity to answer it. This has not been the case here.

iv. The Relevance of Section 13

47. At the meeting of 22nd May, the Chair informed Mr. McGrail that this was not a decision for him, but a decision for the Chief Minister and the Governor, and that if he did not invite Mr. McGrail to retire under section 34 then the Governor would exercise his power under s. 13. The Chair made clear that this had informed the decision to trigger section 34. However, this is an extraordinary situation, raising very serious concerns, and it taints the

section 34 decision. The entire point of section 13 is that it only applies when Authority is in default; it is not a mechanism for the Governor to simply use when he disagrees with the Authority, or when he disagrees with an action by the Police Commissioner, and nor is it a power which should be pre-emptively threatened in order to lean on the Authority to trigger section 34.

(c) <u>Response to the issues raised in the letter</u>

48. We have addressed above why we believe that this attempt to remove Mr. McGrail from post is a pretence which would not have occurred but for the Chief Minister and AG's criticism of his handling of a particular live investigation. However, it is of course important and necessary to respond directly to the two issues which are directly mentioned in the 22 May letter. We should emphasise that our client takes both the incident at sea and the inspection report extremely seriously, as can be seen by his immediate and continuing actions in response to them, however we do not accept, even arguably, that either issue could be the basis of the use of the section 34 power to remove Mr. McGrail from his post in the interests of "*efficiency, effectiveness, probity, integrity, or independence of policing in Gibraltar*".

Mr. McGrail's career to date

49. Before addressing the substantive issues, we want to give you some background about Mr. McGrail's career as a police officer. This is so that in considering the issues, you can do so in the context of his record, which can only be described as exemplary. Mr. McGrail has had a long, unblemished and distinguished career in the RGP for 36 years, having joined in 1984. In the first decade of his career he served in front-line policing, and following the "fast launch" public disturbances in the mid-1990s he had particular responsibility for uplifting RGP's capacity and capability in order and personal safety.

50. In 2006, he became the youngest and most junior inspector at the time to be promoted to Chief Inspector. From 2012 he was a Superintendent. In 2015 he was included in the Queen's Birthday State Honours list and was awarded the Overseas Territories Police

Medal for meritorious service. He has been awarded the Queen's Golden and Diamond Jubilee medals and the long service and good conduct medal with first and second clasps. And, as you know his record is exemplary. Mr. McGrail has numerous letters of appreciation throughout his career and been commended five times, including once by the Director of the United States Naval Criminal Investigation Service and on another by the Chief Justice of Gibraltar. All the commendations have been for meritorious investigative work leading to prosecutions. He has throughout his career sought to develop personally and professionally and attended the Federal Bureau of Investigation National Academy Programme for 3 months in Quantico, Virginia 2007 , is a Master of Science in Policing and Public Order with the University of Leicester and in 2013 attended the Strategic Command Course with the UK's College of Policing.

51. What has distinguished Mr McGrail is his dedication to service and ability to innovate and develop new ideas and working practices. In 1995 following the most severe riots in the last twenty years in Gibraltar, Mr McGrail was one of two officers tasked with reviewing and developing the RGP's response to public order situations. He went on to qualify as a public order instructor and also as a public order commander. He created and developed an RGP public order unit, commenced a training and development programme, which continues in the form he devised to this day.

52. His flair for innovation and openness to new working practices saw him create the Corporate Development department. Corporate development being a non-existent concept in the RGP at the time. Mr McGrail was instrumental in creating / drafting policies and guidelines in areas where they were required. In addition, he helped put procedures in place to improve the processes around the detention and custody of persons in police detention.

53. On 1st May 2018, Mr. McGrail was appointed as Commissioner of the RGP for a four-year term of warrant, on the advice of the GPA. In his letter of appointment, it was requested that the GPA conduct a review process against the objectives set out in the vision statement and action plan he provided to the Governor. This was supposed to take place two years into his term, which means it should be taking place now. In his letter, the Governor at the

time, His Excellency General Edward Davis, said he looked forward to working closely with Mr. McGrail "*as we all do our utmost to protect, progress and promote the Rule of Law in Gibraltar*".

54. Since he took up the post of Commissioner, one of the first things he did was present to the Gibraltar Police Authority all the force policies for the Authority to ratify as required in law, something which had not been done previously. This is characteristic of his qualities of openness, transparency and accountability.

55. More recently he has been instrumental in the development of the Force Intelligence Unit, taking it from being a unit of limited capability to professional and proactive unit properly servicing the organisation. Mr McGrail's networking skills have enabled him to draw upon contacts in the U.S., Spain and the U.K. to enhance the RGP's intelligence exchange and law enforcement co-operation mechanisms with all these territories. Very significant cross border operations have been carried under his leadership attracting extensive positive media coverage. These efforts have also been recognised by the Governor, the Chief Minister and Attorney General as it no doubt aids the building of relationships with the Kingdom of Spain in the post-Brexit era. Mr. McGrail is part of the Gibraltar law enforcement delegation to work on delivering the Brexit MOU on law enforcement co-operation with Spain. All these mentioned points have brought improvements to the quality of service delivered by the RGP.

56. In the organisational context Mr. McGrail has pushed for procedural and policy advancements. The RGP's total complement of officers results in officers such as Mr. McGrail having to embark on the tasks described on their own, without the benefit of a supporting team as would be the case in a UK mainland force. Further complicating the task is the distance between the RGP and mainland forces makes it impractical to regularly meet and consult colleagues engaged in similar projects to share experience and knowledge.

57. The year 2019 saw unprecedented levels of demand imposed on the RGP including a total of 85 major events, which included 13 Assemblies/demonstrations, 10 international football matches (including a top 3 with the most ultra-fan base in Europe, who were at the matches in numbers), European Elections, General Elections, Small Island Games that run for a full week, Grace 1 (the first time a vessel had been boarded for contravening EU sanctions), eight large scale music events, major social events such National Day, New Year's Eve Celebrations, the Festival of lights and 14 Public Military Events. Mr McGrail oversaw the planning and execution of all of these events all of which met with the operational aims and objectives. Public security and safety was successfully upheld.

58. He has also been responsible for, in just two years in post:

a. Adopting the UK Home Office counting rules for the recording of crime. The RGP's previous methods had been subject of criticism by HMIC for presenting overly favourable detection rates.;

b. Project Servator which is a community orientated counter-terrorism initiative;

c. Restructuring of the force to release police officers to core policing duties;

d. Restructuring and uplifting of the Economic Crime Unit ('ECU'), to incorporate a fraud and Anti Money Laundering Unit;

e. The creation of the RGP's first ever Wellbeing Strategy 2019/2022;

f. The creation of 16 Wellbeing Champions, spread throughout the force;

g. The creation of a bespoke Mental Health referral procedure with Ocean Views medical facility for all police officers and support staff. No other HMGOG department has this system in place;

h. Significant strides with PSN connectivity – this is connectivity with the UK police service;

i. Partnership building and resources obtained through National Police Co-ordination Centre for Brexit contingency planning, Small Island Games & International football matches;

j. COVID-19 policing – which has seen restrictions in freedom of movement as never seen before in modern history.

59. Additionally, under Mr McGrail's leadership, the RGP has developed and implemented the following new policies and reviewed a further number of them. All of these have met the approval of the GPA:

a. 2018: Response Team Leader Policy (new), Gifts and Hospitality Policy (new), Alcohol and Substance Abuse Policy (new), Taser Policy (New)

b. 2019: Transfer Policy (Reviewed & Amended); Management of Exhibits (Reviewed & Amended); Domestic Violence (Reviewed & Amended); Travel Policy (Reviewed & Amended); Mobile Device Policy (New).

c. 2020: Caution policy (Reviewed & Amended), Travel Policy (Reviewed & Amended); Bullying Policy (New); Grievance policy and Procedure (New); Compromised Persons Policy (New); Mental Wellbeing Policy – New (No police service in the UK has this).

60. During Mr. McGrail's tenure, there has been an 8.3% reduction in crime, a 33% reduction in repeat victimisation, a 33% reduction in repeat offending and a 54% detection rate. These statistics are enviable to any UK police service. Additionally, during his tenure, a good level of public satisfaction has been maintained and in certain areas improved, according to your own public consultation surveys. He has, most recently, appeared on live television delivering public information bulletins for COVID-19 crisis on four occasions: on 9th April with the Deputy Chief Minister, on 21st April with the Deputy Chief Minister, on 3rd May and Minister of Justice and on the 10th May with the Minister of Justice again. If the Government or Chief Minister had lost confidence in his abilities you might reasonably ask why he was allowed to give these important briefings to the whole of Gibraltar.

61. Further, and for the sake of completeness, we remind you of Mr. McGrail's success in promoting international law enforcement cooperation, in an area which has been fraught with difficulties in the past, has been recognised by both the Spanish National Police and the Guardia Civil who have nominated Mr. McGrail for the "La Cruz de la Orden del Mérito Policial con distinctivo Blanco" and "La Orden del Mérito de la Guardia Civil con distinctivo" medals respectively. This is of course unprecedented and underscores the high esteem with which Mr. McGrail is held by his international colleagues in Spain.

The incident at sea

62. On 8th March 2020 at around 03:38 an incident occurred involving a collision at sea between an RGP patrol craft and a smuggling vessel. Two people on the smuggling vessel, Dris Mohamed and Abdeselam Ahmed, reportedly both Spanish nationals, died in the incident and two were injured. The incident occurred outside of British Gibraltar Territorial Waters ('**BGTW**').

63. The March 2020 incident is raised by the 22 May letters in two ways: in itself (*"the incident at sea in March, resulting in the death of two individuals, was pointed out as further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction"*); and in respect of communication (the Governor *"expressed the view that he*

feels he has been misled by you" and raises concerns that he has "*no confidence in his having been provided with the information expeditiously about this very serious incident...*").

64. As regards the unfortunate incident itself, there is no explanation as to why it is suggested that the actions of individual officers reflect on Mr. McGrail or are indicative of a systemic pattern of acting beyond the remit and jurisdiction of the RGP. There is no particularity at all, meaning it is impossible to respond in any detail save to say that at Mr. McGrail responded to the incident with his usual integrity and transparency. It is simply bizarre to claim that the Governor and Chief Minister have lost confidence in Mr. McGrail because they blame him for the incident itself when (a) at the time of the meeting with the Chair and the 22 May letters the Chief Minister had requested, but had not received, a response to the detailed request for information which was sent to him on 21 May – this was the first such request Mr. McGrail has received, and (b) at that time they had not received (and still have not received) the independent report which is being carried out by the Metropolitan Police and was commissioned within days by Mr. McGrail himself or the conclusive report of the independent marine accident expert.

65. A further example is given relating to the RGP being without the use of a vessel, and thus being, *"seriously compromised given the increased legal workload"*. Again, there is no indication as to why this would justify the exceptional step of inviting the Commissioner to retire, and, indeed, this would not address the issue regarding the vessel. In any event, the proposition that the effectiveness of the marine section has been compromised is nonsense. The RGP's Marine Section has resilience. It has other vessels and the fact that one of them has been out of service because of the collision has not hampered capabilities.

66. In any event, it is for the GPA to reach an independent decision in respect of this issue. We submit that it would be highly unfair and contrary to the principles of natural justice for the GPA to pre-emptively blame Mr McGrail for this incident, prior to a detailed consideration of the independent report from the Metropolitan Police. However, and in any event, the fact that the alleged 'loss of confidence' it is so obviously premature and pre-emptive

further proves the point we make above that the real motives behind the action by the Governor and Chief Minister are not this incident. Rather, this incident is serving as a pretext, although on any analysis not a convincing one.

67. As regards communication, we understand that the Section 15 reply (sent shortly before these submissions) comprehensively debunks the suggestion that there was inadequate communication. Mr. McGrail messaged the Governor, the Chief Minister and Attorney General within two hours of the emergency response group being convened and kept them fully informed throughout, promptly responding to all requests for information. He subsequently met with the Attorney General on 17th March to develop a working strategy to deal with the consequences of the incident, which the AG agreed to. He further briefed the AG on 18 March on the progress of the Metropolitan Police investigation. The Metropolitan Police team was also in direct contact with the Governor. On 22nd March Mr. McGrail again met with the Attorney General and DPP to discuss the potential civil legal action arising from the incident. The AG did not want to consider further strategy until the Metropolitan Police's report findings had been received. This has still not been received despite many requests to expedite it the Covid 19 Crisis in the UK has taken its toll on policing as in many other areas of business. A marine investigator's report has also been commissioned and is currently being finalised. The simple point here is that it is premature to reach any conclusions in relation to this incident and it would be highly unfair to dismiss Mr. McGrail on the basis of a wholly unparticularised and vague accusation such as this.

68. In relation to the suggestion that Mr. McGrail has misled the Governor, this is not particularised; it is a vague slur, without explanation. We do not know what it refers to. If it relates to the incident taking place in Spanish waters, it is not possible to follow the rationale. In any event, the Governor was promptly and fully briefed by Mr McGrail on that issue and Mr. McGrail understands that the Metropolitan Police team, who were conducting an independent investigation, also briefed the Governor's office.

69. A further slur is included in relation to Mr. McGrail's *"probity and integrity,"* phrased in a hopelessly vague way, without specificity: *"It was communicated to me that both the Governor and the Chief Minister felt that their dealings with you have left them with the*

sense that you are lacking in both probity and integrity – the maritime incident is one case in point... " Reference is made to the Attorney General, but as we have submitted above this could only refer to the criminal investigation, as the Chair also informed Mr. McGrail.

The HMICFRS Report

70. The claim that confidence in Mr. McGrail's ability to do his job has been lost to a lack of efficiency on the part of the RGP, based on the findings of the HMICFRS, does not stack up. As can be seen from the above, Mr. McGrail has a long and distinguished career. His term as Commissioner has been busy and successful. It is simply absurd to accuse him of failing to take proactive steps to address systemic issues which were identified in the 2016 report, two years before he commenced in office.

71. As regards efficiency, the inspection report is clear that there are long-standing problems, which were identified in the previous (2016) inspection report, have not been fully addressed by the time of the October 2019 inspection. Mr. McGrail had by that time only been in post for a little over a year, and it is simply not credible to suggest that these flaws can and should be laid at his door. Further, during his short period in office prior to the inspection he had to address the July 2019 arrest and investigation of the Iranian Oil Tanker "Grace 1" which was an extraordinary incident, managed by the RGP and supported by the Royal Marines, and which attracted widespread acclaim (see the brief reference at p. 13 of the report).

72. In addition, the report makes clear in respect of efficiency that the RGP is in need of additional resources, from the Government/ FCO.

73. Insofar as it is suggested that Mr. McGrail did not set up a working group, his response is that as a result of the unprecedented demand placed on the RGP during 2019, the RGP has been addressing the issues raised in the Report by merging them in daily work practices. This can be seen by the initiatives referred to above and the results achieved. In addition, as you know Mr. McGrail has provided the Authority and the Minister of Justice with a comprehensive road map for implementing the 2020 report. These have both been agreed

to be the proper procedure and no concerns have been raised. Indeed, some of the recommendations in the Report have since been met and the others are in progress. It would simply be irrational to conclude that this approach would justify forcing him to take early retirement.

74. It is of note that the 22nd May letter was the first Mr. McGrail has heard that either the Chief Minister or Governor – or indeed any member of the Government – lays blame for any of the issues identified in the report with him. None of the conversations he has had around the report have reflected the 22nd May letter which again raises the strong inference that this issue is being used as a pretence to mask the real reason for attempting to remove Mr. McGrail. For example, the Minister for Justice, Samantha Sacramento MP, messaged him on 29 April to say the report "*is shocking reading on the face of it, but if you analyse it deeper it's not that bad, and it's has easy solutions*" and "*it can all be fixed don't worry*". This message reflected the tone and content of the communications around the report. There have also been a number of very recent articles in the press which highlight the exceptional nature of the RGP given the unusually wide range of issues it has to deal with – from drug smuggling and international fraud to world diplomatic incidents involving maritime vessels – and the potential unfairness of applying the same standards as apply to other forces to such an unusual jurisdiction.

75. In addition, we note that an article in the Gibraltar Chronicle of the 28th May 2020 by an independent journalist, Mr. James Neish, who is intimately aware of the work of the RGP, suggests that the Report may have unfairly minimised the unique demands made of the RGP and which it responds to successfully for the most part. The article is titled "*It's always easier to judge from a distance*".

76. As stated above, the GPA must reach an independent conclusion in respect of this issue. It has not carried out the 2-year performance review requested by the Governor at the time of Mr. McGrail's appointment. We submit that there is a complete lack of evidence of Mr. McGrail's culpability for any of the issues highlighted by the inspection report. He has, in any event, taken extensive steps to improve and modernise the RGP. It would therefore be grossly unfair to conclude that, having been in post just over a year before the inspection,

Mr. McGrail is sufficiently blameworthy for the conclusions of the inspection report such that he should be forced to retire *"in the interests of efficiency, effectiveness, probity, integrity, or independence of policing in Gibraltar"*. However, and in any event, in order to reach such a conclusion it would be necessary for the GPA to carry out a full and fair review into Mr. McGrail's record during his time in post.

Conclusion

77. For the reasons stated above there is no possible, valid reason for the GPA to exercise its s.34 power to remove Mr. McGrail from office. The only rational decision for the GPA to reach is to dismiss the request of the Governor and Chief Minister. In any event, the defects in this process are already so flagrant that it would not be possible to reach a just result unless it is to allow Mr. McGrail to remain in post.

Yours faithfully,



Charles Gomez
Charles Gomez & Co

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From: Dr J J Britto [redacted]
Subject: Re: Response to GPA Invitation to Retire
Date: 29 May 2020 at 18:27
To: Nicholas Gomez Nick@gomezco.gi
Cc: secretary@gpa.gi, Charles Gomez Charles@gomezco.gi

Dear Sir,

This is to acknowledge receipt of letter below.

Regards

J J Britto

On 29 May 2020, at 17:20, Nicholas Gomez <Nick@gomezco.gi> wrote:

Dear Sirs,

We are instructed by Mr. Ian McGrail, Commissioner of the Royal Gibraltar Police.

We enclose a letter in response to the Gibraltar Police Authorities "Invitation to Retire under section 34 of the Police Act" dated the 22nd May 2020.

Please confirm receipt.

In order to ensure that this is properly received, we are sending this to the Chairman's personal e-mail address also.

Yours faithfully,

<image001.png>

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<invitation to Retire Response.pdf>

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Gibraltar Police Authority

Minutes of the meeting of Monday 1st June at 9.30am

In attendance:

Joey Britto (Chair)
Darren Grech
Ernest Gomez
Julio Alcantara
Frank Carreras
Rebecca Figueras (left the meeting at 10.50am as had another meeting)
Nadine Collado
Edgar Lavarello

Purpose of the meeting:

The meeting was called by the Chair to discuss the letter received by Charles Gomez ('CG') of Charles Gomez & Co, Barristers at Law, acting for Ian McGrail ('IM'), Commissioner of the Royal Gibraltar Police. This letter was in response to two letters sent by the GPA to IM.

1. The Committee discussed at length the letter from IM making his representations.
2. The Committee unanimously decided that prior to responding to the letter independent legal advice be sought in relation to the following:
   - GPA's powers in inviting IM to retire.
   - Is it correct to use the power considering all of the Parts?
   - Advice in whether the GPA reply to the letter and if so, how.
   - Any other conflicts?
3. The Chair, along with another member of the GPA, to meet with the Chief Minister to request funding to secure legal representation for the GPA and its members.

4. On the question of potential conflicts, other potential conflicts of interest among Authority members were discussed and a unanimous view expressed that no such conflicts exist.

5. It was also agreed that, not only does the Authority categorically (via GPA's legal representatives) refute that the Chair introduced the issue of the investigation into his conversation with IM, but also that he should have subsequently opted to omit it in his letter for the surreptitious reason alleged by IM's lawyer. This is considered by the Authority to be a very serious allegation by the lawyer and a potential misrepresentation of what actually transpired.

The meeting closed at 11am.

D□□ □□

From: Dr Joey Britto [redacted]
Subject: Letters of the 22nd
Date: 1 June 2020 at 13:15
To: Michael Llamas QC michael.llamas_QC@gibraltar.gov.gi

Dear Michael,

These are the two letters as requested.

Regards

Joey



Main points.pdf



Letter to Cop.docx

Dr Joey Britto

Chair
Gibraltar Police Authority
[redacted]

D□□ □□

Ingrid Pecino

From: Dr Joey Britto [redacted]
Sent: 03 June 2020 15:26
To: James J Nelsh
Subject: Fwd: Governor-GPA Chair 020620

James

We spoke.

Regards

Joey

Begin forwarded message:

From: "Nick Pyle (Sensitive)" <Nick.Pyle@fco.gov.uk>
Date: 3 June 2020 at 14:47:04 CEST
To: Dr J J Britto [redacted]
Subject: Governor-GPA Chair 020620

Dear Mr Chairman

Please find attached a letter that I trust is self-explanatory. Apologies that it is in separate jpgs.

The original will be delivered to your office.

Best regards

Nick

N J Pyle OBE
Governor
The Convent
Gibraltar
tel: +350 20045440 mob: [redacted]

This email is intended for the addressee(s) only. All messages sent and received by the Foreign & Commonwealth Office may be [illegible]

Nick Pyle OBE

Governor & Commander-in-Chief

The Convent
Gibraltar

Tel: [redacted]

Dr J J Britto
Chairman
The Gibraltar Police Authority
Unit 25B Casemates Square
Gibraltar

3 June 2020

Dear Mr. Chairman

Re: Invitation to Retire – section 34 Police Act.

I would like to thank you for providing me with a copy of the letter dated 29 May 2020 sent to you by Mr Charles Gomez, acting on behalf of the Commissioner of Police ("CoP"), on the above-captioned matter (the "Letter").

A number of matters and allegations in the Letter concern me, either directly or indirectly. My position within the GPA (paras 1-4 of the Letter) is one which I assume you will be addressing yourself in the GPA's reply to Mr Gomez. In any event, as you are aware, I wrote to you on 19 February 2020 explaining how I thought we could proceed during such time as I was acting as Governor. For clarity, all my communications with you since 19 February 2020 have been as Governor and NOT as a member of the GPA.

With regard to the remaining contents of the Letter, I would like to address only two specific points at this stage. What I say is without prejudice to further information that I would be happy and able to provide if it were considered necessary to do so. Silence on any point made in Letter is not be interpreted as my acquiescence to any of them.

1. The relevance of the ongoing criminal investigation and its timing.

The first issue is the offensive assertion that my lack of confidence in the CoP, and therefore my conviction that he lacks both probity and integrity, is based on the RGP's handling of the so-called ongoing criminal investigation.

My deep concerns with the CoP's leadership qualities have absolutely nothing to do with that investigation. The already-existing concerns that I have had with the CoP were confirmed by the incident at sea (March 2020) and the HMIC Report (published in May 2020).

In relation to the former, the seriousness of the incident of 8 March 2020 does not require explanation. By its own, it has raised grave concerns with wide-reaching political, financial, reputational and sovereignty implications. They raise very serious concerns about the leadership at the RGP.

Furthermore, I suspected at the time of the immediate aftermath of the incident that the CoP's disclosure of information to me was evasive in particular in relation to the critical issue of whether or not the incident had occurred within BGTW. I know that when the CoP was telling me that it was not clear where the incident had occurred, he was informing the Chief Minister that the incident had indeed occurred outside BGTW. Indeed, it occurred some 7.5 nautical miles beyond Gibraltar's baseline and therefore well outside BGTW. I find this evasiveness on a key issue to demonstrate a total lack of respect to the office of Governor particularly since the CoP knew that this was the crucial issue for me and for both the UK and Gibraltar Governments as far as diplomatic relations with Spain were concerned.

In relation to the latter, on 30 April 2020, after having seen a draft of the Report, I wrote to the Chief Minister saying that I found the Report to be "quite damning". Indeed, the day before, I had written to you saying that I did not think that the Report should be published.

I was informed, for the first time, of the very existence of the criminal investigation referred to in the Letter on 15 May 2020 (when the matter was raised with me for

information by the Chief Minister, as he thought it right to disclose this to me as we considered matters related to the RGP and CoP).

I want to be clear, therefore, that my lack of confidence in the CoP's probity and integrity, and my conviction that the rule of law is compromised by the fact that I have lost confidence in him, therefore clearly arose well before I was aware of that criminal investigation. It is incorrect and untrue for anyone to suggest otherwise.

For Mr Gomez to therefore suggest, through conjecture and assumption, that the incident at sea and the HMIC Report were "fig leaves for the real reason Mr McGrail is being pressured to retire" (para 39) is an outrageous accusation which I bitterly resent and strongly object to. It is clearly not borne out by the facts and chronology as expressed above. In addition, for Mr Gomez to suggest that I had been aware of the incident at sea and the HMIC Report "for months" (para 34) is a wholly inaccurate statement which may mislead the GPA.

As a final point on this issue, I would also like to reiterate that these two incidents occurred on the back of a growing unease that I had been feeling over the months, in particular with the numerous allegations of bullying and mismanagement that I had picked up on. I have also been gravely concerned by the potential for corruption identified in the HMIC Report which has, tellingly, remained unaddressed by the CoP, despite his lawyer's response casting aspersions and allegations of corruption against others.

The CoP is the person who is ultimately responsible and accountable for all the actions and behaviour of the RGP, including those stated above.

2. The contents and allegations made in the Letter.

The second issue I must address is the tone and content of the Letter. I must place on record that the allegations made in the Letter that I am (or may be) interfering with the independence of the GPA, that I am (or may be) compromising the rule of law in Gibraltar and participating in a plot to discredit the CoP or influence the ongoing criminal investigation are entirely untrue and nothing short of a most scurrilous attack on my integrity. I find such allegations to be malicious and entirely misplaced. I strenuously

refute them and hold each one up as a further demonstration of good reason for my lack of confidence in the CoP and my concerns about his probity and integrity.

To conclude, I communicate to you as Governor that, for all the above stated reasons, the content, tone and style of the Letter have done nothing but cement my lack of confidence in the CoP and my concerns about the integrity, probity and independence of policing in Gibraltar in addition to the matters I have already communicated to you as Governor.

Yours sincerely

D□□ □□

Ingrid Pecino

From: Dr Joey Britto [redacted]
Sent: 05 June 2020 15:29
To: James J Neish
Subject: Fwd: CoP matter
Attachments: CoP Letter.pdf

Dear James

Please see attached for record.

Regards

Joey

Begin forwarded message:

From: "(GLO) Llamas, Michael" <michael.llamas@gibraltar.gov.gi>
Date: 5 June 2020 at 15:25:48 CEST
To: Dr Joey Britto [redacted]
Subject: CoP matter

Dear Joey,

Please see the attached.

The original is being delivered to you by hand.

Best wishes,

Michael

Michael Llamas CMG QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas@gibraltar.gov.gi

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The Attorney General

HM Government of Gibraltar

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The Attorney General
HM Government of Gibraltar

Dr J J Britto
Chairman
Gibraltar Police Authority
Unit 25B Casemates Square
Gibraltar

05th June 2020

Dear Joey,

Re: Commissioner of Police - Letter dated 29th May 2020 from Charles Gomez & Company

Thank you for providing me with a copy of the letter dated 29th May 2020 that you have received from Charles Gomez and Co representing the Commissioner of Police ("COP"), Ian McGrail ("the letter").

I have no formal role under the Police Act in relation to the matters currently before the Authority for consideration. Therefore, whilst my views about the COP are relevant only in so far as the Authority wishes to have regard to them, I cannot allow the Authority's record to stand unrebutted on the basis of the untrue and scurrilous allegations made by the COP. Thank for giving me the opportunity to do so.

The letter makes important and very serious allegations against me, namely, that I have improperly, corruptly and in abuse of my powers "interfered" with an ongoing criminal investigation by:

(i) privately subjecting the COP to "significant and at times intemperate private criticism" about how the criminal investigation has been handled; and

(ii) trying "for many months" to persuade COP to "change his and the RGP's approach to the investigation which would either lead to it being dropped entirely or certain suspects not being prosecuted".

In support of those statements it is said that I have feigned loss of confidence in the COP as a means of disguising my alleged real objective which is said to be, effectively, to "nobble" the investigation and prosecution to which the investigation relates, and that in some way, this should be deduced from

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issues relating to "timing" of actions by others and the allegation (also denied by me) that I have reacted with "startling" emotion and consequential insinuation that this is apt to sustain the fantastic allegations made against me by the COP. I hasten to say that each of them is untrue and without merit or justification.

Part of the narrative of the COP's allegations against me is that I apparently gave him *"the strong impression that I was primarily concerned with protecting the Chief Minister and 'Gibraltar PLC" (the AG's words)"*. I am not aware that the Chief Minister is a person in need of protection in the context of the criminal investigation in question. In so far as concerns the fact that I was primarily concerned with protecting "Gibraltar PLC' (which is vernacular for the public interest of Gibraltar) that is absolutely correct. That is my constitutional role and my job (a fact that the COP, and those advising him appear to overlook).

At a personal level, I deeply regret (because I have always enjoyed excellent working and personal relations with him) to have to say that I cannot recognise the truth in the statements and allegations that COP now makes in the letter. They are untrue.

I have a constitutional role both in relation to prosecutions (I have ultimate responsibility and control over them) and for the rule of law (I am the guardian of the laws of Gibraltar and compliance with them). This is important because it renders proper interventions by me which may not be proper if engaged in by others. What the COP is effectively doing, on the basis of pure speculation and assumption on his part, is to cast the gravest aspersions <u>on my motives</u> for my statements, views and actions.

I should comment also that, in any event, the COP is not (as he appears to believe) immune to having his actions "strongly disapproved of" or being "severely criticised for them". Yet he equates both to the improper interference with the conduct of a criminal investigation and a violation of police independence. This, worryingly, shows lack of understanding and judgment by the COP.

Because of my roles described above, and also the fact that I am the Crown's (in all its facets, including the RGP) principal legal adviser in Gibraltar, it has always been customary for the COP and the RGP to seek the Attorney General's advice and to discuss ongoing investigations with him, whenever that is required. Mr McGrail has done so, both before and after becoming COP.

Contrary to what the letter says, I have never said that the COP lied to me. What I have told him is that he has incurred in a serious breach of my trust (which I explain below) as a result of which I have lost confidence in him.

I turn now to what has actually occurred. I first became aware of this criminal investigation on the 11 May 2019, when I received an email from the COP (sent also to the Chief Minister, Minister of Justice, the Chief Secretary, the Financial Secretary and the DPP) asking to meet with us urgently to brief us in relation to certain information that they had obtained in that criminal investigation. That meeting took place on Monday 13 May 2019. At that meeting, or shortly thereafter, I became aware that James Levy QC had shares in one of the companies involved in that dispute and that he was mentioned in communications with the three suspects and was potentially a person of interest to the investigation.

Far from seeking to intervene or interfere for that reason, I had no further involvement with the criminal investigation until over 11 months later when, in early-April 2020, the DPP called me to discuss the Government's position in relation to the ongoing issues about the ownership of a computer platform and its software that HMGOG uses, to which the criminal investigation related.

During that discussion the DPP explained to me that the RGP had drawn up a list of 76 charges (some of which could be impacted by the question of ownership of the platform) and that the RGP were thinking of issuing search warrants against Mr James Levy QC. I was alarmed, both by the number of charges (which would be quite inappropriate in any prosecution) and also by the proposal to obtain and issue a search warrant against a senior lawyer without first seeking voluntary co-operation or voluntary production of evidence. My concern was not because of any sense that lawyers should be exempt from this mechanism, rather it was (as would be the case of any person) that such warrants should reflect the reality of the risk of destruction of evidence unless the person is taken by surprise, or the refusal of the person to provide the evidence voluntarily. Not only can that not be assumed against any person, still less a practising lawyer, but Mr Levy had been aware of the RGP's interest in him for many months, and had had plenty of opportunity to destroy evidence if he were minded or inclined to do so. I have a legitimate public interest role and function (indeed, a responsibility) in respect of both these matters.

I asked to meet with the COP in relation to these two matters, and we did so on 7th April 2019. In that meeting I advised him of my concern about the need to obtain clarity on the issue of ownership of the computer platform since it was clear that that issue would likely have an impact on at least some of the proposed charges, and I also told him that I was worried about the overall number (76) charges, which seemed wholly excessive, not to say absurd. I reminded him of the general wisdom of focusing the

charges appropriately. We also discussed, in the terms that I have described above, the proposal to obtain and execute a search warrant against Mr Levy.

The outcome of that discussion was that we reached a clear understanding that the the RGP would not take any further action until they had considered my advice about the rationalisation of the charges, and then the COP would come back to see me again. It was clear beyond peradventure that nothing would happen until we met again. The next I hear (from COP himself, as it was happening) was that RGP officers were in the process of executing search warrants against Mr Levy at the offices of Hassans and at his home.

I have never said anything to the COP which can be interpreted as anything other than advice and assistance, as has always been the practice. The COP is of course free to take whatever action he considers lawful and appropriate regardless of any advice that I may give him on the matter, and he did so. He unquestionably has that right. What the COP cannot do, and also expect to retain my personal confidence, is to act contrary to an understanding reached between us, as he has done. This, and not my disapproval of his actions (even though I think that they were ill advised), is the reason for my loss of confidence in him.

I have made it explicitly clear to the COP throughout that the conduct of the investigation (including the seeking and execution of search warrants) are, whatever I may advise him, operational matters entirely for him. Nothing that I have ever said to the COP or any other member of the RGP has been even remotely open to the possible (mis)interpretation that I have advised or encouraged, still less that I have interfered to bring about or try to bring about, the curtailment of the investigation, how it is carried out by the RGP or to prevent any person from being charged. It is outrageously wrong and unfair for the COP to allege that I have (let alone that I have done so repeatedly over an extended period of time) and I am shocked and deeply resent that he has done so. This necessarily deepens my loss of confidence in him going forward.

I remain at the Authority's disposal for anything with which I may be able to assist it further by way of clarification or further explanation.

Yours Sincerely,

Michael Llamas QC
Attorney General

D□□ □4

HM Government of Gibraltar

THE CHIEF MINISTER

Dr J J Britto
Chairman
Gibraltar Police Authority
Unit 25B Casemates Square
Gibraltar

5th June 2020

Dear Joey,

Re: Letter dated 29th May 2020 from Charles Gomez & Company, on behalf of the Commissioner of Police to the Members of the Gibraltar Police Authority ("the Letter").

Thank you for providing me with a copy of the Letter. Your having done so serves two purposes. Firstly, it fairly provides me with an opportunity to respond to the very serious and vile allegations made against me by the Commissioner of Police ("**COP**"). Secondly, it gives the Authority the opportunity to have whatever regard it considers appropriate to my response when it makes its further decisions (if any) in relation to its invitation to the COP to retire.

Let me say at the very outset that serious as they are, the COP's allegations against me are completely untrue. Like any other person who values the rule of law (of which the independence of operational policing is a key element), I would be the first to admire the courage of a COP who fearlessly makes a stand in defence of the independence of policing and its freedom from political interference. It would be a relief to know that our police force was under such leadership.

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However, this does not provide the COP with licence to elevate the product of his apparently fertile imagination, and the consequent speculative inferences which it leads him to make, to the status of fact, as he does. Still less does it entitle the COP to make (on the basis of such speculation as to the motives of each of them), the very grave allegations that he makes against all of His Excellency the Governor, the Chief Minister, the Attorney General and the Director of Public Prosecutions. It seems to me that such allegations could only properly be made and justified if supported by credible evidence. They are not, as they cannot be because they are untrue. For that reason, they are a fanciful nonsense which self evidently serves to vividly illustrate why the COP is undeserving of my confidence.

I wish to make clear that I stand by and ratify everything that I have previously said to you about my loss of confidence in the COP, and the reasons for it. To those reasons I would now add the extraordinary nature and content of the Letter, on the basis of which my loss of confidence in the COP is further increased and cemented. Furthermore, it is not immediately clear to me how the COP can preside over the efficiency and effectiveness of the RGP in the light of the obvious breakdown of his relationship with each of the Governor, the Government (myself and all other members of my Cabinet), the Attorney General and the Director of Public Prosecutions that necessarily results from the contents of the Letter.

You will have seen in this regard the letter dated 3 June 2020 addressed to you by His Excellency the Governor which His Excellency has shared with me. Of further significance arising from this letter is the entirely unjustified and reckless nature of the allegation against the Governor, who was not at the material time even aware of the criminal investigation interference which is alleged to justify the COP's allegations against him. Yet, such is the nature of the Letter. I made His Excellency aware of that investigation at the same time as I referred the matter to you. I did so in a spirit of complete transparency.

I am, of course, not accountable to the Authority for my conduct as Chief Minister. Nevertheless, from a position of institutional respect for the GPA as the statutory

body responsible for ensuring the independence of policing in Gibraltar, your role in respect of section 34 of the Police Act, and indeed deference to its members, I set out below my response to the COP's allegations in so far as they concern me.

The allegations levelled against me by the COP could not be more serious in nature. He accuses me of corruptly (see para 16- 22) interfering with the conduct by the RGP of a criminal investigation, in an unprecedented "abuse of power", motivated by a wish to retaliate against him (see paras 23 and 24) and a "personal connection with the outcome of the investigation" (para 38). He further accuses me of lying to the Authority about the "real reasons" for "pressuring" the COP to retire which he describes as a "a pretence" (para 48), "a pretext" (para 66) and "fig leaves" for the real reason which he declares to be a desire on my part to impede the COP's proper and reasonable handling of a live criminal investigation (para 39) and, which latter (asserted by him) reason is (as candidly stated by Mr Gomez at para 33) "the real and central reason for the request". In other words, I stand accused by the COP of all of outright dishonesty, wholly improper (indeed potentially unlawful) interference with the RGP and corruption.

Not content to level these grave allegations against me without a shred of evidence to support them, the COP has the temerity to declare that it is unnecessary for him "merely to rely on any inference raised by the timing of the s.34 letter to make this point" because (according to the COP) during your meeting on 22 May you confirmed to him that I had told you that his handling of "the criminal investigation" was "spoken about at the Chair's meeting with the Chief Minister and Governor and was one of the reasons they had lost confidence in Mr McGrail." This is relied on as some sort of "smoking gun" that puts his grave accusations beyond doubt or somehow justify his making them (para 40).

In the context of all the above, that he also accuses me of undermining the rule of law, that my conduct is 'an affront to the rule of law' and of seeking to "direct you" in your decisions (second para on page 2), serious as they are in themselves, pale into relative insignificance.

The COP's allegations are entirely untrue, and the manner in which he describes such interaction as there has been between us is so distorted as to be obvious that it would mislead the Authority.

Let me be absolutely clear, I have at no time or in any manner sought to interfere with the RGP's conduct of the criminal investigation in question in any manner of for any purpose, including (but not limited to) my alleged "personal connection with the outcome of the investigation". That personal connection is, presumably, the fact that Mr James Levy QC, whose conduct is apparently under investigation, is the senior partner of Hassans, a law firm of which I am also a partner although presently on a sabbatical.

At no time have I sought to intervene in or interfere to prevent Mr Levy being investigated or to prevent a search warrant being obtained and executed against him at the offices of Hassans, facts which I first learned about as they were already happening, that is, as the search warrant was being enforced at the offices of Hassans and at Mr Levy's home. This can be best illustrated by reference to the fact that at 12:25 pm on the 12th May 2020 I received a "Whats App" from the COP in which he said to me "C M before you hear it from anyone else I want to inform you that detectives are executing a search warrant at Hassan for (JL) in relation to the case against Perez, Cornelio & Sanchez".

I responded at 12.34 in the following terms:
"Ian, Thank you for the courtesy of this information. I think that is a bad decision. A search should only have been sought if you believed that the person in question was not going to cooperate and will try to destroy evidence. If, as you say, you are hoping for cooperation, especially in a case involving a senior Silk and head of Gibraltar's largest legal firm, you should, in my vie w first have sought to contact that person and obtain cooperation. Given my close personal relationship with JL, I won't comment further."

The COP replied at 12:35 as follows: "Noted CM".

I repeated that view to the COP during a meeting at my office in No 6 later on the same on day, coinciding with his presence in No 6 in connection with a Covid planning meeting in the basement of No 6. I also made it abundantly clear to him that my reaction would have been identical had he taken the same action against any other senior member of the Gibraltar Bar, all of whom, like him, are officers of the court with the legal and ethical obligations consequent to that status. These are the messages and the meeting to which the COP refers, in terms that I do not recognise, in paragraph 36 of the Letter.

The above is the full extent of my communications with the COP or the RGP in relation to the "criminal investigation" since then.

In so far as concerned my alleged motives for doing so, i.e. my personal connection with the outcome of the investigation, the accusation made against me is not sustainable even on the COP's case. In his Whats App at 12:25 (as the events were occurring) he told me that the warrant obtained and executed against Mr Levy was "in relation to the case against Perez, Cornelio & Sanchez". So, when I expressed the view that I did 9 minutes later at 12:34, I had no reason to believe that the investigation was of Mr Levy.

In fact, I am clearly entitled to express the views that I did in the above manner. That does not constitute interfering with the investigation in the grave manner of the allegations made, or at all. I am entitled to express my views to the COP on matters of policing policy in Gibraltar. I did not prevent the obtaining or the execution of the search warrant, both of which had already occurred. I have made no attempt to secure an end to those investigations, against Mr Levy or anyone else. Indeed, when I discovered that one of the persons under investigation was a civil servant, I directed the Chief Secretary that HMGOG should be a complainant to the police in the investigation, which duly occurred. Therefore, the notion that I was motivated by concern for the outcome of the investigation in so far as concerned my alleged personal connection with it is therefore simply unsustainable, as the COP well knows. This was an investigation in which I had insisted my Government should be a

complainant (ie the entity whose interests may have been criminally damaged) and in respect of a National Security facility which I had been instrumental in creating in the public interest of Gibraltar. It is remarkable that the COP could even believe, less still suggest to others, that I might want to interfere with such an investigation.

In my opinion, the obtaining and execution of a search warrant which the COP referred me to in his Whats App in such circumstances (such as I described in my own Whats App response to the COP) is of dubious legality, abusive, unprecedented in policing in Gibraltar, incompatible with public confidence in policing and the good name and reputation of Gibraltar as a business and finance centre. It is noteworthy in this regard that these are policy matters in which, as Chief Minister, I have a legitimate interest, and that in the event of the RGP being sued for the unlawful obtaining and execution of a search warrant, it is HMGOG that has to bear the financial consequences.

Be all the above as it may, serious as they are, and as the COP also well knows, those are <u>not</u> the reasons why I have further lost confidence in him by virtue of this criminal investigation. I have not lost confidence in him because he obtained and executed a search warrant in circumstances in which I believe it was inappropriate to do so. Nor is the reason "how the criminal investigation we refer to above has been handled" (para 35, and elsewhere in the Letter). The primary reason is that the COP has clearly lied to me.

During the meeting to which I refer above, the COP stated to me in explicit terms, in response to my concerns about the propriety of the warrant, that he had obtained and executed the search warrant against Mr Levy in reliance on legal advice from the Director of Public Prosecutions who had confirmed that it was appropriate to seek such a warrant and proceed in that way. I have since determined that this categorical statement from the COP, clearly designed to suggest to me that my views as to the law were wrong and he / his officers had acted properly (and not compromised the investigation or exposed HMGOG to potential claims for civil damages) was wholly untrue. In fact, it is now clearly established that at no time did

the COP or the RGP obtain legal advice from the DPP to that effect, a fact which the COP has now acknowledged in writing to Hassans (and has been separately confirmed to me by the DPP). This is unacceptable to me and goes to the COP's probity and integrity in his dealings with me, and to my ability to have confidence in him. This is unrelated to the nature, direction or conclusion which the investigation might take or reach (which I have been supportive of from the beginning, continue to be and have caused my Government to be a complainant for), as that continues to take its course. The COP has understood that, as evident from the fact that the investigation in question has not been affected in any way and has, rightly, continued unabated.

Additionally, I cannot accept the COP's statements in relation to his briefings to me about the "incident at sea". This was an incident with extremely serious external political consequences and very material potential financial consequences to the Government. I have, since our original discussion, already had to answer questions in the Parliament on this matter and there has been additional media reporting related to it both before and arising from my answer (including on the Spanish national broadcaster, RTVE). It has been the established practice for at least 50 years that Commissioners of Police keep the Chief Minister of the day fully, timeously and spontaneously informed, in detail about incidents of that kind. Had COP properly done so in this case it would not have been necessary for me to exercise the Chief Minister's powers under section 15 of the Police Act for the first ever time, as I confirmed to the Parliament. His Excellency the Governor has complained of the very same thing.

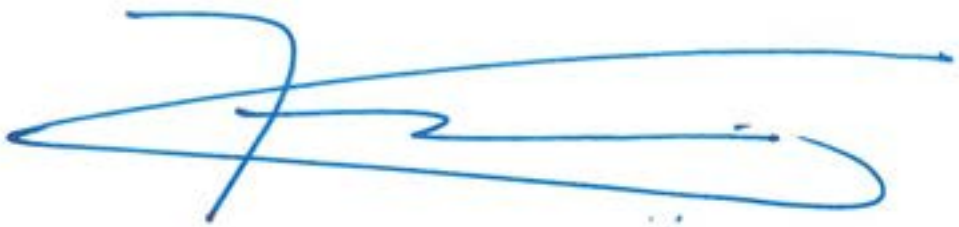
I have already taken you through my deep concerns in relation to the report from HM Inspectorate of Constabulary, which are also deeply concerning to me and relate to the efficacy and effectiveness of the RGP, both of which are the direct, legal responsibility of the COP under the Police Act.

Nothing in the Letter from the COP raises any real issue of interference with the independence of policing in Gibraltar, and the COP cannot raise imaginary

allegations to escape the fact that he has lost the confidence of every relevant authority in Gibraltar, and the proper consequences thereof. His allegations are untrue and are based entirely on speculation on his part as to everyone's motives for forming the views of him that they have. It is in itself wholly improper that he should make such spurious and damaging allegations without evidence commensurate with their gravity (or indeed any evidence). This now also goes to my further lack of confidence in the COP.

Please do not hesitate to ask me to clarify any matter that it would be of assistance to the Authority that I explain further.

With very best wishes,



Fabian Picardo QC MP
Chief Minister

D□□ □□

TSN
Barristers Solicitors

Charles Gomez & Company
Barristers-at-Law
P O Box 659
5 Secretary's Lane
Gibraltar

OUR REF: JNMP
YOUR REF: CAG/NG/MM11285
DATE: 05.06.20
DIRECT EMAIL: jn@tsnlaw.com

BY HAND

Dear Sirs

Re: Invitation to Retire: Section 34 of the Police Act

We are instructed by the Gibraltar Police Authority to reply to your letter of 29th May, 2020.

Our Client acknowledges that certain procedural errors have been made and is accordingly withdrawing the current process initiated under section 34 of the Police Act. However, the complaints made against your Client by the Governor and Chief Minister remain live and our Clients will consider how it will proceed in respect of them.

We will not address the substantive points raised in your letter save to state that we are instructed to dispute what your Client alleges was said to him by the Authority's Chairman about the ongoing police investigation. Our Client maintains that it is your Client who repeatedly raised this matter and that other than what he had been told by your Client, the Chairman's knowledge of this matter was confined to the allegation that your Client had lied to the Chief Minister and the Attorney General.

Yours faithfully

TSN

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Kyra Macias

From: Charles Gomez <Charles@gomezco.gi>
Sent: 05 June 2020 17:24
To: James J Neish
Cc: Nicholas Gomez
Subject: RE: Invitation to Retire: Section 34 of the Police Act

Importance: High

Dear Sir,

We refer to your letter of today's date received after close of business at 16:28. This brief response has been prepared at speed given the timing of receipt of your letter.

We note the withdrawal of the flawed Section 34 process, and the recognition that there have been procedural flaws in the process.

Our client denies "lying" to the Chief Minister or the Attorney General in relation to the "on-going police investigation", or over any other matter.

Your clients are well aware that no particulars have been given to our client of any alleged lies. Our client has therefore had no opportunity to address the allegations which at the moment can only be classified as vague slurs.

An accusation of lying against the principal law enforcement officer of the Crown in Gibraltar is a matter of the highest gravity. Mr. McGrail's service has been recognised by Her Majesty Queen Elizabeth II herself.

We note that your client's Chair now admits to having been informed by the Chief Minister and Attorney General that Mr. McGrail "lied" to them about a police investigation. We also note that your client (we assume deliberately) omitted this allegation, which was plainly central to the Chief Minister's decision-making, from the second letter of 12 May purportedly setting out the detail of the complaint against him. We suggest that the strong inference is that your client knew the matter was constitutionally improper and for that reason left it out.

An allegation of lying in any circumstances is one of the utmost gravity yet our client has no understanding of the specifics of the allegation and has not had the chance to address it. We remain entirely unclear what your clients, the Authority, propose to now do.

Our client is gravely concerned by how he has been treated during this process, and I welcome your frank acknowledgment that there have been procedural flaws. He is an officer of the highest standing, with an impeccable record over the past 36 years. In these circumstances, given how unfairly he has been treated and the improper pressure put upon him to alter the course of a live criminal investigation, our client feels he must apply for early retirement from the Royal Gibraltar Police.

All of Mr. McGrail's rights are reserved.

Yours faithfully,

Charles Gomez.

CHARLES GOMEZ
– PRINCIPAL BARRISTER

00350-200-74998
charles@gomezco.gi
www.charlesgomez.gi
5 Secretary's Lane, Gibraltar GX111AA

CHARLES
GOMEZ &
COMPANY

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GIBRALTAR POLICE AUTHORITY

Unit 25B Casemates Square
Gibraltar

5th June, 2020

The Hon Fabian Picardo QC MP
The Chief Minister
HM Government of Gibraltar
6 Convent Place
Gibraltar

Dear Chief Minister

Re: Complaints made by you and Governor against the Commissioner of Police

I refer to the complaints made verbally to me as Chairman of the Gibraltar Police Authority on 18th May, 2020, by you and the Governor against the Commissioner of Police.

The Authority commenced a process under section 34 of the Police Act in accordance with a decision taken at a meeting of the Authority held on 21st May, 2020. The decision was taken by five members of the Authority personally present at the meeting and four others by telephone after the meeting. The only member who did not participate was Mr N Pyle, who as Governor, was one of the complainants. Pursuant to this decision, on 22nd May, 2020, I, on behalf of the Authority, invited the Commissioner to retire. I did this at a meeting with him held on 22nd May, 2020, at the Commissioner's office followed up by two letters to him that same day. In my second letter I stated the grounds advanced to me by you and the Governor for your respective loss of confidence in him. I also invited him to make representations which we would consider before taking a final decision.

On 29th May, 2020, Charles Gomez & Company wrote to the Authority attacking the process on the grounds of fundamental unfairness, abuse of process and procedural flaws. Bias was not expressly alleged but it was impliedly so given that the Authority was accused of effectively doing what you and Governor wanted and reaching a decision without considering representations by the Commissioner.

We have taken independent legal advice and have been advised that the process which we have adopted under section 34 of the Police Act is fundamentally flawed and should be withdrawn. However, we are also advised that the complaints by you and Governor remain live and have to be determined. We have also been advised that the Authority, as presently constituted, is vulnerable to challenge on the grounds of bias. The Authority considers that as presently constituted it is unable to process the complaints without being vulnerable to legal challenge and is not therefore prepared to do so.

Yours faithfully

Chairman

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From: **(NO5) Grech, Darren** darren.grech@gibraltar.gov.gi
Subject: Fwd: Your offer of retirement
Date: 8 June 2020 at 17:34
To: (MIN) Fabian Picardo Fabian.picardo.cm@gibraltar.gov.gi, (GLO) Llamas, Michael michael.llamas@gibraltar.gov.gi, (GLO) DeVincenzi, Lloyd lloyd.devincenzi@gibraltar.gov.gi, (NO6) Britto, Joey joey.britto@gibraltar.gov.gi

Dear Gents,

For your records.

Best,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex [redacted]
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

Begin forwarded message:

> **From:** "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
> **Date:** 8 June 2020 at 17:33:34 GMT+2
> **To:** Ian McGrail <Ian.McGrail@royalgibpolice.gi>
> **Cc:** Nick Pyle <nick.pyle@fco.gov.uk>
> **Subject: Your offer of retirement**
>
> Dear Commissioner,
>
> The Governor has informed me of your offer to retire as from 18.00 tomorrow, 9 June 2020, subject to the following terms:
>
> - Payment up until end of contract (April 2022);
> - Payment of Legal Fees.
>
> These terms are not acceptable to the Government.
>
> Yours sincerely,
>
> Darren
>
> Darren Grech
> Chief Secretary
> HM Government of Gibraltar

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GIBRALTAR POLICE AUTHORITY

(The Community in Policing)

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Statement on Commissioner's decision to retire.

The Gibraltar Police Authority notes and respects Commissioner Ian McGrail's decision to retire □nd t□□n□s □i□ for □is □□ ye□rs of dedic□ted ser□ice to l□□ enforce□ent in Gi□r□lt□r□

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25b Casemates, Casemates Square, Gibraltar
Tel: 00 350 20040918, Fax: 00 350 20076847, e-mail: secretary@gpa.gi

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RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

ISSUE OF COMMISSION

LN.2022/034

WHEREAS the Government has committed to issue a commission for an Inquiry under the Commissions of Inquiry Act into the matters more particularly detailed below;

AND WHEREAS the Government has requested that His Excellency the Governor, Vice Admiral Sir David Steel KBE, DL, identify a retired High Court Judge of the jurisdiction of England & Wales to carry out such an Inquiry;

AND WHEREAS His Excellency the Governor has, with his consent, identified Sir Charles Peter Lawford Openshaw, DL, formerly a judge of the High Court of England and Wales, Queen's Bench Division;

THE GOVERNMENT NOW HEREBY, in exercise of the powers conferred on it by Section 3 of the Commissions of Inquiry Act, appoints the aforesaid Sir Charles Peter Lawford Openshaw, DL, as Commissioner to inquire, as he shall in his absolute discretion consider appropriate, into the reasons and circumstances leading to Mr Ian McGrail ceasing to be Commissioner of Police in June 2020 by taking early retirement.

The Commissioner is to ascertain the facts and report to the Government on the above matters.

Save as the Commissioner may in his discretion determine, the Inquiry is to be held in public at a venue, and to commence on a date, to be specified by the Government by notice in the Gazette.

Dated: 4th February 2022.

VICE ADMIRAL SIR DAVID STEEL KBE, DL,
Governor,
For the Government,
At the request of the Chief Minister.

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CHARLES GOMEZ & COMPANY
BARRISTERS AT LAW

STRICTLY CONFIDENTIAL

Your Ref. CAG/NG/MM11338

Our Ref.

4th February 2022

Dr J. Britto

C/O Gibraltar Police Authority

25B Casemates House,

Casemates Square,

Gibraltar

By Hand and By Email

Dear Sir,

We act for Mr Ian McGrail.

The Chief Minister has intimated that he will shortly announce the commencement of an inquiry into the termination of our client's employment as Commissioner of the Royal Gibraltar Police.

Mr McGrail wants to ensure that the Commission of Inquiry achieves best evidence.

We have therefore been instructed to draft a Witness Statement for our client to submit at the earliest possible opportunity.

Many of the issues that the Inquiry will be concerned with, involve you.

Similarly, many of the matters that Mr McGrail wants to bring to the Commission's attention relate to exchanges and conversations which Mr McGrail had with you either on a one-to-one basis, or with others.

We wish to avoid as many factual disputes as we can, and we have therefore been instructed to provide you with proposals for agreement as per below.

The matters which we now proceed to deal with are not conclusive and we reserve the right to provide you with further notices to admit facts.

In view of the extraordinarily serious matters in question, we have no doubt that you will want to cooperate in this exercise, and we look forward to hearing from you by return.

Since what follows relates to interactions between Mr McGrail and you personally, we can think of no reason why you should share the contents of this letter with anybody other than such independent legal advisor as you might want to retain. Your interactions with Mr McGrail and others are significant and may become a focal point in the inquiry and that is why we have no hesitation in recommending that you take independent legal advice without delay.

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F +350 20073074
Email info@gomezco.gi
www.lawequalygibraltar.com

If there is anything in what follows that you do not understand, feel free to ask and we will clarify, but this should not prevent you from responding in a full, frank and candid manner immediately to all of those points that you do understand.

For the avoidance of any doubts, please rest assured that we will be producing this document and any responses to the Inquiry.

Proposal for Agreement of Facts

General issues –

Confirmation that;-

- His Excellency the Governor (HE) appointed Ian McGrail (IM) as Commissioner of the Royal Gibraltar Police (RGP) with effect from 1st May 2018 for a four-year term of warrant in this role on the advice of the Gibraltar Police Authority (GPA) and after having consulted with the Chief Minister even though the latter consultation was not a pre-requisite in the Police Act 2006.

- The GPA was asked by HE to review IM's progress against the objectives set out in IM's application for the post at the mid-point of IM's tenure as Commissioner, the mid-point for this review being May 2020.

- That the said review was not carried out by the GPA.

- During one of your initial meetings with IM, you were told by IM that during the selection for the post by the GPA at the time he had not enjoyed the support of GPA members Nick Pyle (NP) and Albert Danino, but that the remaining seven members were in agreement that IM was to be appointed as Commissioner. That IM told you that NP had suggested the vacancy for the post should have been advertised in the UK.

- The relationship between the GPA and IM was a rather a good and constructive one. That IM was open and transparent with the GPA in manner which was welcomed by the GPA.

- Communications between IM and yourself were very fluid.

- On occasions, the GPA via yourself as the Chairperson, provided views and advice to IM which he took on board, particularly when dealing with matters relating to the Gibraltar Police Federation (GPF).

- You expressed to IM and other RGP senior officers that you strongly perceived the conflictive behaviours of the GPF convenors were personal against IM.

- If the GPA (including the Deputy Governor and Chief Secretary) had any concerns about how IM was discharging his functions as head of the RGP, that any concerns would have been brought to the notice of IM but none were.

- You congratulated IM on a number of occasions praising the work he was doing in respect of addressing the work force on ethics and standards, recruitment, the handling of the pandemic and other matters.

- You were very supportive of IM during a campaign mounted against him by the daily newspaper Panorama.

Report of Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS)

- That in seeking to be transparent and progressive, IM asked the GPA via you to request HMICFRS to conduct an inspection of the RGP. This in addition to the independent study commissioned by IM and carried out by a private firm of consultants called AAP Associates to provide recommendations on how to deal with the issues arising from the GPF staff survey.

- That this request by IM to the GPA for the HMICFRS came only 6 months after IM commenced his commissionership of the RGP.

- IM maintained very close contact with you in preparing the ground for the inspection including discussions to formulate its "Terms of Reference". That after discussing the said terms with the HMICFRS inspection lead, Mr Paul Holewell, you felt that IM's aim for the inspection to look at how *"effective is the RGP at keeping Gibraltar Safe"* was not possible because that was too wide a remit which would constitute a full inspection, something which the GPA/HMGoG would not be able to fund.

- You together with Darren Grech, Chief Secretary, during an unrelated work trip to London, visited Her Majesty's Inspector of Constabularies, Matt Parr, at his office in London and discussed with him the impending inspection. That following on from that meeting, you informed IM that Matt Parr had expressed no issue of concern with the standards of policing services in Gibraltar unlike the reservations he had of other British Overseas Territories in the Caribbean.

- You received the draft HMICFRS report in April 2020 and wrote to Mr Holewell expressing disappointment regarding the language and tone which you said was unfortunate and unconstructive. You were also disheartened that the draft report was very critical of the GPA *per se* and to a degree of HMGoG too. That you challenged parts of the draft report as inaccurate and that you responded with feedback to HMICFRS.

- You discussed the public dissemination of the final report with the GPA, IM, NP and the CM and possibly even the Minster of Justice, Ms Sacramento who had responsibility for policing.

- IM told you he had no issues with making the final report public.

- You informed IM that NP was also in agreement with the report being made public. At no point did you mention any contrary view expressed by NP to IM.

- You encountered difficulty in obtaining the views of the Chief Minister (CM) on the public dissemination of the report. That you tried various ways to achieve this and finally got "direct" confirmation on 6th May 2020 that all parties were in agreement that the final report should be made public. That you did not receive any feedback on the report from the CM at that time. That you asked that press releases be coordinated.

- You asked IM to copy in The Convent and No 6 Convent Place press offices the press notice releasing the final report and that you would do likewise with the GPA press statement.

- IM shared with you all his responses to questions from the press on the HMICFRS report. That you asked IM not to be critical of HMGoG given that HMICFRS saw as a bad thing the provision of supplementary funding when this was needed by the RGP.

- That you expressed views to IM that the Gibraltar Chronicle's article covering the HMICFRS report was *"a bit sensationalist"*.

- That you had some thoughts which you wanted to share with IM relating to what you thought may be the reasons behind the tone and style of the report.

- You and IM met with Minister Sacramento to discuss the HMICFRS report and that in summary, the Minister said there was not much to be concerned about and pledged her full support to IM and the RGP in seeing through the recommendations contained in the report.

- You complimented IM for his responses to press questions concerning the HMICFRS report during the then daily COVID-19 public briefings which were broadcast 'live' on GBC. That IM was accompanying Minister Sacramento on this particular briefing and that you told IM that she had followed up IM's response reaffirming her support of the RGP in respect of dealing with the recommendations in the report.

- That on the 29th April 2020 IM wrote to you with a comprehensive road map of how the RGP intended to address the recommendations in the HMICFRS Report. That IM also provided you with the rationale explaining the lack of progress in the "Areas For Improvement" of the previous HMICFRS inspection report.

Operation Kram – the collision at sea with fatalities

- IM provided you with timely and detailed briefings of how he was handling this critical incident.

- That IM advised you on the importance of having independent oversight of the investigation into the deaths of two Spanish nationals arising from a collision with an RGP patrol craft.

- That you fully understood accepted IM's method of approach to deal with the matter.

- That you formed part of a "WhatsApp" group chat opened by the CM for this incident under the title "Maritime Incident". The members of this WhatsApp group were the CM, yourself, Frank Carreras who is the Chairman of the Police Complaints Board, the Chief Secretary Darren Grech and IM.

- That you read all the exchanges in the group including the message by the Chief Minister at 17:09Hrs on 12th March 2020 saying *"Thank you Ian. Location does not worry me so much. Helps us in a way. Will discuss directly with you."* This in response to IM's update on the incident and informing the group that *...."in terms of the investigation proper the evidence points at the pursuit and collision occurring outside BGTW. Not the best news we wanted to hear."*

- At no time have you had any concern about IM's handling of the incident and that you have never expressed any concerns to him.

- You are not aware that the independent team of the Metropolitan Police Service which reported in 2021 had anything adverse to comment about the manner in which IM handled the critical incident.

Operation Delhi – 36North/Bland/HMGoG/Perez/Cornelio/Sanchez

- That at 14:20Hrs on 12th May 2020, IM contacted you saying that he needed to speak to you urgently.

- You met with IM and Assistant Commissioner Richard Ullger in IM's office at New Mole House Police Headquarters later that same day where IM briefed you on Operation Delhi, an investigation into the hacking of the National Security Central Intelligence System (NSCIS) and the intervention on Jaime Levy QC (JL), who was a suspect in this investigation. That IM explained what he termed as an inappropriate interference by the CM and the Attorney General (AG) with a live criminal investigation when he had been severely reprimanded for the actions taken. IM further told you that he felt threatened by the CM who had said that he hoped IM was found to be right in his actions as otherwise there "*would be consequences*". That IM told you he felt duty bound to bring this to your notice as Chair of the GPA with responsibility

of ensuring the independence of police actions in criminal investigations. That IM also told you that he felt that the good relationship he had with the AG and CM had been severely damaged because of this and that this was a regrettable situation because all the RGP were doing was discharging their lawful functions. That you acknowledged what IM had told you and understood his concerns. That you told IM that you hoped the importance of this issue would fade away with time.

The GPA invitation to retire under s.34 Police Act 2006

- That at 11:46Hrs on 21st May 2020, IM asked whether he could meet with you the following morning.

- That you responded to this request saying you were planning to call a meeting yourself.

- That you and IM arranged to meet at IM's office at 09:00Hrs on 22nd May 2020.

- That at this meeting you stated that you were supposed to have called IM to the GPA and there tell him that the GPA was inviting him to retire.

- That you told IM that you had been called to a meeting with the NP Governor and the CM but that the meeting had been initiated by the CM in the Convent. That on being asked by IM to state this again you rectified saying NP had contacted you telling you the CM would also be there.

- That you told IM that between both of them they had told you that they had lost complete confidence in IM's ability to lead and manage the RGP.

- That you told IM that you asked NP and the CM what they were basing this on. You explained to IM that their reply was that it was to do with the collision at sea and the HMICFRS report.

- That you told IM that the meeting with NP and the CM the provisions of the Police Act that deal with the removal of the Commissioner, i.e. section 34 where a Commissioner can be invited to retire and section 13 where the Governor can suspend or call for the Commissioner's resignation were explained to you. That you informed IM that NP/ CM had said Gibraltar had been put in a very poor position because of the incident at sea and you were told not to delve too much on this because they were going to write to IM separately on this matter. That they said the incident at sea was very, very grave and that it put Gibraltar in a very bad position with Spain and Britain. You said that you would not go in further detail because technically it was not something the GPA could do anything about. That they said that the HMICFRS report led them to believe that the RGP had regressed rather than progressed. That you told them that there were matters you could not answer because you felt it was for IM to do so. That you didn't want to mention previous commissioners either.

- That you told IM that you were asked by NP / CM whether you knew the reasons why there were recommendations still pending from the previous inspection and that you mentioned that there were probably explanations.

- That you told IM that NP / CM went through the report with you, bringing up the issue of the RGP not being alive to corruption and how this damaged the reputation of Gibraltar resting on the police. That they also said the independence of the police could be tainted by not being alive to corruption, something which you told IM you had never personally seen that way. That NP / CM said the report put the RGP in disrepute.

- That you told IM that NP / CM recognized that IM may have explanations to offer which is why they asked you to invoke section 34 of the Police Act 2006. You told IM that unfortunately you had been asked to hand a letter to IM and did not want to do this in front of the whole of the GPA.

- That you told IM that the GPA felt they had no option and that all the GPA were in agreement. That the preference was retirement as this was not the same as resignation, describing the latter as the "nuclear" option.

- That IM told you that his initial reaction to this news was that this was a complete travesty because there were underlying issues.

- That you told IM that the GPA were bound do something about NP / CM losing confidence in IM because they had been told to.

- That you gave IM 7 days to respond if he wanted to, even though you said the Police Act 2006 did not make reference to any specific period to respond with any representations.

- That you told NP / CM that IM had already started working on the recommendations contained in the report and you said to IM *"I think what has triggered this, apart from anything else, from what they said, is actually the incident at sea, according to HE."*

- That IM asked you when was the said meeting between you, NP / CM held.

- That you told IM that it had been held on Monday 18th May 2020 – that you had been called on the Sunday 17th May to attend the meeting. You then rectified to state that you had been called to the meeting on the same day, Monday 18th May.

- That IM asked you what the position of the GPA was and whether the GPA had any concerns about him. That to this you responded *"No, no wait, we would have told you"* and you advised IM that he could use this as part of his submissions in response to the invitation to retire.

- That you told IM that NP / CM were claiming not to have been fed information relating to the incident at sea.

- That IM explained to you what in his view was the reason that had triggered the issue, this being that the RGP had received a letter of an intended claim by counsel representing the families of the deceased / injured and IM had instructed Superintendent Cathal Yeats to engage with the Office of Criminal Prosecution and Litigation (OCPL) to seek crown counsel representation for the RGP as has been the case in other civil claims. That the Director of Public Prosecutions, Mr Christian Rocca QC (DPP) felt his chambers could be conflicted and could therefore not represent the RGP. That the DPP had written to the AG explaining the situation and that in turn the AG had communicated this to the CM who reacted in a manner which stunned IM suggesting that IM had not been keeping the CM apprised of developments – a matter which is not correct as IM explained to you that the RGP acted on the said letter of claim as soon as they received it.

- That you misconstrued the request for crown counsel representation of the RGP with a request for funding of independent counsel which is not what IM was at that stage considering.

- That you acknowledged to IM that the process of the Section 34 letter had been done the wrong way round.

- That IM asked you whether he had to hand in everything and leave his post, to which you said that IM was not suspended but would lose the job if NP invoked his powers

- That IM again stated that what was happening to him was a serious travesty.

- That you told IM that under the Act either the Governor or the CM can trigger the section, although you then said that, in fact *"both can pull the trigger but one of them alone could take the final decision"*.

- That you told IM that the GPA had to act on this as otherwise it would be in default.

- That IM told you that he had been threatened by the CM and that you said not to say this to you but to mention it to the GPA.

- That IM told you he had never received any indication from NP expressing any concerns about IM as Commissioner. That IM had received feedback from the CM arising from the intervention on JL which he had briefed you on but that nothing negative had been received by IM from NP. That IM believed the catalyst behind the whole matter was the Operation Delhi intervention.

- That you told IM that NP / the CM had brought to your notice that in IM's application pack for the post, he had stated that he would immediately set up a working party to address the pending recommendations of the previous HMICFRS report and that this was a question the GPA had been asked to ask IM.

- That you told IM that NP / CM were clearly worried about international reputation.

- That IM asked you whether you would engage with HMI Matt Parr to find out if the HMICFRS report warranted IM's departure from the post. That in response to this you said that IM could ask this himself as the report talked about the RGP. You advised IM to take his time and read the letter that you had handed over to him adding that in 40 years of working in Government that you had never had to do anything like this before.

- That IM told you he was shocked.

- That you confirmed to IM that you knew he was shocked because of IM's reaction. You explained that a firm and final view had yet not been determined.

- That you said that if IM opted not to accept the invitation, then the Governor in all likelihood would invoke section 13 of the Act by suspending IM or calling for his resignation.

- That IM asked what would happen after he made his representations. You replied that the GPA would consider them and then go back to NP and the CM as they would have the final say.

- That IM told you this could cause a constitutional crisis but that you said you were doing what you had been obliged to do which was serve IM with the letter inviting him to retire.

- That IM said all this was an injustice and that he told you that the only thing he had at peace was his conscience and that his ethics remained high. That IM further told you that he was being muscled out because of other underlying issues and that he was toying with whether to defend himself and bring everything out in the open and cause reputational issues for Gibraltar during these crucial times.

- That you advised IM that he could completely be open with the GPA.

- That IM asked you whether you had the concerns of NP / the CM in writing and you replied that you did not.

- That IM read the letter you handed and told you it was extremely scant in detail and did not show the reasons for concern expressed by NP / CM. That the letter merely stated

"certain aspects of policing that had led to a serious and regrettable loss of confidence in IM as Commissioner."

- That IM insisted that you provide him with the particulars of the policing aspects referred to. That you tried to persuade IM to accept your notes of the meeting (which incidentally you did not have on you) as valid enough information of the concerns. That IM told you that he deserved those aspects of concern to be formally put in writing in order to consider responding to them.

- That you reiterated the reasons why the loss of confidence had happened being *"the way its been handled apparently. The maritime incident."* That IM told you that "apparently" was not good enough for him, that he needed all the details.

- That IM told you how could NP / the CM say they had lost confidence in the way IM had handled the collision at sea incident when IM had not yet answered to the request under section 15 of the Police Act 2006 requested by the CM the day before, on the 21st May 2020 on that matter.

- That you confirmed to IM that the final say as to whether he remained in post or not rested with NP / CM and not with the GPA. That IM then questioned you on the matter of the constitutional independence of the GPA but that you said it was the Governor who had appointed IM and therefore the Governor could also "*dis-appoint*" him.

- You mentioned to IM that you and all the other members of the GPA were equally surprised by the approach taken by NP / the CM and that the GPA being placed in this position.

- That IM asked you how it would leave him if he were to make representations, and these were not accepted – whether the invitation to retire still stood. That you told IM that it would most likely not stand meaning the avenue left for IM was to resign.

- That you told IM to seek advice on the matter.

- That IM again asked you who initiated the whole process. That IM asked you whether you had actually asked who of either NP and the CM had initiated the concerns. That IM asked you whether there was any reason why you did not ask this question and that you said you assumed it was NP because it was he that called you to the meeting.

- That you reiterated to have been asked to invoke section 34 because the default position was section 13 which would be triggered.

- That IM mentioned to you the trigger for the matter stemmed from the fact that the CM and AG had not been in agreement with the way the case involving JL had been handled. That he had been called up and threatened by CM who also said he would call

up the RGP's Senior Management Team, adding this was a total interference with a live police operation.

- That you told IM that you had even told NP / the CM that you and IM had met with the Minister of Justice to discuss the contents of the report. You told IM that NP / the CM told that the MoJ did not feature in any of the Police Act 2006. That IM told you that as minister with responsibility for the police she did have a crucial role to play in terms of recruitment and resources.

- That IM kept on stating that this was all a travesty.

- That IM again queried what his situation would be if his representations were not accepted – would he be "fired as opposed to retiring?" That at that point you said you were unclear as to the process and that you would have to ask about it. IM asked you how were you going to find about this and you simply said you would have to ask "someone."

  That IM yet again asked you about the GPA's position should the GPA agree that IM's representations convinced them that he should refnain in post, but that NP / the CM did not agree with the GPA. IM asked you whether the GPA could go against the views of NP / the CM to which you replied *"we may be put in such position that we have to stand down if there is a direct conflict."* That IM asked you whether the GPA would do that to which you replied that you could not speak for others and had not made your own mind up.

- That you told IM that NP / the CM were the two principal parties that had to have confidence in the police.

- That IM told you that he had been totally open and transparent with the maritime incident, brining over an independent investigating team, accident investigators speaking to the Spanish authorities, speaking with the AG on numerous occasions asking him to agree to a Gibraltar strategy, but that the AG had stated that he would consider strategy once the investigation report by the Metropolitan Police was received. That IM told you he had done everything the way it should be done.

- That IM again asked you if the GPA had concerns about him, you would have told him and you agreed.

- That IM asked you why NP / the CM had taken these drastic measures to which you replied saying that possibly Gibraltar does not operate in a bubble and whatever occurs here affects Spain and Britain and possibly our reputation.

- That IM again stated that he had been airing his concerns to the AG and that he had been told by him that the CM was not too concerned that the incident had occurred

outside BGTW. That the AG and CM would portray the incident in the context of cross border law enforcement which is one of the strands arising from the Brexit discussions.

- That IM told you that he felt pushed into a corner having to decide whether to save his own skin because he is a man of integrity and is getting trampled all over. That he felt he did not deserve this simply for the RGP doing its job in executing a warrant at the chambers of an individual suspected of having been involved in criminality. That IM asked you why this matter had not been spoken about at the meeting with NP / CM given the CM's dissatisfaction to which you replied that the subject had been spoken about. You alluded to NP seemingly being in the know because they spoke at the meeting about how IM had handled the case, also mentioning that the AG had also lost faith in IM. You said that as they were not talking to you about this, you had not taken down any notes. That IM told you of the significant importance of what you had just said because that was reference to Operation Delhi which was being discussed. That IM insisted that you tell him everything that was said by NP / CM about the alleged mis-handling of the investigation in question and that you said you would provide the details in writing but that NP / the CM had not provided you with written explanations of their concerns.

- On further insistence by IM you told him that the CM was very critical of IM's handling of the case because IM had basically lied to the CM, or omitted the truth. On IM asking you what it was alleged that he had lied about, whether it was to do with collision or the criminal investigation in question, you replied "in everything, in everything."

- That at 19:59Hrs on 22nd May 2020 you emailed IM a further letter about the invitation to retire with more explanations as to the reasons to invoke section 34. In this second letter, and even before IM provided the GPA with his representations you stated that the Authority itself has agreed with the matters raised by NP and the CM and had taken the view that IM's position as commissioner was untenable because IM had lost the confidence of BOTH NP and the CM.

- That on the 29th May 2020 we made legal representations to the GPA on IM's behalf explaining why the process initiated was misconceived.

- That on 5th June 2020, lawyers instructed by the GPA wrote to us acknowledging that procedural errors had been made in the process and that the GPA were withdrawing IM's invitation to retire.

- That in response to the GPA's lawyers' letter of 5th June, we wrote back asking what processes the GPA were now considering after their withdrawal of the section 34 process. That we received no response to this communication.

- That you provided a copy of the representations made by us on behalf of IM to NP, the CM and AG and that it was only after they digested these representations that they provided the GPA with their own written reasons as to why they claimed to have lost confidence in IM.

Charles Gomez & Co.

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OPEN LETTER

Charles A Gomez & Co
5 Secretary's Lane
Gibraltar

OUR REF: JN/IP
YOUR REF: CAG/NG/MM11338
DATE: 17/02/2022
DIRECT EMAIL: jn@tsnlaw.com

BY POST

Dear Sirs

Commission of Inquiry

We are instructed by the Gibraltar Police Authority in this matter generally and to reply to your letter dated 4th February, 2022, addressed personally to its Chairman, Dr J Britto. Please address any future correspondence to us and, in particular, refrain from writing personally to the Chairman or any member of our Client.

Our Client will provide its evidence in due course on matters which are material to the Inquiry in accordance with such directions as the Commissioner may give. In the meantime, our Client does not consider warranted either your request to agree facts at this stage or your threat to produce to the Inquiry your letter and any reply thereto.

In the meantime, nothing contained in this letter should be construed as any admission or acknowledgement of any of your proposed points for Agreement of Facts or, indeed, of their relevance to the Inquiry.

Yours faithfully

TSN

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attias & levy
Barristers & Solicitors
Notary Public

Your Ref:
Our Ref: SVCMR00182

4 April 2022

BY HAND AND BY EMAIL (secretary@gpa.gi)

Dr Joseph Britto BSc, MSc
Gibraltar Police Authority
Unit 25B
Casemates Square
Gibraltar

Dear Sir

Re: Inquiry into the Retirement of the Former Commissioner of Police

We draw your attention to Legal Notice No.34 of 2022 in the Second Supplement to the Gibraltar Gazette on 4 February 2022 (**Attachment A**), which gave notice that Her Majesty's Government of Gibraltar ('**the Government**') has commissioned an Inquiry under the Commissions of Inquiry Act 1888 ('**the Inquiry**').

Sir Peter Openshaw DL, a retired judge of the High Court of England and Wales, has been appointed as Commissioner for the purposes of the Inquiry. The Commissioner is appointed pursuant to section 3(1) of the Commissions of Inquiry Act, which states that:

> "*The Government may, whenever he* (sic.) *shall deem it advisable so to do, issue a commission under his (sic.) hand and the public seal appointing one or more commissioners to inquire into any matter in which an inquiry would, in the opinion of the Government, be for the public welfare.*"

Stephen Catania of this firm has been instructed as Solicitor to the Inquiry, and will be principally assisted by Sunil Chandiramani and Jemma-Louise Emmerson also of this firm. Julian Santos of 5RB has been appointed as Counsel to the Inquiry.

Under the same Legal Notice, the Commissioner is appointed to inquire, as he shall in his absolute discretion consider appropriate, into:

> "*the reasons and circumstances leading to Mr Ian McGrail ceasing to be Commissioner of Police in June 2020 by taking early retirement*" ('**the Terms of Reference**').

The Commissioner is required to "*ascertain the facts and report to the Government on*" the Terms of Reference.

Pursuant to section 8 of the Commissions of Inquiry Act, the Inquiry may require by summons the attendance of any person whose evidence may be material to the subject matter of the

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Inquiry, and/or to produce all such books, papers and writings as "*may appear necessary for arriving at the truth of all matters*".

We have now had the opportunity to review publicly available information on Mr McGrail's retirement, including:

(a) debates in the Gibraltar Parliament on 27 July and 31 July 2020 (**Attachments B and C**), during which the Chief Minister was asked several questions about Mr McGrail's retirement, including about the role of the Chief Minister, the former Governor and the Gibraltar Police Authority ('**the GPA**') in the events.

(b) media coverage of the events, including the public statement made by Mr McGrail on 28 July 2020.

We have also had regard to the relevant provisions of the Police Act 2006 ('**the Police Act**'), namely:

(a) Section 34(1), which provides that the GPA may call upon the Commissioner to retire "*in the interests of efficiency, effectiveness, probity, integrity, or independence of policing in Gibraltar*", after consultation with the Governor and Chief Minister and with the agreement of either of them. Before seeking the approval of the Governor and Chief Minister, the GPA is required to give the Commissioner an opportunity to make representations: s34(2).

(b) Section 13(1)(f), which provides that the Governor may suspend the Commissioner from duty or call for his/her resignation where the GPA has failed to discharge or perform a responsibility imposed on it by the Police Act. By section 13(2), the Governor is required to keep the Chief Minister informed of any exercise of power under this section.

In light of the material above, we consider that you are an individual whose evidence is likely to be of central relevance and importance to the Inquiry, and are seeking evidence from you in the first instance.

We therefore request you to cooperate with the Inquiry by preparing and producing:

(a) A statement under oath addressing the subject-matter of the Inquiry: namely, your knowledge of the reasons and circumstances leading to Mr Ian McGrail ceasing to be Commissioner of Police in June 2020 by taking early retirement; and

(b) Any documents (including but not limited to electronic documents such as emails, word documents, PDFs and SMS, WhatsApp or other instant messages) in your possession or control relevant to the subject-matter of the Inquiry.

In requesting your cooperation, we draw your attention to sections 8(2) and 10 of the Commissions of Inquiry Act, which provide that:

(a) where a person attends before the Inquiry pursuant to a summons, they must answer questions put to them by the Commissioner and produce all books, papers and writings required by the summons. This is subject to the proviso that: "*no statement by any person in answer to any question put by such commissioners shall, except in cases of indictment for perjury committed in such answers, be admissible in evidence in any proceeding civil or criminal.*" (Section 8(2))

(b) more generally, "*No person who shall give evidence upon any inquiry under this Act shall be liable to any civil proceedings or criminal prosecution for or in respect of any statement or discovery made by such person concerning any matter connected with such inquiry, and no person shall be excused from answering any question put to him by the commissioners on the ground of any privilege, or on the ground that the answer to such question will tend to incriminate such person.*" (Section 10)

Please provide us with the requested statement and documents by 25 April 2022. We would be willing to consider reasonable requests for additional time, if so required.

Next steps

As a starting point, we are seeking evidence from individuals and bodies who had a statutory role in Mr McGrail's retirement through the provisions of the Police Act. However, depending on the accounts received from those individuals and bodies, we are likely to need to widen our investigation and seek evidence and/or documents from other individuals and bodies. We anticipate that we may need to seek further evidence or documents from you based on any information that we obtain.

In due course, the Inquiry will fix a date for a preliminary hearing at which procedural matters and planning for the substantive Inquiry hearing can be addressed. We will inform you of the details for this hearing as soon as they are arranged.

In the meantime, if you have any queries or concerns please do not hesitate to contact us.

Yours faithfully

Attias & Levy

Attias & Levy

DOC 25

Shane Danino

From: (RGP) McGrail, Ian M.Sc (OTM) [redacted]
Sent: 07 August 2019 17:28
To: Director Education
Subject: FW: OFFICIAL - CONFIDENTIAL Gibraltar Police Federation

Dear Joey –
Further to our meeting of this afternoon and for your information, please see below an email I have written to the Chief Secretary copied also to HRM concerning the two posts of conveners of the Gibraltar Police Federation.
Regards
Ian

Ian McGrail *OTM MSc*
Commissioner of Police

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From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 24 July 2019 09:41
To: Darren Grech [redacted]
Cc: (RGP) Ullger, Richard [redacted]
Subject: OFFICIAL - CONFIDENTIAL Gibraltar Police Federation

Dear Darren –

Yesterday, I met with the CM to discuss the terms and conditions of the role of the two convenors of the Gibraltar Police Federation (GPF). The reason I met with him was because Michael Crome and Min Costa had mentioned that all negotiations for these posts had been personally dealt with by the CM. In this regard, the CM stated that he had only assisted in the forming up of the GPF but that the advice on remuneration and terms had been provided by Michael Crome and the two recently retired convenors themselves. It is the uncertainty of these arrangements that I would like to air out with you.

I would start by dispelling a common misconception held by many, both in RGP management and GPF, that the latter is a totally independent creature of statute. Yes, the GPF has been created in law (Police Act sec 49 & Police Federation Regulations 2018) but there is no reference to the GPF being independent from the RGP - the fact that the conveners continue to have and enjoy all the rights, powers, authorities, privileges and immunities of a constable [reg 5(3) of the Police Federation Regs 2018] clearly suggests that they fall under the governance and superintendence of the Commissioner of Police – there cannot be any interpretation other than this one. What the law does state, however, is that the GPF "shall be entirely independent of and unassociated with any body or person **outside** the Force" (sec 52(1) Police Act) – the spirit of this being to prevent the GPF from associating with trade unions and the likes. It is evident that this is where the misunderstanding has originated from. The unfortunate misconceived expectation of independence is probably the precursor to a wide range of issues, not least the negotiations that led to the [unwritten] terms and conditions of the two conveners.

You will find out that there is no binding agreement in place to explain what the terms and conditions of the convenors are or indeed the basis on which they were agreed upon, though I do have my theories. What I can say is that RGP management were not consulted at all on these – conditions which in the view of my Command Team and all inspecting ranks (& more) are totally unjustified and unfair. You will grasp the reasons for our dissenting views further along. The question of governance, management and administration of the two conveners is as blurred as it gets. It would be worthwhile understanding a proper regime of terms and conditions for audit purposes eg, who supervises that conveners' work their required hours? who approves their leave? can they be used as operational officers? who manages any time in lieu? who authorises this ? who keeps an eye on what we suspect are extravagant travel arrangements? etc

In my efforts to reel in and educate the expectations of the GPF I feel duty bound to argue that there is sound rationale for a full review of the terms and conditions of the conveners. My argument is evidence based and whilst the CM saw much logic in them he felt the need to step back and leave these to your adjudication. I feel it is only proper that the CM adopts this stance and therefore I will articulate my argument for your subsequent perusal and consideration. His views though were that whilst the previous two conveners did enjoy the very enhanced perks, these could be attributable to the effort required to establish the GPF but that not necessarily did these conditions have to prevail, more so if there was argument to suggest the contrary.

The two recently appointed conveners, PS Maurice Morello and PC Leif Simpson, are lobbying at HRD for the same terms and conditions their predecessors enjoyed. These were as follows;

- The conveners pay to be set to the equivalent of a chief Inspector (3 spine points starting from £72K to £75K & pensionable if retirement occurs whilst they are in post).
- Entitlement of the high competency threshold allowance of £[redacted] per year pertinent to their current junior rank but also climbing the spine points of the Chief Inspector scale.
- On call allowance of approx. £[redacted] each per year.
- Entitlement of 'Time in Lieu' for any extra hours worked.

The final salary for the convenors will reach the £[redacted] when housing allowance of £[redacted]pa is also factored in.

These conditions far supersede those for inspector and chief inspector ranks. For starters, an inspector and chief inspector's role carries far more responsibilities than that of the conveners. An officer promoted to inspector or chief inspector would have to prove high levels of competency a year after reaching the 3rd spine point before they are entitled to the pensionable threshold allowance - the convenors do not have this qualifying period. Inspectors and chief Inspectors are salaried and therefore are not entitled to accrue time in lieu, yet the conveners are allowed to do so. These points bring about discontent and affect the morale of inspectors and chief inspectors who understandably feel very hard done by. The on-call criteria applied by the GPF contravenes RGP policy in that their application of the requirement is not seen as justified in our view.

The GPF's case for this inordinate level of remuneration is based on a comparison/alignment with the UK's National Police Federation Chairman who represents 120,000 police officers in England and Wales. Can you imagine if I used the same analogy and requested the same salary as the Commissioner of the Metropolitan Police = £276k+ !!! It would be totally absurd to draw comparisons with UK national portfolios. Our research on the matter suggests that even the smallest of county forces, the likes of Cambridge and Warwickshire, who themselves are 8-10 times larger

than the RGP, do enjoy having a force federation chair/secretary earning the salary pertinent to their rank with a non-pensionable allowance of approx. £225 to compensate for extra responsibilities assumed. In fact each of the 43 UK county forces all have different configurational full time representation of the Fed but for obvious reasons none align themselves to the UK National Board in terms of remuneration and working arrangements. The latter have 8 principal officers employed as full time office bearers who look after the whole of England and Wales piece. They are in turn supported by a further 22 pax who form the National Council which is representative of 8 joint regional branch boards of the 43 county/metropolitan forces https://www.polfed.org/about-us/structure/structure-of-the-federation/ & https://www.polfed.org/about-us/structure/principal-officers/ Smaller forces more akin to ourselves like Guernsey, Jersey and Isle of Man do not remunerate their federation reps in this way and neither do they have full time conveners. The attached briefing paper explains the UK set-up in some detail. I really struggle to understand how the GPF can claim any similarity with the UK Fed's structure and conditions, it is simply ludicrous.

We recently brought in consultants to help contextualise the very damning federation survey results and they were themselves startled at how over-resourced and over-funded the GPF were, expressing the view that the workload the conveners were facing was not overbearing in the slightest. Amongst the consultants was a retired UK Police National Fed Chairwoman who echoed our views on the unjustified remuneration. They did not report on these views to avoid antagonising the GPF as their reemit was to actually build bridges with them rather can create animosity. The consultants are, however, ready to engage with HMGOG to impart they views should you feel the need for this. What I submit as totally disproportionate and unfair is that the GPF conveners who represent 219 officers are expecting to be treated the same as the UK National Board Chair who represents 120,000 officers.

To address this lack of justification I propose the following 3 options which takes into consideration cost efficiencies where these can be made;

Option 1 – the two conveners to remain as full time appointees with their remuneration set commensurate with the rank they hold. That they receive a monthly honorarium of £[redacted] for PC Simpson and £[redacted] for PS Morello. Based on current pay scales an initial cost saving of approx £38k would be made in year one, this increasing to approximately £44K per annum by year three and increasing with the public sector increases for consecutive years.

Option 2 – Only one of the conveners remains full time in the role with salary commensurate to existing rank plus monthly honorarium; the other convener returns to main stream policing with 1 day 'facility' time for Fed work per week, retaining existing rank salary plus honorarium. There would be a requirement to employ an admin assistant to provide office support to the GPF. However, there would no longer be a requirement to have the two supernumerary posts we currently carry and therefore a constable post would be deducted from the HR business case submitted to HMGoG. Savings of £88k rising to £94k per annum after year three and for consecutive years would be made in this regard. The cost of an AA would need to be factored @ £26k so a net saving of approx. £68k per year would be made for successive years.

Option 3 - Both conveners revert to main stream policing and retain their salary according to their rank plus an honorarium and 1 day each of 'facility' time per week for Fed matters. The need for the existing two supernumerary posts would no longer be required and therefore two constable posts from the HR business case would no longer be required thus making savings of £100k for these two posts plus the no longer entitled Ch Inspector top-up of between £38k and £44k per annum. Total savings per year after three years (applying current scales) would be approx £144k per annum for successive years. It would be appropriate to assign an admin grade as office manager at the cost of £26K. Further facility time could be agreed upon by mutual understanding.

NB - Options 2 and 3 would require amendment to the extant regulations but the CM did allude to these changes, if applicable, once the accepted proposal was signed. Amending regulations is not too an elaborate process.

Our preferred options would work in reverse order i.e. 3-2-1

Happy to explain the mathematics in finer detail &/or further discuss the above contents if so required.

Best wishes
Ian

Ian McGrail ***OTM MSc***
Commissioner of Police

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DOC 26

Shane Danino

From: (RGP) McGrail, Ian M.Sc (OTM) [redacted]>
Sent: 04 February 2020 17:34
To: Director Education
Subject: IM148 - Letter to GPA Chairman.pdf
Attachments: IM148 - Letter to GPA Chairman.pdf; ATT00001.txt

Dear Joey,
Attached please find a scanned version of the letter that will be delivered to the GPA offices tomorrow.

Rgds
Ian

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Ian McGrail OTM MSc
Commissioner of Police
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Our Ref: IM148

5th February 2020

Dr J. Britto
Chairperson
Gibraltar Police Authority
25B Casemates Square
Gibraltar

Dear Chairman,

RE – GIBRALTAR POLICE FEDERATION

In light of recent developments and particularly the involvement of the trade unions regarding our ongoing difficulties with the Chair and Secretary of the Gibraltar Police Federation, I feel it is imperative that I set out the official position of the Royal Gibraltar Police, and the reasoning behind it.

The Commissioner of Police and the command team recognise the importance and value of the RGP having a body like the Gibraltar Police Federation to represent the interests of members and address issues concerning officers' pay, allowances, hours of duty, annual leave, working conditions and other conditions of service. We are keen for the Federation to pursue a policing environment where officers can speak and raise concerns through an open and accountable system that demonstrates fairness, by means of a transparent conduct which is independent of other union organisations.

To provide some historical context, police officers have been banned from striking in UK since 1919 and do not have the same employment prerogatives enjoyed by other workers because of the nature of the work we do on behalf of the public. Following a spate of strikes in London and Liverpool when constables and sergeants refused to go on duty, it was the then Prime Minister Lloyd George who established the Federation, not as a union but as a statutory grouping with responsibility to represent its members in matters affecting their welfare and efficiency.

It is clearly stated in the 2014 Normington Report, an independent review into the workings of the Police Federation of England and Wales commissioned by the latter, that its members remain under the discipline of and answerable to their respective Chief Constables. Page 27 of the report states: ***"(Federation) Representatives are employees of their local force and subject to force discipline. They can be subject to IPCC investigations and indeed to criminal prosecution."***

In terms of the local context, to remove some of the elected Federation members from the RGPs discipline structure, would endanger the operational independence of the police and risk giving life to all issues for which police officers are prevented from taking industrial action. A GPF board of eight serving officers, where two are temporarily removed from discipline leads to an inequality of how justice would be served and seen to be served. The board could decide to embark on a course of action which could place six of them within reach of a disciplinary process and two without, meaning six would be liable for conduct amounting to an offence in law and the other two would be impervious to legal process.

This raises numerous concerns:

1. Different disciplinary mechanisms and to different standards for essentially the same behaviour.
2. Conduct or behaviour contrary to discipline and incompatible with the office of constables, could occur during the 'disciplinary hiatus' which could undermine the ability to continue to exercise the office of constable on returning to operational duties.
3. A situation could occur where support could be sought from organisations such as trade unions which are able to strike, bringing indirect pressure on the Office of Commissioner, therefore undermining operational independence etc.
4. The situation in point 3 is precisely why there is a statutory provision in the Police Act requiring the Federation to be independent from any similar body without specific authority, and preventing officers from trade union membership. S52 and S55 of the Act.

Furthermore the intent of Section 79 of the Police Act, is that it is the Commissioner who retains responsibility for matters of discipline.

Since the Gibraltar Police Federation was created with the introduction of the Police Federation Regulations 2018, its Chairman and Secretary have erroneously interpreted the nature of the GPF, claiming that they are a completely independent institution which does not come under the control of the Commissioner of Police. There are no legal provisions to support this stance with the contrary actually being the case as stated in s.52(1) of the Police Act 2006; ***"…..the Police Federation shall be entirely independent of and unassociated with any body or person outside the Force."*** Furthermore, Reg5(3) of the Police Federation Regulations 2018 states that ***"the chairman and secretary of the Board shall be full time convenors of the Federation and shall continue to have and enjoy all the rights, powers, authorities, privileges and immunities of a constable."***

This means that these two post holders remain warranted officers of the RGP – first and foremost they are police officers, and their second function is to represent members of the GPF. All police officers have to abide by the code of ethics & values, and Discipline Code including the two mentioned posts.

Section 5 (1) of the Police Federation 2018 Regulations, further reinforces that the Chairman and Secretary of the Federation remain as police officers during their tenure.

The correlation drawn by the trade unions describing the GPF conveners as engaged in "activism," is incompatible in terms of law enforcement or the traditional British model of policing and its principles which the RGP has applied for the past 190 years.

We would like to reiterate that it is desirable that a good and productive relationship exists with the GPF toward the realisation of common objectives. In concluding the Command Team are seriously and genuinely concerned at the unfolding situation, and how this can gather further momentum in a direction

which can potentially change established principles underpinning Gibraltar's policing model. Changes which could totally compromise the RGPs operational independence.

Notwithstanding, I remain willing to hold discussions with the Gibraltar Police Authority to clarify key areas concerning the Federation.

1. The GPF's status of perceived independence
2. The terms of reference/facility arrangements for convenors
3. Their respective position with regard to the office of constable.

I remain hopeful that this whole saga will be resolved in accordance with the principles expounded in this letter.

Ian McGrail OTM MSc
Commissioner of Police

Copy to: HE The Governor
Chief Minister
Minister of Justice

DOC 27

Shane Danino

From: (RGP) McGrail, Ian M.Sc (OTM) [redacted]>
Sent: 07 February 2020 17:03
To: Director Education
Cc: Edward Davis (Sensitive); (MIN) Picardo, Fabian; (MIN) Sacramento, Samantha
Subject: OFFICIAL - GPF
Attachments: IM150 070220 Letter to GPA Chair.pdf

Dear Mr Chairman
Please find attached a scanned copy of a second letter regarding the GPF.
Wishing you a good weekend.

Regards
Ian

Ian McGrail *OTM MSc*
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

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Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

Our Ref:- IM150

7th February 2020

Dr J. Britto
Chairperson
Gibraltar Police Authority
25B Casemates Square
Gibraltar

Dear Mr Chairman,

RE- Gibraltar Police Federation

I refer to my letter of the 5th February concerning the above captioned and our subsequent discussions with the GPA members.

Firstly, I would like thank you for allowing me the opportunity to answer and/or address any issues the GPA had on the subject matter. Secondly, it is important that I clarify the intention of the letter was certainly not to suggest a curtailment of the prerogative of HMGOG to create new legislation or amend existing ones on matters of the Gibraltar Police Federation (GPF) but rather to inform you of concerns if indeed any changes were being contemplated as intimated in the letter.

As discussed at yesterday's meeting with the GPA, I propose a course of action which will hopefully draw the line under the past two years of what has been a difficult working relationship between the GPF and RGP senior management – all borne out from conflicting standpoints. I am strongly of the opinion that an independent review of the functions of the GPF and their relationship with the RGP is an appropriate vehicle to address the issues concerned. I am glad that the GPA support this approach as indeed HE the Governor and the Chief Minister.

I will be meeting with the full GPF Board to advise them of these intentions and hopefully enlist their support. I would ask that we meet at a mutually convenient time/date for the GPA, GPF and RGP to discuss the terms of reference for this review and intricacies of who is best placed to conduct it. My first thoughts are that the review team should be subject matter experts in policing, preferably serving officers (a Police Federation of England & Wales chairperson of a UK police force and an officer of chief officer rank, ACC or above, who is well acquainted with federation/management matters, protocols, arrangements etc). I mention these two categories of personalities because they will no doubt have mediatory abilities to assist

us all in this journey. To keep the review impartial I further recommend that these individuals should not have had any previous relationship with either RGP senior management or GPF Board members and a declaration should be made to this effect.

I look forward to this process commencing the sooner the better.

Yours,

Ian McGrail OTM MSc
Commissioner of Police

Copy to: HE The Governor
Chief Minister
Minister for Justice

Royal Gibraltar POLICE
• Emergency Tel: 199 • General Enquiries Tel: (+350) 20072500 •
• Email: pacompol@royalgib.police.gi • Website: www.police.gi •
• Facebook: royalgibpolice • Twitter: @rgpolice •

DOC 28

The GPA met with the Federation (GPF) on 6th June 2020.

Present at the meeting were:

Joey Britto (Ch)
Nick Pyle
Darren Grech
Claire Pizarello
Edgar Lavarello
Frank Carreras

Morris Morello (Ch GPF)
Leif Simpson (GPF)

E. Hanglin (Sec)

The GPF gave an overview of when the GPF started and their past relationships with previous Commissioners of Police.

The GPF stated that they did not want to force a UK model in Gibraltar and gave their views as to why the present Acting CoP should be selected as the new CoP as opposed to bringing an officer from the UK. Please refer to letter below from the Federation.

Dear Joey,

I trust that you are well.

I thought I should give you an update as to the present relationship between the interim Commissioner and the Gibraltar Police Federation.

Last week after the resignation of Mr McGrail, Federation convenors have met up on two occasions with Mr Ullger. One was a meeting we had scheduled with him and the second was a meeting we had scheduled with the Commissioner with regards to some pending issues, which Mr Ullger sat in as interim Commissioner.

In those meetings, it was mooted that there was a possibility of a Commissioner from the UK to take over for a short period of time.

It is no secret that we have had numerous issues with Mr McGrail due to his management style and the lack of respect which he demonstrated towards the Gibraltar Police Federation, and especially towards the Secretary, Leif Simpson and myself as Chairman. As a result, the relationship between Command and the Federation was strained at best, over these last two years.

Everything we proposed in the last year was thrown back at us with little or no consideration, so we had to revert to legal advice on several issues we were requesting to be looked into by Command.

I have known Mr Ullger for a very long time, and have worked under him on Shift and in Special Branch. Having worked with Mr Ullger for over 20 years I can assure you that his management style is completely different to that of Mr McGrail.

He is always fair, and more assertive when this is required, but he always treats people with the utmost respect.

And this is exactly what the officers are calling out for. They want to be treated with respect as individuals, not treated as numbers, and for their work to go recognised.

We have achieved more in two meetings with Mr Ullger in a week than we did in a whole year with Mr McGrail. This is not about management giving in to Federation demands, or requests, but a real willingness to work alongside the Federation for the benefit of the officers. There will be occasions where Federation requests will not be taken on board, but I can accept this, when a reasonable explanation is given.

During April and May this year, we have worked tirelessly together on the revamped Grievance Policy and Procedures and the Bullying at Work Policy, where we went through both policies line by line. Mr Ullger agreed to numerous suggestions the Federation had in respect of both policies, and these were included, some of which are still on the draft version of HMGoG's revised Bullying at Work Policy, and still not approved.

I do not believe that bringing over a Commissioner from the UK for a short period of time is the answer. He may bring some fresh ideas, but policing in Gibraltar is not the same as in the UK. Federation reps carry out their training at Leatherhead in the UK and I can assure you that we do not want to operate like a UK force. What may work in the UK may not necessarily work in Gibraltar. Any good policies and procedures they may have could be implemented but always tweaking this to suit our policing.

It would also be difficult for someone coming over from the UK to understand the people, the culture and the way we operate in a short period of time. The organisation requires an understanding, empathetic Commissioner at the helm, with local knowledge and understanding. I believe we have the right officer for this role in our ranks.

Happy to discuss this further.

DOC 29

Shane Danino

From: Dr Joey Britto [redacted]
Sent: 03 July 2020 12:08
To: Elka Hanglin
Subject: Fwd: COMMAND GPF RELATIONSHIP

Sorry - it wasn't a letter! It was an email!

Everybody has a copy so no need after all!

Apologies!

Regards

Joey

Begin forwarded message:

> **From:** Federation Chairman [redacted]
> **Date:** 22 June 2020 at 10:14:07 CEST
> **To:** Dr Joseph J Britto [redacted]
> **Cc:** Federation Secretary [redacted]
> **Subject: COMMAND GPF RELATIONSHIP**
>
> Dear Joey,
>
> I trust that you are well.
>
> I thought I should give you an update as to the present relationship between the interim Commissioner and the Gibraltar Police Federation.
>
> Last week after the resignation of Mr McGrail, Federation convenors have met up on two occasions with Mr Ullger. One was a meeting we had scheduled with him and the second was a meeting we had scheduled with the Commissioner with regards to some pending issues, which Mr Ullger sat in as interim Commissioner.
>
> In those meetings, it was mooted that there was a possibility of a Commissioner from the UK to take over for a short period of time.
>
> It is no secret that we have had numerous issues with Mr McGrail due to his management style and the lack of respect which he demonstrated towards the Gibraltar Police Federation, and especially towards the Secretary, Leif Simpson and myself as Chairman. As a result, the relationship between Command and the Federation was strained at best, over these last two years.
>
> Everything we proposed in the last year was thrown back at us with little or no consideration, so we had to revert to legal advice on several issues we were requesting to be looked into by Command.
>
> I have known Mr Ullger for a very long time, and have worked under him on Shift and in Special Branch. Having worked with Mr Ullger for over 20 years I can assure you that his management style is completely different to that of Mr McGrail.

He is always fair, and more assertive when this is required, but he always treats people with the utmost respect.

And this is exactly what the officers are calling out for. They want to be treated with respect as individuals, not treated as numbers, and for their work to go recognised.

We have achieved more in two meetings with Mr Ullger in a week than we did in a whole year with Mr McGrail. This is not about management giving in to Federation demands, or requests, but a real willingness to work alongside the Federation for the benefit of the officers. There will be occasions where Federation requests will not be taken on board, but I can accept this, when a reasonable explanation is given.

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I do not believe that bringing over a Commissioner from the UK for a short period of time is the answer. He may bring some fresh ideas, but policing in Gibraltar is not the same as in the UK. Federation reps carry out their training at Leatherhead in the UK and I can assure you that we do not want to operate like a UK force. What may work in the UK may not necessarily work in Gibraltar. Any good policies and procedures they may have could be implemented but always tweaking this to suit our policing.

It would also be difficult for someone coming over from the UK to understand the people, the culture and the way we operate in a short period of time. The organisation requires an understanding, empathetic Commissioner at the helm, with local knowledge and understanding. I believe we have the right officer for this role in our ranks.

Happy to discuss this further.

Kind Regards

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: 2284

[redacted]

Email: [redacted]



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COMMISSIONS OF INQUIRY ACT

RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

ISSUE OF COMMISSION

Attached is the Appendix marked "Appendix A" referred to in the Sworn Witness Statement of John Gonçalves MBE sworn this 31 day of August 2022.

Before me

JAMES P. HAMMOND
COMMISSIONER FOR OATHS
GIBRALTAR

COMMISSIONER FOR OATHS

COMMISSIONS OF INQUIRY ACT

RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

ISSUE OF COMMISSION

APPENDIX A
LIST OF DOCUMENTS

(Listed in the order in which they are referred to in the Witness Statement of Mr John Gonçalves)

DOC No.	DATE	DOCUMENT TYPE	DESCRIPTION
1	18 August 2022	LETTER	Letter from Attias & Levy (Solicitors to the Inquiry) addressed to Mr John Gonçalves
2	11 May 2017	MINUTES	Minutes of meeting of the GPA on 11th May 2017
3	15 May 2017	MINUTES	Minutes of meeting of the GPA on 15th May 2017
4	16 May 2017	LETTER	Letter from GPA to Chief Minister
5	8 August 2017	LETTER	Letter from Commissioner of Police to GPA
6	17 August 2017	LETTER	Letter from Commissioner of Police to GPA
7	13 February 2017	REPORT	Report submitted by Superintendent McGrail

8	28 February 2017	LEGAL OPINION	Opinion by Lord Pannick QC and Emily Neill of Blackstone Chambers
9	8 March 2017	LETTER	Letter from Rear Admiral A.D. Radakin, Chief of Staff, Joint Services Command to Commissioner of Police
10	23 August 2017	LETTER	Letter from GPA to Commissioner of Police
11	UNDATED	LIST	List of matters to be put by GPA relating to the airport incident
12	6 December 2017	EMAIL	Email from Secretary of the GPA (Elka Hanglin) to Ms Giselle Corby and Mr E Gomez, the Chief Secretary
13	4 May 2018	LETTER	Letter from Ms Susan Martinez, Personal Secretary to the Chief Minister, to GPA
14	UNDATED	NOTICE	GPA's invitation for applications for appointment as the Commissioner of Police
15	UNDATED	TIMETABLE	Timetable for the Selection Process prepared by GPA
16	UNDATED	ADVISORY DOCUMENT	Criteria against which candidates for the Post of Commissioner of Police would be considered
17	6 November 2017	LETTER	Letter from GPA to Commissioner for Police

18	15 November 2017	REPORT	Bundle from Commissioner of Police to GPA (Superintendent McGrail)
19	15 November 2017	REPORT	Bundle from Commissioner of Police to GPA (Superintendent Ullger)
20	1 November 2017	APPLICATION	Application docket of Superintendent Ian McGrail
21	3 November 2017	APPLICATION	Application docket of Superintendent Richard Ullger
22	21 November 2017	LETTER	Letter from GPA to Commissioner of Police
23	5 December 2017	LETTER	Letter from GPA to HE the Governor
24	13 December 2017	LETTER	Letter from HE the Governor to GPA

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attias & levy
Barristers & Solicitors
Notary Public

Your Ref:
Our Ref: SVC/SGC/JLE/182

18th August 2022

BY HAND AND BY EMAIL (jn@tsnlaw.com)

John Gonçalves MBE
c/o TSN
Burns House
19 town Range
Gibraltar

For the attention of Mr James J Neish QC

Dear Sirs

Re: Inquiry into the Retirement of the Former Commissioner of Police ("the Inquiry") – John Gonçalves MBE, former Chairman of the Gibraltar Police Authority

We draw your attention to Legal Notice No.34 of 2022 in the Second Supplement to the Gibraltar Gazette on 4 February 2022 ('**Attachment A**'), which gave notice that Her Majesty's Government of Gibraltar ('**the Government**') has commissioned an Inquiry under the Commissions of Inquiry Act 1888 ('**the Inquiry**').

Sir Peter Openshaw DL, a retired judge of the High Court of England and Wales, has been appointed as Commissioner for the purposes of the Inquiry. The Commissioner is appointed pursuant to section 3(1) of the Commissions of Inquiry Act ('**the Act**'), which states that:

> *"The Government may, whenever he* (sic.) *shall deem it advisable so to do, issue a commission under his (sic.) hand and the public seal appointing one or more commissioners to inquire into any matter in which an inquiry would, in the opinion of the Government, be for the public welfare."*

Stephen V. Catania of this firm has been instructed as Solicitor to the Inquiry, and will be principally assisted by Sunil G. Chandiramani and Jemma-Louise Emmerson also of this firm. Julian Santos of 5RB has been appointed as Counsel to the Inquiry.

Under the same Legal Notice, the Commissioner is appointed to inquire, as he shall in his absolute discretion consider appropriate, into:

First Floor Suites, 39 Irish Town, P.O. Box 466, Gibraltar, Tel: +350 200 72150, Fax: +350 200 74986, Email: info@attlev.gi, www.attiaslevy.com

"*the reasons and circumstances leading to Mr Ian McGrail ceasing to be Commissioner of Police in June 2020 by taking early retirement*" ('**the Terms of Reference**').

The Commissioner is required to "*ascertain the facts and report to the Government on*" the Terms of Reference.

Pursuant to section 8 of the Act, the Inquiry may require by summons the attendance of any person whose evidence may be material to the subject matter of the Inquiry, and/or to produce all such books, papers and writings as "*may appear necessary for arriving at the truth of all matters*".

Background: Evidence Gathering and First Preliminary Hearing

In April 2022, we sought evidence from individuals and bodies who had a statutory role in Mr McGrail's retirement through the provisions of the Police Act 2006. We have now received accounts from those individuals and bodies. Further requests for information have been made since and those accounts have been received.

On 22 June 2022, the first preliminary hearing for the Inquiry was held at the Garrison Library ('**the First Preliminary Hearing**'). The primary purpose of the First Preliminary Hearing was to attend to procedural and administrative matters in respect of the Inquiry in preparation for the main hearing. A transcript of the First Preliminary Hearing is available on the Inquiry website.[1]

We are continuing to widen our investigation for the Inquiry; seeking evidence and/or documents from other individuals and bodies whose evidence in the judgment of the Commissioner may be material to the subject matter of the Inquiry, in accordance with section 8 of the Act.

Request for Information and Evidence

We therefore request you to cooperate with the Inquiry by preparing and producing:

1. A statement under oath addressing the subject matter of the Inquiry (as identified in the Terms of Reference), and particularly your knowledge of the reasons and circumstances leading to Mr Ian McGrail ceasing to be Commissioner of Police in June 2020 by taking early retirement, including addressing the following specific matters, to the extent that they are within your knowledge:

    (a) The RGP's actions on 8 February 2017 in obstructing an aircraft at Gibraltar airport to remove an employee of the UK Ministry of Defence who was under arrest by the UK Service Police and on 1 March 2017 in arresting three senior Ministry of Defence members of staff and seizing

[1] http://coircomp.gi/#documents

and removing personnel equipment from HM Naval Base and an officer's home (collectively called the '**Airport Incident**');

(b) The RGP's investigation into an assault on a helicopter pilot and crew member in Gibraltar in March 2017; and

(c) Explain the process behind Mr McGrail's appointment as Commissioner of Police and whether, at the time, any objections to the said appointment were made by the Chief Minister and/or the Governor and/or the Interim Governor, Nick Pyle or anyone else.

(d) Following Mr McGrail's appointment as Commissioner of Police, were any formal complaints made by or to you in respect of the efficiency, effectiveness, probity, integrity, or independence of Mr McGrail in the undertaking of his duties as Commissioner of Police?

(e) During Mr McGrail's tenure as Commissioner of Police, until Dr Britto took over from you as Chairman of the GPA on 1 June 2018, were you aware of any allegations or complaints made in respect of bully and/or intimidation by Mr McGrail?

2. Did you attend any meetings in respect of 1(a) – (e) above with Mr McGrail and/or any of the following persons:

1. Fabian Picardo QC MP, the Chief Minister ('**the Chief Minister**')
2. Albert Mena, Financial Secretary
3. Neil Costa, former Minister for Justice
4. Dr Joseph Garcia, Deputy Chief Minister
5. Darren Grech, Chief Secretary
6. Michael Llamas QC, Attorney General ('**the Attorney General**')
7. Christian Rocca QC, Director of Public Prosecutions ('**the DPP**')
8. Nicholas Pyle, Deputy Governor ('**Mr Pyle**')
9. Lt. General Ed Davis, former Governor of Gibraltar
10. The Magistrates' Court (either the Clerk or Deputy Clerk to the Magistrates' Court, the Stipendiary Magistrate or the Justices of the Peace)
11. Lloyd DeVincenzi, Solicitor General
12. Dr Joseph Britto, incumbent Chairman of the Gibraltar Police Authority, or any member of the Gibraltar Police Authority
13. Edward Yome, former Commissioner of Police
14. Deputy Commissioner Richard Mifsud
15. Richard Ullger, incumbent Commissioner of Police

16. Maurice Morello, Chairman of the Gibraltar Police Federation, or any other member of the Gibraltar Police Federation
17. Paul Richardson, former Superintendent
18. Superintendent Mark Wyan (formerly Detective Inspector)

3. Were meeting minutes or file notes made by you and/or other attendees during any of the meetings or shortly thereafter? If so, were these circulated? Please provide copies of the same.

It should be noted that the questions above are non-exhaustive and we may consider further follow-up questions if necessary based on the responses and any other material that we may receive from other sources in due course.

Please provide any relevant documents and correspondence held by you in relation to the matters listed above. Any documents (including but not limited to electronic documents such as emails, word documents, PDFs and SMS, WhatsApp or other instant messages) in your possession or control relevant to the subject matter of the Inquiry and the matters referred to in the above paragraphs. All electronic documents are to be provided in their native format with the original metadata preserved.

In requesting your cooperation, we draw your attention to sections 8(2) and 10 of the Act, which provide that:

(a) where a person attends before the Inquiry pursuant to a summons, they must answer questions put to them by the Commissioner and produce all books, papers and writings required by the summons. This is subject to the proviso that: "*no statement by any person in answer to any question put by such commissioners shall, except in cases of indictment for perjury committed in such answers, be admissible in evidence in any proceeding civil or criminal.*" (Section 8(2))

(b) more generally, "*No person who shall give evidence upon any inquiry under this Act shall be liable to any civil proceedings or criminal prosecution for or in respect of any statement or discovery made by such person concerning any matter connected with such inquiry, and no person shall be excused from answering any question put to him by the commissioners on the ground of any privilege, or on the ground that the answer to such question will tend to incriminate such person.*" (Section 10)

Please provide us with the requested statement and documents by **7 September 2022**. We would be willing to consider reasonable requests for additional time, if so required.

Next steps

As stated above, the First Preliminary Hearing for the Inquiry took place on 22 June 2022. It is anticipated that a second preliminary hearing will take place between 19–20 September 2022, commencing at 10am in the Garrison Library ('**the Second Preliminary Hearing**').

A draft agenda for the Second Preliminary Hearing has been published on the Inquiry website.[2] As you will see, the said draft agenda includes the finalisation of the provisional list of issues in preparation for main hearing, which is due to take place in March 2023.

It is therefore imperative that we receive your statement under oath and evidence before the deadline referred to above in order that we can, amongst other things, compile the provisional list of issues in good time prior to the Second Preliminary Hearing.

In the meantime, if you have any queries or concerns please do not hesitate to contact us.

Yours faithfully

Attias & Levy .

Attias & Levy

[2] https://coircomp.gi/wp-content/uploads/2022/06/Agenda-Preliminary-Issue-Hearing-14.06.22.pdf

RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

ISSUE OF COMMISSION

LN.2022/034

WHEREAS the Government has committed to issue a commission for an Inquiry under the Commissions of Inquiry Act into the matters more particularly detailed below;

AND WHEREAS the Government has requested that His Excellency the Governor, Vice Admiral Sir David Steel KBE, DL, identify a retired High Court Judge of the jurisdiction of England & Wales to carry out such an Inquiry;

AND WHEREAS His Excellency the Governor has, with his consent, identified Sir Charles Peter Lawford Openshaw, DL, formerly a judge of the High Court of England and Wales, Queen's Bench Division;

THE GOVERNMENT NOW HEREBY, in exercise of the powers conferred on it by Section 3 of the Commissions of Inquiry Act, appoints the aforesaid Sir Charles Peter Lawford Openshaw, DL, as Commissioner to inquire, as he shall in his absolute discretion consider appropriate, into the reasons and circumstances leading to Mr Ian McGrail ceasing to be Commissioner of Police in June 2020 by taking early retirement.

The Commissioner is to ascertain the facts and report to the Government on the above matters.

Save as the Commissioner may in his discretion determine, the Inquiry is to be held in public at a venue, and to commence on a date, to be specified by the Government by notice in the Gazette.

Dated: 4th February 2022.

VICE ADMIRAL SIR DAVID STEEL KBE, DL,
Governor,
For the Government,
At the request of the Chief Minister.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

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MINUTES OF MEETING OF THE GIBRALTAR POLICE AUTHORITY HELD ON FRIDAY 11th May 2017 at 09:15 a.m.

Present:	Mr John Goncalves **(Ch)** Mr Albert Danino **(AD)** Mrs Naomi Hassan Weisfogel **(NHW)** Mr Stephen Reyes **(SR)** Mr Nick Pyle **(NP)** Mr Aurelio Falero	Chairman
In attendance:	Ms E. Hanglin **(Sec)**	Secretary
Apologies:	Mr Vikram Nagrani Mr Ernest Gomez Mr Edgar Lavarello Rev Fidelio Patron	

Item	Discussion and Decisions	Action
1. Item 1 –Approval of minutes of the meeting of 23rd January 2017.	The minutes of the meeting held on 23rd January 2017 were approved.	
2. Item 2 - Matters arising from the minutes of meeting of the 23rd January 2017	**Policing Plan / Annual Report** The Ch informed the meeting that he had raised the matter of changing the annual plan to a 3 year strategy with the MfJ at their meeting. At the meeting it was agreed that the matter would be taken up with the new Commissioner in the run up to his taking office. The 3 year strategy would then be implemented as from 1st April 2018. **Selection Weekend** The Ch informed the meeting that the RGP had disagreed with Fidel's concerns that one of the candidates at the selection weekend was not selected due to his age. The RGP provided evidence that this was not the case and indicated that they had taken up police men who were older in the past. **Community Engagement** The Ch informed the meeting that one of the scheduled days to distribute surveys at the piazza had been cancelled due to the bad weather. **Appointment of PC Chiara and PC Cruz** The GPA was not in agreement with the CoP overruling the recommendation of the reporting officer to extend PC Cruz period of probation. The matter was brought up with the CoP who stated that the recommendation to extend his	

	probation was due to the fact that PC Cruz was deemed to be a little too timid and not forceful enough, albeit shortly after, PC Cruz was commended by the CoP for assisting one of his officers whilst he himself was off duty in an event. **Annual report** The Ch informed the meeting that Chief Supt. Mifsud had claimed that the figures in the last annual report were not up to date and would be updated in November. The Ch informed Chief Supt. Mifsud that an update in November would not be a realistic interpretation of the RGP's yearly performance considering the Annual report is upto the end of June. Ch Supt. Mifsud agreed. **PS Ruffle** The Ch informed the meeting that he had not yet received a reply from the CoP to his letter of 21st November 2016. The Ch agreed to write to the CoP and prod him for a reply.	
3. Item – Sub-committees' Reports.	**a. Policing Plan/Annual Report** This item was discussed under matters arising. **b. Police Complaints Board.** AD informed the meeting that Mr Joe Garcia's and Mr Julio Alcantara's (PCB members) term of office expired on the 16th April this year and asked to extend it until September 2017 in order to have time to find a replacement. The Ch asked AD for a list of names to be discussed at the next meeting of the Authority. The GPA agreed that the nominees should be consulted first. Report for PCB: "Since 1st January 2017, the PCB has received three complaints which have been fully investigated. Complaint 1/17 (Abuse of Authority) was found to be unsubstantiated and not sustained. Complaint 2/17(Discreditable Behaviour) had one of its 9 strands substantiated. The complainant in this case is requesting that the GPA reviews the PCB's ruling of the other 8 strands under section 15(3) of Police Complaints Regulations 2008. Complaint 3/17 (Neglect of Duty) was found to be unsubstantiated and, therefore, not sustained. A further complaint was classified as sub-judicial and, therefore, not considered for investigation at the time it was presented to the Board. This complainant in this case may represent his complaint to the Board after its judicial process is finalised. There are currently three potential complaints under consideration for investigation; two for Discreditable Behaviour and the third for Abuse of Authority. In two of these the complainants cannot so far identify the police officers in question. The PSD is helping the PCB with its enquiries."	AD

	c. Community Engagement The Secretary informed the meeting that a total of 729 survey responses had been received. The Sec would forward the responses database to FP and SR. **d. Financial Control** SR had circulated the reports prior to the meeting. With regards to the GPA budget, there was an £800 surplus. Although the surplus was due to £1000 bill which was held back by treasury the year before in order to prevent the GPA from going over budget. The budget is in a deficit due to travel costs from HMIC which wasn't budgeted for from the outset. With regard to RGP expenditure, they have ended up with a surplus of £250,000 due to not spending as much on overtime. The Ch expressed his gratitude to SR for his service these past 9 years. **e. HR/Training/Professional Standards.** There was nothing to report on this matter. **f. Legislation/GPA Procedures** VN circulated via email an update on the Police Misconduct Regulations. "It appears that the RGP will be making proposals to the law draftsman by the end of the month. I will keep you informed of any updates received from Superintendent McGrail as soon as these are received".	Sec
5. Item 5 – Any other business.	**Airfield Incident** The Ch informed the meeting that on Tuesday 9th May, he was asked to meet with the CM. The CM requested that the GPA enquire into the Airfield incident on 7th February 2017. The Ch had informed the CM that the Authority did not have any jurisdiction to deal with third parties. The CM asked the Ch to raise the matter with the Authority and that if the decision was made for an enquiry, funds would be made available for an independent legal advisor.	

	The Ch pointed out that he had informed VN of the matter who said that the Authority is responsible for upholding the efficiency, effectiveness and probity of the RGP and on the probity side, the Authority may be able to ensure that the RGP action was appropriate and thus may have an enquiry on that before investigation. The GPA agreed that a separate meeting should be called to discuss the matter exclusively. Once the matter is discussed, the Authority can then look into the actions of the RGP. The Authority agreed to ask the CoP whether the investigation into the alleged offences by the serviceman, which had led to the incident, has finished, and if it has, request for the file on the investigation and interview the officers who were directly involved in the incident. This will allow the GPA to formulate a conclusion and pass it on to the CM and HE.	Ch
6. Item 5 – Confirmation of next meeting.	Date to be confirmed.	Sec

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MINUTES OF MEETING OF THE GIBRALTAR POLICE AUTHORITY HELD ON MONDAY 15TH May at 09:15am.

Present:	Mr John Goncalves **(Ch)** Rev Fidelio Patron **(FP)** Mr Albert Danino **(AD)** Mr Ernest Gomez **(EG)** Mrs Naomi Hassan Weisfogel **(NHW)** Mr Stephen Reyes **(SR)** Mr Nick Pyle **(NP)** Mr Vikram Nagrani **(VN)** Mr Aurelio Falero **(AF)**	Chairman
In attendance:	Ms M. Hook **(Sec)**	Secretary
Apologies:	Mr Edgar Lavarello	

The meeting was called to discuss the CM's verbal request to the Chairman on 9th May 2017 that the GPA enquire into the Airfield incident on 7th February 2017.

VN referred to:-

- s.13 of the Police Act, where HE may request on instinct the GPA to provide a report to him, and also to initiate an enquiry;
- s.14 of the Police Act, where HMGOG may ask the GPA to provide a report on Police matters, and also to carry out a full-blown enquiry on the RGP;
- s.19 of the Police Act, when the GPA may ask the CoP for any information to assist preparation of a report.

NP reported on a conversation held with HE, when the latter envisaged that the GPA recommend that an independent enquiry will be held.

The matter was discussed at length and it was concluded that a formal letter be sent to CM stating that, in the first instance, since the GPA has no jurisdiction to involve the MOD, it proposes to proceed under the provisions of s.19 of the Police Act in order to submit a report to him.

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GIBRALTAR POLICE AUTHORITY
(The Community in Policing)

16th May 2017

Hon Fabian Picardo QC MP
Chief Minister
Office of the Chief Minister
No 6 Convent Place
Gibraltar

Dear Fabian,

RE: AIRFIELD INCIDENT

I refer to our meeting in your office on Tuesday 9th May.

Your request that the GPA (the Authority) enquire into the incident at Gibraltar Airport on 7th February 2017 was conveyed to the members of the Authority at meetings held on 11th and 15th May.

The Authority is of the view, in the first instance, that, since it has no jurisdiction to involve the MOD in an enquiry, it shall proceed to request the Commissioner of Police to provide all relevant information (pursuant to the provisions of s.19 of the Police Act) which may assist in the preparation of a report to be submitted to you (pursuant to the provisions of s.15 of the Police Act).

Once this is done, you may wish to consider the possibility of a full enquiry, commissioned by the Authority.

Sincerely,

J.C Gonçalves MBE
Chairman

No.1, Casemates House, Casemates Square, Gibraltar
Tel: 00 350 20040918, Fax: 00 350 20076847, e-mail: info@gpa.gi

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ROYAL GIBRALTAR POLICE

E. Yome CPM
Commissioner of Police

8 August 2017

EY 385

Mr John Gonçalves
Gibraltar Police Authority
25B Casemates House
Grand Casemates
Gibraltar

Dear John,

Re: Waterson Investigation

Further if our conversation in relation to the events leading to the incident of the 7th February 2017, I will have a package ready, which will show how this incident unfolded and the decisions taken on the day and the actions thereafter.

I would appreciate a letter from the Authority I believe under Section 5 requesting this preliminary report in order to maintain an audit trail if any subsequent Enquiry is held.

Many thanks

Regards

Edward Yome
Commissioner of Police

Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 20048001, Fax: (350) 20045615, E-mail:pacompol@royalgib.police.gi

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ROYAL GIBRALTAR POLICE

Edward Yome QPM CPM
Commissioner of Police

17 August 2017 EY 387

To: John Goncalvez
Chairman of the Gibraltar Police Authority
25B Casemates House
Casemates Square
Gibraltar
GX11 1AA

Dear John

RE: Waterson Enquiry - Incident

Please find attached 3 documents which hopefully will put into context the investigation of RAF Sergeant Waterson and the sequence of events leading up to and including the blocking of the RAF flight on the 8th February 2017.

Document 1: Report submitted by Supt McGrail of the sequence of events as there were known at the time with a covering letter from me.

Document 2: Legal opinions commissioned by the Attorney General from Lord Pannick QC from Blackstones Chambers, Temple, London.

Document 3: Letter from Rear Admiral A J Radakin, Chief of Staff, Joint Forces Command in no uncertain terms a letter of apology and recognition of jurisdiction.

There are numerous other documents and correspondence between relevant stakeholders which can be made available should a decision be taken to progress this matter by way of a formal enquiry.

There is also material, intelligence and information which came to our notice as we conducted this investigation where senior military officials challenged the authority of constitutional posts in Gibraltar and then some off the cuff comments which were inappropriate to say the least.

My SMT and I are willing to go before the authority should you require any further information.

Kind Regards

Edward Yome QPM CPM
Commissioner of Police

Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 20048001, Fax: (350) 20045615, E-mail:pacompol@royalgib.police.gi

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ROYAL GIBRALTAR POLICE

Commissioner's suite
COP

Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 0035020048001 , Fax: (350) 0035020045615, E-mail: pacompol@royalgib.police.gi

RE: RAF Sergeant WATTERSON

13th February 2017

Dear Sirs

Please see attached report submitted by Superintendent McGrail in relation to RAF Sergeant WATTERSON.

This clearly was a sad disappointing day for Law Enforcement in Gibraltar and more so for relations between Gibraltar Forces Command and the RGP.

I do not wish to repeat what is already contained in this report which is quite detailed, but just to echo some of the points which I personally dealt with.

From the outset I wanted a pragmatic and sensible approach notwithstanding I had firm footing on jurisdiction and Gibraltar law. I even went as far as involving the AGs chambers at an early stage to provide legal advice by asking Ricky Rhoda to personally speak to GFC but again to no avail.

To me this was a complete disregard and lack of respect to our Attorney General.

Add insult to injury the matter deteriorated very rapidly when clearly senior MOD officers were being deceitful and evasive to the point that we had no alternative but to obtain a Chief Justice's warrant to make these officials see the gravity of the situation and see sense.

Armed with this warrant I informed the Chief of Staff and later Commander British Forces that I was being pushed against the wall to a place that I would not rather be, and as the last resort, we would now be in a position to execute this warrant on another Law Enforcement body (RNPM) something which I was very reluctant to do. I believe I showed great restraint in holding back from doing this.

A conversation with Commander Jack Hawkins (Chief of RNP- UK) then revealed and confirmed that the evidence was on the aircraft and I then instructed for this aircraft to be held back from departing. CBF then saw sense in de-escalating everything and I believe instructed for the aircraft to return to the stand and for Watterson and the evidence to be disembarked. I was then given his reassurance that the computer devices would be handed over to the RGP. After this was done I allowed for the aircraft to depart.

Even then I proposed that we should join up in taking this forward and for the RNPM officers to assist in the retrieval of evidence and to assist with the Forensics. Finally they acceded and we are now working together.

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As I said it was a disappointing day and not one to gloat about but clearly we must not find ourselves in such circumstances ever again why I have proposed a meeting on the 22nd February of all stakeholders. The Attorney General has welcomed such a meeting which he will chair at his offices at No.6.

I strongly believe that MOD senior officials did not behave appropriately and had they used some practical common sense, we could have averted this situation. More worryingly they showed lack of respect by challenging the Attorney General and the Commissioner of Police both Constitutional posts.

I am willing to discuss this further should you so wish.

Kind regards

Eddie



Edward Yome CPM
Commissioner of Police
Past President European Association of Airports & Seaports Police (EAASP)
Vice President IAASP
Calpe House Trustee

INVESTORS IN PEOPLE | Gold

ROYAL GIBRALTAR POLICE
Detective Superintendent Ian McGrail *OTM M.Sc.*
Crime & Protective Services

Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 20048055, Fax: (350) 20050717
E-mail: ian.mcgrail@royalgib.police.gi

OFFICIAL SENSITIVE

10th February 2017

Commissioner of Police;

Sir,

RE:- Investigation in to RAF Sgt WATTERSON

This report provides COP with the chronological sequence of events as I have them and with as much a detailed account as I know it to be regarding the above captioned matter. Enquiries are continuing to elicit further information with regards to both the investigation in to Sgt WATTERSON and to the issues that arose once the RGP took an interest in the matter. I would therefore ask you to understand that this paper may not contain all the answers to questions you may have after absorbing the contents herein. On occasions during this report I have also commented on my *prima facie* observations on matters arising, obviously from a professional local application.

In the early hours of 4th February 2017, an email was received at RGP Command & Despatch from colleagues in the GDP advising that the JPSU had the previous day (3rd Feb 2017) effected the arrest of a serviceman, Sgt WATTERSON, in Gibraltar, on suspicion that this man was in possession of indecent imagery of children. His residence at [redacted] had been searched by JPSU and computers and data storage devices had been seized. That Sgt WATTERSON had since been released from his arrest and had undergone a [redacted] which determined that he was at [redacted]. At that point no further details were available to the GDP.[1]

This information was forwarded by CAD to our Public Protection Unit for their information. Coincidentally, Det/Insp Enriles, o.i.c of the PPU, happened to be the RGP duty officer that morning and on reading the communication sought further details from GDP Sgt Hosken who unfortunately was unable to help any further as they [the GDP] had no additional information to share.

Consequently, Det/Insp Enriles contacted the JPSU Master-at-Arms Claire BELL who informed of the following; that Timothy WATTERSON moved to Gibraltar on the 7th January 2017 for a two year posting. He moved to Gibraltar with his wife an[redacted] That they had received information from their Force Intel Bureau in UK via the National Crime Agency/Leicestershire Police that an IP address in the UK had uploaded an indecent Cat B image of a prepubescent female exposing herself. This image had been uploaded during the course of June 2016 to an IP address allocated to WATTERSON at his previous posting address in Leicestershire, UK. MA BELL

[1] It is believed GDP only communicated the matter to RGP in the context of the WATTERSON's risk of self harm.

further informed that as a result of this information they had arrested him on suspicion of possession of indecent images and seized various data storage devices in the residence.[2] The authority to arrest was provided to Det/Insp Enriles as Sec 42 & 67 of the Armed Forces Offences Act 2006 UK that she claimed extended them jurisdiction in Gibraltar. No reference to Gibraltar law was made. I also understand that the authority to search WATTERSON's residence was Sections 79 & 80 Chapter 4 of JSP 830 (I believe these to be their version of our codes of practice). WATTERSON was detained by JPSU at their premises.[3]

JPSU procedures are actually based on the UK's Police and Criminal Evidence Act (PACE) so when he was processed by the services police he elected the right to free and independent legal advice – there being no such duty solicitor scheme in Gibraltar the MA explained they would have to fly out one from the UK! Due to this untidy situation the JPSU were compelled to release WATTERSON from his arrest and he was informed that he may be seen at a later date. The devices seized from the search of the residence were retained with the intention of subjecting them to forensic analysis.[4]

MA BELL further explained that post to his release from arrest WATTERSON had also been also psychiatrically assessed by MOD (Gibraltar) medical personnel and this revealed that he might be a risk to himself. Because of this development JPSU appointed him a 24/7 'chaperone' for his own safety and instructed that he was not to return to the matrimonial home.[5] In the meantime, MOD social services SSAFA would be conducting assessment of WATTERSON's [redacted] son who attends [redacted] No reference was made of any intended actions with Mrs WATTERSON.

Det/Insp ENRILES expressed his concerns to MA BELL that these type of investigations required the sharing of information at far an earlier stage given the potential local implications. Neither did we have any photograph of the subject to assist us in the identification and generating awareness of him. Although provisionally housed at Devil's Tower Camp, he was still free to roam about Gibraltar as long as the chaperone remained with him. To this Det/Insp Enriles highlighted that notwithstanding the measures in place these could be deemed insufficient and may not necessarily prevent an act of self harm or an attempt on his life, or even prevent him from committing further offences. Det/Insp ENRILES added that even though WATTERSON had not been in our jurisdiction for long he had still had opportunities to interact with members of the public/children and therefore there was a need to properly risk assess him. MA BELL agreed with the Det/Insp and arranged to share WATTERSON's photograph for the purpose of creating awareness for RGP personnel.

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[2] On the facts available, the action taken by JPSU in pre-emptively arresting Watterson at such an early stage is not regarded in the RGP, or indeed by UK civilian police, as best practice and procedure.

[3] JPSU premises are not regarded in Gibraltar law as a designated police station for the detention of persons under arrest. Neither can the JPSU grant and/or impose bail conditions post to an arrest.

[4] This begs the question of whether in effect the search and seizure of the devices from the residence and their continued detention retains any legitimacy. I say so because no search warrants were issued for this process & therefore it could potentially be regarded as a tactical short circuit of proper procedures which in turn could be calculated to be an abuse of powers. i.e. Police cannot go about arresting individuals and search their properties without a warrant, then release the person from arrest and retain the exhibits found for further investigation. I may be wrong but it certainly looks a very odd and I dare say unprofessional/unethical practice, if not an illegal one.

[5] I am presuming that the power to impose these control measures is provided by military law.

As is common and proper practice in these types of cases, on Monday 6th February, Det/Insp ENRILES, began to make arrangements to hold a strategy meeting under recognised child protection procedures with Gibraltar Social Services and SSAFA to discuss Master WATTERSON and for the purpose of information sharing. Equally, considerations were given to convene a Multi-Agency Public Protection Arrangement (MAPPA) strategy meeting to discuss Sgt WATTERSON as a person of interest in the context of sex offender management.[6] Very surprisingly, at 1730Hrs on 6/2/17 the position of SSAFA was that no strategy meeting would take place involving Gibraltar authorities and more worryingly still, that Gibraltar Social Services should not have been in the know of the matter.

On Tuesday 7th February 2017, I contacted Provost Marshall (PM) Chris COLLINS and very briefly expressed my concerns on how the matter was being handled. I arranged for him to meet with Det Ch/Insp TUNBRIDGE and Det/Insp ENRILES @1100Hrs at Bleak House.[7] This meeting was attended by PM COLLINS and MA BELL. They provided a brief along the lines of what MA BELL had provided to Det/INSP ENRILES at the weekend.

Det Ch/Insp TUNBRIDGE then raised the following question; why had the RGP not been notified by JPSU of this on-going investigation? PM COLLINS stated that the suspect was a serving member of the military stationed in Gibraltar and residing in MOD property. That the offence being investigated occurred in the UK and under the Armed Forces Act 2006 they had the legal powers to assert jurisdiction in the manner they had whereas the RGP did not have any locus. Det Ch/Insp TUNBRIDGE accepted that the RGP had no authority over a UK investigation. However, he explained that it was erroneous to suggest that the RGP had no jurisdiction on crimes that may have occurred or were occurring *anywhere* in Gibraltar including within the MOD estate. It was precisely this that we were concerned about. If the JPSU suspected the computer devices seized from WATTERSON's house were believed to contain indecent imagery of children, then even if these may have been uploaded in the UK, they were now in the jurisdiction of Gibraltar and in breach of Gibraltar Law. We further expressed concern that WATTERSON (or anyone else in the household) may have accessed or been involved with other child sexual exploitation data or activity whilst here in Gibraltar in addition to whatever he was suspected to have accessed in the UK. PM COLLINS did not accept this position and maintained that the JPSU had full jurisdiction of the case.

Det Ch/Insp TUNBRIDGE respectfully asked PM COLLINS to hand over the exhibits seized from the residence to the RGP but the latter re-asserted his position that he would retain them under the authority vested by the Armed Forces Act 2006 UK which he claimed extended to Gibraltar. PM COLLINS further revealed that if when examined in the UK, the devices contained any incriminating evidence, they would fly WATTERSON back to the UK to answer to any potential charges.[8] This meeting ended at 1200Hrs and Det Ch/Insp TUNBRIDGE advised PM COLLINS that he would be referring the matter up to RGP senior management and that further contact would be made with him later.

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[6] Deemed to be best practice in these types of criminal investigations.

[7] Ironically DCI Tunbridge and DI ENRILES were attending a training session arranged by Social Services on child protection and safeguarding which was also being attended by SSAFA. The main theme running through this training session being that of multi agency partnership work and information sharing.

[8] This was the first occasion the RGP requested to take over the [local] angle of the investigation from JPSU on the back of there being reasonable suspicions that offences may have been committed in Gibraltar.

I was then briefed by Det Ch/Insp TUNBRIDGE on JPSU's entrenched posture. Whilst I was 100% absolutely certain of the RGP's position on this[9], I asked Det Ch/Insp TUNBRIDGE to consult with the Office of Criminal Prosecutions and Litigation to seek their views on what the position was when two authorities were claiming jurisdiction over a matter. Consequently, senior counsel Ricky RHODA CBE QC confirmed the RGP's position also expressing concern that if the RGP were claiming jurisdiction on the basis of there possibly being offences disclosed locally, that a [coerced] repatriation[10] of WATTERSON by the MOD to potentially face charges in the UK could be deemed to be unlawful - that the proper way to do this was via established judicial processes i.e. European Arrest Warrant.

At 1254Hrs Det Ch/Insp Tunbridge and Det/Insp ENRILES again held a telecon with PM COLLINS explaining that our legal services had confirmed the RGP's position regarding primacy and the fact that local legislation would be applicable over the Armed Forces Act 2006.[11] PM COLLINS reiterated his position *viz* the UK's Armed Forces Act 2006 adding his legal advisors had confirmed otherwise and therefore he would not be relinquishing conduct of the investigation, basically disregarding local legislation and our standpoint.[12] It was also disclosed by PM COLLINS that arrangements were already made to despatch the exhibits to the UK on Wednesday 8th February 2017 to submit them to forensic analysis. Det Ch/Insp TUNBRIDGE told PM COLLINS that he would contact him soonest.

Det Ch/Insp TUNBRIDGE reverted to me with this and we discussed what in my view was a very reasonable proposal which would satisfy the RGP and JPSU needs. In essence this was that in recognising there was a UK investigation taking place and in order not to affect this, we could conduct a parallel examination of the devices seized. This could be achieved by the RGP Hi-Tech Crime Unit officer mirroring the devices seized so that he could examine these 'working copies' to determine if there was evidence to support the reasonable grounds we had that there were offences disclosed in Gibraltar. That the JPSU could also have these devices examined in the UK in furtherance of their own investigation of offences taking place there. We run this proposal past Mr RHODA with a view of de-conflicting the matter in the most pragmatic way, though it must be said that there was no obligation on our part to be as flexible as we were being with the suggested proposal – in other words, we could assert full jurisdiction on the basis that we suspected an offence had been committed in our jurisdiction. However, the proposal recognised and respected the JPSU's interest with regards to the UK investigation. It was being done in the spirit of good relations and mutual respect between agencies.

At 1508Hrs Det Ch/Insp TUNBRIDGE and Det/Insp ENRILES held yet another telecon with PM COLLINS and discussed the said proposal explaining how we acknowledged his investigation and how our suggestion would not hinder it. The reasons why we reasonably suspected that offences had been committed in Gibraltar were re-stated. Unfortunately, PM COLLINS refused this course

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[9] Police Act 2006 Part IV s.28 & s.29 Constitution & Employment of the Force. There shall continue to be established in Gibraltar a Police Force, to be known as the Royal Gibraltar Police. The Force shall be employed *in and throughout* Gibraltar for the maintenance of law and order & the prevention and detection of crime amongst other objectives.

[10] A back door extradition?

[11] The UK protocol between the Director of Public Prosecutions & Director of Service Prosecutions & MOD para 2.1 states *.....where there are overlapping civilian and service jurisdictions and authorities within England & Wales, the civilian authorities have precedence.....*

[12] Second occasion that our request to assume the lead in the local investigation had been denied by JPSU.

of action stating it could damage the integrity of the exhibits and would be detrimental to the investigation.[13] PM COLLINS' alternative was for the forensic analysis to be conducted in the UK and if anything relating to Gibraltar were uncovered he would take legal advice on whether to release this evidence to the RGP.[14] Det Ch/Insp TUNBRIDGE further attempted to make PM COLLINS comprehend that the question of jurisdiction was very clear and technically, if need be, the RGP could retrieve the said devices from JPSU's possession, something which we did not want to do hence our continued discussions. PM COLLINS' position did not change[15].

I was kept briefed by Det Ch/Insp Tunbridge of the lack of progress and in turn I briefed COP where we agreed that the position of the RGP was as we were articulating it from the outset. We agreed that I would seek a meeting with Chief of Staff Col GREEN to pursue the matter with a view of arriving at the most pragmatic solution to the status quo.

Consequently, at 1630Hrs I attended The Tower at HM Naval Base and met with Col Green. PM COLLINS was also present. I projected the RGP's desire to de-conflict the matter in the most conventional of ways to be expected from both MOD and us. There were valuable lessons to be learnt from the whole experience and no doubt we should, as senior personnel, provide the clarity necessary so that our respective practitioners were able to work in the best possible [technical] environment. I referred to the need for better understanding of each other's roles and responsibilities and how establishing a set protocols or memorandum of understanding would perhaps address the dilemmas we were facing. We were nonetheless still left with un-doing the issues on this particular case. I highlighted how in investigations of sex offences and particularly where there were children involved the best practice dictated sharing of information.[16] In this case it was seemingly lacking as many of the key stake holders who could bring information to be shared were not even aware of JPSU's investigation.

I went over all the circumstances already related to earlier in the report. I then explained that the situation was seemingly escalating to the extent where the MOD's entrenched position did not fare well for relations with the RGP and by default the wider community in Gibraltar. I was taken quite aback when PM COLLINS stated that his mandate was very clear; that he had to look after the interests of the troops and the UK investigation. I acknowledged what he was saying but I explained that actually my mandate extended further than his – that when it came to criminal investigations, I had to look after the interests of Gibraltar PLC and that included everyone in the territory inclusive of MOD personnel.

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[13] Clearly an expression of mistrust towards the RGP displayed by PM COLLINS who also constantly stated that he had to ensure the investigation abided to UK standards implying the RGP's standards were not sufficient. The Home Office standards were constantly repeated by him in this context.

[14] This suggestion basically undermines the RGP's ability to conduct enquiries of potential offences occurring in the jurisdiction. Having the appropriate resources to conduct the examinations locally, it would be wholly unethical that we would have to rely on another agency to search for the evidence and then live in the hope that it could be released back to the RGP.

[15] The third occasion JPSU were refusing to oblige to our requests.

[16] The Bichard Inquiry report into the Soham murders identified one of the main shortfalls to be failure to share information effectively. This inquiry revolutionized processes for the UK police and social services and which the RGP have stringently put in place. Similary, the Rotherham Child Sexual Exploitation scandal - an independent inquiry by Prof Alexis Jay published in Aug 2014 condemned the failure of the authorities in Rotherham to act effectively against the abuse or even, in some cases, to acknowledge that it was taking place.

I expressed dissatisfaction on how the JPSU were handling the matter and how the overall risks attached to this case were not being properly addressed. I described how the RGP operate to best practice and procedures on these type of investigations – that we had a forensic computer expert, dedicated risk managers and all the supporting infrastructure for such an investigation which evidently the MOD did not have in Gibraltar as had been proven with the inability to proceed with the interviewing of WATTERSON and provide free/independent legal advice, their inability to impose grant/impose bail conditions or even custody facilities[17]. Whilst I was assured that WATTERSON was being 'properly managed', I was not reassured that he may have already committed further offences whilst in Gibraltar. I also enquired as to why the other members of the family, i.e. the wife and 14 year son were not being regarded as potential suspects too. The focus was solely on WATTERSON and it was mentioned that they already had evidence against him of having committed an offence in the UK. This caused me to suspect that there was probably more to the case than what met the eye. PM COLLINS' response was that he was under no obligation to discuss his investigation strategies with me. In turn, this further enhanced suspicions that offences had been committed in Gibraltar as otherwise why would the JPSU seize computers and other devices if they did not believe them to contain incriminating material. All these concerns I shared with Col Green and PM COLLINS adding that I was duty bound to investigate WATTERSON locally – I could simply not leave such a serious matter walk under my nose in the jurisdiction of Gibraltar. I explained how in the past the RGP had assumed the lead and conduct of serious criminal investigations within the MOD estate ranging from serious assaults on MOD [children] dependants where the assailant was a serviceman to the sudden death of senior MOD official as only two examples. I referred to these matters simply to highlight our argument from the outset that the RGP had primacy in the jurisdiction.[18]

I conveyed my concerns to the two gentlemen that there were too many factors in terms of possible local victims, possible crimes committed here, public perception of the RGP and the legal position on jurisdiction amongst others that compelled the RGP to have a say on the matter. I did, however, state that there was still room to work the matter together to oblige to both agency's needs. Col GREEN asked me what actions the RGP would take if indeed incriminating material were found in any of the devices seized to which I explained that there would certainly be an intervention on our part to probe in to the matter further. This was totally mis-construed by Col GREEN who argued that going in *"guns blazing"* would compromise the UK investigation. This argument fazed me as Col GREEN was being critical of a potential action the RGP could consider, but not necessarily carry out, when in fact the JPSU's intervention had already precisely done what he was advocating should <u>not</u> be done.

The proposal to run a parallel investigation was flatly discarded by PM COLLINS who said he had top cover from his superiors in the UK that he was on solid footing to retain conduct of the investigation. He argued that my proposal would put in jeopardy the integrity of the exhibits seized as the examinations he would subject them to comply with Home Office Standards and as the RGP was not a Home Office force there would be a conflict. He added that there was nothing in military protocols that obliged him to consider what I was proposing. In what was a clear moment of forceful assertion of his stance, PM COLLINS told Col GREEN that the solution to the matter was to put WATTERSON on a plane to the UK at the earliest opportunity. I interjected stating that if he was contemplating this course of action it would certainly bring about a

[17] These are issues that should have been given the important consideration they merit before effecting the arrest.
[18] Fourth occasion that the RGP requested to take over the conduct of the investigation.

considerable and detrimental strain to MOD/RGP/GOG relations. I equally mentioned that the RGP could actually be driven to impose executive action over the JPSU but that I stressed my intentions were not to go down that route but rather to resolve the issues by discussion amongst us senior law enforcement officials in order to prevent any further escalation which could jeopardise relations. I informed them both that I would be reporting up COP on this meeting.

Sir, I can assure you I tried every possible influencing and negotiating tactic I could think of to resolve the impasse but unfortunately they did not shift from their stance. Before concluding the meeting at 1800Hrs I asked PM COLLINS to refer the arguments I had posed on behalf of the RGP to his superiors in UK so that at least they could have a balanced and more objective understanding of the whole matter. I asked PM COLLINS to do this as a matter of urgency and before any decision was taken to fly out the exhibits and/or WATTERSON. He assured me he would do so. We agreed that he would revert to me once his superiors had taken a view.

I then returned to NMH where I briefed COP on the unfortunate non-progress and on the concerns I had that PM COLLINS and Col GREEN were contemplating actions which would totally bypass the RGP's position on the matter. That evening/night I am aware COP tried unsuccessfully on numerous times to contact CBF who was out of the jurisdiction.

Not having heard from PM COLLINS on what his superiors in UK had to say, at 2130Hrs I phoned him but there was no response. At 2134Hrs I phoned him again and I received no response. Whilst waiting hopefully for a return call from him I conducted some research on the applicability of the UK's Armed Forces Act 2006 in Gibraltar and to my understanding found that it was not applicable.[19] I also looked up service police protocols and what they had to say on the matter and I was not surprised to read that there were provisions stating that local legislation might impose similar jurisdictional arrangements to those PM COLLINS was claiming.[20] Then again, irrespective of whether the Armed Forces Act 2006 is not applicable to Gibraltar and whether service police protocols have seemingly not been abided by, I would like to restate the fact that the RGP has primacy over the matter as enshrined in Gibraltar law.

The matter was now becoming time critical as the plans by MOD (Gibraltar) to fly out the exhibits and possibly WATTERSON were proceeding. I was encountering problems in contacting PM COLLINS and so was COP in reaching CBF. We agreed to a number of actions as follows;

- RGP SB to check passenger manifests to see if WATTERSON was booked on a flight departing Gibraltar Airport.
- Cover crucial areas to prevent WATTERSON from being whisked away.
- Make the necessary arrangements to retrieve exhibits seized from the residence if the JPSU did not change their position. This would be done by applying for a search warrant at the courts.

At 2212Hrs PM COLLINGS returned my call and I shared with him my understanding and interpretation of both the Armed Forces Act 2006/2016 and the service police protocols. Unfortunately again my discussions and arguments as referred to in the preceding paragraph practically fell in deaf ears.[21] He reaffirmed that his position had not changed and that his plans to

[19] Sec13 of the AFA2016 when read with the AFA2006 actually excludes Gibraltar in its application. This requires official legal interpretation.
[20] Joint Service Publications 830 Chapter 3 Jurisdiction & time limits, Part 3 sec62(c)
[21] Fifth occasion that JPSU is asked to hand over the investigation.

fly out the exhibits the next day were still on track. I asked him whether it was also intended to fly WATTERSON out and he replied by saying he was not at liberty to discuss his investigation strategies with me. I told him that CoP was trying to contact CBF and had left numerous messages for his calls to be returned but that he had not been successful in reaching him. I further told him that it would only be proper that he stalled his plans until CoP and CBF spoke. In response to this PM COLLINS told me that CoP should call Col GREEN, but that in any case he was not answerable to the Command in Gibraltar but rather to the Provost Marshall (Navy) in the UK. I asked him whether he had received any response from his superiors on what had agreed at the meeting in The Tower. He said that his superiors would probably get back to him the following morning but that at present his intentions remained unchanged.

Still concerned that JPSU would continue to entirely disregard our claims we discussed our tactical options and COP sanctioned that we should proceed to retrieve the exhibits. The intention was to meet up with PM COLLINS once again and ask for the exhibits to be handed over and to only resort to executing the warrant if there was non-compliance on his part. COP also sanctioned any other action falling out from any non-compliance after the warrant had been executed.[22] Consequently, Det/Insp ENRILES and Det/Con HOWARD left NMH to apply for a warrant from the Stipendiary Magistrate to search the JPSU premises at Gun Wharf.

At 2243Hrs I again contacted PM COLLINS asking him to meet with me. The plan was to offer the opportunity once again for the exhibits to be handed over and then, if this was not forthcoming, to proceed and execute the warrant. However, he said that he would not meet at such late hour. We arranged that I would go down to his offices early the next day.

At 2330Hrs, I was informed by Det/Insp ENRILES that the Stipendiary Magistrate had not granted the warrant on the basis that he felt there was insufficient suspicion to believe that the computer devices seized from WATTERSON contained incriminating data of offences committed in Gibraltar.[23] This clearly caused for a re-think of our options which included making a fresh application for the warrant in the morning. I then stood down the team for the night.

At 0845Hrs on Wednesday 8th February 2017, I attended the Office of Prosecutions and Criminal Litigation to seek legal support to make the MOD accept that the RGP had primacy in the matter. Mr RHODA's view was that we should try and avoid taking executive action against the JPSU and pursue discussions to reach a pragmatic solution, however, if these failed he agreed and accepted that we were then left with no option other than to either succumb to the JPSU's posture or indeed proceed with a fresh application for a search warrant and seize the property in question. Understandably so, Mr RHODA was puzzled as to why the situation had reached the levels it had within the MOD. During the course of the morning Senior Counsel RHODA spoke with (i) the Acting Governor, Mr Nick PYLE and (ii) Col GREEN in yet a further attempt to convince them to accede to the RGP's requests. He also tried contacting the Command Secretary but he was not contactable.

I am aware that both Mr PYLE and Col GREEN asked Mr RHODA to request the RGP to defer any intended action as both were seeking legal advice from the FCO and UK military respectively as to

[22] Possible offences of obstructing police to be considered and executive action followed through in this regard.
[23] Though respecting the Magistrates views for the non-granting of the search warrant, we believed he may have erred in his decision.

whether the RGP had primacy in the matter. When Mr RHODA relayed this to me I expressed resentment as essentially we were being asked to be subservient to UK legal advice when the local position was already well affirmed. I then returned to NMH and reported these latest discussions to COP who then gave me instructions to re-apply for another search warrant to the Chief Justice. I proceeded to do this and having spoken to the Registrar of the Supreme the matter was listed for 1500Hrs that same day.

Throughout the day I sought updates on possible intelligence relating to WATTERSON flying out and SB confirmed that he was not booked on any commercial flight departing from Gibraltar Airport. I still asked SB to remain vigilant at the airport in the event that JPSU staff were spotted attempting to take out the exhibits on a commercial flight.

At around 1400Hrs, it was brought to my notice that a military aircraft had just landed at RAF Gibraltar on an approximate 1-hour stop over. This straight away caused me to suspect that the exhibits and/or WATTERSON could be put on this RAF plane taken out of Gibraltar. I relayed this to COP who asked for contingencies to be put in place to prevent the aircraft from departing if our suspicions were confirmed.[24] You can appreciate how time critical the situation was getting with on the one hand the application for the warrant being heard at 1500Hrs which coincided with the possible departure of the military flight.

I also learnt that the Acting Governor would see both CoP and Col GREEN at The Convent after a separate [firearms capability] meeting which was being attended by both. The matter would again be discussed. It was COP's intentions at this meeting to seek assurances from Col GREEN that the aircraft would be carrying the exhibits. As it happened Col GREEN did not attend the said meeting.

At approximately 1430Hrs Insp PERERA was instructed to position himself in a marked police car by the south barrier opposite GDP post and await instructions. His position was by the very start of the pedestrian and bicycle lane next to the police post. At about 1514Hrs and unable to discuss the matter with Col GREEN and Acting Governor you directed that we contact PM COLLINS to seek the assurances. Det Ch/Insp Tunbridge tried contacting him to no avail as his mobile phone was switched off. We contacted the JPSU offices requesting to speak to PM COLLINS and RAF Sgt O'Malley stated that he was at a meeting with Col GREEN and was unavailable. We explained how imperative it was that we spoke to PM COLLINS as this was in relation to the on-going WATTERSON matter. Sgt O'Malley undertook to contact PM COLLINS for us.

At approximately 1520Hrs, at the Supreme Court, the Chief Justice, heard my application for the warrant to search for the property seized from WATTERSON's residence by the JPSU. Det/Insp ENRILES, Senior Counsel RHODA and Crown Counsel ZAMMIT supported my application. I took to the witness stand and under oath relayed my information and reasonable suspicions and how time critical the situation was, explaining that we also suspected the property we were looking for could well be on board a military aircraft that was about to depart. Det/Insp ENRILES also had to take the stand as the CJ wanted to know on what basis the Stipendiary had declined the granting of the warrant the previous day. At the end of the application, the CJ granted me the warrant but not before underscoring that it was not a good day for law enforcement when one agency had to

[24] Police powers to stop and search Sec 6(1)(b) of the Criminal Procedure and Evidence Act 2011 & Sec 260 of the Crimes Act 2011

take executive action against another law enforcement agency in this fashion. I had to concur with the CJ on this.

As I left the Supreme Court at 1540Hrs, I learnt that the military aircraft was starting it engines but was still at its stand - the barriers to the stop traffic across the airfield were down. I also learnt that the GDP officer at the south barrier had been instructed to request Inspector PERERA to move away from his position as his presence interfered with air movements. The GDP officer was informed that we had an operation on-going and we were exercising our duties in the said operation. Insp PERERA referred the GDP officer to contact his superiors. Supt ULLGER also received information from Air Traffic Control that all flights would be diverted because of our presence, including commercial flights.

Throughout this time Det Ch/Insp TUNBRIDGE was continuously trying to raise PM COLLINS to no avail. Sgt O'Malley also confirmed that he had not been able to contact PM COLLINS either. Sgt O'Malley was asked whether he could confirm if the exhibits in question had been transported on to the military aircraft that was shortly scheduled to depart to which he stated that he was not in a position to respond to that question but acknowledged the importance of the request. Our suspicions that the exhibits were on board the aircraft were growing by the second.

At the airfield, GDP were being instructed by ATC to insist that Insp PERERA moved from his position or alternatively, if he was not going to move, to hand over the keys to the patrol car as otherwise the military aircraft would not be able to take off. They were informed again that there was a police operation in place and he would not move from his position or indeed hand over the keys to the patrol car. Insp PERERA noted the arrival at the location of Stn Cmdr Liz HUTCHINSON.

At approximately 1545Hrs I arrived at JPSU HQ in Gun Wharf together with other officers. I identified myself to staff and asked for PM COLLINS. Sgt O'Malley informed us that PM COLLINS was not there but that he would call him and tell him we were at his office. A few minutes later, Sgt O'Malley told me that PM COLLINS was on his way to the office to meet us.

At about 1551Hrs, the military aircraft was seen to slowly move from its stand towards the boundary of the RAF apron. Simultaneous to this Insp PERERA noted a MOD sweeper vehicle yellow in colour driven by a civilian driver known to be either Jacqueline BARBAN or Alicia MUSCAT, drive towards the RGP patrol car and manoeuvre to block the patrol car which at the time was static. This caused Insp PERERA to circumvent the MOD vehicle so that the RGP vehicle was not blocked in. Insp PERERA then slowly moved up the cycle lane northbound to the middle of the runway. The RGP had it blue lights on. Seconds later Inspector PERERA moved further northwards and stopped the patrol car by the north barrier.

At approximately 1555Hrs a GDP dog section patrol car driven by GDP PC Diani with RAF Stn Cmdr Liz HUTCHINSON in the front passenger seat drove up to Insp PERERA's position. Stn Cmdr HUTCHINSON told Insp PERERA that she knew what the RGP was doing and that she was "fed up of these silly games", adding that we were preventing a military aircraft from taking off and also endangering the said aircraft. Insp PERERA retorted that if the military aircraft remained by the apron where it currently was, no one would be endangered adding that if she knew what the police operation was about she should understand that we were exercising our duties in respect of this operation. Insp PERERA who at the time was on speaker phone with Ch Insp FINLAYSON and

Supt ULLGER passed on his phone to Stn Cmdr HUTCHINSON as Supt ULLGER wanted to speak with her.

Supt ULLGER informed Stn Cmdr HUTCHINSON that there was an on going police investigation whereby it was strongly suspected that there were items on the aircraft which were linked to the investigation and that we wanted to retrieve them. She was also told that we were desperately trying to contact Col GREEN but had been unable to locate him. Supt ULLGER asked her to please check the manifest to establish whether such items (computers and mobile phones) were on board. She agreed to revert to Supt ULLGER once she had checked the manifest.

At 1559Hrs Stn Cmdr HUTCHINSON called Supt ULLGER and stated that she had the manifest before her and that there was no computer equipment or phones logged in it. She was told that it was suspected that also on-board the aircraft was the serviceman subject of the investigation together with the exhibits appertaining to the case. She was informed that we had a warrant issued by the Chief Justice to retrieve these items which were in the possession of JPSU and that if she had any information she should be disclosing this to him. She was warned of the possible consequences of not co-operating with the requests. To this she stated that she would get back to Supt ULLGER. By responding as she did she was clearly revealing that she was withholding information. However, her word was taken at face value given the responsible post she holds and so the RGP patrol car with Insp PERERA was stood down and moved away from the airfield. Shortly after the aircraft returned to its stand within the apron.

At around 1615Hrs, whilst awaiting the arrival of PM COLLINS at the JPSU HQ at Gun Wharf I was asked by Sgt O'MALLEY to speak to Cmdr Jack Hawkins, PM COLLIN's line manager in the UK. The whole issue of whose jurisdiction over the matter was discussed with each of us arguing our respective positions. Cmdr Hawkins could not understand why we were taking such an interest in this case when the original offence had been disclosed in the UK. I repeated the RGP's position in the same way as it had been promulgated to PM COLLINS and Col GREEN. I also explained that in the absence of the JPSU co-operating with the RGP we had had to resort to securing a warrant from the Supreme Court of Gibraltar to retrieve the exhibits. Unsatisfied with what I saying Cmdr HAWKINS said he wanted to speak to the Chief Justice or a more senior police officer than me. PM COLLINS arrived at JPSU HQ at approximately 1625Hrs (40 minutes after I had arrived at the JPSU premises) whilst I was on the phone to his line manager.

PM COLLINS did not make himself available to me and I exercised great restraint in not asserting my authority under the circumstances and execute the warrant. Believe it or not I was still hopeful that PM COLLINS or his superiors would see sense and appreciate the levels this had reached. It was not to be and when I eventually was able to speak to PM COLLINS I expressed how unprofessional he had been in shunning me in the way he had. I accepted that this was an awkward for situation both of us but we had to be professional and resolve it without further conflict. I informed him that I would rather not execute the warrant and that we could still work the matter out favourably for both. PM COLLINS continued in his rigid way that he was at no liberty to discuss the matter with me. He kept receiving phone calls which he took in private. During one of these breaks in our conversation, I received reliable information that it was very likely that both the exhibits and WATTERSON were in fact on board the aircraft. This I relayed to my colleagues dealing with the airport side of the operation.

At 1629Hrs Supt ULLGER again called up Stn Cmdr HUTCHINSON asking for any update to their last conversation. She insisted that she could not see anything in the manifest to suggest computers were on board. Supt ULLGER told her to stop being selective with words as she perfectly knew what he was on about i.e. that we were seeking out property/exhibits relating to the WATTERSON investigation. She was warned yet again to which she nervously replied that she would call Supt ULLGER back.

At 1650Hrs Supt ULLGER again called Stn Cmdr HUTCHINSON and this time told her we had information that someone had disembarked from the aircraft with items. She was asked to confirm this and she replied that no-one or any cargo had been come off the aircraft. Supt ULLGER expressed his deep dissatisfaction at the misleading responses she was providing, informing her that RGP officers with eyeball on the aircraft had seen this happen. She again stated that she would revert to the Supt. She was reminded about the existence of the warrant and the fact that she could potentially be obstructing police in the execution of our duties. By this stage and by the tone of her voice Supt ULLGER made out that Stn Cmdr was clearly nervous and somewhat confused.

At 1659Hrs, Supt ULLGER called Stn Cmdr HUTCHINSON and told her that the traffic barriers had been down for an inordinate amount of time causing major disruption on all our roads. There was also a potential for public disorder amongst thousands of disgruntled pedestrians and motorists who had been held up for over two and a half hours. He requested that traffic was allowed to circulate forthwith. She stated that pedestrians would be released immediately but when pressed to release vehicular traffic too she said she was working on it.

A RGP patrol car was again despatched to the airfield. Insp PAYAS who was in this patrol car positioned it in the same spot as Insp PERERA had initially positioned himself. He was again approached by a GDP officer who asked him to move the patrol car out of from the airfield or hand over the keys. This was denied on the same basis as earlier. The yellow MOD road sweeper again drove towards the RGP patrol car to block its position and causing Insp PAYAS to evade this manoeuvre. The driver of the sweeper vehicle, Ms MUSCAT was spoken to and advised to desist in her actions as she was rendering herself liable to arrest for obstructing police. She obliged and moved her works vehicle to the area of the western hangar.

At this juncture COP informed me that on conversations with Cmdr Hawkins the latter had pleaded to COP to allow the aircraft to depart as the evidence was required in the UK to pursue the investigation against WATTERSON. This then uncovered the truth which confirmed that the evidence and WATTERSON were on the flight although the three senior MOD officials were saying different, clearly to deceive us.

Around this time, I enquired from PM COLLINS whether the exhibits we wanted to seize were in the building and he replied in the negative. I went to on to inform him that I practically knewthat both WATTERSON and the exhibits were on board the aircraft and that we would proceed to retrieve them. He made no remark to this but I noted he suddenly became very pale and uneasy. I became concerned that he had become unwell but he reassured me he was ok. He took one further private call and after that call his behaviour completely changed. He mellowed to suggest that we should explore the running of a parallel investigation and that he would be making available the exhibits for the RGP to examine. I informed him that this course of action was the

one I had suggested initially but had not met with his approval. I added that all the conflict and tensions experienced during the past few days could have been well averted.

The warrant issued by the Chief Justice was not executed in the end. At approximately 1745Hrs I was notified by COP that he had received assurances from the CBF that the exhibits would be handed over to the RGP in due course. Consequently, I returned to NMH where we held a de-brief and I arranged for an investigation team to liaise with JPSU to proceed with the investigation. The RGP vehicle positioned by the south barrier had also been recalled to NMH at 1745Hrs.

Final observations

You will no doubt have grasped how the escalation of tension was not down to lack of will or desire on our part to resolve the issues in a 'grown up' manner. In fact, as alluded to throughout the chronology of events, we made numerous requests for the handing over of the conduct of the [local] investigation. Sadly, we were taken to the limits only to finally achieve what we are perfectly entitled to. I take the following most salient moments as key to how the matter escalated to the levels they did with I dare say a clear devious intent on the part of the senior military officials we were dealing with;

- The poor judgement by JPSU of not sharing with the Gibraltar authorities the fact that they had a potential sex offender(s) in the jurisdiction and where it was reasonably suspected that offences may have been committed locally.
- The lack of supporting legal/tactical/logistical infrastructure for the JPSU to conduct enquiries in a territory where they claim to have jurisdiction and which in essence can lead to abuses of process.
- The lack of clarity on the part MOD's part as to who has primacy in Gibraltar.
- The local interpretation that the Armed Forces Act 2006 & 2016 are not applicable in Gibraltar; meaning the actions carried out JPSU could be construed as *ultra vires.*
- The intent by Col GREEN and PM COLLINS to disregard the authority of the RGP to assert jurisdiction over the local aspect of the investigation and undermine this authority further by making arrangements to sneak out the exhibits and WATTERSON when it was perfectly clear that the RGP had a [big] claim on the matter.
- The seemingly devious conspiracy employed by Col GREEN, PM COLLINS and Stn Cmdr HUTCHINSON to ensure the RGP could not discharge their lawful duty and create a situation to exert pressure on the RGP to relent in our efforts. This includes (i) the instructions issued to civilian MOD drivers to block the path of two RGP patrol cars who were legitimately engaged in a police operation, (ii) the misleading and obstructive attitude displayed by the Stn Cmdr regarding the exhibits and person on board the aircraft (iii) the unhelpful attitudes and stances displayed by Col GREEN and PM COLLINS throughout, (iv) the traffic chaos and potential public order situation created due to the very long time the traffic barriers were closed when there was no need for this.

Finally, you may have a different view to me on this but, Sir, I submit to you that there has certainly been a serious breach of trust and confidence by, in my view, the three senior military officials referred to in this report. It will be awkward to say the least to re-establish this trust and confidence wherever and whenever our respective roles coincide in the future.

COP has requested a meeting between the under mentioned parties to be held at the office of Her Majesty's Attorney General for Gibraltar Michael LLAMAS QC at 1130Hrs on Wednesday 22nd February 2017 to discuss issues to prevent a repetition on of events described in this report.

HMAG Michael LLAMAs QC
Senior Counsel Rickey RHODA QC
COP Eddie YOME
CBF Mike WALLIKER
Provost Marshall (Navy) Cmndr Jack HAWKINS
Provost Marshall Legal Advisor

I have relayed this meeting request to PM COLLINS and I am waiting for a response on acceptance or otherwise from Cmdr HAWKINS and the UK legal advisor for the services police.



Ian McGrail *OTM M.Sc.*
Detective Superintendent
Crime & Protective Services Division

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IN THE MATTER OF THE EXTENT OF THE ARMED FORCES ACT 2006

JOINT OPINION

Introduction

1. We are asked to advise whether the Armed Forces Act 2006 ("AFA 2006") extends to Gibraltar.

2. An officer of the Royal Air Force ("RAF") stationed in Gibraltar is suspected of possession of indecent imagery of children. The Royal Gibraltar Police ("RGP") wish to investigate. However, the British military have claimed authority to arrest and investigate under the AFA 2006 and have obstructed the investigation by the RGP.

3. For the reasons set out below, it is our opinion that the AFA 2006 clearly does not extend to Gibraltar. The British military have therefore purported to exercise powers of arrest and investigation in a jurisdiction where the law does not grant them such powers. Arrest, entry and search by the British armed forces in Gibraltar is not lawful under the law of Gibraltar.

Factual Background

4. On 4 February 2017 the RGP were informed that the British Armed Forces' Joint Provost and Security Unit ("JPSU") had arrested an officer serving with the RAF in Gibraltar on

suspicion of possession of indecent imagery of children. His residence had been searched and computers and storage devices seized. The authority to arrest was claimed under sections 42 and 67 of the AFA 2006.

5. The RGP wish to investigate and have made numerous requests to the British military to enable them to do so, which were refused. This culminated, on 8 February 2017, in the RGP obtaining a warrant to search for the seized property.

6. When the RGP went to the military base to execute the warrant they found the suspect and the seized material were on a military plane about to be flown to the United Kingdom. The RGP prevented the aircraft from taking off.

Legal Background

Offences and powers created by the AFA 2006

7. By virtue of section 367(1) AFA 2006 every member of the regular forces is subject to service law at all times. The regular forces include the RAF; see section 374 AFA 2006.

8. Part 1 of the AFA 2006 provides for a number of service offences.[1] Amongst those offences is that prescribed by section 42(1) AFA 2006, which provides that a person subject to service law commits an offence if he does any act that -- (a) is punishable by the law of England and Wales; or (b) if done in England or Wales, would be so punishable.

[1] Defined by section 50(2)(a) AFA 2006 as including any offence under Part 1.

9. Part 3 of the AFA confers powers of arrest, search and seizure in relation to service offences. For example, section 67 provides that a person who is reasonably suspected of being engaged in committing, or of having committed, a service offence may be arrested in accordance with the provisions of that section by a person subject to service law. Detailed provision is made by that Part as to the circumstances in which those powers can be exercised and the persons (ordinarily members of the armed forces of a certain rank or service police) who can exercise them.

Duration and extent of the AFA 2006

10. When it entered into force, the AFA 2006 extended to Gibraltar. Section 384(2) AFA 2006, as enacted, provided:

> *"This Act extends to –*
>
> (a) *the Isle of Man, and*
>
> (b) *the British Overseas Territories,*
>
> *subject to such modifications as Her Majesty may be Order in Council specify".*

11. Gibraltar is a British Overseas Territory: see Halsbury's Laws of England, Volume 13 (2009), paragraph 859.

12. The duration of the AFA 2006 was limited by section 382 AFA 2006, as enacted, which provided that the Act expired at the end of one year beginning with the day on which it was passed, subject to renewal by Order in Council for no more than one year from the time the Act would otherwise expire, with an overall limit to such continuation beyond the end of the year 2011.

13. This limited duration reflects the fundamental constitutional principle, traced back to the Bill of Rights in 1688, which declared:

"[t]hat the raising or keeping a standing army within the kingdom in time of peace, unless it be with the consent of Parliament, is against law".

14. Since the 1950s, legislation has been required every five years to continue in force the legislation enabling the Armed Forces to be recruited and maintained. Those Acts have provided that, in each of the years between five-yearly Acts, an Order in Council is required to continue in force that legislation: see Halsbury's Laws of England, Volume 3 (2011), paragraph 303.

15. Section 1 of the Armed Forces Act 2011 ("AFA 2011") substituted a new section 382 into the AFA 2006 by which the AFA 2006 was continued and could be continued by Order in Council until the end of 2016.

16. However, unlike the AFA 2006, the AFA 2011 did not extend its provisions to British Overseas Territories. Rather, section 33 AFA 2011 provided:

"(1) Her Majesty may by Order in Council provide for any of the provisions of this Act, except section 25, to extend to a territory mentioned in subsection (2) with or without modifications.

(2) Those territories are—

(a) any of the Channel Islands;

(b) the Isle of Man;

(c) any of the British overseas territories".

17. No such Order in Council was made and therefore the AFA 2006 did not extend to the British Overseas Territories beyond the end of 2011, by reason of that Act's expiry under its section 382 (as originally enacted).

18. Section 1 of the Armed Forces Act 2016 ("AFA 2016") substituted a new section 382 into the AFA 2006 by which the AFA 2006 was continued and could be continued by Order in Council until the end of 2021.

19. Section 21(2)(b) of the AFA 2016 provides that that Act, with the exception of certain sections, extends to "*the British overseas territories, except Gibraltar*" (emphasis added). Section 13(1)(b) of the AFA 2016 brings the AFA 2006 back into force in "*the British overseas territories except Gibraltar*". Section 13(3) of the 2016 Act amends section 384(2) of the AFA 2006 (the original version of which we cite in paragraph 10 above) to exclude Gibraltar.

20. Paragraphs 4 and 6 to 12 of the Schedule to the AFA 2016 make provision in consequence of the fact that AFA 2006 is not to extend to Gibraltar. Paragraph 4 provides that powers in certain Acts to extend amendments of AFA 2006 to jurisdictions outside the United Kingdom cannot be used in respect of Gibraltar. Paragraphs 6 to 12 amend certain references to British overseas territories in AFA 2006 to exclude Gibraltar.

21. The related Parliamentary materials confirm that the decision not to extend the AFA 2006 to Gibraltar was a deliberate choice by the legislature. For example:

(i) The Explanatory Notes in the House of Lords relating to the Bill brought forward from the House of Commons on 12 January 2016 explain in terms at paragraphs 78 to 79 and 99 that the AFA 2006 had previously expired in Gibraltar and was, under the provisions of the Bill, not to extend to Gibraltar. Similar explanation is provided in the Explanatory Notes in the House of Commons relating to the Bill as introduced there on 16 September 2015 at paragraphs 74 to 75 and 90.

(ii) The rationale for not extending the Bill to Gibraltar was explained in the House of Commons during the Committee stage of the Bill by the minister Mark Lancaster, following a question from Jim Shannon MP. The Minister explained that the 2005 Constitution gives Gibraltar wide legislative responsibilities so the Government was discussing with Gibraltar whether it would be best to provide for the 2006 Act to extend to Gibraltar or for Gibraltar to act through its own legislation: Hansard, 16 December 2015, Column 1607.

(iii) During that Committee stage, the minister recognised that the AFA 2006 had not been in force in the British Overseas Territories since 2011 and that, in order for the members of the British armed forces to have powers of arrest, entry and search in those jurisdictions, the 2006 Act would need to be extended to those jurisdictions: Hansard, 16 December 2015, Column 1607.

(iv) On the Third Reading of the Bill before the House of Commons on 11 January 2016, the minister said that the Government was still discussing with Gibraltar

whether it would be best to provide for the 2006 Act and the Bill to extend there, that those discussions were ongoing and if necessary the Government would introduce an amendment to the Bill in the House of Lords; Hansard, 11 January 2016, Column 614 to Column 615.

(v) During the Second Reading of the Bill in the House of Lords on 11 February 2016, the Minister of State, Ministry of Defence, Earl Howe, explained that the Bill provided that it was not to have effect in Gibraltar, although the Government was consulting Gibraltar on whether it would be content for the AFA 2006 to become part of its laws and that, if so, an amendment to the Bill would be made: Hansard, 11 February 2016, Column 2362 to 2363. No such amendment was brought forward before the Bill was passed.

Relevant provisions of the law of Gibraltar

22. The English Law (Application) Act states at section 3(1)(b) that the law in England set out in any Act of Parliament at Westminster applied to Gibraltar by any Order of Her Majesty's Council, or any express provision in any Act, or by necessary implication, shall be in force in Gibraltar.

23. The Criminal Procedure and Evidence Act 2011 provides for the powers and duties of the RGP and for evidence and procedure in criminal cases. It confers upon the RGP powers of arrest upon reasonable grounds of suspicion that a person has committed an offence (section 42(2)) and powers of search and seizure in prescribed circumstances (Parts 2 and 3).

Analysis

24. United Kingdom forces present in an overseas territory are subject to that territory's law in the usual way, subject to the AFA 2006 or other legislative provision which extends to those territories: Hendry and Dickson British Overseas Territories Laws (2011), page 178.

25. The AFA 2006 does not extend to Gibraltar. This is not merely a matter of omission or oversight upon the expiry of the AFA 2006 or AFA 2011. It is a choice made by Parliament when enacting the AFA 2016 as part of its important constitutional role of approving the raising or standing of an army.

26. The language of section 13(1)(b), section 13(3) and section 21(2)(b) of the AFA 2016 is clear: the provisions of the 2006 Act and the 2016 Act are to extend to the British overseas territories except Gibraltar. The Schedule to the AFA 2016 makes provision in consequence of the fact that AFA 2006 is not to extend to Gibraltar.

27. It is plain from the related Parliamentary materials that, when considering the Bill which became the AFA 2016, Parliament was aware that the AFA 2006 did not extend to Gibraltar, was aware that it was not to be so extended by the AFA 2016 and was aware that the consequence of that was that arrest, entry and search by British armed forces in Gibraltar would not be lawful under the law of Gibraltar.

28. Accordingly, the clear intention of Parliament, reflected in the clear language of section 21(2)(b) AFA 2016, is that the AFA 2006 does not extend to Gibraltar.

29. The consequence of this is that, as a matter of the law of Gibraltar, and of the law of the United Kingdom, the British armed forces do not have the power of arrest under section 67 AFA 2006 and nor do they have the powers of search and seizure granted by the AFA 2006.

30. In purporting to exercise those powers in Gibraltar, the members of the JPSU were acting in a way which was, in that jurisdiction, *ultra vires*.

31. It is correct that the AFA 2006 applies to members of the RAF at all times, wherever they are in the world, in the sense that an offence committed abroad can be an offence contrary to the 2006 Act: this is the consequence of sections 367(1) and 42(1) AFA 2006. The minister so confirmed in the House of Lords on 11 February 2016 (see paragraph 21(v) above): Hansard at Column 2362. However, that the AFA 2006 confers such a worldwide jurisdiction over relevant persons does not make it lawful under the law of Gibraltar or under the law of the United Kingdom for the United Kingdom authorities to exercise a power of arrest or investigation in Gibraltar in respect of those persons.

32. By reason of section 13(1) AFA 2016, the AFA 2006 is not in force in Gibraltar and accordingly the power of arrest contained in section 67 AFA 2006 does not apply in Gibraltar, as a matter of the law of Gibraltar and of the law of the United Kingdom. The United Kingdom military authorities have no power to arrest in Gibraltar under the AFA 2006, although of course if the suspect returned to the United Kingdom he could be arrested in the United Kingdom under section 67 AFA 2006 for an offence committed elsewhere. It should not be surprising, when Parliament has expressly decided not to apply the AFA 2006 to

Gibraltar, that the United Kingdom military authorities do not have the power under the United Kingdom Act to arrest people in Gibraltar.

33. The law of Gibraltar, in particular the Criminal Procedure and Evidence Act 2011, confers powers of arrest and investigation of crime upon the RGP. It does not confer such powers upon United Kingdom armed forces and there is no other provision in the law of Gibraltar which does. As explained above, the AFA 2006 does not extend to Gibraltar and accordingly is not in force in Gibraltar: section 13(1)(b), section 13(3) and section 21(2)(b) AFA 2016 and section 3(1)(b) English Law (Application) Act.

34. In reaching our view we have also considered the provisions of the United Kingdom Forces (Jurisdiction of Colonial Courts) Order 1965, which prevents the trial of a member of the United Kingdom armed forces for an offence against the law of another territory where certain criteria are satisfied.[2] However, not only are those criteria not present in the present case, but in any event that Order is concerned only with the question of whether the courts of Gibraltar are prevented from adjudicating upon a certain offence and does not address the issue of whether the United Kingdom military forces have jurisdiction to arrest and investigate in Gibraltar.

35. In summary:

(i) The AFA 2006 does not extend to Gibraltar.

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[2] In particular, where the alleged offender is acting in the course of his duties, or where only service personnel (or dependants and civilian components of the armed forces) are involved or where the offence is against UK government property: section 3 of the Order.

(ii) The United Kingdom armed forces do not have powers of arrest and seizure under the law of Gibraltar.

(iii) In purporting to exercise those powers in Gibraltar they were acting in a manner which was unlawful under the law of Gibraltar.

(iv) The RGP have powers of arrest and seizure under the law of Gibraltar and members of the United Kingdom armed forces in Gibraltar are subject to that law and must comply with the lawful exercise by the RGP of those powers.

LORD PANNICK QC

EMILY NEILL

BLACKSTONE CHAMBERS

TEMPLE

LONDON EC4Y 9BW

28 February 2017

IN THE MATTER OF

THE EXTENT OF THE ARMED FORCES ACT 2006

JOINT OPINION

Michael Llamas QC

Attorney General

Government Law Offices

HM Government of Gibraltar

40 Town Range

Gibraltar

GX11 1AA

Telephone: +350 2005118

Email:

michael.llamas_QC@gibraltar.gov.gi

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(96)

Rear Admiral A D Radakin

Chief of Staff
Joint Forces Command
Northwood Headquarters
Sandy Lane
NORTHWOOD
Middlesex
HA6 3HP

Military 9360 58501
Direct (01923) 958501

8 March 2017

Dear Commissioner,

I am writing on behalf of Joint Forces Command – the organisation that commands and is responsible for the UK's permanent joint overseas bases – in respect of the ongoing investigations surrounding events on the 8th February, which unfolded in Gibraltar, in particular around Gibraltar International Airport.

There are a number of points that it seems appropriate to reflect to you. It is hoped these reflections are helpful to you on several accounts:

(1) first to acknowledge the role, advice and direction that Joint Forces Command provided to Commander British Forces Gibraltar on the legal issues impacting on the events of 8th February;

(2) secondly, to recognise and support the individuals involved and who are presently under your arrest and whose actions under your investigations were under the auspices of Joint Forces Command in the fulfilment of their duties. In doing so, it is understood these individuals' actions may have clashed with the responsibilities that your officers properly sought to fulfil; and

(3) finally, to reassure you about the seriousness with which Joint Forces Command views the allegations that have been made, the eagerness to try and satisfactorily settle – to everyone's satisfaction – the concerns with which the Royal Gibraltar Police are understandably investigating, and our genuine enthusiasm – if possible – to use these events as a platform to grow an even better understanding between our respective organisations and to build an even stronger and mutually respectful and beneficial future together.

Taking these points in turn:

Joint Forces Command regrets the events that took place in Gibraltar on the 8th February. This includes the events at Gibraltar International Airport and the dispute as to jurisdiction that led to the confusion by British Forces Gibraltar over the appropriate handling of the individual suspected of downloading indecent material whilst in the United Kingdom; and the detailed management of this particular case. It was the view of Joint Forces Command that the case was to be subject to exclusive Service Police jurisdiction – which turned out not to be correct. This was on the basis that Joint Forces Command was unaware of any potential offences that had been committed by the alleged suspect whilst in Gibraltar or of your suspicions in this respect.

It is acknowledged that in responding to your desire to explore potential illegal activities by

the suspect, Joint Forces Command and subsequently British Forces Gibraltar did not immediately recognise the jurisdictional legal primacy in this case for you to investigate, and if necessary, prosecute the individual were he to be found to have committed a similar or other offence in Gibraltar. I want to reassure you that subsequent additional advice, including at a senior legal level in the Ministry of Defence, recognises the legal primacy point in this case. Joint Forces Command now, therefore, fully understands and respects your legal primacy in this case as the law currently stands today.

We are aware that Her Majesty's Government of Gibraltar has prioritised the drafting of legislation and an MoU that will clearly spell out our respective, complementary jurisdictional roles. It would also be highly desirable for agreement to be reached between our respective agencies setting out the practical application of jurisdiction for the period between now and the enactment of such legislation.

In the course of the events that unfolded on the 8th February, it is considered very important by Joint Forces Command that you should understand that at all material times our people acted in good faith and to implement the direction and guidance provided by Joint Forces Command and Provost Marshal (Navy). They were not on a "frolic of their own" in any sense and were therefore not consciously seeking to deny your officers jurisdiction, or disrespect your officers' lawful instructions. They were acting entirely in keeping with the instructions they were receiving, albeit, with the benefit of hindsight, in a manner which did not assist in resolving matters as expeditiously as all would have preferred.

I think it is important for you to be made aware that there was a decision, as part of the Joint Forces Command application of our duty of care to our personnel, to return the suspect to the United Kingdom for the individual's own welfare. Again, this decision was based on the view that jurisdiction to deal with the offence in question remained exclusively with Forces law enforcement agencies – which turned out not to be correct. It was in pursuance of this requirement and judgement that more appropriate care would be afforded the suspect in the United Kingdom, that British Forces Gibraltar personnel were instructed to facilitate the opportunity of a military aircraft to both return the individual to the United Kingdom and to transport potentially incriminating evidence for forensic examination. I should clarify that, fundamentally, this was because the facilities at RAF Brize Norton were considered more appropriate for looking after the individual than those of British Forces Gibraltar; and, ordinarily, the capability for Service Police investigations overseas which require electronic and communications forensic analysis is held in the United Kingdom. It is in seeking to implement this approach that, unfortunately, personnel from British Forces Gibraltar had what were clearly unfortunate altercations with officers of the Royal Gibraltar Police who were acting in the lawful execution of their duties. I cannot emphasise to you how much we regret, with the benefit of hindsight and the later legal advice we have received, that we were not better able to cooperate with those of your officers in question. These altercations should not have happened and any active disagreement as to jurisdiction should, in any event, have been handled in the more dignified and usual manner for issues of this type. I must express to you in particular our genuine regret to hear accusations that British Forces Gibraltar personnel behaved disrespectfully towards officers of the Royal Gibraltar Police and that they were inconsiderate of the requirements under which your officers were seeking to undertake their lawful activities and investigations. That is not in the nature of the relationship we have long enjoyed between our organisations.

It is hoped, sincerely, that these events can be used to assist us all in a clearer understanding of the Royal Gibraltar Police's jurisdiction in respect of criminal matters and British Forces Gibraltar's application of service law; and that – looking ahead – there are considerable opportunities to enable our respective law enforcement agencies and leadership to work even more closely together. There are numerous significant opportunities to enable this: the routine business of service people in Gibraltar; the joint policing that is usually put in place for the arrival and duration of Royal Navy warships and submarines; and the ambition that we all have to draw further on various Gibraltar Parliament statutes

anticipated to be enacted later this year and which will provide a stronger and clearer platform for continued co-operation and enhanced security measures and resilience for Gibraltar.

It is hoped that this contextual information is of assistance in providing an appropriate and accurate background for many of the actions that Service Personnel took in the course of their duties in respect of the events and associated interactions that flowed from the 8th February incident.

Joint Forces Command assures you that there was not and never envisaged any intention to attempt to fetter the Royal Gibraltar Police's jurisdiction. That it appeared otherwise is deeply regretted. It is sincerely hoped that our future interactions are on a more positive basis and that we collectively work together to enhance the security of the United Kingdom and Gibraltar.

Yours sincerely,

Tony Radakin

Copy to:

External:
FCO/HE the Governor of Gibraltar
HMGoG/AG
FCO/Dir Europe
MoD/CLS Dir
MoD/DISP

Internal:
Comd JFC
DirResPol
CBF Gibraltar

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GIBRALTAR POLICE AUTHORITY
(The Community in Policing)

23rd August 2017

Mr. Edward Yome CPM
Commissioner of Police
Police Headquarters
New Mole House
Rosia Road
Gibraltar

Dear Eddie,

RE: Airfield Incident

We have now had a preliminary meeting to discuss the documents received from you. We would be grateful to discuss the matter further with you, Supts. Mc Grail and Ullger, and CI Turnbridge on Thursday 31st August 2017 at 11:30pm in the GPA office.

Best regards,

J Goncalves
Chairman

No.1, Casemates House, Casemates Square, Gibraltar
Tel: 00 350 20040918, Fax: 00 350 20076847, e-mail: info@gpa.gi

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Waterson Enquiry

1. We would like to understand the reasons why the RGP did not of its own accord choose to provide the GPA with the documentation relating to the Waterson enquiry, particularly when a matter as serious and public as this arose and which has implications in respect of the effectiveness and probity of the RGP? [This question will be directed to CoP in the first instance.]

2. Were the RGP's actions throughout proportional? (In particular, reference should be made to why restrain was shown on 5 occasions by Superintendent McGrail, why RGP vehicles were stationed on the runway, and why the 3 senior MOD officers were not arrested immediately.) [This question will be directed to Superintendent McGrail in the first instance.]

3. Were the consequences of the RGP's restraint on 5 occasions considered? If so, were those consequences re-evaluated by the RGP on a continuing basis during the process of obstruction demonstrated by the MOD officers in question? Should the traffic gridlock across Gibraltar have been avoided at any stage of that process? [This question will be directed to Superintendent McGrail in the first instance.]

4. Does the RGP have the power to lift the vehicular and pedestrian barriers on the runway at any time when no planes are landing or taking off? If so, why did the RGP not lift the vehicular and pedestrian barriers on the runway at any time during the incident given that the MOD aircraft was not on the runway? [This question will be directed to Superintendent Ullger in the first instance.]

5. What evidence and facts that may be relevant (if any) remain to be provided to the GPA in respect of this incident? [This question will be directed to Superintendent McGrail in the first instance.]

6. Why were the 3 senior MOD officers released? What action was taken by the RGP against the two drivers of MOD vehicles on the runway on the date of the incident? [This question will be directed to CoP in the first instance.]

7. What steps have the RGP taken to: (i) learn from this incident; (ii) collaborate with the MOD; and (iii) ensure that this type of incident does not occur again? [This question will be directed to CoP in the first instance.]

8. What could have been done differently with the benefit of hindsight? [This question will be directed to CoP in the first instance.]

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(GPA) Raineri, Grace Anne

From: Elka Hanglin <Elka.Hanglin@gpa.gi>
Sent: Thursday, 10 May 2018 12:51
To: 'Michelle Hook (external)'
Subject: FW: Watterson Enquiry: Letter to CM

From: Elka Hanglin [mailto:Elka.Hanglin@gpa.gi]
Sent: 20 March 2018 13:55
To: 'darren.grech@gibraltar.gov.gi' <darren.grech@gibraltar.gov.gi>
Subject: FW: Watterson Enquiry: Letter to CM

Dear Darren,

The Chairman has instructed me to forward you the email below.

This letter (email below) was sent by hand but seems it may have been lost.

The email below is a copy of the contents of the letter sent to the CM.

Regards

Elka

From: Elka Hanglin [mailto:Elka.Hanglin@gpa.gi]
Sent: 06 December 2017 10:04
To: '(NO6) Corby, Giselle' <giselle.corby@gibraltar.gov.gi>; 'Ernest Gomez' <ernesto.gomez@gibraltar.gov.gi >
Subject: FW: Watterson Inquiry: Letter to CM

"Dear Chief Minister,

Re.: Watterson Inquiry

I refer to your request to the Gibraltar Police Authority ("**GPA**") to enquire from the Royal Gibraltar Police ("**RGP**") into the events that transpired on and around 8th February 2017 relating to Sergeant Watterson (the "**Watterson Incident**").

We have reviewed the relevant reports prepared by the RGP in respect of the Watterson Incident, and have further discussed and raised questions relating to the effectiveness and probity of policing in Gibraltar by the RGP in connection therewith. In particular, we have interviewed the Commissioner of Police and his most senior ranking officers in relation to the Watterson Incident, being careful to understand the thought processes and considerations of the RGP officers involved in the Watterson Incident, including but not limited to (i) whether the consequences of the actions and restraint of the relevant RGP officers throughout the Watterson Incident were considered and deliberated; (ii) whether the actions of, and restraint shown by, the relevant RGP officers throughout the Watterson Incident were necessary and proportional; and (iii) whether with the benefit of hindsight any actions could or should have been taken differently by the RGP.

The GPA has come to the firm conclusion that the actions of and the restraint shown by the relevant RGP officers during the Watterson Incident were considered, deliberated, entirely proportional and highly commendable. As such, we do not doubt the effectiveness and probity of the policing demonstrated by the RGP in respect of the Watterson Incident. We would take the liberty of adding, though it may not be our place to do so, that the actions of certain MOD personnel in respect of the Watterson Incident deserve censure and that you should consider whether a full inquiry ought to be undertaken by an body independent of the RGP and the MOD so that lessons may be learnt from this incident.

I remain at your disposal should you wish to discuss this matter further.

Yours sincerely,

John Goncalves"


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HM Government of Gibraltar

Office of the Chief Minister

Gibraltar Police Authority
J C Gonçalves MBE
Chairman
No 1 Casemates House
Casemates Square
Gibraltar

4 May 2018

Dear Mr Gonçalves

Re: Watterson Inquiry

I acknowledge receipt of your letter dated 5 September 2017 addressed to the Chief Minister.

Yours faithfully

Susan Martinez (Ms)
Personal Secretary to the Chief Minister

/Office of the Chief Minister/
HM Government of Gibraltar • 6 Convent Place • Gibraltar GX11 1AA
t+350 20070071 t+350 20076396 eSusan.martinez@gibraltar.gov.gi wgibraltar.gov.gi

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GIBRALTAR POLICE AUTHORITY

(The Community in Policing)

INVITATION TO APPLY FOR APPOINTMENT AS THE COMMISSIONER OF THE ROYAL GIBRALTAR POLICE

The Gibraltar Police Authority invites applications from police officers within the Royal Gibraltar Police who have successfully completed a Senior Command Course for appointment to the post of Commissioner of Police, initially on a designate basis until the retirement of the present post-holder in April 2018.

The form in which applications need to be submitted is as follows:-

(a) The application should be in the form of a letter addressed to the Gibraltar Police Authority, which needs to cover what the applicant perceives to be the core competences and areas of responsibility of the Commissioner and the extent to which the applicant satisfies them;

(b) The letter at (a) should enclose a full curriculum vitae;

(c) A paper should be submitted with the application covering the following;

(i) The applicant's vision for the RGP for the next 5 years in the light of the strengths, weaknesses, opportunities and threats facing the RGP;
(ii) The applicant's assessment of the main issues affecting the RGP and an action plan to address them;
(iii) How the applicant intends to interact with the GPA in taking the RGP forward.

The paper must not exceed 3,500 words.

Applications should be marked CONFIDENTIAL and sent or delivered to the secretary of the Gibraltar Police Authority, 1 Casemates House by no later than 12 noon on Friday 3rd November 2017.

No.1, Casemates House, Casemates Square, Gibraltar
Tel: 00 350 20 [illegible]18, Fax: 00 350 20076847, e-mail: info@gpa.gi

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GIBRALTAR POLICE AUTHORITY

(The Community in Policing)

TIMETABLE FOR SELECTION OF THE COMMISSIONER OF POLICE

Friday 3rd November 2017

Requirements from applicant:

1. Letter addressed to the Gibraltar Police Authority, covering what the applicant perceives to be the core competences and areas of responsibility of the Commissioner and the extent to which the applicant satisfies them.

2. Curriculum Vitae

3. Paper on the subject set out in the invitation for applications:

a. The applicant's vision for the RGP for the next 5 years in the light of the strengths, weaknesses, opportunities and threats facing the RGP;

b. The applicant's assessment of the main issues affecting the RGP and an action plan to address them;

c. How the applicant intends to interact with the GPA in taking the RGP forward.

Monday 6th November 2017

Commissioner to be asked to:

1. Submit a confidential written assessment on each of the candidates.
2. Submit copies of the last three RGP appraisals on each of the candidates.

Submissions to be made by Friday 17th November.

Monday 6th November 2017	Candidates to be informed of date, time and venue for: (a) The 15 minute presentation to the Authority. (b) The interview by the Sub-Committee of the Authority.
Monday 27th November 2017	Presentation to the GPA, commencing 09:30 a.m.
Thursday 30th November 2017	Interviews, commencing at 10:00 a.m. (30 minutes per candidate).
Tuesday 5th December 2017	The GPA meets at 9:30 a.m. to consider what advice should be tendered to the Governor.

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CRITERIA AGAINST WHICH CANDIDATES FOR THE POST OF

COMMISSIONER OF POLICE, ROYAL GIBRALTAR POLICE, WILL BE CONSIDERED

In making its recommendation to the Governor on the appointment of a Commissioner of Police (designate), the Gibraltar Police Authority will wish to see evidence of:

(i) the following personal professional competences:

- Strategic perspective
- Openness to change
- Negotiation and influencing
- Maximising potential
- Respect for diversity
- Team working
- Community and customer focus
- Effective communication
- Problem solving
- Planning and organising
- Tackling personal responsibility
- Resilience
- Contribution to performance

(ii) the following policing competences:

(A) **Operational Issues**

- Community safety
- Police operations
- Investigation
- Intelligence
- Custody and prosecution
- Operational support
- International co-operation

(B) **Management of the Force**

- Overall management of the Force
- Managing and developing staff
- Management of Human Resources
- Health, safety and welfare
- Financial management and management of resources
- Information technology and information management Relationship and co-operation with key institutional stakeholders

(C) Marketing and Communication

In making its assessment, the Authority will take particular account of the following:

- The past record of the candidate
- The assessment of the Commissioner of Police
- The content of the paper submitted by the candidate with his application form
- The content and delivery of the candidate's presentation to the Authority
- The candidate's performance at interview.

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GIBRALTAR POLICE AUTHORITY
(The Community in Policing)

6th November 2017

Mr Edward Yome
Commissioner of Police
Police Headquarters
New Mole House
Rosia Road
Gibraltar

Dear Eddie

RE: APPLICANTS FOR APPOINTMENT AS COMMISSIONER

There are two candidates for the post of Commissioner of Police, namely Superintendent McGrail and Superintendent Ullger (in alphabetical order). I would be grateful if you would:-

(a) Submit a confidential written assessment on each of the candidates, to reach me preferably before Tuesday 21st November;

(b) Send me the report on each of the applicants that was made available to you on completion of the Senior Command Course;

(c) Inform the candidates that the 15-minutes presentation to the Authority on the subject, "what changes would the candidate wish to see in the RGP going forward" and "what priorities would the candidate set on taking up his appointment", will be held at the GPA office on Monday 27th November in accordance with the following timetable (in seniority order):

10:00 a.m. Superintendent I. McGrail
10:30 a.m. Superintendent R. Ullger

The members of the Authority may ask questions after each presentation.

(d) Inform the candidates of the date, time and venue for their interviews which will be as follows, in seniority order:

Venue: Office of the Gibraltar Police Authority
Date: Thursday 30th November
Time: Superintendent I. McGrail, 10:00 a.m.
Superintendent R. Ullger, 10:50 a.m.

Yours sincerely

J Garcia Ves
Chairman

No.1, Casemates House, Casemates Square, Gibraltar
Tel: 00 350 20040918, Fax: 00 350 20076847, e-mail: info@gpa.gi

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ROYAL GIBRALTAR POLICE

E. Yome QPM CPM
Commissioner of Police

15th November 2017

Ian McGrail
Superintendent
Crime Protective Services
Royal Gibraltar Police

Mr McGrail attended the SCC 2013 and was given a 'Pass' Grade similar to that attained by Mr Ullger.

He had a good course and I attended his graduation and spoke to his course directors.

It was evident that his peers and managers thought highly of Ian and shows he had embraced the learning as he progressed through the course.

His course director and syndicate director both agreed that Ian grew in confidence as he went along and clearly understood how he was required to be less tactical and more strategic in his considerations.

I met his peers socially and you could see how Ian was now a popular member of the syndicate. Whilst working in this new environment, tackling new procedures, laws and negotiations, Ian showed humility of his lack of knowledge in these areas which in turn made his peers embrace him with support.

You will note that his final report is a positive one but one which elaborates on the progress he made throughout and although it is now four years ago, there was no mention of being ready, for the Executive Level, which in itself is an unusual omission.

The question thereafter is whether he has made sufficient progress during this time to step up to the Executive Level.

Mr McGrail was not promoted to Chief Superintendent as at the time I had reservations whether he was ready. I found him at times to be too autocratic, very strict and not having the balance required in order not to demoralise the officer but to use his managerial skills to coach, teach and develop that officer to avoid a repetition of whatever was lacking.

Mr McGrail took my decision rather badly although I did explain to him the reasons why, he did not accept these and this was reflected in his approach to me in months to come.

Although Mr McGrail will never admit this, I believe this reality moment made him look at himself and today, in my opinion, he is a better person, manager and leader.

During this past four years Mr McGrail has mellowed and demonstrated a softer side to him.

In 2007 Mr McGrail attended the Federal Bureau of Investigation Academy, United States Department of Justice Course and did extremely well.

He obtained a Graduate Certificate of Achievement from the University of Virginia in Criminal Justice Education.

I will now follow the same National Competences applicable to able to discharge the role of Chief Constable/Commissioner:-

Serving the Public

Mr McGrail has been at the forefront of various information and awareness programmes in relation to Counter Terrorism.

He has been instrumental at building public confidence in the mitigation measures the RGP has in place in the event of a terrorist incident. Together with his teams he pioneered the 'Stay Safe' Programme where over 3000 members from the public and private sectors were exposed to talks on how to react and keep safe in the event of an attack.

Leading Strategic Change

As chair of the Small Island Forum I tasked Mr McGrail in being the Gibraltar Lead in coordinating the Crown Dependency Jurisdictions to provide training on Cyber Security after we were able to acquire funding from the EU.

This is developing nicely and Mr McGrail has been key in bringing a Cyber Security Company to Gibraltar to promote this business case. Such was the success of the first conference, opened by the Chief Minister and attended by His Excellency The Governor that a second conference has been arranged for April 2018.

In taking office in 2012, I knew that work was required on the Counter Terrorism front, i.e.

1. External Links needed to be established as we had lost them.
2. We were in need of Counter Terrorism Legislation which was lacking.
3. Table Top and Live CT Exercises needed to be organised.

Well Mr McGrail stood up to the plate and took on all these projects in addition to his daily supervisory role of leading the Crime and Protective Services Division.

He travelled to the UK and then to Spain and re-established these vital links with our security partners which remain in place today.

Mr McGrail drafted a Terrorism bill which is now with the law draftsman.
And;
There have been two live exercises and table top exercises to test our response to such an eventuality.

The creation of the Gibraltar Contingency Council was formed as a result of this work and although co-chaired by the Chief Minister and His Excellency The Governor, the RGP has pushed this on.

Additionally as a result of funding that I was able to acquire, using our CT Security links, we were able to secure a good counter prevention tool through Op 'SERVATOR' which will be rolled out prior to Christmas. I sent Mr McGrail to London to secure this training which no doubt will be invaluable to the RGP and Gibraltar in the fight against Crime and Terrorism. This training has now started to be rolled out by Christmas.

Managing Performance
Mr McGrail defines what good performance looks like. He demands high standards and allows his subordinates to take decisions and empowers them to find their way but then expects them to stand by them. He has a very much hands on approach and is current in all investigations which his division is dealing with.

His demands of others is supported by the demands he places upon himself and his own heavy workload demonstrates this.

As a Superintendent with Mr McGrail as one of my Chief Inspectors, I would supervise his daily work which was always of a high standard and this continues to this day.

Professionalism
Mr McGrail always acts with integrity and has very high ethical standards and values. He leads by example in everything he does.

At the SCC he used his time to consolidate what type of leader he wanted to be and how as a leader he can influence the culture of the organisation. This has certainly been the case with me where we have seen dramatic change in our people who are now empowered to take decisions without fearing any reprisals for a bad or mistaken judgement call.

Without knowing what Mr McGrail has set out for his vision for the force, I cannot comment on this but I sincerely hope that if successful he continuous in this path and does not return to an 'all manage and decided from the top style' by being too autocratic once again.

Working With Others

Mr McGrail as previously stated at my request has been establishing links with external partners and building relationships along the way.

He is an honest man who sometimes in the past has been too forthright coming across too intimidating and demoralising but as I stated before, he appears to have soften his approach which is good and certainly part of his development as a Senior Leader.

No one should be above learning something new every single day.

Effective Communication

Mr McGrail is extremely eloquent when he speaks to people especially doing so with external partners/agencies and media. He is a trained Media Officer like all my other senior managers which allows them to know what and how to communicate Police business.

He has been negotiating, planning and effecting change for the organisation by personally working with others to achieve the organisational objectives.

He maintains personal links with his peers that were with him at the SCC and in doing so has been able to obtain support for training, procurement and deployment.

All these attributes which are nurtured as you progress through the ranks place you in good stead in these senior positions, but they are not given freely, they need to be earned through continued work by being an effective communicator.

Conclusion

Mr McGrail embraced the Strategic Command Course and his time at the FBI Academy and has done very well in both. It is sometimes difficult competing at those courses when you have the added barriers of another legislation/practices/procedures, so this in itself says a lot of the character of our officers attending and Mr McGrail is no exception and this is reflected in his final report.

At the SCC he was advised to shadow his 'Chief Officer' to both understand the role of 'Gold' and managing at the Executive Level. His report at the time was one of progress. The question to be asked is whether he has progressed sufficiently to take over the force. I have definitely seen a change but can only hope this is not short lived should he be successful in attaining the post of Commissioner.

Edward Yome QPM CPM
Commissioner of Police

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"Working Together to make Our Community safer"

INVESTORS IN PEOPLE | Gold Until

College of Policing

Strategic Command Course 2013

Programme Directors Final Report

FULL NAME:	Ian McGrail
RANK/ROLE:	Superintendent
FORCE/ ORGANISATION	Royal Gibraltar Police

Achievement against the 'Executive' level Personal Qualities as described by the Policing Professional Framework (PPF) and the twelve learning outcomes as approved by the SCC Professional Reference Group.

Grading Criteria

- Each delegate is assessed throughout the course against the 7 Personal Qualities for the Executive (ACPO / Force Command Team) level as described within the Policing Professional Framework (PPF), cognisance is also taken of how each delegate has preformed against the twelve learning outcomes as approved by the SCC PRG.
- The assessment is based on observed behaviour and the participants' development towards, and achievement of the required standard set by the PPF and the learning outcomes.
- This report is based on evidence gathered and collated during the Strategic Command Course and has been triangulated with the reports on each participant provided by Chief Constables and SPNAC.
- This report is focused on a candidate's capacity to operate at first tier executive level (ACC, Commander or Assistant Chief Officer). It is not an indicator of further potential.
- Each delegate is awarded one of the following grades:- Pass with outstanding(s), Pass or Fail.
- Where appropriate the grades will acknowledge areas of particular strengths as well as identifying ongoing development needs.
- Every delegate will leave the SCC with a development plan which has been agreed between the delegate and their syndicate director. This will make reference where appropriate to the delegates performance against the twelve learning outcomes during the SCC

Syndicate Directors Summary of Performance

Personal Quality	Achieved	Outstanding	Not Achieved	Evidence of performance and achievement
Serving the Public Promotes a real belief in public service, focusing on what matters to the public and will best serve their interests. Ensures that all staff understand the expectations, changing needs and concerns of different communities, and strive to address them. Builds public confidence by actively engaging with different communities, agencies and strategic stakeholders, developing effective partnerships at a local and national level. Understands partners' perspectives and priorities, working co-operatively with them to develop future public services within budget constraints, and deliver the best possible overall service to the public.	✓			Ian's policing context is substantially different to that of his UK colleagues in many ways. Notably, as austerity causes British policing to contract and be ever more conscious of cost and efficiency, Gibraltar has no financial issues or concerns and they continue in a growth economy. Despite this Ian has demonstrated a keen interest in learning how to make policing more efficient and effective. He has therefore taken time to learn lessons from the UK policing experience, in particular from the Business Skills Exercise, which he now intends to use on his return to Gibraltar. Ian has demonstrated a genuine commitment to ensure that the public are getting the best value for money. He also used the Business Skills Exercise and his organisational visit to learn about the concept of integrated offender management and to consider how this may be implemented within Gibraltar to support policing efforts to better manage offenders as well as to reduce crime and victimisation.
Leading Strategic Change Thinks in the long term, establishing a compelling vision based on the values of the Police Service, and a clear direction for the force. Instigates and delivers structural and cultural change, thinking beyond the constraints of current ways of working, and is prepared to make radical change when required. Identifies better ways to deliver value for money services that meet both local and national needs,	✓			Ian has a wealth of experience as a tactical commander within Gibraltar and has embraced the opportunity of the SCC to open his mind to more strategic issues and to developing a wider perspective on policing. He has started to demonstrate more lateral thinking on issues and is keen to continue with this development in the longer term. In

encouraging creativity and innovation within the force and partner organisations.				his new role he will deal with a wide range of senior stakeholders and feels the experience of the SCC has assisted his preparation for this. A number of the speakers have talked about the importance of not only being strategic in outlook, but also knowing the detail and knowing when to dip down into it to satisfy yourself that all is well. This aspect of senior leadership resonates well for Ian as it suits his personal style.
Leading the Workforce Inspires people to meet challenging organisational goals, creating and maintaining the momentum for change. Gives direction and states expectations clearly. Talks positively about policing and what it can achieve, building pride and self-esteem. Creates enthusiasm and commitment throughout the force by rewarding good performance, and giving genuine recognition and praise. Promotes learning and development within the force, giving honest and constructive feedback to colleagues and investing time in coaching and mentoring staff.	✓			Ian recognises the importance of being able to communicate at a strategic level and to do so confidently, with clarity, in order to lead others. He has worked very hard on this area during the course and has often stepped out of his comfort zone to present and to improve his ability. He presented to the Workforce panels during Business Skills Exercise and was commended for espousing a brave range of recommendations. He also presented the syndicate's findings to the Police and Crime Commissioner and acted as a lead negotiator in Partnership, Negotiating and Influencing Exercise. Ian is not afraid to share his experiences and has spoken passionately about how a leader can set the tone for the culture of an organisation, for good or for ill. He has used the time on the course to reflect on his personal leadership style and how he wishes to develop this in the future.
Managing Performance Translates the vision into action by establishing a clear strategy and ensuring appropriate structures are in place to deliver it. Sets ambitious but achievable timescales and deliverables, and monitors progress to ensure strategic	✓			Ian has invested a great deal of time understanding what good performance looks like for Policing and how evidence based research can be used to professionalise how services are provided. In the Partnership,

objectives are met. Identifies and removes blockages to performance, managing the workforce and resources to deliver maximum value for money. Defines what good performance looks like, highlighting good practice. Confronts underperformance and ensures it is addressed. Delegates responsibilities appropriately and empowers people to make decisions, holding them to account for delivery.				Negotiating and Influencing Exercise Ian was a leading negotiator for the Police Service and was able to articulate the negotiating position that the group were adopting as well as outlining what was sufficient outcomes they were seeking. This was based upon a desire to involve the community in designing the solutions to the problems they faced, with the Police role being seen as the supporter/facilitator of this process. He did receive positive feedback from the group on how he had portrayed their agreed points of negotiation. In particular they is how he had not imparted all of the group's negotiation points in one input but a more thoughtfully edited. Conversely in the Strategic Questions Exercise syndicate Ian took on a more supportive role, helping to write and prepare the presentation of others to deliver. In this syndicate he especially enjoyed working with others towards a shared goal, checking progress and trusting others to deliver their components parts.
Professionalism Acts with integrity, in line with the values and ethical standards of the Police Service. Delivers on promises, demonstrating personal commitment, energy and drive to get things done. Defines and reinforces standards, demonstrating these personally and fostering a culture of personal responsibility throughout the force. Asks for and acts on feedback on own approach, continuing to learn and adapt to new circumstances. Takes responsibility for making tough or unpopular decisions, demonstrating courage and resilience in difficult situations. Remains calm and professional under pressure and in conditions of uncertainty.	✓			Ian has used the time on the SCC to consolidate his thinking on the type of leader he is and what values drive him. He found the session on leadership deramment very interesting and has considered what this means for him. He has actively participated in discussions around leadership and ethics and now has a clear sense of his vision for policing. He has shown that he is willing to share his personal experiences to help his own learning as well as that of others. He has spoken passionately about how a leader can

Openly acknowledges shortcomings in service and committing the right.				set the tone for the culture of an organisation, for good or for ill. He is clear about his personal value set and the kind of leader he aspires to be.
Decision Making Assimilates complex information quickly, weighing up alternatives and making sound, timely decisions. Gathers and considers all relevant and available information, seeking out and listening to advice from specialists. Asks incisive questions to test facts and assumptions, and gain a full understanding of the situation. Identifies the key issues clearly, and the interrelationship between different factors. Considers the wider impact and implications of different options at a local and national level, assessing the costs, risks and benefits of each. Prepared to make the ultimate decision, even in conditions of ambiguity and uncertainty. Makes clear proportionate and justifiable decisions, reviewing these as necessary.	✓			Ian is able to consider complex issues quickly and to identify an appropriate level of prioritisation. In the Serious Crime Exercise he challenged the approach of other colleagues who wanted to address some wider issues, but were not concentrating on the urgent crime in action that was occurring. Ian went to St Giles Trust for his organisational visit. The team received some outstanding feedback from the Trust for the way they had approached the visit, assessed/assimilated information and then developed meaningful recommendations for improvement. In giving feedback the CEO wrote "(I) feel this has been one of those wonderfully mutually beneficial successes. My team (were) hugely impressed by the helpful insights and observations in the report the team produced and that we will act upon...(their) report is extremely timely and of the highest calibre."
Working with Others Builds effective working relationships through clear communication and a collaborative approach. Maintains visibility and ensures communication processes work effectively throughout the force and with external bodies. Consults widely and involves people in decision-making, speaking in a way they understand and can engage with. Treats people with respect and dignity regardless of their background or circumstances, promoting equality and the elimination of discrimination. Treats people as individuals, showing tact, empathy and compassion. Negotiates	✓			At the outset of the SCC Ian was unsure how he would fit in to the syndicate and how best to pitch his interventions. He showed great moral and personal courage in disclosing this to his colleagues early on. This endeared him to the group, who were keen to support him. Importantly though, this honesty also encouraged others who had similar feelings of uncertainty to voice them and feel safe in doing so. Ian's humility and example was an encouragement to others. This initial candour

effectively with local and national bodies, representing the interests of the Police Service. Sells ideas convincingly, setting out the benefits of a particular approach, and striving to reach mutually beneficial solutions. Expresses own views positively and constructively. Fully commits to team decisions.				led to him being encouraged and supported by his colleagues and to him being able to play a full and active part in the SCC. Ian then became more comfortable and he settled in very well. Even when topics have been new to him, he has engaged fully in the sessions and in all the exercises. Ian has demonstrated a pleasant and amenable manner. He has integrated well with his colleagues and has a sociable and engaging style. His peers have given him feedback that they find him open, sincere and people focussed. Ian is a mediator who seeks harmony in the syndicate. If any tension has appeared, he has tried to manage it or deflect it. He did this well at Tullialan when there were some strong exchanges of view within the syndicate. His timely intervention and steering of the conversation enabled a more conducive environment for discussion.

Development Plan

Ian and I have discussed his development needs as he completes the SCC and returns to a new role in Gibraltar. These are:-

- To apply the learning from the SCC in his new role, as ante.
- To continue to develop his ability to communicate effectively at a strategic level. Ian is aware that he can be very tactical and has worked hard to develop this throughout the SCC. However he is keen to continue to raise the level of his discussion and debate.
- To develop a greater insight into the role of Gold through shadowing his Chief Officer and through formal training and accreditation processes.
- To maintain and develop his UK policing networks to assist him in keeping up to date with developments across the Service.

Syndicate Directors Executive Summary: ACC Daw [illegible]

Ian has embraced the opportunity that the Strategic Command Course has offered him. Whilst the policing context that he operates in is completely different to that in the British Isles, he has worked hard to understand issues, concepts and nuances and to consider how he can learn from experience here and then put that learning into practice once he returns to Gibraltar. Initially Ian was unsure about how he would fit in to the SCC and his syndicate. This was compounded by a pressurised early exercise on a topic he was unfamiliar with, Integrated Offender Management. He openly expressed his concerns and then was supported by the syndicate. He quickly adapted to the work and has played an active and enthusiastic role throughout. He particularly enjoyed the module in Scotland.

Ian has grown in confidence throughout the SCC and has been exposed to more strategic perspectives. This has broadened his thinking and helped him to be less tactical in his considerations. This is an area he is keen to develop further over the coming years. Ian should be pleased with his progress on the SCC and I wish him well for the future.

Programme Directors Report

Ian has worked hard throughout the SCC 2013 and should be pleased with the progress he has made. Overseas delegates have the additional pressure of learning about British Policing as well as about themselves as leaders. Ian has been keen not to miss the opportunity this has presented and will look to use what he has learned when he gets home. Ian has integrated well into his syndicate and the course as a whole and has been an enthusiastic delegate. On a personal level he has shown a real desire to learn and has been disarmingly honest about his personal journey, which is to his credit.

Well done, Ian and good luck for the future.

Sir Peter Fahy

Grade Awarded: Pass

OFFICIAL - STAFF

ROYAL GIBRALTAR POLICE

CONTINUOUS PERSONAL DEVELOPMENT REVIEW

PART B: LINE MANAGER REVIEW FORM

2016

SECTION A: GENERAL

Officer Name:	Ian McGrail	**Rank / No.:**	Supt.
Dept./Division:	Crime and Protective Services/Superintendent	**Years in Service/ Years in Rank:**	31 / 4
Role:	DIVISIONAL COMMANDER	**PDR Date:**	06/07/16
Appraising Manager Name:	Richard Mifsud	**Appraising Manager Rank:**	CH/SUPT

SECTION B: ACHIEVEMENT OF OBJECTIVES

		Rating
1.	None were set. They will be hereafter	N/A
2.		
3.		

General Rating Criteria

1. Below Expectations	2. Potential for Improvement	3. Satisfies Expectations	4. Above Expectations	5. Excellent

Comments to support poor or exceptional ratings above as stated in officer's Evidence File	

Does the officer understand and adhere to the RGP Code of Ethics?				Y	N
Absence Management *Comments (if any on the reporting period)*		**Days CSL**	0	**Days USL**	0

SECTION C: OFFICER COMPETENCIES

Professional Competence	1	2	3	4	5	**Communication Skills**	1	2	3	4	5
Technical ability / job knowledge	1	2	3	4	5	Verbal communication skills	1	2	3	4	5
Adherance to appropriate standards	1	2	3	4	5	Written communication skills	1	2	3	4	5
Proactive	1	2	3	4	5	Listening and comprehension skills	1	2	3	4	5
Openess to learning and self-reflection	1	2	3	4	5	Providing relevant feedback	1	2	3	4	5
Leadership ability	1	2	3	4	5	**Management Role** *(if applicable)* ☐ Tutor PC ☐ Acting Sgt					
RGP Leadership Values and Behaviours						Creates positive and productive work environment	1	2	3	4	5
Community Awareness & Customer Focus	1	2	3	4	5	Ability to motivate team	1	2	3	4	5
Valuing People & Teamwork	1	2	3	4	5	Provides clear direction/objectives for their team	1	2	3	4	5
Integrity, Respect & Professionalism	1	2	3	4	5	Delegates effectively	1	2	3	4	5
Business Role *(if applicable)*						Ensures tasks are completed on time & to budget	1	2	3	4	5
Risk Management	1	2	3	4	5	Takes responsibility for subordinates' actions	1	2	3	4	5
Ability to identify & develop opportunities	1	2	3	4	5	Ability to management performance	1	2	3	4	5
Maintaining & developing collaborative relationships	1	2	3	4	5	Forward planning	1	2	3	4	5
Delivery on structural and cultural change	1	2	3	4	5	Learning and development of team	1	2	3	4	5
Strategic delivery	1	2	3	4	5	Interaction & co-operation with other departments	1	2	3	4	5

General Rating Criteria

1. Below Expectations	2. Potential for Improvement	3. Satisfies Expectations	4. Above Expectations	5. Excellent

SECTION D: OVERALL PERFORMANCE

PERFORMANCE RATING	4

Summarise the individuals performance during the assessment period, highlighting key achievements, main strengths and any areas for improvement.

Supt McGRAIL is an experienced leader who consistently displays commitment and ability in his position within the organisation. It is dogged and determined individual not afraid to challenge [illegible] example of which has been his development of a multi-agency response to terrorist attacks. A valued asset of the SMT.

Appraising Manager's Signature:	[signature]	**Date:**	06/07/16

NOTE FOR APPRAISING MANAGER: This review must take account of the appraisee's personal development needs and the Annual Policing Plan for the relevant year.

SECTION E: COMING YEAR - Agreed Objectives for the Coming 12 months

1.	Continue development of the Joint Operating Principles (App: Security)
2.	Developed implementation Standards of Criminal Investigation (App: Training Course)
3.	Secondment in the National Security arena (App: Security & Personal Development)

SECTION F: DISCUSSION OF PERSONAL DEVELOPMENT PLAN

Development for your current role (Identify individual skills/knowledge and specific barriers/risks to achieving your outcomes, e.g. knowledge, skills, etc.)	**Agreed action to be taken** (E.g. training course, on-the-job coaching, mentoring, reading, etc.)	**Completed (Yes/No)** (For discussion in next review period)

Development for the future (Please tick option)		**Agreed action to be taken**	**Completed? (Yes/No)** Discuss in next review
☑ Remain in current role	☑ Enrichment (develop current role)	Develop capability in the National Security arena within the Policing role	
☑ Promotion (vertical move)	☐ Exploration (test out options)		

Appraisee Signature:	**Appraising Manager's Signature:**	**Date:**
		12.07.16

SECTION G: COMMENTS ON APPRAISAL PROCESS

Appraising Manager's Comments

Supt McGrail is a well experienced and seasoned officer who continues to develop herself. A officer who can be totally relied upon to get the job done and a very good critical friend whose opinions serve to move the [illegible] forward.

Appraising Manager's Signature:

Appraising Manager's Manager's Comments

I agree with the reporting officer. An officer that I have come to rely as a critical friend always giving another perspective to matters. Well consolidated in his post ready to progress.

Appraising Manager's Manager's Signature: cal.

Appraisee's Comments

Appraisee's Signature:

FOR CD&P USE ONLY – SECTION : FOLLOW UP

Comments:

Signature:	**Name:**

OFFICIAL - STAFF

ROYAL GIBRALTAR POLICE

CONTINUOUS PERSONAL DEVELOPMENT REVIEW

2016

PART A: SELF-ASSESSMENT FORM

SECTION A: GENERAL			
Officer Name:	Ian McGrail	Rank / No.:	Supt.
Dept./Divison:	Crime and Protective Services/Superintendent		
Line Manager:	C/Supt Mifsud	Date:	12/07/16

SECTION B: YEAR IN REVIEW – LAST YEAR'S OBJECTIVES		Rating
1.	None were set.	
2.		
3.		

General Rating Criteria				
1. Below Expectations	2. Potential for Improvement	3. Satisfies Expectations	4. Above Expectations	5. Excellent

SECTION C: YOUR CORE PERSONAL VALUES AGAINST THE RGP LEADERSHIP VALUES AND BEHAVIOURS		
	General Rating Criteria	
	1. Below Expectations / 2. Potential for Improvement / 3. Satisfies Expectations / 4. Above Expectations / 5. Excellent	Rating
Customer Focus	Protect, help and reassure the community of Gibraltar by providing an excellent level of customer care. Keep members of the public informed and updated, especially victims of crime. Use words that your audience understands.	4
Integrity	Treat others fairly, sensitively and with respect. Be honest, open, genuine and stand up for what is right. Accept responsibility for your own decisions and your own actions. Take appropriate action when you believe someone is behaving in an unacceptable way. Set standards of behaviour and conduct in line with Our Values. Be objective and consistent in the decisions you make and when you give feedback. Ensure that the RGP resources are used ethically and within the law.	4
Community Awareness	Be socially and environmentally aware of the impact we have on our community and the impact the community has on us. Maintain standards at all times to inspire confidence in the police and reduce the fear of crime. Be aware of the behaviour that members of the public expect from you. Understand the importance of your role within the Commissioner's vision of "Working Together to Make Our Community Safer".	3/4
Respect	Uphold the rights and freedoms of all people underpinned by an ethos of inclusivity by showing compassion and sensitivity to their needs. Be mindful of our diverse community. Treat people equally irrespective of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.	3/4
Professional-ism	Gain, use and demonstrate the occupational competence required to do your job well. Remain calm when making decisions. Give firm, positive and clear direction. Be competent and confident in your own ability. Admit when you're wrong and be prepared to put things right. Be approachable and assist others. Make decisions in accordance with the National Decision Making Model. Lead by example and act as a role model. Be willing to give and receive constructive feedback.	3/4
Proactive	Consistently monitor your methods and analyse your performance to be at the forefront of the continually changing environment we operate in. Be flexible and adaptable. Encourage mentoring and help others learn, grow and become more effective in their role. Understand the contribution others in the team can make and utilise their knowledge, skills and abilities. Share knowledge, experience and information from the result of meetings, training courses, etc. with your colleagues. Encourage feedback. Be self-motivated. Demonstrate energy, drive and determination. Have your own personal career objectives and goals.	3/4
Valuing People	Support and work with your colleagues towards our common goals. Work in partnership with key stakeholders. Consider your colleagues' safety and welfare. Take other people's views into account and consider their skills. Offer support and guidance when needed. Learn from everybody irrespective of their rank and length of service. Encourage everyone to demonstrate RGP Leadership Values and Behaviours. Encourage personal development,new approaches and learning through efforts, mistakes and successes. Embrace the diversity within our organisation and promote equality at all times. Apply the Investors in People framework to develop our people management capabilities successfully and sustainably.	4
Teamwork	Address the needs of our community through partnership and by empowering our staff to be innovative and creative. Praise and encourage others. Understand the contribution others in the team can make and effectively use their skills, abilities and other resources. Delegate where appropriate. Share your skills and strengths. Direct people to where they can get support if you can't help. Be open, honest and develop self-awareness. Adapt your leadership and management style as approriate to the needs of the situation. Be aware of the learning and development activities available.	3/4

Do you believe that you consistently abide by the RGP Code of Ethics?	(Y)	N

SECTION D: OVERALL PERFORMANCE	
PERFORMANCE RATING	3/4

SECTION D: OVERALL PERFORMANCE (continued)

Use the space below to justify your individual performance, add your individual key achievements, main strengths and any areas for improvement.

- Influenced the creation of a blue light forum to enhance inter-service operability, make so in the CT-ARENA.
- Networking enhancement with UK, Spanish, Portugese + Moroccan law enforcement agencies.
- Improved personal self-reflection which in turn aids my outlook

SECTION E: REFLECTION ON YOUR PERFORMANCE

1. Were you made aware of your individual objectives?	YES	(NO)
2. Did you have regular opportunities to discuss your work and action points?	YES	NO
3. Have the action points from the last appraisal been carried out?	YES	NO

4. Has the past year been good, bad or satisfactory? Why?

This past year has been a challenging one because of the security landscape and how we are adjusting to it. Internally we have also gone through a major paradigm shift on how we assess demand v resources. On both fronts I feel satisfied with my output.

Use the space below to add your thoughts and reflections.

The service is progressing in leaps and bounds and I often sit back to reflect and absorb that I am one of those drivers for the change and it gives me great satisfaction that we are moving in the direction we are. Some times I am too harsh on myself which can bring a degree of misery ~~on myself~~ on oneself.

SECTION F: SUPPORTING YOUR PERSONAL DEVELOPMENT PLAN

1. What parts of your job do you:

a) Do best? Contact with staff + teams - make myself available to them.

b) Do less well? Time Management / Delegation of work.

c) Have difficulty with? Having good impact when negotiating.

d) Fail to enjoy? - Spending too much time in office behind computer desk

2. What action could be taken to improve your performance in your current position:

a) By you? Personal organisation to be improved.

b) By your line manager?

3. What do you like/dislike about working in this organisation?

+ves - my contribution to making Gibraltar the safe place it is.

-ves - the sometimes unfair media attention and wrong perception certain sectors of the public have towards the RGP.

Development for the future (Please tick option)

☑ Remain in current role	☑ Enrichment (develop current role)
☑ Promotion (vertical move)	☐ Exploration (test out options)

Officer's Signature:	**Appraising Manager's Signature:**

D□□ □□□

ROYAL GIBRALTAR POLICE

E. Yome QPM CPM
Commissioner of Police

15th November 2017

Richard Ullger
Superintendent
Planning, Development and Support Division
Royal Gibraltar Police

Mr Ullger attended the SCC 2016 and passed this extensive course with flying colours as explained to me by the Course Directors, Chief Constable Alex Marshall and Jacqui Sheer QPM, when I attended his graduation.

The final grade is a pass which is the highest grade possible for overseas students who are not able to progress to this course via the Police National Assessment Centre (PNAC).

Notwithstanding Mr Ullger did very well with Mr Marshall commenting how he adopted to processes and procedures which were different to those back at force and had fulfilled all that was required of him especially when presenting in the Business Module which was held in Scotland.

Jacqui Sheer was also very complimentary on how Mr Ullger had tackled the course and how he had engaged with his peers and worked very well within his syndicate.

The above demonstrates the person he is, always willing to embrace new challenges working as a part of a team.

Mr Ullger attended the FBI Academy and achieve a 'Graduate Certificate of Achievement' with the University of Virginia, in Criminal Justice Education.

Additionally he was selected amongst his peers as the Sectional Representative for Section One of his course and as a result he was asked to present on behalf of his course, to the FBI Director. He was congratulated by the FBI Director for having been sol selected which was deemed to be a great honour.

The following are the National Competencies necessary to discharge the role of the Chief Constable/Commissioner:-

Serving the Public
Mr Ullger has been for many years at the forefront of Neighbourhood Policing and in particular the youth, the vulnerable and the elderly.

Prior to me taking office in 2012, Mr Ullger as an Inspector and then on promotion to Chief Inspector was working in Neighbourhood/Community Policing under my direct Command as Superintendent Operations.

Mr Ullger shared my vision and considerable work within schools and youth clubs was already underway, but only required the full endorsement from the top, which was sometimes lacking. (This was my main driver for seeking promotion to Commissioner).

He shared and still shares my vision embracing the ethos of Prevention through Education and work which starts at the very early years.

Leadership Strategic Change
Mr Ullger has been at the centre of Strategic Change of the RGP with lead on the Firearms Working Group, Training, Procurement and Recruitment.

When you take these in isolation these business areas have been vast and so much work has gone into developing them. Mr Ullger has been instrumental in achieving these e.g.:-

Firearms:- The entire licensing system has been redone.

Training:- This crucial area is now a professional and accredited domain with officers progressing to their respective levels within their specialised fields.

Procurement:- Mr Ullger set up a Prioritisation Board which now ensures what is required to continue its business.

Recruitment:- The entire setup of this business area has been evolving and today together with his team, the course has been further streamlined to make this more efficient and value for money.

Managing Performance
Richard's key traits is his humility and quiet and assumed style which is seen as a real strength in his police leadership style and this is reflected in his SCC Final Report.

With his quiet disposition he gets the job done very effectively and has all the managerial tools necessary to achieve the objectives.

Mr Ullger demands professionalism, respect for others and courtesy. His own polite educated upbringing is a true reflection of his character as a leader but he is not a pushover and expects a return on his investment.

Professionalism

Without wishing to repeat myself, this competency goes hand in hand with managing People and Performance. If there is anything that annoys Mr Ullger, is for officers to disrespect our corporate image. He is a very respectful, smart and polite individual and demands this from his officers. His integrity is above reproach and will not accept anything less from his officers. He is a very meticulous person and will always go to any extreme to achieve that professional outlook which officers should aspire to.

Decision Making

Mr Ullger is his own man when faced with adversity and his decision making is sound and balanced.

As a trained Firearms Commander he will evaluate all the information and intelligence at his disposal, seek the views of his peers but will then make his own decision in dealing with any incident. These values are transferable to any other policing business area which has kept him steadfast throughout the years in service.

Working with Others

I would say Mr Ullger is the most approachable of my Superintendents, always with an open door policy.

His friendly and polite disposition makes him a target for officers, even from other divisions to see his counsel and advice. He is a good coach. He has developed working partnerships with external partners and stakeholders and on more than one occasion, when I have been away or unavailable, agencies have asked to see him and no other.

He has very good interpersonal skills which allows him to deal with all types of roles, from being ADC to HE The Governor to policing any public order situation.

He is very well liked and respected by external partners which in turn allows him to navigate and negotiate in various forums.

Effective Communication

Mr Ullger is an articulate speaker and c mes across very well. As a trained Media Officer he is able to inform people of things that we do, explain the rationale behind it but maintains his credibility intact.

He is a very eloquent and effective communicator; I would say that this is one of his strengths.

As reflected in his final report, he has a persuadable manner that encourages people to engage with him which in turn allows him to lead with a quiet authority.

Conclusion

I concur with his final report. Mr Ullger is ready to work at the executive level.

I am fully confident that he will be a good Commissioner not only for the RGP but for the Community of Gibraltar.

Although, I have not read/seen his vision paper I am quietly confident that his ethos is very much aligned to those that I have and that he will take the RGP forward to the next level. He shares my values and with so many challenges ahead, I have no doubt that he will succeed.

Edward Yome QPM CPM
Commissioner of Police

College of Policing

BetterProfessionals to BetterPolicing

Strategic Command Course 2016

Final Report

Name: Richard Ullger

Force / Organisation: Royal Gibraltar Police

Syndicate Directors
DCC Charlie Hall, Norfolk Constabulary
Tony Erne, Home Office
ACC Paul Kennedy, North Yorkshire Police

Professional Policing Skills
Business and Partnerships
Leadership and Ethics

SCC Course Director

CC Alex Marshall

SCC Deputy Course Directors

Jacqui Cheer QPM
Jo Noakes

Summary

Professional policing skills – Module completed
Professional assessment: Pass (15 of 38 delegates attained a good pass)

Leadership & ethics – Module completed.
Written assignment on personal leadership style: Pass (23 out of 39 delegates attained a good pass)

Business & partnerships – Module completed.
Organisational assignment on a change process: Pass (7 out of 38 delegates attained a good pass)

Overall - Pass

Deputy Director report

The 2016 SCC was described by the external and police speakers as thoughtful, enquiring and engaging. Across the modules the course members asked searching and pertinent questions which encouraged the speakers to expand upon their presentation and provide greater learning opportunities for everyone.

Richard has been an active member of the course and his syndicate across all of the modules. In some instances the material was not relevant or new, but that did not affect his willingness to join in, ask pertinent questions of the speakers or to feedback the views of the syndicate in plenary. He has a quieter style, but quickly gained the respect of his colleagues due to his demeanour, his willingness to share his experiences and his genuine interest in the experiences of others.

As with all non-UK participants on the course Richard was provided with a scenario relevant to his jurisdiction for the Professional Policing Skills assessment. He was asked to provide a written document outlining how he would manage the strategic command and requirements presented by the scenario and this was followed by an assessed conversation with two executive level police officers. Those assessors commented that he was 'very clear on the challenges his scenario would cause, the gaps in skills and capabilities and how at a strategic level he would command and seek support.'

Richard achieved a pass in his written change assignment, demonstrating his understanding of the issues facing leaders during times of change. He presented his syndicate's findings in the change management discussion to the whole course and is a confident, clear and respected speaker. His syndicate director wrote that he had 'been enthused by the presentations particularly on organisational change, the tipping point and Kotter.

Richard worked with a new group of colleagues in Scotland to develop a presentation to a panel led by the Police Scotland Chief Constable. Richard enjoyed the outreach work in preparation for the presentation which was about a new community engagement strategy for the force and he used the experience to discuss and explore new ideas for enhancing neighbourhood policing in his home force.

Richard achieved a pass in his leadership assignment. His syndicate director noted that 'one of Richard's key character traits is his humility and quiet, assured style. This is real strength in his policing leadership.'

Richard has performed well across all of the modules. He has a personable manner that encourages people to engage with him and allows him to lead with a quiet authority. He is ready to work at the executive level.

18 March 2016

Competent & highly effective	*Competent & effective*	*Competent*
☐	☐	X

Significant development needs
☐

Appendices

SCC course overview

Professional Policing Skills

Delegates will examine the component parts of an effective command strategy and how the National Decision Model (NDM) applies to the strategic command of incidents. They will explore the complexities of historic investigations whilst managing current demand. They will engage with strategic partners including the National Crime Agency and other security services and manage threat and risk. They will examine the responsibilities of a Strategic Coordinating Group (SCG) and establishing the need for a SCG. Finally, they will be able to manage and authorise undercover and covert human intelligence source operations.

Business and Strategic Partnerships

To prepare for executive leadership delegates will investigate the roles and responsibilities of directors and senior responsible officers. They will explore ways to lead strategic transformational change to deliver an ethical and value for money service to meet current and future needs. They will also investigate how to embed accountable and transparent workforce strategies, including effective performance management and managing discipline throughout the organisation.

To meet the challenges of modern public sector business they will deepen their understanding of the challenges and benefits of procurement and outsourcing. To gain a deeper understanding of organisations and how they work they will learn and use techniques of effective consultancy.

Public services do not exist in isolation. The leaders of the future will be working together to deliver services. Delegates will examine the changing political environment of public services. They will explore the importance of developing collaborative and productive working partnerships, leading across boundaries involving a variety of governance systems.

Managing risk, embedding integrity, promoting EDHR and wellbeing and evidenced-based practice will be integrated throughout. The Business Skills element is being delivered by Cass Business School. The partnership element is delivered in collaboration with Police Scotland.

Leadership and Ethics

Delegates will explore current and future strategic leadership challenges at the executive level. Through the course they will develop a more detailed understanding of integrity issues as they affect them personally and the organisations they lead. They will also explore the importance of developing cultures that promote equality, diversity and human rights, ethical decision-making and practice that is based on valid and reliable evidence. They will evaluate different approaches to leadership critically, raise their levels of self-awareness and develop their own leadership style. Delegates will develop ways of promoting effective team working at the executive level and enhance their personal political awareness to be able to negotiate, influence and lead with integrity in a complex environment.

Policing professional framework – personal qualities

Assistant Chief Constable/Assistant Chief Officer

Personal Qualities

Decision making

Assimilates complex information quickly, weighing up alternatives and making sound, timely decisions. Gathers and considers all relevant and available information, seeking out and listening to advice from specialists. Asks incisive questions to test facts and assumptions, and gain a full understanding of the situation. Identifies the key issues clearly, and the inter-relationship between different options at a local and national level, assessing the costs, risks and benefits of each. Prepared to make the ultimate decision, even in conditions of ambiguity and uncertainty. Makes clear, proportionate and justifiable decisions, reviewing these as necessary.

Leading strategic change

Thinks in the long term, establishing a compelling vision based on the values of the Police Service, and a clear direction for the force. Instigates and delivers structural and cultural change, thinking beyond the constraints of current ways of working, and is prepared to make radical change when required. Identifies better ways to deliver value for money services that meet both local and national needs, encouraging creativity and innovation within the force and partner organisations.

Leading the workforce

Inspires people to meet challenging organisational goals, creating and maintaining the momentum for change. Gives direction and states expectations clearly. Talks positively about policing and what it can achieve, building pride and self-esteem. Creates enthusiasm and commitment throughout the force by rewarding good performance, and giving genuine recognition and praise. Promotes learning and development within the force, giving honest and constructive feedback to colleagues and investing time in coaching and mentoring staff.

Managing performance

Translates the vision into action by establishing a clear strategy and ensuring appropriate structures are in place to deliver it. Sets ambitious but achievable timescales and deliverables, and monitors progress to ensure strategic objectives are met. Identifies and removes blockages to performance, managing the workforce and resources to deliver maximum value for money. Defines what good practice looks like, highlighting good practice. Confronts underperformance and ensures it is addressed. Delegates responsibilities appropriately and empowers people to make decisions, holding them to account for delivery.

Professionalism

Acts with integrity, in line with the values and ethical standards of the Police Service. Delivers on promises, demonstrating personal commitment, energy and drive to get things done. Defines and reinforces standards, demonstrating these personally and fostering a culture of personal responsibility throughout the force. Asks for and acts on feedback on own approach, continuing to learn and adapt to new circumstances. Takes responsibility for making tough or unpopular decisions, demonstrating courage and resilience in difficult situations. Remains calm and professional under pressure and in conditions of uncertainty. Openly acknowledges shortcomings in service and commits to putting them right.

Serving the Public
Promotes a real belief in public service, focusing on what matters to the public and will best serve their interests. Ensures that all staff understand the expectations, changing needs and concerns of different communities, and strive to address them. Builds public confidence by actively engaging with different communities, agencies and strategic stakeholders, developing effective partnerships at a local and national level. Understands partners' perspectives and priorities, working co-operatively with them to develop future public services within budget constraints, and deliver the best possible overall service to the public.

Working with others
Builds effective working relationships through clear communication and a collaborative approach. Maintains visibility and ensures communication processes work effectively throughout the force and with external bodies. Consults widely and involves people in decision-making, speaking in a way they understand and can engage with. Treats people with respect and dignity regardless of their background or circumstances, promoting equality and the elimination of discrimination. Treats people as individuals, showing tact, empathy and compassion. Negotiates effectively with local and national bodies, representing the interests of the Police Service. Sells ideas convincingly, setting out benefits of a particular approach, and striving to reach mutually beneficial solutions. Expresses own views positively and constructively. Fully commits to team decisions.

OFFICIAL - STAFF

ROYAL GIBRALTAR POLICE

CONTINUOUS PERSONAL DEVELOPMENT REVIEW

2016

PART B: LINE MANAGER REVIEW FORM

SECTION A: GENERAL

Officer Name:	Richard Ullger	**Rank / No.:**	Supt.
Dept./Division:	Planning, Development and Support/Superintendent	**Years in Service/ Years in Rank:**	28 / 2
Role:	Divisional Commander	**PDR Date:**	06/07/16
Appraising Manager Name:	Richard Hirst	**Appraising Manager Rank:**	CH/Supt

SECTION B: ACHIEVEMENT OF OBJECTIVES

		Rating
1.	None were set. They will be levelled	N/A
2.		
3.		

General Rating Criteria

1. Below Expectations | 2. Potential for Improvement | 3. Satisfies Expectations | 4. Above Expectations | 5. Excellent

Comments to support poor or exceptional ratings above as stated in officer's Evidence File

Does the officer understand and adhere to the RGP Code of Ethics? ✓

Absence Management *Comments (if any on the reporting period)*

Days CSL: 0 | Days USL: 1

SECTION C: OFFICER COMPETENCES

Professional Competence						Communication Skills					
Technical ability / job knowledge	1	2	3	(4)	5	Verbal communication skills	1	2	3	(4)	5
Adherance to appropriate standards	1	2	3	4	(5)	Written communication skills	1	2	3	(4)	5
Proactive	1	2	3	4	(5)	Listening and comprehension skills	1	2	3	4	(5)
Openess to learning and self-reflection	1	2	3	(4)	5	Providing relevant feedback	1	2	3	(4)	5
Leadership ability	1	2	3	(4)	5	**Management Role** *(if applicable)* ☐ Tutor PC ☐ Acting Sgt					
RGP Leadership Values and Behaviours						Creates positive and productive work environment	1	2	3	(4)	5
Community Awareness & Customer Focus	1	2	3	(4)	5	Ability to motivate team	1	2	3	4	(5)
Valuing People & Teamwork	1	2	3	4	(5)	Provides clear direction/objectives for their team	1	2	3	(4)	5
Integrity, Respect & Professionalism	1	2	3	4	(5)	Delegates effectively	1	2	3	(4)	5
Business Role *(if applicable)*						Ensures tasks are completed on time & to budget	1	2	3	(4)	5
Risk Management	1	2	3	(4)	5	Takes responsibility for subordinates' actions	1	2	3	4	(5)
Ability to identify & develop opportunities	1	2	3	(4)	5	Ability to management performance	1	2	3	(4)	5
Maintaining & developing collaborative relationships	1	2	3	4	(5)	Forward planning	1	2	3	(4)	5
Delivery on structural and cultural change	1	2	3	(4)	5	Learning and development of team	1	2	3	(4)	5
Strategic delivery	1	2	3	(4)	5	Interaction & co-operation with other departments	1	2	3	(4)	5

General Rating Criteria

1. Below Expectations | 2. Potential for Improvement | 3. Satisfies Expectations | 4. Above Expectations | 5. Excellent

SECTION D: OVERALL PERFORMANCE

PERFORMANCE RATING 4

Summarise the individuals performance during the assessment period, highlighting key achievements, main strengths and any areas for improvement.

Supt Ullger's attendance at the SCC is evident in his performance, which has surpassed his already sound innate leadership abilities. He is a very motivated individual who seeks to improve the RGP. His investive style is clearly reflected in the culture pervading throughout PDS division. A very good leader.

Appraising Manager's Signature: [signature] **Date:** 06/07/16

NOTE FOR APPRAISING MANAGER: This review must take account of the appraisee's personal development needs and the A Policing Plan for the relevant year.

SECTION E: COMING YEAR - Agreed Objectives for the Coming 12 months

1.	Continue restructuring the division (APP: Professional Service Delivery)
2.	Continue implementing Learning & Development strategies & training (APP: Professional SD)
3.	Develop the LGP's Project management practices (APP: Professional Service Delivery)

SECTION F: DISCUSSION OF PERSONAL DEVELOPMENT PLAN

Development for your current role (Identify individual skills/knowledge and specific barriers/risks to achieving your outcomes, e.g. knowledge, skills, etc.)	Agreed action to be taken (E.g. training course, on-the-job coaching, mentoring, reading, etc.)	Completed (Yes/No) (For discussion in next review period)

Development for the future (Please tick option)		Agreed action to be taken	Completed? (Yes/No) Discuss in next review
☑ Remain in current role	☑ Enrichment (develop current role)	Develop skills in 1, 2 & 3 within the same next year.	
☑ Promotion (vertical move)	☐ Exploration (test out options)		

Appraisee Signature:	Appraising Manager's Signature:	Date:
	clwt	12.07.06

SECTION G: COMMENTS ON APPRAISAL PROCESS

Appraising Manager's Comments

Supt Wright is a experienced officer who has cemented his position in his present rank. He is ever mindful, of the need to strategise, reflect, review & progress. An asset to the SMT and the LGP.

Appraising Manager's Signature: clwt

Appraising Manager's Manager's Comments

I agree with the reporting officer. Supt Wright has stepped up to the Executive level and his strategic forms future him in good stead for future leadership of the organisation. col.

Appraising Manager's Manager's Signature:

Appraisee's Comments

I agree with the comments.

Appraisee's Signature:

FOR CD&P USE ONLY – SECTION : FOLLOW UP

Comments:

Signature:	Name:

SECTION D: OVERALL PERFORMANCE *(continued)*

Use the space below to justify your individual performance, add your individual key achievements, main strengths and any areas for improvement.

Completion of SCC 2016.

SECTION E: REFLECTION ON YOUR PERFORMANCE

1. Were you made aware of your individual objectives?	YES ✓	NO
2. Did you have regular opportunities to discuss your work and action points?	YES ✓	NO
3. Have the action points from the last appraisal been carried out?	YES ✓	NO

4. Has the past year been good, bad or satisfactory? Why? I strongly feel that I have had a good year in my division. I have learnt the administrative process as control of budget, implementing better long term planning. Completing the SCC was of great satisfaction.

Use the space below to add your thoughts and reflections.

The RSP is an organisation which is vibrant, moving at a fast pace and so diverse. I thrive in working in this environment.

SECTION F: SUPPORTING YOUR PERSONAL DEVELOPMENT PLAN

1. What parts of your job do you:

a) Do best? Working with people as getting things done

b) Do less well? Dealing with Red-Tape

c) Have difficulty with? Not being Strategic

d) Fail to enjoy? N/a.

2. What action could be taken to improve your performance in your current position:

a) By you? Continuous learning and Development

b) By your line manager? Support Always.

3. What do you like/~~dislike~~ about working in this organisation?

Everyday is a different day!
The diversity.

Development for the future (Please tick option)

- ☑ Remain in current role
- ☑ Promotion (vertical move)
- ☑ Enrichment (develop current role)
- ☐ Exploration (test out options)

Officer's Signature:	Appraising Manager's Signature:

OFFICIAL - STAFF

ROYAL GIBRALTAR POLICE

CONTINUOUS PERSONAL DEVELOPMENT REVIEW

2016

PART A: SELF-ASSESSMENT FORM

SECTION A: GENERAL

Officer Name:	Richard Ullger	**Rank / No.:**	Supt.
Dept./Divison:	Planning, Development and Support/Superintendent		
Line Manager:	CH. SUPT MIFSUD	**Date:**	08/07/2016

SECTION B: YEAR IN REVIEW – LAST YEAR'S OBJECTIVES

		Rating
1.	NONE WERE SET.	
2.		
3.		

General Rating Criteria

1. Below Expectations	2. Potential for Improvement	3. Satisfies Expectations	4. Above Expectations	5. Excellent

SECTION C: YOUR CORE PERSONAL VALUES AGAINST THE RGP LEADERSHIP VALUES AND BEHAVIOURS

General Rating Criteria

1. Below Expectations	2. Potential for Improvement	3. Satisfies Expectations	4. Above Expectations	5. Excellent

		Rating
Customer Focus	Protect, help and reassure the community of Gibraltar by providing an excellent level of customer care. Keep members of the public informed and updated, especially victims of crime. Use words that your audience understands.	4
Integrity	Treat others fairly, sensitively and with respect. Be honest, open, genuine and stand up for what is right. Accept responsibility for your own decisions and your own actions. Take appropriate action when you believe someone is behaving in an unacceptable way. Set standards of behaviour and conduct in line with Our Values. Be objective and consistent in the decisions you make and when you give feedback. Ensure that the RGP resources are used ethically and within the law.	5
Community Awareness	Be socially and environmentally aware of the impact we have on our community and the impact the community has on us. Maintain standards at all times to inspire confidence in the police and reduce the fear of crime. Be aware of the behaviour that members of the public expect from you. Understand the importance of your role within the Commissioner's vision of "Working Together to Make Our Community Safer".	4
Respect	Uphold the rights and freedoms of all people underpinned by an ethos of inclusivity by showing compassion and sensitivity to their needs. Be mindful of our diverse community. Treat people equally irrespective of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.	5
Professional-ism	Gain, use and demonstrate the occupational competence required to do your job well. Remain calm when making decisions. Give firm, positive and clear direction. Be competent and confident in your own ability. Admit when you're wrong and be prepared to put things right. Be approachable and assist others. Make decisions in accordance with the National Decision Making Model. Lead by example and act as a role model. Be willing to give and receive constructive feedback.	5
Proactive	Consistently monitor your methods and analyse your performance to be at the forefront of the continually changing environment we operate in. Be flexible and adaptable. Encourage mentoring and help others learn, grow and become more effective in their role. Understand the contribution others in the team can make and utilise their knowledge, skills and abilities. Share knowledge, experience and information from the result of meetings, training courses, etc. with your colleagues. Encourage feedback. Be self-motivated. Demonstrate energy, drive and determination. Have your own personal career objectives and goals.	5
Valuing People	Support and work with your colleagues towards our common goals. Work in partnership with key stakeholders. Consider your colleagues' safety and welfare. Take other people's views into account and consider their skills. Offer support and guidance when needed. Learn from everybody irrespective of their rank and length of service. Encourage everyone to demonstrate RGP Leadership Values and Behaviours. Encourage personal development,new approaches and learning through efforts, mistakes and successes. Embrace the diversity within our organisation and promote equality at all times. Apply the Investors in People framework to develop our people management capabilities successfully and sustainably.	5
Teamwork	Address the needs of our community through partnership and by empowering our staff to be innovative and creative. Praise and encourage others. Understand the contribution others in the team can make and effectively use their skills, abilities and other resources. Delegate where appropriate. Share your skills and strengths. Direct people to where they can get support if you can't help. Be open, honest and develop self-awareness. Adapt your leadership and management style as approriate to the needs of the situation. Be aware of the learning and development activities available.	5

Do you believe that you consistently abide by the RGP Code of Ethics?	Y.	N

SECTION D: OVERALL PERFORMANCE

PERFORMANCE RATING	4/5

D□ □ □□□

ROYAL GIBRALTAR POLICE

Detective Superintendent Ian McGrail *OTM M.Sc.*
Crime & Protective Services

Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 20048055, Fax: (350) 20050717
E-mail: ian.mcgrail@royalgib.police.gi

CONFIDENTIAL

1st November 2017

Gibraltar Police Authority
25B Casemates Barracks
Casemates Square
Gibraltar

Dear Sirs,

Re:- Application for appointment as Commissioner of The Royal Gibraltar Police

I refer to your recent invitation to apply for the appointment as Commissioner of the Royal Gibraltar Police (RGP) and would respectfully ask that you accept this letter as my intention to apply for the said appointment.

I feel totally honoured and privileged to be in this position where after over 33 years of public service as a police officer the opportunity arises where I can be considered for the top policing post in Gibraltar. Way back in 1996, when I was competing for promotion to Sergeant, I vividly recall the then Commissioner of Police, the late Joe Canepa QPM, asking where I saw myself in the police service two decades from thereon: I distinctly remember responding bluntly but very focused and saying "right where *you* are sitting Sir.....and serving as Commissioner of Police!". That desire I expressed at that time is still very much alive now, in fact more alive than ever before because of the splendid career I am enjoying and the vacancy arising.

The role of Commissioner of the RGP, a Constitutional appointment, is enshrined in the Police Act 2006 s.33 which explains that the post holder will have overall command, superintendence, direction and control of the Force together with responsibility for the efficient administration and government of the Force including the proper expenditure of public funds used for the provision of policing services. To be able to properly discharge these legal requirements the post holder needs to meet certain criteria; the following list of competences are what I feel are the necessary personal qualities the post holder should possess. I have included some examples as evidence of key personal achievements aligned with the said list of competences to demonstrate my own qualities for your esteemed consideration and evaluation.

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1. Serving the public

The Commissioner of the RGP must be an individual who is already well known and respected in the community and not necessarily only known because of his police career; known and respected in other social circles too. He must be engaging and work to serve the public's interests with all the diversity a modern Gibraltarian community presents. The Commissioner must also work to build public confidence in the RGP and work with Government, the GPA and other partners to build on an overall better service to the public.

Personal evidence
My past involvement in the local sporting scene and scouting movement has cemented lifelong relationships outside my professional life. Similarly, my membership of the Royal Gibraltar Regiment which I only recently suspended and the St John's Ambulance Association has expanded my outreach to the community outside the police environment. I have no doubt that this has aided my ability to engage with the public as I have been seen not only as a police officer but also as an inclusive member of wider society.

As a senior police officer and particularly in my incumbent post as commander of the Crime and Protective Service Division I lead a very dedicated team of detectives dealing with a myriad of disciplines in the crime domain. I have on many occasions been the RGP's 'talking head' reporting on matters of concern to the public as well as offering reassurance when this has been necessary.

I sit in multi-agency committees/groups such as (i) the legally constituted Child Protection Committee, (ii) the Strategic Management Board for Sex Offender Management (soon to also incorporate violent offenders) and the Executive Committee of the Gibraltar Contingencies Council (GCC) which is the tier below the GCC proper. I chair the Joint Operating Working Group [Land] which works towards optimising Gibraltar's security posture in the land environment with a view of identifying existing and emerging threats to this posture. I have stimulated multi-agency debate to develop contingency responses for a marauding terrorist attack and designed, co-ordinated and directed both multi-agency table-tops and live exercises to test these responses.

1. Leading strategic change

It is necessary for the Commissioner to have a convincing vision and that this vision is well aligned to the values of the police service and it that provides clear direction. It is not healthy for a police force to remain static in terms of innovation and change. Whilst I am not an advocate of introducing change simply for the sake of it, I equally recognise that the ever shifting landscape requires constant reviews of how policing is conducted and how resources are allocated. Whilst austerity has not [yet] reached Gibraltar, I irrespectively feel it is good management and business practice to always seek to deliver value for money services and save unnecessary public expenditure. My personal vision for the next 5 years is contained in a separate paper and therefore I do not intend to rehearse it in this letter.

Personal evidence
I would refer you to the accompanying vision paper entitled *'Delivering a safer Gibraltar, through excellence in the provision of policing services'*.

For the past 6 years I have been a member of the senior management team which has embedded Commissioner Yome's culture change from a previously micro-managed styled organisation to one that encourages empowerment and inclusion.

During my time as Superintendent in the headquarters and support function and with a view of uplifting our firearms capability, I was able to negotiate with South Wales Police the procurement of (43) firearms making a saving to the RGP of *circa* £75,000. I also prepared a business case to argue with Government for extra funding for armed policing requirements.

I also acted as the RGP's senior point of contact for the construction project of new the Marine Base at Gun Wharf. From planning/design to physical construction, the project required constant liaison with architects, developers, builders etc - the end result being a modern fit for purpose facility which instils a host of positives in terms of working environment and staff morale.

Following a period of consultation with the rank and file over concerns regarding personal safety and comfort of uniforms for the front line officer I embarked on a process of researching and

procuring protective body armour for Force wide issue together with a more comfortable and practical uniform attire. The outcome was well received by the rank and file as indeed the staff association – the workforce now boast stab and ballistic protection vests purpose made for Gibraltar's requirements and climate together with far more practical and comfortable uniform shirts and trousers.

An EU Directive transposed to local legislation placed an extremely administrative cumbersome responsibility on the RGP to do with the provision of case dockets in the native language of the accused person. To overcome this I researched various options and entered in to a contractual arrangement with a translator and interpreter provider in the UK and we now have a 24/7 service to meet all the requirements imposed by law in this regard. Not only does this save significant officer time, the additional enhancement of having translator and interpreter services for most languages spoken in the world is something which in any case would surpass the RGP's or Gibraltar PLC's ability to provide.

Because of the demand and workload carried by certain units currently under my command, I have held consultations with line managers to seek out solutions and have aligned our resources accordingly. This is very evident in the field of Economic Crime where because of new legislations and expectations we have had to restructure the unit to cater for (i) fraud and (ii) money laundering, counter terrorist financing and asset recovery.

I conducted a gap analysis of our existing terrorism laws and provided rationale to Government for their modernisation, a draft of which together with accompanying codes of practice are being considered for enactment. I am also currently engaged with rolling out a programme of capability/capacity uplifting in Counter Terrorism Policing an area which the RGP dearly requires development.

2. Leading the workforce

During my long law enforcement career I have had the privilege of working with and judging different styles of leadership. To a certain extent this experience has allowed for the development of my personal style. Strong leadership is the bedrock of a police service. The Commissioner has to have sufficient character to inspire staff to meet challenges and targets whilst creating an environment of enthusiasm, rewarding good doers and recognising the efforts of staff. Strong leadership is also necessary during challenging/difficult times in order to instil morale. In my view it is important that the Commissioner is visible and connected within the workplace and whilst keeping a strategic outlook, remains sufficiently savvy about the detail and has the ability to dip into it if required.

Personal evidence
A leadership quote which resonates very closely to my thinking is that of the late US General Schwarzkopf, who led a 750,000 strong coalition force to liberate Kuwait when invaded by Iraq in 1991 – the infamous Op Desert Storm. He said, *"Leadership is a potent combination of strategy and character. But if you must be without one, be without the strategy".* It is sometimes the most simple and overseen actions that can display good leadership. I make it a point of recognising good work by dropping an email to individual officers and when possible I have face to face contact with them, even if these officers are not directly under my command. I have also recommended officers for more formal recognition under the RGP Honours and Awards Policy. Having been a front line officer for most of my career, I know how important it is for senior management to support and be seen to support the front line. To this end and because of the challenges front line officers were facing, I proposed that senior officers made it a point to patrol alongside junior ranks during the most busy periods of the week and this was unanimously accepted and very well received by the staff.

I am the only serving superintendent to have commanded all three divisions in the RGP (Operations – Crime – Support) and can therefore relate to the challenges faced in them together with the different personnel dynamics and leadership traits that have to be applied respectively.

3. Managing performance

A policing vision requires a tactical plan to convert the vision to a reality. The Commissioner should in consultation with his senior team establish a clear strategy with SMART objectives. It is important to navigate through obstacles to performance by removing these obstacles and managing resources to ensure best delivery and value for money. Under-performing officers and the reasons for their poor performance also require attention and intervention in order to redress.

Personal evidence
It is a recognised notion that a happy team reaps better results, so in this regard junior and middle line managers are key to motivating officers – I am a strong promoter of this. In order to better prepare Sergeants and Inspectors as managers/leaders and indeed those constables showing potential as future Sergeants, I organised a series of courses under the auspices of Institute of Leadership and Management which were successfully delivered and completed by 50 officers. The said courses covered personal responsibility in working towards organisational goals – making our managers realise that they are accountable for performance of their teams.

I am a firm believer of turning up for work and putting in an effort for honest day's living and I promulgate this 'philosophy' to my colleagues. Understandingly so, not everyone can produce the same levels of output so I play to the strengths of each individual to extract the best in them.

I am extremely fortunate that Crime and Protective Services Division officers are probably the most self-motivated officers in the organisation and therefore there is very little need for direct intervention on my part. I am, however, very conscious of their welfare as they can become overly engrossed in their tasks to the detriment a reasonable work/life balance. They work in the higher of risk areas and carry the most serious of crime work pulling off great results which significantly contribute to the detection rates published in the annual report.

I have had occasion to address poor performances and lack of commitment to the job, acting to address each instance accordingly with varied levels of success.

4. Professionalism

Honesty, integrity, high values and the best ethical standards depicts the qualities a Commissioner should portray coupled with determination and drive to ensure things get done. Unlike previous eras where it would be unheard of for a Commissioner to acknowledge shortcomings in the service, in my view it is good practice to openly accept any shortcomings and commit to putting them right. During turbulent times, the Commissioner must remain calm and collected when under pressure. He must also take personal responsibility for difficult, contentious or unpopular decisions.

Personal evidence
I have an unblemished discipline record. I was the pioneer in 2001, setting the tone for a wave of senior officers to undertake Higher Education academic studies on police related subjects. In essence, I am of the view that this has enriched the RGP with the setting of higher benchmarks of professionalism and academia to compliment already acquired experience and skill sets.

I encourage the Detective Inspectors in my Division to share their concerns and pressures with me so that [some] of the risk burden is lifted off themselves – this gives them a sense of security whilst I campaign for solutions behind the scenes. They are fully aware that I cannot wave a magic wand and make things happen straight away but they take comfort that senior management have their backs whilst they plough on with criminal case work.

There have been very testing times and situations where the reputation of both the RGP and personal reputation have been at stake. During these times I have always operated with common sense and within the confines of the law, with certainty and conviction and without fear or favour. Similarly, I have managed very sensitive matters keeping operational security in tact.

5. Decision making

The ability to assimilate copious amounts of information and make quick and spontaneous decisions is a competency that a Commissioner must command. There is also a requirement for the decision making process to be justified and rationalised. In assuming responsibility for ultimate decisions, even when these have been made on the back of unclear circumstances, the Commissioner must consider the wider impact and implications that fall out from the decision(s) in question. It is also important that a process is invoked that allows for a review of these critical decisions to ensure that they remain fit for purpose.

Personal evidence
The National Decision Model is the recognised model to follow in the UK police service. The RGP have followed suit and I was the first RGP officer to be exposed to this model in 2011-12 and commence its local application. It is a model that if applied properly can withstand scrutiny at different levels.

I readily accept where my levels of knowledge and experience can take me when it comes to decision making, more so in critical circumstances. Consequently, I have had to rely on advice of more experienced and/or skilled individuals, always retaining the responsibility for the outcome of the decision taken. An example of this was during the recent intervention of a bulk carrier following information disclosed to me by the US Drugs Enforcement Administration that it was laden with a large consignment of Cocaine – the situation warranting an armed intervention to ensure safety of officers.

6. Working with others

The Commissioner must be able to consult and involve others in the decision making process, showing tact, respect and understanding to the views of others. The private sector has a lot to offer in terms of contributions to maintain the jurisdiction safe from crime and enhance security. It is therefore key that the Commissioner is able to work with any sector whose intentions are in the overall interests of Gibraltar's safety, always negotiating effectively, representing the interests of the RGP.

Personal evidence
Cyber dependant and cyber enabled crime is very much under reported in Gibraltar. This phenomenon is not exclusive to Gibraltar and the RGP has a role to raise awareness, reduce and prevent this type of crime from affecting so many victims. In June 2017, the RGP partnered with the private sector to bring to Gibraltar a world class cyber security event. I undertook to be the RGP point of contact with the partnering firm to present this event. 245 delegates from public and private sector attended with the Chief Minister and HE the Governor hailing it as a success and worthwhile project.

The policing of major events requires close co-operation with other essential services, public agencies, organisers and private entities. During my service as Superintendent Operations, I planned and oversaw the execution of the policing arrangements in major events such as the Royal visit of HRH Prince Andrew and the Countess of Wessex, Gibraltar National Week including the Gib Music Festival, National Day rally, general elections, Queen's birthday parades, the 3 Kings Calvacade and Guy Fawkes (when this was renowned for acute anti-social behaviour and violence).

In my present post, I have been assigned responsibility for building relationships with international partners. I have been able to negotiate the reinstatement of the RGP in the very important forum as is the National Counter Terrorism Policing HQ Business Area Meetings where regional UK police chiefs periodically meet with the CT National Co-coordinator, DAC Neil Basu, Assistant Commissioner Mark Rowley who is the most senior CT police officer in UK and SyS and SIS. RGP attendance at this forum had been discontinued over 6 years ago for reasons unknown to me. Closer contact with SO15 Counter Terrorism Command, New Scotland Yard, has also been enhanced. I also keep alive relationships with the USA's FBI and DEA via the US Embassy in Madrid. I am responsible for flourishing Spanish law enforcement relationships and I am very pleased with the progress, particularly with the Servicio Vigilancia Aduanera who on occasions have been rather conflicting and hostile on operations at sea. A very good relationship is also maintained with the Guardia Civil's UC2 responsible for international terrorism as indeed the Cuerpo Nacional de Policia, Comisaria de Informacion in Canillas, their HQ in Madrid. Despite the already known political influences which unfortunately hinders full operational co-operation, I can sincerely state that working with the stated Spanish law enforcement agencies has been very productive. Further work to attempt to formalise these relationships continues with the very kind assistance of the British Embassy in Madrid.

I developed a close working relationship with the police embed in the National Cyber Security Centre (NCSC) and successfully negotiated for the UK's 'Cyber Information Sharing Partnership' to be extended to Gibraltar for the benefit of our business community. I am pleased to report that numerous business entities have already signed up to this initiative and enrolled as members of this platform.

7. Effective communication

As previously alluded to in the 1st of the competencies, the Commissioner has to be visible and ensure that corporate communications are effective both internal and external to organisation. He must be an articulate communicator who is confident is public speaking. Very often, the RGP is fairly criticised in the media – there has to be courage to readily accept this criticism and efforts to put things right. Conversely, it is a known fact that certain media outlets seem to have an unjustified gripe against the Force. With this type of reporting it is my submission that focusing on improving public confidence in the RGP through effective communications and positive actions will by default rebut any adverse media reporting.

Personal evidence
Being one of the trained media officers in the RGP I have had the experience of engagement with all local media outlets, those in the campo region and even some major UK tabloids. I have received letters of appreciation from local media praising my style of communications and my relationship with them during difficult times.

I have formed part of debate panels on live TV programmes such as Viewpoint. Promoting the RGP's good work and particularly in the crime domain, I have given numerous interviews to both radio and TV.

In 2013, I successfully argued for personalisation of social media communications for senior officers and some departments within the Force. In addition to the RGP corporate Twitter account, each senior officer is able to push out information on this very popular social media channel thereby enhancing our contact with the community.

8. Respect for Diversity

The police service is inherently still regarded by many as a male chauvinistic dominated institution. The RGP should aspire for our workforce to be representative, as far as possible, of the make-up

of our community and therefore the Commissioner must show commitment to this aspiration, the outreach of which can be enhanced by ensuring that the RGP respects all sections of society and make them feel included.

Internal culture within the Force has to demonstrate similar vein in terms of fair treatment and respect for all officers and staff in the context of a custom that values diversity and individuality.

Personal evidence
I have formed part of the senior management team that has driven a culture change which has taken the RGP forwards as an organisation with a high ethos of equality and diversity. Perceived barriers to equality are not as blatant as they used to be. As a team we discuss where reasonable adjustments can be made to find ways to help staff members who need particular attention. There is a long way to go and I take this opportunity to express total commitment to continue in this journey in support of equality and diversity both internal and external to the organisation.

In closing this letter in support of my application, I offer the GPA my availability to answer any questions arising or elaborate on any of the points stated above.

Yours faithfully,

[SIGNED ON ORIGINAL]

Ian McGrail *OTM M.Sc.*
Detective Superintendent
Crime & Protective Services Division

Curriculum Vitae

1. PERSONAL DETAILS

SURNAME: **McGrail**	FORNAME: **Ian**
RANK: **Detective Superintendent**	CURRENT POST **Crime & Protective Services**
DATE JOINED SERVICE: **19th October 1984**	DATE PROMOTED: **2012**
DATE OF BIRTH: [redacted]	YEARS OF SERVICE: **33 yrs 1 month**

2. EDUCATION

DATE	INSTITUTION	QUALIFICATION OBTAINED
2007	University of Virginia	Certificate in Criminal Justice Education
2004	University of Leicester Department of Criminology	Master of Science degree in Policing Studies
2003	Cranfield University	Certificate in Contingency Planning
2001	Chartered Management Institute	Certificate in Management
2000	Chartered Management Institute	Certificate in Supervisory Management
1981/82	Secondary School / College of Further Education	5 O-Levels 4 City & Guilds

3. VOCATIONAL QUALIFICATIONS

DATE	INSTITUTION	QUALIFICATION OBTAINED
2013	College of Policing UK	Strategic Command Course
2012	Royal Gibraltar Police	Criminal Procedure & Evidence Act course
2012	Royal Gibraltar Police	Inspectors & Chief Inspectors statutory rights & obligations course
2012	College of Policing UK	Senior Leadership Programme 1 Professional Policing Skills 2 Equality, Diversity & Human Rights
2007	Federal Bureau of Investigation Quantico, USA	1.FBI National Academy Programme 2. Certificate in Conflict & Crisis Management
2006	Lincolnshire Police UK	Police Press Officer
2004	Chartered Institute of Environmental Health UK	Foundation certificate in Health & Safety in the work place
2003	Centrex - Greater Manchester Police UK	Public Order Tactical Advisor
2001	West Yorkshire Police UK	Covert Human Intel Source Handling
1999	National Investigation Service UK HM Customs	Enhanced Surveillance
1998	Cheshire Constabulary UK	Personal Safety Trainer
1995	UK National Policing Training - Metropolitan Police	Public Order Tactical Trainer
1988	Royal Life Saving Society UK	Bronze Medallion

4. SECONDMENTS

DATE	Force	Purpose
2006	Hampshire Constabulary (1 month)	Operational Policing (Public Order/Traffic/ CSU)
2009	Greater Manchester Police (2 weeks)	Professional Standards Branch / Training
2013	Her Majesty's Inspectorate of Constabularies	Inspection of the Sovereign Base Areas Police in Cyprus

5. CAREER HISTORY PRÉCIS

DATE	DUTIES
2014 to present	Detective Superintendent - Divisional Commander of the Crime & Protective Services Division responsible for; Special Branch Force Intelligence & Overseas Liaison Economic Crime Unit Drug Squad Criminal Investigation Department Crime Scene Investigation Unit Hi-Tech Crime Unit Sex Offender Management Unit Child Protection Unit
2013 to 2014	Superintendent HQ & Acting Ch Supt – Divisional Commander of the HQ and Support Division responsible for; Training Professional Standards Finance & Administration/Equipment/Property/Estate Corporate Development & Policy Criminal Justice Unit
2012 to 2013	Superintendent Operations – Divisional Commander of the Operations Division responsible for; 24/7 Uniformed Response Policing Neighbourhood Policing Unit Armed Response Unit Marine Section Dog Unit
2010 to 2012	Chief Inspector – Operations & Acting Supt
2008 to 2010	Chief Inspector i/c PSD/Corp Dev/ Training
2007 to 2008	Detective Chief Inspector - Crime Division
2006 to 2007	Chief Inspector - Operations Division
2004 to 2006	Inspector – Operations Division Responsible for the operational management of a response team and also Inspector of the Force's Tactical Firearm's Unit.
2003 to 2004	Sergeant – Corporate Development
1998 to 2003	Detective Sergeant – Drug Squad
1997 to 1998	Sergeant – Operations Division Section Sergeant
1995 to 1997	Detective Constable – Drug Squad
1994 to 1995	Constable – General Police Duties
1988 to 1994	Detective Constable – Criminal Investigation Department
1984 to 1988	Constable – General Police Duties

6. COMMENDATIONS & AWARDS

Date	Issuing authority	Reason
2015	Overseas Territories Medal - HM the Queen	Meritorious Service
2013	2nd Clasp to the Long Service and Good Conduct Medal	30 years of exemplary service
2012	HM the Queen's Diamond Jubilee Medal	Queen's award to serving police/military personnel
2008	RGP Commissioner of Police - Commendation	m/v Fedra rescue operation
2008	1st Clasp to the Long Service and Good Conduct Medal	25 years of exemplary service
2002	Long Service & Good Conduct Medal	18 years of exemplary service
2002	HM Queen's Golden Jubilee Medal	Queen's award to serving police/military personnel
2000	Supreme Court Chief Justice - Commendation	Drugs case Regina v Abudarham
1999	Order of St John Service Medal	10 years of voluntary servcie
1996	US Naval Criminal Investigation Service	Drugs Operation commendation
1995	RGP Commissioner of Police - Commendation	Drugs case Regina v El Selmani
1990	RGP Commissioner of Police - Commendation	Serious sexual assault Regina v Leite

7. OTHER INTERESTS

Cycling	Member of the Gibraltar Cycling Association
Music	Served as a member of the Royal Gibraltar Regiment band as a musician from 2002-2012 achieving the appointment of Drum Major. Recreational bag piper.

8. PREVIOUS EMPLOYMENT(S)

Date	Employer
1982 - 1984	Rock Fire Assurance Ltd (later to merge with Norwich Union) discharging responsibilities as an Insurance and Claims clerk
1983 - 1984	Gibraltar Regiment. Member of the T/A element – Infantry soldier

A VISION FOR THE ROYAL GIBRALTAR POLICE 2018-2022

Delivering a safer Gibraltar through Excellence in the provision of Policing Services

D/Supt Ian McGrail

2nd November 2017

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"DELIVERING A SAFER GIBRALTAR THROUGH EXCELLENCE IN THE PROVISION OF POLICING SERVICES"

Like with so many aspects of life today, Gibraltar is vastly different from the way it was when the then Gibraltar Police Force was formed 177 years ago. Even in the last 10 years a lot has changed. The trends we see today will have a big impact on the Royal Gibraltar Police (RGP) over the next 5 years and the organisation must respond to them to continue to ensure the jurisdiction remains a safe one.

A strategic analysis of the risks and challenges that the RGP will face in the forthcoming years recognises that our operating environment is changing at quite a pace. Increasing community expectations, population growth, the continued development of Gibraltar as a nation, changes in crime and upholding national security present both challenges and opportunities.

To build on successes of how Gibraltar has been and continues to be the safe place it is for residents to live in, for our visitors and those who venture here to do business, the RGP also needs to move with the times. Any transformation over the next 5 years must involve the way we deliver our services, the way we utilise our officers, how we exploit the use of available technology and very importantly, the way we engage with partners and stakeholders.

This paper sets out my vision for the RGP for the next 5 years – a vision which I truly believe will pave a very positive path for the Force to meet the challenges ahead. The notion behind my vision being that through the provision of excellence in service delivery, Gibraltar will continue to be safe and prosper for existing and future generations. Against the backdrop of my vision I will be alluding to the areas where I view the Force to be strong in, those requiring attention of some sort, the risk areas and challenges/opportunities arising. I will also incorporate key actions to address the main issues, as I see them, which affect the Force

RGP's CORE VALUES

Excellence in policing is not simply acquired off the shelf. Good reputation, good results, continuous organisational improvement and development, wellbeing of the workforce, commitment and a genuine belief in what we stand for are some of the key factors that can drive the Force towards excellence in service delivery. Our organisational Values and Code of Ethics are at the core of the RGP (see Appendix - A). They underpin our policies, procedures and practices and how we interact with the community. There is therefore the need to constantly align all our daily activities to these values. Strong leadership is required to ensure consistency around the Force towards abidance and promulgation of the values with the reasonable expectation that by improving on existing behaviours, professional service delivery in the key areas referred to in this paper will by default be enhanced – the aim being that of optimisation of overall service provision.

STRATEGIC CONTEXT

To support and achieve my vision there are 5 areas of focus the RGP would need to work towards as follows;-

- Effective service delivery – by providing responsive, personal and visible policing services
- Improving community safety – by minimising crime and improving safety
- Working with others – by developing strong partnerships with stakeholders
- People development – by creating a capable, flexible and professional workforce
- Workplace development – by improving systems to make our functions more efficient and effective. By improvements in the physical workplace (real estate).

In order to provide an easy to follow perspective on what I deem to be the *main* issues affecting the RGP and which indeed are aligned to the above 5 areas, I will split these between Operational and Organisational issues.

An action plan to address each of these issues can be found in Appendix – B

OPERATIONAL THREATS

(i) National Security

The existing threat of terrorism to western Europe originating from the conflict in Iraq and Syria neither recognises or respects any borders. Gibraltar sits between two countries that are on high alert because of this threat. Incidentally, this threat is also seriously perceived by the UK, who acting to protect British interests offer advice, via the FCO, to British citizens travelling to or living in Spain and Morocco. Whilst there is no specific intelligence of any terrorist activity in or aimed at Gibraltar, the mere proximity to these two nations together with a host of other reasons puts Gibraltar in a vulnerable position. The re-emergence of Northern Ireland related terrorism (NIRT) has also got be kept in mind as indeed the phenomena of cyber terrorism, for which a Gibraltar strategy is required.

Gibraltar's security apparatus has never been clearer defined as is it now with strategic, tactical and operational tiers established in multi-agency forums. Interoperability amongst the blue light agencies has been subject of praise by staff from the UK's Joint Emergency Services Interoperability Programme who have recognised the great advantage we enjoy because of our personal and close working arrangements, hailing this as a great asset to local critical/major incident management. Regular multi-agency training has strengthened our ability to deal with a terrorist incident – we are now at the stage where emergency service heads should commit to signing the 'Joint Operating Principles' to formalise interoperability in the counter terrorism domain.

A programme to uplift our counter terrorism policing efforts is under way, however, this will take its time to roll out and get officers trained with the necessary skills. Because of the close liaison we enjoy with SO15 Counter Terrorism Command of the Metropolitan Police, opportunities are arising to enhance the RGP's connectivity with the UK's CT network.

Despite all the practical work achieved in enhancing our security posture, we are still lacking in modern and updated terrorism legislation and this places our practitioners at a disadvantage without the tools to carry out their duties.

Arrangements for Military Aid to the Civil Authorities (MACA) need to be firmed up so that our response plans have clarity to what extent the locally based military can be deployed and employed in a CT incident/operation. These arrangements should also incorporate and extend to any UK based military assistance that would be required.

Defusing any identified vulnerabilities whether these are physical, structural or cultural will make Gibraltar a lesser attractive target for potential terrorists which reinforces the need to work towards a tailor made counter terrorism strategy for Gibraltar.

(ii) Child Safeguarding & Sex Offender Risk Management

When attempting to analyse the extent of child sexual exploitation in our jurisdiction we realise that the true picture of any exploitation is unclear. Significant anecdotal information exists which indicates that sharing of sexually explicit photographs occurs frequently between young people and we have dealt with reports in this regard. The ever increasing reliance of social media by young people also uncovers a ready-made platform for grooming activity by sexual predators. Pro-active community engagement to raise awareness is underway sanctioned by the Child Protection Committee.

The successes of our Safeguarding Unit in bringing sex offenders to justice and the numerous convictions secured in court demonstrates the Force's capability to deal with cases of historic abuse. Our efforts should by no means rest with these convictions. Many victims of sexual exploitation tend to suffer in silence and withhold themselves from reporting their ordeals. It is our duty to pro-actively reach out to those silent victims and offer them the reassurance that they will heard and believed.

Our relationship with the National Crime Agency's Child Exploitation and Online Protection Command (CEOP) is outstanding and an established channel for referrals is in place to investigate peer to peer sharing of indecent imagery of children online. The RGP sits as a full member of the UK forum MOSOVO (Management of Sex Offender & Violent Offenders) and has presented case studies on the challenges of cross border management of sex offenders.

The well being of staff who deal with child safeguarding and sex offender management has to remain constantly under review. At present there are no systems in place to ensure these officers remain psychologically fit to continue discharging their duties.

The RGP were the pioneers and stimulators for the creation of Multi-Agency Public Protection Arrangements (MAPPA) and we have developed a specialist niche in this field. The RGP is in fact exporting the Gibraltar model to other overseas territories which is testament of the effectiveness of our practices.

(iii) Economic & Cyber Crime

It is now an accepted notion that Economic Crime is causing an overwhelming effect on police services not only because of the devastating effects it has on victims, but also because of the investigation complexities these crimes present and the drain in police resources required to investigate them – Gibraltar does not escape this problem. The RGP has limited but very competent resources in this field as has been proved in recent very high profile cases which in the United Kingdom would have been handled by a national unit such as the Serious Fraud Office.

As a finance centre, Gibraltar will no doubt attract financial criminality, whether it is locally based or from abroad by making use of banking and other financial institutions here. Cyber fraudsters also avail themselves of a borderless landscape to rip off their victims via a myriad of methods which they keep innovating to outwit law enforcement efforts. The risk therefore amplifies when enforcement capabilities are insufficient to meet the demand with the consequences of reputational damage to the jurisdiction.

The Government's intention to become a member of MONEYVAL is presenting the RGP with unprecedented challenges. MONEYVAL is a Council of Europe committee of experts on the evaluation of anti money laundering and the financing of terrorism. Their evaluation process is ruthless and if aspiring members do not meet their set criteria, they run the risk of becoming blacklisted as an unreliable country to do business with.

It is evident that with our existing resources, the RGP will not be able to meet all the requirements set out by MONEYVAL. A possible solution to this situation is to create a Joint working team comprising of HM Customs, FSC personnel, AG's Chambers, accountants, tax specialists and Police – a sort of Gibraltar Crime Agency. Expertise can also be sought by entering in to formal collaborative arrangements with the City of London Police, the UK's lead force for economic crime.

The RGP has to keep driving forward in raising awareness on cyber crime. Experts predict that this type of crime will soon override traditional crime statistics and this will clearly place extra demand on the RGP. Though known to sometimes be perpetrated by lone actors, cyber crime is now very much being exploited by organised crime groups who because of the anonymity the internet affords, no longer have to expose themselves physically when committing their criminal acts.

(iv) External Affairs

Foreign Affairs have always had an impact on policing in Gibraltar and the current situation with Brexit looming is no exception together Spain's incessant claim over our territory's sovereignty. The Spanish Government's posture is unfortunately one that cannot be trusted even though the incumbent Foreign Secretary has assured that its Spain's intention not to disrupt fluidity at the border because of Brexit. Realistically, Spain has not got to rely on Brexit to make our border a 'hard' one – they can resort to strict compliance with Schengen processes to create the same negative effects. Irrespectively of the stated, a 'hard' border will present challenges to the RGP in terms public order, traffic management, internal security and possibly

even increased crime levels.

(v) Drugs Misuse

I think there can hardly be any disagreement with the fact that drugs misuse in Gibraltar is a social problem and not solely a police related issue as if often perceived by the community. Police enforcement in interrupting the supply chain is only one of the strands of what should constitute a holistic drugs strategy – including that of reducing the demand through education and awareness and providing supporting rehabilitation services. It is therefore evident that partnership working is essential. Notwithstanding this, police enforcement efforts need to be consistent and effective. For this to happen in this day and age, officers must be supported by investigatory tools within their corresponding legal framework. Our contributions to disrupt international drug trafficking have to continue and in fact we will aim for more detections and disruptions in this regard. This intent is necessary as otherwise organised criminal networks can perceive the RGP as weak in this area to the detriment of good social order as has been experienced of late in the Campo area.

(vi) Anti-Social Behaviour & Domestic Violence

Anti-social behaviour is often associated to, or is the indicator of, other criminal activity or social problem. It creates a state of insecurity particularly so in residential areas where the peace and tranquillity of law abiding citizens is hampered. Inaction or ineffective action on the part of the RGP diminishes public confidence in the police. A particular challenge for the RGP and its partnership agencies (Housing Dept, Education etc) is that of the inability to relocate offenders because of the limited housing stock in the jurisdiction. Consistent, intelligence led, focused and high visible patrols of problem areas is a tried and tested policing response that addresses this issue and one that should not be compromised because of other competing demands.

An increase in instances of domestic abuse with calls for our service has been noted. The Force operates a positive action policy in support of victims, however, re-active work needs to run in tandem with pro-activity. In this regard, engagement with Social Services and embarking on a DV awareness/prevention campaign will complement enforcement efforts.

ORGANISATIONAL THREATS

(vii) Human Resources – Recruitment – Retention – Composition – Training

It is an accepted fact that the RGP is a very young service in terms of the average age of its officers. This observation has got to be considered alongside the projected retirements for the RGP which show that a significant proportion of the Senior Management Team could actually retire forthwith, with additional turnover at various other ranks across the Force. Similarly, there are several officers at Constable and Sergeant ranks who are also eligible to retire having the appropriate age in specialist areas such as Special Branch, Crime Scene Investigation Unit, Marine Section and Force Intel Unit.

According to the last HMIC report, 3 Superintendents, 3 Chief Inspectors, 6 Inspectors, 9 Sergeants and 35 Constables are all eligible to retire within the next five years. Annual training

bids are assessed by the training prioritisation board, comprising senior officers. In the recent staff survey, only 44 percent of the workforce was satisfied with their current level of training and development. There is a need to seriously discuss succession planning as soon as possible and invest in the continuous development of our people.

A force restructure recently carried out in consultation with the staff association was designed to align our resources to demand also taking in to account the work-life balance of the staff. This also uncovered the need to increase the establishment of the Force and consequently a business case was prepared for due consideration by Government. I am concerned that the Force will seriously struggle to cope with the existing demand unless extra human resources are hired. The pace at which the Force operates has been the catalyst for dips in retention – this exposes the need to delve deeper in to the abilities and qualities of a new applicant to join the Force so that the recruitment process weeds out those who may be unable to cope with the occupational needs and pressures.

(viii) Legislation

A wave of new pieces of legislation such as the Crimes Act, Criminal Procedure & Evidence Act, and Proceeds of Crime Act has caused the Force to re-adjust its resources to ensure the service delivery arising from them is met. These changes have caused considerable challenges and strains – challenges because officers have had to be re-deployed from the front line and upskilled to cover other duties imposed by the new laws – strains because even though the redeployments have been effected we suffer from resilience issues in these sub-units which incidentally are also under-resourced.

In the pipeline there are other new laws (Terrorism Act, Immigration Act, Regulatory of Investigatory Powers Act) that will challenge the Force even further. Training in the application of these laws will require more instructors who they themselves will require induction in order to teach the subject matter. These challenges will be affronted with positivity and zeal. There will have to be an element of prioritization and delivery programme designed.

(ix) Technology & Workplace

The RGP has historically struggled with challenges arising out of complexity and cost of IT infrastructure, inadequate databases and paper based systems. With the enviable support of the Government together with sheer drive and in-house talent we have managed to revolutionise a crucial part of the criminal justice system. Managing a culture change from antiquated systems to a modern purpose designed platform will have to take its course and already, obstacles and resistance from some quarters is being addressed and overcome.

Technical support is an important cog in the fight against crime and indeed terrorism. Serious consideration will be given to acquiring the necessary equipment which is used by law enforcement agencies worldwide and once the legislation which governs its deployment is passed.

The RGP of today has totally outgrown its headquarters at New Mole House. Despite not being a purpose built facility it was an improvement to the old Central Police Station in Irish Town. New Mole House is an extremely tired building – the environment is not ideal for such a fast

moving organisation. It is welcoming that Government acknowledges this and are committed to a new purpose built building which not necessarily should be wholly RGP occupied. There is scope for conducting a value for money exercise to collaborate with the other emergency services for a joint command and despatch unit, fleet management and other building space.

(x) HMIC recommendations

The inspection of the RGP by HMIC in 2015 revealed various areas for improvement. Whilst some of these recommendations have already been addressed there still remains some requiring further action. It is imperative that a working group is created to see this project through. In my view the most pressing area for improvement, as highlighted in one of the recommendations, is that of the creation of manual of guidance which should represent Force policy in crime investigation standards. This will inherently make officers better at conducting investigations and is positive for their all-round personal development.

(xi) Gibraltar Defence Police

The announcement in the Government's manifesto that the GDP would be transferred directly to Government or into a wholly owned company of the Government raised a number of issues which have been debated at length amongst the RGP's SMT. It is fair to say that the possibility is also being mooted of an eventual full amalgamation of the GDP with the RGP.

I am a strong advocate that if any transfer of the GDP were to materialise that this should take the form of a full amalgamation with the RGP – the opportunities arising far outweighing any disadvantages. My argument rebutting other arrangements such as the GDP forming itself into a [GoG] agency to provide services to the MOD have been documented.

(xii) BREXIT – implications to policing

The uncertainty that BREXIT has unearthed in the UK is to a large extent transferrable to us in Gibraltar. Aside from the issues in the socio-political space, Brexit presents challenges to policing if the UK fail to secure a good exit deal. Key themes that will have a direct impact on policing are listed below in no particular order;

- Schengen (incl SIS, SISII & RGP liaison with Cuerpo Nacional de Policia, Guardia Civil and SVA.
- Prüm (incl Prüm decisions)
- European Criminal Records System (ECRIS)
- European Counter Terrorism Strategy
- Europol engagement
- European Police College
- European Arrest Warrant arrangements
- European Investigation Order (Incl Joint Investigation Teams)

Whilst expectant that the UK's exit deal will not undermine any of the above subject areas, we have to be ready to react if it does. Equally, the situation discloses opportunities for joining up further with the UK on law enforcement matters.

THE RGP RELATIONSHIP WITH THE GPA

The functions and responsibilities of both the RGP and GPA are clearly articulated and enshrined in statute. However, in practice and for the past 8 years or so, the relationship between both has only been limited to consultations and progress reporting on the objectives set out in annual policing plan/annual reports, recruitment and promotion boards. Whilst these activity fall squarely within the statutory responsibilities, there is ample room for the building of a more solid and productive relationship.

Being the independent body that it is, the GPA has to ensure RGP operates to a high standard and as efficiently/effectively as it can within its scope of resourcing. In order to discharge its function fully the GPA has to provide information on police matters to the community. To deliver on this the GPA needs to be kept abreast of policing issues which matter to the community and not solely rely on annual reporting. It is therefore necessary that periodic and prearranged briefs are delivered to the GPA by the RGP's Commissioner. Subject to mutual agreement, the briefing could be delivered on a monthly basis to either the full Authority, or to a sub-group of its members. A proposed structure of topics for these briefings would include;

- an element of operational content
- trends in performance and incidence of crime that may impact on policing plan priorities
- strategic projects/proposals of the commissioner not considered in other forums
- strategic finance
- human resource issues
- strategic policing initiatives
- complaints and matters of discipline

The outcomes of these briefings will very much serve as indicators of approval or conversely, disapproval by the Authority of the manner the RGP is conducting its business.

CONCLUSION

As can be appreciated from the contents of this brief paper, the next 5 years will undoubtedly bring considerable challenges on the RGP. I have distinctly kept to highlighting what I perceive are to be the *main* issues affecting the Force together with a delivery plan that is synced with my Vision. There are a host of other issues which require attention but not to the same degree as the ones referred to in this paper. In policing, things change very quickly and therefore whilst the intention is to deliver on the stipulated actions, unexpected exigencies may warrant a review of these actions.

Simplicity is my Vision's forte – the RGP gets its act right in all its areas of responsibility, and by default, Gibraltar will be an even safer place than it has been in the past ..... to live, to visit and to do business in.

APPENDIX – A
RGP VALUES & CODE OF ETHICS



Working Together To Make Our Community Safer

CODE OF ETHICS

Integrity
I recognise my role in policing as being a symbol of public faith and trust and the obligation this places upon me to act with integrity, fairness and respect. I shall behave in a way which reflects the values of policing in Gibraltar. I understand I am personally responsible for my own actions and will appropriately exercise my discretion.

I shall act as a positive role model in delivering a professional, impartial service, placing service to communities before my personal aims. I will not accept any gift or gratuity that could, or could be perceived to, compromise my impartiality. I shall avoid all behaviour, which is or may be reasonably considered as abusive, bullying, harassing or victimising.

I will demonstrate and promote good conduct and I will challenge the conduct of colleagues where I reasonably believe they have fallen below the standards set out in this Code.

Fairness
I will act with courage and composure and shall face all challenges with self-control, tolerance and impartiality. I will promote a positive well-being within the community and service and ensure that all people have fair and equal access to police services according to their needs.

I shall maintain an open attitude and continue to improve my understanding and awareness of cultural, social and community issues. I will carry out my duties in a fair manner, guided by the principles of impartiality and non- discrimination.

Respect
I take pride in working as part of a team dedicated to protecting people. I will show respect for all people and their beliefs, values, cultures and individual needs. I will have respect for all human dignity as I understand that my attitude and the way I behave contributes to the consent communities have for policing. I will respect and uphold the law in order to maintain public confidence and, by enhancing my personal knowledge and experience, contributing to the professional development of policing.

I shall treat all people, including detained people, in a humane and dignified manner. I shall ensure that my relationships with colleagues is based on mutual respect and understanding and shall, therefore, conduct all communications on that basis.

Human Rights
I shall ensure my actions and policing operations respect the human rights of all people and officers whilst understanding that I will also enjoy these same human rights. I will not undertake high-risk activities or use force other than where strictly necessary in order to attain a legitimate objective and only after I have balanced all the competing priorities I am aware of. (Article 2, Gibraltar Constitution Order 2006 & Section 5, Subsection 1 of the Crimes Act 2011)

I will not encourage, instigate or tolerate any act of torture or inhuman or degrading treatment under any circumstance nor will I stand by and allow others to do the same. I understand that the humane treatment of prisoners is an essential element of policing and that the dignity of all those I am trusted to care for remains my responsibility. (Article 5, Gibraltar Constitution Order 2006)

I understand that people have an equal right to liberty and security. Accordingly, I will not deprive any person of that liberty, except in accordance with the law. (Article 1, Gibraltar Constitution 2006) I will investigate crimes objectively and be sensitive to the particular needs of affected individuals whilst following the principle that everyone who is the subject of criminal investigation is innocent until found guilty by a court. (Article 8, Gibraltar Constitution Order 2006)

In carrying out my duties I shall respect everyone's fundamental rights. I will only interfere with privacy or family life when I am legally authorized to do so. (Article 3, Gibraltar Constitution Order 2006) I will respect individual freedoms of thought, conscience or religion, expression, peaceful assembly, movement and the peaceful enjoyment of possessions. (Articles 9, 10, 11 Gibraltar Constitution Order 2006)

APPENDIX B – ACTION PLAN

1. Key Actions – National Security	Commencement date	Completion date	Desired outcome
Emergency Services Chiefs to sign the Joint Operating Principles to ratify interoperability arrangements. Continued multi-agency exercising to deal with varied threats	01 01 2018	31 03 2018	Better interoperability and improvement on practical efficiency/effectiveness
Produce a MACA document providing an agreed framework for any support requested from the military	01 01 2018	31 03 2018	Better interoperability and improvement on practical efficiency/effectiveness
Uplifting of RGP CT policing and armed policing capabilities incl. CBRN	30 10 2017	31 12 2021	Improved readiness to deal with a terrorist incident
Survey all Critical National Infrastructure by our Counter Terrorism Security Advisor and provide advice on mitigation measures to Government and other stakeholders.	01 01 2018	31 12 2021	Target harden Gibraltar to deter terrorist interest in our jurisdiction. Instil a security conscious culture within our CNI network.
Lobby for a National Cyber Security Strategy and once published then devise a RGP cyber crime strategy with an up lifting programme in accordance with advice from S015 (NDES) Training Needs Analysis.	01 01 2018	31 12 2020	Enhanced organisational capability to investigate cyber dependent and cyber enabled crimes. Enhance open source intelligence gathering
Pursue the ratification of Gibraltar's Counter Terrorism Strategy – Appoint a RGP lead for each of the 4 strands to the strategy. Launch Project Servator in Gibraltar	01 01 2018	Dependant on publication of CONTEST	A Gibraltar PLC co-ordinated approach to counter terrorism – working with key stakeholders to produce outcomes. A safer Gibraltar. Increased public satisfaction/reassurance levels.
Pursue and resolve connectivity issues with UK CT Police and SyS. Explore support mechanisms with the UK to cater for lacking or exhausted local capacity and capability. Continue to build on the liaison with other foreign law enforcement agencies and security services	01 01 2018	2022	Full integration with the UK's CT policing Network. Enhanced intel sharing and operational effectiveness with Spanish, Moroccan counterparts & beyond if required.
2. Key Actions – Child Safeguarding & Sex Offender Mngt	Commencement date	Completion date	Desired outcome
Invest in High Tech crime investigation capability to allow pro-activeness in detecting online sex offenders	01 01 18	2020	Increased investigation capability. Organisational reputation with local partners and international partners.
Aligned with the Force's welfare policy, implement a support system to periodically psychologically assess investigator of these types of crimes and dedicated risk managers.	01 01 18	30 03 18	Decrease in potential mental health issues amongst staff. Probity within this high risk work environment.
Work towards resilience in human resources to have a more equitable case load distribution,	01 01 18	2022	More timely investigations & less risks of staff burn out.
Continue with the networking with NCA CEOP command & MOSOVO	Ongoing	2022	Continued development in this policing discipline and adaption of updated best practices in such a high risk area.
Lobby for the establishment of intervention teams to be able to properly management and treat sex offenders.	01 01 2017	01 09 2018	Reduce risks of recidivism.
Engage with schools and parents to promote awareness on the risks and dangers of online child sexual exploitation	01 12 2017	Dec 2018	Reduce instances of sexting & resultant bullying A more conscious and careful young population Deter sexual predators from operating in Gibraltar space.

3. Key Actions – Economic Crime & Cyber Crime	Commencement date	Completion date	Desired outcome
Explore the creation of a joint task force to work on complex investigations.	01 01 2018	ASAP	More effective & efficiency – improving on Gibraltar's status as Finance Centre.
Increase enforcement & other activities around anti money laundering and terrorist financing	01 01 2018	To remain on-going	Positive evaluation by Moneyval evaluators. Positive reputation for Gibraltar PLC
Build a cyber investigation capability to include crypto currency. Understand the extent of how cyber crime is affecting Gibraltar.	01 01 2018	31 12 2021	An RGP that can take on most types of cyber crime investigations.
Upskill all MLIU officers to Financial Investigator standards Upskill all MLIU officers in criminal and civil asset recovery Upskill all Fraud Officers with accredited fraud training	31 03 18	31 12 2021	Improved Organisational reputation. More timely investigations
Explore collaborative arrangements with the City of London Police. Many officers of their special constabulary possess specialist skills in economic crime.	01 01 2018	01 06 2018	Shared distribution of work with skilled personnel. Timely & less costly investigations Positive for Moneyval evaluation.
4. Key Actions - External Affairs	Commencement date	Completion date	Desired outcome
Embark on an environmental scanning project to gather intel to support future planning of operations and deployments. Explore the acquisition of Open Source Intelligence tools to be aid this project.	01 01 2018	01 11 2018	Better operational readiness leading to intelligence based deployments of resources.
5. Key Actions – Drugs Misuse	Commencement date	Completion date	Desired outcome
Lobby for a Gibraltar Drugs Strategy – to include police processes for drug referrals.	01 01 2018	01 07 2018	A co-ordinated Gibraltar PLC approach to Drugs Misuse
Pursue the enactment of RIPA to allow for more targeted drug enforcement.	01 01 2018	31 12 2018	Increased detection of drug dealers.
Display a robust approach towards organised criminal groups involved in drug trafficking to create a difficult environment for them to operate in.	01 01 2018		Reduced OCG activity in Gibraltar enhancing both Gibraltar's & RGP's reputation and image. Increased public satisfaction.
6. Key Actions – Anti Social Behaviour	Commencement date	Completion date	Desired outcome
Increase detections of establishments who breach their licence by selling alcoholic beverages to under-aged children	ASAP	31 03 2018	Increased levels of public satisfaction & reassurance
Commit to regular, focused, high visibility and supervised patrols to neighbourhoods	ASAP	31 03 2018	Increased levels of public satisfaction & reassurance
Communicate to the community all the activities conducted to curb ASB	ASAP	on-going	Increased levels of public satisfaction & reassurance
7. Key Actions – HR, Recruitment, Retention, Composition & Training	Commencement date	Completion date	Desired outcome
Devise a succession plan	ASAP	01 05 2018	Identification of future leaders of the RGP to provide stability and resilience in the Force.
Continued personal development programmes in addition to specialist training. Campaign to attract members minority groups to join the RGP. Encourage personnel to undertake Higher Education police or security related studies.	01 01 2018	2022	Enhanced health, safety and well-being of the workforce. Diversity of the workforce that better reflects the community Education and training that reflects the professionalization of policing activities and expected performance standards

8. Key Actions – Legislation	Commencement date	Completion date	Desired outcome
Plan and prepare a programme of instruction for new impending laws	ASAP	Dec 2018	Increase in capabilities to deal with areas of concern.
Plan and prepare a training programme of new impending laws for delivery Force wide	ASAP	Dec 2018	Increase in capabilities to deal with areas of concern.
9. Key Actions – Technology & Workplace	Commencement date	Completion date	Desired outcome
Complete the Cyclops project	On going	June 2020	Optimisation of the platform by users – releasing valuable officer time for core policing
Research mobile technology to compliment front line officer work	01 01 2020	End of 2022	Improve efficiency of services to the public
Pursue the promise by GoG to build a purpose built police HQ	01 01 2018	End of 2022	Enhanced health, safety and well-being of the workforce. Enhancement of morale Enhancement to corporate image
Aim to achieve the Platinum standard in IIP	ASAP	31 12 2018	Enhanced health, safety and well-being of the workforce. Enhancement of morale Enhancement to corporate image
10. Key Actions – HMIC recommendations	Commencement date	Completion date	Desired outcome
A working group to complete addressing of all areas for improvement highlighted in 2015 inspection	ASAP	01 03 2019	A continuously progressing & professional police force.
Prepare for a further inspection commissioned by the GPA	2020		A continuously progressing & professional police force.
11. Key Actions – Gibraltar Defence Police	Commencement date	Completion date	Desired outcome
Exploit collaboration opportunities and campaign to generate interest for a full amalgamation	On going	mid 2019	A full amalgamation of the GDP with the RGP
12. Key Actions – BREXIT implications on policing	Commencement date	Completion date	Desired outcome
Support Government in their quest to achieve the best exit deal	On going		Minimal disruptions to existing arrangements

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Application for the Rank of Commissioner

Supt Richard Ullger MSc

Date of submission 3 November 2017

CONFIDENTIAL

ROYAL GIBRALTAR POLICE

Superintendent Richard Ullger *MSc*
Planning Development and Support Division

Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 20047996,
E-mail richard.ullger@royalgib.police.gi

Date: 30th October 2017

Mr John Gonçalves MBE
Chairperson
Gibraltar Police Authority
25B Casemates House
Grand Casemates Square
Gibraltar

Dear Mr Gonçalves,

Please find attached my application for the rank of Commissioner of Police. I have listed an Evidence Based Self Assessment encompassing the Core Competencies for the rank of Commissioner of Police, with my Curriculum Vitae. Additionally, my vision paper for the Royal Gibraltar Police for the next five years follows on.

I am at your disposal should you wish to discuss this with me.

Yours Sincerely,

Richard Ullger
Superintendent *MSc*

Contents

Section 1	Evidence Based Self Assessment Encompassing the Core Competencies for the Rank of Commissioner of Police
Section 2	Curriculum Vitale
Section 3	Leadership Philosophy
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Section1

Evidence Based Self Assessment Encompassing the Core Competencies for the Rank of Commissioner of Police

Evidence Based Self Assessment Encompassing the Core Competencies for the Rank of Commissioner of Police

Superintendent Richard Ullger MSc

Executive Leadership and Strategic Change

An important core competency for good leadership is to bring about improved performance, and since performance has to be delivered through people, good leadership is key to achieve this through influencing the workforce. In my view this is my attribute and is done through transformational and servant leadership, were the former has been found to have a strong link to people having a wide range of positive attitudes towards their work. It has also been associated with the effective implementation of change in a variety of settings and the management of tasks. In turn, the latter has a focus of leadership responsibilities through the promotion of performance and the satisfaction of employees, which is of paramount importance. It is therefore, when the people of the Royal Gibraltar Police are objectively and effectively managed that the maintenance of Law and Order is achieved.

I strongly feel that I have achieved what was expected of me in my personal development plan and I am satisfied to have attained the individual tasks that I have excelled myself to achieve within the framework set by the Commissioner of Police. I have been working closely with our corporate plan and engaging with many levels and components of the command structure and the workforce. Simultaneously, I have also liaised with many outside agencies to bring about a multi-agency approach to problem solving issues in our society. This has been achieved in my Neighbourhood Policing role, with problem orientated policing and crime prevention. These agencies have included the Ministry of Housing, the Ministry of Education and the Ministry of Social Affairs, with each one also fulfilling their own priorities and aims. Both, neighbourhood policing and the prevention of crime are policing concepts that have helped me to understand how to develop a knowledge base, perfect change management skills and most profoundly to jettison a number of negative fundamental professional beliefs and values, that I once labelled the neighbourhood policing style of having. Achieving this, I have been able to share my

experiences and perception with others in order to encourage the evolvement of policing in Gibraltar, particularly in sharing the Commissioner's vision to enhance Neighbourhood Policing and our relationship with the community we serve. Over the past two years I have led the Planning Development and Support Division, always remaining focused in setting coordinated priorities, achieving aims dictated to us through our Policing Plan and attaining an approach that allows others to offer their opinions in order to reap the best results. I can confidently provide a professional customer satisfaction service, which is strongly supported internally with an effective leadership commitment to the service. Equally, I have been transforming how we do business, with a view of ensuring Value for Money [VfM], which is paramount to good public spending, saving were it has been possible and spending were it has been needed. I am a believer of more collaboration with other agencies, providing better efficiencies and effectiveness, but in turn an advocate for outsourcing those tasks which can be delivered by specialist professionals. We need to be candid at times by accepting that we may not be best placed to undertake certain roles.

I am keen to learn and adapt to changing circumstances, which requires an organised and structured approach to my working environment. I feel that I possess the necessary skills and competencies for the next rank, by displaying management proficiencies with professionalism, totally advocating the delegation of work, discretion and decision making through the ranks. I have always accepted responsibility, grasping at every given opportunity and I feel I have the ability to create a Strategic Vision to deliver operational performances. I have the upmost respect for every member of the Royal Gibraltar Police and I inspire the notion that, 'customer satisfaction begins with employee satisfaction'.

I have never objected to the need for change as an excuse to rule out bad working practices, but I have welcomed them with a view of improving our service and providing a more focused delivery. In my contribution to change over the past year, I have led and initiated actions to improve the way we recruit police officers, the way we train them and their subsequent performance. I have also adapted the process of monitoring our spending in the respective divisional commands, in order to effectively improve the way business is run in the organisation. I have built business cases to outsource work that we were not achieving effectively and I have sought processes and equipment to make us more efficient and professional in the delivery of service.

Leading the Workforce

I would describe the police service as a vibrant and modern police service, which aims to provide reassurance to our community and therefore enable all to live without fear of crime. An essential element to this framework is the management of people, be it the police officers themselves, our support staff or the community. Increasingly, we must treat our workforce in entirely different terms and interact with them in diverse ways in order to achieve the force objectives. It is important that we demonstrate collaboration, power sharing, trust and even humility, which is replacing at times the authority of the rank, but never undermining it. I have embraced customer service and the notion of Neighbourhood Policing, but I have equally learnt how to appreciate the members of our work force. As an officer striving to achieve the rank of Commissioner, I feel that I have established visions, values and missions by consensus, and I have incorporated input from all levels of the different units I command. I have always conveyed the Commissioner's vision in line with our annual policing plan and evoke commitment and passion for the service. Most importantly, I feel that the workforce have confidence in my command style and have trust in my leadership style.

Officers are a constant variable within the force and have to be trained, motivated, led and encouraged, often at different times with varying priorities. Failure to direct them properly will mean that we will be unable to manage the organisation effectively. In turn, monitoring poor performance and addressing it, is important and this is something that I strongly believe needs constant firmness. I feel that I am equally fair and understanding in this field and have demonstrated my skills in the past with subordinates who have been disciplined and managers who have had their lack of commitment scrutinised. I have created an environment in which all officers feel that they can attain and exercise leadership qualities, not only through hierarchical positions, but by lateral development. However, because of the complexities surrounding police work, I accept that most officers will falter occasionally. For this, I have permitted an environment to exist that allows it to happen so long as officers and staff work closely to learn from mistakes and to deal with them in a restorative manner. It is my upmost desire to instil a JUST culture in the Royal Gibraltar Police, something which will no doubt be a challenge, but certainly be rewarding.

There are many factors that influence our officers and through trust, I establish effective working relationships that revolve in keeping them informed through consultation. I do this daily and enjoy providing them with opportunities to discuss problems, always demonstrating mutual respect and being open to support their needs. I constantly acknowledge their contribution to the service, praising them with encouragement to continue so that they may strive to do well.

Ultimately, it is my leadership philosophy that dictates the way I do business in the organisation and both my personal values and operating principles drive what is expected of me.

Developing Information and Decision Making

Current and future Commissioners must have a firm understanding of how the wave of technology is evolving, or can influence police business and they must be in a position of being capable to mobilise and manipulate information and data. The cost of technology is however having an impact on the way we do business and there is a grave concern amongst members within the rank and file in the police service on how we manage our Information Technology. Thankfully, with the support of HMGoG, the RGP has made immense strides in this area, and with the set-up of the new Cyclops system, through savings, I have provided the opportunities for other projects to support this. I have delivered on a new Gibraltar DNA database also marrying this with new fingerprint technology. I have introduced the use of body worn video for our officers, and mitigated risk by offering them tools that will protect them better.

I am an advocate of sharing information within the organisation, and as long as we have strict data protection rules in place, this data can be shared with other common agencies if there is a joint cause to fight crime. The data, or information is always crucial to the required response of any police action and I ensure that before making any decisions, that the relevant questions have been asked, the information has been gathered unobtrusively and has been analysed. This naturally allows me to evaluate the problem and identify the symptoms and its gravity. With this comes the acceptance that the Commissioner's position is always vulnerable and possibly one of the most scrutinised posts in the public service. I am therefore more than confident to hold this position to the highest regard.

Experience always makes you wiser and therefore the verification of facts and details is an essential element for an effective Police Commissioner to make firm command decisions. This thought process has allowed me to identify potential problems in advance and address the issue appropriately. In the same way, I have never been one to make rushed decisions, but in the policing environment were the protection of life and property is at times at risk, I confidently use the decision making process through the National Decision Model [NDM]. This, has provided me in almost 30 years of service with a wealth of experience in my operational role, particularly having led and policed countless firearms operations, demonstrations, public disorders, public and military events, and of course crime related operations.

My decision making process always takes into consideration the wider impact of police activity and the implications of the different options available to us. Doing so, I am always assessing the costs, cognisant of course of VfM, but most importantly the risks involved for my officers and the public at large. These I then measure against the benefits of such decisions. However, I am absolutely clear that if ever I need to make that ultimate decision, in conditions of ambiguity and uncertainty, I will be prepared to do so, taking full responsibility for the consequences.

Effective Communication and Working with Others

I am a firm believer that poor communication always leads to mistakes, misunderstandings and time wasting, having an adverse effect on the relationship between individuals, leading to feelings of dissatisfaction, inefficiency and lack of cooperation. Good communication skills therefore demand active listening skills, allowing two-way communications to respond to opinions and feelings, thus encouraging constructive feedback.

Having effective communication skills is imperative in the qualities of a good officer, especially for a Police Commissioner. It demonstrates in many ways their commitment to the service and by doing so ensures public confidence in the police, integrity and the will to improve services to the public. I feel that my record speaks for itself and my understanding of the complete socio-political context in which the police functions, allows me to lead successfully with people believing in what I am doing and why I am doing it. Equally, building effective working relationships through clear communication and collaboration with other bodies is essential. I know that I have this skill and I have the ability to work close with other people to achieve goals, through being visible and leading when needed to. I consult widely, always involving people in decision making processes and speaking to them in a way that they understand and can engage with confidence. Most importantly, I treat people with the respect and dignity they deserve, regardless of their background or circumstances. I totally advocate equality and strongly eliminate any forms of discrimination. I do this by treating people as individuals, always showing tact, empathy and compassion.

I am grateful that my career has provided me with confidence and has allowed me to improve on my communication skills in all arenas. I use diplomacy when required, but I am forceful and firm when the need arises, always offering respect to my audience, whether they are voluntary or involuntary customers.

My skills have confidently allowed me to create and direct numerous exercises, with a varied audience and talk to people with ease. Furthermore, operationally, my attendance at the Regional Negotiators Course has also enhanced my communication skills, and my successful intervention in a number of separate suicide attempts has been a testament of

the skills I possess. Over the many years in my policing career, personal negotiating and dealing with conflict has given me the ability to be confident in difficult situations. This is a skill I unquestionably know will support me in the role of the rank of Commissioner, particularly when seeking conflict resolutions.

Professionalism and Dedication to Service

The delivery of a professional service is paramount in order to ensure an effective and efficient police service. Just as important, are the acts of integrity, in line with the values and the ethical standards of the Royal Gibraltar Police. I consider that my standards are in fact very high, and it is by these standards that I know that both my peers and the senior officers judge me. I have strived to improve ethical standards within the organisation and I have embraced it with everything I do, leading by example. I instil strong values amongst those officers who are recruits and equally to those who are about to retire. I ensure that I deliver on promises and when I have failed, I take full responsibility, but always provide alternative solutions, demonstrating personal commitment, energy and drive to get things done. With this comes sincerity, and I always ask for feedback in order to learn from mistakes and build upon successes. Likewise, I openly acknowledge when we as an organisation have failed and will always be committed to putting things right. At the other end of the spectrum, I know I can address difficult and at times unpopular decisions, never shying away from my responsibility and always being resilient, by remaining calm and professional under pressure.

Police culture can always contain bad elements of behaviour, but it is the good and outstanding acts undertaken by our officers that I will always promote and celebrate. The welfare of my officers is also extremely important to me and I will invest time and compassion to show that they are supported in times of need. Stress and anxiety, contribute to burnout in policing and sometimes senior officers fail to understand the impact it has on peoples' lives. Having studied mental illness in the police organisation, my appreciation and knowledge on its impact has developed my understanding, giving me the means to adjust to different challenging events.

Furthermore, my achievement in attaining a Master of Science [MSc] in Police Leadership and Management, no doubt recognises the commitment I have to my career and the police service. This, coupled with my years of service, gives me material for sound leadership at the senior command level and moreover my attendance in 2013, at the FBI National Academy, in Quantico and my selection by my peers as Section Representative of the 252nd Session, I feel demonstrates the high level of personal and professional standards I

strive for. Lastly, my attendance at the College of Policing Strategic Command Course in 2016, acknowledges my leadership qualities and the competence I have to perform the rank of Commissioner.

Section 2

Curriculum Vitale

Richard Ullger MSc

Address: [redacted] **Tel no:** [redacted] **Email:** richard.ullger@royalgib.police.gi

ACADEMIC QUALIFICATIONS:

2013: **Graduate Certificate in Criminal Justice** – ***University of Virginia, USA***
Modules studied: Enlightened Police Leadership, Management of Organisational Change, Ethical Issues in Police Leadership, Contemporary issues in Policing and Conflict Resolution for Police Leaders.

2007-2009: **MSc Police Leadership and Management** - ***University of Leicester***

Modules studied: Theories of Crime and Deviance, Police Leadership in the 21st Century, Policing Diversity, Policing and Crime Prevention, Issues in the Criminal Justice System and Research Methods.

Thesis: Police Culture: What impact does it have in the implementation of Change?

2005-2007: **Executive Diploma in Business Management** - ***Durham University***

1999-2000: **Certificate in Supervisory Management** - ***Institute of Management***

1982-1986: **Bayside Comprehensive School**

O' Levels: B - Craft Design and Technology
C - Maths, Physics, Spanish and History

OTHER QUALIFICATIONS:

- Strategic Command Course (2016) - College of Policing
- Air Crash Disaster Strategic Response (2014) - AAIB
- Senior Leadership Programme (2014) - College of Policing
- Cadre Tactical Firearms Commanders Course (2013) – West Mercia Police
- Initial Tactical Firearms Commanders Course (2013) – West Mercia Police
- Local Nuclear Disaster Response Course (2013)
- FBI National Academy Police Leadership (2013) – Virginia, Quantico, USA
- Strategic Management in Disasters (2012) - University of Bournemouth
- ACPO/NPIA Conflict Management (2012) – Farnborough
- Strategic Child Protection Course (2011)
- Critical Incident and Crisis Management Course (2009)
- First Aid at Work Certificate (2005)
- Bronze Commander's Course in Civil Contingency Planning (2002) – Cranfield University
- IT Word Processing Course (2002)
- Surveillance Course (2002) – HM Customs
- Taped Recording Interview Course (2002)
- Regional Critical Incident Negotiators Course (2001) – West Yorkshire Police
- National Public Order Tactical Trainers Course (1999) – Greater Manchester Police
- Fast Boat Handlers Course (1995) – Royal Marines
- Instruction for Drug Law Enforcement (1995) – HM Customs
- Tactical Firearms Course (1991)
- Basic Firearms Course (1991)

- Basic Police Scenes of Crime and Fingerprint Course (1990)
- Basic Police Duties Course – Awarded the Best All Round Recruit (1989)

PROFESSIONAL AWARDS:

1988 - Present:

Award by the FBI Director Robert S Muller III (2013)
Sectional Representation for Section 1 of the 252nd Session of the FBI

Commended by the Commissioner of Police (2009)
For dedication and perseverance in the coordinated rescue of 15 seaman from Motor Vessel Fedra.

Awarded the Long Service Medal (2007)
For long and distinguished service to the Royal Gibraltar Police.

Commended by the Commissioner of Police (2004)
In the case of R V's Martin Ramirez, was commended for good detective skills that led to the arrest and subsequent life conviction of the defendant, for the offence of murder.

Commended by the Commissioner of Police (1997)
In the case of R V's Carussi and others, was commended for the successful detection of 340 kilos of cannabis resin and the subsequent 4 year conviction of three individuals.

Commended by the Commissioner of Police (1996)
For dedication and commitment in the fight against drugs during the fast launch activity in British Gibraltar and International Waters.

Commended by the Commissioner of Police (1995)
In the case of Regina V's Berllaque, was commended for good detective skills that led to the arrest and subsequent 5 year conviction of the defendant, for the offence of wounding with intent.

Best All Round Police Recruit (1989)
After having completed an 8 week induction course on basic police duties, was awarded the best all round recruit award

Career History:

2013 - Present:

Promoted to the rank Police Superintendent 2013:
Presently, the Commander for delivering business continuity through Planning, Development and Support. This role takes into consideration the organisation's business function, maintaining and developing on the financial work-streams. Presented a better value for money [VfM] ethos and made savings over the past two years, allowing the RGP to better spend money on issues which were more timely important.

A firm believer of ensuring more collaboration with other law enforcement agencies, raising better effectiveness and efficiency. Meeting the current policing demands has needed robust and effective planning, with outsourcing being better utilised and the training of staff coordinated to deliver improved policing standards. Lead commander for the delivery of Firearms and Public Order for the organisation and Co-ordinator for business with the Small Islands Police Forum and the Criminal Justice Unit.

In the process of leading on the complete redesign of how we recruit officers, select them and subsequently train them, with ensuring better support throughout the rigorous process. Equally, engaging with the Foreign Office and the College of Policing to

deliver an effective and coordinated Casualty Bureau for Gibraltar and the introduction of less lethal options [Taser].

2009 - 2013:

Promoted to the rank Police Chief Inspector 2009:
Currently, The Deputy Commander for Crime and Protective Services, leading on the RGP's commitment to HMGoG Drug's Strategy and the Child Protection Committee. Produced an SOP between the RGP and Street Pastors, and a Memorandum of Understanding between the RGP and AAIB for air crash investigations. A member of both the Public Order and Firearms Working Groups, and author of the RGP 3year Strategic Plan. Previously, Staff Officer to the Commissioner of Police and Media Officer for the RGP (2012 – 2013). Commanded the Community Safety Unit, incorporating the Neighbourhood Policing Unit, Neighbourhood Policing Teams and the Traffic Unit (2009-2012). Led on police issues within the multi-agency framework with the Ministry of Housing, Ministry of Education and the Ministry of Transport. A core member of the Child Protection Committee and the Safeguarding Adults Committee and co-ordinator for Police – Childline issues, improving monitoring and registering cases. Project manager for Operation Roadwatch and Police representative with the Police Community Consultative Group. A key member of the HMIC Steering Group, the Judicial Review Steering Group and the Public Order Working Group.

Led Silver Command in the rescue of seamen from Motor Vessel Fedra in inclement weather (2009), the evacuation of residents from Med Hotel which was deemed unsafe (2010) and the explosion at the Port of Gibraltar (2010).

Was part of the planning group for developing the Nuclear (2010 and 2013), Air Crash Disaster Table Top (2011 and 2013), Live Air Crash Disaster (2012), Counter Terrorism (2013) and Public Order (2011, 2012 and 2013) Exercises.
Supervised the Police close protection operation for the visit to Gibraltar by Ambassador Taub, the Israeli Ambassador to UK (2013).

2002 - 2009:

Promoted to the rank of Police Inspector 2002:
Head of Special Branch (2005-9). Led on security issues with the Security Services, Joint Terrorist Analyzing Centre [JTAC], Joint Services Intelligence Centre [JSIC], the Metropolitan Police Counter Terrorism Command, the United States Naval Intelligence Service [USNIS], and both the Guardia Civil and Policia Nacional Counter Terrorism Units.

Coordinated the Police close protection operations for the visits to Gibraltar by Fuad Saniora, the Lebanese Prime Minister (2007), Her Royal Highness the Princess Royal (2008) and David Milliband, the British Foreign Secretary and Senor Moratinos, the Spanish Foreign Secretary (2009).

Was part of the planning group for developing two high profile counter terrorism exercises, Exercise Newsalesman (2007) and Exercise Portus (2008).

Developed Exercise Urban Web (2007) and tested Operation Clamp in the event of a child abduction in Gibraltar.

Was appointed the Police Honorary Aide De Camp to His Excellency the Governor (2006-2009).

Attached to Blue Shift as Shift Inspector (2002).

1997 – 2002	***Promoted to the rank of Police Sergeant 1997:*** Attached to the Central Division as a Detective Sergeant in the Criminal Investigation Department (2002). Attached to the Area Division as White Shift Station Officer (2000). Attached to the Area Division as Green Shift Patrolling Sergeant (1997).
1997 – 1988	Attached to the Central Division as a Detective Constable in the Drug Squad (1997). Attached to the Marine Section as a Fast Boat Operative and Boarding Officer (1995). Attached to the Area Division as Blue Shift Patrol Car Driver (1995). Attached to Central Division as a Detective Constable in the Criminal Investigation Department (1992). Attached to Area Division as White Shift Police Motorcyclist (1991). Attached to the Area Division – White Shift Beat Officer (1988).

Section 3

Leadership Philosophy

ROYAL GIBRALTAR POLICE

Planning, Development and Support Division
Superintendent Richard Ullger MSc

Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 58075000 E-mail: richard.ullger@royalgib.police.gi

My Leadership Philosophy

My Leadership:

I want my leadership to be committed to achieving a high quality of service to both the community I serve and the officers and staff I lead, by using consistent high levels of personal and professional standards, through influencing, enabling and developing others.

My Personal Values:

Honesty - With honesty a leader has to gain the respect and trust of not only their staff, but community alike. It is through the credibility of their actions that will determine whether they will be followed or not.

Competent - Effective leaders have to be efficient in their roles and understand the dynamics of not only an evolving policing world, but society too. It is essential that they have a long term focus and be consistent in their approach, but always adapting to change.

Enabling - Using engaging listening skills, leaders have to recognise and understand the needs and contributions of their staff in a working environment. They must be willing to share responsibilities with others and use their particular skills. Leadership is not about the power one may have, but about the power they can give.

Integrity - The perceptions of our employees are different and it is essential that they feel a sense of unity in the work place. Honesty and moral enhancing leadership traits provides this, ensuring that they remain focused and valued achieving aims and objectives for the right reasons.

Committed - Being professional and having the ability to inspire others are very important traits that a leader should possess. With strong self esteem and a sense of devotion, they should maintain a disciplined approach always recognising their staff for their hard work.

My Operating Principles:

I will instil professionalism in my team of officers and ensure that we work hard, always cognisant of our values that make us who we are.

I will ensure that we will work close with our community and build on a trust relationship, by being committed and honest.

"Working together to make our community safer"

Section 4

A Paper on a 5 Year Vision for The Royal Gibraltar Police - The Way Forward

A Paper on a 5 Year Vision for the Royal Gibraltar Police - The Way Forward

It is apparent from the wave of research that a struggle always exists to accommodate an effective policing system. This is reflected in the countless times change has been implemented to search for this approach and to address the needs of a fast evolving society. It is therefore common to acknowledge that the pluralisation of policing is increasing and questions are being raised about the role the Police play in the 21st Century. Additionally, it is vocal that a struggle to accommodate policing within an ever-increasing liberal democratic polity is reflected in the frequency with which it is subjected to continuous reform. Our interaction with our community is very much the bedrock and foundation of a lot of our business, and must be seen to be inclusive in the policing we continue to deliver to the people of Gibraltar. It must never be sidelined, but very much the opposite, it must be seen to grow from strength to strength.

This paper will therefore briefly touch on the many issues that have a direct impact on the Royal Gibraltar Police [RGP] and will focus on the challenges ahead, particularly on the interpretation of where we should be heading, taking advantage of our strengths and opportunities, but equally being cognisant of our weaknesses and threats against us, and streamlining the flow of a focused delivery, where now accountability is forever present. Throughout, it will holistically apply action plans to address these issues to support the arguments and finally it will discuss the way forward with a positive interaction with the Gibraltar Police Authority [GPA], ensuring more accountability, transparency and most importantly, a larger embracement of the 'critical friend' relationship.

There is already some consistency to support the suggestion that while recorded crime has reduced, the demand on policing has grown in other areas. It is these

demands that the public do not see, or perhaps even appreciate and the constant debate on police visibility places the community's trust and conflict at the forefront of their relationship with the police. Through dialogue, it is important that the police starts to share these concerns with the public and it is equally important that the public is mindful of police activity which may not be captured by the action areas of the statutory requirements of the Annual Policing Plans, directed on the RGP by the GPA after consultation with the community. It is the activity such as the constant demands of maintaining Gibraltar safe from terrorism, the increased volume of dealing with incidents involving people with mental health issues, safeguarding young and vulnerable people from sexual exploitation, which are associated with positive statutory requirements, such as Multi-Agency Public Protection Panels, that need to be understood and measured. There are others too, such as cybercrime and cyber security, and the increased number of complex financial investigations which need time, resources and most importantly expertise. There has also been an introduction of new legislation such as the 2012 Criminal Procedure and Evidence Act [CPEA] that have provided the police with greater powers to investigate crimes, but the challenges to resource these investigations needs greater strategic steer, with better management of resources and tools. As police activity therefore increases, there is a grave concern about whether the RGP can maintain levels of service delivery.

The RGP has already attempted to address some of these issues, which though in its infancy is already showing signs of fracturing. In late 2016, through external and internal pressures, a full restructure, primarily aimed at improving work life balance, meeting Working Time legislation and optimising resources to meet the assessed and prioritised frontline demand profile, was created. To achieve this, it inevitably meant stretching resources from other departments and reducing the capability of the Neighbourhood Policing ethos, and despite all of this, the capacity in frontline policing continues to operate on many occasions at a minimum level. Therefore, with the support of the GPA and the Police Federation, a document detailing the '*RGP's human resource needs to meet present and future challenges*' [RGP, 2017] was

submitted to Her Majesty's Government of Gibraltar [HMGoG]. With a total of 52 more police officers and 10 more civilian posts requested, this paper is in the process of being debated and assessed.

Without having any firm confirmation of what HMGoG's response will subsequently be, it is imperative that the RGP continues to develop a proactive and sophisticated understanding of community needs, in order to keep people safe. To this end, it is proposed that better collaboration and outsourcing of police work is established, with a view of not only freeing up more police time, but working together with other partners and adopting an improved vision of Value for Money [VfM]. This work needs to reflect the more complex emerging crime challenges, while being conscious of service-drift, as partner agencies capacity becomes more accountable.

The principles on how this is achieved requires that more development is needed of operational and organisational responses for prevention to the twin challenges of changing demand and limited resources. The emphasis on prevention reflects the first and last Peelian Principles[1] that underpinned the establishment of modern policing in 1829. However, the RGP, like many other UK police forces, is currently designed to respond to the problem being presented rather than its root causes. A more activist preventative agenda, as opposed to reacting to crime once it has occurred, will avoid poorer outcomes and higher costs later on, particularly to society as a whole. As already highlighted in this paper, much of the harm and work that policing deals with is unseen by the public and remains largely hidden. Against these new demands, mainstream policing must go upstream to collaborate with partners at all levels to address the issues that generate risk and harm. We must take advantage of our strengths and our ability to adapt so easily because of our situational awareness capability. It is far easier to manage growing concerns at a local level, in comparison to the national level experienced in the UK. Equally, we

[1] To Prevent Crime and Disorder, and to recognise always that the test of police efficiency is the absence of crime and disorder, and not the visible evidence of police action in dealing with them.

must not forget the global participation acknowledging that there are no boundaries to crime.

A further principle that must be applied more effectively is of a service that is valued, understood and supported by our community, tailoring the service to individual needs, but most importantly focusing more on victims of crime. This paper has already highlighted it once, but its value is underestimated. The public really need to know what the policing challenges are and we need to be forthcoming by highlighting these to them, exposing our weaknesses and building upon our strengths. It is inconceivable that institutions have little understanding of this and openly criticise the RGP publicly about the limited visible policing [Gibraltar Chronicle, 2017:1] without having a true understanding of the complexities we face. The provision of a police service that is valued and supported by the public is imperative and the long held concept that the RGP has always subscribed to of policing by consent depends on this relationship. It becomes more critical when we aspire to develop an agenda focused on prevention. There is more work that is needed to be achieved with the Criminal Justice System, and we need to further exploit opportunities presented by new technologies to deliver the best service possible. Thankfully, we have already started to do this with the support of HMGoG. Better DNA services have been established and improved fingerprint technology is being incorporated, supported by other tools that will enhance our investigation ability. We now need to build upon this further with more innovations.

A better understanding of vulnerability and the impact of harm will enable the improvement and differentiation of levels of service and protection. This is not easy to achieve, particularly with the finite availability of resources, but we need to be more adaptable and tailor our services to the individual needs of victims, using technology more to understand the individual's history with us and partner organisations, to inform our interactions with them. Policing demands which are connected to vulnerable persons in mental distress is growing and this has a significant impact on policing time and effort, and it can also have a personal impact

on those on the front line dealing with these cases. So much needs to be done and an example of this would be to establish a better Forensic Medical Examiner [FME] provision, where people who come into contact with police are treated by us, but their issues are shared through better processes with other partners, such as the Care Agency or Gibraltar Health Authority [GHA]. Similarly, we must recognise our failings as an organisation. The RGP constantly wants to take the lead on many issues that must be dealt with by other public sector partners and rather than overseeing or missing the wealth of assets that could be used, we should be embracing them more. Similarly, with the voluntary sector, which is popular in the UK, or focusing more on people trying to solve their own problems, but supported by us.

Returning to the concept of collaboration, it is easy to see why police forces in the UK have embraced this phenomenon and it is imperative that the RGP embraces it too. Maybe, not entirely for the reasons that UK police forces adopted it for cost efficiencies, but to improve capability, sharing of resources and assets with other partner agencies. Understandably, the UK have statutory guidance for Police Collaboration, but it doesn't mean that we cannot adopt it to serve our needs. The RGP together with other partners must work together to review opportunities to collaborate, engage with prospective collaboration partners and to make a judgement as to whether those opportunities present the best option available. Where collaboration is judged to be the best option, we must collaborate ensuring that it not only provides for better efficiencies and effectiveness [Police Professional, 2016:19], but is in the wider public's best interest. The basis of a collaboration agreement need not only be one way in favour of the RGP, but it could also be used for facilitating the effectiveness and efficiency of another public body. Time and time again the RGP have worked closely with other agencies in tandem, but never sharing the concept of collaboration and always maintaining dual roles. Organisational cultures impose the greatest barriers, but through top manager engagement and strategic direction this can be easily overcome. The opportunities to be reaped from this concept is exciting and thankfully we are again in a position of

strength to achieve this, simply because we continuously work by embracing the positives of situational awareness.

Unlike police forces in the UK, the RGP has little scope to collaborate with other police forces, with the exception of the Gibraltar Defence Police [GDP]. Therefore, there are few opportunities for this, but with what we already have in place and the prospect to develop this, we can strengthen both the capability and capacity to provide a better policing service for the community of Gibraltar, and equally of course for the Ministry of Defence [MOD]. We need to expand on our joint working in the area of Firearms capability and Maritime patrols, with a better enhanced operational deployment of police dogs. Again, much of this has already started, but a strategic steer that creates a vision of better understanding is needed.

To exploit the collaboration process we also need to work more with HM Customs and possibly with the Port Authority and other agencies. It is unimaginable that so many assets are available to police Gibraltar, yet each having their own agendas and objectives without sharing priorities. The sharing of resources and information, will enhance communication and intelligence gathering whilst enabling others to do other policing roles.

Outsourcing key aspects of police work is another innovation that the RGP needs to consider. There are of course concerns about the wider impact of allowing private companies to deliver police services, bringing the ethos of profit above all, to this already sensitive and contentious area of policing. However, by having strict measures of accountability and transparency, allows those professionals to deliver a service that can never be met by the police. What this inevitably does, is allows the RGP to focus on policing issues, thus calling upon those services that may only occasionally be required. It not only saves money, but also reduces risks to the police by having to have officers continuously competent in their skills, training and of course equipment.

Seeking to adopt a range of means to front line services, including Neighbourhood Policing through visibility and online access to the RGP is by far one of the most important principles. Policing plays a critical role in protecting Gibraltar, but does not exist in isolation. The link between the evolving threat of transnational organised crime, the threat of terrorism and our neighbourhoods is clear and we need to work with other agencies and the community to be more effective. The demise of neighbourhood policing to introduce an improved shift pattern, has certainly left a gap in our capability and capacity, and this needs to be addressed...it is important to note that only three years ago this was the flagship of our core business. This said, patrolling and visibility is not a policing end in itself, but a feature of policing that delivers impact in certain contexts. We must establish clarity on what is meant by access and visibility, recognising the requirements of our community, but exploiting the opportunities of the internet. Though striving for presence is evidently clear, absence of it does not mean that the police is not accessible and whilst we have long understood the visible and invisible policing of Gibraltar, we have to adopt the same approach with virtual and cyber communities, where increasingly harm and vulnerability are forever present. To do this, we must deliver an improved customer centric approach, focusing on customer service and victims of crime. Neighbourhood Policing has been a great success and is highly valued by much of the public, so we must actively pursue it to enhance our community capacity and confidence. Our youth are also our future and we need to build upon what we have already achieved, by creating better opportunities for them and making them more inclusive in our organisation.

We have briefly discussed the threat from terrorism, cybercrime and organised crime, and with the risk of them growing, we must be prepared that they will take new and unexpected forms. We will need to focus more on protecting individuals, organisations and society as a whole, through the development of constantly improving our capabilities and ensuring our people are trained and equipped to deal with new threats. We need to do this by enhancing and focusing on capability, scaling up specialist officers to face the ever-increasing firearms threat and providing

the support they need. We have constantly been reviewed and though we are slowly covering the gaps, we need to focus more on the need to be more professional and committed. This is one of our major weaknesses and certainly one of the unseen areas of policing, but is one of our biggest threats in our National Risk Register.

We must also establish a common methodology that recognises different threats to map resource against demand and take advantage of our strengths by working close with our partners. The fight against drug abuse/misuse/trafficking adversely impacts Gibraltar as it does globally, however it is not a problem for the RGP to solve on its own, as it extends across the social spectrum affecting society to a greater extent. Furthermore, our geo-strategic location between North Africa, one of the major producers of cannabis resin and facilitators of cocaine from South America into mainland Europe through Spain, makes Gibraltar a key partner in the fight against drug trafficking. We have had incredible success of seizures year on year, however this needs to be matched by our efforts to detain and bring to justice Organised Crime Groups [OCG's] who operate from Gibraltar. This type of activity is resource and time intensive taking people away from other core business. To fight this crime, we need to provide our officers with the necessary tools, such as improved legislation like the Regulation of Investigatory Powers Act [RIPA] to conduct surveillance and intercept communications with improved technology. We must match this by providing our officers with the ability to interrogate electronic equipment such as phones and computers that are constantly used to commit crime. The shifting trend towards cyber-enabled crime locally is a pattern seen across the globe and as such is a compelling argument for an increase in resources. Therefore, better collaboration with partner agencies could assist us jointly fight the OCG's. Cybercrime and security is now an agenda item with the Gibraltar Contingency Council [GCC], clearly highlighting the present risk and concern this brings to Gibraltar. However, we need to add a greater dimension of the challenges that we are confronted with, and more robust focus is needed when we assess our known risks in order to make better strategic assessments of how we are going to proactively police certain areas of business. One new business area is the recent

application to adopt domestic legislation changes, such as the 2015 Proceeds of Crime Act [POCA], European directives and policies to be Moneyval compliant. This framework has imposed an insuperable impact on the RGP, requiring specialisation and training to investigate complex financial crime.

To achieve this, we need an incredibly talented, flexible and dedicated team of people, who need to be equipped with the skills and capabilities necessary for policing into the next five years and beyond. Our people are the most important principal in this framework and as they adapt to the changes in the RGP structure, culture and policy, it is important that the people who lead them are engaged with their concerns. The unprecedented pace and scale of change must also allow for the different work and career aspirations and needs of our staff, with a workforce model that is supportive of professional development and police education. We must attract the right people with a mixture of skills, knowledge and potential, behaviours and values, to deliver the vision and in succession return their commitment with academic acknowledgment and the opportunity to further their education. We must also be prepared and acknowledge that officers and staff may not wish to pursue vertical career progression, but may be more suited for lateral development, providing more special and diverse skill sets. They must therefore be valued and be made to feel more inclusive of the overall objectives to achieve the vision. Additionally, their working environment needs strategic focus and direction, with a commitment to seek improvement. This, inevitably will improve performance and morale, something which has featured over the past years as an obstacle and evidenced in our internal surveys.

Effective leadership and management is critical in this time of evolution and key themes that constantly emerge will need to be addressed with conviction. The challenge to do more with less needs foresight and planning, and the need to improve professional standards and integrity must be at the forefront of our ethical values. The mere fact that we have lost a high number of people because of ethical issues is of concern, and engagement is required at root level. Leaders need to be

seen and must make themselves more available to their staff, by creating better opportunities of communication, helping to assuage fears and leading from the front. The service also needs to develop people's abilities to lead effectively and provide the capabilities and competencies to be effective. This will in turn soothe the uncertainty that exists in the workplace and create more confidence. This is not easy, as we constantly face the challenge of finding the time to train our people when they are not front line policing, but we owe it to them.

Performance needs to continue to improve, which requires innovative thinking and new ideas to increase not only our effectiveness, but our efficiency too. Therefore, challenging poor performance and recognising good performance are vital to the success of the organisation. We must be seen to be more proactive and desperately need to apply the tools to do so, but similarly we must be mindful of staff welfare and wellbeing, ensuring that their concerns, issues and health matter to us. We must be supportive and understanding, providing measures and frameworks to address individual distress. Policing is not easy and the stress that comes with what our people witness and experience can be insurmountable.

The role of the GPA in this vision is considered to be an extremely important function and through constant dialogue it is planned to have a relationship that provides transparency, informed decision making processes to enhance the mutual understanding of the complexities of policing such a diverse community and most importantly, trust. Through the GPA's statutory responsibility to ensure efficiency and effectiveness, the RGP has now firmly consolidated its position, but consideration must be given to provide keystone significance of governance, where we can demonstrate positive outcomes and raise concerns. It is here where we must build on the 'critical friend' relationship, exploring partnership, but maintaining sincerity when having to address issues of mutual difference.

We must ensure that as the RGP is, the GPA too are at the heart of engaging with the community, so that the public have confidence in the work we both do, but at the

same time maintaining the preservation of operational independence. They have a very important role in supporting the building of effective working relationships between the RGP and other partners, particularly HMGoG, and must have oversight of governance and accountability. Through better accountability also comes a higher level of integrity, and the force needs to build upon what it is already achieving to improve standards and probity. The GPA would be crucial in providing an oversight of the business we are conducting in this area, and we both applaud and encourage to be the most scrutinised professional body in the public service.

In conclusion, it is fair to say that policing will go through significant change in the coming years and the RGP must be prepared to adapt to constant reform, by being innovative in its business approach and adopting different methods for sustainability. It is important that the demand is constantly risk assessed and that the most appropriate approach is applied to any activity being considered. This must be done with effective leadership that can be both transformational and transactional, but equally being servant to the public and the workforce. The officers and staff of the RGP are an important factor in everything we do and they must feel that they are part of an incredible organisation, led with vision and conviction.

References

Royal Gibraltar Police [2017] A Document detailing the RGP's Human Resource Needs to meet Present and Future Challenges.

Gibraltar Chronicle [2017] Chamber calls for more Visible Police Presence in Town.

Police Professional [2016] A Process for Collaboration.

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GIBRALTAR POLICE AUTHORITY
(The Community in Policing)

21st November 2017

Mr. Edward Yome CPM
Commissioner of Police
Police Headquarters
New Mole House
Rosia Road
Gibraltar

Dear Eddie,

Thank you for your letter of 15th November 2017 and enclosures.

Allow me to refer to a number of points made therein:

a) The personal information which you have shared with the Authority may or may not be used in the selection process but, if used at the interview stage, I can assure you that this will be done without any reference to you, direct or indirect;

b) The Authority declined your request to have sight of the candidates vision papers as these were marked confidential and, in any case, it was felt that you could have obtained copies from the candidates;

c) The Authority is happy to grant your request to address it, and has set down a 20 minutes slot on Friday 24th November at 9:45am at our office;

d) The Authority will consider your request to inform the candidates of the outcome of their applications, although initially this is HE's prerogative.

Yours sincerely

J Gonçalves MBE
Chairman

No.1, Casemates House, Casemates Square, Gibraltar
Tel: 00 350 20040918, Fax: 00 350 20076847, e-mail: info@gpa.gi

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GIBRALTAR POLICE AUTHORITY
(The Community in Policing)

5th December 2017

Lt Gen Edward Davis CB CBE
The Governor
The Convent
Gibraltar

Your excellency

RE: SELECTION OF COMMISSIONER OF POLICE

Applications for appointment to the post of Commissioner of Police were received from Superintendent Ian McGrail and Superintendent Richard Ullger.

The candidates were required to make presentations to the Authority setting out their visions for the next 5 years and the priorities that they would set, if promoted, following which they answered questions. Further, the candidates were interviewed in depth by a sub-committee of the Authority, in the presence of all the members, who probed, in particular, issues of neighbourhood policing, Gibraltar Defence Police, the viability of working with the other candidate, community engagement, preparation of case dockets, cybercrime, resources, partnerships, counter terrorism, management style and major public events.

The Authority took into account all the information at its disposal, the performance of the candidates in delivering their written and oral presentations and their interviews.

The Authority deliberated at length on the different strengths of the candidates.

The members of the Authority felt that both candidates were suitable.

By a majority of 7-2, pursuant to section 6 (3) of the Police Act 2006, the Authority considers that Supt Ian McGrail is the stronger of the two highly suitable candidates.

The advice of the Authority is that Supt McGrail be appointed as Commissioner of Police with effect from 1st May 2018, and that the term of his warrant should be for four years. You are kindly requested, pursuant to Section 32 of the Police Act 2006, to act on this advice.

Yours faithfully

J.C Gonçalves MBE
Chairman

No.1, Casemates House, Casemates Square, Gibraltar
Tel: 00 350 20040918, Fax: 00 350 20076847, e-mail: info@gpa.gi

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His Excellency
Lieutenant General Edward Davis CB CBE KStJ
Governor & Commander-in-Chief

The Convent
Gibraltar
Tel: [redacted]
Fax: +350 200 47823
Twitter - @Convent_Gib

13th December 2017

Mr John Goncalves
Chairperson
Gibraltar Police Authority
25B Casemates Square
Gibraltar

Dear John,

APPOINTMENT OF COMMISSIONER OF POLICE GIBRALTAR

Thank you for your letter of 5th December 2017 which sets out the Gibraltar Police Authority's (GPA) advice regarding the selection of Gibraltar's next Commissioner of Police.

Having consulted with the Chief Minister, I endorse the GPA's recommendation that Superintendent Ian McGrail be appointed as the Commissioner of Police Gibraltar from 1st May 2018 for a four-year term of warrant in this role.

I would request that the GPA formally review progress against the objectives set out in Superintendent McGrail's vision statement and associated action plan at the mid-point of his tenure as Commissioner.

Finally, on behalf of the Chief Minister and I, may I thank the GPA for its diligent work in the conduct for the selection process. It is much appreciated.

Very respectfully

Edward Davis

COMMISSIONS OF INQUIRY ACT

RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

ISSUE OF COMMISSION

Attached is the Appendix marked "Appendix EL A" referred to in the Sworn Witness Statement of Edgar Lavarello sworn this 20th day of October 2022.

Before me

COMMISSIONER FOR OATHS

JAMES P. HAMMOND
COMMISSIONER FOR OATHS
GIBRALTAR

COMMISSIONS OF INQUIRY ACT

RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

ISSUE OF COMMISSION

APPENDIX A
LIST OF DOCUMENTS

(Listed in the order in which they are referred to in the Witness Statement of Mr Edgar Lavarello)

DOC No.	DATE	DOCUMENT TYPE	DESCRIPTION
1	21 May 2020-28 July 2020	WHATSAPP MESSAGES	Whatsapp messages between Dr Britto and me
2	29 May 2020	EMAIL	Email from Dr Britto to members of GPA circulating Factual Report relating to Incident at Sea
3	29 May 2020	EMAIL	Email from Dr Britto to members of GPA circulating the 29th May 2020 Letter
4	29 May 2020	EMAIL	Email from Dr Britto to members of GPA calling for GPA meeting to be held on 01 June 2020 at 09:30
5	01 June 2020	EMAIL	Email from Dr Britto circulating minutes of meeting of GPA on 01 June 2020

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17:35
1
Joey Britto
21 May 2020
Messages and calls are end-to-end encrypted. No one outside of this chat, not even WhatsApp, can read or listen to them. Tap to learn more.
Edgar - let me know when you can take a call please - Joey 12:07
Joey sorry been busy all day. Just finished 19:34
We can speak now or perhaps tomorrow. 19:35
I think I should call you now.. is this ok? 19:35
You've had a very long day - I'll do my best to call you tomorrow if you prefer 19:51
22 May 2020
Edgar sent you email - Please delete - realised your email is a work email 16:27


17:35
1
Joey Britto
Info not for public consumption
16:42
Tell me when I can explain
17:00
Hi Joey I have not received any emails from you?
17:35
Ah ok just seen
17:36
I am here now. Sorry so many calls.
17:36
1 Jun 2020
Joey I am assuming that we are holding a physical meeting?
09:16
Joey, if you need me at all today or you want to have a chat just give me a call.
11:27
Thanks Edgar - much appreciated
11:34
27 Jul 2020
Forwarded

□□□ □

Edgar Lavarello (GI) <edgar.lavarello@pwc.com>

[redacted]
[redacted] Frank Carreras <frank.carreras@gibraltar.gov.gi>, Darren Grech
nadine.collado@unigib.edu.gi>, edgar.c.lavarello@gi.pwc.com,
v.gi>, Claire Pizzarello <claire.pizzarello@hassans.gi>, Julio Alcantara
[redacted]

29 May 2020 at 11:45

IVILEGED

ime |ncident provided by CoP upon request from CM

No response from you is expected but grateful if you were to peruse and assess in the light of recent developments and to allow us to properly contextualise any representations made by CoP in relation to my meeting with him last Friday.

I allowed 7 working days days for him to make representations so by my calculations any representation should be lodged by this coming Tuesday.

Please note that contents are highly sensitive and for GPA eyes only.

Thank you.

Regards

Joey

Begin forwarde

From: "(RGP) McGrail@royalgib.police.gi>
Subject: OFFI
Date: 29 May 2
To: Dr J J Britt [redacted]

Dear Mr Chairm

You were copi 1st May to me where I was being requested to provide
a factual repo Act 2006.
I attach the di rt to the CM together two time lines specific to this
case. There is ices and other material which are referred to in the
report which I ch I have had delivered by hand to the CM's office. If
you wish to ha me know and I will arrange for further copies to be
made.
Sincerely
Ian

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/o privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

Ian McGrail *OTM MSc*
Commissioner of Police

New Mole House, Rosia Road r, GX11 1AA
Tel: (+350) 20072500 Centre [redacted]

Web: www.police.gi
Follow Us on Twitter: @rgpo
Like us on Facebook: www.fa om/royalgibpolice

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Please consider the environment before printing this email.

5 attachments

image001.jpg
3K

image002.png
29K

IM169 - Factual Report to CM.pdf
12962K

Op Kram Time Line.pdf
738K

Timeline of communications for CM Op Kram (002).pdf
717K

□□□ □

r.lavarello@pwc.com>

Fwd: Inv onse.pdf

1 message

Dr J J Britto [redacted] 29 May 2020 at 18:05
To: Darren G ov.gi>, Ernest Gomez [redacted] Frank Carreras
<frank.carrer ollado <nadine.collado eras
<rebecca.fig .lavarello@gi.pwc.com rello@hassans.gi>,
Julio Alcanta [redacted]

Dear collea

Please find yer.

Grateful for ible please.

Regards

Joey

Begin forwarded

From: "(RGP) M cGrail@royalgib.police.gi>
Subject: Invitat
Date: 29 May 20
To: Dr Joey Britt [redacted] GPA secretary <secretary@gpa.gi>

Dear Mr Chairma
I enclose a letter tion to retire, which has been sent to The Authority by
my lawyers earli

Grateful if you co

Sincerely
Ian

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/o privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

Invitation to Retire Response.pdf
875K

□□□ **4**

r.lavarello@pwc.com>

Re: Invita se.pdf

1 message

Dr Joey Britt [redacted] at 18:58
To: Darren Gr v.gi>, Ernest Gomez [redacted]
<frank.carrera llado <nadine.collado
<rebecca.figu lavarello@gi.pwc.com [redacted]

Dear all

Could we m le

Thanks.

Regards

Joey

On 29 May 2020, at 18:05, Dr J J Britt [redacted] wrote

Dear colleagues,

Please find representation from CoP's

Grateful for your views as soon as pos

Regards

Joey

Begin forwarded

From: "(RGP) Mc cGrail@royalgib.police.gi>
Subject: Invitati
Date: 29 May 20
To: Dr Joey Britt [redacted] GPA secretary <secretary@gpa.gi>

Dear Mr Chairma
I enclose a letter ion to retire, which has been sent to The
Authority by my l

Grateful if you co

Sincerely
Ian

<Invitation to Retire Response.pdf

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information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

□□□ □

Edgar Lavarello (GI) <edgar.lavarello@pwc.com>

Fwd: HIG PA

1 message

Dr Joey Britto [redacted] June 2020 at 18:50
To: Ernest Go [redacted], Frank Carreras <fr Darren Grech
<darren.grech lo@gi.pwc.com, Nadi igib.edu.gi>,
Rebecca Figu ov.gi>, Julio Alcanta [redacted]

Colleagues

Please see by Nadine.

Grateful if you

Regards

Joey

Begin forwarded messa

From: Nadine C edu.gi>
Date: 1 June 20
To: Dr Joey Britt [redacted]
Subject: HIGHL

Dear Joey

Herewith a summary of the decisions reached at today's GPA meetings Grateful if you could peruse make any comments as well as pass to the members.

Best

Nadine

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/o privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

20.06.01 Gibraltar Police Authority minutes of meeting.docx
15K

COMMISSIONS OF INQUIRY ACT

RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

ISSUE OF COMMISSION

Attached is the Appendix marked "Appendix VN A" referred to in the Sworn Witness Statement of Vikram Nagrani sworn this 20th day of October 2022.

Before me

COMMISSIONER FOR OATHS

LILY CHIPOLINA
COMMISSIONER FOR OATHS
GIBRALTAR

COMMISSIONS OF INQUIRY ACT

RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

ISSUE OF COMMISSION

APPENDIX A
LIST OF DOCUMENTS

(Listed in the order in which they are referred to in the Witness Statement of Mr Vikram Nagrani)

DOC No.	DATE	DOCUMENT TYPE	DESCRIPTION
1	11 May 2017	EMAIL	Email from GPA Secretary to Mr Vikram Nagrani
2	12 May 2017	EMAIL	Email from GPA Secretary on behalf of Mr John Gonçalves calling meeting of GPA for 15th May 2017; and ensuing email thread
3	15 May 2017	EMAIL	Email from GPA Secretary containing minutes of GPA meeting of 15 May 2017
4	15 May 2017	EMAIL	Email from GPA Secretary on behalf of Mr John Gonçalves circulating draft letter to Chief Minister; and ensuing email

			thread containing GPA members views
5	05 June 2017	EMAIL	Email from GPA Secretary enclosing minutes of GPA meeting of 11 May 2017
6	15 July 2017- 17 July 2017	EMAIL	Email from Mr John Gonçalves to members of the GPA; and reply by Mr Vikram Nagrani
7	26 July 2017	EMAIL	Email from GPA Secretary to members of the GPA
8	21 August 2017- 22 August 2017	EMAIL	Email from GPA Secretary to members of the GPA containing documents received from the Commissioner of Police; and ensuing email thread
9	01 September 2017- 02 September 2017	EMAIL	Email from Mr Vikram Nagrani to GPA members circulating draft letter to the Chief Minister; and email replies containing the views of other members of the GPA

DOC 1

Kyra Macias

From: Michelle Hook <michelle.hook@gpa.gi>
Sent: 11 May 2017 12:16
To: Vikram Nagrani
Subject: Meeting

Vikram,

Sorry to bother you again.

Reference to the email that I sent you an hour ago; the Chairman has requested a meeting to exclusively speak about the matter which you and him spoke on the phone. The only date in which everyone from the GPA would be available is on Monday 15th May at 9:30am.

Are you available? Please let me know ASAP.

Kind regards
Michelle

1

Kyra Macias

From: Vikram Nagrani <vikram.nagrani@hassans.gi>
Sent: 11 May 2017 16:36
To: 'Michelle Hook'
Subject: RE: Meeting

Michelle,

Apologies for the delay in replying – I have been in board meetings all day.

I can attend on Monday 15th at 9:30am but will need to leave by 10:15am. I think that should in any event give us enough time.

Thanks,

Vikram

From: Michelle Hook [mailto:michelle.hook@gpa.gi]
Sent: 11 May 2017 12:16
To: Vikram Nagrani
Subject: Meeting

Vikram,

Sorry to bother you again.

Reference to the email that I sent you an hour ago; the Chairman has requested a meeting to exclusively speak about the matter which you and him spoke on the phone. The only date in which everyone from the GPA would be available is on Monday 15th May at 9:30am.

Are you available? Please let me know ASAP.

Kind regards
Michelle

DOC 2

Kyra Macias

From: Michelle Hook <michelle.hook@gpa.gi>
Sent: 12 May 2017 09:20
To: edgar.c.lavarello@gi.pwc.com; 'Reyes, Stephen (GI - Gibraltar)'; Vikram Nagrani; 'John Goncalves'; 'Albert Danino'; 'Fidel'; 'Linda and Aurelio'; '(NO6) Gomez, Ernest'; 'Naomi Hassan-Weisfogel'; Nick.Pyle@fco.gov.uk
Subject: Meeting

Dear colleagues,

The Chairman has requested to see the GPA on Monday 15th May at 9:15am at our offices to discuss a sensitive matter that has arisen.

Regards
Michelle

Kyra Macias

From: Vikram Nagrani <vikram.nagrani@hassans.gi>
Sent: 12 May 2017 09:22
To: 'Michelle Hook'
Subject: RE: Meeting

I'll be there, thanks.

From: Michelle Hook [mailto:michelle.hook@gpa.gi]
Sent: 12 May 2017 09:20
To: edgar.c.lavarello@gi.pwc.com; 'Reyes, Stephen (GI - Gibraltar)'; Vikram Nagrani; 'John Goncalves'; 'Albert Danino'; 'Fidel'; 'Linda and Aurelio'; '(NO6) Gomez, Ernest'; 'Naomi Hassan-Weisfogel'; Nick.Pyle@fco.gov.uk
Subject: Meeting

Dear colleagues,

The Chairman has requested to see the GPA on Monday 15th May at 9:15am at our offices to discuss a sensitive matter that has arisen.

Regards
Michelle

Kyra Macias

From: Nick.Pyle@fco.gov.uk
Sent: 12 May 2017 09:58
To: michelle.hook@gpa.gi; edgar.c.lavarello@gi.pwc.com; sreyes@deloitte.gi; Vikram Nagrani; [redacted]; [redacted] t; Ernesto.Gomez@gibraltar.gov.gi; [redacted]
Subject: RE: Meeting

Dear Colleagues

Whilst I said at yesterday's meeting that I may excuse myself from any subsequent meeting given I was Acting Governor when the incident broke, on reflection I believe I should attend not least for any insights, without breaking confidences, that I will be able to bring. I will of course will leave the meeting should I deem there to be a conflict or at your request.

I've discusses this with the Chairman who is content with this approach. So I will see you on Monday.

Have a good weekend.

Regards

Nick

From: Michelle Hook [mailto:michelle.hook@gpa.gi]
Sent: 12 May 2017 09:16
To: edgar.c.lavarello@gi.pwc.com; 'Reyes, Stephen (GI - Gibraltar)'; 'Vikram Nagrani'; 'John Goncalves'; 'Albert Danino'; 'Fidel'; 'Linda and Aurelio'; Ernesto Gomez – Government of Gibraltar (External); 'Naomi Hassan-Weisfogel'; Nick Pyle (Sensitive)
Subject: Meeting

Dear colleagues,

The Chairman has requested to see the GPA on Monday 15th May at 9:15am at our offices to discuss a sensitive matter that has arisen.

Regards
Michelle

****

Visit http://www.gov.uk/fco for British foreign policy news and travel advice and http://blogs.fco.gov.uk to read our blogs.

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Practice) (Interception of Communications) Regulations 2000.

DOC 3

Kyra Macias

From:	Michelle Hook <michelle.hook@gpa.gi>
Sent:	15 May 2017 12:59
To:	'John Goncalves'; 'Albert Danino'; Vikram Nagrani; edgar.c.lavarello@gi.pwc.com; 'Linda and Aurelio'; 'Fidel'; 'Naomi Hassan-Weisfogel'; '(NO6) Gomez, Ernest'; 'Reyes, Stephen (GI - Gibraltar)'; Nick.Pyle@fco.gov.uk
Subject:	Minutes 15th May 2017
Attachments:	Minutes airfield incident 15th May 2017.docx

Dear colleagues,

Please see attached minutes for this mornings meeting.

MINUTES OF MEETING OF THE GIBRALTAR POLICE AUTHORITY HELD ON MONDAY 15TH May at 09:15am.

Present:	Mr John Goncalves **(Ch)** Rev Fidelio Patron **(FP)** Mr Albert Danino **(AD)** Mr Ernest Gomez **(EG)** Mrs Naomi Hassan Weisfogel **(NHW)** Mr Stephen Reyes **(SR)** Mr Nick Pyle **(NP)** Mr Vikram Nagrani **(VN)** Mr Aurelio Falero **(AF)**	Chairman
In attendance:	Ms M. Hook **(Sec)**	Secretary
Apologies:	Mr Edgar Lavarello	

The meeting was called to discuss the CM's verbal request to the Chairman on 9th May 2017 that the GPA enquire into the Airfield incident on 7th February 2017.

VN referred to:-

- s.13 of the Police Act, where HE may request on instinct the GPA to provide a report to him, and also to initiate an enquiry;
- s.14 of the Police Act, where HMGOG may ask the GPA to provide a report on Police matters, and also to carry out a full-blown enquiry on the RGP;
- s.19 of the Police Act, when the GPA may ask the CoP for any information to assist preparation of a report.

NP reported on a conversation held with HE, when the latter envisaged that the GPA recommend that an independent enquiry will be held.

The matter was discussed at length and it was concluded that a formal letter be sent to CM stating that, in the first instance, since the GPA has no jurisdiction to involve the MOD, it proposes to proceed under the provisions of s.19 of the Police Act in order to submit a report to him.

DOC 4

Kyra Macias

From:	Michelle Hook <michelle.hook@gpa.gi>
Sent:	15 May 2017 12:09
To:	'John Goncalves'; 'Albert Danino'; Vikram Nagrani; edgar.c.lavarello@gi.pwc.com; 'Linda and Aurelio'; 'Fidel'; 'Naomi Hassan-Weisfogel'; '(NO6) Gomez, Ernest'; 'Reyes, Stephen (GI - Gibraltar)'; Nick.Pyle@fco.gov.uk
Subject:	Airfield Incident
Attachments:	Letter to CM - Airfield.doc

Dear colleagues,

Please see attached reply ASAP.

Regards
Michelle

GIBRALTAR POLICE AUTHORITY
(The Community in Policing)

15th May 2017

Hon Fabian Picardo QC MP
Chief Minister
Office of the Chief Minister
No 6 Convent Place
Gibraltar

RE: AIRFIELD INCIDENT

I refer to our meeting in your office on Tuesday 9th May.

Your request that the GPA enquire into the incident at Gibraltar Airport on 7th February 2017 was conveyed to the members at meetings held on 11th and 15th May.

It was agreed that, in the first instance, since we have no jurisdiction to involve MOD in our enquiry, we ask the Commissioner of Police to provide us with all information which may assist us in the preparation of a report to be submitted to you, pursuant to the provisions of s.19 of the Police Act.

When this is done, you may wish to consider the possibility of a full enquiry, with independent members agreed to by the RGP and the MOD, commissioned by the GPA.

J.C Gonçalves MBE
Chairman

No.1, Casemates House, Casemates Square, Gibraltar
Tel: 00 350 20040918, Fax: 00 350 20076847, e-mail: info@gpa.gi

Kyra Macias

From: Albert Danino [redacted]
Sent: 15 May 2017 12:14
To: Michelle Hook
Cc: John Goncalves; Vikram Nagrani; edgar.c.lavarello@gi.pwc.com; Linda and Aurelio; Fidel; Naomi Hassan-Weisfogel; (NO6) Gomez, Ernest; Reyes, Stephen (GI - Gibraltar); Nick.Pyle@fco.gov.uk
Subject: Re: Airfield Incident

Approved
Best Regards

Sent from my iPhone

On 15 May 2017, at 12:05, Michelle Hook <michelle.hook@gpa.gi> wrote:

> Dear colleagues,
>
> Please see attached reply ASAP.
>
> Regards
> Michelle
>
> <Letter to CM - Airfield.doc>

Kyra Macias

From: Aurelio Falero [redacted]
Sent: 15 May 2017 12:41
To: Michelle Hook
Cc: John Goncalves; Albert Danino; Vikram Nagrani; edgar.c.lavarello@gi.pwc.com; Fidel; Naomi Hassan-Weisfogel; (NO6) Gomez, Ernest; Reyes, Stephen (GI - Gibraltar); Nick.Pyle@fco.gov.uk
Subject: Re: Airfield Incident

I believe we may have jurisdiction over the MOD. What may happen is that MOD may not wish to assist us with our investigation.

Kind regards,

Aurelio Falero FRICS

Sent from my iPad

On 15 May 2017, at 12:05, Michelle Hook <michelle.hook@gpa.gi> wrote:

> Dear colleagues,
>
> Please see attached reply ASAP.
>
> Regards
> Michelle
>
> <Letter to CM - Airfield.doc>

Kyra Macias

From: Vikram Nagrani <vikram.nagrani@hassans.gi>
Sent: 15 May 2017 12:47
To: 'Michelle Hook'; 'John Goncalves'; 'Albert Danino'; 'edgar.c.lavarello@gi.pwc.com'; 'Linda and Aurelio'; 'Fidel'; 'Naomi Hassan-Weisfogel'; '(NO6) Gomez, Ernest'; 'Reyes, Stephen (GI - Gibraltar)'; 'Nick.Pyle@fco.gov.uk'
Subject: RE: Airfield Incident
Attachments: Letter to CM - Airfield (VN amends).doc

Michelle (and all),

Please see attached suggested amendments to the draft letter.

Separately (though not marked-up in the attached), I would also suggest the letter be carbon copied to HE The Governor.

HE The Governor has "ultimate responsibility for the integrity, probity and independence of policing in Gibraltar and the policing aspects of national security including internal security" (section 11, Police Act); and, given the discussions John had with the CM last week as well as the discussions we have had this morning, I wonder whether it is simply a more open and direct route to convey our proposed course of action to the CM and HE The Governor at the same time (particularly given that the former indicated that the latter was agreeable to the instruction).

If there is any objection to this suggestion by any member, I am entirely relaxed about my suggestion being ignored as the CM is obliged to report to HE The Governor in any event pursuant to section 15(2). I certainly do not wish to prolong discussion or debate, or delay the issue of the letter. As such, if there is any objection at all, please deem the suggestion to cc. HE The Governor retracted.

Thanks and best,

Vikram

From: Michelle Hook [mailto:michelle.hook@gpa.gi]
Sent: 15 May 2017 12:09
To: 'John Goncalves'; 'Albert Danino'; Vikram Nagrani; edgar.c.lavarello@gi.pwc.com; 'Linda and Aurelio'; 'Fidel'; 'Naomi Hassan-Weisfogel'; '(NO6) Gomez, Ernest'; 'Reyes, Stephen (GI - Gibraltar)'; Nick.Pyle@fco.gov.uk
Subject: Airfield Incident

Dear colleagues,

Please see attached reply ASAP.

Regards
Michelle

GIBRALTAR POLICE AUTHORITY
(The Community in Policing)

15th May 2017

Hon Fabian Picardo QC MP
Chief Minister
Office of the Chief Minister
No 6 Convent Place
Gibraltar

RE: AIRFIELD INCIDENT

I refer to our meeting in your office on Tuesday 9th May.

Your request that the GPA enquire into the incident at Gibraltar Airport on 7th February 2017 was conveyed to the members at meetings held on 11th and 15th May.

~~It was agreed~~The Authority is of the view ~~that~~, in the first instance that, since ~~we~~ it has~~ve~~ no jurisdiction to involve the MOD in ~~our~~ an enquiry, ~~we~~ the Authority shall proceed to ~~ask~~ request the Commissioner of Police to provide us with all relevant information (pursuant to the provisions of s.19 of the Police Act) which may assist ~~us~~ the Authority in the preparation of a report to be submitted to yo~~u~~ (pursuant to the provisions of s.15~~9~~ of the Police Act).

~~When~~ Once this is done, you (and HE The Governor) may wish to consider the possibility of a full enquiry which would be undertaken~~;~~ ~~with~~ by independent members having the requisite knowledge and experience agreed to by the RGP and the MOD and comissioned by the Authority~~;~~ ~~commissioned by the GPA~~.

J.C Gonçalves MBE
Chairman

No.1, Casemates House, Casemates Square, Gibraltar
Tel: 00 350 20040918, Fax: 00 350 20076847, e-mail: info@ gpa.gi

Kyra Macias

From: Albert Danino [redacted]
Sent: 15 May 2017 12:51
To: Aurelio Falero
Cc: Michelle Hook; John Goncalves; Vikram Nagrani; edgar.c.lavarello@gi.pwc.com; Fidel; Naomi Hassan-Weisfogel; (NO6) Gomez, Ernest; Reyes, Stephen (GI - Gibraltar); Nick.Pyle@fco.gov.uk
Subject: Re: Airfield Incident

The MOD may be instructed/invited to assist in a GPA - initiated enquiry if a fair and balanced outcome is required of the event!

Sent from my iPhone

On 15 May 2017, at 12:37, Aurelio Falero [redacted] wrote:

> I believe we may have jurisdiction over the MOD. What may happen is that MOD may not wish to assist us with our investigation.
>
> Kind regards,
>
> Aurelio Falero FRICS
>
> Sent from my iPad
>
> On 15 May 2017, at 12:05, Michelle Hook <michelle.hook@gpa.gi> wrote:
>
> > Dear colleagues,
> >
> > Please see attached reply ASAP.
> >
> > Regards
> > Michelle
> >
> > <Letter to CM - Airfield.doc>

Kyra Macias

From: Albert Danino [redacted]
Sent: 15 May 2017 12:56
To: Vikram Nagrani
Cc: Michelle Hook; John Goncalves; edgar.c.lavarello@gi.pwc.com; Linda and Aurelio; Fidel; Naomi Hassan-Weisfogel; (NO6) Gomez, Ernest; Reyes, Stephen (GI - Gibraltar); Nick.Pyle@fco.gov.uk
Subject: Re: Airfield Incident

I have no objection in our letter to the CM being carbon copied to H E if only for the sake of brevity of communication and avoidance of further delay in this process.
BG

Sent from my iPhone

On 15 May 2017, at 12:46, Vikram Nagrani <vikram.nagrani@hassans.gi> wrote:

> **Michelle (and all),**
>
> **Please see attached suggested amendments to the draft letter.**
>
> **Separately (though not marked-up in the attached), I would also suggest the letter be carbon copied to HE The Governor.**
>
> **HE The Governor has "ultimate responsibility for the integrity, probity and independence of policing in Gibraltar and the policing aspects of national security including internal security" (section 11, Police Act); and, given the discussions John had with the CM last week as well as the discussions we have had this morning, I wonder whether it is simply a more open and direct route to convey our proposed course of action to the CM and HE The Governor at the same time (particularly given that the former indicated that the latter was agreeable to the instruction).**
>
> **If there is any objection to this suggestion by any member, I am entirely relaxed about my suggestion being ignored as the CM is obliged to report to HE The Governor in any event pursuant to section 15(2). I certainly do not wish to prolong discussion or debate, or delay the issue of the letter. As such, if there is any objection at all, please deem the suggestion to cc. HE The Governor retracted.**
>
> **Thanks and best,**
>
> **Vikram**
>
> **From:** Michelle Hook [mailto:michelle.hook@gpa.gi]
> **Sent:** 15 May 2017 12:09
> **To:** 'John Goncalves'; 'Albert Danino'; Vikram Nagrani; edgar.c.lavarello@gi.pwc.com; 'Linda and Aurelio'; 'Fidel'; 'Naomi Hassan-Weisfogel'; '(NO6) Gomez, Ernest'; 'Reyes, Stephen (GI - Gibraltar)'; Nick.Pyle@fco.gov.uk
> **Subject:** Airfield Incident
>
> Dear colleagues,

Please see attached reply ASAP.

Regards
Michelle

<Letter to CM - Airfield (VN amends).doc>

Kyra Macias

From: Reyes, Stephen (GI - Gibraltar) <sreyes@deloitte.gi>
Sent: 15 May 2017 15:33
To: Vikram Nagrani; 'Michelle Hook'; 'John Goncalves'; 'Albert Danino'; edgar.c.lavarello@gi.pwc.com; 'Linda and Aurelio'; 'Fidel'; 'Naomi Hassan-Weisfogel'; '(NO6) Gomez, Ernest'; Nick.Pyle@fco.gov.uk
Subject: RE: Airfield Incident

I am happy with the amendments proposed and the suggestion of carbon copying HE.

Regards

Stephen

From: Vikram Nagrani [mailto:vikram.nagrani@hassans.gi]
Sent: 15 May 2017 12:47
To: 'Michelle Hook' <michelle.hook@gpa.gi>; 'John Goncalves' [redacted] 'Albert Danino' [redacted] edgar.c.lavarello@gi.pwc.com; 'Linda and Aurelio' [redacted] 'Fidel' [redacted] 'Naomi Hassan-Weisfogel' [redacted] '(NO6) Gomez, Ernest' <ernesto.gomez@gibraltar.gov.gi>; Reyes, Stephen (GI - Gibraltar) <sreyes@deloitte.gi>; Nick.Pyle@fco.gov.uk
Subject: RE: Airfield Incident

Michelle (and all),

Please see attached suggested amendments to the draft letter.

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Thanks and best,

Vikram

From: Michelle Hook [mailto:michelle.hook@gpa.gi]
Sent: 15 May 2017 12:09
To: 'John Goncalves'; 'Albert Danino'; Vikram Nagrani; edgar.c.lavarello@gi.pwc.com; 'Linda and Aurelio'; 'Fidel';

'Naomi Hassan-Weisfogel'; '(NO6) Gomez, Ernest'; 'Reyes, Stephen (GI - Gibraltar)'; Nick.Pyle@fco.gov.uk
Subject: Airfield Incident

Dear colleagues,

Please see attached reply ASAP.

Regards
Michelle

Kyra Macias

From: Naomi Hassan-Weisfogel [redacted]
Sent: 15 May 2017 16:28
To: Vikram Nagrani
Cc: Michelle Hook; John Goncalves; Albert Danino; edgar.c.lavarello@gi.pwc.com; Linda and Aurelio; Fidel; (NO6) Gomez, Ernest; Reyes, Stephen (GI - Gibraltar); Nick.Pyle@fco.gov.uk
Subject: Re: Airfield Incident

I have no objections for a copy of our letter to be sent to HE.
I am also in agreement with the text and content of the letter to be sent to CM

GB GI Regards,
Naomi GB GI

Sent from my iPhone 6 GB GI

" Why do I?..... Because TG I can!" 😉

On 15 May 2017, at 12:43, Vikram Nagrani <vikram.nagrani@hassans.gi> wrote:

Michelle (and all),

Please see attached suggested amendments to the draft letter.

Separately (though not marked-up in the attached), I would also suggest the letter be carbon copied to HE The Governor.

HE The Governor has "ultimate responsibility for the integrity, probity and independence of policing in Gibraltar and the policing aspects of national security including internal security" (section 11, Police Act); and, given the discussions John had with the CM last week as well as the discussions we have had this morning, I wonder whether it is simply a more open and direct route to convey our proposed course of action to the CM and HE The Governor at the same time (particularly given that the former indicated that the latter was agreeable to the instruction).

If there is any objection to this suggestion by any member, I am entirely relaxed about my suggestion being ignored as the CM is obliged to report to HE The Governor in any event pursuant to section 15(2). I certainly do not wish to prolong discussion or debate, or delay the issue of the letter. As such, if there is any objection at all, please deem the suggestion to cc. HE The Governor retracted.

Thanks and best,

Vikram

From: Michelle Hook [mailto:michelle.hook@gpa.gi]
Sent: 15 May 2017 12:09
To: 'John Goncalves'; 'Albert Danino'; Vikram Nagrani; edgar.c.lavarello@gi.pwc.com; 'Linda and Aurelio'; 'Fidel'; 'Naomi Hassan-Weisfogel'; '(NO6) Gomez, Ernest'; 'Reyes, Stephen (GI - Gibraltar)'; Nick.Pyle@fco.gov.uk
Subject: Airfield Incident

Dear colleagues,

Please see attached reply ASAP.

Regards
Michelle
<Letter to CM - Airfield (VN amends).doc>

Kyra Macias

From: (NO6) Gomez, Ernest <ernesto.gomez@gibraltar.gov.gi>
Sent: 15 May 2017 17:14
To: Michelle Hook (external); 'John Goncalves'; 'Albert Danino'; Vikram Nagrani; edgar.c.lavarello@gi.pwc.com; 'Linda and Aurelio'; 'Fidel'; 'Naomi Hassan-Weisfogel'; 'Reyes, Stephen (GI - Gibraltar)'; Nick.Pyle@fco.gov.uk
Subject: RE: Airfield Incident

Dear John

I had an opportunity to speak to the Chief Minister later today and sought some verbal clarification on the conversation he had with you regarding reference to the potential independent membership of a panel. He cleared for me that he has not agreed to any MOD involvement in or approval of in respect of members.

In the light of this, I would have to suggest that you do not make reference to "with independent members agreed to by the RGP and the MOD" in your letter to him.

I have just spoken to Nick, given his position, in order to inform him of my conversation.

Best wishes
Ernest

From: Michelle Hook [mailto:michelle.hook@gpa.gi]
Sent: 15 May 2017 12:06
To: 'John Goncalves' [redacted] 'Albert Danino' [redacted] 'Vikram Nagrani' <vikram.nagrani@hassans.gi>; edgar.c.lavarello@gi.pwc.com; 'Linda and Aurelio' [redacted] 'Fidel' [redacted] 'Naomi Hassan-Weisfogel' [redacted] (NO6) Gomez, Ernest <ernesto.gomez@gibraltar.gov.gi>; 'Reyes, Stephen (GI - Gibraltar)' <sreyes@deloitte.gi>; Nick.Pyle@fco.gov.uk
Subject: Airfield Incident

Dear colleagues,

Please see attached reply ASAP.

Regards
Michelle

Kyra Macias

From: Nick.Pyle@fco.gov.uk
Sent: 15 May 2017 17:56
To: Ernesto.Gomez@gibraltar.gov.gi; michelle.hook@gpa.gi; [redacted] Vikram Nagrani; edgar.c.lavarello@gi.pwc.com; [redacted] sreyes@deloitte.gi
Subject: RE: Airfield Incident

Dear John

Given the CM's view, I agree that there should be no reference to "with independent members agreed to by the RGP and the MOD".

Nick

From: (NO6) Gomez, Ernest [mailto:ernesto.gomez@gibraltar.gov.gi]
Sent: 15 May 2017 17:09
To: Michelle Hook (external); 'John Goncalves'; 'Albert Danino'; 'Vikram Nagrani'; edgar.c.lavarello@gi.pwc.com; 'Linda and Aurelio'; 'Fidel'; 'Naomi Hassan-Weisfogel'; 'Reyes, Stephen (GI - Gibraltar)'; Nick Pyle (Sensitive)
Subject: RE: Airfield Incident

Dear John

I had an opportunity to speak to the Chief Minister later today and sought some verbal clarification on the conversation he had with you regarding reference to the potential independent membership of a panel. He cleared for me that he has not agreed to any MOD involvement in or approval of in respect of members.

In the light of this, I would have to suggest that you do not make reference to "with independent members agreed to by the RGP and the MOD" in your letter to him.

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Best wishes
Ernest

From: Michelle Hook [mailto:michelle.hook@gpa.gi]
Sent: 15 May 2017 12:06
To: 'John Goncalves' [redacted] 'Albert Danino' [redacted] 'Vikram Nagrani' <vikram.nagrani@hassans.gi>; edgar.c.lavarello@gi.pwc.com; 'Linda and Aurelio' [redacted] 'Fidel' [redacted]; 'Naomi Hassan-Weisfogel' [redacted]; (NO6) Gomez, Ernest <ernesto.gomez@gibraltar.gov.gi>; 'Reyes, Stephen (GI - Gibraltar)' <sreyes@deloitte.gi>; Nick.Pyle@fco.gov.uk
Subject: Airfield Incident

Dear colleagues,

Please see attached reply ASAP.

Regards

Michelle

****
Visit http://www.gov.uk/fco for British foreign policy news and travel advice and http://blogs.fco.gov.uk to read our blogs.

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****

Kyra Macias

From: Aurelio Falero <[redacted]
Sent: 15 May 2017 13:00
To: Albert Danino
Cc: Vikram Nagrani; Michelle Hook; John Goncalves; edgar.c.lavarello@gi.pwc.com; Fidel; Naomi Hassan-Weisfogel; (NO6) Gomez, Ernest; Reyes, Stephen (GI - Gibraltar); Nick.Pyle@fco.gov.uk
Subject: Re: Airfield Incident

I also have no objection to the letter being copied to HE.

Kind regards,

Aurelio Falero FRICS

Sent from my iPad

On 15 May 2017, at 12:52, Albert Danino <[redacted] wrote:

> I have no objection in our letter to the CM being carbon copied to H E if only for the sake of brevity of communication and avoidance of further delay in this process.
> BG
>
> Sent from my iPhone
>
> On 15 May 2017, at 12:46, Vikram Nagrani <vikram.nagrani@hassans.gi> wrote:
>
> > **Michelle (and all),**
> >
> > **Please see attached suggested amendments to the draft letter.**
> >
> > **Separately (though not marked-up in the attached), I would also suggest the letter be carbon copied to HE The Governor.**
> >
> > **HE The Governor has "ultimate responsibility for the integrity, probity and independence of policing in Gibraltar and the policing aspects of national security including internal security" (section 11, Police Act); and, given the discussions John had with the CM last week as well as the discussions we have had this morning, I wonder whether it is simply a more open and direct route to convey our proposed course of action to the CM and HE The Governor at the same time (particularly given that the former indicated that the latter was agreeable to the instruction).**
> >
> > **If there is any objection to this suggestion by any member, I am entirely relaxed about my suggestion being ignored as the CM is obliged to report to HE The Governor in any event pursuant to section 15(2). I certainly do not wish to prolong discussion or debate, or delay the issue of the letter. As such, if there is any objection at all, please deem the suggestion to cc. HE The Governor retracted.**

Thanks and best,

Vikram

From: Michelle Hook [mailto:michelle.hook@gpa.gi]
Sent: 15 May 2017 12:09
To: 'John Goncalves'; 'Albert Danino'; Vikram Nagrani; edgar.c.lavarello@gi.pwc.com; 'Linda and Aurelio'; 'Fidel'; 'Naomi Hassan-Weisfogel'; '(NO6) Gomez, Ernest'; 'Reyes, Stephen (GI - Gibraltar)'; Nick.Pyle@fco.gov.uk
Subject: Airfield Incident

Dear colleagues,

Please see attached reply ASAP.

Regards
Michelle

<Letter to CM - Airfield (VN amends).doc>

Kyra Macias

From: John Goncalves <[redacted]
Sent: 16 May 2017 00:12
To: Michelle Hook
Cc: Albert Danino; Vikram Nagrani; edgar.c.lavarello@gi.pwc.com; Linda and Aurelio; Fidel; Naomi Hassan-Weisfogel; (NO6) Gomez, Ernest; Reyes, Stephen (GI - Gibraltar); Nick.Pyle@fco.gov.uk
Subject: Re: Airfield Incident

Dear all,

I am grateful for your comments vis a vis the draft letter to CM, particularly Vikram's suggested amendments.

I cannot accept Vikram's suggestion that the letter be cc'd to HE for the reason given by me at this morning's meeting, viz, that the formal verbal request by CM that the GPA enquire into this matter requires that this letter be addressed to CM, uncopied.

I note the comments made by Ernest and Nick, and will amend my draft accordingly.

Please find the letter below.

Best regards,

John

Michelle, the following is the letter to CM. I'll sign it in the morning:-

RE: AIRFIELD INCIDENT

I refer to our meeting in your office on Tuesday 9th May.

Your request that the GPA (the Authority) enquire into the incident at Gibraltar Airport on 7th February 2017 was conveyed to the members of the Authority at meetings held on 11th and 15th May.

The Authority is of the view, in the first instance, that, since it has no jurisdiction to involve the MOD in an enquiry, it shall proceed to request the Commissioner of Police to provide all relevant information (pursuant to the provisions of s.19 of the Police Act) which may assist in the preparation of a report to be submitted to you (pursuant to the provisions of s.15 of the Police Act).

Once this is done, you may wish to consider the possibility of a full enquiry, commissioned by the Authority.

J. C. Goncalves MBE
Chairman

Sent from my iPad

On 15 May 2017, at 12:05, Michelle Hook <michelle.hook@gpa.gi> wrote:

Dear colleagues,

Kyra Macias

From: Fidel [redacted]
Sent: 15 May 2017 14:48
To: 'Aurelio Falero'; 'Albert Danino'
Cc: Vikram Nagrani; 'Michelle Hook'; 'John Goncalves'; edgar.c.lavarello@gi.pwc.com; 'Naomi Hassan-Weisfogel'; '(NO6) Gomez, Ernest'; 'Reyes, Stephen (GI - Gibraltar)'; Nick.Pyle@fco.gov.uk
Subject: RE: Airfield Incident

I have no objection to the letter being copied to HE.

Regards

Fidel

Fidelio Patron
[redacted]

PLEASE DON'T PRINT THIS E-MAIL UNLESS YOU REALLY NEED TO DO SO

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---

From: Aurelio Falero [redacted]
Sent: 15 May 2017 12:56
To: Albert Danino
Cc: Vikram Nagrani; Michelle Hook; John Goncalves; edgar.c.lavarello@gi.pwc.com; Fidel; Naomi Hassan-Weisfogel; (NO6) Gomez, Ernest; Reyes, Stephen (GI - Gibraltar); Nick.Pyle@fco.gov.uk
Subject: Re: Airfield Incident

I also have no objection to the letter being copied to HE.

Kind regards,

Aurelio Falero FRICS

Sent from my iPad

On 15 May 2017, at 12:52, Albert Danino [redacted] wrote:

> I have no objection in our letter to the CM being carbon copied to H E if only for the sake of brevity of communication and avoidance of further delay in this process.

BG

Sent from my iPhone

On 15 May 2017, at 12:46, Vikram Nagrani <vikram.nagrani@hassans.gi> wrote:

> Michelle (and all),
>
> Please see attached suggested amendments to the draft letter.
>
> Separately (though not marked-up in the attached), I would also suggest the letter be carbon copied to HE The Governor.
>
> HE The Governor has "ultimate responsibility for the integrity, probity and independence of policing in Gibraltar and the policing aspects of national security including internal security" (section 11, Police Act); and, given the discussions John had with the CM last week as well as the discussions we have had this morning, I wonder whether it is simply a more open and direct route to convey our proposed course of action to the CM and HE The Governor at the same time (particularly given that the former indicated that the latter was agreeable to the instruction).
>
> If there is any objection to this suggestion by any member, I am entirely relaxed about my suggestion being ignored as the CM is obliged to report to HE The Governor in any event pursuant to section 15(2). I certainly do not wish to prolong discussion or debate, or delay the issue of the letter. As such, if there is any objection at all, please deem the suggestion to cc. HE The Governor retracted.
>
> Thanks and best,
>
> Vikram
>
> ---
>
> **From:** Michelle Hook [mailto:michelle.hook@gpa.gi]
> **Sent:** 15 May 2017 12:09
> **To:** 'John Goncalves'; 'Albert Danino'; Vikram Nagrani; edgar.c.lavarello@gi.pwc.com; 'Linda and Aurelio'; 'Fidel'; 'Naomi Hassan-Weisfogel'; '(NO6) Gomez, Ernest'; 'Reyes, Stephen (GI - Gibraltar)'; Nick.Pyle@fco.gov.uk
> **Subject:** Airfield Incident
>
> Dear colleagues,
>
> Please see attached reply ASAP.
>
> Regards
> Michelle
>
> <Letter to CM - Airfield (VN amends).doc>

Please see attached reply ASAP.

Regards
Michelle

<Letter to CM - Airfield.doc>

DOC 5

Kyra Macias

From: Secretary <secretary@gpa.gi>
Sent: 05 June 2017 12:59
To: aefalero@gibtelecom.net; Albert Danino; Edgar Lavarello; Ernest Gomez; Fidel Patron; John Goncalves; [redacted] Nike Pyle; Stephen Reyes; Vikram Nagrani
Subject: Minutes
Attachments: Minutes for GPA meeting 11th May 2017.pdf

Dear Colleagues,

Attached please find the minutes of the last GPA meeting held on 11th May.

Regards

Elka

MINUTES OF MEETING OF THE GIBRALTAR POLICE AUTHORITY HELD ON FRIDAY 11th May 2017 at 09:15 a.m.

Present	Mr John Goncalves **(Ch)** Mr Albert Danino **(AD)** Mrs Naomi Hassan Weisfogel **(NHW)** Mr Stephen Reyes **(SR)** Mr Nick Pyle **(NP)** Mr Aurelio Falero	Chairman
In attendance:	Ms E. Hanglin **(Sec)**	Secretary
Apologies:	Mr Vikram Nagrani Mr Ernest Gomez Mr Edgar Lavarello Rev Fidelio Patron	

Item	Discussion and Decisions	Action
1 Item 1 –Approval of minutes of the meeting of 23rd January 2017.	The minutes of the meeting held on 23rd January 2017 were approved.	
2. Item 2 - Matters arising from the minutes of meeting of the 23rd January 2017	**Policing Plan / Annual Report** The Ch informed the meeting that he had raised the matter of changing the annual plan to a 3 year strategy with the MfJ at their meeting. At the meeting it was agreed that the matter would be taken up with the new Commissioner in the run up to his taking office. The 3 year strategy would then be implemented as from 1st April 2018. **Selection Weekend** The Ch informed the meeting that the RGP had disagreed with Fidel's concerns that one of the candidates at the selection weekend was not selected due to his age. The RGP provided evidence that this was not the case and indicated that they had taken up police men who were older in the past. **Community Engagement** The Ch informed the meeting that one of the scheduled days to distribute surveys at the piazza had been cancelled due to the bad weather. **Appointment of PC Chiara and PC Cruz** The GPA was not in agreement with the CoP overruling the recommendation of the reporting officer to extend PC Cruz period of probation. The matter was brought up with the CoP who stated that the recommendation to extend his	

	probation was due to the fact that PC Cruz was deemed to be a little too timid and not forceful enough, albeit shortly after, PC Cruz was commended by the CoP for assisting one of his officers whilst he himself was off duty in an event. **Annual report** The Ch informed the meeting that Chief Supt. Mifsud had claimed that the figures in the last annual report were not up to date and would be updated in November. The Ch informed Chief Supt. Mifsud that an update in November would not be a realistic interpretation of the RGP's yearly performance considering the Annual report is upto the end of June. Ch Supt. Mifsud agreed. **PS Ruffle** The Ch informed the meeting that he had not yet received a reply from the CoP to his letter of 21st November 2016. The Ch agreed to write to the CoP and prod him for a reply.	
3. Item – Sub-committees' Reports.	**a. Policing Plan/Annual Report** This item was discussed under matters arising. **b. Police Complaints Board.** AD informed the meeting that Mr Joe Garcia's and Mr Julio Alcantara's (PCB members) term of office expired on the 16th April this year and asked to extend it until September 2017 in order to have time to find a replacement. The Ch asked AD for a list of names to be discussed at the next meeting of the Authority. The GPA agreed that the nominees should be consulted first. Report for PCB: "Since 1st January 2017, the PCB has received three complaints which have been fully investigated. Complaint 1/17 (Abuse of Authority) was found to be unsubstantiated and not sustained. Complaint 2/17(Discreditable Behaviour) had one of its 9 strands substantiated. The complainant in this case is requesting that the GPA reviews the PCB's ruling of the other 8 strands under section 15(3) of Police Complaints Regulations 2008. Complaint 3/17 (Neglect of Duty) was found to be unsubstantiated and, therefore, not sustained. A further complaint was classified as sub-judicial and, therefore, not considered for investigation at the time it was presented to the Board. This complainant in this case may represent his complaint to the Board after its judicial process is finalised. There are currently three potential complaints under consideration for investigation; two for Discreditable Behaviour and the third for Abuse of Authority. In two of these the complainants cannot so far identify the police officers in question. The PSD is helping the PCB with its enquiries."	AD

	c. Community Engagement The Secretary informed the meeting that a total of 729 survey responses had been received. The Sec would forward the responses database to FP and SR. **d. Financial Control** SR had circulated the reports prior to the meeting. With regards to the GPA budget, there was an £800 surplus. Although the surplus was due to £1000 bill which was held back by treasury the year before in order to prevent the GPA from going over budget. The budget is in a deficit due to travel costs from HMIC which wasn't budgeted for from the outset. With regard to RGP expenditure, they have ended up with a surplus of £250,000 due to not spending as much on overtime. The Ch expressed his gratitude to SR for his service these past 9 years. **e. HR/Training/Professional Standards.** There was nothing to report on this matter. **f. Legislation/GPA Procedures** VN circulated via email an update on the Police Misconduct Regulations. "It appears that the RGP will be making proposals to the law draftsman by the end of the month. I will keep you informed of any updates received from Superintendent McGrail as soon as these are received".	Sec
5. Item 5 – Any other business.	**Airfield Incident** The Ch informed the meeting that on Tuesday 9th May, he was asked to meet with the CM. The CM requested that the GPA enquire into the Airfield incident on 7th February 2017. The Ch had informed the CM that the Authority did not have any jurisdiction to deal with third parties. The CM asked the Ch to raise the matter with the Authority and that if the decision was made for an enquiry, funds would be made available for an independent legal advisor.	

	The Ch pointed out that he had informed VN of the matter who said that the Authority is responsible for upholding the efficiency, effectiveness and probity of the RGP and on the probity side, the Authority may be able to ensure that the RGP action was appropriate and thus may have an enquiry on that before investigation. The GPA agreed that a separate meeting should be called to discuss the matter exclusively. Once the matter is discussed, the Authority can then look into the actions of the RGP. The Authority agreed to ask the CoP whether the investigation into the alleged offences by the serviceman, which had led to the incident, has finished, and if it has, request for the file on the investigation and interview the officers who were directly involved in the incident. This will allow the GPA to formulate a conclusion and pass it on to the CM and HE.	Ch
6. Item 5 – Confirmation of next meeting.	Date to be confirmed.	Sec

DOC 6

Kyra Macias

From: John Goncalves [redacted]
Sent: 15 July 2017 11:29
To: Albert Danino; Vikram Nagrani; Naomi Hassan-Weisfogel; Fidel; Stephen Reyes; Linda and Aurelio; edgar.c.lavarello@gi.pwc.com; Ernest Gomez; Nike Pyle; Secretary
Subject: airfield incident

Dear all,

The Chief Minister has requested a report on the GPA's assessment of the actions taken by the RGP before, during and after the airfield incident, preferably by early September.

The Commissioner will let me have notes from the leading players in the next few days, which I will send to you, to give you some time to consider their contents, ahead of a meeting which I would ask you to attend on Thursday 27th July at 9:30 am in our office. The purpose of the meeting is to agree the way forward on this matter.

Best regards,

John

Kyra Macias

From: Vikram Nagrani <vikram.nagrani@hassans.gi>
Sent: 17 July 2017 12:43
To: 'John Goncalves'
Cc: 'Secretary'
Subject: RE: airfield incident

John,

As discussed, I will attend the meeting next Thursday. I look forward to receiving the relevant papers before then to be able to review and consider.

Best,

Vikram

From: John Goncalves [mailto [redacted]
Sent: 15 July 2017 11:29
To: Albert Danino; Vikram Nagrani; Naomi Hassan-Weisfogel; Fidel; Stephen Reyes; Linda and Aurelio; edgar.c.lavarello@gi.pwc.com; Ernest Gomez; Nike Pyle; Secretary
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Best regards,

John

DOC 7

Kyra Macias

From: Secretary <secretary@gpa.gi>
Sent: 26 July 2017 11:02
To: Vikram Nagrani; Albert Danino [redacted] Stephen Reyes; Fidel Patron; Edgar Lavarello; [redacted]
Cc: 'John Goncalves'; John Goncalves
Subject: Airfield Incident Meeting (postponed)

Importance: High

Dear Colleagues,

Please note that tomorrow's meeting has been postponed until Wednesday 23rd August at 9:30 a.m.

Regards

Elka

DOC 8

Kyra Macias

From:	Elka Hanglin <elka.hanglin@gpa.gi>
Sent:	21 August 2017 09:46
To:	naomishw[redacted] Stephen Reyes; Vikram Nagrani
Cc:	'John Goncalves'; John Goncalves
Subject:	CONFIDENTIAL - Waterson Enquiry
Attachments:	Waterson Enquiry 2.pdf; Waterson Enquiry 3.pdf; Waterson Enquiry 4.pdf; Waterson Enquiry.pdf
Importance:	High

Dear Colleagues,

Attached please find documentation ahead of Wednesday's meeting on the Waterson enquiry.

Please note they have been scanned in 4 parts.

Regards

Elka

COP has requested a meeting between the under mentioned parties to be held at the office of Her Majesty's Attorney General for Gibraltar Michael LLAMAS QC at 1130Hrs on Wednesday 22nd February 2017 to discuss issues to prevent a repetition on of events described in this report.

HMAG Michael LLAMAs QC
Senior Counsel Rickey RHODA QC
COP Eddie YOME
CBF Mike WALLIKER
Provost Marshall (Navy) Cmndr Jack HAWKINS
Provost Marshall Legal Advisor

I have relayed this meeting request to PM COLLINS and I am waiting for a response on acceptance or otherwise from Cmdr HAWKINS and the UK legal advisor for the services police.



Ian McGrail *OTM M.Sc.*
Detective Superintendent
Crime & Protective Services Division

IN THE MATTER OF THE EXTENT OF THE ARMED FORCES ACT 2006

JOINT OPINION

Introduction

1. We are asked to advise whether the Armed Forces Act 2006 ("AFA 2006") extends to Gibraltar.

2. An officer of the Royal Air Force ("RAF") stationed in Gibraltar is suspected of possession of indecent imagery of children. The Royal Gibraltar Police ("RGP") wish to investigate. However, the British military have claimed authority to arrest and investigate under the AFA 2006 and have obstructed the investigation by the RGP.

3. For the reasons set out below, it is our opinion that the AFA 2006 clearly does not extend to Gibraltar. The British military have therefore purported to exercise powers of arrest and investigation in a jurisdiction where the law does not grant them such powers. Arrest, entry and search by the British armed forces in Gibraltar is not lawful under the law of Gibraltar.

Factual Background

4. On 4 February 2017 the RGP were informed that the British Armed Forces' Joint Provost and Security Unit ("JPSU") had arrested an officer serving with the RAF in Gibraltar on

9. Part 3 of the AFA confers powers of arrest, search and seizure in relation to service offences. For example, section 67 provides that a person who is reasonably suspected of being engaged in committing, or of having committed, a service offence may be arrested in accordance with the provisions of that section by a person subject to service law. Detailed provision is made by that Part as to the circumstances in which those powers can be exercised and the persons (ordinarily members of the armed forces of a certain rank or service police) who can exercise them.

Duration and extent of the AFA 2006

10. When it entered into force, the AFA 2006 extended to Gibraltar. Section 384(2) AFA 2006, as enacted, provided:

> "*This Act extends to -*
>
> (a) *the Isle of Man, and*
>
> (b) *the British Overseas Territories,*
>
> *subject to such modifications as Her Majesty may be Order in Council specify*".

11. Gibraltar is a British Overseas Territory: see Halsbury's Laws of England, Volume 13 (2009), paragraph 859.

12. The duration of the AFA 2006 was limited by section 382 AFA 2006, as enacted, which provided that the Act expired at the end of one year beginning with the day on which it was passed, subject to renewal by Order in Council for no more than one year from the time the Act would otherwise expire, with an overall limit to such continuation beyond the end of the year 2011.

13. This limited duration reflects the fundamental constitutional principle, traced back to the Bill of Rights in 1688, which declared:

"[t]hat the raising or keeping a standing army within the kingdom in time of peace, unless it be with the consent of Parliament, is against law".

14. Since the 1950s, legislation has been required every five years to continue in force the legislation enabling the Armed Forces to be recruited and maintained. Those Acts have provided that, in each of the years between five-yearly Acts, an Order in Council is required to continue in force that legislation: see Halsbury's Laws of England, Volume 3 (2011), paragraph 303.

15. Section 1 of the Armed Forces Act 2011 ("AFA 2011") substituted a new section 382 into the AFA 2006 by which the AFA 2006 was continued and could be continued by Order in Council until the end of 2016.

16. However, unlike the AFA 2006, the AFA 2011 did not extend its provisions to British Overseas Territories. Rather, section 33 AFA 2011 provided:

"(1) Her Majesty may by Order in Council provide for any of the provisions of this Act, except section 25, to extend to a territory mentioned in subsection (2) with or without modifications.

(2) Those territories are—

(a) any of the Channel Islands;

(b) the Isle of Man;

(c) any of the British overseas territories".

17. No such Order in Council was made and therefore the AFA 2006 did not extend to the British Overseas Territories beyond the end of 2011, by reason of that Act's expiry under its section 382 (as originally enacted).

18. Section 1 of the Armed Forces Act 2016 ("AFA 2016") substituted a new section 382 into the AFA 2006 by which the AFA 2006 was continued and could be continued by Order in Council until the end of 2021.

19. Section 21(2)(b) of the AFA 2016 provides that that Act, with the exception of certain sections, extends to "*the British overseas territories, except Gibraltar*" (emphasis added). Section 13(1)(b) of the AFA 2016 brings the AFA 2006 back into force in "*the British overseas territories except Gibraltar*". Section 13(3) of the 2016 Act amends section 384(2) of the AFA 2006 (the original version of which we cite in paragraph 10 above) to exclude Gibraltar.

20. Paragraphs 4 and 6 to 12 of the Schedule to the AFA 2016 make provision in consequence of the fact that AFA 2006 is not to extend to Gibraltar. Paragraph 4 provides that powers in certain Acts to extend amendments of AFA 2006 to jurisdictions outside the United Kingdom cannot be used in respect of Gibraltar. Paragraphs 6 to 12 amend certain references to British overseas territories in AFA 2006 to exclude Gibraltar.

21. The related Parliamentary materials confirm that the decision not to extend the AFA 2006 to Gibraltar was a deliberate choice by the legislature. For example:

(i) The Explanatory Notes in the House of Lords relating to the Bill brought forward from the House of Commons on 12 January 2016 explain in terms at paragraphs 78 to 79 and 99 that the AFA 2006 had previously expired in Gibraltar and was, under the provisions of the Bill, not to extend to Gibraltar. Similar explanation is provided in the Explanatory Notes in the House of Commons relating to the Bill as introduced there on 16 September 2015 at paragraphs 74 to 75 and 90.

(ii) The rationale for not extending the Bill to Gibraltar was explained in the House of Commons during the Committee stage of the Bill by the minister Mark Lancaster, following a question from Jim Shannon MP. The Minister explained that the 2005 Constitution gives Gibraltar wide legislative responsibilities so the Government was discussing with Gibraltar whether it would be best to provide for the 2006 Act to extend to Gibraltar or for Gibraltar to act through its own legislation: Hansard, 16 December 2015, Column 1607.

(iii) During that Committee stage, the minister recognised that the AFA 2006 had not been in force in the British Overseas Territories since 2011 and that, in order for the members of the British armed forces to have powers of arrest, entry and search in those jurisdictions, the 2006 Act would need to be extended to those jurisdictions: Hansard, 16 December 2015, Column 1607.

(iv) On the Third Reading of the Bill before the House of Commons on 11 January 2016, the minister said that the Government was still discussing with Gibraltar

whether it would be best to provide for the 2006 Act and the Bill to extend there, that those discussions were ongoing and if necessary the Government would introduce an amendment to the Bill in the House of Lords; Hansard, 11 January 2016, Column 614 to Column 615.

(v) During the Second Reading of the Bill in the House of Lords on 11 February 2016, the Minister of State, Ministry of Defence, Earl Howe, explained that the Bill provided that it was not to have effect in Gibraltar, although the Government was consulting Gibraltar on whether it would be content for the AFA 2006 to become part of its laws and that, if so, an amendment to the Bill would be made: Hansard, 11 February 2016, Column 2362 to 2363. No such amendment was brought forward before the Bill was passed.

Relevant provisions of the law of Gibraltar

22. The English Law (Application) Act states at section 3(1)(b) that the law in England set out in any Act of Parliament at Westminster applied to Gibraltar by any Order of Her Majesty's Council, or any express provision in any Act, or by necessary implication, shall be in force in Gibraltar.

23. The Criminal Procedure and Evidence Act 2011 provides for the powers and duties of the RGP and for evidence and procedure in criminal cases. It confers upon the RGP powers of arrest upon reasonable grounds of suspicion that a person has committed an offence (section 42(2)) and powers of search and seizure in prescribed circumstances (Parts 2 and 3).

Analysis

24. United Kingdom forces present in an overseas territory are subject to that territory's law in the usual way, subject to the AFA 2006 or other legislative provision which extends to those territories: Hendry and Dickson British Overseas Territories Laws (2011), page 178.

25. The AFA 2006 does not extend to Gibraltar. This is not merely a matter of omission or oversight upon the expiry of the AFA 2006 or AFA 2011. It is a choice made by Parliament when enacting the AFA 2016 as part of its important constitutional role of approving the raising or standing of an army.

26. The language of section 13(1)(b), section 13(3) and section 21(2)(b) of the AFA 2016 is clear: the provisions of the 2006 Act and the 2016 Act are to extend to the British overseas territories except Gibraltar. The Schedule to the AFA 2016 makes provision in consequence of the fact that AFA 2006 is not to extend to Gibraltar.

27. It is plain from the related Parliamentary materials that, when considering the Bill which became the AFA 2016, Parliament was aware that the AFA 2006 did not extend to Gibraltar, was aware that it was not to be so extended by the AFA 2016 and was aware that the consequence of that was that arrest, entry and search by British armed forces in Gibraltar would not be lawful under the law of Gibraltar.

28. Accordingly, the clear intention of Parliament, reflected in the clear language of section 21(2)(b) AFA 2016, is that the AFA 2006 does not extend to Gibraltar.

29. The consequence of this is that, as a matter of the law of Gibraltar, and of the law of the United Kingdom, the British armed forces do not have the power of arrest under section 67 AFA 2006 and nor do they have the powers of search and seizure granted by the AFA 2006.

30. In purporting to exercise those powers in Gibraltar, the members of the JPSU were acting in a way which was, in that jurisdiction, *ultra vires*.

31. It is correct that the AFA 2006 applies to members of the RAF at all times, wherever they are in the world, in the sense that an offence committed abroad can be an offence contrary to the 2006 Act: this is the consequence of sections 367(1) and 42(1) AFA 2006. The minister so confirmed in the House of Lords on 11 February 2016 (see paragraph 21(v) above): Hansard at Column 2362. However, that the AFA 2006 confers such a worldwide jurisdiction over relevant persons does not make it lawful under the law of Gibraltar or under the law of the United Kingdom for the United Kingdom authorities to exercise a power of arrest or investigation in Gibraltar in respect of those persons.

32. By reason of section 13(1) AFA 2016, the AFA 2006 is not in force in Gibraltar and accordingly the power of arrest contained in section 67 AFA 2006 does not apply in Gibraltar, as a matter of the law of Gibraltar and of the law of the United Kingdom. The United Kingdom military authorities have no power to arrest in Gibraltar under the AFA 2006, although of course if the suspect returned to the United Kingdom he could be arrested in the United Kingdom under section 67 AFA 2006 for an offence committed elsewhere. It should not be surprising, when Parliament has expressly decided not to apply the AFA 2006 to

Gibraltar, that the United Kingdom military authorities do not have the power under the United Kingdom Act to arrest people in Gibraltar.

33. The law of Gibraltar, in particular the Criminal Procedure and Evidence Act 2011, confers powers of arrest and investigation of crime upon the RGP. It does not confer such powers upon United Kingdom armed forces and there is no other provision in the law of Gibraltar which does. As explained above, the AFA 2006 does not extend to Gibraltar and accordingly is not in force in Gibraltar: section 13(1)(b), section 13(3) and section 21(2)(b) AFA 2016 and section 3(1)(b) English Law (Application) Act.

34. In reaching our view we have also considered the provisions of the United Kingdom Forces (Jurisdiction of Colonial Courts) Order 1965, which prevents the trial of a member of the United Kingdom armed forces for an offence against the law of another territory where certain criteria are satisfied.[2] However, not only are those criteria not present in the present case, but in any event that Order is concerned only with the question of whether the courts of Gibraltar are prevented from adjudicating upon a certain offence and does not address the issue of whether the United Kingdom military forces have jurisdiction to arrest and investigate in Gibraltar.

35. In summary:

(i) The AFA 2006 does not extend to Gibraltar.

[2] In particular, where the alleged offender is acting in the course of his duties, or where only service personnel (or dependants and civilian components of the armed forces) are involved or where the offence is against UK government property: section 3 of the Order.

(ii) The United Kingdom armed forces do not have powers of arrest and seizure under the law of Gibraltar.

(iii) In purporting to exercise those powers in Gibraltar they were acting in a manner which was unlawful under the law of Gibraltar.

(iv) The RGP have powers of arrest and seizure under the law of Gibraltar and members of the United Kingdom armed forces in Gibraltar are subject to that law and must comply with the lawful exercise by the RGP of those powers.

LORD PANNICK QC

EMILY NEILL

BLACKSTONE CHAMBERS

TEMPLE

LONDON EC4Y 9BW

28 February 2017

IN THE MATTER OF

THE EXTENT OF THE ARMED FORCES ACT 2006

JOINT OPINION

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Military 9360 58501
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8 March 2017

Dear Commissioner,

I am writing on behalf of Joint Forces Command – the organisation that commands and is responsible for the UK's permanent joint overseas bases – in respect of the ongoing investigations surrounding events on the 8th February, which unfolded in Gibraltar, in particular around Gibraltar International Airport.

There are a number of points that it seems appropriate to reflect to you. It is hoped these reflections are helpful to you on several accounts:

(1) first to acknowledge the role, advice and direction that Joint Forces Command provided to Commander British Forces Gibraltar on the legal issues impacting on the events of 8th February;

(2) secondly, to recognise and support the individuals involved and who are presently under your arrest and whose actions under your investigations were under the auspices of Joint Forces Command in the fulfilment of their duties. In doing so, it is understood these individuals' actions may have clashed with the responsibilities that your officers properly sought to fulfil; and

(3) finally, to reassure you about the seriousness with which Joint Forces Command views the allegations that have been made, the eagerness to try and satisfactorily settle – to everyone's satisfaction – the concerns with which the Royal Gibraltar Police are understandably investigating, and our genuine enthusiasm – if possible – to use these events as a platform to grow an even better understanding between our respective organisations and to build an even stronger and mutually respectful and beneficial future together.

Taking these points in turn:

Joint Forces Command regrets the events that took place in Gibraltar on the 8th February. This includes the events at Gibraltar International Airport and the dispute as to jurisdiction that led to the confusion by British Forces Gibraltar over the appropriate handling of the individual suspected of downloading indecent material whilst in the United Kingdom; and the detailed management of this particular case. It was the view of Joint Forces Command that the case was to be subject to exclusive Service Police jurisdiction – which turned out not to be correct. This was on the basis that Joint Forces Command was unaware of any potential offences that had been committed by the alleged suspect whilst in Gibraltar or of your suspicions in this respect.

It is acknowledged that in responding to your desire to explore potential illegal activities by

the suspect, Joint Forces Command and subsequently British Forces Gibraltar did not immediately recognise the jurisdictional legal primacy in this case for you to investigate, and if necessary, prosecute the individual were he to be found to have committed a similar or other offence in Gibraltar. I want to reassure you that subsequent additional advice, including at a senior legal level in the Ministry of Defence, recognises the legal primacy point in this case. Joint Forces Command now, therefore, fully understands and respects your legal primacy in this case as the law currently stands today.

We are aware that Her Majesty's Government of Gibraltar has prioritised the drafting of legislation and an MoU that will clearly spell out our respective, complementary jurisdictional roles. It would also be highly desirable for agreement to be reached between our respective agencies setting out the practical application of jurisdiction for the period between now and the enactment of such legislation.

In the course of the events that unfolded on the 8th February, it is considered very important by Joint Forces Command that you should understand that at all material times our people acted in good faith and to implement the direction and guidance provided by Joint Forces Command and Provost Marshal (Navy). They were not on a "frolic of their own" in any sense and were therefore not consciously seeking to deny your officers jurisdiction, or disrespect your officers' lawful instructions. They were acting entirely in keeping with the instructions they were receiving, albeit, with the benefit of hindsight, in a manner which did not assist in resolving matters as expeditiously as all would have preferred.

I think it is important for you to be made aware that there was a decision, as part of the Joint Forces Command application of our duty of care to our personnel, to return the suspect to the United Kingdom for the individual's own welfare. Again, this decision was based on the view that jurisdiction to deal with the offence in question remained exclusively with Forces law enforcement agencies – which turned out not to be correct. It was in pursuance of this requirement and judgement that more appropriate care would be afforded the suspect in the United Kingdom, that British Forces Gibraltar personnel were instructed to facilitate the opportunity of a military aircraft to both return the individual to the United Kingdom and to transport potentially incriminating evidence for forensic examination. I should clarify that, fundamentally, this was because the facilities at RAF Brize Norton were considered more appropriate for looking after the individual than those of British Forces Gibraltar; and, ordinarily, the capability for Service Police investigations overseas which require electronic and communications forensic analysis is held in the United Kingdom. It is in seeking to implement this approach that, unfortunately, personnel from British Forces Gibraltar had what were clearly unfortunate altercations with officers of the Royal Gibraltar Police who were acting in the lawful execution of their duties. I cannot emphasise to you how much we regret, with the benefit of hindsight and the later legal advice we have received, that we were not better able to cooperate with those of your officers in question. These altercations should not have happened and any active disagreement as to jurisdiction should, in any event, have been handled in the more dignified and usual manner for issues of this type. I must express to you in particular our genuine regret to hear accusations that British Forces Gibraltar personnel behaved disrespectfully towards officers of the Royal Gibraltar Police and that they were inconsiderate of the requirements under which your officers were seeking to undertake their lawful activities and investigations. That is not in the nature of the relationship we have long enjoyed between our organisations.

It is hoped, sincerely, that these events can be used to assist us all in a clearer understanding of the Royal Gibraltar Police's jurisdiction in respect of criminal matters and British Forces Gibraltar's application of service law; and that – looking ahead – there are considerable opportunities to enable our respective law enforcement agencies and leadership to work even more closely together. There are numerous significant opportunities to enable this: the routine business of service people in Gibraltar; the joint policing that is usually put in place for the arrival and duration of Royal Navy warships and submarines; and the ambition that we all have to draw further on various Gibraltar Parliament statutes

anticipated to be enacted later this year and which will provide a stronger and clearer platform for continued co-operation and enhanced security measures and resilience for Gibraltar.

It is hoped that this contextual information is of assistance in providing an appropriate and accurate background for many of the actions that Service Personnel took in the course of their duties in respect of the events and associated interactions that flowed from the 8th February incident.

Joint Forces Command assures you that there was not and never envisaged any intention to attempt to fetter the Royal Gibraltar Police's jurisdiction. That it appeared otherwise is deeply regretted. It is sincerely hoped that our future interactions are on a more positive basis and that we collectively work together to enhance the security of the United Kingdom and Gibraltar.

Yours sincerely,

Tony Radakin

Copy to:

External:
FCO/HE the Governor of Gibraltar
HMGoG/AG
FCO/Dir Europe
MoD/CLS Dir
MoD/DISP

Internal:
Comd JFC
DirResPol
CBF Gibraltar

ROYAL GIBRALTAR POLICE

Edward Yome QPM CPM
Commissioner of Police

17 August 2017 EY 387

To: John Goncalvez
Chairman of the Gibraltar Police Authority
25B Casemates House
Casemates Square
Gibraltar
GX11 1AA

Dear John

RE: Waterson Enquiry - Incident

Please find attached 3 documents which hopefully will put into context the investigation of RAF Sergeant Waterson and thesequence of events leading up to and including the blocking of the RAF flight on the 8th February 2017.

Document 1: Report submitted by Supt McGrailof the sequence of events as there were known at the time with a covering letter from me.

Document 2: Legal opinions commissioned by the Attorney General from Lord Pannick QC from Blackstones Chambers, Temple, London.

Document 3: Letter from Rear Admiral A J Radakin, Chief of Staff, Joint Forces Command in no uncertain terms a letter of apology and recognition of jurisdiction.

There are numerous other documents and correspondence between relevant stakeholders which can be made available should a decision be taken to progress this matter by way of a formal enquiry.

There is also material, intelligence and information which came to our notice as we conducted this investigation where senior military officials challenged the authority of constitutional posts in Gibraltar and then some off the cuff comments which were inappropriate to say the least.

My SMT and I are willing to go before the authority should you require any further information.

Kind Regards

Edward Yome QPM CPM
Commissioner of Police

Police Headquarte rs New Mole Hou se Road, Gib raltar
T elephone (350) 20048001, F ax (350) 20045615, E -mail:pacompol@royalp olice.gi

"Working Together to make Our Community safer" INVESTORS IN PEOPLE | Gold

(102)

ROYAL GIBRALTAR POLICE

Commissioner's suite
COP

Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 0035020048001 , Fax: (350) 0035020045615, E-mail: pacompol@royalgib.police.gi

RE: RAF Sergeant WATTERSON

13th February 2017

Dear Sirs

Please see attached report submitted by Superintendent McGrail in relation to RAF Sergeant WATTERSON.

This clearly was a sad disappointing day for Law Enforcement in Gibraltar and more so for relations between Gibraltar Forces Command and the RGP.

I do not wish to repeat what is already contained in this report which is quite detailed, but just to echo some of the points which I personally dealt with.

From the outset I wanted a pragmatic and sensible approach notwithstanding I had firm footing on jurisdiction and Gibraltar law. I even went as far as involving the AGs chambers at an early stage to provide legal advice by asking Ricky Rhoda to personally speak to GFC but again to no avail.

To me this was a complete disregard and lack of respect to our Attorney General.

Add insult to injury the matter deteriorated very rapidly when clearly senior MOD officers were being deceitful and evasive to the point that we had no alternative but to obtain a Chief Justice's warrant to make these officials see the gravity of the situation and see sense.

Armed with this warrant I informed the Chief of Staff and later Commander British Forces that I was being pushed against the wall to a place that I would not rather be, and as the last resort, we would now be in a position to execute this warrant on another Law Enforcement body (RNPM) something which I was very reluctant to do. I believe I showed great restraint in holding back from doing this.

A conversation with Commander Jack Hawkins (Chief of RNP- UK) then revealed and confirmed that the evidence was on the aircraft and I then instructed for this aircraft to be held back from departing. CBF then saw sense in de-escalating everything and I believe instructed for the aircraft to return to the stand and for Watterson and the evidence to be disembarked. I was then given his reassurance that the computer devices would be handed over to the RGP. After this was done I allowed for the aircraft to depart.

Even then I proposed that we should join up in taking this forward and for the RNPM officers to assist in the retrieval of evidence and to assist with the Forensics. Finally they acceded and we are now working together.

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ROYAL GIBRALTAR POLICE
Detective Superintendent Ian McGrail *OTM M.Sc.*
Crime & Protective Services

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Telephone: (350) 20048555, Fax: (350) 20050717
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OFFICIAL SENSITIVE

10th February 2017

Commissioner of Police;

Sir,

RE:- Investigation in to RAF Sgt WATTERSON

This report provides COP with the chronological sequence of events as I have them and with as much a detailed account as I know it to be regarding the above captioned matter. Enquiries are continuing to elicit further information with regards to both the investigation in to Sgt WATTERSON and to the issues that arose once the RGP took an interest in the matter. I would therefore ask you to understand that this paper may not contain all the answers to questions you may have after absorbing the contents herein. On occasions during this report I have also commented on my *prima facie* observations on matters arising, obviously from a professional local application.

In the early hours of 4th February 2017, an email was received at RGP Command & Despatch from colleagues in the GDP advising that the JPSU had the previous day (3rd Feb 2017) effected the arrest of a serviceman, Sgt WATTERSON, in Gibraltar, on suspicion that this man was in possession of indecent imagery of children. His residence at [redacted] had been searched by JPSU and computers and data storage devices had been seized. That Sgt WATTERSON had since been released from his arrest and had undergone a [redacted] which determined that he was at [redacted]. At that point no further details were available to the GDP.[1]

This information was forwarded by CAD to our Public Protection Unit for their information. Coincidentally, Det/Insp Enriles, o.i.c of the PPU, happened to be the RGP duty officer that morning and on reading the communication sought further details from GDP Sgt Hosken who unfortunately was unable to help any further as they [the GDP] had no additional information to share.

Consequently, Det/Insp Enriles contacted the JPSU Master-at-Arms Claire BELL who informed of the following; that Timothy WATTERSON moved to Gibraltar on the 7th January 2017 for a two year posting. He moved to Gibraltar with his wife and [redacted] That they had received information from their Force Intel Bureau in UK via the National Crime Agency/Leicestershire Police that an IP address in the UK had uploaded an indecent Cat B image of a prepubescent female exposing herself. This image had been uploaded during the course of June 2016 to an IP address allocated to WATTERSON at his previous posting address in Leicestershire, UK. MA BELL

[1] It is believed GDP only communicated the matter to RGP in the context of the WATTERSON's risk of self harm.

further informed that as a result of this information they had arrested him on suspicion of possession of indecent images and seized various data storage devices in the residence.[2] The authority to arrest was provided to Det/Insp Enriles as Sec 42 & 67 of the Armed Forces Offences Act 2006 UK that she claimed extended them jurisdiction in Gibraltar. No reference to Gibraltar law was made. I also understand that the authority to search WATTERSON's residence was Sections 79 & 80 Chapter 4 of JSP 830 (I believe these to be their version of our codes of practice). WATTERSON was detained by JPSU at their premises.[3]

JPSU procedures are actually based on the UK's Police and Criminal Evidence Act (PACE) so when he was processed by the services police he elected the right to free and independent legal advice – there being no such duty solicitor scheme in Gibraltar the MA explained they would have to fly out one from the UK! Due to this untidy situation the JPSU were compelled to release WATTERSON from his arrest and he was informed that he may be seen at a later date. The devices seized from the search of the residence were retained with the intention of subjecting them to forensic analysis.[4]

MA BELL further explained that post to his release from arrest WATTERSON had also been also psychiatrically assessed by MOD (Gibraltar) medical personnel and this revealed that he might be a risk to himself. Because of this development JPSU appointed him a 24/7 'chaperone' for his own safety and instructed that he was not to return to the matrimonial home.[5] In the meantime, MOD social services SSAFA would be conducting assessment of WATTERSON's [redacted] who attends [redacted] No reference was made of any intended actions with Mrs WATTERSON.

Det/Insp ENRILES expressed his concerns to MA BELL that these type of investigations required the sharing of information at far an earlier stage given the potential local implications. Neither did we have any photograph of the subject to assist us in the identification and generating awareness of him. Although provisionally housed at Devil's Tower Camp, he was still free to roam about Gibraltar as long as the chaperone remained with him. To this Det/Insp Enriles highlighted that notwithstanding the measures in place these could be deemed insufficient and may not necessarily prevent an act of self harm or an attempt on his life, or even prevent him from committing further offences. Det/Insp ENRILES added that even though WATTERSON had not been in our jurisdiction for long he had still had opportunities to interact with members of the public/children and therefore there was a need to properly risk assess him. MA BELL agreed with the Det/Insp and arranged to share WATTERSON's photograph for the purpose of creating awareness for RGP personnel.

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[2] On the facts available, the action taken by JPSU in pre-emptively arresting Watterson at such an early stage is not regarded in the RGP, or indeed by UK civilian police, as best practice and procedure.

[3] JPSU premises are not regarded in Gibraltar law as a designated police station for the detention of persons under arrest. Neither can the JPSU grant and/or impose bail conditions post to an arrest.

[4] This begs the question of whether in effect the search and seizure of the devices from the residence and their continued detention retains any legitimacy. I say so because no search warrants were issued for this process & therefore it could potentially be regarded as a tactical short circuit of proper procedures which in turn could be calculated to be an abuse of powers. i.e. Police cannot go about arresting individuals and search their properties without a warrant, then release the person from arrest and retain the exhibits found for further investigation. I may be wrong but it certainly looks a very odd and I dare say unprofessional/unethical practice, if not an illegal one.

[5] I am presuming that the power to impose these control measures is provided by military law.

I expressed dissatisfaction on how the JPSU were handling the matter and how the overall risks attached to this case were not being properly addressed. I described how the RGP operate to best practice and procedures on these type of investigations – that we had a forensic computer expert, dedicated risk managers and all the supporting infrastructure for such an investigation which evidently the MOD did not have in Gibraltar as had been proven with the inability to proceed with the interviewing of WATTERSON and provide free/independent legal advice, their inability to impose grant/impose bail conditions or even custody facilities[17]. Whilst I was assured that WATTERSON was being 'properly managed', I was not reassured that he may have already committed further offences whilst in Gibraltar. I also enquired as to why the other members of the family, i.e. the wife and 14 year son were not being regarded as potential suspects too. The focus was solely on WATTERSON and it was mentioned that they already had evidence against him of having committed an offence in the UK. This caused me to suspect that there was probably more to the case than what met the eye. PM COLLINS' response was that he was under no obligation to discuss his investigation strategies with me. In turn, this further enhanced suspicions that offences had been committed in Gibraltar as otherwise why would the JPSU seize computers and other devices if they did not believe them to contain incriminating material. All these concerns I shared with Col Green and PM COLLINS adding that I was duty bound to investigate WATTERSON locally – I could simply not leave such a serious matter walk under my nose in the jurisdiction of Gibraltar. I explained how in the past the RGP had assumed the lead and conduct of serious criminal investigations within the MOD estate ranging from serious assaults on MOD [children] dependants where the assailant was a serviceman to the sudden death of senior MOD official as only two examples. I referred to these matters simply to highlight our argument from the outset that the RGP had primacy in the jurisdiction.[18]

I conveyed my concerns to the two gentlemen that there were too many factors in terms of possible local victims, possible crimes committed here, public perception of the RGP and the legal position on jurisdiction amongst others that compelled the RGP to have a say on the matter. I did, however, state that there was still room to work the matter together to oblige to both agency's needs. Col GREEN asked me what actions the RGP would take if indeed incriminating material were found in any of the devices seized to which I explained that there would certainly be an intervention on our part to probe in to the matter further. This was totally mis-construed by Col GREEN who argued that going in *"guns blazing"* would compromise the UK investigation. This argument fazed me as Col GREEN was being critical of a potential action the RGP could consider, but not necessarily carry out, when in fact the JPSU's intervention had already precisely done what he was advocating should <u>not</u> be done.

The proposal to run a parallel investigation was flatly discarded by PM COLLINS who said he had top cover from his superiors in the UK that he was on solid footing to retain conduct of the investigation. He argued that my proposal would put in jeopardy the integrity of the exhibits seized as the examinations he would subject them to comply with Home Office Standards and as the RGP was not a Home Office force there would be a conflict. He added that there was nothing in military protocols that obliged him to consider what I was proposing. In what was a clear moment of forceful assertion of his stance, PM COLLINS told Col GREEN that the solution to the matter was to put WATTERSON on a plane to the UK at the earliest opportunity. I interjected stating that if he was contemplating this course of action it would certainly bring about a

[17] These are issues that should have been given the important consideration they merit before effecting the arrest.
[18] Fourth occasion that the RGP requested to take over the conduct of the investigation.

considerable and detrimental strain to MOD/RGP/GOG relations. I equally mentioned that the RGP could actually be driven to impose executive action over the JPSU but that I stressed my intentions were not to go down that route but rather to resolve the issues by discussion amongst us senior law enforcement officials in order to prevent any further escalation which could jeopardise relations. I informed them both that I would be reporting up COP on this meeting.

Sir, I can assure you I tried every possible influencing and negotiating tactic I could think of to resolve the impasse but unfortunately they did not shift from their stance. Before concluding the meeting at 1800Hrs I asked PM COLLINS to refer the arguments I had posed on behalf of the RGP to his superiors in UK so that at least they could have a balanced and more objective understanding of the whole matter. I asked PM COLLINS to do this as a matter of urgency and before any decision was taken to fly out the exhibits and/or WATTERSON. He assured me he would do so. We agreed that he would revert to me once his superiors had taken a view.

I then returned to NMH where I briefed COP on the unfortunate non-progress and on the concerns I had that PM COLLINS and Col GREEN were contemplating actions which would totally bypass the RGP's position on the matter. That evening/night I am aware COP tried unsuccessfully on numerous times to contact CBF who was out of the jurisdiction.

Not having heard from PM COLLINS on what his superiors in UK had to say, at 2130Hrs I phoned him but there was no response. At 2134Hrs I phoned him again and I received no response. Whilst waiting hopefully for a return call from him I conducted some research on the applicability of the UK's Armed Forces Act 2006 in Gibraltar and to my understanding found that it was not applicable.[19] I also looked up service police protocols and what they had to say on the matter and I was not surprised to read that there were provisions stating that local legislation might impose similar jurisdictional arrangements to those PM COLLINS was claiming.[20] Then again, irrespective of whether the Armed Forces Act 2006 is not applicable to Gibraltar and whether service police protocols have seemingly not been abided by, I would like to restate the fact that the RGP has primacy over the matter as enshrined in Gibraltar law.

The matter was now becoming time critical as the plans by MOD (Gibraltar) to fly out the exhibits and possibly WATTERSON were proceeding. I was encountering problems in contacting PM COLLINS and so was COP in reaching CBF. We agreed to a number of actions as follows;

- RGP SB to check passenger manifests to see if WATTERSON was booked on a flight departing Gibraltar Airport.
- Cover crucial areas to prevent WATTERSON from being whisked away.
- Make the necessary arrangements to retrieve exhibits seized from the residence if the JPSU did not change their position. This would be done by applying for a search warrant at the courts.

At 2212Hrs PM COLLINGS returned my call and I shared with him my understanding and interpretation of both the Armed Forces Act 2006/2016 and the service police protocols. Unfortunately again my discussions and arguments as referred to in the preceding paragraph practically fell in deaf ears.[21] He reaffirmed that his position had not changed and that his plans to

[19] Sec13 of the AFA2016 when read with the AFA2006 actually excludes Gibraltar in its application. This requires official legal interpretation.
[20] Joint Service Publications 830 Chapter 3 Jurisdiction & time limits, Part 3 sec62(c)
[21] Fifth occasion that JPSU is asked to hand over the investigation.

fly out the exhibits the next day were still on track. I asked him whether it was also intended to fly WATTERSON out and he replied by saying he was not at liberty to discuss his investigation strategies with me. I told him that CoP was trying to contact CBF and had left numerous messages for his calls to be returned but that he had not been successful in reaching him. I further told him that it would only be proper that he stalled his plans until CoP and CBF spoke. In response to this PM COLLINS told me that CoP should call Col GREEN, but that in any case he was not answerable to the Command in Gibraltar but rather to the Provost Marshall (Navy) in the UK. I asked him whether he had received any response from his superiors on what had agreed at the meeting in The Tower. He said that his superiors would probably get back to him the following morning but that at present his intentions remained unchanged.

Still concerned that JPSU would continue to entirely disregard our claims we discussed our tactical options and COP sanctioned that we should proceed to retrieve the exhibits. The intention was to meet up with PM COLLINS once again and ask for the exhibits to be handed over and to only resort to executing the warrant if there was non-compliance on his part. COP also sanctioned any other action falling out from any non-compliance after the warrant had been executed.[22] Consequently, Det/Insp ENRILES and Det/Con HOWARD left NMH to apply for a warrant from the Stipendiary Magistrate to search the JPSU premises at Gun Wharf.

At 2243Hrs I again contacted PM COLLINS asking him to meet with me. The plan was to offer the opportunity once again for the exhibits to be handed over and then, if this was not forthcoming, to proceed and execute the warrant. However, he said that he would not meet at such late hour. We arranged that I would go down to his offices early the next day.

At 2330Hrs, I was informed by Det/Insp ENRILES that the Stipendiary Magistrate had not granted the warrant on the basis that he felt there was insufficient suspicion to believe that the computer devices seized from WATTERSON contained incriminating data of offences committed in Gibraltar.[23] This clearly caused for a re-think of our options which included making a fresh application for the warrant in the morning. I then stood down the team for the night.

At 0845Hrs on Wednesday 8th February 2017, I attended the Office of Prosecutions and Criminal Litigation to seek legal support to make the MOD accept that the RGP had primacy in the matter. Mr RHODA's view was that we should try and avoid taking executive action against the JPSU and pursue discussions to reach a pragmatic solution, however, if these failed he agreed and accepted that we were then left with no option other than to either succumb to the JPSU's posture or indeed proceed with a fresh application for a search warrant and seize the property in question. Understandably so, Mr RHODA was puzzled as to why the situation had reached the levels it had within the MOD. During the course of the morning Senior Counsel RHODA spoke with (i) the Acting Governor, Mr Nick PYLE and (ii) Col GREEN in yet a further attempt to convince them to accede to the RGP's requests. He also tried contacting the Command Secretary but he was not contactable.

I am aware that both Mr PYLE and Col GREEN asked Mr RHODA to request the RGP to defer any intended action as both were seeking legal advice from the FCO and UK military respectively as to

[22] Possible offences of obstructing police to be considered and executive action followed through in this regard.
[23] Though respecting the Magistrates views for the non-granting of the search warrant, we believed he may have erred in his decision.

whether the RGP had primacy in the matter. When Mr RHODA relayed this to me I expressed resentment as essentially we were being asked to be subservient to UK legal advice when the local position was already well affirmed. I then returned to NMH and reported these latest discussions to COP who then gave me instructions to re-apply for another search warrant to the Chief Justice. I proceeded to do this and having spoken to the Registrar of the Supreme the matter was listed for 1500Hrs that same day.

Throughout the day I sought updates on possible intelligence relating to WATTERSON flying out and SB confirmed that he was not booked on any commercial flight departing from Gibraltar Airport. I still asked SB to remain vigilant at the airport in the event that JPSU staff were spotted attempting to take out the exhibits on a commercial flight.

At around 1400Hrs, it was brought to my notice that a military aircraft had just landed at RAF Gibraltar on an approximate 1-hour stop over. This straight away caused me to suspect that the exhibits and/or WATTERSON could be put on this RAF plane taken out of Gibraltar. I relayed this to COP who asked for contingencies to be put in place to prevent the aircraft from departing if our suspicions were confirmed.[24] You can appreciate how time critical the situation was getting with on the one hand the application for the warrant being heard at 1500Hrs which coincided with the possible departure of the military flight.

I also learnt that the Acting Governor would see both CoP and Col GREEN at The Convent after a separate [firearms capability] meeting which was being attended by both. The matter would again be discussed. It was COP's intentions at this meeting to seek assurances from Col GREEN that the aircraft would be carrying the exhibits. As it happened Col GREEN did not attend the said meeting.

At approximately 1430Hrs Insp PERERA was instructed to position himself in a marked police car by the south barrier opposite GDP post and await instructions. His position was by the very start of the pedestrian and bicycle lane next to the police post. At about 1514Hrs and unable to discuss the matter with Col GREEN and Acting Governor you directed that we contact PM COLLINS to seek the assurances. Det Ch/Insp Tunbridge tried contacting him to no avail as his mobile phone was switched off. We contacted the JPSU offices requesting to speak to PM COLLINS and RAF Sgt O'Malley stated that he was at a meeting with Col GREEN and was unavailable. We explained how imperative it was that we spoke to PM COLLINS as this was in relation to the on-going WATTERSON matter. Sgt O'Malley undertook to contact PM COLLINS for us.

At approximately 1520Hrs, at the Supreme Court, the Chief Justice, heard my application for the warrant to search for the property seized from WATTERSON's residence by the JPSU. Det/Insp ENRILES, Senior Counsel RHODA and Crown Counsel ZAMMIT supported my application. I took to the witness stand and under oath relayed my information and reasonable suspicions and how time critical the situation was, explaining that we also suspected the property we were looking for could well be on board a military aircraft that was about to depart. Det/Insp ENRILES also had to take the stand as the CJ wanted to know on what basis the Stipendiary had declined the granting of the warrant the previous day. At the end of the application, the CJ granted me the warrant but not before underscoring that it was not a good day for law enforcement when one agency had to

[24] Police powers to stop and search Sec 6(1)(b) of the Criminal Procedure and Evidence Act 2011 & Sec260 of the Crimes Act 2011

take executive action against another law enforcement agency in this fashion. I had to concur with the CJ on this.

As I left the Supreme Court at 1540Hrs, I learnt that the military aircraft was starting it engines but was still at its stand - the barriers to the stop traffic across the airfield were down. I also learnt that the GDP officer at the south barrier had been instructed to request Inspector PERERA to move away from his position as his presence interfered with air movements. The GDP officer was informed that we had an operation on-going and we were exercising our duties in the said operation. Insp PERERA referred the GDP officer to contact his superiors. Supt ULLGER also received information from Air Traffic Control that all flights would be diverted because of our presence, including commercial flights.

Throughout this time Det Ch/Insp TUNBRIDGE was continuously trying to raise PM COLLINS to no avail. Sgt O'Malley also confirmed that he had not been able to contact PM COLLINS either. Sgt O'Malley was asked whether he could confirm if the exhibits in question had been transported on to the military aircraft that was shortly scheduled to depart to which he stated that he was not in a position to respond to that question but acknowledged the importance of the request. Our suspicions that the exhibits were on board the aircraft were growing by the second.

At the airfield, GDP were being instructed by ATC to insist that Insp PERERA moved from his position or alternatively, if he was not going to move, to hand over the keys to the patrol car as otherwise the military aircraft would not be able to take off. They were informed again that there was a police operation in place and he would not move from his position or indeed hand over the keys to the patrol car. Insp PERERA noted the arrival at the location of Stn Cmdr Liz HUTCHINSON.

At approximately 1545Hrs I arrived at JPSU HQ in Gun Wharf together with other officers. I identified myself to staff and asked for PM COLLINS. Sgt O'Malley informed us that PM COLLINS was not there but that he would call him and tell him we were at his office. A few minutes later, Sgt O'Malley told me that PM COLLINS was on his way to the office to meet us.

At about 1551Hrs, the military aircraft was seen to slowly move from its stand towards the boundary of the RAF apron. Simultaneous to this Insp PERERA noted a MOD sweeper vehicle yellow in colour driven by a civilian driver known to be either Jacqueline BARBAN or Alicia MUSCAT, drive towards the RGP patrol car and manoeuvre to block the patrol car which at the time was static. This caused Insp PERERA to circumvent the MOD vehicle so that the RGP vehicle was not blocked in. Insp PERERA then slowly moved up the cycle lane northbound to the middle of the runway. The RGP had it blue lights on. Seconds later Inspector PERERA moved further northwards and stopped the patrol car by the north barrier.

At approximately 1555Hrs a GDP dog section patrol car driven by GDP PC Diani with RAF Stn Cmdr Liz HUTCHINSON in the front passenger seat drove up to Insp PERERA's position. Stn Cmdr HUTCHINSON told Insp PERERA that she knew what the RGP was doing and that she was "fed up of these silly games", adding that we were preventing a military aircraft from taking off and also endangering the said aircraft. Insp PERERA retorted that if the military aircraft remained by the apron where it currently was, no one would be endangered adding that if she knew what the police operation was about she should understand that we were exercising our duties in respect of this operation. Insp PERERA who at the time was on speaker phone with Ch Insp FINLAYSON and

Supt ULLGER passed on his phone to Stn Cmdr HUTCHINSON as Supt ULLGER wanted to speak with her.

Supt ULLGER informed Stn Cmdr HUTCHINSON that there was an on going police investigation whereby it was strongly suspected that there were items on the aircraft which were linked to the investigation and that we wanted to retrieve them. She was also told that we were desperately trying to contact Col GREEN but had been unable to locate him. Supt ULLGER asked her to please check the manifest to establish whether such items (computers and mobile phones) were on board. She agreed to revert to Supt ULLGER once she had checked the manifest.

At 1559Hrs Stn Cmdr HUTCHINSON called Supt ULLGER and stated that she had the manifest before her and that there was no computer equipment or phones logged in it. She was told that it was suspected that also on-board the aircraft was the serviceman subject of the investigation together with the exhibits appertaining to the case. She was informed that we had a warrant issued by the Chief Justice to retrieve these items which were in the possession of JPSU and that if she had any information she should be disclosing this to him. She was warned of the possible consequences of not co-operating with the requests. To this she stated that she would get back to Supt ULLGER. By responding as she did she was clearly revealing that she was withholding information. However, her word was taken at face value given the responsible post she holds and so the RGP patrol car with Insp PERERA was stood down and moved away from the airfield. Shortly after the aircraft returned to its stand within the apron.

At around 1615Hrs, whilst awaiting the arrival of PM COLLINS at the JPSU HQ at Gun Wharf I was asked by Sgt O'MALLEY to speak to Cmdr Jack Hawkins, PM COLLIN's line manager in the UK. The whole issue of whose jurisdiction over the matter was discussed with each of us arguing our respective positions. Cmdr Hawkins could not understand why we were taking such an interest in this case when the original offence had been disclosed in the UK. I repeated the RGP's position in the same way as it had been promulgated to PM COLLINS and Col GREEN. I also explained that in the absence of the JPSU co-operating with the RGP we had had to resort to securing a warrant from the Supreme Court of Gibraltar to retrieve the exhibits. Unsatisfied with what I saying Cmdr HAWKINS said he wanted to speak to the Chief Justice or a more senior police officer than me. PM COLLINS arrived at JPSU HQ at approximately 1625Hrs (40 minutes after I had arrived at the JPSU premises) whilst I was on the phone to his line manager.

PM COLLINS did not make himself available to me and I exercised great restraint in not asserting my authority under the circumstances and execute the warrant. Believe it or not I was still hopeful that PM COLLINS or his superiors would see sense and appreciate the levels this had reached. It was not to be and when I eventually was able to speak to PM COLLINS I expressed how unprofessional he had been in shunning me in the way he had. I accepted that this was an awkward for situation both of us but we had to be professional and resolve it without further conflict. I informed him that I would rather not execute the warrant and that we could still work the matter out favourably for both. PM COLLINS continued in his rigid way that he was at no liberty to discuss the matter with me. He kept receiving phone calls which he took in private. During one of these breaks in our conversation, I received reliable information that it was very likely that both the exhibits and WATTERSON were in fact on board the aircraft. This I relayed to my colleagues dealing with the airport side of the operation.

At 1629Hrs Supt ULLGER again called up Stn Cmdr HUTCHINSON asking for any update to their last conversation. She insisted that she could not see anything in the manifest to suggest computers were on board. Supt ULLGER told her to stop being selective with words as she perfectly knew what he was on about i.e. that we were seeking out property/exhibits relating to the WATTERSON investigation. She was warned yet again to which she nervously replied that she would call Supt ULLGER back.

At 1650Hrs Supt ULLGER again called Stn Cmdr HUTCHINSON and this time told her we had information that someone had disembarked from the aircraft with items. She was asked to confirm this and she replied that no-one or any cargo had been come off the aircraft. Supt ULLGER expressed his deep dissatisfaction at the misleading responses she was providing, informing her that RGP officers with eyeball on the aircraft had seen this happen. She again stated that she would revert to the Supt. She was reminded about the existence of the warrant and the fact that she could potentially be obstructing police in the execution of our duties. By this stage and by the tone of her voice Supt ULLGER made out that Stn Cmdr was clearly nervous and somewhat confused.

At 1659Hrs, Supt ULLGER called Stn Cmdr HUTCHINSON and told her that the traffic barriers had been down for an inordinate amount of time causing major disruption on all our roads. There was also a potential for public disorder amongst thousands of disgruntled pedestrians and motorists who had been held up for over two and a half hours. He requested that traffic was allowed to circulate forthwith. She stated that pedestrians would be released immediately but when pressed to release vehicular traffic too she said she was working on it.

A RGP patrol car was again despatched to the airfield. Insp PAYAS who was in this patrol car positioned it in the same spot as Insp PERERA had initially positioned himself. He was again approached by a GDP officer who asked him to move the patrol car out of from the airfield or hand over the keys. This was denied on the same basis as earlier. The yellow MOD road sweeper again drove towards the RGP patrol car to block its position and causing Insp PAYAS to evade this manoeuvre. The driver of the sweeper vehicle, Ms MUSCAT was spoken to and advised to desist in her actions as she was rendering herself liable to arrest for obstructing police. She obliged and moved her works vehicle to the area of the western hangar.

At this juncture COP informed me that on conversations with Cmdr Hawkins the latter had pleaded to COP to allow the aircraft to depart as the evidence was required in the UK to pursue the investigation against WATTERSON. This then uncovered the truth which confirmed that the evidence and WATTERSON were on the flight although the three senior MOD officials were saying different, clearly to deceive us.

Around this time, I enquired from PM COLLINS whether the exhibits we wanted to seize were in the building and he replied in the negative. I went to on to inform him that I practically knewthat both WATTERSON and the exhibits were on board the aircraft and that we would proceed to retrieve them. He made no remark to this but I noted he suddenly became very pale and uneasy. I became concerned that he had become unwell but he reassured me he was ok. He took one further private call and after that call his behaviour completely changed. He mellowed to suggest that we should explore the running of a parallel investigation and that he would be making available the exhibits for the RGP to examine. I informed him that this course of action was the

one I had suggested initially but had not met with his approval. I added that all the conflict and tensions experienced during the past few days could have been well averted.

The warrant issued by the Chief Justice was not executed in the end. At approximately 1745Hrs I was notified by COP that he had received assurances from the CBF that the exhibits would be handed over to the RGP in due course. Consequently, I returned to NMH where we held a de-brief and I arranged for an investigation team to liaise with JPSU to proceed with the investigation. The RGP vehicle positioned by the south barrier had also been recalled to NMH at 1745Hrs.

Final observations.

You will no doubt have grasped how the escalation of tension was not down to lack of will or desire on our part to resolve the issues in a 'grown up' manner. In fact, as alluded to throughout the chronology of events, we made numerous requests for the handing over of the conduct of the [local] investigation. Sadly, we were taken to the limits only to finally achieve what we are perfectly entitled to. I take the following most salient moments as key to how the matter escalated to the levels they did with I dare say a clear devious intent on the part of the senior military officials we were dealing with;

- The poor judgement by JPSU of not sharing with the Gibraltar authorities the fact that they had a potential sex offender(s) in the jurisdiction and where it was reasonably suspected that offences may have been committed locally.
- The lack of supporting legal/tactical/logistical infrastructure for the JPSU to conduct enquiries in a territory where they claim to have jurisdiction and which in essence can lead to abuses of process.
- The lack of clarity on the part MOD's part as to who has primacy in Gibraltar.
- The local interpretation that the Armed Forces Act 2006 & 2016 are not applicable in Gibraltar; meaning the actions carried out JPSU could be construed as *ultra vires*.
- The intent by Col GREEN and PM COLLINS to disregard the authority of the RGP to assert jurisdiction over the local aspect of the investigation and undermine this authority further by making arrangements to sneak out the exhibits and WATTERSON when it was perfectly clear that the RGP had a [big] claim on the matter.
- The seemingly devious conspiracy employed by Col GREEN, PM COLLINS and Stn Cmdr HUTCHINSON to ensure the RGP could not discharge their lawful duty and create a situation to exert pressure on the RGP to relent in our efforts. This includes (i) the instructions issued to civilian MOD drivers to block the path of two RGP patrol cars who were legitimately engaged in a police operation, (ii) the misleading and obstructive attitude displayed by the Stn Cmdr regarding the exhibits and person on board the aircraft (iii) the unhelpful attitudes and stances displayed by Col GREEN and PM COLLINS throughout, (iv) the traffic chaos and potential public order situation created due to the very long time the traffic barriers were closed when there was no need for this.

Finally, you may have a different view to me on this but, Sir, I submit to you that there has certainly been a serious breach of trust and confidence by, in my view, the three senior military officials referred to in this report. It will be awkward to say the least to re-establish this trust and confidence wherever and whenever our respective roles coincide in the future.

Kyra Macias

From: Elka Hanglin <elka.hanglin@gpa.gi>
Sent: 22 August 2017 09:16
To: 'Naomi Hassan-Weisfogel'; 'John Goncalves'
Cc: 'Stephen Reyes'; Vikram Nagrani; 'John Goncalves'
Subject: RE: CONFIDENTIAL - Waterson Enquiry
Attachments: Waterson Enquiry - 3,4,5.pdf; Waterson Enquiry - p.2.pdf

Dear Colleagues,

Please find missing pages attached.

Regards

Elka

From: Naomi Hassan-Weisfogel [mailto:naomishw@hotmail.com]
Sent: 21 August 2017 17:43
To: John Goncalves [redacted]
Cc: Elka Hanglin <elka.hanglin@gpa.gi>; Stephen Reyes <sreyes@deloitte.gi>; vikram.nagrani@hassans.gi; John Goncalves [redacted]
Subject: Re: CONFIDENTIAL - Waterson Enquiry

Yes John I agree -
Pages 3, four, and five are missing from the report submitted by Supt McGrail.

And Page two is missing from The document submitted , reflecting the legal opinion by Lord Pannick.

I've no doubt Elka will send these to us via email tomorrow.

See you all on Wednesday

Naomi

On 21 Aug 2017, at 16:42, John Goncalves [redacted] wrote:

Elka

And page 2 of the second attachment?

Sent from my iPad

On 21 Aug 2017, at 09:42, Elka Hanglin <elka.hanglin@gpa.gi> wrote:

> Dear Colleagues,
>
> Attached please find documentation ahead of Wednesday's meeting on the Waterson enquiry.
>
> Please note they have been scanned in 4 parts.
>
> Regards

Elka

<Waterson Enquiry 2.pdf>

<Waterson Enquiry 3.pdf>

<Waterson Enquiry 4.pdf>

<Waterson Enquiry.pdf>

Virus-free. www.avg.com

As is common and proper practice in these types of cases, on Monday 6th February, Det/Insp ENRILES, began to make arrangements to hold a strategy meeting under recognised child protection procedures with Gibraltar Social Services and SSAFA to discuss Master WATTERSON and for the purpose of information sharing. Equally, considerations were given to convene a Multi-Agency Public Protection Arrangement (MAPPA) strategy meeting to discuss Sgt WATTERSON as a person of interest in the context of sex offender management.[6] Very surprisingly, at 1730Hrs on 6/2/17 the position of SSAFA was that no strategy meeting would take place involving Gibraltar authorities and more worryingly still, that Gibraltar Social Services should not have been in the know of the matter.

On Tuesday 7th February 2017, I contacted Provost Marshall (PM) Chris COLLINS and very briefly expressed my concerns on how the matter was being handled. I arranged for him to meet with Det Ch/Insp TUNBRIDGE and Det/Insp ENRILES @1100Hrs at Bleak House.[7] This meeting was attended by PM COLLINS and MA BELL. They provided a brief along the lines of what MA BELL had provided to Det/INSP ENRILES at the weekend.

Det Ch/Insp TUNBRIDGE then raised the following question; why had the RGP not been notified by JPSU of this on-going investigation? PM COLLINS stated that the suspect was a serving member of the military stationed in Gibraltar and residing in MOD property. That the offence being investigated occurred in the UK and under the Armed Forces Act 2006 they had the legal powers to assert jurisdiction in the manner they had whereas the RGP did not have any locus. Det Ch/Insp TUNBRIDGE accepted that the RGP had no authority over a UK investigation. However, he explained that it was erroneous to suggest that the RGP had no jurisdiction on crimes that may have occurred or were occurring *anywhere* in Gibraltar including within the MOD estate. It was precisely this that we were concerned about. If the JPSU suspected the computer devices seized from WATTERSON's house were believed to contain indecent imagery of children, then even if these may have been uploaded in the UK, they were now in the jurisdiction of Gibraltar and in breach of Gibraltar Law. We further expressed concern that WATTERSON (or anyone else in the household) may have accessed or been involved with other child sexual exploitation data or activity whilst here in Gibraltar in addition to whatever he was suspected to have accessed in the UK. PM COLLINS did not accept this position and maintained that the JPSU had full jurisdiction of the case.

Det Ch/Insp TUNBRIDGE respectfully asked PM COLLINS to hand over the exhibits seized from the residence to the RGP but the latter re-asserted his position that he would retain them under the authority vested by the Armed Forces Act 2006 UK which he claimed extended to Gibraltar. PM COLLINS further revealed that if when examined in the UK, the devices contained any incriminating evidence, they would fly WATTERSON back to the UK to answer to any potential charges.[8] This meeting ended at 1200Hrs and Det Ch/Insp TUNBRIDGE advised PM COLLINS that he would be referring the matter up to RGP senior management and that further contact would be made with him later.

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[6] Dee me to be best practice in these types of criminal investi gations.

[7] Ironically DCI Tunbridge and DI ENRILES were attending a training session arran gedby Social Services on child protection and safeguarding which was also being attended by SSAFA. The main theme running through this training session being that of multi agency partnership work and information sharing.

[8] This was the first occasion the RGP requested to take over the [local] angle of the investigation from JPSU on the back of there being reasonable suspicions that offences may have been committed in Gibraltar.

I was then briefed by Det Ch/Insp TUNBRIDGE on JPSU's entrenched posture. Whilst I was 100% absolutely certain of the RGP's position on this[9], I asked Det Ch/Insp TUNBRIDGE to consult with the Office of Criminal Prosecutions and Litigation to seek their views on what the position was when two authorities were claiming jurisdiction over a matter. Consequently, senior counsel Ricky RHODA CBE QC confirmed the RGP's position also expressing concern that if the RGP were claiming jurisdiction on the basis of there possibly being offences disclosed locally, that a [coerced] repatriation[10] of WATTERSON by the MOD to potentially face charges in the UK could be deemed to be unlawful - that the proper way to do this was via established judicial processes i.e. European Arrest Warrant.

At 1254Hrs Det Ch/Insp Tunbridge and Det/Insp ENRILES again held a telecon with PM COLLINS explaining that our legal services had confirmed the RGP's position regarding primacy and the fact that local legislation would be applicable over the Armed Forces Act 2006.[11] PM COLLINS reiterated his position *viz* the UK's Armed Forces Act 2006 adding his legal advisors had confirmed otherwise and therefore he would not be relinquishing conduct of the investigation, basically disregarding local legislation and our standpoint.[12] It was also disclosed by PM COLLINS that arrangements were already made to despatch the exhibits to the UK on Wednesday 8th February 2017 to submit them to forensic analysis. Det Ch/Insp TUNBRIDGE told PM COLLINS that he would contact him soonest.

Det Ch/Insp TUNBRIDGE reverted to me with this and we discussed what in my view was a very reasonable proposal which would satisfy the RGP and JPSU needs. In essence this was that in recognising there was a UK investigation taking place and in order not to affect this, we could conduct a parallel examination of the devices seized. This could be achieved by the RGP Hi-Tech Crime Unit officer mirroring the devices seized so that he could examine these 'working copies' to determine if there was evidence to support the reasonable grounds we had that there were offences disclosed in Gibraltar. That the JPSU could also have these devices examined in the UK in furtherance of their own investigation of offences taking place there. We run this proposal past Mr RHODA with a view of de-conflicting the matter in the most pragmatic way, though it must be said that there was no obligation on our part to be as flexible as we were being with the suggested proposal – in other words, we could assert full jurisdiction on the basis that we suspected an offence had been committed in our jurisdiction. However, the proposal recognised and respected the JPSU's interest with regards to the UK investigation. It was being done in the spirit of good relations and mutual respect between agencies.

At 1508Hrs Det Ch/Insp TUNBRIDGE and Det/Insp ENRILES held yet another telecon with PM COLLINS and discussed the said proposal explaining how we acknowledged his investigation and how our suggestion would not hinder it. The reasons why we reasonably suspected that offences had been committed in Gibraltar were re-stated. Unfortunately, PM COLLINS refused this course

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[9] Police Act 2006 Part IV s.28 & s.29 Constitution & Employment of the Force. There shall continue to be established in Gibraltar a Police Force, to be known as the Royal Gibraltar Police. The Force shall be employed *in and throughout* Gibraltar for the maintenance of law and order & the prevention and detection of crime amongst other objectives.

[10] A back door extradition?

[11] The UK protocol between the Director of Public Prosecutions & Director of Service Prosecutions & MOD para 2.1 states *.....where there are overlapping civilian and service jurisdictions and authorities within England & Wales, the civilian authorities have precedence.....*

[12] Second occasion that our request to assume the lead in the local investigation had been denied by JPSU.

of action stating it could damage the integrity of the exhibits and would be detrimental to the investigation.[13] PM COLLINS' alternative was for the forensic analysis to be conducted in the UK and if anything relating to Gibraltar were uncovered he would take legal advice on whether to release this evidence to the RGP.[14] Det Ch/Insp TUNBRIDGE further attempted to make PM COLLINS comprehend that the question of jurisdiction was very clear and technically, if need be, the RGP could retrieve the said devices from JPSU's possession, something which we did not want to do hence our continued discussions. PM COLLINS' position did not change[15].

I was kept briefed by Det Ch/Insp Tunbridge of the lack of progress and in turn I briefed COP where we agreed that the position of the RGP was as we were articulating it from the outset. We agreed that I would seek a meeting with Chief of Staff Col GREEN to pursue the matter with a view of arriving at the most pragmatic solution to the status quo.

Consequently, at 1630Hrs I attended The Tower at HM Naval Base and met with Col Green. PM COLLINS was also present. I projected the RGP's desire to de-conflict the matter in the most conventional of ways to be expected from both MOD and us. There were valuable lessons to be learnt from the whole experience and no doubt we should, as senior personnel, provide the clarity necessary so that our respective practitioners were able to work in the best possible [technical] environment. I referred to the need for better understanding of each other's roles and responsibilities and how establishing a set protocols or memorandum of understanding would perhaps address the dilemmas we were facing. We were nonetheless still left with un-doing the issues on this particular case. I highlighted how in investigations of sex offences and particularly where there were children involved the best practice dictated sharing of information.[16] In this case it was seemingly lacking as many of the key stake holders who could bring information to be shared were not even aware of JPSU's investigation.

I went over all the circumstances already related to earlier in the report. I then explained that the situation was seemingly escalating to the extent where the MOD's entrenched position did not fare well for relations with the RGP and by default the wider community in Gibraltar. I was taken quite aback when PM COLLINS stated that his mandate was very clear; that he had to look after the interests of the troops and the UK investigation. I acknowledged what he was saying but I explained that actually my mandate extended further than his – that when it came to criminal investigations, I had to look after the interests of Gibraltar PLC and that included everyone in the territory inclusive of MOD personnel.

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[13] Clearly an expression of mistrust towards the RGP displayed by PM COLLINS who also constantly stated that he had to ensure the investigation abided to UK standards implying the RGP's standards were not sufficient. The Home Office standards were constantly repeated by him in this context.

[14] This suggestion basically undermines the RGP's ability to conduct enquiries of potential offences occurring in the jurisdiction. Having the appropriate resources to conduct the examinations locally, it would be wholly unethical that we would have to rely on another agency to search for the evidence and then live in the hope that it could be released back to the RGP.

[15] The third occasion JPSU were refusing to oblige to our requests.

[16] The Bichard Inquiry report into the Soham murders identified one of the main shortfalls to be failure to share information effectively. This inquiry revolutionized processes for the UK police and social services and which the RGP have stringently put in place. Similary, the Rotherham Child Sexual Exploitation scandal - an independent inquiry by Prof Alexis Jay published in Aug 2014 condemned the failure of the authorities in Rotherham to act effectively against the abuse or even, in some cases, to acknowledge that it was taking place.

suspicion of possession of indecent imagery of children. His residence had been searched and computers and storage devices seized. The authority to arrest was claimed under sections 42 and 67 of the AFA 2006.

5. The RGP wish to investigate and have made numerous requests to the British military to enable them to do so, which were refused. This culminated, on 8 February 2017, in the RGP obtaining a warrant to search for the seized property.

6. When the RGP went to the military base to execute the warrant they found the suspect and the seized material were on a military plane about to be flown to the United Kingdom. The RGP prevented the aircraft from taking off.

Legal Background

Offences and powers created by the AFA 2006

7. By virtue of section 367(1) AFA 2006 every member of the regular forces is subject to service law at all times. The regular forces include the RAF; see section 374 AFA 2006.

8. Part 1 of the AFA 2006 provides for a number of service offences.[1] Amongst those offences is that prescribed by section 42(1) AFA 2006, which provides that a person subject to service law commits an offence if he does any act that -- (a) is punishable by the law of England and Wales; or (b) if done in England or Wales, would be so punishable.

[1] Defined by section 50(2)(a) AFA 2006 as including any offence under Part 1.

Kyra Macias

From: Vikram Nagrani <vikram.nagrani@hassans.gi>
Sent: 22 August 2017 10:54
To: 'Elka Hanglin'; 'Naomi Hassan-Weisfogel'; 'John Goncalves'
Cc: 'Stephen Reyes'; 'John Goncalves'
Subject: RE: CONFIDENTIAL - Waterson Enquiry

Hi Elka,

The letter dated 13th February 2017 appears to be missing a signature page. Can you please send that across as well if you have it?

Thanks,

Vikram

From: Elka Hanglin [mailto:elka.hanglin@gpa.gi]
Sent: 22 August 2017 09:16
To: 'Naomi Hassan-Weisfogel'; 'John Goncalves'
Cc: 'Stephen Reyes'; Vikram Nagrani; 'John Goncalves'
Subject: RE: CONFIDENTIAL - Waterson Enquiry

Dear Colleagues,

Please find missing pages attached.

Regards

Elka

From: Naomi Hassan-Weisfogel [mailto:naomishw@hotmail.com]
Sent: 21 August 2017 17:43
To: John Goncalves [redacted]
Cc: Elka Hanglin <elka.hanglin@gpa.gi>; Stephen Reyes <sreyes@deloitte.gi>; vikram.nagrani@hassans.gi; John Goncalves <[redacted]
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See you all on Wednesday

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And page 2 of the second attachment?

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From: Elka Hanglin <elka.hanglin@gpa.gi>
Sent: 22 August 2017 11:31
To: Vikram Nagrani; 'Naomi Hassan-Weisfogel'; 'John Goncalves'
Cc: 'Stephen Reyes'; 'John Goncalves'
Subject: RE: CONFIDENTIAL - Waterson Enquiry
Attachments: missing page.pdf

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Gibraltar

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Fax: +350 200 71966
Web: http://www.gibraltarlaw.com

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for any purpose nor disclose its contents to any other person. It is also recommended that any attachments in this message be scanned prior to opening, as we cannot accept liability for any loss or damage caused by software viruses.

As I said it was a disappointing day and not one to gloat about but clearly we must not find ourselves in such circumstances ever again why I have proposed a meeting on the 22nd February of all stakeholders. The Attorney General has welcomed such a meeting which he will chair at his offices at No.6.

I strongly believe that MOD senior officials did not behave appropriately and had they used some practical common sense, we could have averted this situation. More worryingly they showed lack of respect by challenging the Attorney General and the Commissioner of Police both Constitutional posts.

I am willing to discuss this further should you so wish.

Kind regards

Eddie



Edward Yome CPM
Commissioner of Police
Past President European Association of Airports & Seaports Police (EAASP)
Vice President IAASP
Calpe House Trustee

INVESTORS IN PEOPLE | Gold

Kyra Macias

From: Reyes, Stephen (GI - Gibraltar) <sreyes@deloitte.gi>
Sent: 22 August 2017 11:45
To: Elka Hanglin; Vikram Nagrani; 'Naomi Hassan-Weisfogel'; 'John Goncalves'
Cc: 'John Goncalves'
Subject: RE: CONFIDENTIAL - Waterson Enquiry
Attachments: Waterson Enquiry Cover Letter.pdf; Waterson Enquiry Document 1.pdf; Waterson Enquiry document 2.pdf; Waterson Enquiry Document 3.pdf

Dear All,

I have rearranged the documents so that they are self-contained and complete, see attached.

Stephen

From: Elka Hanglin [mailto:elka.hanglin@gpa.gi]
Sent: 22 August 2017 11:29
To: 'Vikram Nagrani' <vikram.nagrani@hassans.gi>; 'Naomi Hassan-Weisfogel' [redacted] John Goncalves' [redacted]
Cc: Reyes, Stephen (GI - Gibraltar) <sreyes@deloitte.gi>; 'John Goncalves' [redacted]
Subject: RE: CONFIDENTIAL - Waterson Enquiry

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ROYAL GIBRALTAR POLICE

Edward Yome QPM CPM
Commissioner of Police

17 August 2017 EY 387

To: John Goncalvez
Chairman of the Gibraltar Police Authority
25B Casemates House
Casemates Square
Gibraltar
GX11 1AA

Dear John

RE: Wat erson Enquiry - Incident

Please find attached 3 documents which hopefully will put into context the investigation of RAF Sergeant Waterson and the sequence of events leading up to and including the blocking of the RAF flight on the 8th February 2017.

Document 1: Report submitted by Supt McGrail of the sequence of events as there were known at the time with a covering letter from me.

Document 2: Legal opinions commissioned by the Attorney General from Lord Pannick QC from Blackstones Chambers, Temple, London.

Document 3: Letter from Rear Admiral A J Radakin, Chief of Staff, Joint Forces Command in no uncertain terms a letter of apology and recognition of jurisdiction.

There are numerous other documents and correspondence between relevant stakeholders which can be made available should a decision be taken to progress this matter by way of a formal enquiry.

There is also material, intelligence and information which came to our notice as we conducted this investigation where senior military officials challenged the authority of constitutional posts in Gibraltar and then some off the cuff comments which were inappropriate to say the least.

My SMT and I are willing to go before the authority should you require any further information.

Kind Regards

Edward Yome QPM CPM
Commissioner of Police

Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 20048001, Fax: (350) 20045615, E-mail:pacompol@royalgib.police.gi

" Working together to make our Community safer INVESTORS IN PEOPLE | Gold

(102)

ROYAL GIBRALTAR POLICE

Commissioner's suite
COP

Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 0035020048001 , Fax: (350) 0035020045615, E-mail: pacompol@royalgib.police.gi

RE: RAF Sergeant WATTERSON

13th February 2017

Dear Sirs

Please see attached report submitted by Superintendent McGrail in relation to RAF Sergeant WATTERSON.

This clearly was a sad disappointing day for Law Enforcement in Gibraltar and more so for relations between Gibraltar Forces Command and the RGP.

I do not wish to repeat what is already contained in this report which is quite detailed, but just to echo some of the points which I personally dealt with.

From the outset I wanted a pragmatic and sensible approach notwithstanding I had firm footing on jurisdiction and Gibraltar law. I even went as far as involving the AGs chambers at an early stage to provide legal advice by asking Ricky Rhoda to personally speak to GFC but again to no avail.

To me this was a complete disregard and lack of respect to our Attorney General.

Add insult to injury the matter deteriorated very rapidly when clearly senior MOD officers were being deceitful and evasive to the point that we had no alternative but to obtain a Chief Justice's warrant to make these officials see the gravity of the situation and see sense.

Armed with this warrant I informed the Chief of Staff and later Commander British Forces that I was being pushed against the wall to a place that I would not rather be, and as the last resort, we would now be in a position to execute this warrant on another Law Enforcement body (RNPM) something which I was very reluctant to do. I believe I showed great restraint in holding back from doing this.

A conversation with Commander Jack Hawkins (Chief of RNP- UK) then revealed and confirmed that the evidence was on the aircraft and I then instructed for this aircraft to be held back from departing. CBF then saw sense in de-escalating everything and I believe instructed for the aircraft to return to the stand and for Watterson and the evidence to be disembarked. I was then given his reassurance that the computer devices would be handed over to the RGP. After this was done I allowed for the aircraft to depart.

Even then I proposed that we should join up in taking this forward and for the RNPM officers to assist in the retrieval of evidence and to assist with the Forensics. Finally they acceded and we are now working together.

INVESTORS IN PEOPLE | Gold

As I said it was a disappointing day and not one to gloat about but clearly we must not find ourselves in such circumstances ever again why I have proposed a meeting on the 22nd February of all stakeholders. The Attorney General has welcomed such a meeting which he will chair at his offices at No.6.

I strongly believe that MOD senior officials did not behave appropriately and had they used some practical common sense, we could have averted this situation. More worryingly they showed lack of respect by challenging the Attorney General and the Commissioner of Police both Constitutional posts.

I am willing to discuss this further should you so wish.

Kind regards

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INVESTORS IN PEOPLE | Gold

ROYAL GIBRALTAR POLICE
Detective Superintendent Ian McGrail OTM M.Sc.
Crime & Protective Services

Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 20048055, Fax: (350) 20050717
E-mail: ian.mcgrail@royalgib.police.gi

OFFICIAL SENSITIVE

10th February 2017

Commissioner of Police;

Sir,

RE:- Investigation in to RAF Sgt WATTERSON

This report provides COP with the chronological sequence of events as I have them and with as much a detailed account as I know it to be regarding the above captioned matter. Enquiries are continuing to elicit further information with regards to both the investigation in to Sgt WATTERSON and to the issues that arose once the RGP took an interest in the matter. I would therefore ask you to understand that this paper may not contain all the answers to questions you may have after absorbing the contents herein. On occasions during this report I have also commented on my *prima facie* observations on matters arising, obviously from a professional local application.

In the early hours of 4th February 2017, an email was received at RGP Command & Despatch from colleagues in the GDP advising that the JPSU had the previous day (3rd Feb 2017) effected the arrest of a serviceman, Sgt WATTERSON, in Gibraltar, on suspicion that this man was in possession of indecent imagery of children. His residence at [redacted] had been searched by JPSU and computers and data storage devices had been seized. That Sgt WATTERSON had since been released from his arrest and had undergone a [redacted] which determined that he was at [redacted]. At that point no further details were available to the GDP.[1]

This information was forwarded by CAD to our Public Protection Unit for their information. Coincidentally, Det/Insp Enriles, o.i.c of the PPU, happened to be the RGP duty officer that morning and on reading the communication sought further details from GDP Sgt Hosken who unfortunately was unable to help any further as they [the GDP] had no additional information to share.

Consequently, Det/Insp Enriles contacted the JPSU Master-at-Arms Claire BELL who informed of the following; that Timothy WATTERSON moved to Gibraltar on the 7th January 2017 for a two year posting. He moved to Gibraltar with his wife and [redacted] That they had received information from their Force Intel Bureau in UK via the National Crime Agency/Leicestershire Police that an IP address in the UK had uploaded an indecent Cat B image of a prepubescent female exposing herself. This image had been uploaded during the course of June 2016 to an IP address allocated to WATTERSON at his previous posting address in Leicestershire, UK. MA BELL

[1] It is believed GDP only communicated the matter to RGP in the context of the WATTERSON's risk of self harm.

further informed that as a result of this information they had arrested him on suspicion of possession of indecent images and seized various data storage devices in the residence.[2] The authority to arrest was provided to Det/Insp Enriles as Sec 42 & 67 of the Armed Forces Offences Act 2006 UK that she claimed extended them jurisdiction in Gibraltar. No reference to Gibraltar law was made. I also understand that the authority to search WATTERSON's residence was Sections 79 & 80 Chapter 4 of JSP 830 (I believe these to be their version of our codes of practice). WATTERSON was detained by JPSU at their premises.[3]

JPSU procedures are actually based on the UK's Police and Criminal Evidence Act (PACE) so when he was processed by the services police he elected the right to free and independent legal advice – there being no such duty solicitor scheme in Gibraltar the MA explained they would have to fly out one from the UK! Due to this untidy situation the JPSU were compelled to release WATTERSON from his arrest and he was informed that he may be seen at a later date. The devices seized from the search of the residence were retained with the intention of subjecting them to forensic analysis.[4]

MA BELL further explained that post to his release from arrest WATTERSON had also been also psychiatrically assessed by MOD (Gibraltar) medical personnel and this revealed that he might be a risk to himself. Because of this development JPSU appointed him a 24/7 'chaperone' for his own safety and instructed that he was not to return to the matrimonial home.[5] In the meantime, MOD social services SSAFA would be conducting assessment of WATTERSON's [redacted] who attends [redacted] No reference was made of any intended actions with Mrs WATTERSON.

Det/Insp ENRILES expressed his concerns to MA BELL that these type of investigations required the sharing of information at far an earlier stage given the potential local implications. Neither did we have any photograph of the subject to assist us in the identification and generating awareness of him. Although provisionally housed at Devil's Tower Camp, he was still free to roam about Gibraltar as long as the chaperone remained with him. To this Det/Insp Enriles highlighted that notwithstanding the measures in place these could be deemed insufficient and may not necessarily prevent an act of self harm or an attempt on his life, or even prevent him from committing further offences. Det/Insp ENRILES added that even though WATTERSON had not been in our jurisdiction for long he had still had opportunities to interact with members of the public/children and therefore there was a need to properly risk assess him. MA BELL agreed with the Det/Insp and arranged to share WATTERSON's photograph for the purpose of creating awareness for RGP personnel.

---

[2] On the facts available, the action taken by JPSU in pre-emptively arresting Watterson at such an early stage is not regarded in the RGP, or indeed by UK civilian police, as best practice and procedure.

[3] JPSU premises are not regarded in Gibraltar law as a designated police station for the detention of persons under arrest. Neither can the JPSU grant and/or impose bail conditions post to an arrest.

[4] This begs the question of whether in effect the search and seizure of the devices from the residence and their continued detention retains any legitimacy. I say so because no search warrants were issued for this process & therefore it could potentially be regarded as a tactical short circuit of proper procedures which in turn could be calculated to be an abuse of powers. i.e. Police cannot go about arresting individuals and search their properties without a warrant, then release the person from arrest and retain the exhibits found for further investigation. I may be wrong but it certainly looks a very odd and I dare say unprofessional/unethical practice, if not an illegal one.

[5] I am presuming that the power to impose these control measures is provided by military law.

As is common and proper practice in these types of cases, on Monday 6th February, Det/Insp ENRILES, began to make arrangements to hold a strategy meeting under recognised child protection procedures with Gibraltar Social Services and SSAFA to discuss Master WATTERSON and for the purpose of information sharing. Equally, considerations were given to convene a Multi-Agency Public Protection Arrangement (MAPPA) strategy meeting to discuss Sgt WATTERSON as a person of interest in the context of sex offender management.[6] Very surprisingly, at 1730Hrs on 6/2/17 the position of SSAFA was that no strategy meeting would take place involving Gibraltar authorities and more worryingly still, that Gibraltar Social Services should not have been in the know of the matter.

On Tuesday 7th February 2017, I contacted Provost Marshall (PM) Chris COLLINS and very briefly expressed my concerns on how the matter was being handled. I arranged for him to meet with Det Ch/Insp TUNBRIDGE and Det/Insp ENRILES @1100Hrs at Bleak House.[7] This meeting was attended by PM COLLINS and MA BELL. They provided a brief along the lines of what MA BELL had provided to Det/INSP ENRILES at the weekend.

Det Ch/Insp TUNBRIDGE then raised the following question; why had the RGP not been notified by JPSU of this on-going investigation? PM COLLINS stated that the suspect was a serving member of the military stationed in Gibraltar and residing in MOD property. That the offence being investigated occurred in the UK and under the Armed Forces Act 2006 they had the legal powers to assert jurisdiction in the manner they had whereas the RGP did not have any locus. Det Ch/Insp TUNBRIDGE accepted that the RGP had no authority over a UK investigation. However, he explained that it was erroneous to suggest that the RGP had no jurisdiction on crimes that may have occurred or were occurring *anywhere* in Gibraltar including within the MOD estate. It was precisely this that we were concerned about. If the JPSU suspected the computer devices seized from WATTERSON's house were believed to contain indecent imagery of children, then even if these may have been uploaded in the UK, they were now in the jurisdiction of Gibraltar and in breach of Gibraltar Law. We further expressed concern that WATTERSON (or anyone else in the household) may have accessed or been involved with other child sexual exploitation data or activity whilst here in Gibraltar in addition to whatever he was suspected to have accessed in the UK. PM COLLINS did not accept this position and maintained that the JPSU had full jurisdiction of the case.

Det Ch/Insp TUNBRIDGE respectfully asked PM COLLINS to hand over the exhibits seized from the residence to the RGP but the latter re-asserted his position that he would retain them under the authority vested by the Armed Forces Act 2006 UK which he claimed extended to Gibraltar. PM COLLINS further revealed that if when examined in the UK, the devices contained any incriminating evidence, they would fly WATTERSON back to the UK to answer to any potential charges.[8] This meeting ended at 1200Hrs and Det Ch/Insp TUNBRIDGE advised PM COLLINS that he would be referring the matter up to RGP senior management and that further contact would be made with him later.

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[6] Deemed to be best practice in these types of criminal investigations.

[7] Ironically DCI Tunbridge and DI ENRILES were attending a training session arranged by Social Services on child protection and safeguardin gwhich was also being attended by SSAFA. The main theme running through this training session being that of multi agency partnership work and information sharing.

[8] This was the first occasion the RGP requested to take over the [local] angle of the investigation from JPSU on the back of there being reasonable suspicions that offences may have been committed in Gibraltar.

I was then briefed by Det Ch/Insp TUNBRIDGE on JPSU's entrenched posture. Whilst I was 100% absolutely certain of the RGP's position on this[9], I asked Det Ch/Insp TUNBRIDGE to consult with the Office of Criminal Prosecutions and Litigation to seek their views on what the position was when two authorities were claiming jurisdiction over a matter. Consequently, senior counsel Ricky RHODA CBE QC confirmed the RGP's position also expressing concern that if the RGP were claiming jurisdiction on the basis of there possibly being offences disclosed locally, that a [coerced] repatriation[10] of WATTERSON by the MOD to potentially face charges in the UK could be deemed to be unlawful - that the proper way to do this was via established judicial processes i.e. European Arrest Warrant.

At 1254Hrs Det Ch/Insp Tunbridge and Det/Insp ENRILES again held a telecon with PM COLLINS explaining that our legal services had confirmed the RGP's position regarding primacy and the fact that local legislation would be applicable over the Armed Forces Act 2006.[11] PM COLLINS reiterated his position *viz* the UK's Armed Forces Act 2006 adding his legal advisors had confirmed otherwise and therefore he would not be relinquishing conduct of the investigation, basically disregarding local legislation and our standpoint.[12] It was also disclosed by PM COLLINS that arrangements were already made to despatch the exhibits to the UK on Wednesday 8th February 2017 to submit them to forensic analysis. Det Ch/Insp TUNBRIDGE told PM COLLINS that he would contact him soonest.

Det Ch/Insp TUNBRIDGE reverted to me with this and we discussed what in my view was a very reasonable proposal which would satisfy the RGP and JPSU needs. In essence this was that in recognising there was a UK investigation taking place and in order not to affect this, we could conduct a parallel examination of the devices seized. This could be achieved by the RGP Hi-Tech Crime Unit officer mirroring the devices seized so that he could examine these 'working copies' to determine if there was evidence to support the reasonable grounds we had that there were offences disclosed in Gibraltar. That the JPSU could also have these devices examined in the UK in furtherance of their own investigation of offences taking place there. We run this proposal past Mr RHODA with a view of de-conflicting the matter in the most pragmatic way, though it must be said that there was no obligation on our part to be as flexible as we were being with the suggested proposal – in other words, we could assert full jurisdiction on the basis that we suspected an offence had been committed in our jurisdiction. However, the proposal recognised and respected the JPSU's interest with regards to the UK investigation. It was being done in the spirit of good relations and mutual respect between agencies.

At 1508Hrs Det Ch/Insp TUNBRIDGE and Det/Insp ENRILES held yet another telecon with PM COLLINS and discussed the said proposal explaining how we acknowledged his investigation and how our suggestion would not hinder it. The reasons why we reasonably suspected that offences had been committed in Gibraltar were re-stated. Unfortunately, PM COLLINS refused this course

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[9] Police Act 2006 Part IV s.28 & s.29 Constitution & Employment of the Force. There shall continue to be established in Gibraltar a Police Force, to be known as the Royal Gibraltar Police. The Force shall be employed *in and throughout* Gibraltar for the maintenance of law and order & the prevention and detection of crime amongst other objectives.

[10] A back door extradition?

[11] The UK protocol between the Director of Public Prosecutions & Director of Service Prosecutions & MOD para 2.1 states *.....where there are overlapping civilian and service jurisdictions and authorities within England & Wales, the civilian authorities have precedence.....*

[12] Second occasion that our request to assume the lead in the local investigation had been denied by JPSU.

of action stating it could damage the integrity of the exhibits and would be detrimental to the investigation.[13] PM COLLINS' alternative was for the forensic analysis to be conducted in the UK and if anything relating to Gibraltar were uncovered he would take legal advice on whether to release this evidence to the RGP.[14] Det Ch/Insp TUNBRIDGE further attempted to make PM COLLINS comprehend that the question of jurisdiction was very clear and technically, if need be, the RGP could retrieve the said devices from JPSU's possession, something which we did not want to do hence our continued discussions. PM COLLINS' position did not change[15].

I was kept briefed by Det Ch/Insp Tunbridge of the lack of progress and in turn I briefed COP where we agreed that the position of the RGP was as we were articulating it from the outset. We agreed that I would seek a meeting with Chief of Staff Col GREEN to pursue the matter with a view of arriving at the most pragmatic solution to the status quo.

Consequently, at 1630Hrs I attended The Tower at HM Naval Base and met with Col Green. PM COLLINS was also present. I projected the RGP's desire to de-conflict the matter in the most conventional of ways to be expected from both MOD and us. There were valuable lessons to be learnt from the whole experience and no doubt we should, as senior personnel, provide the clarity necessary so that our respective practitioners were able to work in the best possible [technical] environment. I referred to the need for better understanding of each other's roles and responsibilities and how establishing a set protocols or memorandum of understanding would perhaps address the dilemmas we were facing. We were nonetheless still left with un-doing the issues on this particular case. I highlighted how in investigations of sex offences and particularly where there were children involved the best practice dictated sharing of information.[16] In this case it was seemingly lacking as many of the key stake holders who could bring information to be shared were not even aware of JPSU's investigation.

I went over all the circumstances already related to earlier in the report. I then explained that the situation was seemingly escalating to the extent where the MOD's entrenched position did not fare well for relations with the RGP and by default the wider community in Gibraltar. I was taken quite aback when PM COLLINS stated that his mandate was very clear; that he had to look after the interests of the troops and the UK investigation. I acknowledged what he was saying but I explained that actually my mandate extended further than his – that when it came to criminal investigations, I had to look after the interests of Gibraltar PLC and that included everyone in the territory inclusive of MOD personnel.

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[13] Clearly an expression of mistrust towards the RGP displayed by PM COLLINS who also constantly stated that he had to ensure the investigation abided to UK standards implying the RGP's standards were not sufficient. The Home Office standards were constantly repeated by him in this context.

[14] This suggestion basically undermines the RGP's ability to conduct enquiries of potential offences occurring in the jurisdiction. Having the appropriate resources to conduct the examinations locally, it would be wholly unethical that we would have to rely on another agency to search for the evidence and then live in the hope that it could be released back to the RGP.

[15] The third occasion JPSU were refusing to oblige to our requests.

[16] The Bichard Inquiry report into the Soham murders identified one of the main shortfalls to be failure to share information effectively. This inquiry revolutionized processes for the UK police and social services and which the RGP have stringently put in place. Similary, the Rotherham Child Sexual Exploitation scandal - an independent inquiry by Prof Alexis Jay published in Aug 2014 condemned the failure of the authorities in Rotherham to act effectively against the abuse or even, in some cases, to acknowledge that it was taking place.

I expressed dissatisfaction on how the JPSU were handling the matter and how the overall risks attached to this case were not being properly addressed. I described how the RGP operate to best practice and procedures on these type of investigations – that we had a forensic computer expert, dedicated risk managers and all the supporting infrastructure for such an investigation which evidently the MOD did not have in Gibraltar as had been proven with the inability to proceed with the interviewing of WATTERSON and provide free/independent legal advice, their inability to impose grant/impose bail conditions or even custody facilities[17]. Whilst I was assured that WATTERSON was being 'properly managed', I was not reassured that he may have already committed further offences whilst in Gibraltar. I also enquired as to why the other members of the family, i.e. the wife and 14 year son were not being regarded as potential suspects too. The focus was solely on WATTERSON and it was mentioned that they already had evidence against him of having committed an offence in the UK. This caused me to suspect that there was probably more to the case than what met the eye. PM COLLINS' response was that he was under no obligation to discuss his investigation strategies with me. In turn, this further enhanced suspicions that offences had been committed in Gibraltar as otherwise why would the JPSU seize computers and other devices if they did not believe them to contain incriminating material. All these concerns I shared with Col Green and PM COLLINS adding that I was duty bound to investigate WATTERSON locally – I could simply not leave such a serious matter walk under my nose in the jurisdiction of Gibraltar. I explained how in the past the RGP had assumed the lead and conduct of serious criminal investigations within the MOD estate ranging from serious assaults on MOD [children] dependants where the assailant was a serviceman to the sudden death of senior MOD official as only two examples. I referred to these matters simply to highlight our argument from the outset that the RGP had primacy in the jurisdiction.[18]

I conveyed my concerns to the two gentlemen that there were too many factors in terms of possible local victims, possible crimes committed here, public perception of the RGP and the legal position on jurisdiction amongst others that compelled the RGP to have a say on the matter. I did, however, state that there was still room to work the matter together to oblige to both agency's needs. Col GREEN asked me what actions the RGP would take if indeed incriminating material were found in any of the devices seized to which I explained that there would certainly be an intervention on our part to probe in to the matter further. This was totally mis-construed by Col GREEN who argued that going in *"guns blazing"* would compromise the UK investigation. This argument fazed me as Col GREEN was being critical of a potential action the RGP could consider, but not necessarily carry out, when in fact the JPSU's intervention had already precisely done what he was advocating should not be done.

The proposal to run a parallel investigation was flatly discarded by PM COLLINS who said he had top cover from his superiors in the UK that he was on solid footing to retain conduct of the investigation. He argued that my proposal would put in jeopardy the integrity of the exhibits seized as the examinations he would subject them to comply with Home Office Standards and as the RGP was not a Home Office force there would be a conflict. He added that there was nothing in military protocols that obliged him to consider what I was proposing. In what was a clear moment of forceful assertion of his stance, PM COLLINS told Col GREEN that the solution to the matter was to put WATTERSON on a plane to the UK at the earliest opportunity. I interjected stating that if he was contemplating this course of action it would certainly bring about a

[17] These are issues that should have been given the important consideration they merit before effecting the arrest.
[18] Fourth occasion that the RGP requested to take over the conduct of the investigation.

considerable and detrimental strain to MOD/RGP/GOG relations. I equally mentioned that the RGP could actually be driven to impose executive action over the JPSU but that I stressed my intentions were not to go down that route but rather to resolve the issues by discussion amongst us senior law enforcement officials in order to prevent any further escalation which could jeopardise relations. I informed them both that I would be reporting up COP on this meeting.

Sir, I can assure you I tried every possible influencing and negotiating tactic I could think of to resolve the impasse but unfortunately they did not shift from their stance. Before concluding the meeting at 1800Hrs I asked PM COLLINS to refer the arguments I had posed on behalf of the RGP to his superiors in UK so that at least they could have a balanced and more objective understanding of the whole matter. I asked PM COLLINS to do this as a matter of urgency and before any decision was taken to fly out the exhibits and/or WATTERSON. He assured me he would do so. We agreed that he would revert to me once his superiors had taken a view.

I then returned to NMH where I briefed COP on the unfortunate non-progress and on the concerns I had that PM COLLINS and Col GREEN were contemplating actions which would totally bypass the RGP's position on the matter. That evening/night I am aware COP tried unsuccessfully on numerous times to contact CBF who was out of the jurisdiction.

Not having heard from PM COLLINS on what his superiors in UK had to say, at 2130Hrs I phoned him but there was no response. At 2134Hrs I phoned him again and I received no response. Whilst waiting hopefully for a return call from him I conducted some research on the applicability of the UK's Armed Forces Act 2006 in Gibraltar and to my understanding found that it was not applicable.[19] I also looked up service police protocols and what they had to say on the matter and I was not surprised to read that there were provisions stating that local legislation might impose similar jurisdictional arrangements to those PM COLLINS was claiming.[20] Then again, irrespective of whether the Armed Forces Act 2006 is not applicable to Gibraltar and whether service police protocols have seemingly not been abided by, I would like to restate the fact that the RGP has primacy over the matter as enshrined in Gibraltar law.

The matter was now becoming time critical as the plans by MOD (Gibraltar) to fly out the exhibits and possibly WATTERSON were proceeding. I was encountering problems in contacting PM COLLINS and so was COP in reaching CBF. We agreed to a number of actions as follows;

- RGP SB to check passenger manifests to see if WATTERSON was booked on a flight departing Gibraltar Airport.
- Cover crucial areas to prevent WATTERSON from being whisked away.
- Make the necessary arrangements to retrieve exhibits seized from the residence if the JPSU did not change their position. This would be done by applying for a search warrant at the courts.

At 2212Hrs PM COLLINGS returned my call and I shared with him my understanding and interpretation of both the Armed Forces Act 2006/2016 and the service police protocols. Unfortunately again my discussions and arguments as referred to in the preceding paragraph practically fell in deaf ears.[21] He reaffirmed that his position had not changed and that his plans to

[19] Sec13 of the AFA2016 when read with the AFA2006 actually excludes Gibraltar in its application. This requires official legal interpretation.
[20] Joint Service Publications 830 Chapter 3 Jurisdiction & time limits, Part 3 sec62(c)
[21] Fifth occasion that JPSU is asked to hand over the investigation.

fly out the exhibits the next day were still on track. I asked him whether it was also intended to fly WATTERSON out and he replied by saying he was not at liberty to discuss his investigation strategies with me. I told him that CoP was trying to contact CBF and had left numerous messages for his calls to be returned but that he had not been successful in reaching him. I further told him that it would only be proper that he stalled his plans until CoP and CBF spoke. In response to this PM COLLINS told me that CoP should call Col GREEN, but that in any case he was not answerable to the Command in Gibraltar but rather to the Provost Marshall (Navy) in the UK. I asked him whether he had received any response from his superiors on what had agreed at the meeting in The Tower. He said that his superiors would probably get back to him the following morning but that at present his intentions remained unchanged.

Still concerned that JPSU would continue to entirely disregard our claims we discussed our tactical options and COP sanctioned that we should proceed to retrieve the exhibits. The intention was to meet up with PM COLLINS once again and ask for the exhibits to be handed over and to only resort to executing the warrant if there was non-compliance on his part. COP also sanctioned any other action falling out from any non-compliance after the warrant had been executed.[22] Consequently, Det/Insp ENRILES and Det/Con HOWARD left NMH to apply for a warrant from the Stipendiary Magistrate to search the JPSU premises at Gun Wharf.

At 2243Hrs I again contacted PM COLLINS asking him to meet with me. The plan was to offer the opportunity once again for the exhibits to be handed over and then, if this was not forthcoming, to proceed and execute the warrant. However, he said that he would not meet at such late hour. We arranged that I would go down to his offices early the next day.

At 2330Hrs, I was informed by Det/Insp ENRILES that the Stipendiary Magistrate had not granted the warrant on the basis that he felt there was insufficient suspicion to believe that the computer devices seized from WATTERSON contained incriminating data of offences committed in Gibraltar.[23] This clearly caused for a re-think of our options which included making a fresh application for the warrant in the morning. I then stood down the team for the night.

At 0845Hrs on Wednesday 8th February 2017, I attended the Office of Prosecutions and Criminal Litigation to seek legal support to make the MOD accept that the RGP had primacy in the matter. Mr RHODA's view was that we should try and avoid taking executive action against the JPSU and pursue discussions to reach a pragmatic solution, however, if these failed he agreed and accepted that we were then left with no option other than to either succumb to the JPSU's posture or indeed proceed with a fresh application for a search warrant and seize the property in question. Understandably so, Mr RHODA was puzzled as to why the situation had reached the levels it had within the MOD. During the course of the morning Senior Counsel RHODA spoke with (i) the Acting Governor, Mr Nick PYLE and (ii) Col GREEN in yet a further attempt to convince them to accede to the RGP's requests. He also tried contacting the Command Secretary but he was not contactable.

I am aware that both Mr PYLE and Col GREEN asked Mr RHODA to request the RGP to defer any intended action as both were seeking legal advice from the FCO and UK military respectively as to

[22] Possible offences of obstructing police to be considered and executive action followed through in this regard.
[23] Though respecting the Magistrates views for the non-granting of the search warrant, we believed he may have erred in his decision.

take executive action against another law enforcement agency in this fashion. I had to concur with the CJ on this.

As I left the Supreme Court at 1540Hrs, I learnt that the military aircraft was starting it engines but was still at its stand - the barriers to the stop traffic across the airfield were down. I also learnt that the GDP officer at the south barrier had been instructed to request Inspector PERERA to move away from his position as his presence interfered with air movements. The GDP officer was informed that we had an operation on-going and we were exercising our duties in the said operation. Insp PERERA referred the GDP officer to contact his superiors. Supt ULLGER also received information from Air Traffic Control that all flights would be diverted because of our presence, including commercial flights.

Throughout this time Det Ch/Insp TUNBRIDGE was continuously trying to raise PM COLLINS to no avail. Sgt O'Malley also confirmed that he had not been able to contact PM COLLINS either. Sgt O'Malley was asked whether he could confirm if the exhibits in question had been transported on to the military aircraft that was shortly scheduled to depart to which he stated that he was not in a position to respond to that question but acknowledged the importance of the request. Our suspicions that the exhibits were on board the aircraft were growing by the second.

At the airfield, GDP were being instructed by ATC to insist that Insp PERERA moved from his position or alternatively, if he was not going to move, to hand over the keys to the patrol car as otherwise the military aircraft would not be able to take off. They were informed again that there was a police operation in place and he would not move from his position or indeed hand over the keys to the patrol car. Insp PERERA noted the arrival at the location of Stn Cmdr Liz HUTCHINSON.

At approximately 1545Hrs I arrived at JPSU HQ in Gun Wharf together with other officers. I identified myself to staff and asked for PM COLLINS. Sgt O'Malley informed us that PM COLLINS was not there but that he would call him and tell him we were at his office. A few minutes later, Sgt O'Malley told me that PM COLLINS was on his way to the office to meet us.

At about 1551Hrs, the military aircraft was seen to slowly move from its stand towards the boundary of the RAF apron. Simultaneous to this Insp PERERA noted a MOD sweeper vehicle yellow in colour driven by a civilian driver known to be either Jacqueline BARBAN or Alicia MUSCAT, drive towards the RGP patrol car and manoeuvre to block the patrol car which at the time was static. This caused Insp PERERA to circumvent the MOD vehicle so that the RGP vehicle was not blocked in. Insp PERERA then slowly moved up the cycle lane northbound to the middle of the runway. The RGP had it blue lights on. Seconds later Inspector PERERA moved further northwards and stopped the patrol car by the north barrier.

At approximately 1555Hrs a GDP dog section patrol car driven by GDP PC Diani with RAF Stn Cmdr Liz HUTCHINSON in the front passenger seat drove up to Insp PERERA's position. Stn Cmdr HUTCHINSON told Insp PERERA that she knew what the RGP was doing and that she was "fed up of these silly games", adding that we were preventing a military aircraft from taking off and also endangering the said aircraft. Insp PERERA retorted that if the military aircraft remained by the apron where it currently was, no one would be endangered adding that if she knew what the police operation was about she should understand that we were exercising our duties in respect of this operation. Insp PERERA who at the time was on speaker phone with Ch Insp FINLAYSON and

Supt ULLGER passed on his phone to Stn Cmdr HUTCHINSON as Supt ULLGER wanted to speak with her.

Supt ULLGER informed Stn Cmdr HUTCHINSON that there was an on going police investigation whereby it was strongly suspected that there were items on the aircraft which were linked to the investigation and that we wanted to retrieve them. She was also told that we were desperately trying to contact Col GREEN but had been unable to locate him. Supt ULLGER asked her to please check the manifest to establish whether such items (computers and mobile phones) were on board. She agreed to revert to Supt ULLGER once she had checked the manifest.

At 1559Hrs Stn Cmdr HUTCHINSON called Supt ULLGER and stated that she had the manifest before her and that there was no computer equipment or phones logged in it. She was told that it was suspected that also on-board the aircraft was the serviceman subject of the investigation together with the exhibits appertaining to the case. She was informed that we had a warrant issued by the Chief Justice to retrieve these items which were in the possession of JPSU and that if she had any information she should be disclosing this to him. She was warned of the possible consequences of not co-operating with the requests. To this she stated that she would get back to Supt ULLGER. By responding as she did she was clearly revealing that she was withholding information. However, her word was taken at face value given the responsible post she holds and so the RGP patrol car with Insp PERERA was stood down and moved away from the airfield. Shortly after the aircraft returned to its stand within the apron.

At around 1615Hrs, whilst awaiting the arrival of PM COLLINS at the JPSU HQ at Gun Wharf I was asked by Sgt O'MALLEY to speak to Cmdr Jack Hawkins, PM COLLIN's line manager in the UK. The whole issue of whose jurisdiction over the matter was discussed with each of us arguing our respective positions. Cmdr Hawkins could not understand why we were taking such an interest in this case when the original offence had been disclosed in the UK. I repeated the RGP's position in the same way as it had been promulgated to PM COLLINS and Col GREEN. I also explained that in the absence of the JPSU co-operating with the RGP we had had to resort to securing a warrant from the Supreme Court of Gibraltar to retrieve the exhibits. Unsatisfied with what I saying Cmdr HAWKINS said he wanted to speak to the Chief Justice or a more senior police officer than me. PM COLLINS arrived at JPSU HQ at approximately 1625Hrs (40 minutes after I had arrived at the JPSU premises) whilst I was on the phone to his line manager.

PM COLLINS did not make himself available to me and I exercised great restraint in not asserting my authority under the circumstances and execute the warrant. Believe it or not I was still hopeful that PM COLLINS or his superiors would see sense and appreciate the levels this had reached. It was not to be and when I eventually was able to speak to PM COLLINS I expressed how unprofessional he had been in shunning me in the way he had. I accepted that this was an awkward for situation both of us but we had to be professional and resolve it without further conflict. I informed him that I would rather not execute the warrant and that we could still work the matter out favourably for both. PM COLLINS continued in his rigid way that he was at no liberty to discuss the matter with me. He kept receiving phone calls which he took in private. During one of these breaks in our conversation, I received reliable information that it was very likely that both the exhibits and WATTERSON were in fact on board the aircraft. This I relayed to my colleagues dealing with the airport side of the operation.

At 1629Hrs Supt ULLGER again called up Stn Cmdr HUTCHINSON asking for any update to their last conversation. She insisted that she could not see anything in the manifest to suggest computers were on board. Supt ULLGER told her to stop being selective with words as she perfectly knew what he was on about i.e. that we were seeking out property/exhibits relating to the WATTERSON investigation. She was warned yet again to which she nervously replied that she would call Supt ULLGER back.

At 1650Hrs Supt ULLGER again called Stn Cmdr HUTCHINSON and this time told her we had information that someone had disembarked from the aircraft with items. She was asked to confirm this and she replied that no-one or any cargo had been come off the aircraft. Supt ULLGER expressed his deep dissatisfaction at the misleading responses she was providing, informing her that RGP officers with eyeball on the aircraft had seen this happen. She again stated that she would revert to the Supt. She was reminded about the existence of the warrant and the fact that she could potentially be obstructing police in the execution of our duties. By this stage and by the tone of her voice Supt ULLGER made out that Stn Cmdr was clearly nervous and somewhat confused.

At 1659Hrs, Supt ULLGER called Stn Cmdr HUTCHINSON and told her that the traffic barriers had been down for an inordinate amount of time causing major disruption on all our roads. There was also a potential for public disorder amongst thousands of disgruntled pedestrians and motorists who had been held up for over two and a half hours. He requested that traffic was allowed to circulate forthwith. She stated that pedestrians would be released immediately but when pressed to release vehicular traffic too she said she was working on it.

A RGP patrol car was again despatched to the airfield. Insp PAYAS who was in this patrol car positioned it in the same spot as Insp PERERA had initially positioned himself. He was again approached by a GDP officer who asked him to move the patrol car out of from the airfield or hand over the keys. This was denied on the same basis as earlier. The yellow MOD road sweeper again drove towards the RGP patrol car to block its position and causing Insp PAYAS to evade this manoeuvre. The driver of the sweeper vehicle, Ms MUSCAT was spoken to and advised to desist in her actions as she was rendering herself liable to arrest for obstructing police. She obliged and moved her works vehicle to the area of the western hangar.

At this juncture COP informed me that on conversations with Cmdr Hawkins the latter had pleaded to COP to allow the aircraft to depart as the evidence was required in the UK to pursue the investigation against WATTERSON. This then uncovered the truth which confirmed that the evidence and WATTERSON were on the flight although the three senior MOD officials were saying different, clearly to deceive us.

Around this time, I enquired from PM COLLINS whether the exhibits we wanted to seize were in the building and he replied in the negative. I went to on to inform him that I practically knewthat both WATTERSON and the exhibits were on board the aircraft and that we would proceed to retrieve them. He made no remark to this but I noted he suddenly became very pale and uneasy. I became concerned that he had become unwell but he reassured me he was ok. He took one further private call and after that call his behaviour completely changed. He mellowed to suggest that we should explore the running of a parallel investigation and that he would be making available the exhibits for the RGP to examine. I informed him that this course of action was the

one I had suggested initially but had not met with his approval. I added that all the conflict and tensions experienced during the past few days could have been well averted.

The warrant issued by the Chief Justice was not executed in the end. At approximately 1745Hrs I was notified by COP that he had received assurances from the CBF that the exhibits would be handed over to the RGP in due course. Consequently, I returned to NMH where we held a de-brief and I arranged for an investigation team to liaise with JPSU to proceed with the investigation. The RGP vehicle positioned by the south barrier had also been recalled to NMH at 1745Hrs.

Final observations

You will no doubt have grasped how the escalation of tension was not down to lack of will or desire on our part to resolve the issues in a 'grown up' manner. In fact, as alluded to throughout the chronology of events, we made numerous requests for the handing over of the conduct of the [local] investigation. Sadly, we were taken to the limits only to finally achieve what we are perfectly entitled to. I take the following most salient moments as key to how the matter escalated to the levels they did with I dare say a clear devious intent on the part of the senior military officials we were dealing with;

- The poor judgement by JPSU of not sharing with the Gibraltar authorities the fact that they had a potential sex offender(s) in the jurisdiction and where it was reasonably suspected that offences may have been committed locally.
- The lack of supporting legal/tactical/logistical infrastructure for the JPSU to conduct enquiries in a territory where they claim to have jurisdiction and which in essence can lead to abuses of process.
- The lack of clarity on the part MOD's part as to who has primacy in Gibraltar.
- The local interpretation that the Armed Forces Act 2006 & 2016 are not applicable in Gibraltar; meaning the actions carried out JPSU could be construed as *ultra vires*.
- The intent by Col GREEN and PM COLLINS to disregard the authority of the RGP to assert jurisdiction over the local aspect of the investigation and undermine this authority further by making arrangements to sneak out the exhibits and WATTERSON when it was perfectly clear that the RGP had a [big] claim on the matter.
- The seemingly devious conspiracy employed by Col GREEN, PM COLLINS and Stn Cmdr HUTCHINSON to ensure the RGP could not discharge their lawful duty and create a situation to exert pressure on the RGP to relent in our efforts. This includes (i) the instructions issued to civilian MOD drivers to block the path of two RGP patrol cars who were legitimately engaged in a police operation, (ii) the misleading and obstructive attitude displayed by the Stn Cmdr regarding the exhibits and person on board the aircraft (iii) the unhelpful attitudes and stances displayed by Col GREEN and PM COLLINS throughout, (iv) the traffic chaos and potential public order situation created due to the very long time the traffic barriers were closed when there was no need for this.

Finally, you may have a different view to me on this but, Sir, I submit to you that there has certainly been a serious breach of trust and confidence by, in my view, the three senior military officials referred to in this report. It will be awkward to say the least to re-establish this trust and confidence wherever and whenever our respective roles coincide in the future.

COP has requested a meeting between the under mentioned parties to be held at the office of Her Majesty's Attorney General for Gibraltar Michael LLAMAS QC at 1130Hrs on Wednesday 22nd February 2017 to discuss issues to prevent a repetition on of events described in this report.

HMAG Michael LLAMAs QC
Senior Counsel Rickey RHODA QC
COP Eddie YOME
CBF Mike WALLIKER
Provost Marshall (Navy) Cmndr Jack HAWKINS
Provost Marshall Legal Advisor

I have relayed this meeting request to PM COLLINS and I am waiting for a response on acceptance or otherwise from Cmdr HAWKINS and the UK legal advisor for the services police.



Ian McGrail *OTM M.Sc.*
Detective Superintendent
Crime & Protective Services Division

IN THE MATTER OF

THE EXTENT OF THE ARMED FORCES ACT 2006

JOINT OPINION

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IN THE MATTER OF THE EXTENT OF THE ARMED FORCES ACT 2006

JOINT OPINION

Introduction

1. We are asked to advise whether the Armed Forces Act 2006 ("AFA 2006") extends to Gibraltar.

2. An officer of the Royal Air Force ("RAF") stationed in Gibraltar is suspected of possession of indecent imagery of children. The Royal Gibraltar Police ("RGP") wish to investigate. However, the British military have claimed authority to arrest and investigate under the AFA 2006 and have obstructed the investigation by the RGP.

3. For the reasons set out below, it is our opinion that the AFA 2006 clearly does not extend to Gibraltar. The British military have therefore purported to exercise powers of arrest and investigation in a jurisdiction where the law does not grant them such powers. Arrest, entry and search by the British armed forces in Gibraltar is not lawful under the law of Gibraltar.

Factual Background

4. On 4 February 2017 the RGP were informed that the British Armed Forces' Joint Provost and Security Unit ("JPSU") had arrested an officer serving with the RAF in Gibraltar on

suspicion of possession of indecent imagery of children. His residence had been searched and computers and storage devices seized. The authority to arrest was claimed under sections 42 and 67 of the AFA 2006.

5. The RGP wish to investigate and have made numerous requests to the British military to enable them to do so, which were refused. This culminated, on 8 February 2017, in the RGP obtaining a warrant to search for the seized property.

6. When the RGP went to the military base to execute the warrant they found the suspect and the seized material were on a military plane about to be flown to the United Kingdom. The RGP prevented the aircraft from taking off.

Legal Background

Offences and powers created by the AFA 2006

7. By virtue of section 367(1) AFA 2006 every member of the regular forces is subject to service law at all times. The regular forces include the RAF; see section 374 AFA 2006.

8. Part 1 of the AFA 2006 provides for a number of service offences.[1] Amongst those offences is that prescribed by section 42(1) AFA 2006, which provides that a person subject to service law commits an offence if he does any act that -- (a) is punishable by the law of England and Wales; or (b) if done in England or Wales, would be so punishable.

[1] Defined by section 50(2)(a) AFA 2006 as including any offence under Part 1.

9. Part 3 of the AFA confers powers of arrest, search and seizure in relation to service offences. For example, section 67 provides that a person who is reasonably suspected of being engaged in committing, or of having committed, a service offence may be arrested in accordance with the provisions of that section by a person subject to service law. Detailed provision is made by that Part as to the circumstances in which those powers can be exercised and the persons (ordinarily members of the armed forces of a certain rank or service police) who can exercise them.

Duration and extent of the AFA 2006

10. When it entered into force, the AFA 2006 extended to Gibraltar. Section 384(2) AFA 2006, as enacted, provided:

> "*This Act extends to* –
>
> (a) *the Isle of Man, and*
>
> (b) *the British Overseas Territories,*
>
> *subject to such modifications as Her Majesty may be Order in Council specify*".

11. Gibraltar is a British Overseas Territory: see Halsbury's Laws of England, Volume 13 (2009), paragraph 859.

12. The duration of the AFA 2006 was limited by section 382 AFA 2006, as enacted, which provided that the Act expired at the end of one year beginning with the day on which it was passed, subject to renewal by Order in Council for no more than one year from the time the Act would otherwise expire, with an overall limit to such continuation beyond the end of the year 2011.

13. This limited duration reflects the fundamental constitutional principle, traced back to the Bill of Rights in 1688, which declared:

"[t]hat the raising or keeping a standing army within the kingdom in time of peace, unless it be with the consent of Parliament, is against law".

14. Since the 1950s, legislation has been required every five years to continue in force the legislation enabling the Armed Forces to be recruited and maintained. Those Acts have provided that, in each of the years between five-yearly Acts, an Order in Council is required to continue in force that legislation: see Halsbury's Laws of England, Volume 3 (2011), paragraph 303.

15. Section 1 of the Armed Forces Act 2011 ("AFA 2011") substituted a new section 382 into the AFA 2006 by which the AFA 2006 was continued and could be continued by Order in Council until the end of 2016.

16. However, unlike the AFA 2006, the AFA 2011 did not extend its provisions to British Overseas Territories. Rather, section 33 AFA 2011 provided:

"(1) Her Majesty may by Order in Council provide for any of the provisions of this Act, except section 25, to extend to a territory mentioned in subsection (2) with or without modifications.

(2) Those territories are—

(a) any of the Channel Islands;

(b) the Isle of Man;

(c) any of the British overseas territories".

17. No such Order in Council was made and therefore the AFA 2006 did not extend to the British Overseas Territories beyond the end of 2011, by reason of that Act's expiry under its section 382 (as originally enacted).

18. Section 1 of the Armed Forces Act 2016 ("AFA 2016") substituted a new section 382 into the AFA 2006 by which the AFA 2006 was continued and could be continued by Order in Council until the end of 2021.

19. Section 21(2)(b) of the AFA 2016 provides that that Act, with the exception of certain sections, extends to "*the British overseas territories, except Gibraltar*" (emphasis added). Section 13(1)(b) of the AFA 2016 brings the AFA 2006 back into force in "*the British overseas territories except Gibraltar*". Section 13(3) of the 2016 Act amends section 384(2) of the AFA 2006 (the original version of which we cite in paragraph 10 above) to exclude Gibraltar.

20. Paragraphs 4 and 6 to 12 of the Schedule to the AFA 2016 make provision in consequence of the fact that AFA 2006 is not to extend to Gibraltar. Paragraph 4 provides that powers in certain Acts to extend amendments of AFA 2006 to jurisdictions outside the United Kingdom cannot be used in respect of Gibraltar. Paragraphs 6 to 12 amend certain references to British overseas territories in AFA 2006 to exclude Gibraltar.

21. The related Parliamentary materials confirm that the decision not to extend the AFA 2006 to Gibraltar was a deliberate choice by the legislature. For example:

(i) The Explanatory Notes in the House of Lords relating to the Bill brought forward from the House of Commons on 12 January 2016 explain in terms at paragraphs 78 to 79 and 99 that the AFA 2006 had previously expired in Gibraltar and was, under the provisions of the Bill, not to extend to Gibraltar. Similar explanation is provided in the Explanatory Notes in the House of Commons relating to the Bill as introduced there on 16 September 2015 at paragraphs 74 to 75 and 90.

(ii) The rationale for not extending the Bill to Gibraltar was explained in the House of Commons during the Committee stage of the Bill by the minister Mark Lancaster, following a question from Jim Shannon MP. The Minister explained that the 2005 Constitution gives Gibraltar wide legislative responsibilities so the Government was discussing with Gibraltar whether it would be best to provide for the 2006 Act to extend to Gibraltar or for Gibraltar to act through its own legislation: Hansard, 16 December 2015, Column 1607.

(iii) During that Committee stage, the minister recognised that the AFA 2006 had not been in force in the British Overseas Territories since 2011 and that, in order for the members of the British armed forces to have powers of arrest, entry and search in those jurisdictions, the 2006 Act would need to be extended to those jurisdictions: Hansard, 16 December 2015, Column 1607.

(iv) On the Third Reading of the Bill before the House of Commons on 11 January 2016, the minister said that the Government was still discussing with Gibraltar

whether it would be best to provide for the 2006 Act and the Bill to extend there, that those discussions were ongoing and if necessary the Government would introduce an amendment to the Bill in the House of Lords; Hansard, 11 January 2016, Column 614 to Column 615.

(v) During the Second Reading of the Bill in the House of Lords on 11 February 2016, the Minister of State, Ministry of Defence, Earl Howe, explained that the Bill provided that it was not to have effect in Gibraltar, although the Government was consulting Gibraltar on whether it would be content for the AFA 2006 to become part of its laws and that, if so, an amendment to the Bill would be made: Hansard, 11 February 2016, Column 2362 to 2363. No such amendment was brought forward before the Bill was passed.

Relevant provisions of the law of Gibraltar

22. The English Law (Application) Act states at section 3(1)(b) that the law in England set out in any Act of Parliament at Westminster applied to Gibraltar by any Order of Her Majesty's Council, or any express provision in any Act, or by necessary implication, shall be in force in Gibraltar.

23. The Criminal Procedure and Evidence Act 2011 provides for the powers and duties of the RGP and for evidence and procedure in criminal cases. It confers upon the RGP powers of arrest upon reasonable grounds of suspicion that a person has committed an offence (section 42(2)) and powers of search and seizure in prescribed circumstances (Parts 2 and 3).

Analysis

24. United Kingdom forces present in an overseas territory are subject to that territory's law in the usual way, subject to the AFA 2006 or other legislative provision which extends to those territories: Hendry and Dickson British Overseas Territories Laws (2011), page 178.

25. The AFA 2006 does not extend to Gibraltar. This is not merely a matter of omission or oversight upon the expiry of the AFA 2006 or AFA 2011. It is a choice made by Parliament when enacting the AFA 2016 as part of its important constitutional role of approving the raising or standing of an army.

26. The language of section 13(1)(b), section 13(3) and section 21(2)(b) of the AFA 2016 is clear: the provisions of the 2006 Act and the 2016 Act are to extend to the British overseas territories except Gibraltar. The Schedule to the AFA 2016 makes provision in consequence of the fact that AFA 2006 is not to extend to Gibraltar.

27. It is plain from the related Parliamentary materials that, when considering the Bill which became the AFA 2016, Parliament was aware that the AFA 2006 did not extend to Gibraltar, was aware that it was not to be so extended by the AFA 2016 and was aware that the consequence of that was that arrest, entry and search by British armed forces in Gibraltar would not be lawful under the law of Gibraltar.

28. Accordingly, the clear intention of Parliament, reflected in the clear language of section 21(2)(b) AFA 2016, is that the AFA 2006 does not extend to Gibraltar.

29. The consequence of this is that, as a matter of the law of Gibraltar, and of the law of the United Kingdom, the British armed forces do not have the power of arrest under section 67 AFA 2006 and nor do they have the powers of search and seizure granted by the AFA 2006.

30. In purporting to exercise those powers in Gibraltar, the members of the JPSU were acting in a way which was, in that jurisdiction, *ultra vires*.

31. It is correct that the AFA 2006 applies to members of the RAF at all times, wherever they are in the world, in the sense that an offence committed abroad can be an offence contrary to the 2006 Act: this is the consequence of sections 367(1) and 42(1) AFA 2006. The minister so confirmed in the House of Lords on 11 February 2016 (see paragraph 21(v) above): Hansard at Column 2362. However, that the AFA 2006 confers such a worldwide jurisdiction over relevant persons does not make it lawful under the law of Gibraltar or under the law of the United Kingdom for the United Kingdom authorities to exercise a power of arrest or investigation in Gibraltar in respect of those persons.

32. By reason of section 13(1) AFA 2016, the AFA 2006 is not in force in Gibraltar and accordingly the power of arrest contained in section 67 AFA 2006 does not apply in Gibraltar, as a matter of the law of Gibraltar and of the law of the United Kingdom. The United Kingdom military authorities have no power to arrest in Gibraltar under the AFA 2006, although of course if the suspect returned to the United Kingdom he could be arrested in the United Kingdom under section 67 AFA 2006 for an offence committed elsewhere. It should not be surprising, when Parliament has expressly decided not to apply the AFA 2006 to

Gibraltar, that the United Kingdom military authorities do not have the power under the United Kingdom Act to arrest people in Gibraltar.

33. The law of Gibraltar, in particular the Criminal Procedure and Evidence Act 2011, confers powers of arrest and investigation of crime upon the RGP. It does not confer such powers upon United Kingdom armed forces and there is no other provision in the law of Gibraltar which does. As explained above, the AFA 2006 does not extend to Gibraltar and accordingly is not in force in Gibraltar: section 13(1)(b), section 13(3) and section 21(2)(b) AFA 2016 and section 3(1)(b) English Law (Application) Act.

34. In reaching our view we have also considered the provisions of the United Kingdom Forces (Jurisdiction of Colonial Courts) Order 1965, which prevents the trial of a member of the United Kingdom armed forces for an offence against the law of another territory where certain criteria are satisfied.[2] However, not only are those criteria not present in the present case, but in any event that Order is concerned only with the question of whether the courts of Gibraltar are prevented from adjudicating upon a certain offence and does not address the issue of whether the United Kingdom military forces have jurisdiction to arrest and investigate in Gibraltar.

35. In summary:

(i) The AFA 2006 does not extend to Gibraltar.

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[2] In particular, where the alleged offender is acting in the course of his duties, or where only service personnel (or dependants and civilian components of the armed forces) are involved or where the offence is against UK government property: section 3 of the Order.

(ii) The United Kingdom armed forces do not have powers of arrest and seizure under the law of Gibraltar.

(iii) In purporting to exercise those powers in Gibraltar they were acting in a manner which was unlawful under the law of Gibraltar.

(iv) The RGP have powers of arrest and seizure under the law of Gibraltar and members of the United Kingdom armed forces in Gibraltar are subject to that law and must comply with the lawful exercise by the RGP of those powers.

LORD PANNICK QC

EMILY NEILL

BLACKSTONE CHAMBERS

TEMPLE

LONDON EC4Y 9BW

28 February 2017

Rear Admiral A D Radakin

Chief of Staff
Joint Forces Command
Northwood Headquarters
Sandy Lane
NORTHWOOD
Middlesex
HA6 3HP

Military 9360 58501
Direct (01923) 958501

8 March 2017

Dear Commissioner,

I am writing on behalf of Joint Forces Command – the organisation that commands and is responsible for the UK's permanent joint overseas bases – in respect of the ongoing investigations surrounding events on the 8th February, which unfolded in Gibraltar, in particular around Gibraltar International Airport.

There are a number of points that it seems appropriate to reflect to you. It is hoped these reflections are helpful to you on several accounts:

(1) first to acknowledge the role, advice and direction that Joint Forces Command provided to Commander British Forces Gibraltar on the legal issues impacting on the events of 8th February;

(2) secondly, to recognise and support the individuals involved and who are presently under your arrest and whose actions under your investigations were under the auspices of Joint Forces Command in the fulfilment of their duties. In doing so, it is understood these individuals' actions may have clashed with the responsibilities that your officers properly sought to fulfil; and

(3) finally, to reassure you about the seriousness with which Joint Forces Command views the allegations that have been made, the eagerness to try and satisfactorily settle – to everyone's satisfaction – the concerns with which the Royal Gibraltar Police are understandably investigating, and our genuine enthusiasm – if possible – to use these events as a platform to grow an even better understanding between our respective organisations and to build an even stronger and mutually respectful and beneficial future together.

Taking these points in turn:

Joint Forces Command regrets the events that took place in Gibraltar on the 8th February. This includes the events at Gibraltar International Airport and the dispute as to jurisdiction that led to the confusion by British Forces Gibraltar over the appropriate handling of the individual suspected of downloading indecent material whilst in the United Kingdom; and the detailed management of this particular case. It was the view of Joint Forces Command that the case was to be subject to exclusive Service Police jurisdiction – which turned out not to be correct. This was on the basis that Joint Forces Command was unaware of any potential offences that had been committed by the alleged suspect whilst in Gibraltar or of your suspicions in this respect.

It is acknowledged that in responding to your desire to explore potential illegal activities by

the suspect, Joint Forces Command and subsequently British Forces Gibraltar did not immediately recognise the jurisdictional legal primacy in this case for you to investigate, and if necessary, prosecute the individual were he to be found to have committed a similar or other offence in Gibraltar. I want to reassure you that subsequent additional advice, including at a senior legal level in the Ministry of Defence, recognises the legal primacy point in this case. Joint Forces Command now, therefore, fully understands and respects your legal primacy in this case as the law currently stands today.

We are aware that Her Majesty's Government of Gibraltar has prioritised the drafting of legislation and an MoU that will clearly spell out our respective, complementary jurisdictional roles. It would also be highly desirable for agreement to be reached between our respective agencies setting out the practical application of jurisdiction for the period between now and the enactment of such legislation.

In the course of the events that unfolded on the 8th February, it is considered very important by Joint Forces Command that you should understand that at all material times our people acted in good faith and to implement the direction and guidance provided by Joint Forces Command and Provost Marshal (Navy). They were not on a "frolic of their own" in any sense and were therefore not consciously seeking to deny your officers jurisdiction, or disrespect your officers' lawful instructions. They were acting entirely in keeping with the instructions they were receiving, albeit, with the benefit of hindsight, in a manner which did not assist in resolving matters as expeditiously as all would have preferred.

I think it is important for you to be made aware that there was a decision, as part of the Joint Forces Command application of our duty of care to our personnel, to return the suspect to the United Kingdom for the individual's own welfare. Again, this decision was based on the view that jurisdiction to deal with the offence in question remained exclusively with Forces law enforcement agencies – which turned out not to be correct. It was in pursuance of this requirement and judgement that more appropriate care would be afforded the suspect in the United Kingdom, that British Forces Gibraltar personnel were instructed to facilitate the opportunity of a military aircraft to both return the individual to the United Kingdom and to transport potentially incriminating evidence for forensic examination. I should clarify that, fundamentally, this was because the facilities at RAF Brize Norton were considered more appropriate for looking after the individual than those of British Forces Gibraltar; and, ordinarily, the capability for Service Police investigations overseas which require electronic and communications forensic analysis is held in the United Kingdom. It is in seeking to implement this approach that, unfortunately, personnel from British Forces Gibraltar had what were clearly unfortunate altercations with officers of the Royal Gibraltar Police who were acting in the lawful execution of their duties. I cannot emphasise to you how much we regret, with the benefit of hindsight and the later legal advice we have received, that we were not better able to cooperate with those of your officers in question. These altercations should not have happened and any active disagreement as to jurisdiction should, in any event, have been handled in the more dignified and usual manner for issues of this type. I must express to you in particular our genuine regret to hear accusations that British Forces Gibraltar personnel behaved disrespectfully towards officers of the Royal Gibraltar Police and that they were inconsiderate of the requirements under which your officers were seeking to undertake their lawful activities and investigations. That is not in the nature of the relationship we have long enjoyed between our organisations.

It is hoped, sincerely, that these events can be used to assist us all in a clearer understanding of the Royal Gibraltar Police's jurisdiction in respect of criminal matters and British Forces Gibraltar's application of service law; and that – looking ahead – there are considerable opportunities to enable our respective law enforcement agencies and leadership to work even more closely together. There are numerous significant opportunities to enable this: the routine business of service people in Gibraltar; the joint policing that is usually put in place for the arrival and duration of Royal Navy warships and submarines; and the ambition that we all have to draw further on various Gibraltar Parliament statutes

anticipated to be enacted later this year and which will provide a stronger and clearer platform for continued co-operation and enhanced security measures and resilience for Gibraltar.

It is hoped that this contextual information is of assistance in providing an appropriate and accurate background for many of the actions that Service Personnel took in the course of their duties in respect of the events and associated interactions that flowed from the 8th February incident.

Joint Forces Command assures you that there was not and never envisaged any intention to attempt to fetter the Royal Gibraltar Police's jurisdiction. That it appeared otherwise is deeply regretted. It is sincerely hoped that our future interactions are on a more positive basis and that we collectively work together to enhance the security of the United Kingdom and Gibraltar.

Yours sincerely,

Tony Radakin

Copy to:

External:
FCO/HE the Governor of Gibraltar
HMGoG/AG
FCO/Dir Europe
MoD/CLS Dir
MoD/DISP

Internal:
Comd JFC
DirResPol
CBF Gibraltar

DOC 9

Kyra Macias

From: Vikram Nagrani <vikram.nagrani@hassans.gi>
Sent: 01 September 2017 10:38
To: 'John Goncalves ([redacted]'; 'Naomi Hassan-Weisfogel'; 'Aurelio'; 'Edgar Lavarello'; 'Stephen Reyes'
Cc: 'Elka Hanglin'
Subject: Watterson Enquiry: Letter to CM

Dear John and all:

Further to yesterday's meeting, please see below the suggested draft text to be sent by way of letter to the CM. Please provide your respective comments directly to Elka (copied) so that she may collate, incorporate and finalise the letter for issue by John.

Thanks and best,

Vikram

"Dear Chief Minister,

Re.: Watterson Inquiry

I refer to your request to the Gibraltar Police Authority ("**GPA**") to enquire from the Royal Gibraltar Police ("**RGP**") into the events that transpired on and around 8th February 2017 relating to Sergeant Watterson (the "**Watterson Incident**").

We have reviewed the relevant reports prepared by the RGP in respect of the Watterson Incident, and have further discussed and raised questions relating to the effectiveness and probity of policing in Gibraltar by the RGP in connection therewith. In particular, we have interviewed the Commissioner of Police and his most senior ranking officers in relation to the Watterson Incident, being careful to understand the thought processes and considerations of the RGP officers involved in the Watterson Incident, including but not limited to (i) whether the consequences of the actions and restraint of the relevant RGP officers throughout the Watterson Incident were considered and deliberated; (ii) whether the actions of, and restraint shown by, the relevant RGP officers throughout the Watterson Incident were necessary and proportional; and (iii) whether with the benefit of hindsight any actions could or should have been taken differently by the RGP.

The GPA has come to the firm conclusion that the actions of and the restraint shown by the relevant RGP officers during the Watterson Incident were considered, deliberated, entirely proportional and highly commendable. As such, we do not doubt the effectiveness and probity of the policing demonstrated by the RGP in respect of the Watterson Incident. We would take the liberty of adding, though it may not be our place to do so, that the actions of certain MOD personnel in respect of the Watterson Incident deserve censure and that you should consider whether a full inquiry ought to be undertaken by an body independent of the RGP and the MOD so that lessons may be learnt from this incident.

I remain at your disposal should you wish to discuss this matter further.

Yours sincerely,

John Goncalves"

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From: edgar.c.lavarello@gi.pwc.com
Sent: 01 September 2017 10:53
To: Vikram Nagrani
Cc: 'Aurelio'; 'Elka Hanglin'; John Goncalves [redacted] 'Naomi Hassan-Weisfogel'; Stephen Reyes
Subject: Re: Watterson Enquiry: Letter to CM

That's great.

Last line

by an body independent of the RGP and the MOD so that lessons may be learnt from this incident.

by a body or by any body?

Many thanks

Edgar C Lavarello

PwC | Partner
Tel: +350 20073520 | Mobile: [redacted]
Email: edgar.c.lavarello@gi.pwc.com
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From: Vikram Nagrani <vikram.nagrani@hassans.gi>
To: "John Goncalves [redacted]" [redacted] 'Naomi Hassan-Weisfogel' [redacted] 'Aurelio' [redacted], Edgar C Lavarello/GI/ABAS/PwC@EMEA-GIB, Stephen Reyes <sreyes@deloitte.gi>
Cc: 'Elka Hanglin' <elka.hanglin@gpa.gi>
Date: 01/09/2017 10:33
Subject: Watterson Enquiry: Letter to CM

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Yours sincerely,

John Goncalves"

---------- End of message text ----------

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Kyra Macias

From: Vikram Nagrani <vikram.nagrani@hassans.gi>
Sent: 01 September 2017 10:56
To: 'edgar.c.lavarello@gi.pwc.com'
Cc: 'Aurelio'; 'Elka Hanglin'; 'John Goncalves ([redacted]'; 'Naomi Hassan-Weisfogel'; 'Stephen Reyes'
Subject: RE: Watterson Enquiry: Letter to CM

Edgar, sorry and thanks; it should be "a" body.

From: edgar.c.lavarello@gi.pwc.com [mailto:edgar.c.lavarello@gi.pwc.com]
Sent: 01 September 2017 10:53
To: Vikram Nagrani
Cc: 'Aurelio'; 'Elka Hanglin'; John Goncalves [redacted] 'Naomi Hassan-Weisfogel'; Stephen Reyes
Subject: Re: Watterson Enquiry: Letter to CM

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Many thanks

Edgar C Lavarello

PwC | Partner
Tel: +350 20073520 | Mobile: [redacted]
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From: Vikram Nagrani <vikram.nagrani@hassans.gi>
To: "John Goncalves [redacted] 'Naomi Hassan-Weisfogel' <[redacted] 'Aurelio' [redacted] 'Edgar C Lavarello/GI/ABAS/PwC@EMEA-GIB, Stephen Reyes <reyes@deloitte.gi>
Cc: 'Elka Hanglin' <elka.hanglin@gmail.gi>
Date: 01/09/2017 10:33
Subject: Watterson Enquiry: Letter to CM

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---------- End of message text ----------

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Kyra Macias

From: Naomi Hassan-Weisfogel [redacted]
Sent: 01 September 2017 11:41
To: Vikram Nagrani
Cc: John Goncalves [redacted] Aurelio; Edgar Lavarello; Stephen Reyes; Elka Hanglin
Subject: Re: Watterson Enquiry: Letter to CM

Thanks Vikram.
Reads well to me, and reflects our thoughts, conclusions and feelings exactly.
Have a great weekend everyone.

GB GI Regards,
Naomi GB GI

Sent from my iPhone 6 GB GI

" Why do I?..... Because TG I can!" 😘

On 1 Sep 2017, at 10:36, Vikram Nagrani <vikram.nagrani@hassans.gi> wrote:

Dear John and all:

Further to yesterday's meeting, please see below the suggested draft text to be sent by way of letter to the CM. Please provide your respective comments directly to Elka (copied) so that she may collate, incorporate and finalise the letter for issue by John.

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I remain at your disposal should you wish to discuss this matter further.

Yours sincerely,

John Goncalves"

Kyra Macias

From: Aurelio Falero [redacted]
Sent: 01 September 2017 12:01
To: Vikram Nagrani
Cc: edgar.c.lavarello@gi.pwc.com; Elka Hanglin; John Goncalves [redacted] Naomi Hassan-Weisfogel; Stephen Reyes
Subject: Re: Watterson Enquiry: Letter to CM

Excellently put Vikram. Letter is ok with me.

Kind regards,

Aurelio Falero FRICS

Sent from my iPad

On 1 Sep 2017, at 10:56, Vikram Nagrani <vikram.nagrani@hassans.gi> wrote:

> Edgar, sorry and thanks; it should be "a" body.
>
> **From:** edgar.c.lavarello@gi.pwc.com [mailto:edgar.c.lavarello@gi.pwc.com]
> **Sent:** 01 September 2017 10:53
> **To:** Vikram Nagrani
> **Cc:** 'Aurelio'; 'Elka Hanglin'; John Goncalves [redacted] 'Naomi Hassan-Weisfogel'; Stephen Reyes
> **Subject:** Re: Watterson Enquiry: Letter to CM
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>
> Last line
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> by an body independent of the RGP and the MOD so that lessons may be learnt from this incident.
>
> by a body or by any body?
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> Many thanks
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> **Edgar C Lavarello**
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> PwC | Partner
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> PricewaterhouseCoopers Limited
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> www.pwc.gi
>
> @PwC_Gib http://www.facebook.com/pwc.gi

From: Vikram Nagrani <vikram.nagrani@hassans.gi>
To: "John Goncalves [redacted] [redacted]
'Naomi Hassan-Weisfogel' <naomishw@hotmail.com>, 'Aurelio' [redacted], Edgar C Lavarello/GI/ABAS/PwC@EMEA-GIB, Stephen Reyes <reyes@deloitte.gi>
Cc: 'Elka Hanglin' <elka.hanglin@gpa.gi>
Date: 01/09/2017 10:33
Subject: Watterson Enquiry: Letter to CM

Dear John and all:

Further to yesterday's meeting, please see below the suggested draft text to be sent by way of letter to the CM. Please provide your respective comments directly to Elka (copied) so that she may collate, incorporate and finalise the letter for issue by John.

Thanks and best,

Vikram

"Dear Chief Minister,

Re.: Watterson Inquiry

I refer to your request to the Gibraltar Police Authority ("**GPA**") to enquire from the Royal Gibraltar Police ("**RGP**") into the events that transpired on and around 8th February 2017 relating to Sergeant Watterson (the "**Watterson Incident**").

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I remain at your disposal should you wish to discuss this matter further.

Yours sincerely,

John Goncalves"

---------- End of message text ----------

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Kyra Macias

From: John Goncalves [redacted]
Sent: 01 September 2017 19:53
To: Aurelio Falero
Cc: Vikram Nagrani; edgar.c.lavarello@gi.pwc.com; Elka Hanglin; Naomi Hassan-Weisfogel; Stephen Reyes
Subject: Re: Watterson Enquiry: Letter to CM

Dear Vikram,

Many thanks for drafting the letter to CM, which provides a clear summary of our findings.

Best regards,

John

Sent from my iPad

On 1 Sep 2017, at 11:58, Aurelio Falero [redacted] wrote:

> Excellently put Vikram. Letter is ok with me.
>
> Kind regards,
>
> Aurelio Falero FRICS
>
> Sent from my iPad
>
> On 1 Sep 2017, at 10:56, Vikram Nagrani <vikram.nagrani@hassans.gi> wrote:
>
> > Edgar, sorry and thanks; it should be "a" body.
> >
> > **From:** edgar.c.lavarello@gi.pwc.com [mailto:edgar.c.lavarello@gi.pwc.com]
> > **Sent:** 01 September 2017 10:53
> > **To:** Vikram Nagrani
> > **Cc:** 'Aurelio'; 'Elka Hanglin'; John Goncalves [redacted]
> > 'Naomi Hassan-Weisfogel'; Stephen Reyes
> > **Subject:** Re: Watterson Enquiry: Letter to CM
> >
> > That's great.
> >
> > Last line
> >
> > by an body independent of the RGP and the MOD so that lessons may be learnt from this incident.
> >
> > by a body or by any body?
> >
> > Many thanks

Edgar C Lavarello

PwC | Partner
Tel: +350 20073520 | Mobile: [redacted]
Email: edgar.c.lavarello@gi.pwc.com
PricewaterhouseCoopers Limited
327 Main Street, Gibraltar
www.pwc.gi

@PwC_Gib http://www.facebook.com/pwc.gi

From: Vikram Nagrani <vikram.nagrani@hassans.gi>
To: "John Goncalves [redacted]
[redacted]>, 'Naomi Hassan-Weisfogel'
[redacted] Aurelio' [redacted] Edgar C Lavarello/GI/ABAS/PwC@EMEA-GIB, Stephen Reyes <stephen.reyes@deloitte.gi>
Cc: 'Elka Hanglin' <elka.hanglin@gpa.gi>
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Subject: Watterson Enquiry: Letter to CM

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Yours sincerely,

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Kyra Macias

From: Reyes, Stephen (GI - Gibraltar) <sreyes@deloitte.gi>
Sent: 02 September 2017 09:33
To: Vikram Nagrani
Cc: John Goncalves [redacted] Naomi Hassan-Weisfogel; Aurelio; Edgar Lavarello; Elka Hanglin
Subject: Re: Watterson Enquiry: Letter to CM

Vickram et all,

Thanks for putting this together. Whilst I agree that the text accurately reflects our conclusions, I am not entirely comfortable with the last sentence. I think we should refer to the actions of certain MOD personnel as you have done, but do not think it is our place to suggest an enquiry. I would be more comfortable with something like

"We would take the liberty of adding, though it may not be our place to do so, that the actions of certain MOD personnel in respect of the Watterson Incident deserve censure and feel that it is important that RGP and MOD work together to learn the lessons from this incident and develop a strong working partnership based on a mutual understanding and respect for each other's roles."

Regards

Stephen

Sent from my iPad

On 1 Sep 2017, at 10:36, Vikram Nagrani <vikram.nagrani@hassans.gi> wrote:

> **Dear John and all:**
>
> **Further to yesterday's meeting, please see below the suggested dr afttext to be sent by way of letter to the CM. Please provide your respective comments directl yto Elka (copied) so that she may collate, incorporate and finalise the letter for issue by John.**
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> **Vikram**
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I remain at your disposal should you wish to discuss this matter further.

Yours sincerely,

John Goncalves"

Kyra Macias

From: Vikram Nagrani <vikram.nagrani@hassans.gi>
Sent: 02 September 2017 09:44
To: Reyes, Stephen (GI - Gibraltar)
Cc: John Goncalves [redacted]; Naomi Hassan-Weisfogel; Aurelio; Edgar Lavarello; Elka Hanglin
Subject: RE: Watterson Enquiry: Letter to CM

Stephen, good morning and thank you.

My reason for including the last sentence is because the Chief Minister originally asked John for the GPA to conduct an inquiry into this matter. I have not stated in my draft that the GPA is suggesting an inquiry be undertaken, but rather that the Chief Minister consider whether an inquiry should be undertaken.

Either way, I am happy for your suggested wording to be included in the letter place of my last sentence because it is the Chief Minister's prerogative in any event to decide whether the full inquiry should be undertaken or not and he does not need the GPA to suggest this course of action.

Thanks and wishing all a great long weekend,

Vikram

From: Reyes, Stephen (GI - Gibraltar) <reyes@deloitte.gi>
Date: Saturday, 02 Sep 2017, 9:32 am
To: Vikram Nagrani <vikram.nagrani@hassans.gi>
Cc: John Goncalves [redacted], Naomi Hassan-Weisfogel [redacted], Aurelio <[redacted], Edgar Lavarello <edgar.c.lavarello@gi.pwc.com>, Elka Hanglin <elka.hanglin@gpa.gi>
Subject: Re: Watterson Enquiry: Letter to CM

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Thanks for putting this together. Whilst I agree that the text accurately reflects our conclusions, I am not entirely comfortable with the last sentence. I think we should refer to the actions of certain MOD personnel as you have done, but do not think it is our place to suggest an enquiry. I would be more comfortable with something like

"We would take the liberty of adding, though it may not be our place to do so, that the actions of certain MOD personnel in respect of the Watterson Incident deserve censure and feel that it is important that RGP and MOD work together to learn the lessons from this incident and develop a strong working partnership based on a mutual understanding and respect for each other's roles."

Regards

Stephen

Sent from my iPad

On 1 Sep 2017, at 10:36, Vikram Nagrani <vikram.nagrani@hassans.gi> wrote:

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I remain at your disposal should you wish to discuss this matter further.

Yours sincerely,

John Goncalves"

Kyra Macias

From: John Goncalves [redacted]
Sent: 02 September 2017 11:35
To: Reyes, Stephen (GI - Gibraltar)
Cc: Vikram Nagrani; Naomi Hassan-Weisfogel; Aurelio; Edgar Lavarello; Elka Hanglin
Subject: Re: Watterson Enquiry: Letter to CM

Stephen,

I have to disagree with your proposed amendment as, in my opinion, it gives the impression that we came to the conclusion that both the RGP and the MoD may have been equally at fault on matters of "mutual understanding and respect for each other's roles" when this was clearly not the case.

Since we have no jurisdiction to ask for information or documentation from MoD, a matter which was mentioned by some of us, I consider it to be totally in order for us to recommend that an enquiry be held, therefore, I am happy to sign our report, as drafted by Vikram.

Best regards,

John

Sent from my iPad

On 2 Sep 2017, at 09:30, Reyes, Stephen (GI - Gibraltar) <sreyes@deloitte.gi> wrote:

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>
> Thanks for putting this together. Whilst I agree that the text accurately reflects our conclusions, I am not entirely comfortable with the last sentence. I think we should refer to the actions of certain MOD personnel as you have done, but do not think it is our place to suggest an enquiry. I would be more comfortable with something like
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directly to Elka (copied) so that she may collate, incorporate and finalise the letter for issue by John.

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I remain at your disposal should you wish to discuss this matter further.

Yours sincerely,

John Goncalves"

Kyra Macias

From: Aurelio Falero [redacted]
Sent: 02 September 2017 14:37
To: John Goncalves
Cc: Reyes, Stephen (GI - Gibraltar); Vikram Nagrani; Naomi Hassan-Weisfogel; Edgar Lavarello; Elka Hanglin
Subject: Re: Watterson Enquiry: Letter to CM

I'm in agreement with what you say John. The impression I got from the Commisioner and his senior managers responses is that they knew throughout how to work with the MOD and that the primary party at fault was the MOD at all levels of command.

Kind regards,

Aurelio Falero FRICS

Sent from my iPad

On 2 Sep 2017, at 11:33, John Goncalves <[redacted] wrote:

> Stephen,
>
> I have to disagree with your proposed amendment as, in my opinion, it gives the impression that we came to the conclusion that both the RGP and the MoD may have been equally at fault on matters of "mutual understanding and respect for each other's roles" when this was clearly not the case.
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Regards

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Sent from my iPad

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From: Reyes, Stephen (GI - Gibraltar) <sreyes@deloitte.gi>
Sent: 02 September 2017 15:10
To: John Goncalves
Cc: Vikram Nagrani; Naomi Hassan-Weisfogel; Aurelio; Edgar Lavarello; Elka Hanglin
Subject: Re: Watterson Enquiry: Letter to CM

John

Given the rest of the content of the letter I don't believe it gives that impression, however I am happy to support the majority view.

Regards

Stephen

Sent from my iPhone

On 2 Sep 2017, at 11:33, John Goncalves [redacted] wrote:

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(Listed in the order in which they are referred to in the Witness Statement Of Ms Claire Pizzarello)

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From: Dr Joey Britto [redacted]>
Sent: 18 May 2020 10:55
To: Edgar Lavarello; Darren Grech; Nadine Collado; Rebecca Figueras; Julio Alcantara; Ernest Gomez; Frank Carreras; Claire Pizzarello
Cc: Elka Hanglin
Subject: URGENT MEETING

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Dear all,

We are going to need to meet urgently and face to face, please. Please let me know if you are able to make a meeting at 9.30 this Thursday. I shall be needing all of you to discuss a very sensitive matter and arrive at a consensus on next steps.

Please confirm that you are able to make it - we shall be keeping to the recommended social distance but only attend if you feel it is appropriate for you, in terms of Health. Note that in view of the sensitivity this cannot really be discussed via Zoom.

Elka let me know if you are able to open the offices for us, please.

Let me know.

Regards

Joey

Dr Joey Britto

Chair
Gibraltar Police Authority

[redacted]

From: Nadine Collado <nadine.collado@unigib.edu.gi>
Sent: 18 May 2020 11:00
To: Dr Joey Britto; Edgar Lavarello; Darren Grech; Rebecca Figueras; Julio Alcantara; Ernest Gomez; Frank Carreras; Claire Pizzarello
Cc: Elka Hanglin
Subject: RE: URGENT MEETING

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good morning Joey

No probs from me.

Best

Nadine

Nadine Collado | Director of Professional Development & Continuing Education
BA (Hons) FCG

University of Gibraltar
Europa Point Campus, Gibraltar, GX11 1AA
T: +350 20071000 Ext: 804 | E: nadine.collado@unigib.edu.gi

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Please consider the environment before printing this email.

From: Dr Joey Britto <[redacted]>
Sent: 18 May 2020 10:55
To: Edgar Lavarello <edgar.c.lavarello@gi.pwc.com>; Darren Grech <darren.grech@gibraltar.gov.gi>; Nadine Collado <nadine.collado@unigib.edu.gi>; Rebecca Figueras <rebecca.figueras@gibraltar.gov.gi>; Julio Alcantara <[redacted]>; Ernest Gomez <[redacted]>; Frank Carreras

<frank.carreras@gibraltar.gov.gi>; Claire Pizzarello <claire.pizzarello@hassans.gi>
Cc: Elka Hanglin <elka.hanglin@gpa.gi>
Subject: URGENT MEETING

Dear all,

We are going to need to meet urgently and face to face, please. Please let me know if you are able to make a meeting at 9.30 this Thursday. I shall be needing all of you to discuss a very sensitive matter and arrive at a consensus on next steps.

Please confirm that you are able to make it - we shall be keeping to the recommended social distance but only attend if you feel it is appropriate for you, in terms of Health. Note that in view of the sensitivity this cannot really be discussed via Zoom.

Elka let me know if you are able to open the offices for us, please.

Let me know.

Regards

Joey

Dr Joey Britto

Chair
Gibraltar Police Authority

[redacted]

From: Claire Pizzarello <claire.pizzarello@hassans.gi>
Sent: 21 May 2020 12:28
To: Dr Joey Britto
Subject: RE: URGENT MEETING

HI Joey
I am available now
KR
Claire

From: Dr Joey Britto [redacted]>
Sent: 21 May 2020 12:11
To: Claire Pizzarello <claire.pizzarello@hassans.gi>
Subject: Re: URGENT MEETING

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Claire
Tell me when and if you can take a call - it's for information only.

Thanks
Regards

Joey

> On 18 May 2020, at 12:53, Claire Pizzarello <claire.pizzarello@hassans.gi> wrote:
>
> [redacted] or [redacted]
>
> **From:** Dr Joey Britto [redacted]
> **Sent:** 18 May 2020 12:46
> **To:** Claire Pizzarello <claire.pizzarello@hassans.gi>
> **Subject:** Re: URGENT MEETING
>
> CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.
>
> Send me your mob - it may be best if you don't participate - I need to explain
>
> > On 18 May 2020, at 12:21, Claire Pizzarello <claire.pizzarello@hassans.gi> wrote:

Thanks Joey
I will let you know if I decide to attend. At the moment am working at home and avoiding gatherings as I am with my parents and (being over 70) they are staying in. Even with the restrictions being lifted soon they are going to follow the guidance for now and stay in so I am trying to do the same for their protection. I am going to have to start getting back to normality at some point just not sure if now is too soon. Have to think it through and speak to them.
KR
Claire

From: Dr Joey Britto [redacted]
Sent: 18 May 2020 12:15
To: Claire Pizzarello <claire.pizzarello@hassans.gi>
Subject: Re: URGENT MEETING

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Claire
I'll arrange to call you and I can explain after the meeting.
Regards

Joey

> On 18 May 2020, at 11:56, Claire Pizzarello <claire.pizzarello@hassans.gi> wrote:
>
> Hi Joey
> Is it possible to join by phone?
> KR
> Claire
>
> **From:** Dr Joey Britto [redacted]>
> **Sent:** 18 May 2020 10:55
> **To:** Edgar Lavarello <edgar.c.lavarello@gi.pwc.com>; Darren Grech <[redacted]>; Nadine Collado <nadine.collado@unigib.edu.gi>; Rebecca Figueras [redacted]>; Julio Alcantara [redacted]>; Ernest Gomez [redacted]>; Frank Carreras

<frank.carreras@gibraltar.gov.gi>; Claire Pizzarello <claire.pizzarello@hassans.gi>
Cc: Elka Hanglin <[redacted]
Subject: URGENT MEETING

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Dear all,

We are going to need to meet urgently and face to face, please. Please let me know if you are able to make a meeting at 9.30 this Thursday. I shall be needing all of you to discuss a very sensitive matter and arrive at a consensus on next steps.

Please confirm that you are able to make it - we shall be keeping to the recommended social distance but only attend if you feel it is appropriate for you, in terms of Health. Note that in view of the sensitivity this cannot really be discussed via Zoom.

Elka let me know if you are able to open the offices for us, please.

Let me know.

Regards

Joey

Dr Joey Britto

Chair
Gibraltar Police Authority

[redacted]

From: Dr J J Britto [redacted]
Sent: 22 May 2020 16:06
To: Ernest Gomez; Frank Carreras; Darren Grech; Claire Pizzarello; Edgar Lavarello; Julio Alcantara; Rebecca Figueras; Nadine Collado
Subject: Loss of Confidence in Commissioner expressed to Authority

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear all,

As discussed, I was called to a meeting at the Convent by the Governor. The Chief Minister also attended the meeting.

They explained to me that for a number of reasons (explained at our meeting) they had BOTH lost confidence in CoP and his ability to lead a modern police force. As discussed, today I have met with CoP and explained this to time and also outlining the reasons for this loss of confidence, as explained to the Authority. I also handed him a letter, as discussed, inviting him to retire in view of the fact that both Governor and Chief minister had lost confidence in him BUT with a clear proviso that he has a right to make representations before the whole GPA should he wish to do so and stating that we would consider these representations.

I have stated in the letter that he should write in within seven working days but that if he needs more time, he should put this in writing.

This all all I have so far.

Kind regards,

Joey

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 22 May 2020 16:10
To: Dr J J Britto
Cc: Ernest Gomez; (TAX) Carreras, Frank; Claire Pizzarello; Edgar Lavarello; Julio Alcantara; (Youth) Figueras, Rebecca; Nadine Collado
Subject: Re: Loss of Confidence in Commissioner expressed to Authority

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Dear Joey,

Noted with thanks.

Best wishes,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

''I am the master of my fate: I am the captain of my soul."

>

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex: [redacted]
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

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Please consider the environment before printing this email.

On 22 May 2020, at 16:06, Dr J J Britto [redacted] wrote:
>
> Dear all,
>
> As discussed, I was called to a meeting at the Convent by the Governor. The Chief Minister also attended the

meeting.
>
> They explained to me that for a number of reasons (explained at our meeting) they had BOTH lost confidence in CoP and his ability to lead a modern police force. As discussed, today I have met with CoP and explained this to time and also outlining the reasons for this loss of confidence, as explained to the Authority. I also handed him a letter, as discussed, inviting him to retire in view of the fact that both Governor and Chief minister had lost confidence in him BUT with a clear proviso that he has a right to make representations before the whole GPA should he wish to do so and stating that we would consider these representations.
>
>
>
> I have stated in the letter that he should write in within seven working days but that if he needs more time, he should put this in writing.
>
> This all all I have so far.
>
>
> Kind regards,
>
> Joey
>
>

From: Dr J J Britto [redacted]
Sent: 22 May 2020 20:06
To: Edgar Lavarello; Julio Alcantara; Ernest Gomez; Darren Grech; Claire Pizzarello; Nadine Collado; Frank Carreras; Rebecca Figueras
Subject: Concerns in writing
Attachments: Main points.pdf

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Dear colleagues,

Please find letter attached, providing a written explanation for CoP on what was expressed to GPA by Governor and Chief Minister in relation to their loss of confidence. You will glean from this, the seriousness of the matter at hand.

This is copy of letter sent to CoP this evening after his request for concerns in writing.

Regards

Joey

22nd May 2020

Commissioner Ian McGrail OTM MSc
Royal Gibraltar Police
New Mole House

Dear Commissioner McGrail,

Invitation to Retire : Section 34 of the Police Act ('the Act')

Our meeting earlier this morning refers.

Today I expressed to you that the Gibraltar Police Authority was calling upon you to retire under the provisions of Section 34 of the Act.

I told you that the reason that the Authority was taking this step arose from the communication by the Governor and the Chief Minister to the Authority that BOTH had lost confidence in your ability to run policing in Gibraltar. The reasons which the Governor and the Chief Minister have provided the Authority for their loss of confidence are summarised in the paragraphs numbers 1 to 5 below and address the relevant factors set out in Section 34(1) of the Act.

Additionally, the Authority itself has agreed with the matters raised by the Governor and the Chief Minister and have taken the view that your position is untenable as Commissioner given that you have lost the confidence of BOTH the Governor and the Chief Minister.

Please find below the main issues contributing to the loss of confidence, as expressed to the Authority by the Governor and the Chief Minister.

1. **Efficiency:**

The Governor and the Chief Minister are very concerned about the findings of the HMICFRS Report ('the Report'). It is clear damning in respect of the efficiency of the RGP. A large number of the findings of the Report address 'inefficiency' directly and indirectly. Indeed, the "Overview" of the Report specifically provides a criticism (para 2, page 7) that the Force is not 'as effective or efficient as it could be'.

Unit 25B Casemates Square, Gibraltar
Tel: (+350) 20040918, E-mail: secretary@gpa.gi

In this respect, the position is clear as to responsibility. Under Section 33 of the Act, it is the Commissioner who is responsible for the efficient administration of the Force. That means that responsibility in respect of this failing rests legally, directly with you.

It was also pointed out to the Authority that in your application for the role of Commissioner you would, if successful, immediately set up a working group to ensure that the recommendations of the 2015/6 HMIC Report had been met by the 1st March 2019. This action point was considered by you to be necessary for the RGP to be a 'continuously progressing and professional police force.' Not only have the recommendations and action points set out in the 2015/6 reports not been complied with but now, in addition, new and more serious recommendations have had to be made by the HMICFRS in 2020.

Additionally, and equally importantly, the incident at sea in March, resulting in the death of two individuals, was pointed out as further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction. The Authority notes that the Chief Minister has written to you directly, under Section 15 of the Act (copied to me as Chairman of the Authority), seeking further information on this matter given that neither he or the Governor seem to have a full picture of what actually transpired. The incident has resulted not just in a diplomatic complaint filed against the United Kingdom and Gibraltar, but also to a vessel being out of action, questions as to standard operating procedures in place and all the other concerns contained in the letter sent to you by the Chief Minister. I do not need to repeat that here, but I would refer you to the paragraphs of that letter which specifically set out that the Chief Minister has no confidence in his having been provided with the information expeditiously about this very serious incident. Additionally, the Governor expressed the view that he feels he has been misled by you about this most serious incident which has resulted in loss of life.

2. Effectiveness:

The issues relating to effectiveness were linked by the Governor and the Chief Minister. Additionally, as a result of the above, the RGP found itself without the use of a vessel for some time and the RGP's effectiveness as sea was therefore severely impacted for some time. The effectiveness of the RGP will also now be seriously compromised given the increased legal workload which will arise as a direct result of the claims made and all the corollary effects that they will give rise to.

3. & 4. Probity & Integrity:

It was communicated to me that both the Governor and the Chief Minister felt that their dealings with you have left them with the sense that you are lacking in both probity and integrity – the maritime incident is one case in point. This is very serious indeed. I think you need to reflect carefully on this. The situation we are in is one where BOTH the Governor and the Chief Minister respectively have expressed this view. It is not one of them that has expressed this view, which would be bad enough, but BOTH of them.

Additionally, the Authority is informed that the Attorney General has also expressed the same feelings.

The seriousness of this cannot be underestimated. The Governor and the Chief Minister expressed to the Authority that they consider that the Rule of Law in Gibraltar is compromised by the fact that they lack confidence in your probity and integrity.

5. Independence:

This area of concern was also brought to the attention of the Authority by reference to the parts of the report that deal with the potential for corruption and, consequently, influence, which, given what is identified in the Report, seems not to be completely understood in the RGP. The Governor and the Chief Minister expressed the view that it is not possible for the RGP to claim that it is acts independently in any investigation or matter unless it has properly addressed this recommendation that has remained outstanding for the period of your service.

It is for those reasons that we are calling upon you to retire on the interests of efficiency, effectiveness, probity, integrity and the independence of policing in Gibraltar, but before doing so are giving you an opportunity, as provided for in Section 34(2) of the Act to make representations which we shall consider.

I trust that this serves to clarify matters further.

I look forward to receiving any representations you may wish to make under Section 34(2) of the Act.

Yours,



JJ Britto
Chair
Gibraltar Police Authority

Unit 25B Casemates Square, Gibraltar
Tel: (+350) 20040918, E-mail: secretary@gpa.gi

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 22 May 2020 21:09
To: Dr J J Britto
Cc: Edgar Lavarello; Julio Alcantara; Ernest Gomez; Claire Pizzarello; Nadine Collado; (TAX) Carreras, Frank; (Youth) Figueras, Rebecca
Subject: Re: Concerns in writing

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Thanks and noted. D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

>

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex: [redacted]
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

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On 22 May 2020, at 20:05, Dr J J Britto [redacted] wrote:
>
> Dear colleagues,
>
> Please find letter attached, providing a written explanation for CoP on what was expressed to GPA by Governor and Chief Minister in relation to their loss of confidence. You will glean from this, the seriousness of the matter at hand.
>
> This is copy of letter sent to CoP this evening after his request for concerns in writing.
>
>
> Regards
>

> Joey
>
>
>
>
>
>
>
> <Main points.pdf>
>

From: (Youth) Figueras, Rebecca <rebecca.figueras@gibraltar.gov.gi>
Sent: 22 May 2020 21:54
To: (NO6) Grech, Darren
Cc: Dr J J Britto; Edgar Lavarello; Julio Alcantara; Ernest Gomez; Claire Pizzarello; Nadine Collado; (TAX) Carreras, Frank
Subject: Re: Concerns in writing

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Read and noted, by far the heaviest read on a friday!!

Joey we are behind you !

Regards rebecca

Sent from my iPhone

On 22 May 2020, at 9:08 pm, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Thanks and noted. D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

>

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex: [redacted]
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

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> Dear colleagues,
>
> Please find letter attached, providing a written explanation for CoP on what was expressed to GPA by Governor and Chief Minister in relation to their loss of confidence. You will glean from this, the seriousness of the matter at hand.
>
> This is copy of letter sent to CoP this evening after his request for concerns in writing.
>
>
> Regards
>
> Joey
>
>
>
>
>
>
>
> <Main points.pdf>
>

From: Dr Joey Britto [redacted]
Sent: 22 May 2020 22:49
To: (Youth) Figueras, Rebecca
Cc: (NO6) Grech, Darren; Edgar Lavarello; Julio Alcantara; Ernest Gomez; Claire Pizzarello; Nadine Collado; (TAX) Carreras, Frank
Subject: Re: Concerns in writing

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Thanks.

On 22 May 2020, at 21:53, (Youth) Figueras, Rebecca <rebecca.figueras@gibraltar.gov.gi> wrote:

Read and noted, by far the heaviest read on a friday!!

Joey we are behind you !

Regards rebecca

Sent from my iPhone

On 22 May 2020, at 9:08 pm, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Thanks and noted. D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

>

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex: [redacted]
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

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Please consider the environment before printing this email.

On 22 May 2020, at 20:05, Dr J J Britto [redacted] wrote:
>
> Dear colleagues,
>
> Please find letter attached, providing a written explanation for CoP on what was expressed to GPA by Governor and Chief Minister in relation to their loss of confidence. You will glean from this, the seriousness of the matter at hand.
>
> This is copy of letter sent to CoP this evening after his request for concerns in writing.
>
>
> Regards
>
> Joey
>
>
>
>
>
>
>
> <Main points.pdf>
>

From: (TAX) Carreras, Frank <frank.carreras@gibraltar.gov.gi>
Sent: 23 May 2020 02:46
To: Ernest Gomez
Cc: Dr J J Britto; Edgar Lavarello; Julio Alcantara; (NO6) Grech, Darren; Claire Pizzarello; Nadine Collado; (Youth) Figueras, Rebecca
Subject: Re: Concerns in writing

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Joey

Noted with thanks.

Frank

Sent from my iPhone

>

Frank Carreras OBE
Tax and Administration Adviser

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20067397
Centrex: [redacted]
Fax: (+350) 20040922
frank.carreras@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

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Please consider the environment before printing this email.

On 23 May 2020, at 02:18, Ernest Gomez [redacted] wrote:
>
> Dear Joey
>
> Noted with thanks.
>
> Best wishes
> Ernest
>
>
>
>> On 22 May 2020, at 20:05, Dr J J Britto [redacted] wrote:

>>
>> <Main points.pdf>
>

From: Nadine Collado <nadine.collado@unigib.edu.gi>
Sent: 24 May 2020 19:56
To: Frank Carreras
Cc: Ernest Gomez; Dr J J Britto; Edgar Lavarello; Julio Alcantara; Darren Grech; Claire Pizzarello; (Youth) Figueras, Rebecca
Subject: Re: Concerns in writing

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good afternoon

Read and noted.

Thanks

Nadine

Sent from my iPhone

On 23 May 2020, at 02:46, (TAX) Carreras, Frank <frank.carreras@gibraltar.gov.gi> wrote:

> Joey
>
> Noted with thanks.
>
> Frank
>
> Sent from my iPhone
>
> >

Frank Carreras OBE
Tax and Administration Adviser

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20067397
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HM Government of Gibraltar

Office of the Chief Secretary

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Please consider the environment before printing this email.

On 23 May 2020, at 02:18, Ernest Gomez <[redacted] wrote:
>
> Dear Joey
>
> Noted with thanks.
>
> Best wishes
> Ernest
>
>
>
>> On 22 May 2020, at 20:05, Dr J J Britto [redacted] wrote:
>>
>> <Main points.pdf>
>

From: (TAX) Carreras, Frank <frank.carreras@gibraltar.gov.gi>
Sent: 22 May 2020 16:13
To: Dr J J Britto; Ernest Gomez; (NO6) Grech, Darren; Claire Pizzarello; Edgar Lavarello; Julio Alcantara; (Youth) Figueras, Rebecca; Nadine Collado
Subject: RE: Loss of Confidence in Commissioner expressed to Authority

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Joey,

Noted.

Frank

Sent from Mail for Windows 10

From: Dr J J Britto
Sent: 22 May 2020 16:06
To: Ernest Gomez; (TAX) Carreras, Frank; (NO6) Grech, Darren; Claire Pizzarello; Edgar Lavarello; Julio Alcantara; (Youth) Figueras, Rebecca; Nadine Collado
Subject: Loss of Confidence in Commissioner expressed to Authority

Dear all,

As discussed, I was called to a meeting at the Convent by the Governor. The Chief Minister also attended the meeting.

They explained to me that for a number of reasons (explained at our meeting) they had BOTH lost confidence in CoP and his ability to lead a modern police force. As discussed, today I have met with CoP and explained this to time and also outlining the reasons for this loss of confidence, as explained to the Authority. I also handed him a letter, as discussed, inviting him to retire in view of the fact that both Governor and Chief minister had lost confidence in him BUT with a clear proviso that he has a right to make representations before the whole GPA should he wish to do so and stating that we would consider these representations.

I have stated in the letter that he should write in within seven working days but that if he needs more time, he should put this in writing.

This all all I have so far.

Kind regards,

Joey

From: Ernest Gomez [redacted]>
Sent: 22 May 2020 16:22
To: Dr J J Britto
Cc: Frank Carreras; Darren Grech; Claire Pizzarello; Edgar Lavarello; Julio Alcantara; Rebecca Figueras; Nadine Collado
Subject: Re: Loss of Confidence in Commissioner expressed to Authority

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Noted with thanks.

Best wishes
Ernest

> On 22 May 2020, at 16:06, Dr J J Britto [redacted]> wrote:
>
> Dear all,
>
> As discussed, I was called to a meeting at the Convent by the Governor. The Chief Minister also attended the meeting.
>
> They explained to me that for a number of reasons (explained at our meeting) they had BOTH lost confidence in CoP and his ability to lead a modern police force. As discussed, today I have met with CoP and explained this to time and also outlining the reasons for this loss of confidence, as explained to the Authority. I also handed him a letter, as discussed, inviting him to retire in view of the fact that both Governor and Chief minister had lost confidence in him BUT with a clear proviso that he has a right to make representations before the whole GPA should he wish to do so and stating that we would consider these representations.
>
>
>
> I have stated in the letter that he should write in within seven working days but that if he needs more time, he should put this in writing.
>
> This all all I have so far.
>
>
> Kind regards,
>
> Joey
>
>

From: Dr J J Britto [redacted]>
Sent: 22 May 2020 16:25
To: Ernest Gomez; Frank Carreras; Darren Grech; Claire Pizzarello; Edgar Lavarello; Julio Alcantara; Rebecca Figueras; Nadine Collado
Subject: Re: Loss of Confidence in Commissioner expressed to Authority

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Please note that the email this is sensitive and privileged.

> On 22 May 2020, at 16:06, Dr J J Britto [redacted]> wrote:
>
> Dear all,
>
> As discussed, I was called to a meeting at the Convent by the Governor. The Chief Minister also attended the meeting.
>
> They explained to me that for a number of reasons (explained at our meeting) they had BOTH lost confidence in CoP and his ability to lead a modern police force. As discussed, today I have met with CoP and explained this to time and also outlining the reasons for this loss of confidence, as explained to the Authority. I also handed him a letter, as discussed, inviting him to retire in view of the fact that both Governor and Chief minister had lost confidence in him BUT with a clear proviso that he has a right to make representations before the whole GPA should he wish to do so and stating that we would consider these representations.
>
>
>
> I have stated in the letter that he should write in within seven working days but that if he needs more time, he should put this in writing.
>
> This all all I have so far.
>
>
> Kind regards,
>
> Joey
>
>

From: Nadine Collado <nadine.collado@unigib.edu.gi>
Sent: 22 May 2020 17:01
To: Dr J J Britto
Cc: Ernest Gomez; Frank Carreras; Darren Grech; Claire Pizzarello; Edgar Lavarello; Julio Alcantara; Rebecca Figueras
Subject: Re: Loss of Confidence in Commissioner expressed to Authority

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Joey

Are we able to see the letter given to CoP?

Best

Nadine

Sent from my iPhone

> On 22 May 2020, at 16:25, Dr J J Britto [redacted]> wrote:
>
> Please note that the email this is sensitive and privileged.
>
>
>
>
>
>
>> On 22 May 2020, at 16:06, Dr J J Britto [redacted]> wrote:
>>
>> Dear all,
>>
>> As discussed, I was called to a meeting at the Convent by the Governor. The Chief Minister also attended the meeting.
>>
>> They explained to me that for a number of reasons (explained at our meeting) they had BOTH lost confidence in CoP and his ability to lead a modern police force. As discussed, today I have met with CoP and explained this to time and also outlining the reasons for this loss of confidence, as explained to the Authority. I also handed him a letter, as discussed, inviting him to retire in view of the fact that both Governor and Chief minister had lost confidence in him BUT with a clear proviso that he has a right to make representations before the whole GPA should he wish to do so and stating that we would consider these representations.
>>
>>
>>

>> I have stated in the letter that he should write in within seven working days but that if he needs more time, he should put this in writing.
>>
>> This all all I have so far.
>>
>>
>> Kind regards,
>>
>> Joey
>>
>>
>

From: (Youth) Figueras, Rebecca <rebecca.figueras@gibraltar.gov.gi>
Sent: 18 May 2020 11:26
To: Dr Joey Britto; Edgar Lavarello; (NO6) Grech, Darren; Nadine Collado; Julio Alcantara; Ernest Gomez; (TAX) Carreras, Frank; Claire Pizzarello
Cc: (GPA) Hanglin, Elka
Subject: RE: URGENT MEETING

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Im fine to meet but I have to leave by 10.30 am

Thanks

R

From: Dr Joey Britto
Sent: 18 May 2020 10:55
To: Edgar Lavarello <edgar.c.lavarello@gi.pwc.com>; (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>; Nadine Collado <nadine.collado@unigib.edu.gi>; (Youth) Figueras, Rebecca <rebecca.figueras@gibraltar.gov.gi>; Julio Alcantara <[redacted]; Ernest Gomez [redacted]; (TAX) Carreras, Frank <frank.carreras@gibraltar.gov.gi>; Claire Pizzarello <claire.pizzarello@hassans.gi>
Cc: (GPA) Hanglin, Elka <elka.hanglin@gpa.gi>
Subject: URGENT MEETING

Dear all,

We are going to need to meet urgently and face to face, please. Please let me know if you are able to make a meeting at 9.30 this Thursday. I shall be needing all of you to discuss a very sensitive matter and arrive at a consensus on next steps.

Please confirm that you are able to make it - we shall be keeping to the recommended social distance but only attend if you feel it is appropriate for you, in terms of Health. Note that in view of the sensitivity this cannot really be discussed via Zoom.

Elka let me know if you are able to open the offices for us, please.

Let me know.

Regards

Joey

Dr Joey Britto

Chair
Gibraltar Police Authority

[redacted]

From: Dr Joey Britto [redacted]
Sent: 18 May 2020 11:36
To: (Youth) Figueras, Rebecca
Cc: Edgar Lavarello; (NO6) Grech, Darren; Nadine Collado; Julio Alcantara; Ernest Gomez; (TAX) Carreras, Frank; Claire Pizzarello; (GPA) Hanglin, Elka
Subject: Re: URGENT MEETING

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Thanks

> On 18 May 2020, at 11:25, (Youth) Figueras, Rebecca <rebecca.figueras@gibraltar.gov.gi> wrote:
>
> Im fine to meet but I have to leave by 10.30 am
>
> Thanks
>
> R
>
> ---
>
> **From:** Dr Joey Britto [mailto:[redacted]
> **Sent:** 18 May 2020 10:55
> **To:** Edgar Lavarello <edgar.c.lavarello@gi.pwc.com>; (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>; Nadine Collado <nadine.collado@unigib.edu.gi>; (Youth) Figueras, Rebecca <rebecca.figueras@gibraltar.gov.gi>; Julio Alcantara [redacted]; Ernest Gomez <[redacted]; (TAX) Carreras, Frank <frank.carreras@gibraltar.gov.gi>; Claire Pizzarello <claire.pizzarello@hassans.gi>
> **Cc:** (GPA) Hanglin, Elka <elka.hanglin@gpa.gi>
> **Subject:** URGENT MEETING
>
> Dear all,
>
> We are going to need to meet urgently and face to face, please. Please let me know if you are able to make a meeting at 9.30 this Thursday. I shall be needing all of you to discuss a very sensitive matter and arrive at a consensus on next steps.
>
> Please confirm that you are able to make it - we shall be keeping to the recommended social distance but only attend if you feel it is appropriate for you, in terms of Health. Note that in view of the sensitivity this cannot really be discussed via Zoom.
>
> Elka let me know if you are able to open the offices for us, please.
>
> Let me know.
>
> Regards
>
> Joey

Dr Joey Britto

Chair
Gibraltar Police Authority

[redacted]

From: Edgar Lavarello (GI) <edgar.lavarello@pwc.com>
Sent: 18 May 2020 11:49
To: Dr Joey Britto
Cc: Edgar Lavarello; Darren Grech; Nadine Collado; Rebecca Figueras; Julio Alcantara; Ernest Gomez; Frank Carreras; Claire Pizzarello; Elka Hanglin
Subject: Re: URGENT MEETING

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I am sorry I can not meet this Thursday as I have a client board meeting all morning.

I can do any other morning this week. Also any other morning next week.

On Mon, 18 May 2020 at 10:54, Dr Joey Britto [redacted]> wrote:

> Dear all,
>
> We are going to need to meet urgently and face to face, please. Please let me know if you are able to make a meeting at 9.30 this Thursday. I shall be needing all of you to discuss a very sensitive matter and arrive at a consensus on next steps.
>
> Please confirm that you are able to make it - we shall be keeping to the recommended social distance but only attend if you feel it is appropriate for you, in terms of Health. Note that in view of the sensitivity this cannot really be discussed via Zoom.
>
> Elka let me know if you are able to open the offices for us, please.
>
> Let me know.
>
> Regards
>
> Joey
>
> Dr Joey Britto
>
> Chair
> Gibraltar Police Authority
>
> [redacted]

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--

Edgar Lavarello
PwC | Partner
Tel: +350 2007 3520
Mob: [redacted]
Email: edgar.lavarello@pwc.com
PricewaterhouseCoopers Limited
327 Main Street, Gibraltar
www.pwc.gi

@PwC_Gib http://www.facebook.com/pwc.gi
If you would like to hear more from us please subscribe to our mailing list via this link.



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From: (TAX) Carreras, Frank <frank.carreras@gibraltar.gov.gi>
Sent: 18 May 2020 11:55
To: Dr Joey Britto
Cc: (Youth) Figueras, Rebecca; Edgar Lavarello; (NO6) Grech, Darren; Nadine Collado; Julio Alcantara; Ernest Gomez; Claire Pizzarello; (GPA) Hanglin, Elka
Subject: Re: URGENT MEETING

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Joey,

Fine with me.

Frank

Sent from my iPhone

On 18 May 2020, at 11:35, Dr Joey Britto [redacted] wrote:

Thanks

On 18 May 2020, at 11:25, (Youth) Figueras, Rebecca <rebecca.figueras@gibraltar.gov.gi> wrote:

Im fine to meet but I have to leave by 10.30 am

Thanks

R

From: Dr Joey Britto [mailto:[redacted]
Sent: 18 May 2020 10:55
To: Edgar Lavarello <edgar.c.lavarello@gi.pwc.com>; (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>; Nadine Collado <nadine.collado@unigib.edu.gi>; (Youth) Figueras, Rebecca <rebecca.figueras@gibraltar.gov.gi>; Julio Alcantara [redacted] Ernest Gomez <[redacted]; (TAX) Carreras, Frank <frank.carreras@gibraltar.gov.gi>; Claire Pizzarello <claire.pizzarello@hassans.gi>
Cc: (GPA) Hanglin, Elka <elka.hanglin@gpa.gi>
Subject: URGENT MEETING

Dear all,

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Please confirm that you are able to make it - we shall be keeping to the recommended social distance but only attend if you feel it is appropriate for you, in

terms of Health. Note that in view of the sensitivity this cannot really be discussed via Zoom.

Elka let me know if you are able to open the offices for us, please.

Let me know.

Regards

Joey

Dr Joey Britto

Chair
Gibraltar Police Authority

[redacted]

From: Claire Pizzarello <claire.pizzarello@hassans.gi>
Sent: 18 May 2020 11:56
To: Dr Joey Britto; Edgar Lavarello; Darren Grech; Nadine Collado; Rebecca Figueras; Julio Alcantara; Ernest Gomez; Frank Carreras
Cc: Elka Hanglin
Subject: RE: URGENT MEETING

Hi Joey
Is it possible to join by phone?
KR
Claire

From: Dr Joey Britto [redacted]
Sent: 18 May 2020 10:55
To: Edgar Lavarello <edgar.c.lavarello@gi.pwc.com>; Darren Grech <darren.grech@gibraltar.gov.gi>; Nadine Collado <nadine.collado@unigib.edu.gi>; Rebecca Figueras <rebecca.figueras@gibraltar.gov.gi>; Julio Alcantara [redacted]; Ernest Gomez [redacted]; Frank Carreras <frank.carreras@gibraltar.gov.gi>; Claire Pizzarello <claire.pizzarello@hassans.gi>
Cc: Elka Hanglin <elka.hanglin@gpa.gi>
Subject: URGENT MEETING

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Elka let me know if you are able to open the offices for us, please.

Let me know.

Regards

Joey

Dr Joey Britto

Chair
Gibraltar Police Authority

[redacted]

From: Dr Joey Britto [redacted]
Sent: 18 May 2020 12:10
To: Claire Pizzarello
Cc: Edgar Lavarello; Darren Grech; Nadine Collado; Rebecca Figueras; Julio Alcantara; Ernest Gomez; Frank Carreras; Elka Hanglin
Subject: Re: URGENT MEETING

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Claire - I'd rather not. If you can't make it, I'll make sure you are kept up to speed.

J

On 18 May 2020, at 11:56, Claire Pizzarello <claire.pizzarello@hassans.gi> wrote:

Hi Joey
Is it possible to join by phone?
KR
Claire

From: Dr Joey Britto [redacted]
Sent: 18 May 2020 10:55
To: Edgar Lavarello <edgar.c.lavarello@gi.pwc.com>; Darren Grech <darren.grech@gibraltar.gov.gi>; Nadine Collado <nadine.collado@unigib.edu.gi>; Rebecca Figueras <rebecca.figueras@gibraltar.gov.gi>; Julio Alcantara [redacted]; Ernest Gomez [redacted] Frank Carreras <frank.carreras@gibraltar.gov.gi>; Claire Pizzarello <claire.pizzarello@hassans.gi>
Cc: Elka Hanglin <elka.hanglin@gpa.gi>
Subject: URGENT MEETING

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Dear all,

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Elka let me know if you are able to open the offices for us, please.

Let me know.

Regards

Joey

Dr Joey Britto

Chair
Gibraltar Police Authority

[redacted]

From: Dr Joey Britto [redacted]
Sent: 18 May 2020 12:15
To: Claire Pizzarello
Subject: Re: URGENT MEETING

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Claire
I'll arrange to call you and I can explain after the meeting.
Regards

Joey

On 18 May 2020, at 11:56, Claire Pizzarello <claire.pizzarello@hassans.gi> wrote:

Hi Joey
Is it possible to join by phone?
KR
Claire

From: Dr Joey Britto [redacted]
Sent: 18 May 2020 10:55
To: Edgar Lavarello <edgar.c.lavarello@gi.pwc.com>; Darren Grech <darren.grech@gibraltar.gov.gi>; Nadine Collado <nadine.collado@unigib.edu.gi>; Rebecca Figueras <rebecca.figueras@gibraltar.gov.gi>; Julio Alcantara [redacted]; Ernest Gomez [redacted]; Frank Carreras <frank.carreras@gibraltar.gov.gi>; Claire Pizzarello <claire.pizzarello@hassans.gi>
Cc: Elka Hanglin <elka.hanglin@gpa.gi>
Subject: URGENT MEETING

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Dear all,

We are going to need to meet urgently and face to face, please. Please let me know if you are able to make a meeting at 9.30 this Thursday. I shall be needing all of you to discuss a very sensitive matter and arrive at a consensus on next steps.

Please confirm that you are able to make it - we shall be keeping to the recommended social distance but only attend if you feel it is appropriate for you, in terms of Health. Note that in view of the sensitivity this cannot really be discussed via Zoom.

Elka let me know if you are able to open the offices for us, please.

Let me know.

Regards

Joey

Dr Joey Britto

Chair
Gibraltar Police Authority

[redacted]

From: Claire Pizzarello <claire.pizzarello@hassans.gi>
Sent: 18 May 2020 12:21
To: Dr Joey Britto
Subject: RE: URGENT MEETING

Thanks Joey
I will let you know if I decide to attend. At the moment am working at home and avoiding gatherings as I am with my parents and (being over 70) they are staying in. Even with the restrictions being lifted soon they are going to follow the guidance for now and stay in so I am trying to do the same for their protection. I am going to have to start getting back to normality at some point just not sure if now is too soon. Have to think it through and speak to them.
KR
Claire

From: Dr Joey Britto [redacted]
Sent: 18 May 2020 12:15
To: Claire Pizzarello <claire.pizzarello@hassans.gi>
Subject: Re: URGENT MEETING

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Claire
I'll arrange to call you and I can explain after the meeting.
Regards

Joey

> On 18 May 2020, at 11:56, Claire Pizzarello <claire.pizzarello@hassans.gi> wrote:
>
> Hi Joey
> Is it possible to join by phone?
> KR
> Claire
>
> **From:** Dr Joey Britto [redacted]
> **Sent:** 18 May 2020 10:55
> **To:** Edgar Lavarello <edgar.c.lavarello@gi.pwc.com>; Darren Grech <darren.grech@gibraltar.gov.gi>; Nadine Collado <nadine.collado@unigib.edu.gi>; Rebecca Figueras <rebecca.figueras@gibraltar.gov.gi>; Julio Alcantara [redacted]>; Ernest Gomez [redacted]; Frank Carreras <frank.carreras@gibraltar.gov.gi>; Claire Pizzarello <claire.pizzarello@hassans.gi>
> **Cc:** Elka Hanglin <elka.hanglin@gpa.gi>
> **Subject:** URGENT MEETING
>
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this cannot really be discussed via Zoom.

Elka let me know if you are able to open the offices for us, please.

Let me know.

Regards

Joey

Dr Joey Britto

Chair
Gibraltar Police Authority



From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 18 May 2020 12:41
To: (TAX) Carreras, Frank
Cc: Dr Joey Britto; (Youth) Figueras, Rebecca; Edgar Lavarello; Nadine Collado; Julio Alcantara; Ernest Gomez; Claire Pizzarello; (GPA) Hanglin, Elka
Subject: Re: URGENT MEETING

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Ok guillotined 10:30 please

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex: [redacted]
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

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Please consider the environment before printing this email.

> On 18 May 2020, at 12:04, (TAX) Carreras, Frank <frank.carreras@gibraltar.gov.gi> wrote:
>
> Joey,
>
> Fine with me.
>
> Frank
>
> Sent from my iPhone

On 18 May 2020, at 11:35, Dr Joey Britto <[redacted]> wrote:

Thanks

> On 18 May 2020, at 11:25, (Youth) Figueras, Rebecca <rebecca.figueras@gibraltar.gov.gi> wrote:
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> Im fine to meet but I have to leave by 10.30 am
>
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> R
>
> ---
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> **Sent:** 18 May 2020 10:55
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>
> Let me know.
>
> Regards
>
> Joey

Dr Joey Britto

Chair
Gibraltar Police Authority

[redacted]

From: Dr Joey Britto [redacted]
Sent: 18 May 2020 12:45
To: (NO6) Grech, Darren
Cc: (TAX) Carreras, Frank; (Youth) Figueras, Rebecca; Edgar Lavarello; Nadine Collado; Julio Alcantara; Ernest Gomez; Claire Pizzarello; (GPA) Hanglin, Elka
Subject: Re: URGENT MEETING

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Yes

> On 18 May 2020, at 12:41, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:
>
> Ok guillotined 10:30 please
>
> Darren Grech
> Chief Secretary
> HM Government of Gibraltar
> No 6 Convent Place
> Gibraltar

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex: [redacted]
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

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> >
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Regards

Joey

Dr Joey Britto

Chair
Gibraltar Police Authority

[redacted]

From: Dr Joey Britto [redacted]
Sent: 18 May 2020 12:45
To: Claire Pizzarello
Subject: Re: URGENT MEETING

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Claire - can i call you?

On 18 May 2020, at 12:21, Claire Pizzarello <claire.pizzarello@hassans.gi> wrote:

Thanks Joey
I will let you know if I decide to attend. At the moment am working at home and avoiding gatherings as I am with my parents and (being over 70) they are staying in. Even with the restrictions being lifted soon they are going to follow the guidance for now and stay in so I am trying to do the same for their protection. I am going to have to start getting back to normality at some point just not sure if now is too soon. Have to think it through and speak to them.
KR
Claire

From: Dr Joey Britto [redacted]
Sent: 18 May 2020 12:15
To: Claire Pizzarello <claire.pizzarello@hassans.gi>
Subject: Re: URGENT MEETING

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Claire
I'll arrange to call you and I can explain after the meeting.
Regards

Joey

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KR
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Let me know.

Regards

Joey

Dr Joey Britto

Chair
Gibraltar Police Authority

[redacted]

From: Dr Joey Britto [redacted]
Sent: 18 May 2020 12:46
To: Claire Pizzarello
Subject: Re: URGENT MEETING

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Send me your mob - it may be best if you don't participate - I need to explain

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Let me know.

Regards

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Chair
Gibraltar Police Authority

[redacted]

From: Claire Pizzarello <claire.pizzarello@hassans.gi>
Sent: 18 May 2020 12:54
To: Dr Joey Britto
Subject: RE: URGENT MEETING

[redacted]

From: Dr Joey Britto [redacted]
Sent: 18 May 2020 12:46
To: Claire Pizzarello <claire.pizzarello@hassans.gi>
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Let me know.

Regards

Joey

Dr Joey Britto

Chair
Gibraltar Police Authority

[redacted]

From: Dr Joey Britto [redacted]
Sent: 21 May 2020 12:11
To: Claire Pizzarello
Subject: Re: URGENT MEETING

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Claire
Tell me when and if you can take a call - it's for information only.

Thanks
Regards

Joey

> On 18 May 2020, at 12:53, Claire Pizzarello <claire.pizzarello@hassans.gi> wrote:
>
> [redacted]
>
> **From:** Dr Joey Britto[redacted]
> **Sent:** 18 May 2020 12:46
> **To:** Claire Pizzarello <claire.pizzarello@hassans.gi>
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Let me know.

Regards

Joey

Dr Joey Britto

Chair
Gibraltar Police Authority

[redacted]

From: Dr Joey Britto [redacted]
Sent: 18 May 2020 11:12
To: Nadine Collado
Subject: Re: URGENT MEETING

Thanks, Nadine - it's very sensitive.

J

On 18 May 2020, at 10:59, Nadine Collado <nadine.collado@unigib.edu.gi> wrote:

Good morning Joey

No probs from me.

Best

Nadine

Nadine Collado | Director of Professional Development & Continuing Education
BA (Hons) FCG

University of Gibraltar
Europa Point Campus, Gibraltar, GX11 1AA
T: +350 20071000 Ext: [redacted] | E: nadine.collado@unigib.edu.gi

<image001.jpg>
<image002.png>
<image003.png>
<image004.png>

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Let me know.

Regards

Joey

Dr Joey Britto

Chair
Gibraltar Police Authority

[redacted]

From: Dr Joey Britto [redacted]>
Sent: 27 May 2020 09:37
To: Julio Alcantara; Edgar Lavarello; Ernest Gomez; Frank Carreras; Darren Grech; Rebecca Figueras; Claire Pizzarello; Nadine Collado
Subject: Friday meeting postponed

Dear all,

I suggest we postpone our meeting this Friday.

I am suggesting this so we can meet instead to consider any representations submitted to us within the stipulated 7 working days. I'd rather meet specifically to consider representations as soon as these are received and will of course call a meeting specifically for this and we should all attend given the circumstances.

By way of summary: at the moment, as you know, I informed CoP of the loss of confidence in him as expressed directly by the Governor and CM and invited him to retire given that his position, from their perspective, has become untenable. I explained the grounds expressed by Governor and the CM. I also informed him that that present, GPA had no choice but to act on the information provided by the Governor and the CM.

I also informed him that once we consider any representations he may care to make, we would then take a firm and final position on this but also reiterated that this was 'an invitation to retire' and nothing else and reminded him that he could be removed from office without having recourse to representations - this way, at least, he has an opportunity to explain matters from his perspective and we would be in a position to either support his position or not, as the case may be, and would, of course, communicate our position to Governor and CM.

The Chief Minister has written to CoP separately also expressing his and the Governor's loss of confidence in relation to the maritime incident.

There is nothing else to report at this moment in time.

Kind regards,

Joey

From: Dr Joey Britto <[redacted]>
Sent: 02 June 2020 13:07
To: Ernest Gomez; Rebecca Figueras; Frank Carreras; Julio Alcantara; Nadine Collado; Edgar Lavarello; Darren Grech
Subject: PLEASE NOTE

Dear all,

I am expecting a call from James Neish QC - once I arrange to meet up with him - please let me know who would wish to attend the meeting.

I suppose that two of you accompanying me would be acceptable.

Let me know who can make it please.

This would be either today or tomorrow, I am surmising.

Regards

Joey

Dr Joey Britto

Chair
Gibraltar Police Authority

[redacted]

From: Dr Joey Britto [redacted]
Sent: 03 June 2020 15:59
To: Ernest Gomez; Frank Carreras; Darren Grech; Rebecca Figueras; Edgar Lavarello; Nadine Collado; Julio Alcantara
Subject: Fwd: Governor-GPA Chair 020620

Colleagues

See attached, for your information.

Regards

Joey

Begin forwarded message:

> **From:** "Nick Pyle (Sensitive)" <Nick.Pyle@fco.gov.uk>
> **Date:** 3 June 2020 at 14:47:04 CEST
> **To:** Dr J J Britto [redacted]
> **Subject: Governor-GPA Chair 020620**
>
> Dear Mr Chairman
>
> Please find attached a letter that I trust is self-explanatory. Apologies that it is in separate jpgs.
>
> The original will be delivered to your office.
>
> Best regards
>
> Nick
>
> N J Pyle OBE
> Governor
> The Convent
> Gibraltar
> tel: +350 20045440 mob: [redacted]
>
> This email is intended for the addressee(s) only. All messages sent and received by the Foreign & Commonwealth Office may be monitored in line with relevant UK legislation



Dr J J Britto

Chairman

The Gibraltar Police Authority

Unit 25B Casemates Square

Gibraltar

Dear Mr. Chairm

Re: Invitation to Retire – s

I would like to thank you for p
sent to you by Mr Charles C
("CoP"), on the above-caption

A number of matters and a
indirectly. My position within t
you will be addressing yourse
are aware, I wrote to you o

proceed during such time
communications with you sinc
a member of the GPA.

With regard to the remaining
specific points at this stage. V
would be happy and able to p
any point made in Letter is not

1. The relevance of the

The first issue is the offensiv
therefore my conviction that h
handling of the so-called ongo

My deep concerns with the Co
that investigation. The alread
confirmed by the incident at s
2020).

In relation to the former, the
require explanation. By its owr
financial, reputational and so
about the leadership at the RC

Furthermore, I suspected at th
CoP's disclosure of informatic
issue of whether or not the ir
CoP was telling me that it w
informing the Chief Minister

Indeed, it occurred some 7.5
well outside BGTW. I find this
respect to the office of Gove
crucial issue for me and for bo
relations with Spain were conc

In relation to the latter, on 30
to the Chief Minister saying th
day before, I had written to y
published.

I was informed, for the first
referred to in the Letter on

information by the Chief Mini
considered matters related to

I want to be clear, therefore
integrity, and my conviction th
lost confidence in him, theref
investigation. It is incorrect an

For Mr Gomez to therefore
incident at sea and the HMIC
being pressured to retire" (pa
and strongly object to. It is
expressed above. In addition
incident at sea and the HMI
statement which may mislead

As a final point on this issue

occurred on the back of a gr
particular with the numerous
picked up on. I have also
identified in the HMIC Report
despite his lawyer's response
others.

The CoP is the person who is
and behaviour of the RGP, inc

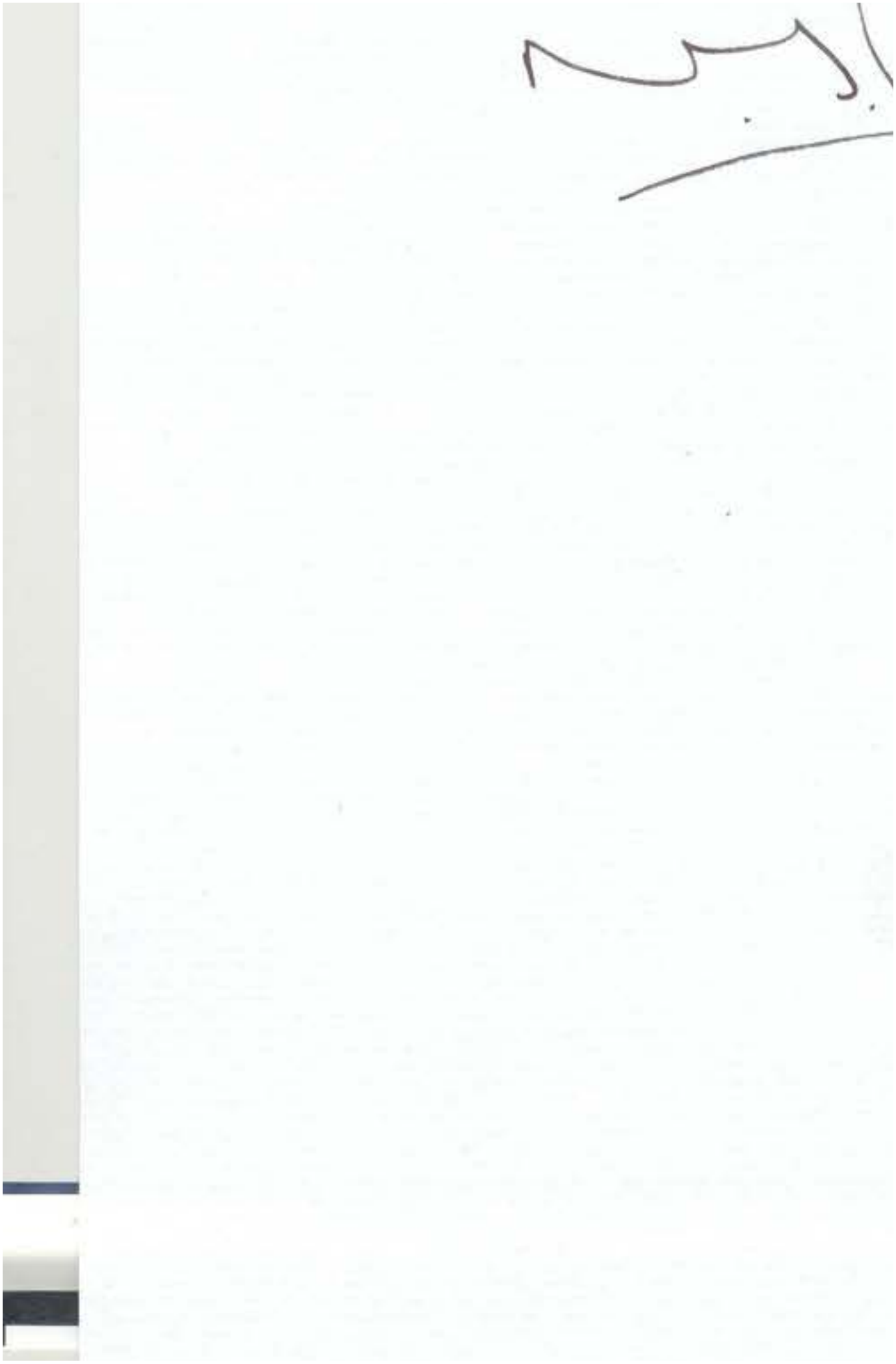
2. The contents and alle

The second issue I must addr
record that the allegations ma
independence of the GPA, t
Gibraltar and participating in a
investigation are entirely untr
integrity. I find such allegatio

refute them and hold each on
of confidence in the CoP and

To conclude, I communicate
the content, tone and style
confidence in the CoP and my
policing in Gibraltar in additio
Governor.

Yours sincerely





From: Dr J J Britto <[redacted]>
Sent: 04 June 2020 09:21
To: Ernest Gomez; Frank Carreras; Darren Grech; Nadine Collado; Edgar Lavarello; Rebecca Figueras; Julio Alcantara
Cc: James J Neish; Elka Hanglin
Subject: Legal Representation

Dear All

By way of keeping you updated and as agreed at our last meeting, we felt we needed legal advice in relation to the case we are currently dealing with.

Ernest and I had a meeting yesterday with James Neish QC (copied) to explain the situation.

There is nothing else to report at this juncture but will update you and call a meeting as soon as we have an opinion.

I am also copying in Elka as well in case she needs to arrange a meeting at short notice etc.

Thanks.

Kind regards,

Joey

From: Dr Joey Britto [redacted]>
Sent: 04 June 2020 16:53
To: Ernest Gomez
Cc: Julio Alcantara; Darren Grech; Edgar Lavarello; Frank Carreras; Nadine Collado; Rebecca Figueras; Elka Hanglin
Subject: Re: Meeting tomorrow at 12.00

Ok - can everybody make it at 3.00?
Elka - could you stay?

> On 4 Jun 2020, at 16:46, Ernest Gomez [redacted]> wrote:
>
> Hi Joey
>
> I am fine to attend but I think we should try our best to adjust the time to enable all of us to attend, given the seriousness of the matter. I am happy to work around other members' schedules and attend whenever is suitable for all.
>
> Kind regards
> Ernest
>
>
>
>> On 4 Jun 2020, at 16:17, Dr Joey Britto [redacted]> wrote:
>>
>> Dear all
>>
>> Grateful if you could make a meeting tomorrow at 12.00?
>>
>> Please confirm.
>>
>> Thank you.
>>
>> Regards
>>
>> Joey
>>
>

From: Edgar Lavarello (GI) <edgar.lavarello@pwc.com>
Sent: 09 June 2020 15:21
To: Dr J J Britto
Cc: Nick Pyle; Darren Grech; Frank Carreras; Ernest Gomez; Claire Pizzarello; Rebecca Figueras; Nadine Collado; Edgar Lavarello; Julio Alcantara; Elka Hanglin
Subject: Re: Extraordinary Meeting of GPA - Friday 12th June 2020 at 9.30

Joey I assume you saw the 1.30 press release.

On Tue, 9 Jun 2020 at 10:24, Dr J J Britto [redacted]> wrote:

> Dear all,
>
> I am calling an extraordinary meeting of the GPA on Friday at 9.30. It is imperative that you ALL attend, please, as matters pertaining to the events of the last few weeks will be covered.
>
> Note that Nick will have reverted to Deputy Governor by then and will also, therefore, be attending.
>
> Grateful if you were to confirm attendance.
>
> Thank you.
>
> Kind regards,
>
> Joey
>
> _____
>
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--
Edgar Lavarello
PwC | Partner

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From: (RGP) Ullger, Richard (COP 235) <Richard.Ullger@royalgib.police.gi>
Sent: Wednesday, 13 December 2017 15:36
To: 'Nick.Pyle@fco.gov.uk'
Subject: RE: CPNI Project Team Visit to Gibraltar - Project Servator

Thanks Nick. I look forward to continue working with you too and hear a little more of Botswana ☺

Take care

Richard

Richard Ullger MSc
Superintendent

Royal Gibraltar POLICE
Working Together to make Our Community Safer

Planning, Development and Support Division, New Mole House, Rosia Road, Gibraltar GX11 1AA

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From: Nick.Pyle@fco.gov.uk [mailto:Nick.Pyle@fco.gov.uk]
Sent: 13 December 2017 15:35
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: RE: CPNI Project Team Visit to Gibraltar - Project Servator

Richard

So sorry to hear about your wife passing. I did not know. So yes, you have been through worse times but I have a sense, indeed no doubt, that you are a forward looking, confident character who overcomes. I look forward to working with you during the rest of my time here.

Nick

From: (RGP) Ullger, Richard [mailto:Richard.Ullger@royalgib.police.gi]
Sent: 13 December 2017 15:26
To: Nick Pyle (Sensitive)
Subject: RE: CPNI Project Team Visit to Gibraltar - Project Servator

Nick,

Thank you ever so much, that is ever so kind of you. I am truly gutted and disappointed, but grateful to the board for my opportunity to apply for the position. I have certainly been through worse times in life, particularly with the passing of my wife seven years ago, so this won't prevail me in any way. I shall do what is best for Gibraltar, and that is to serve it as I have done for the past 30 years.

Thanks again and best wishes

Richard

Richard Ullger MSc
Superintendent

Royal Gibraltar POLICE
Working Together to make Our Community Safer

Planning, Development and Support Division, New Mole House, Rosia Road, Gibraltar GX11 1AA

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From: Nick.Pyle@fco.gov.uk [mailto:Nick.Pyle@fco.gov.uk]
Sent: 13 December 2017 15:06
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: RE: CPNI Project Team Visit to Gibraltar - Project Servator

Richard

Thanks.

Can I just add, on a purely personal basis, that I can imagine the disappointment you may be feeling over the CoP position. For what it is worth, I thought your application, presentation and interview were all very good.

Best regards

Nick

From: (RGP) Ullger, Richard [mailto:Richard.Ullger@royalgib.police.gi]
Sent: 13 December 2017 14:56
To: Nick Pyle (Sensitive)
Subject: RE: CPNI Project Team Visit to Gibraltar - Project Servator

Dear Nick,

I tried populating the spreadsheet for you with Ian and Paul's costings, but it wouldn't allow me to do so. I guess it is protected from access. The final costs for that item is £2483.96. I'll forward again the email with the attachment of the receipts. Everything else looks fine.

With best wishes

Richard

Richard Ullger MSc
Superintendent

Planning, Development and Support Division, New Mole House, Rosia Road, Gibraltar GX11 1AA

Email richard.ullger@royalgib.police.gi
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From: Nick.Pyle@fco.gov.uk [mailto:Nick.Pyle@fco.gov.uk]
Sent: 13 December 2017 14:29
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: RE: CPNI Project Team Visit to Gibraltar - Project Servator

Richard

Thanks for this and previous emails with copies of receipts. I've pulled together a list of all the training we've agree to fund and what Richard M has said will slip to next FY. Could you just run your eye over it before I send it to London for the Board meeting. Could you also fill in the actual spend for the second item, your and Ian's visit to the UK 9-13 October, and email me copies of receipts at some stage. I can then arrange through Charlene and Maureen repayment to the RGP of all expenditure for the first 6 items (up to end of November).

Regards

Nick

From: (RGP) Ullger, Richard [mailto:Richard.Ullger@royalgib.police.gi]
Sent: 11 December 2017 12:48

To: Nick Pyle (Sensitive)
Cc: (RGP) Dewar-Ford, Charlene; (RGP) Chipolina, Paul; (RGP) Mifsud, Richard (OTM)
Subject: FW: CPNI Project Team Visit to Gibraltar - Project Servator

Dear Nick,

Please find attached copies of receipts for Item 5 on your list for Project Servator to the tune of £1392.00. You will see that this differs somewhat from the original quote of £4696.00 and this is simply because CPNI have met some of the costs at their end.

With best wishes

Richard

Richard Ullger MSc
Superintendent

Royal Gibraltar POLICE
Working Together to make Our Community Safer

Planning, Development and Support Division, New Mole House, Rosia Road, Gibraltar GX11 1AA

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From: (RGP) Dewar-Ford, Charlene
Sent: 11 December 2017 11:56
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Cc: (RGP) Chipolina, Paul <Paul.Chipolina@royalgib.police.gi>
Subject: CPNI Project Team Visit to Gibraltar - Project Servator

Good Morning,

Please see attached fourth payment that can now be reimbursed back to us as all costs are complete. This is the last email I will be sending today as these are the only complete ones for now. The total amount is £1392.00.

Thanks and Best Regards

Charlene

Charlene Dewar-Ford
Executive Officer

Royal Gibraltar POLICE
Working Together to make Our Community Safer

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From: (RGP) Payas, Patrick <Patrick.Payas@royalgib.police.gi>
Sent: Friday, 9 August 2019 10:45
To: (RGP) All Police Staff; (RGP) All Civilian Staff
Cc: (RGP) Payas, Patrick
Subject: Update on AAP report and Commissioners Message

Dear All,

PSB, extract from this week's Force Orders providing an update on the AAP report and corresponding message from the Commissioner.

1. AAP FINAL REPORT AND RECOMMENDATIONS

Subsequent to the commissioning of a review at the Commissioner's behest, conducted by AAP on a number of underlying issues within the RGP, we now have sight of this report and have shared the contents with the Chairman of the Federation. It is now the Command's intention to continue to address these pertinent issues and the new recommendations together with the Federation, through the initial work streams. This will be a phased process, but it is our aim to ensure that we give it the time and commitment it deserves. Updates of progress will be shared through Force Orders.

There are 11 recommendations, with 2 of these being a combination of work in progress . The Work streams and Command Composition as task owners to address the 11 recommendations are the following:

Bullying / Harassment Allegations	AC / Supt Yeats / CI Romero
Low Morale	Supt Yeats / CI Perez / Insp Enriles
Estates / IT / Health and Safety	Supt Lopez / SEO Ramos
HR	AC / Supt Yeats / SEO Ramos
Health and Wellbeing	Supt Tunbridge / CI Field / SEO Ramos

To support the work that has already started and to ensure that the organisation continues to deliver in the different policing business areas, the Commissioner of Police has provided a statement. This has been done in order to set the scene, but to also encourage, engage and equip officers with the expectation of an organisation that has very high standards, supported with structures and a Code of Ethics.

COMMISSIONER'S MESSAGE

The RGP is a trustworthy entity, a responsible employer which takes its duty of care toward staff, both our uniformed complement and civilian employees very seriously, hence for the avoidance of any lingering reservation that may somehow seek to cast doubt or cynicism on this general premise, I wish to categorically reiterate that as Commissioner of Police I will not entertain any improper practices which impact negatively on the physical or mental well-being of our staff, any procedures that in any way seek to diminish or undermine the highest standards of fairness, even handedness and equality of opportunity that are deeply rooted in the work ethic and culture of this organisation at every level.

&'

The Command Team and I are deeply committed to scrupulously equitable working practices, to maintaining a firm and vigorous stand against any conduct that may be rationally perceived as unjust, biased, discriminatory, unreasonable or prejudiced. Under my leadership, all can rest assured that no effort will be spared to weed out and unreservedly banish any inkling of intimidation, in other words, any culture of harassment that may rear its ugly head in our ranks. We are in the process of reviewing our policy and mechanisms to address issues of this kind.

"Intimidation, harassment, mistreatment or victimisation of any sort will not be tolerated under any circumstances."

Having said this, the RGP as a principled organisation, which derives its strength from long-standing policing traditions and values, must reaffirm a profound and unrelenting sense of duty to the society we serve and of which we are an integral part. As a uniformed and disciplined body we must take pride in the valuable trust that the general public places upon each and every one of us, to spare no effort, leave no stone unturned to achieve and deliver the maximum standards of safety; to protect our community from all forms of crime, from the multiple menaces of terrorism in an increasingly complex and challenging world which does not spare us from its overarching dangers and negative influences.

We should not be detracted by tendencies expressed in other public sector departments that would negatively exert a pernicious influence in our midst when referring to claims of bullying, mobbing or peer abuse. Our overriding undertaking of service is something that cannot be interrupted or derailed. At no point can this paramount concern be jeopardised.

This is a critical part of a police officer´s job and the public whom we serve, expect us to be made of sterner stuff and not to succumb to the prevalent traits where we see disheartened individuals blighted by low morale and disgruntlement not being able to discharge their duties to the necessary standard and not meeting the accepted criterion of performance. Criteria that may be applicable in the contexts of civilian workplaces where there is much emphasis on the 'imbalance of physical or social power' in the relations between employees and management, but which do not objectively arise in the case of a police organisation with a clearly defined hierarchical and command structure. We cannot afford to be seen to be weak, weakened or despondent.

"I will not entertain any improper practices which impact negatively on the physical or mental well-being of our staff"

We are a unit, a family with a code of ethics that we must strive to sustain and encourage. The public looks up to us to provide what no other organisation in Gibraltar can provide. We cannot drift with the tide.

Again, I must stress that legitimate wrongs and complaints will be fully taken heed of and we remain sensitive and available to discuss these, my door and that of my senior management team is always open to receive officers who may wish to discuss any issue of concern in the strictest confidence. Indeed, issues of mental health are very close to my own preoccupations as the leader of this organisation, something that we take very seriously indeed. We will very shortly be launching our health and well-being strategy, and in line with this, incorporating the professional services of GHA clinical psychologist Gustavo Camino who will be delivering a series of talks on mental health, distress and coping with work stress related issues during Training Days at New Mole House.

&(

"We will very shortly be launching our health and well-being strategy."

We are society's last line of defence against all forms of delinquency and lawbreaking, from petty theft to serious organized crime and the terrorism of political and religious extremists who wish to destroy our democratic way of life. It is our obligation to remain strong, our standards and values must prevail and for this we must be tough and determined, tougher and more resolute than the ordinary citizen who looks up to us to act as their protective shield. As a uniformed body, our sense of discipline, our exercise of lawful authority, provides the blueprint, the bond of trustworthiness, the purposefulness and dedication, the ethos that is instilled into every recruit that walks into New Mole House before he is ready to go out again to accomplish his calling. We cannot afford a lessening of standards, a weakening of our commitment ingrained in our oath of service, a shrinking of our courage to confront the threats, to bring peace of mind to the public that looks upon us to act decisively and effectively to tackle wrongdoing and uphold the law.

We strive each day to become better, to learn from our errors and successes. When we make mistakes, we must be able to exercise the necessary self-criticism to improve in efficiency and determination, in other words to become stronger. Wilting under pressure or pointing fingers at superiors/peers is not the answer, it is not RGP way. Only in unity and partnership, in acknowledging the importance of teamwork can we look forward to the future with measured confidence. Undermining morale by systematically challenging the basic premise of authority in our organisation through a variety of means, including unreasonable and excessive expectation and a shirking of individual responsibilities can potentially have devastating effects and destabilize the foundations of our organisation. We will strive to prevent this from occurring with your help.

"We are a unit, a family with a code of ethics that we must strive to sustain and encourage. The public looks up to us to provide what no other organisation in Gibraltar can provide. We cannot drift with the tide."

Intimidation, harassment, mistreatment or victimisation of any sort will not be tolerated under any circumstances. However, the expectation that every officer has to comply with their duty to the best of their ability can in no way be interpreted as any of the above, and cannot be seen to encroach on that individual's right to dignified treatment and wellbeing in the workplace, or in any way be deemed as anything other than the correct and appropriate course of action. It follows from this, that when an officer makes a mistake or under performs it is the genuine and rightful duty of his or her superiors to ensure that this is pointed out to them in commensurate terms to certify that they understand their error so that they avoid repeating it, to examine the reasons for this slipup, and to expect a proper explanation and an honest assumption and acceptance of responsibility.

This is not intended as a punitive, vindictive or chastising action but as a corrective tool designed to improve future performance. As we recognise their innumerable feats of service, unwavering commitment and courage against formidable odds, so too must officers be able to gain valuable insights from their lapses. It is vital that all officers can recognise their errors as a learning curve and progression to becoming better officers as a result. Management has an important role to play in the supervision and control of all operational and logistical procedures. As a modern law enforcement agency, we are subjected to rigorous legally binding methods of assessment, scrutiny and accountability on a daily basis, which all of us have to comply with from the Commissioner and senior management down to the rawest recruit. To challenge this, to seek to short-circuit this vital organic structure that is the core element at the heart of a successful and effective policing body is not the path we wish to go down.

&)

Patrick Payas
Inspector
Staff Officer to the Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **/20043923 / 20048007** Centrex: **2204/2202**

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Royal Gibraltar Police

A review to contextualise recent staff surveys and underlying issues

AAP Associates

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ROYAL GIBRALTAR POLICE

Executive Summary

The suggestion that there is bullying and harassment in the Royal Gibraltar Police (RGP) is not new. It has been a matter for occasional debate both internally and publicly in the local media for many years. Various attempts have been made to understand the issues and act; but the suggestion has persisted.

A staff survey prepared and circulated by the new Royal Gibraltar Police Federation (RGPF) was conducted by them for the first time in late 2018 and once again brought the issue to the fore; leading to some differing views between the RGPF and the Commissioner. The findings of that survey, if true, were concerning and led to a number of working groups being established by the Commissioner. The RGPF were invited to these groups.

AAP Associates (AAP) were asked to provide consultancy support to the Commissioner to better understand these issues and to examine the effectiveness of the current approach to dealing with them.

We interviewed about 150 staff members from all RGP departments. These interviews took place individually and in focus groups. In addition, we were also pleased to interview the Commissioner, Assistant Commissioner and all members of the senior management team as well as the former and current chair of the RGPF and members of the RGPF board. During two on site phases we also visited much of the police estate and examined vehicles and personal equipment. In addition, all grievance files, ten personal files and ten evidence files were examined.

We concluded that there was not systematic bullying in the organisation but that there was some evidence of bullying and harassment by a minority of managers, supervisors and peers that was not being reported and consequently not being addressed.

We examined the use of the force grievance procedure and concluded the system was not trusted and hardly used. We have suggested ways in which confidence in the procedure could be improved by a tailored RGP approach with lead supervisors, oversight, independent monitoring and mediation. We emphasise the importance of senior managers being consistent in acknowledging there is some bullying and harassment, as there is in many other organisations.

We also examined concerns expressed by staff about the poor quality of the police estate, some vehicles and information technology but found there to be a sense of pragmatism amongst staff about how quickly improvements could be achieved notwithstanding the negative impact this has on their working lives and their efficiency.

At the core of many staff concerns was not the buildings or equipment but people issues; particularly being treated fairly and having consistent decision-making. We have made suggestions in this report as to how fairness and consistency might be improved in key areas that

particularly concerned staff. We recognise that addressing many of these issues is already underway within the seven joint working groups established by the Commissioner, but, for understandable reasons progress in some of these groups has been slower than everybody expected.

We concur with the current rationale for each of these working groups but believe some of these groups will need to merge and be aligned over the next few months as the work picks up pace. The RGPF are members of all the working groups and now that they have newly elected board members, will also be better placed to make an effective and positive contribution. It will also be important to ensure that regular updates are communicated to staff. The Commissioner is monitoring progress of these groups and is keen to ensure positive results.

The RGPF survey proved to be a significant area of debate. We found that although the approach and questions could be improved that nevertheless many staff believed it offered another opportunity to express their views to help improve the service. We found that many of the issues raised in the survey were also raised in our staff interviews, but we were able to gain more detail. In this report we examine the RGPF and the RGP surveys and make suggestions for their further improvement. We have been pleased with the positive view taken by the RGPF in our discussions with them about developing the survey and of the RGP in taking a constructive approach to dealing with many of the issues through the working groups.

The RGP survey also offers a rich source of information about the force but could be further enhanced. We consider that although the time may not currently be right to undertake a joint survey that at the least the RGP and RGPF should work together to coordinate and plan their respective surveys.

The new RGPF Board know it has a significant role to fulfil on behalf of their members in working with the Commissioner and senior managers. To assist their progress, we set out our advice that will help establish the new RGPF board with a structured and evidence approach offering the prospect of effective representation.

We are pleased that the new RGPF board and the Commissioner have expressed a clear intent to work together while recognising their distinctly different roles and responsibilities. We are confident that our findings will contribute towards the future success of that working relationship. We conclude by expressing our thanks for the way in which staff have engaged with this process and to offer our continued support.

Chapter one

1.1 Our commission

On the 4 January 2019 AAP was invited by the RGP to provide independent consultancy support to the Commissioner in order to contextualise the findings of recent surveys, assist RGP and the RGPF to better understand the problems, and to examine the effectiveness of the current approach. The RGPF survey in particular had highlighted a range of important issues including allegations of bullying and harassment and health and safety concerns that would benefit from independent, expert evaluation.

The evaluation was conducted in two phases; the first between the 15 April 2019 and the 18 April 2019 and the second between the 29 May 2019 and the 31 May 2019. The evaluation was undertaken by two AAP Directors with extensive policing experience as senior police officers in England and Wales and as former senior members of Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services. In addition, the evaluation was supported by an AAP Associate who was a former senior police officer and long-standing Chair of the Police Federation of England and Wales. This report represents our independent views based on our strategic, operational, police federation and inspection experience.

1.2 Terms of Reference

The terms of reference were agreed as follows: -

"*To provide independent support to the RGP Commissioner in order to contextualise the findings of recent surveys, assist RGP and the RGPF to better understand the problems, and to examine the effectiveness of the current approach to dealing with the issues*".

1.3 Methodology

We first met with the Assistant Commissioner and RGPF officers in London to detail the requirement and time scales[1]. A comprehensive review of all the documentation provided was undertaken following submission of a document request. This included, but was not limited to, the RGP staff survey, the RGPF survey, related project plans, action plans and proposals, grievance procedures, bullying and harassment policies and information and data about current reporting levels.

We examined the procedures that RGP has in place to prevent workforce bullying and harassment and the procedure to investigate them. This included the RGP policies, procedures, training and ethos against good practice. The effectiveness of the RGP grievance and procedures was also considered and included a review against good practice.

[1] An outline proposal by AAP Associates for Independent support to the Royal Gibraltar Police Commissioner and the Royal Gibraltar Police Federation.

Recent grievance investigations were also examined to assess their effectiveness and fairness. Staff knowledge of the procedures and level of reporting was tested, and an examination undertaken of the awareness and experience of supervisors and the capability of professional standards.

We also conducted a review as to whether there was evidence of systematic bullying and harassment. This involved examining current reporting levels, interviewing staff at all levels, offering opportunities for confidential disclosure and identifying any common themes.

An evaluation of the concerns raised in the RGPF survey about health and safety issues was undertaken. This included interviewing staff, examining personal safety equipment, the records of use, the effectiveness of vehicles and related equipment and assessing relevant policy.

We also undertook a review of the RGP and RGPF surveys in order to offer guidance about the preparation and use of surveys.

During this work programme we interviewed about 150 staff members from all RGP departments. These interviews took place individually and in focus groups. We also listened to staff members who approached us confidentially outside the interview process. In addition, we were also pleased to interview the Commissioner, Assistant Commissioner and all members of the senior management team as well as the former and current chair of the RGPF and members of the RGPF Board. We triangulated evidence with managers, supervisors and peers and where feasible with documentary examination. During the two on site phases we also visited much of the police estate and examined vehicles and personal equipment. In addition, all grievance files, ten personal files and ten evidence files were examined.

The AAP team recognise the inconvenience that any such process can cause and are grateful for the full co-operation and support that were given to us by so many people. We were particularly impressed by the number of staff members that had the courage to discuss personal matters with us and take us into their confidence in order for the organisation to learn and improve. We respect that confidence and focus in this report on the organisational issues those disclosures revealed.

1.4 Overview

Gibraltar is a British Overseas Territory and is home to over 30,000 people, with thousands more commuting daily across the land border with Spain. Located on the southern end of the Iberian Peninsula at the entrance to the Mediterranean Sea, Gibraltar is a major tourism and leisure destination, which receives approximately 10.5 million visitors a year, many of whom arrive on cruise ships. The economy is growing fast with general trade, the provision of financial services, communications, e-gaming, tourism and maritime activities.

The RGP has a unique policing challenge and is responsible for the preservation of the peace; the maintenance of law and order; the prevention and detection of crime; the apprehension and

guarding of offenders; and the protection of property. Community expectations of the service are high, with the RGP striving hard to be equal to those expectations.

To enable the RGP to deal with these responsibilities, the force has a budget of 16.167m in 2018/19. This provides for 240 officers and 44 members of support staff. RGP is led by a Commissioner of Police and is overseen by the Gibraltar Police Authority (GPA), an independent body.

Until 2018 police officers were represented by a Police Association but in 2018 the RGPF was established in law[2] in order to represent members of the Force in all matters affecting their welfare and efficiency[3]. It was established as being entirely independent of and unassociated with any body or person outside the Force[4].

On the 22 May 2019 a new Police Federation Board was elected by members; this included a new chair and secretary. Both the new Board and the Commissioner have expressed a clear intent to work together while recognising their distinctly different roles and responsibilities.

1.5 Report Structure

The report is structured around the terms of reference and following this introduction in **Chapter One** we start with an assessment of the measures in place to prevent workforce bullying and harassment and its procedures to investigate allegations in **Chapter Two**. The chapter is set out under headings of grievance procedures, professional standards policy and the code of ethics for ease of reference. An examination as to whether there is evidence of systematic bullying and harassment is the subject of **Chapter Three**. We were also asked to focus upon concerns raised about health and safety issues and the evidence we found forms the content of **Chapter Four.** Key areas are set out under the respective headings of staffing, workloads and sickness. In **Chapter Five** we consider the RGPF survey and the RGP survey. The RGPF survey had already proved to be a significant area of debate and we have sought in this chapter to provide a view that moves that debate away from the process and focuses upon the findings. The new Federation Board knows it has a significant role on behalf of their members in working with the Commissioner and to assist this to happen we include our views that might assist the new Police Federation Board. This forms **Chapter Six.**

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[2] Police Amendment Act 2018 that amended the Police Act 2006

[3] There are exceptions including questions of promotion affecting individuals; and questions of discipline although the Police Federation may represent a member of the Force at any stage of disciplinary proceedings brought under regulations made in accordance with section 79.

[4] The Government may, on the recommendation of the GPA authorise RGP or a branch of the RGP to be associated with a person or body outside the police service in such cases and manner, and subject to such conditions, as it may specify; and vary or withdraw an authorisation previously given. (Section 52 (2)

Chapter Two

Assess the measures RGP has in place to prevent workforce bullying and harassment and its procedure to investigate allegations of bullying and harassment.

2.1 The purpose of a grievance policy

A grievance policy is designed to maintain good employee relations by providing a means of dealing with and preventing further grievances in the workplace effectively and expediently. The policy should aim to address grievances that cannot be resolved informally at the appropriate level of management. The procedure should provide the framework by which views can be expressed freely and without prejudice and to have those issues resolved in a fair and equitable manner. It is always best to try to address workplace grievances informally and at as early a stage as possible. However, if a grievance cannot be resolved in this way, then having a formal procedure in place can help avoid later legal action. The effective handling of staff grievances has a positive and productive impact on staff wellbeing. It enhances staff loyalty and reduces absenteeism, undisciplined behaviour and poor work.

2.2 RGP Grievance procedure

RGP introduced a grievance procedure in 2007 which was reviewed and relaunched in 2017. A further review took place in May 2018. The introduction to that procedure states that "This shows the RGP's commitment to equal opportunities for all police officers, support staff, trainees and temporary employees". The policy is that bullying, and harassment should be reported through the grievance procedure.

While the grievance procedure sets out the broad scope, there could be more detail, especially when compared to the grievance procedures used by other forces[5]. It does however set out a four-stage process; an informal stage, a first stage for resolution by a departmental inspector, a second stage for resolution by a divisional chief inspector and a third stage for resolution by the divisional superintendent.

We found that this grievance procedure is not working effectively and that senior managers were seeking to improve the process. There was a slight improvement in 2018 when three grievances were recorded but there were none in 2017. It is clear from the interviews that some staff considered they had a grievance but would not report it. In the absence of a trusted system we found their grievances were often discussed openly and critically with peers, reinforcing perceptions about unfairness and consistency.

[5] Dorset Police grievance procedure is one such example. The Advisory, Conciliation and Arbitration Service (ACAS) code of practice on disciplinary and grievance procedures provides detailed guidance on the process.

2.3 Staff confidence in the RGP grievance procedure

During interviews we explored the reasons for the lack of confidence in the system. A commonly held view by staff members was that the process was akin to a complaint investigation. Many of them referred to the fact that RGP is a relatively small police force where everybody generally knows everybody else and that people have long memories. The consequent starting position for them was that the current system could never be fair. This must be overcome by taking positive action to ensure fairness to gain their confidence. We suggest a way forward in this report.

While there had been briefings when the procedure was introduced, we found that staff and supervisors had limited understanding how it worked in practice although most knew of its existence. A few interviewed knew that if the staff member does not want to discuss their grievance informally with their line manager, they could go direct to the first stage departmental inspector. Even then staff did not consistently consider this to be an action they could legitimately take as they believed it would be viewed negatively by that supervisor. Consequently, the perception was that it would not lead to a resolution but recrimination.

It was also clear from supervisors and managers that they were not consistently clear about how to handle a grievance. We did see an example of a minor matter that should have been dealt with by a first line supervisor being unnecessarily escalated by them rather than dealing with it themselves.

2.4 Building trust in the RGP grievance procedure

The current RGP grievance procedure is modelled on the procedures commonly seen in England and Wales. All England and Wales forces have a greater number of staff and supervisors and have a greater number of options to resolve grievances, such as staff moving departments, areas or police stations where it assists resolution. Due to RGP having one main police station, fewer departments and fewer staff less resolution options are available.

Grievances are best dealt with informally at an early stage, with the immediate line manager. This gives everyone involved a chance to resolve matters effectively before they escalate.

However, where there is a reluctance to report matters to supervisors informally, it becomes important to have a formal procedure for handling grievances. We take the view that the force would benefit from a tailored RGP grievance procedure.

There is a critical need to build trust in the system. An important way in which RGP could consider building that trust is by reviewing who deals with each of the formal grievance stages. Currently all supervisors might have to deal with a grievance. The current policy also directs staff to their own line manager.

2.5 Grievance champions

RGP could consider appointing just a few supervisors as grievance handlers to whom staff from any department or unit could refer their grievances. Supervisors could be selected for their skills and experience and the staff could refer to those in whom they had the most confidence. Managers for stage two grievances could also be selected for their skills and experience. Selection for these posts would be a management decision.

These grievance 'champions' could also have a proactive role in briefing staff on the grievance process. Such a role is intended to enhance, not compromise, supervision and management. In time, when reporting grievances becomes a trusted process, RGP can then decide if more grievance handlers were appropriate, leading to a point where the procedure is the norm and all supervisors have a direct role. Such a process should not stop a member of staff just talking to their supervisor to informally resolve problems. However, if they do not wish to do so or it becomes a grievance then the new process would ensure the matter is dealt with by an experienced grievance handler.

2.6 Oversight

In addition, independent oversight of the grievance process would help to build trust and confidence in the process and to ensure that it remains consistent.

The GPA have the responsibility, among other responsibilities, to secure the maintenance of an efficient and effective police force within the financial resources available to it and on a value for money basis, to ensure high standards of integrity, probity and independence of policing and to establish, operate and supervise the process for investigating complaints against police officers. The GPA has a role in providing that independent oversight and should have anonymised information submitted to them for scrutiny and be provided with relevant statistics alongside other force data.

2.7 Independence

In order to build staff confidence in the grievance procedure It would be helpful if there was an individual who had specific oversight and who could scrutinize the overall progress of cases. The person would not make decisions about the case but have access to the information to ensure that matters were being dealt with expeditiously. There is some logic in an individual member of the police authority having that responsibility – but if not, importantly an individual that is conversant with how grievance procedures should operate and be security vetted. This would be a positive step in gaining staff confidence.

2.8 Mediation

An independent third party or mediator can also be an option to help resolve disciplinary or grievance issues[6]. Individuals could usefully be identified by the force to fulfil this responsibility. Mediation is a voluntary process conducted by an independent third party where the mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator.

The mediator is not there to judge, to say one person is right and the other wrong, or to tell those involved in the mediation what they should do. The mediator oversees the process of seeking to resolve the problem but not the outcome. To be effective both parties need to be committed to reaching a solution. Mediators may be employees trained and accredited by an external mediation service who act as internal mediators in addition to their day jobs. They can be from an external mediation organisation. The RGP could usefully seek potential mediators to be available for appropriate grievance resolutions.

2.9 Learning from experience

Those invoking the grievance procedure could usefully be invited to participate in evaluation to assess its ease of use, overall effectiveness and to identify any potential areas for improvement. Any feedback received would then be considered and if appropriate, incorporated at an annual review. A point to where all feedback goes, either in writing or by e-mail, should be identified for that purpose.

2.10 Managerial ownership

For many staff that we interviewed grievances and complaints are the same in all but name. It is not surprising in a small organisation that this is the case as many of the supervisors and managers involved in the creation and dissemination of the policy have a professional standards background. To build staff confidence there needs to be a separation of managerial ownership of the grievance procedure and those matters investigated by the professional standards department. This extends to having different policy leads.

2.11 A relaunch of the grievance procedure

Once all the developmental points in this report have been considered there should be a relaunch of the new grievance procedure. Even then a new procedure alone will not make it work. The senior management need to ensure they are all in agreement with the importance of addressing bullying and harassment, acknowledging its presence in the workplace and take steps to act. RGPF should positively engage in this process in order to help resolve members grievances.

[6] The Advisory, Conciliation and Arbitration Service (ACAS) Working for everyone guidance on bullying and harassment.

Leadership and setting good examples are critical to success in tackling bullying and harassment in any workplace.

RECOMMENDATION 1

RGP should introduce a grievance procedure that reflects the local needs as outlined in this report. This work should be prioritised, and it is suggested could be the core work for the bullying and harassment working group. It is also suggested that this should be completed in three months.

2.12 Professional Standards Policy

The RGP Professional Standards policy was approved in 2008 and last reviewed in February 2017. It is an overview of some professional standards issues and provides some guidance on how investigations should be conducted. Separately the team did see copies of information and guidance to managers in other documents. The policy aims to set out the organisational vision on professional standards and the mechanisms it will work with to ensure high professional and integrity standards are maintained.

2.13 The investigations

During interviews it was clear that some staff perceived there was a lack of openness and transparency with professional standards investigations and that this caused them anxiety. To an extent some anxiety is to be expected. We frequently heard claims that those investigated are not kept up to date with the progress of investigations and some cases investigations were underway without staff being aware. There will be circumstances when professional standards investigators cannot be as open and transparent about progress as staff would like them to be. However, we were advised senior managers do strive to keep people informed. To bridge this gap and to deal with staff concerns it would assist if senior managers were to place renewed emphasis on continuing to both record and check that staff are being appropriately updated.

2.14 Who deals with investigations?

The professional standards department consists of one chief inspector with direct support from one inspector. Most of the work is reactive with limited time for proactive work such as the monitoring or analysis of corruption triggers. These staff members are committed and deal with a wide spectrum of investigations. Early positive action by a first line supervisor is important in avoiding matters escalating but this is not happening consistently, adding pressure to an already busy department.

During interviews with sergeants and inspectors there was a frequent concern expressed about their not making a mistake. This is not unexpected given that RGP has many new supervisors. Clearly, these supervisors have responsibilities by virtue of the rank but in fulfilling those

responsibilities It could usefully be reiterated to them that making a mistake with honest endeavour and intent can be a learning process and not a fault.

2.15 Standards

It was also apparent that staff were not consistently clear about the standards expected of them. Coupled with supervisors having an uncertainty about how to deal with transgressions this leads to inconsistent decision making. it is vital that supervisors set standards and ensure intrusive supervision. The RGP should consider briefings and discussions with staff about standards of behaviour addressing such issues, for example, as the use of social media. This could be reinforced in publications such as the 'Bobby', the official magazine of the RGP.

2.16 Legal requirements

The professional standards department of course have clear legal requirements and policies that guide their investigations.[7] However where interdiction is a consideration there is no option of retaining an officer on duty with a non-public facing role. In addition, there is no effective process for informal resolutions to provide a pathway for early finalisation. Equally there is no effective route for confidential reporting or policy in place to protect whistle blowers.

We found staff generally unaware of the reasons why professional standards investigations must take a particular course and this gave rise to them being regarded by them as heavy handed and unfair. This is notwithstanding that during interviews with the senior managers they confirmed this was never their intent. This is also not reflected in the overall results as we were informed that of 61 complaints in the last 18 months only four cases proceeded to a discipline panel. Information about how the professional standards system works could usefully allay the concerns expressed by staff.

2.17 Awareness

There is a real opportunity now for RGP to deal with these issues by considering an in-Force awareness package that includes standards, the grievance procedure and the professional standards system. By exploring boundaries and providing examples of effective decision making it can only serve to reduce the sense of uncertainty expressed by interviewees.

[7] Police Act 2006, Police Complaints Regulation 2008 and the Code of Professional Standards for Police Officers 2007

RECOMMENDATION 2

RGP should introduce an in-force awareness package that includes standards, grievances and the professional standards system. Particular focus should be on exploring boundaries and providing examples of effective decision making. It is suggested that this could be the core work of the 'Low Morale' working group. It is suggested that the awareness package should be completed in six months.

2.18 Welfare

The force does have a police officer appointed as the welfare officer who has recourse to support from a qualified government welfare officer. She also networks with welfare officers from other departments. However, she is not professionally trained and has other important responsibilities. We raise this point later in discussing staff wellbeing but having continued support available to officers under investigation, particularly those interdicted, would demonstrate that apart from a supervisor maintaining contact, that those officers are still valued and appropriately assisted. In time RGP should consider civilianising this role but in the meantime, they should continue to support this important post.

2.19 Investigation results

When an investigation is concluded other members of staff will learn about the result, but those interviewed say this is usually through word of mouth and other informal channels. Through personal contact they often hear about the circumstances and draw informal conclusions about inconsistency of results and unfairness. The commissioner has taken the initiative and recently posted disciplinary results and further to that it is suggested that RGP could usefully ensure increased efforts are made to circulate relevant learning points to all staff.

2.20 Code of Ethics

The Code of Ethics should underpin every policy, procedure, decision and action in policing today and be an everyday business consideration.

The RGP Code of Ethics was approved in 2015 and is due for review. There are significant variations from the College of Policing code. This includes there being no reference to relationships for sexual gain, responsibilities in relation to business interests' associations and political activity, fitness for work, or a requirement to report action taken for criminal offences in any location against a person.

The College of Policing code sets out the importance of challenging and reporting improper conduct – including protection of whistle-blowers. The RGP code is less specific.

Officers were in the main generally aware about the RGP Code of Ethics but only a handful could highlight specifics, and this included supervisors. We are aware that the RGP Code of Ethics is to

be reviewed this year. Such a review could usefully seek the views of staff and the RGPF, as by participating in a discussion about the Code makes it more likely that staff consider they are part of it and consequently adherence to it is more likely.

RECOMMENDATION 3

RGP should bring forward their review of the Code of Ethics and values to ensure that it reflects local circumstances. Action should be taken to ensure there is renewed emphasis on the code through, briefings, publications, news items and other similar methods. It is suggested that this could be the core work of the 'Low Morale' working group. It is suggested that this should be completed in three months.

2.21 Annual Policing Plan

The current Annual Policing Plan makes only brief mention of the Code of Ethics at the outset. Delivery plan number 1 for goal 4 says that the RGP will strictly adhere to its values and Code of Ethics. It also refers to continuing to pursue equality, diversity and inclusivity in the workplace in delivery plan number 14. The RGP could usefully ensure that the Code of Ethics is given a much higher profile in the plan.

2.22 Working Groups

RGP has seven working groups recently established by the Commissioner. These were formed as a positive response to the RGPF survey. It is through these groups that many of the issues identified in this report will be addressed. The working groups are human resources, allegations of bullying, real estate, information technology infrastructure, wellbeing, low morale and health and safety. It is important that these groups are fully utilised to take the initiative to ensure improvement. However, the need for the working groups continued existence should be reviewed to eventually bring the resultant work into the day to day RGP business meetings. This will ensure the momentum is maintained and becomes part of day to day business including formal consultative meetings between the RGPF and the Commissioner.

RECOMMENDATION 4

RGP should review the seven workstreams in order to bring their work into the day to day force business meetings. It is suggested that this should occur not later than 12 months.

Chapter Three

Review whether there is evidence of systematic bullying and harassment.

3.1 Bullying and Harassment

There is some evidence of bullying and harassment in the organisation, but staff consider there is an improving position from the past. During focus groups, individual interviews and informal disclosures staff discussed examples with us. Some of these examples were of what they had seen or heard themselves and others what they had experienced personally. It was evident that there were some cases where bullying and harassment had occurred within the last two years.

We also heard of cases that, if true, amounted to blatant bullying and harassment, but most of these occurred many years ago. Some of these were cases over 10 years old that had been informally dealt with, but the negative experience had stayed with the individuals concerned and still had an impact on them many years later.

Other officers expressed the view that they had no personal experience of bullying or harassment.

It was however common to learn from interview that where bullying and harassment did occur it often involved perceived unfairness and inconsistency. For example, those interviewed say staff in specialised units are sometimes told minor infringements might result in their moving to a shift role. This can only reinforce a perceived view that a response officer shift or posting is not always valued. Equally some staff seeking promotion were told that the same minor infringement would affect their chances.

Equally some staff interviewed considered that some managers and supervisors were just providing strong leadership and that there was a gap between the longer service supervisors and newer recruits with differing expectations about how supervisory orders and instructions should be delivered.

We heard a variety of explanations from about 150 staff. There was a marked lack of clarity and hence understanding as to what amounted to bullying and harassment. The legal position regarding police officers being excluded from bullying at work in Gibraltar means there is an even higher responsibility on the Force to ensure working practices do not exploit staff or allow them to be treated unfairly in the workplace.

We take the view that bullying, and harassment is any unwanted behaviour that makes someone feel intimidated, degraded, humiliated or offended. A strong person shows good interpersonal skills, empathy for others and motivates. A bully lacks empathy for others, ridicules and demotivates others. It is not something that is necessarily always obvious or apparent to others and may happen in the workplace without an employer's awareness. Bullying or harassment can be between two individuals or it may involve groups of people.

It might be obvious, or it might be insidious. It may be persistent or an isolated incident. It can also occur in written communications, by phone or through email, not just face-to-face.[8]

For practical purposes though staff usually define what they mean by bullying or harassment. Something has happened to them that is unwelcome, unwarranted and causes a detrimental effect. If staff are concerned, they are being bullied or harassed, then they have a grievance which must be dealt with regardless of whether or not their complaint accords with a standard definition. There are often grey areas as to what is or is not bullying and harassment. We consider it to be good practise to provide examples to staff of what is considered unacceptable behaviour.

RGP should continue to use a variety of methods to ensure staff are made aware of this but importantly the senior management team should be unequivocal that it has no place in the RGP of today.

We concluded that there was not systematic bullying in the organisation but that there was some evidence of bullying and harassment by a minority of managers, supervisors and peers that was not being reported and consequently not being addressed.

In the United Kingdom surveys of workplaces, employees and health and safety representatives all indicate that there are problems with workplace bullying and ill treatment[9]. It is best prevented by strategies that focus proactively on ensuring worker wellbeing and fostering good relations, giving employees and managers the confidence to engage in early and informal resolution.

We saw no evidence of a separate bullying and harassment policy. The RGP could usefully consider framing such a workplace policy on bullying and harassment and this could be the vehicle that sets out the commitment of senior management[10]. This helps recognise the importance of the issue.

RECOMMENDATION 5

RGP should introduce a clear bullying and harassment policy that sets out the RGP acknowledgement, commitment and expectations. It is suggested that this should be developed in the bullying and harassment working group. It is also suggested that this should be completed in three months.

RGP should not underestimate the importance of including reference to tackling bullying and harassment in public reports and the policing plan. It is important in that it demonstrates an

[8] This ACAS description of bullying and harassment is widely used in the United Kingdom and is pertinent to Gibraltar.

[9] Employment Research - Justine Evesson and Sarah Oxenbridge, David Taylor (ACAS) November 2015 Policy discussion paper

[10] ACAS Bullying and Harassment a guide for managers and employers sets out useful information as to what such a policy should contain.

acknowledgement that bullying, and harassment occurs and could set out an intent and willingness to act.

3.2 The acceptability of banter

During interviews the level of what was termed 'acceptable banter' was referred to regularly and the subject of debate. It was apparent that banter was not usually challenged by supervisors. Banter can easily become bullying or harassment. Clearly there is a difference between that and banter that encourages a good inclusive team dynamic. What was apparent though was the degree of acceptable banter we heard about appeared far removed from that we have experienced in England and Wales. Many of those interviewed endeavoured to describe it as cultural but this cannot be the case when it becomes focused upon or against an individual. This cannot be acceptable and will come to the fore with an effective grievance procedure but also in other circumstances given that RGP officers do attend UK courses.

3.3 Joint Learning

It was clear from our interviews that there was a lack of understanding of what is and is not unacceptable behaviour. Some joint learning through the bullying working group around promoting and rewarding the right behaviours could prove helpful.

RECOMMENDATION 6

RGP should adopt good practice and ensure that staff are provided with examples of what is and is not unacceptable behaviour in RGP. It is suggested that examples could be developed in the bullying and harassment working group. It is also suggested that this should be completed in three months.

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Chapter Four

Evaluate the concerns raised in the RGPF survey about health and safety issues

4.1 The police estate, vehicles and equipment

During our visit we familiarised ourselves with the police estate, examined personal equipment, checked vehicles and learnt about the information technology available. It was clear that the police estate is in generally poor condition and that investment is badly needed to provide premises fit for a modern police force. We heard about the action being taken and the plans to improve the police estate, information technology and maintain the vehicle fleet.

We also examined the personal equipment issued to police officers and sought their views. Most staff were generally satisfied with their personal equipment. Some staff raised concerns about not having personal radios for major events and senior management explained their approach. However, most staff were pragmatic and understood that the police estate, vehicles and information technology involved long term planning and investment but considered they could be better informed about how this was progressing. This is a key area as many staff just did not know what was happening and in the absence of reliable up to date information considered that there was some inaction or that their concerns were not being heard. We are advised that drop in clinics, force orders and training days are already used to keep staff informed.

It was frequently expressed during staff interviews that other agencies in Gibraltar receive preferential treatment. We did not have the remit to investigate this and therefore cannot validate these comments, but the concerns of staff are genuinely felt. They suggest this makes them feel less valued. RGP and the RGPF clearly have a role in helping to understand these concerns. In some key areas such as police estate and information technology it should be possible for the RGP and RGPF to work together by having a common research goal and evidence-based approach and in doing so helping to either allay these concerns or provide further evidence for business cases.

The RGP currently has separate workstreams for Real Estate, Information Technology and Health and Safety in the workplace. There is a logic in these issues being separated but there is also a need for a clear strategy and approach to resolve the problems. The RGPF are members of each of these working groups and could usefully continue to work closely with the RGP in developing that approach.

RECOMMENDATION 7

RGP and RGPF should work together on the obvious improvements needed to the police estate, information technology and vehicles while recognising their different responsibilities through the relevant workstreams. This is a key area where a joint enterprise is beneficial to success

but importantly staff need to be kept apprised with progress. It is suggested that staff should be fully apprised within three months and then ongoing with appropriate information.

4.2 Staffing issues

The working environment and equipment make a positive contribution to helping staff feel valued and enabling them to do their job effectively, but the predominant issue staff expressed concern about was the need for them and others to be treated fairly and consistently. This extended to the way duties were allocated, staff were selected for posts, how discipline cases were dealt with and how some supervisors operated.

We explored the reason as to why there might be the level of perceived inconsistency referred to by staff.

4.3 Duty planning

We interviewed resource management staff about how they allocate duties including long term event planning. These staff members strive to limit duty changes and for the most part appear to do a good job, but it is clear some departmental line managers do change officers shifts on a regular basis. This should be monitored holistically as for some officers the claim that their shifts are regularly changed is a fact. We are not suggesting single changes are inappropriate or indeed any specific number of changes are inappropriate but senior managers need to know the extent to which some individuals are being affected. By monitoring this centrally and being armed with this information senior managers can ensure some staff are not being unduly affected. It was noted however that where resource management changed staff shifts overtime was paid where it was appropriate to do so.

4.4 Staff Appraisals

An immediate observation is that staff have not had an appraisal in most cases for several years. In the absence of such a system decisions about staff development can be inconsistent even with the best of intent by supervisors. Senior Management recognise this is the case and have been working towards appraisals being included in wider improvements of human resource management. For good reason there have been significant delays in the introduction of a new system amid concerns about bureaucracy.

We would advocate that a staff appraisal system is so important these concerns must be cast aside with the introduction of a straightforward meaningful assessment process at the earliest opportunity. This should not be stand-alone but be central to decision making.

RECOMMENDATION 8

RGP should introduce a new appraisal system for staff. This work should be prioritised, and it is suggested should be the core work of the Human Resources workstream. It is also suggested that this should be completed in six months.

We asked managers and supervisors where they might source information and evidence currently when making decisions. The officer's own application, their personal knowledge, personal files and evidence files were all referred to.

4.5 Personal files and evidence files

RGP has a system where the force centrally retains a personal file for the officer and an evidence file is usually retained by the line supervisor. We examined ten random personal files and evidence files asking the staff member involved if they wished to be present. Two police officers took up that opportunity.

We were told that evidence included in the file should have previously been seen by the officer and noted. We found this did not always take place. Some information was incorrectly filed, in one case information should have been removed and in another case was not appropriate.

The perception of officers was that evidence files were about negative misdemeanours. We did see evidence of this but importantly there was no consistency as to the documents and information included in a personal file or an evidence file. In addition, we could find no evidence of any weeding policy. RGP should consider working towards one file and importantly ensure in the meantime that evidence files retained by supervisors are used for all relevant evidence, be it positive or negative and that is subject to a clear weeding policy.

4.6 Personal development plans

These plans are intended to be used to help a staff member enhance their skills and experiences in their current role or for the next role. Staff perceive that development plans have a negative connotation. It was consistently believed that they were a professional standards improvement plan and not a plan to enhance their career prospects. An effective appraisal system would identify staff development needs, including upskilling for officers who have spent some time in one department. This would lead toward a change in perception. Clarity could usefully be given as to the purpose of these plans, with managers and supervisors leading by example with their own personal use of developmental plans.

4.7 Promotions and transfers

The staff perceived there was unfairness in the promotion and transfer system. We did not examine all selection and promotion processes but when we made enquiries about particular cases found that for the most part managers and supervisors work hard to ensure they are fair

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and that the selection rationale was honestly made with the best intent. However, many staff believe that the requirements for the posts and closing dates are not consistently applied. We found this led to the perception of unfairness in the system. Dealing with this perception is important. During any process there might be variations but if this is the case additional effort needs to be given to ensuring all candidates are aware of the rationale.

Clearly, the selection processes can only be enhanced by effective staff appraisals and improving the available information.

4.8 Staff Workloads

We do not have the remit to scrutinise shift patterns or allocation of resources, but concerns were raised in staff interviews about the demands placed upon them, the impact of sickness on workloads and the link these additional pressures have on some cases of bullying and harassment.

We asked senior managers about the plans that might improve the demand upon officers. We learnt that the RGP has taken positive steps supported by the GPA in striving to improve their understanding of demand in the organisation by using integrated information in the CYCLOPS system. This is a computer database that includes management of calls, crime, cases, intelligence and incidents with other databases being added for full integration. This remains work in progress and although integration of systems is proceeding at the time of our visit the full benefits had yet to be realised.

We also asked senior managers for examples of where action was being taken on specific issues It is evident that RGP have taken some action to reduce the demand on officers. One such example is the Commissioners policy decision to remove the need for police involvement in minor traffic incidents that could more appropriately be dealt with by insurance companies.

There have also been some positive steps to maximize resources with an RGP business case being accepted by the Gibraltar Government for the appointment of civilian custody detention officers rather than sworn police officers. Given the Commissioner has also seen recent success in the bid for additional police officers it bodes well that that there will be an increase of 25 police officers in addition to those released by civilianising police posts.

Staff interviewed suggested several other areas where workloads could be reduced. One point featuring regularly that we checked was that there is a high level of unnecessary paperwork caused by the requirement for a prosecution file to provide all the evidence, whether for a minor case or a serious crime. Others pointed to supervisors sending them to deal with minor matters such as non-crime problems with cats and placement of plant pots. Staff perceived there was an inconsistency between supervisors' requirements about incident attendance, notwithstanding there was a policy in place. Supervisors could usefully be reminded of that policy. All these

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matters were readily disclosed by staff but there will be others and their ideas should continue to be openly sought.

It was also clear from the interviews that many supervisors did not have a grip on the workload of their staff. It is important that supervisors know this and act appropriately to ensure the fair allocation of work. In the absence of this happening an inherent sense of unfairness can develop.

We have read the report commissioned by the Gibraltar Police Authority in 2016[11] and agree with the strategic findings in relation to demand and resources. At the next level there is more that can be done to communicate with staff about what the Force is doing, what is expected of them and how they can help. This can only enhance their wider understanding of the action the Force is taking and help reduce their concerns about unfairness and inconsistency.

RECOMMENDATION 9

RGP should ensure they continue to focus upon initiatives to understand workloads and reduce demand. These initiatives should be grouped as an RGP approach and communicated to staff. Identifying new initiatives could usefully be identified as the core work of the 'Wellbeing workstream' and it is suggested a first tranche identified in three months.

4.9 Sickness and wellbeing

An effective sickness management policy aims to provide a framework to support staff who are unable to work due to illness, assist them back to work as quickly as possible and to reduce the impact on other staff who are covering for them. It is best considered as part of a broader staff wellbeing programme.

We found there was a need for improvement as although the RGP monitored sickness it was less able to manage it. It was pleasing to note from our interviews however that when a staff member or a direct family member is seriously sick or injured, they felt fully supported by managers, supervisors and peers.

However overall sickness and the impact on the remaining staff was a regular point raised by staff during our interviews. Staff who had to provide cover were encouraging more action to appropriately manage sick leave. There have been recent attempts to analyse sickness but at present force managers concur that sickness management could be improved. Return to work forms exist but are usually marked no further action, if completed, and make no contribution to the understanding of the problem. There is also no link between performance appraisal and

[11] Her Majesty's Inspectorate of Constabulary - An inspection of leadership, crime management, demand and resources 2016

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sickness. Most staff regarded the ten days uncertified sick leave as a benefit. This is understood to be a common cultural view in Gibraltar.

We heard about work that was ongoing within the resource management team to develop an effective sickness management policy. This has been set back while the departmental Inspector is temporarily assigned to an external investigation but is a policy that warrants early development. The force does have a welfare officer post as previously discussed. An effective sickness management policy should be supported by the force welfare officer and have a strong focus on officer wellbeing.

RECOMMENDATION 10

RGP should introduce a new sickness management policy. This should be supported by a welfare officer that is afforded the time and training to fulfil the responsibilities effectively. It is suggested that the sickness management policy should be prioritised and taken forward by the 'Wellbeing' workstream. It is suggested this policy should be prepared in three months.

4.10 Civilian Staff

We noted that civilian staff feel valued, have annual assessments and those interviewed have been working for the force for many years. They are very positive about the organisation. These staff have an extensive and detailed knowledge of the force and how it works. Their value should not be underestimated in adding a useful perspective in the RGP work-streams.

Chapter Five

Review RGP and RGPF surveys and provide advice with guidance about the preparation and use of surveys

5.1 RGPF Survey

In 2018 the then newly established RGPF decided to undertake a survey of all federated staff members. The survey results were released internally and to the media and a response published by the Commissioner about the findings. We have not sought to analyse the events leading up to publication but instead have concentrated on providing our views about the use of such a survey. However, we do make comment that as the RGPF establish their new responsibilities it is important that they have a plan as to how they seek to use and publish the survey results. We would encourage the RGPF to do so in a way that also helps build trust with management. In that way the survey can make an effective contribution to force improvement.

5.2 Staff view

We found staff considered that the RGPF survey added a perspective to the discussion. One staff member, not directly involved in the planning for the survey, explained that he saw it "as *another way of us having a voice to improve the force by saying what needs to be done and what is going well"* That was a consistent view expressed by staff members.

However, the survey was not without some criticism. Staff expressed concerns about ensuring anonymity, the survey not being refined and some officers viewing it as not being entirely fair by asking a broad question that they sought to expand upon but with no avenue to do so.

5.3 Our view

We take the view that conducting such a survey is a positive step in an open and learning organisation. The attempt to gain a clear picture of the matters affecting RGPF members is helpful. It is only by identifying both areas of strength and weakness than improvements to policing can be assisted through the consultative mechanisms. However, the first survey can be improved upon and we consider it important RGPF now pause to review the next survey so as to enhance its future evidential value.

The information obtained from an effective survey can be used to assist an evidence-based approach to inform the RGPF in future discussions and negotiation with management. With a sound evidence base there is a stronger likelihood that the RGPF will be able to be successful in meeting their responsibilities.

5.4 Avoiding problems and pitfalls.

That said, it is important to recognise that there are some inherent problems and potential pitfalls from solely relying on the results gained from any survey. Survey results potentially offer an important view at a given time but if the survey results are to be used in business cases RGPF should take care to support the findings with other evidence.

In conducting research work it is of critical importance to ensure the correct methodological approach and some essential precautions are taken to be certain that the conclusions reached are the correct ones. The RGPF has elected to use what is termed a 'self-completion questionnaire' (SCQ) to gather the views of its membership. The use of the SCQ approach clearly has several advantages for the type of research being conducted by the RGPF. But with these advantages come a few caveats regarding its use.

People filling them in must understand exactly what is being asked of them. Instructions must be clear, and questions must be unambiguous to ensure different people do not interpret the questions in different ways. This is particularly the case when carrying out attitudinal surveys where feelings or beliefs are being tested.

There are specific precautions well documented in research literature, aimed at minimising the difficulties that badly worded questions or imprecise terms can cause. These include consistent trialling and re-editing of questionnaires in the light of field-testing. RGPF would find it adds validity to the process by taking such steps.

Any survey should aim to minimise the factors that might interfere with the validity of the information gathered from its user. These can be sources of either conscious or unconscious bias on the part of respondents when completing them. Often a trained interviewer can respond to potential bias as it emerges but a SCQ relies on identification of such potential bias and constructing questions to avoid them emerging.

5.5 Memory

One of the most common causes of bias in questionnaires about people's experiences are those caused by memory. One source is what is termed 'telescoping'. With this phenomenon, the respondent may genuinely believe that a very vivid or emotional event was a lot more recent than it actually is. In policing terms, victims of assault, sometimes believe that the assault happened far more recently than it actually did.

Researchers have recognised the value of what are termed 'anchor points'' to help people properly judge when an experience actually happened as opposed to when they may imagine them to have occurred. Sign-postings such as "since last Christmas" or "since last summer" have been found to significantly help the ordering of remembered events.

It is important to have these anchor points in time otherwise the respondents may include information from outside the period envisaged. For example, we spoke to a staff member who had 20 years police service and who had initial doubts about joining the police service who was now content with their role. We also spoke to a staff member who had recently thought about leaving the RGP. The current RGPF survey in asking "Are you or have you contemplated leaving the RGP" could place them both in the same category. RGPF could usefully review their survey to ensure there are relevant anchor points.

5.6 Social desirability

Another consideration when completing any survey is about how 'social desirability' might influence the results – the person completing the questionnaire being inadvertently drawn into providing the answers or comments that they believe are being looked for or will better conform to the social expectations around them. In the context of this survey, officers completing many of the questions posed were very familiar with what their colleagues or federation representatives might say if asked these questions publicly. Examples of this are "do you feel overworked" or "with the current minimum manning levels set by management, how safe do you feel carrying out your operational duties"?

As with many police forces it came as no surprise to us to find significant numbers within the survey were answering that these were current issues for them. However, RGPF care should take care when using such responses as evidence given the way the bias of 'social desirability' might work.

In any survey questions should be drawn up, tested and modified rigorously to ensure the truest possible answer is achieved and that there is no influencing of the respondent in any way. Without this care, a biased or distorted set of responses could be obtained. We advise RGPF to ensure that such tests are undertaken in order to enhance future surveys.

5.7 Types of questions

There is considerable guidance on question construction in the research about questionnaires, such as about leading questions or vague questions. A leading question is one that suggests an answer to the respondent. Its use in a questionnaire can make it less reliable. We would suggest that with the experience gained this year RGPF should review the leading questions in the survey.

A vague question is obviously one that includes vague words or phrases, whose meaning is not clear or commonly understood. Morale is an example. The issue with such a question is perhaps best summarised by one of the individuals who commented within the questionnaire itself, when they pointed out' "*As per perception of morale, depending who you are and who you know reflects on the morale of the individual."*

Similarly, the survey refers to bullying and victimisation in three separate questions and sets out the legal definition. These questions rely on staff members having a collective understanding and common interpretation of what constitutes bullying and harassment. Interestingly we found during our interviews that there is a lack of such clarity amongst staff about what these terms mean. By RGPF leaving it open to the respondent to make the judgement, there is the risk, for example, that episodes of robust management are interpreted and included as acts of bullying and harassment.

5.8 Survey comments

We have read the comments made by staff members in the survey and had the opportunity to hear some similar points from a few people during interview. The written survey responses expressed concerns about a wide range of issues. We studied this further. When the comments in the survey are clustered according to the numbered identifier of the respondent it became immediately noticeable that a relatively small cohort of individuals make the majority of these negative remarks. These individuals appear to contribute on almost every supplementary question posed in the questionnaire. This is in contrast to the majority of respondents. Most people, who make comments at all, are moved into adding the occasional comment on what could be termed "big ticket items." In this case it could be that a small group of RGP officers feel particularly badly affected by the operation of the force and they voice their concerns in a consistent and cohesive way. There may of course be other explanations, but the comments are not common to all staff. They are an indication of how some staff feel but may not necessarily be representative.

5.9 Survey opportunities

On the strength of the material available, the survey used by the RGPF has produced some interesting insights into the views of their members, but the results need to be taken in perspective. These areas are now the subjects of further research in the working groups established by the Commissioner aimed at organisational improvements.

The RGPF survey offers an opportunity to source valuable information from staff. It was pleasing to note that some of the responses in the survey reflect a desire for positive organisational change which we also found during our interviews. This could be the subject of further exploration as by engaging in new initiatives staff could make an effective contribution and gain a sense of ownership.

In addition, by continuing to review and improve this survey, the overall level of confidence will be enhanced and consequently the responses will help provide a rich source of evidence to assist organisational improvement. As discussed previously there must be clarity in advance about how this and other information is to be shared, particularly with members, senior management and the commissioner. In our last chapter, focused upon assisting the RGPF, we make suggestions

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about formal meetings and suggest this is one important matter that would be included on the agenda.

5.10 RGP (Management) Staff Survey

The RGP staff survey is not online and has limitations in that staff members doubt the level of anonymity afforded to them. The findings of the survey are shared on force orders, but senior managers could also consider using them by way of "you said – we did" circulations. The results do reflect that staff consider they are not always treated fairly and are reluctant to speak up. The RGP survey has proved to be a useful and positive tool and another source of information to support management action. The RGP will be aware of the importance of question setting in much the same way as in the RGPF survey.

The survey is very short when compared to surveys of England and Wales forces or to Guernsey or Jersey. It is particularly notable that there are no questions about bullying and harassment in it, although it does include some graded questions that help the SMT understand staff perceptions of fairness and respect. These are:

- I enjoy working within my organisation
- I feel everyone is treated fairly and consistently with regard to opportunities
- The organisation provides good support to help me balance work and home responsibilities
- I feel everyone is treated equally with regard to their domestic commitments

It also includes questions to elicit whether the workforce feel involved in decision making and empowered to challenge how things are done.

- If I want to put forward new ideas or suggestions for improvement,
- I am confident my ideas or suggestions will be listened to
- I am confident I would get feedback on my ideas and suggestions
- I think it is safe to speak up and comment on the way things are done in this organisation

The RGP Survey covers similar areas to the RGPF survey and there would be a strengthening of both and of the overall evidence base were the surveys to be more in tune.

While it may not be the time to jointly undertake a survey with RGPF it should be possible to ensure the respective surveys are coordinated with questions that can be worked together and the timing of them in order to explore key issues. The way in which the new RGPF could work on this and other issues is considered in the next section.

RECOMMENDATION 11

RGP and the RGPF should work together to ensure that their respective surveys are coordinated and where achievable the questions worked together. It is suggested that how these links occur should be considered in the 'Low Morale' work stream. It is also suggested this takes place prior to the intended publication date of both the next RGPF survey and the RGP survey.

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Chapter Six

Police Federation

Until 2018 RGP police officers were represented by a Police Association but in 2018 the RGPF was established in law[12] as having the object of representing members of the Force in all matters affecting their welfare and efficiency[13]. It was established as being entirely independent of and unassociated with anybody or person outside the Force[14].

6.1 The new RGPF board

A new chairman, secretary and board were elected on the 22 May 2019 for a period of four years[15]. These two posts have been given full-time status in order to represent the members effectively. Together with the new board they recognize they now have an opportunity to make a positive difference to the welfare and efficiency of officers in RGP and of the importance of how they first set out on this important responsibility.

They are also keen that they all continue to build their knowledge and skills as federation representatives. They are developing the networks and relationships established previously by the Royal Gibraltar Police Staff Association with police federations and associations throughout the United Kingdom and across Europe. Sharing experiences and identifying good practice will assist in the early days of RGPF. There is an advantage in ensuring that this is a structured approach rather than just having ad hoc contacts. In this way the RGPF can target contacts to assist with specific issues.

Some of the board have also benefitted from training such as for discipline, health and safety, and equality. The officers particularly should continue to hone their representative skills, understanding different negotiating styles and as to how and when to deploy them. They would also benefit from shadowing a branch board chair and secretary or by seeking a mentor.

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[12] Police Amendment Act 2018 that amended the Police Act 2006

[13] There are exceptions including questions of promotion affecting individuals; and questions of discipline although the Police Federation may represent a member of the Force at any stage of disciplinary proceedings brought under regulations made in accordance with section 79.

[14] The Government may, on the recommendation of the GPA authorise RGP or a branch of the RGP to be associated with a person or body outside the police service in such cases and manner, and subject to such conditions, as it may specify; and vary or withdraw an authorisation previously given. (Section 52 (2)

[15] There are some exceptions referred to in the Police Federation Regulations 2018 4 (4) including ceasing to be a member of the force

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6.2 Federation membership

Not all eligible officers below the rank of superintendent are subscribing members of the RGPF. Members receive a number of benefits including legal support. We heard from a minority of staff that they have joined the RGPF to just have the insurance cover. Equally some staff had not joined who were eligible to do so. The RGPF understands this is the case and are keen to gain the confidence of these members and all eligible staff.

Many officers expressed a desire for the RGPF to establish effective lines of communications with all its members to ensure they are updated on issues affecting members welfare and efficiency. This can only assist staff confidence in the RGPF. The need to improve communications was not confined to the RGPF as a few staff members expressed some concern about communications by senior management. Both parties should strive to enhance their internal communications to keep staff apprised of developments. There will be opportunities to ensure the information flow is coordinated. For example, in each of the working groups[16] the agenda should include an item at the end of each meeting to discuss and agree how to communicate what they have done internally to staff. In that way there will be clarity about the outcome of these important groups.

Where there is a vacancy the board may nominate a member of the federation of the appropriate rank to fill that vacancy until the next election.[17]. Given the close-knit culture of RGP we take the view that although there is a legal entitlement to do so were there to be a vacancy such an appointment at this stage could be problematic. The electorate is small, and we would suggest that the board could consider holding a by-election under those circumstances in order to continue to build staff confidence.

6.3 Federation structure, position and policy statements

A significant minority held strong views about the need for the RGPF to have a clear structure and to develop position and policy statements in addition to representing individual officers. There is some evidence from staff that representation previously had been focused in an ad-hoc way upon individual cases. No matter how effective that was there is an acknowledgement by the new RGPF that they now have an opportunity to be better organised. We agree. Clear position and policy statements and good organisation will go some way to building staff confidence.

[16] The attendance includes senior management and RGPF.

[17] Police Regulations 2018 - Regulation 4 (5)

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6.4 RGPF survey

One of the first steps the RGPF undertook was to conduct a survey aimed at providing an opportunity to evidence, benchmark and prioritise the issues facing members. As indicated in the previous chapter we consider this to be a positive step. We were pleased with the open discussions to improve the structure and content of the survey in order to continue to improve the accuracy of any future survey.

6.5 Relationships with management

During our interviews officers of all ranks spoke about the benefit of, and need for, the RGPF and RGP senior management team to develop a constructive working relationship. In our meetings with both the RGPF and SMT we found more issues that united than divided them; they are both striving to improve policing for the benefit of the community in Gibraltar.

The new status of RGPF provides the senior management team and RGPF with an opportunity to develop a proactive two-way consultative process for all matters affecting officer's welfare and efficiency. Working with the RGPF is new to the senior management team as well. We would encourage both parties to set aside time to explore ways of working effectively together, identifying common goals and developing structures and arrangements. By positively engaging in such meetings it will enable the RGPF to fulfil their statutory responsibilities.

Although it may take time and commitment to establish these working relationships and build trust, the initiative to form working groups with RGPF representation is positive and provides a good vehicle to address many of the issues identified within the force and RGPF surveys. Reports indicate some working groups are more productive than others; it will be important to set and agree action plans for all and communicate progress across the force.

RGPF must recognise the Commissioner has responsibility for the direction and control of the Force, delivering value for money and an efficient administration. Effective communication and pro-active consultation do not remove the right of management to manage but can provide a broader perspective and the potential for better decision making. Custom, practice and research indicates a positive impact on staff well-being where arrangements exist to constructively involve and communicate with staff.[18]

[18] The "Good Workplace": The Role of Joint Consultative Committees, Unions and HR policies in Employee Ratings of Workplaces in □rit□in□Oct □□□□

6.6 RGPF and senior management meeting

Arrangements for meetings between the SMT and RGPF are not currently formalised. While there will be informal meetings between the RGPF officers and the Commissioner there is a benefit in there also being regular meetings between them. These should have an agenda and minutes which are published in force. The agenda should focus on matters related to welfare and efficiency, such as, health and safety, uniform and equipment, grievance handling, resource management, duty planning, sickness, welfare, career development and fairness. We suggest both parties identify issues for discussion.

In England and Wales forces Joint Negotiating and Consultative Committees (JNCC) provide chief officers and staff associations, (police federation, superintendents association, support staff) with a regular forum to discuss matters concerning staff welfare and efficiency. We realise that the superintending ranks and support staff are in a different position to their counterparts in England and Wales. However, a locally tailored JNCC has merit. At present much of this business will be discussed in the working groups and the need for a JNCC option increases in importance as the working groups become business as usual.

Such a meeting would be to secure acceptable outcomes and to establish and promote agreements on matters including health and safety, discipline, fairness, selection procedures, welfare, sickness, duty planning, leave, uniform and equipment. The process can assist with problem solving and provide for escalation where there is disagreement and conciliation for resolution of any disputes. Were the RGP to adopt a similar model membership might include Commissioner, Assistant Commissioner, a superintendent, Chairman and, Secretary of RGPF and a civilian staff representative. This would be a new way of working and given there is no precedent initially RGPF might find it useful in being supported on their responses, evidence and business cases for presentation in such a forum.

6.7 Major event planning

In the United Kingdom it has become recognised good practice to include police federation representation at the planning, briefing and debriefing stages of major events. Involvement at the planning stage has provided operational commanders with an additional perspective which focuses on officer welfare and their efficiency. This currently does not happen in RGP and instead sometimes results in the issues only being discussed after the event. We suggest RGPF representation should take place at planning meetings and would be professionally beneficial if the specific member attending is consistent. Key to this working is the RGPF having a clear focus upon their specific responsibilities.

6.8 RGPF and RGP – a final point

RGPF officers and the board will no doubt have significant challenges to deal with as they become established in the new role. We have set out many of those challenges but importantly *it is people that make relationships work*. We are pleased that the RGPF have expressed positive intentions, as has the Commissioner and senior management team, to work together while respecting the differing responsibilities.

This will be a learning exercise as to how to work together and from time to time each will be challenged. However, we have confidence in the ability of all concerned to be equal to that challenge.

SUMMARY OF RECOMMENDATIONS

1. **RGP should introduce a grievance procedure that reflects the local needs as outlined in this report. This work should be prioritised, and it is suggested could be the core work for the bullying and harassment working group. It is also suggested that this should be completed in three months.**
2. **RGP should introduce an in-force awareness package that includes standards, grievances and the professional standards system. Particular focus should be on exploring boundaries and providing examples of effective decision making, say, between supervisory action, misconduct and complaints. It is suggested that this could be the core work of the 'Low Morale' working group. It is suggested that the awareness package should be completed in six months.**
3. **RGP should bring forward their review of the Code of Ethics and values to ensure that it reflects local circumstances. Action should be taken to ensure there is renewed emphasis on the code through, briefings, publications, news items and other similar methods. It is suggested that this could be the core work of the 'Low Morale' working group. It is suggested that this should be completed in three months.**
4. **RGP should review the seven workstreams in order to bring their work into the day to day force business meetings. It is suggested that this should occur not later than 12 months.**
5. **RGP should introduce a clear bullying and harassment policy that sets out the RGP acknowledgement, commitment and expectations. It is suggested that this should be developed in the bullying and harassment working group. It is also suggested that this should be completed in three months.**
6. **RGP should adopt good practice and ensure that staff are provided with examples of what is and is not unacceptable behaviour in RGP. It is suggested that examples could be developed in the bullying and harassment working group. It is also suggested that this should be completed in three months.**
7. **RGP and RGPF should work together on the obvious improvements needed to the police estate, information technology and vehicles while recognising their different responsibilities through the relevant workstreams. This is a key area where a joint enterprise is beneficial to success but importantly staff need to be kept apprised with progress. It is suggested that staff should be fully apprised within three months and then ongoing with appropriate information.**
8. **RGP should introduce a new appraisal system for staff. This work should be prioritised, and it is suggested should be the core work of the Human Resources workstream. It is also suggested that this should be completed in six months.**

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9. **RGP should ensure they continue to focus upon initiatives to understand workloads and reduce demand. These initiatives should be grouped as an RGP approach and communicated to staff. Identifying new initiatives could usefully be identified as the core work of the 'Wellbeing workstream' and it is suggested a first tranche identified in three months.**
10. **RGP should introduce a new sickness management policy. This should be supported by a welfare officer that is afforded the time and training to fulfil the responsibilities effectively. It is suggested that the sickness management policy should be prioritised and taken forward by the 'Wellbeing' workstream. It is suggested this policy should be prepared in three months.**
11. **RGP and the RGPF should work together to ensure that their respective surveys are coordinated and where achievable the questions worked together. It is suggested that how these links occur should be considered in the 'Low Morale' work stream. It is also suggested this takes place prior to the intended publication date of both the next RGPF survey and the RGP survey.**

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No	Recommendation	Strategic Task Owner	Task Owner(s) / Working Groups	Actions	Progress	Completion Date
1	RGP should introduce a **grievance procedure** that reflects the local needs as outlined in this report. This work should be prioritised, and it is suggested could be the core work for the bullying and harassment working group. It is also suggested that this should be completed in three months.	AC	AC	Review Grievance Procedure. The Procedure needs to have more detail. Dorset Police / ACAS procedures are good references. Separate Grievance from PSD. Ensure that GP is publicised and people are informed/trained (supervisors). Establish a Core Group as Grievance. Handlers – Champions. Independent oversight – GPA. Mediation. Feedback to Champions is core to success.		06/11/2019
2	RGP should introduce an in-force **awareness package that includes standards, grievances and the professional standards system**. Particular focus should be on exploring boundaries and providing examples of effective decision-making, say, between supervisory action, misconduct and complaints. It is suggested that this could be the core work of the 'Low Morale' working group. It is suggested that the awareness package should be completed in six months.	AC	Supt Yeats CI Perez Insp Enrilles	New Police Discipline and Performance Legislation. Provide officers with progress of Investigation Notices – New Legislation. First Line Supervisors – Training / The need to report earlier. Promote a No Blame Culture, but one of Learning from Mistakes.		
3	RGP should bring forward their review of the **Code of Ethics and Values** to ensure that it reflects local circumstances. Action should be taken to ensure there is renewed emphasis on the code through, briefings, publications, news items and other similar methods. It is suggested that this could be the core work of the 'Low Morale' working group. It is suggested that this should be completed in three months.	AC	Supt Yeats	Review Code of Ethics and Values. Learning Outcomes – Training /Communicate to Staff. CoE should feature in every Training Event. CoE to feature highly in Policing Plan.		06/11/2019
4	RGP should **review the seven work streams** in order to bring their work into the day-to-day force business meetings. It is suggested that this should occur not later than 12 months.	AC	AC	Combine some of the works Streams and reallocate		06/08/2020

5	RGP should introduce a clear **bullying and harassment policy** that sets out the RGP acknowledgement, commitment and expectations. It is suggested that this should be developed in the bullying and harassment-working group. It is also suggested that this should be completed in three months.	AC	Supt Yeats CI Romero	Introduce a bullying and harassment policy. To feature in Policing Plan		06/11/2019
6	RGP should adopt **good practice** and ensure that staff are provided with examples of **what is and is not unacceptable behaviour in RGP**. It is suggested that examples could be developed in the bullying and harassment-working group. It is also suggested that this should be completed in three months.	AC	Supt Yeats CI Romero	Link to CoE. Learning Outcomes of Incidents to be shared internally. Provide examples of Bad Behaviour in Training.		06/11/2019
7	RGP and RGPF should work together on the obvious **improvements needed to the police estate, information technology** and vehicles while recognising their different responsibilities through the relevant work streams. This is a key area where a joint enterprise is beneficial to success but importantly staff need to be kept apprised with progress. It is suggested that staff should be fully apprised within three months and then ongoing with appropriate information.	AC	Supt Lopez SEO Ramos	Combine the Real Estate / Health and Safety Group / IT. Monthly FO Entry Updates.		06/11/2019
8	RGP should introduce a new **appraisal system for staff**. This work should be prioritised, and it is suggested should be the core work of the Human Resources work stream. It is also suggested that this should be completed in six months.	AC	AC Supt Yeats CI Romero	Simplify the ACR. Use Thames Valley's two page Form. New HR team to manage Personal Files with consistency. Guidelines for supervisors on the use of the Progress File. Improve Personal File System. Link Personal File to Progress File.		06/11/2019
9	RGP should ensure they continue to **focus upon initiatives to understand workloads and reduce demand**. These initiatives should be grouped as an RGP approach and communicated to staff. Identifying new initiatives could usefully be identified as the core work of the 'Wellbeing work stream' and it is suggested a first tranche identified in three months.	AC	Supt Tunbridge CI Field CI Romero	Understand better our Workloads. Communicate what we are doing to reduce these. Duty Planning.		06/11/2019
10	RGP should introduce a **new sickness management policy**. This should be supported by a welfare officer that is afforded the time and training to fulfil the responsibilities effectively. It is suggested that the sickness management policy should be prioritised and taken forward by the 'Wellbeing' work stream. It is suggested this policy should be prepared in three months.	AC	Supt Tunbridge SEO Ramos	Health and Wellbeing Strategy – 01/09/2019 (submission date). Sickness Management Policy. Provide Training / Evidence it. Promote it. New civilian Welfare Officer.		06/11/2019

11	RGP and the RGPF should work together to ensure that their respective surveys are coordinated and where achievable the questions worked together. It is suggested that how these links occur should be considered in the 'Low Morale' work stream. It is also suggested this takes place prior to the intended publication date of both the next RGPF survey and the RGP survey.	AC	AC	Coordinated meetings. Improve Communications.		06/08/2020

From: (RGP) Ullger, Richard (COP 235) <Richard.Ullger@royalgib.police.gi>
Sent: Friday, 30 August 2019 09:46
To: (RGP) Field, John (Supt 241)
Subject: FW: AAP Recommendations Workstreams

Richard

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2271**

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Please consider the environment before printing this email.

From: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Sent: 29 August 2019 16:57
To: Federation Chairman <chair@gibpolfed.org>
Cc: Federation Secretary <secretary@gibpolfed.org>; Command Team <CommandTeam@royalgib.police.gi>
Subject: RE: AAP Recommendations Workstreams

Dear Mr Chairman,

Thank you for your email which I duly note. Firstly, let me express to you my disgust at the tone of your reply to me and one which I will be raising with the Command. Your message to me is filled with little cooperation and signs of confrontation.

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I shall answer all the points you raise.

You Say: I note that two of the recommendations are at an advanced stage with no prior consultation or input from ourselves, especially on two topics which have been the subject of debate over the last few years. This is simply unacceptable

Recommendation 3 of the AAP report was to adopt the College of Policing Code of Ethics. This has simply been a copy and paste of what they have and adopting both the Principles and Behaviours. There is no discussion to be had over this, as it is a tried and tested Code. We have since included it in Force Orders, but the management and monitoring of it has to continue in the Work Streams. With regards to recommendation 5, we asked the secretary to provide us with what the Federation in the UK adhere to [Bullying and Harassment / Grievance Policy] and his answer was that he was going to ask Che Donald [Deputy Chair], but unfortunately this was never forthcoming. In this regard, we have again taken on the AAP recommendations by researching in to the Dorset Police Policy and ACAS Best Practice. We are at and advance stage of drafting the document, but this has not been shared with anyone yet, not even the Command.

You Say: For sake of clarity if a bullying policy or document is simply presented to the GPF, without having any input it will not have our seal of approval. Be advised that on the subject of bullying I personally will not be accepting any document that does not mirror that of the Bullying at Work Act with minor tweeks here and there.

As already stated above, the policies are still being written up and will be debated once this happens in the work stream. Your personal opinion of course will be taken into consideration, but your opinion only will not dictate how we proceed. Please remember, that it is the Commissioner under Section 33[1] of the Police Act that has command, superintendence, direction and control of the Force, and shall be responsible for the efficient administration and government of the Force...and certainly not the Chair of the Federation.

You Say: Again with the grievance procedure the same applies. The unfairness of the process has been talked about by officers for years and we are now in a position to draft up a document acceptable to all and get it right.
To finish off Command and GPF do not have to be "seen" to be working together we simply have to work together and that I am afraid is not happening.

In the last comment you have made, it is clear that you have cemented your position in the relationship between the Command and Federation and I fear that your intention is not to work with the command, but to attempt to destroy everything we try to do, and this we will not accept. It saddens me to know that all the energy we have put into having AAP undertake a review and to start working on the recommendations at the back of the Federation's survey has been futile in your eyes.

Richard

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2271**

+&

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Please consider the environment before printing this email.

From: Federation Chairman <chair@gibpolfed.org>
Sent: 29 August 2019 15:10
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Cc: Federation Secretary <secretary@gibpolfed.org>
Subject: RE: AAP Recommendations Workstreams

Dear Richard

Thank you for the update on the work streams.

I note that two of the recommendations are at an advanced stage with no prior consultation or input from ourselves, especially on two topics which have been the subject of debate over the last few years. This is simply unacceptable.

For sake of clarity if a bullying policy or document is simply presented to the GPF, without having any input it will not have our seal of approval. Be advised that on the subject of bullying I personally will not be accepting any document that does not mirror that of the Bullying at Work Act with minor tweeks here and there.

Again with the grievance procedure the same applies. The unfairness of the process has been talked about by officers for years and we are now in a position to draft up a document acceptable to all and get it right.

To finish off Command and GPF do not have to be "seen" to be working together we simply have to work together and that I am afraid is not happening.

I look forward to attending the work streams.

Kind Regards

Maurice Morello

Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: 2284
Tel: +350 20050199
Mob: +350 56327000

Email: chair@gibpolfed.org

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Please consider the environment before printing this email.

From: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Sent: 28 August 2019 16:27
To: (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>; (GFIU) Lopez, Edgar <edgar.Lopez@gfiu.gov.gi>; (RGP) Romero, Nolan <Nolan.Romero@royalgib.police.gi>; (RGP) Pozo, Lee (PC155) <Lee.Pozo@royalgib.police.gi>; (RGP) Perez, Roy <Roy.Perez@royalgib.police.gi>; (RGP) Enriles, Alexander <Alex.Enriles@royalgib.police.gi>; (RGP) Fernandez, Albert <Albert.Fernandez@royalgib.police.gi>; (RGP) Ramos, Darrien <darrien.ramos@royalgib.police.gi>; (RGP) Garcia, Alfred (PC038) <Alfred.Garcia@royalgib.police.gi>; (RGP) Fortuna, Kevin (PS022) <Kevin.Fortuna@royalgib.police.gi>; (RGP) Field, John <John.Field@royalgib.police.gi>; (RGP) Tunbridge, Wayne <Wayne.Tunbridge@royalgib.police.gi>
Cc: Federation Chairman <chair@gibpolfed.org>; Federation Secretary <secretary@gibpolfed.org>
Subject: FW: AAP Recommendations Workstreams

Dear All,

There are 11 recommendations, with 2 of these being a combination of work in progress, for which I have allocated a yearly review. These are to Review the 7 work streams [this has been done by reducing the work streams from 7 to 5 and changing the task owners] and a review of progress in relationship between the RGP/RGPF and the survey.

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I have today allocated the following command officers with tasks for the subject areas and they will be reporting back on the progress of the particular work streams. Invited to the work streams are RGPF members, who will be key to ensuring that we are seen to be working together, thus seeking for solutions. Some of the work has happened already, particularly Recommendation 3 in adopting the College of Policing Code of Ethics, and the new Grievance Process [Recommendation 1] with the Bullying and Harassment Policy [Recommendation 5] is at an advanced stage.

I am cognisant that some of the RGPF officers will not be able to attend meetings because of duties, so the Chair and Secretary have agreed to sit in all of the work streams.

Bullying / Harassment Allegations	AC / Supt Yeats / CI Romero / PC Pozo
Low Morale	Supt Lopez / CI Perez / Insp Enriles / Inspector Fernandez
Estates / IT / Health and Safety	Supt Yeats / SEO Ramos / PC Garcia
HR	AC / Supt Yeats / SEO Ramos / PS Fortuna
Health and Wellbeing	Supt Tunbridge / CI Field / SEO Ramos / PC Gaul

I look forward to hearing from the respective work streams in due course.

With best wishes

Richard

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2271**

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From: chair <chair@gibpolfed.org>
Sent: Wednesday, 10 July 2019 11:59
To: (RGP) Ullger, Richard (COP 235)
Cc: secretary
Subject: RE: Operational Policing

Mr Ullger,

Thank you for your email. Our presence at the football match yesterday was not meant to disrupt or interfere with the command structure, neither was it to meant to distract officers on points which I believe was not the case. Our presence there was to gauge at first hand the welfare and conditions of the officers policing the event. Having been involved in these events for the past twenty years I can say that the organisation is quite bad at looking after our own in these types of events. Quite frankly on this occasion the setup of the hangar for the PSU officers was pretty good, with food included. I also observed that there were rotations between the officers on static points. We identified an issue of a shortage of radios, again and this needs to be addressed asap.

I agree that maybe our presence in the hangar, and it's a maybe, was not the most appropriate but I assure you that the officers there were receptive to our brief visit, which was not at all disruptive. Whether you accept it or not this short visit and chat with the officers raises morale.

An issue which was raised by officers [after the match and in writing] was the fact that officers were being told off for arriving to work at 1340 hours when they were due to start at 1400 the reason being that they wanted these officers [PSU] deployed at 1400 hours. This might sound petty but when everyone is under stress these little things are magnified.

Let me inform you that we will both again be attending the football match on Thursday, in fact we will be watching the game and have already purchased tickets. I take on board your comments in relation to the hangar. We will be engaging with officers before entry to the match because at the end of the day they are our colleagues and we will not walk past or ignore them. To keep your mind at ease I can assure you that we will not be disrupting, unsettling or disturbing officers and if we see that they are busy and if so we will keep conversation to a minimum.

Kind Regards

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: 2284
Tel: +350 20050199
Mob: +350 56327000

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Email: chair@gibpolfed.org



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Please consider the environment before printing this email.

From: Federation Secretary <secretary@gibpolfed.org>
Sent: Wednesday, 10 July, 2019 9:44 AM
To: Federation Chairman <chair@gibpolfed.org>
Subject: Fwd: Operational Policing

FYI

Kind Regards

Leif Simpson
Secretary

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325

Centrex: 2284
Tel: +350 20050199
Mobile: +350 57499000

Email: secretary@gibpolfed.org

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-------- Original message --------
From: "(RGP) Ullger, Richard" <Richard.Ullger@royalgib.police.gi>
Date: 10/07/2019 08:42 (GMT+01:00)
To: Federation Secretary <secretary@gibpolfed.org>
Subject: Operational Policing

Dear Both,

I write to you with regards to our conversation yesterday at Victoria Stadium, during the Operational Policing of the Football Game of St. Joseph's and Rangers FC.

Although we understand that your presence at the game was well intended, you need to understand that this was an operational policing event that contained command structures. Any concerns that the officers may have had, or any operational matter that needed attention should be first addressed at a supervisory level and not with the Federation. These conversations are best had after the event where the officers can allay with you any positive/negative feedback in another environment, but not operationally. Furthermore, entering into the confines of the operational plan has implications, simply because you are not warranted to be there. Any policing deployment or logistical support would have been addressed by us and this includes the welfare of our people.

Again, we understand that your presence was well intended, but I ask you to refrain from doing it again.

With best wishes.

Richard

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2271**

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From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 15 September 2019 17:52
To: (RGP) Ullger, Richard (COP 235)
Subject: Fwd: AAP report/ Benevolent fund

Rich - for some reason he is deleting you from his responses to me.
Please see below

Sent from my iPhone

Begin forwarded message:

> **From:** "(RGP) McGrail, Ian M.Sc (OTM)" <Ian.McGrail@royalgib.police.gi>
> **Date:** 15 September 2019 at 17:50:53 GMT+2
> **To:** Federation Chairman <chair@gibpolfed.org>
> **Subject: Re: AAP report/ Benevolent fund**
>
> Mr Chairman - many thanks for offering details of your commitment - I will see you in my office at 0800hrs instead.
> Rgds
> ComPol
>
> Sent from my iPhone
>
> On 15 Sep 2019, at 17:28, Federation Chairman <chair@gibpolfed.org> wrote:
>
> > Sir
> >
> > Your assumption is wrong. I will be attending a scheduled meeting with our Federation business relationship manager at Natwest.
> >
> > Kind Regards
> >
> > ---
> >
> > Maurice Morello
> > Chairman
> >
> > Gibraltar Police Federation
> > Unit 1.12 Retrenchment Block
> > PO Box 1325
> >
> > Centrex: 2284
> > Tel: +350 20050199
> > Mobile: +350 56327000
> >
> > Email: chair@gibpolfed.org



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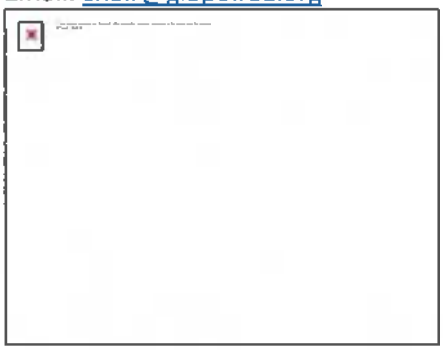
On 15 Sep 2019, at 17:21, (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi> wrote:

> Mr Chairman - Is it a question that you are on approved leave, which is why you have an appointment with your bank at 0900hrs tomorrow and cannot attend my office? I am assuming you are attending the bank for a personal matter?
>
> ComPol
>
> Sent from my iPhone
>
> On 15 Sep 2019, at 17:09, Federation Chairman <chair@gibpolfed.org> wrote:
>
> > Sir
> >
> > I have a bank appointment. I'm sorry I won't be attending..
> >
> > Kind Regards
> >
> > ---
> >
> > Maurice Morello
> > Chairman
> >
> > Gibraltar Police Federation
> > Unit 1.12 Retrenchment Block
> > PO Box 1325

Centrex: 2284
Tel: +350 20050199
Mobile: +350 56327000

Email: chair@gibpolfed.org



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On 15 Sep 2019, at 14:46, (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi> wrote:

> Mr Chairman -
> Unless you have a work commitment which you cannot reschedule I am requesting that you attend my office at the stipulated time.
> Rgds
> ComPol
>
> Sent from my iPhone
>
> On 15 Sep 2019, at 14:43, Federation Chairman <chair@gibpolfed.org> wrote:
>
> Sir

I am unable to meet with you at this time tomorrow

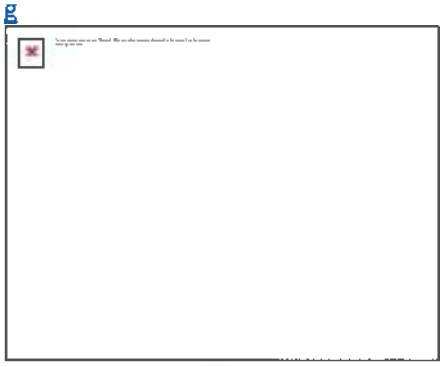
Kind Regards

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12
Retrenchment Block
PO Box 1325

Centrex: 2284
Tel: +350 20050199
Mobile: +350 56327000

Email: chair@gibpolfed.org



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On 15 Sep 2019, at 14:46, (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi> wrote:

Mr Chairman -
Unless you have a work commitment which you cannot reschedule I am requesting that you attend my office at the stipulated time.
Rgds
ComPol

Sent from my iPhone

On 15 Sep 2019, at 14:43, Federation Chairman <chair@gibpolfed.org> wrote:

Sir

I am unable to meet with you at this time tomorrow

Kind Regards

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325

Centrex: 2284
Tel: +350 20050199
Mobile: +350 56327000

Email: chair@gibpolfed.org

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On 15 Sep 2019, at 13:48, (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi> wrote:

Dear Mr Chairman -
Regarding your below email, please come to my office tomorrow (Monday 16th Sept) @ 0900hrs.
Rgds
ComPol

Sent from my iPhone

On 13 Sep 2019, at 15:56, Federation Chairman <chair@gibpolfed.org> wrote:

Sir,
I have had several officers approach me regarding the final AAP report and whether Command are going to share this document with the officers.
Will you be sharing this document with them?
On another note I have read your latest email where you make reference to several remarks made on a WhatsApp chat. Whilst I am not privy to what has been said here [and I am not defending their actions or comments] this has all been brought upon by the fact that the winding up of the fund had not been properly explained to officers.
In fact, if the closing of this fund would have been explained properly from the start as I have just done with facts and figures I assure you that most officers would have accepted this explanation.
We were informed that the fund was closing down as this was now untenable. Officers were then informed that they would receive much less than they had contributed. What do you think people thought? I am not trying to justify anyone's comments but simply putting forward that the communication between Command and officers in this matter has been poor and as a result has given rise to certain comments.
You highlight the fact **"the administrator of which is the GPF Secretary"** of the group as if he was responsible for the comments. This is simply not acceptable. But you then thank him for dealing with the matter people privately.
It appears that at every possible opportunity you try and discredit the Federation or its convenors. You may not think so but the Federation is here to help, and I find myself in the enviable position of getting the best deal for our members whilst making others accountable for their actions.
Enjoy your weekend.
Kind Regards
<image001.gif>
Maurice Morello
Chairman
Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA
Centrex: 2284
Tel: +350 20050199
Mob: +350 56327000
Email: chair@gibpolfed.org



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Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

16th September 2019

Our Ref: IM111

PS 32 Maurice Morello

WRITTEN WARNING

Since taking up the role of Chairman of the Gibraltar Police Federation a pattern of conduct has been developing that is regarded as insubordination towards the office of the Commissioner of Police and other senior officers.

As the Chair of the Federation, your role requires you to challenge The Command, when such challenge is warranted, but always with respect and courtesy. However, the manner in which you have chosen to carry out this function so far has been unbecoming in that you have demonstrated disrespect and a confrontational attitude. Notwithstanding your federation role, you remain a warranted Police Officer and as such subject to the Police Discipline Regulations and our Code of Ethics.

You are hereby being warned as to your course of conduct in this regard. A copy of this warning letter will be placed in your personal file.

Ian McGrail OTM MSc
Commissioner of Police

ROYAL GIBRALTAR POLICE
Professional Standards Department
Planning, Development & Support Division
Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 20072500

Date: 28/01/2020
Ref: Int. 25/19

CONFIDENTIAL

To: Police Sergeant 32 Morello

Alleged Offences Against Discipline

Regulation 9 Police (Discipline Regulations) 1991

This notice has been issued to inform you as soon as is practicable that an allegation has been made.

Discreditable Conduct. Contrary to Regulation 1 of Schedule 1 of the Police (Discipline) Regulations 1991.

Information for Accused Officer:

It is alleged that on a 27th January 2020, as a serving member of the Royal Gibraltar Police, you acted in a manner which would reasonably likely bring discredit upon the reputation of the Royal Gibraltar Police, namely by publishing or allowing to be published via Facebook and Twitter, comments which were disrespectful towards the Commissioner of Police and the Royal Gibraltar Police, contrary to the Police Code of Ethics.

This notice has been issued to inform you, at the earliest possible stage that an allegation has been made and an investigation commenced.

You are not obliged to say anything concerning the above matter but you may, if you so wish, make an oral or written statement to the investigating officer. This statement may be used in any subsequent disciplinary proceedings.

Whatever the outcome of the investigation, you will be informed of the result and you should also be informed if there is likely to be any undue delay in completing the procedure.

Signature of Investigating Officer — Date: 28/01/2020

I acknowledge that I have been served with the original of this document.

Signed — Date

Refused to sign as Regulation 9 notice was addressed to them as Police officer and not as conveyor of the Federation

%

ROYAL GIBRALTAR POLICE
Professional Standards Department
Planning, Development & Support Division
Police Headquarters, New Mole Houses, Rosia Road, Gibraltar
Telephone: (350) 20072500

Date: 28/01/2020
Ref: Int. 25/19

CONFIDENTIAL

To: Police Constable 206 Simpson

Alleged Offences Against Discipline

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(Simpson)
Signature of Investigating Officer

28/01/2020
Date

I acknowledge that I have been served with the original of this document.

Signed

Date

Refused to sign as Regulation 9 notice was addressed to them as police officers and act as conveyance of the Federation (Simpson)

%%

ROYAL GIBRALTAR POLICE
Professional Standards Department
Planning, Development & Support Division
Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 20072500

Date: 10/10/2019
Ref: Int. 25/19

CONFIDENTIAL

To: Police Constable 206 Simpson

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Information for Accused Officer:

It is alleged that on a date unknown between the 30th of September and the 9th of October 2019, as a serving member of the Royal Gibraltar Police, you acted in a manner which would reasonably likely bring discredit upon the reputation of the Royal Gibraltar Police, namely by encouraging Leo Olivero, a writer for the Panorama (Gibraltar) newspaper, to publish negative press regarding the Command Team of the Royal Gibraltar Police.

This notice has been issued to inform you, at the earliest possible stage that an allegation has been made and an investigation commenced.

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Signature of Investigating Officer _____ Date _____

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Signed _____ Date _____

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Professional Standards Department
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_____ _____
Signature of Investigating Officer Date

I acknowledge that I have been served with the original of this document.

_____ _____
Signed Date

, &

Wednesday 7th April 2021

@1040 Meeting at No 6 with CM re Op Delhi to clarify statement requirements.
CI Wyan and P Canessa also present.

CM articulated his recollection of events around July and on to October 2018, clear that authority had not been given by him for Cornelius to continue accessing the system post the period agreed between Blands and TL.

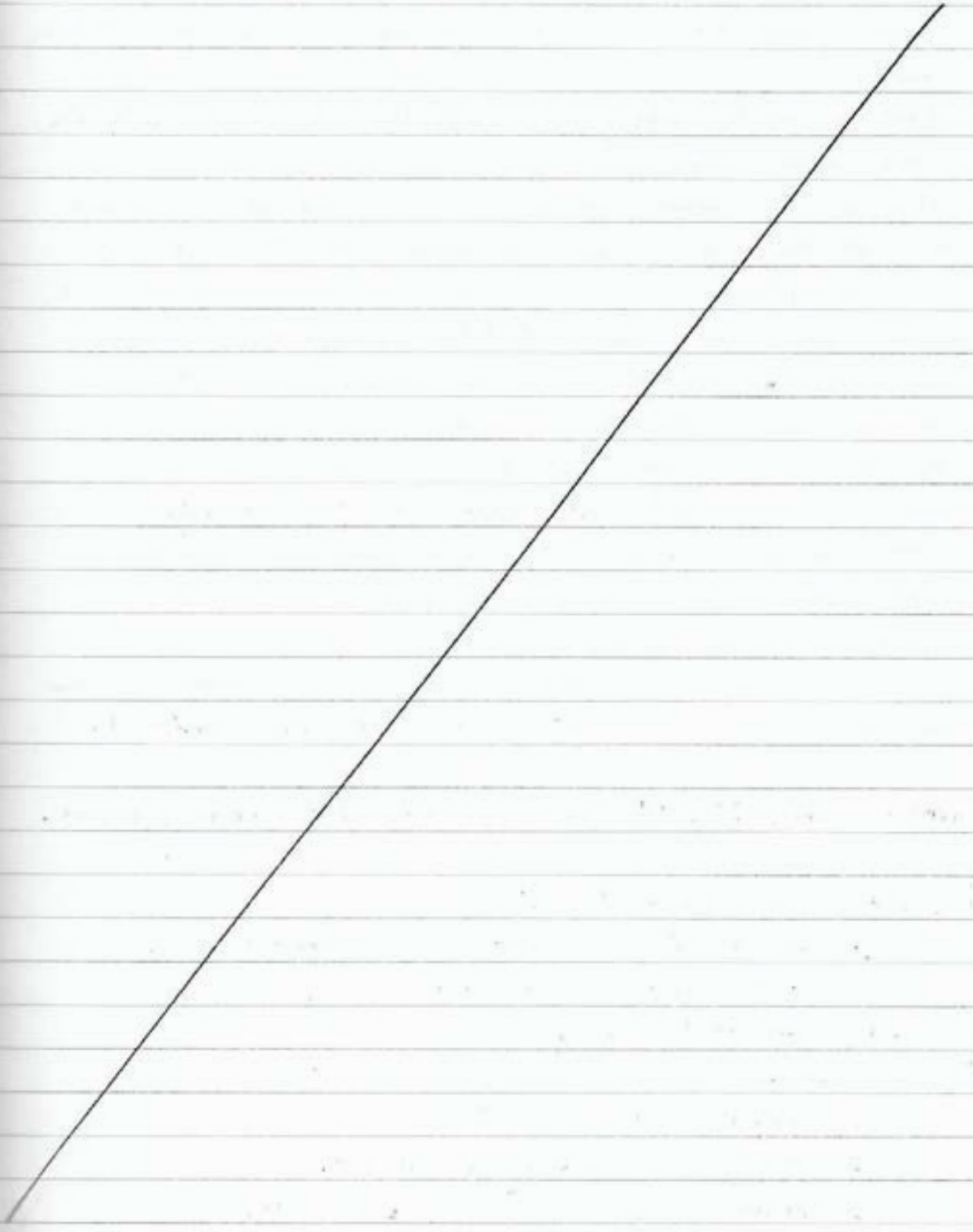
① Expressed his discontent at the manner in which the search for devices (TL) took place. Made clear that he has known TL for a long time and is a close personal friend.
Was told at the time that DPP had advised CoP (TM) to obtain a search warrant rather than a production order, given the presence of legally privileged material. DPP had since told him the opposite was the case.

② CoP (TM) approached CM in May 2019? to brief on CS. CM agreed that if there was evidence of corruption then the Government would be a complainant.
CM agreed that the political government was not apprised of the facts, was now being asked to make a complaint. ∴ Unable to. Accepted proper for the Crown to pursue the matter on the evidence it had. Chief Secretary not making the complaint on behalf of the political government.

③ CM made the point that he should not be, and preferred not to be, advised of any impending arrest

4

in advance. Otherwise he may be placed in a comprising position.



5

From: (RGP) Michelle Hook <michelle.hook@royalgib.police.gi>
Sent: Friday, 15 May 2020 10:23
To: (RGP) Yeats, Cathal
Subject: Letter from CoP to Mr Robert Fischel
Attachments: IM161 - Letter to Mr Robert Fischel - Collision at sea.pdf

Please see attached.

Michelle Hook-Knights
Personal Assistant to the Commissioner of Police
Commissioner's Suite

New Mole House, Rosia Road, Gibraltar, GX111AA
Tel: (+350) **20048007** Centrex: **2202**
Email: **michelle.hook@royalgib.police.gi**

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Please consider the environment before printing this email.

Direct e-mail : rfischel@verralls.gi
Mobile Telephone : +350 54030747

Commissioner Ian McGrail
Royal Gibraltar Police
New Mole House Police Station
Rosia Road
Gibraltar GX11 1AA

Our ref: RGF/V18281
Your ref:

14th May 2020

BY E-MAIL ONLY

Re: INCIDENT IN SPANISH TERRITORIAL WATERS – 8th March 2020

We are instructed by Don Nordin Dris Lahsen to pursue on his behalf a claim for damages consequent upon injuries sustained in a collision in Spanish territorial waters between RGP vessel Sir John Chapple and a RHIB in which our Client was a member of the crew in the early hours of 8th March 2020.

You will appreciate it is important that we establish at the outset whether or not the penetration of an RGP vessel into Spanish waters was authorized or requested by any of your Spanish counterparts. Whilst we are aware that operational matters and policy are within your domain there is the clearest evidence in the hands of the Guardia Civil that the incident took place some 4 miles east of Sotogrande.

Commissioner Ian McGrail

14th May 2020

We will be writing separately to the Coroner notwithstanding Section 4(1) of the Coroners Act to inform him that two dead bodies of Spanish Nationals were towed into BGTW by a RGP vessel.

Your early response would be very much appreciated

ROBERT G FISCHEL QC
CONSULTANT

.

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Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

15th May 2020

Our Ref: IM161
Your Ref: RGF/V18281

Mr Robert G Fischel QC
Verralls Barristers & Solicitors
PO Box 1450
2B Centre Plaza
2 Horse Barrack Lane
Gibraltar GX11 1AA

Dear Sir,

RE: COLLISION AT SEA ON 8TH MARCH 2020

Many thanks for your letter of claim on behalf of Mr Nordin Dris Lahsen the contents are duly noted.

You must be aware that I called in an independent team from the Metropolitan Police, Directorate of Professional Standards, to carry out the investigation in to the collision. I have yet to receive their final report on the matter. Please rest assured this is being actively pursued.

I have allocated this matter to Superintendent Cathal Yeats so that counsel can be instructed to represent the force.

Yours faithfully,

Ian McGrail OTM MSc
Commissioner of Police

From: (RGP) Yeats, Cathal
Sent: Friday, 15 May 2020 11:39
To: (GLO) Rocca, Christian
Subject: OFFICIAL: Letter of Claim

Categories: SMT

Dear Chris,

The Commissioner is in receipt of a letter of claim on behalf of Mr Nordin Dris Lahsen. Lahsen is one of the survivors of the collision at sea which took place on the 8th of March this year.

I would be grateful if we could meet at your convenience next week to discuss how to progress the defence of this claim.

Best regards,

Cathal

Cathal Yeats
Superintendent

Organisational Development
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20045082 Centrex: **2294**

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Please consider the environment before printing this email.

From: (RGP) Yeats, Cathal
Sent: Monday, 18 May 2020 12:28
To: (GLO) Rocca, Christian
Subject: RE: OFFICIAL: Letter of Claim

Categories: SMT

Dear Chris,

Thank you. Would tomorrow afternoon suit? Say 2.30pm

Best regards,

Cathal

Cathal Yeats
Superintendent

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New Mole House, Rosia Road, Gibraltar, GX11 1AA
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Please consider the environment before printing this email.

From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: 17 May 2020 11:09
To: (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Subject: Re: OFFICIAL: Letter of Claim

Dear Cathal,

Many thanks for your email and my apologies for the delay on replying.

Happy to meet next week at your convenience to discuss.

Best regards,

Christian

Sent from my iPhone

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>
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>
> *Cathal*
> <image001.jpg>
> **Cathal Yeats**
> **Superintendent**
>
> **Organisational Development**
> New Mole House, Rosia Road, Gibraltar, GX11 1AA
> Tel: (+350) 20045082 Centrex: **2294**
>
> <image002.png>
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Please consider the environment before printing this email.

From: (RGP) Yeats, Cathal
Sent: Monday, 18 May 2020 12:31
To: (GLO) Rocca, Christian
Subject: RE: OFFICIAL: Letter of Claim

Categories: SMT

Chris,

Yes, no problem, see you then. Your new offices, correct?

Cathal

Cathal Yeats
Superintendent

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Sent: 18 May 2020 12:30
To: (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Subject: Re: OFFICIAL: Letter of Claim

Dear Cathal,

Can you do 12 noon? Would make it a bit easier for me.

Best,

Christian

Sent from my iPhone

On 18 May 2020, at 12:27, (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi> wrote:

Dear Chris,

Thank you. Would tomorrow afternoon suit? Say 2.30pm

Best regards,

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Cathal Yeats
Superintendent

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<image002.png>

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Sent: Monday, 18 May 2020 12:45
To: (RGP) Yeats, Cathal
Subject: Re: OFFICIAL: Letter of Claim

Categories: SMT

Yes indeed, many thanks.

Christian

Sent from my iPhone

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Superintendent
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From: (RGP) Yeats, Cathal
Sent: Tuesday, 19 May 2020 09:06
To: (GLO) Rocca, Christian
Subject: OFFICIAL: - Collision at Sea
Attachments: IM161 - Letter to Mr Robert Fischel - Collision at sea.pdf; 20200514 McGrail.docx

Categories: Organisational Development

Dear Chris,

In advance of this morning's meeting find attached the letter of claim and our acknowledgment of receipt.

Best regards,

Cathal

Cathal Yeats
Superintendent

Organisational Development
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20045082 Centrex: **2294**

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From: (RGP) Yeats, Cathal
Sent: Tuesday, 19 May 2020 09:37
To: (GLO) Rocca, Christian
Subject: Re: OFFICIAL: - Collision at Sea

Categories: Organisational Development

Dear Chris,

With respect to the claim, yes.

Best,

Cathal.

Cathal Yeats
Superintendent
Planning Development and Support
Royal Gibraltar Police

Sent from a mobile device.

From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: Tuesday, May 19, 2020 9:35:51 AM
To: Cathal Yeats (external) <cathal.yeats@royalgib.police.gi>
Subject: RE: OFFICIAL: - Collision at Sea
Dear Cathal,
Received, many thanks. Is this all we have at the moment?
Best regards,
Christian

From: (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Sent: 19 May 2020 09:06
To: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Subject: OFFICIAL: - Collision at Sea
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Best regards,
Cathal

Cathal Yeats
Superintendent
Organisational Development
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20045082 Centrex: **2294**

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Location

Investigations — Police — Criminal / conduct
— Coroner

Further Liabilities

Sums payable

Nature of injuries.

— Exam
— Presentation here
— Disciplinary
— conflict between RG + officers

① Chris worst case officers could face Criminal prosecutions
i.e. open OCPL to advise on this matter.

② Not disclose information at this stage

③ Investigation
Inquest
Provided at the time.

Agree inquest first — represented @ inquest
↳ who would take the instructions on the claim.

21/5
@0930 Chocca — agrees (AG) write to him setting out
the reasons for conflict — he will speak to CM.

32

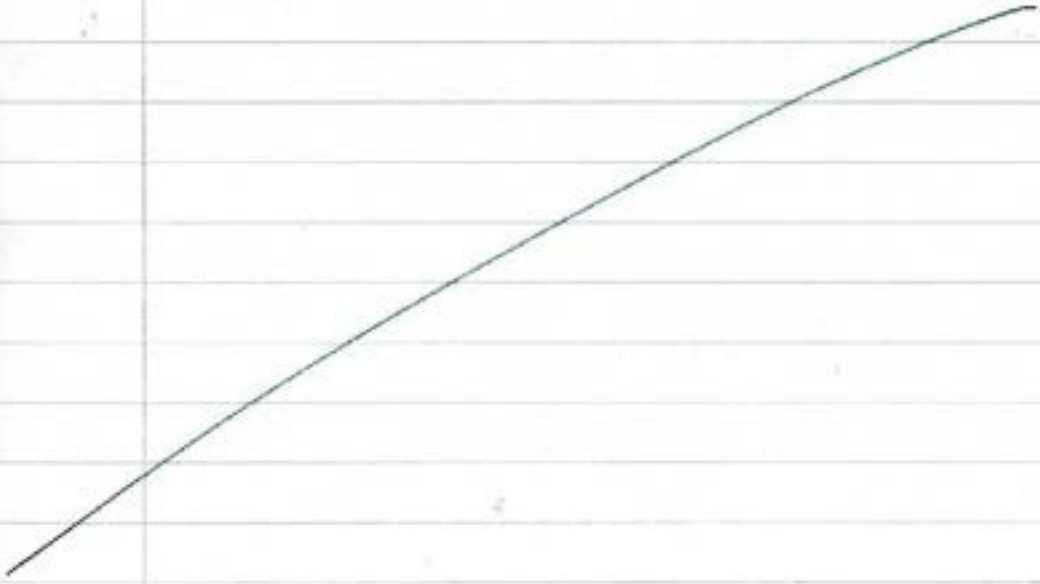
@ 1400 DPP [illegible] Op Kram

Meeting to discuss letter from Robert Fischel of Verrals representing Nordic Dis Laksen. Seeking information on position of the collision.
CR wary of potential future conflict.
① Potential for EAW to be issued by ES
② Potential for criminal procedure in Gibraltar
③ Likelihood of disciplinary proceedings.
④ Conflict between RG and the officers.

Advised not to disclose information at this stage, pending ① investigation by MET PSD and inquest. Info will be provided in due course.

Agreed that the inquest would take precedence over an internal investigation or procedure. Would be advisable to instruct counsel for inquest as matching brief.

@1530 Christian Rocca re second letter from Fischel.
Advised not to disclose names pending instruction of counsel.



From: Robert G Fischel QC <rfischel@verralls.gi>
Sent: Tuesday, 19 May 2020 14:12
To: (RGP) Yeats, Cathal
Cc: 'Ray Pilley'
Subject: Fatalities at Sea
Attachments: 20200519 Cathal Yeats.pdf

Dear Cathal

Trust you are well.

Please find attached letter regarding the above for your attention.

Best

Robert

Robert G Fischel Q.C.

Consultant,

Barrister and Acting Solicitor

VERRALLS

PO Box 1450, 2B Centre Plaza
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Superintendent Cathal Yeats
Royal Gibraltar Police
New Mole House Police Station
Rosia Road
Gibraltar GX11 1AA

Our ref: RGF/V18281
Your ref: IM/161

19th May 2020

BY E-MAIL ONLY

Dear Sir

Collision at Sea On 8th March 2020

You will be aware of our letter to the Commissioner dated the 14th May and his response of the following day in which he advised that you had been designated as the Officer dealing with the matter on behalf of the RGP.

We understand that although the team from the Metropolitan Police, Directorate of Professional standards called in by the Commissioner may have issued an interim report, the final report has not yet been received.

The seminal question in our letter was directed, not at the location of the collision which has been established beyond doubt, but as to whether or not there had been a request from the Guardia Civil to pursue the RHIB the subject of the collision or whether there had been permission granted for the Sir John Chapple or any other official vessel belonging to the authorities in Gibraltar, to enter Spanish waters. That question remains unanswered.

Superintendent Cathal Yeats

19th May 2020

We note you are to instruct Counsel from whom we expect to hear in short order.

In the interim and in order to give the individual Officers an opportunity to obtain independent legal advice we should be obliged if you would let us have the full names of the crew of the Sir John Chapple on the night of the collision identifying, in particular, the coxswain. The reason for this is that we are required to issue a letter before action before we issue proceedings claiming damages for personal injury and loss sustained by our Client Don Nordin Dris Lahsen.

In addition would you please be good enough to supply us with a full schedule of all items seized from our Client and the deceased and second survivor from whom we anticipate receiving written instructions during the course of the next few days.

Please note that we anticipate being instructed by the families of the deceased as well as the fourth person aboard the RHIB.

Yours faithfully

ROBERT G. FISCHEL Q.C.
CONSULTANT

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Cathal Yeats
Superintendent
Planning, Development and Support Division
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2294 • www.police.gi

20th May 2020

Mr Robert G. Fischel QC
Consultant
Verralls Barristers & Solicitors
Suite 2B Centre Plaza
2 Horse Barrack Lane
Gibraltar

Your ref: RGF/V18281

BY EMAIL ONLY

Dear Sir,

Re: Collision at Sea on the 8th March 2020

I refer to your letter of the 19th of May. I should start by pointing out that the Commissioner is not in receipt of an interim report prepared by the Directorate of Professional Standards of the Metropolitan Police.

Given that the investigation is ongoing and yet to conclude, I am unable to provide you with the information you require. We will provide you with the information requested once it is appropriate to do so.

I will advise you as soon as we have instructed counsel and provided instructions.

Yours faithfully,

Cathal Yeats
Superintendent

From: (RGP) Yeats, Cathal
Sent: Wednesday, 20 May 2020 12:13
To: Michael Llamas AG
Cc: (RGP) McGrail, Ian M.Sc (OTM)
Subject: OFFICIAL: Letter before action - damages claim

Dear Attorney General,

The Commissioner of Police is in receipt of correspondence with regard to a claim for damages following a collision at sea on the 8th of March this year. I understand that the Director of Public Prosecutions has raised the issue of who should represent the RGP to defend the claim. The DPP and I met yesterday to discuss whether it would be appropriate for the Office of Criminal Prosecution and Litigation to do so. We concluded it would not for the following reasons which potentially apply:

1) Prosecuting European Arrest Warrants issued by Spain to extradite the officers crewing the vessel.
2) Prosecuting criminal charges against the officers crewing the vessel.
3) Prosecuting disciplinary charges against the officers crewing the vessel.
4) Defending civil actions against the organisation or the individual officers in Spain.

Should you agree with our views I would be grateful for your authority to appoint counsel and your advice on who would be best placed to represent the RGP. Finally our experience is that claims made against the RGP have been generally handled by Government. Do you wish this to be the case in this instance or should we manage it ourselves together with appointed counsel?

Best regards,

Cathal

Cathal Yeats
Superintendent

Organisational Development
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20045082 Centrex: **2294**

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From: Neil.Rawlinson@met.police.uk
Sent: Friday, 4 June 2021 19:39
To: (RGP) Yeats, Cathal
Subject: Misconduct report
Attachments: Op Bomere - Misconduct Report.pdf

Dear Sir

Please find report as discussed.

Regards

Neil

DCI Neil Rawlinson
Crime Recording Investigation Bureau
Metphone: 780566 | Telephone: 0207 161 0566
Address: SLT Office, Room G29, Lambeth HQ, 109 Lambeth Road, London, SE1 7LP

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Executive Summary

This report details the investigation into a collision at sea on 8th March 2020 between a Royal Gibraltar Police marine vessel and a Rigid Hulled Inflatable Boat (RHIB) a result of which two of the RHIB crew died. Following a criminal investigation and consultation with the DPP, it was determined that the criminal jurisdiction of this matter lies with the Spanish authorities as the chase and the collision took place in Spanish territorial waters. Consequently no criminal charges were brought against the RGP officers. This report recommends that charges be brought against the two trained mariners aboard the RGP vessel at the time of the collision under the Police (Discipline) Regulations 1991.

Background Information

Gibraltar is a British Overseas Territory separated by a border at the southern part of the Spanish mainland. It lies approximately nine miles north of the coast of Morocco. The area is a well-established route for the smuggling of drugs from North Africa to Europe. Gibraltar was established as a British Territory in 1713 under the Utrecht Treaty but that treaty failed to mention the waters surrounding Gibraltar. Usual international laws of the sea enable sovereign states to claim the seas up to 12 miles from land to be their waters. This is not possible in Gibraltar. Gibraltar claims that British Gibraltar Territorial Waters (BGTW) extend three miles to the east, three miles to the south and two miles to the west. As the treaty failed to mention the sea, Spain refuses to acknowledge the boundaries of BGTW.

Unused Evidence and Information

The scope of the criminal investigation was such that a vast amount of evidence was acquired with the intention of enabling the investigative team to make a determination on criminal liability. Much of this evidence is not relevant to the suggested charges under the Police (Discipline) Regulations 1991 and has therefore not been included in this summary. A full schedule of material is available for examination if required. All statements and evidence referenced in this report is supplied to the Determining Officer with this report for ease.

Vessel Details

Sir John Chapple – an 11.8 metre long full cabin marked RGP patrol vessel with blue lights, sirens and lights. [redacted]

[redacted] (with AIS installed)

ii. [redacted]

The vessel was built by Safe Boats International in January 2007, acquired second-hand by RGP and registered in Gibraltar on 19th October 2016 as a Government vessel. On the front of the vessel is log defender; a strip of serrated metal attached to the bow. Rob Goley, the Director of Business, development and Strategy of Safe Boats (who fitted the log defender) stated that "log defenders are installed on vessels to aid in pushing logs and debris. The 'teeth' on the log defender bite into the log and prevent it from sliding under the hull and into the vessel's propellers." On the night of the collision the vessel had the call sign 'Bravo 4'.

RHIB – a 14-metre long unregistered vessel and unknown date of build. Powered by four Yamaha 300hp outboard engines. The navigation equipment consisted of a Garmin GPS map combined GPS chart plotter and radar display. There were seats for four people in a line behind one another. Shiny or reflective parts of the vessel had been covered up with tape. This type of vessel is illegal in both Gibraltar and Spain as they are typically used for drug smuggling.

Photographs of both vessels are available.

Evidence of RGP Crew

The three officers who formed the crew of the Sir John Chapple provided statements under the Post Incident Procedure (PIP) and were referred to as Officers One, Two and Three. Later in the investigation it became apparent that Officers One and Two may be liable for criminal conduct and in addition to their statements they were interviewed under criminal caution. Officer Three was not considered for criminal proceedings and therefore retained his protected identity status. Officer Three was not considered for criminal proceedings because he was not a trained mariner; he had no previous experience in the Marine Section and no relevant qualifications that would enable him to form any opinions regarding the use of the vessel or the equipment. He accounted for his actions on the night and the investigative team were satisfied with his response. Essentially, he was on board to make up the numbers required for the vessel to deploy.

Evidence of Officer 1 – PC [redacted]

Officer 1 (later identified as PC [redacted] made PIP Stage 3 and 4 statements[S1,S2] in which he said the following: He joined RGP in [redacted]. In [redacted] he became part of the Marine Section. In [redacted] he became a fully qualified coxswain. The training involved attending RYA to carry out a week of STCW-95, a radar and VHF course, skipper theory with exams followed by examiners coming aboard the two vessels to observe boat handling and theory. The fast RHIB examination consisted of two weeks of berthing and unberthing, high speed navigation, search and rescue patterns and pacing, which is when two vessels come alongside one another in order to transfer persons or items between them. He has never received any training regarding pursuits. Since [redacted] he has been involved in many police pursuits at sea. He has been a helmsman on numerous pursuits involving different vessels; none have ever resulted in injury or fatality.

On Sunday 8th March 2020 at 2200 hours, he reported for duty at New Mole House as the senior coxswain for RGP Marine Section. The crew consisted of three officers in total. At 0200 hours on 9th March (date are incorrect, this should read 8th March), they took over from

the other marine crew. A telephone call was received on the marine section mobile from Windmill Hill Signal Station (WHSS) stating they had an unknown vessel without navigational lights on the eastern side heading west towards land. He contacted Guardia Civil via the marine section mobile phone informing them of the report WHSS had made, they confirmed it to be a large suspect RHIB heading at speed towards land. He confirmed with the Guardia Civil that they were heading to the eastern side and he called WHSS to confirm to them what they were seeing was a large suspect RHIB and that he would be deploying to the area of the eastern side of Gibraltar.

The crew deployed aboard Police Interceptor Sir John Chapple – Call sign 'Bravo 4', which is an interceptor fitted with a radar and chart plotter. The radar was on carrying sweeps at a distance of [redacted], the GPS chart plotter was left off due to the bright backlight, which is safer not to have on in order to be able to see more safely at night. All checks completed, VHF functioning, both OPS and Interop radios had sufficient battery and torches available.

Officer Two (later identified as PC [redacted] was positioned left from PC [redacted] covering the port side of the vessel. Officer Three was sitting directly behind PC [redacted] covering the starboard of the vessel. The Guardia Civil called PC [redacted] stating that the suspect RHIB was by La Atunara breakwater carrying out what they believed to be a crew change and food supply and informed them that Bravo 4 would head east. Another call was received on the marine section mobile from Guardia Civil informing PC [redacted] to remain where he was as the suspect RHIB was heading towards them.

PC [redacted] made contact on the radar, which was still conducting sweeps at a 0.75 nautical mile radius. The contact closed in on Bravo 4 at a distance of 0.25 nautical miles, PC [redacted] initiated the blue beacons in case the navigator of the vessel had not seen Bravo 4. The RHIB crossed the front of Bravo 4's bow at a distance of approximately 5-10 metres. The RHIB was approximately fourteen meters in length with four persons aboard.

PC [redacted] commenced following the suspect RHIB with the intention of confirming the identities of the suspects and to identify whether it had any illicit cargo. The RHIB appeared to be a prohibited import with no navigational lights. PC [redacted] had a Dragon torch pointing out of the left hand side door and Officer Three had his arm out of the right hand side window. The RHIB continued in a south easterly direction in an attempt to head into the Strait and towards Morocco, the RHIB was on the starboard side and lit up with the blue lights of the beacons and with Officer Three's Dragon torch. PC [redacted] positioned Bravo 4 alongside the RHIB in order to shout to the coxswain to stop, confirm suspects' identities and any illicit load on the deck. PC [redacted] saw one of the men picking up items and start to throwing them at the police vessel. The RHIB sharply turned left to right to throw sea spray at the police vessel in order to obscure their view.

The RHIB carried out several erratic manoeuvres, turning sharply right or left without any indicators. PC [redacted] trimmed down and reduced the speed in order to gain more control. The RHIB sharply turned left and the trims were still up causing a large white wave in front of the vessel limiting all vision. In order to avoid injury and a collision PC [redacted] engaged the vessel into neutral and attempted to turn right to avoid the RHIB, which is when he felt the impact

between his vessel and the RHIB. The vessel began to list to the right which resulted in water ingress through the windows and doors. PC [redacted] believed the vessel would capsize and they might drown. Their vessel appeared to slip off the pivoting point. PC [redacted] believed this was due to buoyancy offered by the foam collar causing the vessel to re-float.

The vessel was positioned to the left hand side of the RHIB. PC [redacted] jumped onto the suspect vessel via its bow. PC [redacted] removed the kill cord, Officer Three was at the rear of the police vessel holding both vessels together. PC [redacted] boarded the suspect vessel to assist PC [redacted] and his attention was drawn to one individual standing at the bow and another just behind him crouching down. PC [redacted] saw two more people on the deck next to the steering console lying down side by side with their feet directed at the bow.

PC [redacted] approached the men and could see the male to the right closest to the steering console had a severe head injury (visible brain matter and skull fragments), no signs of life present. The male to the left had an open wound to his right shoulder with bone and fat tissue visible. PC [redacted] attempted to move him upright however, he was too heavy and he reassured the male and informed him that he would be calling for an ambulance and medical assistance.

PC [redacted] moved to the front of the vessel together with PC [redacted] who was with the other individuals. PC [redacted] informed them that the vessel would be towed and returned to the marine base as quickly as possible where an ambulance would be waiting.

PC's [redacted] and [redacted] re-boarded Bravo 4, Officer Three stood at the stern with a Dragon torch to make sure the individuals remained on the vessel and visible. The radar was reduced to carry out sweeps of a quarter nautical mile to see the RHIB clearer behind them. The RHIB was placed on a long tow by use of a bowline to its front d-ring. PC [redacted] cannot recall the precise order of communications; he believes the first contact was with WHSS to inform them that they were towing a RHIB. PC [redacted] informed WHSS that there was one fatality and possibly a second, that they were heading back to base to get them medical assistance. PC [redacted] contacted his sergeant and explained the need for medical assistance. Guardia Civil contacted PC [redacted] on the duty phone although he cannot remember the conversation. A further call came through from the Port Boarding office; he cannot remember the conversation.

Bravo 4's starboard outer engine was not functioning. PC [redacted] contacted the duty sergeant again via the marine section mobile in order to request a customs vessel rendezvous with them at sea to take crew from the RHIB to shore for medical assistance. PC [redacted] contacted HM Customs marine base via the marine section mobile and updated them with the incident.

As Bravo 4 arrived off Sandy Bay, the HM Customs vessel arrived and the vessels were positioned in order to re-board the RHIB to assist the individuals. One male came forward and shouted, "Officer it was our fault as our engines stopped, we didn't give you enough time to stop, please help my uncle, I know you guys didn't want to kill anyone."

The RGP officers instructed customs officers to take on board as many persons as possible to convey back to the base. PC [redacted] and Officer Three jumped aboard the RHIB to assist customs officers. Customs cast off with three persons on board from the RHIB while Bravo 4

resumed the tow back to base. On arrival to South Mole, a Gibraltar Defence Police (GDP) RHIB could be seen to exit the harbour and assisted with the escort to base.

Upon entering the base, PC [redacted] went to the stern to remove the tow and handed it to the GDP RHIB. PC [redacted] could see paramedics were providing CPR to someone on the ground. PC [redacted] berthed the vessel with PC [redacted] assistance.

On 11th August 2020, PC [redacted] was interviewed under Section 47 of the Criminal Procedure and Evidence Act 2011 for the offences of manslaughter and Section 27 of the Gibraltar Merchant Shipping (Health and Safety etc.) Act. Also present were his legal advisor and Police Federation Representative. DC Emma Johnson and Civilian Investigator Trevor Morgan from the Metropolitan Police Service (London) were the interviewing officers. PC [redacted] exercised his right to silence and did not answer the questions put to him. A copy of the interview plan has been included in this case submission.

PC [redacted] legal advisor indicated that he may answer questions in a misconduct interview once the criminal matter had concluded. Therefore a misconduct interview was conducted on 3rd June 2021. Disclosure was provided to his legal advisor in advance of this interview. PC [redacted] declined to make any comment to all questions put to him.

Evidence of Officer 2 – PC [redacted]

Officer 2 (PC [redacted] provided PIP stage 3 and 4 statements[S3,S4] in which he explained the following: He confirmed his status and that the statement was regarding a collision between a police vessel "Bravo 4" and a suspect RHIB. Description given of B4 including engines, vision and approximate maximum speed of 50-52 knots in good conditions. He stated that visibility is very poor during chases. He provided details of his qualifications – RGP Coxswain – and previous experience regarding chases of different vehicles.

At approximately 0320 on 08/03/2020, PC [redacted] received a report on the duty mobile phone. PC [redacted] told PC [redacted] that there was a suspect RHIB on the east side of Gibraltar. He in turn told Officer Three, who was sat in the station control room. They boarded the police vessel and deployed at high speed from the base. PC [redacted] was coxswain. PC [redacted] was sat in front passenger seat to the left of PC [redacted] Officer Three was sat in behind PC [redacted] PC [redacted] and Officer Three had search torches. As they reached the area near Eastern Beach the vessel slowed and then stopped in approximate area of A8. PC [redacted] indicated a vessel on the radar heading towards them at high speed from the Spanish coast. Blue lights were activated and a RHIB crossed their bow at high speed at a distance of approximately 10 metres. The RHIB was not displaying any navigation lights and a chased ensued. The occupants of the RHIB threw missiles at the police vessel which he heard impact on their boat. They closed the gap between the vessels and PC [redacted] positioned Bravo 4 to the RHIB's starboard side.

He used a torch to illuminate the RHIB that was approximately 20 metres away. He provided description of the RHIB and saw four people sitting in tandem on it. The RHIB began evasive manoeuvres – sharp turns at speed. Bravo 4 moved to the RHIB's port side so Officer Three used his torch to illuminate the RHIB, which continued to do sudden sharp turns across the

bow of Bravo 4. This sprayed water over Bravo 4, reducing visibility and forcing them to slow down each time.

"During one of these manoeuvers the suspect RHIB crossed the bow of Bravo 4 as such a close distance that a large wave like splash was produced ahead of Bravo 4. This hit the front of our vessel and covered window screens removing all visibility. I then felt an extremely large and sudden impact that caused our vessel to stop abruptly and noticed that we immediately began to tilt heavily to the starboard side. I had to hold myself tightly to my side handrail to stop me falling over as my side of out (this appears to be a typing error and should read "our") vessel was now raised high up. I could also hear a lot of water rushing into the cabin but could not see where it was coming in from. I was still not aware at this stage of what had happened and my immediate thought was that Bravo 4 was going to capsize. At this time I feared for my life and that of my crew mates, I was not sure of what was happening. I did not know how long the chase had gone on for but it felt like if time had slowed down. As I tried to work out what had happened our vessel began to return to its normal upright position. At this time I was in a state of shock and had completely lost sight of the suspect RHIB. During this time Office One manoeuvred and went alongside the suspect RHIB's starboard side with our stern ending up alongside the suspect RHIB's bow. I could see it was stopped in the water and realised there had been a collision."

He went on to state that he left cabin and boarded the RHIB. He described the scene – there was an extremely agitated male near bow of RHIB; second male crouched down in bow area; two males on deck starboard side of seats. He was severely shocked and could not move. He believed they were dead but could not push forward to check. He found the situation overwhelming. He was alone on the RHIB with suspected drug smugglers who can be violent and carry weapons. PC [redacted] then joined him and told him that he believed one of the males was dead. They decided to tow the RHIB to the RGP marine base to get help. PC [redacted] was concerned for his own crew and the RHIB crew.

They hitched up the RHIB and started towing at about 30 metres with Officer Three watching. PC [redacted] had done all communications via the duty mobile phone. A call was made to Customs to help but he was not sure which method of communication was used. He stated that one of the RHIB crew shouted in Spanish "It wasn't your fault, the engines stopped, I know you guys wouldn't kill anyone, please help my uncle." The HM Customs boat then arrived (HMC Seeker). There was a discussion with Customs officers about the transfer of the RHIB crew and this was done. The RHIB was towed in at speed and he then returned to the police station and completed his stage 3 account.

On 12th August 2020, PC [redacted] was interviewed under S.47 Criminal Procedure and Evidence Act 2011 for the offences of manslaughter as S.27 Gibraltar Merchant Shipping (H&S etc.) Act. Also present were his legal advisor and Police Federation Representative. DC Emma Johnson and Civilian Investigator Trevor Morgan were the interviewing officers. PC [redacted] exercised his right to silence and did not answer the questions put to him. A copy of the interview plan has been included in this case submission.

PC [redacted] legal advisor indicated that he may answer questions in a misconduct interview once the criminal matter had concluded. Therefore a misconduct interview was conducted on

4th June 2021. Disclosure was provided to his legal advisor in advance of this interview. PC [redacted] declined to make any comment to all questions put to him.

Evidence of Officer 3

Officer 3 provided PIP stage 3 and stage 4 statements (three statements in total[S5,S6,S63]) and said the following: On Saturday 7th March 2020 at 2200 hours, he reported for duty at New Mole House Police Station and deployed as a crewmember with Officers One and Two on the Sir John Chapple (call sign Bravo 4). This duty was only his second deployment with the Police Marine Base (PMB). He has not received any specific training as a police marine officer but does hold an Emergency First Aid at Work qualification.

At approximately 0250 hours officer three was informed by PC's [redacted] and [redacted] that they were heading out, and he believed a job had come in by the urgency in their voices. They headed back to Bravo 4 where Officer Three had the responsibility for the rope. He took hold of the Dragon lamp and sat in the front port side adjacent to PC [redacted] PC [redacted] operated and sailed out of the harbour to the western side of the BGTW and made a turning to the left to travel in a southerly direction. PC [redacted] was informed that the Guardia Civil had observed a RHIB suspected to have left Spain and was travelling in the direction of Gibraltar into the eastern side of BGTW.

PC [redacted] navigated Bravo 4 around Europa Point and headed in an easterly and then northerly eastern direction. Officer Three observed glowing orange lights in the far distance which he believed to be the Spanish coastline at a 12 o'clock position from the bow of Bravo 4 and the north eastern rock face of Gibraltar was on the port side at around an 8 o'clock position. PC [redacted] answered a phone call in Spanish.

Officer Three observed from the bow of Bravo 4, at a 10 o'clock positon, a fast moving RHIB heading in a southerly direction. PC [redacted] activated the blue beacon lights on Bravo 4 and operated the controls to turn left in the direction the RHIB was travelling. The RHIB was about 10 metres from Bravo 4 on the port side. Officer Three opened the window next to him on the starboard side and flicked the switch of the Dragon lamp, fixing the beam on the RHIB, which was at a 2 o'clock position from the bow.

Officer Three observed four people on the RHIB, two were throwing shiny items towards Bravo 4 and he heard several bangs. He turned the Dragon lamp on and off to disorientate the occupants of the RHIB as directed by PC [redacted] The RHIB began to perform sharp S bends and sharp U-turn manoeuvres in front of the bow. The RHIB was moving through the water at a high speed producing a wake causing Bravo 4 to move from side to side as they went over the wake. Water intermittently went through the window as Officer Three focused the Dragon lamp at the RHIB.

The RHIB remained on the starboard position to Bravo 4 and a large wave came up engulfing the front windscreen. PC [redacted] turned the wheel to the right, the boat leaned and there was a sudden impact. The starboard side window slammed into the water, water flushed through into the cabin, Officer Three thought they would die.

Bravo 4 rolled to the left and came to an upright position; the RHIB stopped about 10 metres away when Bravo 4 moved alongside the port side of the RHIB. A man described as white, stocky build, wearing marine clothing came towards the starboard side of the RHIB and Officer Three shouted for him to "Get down, get down".

Officer Three remained on Bravo 4 and lent over to unzip the jacket of the male at his request, the male moved to the right and lent over the starboard of the RHIB to vomit. Officer Three then noticed a smaller and slimmer built male crouching down at the front of the RHIB. Officer Three could see the hair and the top of a head near to where he was holding onto the RHIB and mumbling.

PC [redacted] attended to the man mumbling, Officer Three wanted to get onto the RHIB and help but he was holding onto Bravo 4 and the RHIB in order to stop them from drifting. PC [redacted] stated, "One, code black" which Officer Three knew was a sudden death. PC's [redacted] and [redacted] climbed back onto Bravo 4 tying the rope onto the RHIB to connect them. Officer Three observed Officer One taking deep breaths and speaking in Spanish. Officer Three observed the RHIB whilst Bravo 4 towed it, the officer felt shock.

Officer Three noticed another RHIB with people waving; PC [redacted] confirmed it was customs officers who then boarded the suspect RHIB to assist. Bravo 4 entered the harbour where medical assistance was provided. They were then informed a PIP had commenced.

On 10th August 2020 the PIP was reconvened for Officer Three so that questions that had not previously been answered, could be addressed. This statement is included in the case submission.

Evidence of RHIB Crew

There were four men aboard the RHIB:

[redacted]

[redacted] and [redacted] were arrested and interviewed by RGP officers on the day for the following offences:

- Importing a Prohibited Import, contrary to Section 14 (1) (f) and (2) of the Imports and Exports Act 1986.
- Dangerous Navigation, contrary to Section 10 of the Seaside Pleasure Boat Rules 1989.
- Obstructing Police, Contrary to Section 177 (2) and (4) of the Crimes Act.

However, no charges were brought against them.

Suspect Account of [redacted]

[redacted] gave a "no comment" interview following his arrest.

Suspect Account of [redacted]

[redacted] stated the following (interview in Spanish and transcript provided by RGP):

He said that he was at sea and his coxswain manoeuvred to one side and the police went the same way and rolled over them. He was in the fourth seat on the RHIB (the back of the row of four seats). There had been a crew change (at La Atunara). Four people got off and he and three others got on. He did not know where they were going and this was about 0230 hours. He stated that they could stay at sea for 2-3 days as they were holding the boat. He had been on a boat four days ago, had three days off and was then back on board. They did not collect anything and were not carrying anything (presumably referring to contraband such as drugs). He confirmed that the police vessel had its blue lights activated. The RHIB was turning and went "this way and that." After the collision the police got on. One man was dead and one was half-dead. Another boat arrived and took off the half-dead man. He confirmed possession of two mobile phones.

[redacted] and [redacted] were due to travel to Gibraltar to provide significant witness statements to the investigative team in August 2020. However, this did not take place due to a legal issue and instead they travelled in October 2020 and the following witness accounts were obtained.

Witness Account of [redacted]

[redacted] explained that on 8th March 2020, he and three others boarded a four-engine RHIB (semi rigid). The vessel was either grey or black, approximately 14 metres long with four Yamaha 300 engines and a radar. On the radar screen, half is a GPS but this is the only equipment on board – they carry an extra GPS and satellite with them in case anything breaks down. They did not have AIS. The three men he boarded with were known to him as [redacted]. [redacted] was his uncle. As they boarded, the crew who were disembarking informed them that one of the engines was faulty. He and his crew boarded in order to test the motor, they were not going anywhere, just testing it. He described that the vessel had four seats one behind the other and the control panel was at the front. [redacted] was in the pilot's seat, [redacted] was behind him, then himself and at the rear was [redacted]

[redacted] explained that all four of them had mobile phones and there were navigation lights but they did not put them on "*otherwise they can see us".* He stated they went out on the vessel around 3 or 4 in the morning, he explained that it was dark because it was night time but you can still see out at sea. [redacted] described that the sea was fine, there was a slight westerly wind and there were other RHIBs working that night. He did not know what the moon was like but

you could see. [redacted] stated they had been in the area of the mussel farm, about half a mile from the shore and they went on board to see if one of the engines was malfunctioning. He explained *"if not they never would have caught up with us"*, he did not know which one of the engines was faulty as he was sat in the third seat. It would have been the pilot who knew. They were only carrying a petrol canister and some food.

He said they went out of La Atunara and in the direction of Alcaidesa and this is "*where they hit us"*. After five minutes of starting out, they were warned by the tobacco RHIBs that the Gibraltar patrol boat was coming out. When they left La Atunara, the radar showed that the patrol boat was about a mile away. He described that the patrol boat did a turn and went into Spanish waters, when it came up in front of them he saw it. He said the patrol boat came toward them head on and they tried to avoid it but it turned around again onto their rear. He knew it was the police because the 55 which belonged to the Guardia Civil was tied up in Sotogrande and the observation posts were keeping them informed. He described "*the patrol boat came straight for us, and we tried to avoid it once and twice but on the third occasions when it came for us we realised that our engine had stopped".* He said if they had wanted, they could have just hit their motors and explained the evasive action they had taken in the RHIB was trying to avoid the patrol boat hitting them again. He described that the patrol boat did not switch on the blue light, nor was it displaying any navigational lights. When they tried to turn again the motors were not responding, the pilot remained looking at the radar because they thought the patrol boat was going to stop but it didn't and it hit them. [redacted]described the wake of the waves to be very strong, so much so that they almost fell into the water. He was signalling with his arms to indicate they didn't have anything on board and the pilot tilted the vessel sideways to show there was nothing there. They were surprised that the patrol boat continued toward them; by their speed the patrol boat could tell they had broken down and they were totally stopped. As he looked behind he could see it was going to hit them and he jumped from his seat. [redacted] jumped as well but the pilot and [redacted] stayed in their seats. He said "*this was not a collision they were coming for us"* and said when the patrol boat hit them it landed on top of them, on the bow.

The patrol boat then started revving to reverse. Everything was silent and [redacted] saw the pilot's face was split in two.[redacted]o tried to sit [redacted] up, his skull was broken and his hand slid inside. The patrol boat came nearer and [redacted]was telling them "*you have killed them and insulted them*", when the police saw what was inside the vessel they withdrew. He and Bruno were both asking for help but the police did nothing and were "*arguing amongst themselves*". He said he was recording all the time and showing the police, telling them to get out of Spanish waters. At the same time he was calling Guardia Civil on 112. [redacted] checked his phone (when offered to him during the witness interview, having been retained by police since the incident) and found the video of the chase was not on it anymore, only some photographs he took of [redacted] and the pilot while they were coming into Gibraltar, and a short video of the aftermath on the RHIB deck. He said he had sent the video to his friend and would try to retrieve this for the English police (this was never provided despite requests). He explained the police threw a hook and towed them to the Iron Port. He said none of the police officers came aboard and when they were just in Gibraltar he insulted them and told them one of them was still alive. He called them murderers. He explained "*the police knew that my uncle was still alive, I was telling them all the time, they should have come on board*".

He described the customs officers as being very kind to them and they took his uncle onto their vessel and to hospital immediately. Speaking of the police, he stated they had brought them into Gibraltar waters so that *"no one would see that they had murdered someone in Spanish waters*". He said it took about 45 minutes to get to the Iron Port and it was only there that the police reported there had been an accident and it was only then that they switched on the lights and GPS.

When they arrived in the port of Gibraltar, the four policemen disappeared and only customs remained trying to revive his uncle. When they arrived, [redacted] was in pain and aggressive, he was given something to calm him down and he recalls there being an ambulance and they were separated. He referred to the "*saw they have on the keel*" which is always there and they use it to run people over (referring to the log defender on B4's bow). He described his injuries as a blood clot to his head, knee ligament injuries and three broken ribs. With regard to the mental impact on him, he said he cannot get into the shower without crying and he cannot sleep because he can see the two deceased. In his last line he stated "*every time we took evasive action they would come back for us, they would have had time to avoid a collision".* S49,S50

Witness Account of [redacted]

Bruno explained that on 8th March 2020 he had been in the port of La Atunara with [redacted] and [redacted]. He described that the sea was calm, the weather was good, there was a half moon and one could see clearly. He explained their vessel was dark grey in colour, a RHIB with four motors and a GPS on board which included radar. They had been carrying GPS and a portable satellite also. They went on board and sat in order of [redacted] first, [redacted]'s uncle was second, then [redacted] and [redacted] was at the rear. When they had boarded, they had been told an engine was faulty so they started trying to revive it.

However, they were told by the tobacco boat that the Gibraltar Police boat was coming in their direction. They checked the radar and saw that it was about a mile or half a mile away. Although it was a clear night, they first saw it on the radar and then at about 100 metres. The RHIB did have navigational lights but these were not switched on. They were opposite La Alcaidesa, more or less in the area known as the mussel farm and veered to the right. The RHIB only had some petrol canisters and food on board. They knew it was the Gibraltar police boat because it has a cabin and is about 13 or 14 metres long, this was despite the police boat not displaying navigational or blue lights. He described that they all panicked, because "*nobody wants to get caught".* When they saw the police boat it veered and placed itself behind them. He said if they had not taken evasive action it would have hit them the first time. They tried to avoid the police boat hitting them but it was much faster than their RHIB. On three occasions they took evasive action but on the fourth occasions it "*came right on top of us*". He said while this was happening they could do nothing, only say "*left, right*". The police boat did not have blue lights on during the chase and only said "*stop stop",* despite the RHIB passengers telling them they didn't have anything. He said he knew from other people that this RHIB had gone on top of others so it was a fight for freedom and their lives (it is believed he refers to the police vessel going on top of others as his original suspect interview he describes it as the police RHIB). He described that this vessel was frightening *"because of the saw and the sledge hammer it has*". He said they were all telling the pilot to "*stop, carry on*"

and that you would have to be in that situation to understand and they were not throwing anything out to sea.

Bruno explained that at the time of the impact the patrol boat had come in via the two centre motors, he got hit on the head but had been wearing a helmet and he fell on top of [redacted] He said he did not notice the engine losing power but at that moment they were stopped, one of the motors had failed. He said the patrol boat could have avoided this since they were stopped, but they did not. At the time of the collision, the patrol boat was on top of himself and [redacted] it had its motors out of the water and he could hear the propellers. He said the police did not aid them and when the patrol boat had reversed, he and [redacted] got up. As they could not see anyone, they thought [redacted] and [redacted] were in the water, but when he shone his light he saw *"[redacted] had his head back, his teeth sticking out and his head was split in two".* [redacted] said when the police saw there was one dead, another dying and two alive, they threw over a rope. He said he and [redacted] asked for help but they did nothing and were talking among themselves. He could not understand what they were saying because they were speaking English. He explained that [redacted] the pilot did not have a pulse, but [redacted] was asking for help. [redacted] put his hand behind his head and felt a cavity, in his hand was a gelatinous substance. He tried to make him more comfortable and sat behind him so that he could rest on his chest. He described "*the four of them looked in and could see us and then they started towing us*".

[redacted] did not speak to the police officers at any time, but [redacted] was shouting, calling them murderers and asking why they would not help. He said they asked them to go aboard their boat, but they said they could not leave the others. [redacted] stayed in the same position until they reached the dividing fence between Gibraltar waters, when the customs vessel arrived [redacted] was not talking, he was unconscious but still breathing. There had been no communication while they were being towed, he cannot remember saying anything that the police are saying he said. [redacted] called the Guardia Civil and rescue boat while they were being towed.

[redacted] stated that it was not until they were past the lighthouse that the patrol boat put its blue lights on and two minutes later the customs vessel arrived. He said he cannot remember well, but they were the only ones who helped them. They took [redacted] and [redacted] on board and also took the injured man because he still had a pulse. He said from the point of impact to the arrival of the customs vessel it was about 30 odd minutes and it took about five or ten minutes to get arrive at the Port. When they got into Port, the police asked them to remove their clothing and gave them blankets. He said this injured male had a pulse when they were in the port, he heard the doctor say this.

[redacted] described the injuries he sustained to his shoulder and his back. He said he has the images of what happened in his head daily and he has to smoke a lot before he can sleep. He confirmed that he did not have any photographs or videos of what took place on his phone. **S47,S48**

[redacted]'s Mobile Phone Video Footage

[redacted] claimed to have video footage of the chase on his mobile phone that had been in possession of RGP since his arrest. He refused to reveal the PIN to the police prior to his arrival to provide a statement. His phone was unlocked by him during the interview with the MPS officers and the contents examined but no such video was located, only a short video of the aftermath of the collision, showing some of the RHIB deck. He accused the RGP of erasing the chase video but stated that he sent it to someone whilst he was on the RHIB being towed into port and may be able to recover it from them (but had deleted the sent video message). To date, no such video has been provided to the investigation team despite a number of requests.

Previous Convictions of RHIB Crew

It is relevant to mention the previous convictions of the RHIB crew to provide information relating to their activities. The following information was correct in 2020 but it is not possible to get updated information from the Spanish authorities.

[redacted] has two previous convictions in Spain. One is for drug trafficking and one for driving a motor vehicle while disqualified. He was on bail in Spain in September 2020 but Chris Finch was unable to divulge the offence for which he was on bail as he is not dealing with that matter.

[redacted] has three previous convictions in Spain. Two are for driving while disqualified and one was insulting or resisting a representative of a public authority.

[redacted] had previous convictions in Spain for drug trafficking, tobacco smuggling and offences against public health.

[redacted] had previous convictions in Spain for disqualified driving, obstructing police, threats and offences against public health.

Evidence of HM Customs Crew

A customs vessel provided assistance to the Sir John Chapple after the collision. Members of the crew of the vessel HMC Seeker were included in the PIP process and provided statements within that process. They are referred to as Officers 4, 5, 6, 7 and 8, having been granted protected identity status during the PIP:

Witness Accounts of HM Customs Officer 4

Officer 4 is an HM Customs officer posted to the Customs Marine Section. He reported for duty at 1930 hours on 8th March 2020 at North Mole Customs Marine Base. At approximately 0420 hours he received a telephone call from RGP launch Bravo 4 reporting a collision with a large RHIB, requesting assistance to pick up three persons to return to shore. He was

informed that there was one fatality and their location was "*eastern side by the tankers".* Officer 4 deployed as coxswain on HMC Seeker with Officers 5, 6, 7 and 8. He recorded that the sea state was flat calm as he headed south at full speed toward Europa Point. As he rounded the point he identified blue lights due east to the point and headed to the location which was about 1 mile off Europa Point. On his approach he noticed that Bravo 4 had a tow line attached to the front of a RHIB and there were three officers on the deck of Bravo 4. He could also see one person at the front of RHIB waving and shouting for help. Officer 4 came alongside the RHIB, and Officers 5, 6 and 8 boarded. He remained on HMC Seeker with Officer 7 and noticed a second person sat on the floor at the front of the RHIB. Officer 4 positioned himself at the portside stern to hold Seeker steady while Officer 6 jumped back on to assist 5, 8 and 7 transfer two people, who looked to be injured and in pain, onto HMC Seeker. Officers 5 and 8 remained on the RHIB and moved to the rear where two casualties were laying on the deck at the rear starboard side, one on top of the other. Officer 4 stated "*I could see the casualty underneath had severe head injuries with part of the brain spilling out".* He observed Officer 8 test the casualty laying on top for signs of life, who said he thought he could feel a slight pulse but was unsure. Officer 5 also checked, as a second opinion, and came to the same conclusion. A decision was made to transfer the casualty onto Seeker and PC [redacted] was asked to assist. Once he had been placed on board, Officer 4 headed to the RGP Marine Base. Officers 6 and 7 were at the front of Seeker, working with the first two casualties, while Officers 5 and 8 were at the rear tending to the third casualty "*who seemed to be unresponsive".* On approaching Bravo Base, he was ushered into a berth where ambulance crew took over the casualty at the rear and the two casualties at the front were escorted to a waiting ambulance.[S7,S8]

Witness Account of HM Customs Officer 5

Officer 5 was deployed on HMC Seeker with Officers 4, 6, 7 and 8 at approximately 0425 hours. He explained that as they came around Europa Point he saw the blue light beacons of Bravo 4 approximately 1 mile east of Europa Point. As they approached, he saw PC [redacted] holding a piece of rope attached to a RHIB. Seeker pulled alongside the RHIB and a male he now knows to be 'El [redacted]', and another, were asking for help. Officer 5 boarded the RHIB and asked both males to calm down and sit down. While doing this he noticed PC [redacted] PC [redacted] and officer 3 at the stern of Bravo 4 in shock. El [redacted] told him he had an injury to his side, suspected to be his rib, while the other male seemed to be in shock and was barely talking but in good condition. El N[redacted] also told him that it had been an accident they had just changed crew in Alcaidesa. No one informed him that the engines were failing and consequently the police rammed into them. El [redacted] said that it was not intentional and no one wanted to kill anyone. He asked for help for his uncle who he had been speaking to but went unresponsive about ten minutes prior. He assisted El [redacted] and the other male onto HMC Seeker and made his way to the stern where he found Officer 8 with two unresponsive males on top of each other. He believed the male underneath was dead as he could see part of his brain. He observed Officer 8 check the other male for a pulse, who told him he thought he could feel a pulse but he was not sure and his chest was warm. He asked Officer 5 to double check, "*I then did so and confirmed the same and made me and Officer 8 unsure, so we decided to bring him on board HMC Seeker".* PC [redacted] was asked to assist and the three of them transferred the unresponsive male onto Seeker and Officer 4 made his way back to RGP marine base. On the journey, he saw Officer 8 carry out CPR on the unresponsive male. After

several compressions, Officer 4 saw "*fluid coming out of his ears and excessive loss of blood",* his body became cold and this made him and Officer 8 believe the male had died due to the severity of the injuries he had sustained. S9,S10

Witness Account of HM Customs Officer 6

Officer 6 was deployed on HMC Seeker at 0425 hours to assist Bravo 4. When arriving around Europa Point he saw blue lights approximately one mile East off Europa Point. On arrival, he saw Bravo 4 had a rope tied from the bow of a RHIB. HMC Seeker came alongside the RHIB and two individuals were at the bow of the RHIB shouting for help. Officer 6, along with Officers 5 and 8 jumped on board the RHIB and he heard one of the individuals say "*I am El* [redacted]". He went to the bow toward the two individuals and helped them back onto Seeker where Officer 7 was. He heard Officer 7 tell them to sit at the bow and ask them if they had any injuries. El [redacted] stated that his ribs hurt and the other male stated that his shoulder hurt. El [redacted] then said that his uncle was talking 10 minutes ago prior. Together with Officer 7, Officer 6 was trying to calm him down as he wanted to go and see his uncle. While making their way back to the marine base, El N[redacted] said that he works for someone big in Spain, that the incident happened in Spain and he had recorded everything and sent it to his boss. El [redacted] stated that they had only been on board for 10 minutes and had engine problems. The other crew did not say anything. They arrived at the marine base at approximately 0445 hours. S11,S12

Witness Account of HM Customs Officer 7

Officer 7 deployed on HMC Seeker to assist Bravo 4. He sat on the port side behind Officer 5, who was co-pilot. On arrival, he saw and heard one individual at the bow of the RHIB shouting for help and saw three officers standing at the stern of Bravo 4. He described them as looking shocked. Officer 7 explained they arrived at about 0430 hours, approximately 1 mile east of Europa Point. From where he was on Seeker, he could see the stern of the RHIB, including the four outboard engines with significant damage. Officers 5, 6 and 8 boarded the RHIB and he heard the individual on the bow state that he was[redacted]. Officer 7 assisted with helping two individuals from the RHIB onto Seeker. He instructed them both to sit at the bow and asked if they had any injuries. El [redacted] said that his ribs hurt and the other male said that his shoulder hurt. El [redacted] then asked for them to help his uncle as had been speaking with him 10 minute prior. Officer 7 informed Officers 5 and 8 and overheard Officer 8 say he could feel a light pulse but wasn't sure and that his chest was warm. PC [redacted] assisted with transporting the injured male onto Seeker and they headed back to the marine base. Officer 7 recorded in his statement the same conversation as Officer 6 regarding El [redacted] working for someone big in Spain and that there had been engine problems. While on the way back, the other individual vomited over the side of Seeker and he held onto him to ensure he did not fall overboard. After vomiting, he told Officer 7 that he was fine but his shoulder hurt. S13,S14

Witness Account of HM Customs Officer 8

Officer 8 was deployed on HMC Seeker, having been told "*we are attending a collision with Bravo 4".* Whilst rounding Europa Point, he could see blue lights approximately one nautical mile east of their position. On approach, he saw a rope tied from the bow of Bravo 4 to the RHIB. At the bow of the RHIB he saw an individual who identified himself as [redacted] and asked for help. Officer 8 observed that he was "*demonstrating signs of stress/shock, he spoke incoherently and was very repetitive".* Officer 8 boarded the RHIB and went to the stern where he noticed damage to the radar post, the seats, and the four engines. On the starboard near the seats, he saw two individuals, one laying atop the other. He referred to the male on the top as Individual 1 and the one beneath as Individual 2. He described that Individual 2 had significant wounds to the head, *"he was notably pale and was lying lifeless on the floor*" with what he could make out to be a portion of his brain protruding from the left side of his skull. Officer 8 explained that Individual 1 was on top, but wedged between Individual 2 and the RHIB's collar, he could not see any visible wounds. He described *"he too appeared very pale, with his eyes open and was lifeless in motion"* and noticed a considerable amount of blood beneath the two individuals. He was asked by Officer 5 to assist with transferring Nordin and the other individual – who told him his shoulder hurt. Having assisted, he went back to check Individual 1 and Officer 7 told him "[redacted] *said he was speaking to his uncle 10 minutes ago*". He checked for vitals before saying that he thought he could feel a very faint pulse. He asked Officer 5 to check as well, and he confirmed the same. Assisted by Officer 5 and PC [redacted] he carried Individual 1 onto Seeker and they made their way back to the marine base. Officer 8 recorded "*I pinched the individuals cheeks and repeatedly asked him 'Me oyes?' 'Can you hear me?' He gave no reaction*". He noticed a clear discharge coming from his right ear and on lowering his head, could not feel or hear any breath, nor see any movement on his chest indicative of breathing. His chest still felt warm, so Officer 8 began chest compressions. However, on doing so he noticed a considerable amount of blood spreading beneath him and the lifeless expression on his face. Officer 8 stopped at 25 compressions and did not continue with rescue breaths, he said *"it appeared to me that he was dead".* S15,S16

[redacted]

Evidence of Medical Personnel

Fabian Ferro

Fabian is a paramedic with Gibraltar Ambulance Service who attended. He was informed three patients were on board HMC Seeker, one of which needed immediate attention – he was

described as having "a shoulder injury with bones sticking out". He was tasked with dealing with the unresponsive patient on the vessel. Fabian conducted an initial assessment of the patient, noting that he was a middle aged male with a laceration on the back of his head and a shoulder injury. He said the shoulder appeared to be deformed but he could not judge the extent of the injury due to clothing. Assisted by Stuart Ryan and a HMC officer they lifted the male onto the pier to give them more space and a stable area to work. CPR was started and Fabian administered one dose of adrenaline to his left knee. Paul Watson and Leslie Bruzon joined them and assisted with compressions. He explained the patient remained unresponsive and a joint decision was made to stop CPR once the extent of his injuries became apparent: "I can only describe what I saw on his back as a mess of muscle and bone. The extent of the injury was not compatible with life and so all attempts to resuscitate were stopped". S26,S82

John Paul Llanelo

John Paul is an EMT. He attended the marine base and on arrival he saw paramedics on the pier gathered around what he assumed was a body. He dealt with two males in the office. He approached the males and asked if they had any injuries, [redacted] told him he had a pain to his left shoulder, and [redacted] complained of pain to his ribs, shoulder and right knee. Bruno walked to John Paul's ambulance and [redacted] was transferred in a chair, both their vital signs were in normal range. He remained in the rear of the ambulance with a police officer while Wilson and a plain clothes officer drove to the hospital. While in the ambulance, [redacted] asked several times about the welfare of his uncle. S34

Leslie Bruzon

Leslie is an EMT and attended the marine base. On arrival, they found two casualties being attended by Tanya Noguera. They were then informed there was a third casualty on one of the pontoons. She made her way down and Fabien requested her assistance with the oxygen cylinder. At this point, Paul had started chest compressions and Leslie took over but the patient still was not responsive. At one point, Sigurd Haveland arrived and took over the airway of the patient, but after a while it was decided to convey him to hospital. He was then placed on a scoop, with chest compressions continuing but when the extent of the injuries was re-examined after his clothing was cut, it was determined that they were not compatible with life. CPR was therefore stopped and all three paramedics agreed that advanced life support should not continue. She was aware that a fourth person had been lifeless on arrival. S32

Paul Watson

Paul is a paramedic who attended the marine base. On arrival he saw numerous police officers and Fabien run towards the pontoon. He then met with Tanya who had two patients full conscious and talking, he was informed there had been a collision at sea with possible fatalities. Stuart then requested his assistance at the pontoon, and at that point he saw Fabien run down to the pontoon with an airway bag. When he arrived, he saw a male laying on his back, this male being [redacted]. He confirmed [redacted] wasn't breathing and was told by Stuart that he had been talking on the boat, *"therefore this meant he has recently gone into cardiac arrest*". They decided to commence CPR and Mustafa's trousers were cut so that Fabien could administer adrenaline. A defibrillator was attached to his chest "*and he*

was in a rhythm we call ASYSTOLE which means there is no electricity in the heart with a poor prognosis". At this point, Sigurd arrived and attended to the airway, which is when they started advanced life procedures – this entailed an insert through the airway and the drug administration. Paul checked Mustafa's head for injuries but the skull felt intact. Sigurd then prompted him to look at the left upper arm and mentioned the possibility of a tourniquet. Paul took some scissors and began to cut the clothing away where he noticed "extensive trauma (muscular skeletal trauma)", although the arm was still attached it was near to amputation. On exposing more clothing he noticed a large laceration to his neck which extended down his back. At this point he rolled Mustafa over as part of a secondary survey and noticed the extensive trauma on his back "which was basically incompatible with life". All paramedics made the decision to stop CPR and Fabien verified death. Following this, Paul and Fabien waited to the RHIB to be brought in and they confirmed life extinct.[S29]

Sigurd Haveland

Sigurd is a Chief Ambulance Officer. When he attended the marine base two paramedics and two technicians had started CPR on [redacted]. He immediately took over the airway and on the secondary survey while cutting the clothing, he noticed "a mangled upper left arm". On seeing this he requested a tourniquet, while waiting for it they continued to cut the wet suit and Paul noticed "the extent of the trauma suffered and decided to terminate the CPR". He explained this was a collective decision between himself, Fabian and Paul due to the extent of injuries and time suffered since the accident were incompatible with life. [S30,S31]

Stuart Ryan

Stuart received the initial phone call from the fire brigade control room informing him there had been an incident at sea and someone had been injured in the right arm. He decided to despatch to the incident with Tanya Noguera. When they arrived there was no one else there. Between 0400 and 0430 hours, he received a further call from the fire brigade informing him there was one deceased and the customs vessel was picking up a casualty that had significant trauma in his shoulder. The customs vessel arrived between 0430 and 0500 hours and Stuart "*received a report from one of the officers on board the vessel, to the effect that there were two walking talking casualties at the front of the vessel and one moribund looking person at the back of the vessel".* He was also informed there was a fourth deceased body being brought in by the police vessel. Further units were requested and he and Fabian attended to the patient in the customs vessel. The two walking patients were taken to ambulances. Paul and Sigurd also attended to assist with the moribund casualty and they moved him to the wooden pontoon. It became apparent that his injuries were not compatible with life and he was therefore ROLED (Recognition of Life Extinct).[S27]

Tanya Noguera

Tanya was on duty with Stuart when he took a call and informed her they were to go to the police marine section as they were bringing someone in with injuries. They were given very little information and initially told it was only one person injured. On arrival of the Police and Customs, they walked down to the pontoon and saw what appeared to be a deceased body at the front of the vessel and two other males laying down at the rear. She could see they were

in pain from the expressions on their faces. She went to these two males and asked what kind of pain they were in, one said he had pain to his shoulder and the other had pain in his ribs. She walked back toward her ambulance with the two males and requested they remove some of their clothing so that she could assess their injuries. Their blood pressure, pulse and oxygen saturation were within clinical parameters. She felt a slight indentation on one of the males ribs, possibly cracked, but he was breathing and talking fine. She then assisted with taking equipment down to the pontoon for her colleagues who were attending to the other male. At one point she was asked to help with suction, which she carried out before returning to the two males. Wilson and John Paul then arrived and took the two males to hospital, Tanya then went back down to the pontoon, "*at this point the severity of the injuries to the male was greater them the possibility of resuscitating him and there was nothing else we could do for him".* She noted that she observed *"all his arm, shoulder and back was completely mangled".*[S28]

Wilson Oliveira

Wilson is an Ambulance Care Assistant. He was posted with John Paul and received a call from Stuart Ryan to attend the police marine base. On arrival he saw some of his colleagues gathered around what he assumed to be two bodies. Stuart signalled for them to go back toward the main building where they found a police officer guarding two males inside an ambulance. One of them identified himself as [redacted] who was complaining of an injury to his left shoulder. The other male identified himself as [redacted] and complained of pain to his ribs, shoulder and right knee. They were placed in Wilson's ambulance and he drove them to the hospital. While driving, he overhead [redacted] asking several times about the welfare of his uncle, he assumed the uncle was one of the males he had seen his colleagues gathered around, but as he did not know his condition, he did not comment.[S33]

Other Witness Evidence

A number of other statements were taken from a variety of people but not all are relevant to misconduct proceedings. Of note are the following:

Sergeant Stewart Stone

Stewart was on duty as the Crown Sergeant on night duty on 7th March 2020. He was aware that the MPU had been notified by the Spanish Guardia Civil that there was a smuggling RHIB heading towards BGTW. At approximately 0400 on 8th March 2020 he spoke with PC [redacted] who sounded distraught and shocked as they had been involved in a collision. There was one fatality and one seriously injured and PC [redacted] asked about the federation. PS Stone told him to forget about the Federation and make his way in. PS Stone informed a number of other police personnel and made contact again with PC [redacted] He asked who was giving medical assistance to the injured party and was informed that he would not leave someone on board as there were two other RHIB crew members who could turn on the officer. PC [redacted] also stated that he could not perform CPR on a boat. PC [redacted] then requested HM Customs to assist in getting the casualty back to shore faster than he could.[S18]

Damian Chipolina

Damian supplies ships at anchor at sea with resources such as food and water. At about 0330 hours on 8th March 2020, he was waiting in a vessel off the east coast of Gibraltar. His colleague, Jose Ruiz (RUZ), pointed out a blue light about two miles away in the sea. He believed it to be a police boat. It did not appear to be moving to him. A few minutes later, they were called to their tanker and did not see the blue light again.[S25]

Jose Ruz

Jose was with Damian and stated that he saw lights between 0430 and 0500 on 8th March. At first he thought there was a chase because the lights were moving but then they were still for about 10 minutes. He estimated the distance as 3-4 miles from his location. He then went to the tanker to perform his role.[S24]

Ian Phillips

Ian Phillips was a serving RGP officer (PC) for ten years. He retired in 2018 having spent the last six years of his career as a qualified Coxswain on the Marine Unit. He explained that in his personal experience, there was no reason to switch off a safety system – the AIS, chart plotter or radar, describing them as "*vital pieces of safety equipment".* At the start of his duties he would always check the equipment to ensure it was in full working order as this was paramount to the safety of the crew. He described how he had read the instruction manual for the equipment and as a result, learned how to manipulate the chart plotter screen and change the colour palettes for day/night use, there is also a dimmer to control the brightness. Ian explained that the instruction manual was long winded and he did not expect that many officers would have read it. They generally would learn from each other, observing and taking guidance from what they had seen. He did state that Bravo 4 could get a 'light wash' reflecting on the glass and that to officers of a certain height, this could be debilitating to their vision. He knew that some officers would cover the console and other light sources with a piece of fabric to prevent the glare. The systems however, would not be switched off they were simply covered and he again reiterated that he did not see any reason why a chart plotter and radar would be switched off.

Ian explained that he did not receive any training in relation to pursuits while serving with the RGP; they generally learned by watching other senior coxswains. He described that no two pursuits are the same and a number of variables can affect this. However, as a general rule a pursuit would take place at approximately 50+ knots, if the vessel you are pursuing is swerving in front of you, you would keep a greater distance between yourself and that vessel. Training after qualifying as coxswain was minimal and still did not cover pursuits. Ian explained that he has a keen enthusiasm for the water and as a result he would assist for training colleagues with less experience. This was completed between themselves, one of the officers he trained being PC [redacted] though the training was not official. He personally would not consider attempting to damage the engines of a vessel he was pursuing as this is incredibly dangerous. He is aware of a log defender being fitted to Bravo 4, but this was after he had retired. He has not heard anyone refer to using this as a 'weapon'.

During the earlier years of his service, Ian experienced a very good working relationship with his Spanish counterparts and it was common practice that a pursuit would often leave BGTW and enter Spanish waters. Communication was established early during the pursuits and the Guardia Civil would provide radar and IR camera data for them to use. Often they would join each other's pursuits which were described as a *"joint operation*". However, this changed following an incident involving the Guardia Civil and a HM Customs vessel in Spanish waters. He cannot remember exactly when this was but believes it to have been around 2017. At this point, they were told they were not to leave BGTW except for exceptional circumstances, which had to be authorised.[S91]

Herbert Warwick

Herbert Warwick is a retired RGP officer. He has been a trained Coxswain since 1994. He explained that previously there had been a good relationship with their Spanish counterparts and they would often travel into Spanish waters during a pursuit. He is aware of the instructions that they are now not permitted to leave BGTW, however there have been occasions where senior officers have been on board vessels and authorised a pursuit to continue in Spanish waters. He explained that the AIS was introduced about 5-6 years ago, the AIS sends out a signal so that other vessels know they are there. He is aware of the instructions that it must always be switched on, however it would not be possible to get results if the vessels could see them coming. There are therefore occasions where it has been considered appropriate to switch the AIS off so that the police vehicle could not be spotted. He said there is a switch on Bravo 4 for the AIS. Herbert finds Bravo 4 to be his least favourite vessel of the RGP fleet because he feels the visibility is poor. He does not cover the radar console but he does not pay attention to it whilst engaged in a pursuit. He finds all lights to be derogatory to his vision and will not allow a search light to be used while he is in pursuit. He prefers as few lights as possible.[S92]

Lief Simpson

PC Leif Simpson provided a statement on 4th June 2021 in order to give some insight into the workings of the Marine Unit relevant to this investigation. The officer explained that a police boat should be crewed by three competent and qualified police officers. On the 8th March 2020, this was not the case as PC Bartram was on board as the 3rd person and he had no training or operational experience at sea. This hindered the operational ability of the crew and the vessel. PC Simpson explained that his understanding of the AIS is that it is a feature that is permanently on and cannot be turned off. The officer did not use the chart plotter except for routine patrols. It was difficult to use and his preference was to use the radar for position fixing.[S93]

Training Records

PC [redacted] It is evident from the training record of PC [redacted] that he has been fully trained to perform the role of Coxswain, this being achieved on [redacted], some three years before this incident took place. He was issued with a certificate of competency on [redacted]th [redacted] – 'Government of Gibraltar Competency Certificate' which specified he was competent in the capacity of a Boatmaster, with limitations "For Royal Gibraltar Police

operated launches in Gibraltar Territorial Waters Only". In addition to this, in [redacted] he completed four programmes approved by the Maritime and Coastguard Agency relating to Fire Prevention and Fire Fighting, Personal Survival Tactics, Personal Safety and Social Responsibilities, and Elementary First Aid. At the time of the collision, PC [redacted] most recent First Aid training was an 'Emergency First Aid at Work' course, for which he received a certificate on [redacted]. In addition to this, in [redacted] he also completed courses with the Royal Yachting Association – one of which being a Radar Course. Although this would not necessarily have been the same radar as used on the Sir John Chapple, it is likely the same safety instructions and understanding of the importance of its use would have been communicated to all attending the course.

[redacted] – Emergency First Aid at Work

[redacted] – Government of Gibraltar Certificate of Competency (this is to certify that [redacted] has been found duly qualified to hold this certificate of competency. Valid until [redacted], capacity: Boatmaster, limitations: For Royal Gibraltar Police operated launches in Gibraltar Territorial Waters Only).

[redacted] – Gibraltar Law Enforcement Coxswain Certificate (achieved the competent standard of a two day RHIB Safety Handling Course)

[redacted] – Gibraltar Law Enforcement Coxswain Certificate (achieved the competent standard of a Single Engine RHIB Coxswain)

[redacted] – Gibraltar Law Enforcement Coxswain Certificate (achieved the competent standard of a Twin Engine (and above) RHIB Coxswain)

[redacted] – Elementary First Aid (successfully completed a programme approved by the Maritime and Coastguard Agency as meeting the requirements laid down in: STCW 95 Reg. VI/1, and paragraph 2.1.3 of Section VI/1 of the STCW Code)

[redacted] - Fire Prevention and Fire Fighting

[redacted] – Personal Survival Techniques (successfully completed a programme approved by the Maritime and Coastguard Agency)

[redacted] – Personal Safety and Social Responsibilities (successfully completed a programme approved by the Maritime and Coastguard Agency)

[redacted] – Shore based Course RYA/MCA Day Skipper for Sail & Power Craft (attended a shore based course of instruction and demonstrated a knowledge of theory up to the standard of RYA/MCA Day Skipper/Watch Leader)

[redacted] – RYA Radar Course

[redacted] – GMDSS Short Range Certificate. This course is designed to provide delegates with the level of knowledge needed to be competent in the use of VHF radiotelephony

procedures and equipment used in GMDSS. The course consists of an online learning package and a half day practical and theory exam, assessment results are forwarded to the Royal Yachting Association who will issue a short range certificate. The syllabus included: detailed working knowledge of radio equipment, general knowledge of VHF radiotelephone communications in the maritime mobile service.

PC [redacted] PC [redacted] completed a number of training courses/qualifications relating to marine activities in the past years. A number of these are the same as those of PC [redacted] which is to be expected as they operate in the same role, however PC [redacted] does have some additional skills that those of his colleague. In addition to being a fully qualified Coxswain, he is also dive trained – a skill obtained with PADI and the RGP. He was issued with a certificate of competency but there is no date – it would appear there should be a second page with the date of achievement but this is not present. This specified he was competent in the capacity of a Boatmaster, with limitations "For Royal Gibraltar Police operated launches in Gibraltar Territorial Waters Only. The expiry date of [redacted] would suggest he obtained this in [redacted] – this predication has been made on the basis that PC [redacted] certificate of competency had a five year expiry date. His most recent first aid course was 1[redacted], four months before this incident took place.

[redacted] – Emergency First Aid at Work

[redacted] – Royal Gibraltar Police Search and Recovery Diving Course

[redacted] Royal Gibraltar Police Diving Course

No Date – PADI Enriched Air Diver and Rescue Diver cards

[redacted] – First Aid for Divers (The British Sub Aqua Club)

[redacted] – Oxygen Administration Away (The British Sub Aqua Club)

[redacted] – Basic Fire Safety

[redacted] – Gibraltar Law Enforcement Coxswain Certificate (achieved the competent standard of two day RHIB Safety Handling Course)

[redacted] – Gibraltar Law Enforcement Coxswain Certificate (achieved the competent standard of a Single Engine RHIB Coxswain)

[redacted] - Gibraltar Law Enforcement Coxswain Certificate (achieved the competent standard of a Twin Engine (and above) RHIB Coxswain)

[redacted] – International Certificate for Operator of Pleasure Craft (issued by Royal Yachting Association with an expiry date of [redacted]

[redacted]5 – Elementary First Aid (successfully completed a programme approved by the Maritime and Coastguard Agency as meeting the requirements laid down in: STCW 95 Reg. VI/1, and paragraph 2.1.3 of Section VI/1 of the STCW Code)

[redacted]- Personal Survival Techniques (successfully completed a programme approved by the Maritime and Coastguard Agency)

[redacted]- Fire Prevention and Fire Fighting

[redacted] Seafarer Medical Certificate – deemed fit – no limitations or restrictions on fitness. This expired on [redacted]
No Date - – Government of Gibraltar Certificate of Competency (this is to certify that [redacted] been found duly qualified to hold this certificate of competency. Valid until

[redacted], capacity: Boatmaster, limitations: For Royal Gibraltar Police operated launches in Gibraltar Territorial Waters Only).

[redacted] Shore based Course RYA/MCA Day Skipper for Sail & Power Craft (attended a shore based course of instruction and demonstrated a knowledge of theory up to the standard of RYA/MCA Day Skipper/Watch Leader)

[redacted] RYA Personal Watercraft Certificate of Proficiency (this holder has successfully completed a Personal Watercraft Proficiency course to the syllabus laid down by the RYA at Clyde Marine Unit.

[redacted] - International Certificate for Operator of Pleasure Craft (issued by Royal Yachting Association with an expiry date of 27/05/2016)

[redacted]– National Powerboat Certificate Level 2 – (successfully completed a National Powerboat Certificate Level 2 (coastal) to the syllabus laid down by the RYA at Royal Gibraltar Yacht Club)

[redacted] – Personal Safety and Social Responsibilities (successfully completed a programme approved by the Maritime and Coastguard Agency)

[redacted]- RYA Radar Course

[redacted] Short Range Certificate

Officer Three: Only one certificate has been provided for Officer Three – emergency first aid at work, which was completed on [redacted]. He is not a permanent member of the Marine Unit and has no marine/maritime qualifications.

Evidence of Marine Policing Unit Instructors

Statements were taken from all five Marine Section instructors to obtain an understanding of what training is provided to RGP officers with regards to pursuing vessels at sea.

PC Robert McKnight stated that RGP do not have a tactic for stopping a vessel at sea other than presence and persuasion. As a result, there is no module or content in the training course for "pursuit training." Instead, he teaches safe manoeuvring of vessels at speed and in proximity to other vessels; maintaining safe distances; and never placing their vessels directly behind suspect vessels. [redacted] He stated that they do teach "pacing" which involves safe handling to transfer personnel or equipment between vessels. This is not performed at high speeds and he instructs trainees not to come alongside suspect RHIBs. Instead, they should maintain a safe distance depending on the circumstances.[S53]

PC Glen Ballantine also stated that "pacing" was used to transfer staff between craft and is not intended for pursuits of vessels. He stated that safety at sea was of paramount importance.[S54]

PC Keith Bonfiglio corroborates the evidence regarding training and [redacted]. He stated that police vessels should follow suspects at an angle to shadow them.[S55]

PC Lee Pozo confirmed that there is little or no training for pursuits at sea due to the hazardous conditions and narrow margin of error. He stated that "pacing" is not relevant to pursuits.[S56]

PC Herbert Warwick corroborates the evidence regarding training. He stated that the primary focus is safety.[S57]

Metropolitan Police Service Marine Policing Unit Report

The Metropolitan Police MPU (Marine Policing Unit) was asked to review the SOLIS report and statements provided by PC [redacted] PC [redacted] and Officer Three and comment on the provision of ELS (Emergency Life Support) by the officers post collision. PC Steve Morgan from the MPU provided an observation report on 13th May 2021 and this document is exhibited as SM/1.[S90]

In summary, PC Morgan explained that there was a balance of risk between rendering first aid to potentially armed, hostile evasive suspects and the immediate danger of two vessels sinking at sea, thus placing seven people's lives at risk with an outcome of drowning. All three officers were capable of rendering first aid, given their training; however individual safety and the dynamic risk based on previous knowledge and experience of dangerous offenders had overriding factors. The water depth was around 500 metres and this increased the threat of sinking and/or drowning. First aid training encourages the first aider to consider the dangers to themselves as a priority before moving onto any phase of life saving. PC Morgan commented that in this incident the dangers were apparent and may have influenced the next stage of the process. A call for help would have incurred a time delay for a rescue boat to deploy and intercept the vessels. As such any attempt to return to port and/or shallower waters

would have been a priority for the officers. Requesting assistance would also be a priority due to the unknown damage to the vessels. The collision occurred approximately 6.5 nautical miles from land. PC Morgan explained that at a speed of 10 knots it would take a boat approximately 40 minutes to reach shore. The officer stated that it would take 10 minutes for a boat travelling from land at 40 knots to reach the scene. PC Morgan commented that in a diminished state of mind, protocols are missed or forgotten and this can occur due to tunnel vision, fight or flight, diminished response etc. A priority to return to land would be overwhelming, and irrational thoughts in a stressed 'untrained' scenario may be difficult to judge / comprehend. In concluding, PC Morgan stated that with so many varying safety factors, and a situation that almost never happens in a police marine environment, the officers concerned are the only ones to fully understand their own rationale and decision making on the night.

Post Mortems

[redacted]
Completed by Dr David Rouse on 11th March 2020.

Dr Rouse noted significant head injuries as well as injuries to other parts of the body. Dr Rouse is of the opinion that the death was the result of extensive head injuries (as well as shoulder) consistent with forceful impact. The injuries were not survivable. He awaited the results of toxicology before finalising the report. On 6th May 2020, he produced a report confirming the cause of death as above.[S51]

[redacted]

Completed by Dr David Rouse on 11th and 12th March 2020.

Dr Rouse noted external injuries to the head, torso and limbs. There were significant rib fractures and a partially collapsed lung. Cause of death was forceful impact to the back. He stated that the injuries were not survivable and that any delays in resuscitation were unlikely to have affected the outcome. He awaited the results of toxicology before finalising the report. On 6th May 2020, he produced a report confirming the cause of death as above.[S52]

It was later alleged that the identification of the bodies had been mixed up. The lawyer representing the families stated that the injuries are correct but the names were the wrong way round on the reports. This is disputed by RGP who compared photo identification (and possession of ID documentation) with the deceased. This does not have any bearing on the conduct of the officers, however.

Windmill Hill Signal Station

Daniel Ferro works for the Gibraltar Defence Police as a communications assistant at WHSS. He operates cameras that are focussed on BGTW. At approximately 0200 hours on 8th March 2020, he observed a suspect vessel 3-4 miles outside BGTW. He contacted PC [redacted] via mobile phone and informed him of his observations. At approximately 0250 hours, the vessel

made its way towards Spanish land. PC [redacted] called to say he was in touch with the Guardia Civil who confirmed it was a suspect RHIB and that he was heading to grid reference A8 as stated on the grip map of BGTW. He saw a smaller vessel meet with the RHIB. At approximately 0330 hours, the smaller vessel went towards the land and the RHIB headed out to sea. Approximately two minutes later, the RGP vessel activated its blue lights and the chase ensued. He saw the RHIB performing erratic manoeuvres at high speed. The chase lasted approximately 10 minutes and he could not see why it stopped. He saw the RGP vessel circle the RHIB after it had stopped and was then contacted by PC [redacted] who informed him that there had been a collision with one and possibly, two fatalities. PC [redacted] confirmed that he had requested assistance. He confirmed that WHSS had not traced the RGP vessel's radar/AIS.[S58,S59,S60]

Expert Evidence of Maritime Collision Investigator Richard Meikle

Richard Meikle, the author of the report, is a Master Mariner and partner of Solis Marine Consultants. Having been instructed by RGP to investigate the collision between the Sir John Chapple and the RHIB, the report provides his opinions on: the events leading to the collision; territorial waters where the incident occurred; the role of RGP officers in the collision and other factors that may have contributed to the cause of the collision, including tactics used by drug smugglers to evade law enforcement.

It is not the intention of this summary to repeat evidence, which is provided with the case submission.

At paragraph 3.18.1, Richard stated: "*Due to the lack of digital data, witness accounts of video recordings it has not been possible to say with certainty how the two vessels collided and provide an insight into the events during the collision which led to the fatal injuries of two of the crew of the 'SUSPECT RHIB'."*

What he was able to do however, was review all material and reach a number of conclusions with regard to the events leading up to the collision and what impact these had to the causation of the collision.

Primarily, Richard was required to rely on statements of officers and the survivors of the RHIB, physical examination of both vessels, [redacted] CCTV and southern CCTV from WHSS. In doing so, he identified a number of failings with regard to the actions of RGP officers PC [redacted] and PC [redacted][S86]

Territorial Waters:

It is evident that this collision took place in Spanish waters. On 17th February 2016, RGP Marine Sections' Inspector Buhagiar sent an email to the Marine Section stating: "*I would like to remind **ALL** of the current and existing instructions that under no circumstances are you allowed to police/patrol outside the limits of BGTW".* This email is a clear instruction that RGP officers should not enter Spanish waters during their duties, with the exception of

engaging in Search and Rescue operations or a vessel/person in distress – but in any case, authority would need to be sought before deploying to such an incident.
The report stated that it would have been clear to the officers on board SJC, even when navigating by eye, that they were well outside of BGTW. While the limits of BGTW were not visible on the chart plotter, the northern limit of BGTW is generally indicated by reference to the lights of Gibraltar airport. As SJC was significantly north of the airport and off the Spanish port, it would have been clear to the officers that they were well to the north of BGTW.

Position Data:

All navigation systems on the SJC were checked, however no relevant data was available due to the AIS and GPS systems being turned off until approximately one hour after the collision. This was contrary to clear instructions that AIS should be switched on at all times (paragraph 2.10.2 of his report).
The RHIB was fitted with a Garmin NAVnet 3D radar/chart plotter, which saved only its position data.

Infrared CCTV and Rapid Replay:

The review of infrared CCTV has assisted greatly (due to the lack of positional data from the SJC) with the time of interception, collision and return to BGTW. The infrared CCTV, at Figure 17 in the report, shows the time of interception as 16 minutes 59 seconds into the recording. This was 2 minutes 59 seconds after the departure of the RHIB from Puerto de La Atunara at 03:26:16. Hours. Therefore, the time of interception was approximately 03:29:15 hours.

A "Rapid Replay" reconstruction was produced using GPS data recovered from the RHIB radar/chart plotter and in conjunction with the CCTV, provided an overview of the pursuit.

The Rapid Replay demonstrated that the RHIB used tactics to evade officers with three sharp turns to the starboard, which caused sea water to spray toward the SJC and reduce visibility, forcing it to slow down. In addition to these tactics, objects were also thrown at the SJC and the RHIB was alleged to have been operating with the outboard engines 'trim up' which would also produce a wash spray that might disorientate a pursuing vehicle by reducing its visibility.

The collision was recorded by the southern CCTV operated by WHSS, the point of collision being at approximately 03:38:56 hours. Figure 19 at Paragraph 3.2.1 of the report illustrates the location with latitude and longitude markers, which correspond to Spanish waters. The Rapid Replay shows that this immediately followed a very sharp turn to port by the RHIB. PC [redacted] on seeing this, stated he placed the propulsion into neutral and attempted to turn starboard to avoid the RHIB by slowing down and turning away, but PC [redacted] explained the spray from this manoeuvre caused spray on the windows which removed all visibility and then there was impact.

Following the impact, the SJC heeled heavily to the starboard and a significant ingress of sea water through the open windows on the starboard side before it righted itself.

During the collision, the RHIB radar was heavily damaged and displayed a 'loss of radar' signal as an alarm. The alarm recorded the time as 03:39 on 8th March 2020 and its position, this being the time and position of collision. This is consistent with the southern CCTV from WHSS.

The positional data indicates that at approximately 04:14 hours, the SJC crossed into BGTW and at 04:31 hours it stopped approximately one nautical mile northeast of Europa Point, where it was met by HMC Seeker. This can be seen at Figure 7, Paragraph 1.9.28 in the report.

RHIB Engine Failure:

At Paragraph 3.9.5 the report refers to statements of RGP and Customs officers who stated the crew of the RHIB reported engine failure prior to the collision. The report explains that an engine failure would have caused the RHIB to reduce speed "*suddenly and unexpectedly and would have prevented the coxswain of 'SUSPECT RHIB' from taking action to avoid the collision with 'SIR JOHN CHAPPLE'."*

However, analysis of the engine data does not support the suggestion that the RHIB engines failed prior to the collision. Further analysis of the data from the RHIB Yamaha engines was requested of the manufacturer's technicians to assist with identifying the status of the engines at the time of the collision as this could add to the understanding of what caused the collision. The data recovered from the Yamaha engines, and analysed by Yamaha UK, stated that there was no engine failure in the minutes before the collision, with all engines operating at maximum power for a period during that time.

Failures:

It was noted at paragraph 3.10.1 of the report that PC [redacted] turned on the radar but not the chart plotter or the GPS that supplied the radar unit with position data. He stated he did not do this due to the impact it had on his night vision. However, the report stated: "*the dimming facility on the chart plotter was tested and found to dim the display as would be expected for use in night-time navigation and would, if set correctly, have not interfered with the coxswain's night vision".* As previously stated, a clear instruction that the vessel's AIS system should always be turned on was not complied with by PC [redacted] nor PC [redacted] This clear breach of instructions and, in essence, blind navigation via sight only, demonstrated a poor standard of navigation being practised.

Instructions sent out to the RGP Marine Unit in 2016 state: "*they will pursue suspect vessels in a determined though safe manner within our territorial waters and liaise with our Spanish counterparts".* They also stated that the safety of the crew was priority (Paragraph 3.12.2). However, the crew of SJC placed themselves so close to the RHIB, which was carrying out dangerous manoeuvres, that they placed themselves and the crew of the RHIB in "*considerable danger".* Additional evidence that they could be considered too close to the RHIB comes from the fact that the RHIB crew were able to throw items at the SJC, which were connecting with it, requiring officers to close the windows on their vessel. The evasive manoeuvres used by the RHIB also sprayed seawater onto the SJC, which reduced the

visibility and caused it to slow down – had the SJC not been too close to the RHIB, this would not have made contact with the windows and reduced visibility.

As previously mentioned, the officers would have known they were no longer in BGTW when the RHIB was intercepted.

Pursuit Training:

Despite PC [redacted] and PC [redacted] being qualified marine crew with training in professional skills and for pacing at speed, neither had been given training in carrying out pursuits of suspect vessels who would be taking evasive action to avoid apprehension. While numerous pursuits have been carried out (59 were recorded between 1st April 2017 and 1st June 2020, 2 of which had continued outside BGTW) coxswains' experience in pursuits comes as a result of observing more experienced coxswains as they trained.

The contact, chase and collision are known to have been carried out in Spanish waters. A review of AIS date covering a period of months provided insight into the RGP Marine Vessels movements and frequency with which they operate outside of BGTW. This can be seen at Figure 44 – Paragraph 3.17.1.

The range of the Radar was set at 0.75NM according to PC [redacted] The report explained that this was too short for assessing whether a risk of collision existed. The Officers were therefore solely reliant on visual navigation. The report did note that "*there were apparently no guidance/instruction/orders as to what navigation equipment was to be used when on patrol, either in daylight or at night".*

Conclusions:

The failures documented by Richard Meikle's report could be considered to contribute to a breach of a duty of care, not only to the crew of the SJC themselves, but the crew of the RHIB. The failure to follow instructions and activate the AIS and use all available navigation equipment contributed to the poor navigation. The use of the available equipment could have assisted with a safer pursuit and more transparency regarding the actions and movement of the SJC and its crew. The training and instructions also dictated that safety of the crew was a priority. By continuing to pursue at very close range, with limited visibility, demonstrated a failure to comply with these instructions. The failure to administer any first aid to [redacted], or broadcast a Mayday call to vessels in the area, who was believed to be seriously injured following the collision and subsequently died from his injuries could also be considered to contribute to a breach of their officers' duty of care. However, this should be considered in conjunction with the pathologist's report, which stated [redacted]'s injuries were not survivable and "*any delays in resuscitation are unlikely to have affected the outcome."*

It is clear that while there is no independent evidence to suggest that PC [redacted] intended to collide with the RHIB and that the collision was an accident, the SJC was positioned too close to the RHIB, with reduced visibility by the spray, to take effective evasive action to avoid the collision.

Previous Pursuits

A review was conducted on the number of chases at sea, which took place involving RGP marine vessels between 1st April 2017 and 1st April 2020. This identified 192 OB entries. Of these, 59 entries involved a chase at sea.

With regard to BGTW, 57 of the chases were terminated due to arriving at the limit of territorial waters. PC [redacted] was known to be involved in 18 of the chases, though it should be noted that these are only reports that were made by him, or in which he was mentioned. It is possible that colleagues have recorded chases he was involved in but not named. Based on these records it can be asserted that PC [redacted] was aware of his obligation to remain inside BGTW as many of the chases he was involved in were terminated prior to leaving territorial waters.

A review was conducted of the same data for PC [redacted] The only report in which his name featured was the one for this incident.

RGP Instructions and Orders

The Marine Section Standard Operating Procedures state that marine crews will conduct systematic periodic patrols of Gibraltar's coastline and territorial waters throughout their tour of duty. They will pursue suspect vessels in a determined though safe manner within their territorial waters and liaise with their Spanish counterparts. They go on to say that they will only operate outside BGTW when they are called upon to attend to a lifesaving situation.

On 17th February 2016, Inspector Albert Buhagia sent an e-mail to the RGP Marine Section to remind all staff that under no circumstances should the Marine Unit patrol outside the limits of BGTW. The only exception would be for search and rescue and only then if prior authority was granted. The e-mail then went on to state that AIS should be switched on at all times.

On 8th July 2016 a set of Marine Section Instructions were created that explicitly prohibit RGP vessels leaving BGTW and entering Spanish waters unless at the invitation of the Spanish for the sole purpose of search and rescue. The investigation team secured an e-mail chain showing that on 16th September 2016 these instructions were sent to the Marine Section by PS Stuart Stone.

Evidence from the RGP technical team (Nicola Asquez) shows that both PC [redacted] and PC [redacted] were part of the e-mail group who received these instructions.[S88]

On 19th April 2017, there is a record of a Daily Taskings Group Meeting, which states “Marine section – only use vessels with AIS”

Outstanding Evidence

There is evidence in the possession of the Spanish authorities that has yet to be seen by the investigative team. This evidence is likely to include the following:

- Video footage of the pursuit from Spanish coastal cameras
- Audio recordings of transmissions – unknown what actually exists
- Evidence from Guardia Civil personnel
- Incident logs
- Record of emergency call [redacted] claims to have made to the Guardia Civil whilst in the RHIB post-collision.

A European Investigative Order (EIO) was submitted from Gibraltar to Spain in 2020 but at this time, there has been no response from the Spanish authorities, although it is known to have been received. Material provided in response to an EIO can only be used for the purpose(s) stipulated on the EIO, in this case for the criminal investigation into suspected manslaughter offences. Since that investigation has concluded, the EIO is effectively invalidated and is likely to be withdrawn. At the time of writing this consideration rests with the Gibraltar DPP's office.

As previously stated, [redacted] claimed to have recorded some of the pursuit on his mobile phone. Mr Finch (legal advisor to [redacted]) agreed to supply it to the MPS investigators once [redacted] had obtained it from the friend he said he sent it to. This was followed up several times with Mr Finch, most recently April, May and June 2021 and to date, it has still not been provided.

International Rules for Prevention of Collisions at Sea

International Rules for Prevention of Collision at Sea (IRPCS, ColRegs or Rules of the Road) apply in these circumstances. These rules are included in the training received by PC's [redacted] and [redacted] The rules relevant to this investigation are:

Rule 2 - Responsibility

Nothing in these Rules shall exonerate any vessel, or the owner, master or crew thereof, from the consequences of any neglect to comply with these Rules or of the neglect of any precaution, which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

Rule 5 - Look-out

Every vessel shall at all times maintain a proper look-out by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

Rule 6 - Safe Speed

Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions. In determining a safe speed the following factors shall be among those taken into account:

(iii) the manoeuvrability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions;

Rule 7 - Risk of Collision

Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt such risk shall be deemed to exist.

Rule 8 - Action to Avoid Collision

Any action taken to avoid collision shall be taken in accordance with the Rules of this Part and shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship.

Rule 15 - Crossing Situation

When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on her own starboard *(right)* side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel.

Rule 16 - Action by Give-way Vessel

Every vessel which is directed to keep out of the way of another vessel shall, so far as possible, take early and substantial action to keep well clear.

Rule 17 - Action by Stand-on Vessel

(a) (i) Where one of two vessels is to keep out of the way the other shall keep her course and speed.

<u>Jurisdiction of Misconduct Regulations</u>

Police (Discipline) Regulations 1991 came into force on 19th February 1990 and apply to all members of the police force with the exception of the Commissioner. PCs [redacted] and [redacted] are therefore subject to these Regulations.

There is no mention in the Regulations of where offences against the discipline code could be committed. Crown Counsel's advice was taken on this point and it is submitted that there are no physical (geographical) boundaries to the regulations; officers are subject to the Regulations regardless of where they are physically located. Equally they apply both on and off duty. Therefore, the Regulations applied to PCs [redacted] and [redacted] (and Officer 3) whilst in both Gibraltarian and Spanish territories/waters.

Conclusions

The case for each officer will be considered separately but before that, it is prudent to establish other facts that are pertinent to the overall picture.

There is evidence that suggests the crew of the RHIB were involved in some form of illegal smuggling. This evidence comes from a number of different sources:

- Their vessel is illegal in Spain and Gibraltar as such vessels are purpose built for the operation of smuggling contraband (usually cannabis from Morocco) into Europe.
- The RHIB was not registered.
- [redacted] has a previous conviction for drug trafficking.
- [redacted] has a previous conviction for drug trafficking.
- There was a crew change in the early hours of the morning which indicates a clandestine operation.
- The crew were intending to be at sea for a number of days in a holding pattern. This is not the behaviour of innocent people enjoying a boat trip.
- Crew members were in possession of balaclavas.
- The RHIB actively tried to evade police officers.
- The RHIB was adapted to avoid being sighted by covering up reflective surfaces (e.g. instrument consoles) with tape.
- The two throttle levers were taped together to allow all four engines to be operated simultaneously, suggesting an intent to ensure maximum thrust and speed, for the purposes of rapid trafficking and evasion.
- Evidence of [redacted] in his witness interview that there were spotters watching the law enforcement vessels of both Gibraltar and Spain and reporting their positions to the RHIB.

The sea is a hostile operating environment.

While there are no formal arrangements between the Governments of Spain and Gibraltar, it is clear that the Law Enforcement Agencies (LEAs) in the area have a degree of professional co-operation, primarily regarding tackling Organised Criminal Networks (OCNs). This is evidenced by the fact that the Guardia Civil communicate directly with the RGP Marine Section, and vice versa.

The start of the pursuit and the collision occurred in Spanish territorial waters. However, the deployment of the police vessel following the notification of the RHIB and failure to follow orders and instructions commenced in Gibraltar.

RGP instructions regarding BGTW are very clear – RGP vessels must only enter Spanish territorial waters at the invitation of the Spanish authorities and only for the intention of search and rescue.

RGP instructions regarding the navigational equipment are clear – RGP must operate radar and AIS at all times when at sea.

The cause of death of both [redacted] and [redacted] were multiple injuries consistent with being struck by the Sir John Chapple.

The Marine Section do not provide training specific on pursuits at sea.

It has not been possible to determine unequivocally whether the blue lights on the SJC were illuminated *during* the pursuit. In [redacted]'s original suspect interview conducted shortly after the event, he said that the police vessel had its blue lights on during the pursuit for a short time, 5 or 10 seconds (which is one of the reasons he knew it was the police). However, in his and Bruno's later witness accounts they said the blue lights were not on. The RGP crew state that the blue lights were illuminated. There is supporting evidence of the use of the blue lights from two independent witnesses but the point in the event that they were activated cannot be determined from that evidence.

No Mayday call was transmitted by the crew of the SJC after the collision.

No first aid was provided by the RGP crew. Some limited explanation of this was provided in the initial witness statements of PC [redacted] and PC [redacted] [S2,S4]

PC [redacted]

PC [redacted] is a fully qualified RGP mariner. He was the coxswain of the Sir John Chapple on the night of the collision and therefore in charge of the vessel at the time of the collision. There is evidence that he disobeyed orders to ensure the correct navigation equipment was in use when deployed and left BGTW for an unauthorised purpose and without authority. He was directly responsible for navigating the RGP vessel during the pursuit at night with nothing but a spotlight and the coastal lights/the Rock to aid his navigation.

Having reviewed the apparent decision to disobey orders and instructions it is clear that there is evidence to show that his actions were negligent. One must also consider the pursuit and the manner in which was conducted. Evidence from various sources show that the manoeuvres of the RHIB were dangerous. PC [redacted] himself provided evidence to demonstrate how he altered the speed and direction of his vessel to try to avoid a collision and that objects thrown from the RHIB hit the police vessel and the sea water spray obscured his vision. In spite of the obvious dangers present, PC [redacted] continued to pursue the RHIB, following which there was a collision between the vessels and two men lost their lives. It is submitted that his actions are likely to have brought discredit on the reputation of the Royal Gibraltar Police.

Recommended Misconduct Charges – PC [redacted]

It is recommended that PC [redacted] is charged with the following misconduct offences:

1) **Disobedience to orders (s3 Police (Discipline) Regulations 1991)**
On 8th March 2020 PC [redacted] disobeyed a standing order not to leave British Gibraltar Territorial Waters without authority.

2) **Disobedience to orders (s3 Police (Discipline) Regulations 1991)**
On 8th March 2020 PC [redacted] failed to use the Automated Identification System (AIS) on his vessel (SJC) contrary to orders and instructions.

3) **Neglect of duty (s4a Police (Discipline) Regulations 1991)**
On 8th March 2020 PC [redacted] neglected to take appropriate safety measures to ensure the safety of his crew and members of the public resulting in a collision at sea between his vessel and a RHIB.

4) **Discreditable Conduct (s1 Police (Discipline) Regulations 1991)**
On 8th March 2020 PC [redacted] combined actions were such that they are reasonably likely to have brought discredit on the reputation of the Royal Gibraltar Police.

Recommended Misconduct Charges – PC [redacted]

PC [redacted] is a fully qualified RGP mariner. He was not the coxswain on the night of the collision but he is still bound to display the same duty of care to others.

[redacted]

1) **Disobedience to Orders (s3 Police (Discipline) Regulations 1991)**
On 8th March 2020 PC [redacted] failed to use the Automated Identification System (AIS) on his vessel (SJC) contrary to orders and instructions.

2) **Neglect of Duty (s4a Police (Discipline) Regulations 1991)**
On 8th March 2020 PC [redacted] neglected to take appropriate safety measures to ensure the safety of the crew and members of the public resulting in a collision at sea between the SJC vessel and a RHIB, by failing to request a termination of the pursuit.

3) **Discreditable Conduct (s1 Police (Discipline) Regulations 1991)**
On 8th March 2020 PC [redacted] combined actions were such that they are reasonably likely to have brought discredit on the reputation of the Royal Gibraltar Police.

First Aid & Mayday Call Charge Consideration

The Regulation 9 notices provided to PC [redacted] and PC [redacted] in March 2021 included the misconduct offence of neglect of duty (section 4a) for failing to provide first aid to those on the RHIB and failing to register a mayday call post-collision. However,

This investigation has carefully considered if PC [redacted] and PC [redacted] neglected their duty by failing to register a mayday call and by failing to provide adequate first aid to the RHIB crewmember, whom they had identified was severely injured. The decision has been taken by the investigators not to recommend a charge to reflect this allegation, a decision explained below.

PC [redacted] stated that he boarded the RHIB and saw two males lying close together on the deck. They were surrounded by blood and water. There was a strong smell of petrol. The officer explained that he was shocked and could not move forwards. He felt a cold shiver and could not comprehend what had happened. The officer could not react. PC [redacted] explained that he identified that one RHIB crewmember was deceased and another casualty had a right shoulder injury with bone visible. This casualty spoke to the officer and PC [redacted] told the casualty that he could not move him due to his weight and for fear of causing further injuries. The casualty was reassured that the officer would get him medical assistance as soon as possible. The decision was made by PC [redacted] and PC [redacted] to keep the RHIB crew, including the deceased male and the injured casualty on board the RHIB and to tow them back to shore where an ambulance would be waiting. The officers explained that they did not leave anyone on board the RHIB due to officer safety concerns and that the crew of the RHIB had not and could not be searched for weapons. Everyone was in a state of shock including the officers. PC [redacted] explained that judgements or decisions made were not done so with a right frame of mind. Whilst towing the RHIB, PC [redacted] ensured that an ambulance would meet them back at the base. The officer realised that an engine had failed and feared that all four engines could cut out and delay their return to base. As such the officer contacted the MPU and requested customs assistance. A Customs vessel liaised with the police boat and transferred the injured person to their vessel. Customs officers then provided first aid. Despite asking PC [redacted] and PC [redacted] questions relating to their decision making in this regard during recorded interviews under caution, the officers made no further comment. Training records for PC [redacted] and PC [redacted] evidenced that both officers were up to date with their first aid training at the time of the incident. Richard Meikle in his report concluded that upon realising an immediate risk to life, PC [redacted] as the senior coxswain should have broadcast a mayday call to all vessels in the area. The crew did report the accident and then decided to tow the RHIB back to base. There was no attempt by the crew to provide first aid to the seriously injured crew member. PC Steve Morgan from the Metropolitan Police Marine Policing Unit provided some observations in relation to the situation experienced by PC [redacted] and PC [redacted] and their subsequent actions. The officer expressed his opinion that this was not just a straight forward matter of boarding a RHIB and providing first aid. There

was a balance of risk between rendering First aid to potentially armed, hostile evasive suspects and the immediate danger of two vessels sinking at sea, thus placing seven people's lives at risk with an outcome of drowning. PC Morgan stated that in a diminished state of mind, protocols are missed or forgotten. A priority to return to land would be overwhelming for the crew and irrational thoughts in a stressed 'untrained' scenario may be difficult to judge and/or understand.

Conclusion: The available evidence documented that PC [redacted] and PC [redacted] did conduct an assessment of the injured RHIB crew members. One was identified as being deceased with another seriously injured but breathing and conscious. The officers made the decision to seek medical assistance on land and to tow the RHIB back to shore. The officers communicated their situation and intention to others. At no point were the crew advised to remain where they were and to seek assistance to their location.

From a police point of view, saving life is a natural instinct and a policing priority. All three officers were more than capable of rendering first aid, given their training; however individual safety and the potential risk based on previous knowledge and experience of dangerous offenders had overriding factors. Police officers are trained to assess the risk to themselves before attempting to provide first aid. This is so that they do not become a casualty themselves. A call for help to their location would incur a time delay for a rescue boat to deploy and reach them. PC Steve Morgan explained that a coxswain would want to return to shore and to reach shallower waters as a priority in case either vessel took on water.

Richard Meikle concluded that the crew should have made a mayday call. This is not the same as saying that they must make a mayday call. The officers made the decision that medical attention could be better given on land. At the time PC [redacted] assessed the casualty he was still conscious, breathing and talking.

An objective view needs to be taken and a thorough consideration and understanding of the situation that faced the officers on 8th March 2020. The available evidence showed that an assessment and triage of the casualties had taken place. The officers determined that their best course of action was to return to land and to tow the RHIB. PC [redacted] and PC [redacted] were both in a state of shock and needed each other to safely pilot the police vessel. In their opinion, leaving Officer Three on board the RHIB was not an option for officer safety reasons.

Other officers faced with the same situation might make different decisions and this could be for a number of reasons. That does not mean that the decisions made by Officer Three and PC [redacted] were wrong. Ultimately, they took action to try and get medical assistance for the injured crew member and communicated this. It is unfortunate that the officers themselves did not want to answer questions to clarify and confirm their decision making process on the night. Having reviewed all of the available evidence, I submit that there is insufficient evidence to prove that the officers failed to issue a mayday call and failed to provide first aid. They have acted in good faith and made decisions in difficult circumstances whilst suffering from shock. The decisions they made were communicated to others, including PS Stone. When PC [redacted] realised that an engine had failed he requested assistance to his location. As such it is submitted that this charge should not be proceeded with, although it is acknowledged this is the prerogative of the Determining Officer.

Respectfully submitted to the Determining Officer for consideration.

Senior Investigating Officer: T/Detective Superintendent Gary Smith

Case Officer & Author: DCI Neil Rawlinson

Assisting Case Officer & Co-author: DS Chris Griffith

Date: 4th June 2021

References

Witness Statements

S1	PIP Stage 3 statement of PC [redacted]
S2	PIP Stage 4 statement of PC [redacted]
S3	PIP Stage 3 statement of PC [redacted]
S4	PIP Stage 4 statement of PC [redacted]
S5	PIP Stage 3 statement of Officer 3
S6	PIP Stage 4 statement of Officer 3
S7	PIP Stage 3 statement of HMC Officer 4
S8	Second statement of HMC Officer 4
S9	PIP Stage 3 statement of HMC Officer 5
S10	Second statement of HMC Officer 5
S11	PIP Stage 3 statement of HMC Officer 6
S12	Second statement of HMC Officer 6
S13	PIP Stage 3 statement of HMC Officer 7
S14	Second statement of HMC Officer 7
S15	PIP Stage 3 statement of HMC Officer 8
S16	Second statement of HMC Officer 8
S18	Statement of PS 6 Stewart Stone
S24	Statement of Jose Molina RUS
S25	Statement of Damian Chipolina

S26	Statement of medic Fabian Ferro
S27	Statement of medic Stuart Ryan (handwritten & typed)
S28	Statement of medic Tanya Noguera (handwritten & typed)
S29	Statement of medic Paul Watson (handwritten & typed)
S30	First statement of medic Sigurd Haveland (handwritten & typed)
S31	Second statement of Sigurd Haveland (handwritten & typed)
S32	Statement of medic Leslie Bruzon (handwritten & typed)
S33	Statement of ambulance driver Wilson Oliveira
S34	Statement of medic John Paul Llenelo
S47	Statement of RHIB survivor Bruno Miguel Gomes Sereno (original Spanish)
S48	Certified English translation of statement of Bruno Miguel Gomes Sereno
S49	Statement of RHIB survivor Nordin Lahsen Dris (original Spanish)
S50	Certified English translation of statement of Nordin Lahsen Dris
S51	Statement & pathology report of Dr D.A. Rouse concerning Mohamed Abdeselam Ahmed
S52	Statement & pathology report of Dr D.A. Rouse concerning Mustafa Dris Mohamed
S53	Statement of PC 43 Robert McKnight - Senior Crew Coxswain with RGP marine section
S54	Statement of PC 124 Glen Ballantine - RGP marine section instructor.
S55	Statement of PC 141 Keith Bonfiglio – marine section instructor
S56	Statement of PC 155 Lee Pozo – marine section instructor
S57	Statement of PC 160 Herbert Warwick – marine section instructor
S58	First statement of Daniel Ferro – GDP Communications Assistant & camera operator.
S59	Second statement of Daniel Ferro
S60	Third statement of Daniel Ferro
S63	Second PIP Stage 4 statement of Officer 3 - responding to questions posed by MPS investigators.
S82	Statement of medic Fabian Ferro
S88	Statement of Nicola Asquez – IT technician for Government of Gibraltar
S90	Statement of PC Steve Morgan
S91	Statement of Ian Phillips – retired RPG marine unit officer
S92	Statement of Herbert Warwick – retired RGP marine unit officer
S93	Statement of Lief Simpson – RGP officer and welfare officer for PC[redacted] & PC[redacted]

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S27	Statement of medic Stuart Ryan (handwritten & typed)
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S93	Statement of Lief Simpson – RGP officer and welfare officer for PC [redacted] & PC [redacted]

Commissions of Inquiry Act

INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

Convened by a Commission issued by His Majesty's Government of Gibraltar on 4th February 2022 in Legal Notice No.34 of 2022

EXHIBIT CY19 TO THE SECOND WITNESS STATEMENT OF ASSISTANT COMMISSIONER OF POLICE CATHAL YEATS

Royal Gibraltar POLICE | *Delivering a Safer Gibraltar through Excellence in Policing*

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Our Ref:- IM/121 4th November 2019

Mr Frank Carreras OBE
Police Complaints Board
25B Casemates Square
Gibraltar

Dear Mr Carreras,

RE:- **Complaint made by Mr Scott O'Malley and Ms Claire Bell**

I have been requested by yourself to provide information in response to a complaint received by the Police Complaints Board from the two above mentioned persons.

I understand that your request is pursuant to Regulation 9(1) of the Police Complaints Regulations 2006 and the information I am imparting will then be considered by you to determine whether a formal investigation is required under Regulation 12(1).

I further understand that the complainants have named Supt Tunbridge and myself in their respective submissions as the officers responsible for the alleged breaches of professional standards. In this report and accompanying appendices I will endeavor to provide you with as much assistance possible to aid your decision making process.

CONTEXT
The submissions by Ms Bell and Mr O'Malley are borne out from the infamous incident of the 8th February 2017 when the RGP made a key intervention to prevent a military aircraft from departing RAF Gibraltar with a suspected offender and evidence on board. I feel it is important to make this the starting point in my response to the complaints as it provides context to all the events that unfolded post to the said intervention and this includes the contact RGP officers had with the complainants. In this regard I append my report **(Appendix – A)** of the incident dated 10th February 2017 addressed to the Commissioner of Police and a covering report by the then Commissioner Mr Edward Yome. Both these reports were shared by Mr Yome with His Excellency the Governor and Chief Minister.

At the time of this incident I held the rank of Detective Superintendent and was the Divisional Commander of the Crime and Protective Services Division which is basically the detective division. Supt Wayne Tunbridge was my deputy and held the rank of Detective Chief Inspector.

It is also important at this stage to highlight that I have not had any personal dealings or contact with Ms Bell on this matter other than her being present at a meeting in the Attorney General's office on 22nd February 2017 which was attended by the Provost Marshall (Navy) Cmndr Jack Hawkins and his deputy. She offered no input at this meeting and there was no need for me to engage with her either – she merely sat in.

As far as Mr O'Malley is concerned, the only contact I have had with him was on the 8th February 2017 as described in my report (Appendix- A page 10, 4th paragraph down and page 11, 3rd paragraph down). This contact was very brief, courteous and professional. My understanding is that Mr O'Malley has made absolutely no reference to this encounter and therefore it is not subject of his complaint.

I have not had any further contact whatsoever with Ms Bell or Mr O'Malley.

EVENTS OF THE 1ST March 2017

Several meetings were held to discuss the behaviours and potential criminal liabilities between 4th and 8th February 2017 of Colonel Frank Green the Chief-of-Staff for British Forces Gibraltar, Squadron Leader Chris Collins RAF Police and head of Gibraltar Joint Provost Security Unit and Wing Commander Liz Hutchinson Station Commander for RAF Gibraltar. An executive decision was taken that the three had to face due process for possible criminal offences. Consequently, plans were initiated to (i) secure evidence to support our suspicions that they had attempted and conspired to pervert the course of justice and had also obstructed police in the execution of our duty and (ii) to arrest the said three military officials and pursue a criminal investigation under the code name Operation 'Apache'. Supt Tunbridge was appointed Senior Investigating Officer (SIO) for this operation.

In brief, a plan was devised which entailed searching the offices of Colonel Green at The Tower, the premises of the Joint Provost Security Unit (JPSU) under the control of Squadron leader Collins at Gun Wharf and the offices of Wing Commander Hutchinson at RAF Gibraltar as indeed the western hangar. The arrest of these officials was also factored in to the plan. Members of the Crime and Protective Services Division were split up in to three groups each headed by a senior ranking police officer. Ch Insp Perez (then an inspector) and his team were assigned to deal with Wing Commander Hutchinson and RAF Gibraltar, Supt Tunbridge and his team were detailed to the JPSU and I led a team that was to tackle The Tower.

Given the high profile exposure the matter had previously attracted and was likely to attract once we carried out further executive action, I took it upon myself to lay the information before the stipendiary magistrate and apply for search warrants for the premises referred to above. That I obtained all four warrants under my name did not mean that personally I had to be present at the searches or execute the warrants myself. Once signed by the relevant authority, a search warrant can be executed by any constable even if they are not the one named on the warrant.

The strike was planned to occur simultaneously on 1st March once we had established that Squadron Leader Collins was airborne on a return flight from the UK to Gibraltar. A simultaneous strike is a recognized police tactic when tackling more than one location which are subject of the same operation. The purpose of this is obvious; to try and ensure the rounding up of suspects and evidence and mitigate risk of the disposal or attempted disposal of evidence or indeed the absconding of suspects or the warning of each other of the police action.

There is no requirement for me to offer explanations on the actions carried out by Ch Insp Perez's team at RAF Gibraltar as these are not subject of any complaint. I will therefore focus on the actions that both Supt Tunbridge and I carried out.

You will straight away realize that I had no dealings with the complainants as alluded to earlier in this report. However, I will be explaining my actions on the day which will disclose a very similar situation to the one my colleague Supt Tunbridge faced at JPSU Gunwharf. Unlike the latter, my actions have not given cause for a complaint from the persons I dealt with at The Tower.

At 1325Hrs on 1st March 2019, whilst maintaining open communications with the two other strike teams I gave the go-ahead to proceed to enter the premises covered by the search warrants. In my case, once inside The Tower courtyard I detailed some officers to cover the offices of the Chief-of-Staff Colonel Green (the office subject of the warrant) whilst I made my presence known at the office of the Commander British Forces (CBF), Commodore Mike Walliker. With him in the office at the time was the Command Secretary Mr Richard Johnson. Though both these gentlemen knew who I was I nonetheless identified myself with my warrant card and explained that I was acting in the execution of my duty as a police officer within The Tower. I proceeded to explain the reasons why I was there with a team of RGP officers. I also explained to them what my intentions were and showed CBF the search warrant for Colonel Green's office.

Together with CBF we walked over to Colonel Green's office where upon entry and explaining to the Colonel the reasons for the RGP's presence there, I arrested Colonel Green on suspicion of (i) attempting to pervert the course of justice, (ii) conspiracy to pervert the course of justice and (iii) obstructing police. I showed him the search warrant for his office which was then executed by my team.

During the course of the search I was made aware of certain documentation which had been circulated by the Command Secretary to the persons subject of the investigation. In essence, the Command Secretary was requesting 'duty reports' from these military officials to explain their respective accounts of the events of the 8th February. Clearly, this information was of relevance to the investigation and therefore it prompted me to speak to the Command Secretary and ask him whether he was willing to share with me the responses these senior military officials had provided to him. His response was that he would need to consult with London (MoD) before considering my request. Anticipating a negative response to my request I duly acknowledged his response but told him that I would be seeking another search warrant from the stipendiary magistrate for his office to seize the information sought. I stepped out of CBF's office and detailed an officer to remain outside the Command Secretary's office to control and restrict access to this office whilst I made a call to the courts. I was encountering difficulties in reaching the stipendiary magistrate and during the course of my attempts, I was approached by the Command Secretary who informed me that he had consulted with London and was happy to volunteer the information I was seeking. Consequently, a member of my team accompanied the Command Secretary to his office where he proceeded to hand over the data requested.

I draw significance to this procedure because of the similarity of the actions carried out with Ms Bell and Mr O'Malley which are now subject of a complaint. My actions at The Tower were legitimate; I only had a search warrant for Colonel Green's office – a need arose where I required data from another office not covered by the warrant – had the Command Secretary not volunteered the data. I would have required a search warrant for his office to seize the data – the fact that he agreed to voluntarily hand over the data precluded the need to obtain a warrant. It was not deemed to be a search by my team but rather a voluntary handing over of the data by the Command Secretary. You will no doubt appreciate the correlation to the circumstances of the complaint by

Ms Bell and Mr O'Malley. Incidentally, the Command Secretary has not raised any issues whatsoever concerning the procedure I have explained.

Turning to the intervention by Supt Tunbridge and his team at JPSU Gun Wharf, I would ask you to refer to Mr Tunbridge's report which is filed in this bundle as **Appendix – B.** I do not intend rehearsing the contents of his report save to say that the allegations contained are refuted. Supt Tunbridge further explains how his team acted within the law.

Moreover, I would ask that in making your determination on whether RGP officers breached professional standards and code of ethics as alleged by Ms Bell and Mr O'Malley, you consider that both these persons are fully trained up [services] police officers who held supervisory/managerial positions in JPSU. As police officers they very well know what powers we possess and the rights of those we deal with in investigations. I find it incomprehensible that two seasoned police officers would not challenge on the spot any activity which was illegitimate and an abuse of police powers.

Our interest in both Ms Bell and Mr O'Malley as with the other members of the JPSU was to understand their involvement in the circumstances surrounding Sgt Watterson's detention. Until that point we had not found anything to suggest either were suspects in the investigation but we still needed to delve further and we relied on their co-operation. It is my submission to you that this co-operation was forthcoming and that the RGP officers acted in very much the same way that I did with the Command Secretary at The Tower. It was no doubt a very uncomfortable experience for Ms Bell and Mr O'Malley as indeed it was for the RGP. In her complaint Ms Bell vents her annoyance expressing disbelief that we were serving a warrant on another policing agency. It could be safely inferred that she was suggesting our actions were improper. What she fails to understand is that the warrant was signed by a judge and therefore any suggestion that there was improper practice is actually undermining of the authority of the issuing judge – I reckon she needs to realize this. However, my officers acted with a lot of tact and respect. These two persons could have very simply exercised their right to question/challenge our actions, refuse to co-operate and decline to hand over their personal mobile phones. This would have been a very prudent and proper response by a police officer who felt he/she were being treated unlawfully as they allege. Had they presented a challenge it would have been respected and it would have obliged us to obtain a search warrant. There was no expression of a challenge and neither was there any indications that they felt as they described in their submission to the PCB. The officers attending to them report that they were co-operative.

AFTERMATH

It is very regrettable that they feel so hard done by the actions carried out by the RGP officers acting in the execution of their duty. I also query the motives of why they are now airing these grievances. I say so because apologies were in fact received from the MoD's Rear Admiral Radakin, then Chief of Joint Forces Command in UK, now promoted to Admiral and First Sea Lord of the Royal Navy. This apology indeed accepted the MOD's (JPSU) ill-informed jurisdictional posture. There was an acceptance that all the activity conducted by JPSU staff (which includes the complainants) was *ultra vires* given that the UK Armed Forces Act 2006 which they claimed gave them jurisdiction to operate did not actually extend to Gibraltar. Further apologies were received from Colonel Green, Squadron Leader Collins (Ms Bell's and Mr O'Malley's boss) and Wing Commander Hutchinson. I attach all these apologies as **Appendix –C.** In none of these apologies is there the slightest of suggestions or inclinations of any abuse of position from the RGP. One would have thought that Ms Bell and Mr O'Malley would have raised their complaints to their superiors who, in turn, being the responsible organization that the MOD is, would have made the necessary representations to the Commissioner of Police, Government of Gibraltar or

HE the Governor – no such representations have been made or are expected to made simply because all the RGP activity was vindicated as lawful and correct.

I would now like to comment on the penultimate paragraphs contained in both written complaints: That the complainants have been informed (source unknown) that I am supposed to have stated that the investigation could be re-opened at any time I wished. I categorically do not associate myself with any commentary of this sort and I would ask you to query from where this originates from as I would personally want to challenge it as a mistake at best or lie at worst.

Finally, I also attach a letter dated 5th September 2017 **(Appendix – D)** from the previous Chairman of the Gibraltar Police Authority, Mr John Goncalvez to the Chief Minister of the Government of Gibraltar following an [independent] assessment of the actions carried out by the RGP in what was termed as the Watterson enquiry. One can argue that the 3rd paragraph of this letter when read together with the four letters of apology earlier referred to wraps up what in essence was a correct and justified operation undertaken by the RGP.

I trust that the information contained in this report and accompanying appendices will assist you in making a determination on whether the matter warrants a formal investigation or not. Please do not hesitate to revert if you require any further information.

Yours,

Ian McGrail
Commissioner of Police

Encl.

Appendix – A	*(i) Copy of covering report dated 13th February 2017 by Eddie Yome CoP (rtd)*
	(ii) Copy of report dated 10th February by the Supt Ian McGrail (now commissioner of RGP)
Appendix – B	*Original report by Wayne Tunbridge dated 25th October 2019*
Appendix – C	*Copy of letter of apology from then Rear Admiral Tony Radakin (now Admiral and First Sea Lord of the RN)*
	Copy of letter of apology from Colonel Frank Green Chief-of-Staff British Forces Gibraltar
	Copy of letter of apology from Squadron Leader Chris Collins RAF Police & head of JPSU Gibraltar
	Copy of letter of apology from Wing Commander Liz Hutchinson RAF Gibraltar Station Commander
Appendix – D	Copy of letter from GPA Chair to CM dated 15th September 2017

ROYAL GIBRALTAR POLICE

Commissioner's suite
COP

Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 0035020048001 Fax: (350) 0035020045615, E-mail: pacompol@royalgib.police.gi

RE: RAF Sergeant WATTERSON

13th February 2017

Dear Sirs

Please see attached report submitted by Superintendent McGrail in relation to RAF Sergeant WATTERSON.

This clearly was a sad disappointing day for Law Enforcement in Gibraltar and more so for relations between Gibraltar Forces Command and the RGP.

I do not wish to repeat what is already contained in this report which is quite detailed, but just to echo some of the points which I personally dealt with.

From the outset I wanted a pragmatic and sensible approach notwithstanding I had firm footing on jurisdiction and Gibraltar law. I even went as far as involving the AGs chambers at an early stage to provide legal advice by asking Ricky Rhoda to personally speak to GFC but again to no avail.

To me this was a complete disregard and lack of respect to our Attorney General.

Add insult to injury the matter deteriorated very rapidly when clearly senior MOD officers were being deceitful and evasive to the point that we had no alternative but to obtain a Chief Justice's warrant to make these officials see the gravity of the situation and see sense.

Armed with this warrant I informed the Chief of Staff and later Commander British Forces that I was being pushed against the wall to a place that I would not rather be, and as the last resort, we would now be in a position to execute this warrant on another Law Enforcement body (RNPM) something which I was very reluctant to do. I believe I showed great restraint in holding back from doing this.

A conversation with Commander Jack Hawkins (Chief of RNP- UK) then revealed and confirmed that the evidence was on the aircraft and I then instructed for this aircraft to be held back from departing. CBF then saw sense in de-escalating everything and I believe instructed for the aircraft to return to the stand and for Watterson and the evidence to be disembarked. I was then given his reassurance that the computer devices would be handed over to the RGP. After this was done I allowed for the aircraft to depart.

Even then I proposed that we should join up in taking this forward and for the RNPM officers to assist in the retrieval of evidence and to assist with the Forensics. Finally they acceded and we are now working together.

INVESTORS IN PEOPLE

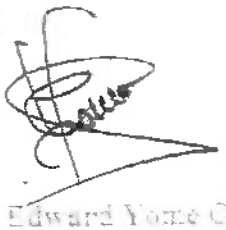
As I said it was a disappointing day and not one to gloat about but clearly we must not find ourselves in such circumstances ever again why I have proposed a meeting on the 22nd February of all stakeholders. The Attorney General has welcomed such a meeting which he will chair at his offices at No.6.

I strongly believe that MOD senior officials did not behave appropriately and had they used some practical common sense. we could have averted this situation. More worryingly they showed lack of respect by challenging the Attorney General and the Commissioner of Police both Constitutional posts.

I am willing to discuss this further should you so wish.

Kind regards

Eddie



Edward Young QPM
Commissioner of Police
Past President European Association of Airports & Seaports Police (EAASP)
Vice President EAASP
Calpe House Trustee

INVESTORS IN PEOPLE

ROYAL GIBRALTAR POLICE
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OFFICIAL SENSITIVE

10th February 2017

Commissioner of Police:

Sir,

RE:- Investigation in to RAF Sgt WATTERSON

This report provides GDP with the chronological sequence of events as I have them and with as much a detailed account as I know it to be regarding the above captioned matter. Enquiries are continuing to elicit further information with regards to both the investigation in to Sgt WATTERSON and to the issues that arose once the RGP took an interest in the matter. I would therefore ask you to understand that this paper may not contain all the answers to questions you may have after absorbing the contents herein. On occasions during this report I have also commented on my *prima facie* observations on matters arising, obviously from a professional local application.

In the early hours of 4th February 2017, an email was received at RGP Command & Despatch from colleagues in the GDP advising that the JPSU had the previous day (3rd Feb 2017) effected the arrest of a serviceman, Sgt WATTERSON, in Gibraltar, on suspicion that this man was in possession of indecent imagery of children. His residence at 21 East Walk, Europa, had been searched by JPSU and computers and data storage devices had been seized. That Sgt WATTERSON had since been released from his arrest and had undergone a psychiatric assessment which determined that he was at high risk of self harm. At that point no further details were available to the GDP.[1]

This information was forwarded by CAD to our Public Protection Unit for their information. Coincidentally, Det/Insp Enriles, o.i.c of the PPU, happened to be the RGP duty officer that morning and on reading the communication sought further details from GDP Sgt Hosken who unfortunately was unable to help any further as they [the GDP] had no additional information to share.

Consequently, Det/Insp Enriles contacted the JPSU Master-at-Arms Claire BELL who informed of the following: that Timothy WATTERSON moved to Gibraltar on the 7th January 2017 for a two year posting. He moved to Gibraltar with his wife and [redacted] That they had received information from their Force Intel Bureau in UK via the National Crime Agency/Leicestershire Police that an IP address in the UK had uploaded an indecent Cat B image of a prepubescent female exposing herself. This image had been uploaded during the course of June 2016 to an IP address allocated to WATTERSON at his previous posting address in Leicestershire, UK. MA BELL

[1] It is believed GDP only communicated the matter to RGP in the context of the WATTERSON's risk of self harm.

further informed that as a result of this information they had arrested him on suspicion of possession of indecent images and seized various data storage devices in the residence.[2] The authority to arrest was provided to Det/Insp Enriles as Sec 42 & 67 of the Armed Forces Offences Act 2006 UK that she claimed extended them jurisdiction in Gibraltar. No reference to Gibraltar law was made. I also understand that the authority to search WATTERSON's residence was Sections 79 & 80 Chapter 4 of JSP 830 (I believe these to be their version of our codes of practice). WATTERSON was detained by JPSU at their premises.[3]

JPSU procedures are actually based on the UK's Police and Criminal Evidence Act (PACE) so when he was processed by the services police he elected the right to free and independent legal advice – there being no such duty solicitor scheme in Gibraltar the MA explained they would have to fly out one from the UK! Due to this untidy situation the JPSU were compelled to release WATTERSON from his arrest and he was informed that he may be seen at a later date. The devices seized from the search of the residence were retained with the intention of subjecting them to forensic analysis.[4]

MA BELL further explained that post to his release from arrest WATTERSON had also been also psychiatrically assessed by MOD (Gibraltar) medical personnel and this revealed that he might be a risk to himself. Because of this development JPSU appointed him a 24/7 'chaperone' for his own safety and instructed that he was not to return to the matrimonial home.[5] In the meantime, MOD social services SSAFA would be conducting assessment of WATTERSON's [redacted] who attend: [redacted] No reference was made of any intended actions with Mrs WATTERSON.

Det/Insp ENRILES expressed his concerns to MA BELL that these type of investigations required the sharing of information at far an earlier stage given the potential local implications. Neither did we have any photograph of the subject to assist us in the identification and generating awareness of him. Although provisionally housed at Devil's Tower Camp, he was still free to roam about Gibraltar as long as the chaperone remained with him. To this Det/Insp Enriles highlighted that notwithstanding the measures in place these could be deemed insufficient and may not necessarily prevent an act of self harm or an attempt on his life, or even prevent him from committing further offences. Det/Insp ENRILES added that even though WATTERSON had not been in our jurisdiction for long he had still had opportunities to interact with members of the public/children and therefore there was a need to properly risk assess him. MA BELL agreed with the Det/Insp and arranged to share WATTERSON's photograph for the purpose of creating awareness for RGP personnel.

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[2] On the facts available, the action taken by JPSU in pre-emptively arresting Watterson at such an early stage is not regarded in the RGP, or indeed by UK civilian police, as best practice and procedure.

[3] JPSU premises are not regarded in Gibraltar law as a designated police station for the detention of persons under arrest. Neither can the JPSU grant and or impose bail conditions post to an arrest.

[4] This begs the question of whether in effect the search and seizure of the devices from the residence and their continued detention retains any legitimacy. I say so because no search warrants were issued for this process & therefore it could potentially be regarded as a tactical short circuit of proper procedures which in turn could be calculated to be an abuse of powers. I.e. Police cannot go about arresting individuals and search their properties without a warrant, then release the person from arrest and retain the exhibits found for further investigation. I may be wrong but it certainly looks a very odd and I dare say unprofessional, unethical practice, if not an illegal one.

[5] I am presuming that the power to impose these control measures is provided by military law.

As is common and proper practice in these types of cases, on Monday 6th February, Det/Insp ENRILES, began to make arrangements to hold a strategy meeting under recognised child protection procedures with Gibraltar Social Services and SSAFA to discuss Master WATTERSON and for the purpose of information sharing. Equally, considerations were given to convene a Multi-Agency Public Protection Arrangement (MAPPA) strategy meeting to discuss Sgt WATTERSON as a person of interest in the context of sex offender management.[5] Very surprisingly, at 1730Hrs on 6/2/17 the position of SSAFA was that no strategy meeting would take place involving Gibraltar authorities and more worryingly still, that Gibraltar Social Services should not have been in the know of the matter.

On Tuesday 7th February 2017, I contacted Provost Marshall (PM) Chris COLLINS and very briefly expressed my concerns on how the matter was being handled. I arranged for him to meet with Det Ch/Insp TUNBRIDGE and Det/Insp ENRILES @1100Hrs at Bleak House.[6] This meeting was attended by PM COLLINS and MA BELL. They provided a brief along the lines of what MA BELL had provided to Det/INSP ENRILES at the weekend.

Det Ch/Insp TUNBRIDGE then raised the following question; why had the RGP not been notified by JPSU of this on-going investigation? PM COLLINS stated that the suspect was a serving member of the military stationed in Gibraltar and residing in MOD property. That the offence being investigated occurred in the UK and under the Armed Forces Act 2006 they had the legal powers to assert jurisdiction in the manner they had whereas the RGP did not have any locus. Det Ch/Insp TUNBRIDGE accepted that the RGP had no authority over a UK investigation. However, he explained that it was erroneous to suggest that the RGP had no jurisdiction on crimes that may have occurred or were occurring *anywhere* in Gibraltar including within the MOD estate. It was precisely this that we were concerned about. If the JPSU suspected the computer devices seized from WATTERSON's house were believed to contain indecent imagery of children, then even if these may have been uploaded in the UK, they were now in the jurisdiction of Gibraltar and in breach of Gibraltar Law. We further expressed concern that WATTERSON (or anyone else in the household) may have accessed or been involved with other child sexual exploitation data or activity whilst here in Gibraltar in addition to whatever he was suspected to have accessed in the UK. PM COLLINS did not accept this position and maintained that the JPSU had full jurisdiction of the case.

Det Ch/Insp TUNBRIDGE respectfully asked PM COLLINS to hand over the exhibits seized from the residence to the RGP but the latter re-asserted his position that he would retain them under the authority vested by the Armed Forces Act 2006 UK which he claimed extended to Gibraltar. PM COLLINS further revealed that if when examined in the UK, the devices contained any incriminating evidence, they would fly WATTERSON back to the UK to answer to any potential charges.[7] This meeting ended at 1200Hrs and Det Ch/Insp TUNBRIDGE advised PM COLLINS that he would be referring the matter up to RGP senior management and that further contact would be made with him later.

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[5] Deemed to be best practice in these types of criminal investigations.

[6] Ironically DCI Tunbridge and DI ENRILES were attending a training session arranged by Social Services on child protection and safeguarding which was also being attended by SSAFA. The main theme running through this training session being that of multi agency partnership work and information sharing.

[7] This was the first occasion the RGP requested to take over the [local] angle of the investigation from JPSU on the back of there being reasonable suspicions that offences may have been committed in Gibraltar.

I was then briefed by Det Ch/Insp TUNBRIDGE on JPSU's entrenched posture. Whilst I was 100% absolutely certain of the RGP's position on this[9], I asked Det Ch/Insp TUNBRIDGE to consult with the Office of Criminal Prosecutions and Litigation to seek their views on what the position was when two authorities were claiming jurisdiction over a matter. Consequently, senior counsel Ricky RHODA CBE QC confirmed the RGP's position also expressing concern that if the RGP were claiming jurisdiction on the basis of there possibly being offences disclosed locally, that a [coerced] repatriation[10] of WATTERSON by the MOD to potentially face charges in the UK could be deemed to be unlawful - that the proper way to do this was via established judicial processes i.e. European Arrest Warrant.

At 1254Hrs Det Ch/Insp Tunbridge and Det/Insp ENRILES again held a telecon with PM COLLINS explaining that our legal services had confirmed the RGP's position regarding primacy and the fact that local legislation would be applicable over the Armed Forces Act 2006.[11] PM COLLINS reiterated his position vis the UK's Armed Forces Act 2006 adding his legal advisors had confirmed otherwise and therefore he would not be relinquishing conduct of the investigation, basically disregarding local legislation and our standpoint.[12] It was also disclosed by PM COLLINS that arrangements were already made to despatch the exhibits to the UK on Wednesday 8th February 2017 to submit them to forensic analysis. Det Ch/Insp TUNBRIDGE told PM COLLINS that he would contact him soonest.

Det Ch/Insp TUNBRIDGE reverted to me with this and we discussed what in my view was a very reasonable proposal which would satisfy the RGP and JPSU needs. In essence this was that in recognising there was a UK investigation taking place and in order not to affect this, we could conduct a parallel examination of the devices seized. This could be achieved by the RGP Hi-Tech Crime Unit officer mirroring the devices seized so that he could examine these 'working copies' to determine if there was evidence to support the reasonable grounds we had that there were offences disclosed in Gibraltar. That the JPSU could also have these devices examined in the UK in furtherance of their own investigation of offences taking place there. We run this proposal past Mr RHODA with a view of de-conflicting the matter in the most pragmatic way, though it must be said that there was no obligation on our part to be as flexible as we were being with the suggested proposal – in other words, we could assert full jurisdiction on the basis that we suspected an offence had been committed in our jurisdiction. However, the proposal recognised and respected the JPSU's interest with regards to the UK investigation. It was being done in the spirit of good relations and mutual respect between agencies.

At 1508Hrs Det Ch/Insp TUNBRIDGE and Det/Insp ENRILES held yet another telecon with PM COLLINS and discussed the said proposal explaining how we acknowledged his investigation and how our suggestion would not hinder it. The reasons why we reasonably suspected that offences had been committed in Gibraltar were re-stated. Unfortunately, PM COLLINS refused this course

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[9] Police Act 2006 Part IV s.28 & s.29 Constitution & Employment of the Force. There shall continue to be established in Gibraltar a Police Force, to be known as the Royal Gibraltar Police. The Force shall be employed ***in and throughout*** Gibraltar for the maintenance of law and order & the prevention and detection of crime amongst other objectives.

[10] A back door extradition!

[11] The UK protocol between the Director of Public Prosecutions & Director of Service Prosecutions & MOD para 2.1 states *.....where there are overlapping civilian and service jurisdictions and authorities within England & Wales, the civilian authorities have precedence.....*

[12] Second occasion that our request to assume the lead in the local investigation had been denied by JPSU.

of action stating it could damage the integrity of the exhibits and would be detrimental to the investigation.[13] PM COLLINS' alternative was for the forensic analysis to be conducted in the UK and if anything relating to Gibraltar were uncovered he would take legal advice on whether to release this evidence to the RGP.[14] Det Ch/Insp TUNBRIDGE further attempted to make PM COLLINS comprehend that the question of jurisdiction was very clear and technically, if need be, the RGP could retrieve the said devices from JPSU's possession, something which we did not want to do hence our continued discussions. PM COLLINS' position did not change[15].

I was kept briefed by Det Ch/Insp Tunbridge of the lack of progress and in turn I briefed COP where we agreed that the position of the RGP was as we were articulating it from the outset. We agreed that I would seek a meeting with Chief of Staff Col GREEN to pursue the matter with a view of arriving at the most pragmatic solution to the status quo.

Consequently, at 1630Hrs I attended The Tower at HM Naval Base and met with Col Green. PM COLLINS was also present. I projected the RGP's desire to de-conflict the matter in the most conventional of ways to be expected from both MOD and us. There were valuable lessons to be learnt from the whole experience and no doubt we should, as senior personnel, provide the clarity necessary so that our respective practitioners were able to work in the best possible [technical] environment. I referred to the need for better understanding of each other's roles and responsibilities and how establishing a set protocols or memorandum of understanding would perhaps address the dilemmas we were facing. We were nonetheless still left with un-doing the issues on this particular case. I highlighted how in investigations of sex offences and particularly where there were children involved the best practice dictated sharing of information.[16] In this case it was seemingly lacking as many of the key stake holders who could bring information to be shared were not even aware of JPSU's investigation.

I went over all the circumstances already related to earlier in the report. I then explained that the situation was seemingly escalating to the extent where the MOD's entrenched position did not fare well for relations with the RGP and by default the wider community in Gibraltar. I was taken quite aback when PM COLLINS stated that his mandate was very clear; that he had to look after the interests of the troops and the UK investigation. I acknowledged what he was saying but I explained that actually my mandate extended further than his – that when it came to criminal investigations, I had to look after the interests of Gibraltar PLC and that included everyone in the territory inclusive of MOD personnel.

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[13] Clearly an expression of mistrust towards the RGP displayed by PM COLLINS who also constantly stated that he had to ensure the investigation abided to UK standards implying the RGP's standards were not sufficient. The Home Office standards were constantly repeated by him in this context.

[14] This suggestion basically undermines the RGP's ability to conduct enquiries of potential offences occurring in the jurisdiction. Having the appropriate resources to conduct the examinations locally, it would be wholly unethical that we would have to rely on another agency to search for the evidence and then live in the hope that it could be released back to the RGP.

[15] The third occasion JPSU were refusing to oblige to our requests.

[16] The Bichard Inquiry report into the Soham murders identified one of the main shortfalls to be failure to share information effectively. This inquiry revolutionized processes for the UK police and social services and which the RGP have stringently put in place. Similarly, the Rotherham Child Sexual Exploitation scandal - an independent inquiry by Prof Alexis Jay published in Aug 2014 condemned the failure of the authorities in Rotherham to act effectively against the abuse or even, in some cases, to acknowledge that it was taking place.

I expressed dissatisfaction on how the JPSU were handling the matter and how the overall risks attached to this case were not being properly addressed. I described how the RGP operate to best practice and procedures on these type of investigations – that we had a forensic computer expert, dedicated risk managers and all the supporting infrastructure for such an investigation which evidently the MOD did not have in Gibraltar as had been proven with the inability to proceed with the interviewing of WATTERSON and provide free/independent legal advice, their inability to impose grant/impose bail conditions or even custody facilities[17]. Whilst I was assured that WATTERSON was being 'properly managed', I was not reassured that he may have already committed further offences whilst in Gibraltar. I also enquired as to why the other members of the family, i.e. the wife and 14 year son were not being regarded as potential suspects too. The focus was solely on WATTERSON and it was mentioned that they already had evidence against him of having committed an offence in the UK. This caused me to suspect that there was probably more to the case than what met the eye. PM COLLINS' response was that he was under no obligation to discuss his investigation strategies with me. In turn, this further enhanced suspicions that offences had been committed in Gibraltar as otherwise why would the JPSU seize computers and other devices if they did not believe them to contain incriminating material. All these concerns I shared with Col Green and PM COLLINS adding that I was duty bound to investigate WATTERSON locally – I could simply not leave such a serious matter walk under my nose in the jurisdiction of Gibraltar. I explained how in the past the RGP had assumed the lead and conduct of serious criminal investigations within the MOD estate ranging from serious assaults on MOD [children] dependants where the assailant was a serviceman to the sudden death of senior MOD official as only two examples. I referred to these matters simply to highlight our argument from the outset that the RGP had primacy in the jurisdiction.[18]

I conveyed my concerns to the two gentlemen that there were too many factors in terms of possible local victims, possible crimes committed here, public perception of the RGP and the legal position on jurisdiction amongst others that compelled the RGP to have a say on the matter. I did, however, state that there was still room to work the matter together to oblige to both agency's needs. Col GREEN asked me what actions the RGP would take if indeed incriminating material were found in any of the devices seized to which I explained that there would certainly be an intervention on our part to probe in to the matter further. This was totally mis-construed by Col GREEN who argued that going in *"guns blazing"* would compromise the UK investigation. This argument faced me as Col GREEN was being critical of a potential action the RGP could consider, but not necessarily carry out, when in fact the JPSU's intervention had already precisely done what he was advocating should <u>not</u> be done.

The proposal to run a parallel investigation was flatly discarded by PM COLLINS who said he had top cover from his superiors in the UK that he was on solid footing to retain conduct of the investigation. He argued that my proposal would put in jeopardy the integrity of the exhibits seized as the examinations he would subject them to comply with Home Office Standards and as the RGP was not a Home Office force there would be a conflict. He added that there was nothing in military protocols that obliged him to consider what I was proposing. In what was a clear moment of forceful assertion of his stance, PM COLLINS told Col GREEN that the solution to the matter was to put WATTERSON on a plane to the UK at the earliest opportunity. I interjected stating that if he was contemplating this course of action it would certainly bring about a

[17] These are issues that should have been given the important consideration they merit before effecting the arrest.
[18] Fourth occasion that the RGP requested to take over the conduct of the investigation.

considerable and detrimental strain to MOD/RGP/GOG relations. I equally mentioned that the RGP could actually be driven to impose executive action over the JPSU but that I stressed my intentions were not to go down that route but rather to resolve the issues by discussion amongst us senior law enforcement officials in order to prevent any further escalation which could jeopardise relations. I informed them both that I would be reporting up COP on this meeting.

Sir, I can assure you I tried every possible influencing and negotiating tactic I could think of to resolve the impasse but unfortunately they did not shift from their stance. Before concluding the meeting at 1800Hrs I asked PM COLLINS to refer the arguments I had posed on behalf of the RGP to his superiors in UK so that at least they could have a balanced and more objective understanding of the whole matter. I asked PM COLLINS to do this as a matter of urgency and before any decision was taken to fly out the exhibits and/or WATTERSON. He assured me he would do so. We agreed that he would revert to me once his superiors had taken a view.

I then returned to NMH where I briefed COP on the unfortunate non-progress and on the concerns I had that PM COLLINS and Col GREEN were contemplating actions which would totally bypass the RGP's position on the matter. That evening/night I am aware COP tried unsuccessfully on numerous times to contact CBF who was out of the jurisdiction.

Not having heard from PM COLLINS on what his superiors in UK had to say, at 2130Hrs I phoned him but there was no response. At 2134Hrs I phoned him again and I received no response. Whilst waiting hopefully for a return call from him I conducted some research on the applicability of the UK's Armed Forces Act 2006 in Gibraltar and to my understanding found that it was not applicable.[18] I also looked up service police protocols and what they had to say on the matter and I was not surprised to read that there were provisions stating that local legislation might impose similar jurisdictional arrangements to those PM COLLINS was claiming.[19] Then again, irrespective of whether the Armed Forces Act 2006 is not applicable to Gibraltar and whether service police protocols have seemingly not been abided by, I would like to restate the fact that the RGP has primacy over the matter as enshrined in Gibraltar law.

The matter was now becoming time critical as the plans by MOD (Gibraltar) to fly out the exhibits and possibly WATTERSON were proceeding. I was encountering problems in contacting PM COLLINS and so was COP in reaching CBF. We agreed to a number of actions as follows;

- RGP SB to check passenger manifests to see if WATTERSON was booked on a flight departing Gibraltar Airport.
- Cover crucial areas to prevent WATTERSON from being whisked away.
- Make the necessary arrangements to retrieve exhibits seized from the residence if the JPSU did not change their position. This would be done by applying for a search warrant at the courts.

At 2212Hrs PM COLLINGS returned my call and I shared with him my understanding and interpretation of both the Armed Forces Act 2006/2016 and the service police protocols. Unfortunately again my discussions and arguments as referred to in the preceding paragraph practically fell in deaf ears.[20] He reaffirmed that his position had not changed and that his plans to

[18] Sec13 of the AFA2016 when read with the AFA2006 actually excludes Gibraltar in its application. This requires official legal interpretation.
[19] Joint Service Publication 830 Chapter 3 Jurisdiction & time limits. Part 3 sec62(c)
[20] Fifth occasion that JPSU is asked to hand over the investigation.

fly out the exhibits the next day were still on track. I asked him whether it was also intended to fly WATTERSON out and he replied by saying he was not at liberty to discuss his investigation strategies with me. I told him that CoP was trying to contact CBF and had left numerous messages for his calls to be returned but that he had not been successful in reaching him. I further told him that it would only be proper that he stalled his plans until CoP and CBF spoke. In response to this PM COLLINS told me that CoP should call Col GREEN, but that in any case he was not answerable to the Command in Gibraltar but rather to the Provost Marshall (Navy) in the UK. I asked him whether he had received any response from his superiors on what had agreed at the meeting in The Tower. He said that his superiors would probably get back to him the following morning but that at present his intentions remained unchanged.

Still concerned that JPSU would continue to entirely disregard our claims we discussed our tactical options and COP sanctioned that we should proceed to retrieve the exhibits. The intention was to meet up with PM COLLINS once again and ask for the exhibits to be handed over and to only resort to executing the warrant if there was non-compliance on his part. COP also sanctioned any other action falling out from any non-compliance after the warrant had been executed.[22] Consequently, Det/Insp ENRILES and Det/Con HOWARD left NMH to apply for a warrant from the Stipendiary Magistrate to search the JPSU premises at Gun Wharf.

At 2245Hrs I again contacted PM COLLINS asking him to meet with me. The plan was to offer the opportunity once again for the exhibits to be handed over and then, if this was not forthcoming, to proceed and execute the warrant. However, he said that he would not meet at such late hour. We arranged that I would go down to his offices early the next day.

At 2330Hrs, I was informed by Det/Insp ENRILES that the Stipendiary Magistrate had not granted the warrant on the basis that he felt there was insufficient suspicion to believe that the computer devices seized from WATTERSON contained incriminating data of offences committed in Gibraltar.[23] This clearly caused for a re-think of our options which included making a fresh application for the warrant in the morning. I then stood down the team for the night.

At 0845Hrs on Wednesday 8th February 2017, I attended the Office of Prosecutions and Criminal Litigation to seek legal support to make the MOD accept that the RGP had primacy in the matter. Mr RHODA's view was that we should try and avoid taking executive action against the JPSU and pursue discussions to reach a pragmatic solution, however, if these failed he agreed and accepted that we were then left with no option other than to either succumb to the JPSU's posture or indeed proceed with a fresh application for a search warrant and seize the property in question. Understandably so, Mr RHODA was puzzled as to why the situation had reached the levels it had within the MOD. During the course of the morning Senior Counsel RHODA spoke with (i) the Acting Governor, Mr Nick PYLE and (ii) Col GREEN in yet a further attempt to convince them to accede to the RGP's requests. He also tried contacting the Command Secretary but he was not contactable.

I am aware that both Mr PYLE and Col GREEN asked Mr RHODA to request the RGP to defer any intended action as both were seeking legal advice from the FCO and UK military respectively as to

[22] Possible offences of obstructing police to be considered and executive action followed through in this regard.
[23] Though respecting the Magistrates views for the non-granting of the search warrant, we believed he may have erred in his decision.

whether the RGP had primacy in the matter. When Mr RHODA relayed this to me I expressed resentment as essentially we were being asked to be subservient to UK legal advice when the local position was already well affirmed. I then returned to NMH and reported these latest discussions to COP who then gave me instructions to re-apply for another search warrant to the Chief Justice. I proceeded to do this and having spoken to the Registrar of the Supreme the matter was listed for 1500Hrs that same day.

Throughout the day I sought updates on possible intelligence relating to WATTERSON flying out and SB confirmed that he was not booked on any commercial flight departing from Gibraltar Airport. I still asked SB to remain vigilant at the airport in the event that JPSU staff were spotted attempting to take out the exhibits on a commercial flight.

At around 1400Hrs, it was brought to my notice that a military aircraft had just landed at RAF Gibraltar on an approximate 1-hour stop over. This straight away caused me to suspect that the exhibits and/or WATTERSON could be put on this RAF plane taken out of Gibraltar. I relayed this to COP who asked for contingencies to be put in place to prevent the aircraft from departing if our suspicions were confirmed.[5] You can appreciate how time critical the situation was getting with on the one hand the application for the warrant being heard at 1500Hrs which coincided with the possible departure of the military flight.

I also learnt that the Acting Governor would see both CoP and Col GREEN at The Convent after a separate [firearms capability] meeting which was being attended by both. The matter would again be discussed. It was COP's intentions at this meeting to seek assurances from Col GREEN that the aircraft would be carrying the exhibits. As it happened Col GREEN did not attend the said meeting.

At approximately 1430Hrs Insp PERERA was instructed to position himself in a marked police car by the south barrier opposite GDP post and await instructions. His position was by the very start of the pedestrian and bicycle lane next to the police post. At about 1514Hrs and unable to discuss the matter with Col GREEN and Acting Governor you directed that we contact PM COLLINS to seek the assurances. Det Ch/Insp Tunbridge tried contacting him to no avail as his mobile phone was switched off. We contacted the JPSU offices requesting to speak to PM COLLINS and RAF Sgt O'Malley stated that he was at a meeting with Col GREEN and was unavailable. We explained how imperative it was that we spoke to PM COLLINS as this was in relation to the on-going WATTERSON matter. Sgt O'Malley undertook to contact PM COLLINS for us.

At approximately 1520Hrs, at the Supreme Court, the Chief Justice, heard my application for the warrant to search for the property seized from WATTERSON's residence by the JPSU. Det/Insp ENRILES, Senior Counsel RHODA and Crown Counsel ZAMMIT supported my application. I took to the witness stand and under oath relayed my information and reasonable suspicions and how time critical the situation was, explaining that we also suspected the property we were looking for could well be on board a military aircraft that was about to depart. Det/Insp ENRILES also had to take the stand as the CJ wanted to know on what basis the Stipendiary had declined the granting of the warrant the previous day. At the end of the application, the CJ granted me the warrant but not before underscoring that it was not a good day for law enforcement when one agency had to

[5] Police powers to stop and search Sec 60 (1)(a) of the Criminal Procedure and Evidence Act 2011 & Sec 260 of the Crimes Act 2011

take executive action against another law enforcement agency in this fashion. I had to concur with the CJ on this.

As I left the Supreme Court at 1540Hrs, I learnt that the military aircraft was starting it engines but was still at its stand - the barriers to the stop traffic across the airfield were down. I also learnt that the GDP officer at the south barrier had been instructed to request Inspector PERERA to move away from his position as his presence interfered with air movements. The GDP officer was informed that we had an operation on-going and we were exercising our duties in the said operation. Insp PERERA referred the GDP officer to contact his superiors. Supt ULLGER also received information from Air Traffic Control that all flights would be diverted because of our presence, including commercial flights.

Throughout this time Det Ch/Insp TUNBRIDGE was continuously trying to raise PM COLLINS to no avail. Sgt O'Malley also confirmed that he had not been able to contact PM COLLINS either. Sgt O'Malley was asked whether he could confirm if the exhibits in question had been transported on to the military aircraft that was shortly scheduled to depart to which he stated that he was not in a position to respond to that question but acknowledged the importance of the request. Our suspicions that the exhibits were on board the aircraft were growing by the second.

At the airfield, GDP were being instructed by ATC to insist that Insp PERERA moved from his position or alternatively, if he was not going to move, to hand over the keys to the patrol car as otherwise the military aircraft would not be able to take off. They were informed again that there was a police operation in place and he would not move from his position or indeed hand over the keys to the patrol car. Insp PERERA noted the arrival at the location of Stn Cmdr Lt HUTCHINSON.

At approximately 1545Hrs I arrived at JPSU HQ in Gun Wharf together with other officers. I identified myself to staff and asked for PM COLLINS. Sgt O'Malley informed us that PM COLLINS was not there but that he would call him and tell him we were at his office. A few minutes later, Sgt O'Malley told me that PM COLLINS was on his way to the office to meet us.

At about 1551Hrs, the military aircraft was seen to slowly move from its stand towards the boundary of the RAF apron. Simultaneous to this Insp PERERA noted a MOD sweeper vehicle yellow in colour driven by a civilian driver known to be either Jacqueline BARBAN or Alicia MUSCAT, drive towards the RGP patrol car and manoeuvre to block the patrol car which at the time was static. This caused Insp PERERA to circumvent the MOD vehicle so that the RGP vehicle was not blocked in. Insp PERERA then slowly moved up the cycle lane northbound to the middle of the runway. The RGP had it blue lights on. Seconds later Inspector PERERA moved further northwards and stopped the patrol car by the north barrier.

At approximately 1555Hrs a GDP dog section patrol car driven by GDP PC Diani with RAF Stn Cmdr Lt HUTCHINSON in the front passenger seat drove up to Insp PERERA's position. Stn Cmdr HUTCHINSON told Insp PERERA that she knew what the RGP was doing and that she was "fed up of these silly games", adding that we were preventing a military aircraft from taking off and also endangering the said aircraft. Insp PERERA retorted that if the military aircraft remained by the apron where it currently was, no one would be endangered adding that if she knew what the police operation was about she should understand that we were exercising our duties in respect of this operation. Insp PERERA who at the time was on speaker phone with Ch Insp FINLAYSON and

Supt ULLGER passed on his phone to Stn Cmdr HUTCHINSON as Supt ULLGER wanted to speak with her.

Supt ULLGER informed Stn Cmdr HUTCHINSON that there was an on going police investigation whereby it was strongly suspected that there were items on the aircraft which were linked to the investigation and that we wanted to retrieve them. She was also told that we were desperately trying to contact Col GREEN but had been unable to locate him. Supt ULLGER asked her to please check the manifest to establish whether such items (computers and mobile phones) were on board. She agreed to revert to Supt ULLGER once she had checked the manifest.

At 1559Hrs Stn Cmdr HUTCHINSON called Supt ULLGER and stated that she had the manifest before her and that there was no computer equipment or phones logged in it. She was told that it was suspected that also on-board the aircraft was the serviceman subject of the investigation together with the exhibits appertaining to the case. She was informed that we had a warrant issued by the Chief Justice to retrieve these items which were in the possession of JPSU and that if she had any information she should be disclosing this to him. She was warned of the possible consequences of not co-operating with the requests. To this she stated that she would get back to Supt ULLGER. By responding as she did she was clearly revealing that she was withholding information. However, her word was taken at face value given the responsible post she holds and so the RGP patrol car with Insp PERERA was stood down and moved away from the airfield. Shortly after the aircraft returned to its stand within the apron.

At around 1515Hrs. whilst awaiting the arrival of PM COLLINS at the JPSU HQ at Gun Wharf I was asked by Sgt O'MALLEY to speak to Cmdr Jack Hawkins, PM COLLIN's line manager in the UK. The whole issue of whose jurisdiction over the matter was discussed with each of us arguing our respective positions. Cmdr Hawkins could not understand why we were taking such an interest in this case when the original offence had been disclosed in the UK. I repeated the RGP's position in the same way as it had been promulgated to PM COLLINS and Col GREEN. I also explained that in the absence of the JPSU co-operating with the RGP we had had to resort to securing a warrant from the Supreme Court of Gibraltar to retrieve the exhibits. Unsatisfied with what I saying Cmdr HAWKINS said he wanted to speak to the Chief Justice or a more senior police officer than me. PM COLLINS arrived at JPSU HQ at approximately 1625Hrs (40 minutes after I had arrived at the JPSU premises) whilst I was on the phone to his line manager.

PM COLLINS did not make himself available to me and I exercised great restraint in not asserting my authority under the circumstances and execute the warrant. Believe it or not I was still hopeful that PM COLLINS or his superiors would see sense and appreciate the levels this had reached. It was not to be and when I eventually was able to speak to PM COLLINS I expressed how unprofessional he had been in shunning me in the way he had. I accepted that this was an awkward for situation both of us but we had to be professional and resolve it without further conflict. I informed him that I would rather not execute the warrant and that we could still work the matter out favourably for both. PM COLLINS continued in his rigid way that he was at no liberty to discuss the matter with me. He kept receiving phone calls which he took in private. During one of these breaks in our conversation, I received reliable information that it was very likely that both the exhibits and WATTERSON were in fact on board the aircraft. This I relayed to my colleagues dealing with the airport side of the operation.

At 1629Hrs Supt ULLGER again called up Stn Cmdr HUTCHINSON asking for any update to their last conversation. She insisted that she could not see anything in the manifest to suggest computers were on board. Supt ULLGER told her to stop being selective with words as she perfectly knew what he was on about i.e. that we were seeking out property/exhibits relating to the WATTERSON investigation. She was warned yet again to which she nervously replied that she would call Supt ULLGER back.

At 1650Hrs Supt ULLGER again called Stn Cmdr HUTCHINSON and this time told her we had information that someone had disembarked from the aircraft with items. She was asked to confirm this and she replied that no-one or any cargo had been come off the aircraft. Supt ULLGER expressed his deep dissatisfaction at the misleading responses she was providing, informing her that RGP officers with eyeball on the aircraft had seen this happen. She again stated that she would revert to the Supt. She was reminded about the existence of the warrant and the fact that she could potentially be obstructing police in the execution of our duties. By this stage and by the tone of her voice Supt ULLGER made out that Stn Cmdr was clearly nervous and somewhat confused.

At 1659Hrs, Supt ULLGER called Stn Cmdr HUTCHINSON and told her that the traffic barriers had been down for an inordinate amount of time causing major disruption on all our roads. There was also a potential for public disorder amongst thousands of disgruntled pedestrians and motorists who had been held up for over two and a half hours. He requested that traffic was allowed to circulate forthwith. She stated that pedestrians would be released immediately but when pressed to release vehicular traffic too she said she was working on it.

A RGP patrol car was again despatched to the airfield. Insp PAYAS who was in this patrol car positioned it in the same spot as Insp PERERA had initially positioned himself. He was again approached by a GDP officer who asked him to move the patrol car out of from the airfield or hand over the keys. This was denied on the same basis as earlier. The yellow MOD road sweeper again drove towards the RGP patrol car to block its position and causing Insp PAYAS to evade this manoeuvre. The driver of the sweeper vehicle, Ms MUSCAT was spoken to and advised to desist in her actions as she was rendering herself liable to arrest for obstructing police. She obliged and moved her works vehicle to the area of the western hangar.

At this juncture COP informed me that on conversations with Cmdr Hawkins the latter had pleaded to COP to allow the aircraft to depart as the evidence was required in the UK to pursue the investigation against WATTERSON. This then uncovered the truth which confirmed that the evidence and WATTERSON were on the flight although the three senior MOD officials were saying different, clearly to deceive us.

Around this time, I enquired from PM COLLINS whether the exhibits we wanted to seize were in the building and he replied in the negative. I went to on to inform him that I practically knewthat both WATTERSON and the exhibits were on board the aircraft and that we would proceed to retrieve them. He made no remark to this but I noted he suddenly became very pale and uneasy. I became concerned that he had become unwell but he reassured me he was ok. He took one further private call and after that call his behaviour completely changed. He mellowed to suggest that we should explore the running of a parallel investigation and that he would be making available the exhibits for the RGP to examine. I informed him that this course of action was the

one I had suggested initially but had not met with his approval. I added that all the conflict and tensions experienced during the past few days could have been well averted.

The warrant issued by the Chief Justice was not executed in the end. At approximately 1745Hrs I was notified by COP that he had received assurances from the CBF that the exhibits would be handed over to the RGP in due course. Consequently, I returned to NMH where we held a de-brief and I arranged for an investigation team to liaise with JPSU to proceed with the investigation. The RGP vehicle positioned by the south barrier had also been recalled to NMH at 1745Hrs.

Final observations

You will no doubt have grasped how the escalation of tension was not down to lack of will or desire on our part to resolve the issues in a 'grown up' manner. In fact, as alluded to throughout the chronology of events, we made numerous requests for the handing over of the conduct of the [local] investigation. Sadly, we were taken to the limits only to finally achieve what we are perfectly entitled to. I take the following most salient moments as key to how the matter escalated to the levels they did with I dare say a clear devious intent on the part of the senior military officials we were dealing with;

- The poor judgement by JPSU of not sharing with the Gibraltar authorities the fact that they had a potential sex offender(s) in the jurisdiction and where it was reasonably suspected that offences may have been committed locally.
- The lack of supporting legal/tactical/logistical infrastructure for the JPSU to conduct enquiries in a territory where they claim to have jurisdiction and which in essence can lead to abuses of process.
- The lack of clarity on the part MOD's part as to who has primacy in Gibraltar.
- The local interpretation that the Armed Forces Act 2006 & 2016 are not applicable in Gibraltar: meaning the actions carried out JPSU could be construed as *ultra vires*.
- The intent by Col GREEN and PM COLLINS to disregard the authority of the RGP to assert jurisdiction over the local aspect of the investigation and undermine this authority further by making arrangements to sneak out the exhibits and WATTERSON when it was perfectly clear that the RGP had a [big] claim on the matter.
- The seemingly devious conspiracy employed by Col GREEN, PM COLLINS and Stn Cmdr HUTCHINSON to ensure the RGP could not discharge their lawful duty and create a situation to exert pressure on the RGP to relent in our efforts. This includes (i) the instructions issued to civilian MOD drivers to block the path of two RGP patrol cars who were legitimately engaged in a police operation, (ii) the misleading and obstructive attitude displayed by the Stn Cmdr regarding the exhibits and person on board the aircraft (iii) the unhelpful attitudes and stances displayed by Col GREEN and PM COLLINS throughout. (iv) the traffic chaos and potential public order situation created due to the very long time the traffic barriers were closed when there was no need for this.

Finally, you may have a different view to me on this but, Sir, I submit to you that there has certainly been a serious breach of trust and confidence by, in my view, the three senior military officials referred to in this report. It will be awkward to say the least to re-establish this trust and confidence wherever and whenever our respective roles coincide in the future.

COP has requested a meeting between the under mentioned parties to be held at the office of Her Majesty's Attorney General for Gibraltar Michael LLAMAS QC at 1130Hrs on Wednesday 22nd February 2017 to discuss issues to prevent a repetition on of events described in this report.

HMAG Michael LLAMAS QC
Senior Counsel Rickey RHODA QC
COP Eddie YOME
CBF Mike WALLIKER
Provost Marshall (Navy) Cmndr Jack HAWKINS
Provost Marshall Legal Advisor

I have relayed this meeting request to PM COLLINS and I am waiting for a response on acceptance or otherwise from Cmdr HAWKINS and the UK legal advisor for the services police.

Ian McGrail *QTM M.Sc.*
Detective Superintendent
Crime & Protective Services Division

Superintendent Tunbridge
Operations Division

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25th October 2019

To: Commissioner of Police

Attn: Frank Carreras OBE - PCB

Subject: OP APACHE – Complaint made to the PCB by Scott O'Malley and Claire Bell

Background to the matter in question:

In February 2017, I held the position of Detective Chief Inspector of the Crime & Protective Services Division. Detective Superintendent McGrail (now COP) was my direct line manager. In respect of Op Apache, I was the designated Senior Investigating Officer (SIO).

The events leading up to the commencement of Operation Apache & the incidents of the 8th February 2017 are described in full in the Commissioner's report submitted on this matter and I would respectfully ask you to refer to his report.

On receiving the initial information reference Watterson on the 4th February 2017, over the subsequent days, I had (together with Insp Enriles) a number of meetings and telephone conversations with the JPSU to attempt to deal with the matter appropriately, but to no avail. Consequently, on the 8th February 2017, the incident at the runway and South Dispersal transpired, whereby Watterson was attempted to be flown out of Gibraltar to the UK, together with exhibits that the JPSU had seized.

On the 8th February 2017, on receiving information that Watterson was to be removed from Gibraltar, together with the arrival of a military aircraft at the South Dispersal, prior to the incident at the runway, I spoke with Sergeant O'Malley over the telephone. The calls were as follows:

1. At 1519hrs - I telephoned the JPSU on call mobile and requested to speak with Provost Marshall Collins (as his mobile was switched off). JPSU Sergeant O'Malley stated that Collins was in a meeting with the Chief of Staff and was unavailable. I explained to him that it was imperative that contact was made, as this was in relation to the ongoing Watterson matter, to which the Sergeant took my contact number and confirmed he would call back ASAP.

2. At 1531hrs – As I had not received a call back, I again telephoned the JPSU on call mobile and again requested to speak with Collins. Sergeant O'Malley confirmed that he had had no luck. I asked him if he could confirm if the exhibits in question were still in Gibraltar and if they had been transported to the Military aircraft, which had just landed at North Front, to which he answered that he was unable to answer that, but understood the importance of my request. Again, he stated that he would attempt to contact Collins.

It was very clear that we were making no headway with the JPSU; we believed that this was all a ploy to enable the JPSU to continue with their planned manoeuvre to gain the advantage and be able to remove Watterson from Gibraltar. What must not be forgotten is that the JPSU were using these tactics, at the same time as senior Military personnel in Gibraltar informed the RGP that neither Watterson nor the exhibits were on the military aircraft. Therefore, with a search warrant (though not executed) together with other officers I entered the JPSU building and awaited the arrival of Collins.

In reality, both Watterson and the exhibits were in fact on the said aircraft, whereby they were subsequently removed and handed over to the RGP.

As per my Policy File Entry No.8 (pages 2689-2691), dated the 24th February 2017, in respect of the incident at RAF Gibraltar on the 8th February 2017 and to further our investigation the decision was made to (after consultation with the OCPL) apply for Search Warrants, under Section 19 of the Criminal Procedure and Evidence Act 2011 for the following offences:

1. Attempting to pervert the cause of Justice, contrary to Common Law
2. Conspiracy to pervert the cause of Justice, contrary to Common Law

There would be four Search Warrants applied for, in respect of the following premises and named persons:

1. Room 26, The Tower, HM Naval Base, in the name of Col Frank Green
2. Joint Provost Security Unit (JPSU), Gun Wharf, in the name of Provost Marshall Chris Collins
3. RAF Station HQ, Mouchotte Building, Spitfire Way, RAF Gibraltar, in the name of Wing Commander Liz Hutchinson
4. Air Movements Office, Western Hanger, RAF Gibraltar, in the name of Wing Commander Liz Hutchinson

In relation to the Search Warrant at the JPSU, the aim of the search was to seize, *"mobile phones, data storage media devices, day books, pocket books from all personnel involved in the investigation instigated by JPSU on Timothy Watterson and any other documentation or other items in relation to this mentioned investigation"*.

As per my Policy File entry No.8, page 2690, I state that, *"the reason for obtaining these said search warrants is that we have during the course of the investigation (Op Apache) suspected that the subjects named in the warrants conspired with others to pervert / obstruct RGP investigating officers (namely their actions of the 8/2/17) from accessing material pertinent to the enquiry, in the full knowledge that the RGP were exercising their lawful duties and the material in question was required to pursue the investigation. The course of public justice could thus not be fulfilled, with the extent of their actions culminating with a concerted attempt by all 3 named persons to take the exhibits in question out of Gibraltar, by flying them on a military plane back to the UK"*.

In order to ascertain / investigate the extent of the believed conspiracy within the JPSU, we required *"mobile phones, data storage media devices, day books, pocket books from all personnel involved in the investigation instigated by JPSU"*. This meant that we required these items from all the staff members within the JPSU and not just the Provost Marshall. The JPSU is a very small department, with limited personnel, so it was correct to believe that all its members would have been heavily involved in an investigation of this type and the transfer of Watterson and the exhibits to RAF Gibraltar and onwards to the UK.

The Stipendiary Magistrate, Mr Pitto authorized the said warrants on the 27th February 2017.

On Wednesday the 1st March 2017, the decision was made to execute the said search warrants. The four search warrants would be executed simultaneously and I would lead the team to the JPSU building. Prior to 1350hrs, same date, I telephoned JPSU's Master of Arms Claire Bell and requested that she and her JPSU officers attend their office immediately, as I was in possession of a search warrant for their offices. At about 1353hrs, together with other RGP Detectives in plain clothes and a uniformed SOCO officer under my command entered the JPSU building for the purpose of executing the said search warrant. Sergeant Scott O'Malley of the JPSU allowed the RGP access into the said building, where I identified myself (though he already knew who I was from previous meetings) and my officers and the reasons for our presence was explained to him, he was shown the search warrant and explained the items that we would be seizing. In addition, present within the said building were other JPSU staff members, namely:

1. Allan MacDonald
2. Matthew Hempstead

Shortly after, and because of my request, Claire Bell arrived at the JPSU building, as so did Leanne Buehling. As I had already done so with Sergeant O'Malley, I explained to her the reasons for our presence, showed her the said search warrant and highlighted the items we would be seizing. As can be seen on the said search warrant / Search Register on Page 1, section 1, Claire Bell signs as

"Yes" the relevant section stating, *"Was the owner/occupier handed a copy of Warrant/Authority **AND** of his Rights/Entitlements"*. Claire BELL had all the facts and reasons handed to her and explained. At the time, Provost Marshal Collins, the head of the JPSU was not in the building, as he was travelling at the time back from the UK and would be landing at the Gibraltar Airport later that afternoon. Meaning that Claire Bell, as Master at Arms was the senior officer of the JPSU present at that time.

At this time, Bell and O'Malley did raise concerns over the validity of the said search warrant and the seizing of pocket books, mobiles from all JPSU staff and referring to the fact that they were also Police. I explained that the reasoning behind this was covered in the search warrant and was all part of the suspected conspiracy.

During the course of the search, Sergeant O'Malley stated that he had his pocket book and mobiles at his residence. He was not under arrest, so we had no power to seize the said items. We were also not in possession of a search warrant for his residence. However, I asked him if he would voluntarily hand them over to Police, to which he answered in the affirmative. At no time did I or any of my officers' present, cause any intentional duress to any of the JPSU personnel present. There were no threats of arrest, no threats of violence, any constraints or any other action implied or used to coerce any of the JPSU personnel in doing something against their will or better judgement. This was also the case in respect of Bell and Buehling and their voluntary handing over of their items.

As a result, at about 1525hrs, Sergeant O'Malley left the JPSU building accompanied by only DC 127 Garcia-White and they went straight to his residence to recover the said items, as per the Search log, page 3A. DC Garcia-White (in plain clothes) entered the said residence with O'Malley and they were inside for no longer than 5 minutes, as O'Malley went straight for the items requested. No search of the residence was conducted as only the items requested were required. O'Malley's wife and child were in the house at the time, but friendly conversation between them all transpired during the said 5 minutes. At no time during this time did O'Malley inform the officer of his concerns about voluntarily handing over the items to Police. DC Garcia-White was present when we first entered the JPSU offices, whereby I informed the JPSU staff present that the persons with me were all RGP officers.

Subsequently, as per the Search log, page 4B the following items were voluntarily handed over by O'Malley from within his residence, at 19 West Walk, Europa Point between 1538hrs and 1544hrs:

1. Exhibit Book Entry No.24 – 1 x Black in colour Samsung mobile phone – LMGW/Telephone/1
2. Exhibit Book Entry No.25 – 1 x Black in colour Nokia 635 mobile phone and cable – LMGW/Telephone/2

3. Exhibit Book Entry No.26 – 1 x Note 3 Samsung mobile phone, 1 x Black phone case & 1 x white cable – LMGW/Telephone/3
4. Exhibit Book Entry No.27 – 1 x Pocketbook of Sergeant O'Malley – LMGW/DOC/5

At 1545hrs, I left the JPSU building, leaving DS 11 Goldwin and DS 10 Bautista in charge. At this stage, Sergeant O'Malley and DC Garcia-White had not returned to the JPSU building. I then made my way to the Gibraltar Airport awaiting the arrival of Provost Marshall Collins. On arresting Collins, I transferred him to NMH and I did not return to the JPSU building. I was not informed of any concerns or issues raised by any of the JPSU staff during the period that I was not there. The search terminated at 1631hrs, with no arrests made.

In the Exhibit Book, appertaining to the search at the JPSU building, entry numbers 3, 4, 10 & 11 show the exhibits handed over by O'Malley. These were recorded on a standard exhibits form with set headers referring to who seized and where items were seized. The relevant entries state that all four exhibits were seized (set header) from 19 West Walk, Europa Point and that the items were seized (set header) by, *"DC 127 Garcia White (handed over by Sgt Scott O'Malley)"*.

Within the Criminal Procedure and Evidence Act 2011, Codes of Practice, Code B refers to the Codes of practice for searches of premises by Police officers and the seizure of property found by police officers on persons or premises. For the purposes of this Code, 'premises' as defined in this Act section 2, includes any vehicle, vessel, aircraft or hovercraft any stall, tent or moveable structure (including an offshore installation) and any other place whatever, whether or not occupied as land.

The pertinent section for this matter is Code B5 - Search with consent, which states:

"B5.1. Subject to paragraph B5.3, if it is proposed to search premises with the consent of a person entitled to grant entry, the consent must, if practicable, be documented in the Search Register. The officer must make any necessary enquiries to be satisfied the person is in a position to give such consent (see Notes 5A and B).

B5.2. Before seeking consent the officer in charge of the search must state the purpose of the proposed search and its extent. This information must be as specific as possible, particularly regarding the articles or persons being sought and the parts of the premises to be searched. The person concerned must be clearly informed he or she is not obliged to consent and anything seized may be produced in evidence. If at the time the person is not suspected of an offence, the officer must say this when stating the purpose of the search".

B5.3. An officer cannot enter and search or continue to search premises under paragraph B5.1 if consent is given under duress or withdrawn before the search is completed".

Both Sergeant O'Malley and Master at Arms Bell are senior members of the JPSU locally and work under the ethos and rules of UK PACE. They fully knew that they were not under arrest, what my

limitations were and its implications. They both volunteered consent for the said items to be handed over and did not do so under any form of duress nor did they withdraw their consent at any stage. If they had not given their consent, the handing over of their items would not have occurred. The search at the JPSU building would have continued, and further search warrants to be able to search other identified locations would have had to been obtained. However, this was not required, as with their consent the searches were carried out.

The following are the Notes for Guidance for Code B for this section and state the following:

5A. In a lodging house or similar accommodation, every reasonable effort should be made to obtain the consent of the tenant, lodger or occupier. A search should not be made solely on the basis of the landlord's consent unless the tenant, lodger or occupier is unavailable and the matter is urgent.

5B. If the intention is to search premises under the authority of a warrant or a power of entry and search without warrant, and the occupier of the premises co-operates in accordance with paragraph B6.4, there is no need to obtain written consent.

In respect of section B6.4 (Entry without consent), the Searching of premises - general considerations, it states:

B6.4. The officer in charge of the search must first try to communicate with the occupier, or any other person entitled to grant access to the premises, explain the authority under which entry is sought and ask the occupier to allow entry, unless–

(a) The search premises are unoccupied;
(b) The occupier and any other person entitled to grant access are absent;
(c) There are reasonable grounds for believing that alerting the occupier or any other person entitled to grant access would frustrate the object of the search or endanger officers or other people".

Both Bell and O'Malley refer to Paragraph 5.3 of Code B of the Codes of Practice and that their permission was only given under duress. I categorically deny that any form of duress was directed to Bell, O'Malley or any other member of the JPSU by myself or any of my officers present.

Bell alleges that during the search warrant I said *"in a few days we will be laughing about this over a few beers"*, to which she replied to me *"we will never laugh about this, nor will we ever have a beer together"*. I was involved with this matter from the very outset. Not only was I the SIO for this operation, I was also the senior line manager in charge of our Public Protection Unit, incorporating our Safeguarding team. In addition, I was the chair for the Gibraltar Public Protection Panel, managing Gibraltar's registered sex offenders, through our Designated Risk Managers. I was fully aware of the seriousness of the allegations against Watterson, the risk this created, its implications and consequences for the local community. But, also how wrongly the JPSU had "policed" the Watterson matter, contrary to local MAPPA policy.

I would like to point out that during the days leading up to the 8th February 2017, I had gone to numerous meetings with both Collins and Bell, with senior Military personnel based in Gibraltar, received / read correspondence from very senior UK based military personnel, with the Attorney General, with the OCPL and senior RGP officers. As a result, I was more than fully aware of the serious implications and possible consequences this operation could create for HMGOG, the RGP and MOD future cooperation. I was physically at the runway on the 8th February 2017 and saw firsthand the impact our actions had on public confidence and subsequently evidenced via the international press. Her comments suggest that I was not taking the matter seriously and making jest out of it all. For the reasons I have stated above, I would not have made a comment of this type and I did not make this comment.

From the outset the JPSU staff acted totally outside of their local remit and without absolutely any appropriate authority when arresting Watterson, searching his residence and seizing exhibits and were actively involved in the attempted removal of Watterson by air. There was a clear display of unprofessional behaviour and a disregard and contempt of RGP authority and powers and Gibraltar PLC legislation.

It is important to remember that the JPSU's senior officer locally and two other individuals out of the top three military personnel in Gibraltar were in fact arrested for the offences stated above, whereas the RGP's actions were justified and backed with a search warrant legally obtained and with the support of the Attorney General and the OCPL.

Please do not hesitate to contact me if you require any further details or any clarification.

Wayne Tunbridge
Superintendent Operations
The Royal Gibraltar Police

Rear Admiral A D Radakin

Chief of Staff
Joint Forces Command
Northwood Headquarters
Sandy Lane
NORTHWOOD
Middlesex
HA6 3HP

Military 9360 58501
Direct (01923) 958501

8 March 2017

Dear Commissioner,

I am writing on behalf of Joint Forces Command – the organisation that commands and is responsible for the UK's permanent joint overseas bases – in respect of the ongoing investigations surrounding events on the 8th February, which unfolded in Gibraltar, in particular around Gibraltar International Airport.

There are a number of points that it seems appropriate to reflect to you. It is hoped these reflections are helpful to you on several accounts:

(1) first to acknowledge the role, advice and direction that Joint Forces Command provided to Commander British Forces Gibraltar on the legal issues impacting on the events of 8th February;

(2) secondly, to recognise and support the individuals involved and who are presently under your arrest and whose actions under your investigations were under the auspices of Joint Forces Command in the fulfilment of their duties. In doing so, it is understood these individuals' actions may have clashed with the responsibilities that your officers properly sought to fulfil; and

(3) finally, to reassure you about the seriousness with which Joint Forces Command views the allegations that have been made, the eagerness to try and satisfactorily settle – to everyone's satisfaction – the concerns with which the Royal Gibraltar Police are understandably investigating, and our genuine enthusiasm – if possible – to use these events as a platform to grow an even better understanding between our respective organisations and to build an even stronger and mutually respectful and beneficial future together.

Taking these points in turn:

Joint Forces Command regrets the events that took place in Gibraltar on the 8th February. This includes the events at Gibraltar International Airport and the dispute as to jurisdiction that led to the confusion by British Forces Gibraltar over the appropriate handling of the individual suspected of downloading indecent material whilst in the United Kingdom; and the detailed management of this particular case. It was the view of Joint Forces Command that the case was to be subject to exclusive Service Police jurisdiction – which turned out not to be correct. This was on the basis that Joint Forces Command was unaware of any potential offences that had been committed by the alleged suspect whilst in Gibraltar or of your suspicions in this respect.

It is acknowledged that in responding to your desire to explore potential illegal activities by

the suspect, Joint Forces Command and subsequently British Forces Gibraltar did not immediately recognise the jurisdictional legal primacy in this case for you to investigate, and if necessary, prosecute the individual were he to be found to have committed a similar or other offence in Gibraltar. I want to reassure you that subsequent additional advice, including at a senior legal level in the Ministry of Defence, recognises the legal primacy point in this case. Joint Forces Command now, therefore, fully understands and respects your legal primacy in this case as the law currently stands today.

We are aware that Her Majesty's Government of Gibraltar has prioritised the drafting of legislation and an MoU that will clearly spell out our respective, complementary jurisdictional roles. It would also be highly desirable for agreement to be reached between our respective agencies setting out the practical application of jurisdiction for the period between now and the enactment of such legislation.

In the course of the events that unfolded on the 8th February, it is considered very important by Joint Forces Command that you should understand that at all material times our people acted in good faith and to implement the direction and guidance provided by Joint Forces Command and Provost Marshal (Navy). They were not on a "frolic of their own" in any sense and were therefore not consciously seeking to deny your officers jurisdiction, or disrespect your officers' lawful instructions. They were acting entirely in keeping with the instructions they were receiving, albeit, with the benefit of hindsight, in a manner which did not assist in resolving matters as expeditiously as all would have preferred.

I think it is important for you to be made aware that there was a decision, as part of the Joint Forces Command application of our duty of care to our personnel, to return the suspect to the United Kingdom for the individual's own welfare. Again, this decision was based on the view that jurisdiction to deal with the offence in question remained exclusively with Forces law enforcement agencies – which turned out not to be correct. It was in pursuance of this requirement and judgement that more appropriate care would be afforded the suspect in the United Kingdom, that British Forces Gibraltar personnel were instructed to facilitate the opportunity of a military aircraft to both return the individual to the United Kingdom and to transport potentially incriminating evidence for forensic examination. I should clarify that, fundamentally, this was because the facilities at RAF Brize Norton were considered more appropriate for looking after the individual than those of British Forces Gibraltar, and, ordinarily, the capability for Service Police investigations overseas which require electronic and communications forensic analysis is held in the United Kingdom. It is in seeking to implement this approach that, unfortunately, personnel from British Forces Gibraltar had what were clearly unfortunate altercations with officers of the Royal Gibraltar Police who were acting in the lawful execution of their duties. I cannot emphasise to you how much we regret, with the benefit of hindsight and the later legal advice we have received, that we were not better able to cooperate with those of your officers in question. These altercations should not have happened and any active disagreement as to jurisdiction should, in any event, have been handled in the more dignified and usual manner for issues of this type. I must express to you in particular our genuine regret to hear accusations that British Forces Gibraltar personnel behaved disrespectfully towards officers of the Royal Gibraltar Police and that they were inconsiderate of the requirements under which your officers were seeking to undertake their lawful activities and investigations. That is not in the nature of the relationship we have long enjoyed between our organisations.

It is hoped, sincerely, that these events can be used to assist us all in a clearer understanding of the Royal Gibraltar Police's jurisdiction in respect of criminal matters and British Forces Gibraltar's application of service law: and that – looking ahead – there are considerable opportunities to enable our respective law enforcement agencies and leadership to work even more closely together. There are numerous significant opportunities to enable this: the routine business of service people in Gibraltar; the joint policing that is usually put in place for the arrival and duration of Royal Navy warships and submarines; and the ambition that we all have to draw further on various Gibraltar Parliament statutes

anticipated to be enacted later this year and which will provide a stronger and clearer platform for continued co-operation and enhanced security measures and resilience for Gibraltar.

It is hoped that this contextual information is of assistance in providing an appropriate and accurate background for many of the actions that Service Personnel took in the course of their duties in respect of the events and associated interactions that flowed from the 8th February incident.

Joint Forces Command assures you that there was not and never envisaged any intention to attempt to fetter the Royal Gibraltar Police's jurisdiction. That it appeared otherwise is deeply regretted. It is sincerely hoped that our future interactions are on a more positive basis and that we collectively work together to enhance the security of the United Kingdom and Gibraltar.

Yours sincerely,

Tony Radakin

Copy to:

External:
FCO/HE the Governor of Gibraltar
HMGoG/AG
FCO/Dir Europe
MoD/CLS Dir
MoD/DISP

Internal:
Comd JFC
DirResPol
CBF Gibraltar

Colonel F Green Late RE
HQ British Forces Gibraltar
Room 25
The Tower
BFPO 52

(General) 350 2005 5510
(Military) 9231 98531 5510
Frank.Green@mod.uk
DII GIB-HQBF-COS
Date: 9 March 2017

Dear Commissioner,

Re: Watterson

I write further to the events of 7-8 February 2017 in respect of the investigation by the RGP into the above captioned member of Her Majesty's Forces stationed in Gibraltar.

As you know, on those days I was in contact with officers of the Royal Gibraltar Police (RGP) as events unfolded in relation to your ongoing investigation into the above-captioned.

I have had sight of a letter that the Chief of Staff Joint Forces Command, Rear Admiral Tony Radakin, has sent to you dated 8 March 2017.

I note that the communication from Rear Admiral Radakin serves to clarify the position of the Ministry of Defence as to jurisdiction in respect of the above captioned. The letter also makes clear that, at all times, I was acting in the fulfilment of my duties as directed by my superiors, and on the advice from Joint Forces Command and Provost Marshal (Navy).

It now transpires that the advice on jurisdiction, which formed the basis for my directed actions, was not correct. I clearly did not know this at the time of the events and was, indeed, led to believe the opposite.

I would welcome the opportunity to come to see you for a face-to-face meeting as a further step towards the reconciliation we all seek and the restoration of the excellent relationship I have always enjoyed with the RGP.

Yours Sincerely

Provost Marshal (Gibraltar)
JPSU
British Forces Gibraltar
The Tower
BFPO 52

Telephone Gibraltar: (00350) 2005 5983
Military Network: 92319 8531 5983
Email: Gib-HQBF-SO2J2Sy@mod.uk

Edward Yome CPM
Commissioner
Royal Gibraltar Police
New Mole House
Rosia Road
Gibraltar

Our Reference: JPSU/0422/13/2017

Date: 9 March 2017

Dear Commissioner

Re: Watterson

I write further to the events of 7-8 February 2017 in respect of the investigation by the RGP into the above captioned member of Her Majesty's Forces stationed in Gibraltar.

As you know, on those days I was in contact with officers of the Royal Gibraltar Police (RGP) at JPSU Gun Wharf as events unfolded in relation to your ongoing investigation into the above-captioned.

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It now transpires that the advice on jurisdiction, which formed the basis for my directed actions, was not correct. I clearly did not know this at the time of the events and was, indeed, led to believe the opposite.

In light of the above, it will be evident to you that my actions on the dates in question at JPSU Gun Wharf were at all times taken in the good faith belief that my superiors were directing me to act in keeping with the law.

In particular, it was evidently not my intention to obstruct any officer of the RGP in the lawful performance of their duties, nor to obstruct their investigation, even less to have attempted to pervert, or to conspire to pervert, the course of justice. Nothing could have been further from my mind. Indeed, as a member myself of Her Majesty's Armed Forces, I am entirely committed to the observance of the law and of the rule of law. If any of my actions are seen by you as even remotely giving that impression, I sincerely and unreservedly apologise.

You will therefore not be surprised to know that I thoroughly regret the events that took place and wholeheartedly apologise if any of my actions are or were seen by you or your officers as any conscious desire or intent by me to obstruct any investigation by the RGP or to disrespect the RGP. I deeply regret that my actions may have led to this perception. I would wish to reiterate that I was acting in support and in furtherance of the MoD's understanding of its legal position and I was at all times seeking to fulfil my obligations as a directed member of a disciplined, uniformed, body with integrity and honesty.

It goes without saying that I fully respect the RGP and have worked well with them as an equal partner agency before the events of the past weeks. I sincerely hope that JPSU generally, and myself personally, will be able to return to the previously prevailing normality in which we both contribute towards the policing and security of Gibraltar, to the mutual benefit of this whole community and the United Kingdom. With the benefit of hindsight, if such an event occurred again I would seek to ensure a more constructive dialogue at an earlier stage and would certainly not act as I did on this disagreeable occasion.

I would welcome the opportunity to come to see you for a face-to-face meeting as a further step towards the reconciliation we all seek and the restoration of the excellent relationship I have always enjoyed with the RGP.

Yours Sincerely,

Chris Collins

C M COLLINS
Squadron Leader

Royal Air Force Gibraltar

Wing Commander L Hutchison
Station Commander
Station Headquarters
Mouchotte Building
Spitfire Way
RAF Gibraltar
BFPO 52
Tel: 00350 2005 3522
Fax: 00350 2005 3345
Email: GIB-RAF-stncdr@mod.uk

9th March 2017

Dear Commissioner,

Re: Watterson

I write further to the events of 7-8 February 2017 in respect of the investigation by the RGP into the above captioned member of Her Majesty's Forces stationed in Gibraltar.

As you know, on those days I was in contact with officers of the Royal Gibraltar Police (RGP) at Gibraltar International Airport as events unfolded in relation to your on-going investigation into the above-captioned.

I have had sight of a letter that the Chief of Staff Joint Forces Command, Rear Admiral Tony Radakin, has sent to you dated 8 March 2017.

I note that the communication from Rear Admiral Radakin serves to clarify the position of the Ministry of Defence as to jurisdiction in respect of the above captioned. The letter also makes clear that, at all times, I was acting in the fulfilment of my duties as directed by my superiors, and on the advice from Joint Forces Command and Provost Marshal (Navy).

It now transpires that the advice on jurisdiction, which formed the basis for my directed actions, was not correct. I clearly did not know this at the time of the events and was, indeed, led to believe the opposite.

In light of the above, it will be evident to you that my actions on the dates in question at Gibraltar International Airport were at all times taken in the good faith belief that my superiors were directing me to act in keeping with the law.

In particular, it was evidently not my intention to obstruct any officer of the RGP in the lawful performance of their duties, nor to obstruct their investigation, even less to have attempted to pervert, or to conspire to pervert, the course of justice. Nothing could have been further from my mind. Indeed, as a member myself of Her Majesty's Armed Forces, I am entirely committed to the observance of the law and of the rule of law. If any of my actions are seen by you as even remotely giving that impression, I sincerely and unreservedly apologise.

You will therefore not be surprised to know that I thoroughly regret the events that took place and wholeheartedly apologise if any of my actions are or were seen by you or your officers as any conscious desire or intent by me to obstruct any investigation by the RGP or to disrespect the RGP. I deeply regret that my actions may have led to this perception. I would wish to reiterate that I was acting in support and in furtherance of the MoD's understanding of its legal position and I was at all times seeking to fulfil my obligations as a directed member of a disciplined, uniformed, body with integrity and honesty.

It goes without saying that I fully respect the RGP and have worked well with them as an equal partner agency before the events of the past weeks. I sincerely hope that RAF Gibraltar generally, and myself personally, will be able to return to the previously prevailing normality in which we both contribute towards the policing and security of Gibraltar, to the mutual benefit of this whole community and the United Kingdom. With the benefit of hindsight, if such an event occurred again I would seek to ensure a more constructive dialogue at an earlier stage and would certainly not act as I did on this disagreeable occasion.

I am also particularly regretful if our inability to cooperate more effectively on the days in question resulted in inconvenience to the public.

I would welcome the opportunity to come to see you for a face-to-face meeting as a further step towards the reconciliation we all seek and the restoration of the excellent relationship I have always enjoyed with the RGP.

Yours sincerely

GIBRALTAR POLICE AUTHORITY
(The Community in Policing)

5th September 2017

Hon Fabian Picardo QC MP
Chief Minister
Office of the Chief Minister
No 6 Convent Place
Gibraltar

COP/D/74-17
ROYAL GIBRALTAR
OFFICE OF THE
11/09/2017
COMMISSIONER OF POLICE
POLICE

Dear Chief Minister,

Re.: Watterson Inquiry

I refer to your request to the Gibraltar Police Authority ("GPA") to enquire from the Royal Gibraltar Police ("RGP") into the events that transpired on and around 8th February 2017 relating to Sergeant Watterson (the "Watterson Incident").

We have reviewed the relevant reports prepared by the RGP in respect of the Watterson Incident, and have further discussed and raised questions relating to the effectiveness and probity of policing in Gibraltar by the RGP in connection therewith. In particular, we have interviewed the Commissioner of Police and his most senior ranking officers in relation to the Watterson Incident, being careful to understand the thought processes and considerations of the RGP officers involved in the Watterson Incident, including but not limited to (i) whether the consequences of the actions and restraint of the relevant RGP officers throughout the Watterson Incident were considered and deliberated; (ii) whether the actions of, and restraint shown by, the relevant RGP officers throughout the Watterson Incident were necessary and proportional; and (iii) whether with the benefit of hindsight any actions could or should have been taken differently by the RGP.

The GPA has come to the firm conclusion that the actions of and the restraint shown by the relevant RGP officers during the Watterson Incident were considered, deliberated, entirely proportional and highly commendable. As such, we do not doubt the effectiveness and probity of the policing demonstrated by the RGP in respect of

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Tel: 00 350 20040918, Fax: 00 350 20076847, e-mail: info@gpa.gi

the Watterson Incident. We would take the liberty of adding, though it may not be our place to do so, that the actions of certain MOD personnel in respect of the Watterson Incident deserve censure and that you should consider whether a full inquiry ought to be undertaken by a body independent of the RGP and the MOD so that lessons may be learnt from this incident.

I remain at your disposal should you wish to discuss this matter further.

Yours sincerely,

J.C Gonçalves MBE
Chairman

No.1, Casemates House, Casemates Square, Gibraltar
Tel: 00 350 20040916, Fax: 00 350 20076847, e-mail: info@gpa.gi

Police Complaints Board, Complaint against an RGP Officer(s)

michelle.hook@gpa.gi

Details:

Name: Mrs C L Bell, Royal Navy Police
D.O.B: 25 May 73
Address: 60 Broomfield Crescent, Gosport, Hampshire, England.
Telephone: +447427455673
Email: clairebell1973@hotmail.com or Claire.bell644@mod.uk

Who:

Police Officer details:
Commissioner of Police, Ian McGrail, RGP – Applied for warrant and was senior investigator.
Detective Chief Inspector, Wayne Tunbridge, RGP – Executed the warrant on the day in question.

Where:

JPSU offices, Gunwharf, HM Naval Base
Private Motor Vehicle (PMV) (Mr Macdonald).

When:

1 Mar 17, 1400 – 1540

What:

Who was involved?
Mrs Claire Bell
Mr Scott O'Malley
Mr Al Macdonald
Mrs Leanne Buehling

What:

DCI Tunbridge acted outside the remit of the warrant that was served on JPSU by seizing articles namely my Service Police Notebook from a PMV belonging which belonged to Mr Macdonald, neither I or the PMV were specified on the warrant, I did not consent verbally or in writing to this, DCI Tunbridge breached both the human rights act (Article 8) in relation to the above named people involved and also Para 5.3 of Code B – Codes of Practice by seizing my private mobile telephone. I also believe I was unlawfully detained for a period of time at JPSU whilst my personal mobile telephone was being seized.

Witnesses:

Mr Scott O'Malley
Mr Al Macdonald
Miss Leanne Buehling

Damage/injury:

No damage (unsure if my personal mobile telephone has been interrogated by the RGP), no physical injury. Emotional injury: Anxiety and stress.

Précis of events:

On 1 Mar 17 it is my belief that the RGP clearly acted outside the extent of a Warrant that was served upon my place of work, taking personnel either to their private motor vehicles, private home addresses or private living Accommodation to make various seizures of Private Mobile phones and other articles. It is my belief that the RGP had no lawful authority to seize private mobile phones and unlawfully and illegally entered private premises and vehicles to seize such items.

The RGP were acting under a warrant that legally entitled them to enter premises situated at Joint Provost Security Unit, Gun Wharf, it did not extend to, the RGP escorting myself to a Private Motor Vehicle (PMV) to seize my private mobile telephone, it did not extend to RGP escorting Mr McDonald to his PMV, in order to seize his private mobile phone, it did not extend to the RGP escorting Mr O'Malley to his family home at Europa Point and entering those premises, to seize his private mobile phone and it did not extend to the RGP escorting Miss Buehling to her private living accommodation at Devils Tower Camp, entering those premises and seizing her private mobile phone. I also contend that such an escort in these circumstances amounts to an infringement of our liberty and of our free movement and could be considered as an unlawful 'detention' under such circumstances.

More broadly under civil terms RGP officers have breached the human rights of all of us citing this complaint under Article7/8 of European Court of Human Rights (ECHR) and Article 7/8, Human Rights Act (HRA) 1998. I was never under arrest however; my personal mobile telephone was seized thereby breaching any rights to privacy.

Finally, to end, I would like to complain about the unprofessional way the search was actually conducted. The RGP did not wear any PPE, not even the minimum of a pair of gloves were worn, no photographs were taken of the articles prior to them being seized and more disturbingly, no information was ever sought regarding the occupants of a private home addresses which included Mr O'Malley's wife and four-year-old daughter. No justification was ever given on what articles were seized or not seized. No Explanation was ever given to us regarding the powers used to seize or retain such articles.

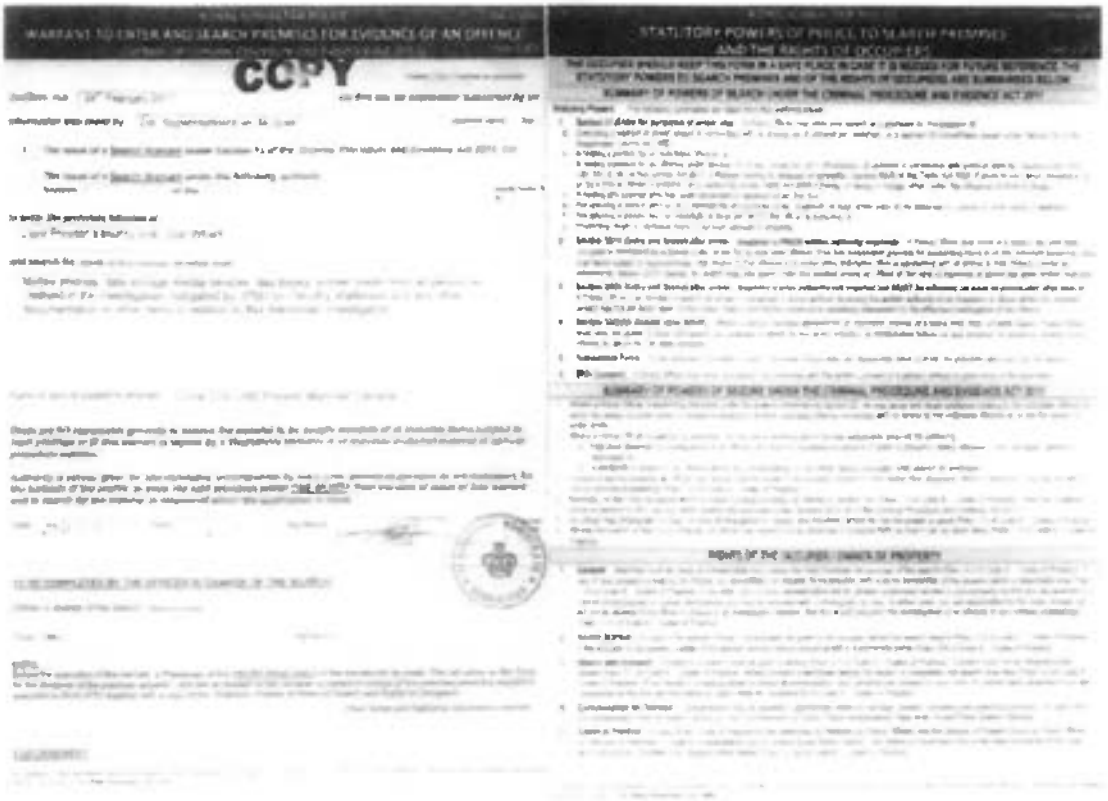
Below is an accurate précis of the events that occurred on 1 Mar 17 and a copy of the warrant served.

At approximately 1340 on 1 Mar 17, I received a telephone call from DCI Wayne Tunbridge who stated I was required to attend the Joint Provost and Security Unit (JPSU) at Her Majesty's Naval Base Gibraltar. I was instructed to round up my team and that he had a Warrant to conduct a search of JPSU and that he would explain further upon her arrival. He said he would not enter until my arrival. I left my house immediately leaving my wife in a very distressful state as she did know what may happen to me.

At 1400, upon request of the RGP, Mr O'Malley escorted the RGP into JPSU offices. DCI W Tunbridge, RGP spoke to him when they were interrupted by another RGP officer who stated, "has the Warrant been served?" to which DCI Tunbridge stated "yes".

The warrant was applied for by Det Sup McGrail on 24 Feb 17 and signed by the magistrate on 27 Feb 17 at 1220. The name of the person subject to the warrant was **Chris COLLINS** Provost Marshal Gibraltar. It stated the warrant was to enter the premises situated at "**Joint Provost Security Unit, Gun Wharf**" and search for "Mobile Phones, data storage media devices, day books, pocket books from all personnel **involved in the investigation** instigated by JPSU on Timothy Watterson and any other documentation or other items in relation to this mentioned investigation"

Mr O'Malley expressed at the time serious concerns about the legality and necessity of the warrant and expressed concerns about having to surrender his personal mobile device.



At 1405, I liaised with DCI Tunbridge, the Warrant was served on me, in disbelief I stated, "you are just about to serve a warrant on another policing agency, can you at least speak with Deputy Provost Marshall (Navy) (DPM (N))?" DCI Tunbridge stated that a decision had come from higher and that he was serving the Warrant and that DPM (N) needed to speak with the Commissioner not him. I signed the warrant and was subsequently given a copy of the warrant.

Both myself and Mr O'Malley continued to express concerns to DCI Tunbridge regarding the seizure of our private mobile telephones. He stated that the decision had come from higher up and was only acting on orders. He stated that he had no choice but to carry out the warrant. This statement did not seem very genuine.

DCI Tunbridge stated to me "in a few days we will be laughing about this over a few beers", I replied to DCI Tunbridge "we will never laugh about this, nor will we ever have a beer together"

At 1417, I was escorted out of JPSU offices to a vehicle which was parked outside JPSU, where they took possession of my Service Police Notebook. No warrant was produced to enter the PMV. I was then escorted back into the JPSU building and at 1425, my private personal mobile telephone was seized, which contained personal information and the device was my only way of communicating to my family back in the UK. In fear of being arrested, I handed my mobile telephone over to the police officer, under duress and without consent either written or verbal. I expressed at the time serious concerns about the legality and necessity of the warrant and about having to surrender my personal mobile device, when I questioned the police officer at the time "why they are taking my personal phone" he replied, "because they needed it".

The RGP officer did not identify himself, he did not show me his warrant card, he did not state the grounds for taking my property, he did not tell me what offence was being investigated or what part he believed I played in it, he did not explain what would happen to my property and did not give me a receipt for my personal property. I was not in arrest at any time however during course of the day I do believe that I had been unlawfully detained against my will at least between the hours of 1400 and 1540 on Wed 1 Mar 17.

At 1419, Mr A McDonald was escorted out of JPSU to his vehicle, which was parked outside JPSU, where they took possession of his personal mobile device, containing personal information. No warrant was produced to enter the vehicle. On completion of the search of Mr Macdonald's office he requested if he could leave as he had arranged to go in to Town with his wife. This request was denied by RGP who stated he had to remain until the search of JPSU was completed. Mr McDonald was not in arrest and his liberty was denied.

At 1515, Mr O'Malley again spoke with DCI Tunbridge challenging the requirement to seize his personal phone, as he was not in arrest, he again expressed his concerns and the property they were demanding were at his home address [redacted]

DCI, Tunbridge stated that he would be escorted to his home address by an RGP officer and he was to hand them over there. At 1516, he departed JPSU in company with an RGP officer to produce his mobile phones. At 1538, Mr O'Malley entered his Service Family Accomodation (SFA) the RGP officer entered behind him, uninvited and in front of his very worried and distraught wife, [redacted] and his [redacted] in fear of being arrested, under duress and without consent either written or verbal he handed over his mobile devices, duty mobile phone and service police notebook. The RGP officer did not identify himself, he did not show him his warrant card, he did not state the grounds for taking his property, he did not tell him what offence was being investigated or what part he believed Mr O'Malley played in it, he did not explain what would happen to his property and did not give him a receipt for the property. Mr O'Malley subsequently returned to JPSU. He was not in arrest at any time however during the course of that day I believe that he had been unlawfully detained, against his will at least between the hours of 1400 and 1540 on Wed 1 Mar 17.

At 1600, Miss L Buehling was escorted out of JPSU and escorted by RGP to her Service Living Accommodating (SLA) at Devil Tower Camp, (DTC) to surrender her personnel mobile device, which contained personal date. Miss Buehling expressed her concerns at the time even stating, "she did not want to hand over her personal phone" but she was informed by RGP that "she had to". She handed over her phone without consent either written or verbally and under duress. Miss Buehling subsequently returned to JPSU. Miss Buehling was not in arrest.

I make my complaint on two primary grounds but with each amounting to various breaches namely:

1. The RGP have no lawful authority to seize private mobile phones and have unlawfully and illegally entered PMV and private premises by which to seize such articles. The RGP were acting under a warrant that legally entitled them to enter premises situated at Joint Provost Security Unit, Gun Wharf – it did not extend to the RGP escorting me to a PMV, escorting Mr O'Malley to the SFA at Europa Point entering those premises and making seizures, it did not extend to the RGP escorting Miss Buehling to her SLA at DTC and seizing her private mobile phone. I also contend that such an escort in these circumstances amounts to an infringement of liberty and of theirs and my own free movement and could be considered as an unlawful 'detention' under such circumstances.

2. More broadly under civil terms RGP officers have breached my human rights under Article7/8 of ECHR and Article 7/8, HRA 1998. Mr O'Malley, Mr Macdonald, Miss Buehling and I were not arrested however personal mobile phones were seized thereby breaching any rights to privacy, correspondence, letters, telephone calls and emails etc. I would like this matter to be investigated and receive advice on under what legislation the RGP can interrogate my phone and the admissibility of any material obtained by such an intrusive interrogation of personal data.

There has been a delay in submitting my complaint, due to being informed by GoG and the MOD that and independent enquiry would take place, which would have highlighted the unlawful actions of the RGP and the unlawful treatment of MOD personnel. However, that enquiry has not taken place and is not taken place. There is also a delay in submitting this complaint due to the fear and threat of low-level harassment from the RGP, whilst I was still in Gibraltar. Now I am safely back in the UK away from the RGP who I view as having acted unlawfully, unethically and unscrupulously in this instance, I wish to submit my complaint.

Finally, I have been informed that the now Commissioner of Police, Ian McGrail at a recent conference stated that the investigation could be re-opened at any time **"he wishes"**. I am seriously concerned with this comment. I had in the past been informed that I may have been part of the wider investigation, which may have resulted in my arrest, to that end in line with the Subject Access Request, I wish to know what information the RGP hold on me.

I give my consent for you to pass the information contained on the letter to the professional standards department of the RGP in connection with the investigation of this complaint.

Signed:  Date: 19-Aug-19

In the matter of the Police Act, 2006

And

In the matter of the complaint by Claire Bell against the Royal Gibraltar Police

A complaint has been lodged by Mrs Claire Bell (the complainant) against the Royal Gibraltar Police ("RGP") alleging that Commissioner of Police Ian McGrail and Detective Chief Inspector Wayne Tunbridge acted outside the remit of a search warrant served on the Joint Provost and Security Unit (JPSU) and that the RGP carried out the search in a very unprofessional manner.

A sub-committee of the Police Complaints Board was constituted to investigate the complaints. Pursuant to regulation 3(3) of the Police Complaints Regulations, 2008, the Board has the power to regulate its own proceedings, to consider and investigate complaints.

The complaint was presented to the members of the sub-committee who have investigated the complaint.

The sub-committee has read the report submitted by the complainant who alleges that on 1 March 2017, the RGP acted outside the remit of a search warrant served on the JPSU by escorting her to her motor vehicle which was parked outside the JPSU and taking possession of her Service Police Notebook. The complainant further alleges that she handed over her mobile phone under duress and without her written or verbal consent. The complainant contends that the search warrant entitled the RGP to enter and search the JPSU but it did not extend to her vehicle or to the residence of other JPSU personnel. The complainant further alleges that RGP officers breached her rights under the European Convention on Human Rights and under the Human Rights Act 1998. She claims that because she was not arrested and having her personal mobile phone and the Service Police Notebook seized, this action breached her rights to privacy, correspondence, letters, telephone calls and emails.

The sub-committee also notes the complainant's concern regarding a statement made by Commissioner of Police, Ian McGrail in a recent conference that **"he could re-open the investigation at any time, if he so wished."** However, when asked, Commissioner of Police Ian McGrail categorically denied having made such a statement.

The sub-committee has also read the report and supporting documents submitted by the RGP outlining the said events according to police records. It has taken note of the fact that at the time when the search warrant was executed, Commissioner of Police Ian McGrail held the position of Detective Superintendent and Superintendent Tumbridge held the position of Detective Chief Inspector. The sub-committee also notes that the aim of the search warrant was to seize mobile phones, data storage media devices, day books, pocket books and all other material in the possession of those individuals involved in the investigation instigated by JPSU on Timothy Watterson.

The sub-committee notes from the report submitted by Superintendent Tumbridge that on 1 March 2017, he executed the search warrant and that he identified himself and his men to Mr Scott O'Malley who allowed them access into the JPSU building. Superintendent Tumbridge claims that he served the complainant with the search

warrant and explained to her the reason for his presence and informed her of the items he would be seizing. It is also noted that the warrant was signed by the complainant and later the RGP provided her with a copy.

Notwithstanding the above and the fact that the warrant allowed for the seizure of certain items, it is noted that the complainant expressed her concern over the legality and necessity of the search warrant and the surrendering of the Service Police Notebook and mobile phone. Superintendent Tumbridge claims that he explained to the complainant that the reason for seizing the material was covered in the search warrant and it was all part of the suspected conspiracy.

The sub-committee also notes that Commissioner of Police Ian McGrail was the officer who applied to the Court for the issue of a warrant to enter and search the said premises and understands that he did not physically partake in the search of the JPSU or the complainant's motor vehicle.

In his report, Superintendent Tumbridge explains that the items seized were handed over by the complainant and other JPSU personnel to the RGP voluntarily and that at no time did he or any of his men cause any intentional duress to the complainant or to any other JPSU personnel. He further claims that there were no threats of arrest, no threats of violence, any constraints or any other action implied or used to coerce the complainant in doing something against her will or better judgment. This is in conflict with the statement made by the complainant in that the items were taken without her oral or written consent. Superintendent Tumbridge acknowledges that the complainant was not under arrest and therefore he had no power to seize the items. He further confirms that he was not in possession of a warrant to search the complainant's vehicle.

In arriving at its decision, the sub-committee has considered all the reports, statements and evidence submitted by Mrs Claire Bell, the Commissioner of Police Ian McGrail, Superintendent Tumbridge and has also taken note of the advice provided by Counsel.

The sub-committee finds that:

The RGP were legally entitled to enter and carry out a search of the JPSU and seize the equipment authorise under the warrant;

The warrant did not extend to the complainant's motor vehicle or to the residence of the other JPSU personnel and therefore the RGP were not legally entitled to enter and search the said premises and motor vehicle without the prior permission of the complainant in the case of her motor vehicle and the other JPSU personnel in respect of their respective residence (this is acknowledged by the RGP in their report). However, there are conflicting statements from both the complainant and the RGP in relation to the seizure of the equipment from the complainant's vehicle. The complainant alleges that she did not grant permission to the RGP to escort her to her vehicle and seize the material sought. She further alleges that such an escort amounted to an infringement of her liberty and free movement and could be considered as an unlawful detention. It is alleged by the RGP that the complainant and all JPSU personnel handed over all material voluntarily.

On the basis of the above and considering all the evidence presented, the sub-committee has come to the conclusion that there is insufficient evidence to find, on a balance of probabilities, that the RGP acted unlawfully and illegally when entering the residence of the JPSU personnel and the complainant's vehicle to obtain the

equipment sought and that the action of the RGP did not breach any human rights afforded of the complainant and other JPSU staff under the European Convention on Human Rights and the Human Rights Act 1998.

The Police Complaints Board has considered the findings of the sub-committee and finds that the RGP did not act unprofessionally in the execution of their duties and, therefore, the complaint has not been sustained. The complaint made against the Commissioner of Police Ian McGrail and Superintendent Wayne Tumbridge is, therefore, dismissed.

Dated this 29 May 2020.



Chairman
Police Complaints Board

(GPA) Secretary

From: Claire.Bell644@mod.uk
Sent: Wednesday, 8 July 2020 11:00
To: (GPA) Secretary
Subject: PCB Ruling

(GPA) Secretary <secretary@gpa.gi>

Good Afternoon,

Under the Police Complaints Regulations, 2008 I am entitled to request that the Gibraltar Police Authority review the decision of the Police Complaints Board.

'I consider that the decision or recommendation of the Board was manifestly wrong or perverse and that no reasonable Board properly considering the complaint could have come to that decision or recommendation.'

Having read the response of the board, the board agreed that the search warrant did not extend to my Private Motor Vehicle and therefore RGP were not legally entitled to enter and search and seize my property, however the board concluded there was insufficient evidence to find on the balance of probabilities that the RGP acted unlawfully and illegally when entering my PMV and seizing my personal mobile telephone. The decision is based on "conflicting statements".

If, as DI Tunbridge states, I gave consent, for my PMV to be searched and my personal mobile phone to be seized please can you confirm the board was provided with a copy of the relevant pages of the police notebook showing what I agreed to, a copy of the documents where I gave my written consent and where I signed. (Search with consent: Consent of search must be **given in writing** (Para 5.1 of Code B – Codes of practice). A police officer acting lawfully and in accordance with RGP codes of practice would have some record of my signature where I am giving written or verbal consent.

Can you confirm that it has been evidenced to the board of my written consent in the search register. The codes state 'B5.1. Subject to paragraph B5.3, if it is proposed to search premises with the consent of a person entitled to grant entry, the consent must, if practicable, be documented in the Search Register. The officer must make any necessary enquiries to be satisfied the person is in a position to give such consent (see Notes 5A and B).'

Can you please confirm the board was provided with a copy of the strategy and decision log for the investigation that shows the reasons, grounds and necessary criteria for the arrests, **searches and subsequent seizures of devices.**

Can you please confirm the board viewed a copy of the original search warrant that was applied for and refused, were the board furnished with the reasons why it was originally refused and IAW codes what were the additional grounds provided in order to get the second search warrant approved. (codes state 'B3.8. If a search warrant application is refused, a further application may not be made for those premises unless supported by additional grounds)

If the board did view all the aforementioned documents can I please have a copy.

Let me make this very clear, I never verbally gave consent for my PMV to be searched and I never gave consent in writing. I disputed the legality of the search and the seizure from the outset to Wayne Tunbridge and other officers present. I complained immediately to my CoC about the unlawful search, search and treatment by the RGP (which I have kept an email record of). My private mobile phone was handed over under duress, I opened my vehicle up for the RGP to search under duress. **Consent must not be obtained under duress** (Para 5.3 of Code B – Codes of Practice)

Police Complaints Board, Complaint against an RGP Officer(s)

michelle.hook@gpa.gi

Details:

Name: Sgt Scott John O'Malley, Royal Air Force Police, Joint Provost and Security Unit (JPSU)
D.O.B: 8 Sep 73
Address: 19 West Walk, Europa Point.
Telephone: +447792730108
Email: scottjohnomalley@yahoo.com or scott.omalley532@mod.gov.uk

Who:

Police Officer details:
Commissioner of Police, Ian McGrail, RGP – Applied for warrant and was senior investigator.
Detective Chief Inspector, Wayne Tunbridge, RGP – Executed the warrant on the day in question.

Where:

JPSU offices, Gunwharf, HM Naval Base
19 West Walk, Europa Point.

When:

1 Mar 17, 1400 – 1540

What:

Who was involved?
Sgt Scott O'Malley
MAA Claire Bell
FS Al Macdonald
Cpl Leanne Buehling

What:

DCI Tunbridge acted outside the remit of the warrant that was served on JPSU by seizing my personal devices from my home address, neither I or my home address were specified on the warrant, I did not consent verbally or in writing to this, he breached both the human rights act (Article 8) in relation to the above named people involved and also Para 5.3 of Code B – Codes of Practice. I also believe I was unlawfully detained for a period of time at JPSU and also within my own house whilst my personal items were being seized.

Witnesses:

Sgt Rebecca Kinsey, Nurse, PRMC.
[redacted] wife of Sgt Scott O'Malley – kristinaomalley@gmail.com
[redacted] of Sgt and Mrs O'Malley.

Damage/injury:

No damage, no physical injury. Emotional injury: Anxiety, stress and lack of sleep are on-going with treatment from the Senior Medical Officer at the PRMC, Devils Tower Camp and Dr Mejia at the Medical Investigation Unit at St Bernard's Hospital.

Précis of events:

On 1 Mar 17 it is my belief that the RGP clearly acted outside the extent of a Warrant that was served upon my place of work, taking personnel either to their private motor vehicles, private home addresses or private living Accommodation to make various seizures of Private Mobile phones and other articles. It is my belief that the RGP had no lawful authority to seize private mobile phones and unlawfully and illegally entered private premises and vehicles to seize such items.

The RGP were acting under a warrant that legally entitled them to enter premises situated at Joint Provost Security Unit, Gun Wharf, and upon Sqn Ldr Chris Collins whom was not present at the scene. – it does not extend to the RGP escorting Mrs Bell to a private motor vehicle to seize an article, it did not extend to RGP escorting Mr McDonald to his private motor vehicle, in order to seize his private mobile phone, it did not extend to the RGP escorting me to my family home at Europa Point and entering those premises, to seize my private mobile phone and it did not extend to the RGP escorting Miss Buehling to her private living accommodation at Devils Tower Camp, entering those premises and seizing her private mobile phone. I also contend that such an escort in these circumstances amounts to an infringement of our liberty and of our free movement and could be considered as an unlawful 'detention' under such circumstances.

More broadly under civil terms RGP officers have breached the human rights of all of us citing this complaint under Article 5/7/8 of European Court of Human Rights (ECHR) and Article 7/8, Human Rights Act (HRA) 1998. I was never under arrest however; personal mobile phones were seized thereby breaching any rights to privacy.

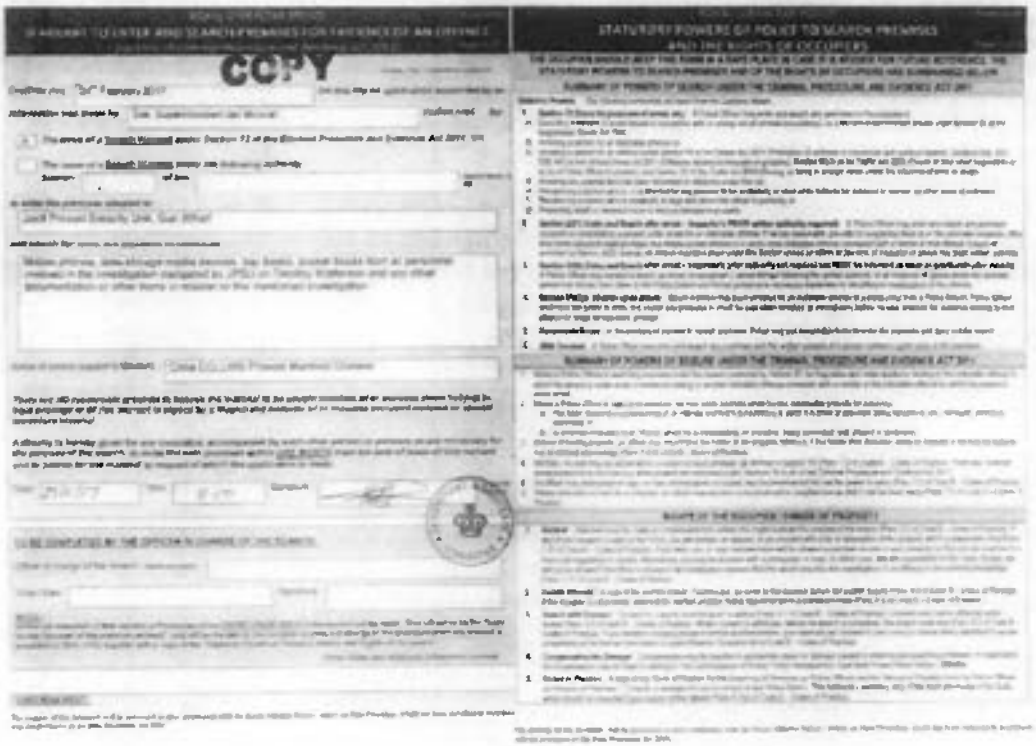
Finally, to end, we would like to complain about the unprofessional way the search was actually conducted. The RGP did not wear any PPE, not even the minimum of a pair of gloves were worn, no photographs were taken of the articles prior to them being seized and more disturbingly, no information was ever sought regarding the occupants of a private home addresses which included my wife and four-year-old daughter. No justification was ever given on what articles were seized or not seized. No Explanation was ever given to us regarding the powers used to seize or retain such articles.

Below is an accurate précis of the events that occurred on 1 Mar 17 and a copy of the warrant served.

At approximately 1340 on 21 Mar 17, Mrs Claire Bell received a T/C from DCI Wayne Tunbridge who stated she was required to attend the Joint Provost and Security Unit (JPSU) at Her Majesty's Naval Base Gibraltar, she was instructed to round up her team and that he had a Warrant to conduct a search of JPSU and that he would explain further upon her arrival. He said he would not enter until her arrival.

At 1400, upon request of the RGP, I escorted the RGP into JPSU offices. DCI W Tunbridge, RGP spoke to me when they were interrupted by another RGP officer who stated "has the Warrant been served?" to which DI Tunbridge stated "yes".

The warrant was applied for by Det Sup McGrail on 24 Feb 17 and signed by the magistrate on 27 Feb 17 at 1220. The name of the person subject to the warrant was Chris COLLINS Provost Marshal Gibraltar. It stated the warrant was to enter the premises situated at "Joint Provost Security Unit, Gun Wharf" and search for "Mobile Phones, data storage media devices, day books, pocket books from all personnel involved in the investigation instigated by JPSU on Timothy Watterson and any other documentation or other items in relation to this mentioned investigation" I expressed at the time serious concerns about the legality and necessity of the warrant and expressed concerns about having to surrender my personal mobile device.



At 1405 Mrs Claire Bell, liaised with DCI Tunbridge. Again the Warrant was served on her she stated her disbelief and "you are just about to serve a warrant on another policing agency, can you at least speak with Deputy Provost Marshall (Navy) (DPM (N))?" DCI Tunbridge stated that a decision had come from higher and that he was serving the Warrant and that DPM (N) needed to speak with the Commissioner not him. Mrs Claire Bell signed and was given the copy of the warrant.

Both Mrs Bell and I continued to express concerns to DCI Tunbridge. He stated that the decision had come from higher up and was only acting on orders. He stated that he had no choice but to carry out the warrant. This statement did not seem very genuine.

At 1417, Mrs Bell was escorted out of JPSU offices to a vehicle which was parked outside JPSU, where they took possession of her Service Police Notebook. No warrant was produced to enter the vehicle. Mrs Bell was then escorted back into the JPSU building and at 1425; her private personal mobile device was seized, which contained personal information. Mrs Bell handed her mobile device over under duress and without consent either written or verbal. Mrs Bell expressed at the time serious concerns about the legality and necessity of the warrant and about having to surrender her personal mobile device, when she questioned the police officer at the time "why they are taking her personal phone" he replied "because they needed it".

At 1419, Mr A McDonald was escorted out of JPSU to his vehicle, which was parked outside JPSU, where they took possession of his personal mobile device, containing personal information. No warrant was produced to enter the vehicle. On completion of the search of Mr Macdonald's office he requested if he could leave as he had arranged to go in to Town with his wife. This request was denied by RGP who stated that they would rather remain until the search of JPSU was completed. Mr McDonald was not in arrest and his liberty was denied.

At 1515, I again spoke with DCI Tunbridge challenging the requirement to seize his personal phone, as I was not in arrest, I again expressed my concerns and the property they were demanding were at my home address [redacted]

DCI, Tunbridge stated that I would be escorted to his home address by an RGP officer and I was to hand them over there. At 1516, I departed JPSU in company with an RGP officer to produce my mobile phones. At 1538, I entered my home address, the RGP officer entered behind me, uninvited and in front of my worried and distraught wife, [redacted] and my [redacted] upon request and in fear of being arrested I handed over under duress and without consent either written or verbal over, my mobile devices, duty mobile phone and service police notebook. The RGP officer did not identify himself, he did not show me his warrant card, he did not state the grounds for taking my property, he did not tell me what offence was being investigated or what part he believed I played in it, he did not explain what would happen to my property and did not give me a receipt for the property. I subsequently returned to JPSU. I was not in arrest at any time however during the course of their actions that day I believe that I had been unlawfully detained, against my will at least between the hours of 1400 and 1540 on Wed 1 Mar 17.

At 1600, Miss L Buehling was escorted out of JPSU and escorted by RGP to her living accommodating at Devil Tower Camp, (DTC) in order to surrender her personnel mobile device, which contained personal date. Miss Buehling expressed her concerns at the time even stating "she did not want to hand over her personal phone" but she was informed by RGP that "she had to". She handed over her phone without consent either written or verbally and under duress. Miss Buehling subsequently returned to JPSU. Miss Buehling was not in arrest.

I make my complaint on two primary grounds but with each amounting to various breaches namely:

1. The RGP have no lawful authority to seize private mobile phones and have unlawfully and illegally entered private premises by which to seize such articles. The RGP were acting under a warrant that legally entitles them to enter premises situated at Joint Provost Security Unit, Gun Wharf – it does not extend to the RGP escorting me to my SFA at Europa Point entering those premises and it did not extend to the RGP escorting Cpl Buehling to her SLA at DTC and seizing her private mobile phone. I also contend that such an escort in these circumstances amounts to an infringement of liberty and of their free movement and could be considered as an unlawful 'detention' under such circumstances.

2. More broadly under civil terms RGP officers have breached the human rights of JPSU staff under Article7/8 of ECHR and Article 7/8, HRA 1998. MAA Bell, FSgt Macdonald, Cpl Buehling and I were not arrested however personal mobile phones were seized thereby breaching any rights to privacy, correspondence, letters, telephone calls and emails etc. I would like this matter to be investigated and receive advice on under what legislation the RGP can interrogate my phone and the admissibility of any material obtained by such an intrusive interrogation of personal data.

There is a delay in this complaint which is due to having been promised an independent review of the whole investigation. I have recently been informed will now not take place, the request of my Chain of Command to wait due to on-going legislation with GoG and MOD that could be impacted by this complaint and the perceived threat of low-level on-going harassment from the RGP for the remainder of my time here in Gibraltar, which thankfully is now coming to an end. I still wish this complaint to be pursued for my own sanity, health and wellbeing and also to get closure for what has been a very difficult and stressful two and a half years.

Finally, we have heard that the investigation is not formally closed, the Chief of Police has threatened to reopen the case at any time and that I may have been part of this wider investigation to that end, in line with the Subject Access Request, I wish to know what information the RGP hold on me.

I give my consent for you to pass the information contained on the letter to the professional standards department of the RGP on connection with the investigation of this complaint.

Signed: SO'HALLEY Date: 19-Aug-19

In the matter of the Police Act, 2006

And

In the matter of the complaint by Scott John O'Malley against the Royal Gibraltar Police

A complaint has been lodged by Mr Scott John O'Malley (the complainant) against the Royal Gibraltar Police ("RGP") alleging that Commissioner of Police Ian McGrail and Detective Chief Inspector Wayne Tunbridge acted outside the remit of a search warrant served on the Joint Provost and Security Unit (JPSU) and that the RGP carried out the search in a very unprofessional manner.

A sub-committee of the Police Complaints Board was constituted to investigate the complaints. Pursuant to regulation 3(3) of the Police Complaints Regulations, 2008, the Board has the power to regulate its own proceedings, to consider and investigate complaints.

The complaint was presented to the members of the sub-committee who have investigated the complaint and have established that:

The complainant alleges that on 1 March 2017, the RGP acted outside the remit of a search warrant served on the JPSU by escorting him to his family home at Europa Point, entering the said premises and seizing his mobile phones and other material without his written or verbal consent. The complainant contends that the search warrant legally entitled the RGP to enter and search the JPSU but it did not extend to his home. The complainant further alleges that the RGP officers breached his rights under the European Convention on Human Rights and under the Human Rights Act 1998. He claims that because he was not arrested and having his personal mobile phones seized, this action breached his rights to privacy, correspondence, letters, telephone calls and emails.

The sub-committee also notes the complainant's concern regarding a statement made by Commissioner of Police, Ian McGrail in a recent conference that **"he could re-open the investigation at any time, if he so wished."** However, when asked, Commissioner of Police Ian McGrail categorically denied having made such a statement.

The sub-committee has also read the report and supporting documents submitted by the RGP outlining the said events according to police records. It has taken note of the fact that at the time when the search warrant was executed, Commissioner of Police Ian McGrail held the position of Detective Superintendent and Superintendent Tumbridge held the position of Detective Chief Inspector. The sub-committee also notes that the aim of the search warrant was to seize mobile phones, data storage media devices, day books, pocket books and all other material in the possession of those individuals involved in the investigation instigated by JPSU on Timothy Watterson.

The sub-committee notes from the report submitted by Superintendent Tumbridge that on 1 March 2017, he executed the search warrant and that he identified himself and his men to the complainant who allowed them access into the JPSU building. Superintendent Tumbridge claims that he showed the complainant the search warrant and explained to him the reason for his presence and informed him of the items he would be seizing.

(GPA) Secretary

From: O'Malley, Scott Sgt (RAFP-HQ A5 Policy FS2) <Scott.OMalley532@mod.gov.uk>
Sent: Tuesday, 7 July 2020 14:20
To: (GPA) Secretary
Subject: PCB Ruling
Attachments: Warrant.pdf

Good afternoon,

Under the Police Complaints Regulations, 2008 I am entitled to request that the Gibraltar Police Authority review the decision of the Police Complaints Board.

'I consider that the decision or recommendation of the Board was manifestly wrong or perverse and that no reasonable Board properly considering the complaint could have come to that decision or recommendation.'

I maintain that I have been the victim of inappropriate conduct by RGP police officers.

I hope that amongst other things the result of my complaint is intended to be of help to the RGP in identifying and addressing areas of police performance.

Having read the response of the board I wish a review as I disagree with the original findings for the following reasons.

1. Firstly, and in addition to my original complaint, it should be noted that the focus of the RGP investigation should have always and only centred on Sgt Timothy Watterson, NOT members of JSPSU. Watterson was a member of HM Forces and British citizen, who committed a crime in the UK prior to arriving in Gibraltar. Whilst a great deal was made of the Armed Force Act amendment, 2016, removing jurisdiction from the service police, the NATO Statement of Force Agreement (SOFA) dated 19 Jun 51, is and always was in force. This states in Article VII
    a. Subject to the provisions of this Article,
    b. the military authorities of the sending State shall have the right to exercise within the receiving State all criminal and disciplinary jurisdiction conferred on them by the law of the sending State over all persons subject to the military law of that State;
    c. the authorities of the receiving State shall have jurisdiction over the members of a force or civilian component and their dependents with respect to offences committed within the territory of the receiving State and punishable by the law of that State.
2. This should have allowed members of HM Forces military police to investigate the alleged offences carried out by Sgt Watterson. In regard to primacy and jurisdiction, early co-operation between RGP and JSPSU could have jointly, quickly and satisfactory resolved the alleged crimes carried out by Watterson. Instead RGP took over the investigation, they did not find any evidence of offences, they allowed a suspected paedophile back on to the streets of Gibraltar and caused a delay of over 16 weeks. A subsequent UK military investigation proved his guilt, resulting in a custodial sentence of 2 years 9 months.
3. How many other RGP investigations have allowed 'guilty' suspects back on the streets of Gibraltar, either civilian or military?
4. On reflection I now believe that the allegations and actions by RGP against JSPSU and members of HM Forces in Gibraltar we politically motivated and lead to an unnecessary, malicious investigation, into not only myself but all my colleagues whom were affected by this investigation.
5. I would like to see the strategy and decision log for the investigation that shows the reasons, grounds and necessary criteria for the arrests, searches and subsequent seizures of devices, for what were extremely serious allegations. I would also like to see the original warrant, what it contained and why it was refused the first time, the codes state 'B3.8. If a search warrant application is refused, a further application may not be made for those premises unless supported by additional grounds' what were the additional grounds? The codes also state 'Unless sub-paragraph B6.4(c) applies, if the premises are occupied the officer, subject to paragraph B2.9,

must, before the search begins– (a) **identify himself or herself, show his or her warrant card (if not in uniform) and state the purpose of and grounds for the search**;' This did not happen at Gunwharf nor at Europa point.

6. Your report is dated 29 May 20, why did it take until 12 Jun 20 for me to receive this report? My original complaint dates from an incident on 1 Mar 17, and my complaint was submitted on 19 Aug 19, over 10 months ago.
7. It was stated that I gave consent to hand over my note book, mobile phone and electronic devices and that I gave consent to allow DC 127 Garcia-White into my property. I did not, I wish to make this extremely clear, at no time did I give permission verbally or in writing, I would like to know where the written evidence to the contrary is recorded and if so see a copy of the written record?
8. Form SEA2 – Warrant to enter and search premises for evidence of an offence, details JSPSU, Gun Warf, and Chris COLLINS, Provost Marshall Gibraltar. It does not state 19 West Walk and it does not name me, it does not specify my personal electronic items.
9. I want to see the written copy of the warrant allowing **my** items to be seized and **my** premises to be entered.
10. If, as DI Tunbridge states, I gave consent, provide me with a copy of the relevant pages of his police notebook showing what I agreed to, where I gave my written consent and where I signed.
11. Form SEA5 – Statutory powers of police to search premises and the rights of occupiers, (attached) states a copy of the warrant should, if practicable be given to the occupier before the search begins (Para 6.8 of code B – Codes of practise). This did not happen.

and

12. Search with consent: Consent of search must be **given in writing** (Para 5.1 of Code B – Codes of practice). **Consent must not be obtained under duress** (Para 5.3 of Code B – Codes of Practice). I did not give my consent in writing and I was under duress.
13. I want to see a copy of my written consent in the search register. The codes state 'B5.1. Subject to paragraph B5.3, if it is proposed to search premises with the consent of a person entitled to grant entry, the consent must, if practicable, be documented in the Search Register. The officer must make any necessary enquiries to be satisfied the person is in a position to give such consent (see Notes 5A and B).'
14. As already explained in my original complaint any inferred co-operation was under duress from RGP officers. Ian McGrail stated to me in a meeting a few days prior, that he has previously arrested other police officers (although he did not explain what for), implying that he may arrest me. At the time of this incident, RGP officers had already arrested the Chief of Staff, the Station Commander and Provost Marshall Gibraltar. They were arrested for conspiracy to pervert the course of justice, I believe that this could carry a life sentence in prison if found guilty? I was most definitely under duress and did not want to be arrested next!
15. The implication from your report is that Ian McGrail, DI Tunbridge and DC Garcia White are being completely honest and due the fact our statements differ I must be lying? I do not accept this. I have provided written evidence to back up my concerns and complaint. Where is the documentary evidence from the RGP to prove I gave my consent, to prove they acted lawfully in their actions and did not breach my human rights?
16. DI Tunbridge stated I was under no obligation to hand over my personal items, he never said or explained this at the time, what would have happened had I not handed them over? I expect I would have been arrested, surely you can understand my thought processes and the duress from internal and external factors that affected my decisions?
17. Whilst I agree that I did physically hand over these items, I stated my reluctance to DI Tunbridge and DC Garcia-White several times at the time, this was met with negative response. Where were my response recorded? Have you checked their police pocket books?
18. In the report DI Tunbridge stated that 'at no time did he or any of his men did not cause any intentional duress to the complainant' he is therefore implying that he recognised I was under duress whether intentional or not.
19. Having been dealt with by the RGP, in line with the guidance provided in the Freedom of Information Act 2018, I am now formally requesting copies of all reports and associated documents pertaining to me, including but not limited to:
    a. RGP Pocket books
    b. RGP Reports
    c. RGP Risk assessments
    d. RGP Intelligence reports
    e. RGP Surveillance logs

f. RGP Evidence labels
g. RGP Property logs (showing how my property was held, who had access to my property and what was done with it, in regard to data protection) I also wish to see a copy of the final report showing that I am not a person of interest or suspect in any RGP investigation.

20. Have copies of my personal data been made?
21. What is being done to secure that data?
22. How and when I can apply to have it destroyed?
23. If no such copy exists, then why were my items seized in the first place?
24. This whole episode has now dragged on for over three years, what was the outcome of the investigation? I believe the investigation has been suspended, if not closed with no one involved facing any charges, I believe I have been used by the RGP and more widely the government of Gibraltar as a pawn to score political points in an investigation whereby RGP allowed a paedophile back on to the streets. Thankfully, HM Forces Police investigated him thoroughly and he was found in possession of over 30,000 indecent images of children and sentence to 2 years 9 months in prison. He should have been the focus of the RGP not my colleagues and me!
25. Even now, the thought of returning to Gibraltar sends a shiver down my spine, this whole experience has ruined the memories of what should have been an enjoyable tour in a beautiful country.

Finally, as a minimum I would like the GPA to confirm that the RGP accept that the way that they acted against me was inappropriate for the circumstances, that I did nothing wrong, that calling my professionalism in to question was in itself unprofessional, and in hindsight highly inaccurate, I want an apology for their actions at the time and their treatment of JSPSU and me subsequently, (they even mistook me for Mr Collins when I went to New Mole House to try and recover my seized items[1]), lastly and importantly I wish to be compensated for the time wasted and distress caused.

Regards,

Scott

[1]My personal items were handed to colleagues not to me, I was not invited to check or sign for them.

From: (GPA) Secretary <secretary@gpa.gi>
Sent: 12 June 2020 11:00
To: O'Malley, Scott Sgt (RAFP-HQ A5 Policy FS2) <Scott.OMalley532@mod.gov.uk>
Subject: PCB Ruling

Dear Mr O'Malley,

YOUR COMPLAINT AGAINST THE ROYAL GIBRALTAR POLICE

I enclose with this email a copy of the Ruling of the Police Complaints Board in the matter of your complaint against the Royal Gibraltar Police.

The purpose of an investigation by the Police Complaints Board is to determine whether a member of the public has been the victim of inappropriate conduct by a police officer and whether a complaint should be upheld fully or in part, or not upheld. The investigation of a complaint and its outcome as determined by the PCB is also intended to be of help to the RGP in identifying and addressing areas of police performance that require revisiting. A PCB report may not be used as evidence in any legal proceedings or in any Court of Law.

Under the Police Complaints Regulations, 2008 you are entitled to request that the Gibraltar Police Authority should review the decision of the Police Complaints Board provided that your reason for requesting a review meets the criteria laid down in Regulation 15(2) to 15(5) of the aforementioned Regulations. A copy of the relevant sub-regulations is enclosed with this email. If you wish to request that the Authority should review your case, you should address your request to **The Secretary,Gibraltar Police Authority, Unit 25B**

Casemates Square, Gibraltar. A request for a review needs to be made within 28 days of receipt of this letter containing the ruling of the Police Complaints Board.

Yours sincerely

E. Hanglin (Ms)
Secretary

ROYAL GIBRALTAR POLICE

Form SEA

STATUTORY POWERS OF POLICE TO SEARCH PREMISES AND THE RIGHTS OF OCCUPIERS

THE OCCUPIER SHOULD KEEP THIS FORM IN A SAFE PLACE IN CASE IT IS NEEDED FOR FUTURE REFERENCE. THE STATUTORY POWERS TO SEARCH PREMISES AND OF THE RIGHTS OF OCCUPIERS ARE SUMMARISED BELOW

SUMMARY OF POWERS OF SEARCH UNDER THE CRIMINAL PROCEDURE AND EVIDENCE ACT 2011

Statutory Powers: The following summaries are taken from the Sections shown

1. **Section 21 (Entry for purposes of arrest, etc):** A Police Officer may enter and search any premises for the purpose of
   a) Executing a warrant of arrest issued in connection with or arising out of criminal proceedings or a warrant of commitment issued under Section 52 of the Magistrates' Courts Act 1980
   b) Arresting a person for an indictable offence, or
   c) Arresting a person for an offence under Section 79 of the Crimes Act 2011 (Prohibition of uniforms in connection with political objects), Sections 532, 533, 539, 540 or 541 of the Crimes Act 2011 (Offences relating to trespass on property), Section 53(3) of the Traffic Act 2005 (Failure to stop when required to do so by a Police Officer in uniform), and Section 62 of the Traffic Act 2005 (Driving or being in charge when under the influence of drink or drugs)
   d) Arresting any juvenile who has been remanded or detained under this Act
   e) Recapturing a person who is, or is deemed for any purpose to be, unlawfully at large while liable to be detained in a prison or other place of detention
   f) Recapturing a person who is unlawfully at large and whom the officer is pursuing, or
   g) Preventing death or personal injury or serious damage to property
2. **Section 22(1) (Entry and Search after arrest – Inspector's PRIOR written authority required):** A Police Officer may enter and search any premises occupied or controlled by a person under arrest for an indictable offence, if he has reasonable grounds for suspecting there is on the premises evidence, other than items subject to legal privilege, that relates to that offence or to some other indictable offence connected with or similar to that offence. Except as provided by Section 22(5) (below), no search may take place under this Section unless an officer of the rank of Inspector or above has given written authority.
3. **Section 22(5) (Entry and Search after arrest – Inspector's prior authority not required but MUST be informed as soon as practicable after search).** A Police Officer may conduct a search as shown in paragraph 2 above without obtaining the written authority of an Inspector or above where the arrested person has not yet been taken to the Police Station and his/her presence is necessary elsewhere for the effective investigation of the offence.
4. **Section 54(2)(b) (Search upon arrest):** Where a person has been arrested for an indictable offence at a place other than a Police Station, Police Officer shall have the power to enter and search any premises in which he was when arrested, or immediately before he was arrested, for evidence relating to that offence for which he has been arrested.
5. **Reasonable Force:** In the exercise of a power to search premises, Police may use reasonable force to enter the premises and carry out the search.
6. **With Consent:** A Police Officer may enter and search any premises with the written consent of a person entitled to grant entry to the premises.

SUMMARY OF POWERS OF SEIZURE UNDER THE CRIMINAL PROCEDURE AND EVIDENCE ACT 2011

1. Where a Police Officer is searching premises under the powers conferred by Section 22, he may seize and retain evidence relating to the indictable offence for which the person is under arrest or evidence relating to another indictable offence connected with or similar to the indictable offence for which the person is under arrest.
2. Where a Police Officer is lawfully on premises, he may seize anything which he has reasonable grounds for believing
   a) Has been obtained in consequence of an offence and that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed, or
   b) Is evidence in relation to an offence which he is investigating, or any other, being concealed, lost, altered or destroyed.
3. Instead of seizing property, an officer may require that the holder of the property retains it. If the holder then disposes, alters or destroys it, he may be liable to civil or criminal proceedings (Para. 7.4 of Code B – Codes of Practice).
4. Normally, no item may be seized which is subject to legal privilege (as defined in Section 14) (Para. 7.2 of Code B – Codes of Practice). There are however some exceptions to this rule (e.g. when powers are exercised under Sections 29 to 40 of the Criminal Procedure and Evidence Act 2011).
5. An officer may photograph or copy, or have photographed or copied, any document which he has the power to seize (Para. 7.5 of Code B – Codes of Practice).
6. Where information is held on a computer, an officer may require it to be produced in a legible form so that it can be taken away (Para. 7.6 of Code B – Codes of Practice).

RIGHTS OF THE OCCUPIER / OWNER OF PROPERTY

1. **General:** Searches must be made at a reasonable hour unless this might frustrate the purpose of the search (Para. 6.2 of Code B – Codes of Practice). If any of your property is kept by the Police, you are entitled, on request, to be provided with a list or description of the property within a reasonable time (Para. 7.16 of Code B – Codes of Practice). If you wish, you or your representative will be allowed supervised access to your property so that you can examine it, have it photographed or copied. Alternatively you may be provided with a photograph or copy. In either case, you are responsible for the costs. Access will not be allowed if the officer in charge of an investigation believes that this would prejudice the investigation of an offence or any criminal proceedings (Para. 7.17 of Code B – Codes of Practice).
2. **Search Warrant:** A copy of the warrant should, if practicable, be given to the occupier before the search begins (Para. 6.8 of Code B – Codes of Practice). If the occupier is not present, copies of the warrant and this Notice should be left in a prominent place (Para. 6.8 of Code B – Codes of Practice).
3. **Search with Consent:** Consent to a search must be given in writing (Para. 5.1 of Code B – Codes of Practice). Consent must not be obtained under duress (Para. 5.3 of Code B – Codes of Practice). Where consent is withdrawn before the search is completed, the search must stop (Para. 5.3 of Code B – Codes of Practice). If you reside in a lodging house or similar accommodation, your landlord can consent to your room (or rooms) being searched if you are unavailable at the time and the matter is urgent (Note for Guidance 5A to Code B – Codes of Practice).
4. **Compensation for Damage:** Compensation may be payable in appropriate cases for damage caused in entering and searching premises. An application for compensation may be made in writing to: The Commissioner of Police, Police Headquarters, New Mole House Police Station, Gibraltar.
5. **Codes of Practice:** A copy of the "*Code of Practice for the Searching of Premises by Police Officers and the Seizure of Property found by Police Officers on Persons or Premises*" – Code B, is available for you to consult at any Police Station. This Notice is a summary only of the main provisions of the Code which should be consulted if you require further details (Para. 6.7(e) of Code B – Codes of Practice).

The contents of this document will be processed in strict compliance with the Royal Gibraltar Police's policy on Data Protection, which has been compiled in accordance with the provisions of the ***Data Protection Act 2004.***

///Zb



ROYAL GIBRALTAR
POLICE

POLICY FILE

TRJCO 2/2011

POLICY FILE

The Po cy F e shou d accurate y ref ect the mportant strateg c and tact ca dec s ons made by sen or nvest gat ng off cers. (It s not an act on book.)

INVESTIGATION SET UP

- Appointment of Senior Investigation Officer.
- Appointment of Deputy Senior Investigation Officer.
- Summary of incident.
- Location of Incident Room(s) and or satellites.
- Identification and definition of scene(s).
- Initial decisions at scene.
- Management structure.
- Identify key posts, e.g. Disclosure Officer, MIR positions.
- Areas to be preserved/searched/fingerprinted/photographed.
- Appointment of analyst/researchers.

ENQUIRY MANAGEMENT

- Statements — when required/verification.
- Personal Descriptions Forms (PDFs) — age range/sex/IC codes.
- House to house perimeters — area/street names/ numbers.
- House to house questionnaires — parameters.
- Alternative house to house strategy.
- Elimination/implication factors, e.g. blood/fingerprints/ footprints/DNA.
- Alibis — verification.
- Press conferences, frequency/by whom/delegated authority.
- Information which can be released or withheld from Press.
- Use of victim support schemes.
- Liaison with other agencies.
- Deployment of pods/caravans, etc.
- Employment of experts, e.g. offender profiler, etc.
- What sequence of events indexes are to be mentioned.
- Prioritisation of enquiries.
- Indexes — how many to be maintained/documents — extent of Indexing.
- Liaison with C.C./appointment of legal advisers.
- Identifying relevant times.
- Officer s reports — parameters.
- Parameters for TI/suspect enquiries.
- Crime Scene Assessment
- Review consideration.
- Liaison with NPIA.
- Closing down policy/Current Situation Report.
- Welfare issues for officers.

LINES OF ENQUIRY

- Major lines of enquiry indicating those with high priority and resource implications.
- Variations or discontinued lines of enquiry, with reasons.
- Profile of victims/suspects/associates — lines of enquiry.
- Identify and prioritise MO suspects.
- Media appeals/press releases.
- Nomination of suspects.
- Arrest strategy.
- Search strategy.
- Interview strategy.
- Identification strategy.
- Family liaison strategy.
- Forensic stategy.
- Communications strategy.

SENSITIVE ISSUES

- Informant issue — tasking/management/participating status/rewards.
- Technical facilities — applications/installations/monitoring/ equipment abstraction.
- handling sensitive products, e.g. tapes, transcription.
- Use of undercover officers.
- Public Interest immunity Issues, e.g. revelation of investigative techniques.

OTHER POLICY ISSUES

- Negotiators — Deployment and Terms of Reference.
- Firearms Officers — Deployment and Terms of Reference.
- Firearms Team — Approval and Constraints.
- Post Incident Procedures — e.g. debriefing and counselling.



POLICY FILE

OFFENCE: Importing a prohibited import, dangerous navigation and obstructing police

LOCATION: .0*6 iA. S&*.,

Operation

(. . . - se)

VICTIM/OPERATION TITLE:

08 - 03 - 20

DATE ENQUIRY COMMENCED:. DCI John Field

SENIOR INVESTIGATING OFFICER: Sean Penera

DEPUTY INVESTIGATING OFFICER: 4/

APPOINTED BY: (' Pf. ON: ? ? ' . * ' . : ? ? AT:

DESIGNATED OFFICE MANAGER:

DATE ENQUIRY CONCLUDED:

WHITE COPY Not to be removed

POLICY FILE

11126

OFFENCE As previous

Decision No. 0^..01

DATE 8-3-20

Time of Decision 09.9$.. Afai:..

DECISION MAKER

SENIOR OFFICER CONSULTED (Where appropriate)

DECISION

JL JW A ...the ... Afa, Gold ... neckend M about 1355 received phone call from Insp Lutkin ... effect that the RGP PMB has been ... it ... Afa, sea, app ... JL yh Europa Road and <L ... k#U*M9*. there was one fatality. I ... AAwt on board of a suspect vessel PMB were towing vessel to Marine Base. No RGP ... was ... going make his way to PMB base. I told him ... be attended ... second suspect ... show ...

Tka ...)^...^...i^A^. ...^gor ... be a critical incident wA. require command management.

JL would have to MiA^y. CO.P AAAAAAAA^ S/^T to ... response

rr^ •^ /...

L.CA informed AIML ... XMT ... r. GpGi. (Gww/*4 ...

REASON

aA 0.9.09. AM...

RECORDING OFFICER DCI field

RANK

SIGNATURE OF DECISION MAKER

RANK

DATE: 8-3-20

WHITE COPY Not to be removed

POLICY FILE 11127

OFFENCE As previous Decision No. Two (2).

DATE 8-3-20 Time of Decision 7.5.9.9.

DECISION MAKER SENIOR OFFICER CONSULTED (Where appropriate)

DECISION

REASON

RECORDING OFFICER SIGNATURE OF DECISION MAKER

RANK RANK

DATE

WHITE COPY Not to be removed

POLICY FILE 11128

OFFENCE As previous

Decision No. 7^01

DATE 5 ^ ^ 9

Time of Decision 0550

DECISION MAKER ACI Field

SENIOR OFFICER CONSULTED (Where appropriate)

DECISION

4/. teNMu 4f :' 1: establish identities of suspects and those deceased.

A Carry out forensics, retrieve clothing

J bw: Scene forensics / securing

V. Assist strategy and obtain evidence by questioning

REASON

1: We require this ^0^ ornation 'tf safeguard Coroner, 1*M*f^ ^ ^ 4^ Spanish LE& ix order rfe ZhMkfe contact Q/G* mandate suspect <6 Gibraltar:

*: d'/'faiCwiL - collecting evidence.

3 fa a&wt — vessels& will have be placed on ^Af Awfrl and secured

4 We require accounts

RECORDING OFFICER DCI Field RANK

SIGNATURE OF DECISION MAKER RANK

DATE: 8-3-20.

WHITE COPY Not to be removed

POLICY FILE

11129

OFFENCE As prisons

Decision No. Four

DATE 8-3-20

Time of Decision 0660

DECISION MAKER DCI Field

SENIOR OFFICER CONSULTED (Where appropriate)

DECISION

Liaise with Plf manager TT A^Uv- stage /
atenests "font ... Ahh's effs
(Welfare Support Grb Fed & Re/Ne Ah Hordanes PS
" ") J. J'hbtf ... f. OO.fr! f. ...

Deployment - make contact with , lies

Offices protection transparency / ...

REASON

f.lrH ... Canm/ty ...

RECORDING OFFICER DCI Field

RANK

SIGNATURE OF DECISION MAKER

RANK

DATE: 8-3-20.

WHITE COPY Not to be removed

POLICY FILE

11130

OFFENCE As previous

Decision No. Fin 5

DATE 8-3-20

Time of Decision 0550.

DECISION MAKER DCI Field.

SENIOR OFFICER CONSULTED (Where appropriate)

DECISION

TM, Chipoline – ~~[illegible]~~ Spanish counterparts for next of Kin notification.

Z. endeavour gathering & establishing exact location incident

77. .....A^rr.

'A

REASON

Require to process notification

Require to gather possible intel / endeavour.

Require 4° establish exact location – con prosecution

iwwt A.....iJ.T.jr.H/..?.....

RECORDING OFFICER DCI Field

RANK

SIGNATURE OF DECISION MAKER

RANK

DATE: 8-3-20

WHITE COPY Not to be removed

POLICY FILE

11131

OFFENCE S4 pr

Decision No. Six 6

DATE

Time of Decision 0550 / 0615

DECISION MAKER A.E. Field

SENIOR OFFICER CONSULTED (Where appropriate)

DECISION NH?I Trabudoc to consider resilience issues and sUuv^ (ft(r^ J ,'PMb base and VMM should we encounter dAMMLtf'rVWv s <V5 e', result of the incident.

We do iwt/XwU' AtrWt "4^ latest incident in and the comm , / / / /
will b'

We need to plan for contingency

REASON

RECORDING OFFICER DCI Field

RANK

SIGNATURE OF DECISION MAKER

RANK

DATE 8-3-20.

WHITE COPY Not to be removed

POLICY FILE

11132

OFFENCE: As previous

Decision No.: 7SEVEN

DATE: 8-3-20

Time of Decision

DECISION MAKER [illegible]

SENIOR OFFICER CONSULTED (Where appropriate)

DECISION

Tasp Chapolina to prepare media strategy re -
community [illegible]
Keeping the public informed

We [illegible] to [illegible] confidence and trust
through [illegible] ZfHuzU [illegible] publication
social [illegible]
-WZ^t 4v fcfcjKak

RECORDING OFFICER

REASON ACI Field

RANK

SIGNATURE OF DECISION MAKER

RANK

DATE: 8-3-20

WHITE COPY Not to be removed

POLICY FILE 11133

OFFENCE Re process

Decision No. Eng

DATE 8-3-20

Time of Decision

DECISION MAKER bat.....fad*

SENIOR OFFICER CONSULTED (Where appropriate)

DECISION

Insp Earles required to vent

Z..... Windy.....L...ZZ.

Post

Tasfa traffic

details dUy

REASON

M*. otczA..... di establish collate evidence of

d&t..... AffltnC location..frf-..XA.... incident

RECORDING OFFICER DCI Field

RANK

SIGNATURE OF DECISION MAKER

RANK

DATE: 8-3-20.

WHITE COPY Not to be removed

POLICY FILE

11134

OFFENCE: As prescribed

Dec s on No.; Line A

DATE: 8-3-20.

T me of Dec s on:

DECISION MAKER: DCI Field

SENIOR OFFICER CONSULTED (Where appropr ate)

DECISION

Consider ECHR implications and by extension the Gibraltar Constitution

IAk nec that tMc eff

towfay will t^Cr law ~~[illegible]~~ that then

'Kuu prop ate, necessary and legitimate

REASON

RECORDING OFFICER DCI Field

RANK

SIGNATURE OF DECISION MAKER

RANK

DATE: 8-3-20.

15

WHITE COPY Not to be removed

POLICY FILE

11135

OFFENCE Us premises.

Decision No. li.nl

DATE 10-03-20

Time of Decision /VOL

DECISION MAKER DC FIELD

SENIOR OFFICER CONSULTED (Where appropriate)

DECISION

Serve from

... (MMU-H.JtAM ... Crtfl /.Pmp>...tyfsuXM***

...&.....Jfa.MHMIW.. ..... °L

For transparency accountability

evidential purposes.

REASON

...° Ar.

.?.:.....fM.....

RECORDING OFFICER DCI J FIELD

SIGNATURE OF DECISION MAKER

RANK

RANK

DATE: 10-3-20.

WHITE COPY Not to be removed

POLICY FILE 11136

OFFENCE .. /L ..... Decision No. 1.1ELEVEN .....

DATE .. 23 Time of Decision .. lHrpO .....

DECISION MAKER .. JM.I.....ftflA., ... SENIOR OFFICER CONSULTED (Where appropriate)

DECISION ..... 'f* A*. ttthw .

.....flM.C:.....

REASON

..^4...•*£..dmas..vsvsvsv

WHITE COPY Not to be removed

POLICY FILE 11137

OFFENCE Q/> previous

Decision No. Twelve 12

DATE 10-03-20

Time of Decision L^t.9.9..

DECISION MAKER DCI FIELD

SENIOR OFFICER CONSULTED (Where appropriate)

DECISION

Enquire and facilitate and an export collision report on the incident.

...7ft..idtfzUnCt .-AcAWlftth and interpretation of available data from other Alb(Mr. €/£ from.../hiKfctyfahc. Vessels.

Required clear and independent view of incident hazard.

REASON

Ah'v

...■'faf<i.....Jfa'.....

RECORDING OFFICER DCI Field

RANK

SIGNATURE OF DECISION MAKER

RANK

DATE 10-03-20

18

WHITE COPY Not to be removed

POLICY FILE

11138

OFFENCE As previous

Decision No. THIRTEEN 13

DATE 12-03-20

Time of Decision 1070

DECISION MAKER

SENIOR OFFICER CONSULTED (Where appropriate)

DECISION

Inquiries to be carried out at/with PMB:

• Are the video capturing capabilities on board the ?M 6 1 $ as $/a ... and if recording?

• need to establish if there is mobile / radio coverage after 6N miles?

• policy on this? AE AE WM available why wasn't it provide ... WKJL ... LJJWM

• Co^l'd: officers commute £ that distance? Triangulate through ..6^.....<*< |>?|

• pauks ? pursuing exact location. ?&!&...

REASON

RECORDING OFFICER ACI Fuld

RANK

SIGNATURE OF DECISION MAKER

RANK

DATE: 12-03-20

WHITE COPY Not to be removed

POLICY FILE

11139

OFFENCE As previous

Decision No. Fourteen Str.

DATE 12-03-20

Time of Decision 1030

DECISION MAKER

SENIOR OFFICER CONSULTED (Where appropriate)

DECISION

"Expedite / facilitate repatriation of bodies today

- build confidence & trust with families
- to avoid family tear raising.

REASON

RECORDING OFFICER DCI Field

RANK

SIGNATURE OF DECISION MAKER

RANK

DATE 12-03-20.

HM Government of Gibraltar

THE CHIEF MINISTER

The Commissioner of Police
The Royal Gibraltar Police
New Mole House
Gibraltar

21st May 2020

By email: Ian.McGrail@royalgib.police.gi

Dear Commissioner

REQUIREMENT TO PROVIDE A FACTUAL REPORT THE POLICE ACT 2006, Section. 15 (1)(a)

I write in respect of the incident at sea which occurred in the early hours of 8th March 2020 and your subsequent email of yesterday's date.

I. THE FACTS

The incident in question involved marine assets and officers of the Royal Gibraltar Police ('RGP') and resulted in the death of two Spanish nationals and the injury of another two individuals, one of whom is also a Spanish national and the fourth of Portuguese nationality ('the Incident').

The vessel in which the deceased and injured were travelling was not loaded with narcotics. The vessel was a 14 metre Semi Rigid Hull Inflatable Boat (or RHIB) of the type commonly employed in drugs trafficking activity, powered by four 300hp outboard engines and fitted with radar equipment. This type of vessel is a prohibited import in Gibraltar.

The initial reporting of the Incident would appear to show that it occurred outside of British Gibraltar Territorial Waters ('BGTW'). Your own initial

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report to me suggested that the events may indeed have occurred as far as 6 nautical miles to the East of Gibraltar (at the height of the runway). I understand that reports now suggest that the location of the incident may be different and, notably, further away from BGTW. It is not clear if the RHIB and its occupants were ever in BGTW and, if so, for how long and in what location/s.

II. THE POWERS OF THE GOVERNMENT

In writing this letter in response to your emails I am conscious of the powers set out in **Section 15** of the Act.

Section 15 (1) provides that the Chief Minister may exercise the following powers on behalf of the Government, namely:

> ***'(a) to require factual or assessment reports from the Force or the Authority on any policing matter.'***

Section 15 (2) provides that:

> ***'the Chief Minister will keep the Governor informed of any exercise by him of a power under the section and shall provide to the Governor a copy of any report produced as a consequence of thereof.'.***

For that reason I am copying this letter to His Excellency the Governor, Nick Pyle, and also to the Chairman of the Gibraltar Police Authority, Joseph Britto. I have already discussed with both of them that I will be sending you this letter.

III. REASONS FOR EXERCISE OF SECTION 15 POWERS

This **REQUIREMENT** to provide a factual report is addressed by me to the Royal Gibraltar Police under the provisions of **Section 15(1)(a)** of the Police Act 2006 as a result of:

(a) reports in the Spanish and Gibraltar media to the effect that a civil claim for damages arising from illegal homicide has been commenced against the Royal Gibraltar Police in the Spanish Courts (filed in the autonomous region of Ceuta) by relatives of

the 2 Spanish citizens who were killed in a chase recently 'off Gibraltar' involving officers and marine assets of the RGP;

(b) questions **(see attached, Annex 1)** posed in the Spanish Congress of Deputies in which the Parliamentary Group 'Vox' ask about a number of aspects of the Incident;

(c) an answer **(see attached, Annex 2)** provided in the Spanish Congress of Deputies in which the Spanish Government responds to the questions referred to at (b) above;

(d) a diplomatic ***Note Verbale*** transmitted by the Spanish Minister of Foreign Affairs, the European Union and Co-operation to the Embassy of the United Kingdom in Madrid on the 9th March 2020 which sets out a protest in respect of the actions of the RGP in relation to the Incident, reserves the possibility of the adoption of such measures as the seriousness of the Incident merit and calls on the British authorities to take such necessary precautions to ensure that incidents of this nature do not recur; and

(e) email communications, culminating in an email from you addressed to me dated 20th May 2020 **(see attached, Annex 3),** in which it has been brought to my attention - initially by the Attorney General - that you are seeking funding for legal representation in a potential plethora of multi-jurisdictional legal proceedings, both civil and potentially also criminal, arising out the Incident. This funding was initially requested from the Director of Public Prosecutions, and subsequently the Attorney General, neither of whose roles involve the making of such decisions in respect of the commitment of public funds.

As a result, in light of the above, I have no confidence that you have expeditiously provided me with all the information and documentation that I should have been provided with in the context of the seriousness of the events in question.

In particular, I have no confidence that either the Government or the office of the Governor (with whom I have discussed this matter at length) have had the timely candor and transparency we would have expected from you in the circumstances arising in respect of the Incident.



Therefore, in exercise of my power under **Section 15(1) (a)** of the Act, I hereby on behalf of the Government require the RGP to provide a Factual Report in respect of the events in question as provided for in Part VI below.

IV. THE TERRITORIAL & JURISDICTIONAL ISSUE

In particular, I wish to record that the Government is concerned about the fact that the Incident has occurred outside of the BGTW. In this respect, I refer you to **Part 4** of the **Police Act 2006** ('the Act'), **'Constitution and Employment of the Force .**

Section 29 of the Act sets out that ***'[t]he force shall be employed in and throughout Gibraltar...'.***

It is in the nature of laws made by the Gibraltar Parliament that they cannot be extraterritorial, although that rule is subject to the principle that any such laws which purport to have an extraterritorial operation, application or effect will be valid if they bear a substantial relationship to the peace, order and good government of the territory concerned, whether generally or in respect of particular subjects[1].

As a result the establishment of the force and the composition of its officers[2] has, in principle, effect only in and in respect of the territory of Gibraltar, although it may be arguable that the extraterritoriality extends in the limited way set out in the preceding paragraph.

Under public international law, in the United Nations Convention on the Law of the Sea, the United Kingdom, as the administering power in Gibraltar, has claimed 3 nm of territorial sea for Gibraltar. The territory

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[1] Po c ng may come nto th s amb t. In Croft v Dunphy [1933] AC 156, 162 the Court dec ded that: *'[WJhatever be the limits of territorial waters in the international sense it has long been recognised that for certain purposes notably those of police revenue public health and fisheries a state may enact laws affecting the seas surrounding its coasts to a distance seaward which exceeds the ordinary limits of its territory.'* The pr nc p e was further cons dered and app ed n Austra an author t es such as Bonser v La Macch a (1969) 122 CLR 177, 189 and 224-5; New South Wa es v The Commonwea th of Austra a (1975) 135 CLR 337; Rob nson v Western Austra an Museum (1977) 138 CLR 283, a though the Court of Appea erred n the present case n th nk ng that the eg s at on was uphe d n the ast case. Broad y, a subord nate eg s ature may eg s ate w th extraterr tor a effect where the eg s at on has n nature and effect a suff c ent y substant a! re at onsh p w th the peace, order and good government of the re evant terr tory and s for a purpose for wh ch the subord nate eg s ature has power to eg s ate.

[2] Prov ded for n Sect on 30(1).

of Gibraltar, therefore, does not extend beyond 3 nm East of the runway. It is, therefore, apparent that the ostensible jurisdiction of the RGP does not extend to the area in which the Incident occurred.

For that reason, it is important for the Government to determine on what basis the RGP were operating beyond that distance from Gibraltar, especially when the equipment now provided by Her Majesty's Government of Gibraltar enables officers to know their exact location whilst out on operations at sea.

Additionally, it will be important to determine whether or not the RGP were operating inside the Spanish Territorial Sea, as alleged by the response of the Spanish Government at Annex 2, at the invitation of, or with the express or tacit consent (or both, or neither) of the Spanish law enforcement agencies (and if so which and how was this communicated to the RGP). Please note that the position set out in the answer to the question in the Spanish Parliament states that there was no such tacit or express invitation.

V. THE CONCERNS OF THE GOVERNMENT

In all of the circumstances set out above the Incident raises many concerns for the Government and for me as Chief Minister and as Minister for Finance.

First and foremost I am concerned about the physical and mental welfare of the officers of the RGP in question that night and of the potential for multi-jurisdictional legal action against them. The Government will agree to fund the legal advice and representation that the individual officers may require on a 'without prejudice basis and on such other basis or conditions which the Attorney General may consider and advise may be appropriate. The Government will also assist with any support required in respect of the mental or physical health of the officers in question.

I want to specifically record that the Government fully supports our frontline police officers, especially those who risk their own lives at sea in keeping Gibraltar safe and keeping drug traffickers from using our waters to transship narcotics.

In particular, however, the Incident:

(a) may give rise to breaches of the Act and to very large potential claims in damages against HMGoG which will be funded by the tax payers of Gibraltar;

(b) raises serious issues as to the operational welfare of officers of the RGP at sea;

(c) additionally given the sensitivities of the relationship between Gibraltar, Spain and the United Kingdom, I am concerned that the events in question can provide grounds for a serious setback for Gibraltar in the context of the relationship with our Spanish counterparts at a political level - as evidenced in the answer provided in by the Spanish Government to the Vox parliamentary question and the ***note verbale*** presented to the United Kingdom by the Spanish government;

(d) moreover, given the contents of the paragraphs on territoriality above, the Government is concerned that officers of the RGP who find themselves operating outside of the territory of Gibraltar may in fact not have the powers or protections provided for them in the Act; and

(e) finally, the Government is concerned about the sovereignty implications for Gibraltar and the United Kingdom. I will not further detail the nature of those concerns here as they are particularly sensitive.

VI. THE FACTUAL REPORT REQUIRED

In light of all the above, I therefore require the RGP to provide me with a Factual Report as to each of the following:

(i) a statement on the current status of the officers in question (i.e. whether they continue to be on active duty or are suspended or stood down pending finalization of any inquiries into this matter);

(ii) the exact location where the incident happened;

(iii) confirmation, therefore, of whether the incident happened inside or outside of BGTW;

(iv) a full report of the facts of the Incident, including details of whether the RHIB in question entered BGTW and if so where and when and how long it was in BGTW;

(v) copies of any report or reports provided by the Metropolitan Police in respect of this incident as a result of the investigation sanctioned by the Government in relation to the Incident;

(vi) copies of any internal reports or documentation produced to date in respect of the Incident;

(vii) copies of any incident logs that may have been kept of the actions relating to the Incident;

(viii) copies of any call logs that may have been kept of the actions relating to the Incident;

(ix) details of any conversations or other operational communications with Spanish law enforcement or other agencies and whether that led to any actual or tacit invitation to enter the Spanish Territorial Sea, providing exact details of any such actual or tacit invitation, or the absence thereof;

(x) a statement (or copy if they are in printed or printable form) of what standing instructions are given to officers in respect of operations outside of BGTW;

(xi) copies of any such or any other relevant instructions or other standard operating procedures;

(xii) documentation or confirmation in writing of the instructions provided to officers of the Marine Section by senior management as to the procedures to be followed when suspects who are being chased inside BGTW fail to stop and exit BGTW and what position the RGP take or have taken (until the time of the Incident) in respect of 'hot pursuit' from BGTW into International Water, Spanish Territorial Waters and / or Moroccan Territorial Waters and on what basis and on what advice such a position, if any, has been taken. (It is essential for

the Government to understand what training was provided to the officers in question in respect of their ensuring that they operated solely within the territorial limits of Gibraltar. I want to know what the RGP's standard operating procedures are in such instances);

(xiii) alternatively, an explanation of why no such position has been taken, given the prevalence of such activities;

(xiv) what assessment senior management have made of such operations occurring, in particular where there is not an express invitation from another police force (whether that is the Spanish police force or the Moroccan police force) for operations to continue outside of BGTW in Spanish Territorial Waters, International Waters or Moroccan Territorial Waters. (The Government is very concerned to understand what the Senior Management Team of the RGP has done in respect of continued incidents of operations outside of BGTW before the events in question and thereafter, in particular if there has been any change in standing instructions or posture as a result); and

(xv) any other relevant information, reports or documents (whether existing in documentary, printed or digital form) which the RGP consider the Government should have available in considering the facts and matters which arise from the Incident and planning to address the same in the Public Interest of Gibraltar.

The Government views the events in question with the utmost seriousness. We will not allow deaths of individuals in circumstances involving the RGP not to be accounted for entirely properly and timeously, even if that means that the Government of Gibraltar and the Gibraltar tax payer is exposed to damages and costs as a result thereof. Such matters go to the very foundation of the Rule of Law and the protection of the right to life, whether inside or outside the territory of Gibraltar. It is for that reason that, as a start, I have approved the expenditure of the preparation of the Independent Report by the Metropolitan Police and the additional expenditure that I will authorise to properly deal with this matter.

The Government considers that this is the only way to properly deal with the issues that arise. Once in receipt of the RGP's Factual Report, as required by this letter, I will be in a better position as Minister for Finance

to assess whether and if so what funding is required for independent representation of the RGP and or any of its officers in respect of the incident.

To date I have already confirmed funding for the external investigation from the Metropolitan Police as initially requested by you. It may be that there is also a coroner's investigation presently on foot. Both of these must also run their course. The fact that those are running their course should not, however, in any way interfere with or delay the RGP's ability to urgently provide the Factual Report I require in the exercise of my powers under the Act in the time that I have set out below.

VII. TIMING FOR A RESPONSE

I shall look forward to hearing from you and I would expect to have:

(a) formal confirmation of receipt of this REQUIRMENT within the next twenty four hours; and

(b) within 7 days of the date of this letter a detailed response containing the factual report from the RGP in respect of this matter.

If more time is required in respect of any aspect of this Factual Report sought from the RGP, please write to me to seek such an extension of time setting out the reasons why it is not possible to provide the information requested in the time allotted.

In the interim, I shall look forward to hearing from you in the time allotted.

Sincerely,

FABIAN PICARDO QC MP
CHIEF MINISTER

cc: **His Excellency the Governor**
The Minister for Justice
The Chairman of the Gibraltar Police Authority
The Attorney General
The Director of Public Prosecutions

ANNEX 1
QUESTIONS POSED IN SPANISH PARLIAMENT

VOX

GRUPO PARLAMENTARIO

PREGUNTA CON RESPUESTA POR ESCRITO

A LA MESA DEL CONGRESO DE LOS DIPUTADOS

D. AGUSTiN ROSETY FERNÁNDEZ DE CASTRO y D. ALBERTO ASARTA CUEVAS, en su condicidn de Diputados del Grupo Parlamentario VOX (GPVOX), al amparo de lo establecido en los artfculos 185 y siguientes del vigente Reglamento del Congreso de los Diputados, presentan la siguiente **pregunta para la que solicitan respuesta por escrito.**

EXPOSICI6N **DE MOTIVOS**

Segun informaciones de prensa, durante la noche del 7 al 8 de marzo, un patrullero de la Policfa de Gibraltar ha abordado una embarcad6n semirrfgida, de las conocidas como narcolanchas, a levante del Pefidn, frente al puerto linense de La Atunara. El abordaje se ha saldado con dos muertos y dos heridos. Apresada la embarcaci6n por el patrullero britcinico, fue conducida junto con los supervivientes y los caddveres a Gibraltar.

En virtud del Tratado de Utretch, España no reconoce mar territorial alguno al Reino Unido en el litoral de la colonia. Aun asi, dada la proximidad a la Atunara, el incidente ha debido tener lugar necesariamente fuera de las tres millas n^uticas que el Reino Unido, aunque sin tftulo alguno, viene reivindicando.

Grupo Parlamentario VOX, Carrera de San Jerónimo s n 28071 Madrid
Telf. 91 390 57 63 91 390 76 42
gpvox@congreso.es

CONGRESO DE LOS DIPUTADOS

X1VLEG1SLATURA

VOX

GRUPO PARLAMENTARIO

Ante esta evidencia de una flagrante violacidn de la soberania national de Espafia, con resultado de muerte, cometida en su mar territorial por la Policia de Gibraltar, presentamos las siguientes

PREGUNTAS

1. ^En qu6 posicidn tuvo lugar el abordaje?

2. ^Existe acaso algun convenio de colaboracidn entre Espafia y el Reino Unido que pueda amparar actuaciones como la referida?

3. En cualquier caso, ^solicitaron las autoridades britAnicas autorizacidn para emprender una persecucidn en aguas espanolas?

4. De no ser asi, ^ha presentado el Gobiemo, en reivindicaci6n de la soberania nacional de Espafia, la oportuna protesta ante el Reino Unido?

Palacio del Congreso dc los Diputados, a 18 de marzo de 2020.

D. Alberto Asarta Cuevas
Diputado GPVOX

D. Agustín Rosety Fernández de Castro
Diputado GPVOX

Macarena: Olona ChoclAn
Portavoz AiXnta GPVOX

Gnipo Parlamentario VOX, Carrera de San Jerónimo s n 28071 Madrid
Telf. 91 390 3763 91 390 7642

C.DIP 17026 20/03/2020 10:30



ANNEX 2
ANSWER PROVIDED IN SPANISH PARLIAMENT

SECRETARÍA DE ESTADO DE
CONGRESO DE LOS DIPUTADOS
SECRETARÍA DE CORTES
REGISTRO GENERAL
28 ABR. 2020 17:41:23*
Entrada 24855

RESPUESTA DEL GOBIERNO

(184) PREGUNTAESCRITACONGRESO

184/6945 **20/03/2020** **17026**

AUTOR/A: ROSETY FERNÁNDEZ DE CASTRO, Agustin (GVOX); ASARTA CUEVAS, Alberto Te6fUo (GVOX)

RESPUESTA:

En relación con la pregunta formulada, se señala que de acuerdo con la información recibida en el Ministerio de Asuntos Exteriores Unión Europea y Cooperación (MAUC), la colisión se produjo en las cooidenadas 36° 09' N - 5° 12' W.

Respecto a los convenios de colaboración mencionados, cabe indicar que no hay suscrito n in gun acuerdo entre España y el Reino Unido que permita la actuación de la policia gib ra It arena en aguas territoriales espano las.

Respecto a la información recabada por el MAUC no hubo requerimiento previo alguno de apoyo a la Guardia Civil.

Dada la gravedad de los hechos acaecidos, el Ministerio presentó con fecha 9 de marzo ante la Embajada del Reino Unido una nota verbal protestando en los ferminos más enérgicos por la inaceptable actuación de la policia gibraltareña, reservdndose la adopción de las medidas oportunas si fuera necesario y requiriendo que las autoridades británicas relevantes tomen las medidas adecuadas para que comportamientos de este tipo no vuelvan a tener lugar.

Madrid, 27 de abril de 2020

ANNEX 3
EMAIL EXCHANGES ON FUNDING OF REPRESENTATION

(N06) Martinez, Susan

Subject FW: OFFICIAL Letter before act on - damages c a m

From: "(RGP) McGrail, Ian M.Sc (OTM)" <Ian.McGrail@royalgib.police.gi>
Date: Wednesday, 20 May 2020 at 17:53
To: "(MIN) Picardo, Fabian" <fabian.picardo@gibraltar.gov.gi>
Subject: FW: OFFICIAL: Letter before action - damages claim

Dear CM -
I refer to the be ow thread wh ch nc udes you response to the AG and wh ch has been forwarded to me.

You are ev dent y very d sappo nted but I want to reassure you that t has never been my ntent on to w thho d anyth ng from you concern ng th s very ser ous matter. I prov ded you w th an overv ew on the day of the nc dent, then engaged w th the AG as per your suggest on and have been do ng so ever s nce. I w hopefu y be n a better pos t on to br ef you on the fu deta s of the nc dent once I rece ve the report of the f nd ngs of ndependent nvest gat on team we ca ed n. Th s team had to return ear y to the UK because of the COVID-19 cr s s and because of the ockdown n UK, they have been unab e to progress the matter as exped t ous y as we a wou d w have wanted

The etter from oca counse represent ng the fam es and suggest ng a future c a m for damages was on y rece ved a few days ago wh ch s what tr ggered our enqu ry w th the DPP on y yesterday concern ng ega representat on.

I am of course ava ab e to d scuss a the po nts you a ude to at your ear est conven ence.

Best w shes
Ian

Ian McGrail *OTMMSc*
Comm ss oner of Po ce

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P ease cons der the env ronment before pr nt ng th s ema .

From: (RGP) Yeats, Catha <Catha .Yeats@roya g b.po ce.g >
Sent: 20 May 2020 16:06
To: (RGP) McGra , Ian M.Sc (OTM) < an.McGra @roya g b.po ce.g >
Cc: (RGP) ger, R chard <R chard.U ger@roya g b.po ce.g >
Subject: Fwd: OFFICIAL: Letter before act on - damages c a m

S r,

I refer to the ema be ow from the AG.

Best regards,

Catha

Catha Yeats
Super ntendent
P ann ng Deve opment and Support
Roya G bra tar Po ce

Sent from a mob e dev ce.

From: (GIO) L amas, M chae cm chae amasgte bra tar gov.g >
Sent; Wednesday, 20 May 2020,15:27
To: Catha Yeats (externa)
Cc: (GLO) Rocca, Chr st an
Subject: FW: OFFICIAL: Letter before act on - damages c a m

Dear Catha ,

P ease see Ch ef M n ster's ema be ow wh ch s se f exp anatory.

Best w shes,

M chae

From: (MIN) P cardo, Fab an
Sent: 20 May 2020 14:15
To: (GLO) L amas, M chae <m chae . amas^)G bra tar.KOV.R >
Subject: Re: OFFICIAL: Letter before act on • damages c a m

Dear Michael

Thank you for copying me into the below.

I think it is entirely inappropriate for this matter not to have been raised with me in the first instance by the Commissioner.

This matter raises issues of fundamental human rights, the right to life, potential payment of huge amounts of damages, the potential extradition and liberty of serving police officers being at stake, the issue of

Standard Operating Procedures which may be in place and the management thereof. All of that is in addition to the huge potential political exposure that arises for Gibraltar as a result thereof and the concomitant (and dangerous) issues of sovereignty and the United Nations Convention on the Law of the Sea.

Indeed, it is difficult to think of an issue as fundamental as this affecting the RGP, certainly in the time I have been in office. There is no consideration in the email below of claims or offences going beyond "the officers crewing the vessel", which is also, in my view an issue that may also need further consideration.

As you know, it comes against the backdrop of the very unflattering report from the HMICFRS.

1 am therefore surprised and greatly disappointed that these issues have not been the subject of a detailed submission to me by the Commissioner in respect of the events in question and the issues which now arise.

I shall therefore be writing directly to the Commissioner on this and all other aspects of this matter. In the interim, I do not authorise the incurring of any expenditure in briefing out of this matter at this stage.

Please refer both the DPP and Superintendent Yeats to my response.

Best wishes

Fabian

Sent from my BlackBerry - the most secure mobile device

From: m chae . amas@Q bra tdr.qov.Q
Sent: 20 May 2020 13:48
To: fab an.p carcfo@x3 bra tar.aov.a
Subject: FW: OFFICIAL: Letter before act on - damages c a m

From: (RGP) Yeats, Catha <Catha Yeatsff roya g b po ce g >
Sent: 20 May 2020 12:13
To: (GLO) L amas, M chae <m chae . amas@g bra tar.ROv g >
Cc: (RGP) McGra , Ian M.Sc (OTM) < an.McGra (fcrova g b.po' ce.g >
Subject: OFFICIAL: Letter before act on damages c a m

Dear Attorney Genera ,

The Comm ss oner of Po ce s n rece pt of correspondence w th regard to a c a m for damages fo ow ng a co s on at sea on the 8th of March th s year. I understand that the D rector of Pub c Prosecut ons has ra sed the ssue of who shou d represent the RGP to defend the c a m. The DPP and I met yesterday to d scuss whether t wou d be appropr ate for the Off ce of Cr m na Prosecut on and L t gat on to do so. We conc uded t wou d not for the fo ow ng reasons wh ch potent a y app y:

1) Prosecut ng European Arrest Warrants ssued by Spa n to extrad te the off cers crew ng the vesse .
2) Prosecut ng cr m na charges aga nst the off cers crew ng the vesse .
3) Prosecut ng d sc p nary charges aga nst the off cers crew ng the vesse
4) Defend ng c v act ons aga nst the organ sat on or the nd v dua off cers n Spa n.

Shou d you agree w th our v ews I wou d be gratefu for your author ty to appo nt counse and your adv ce on who wou d be best p aced to represent the RGP. F na y our exper ence s that c a ms made aga nst the RGP have been

genera y hand ed by Government. Do you w sh th s to be the case n th s nstance or shou d we manage t ourse ves together w th appo nted counse ?

Best regards,

Cathol/

Cathal Yeats
Super ntendent

Organisational Development
New Mo e House, Ros a Road, G bra tar, GX111AA
Te : (+350) 20045082 Centrex 2294

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P ease cons der the env ronment before pr nt ng th s ema

Fabian Picardo QC MP
Ch ef M n ster

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fab an p cardo@g bra tar.gov g

www.gibra tar.Gov.o

Office of the Chief Minister

HM Government of Gibraltar

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Ian McGrail O MMSC
Commissioner of Police
New Mole House Rosia Road Gibraltar ♦ Tel (+3S0) 20072500 ♦ Centrex 2210 ♦ jfe/ww police gi

27th May 2020

Our Ref: IM169

The Hon Fab an P cardo QC
Ch ef M n ster
No. 6 Convent P ace
G bra tar

Dear Ch ef M n ster,

REQUIREMENT TO PROVIDE A FACTUAL REPORT THE POUCE ACT 2006, Section 15 (l)(a)

1. I refer to your etter of the 21st May 2020 nform ng me of the requ rement to prov de a factua report pursuant to S.15( )(a) Po ce Act 2006 concern ng the death at sea of two Span sh Nat ona s on the 8th March 2020.

2. I wou d ke to po nt out that notw thstand ng the fact that I have br efed the Hon. Attorney Genera on severa occas ons (as suggested by you from the outset), appr sed the Cha rman of the G bra tar Po ce Author ty and consu ted w th the D rector of Pub c Prosecut ons, I have not been asked for further deta s or a factua report unt now.

3. For ease of read ng, I w address the concerns of the Government and the po nts sted n part VI (the Factua Report Requ red) n a chrono og ca order as far as poss b e.

4. **Point (iv): A full report of the facts of the incident, including details of whether the RHIB in question entered BGTW and if so where and when and how long it was in BGTW.**

   a. At about 0238Hrs on the 8th March 2020 RGP Mar ne Sect on off cers rece ved a verba report from W ndm H S gna Stat on (WHSS) concern ng a suspect vesse n the v c n ty of BGTW **(Appendices 15,20,21,22 and 74 refer).** As a resu t of th s report the Po ce Motor Boat (PMB) crew, dep oyed on motor vesse S r John Chapp e to the eastern s de of G bra tar.

   b. The RGP crew made d rect contact by te ephone w th the Guard a C v (GC) *Central Operativa de Servicios* (COS) and t was conf rmed by the atter that they were a so

mon tor ng the sa d vesse . The RGP nterceptor pos t oned tse f w th n the m ts of BGTW by Gr d A8 **(Appendices 2 and 15 refer).**

c. There were numerous exchanges of mob e te ephone commun cat ons between the RGP crew and GC COS wh ch nc uded the pos t on ng and movements of the suspect vesse **(Appendices 23 and 24 refer).**

d. At about 0329Hrs a chase commenced between the S r John Chapp e and the suspect vesse . The RGP app ed ts b ue ghts **(Appendices 15,16,17 and 74 refer).** Accord ng to the coxswa n (referred to as "Off cer One' n the Post Inc dent Procedure), the suspect vesse d sp ayed no nav gat ona ghts and due to ts engh and eng ne capac ty was a proh b ted mport known co oqu a y as a *Narco Launch.* The vesse was a RHIB of 14 metres n engh w th 4x 300 hp outboard eng nes. Four crew members were aboard.

e. The crewmembers of the suspect RHIB were ater dent f ed as:



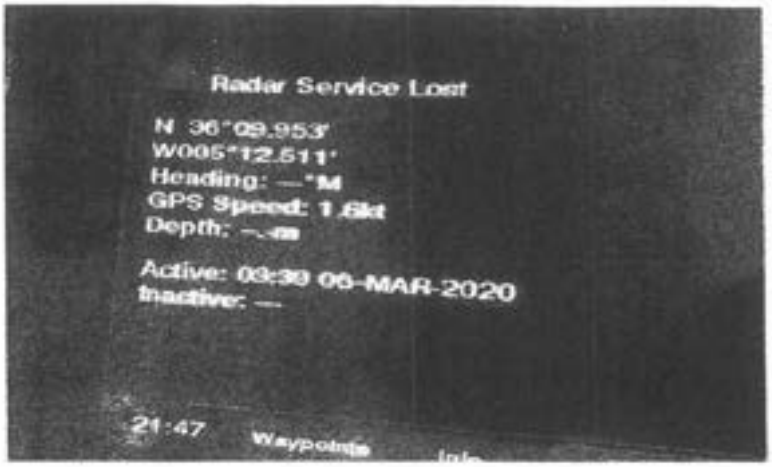
f. The coxswa n's ntent on was to dent fy the suspects and determ ne whether they were carry ng an ega cargo **(Appendices 15 and 16 refer).**

g. As the chase ensued, the suspect RHIB performed evas ve and dangerous manoeuvres and ts crewmembers threw objects at the Po ce vesse **(Appendices 15,16,17,19,20 and 74 refer).**

h. The chase ended n a co s on between both vesse s (wh ch accord ng to the mar ne expert, occurred at around 03:38:56, n pos t on 36° 09.96" N 005° 12.51" W **(Appendix 19 refers).** These coord nates are n Span sh waters. At the re evant t me th s nformat on was not ava ab e to the Command Team as the po ce nterceptor's AIS had not been act vated. Th s s contrary to stand ng orders. It was assumed that the

co s on was ke y to have taken p ace outs de of BGTW as the radar screen of the suspect vesse d sp ayed coord nates nd cat ng th s, but th s requ red techn ca conf rmat on.

i.



j. The Inte gence p cture at that stage was unc ear and confus ng w th the m ted facts recounted by the PMB crew be ng out of sync w th other facts. Such confus on s common n the n t a stages of a ser ous nvest gat on and for th s reason Post Inc dent Procedures (PtP's) are n t ated and off cers do not prov de deta ed accounts unt they have had t me to rest and take adv ce.

k. Fo ow ng the co s on, crew members from the S r John Chapp e boarded the suspect RHIB to assess the s tuat on and found the fe ess body of a ma e person, ater dent f ed as [redacted] He had an open head wound. There was a so a further crewmember, name y [redacted] who appeared ser ous y njured, w th v s b e open wounds to h s back/shou der, y ng on the hu . The RGP crew were not phys ca y harmed but were n shock **(Appendices 15 to 17 refer).**

. The coxswa n then took the dec s on of remov ng h s off cers from on board the suspect vesse as he feared for the r safety **(Appendices 15,25 and 26 refers).**

m. A tow ne was connected to the suspect RHIB for t to be towed to and and ensure the njured rece ved med ca attent on **(Appendices 15 to 17 refer).**

n. At 0343Hrs the RGP crew contacted WHSS and reported the nc dent add ng that they wou d be return ng to the G bra tar Government Mar ne Sect on (GGMS). **(Appendices**

15, 20 and 74 refer). As a resu t of the co s on the po ce vesse had mounted the suspect RHIB and anded on ts starboard s de caus ng the po ce vesse tak ng n water.

o. No Mayday ca was broadcasted by the po ce mar ne off cers. It s assumed at th s stage that th s was due to the state of shock that they must have been n.

p. At about 0345hrs, Off cer One (coxswa n) ca ed the RGP Command and D spatch Un t at New Mo e House (NMH) Po ce Headquarters, and appr sed the Crown Sergeant about the co s on and of the need of hav ng the ambu ance awa t ng the r arr va **(Appendices 15,25,26 and 27 refer).**

q. It shou d be noted that at 0300Hrs on Sundays the RGP Duty Off cer (an nspector) stands down and s ava ab e on a ca out bas s. Th s means that the sen or off cer on duty at the t me of the nc dent was a sen or sergeant known as the Crown Sergeant. The duty nspector was reca ed to duty mmed ate y.

r. The RGP vesse then commenced to tow the suspect RHIB but ts tow ng speed was reported to be reduced as one of ts eng nes had fa ed fo ow ng the co s on **(Appendix 15 refers).**

s. Consequent y, the ass stance of the HMC Mar ne Sect on was sought and HMC vesse Seeker met w th the S r John Chapp e by wh ch stage was w th n BGTW. **(Appendices 15 and 27 refer).**

t. A crewmembers from the suspect RHIB, except for the deceased, were transferred on to the HMC vesse for them to be taken ashore for treatment.

u. F rst A d was adm n stered to the crew of the suspect RHIB by the HMC off cers **(Appendices 10 to 17, 20, and 28 to 31 refer).**

v. At about 0355Hrs the on ca Go d Commander Detect ve Ch ef Inspector F e d was contacted and attended the Po ce Mar ne Base. As soon as he had assessed the s tuat on he ca ed me at 0425Hrs.

w. I mmed ate y reca ed a ava ab e sen or managers and convened **a** Go d Command meet ng.

x. A command structure was put n p ace w th a number of sen or off cers be ng tasked w th spec f c ro es. For the purpose of ead ng the nvest gat on dur ng the 'Go den Hour , DCI F e d was prov s ona y appo nted as Sen or Invest gat ng Off cer.

y. For the purposes of transparency, mmed ate cons derat on was g ven to request ng an ndependent body to ead the nvest gat on.

z. A cr t ca nc dent was dec ared and the fo ow ng add t ona persons reca ed to duty:

C No an Romero. Post Inc dent Procedure Manager (PIP)
DI Pau Ch po na (Head Spec a Branch) Internat ona a son w th Spa n
DI A ex Enr es PSD cover
Insp Thomas Tunbr dge Operat ona Log st cs
Insp A bert Fernandez Bronze commander Mar ne Base
Insp Pau Barker Med a
PS Maur ce More o Cha rman G bra tar Po ce Federat on we fare.

aa. Steps were then made to secure the Mar ne Base, the hosp ta and Po ce HQ. On a prev ous recent occas on nvo v ng a fata co s on w th an HMC vesse and another smugg ng craft, the v c n ty outs de Po ce Headquarters and hosp ta were nundated w th fam y members who e ther be ong to or are re ated to Organ sed Cr m na Groups (OCG).

bb. The fo ow ng estab shed command protoco s were n t ated.

Go d Commander	Comm ss oner Ian McGra
Deputy Go d	D/Supt Pau R chardson
SIO prov s ona	DCI John F e d
Coroner's Off cer	DI Sean Perera
Fam y L a son Off cer	Nata e Passano

cc. The fo ow ng fast track act ons were commenced:

1. Cr t ca Inc dent dec ared
2. Cons der ca ng UK force to nvest gate (Sma ls ands/Hampsh re cons dered n t a y)
3. Post Inc dent Procedure (PIP) procedure to be n t ated for:
    a. ECHR cons derat ons
    b. Safeguard ID of off cers (reta at on by OCG feared)
4. We fare of off cers
5. Secur ty NMH, PMB Base, SBH
6. Adv se:
    a. CM
    b. HE
    c. CBF
    d. GDP CPO
    e. Po ce Fed
7. Adv se W ndm H and Port to secure ev dence.
8. Comm ss oner to ssue message of reassurance to workforce

9. Inte c rcu ar to be pub shed for off cer safety reasons.
10. Res ence ssues to be cons dered for Go d command cover and Ops personne
11. Press statement
12. Prov s ona SIO to cons der ECHR mp cat ons and by extens on G bra tar Const tut on
13. Need to determ ne ocat on of nc dent ASAP.
14. SLOWER TIME ACTIONS:
    a. Extract tra n ng records for PMB crew
    b. Extract stand ng nstruct ons for chase at sea.

dd. At about 0540Hrs and short y after arr va at the Mar ne Base [redacted] was pronounced fe ext nct by paramed cs on scene. The other two crew members were conveyed to St. Bernard's Hosp ta to be med ca y exam ned **(Appendices 32 to 36 refer).**

ee. HM Coroner Mr PITTO, was appr sed and gave nstruct on for the bod es of the deceased to be p aced n the mortuary fr dge pend ng exam nat on by a Forens c Patho og st.

ff. At 0605Hrs I not f ed HE and yourse f and we engaged n an exchange of messages as from 0724hrs.

gg. At 0630Hrs I persona y went to speak to the off cers nvo ved n the co s on and reassured them that the r we be ng was at the forefront of our concerns.

hh. At O OHrs I met w th the Attorney Genera M chae L amas n my off ce and br efed h m fu y as to what was known at that stage. We were jo ned by the Governor N ck Py e at 1215Hrs.

. Fo ow ng med ca 'treatment the two rema n ng surv v ng crew members were arrested on susp c on of hav ng comm tted the offences be ow:

- Import ng a Proh b ted Import, contrary to Sect on 14 (1) (f) and (2) of the Imports and Exports Act 1986.
- Dangerous nav gat on, contrary to Sect on 10 of the Seas de P easure Boat Ru es 1989.
- Obstruct ng Po ce, Contrary to Sect on 177 (2) and (4) of the Cr mes Act.

Th s s because at that t me t was be eved that the suspect vesse had entered BGTW at some po nt dur ng or before the po ce chase ensued and therefore some cr m na ty had occurred w th n G bra tar's jur sd ct on. (The CAD og records that the nc dent took p ace some 3 m es south of Europa Po nt as reported by the crew th s was ater found to be ncorrect see Append x 64, record 5 of 97)

jj. On the 1st Apr 2020 once t was c ear that no cr m na ty had occurred w th n BGTW, the two rema n ng surv vors were reca ed from ba and re eased w thout charge. **(Appendices 37 and 38 refer).**

kk. At 1205Hrs 9th March 2020 I he d a br ef ng n my off ce w th The Governor and Attorney Genera and updated them w th the deta s I had ava ab e.

ll. As part of the Post Inc dent Procedure (PIP) the RGP crew members prov ded an n t a account on the same day fo owed by a deta ed account some days ater. For safety reasons the off cers are dent f ed as Off cer One (coxswa n). Off cer Two (2nd qua f ed crew member) and Off cer Three (unqua f ed crew member). Th s s to prevent the r dent t es be ng transm tted to organ sed cr me groups who have been known to take persona vengeance aga nst aw enforcement off cers.

mm. The HMC crew a so took part n the PIP process.

nn. For reasons of ndependence, transparency and mpart a ty on the 10th March 2020 arrangements were made w th for an ndependent nvest gat on to be ed by the Metropo tan Po ce Serv ce, D rectorate of Profess ona s Standards. Th s was after attempts to obta n support from the ch efs of other sma jur sd ct ons fa ed.

oo. The **terms of reference** for the ndependent nvest gat on are as fo ows:

1) *To review what the Royal Gibraltar Police has actioned so far in to the causes and circumstances of the collision at sea in the early hours of 8th March 2020 between RGP interceptor Sir John Chapple and a 14m rigid-hulled inflatable boat which resulted in the deaths of two of the four men on board and to assume the lead in this investigation from thereon.*

2) *To investigate the actions and decisions of Royal Gibraltar Police officers and/or staff in relation to the collision at sea on 8th March 2020 and the degree to which if at all the actions and decisions caused or contributed to the two deaths and injuries of other parties aboard the rigid-hulled inflatable boat.*

3) *To assess whether the police officers and staff acted in accordance with police policies guidance and legislation.*

4) *To assess whether any police officers or staff have committed criminal offences or behaved in a manner justifying the bringing of disciplinary proceedings.*

5) *To identify any opportunities for organisational learning and any good practice that could be highlighted and shared.*

pp. At around the same t me the serv ces of a mar t me co s on expert were engaged Capta n R chard Me k e (the same expert who nvest gated the HMC vesse fata co s on off Eastern Beach).

qq. The Metropo tan Po ce nvest gat on team arr ved n G bra tar on 13th March 2020 and compr sed of an act ng detect ve super ntendent, severa other po ce off cers and a c v an nvest gator.

rr. The mar t me co s on expert arr ved on the same f ght as the Metropo tan Po ce team and on arr va they were put n touch w th each other.

ss. The Metropo tan Po ce off cers were sworn n as RGP off cers n order to grant them constabu ary powers. The act ng D/Supt assumed conduct of the nvest gat on fo ow ng a comprehens ve br ef ng and handover of a re evant mater a . The RGP prov s ona SIO, DCI F e d was appo nted as a son off cer to ass st the team w th the r nvest gat on n G bra tar.

tt. The vesse s nvo ved n the co s on, as we as the HMC vesse nvo ved n the tow ng of the suspect vesse , were exam ned by RGP Cr me Scene Off cers. They were ater brought out of the sea onto the 'hard' and treated as cr me scenes for them to be further exam ned at a ater date, by the mar t me expert.

uu. From the onset, and s usua n ser ous cases, the fam es of the deceased were approached by a Fam y L a son Off cer (FLO) appo nted by the RGP. Th s ro e nvo ves prov d ng support and act ng as a a s ng po nt between the nvest gat ng team and the fam y. It shou d be noted, that oca counse represent ng the fam es of the deceased (as we as the two persons n custody) ns sted on a contact to be done v a the r chambers. Chr stopher FINCH from VERRALLS s ead ng on th s, w th the ass stance of Le gh DEBONO.

w. Dr Dav d ROUSE, Consu tant n Forens c Med c ne and Patho ogy performed post mortem exam nat ons on both deceased on the 11th and 12th March 2020 and has prov ded h s w tness statements/post mortem reports **(Appendices 40 and 41 refer).**

ww. In respect of ABDESELAM AHMED, n h s op n on:

- There was no apparent ev dence of natura d sease that may have caused or contr buted to the death.
- Death was not due to natura causes w th death re at ng to the extens ve head nju r es as we as to the eft shou der. The nju r es are cons stent w th forcefu mpact to poster or eft aspect of the trunk / head w th contra atera mpact to the r ght face .e. a crush ng type event.

- Such njur es are non surv vab e and wou d ke y have caused mmed ate oss of consc ousness and /or death.
- He can conf rm that he has been shown photographs of the RHIB show ng extens ve damage to the port s de of the stern w th the deceased n s tu. Th s wou d suggest an over r d ng mpact and wh ch cou d account for the njur es to the deceased.
- He has no further requ rement for retent on of the deceased.
- Tox co ogy resu ts are st awa ted but w not affect the cause of death g ven the extent of the njur es.
- In h s op n on, cause of death was due to mu t p e njur es.

xx. In respect of [redacted], n h s op n on:

- There was no apparent ev dence of natura d sease that may have caused or contr buted to the death.
- Death was not due to natura causes w th death re at ng to the extens ve chest, sp ne and upper mb njur es. The njur es are cons stent w th forcefu mpact to the back w th the suggest on of a repeated pattern, poss b y assoc ated w th a rotat ng object.
- Such njur es are non surv vab e but may have been assoc ated w th m ted consc ousness. Any de ays n resusc tat on are un ke y to have affected the outcome.
- He can conf rm that he has been shown photographs of the RHIB show ng extens ve damage to the port s de of the stem w th the deceased n s tu. Th s wou d suggest an over r d ng mpact and wh ch cou d account for the njur es to the deceased.
- He has no further requ rement for retent on of the deceased.
- Tox co ogy resu ts are st awa ted but w not affect the cause of death g ven the extent of the njur es.

yy. On the 17th March 2020 I met w th the Attorney Genera and d scussed the progress of the nvest gat on and ts var ous strands nc ud ng the Coroner's nvest gat on, poss b e c v act on, profess ona standards enqu ry, Span sh jud c a act on, aw enforcement co operat on ang e (Brex t work ng group) and the po t ca d mens on. The a m was to deve op a work ng strategy to dea w th a of th s. I proposed to meet face to face w th GC to gather more nformat on and try to e c t where they were tak ng the matter. The Metropo tan Po ce a so wanted to meet them too. G ven the obv ous po t ca sens t v t es I wanted to run th s past you. The AG adv sed me that he wou d consu t w th you and revert.

zz. Short y after th s meet ng the AG nformed me by text to proceed as we had d scussed.

aaa. On the 18th March 2020, hav ng been unab e to meet w th the GC face to face because of the Cov d 19 cr s s, I br efed the AG on the v deo conference that we had he d between the Metropo tan Po ce team, the RGP and the Guard a C v . That br ef ng nc uded reference to the Span sh nvest gat ng judge potent a y summons the RGP off cers to g ve the r accounts, or request the r accounts n wr t ng.

bbb. On the 19th March 2020,1 forwarded the same nformat on as d scussed n the preced ng paragraph to the Cha rman of the G bra tar Po ce Author ty. The GPA Cha rman asked me whether the Governor was aware of th s and I nformed h m that the Metropo tan Po ce wou d br ef h s off ce d rect y g ven that Ph Cu gan had nv ted the team round to h s house.

ccc. On the 19th March 2020 the Metropo tan Po ce team eft G bra tar premature y due to the Cov d 9 wor d hea th emergency. S nce then the team ead Supt Ag Gary Sm th has been rea ocated other dut es by the r UK commanders and the team has been subject to UK ockdown ru es. Th s has caused s gn f cant de ays to the nvest gat on.

ddd. On the 22nd Apr 2020 I met aga n w th the Attorney Genera and DPP and we d scussed a potent a c v act on by Chr stopher F nch on beha f of the surv v ng crew members. The quest on of crown counse representat on was f rst d scussed at that meet ng and I was adv sed by the DPP that 'we *were not at that point yet'* that a c a m had not been f ed. We d scussed the need to have a strategy to dea w th a the strands the Coroner's enqu ry, Span sh Lawyers, the ke hood that RGP off cers wou d be summoned to Spa n to test fy and the po t ca mp cat on of the ocat on of the nc dent. The AG wou d g ve thoughts on whether to br ng the matter up n the aw enforcement co operat on work ng groups and/or to tactfu y engage w th h s Brex t negot ator counterpart. He undertook to adv se you too reassur ng me that he had qu ck d rect access to yourse f. Th s was at the he ght of the Cov d 19 cr s s oca y.

eee. The AG d d not want to cons der further strategy unt we had rece pt of the Metropo tan Po ce's report w th the r f nd ngs. Th s has st not been rece ved desp te many requests to exped te the Cov d 19 Cr s s n the UK has taken ts to on po c ng as n many other areas of bus ness. I have rece ved a s t rep update from the UK team on 27th May 2020 **(Appendix -90)**

fff. The mar ne nvest gator's draft nvest gat on report was subm tted for comments to the UK team and the RGP on the 30th Apr 2020 and s current y be ng rev sed fo ow ng d scuss on between the nterested part es.

ggg. On the 14th of May Robert F sche of Verra s wrote to me enc os ng a etter of c a m on beha f of [redacted]. [redacted] was aboard the RHIB nvo ved n the co s on w th the S r John Chapp e on the 8th of March 2020. On Fr day the 15th of May, Supt. Yeats sought to arrange a meet ng w th the DPP to "d scuss how to progress the defence of th s c a m." The DPP rep ed on Sunday the 17th say ng he was ava ab e dur ng the week of the 18th of May, w th the meet ng be ng arranged for the 19th of May. At that meet ng the DPP was of the v ew that he wou d be unab e to represent the RGP on the matter as he was ke y to be brought nto conf ct at some future date, he gave three potent a reasons:

a. hav ng to prosecute EAWs aga nst the off cers f the K ngdom of Spa n sought to extrad te,
b. prosecut ng the off cers oca y for cr m na offences and th rd y,
c. prosecut ng n d sc p nary proceed ngs.

We accepted h s pos t on. The DPP was of the op n on that the ssue of the c a m shou d be br efed out, but he w shed to d scuss the matter w th the Attorney Genera , hhh. On Wednesday the 20th of May Supt. Yeats spoke to the DPP and he asked that we wr te to the AG exp a n ng why there may be conf ct and seek ng author ty to br ef out the matter. The AG wou d then ra se the matter w th the CM. Th s was done.

15. **Point (i): A statement on the current status of the officers in question (i.e. whether they continue to be on active duty or are suspended or stood down pending finalization of any enquires into this matter).**

a. As soon as I became aware of the ser ousness of the s tuat on I nstructed that a Post Inc dent Procedure (PIP) commence and appo nted Ch ef Inspector No an Romero, a qua f ed Post Inc dent Manager (PIM)

b. In accordance w th approved pract ce post nc dent nvest gat ons are nst gated when certa n cr ter a are met, one of wh ch nc udes any non f rearms nc dent where the Po ce have been nvo ved and th s dep oyment has resu ted n death or ser ous n ury. **(Appendix 62 refers).**

c. The a m of th s approved pract ce s to deta the management arrangements for such nc dents and re ate to the safety and secur ty of person(s), property/cr t ca nfrastructure and nc ude and are not m ted to var ous nstances, nc ud ng:
   - Pursu ts.
   - Acc dents dur ng operat ona act v ty.
   - Ser ous co s ons..
   - Any s tuat on where a cr t ca nc dent has been dec ared.

d. The object ves of the procedure are to:
   - Look after the we fare of Key Po ce W tnesses
   - Fac tate the nvest gat on
   - Ensure the ntegr ty of the procedure

e. One of the PIM's respons b t es s to ensure that the off cers' we be ng and safeguards are cons dered at every stage of the process. The PIM gathers a re evant and ava ab e nformat on, make assessments and rat ona ses h s dec s ons n a og **(Appendix 1 refers).**

f. In th s nstance t was dec ded to afford the off cers anonym ty to m t gate the r sk of the r names be ng d sc osed to persons nvo ved n cr m na ty. Accord ng y as part of the PIP process the off cers were dent f ed as Off cers One (coxswa n. Off cer Two (qua f ed crew member) and Off cer three (3rd crew member). G bra tar Po ce Federat on (GPF) representat ves were a so present at the n t at on of the PIP process.

g. On the same morn ng of the nc dent, the off cers prov ded the r n t a Stage three accounts **(Appendices 2 to 4 refer respectively)** and arrangements were made to contact them the fo ow ng day. They were then sent home. Stage 1 account s the report made to the PIM on appo ntment and the Stage *2* account s the PIM's n t a br ef to the SIO (Sen or Invest gat ng Off cer).

h. The HMC Mar ne Sect on Off cers who ass sted n the tow of the suspect RGIB were a so nc uded n the PIP and were a so afforded anonym ty. They are referred to as HMC Off cer Four, F ve, S x, Seven and E ght. These off cers a so prov ded n t a accounts **(Appendices 5 to 9 refer respectively).**

. The RGP Mar ne Sect on off cers nvo ved n the nc dent, were stood down and a owed to commence the r cyc e of rest days and a return to work strategy was mp emented wh ch nc uded restr ct ng the r dut es to non operat ona and non pub c fac ng dut es. A of the off cers were offered profess ona counse ng.

j. On the 10th March 2020, RGP Off cers One, Two and Three, met w th the PIM, h s ass stant and GPF representat ves. The we fare of the off cers concerned was d scussed and counse ng was requested and th s was arranged by management. Th s took p ace short y after through the G bra tar Hea th Author ty (GHA).

k. The off cers met w th the r ega representat ve appo nted by the GPF.

. On the 11th March 2020, arrangements were made for RGP off cers One, Two and Three, to prov de the r Stage 4 accounts at the off ce of the GPF. Th s was schedu ed for the 12th March 2020. That same day. Off cer Three, stated that he was f t to return to work.

m. On the 12th March 2020 the PIM was adv sed that the off cers' ega representat ve n G bra tar had engaged the serv ces of a PIP Spec a st from the UK and the Stage four accounts wou d be de ayed unt h s arr va to G bra tar.

n. Ass stant Comm ss oner ULLGER met w th the off cers at the off ce of the GPF. The off cers were prov ded w th reassurance and we fare support w th the ntent ons of them return ng to work as qu ck y as poss b e.

o. The Stage four accounts of HMC Off cers Four, F ve, S x, Seven and E ght were subsequent y prov ded on 12th March 2020 **(Appendices 10 to 14 refer respectively).**

p. On the 12th March 2020, nte gence was rece ved to the effect that threats had been made aga nst the off cers nvo ved n the co s on. Th s nc uded damag ng a res dence n Spa n, nked to one of the off cers. As a resu t of th s, the Guard a C v (GC) contact po nt for the RGP was nformed of th s and the r ass stance sought n try ng to prov de regu ar patro s of the address n quest on.

q. On the 16th March 2020, RGP Off cers One, Two and Three, prov ded the r Stage four accounts n the presence of the r UK counse and GPF representat ves. They dec ned to a ow off cers from the Met Po ce team to be present dur ng the prov s on of the r account and d d not cover a of the areas that they had been asked to by the Metropo tan Po ce nterv ew ng team, nc ud ng the ocat on of where the co s on occurred and quest on on the operat ng of the AIS. **(Appendices IS to 17 refer respectively.**

r. On the 23rd March 2020, arrangements for the off cers to return to work were made on a s ow ntegrat on bas s wh st they cont nued rece v ng counse ng. They are current y on non front ne dut es and the r progress s be ng mon tored.

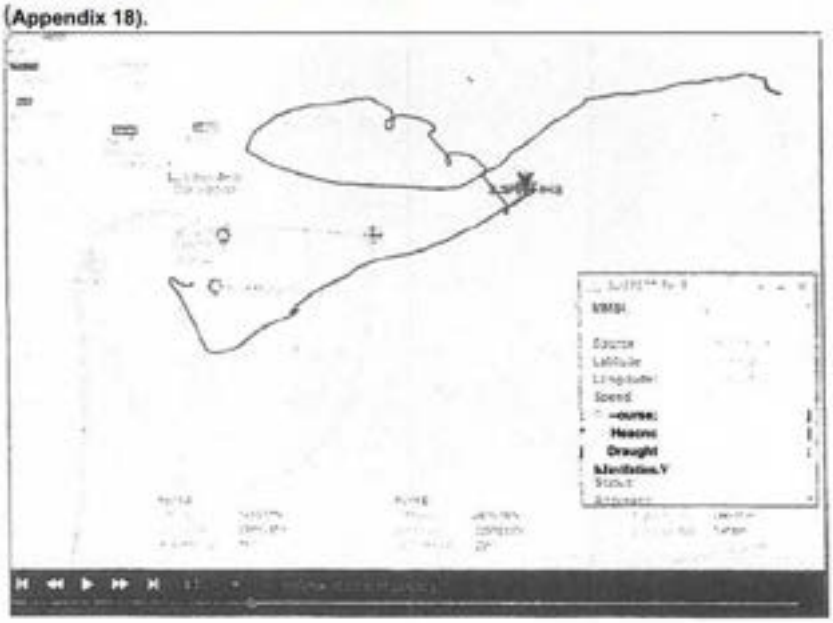
- Off cers One and Two were dep oyed to ass st n the RGP stores.
- Off cer Three was dep oyed to Resource Management on the 24th March.

s. The Metropo tan Po ce Team from the D rectorate of Profess ona Standards s current y nvest gat ng the off cers' conduct. We are st wa t ng for the r return to G bra tar and progress th s nvest gat on. Th s has been de ayed due to the COVID 19 pandem c and the trave restr ct ons.

t. At th s stage the off cers have not been served w th forma not ces of nvest gat on under the Po ce (D sc p ne) Regu at ons 1991 wh ch s the under cons derat on of the Metropo tan Po ce team

5. **Point (ii): The exact location where the incident happened; and Point (iii): Confirmation, therefore, of whether the incident happened inside or outside of BGTW.**

a. Capta n MEIKEL (SOUS Mar ne Consu tants), have produced a Rap d Rep ay reconstruct on us ng the data that was recovered from the GPS from the suspect RHIB. Be ow s a screenshot of the s tuat on around the suspected t me of the co s on (**Appendix 18**).



b. As can be seen the co s on occurred outs de of BGTW the m ts of wh ch are demarcated on the chart.

c. The actua po nt of co s on s descr bed as po nt 'B' th s be ng:
   - Lat tude 36° 10.10 N
   - Long tude 005°12.50 W

d. Capt. MEIKEL cannot make reference to any pos t ons of the RGP nterceptor. S r John Chapp e, as ts Automat c Ident f cat on System (AIS) was not connected dur ng the nc dent. Th s contrary to nstruct ons.

e. In h s draft report, Capt. MEIKLE (**Appendix 19 refers**) states that the S r John Chapp e ntercepted the suspect RHIB n pos t on 36° 11.7'N 005° 18.1'W at around 03:29:15. The co s on occurred at around 03:38:56, n pos t on 36° 09.96' N 005° 12.51' W (36° 10.0' N 005° 12.5' W when rounded off to one dec ma p ace of a m nute). Therefore, th s pos t ons the vesse s dur ng the ntercept, pursu t and co s on n Span sh waters.

f. Th s co nc des w th the ast pos t on d sp ayed on suspect RHIB's chart p otter (see paragraph 4( ). It s suspected that the oss of s gna occurred as a resu t of the co s on whereby the radar mast was damaged.

g. Ne ther the G bra tar Port Author ty nor WHSS cou d ass st n p ott ng the course of e ther vesse as they had not been detected through the r AIS track ng. WHSS d d, however, record the chase through the r nfra red therma cameras. A though they cannot p ot the chase, by referenc ng to vesse s anchored out at sea and captured n the footage, they were ab e to p ace the chase outs de BGTW.

A statement from Mr. MANDELBERG to th s effect s current y be ng prepared.

h. It s mportant to note that the AIS (Automat c dent f cat on System) of the S r John Chapp e was turned on after t returned to BGTW. The off cers were asked to account but d d not respond to t n the Stage 4 account.

. The f rst p ott ng of the AIS of the suspect RHIB s out at sea n Span sh Waters. There s no prev ous p ott ng, accord ng y t s not known w th any degree of certa nty whether the vesse ever entered our jur sd ct on pr or to that p ot.

6. **Point (v): Copies of any report or reports provided by the Metropolitan Police in respect of this incident as a result of the investigation sanctioned by the Government in relation to the incident.**

a. A br ef s t rep update was rece ved from the Metropo tan Po ce at 1359hrs on 27.05.20 **Appendix 90 refers.** In th s s tuat on report reference s made to a prev ous s t rep dated 23.03.20. The Met team had not shared th s w th me th s had on y been c rcu ated amongst the nvest gat on team and the r super ors. At 2025hrs on 27 May 2020, the Met Po ce SIO ema ed the s tuat on report of the 23.03.20 wh ch br ef y captures the r enqu r es n G bra tar nc ud ng " a son w th FCO regard ng the po t ca s tuat on." **Appendix 91 refers**

7. **Point (vi): Copies of any internal reports or documentation produced to date in respect of the Incident.**

a. *A* copy of the prov s ona SIO Po cy / Act on f e, wh ch s ssued to manage the nvest gat ve response, resources assoc ated w th the nvest gat on, strateg es and procedures to be adopted s nc uded at **Appendix 39.**

b. The Post nc dent Manager's (PIM) og where he recorded nformat on ava ab e to h m as to the nc dent, as we as act ons, assessments and dec s ons made by h m and the rat ona e beh nd them s nc uded at **Appendix 1.**

c. The custody records of the two surv vors, LAHSEN DRIS and GOMES SERENO, who were arrested on the date of the nc dent are nc uded at **Appendices 37 and 38.**

d. Mar ne Co s on expert Capt. MEIKLE from SOLIS Mar ne Consu tants has produced a draft report fo ow ng h s exam nat on of both vesse s on the 14th March 2020 and subsequent exam nat on of the nav gat ona systems. H s draft report was rece ved on the 30th Apr 2020 and s nc uded at Append x 19.

e. H s prov s ona conc us ons are summar sed hereunder, however, they are under hav ng been subjected to comment by MPS and RGP:

I. 'SIR JOHN CHAPPLE' ntercepted the 'SUSPECT RHIB' n pos t on 36° 11.7'N 005° 18.'W at around 03:29:15. The co s on occurred at around 03:38:56, n pos t on 36° 10.0' N 005° 12.5' W. The ntercept, pursu t and co s on took p ace n Span sh waters.

II. It wou d have been c ear to the off cers on board 'SIR JOHN CHAPPLE', as they were fam ar w th the waters, even when nav gat ng by eye that they were we outs de of BGTW.

III. 'SIR JOHN CHAPPLE'S starboard bow co ded w th the port quarter of 'SUSPECT RHIB'. The speed of 'SIR JOHN CHAPPLE' ed t to pass over the top of 'SUSPECT RHIB' dur ng the co s on and, once c ear, and ng on the r starboard s de at an ang e wh ch ed to the water ngress nto the cab n.

IV. It cannot be stated w th any certa nty who the coxswa n of 'SUSPECT RHIB' was; however, t s ke y to have been Mr. [redacted]. The crewman n seat two was, by e m nat on, ke y to be Mr.[redacted], who d ed short y after the co s on.

V. It s not known why the two forward jockey seats on 'SUSPECT RHIB', where the two dead crewmen were seated, had very tt e damage when compared w th the heav y damaged aft two seats.

VI. To estab sh, w th greater certa nty, the ang e of nc dence, and the path of 'SIR JOHN CHAPPLE' n re at on to 'SUSPECT RHIB' add t ona mode ng of the two vesse s wou d be requ red. The creat on of 3 D mode s us ng Rh no software cou d be ut sed to show the re at ve pos t ons and aspects of the two vesse s pr or to, dur ng, and after the co s on. (Th s has now taken p ace).

VII. Off cer One d d not turn on 'SIR JOHN CHAPPLE's AIS for the durat on of the operat on n contravent on of Mar ne Sect on Instruct ons.

VIII. The crew of 'SIR JOHN CHAPPLE', n not us ng a the ava ab e nav gat on equ pment showed a poor standard of nav gat on.

IX. The Instruct ons stated that the safety of the crew was the pr or ty; however, the crew of 'SIR JOHN CHAPPLE' n cont nu ng to pursue at very c ose range, w th m ted v s b ty, and unab e to respond to a qu ck turn by the 'SUSPECT RHIB' d d not comp y w th those Instruct ons.

X. There was no proper tra n ng n pursu ts of suspect vesse s for the coxswa ns who wou d be requ red to take evas ve act on. *{This is not our understanding and is subject to review.* We *believe that the training provided deals with this area of seamanship).*

XI. From the ev dence rev ewed to date, t appears that Mar ne Sect on managers d d not have an effect ve overs ght of how the r patro s were be ng carr ed out. *(This is currently being further looked into by Capt Meikle in respect of job descriptions and governance of the unit).*

XII. Once Off cer One rea sed that there was mmed ate r sk to fe, he shou d have broadcast a Mayday re ay ca to a vesse s n the area.

XIII. The Instruct ons and gu dance prov ded to the Response Teams, overs ght of operat ons (patro s and h gh speed pursu ts) and the management's rev ew processes shou d be better understood.

XIV. A study of AIS data, over a per od of severa months wou d prov de an ns ght nto the operat ng patterns of these vesse s and the frequency at wh ch they operate outs de BGTW. (Th s s tak ng p ace).

XV. A rev ew of prev ous nc dent reports, nvest gat ons and act ons taken by RGP sen or off cers wou d be benef c a to the nvest gat on. (Current y access ng and be ng ooked nto).

XVI. Capt. MEIKEL returned to G bra tar, w th 3D scann ng spec a sts, V sua Sk es, to obta n 3D scans of both vesse s nvo ved n the nc dent. These were performed on the 18th and 19th May 2020 and w prov de mages / an mat on wh ch w ass st n g v ng a c earer p cture of the actua co s on mpact.

f. **Witness statements** have been obta ned from numerous experts, off cers and c v ans. These nc ude:

• Off cers One, Two and Three from the RGP. (Off cers were on board the S r John Chapp e, be ng the vesse nvo ved n the co s on, and have prov ded PIP stages

three and four accounts n respect of the nc dent). **(Appendices 2 to 4 and 15 to 17 refer).**

- HMC Four, F ve, S x, Seven and E ght from HMC. (Off cers were on board HMC Seeker and prov ded ass stance to transport the casua t es on board the suspect RHIB to the GGMS PIP stages three and four accounts). **(Appendices 5 to 14 refer).**

- Paramed cs Fab an FERRO, Pau WATSON and S gurd HAVELAND from the GHA. (Invo ved n the treatment and tr age of the three crewmembers of the suspect RHIB who were transferred to the GGMS by HMC. WATSON and HAVELAND a so recogn sed fe ext nct on both the deceased). **(Appendices 33 to 36 refer).**

- GDP Commun cat ons Ass stant Dan e FERRO GDPC 105 KILPATRICK, from WHSS. (Off cers mann ng WHSS on the n ght of the nc dent. They make n t a ca to RGP nform ng them of suspect vesse . The movements of the suspect vesse and part of the chase s mon tored by them through therma cameras. Fo ow ng the co s on, they are contacted by the RGP crew and nformed of the Inc dent nvo v ng a fata ty **(Appendices 20 to 22 and 30 and 31 refer respectively).**

- Emergency Med ca Techn c ans (EMT) from the GHA, Stuart RYAN, Tanya NOGUERA, Les e BRUZON and Pau LLANELO, together w th Care Ass stant W son OLVEIRA. (Invo ved n the tr age and treatment of the three crewmembers of the suspect RHIB who were transferred to the GGMS by HMC). **(Appendices 42 to 46 refer respectively).**

- Dam an CHIPOLINA and Jose Lu s MOLINA RUS from Tar k Sh pp ng Serv ces Ltd. (They were on board a serv ce vesse n the eastern s de on the n ght of the Inc dent and w tnessed b ue f ash ng ghts at a d stance. The t me of th s, was post co s on. Noth ng e se was w tnessed by them). **(Appendices 47 and 48 refer respectively).**

- Robert COLLIS and Dy an SHARP from Tar k Sh pp ng Serv ces Ltd (D d not prov de w tness statement but gave the same account as Dam an CHIPOLINA and Jose Lu s MOLINA RUS. COLLIS further prov ded the RGP w th a sma v deo c p he had taken of b ue ghts be ng seen at a d stance. A f e note of th s was made). **(Appendices 75 and 76 refer).**

- Dan e RUDMAN, Ch ef Metro og ca Off cer. (Prov des nformat on on weather and sea cond t ons on the n ght of the Inc dent). **(Appendix 49 refers).**

- Ph p MANDELBERG from the G bra tar Port Author ty. (Produces screenshots show ng coord nates supp ed by the RGP and exp a ns that the Port Author ty cou d not track the course taken by the RGP or suspect RHIB vesse dur ng the nc dent). **(Appendix 50 refers).**

- PC 117 FORTUNATO from the RGP. (Duty contro er at CAD who rece ved ca s from Off cer ONE fo ow ng the fata co s on at sea). **(Appendix 27 refers).**

- PS 6 STONE from the RGP. (Duty Crown Sergeant who was appr sed of the s tuat on by Off cer One, fo ow ng the fata co s on at sea. He a so arranged for ass stance to be prov ded by HMC and the GHA). **(Appendix 28 refers).**

- PC 167 RISSO from the RGP. (Duty contro er at CAD who rece ved a te ephone ca from Off cer One pr or to the nc dent and a so w tnessed PS STONE and PC FORTUNATO dea ng w th ncom ng ca s from Off cer One). **(Appendix 60 refers).**

- PC 182 VICTOR from the RGP. (Formed part of the n t a RGP nvest gat ng team). **(Appendix 51 refers).**

- Insp John IUTKIN from the RGP. (Duty Off cer on the n ght of the nc dent). **(Appendix 58 refers).**

- PCs 71 CANEPA and 100 O'FLAHERTY from the RGP. (Both off cers ass sted w th the casua t es upon the r arr va at the GGMS. PC CANEPA a so recogn sed fe ext nct on ABDESELAM AHMED). **(Appendices 32 and 52 refer respectively).**

- PCs 175 LANE, 216 YEO, 63 MYHILL, 55 CHAPPORY from the RGP. (These off cers from the Area Response Team on duty on the n ght n quest on, prov ded ass stance as and when requested n respect of the nc dent, such as cover ng cr me scenes). **(Appendices 53, 55, 56 and 57 refer).**
- DC 127 GARCIA WHITE from the RGP. (The off cer obta ned cop es of the CT scans performed on the bod es of both deceased). **(Appendix 59 refers).**

- DC 169 KINGSLEY from the RGP. (Trans ated the w tness statement from Jose Lu s MOLINA RUS from Tar k Sh pp ng Serv ces Ltd, from the Span sh nto the Eng sh anguage). **(Appendix 54 refers).**

- PC 186 PARKER from the RGP. (Obta ned aud o f es from CAD conta n ng the ca s made from and to Off cer One, fo ow ng the co s on at sea). **(Appendix 61 refers).**

- . a n UNDERY, VTS Superv sor from the G bra tar Port Author ty. (He rece ves a report from Tar fa Traff c, nform ng h m that they had rece ved a ca from an unknown person report ng that there had been a ser ous nc dent off La Atunara). **(Appendix 29 refers).**

g. **Coroner's officer,** Insp Sean Perera, has been prov d ng br ef ng notes/updates on the coroner's nvest gat on to Supt R chardson, s nce the 21st Apr 2020 **(Appendix 63 refers).** Th s nc udes and s **not** m ted to:

- Commun cat on between the RGP and the off cers of the MPS D rectorate of Profess ona Standards, tasked n nvest gat ng th s Inc dent, nc ud ng requests made by e ther s de, supp y ng of any mater a of ev dent a va ue to the nvest gat on, etc.

- Commun cat on between the RGP and the ega representat ves of both the fam es of the deceased and the surv vors. Amongst other th ngs, th s has seen oca counse s from VERRALLS, request ng/demand ng for nformat on on th s nvest gat on, request ng the return of property and for the r own experts to be a owed to carry out exam nat ons of both vesse s nvo ved n the co s on.

- Commun cat on w th HM Coroner and the Coroner's Off cer. Th s nc udes updates on the nvest gat on or anyth ng re at ng to the nc dent, proposa s and requests for author sat on to be granted to open up other nes of enqu res, author sat on for costs/expenses wh ch m ght be ncurred dur ng the nvest gat on to be met or deferred to another party. Commun cat on and act ons/f nd ngs by the mar ne expert comm ss oned to nvest gate th s matter. Inform ng of requests made by the Span sh author t es and ega representat ves of the fam es of the deceased and the surv vors and adv ce on how to proceed.

- Anyth ng e se of nterest or cruc a to the nvest gat on.

8. **(a) Point (vii): Copies of any incident logs that may have been kept of the actions in respect of the Incident.**

(b) Point (viii): Copies of any call logs that may have been kept of the actions relating to the Incident.

a. A CAD og, w th ser a number CD/20/00018587/P, was mmed ate y opened by the RGP duty contro ers fo ow ng the n t a te ephone ca made to them by Off cer One. Th s was at 03.45:41hrs on the 8th March 2020, fo ow ng the co s on at sea, dur ng wh ch he reported a fata ty **(Appendix 64 refers)**. The RGP has no ab ty to record rad o traff c.

b. A te ephone ca s s nce then re at ng to the nc dent, nc ud ng re evant nformat on rece ved and subsequent dep oyments and the ca out of off duty off cers were recorded. Th s nc udes Off cer One, speak ng w th the duty Crown Sergeant, and nform ng h m of the chase of a RHIB, at approx mate y 3 m es off Europa Po nt and cu m nat ng n a co s on where a person had d ed and another was ser ous y njured. Dur ng the conversat on the off cer requests the ambu ance to awa t the r arr va at the GGMS, as they tow the suspect RHIB. Th s ca og was c osed at 07.16:42 hrs as a

resu t of nstruct ons g ven by the PIM n order to afford anonym ty to the off cers on the S r John Chapp e **(Appendix 1 refers).**

c. Wh st th s was occurr ng, a second ca og was opened w th ser a number CD/20/00018589/R at 07.13:50 hrs **(Appendix 65 refers).** As w th the prev ous og, anyth ng re evant to the nc dent was recorded.

d. Aud o f es from CAD conta n ng the record ng of the ca s made from and to Off cer One mmed ate y after the fata co s on were a so secured **(Appendices 61 and 66 to 69 refers).** Transcr pts of the conversat ons have been produced **(Appendices 70 to 73 refers).**

e. The prov s ona SIO, Po cy/act on f es, wh ch records dec s ons, task ng and rat ona e s nc uded at **Appendix 39:** These nc ude:

- Po cy F e 11126: Offers an ntroduct on nto the nc dent and n t a br ef ng prov ded by the Duty Off cer. As a resu t of th s COP and other SMT off cers were contacted.
- Po cy F e 11127: St pu ates Go d Command / ro e des gnat on.
- Po cy F e 11128: Requ res for the dent ty of the deceased and persons deta ned on board suspect RHIB; Carry out forens c and retr eve c oth ng; Cr me Scene forens cs and secur ng; and arrest strategy and obta n ev dence by quest on ng.
- Po cy F e 11129: Requ res a son w th PIP Manager and obta n ng n t a accounts from the crew on board the S r John Chapp e and HMC Seeker; GPF n attendance ass st ng PIMs ass stant; and dep oyment of FLO.
- Po cy F e 11130: Enqu r es w th Span sh counterparts to dent fy next of k n of the deceased, ev dence gather ng and estab sh ng exact ocat on of Inc dent.
- Po cy F e 11131: Cons der res ence ssues to secure PMB, GHA and NMH.
- Po cy F e 11132: Med a strategy.
- Po cy F e 11133: Enqu r es w th WHSS, Port Author ty and Tar fa Traf co.
- Po cy F e 11134: Cons der ECHR mp cat ons and by extens on the G bra tar Const tut on.
- Po cy F e 11135: Secure aud o f es from CAD and PMB apperta n ng to the Inc dent.

- Po cy F e 11136: Intrus ve search of vesse through HMC.
- Po cy F e 11137: Obta n expert co s on report.
- Po cy F e 11138: Enqu r es w th PMB.
- Po cy F e 11139: Exped te and fac tate repatr at on of the bod es of the deceased.

The contents for each spec f c task s conta ned w th n **Appendix 39.**

9. **Point (ix): Details of any conversations or other operational communications with Spanish law enforcement or other agencies and whether that led to any actual or tacit invitation to enter the Spanish Territorial Sea, providing exact details of such actual or tacit invitation, or the absences thereof.**

a. The n t a ca wh ch n t ated the act ons taken by the RGP crew of the S r John Chapp e, came from WHSS **(Appendices 15, 20, 23, 30 refer).** Accord ng to the ca ogs from the mob e te ephone he d by the RGP off cers, th s was at 0238 hrs on the 8th March 2020 **(Appendix 23 refers).** The off cers were nformed of a suspect vesse seen n the eastern s de w thout nav gat ona ghts. The vesse was f rst spotted by the WHSS personne at approx mate y 3 to 4 m es out of BGTW. WHSS personne were then nstructed to keep observat ons on the vesse .

b. Fo ow ng th s, the RGP crew contacted GC COS. Accord ng to the ca ogs, the f rst ca to them pr or to the actua chase, was at 0308 hrs. Dur ng the conversat on, t was conf rmed by the GC that they were mon tor ng the vesse . Off cer One states that the GC nformed that there was a arge RHIB head ng at speed towards and **(Appendix 15 and 24 refer).**

c. As a resu t of the observat ons be ng carr ed out by WHSS, on the r therma mag ng cameras they observed the suspect vesse head ng towards the Atunara Port, where they were met by a sma er vesse . Th s nformat on was re ayed to the RGP crew at about 0315 hrs **(Appendix 20 refers).**

d. Accord ng to Off cer One, as the S r John Chapp e arr ved at the eastern s de, they rece ved two further ca s from the GC. Th s s captured on the ca og as be ng at 0320 hrs and 0322 hrs **(Appendix 23 refers).** In the f rst of these two ca s, they were nformed by the GC that the suspect RHIB was by the breakwater at La Atunara carry ng out what they be eved to be a crew change and food resupp y. The ca that fo owed, accord ng to Off cer One, was for the RGP vesse to rema n at the r current pos t on. He was then requested to head east **(Appendix 15 refers).**

e. The ca ogs show further ca s be ng made to the RGP Mar ne Sect on mob e te ephone by both WHSS and the GC **(Appendix 23 refers).**

f. Off cer One reports that soon after the co s on, the GC contacted h m but he does not reca the conversat on **(Appendix 15 refers).** The ca ogs show two ca s at 0338:47 and 0339 hrs from the GCto the RGP crew **(Appendix 23 refers). (NB.** accord ng to the mar ne expert's draft report, the co s on between both vesse s took p ace at around 0338:56 hrs **(Appendix 19 refers)).** Off cer One adv ses that he rece ved a ca from the G bra tar Port Author ty but aga n does not reca the conversat on.

g. Accord ng to WHSS personne , they rece ved a ca from the RGP crew nform ng them of the co s on and that there was a fata ty and poss b y another and that they were return ng w th the suspect RHIB on tow **(Appendix 20 refers).**

h. Fo ow ng the nc dent, the GC contact po nt n A gec ras contacted the RGP request ng nformat on, nc ud ng the dent ty of the crewmembers on board the suspect RHIB. He was nformed that as soon as they were n a pos t on to prov de the necessary nformat on t wou d be supp ed to them. Short y after, an RGP contact off cer was appo nted and the GC were prov ded verba y w th the dent ty of those concerned. The r ass stance was requested n order to not fy the next of k n of each of the deceased. The GC was a so requested to prov de nformat on as to the vesse 's pos t on ng data and the prev ous conv ct ons of the occupants on the suspect RHIB **(Appendix 77 refers).** An ema fo owed from the RGP to the GC contact po nt, request ng once aga n any prev ous conv ct ons, any ex st ng GC nc dent report and the vesse radar pos t on ng data. In re at on to th s, on y the prev ous conv ct ons were prov ded **(Appendix 78 refers).**

. On the 9th March 2020, the GC contact po nt w th the RGP was spec f ca y asked f t had been the GC or the RGP who had n t ated contact on the n ght n quest on n respect of the suspect RHIB. He rep ed that accord ng to the nformat on ava ab e to h m, t was the RGP Mar ne Sect on who had contacted COS enqu r ng as to the RHIB. The RGP was nformed by the contact po nt them, that the GC were a ready mon tor ng the vesse on the r cameras **(Appendix 24 refers).**

j. On the 12th March 2020, fo ow ng on from an SIO task ng **(Appendix 81 refers)** and n order to try and estab sh the ocat on of the Inc dent, t was dec ded to enter Span sh waters w th the author ty of the GC COS on a RGP vesse and try and ascerta n f there was rad o and te ephone coverage. A number of pos t ons were tested surround ng the coord nates were the co s on took p ace. Coverage was ava ab e on a ocat ons, except on one of them were on y emergency ca s were ab e to be rece ved or made. **(Appendix 79 refers).** Subsequent y wh st th s was tak ng p ace, the GC desp te hav ng granted

author ty prev ous y, made contact w th the RGP vesse and quest oned the r reasons for be ng n Span sh waters. An exp anat on was g ven to them and accepted. The RGP term nated the r ne of enqu ry and returned to BGTW.

k. On the 16th March 2020, the GC contact off cer nformed the RGP that the vesse 's pos t on ng data wou d be supp ed once ava ab e **(Appendix 80 refer).**

. Notw thstand ng the account of Off cer One wh ch nd cates certa n d rect ons g ven to them by the GC, there s no ev dence to suggest that there was any actua nv tat on to enter Span sh Terr tor a Waters. To accept such an nv tat on wou d contravene RGP nstruct ons.

10. (a) Point (x): A statement (or copy if they are in printed or printable form) of what standing instructions are given to officers in respect of operations outside of BGTW.

(b) Point (xi): Copies of any such or any other relevant instructions or other standard operating procedures.
(c) Point (xii): Documentation or confirmation in writing of the instructions provided to officers of the Marine Section by senior management as to the procedures to be followed when suspects who are being chased inside BGTW fail to stop and exit BGTW and what position the RGP take or have taken (until the time of the Incident) in respect of 'hot pursuit' from BGTW into International Waters, Spanish Territorial waters and / or into Moroccan Territorial Waters and on what basis and on what advice such a position , if any, has been taken. (It is essential for the Government to understand what training was provided to the officers in question in respect of their ensuring that they operated solely within the territorial limits of Gibraltar. I want to know what the RGP^s standard operating procedures are in such instances).

a. The RGP Mar ne Sect on Standard Operat ng Procedures document s ocated at GGMS. It states the Mar ne Sect on crews are to conduct systemat c per od c patro s of G bra tar's coast ne throughout the r dep oyment. The secur ty threat eve w a so determ ne the frequency of the patro s as we as any changes n pr or ty. It a so nstructs off cers to conduct H gh V s b ty patro s of the mar nas.

b. Off cers are a so nstructed to patro the arr va and departure of the Tang ers Ferry and tack e any cr m na ty wh ch may occur. Th s nc udes but s not m ted to breaches of secur ty, ega mm grants, drug smugg ng, potent a sto en veh c es and any pub c order offences.

c. In respect of drugs and human traff ck ng off cers are to patro BGTW and shou d off cers encounter any suspect vesse s then they w be pursued n a determ ned and safe manner w th n terr tor a waters and to a se w th the Span sh Author t es.

d. These nstruct ons cover other such top cs as ncurs ons by Span sh state vesse s, Search and Rescue operat ons, summer bath ng season, hea th and safety and f sh ng vesse s. **(Appendix 82 refers).**

e. On the 17th February 2016, off cers were rem nded v a ema of the extant nstruct ons n re at on to not patro ng outs de BGTW other than n a search and rescue operat on. Off cers were a so nformed that the vesse n wh ch the off cers are carry ng out patro s must have the Automat c Ident f cat on System (AIS) on at a t mes. ***This document can be found at Appendix 83.***

f. On the 8th of Ju y 2016, the Mar ne Sect on Instruct ons were updated and prov ded to the duty crew members. These nstruct ons cover var ous top cs concerned w th carry ng out dut es w th n BGTW. **(Appendix 84 refers).** The nstruct ons state that the ob ect ves of any RGP mar ne crew are to on y operate n Br t sh G bra tar Terr tor a Waters (BGTW) and are to prov de:

- Reassurance of beach users and eg t mate seafarers.
- Prevent on and detect on of cr me at sea and aw enforcement.
- Support Roya Navy cha enges to sovere gnty.
- Support Env ronmenta Agency operat ons.
- Support HM Customs and GDP Operat ons.

International Waters

Off cers are not author sed to operate outs de BGTW and n Internat ona Waters un ess when respond ng to a s tuat on as descr bed be ow:

- Part c pat ng n a Search and Rescue Operat on
- Respond ng to an nc dent where there s an mm nent and ser ous r sk to fe.

Spanish Territorial Waters

Off cers are not author sed to operate outs de BGTW and n Span sh Waters un ess when respond ng to a s tuat on as descr bed be ow:

- Part c pat on n a search and rescue operat on at the nv tat on of Span sh Author t es.

The nstruct ons go on to cover such areas as the Ru es of Engagement w th Span sh Law Enforcement Vesse s and Hea tKSafety.

Mar ne Sect on Off cers were aga n rem nded of the po c ng nstruct ons (ssued on the 28th Ju y 2016) by Sgt Stone on the 16th September 2019. These were fo owed up by an ema from Ch Insp F n ayson to the Mar ne Sect on Insp and Sergeant on 21st January 2020. **(Appendix 85).**

Training

a. n 2011 severa off cers from the mar ne sect on rece ved tra n ng and qua f ed as nstructors n boat hand ng. The bespoke course was endorsed by the G bra tar Mar t me Author ty and ts sy abus was des gned for RGP and HMC mar ne sect on off cers.

b. In March 2017 RGP off cers de vered th s course to a number of RGP off cers wh ch nc uded nc ud ng Off cer 1, to cert f ed coxswa n eve . On successfu comp et on of the course, the cand dates wou d be ab e to sat sfactor y operate tw n eng ne and above RHIB's under aw enforcement cond t ons n a manner wh ch s deemed to be respons b e and safe for the coxswa ns, crews and other users.

c. The course compr ses var ous e ements that are out ned n the documents prov ded to the cand dates. These nc ude theory and pract ca work as we as exam and pract ca assessment. It s des gned around severa schedu ed m n courses, tra n ng days and n-house tra n ng dur ng work ng hours. The course s not t me spec f c and s dependent on the students earn ng capac ty and t me constra nts p aced by operat ona comm tments.

d. Students comp ete a two day nduct on course wh ch a ms to acqua nt the student w th the d fferent aspects of work nvo ved n the safe operat on of n and around RHIBs, prov de an dea of the hea th and safety requ rements and to a ow the student to reach a competent eve to work on power boats.

e. The student s then requ red to comp ete 30 hours of hand ng a sma s ng e eng ne vesse f tted w th a esser HP eng ne. The a m s for the student to obta n a decent work ng know edge of how to operate a s ng e eng ne RHIB wh ch wou d nc ude the approach ng and eav ng a berth and c ose quarters manoeuvr ng.

f. The cand date s then requ red to comp ete a further 60 hours on a arger vesse f tted w th a f tted h gher powered s ng e eng ne. Th s w a ow the student to observe how what he has earned prev ous y affects a vesse w th arger d mens ons and eng ne capac ty. The student w a so beg n to contro a vesse w th a more powerfu eng ne and w earn how th s affects hand ng n a safe manner.

g. The cand date w be assessed and progress on form 1 w be comp eted, enter ng a the subjects undertaken w th the use of s ng e eng ne.

h. The student w then comp ete approx mate y 60 hours of hand ng a tw n eng ne RHIB. The student shou d understand the use of tw n eng nes and eng ne se ect on. Students to acqua nt themse ves w th hand ng a more capab e vesse , wh ch possess more power wh st emphas z ng ts safe operat on.

. Towards the end of th s stage the cand date w attend a schedu ed tra n ng day for an ntroduct on onto pac ng. At the end of the stage the cand date w be assessed on progress on assessment form 2 enter ng a the subjects undertaken.

j. The student w undertake a further 50 hours of hand ng a RHIB of two or more eng nes, dur ng th s stage the cand date shou d understand the use of severa eng nes and how throtte es contro these dur ng var ous manoeuvres. Th s vesse s much more powerfu and shou d be part of the operat ona f eet. Pract ca essons shou d a so take p ace dur ng day and n ght to further enhance the exper ence of the cand date. The student shou d cont nue another schedu ed tra n ng day to cont nue the ntroduct on to pac ng.

k. The cand date w then proceed onto the f na two week qua f cat on course where pr or to th s stage they shou d be deemed to be suff c ent y competent at hand ng a RHIB. The course w cover a aspects and mater a n depth n both pract ca and theory based essons. Students w be tested and s gned off on the d fferent subjects as they successfu y comp ete them. Cand dates must prove to be competent n hand ng a RHIB at th s advanced eve of powerboat ng and be ab e to p an and nav gate G bra tar waters n d fferent sea and weather cond t ons dur ng the day and n ght. The des gnated assessor must comp ete the f na assessment form.

. The top cs wh ch are covered n two week f na qua f cat on course nc ude:

Modu e 1 - Introduct on to Mar ne Sect on and Vesse Fam ar sat on. Th s s a theory based esson wh ch a ows students to obta n an understand ng of the r ro e w th n the mar ne sect on. To fam ar se themse ves w th the type of vesse s and equ pment carr ed on board and the r genera ma ntenance.

Modu e 2 - Introduct on to Mar ne Sect on and Vesse Fam ar sat on. Th s s a pract ca based esson wh ch a ows students to obta n an understand ng of the r ro e w th n the mar ne sect on. To fam ar se themse ves w th the type of vesse s and equ pment carr ed on board and the r genera ma ntenance.

Modu e 3 - Rope Work. Th s s both a theory and pract ca based esson wh ch enab es the students to earn how to perform the d fferent types of knots ava ab e and ts correct use for d fferent s tuat ons - moor ng, anchor ng, etc.

Modu e 4 - Internat ona Ru es for Prevent on of Co s ons at Sea (IRPCS). Th s s a theory based esson wh ch a ms for students to acknow edge the mportance of observ ng safety

at sea forthemse ves and other water users to prevent a co s on at sea by understand ng the ru es of IRPCS.

Modu e 5 - Buoyage - Internat ona Assoc at on of L ghthouse Author t es (IALA). Th s s a theory based esson wh ch a ows students to fam ar se themse ves w th dayt me and n ght-t me buoyage s gnage and the r d fferent purposes.

Modu e 6 - Buoyage - nternat ona Assoc at on of L ghthouse Author t es (IALA). Th s s a pract ca based esson wh ch a ows students to fam ar se themse ves w th dayt me and n ght-t me buoyage s gnage and the r d fferent purposes wh st nav gat ng.

Modu e 7 - Chart work and Nav gat on. Th s s both a theory and pract ca based esson wh ch prov des for students to understand the terms used w th n a nav gat on chart to be ab e to nterpret bas c techn ques n nav gat on.

Modu e 8 - D stress S gna s. A theory and pract ca esson wh ch a ows the students to understand the nterpretat on of each d fferent types of d stress s gna s and how to app y them shou d they f nd themse ves s a dangerous s tuat on.

Modu e 9-RHIB Launch and Recovery-(Use of Tra er and Crane). A theory and pract ca esson wh ch s a med for students to understand the mportance of a safety features when aunch ng and recover ng RHIB from sea through means of a s pway and tra er or v a ft ng w th a crane.

Modu e 10-Contro ed Hand ng Dr s-S ng e Eng ne RHIB. Th s s a theory and pract ca based esson for students to demonstrate a eve of competence n contro ed hand ng and s ow speed prec s on manoeuvres of RHIB's n a conf ned space.

Modu e 11 - Rough Sea Passage. A theory based esson wh ch a ows students to understand the mportance of contro ed speeds of RHIB's n vary ng weather/ sea cond t ons and the r safety and a of others on board.

Modu e 12 - Rough Sea Passage. A pract ca esson for students to demonstrate competency n the safe and contro ed hand ng approach of RHIB's at var ous speeds n vary ng sea/ weather cond t ons. To deve op an understand ng of when to "Power On" and "Power Off".

Modu e 13 - Anchor ng. Both a theory and pract ca based esson for students to understand the correct use of anchor and anchor ne depend ng on seabed and/ or weather cond t ons.

Modu e 14- Man Overboard Manoeuvres & Casua ty Rescue. A theory based esson wh ch teaches students the mportance of safety of everyone on board a RHIB and of the

consequent rescue approach and procedures shou d a casua ty fa overboard from a mov ng RHIB.

Modu e 15 - Man Overboard Manoeuvres & Casua ty Rescue. A pract ca esson wh ch requ res the student to ach eve an understand ng of the procedures requ red to perform a man overboard rescue. Students to be ab e to demonstrate the r competence n demonstrat ng the above.

Modu e 16 - Search and Rescue Patterns. A theory based esson wh ch requ res the students to understand how to app y correct search and rescue pattern methods wh st observ ng own safety. Factors to cons der .e. weather cond t ons, number of casua t es and commun cat ons w th other agenc es.

Modu e 17 - Search and Rescue Patterns. A pract ca based esson wh ch a ows students to demonstrate the r competence n the correct app cat on of the d fferent search and rescue pattern methods.

Modu e 18 - Contro ed Hand ng Dr s - Tw n Eng ne RHIB. A theory and pract ca based esson for students to demonstrate a eve of competence n contro ed hand ng and s ow speed prec s on manoeuvres of RHIB's n a conf ned area.

Modu e 19 - Pr soner Hand ng. A theory and pract ca esson wh ch a ows students to understand the mportance of the r own safety and that of pr soners when on board a RHIB.

Modu e 20 - Tow ng. A theory esson wh ch prov des for students to understand the mportance on tow ng methods n re at on d fferent types of vesse s and emergency s tuat ons.

Modu e 21 - Tow ng. A pract ca based esson for the students to demonstrate competency n the safe and contro ed hand ng of d fferent tow ng s tuat ons nvo v ng sma crafts.

Modu e 22 - C mb ng a P ot Ladder. Both a theory and pract ca based esson for students to understand the mportance of a safety aspects when c mb ng a p ot adder and dangers nvo ved.

Modu e 23 Pac ng Manoeuvres- A) Pac ng Para e B) Pac ng A ongs de. Th s s a theory based esson for students to ach eve and understand ng of the sk s requ red to perform pac ng manoeuvres; para e and a ongs de.

Modu e 24 Pac ng Manoeuvres- A) Pac ng Para e B) Pac ng A ongs de. A pract ca esson wh ch a ows students to demonstrate a safe hand ng of vesse s when perform ng pac ng

manoeuvres n fo ow ng areas; a) when perform ng the approach, b) para e pac ng of target vesse , c) com ng a ongs de target vesse , d) depart ng target vesse .

Modu e 25 He copter SAR Recovery Operat ons. A theory based esson wh ch enab es the student to demonstrate an understand ng of safety aspects and the dangers nvo ved dur ng he copter operat ons and the act ons to be taken; a) pr or to the he copters arr va b) dur ng the he copters approach c) wh st recover ng a casua ty d) on the he copters departure.

m. Upon comp et on of the course the off cers are presented w th the r cert f cates re at ng to the d fferent top cs covered n the sy abus. These nc ude RYA qua f cat ons of Day Sk pper/ Watch Leader and an RYA Radar Course, Persona Surv va techn ques, F re Prevent on and F re F ght ng, Persona Safety and Soc a Respons b t es, F rst A d and Coxswa n Cert f cates cover ng the d fferent stages of the RHIB Hand ng Course. Redacted Cop es of cert f cates presented to Off cers One and Two are ava ab e **(Appendices 86 and 87 refer respectively).**

n. It shou d be noted that a though there s no spec f c esson p an for Fast Speed Hand ng, t s ment oned as part of the competency cr ter a and both off cers were accred ted w th these qua f cat ons as the cert f cates show. It s expected that th s w be c ar f ed by the Metropo tan Po ce nvest gat on team when they nterv ew the off cers and tra ners.

o. Off cer 3 was on y cover ng mar ne sect on dut es on the n ght n quest on and had no pr or mar ne exper ence. He has on y rece ved f rst a d tra n ng wh ch forms part of the core RGP sy abus pr or to commencement of operat ona dut es **(Appendix 88 refers).**

p. The nstructors keep the tra n ng manua of students, wh ch shows that the off cers have been s gned off n the re evant sect ons requ red to comp ete the course.

q. The manua for Off cer Two s nc uded as **Appendix 89** however the record for off cer one cannot be ocated as t has been removed by some person(s) fro the mar ne sect on f ng system. That sa d, there s ev dence that he has passed these courses by the product on of the cert f cates (see **Appendix 86).**

r. Off cer One has stated he had no hot pursu t tra n ng and th s was repeated by Capt. MEIKLE n h s report. We have asked the Capta n what course he was referr ng to and that wou d capture hot pursu t tra n ng. Capt. MEIKLE was unab e to answer th s as he d d not know. The off cers from the Metropo tan Po ce Serv ce have been wr tten to, ask ng them to cons der ook ng nto th s area. It cou d we be that our oca tra n ng course captured

th s area e ther n the pac ng or fast speed hand ng competency area that s recorded n the manua . They wou d need to approach our tra ners f they have not a ready done so.

Point (xiii): Alternatively, an explanation of why no such position has been taken, given the prevalence of such activities.
Answer: Not app cab e. (See answers for Po nts (x), (x) and (x)).

11. **Point (xiv): What assessment senior management have made of such operations occurring, in particular where there is not an express invitation from another police force (whether that is the Spanish police force or the Moroccan police force) for operations to continue outside of BGTW in Spanish Territorial Waters, international Waters or Moroccan Territorial Waters. (The Government is very concerned to understand what the Senior Management Team of the RGP has done in respect of continued incidents of operations outside of BGTW before the events in questions and thereafter, in particular if there has been any change in standing instructions or posture as a result).**

    a. S nce 2016, the RGP SMT produced the current stand ng operat ng procedures that set c ear parameters of the PMB crew's work ng rem t. They are very c ear and conc se and are referred to above.

    b. S nce 2016 the RGP do not **authorize** any dep oyment outs de BGTW nc ud ng at the request of a fore gn LEA.

    c. The **only exception** wou d be to ass st the G bra tar Port Author ty n a search and rescue operat on.

    d. To date, there have been many nstances where we have undertaken chases out at sea and w th n BGTW. The moment the pursued vesse departs our waters we have d sengaged a ow ng the vesse to escape.

    e. We have a so mon tored many vesse s pass ng outs de our jur sd ct on w thout us be ng nvo ved, we have so e y shadowed them from w th n our m ts and deterred them from com ng nto our jur sd ct on.

12. **Point (xv): Any other relevant information, reports or documents (whether existing in documentary, printed or digital form) which the RGP consider the Government should have available in considering the facts and matters which arise from the Incident and planning to address the same in the Public Interest of Gibraltar.**

    A t me ne and support ng documentat on nc ud ng st of append ces have been nc uded.

On the 11th May 2020, t was brought to my not ce that a Span sh Par amentary quest on had been asked by VOX and responded to by Government. I ema ed you, the AG and MOJ adv s ng you of th s.

Tox co ogy resu ts have been rece ved for the deceased AHMED on 27th May 2020. These have been forwarded to the forens c patho og sts. The resu ts suggests no recent use of cannab s, the tox co ogy report for the deceased MOHAMMED are not expected unt the 10th of June 2020.

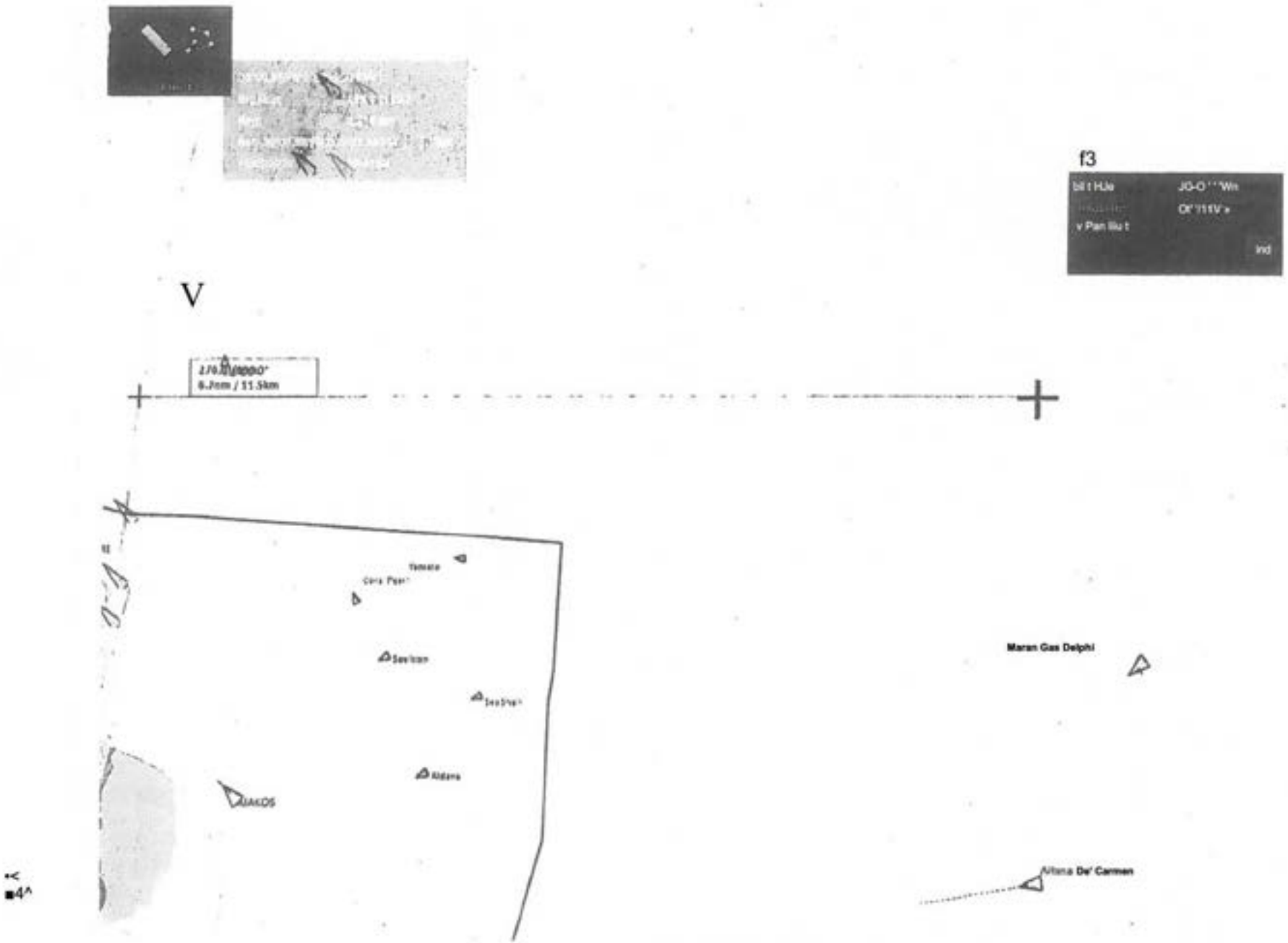
You w have noted that n th s report I have referred to the RGP crew as Off cers one, two and three. However, because of the m ted t me to produce th s report for you, I have been unab e to redact any reference to the r dent t es n the append ces. I wou d therefore respectfu y ask that you bear th s n m nd when hand ng these documents w th a v ew to cont nue safeguard ng the r anonym ty.

Wh st the above po nts are factua and I hope w sat sfy the requ rements you asked of me, we are st awa t ng the f na report and/or further act ons from the ndependent team and mar ne expert. The atter's conc us ve report s expected around m d June 2020.

Shou d any po nts n th s report requ re further exp anat ons, I w endeavour to prov de them.

Yours sincerely

Ian McGra OTM MSc
Comm ss oner of Po ce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REPORT

SIR JOHN CHAPPLE Co s on w th a Suspect RHIB

In the Western Med terranean.

Pos t on 36° 10.0 N 005° 12.5 W

8 March 2020





Date: 04 January 2021

Ref: SOLIS/6316/RM/R01

SIR JOHN CHAPPLE

Our ref: SOLIS/6316/RM/R01

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Our Ref: SOLIS/6316/RM/R01

1. INTRODUCTION

1.1. Instructions Received

1.1.1. I have been instructed by the Royal Gibraltar Police (RGP) to investigate the collision between the RGP vessel SIR JOHN CHAPPLE and an RHIB suspected of illegal drug activity (SUSPECT RHIB) in the western Mediterranean Sea.

1.1.2. I am to provide my opinion on:

. The events leading to the collision

. The territorial waters where the incident occurred

. The role of the RGP Officers in the collision

v. The other factors that may have contributed to the collision including the tactics used by drug smugglers to evade law enforcement

1.1.3. My qualifications and experience are described in my curriculum vitae which is included as Appendix A of this report. In summary, I have previously investigated fatal accidents that have occurred on vessels at sea, primarily while as an Inspector of Marine Accidents at the UK's Marine Accident Investigation Branch (MAIB). I have also attended Coroner's Courts to support my reports. I have also previously investigated a fatal marine accident in Gibraltar that involved a government operated patrol vessel.

1.2. Scope of this Report

1.2.1. I open this report by giving the background to the sequence of events at the material time.

1.2.2. My conclusions are contained at Section 5 of this report.

1.2.3. I am aware of my duty to the Court and have signed a statement of truth to that effect at Section 6 of this report.

1.3. Background

1.3.1. I have outlined the sequence of events, as I understand them, below. All times are local, that is UTC +1 hour unless otherwise stated.

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1.3.2. The Po ce Off cers on board 'SIR JOHN CHAPPLE , as requ red by the RGPs Post Inc dent Procedures (PIP), are referred to as Off cer One, Off cer Two and Off cer Three.

1.4. The l ega Trade and Transportat on of Cannab s Res n

1.4.1. The drugs trade between Morocco and Spa n s we known, and we estab shed. The use of h gh-speed craft to mport ega drugs from Morocco nto Spa n has been estab shed over a ong per od. In the document Gap Between Two P ars , March 2016, (Append x F) GCID Inte gence Off cer Dom n c Lopez stated h gh ghted that: *"Due to its geographical location the Iberian Peninsula is the principle region in Europe targeted by international drug traffickers especially for cannabis and cocaine transit to other European countries".*

1.4.2. The document Gap Between Two P ars" states that: *"Cannabis resin exported from Morocco is typically smuggled into Europe through the Iberian Peninsula with the Netherlands and Belgium enjoying a role as a secondary distribution centre and source for storage".* W th regard to the se zure of cannab s res n the document states that: *"Spain is the country that seizes the largest amount of cannabis resin on a global scale in 2011 it accounted for 70% of seizures in Europe in both frequency and total amount. ".*

1.4.3. The use, capab ty and nherent r sks of smugg ng cannab s res n n RHIBs s d scussed n the document Gap Between Two P ars": *"Drug traffickers operating in the region frequently transport cannabis resin onboard Rigid Inflatable Hulled Boats (RHIBs). Each RHIB can transport between 3-4 tonnes of cannabis resin and can travel at over 60 knots (close to 120 km/h). At these speeds they are impossible to intercept without causing extensive damage or serious injuries to both the drug traffickers and law enforcement officers".*

1.4.4. *"The Rigid Hull Inflatable Boats (RHIBs) [used for fast launch smuggling operations] are between 10mts to 13mts in length and some are fitted with radar. They have 2 to 3 outboard engines with 300hp or 350 hp per engine and they can reach speeds of 50 to 60 nm with a fuel tank capacity of around 1 500/2 OOOltrs. They normally carry 3 to 4 occupants wearing flotation suits balaclavas or crash helmets. They also use GSM mobile phones or satellite phones. On occasions other vessels meet the RHIB out at sea change crew and provide them with extra fuel. The extra fuel is carried in 25ltr plastic containers and as much as 40 containers can be supplied to these RHIBs at any one time. They also carry large water-tight plastic containers which contain dry clothing food water and spare equipment such as batteries and chargers".*

1.4.5. The RGP Mar ne Sect on face a h gh-r sk and dynam c work ng env ronment at sea n the r efforts to counter organ sed cr me and nternat ona drug traff ck ng. There s an expectat on that the RGP Mar ne Sect on w f ght aga nst organ sed cr m na ty w th the dep oyment of b ue ghts and s rens. It wou d a so be necessary, to ma nta n effect ve nte gence gather ng and response, that the RGP w ma nta n constant contact w th the Guard a C v and ma nta n the h ghest eve of cooperat on poss b e.

1.5. Pos t on Data Recovered from SIR JOHN CHAPPLE*

1.5.1. A the nav gat on systems found on board SIR JOHN CHAPPLE were checked; however, no re evant data was ava ab e to be recovered for the t me the vesse eft the Mar ne Base unt after the co s on. The Automat c Ident f cat on System (AIS) f tted to SIR JOHN CHAPPLE was turned off unt , after the t me of the co s on The AIS system was tuned on 04:47, short y after the rendezvous of SIR JOHN CHAPPLE w th HMC SEARCHER at 04:41.

1.6. Pos t on Data Recovered from SUSPECT RHIB

1.6.1. SUSPECT RHIB was f tted w th a Garm n NAVnet 3D radar/chart p otter. The data was recovered from the nav gat on un t by So s Mar ne Consu tants. The p otter saved on y ts nav gat on pos t on data; therefore, the vesse s speed-over-the-ground and course-over-the-ground were not recorded.

1.7. Track of the SUSPECT RHIB - Rap d Rep ay Reconstruct on

1.7.1. A So s Mar ne Rap d Rep ay reconstruct on was produced to show the track of the SUSPECT RHIB for the t me of the nc dent (F gure 1). The reconstruct on used the GPS data recovered from the SUSPECT RHIB s radar/chart p otter. The techn ca comments on the Rap d Rep ay reconstruct on are conta ned at Append x B and the data recovered from the NAVnet 3D chart p otter s at Append x C.

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F gure 1 Rap d Rep ay reconstruct on of the track of 'SUSPECT RHIB'

1.8. WHSS Infrared CCTV Footage

1.8.1. Infrared CCTV was recorded from two cameras that were contro ed from W ndy H S gna Stat on (WHSS). [redacted]

1.9. Narrat ve

1.9.1. On Saturday 7 March, at around 22:00, the crew of SIR JOHN CHAPPLE reported for duty at New Mo e House, before they dep oyed to the RGP Mar ne Base at Gun Wharf Quay, a so known as G bra tar Government Mar t me Stat on (GGMS). Short y after 22:00 SIR JOHN CHAPPLE departed from RGP Mar ne Base to carry out patro s of Ocean V age.

1.9.2. At around 01:30 on 8 March, at around 01:30, SIR JOHN CHAPPLE departed from Ocean V age and returned to Gun Wharf Quay to re eve the afternoon crew at the conc us on of the r sh ft at 02:00. At 02:35, SUSPECT RHIB headed towards the Span sh port of Puerto de La Atunara from her pos t on 11 naut ca m es (NM) to the east.

1.9.3. A mob e phone ca , at an unknown t me, was rece ved on the RGP Mar ne sect on mob e phone from WHSS stat ng that there was an unknown vesse w thout nav gat on ghts on the eastern s de of G bra tar, head ng westwards towards the coast.

1.9.4. The Coxswa n, Sen or Coxswa n (Off cer One), ca ed the Span sh Guard a C v by the mar ne sect on mob e phone and nformed them of the nformat on they had rece ved from WHSS. The

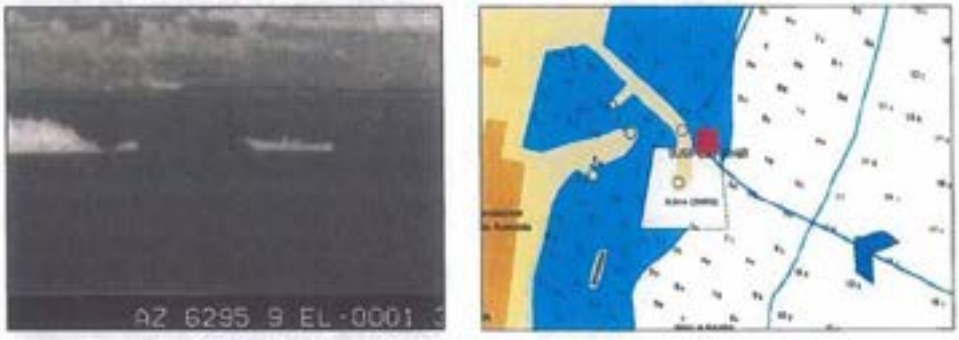
s ght ng, presumab y by nfrared CCTV, of the un t vesse was then conf rmed by Guard a C v . Off cer One then adv sed Guard a C v that he wou d dep oy to the Eastern S de of G bra tar.

1.9.5. The three-man crew boarded SIR JOHN CHAPPLE* at the Mar ne Base and dep oyed to the Eastern S de of G bra tar. Off cer Two had the Inter-operat ons handhe d po ce rad o; Off cer Three had the po ce operat ons handhe d rad o. Off cers Two and Three were supp ed w th hand-he d LED torches.

1.9.6. The radar was turned on, and the GPS chart p otter was eft off as Off cer 1 stated that the equ pment reduced h s n ght v s on. The chart p otter a so act vated the vesse s AIS, wh ch was therefore a so not turned on. The crew of SIR JOHN CHAPPLE carr ed out pre-departure checks that nc uded: eng ne and fue status; cond t on of the vesse s foam co ar; that portab e VHF rad o s batter es were charged, and that funct on ng torches were ava ab e.

1.9.7. Off cer One sat n the conn ng pos t on (starboard forward), Off cer Two was on the port s de forward pos t on and Off cer Three sat n the seat on the starboard s de beh nd Off cer One.

1.9.8. At 03:16 the Rap d Rep ay reconstruct on and CCTV showed that SUSPECT RHIB arr ved off Puerto de La Atunara (F gure 2), n a pos t on c ose to the breakwater of the port.



F gure 2 'SUSPECT RHIB' arr v ng at Puerto de La Atunara as seen on Infrared CCTV and Rap d Rep ay

1.9.9. As SIR JOHN CHAPPLE arr ved on the eastern s de of G bra tar, Off cer One rece ved a mob e phone ca from the Guard a C v stat ng that 'SUSPECT RHIB was by the Puerto de La Atunara breakwater for, what they be eved to be, a change of crew and a resupp y of food. The Guard a C v asked SIR JOHN CHAPPLE to head to the east of the port and to wa t.

1.9.10. At 03:26:16, SUSPECT RHIB (F gure 3) w th four crew on board, who were nformed of the arr va of the approach of 'SIR JOHN CHAPPLE by 'spotters ashore and n sma er boats,

departed Puerto de La Atunara and headed north and then north-easterly away from the Spanish coast.



Figure 3 'SUSPECT RHIB' arriving at Puerto de La Atunara as seen on Infrared CCTV and Rapid Replay

1.9.11. Officer One reported that he received another call from the Guardia Civil who stated that SIR JOHN CHAPPLE was to remain in their current location as SUSPECT RHIB was heading directly for their location. The position of SIR JOHN CHAPPLE at this time, without stored position data or available infrared CCTV images is not known.

1.9.12. [redacted]

1.9.13. Officer One reported that SUSPECT RHIB then passed between 5 metres and 10 metres in front of the bow of SIR JOHN CHAPPLE. SIR JOHN CHAPPLE then followed the SUSPECT RHIB in a high speed hot pursuit.

1.9.14. Officer One stated that his intention was to identify the suspects and determine whether SUSPECT RHIB was carrying any illega cargo. Officer One noted in his statement that SUSPECT RHIB appeared to be:

> *"... either a prohibited import over 6m in length a fast launch having an engine capacity over 200 horsepower and in any event was not displaying any navigational lights".*

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1.9.15. Off cer One gauged that the head ng of SUSPECT RHIB* was n a south-easter y d rect on, and he expected SUSPECT RHIB was head ng towards Morocco. Off cer two reported that SIR JOHN CHAPPLE was pos t oned on the SUSPECT RHIB s starboard s de.

1.9.16. Off cer One reported that SIR JOHN CHAPPLE then approached the SUSPECT RHIB s port s de. Off cer two opened the port s de door and shone h s Dragon torch on to the vesse .

1.9.17. SUSPECT RHIB was um nated by the b ue beacon ghts and the Dragon torches he d by Off cer Two and Off cer Three. Objects were reported y thrown, as s common tact c used by the crews of vesse s used for smugg ng, by the SUSPECT RHIB s most aft crewman and the objects were h tt ng SIR JOHN CHAPPLE . However, the surv v ng crew of SUSPECT RHIB* state that SIR JOHN CHAPPLE d d not use the r nav gat on ghts or b ue beacon ghts, and that objects were thrown.

1.9.18. At 03:31, as shown by the Rap d Rep ay (F gure 4), SUSPECT RHIB made a sharp turn to starboard. The evad ng manoeuvres of SUSPECT RHIB sprayed seawater onto SIR JOHN CHAPPLE wh ch reduced the v s b ty and therefore force t to s ow down. Off cer One tr mmed down h s outboard eng nes and s owed down when necessary, wh ch prov ded h m greater manoeuvrab ty w th greater water p ane area. Off cer One a so observed that SUSPECT RHIB s outboard eng nes were st tr mmed up, wh ch produced s gn f cant spray at s ower speeds.

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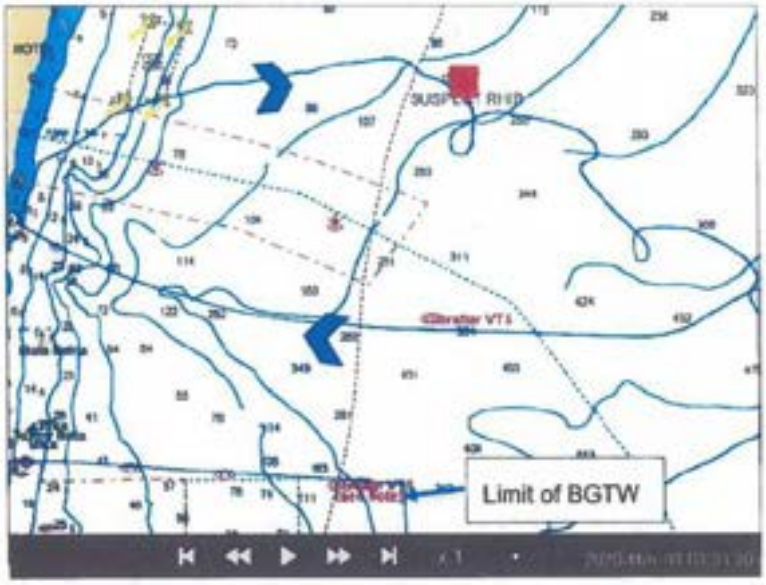
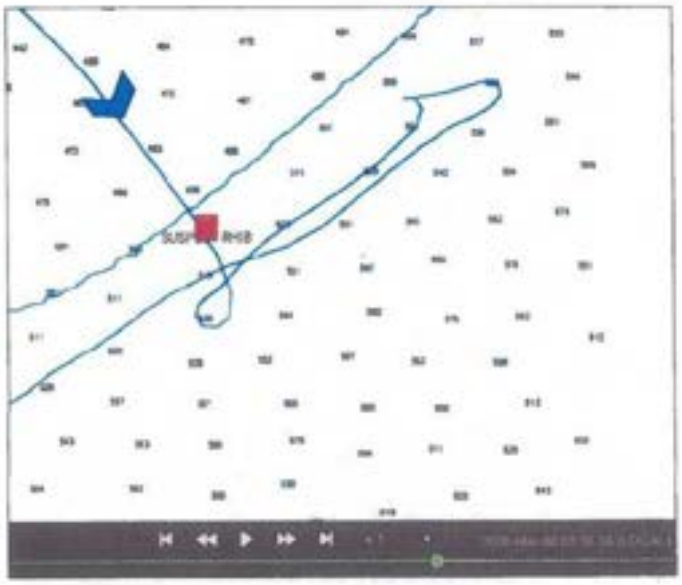


F gure 4 'SUSPECT RHIB's f rst turn to starboard

1.9.19. Three m nutes ater, at 03:34 (F gure 5), a second sharp turn to starboard by SUSPECT RHIB was recorded, fo owed by another turn to starboard at 03:37.



F gure 5 'SUSPECT RHIB' th rd turn to starboard at 03:37

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1.9.20. Off cer One then stated that fo ow ng the two turns made to starboard he saw the SUSPECT RHIB make a sharp turn to port; he therefore p aced the propu s on nto neutra and attempted to turn to starboard to avo d SUSPECT RHIB by s ow ng down and turn ng away. Off cer Two stated that the SUSPECT RHIB passed very c ose to SIR JOHN CHAPPLE and that the spray created caused the w ndows to be covered and removed any v s b ty. It s not known whether the f tted w ndow w pers were operated, or whether they were effect ve. Off cer Two stated that he:

> *"then felt an extremely large and sudden impact that caused our vessel to stop abruptly and noticed that we immediately began to tilt to starboard".*

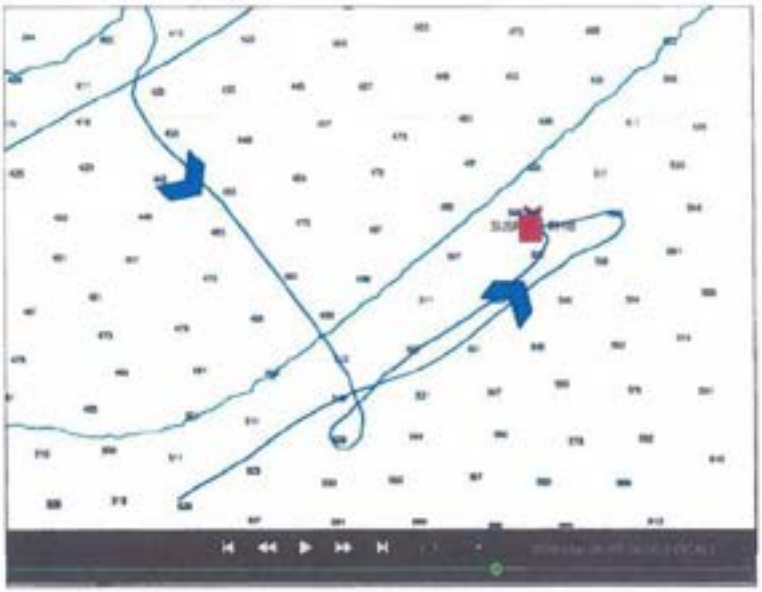
1.9.21. Off cer Three stated that he:

> *"felt a sudden impact and heard a short creaking sound as we continued rolling to the right".*

And then:

> *"the starboard side window slam* [s c] *into the water with a sudden impact. A large amount of dark water flushed into the cabin..."*

1.9.22. At 03:38:56, the Rap d Rep ay reconstruct on (F gure 6) shows a very sharp turn to port, fo owed a most mmed ate y by the co s on when the SUSPECT RHIB s seen to stop n pos t on 36° 10.0 N 005° 12.5 W, around 6.1 NM east of Puerto de La Atunara.



F gure 6 Pos t on' SUSPECT RHIB' at the t me of the co s on Rap d Rep ay

1.9.23. Off cer One stated that he fe t the mpact and that SIR JOHN CHAPPLE then hee ed heav y to starboard. There was then a s gn f cant ngress of seawater through the open w ndows on the starboard s de. The crewman Gomes Serena of SUSPECT RHIB stated that the SIR JOHN CHAPPLE co ded w th the "rear eft-hand s de", and "went over" SUSPECT RHIB .

1.9.24. SIR JOHN CHAPPLE then r ghted, and Off cer One saw SUSPECT RHIB on h s port s de and cou d hear of the SUSPECT RHIB s crew men shout ng. SIR JOHN CHAPPLE manoeuvred her starboard s de a ongs de SUSPECT RHIB s starboard s de. Off cer Two on y then rea sed that there had been a co s on.

1.9.25. Off cer Two boarded the bow of the SUSPECT RHIB from the stem of SIR JOHN CHAPPLE , wh e Off cer Three he d the two vesse s a ongs de each other. Two crewmen were seen to be on the starboard s de of the centre conso e of the SUSPECT RHIB ; one was apparent y dead, the second ser ous y njured. Off cer One and Off cer Two, apparent y shocked at the s tuat on they faced, adv sed the other two SUSPECT RHIB crewmen stand ng at the bow that they wou d tow them back to G bra tar where they wou d be met by an ambu ance.

1.9.26. Off cer One and Off cer Two re-boarded SIR JOHN CHAPPLE and Off cers Two and Three connected a ong tow ne from the stem of the vesse to the D R ng on the bow of 'SUSPECT RHIB . Off cer One then contacted WHSS and nformed them that there was one fata ty and

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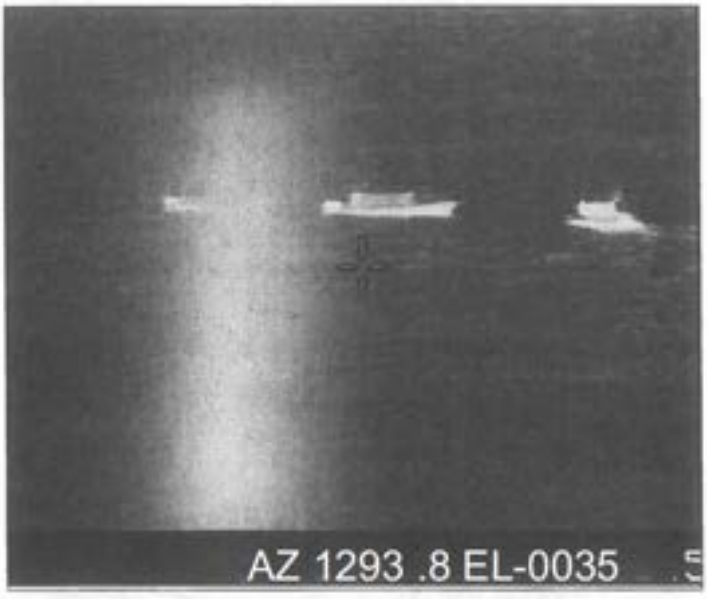
poss b y a second and that they were head ng back to the RGP Mar ne Base. Off cer One then contacted h s duty Sergeant to arrange an ambu ance crew to stand by for the r arr va at the Base. Off cer One then rece ved mob e phone ca s from the Guard a C v and the Port Board ng Off cer, a though the purpose of the ca s s unknown.

1.9.27. At 03:46, about 7 m nutes after the co s on, SIR JOHN CHAPPLE headed back to G bra tar w th the 'SUSPECT RHIB n tow around 30 metres astern, w th Off cer Three watch ng SUSPECT RHIB" from the stem of SIR JOHN CHAPPLE. SIR JOHN CHAPPLE S starboard outer outboard eng ne apparent y fa ed fo ow ng the co s on, and the tow ng speed was reduced.

1.9.28. At 04:14 SIR JOHN CHAPPLE' crossed nto Br t sh G bra tar Terr tor a Waters (BGTW). At 04:31, SIR JOHN CHAPPLE stopped, around 1 NM north-east of Europa Po nt, and was met by the Her Majesty s Customs (HMC) vesse HMC SEEKER (F gure 7), wh ch then came a ongs de SIR JOHN CHAPPLE S starboard s de. Off cer Two nstructed the Customs Off cers to manoeuvre HMC SEEKER a ongs de the SUSPECT RHIB , then to transfer a the crew to the r vesse and take them ashore for treatment.



F gure 7 'HMC SEEKER'S rendezvous w th 'SIR JOHN CHAPPLE'

1.9.29. As the HMC vesse approached, one of the RHIB crewmen stated to Off cer 1, and supported by Off cer 2 - as trans ated from Span sh - that: *"Officer it was our fault as our engines stopped*

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we *didn't give you enough time to stop please help my uncle I know you guys didn't want to kill anyone".*

1.9.30. HMC Off cer 5 stated that one of the RHIB crewmen stated -as trans ated from Span sh- that: *"this has been an accident we have just changed crew in Alcaidesa and no one has informed me the Engines were failing consequently they have rammed into us".* HMC Off cer 6 stated, and supported by HMC Off cer 7, stated - as trans ated from Span sh - that one of SUSPECT RHIB s crew sa d: "I am E Nord n and I work for someone b g n Spa n, th s has happened n Spa n and I have everyth ng recorded, I ve sent t to my boss. We have on y been on board 10 m nutes and we have had eng ne prob ems. The other [prev ousjcrew d d not say anyth ng"

1.9.31. Off cer Two, Off cer Three and the Customs Off cers transferred the ser ous y njured crewman and the two other crewmen to HMC SEEKER wh ch headed back towards G bra tar at a fast speed.

1.9.32. The dead crewman was eft onboard the 'SUSPECT RHIB . At 04:41 SIR JOHN CHAPPLE resumed a head ng towards G bra tar w th SUSPECT RHIB n tow.

1.9.33. At 04:47 SIR JOHN CHAPPLE started to transm t an AIS s gna , wh ch was recorded by the G bra tar Vesse Traff c System (VTS). The AIS s gna was transm tted unt 'SIR JOHN CHAPPLE' returned to the RGP Mar ne Base.

1.9.34. At 04:57 SIR JOHN CHAPPLE passed south of Europa Po nt. At 05:20, SIR JOHN CHAPPLE berthed a ongs de the RGP Mar ne Base w th the ass stance of a G bra tar Defence Po ce RHIB.

1.9.35. Short y after the r arr va the three off cers were nformed that a PIP process had been n t ated and on the morn ng of 8 March the off cers prov ded n t a Stage 3 statements. One of the crew of SUSPECT RHIB prov ded a statement to the RGP on 8 March. RGP Stage 4 PIP statements were taken from the three RGP Off cers on 16 March.

1.10. Env ronmenta Cond t ons

1.10.1. The pr nc p e met off cer n G bra tar prov ded a statement on 17 Apr 2020 as to the weather cond t ons on the n ght of 7 and 8 March 2020 (Append x F). The cond t ons, descr bed as *"very settled conditions with good visibility"* are summar sed as:

- W nd was ght from the West, w th speed not greater than 6 knots
- V s b ty greater than 10 Km and was expected to have been good throughout.
- Hum d ty va ues showed that fog and m st patches were un ke y

1.10.2. The moon was a most fu , sett ng to the west and at an a t tude of around 30° at the t me of the co s on.

1.10.3. Two of SIR JOHN CHAPPLE S crew, and one of the crew of SUSPECT RHIB , reported the cond t ons at the t me of the nc dent to be moon t w th ca m seas and good v s b ty.

1.11. Post-mortem Report

1.11.1. A pre m nary post-mortem was carr ed out on the two dead crew from the SUSPECT RHIB on 11 and 12 March 2020 (Append x E). Mohamed Abdese am Ahmed, be eved to be dead mmed ate y fo ow ng the co s on, was stated to be 40 years o d w th death due to:

> *"extensive head injuries as well as to the left shoulder. The injuries are consistent with forceful impact to posterior left aspect of the trunk/head. .."such injuries are non-survivable and would likely have caused immediate loss of consciousness and/or death".*

1.11.2. Mustafa Das Mohamed, who was found ser ous y njured mmed ate y fo ow ng the co s on, was stated to be 49 years o d, w th death due to:

> *"...extensive chest spine and upper limb injuries. The injuries are consistent with forceful impact to the back with the suggestion of repeated pattern possibly associated with a rotating object... Such injuries are not survivable but may have been associated with limited consciousness. Any delays in resuscitation are unlikely to have affected the outcome".*

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2. Background Informat on

2.1. Crew of SIR JOHN CHAPPLE

2.1.1. Off cer One was a Sen or Coxswa n and was the coxswa n n contro of the vesse at the t me of the co s on. He had been a Po ce Off cer s nce [redacted] and jo ned the Mar ne Sect on n [redacted] becom ng a fu y qua f ed coxswa n n [redacted] H s tra n ng nc uded Roya Yacht ng Assoc at on (RYA) operated STCW 95 (Standards of Tra n ng, Cert f cat on and Watchkeep ng for Seafarers) courses n sea surv va , f rst a d, nav gat on and f ref ght ng as we as a week- ong course that nc uded radar and VHF rad o tra n ng wh ch nc uded a pract ca assessment. Off cer One a so successfu y comp eted a two-week ong fast RHIB course wh ch nc uded h gh speed nav gat on and pac ng (pac ng s the manoeuvr ng a ongs de of two patro vesse s at speed).

2.1.2. Off cer Two jo ned the RGP n [redacted] He ga ned an RYA Powerboat Leve 2 qua f cat on, RYA Day Sk pper Theory qua f cat on and was tra ned to STCW 95 standard n sea surv va , f rst a d, nav gat on, and f ref ght ng n [redacted]. Off cer Two qua f ed as a G bra tar Mar t me Adm n strat on (GMA) Boat Master n [redacted] and comp eted an RGP n-house GMA Interceptor RHIB course n [redacted] He a so he d va d VHF rad o and radar operator qua f cat ons.

2.1.3. Off cer Three was a Po ce Off cer n the Un ted K ngdom from [redacted] He jo ned the RGP n [redacted] Off cer Three had no mar ne qua f cat ons.

2.2. Crew of SUSPECT RHIB

2.2.1. The crew of SUSPECT RHIB cons sted of four crewmen. The statements of the two surv v ng crewmen show confus ng and conf ct ng accounts as to the dent ty of the Coxswa n. Nourd n Lahsen Dr ss stated that;

> *"Mohamed was seated in the Pilot's seat Mustapha behind him I was behind him and Bruno was the last".*

Bruno M gue Gomes Sereno stated that:

> *"Mustapha was first Nourdin's uncle second Nourdin and me. I know Nourdin's uncle was seconcf.*

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From the post-mortem exam nat ons t was estab shed that Mohamed Abdese am Ahmed d ed mmed ate y, and that Mustafa Das Mohamed was ser ous y njured, and d ed ater. From the account of Nourd n Lahsen Dr ss he s certa n that t was h s unc e Mustafa Das Mohamed, n Seat 2, that was ser ous y njured. The account of Bruno M gue Gomes Sereno states that:

"Mustapha [SIC], *the pilot was lying down...his head split open he didn't have a pulse".*

Th s statement appears to show that Bruno M gue Gomes Sereno had m s dent f ed the crew s tt ng n Seat 1 and Seat 2. Th s s a so supported by Bruno M gue Gomes Sereno s statement:

"When I looked at Mohamed he could only move his head asking for help".

The statements of both surv v ng crewman state that Nord n s Lahsen Dr ss unc e (Mustafa Das Mohamed) was n Seat 2.

From the statements t s cons dered most ke y that the surv v ng crew dent f ed the pos t ons of the four crewmen as:

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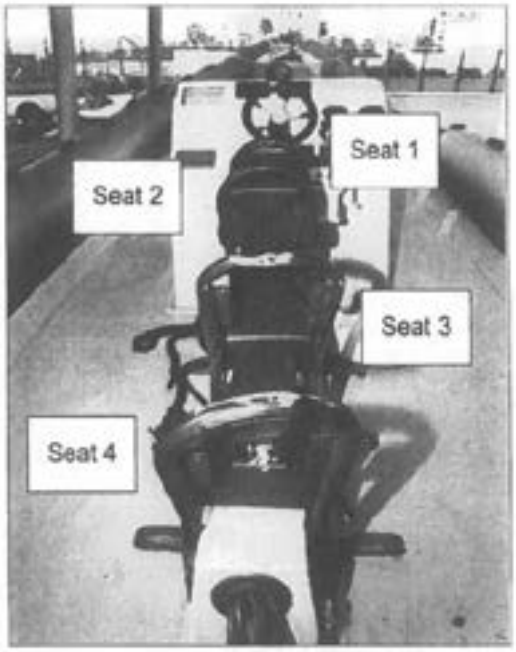
. Seat 1 (Coxswa n / P ot)) - Mohamed Abdese am Ahmed

. Seat 2 - Mustafa Das Mohamed (Nourd n Lahsen Dr ss unc e, a so referred to as Truman)

. Seat 3 - Nourd n Lahsen Dr ss

v. Seat 4 - Bruno M gue Gomes Sereno - (aft), (F gure 8).



F gure 8 Jockey seats on the 'SUSPECT RHIB' ook ng forward

2.2.2. The crewman n Seat 1 was the p ot and contro ed the steer ng and eng nes. The crewman n Seat 2 operated the radar/ p otter un t n support of the p ot. The two crewmen n Seat 3 and Seat 4 adv sed the p ot on the ocat on of SIR JOHN CHAPPLE and recommended the manoeuvres that the p ot shou d take.

2.3. Pos t on Data Recovered from SIR JOHN CHAPPLE

2.3.1. 'SIR JOHN CHAPPLE was f tted w th a Chart P otter; however, the GPS that prov ded the nav gat on data to the radar p otter and the chart p otter was turned off unt 04:47, we after the t me of the co s on. No nav gat on data was recovered from the vesse . No AIS data was transm tted pr or to the co s on and, therefore, the GPS pos t on, speed-over-the-ground, head ng and course-over-the-ground were not recorded at the t me of the co s on.

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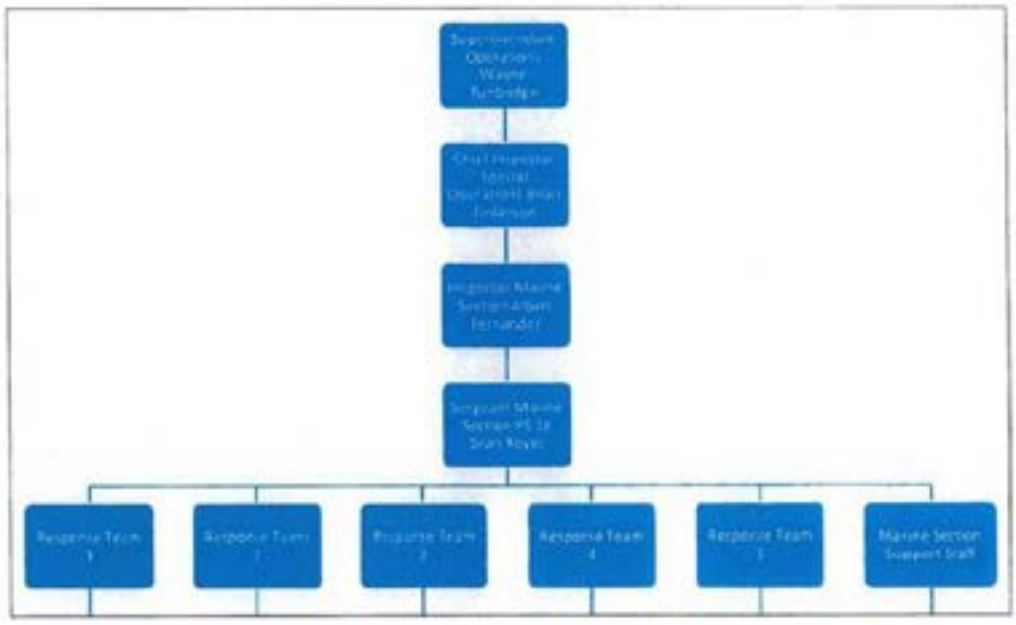
2.4. The Roya G bra tar Po ce - Mar ne Sect on Vesse s

2.4.1. The RGP Mar ne Sect on operates the fo ow ng vesse s w th the AIS systems as f tted onboard:

- [redacted]
- [redacted]
- [redacted]
- v. [redacted]
- v. [redacted]
- v. [redacted]

2.4.2. The RGP Mar ne Sect on a so cons sts of f ve Response Teams, w th a support Sect on. The report ng structure of the Mar ne Sect on s shown at (F gure 9).



F gure 9 Organogram show ng the management structure of RGP's Mar ne Sect on

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2.5. RGP - Marine Training

2.5.1. [redacted]

2.5.2.

2.5.3.

2.5.4.

2.5.5.

2.5.6.

2.5.7.

[redacted]

2.5.8. The five RGP Marine Section instructors were asked for their views on whether training in the pursuit of suspect vessels was provided. In summary, it was their view that while pacing training at high speeds was carried out, that no training was specifically provided for the pursuit and apprehension of suspect vessels.

It was the general view of the RGP marine section trainers that aspects of other modules in the training, such as pacing and safe manoeuvring, "are *then applied in relation to safely pursuing vessels*".

2.5.9. No specific training is provided to RGP Marine Section Coxswains in high-speed pursuits.

2.5.10. [redacted]

2.6. RGP MARINE SECTION - Manning

2.6.1. [redacted]

2.7. RGP Marine Section - Shift Pattern

2.7.1. [redacted]

2.8. RGP Marine Section - Pre-departure Checks

2.8.1. Prior to the deployment of a vessel one of the marine trained crew will carry out pre-checks. That is intended to ensure that the vessel has enough fuel and that the fitted equipment, including navigation and radar equipment, is working.

2.9. RGP Marine Section - Records

2.9.1. While communications are recorded by WHSS, and an end of shift email sent, no logbooks or records were apparently kept on board SIR JOHN CHAPPLE.

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2.9.2. The RGP ma nta ned a database wh ch nc uded the records of chases of suspect vesse s undertaken by RGP Mar ne Sect on Off cers

[redacted]

(2.10. RGP Mar ne Sect on - Instruct ons

2.10.1. The RGP Mar ne Sect on Instruct ons (The Instruct ons), descr bed by RGP Po ce Sergeant Mr. Stewart Stone n an ema as Ru es of Engagement wh ch were ssued on 8 Ju y 2016 and are at Append x D.

2.10.2. On 17 February 2016 RGP Mar ne Sect ons Inspector A bert J Buhag ar sent an ema to the Mar ne Sect on that stated:

> *7 would like to remind **ALL** of the current and existing instructions that under no circumstances are you allowed to police/patrol outside the limits of BGTW. The only exception would be in a GPA led SAR [search and rescue] operation or of a vessel or person(s) in distress. In any case you should first seek authority from either myself Sgt. Stone or the Duty Officer.*
>
> *Furthermore the AIS on the vessel being used will be **switched-on** at all times. .."*

2.10.3. The Instruct ons stated nter-a a:

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"Deployment into different jurisdictions surrounding the territory of Gibraltar are described below. Officers will only operate within BGTW unless in accordance with the specific situations described in paragraphs 3 and 4 below. These instructions will be adhered to until further notice. All previous instructions are rescinded.

. ..Officers are NOT authorised to operate outside BGTW and in International Waters unless when responding to a situation as described in 3(a) or 3(b)

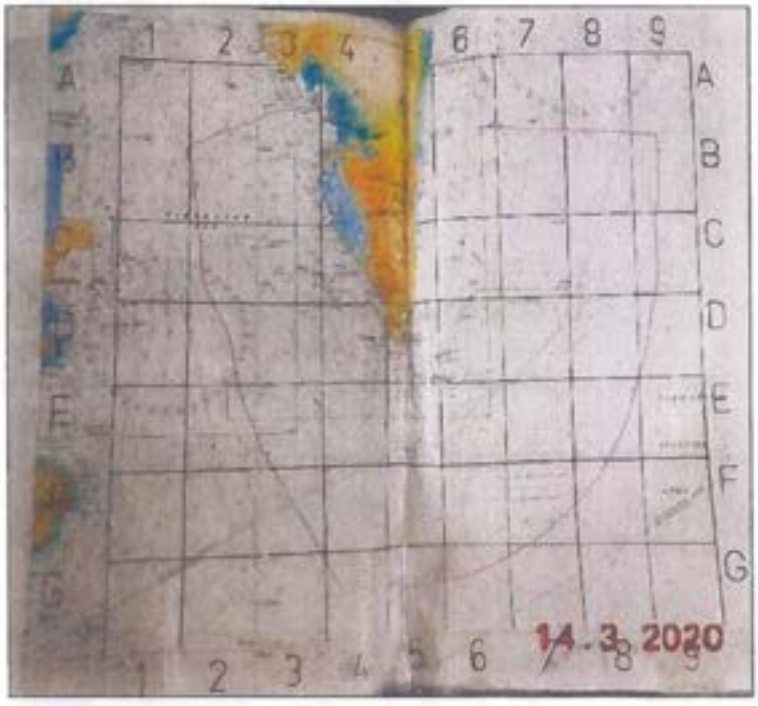
[3] a. Participating in a Search and Rescue operation

[3] b. Responding to an incident where there is an imminent and serious risk to life.

Officers are NOT authorised to operate outside BGTW and in Spanish Waters unless responding to a situation as described in paragraph 4(a).

[4] a. Participating in a Search and Rescue operation at the invitation of Spanish authorities."

2.10.4. The def ned area of operat on, as used by a government operated vesse s based n G bra tar, was shown on a map ocated n the cab n of SIR JOHN Chapp e (F gure 10).



F gure 10 RGP Mar ne Sect on's area of operat on

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2.10.5. An RGP F e Note created on 12 March 2020, four days after the co s on, stated that RGP Po ce Off cer DC62 APAP had rev ewed a DTGMs on the po ce network back to 10 Apr 2016 re at ng to hot pursu ts and BGTW. The DTGM dated 19 Apr 2017 stated that the Mar ne Sect on must on y use vesse s w th AIS. A so, a DTGM, dated 15 November 2019, stated that fo ow ng nc dents where m ss es were thrown at crews dur ng a pursu t, that a mar ne crew wear the r PPE and he mets.

2.10.6. An undated Mar ne Sect on Standard Operat ng Procedures (Append x D stated:

> *"Marine crews are to conduct systematic periodic patrols of Gibraltar's coastlines throughout their tour of duty.*
>
> ***Drugs trafficking***
>
> *The straits of Gibraltar and its environs is a well-known smuggling route with drug and human trafficking taking place from the North African coastline to Spain. On many occasions this smuggling or human trafficking activity enters our territorial waters. Marine crews will conduct systematic periodic patrols of Gibraltar's coastline and territorial waters throughout there* [s c] *tour of Duty. They will pursue suspect vessels in a determined though safe manner within our territorial waters and liaise with our Spanish counterparts."*

2.10.7. Anecdota ev dence from the RGP Mar ne Support Un t s Sen or Mar ne Mechan c stated that hot pursu ts nto Span sh waters had h stor ca y been perm tted w th the approva of the Guard a C v ; however, th s was not the case at the t me of the nc dent.

2.11. Tact ca Contact

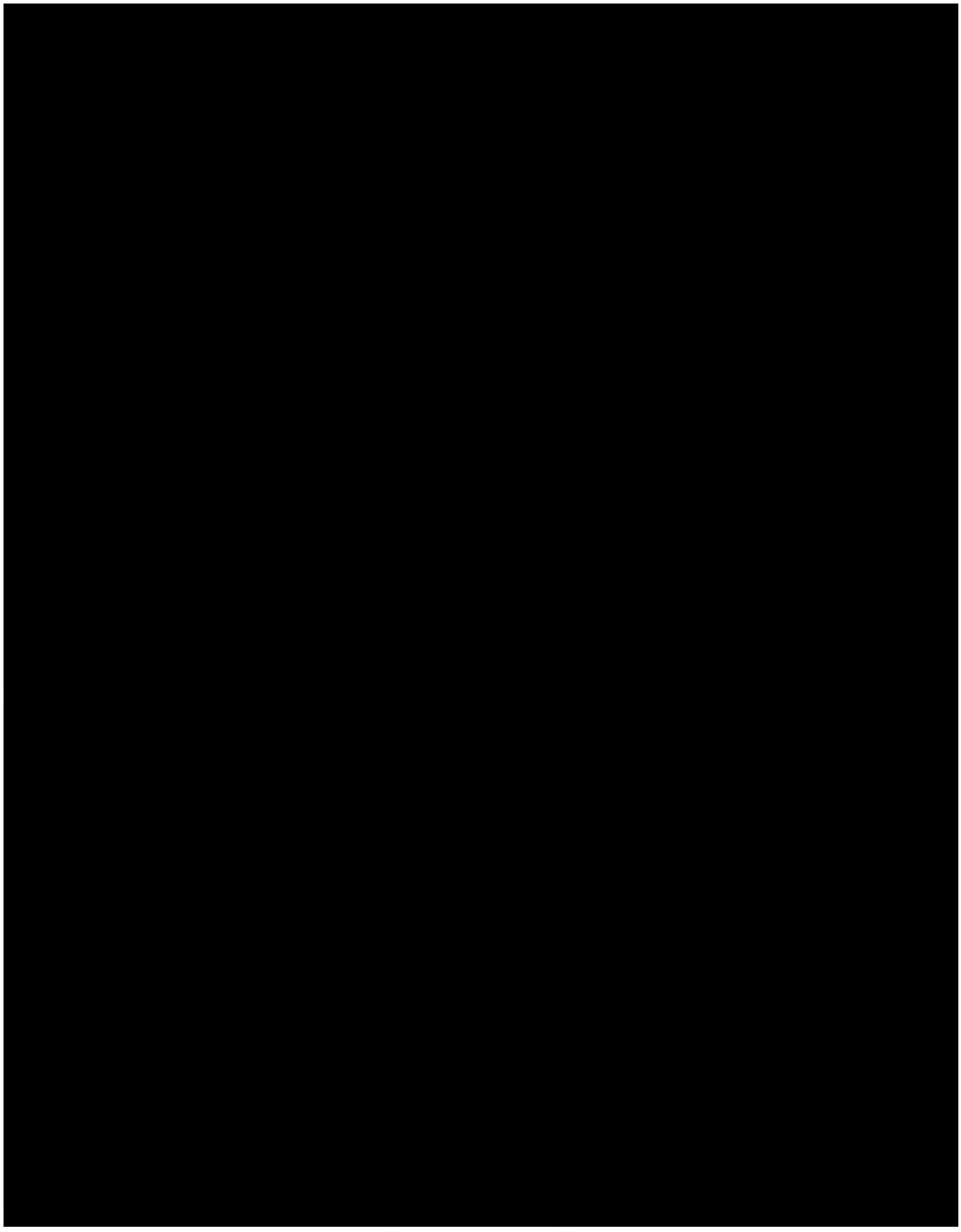
2.11.1. The Mar ne Support Un t Off cer stated that there was a No Force po cy for contact; however, no procedure deta ng the act ons that can be taken has been dent f ed n the documentat on made ava ab e. The norma operat ng procedure was stated, by the Mar ne Support Un t Off cer,

[redacted]

2.12. RGP/Guard a C v Operat ona Agreements

2.12.1. [redacted]

2.13. Vessel Particulars - SIR JOHN CHAPPLE

2.13.1. 

2.13.2. [redacted]

2.13.3. [redacted]

2.13.4. [redacted]

2.13.5.

2.13.6.

2.14.

2.14.1.

2.14.2. [redacted]

2.15.

2.15.1. [redacted]

2.15.2 [redacted]

2.15.3 [redacted]



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3. CONSIDERATIONS

3.1. Pos t on of the Intercept on

3.1.1. The Rap d Rep ay showed that SUSPECT RHIB headed north from Puerto de La Atunara 03:26:16 (F gure 3). The CCTV recorded th s at 14m nutes OOseconds (14m:00s) nto the record ng (F gure 16).



F gure 16 Infrared CCTV mage show ng 'SUSPECT RHIB' depart ng Puerto de La Atunara

3.1.2. The Infrared CCTV (F gure 17) shows the t me of ntercept on as 16m 59s nto the record ng. Th s t me s 2m 59s after the departure of the SUSPECT RHIB from Puerto de La Atunara, at 03:26:16. Therefore, the t me of the ntercept on s around 03:29:15.

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Figure 17 Infrared CCTV image showing the interception of 'SUSPECT RHIB' by 'SIR JOHN CHAPPLE'

3.1.3. The Rapid Replay for the position of the interception, at the same time of 03:29:15 is shown below at Figure 18. The approximate position of SIR JOHN CHAPPLE at this time, close to the position of SUSPECT RHIB, is 36° 11.73 N 005 18.14 W.

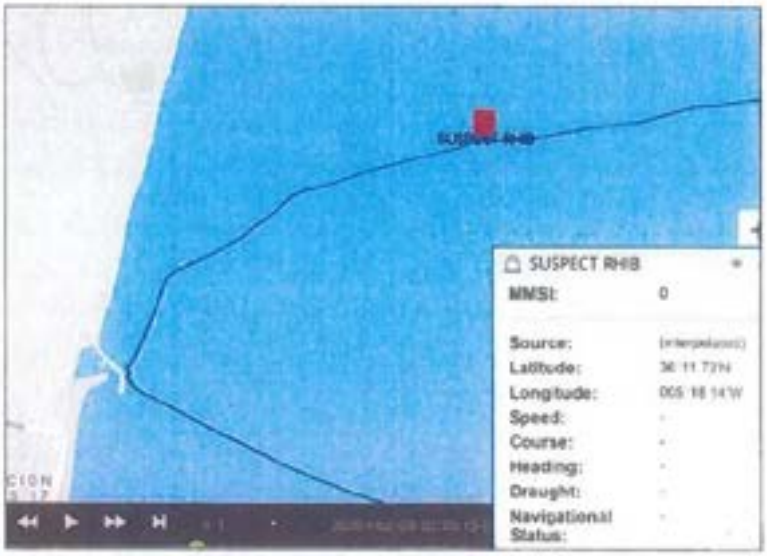

Figure 18 Rapid Replay position of the interception of 'SUSPECT RHIB' by 'SIR JOHN CHAPPLE'

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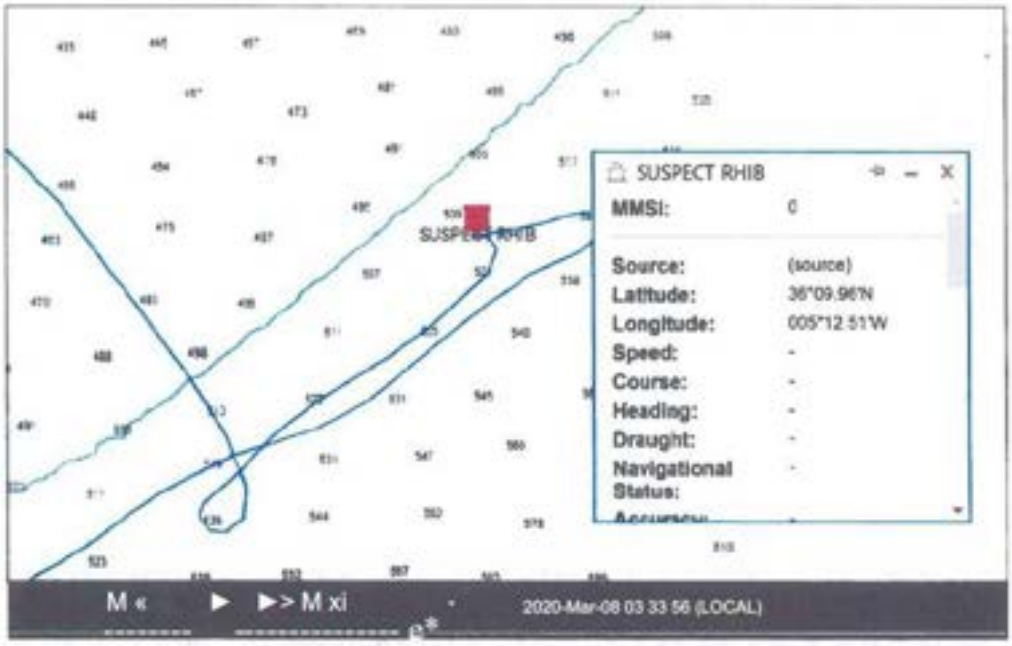
3.2. Pos t on of the Co s on

3.2.1. The Rap d Rep ay (F gure 19) nd cates that the po nt of the co s on between the two vesse s, at around 03:38:56, was 36° 09.96 N 005° 12.51 W.



F gure 19 Pos t on of the co s on Rap d Rep ay

3.2.2. The co s on was recorded by the southern CCTV operated by WHSS. The po nt of co s on s shown at the cropped mage of the co s on at 02m 32s nto the CCTV record ng.

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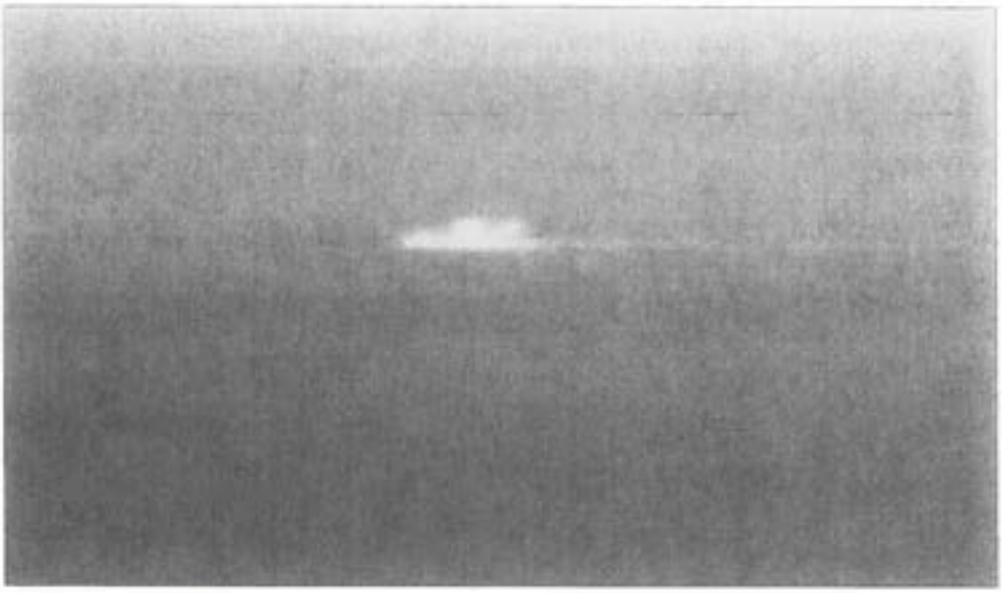
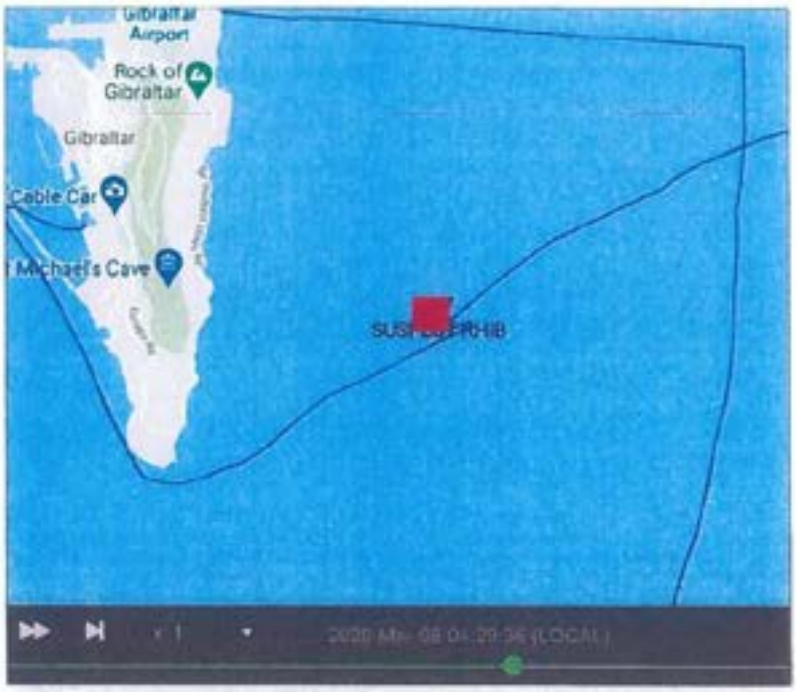


F gure 20 Cropped nfrared CCTV mage of the co s on at 02m 32s nto the CCTV record ng

From the Rap d Rep ay, SIR JOHN CHAPPLE , tow ng the SUSPECT RHIB can be seen to stop when t rendezvoused w th HMC SEARCHER* at around 04:30 as shown at F gure 21 be ow. It wou d have been c ear to the off cers, w th s gn f cant exper ence of operat ng n the area, that they were n Span sh waters and we to the north of BGTW.



F gure 21 Rendezvous t me of 'HMC SEEKER' and 'SIR JOHN CHAPPLE'

3.2.3. The t me of and pos t on of the co s on was ver f ed w th the cont nuous WHSS nfrared CCTV footage, ma nta ned from the co s on t me unt the rendezvous of SIR JOHN CHAPPLE w th HMC SEEKER . The v deo showed that the two vesse s rendezvoused around 50 m nutes after the co s on at 04:29 (F gure 22); therefore conf rm ng the t me of the co s on as occurr ng at around 03:39.



F gure 22 Infrared CCTV mage of the rendezvous of 'HMC SEARCHER' and 'SIR JOHN CHAPPLE' at 04:29

3.2.4. Dur ng the co s on, as d scussed at 3.9.6, SUSPECT RHIB s radar was heav y damaged. The Garm n GPSmap radar/chart p otter recorded and d sp ayed the oss of radar s gna as an a arm. The a arm recorded the t me as 03:39 on 8 March 2020 n pos t on 36°09.953 N 005° 12.51T W (F gure 23).



F gure 23 'Radar Serv ce Lost' t me shown on 'SUSPECT RHIB's radar / chart p otter

3.2.5. The pos t on s n the same ocat on as dent f ed by the Rap d Rep ay reconstruct on (F gure 19). The Radar Serv ce Lost a arm a so conf rms both the t me and the pos t on of the co s on.

3.3. Pos t on of the Intercept on, Chase, and Co s on

3.3.1. Wh e there was no d g ta ev dence recovered from SIR JOHN CHAPPLE, the d g ta data recovered from SUSPECT RHIB, and the prox m ty of the two vesse s shown n the CCTV record ng, conf rmed the pos t on of the two vesse s throughout the pursu t. SIR JOHN CHAPPLE S chart p otter, turned off at the t me of the co s on, showed the m ts of BGTW (F gure 24).

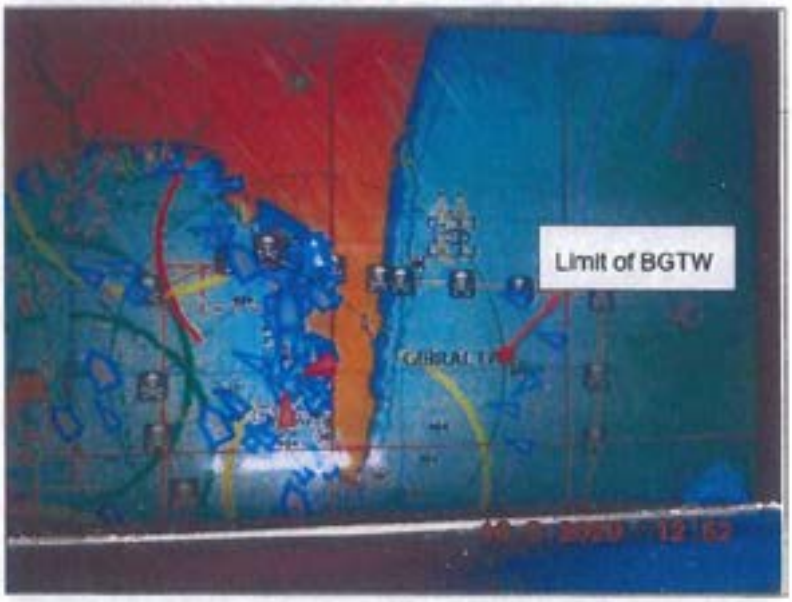


Figure 24 'SIR JOHN CHAPPLE'S chart plotter showing the BGTW limits

3.3.2. When the limits of BGTW were known to the crew of SIR JOHN CHAPPLE the engagement, chase and collision with SUSPECT RHIB were carried out at least 1.5 NM beyond the limits of BGTW in Spanish waters.

3.3.3. When the limits of BGTW were not visible to the coxswain on the chart plotter the area of the northern limit of BGTW is generally indicated by reference to the lights from Gibraltar airport. As SIR JOHN CHAPPLE was significantly to the north of the airport and off the Spanish port, it would have been clear to the officers, with significant experience of operating in the area, that they were in Spanish waters and well to the north of BGTW.

3.4. Identification of the SUSPECT RHIB Crew

3.4.1. The crew of the SUSPECT RHIB were seen by the crew of SIR JOHN CHAPPLE to be seated in tandem during the chase. Due to the speed and tight rapid turns made during the pursuit it is probable that the crew were seated at the time of the collision.

3.4.2. Bruno Miguel Gomes Sereno stated that he was in seat 4 and Nordin (full name unknown), the other survivor, was in Seat 3. The two deceased crewmen were, therefore, located in seat 1 and in seat 2. It cannot be stated with any certainty who the coxswain was; however, the Coxswain - in Seat 1 - was likely, due to the head injuries he sustained and the available evidence of

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human rema ns around the conso e v sor, to be Mr. Mohamed Abdese am Ahmed. The crewman n seat two who was found a ve - but d ed short y after the co s on - was most ke y to be Mr. Mustafa Das Mohamed.

3.5. Cond t on of SIR JOHN CHAPPLE - Post Co s on

3.5.1. The starboard bow of SIR JOHN CHAPPLE was damaged w th ndentat ons c ose to the serrated og defenders f tted to the stem (F gure 25).



F gure 25 'SIR JOHN CHAPPLE' seen from the starboard bow after the co s on

3.5.2. The starboard bow was marked w th regu ar deep ndentat ons, around 10mm apart, w th heavy -apparent y recent- gouges n the same area (F gure 26).

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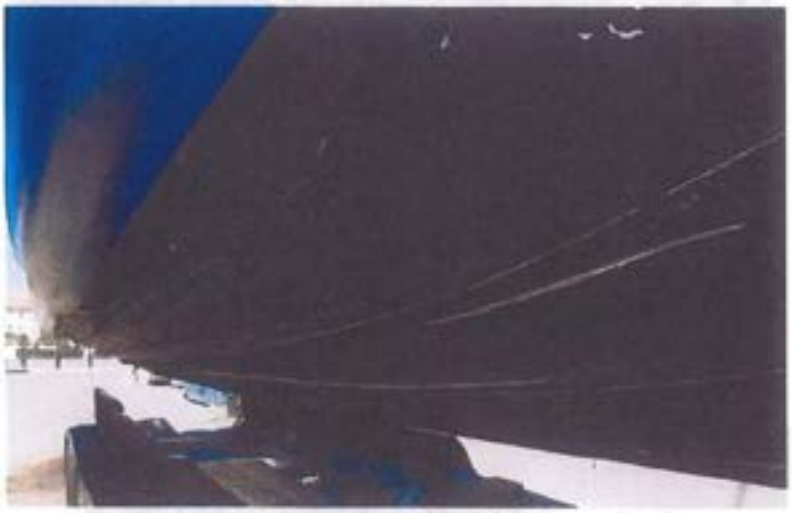
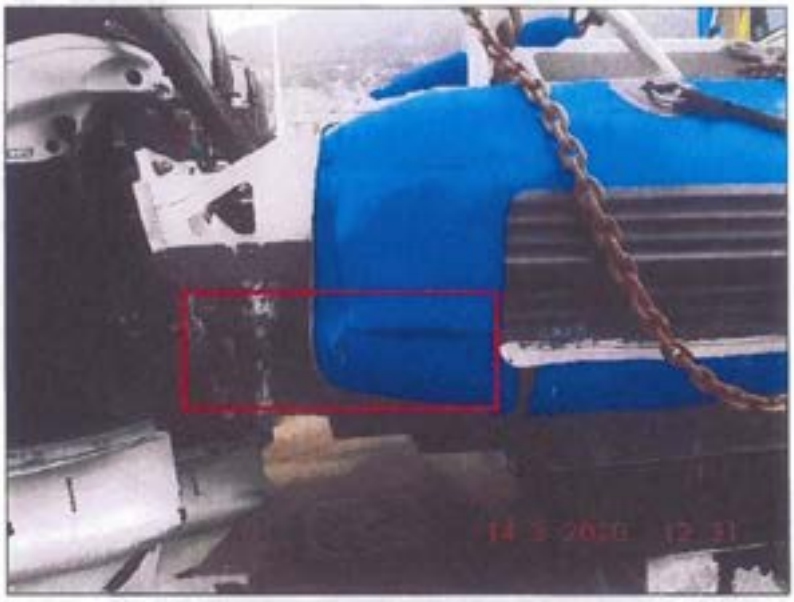
F gure 26 C ose up of the w tness marks on the startward bow of 'SIR JOHN CHAPPLE'

3.5.3. Scratch marks were ev dent a ong a most the fu ength of the starboard hu of SIR JOHN CHAPPLE (F gure 27).



F gure 27 Scratch marks a ong the starboard s de hu of 'SIR JOHN CHAPPLE'

3.5.4. SIR JOHN CHAPPLE S starboard quarter nf atab e co ar was damaged forward of the starboard outboard eng ne (F gure 28).



F gure 28 Starboard aft co ar of 'SIR JOHN CHAPPLE'

3.5.5. The startx>ard outboard eng ne gearbox cas ng of SIR JOHN CHAPPLE was found to be damaged at the forward end (F gure 29).



F gure 29 Starboard outer eng ne of 'SIR JOHN CHAPPLE' post co s on

3.5.6. The coxswa n of SIR JOHN CHAPPLE stated that the starboard eng ne d d not work after the co s on.

3.5.7. The port outboard prope er was damaged; however, t s not known for certa n when that damage occurred. It s cons dered ke y, as the damage wou d cause notab e v brat on at speed and the vesse (nc ud ng the prope ers) was serv ced two days before the nc dent, that th s occurred at the t me of the co s on.

3.5.8. Eng ne management data for SIR JOHN CHAPPLE was recovered by a Mercury mechan c (Append x I). The Starboard outer eng ne nd cated *'has faults'*. The other three eng nes were shown to have no *faults'*.

3.5.9. Water was ev dent n the forward cab n of SIR JOHN CHAPPLE . Th s water f ooded nto the cab n fo ow ng the ngress of water through the starboard s de w ndows, nd cat ng a s gn f cant starboard hee dur ng and mmed ate y after the co s on w th the SUSPECT RHIB .

3.6. Cond t on of SUSPECT RHIB - Post Co s on

3.6.1. In add t on to the four crew, the RHIB was oaded, n the stern sect on and mmed ate y forward of the conso e, w th a tota we ght of 801 Kg that was made up of:

- Fue - 448 kg (n 27 conta ners)
- Food and dr nks - 298kg
- C oth ng and other tems - 55kg

3.6.2. Wh e f tted w th nav gat on ghts, there was ev dence that a s gn f cant effort had been made to ensure that no ghts were v s b e from the vesse , nc ud ng the d sp ays and nd cator ghts (F gure 30).

3.6.3. The four "k cords", wh ch are des gned to stop the eng nes f the coxswa n moves from the ocat on of the eng ne contro s, were found to be n the stowed pos t on and appeared not to have been n use at the t me of the co s on (F gure 30).

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F gure 30 Eng ne start on 'SUSPECT RHIB' show ng cover ng of nd cator ghts

3.7. SUSPECT RHIB - Co s on Damage

3.7.1. The port quarter, and stem sect on, were s gn f cant y damaged as shown at F gure 31.



F gure 31 Damage to the port quarter of 'SUSPECT RHIB'

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3.7.2. The port outboard engine sustained the most significant damage, with the engine mountings broken (Figure 32).



Figure 32 Damage to the two port engines of 'SUSPECT RHIB'

3.7.3. The engine data was recovered by an experienced boat engine mechanic on 23 and 24 June (Appendix J). The mechanic identified that one of the engines had reported a fault; however, he was unable to identify the data of the fault. Solis Marine contacted Yamaha UK to provide a report on the data recovered from the four Yamaha engines. Yamaha UK forwarded the report (Appendix J) on 12 August. The report identified that:

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. Eng nes 1,2 and 3 (F gure 32) showed no recorded fau ts

. The Remote Contro (RC) fau t on Eng ne 4 (F gure 32) was h stor c and "had no bear ng on the current s tuat on".

. It s cons dered ke y that the other fau ts on eng ne No. 4 were as a resu t of the co s on

v. There was no ev dence, not ng that no fue samp es were tested, of fue contam nat on.

v. The data from eng ne No. 3 nd cated that t was ke y that the damage occurred at the t me of the co s on.

v. The four eng nes on SUSPECT RHIB were not nsta ed n accordance w th the Yamaha standard. A Quad Remote Contro shou d have been f tted wh ch wou d have synchron sed the operat on of the four eng nes.

v . Wh e the four throtte es were, at some t me, connected w th a meta bar, at some po nt the eft pa r of eng nes was separated from the r ght pa r. The eng ne data suggests the throtte es were contro ed ndependent y.

v . The data does not show that any of the four eng nes had a fau t n the 19 m nutes pr or to the co s on.

x. It s poss b e that, as the eng nes exceeded the r max mum 6.000RPM, that the eng nes were e ther ncorrect y nsta ed, or that the eng nes were over-tr mmed .

x. It cannot be determ ned from the data how the four eng nes were stopped

3.7.4. The two surv v ng crewmen from SUSPECT RHIB stated that they had been nformed by the prev ous crew that one of the eng nes was ma funct on ng. Wh e one of the eng nes (Eng ne 4) had an h stor c fau t there s no ev dence from the ana ys s of the recovered eng ne data that any of the eng nes were not funct on ng correct y pr or to the co s on.

3.7.5. The port outboard eng ne f ywhee was heav y damaged (F gure 33); the eng ne wou d have stopped nstant y fo ow ng the co s on. The port nboard eng ne was a so damaged; w th the t m ng be t broken so that th s eng ne wou d a so have stopped mmed ate y.

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F gure 33 Damage to the f ywhee of the port outboard eng ne on 'SUSPECT RHIB'

3.7.6. The jockey seats that formed part of the centre conso e and battery storage were heav y damaged (F gure 34). The aft two, of the four seats, were bent and d storted. It s not ceab e that the two forward jockey seats, where the crewmen were seated, had very tt e damage when compared w th the heav y damaged aft two seats where the two surv v ng crewmen were seated. The reason for that ncons stency s not known.

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F gure 34 Damage to the jockey seat ng on 'SUSPECT RHIB'

3.7.7. The Furuno radar was heav y damaged and wou d have stopped work ng mmed ate y after the co s on (F gure 35). The starboard nf atab e co ar was damaged. That damage s ke y to have been caused by the co aps ng radar mast, or dur ng the n t a contact w th SIR JOHN CHAPPLE .

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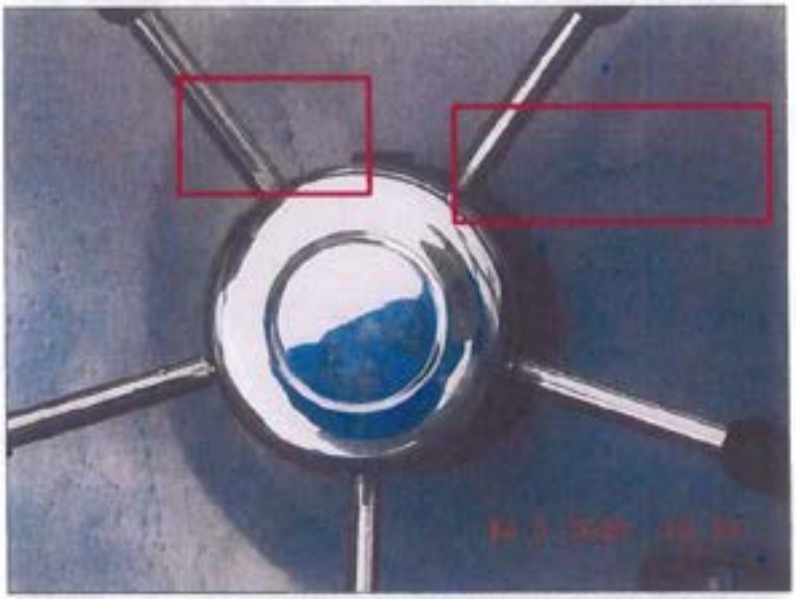
3.7.10. The steer ng whee (F gure 36) and n c ose up at F gure 38 can be seen to have been damaged; t s ke y that th s damage was caused by a s gn f cant force, and poss b y the coxswa n s body, push ng the steer ng whee nto the conso e.



F gure 38 Steer ng whee on 'SUSPECT RHIB show ng cracks to the surround ng structure

3.7.11. The starboard forward co ar was damaged, as seen at F gure 39



F gure 39 Starboard def ated co ar of 'SUSPECT RHIB'

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3.7.12. It is considered likely that this damage was more likely caused as the two vessels came alongside after the collision, or when HMC SEARCHER' berthed alongside starboard to starboard after the incident. This is supported by the direction of the damage shown at (Figure 40)

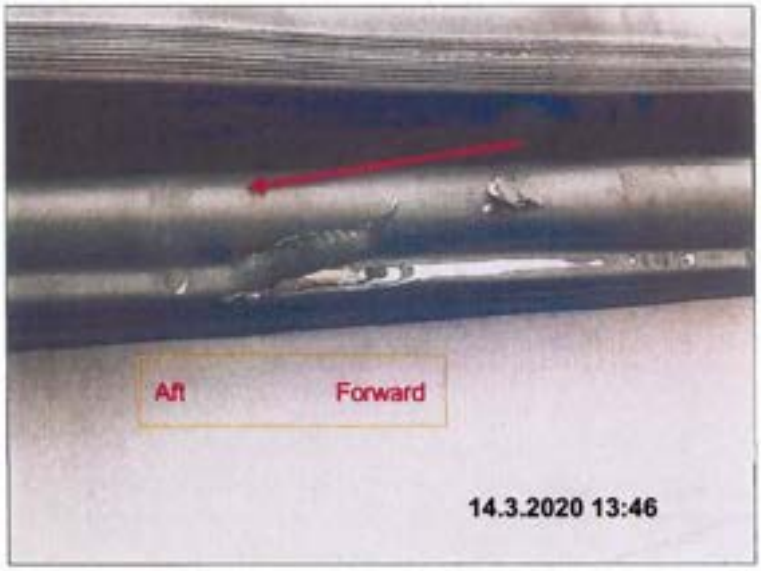

Figure 40 Damage to the starboard collar of 'SUSPECT RHIB'

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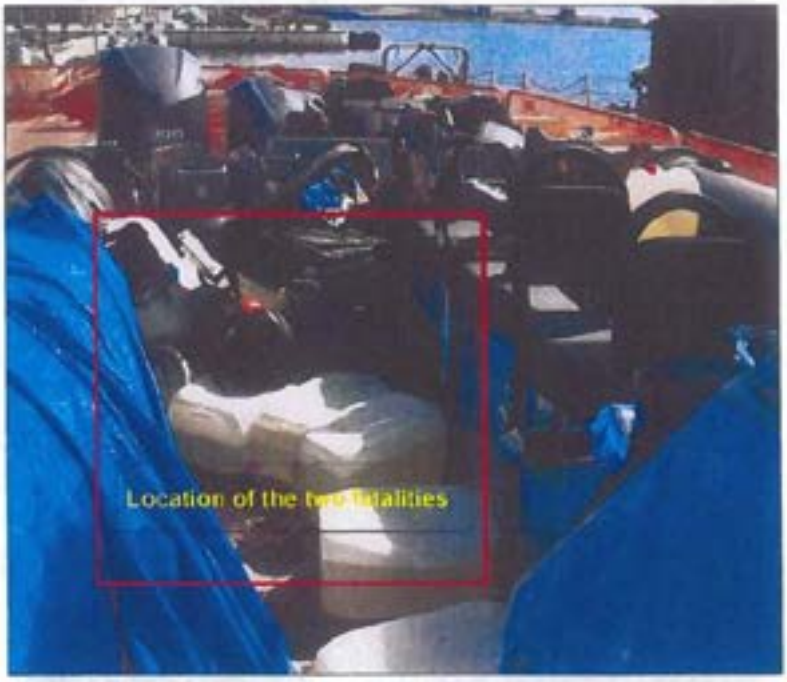
The bod es of the deceased and bad y njured crewmen were found on the starboard s de aft between the seat ng and the co ar (F gure 41).



F gure 41 Pos t on of the two fata y wounded crewmen on board 'SUSPECT RHIB'

3.8. Events onboard SIR JOHN CHAPPLE Pr or to the Co s on

3.8.1. Fo ow ng the n t a commun cat on from WHSS, Off cer One started the response to proceed to the eastern s de of G bra tar. The commun cat on from Guard a C v conf rmed the ocat on of the SUSPECT RHIB wh ch was c ear y n Span sh waters.

3.8.2. The Rap d Rep ay and CCTV ev dence showed that the SUSPECT RHIB was outs de of BGTW and that the object ve of 'SIR JOHN CHAPPLE was to wa t for the depart ng 'SUSPECT RHIB and to ntercept the vesse f poss b e, the act ons and ntent ons of the SUSPECT RHIB were not known and cou d not have been ant c pated. The type of vesse dent f ed appeared to be one used for the transportat on of cannab s res n. Such a vesse wou d be expected to be manned by a crew who wou d be prepared to take cons derab e r sks, not on y to themse ves, but w th the aw enforcement off cers whose object ve t was to prevent the ega transportat on of drugs.

3.8.3. The pursu t was made at h gh speed w th SIR JOHN CHAPPLE n t a y catch ng up w th the SUSPECT RHIB . The c ose pursu t, w th b ue ghts on, w th Off cer Two and Off cer Three us ng the Dragon Torches was c ose enough to observe the occupants and was c ose enough for SUSPECT RHIB s crew to respond by throw ng objects and mak ng sharp turns to deter the RGP vesse .

3.8.4. The off cers on board SIR JOHN CHAPPLE* responded to the thrown objects by c os ng the doors and w ndows. When the rap d turns were made by SUSPECT RHIB the RGP off cers responded by tr mm ng the eng nes down, to make the vesse more manoeuvrab e and ab e to respond to the fast turns of the SUSPECT RHIB .

3.8.5. The qu ck turns of SUSPECT RHIB produced spray wh ch s gn f cant y reduced the v s b ty of Off cer One and Off cer Two; a common tact c known by RGP off cers to be used by drug smugg ers. The reduced v s b ty n the cab n cons derab y ncreased the r sk of co s on w th the evas ve SUSPECT RHIB . On y by s ow ng down substant a y and ncreas ng the d stance from SUSPECT RHIB wou d the r sk of co s on been apprec ab y reduced.

3.8.6. When SUSPECT RHIB turned mmed ate y n front of SIR JOHN CHAPPLE the spray, as reported by Off cer One and Off cer Two reduced the v s b ty to zero. None of the RGP Off cers cou d reca w tness ng the co s on occur.

3.8.7. A though Off cer One stated that he took avo d ng act on by stopp ng and turn ng to starboard, h s act ons were nsuff c ent to avo d the co s on. The speed of the co s on ed to SIR JOHN CHAPPLE pass ng over the top of SUSPECT RHIB and, once c ear, and ng on the r starboard s de at a arge ang e wh ch ed to the water ngress nto the cab n.

3.9. <u>Events on SUSPECT RHIB Pr or to the Co s on</u>

3.9.1. The "SUSPECT RHIB d sp ay ng no nav gat on, or other ghts and acce erat ng away from SIR JOHN CHAPPLE was nav gat ng n a manner wh ch wou d arouse susp c on as to ts act v t es. The RHIB was of a s ze, type and w th an eng ne power of vesse s used to transport drugs from Morocco to Spa n. Dur ng the chase, m ss es were stated to have been thrown from SUSPECT RHIB and the evas ve act on taken was enough to reduce the v s b ty of the crew of SIR JOHN CHAPPLE ; however, th s s d sputed by the crew of SUSPECT RHIB .

3.9.2. The SUSPECT RHIB , as wou d be expected, d d not have the capab ty to transm t AIS data.

3.9.3. The Rap d Rep ay (F gure 6) shows a change of track, wh ch nd cates a rap d turn to port,

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fo ow ng the two turns made to starboard, mmed ate y pr or to the co s on.

3.9.4. It was reported by the coxswa n of SIR JOHN CHAPPLE that the SUSPECT RHIB was operat ng w th the outboard eng nes tr m up . It wou d be expected that when trave ng at speed, on a steady head ng, that the vesse wou d be operat ng w th the outboard eng ne tr mmed up (away from the hu). Wh e manoeuvr ng tr mmed up the boat wou d be ess manoeuvrab e; however, as the vesse turned t wou d a so produce a wash spray that m ght d sor entate a pursu ng vesse by reduc ng ts v s b ty.

3.9.5. The G bra tar CCTV of the co s on s unc ear as to the manoeuvres of e ther vesse mmed ate y pr or to the co s on. Nourd n Lahsen Dr ss stated that SUSPECT RHIB susta ned eng ne fa ure pr or to the co s on and Bruno M gue Gomes Sereno stated that SUSPECT RHIB was stopped at the t me of the co s on. An eng ne fa ure wou d have caused SUSPECT RHIB to reduce speed sudden y and unexpected y and wou d have prevented the coxswa n of SUSPECT RHIB from tak ng act on to avo d the co s on w th SIR JOHN CHAPPLE*. It s a so poss b e that SUSPECT RHIB* had stopped due a manoeuvre, such as a very sharp turn.

3.9.6. Nourd n Lahsen Dr ss stated that he jumped from h s seat pr or to the mpact; Bruno M gue Gomes Sereno stated that SIR JOHN CHAPPLE made n t a contact w th SUSPECT RHIB between the two nner eng nes. It Is not known whether the crew n Seats 1 and 2 saw the co s on; however, as the r pr mary task was ook ng forward n the d rect on of trave , and at the chart/radar d sp ay, t s more ke y that they d d not w tness the co s on. The njur es reported n the post-mortem reports a so nd cate that the two deceased men were h t from the back. It s cons dered ke y that the two crewmen, n Seats 1 and 2, d d not see the co s on and were unab e to take suff c ent act on to avo d be ng struck by SIR JOHN CHAPPLE as t passed over SUSPECT RHIB .

3.9.7. It s apparent that, for the njur es and damage to both vesse s to have occurred, and the sp ash of water seen on the v deo, that SIR JOHN CHAPPLE passed, at east part y over the top of SUSPECT RHIB . The crewman from SUSPECT RHIB stated that SIR JOHN CHAPPLE co ded w th the port quarter of SUSPECT RHIB . W thout v deo or add t ona d g ta ev dence, t s not poss b e to say w th certa nty how the two vesse s co ded. The w tness mark on the conso e nd cates the poss b e ang e of the hu of SIR JOHN CHAPPLE as t then passed over SUSPECT RHIB (F gure 42).

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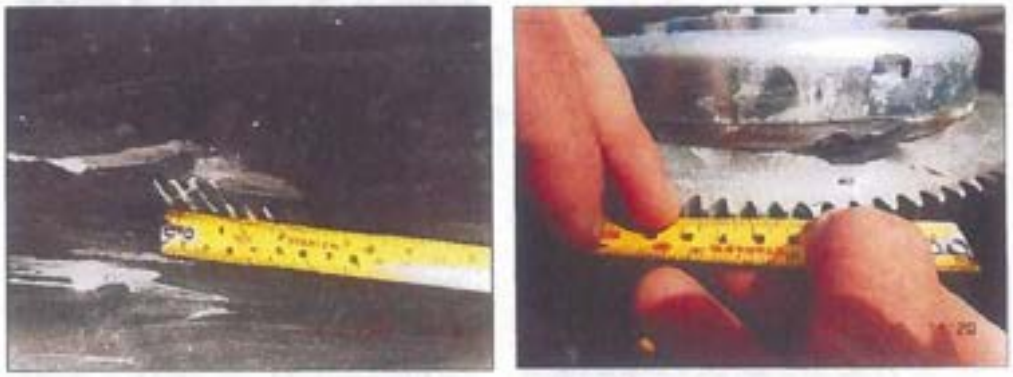
F gure 42 Poss b e ne of the ang e of nc dence on 'SUSPECT RHIB'

3.9.8. Marks from SUSPECT RHIB s port outboard eng ne's damaged f y whee very c ose y matched the mark ngs on the starboard bow of SIR JOHN CHAPPLE' (F gure 43). That a so matches the statement of the crewman of the SUSPECT RHIB that the bow of SIR JOHN CHAPPLE co ded w'th the port quarter of SUSPECT RHIB .



F gure 43 Marks on 'SIR JOHN CHAPPLE' compared w th the teeth of the f ywhee on 'SUSPECT RHIB's eng ne

3.9.9. Fo ow ng the co s on, a the crew of SIR JOHN CHAPPLE reported that the vesse ro ed to starboard and then h t the water w th s gn f cant force. After SIR JOHN CHAPPLE r ghted, the

vesse s crew stated that they observed the SUSPECT RHIB on SIR JOHN CHAPPLE S port s de.

3.10. RGP Mar ne Sect on - Use of AIS

3.10.1. Pr or to departure from the RGP Mar ne Base, Off cer One turned on the radar, however, he d d not turn on the chart p otter or the GPS that supp ed the Radar Un t w th pos t on data, stat ng that t nterfered w th h s n ght v s on. By eav ng the chart p otter off, SIR JOHN CHAPPLE d d not transm t AIS data, wh ch wou d have a owed the vesse s pos t on data to be tracked and recorded. It was a so poss b e that the SUSPECT RHIB wou d have been ab e to detect and track SIR JOHN CHAPPLE by AIS as they approached.

3.10.2. The d mm ng fac ty on the chart p otter was tested and found to d m the d sp ay as wou d be expected for use n n ght-t me nav gat on and wou d, f set correct y, have not nterfered w th the coxswa n s n ght v s on. There was a c ear nstruct on that the vesse s AIS system shou d a ways be turned on when n serv ce and ne ther Off cer One nor Off cer Two comp ed w th that nstruct on.

3.11. RGP Mar ne Sect on - Use of Nav gat on Equ pment

3.11.1. The chart p otter and the GPS un t that fed the radar d sp ay were turned off for the durat on of the dep oyment. W th no GPS and no chart p otter d sp ayed, the two mar ne off cers were re ant on v sua nav gat on and the radar p cture. Off cer One stated that the range of the radar was set to 0.75 NM. That range sett ng, wh ch was ess than the d stance of the c osest and, wou d have been su tab e for detect ng vesse s w th n the range, but not the and, or - as the t me taken for vesse s enter ng the set range was too short - for assess ng whether a r sk of co s on ex sted. The off cers were therefore so e y re ant on v sua nav gat on. However, the m ts of BGTW were shown on the chart p otter. There were apparent y no gu dance/ nstruct on/orders as to what nav gat on equ pment was to be used when on patro , e ther n day ght or at n ght.

3.11.2. SIR JOHN CHAPPLE was f tted w th a magnet c compass wh ch wou d have shown the vesse s head ng. Off cer One stated that he was trave ng n a south-easter y d rect on wh ch was ncorrect.

3.11.3. By not us ng the ava ab e nav gat on equ pment wh e nav gat ng at n ght w th no pos t on mon tor ng, other than by eye, the crew of SIR JOHN CHAPPLE showed that a poor standard of nav gat on was be ng pract ced at the mater a t me.

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3.11.4. Dur ng the r pursu t of SUSPECT RHIB the crew of SIR JOHN CHAPPLE , n nav gat ng the vesse by s ght a one, d d not - due to the r d stance from and and ava ab e depth of water - p ace the r vesse n nav gat ona danger.

3.11.5. As co s on avo dance was be ng carr ed out by s ght, and w th the two vesse s at very c ose range, t s my op n on that the e ectron c equ pment, n part cu ar the radar, wou d not have ass sted the crew of SIR JOHN CHAPPLE n co s on avo dance.

3.12. RGP Mar ne Sect on - App cat on of the Instruct ons

3.12.1. The Instruct ons were c ear that the area of operat on for aw enforcement was so e y w th n BGTW. It s not known why the coxswa n and the two off cers headed nto Span sh waters to ntercept SUSPECT RHIB and to cont nue to chase the RHIB n Span sh waters unt the t me of the co s on.

3.12.2. The Instruct ons stated that *"They will pursue suspect vessels in a determined though safe manner within our territorial waters and liaise with our Spanish counterparts"*. The Instruct ons a so stated that the safety of the crew was the pr or ty; however, the crew of SIR JOHN CHAPPLE p aced themse ves so c ose to the SUSPECT RHIB , wh ch was carry ng out dangerous manoeuvres and r sked the safety of the crews of both vesse s, as to p ace themse ves and the crew of SUSPECT RHIB n cons derab e danger.

3.12.3. The crew of SIR JOHN CHAPPLE d d not comp y w th the Instruct ons that were ssued.

3.13. RGP Mar ne Sect on - Equ pment Prov ded

3.13.1. [redacted]

3.13.2.

3.14. Log Defenders

3.14.1. SAFE Boats Internat ona were requested by the Metropo tan Po ce to prov de the r response to the fo ow ng request for nformat on:

> "It wou d a so be he pfu to know how the des gn protects the vesse and how many other vesse s (I apprec ate you may not be ab e to g ve a def n t ve number on th s) the og defenders have been f tted to and the purpose of those vesse s .e. have they been f tted to/are they common n other aw enforcement vesse s".

SAFE Boats Internat ona rep ed:

> *"The log defenders are installed on vessels to aid in pushing logs and debris. The "teeth" on the log defender bite into the log and prevent it from sliding under the hull and into the vessel's propellers. Log defenders are very common in the logging industry where logging vessels maneuver logs into position for recovery and processing by capturing them with the log defender. SAFE Boats has installed log defenders on law enforcement vessels other than the Gib boats specifically in the US Pacific Northwest region where floating logs and debris is common".*

3.14.2. G bra tar s not assoc ated w th the ogg ng ndustry and s not known to have a spec f c ssue w th f oat ng ogs or s m ar debr s, other than that wh ch wou d be rout ne y found at sea.

3.14.3. The rat ona e for nsta ng og defenders onto the stem of SIR JOHN CHAPPLE s not fu y understood. The mp cat ons of nsta ng og defenders onto the stem of SIR JOHN CHAPPLE were not proper y cons dered by the RGP, and therefore the opportun ty to dent fy th s safety r sk was m ssed.

3.15. Pursu t Tra n ng

3.15.1. The two qua f ed mar ne crew had tra n ng n profess ona sk s and for pac ng at speed. However, there was no tra n ng n carry ng out pursu ts of suspect vesse s who wou d be tak ng evas ve act on to avo d be ng apprehended. Wh e numerous pursu ts have been carr ed out, the coxswa ns exper ence n pursu ts was earned on the job, watch ng more exper enced coxswa ns as they tra ned. Pursu t methods are therefore deve oped and understood by the coxswa ns, but w thout RGP Mar ne Sect on management standards or proper estab shed overs ght n p ace.

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3.16. SIR JOHN CHAPPLE' - Actions Following the Collision

3.16.1. Following the collision, two of the crew boarded the SUSPECT RHIB'. It was clear to the crew, due to the severity of their injuries, that one crewman was dead, a second was very seriously injured and that the two other crewmen were injured and in a state of shock. The crew of SIR JOHN CHAPPLE were also apparently shocked by the situation they faced, they did report the accident and then decided how to tow the SUSPECT RHIB back to the base. However, as Officer 1 decided - on safety grounds of the RGP Officer personal safety - not to leave an officer on board SUSPECT RHIB , there was no attempt to provide the seriously injured crewman with first aid.

3.16.2. While the situation the crew of SIR JOHN CHAPPLE faced was understandably shocking, the correct marine response would have been to issue a mayday relay calling alerting all vessels in the area that there was a serious risk to life and that immediate assistance was required.

3.17. RGP Marine Section - Management Oversight.

3.17.1. From the actions on the night of the collision, the Coxswain and crew of SIR JOHN CHAPPLE considered it appropriate to leave BGTW to pursue a suspect RHIB positioned close to a Spanish port. Instructions, rescinded in 2016, permitted RGP Marine Section vessels to enter Spanish waters with higher management approval. The new instructions, issued in 2016, clearly stated that no operations were permitted outside BGTW, unless required for search and rescue. It is not known why the crew did not comply with the Instructions.

3.17.2. Once the high speed pursuit had started, in Spanish waters, the coxswain - who was trained in pacing, but not trained in high-speed pursuits with suspect vessels - was close enough to the SUSPECT RHIB that objects thrown from the suspect boat were able to hit his vessel. While the guidance was that the safety of marine crews was the priority, the proximity of the two vessels during the pursuit placed the crews of both vessels as well as the vessels themselves in considerable danger.

3.17.3. Marine Section senior officers had provided instructions, on several occasions, that the AIS was to be turned on; however, the coxswain and crew operated SIR JOHN CHAPPLE with the AIS turned off.

3.17.4. While there are no explicit instructions, it would be reasonable to assume that Marine Section Senior Officers would have expected that available navigation equipment, particularly when

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nav gat ng at n ght, wou d be used; however, the ava ab e GPS and chart p otter nav gat on systems were not turned on.

3.17.5. From the Instruct ons prov ded to-Mar ne crews, the Mar ne Sect on Sen or Off cers were aware and accepted that the h ghspeed pursu ts were be ng rout ne y carr ed out. Instruct ons had been ssued for the use of PPE when faced w th m ss es be ng thrown.

3.17.6. The RGP ma nta ned a database of po ce act ons wh ch nc uded when chases of suspect vesse s occurred and recorded whether these events were ns de or outs de of BGTW. An nterna rev ew by the RGP showed that between 1 Apr 2017 and 1 June 2020 that, of the 59 entr es that nvo ved a chase, two (nc ud ng th s case) had cont nued outs de of BGTW.

3.17.7. From the ev dence rev ewed to date, t appears that Mar nes Sect on Managers d d not app y effect ve overs ght nto how the r patro s were be ng carr ed out.

3.18. Span sh Med a Report

An Infrared CCTV v deo record ng, from an unknown source, was transm tted on Span sh te ev s on on 2 June 2020. The t me d sp ayed on the record ng has not been ver f ed as be ng correct. The nk to the record ng, ava ab e at the t me of pub cat on, s:

https://www.rtve.es/a acarta/v deos/te ed.ar o/narcotraf co- ancha-g bra tar/5587504/

3.18.1. The nfrared CCTV footage record ng shows four short v deo sect ons dated 8 March 2020:

. T mes shown as be ng from 03:25:37 to 03:25:43 apparent y w th SUSPECT RHIB c ose to a breakwater

. From 03:22:21 to 3:22:24 apparent y w th 'SUSPECT RHIB c ose to a breakwater

. From 03:34:13 to 03:34:17 apparent y w th 'SIR JOHN CHAPPLE fo ow ng on SUSPECT RHIB s port quarter.

v. From 03:33:56 to 03:34:02 apparent y w th SIR JOHN CHAPPLE and SUSPECT RHIB manoeuvr ng n prox m ty.

3.18.2. The record ngs are not shown n chrono og ca order, and the t me each sect on shown s very short. It s therefore not poss b e to prov de ana ys s of the manoeuvres of e ther vesse . As t s known that the two vesse s stopped after the co s on t s very un ke y that the footage shows the t me of the co s on. The CCTV record ng apparent y shows the two vesse s pass ng c ose

together at a t me ear er than the co s on, wh ch occurred approx mate y 5 m nutes ater at 03:38:56.

3.18.3. W thout the fu - engthrecord ng of the nfrared CCTV footage show ng he co s on, and the events ead ng to t, t s not poss b e to comment further on the record ngs.

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3.19. Historic AIS data for RGP Marine Section Vessels

3.19.1. The contact, chase and collision were known to have been carried out in Spanish waters. A study of AIS data, over a period of several months (Appendix H) has provided an insight into the operating patterns of these vessels and the frequency at which they operate outside BGTW (Figure 44).



Figure 44 RGP Marine Section AIS Analysis

3.20. Modelling and Reconstruction

3.20.1. Due to the lack of digital data, witness accounts, or video recordings it has not been possible to say independently and with certainty how the two vessels collided and provide an insight into the events during the collision which led to the fatal injuries to two of the crew of the SUSPECT RHIB.

3.20.2. SIR JOHN CHAPPLE was purchased as a second-hand vessel and there are no detailed drawings available. SUSPECT RHIB" was built to transport illegal drugs, therefore it is unlikely that manufacturers drawings or other construction data is available.

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3.20.3. Mode ng of the two vesse s us ng 3-D scann ng techno ogy has produced an accurate representat on of the r hu s and superstructures. The 3-D mode s were created us ng ava ab e Rh no software (an ndustry standard program) to show the re at ve pos t ons and aspects of the two vesse s pr or to, dur ng, and after the co s on.

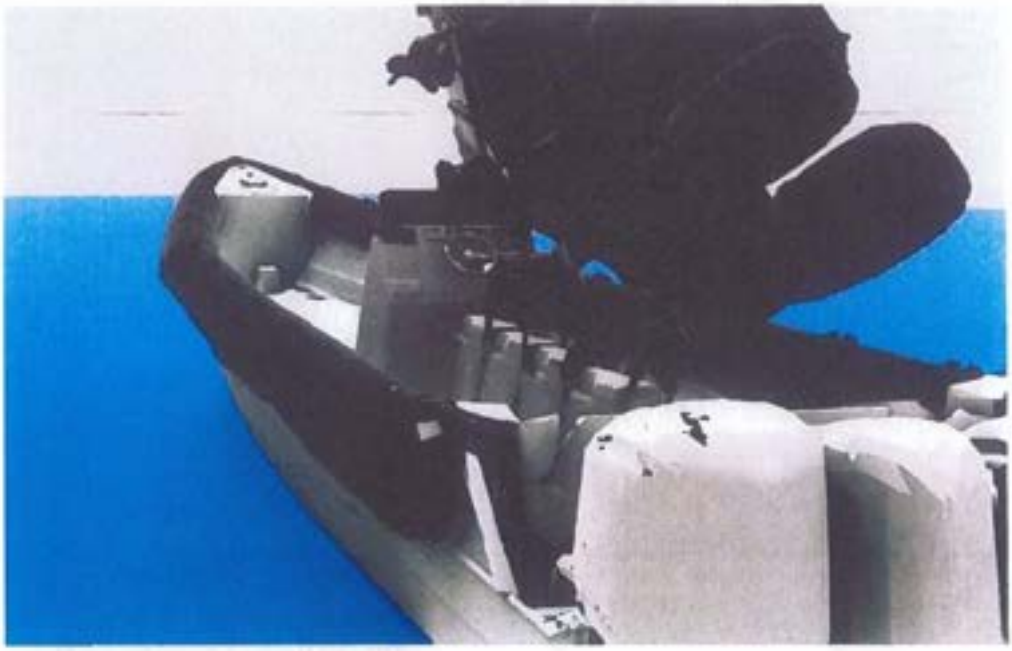
3.20.4. The known w tness marks dent f ed on the starboard bow of SIR JOHN CHAPPLE and the f ywhee of SUSPECT RHIB (F gure 43), a ong w th the poss b e ang e of nc dence shown at F gure 42 were used to ocate the pos t on of the two vesse s at the t me of the co s on.

3.20.5. The est mated path of SIR JOHN CHAPPLE and the w tness statements of the RGP Off cers and crew of 'SUSPECT RHIB were used to est mate the aspect of the vesse mmed ate y pr or to the co s on wh ch s shown at F gure 45.



F gure 45 Est mated Pos t on of 'SUSPECT RHIB' and 'SIR JIHN CHAPPLE' pr or to the co s on

3.20.6. The w tness marks on the aft two jockey seats, shown at F gure 42, were used to est mate the pos t on of SIR JOHN CHAPPLE as t passed over the top of SUSPECT RHIB wh ch s shown at F gure 46.



F gure 46 Est mated pos t on of 'SIR JOHN CHAPPLE' dur ng the co s on w th 'SUSPECT RHIB'

3.20.7. The three off cers on board SIR JOHN CHAPPLE reported n the r statements that the vesse ro ed to starboard fo ow ng the co s on. The three off cers a so stated that when SIR JOHN CHAPPLE re-entered the water, fo ow ng the co s on, that the starboard w ndows and doors were part y submerged under water, a ow ng sea water to ngress, wh ch nd cates that a s gn f cant ang e of hee to starboard was nduced.

3.20.8. The est mated pos t ons of SIR JOHN CHAPPLE and SUSPECT RHIB , mmed ate y fo ow ng the co s on, are shown at F gure 47 be ow.

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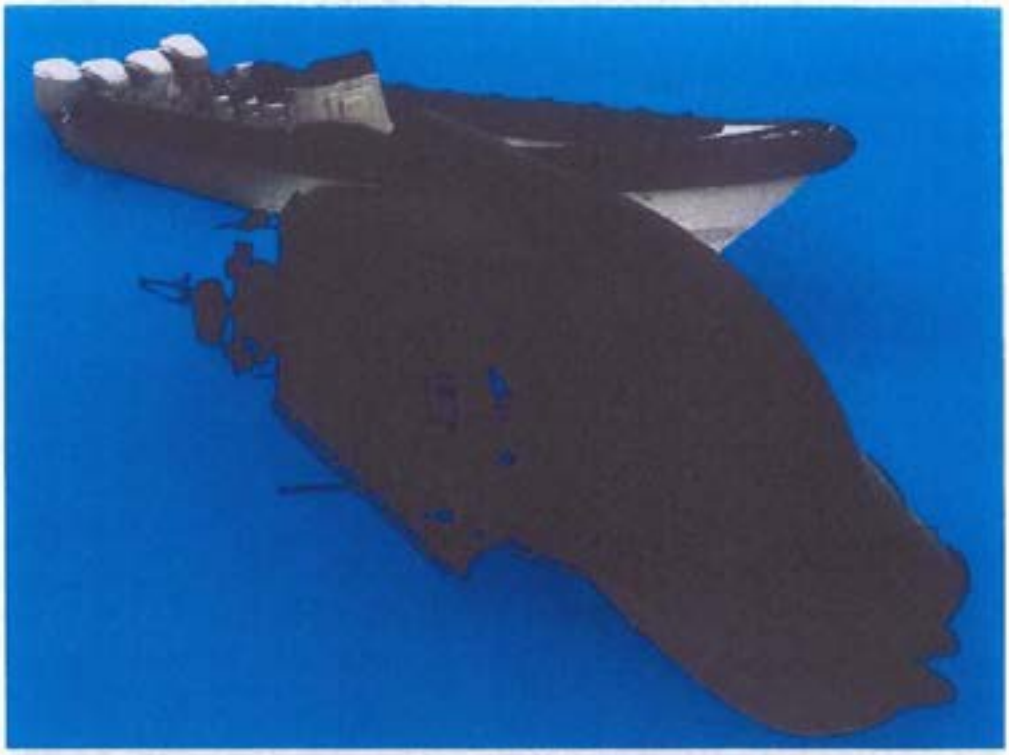

Figure 47 Estimated position of SIR JOHN CHAPPLE' following the collision with 'SUSPECT RHIB'

4. POSSIBLE FURTHER EVIDENCE

4.1. European Investigation Orders (EIO)

4.1.1. Further evidence, in particular the Spanish infra-red CCTV recording, may be obtained following the issuance of a European Investigation Order (EIO). Additional evidence from the Spanish authorities, including the Guardia Civil, may change the opinion provided in this report.

5. CONCLUSIONS

5.1. SIR JOHN CHAPPLE ntercepted the SUSPECT RHIB n pos t on 36° 11.7 N 005° 18.1 W at around 03:29:15. The co s on occurred at around 03:38:56, n pos t on 36° 10.0 N 005° 12.5 W. The ntercept, pursu t and co s on took p ace n Span sh waters.

5.2. It wou d have been c ear to the off cers on board SIR JOHN CHAPPLE , as they were fam ar w th the waters, even when nav gat ng by eye that they were we outs de of BGTW.

5.3. SIR JOHN CHAPPLE S starboard bow co ded w th the port quarter of 'SUSPECT RHIB . The speed of SIR JOHN CHAPPLE ed t to pass over the top of SUSPECT RHIB dur ng the co s on and, once dear, and ng on the r starboard s de at a arge ang e wh ch ed to the water ngress nto the cab n.

5.4. W thout the fu - ength record ng of the nfrared CCTV footage show ng the co s on t s not poss b e to comment further on the record ngs broadcast on Span sh med a.

5.5. The crew of SUSPECT RHIB reported that that the eng nes had an ex st ng fau t and one crewman stated that there was an eng ne fa ure pr or to the co s on. The data recovered from the Yamaha eng nes, and ana ysed by Yamaha UK, stated that there was no eng ne fa ure n the m nutes before the co s on, w th a eng nes operat ng at max mum power for a per od dur ng that t me.

5.6. It s cons dered ke y that the 'SUSPECT RHIB crew, n Seats 3 and 4 saw the co s on and were ab e to move away from the r seats and susta n ess ser ous njur es, wh e the two crewmen n Seats 1 and 2 were ke y to be ook ng n a more forward d rect on and not see the approach ng SIR JOHN CHAPPLE pr or to the co s on.

5.7. There s no ev dence to show that Off cer 1 ntended to co de w th SUSPECT RHIB and that the co s on was an acc dent. However, SIR JOHN CHAPPLE was pos t oned too c ose to SUSPECT RHIB w th the v s b ty reduced by the spray to take effect ve act on to avo d the co s on. The vesse was turn ng to starboard at the t me; however, th s act on was too ate to avo d the co s on, (ma n sect on prope ers st turn ng)

5.8. From the statements of the surv v ng crew of SUSPECT RHIB It s cons dered most ke y that the coxswa n of SUSPECT RHIB was Mohamed Abdese am Ahmed. The crewman n seat two was ke y to be Mustafa Das Mohamed.

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5.9. It s not known why the two forward jockey seats on SUSPECT RHIB, where the two dead crewmen were seated, had very tt e damage when compared w th the heav y damaged aft two seats.

5.10. The rat ona e for nsta ng og defenders onto the stem of SIR JOHN CHAPPLE* s not fu y understood. The mp cat ons of nsta ng og defenders onto the stem of SIR JOHN CHAPPLE were not proper y cons dered by the RGP, and therefore the opportun ty to dent fy th s safety r sk was m ssed.

5.11. Off cer One d d not turn on SIR JOHN CHAPPLE S AIS unt we after the t me of the co s on n contravent on of Mar ne Sect on Instruct ons.

5.12. The crew of SIR JOHN CHAPPLE, n not us ng a the ava ab e nav gat on equ pment showed a poor standard of nav gat on.

5.13. Dur ng the pursu t of SUSPECT RHIB the crew of 'SIR JOHN CHAPPLE, n nav gat ng the vesse by s ght a one, d d not p ace the r vesse n nav gat ona danger. The use of the radar, due to the prox m ty of the two vesse s and the rap d turns made by both vesse s, wou d not have ass sted the crew of SIR JOHN CHAPPLE n co s on avo dance.

5.14. The Instruct ons stated that the safety of the crew was the pr or ty; however, the crew of SIR JOHN CHAPPLE n cont nu ng to pursue at very c ose range, w th m ted v s b ty, and unab e to respond to a qu ck turn by the SUSPECT RHIB d d not comp y w th those Instruct ons.

5.15. Wh e tra n ng was prov ded n pac ng, here was no tra n ng n pursu ts of suspect vesse s for the coxswa ns who wou d be requ red to take evas ve act on.

5.16. From the ev dence rev ewed to date, t appears that Mar ne Sect on Managers cou d have had a more effect ve overs ght of how the r patro s were be ng carr ed out.

5.17. Once Off cer One rea sed that there was mmed ate r sk to fe, he shou d have broadcast a Mayday re ay ca to a vesse s n the area.

5.18. The Instruct ons and gu dance prov ded to the Response Teams, overs ght of operat ons (patro s and h gh-speed pursu ts) and the management s rev ew processes shou d be better understood.

5.19. A study of AIS data, over a per od of severa months has prov ded an ns ght nto the operat ng patterns of these vesse s and the frequency at wh ch they operate outs de BGTW.

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5.20. D g ta 3-D mode s of the two vesse s have been constructed to show the most ke y ang e of nc dence and the ke y events pr or to, dur ng and mmed ate y after the co s on.

6. STATEMENT BY THE AUTHOR OF THIS REPORT

My qualifications and experience are described in my C.V., which appears at Appendix A.

I understand my duty to the Court and have complied, and will continue to comply, with that duty.

I am aware of the requirements of Part 35 of the Civil Procedure Rules, Practice Direction 35, and the Practice Direction on Pre-Action Conduct.

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

Richard Meike

Solis Marine Consultants

04 January 2021

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SIR JOHN CHAPPLE[1]

Our Ref: SOLIS/6316/RM/R01

APPENDIX A

Curr cu um V tae of the Author

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2017 to Present — So s Mar ne Consu tants, London
Genera Manager, Master Mar ner

Mar ne consu tant prov d ng nvest gat on and expert reports on co s ons and ground ngs; prov d ng expert se for a types of mar ne nc dents, nc ud ng the nvest gat on of co s ons, a s ons, cargo matters, persona njury and ECDIS re ated casua t es. Further adv s ng on safety ssues nvo v ng nspect ons and aud ts re at ng to operat ona management, systems and the de very of tra n ng programmes both onboard and ashore. Prov d ng support to P& C ubs for wreck remova s, nc ud ng tender nv tat ons, contract negot at on and attendance on-s te. Prov ded ana ys s of the UK s emergency tow ng vesse capab ty for the MCA s rev ew, fo ow ng MAIB s recommendat on.

2015 to 2017 — Me k e Mar ne Consu t ng L m ted, UK
Manag ng D rector

Inspector and acc dent nvest gator for the Ant gua and Barbuda F ag Adm n strat on n the UK. Prov ded project management serv ces, aud ts and sh p nspect ons to the mar ne ndustry both n the UK and overseas. A so oversaw h gh va ue projects for cru se sh p ref ts.

2013 to 2015	Saga Shipping, Saga PLC, UK Fleet Director Responsible for the safe and cost-effective management of a fleet of cruise ships trading world-wide. Oversaw the transition of the in-house technical management to third party management. Directly responsible for the sale and delivery of ships to new owners. Developed the technical and marine aspects of the programme for new-builds from concept through to contract signing. Also responsible for the technical and budgetary delivery of high value refits and dry-dockings, as well as operational expenditure. Led the company's significant cultural change programme following its transition to a PLC.
2006 to 2013	Marine Accident Investigation Branch (MAIB), UK Inspector of Marine Accidents (Accredited) Carried out investigations into collisions, groundings, fatal accidents and cargo related incidents. Helped provided effective evidence collection, analysis and made valuable recommendations to prevent the recurrence of similar accidents. Provided expert witness evidence at Coroner's hearings in UK courts. Carried out industry-wide safety analysis to determine the underlying causes of accidents.
2002 to 2006	EuroShip Services Limited, UK Safety and Quality Manager Marine Manager and Designated Person Ashore (DPA) for a fleet of bulk carriers and ro-ro vessels. Helped ensured compliance with all industry codes and best practice, also introduced the ISO 14001 Environmental Management Code into the fleet.
1998 to 2002	Renaissance Cruises, UK Master In command of new cruise ships operating on innovative itineraries. Holder of a Potage exemption certificate (PEC) for the Society Islands of French Polynesia.
1997 to 1998:	Lowline Cruises Ltd, UK Master In command of the cruise ship EDINBURGH CASTLE.

www.solis-marine.com

1982 to 1997: P&O Group / P&O Cru ses / Pr ncess Cru ses, UK

Deck Off cer / Cadet

Deck off cer (up to the rank of Ch ef Off cer) and cadet w th exper ence ga ned on bu k carr ers, reefer, conta ner and cru se sh ps. Exper ence nc uded of a aspects of nav gat on, cargo operat ons and sh p s structura ma ntenance.

APPENDIX B

Rap d Rep ay - Techn ca Comments

SC LIS
MARINE CONSULTANTS

Solis Marine Consultants
Temple Chambers, 3-7 Temple Avenue. London, EC4Y ODA

'SIR JOHN CHAPPLE' Technical Data Comments

Job Name: SIR JOHN CHAPPLE
So s Ref.: SOLIS6316
C ent Ref.:

Rap d Rep ay On ne PIN: 9785

LT = UTC + 1

A eged co s on between SIR JOHN CHAPPLE and SUSPECT RHIB off G bra tar on 8 March 2020.

Item	Comments
Data obta ned	• We have extracted data from the Garm n GPSMAP 722xs un t of the RHIB wh ch conta ned GPS track data. We have used data from 01:00:06 LT to 05:30:00 LT on 8 March 2020. Genera Comments • The data used s what has been rece ved and recorded by the Garm n GPSMAP 722xs un t at the t me of the nc dent. It s poss b e that there may have been other data ava ab e at the t me wh ch was not rece ved or recorded by the un t (e.g. add t ona data po nts dur ng a gap, other d g ta sensors).
Voyage Re ated Data	• SUSPECT RHIB o The frequency of pos t on data ranges from between about every 3 seconds to about every 50 seconds w th the h ghest frequency pos t on data occurr ng around the t me of the chase and nc dent. o There appears to be no arge t me gaps present n the data. o There s no head ng nformat on recorded n the data therefore the or entat on of the vesse s not ab e to be shown n the an mat on. o No Course Over Ground (COG) or Speed Over Ground (SOG) data was recorded e ther. But th s can be ca cu ated f requ red. o No nformat on regard ng the ocat on of the GPS antenna s prov ded n the data so t s therefore not poss b e to nput a sca ed out ne of the SUSPECT RHIB nto the an mat on, as such, as po nter has been used to show the pos t on of the vesse a ong the track.
Other Comments	• The G bra tar Mar t me L m ts, taken from the ADMIRALTY Mar ne Data Porta , are shown n the an mat on for reference. Genera Comments • A chart over ay s ava ab e v a the Rap d Rep ay on ne p ayer. Th s chart s sourced from the Transas Web Map Serv ce (WMS). • In the an mated reconstruct on the vesse s are pos t oned accord ng to the r known data po nts, and ntermed ate pos t ons are est mated us ng near nterpo at on. The an mat ons shou d be v ewed n conjunct on w th the source data and/or breadcrumbs to check whether a pos t on at a g ven moment n t me s reasonab e. Errors w be magn f ed dur ng arger gaps.

SIR JOHN CHAPPLE

Our Ref: SOLIS/6316/RM/R01

APPENDIX C

Rap d Rep ay - AIS data

*ww. solis-manne. com

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{ ird parties without prior consent in each case.

MMSI
Name SUSPECT RHIB

Callsign	Destination	Length	Beam	Draft	DimensionA	DimensionB	DimensionC	DimensionD	Electronic Position Fixing Device	AIS Sentence
						0 0		0 0		

MMSI
Name SUSPECT RHIB

(

TimeStamp UTC	TimeStamp LT (UTC+1)	Latitude	Longitude	HDG	SOG	COG	ROT	Position Accuracy	Navigationa 1 Status	Decoded Sentence
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08/03/2020 00 00 22	08/03/2020 01 00 22	36.20021663	-5.09721477S							
08/03/2020 00 00 38	08/03/2020 01 00 38	36.20022384	-5.097245788							
08/03/2020 00 00 56	08/03/2020 01 00 56	36.20023356	-5.097278813							

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SUMMARY OF EVIDENCE

Regina

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This document is intended to assist the Court and the Defendant(s) and their Legal Representatives at an early stage in the proceedings and/or at any sentencing hearing following a guilty plea. It is not intended to set out all the evidence upon which the Crown may rely in the event of a trial in the Magistrates Court or, at any future application or hearing or in the event that the Defendant(s) are committed to the Supreme Court. It follows that if there is a hearing where the Magistrates or Supreme Court is required to consider the evidence, the Crown may rely on additional evidence or not adduce all or part of the evidence referred to in this document.

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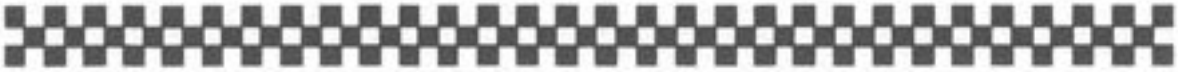

Introduction

On 8h March 2020, there was a collision at sea between a vessel operated by the Royal Gibraltar Police (RGP) and a Rigid Hulled Inflatable Boat (RHIB). That collision resulted in the deaths of two members of the RIB crew and damage to both vessels. At the request of the RGP, a team of officers from the Directorate of Professional Standards (DPS) from the Metropolitan Police Service (MPS) deployed to Gibraltar with the remit to investigate the incident as a Death or Serious Injury following police contact (DSI).

On 6h June 2020, the MPS notified the then Commissioner of Police for RGP, Ian McGrail that there was evidence to suggest that the crew of the RGP vessel may have committed criminal acts. Authority was given to the MPS team to conduct the criminal investigation.

This report details the evidence acquired throughout the investigation with the intention of providing an evidence based assessment on whether any charges should be brought against any RGP officers in relation to the collision.

Background Information

Gibraltar is a British Overseas Territory separated by a border at the southern part of the Spanish mainland. It lies approximately 9 miles north of the coast of Morocco. The area is a well-established route for the smuggling of drugs from North Africa to Europe. Gibraltar was established as a British Territory in 1713 under the Utrecht Treaty but that treaty failed to mention the waters surrounding Gibraltar. Usual international laws of the sea enable sovereign states to claim the seas up to 12 miles from land to be their waters. This is not possible in Gibraltar. Gibraltar claims that British Gibraltar Territorial Waters (BGTW) extend 3 miles to the east, 3 miles to the south and 2 miles to the west. As the treaty failed to mention the sea, Spain refused to accept the boundaries of BGTW.

Vessel Details

Sir John Chapple - an 11.8 metre long full cabin marked RGP patrol vessel with blue lights, sirens and lights. [redacted]

[redacted] (with AIS installed)

ii. [redacted]

Built by Safe Boats International in January 2007. Acquired second hand by RGP and registered in Gibraltar on 19h October 2016 as a Government vessel. On the front of the vessel is log defender, which consists of a strip on serrated metal attached to the bow. Contact was made with Rob Goley, the Director of Business, development and Strategy of Safe Boats (who fitted the log defender). He stated that "log defenders are installed on vessels to aid in pushing logs and debris. The "teeth" on the log defender bite into the log and prevent it from sliding under the hull and into the vessel's propellers."
On the night of the collision the vessel had the call sign "Bravo 4."

RHIB - a 14 metre long unregistered vessel and unknown date of build. Powered by 4 Yamaha 300hp outboard engines. The navigation equipment consisted of a Garmin GPS map combined GPS chart plotter and radar display. There were seats for four people in a line behind one another. Shiny parts of the vessel had been covered up with tape.

This type of vessel is illegal in both Gibraltar and Spain as they are typically used for drug smuggling.

Evidence from RGP Crew

The three officers who formed the crew of the Sir John Chapple provided statements under the Post Incident Procedure (PIP) and were referred to as Officers one, two and three. Later in the investigation it became apparent that Officer one and Officer two may be liable for criminal conduct and in addition to their statements they were interviewed under caution. Officer three was not considered for criminal proceedings and therefore retained his protected identity status (the rationale for officer three not being considered for criminal proceedings was that he is not a trained mariner. He had no previous experience in the Marine Section and no relevant qualifications that would enable him to form any opinions regarding the use of the vessel or the equipment. He accounted for his actions on the night and the investigative team are satisfied with his response. Essentially, he was on board to make up the numbers required for the vessel to deploy).

Officer 1 (Later identified as PC [redacted] made a PIP stage 4 statement. In that statement, he stated the following: He stated that he joined RGP in [redacted] in [redacted] he became part of the Marine Section. In [redacted] he became a fully qualified coxswain. The training involved attending RYA to carry out a week of STCW-95, a radar and VHF course, a skipper theory with exams followed by examiners coming board the two vessels to see boat handling and theory. The fast RHIB examination consisted of two weeks of berthing and unberthing, high speed navigation, search and rescue patterns and pacing which is where two vessels come alongside one another in order to transfer persons or items between vessels. He has never received any training regarding entailing pursuits. Since [redacted] he has been involved in many police pursuits at sea. He has been a helmsman on numerous pursuits involving different vessels; none have ever resulted in injury or fatality.

On Sunday the 8h March 2020 at 2200 hours, he reported for duty at New Mole House as the senior coxswain for RGP Marine Section. The crew consisted of three officers in total.
At 0200 hours on 9h March, they took over from the other marine crew. A telephone call was received on the marine section mobile from Windmill Hill Signal Station (WHSS) stating they had an unknown vessel without navigational lights on the eastern side heading west towards land. He contacted Guardia Civil via the marine section mobile phone informing them of the report WHSS had made, they confirmed it to be a large suspect RHIB heading at speed towards land. He confirmed with the Guardia Civil that they were heading to the eastern side and he called WHSS to confirm to them what they were seeing was a large suspect RHIB and that he would be deploying to the area of the eastern side of Gibraltar.

The crew deployed aboard Police Interceptor Sir John Chapple - Call sign 'Bravo 4', which is an interceptor, fitted with a radar and chart plotter. The radar was on carrying sweeps at a distance of [redacted] the GPS chart plotter was left off due to the bright backlight, which is safer not to have on in order to be able to see more safely at night. All checks completed, VHF functioning, both OPS and Interop radios had sufficient battery and torches available.

Officer two (later identified as PC [redacted] was positioned left from PC [redacted] covering the port side of the vessel. Officer three was sat directly behind PC [redacted] covering the starboard, of the vessel. The Guardia Civil called PC [redacted] stating that the suspect RHIB was by the Atunara Breakwater carrying out what they believed to be a crew change and

food supply and informed them that Bravo 4 would head east. Another call was received on the marine section mobile from Guardia Civil informing PC [redacted] to remain where he was as the suspect RHIB was heading towards them.

PC [redacted] made contact on the radar, which was still conducting sweeps at a 0.75 nautical mile radius. The contact closed in on Bravo 4 at a distance of 0.25 nautical miles, PC [redacted] initiated the blue beacons in case the navigator of the vessel had not seen Bravo 4. The RHIB crossed the front of Bravo 4's bow at a distance of approximately 5-10 metres. The RHIB was approximately fourteen meters in length with four persons aboard.

PC [redacted] commenced following the suspect RHIB with the intention to confirm identities of the suspects and to identify whether it had any illicit load of cargo. The RHIB appeared to be prohibited import with no navigational lights. PC [redacted] had a dragon torch out the left hand side door and officer three had his arm out of the right hand side window. The RHIB continued in a south easterly direction in an attempt to head into Strait and towards Morocco, the RHIB was on the starboard side and lit up with the blue lights of the beacons and with officers three's dragon torch. PC [redacted] positioned Bravo 4 alongside the RHIB in order to shout to the coxswain to stop, confirm suspect's identities and any illicit load on the deck. PC [redacted] saw one of the men picking up items and started to throw them at the police vessel. The RHIB sharply turned left to right to throw sea spray at the vessel in order to block their view.

The RHIB carried out several erratic manoeuvres, turning sharply right or left without any indicators. PC [redacted] trimmed down and reduced the speed in order to gain more control. The RHIB sharply turned left and the trims were still up causing a large white wave in front of the vessel limiting all vision. In order to avoid injury and a collision PC [redacted] engaged the vessel into neutral and attempted to turn right in attempt to avoid the RHIB, which is when he felt the impact between his vessel and the RHIB. The vessel began to list to the right which resulted in water ingress through the windows and doors. PC [redacted] believed the vessel would capsize and they would possibly drown. The vessel appeared to slip off the pivoting point. PC [redacted] believed this was due to buoyancy offered by the foam collar causing the vessel to re-float.

The vessel was positioned to the left hand side of the RHIB, PC [redacted] jumped onto the suspect vessel via its bow. PC [redacted] removed the kill cord, officer three was at the rear of the police vessel holding both vessels. PC [redacted] boarded the suspect vessel to assist PC [redacted] his attention was drawn to one individual standing at the bow, another person was seen just behind him crouching down. PC [redacted] saw two more people on the deck next to the steering console lying down side by side with their feet directed at the bow.

PC [redacted] approached the men and could see the male to the right closest to the steering console had a severe head injury (visible brain matter and skull fragments), no signs of life present. The male to the left had an open wound to his right shoulder with bone and fat tissue visible. PC [redacted] attempted to move him upright however, he was too heavy and he reassured the male and informed him that he would be calling for an ambulance and medical assistance.

PC [redacted] moved to the front of the vessel together with PC [redacted] who was with the other individuals, he informed them that the vessel would be towed and returned to the marine base as quickly as possible where an ambulance would be waiting.

PC's [redacted] and [redacted] re-boarded Bravo 4, officer three stood at the stem with a dragon torch to make sure the individuals remained on the vessel and visible. The radar was reduced to carry out sweeps of a quarter nautical mile to see the RHIB clearer behind them. The RHIB was placed on a long tow by use of a bowline to its front d-ring. PC [redacted] cannot recall the precise order of communications; he believes the first contact was with WHSS to inform them that they were towing a RHIB. PC [redacted] informed WHSS that there was one fatality and possibly a second, that they were heading back to base to get them medical assistance. PC [redacted] contacted his sergeant and the need for medical assistance. Guardia Civil contacted PC [redacted] on the duty phone; he cannot remember the conversation. A further call came through from the Port Boarding office; he cannot remember the conversation.

Bravo 4's starboard outer engine was not functioning. PC [redacted] contacted the duty sergeant again via the marine section mobile in order to get a customs vessel out to pick up as many persons as possible off the suspect RHIB to convey them back for medical assistance. PC [redacted] contacted HM Custom's marine base via the marine section mobile where he updated them with the incident.

As Bravo 4 arrived off Sandy Bay, the HM Customs vessel arrived and the vessels were positioned in order to re-board the RHIB to assist the individuals. One male came forward and shouted, "Officer it was our fault as our engines stopped, we didn't give you enough time to stop, please help my uncle, I know you guys didn't want to kill anyone".

The RGP officers instructed customs officers to take on board as many persons as possible to convey back to the base. PC [redacted] and officer three jumped aboard the RHIB to assist customs officers. Customs casted off with three persons on board from the RHIB while Bravo 4 resumed the tow back to base. On arrival to South Mole, a Gibraltar Defence Police (GDP) RHIB could be seen to exit the harbour and assisted with the escort to base.

Upon entering the base, PC [redacted] went to the stem to remove the tow and handed it to the GDP RHIB. PC [redacted] could see paramedics were providing CPR to someone on the ground. PC [redacted] berthed the vessel with PC [redacted] assistance.

On 11[h] August 2020, PC [redacted] was interviewed under s47 Criminal Procedure and Evidence Act 2011 for the offences of manslaughter as s27 Gibraltar Merchant Shipping (H&S etc.) Act. Also present were his legal advisor and Police Federation Representative. DC Emma Johnson and Civilian Investigator Trevor Morgan were the interviewing officers. PC [redacted] exercised his right to silence and did not answer the questions put to him. A copy of the interview plan has been included in this case submission.

Officer 2 (Later identified as PC [redacted] provided a stage 4 PIP statement. In that statement, he stated the following: He confirmed his status and that the statement was regarding a collision between a police vessel "Bravo 4" and a suspect RHIB. Description given of B4 including engines, vision and approximate maximum speed of 50-52 knots in good conditions. He stated that visibility is very poor during chases. He provided details of his qualifications - RGP Coxswain - and previous experience regarding chases of different vehicles.

At approximately 0320 on 08/03/2020, PC [redacted] received a report on the duty mobile phone. PC [redacted] told PC [redacted] that there was a suspect RHIB on the east side of Gibraltar. He in turn told officer three, who was sat in the station control room. They boarded the police vessel and deployed at high speed from the base. PC [redacted] was

coxswain. PC [redacted] was sat in front passenger seat to the left of PC [redacted] Officer three was sat in behind PC [redacted] PC [redacted] and officer three had search torches. As they reached the area near Eastern Beach the vessel slowed and then stopped in approximate area of A8. PC [redacted] indicated a vessel on the radar heading towards them at high speed from the Spanish coast. Blue lights were activated and a RHIB crossed their bow at high speed at a distance of approximately 10 metres. The RHIB was not displaying any navigation lights and a chased ensued. The occupants of the RHIB threw missiles at the police vessel which he heard impact on their boat. They closed the gap between the vessels and PC [redacted] positioned Bravo 4 to the RHIB's starboard side.

He used a torch to illuminate the RHIB that was approximately 20 metres away. He provided description of RHIB and saw four people sat in tandem on it. The RHIB began evasive manoeuvres - sharp turns at speed. Bravo 4 moved to RHIB's port side so officer 3 used his torch to illuminate the RHIB, which continued to do sudden sharp turns across the bow of Bravo 4. This sprayed water over Bravo 4, reducing visibility and forcing them to slow down each time.

"During one of these manoeuvers the suspect RHIB crossed the bow of Bravo 4 as such a close distance that a large wave like splash was produced ahead of Bravo 4. This hit the front of our vessel and covered window screens removing all visibility. I then felt an extremely large and sudden impact that caused our vessel to stop abruptly and noticed that we immediately began to tilt heavily to the starboard side. I had to hold myself tightly to my side handrail to stop me falling over as my side of out (this appears to be a tying error and should read "our") vessel was now raised high up. I could also hear a lot of water rushing into the cabin but could not see where it was coming in from. I was still not aware at this stage of what had happened and my immediate thought was that Bravo 4 was going to capsize. At this time I feared for my life and that of my crew mates, I was not sure of what was happening. I did not know how long the chase had gone on for but it felt like if time had slowed down. As I tried to work out what had happened our vessel began to return to its normal upright position. At this time I was in a state of shock and had completely lost sight of the suspect RHIB. During this time Office one manoeuvred and went alongside the suspect RHIB's starboard side with our stem ending up alongside the suspect RHIB's bow. I could see it was stopped in the water and realised there had been a collision."

He went on to state that he left cabin and boarded the RHIB. He described the scene - there was an extremely agitated male near bow of RHIB; second male crouched down in bow area; two males on deck starboard side of seats. He was severely shocked and could not move. He believed they were dead but could not push forward to check. He found the situation overwhelming. He was alone on the RHIB with suspected drug smugglers who can be violent and carry weapons. PC [redacted] then joined him and told him that he believed one of the males was dead. They decided to tow the RHIB to marine base to get help. PC [redacted] was concerned for own crew and the RHIB crew.

They hitched up the RHIB and started towing at about 30 metres with officer 3 watching. PC [redacted] had done all communications via the duty mobile phone. A call made to customs to help but he was not sure which method of communication was used. He stated that one of the RHIB crew shouted in Spanish "It wasn't your fault, the engines stopped, I know you guys wouldn't kill anyone, please help my uncle." The Customs boat then arrived (Seeker). There was a discussion with customs about the transfer of the RHIB crew and eventually this was done. The RHIB was towed in at speed and he then returned to police station and completed stage 3 account.

On 12h August 2020, PC [redacted] was interviewed under s47 Criminal Procedure and Evidence Act 2011 for the offences of manslaughter as s27 Gibraltar Merchant Shipping (H&S etc.) Act. Also present were his legal advisor and Police Federation Representative. DC Emma Johnson and Civilian Investigator Trevor Morgan were the interviewing officers. PC [redacted] exercised his right to silence and did not answer the questions put to him. A copy of the interview plan has been included in this case submission.

Officer 3 provided a PIP stage 4 statement and stated the following: On Saturday the 7h March 2020 at 2200 hours, he reported for duty at New Mole House Police Station and deployed as a crewmember with officers one and two on the Sir John Chapple (call sign Bravo 4). This duty was only his second deployment with the Police Marine Base (PMB). He has not received any specific training as a police marine officer but does hold an Emergency First Aid at Work qualification.

At approximately 0250 hours officer three was informed by PC's [redacted] and [redacted] that they were heading out, officer three believed a job had come in by the urgency in their voices. They headed back to Bravo 4 where officer three had the responsibility for the rope. Officer three took hold of the dragon lamp and sat in the front port side adjacent to PC [redacted] PC [redacted] operated and sailed out of the harbour to the western side of the BGTW and made a turning to the left to travel in a southerly direction. PC [redacted] was informed that the Guardia Civil had observed a RHIB suspected to have left Spain and was travelling in the direction of Gibraltar into the eastern side of BGTW.

PC [redacted] navigated Bravo 4 around Europa Point and headed in an easterly and then northerly eastern direction. Officer three observed glowing orange lights in the far distance which he believed to be the Spanish coastline at a 12 o'clock position from the bow of Bravo 4 and the north eastern rock face of Gibraltar was on the port side at around an 8 o'clock position. PC [redacted] answered a phone call in Spanish.

Officer three observed from the bow of Bravo 4, at a 10 o'clock positon, a fast moving RHIB heading in a southerly direction. PC [redacted] activated the blue beacon lights on Bravo 4 and operated the controls to turn left in the direction the RHIB was travelling. The RHIB was about 10 metres from Bravo 4 on the port side. Officer three opened the window next to him on the starboard side and flicked the switch of the dragon lamp, fixing the beam on the RHIB, which was at a 2 o'clock position from the bow.

Officer three observed four persons on the RHIB, two were throwing shiny items towards Bravo 4 and he heard several bangs. He turned the dragon lamp on and off to disorientate the occupants of the RHIB as directed by PC [redacted] The RHIB began to perform sharp S bends and sharp U-turn manoeuvres in front of the bow. The RHIB was moving through the water at a high speed producing a wake causing Bravo 4 to move from side to side as they went over the wake. Water intermittently went through the window as officer three focused the dragon lamp at the RHIB.

The RHIB remained on the starboard position to Bravo 4 and a large wave came up engulfing the front windscreen. PC [redacted] turned the wheel to the right, the boat leaned and there was a sudden impact. The starboard side window slammed into the water, water flushed through into the cabin, officer three thought they would die.

Bravo 4 rolled to the left and came to an upright position; the RHIB stopped about 10 metres away when Bravo 4 moved alongside the port side of the RHIB. A man described as white,

stocky build, wearing marine clothing came towards the starboard side of the RHIB and officer three shouted for him to "Get down, get down".

Officer three remained on Bravo 4 and lent over to unzip the jacket of the male at his request, the male moved to the right and lent over the starboard of the RHIB to vomit. Officer three then noticed a smaller and slimmer built male crouching down at the front of the RHIB. Officer three could see the hair and the top of a head near to where he was holding onto the RHIB and mumbling.

PC [redacted] attended to the man mumbling, officer three wanted to get onto the RHIB and help but he was holding onto Bravo 4 and the RHIB in order to stop them from drifting. PC [redacted] stated, "One, code black" which officer three knew was a sudden death. PC's [redacted] and [redacted] climbed back onto Bravo 4 tying the rope onto the RHIB to connect them. Officer three observed officer one taking deep breaths and speaking in Spanish. Officer three observed the RHIB whilst Bravo 4 towed it, the officer felt shock.

Officer three noticed another RHIB with people waving; PC [redacted] confirmed it was customs officers who then boarded the suspect RHIB to assist. Bravo 4 entered the harbour where medical assistance was provided. They were then informed the PIP procedure had commenced.

On 10[h] August 2020 the PIP was reconvened for officer three so that questions that had not previously been answered, could be addressed. This statement is included in the case submission.

Evidence from RHIB Crew

There were 4 men aboard the RHIB:

[redacted]

[redacted] and [redacted] were arrested and interviewed by RGP officers for the following offences:

- Importing a Prohibited Import, contrary to Section 14 (1) (f) and (2) of the Imports and Exports Act 1986.
- Dangerous navigation, contrary to Section 10 of the Seaside Pleasure Boat Rules 1989.
- Obstructing Police, Contrary to Section 177 (2) and (4) of the Crimes Act.

However, no charges were brought against them.

[redacted] gave a "no comment" interview.

[redacted] stated the following (interviews in Spanish and transcript provided by RGP officers):
He said that he was at sea and his coxswain manoeuvred to one side and the police went the same way and rolled over them. He stated that he was in the fourth seat on the RHIB (the back of the row of 4 seats).
He confirmed that there had been a crew change. Four people got off and he and three others got on. He did not know where they were going and this was about 0230 hours. He stated that they could stay at sea for 2-3 days as they were holding the boat. He had been on a boat 4 days ago, had 3 days off and was then back on board. He stated that they did not collect anything.
He confirmed that the police vessel had its blue lights activated. He confirmed they were not carrying anything (presumably talking about contraband such as drugs).
He stated the RHIB was turning and went "this way and that."
After the collision the police got on. One man was dead and one was half-dead. Another boat arrived and took off the half-dead man.
He confirmed possession of 2 mobile phones.

[redacted] and [redacted] were due to travel to Gibraltar to prove statements to the investigative team in August 2020. However, this did not take place as planned due to a legal issue. Efforts are in hand to acquire their statements and the video footage that [redacted] claims to have recorded on his mobile phone. This phone is in the possession of the RGP but the contents have not been examined because the PIN has not been provided to unlock the device. Communication with [redacted]'s lawyer enabled the team to determine that [redacted] does not trust the RGP. [redacted] is willing to provide the MPS team with the PIN in person when he travels to Gibraltar to provide his evidential account.

Previous Convictions of RHIB Crew

It is relevant to mention the previous convictions of the RHIB crew to provide information relating to their activities.

[redacted] has 2 previous convictions in Spain. One is for drug trafficking and one for driving while disqualified. He is currently on bail in Spain but as of 14/09/20, Chris Finch was unable to divulge the offence for which he was on bail as he is not dealing with that matter.

[redacted] has three previous convictions in Spain. Two are for driving while disqualified and one was insulting or resisting a representative of a public authority.

[redacted] has previous convictions in Spain for drug trafficking, tobacco smuggling and offences against public health.

[redacted] previous convictions in Spain for disqualified driving, obstructing police, threats and offences against public health.

Evidence from Customs Crew

Members of the crew for the vessel HMC Seeker were included in the PIP process and provided statements within that process. They are referred to as officers 4, 5, 6, 7, and 8:

Officer 4: Officer 4 is a Customs Officer posted to the Marine Section. He reported for duty at 1930 hours on 8th March 2020 at North Mole Customs Marine Base. At approximately 0420 hours he received a telephone call from RGP launch Bravo 4 reporting a collision with a large RHIB, requesting assistance to pick up three persons to return to shore. He was informed that there was one fatality and their location was *"eastern side by the tankers"*. Officer 4 deployed as coxswain on HMC Seeker with Officers 5, 6, 7 and 8. He recorded that the sea state was flat calm as he headed south at full speed toward Europa Point. As he rounded the point he identified blue lights due east to the point and headed to the location which was about 1 mile off Europa Point. On his approach he noticed that Bravo 4 had a tow line attached to the front of a RHIB and there were three officers on the deck of Bravo 4. He could also see one person at the front of RHIB waving and shouting for help. Officer 4 came alongside the RHIB, and Officers 5, 6 and 8 boarded. He remained on Seeker with Officer 7 and noticed a second person sat on the floor at the front of the RHIB. Officer 4 positioned himself at the portside stem to hold Seeker steady while Officer 6 jumped back on to assist 5, 8 and 7 transfer two people, who looked to be injured and in pain, onto HMC Seeker. Officers 5 and 8 remained on the RHIB and moved to the rear where two casualties were laying on the deck at the rear starboard side, one on top of the other. Officer 4 stated *"I could see the casualty underneath had severe head injuries with part of the brain spilling out"*. He observed Officer 8 test the casualty laying on top for signs of life, who said he thought he could feel a slight pulse but was unsure. Officer 5 also checked, as a second opinion, and came to the same conclusion. A decision was made to transfer the casualty onto Seeker and PC [redacted] was asked to assist. Once he had been placed on board, Officer 4 headed to the RGP Marine Base. Officers 6 and 7 were at the front of Seeker, working with the first two casualties, while Officers 5 and 8 were at the rear tending to the third casualty *"who seemed to be unresponsive"*. On approaching Bravo Base, he was ushered into a berth where ambulance crew took over the casualty at the rear and the two casualties at the front were escorted to a waiting ambulance.

Officer 5: Officer 5 was deployed on HMC Seeker with Officers 4, 6, 7 and 8 at approximately 0425 hours. He explained that as they came around Europa Point he saw the blue light beacons of Bravo 4 approximately 1 mile east of Europa Point. As they approached, he saw PC [redacted] holding a piece of rope attached to a RHIB. Seeker pulled alongside the RHIB and a male he now knows to be 'El Nordin', and another, were asking for help. Officer 5 boarded the RHIB and asked both males to calm down and sit down. While doing this he noticed PC [redacted] PC [redacted] and officer 3 at the stem of Bravo 4 in shock. El Nordin told him he had an injury to his side, suspected to be his rib, while the other male seemed to be in shock and was barely talking but in good condition. El Nordin also told him that it had been an accident they had just changed crew in Alcaidesa. No one informed him that the engines were failing and consequently the police rammed into them. El Nordin said that it was not intentional and no one wanted to kill anyone. He asked for help for his uncle who he had been speaking to but went unresponsive about ten minutes prior. He assisted El Nordin and the other male onto HMC Seeker and made his way to the stem where he found Officer 8 with two unresponsive males on top of each other. He believed the male underneath was dead as he could see part of his brain. He observed Officer 8 check the other male for a pulse, who told him he thought he could feel a pulse but he was not sure and his chest was warm. He asked Officer 5 to double check, *"I then did so and confirmed the same and made me and Officer 8 unsure, so we decided to bring him on board HMC Seeker"*. PC [redacted] was asked to assist and the three of them transferred the unresponsive male onto Seeker and Officer 4 made his way back to RGP marine base. On the journey, he saw Officer 8 carry out CPR on the unresponsive male. After several compressions, Officer 4 saw *"fluid coming out of his ears and excessive loss of blood"*, his

body became cold and this made him and Officer 8 believe the male had died due to the severity of the injuries he had sustained.

Officer 6: Officer 6 was deployed on HMC Seeker at 0425 hours to assist Bravo 4. When arriving around Europa Point he saw blue lights approximately 1 mile East off Europa Point. On arrival, he saw Bravo 4 had a rope tied from the bow of a RHIB. HMC Seeker came alongside the RHIB and two individuals were at the bow of the RHIB shouting for help. Officer 6, along with Officers 5 and 8 jumped on board the RHIB and he heard one of the individuals say "*I am El Nordin*". He went to the bow toward the two individuals and helped them back onto Seeker where Officer 7 was. He heard Officer 7 tell them to sit at the bow and ask them if they had any injuries. El Nordin stated that his ribs hurt and the other male stated that his shoulder hurt. El Nordin then said that his uncle was talking 10 minutes ago prior. Together with Officer 7, Officer 6 was trying to calm him down as he wanted to go and see his uncle. While making their way back to the marine base, El Nordin said that he works for someone big in Spain, that the incident happened in Spain and he had recorded everything and sent it to his boss. El Nordin stated that they had only been on board for 10 minutes and had engine problems. The other crew did not say anything. They arrived at the marine base at approximately 0445 hours.

Officer 7: Officer 7 deployed on HMC Seeker to assist Bravo 4. He sat on the port side behind Officer 5, who was co-pilot. On arrival, he saw and heard one individual at the bow of the RHIB shouting for help and saw three officers standing at the stem of Bravo 4. He described them as looking shocked. Officer 7 explained they arrived at about 0430 hours, approximately 1 mile east of Europa Point. From where he was on Seeker, he could see the stem of the RHIB, including the four outboard engines with significant damage. Officers 5, 6 and 8 boarded the RHIB and he heard the individual on the bow state that he was Nordin. Officer 7 assisted with helping two individuals from the RHIB onto Seeker. He instructed them both to sit at the bow and asked if they had any injuries. El Nordin said that his ribs hurt and the other male said that his shoulder hurt. El Nordin then asked for them to help his uncle as had been speaking with him 10 minute prior. Officer 7 informed Officers 5 and 8 and overheard Officer 8 say he could feel a light pulse but wasn't sure and that his chest was warm. PC [redacted] assisted with transporting the injured male onto Seeker and they headed back to the marine base. Officer 7 recorded in his statement the same conversation as Officer 6 regarding El Nordin working for someone big in Spain and that there had been engine problems. While on the way back, the other individual vomited over the side of Seeker and he held onto him to ensure he did not fall overboard. After vomiting, he told Officer 7 that he was fine but his shoulder hurt.

Officer 8: Officer 8 was deployed on HMC Seeker, having been told *"we are attending a collision with Bravo 4"*. Whilst rounding Europa Point, he could see blue lights approximately 1 nautical mile East of their position. On approach, he saw a rope tied from the bow of Bravo 4 to the RHIB. At the bow of the RHIB he saw an individual who identified himself as Nordin and asked for help. Officer 8 observed that he was *"demonstrating signs of stress/shock, he spoke incoherently and was very repetitive"*. Officer 8 boarded the RHIB and went to the stem where he noticed damage to the radar post, the seats, and the four engines. On the starboard near the seats, he saw two individuals, one laying atop the other. He referred to the male on the top as Individual 1 and the one beneath as Individual 2. He described that Individual 2 had significant wounds to the head, *"he was notably pale and was lying lifeless on the floor"* with what he could make out to be a portion of his brain protruding from the left side of his skull. Officer 8 explained that Individual 1 was on top, but wedged between Individual 2 and the RHIB's collar, he could not see any visible wounds. He described "he too appeared very pale, with his eyes open and

was lifeless in motion" and noticed a considerable amount of blood beneath the two individuals. He was asked by Officer 5 to assist with transferring Nordin and the other individual - who told him his shoulder hurt. Having assisted, he went back to check Individual 1 and Officer 7 told him *''''Nordin said he was speaking to his uncle 10 minutes ago"*. He checked for vitals before saying that he thought he could feel a very faint pulse. He asked Officer 5 to check as well, and he confirmed the same. Assisted by Officer 5 and PC [redacted] he carried Individual 1 onto Seeker and they made their way back to the marine base. Officer 8 recorded '7 *pinched the individuals cheeks and repeatedly asked him 'Me oyes?' 'Can you hear me?'. He gave no reaction"*. He noticed a clear discharge coming from his right ear and on lowering his head, could not feel or hear any breath, nor see any movement on his chest indicative of breathing. His chest still felt warm, so Officer 8 began chest compressions. However, on doing so he noticed a considerable amount of blood spreading beneath him and the lifeless expression on his face. Officer 8 stopped at 25 compressions and did not continue with rescue breaths, he said *"it appeared to me that he was dead"*.

[redacted]

Evidence from Medical Staff

Fabian Ferro - Fabian is a paramedic with Gibraltar Ambulance Service who attended. He was informed three patients were on board HMC Seeker, one of which needed immediate attention - he was described as having "a shoulder injury with bones sticking out". He was tasked with dealing with the unresponsive patient on the vessel. Fabian conducted an initial assessment of the patient, noting that he was a middle aged male with a laceration on the back of his head and a shoulder injury. He said the shoulder appeared to be deformed but he could not judge the extent of the injury due to clothing. Assisted by Stuart and a HMC officer they lifted the male onto the pier to give them more space and a stable area to work. CPR was started and Fabian administered one dose of adrenaline to his left knee. Paul Watson and Leslie Bruzon joined them and assisted with compressions. He explained the patient remained unresponsive and a joint decision was made to stop CPR once the extent of his injuries became apparent: "I can only describe what I saw on his back as a mess of muscle and bone. The extent of the injury was not compatible with life and so all attempts to resuscitate were stopped".

John Paul Llanelo - John Paul is an EMT. He attended the marine base and on arrival he saw paramedics on the pier gathered around what he assumed was a body. He dealt with two males in the office. He approached the males and asked if they had any injuries, Bruno Gomez Sereno told him he had a pain to his left shoulder, and Nordin Lahsen Driz complained of pain to his ribs, shoulder and right knee. Bruno walked to John Paul's ambulance and Nordin was transferred in a chair, both their vital signs were in normal range. He remained in the rear of the ambulance with a police officer while Wilson and a plain clothes officer drove to the hospital. While in the ambulance, Nordin asked several times about the welfare of his uncle.

Leslie Bruzon - Leslie is an EMT and attended the marine base. On arrival, they found two casualties being attended by Tanya Noguera. They were then informed there was a third casualty on one of the pontoons. She made her way down and Fabien requested her assistance with the oxygen cyclinder. At this point, Paul had started chest compressions and Leslie took over but the patient still was not responsive. At one point, Sigurd Haveland arrived and took over the airway of the patient, but after a while it was decided to convey him to hospital. He was then placed on a scoop, with chest compressions continuing but when the extent of the injuries was re-examined after his clothing was cut, it was determined that they were not compatible with life. CPR was therefore stopped and all three paramedics agreed that advanced life support should not continue. She was aware that a fourth person had been lifeless on arrival.

Paul Watson - Paul is a paramedic who attended the marine base. On arrival he saw numerous police officers and Fabien run towards the pontoon. He then met with Tanya who had two patients full conscious and talking, he was informed there had been a collision at sea with possible fatalities. Stuart then requested his assistance at the pontoon, and at that point he saw Fabien run down to the pontoon with an airway bag. When he arrived, he saw a male laying on his back, this male being [redacted]. He confirmed [redacted] wasn't breathing and was told by Stuart that he had been talking on the boat, *"therefore this meant he has recently gone into cardiac arrest"*. They decided to commence CPR and Mustafa's trousers were cut so that Fabien could administer adrenaline. A defibrillator was attached to his chest *"and he was in a rhythm we call ASYSTOLE which means there is no electricity in the heart with a poor prognosis"* At this point, Sigurd arrived and attended to the airway, which is when they started advanced life procedures - this entailed an insert through the airway and the drug administration. Paul checked Mustafa's head for injuries but the skull felt intact. Sigurd then prompted him to look at the left upper arm and mentioned the possibility of a tourniquet. Paul took some scissors and began to cut the clothing away where he noticed "extensive trauma (muscular skeletal trauma)", although the arm was still attached it was near to amputation. On exposing more clothing he noticed a large laceration to his neck which extended down his back. At this point he rolled Mustafa over as part of a secondary survey and noticed the extensive trauma on his back "which was basically incompatible with life". All paramedics made the decision to stop CPR and Fabien verified death. Following this, Paul and Fabien waited to the RHIB to be brought in and they confirmed life extinct.

Sigurd Haveland - Sigurd is a Chief Ambulance Officer. When he attended the marine base two paramedics and two technicians had started CPR on Mustafa Dris Mohamed. He immediately took over the airway and on the secondary survey while cutting the clothing, he noticed "a mangled upper left arm". On seeing this he requested a tourniquet, while waiting for it they continued to cut the wet suit and Paul noticed "the extent of the trauma suffered and decided to terminate the CPR". He explained this was a collective decision between himself, Fabian and Paul due to the extent of injuries and time suffered since the accident were incompatible with life.

Stuart Ryan - Stuart received the initial phone call from the fire brigade control room informing him there had been an incident at sea and someone had been injured in the right arm. He decided to despatch to the incident with Tanya Noguera. When they arrived there was no one else there. Between 0400 and 0430 hours, he received a further call from the fire brigade informing him there was one deceased and the customs vessel was picking up a casualty that had significant trauma in his shoulder. The customs vessel arrived between 0430 and 0500 hours and Stuart *"received a report from one of the officers on board the*

vessel, to the effect that there were two walking talking casualties at the front of the vessel and one moribund looking person at the back of the vessel". He was also informed there was a fourth deceased body being brought in by the police vessel. Further units were requested and he and Fabian attended to the patient in the customs vessel. The two walking patients were taken to ambulances. Paul and Sigurd also attended to assist with the moribund casualty and they moved him to the wooden pontoon. It became apparent that his injuries were not compatible with life and he was therefore ROLED (Recognition of Life Extinct).

Tanya Noguera - Tanya was on duty with Stuart when he took a call and informed her they were to go to the police marine section as they were bringing someone in with injuries. They were given very little information and initially told it was only one person injured. On arrival of the Police and Customs, they walked down to the pontoon and saw what appeared to be a deceased body at the front of the vessel and two other males laying down at the rear. She could see they were in pain from the expressions on their faces. She went to these two males and asked what kind of pain they were in, one said he had pain to his shoulder and the other had pain in his ribs. She walked back toward her ambulance with the two males and requested they remove some of their clothing so that she could assess their injuries. Their blood pressure, pulse and oxygen saturation were within clinical parameters. She felt a slight indentation on one of the males ribs, possibly cracked, but he was breathing and talking fine. She then assisted with taking equipment down to the pontoon for her colleagues who were attending to the other male. At one point she was asked to help with suction, which she carried out before returning to the two males. Wilson and John Paul then arrived and took the two males to hospital, Tanya then went back down to the pontoon, *"at this point the severity of the injuries to the male was greater them the possibility of resuscitating him and there was nothing else we could do for him".* She noted that she observed *"all his arm, shoulder and back was completely mangled".*

Wilson Oliveira - Wilson is an Ambulance Care Assistant. He was posted with John Paul and received a call from Stuart Ryan to attend the police marine base. On arrival he saw some of his colleagues gathered around what he assumed to be two bodies. Stuart signalled for them to go back toward the main building where they found a police officer guarding two males inside an ambulance. One of them identified himself as Bruno Serrana who was complaining of an injury to his left shoulder. The other male identified himself as Nordin Lahsen and complained of pain to his ribs, shoulder and right knee. They were placed in Wilson's ambulance and he drove them to the hospital. While driving, he overhead Nordin asking several times about the welfare of his uncle, he assumed the uncle was one of the males he had seen his colleagues gathered around, but as he did not know his condition, he did not comment.

Training Records

PC [redacted] It is evident from the training record of PC [redacted] that he has been fully trained to perform the role of Coxswain, this being achieved on [redacted], some three years before this incident took place. He was issued with a certificate of competency on [redacted] - 'Government of Gibraltar Competency Certificate' which specified he was competent in the capacity of a Boatmaster, with limitations "For Royal Gibraltar Police operated launches in Gibraltar Territorial Waters Only". In addition to this, in [redacted] he completed four programmes approved by the Maritime and Coastguard Agency relating to Fire Prevention and Fire Fighting, Personal Survival Tactics, Personal Safety and Social Responsibilities, and Elementary First Aid. PC [redacted] most recent First Aid training was an 'Emergency First Aid at Work' course, for which he received a certificate on [redacted] In addition to this, in [redacted] he also completed courses with the Royal Yachting

Association - one of which being a Radar Course. Although this would not necessarily have been the same radar as used on the Sir John Chapple, it is likely the same safety instructions and understanding of the importance of its use would have been communicated to all attending the course.

[redacted] - Emergency First Aid at Work

[redacted] - Government of Gibraltar Certificate of Competency (this is to certify that [redacted] has been found duly qualified to hold this certificate of competency. Valid until [redacted] capacity: Boatmaster, limitations: For Royal Gibraltar Police operated launches in Gibraltar Territorial Waters Only).

[redacted] - Gibraltar Law Enforcement Coxswain Certificate (achieved the competent standard of a two day RHIB Safety Handling Course)

[redacted] - Gibraltar Law Enforcement Coxswain Certificate (achieved the competent standard of a Single Engine RHIB Coxswain)

[redacted] - Gibraltar Law Enforcement Coxswain Certificate (achieved the competent standard of a Twin Engine (and above) RHIB Coxswain)

[redacted] - Elementary First Aid (successfully completed a programme approved by the Maritime and Coastguard Agency as meeting the requirements laid down in: STCW 95 Reg. VI/1, and paragraph 2.1.3 of Section VI/1 of the STCW Code)

[redacted] - Fire Prevention and Fire Fighting

[redacted] Personal Survival Techniques (successfully completed a programme approved by the Maritime and Coastguard Agency)

[redacted] - Personal Safety and Social Responsibilities (successfully completed a programme approved by the Maritime and Coastguard Agency)

[redacted] Shore based Course RYA/MCA Day Skipper for Sail & Power Craft (attended a shore based course of instruction and demonstrated a knowledge of theory up to the standard of RYA/MCA Day Skipper/Watch Leader)

[redacted] - RYA Radar Course

[redacted] - GMDSS Short Range Certificate (this course is designed to provide delegates with the level of knowledge needed to be competent in the use of VHF radiotelephony procedures and equipment used in GMDSS. The course consists of an online learning package and a half day practical and theory exam, assessment results are forwarded to the Royal Yachting Association who will issue a short range certificate. The syllabus included: detailed working knowledge of radio equipment,general knowledge of VHF radiotelephone communications in the maritime mobile service).

PC [redacted] PC [redacted] has completed a number of training courses/qualifications with regard to marine activities in the past years. A number of these are the same as those of PC [redacted] which is to be expected as they operate in the same role, however PC [redacted] does have some additional skills that those of his colleague. In addition to being a fully qualified Coxswain, he is also dive trained - a skill obtained with PADI and the RGP. He was issued with a certificate of competency but there is no date - it would appear there should be a second page with the date of achievement but this is not present.

This specified he was competent in the capacity of a Boatmaster, with limitations "For Royal Gibraltar Police operated launches in Gibraltar Territorial Waters Only. The expiry date of [redacted] would suggest he obtained this in [redacted] this predication has been made on the basis that PC [redacted] certificate of competency had a five year expiry date. His most recent first aid course was [redacted], four months before this incident took place.
[redacted] - Emergency First Aid at Work

[redacted] - Royal Gibraltar Police Search and Recovery Diving Course

[redacted] Royal Gibraltar Police Diving Course

No Date - PADI Enriched Air Diver and Rescue Diver cards

[redacted] - First Aid for Divers (The Biritsh Sub Aqua Club)

[redacted] - Oxygen Administration Away (The Biritish Sub Aqua Club)

[redacted] - Basic Fire Safety

[redacted] - Gibraltar Law Enforcement Coxswain Certificate (achieved the competent standard of two day RHIB Safety Handling Course)

[redacted] - Gibraltar Law Enforcement Coxswain Certificate (achieved the competent standard of a Single Engine RHIB Coxswain)

[redacted] - Gibraltar Law Enforcement Coxswain Certificate (achieved the competent standard of a Twin Engine (and above) RHIB Coxswain)

[redacted] - International Certificate for Operator of Pleasure Craft (issued by Royal Yachting Association with an expiry date of [redacted]

[redacted] - Elementary First Aid (successfully completed a programme approved by the Maritime and Coastguard Agency as meeting the requirements laid down in: STCW 95 Reg. VI/1, and paragraph 2.1.3 of Section VI/1 of the STCW Code)

[redacted] - Personal Survival Techniques (successfully completed a programme approved by the Maritime and Coastguard Agency)

[redacted] Fire Prevention and Fire Fighting

[redacted] - Seafarer Medical Certificate - deemed fit - no limitations or restrictions on fitness. This expired on [redacted]
No Date — Government of Gibraltar Certificate of Competency (this is to certify that [redacted] [redacted] been found duly qualified to hold this certificate of competency. Valid until

[redacted] capacity: Boatmaster, limitations: For Royal Gibraltar Police operated launches in Gibraltar Territorial Waters Only).

[redacted] - Shore based Course RYA/MCA Day Skipper for Sail & Power Craft (attended a shore based course of instruction and demonstrated a knowledge of theory up to the standard of RYA/MCA Day Skipper/Watch Leader)

[redacted] - RYA Personal Watercraft Certificate of Proficiency (this holder has successfully completed a Personal Watercraft Proficiency course to the syllabus laid down by the RYA at Clyde Marine Unit.

[redacted] - International Certificate for Operator of Pleasure Craft (issued by Royal Yachting Association with an expiry date of 27/05/2016)

[redacted]-National Powerboat Certificate Level 2 - (successfully completed a National Powerboat Certificate Level 2 (coastal) to the syllabus laid down by the RYA at Royal Gibraltar Yacht Club)

[redacted] - Personal Safety and Social Responsibilities (successfully completed a programme approved by the Maritime and Coastguard Agency)

[redacted] - RYA Radar Course

[redacted] Short Range Certificate

Officer Three: Only one certificate has been provided for Officer three- this being his emergency first aid at work which was completed on [redacted] He is not a permanent member of the Marine Unit and has no marine/maritime qualifications.

[redacted]- Emergency First Aid at Work

Evidence from Marine Policing Unit Instructors

Statements were taken from all five Marine Section instructors to obtain an understanding of what training is provided to RGP officers with regards to pursuing vessels at sea.

PC Robert McKnight stated that RGP do not have a tactic for stopping a vessel at sea other than presence and persuasion. As a result, there is no module or content in the training course for "pursuit training." Instead, he teaches safe manoeuvring of vessels at speed and in proximity to other vessels; maintaining safe distances; and never placing their vessels directly behind suspect vessels. [redacted] He stated that they do teach "pacing" which involves safe handling to transfer personnel or equipment between vessels. This is not performed at high speeds and he instructs trainees not to come alongside suspects RHIB's. Instead, they should maintain a safe distance depending on the circumstances.

PC Glen Ballantine also stated that "pacing" was used to transfer staff between craft and is not intended for pursuits of vessels. He stated that safety at sea was of paramount importance.

PC Keith Bonfiglio corroborates the evidence regarding training and [redacted] He stated that police vessels should follow suspects at an angle to shadow them.

PC Lee Pozo confirmed that there is little or no training for pursuits at sea due to the hazardous conditions and narrow margin of error. He stated that "pacing" is not relevant to pursuits.

PC Herbert Warwick corroborates the evidence regarding training. He stated that the primary focus is safety.

Post Mortems

[redacted]

Completed by Dr David Rouse on 11th March 2020.

Dr Rouse noted significant head injuries as well as injuries to other parts of the body. Dr Rouse is of the opinion that the death was the result of extensive head injuries (as well as shoulder) consistent with forceful impact. The injuries were not survivable. He awaited the results of toxicology before finalising the report. On 6th May 2020, he produced a report confirming the cause of death as above.

[redacted]

Completed by Dr David Rouse on 11th and 12th March 2020.

Dr Rouse noted external injuries to the head, torso and limbs. There were significant rib fractures and a partially collapsed lung. Cause of death was forceful impact to the back. He stated that the injuries were not survivable and that any delays in resuscitation were unlikely to have affected the outcome. He awaited the results of toxicology before finalising the report. On 6th May 2020, he produced a report confirming the cause of death as above.

Windmill Hill Signal Station

Daniel Ferro works for the Gibraltar Defence Police as a communications assistant at WHSS. He operates cameras that are focussed on BGTW. At approximately 0200 hours on 8th March 2020, he observed a suspect vessel 3-4 miles outside BGTW. He contacted PC [redacted] via mobile phone and informed him of his observations. At approximately 0250 hours, the vessel made its way towards Spanish land. PC [redacted] called to say he was in touch with the Guardia Civil who confirmed it was a suspect RHIB and that he was heading to grid reference A8 as stated on the grip map of BGTW. He saw a smaller vessel meet with the RHIB. At approximately 0330 hours, the smaller vessel went towards the land and the RHIB headed out to sea. Approximately 2 minutes later, the RGP vessel activated its blue lights and the chase ensued. He saw the RHIB performing erratic manoeuvres at high speed. The chase lasted approximately 10 minutes and he could not see why it stopped. He saw the RGP vessel circle the RHIB after it had stopped and was then contacted by PC [redacted] who informed him that there had been a collision with one and possibly, two fatalities. PC [redacted] confirmed that he had requested assistance. He confirmed that WHSS had not traced the RGP vessel's Radar/AIS.

Expert Evidence from Richard Meikle (maritime collision investigator)

Richard Meikle, the author of this report is a Master Mariner and partner of Solis Marine Consultants. Having been instructed by RGP to investigate the collision between the SIR JOHN CHAPPLE and RHIB on 8th March 2020, the report provides his opinion on: the events leading to the collision; territorial waters where the incident occurred; the role of RGP officers in the collision and other factors that may have contributed to the cause of the collision, including tactics used by drug smugglers to evade law enforcement.

It is not the intention of this summary to repeat evidence, which is provided with the case submission.

At paragraph 3.18.1, Richard stated: *"Due to the lack of digital data, witness accounts of video recordings it has not been possible to say with certainty how the two vessels collided and provide an insight into the events during the collision which led to the fatal injuries of two of the crew of the 'SUSPECT RHIB "*.

What he was able to do however, was review all material and reach a number of conclusions with regard to the events leading up to the collision and what impact these had to the causation of the collision.

Primarily, Richard was required to rely on statements of officers and the survivors of the RHIB, physical examination of both vessels, [redacted] CCTV and Southern CCTV from WHSS. In doing so, he identified a number of failings with regard to the actions of RGP PC's [redacted] and [redacted]

Territorial Waters:

It is evident that this collision took place in Spanish waters. On 17th February 2016, RGP Marine Sections' Inspector Buhagiar sent an email to the Marine Section stating: *"I would like to remind ALL of the current and existing instructions that under no circumstances are you allowed to police/patrol outside the limits of BGTW"*. This email is a clear instruction that RGP officers should not enter Spanish waters during their duties, with the exception of engaging in Search and Rescue operations or a vessel/person in distress - but in any case, authority would need to be sought before deploying to such an incident.

The report stated that it would have been clear to the officers on board SIR JOHN CHAPPLE, even when navigating by eye, that they were well outside of BGTW. While the limits of BGTW were not visible on the chart plotter, the northern limit of BGTW is generally indicated by reference to the lights of Gibraltar airport. As SIR JOHN CHAPPLE was significantly north of the airport and off the Spanish port, it would have been clear to the officers that they were well to the north of BGTW.

Position Data:

All navigation systems on the SIR JOHN CHAPPLE were checked, however no relevant data was available due to the AIS and GPS systems being turned off until approximately one hour after the collision. This was against clear instructions that AIS should be switched on at all times (Paragraph 2.10.2).

The RHIB was fitted with a Garmin NAVnet 3D radar/chart plotter, which saved only its position data.

Infrared CCTV and Rapid Replay:

The review of Infrared CCTV has assisted greatly (due to the lack of positional data from SIR JOHN CHAPPLE) with the time of interception, collision and return to BGTW. The infrared CCTV, at Figure 17 shows the time of interception as 16 minutes 59 seconds into the recording. This was 2 minutes 59 seconds after the departure of the RHIB from Puerto de La Atunara at 03:26:16. Hours. Therefore, the time of interception was approximately 03:29:15 hours.

A "Rapid Replay" reconstruction was produced using GPS data recovered from the RHIB radar/chart plotter and in conjunction with the CCTV, provided an overview of the pursuit.

The Rapid Replay demonstrated that the SUSPECT RHIB used tactics to evade officers with three sharp turns to the Starboard, which caused seawater to spray toward the SIR JOHN CHAPPLE and reduce visibility - forcing it to slow down. In addition to these tactics, objects were also thrown at the SIR JOHN CHAPPLE and the RHIB was alleged to have been operating with the outboard engines 'trim up' which would also produce a wash spray that might disorientate a pursuing vehicle by reducing its visibility.

The collision was recorded by the Southern CCTV operated by WHSS, the point of collision being at approximately 03:38:56 hours. Figure 19 at Paragraph 3.2.1 displays the location with latitude and longitude markers, which depict Spanish waters. The Rapid Replay shows that this immediately followed a very sharp turn to Port by the RHIB. PC [redacted] on seeing this stated he placed the propulsion into neutral and attempted to turn starboard to avoid the RHIB by slowing down and turning away, but PC [redacted] explained the spray from this manoeuvre caused spray on the windows which removed all visibility and then there was impact.

Following the impact, the SIR JOHN CHAPPLE heeled heavily to the Starboard and a significant ingress of seawater came through the open windows on the starboard side before it righted itself.

During the collision, the RHIB radar was heavily damaged and displayed a Toss of radar' signal as an alarm. The alarm recorded the time as 03:39 on 8th March 2020 and its position, this being the time and position of collision. This is consistent with the Southern CCTV from WHSS.

The positional data in this instance is of importance when considering the offence under si53 and S6 (3) of the Crimes Act 2011 with regard to the death of Mohamed Abdesalam Ahmed.
At approximately 04:14 hours, The SIR JOHN CHAPPLE crossed into BGTW and at 04:31 hours it stopped approximately one Nautical Mile northeast of Europa Point, where it was met by HMC SEEKER. This can be seen at Figure 7, Paragraph 1.9.28. It is the timing of re-entering BGTW which would need to be a consideration when reviewing the evidence in relation to SI53 and S6 (2) of the Crimes Act 2011 with regard to the death of Mustafa Das Mohamed, who would need to have died either in BGTW or ashore in Gibraltar for s6(2) to apply.

RHIB Engine Failure:

At Paragraph 3.9.5 the report refers to statements of RGP and Customs officers who stated the crew of the RHIB reported engine failure prior to the collision. The report explains that an engine failure would have caused the RHIB to reduce speed *"suddenly and unexpectedly and would have prevented the coxswain of 'SUSPECT RHIB 'from taking action to avoid the collision with 'SIR JOHN CHAPPLE'. "*

However, analysis of the engine data does not support the suggestion that the RHIB engines failed prior to the collision. Further analysis of the data from the RHIB Yamaha engines was requested of the manufacturer's technicians to assist with identifying the status of the engines at the time of the collision as this could add to the understanding of what caused the collision. At the time of writing, we have had verbal confirmation that there was no engine failure and we await the report in due course.

Failures:

It was noted at paragraph 3.10.1 that PC [redacted] turned on the radar but not the chart plotter or the GPS that supplied the radar unit with position data. He stated he did not do this due to the impact it had on his night vision. However, the report stated: *"the dimming facility on the chart plotter was tested and found to dim the display as would be expected for use in night-time navigation and would, if set correctly, have not interfered with the coxswain* 5 *night vision "*. As previously stated, a clear instruction that the vessel's AIS system should always be turned on was not complied with by PC [redacted] nor PC [redacted] This clear breach of instructions and, in essence, blind navigation via sight only, demonstrated a poor standard of navigation being practised.

Instructions sent out to the RGP Marine Unit in 2016 state: *"they will pursue suspect vessels in a determined though safe manner within our territorial waters and liaise with our Spanish counterparts"*They also stated that the safety of the crew was priority (Paragraph 3.12.2). However, the crew of SIR JOHN CHAPPLE placed themselves so close to the RHIB, which was carrying out dangerous manoeuvres, that they placed themselves and the crew of the RHIB in *"considerable danger"*. Additional evidence that they could be considered too close to the RHIB comes from the fact that the RHIB crew were able to throw items at the SIR JOHN CHAPPLE, which were connecting with it, requiring officers to close the windows on their vessel. The evasive manoeuvres used by the RHIB also sprayed seawater onto the SIR JOHN CHAPPLE, which reduced the visibility and caused it to slow down - had the SIR JOHN CHAPPLE not been too close to the RHIB, this would not have made contact with the windows and reduced visibility.

As previously mentioned, the officers would have known they were no longer in BGTW when the RHIB was intercepted.

Pursuit Training:

Despite PC [redacted] and PC [redacted] being qualified marine crew with training in professional skills and for pacing at speed, neither had been given training in carrying out pursuits of suspect vessels who would be taking evasive action to avoid apprehension. While numerous pursuits have been carried out (59 were recorded between 1st April 2017 and 1st June 2020, 2 of which had continued outside BGTW) coxswains' experience in pursuits comes as a result of observing more experienced coxswains as they trained.

The contact, chase and collision are known to have been carried out in Spanish waters. A review of AIS date covering a period of months provided insight into the RGP Marine Vessels movements and frequency with which they operate outside of BGTW. This can be seen at Figure 44 - Paragraph 3.17.1.

The range of the Radar was set at 0.75NM according to PC [redacted] The report explained that this was too short for assessing whether a risk of collision existed. The Officers were therefore solely reliant on visual navigation. The report did note that *"there were apparently no guidance/instruction/orders as to what navigation equipment was to be used when on patrol, either in daylight or at night"*.

Conclusion:

The failures documented by Richard Meikle's report could be considered to contribute to a breach of a duty of care, not only to the crew of the SIR JOHN CHAPPLE themselves, but the crew of the RHIB. The failure to follow instructions and activate the AIS and use all available navigation equipment contributed to the poor navigation. The use of the available equipment could have assisted with a safer pursuit and more transparency regarding the actions and movement of the SIR JOHN CHAPPLE and its crew. The training and instructions also dictated that safety of the crew was a priority. By continuing to pursue at very close range, with limited visibility, demonstrated a failure to comply with these instructions. The failure to administer any first aid to Mustafa Das Mohamed, or even broadcast a Mayday call to vessels in the area, who was believed to be seriously injured following the collision and subsequently died from his injuries could also be considered to contribute to a breach of this duty. However, this should be taken into consideration in conjunction with the pathologist's report, which stated Mustafa's injuries were not survivable and *"any delays in resuscitation are unlikely to have affected the outcome"*.

It is clear that while there is no evidence to suggest that PC [redacted] intended to collide with the RHIB and that the collision was an accident, the SIR JOHN CHAPPLE was positioned too close to the RHIB, with reduced visibility by the spray, to take effective evasive action to avoid the collision.

Previous Pursuits

A review was conducted on the number of chases at sea, which took place involving RGP marine vessels between 1st April 2017 and 1st April 2020. This identified 192 OB entries, of these, 59 entries involved a chase at sea.

With regard to BGTW, 57 of the chases were terminated due to arriving at the limit of territorial waters. PC [redacted] was known to be involved in 18 of the chases, though it should be noted that these are only reports that were made by him, or in which he was mentioned. It is possible that colleagues have recorded chases he was involved in but not named. Based on these figures - it is clear that PC [redacted] was aware of his obligation to remain inside BGTW as many of the chases he was involved in were terminated prior to leaving territorial waters.

RGP Instructions and Orders

The Marine Section Standard Operating Procedures state that Marine crews will conduct systematic periodic patrols of Gibraltar's coastline and territorial waters throughout their tour of duty. They will pursue suspect vessels in a determined though safe manner within their territorial waters and liaise with their Spanish counterparts. They go on to say that they will only operate outside BGTW when they are called upon to attend to a lifesaving situation.

On 17th February 2016, Inspector Albert Buhagia sent an e-mail to the RGP Marine Section to remind all staff that under no circumstances should the Marine Unit patrol outside the limits of BGTW. The only exception would be for search and rescue and only then if prior authority was granted. The e-mail then went on to state that AIS should be switched on al all times.

On 8th July 2016 a set of Marine Section Instructions were created and / or circulated. This document prohibits RGP from leaving BGTW and entering Spanish waters

unless at the invitation of the Spanish for the sole purpose of search and rescue. The investigation team can provide an e-mail chain showing that on 16h September 2016, these instructions were send to the Marine Section by PS Stuart Stone.

On 19h April 2017, there is a record of a Daily Taskings Group Meeting where is states "Marine section - only use vessels with AIS"

Evidence Yet to be Acquired

There is evidence in the possession of the Spanish authorities that has yet to be seen by the investigative team. This evidence is likely to include the following:

- Video footage of the pursuit
- Audio recordings of transmissions
- Evidence from Spanish members of staff in the Guardia Civil
- Incident logs

A European Investigative Order has been drafted and we await the result of this enquiry. As of 15h September 2020, the order had been approved and translated but the certificate of translation had not been received by RGP. This is required for the submission and RGP officers make assurances that it will be submitted as soon as all of the required documents are received.

The lawyer acting for [redacted] (Chris Finch) states that his client recorded the chase on his mobile phone. He refused to provide the PIN to unlock the phone when he was in custody and the investigative team have liaised with Mr Finch to obtain the PIN and recover the evidence. At this stage the phone remains in the possession of the RGP and the PIN has not been provided. It is anticipated that this will be completed when [redacted] travels to Gibraltar to provide his statement.

Potential Offences

1) Manslaughter contrary to s 153 Crimes Act 2011.

The substantive elements of the offence of manslaughter are set out in section 153 (2) of the Crimes Act 2011:

SI53 (2) A person who kills another by gross negligence commits the offence of manslaughter.

2) **Doing or omitting to do an act that endangered the life of another contrary to s27 Gibraltar Merchant Shipping (Health & Safety etc.) Act 1993.**

The full wording of s27 GMS (H&S) Act is thus:

(1) If the master of, or any seaman employed on, a registered ship-

(a) does any act which causes or is likely to cause the loss or destruction of or serious damage to the ship, or its machinery navigational equipment, or safety equipment or the death of or serious injury to a person on board the ship, or the loss or destruction of or serious damage to any other ship or any structure or the death of or serious injury to a person not on board the ship; or

(b) omits to do anything required to preserve the ship or its machinery, navigational equipment or safety equipment from loss, destruction or serious damage or to preserve any person on board the ship from death or serious injury, or to prevent the ship from causing the loss or destruction of any other ship or structure or the death of or serious injury to a person not on board the ship;

and the act of omission is deliberate or amounts to a breach or neglect of duty, or he is under the influence of drink or a drug at the time of the act or omission, he shall, subject to subsection (3), be guilty of an offence.

(2) If a person to whom this section applies-

(a) discharges any of his duties, or performs any other function in relation to the operation of his ship or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as is mentioned in subsection (1), or

(b) fails to discharge any of his duties, or to perform any such function properly, to such an extent as to cause, or to be likely to cause, any of those things,

he shall, subject to subsection (3), be guilty of an offence.

(3) In proceedings for an offence under this section, it shall be a defence to prove-

(a) in the case of an offence under subsection (1), where the act or omission alleged against the defendant constituted a breach or neglect of duty, that the defendant took all reasonable steps to discharge that duty;

(b) in the case of an offence under subsection (2), that the defendant took all reasonable precautions and exercised all due diligence to avoid committing the offence; or

(c) in the case of an offence under either of these subsections-

(i) that the defendant could have avoided committing the offence only by disobeying a lawful command, or

(ii) that in all the circumstances, the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of it being caused, either could not reasonably have been foreseen by the defendant or could not reasonably have been avoided by him.

International Rules

International Rules for Prevention of Collision at Sea (IRPCS, ColRegs or Rules of the Road) apply in these circumstances. These rules are included in the training received by PC's [redacted] and [redacted] The relevant rules to this investigation are thus:

Rule 2 - Responsibility

Nothing in these Rules shall exonerate any vessel, or the owner, master or crew thereof, from the consequences of any neglect to comply with these Rules or of the neglect of any precaution, which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

Rule 5 - Look-out

Every vessel shall at all times maintain a proper look-out by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

Rule 6 - Safe Speed

Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions. In determining a safe speed the following factors shall be among those taken into account:
(iii) the manoeuvrability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions;

Rule 7 - Risk of Collision

Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt such risk shall be deemed to exist.

Rule 8 - Action to Avoid Collision

Any action taken to avoid collision shall be taken in accordance with the Rules of this Part and shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship.

Rule 15 - Crossing Situation

When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on her own starboard *(right)* side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel.

Rule 16 - Action by Give-way Vessel

Every vessel which is directed to keep out of the way of another vessel shall, so far as possible, take early and substantial action to keep well clear.

Rule 17 - Action by Stand-on Vessel

(a) (i) Where one of two vessels is to keep out of the way the other shall keep her course and speed.

Jurisdiction

Evidence shows that the collision occurred in Spanish territorial waters and there is evidence that the pursuit also started outside BGTW. However, the Sir John Chapple started its journey in BGTW and the actions of the crew at that time have to be considered. It is important to note that the location of the deaths is important because:

Section 6(1) Crimes Act 2011 states:

An offence begun outside Gibraltar and completed in Gibraltar may be treated as having been committed in Gibraltar.

Section 6(2) states:

If-

(a) a person dies in Gibraltar in consequence of any act or omission outside Gibraltar; and

(b) the person committing that act or making that omission would, if the act or omission had been in Gibraltar, be guilty of the murder or manslaughter of the person who dies,

the offence may be treated as having been committed in Gibraltar.

Section 6(3) states:

(3) If a person-

(a) dies outside Gibraltar in consequence of any act or omission in Gibraltar; and

(b) the person committing the act or making the omission would, if the death had occurred in Gibraltar, be guilty of the murder or manslaughter of the person who dies,

the offence may be treated as having been committed in Gibraltar.

Therefore, one needs to consider where each of the men died.

[redacted]: The evidence indicates that this male died almost instantaneously after being struck by the SJC. This would mean that he was officially in Spain at the time of his death and s6(3) Crimes Act would apply.

[redacted]: Evidence from the crews of the SJC and HMC Seeker and from [redacted] is such that the location of Mr [redacted]'s death cannot be determined with absolute certainty. However, the provisions of the Crimes Act would apply thus: If he died in Spain, s6(3) would apply; and if he died after being towed into BGTW or later, s6(2) would apply.

C

Conclusions

The threshold for any recommendations to charge is a high one. There must be sufficient evidence available for a reasonable prospect of conviction. Only if this threshold is met, will any such recommendation be made.

The case for each officer will be considered separately but before that, it is prudent to establish other facts that are pertinent to the overall picture.

There is evidence that suggests that the crew of the RHIB were involved in some form of illegal smuggling. This evidence comes from a number of different places:

- Their vessel is illegal in Spain and Gibraltar as such vessels are purpose built for the operation of smuggling contraband (usually cannabis from Morocco) into Europe.
- The RHIB was not registered.
- [redacted] has a previous conviction for drug trafficking.

- [redacted] has a previous conviction for drug trafficking.
- There was a crew change in the early hours of the morning which indicates a clandestine operation.
- The crew were intending to be at sea for a number of days in a holding pattern. This is not the behaviour of innocent people enjoying a boat trip.
- Crew members were in possession of balaclavas.
- The RHIB actively tried to evade police officers.

The sea is a hostile environment in which to operate.

While there are no formal arrangements between the Governments of Spain and Gibraltar, it is clear that the Law Enforcement Agencies (LEA's) in the area have a degree of professional co-operation, primarily regarding tackling Organised Criminal Networks (OCN's). This is evidenced by the fact that the Guardia Civil are able to communicate directly with the RGP Marine Section.

The start of the pursuit and the collision occurred in Spanish territorial waters. However, the deployment of the police vessel and failure to follow orders and instructions commenced in the jurisdiction of Gibraltar.

RGP instructions regarding BGTW are very clear - RGP vessels must only enter Spanish territorial waters at the invitation of the Spanish authorities and only for the intention of search and rescue.

RGP instructions regarding the navigational equipment are clear - RGP must operate radar and AIS at all times when at sea.

The cause of death of both Mustafa Das Mohamed and Mohamed Abdesalam Ahmed were multiple injuries consistent with being struck by the Sir John Chapple.

The Marine Section do not provide training specific to pursuits.

PC [redacted]

PC [redacted] is a fully qualified RGP mariner. He was the coxswain of the Sir John Chapple on the night of the collision and therefore in charge of the vessel at the time of the collision. There is evidence that he disobeyed orders to ensure the correct navigation equipment was in use when deployed and left BGTW for an unauthorised purpose and without authority. He was directly responsible for navigating the RGP vessel during the pursuit at night with nothing but spotlights to aid his navigation.

SI53 (2) Crimes Act states that a person who kills another by gross negligence commits the offence of manslaughter. What therefore needs to be considered is whether or not the actions of PC [redacted] amount to "gross negligence."

Having reviewed the apparent disregard for orders and instructions it is clear that there is evidence to show that his actions were negligent. One must also consider the pursuit and the manner in which it transpired. Evidence from various sources show that the manoeuvres of the RHIB were dangerous. PC [redacted] himself, provided evidence to demonstrate how he altered the speed and direction of his vessel to try to avoid a collision and confirmed that objects thrown from the RHIB hit his vessel and the wash from the sea obscured his vision. In spite of the obvious dangers present,

PC [redacted] continued to pursue the RHIB and as a result, there was a collision between the vessels and two men lost their lives.

It is submitted that there is sufficient evidence to charge PC [redacted] with two counts of manslaughter under si 53 Crimes Act 2011.

S27 Gibraltar Merchant Shipping (Health and Safety etc.) Act 1993 also applies in the circumstances but is a lesser offence and should be considered an alternative to manslaughter.

PC [redacted]

PC [redacted] is a fully qualified RGP mariner. He was not the coxswain on the night of the collision but he is still bound to display the same duty of care to others.

SI53 (2) Crimes Act states that a person who kills another by gross negligence commits the offence of manslaughter. What therefore needs to be considered is whether or not the actions of PC [redacted] amount to "gross negligence."

[redacted]

It is submitted that there is sufficient evidence to charge PC [redacted] with two counts of manslaughter under si 53 Crimes Act 2011.

S27 Gibraltar Merchant Shipping (Health and Safety etc.) Act 1993 also applies in the circumstances but is a lesser offence and should be considered an alternative to manslaughter.

Submitted for consideration.

Officers Name: Gary Smith
Officers Rank and Collar Number: T/Detective Superintendent
Date: 22 h September 2020

POINTS TO ASSIST - FOR PROSECUTION USE ONLY

Items disclosed to the defence:

Item	Date

SUMMARY OF EVIDENCE

Regina
v
[redacted] and [redacted]

This MG5 is submitted as an addendum to the one dated 22nd September 2020. It follows on from a letter from the DPP, Christian Rocca, dated 13h November and a subsequent on-line meeting between the DPP, RGP and MPS officers.

The DPP is of the opinion that charges for manslaughter, contrary to sl53 Crimes Act or alternatives under s27 Gibraltar Shipping Act cannot be brought in Gibraltar for the following reasons:

Manslaughter - Under s6(3) Crimes Act, the DPP stated that there needs to be an act or omission in Gibraltar that contributed significantly to the deaths. He is of the opinion that the cause of the deaths was the dangerous navigation of the SJC. However, the decision to chase and the chase itself, all happened in Spanish territorial waters, thereby not fulfilling the criteria to be able to bring proceedings in Gibraltar.

The position of the MPS investigative team remains unchanged. We are of the opinion that there is a causal link and that it was grossly negligent. The crew of the SJC deployed to respond to a report of a suspect RHIB (believed to be smugglers). Knowing what they were going to, the two trained mariners failed to turn on their navigational equipment and as a result left BGTW and engaged in a chase at sea that lead to the deaths of two people. Had they followed standing orders by using their navigation equipment, they would not have left BGTW. This is supported by the fact that the coxswain has previously stopped at the limit of BGTW on numerous other occasions involving pursuits at sea.

The DPP disagreed with this argument as the crew's decisions in Gibraltar did not contribute significantly to the deaths. He stated that if the RGP were to charge the officers for this offence he would discontinue the case.

S27 Gibraltar Merchant Shipping Act - Following specialist legal advice, the investigation team were of the opinion that PC [redacted] and PC [redacted] would be covered by this piece of legislation. However, the DPP stated that police officers are not "employed" and therefore the legislation cannot be relied upon to bring any charges in Gibraltar.
However, this is subject to review by the DPP and the outcome awaits.

The investigation team have therefore considered the possibility of charges for PC [redacted] PC [redacted] and Officer 3, for the common law offence of Misconduct in Public Office.

The elements of the offence are summarised in *Attorney General's Reference No 3 of 2003* [2004] EWCA Crim 868.

The offence is committed when:

- a public officer acting as such;
- wilfully neglects to perform his duty and/or wilfully misconducts himself;
- to such a degree as to amount to an abuse of the public's trust in the office holder;
- without reasonable excuse or justification.

The four elements of this offence will be discussed separately:

1. Public officer acting as such:
   There are two elements to this that need to be considered - Whether the person was a public officer and whether they were acting as such. R v Boden 1995 confirms that this common law offence applies to every person who was appointed to discharge a public duty. We are therefore satisfied that all officers on board the SJC, as police officers, fit this criteria. The crew of the SJC were all on duty and deployed on a police vessel throughout their deployment. They responded to a communication via a police device and therefore, it is submitted that they were acting as public officers.

2. Wilfully neglects to perform his duty and/or wilfully misconducts himself:
   It is the first part of this definition that applies in this case and neglect of duty has occurred in both Gibraltar and Spain.

   Gibraltar - Both officers [redacted] and [redacted] are qualified RGP mariners and evidence shows that they knew or ought to have known that there were standing orders to use the navigational equipment on board marine section vessels when deployed at sea. They also knew or ought to have known that they were not permitted to leave BGTW unless in limited circumstance (that do not apply here). The evidence gathered supports this element of the offence that they wilfully neglected their duty in Gibraltar.

   We have considered the case law on this topic and refer to Robinson v Chief Constable of West Yorkshire that held that officers have a duty of care to the public. Whilst the deaths of the RHIB crew may have occurred in Spain, the failure of PC's

[redacted] and [redacted] to follow orders and use the navigation equipment aboard the SJC also created unnecessary risks to unknown people within BGTW. One may also consider the act of leaving BGTW as a neglect of duty but this may be worthy of further legal advice.

The evidence shows that this element of the offence is made out for PCs [redacted] and [redacted] for the neglect they showed in failing to use the navigation equipment and follow orders and possibly for PC [redacted] (as coxswain) for allowing the vessel to leave BGTW.

Officer three, however, was not a trained mariner and there is no evidence to show that he was aware of the operating systems and instructions of the marine police unit. Therefore, the case against officer three fails at this point and it is submitted that this offense is not made out in law.

Spain - At this stage it appears that proceedings cannot be brought against the crew of the SJC for incidents that occurred in Spain. The investigation team has been unable to find any case law that may be of assistance to the circumstances of this case but for completeness, the failures of the officers in Spain will be discussed.

The manner in which the SJC was navigated whilst in pursuit of the RHIB is considered to be far below the standard expected of trained mariners. The coxswain of the RHIB used evasive maneuvers to create a dangerous environment but PC [redacted] failed to terminate the pursuit in contravention of safety training. PC [redacted] failed to request an end to the pursuit for safety reasons and failed to use the "kill cord" which would have stopped the SJC. As this pursuit lead to the collision and the loss of two lives, it is submitted that they both neglected to perform their duty. The case of Robinson v Chief Constable of West Yorkshire is relevant here.

Following the collision, no first aid was provided to the crew of the RHIB and no distress signal was sent (mayday). PC's [redacted] and [redacted] have been suitably trained in maritime operations and provided no explanation as to why a mayday signal was not broadcast. It is therefore submitted that PC's [redacted] and [redacted] neglected in their duty to ensure the safety of others by failing to make a mayday call. All three officers were suitably trained in first aid and their failure to provide first aid to the crew of the RHIB is considered to be a neglect of duty. However, as previously stated, we think it unlikely that their actions in Spain could be considered for this offence.

3. <u>To such a degree as to amount to an abuse of the public's trust in the office holder:</u>

The behaviour of the officers must be serious enough to amount to an abuse of the public's trust in the office holder. In *R v Dytham,* Lord Widgery said that the element of culpability:

"... must be of such a degree that the misconduct impugned is calculated to injure the public interest so as to call for condemnation and punishment."

The collision at sea between the two vessels has attracted significant attention in political and media circles and there have been calls for the officers to be made accountable but also a significant amount of support for officers trying to do their job in difficult circumstances. Whether the conduct of the officers meets this test is a matter for the jury to consider and they must be satisfied that the misconduct is worthy of condemnation and punishment *(Chapman (2015) 2 CrApp R10).*

The relevant acts we are concerned with here, appear to be the wilful failure to follow the correct procedures by not using the navigation equipment on board the SJC. It is submitted that the jury would not be able to consider the acts of the crew when they were in Spain as previously stated.

The offence of misconduct in public office is not a 'results crime.' The jury need to consider the **likely consequences** of any wilful neglect or misconduct to determine whether the conduct fell below the standard expected and they are empowered to consider the likely consequences. It is submitted that the likely consequences are clear - a collision resulting in loss of life. While the loss of life was a direct result of a pursuit, such a collision in BGTW while they were en-route to the call is a significant possibility given that they had failed to use their navigation equipment.

The consequences must be likely ones, as viewed subjectively by the defendant. It is submitted that this is an indefensible position for PC's [redacted] and [redacted] They have had the appropriate training and know why it is important to use the navigational equipment. It therefore follows that they must have known what the likely consequences were in piloting a vessel at sea, at night, without the use of navigational equipment.

In order to establish whether the behaviour is sufficiently serious to amount to the offence, the officer's motive is also relevant. Whilst it is not considered that the officers deliberately set out to cause harm, it is submitted that their reckless indifference to the use of the navigational equipment is sufficient to meet this part of the offence.

4. Without reasonable excuse or justification;

The officers have failed to provide any explanations as to why they failed to use the navigation equipment on board the SJC throughout the investigation. Anecdotal evidence suggests that they may claim that the equipment was not used to enable them to approach the RHIB undetected. However, this is against direct orders and against their safety training and therefore something can be rebutted by the prosecution. At this stage there are no other apparent reasons for their decision.

Any reasons or excuses put forward by the officers are a matter for the jury to decide.

Conclusion

It is submitted that there is sufficient evidence to charge PC [redacted] and PC [redacted] with one offence each of Misconduct in Public Office, contrary to common law for their failure to engage the navigation equipment on the SJC on 9th March 2020 and the resultant aggravating factors, both of which ultimately ended in tragic circumstances

Gary Smith

T/Det. Supt

1st December 2020

POINTS TO ASSIST - FOR PROSECUTION USE ONLY

Items disclosed to the defence:

Item	Date

METROPOLITAN POLICE

ORGANISATIONAL LEARNING 1: RECOMMENDATIONS

Throughout the MPS nvest gat on nto the fata co s on at sea on 8th March 2020 (Operat on Bomere), the fo ow ng opportun t es for organ sat ona earn ng for Roya G bra tar Po ce have been dent f ed. The MPS nvest gators are of the op n on these matters requ re address ng as a pr or ty, and pr or to the conc us on of any cr m na or m sconduct proceed ngs, n the nterests of safety at sea and comp ance.

1. **It is recommended Royal Gibraltar Police develop/install and use a system or process to monitor the positions of their marine vessels in real time, 24/7, and ensure positioning data is stored and retrievable.**

2. **It is recommended the Royal Gibraltar Police control room adopts a process for monitoring police marine vessel deployments, to provide additional oversight/ governance (different from location tracking of vessels).**

3. **It is recommended Royal Gibraltar Police ensure their police marine vessels[1] Automated Identification System (AIS) and Global Positioning System (GPS) equipment is always activated when the vessels are deployed at sea (in accordance with relevant laws).**

4. **It is recommended Royal Gibraltar Police introduce additional or updated training for Police Marine Section officers/staff/crew, to include pursuit scenarios.**

5. **It is recommended Royal Gibraltar Police introduce repeat theory and practical training for marine section coxswains (such as continuous professional development), at defined intervals.**

6. **It is recommended Royal Gibraltar Police issue renewed instructions to the Police Marine Section officers/staff/crew to not leave British Gibraltar Territorial Waters (BGTW) unless for search & rescue missions / life-saving**

7. **It is recommended Royal Gibraltar Police introduce defined roles & responsibilities for Police Marine Section crew members, and formalise these by inclusion in an updated Standard Operating Procedure.**

8. **It is recommended Royal Gibraltar Police update the Police Marine Section Standard Operating Procedure(s) (SOPs) to incorporate changes resulting from the above recommendations, as appropriate.**

9. **It is recommended Royal Gibraltar Police develop and use a standardised, structured Post Incident Manager (PIM) Log (possibly modelled on the MPS PIM log).**

The MPS nvest gators acknow edge that Roya G bra tar Po ce may have a ready addressed one or more of the above recommendat ons and nv te a response to the recommendat ons. The MPS nvest gators reserve the r ght to ssue further recommendat ons as and when deemed su tab e, dur ng and after the nvest gat ons.

Operat on Bomere
Organ sat ona Learn ng Recommendat ons 1
September 2020

Royal Gibraltar POLICE | Delivering a Safer Gibraltar through Excellence in Policing

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*Asquez Interview CD 2 (**Annex 17** – Exhibit PAC/CD/EA/2C)*
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*Sanchez Interview CD 1 (**Annex 19** - Exhibit PAC/CS/DVD/1C)*
*Sanchez Interview CD 2 (**Annex 20** - Exhibit MW/DVD/CS/2C)*
*Sanchez Interview CD 3 (**Annex 22** - Exhibit PAC/CD/CS/3C)*
*Sanchez Interview CD 4 (**Annex 22** - Exhibit PAC/CD/CS/4C)*
*Sanchez Interview CD 5 (**Annex 22** - Exhibit PAC/CD/CS/5C)*
*Sanchez Interview CD 6 (**Annex 22** - Exhibit PAC/CD/CS/6C)*
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*Chipol Interview CD 1 (**Annex 23** - Exhibit MW/DVD/AC/1C)*
*Chipol Interview CD 2 (**Annex 24** - Exhibit MW/DVD/AC/2C)*
*Chipol Interview CD 3 and 4 (**Annex 25** - Exhibit MW/DVD/AC/3C and 4C)*
*Chipol Interview CD 5 (**Annex 26** - Exhibit MW/DVD/AC/5C)*
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*Written Account from Haim Levy dated 9th June 2020 (**Annex 27**)*
Considerations Following Levy's Account
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c□ □nnex □ – "*Complaints made by Thomas Cornelio, John Perez and Edward Asquez against James Gaggero, Chairman of Bland Group International et al to the Royal Gibraltar Police*." (24t□ □□n□□ry □□□□□□
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□□□Paragraph 2.6 of Perez's contract and paragraph 3.6 of Cornelio's contract are titled *"Other Employment".* T□e contr□cts st□te *"It is expected that you will devote your whole time and attention to the Company at such times as the Company may reasonably require. You must not take on other employment, work or activities outside working hours either on your own account or for any other person, firm, company or association, without first asking your manager and obtaining his or her written permission…..You must not: either on your own account or for any other person, firm, company, or association, either alone or with others, in any capacity whatsoever, be engaged or concerned in, or provide services to, or do any work of any nature in any capacity, for any business or engagement which competes with any aspect of the business or activities of the Company"*

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whatsoever, any information of a confidential nature of, belonging to or relating to the Company….

□□□P□r□gr□p□s □□□ □nd □□□ respecti□ely de□l □it□ Intellect□□l Property□It st□tes *"You acknowledge that all Intellectual Property Rights in respect of all Intellectual Property made, originated or developed by you at any time in the course of your employment with the Company shall belong to and vest in the Company absolutely to the fullest extent permitted by law…"*

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T□□ *NSCIS* PL□TFORM

□□□D□ring t□e co□rse of □is e□ploy□ent □it□ □l□nd□Cornelio □□s in□ol□ed in t□e development of the National Security Central Intelligence System ("the NSCIS platform"). The platform is a modular, centralised IT software system for the collection□□ onitoring□□□c□gro□nd c□ec□ing□□nd fl□gging of people □nd □e□icle □o□e□ents in □nd o□t of Gi□r□lt□r □i□ l□nd□se□ □nd □ir□T□is syste□ □□s first l□□nc□ed in Dece□ □er □□□□ □s t□e Frontier M□n□ge□ent Pro□ect □FMP□□nd □□s s□□se□□ently de□eloped o□er □ n□□ □er of ye□rs□

□□□T□e pl□tfor□ collects sensiti□e person□l infor□ □tion fro□ □e□ □ers of t□e p□□lic □pon entry to □nd exit fro□ Gi□r□lt□r incl□ding F□ci□l Recognition□ □e□icle registr□tion n□□ □ers□Interpol d□t□ etc□It is □ □ey tool for l□□ enforce□ent □gencies in t□e protection of n□tion□l sec□rity□

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□□□T□ere is □ disp□te o□er t□e o□ners□ip of t□e intellect□□l property of t□e □SCIS pl□tfor□ □□ot□ □l□nd □nd □MGoG □□□e □sserted o□ners□ip□T□e s□□□ects □llege o□ners□ip in f□□o□r of □MGoG□

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□□□□ doc□□ent prep□red □y P□tric□ C□r□□n□ of Peter C□r□□n□ □ Co l□ys o□t t□e leg□l □□sis for t□e □l□nd Ltd □rg□□ent□ □y □irt□e of section □□□□□ of t□e Intellect□□l Property □Copyrig□t □nd Rel□ted Rig□ts□□ct □□□□ – *"Where a literary, dramatic, musical or artistic work, or a film is made by an employee in the course*

of his employment, his employer is the first owner of any copyright in the work subject to any agreement to the contrary"

□□□□ □en Cornelio □□s e□ployed □y □l□nd□□e signed □ contr□ct□Section □□□□□□ of t□□t contr□ct st□tes *"You acknowledge that all Intellectual Property Rights in respect of all Intellectual Property made, originated or developed by you at any time in the course of your employment with the company shall belong to and vest in the Company absolutely to the fullest extent permitted by law."* □□ □□□□□□□□□□□ refers□□

□□□□l□nd □ssert t□ey □□□e not sold t□e □SCIS intellect□□l property to □ny ot□er p□rty□T□e pl□tfor□ is pro□ided to □MGoG □y □□y of □licence□T□is □□sis is set o□t in t□e □nsigned M□ster Soft□□re De□elop□ent □nd M□inten□nce □gree□ent□ □□ □□□□□□□□□□ refers□□

□□□Section □□□□□□□of t□e Intellect□□l Property □Copyrig□t □nd Rel□ted Rig□ts□□ct □□□□ st□tes – *"An assignment of copyright is not effective unless it is in writing signed by or on behalf of the assignor."* □l□nd st□tes no s□c□ doc□□ent exists□

□□□In rel□tion to t□e content of t□e d□t□□□ses□□l□nd □ □□e no s□c□ □ssertion to t□e o□ners□ip of t□is d□t□□□□ □□□□□ □ □Leg□l note d□ted □□t□ □□g□st □□□□□□

□□□F□rt□er to t□e □□o□e□□□□es G□ggero st□tes t□e □SCIS Pl□tfor□ □□s not sold outright to HMGoG and the intellectual property remains Bland's property. T□is is □□sed on inter □li□□t□e f□ct t□□t Pere□ □nd Cornelio so□g□t to exploit t□e co□ □erci□l opport□nities for t□e pl□tfor□ □□ro□d□on □e□□lf of□ □nd □□ilst e□ployed □y □l□nd□ □eit□er □o□ld □e □pposite if □l□nd did not o□n t□e intellect□□l property rig□ts□

□□□□l□nd in□oice □MGoG □ □ont□ly □SCIS for a "Soft□□re Licence fee□" T□is is for t□e s□□ of □□□□□□□□ per □ont□ □□ic□ co□ □enced in Dece□ □er □□□□ □nd is det□iled on e□c□ in□oice□□□ □□□□□□□□□□□□□ refers□□

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□□□C□ine S□nc□e□ responded to t□is e□□il □□t did not c□□llenge t□e □□o□e st□te□ent□□□□□□□□□□□□□□ refers□□

□□□□o□n Pere□l□ter replied to t□e e□□il st□ting *"First Class Nicholas, Very pleased with how this is developing. Well done."*

□□□In Fe□r□□ry □□□□□Cornelio □rote □ report to t□e □□n□ge□ent □o□rd□P□ge □ of t□is report referred to t□e Frontier M□n□ge□ent Pro□ect□□e □rote in rel□tion to t□e extr□ f□nctions of t□e pl□tfor□ □*"The additions will now be sold individually on a licensing agreement which will add further to the projects recurring revenue."* □□□□□□□□□□□ refers□□

□□□On □□nd □□ne □□□□□Pere□ sent □n e□□il to Cornelio in rel□tion to intellect□□l property rig□ts□Cornelio initi□lly st□ted □e □elie□ed □y def□□lt □ll □or□ □elonged to t□e □l□nd Gro□p□

□□□On □□t□ □□ne □□□□ Cornelio contin□ed □y st□ting *"Spoke to Lesley reference this and by default as the "author" of the work created we have first ownership of copyright unless specified under contract. She does stress that in future we specify patents, design, copyrights, ownership and all other intellectual property rights are to be retained by Bland Group."* □□□□□□□□□□□ refers□□

□□□It s□o□ld noted □o□e□er t□□t □l□nd do not disp□te t□e s□le of t□e □T□ or Do□ pl□tfor□s to □MGoG□□o□e□er neit□er p□rty □□s prod□ced signed doc□□ents det□iling t□e tr□nsfer of o□ners□ip of Intellect□□l Property Rig□ts in rel□tion to eit□er pl□tfor□ □

□□□□ndre□ □onf□nte □□s C□O of t□e □orders □ Co□stg□□rd □gency □et□een □□□□ □nd □□□□□□et□een □□□□ □nd □□□□□□e □□s in□ol□ed in disc□ssions □□ic□led to t□e de□elop□ent of t□e FMP □nd l□ter □SCIS□T□ese incl□ded Interpol P□ssport Control □gree□ent□ □is□ M□n□ge□ent Syste□ □ Interpol □□rope□n ID C□rd Integr□tion□Frontier M□n□ge□ent Pro□ect □nd F□ci□l Recognition □gree□ent□

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□□□□e st□tes *"I believed that, in respect of each of the modules, Bland Limited was contracted to provide a service…..This included developing the relevant software, for a fee, in addition to a maintenance fee. I do not recall any discussion about HMGoG purchasing the software. It was certainly never my intention to purchase the software on behalf of the government. In contrast, it was clear that all the hardware purchased would belong to HMGoG."*

<u>□sserted O□ners□ip □y □MGoG</u>

□□□Contr□ry to t□e position □eld □y □l□nd□D□rren Grec□□C□ief Secret□ry of □MGoG □sserts t□□t □MGoG o□n t□e intellect□□l property pert□ining to t□e □SCIS pl□tfor□ □

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□□□□o□n Rodrig□e□□Collector of C□sto□ s □□s not □ □de □ co□ □ent on o□ners□ip□

<u>S□□□ects' Position</u>

□□□C□ine S□nc□e□ □□s inter□ie□ed on □□rd □□ne □□□□□ □e expl□ined t□□t □e □elie□ed □MGoG o□ned t□e pl□tfor□ □In □is □ie□ it is □ pl□tfor□ de□eloped for □MGoG □nd t□erefore □elongs to t□e go□ern□ent□□e referred to □n incident □□ere□y □o□n Pere□ □ppro□c□ed t□e C□ief Secret□ry in order to get □i□ to sign □ contr□ct to s□y t□□t t□e pl□tfor□ □elonged to □l□nd□T□is □□s re□ected □y t□e C□ief Secret□ry□□□ □□□□□ □□□□

□□□Cornelio □nd Pere□ pro□ided prep□red st□te□ents d□ted □□t□ □□ly □□□□□T□ey □ointly st□te *"The NSCIS, its underlying modules and all related intellectual*

property were sold outright by Bland to HMGOG. They therefore belong to HMGOG not Bland. This position is consistent with all other software projects developed by Bland for HMGOG, namely the DSS, Education and ETB systems."
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□□□On □□t□ □□n□□ry □□□□□ □s□□e□□ Cornelio □nd Pere□ pro□ided □ □□□p□ge doc□□ent □it□ □ series of □nnexes □nd □ sc□ed□le □tt□c□ed titled *"Complaints made by Thomas Cornelio, John Perez and Edward Asquez against James Gaggero, Chairman of Bland Group International et al to the Royal Gibraltar Police."* □□ □□□□□ □□□

□□□In p□r□ □□□of t□is sc□ed□le it is st□tes t□□t *"The NSCIS together with associated software and hardware, was sold outright by Blands to HMGOG on a module by module basis"* T□is is □□sed on □inter □li□□

□□ T□e Interpol P□ssport Control □od□le □eing sold to □MGOG for □one□off fee of □□□□□□□ in M□y □□□□□
□□ T□e Sc□engen □is□ □od□le □eing sold for □one□off fee of □□□□□□□ in □□ne □□□□ □it□ □ □□□□ □ont□ly □ □inten□nce fee□
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i□ T□e Port □□PR □eing sold for □□□□□□□□□□ □it□ □ □ □inten□nce fee of □□□□ per c□□er□ in □□n□□ry □□□□□

□□□F□rt□er□ore□p□r□ □□□ st□tes *"As part of the sale agreements, Blands developed to the specific requirements of inter alia, Borders and Coastguards Agency and HM Customs"* T□ey refer to □nnexes □□□ □nd □ □□ic□ □re □C□ S□engen □is□ M□n□ge□ent doc□□ent□□C□ Interpol □□rope□n C□rd doc□□ent □nd □ Dr□ft □gree□ent □et□een □l□nds □nd □MGoG re Frontier C□□er□s□

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□□□Ro□ert Fisc□el □C □rote □ letter □ddressed to Detecti□e Inspector □ y□n d□ted □□t□ Fe□r□□ry □□□□□T□is letter reiter□tes t□e position of □MGoG □eing o□ners of t□e □SCIS Pl□tfor□ □□□□□□□**4**□□

□□□In □f□rt□er letter fro□ Ro□ert Fisc□el □C d□ted □□t□ □pril □□□□ □□□ic□ □□s copied to t□e □ttorney Gener□l □nd pro□ided to t□e C□ief Secret□ry□□ t□e □□o□e □rg□□ ents □ere repe□ted □□□□□□ □□□In □ddition to t□e □□o□e□□e st□ted□

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□□ □l□nd Fin□nci□l Reports□St□te□ ents □nd M□n□ge□ ent □cco□nts do not □ □□e reference to t□e FMP or □SCIS □s □ssets□

c□ T□e C□ief Minister g□□e □press conference on □□rd □pril □□□□□D□ring t□is speec□□ □e st□ted *"Additionally, we may also bring into use other technologies which we already have in place in Gibraltar like our GIS system or our NSCIS systems being brought back in to play to work together";*

d□ On □□t□ □□n□□ry □□□□□□ □ □eeting □□s □eld □t t□e Roc□ □otel □it□ □ n□□ □er of L□□ □nforce□ ent Offici□ls incl□ding t□e t□en Co□ □ issioner of Police□C□pt□in of t□e Port□Officers fro□ C□sto□ s □nd □C□ □long □it□ represent□ti□es of □l□nd □nd □MGoG□□o□n Pere□ prep□red t□e □gend□ □□ic□ □t point □ det□iled t□e □□ndo□er of □SCIS to □MGoG□l□□ enforce□ ent □gencies□

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□□□On □□t□ □□g□st □□□□□Cornelio □rote □ letter to S□nc□e□st□ting *"I attach for your consideration the HM GOG Border Management System proposal, which includes a breakdown of costs by capability……. Maintenance fees attached include the ownership of the code and intellectual property rights of the border management system by HM Government of Gibraltar."* □□□□□□□□ □□□□□□□□□□□□□□□□□□□□□□□**r**□□ refers□□

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□□ic□ to de□elop□□r□nd□□ □r□et □nd co□ □erci□lly exploit t□e □SCIS pl□tfor□ abroad ("Wavetecx").

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□□□Pere□ □nd Cornelio tr□□elled □□ro□d on se□er□l occ□sions to disc□ss t□e possi□ility of licensing t□e □SCIS pl□tfor□ to□□□ ongst ot□ers□C□rni□□l Cr□ises□ t□e S□o To□□ go□ern□ent□ □nd Inc□c□pe S□ipping Ser□ices □□□□□□

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□□□D□ring t□e co□rse of □□□□Cornelio□Pere□□nd Le□y pl□nned to o□t□in t□e □SCIS pl□tfor□ □ □inten□nce contr□ct□T□is contr□ct □□s t□e property of □l□nd □□nd is distinct fro□ t□e iss□e of pl□tfor□ o□ners□ip□□

□□□In □n e□ □il sent fro□ Pere□to Cornelio□d□ted t□e □□t□ Fe□r□□ry □□□□□□□nd □□ilst still e□ployees of □l□nd□Pere□□tt□c□ed □"*Letter of Intent*". This letter purported t□□t □□ □ort□ □lre□dy □□d □n existing contr□ct □it□ □MGoG for t□e □SICIS pl□tfor□ □□□□□□□□□□□□□ □□□□□□□□□□□□□r□□ refers□□T□is propos□l e□idenced t□e intent of t□e s□spects to o□t□in t□e contr□ct for t□e □enefit of t□eir co□ p□ny□□□ □ort□□

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□□□In □n e□□il exc□□nge d□ted t□e □□t□ □□ne □□□□□□ □nd □□ilst still e□ployed □y Bland, Perez sent an email to Cornelio called, "*36 North Cash Flow*"□T□e doc□□ent s□o□ed □forec□sted re□en□e in f□□o□r of □□ □ort□□ic□incl□ded t□e □SCIS pl□tfor□ □Glo□□l in□oice□for □□□□□□□□ per □ont□□□□□□□□□□□□ □□ □□□□ □nd □□□□□□□□□□**D□□D**□□□□ refers□□

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□□□□ it□o□t prior notific□tion□on t□e □□t□ □□ly □□□□□Pere□ □nd Cornelio □□nded in t□eir resign□tions fro□ □l□nd□In □ccord□nce □it□ t□eir respecti□e contr□cts□t□e resign□tion of Pere□ □□s to t□□e effect on t□e □t□ Septe□ □er □□□□ □nd t□e resign□tion of Cornelio □□s to t□□e effect fro□ t□e □□t□ □□g□st □□□□□□□□□□□□□□□□ □□ □□□□ □nd □□ □□□□ refer□□

□□□On t□e □□t□ □□ly □□□□ □ot□ soft□□re engineers sent □ text to Cornelio in □□ic□ t□ey presented dr□ft resign□tions□On t□e s□□e d□te Cornelio □rote to t□e engineers, "*Marius ok give me a while to review and don't send email out until I confirm with John now ok*." □□□□□□□□□□□□ □□□□□□□□□□□□□□**r**□□□□ refers□□

□□□On t□e □□t□ July 2018, Cornelio wrote on the same chat, "*Remember to stick to the story when chairman calls Joey. He has already written to John and he is denying having known.*" □□□□□□□□□□□□ □□□□□□□□□□□□□□**r**□□□□ refers□□

□□□On t□e □□t□ □□ly □□□□□t□e soft□□re de□elopers resigned fro□ t□eir e□ploy□ent □it□ □l□nd to □oin □□ □ort□□T□e res□lting loss of st□ff □nder□ined t□e □□ility of □l□nd to f□lfil t□eir □SCIS contr□ct□□l o□lig□tions follo□ing t□e dep□rt□re of Pere□

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nd Cornelio fro t e co p ny G ggero descri ed t is s triggering n existenti l crisis

On t e nd g st Cornelio rote to one of t e de elopers reg rding G ggero tte pting to ret in l nd pro ects s ying, "*In order to keep things smooth we all need to leave asap, leaving him no option.*" refers). He wrote on the same date, "*You will need to make it clear that after the 20th you are finished with Blands. That will ensure that they can't buy time*." refers

T ese ctions ere consistent it n gree ent to nder ine l nd y di inis ing t eir IT c p ilities nd t ere y t eir ility to int in t e pl tfor nd ppropri te t e SCIS pl tfor inten nce contr ct

<u>ppropri tion of siness Co enced y l nd Cornelio</u>

D ring t e co rse of t eir e ploy ent it l nd Cornelio nd Pere ere in ol ed in n er of pro ects T ese incl ded

- propos l for t e C rni l Corpor tion for a "*Centralised Vessel Security Management System*" D nd D refer nd
- A "*Ministry of Defence and Public Security Border Management Proposal*" for S o To e nd Principe D refers

In n e il sent fro Pere to Cornelio d ted t e t Fe r ry nd ilst still e ployees of l nd Pere tt c ed "*Letter of Intent*". This letter purported t t ort lre dy d existing intern tion l contr cts incl ding C rni l Cr ises nd S o To e nd Principe T ese ere in f ct contr cts t t ere eing negoti ted on e lf of l nd r refers

In respect of Sao Tome, the proposal stated, "*Contract about to be signed for 7 years. Contract worth 1.6m euros with a forecast 20% increase by year 3. Contract starts in Feb 18*." Under the heading "*Carnival Cruise Lines*" is st ted "*Currently negotiating an APIS maritime system with Carnival who dominates 70% of the Cruise liner industry. A pilot platform has already been designed and discussed with Carnival CEO. A visit by Carnival's Head of Security and International representative will be visiting us in Mar 2018. Negotiation ongoing. Contract worth £175k per year*."

□□□It is cle□r t□□t Cornelio □nd Pere□ intended to dis□onestly □ppropri□te t□e □□siness of □l□nd co□ □enced □y t□e□ □s e□ployees of □l□nd □nd o□t□in t□e □enefits for □□ □ort□□

□□□In respect of t□e S□o To□e □nd Principe □gree□ent□ Cornelio specific□lly ens□red t□□t □ny sign□t□re □o□ld t□□e pl□ce □fter □e □□d resigned fro□ □l□nd □□en □e st□ted on t□e □□t□ July 2018, "*We can agree on timeline and agree a date to sign contract. After the 10th August*" (□□□□□□□□ □□□□ □□□□□□□□□□□□□ refers□□

□□□□ot□ S□o To□e □nd Principe □nd t□e C□rni□□l Sec□rity M□n□ge□ent Syste□ contin□ed to □ppe□r on t□e □gend□ for □□ □ort□ □fter □ot□ Pere□ □nd Cornelio □□d left □l□nd□□□□□□□□□□□□□□□□□□□**D**□□**D**□□□□ refers□□

Press□re on □M Go□ern□ent of Gi□r□lt□r □Cornelio

□□□Follo□ing □is dep□rt□re fro□ □l□nd □nd ter□in□tion of t□e cons□lt□ncy period□ Cornelio so□g□t to □pply press□re on □MGoG to tr□nsfer t□e □SCIS pl□tfor□ □ □inten□nce contr□ct□In p□rtic□l□r □e □sed connections □it□ C□ipol□Le□y □nd □o□n Rodrig□e□□t□e Collector of C□sto□s□

Communication between Cornelio and Chipol

□□□On t□e □□t□ Septe□ □er □□□□ Cornelio wrote, "*Aaron .. grateful if you could send the following email on your behalf to Caine*." He then proceeded to type out a prepared email which finished, "*With regards to the National Security platform, there are many features that I would like to engage with Tommy in order so that he may incorporate as we have always done. Could you provide me with an update on this as we need to continue working with him as soon as possible*." □□□□□□□□□□□□□□□□□□□□



□□□□ On t□e □□t□ Octo□er □□□□□Cornelio □rote□in respect of t□e frontier □□e□es□ "*Try and put some pressure on Blands saying you need this sorted by today. Has been down for quite some time now.*" (□□□□□□□□□□□ □□□□□□□□□□□□□□ refers□□

□□□□ On t□e □□t□ October 2018 he wrote with regard to Bland, "*Mandale un email a Jonathan saying you need everything up and running today*." He followed this □p □it□ □ text on t□e □□t□ October saying, "*Maybe an email to CM letting him know about the meeting and that they are asking for more time*." □□□□□□□□ □□□□ □□□□□□□□□□□□□□□**4** refers□□

□□□□ On t□e □□t□ October 2018 he again wrote to Chipol, "*If you have the time you can email the CM expressing your concerns, that they keep giving excuses and they are not able to deliver.*" (□□□□□□□□□□□ □□□□□□□□□□□□□□ refers□□

□□□□ On t□e □□st October he wrote, "*If you manage to speak to Caine let me know, as I believe he is insisting on more complaints going to CM so that he acts on it*." □□□□□□□□□□□ □□□□□□□□□□□□□□ refers□□

□□□□ On t□e □t□ November he asked, "*If you are able send CM an email saying you don't see how they can run with national security and continue developing the platform as neither the vision or skillset is there*." (□□□□□□□□ □□□□ □□□□□□□□□□□□□□ refers□□

□□□□ On t□e □□t□ November 2018 Cornelio wrote, "*Msg from Caine … CM is under the impression that things are now stable* [redacted]"

□□

[redacted]." ([illegible] refers[illegible]

[redacted]



Communication between Cornelio and Levy

[illegible] On t[illegible]e [illegible]st [illegible]g[illegible]st [illegible]ilst still in t[illegible]e cons[illegible]lt[illegible]ncy period[illegible]Cornelio [illegible]rote[illegible] "*Dear James, would it be possible to sit down with you or the CM to try and move forward with our projects? I currently have a lot of work on hold pending this decision*." ([illegible] refers[illegible]

[illegible] On t[illegible]e [illegible]t[illegible] August 2018 he similarly wrote, "*Dear James, please try and get me a 10 min slot for me to meet the CM. I believe I am best placed to explain the entire situation and advise the best technical solution possible*." ([illegible] refers[illegible]

[illegible]

□□□□ On t□e □□t□ Septe□ □er □□□□ Cornelio □rote to Le□y □nd □tt□c□ed □ letter to □e □sed □y t□e C□ief Minister to ter□in□te t□e □l□nd contr□cts□ □□□□□□□□ □□□□□□□□□□□□□□□ refers□□ T□is letter □□s □ddressed to □□□es G□ggero of Bland and was titled "*Termination of NSCIS, DSS, BCA, ETB and Education contracts ("the contracts")*". It explained, "*Bland Limited has failed to perform its obligations under the Contracts and is therefore in repudiatory breach… In the circumstances, please accept this letter as HMGOG's termination of the Contracts with immediate effect*." (□□□□□□□□□□□□□□□□□□□□□**D**□□**D**□□□**4** refers□□

□□□□ On t□e □□rd September 2018 Cornelio wrote, "*Attached is a letter which may be of use to the GoG in order to proceed with the new platform we have offered them*." (□□□□□□□□□□□□ □□□□□□□□□□□□□□□ refers□□

□□□□ □y t□e □□t□ Dece□ □er □□□□ Cornelio □□s concerned t□□t t□e C□ief Minister □o□ld not □e tr□nsferring t□e contr□ct to □□ □orth. In response Levy wrote, "*I don't think he will transfer the contracts back to 36N. We have to work on alternatives. I am happy to help …*" (□□□□□□□□□□□□□□□□□□□□□□ refers□□

□□□□ On t□e □□t□ Fe□r□□ry □□□□ he wrote to Levy saying, "*Any merit in me writing to the CM directly to request he meet with me. I miss my contracts*." □□□□□□□□ □□□□ □□□□□□□□□□□□□□□□ refers□□

□□□□ On t□e □□t□ March 2019 he wrote, "*Perhaps CM would be willing to put the National Security system out for tender next month*." □□□□□□□□ □□□□ □□□□□□□□□□□□□□□□ refers□□

□□□□ On t□e □□t□ March 2019 Cornelio again asked, "*Do you think there is any chance of getting national security contract back at some point?*" Despite his □ns□er on t□e □□t□ Dece□ □er □□□□ Levy responded, "*Yes*." □□□□□□□□ □□□□□□□□□□□□□□□ refers□□

□□□□ On t□e □rd May 2018 Cornelio wrote again saying, "*Dear James, the national security system* [redacted]*. Can I email the CM once again to meet me? He cannot allow this to continue*." □□□□□□□□ □□□□□□□□□□□□□□□**4** refers□□

Communication between Cornelio and Perez

□□□□ On t□e □□t□ Octo□er □□□□□Cornelio dr□fted □n extensi□e e□ □il intended to □e sent □y □o□n Rodrig□e□ □Collector of C□sto□s□to t□e C□ief Minister□ [redacted]

□□

[redacted]

□□□□ On t□e □□t□ November 2018 Cornelio texted, "*Spoke to Aaron. He is going to call Caine tomorrow. Abe si sorteamo eto ya*." (□□□□□□□□ □□□□**M**□□□□□□□□□□ □□□□□□□□□ refers□□

[redacted]

□□□□ On t□e □□nd December 2018 Cornelio wrote to Perez, "*After xmas break u are going to have to push with john Rodriguez*." (□□□□□□□□ □□□□**M**□□□□□□□□□□ □□□□□□□□□□ refers□□

□□□□ On t□e □rd January 2019 Cornelio wrote, "*We need some positive news*." Perez responded, "*We are good. Did not want to push JR etc. Will do so on Mon. The 7th*." □□□□□□□□□□□□**M**□□□□□□□□□□ □□□□□□□□□□ refers□□

□□□□ On t□e □t□ January 2019 Cornelio wrote to Perez, "*Anything from John Rodriguez?*" Perez responded, "*No. You enjoy and let me focus on this*." (□□□□□□□□ □□□□**M**□□□□□□□□□□ □□□□□□□□□□ refers□□

□□□□ On t□e □□t□ February 2019 Cornelio wrote, "*Also we need to speak to John, Aaron and Caine. I think the timing is good for us to put a fresh proposal in to renew all national security.*" (□□□□□□□□ □□□□**M**□□□□□□□□□□ □□□□□□□□□□ refers□□

□□□□ On t□e □st March 2019 Cornelio enquired, "*U called Aaron or JR? Al ke mete pressure otherwise the current position is taken for granted*." (□□□□□□□□ □□□□**M**□□□□□□□□□□ □□□□□□□□□□ refers□□

□□□□ On t□e □□t□ March 2019 Cornelio wrote to Perez, "*Spoke to JL. Can u speak to John Rodriguez this morning*." Perez replied, "*I will call him this morning*." Cornelio continued, "*Yep now is the time to attack heavily. We have the upper hand. Use ur network*" (□□□□□□□□□□□□**M**□□□□□□□□□□ □□□□□□□□□□ refers□□

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□□□□ On t□e □□st March 2019 Cornelio texted, "*We need our old system back. These bastards cannot win. Call Aaron mate, this we need to take away from them ya*." □□□□□□□□□□□□□**M**□ □□□□ □□□□□□ □□□□□□□□□□□ refers□□

[redacted]



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Co□p□ter Mis□se Offences □Cornelio

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□SCIS Report for S□nc□e□ □Cornelio

□□□□ On t□e □t□ Octo□er □□□□□Peter C□ness□□t□e Principle Pri□□te Secret□ry to t□e C□ief Minister□□rote to C□ine S□nc□e□on □e□□lf of t□e C□ief Minister□In □n e□ □il he wrote, "*Further to my email below, and following further discussion with*

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the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be provided full control of the management, maintenance and support of the NSCIS platform … Once the handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform." (□□□□□□□□ □□□□□ □nd □□□□□ refer□□

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□□□□ On t□e □t□ Octo□er □□□□ Cornelio sent □n e□□il to S□nc□e□ □□it□ □□□es G□ggero copied in□in □□ic□ □e confir□ed t□□t □e □o□ld no longer □ccess t□e □SCIS pl□tfor□ □s □ell □s □riting, "*In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms*." □□□□□□□□ □□□□□□□□□□□□□□□□□□□□□**M**□□□□□ refers□□

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□□□□ In □ddition□on t□e □□t□ June 2018 Perez wrote to Levy, "*Preparing for our departure on 29th June. Everything else is now almost in place. John*." (□□□□□□□□ □□□□□□□□□□□□□□□ refers□□

□□□□ On t□e □□t□ □□g□st□ □nd i□ □edi□tely prior to Cornelio ter□in□ting □is consultancy, Levy wrote to Perez, "*John I just rang you to tell you everything is under control. I've been working with Tommy on the relevant letters. I am very confident that we will bring this to a close in a successful manner very shortly. You can rest assured I will do my best to help you in every way. I have great Respect and admiration for your ability and hard work. Do not worry if there is an attack I will help you to defend and to counter-attack. You're a military man so I'm writing to you in military terms."* □□□□□□□□□□□□□□□

We have been successful and now moving to the pilot phase. Flying back tomorrow." refers

On t e t Septe er nd in respect of S o To e Pere rote to Le y "*James this week we will be receiving a contract from São Tomé and Príncipe for review. The commercial elements of the contract have already been agreed in principle. We are also closing in on Equatorial Guinea*" refers

Press re on M Go ern ent of Gi r lt r Pere

Follo ing is dep rt re fro l nd Pere so g t to pply press re on MGoG to tr nsfer t e SCIS pl tfor inten nce contr ct fro l nd to ort

P r gr p s to re repe ted. Cornelio – Press re on M Go ern ent of Gi r lt r

In ddition on t e t October 2018 Perez wrote to Levy stating, "*James thank you so much for this morning. I am sure our sessions will become more enjoyable as we set of in our journey. With regards to dropping Fabian a note, let's give him a bit more time. As the pressure will naturally surface through his law enforcement heads*" refers

no ledge of Co p ter Mis se Offences Pere

idence s ggests t t Pere y e een re of t e co p ter is se offences co itted y Cornelio P r gr p s to refer

et een t e t nd t ly Cornelio ccessed l nds etecx il ser er nd it o t t ority deleted d t e ils il oxes nd d t files fro t e cco nts of T o s Cornelio o n Pere nd ddie s e G ggero sserts t t t is s done it o t t e t ority of l nd P r gr p s to

On t ly Cornelio rote to s e "*Btw i am about to delete the wavetecx email to handover to blands so don't send anything else to that one ok*" s e replied "*let me have access for 5 min then delete all.*" Cornelio l ter st ted "*I made a backup before deleting of the entire wavetecx inbox so I have a file that contains all the data.*" s e st ted "*ok we can get the back up once we are out?*" **D R** refers

On t ly s e rote to Cornelio *"Tommy, Wavetecx email accounts have been closed, but if someone opens them with our names they can get emails sent to us! We need to inform all our contacts that we no longer have these emails. I could be challenged as to why I cancelled mine!! I'm ok if you delete everything and no one can recover any previous emails sent to me."* Cornelio replied *"No one can recover….."* s e t en st te *"Eso no probs mate pero recovering my emails would be* 😢 😂 😂 😂 **"** Cornelio replied *"U were using the account?…."* s e replied *"…..yes I used the account a bit. For STP tambien!!"* *Sao Tome & Principe* **D R** refers

T e o e exc nge s p rt of ts pp gro p c t in ol ing Pere Re d receipts e confir ed Pere re d t e ess ges ro nd n o r fter t ey ere sent e de no tte pt to pre ent or c llenge t ese cts

On t e t October 2018 Cornelio wrote to Perez saying, "*Spoke to James ref forensic team confidentially. Spoke to him on the phone. Call me and I can discuss. He says not to worry. I am very concerned they will try to prove I have acted to sabotage the system in any way etc*." refers

On t e t Octo er Pere d eeting it t e Co issioner of Police D ring t is eeting e infor ed t e Co issioner t t t ey no longer d ny in ol e ent it t e SCIS pl tfor t t t it s If nctioning en s ed o e ne t is infor tion if t ey no longer exercised control e replied, "*Tommy is a wizard*."

<u>SCIS Report for S nc e Pere</u>

P r gr p s – re repe ted SCIS Report for S nc e – Cornelio

Despite no longer ing ccess to t e SCIS pl tfor Pere ssisted Cornelio s e s riting t e SCIS report for S nc e see elo

On t e t pril d y fter Cornelio d ccessed t e pl tfor e rote to Pere, "*I have done my NSCIS bit. I will type it up later tonight*." (**M** refers

On t e t April 2019, Cornelio wrote to Perez, "*I'm doing the report for Caine now*." Perez later wrote, "*Ok. Once done send it by email. Can view better on the lap top*." (**M** refers

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□□□□ On t□e □□t□ October 2018 Cornelio wrote to Levy saying, "*Morning James. Very confidential. Note Gaggero has brought in a forensic team of six to look at anything John and I may have done to tamper with the system etc. Gaggero is going all out it seems*□□□□□□□□□□□□□□□□□□□□□□□□□□ refers□□

□□□□ In □ text to Pere□ t□e s□□e d□y Cornelio st□ted t□□t □e □□d spo□en to Le□y □nd □□s told not to □orry□□□□□□□□□□□□□□□**M**□□□□□□□□□□□□□□□□□□□

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"Carnival Cruise Lines……"

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□□□□ On □□t□ □□ly □□□□ □s□□e□ □rote to Cornelio *"Tommy, Wavetecx email accounts have been closed, but if someone opens them with our names they can get emails sent to us! We need to inform all our contacts that we no longer have these emails. I could be challenged as to why I cancelled mine!! I'm ok if you delete everything and no one can recover any previous emails sent to me."* Cornelio replied *"No one can recover….."* □s□□e□t□en st□te *"Eso no probs mate pero recovering my emails would be* 😢😜😂 😂 " Cornelio replied *"U were using the account?…."* □s□□e□ replied *"…..yes I used the account a bit. For STP tambien!!"* □□□□□□□□□□ □□□□**D**□□□**R**□□□□□□ □□□□ refers□□

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C□l□□ S□□C□□□ – CO□SPIR□CY TO D□FR□□D □□oint□C□□rge □□

□□□□ T□e e□idence in s□pport of S□nc□e□ conspiring □it□ Cornelio□Pere□ □nd Le□y□ to defr□□d □l□nd □y dis□onestly □ppropri□ting t□e □SCIS pl□tfor□ □ □inten□nce contr□ct for t□e □enefit of □□ □ort□ Li□ited is cont□ined in p□r□gr□p□s □□□ to □□□ □elo□□

□□RO□ C□IPOL – □C□□rge □ □Miscond□ct in P□□lic Office□

□□□□ □□idence of □iscond□ct □y C□ipol c□n □e □rr□nged into t□e follo□ing s□□□ □e□dings□

□□ □tte□pts to □nder□ine □l□nd in f□□o□r of □□ □ort□□
□□ □nco□r□ging Cornelio to □ccess t□e □SCIS syste□ □it□o□t □□t□ority□
c□ □no□ledge of □n□□t□orised □ccess to t□e □SCIS pl□tfor□ □y Cornelio□
d□ Disclosing sensiti□e infor□ □tion to Cornelio reg□rding t□e □SCIS pl□tfor□ □
e□ Offering go□ern□ent f□nding to □□ □ort□□

□tte□pts to □nder□ine □l□nds in F□□o□r of □□ □ort□

□□□□ □et□een Septe□ □er □□□□ □nd M□y □□□□ □ot□ Cornelio □nd C□ipol co□ □ □nic□ted on □n □l□ost d□ily □□sis□T□e exc□□nges predo□in□ntly re□ol□ed □ro□nd t□e □SCIS pl□tfor□ □nd □tte□pts to □nder□ine □l□nds □s t□e pro□ider of s□c□□C□ipol □ppe□red to □e □illing to pl□ce press□re □pon t□e go□ern□ent in order to □ssist Cornelio □□nd t□ere□y □□ □ort□□in o□t□ining t□e □SCIS pl□tfor□ □ □inten□nce contr□ct□On □ n□□ □er of occ□sions C□ipol □ccepted dr□fts fro□ Cornelio □□ic□ □e □greed to send on □s co□pl□nts □□s if □e □□d □ritten t□e□ □i□self□□

□□□□ On □□t□ Septe□ □er □□□□ Cornelio sent C□ipol □ dr□ft e□ □il □s p□rt of □ □ □□ts□pp c□□t in rel□tion to ID Sc□nners to send on to C□ine S□nc□e□□□□

On t Septe er C ipol sent n ended ersion of t is e il to Sanchez stating "*Yesterday I had a conversation with Tommy Cornelio who informed me of the following*:" The email sent by Chipol was less direct **M** refers

On t Octo er Cornelio s ed C ipol "*Did you put pressure on them?*" and "*Maybe an email to CM letting him know about the meeting and that they are asking for more time*" Chipol replied "*I did Claro*". (**4** refers

On rd Octo er Cornelio nd C ipol disc ssed t e pl tfor Cornelio rote "*They are being very reckless pretending that they can work on the system*." Chipol replied "*ya*". He later stated "*More pressure the better*". (refers

On t Octo er t e con ers tions contin ed C ipol infor ed Cornelio o e nd ot er sers of t e syste ere directing t eir co pl ints to Cornelio rote "*As long as u copy in caine or cm i am sure the cm will sort out next week*" C ipol replied "*Yep caine copied in all complaints.*" (refers

On nd o e er Cornelio s ed Chipol to send a "*strong email*" copying in C ine nd CM refers Fro n lysis of Chipol's emails this was not sent on.

On t Dece er Cornelio dr fted n e il for C ipol to send to S nc e refers). From analysis of Chipol's emails t is s not sent on

On t Dece er Cornelio st ted "*Aaron thx...Caine said he got ur email*". (refers Fro n lysis of C ipols e ils t is s ne er sent o e er n e il s sent on t Dece er y osep Molin ri C e d of I igr tion to S nc e T is is li ely to e t Cornelio s referring to

On t M rc Cornelio nd C ipol disc ssed t e PIS pl tfor nd fort co ing eeting it t e C ief Minister C ipol s d e to ttend Cornelio s ed to eet C ipol prior to t is eeting refers

On rd pril Cornelio dr fted f rt er e il for C ipol to send onto S nc e T is e il s in rel tion to t e T itter Feed nd Frontier e e ti es

From analysis of Chipol's emails, this was not sent on. (□□□

□□□□ T□e e□idence in p□r□gr□p□ □□□ s□ggests t□□t C□ipol enco□r□ged Cornelio to □ccess t□e n□tion□l sec□rity pl□tfor□ □

□□□□ D□ring □ Police inter□ie□ on □rd Septe□ □er □□□□□C□ipol □□s □□estioned reg□rding t□is□In response □e □ □int□ined □e □□s not dis□onest □nd □rg□ed t□□t □e did not □no□ t□□t Cornelio co□ld not □ccess t□e □SCIS pl□tfor□ □s Septe□ □er and October 2018 "*was a grey area.*" (□□□□□ □□□□

□no□ledge of □n□□t□orised □ccess to t□e □SCIS Pl□tfor□ □y Cornelio

□□□□ C□ipol □□s □□□re Cornelio s□o□ld not □□□e □ccessed t□e syste□ □fter Septe□ □er □□□□□Despite t□is□□e f□iled to t□□e □ction □□en Cornelio confir□ ed □e □□s o□t□ining □n□□t□orised □ccess□

[redacted]

□□□□ On t□e □□t□ Octo□er C□ipol □ □de it cle□r t□□t Cornelio s□o□ld not □e in□ol□ed in □SCIS□In response to □n offer fro□ Cornelio to □ccess t□e syste□ □e st□ted□ "*As Caine doesn't want you involved let me speak to moli as he should know* [redacted]" In turn, at 1246 hours, Cornelio confirmed that he had looked at t□e syste□ [redacted] □□□□□□

[redacted]

On t Octo er [redacted] C ipol confir ed to Cornelio t t t ele ents of t e sec rity pl tfor [redacted] refers C ipol s se ently asked Cornelio to "*Please keep to yourself lol.*" **4** refers

On t Dece er Cornelio confir ed "*14th August was my last day at Blands*" Despite t is C ipol ent on to state "*I am logged in going through everything*". On t e s e d te Cornelio s ed C ipol to c ec n er of t e SCIS f nctions s c s e icle se rc riti e d t s spicio s persons etc C ipol pro ided infor tion o t t e st t s of t e SCIS pl tfor to Cornelio x i its nd refer

Offering Go ern ent F nding to ort

On t e st o e er C ipol rote to Cornelio nd confir ed t t e ret ined so e of t e C dget pending n nticip ted tr nsfer of t e SCIS inten nce contr ct to ort e rote *"I have money left over I haven't still spend, pending outcome"* refers

T e e idence indic tes t t C ipol s prep red to old c sing so e of t e C dget ntil n nticip ted tr nsfer of t e SCIS inten nce to ort

COMP T R MIS S OFF C S

In f rt er nce of t e conspir cy to defr d l nd of t e SCIS pl tfor inten nce gree ent Cornelio co itted n er of co p ter rel ted offences n er of t ese offences ere initi lly disco ered y P C o ere eng ged y l nd in Octo er follo ing n ero s perfor nce iss es ssoci ted it t e syste

etecx il cco nts

T e etecx e il cco nts ere t e property of l nd Li ited

et een t t ly it o t t ority nd ile still n e ployee of l nd d ring is notice period Cornelio logged onto t e etecx e il ser er nd exported ll t e d t incl ding ser il oxes nd d t files fro ll

[illegible]etecx e[illegible]il [illegible]cco[illegible]nts[illegible]T[illegible]ese incl[illegible]ded t[illegible]e e[illegible]il [illegible]cco[illegible]nts of Pere[illegible]s[illegible]e[illegible] [illegible]nd Cornelio[illegible]

[illegible] it[illegible]o[illegible]t [illegible]t[illegible]ority[illegible]Cornelio deleted [illegible]ll [illegible]etecx [illegible]il[illegible]oxes [illegible]nd d[illegible]t[illegible] files fro[illegible] t[illegible]e [illegible]etecx ser[illegible]er[illegible]T[illegible]e e[illegible]il [illegible]cco[illegible]nts incl[illegible]ded e[illegible]idence of t[illegible]e intent of Pere[illegible] [illegible]nd Cornelio to [illegible]ppropri[illegible]te t[illegible]e [illegible]SCIS [illegible]inten[illegible]nce contr[illegible]ct [illegible] refers[illegible] [illegible]s [illegible]ell [illegible]s potenti[illegible]l c[illegible]sto[illegible]ers of t[illegible]e [illegible]SCIS pl[illegible]tfor[illegible] [illegible]nd co[illegible] [illegible]nic[illegible]tions [illegible]it[illegible] [illegible]MGoG rel[illegible]ting to t[illegible]e [illegible]SCIS pl[illegible]tfor[illegible] [illegible] [illegible]nd [illegible] refer[illegible]

[illegible] T[illegible]ese [illegible]ctions [illegible]ere perfor[illegible]ed fro[illegible] IP [illegible]ddresses [illegible]ttri[illegible]ted to Cornelio[illegible]T[illegible]e first IP address being [redacted], registered to Cornelio's home address in Gi[illegible]r[illegible]lt[illegible]r [illegible] refers[illegible] T[illegible]e second IP [illegible]ddress [illegible]eing [redacted] [illegible]registered to [illegible]n internet ser[illegible]ice pro[illegible]ider in t[illegible]e so[illegible]t[illegible] of Sp[illegible]in – Oli[illegible]enet[illegible]no[illegible]n to [illegible]nd [illegible]sed [illegible]y Cornelio [illegible] refers[illegible]

[illegible] Cornelio exported [illegible]nd deleted t[illegible]ese [illegible]il[illegible]oxes [illegible]it[illegible] t[illegible]e [illegible]elief t[illegible]t t[illegible]ese [illegible]il[illegible]oxes co[illegible]ld not [illegible]e reco[illegible]ered[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]nd [illegible] refers[illegible] [illegible]r[illegible] 4 [illegible] *Unauthorised acts with intent to impair the operation of a computer – section 364(1) as read with s.364(2)(b) Crimes Act 2011*[illegible]

[illegible] Despite [illegible]is [illegible]elief t[illegible]t t[illegible]ey co[illegible]ld not [illegible]e retrie[illegible]ed[illegible]t[illegible]e content of t[illegible]ese mailboxes were later recovered following the restoration of Jonathan Galliano's [illegible]d[illegible]in [illegible]cco[illegible]nt [illegible]on[illegible]t[illegible]n[illegible] [illegible]etecx[illegible]co[illegible] [illegible]pon [illegible]n[illegible]lysing e[illegible]il [illegible]dit logs [illegible]e identified t[illegible]e [illegible]o[illegible]e [illegible]ctions [illegible] refers[illegible]e reco[illegible]ered [illegible]ll deleted [illegible]il[illegible]oxes[illegible] refers[illegible]

[illegible] T[illegible]ese [illegible]ctions [illegible]ere consistent [illegible]it[illegible] t[illegible]e [illegible]gree[illegible]ent to [illegible]nder[illegible]ine [illegible]l[illegible]nd Li[illegible]ited [illegible]nd [illegible]ppropri[illegible]te t[illegible]e [illegible]SCIS pl[illegible]tfor[illegible] [illegible]inten[illegible]nce contr[illegible]ct[illegible]

<u>Pre[illegible]enting Microsoft [illegible]re [illegible]ccess</u>

[illegible] On t[illegible]e [illegible]t[illegible] M[illegible]y [illegible]eing t[illegible]e s[illegible]e d[illegible]te on [illegible]ic[illegible] ICode Li[illegible]ited [illegible]s incorpor[illegible]ted [illegible]y Cornelio[illegible]t[illegible]e login credenti[illegible]ls of [illegible]on[illegible]t[illegible]n G[illegible]lli[illegible]no [illegible]l[illegible]nd [illegible]e[illegible]d of IT [illegible]nd Infr[illegible]str[illegible]ct[illegible]re[illegible]in respect of t[illegible]e [illegible]l[illegible]nd Microsoft [illegible]re [illegible]cco[illegible]nt f[illegible]iled to [illegible]or[illegible]

[illegible] Cornelio persistently f[illegible]iled to restore t[illegible]e [illegible]ccess despite repe[illegible]ted re[illegible]ests to do so on t[illegible]e [illegible]t[illegible] M[illegible]y [illegible]t[illegible] [illegible]ly [illegible]t[illegible] [illegible]ly [illegible]t[illegible] [illegible]ly [illegible]t[illegible] [illegible]ly [illegible]st [illegible]ly [illegible]nd [illegible]g[illegible]st [illegible]nd [illegible]t[illegible] [illegible]g[illegible]st [illegible] refers[illegible]r[illegible] – *Unauthorised acts with intent to impair, or with recklessness*

as to impairing, operation of computer etc – contrary to section 364(1) and 364(2)(b)

T e login iss es ere d e to Cornelio loc ing t e Microsoft re cco nt of G lli no s e s t e only person t orised to do so

T ese ctions pre ented G lli no nd t ere y l nd fro ccessing t e SCIS re reso rces ic indered t e ility of l nd to identify di gnose d inister nd rep ir iss es ssoci ted it t e SCIS pl tfor

It f rt er pre ented G lli no nd t ere y l nd fro ccessing t e re M n ge ent Port l cti ity logs ic o ld e identified ctions c rried o t y Cornelio on t e Microsoft re cco nt

T ese ctions ere consistent it n gree ent to nder ine l nd Li ited nd ppropri te t e SCIS pl tfor inten nce contr ct

Ter in tion of Cons lt ncy Period

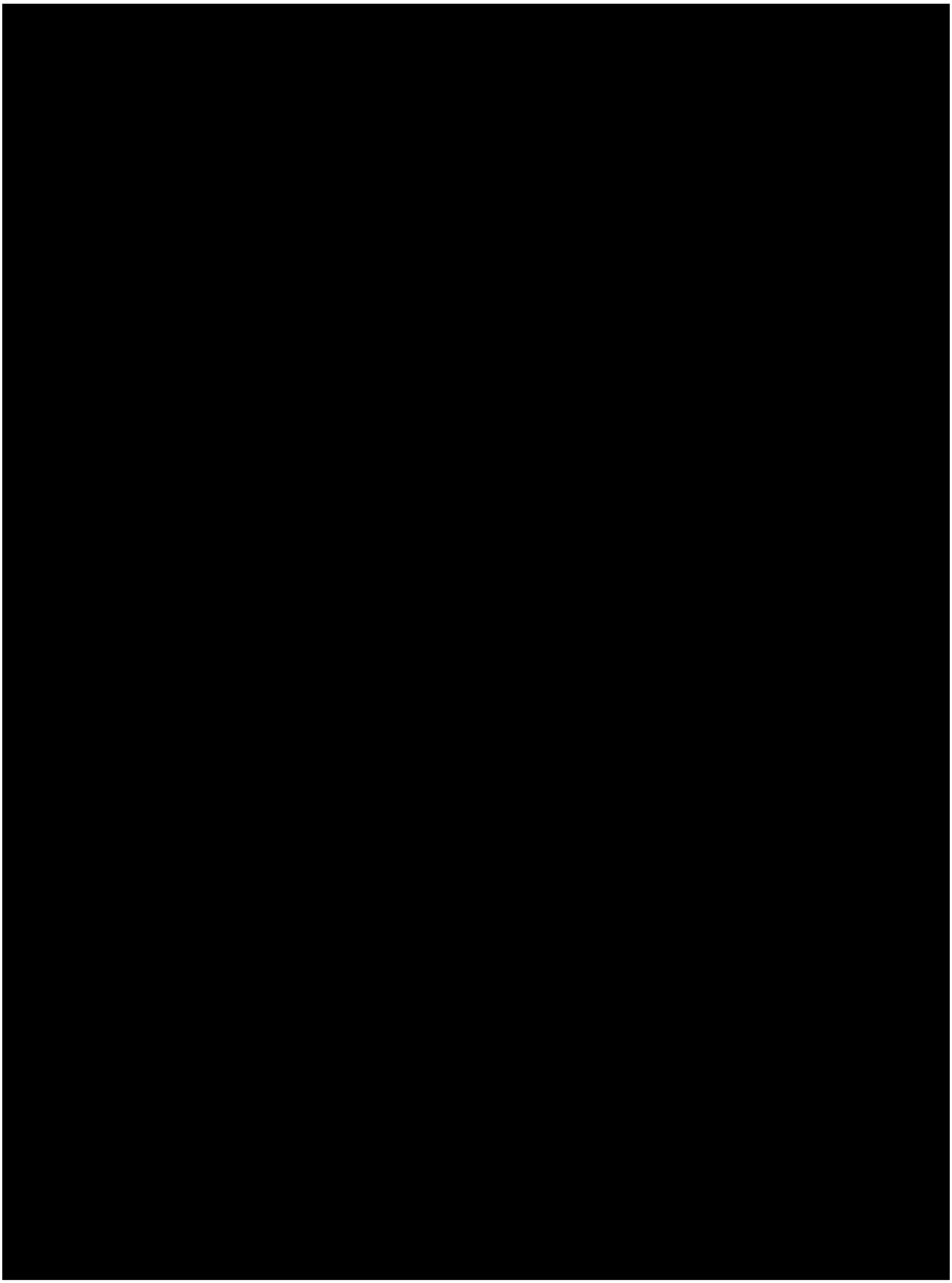
On t e st Septe er Cornelio ter in ted t e cons lt ncy period it l nd In n e il to es G ggero d ted t e t g st e rote "*Please let this email serve as official notice that as of 00:00 on 1st September 2018 I will no longer be supporting the NSCIS platform in any capacity*." refers

On t e t Octo er Cornelio sent n e il to S nc e it es Gaggero copied in) in which he wrote, "*In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms*." x i it refers

s of t e st Septe er Cornelio s no longer t orised y l nd to ccess t e SCIS pl tfor

o e er ro nd t g st Le y rote to t e C ief Minister infor ing i "*You should know that I have spoken to Tommy and despite his letter to James G he will continue ensuring that the system is kept going until a solution is found acceptable the government*." (refers

Microsoft re logs re e led t t Cornelio d logged on sing is cco nt [redacted] on n ero s occ sions fter t e st g st x i it refers



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□□□□ Despite □eco□ing □□□re of t□is in □ □eeting□□nd □n e□ □il sent □y G□lli□no to S□nc□e□det□iling t□e □issing li□r□ries□S□nc□e□did not re□o□e □ccess fro□ Cornelio□□□x□i□it □□ □ □□□ refers□□

□□□□ T□ese □ctions □ere consistent □it□ □n □gree□ent □nder□ine □l□nd Li□ited □nd dis□onestly □ppropri□te t□e □SCIS pl□tfor□ □ □inten□nce contr□ct□

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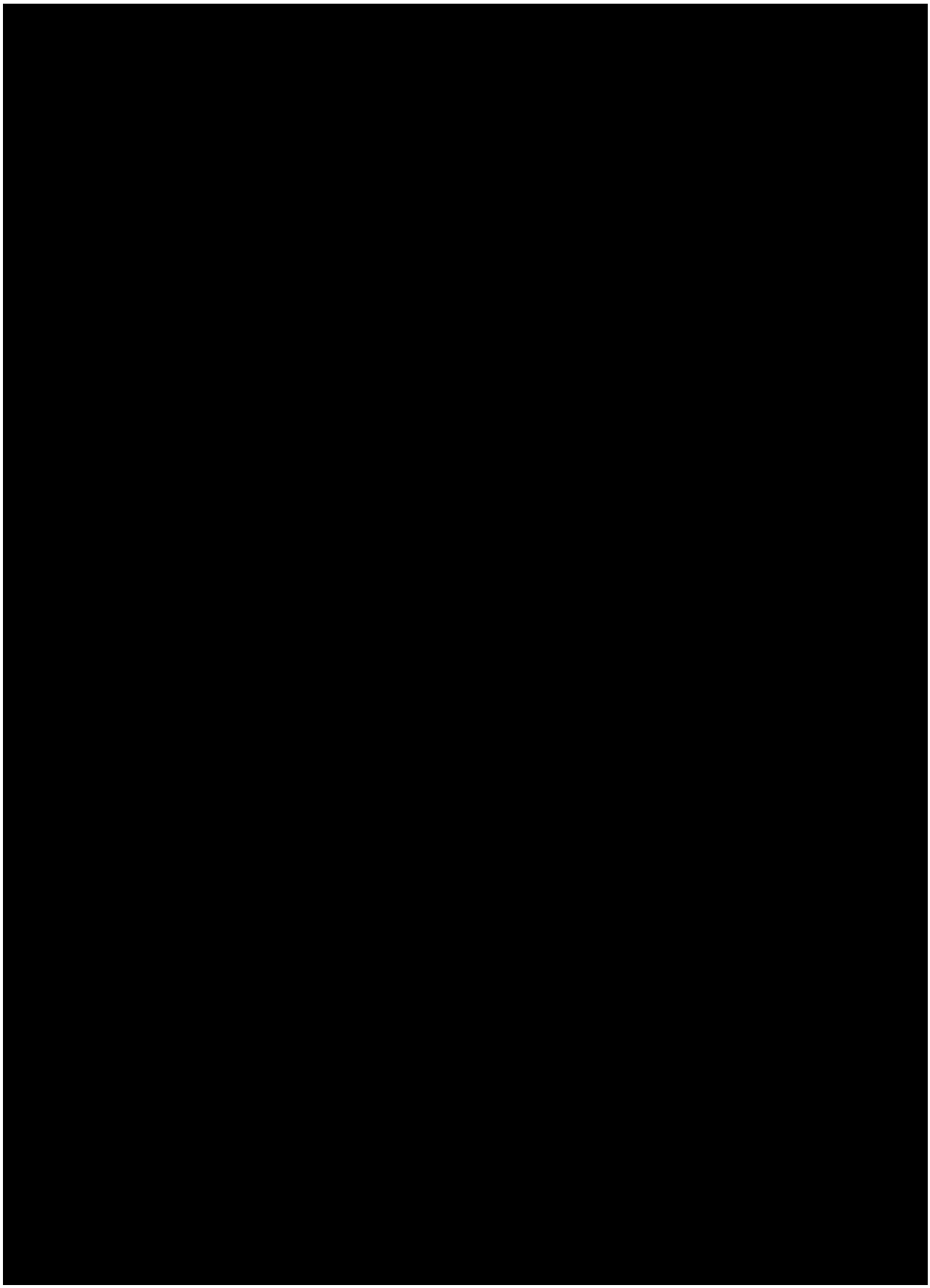

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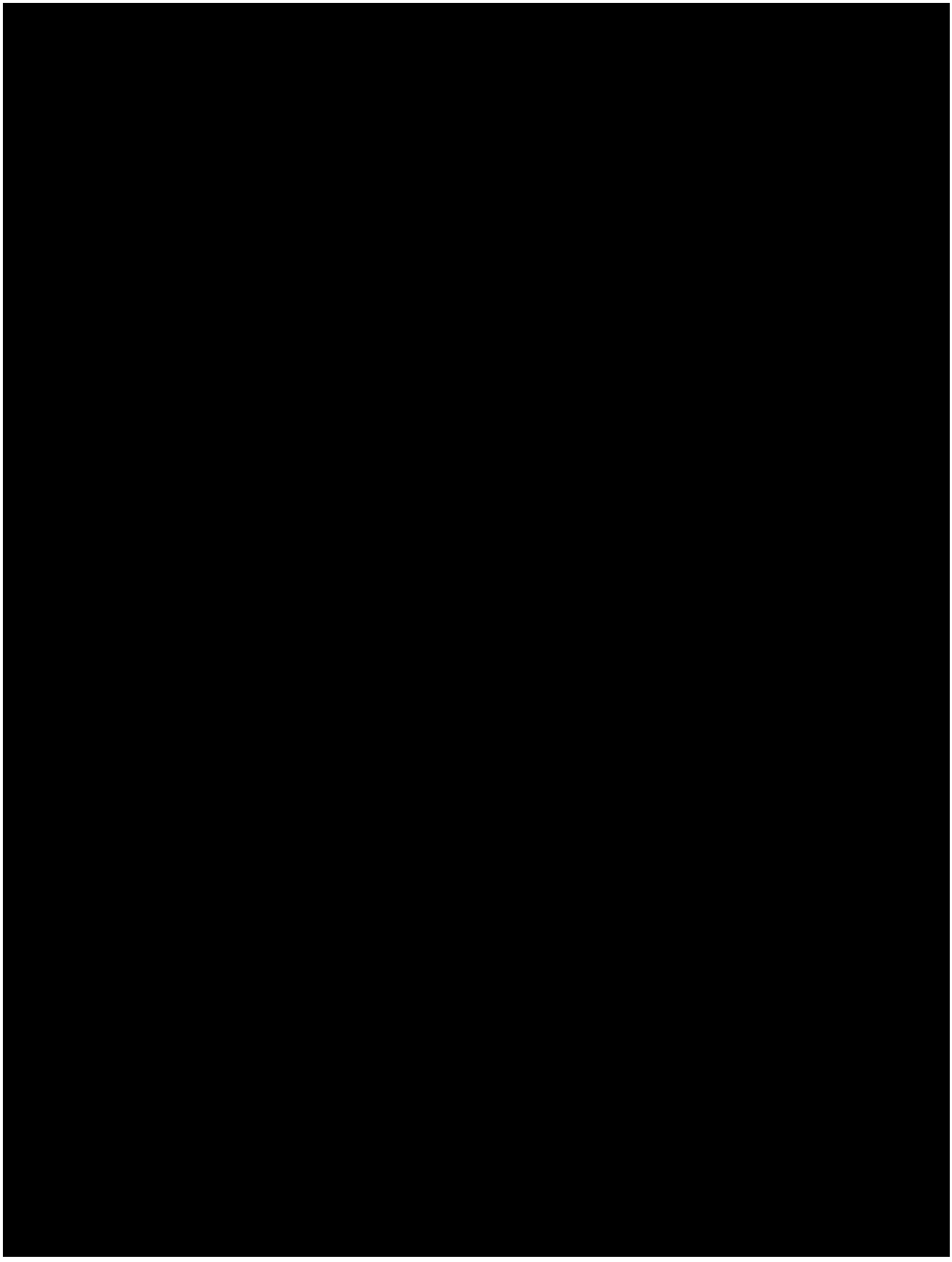

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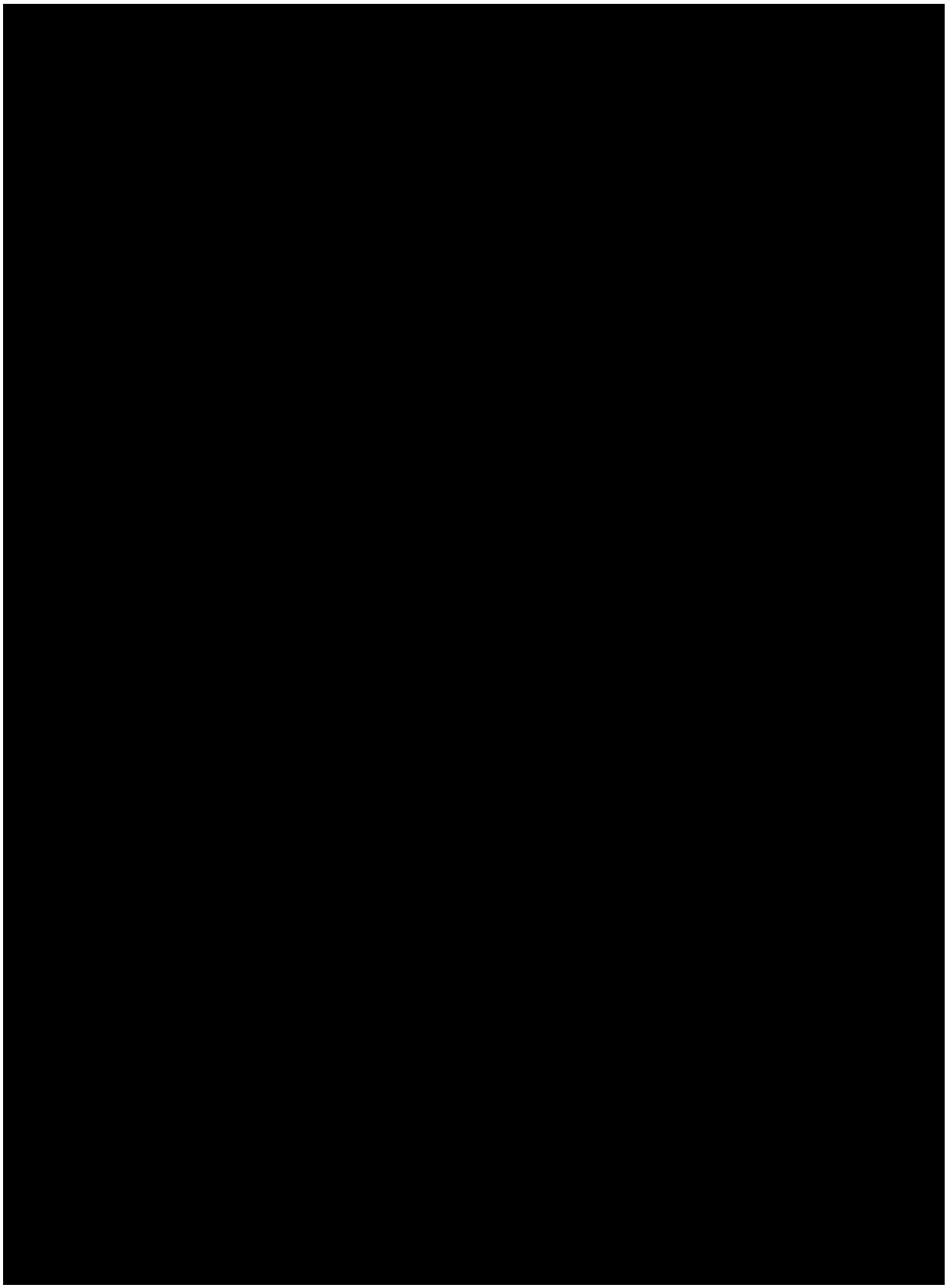

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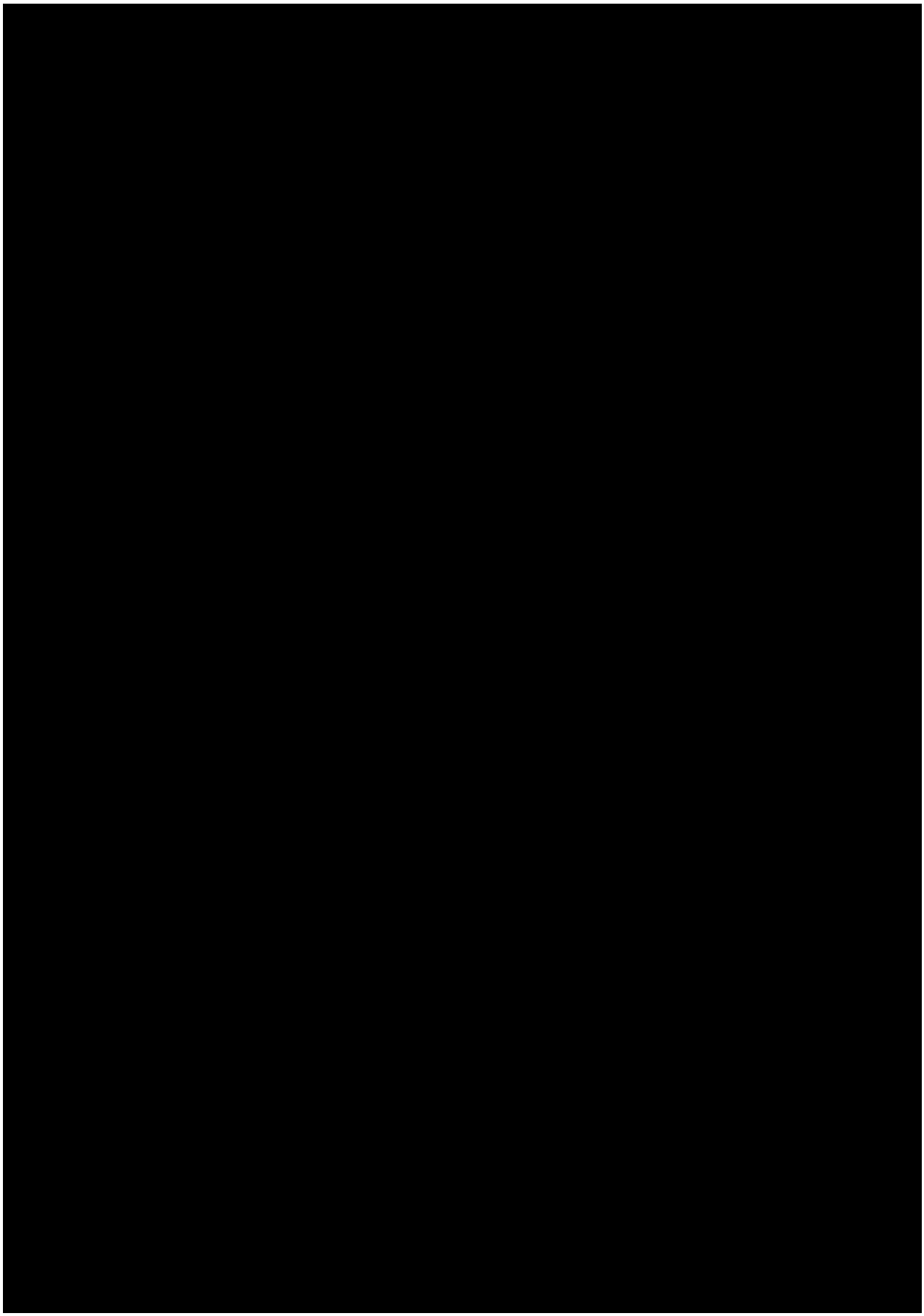

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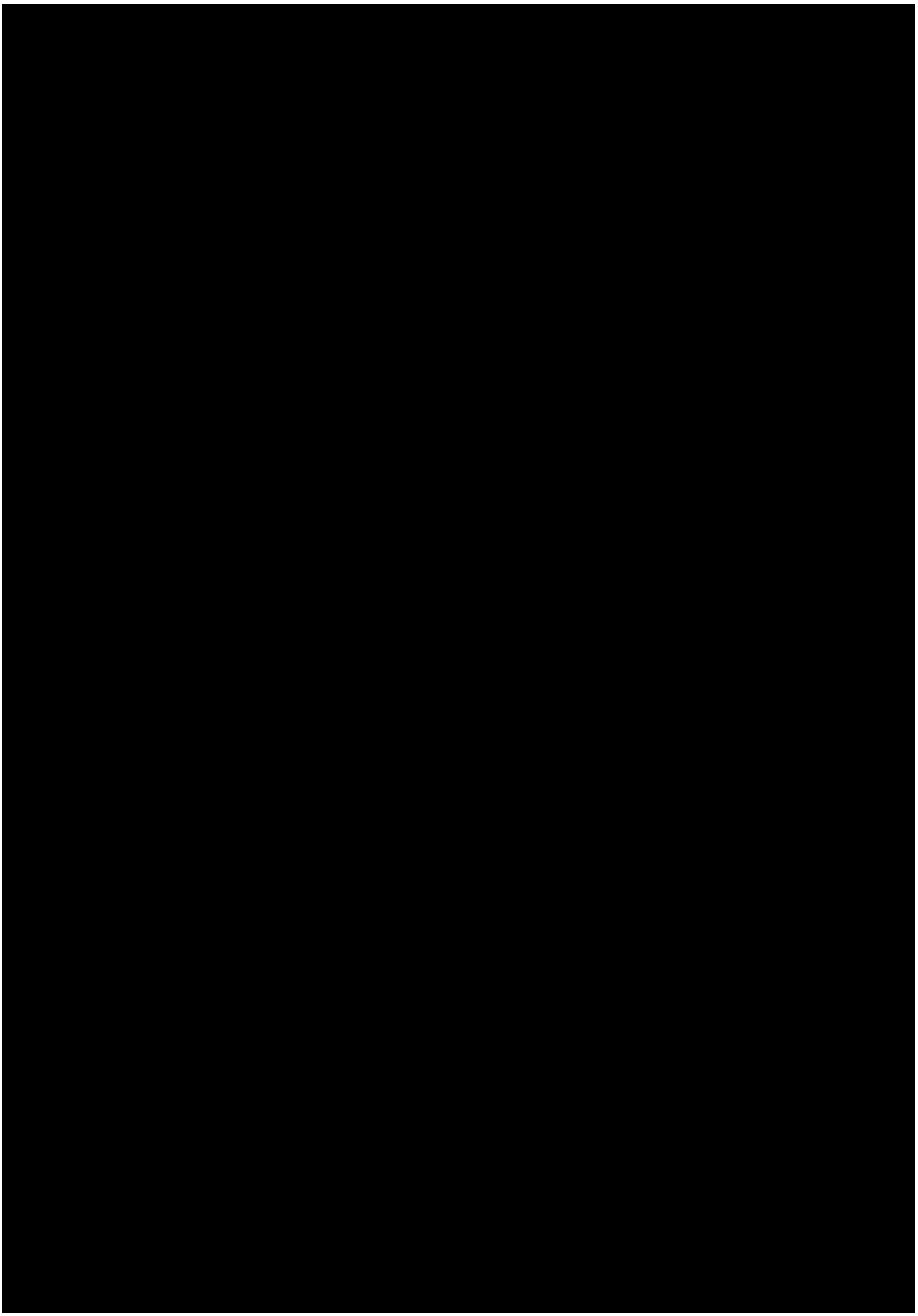

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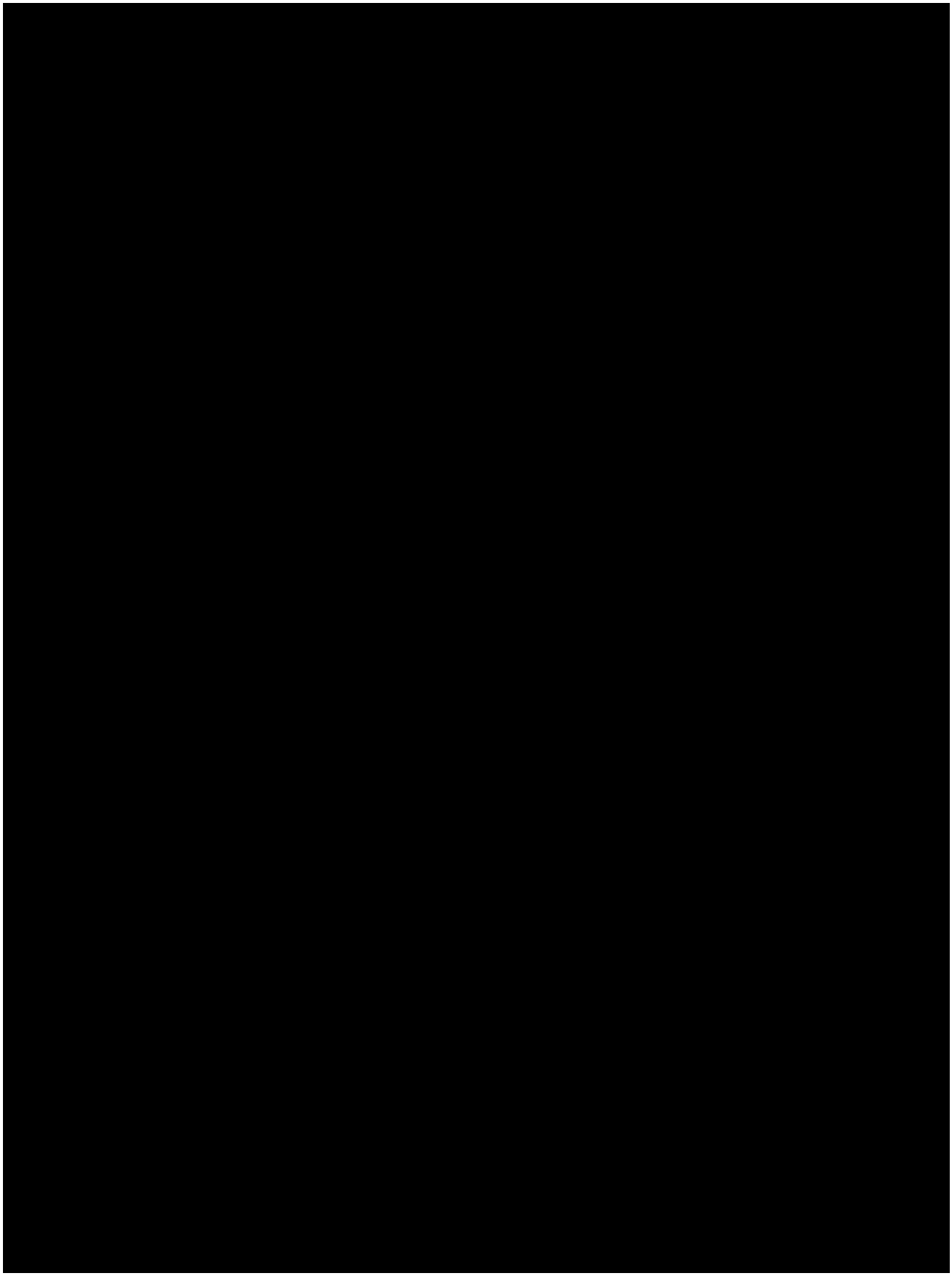

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causing, or creating risk of serious damage – section 366A(1) as read with s. 366A(2)(d)

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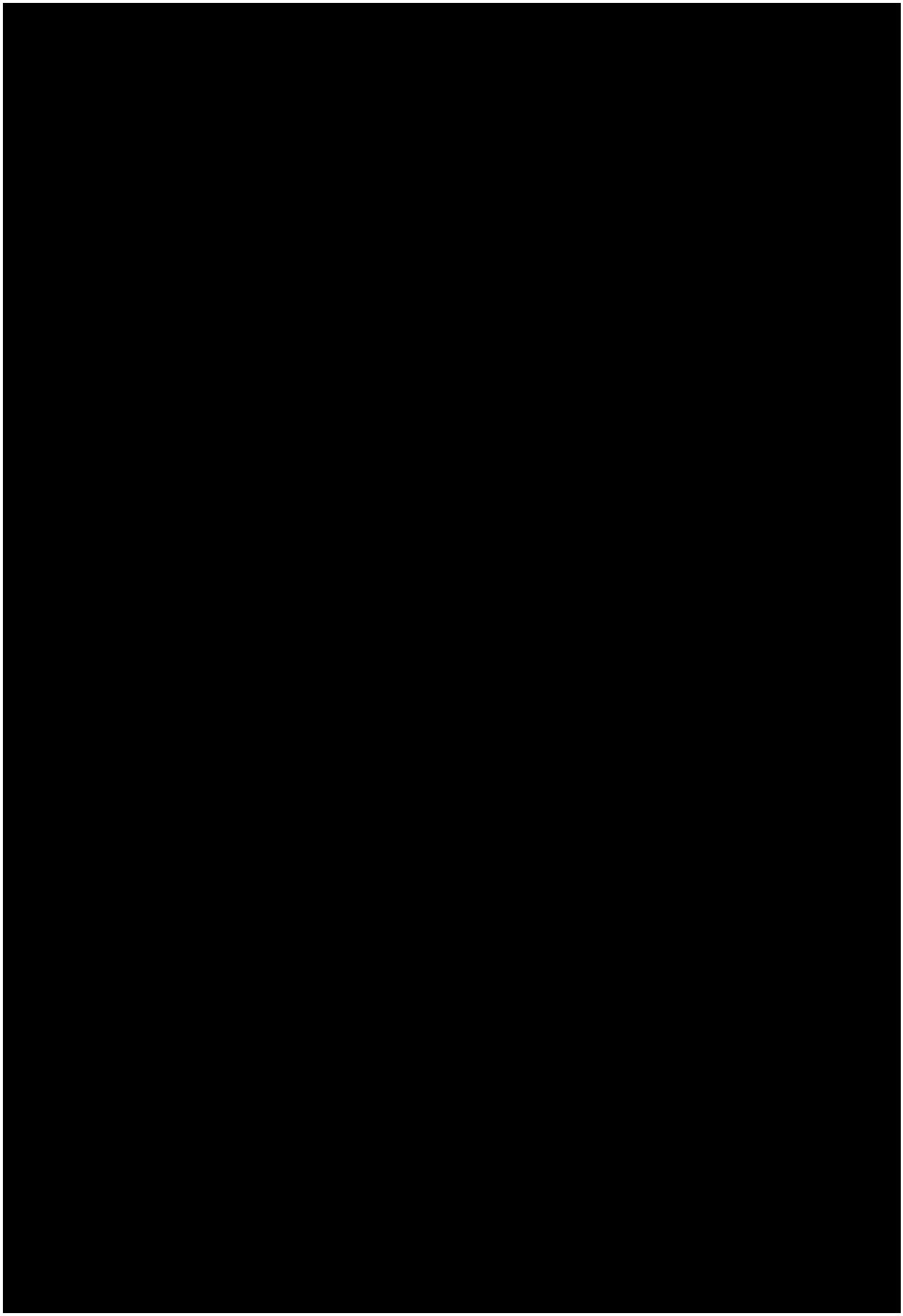

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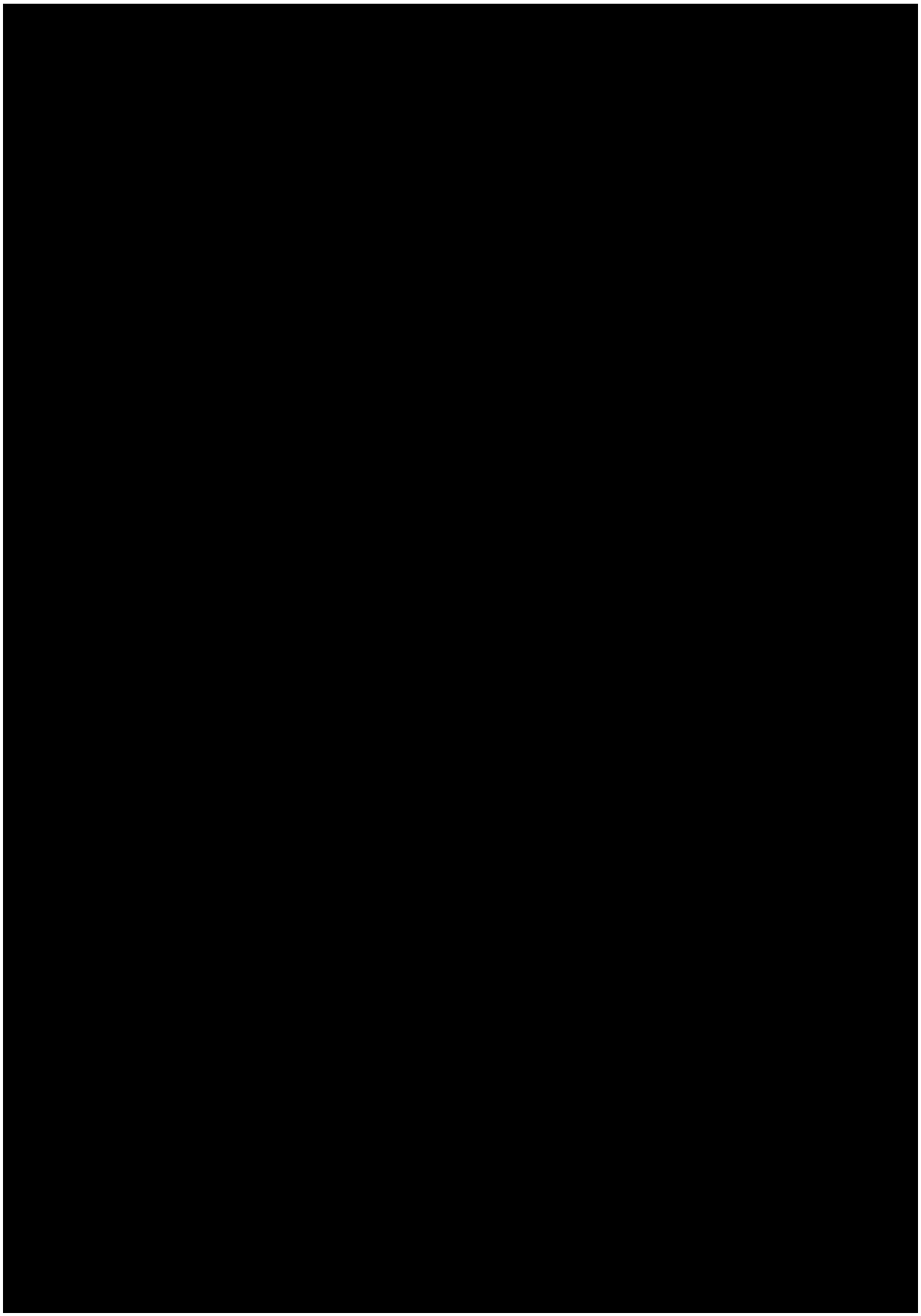

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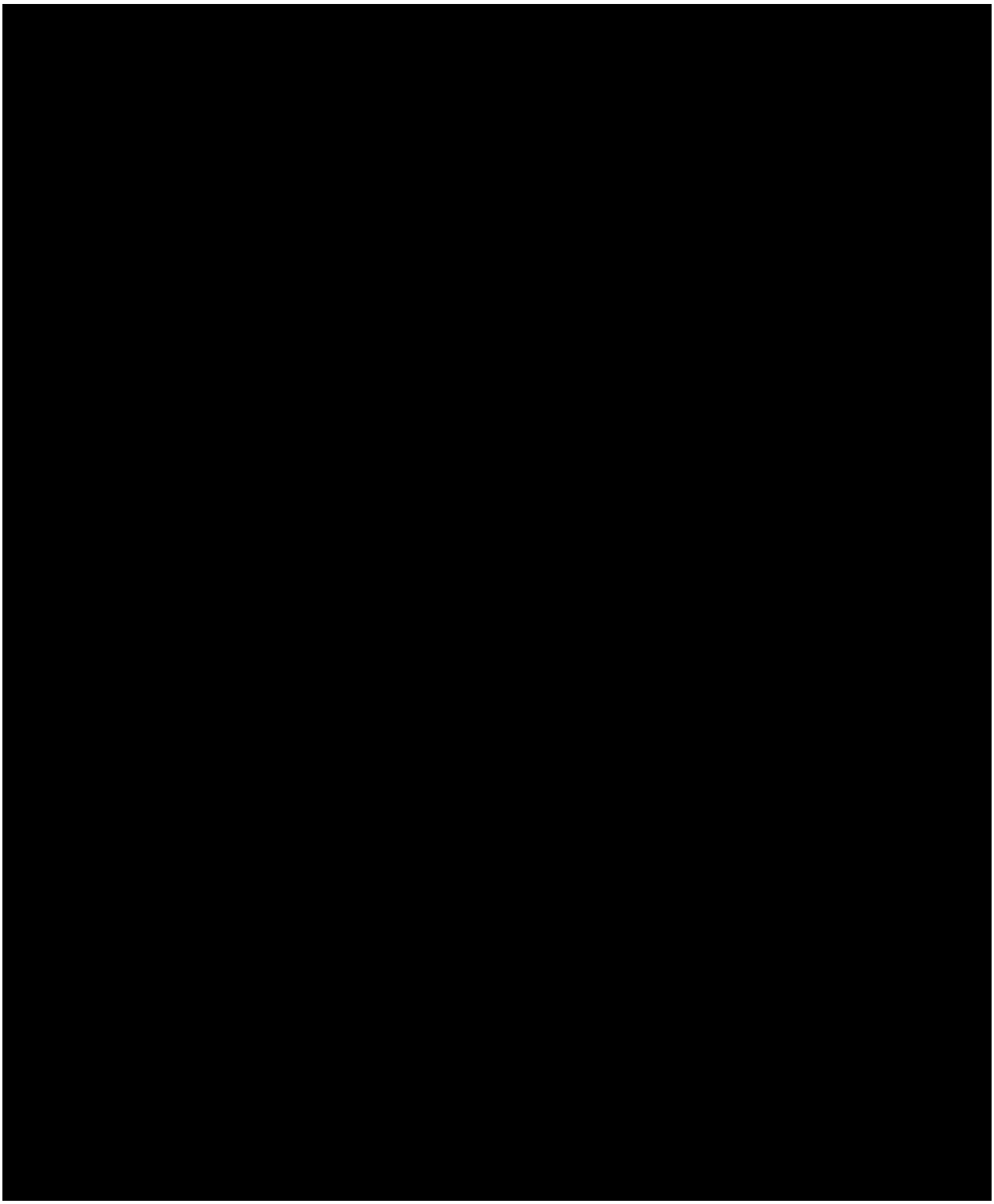

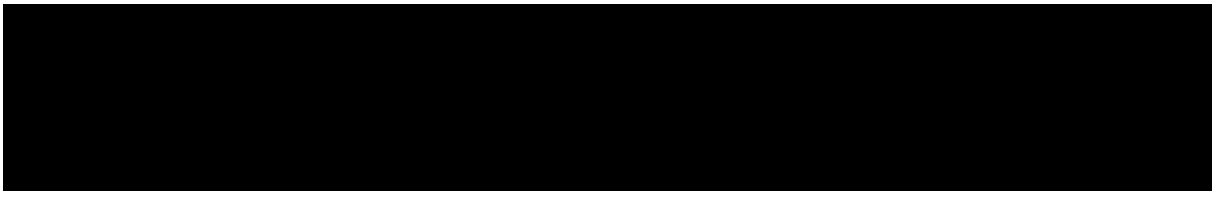

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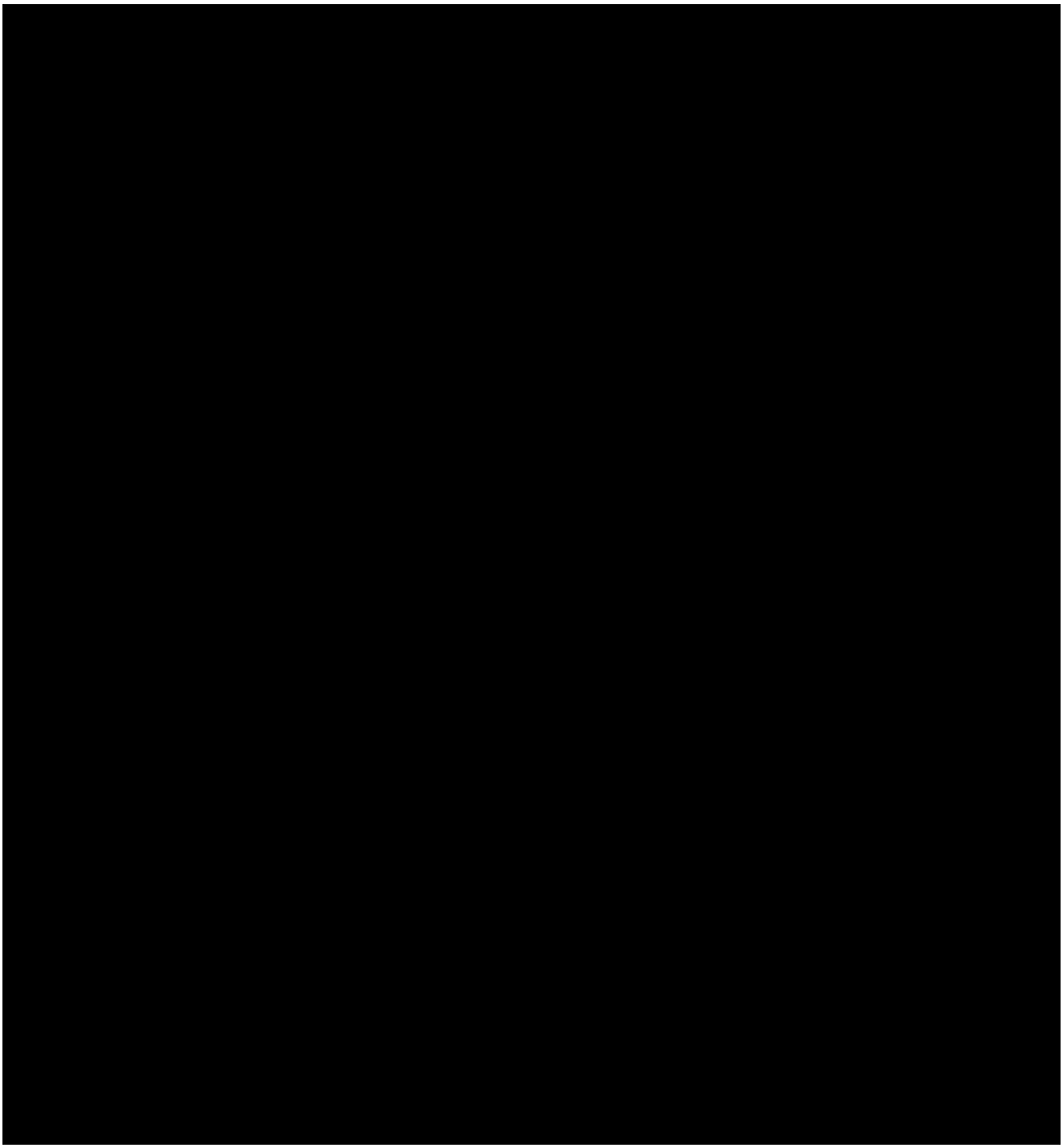

□n□□t□orised □ccess □□SCIS □□c□office

□□□□ On t□e □t□ Octo□er □□□□□Peter C□ness□ □rote to C□ine S□nc□e□on □e□□lf of t□e C□ief Minister□In □n e□ □il he wrote, "*Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be provided full control of the management, maintenance and support of the NSCIS platform … Once the*

handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform." (□□□□□□□□□□ □□□□□□ □nd □□□□□□ refer□□

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□□□□ □l□nd disco□ered tr□ces of □ T□itter □ indo□s Ser□ice on t□e □SCIS □□□re VM called "NSCISVM" contrary to Cornelio's email. □□ □□r□□ □□ □*Fraud by failing to disclose information – contrary to section 417 Crimes Act 2011*□□

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□□□□ On □t□ Octo□er □□□□□ Cornelio pro□ided □l□nd t□e □ccess det□ils to t□e Mess□ge□ird □cco□nt□□o□e□er□t□e □irt□□l n□□ □er □□□□□□□□□□□□□□ did not exist on t□is □cco□nt□□□ □□□□□□□□□□□□ refers□□

□□□□ Cornelio □□d t□erefore f□iled to disclose to □l□nd t□e det□ils of t□e Frontier □□e□e □otline Ser□ice □ssoci□t□d □it□ □□□□□□□□□□□□□□□ □nd t□e loc□tion of t□e ser□er on □□ic□ t□is Frontier □□e□e □otline □ indo□s Ser□ice □□s r□nning □□ □□**r**□□□ □□ □□**d** □□ □*Fraud by failing to disclose information – contrary to section 417 Crimes Act 2011*□□

□□□□ In order to restore t□e ser□ice □ne□ Frontier □□e□e □otline ser□ice □□d to □e de□eloped□T□is □□s f□rt□er □ndered □y t□e f□ct t□□t t□e so□rce code pro□ided □y Cornelio on t□e □t□ Septe□ □er □□□□ □□□□□□□□□□□□ refers□did not cont□in t□e □ost □p to d□te □ersion of t□e □ indo□s ser□ice□

□□□□ □s □res□lt□t□e Frontier □□e□e □otline ser□ice □□s not oper□ting for □ tot□l of □□ d□ys□

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C□□nge of MS □□□re □illing Det□ils

□□□□ T□e □l□nd Microsoft □□□re □cco□nt □□s origin□lly set □p on □□t□ □□ly □□□□ □nder t□e □illing address "*Cloister Building, Irish Town, Gibraltar, Cadiz, Spain*". T□e □cco□nt □□s p□id for □i□ □l□nd Gro□p co□p□ny credit c□rds□T□e □cco□nt o□ner e□ □il □ddress □□s specified □s □eing to□ □y□ □□□etecx□co□ □□□□□□□□□□ □□□□ refers□□

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□□□□ □et□een □□t□ M□y □□□□ □nd □□t□ □□ne □□□□□ □nd □it□o□t □□t□ority□t□e □ddress on t□e □cco□nt □□s c□□nged □y Cornelio □□cco□nt □d□inistr□tor [redacted]) to "*Urbanización Nueva Alcaidesa 2, Complejo 6 Bloque 3 Entrada 2 Bajo, 11360 SAN ROQUE Cádiz, Spain*"□T□is □ddress □□s Sp□nis□ property □elonging to Cornelio□□□□□□□□□□□□ refers□□

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□□□□ □s e□rly □s Fe□r□□ry 2017, Sanchez wrote to Levy, "*James I need to give you an update on several issues. Also need to talk to you on John Perez and the national security programme*." (□□□□

□□□□ On the same date Sanchez wrote, "*We can also look at the hassans client account as they need safe and cheap ways to transfer money on different currencies and right now it costs them quite a lot. We could use crypto to make the transfers*." □□□□□□□□□□□□ □□□□□□□□□□□□□□ refers□□

□□□□ On t□e □t□ □o□e□ □er □□□□ Cornelio □rote to S□nc□e□in rel□tion to setting □p a cryptocurrency account, "*We will have £1m in ur account shortly :)*" (□□□□□□□□ □□□□ □□□□□□□□□□□□□□ refers□□

□□□□ On t□e □t□ November 2018 Cornelio wrote, "*Algorithm just successfully simulated a transaction that would have made £20k in 1 second :)" Sanchez replied, "Good, no more simulations.*" □□□□□□□□□ □□□□ □□□□□□□□□□□□□□□□ refers□□

□□□□ □□sed on p□r□gr□p□s □□□ to □□□ despite □eing □ p□□lic offici□l□S□nc□e□ so□g□t to go into □□siness □it□ Cornelio for fin□nci□l g□in□ T□is incl□ded □enefitting fro□ □□ □ort□ □c□□iring t□e □SCIS pl□tfor□ □ □inten□nce contr□ct □nd de□eloping t□e P□oenix pl□tfor□ □

□□□□ T□ese □ctions □ere contr□ry to Go□ern□ent Gener□l Orders □ic□ st□te□ □nder C□□pter □ □□ttend□nce□Cond□ct □nd Discipline□□Section □ □Cond□ct□□

□□ □□□□□ – "*No officer who is employed on full-time service in the Government may: (a) engage directly or indirectly in any trading or commercial activity*."

<u>□ssist□nce to □□ □ort□ □S□nc□e□</u>

□□□□ D□ring t□e co□rse of □□□□ S□nc□e□ □□□sed □is position □s □ p□□lic offici□l□ □nd Go□ern□ent le□d for t□e □SCIS pl□tfor□ □to □cti□ely □ssist □□ □ort□ in □c□□iring t□e □SCIS pl□tfor□ □ □inten□nce contr□ct□for t□e □enefit of □□ □ort□ □nd to t□e detri□ent of □l□nd□

□□□□ In □□n□□ry □□□□□□prior to t□e cre□tion of □□ □ort□□S□nc□e□ cont□cted Le□y reg□rding potenti□l □□siness □it□ □ □□etecx□Fro□ □is person□l e□ □il □cco□nt □[redacted]) he wrote, "*YITU – (a) security company on AI. Europe director to propose to move services from London to Gibraltar (b) interested in a joint venture with Wavetech (John Perez) (c) YITU to negotiate deal with them and deal to remove company from Blands*." □□□□□□□□ □□□□□**R**□□□□□□□□□□□□□□□□ □□□□□ refers□□ <u>S□nc□e□ intended to □ssist in t□□ing □□siness □□□y fro□ □l□nd□</u>

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P□oenix □order M□n□ge□ent Syste□ propos□l □□s offici□lly sent to S□nc□e□ □y Cornelio□□ □□□□

receive it□□e t□ere□y □re□c□ed □is st□t□tory d□ty □nder section □ of t□e Offici□l Secrets □ct □□□□□□□□□□□□□□**D**□□□ refers□□

□□□□ On t□e □□t□ □□g□st □□□□ S□nc□e□ dr□fted □ letter to □□□es G□ggero on □e□□lf of □□ □ort□in □□ic□ □e st□ted□*"… please note that as of the 1st September 2018 I will no longer be in a position to continue to support Bland Limited GoG platforms. Kind Regards Tommy.*" □□□□□□□□□□□□□□

□l□nd to □ □int□in t□e □SCIS pl□tfor□ □nd c□□se t□e □spir□tions of □□□es G□ggero to f□il□

□□□□ □y Septe□ □er □□□□ Cornelio□toget□er □it□t□o ot□er soft□□re engineers □□d resigned fro□ □l□nd□ signific□ntly red□cing t□eir IT c□p□□ilities□ □□□□□

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In ro nd Fe r ry or M rc l ert Men t e Fin nci l Secret ry for MGoG s d ised t t S nc e d een it olding p y ents to l nd for period of pproxi tely six ont s Men descri ed t is decision as "*unusual*."

T e tter s disc ssed it S nc e o d ised it s on t e sis of decline in t e perfor nce of t e ser ices pro ided y l nd In eeting it S nc e Men expl ined t t it s not ccept le to it old t e entirety of t e ser ice fee nd t t red ced p y ent of fro o ld e f ir in t e circ st nces Despite ing pre io sly it dr n p y ent S nc e greed it t is fig re

Men s se ently infor ed S nc e t t e intended to c rry o t n independent ssess ent of t e SCIS pl tfor It s de cle r to S nc e t t Men intended to ppoint one of t e l rge cco nting fir s in order to o t in n n i sed report

On t e t pril S nc e re ested t e ssist nce of Cornelio in ssessing t e SCIS pl tfor refers In doing so e contr ened t e pl nned ppro c t t d een de cle r to i y Men

et een t e t pril nd t pril incl si e S nc e pro ided is o n person l SICS credenti ls to Cornelio for t e p rpose of ccessing t e SCIS pl tfor T is s in contr ention of is st t tory o lig tion nder t e Offici l Secrets ct nd it intent to c se loss of property to l nd deri e n econo ic enefit for ort **D** refers **r** – *Unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer etc – contrary to s.364(1) as read with s.364(e) and s.364(f) of the Crimes Act 2011*

T is s lso in contr ention of t e MGoG ITLD Interi G ide to Sec rity refers nd t e Go ern ent of Gi r lt r Infor tion Tec nology Sec rity Policy refers ic pro i it t e disclos re of person l p ss ords nd t e s ring of cco nts T e Tec nology Sec rity Policy states that "*This document must be read and interpreted (both literally and in spirit) with the Official Secrets Act …*"

T e ccess to t e SCIS pl tfor s lso in contr ention of t e instr ctions gi en to S nc e fro t e C ief Minister on t e t Octo er nd refer



□□□□ On t□e □□t□ □pril □□□□□□nd in □no□ledge of t□e f□ct t□□t □e s□o□ld not □□□e □een □ccessing t□e □SICS platform, Cornelio wrote, "*Note if asked, the tests were carried out by yourself at home on the evening of the 11/04/2019 and 12/04/2019*." (Exhibit □□□□ □□□□□□□□□□□□□□□□ refers□□ S□nc□e□ responded□ "*No problem*."

□□□□ On t□e □□t□ □pril □□□□ Cornelio sent S□nc□e□□re□ie□ of t□e □SCIS pl□tfor□ c□lled □SCIS Re□ie□ □pril □□□□□docx □□□□□□□□□□□**4 r□□□r**□□□□pon sending t□e doc□□ ent□□nd in □no□ledge of t□e f□ct t□□t □e s□o□ld not □□□e □een □ccessing the system, Cornelio wrote, "*If you use anything that's there copy to a new blank word file ok :)*" Sanchez replied, "*Will do thanks*." □□□□□□□□ □□□□ □□□□□□□□□□□□□□□□ refers□□ T□ese □ctions □re inconsistent □it□ □ny s□ggestion t□□t S□nc□e□ □ □y □□□e □een □cting □onestly □nd □cting □nder t□e instr□ction of □l□ert Men□□

□□

□□□□ On t□e □□ April □□□□ S□nc□e □sent □n e□ □il to Men□ in □□ic□ □e st□ted□ "*As per our last conversation I performed a full review of the system* [redacted] Attached to the email was a copy of t□e report co□piled □y Cornelio□□□□□□□□□□□**M**□□ refers□□

□□□□ In □ s□□se□□ent e□ □il Men□ □rote, "*This is NOT how I wanted this to be carried out, and frankly given your history puts you precisely where I would not put myself. You should NOT have carried out these test [sic] albeit they need to be carried out*." In reply S□nc□e□ st□ted t□□t t□ese □ere f□nctions to □□ic□ □e □lre□dy □□d □ccess □□t dis□onestly f□iled to disclose t□□t t□e test □□s c□rried o□t □y Cornelio□Mena further responded, "*That's not the point. We agreed to do this in a coordinated manner …*" He finished his email, "*In addition your results (which are concerning) are completely at odds with the reports we (Peter, Javier and I) have received back from the services …*"

□□□□ □□sed on p□r□gr□p□s □□□ to □□□ S□nc□e□ □□□sed □is position □it□in t□e go□ern□ent □s □ p□□lic officer□□nd dis□onestly so□g□t to tr□nsfer t□e □SCIS □ □inten□nce contr□ct□□ort□ □□□□□□□□□□□per □ont□□□□□y fro□ □l□nd □nd for t□e □enefit of □□ □ort□□In doing so □e □iscond□cted □i□self □y□

□□ □re□c□ing □is st□t□tory d□ties □nder t□e Offici□l Secrets □ct □□□□□
□□ □re□c□ing t□e □MGoG ITLD Interi□ G□ide to Sec□rity □nd t□e Go□ern□ent of Gi□r□lt□r Infor□ □tion Tec□nology Sec□rity Policy□
c□ Contr□□ening t□e pl□nned □ppro□c□ set □y t□e Fin□nci□l Secret□ry□
d□ Contr□□ening t□e instr□ctions of t□e C□ief Minister□
e□ Dis□onestly p□rporting t□□t □e □□d cre□ted t□e □SCIS re□ie□ doc□□ent□ □nd
f□ □llo□ing □□ns□per□ised□ □ccess to t□e □SCIS pl□tfor□ to Cornelio □no□ing□s□specting or □eing rec□less □s to □□et□er t□e n□tion□l sec□rity of Gi□r□lt□r □o□ld □e p□t □t ris□□

S□□RC□ □ □RR□□TS □□D □RR□STS

Cornelio□Pere□ □nd □s□□e□

□□□□ On □□t□ M□y □□□□□ t□e RGP exec□ted se□rc□ □□rr□nts □t t□e □o□e □ddresses of Cornelio□Pere□□ □s□□e□□ □nd t□e offices of □□ □ort□□□ l□rge n□□ □er of electronic □nd doc□□ent□ry ex□i□its □ere sei□ed□

□□□□ Cornelio□Pere□ □nd □s□□e□ □ere □rrested d□ring t□ese se□rc□ □□rr□nts□

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□□□□ On □□t□ M□y □□□□□t□e RGP exec□ted se□rc□ □□rr□nts □t t□e □o□e □ddress □nd office of S□nc□e□□□ n□□ □er of electronic □nd doc□□ent□ry ex□i□its □ere sei□ed□

□□□□ S□nc□e□ □□s □rrested t□e s□□e d□y □t Gi□r□lt□r □irport □s □e □□d □een in London□□e □□s rec□lled to Gi□r□lt□r □y t□e C□ief Secret□ry □□o □□d □een □ □de □□□re of t□e s□spected in□ol□e□ent of S□nc□e□□

□□□□ □pon □rri□□l □t Gi□r□lt□r Intern□tion□l □irport□electronic de□ices □ere sei□ed from him. During the subsequent analysis of Sanchez's mobile telephone, it □□s est□□lis□ed t□□t □ □□ts□pp c□□t logs □et□een □i□self □nd t□e ot□er s□□□ects □□d □een deleted□

C□ipol

□□□□ On □□t□ □□ly □□□□□t□e RGP exec□ted se□rc□ □□rr□nts □t t□e □o□e □ddress □nd office of □□ron C□ipol□□ n□□ □er of electronic □nd doc□□ent□ry ex□i□its □ere sei□ed□

□□□□ C□ipol □□s not □rrested □t t□is ti□e □o□e□er □e □ol□nt□ry □ttended □e□ Mole □o□se Police St□tion□

Le□y

□□□□ D□ring t□e co□rse of t□e in□estig□tion□ e□idence s□ggested t□ere □ere re□son□□le gro□nds to s□spect t□□t Le□y □ □y □□□e co□ □itted offences□ □P□r□gr□p□s □□□□ to □□□□□□ □s □ res□lt□ □ □□tion□l Decision Model □□DM□ □ssess□ent □□s dr□fted □y S□perintendent Ric□□rdson □□ □□□□□ □□□□d□ice □□s so□g□t fro□ t□e DPP □□ere it □□s s□□se□□ently decided t□□t Le□y □o□ld □e inter□ie□ed □nder c□□tion□

□□□□ On □□t□ M□y □□□□□officers □ttended t□e offices of □□ss□ns L□□ Fir□ □Le□y □□s not present □□t □ttended t□e offices □s re□□ested□□e □□s presented □it□ copies of se□rc□ □□rr□nts for □□ss□ns L□□ Fir□ □nd □is residence□Se□rc□ □□rr□nts □ere not exec□ted on t□e □□sis t□□t Le□y □greed to pro□ide □is □o□ile de□ices □nd to s□□se□□ently deli□er e□ □ils rele□□nt to t□e in□estig□tion□

□□

Preser□□tion Orders

□□□□ Preser□□tion orders □ere o□t□ined on pri□□te e□ □il □cco□nts of Cornelio□ Pere□□□s□□e□ □nd S□nc□e□in □ddition to □□ □ort□ d□t□□□ses□Se□rc□ □□rr□nts □□□e □een exec□ted in t□e □S□□t t□e ti□e of □riting□t□e res□lts re□ □in pending□

□ddition□l Consider□tions

□□□□ T□e C□ief Minister □□s not □een cont□cted □y Police□ T□e retired Co□ □issioner of Police□l□n McGr□il□□□d intended to de□ □it□ t□is □ □tter □□t □□d □□nted to de□ □it□ t□e iss□es concerning □□i□ Le□y prior to □ppro□c□ing □i□ □T□is re□ □ins t□e □ie□ of Co□ □issioner □llger□

□□□□ Police □re in possession of □ess□ges □et□een t□e C□ief Minister □nd Pere□□ Le□y □nd S□nc□e□ □□ic□ □re rele□□nt to t□is in□estig□tion□It is i□port□nt to consider t□□t t□e C□ief Minister □ □y □e considered □s □ □itness s□o□ld t□is □ □tter proceed to tri□l□

S□□□□CT □XPL□□□TIO□S

S□□ect □xpl□n□tions □Cornelio

□□□□ Cornelio □□s inter□ie□ed on t□ree occ□sions on □□t□ M□y □□□□□ Pre□ inter□ie□ disclos□re □□s pro□ided to □is leg□l □d□isor □□ic□ incl□ded topic □re□s co□ered□T□e inter□ie□s □re s□□ □ □rised □elo□□

*Cornelio Interview CD 1 on 10th May 2019 (**Annex 7** – Exhibit NZ/TC/DVD/1C)*

□□□□ Cornelio g□□e no co□ □ent to □ll □□estions □s□ed of □i□ □

*Cornelio Interview CD 2 on 10th May 2019 (**Annex 7** – Exhibit NZ/TC/DVD/2C)*

□□□□ Cornelio predo□in□ntly g□□e no co□ □ent to □□estions □s□ed of □i□ □o□e□er□□e for t□e inter□ie□ing officers to □e cle□rer□□e□□□t p□rt of t□e syste□ □□d f□iled□ □e □lso □□estioned t□e □cc□r□cy of t□e d□t□ □nd □cc□s□tions p□t to □i□ □

*Cornelio Interview CD 3 on 10th May 2019 (**Annex 7** – Exhibit NZ/TC/DVD/3C)*

□□□□ In □is fin□l inter□ie□ of t□e d□y□Cornelio re□d □ prep□red st□te□ent□□e denied □ccessing t□e syste□ □fter □t□ Octo□er □□□□ □ntil t□e □ccess in □pril

□□

□□□□ □□en S□nc□e□ re□□ested □e co□pile □ report□□e st□ted t□□t S□nc□e□ □llo□ed □i□ □ccess to t□e syste□ using Sanchez's credentials.

*Cornelio Defence Submission 1 (**Annex 8** – Prepared Statement by Thomas Cornelio dated 26th July 2019)*

□□□□ On □□t□ □□ly □□□□□Cornelio sent □ □ol□nt□ry st□te□ent to Police□In s□□ □ □ry □e □rg□ed t□e follo□ing□

□□ *Ownership* – Cornelio st□ted t□e □SCIS□its □nderlying □od□les □nd □ll rel□ted intellect□□l property □ere sold o□trig□t □y □l□nd to □MGoG□T□is□ □e st□tes□is consistent □it□ □ll ot□er soft□□re pro□ects de□eloped □y □l□nd for □MGOG□□MGoG □o□ld □e free to select □□o□soe□er it □is□es to □ □int□in t□e□ □

□□ *Authority* – Cornelio denied □ll offences p□t to □i□ □nd st□ted □t □ll ti□es □e □□s □cting on □□t□ority of S□nc□e□ to □ □int□in t□e □SCIS pl□tfor□ □ For t□ese re□sons t□ere co□ld not □e □ conspir□cy to defr□□d □l□nd or □ny ot□er person of intellect□□l property rig□ts in rel□tion to □SCIS□T□e contin□ed possession of □SCIS so□rce code on □is syste□ □□s to □llo□ □i□ to □ □int□in t□e □SCIS pl□tfor□ □et□een □□t□ □□g□st □nd □t□Octo□er □□□□□ □is □ccess □□s □it□ t□e □no□ledge □nd □ppro□□l of □MGoG represented □y C□ine S□nc□e□□ □e □□s □□t□orised □y □MGoG □nd □gencies s□c□ □s □C□ □nd □M C□sto□s to process □nd store d□t□ Follo□ing □is resign□tion□S□nc□e□ instr□cted □i□ to □ □int□in □ s□fe □□c□□p of □SCIS d□t□□

c□ *Computer Misuse* – Cornelio st□ted □e □sed □is □ccess for t□e sole p□rpose of □eeping □SCIS in good oper□ting condition □nd not for □ny □lterior p□rpose□□t no ti□e did □e t□□e □ny □ction to interfere □it□ or disr□pt t□e perfor□ □nce of t□e □SCIS Pl□tfor□ □□e s□pported t□e pl□tfor□ □it□ t□e □no□ledge □nd □ppro□□l of □MGoG □et□een □□t□ □□g□st □nd □t□ Octo□er □□□□□□ll critic□l syste□s □ere f□lly f□nctioning on t□□t d□te□ Any subsequent malfunction or degradation of NSCIS's operating efficiency □o□ld □e d□e to □l□nd f□il□re to □ □int□in □SCIS□T□ey □ere □t □ll ti□es in possession of t□e f□ll □SCIS so□rce code□

T□ere □□s ne□er interception or di□ersion of d□t□fro□ □SCIS□□ erely t□e □ □inten□nce of □s□fe □□c□□p□

□□

□ny IP □ddresses □e □□itelisted □ere done so t□□t □e co□ld □or□on t□e pl□tfor□ effecti□ely □incl□ding fro□ □o□e□□□e □□itelisted person□l □nd □l□nd ser□ers on co□ntless occ□sions to test soft□□re c□□nges□

□t no ti□e did □e pl□ce □ny ti□e□□o□ □ in t□e □SCIS syste□ or perfor□ □ny □ct in rel□tion to □SCIS c□□sing or cre□ting t□e ris□ of d□□ □ge to □SCIS□□is □ctions □ere to s□feg□□rd □nd ens□re t□e efficient r□nning of t□e syste□ □

Cornelio deleted t□e □ □□etecx e□ □il □cco□nts □s t□ey □ere not in □se □nd no longer ser□ed □ p□rpose □s G□ggero infor□ed □i□ □ □□etecx □o□ld □e discontin□ed□T□e □ □□etecx □e□site □□s □lso re□o□ed □y □l□nd o□n IT dep□rt□ent □ro□nd t□□t ti□e□□e left □syste□ □d□inistr□tor □cco□nt open to □□nd o□er to □l□nd if re□□ested □□ic□ □o□ld □□□e en□□led □l□nd to re□cti□□te t□e e□ □il □cco□nts □nd reco□er □ny e□ □ils s□o□ld t□ey □is□ to do so□

d□ *National Security* – T□e □SCIS □□s □t no point □ccepted or recognised □s □n□tion□l sec□rity tool □y t□e Gi□r□lt□r Sec□rity Co□ncil□RGP or □y □□ □□t□orities□□ll □tte□pts to integr□te □SCIS □it□ RGP□CSRO □nd □order Force □□ syste□s □ere declined□

*Cornelio Defence Submission 2 – (**Annex 3** - "Complaint against James Gaggero, Bland Limited and associated Bland Group companies" dated 24 January 2020)*

□□□□ On □e□□lf of Cornelio□Pere□ □nd □s□□e□□Ro□ert Fisc□el □C□pro□ided □ letter consisting of □□ p□ges □nd □□ic□ □□s □cco□p□nied □y □ sc□ed□le of doc□□ents □□ o□nting to □f□rt□er □□p□ges□In s□□ □ □ry □e □rg□ed t□e follo□ing□

□□ *Background / Ownership* – □SCIS □nd □ll ot□er □MGoG pro□ects □ere sold o□trig□t to □MGoG□T□is □□s negoti□ted □y Pere□ in □is c□p□city C□O□G□ggero □greed □ll soft□□re pro□ects □o□ld □e t□□en o□er □y □□ □ort□□

□□ *Caine Sanchez* – C□ine S□nc□e□ □□s t□e □MGoG d□t□ controller□

c□ *National Security* – □SCIS is not considered □ □□tion□l Sec□rity tool□

d□ *Resignations* – Cornelio □nd Pere□ resigned on □t□ □□ly □□□□ to □oin □□ □ort□□G□ggero i□ □edi□tely □greed t□□t t□e □MGOG pl□tfor□s □o□ld □e t□□en o□er □y □□ □ort□ □s □l□nds did not □□□e eit□er t□e reso□rces or

□ppetite to r□n t□e syste□ s□ T□e for□ □l □ppro□□l l□y □it□ t□e C□ief Minister□

e□ *Handover to 36 North* – □t □ □eeting on □□t□ □□ly □□□□ □et□een Cornelio□ Sanchez and Galliano, Sanchez's instructions were that Cornelio was to contin□e to r□n t□e pl□tfor□ □nd □l□nd s□o□ld no longer □ccess □SCIS code□ser□ices or d□t□□ T□e r□nning of t□e syste□ □□s to tr□nsition to □□ □ort□ □nd □ □inten□nce t□s□s □o□ld □e s□□□contr□cted to □l□nd□S□nc□e□ instr□cted Cornelio to □ □int□in □s□fe □□c□□p of t□e □SCIS□

In □□g□st □□□□□G□ggero c□□nged □is position □s it □□s □ □de cle□r to □i□ t□□t □e □o□ld not recei□e roy□lties fro□ □SCIS□ □□ □ort□ □ere de□eloping P□oenix □t t□□t ti□e□In □eetings□G□ggero t□re□tened to instr□ct □ forensic te□□ □G□ggero re□□ested □□□ of □□□ □□ic□ □□s red□ced to □□□ or to □e p□id □□□□□□□□□ □illion□

□□ □ort□ r□n □nd ser□iced t□e syste□ f□nction□lity □nd □ll t□e □MGoG pl□tfor□s □p to e□rly Octo□er □□□□ on □MGOG □□t□ority □nd □it□ t□e f□ll □no□ledge of t□e CM□

f□ *Chief Minister's Instructions* – On □t□ Octo□er □□□□□Cornelio □□s □d□ised □y S□nc□e□ □i□ telep□one t□□t □□ □ort□ s□o□ld co□ □ence □□ndo□er of □ll □MGoG pl□tfor□s to □l□nds□Cornelio pro□ided t□e code □nd infor□ed t□e □□ □ort□ te□□ to no longer □ccess □SCIS□On □t□ Octo□er □□□□ Cornelio confir□ed to G□ggero□ G□lli□no □nd S□nc□e□ t□□t log□on credenti□ls □□d □een pro□ided toget□er □it□ t□e f□ll syste□ code□

g□ *Computer Misuse* – □□ □ort□ □ere instr□cted □y □MGoG to r□n t□e pl□tfor□ □p to e□rly Octo□er □□□□□□MGoG instr□cted □□ □ort□ to ens□re □ se□□ less tr□nsition □nd re□□ested t□ey □e re□dy to t□□e o□er □t s□ort notice□S□nc□e□ □er□□lly instr□cted Cornelio to □ □int□in □s□fe □□c□□p of d□t□□

Following Sanchez's instruction on 5th October 2018, Cornelio specifically instr□cted □l□nds to □se t□e code pro□ided to t□e□ on □t□ Septe□ □er □□□□□ Cornelio □nderstood S□nc□e□ □o□ld □e pro□iding t□e s□□e instr□ction□T□is code did not cont□in t□e c□□nges re□□ired d□ring t□e tr□nsition period□□l□nds □ □de no □tte□pt to t□□e o□er t□e □SCIS □sing t□e code pro□ided□

In l□te Octo□er □□□□□ □nd follo□ing t□e instr□ctions fro□ t□e C□ief Minister□Cornelio deco□ □issioned □ll □□ □ort□ ser□ers□

□□

In □pril □□□□□□e co□piled □report of t□e □SCIS syste□ □it□t□e □□t□ority of S□nc□e□ □nd using Sanchez's credenti□ls□

□□ *Allegations against James Gaggero / Bland* – G□ggero co□ □issioned □ speci□list te□□ □t □ cost of □□□□□□□□□ to "*hack into*"□□nd deco□pile t□e tr□nsition soft□□re□ Deco□piling t□e tr□nsition soft□□re □o□ld □□□e ser□ed □l□nds no purpose other than for the basis of Gaggero's complaint. G□ggero □□s deli□er□tely so□g□t to □isle□d t□e RGP□

□rr□nge□ents for t□e forensic in□estig□tion □ □st □□□e co□ □enced □efore t□e pl□tfor□ □□s □□nded □□c□to □l□nd□T□e tr□nsition soft□□re □elongs to □MGoG□□l□nd did not □□□e consent or □□t□ority to deco□pile it□□l□nds t□erefore □re□c□ed d□t□ protection legisl□tion□□l□nds □□c□ed into □□ □ort□ □nd □MGoG ser□ers □it□o□t □□t□ority□In order to do so□□l□nds pro□ided Red M□ple □nd P□ C □it□ □ccess codes □nd p□ss□ords to □SCIS to s□□contr□ct □nd cond□ct t□e □n□□t□orised in□estig□tion□Red M□ple □ □st □□□e □ccessed using Galliano's credentials. Cornelio□Pere□ □nd □s□□e□ □ere □d□ised t□□t □l□nds □lso instr□cted L□□gro□p to destroy infor□ □tion follo□ing t□e forensic in□estig□tions□

Red M□ple □ere □ddition□lly pro□ided □it□ □ccess to t□e DSS pl□tfor□ in order to de□elop t□e pl□tfor□ □T□ey □ere not □□t□orised □y □MGoG to cond□ct t□is □or□nor did t□ey sign t□e Offici□l Secrets □ct□

□l□nd pro□ided □ery specific infor□ □tion □eld □y □□ □ort□ □□ic□ co□ld not □□□e □een o□t□ined □nless t□ey □□c□ed t□e tr□nsition soft□□re □nd □□ □ort□ ser□ers□

Galliano accessed Azure using Cornelio's credentials. Galliano then □ □de □ n□□ □er of c□□nges to t□e syste□ incl□ding ele□□ting □is o□n □ccess□□ □ic□ □□s pre□io□sly li□ited□

D□ring t□e deco□piling of t□e soft□□re□□l□nds □ □y □□□e □ro□g□t do□n t□e □SCIS□

[redacted]nd □nd □□t□ □□g□st □□□□ □nd □□t□ □nd □□t□ [redacted]

□□

[redacted]

[redacted]

□l□nds □□□e t□ere□y co□ □itted offences contr□ry to sections □□□□□□□□ □□□□□□□□ □nd □□□ □Co□p□ter Mis□se Offences□□nd fr□□d□

*Cornelio Defence Submission 3 (**Annex 4** - Letter dated 28th February 2020 addressed to Inspector Wyan)*

□□□□ T□is letter □□s □ response fro□ Ro□ert Fisc□el □C on □e□□lf of Cornelio□ Pere□ □nd □s□□e□to □reply pro□ided □y Inspector □ y□n□T□e RGP □□d □rg□ed t□□t if □MGoG □ere o□ners of t□e pl□tfor□ □contr□ry to t□e e□idence pro□ided to police□□it □□s □ □ □tter for t□e□ to □ □□e □n offici□l co□pl□int□□o s□c□co□pl□int □□d □een □ □de □y □MGoG □g□inst □l□nd□Mr Fisc□el □C □rg□ed t□□t S□nc□e□ □□d □ □de □n offici□l co□pl□int on □e□□lf of □MGOG□

Cornelio Defence Submission 4 (Letter to HM Attorney General and Director of Public Prosecutions dated 23rd March 2020)

□□□□ T□is letter fro□ Ro□ert Fisc□el □C on □e□□lf of Cornelio□Pere□ □nd □s□□e□ extended to □□ p□ges□□□ □□□t t□e ti□e of □riting□t□e RGP □□s not □□d □ccess to t□is doc□□ent□□

*Cornelio Defence Submission 5 (**Annex 5** – Letter dated 30th April 2020 addressed to the former Commissioner of Police)*

□□□□ T□is letter □□s sent fro□ Ro□ert Fisc□el □C on □e□□lf of Cornelio□Pere□ □nd □s□□e□ □consisting of □□ p□ges□ □nd □□s □cco□p□nied □y □□ s□pporting □nnexes □cont□ining □□ p□ges□□In s□□ □ □ry□t□is letter rel□tes to t□e o□ners□ip of t□e pl□tfor□ □□e □rg□es□

□□ T□e □SCIS □□s sold o□trig□t to □MGOG on □ □od□le□□y□□ od□le □□sis□ □e pro□ides □n□□ □er of doc□□ents in s□pport of t□is incl□ding det□ils of t□e de□elop□ent □gree□ents for □□rio□s □od□les incl□ding Interpol P□ssport Control□Sc□engen □is□ Syste□ □□□rope ID C□rd Integr□tion Syste□ □nd FMP □gree□ent□Reference is □ □de to specific □ords s□c□ as "*handover to BCA*" in s□pport of t□e □ssertions□

□□

□□ T□e M□ster Soft□□re M□inten□nce □gree□ent □□s inco□plete □nd □ery □ □c□ □dr□ft□

c□ □SCIS is not listed □s □n □sset on t□e □l□nd co□p□ny □cco□nts□T□e inco□e st□te□ent refers to "*software regular maintenance*" not "*licences*"

d□ On t□e □□rd □pril □□□□□in □ li□e □ro□dc□st□t□e CM referred to "*Our NSCIS*".

*Cornelio Interview CD 4 (**Annex 9** – PAC/CD/TC/4C)*

□□□□ Follo□ing □n□lysis of □ll □ □teri□l o□t□ined d□ring t□e co□rse of t□e in□estig□tion□Cornelio □□s re□c□lled fro□ □□il □nd f□rt□er inter□ie□ed on □st □□ly □□□□□Pre□inter□ie□ disclos□re □□s pro□ided to □is leg□l □d□isor on t□e s□□e d□y□

□□□□ Cornelio re□d fro□ □ □□p□ge prep□red st□te□ent □□□□□□ □□□□In s□□ □ □ry□

□□ Cornelio st□ted d□e to l□c□of pre□inter□ie□ disclos□re □nd t□e □□sis of t□e co□pl□int□□e □ill pro□ide no co□ □ent to □□estions □s□ed of □i□ □

□□ □e denied the allegations and considers Gaggero's complaint to □e □it□o□t fo□nd□tion in f□ct or l□□ □□e □sserted t□□t G□ggero □□d □no□ingly □nd □□licio□sly □isled t□e RGP for □is o□n co□ □erci□l □nd fin□nci□l □enefit□

c□ *Background* – On □t□ □□ly □□□□□□e infor□ed G□ggero of □is resign□tion□ G□ggero □ □de □signific□nt fin□nci□l offer to re□ □in□Cornelio declined □s it □□s □n □□ □ition to r□n □is o□n co□p□ny□

G□ggero □greed i□ □edi□tely □fter t□e resign□tions t□□t □ll □l□nds □MGoG Soft□□re Pro□ects □o□ld □e t□□en o□er □y □□ □ort□ □s □l□nds did not □□□e t□e □ppetite or s□illset to r□n t□e□ □T□is □□s s□pported □y S□nc□e□ □□o □□□ited □ppro□□l fro□ t□e CM□T□e de□elopers resigned □s t□ey s□□ no f□t□re □it□ □l□nds□□ll p□rties □ere □or□ing to□□rds t□e tr□nsition□

□s t□e CM □□d not □ppro□ed □y □□t□ □□g□st □□□□□G□ggero contr□cted □i□ to r□n t□e □MGoG Pl□tfor□s □ntil direction □□s pro□ided□G□ggero confir□ed □e □□s to □□□e □nfettered □ccess □s re□□ested □y S□nc□e□□

L□ter in □□g□st □□□□□□e □d□ised □MGOG t□□t □□ □ort□ □□s de□eloping '*Phoenix'*□□ne□ □order □ □n□ge□ent pl□tfor□ □nd □o□ld not □e □ss□□ing □SCIS□G□ggero □eg□n to resile fro□ t□e □□o□e position □s □e □o□ld not □e recei□ing □ny roy□lties for t□e □SCIS□

G□ggero t□en p□□licly cl□i□ed Cornelio □nd Pere□ □□d t□□en code or property □elonging to □l□nd□D□ring □□g□st □□□□□G□ggero t□re□tened to instr□ct □ forensic team and commence legal action to "destroy" them □nless t□ey g□□e □i□ □□□ of t□e s□□re□olding in □□□□T□is □□s l□ter red□ced to □□□ or p□y □i□ □□□□□□□□□ □illion □□ic□ t□ey ref□sed to do□

□e ter□in□ted □is cons□lt□ncy period on □□t□ □□g□st □it□ effect fro□ □st Septe□ □er □□□□□

□s t□e C□ief Minister □□d not □ □de □ decision □y □st Septe□ □er □□□□□ □MGoG re□□ested t□□t □□ □ort□ contin□e to r□n t□e syste□s □ntil □ sol□tion □□s fo□nd □ccept□□le to t□e□ □nd□□t t□e s□□e ti□e□to ens□re P□oenix □□s re□dy to t□□e o□er □t s□ort notice□□T□□DSS □nd □d□c□tion □lso re□□ested □□□ □ss□□e responsi□ility for t□eir syste□s□lt □□s □ □de cle□r to □i□ t□□t t□e CM expected □i□ to contin□e r□nning □ll □MGoG Pl□tfor□s □s it □o□ld not □e loo□ed □pon f□□o□r□□ly if □e did not do so□ □□i□ Le□y sent t□e CM □ □ □□ts□pp □ess□ge confir□ing □e □o□ld contin□e to r□n t□e syste□s□

In l□te Septe□ □er □□□□□□e □ttended □ □eeting □t □l□nd□□e st□ted □e □o□ld not contin□e to s□pport □l□nds in □ny □□y□G□ggero pro□ised to □ □□e □n ex□□ple of □i□ □nd Pere□□T□ro□g□o□t Septe□ □er □nd Octo□er □□□□□ □e contin□ed to r□n □nd ser□ice □ll □MGOG syste□s □it□o□t re□ □ner□tion□

On □t□ Octo□er □□□□□ □e □□s □d□ised □y S□nc□e□ to co□ □ence □□ndo□er of t□e r□nning of syste□s to □l□nds □□t t□□t □□ □ort□ s□o□ld contin□e □or□ing on P□oenix□

□e □et □it□ S□nc□e□ on □t□ Octo□er □□ere S□nc□e□ re□□ested t□□t □l□nd □□d t□e code for □ll □MGOG pro□ects□On □□t□ Octo□er □□□□□□e specific□lly instr□cted G□lli□no to □se t□e code pro□ided on □t□Septe□ □er or t□e code on □is □or□st□tion□T□e code □□s d□ted □t□ □□ly □□□□ □s no ne□ f□nction□lity □□s introd□ced to □SCIS □fter t□is d□te□

On or □ro□nd □□t□ Octo□er □□□□□G□ggero t□ro□g□ P□C □nd□or Infosec□ cond□cted □ forensic ex□□in□tion of t□e □SCIS □it□o□t consent or

□□t□ority of t□e d□t□ controller□S□nc□e□ □nd □it□o□t □□t□ority of □MC or RGP□ □rr□nge□ents for t□e in□estig□tion □ □st □□□e co□ □enced □ell □efore t□e □MGOG pl□tfor□s □ere □□nded □□c□to □l□nds□

In l□te Octo□er □□□□□□□ □ort□ deco□ □issioned □ll t□eir ser□ers set □p p□rs□□nt to t□e instr□ctions fro□ □MGoG d□ring t□e tr□nsition period□□ □d t□ey □een deco□ □issioned e□rlier□loss of ser□ice □nd□or co□pro□ise of d□t□ □o□ld □□□e occ□rred□ □t □ll ti□es□ □is □ctions □ere in t□e □est interests of t□e syste□ □nd to s□feg□□rd □MGoG d□t□□

d□ *Alleged Conspiracy to Defraud Blands of Intellectual Property Rights* – □e □elie□ed t□□t t□e □SCIS □□s sold o□trig□t to □MGoG □nd □t □ll ti□es □elie□ed t□e pl□tfor□ □□s t□e property of □MGoG□ T□is □□s □een confir□ed □y t□e C□ief Secret□ry□no do□□t □it□ t□e consent □nd □ppro□□l of t□e CM □nd□or □ttorney Gener□l□□s t□e o□ner□□MGoG is free to select □□oe□er it □is□es to □ □int□in it□

e□ *Alleged Unauthorised Access* – □t no ti□e did □e □□□e □n□□t□orised □ccess to □SCIS□□t □ll ti□es □is □ccess □□s □it□ t□e □no□ledge □nd □ppro□□l of □MGOG represented □y S□nc□e□□ □e □□s pro□ided infor□ □tion t□□t t□e □ccess □□s □it□ t□e □ppro□□l □nd □no□ledge of t□e CM□

T□e □C□ □□□e □een □s□ed to □erify □ report □□ic□ □□s co□ □issioned □y G□ggero follo□ing □ period □□ere t□ey □□d excl□si□e □ccess to □ll □or□st□tions □nd ser□ers □nd □fter Red M□ple □□d sec□red □ll □MGOG pl□tfor□s □y □□y of in□estig□tion□T□e report cont□ins only content □nd d□t□ s□pplied □y G□ggero□It is not □n independent report□

f□ *Alleged Diversion of Data* – Since t□e inception of t□e syste□ □d□t□ □□s □een tr□nsferred to □nd fro□ □nd □et□een □ □ide r□nge of different ser□ers □osted □y se□er□ □osting co□p□nies□□t no point □□s □ny iss□e r□ised □y □MGOG[redacted]

Following his resignation, Sanchez's main concern □□s □l□nd not □□□ing t□e tec□nic□l □no□ledge or □□ility to □ □n□ge t□e syste□ □ □is first instr□ction fro□ □MGoG □□s to ens□re t□□t □ s□fe □□c□p of t□e infor□ □tion □□s □eing □ept □t □ll ti□es□□MGoG □ere concerned □l□nds □ □y □old it to r□nso□ □

□□

S□nc□e□ instr□cted □i□ to r□n t□e ser□ices independently of □l□nd □nd t□□t t□ey s□o□ld not □□□e □ny □ccess to d□t□ □nd□or code□□ll p□rties □greed on t□e tr□nsition □nd □ere □or□ng to□□rds it□T□e only □□y to co□ply □it□ instr□ctions □□s to r□n t□e ser□ices fro□ □ ser□er □□ic□ □e co□ld □ccess □nd control□

g□ *Alleged Time Bombs* – □t no ti□e did □e pl□ce □ny ti□e □o□□s in t□e □SCIS syste□ or intention□lly perfor□ed □ny □ct in rel□tion to t□e □SCIS c□□sing or cre□ting ris□ of d□□ □ge to t□e □SCIS or le□ding to inst□□ility of t□e syste□ □References to ti□e □o□□s s□o□ □ co□plete l□c□ of □nderst□nding of t□e syste□ □□ny code inserted into t□e syste□ □y □i□ or □is te□□ □□s to □llo□ it to f□nction□r□n s□oot□ly □nd ens□re instr□ctions recei□ed fro□ □MGOG □ere □d□ered to□□e □□s □lso □or□ng to□□rds t□e □greed tr□nsition□

Code □□s inserted □□ic□ set long□stop d□tes for d□t□ to stop □eing pop□l□ted on t□o ser□ers□ T□e long□stop d□tes □ere contin□o□sly extended for □ll t□e indi□id□□l □od□les in line □it□ feed□□c□ recei□ed fro□ □MGoG□To t□e □est of □is recollection□t□e l□st long□stop d□te □□s □n□□ry □□□□ □o□e□er t□is □□s t□□en o□t d□ring Septe□ □er □□□□ □nd □□s no longer effecti□e□ If □ long□stop d□te re□ □ined□ it □o□ld □e co□pletely in□d□ertent □nd □o□ld not □□□e i□p□cted t□e syste□ □□ic□ □□s□□t t□e ti□e r□nning on tr□nsition soft□□re□

T□e soft□□re □sed □y □□ □ort□ d□ring t□e tr□nsition period □□s not t□e code □e pro□ided to □l□nd to t□□e o□er □SCIS in Octo□er □□□□□T□is code did not cont□in t□e lines of code en□□ling t□e tr□nsfer of d□t□ to t□o ser□ers si□ □lt□neo□sly or t□e long□stop d□tes re□□ired for t□e tr□nsition and in keeping with HMGOG instructions. Despite his and Sanchez's instr□ctions to □se t□e so□rce code □e pro□ided G□ggero co□ □issioned □speci□list te□□ to deco□pile t□e tr□nsition soft□□re □nd □□s □lleged t□is □□s t□e code □l□nds □ere pro□ided □it□□ It is t□e □n□s□□le □nd deco□piled code□not t□e code □□ic□ □e instr□cted t□e□ to □se□□□ic□ forms the basis of Gaggero's complaint.

□□ *Alleged Missing Modules* – It is □ntr□e t□ere □ere □issing □od□les□ li□r□ries □nd ser□ices in t□e code pro□ided □y TFS on □t□ Septe□ □er □□□□□T□ere □ere ne□er □□ □od□les in □SCIS□G□lli□no is not □soft□□re de□eloper □nd □□s ne□er □□□lified or □□t□orised to r□n t□e syste□ or □ny soft□□re pro□ect□□e s□spects it □□s depend□nt li□r□ries re□□ired to co□pile t□e code □□ic□ □ere □issing□T□ese need to □e inst□lled in

□□□te□er co□p□ter t□e code is to □e co□piled fro□ □□l□nds □□d copies of t□e code in □l□nd □or□st□tions□

i□ *April 2019 Report* – In □pril □□□□ □e □□s □s□ed □y S□nc□e□to □ssist □it□ □n intern□l □MGoG in□estig□tion on t□e oper□tion□l st□t□s of □SCIS□□e □□s □d□ised t□e report □□d □een co□□issioned □y t□e Fin□nci□l Secret□ry □l□ert Men□□

He created the report using Sanchez's credenti□ls□□e co□ld not □ □□e □ny c□□nges to t□e syste□ □it□t□ese credenti□ls□□e did not log in f□rt□er□

[redacted]

*Cornelio Interview CD 5 and CD 6 (**Annex 9** - PAC/CD/TC/5C-6C)*

□□□□ Follo□ing □is prep□red st□te□ent Cornelio □□s □□estioned in rel□tion to t□e follo□ing topics□

□□ T□e □SCIS Pl□tfor□ □
□□ O□ners□ip of □SCIS□
c□ Conspir□cy to Defr□□d□
d□ □ppropri□tion of □□siness Co□□□enced □y □l□nd□
e□ Press□re on □MGOG□□nd
f□ □□siness Rel□tions□ip □it□ S□nc□e□□

□□□□ Cornelio □□de no co□□ent to □ll □□estions □s□ed of □i□□

□□□□ On ter□in□tion of t□e interview, Cornelio's legal advisor was provided with □ritten disclos□re det□iling t□e topic □re□s t□□t □ere to □e co□ered in t□e s□□se□□ent inter□ie□ t□e follo□ing d□y□

*Cornelio Interview CD 7 to CD 13 (**Annex 11** - MW/CD/TC/7C-13C)*

□□□□ On t□e □nd □□ly □□□□□ □it□ t□e □ssist□nce of cy□er speci□lists fro□ t□e □□tion□l Cri□e □gency□Cornelio □□s inter□ie□ed in rel□tion to t□e follo□ing topic □re□s□

□□

□□ □ □□etecx □□ □il □cco□nts
□□ Pre□enting Microsoft □□□re □ccess
c□ Ter□in□tion of t□e Cons□lt□ncy Period
[redacted]
I□ People Co□nting
□ □□□PR
n□ F□ci□l Recoanition
[redacted]
□□ T□itter
r□ Frontier □ □e□e □otline
s□ C□□nge of MS □□□re □illing Det□ils
t□ □SCIS Report for S□nc□e□

□□□□ D□ring t□e co□rse of t□is inter□ie□ □Cornelio □□s presented □it□ □ery det□iled e□idence in s□pport of t□e □lleged offences□□e g□□e no co□ □ent to □ll □□estions □s□ed of □i□ □

S□□□ect □xpl□n□tions □Pere□

□□□□ Pere□ □□s inter□ie□ed on fo□r occ□sions on □□t□ M□y □□□□□□is leg□l □d□isor □□s pro□ided □it□ □ritten pre□inter□ie□ disclos□re det□iling t□e inter□ie□ topics□

*Perez Interview CD 1 (**Annex 12** – Exhibit MW/JP/DVD/1C)*

□□□□ Pere□ □ □de no co□ □ent to □ll □□estions □s□ed of □i□ □

*Perez Interview CD 2 (**Annex 12** – Exhibit MW/JP/DVD/2C)*

□□□□ Pere□ □g□in □ □de no co□ □ent to □ll □□estions □s□ed of □i□ □

*Perez Interview CD 3 (**Annex 12** – Exhibit MW/JP/DVD/3C)*

□□□□ Pere□ □g□in □ □de no co□ □ent to □ll □□estions p□t to □i□ □T□e inter□ie□ □□s ended □s Pere□re□□ested f□rt□er cons□lt□tion □it□ □is leg□l □d□isor□

□□

*Perez Interview CD 4 (**Annex 12** – Exhibit MW/JP/DVD/4C)*

□□□□ Perez's legal advisor read a prepared statement stating t□□t Pere□ □□d recei□ed □ report fro□ Cornelio □□ic□ Cornelio □□s □s□ed to □rite for □MGoG□

*Perez Defence Submission 1 (**Annex 13** – Prepared Statement by John Perez dated 26th July 2019)*

□□□□ On t□e □□t□ □□ly □□□□□Pere□ sent □ □ol□nt□ry st□te□ent to Police□□e denied □ll offences p□t to □i□ □nd st□ted □t □ll ti□es Cornelio □□s □cting on □□t□ority of S□nc□e□to □ □int□in t□e □SCIS pl□tfor□ □lt □□s dr□fted □l□ost identic□lly to t□□t of Cornelio□

*Perez Defence Submissions 2 to 5 (**Annex 3, 4** and **5**)*

□□□□ F□rt□er s□□□issions □ere sent □y Mr Fisc□el □C on □e□□lf of Cornelio□Pere□ □nd □s□□e□□

□□□□ P□r□gr□p□s □□□ to □□□ □re repe□ted□□Cornelio Defence S□□□issions □to □□□

*Perez Interview 5 (**Annex 14** – PAC/JP/CD/5C)*

□□□□ Follo□ing □n□lysis of □ll □□teri□l o□t□ined d□ring t□e co□rse of t□e in□estig□tion□Pere□ □□s re□c□lled fro□ □□il □nd f□rt□er inter□ie□ed on t□e □□t□ □□ne □□□□□Pre□inter□ie□ disclos□re det□iling topic □re□s □□s pro□ided to □is leg□l □d□isor on t□e s□□e d□y□

□□□□ Pere□re□d fro□ □ □ p□ge prep□red st□te□ent □□□□□□ □□□□In s□□ □□ry □e □rg□ed□

□□ D□e to l□c□of disclos□re□□e exercised □is rig□t to silence□□e denied t□e c□□rges st□ting t□e co□pl□int is □ □licio□s □nd □isle□ding□

□□ T□ere is no do□□t □SCIS □elongs to □MGoG□ □s C□O□ □e □□s responsi□le for t□e initi□tion□negoti□tion □nd concl□sion of t□e s□le □gree□ents□□t no point □□s G□ggero in□ol□ed in t□e de□elop□ent□s□le or r□nning of □SCIS□□MGoG o□ning t□e pl□tfor□ □□s □een confir□ed to RGP □y t□e C□ief Secret□ry □nd □it□o□t do□□t □pon t□e instr□ction of t□e C□ief Minister □nd□or □ttorney Gener□□

c□ □e st□ted t□□t □e □□s no □no□ledge of t□e coding □nd □□s ne□er □ccessed t□e syste□ □□e denied enco□r□ging or □ssisting □ny person to □nl□□f□lly □ccess □SCIS□ □e □□s □□□re Cornelio □□s □□t□orised □y □MGoG t□ro□g□ S□nc□e□ □nd □sed □is □ccess for t□e sole p□rpose of r□nning t□e □SCIS □nd □eeping it in good oper□ting condition□□ny degr□d□tion of t□e system could not have been due to his or Cornelio's actions but was c□□sed □y □l□nd f□il□re to □ □int□in □SCIS□

d□ Following Cornelio's resignation, transition□l □rr□nge□ ents □ere □eing for□ □lised□G□ggero t□rned to □MGoG □nd □□ □ort□ to o□t□in roy□lties for t□e syste□ □ Despite t□re□ts □nd f□lse □lleg□tions fro□ G□ggero□ Cornelio contin□ed to r□n t□e syste□ □ G□ggero □□□ndoned □ll t□e pl□tfor□ s □nd cl□i□ ed Cornelio □□s t□□ pering □it□ t□e syste□ □

*Perez Interview CD 6 and 7 (**Annex 14** - Exhibits PAC/JP/CD/6C-7C)*

□□□□ Pere□ □ □de no co□ □ ent to □ll □□estions p□t to □i□ ot□er t□□n to cl□rify t□□t □e □□s neit□er □□□re of nor did □e e□er sign □n e□ ploy□ ent contr□ct □t t□e co□ □ ence□ ent or t□ro□g□o□t t□e d□r□tion of □is e□ ploy□ ent □it□ □l□nd□ □□□□□□□□□□ □□ refers – □□ ploy□ ent contr□ct of Pere□□T□is is □nsigned□□

S□□□ect □xpl□n□tions □□s□□e□

*Asquez Interview 1 (**Annex 16** – Exhibit MW/EA/DVD/1C)*

□□□□ □s□□e□ □□s inter□ie□ed once on □□t□ M□y □□□□□

□□□□ □e st□ted t□□t □e □□d □een □ Co□ pli□nce M□n□ger □it□ □l□nd since □□□□□ □e confir□ ed Pere□ □□s C□O□□e t□en □ □de no co□ □ ent to □□estions □s□ed of □i□ □

*Asquez Defence Submissions 2 to 5 (**Annex 3, 4** and **5**)*

□□□□ F□rt□er s□□□ issions □ere sent □y Mr Fisc□el □C on □e□□lf of Cornelio□Pere□ □nd □s□□e□□

□□□□ P□r□gr□p□s □□□ to □□□ □re repe□ted□□Cornelio Defence S□□□ issions □ to □□□

Asquez Request for Account

□□□□ On □□st □□ly □□□□ □ □ eeting □□s □eld □et□een S□perintendent Ric□□rdson□ Inspector □ y□n □nd Mr Fisc□el □C in rel□tion to □s□□e□□ Mr Fisc□el □□s

□□

infor□ed t□□t □s□□e□ co□ld □e tre□ted □s □ □itness if □e co□ld expl□in □is p□rticip□tion in t□e □lleged offences □□sed on t□e e□idence □no□n □t t□e ti□e□

□□□□ On t□e □t□ Septe□ □er t□e offer to consider tre□ting □s□□e□ □□s □it□dr□□n follo□ing cons□lt□tion □it□ t□e DPP□lt □□d □een □scert□ined t□□t Mr Fisc□el □C □□s no□ representing Pere□ □nd Cornelio in □ddition to □s□□e□□T□is posed diffic□lties in □eing s□tisfied t□□t □f□ll □nd tr□e □cco□nt co□ld □e o□t□ined fro□ □s□□e□□

*Asquez Interview CD 2 (**Annex 17** – Exhibit PAC/CD/EA/2C)*

□□□□ Follo□ing □n□lysis of □ll □□teri□l o□t□ined d□ring t□e co□rse of t□e in□estig□tion□□s□□e□□□s re□c□lled fro□ □□il □nd f□rt□er inter□ie□ed on t□e □□t□ □□ne □□□□□Pre□inter□ie□ disclos□re det□iling topic □re□s □□s pro□ided to □is leg□l □d□isor on t□e s□□ e d□y□

□□□□ □s□□e□re□d fro□ □prep□red st□te□ent □□□□□□ □□□□In s□□ □ □ry □e □rg□ed□

□□ D□e to l□c□ of disclos□re□□e exercised □is rig□t to silence□

□□ □e □□s ne□er p□rt of or in□ol□ed in t□e r□nning of t□e □SCIS Pl□tfor□ □

c□ It □□s co□ □on □no□ledge □t □l□nd t□□t t□e □SCIS Pl□tfor□ □nd □ll rel□ted □□rd□□re □□d □een sold to □MGoG□It is inconcei□□□le t□□t □ny co□ntry □o□ld □llo□ □ pri□□te entity to o□n t□e □order □ □n□ge□ent pl□tfor□ □O□ners□ip only □ec□□e □n iss□e in □□ly □□□□ once Pere□ □nd Cornelio resigned□T□e C□ief Secret□ry □nd do□□tlessly □it□ t□e consent of t□e C□ief Minister confir□ed t□e □SCIS propriet□ry rig□ts □elong to □MGoG□

d□ On □□st □□ly □□□□□□ □eeting □□s □eld □it□ Insp □ y□n□S□pt Ric□□rdson □nd Mr Fisc□el □□ere it □□s s□ggested t□e RGP □ig□t □e prep□red to rele□se □i□ fro□ t□e in□estig□tion if □e □□s prep□red to □ □□e □ □itness st□te□ent t□□t co□ld □e □sed for t□e prosec□tion□□e □□s l□ter pro□ided □it□ doc□□ents to pro□ide e□idence in rel□tion to□T□ere □□s ins□fficient e□idence □g□inst □i□ to t□e extent t□e RGP □□s □illing to rele□se □i□ in □□ly □□□□□

e□ □e ne□er □□s □een □director□s□□re□older or e□ployed □y □□ □ort□□□e is not □ssoci□ted □it□ t□e co□p□ny in □ny □□y□

□□

f□ □is role □t □ □□etecx □□s to pro□ote □espo□e sec□rity syste□ s□□e □□s employed by Bland as Operations Director. His role was to ensure Bland's co□p□nies □ere set □p correctly □nd explore intern□tion□l □□siness opport□nities□□is role □nd position c□□nged t□ro□g□o□t t□e ye□rs □l□□ys to Bland's convenience.

g□ □e co□ld not co□ □ent on □is contr□ct□□l □nd st□t□tory o□lig□tions □s □e □□s ne□er gi□en □ copy of □n e□ploy□ent contr□ct □nd □e □□s no □no□ledge of s□c□o□lig□tions□

□□□□ □s□□e□t□en □ □de no co□ □ent to □ll □□estions □s□ed of □i□ □

S□□ect □xpl□n□tions – S□nc□e□

*Sanchez Interview CD 1 (**Annex 19** - Exhibit PAC/CS/DVD/1C)*

□□□□ S□nc□e□ □□s inter□ie□ed once on □□t□ M□y □□□□□

□□□□ D□ring t□is inter□ie□ S□nc□e□confir□ed □is role □it□in □MGoG □nd t□□t □e □□s t□e indi□id□□l □□o de□lt □it□ t□e □□tion□l Sec□rity Progr□□ □e□

□□□□ □fter □pproxi□ □tely □□ □in□tes □e re□□ested □ f□rt□er cons□lt□tion □it□ □is leg□l □d□isor□□e s□□se□□ently g□□e no co□ □ent to □ll t□e □□estions p□t to □i□ □

*Sanchez Interview CD 2 (**Annex 20** - Exhibit MW/DVD/CS/2C)*

□□□□ S□nc□e□re□□ested to □e inter□ie□ed on □□t□ □□ly □□□□□

□□□□ D□ring t□is inter□ie□□S□nc□e□ re□d □ prep□red st□te□ent □□□□□□ □□□□In s□□ □ □ry □e expl□ined□

□□ T□e tender process□

□□ [redacted]

c□ □is role □s controller □nd syste□ s □d□inistr□tor of □SCIS□

d□ T□□t □e □□t□orised Cornelio to □ □□e t□e report on t□e □SCIS pl□tfor□ gi□en t□□t Cornelio □□s t□e □rc□itect of t□e syste□ □

e□ T□□t t□e □□tion□l Sec□rity of Gi□r□lt□r □□s □is □t□ost concern□

□□

*Sanchez Interview CD 3 (**Annex 22** - Exhibit PAC/CD/CS/3C)*

□□□□ Follo□ing □n□lysis of □ll □ □teri□l o□t□ined d□ring t□e co□rse of t□e in□estig□tion□S□nc□e□□□s re□c□lled fro□ □□il □nd f□rt□er inter□ie□ed on t□e □□rd □□ne □□□□□Pre□inter□ie□ disclos□re det□iling topic □re□s □□s pro□ided to □is leg□l □d□isor on t□e s□□e d□y□

□□□□ □e □ns□ered so□e □□estions □□t g□□e no co□ □ent to □ll ot□ers□On t□e topic of "*Business with Cornelio*" he responded□

□□ Text □et□een S□nc□e□ □nd Le□y □entioning □o□n Pere□ □nd t□e □□tion□l Sec□rity Progr□□ □e □□□□□

□□ □□ □il to Le□y reg□rding □□siness □it□ □ □□etecx □nd YIT□ □□□□□□□□□□ □□□□□□**R**□□□ □□□□□□□□□□**M**□□□□□□□– □ □□etecx is □ □l□nd co□p□ny□T□ey □□nted to re□o□e □ □□etecx fro□ □l□nd □□t it □o□ld still □e o□ned □y □l□nd□T□e disc□ssions □it□ YIT□ □nd □o□n Pere□t□□t d□y □ere □□o□t □o□ing t□e pl□tfor□ fro□ OSG to □ □□etecx□

□□ Me□or□nd□□ of □nderst□nding for □□ □ort□ – □□t□ □pril □□□□ □□□□□□□□□□ □□□**M**□□□□□– □o co□□ent□

c□ □ □□ts□pp c□□t □et□een S□nc□e□ □nd Pere□ reg□rding C□rni□□l Cr□ises □nd □□nco S□nt□nder □□□□□□□□□□

mean that they won't be able to get that contract again. It can take 6 to 7 □ont□s to de□elop □tender contr□ct□

□□ □ □□ts□pp □ess□ge to Pere□ st□ting□*"if the CM asks you I have not spoken to you about the meeting…"* □□□□

i Mess□ge fro□ Cornelio □s□ing if t□e CM needed □ny □ore co□pl□ints sent □□□□□□□□ □□□□ □□□□□□□□□□□□□□□□□□ □ Cornelio □□s getting infor□ □tion fro□ ot□er l□□ enforce□ent □gencies so S□nc□e□ instr□cted Cornelio t□□t t□ey needed to send it to □i□ □

□□ □re□□do□n of iss□es identified □y C□ipol to Cornelio – □□t□ Dece□ □er □□□□ □□□□□□□□ □□□□ □□□□□□□□□□□□□□□□□**4**□ – Cornelio sent t□is to S□nc□e□□S□nc□e□ st□tes □e □□s not concerned t□□t □e □□d infor□ □tion rele□□nt to n□tion□l sec□rity □ec□□se Cornelio □□d pre□io□sly □□d □ccess to t□e syste□ □nd C□ipol □□s □ □e□d of t□e dep□rt□ent□S□nc□e□did not □elie□e t□□t once Cornelio left □is position t□□t □is □etting □o□ld □□□e □een re□o□ed□

□□□□ On the topic area "*Knowledge of Computer Misuse*" he responded:

□□ □□ □il in rel□tion to □issing so□rce code □□□□□□□□□ □□□□□□□□□□□□□ □nd □□□□□□□□– S□nc□e□ □greed □e □□d seen t□e e□ □il □□t co□ld not co□ □ent □s □e co□ld not see Cornelio's reply□

*Sanchez Interview CD 5 (**Annex 22** - Exhibit PAC/CD/CS/5C)*

□□□□ T□e inter□ie□ contin□ed on the topic area "*Knowledge of Computer Misuse*":

□□ □ □□ts□pp □ess□ge fro□ Cornelio expressing □is concern reg□rding □ forensic te□□ □ired □y □l□nd □□□□□□□□ □□□□ □□□□□□□□□□□□□□□□**4**□ – S□nc□e□ does not re□ e□ □er □□□t Cornelio □□s concerned □□o□t□□e st□ted t□□t □e co□ld not rec□ll □□t t□□t if □e □□d □entioned □nyt□ing □□o□t t□e co□ p□ter offences t□□t □e □o□ld □□□e reported it to t□e Police□

□□ □ list of t□e □lleged co□ p□ter offences □ere expl□ined to S□nc□e□□□e expl□ined t□□t in □ccord□nce □it□ □is prep□red st□te□ent□t□e pl□tfor□ is o□ned □y t□e Go□ern□ent of Gi□r□lt□r□

c□ □e □□s □s□ed if □e g□□e Cornelio □□t□ority to □ □□e □ny □odific□tions to t□e □SCIS Pl□tfor□ □□e replied st□ting □e co□ld not rec□ll□□e did rec□ll gi□ing □□t□ority in respect of t□e telep□one lines □t t□e □order□

d□ □ □en □s□ed if □e g□□e □□t□ority for Cornelio to extr□ct d□t□ to □ □□□ d□t□□□se □e replied "*Not that I recall, no*"□

□□

e□ □ □en □s□ed if □e g□□e Cornelio □□t□ority [redacted] S□nc□e□ said "*No*".

f□ □ □en □s□ed if □e g□□e □□t□ority to pl□ce □ □oole□n □□ri□□le S□nc□e□ replied "*I think what was agreed because it was going to be a transitional period so that the system was going to be run parallel and then change hands. That was what Mr Gaggero and the Chief Minister agreed on…..*" It □□s □ig□lig□ted t□□t t□ese p□rtic□l□r □odific□tions □o□ld □□□e □een i□ple□ented □s e□rly □s □pril □□□□ □□ic□ □□s □ont□s □efore□S□nc□e□ replied "*I wouldn't have sanctioned that*".

g□ □ □en □s□ed if □e g□□e T□o□ □s Cornelio □□t□ority to c□rry o□t D□t□□□se re□indexing □e replied "*No, I wouldn't even know what that is, so I can't*".

□□ □ □en □s□ed "*Did you give him authority to export the NSCIS code?*" Sanchez replied "*No, but I don't know if that was a requirement for the transition or not*."

i□ □e □□s □s□ed if □e rec□lled gi□ing □ny □□t□ority to c□rry o□t ot□er □odific□tions□S□nc□e□ st□ted t□□t t□e only one □e c□n re□e□ □er is t□e p□one line□

□□ Reg□rding □no□ledge of □ny ot□er d□t□□□ses □e s□id□"*there was a transitional database that was created primarily for the migration of data from one system to the other system.*" When asked □□o□t t□e tr□nsition period□□e st□ted t□□t t□e period st□rted on □□t□ □□g□st □□□□□It □□s pointed o□t t□□t t□e cons□lt□ncy period co□ld not □□□e gone on □fter □st Septe□ □er □s □e □□s copied into □n e□ □il □□ere Cornelio explicitly st□ted □e □□s no longer de□ling □it□ t□e syste□ □

□□ It □□s □ig□lig□ted t□□t G□ggero □ne□ not□ing □□o□t Cornelio □ccessing □fter □st Septe□ □er□S□nc□e□ □□s □s□ed if □e g□□e Cornelio □□t□ority to □ccess □fter □st Septe□ □er□□e replied□"*Not without notifying Blands*."

l□ S□nc□e□ □□s infor□ed Cornelio □ccessed t□e pl□tfor□ □fter □st Septe□ □er □it□o□t t□e □□t□ority of □l□nd□□e co□ □ented□"*But the three of us should have known, whoever did anything on the system, be that Bland or be that Tommy, the three of us would have required to know*…."

□□□e □□s □s□ed □□et□er □nyone else in Go□ern□ent co□ld □□t□orise Cornelio to □□ic□ □e replied□"*No*"□

□□

□□□□ T□e fin□l topic □re□ rel□ted to t□e "*NSCIS Report*"□

□□ S□nc□e□ □□s □s□ed if □e □□s re□□ired to co□ply □it□ t□e instr□ction of t□e C□ief Minister□□e st□tes □s Controlling Officer□□e □□d □□t□ority □□o□e t□e C□ief Minister□ □e st□ted □is o□lig□tions co□e fro□ □cco□nting Instr□ctions □nd Gener□l Orders□

□□ Reg□rding t□e independent □ssess□ent □y □ l□rge □cco□nting fir□ □e st□ted □e □s□ed Cornelio to □rite □ report □s □e □□s □□□ing lots of iss□es □it□ t□e sec□rity pl□tfor□ □S□nc□e□pro□ided □is □ser □cco□nt det□ils□□e had access to check the front page [redacted]□ □e did not □□□e □ccess to c□□nge or □odify t□e syste□ □□□eryt□ing □e did □□s □□dited□

c□ □ section reg□rding p□ss□ords fro□ T□e □MGoG ITLD Sec□rity Policy □□s s□o□n to S□nc□e□□ □e st□tes Cornelio □□s □□t□orised to co□plete t□e report □s t□e syste□ □d□inistr□tor □S□nc□e□□□□d □□t□orised □i□ to do so□

*Sanchez Interview CD 6 (**Annex 22** - Exhibit PAC/CD/CS/6C)*

□□□□ T□e inter□ie□ continued on the topic area "*NSCIS Report*":

□□ □e □□s □s□ed □□o□t disg□ising Cornelio co□pleting t□e report □y copying it to □ne□ □ ord doc□□ent – □o co□ □ent□

□□ □e □□s □s□ed □□y □e did not cre□te □n □cco□nt for Cornelio – □o co□ □ent□

c□ In doing so t□ere □o□ld □□□e □een □n □□dit tr□il – □o co□ □ent□

d□ S□nc□e□ □□s □s□ed if t□ese □ere □ctions of so□e□ody □□o is □n □onest p□□lic ser□□nt loo□ing □fter t□e □□tion□l Sec□rity of Gi□r□lt□r – □o co□ □ent□

e□ □e □□s l□ter □s□ed □□o□t t□e deletion of □ □□ts□pp □ess□ges on t□e □o□ile □□ndset □□ic□ □□s sei□ed □y Police□He stated that he didn't think he was going to be arrested. He wasn't aware Cornelio or Perez had been □rrested□

f□ □e finis□ed □y s□ying in rel□tion to Cornelio co□ □itting Co□p□ter Mis□se offences□"If it is true, it is sad. It seems like I have been played" and "Yeah,

□□□

no, it's true, it's sad because you have confidence in people and I'm not an expert, I cannot say, and it wasn't brought up to my attention as such".

S□□ect □xpl□n□tions – C□ipol

□□□□ C□ipol □□s □ol□nt□rily inter□ie□ed on fo□r occ□sions □et□een t□e □□t□ □□ly □□□□ □nd □□t□ Octo□er □□□□□T□is □□s d□e to t□e li□ited availability of Chipol's leg□l □d□isor□

*Chipol Interview CD 1 (**Annex 23** - Exhibit MW/DVD/AC/1C)*

□□□□ C□ipol □□s inter□ie□ed on □□t□ □□ly □□□□□□is leg□l □d□isor □□s pro□ided □it□ pre□inter□ie□ disclos□re□C□ipol did not □ns□er □ny □□estions d□ring t□is inter□ie□ □nd none □ere p□t to □i□ □s □is leg□l □d□isor re□□ested □e □e inter□ie□ed □t □l□ter d□te□ti□ e□

*Chipol Interview CD 2 (**Annex 24** - Exhibit MW/DVD/AC/2C)*

□□□□ C□ipol □□s f□rt□er inter□ie□ed on □nd □□g□st □□□□□In s□□ □ □ry□

□□ □e confir□ed □e is C□O of □C□ □nd t□□t □e □□s □ □ser of □SCIS□□e f□rt□er □c□no□ledged t□□t it is □sed for t□e p□rpose of □□tion□l Sec□rity□

□□ □e st□ted Cornelio □□s t□e person □□o □ □de t□e progr□□ □nd □ne□ □ore t□□n □ny□ody else□It □□s for t□is re□son□□e s□ggested□t□□t □e spo□e to □i□ □□o□t t□e pl□tfor□ □nd □□o□t i□pro□e□ents □deficiencies□ □e □ □int□ined t□□t t□is □□s done solely for t□e □enefit of t□e □C□□□nd in □ccord□nce □it□ □is role □s t□e □e□d of t□e org□nis□tion □o□e□er □e admits their relationship became personal stating "*Tommy is friends with me, we used to… that's probably my fault*□"

c□ C□ipol □ne□ Cornelio □□s setting □p □ co□p□ny to ri□□l □l□nd□T□is inter□ie□ □□s stopped □fter □□ □in□tes on re□□est of t□e leg□l □d□isor□

*Chipol Interview CD 3 and 4 (**Annex 25** - Exhibit MW/DVD/AC/3C and 4C)*

□□□□ C□ipol □□s f□rt□er inter□ie□ed on □rd Septe□ □er □□□□□In s□□ □ □ry

□□ □e st□ted □e □□s t□□ing □d□ice □□o□t t□e syste□ fro□ Cornelio□□e □d□its sending □n e□ □il to C□ine S□nc□e□ □□ic□ Cornelio □□d dr□fted□ □e st□ted t□□t □ll ot□er dr□fts fro□ Cornelio □ere propos□ls □□t t□□t □e did not send t□e□ on□

□□□

□□ C□ipol □ □int□ined □e □□s not dis□onest □nd □rg□ed t□□t □e did not □no□ t□□t Cornelio co□ld not □ccess t□e □SCIS pl□tfor□ □ec□□se Septe□ □er and October 2018 "*was a grey area*" and "*nobody knew*" □□o □□s responsi□le for □ □int□ining t□e pl□tfor□ □ □e re□ter□ted t□□t □ec□□se Cornelio □ □de t□e syste□ □e □o□ld □□□e □een □□□re of t□e f□□lts□

*Chipol Interview CD 5 (**Annex 26** - Exhibit MW/DVD/AC/5C)*

□□□□ C□ipol □□s re□inter□ie□ed on □□t□ Octo□er □□□□□In s□□ □ □ry□

□□ C□ipol □□s □s□ed □□o□t pro□iding Cornelio □it□ infor□ □tion □□o□t t□e □SCIS pl□tfor□ on □t□ Dece□ □er □□□□□□e st□ted t□□t □e did not □no□ if □e □ct□□lly c□ec□ed t□e syste□ □

□□ □e □□s t□en □s□ed □□o□t offering f□nding to □□ □ort□□□e st□ted t□e □□t□oris□tion for f□nding is not □is decision□

S□□ect □xpl□n□tions □Le□y

□□□□ Follo□ing □ □eeting □it□ t□e □ttorney Gener□l □nd t□e DPP□□nd □lt□o□g□ considered □ s□spect□it □□s □greed t□□t Le□y □o□ld □e gi□en □n opport□nity to pro□ide □ □ritten □cco□nt to Police□T□is □gree□ent □□s □ □de □it□ □ □ie□ to s□□se□□ently □ssessing □□et□er □is □cco□nt □□s s□fficiently exc□p□tory to □□oid t□e re□□ire□ent to for□ □lly inter□ie□ □i□ □nder c□□tion□

□□□□ Leg□l represent□ti□es of Le□y □ □de □pplic□tions to t□e M□gistr□tes Co□rt for t□e disclos□re of t□e □ffid□□it t□□t for□ed t□e gro□nds of t□e se□rc□ □□rr□nts□On □d□ice fro□ t□e DPP□□ red□cted copy of t□is doc□□ent □□s pro□ided□

□□□□ Le□y so□g□t □st□y on t□e ex□□in□tion of □is de□ices□T□is □□s □greed □y t□e for□er Co□ □issioner of Police □nd re□□ins t□e □ie□ of Co□ □issioner □llger□ T□ese ite□s □□□e □een pl□ced in sec□re stor□ge □nd to d□te□□□□e not □een ex□□ined□

*Written Account from Haim Levy dated 9th June 2020 (**Annex 27**)*

□□□□ On t□e □t□ □□ne □□□□ Le□y prod□ced □n □cco□nt to police□T□is □□s □□sed □pon topic □re□s t□□t police □□d o□tlined □s p□rt of pre□inter□ie□ disclos□re □s □ell □s t□e red□cted □ffid□□it□□is □cco□nt is set o□t □elo□□

□□□

□□□□ Roles □nd Responsi□ilities□

□□ Le□y □□s □cco□nt□□le to t□e □□ss□ns p□rtners□ip□

□□ □e □cted □s t□e initi□l point of cont□ct for co□ □erci□l tr□ns□ctions□

c□ □□ss□ns □re often □ppro□c□ed □y st□rt□□ps for in□est□ents in t□eir □ent□res□

□□□□ □□ □ort□ Li□ited□

□□ Le□y □□s □ppro□c□ed □y Pere□ □nd Cornelio in l□te □□□□ □e□rly □□□□□ T□ey □□nted to le□□e □l□nd □nd st□rt □ne□ co□p□ny□T□ey □ppro□c□ed □□ss□ns for in□est□ent□

□□ T□ey □□d □ n□□ □er of opport□nities in Gi□r□lt□r □nd intern□tion□lly in□ol□ing soft□□re de□elop□ent □nd co□p□ter □□sed ser□ices□

c□ Intern□tion□l opport□nities incl□ded S□o To□e □nd f□ci□l recognition □sed □y t□e cr□ise liner □ □r□et□

d□ Pere□ □nd Cornelio expl□ined t□□t se□er□l co□p□ter progr□□ □es □□d □een de□eloped for □MGoG□□nd t□□t t□e IP rig□ts □elonged to □MGoG□

e□ Pere□ □nd Cornelio □ □de it cle□r t□□t t□ey □o□ld de□elop ne□ soft□□re □fter le□□ing □l□nd □□ic□ □o□ld not infringe IP□T□is □o□ld □e profit□□le in Gi□r□lt□r □nd intern□tion□lly□

f□ Le□y □□s □ss□red □y Pere□ □nd Cornelio t□□t □fter t□ey ter□in□ted t□eir e□ploy□ent t□ey □o□ld not □e contr□ct□□lly pre□ented fro□ co□peting □it□ □l□nd□

g□ In exc□□nge for □ lo□n f□cility of □p to □□□□□□□□□□ Pere□ □nd Cornelio offered □□ss□ns □ t□ird of t□e □□siness in s□□res□T□ese □ere □eld □y □stelon Li□ited □□ic□ □□s o□ned □y t□e p□rtners of □□ss□ns□□□□□□□□□ □□d □een dr□□n do□n □y □pril □□□□ s□ortly □fter □□ic□ t□e f□cility □□s c□ncelled to d□e f□il□re to gener□te t□e □nticip□ted inco□e□□ f□rt□er □□□□□□□□ □□s □d□□nced in Septe□ □er □□□□ □□sed on re□ised c□s□ flo□ forec□sts□

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□□□□ □xpect□tions of Mr Le□y □s □n □ssoci□te of □□ □ort□□

□□ Le□y □□s not □n □ssoci□te of □□□ □nd not□ing □□s expected of □i□ □□e did not □□□e □ny in□ol□e□ent in t□e d□y to d□y r□nning of t□e □□siness□ □e □□s in□ol□ed only □t □ □ig□ le□el fro□ □ str□tegic point of □ie□□□is in□ol□e□ent □ent no f□rt□er t□□n □s □n in□estor of t□e co□p□ny□

□□□□ Corpor□te Str□ct□re of □□ □ort□□

□□ □ □en Cornelio ter□in□ted □is e□ploy□ent □it□ □l□nd on □□t□ □□g□st □□□□ Pere□ □□s still □nder notice to □l□nd □nd t□erefore contr□ct□□lly precl□ded fro□ □□□ing □n interest in □□□□lt □□s decided t□□t □et□een t□ose t□o d□tes Cornelio □o□ld □e t□e sole director□□it□ □□□ s□□res □eing □eld □y Cornelio t□ro□g□ Icode Li□ited□□nd □□□ iss□ed to □stelon□

□□ It □□s □greed t□□t □fter Pere□ □□s rele□sed t□e s□□res □o□ld □e s□□red e□□□lly □et□een □stelon□Cornelio □nd Pere□□□t t□□t ti□e Pere□ □o□ld □e □ppointed □n □ddition□l director□

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□□ Le□y □□s infor□ed □y Pere□ □nd Cornelio t□□t t□e IP of t□e □SCIS pl□tfor□ □elonged to □MGoG □nd t□□t t□ey □ere free to □se □□□te□er contr□ctor it □is□ed to □ □int□in □nd ser□ice t□e pl□tfor□ □□s t□ere □□s no for□ □l contr□ct in existence□□

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□□ □MGoG o□ned t□e pl□tfor□ □nd □ere free to e□ploy □ny contr□ctor□□s t□ere □□s no for□ □l contr□ct in pl□ce□

□□ Pere□ □nd Cornelio en□is□ged t□□t □□□ □o□ld try to co□ □erci□lly co□pete for t□e □SCIS □□siness □y tendering for t□e □ □n□ge□ent of t□e pl□tfor□ or □since Le□y □nderstood t□□t □l□nds o□t□ined t□e □ □n□ge□ent □it□o□t tender□□ □□ing represent□tions to □MGoG t□□t t□ey co□ld pro□ide □ □etter□□ ore reli□□le □nd □ore co□petiti□e ser□ice□

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□□ Le□y □□d no □no□ledge of□or re□son to s□spect □ny t□□pering □s□□ot□ge of t□e □SCIS pl□tfor□ □T□e first ti□e □e □ec□□e □□□re of t□e □lleged offences □□s □□en Pere□ □nd Cornelio □ere □rrested□

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□□ Le□y □□s not concerned □it□ t□e rep□t□tion□ d□□ □ge □ec□□se □□ss□ns □□d □cted properly □nd in good f□it□□ □nd □e □□s s□tisfied □it□ t□e expl□n□tions □e □□d recei□ed□

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c□ S□nc□e□ □□s concerned □t t□□t ti□e t□□t □fter Pere□ □nd Cornelio left □l□nds t□e □SCIS pl□tfor□ □o□ld not □e properly □ □n□ged□S□nc□e□□□s concerned t□□t t□is □o□ld □ffect t□e □□ole sec□rity of Gi□r□lt□r□

d□ S□nc□e□ did not re□□est □ny p□y□ent or ot□er □enefit □nd to □is □no□ledge □e did not □□□e direct or indirect interest in □□□□

□□□□ T□e □□t□re of t□e Rel□tions□ip□

□□ T□e rel□tions□ip □et□een Le□y □nd Cornelio □nd Pere□ □□s pri□ □rily □□siness□□□t t□ey □lso □s□ed for □ig□le□el leg□l □d□ice fro□ ti□e to ti□e□

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□□ □ny □ppro□c□ □y Mr Le□y to □ □e□ □er of t□e Go□ern□ent or ci□il ser□ice in connection □it□ □□□ □nd □or t□e □SCIS pl□tfor□ □

c□ T□ere □□s □een no i□propriety □it□ □SCIS or □□□□

d□ In □□g□st □□□□ Le□y for□□rded □n e□□il to t□e C□ief Minister □□ic□ cont□ined □dr□ft prep□red □y Cornelio for ter□in□ting t□e □SCIS pl□tfor□ □ T□is □□s □g□inst t□e □□c□drop of settle□ent t□□s□□nd □ec□□se □e □ne□ t□e C□ief Minister □□s trying to find □ sol□tion to t□e □SCIS oper□tion iss□e□□□ □□□□

□e □□le to deli□er ser□ices□□n e□ployee is entitled to resign □pon gi□ing □ny notice leg□lly re□□ired□

d□ G□ggero □cti□ely negoti□ted for □ □□□ st□□e in □□□ □□e □□s negoti□ting □it□ t□e □ery indi□id□□ls □e is no□ □cc□sing of conspiring □g□inst □i□ □□s □res□lt of □f□iled negoti□tion□

e□ If Le□y □□s spe□□ing to Go□ern□ent □inisters or offici□ls for t□e □enefit of □□□ t□ere □o□ld □e not□ing □nl□□f□l in doing so□

f□ D□ring □□ ye□rs of pr□ctice Le□y □□s □een in □l□ost const□nt cont□ct □it□ Go□ern□ent □nd Go□ern□ent offici□ls □t t□e □ost senior le□el□

g□ □□en if Le□y □□d □een told □y Pere□ □nd Corelio □□□ic□ is denied□□□of co□p□ter □is□se□t□□t c□nnot □e □sed to infer t□e □e □ne□ □□o□t □ny s□c□ □is□se □□en it □□s occ□rring or □□s □□o□t to occ□r□

Considerations Following Levy's Account

□□□□ □□□ing rece□i□ed □n □cco□nt fro□ Le□y it is no□ necess□ry to decide □□et□er □e □ill contin□e to □e reg□rded □s □ s□spect or □□et□er □is st□t□s c□n □e c□□nged to t□□t of □ □itness□In □ □□ing t□is deter□in□tion is note□ort□y t□□t□

□□ □e does not □cco□nt for t□e telep□one con□ers□tion □it□ Cornelio □e □ □de □fter t□e text of t□e □□t□ Octo□er □□□□□Cornelio □rote to Le□y saying, "*Morning James. Very confidential. Note Gaggero has brought in a forensic team of six to look at anything John and I may have done to tamper with the system etc. Gaggero is going all out it seems*" □□ □□□□□□□ □□ □□ □ □ □□□□ □□□□ refers□□

□□ □ □ilst Le□y st□tes t□□t □e □elie□ed t□□t t□e □SCIS pl□tfor□ □elonged to □MGoG□on t□e □t□ □□ly □□□□□Pere□disc□ssed C□rni□□l Cr□ises □it□ □i□ □ despite not having resigned from Bland. He wrote, "*James we have just finished with Carnival after a long day of negotiations. We have been successful and now moving to the pilot phase. Flying back tomorrow*." □□ □□□□□□□

d. In this account at paragraph [illegible] it is explained that Perez has not identified as a director or shareholder prior to his termination of employment due to his contractual obligations to Island Limited. If this has the rationale that this does not explain why Cornelio has a director or shareholder when the Fort has incorporated.

e. Sanchez has involved in the business of the Fort even prior to its incorporation. As early as February 2017, Sanchez wrote to Levy, "*James I need to give you an update on several issues. Also need to talk to you on John Perez and the national security programme.*" ([illegible] refers[illegible]s explained at paragraph [illegible] of his account. Sanchez [illegible]s involved in [illegible]eeting on the [illegible]t April [illegible] days before the Fort [illegible]s incorporated and sent a copy of the [illegible] Fort MO[illegible]en before Perez and Cornelio [illegible] **M**[illegible] refers[illegible] Further ore in a text message between Sanchez and Levy dated the [illegible]t [illegible]ly [illegible] Sanchez said, "*James I received a call from James Gaggero last night reference the security programme. I have discussed it with John and emailed the CM. It may be wise for us to meet and maybe include David Weber to go over some aspects of the conversation*." ([illegible] refers[illegible]

It is difficult to explain [illegible]t paragraph [illegible] of his account. Levy states that he had, "*no reason to believe he has acted unethically and / or unlawfully at any time*." The nature of the relationship between 36 North and Sanchez [illegible]ent that he could not possibly be in partial in his decision as to [illegible]et[illegible]er [illegible] Fort s[illegible]old t[illegible]e o[illegible]er t[illegible]e [illegible]inten[illegible]nce of t[illegible]e [illegible]SCIS pl[illegible]tfor[illegible] T[illegible]is is [illegible]rg[illegible]ly [illegible]iscond[illegible]ct in p[illegible]lic office [illegible]y S[illegible]nc[illegible]e[illegible] and so[illegible]et[illegible]ing of [illegible]ic[illegible] Le[illegible]y [illegible]s [illegible]re[illegible]lf Le[illegible]y so[illegible]g[illegible]t to [illegible]e [illegible]se of t[illegible]is l[illegible]c[illegible] of i[illegible]p[illegible]rti[illegible]lity for t[illegible]e [illegible]enefit of [illegible] Fort[illegible]t[illegible]is [illegible]y [illegible]e reg[illegible]rded [illegible]s [illegible]nl[illegible]f[illegible]l [illegible]y [illegible]iding [illegible]nd [illegible]etting [illegible]iscond[illegible]ct in p[illegible]lic office for [illegible]is o[illegible]n [illegible]enefit[illegible] T[illegible]is [illegible]o[illegible]ld t[illegible]en [illegible]o[illegible]nt to dis[illegible]onesty [illegible]it[illegible]in t[illegible]e [illegible]e[illegible]ning of conspir[illegible]cy to defr[illegible]d.

f. [illegible]ilst it is not cle[illegible]r ex[illegible]ctly [illegible]t S[illegible]nc[illegible]e[illegible]s disc[illegible]ssing [illegible]it[illegible] Le[illegible]y[illegible]if [illegible]e [illegible]s disc[illegible]ssing t[illegible]e [illegible]SCIS pl[illegible]tfor[illegible] for t[illegible]e [illegible]enefit of [illegible] Fort[illegible]e [illegible]y [illegible]e [illegible]een [illegible]re[illegible]c[illegible]ing t[illegible]e Offici[illegible]l Secrets [illegible]ct[illegible]lly Le[illegible]y [illegible]y [illegible]e g[illegible]ilty of [illegible] si[illegible]il[illegible]r offence [illegible]nder section [illegible] of t[illegible]e Offici[illegible]l Secrets [illegible]ct[illegible]for recei[illegible]ing t[illegible]e s[illegible]id infor[illegible]tion[illegible]lf t[illegible]is infor[illegible]tion [illegible]s [illegible]sed for [illegible]is o[illegible]n co[illegible]erci[illegible]l [illegible]d[illegible]nt[illegible]ge[illegible]t[illegible]is [illegible]y constit[illegible]te [illegible]n [illegible]nl[illegible]f[illegible]l [illegible]ct for t[illegible]e p[illegible]rpose of conspir[illegible]cy to defr[illegible]d.

[illegible]

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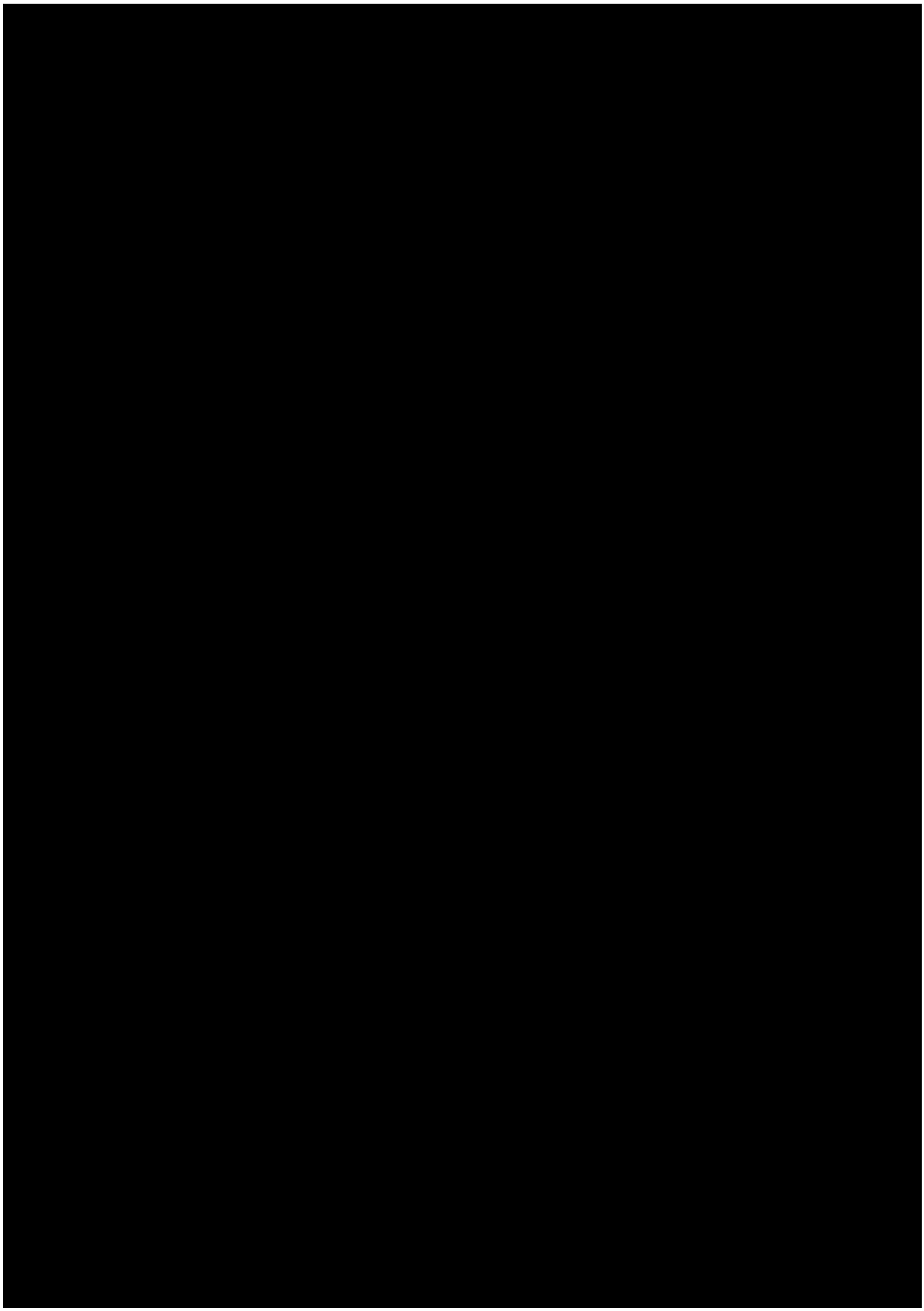

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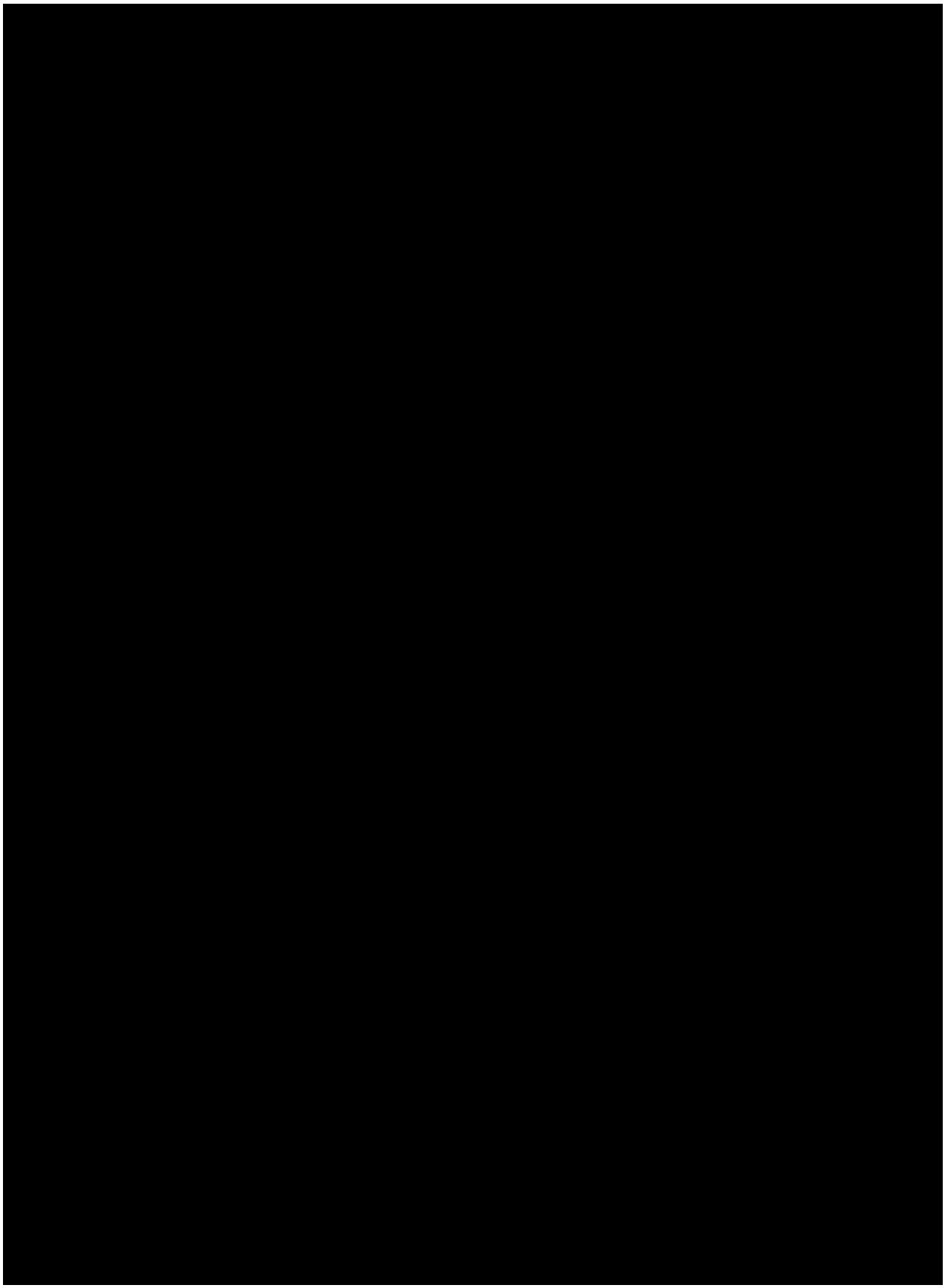

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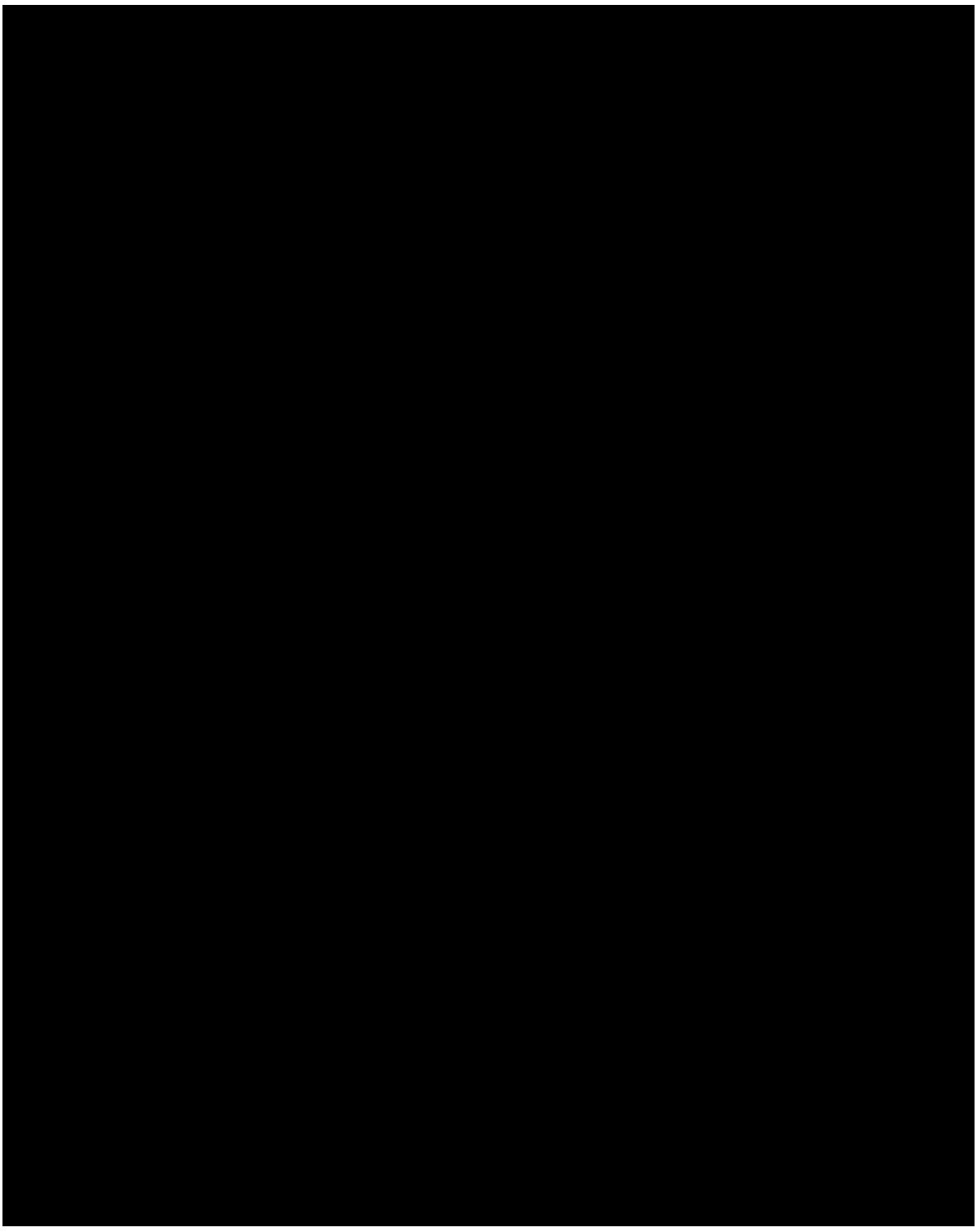

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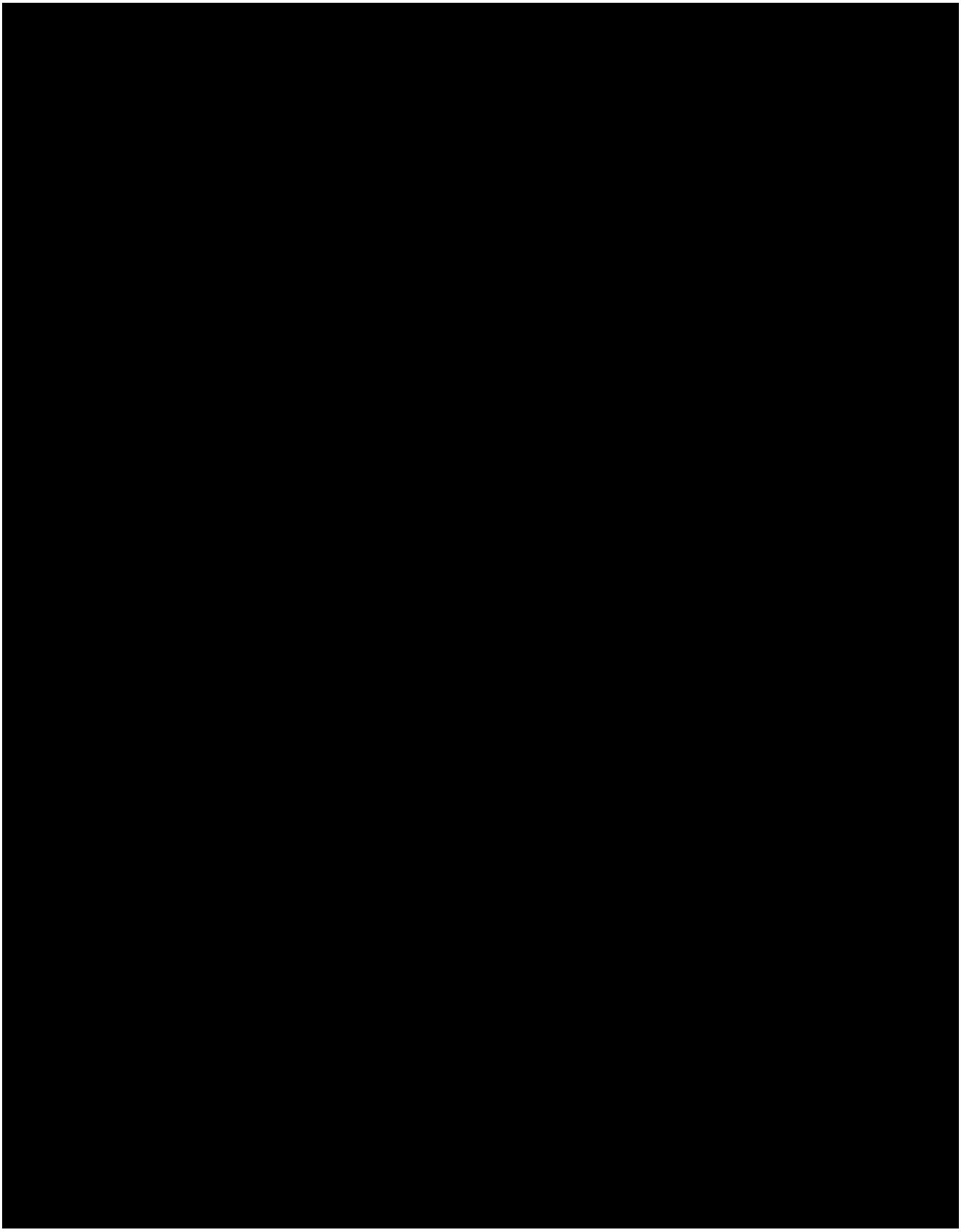

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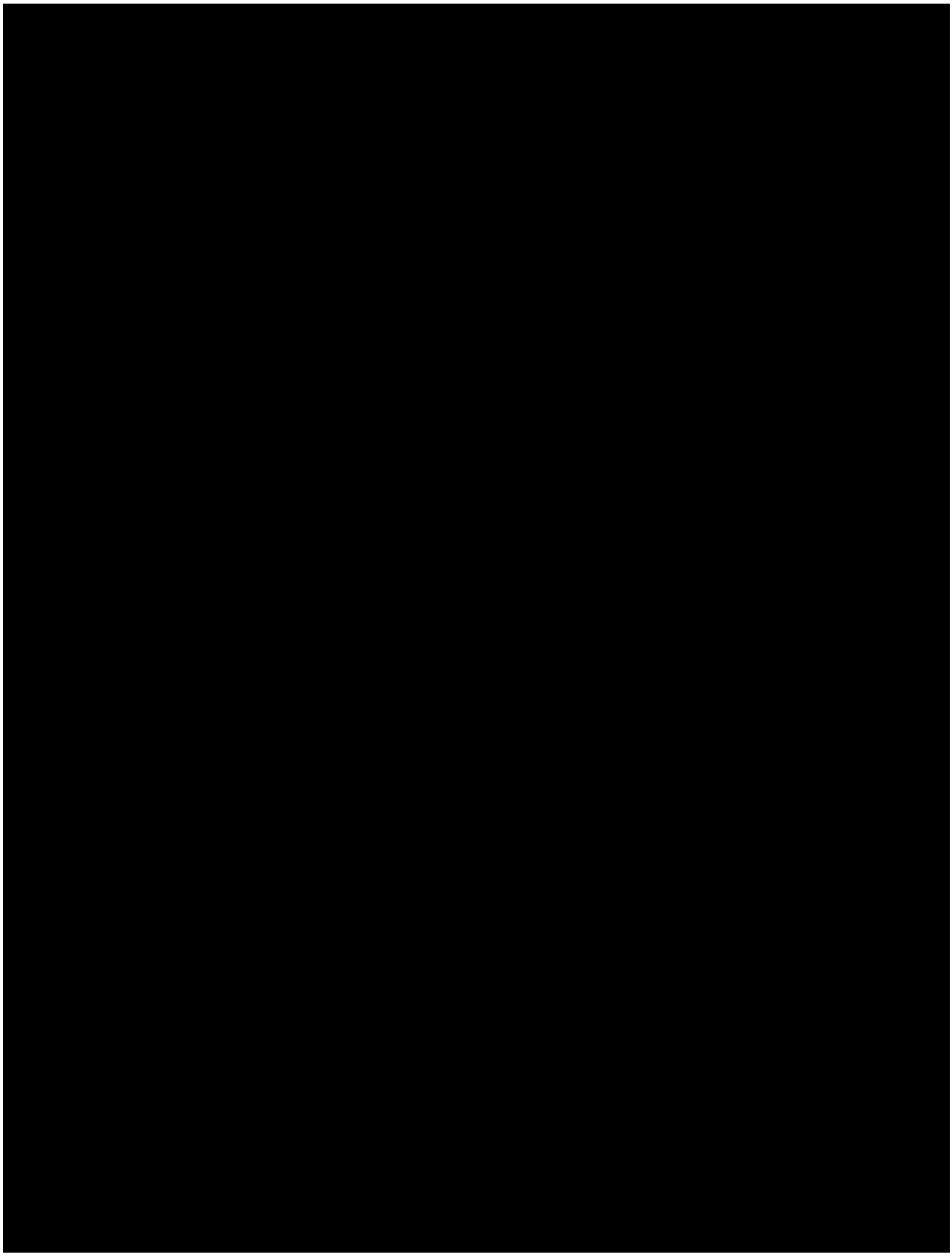

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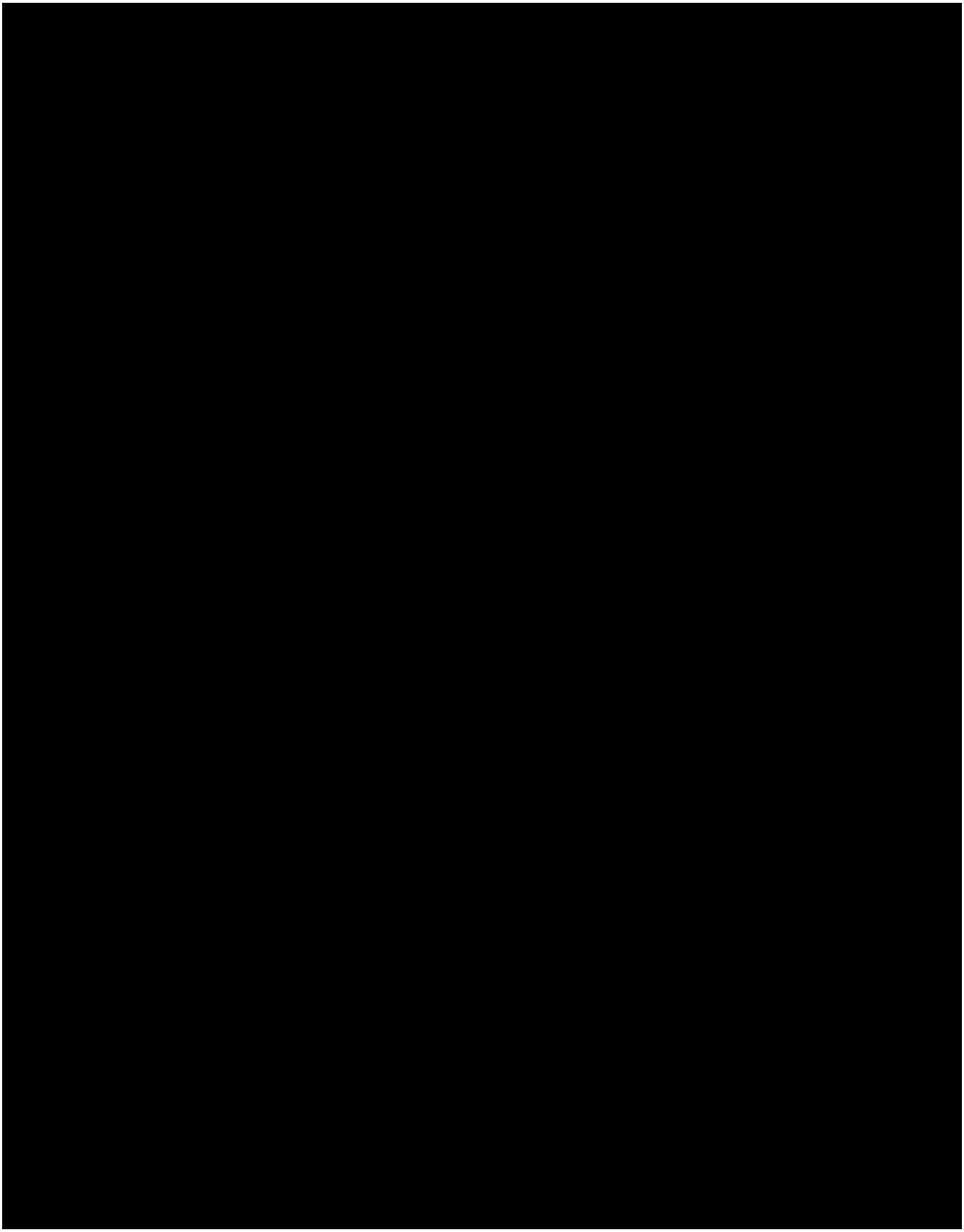

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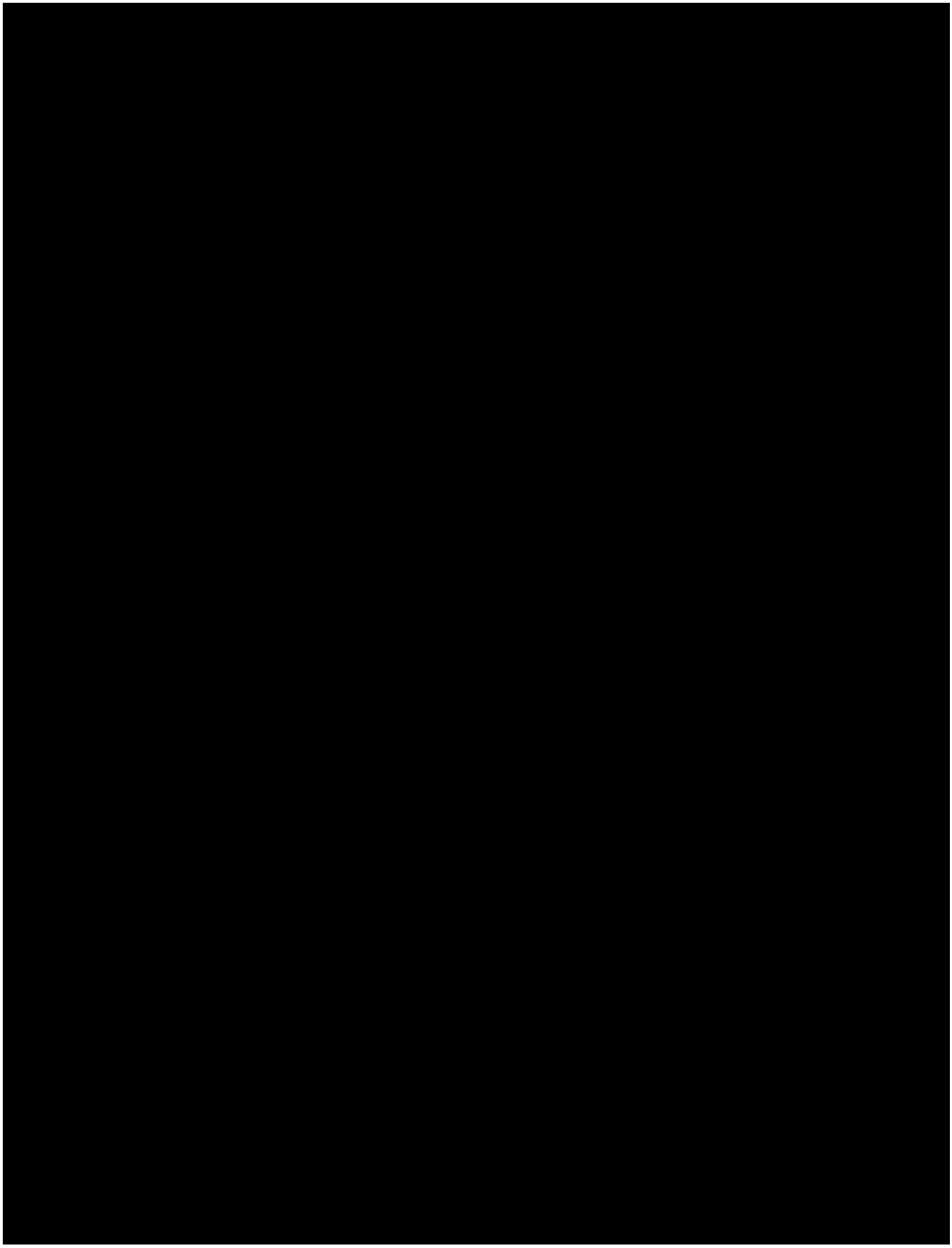

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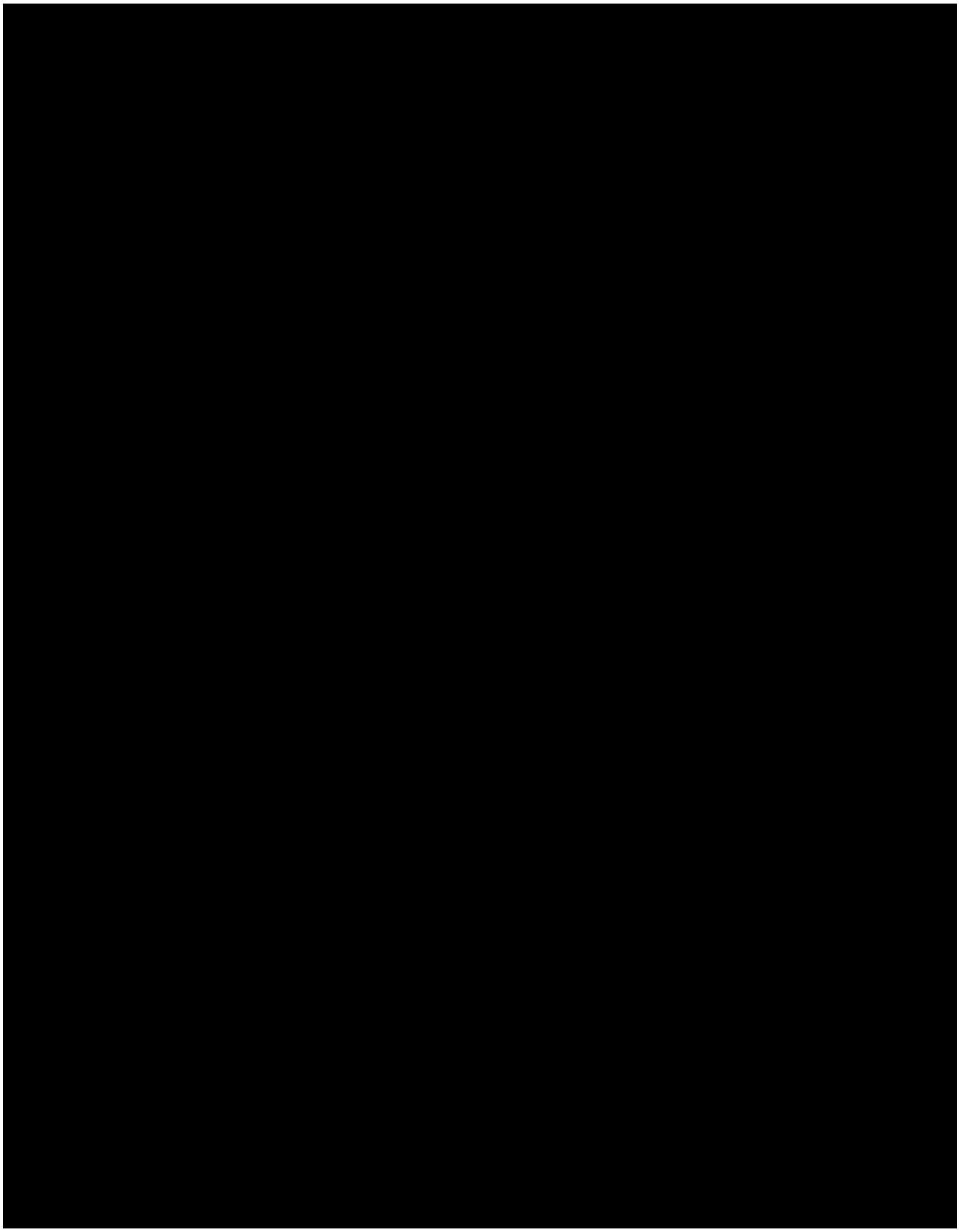

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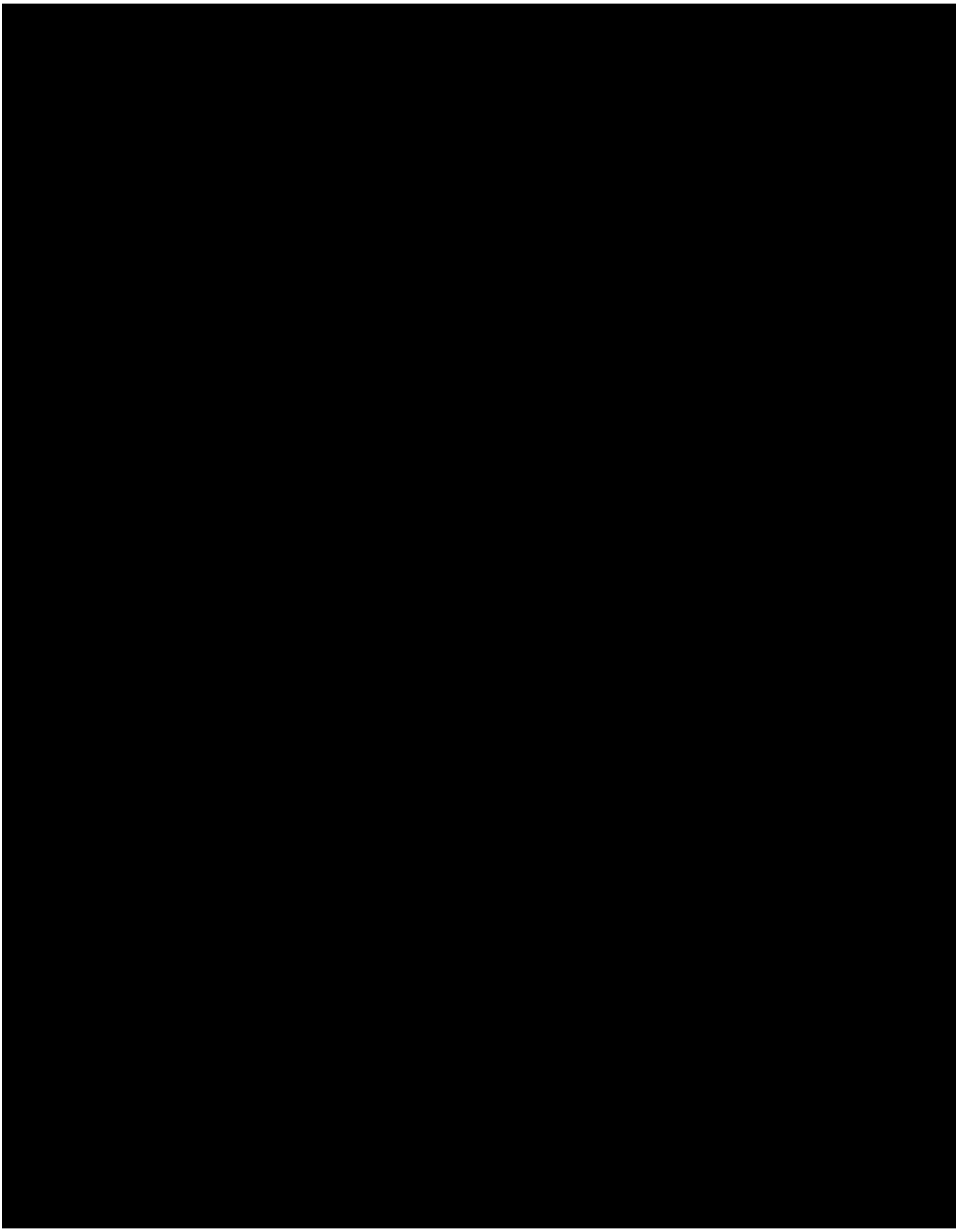

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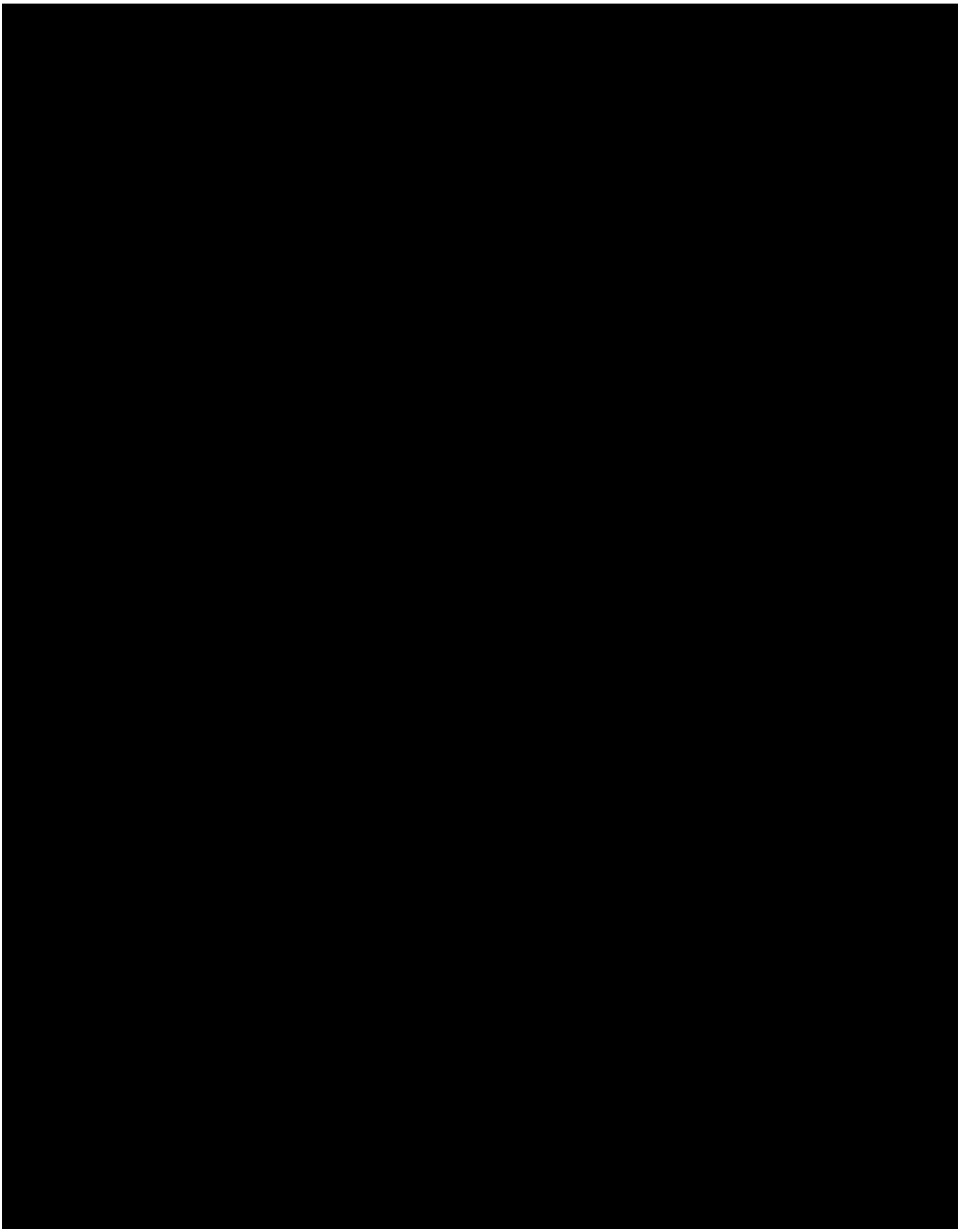

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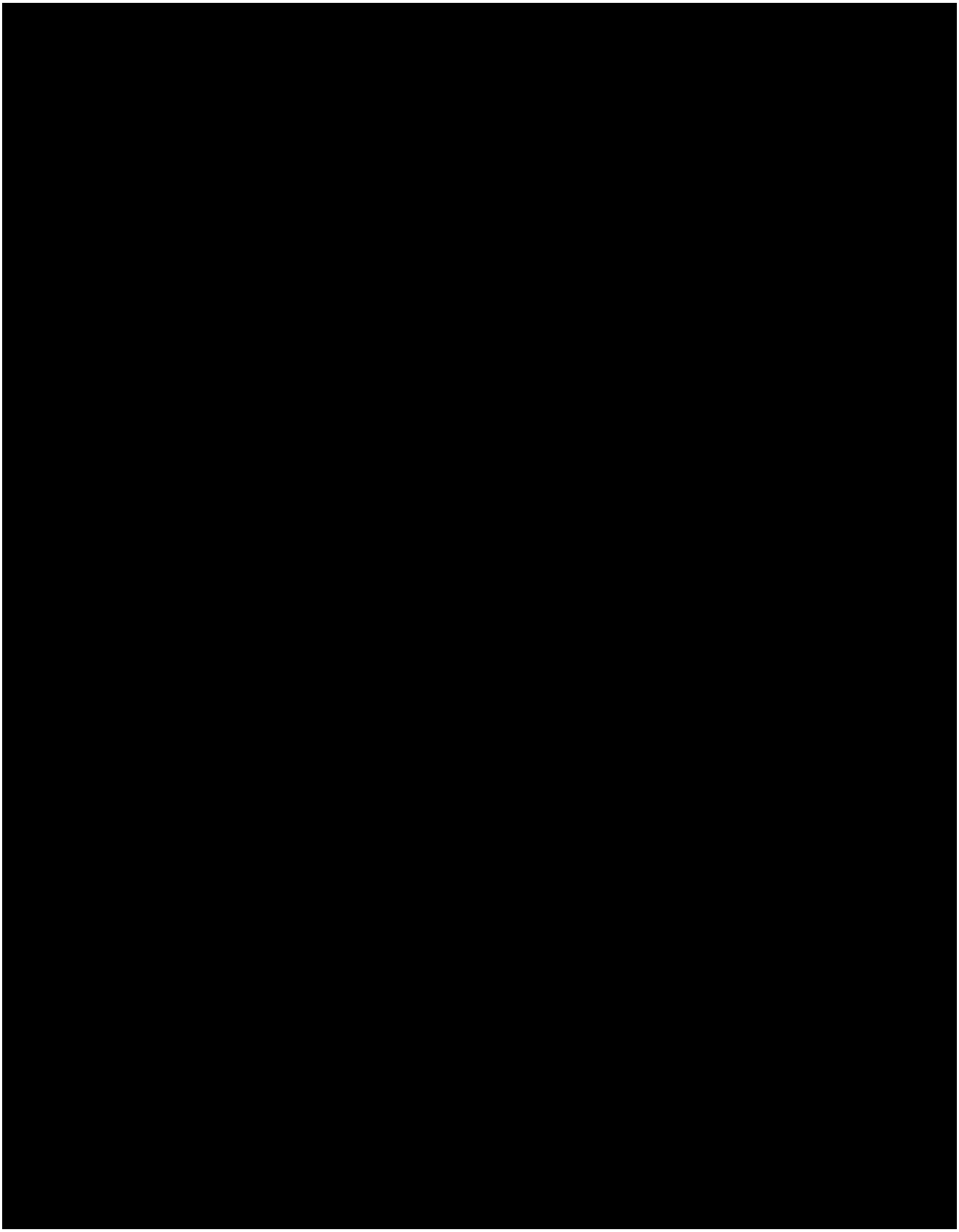

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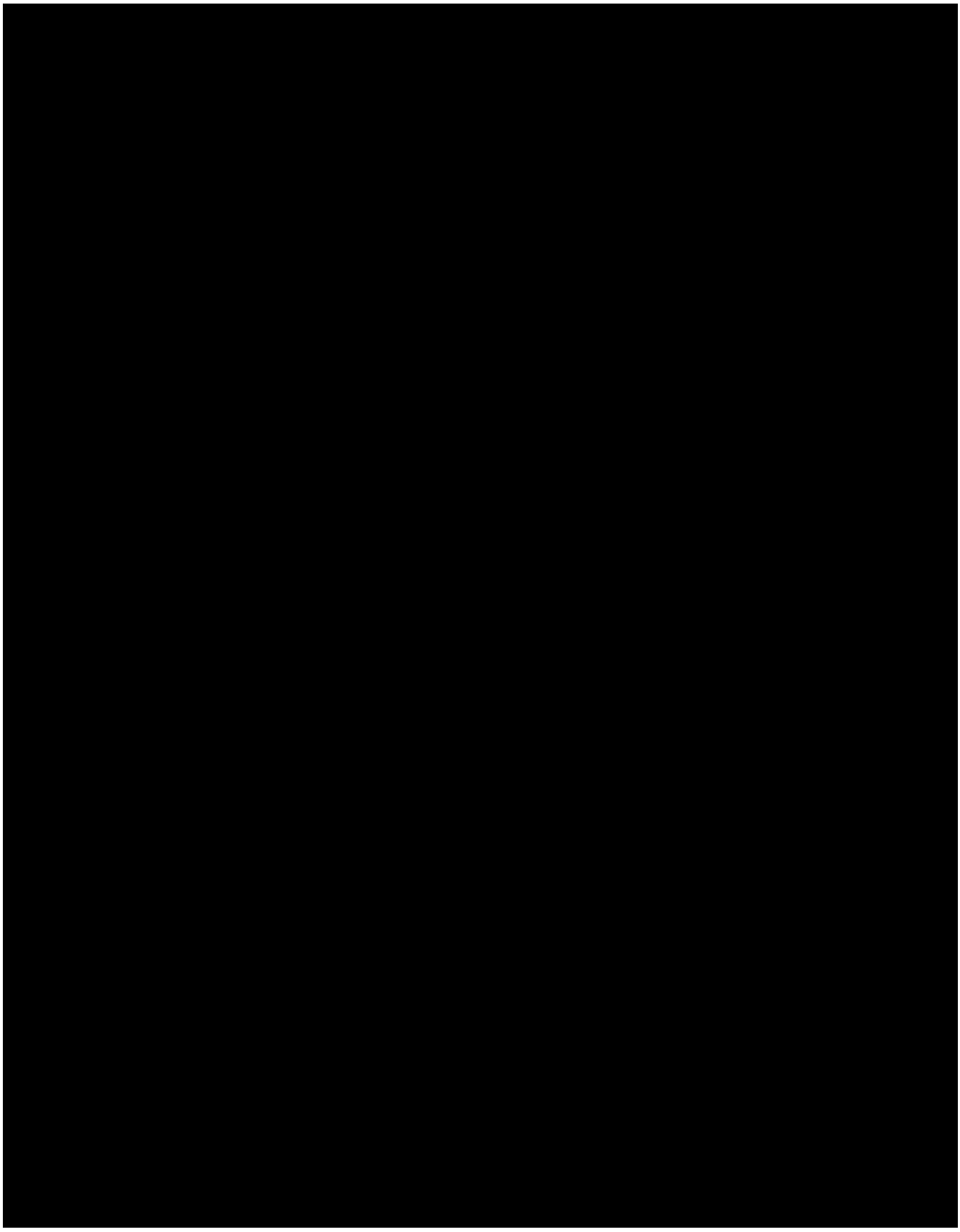

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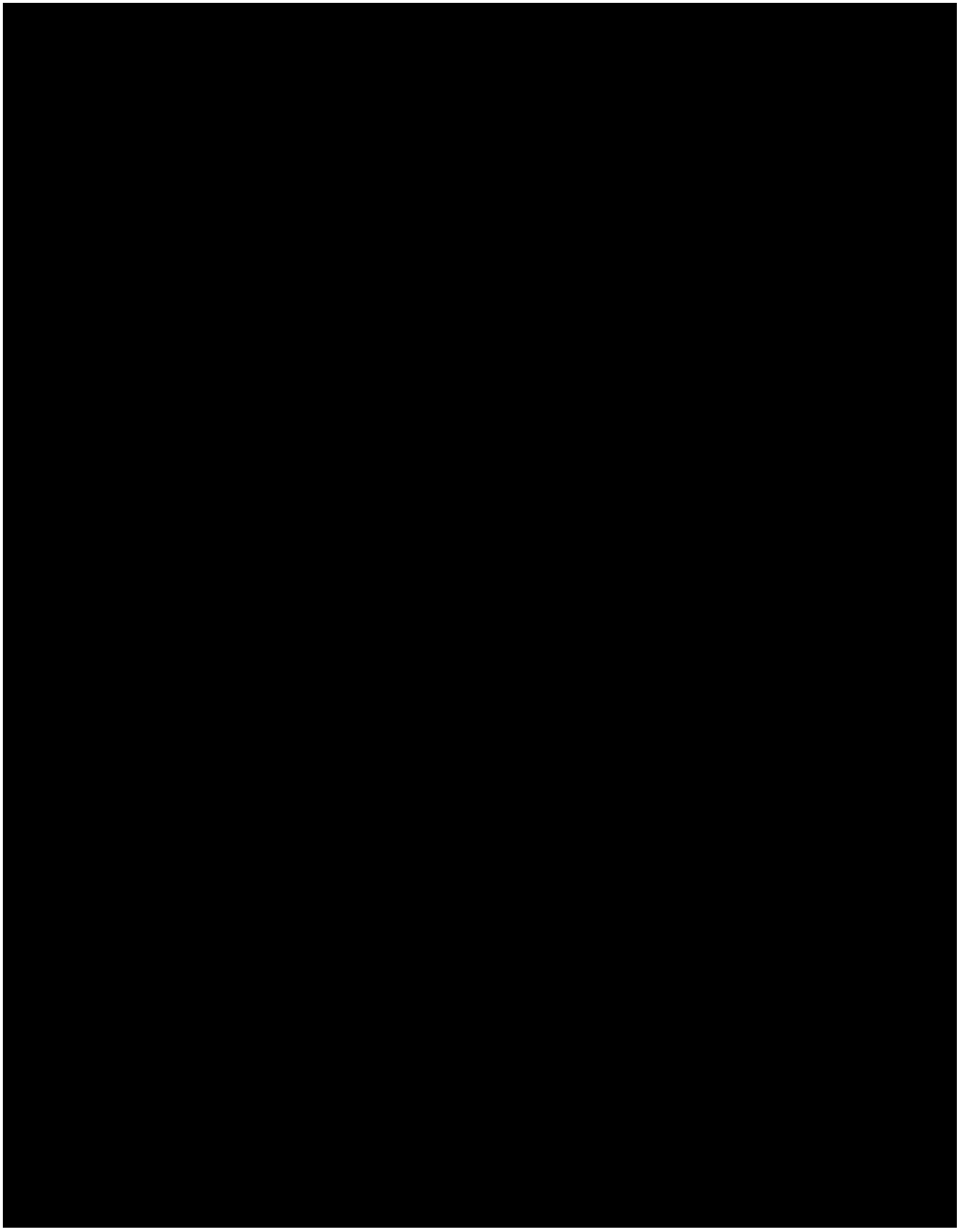

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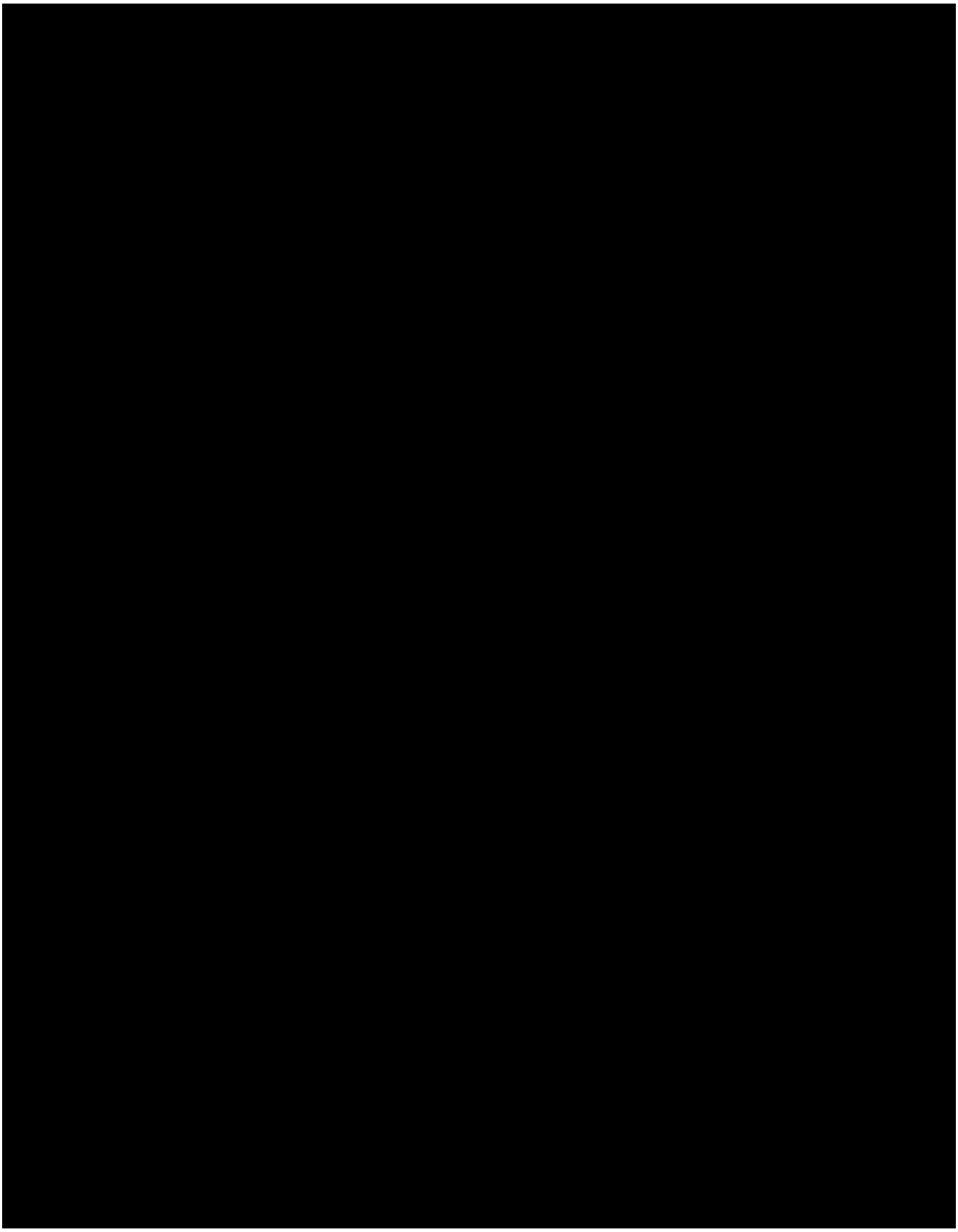

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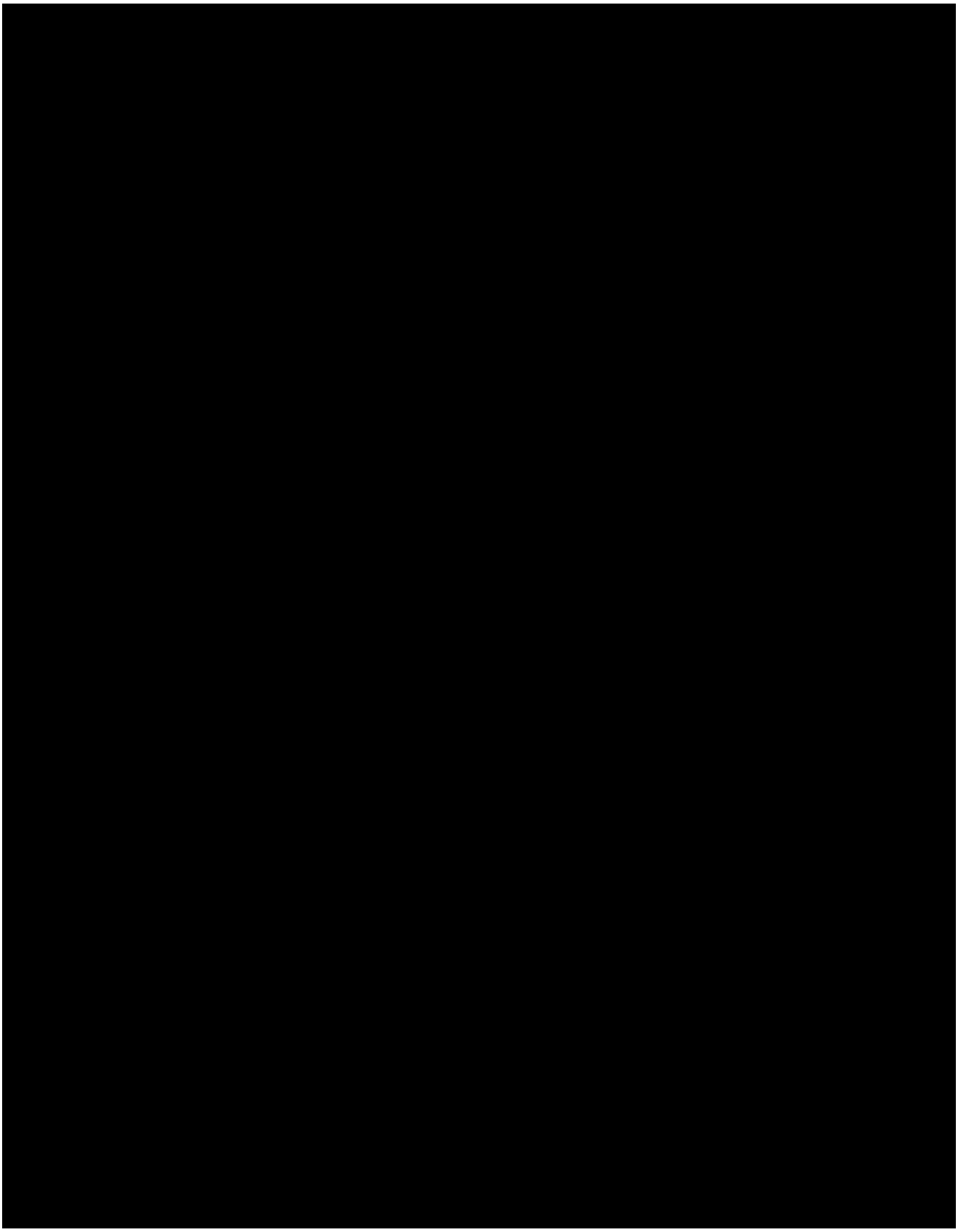

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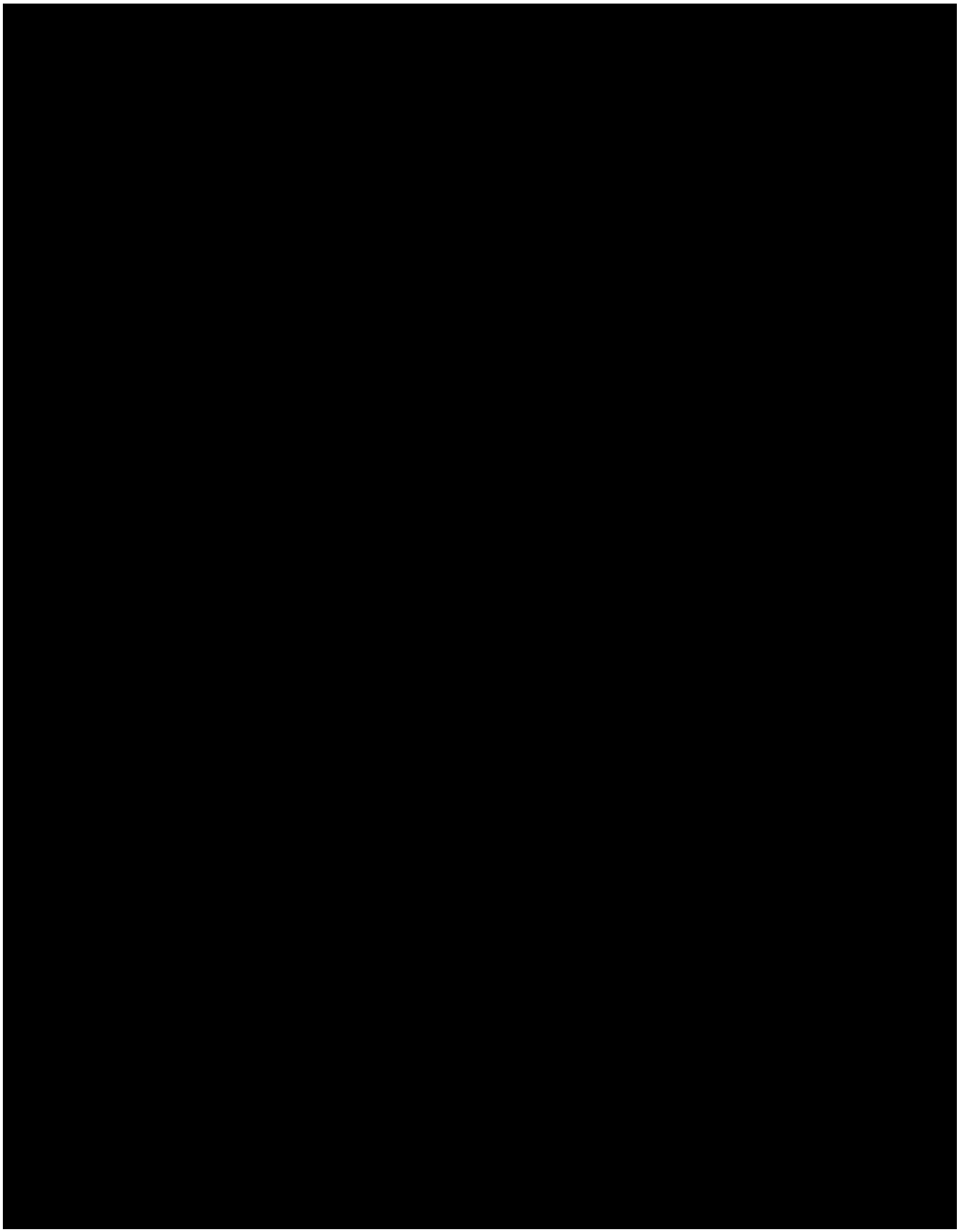

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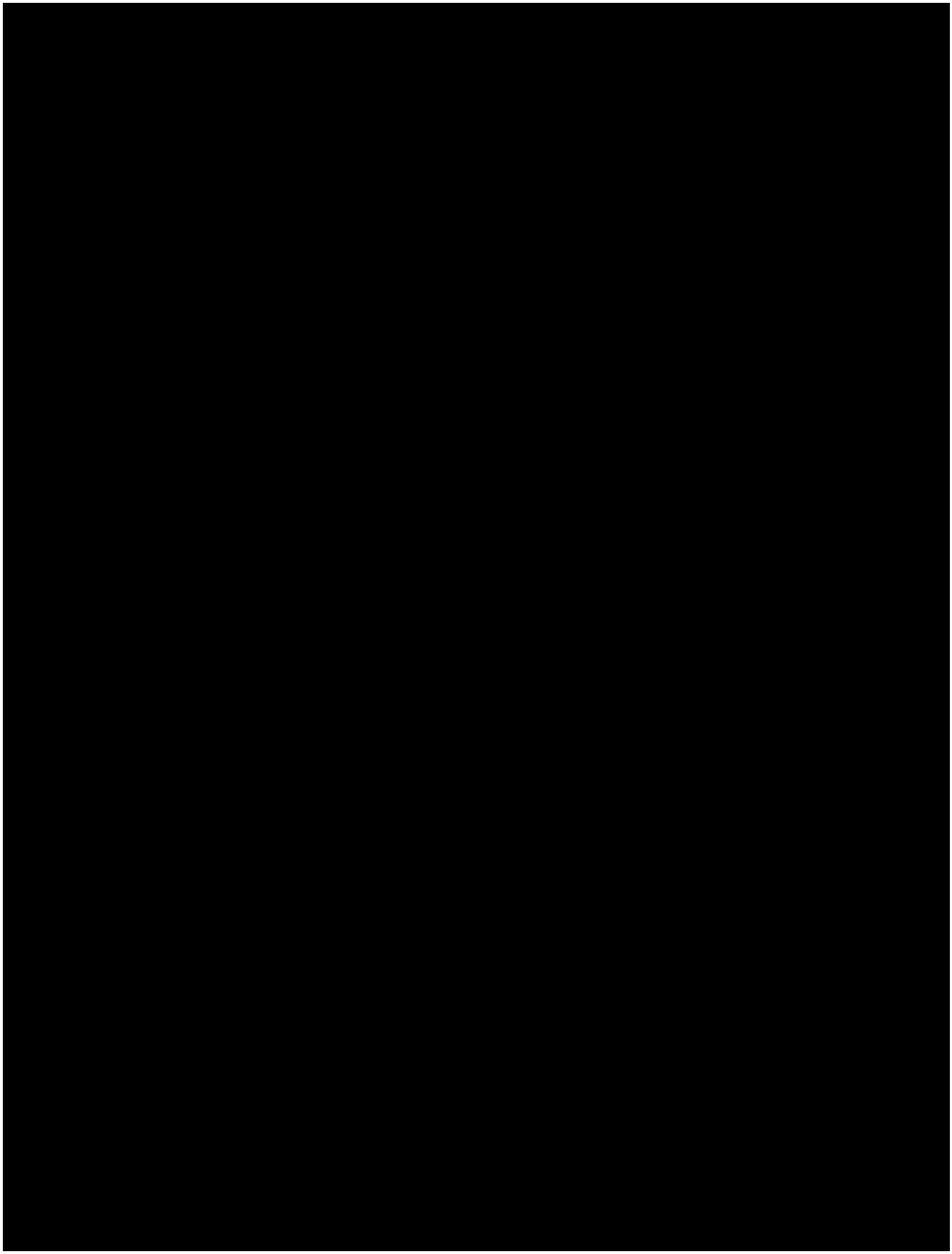

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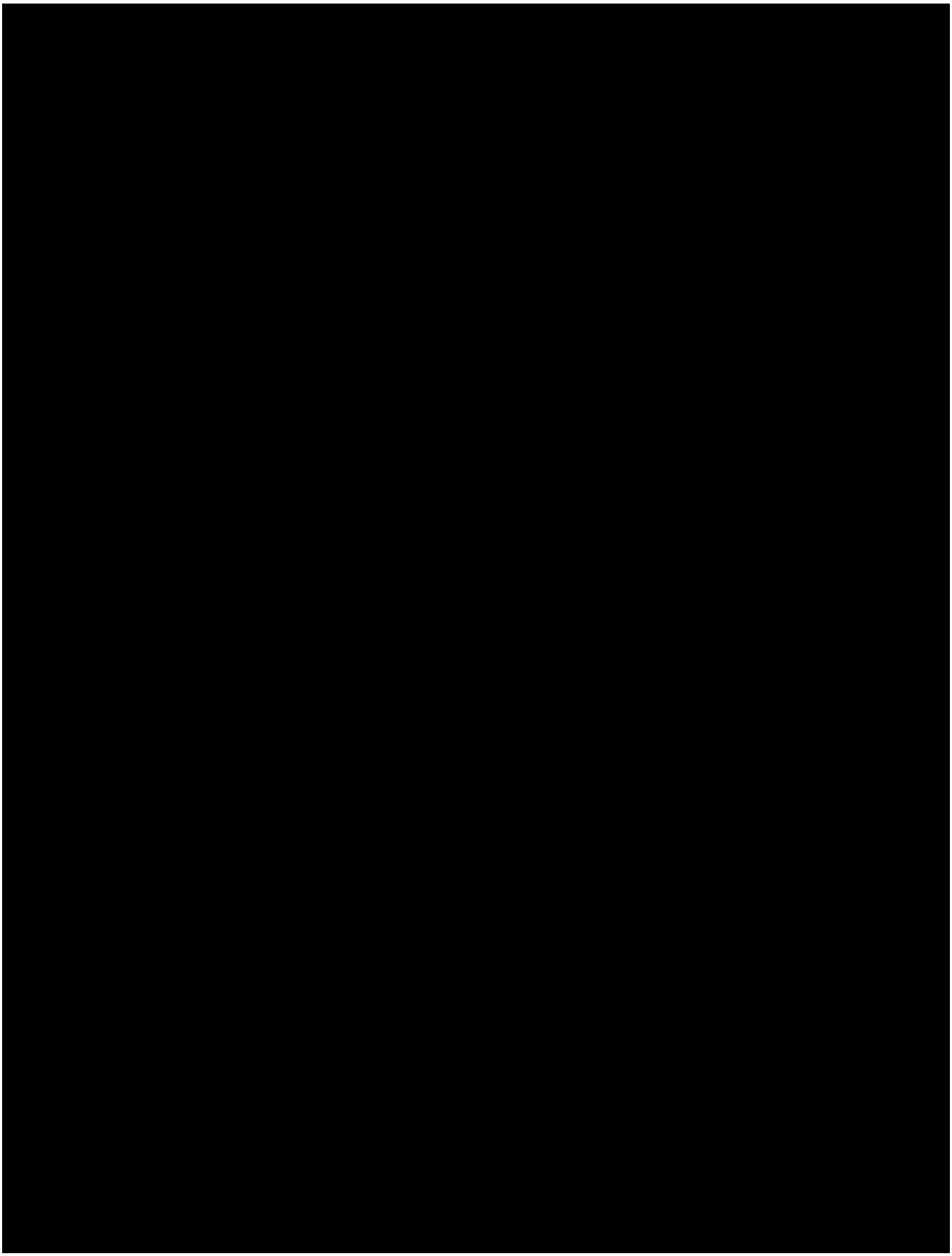

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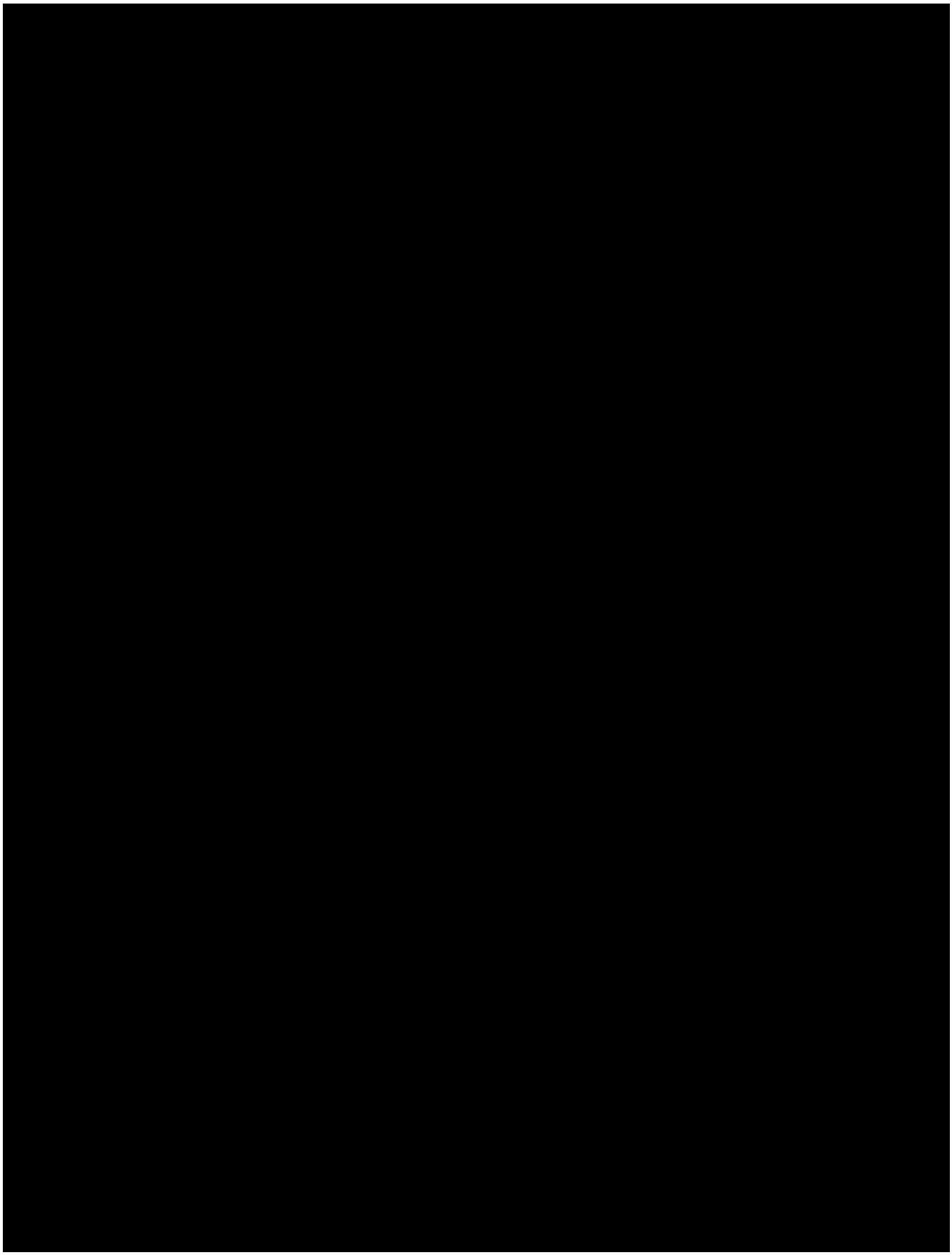

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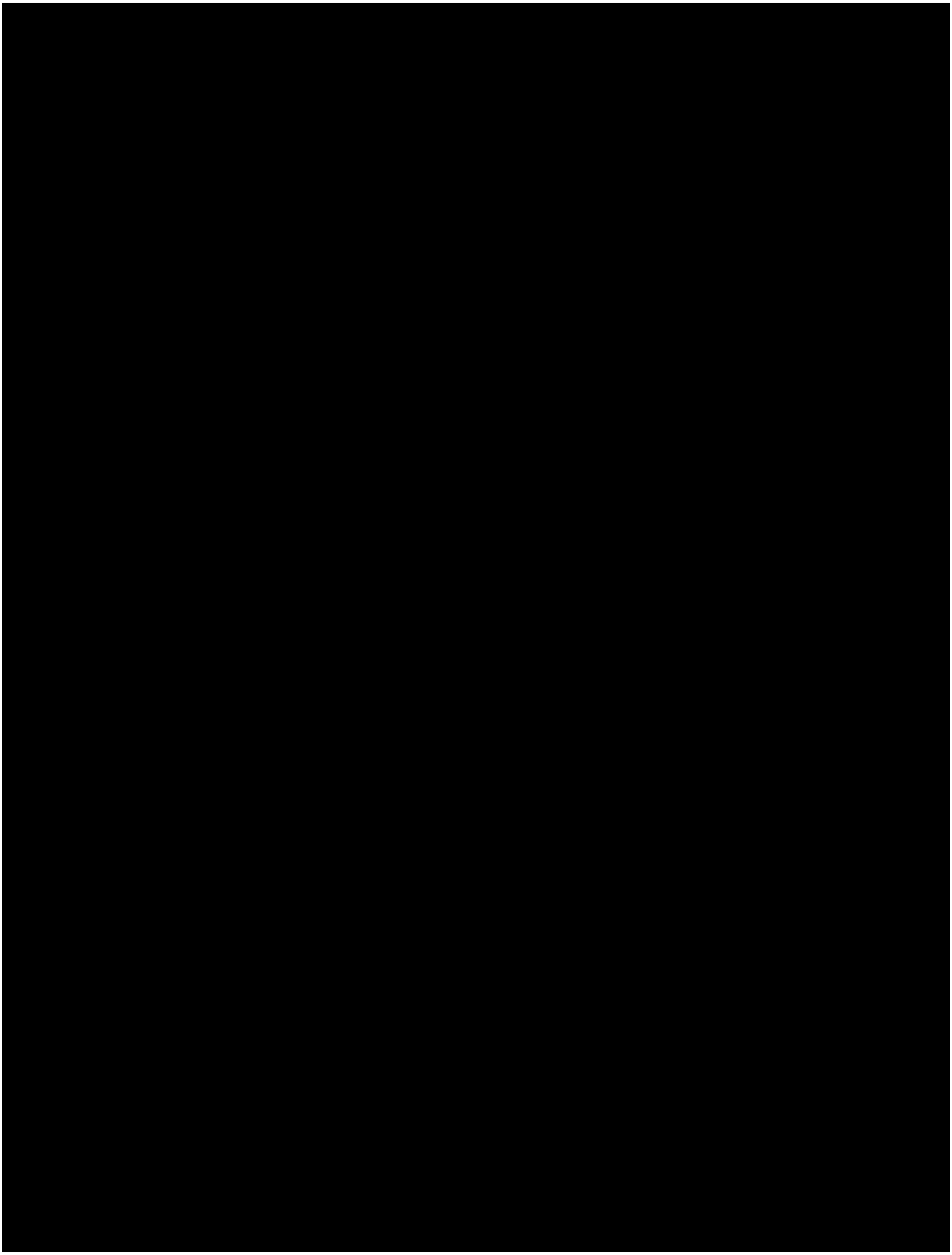

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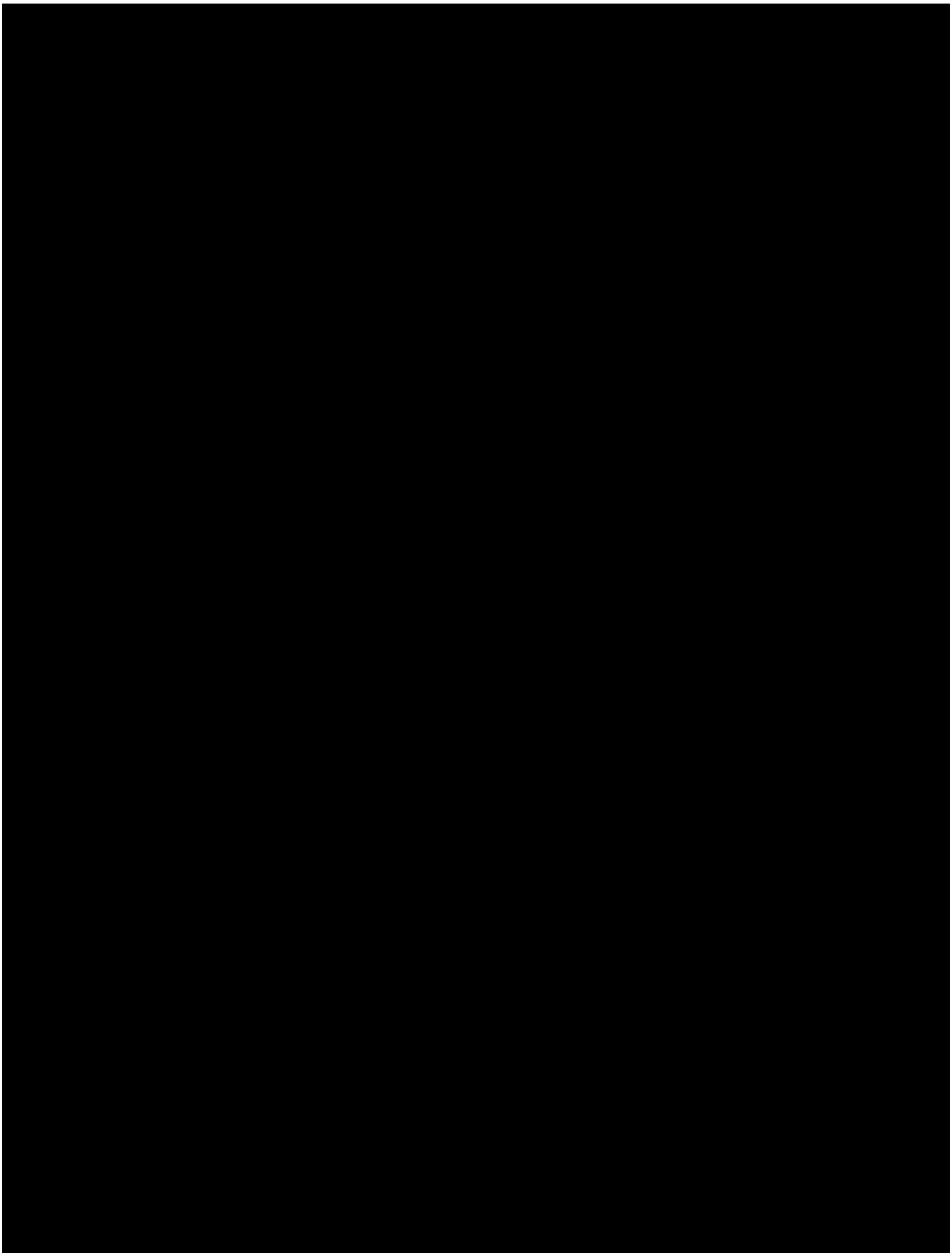

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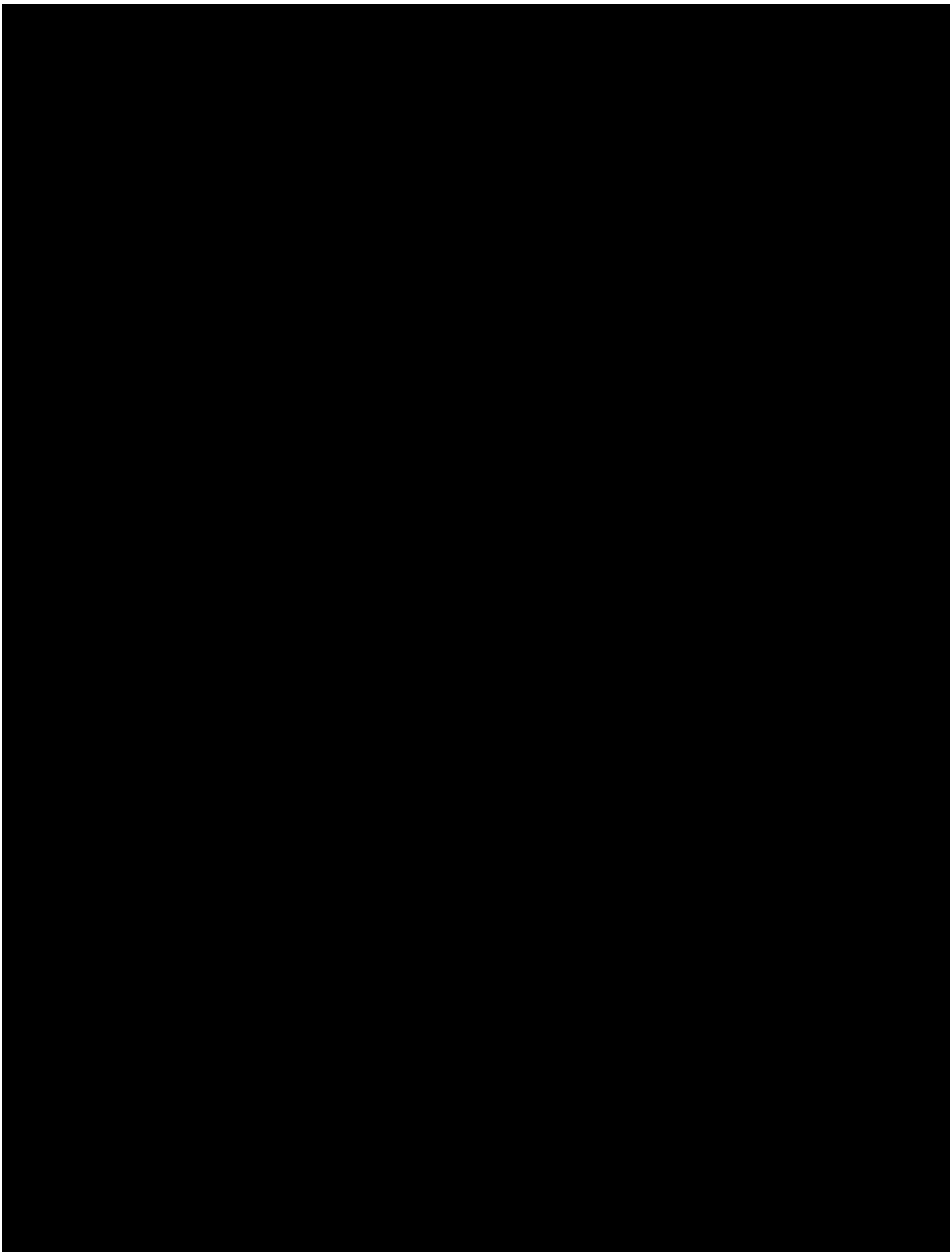

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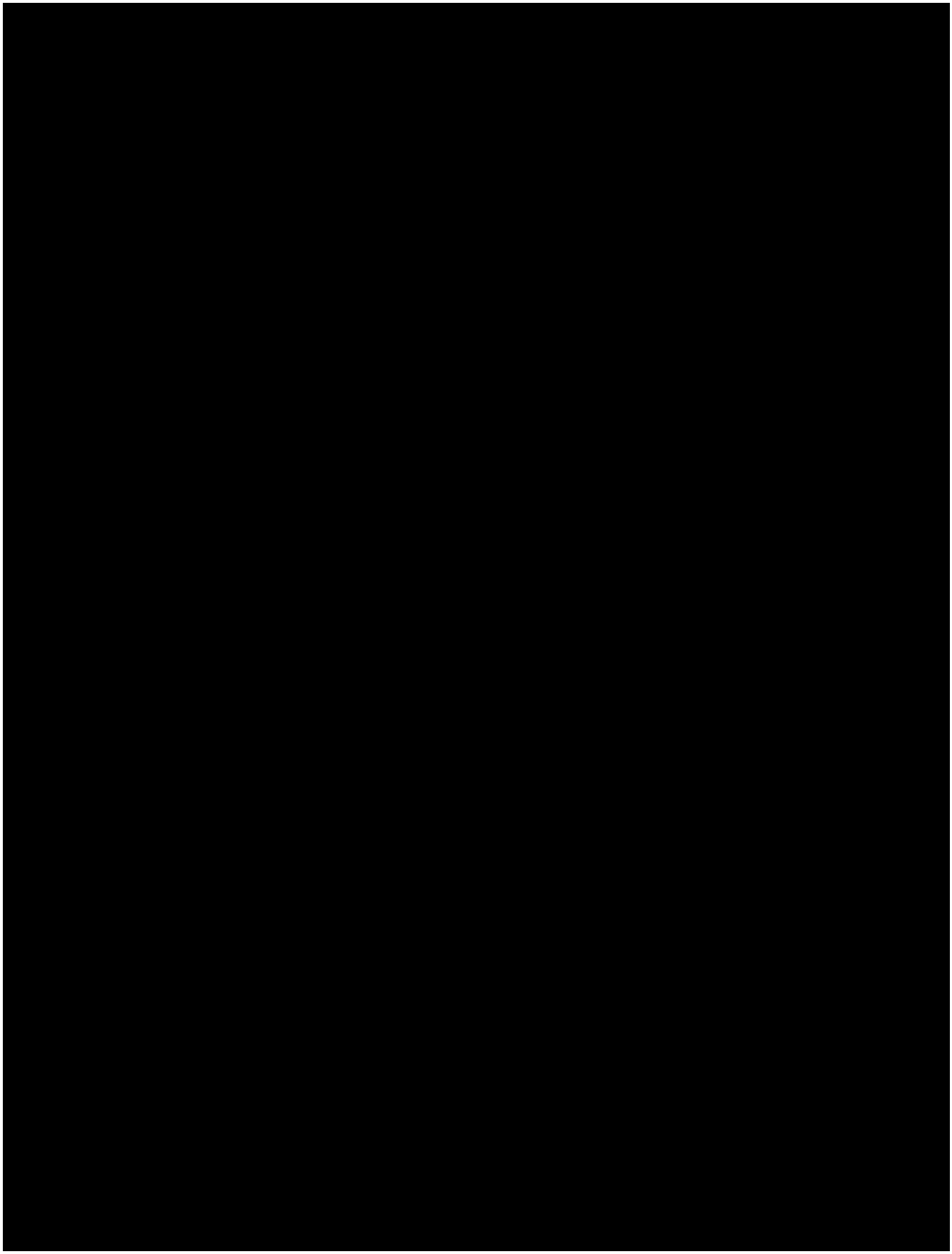

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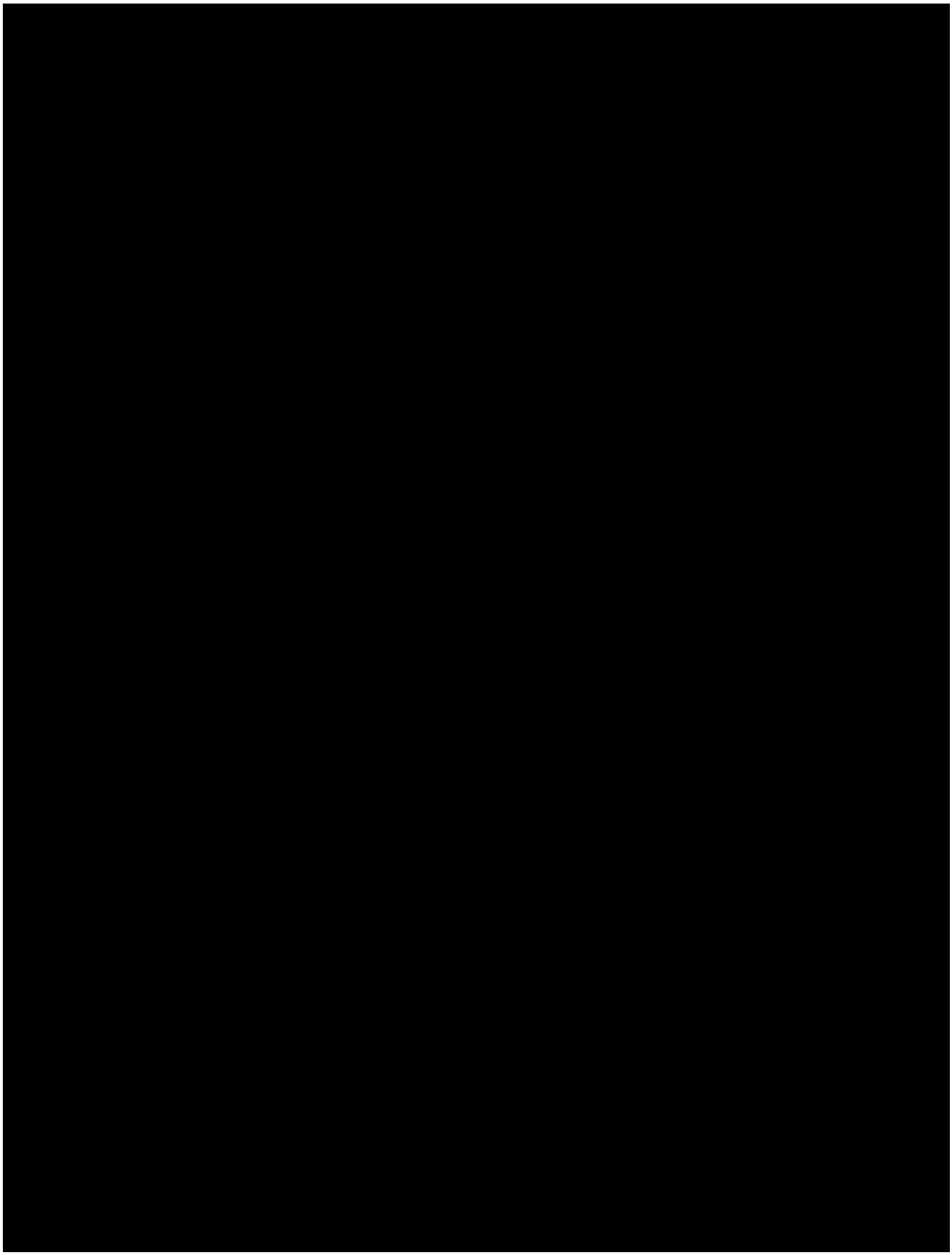

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INVESTIGATION LOG – OPERATION DELHI – INSPECTOR MARK WYAN

1.	15/04/2019	Briefed about allegations made by James Gaggero following his letter of complaint to the CoP. SIO is Supt Richardson. OIC DS Neil Zammit.
2.	17/04/2019	Meeting with Superintendent Richardson, CI Finlayson, DS Barker, DC Oton, DC Ward and DC Clarke. Mr Richardson explained the intention to arrest / execute search warrants upon Perez, Cornelio and Asquez. NCA were expected to assist. 8 – 10 May 2019. Information to be sought on premises. Instructed to deal with interviews of the suspects.
3.	24/04/2019	Review of Project Bass report. TC alleged to have accessed the system after the 4th October 2018 on the 7th and 17th October. Timebound source code stops the people counting after 3rd October 2018. Diversion of data to 36 North named database.
4.	30/04/2019	Email from Supt Richardson with attached emails between James Gaggero and TC where TC states that he would not consider cutting costs by removing the paid subscriptions for dormant email accounts to be in breach of his goodwill towards Blands.
5.	30/04/2019	Email from Insp Mark Schembri with attached document titled "*Company Relationships*" and Zip File "*Company Documents*". These attached documents detail the links between 36 North, Astelon Ltd and Icode Ltd. Company profiles relevant to understand beneficiaries.
6.	03/05/2019	Briefing by Superintendent Richardson. Also in attendance CI Finlayson, DS Barker, DS Schembri, DS Zammitt, DC Oton and DC Clarke. Discussion of potential offences which include Conspiracy to defraud, computer misuse offences, and Official Secrets Act. Asked to consider material for the purpose of interview. Companies House information provided by DS Schembri.
7.	06/05/2019	Email from Insp Schembri with an attached Timeline of events for companies 36 North, Astelon Ltd and Icode Ltd. The timeline includes documents that were stamped by Companies House acknowledging receipt.

		Relevant to understanding how the company was set up and when.
8.	07/05/2019	Meeting with James Gaggero, Insp Zammitt, Supt Richardson and CI Finlayson. Mr Gaggero provided an overview of the allegations. Necessary to better understand the nature of the allegations.
9.	08/05/2019	Email from Supt Richardson containing scanned copies of Commissioner Ian McGrail's daybook. Daybook dates are 27/09, 12/10 & 22/10. Relevant to understand texts / meetings he had with JP in relation to the NSCIS platform.
10.	08/05/2019	Email from DS Barker with up to date Timeline of events. Relevant to understanding the chronology of events.
11.	08/05/2019	DS Clarke completed the analysis of the email account eddie.bradley@wavetecx.com. No relevant emails discovered which had not already been previously identified on the other email accounts.
12.	09/05/2019	Meeting with Supt Richardson, CI Finlayson, DS Zammit, PC Clarke, PC Oton and PC Garcia together with NCA: Phil Laratt – Team Manager Danny Bourne – Interview strategy Paul Donnington Smith – Interview Strategy Roisin Cullen – Digital Forensics Jamie Strachan – Digital Forensics Briefing given to update NCA on the case (including offences, arrest strategy etc) and introduce officers to one another.
13.	09/05/2019	Interview plans created by me for John Perez and Edward Asquez. Pre interview disclosure scripts also prepared. Topic areas to include: 1. Job role and responsibilies at Blands Limited 2. Thomas Cornelio 3. Eddie Asquez / John Perez 4. Wavetecx Limited 5. National Security Central Intelligence System (NSCIS) 6. Resignation from Blands Limited 7. 36 North Limited 8. Icode Limited 9. Astelon Limited 10. Unauthorised access to the NSCIS platform.
14.	10/05/2019	Assigned as OIC by Supt Richardson. DS Zammit no longer acting as OIC.

15.	10/05/2019	Briefing provided by SIO, CI Finlayson regarding the arrest plans and intelligence. Arrest teams / search teams in place.
16.	10/05/2019	RGP Officers actioned the arrests of: DS Stewart Finegan arrested Thomas Cornelio for: • Conspiracy to Defraud under Common Law • Unauthorised Access to Computer Material • Unauthorised Acts with Intent to Impair operation of a Computer, etc • Unauthorised Interception of Computer Service • Unauthorised Acts Causing, or creating risk of, serious damage • Fraud by Failing to Disclose Information DS Mark Garratt arrested John Perez for: • Conspiracy to Defraud under Common Law • Encouraging or Assisting Unauthorised Access to Computer Material • Encouraging or Assisting Unauthorised Interception of Computer Service • Encouraging or Assisting Unauthorised Acts Causing, or Creating Risk of, Serious Damage PS Patricia Gonzalez arrested Edward Asquez for: • Conspiracy to Defraud under Common Law Search warrants took place at: • [redacted] – residence of Thomas Cornelio • 36 North Office in WTC • [redacted] – residence of John Perez • [redacted] – residence of Edward Asquez N.B. I was not involved in the planning / arrest of any of the suspects.
17.	10/05/2019	Insp Zammitt and DC Clarke interviewed Thomas Cornelio with Paul Smith of the NCA in the presence of his legal representative, Owen Smith. Exhibits: NZ/TC/DVD/1A – Insp Zammitt, DS Clarke & Owen Smith present NZ/TC/DVD/2A – Insp Zammitt, Paul Smith (NCA) & Owen Smith present NZ/TC/DVD/3A – Insp Zammitt, DS Clarke & Owen Smith present

18.	10/05/2019	DC Clarke and I interviewed John Perez with Paul Smith of the NCA in the presence of his legal representatives, David Dumas QC, Darren Martinez and Charles Bonfante. Exhibits: Pre-Interview Disclosure recorded with legal advisor. MW/JP/DVD/1A – Inp Wyan, DS Clarke, David Dumas QC & Darren Martinez present. MW/JP/DVD/2A – Insp Wyan, DS Clarke, David Dumas QC & Darren Martinez present. MW/JP/DVD/3A – Insp Wyan, Paul Smith (NCA), David Dumas QC & Darren Martinez present. MW/JP/DVD/4A – Insp Wyan, Paul Smith (NCA), David Dumas QC & Darren Martinez present.
19.	10/05/2019	DC Clarke and I interviewed Edward Asquez in the presence of his legal representative, Robert Fischel QC. Pre-Interview disclosure recorded with legal advisor. Interview is Exhibit MW/EA/DVD/1A.
20.	13/05/2019	DC Clarke instructed to prepare details of all arrests / interviews. Relevance - Administration.
21.	13/05/2019	Email from Supt Richardson explaining that the arrest of CS at Gib Airport is to be discreetly and prior to him entering public area. Relevance - Arrest plan in place for airport intercept. (N.B I was not involved in planning / arrest of Mr Sanchez).
22.	13/05/2019	Email from David Dumas QC requesting for JP's daughters devices to be released. Relevance – Lawyer request.
23.	13/05/2019	1st statement of DS 3 Stewart Finegan signed as complete. This statement relates to the arrest of Thomas Cornelio and Search Warrants at Unit 229 WTC and 2 Campion House, Waterport Terraces.
24.	13/05/2019	1st statement of DC 164 Mohammed Ahammad signed as complete. This statement relates to the Search Warrant at 2 Campion House.
25.	14/05/2019	DI Neil Zammitt arrested Caine Sanchez for: • Misconduct in Public Office • Beach of Official Secrets Act • Fraud by Abuse of Position Search Warrant took place at 6 Hargraves Ramp.

26.	14/05/2019	DS Clarke and I interviewed Caine Sanchez in the presence of his legal representative, Andrew Cardona. Pre-interview disclosure recorded with legal advisor. Interview is Exhibit PAC/CS/DVD/1A.
27.	14/05/2019	1st statement of DC 176 Lionel Gomez signed as complete. This statement relates to the arrest of Thomas Cornelio and the Search Warrant at 2 Campion House, Waterport Terraces.
28.	14/05/2019	Email from James Gaggero to Supt Richardson in which he forwards an email from TC to CS stating that TC's provision of support ended on 31st August 2018. Relevance – Evidence that TC was purporting he did not access the platform after 31/08/2018.
29.	14/05/2019	Meeting with Supt Richardson and CI Finlayson to discuss evidence disclosed and what has been withheld for interview purposes. Note that there is no obligation for an interviewer to disclose evidence prior to interview. Matter for interviewing officer. See Investigative Interview guidance.
30.	14/05/2019	Email from Sgt Clarke with tables attached detailing all interview and arrest details up to 14/05/2019. Relevance – Administration.
31.	14/05/2019	1st statement of DS 127 Luis Miguel Garcia White signed as complete. This statement relates to the Search Warrant at Unit 229, WTC.
32.	15/05/2019	1st statement of PS Stuart Dean Manfred signed as complete. This statement relates to the Search Warrant at Unit 229, WTC.
33.	15/05/2019	1st statement of PC 182 John Victor signed as complete. This statement relates to the Search Warrant at 2 Campion House, Waterport Terraces.
34.	15/05/2019	1st statement of DC 211 James Currer signed as complete. This statement relates to the Search Warrant at Unit 229, WTC.
35.	15/05/2019	1st statement of DC 147 Joanna Ullger signed as complete. This statement relates to the Search Warrant at Unit 229, WTC.
36.	15/05/2019	1st statement of DC 62 Stephanie Apap signed as complete. This statement relates to the Search Warrant at St Stephens Close.
37.	15/05/2019	1st statement of PS 14 Patricia Gonzalez signed as complete. This statement is in relation to the Search Warrant at 8 Ellerton Ramp.
38.	16/05/2019	1st statement of DS 7 Sam Cottam signed as complete. This statement relates to the Search Warrant at Unit 229, WTC.
39.	16/05/2019	1st statement of DS 15 Mark Garratt signed as complete. This statement relates to the Search Warrant at St Stephens Close.

40.	16/05/2019	1st statement of DC 209 Colin Tester signed as complete. This statement relates to the Search Warrant at St Stephens Close
41.	16/05/2019	1st statement of DC 83 Maxine Rodriguez signed as complete. This statement relates to the Search Warrant at 8 Ellerton Ramp
42.	16/05/2019	1st statement of PC 143 Antony Gaul signed as complete. This statement relates to the Search Warrant at 8 Ellerton Ramp
43.	17/05/2019	1st statement of DC 66 Dennis Penalver signed as complete. This statement relates to the Search Warrant at 8 Ellerton Ramp
44.	20/05/2019	1st statement of DC 96 Mark Hermida signed as complete. This statement relates to the Search Warrant at St Stephens Close
45.	24/05/2019	2nd statement of DC 164 Mohammed Ahammad signed as complete. This statement relates to the Search Warrant at 2 Campion House, Waterport Terraces
46.	28/05/2019	Review of video file created from MG-1 Whatsapp (Text messages between Chipol and Perez). Transcript created for the purpose of reviewing evidence before forensic extraction. Relevant sections highlighted.
47.	28/05/2019 – 16/07/2019	DS Clarke was instructed to review digital devices not submitted to HTCU and documentary exhibits seized as a result of the search warrants. The exhibits inspected were: AG/USB/4 MH/CD/1 AG/Samsungsmartphone/1 AG/Nexustablet/1 AG/Samsungsmartphone/2 AG/USB/5 AG/Harddrive/1 PG/1 CT/Phone/1 CT/Phone/2 AG/Samsungtablet/1 MH/SD/2 LG/2 JV/Home/5 CT/Laptop/2 PG/2 MH/Ipad/1 MH/Comp/1

		MH/Comp/2 JV/Home/8 PG/Doc/3 CT/Notebook/2 AG/Doc/6 AG/Doc/4 MH/Docs/1 CT/Docs/4 CT/Docs/3 CT/Docs/5 CT/Notebook/1 JU/2 JU/1 JC/Email/1 SC/Doc/2 SC/Doc/1 LWGW/Notebook/1 LMGW/Doc/4 SC/Doc/4 SC/Doc/3 MH/Notebook/1 MH/Doc/4 PG/Doc/3 CT/Notebook/2 AG/Doc/6 AG/Doc/4 MH/Docs/1 CT/Docs/4 CT/Docs/3 CT/Docs/5 CT/Notebook/1 JU/2 JU/1 JC/Email/1 SC/Doc/2 SC/Doc/1 LWGW/Notebook/1 LMGW/Doc/4

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48.	31/05/2019	Email from Daniel Bourne (NCA) in which he attaches a copy of an ILOR to assist in the drafting process of one. Relevance – Lines of enquiry with the US to determine ownership / examine email accounts.
49.	07/06/2019	Email from TC requesting that all non-essential equipment be returned to him. Relevance – Request from suspect.
50.	10/06/2019	Bluetooth extraction review started on chat logs. Highlighting made on relevant parts of the logs that may be of evidential value for the case / offer further lines of enquiry.
51.	11/06/2019	Review of the statement of James Gaggero. Some elements of the statement are hearsay and inadmissible. Recommend removal of certain sections of the draft. Relevance – Witness / statement of complaint.
52.	12/06/2019	Email from 36NLegal requesting various devices be returned. Question who is writing as 36N legal. No identified legal advisor. If

		it is legal advisor they should identify themselves / if it is a suspect there is no reason to assert that they are legal team. I question whether Lesley-Ann Cornelio has been sending the email as 36N Legal on the basis that she is a qualified lawyer and is part of a Whatsapp group called 36N Legal. In this chat she is involved in the drafting of a contract for Phoenix on behalf of 36N (April 2019). Relevance – Request from suspect.
53.	13/06/2019	Update provided to SIO in relation to the investigation. Update given in respect of statements / exhibit administration / chat log extractions (including Aaron Chipol re Visa Waivers), ILOR's. Relevance – Ongoing lines of enquiry include: • Witness statements • Digital device review (chats / emails etc) – Whether they suggest criminality or provide defences for suspects. • Aaron Chipol – Whether he has committed any offence based on the chat logs viewed • ILOR – Emails and ownership. Relevance – Lines of enquiry.
54.	14/06/2019	Review of the offence of Misconduct in Public officer commenced and subsequently discussed with SIO. Legal research undertaken. Useful guidance in the CPS website. *Public officer, acting as such, wilfully neglects to perform his duty and/or wilfully misconducts himself, to such a degree as to amount to an abuse of the public's trust in the office holder, without reasonable excuse or justification*. Relevance – Legal research.
55.	08/06/2019	2nd review of statement by Stemp including notes for additional information / supporting evidence where possible. Hearsay and opinion removed.
56.	18/06/2019	Email from DC 38 Garcia in which he stated that he has had a visual inspection of Caine Sanchez WhatsApp chats appertaining to JP, TC and JL which are blank, suggesting that they were deleted. The chat appertaining to AC was still present which only shows chats regarding the day to day running of BCA. Relevance – Digital device review / investigation in relation to CS. Consideration that CS may have attempted to pervert the course

		of justice? Need to assess when the deletion took place and whether consistent with his other chat logs.
57.	19/06/2019	ILOR to be completed. To contact the NCA and obtain template that is relevant to this type of investigation. Numerous documentary exhibits to be stored correctly until they can be analysed against further evidence. Relevance – Lines of enquiry with the US regarding emails / ownership.
58.	19/06/2019	HTCU update provided. • Cornelio phone sent for extraction. • Perez phone extraction is of a good standard. • Sanchez phone to be sent. • Asquez phones are physical extractions. This is HTCU forensic extraction work following which there is a requirement to analyse all of the information obtained. Relevance – HTCU forensic extractions of devices.
59.	24/06/2019	Finalised the review of draft statement of Jonathan Galliano. Relevance – Witness / computer misuse evidence. Review necessary in order to simplify matters for jury and to ensure that all of the evidential points / procedures have been correctly dealt with.
60.	24/06/2019	Email sent to Jonathan Galliano. Having reviewed the draft statement there are a number of points that need addressing. In particular, evidence in support of the statement. Numerous exhibits still required to corroborate what he is asserting. Comments made in the draft statement returned to him for consideration. Relevance – Witness / computer misuse evidence.
61.	25/06/2019	Update provided to SIO and CI Finlayson. Also present DC Oton and DC Garcia. • Statement of Gaggero (pending removal of inadmissible evidence) • Majority of statements of police officers received (arrest / interview) • Review undertaken of J Galliano and requires substantial work to evidence / corroborate • Statement of K Benyunes needs to be simplified for jury

		• PWC statements require greater detail and any exhibits tendering in evidence (Stemp / Mason) • ILOR draft completed based on NCA example • Exhibit list complete • Phone extractions – Logs have been reviewed and highlighted possible evidence. Requires cross – referencing with other exhibits. • Forensic update by HTCU – Delays with processing identified. • Interviews sent for transcription • Chipol to be interviewed under caution in relation to possible: o Immigration act breaches – Consider harbouring an illegal immigrant or related offence under IARA o Misconduct in public office – undermining Bland for benefit of 36 North / allowing TC to access o Disclosure of sensitive information to TC (OSA) • Sanchez devices to be processed by HTCU. Phone requires sending to Cellbrite for extraction. Relevance – Lines of enquiry.
62.	28/06/2019	Draft report requesting advice from the DPP regarding evidence obtained against Chipol (immigration related) in the context of misconduct in public office. • Background • The Issues • The Law – Misconduct in public office • The Law – Borders and Coastguard Duties • Immigration Policy • The evidence • Timeline of events • Request for advice Relevance – Consolidation of evidence and consideration of facts / law resulting in request for legal advice.
63.	01/07/2019	Email from Andrew Cardona where he state that CS is willing to attend a second interview where he will read from a prepared statement. He also points out that as per UK CPS Guidance on the offence of Misconduct in Public Office, the offence is used sparingly and in limited circumstances. This has already been considered as part of legal research.

64.	02/07/2019	Second draft report requesting advice from the DPP regarding evidence obtained against Chipol (NSCIS related) in the context of misconduct in public office.
		• Background
		  ○ NSCIS platform
		  ○ Complaint by Bland
		  ○ Arrest of Cornelio
		• The Issues
		• The Law – Misconduct in public office
		• The Law – Unauthorised access to computer material
		• The evidence
		  ○ Attempts to undermine Bland in favour of 36 North
		  ○ Encouraging Cornelio to access the NSCIS system without authority
		  ○ Knowledge of unauthorised access to the NSCIS platform by Cornelio
		  ○ Disclosing sensitive information to Cornelio regarding the NSCIS platform
		  ○ Offering government funding to 36 North
		• Timeline of events
		• Request for advice
		Relevance – Consolidation of evidence and consideration of facts / law resulting in request for legal advice.

65.	07/07/2019	Email from DC 38 Garcia attaching an email thread between himself and Roisin Cullen (NCA) in which she explains progress made on Operation Delhi devices. Some Bland devices have errors and others being verified. Relevance – Lines of enquiry / digital evidence progress.
66.	16/07/2019	Email from Chris Finch to Supt Field requesting that Joseph Benrimoj be informed that he is no longer under investigation. Relevance – Request by legal advisor.
67.	16/07/2019	Still pending computer forensics. 5 images are to be sent to the UK. Roisin to be contacted during the course of the week. Relevance – Line of enquiry / digital evidence progress.
68.	16/07/2019	I attended the Magistrates Court with DS Clarke to swear Search Warrants in relation to Aaron Chipol. The Justice of the Peace who signed the Search Warrants was Andrew Hoare.

69.	17/07/2019	Meeting held with Albert Mena. Request for statement made regarding NSCIS payments. He provided an account of his involvement in this case in particular regarding why payments were withheld, and the correspondence with Sanchez, culminating in his sending the email to CS asking why he had produced the NSCIS report. Relevance – Line of enquiry for Sanchez.
70.	17/07/2019	Email to Supt Richardson and CI Finlayson with attached completed ILOR. *GOOGLE LLC* a. b. c. [redacted] d. [redacted] e. ALSTelematics hosted on [redacted] *MICROSOFT CORPORATON* f. 36northdb.database.windows.net g. [redacted] *YAHOO* h. [redacted] i. [redacted] Relevance – International lines of enquiry in relation to emails accounts / ownership. It should be noted that in order to obtain the evidence requested, it is necessary to comply with the legal requirements including articulating why the evidence is necessary in the context of the case. The US court needs to be satisfied of this before any disclosure.
71.	17/07/2019	DC Clarke and I interviewed Caine Sanchez in the presence of his legal representative, Justin Phillips. Exhibit: MW/DVD/CS/2A. This is the second interview on Caine Sanchez
72.	18/07/2019	DS Clarke attended the Magistrates Court to swear Search Warrants in relation to obtaining data from Gibtelecom and Umee (Sapphire) IP addresses relevant to Operation Delhi. The IP addresses being – Gibtelecom – [redacted] & [redacted] Umee – [redacted]

		The Justice of the Peace who signed the Search Warrants was Andrew Hoare. DS Clarke then handed the warrants to DC Santos in Force Intelligence to execute the warrants.
73.	19/07/2019	DS Clarke contacted DC Hermida of GFIU to make a request regarding any further businesses the subjects of Operation Delhi may be involved with.
74.	23/07/2019	Email sent to Supt Richardson with attached interview plan for Aaron Chipol. Interview plan covers the following topic areas: • Role at BCA • Immigration Responsibilities • John Perez • Mohammed Guennouni • Thomas Cornelio • NSCIS • Text messages Challenge Phase: • Text messages suggesting criminal offences (immigration related but as misconduct in public offices). • NSCIS (Misconduct in public office) o Attempts to undermine Bland (in favour of 36 North) o Encouraging Cornelio to access the NSCIS without authority o Knowledge of unauthorised access to NSCIS o Disclosing sensitive information to TC regarding the NSCIS platform o Offering Government funding to 36 North Relevance – Investigation into possible offence of misconduct by Chipol. Interview plan.
75.	24/07/2019	Enquiries carried out in relation to Chipol. Attempts to be made to secure emails / computer account related to Chipol. ITLD to be approached. Relevance – Lines of enquiry – computer related evidence.
76.	24/07/2019	Email from CI Finlayson to CC Graceanne Gear stating that there needs to be an amendment to the LOR whereby we would need the account holder of the 36North database hosted by Microsoft. Relevance – International lines of enquiry in relation to emails accounts / ownership.

77.	24/07/2019	Search warrant executed at the BCA offices of Aaron Chipol. DC Oton and DC Clarke present. Exhibits seized as per exhibit log.
78.	24/07/2019	Search warrant executed at 10 Ross House, the residence of Aaron Chipol. DC Clark and DC Oton present. Exhibits seized as per log.
79.	24/07/2019	PC Clarke and I interviewed Aaron Chipol in the presence of his legal representative, Chris Finch. Exhibit: MW/DVD/AC/1A.
80.	24/07/2019	Attended the BCA offices to speak with Joseph Molinari regarding immigration (Guennouni).
81.	25/07/2019	Email from Maurice Turnock requesting a meeting with Graceanne Gear and myself at 0900hrs on 26/07/2019. Relevance – ILOR. International line of enquiry.
82.	26/07/2019	Email from CC Graceanne Gear to CI Finlayson explaining that the ILOR has been sent to Maurice for the Magistrates Signature.
83.	26/07/2019	Email from 36N Legal with attached voluntary statements of TC and JP. Relevance – Defence submissions.
84.	27/07/2019	Review of defence submissions made by Cornelio and Perez. They are very similar and appear to have been drafted by the same individual. Again I question who 36N Legal is, and whether they are a legal representative. Relevance – review of defence submissions.
85.	28/07/2019	Email from JOG with attached links to cases where software developers have planted malicious code in software. These are not legal cases, however, instances that were reported to Police which were found on the internet.
86.	29/07/2019	Email to Chris Finch stating that the investigation is ongoing and it cannot be ruled out that Joseph Benrimoj will be arrested or interviewed, however, for now he is not considered a suspect.
87.	30/07/2019	Meeting with Mr Fischel QC to discuss whether Asquez would provide a statement.
88.	30/07/2019	HMGOG Interim Guide to Security (2004) and HMGoG IT Security Policy (2007) downloaded. Relevant to Sanchez password being used by Cornelio in April 2019.
89.	01/08/2019	Draft copy of Steve Mason and Rob Stemp statements provided by DC Clarke. Relevance – Line of enquiry. Computer related witnesses.

90.	01/08/2019	Email from Sgt Clarke to HTCU requesting knowledge on Exhibits AG/IPAD/1, MA/IPAD/1 and JV/IPAD/1 as to whether they can be handed back to CS.
91.	01/08/2019	Email from CS explaining that he will be out of country as from 07/08/2019 – 25/08/2019 on holiday. He is asking if his Ipad could be released for his children. Relevance – Request from suspect.
92.	01/08/2019	Email from Sgt Clarke explaining lines of enquiry that the investigating team should follow. These included obtaining statements, gain further information on IP addresses and the leaking of information from a meeting between James Gaggero and Caine Sanchez.
93.	02/08/2019	DC Clarke and I interviewed Aaron Chipol in the presence of his legal representative, Chris Finch. Exhibit: MW/DVD/AC/2A. Relating to Visa waivers provided to JP by text /phone and as a favour.
94.	02/08/2019	Joseph Molinari. Additional material obtained concerning legal notices and Moroccan nationals. Relevant to Mr Perez. Also received Visa Waivers policy for consideration of whether any offences had taken place (in breach of policy). Discussion of policy, instructions from HMGoG, Legal notices and reasons for Visa waivers. Relevance – Lines of enquiry for Chipol. Visa related investigation.
95.	05/08/2019	Email from Sgt Clarke to CS requesting information on which Ipads CS would like returned soonest.
96.	05/08/2019	Email from Sgt Clarke to DC 38 Garcia providing a full list of Keywords for TC, JP, CS and EA. Cornelio – 1. Jaime Levy / James Levy / Haim Levy 2. Icode 3. Astelon 4. Caine / Caine Sanchez / [redacted] 5. Chief Minister / CM / Fabian / Fabian Picardo 6. COP / Commissioner / Ian McGrail 7. David Weber 8. Eddie Bradley / Ed Bradley / Edward Bradley 9. Hassans 10. Eddie / Edward Asquez 11. John Perez

		12. Wavetecx (Non-Blands devices) 13. [redacted] 14. National Security 15. NSCIS (Non-Blands devices) 16. [redacted] 17. [redacted] 18. [redacted] 19. [redacted] 20. [redacted] 21. [redacted] 22. [redacted] 23. [redacted] 24. [redacted] 25. [redacted] 26. Aaron Chipol / Aaron 27. Jonathan Galliano 28. Phoenix 29. ALS Telematics 30. Marius Zalkauskas 31. Joey / Joseph Benrimoj 32. Blands (36 North Devices only) 33. Gibtele / Gibtelecom 34. 36north-nscis-sql.database.windows.net 35. Red Maple Sanchez – 1. Jaime Levy / James Levy / Haim Levy 2. Chief Minister / CM / Fabian / Fabian Picardo 3. Eddie Bradley / Ed Bradley / Edward Bradley 4. 23 North / 23Nth / 23º North / 23 Degrees North / 23N 5. 36 North / 36 Degrees North / 36º North / 36N 6. Thomas / Tommy Cornelio 7. John Perez 8. Eddie / Edward Asquez 9. Icode 10. Astelon 11. Hassans 12. Wavetecx (Personal devices) 13. Aaron Chipol / Aaron 14. Phoenix 15. ALS Telematics 16. National Security 17. NSCIS 18. Cryptocurrency

		Perez – 1. Jaime Levy / James Levy / Haim Levy 2. Icode 3. Astelon 4. Caine / Caine Sanchez / [redacted] 5. Chief Minister / CM / Fabian / Fabian Picardo 6. COP / Commissioner / Ian McGrail 7. David Weber 8. Eddie Bradley / Ed Bradley / Edward Bradley 9. Hassans 10. Eddie / Edward Asquez 11. Thomas / Tommy Cornelio 12. Wavetecx (Non-Blands devices) 13. National Security 14. NSCIS (Non-Blands devices) 15. Aaron Chipol / Aaron 16. Phoenix 17. ALS Telematics 18. Marius Zalkauskas 19. Joey / Joseph Benrimoj 20. Blands (36 North Devices only) 21. Red Maple Asquez – 1. Jaime Levy / James Levy / Haim Levy 2. Icode 3. Astelon 4. Caine / Caine Sanchez / [redacted] 5. Chief Minister / CM / Fabian / Fabian Picardo 6. COP / Commissioner / Ian McGrail 7. David Weber 8. Eddie Bradley / Ed Bradley / Edward Bradley 9. Hassans 10. Thomas / Tommy Cornelio 11. John Perez 12. Wavetecx (Non-Blands devices) 13. National Security 14. NSCIS (Non-Blands devices) 15. Aaron Chipol / Aaron 16. Phoenix 17. ALS Telematics 18. Marius Zalkauskas 19. Joey / Joseph Benrimoj

		20. 23 North / 23Nth / 23º North / 23 Degrees North / 23N 21. 36 North / 36 Degrees North / 36º North / 36N All keywords have been selected based on information received during the course of the investigation. It is believed that these keywords will produce information relevant to the investigation. They can generally be sub-divided as follows: • Names of companies / individuals involved in the investigation (beneficiaries / suspects / witnesses) • NSCIS / Phoenix • Email addresses of suspects • IP addresses / phone number identified by Jonathan Galliano in his evidence.
97.	06/08/2019	Email to CS stating that 1 Ipad is ready for collection. Relevance – Request by suspect.
98.	06/08/2019	Further to my instructions, DS Clarke attended a meeting with Philip Navas, the Financial Controller of Bland to take a statement.
99.	07/08/2019	Email to Albert Mena requesting update on witness statement. Relevance – Request for witness statement.
100.	07/08/2019	Email to Darren Grech requesting a witness statement incorporating the following points: 1) The role / responsibilities of Mr Sanchez (in particular with regards to the NSCIS system); 2) Who he reported to (in particular with regards to the NSCIS system); 3) His level of authority over the NSCIS system [redacted]; 4) Whether he had the power to disregard instructions issued by the Chief Minister on the 4th October 2018 (via Peter Canessa) if he felt it necessary to do so; 5) A copy of the Official Secrets Act signed by Mr Sanchez. Relevance – Line of enquiry / witness – HMGoG related matters.
101.	07/08/2019	Review of ILOR following questions posed by CC Gear. The ILOR now includes a request for information about 36northdb.database.windows.net
102.	08/08/2019	Email to Andrew Cardona asking whether he wanted us to run any keyword searches through the devices. Search for material that may assist the defence. Relevance – Request to involve the defence in keyword searches to ensure fairness of the investigation.

103.	08/08/2019	Email to 36N Legal asking whether they wanted us to run any keyword searches through the devices. Search for material that may assist the defence. Relevance – Request to involve the defence in keyword searches to ensure fairness of the investigation.
104.	08/08/2019	Meeting with Peter Canessa. Statement requested from him primarily on the basis of the instructions given in October 2018 and the emails sent. Spoke about who Mr Sanchez was responsible to for disciplinary actions (Chief Sec) and requirement to comply with an instruction by the CM. Refers to Sanchez being recalled to Gibraltar. Relevance – Reasonable line of enquiry. Relevant to Sanchez and Cornelio.
105.	09/08/2019	Email from DC 38 Garcia with a list of exhibits that he had processed for Operation Delhi: • DP-greysmartphone-1 - File System Extraction • MG-Phone-1 - File System Extraction • DP-MIsmartphones-1 - File System Extraction • LGMW-wifi-1 - File System Extraction • LG-5 - XRY extraction • LG-Phone-1 - Advanced logical extraction • LMCW-Ipad-Tablet - XRY extraction • Xiaomi Mi 5s - PHONE - XRY extraction • DP-SAMSUNGSMARTPHONE-1 - XRY extraction • JO-BLAND-3 - XRY extraction • JV-Phone-1 - Physical extraction • MG-Phone-1 - XRY extraction • MG-phone-1 Physical extraction • JV-home-1 - File System Extraction • SC-USB-1 - IEF • JV-Home-3 - File System Extraction • JV-HOME-13 - Imaged • AG-Mobile-1 - File System Extraction • Dp-whitesamsung - File System Extraction • MA-IPAD-1 - File System Extraction • JV-Ipad-1 - File System Extraction Relevance – Forensic computer examinations / level of extractions obtained. The decision about the level of extraction and software was that of HTCU.

106.	11/08/2019	Notes written which set out questions that I would like answered in the context of the investigation. Including for JOG, Cornelio, Patrick Caruana, Sanchez and the forensic analysis generally.
107.	11/08/2019	Updated draft statement of Rob Stemp provided. Relevance – Involvement of Red Maple in computer investigation.
108.	11/08/2019	Draft statement of Molinari prepared and sent to DC Clarke. Still requires finalisation. This statement is dated August 2019 consisting of 4 pages and relates to an application for a visa waiver for Mohamed Guennouni. Relevance – Line of enquiry for Chipol. I originally sat and drafted the statement with Molinari, including adding relevant exhibits.
109.	11/08/2019	Draft statement of Peter Canessa provided by DC Clarke for review. I subsequently reviewed the statement. Relevance – Line of enquiry related to Sanchez / Cornelio. In particular relevant to authority to access the platform after the 4th October 2018 and instructions from the Chief Minister.
110.	12/08/2019	Meeting with Joseph Molinari. Review of draft statement with regards to Visas / immigration and John Perez.
111.	12/08/2019	Email to DC 38 Garcia forwarding an email from JOG providing a summary of the NSCIS system for him to pass to the NCA for them to better grasp the system. Relevance – NCA to assist with analysis to provide corroboration for work by JOG. Further assist with keyword searches, IP comparison (Phoenix) as well as providing their own statements in relation to the investigation.
112.	12/08/2019	Email from JOG with NSCIS backoffice user logs explanations and excel sheet attached. [redacted]

		[redacted] Relevance – Material provided to NCA to assist analysis.
113.	13/08/2019	List of actions provided in respect of additional work for NCA (if possible). Include keyword searches, location of Phoenix programme, comparison of Phoenix and NSCIS, replicate Project Bass, provide witness statements. Relevance – Lines of enquiry / corroboration by NCA of computer related matters. In particular the replication of project Bass.
114.	13/08/2019	Email to Jonathan Gonzalez asking for information on IP addresses, computers and locations.
115.	14/08/2019	SIO spoke to NCA in relation to the case. Consideration of using Axiom software to assist in the review of the evidence.
116.	16/08/2019	Email from Brian Wielk to Graceanne Gear confirming receipt of MLA Request. Relevance – ILOR request for ownership details and email accounts.
117.	20/08/2019	1st statement of Robert Stemp signed as complete. This statement relates to his works in understanding the NSCIS system after being asked to attend Gibraltar for a meeting where PWC were also present along with Bland representatives.
118.	21/08/2019	I attended a meeting with John Paul Payas, General Manager of OSG at the OSG Offices of Bland HQ with DS Clarke. Notes taken for the purpose of a statement.
119.	22/08/2019	Review of evidence obtained by Krishan Benyunes.
120.	22/08/2019	DC Garica handed over to me 2 x Axiom devices in unsealed exhibit bags. Axiom 1 – AG/Laptop/1, AG/USB/2, JA/Tablet/1, JU/3, JV/Home/6, JV/Home/7, JV/Home/9, JV/Home/10. Axiom 2 – LG/1, LG/4, LGMW/Tower/1, MH/Laptop/1, MH/USB/3, SC/Tower/1.

121.	22/08/2019	I attended a meeting with John Paul Galliano of HMGOG ITLD at the ITLD Offices in Library Street with DS Clarke. Jonathan Gonzalez was unavailable. During this meeting notes were made by DS Clarke for the purpose of drafting a statement.
122.	24/08/2019	List of actions outstanding including: 1. Review Chipol Interview transcript 2. Arrange 2nd interview for Chipol 3. Obtain search warrants from Gibtele and Umee re IP addresses 4. Compose John-Paul Payas statement 5. Request statements from Supt Yeats, Collector of Customs and Joe Molinari re importance of NSCIS with respect to the national security of Gibraltar 6. Review Krishan Benyunes Statement and evidence further work he has completed for us 7. Contact Danny Bourne (NCA) re IP addresses 8. Analyse all digital devices 9. Jonathan Galliano statement – write actions 10. Statement from Darren Grech (HMGOG) 11. Statement from ITLD – John Paul Galliano / Jonathan Gonzalez 12. Establish if NSCIS counts as HMGOG system in relation to CS divulging username and password 13. Verify ownership of IP address [redacted] – ITLD? 14. James Gaggero – Sign statement and exhibit labels 15. Check emails re 36N Apis data 16. Chase Ronan Maghee (PWC) re statements 17. Joey Benrimoj – Speak to re accessing NSCIS? 18. Krishan Benyunes – date to re-attend NMH Relevance – Outstanding lines of enquiry.
123.	26/08/2019	Email from DC Clarke to John Paul Galliano attaching a drafted statement based on what John Paul Galliano explained to DC Clarke during our meeting with him. This statement is in relation to John Paul Galliano's exhibits that he tenders. These include a HMGOG ITLD Interim Guide to Security, and Security Policy. I had previously reviewed the policies and identified and highlighted relevant sections that may have been breached by CS when he provided TC with his credentials for the purpose of writing the NSCIS report in April 2019.

		Relevance – Evidence of possible breach of OSA by CS and Government policy.
124.	27/08/2019	1st statement of James Gaggero signed. This statement relates to the complaint that he furnishes to the RGP. He also tenders a number of exhibits in evidence as background to NSCIS and John Perez and Thomas Cornelio.
125.	29/08/2019	Updated interview plan of Aaron Chipol which now includes tendered evidence supplied by Joseph Molinari (BCA) in relation to Visa Waivers / BCA policy / application for Visa waiver / Visa of Guennouni / Legal notice LN. 2013/048 / Gibraltar Visa list. Relevance – Interview of suspect.
126.	29/08/2019	Email from Ronan Magee (PWC) to DC Clarke with a draft statement of fact attached. The attached statement is unable to be viewed. Relevance – Line of enquiry. PWC actions in respect of the NSCIS platform.
127.	29/08/2019	Meeting with Javier Redondo, Personal Secretary to the Chief Minister at No.6 (with DS Clarke).
128.	29/08/2019	Email to Patrick Caruana stating that the PWC statement not being detailed enough for evidential purposes. I requested a step-by-step explanation detailing how the NSCIS system was examined together with supporting evidence. Relevance – Evidence of action taken by PWC.
129.	29/08/2019	1st statement of Peter Canessa signed as complete. This statement details a phone conversation he had with James Gaggero where James stated he believed that NSCIS had been compromised. Provides evidence of the instruction given by the CM on the 4th October 2018.
130.	30/08/2019	Discussion with SIO about Mr Fischel representing Asquez as well as Cornelio and Perez.
131.	30/08/2019	Meeting with Krishan Benyunes to discuss evidence. In particular SQL Server database (manual and not automatic), remote desktop applications, and files that may assist (Bacpac). Relevance – Witness related to computer analysis / actions. In particular the source code of the NSCIS platform.
132.	30/08/2019	Email sent to Supt Richardson providing an update on Mr Mena providing a statement. Asked for him to chase Mr Mena as no response was obtained.

		Relevance – Line of enquiry. Witness relating to Caine Sanchez and NSCIS from a financial perspective.
133.	30/08/2019	Email from CI Chipolina with narrative of his abilities in his position in SB. This includes his support in counter terrorism and administering and monitoring of Interpol. Relevance – Requested as the basis for a witness statement. Use of NSCIS in the context of national security.
134.	30/08/2019	Email from Adam Parsons to Daniel Bourne and Christopher Lewis-Evans providing an update. Adam Parsons stated he is re-requesting a preservation of a database held on a Microsoft Azure server. Relevance – Preservation of evidence prior to ILOR action.
135.	02/09/2019	Email from Ronan Magee (PWC) to DC Clarke confirming an online meeting on Wednesday at 1030hrs.
136.	02/09/2019	Email from Daniel Bourne with attached email from Adam Parsons discussing what he has and has not done so far. He has informed me that Microsoft may have trouble finding the data we require without being more specific. Initially, the server was taken off-line, however, this was deemed disproportionate and meant that the business could not operate. A decision was therefore made to turn the server back on. If we have a specific piece of code or term that can be searched for, there may be something that Microsoft can do, without having to take the server off-line. Relevance – Enquiries with Microsoft in relation to the 36north server.
137.	02/09/2019	Email from JOG to DC Clarke attaching a Project Bass supplemental report dated 8th February 2019 and comprising of 21 pages. Relevance – Work undertaken by PWC in respect of the NSCIS platform.
138.	03/09/2019	Email to James Gaggero stating that PWC statement is not evidential enough. Hesitant to ask for further clarity as it may incur costs on James Gaggero and NCA have been contacted. Relevance – Analysis of PWC work. NCA tasked with conducting their own analysis given cost implications to the complainant.
139.	03/09/2019	DC Clarke and I interviewed Aaron Chipol in the presence of his legal representative, Chris Finch. Exhibit: MW/DVD/AC/3A MW/DVD/AC/4A This interview is Aaron Chipol's 3rd interview.

140.	04/09/2019	Email from DC Garcia of HTCU to which he attached computer related findings: "[redacted]
141.	04/09/19	Consideration of legal issues and advice to be sought from DPP. In particular: 1) Asquez statement – Consideration of whether there would be a conflict for Mr Fischel to act on behalf of Cornelio / Perez and represent Asquez in providing a full account? 2) Webber – Keyword search has recovered correspondence with David Webber who appears to be involved in setting up the 36N business. Consideration of whether this is legally privileged or simply business actions. Note that he is working

		for Levy / Hassans and is arguably not a lawyer / client relationship. If it is, how do we proceed moving forward? 3) The platform is related to national security. See for example the evidence of Insp Chipolina. What level of detail is required for the purpose of section 366A? If detail is required, can any special measures be introduced to protect this public interest? 4) Consideration of Official Secrets act offence (section 2 of 1911). Is it defence to disclose the information to a person if you honestly believed the person was authorised to receive it (even if they were not)? Is misdemeanour offence tried in Supreme? 5) Conspiracy to defraud – Does the agreement to take the NSCIS contract from Bland amount to a conspiracy to defraud? Consideration to the term 'by dishonesty.' Or is it simply a commercial dispute, and civil action is appropriate? Relevance – Legal advice sought in respect of the ongoing investigation.
142.	04/09/2019	Meeting with CI Finlayson and DPP regarding legal matters including: • Asquez statement • Webber status • Security related information • Official Secrets Act • Conspiracy to Defraud Itinerary created for the meeting.
143.	04/09/2019	I took part in a telephone conference call with representatives of PWC. Participants included DCI Finlayson, DS Clarke, DC Oton, Ronan Maghee (PWC), Paul Scott (PWC) and Jonathan Holmes (PWC).
144.	04/09/2019	Email from DC Clarke with attached table detailing all interview details on DP's. Relevance – Administration.
145.	04/09/2019	Email from Aaron Chipol asking for his work laptop to be returned to him. Relevance – Request from suspect.
146.	05/09/2019	Letter from Mr Cardona (on behalf of Caine Sanchez) alleging that Bland did not have authority to access the NSCIS platform in October 2018 (PWC/Infosec) and that there had been a breach of the DPA. Suggest that this may be a criminal offence. Copied the

		letter to Mr Grech (CS), DPP, CoP, Mr Chipol (BCA) and Mr Rodriguez (Collector of Customs).
147.	05/09/2019	Email to Mr Fischel QC in which I state that the 70 keywords, with a date range from 2012, is not practicable to run through each device (given that it can create thousands or hundreds of thousands of results. It is not proportionate to the investigation. I requested consideration of a reduced keyword list. Relevance – Examination of digital devices.
148.	05/09/2020	Request made to Mr Cardona to review the keywords provided on the basis that some of them were very generic. ("The software" "Government system" for example).
149.	06/09/2019	Email from DC Clarke to JOG and KB requesting report as a response to NSCIS Review April 2019. Relevance – I had questioned whether we could check the accuracy of the NSCIS review conducted by TC in April 2019.
150.	06/09/2019	Email from DC Clarke highlighting points that need to be covered in COP statement. Relevance – CoP to provide evidence in relation to meetings / discussions with JP in relation to the NSCIS platform.
151.	06/09/2019	DS Clarke and I discussed the need for Jonathan Galliano and/or Krishan Benyunes to comment on the accuracy of the report submitted by TC in April 2019 (if possible).
152.	09/09/2019	1st statement of Paul Karim Chipolina signed as complete. This statement relates to his day to day use of the NSCIS system.
153.	11/09/2019	Email sent from Wendy Cumming to Darren Grech regarding the interdiction of Caine Sanchez. She stated that protecting Caine in this very difficult situation is a priority for the GGCA.
154.	11/09/2019	Further request for JOG and KB to provide their statements ASAP. Relevance – Witness statements / lines of enquiry related to NSCIS.
155.	12/09/2019	Email from KB with attached statement. This is his first statement and was forwarded to allow us to have an electronic copy.
156.	12/09/2019	Email from Joseph Molinari regarding Mohamed Guennouni. He has been requested information on the subject by the Principal Secretary of Employment, asking if Guennouni was issued with a visa.
157.	17/09/2019	Email from Adam Parsons stating that US are requesting a new preservation request to forward to Microsoft. Relevance – Requirement to preserve email/ownership evidence prior to ILOR execution by US.

158.	17/09/2019	DS Clarke attended the Magistrates Court to swear Search Warrants in relation to Gibtelecom and Umee (Sapphire) IP addresses. The IP addresses were: Gibtelecom – [redacted] Umee – [redacted] The reason for applying for Search Warrants for Gibtelecom and Umee again was due to the data requested on the original Search Warrant for Gibtelecom in relation to access to NSCIS on 11th-12th April 2019 was incorrect. DS Clarke had listed an incorrect IP address on the original application.
159.	17/09/2019	On my instructions, DS Clarke attended a meeting with Joseph Molinari, Head of Immigration at BCA HQ, in relation to statements.
160.	23/09/2019	Review of Axiom 2 files.
161.	24/09/2019	Email from Wendy Cumming to Darren Grech asserting that the position of Caine Sanchez is harmful and deeply negative.
162.	24/09/2019	Email to Adam Parsons requesting preservation of the following information regarding 36northdb.database.windows.net: *The contents of any communication or file stored by or for the Account and any associated accounts, and any information associated with those communications or files, such as the source and destination email addresses or IP addresses.* *2. All records and other information relating to the Account and any associated accounts including the following –* *a. Names (including subscriber names, user names, and screen names)* *b. Addresses (including mailing addresses, residential addresses, business addresses and email addresses)* *c. Local and long distance telephone connection records and phone numbers associated with the account* *d. Records of session times and durations, and the temporarily assigned network addresses (such as Internet Protocol ("IP") addresses) associated with those sessions* *e. Length of service (including start date) and types of services utilised* *f. Telephone or instrument numbers (including MAC addresses)* *g. Other subscriber numbers or identities (including the registration Internet Protocol ("IP") addresses)* *h. Means and source of payment for such a service (including any credit card or bank account number) and billing records* *i. All available data logs*

		We have evidence to suggest that this database holds sensitive data which the defendants were not authorised to access post 5th October 2018. We suspect that this may include: a. Personal data relating to individuals; b. The movements of these individuals; c. Passport / visa documentation; d. Wanted persons information; e. Vehicle movements; f. Other related sensitive material in both photo and video format. Relevance – Enquiries undertaken to ascertain the ownership details of database 36northdb.database.windows.net.
163.	25/09/2019	Meeting with Supt Richardson and CI Finlayson regarding CS.
164.	25/09/2019	Meeting with Darren Grech, Chief Secretary of HMGOG with DCI Finlayson and DS Clarke. Meeting with CS: 1. Overview of work done by Sanchez. 2. Who he reported to for NSCIS 3. Did not report to Mr Grech. 4. He had complete autonomy. 5. Policy is the remit of the CM. The CS remit is administration. Relevance – Line of enquiry related to Sanchez.
165.	25/09/2019	1st statement of Insp Schembri signed as complete. This statement is related to retrieving documents from Gibraltar Companies House website on companies 36North, Astelon Ltd and Icode.
166.	26/09/2019	Actions to be addressed include: 1. Review of Benyunes statement; 2. Review of Galliano statement; 3. Terms of agreement with NCA (Roisin) to be expanded 4. Statement from ITLD (policy / procedure etc) – Galliano 5. Further statement from Peter Canessa? 6. Statement by PC Clarke Relevance – Ongoing lines of enquiry being carried out.
167.	30/09/2019	Email from DC Clarke which was forwarded to him by Met Police containing Pre Charge Bail briefing notes. Relevance – Guidance on bail.
168.	30/09/2019	Email from Giselle Corby with attached documents of Caine Sanchez Appointment Letter with Official Secrets Act signed by Sanchez sent on behalf of the Chief Secretary. Relevance – Line of enquiry for Sanchez. Understanding of his role / responsibilities.
169.	01/10/2019	Continued review of Axiom 2.

170.	03/10/2019	Email from DC Clarke requesting John Paul Gonzalez to sign and submit his drafted statement as a matter of urgency. Relevance – HMGoG IT policy and procedure.
171.	04/10/2019	Email sent from Supt Richardson to Mr Mena asking him to provide a statement. Relevance – Involvement in NSCIS payments and emails to CS regarding the NSCIS report of April 2019.
172.	04/10/2019	Email from Mr Mena to Supt Richardson stating how he will provide a statement in the coming weeks.
173.	10/10/2019	Email from Mr Mena to Supt Richardson stating that he will provide the statement as per his advised timetable of early next week.
174.	11/10/2019	Continued review of Axiom 2.
175.	11/10/2019	1st statement of John Paul Galliano signed as complete. This statement relates to his tendering in evidence of The HMGoG ITLD Interim Security Guide and The Government of Gibraltar Information Technology Security Policy.
176.	12/10/2019	Email received from my personal email address with a document listing all pending work. **Local Statements** 1. *Jonathan Galliano* This crucial statement is still being finalised. This has taken a considerable amount of time to consolidate. The witness has now included far more detail, but this is still not in a form that would be easily understandable to lay persons generally. Moreover, there are a number of supporting exhibits that have not yet been included. 2. *Albert Mena* The statement has been requested and is being drafted. We are still pending receipt. It is expected that the first draft will be received by the 18th October 2019. However, this may require reworking depending upon the standard of work. 3. *Joe Molinari* This statement is complete and requires signing. 4. *Krishan Benyunes* Statement is complete pending minor changes by the witness. However, it may need further changes to ensure that it ties in with the statement of Galliano (when complete). 5. *Philips Navas* Statement requires minor amendments by the witness. 6. *John Paul Payas*

		Statement requested. To be chased up again. 7. *Darren Grech* Statement complete. To be sent for signing. **International Statements** 1. *PWC Statement (McGee)* This is currently being drafted in the form of an expert witness statement to corroborate the findings from the Project Bass report. 2. *NCA Statement* This is currently being drafted in the form of an expert witness statement to corroborate the findings from the Project Bass report. However, once the statement of Galliano is complete, it is recommended that a further statement be obtained which analyses and confirms the findings of Galliano. **Police Statements** 1. CoP (including exhibit) 2. Supt Richardson (and / or policy book) 3. CI Finlayson (if required) 4. Inspector Wyan * 5. Inspector Chipolina (drafted / requested) 6. DC Zammitt (requested) 7. DC Clarke * 8. DC Garcia * 9. DC Oton * To be completed upon finalisation of the investigation. It is anticipated that most [if not all of the statements] can be completed / finalised within the next month (subject to any addition statement that may become necessary). **Pending Work** *Finalise all the witness statements* • As specified above. • Including that of Galliano which may take a number of weeks. • May be completed within the next month. *Obtain information from the US (ILoR) including:* • Email exchanges • Details of 36 North server • This is dependant upon the US responding to the Letter of Request *Gibtel Warrants*

		• Warrants requested. • Awaiting results (IP addresses) *Chipol* • Arrange for final interview of Chipol • Decide whether he should be charged / released *Interviews of Defendants* • Interview all remaining defendants when all evidence has been obtained. *Review computer exhibits when received. Still awaiting:* • Cornelio ○ ….. received ○ ….. pending from HTCU • Perez ○ ….. received ○ ….. pending from HTCU • Asquez ○ ….. received ○ ….. pending from HTCU • Sanchez ○ ….. received ○ ….. pending from HTCU • 36 North ○ ….. received ○ ….. pending from HTCU • Chipol ○ ….. received ○ ….. pending from HTCU There are currently a total of …. Exhibits which are still pending review. This is likely to take a considerable period of time to complete. *Completion of Investigation* Once the above has been completed, the investigation will still require the following: 1. Summary; 2. Charges to be drafted; 3. Disclosure material to be reviewed and itemised (by a separate officer).

		Time for Completion Given that there are a number of outstanding enquiries, and that we are dependent on other organisations to provide evidence, it is difficult to anticipate when the case will be completed. Moreover, the time it will take to analyse the remaining digital items [once provided] is difficult to quantify.
177.	14/10/2019	Email from CC Graceanne Gear with attached thread between her and US Dept of Justice requesting further information before they can apply the Search Warrant in the US. Relevance – ILOR regarding ownership and emails.
178.	15/10/2019	Email from Jonathan Galliano with attached documents regarding Azure. These documents are intended to assist with understanding his statement.
179.	15/10/2019	Email from JOG attaching a document with the information to be provided to Microsoft Azure at my request.
180.	15/10/2019	Email from DC 38 Garcia with Keywords attached for 36 North and Cornelio. 36 North Keywords: Icode Astelon 36north-nscis-sql.database.windows.net Caine Caine Sanchez [redacted] [redacted] Eddie Bradley Ed Bradley Edward Bradley Blands Eddie Edwards Asquez Wavetecx NSCIS [redacted] [redacted] [redacted] [redacted] Phoenix [redacted] [redacted] [redacted]

		[redacted] [redacted] Red Maple ALS Telematics Cornelio Keywords: Jaime Levy James Levy Haim Levy Icode Astelon Caine Caine Sanchez [redacted] [redacted] Chief Minister Fabian Fabian Picardo Commissioner Ian McGrail David Weber Eddie Bradley Ed Bradley Edward Bradley Hassans Eddie Edward Asquez John Perez Wavetecx [redacted] National Security NSCIS [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] Aaron Chipol Aaron

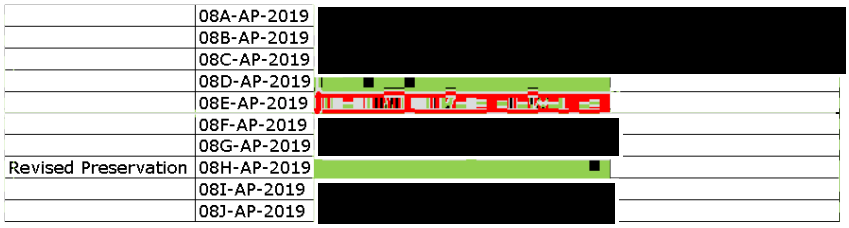
		Jonathan Galliano Phoenix ALS Telematics Blands Gibtele Gibtelecom 36north-nscis-sql.database.windows.net Red Maple Peter Canessa All keywords have been selected based on information received during the course of the investigation. It is believed that these keywords will produce information relevant to the investigation. They can generally be sub-divided as follows: • Names of companies / individuals involved in the investigation (beneficiaries / suspects / witnesses) • NSCIS / Phoenix • Email addresses of suspects • IP addresses / phone number identified by Jonathan Galliano in his evidence.
181.	16/10/2019	Email sent from Mr Mena to Supt Richardson stating that his statement is almost complete.
182.	16/10/2019	Email to Darren Grech asking for points to be addressed in the draft of the statement that he provided.
183.	16/10/2019	1st statement of John Paul Payas signed as complete. This statement refers to his position as Manager of OSG, his understanding of NSCIS, Wavetecx and the resignation of Thomas Cornelio and John Perez.
184.	16/10/2019	1st statement of Joseph Molinari signed as complete. This statement refers to the importance of NSCIS in relation to the National Security of Gibraltar from the perspective of the Borders and Coastguard Agency and why BCA use NSCIS especially in relation to National Security.
185.	17/10/2019	Email to Daniel Bourne with attached report from JOG regarding Azure It details information that Microsoft may be able to assist in obtaining and the rationale for obtaining it. It is divided into 3 sections, namely, 1. Database re-indexing commands; 2. MS 36 North database; 3. MS 36 North Storage blob.

186.	17/10/2019	Email from Daniel Bourne stating that he needs further information prior to various enquiries being able to be processed. Relevance – Analysis conducted by NCA on NSCIS platform.
187.	17/10/2019	I took part in a telephone conference call with DCI Finlayson, DS Clarke and Ronan Maghee, Paul Scott and Jonathan Holmes of PWC. Discussed PWC acting as expert witnesses.
188.	18/10/2019	18 page update on case progression and outstanding enquiries prepared for the SIO.
189.	21/10/2019	1st statement of Insp Neil Zammitt signed as complete. This statement refers to his interviews of Thomas Cornelio dated 10th May 2019.
190.	21/10/2019	1st statement of Philip Navas signed as complete. This statement refers to phone numbers that were issued by Gibtelecom for John Perez and Thomas Cornelio, Microsoft Azure account registration change of address to Thomas Cornelio personal address in Spain and NSCIS invoicing
191.	22/10/2019	Email received from Chris Finch requesting a meeting on Thursday 24th October 2019 in relation to Aaron Chipol.
192.	23/10/2019	Email from Patrick Caruana with attached response to GRA dated 10th October 2019. This is in response to a letter sent by the GRA on 1st October 2019 with respect to a data protection investigation and potential data breach relating to the NSCIS Platform as developed, operated and maintained by Bland Limited ("Bland") on contract for the office of the Deputy Chief Minister ("DCM Office"), an office within her Majesty's Government of Gibraltar ("HMGoG").
193.	23/10/2019	Email to Daniel Bourne stating that we will follow up the US on their side, providing the IP address of TC to him. Relevance – ILOR enquiries in relation to ownership / emails.
194.	24/10/2019	Email received from Robert Fischel QC requesting information on what will happen to Asquez, Perez and Cornelio upon their surrender to bail on 12th November 2019.
195.	24/10/2019	Email from JOG with attached statement. This statement relates to: BLAND LIMITED IT INFRASTRUCTURE & DEVELOPMENT TEAMS TERMS OF REFERENCE NSCIS PLATFORM INTRODUCTION NSCIS ACCESS LEVELS NSCIS CLIENT MEETINGS AND HANDOVER

		WAVETECX EMAILS MICROSOFT AZURE ACCESS TFS ACCESS and SOURCE CODE NSCIS SYSTEM OUTAGES / DENIAL OF SERVICES TWITTER FRONTIER QUEUE HOTLINE FACIAL RECOGNITION SERVICES PEOPLE COUNTING *"ANPR"* – AUGUST 2018 LOGIC STATEMENTS AND DATA FLOW SWITCHES AZURE DATABASE ACCESS AND RE-INDEXING PWC AND INFOSEC POLICE INTERVENTION APIS REMOTE ACCESS TO SERVERS IMPACT ON NSCIS
196.	24/10/2019	1st statement of Albert Anthony Mena signed as complete. Relevance – Statement regarding NSCIS payments / emails from CS regarding the NSCIS report of April 2019.
197.	24/10/2019	DC Clarke and I interviewed Aaron Chipol in the presence of his legal representative, Chris Finch. Exhibit MW/DVD/AC/5A. Relevance – Suspect interview.
198.	27/10/2019	Email received from DC Clarke providing a table of interview details for Aaron Chipol. Relevance – Administration.
199.	28/10/2019	Email to Jonathan Gonzalez requesting password to Exhibit PR/TOSHIBAHD/1. This Exhibit is an external hard drive with Caine Sanchez works computer image.
200.	07/11/2019	Email from Adam Parsons to Daniel Bourne stating that he can send a preservation request to the US for IP address [redacted] between the 7th and 13th October 2018 with the issue being if Microsoft have reissued that IP that there may not be a record. Relevance – Line of enquiry in relation to the database indexing. Offline indexing was purportedly initiated from this IP address.
201.	08/11/2019	I attended a meeting with D/Supt Richardson, DCI Finlayson and DS Clarke. During this meeting the progress of the investigation was discussed.
202.	10/11/2019	Update report for SIO.
203.	10/11/2019	Attempts made to contact Eddie Bradley [redacted] and [redacted]

204.	11/11/2019	Email from Daniel Bourne stating that the information on Azure may not be present as it is over a year old. Relevance – Enquiry regarding database indexing.
205.	11/11/2019	Email from Robert Fischel QC requesting that JP, TC and EA be released from arrest and informed that they will be seen at a later date. Relevance – request from legal advisor.
206.	12/11/2019	Email received from Andrew Cardona requesting knowledge on the rationale behind Sanchez re-bail until 15th April 2020. Relevance – request from legal advisor.
207.	12/11/2019	Email from Robert Fischel QC suggesting that the RGP may be in breach of Article 5 and other convention rights due to the length of the DP's bail. Relevance – Correspondence from legal advisor.
208.	12/11/2019	Response to Mr Fischel QC from Supt Richardson which ends: *This is an extremely serious and complex case involving the national security of Gibraltar. As you are aware we are receiving assistance from the highest levels in the form of the UK National Crime Agency. I am confident that the matter is being investigated both expeditiously and diligently and I have reasonable grounds to suspect that the persons currently on police bail are guilty of the relevant offences. Further time is needed in order to:* 1. *Complete the forensic digital examination of devices seized under warrant and at the time of arrest,* 2. *Receive the evidence requested by International Letters of Request* 3. *Complete the mirroring of the work conducted by PWC by our NCA colleagues.* 4. *Complete further investigation in connection with the relevant offences* 5. *Re-interview the defendants as to the evidence revealed above and their previously submitted prepared statements.* *Whilst your clients have strong local ties I am not certain that they would return voluntarily to submit to a further police interview as it they may not believe that it is in their interest to do so. Any*

		undertaking to return for interview on a voluntary basis may not be met at a future date. Given that we are currently in possession of facts that need putting to your clients in interview but are not yet ready to do so, the necessity to re-arrest may not be met as there may not be new facts / evidence which would enable an arrest to be made. *I am satisfied that your clients' arrest and bail comply with the Gibraltar Constitution Order 2006. I should be grateful if you would direct us to how you have concluded that Art 5 of the ECHR or other convention rights have been breached in order that that we may give this due consideration.*
209.	13/11/2019	Email from Chris Finch asking for a decision to be made regarding Aaron Chipol ASAP and that his status would justify an expedited decision on charge.
210.	15/11/2019	PWC considerations including production orders, exhibiting of evidence, PWC report from Gaggero, computer forensics. Plan to go to London to speak with PWC in relation to obtaining evidence of their actions when they forensically examined the NSCIS platform and produced their report. Required in order to support their assertions. The report is hearsay without further evidence / direct evidence of involvement. I proposed that we may wish to consider that there was a conspiracy to deprive Bland of the maintenance contract rather than the NSCIS platform. This is on the basis that the contract is subject to less dispute (as to ownership) and may therefore pose less of an issue in presenting to the jury. SIO discussed financial investigation of Sanchez to determine whether or not there has been any financial benefit accrued beyond his HMGoG salary. Relevance – Line of enquiry regarding computer misuse offences / benefit accrued by Sanchez.
211.	15/11/2019	Email to Roisin Cullen with attached statement of JOG. I informed Roisin that I would be able to send the exhibits from the statement across. Relevance – Provision of necessary evidence so that NCA can provide corroboration for computer offences.

212.	17/11/2019	Email from Commissioner Ian McGrail stating he will draft his statement.
213.	19/11/2019	Review of JOG statement with DC Clarke.
214.	19/11/2019	Email from Sgt Clarke to Daniel Bourne requesting that various email accounts be preserved as well as any information on an IP address. • [redacted] • [redacted] • IP address [redacted] Relevance – Preservation of information / data prior to execution of ILOR by the US authorities.
215.	19/11/2019	1st statement of Ian McGrail signed as complete. This statement relates to his relationship with John Perez, meetings he had with John Perez and the meetings he had with James Gaggero where allegations were made regarding the NSCIS platform.
216.	20/11/2019	Email from Adam Parsons to Daniel Bourne stating that the email addresses required have been preserved.
217.	20/11/2019	Email from Daniel Bourne to Sgt Clarke with all results for preservations. 
218.	20/11/2019	Email from TC requesting all devices that the RGP seized from him to be returned to him asap. He requested rationale for each item that would not be returned to him.
219.	21/11/2019	Email from Sgt Clarke to Daniel Bourne regarding the Request for Azure information. "We are also looking to preserve the data within a Microsoft Azure Blob Storage Account named "36northblobs". It has been used to store sensitive data siphoned from the NSCIS database away from the authorised NSCIS Blob Storage account. Could you please confirm if this data can be preserved? I can provide the relevant dates/times the data transfers were made. In relation to the Virgin Media IP address. It appears to be a Wi-Fi Hotspot and Cornelio's communication shows him as being in London at the time he connected to this IP. Would Virgin Media be able to tell us anything more that would be useful? For example if I were to provide

		details of a phone or a device? However this was over a year ago so it may be unlikely they store records for this period."
220.	21/11/2019	Review of ILOR.
221.	22/11/2019	Data dumps provided by DC Garcia (from AG/Report/1).
222.	22/11/2019	Email received from JOG titled "ANPR Process Flow (with 36N Technical)". In this email, JOG provides a statement and PDF file which explains how the ANPR works. Relevance – Documents produced in order to assist the jury in understanding how the ANPR system works.
223.	22/11/2019	Email from Daniel Bourne to Adam Parsons asking about the Virgin Media IP address. Relevance – Line of enquiry - IP address identified in the statement of JOG.
224.	22/11/2019	1st statement of PS 2 Craig Philbin signed as complete. This statement is in relation to transcripts being tendered in evidence.
225.	24/11/2019	Review of case progression. List of 19 points to be addressed.
226.	25/11/2019	Email from Adam Parsons to Daniel Bourne regarding the Virgin Media IP address and further responding to other queries. The IP 51.141.80.216 has been preserved for a period of 180 days from 25 November 2019 with Microsoft (Your preservation record number is: GCC-1297242-Q6P2J7 - Please use this on the MLAT) For the "36northblobs" can you provide an IP and a date and time? If this is the same IP that we approached Microsoft about last time then we may come up against the same hurdles, i.e. having to take the whole server offline in order to image it. For the Virgin IP, if you send us the details then we can have a look at it. But if as you say it is a mobile hotspot then it is unlikely that we will be able to resolve it back to one single individual. The IP is likely being used by multiple users at the same time, each will have a private IP address internally on the network, but all using the same IP address publicly. If you can send us the IP and dates and times we can try, if it is over 12 months ago it is possible, but unlikely that they will retain the data. Relevance – Lines of enquiry related to IP address associated with reindexing, and ownership of the blob storage account.

227.	26/11/2019	Email from Sgt Clarke to Adam Parsons querying "36northblobs". The query is: In relation to "36northblobs", I am by no means an expert however I have been informed by Jonathan Galliano, Head of IT at Blands, that this is a Microsoft Azure Blob Storage account and therefore the name will be a unique account name to them. We know from source code that data was extracted to this account however an IP address nor any further information was provided. This will be different to the databases as previously requested. The "36northblobs" is used to store images from the ANPR ie pictures of vehicles. As such, this is highly sensitive data which they should not be in possession of. Relevance – Lines of enquiry related to ownership of the blob storage account.
228.	26/11/2019	Email from Adam Parsons to Sgt Clarke responding to his queries regarding "36northblobs".
229.	26/11/2019	Email from Sgt Clarke to Adam Parsons discussing the ANPR IMAGE PROCESSOR.exe.config files. *"Please find attached files. The ANPR IMAGE PROCESSOR.exe.config files related to exhibit JOG/44 – ANPR Image Processor, The other two files relate to exhibit JOG/45 – Also re the ANPR Image processor. I have also attached Jonathan Galliano's statement. It is not quite complete however the relevant section in relation to the "36northblobs" is Chapter 14 – ANPR."*
230.	28/11/2019	DS Clarke spoke to Rik Hepworth, Chief Technology Officer of Black Marble via telephone. It was agreed he would draft a statement detailing his involvement with Bland.
231.	03/12/2019	On my instructions DS Clarke met with Abel Ivars at the Piranha Design Group Office. Relevant to whitelisting of IP address linked to offline database re-indexing.
232.	08/12/2019	1st statement of JOG signed as complete. This statement is in relation to: Terms of Reference Personal Introduction Bland Ltd IT Infrastructure & Development Teams Wavetecx NSCIS Platform Introduction NSCIS Access Levels Bland Ltd. Resignations NSCIS Meetings and Handover Wavetecx Emails

		Microsoft Azure Access TFS Access and Source Code Azure Unauthorised Access and Data Transfers Azure Unauthorised Database Access and Indexing ANPR Four Corners and Port Servers Facial Recognition Services People Counting Twitter Frontier Queue Hotline Remote Access to Servers Police Intervention APIS Impact on NSCIS
233.	09/12/2019	1st statement of Krishan Benyunes signed as complete. The statement refers to: • Technical Definitions • NSCIS • Incomplete NSCIS Source Code on TFS • Decrypted Windows Service Configuration Files
234.	11/12/2019	Meeting with Supt Richardson in London before PWC. Aim to obtain a factual report and/or an expert report in respect of actions undertaken by PWC.
235.	12/12/2019	Meeting with PWC in London. Present were PR and myself, Ronan McGee, Jonathan Holmes, Paul Scott and Ian Clements. Discussed whether they could provide evidence in relation to PWC report and / or act as experts for the purpose of analysing the work of Jonathan Galliano. Costing to be provided. Relevance: Evidence of working undertaken by PWC. Line of enquiry.
236.	19/12/2019	1st statement of Richard Michael (Rik) Hepworth signed as complete. This statement relates to his activities associated with the mitigation of Azure incident experienced by The Bland Group in October 2018
237.	19/12/2019	1st statement of Abel Ivars signed as complete. This statement refers to his allowance of Thomas Cornelio to access the VMS (Vessel Maritime System) as well as relevant IP addresses.
238.	20/12/2019	3rd statement of PS 2 Craig Philbin signed as complete. This statement relates to his tendering in evidence of transcripts of interviews.

239.	08/01/2020	Discussed with DS Clarke Production Orders for account data of Caine Sanchez held by Natwest.
240.	09/01/2020	Email from Supt Richardson to Darren Grech requesting his statement to be finalised as a matter of urgency as the suspects were re-bailed and the progress of the case must be done expeditiously.
241.	09/01/2020	Email from Sgt Clarke to JOG asking if he has completed Timeline table of events from 1st statement and a 2nd statement covering the re-indexing test conducted (incl Exhibits). Relevance: Corroboration of assertion by JOG that the reindexing caused the NSCIS failure in October 2018.
242.	11/01/2020	Review of JOG statement / charge identification. Relevance: Identifying computer misuse offences and wording for charges.
243.	12/01/2020	Review of JOG statement / charge identification. Relevance: Identifying computer misuse offences and wording for charges.
244.	13/01/2020	Review of JOG statements / charge identification. 51 offences identified. To be selected based upon the advice of DPP.
245.	13/01/2020	Email to Supt Richardson describing that after having gone through the statement of JOG, there are a possible 50 more charges to be preferred to TC. Review of outstanding devices identifies another 100 devices still to come back from HTCU. Relevance: Charges considered and outstanding forensic examinations.
246.	13/01/2020	1st statement of DC 189 Johan Ward signed as complete. This statement relates to an enquiry that he was tasked to carry out, being logging into NSCIS and conducting a vehicle search.
247.	14/01/2020	Started to review civilian statements. Reviewing / reading of exhibits to determine which would remain in evidence. Exhibit list starting to be populated. Disclosure schedule starting to be populated.
248.	15/01/2020	Email from Supt Richardson explaining that an Operation Delhi office has been made available as well as the fact that a further meeting with Sgt Clarke is needed to formulate a plan on how to proceed.

		Relevance: Relocation of office so that Sgt Clarke and I can work together, and taken away from other duties to focus exclusively on Op Delhi.
249.	15/01/2020	Review of computer exhibits to ascertain what was currently being used in evidence and what was non-evidential. Relevance – Administration.
250.	15/01/2020	Finalised review of civilian statements. Removed a number of exhibits to disclosure. Finalised review of police statements. Removed a number of exhibits to disclosure. Relevance: Started to compile docket of evidence.
251.	16/01/2020	Computer exhibits checked to ensure we had received all exhibits from HTCU. Timeline of analysis devised.
252.	17/01/2020	Review of devices. Which devices are not being used and why. Stated that individual charges should apply. Relevance – Administration and charging.
253.	17/01/2020	Review of DPA issues sent by Bland to ensure that the investigation is not prejudiced.
254.	17/01/2020	Meeting with DPP regarding formulation of charges, summary and jury. Concerns were raised by DPP regarding expert witnesses required.
255.	17/01/2020	Review statement of Roisin Cullen. Relevance – Corroboration of computer offences / formulation of charges.
256.	17/01/2020	Meeting with JOG. Discussion of timeline, database re-indexing, screenshots in support, sealing of USB's (continuity) and change of flowchart name.
257.	18/01/2020	Started interview plan of TC. Using w/s JOG as basis of evidence.
258.	18/01/2020	Extracts taken from AG/Axiom/2.
259.	19/01/2020	Digital devices review. Set out table to completed / outstanding devices. The table indicates the exhibit number, description, defendant, date seized, and whether it has been returned to me and in what format (Axiom, XRY, UFED or not returned).
260.	20/01/2020	Review of Axiom 1. Check for .jpeg images to corroborate the extraction of information from NSCIS. Also review of material via keywords. AG/LAPTOP/1 (1,112,959) Over half is operating system information. No additional evidence.

		AG/LAPTOP/1/USB (31,084) review of evidence (Asquez). No additional evidence. Majority is pictures. AG/USB/2 Black (26,293) – 18,000 pictures. No additional evidence AG/USB/2 Monkey (496) – No additional evidence. 476 pictures. AG/USB/2 Yellow (61,289) – Over 50,000 pictures – none relevant JC/TABLET/1 (426,524 results) – No relevant pictures. Additional references to IP [redacted]. References found to how to delete 1000's of tweets. Google search checked. No chat logs. 291 emails – none relevant Search terms as per list created. In addition to the IP [redacted]. JV/HOME/6 (519) – Music files only (with album covers) – no relevant material JV/HOME/7 (1188) – Music files only (with album covers) – no relevant material JV/HOME/9 (7824) – All pictures – none relevant JV/HOME/10 (523,240) - Over half are pictures. The remainder is mainly operating system. No relevant evidence through keywords.
261.	20/01/2020	Email from Jonathan Holmes (PWC) to Supt Richardson regarding the costs of work that Bland have requested they do. Costs are prohibitive. Further stated that their employees cannot act as expert witnesses. Relevance – Witness statements from PWC may not be possible due to the cost implications. We may need to rely upon NCA / JOG for computer misuse offences. May require expert at a later date.
262.	20/01/2020	Update provided in respect of: 1. Meeting with DPP (charges) 2. Axiom 1 and 2 (digital devices contained on HDD) 3. Phones – Being processed 4. Interview plan of TC started 5. TC phones not showing Whatsapp chats Relevance – Outstanding lines of enquiry.
263.	21/01/2020	Meeting with Supt Richardson, CI Field, and DS Clarke. Discussed: • Analysis by NCA (Roisin) • PWC unable to be an expert. Quoted at £35,000 to £50,000 for a statement of fact (likely to be at the upper end). This is

		without the independence of an expert who could offer opinion. • Charges – Over 50 possible charges identified (predominantly computer misuse). To be refined down. • Asquez – Previously offered to obtain a prepared statement. To interview and possibly obtain a statement if no evidence of criminality.
264.	21/01/2020	JU/3/SSD – Checked Google searches. Images checked. Started to prepared for analysis of Asquez information via UFED / XRY.
265.	21/01/2020	1st statement of Darren Grech signed as complete. This statement answers questions posed by the RGP in relation to Caine Sanchez.
266.	21/01/2020	1st statement of Paul Donington-Smith signed as complete. This statement relates to the search warrant at Suite 229, WTC.
267.	21/01/2020	1st statement of Daniel Bourne signed as complete. This statement relates to the Search Warrant at St Stephens Close.
268.	22/01/2020	Discussion with SIO concerning Asquez and whether he should be treated as a witness.
269.	22/01/2020	1100 Spoke to Robert Fischel regarding Edward Asquez. Informed him that we wanted to obtain an account from him under caution. If satisfactory we would seek to release him from arrest and return property. 1120 Further call in which I informed him that we would try to interview him this week if he was agreeable. Followed up with an email. Relevance: Consideration given to releasing Asquez. If his account during interview stood up to scrutiny we would consider.
270.	22/01/2020	DS Clarke tasked to review reports from seized digital devices.
271.	23/01/2020	1st statement of DC 38 Alfred Garcia signed as complete. This statement relates to UFED Extraction and XRY Extractions of multiple devices seized in the Search Warrants.
272.	23/01/2020	DS Clarke requested DC Victor of the Economic Crime Unit to analyse the results of the Production Order.
273.	24/01/2020	Bundle of documents provided by Robert Fischel in which he makes 10 allegations of criminality against Bland / James Gaggero. They relate to offences including i) Wasteful employment of police ii) Computer misuse offences and iii) fraud.

		Relevance – Representations by defence.
274.	24/01/2020	Supt Richardson requested DS Clarke extract and send him Whatsapp communications between Caine Sanchez and the Chief Minister. From Cellebrite report of JV/Phone/1.
275.	24/01/2020	2nd statement of PS 2 Craig Philbin signed as complete. This statement is related to the tendering in evidence of transcripts
276.	27/01/2020	Bundle of documents received from Mr Fischel / suspects. Relevance – Defence representations.
277.	27/01/2020	Review of evidence already obtained. Preparation of summary and review of exhibits.
278.	27/01/2020	Table created of offences set against paragraphs from the statement of JOG. I then added in where Roisin Cullen has supported paragraphs written by JOG and where there may be addition corroborative requirements.

279.	28/01/2020	Report titled "*Chipol Report DPP 2 Draft*" reviewed.
		Relevance – Legal advice requested in respect of Chipol.
		• Background
		  ○ NSCIS platform
		  ○ Complaint by Bland
		  ○ Arrest of Cornelio
		• The Issues
		• The Law – Misconduct in public office
		• The Law – Unauthorised access to computer material
		• The evidence
		  ○ Attempts to undermine Bland in favour of 36 North
		  ○ Encouraging Cornelio to access the NSCIS system without authority
		  ○ Knowledge of unauthorised access to the NSCIS platform by Cornelio
		  ○ Disclosing sensitive information to Cornelio regarding the NSCIS platform
		  ○ Offering government funding to 36 North
		• Timeline of events
		• Request for advice
		Relevance – Consolidation of evidence and consideration of facts / law resulting in request for legal advice.

280.	28/01/2020	Email from Krishan Benyunes to Sgt Clarke explaining .NET encryption on a configuration file. He included examples of encryption and decryption in the email. Relevance: Required for NCA to assist in decryption and analysis of computers.
281.	29/01/2020	DS Clarke reviewed the following digital devices, which were stored on a hard-drive given the reference number JO/Review/1: JO/NAS_LOGI/1 – Majority photos and documents. 2005-2012. Few from 2018. Not relevant to investigation. No emails, chats etc present. JV/3 – Sanchez Laptop. Not used since 2017. Work related communications. Not relevant. Pre-date alleged offences. JV/HD/1 – Majority World War 2, military scans and pictures. Few documents relating to Brexit. JV/HD/2 – Majority pictures. Documents relating to HMGOG between 2012-2019. Not relevant to investigation. JV/Home/13 – Last used in 2017. Majority system images and photos. Documents not relevant to investigation. JV/Laptop/1 – Items of relevance tagged MH/USB/1 – 400+ Holiday pictures only SC/USB/1 – 230 emails between February-May 2019. Relating to Upper Rock Nature Reserve. Not relevant to investigation.
282.	30/01/2020	DS Clarke reviewed exhibit PR/ToshibaHD/01. DS Clarke tagged relevant items
283.	31/01/2020	Email from Supt Richardson to Martin Lennon (TOPAZ) asking if the NCA would be willing to provide further assistance in the case as the RGP need further IT support and do not have the financial backing to be able to bring in an independent IT firm to do so.
284.	31/01/2020	Meeting with DC Currer and DS De Los Santos. DC Currer was informed that he would be joining Operation Delhi.
285.	01/02/2020	1550 Call to Marius Zalkaukas – 54023612 – Asked to come in as a witness. Reluctant and concerned about his job. Asked for time to think. I informed him that I would call him back. Told him that he was not a suspect. Attendance was voluntary. Relevance – Line of enquiry. I believed that they may support the defence version of events.

286.	01/02/2020	1545 Call to Benrimoj – 54017599 – Very concerned at the time of the call. Informed him that he was not a suspect at this time. That attendance was voluntary. He wanted to speak to his lawyer first. Gave him my contact details. Informed him that I would call him back. Called both potential witnesses on a Saturday so that there was less danger that they would be at work [and that the suspects may be present]. Relevance – Line of enquiry. I believed that they may support the defence version of events.
287.	01/02/2020	Completed final review of evidence for Chipol. Relevance: Legal advice based on consideration of evidence and law.
288.	03/02/2020	Re-write of summary based upon information provided so far. Evidence relied upon based upon Computer Misuse Evidence at this stage. No evidence in respect of possible conspiracy inserted into the summary at this time.
289.	03/02/2020	Chipol report complete and sent for advice.
290.	03/02/2020	Requirement for PC's to be upgraded in order to cope with analysis. Slowdown significant (or crashing) during reviews.
291.	03/02/2020	Cross reference of JOG statement with Roisin Cullen and assessment of requirement for further corroboration. • Identification of connection strings / Boolean / Time date variables on Port and 4 Corners servers. This will require access to the original computers where the encryption took place. • Comparison of source code dated the 19th July 2018 and code handed over to Bland Limited on 6th September 2018 (allegedly missing 44 libraries).
292.	04/02/2020	Email from Supt Richardson to Graceanne Gear chasing the USA. He explains that if there is to be a delay in the evidence being transmitted to Gibraltar we could collect the evidence ourselves.
293.	04/02/2020	Email from Graceanne Gear to Supt Richardson stating that she has chased the USA and if they do not respond by tomorrow, she will call them.
294.	05/02/2020	Meeting with JOG. Discussion of database re-indexing evidence and in particular which of those were automatic and which were manual. Also explained the increase in eDTU.

295.	10/02/2020	Discussion with SIO regarding Roisin as an expert. The NCA have stated that they cannot act as an expert. However, there is nothing precluding them from doing so. If factual, need to determine remit of further investigation. Relevance – Requirement for independent analysis of computer offences.
296.	10/02/2020	Email from Graceanne to Supt Richardson explaining that she has now spoken to Alex in USA where he has informed her that they will prioritise Operation Delhi. It normally takes 4-5 weeks but he will try to expedite.
297.	10/02/2020	Email from TC asking for a copy of a document that he believes was taken from his office in WTC.
298.	10/02/2020	Review of defence documentation supplied. Documents reviewed in terms of evidence / to consider the allegations that they are making against Bland. At this time it appears as though the majority of allegations are for HMGoG to make as opposed to the suspects. Telephone call regarding expert witness / factual statement from NCA.
299.	11/02/2020	Continue to review evidence provided by defence. Email sent to Mr Gaggero regarding his response to the assertions of ownership. Relevance – Line of enquiry following defence assertions.
300.	11/02/2020	Email from TC requesting for the RGP to hand back various electronic devices with an attached table highlighting if devices have personal or work information on them.
301.	11/02/2020	Email sent to James Gaggero setting out the basis on which ownership is asserted by the defence in terms of a timeline of modules allegedly sold to HMGoG. Requested whether they agree or disagree with the assertions and to provide any evidence in support of opposing views where possible. Relevance – response to evidence provided by the defence. Note that no statement or evidence was provided to Mr Gaggero. Table created by the RGP to reflect information sent by the defence.
302.	11/02/2020	Reponses to bundle of documents provided by Mr Fischel QC on the 24th January 2020. My response: I can confirm that I have had the opportunity to consider the allegations made by your clients, in the document bundle dated the 24th January 2020. I have dealt with each in turn:

		1. <u>Making a false report to the RGP including wasteful employment of RGP.</u> Based upon the evidence reviewed thus far, we do not consider that James Gaggero has deliberately sought to mislead the RGP. Notwithstanding, and in the interests of fairness, the RGP has sought to independently verify the allegations made by Bland Limited. **2. <u>Unauthorised investigation by PwC and Infosec Consulting Services Limited ("Infosec") into the NSCIS and HMGoG platforms.</u>** As you are aware the ownership of the intellectual property relating to the platform appears to be in dispute. We have no received no complaint from HMGoG as to the conduct of Blands, nor their agents. **3. <u>Unauthorised access by Blands to 36N servers and personal data held therein.</u>** The item to which you refer in support of this allegation (item 117 of the Schedule) states that "*The database located on the 36 North Server and intended to receive the data under these modifications was more elaborate than the database on the NSCIS Azure Server in that it was structured to receive more information on the vehicles observed by these systems, including the vehicle manufacturer, type and body colour*." The RGP can confirm that we have received no evidence in support of this allegation. **4. <u>Unauthorised access to HMGOG Platforms by Blands' servants or agents</u>** We refer to our response to allegation 2. **5. <u>Unauthorised disclosure of NSCIS access codes by Mr Gaggero and Blands to PwC and Infosec contrary to section 367 of the Crimes Act 2011.</u>**

		Pursuant to section 367(1) of the Crimes Act, the access intended to be secured must be unauthorised. We refer to our response to allegation 2. **6. <u>Unauthorised access to computer material by or on behalf of Mr Gaggero and Blands contrary to section 362 of the Crimes Act 2011 from July 2018 to 4 October 2018.</u>** Pursuant to section 362(b) of the Crimes Act, the access intended to be secured or enabled to be secured must be unauthorised. We refer to our response to allegation 2. **7. <u>Unauthorised access with intent to commit or facilitate commission of further offences contrary to section 363 of the Crimes Act 2011.</u>** Pursuant to section 363(1) of the Crimes Act, an offence must be committed under section 362. We refer to our response to allegation 2. **8. <u>Unauthorised acts causing, or creating risk of, serious damage contrary to section 366A of the Crimes Act 2011.</u>** Pursuant to section 366A(1)(a) of the Crimes Act, the act must be unauthorised. We refer to our response to allegation 2. **9. <u>Unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer etc contrary to section 364 of the Crimes Act 2011.</u>** Pursuant to section 364(1)(a) of the Crimes Act, the act must be unauthorised. We refer to our response to allegation 2. **10. <u>Fraudulent invoicing by Blands</u>** As the defence will be aware, HMGoG have had sight of the report compiled by Mr Cornelio. Any allegation of fraud is a matter for HMGoG to consider. Notwithstanding the above, the RGP will of course consider the documents provided in the context of the criminal investigation.

		On another note, we still have not received a reply to our request made on the 22nd January, regarding Mr Asquez. We are keen to resolve this matter promptly. I would be grateful if you could confirm whether you have discussed the proposed questions with your client, and if so, whether he would be willing to come in and provide answers. Relevance – It is argued that we cannot ascertain ownership does not belong to Bland. Therefore we will not be able to prove that any access is unauthorised. Even if we were to ascertain that HMGoG were owners of the platform (which we have not) they have not made a complaint about the access made by Bland.
303.	12/02/2020	Response from Philip Navas to queries regarding assertions made by defence that the NSCIS platform was sold to HMGoG. The response includes a table and states that there was no contractual transfer of intellectual property developed by Bland Group.
304.	12/02/2020	Review of Bluetooth extractions from LG/Phone/1.
305.	13/02/2020	Review of Bluetooth extractions from LG/Phone/1.
306.	13/02/2020	Discussed Benrimoj with SIO. Evidence suggests that he had been accessing the system after the 4th October 2018, when instructions were given by the CM. He has clearly been accessing the NSCIS platform after termination of his employment with Bland. Grounds to suspect that he may have committed the offence of unauthorised access. There is a requirement to interview him under caution to establish his version. He has previously contacted Mr Finch who had written in on his account. Therefore he can be approached to attend voluntarily. No necessity to arrest at this stage.
307.	13/02/2020	Email from Supt Richardson to Alex Hagedorn (USA) where he explains the necessity of retrieving the information ASAP.
308.	13/02/2020	Email from Nicholas Gaggero where he states he is willing to provide a witness statement in relation to himself running the Frontier Management Project. Relevance – Defence assert that the FMP was sold to HMGoG. Statement of Gaggero suggests that this may not be the case.
309.	13/02/2020	Meeting with Andrew Bonfante (HMGoG) in relation to a statement of his involvement in the NSCIS project and as to ownership.

		Relevant as a line of enquiry due to the fact that defence had asserted he was involved in the selling of the platform to HMGoG.
310.	14/02/2020	Review of Bluetooth extractions from LG/Phone/1.
311.	17/02/2020	Review of Bluetooth extractions from LG/Phone/1.
312.	17/02/2020	Having reviewed evidence there appears to be dates on which Benrimoj accessed the NSCIS platform after he left Bland. This is potentially an unauthorised access. As a result it may be prudent to interview him under caution rather than as a witness. No response has been given by him as to whether he would be willing to be a witness at this stage. Called Benrimoj. Informed him that he is being requested to attend and answer questions under caution. He informed me that he would like to speak with his lawyer.
313.	18/02/2020	Continued to extract Bluetooth reports from LG/Phone/1. Relevant texts identified and printed out. Will be replaced by Cellbrite material in due course and where available.
314.	18/02/2020	Discussion with Supt Richardson regarding the actions of JL. I prepared a report based on text messages between JL and other parties. Report highlighted texts and possible questions that required explanation from JL. Consideration was given as to whether there were reasonable grounds to suspect that he was guilty of conspiracy to defraud. Main concern is whether his actions were those of a prudent businessman or of attempting to obtain the NSCIS platform by dishonesty.
315.	19/02/20	Completion of Bluetooth extractions. Consideration given to extracting documents from all devices that had been forensically retrieved and now available.
316.	19/02/2020	Email from Chris Finch where he suggested that his client, Joseph Benrimoj was contacted and told that he would be arrested if he did not attend NMH for interview under caution. This was not the case. He was asked to come voluntarily but that if he refused we may consider arrest. This is perfectly legal on the basis that the arrest is for the prompt and effective investigation of the case (thereby satisfying arrest criteria).
317.	19/02/2020	Table created (9 pages) setting out communication between JL and others as well as key dates (in relation to 36 North) and questions arising from each of the points highlighted.

318.	20/02/2020	Rationale document prepared regarding involvement of JL.
319.	20/02/2020	Meeting at Bland to discuss ownership of the NSCIS platform. Meeting with Nicholas Gaggero / Philip Navas / Jonathan Galliano. Relevant line of enquiry given the defence assertions of ownership by HMGoG.
320.	20/02/2020	1st statement of Roisin Jane Cullen signed as complete. This statement relates to Exhibits NCA/Exhibit/Copy and JO/F_IMAGES/2.
321.	20/02/2020	2nd statement of Roisin Jane Cullen signed as complete. This statement relates to receiving Op Delhi exhibits between 10th May 2019 and 12th May 2019 for secure digital forensic storage.
322.	20/02/2020	3rd statement of Roisin Jane Cullen signed as complete. This statement relates to the search warrant at Suite 229, WTC.
323.	21/02/2020	Review of evidence gathered. Consideration of arrangement of files for prosecution case. As OIC I am responsible for the structure of the case and presentation of the evidence (prior to decisions by the OCPL).
324.	21/02/2020	Email from Jamie Strachan of NCA with an attached document detailing all of his scanned statements.
325.	21/02/2020	Email from Roisin Cullen providing her statements.
326.	21/02/2020	Email from DC Currer following my request to section out the files as follows: 1) Planning / Preparation to Leave Bland 2) Appropriation Commenced on behalf of Bland 3) Putting Pressure of Government Officials / Undermining Bland 4) Computer Misuse Offences 5) Report for Sanchez
327.	21/02/2020	The following exhibits were handed to me from DS Clarke: PAC/JV/PHONE/1/EMAIL/1
328.	21/02/2020	1st statement of Jamie Iain Strachan signed as complete.
329.	21/02/2020	2nd statement of Jamie Iain Strachan signed as complete.
330.	21/02/2020	3rd statement of Jamie Iain Strachan signed as complete.
331.	23/02/2020	The following exhibits were handed to me by DS Clarke: PAC/JU/3/SSD0/DOC/1 PAC/JU/3/SSD0/DOC/2 PAC/JU/3/SSD0/DOC/8 PAC/JU/3/SSD0/DOC/9 PAC/JU/3/SSD0/IP/2

		PAC/JU/3/SSD0/DOC/11 PAC/JU/3/SSD0/DOC/5 PAC/JU/3/SSD0/DOC/6 PAC/JU/3/SSD0/DOC/3 PAC/JU/3/SSD0/DOC/7 PAC/JU/3/SSD0/EMAIL/1
332.	24/02/2020	Update to SIO regarding: 1. JL review / review of evidence 2. Witness statements x 3 3. Requirement for decision on Chipol 4. Update on ILOR 5. Update from NCA 6. JOG exhibits 7. Timelines 8. Benrimoj interviews / disclosure
333.	24/02/2020	The following exhibits were handed to me by DS Clarke: PAC/JC/TABLET/1/IP/1 PAC/JC/TABLET/1/RDP/1 PAC/JC/TABLET/1/COOKIE/1 PAC/JC/TABLET/1/CHROME/1 PAC/JC/TABLET/1/TEXT/1 PAC/PR/TOSHIBAHD/EMAIL/9 PAC/CT/LAPTOP/1/LETTER/1
334.	24/02/2020	Draft of 2nd statement of Philip Navas regarding the ownership of the NSCIS platform following documents provided by defence. Relevance – Line of enquiry regarding platform ownership.
335.	24/02/2020	Review of communications between John Rodriguez and JP / TC. Consideration of whether he had responded to pressure to pass on information. Relevant dates <u>after</u> August 2018. Review of Bluetooth extraction from TC to JR revealed nothing of evidential value (4 emails only). Review of MG/Phone/1 - no communication between JP and JR The following are computer devices (email extractions only) JO/Review/2 - Axiom Review of Sanchez device PR/Toshiba/HD/1 (work emails) so not show any relevant emails being sent from JR to CS regarding the system – Completed by DS Clarke. CT/Laptop/1 – no relevant files (all artefact info) MH/Comp/3 – no relevant emails AG/Axiom/1 JU/3 – no relevant emails

		AG/Axiom/2 MH/USB/3 – No emails MH/Laptop/1 – No emails. SC/Tower/1 – No emails.
336.	25/02/2020	The following exhibits were handed to me by DS Clarke: PAC/PR/TOSHIBAHD/01/EMAIL/7 PAC/PR/TOSHIBAHD/01/EMAIL/5 PAC/PR/TOSHIBAHD/01/EMAIL/6 PAC/PR/TOSHIBAHD/01/EMAIL/4
337.	25/02/2020	Email from Nicholas Gaggero where he states that as far as he's aware, Bland Group retain the IP for all our projects. Even though some are custom built for specific departments and hosted on HMGoG servers, we own the code. We simply license through maintenance contracts.
338.	26/02/2020	The following exhibits were handed to me by DS Clarke: PAC/MG/PHONE/1/WHATSAPP/18 PAC/MG/PHONE/1/WHATSAPP/2 PAC/MG/PHONE/1/WHATSAPP/3 PAC/MG/PHONE/1/WHATSAPP/9 PAC/MG/PHONE/1/WHATSAPP/14 PAC/MG/PHONE/1/WHATSAPP/15 PAC/MG/PHONE/1/WHATSAPP/17 PAC/MG/PHONE/1/WHATSAPP/19 PAC/MG/PHONE/1/WHATSAPP/21 PAC/MG/PHONE/1/WHATSAPP/26 PAC/MG/PHONE/1/WHATSAPP/29 PAC/MG/PHONE/1/WHATSAPP/30 PAC/MG/PHONE/1/WHATSAPP/31 PAC/MG/PHONE/1/WHATSAPP/32 PAC/MG/PHONE/1/WHATSAPP/34 PAC/MG/PHONE/1/WHATSAPP/4 PAC/MG/PHONE/1/WHATSAPP/35 PAC/MG/PHONE/1/WHATSAPP/37
339.	27/02/2020	The following exhibits were handed to me by DS Clarke: PAC/AG/LAPTOP/1/DOC/7 PAC/AG/LAPTOP/1/DOC/1 PAC/AG/LAPTOP/1/DOC/2 PAC/AG/LAPTOP/1/DOC/6
340.	27/02/2020	Called by SIO. Informed me that he had spoken with Asquez. The conversation had revolved after asking whether he had had an opportunity to consider whether he wanted to give his version of events. He explained that he had not asked him any questions

		about the investigation / the evidence. He called me in the event that it was suggested he had acted anything other than properly and legally.
341.	28/02/2020	Response by Robert Fischel QC to my email of the 11th February 2020. In particular he asserts that HMGoG is the owner of the platform and that a complaint has been made by Caine Sanchez. It cannot be proven that HMGoG are the owners of the platform. Therefore we cannot accept and complaint against Bland even if they were to make one. We could not prove beyond a reasonable doubt that access was unauthorised for any computer related matter. Furthermore, Caine Sanchez has not written the allegations, Mr Fischel is making them on behalf of his own clients (TC/JP) neither of whom have standing to make a complaint on behalf of HMGoG. Finally, Caine Sanchez is a suspect in this matter and it would be entirely inappropriate to accept a complaint from him when there are more senior officials who have not sought to make a complaint and with knowledge of the investigation.
342.	28/02/2020	Email from Sgt Clarke to Insp Zammitt requesting a statement for his interview of Caine Sanchez and exhibit TC prepared statement.
343.	28/02/2020	DS Clarke requested DC Manfred of the Economic Crime Unit to analyse the results of the Production Order.
344.	28/02/2020	2nd statement of DS 15 Mark Garratt signed as complete. This statement relates to tendering the Search Warrant at St Stephens Close in evidence as Exhibit MG/SW/1
345.	28/02/2020	2nd statement of Insp Neil Zammitt signed as complete. This statement relates to a voluntary prepared statement read by Thomas Cornelio (NZ/TC/Statement/1)
346.	28/02/2020	2nd statement of DC 96 Mark Hermida signed as complete. This statement relates to Exhibits: • MH/Apple iMac/1 • MH/Apple iMac/2 • MH/Apple iMac/3 Where he changes the exhibit references to: • MH/COMP/1 • MH/COMP/2 • MH/COMP/3

347.	01/03/2020	Email from Commissioner Ian McGrail to Supt Richardson agreeing course of action regarding Jaime Levy. Further states that the RGP would need to consult with the DPP in order to be legally supported.
348.	02/03/2020	1st statement of Nicholas Gaggero signed as complete. This statement relates to the Frontier Monitoring Project contract and the contract between Bland Ltd and HMGoG.
349.	03/03/2020	DS Clarke completed analysis of the Production Order.
350.	03/03/2020	Email from Supt Richardson to Philip Larratt of the NCA requesting information regarding Roisin giving evidence in Gibraltar and having forensic officers give evidence in Gibraltar.
351.	03/03/2020	Review of digital devices. Consideration of what can be returned to the defendants having regard to the fact that some devices may have sensitive information on them. This is yet to be established by DC Oton.
352.	03/03/2020	Meeting with the DPP regarding JL. Advice requested on whether his involvement amounts to a criminal offence. Full report drafted by Supt Richardson. Relevance – Consideration of whether JL has committed a criminal offence.
353.	04/03/2020	Report written based on the report by Supt Richardson. Additional evidence inputted so that the report can be submitted for formal advice from the DPP. Relevance – request for legal advice.
354.	04/03/2020	On the 18th October 2019 I informed HTCU that the following devices, belonging to AC, did not require analysis: Pac/240719/Home/2 – Black Asus laptop – Found in a basket in the living room of house. Unlikely to contain additional evidence beyond that accessible from devices already obtained. Appeared to be an older device. Searching for emails which will be found on new devices. Pac/240719/06 – Quantity of USB drives – New USB's in a packet. Pac/240719/Home/4 – Silver Apple iPhone – Found in top drawer of bedroom. Did not appear to have been used in some time. Evidence of communications (text) will be available from newer devices in relevant date range. Pac/240719/07 – Black Samsung mobile phone – Cracked screen. Did not appear to have been used in some time. Evidence of

		communications (text) will be available from newer devices in relevant date range.
355.	04/03/2020	The following exhibits were handed to me by DC 211 Currer: JC/WHATSAPP/36NORTH/1 JC/WHATSAPP/36NORTH/2 JC/WHATSAPP/36NORTH/3 JC/WHATSAPP/TCJB/1 JC/WHATSAPP/TCJB/2 JC/WHATSAPP/36NORTH/4 JC/WHATSAPP/36NORTH/5 JC/WHATSAPP/TCJL/1 JC/WHATSAPP/TCJL/8 JC/WHATSAPP/TCJL/19 JC/WHATSAPP/TCJL/4 JC/WHATSAPP/TCJL/5 JC/WHATSAPP/TCAC/2 JC/WHATSAPP/TCAC/3 JC/WHATSAPP/TCAC/4 JC/WHATSAPP/TCJL/6 JC/WHATSAPP/TCAC/5 JC/WHATSAPP/TCJL/7 JC/WHATSAPP/TCAC/6 JC/WHATSAPP/TCAC/11 JC/WHATSAPP/TCAC/12 JC/WHATSAPP/TCAC/13 JC/WHATSAPP/TCAC/14 JC/WHATSAPP/TCAC/15 JC/WHATSAPP/TCAC/16 JC/WHATSAPP/TCAC/17 JC/WHATSAPP/TCAC/18 JC/WHATSAPP/TCAC/20 JC/WHATSAPP/TCAC/21 JC/WHATSAPP/TCAC/22 JC/WHATSAPP/TCAC/23 JC/WHATSAPP/TCAC/24 JC/WHATSAPP/TCAC/25 JC/WHATSAPP/TCJL/10 JC/WHATSAPP/TCJL/11 JC/WHATSAPP/TCAC/26 JC/WHATSAPP/TCJL/12 JC/WHATSAPP/TCAC/27 JC/WHATSAPP/TCAC/29 JC/WHATSAPP/TCAC/31 JC/WHATSAPP/TCCS/4

		JC/WHATSAPP/TCJL/2 JC/WHATSAPP/TCJL/15 JC/WHATSAPP/TCJL/16 JC/WHATSAPP/TCCS/30 JC/WHATSAPP/TCCS/31 JC/WHATSAPP/TCJL/17 JC/WHATSAPP/TCJL/18 JC/WHATSAPP/TCAC/30 JC/WHATSAPP/TCCS/1 JC/WHATSAPP/TCCS/2 JC/WHATSAPP/TCCS/3 JC/WHATSAPP/TCCS/5 JC/WHATSAPP/TCCS/7 JC/WHATSAPP/TCCS/8 JC/WHATSAPP/TCCS/9 JC/WHATSAPP/TCCS/10 JC/WHATSAPP/TCCS/11 JC/WHATSAPP/TCCS/13 JC/WHATSAPP/TCCS/14 JC/WHATSAPP/TCCS/15 JC/WHATSAPP/TCCS/16 JC/WHATSAPP/TCCS/18 JC/WHATSAPP/TCCS/22 JC/WHATSAPP/TCCS/23 JC/WHATSAPP/TCCS/24 JC/WHATSAPP/TCCS/28 JC/WHATSAPP/TCCS/29 JC/WHATSAPP/TCCS/30 JC/WHATSAPP/TCCS/31 JC/WHATSAPP/TCCS/32
356.	04/03/2020	DS Clarke drafted a supplementary statement for James Gaggero in relation to the engagement of PriceWaterhouseCoopers by Bland Ltd.
357.	04/03/2020	DS Clarke enquired if either Rob Stemp or Steve Mason of Red Maple Technologies were allowed to access any personal data collected by the NSCIS Platform. They both confirmed via email that they did not ever have access personal data.
358.	05/03/2020	Email from DC 106 Oton requiring passwords for RJC/1/14/08/2019, and JS/01/14/08/2019. (NCA HDD)
359.	05/03/2020	Meeting with John Rodriguez in relation to texts sent by TC to JP. He stated that he would provide a statement in relation to any pressure placed upon him / attempts to place by JP or TC.

		Relevance – Line of enquiry. Numerous texts suggest that the suspects were placing pressure on Government officials in order to help obtain the NSCIS contract.
360.	06/03/2020	Email sent to TC ref documents ready for collection. These had been reviewed by DC Clarke and found to have no relevance to the investigation (after having considered the current evidence in the case). This therefore does not amount to disclosable material and can be returned. Email sent to TC confirming that both he and JP can collect their paperwork at their convenience. Receipts to be signed.
361.	06/03/2020	The following exhibits were handed to me by DC 211 Currer: JC/CHAT/TCJL/9
362.	06/03/2020	DS Clarke drafted statements of Rob Stemp & Steve Mason. Relevant to issue of whether they accessed personal data on the NSCIS platform.
363.	06/03/2020	2nd statement of James Gaggero signed as complete. This statement relates to his engagement of PwC.
364.	06/03/2020	2nd statement of JOG signed as complete. This statement relates to: • Unauthorised Acts and Database Transfers • Azure Unauthorised Database Access and Indexing • Twitter • Frontier Queue Hotline • PWC and INFOSEC • NSCIS Access Logs
365.	09/03/2020	2nd statement of Robert Stemp signed as complete. This statement relates to Red Maple Technology removing unauthorised access and restoring the service to full operational capabilities.
366.	10/03/2020	2nd statement of Philip Navas signed as complete. This statement relates to: • Interpol Passport Control Agreement – May 2013 • Schengen Visa Management System – June 2013 • Interpol European ID Card Integration – July 2013 • Frontier Monitoring Project – September 2013 • Eastgate ANPR System – June 2014 • APIS Air Module – October 2015 • Facial Recognition Project – March 2016 • APIS Maritime Module – March 2016 • Port ANPR Cameras – January 2018 • NSCIS Global Invoice – October 2018

367.	10/03/2020	2nd statement of Steven Boyd Mason signed as complete. This statement relates to Red Maple Technology regaining control of the access to the NSCIS System (on behalf of Bland).
368.	10/03/2020	3rd statement of Insp Neil Zammitt signed as complete. This statement relates to the arrest of Caine Sanchez at the Airport Terminal and subsequent search warrant at 6 Hargraves Ramp, the residence of Caine Sanchez.
369.	11/03/2020	Summary of evidence preparation. For review of evidence by DPP.
370.	12/03/2020	Email from JOG to Sgt Clarke with an attached statement of Index Testing with an attached link to download the exhibits referred to in his 3rd the statement.
371.	12/03/2020	Email from JOG with and attached statement of NSCIS backoffice application audit logs with an attached link to download the exhibits referred to in the statement.
372.	12/03/2020	3rd statement of JOG signed as complete. This statement relates to: • Terms of Reference • Background • Methodology (Test Environment, Test Case Scenarios, Test Case Process) • Results • Analysis of Results • Results Comparison to NSCIS System Outage • Test Scenario Raw Data
373.	12/03/2020	4th statement of JOG signed as complete. This statement relates to Exhibit JOG/121, a USB containing all exhibits from: • James Gaggero • JOG • Krishan Benyunes • Philip Navas • Nicholas Gaggero
374.	12/03/2020	5th statement of JOG signed as complete. This statement relates to: • Nscis_ui_audit_log.xlsx (spreadsheet lists of NSCIS backoffice entries between 7th October 2018 – 8th October 2018) • Nscis_ui_audit_log_wavetecx_developers.xlsx (spreadsheet lists of all the NSCIS backoffice application audit logs available on the NSCIS Azure SQL production database)

		• Nscis_ui_memberSettings.xlsx (Spreadsheet lists of NSCIS Backoffice users extracted from the database) • Nscis_ui_audit_log_gaps.xlsx (spreadsheet reports on the number of missing NSCIS audit logs by looking at gaps in logID where the increment in sequential logIDs is larger than 1.
375.	12/03/2020	1st statement of Andrew Bonfante signed as complete. This statement relates to his dealings with NSCIS in his capacity as the Head of BCA.
376.	14/03/2020	DS Clarke reviewed exhibits LG/Phone/1, JV/Home/11 and JV/Home/3 which were on a hard-drive named AG/Report/1
377.	15/03/2020	Email from Aaron Chipol asking for his property to be returned so he may continue with his work.
378.	16/03/2020	The following exhibits were handed to me by DC 211 Currer: JC/EMAIL/36NORTH JC/WHATSAPP/TCEA JC/CHAT/TCJL/3 JC/CHAT/TCJL/7 JC/CHAT/TCJL/14 JC/CHAT/JPJL/1 JC/CHAT/JPJL/2 JC/CHAT/JPJL/6 JC/TEXT/CSJL/2 JC/TEXT/CSJL/1 JC/TEXT/CSJL/3 JC/TEXT/CSJL/4
379.	17/03/2020	The following exhibits were handed to me by DC 211 Currer: JC/CHAT/TCJL/15 JC/WHATSAPP/ATEAM/1 JC/WHATSAPP/ATEAM/2 JC/WHATSAPP/ATEAM/3 JC/STRING/1 JC/WHATSAPP/TCCS/35 JC/EMAIL/1 JC/WHATSAPP/TCCS/34 JC/WHATSAPP/TCCS/33
380.	17/03/2020	Email from Philip Larratt to Supt Richardson where he answers the questions put to him on 03/03/2020. Further to the conference call that has just taken place. **1) Production of DF evidence**

		MW is content that a statement of fact be provided by Roisin rather than expert testimony. This is in line with current practice of NCA DF officers. **2) Further DF work** Initial indication by Roisin is that further work will need to be conducted as one of the servers is encrypted. Shona has stated that this should be possible in a virtualised environment, enabling analysis on the image file rather than the device itself. Action: Shona to speak with Roisin and explore way to do this remotely (she is currently in self isolation) **3) Further IV of suspects** Suspects are due back on bail on 15/04/20. Due to current flight and international travel restrictions, it is unlikely that we will be able to send an officer to Gib to assist. Action: MW to explore feasibility of international downstream monitoring. If this is possible, I will liaise with Paul Donnington Smith about availability (IV will possibly take place a week before the bail date) **4) Original statements** Action: DB to collate and find a secure way to send to RGP.
381.	17/03/2020	At 0900hrs conference call with Philip Larratt and Shona Kerr from the NCA.
382.	18/03/2020	Decision to release laptops JV/1 (Sanchez) and PAC/240719/02 (Chipol) on the basis that they have been requested as a matter of urgency due to Covid-19 requirements to work from home. I have checked the notes of DC Garcia and note that images have been taken from these devices. On these grounds we can release. This was authorised by Supt Richardson.
383.	19/03/2020	Report requesting advice from the DPP drafted and submitted to SIO.
384.	20/03/2020	Email from Graceanne Gear stating that due to Covid, the USA have taken a back step on their work for Operation Delhi and that it is

		possible that the defendants will surrender to their bail I April with the work not having been completed.
385.	24/03/2020	The following exhibits were handed to me by DC 211 Currer: JC/WHATSAPP/CSJP/1 JC/WHATSAPP/CSJP/3 JC/WHATSAPP/CSJP/7 JC/WHATSAPP/CSJP/8 JC/WHATSAPP/CSJP/9 JC/WHATSAPP/CSJP/10 JC/WHATSAPP/CSJP/11 JC/WHATSAPP/CSJP/12 JC/WHATSAPP/CSJP/14 JC/WHATSAPP/CSJP/15 JC/WHATSAPP/CSJP/16 JC/FULLREVIEW/1 JC/FULLREVIEW/2
386.	24/03/2020	Email from TC asking for his devices to be returned.
387.	24/03/2020	Charging report requesting advice from the DPP completed.
388.	24/03/2020	Operation Delhi Timeline updated.
389.	26/03/2020	1st statement of DS 130 Paul Clarke signed as complete. This statement relates to interviews on Thomas Cornelio
390.	26/03/2020	2nd statement of DS 130 Paul Clarke signed as complete. This interview relates to interviews on Caine Sanchez
391.	26/03/2020	3rd statement of DS 130 Paul Clarke signed as complete. This statement relates to a Search Warrant at St Stephens Close, residence of John Perez
392.	27/03/2020	4th statement of DS 130 Paul Clarke signed as complete. This statement relates to search warrants conducted with Gibtelecom
393.	27/03/2020	5th statement of DS 130 Paul Clarke signed as complete. This statement relates to the tendering of Exhibit PAC/TCJG/Email/1
394.	27/03/2020	6th statement of DS 130 Paul Clarke signed as complete. This statement relates to the trawling through of multiple devices and extracting of the bulk of his documentary exhibits.
395.	28/03/2020	The following exhibits were handed to me by DC 211 Currer: PAC/CT/LAPTOP/1/EMAIL/1
396.	30/03/2020	Email from JOG to Sgt Clarke where he provides the username and passwords to the Four Corners Server and Port Server.
397.	01/04/2020	Charges drafted for all offences / defendants. 75 in total although most reflect computer misuse offences.

398.	02/04/2020	Email to Roisin Cullen of NCA asking for her to review the work done by Jonathan Galliano on paragraphs 14-16 of his statement. Relevance – Review of work relevant to proposed charges including ANPR and People Counting sections.
399.	02/04/2020	Bails extended of all suspects. Based upon Covid-19 regulations. Full rationale detailed in report. In particular the need to protect individuals from harm by not exposing them (in interview). Furthermore, the ILOR has been delayed and the NCA will not be able to travel to assist with the technical aspects of interview, all due to the pandemic. In addition the fact that the courts will not permit additional non-overnight cases. It will not be possible to bring any suspects before the court in the event that a decision is made to charge.
400.	03/04/2020	DS Clarke reviewed exhibit LG/4 – HDD for sensitive data. ID document images were discovered on the device.
401.	04/04/2020	2nd statement of DC 38 Alfred Garcia signed as complete. This statement relates to the search warrant at 6 convent place, the work place of Caine Sanchez.
402.	06/04/2020	Response by Robert Fischel QC objecting to bail and copying in the DPP and AG.
403.	06/04/2020	Awaiting instructions from DPP as to whether to charge and with what offences. A decision not to release at this point has been made by the SIO. Once instructions are issued we will proceed with interviews etc. The intention is to charge / release as soon as possible in order to limit the time the suspects are on bail. Attempts have been made via IT to try and install software that will allow Live Link facilities in compliance with interviewing instructions issued by CPS in light of the Covid-19 virus. At the moment we may be limited in interviewing owing to the fact that we do not have the facilities to have individuals separated in other rooms.
404.	06/04/2020	Review of devices that are being relied upon for evidential purposes (i.e. those devices from which we have extracted content for the prosecution case). This is for the purpose of ensuring continuity of evidence from devices to extraction.
405.	06/04/2020	DS Clarke reviewed exhibits for sensitive data – LMGW/Tower/1 – 12 ID document and ANPR images discovered on the device. SC/Tower/1 – No sensitive data discovered on the device.

		JU/3 – 3 different ID documents and 5 ANPR images discovered on the device.
406.	04/04/2020	TC interview plan challenges considered.
407.	06/04/2020	Interim CPS Charging Protocol – Covid 19 Crisis Reponse downloaded.
408.	08/04/2020	Video conference with the DPP. Advice sought on the basis of the report submitted by Supt Richardson on 1/4/20. He agreed that there was a realistic prospect of conviction for the proposed conspiracy to defraud. He also stated that there was evidence of misconduct for Sanchez although this would need to be discussed further. He stated that Chipol could be treated as a witness owing to the fact that he was not a beneficiary, and that he had ceased to assist 36 North. He agreed that Mr Levy should be treated as a suspect as there were questions which needed to be answered. He should be interviewed. File Note made.
409.	08/04/2020	Letter sent to Financial Secretary requesting clarification as to whether HMGoG were asserting ownership of the NSCIS platform. Relevance – Defence have strongly asserted ownership but HMGoG have not themselves done so.
410.	08/04/2020	Letter received from the FS stating that the Chief Secretary would be in contact to deal with this matter.
411.	08/04/2020	Email from Darren Grech to Commissioner Ian McGrail where Grech has attached a letter which stating that the NSCIS platform is property of the Gibraltar Government. He further stated that he would provide a statement in the coming weeks to this effect.
412.	14/04/2020	Email from Commissioner Ian McGrail to Darren Grech with an attached letter detailing the necessity for an additional statement.
413.	14/04/2020	1st statement of CI Mark Wyan signed as complete. This statement relates to the interview of John Perez with DS Clarke, David Dumas QC and Darren Martinez.
414.	14/04/2020	Interview plan for Sanchez started: • Business with Cornelio • Assistance to 36 North • The NSCIS report • Conclusions: ○ Breaching his statutory duties under the Official Secrets Act 1911;

		○ Breaching the HMGoG ITLD Interim Guide to Security and the Government of Gibraltar Information Technology Security Policy; ○ Contravening the planned approach set by the Financial Secretary; ○ Contravening the instructions of the Chief Minister; ○ Dishonestly purporting that he had created the NSCIS review document; and ○ Allowing [unsupervised] access to the NSCIS platform to Cornelio knowing, suspecting or being reckless as to whether the national security of Gibraltar would be put at risk.
415.	15/04/2020	Email from Sgt Clarke to IT asking if it is possible for the interviews to be Remotely monitored as the NCA would be present and needed to view.
416.	16/04/2020	Review of devices that are being relied upon for evidential purposes.
417.	21/04/2020	Email from Supt Richardson detailing the Commissioners briefing notes for meetings between him, the DPP, Supt Richardson and CI Wyan 08/04/2020 and 24/04/2020.
418.	22/04/2020	Email to Supt Richardson regarding bail response to Mr Fischel. He sets out the rationale for extending bail for the suspects. In part he replies as follows: *I note the objections that you raise concerning the extension of bail and your communication with the DPP and would comment as follows:* *1. As the DPP has indicated the issue of bail is a matter for the police.* *2. The decision to extend bail was not made, as you have suggested, before the Public Health Emergency had been declared, as it had been hoped that the evidence and support from- the UK would have been received from our international partners in advance of the bail date, and,* *3. No one could have envisaged the implications arising from the restriction created by the Covid 19 regulations.*
419.	22/04/2020	Consideration of how to deal with Mr Levy. Report submitted to Supt Richardson. Included options of whether to defer interview

		(owing to the Covid 19 pandemic) or to deal with the matter quickly (in light of the interests of justice for the suspects on bail).
420.	23/04/2020	DS Clarke and I attended a case meeting with Commissioner McGrail, Assistant Commissioner Ullger, Supt Richardson. I explained the facts of the case and the summary of evidence which I had drafted.
421.	24/04/2020	Email from DC 211 Currer with attached document titled "*Electronic Device Amounts and Return*". The document details all devices that have been viewed by the investigating team, what the outcome is with them and if they can/cannot be returned to the defendants. This review was initially commenced by me with a view to identifying what devices i) have been returned ii)can now be returned iii) are being used in evidence (but may be returned if not to be forfeited and there is no requirement to retain because image is sufficient iv) Cannot be returned due to the fact they have not been imaged / not fully copied. Relevance – Administration and review of device retention.
422.		Digital device and return table updated for consideration.
423.	30/04/2020	Bundle of documents including a covering letter and 14 Annexes in support of the defence assertion that the NSCIS platform was sold to HMGoG. This email (including the letter and attachments) was sent to the CoP, the DPP, the AG, myself and the SIO.
424.	30/04/2020	Additional information emailed to all above parties by Mr Fischel QC relating to the ownership of the NSCIS platform.
425.	30/04/2020	Meeting at No 6 with Mr Grech. Lloyd Divencenzi, CoP, PR and MW. Discussion with Chief Sec regarding ownership of the NSCIS platform. Contract sent to him by Robert Fischel as they did not have the document before. Reiterates that HMGoG are asserting ownership. They cannot provide any written evidence of ownership. CoP requests a formal complaint in the form of a witness statement if they wish to be complainants. Chief Sec will begin internal disciplinary proceedings regarding CS if there is a police prosecution. CoP informs the Chief Sec that CS has been involved in corrupt practices. For his consideration of whether CS should be allowed to continue working or be interdicted.

426.	04/05/2020	2nd statement of Darren Grech signed as complete. This statement states that there is a dispute as to ownership between both parties. Further exhibits are tendered in evidence.
427.	11/05/2020	Finalised interview plan of Levy. Topic areas covered: • Role at Hassans • Thomas Cornelio • John Perez • Caine Sanchez • Wavetecx • 36 North • ICode Limited • Astelon Limited • NSCIS platform • Mobile devices • Planning / Preparation to obtain the NSCIS contract • Appropriation of business commenced by Bland • Pressure on HMGoG • Knowledge of computer misuse offences • NSCIS report for Sanchez 10 pages of interview prepared.
428.	11/05/2020	Recording of CS / JG listened to. Still requires transcribing. Relevance - Arguably supports allegations of honesty given that he is saying he did not disclose information about meeting to Perez and that he would not undermine the performance of the platform.
429.	11/05/2020	Discussions regarding the search warrant for Mr Levy at his home residence and Hassans law firm. This is based on the NDM report prepared by Supt Richardson and the warrant overview document prepared by DS Clarke and Insp Goldwin. The warrant allows police to seize relevant digital devices used or owned by Mr Levy. These will be seized by searching officers. DS Oton will be required to obtain digital documents related to the relevant companies from the Hassans server. He will also need to take the email profile of Mr Levy (if possible restricted to January 2017 to date). This is the earliest reference to Mr Levy discussing Perez and the national security platform. Keyword searches will be run across devices once the seizures have taken place. However, before this can be done we will be required to instruct and independent lawyer in order to ascertain whether any material is legally privileged.

430.	12/05/2020	Attendance at Midtown in order to execute warrants at Hassans law firm. On arrival with PR we spoke to Javier Cincotta. He then called JL to attend. Video recording taken of PR readying out the reasons for attendance. JL then sought advise from a UK silk and decided that he would voluntarily hand over digital devices. PR attended the residence of JL and retrieved an Ipad. JL then returned and stated that he would hand over the iPhone. However, this needed to be backed up first. He agreed to hand over once this was done. Agreements that IT would run keyword searches on their system in order to extract relevant emails and documents from their systems. This was to run overnight due to the amount of emails.
431.	13/05/2020	IPhone of J Levy handed over to me by PS Riley in exhibit bag number M22459509 (LG/Mobile/1).
432.	13/05/2020	iPhone and iPad belonging to J Levy left securely in the office of Supt Richardson. LG/Mobile/1 (M22459509) and PR/1 (B5006835443).
433.	14/05/2020	Email from Sgt Clarke to Maurice Turnock explaining that the warrants on 6th May were void and the warrants on 7th May were not executed. A time was asked to take them to him.
434.	14/05/2020	Email from Commissioner Ian McGrail to Lewis Baglietto of Hassans attaching warrants for Levy and responses to a letter dated 13th May.
435.	15/05/2020	Meeting with the AG and DPP (with CoP and Supt Richardson) to discuss the interview of JL. Asked whether he could be treated as a witness rather than a suspect. This was not possible. He could voluntarily provide an account to us before any interview and we would consider it. But there may still be a need to put further questions to him at a later date. Would only be a witness if his benefit as a witness outweighed the IOJ to prosecute. At this stage he remained a suspect. File Note made.
436.	16/05/2020	Levy Interview plan being prepared. Pre Interview disclosure document drafted.
437.	17/05/2020	Levy interview plan prepared and sent to SIO. Topic areas covered: • Role at Hassans • Thomas Cornelio • John Perez

		• Caine Sanchez • 36 North • Astelon Limited • Icode Limited • NSCIS platform • Mobile devices • Planning / Preparation to obtain the NSCIS maintenance contract • Appropriation of business commenced by Blands • Pressure on HMGoG • Knowledge of computer misuse offences
438.	18/05/2020	Sanchez interview plan preparation / statements.
439.	18/05/2020	Meeting with Guy Stagnetto regarding without prejudice meetings that took place between JP and JG regarding the NSCIS platform. 2 meetings took place. First meeting JG was assured by JP that it was not a planned approach to leave the company and that he was not intending to take Bland assets with him. JP assured him he was not. JG put to him that he was lying and that he was aware of 36N formation etc. Asked JP to go away and to decide how this could be resolved. In the second meeting (initiated by JP) he made an offer to buy the asset from Bland for £300,000. This was declined by JG as unacceptable. JP could not afford more. File Note made. Relevance – Lines of enquiry following submission by the defence that HMGoG were the owners of the platform.
440.	18/05/2020	Meeting with DPP / CG / PR / MW – Discussion of redaction of search warrant application. Threshold is very serious prejudice to an important public interest. Concerns of serious prejudice to our interviews if the search warrant application is provided prior to interviews. Warrant has been lawfully obtained but due to expire. Redactions discussed and advised by DPP.
441.	18/05/2020	2nd statement of CI Mark Wyan signed as complete. This statement relates to the interview of Caine Sanchez with DS Clarke in the presence of Caine Sanchez's legal representative, Andrew Cardona.
442.	19/05/2020	Raised concerns with SIO that defence representing Mr Levy may be stalling providing a statement until such time as our current warrant expires.

443.	20/05/2020	Email sent to TC for devices etc to be returned. Full rationale for retaining devices sent to SIO. He has advised on the return / retention after giving instructions to DC Currer. Relevance – Full review of required devices and whether they could be returned at this stage.
444.	20/05/2020	1200 Meeting with AG regarding letter from Hassans (DPP/AG/MW/PR/CoP). Discussed response in respect of JL and our position on him voluntarily disclosing information to the RGP. DPP will draft a response. We still consider him to be a suspect at this stage. Full File note made.
445.	21/05/2020	Opened exhibit JV/Phone/1 which was sealed in A13962250. Review of attachment sent by Sanchez to the CM. Resealed in M16719311.
446.	21/05/2020	Discussed with SIO redacting the information document and providing it to the defence before the court application is made. These redactions had already been discussed between the DPP and the SIO. I was of the firm opinion that this level of disclosure was disproportionate given the fact that disclosure was to be to a suspect, and that interviews were pending. The SIO suggested that if I held this view that I should put it in writing to the DPP. I had concerns about the level of disclosure and how this would undermine the prosecution / prejudice the investigation. This was set out in an email to the DPP. Some legal objections were made although not with much case law given that I do not have Westlaw. It was hoped that DPP may reconsider the extent of disclosure and object in court rather than give so much information without legal argument. Ultimately, the application was for disclosure by the Court not by the RGP.
447.	22/05/2020	The DPP sent an email strongly disagreeing with my objections to the disclosure of the Schedule 1 information. He cited a number of legal authorities. In particular he stated that a blanket application for PII was out of the question. He further made it clear that there was an obligation to consider disclosing the documents on a restricted basis, and that the court expected that we should do this.

		I still had reservations about the extent of disclosure, and the prejudice to the investigation, before the court has even heard any legal arguments. I have found the case of *Commissioner of Police for the Metropolis v Dawn B* [2014] EWHC 546 (Admin) which states that a gist document may be sufficient, and that there were circumstances where non-disclosure of evidence / information may be appropriate. I sent this to the SIO for his information. However, the DPP has made his position clear in this regard. Instructions given by the SIO to send the redacted Schedule 1 information to the DPP for disclosure to the defence. Following an email from Charles Bonfante to SIO I called CB. He stated that he was working on a draft statement setting out matters raised in pre-disclosure document. He had asked for further time to complete this document.
448.	27/05/2020	Call received from the DPP explaining that he had received representations from Hassans following disclosure of the redacted information document. He agreed that we should further disclose information to them. He started to identify paragraphs and asked what the rationale for requesting PII was. In particular he stated that Mr Levy would already have his own communications so we should disclose. I responded by explaining that revealing specific communications would put him on notice of exactly what evidence we were relying upon, and would allow him to predict the lines of questioning. This would undermine any interview and not allow for an untainted account. Effectively it would allow him to prepare and fabricate as necessary. I asked him to put this in an email so that I could forward it on to senior officers for advice. In response to an email from the DPP, setting out his thoughts on further redactions, I drafted my reservations and rationale for not doing so. This was submitted in an email to SIO. Charles Bonfante has requested further time to complete version of events for Mr Levy. States that it should be complete by next week. This is close to the expiration of the warrant.

449.	28/05/2020	Meeting with SIO. Also present was Deputy CoP and Supt Yeats. Discussed the request by the DPP to further redact information provided as basis for the warrant. I had already provided my rationale in an email to SIO dated 27/05/20. SIO to write a response to the DPP.
450.	28/05/2020	Email sent to the SIO regarding concerns that the warrant will expire in respect of Mr Levy shortly. Defence have still not provided the account they have promised.
451.	28/05/2020	Call from Charles Bonfante asking whether we had received an email from him advising that the production of the voluntary account would be delayed until next week. He stated that this would be complete by the middle to the end of the week. I confirmed that we had received the email although hadn't considered the delay with the SIO as yet.
452.	28/05/2020	2nd statement of Nicholas Gaggero signed as complete. This statement relates to Tangible Fixed Assets and Software Regular Maintenance. Response to representations made by the defence.
453.	28/05/2020	3rd statement of Philip Navas signed as complete. This statement relates to the legal status of intangible fixed assets. Response to representations made by the defence.
454.	29/05/2020	1100 Meeting with DPP regarding redactions of Schedule 1 information. Present: MW/CG/PR/CR DPP set out the threshold for claiming PII. Very serious prejudice to the investigation. DPP confirmed that he believed the warrant had been lawfully obtained. He would protect if challenged. His view was to wait for the account before we interview. But this was operational matter. This could be defended in court. Discussions about whether Lewis Baglietto could inspect the computer misuse sections on a counsel to counsel basis. But no copy to be given so that it could not be read by anyone else. Agreed that this could be done. Computer misuse sections to remain redacted on the basis of prejudice if other co-conspirators were to access the information. Further minor paragraphs to be revealed to defence. Section 48 and 319(e) only. Other paragraphs to remain redacted. Would be objected to by DPP in any hearing before the Magistrate.

		Further revelations to be disclosed the same day to the defence. May require a witness statement claiming PII by myself. Discussions on whether there were legal implications to executing the search warrant. Particularly in light of the fact that the warrant was due to expire without the account of Levy being provided. However, given that Levy was on notice of our possible intention, a search warrant may no longer be necessary. (DPP acknowledged that the warrant was legally obtained however).
455.	02/06/2020	Consideration of need to clarify without prejudice meetings with JG and JP and whether evidentially they are required. Also need to consider meetings with the CM and whether they are required in evidence. Relevance – Further lines of enquiry.
456.	02/06/2020	Reconsiderations of Asquez offences whilst reviewing evidence for interview plans. I have noted that he arguably encourages TC to delete the email data during the course of an email exchange. This may be a substantive statutory offence in its own right. It also supports dishonesty in the context of conspiracy to defraud. To be put in interview and possibly arrested for the statutory offence.
457.	03/06/2020	**Interview Protocol between the National Police Chiefs Council, Crown Prosecution Service, Law Society, the Criminal Law Solicitors' Association and the London Criminal Courts Solicitors' Association** *It is acknowledged that the Coronavirus crisis involves the application of PACE Code C in circumstances which are unlikely to have previously been anticipated.* ***The signatories to this Protocol accept that remote interviews by video and audio link are not within the current letter of the Code of Practice, but in the present circumstances of the Coronavirus pandemic they are within the spirit of recent amendments to criminal procedure, law and evidence in the Coronavirus Act 2020. Therefore, we take the view that they are a fair, reasonable and proportionate option to be made available to a suspect who has the benefit of legal advice and who having been fully informed and advised and together with their appropriate adult (where one is required) consents to a remote interview****. This enables the rights and*

		interests of detained persons to be protected during the unprecedented circumstances of the Coronavirus crisis. Consideration of interviewing Cornelio with the use of remote interview by a member of the NCA. In the circumstances, this would appear to be in accordance with the guidance set by the NPCC / CPS etc. The NCA are still restricted due to the Coronavirus in the UK. This would therefore allow the interview to take place without having to extend bail any longer than necessary.
458.	03/06/2020	Interview plan of Cornelio started.
459.	04/06/2020	In the context of a conspiracy to defraud Bland Limited of the NSCIS maintenance contract, the suspected unlawfulness on the part of JL that we would seek to explore in interview includes: 1. Whether JL aided/abetted or encouraged/assisted CS to misconduct himself in public office; 2. Whether JL received information from CS in contravention of the Official Secrets Act and was thereby in breach of section 2(2) of the Official Secrets Act 1911; 3. Whether JL aided/abetted or encouraged/assisted TC/JP who were acting unlawfully in that they were breaching their contractual obligations to Bland Limited (with civil wrongs amounting to unlawfulness for the purpose of a conspiracy to defraud); 4. The nature of the influence / communication with the CM and whether these were unlawful. Relevance – Reasonable lines of enquiry.
460.	05/06/2020	SIO request that I set out the alleged unlawfulness that was being investigated in relation to Levy (in the context of conspiracy to defraud), including: 1. Whether JL aided/abetted or encouraged/assisted CS to misconduct himself in public office; 2. Whether JL received information from CS in contravention of the Official Secrets Act and was thereby in breach of section 2(2) of the Official Secrets Act 1911; 3. Whether JL aided/abetted or encouraged/assisted TC/JP who were acting unlawfully in that they were breaching their contractual obligations to Bland Limited (with civil wrongs

		amounting to unlawfulness for the purpose of a conspiracy to defraud); 4. The nature of the influence / communication with the CM and whether these were unlawful.
461.	05/06/2020	Email to Supt Richardson explaining that Darren Grech's statement has been transposed into RGP statement format. He refers to 3 exhibits, however, have not been sent a copy of these. I ask Supt Richardson if he has these.
462.	05/06/2020	The Schedule 1 warrant is due to expire pursuant to section 20(3) of the CPEA on the 7th June 2020. At this stage, and despite repeated promises, the legal advisors of Mr Levy have not provided the account of Mr Levy. This means that we are unsure whether he is still co-operating with police. If he is not, and we have not been provided with the information they have promised we may need to consider whether the warrant should be executed both at his residence and at Hassans. For this reason, it will not be reasonably practicable to return the warrant to the Magistrates Court before Monday the 8th June 2020. There is a possibility that we could still execute the warrant on Saturday 6th June 2020 in the absence of any account / supporting evidence by Levy. It must be stressed that this delay is at the insistence of the defence who want to provide information in advance of an interview so that it can be considered before the said interview.
463.	08/06/2020	Instructions given to DC Currer to return the warrants for Hassans and the residence of Mr Levy to the court pursuant to 20(3) of the CPEA, given that it has now expired. It was not practicable to return within the month (B8.3 Codes of Practice) given the uncertainty surrounding whether Mr Levy was still assisting with enquiries and we wanted to keep options open. Emails received from both defence lawyers (Fischel and Cardona) requesting pre-interview topic areas. To be considered.
464.	09/06/2020	Account provided by Mr Levy based on the topic areas / information previously supplied to him. Still considered a suspect until the account has been reviewed and analysed against evidence. There may still be areas we need him to account for or to explain in greater detail.
465.	10/06/2020	4th statement of Roisin Jane Cullen signed as complete. This statement relates to Exhibit JO/F_IMAGES/2

466.	11/06/2020	6th statement of JOG signed as complete. This statement relates to NSCIS backoffice audit logs for user Aaron Chipol on the 5th December 2018 which are tendered in evidence as Exhibit JOG/122
467.	11/06/2020	7th statement of JOG signed as complete. This statement relates to the NSCIS Platform being developed using Microsoft dotNET technology.
468.	16/06/2020	Meeting with N Gaggero regarding the ownership of the NSCIS platform in light of the fact that HMGoG had asserted ownership. He informed me that he would like to provide police with additional information outlining their legal position.
469.	07/06/2020	Discussions with SIO regarding: 1. Caine Sanchez – Interview Fri 19th 2. Perez and Asquez interviews – Tuesday 23rd 3. Cornelio – Tuesday 30th / Wednesday 1st (with NCA present) 4. CM still to be spoken to 5. DPP advice required for charges / summary 6. Ownership statement for NSCIS including Azure etc
470.	07/06/2020	JOG to comment on storage of data and to give an evaluation of the accuracy of the NSCIS report if possible. Whether he could show it to be accurate or misleading at the time it was created by TC. Relevance – TC created the report showing purported failures in the system. Question whether it is accurate.
471.	11/06/2020	Interview topic areas disclosed to Mr Cardona in respect of Mr Sanchez: 1. HMGoG job role / duties / responsibilities / statutory obligations. 2. 36 North Limited. 3. Communications / relationship with Thomas Cornelio (with regard to 36 North Limited / Bland Limited (Wavetecx) / the NSCIS platform / cryptocurrency). 4. Communications / relationship with John Perez (with regard to 36 North Limited / Bland Limited (Wavetecx) / the NSCIS platform). 5. Communications / relationship with Haim Levy (with regard to 36 North Limited / Bland Limited (Wavetecx) / the NSCIS platform).

		6. The National Security Central Intelligence System (NSCIS) (incl. design and development / ownership / knowledge of suspected computer misuse (and related) offences). 7. Any other area relevant to this investigation.
472.	16/06/2020	Email from Mr Fischel QC outlining the evidence provided by his clients, that the platform belongs to HMGoG, as well as suggesting failings by the RGP to properly investigate the matter. He indicates that he will be advising a no comment interview by his clients.
473.	16/06/2020	Points considered for an additional witness statement in order to determine ownership of MS Azure account and other related matters.
474.	17/06/2020	Email sent to the Chief Secretary. In addition to transposing his witness statement onto a police form, I requested whether he would consider making a formal complaint against the suspects (given that they had now asserted ownership over the platform).
475.	17/06/2020	Response from the PA to the Chief Secretary. He would not be amending the statement he had originally provided. Stated that HMGoG had already made a complaint. Whilst he has made a complaint there is no statement from HMGoG making a formal complaint in a police witness statement format.
476.	17/06/2020	Meeting with N Gaggero. Informed me that all of the information regarding ownership was in my possession. However he gave authority for me to provide to the DPP a copy of the legal advice provided to Bland by Patrick Caruana. Call also made to Patrick during the meeting. Bland believe that they have a strong case for ownership. I informed them that I would present the evidence from Bland and HMGoG to the DPP and seek advice on how to proceed in respect of the prosecution.
477.	17/06/2020	Sent an email to the SIO requesting that he clarify the HMGoG position on whether they wish to make a formal complaint. As stated above, we have not received a complaint as suggested in the email to me.
478.	19/06/2020	Email to Supt Richardson explaining that the investigating team has come across a number of relevant communications between CM and JP/JL/CS. A document titled “Timeline Chief Minister” was attached. This document details all correspondence with the CM between the defendants.
479.	19/06/2020	The following exhibits were handed to me by DC Currer: JC/MOU/1

		JC/CHAT/CSJL/1 JC/EMAIL/5
480.	20/06/2020	Notes of account re Mr Levy. Summary of his account in response to each question posed by the RGP.
481.	22/06/2020	Considerations for interview of Caine Sanchez. Plan to be finalised. Section 418 to be considered from a legal perspective in the context of ownership. Questions to focus on authority and whether it was given i) before Defendants left Blands ii) after leaving Blands iii) After 4th October. Plan now extends to 31 pages.
482.	22/06/2020	Charging report updated for DPP.
483.	23/06/2020	CI Wyan and DS Clarke interviewed Caine Sanchez in the presence of his legal representative, Andrew Cardona. Exhibits: PAC/CD/CS/3A PAC/CD/CS/4A PAC/CD/CS/5A PAC/CD/CS/6A Initially no comment. However, subsequently answered a number of questions.
484.	23/06/2020	Finalised interview plan of Asquez. Topic areas covered: • Role at Blands • Thomas Cornelio • John Perez • Wavetecx • NSCIS • Leaving Blands • 36 North • Caine Sanchez • ALS Telematics • Setting Up 36 North • Computer Misuse Offences 10 pages of interview prepared.
485.	23/06/2020	Finalised interview plan of Perez. Topic areas covered: • Role at Blands • James Gaggero • Thomas Cornelio • Eddie Asquez • Wavetecx • NSCIS • Resignation from Blands • 36 North • ICode Limited

		• Astelon Limited • Jaime Levy • Caine Sanchez • Computer Misuse Offences • Contract of employment • Appropriation of business commenced by Bland • Pressure on HMGoG • Knowledge of computer misuse offences • NSCIS report for Sanchez 25 pages of interview prepared.
486.	24/06/2020	DS Clarke and I interviewed John Perez in the presence of his legal representative, Robert Fischel QC. Exhibits: PAC/CD/JP/5A PAC/CD/JP/6A PAC/CD/JP/7A.
487.	24/06/2020	Insp Wyan and DS Clarke interviewed Edward Asquez in the presence of his legal representative, Robert Fischel QC. Exhibit PAC/CD/EA/2A.
488.	25/06/2020	Review of emails submitted by Mr Levy. Relevance – Review of evidence regarding the involvement of Mr Levy in the NSCIS platform.
489.	26/06/2020	Agreed to exceptionally disclosure interviews of Mr Sanchez to Mr Cardona following his interview next week.
490.	27/06/2020	Interview plan of Sanchez finalised. Topic areas covered: • Role at HMGG • Thomas Cornelio • 36 North • Jaime Levy • NSCIS • Business with Cornelio • Assistance to 36 North • Knowledge of Computer Misuse • The NSCIS report 31 pages of interview prepared.
491.	28/06/2020	7th statement of DS 130 Paul Clarke signed as complete. This statement relates to interviews conducted upon Caine Sanchez.
492.	30/06/2020	Actions being considered at this stage: 1. W/S for history of usage by JOG 2. Exhibits from NCA and W/S 3. WS of JPP to be signed

		4. WS of J Gaggero regarding W/P meetings 5. Review of pre-interview disclosure 6. Contract of JP 7. Minutes of meeting (DCM) for information 8. Report to be updated to reflect CS reference to ownership in his interview 9. Contact Chief Sec for complaint 10. Contact CM in relation to texts 11. Extension of detention clock to be reviewed Relevance – Outstanding enquiries relevant to the investigation.
493.	01/07/2020	Finalised interview plan of Cornelio. Topic areas covered: • Role at Blands • James Gaggero • John Perez • Eddie Asquez • Wavetecx • NSCIS • Resignation from Blands • 36 North • ICode Limited • Astelon Limited • Aaron Chipol • Jaime Levy • Caine Sanchez • NSCIS Ownership • Contract of employment • Planning / Preparation to obtain the NSCIS maintenance contract • Appropriation of business commenced by Bland • Pressure on HMGoG • Computer misuse offences • NSCIS report for Sanchez 76 pages of interview prepared.
494.	01/07/2020	DS Clarke and I interviewed Thomas Cornelio in the presence of his legal representative, Robert Fischel QC. Exhibits: PAC/CD/TC/4A PAC/CD/TC/5A PAC/CD/TC/6A

495.	02/07/2020	DS Clarke and I interviewed Thomas Cornelio (for a second day) in the presence of his legal representative, Robert Fischel QC. Exhibits: MW/CD/TC/7A MW/CD/TC/8A MW/CD/TC/9A MW/CD/TC/10A MW/CD/TC/11A MW/CD/TC/12A MW/CD/TC/13A
496.	03/07/2020	2nd statement of Paul Donington-Smith signed as complete. This statement relates to interviews upon TC where he assisted as second interviewer.
497.	05/07/2020	Email from Mr Fischel QC stating that the RGP have obtained legal advice from Bland lawyers following his letter of the 20th April 2020, and that we had shared information about the case with Mr Gaggero. Alleges that Mr Gaggero and/or his lawyers have directed the investigation. This is entirely incorrect.
498.	06/07/2020	8th statement of DS 130 Paul Clarke signed as complete. This statement relates to interviews conducted on Thomas Cornelio.
499.	09/07/2020	1st statement of Sean Troy Perera signed as complete. This statement relates to a meeting that he attended in 2016 where Thomas Cornelio and John Perez delivered a presentation on NSCIS on behalf of Bland.
500.	09/07/2020	Response to the email from Mr Fischel QC of the 5th July 2020. In part I respond by stating: *You have suggested that the RGP has sought legal advice from Bland and/or its legal representatives in response to your letter of the 30th April 2020. This is not the case. The legal opinion to which you refer was provided to Bland Limited by their legal representatives for the purpose of civil proceedings. It was handed to police on the 14th August 2019, 8 months before your letter to the Commissioner.* I further stated: *Where your clients have submitted information / evidence to the police for the purpose of defending criminal allegations made against them, it is right and proper that the police are allowed to investigate the veracity of that information / evidence. In doing so*

		the police should follow reasonable lines of enquiry. This may include seeking additional information or statements from the complainants. I can however confirm that we have not provided Mr Gaggero with a copy of any statement or interview made by your clients.
501.	09/07/2020	Bail extended by Custody Sergeant until the 15th September 2020.
502.	10/07/2020	1st statement of Daniel Bosano signed as complete. This statement relates to a meeting that he attended in 2016 where Thomas Cornelio and John Perez delivered a presentation on NSCIS on behalf of Bland.
503.	10/07/2020	1st statement of Edward Yome signed as complete. This statement relates to a meeting that he attended in 2016 where Thomas Cornelio and John Perez delivered a presentation on NSCIS on behalf of Bland.
504.	13/07/2020	1st statement of Edgar Lopez signed as complete. This statement relates to a meeting that he attended in 2016 where Thomas Cornelio and John Perez delivered a presentation on NSCIS on behalf of Bland.
505.	15/07/2020	8th statement of JOG signed as complete. This statement relates to breaking NSCIS into 3 phases. These are: • Data Collection • Data Processing • Data Visualisation
506.	18/07/2020	Phone call to Nicholas Gaggero. Informed him that HMGoG had now stated that they wanted to make an official complaint. Also informed that the report had been submitted to the DPP together with defence documentation. This may take some time and may take us beyond the next bail date. Agreed that I would keep him informed.
507.	22/07/2020	3rd statement of CI Mark Wyan signed as complete. This statement relates to the further interview of Caine Sanchez and the further arrest of Caine Sanchez for the offences of Breach of the Official Secrets Act, Conspiracy to Defraud and Unauthorised Acts with Intent to Impair the Operation of a Computer. When cautioned he made no reply.
508.	22/07/2020	4th statement of CI Mark Wyan signed as complete. The statement relates to further interview of Thomas Cornelio and further arrest

		of Thomas Cornelio for the offence of Unauthorised Acts with Intent to Impair.
509.	22/07/2020	5th statement of CI Mark Wyan signed as complete. This statement relates to the further interview of John Perez in the presence of his legal advisor, Robert Fischel QC.
510.	24/07/2020	Planning meeting. Now to be working for Corporate Services as CI. Consideration of whether the operation should be moved to Europort as an alternative location with oversight by me and SIO.
511.	27/07/2020	NCA/Exhibit to be reviewed for the purpose of ascertaining whether the accuracy can be corroborated. In particular, whether Galliano can still access the live logs on Azure and record the process. Consideration of whether this can be done in the presence of a HTCU officer for further corroboration.
512.	28/07/2020	Advice requested from the DPP as to whether we should disclose material to the defence prior to charge. In particular whether this would prejudice future proceedings, or whether the RGP would be criticised. He subsequently responded that he agreed there was no requirement to disclose. No further advice offered. I discussed the above matter with SIO. He suggested that we respond not to disclose other than items 1 and 9. These were things to which the suspects had access prior to their arrests. Response to Mr Fischel QC regarding a request to disclose additional material prior to charge. It was explained that there was no legal requirement to do so, and that there was sufficient evidence in the interviews for him to make submissions for the purpose of charging. Items 1 (contract) and item 9 (emails between Asquez and Perez) offered for disclosure. He was asked to specify which emails he was looking for.
513.	28/07/2020	Email sent to James Gaggero. He is the complainant in this case and has not been updated in a considerable period of time. Also requested a witness statement re the without prejudice meetings held in August 2018 with John Perez. Relevant to the ownership issue in light of fact that Perez is understood to have offered to purchase the platform from Bland for £300,000.
514.	29/07/2020	4th statement of Philip Navas signed as complete. This statement relates to Labgroup attending Bland.

515.	29/08/2020	Telephone conversation with Nicholas Gaggero. He stated that was considering taking a generous offer from HMGoG regarding the NSCIS platform. Informed me that Bland had not been paid for the platform since 2018 when the dispute arose with Sanchez. He said that HMGoG would not be paying until the criminal dispute had been resolved. I informed Mr Gaggero that I was not aware that they had not been paid. And that it was a matter for him to decide how best to protect the commercial interests of Bland. He explained that he was not concerned about the criminal case, and that they had wanted to do their civic duty, but that commercial interests were his priority. He said that he had lost faith that the criminal investigation would get to court. He was informed that the suspects surrendered to bail on the 15th September, but that the DPP would need to make a determination before this date. Further explained that whilst this was the target date, it may not be met if the defence provided representations that required a lot of consideration.
516.	06/08/2020	Bundle of defence documents received from Robert Fischel QC regarding his clients. These include a letter and statements from EA/JP/TC as well as supporting documents. Relevance – Defence representations.
517.	07/08/2020	Email sent to Andrew Cardona asking whether he intended to submit representations before charge.
518.	10/03/2020	Interview of Joseph Benrimoj – 1202 – 1239 hrs. Mr Finch representing. Questions put to him regarding him accessing the NSCIS platform using Bland credentials after he left Bland employment. Stated that he was given instructions from TC and believed that the system was Government owned.
519.	10/08/2020	Telephone conversation with Nicholas Gaggero. He was given an update of what was happening with the case. He was told that we had received a substantial bundle from the defence which required a review prior to sending the full report to the DPP for advice. It was highlighted that the defence were stating that ownership was in dispute and that the criminal courts were not the appropriate place for settling the dispute. Also informed that HMGoG had not yet provided a complaint to police. That this may affect the prosecution due to ownership being disputed.

520.	11/08/2020	Email sent to Supt Richardson with attached Charging Report 9.8.20, the latest charging report.
521.	13/08/2020	Pre-charge advice report sent to Mr Rocca (DPP). This report extends to 136 pages and includes annexes and exhibits. The annexes include all defence submissions made during the course of the investigation so that they can be assessed against the prosecution evidence. A digital copy had been uploaded onto a USB for consideration.
522.	14/08/2020	USB of exhibits and annexes delivered to the OCPL.
523.	14/08/2020	Letter received form the Chief Secretary (by CoP) stating that HMGoG now wanted to take action against persons responsible for offences against the NSCIS platform.
524.	17/08/2020	Debrief with DC Clarke on progress during his leave. I am now taking over with another division. I am still the OIC however, he will be tasked to progress the case. He is aware that Mr Fischel QC has submitted defences on behalf of his clients. He has been tasked with reviewing the documents and looking for any further lines of enquiry (whether they assist the prosecution or defence).
525.	18/08/2020	Phone call to Nicholas Gaggero. Informed him that HMGoG had now stated that they wanted to make an official complaint. Also informed that the report had been submitted to the DPP together with defence documentation. This may take some time and may take us beyond the next bail date. Agreed that I would keep him informed so that he could make informed business decisions.
526.	18/08/2020	Draft witness statement send to James Gaggero in respect of the without prejudice meetings. Asked him to sign and deliver back to me.
527.	18/08/2020	9th statement of DS 130 Paul Clarke signed as complete. This statement relates to the tendering in evidence of Aaron Chipol's work emails.

528.	19/08/2020	Phone call from James Gaggero. Informed me that he was in hospital and that he would sign the witness statement as soon as possible. Spoke about Nicholas and that he wanted to be kept informed of what was happening. Nicholas had been concerned that progress was not being made. I reiterated that I did not want the prosecution to affect the commercial interests of the business and that I would keep him informed.
529.	19/08/2020	Email sent to the DPP with the letter of complaint from HMGoG (Chief Secretary).
530.	19/08/2020	Phone call from James Gaggero. Informed me that he was in hospital and that he would sign the witness statement as soon as possible. Spoke about Nicholas and that he wanted to be kept informed of what was happening. Nicholas had been concerned that progress was not being made. I reiterated that I did not want the prosecution to affect the commercial interests of the business and that I would keep him informed.

531.	20/08/2020	Defence submissions received from Andrew Cardona on behalf of Caine Sanchez. The DPP was also copied in to the letter. I have requested DC Clarke to look at the submission with a view to ascertaining whether there are any further lines of enquiry.
		
		In his letter Mr Cardona refers to:
		• Misconduct in public office
		  ○ Financial Gain
		  ○ What is the misconduct?
		  ○ Abuse of Public's Trust
		• Conspiracy to Defraud contrary to common law
		• Breach of section 2(1) of the Official Secrets Act 1911
		• Unauthorised acts with intent to impair the operation of a computer contrary to section 364(1) as read in conjunction with 364(2)€ and 364(2)(f) of the Crimes Act 2011.
		
		(He refers to minutes of a meeting from the 31st October 2018. These minutes have been obtained and are brief. They refer to risks to the platform due to false positives on the facial recognition system).

532.	20/08/2020	3rd statement of James Gaggero signed as complete. This statement relates to a private and confidential meeting that he had with John Perez.
533.	21/08/2020	Call from the DPP. Currently considering charges in respect of this case. Requested that we set up a meeting at some point next week so that we could discuss any questions the OCPL may have.
534.	21/08/2020	DS Clarke considering defence submissions. Tabulating defences in order to assess whether additional enquiries need to be made.
535.	24/08/2020	Jonathan Galliano tasked with ensuring that he evidences the procedure undertaken when obtaining results to ensure continuity of evidence / integrity of the information obtained. He will be reproducing the evidence where possible to show that it is accurate. The defence have suggested that the information he has provided may not be reliable.
536.	25/08/2020	Call made by SIO to James Gaggero during which I was present. Call made in order to update him on events as well as welfare (given that he had been recently involved in a RTC and had sustained a number of injuries / was recovering in hospital). He was informed that the investigation was now advanced and that a full report had been submitted to the DPP for review of charges. He spoke for a long period about Bland claim for ownership of the platform, which they maintained. He also stated that the issue of ownership had not arisen until this year. He explained that the only refusal to pay money up until that point was on the basis that not all of the systems were functioning at 100% and that they agreed to £15,000 less per month. He was also asked about the offer that his son had mentioned in respect of the platform but was unaware of any offer. He explained that this may have been because his son did not want to involve him whilst he was recovering in hospital.
537.	27/08/2020	Review of operation report submitted for advice to DPP for charging. SIO made a number of recommendations for amendments.
538.	28/08/2020	Meeting at OCPL with DPP and Mark Zammit. Supt Richardson also present. Discussion of Op Delhi following report submitted on the 13th August together with USB (containing wit statements / exhibits / defence submissions / draft charges etc). 10 files were also submitted in paper based format.

		We discussed at length the investigation and went through each of the suspects as follows: Cornelio – Advised that there was a realistic prospect of conviction. Provided that the technical evidence in support was correct, the computer misuse offences could be charged. The view of the DPP was that there were certain dates on which the offences were stronger, and that we should charge within those periods. He did not view the issue of ownership as any bar to the prosecution, providing that the dates were within the ranges during which Cornelio could not have had authority. In the context of the conspiracy, the evidence of a conspiracy was clear given the exchange between Cornelio and the other suspects. The basis of the conspiracy was the computer misuse offences as well as the breaches of contract by Cornelio et al, given that he had a duty to his employer by virtue of his position in Bland. Sanchez – There is evidence which affords a realistic prospect of conviction for misconduct in public office and conspiracy to defraud. The MOU ties him in to 36N early in 2018. There are also messages that he wanted to assist in removing Wavetecx from Bland. The messages show that he was not impartial and that he was actively assisting 36N. In particular he was texting TC. He was also involved in the April report in which it is clear that he was acting contrary to instructions when he attempted to hide the fact that TC was reviewing the system. The DPP asked us to consider a charge under section 367 for April. Perez – There is a realistic prospect of conviction for conspiracy to defraud. He is involved in the planning / preparation to set up 36N and is aware of the pressure being placed on HMGoG. Furthermore he is aware of the deletion of the Wavetecx account and refers to TC as a "wizard". He also breaches contractual duties to Bland. There was also a message which TC sent to JP in which he was worried that JG would send them both to jail. Asquez – There is insufficient evidence to provide a realistic prospect of conviction given that he is only involved in the initial stages of setting up 36N. He is not a beneficiary of the company. Levy – There is insufficient evidence to provide a realistic prospect of conviction. He had no contractual duty to Bland and there is

		little evidence to support the fact that he had knowledge of the computer misuse offences. Chipol – The DPP felt that it was difficult to make a clear determination and that it could be argued either way. He referred to the fact that he sent on the email from TC as well as disclosed in December issues relating to the platform when he knew that TC should not have been involved. In the context of national security and the fact that he is the head of the BCA this could be misconduct. It was felt that he would add little as a credible witness if he were to give evidence for the prosecution.
539.	01/09/2020	1st statement of DC 106 Jason Oton signed as complete. This statement relates to the imaging of devices throughout the investigation.
540.	02/09/2020	Email received from the DPP regarding charging advice. He set out his advice that charging should be as follows: Cornelio - computer misuse / conspiracy to defraud, Perez – Conspiracy to defraud, Sanchez – Conspiracy to defraud / Misconduct in public office / s367 for the April report Asquez – Release from arrest, Levy – Release from arrest, Chipol - his actions show an inappropriate relationship with TC including drafting the email and providing information on NSCIS. However, the matter of charge for misconduct was arguable.
541.	02/09/2020	Nicholas Gaggero updated on the progress of the case. Informed that there was a good chance that a prosecution would now follow following consultation with the DPP. However, I told him that I could not disclose who would be charged or what they would be charged with. This would only become public upon charge which was likely to be on the 15th September when the suspects surrender to bail.
542.	02/09/2020	Call from the DPP regarding Op Delhi. This followed an email asking the OCPL to clarify their position with regards to Chipol. He stated that he was comfortable with Chipol not getting charged but that it was in the balance. He noted that the AG was concerned that there may be political implications but that he would not become involved in the decision. He simply wanted to be advised if the decision was to charge.

		The DPP questioned whether there was enough for misconduct and noted that it may be lacking one little piece more. He felt that the matter could be dealt with as a disciplinary.
543.	02/09/2020	2nd statement of Paul Karim Chipolina signed as complete. This statement relates to a meeting that he attended in 2016 where Thomas Cornelio and John Perez delivered a presentation on NSCIS on behalf of Bland.
544.	03/09/2020	Update on the charges that I had drafted (currently 75 potential).
545.	04/09/2020	Meeting with the DPP. Mark Zammit and Paul Clarke also present. Discussed how to draft charges for the case. Went through the computer misuse charges that had been proposed. He advised on which charges should remain and which should be excluded. The DPP wanted to keep the computer misuse charges to a manageable level. It was agreed that we would have the proposed charges, but that they would include connection strings, Boolean variables and Time/Date variables from both servers and both programs. Also to include database re indexing, and the unauthorised access at times when there could be little dispute. The conspiracy charge was given an initial draft based upon a discussion around dates, and the ingredients of the conspiracy. Essentially the ingredients included the computer misuse, the pressure on government, and the breaches of contract. Meeting set for the 9th September 2020 to finalise the charges.
546.	04/09/2020	Call received later in the day from the DPP. He asked that the charges be reduced if possible so that we did not lose the jury during the trial.
547.	07/09/2020	Review of the charges conducted and sent to the DPP. Cut down to 12 computer misuse offences. Based on the Port server alone so that we could be more specific about dates.
548.	07/09/2020	DC Saxby assigned to start as Disclosure Officer.
549.	07/09/2020	1st statement of Jonathan Gonzalez signed as complete. This statement relates to the handing over of Exhibit PR/TOSHIBAHD/01 to Supt Richardson.
550.	08/09/2020	Discs from the US provided to the RGP by Graceanne Gear. This was the result of the request made in connection with the investigation. A number of filtered email accounts were given namely:

		[redacted] - [redacted] - [redacted] and - [redacted] In respect of the following, the evidence was not provided on the basis that there was not sufficient evidence of criminal activity to link to the accounts: [redacted] - [redacted] - ALSTelematics hosted on [redacted] and - [redacted] They could not find 36north.database.windows.net. There was no reference to the IP address 51. In the report. As a result of the missing IP information (51) I have asked DC Clarke to follow up the matters with the UK/US to find out why there are no results. This links to the database reindexing and therefore the national security related charges.
551.	08/09/2020	2nd statement of Krishan Benyunes signed as complete. This statement relates to: • Technical Definitions • "bgi.visualstudio.com" TFS Account • Inspection of Workstations • Offline Database Re-indexing Hash Values
552.	08/09/2020	The following exhibits were handed to me by DC 211 Currer: JC/WHATSAPP/TCAC/46 JC/WHATSAPP/TCAC/48 JC/WHATSAPP/TCAC/34 JC/WHATSAPP/TCAC/50 JC/WHATSAPP/TCAC/38 JC/WHATSAPP/TCAC/56 JC/WHATSAPP/TCAC/42 JC/WHATSAPP/TCAC/43
553.	09/09/2020	DC Garcia tasked with placing the CD's from the US onto Axiom for analysis by keyword search. The searches are to be the same ones that were run in respect of the other devices.
554.	09/09/2020	9th statement of JOG signed as complete. This statement relates to: • Terms of Reference • Digital Evidence • Hash Values • Wavetecx Mailbox Deletions • WhatsApp Conversations

		• Azure Activity Logs • Azure Detailed Activity Logs • Azure SQL NSCIS Database Index Processes from Unknown Server • NSCIS Server Teamviewer Logs • NSCIS Azure SQL Database Logs for Facial Recognition Email Notifications • NSCIS Azure SQL Database Logs for Twitter Alerts • NSCIS backoffice audit logs and user account Settings for Caine Sanchez • NSCIS Backoffice Audit Logs for the Period 7 to 8 October 2018 and Mr. Cornelio's User Account Settings • NSCIS Backoffice Audit Logs for Wavetecx Software Developers • NSCIS Backoffice User Settings for Wavetecx Software Developers • NSCIS Backoffice User Missing Audit Logs • NSCIS Backoffice Audit Logs for Aaron Chipol • NSCIS Backoffice Audit Logs for all Users During April 2019 and for the Period from 1 January 2018 to 3 March 2020
555.	09/09/2020	10th statement of JOG signed as complete. This statement relates to Exhibit NCA/Exhibit.
556.	09/09/2020	4th statement of Philip Navas signed as complete. This statement relates to an email he sent to Albert Mena regarding the APIS Maritime Module which has been tendered in evidence as Exhibit PN/24.
557.	11/09/2020	11th statement of JOG signed as complete. This statement relates to DC Currer retrieving a USB from JOG which contains multiple exhibits.
558.	11/09/2020	12th statement of JOG signed as complete. This statement relates to JOG receiving a job offer with 36 North.
559.	11/09/2020	Meeting with the DPP to discuss charges. Confirmed that we could charge with the 12 proposed computer misuse offences (and which related to the Port server) with the addition of the email account charge. All other parties to continue with the agreed charges. In respect of Chipol the DPP was unable to offer any other advice beyond that already given. It was therefore a matter for the RGP to determine.
560.	11/09/2020	1415 hours: Took possession of exhibit bag number A13971874 (AG/Report/FBI/2 refers) from DC Clarke. This was a USB which

		contained emails corresponding to the personal account of Caine Sanchez.
561.	11/09/2020	The following exhibit was handed to me from DC 211 Currer: JC/IPADDRESS/1
562.	12/09/2020	Review of material on AG/Report/FBI/2 – Highlighted material of interest. It appears as though Sanchez has been conducting business with Hassans. One item in particular is of note in which he states that he is acting in a private capacity and approaching ASDA in the UK. Relevance – Evidence is consistent with the other evidence that he has been conducting private business outside his HMGoG role.
563.	13/09/2020	Discussions with SIO about whether Chipol should be charged. Decision made not to proceed to charge following lengthy considerations. Rationale document created outlining considerations in line with CPS charging standards.
564.	14/09/2020	Review of summary. Consultation with DPP regarding charges and wording of charges.
565.	14/09/2020	2nd statement of PC 145 Ashley Maer signed as complete. This statement relates to his tendering in evidence of transcripts.
566.	14/09/2020	3rd statement of PC 145 Ashley Maer signed as complete. This statement relates to his tendering in evidence of transcripts.
567.	15/09/2020	DC Saxby returned from CSL. Started work as disclosure officer.
568.	15/09/2020	Compilation of summary docket. Review of evidence before final copy signed.
569.	15/09/2020	Asquez released from arrest. Perez charged. Cornelio charged. Sanchez charged. Informed that their legal representative had sought an appointment with the Attorney General to discuss this case.
570.	15/09/2020	The following exhibits were handed to me by DC 211 Currer: JO/UFEDSCREENSHOTS/1/A
571.	16/09/2020	Email from Cardona requesting that the press release be amended on the basis that it is incorrect or misleading. In response I confirmed that the Chief Secretary had confirmed in writing that HMGoG wanted to be considered a formal complainant. This response refers to the letter of complaint by Mr Grech.
572.	16/09/2020	Telephone call with N Gaggero regarding public knowledge of the alleged offence. I advised him that he should restrict comment to

		the press as it was sub-judice. Did not want any impact on the case. I informed him that I was happy to answer any questions / concerns he had about matter. Informed him what would happen next with the case and that it would now be sent up to the Supreme Court. Also told him that the deadline we were working to was 5th November but that it would then need to be reviewed by the OCPL. After that it would need to be arraigned for trial. Further advised that Jonathan Galliano / Krishan Benyunes were witnesses so limit discussions unless necessary.
573.	16/09/2020	Error caused by Cyclops which duplicated the first line of the wording of the charges of the defendants. Director of Public Prosecutions advised to re-draft the charges manually Supt Richardson and I then approved.
574.	16/09/2020	Attended Magistrates' Court. Matter sent up to Supreme Court for all three defendants.
575.	17/09/2020	Responded to email from Mr Cardona. He was referred to a response given to Mr Fischel QC by the CoP on the same issue. In this he set out that a complaint was made by HMGoG at the outset, but that they only provided written confirmation at a later date. The initial request to be considered complainants refers to the insistence by the CM that they would be complainants during a meeting at the beginning of the investigation. This information was provided to me by the SIO. It was also expressed to me on a number of occasions during the course of the investigation. It was also highlighted that they were named on the search warrants as complainants.
576.	17/09/2020	Email sent to Supt Richardson with attached Chipol Report. The content of the email discusses that pages 20-26 now refer to a further assessment of the evidence and provides reasons as to why the misconduct does not pass the threshold for seriousness.
577.	17/09/2020	Email sent to Sgt Clarke and DC 211 Currer asking if Sanchez had "*read only*" access to the platform or something more? As well as if when Sanchez gave his details to Cornelio in April 2019, he stated that it was because "[redacted]". Can we check if this is true?

578.	23/09/2020	1525 hours: Exhibit bag number A13971874 (AG/Report/FBI/2 refers) containing a USB with emails regarding Caine Sanchez returned to DS Clarke.
579.	23/09/2020	Meeting with Christian Rocca, Sgt Clarke and Mark Zammitt regarding disclosure. Items discussed in the meeting were the timescales for completion and the discussion of itemisation of computer generated material.
580.	23/09/2020 – 24/09/2020	DS Clarke, on request of Supt Richardson, compared the production order results against American Express emails. There were no irregularities noted. He sent the results to me via email.
581.	24/09/2020	DC Saxby (Disclosure Officer) asked to provide a strategy for the disclosure exercise.
582.	24/09/2020	Email sent to Graceanne Gear. We have reviewed the devices sent from the US and see that there is no information with regard to IP 51.141.80.216 (as per the request). It is not mentioned in the cover note as having been supplied or denied. She has been asked to chase up the authorities to see whether there has been an oversight.
583.	25/09/2020	Meeting with the DPP regarding disclosure exercise. He was shown the AXIOM program and how the items were displayed. The size of the disclosure exercise was explained and concerns as to how long this was likely to take. He referred to the fact that he had offered paralegal to assist in the process. Agreed that we would use the program to identify hits that could be relevant material. This would then be disclosed to the prosecutor as a report. The report could then be further reduced down to material that was to be disclosed to the defence. This would avoid any issues of having to provide copies in paper format, which may take a considerable period.
584.	25/09/2020	Disclosure strategy received from DC Saxby. Numerous devices still need to be reviewed by him so that the disclosure exercise is properly conducted.
585.	28/09/2020	Phone call received from James Gaggero. He explained that he was grateful for all the hard work carried out by the investigation team. He enquired about the press release and the suggestion by the defence that this may have been inaccurate. I explained that I was unable to discuss that matter, particularly given it was a live issue.

586.	28/09/2020	1st statement of James Imossi signed as complete. This statement relates to times and dates that IP address [redacted] was accessed in connection with Thomas Cornelio.
587.	28/09/2020	2nd statement of DC 211 James Currer signed as complete. This statement relates to WhatsApp chats from Exhibit LG/PHONE/1 being extracted and exhibited.
588.	28/09/2020	3rd statement of DC 211 James Currer signed as complete. This statement relates to Exhibit JC/TABLE/1, a table of continuity.
589.	28/09/2020	4th statement of DC 211 James Currer signed as complete. This statement relates to a bulk of exhibits being tendered in evidence.
590.	30/09/2020	Email sent to Mr Fischel QC referring to my email of the 28th August 2019 (request for keywords). I explained that in my precious correspondence I felt the searches were unreasonable and likely to create a substantial amount of irrelevant material. I asked for a review of the keywords on the 5th September 2019 on this basis. The email asked again that he reply to this request to assist. I further attached the keywords that we had used for his clients.
591.	30/09/2020	Consideration of resource requirements in order to meet disclosure. Review of available officers / civilian staff / and what level of previous experience will be needed.
592.	02/10/2021	5th statement of DC 211 James Currer signed as complete. This statement relates to Daniel Bourne handing the following exhibits to DC 211 James Currer: JS/01/14/01/2020 RJC/01/13/01/2020 NCA/EXHIBIT/COPY
593.	02/10/2021	6th statement of DC 211 James Currer signed as complete. This statement relates to material being separated from various exhibits and placed in disclosure with a new exhibit reference.
594.	06/10/2020	1st statement of PC 145 Ashley Maer signed as complete. This statement relates to transcripts being tendered in evidence.
595.	31/10/2020	7th statement of DC 211 James Currer signed as complete. This statement relates to screenshots modification dates for various exhibits.
596.	31/10/2020	6th statement of CI Mark Wyan signed as complete. This statement relates to Exhibit MW/UNUSED, a table detailing all exhibits which have been tendered in evidence that we are not using in evidence.

597.	29/09/2020	Letter received from the Chief Secretary and addressed to CoP. Request made for evidence to be disclosed in order to determine whether they should formalise the complaint made in the letter of the 14th August 2020. Letter sent by the CoP in response to the matters raised by the Chief Secretary.
598.	05/10/2020	2nd statement of DC 106 Jason Oton signed as complete. This statement relates to reports that he generated.
599.	08/10/2020	Instructed DS Clarke to meet with Ian Mackie, Financial Director of The Bland Group in relation to representations made by the defence.
600.	13/10/2020	The following exhibits were handed to me by DC 211 Currer: JC/ASDAEMAIL/1
601.	14/10/2020	Spoke to DS Clarke about Mr Stagnetto having knowledge of Perez leaving (referred to in the defence statement of Perez). Informed the officer that in fairness to the accused we need to follow up on relevant defence witnesses in order to seek their account. If they undermine the case then to be placed in disclosure (and later DIS 3 depending upon DO determination).
602.	14/10/2020	13th statement of JOG signed as complete. This statement relates to: • Overview • NSCIS Windows Services • ANPR Reg Number Processor • ANPR Image Processor • People Counter
603.	14/10/2020	14th statement of JOG signed as complete. This statement relates to: • Remote Desktop Protocol • Remote Desktop Services • Remote Desktop Connection • Remote Desktop Event Logs • Use of Remote Desktop
604.	14/10/2020	15th statement of JOG signed as complete. This statement relates to the creation of exhibit JOG/090819/01, a USB which contained a copy of the NSCIS source code.

605.	14/10/2020	16th statement of JOG signed as complete. This statement relates to a USB containing multiple exhibits of KB.
606.	19/10/2020	Report submitted to SIO considering whether to search the devices obtained from Mr Levy on the 12th May 2020 or to return them to the owner without further investigation. Includes consideration of the offence of conspiracy to defraud and its application to the facts, timeline of events, written account provided by Mr Levy, consideration of the documents from the US, and decision. It is recommended that the devices be returned to Mr Levy on the basis that we no longer continue to have reasonable grounds to suspect that he has committed an offence, and that the legality of searching the phones in now in question.
607.	23/10/2020	I attended a meeting with the Director of Public Prosecutions with DS Clarke, Paul Richardson, and Crown Counsel Mark Zammitt and Kerrin Drago. The purpose of the meeting was to discuss disclosure.
608.	26/10/2020	Full review of the docket of evidence. Identified 74 actions that require addressing.
609.	26/10/2020	PC to revert to Guy Stagnetto regarding his witness statement. Referred to in the defence statements but has not yet provided accounts. PC asked to update the timeline and add an additional statement tendering in evidence.
610.	27/10/2020	Review of all material in the docket. A list of actions have been created and will need to be remedied before the docket is finalised.
611.	27/10/2020	Report for Levy finalised based on recommendations from SIO. Returned for action in respect of the devices currently held by CoP.
612.	27/10/2020	Premises for disclosure officers identified. Old OCPL assessed for suitability.
613.	28/10/2020	Report submitted to DS Clarke and DC Currer outlining which exhibits needed to be extracted and placed in disclosure, and which statements should be placed in disclosure. In particular DC Currer was advised on providing a statement which reflected exhibits not being relied upon but which were referred to in the prosecution statements.

614.	28/10/2020	Following a full review of the evidence and consideration of the facts a decision was made that Levy was no longer to be considered a suspect and that his devices were to be returned. Full rationale set out in the document provided to the SIO and in consultation with him. Authority also granted from the CoP who concurred with the decision. As a result an email was sent to Louis Baglietto confirming the change to the status of Levy and that we were willing to return the items. I additionally requested whether Mr Levy would be willing to provide a witness statement in respect of the matter.
615.	28/10/2020	Spoke to the SIO about the need to approach the CM. I had brought this up on a number of occasions. Previously instructed that this issue would be considered once Levy had been dealt with. He is now the last witness that we need to approach for an account and who may be able to help understand what was happening from the HMGoG point of view. This is significant in terms of authority. However, the issue of authority post 4th October 2018 is already evidenced. Moreover, the issues which pre-date resignation were not authorised by Bland (in course of employment) and not authorised by Sanchez (according to his interview). The period after resignation but before October 4th is an area for clarification. The CM may be able to assist with this. However, Sanchez did state that during this period Cornelio would be expected to liaise with both HMGoG and Bland before taking action in relation to the NSCIS platform.
616.	28/10/2020	Spoke to DS Clarke in respect of the statements of Stagnetto and Mackie. Both requested and awaiting notice of whether they will provide statements. Both requested as a result of Perez referring to them in his defence.
617.	29/10/2020	10th statement of DS 130 Paul Clarke signed as complete. This statement relates to a chronological timeline of events in relation to Operation Delhi
618.	29/10/2020	11th statement of DS 130 Paul Clarke signed as complete. This statement relates to multiple exhibits being extracted from devices
619.	29/10/2020	12th statement of DS 130 Paul Clarke signed as complete. This statement relates to the tendering in evidence of Thomas

		Cornelio's voluntary statement dated 5th August 2020 as Exhibit PAC/TCStatement050820/01
620.	29/10/2020	13th statement of DS 130 Paul Clarke signed as complete. This statement relates to the tendering in evidence of John Perez's voluntary statement dated 5th August 2020 as Exhibit PAC/JPStatement050820/01
621.	29/10/2020	14th statement of DS 130 Paul Clarke signed as complete. This statement relates to the tendering in evidence of Caine Sanchez's voluntary statement dated 5th August 2020 as Exhibit PAC/CSLetter200820/01
622.	30/10/2020	• Request for further review of continuity by DC Currer. • Review of material to be included in prosecution docket. • Review of statements written by myself. • Request review of exhibits to ensure they accord with witness statements. • Unused exhibits to be detailed in a statement. • Critique (for prosecution) to be updated by DC Currer.
623.	30/10/2020	7th statement of CI Mark Wyan signed as complete. This statement relates to all exhibits that were seized in evidence and assist in the prosecution case against Thomas Cornelio. They have been placed into order of the following categories: Planning/Preparation to leave Bland Limited Appropriation of Business Commenced on behalf of Bland Limited Putting Pressure on Government Officials/ Undermining Bland Ltd Computer Misuse Communication NSCIS Report for Caine Sanchez
624.	30/10/2020	8th statement of CI Mark Wyan signed as complete. This statement relates to all exhibits that were seized in evidence and assist in the prosecution case against John Perez. They have been placed into order of the following categories: Planning/Preparation to leave Bland Limited Appropriation of Business Commenced on behalf of Bland Limited Putting Pressure on Government Officials/ Undermining Bland Ltd Computer Misuse Communication NSCIS Report for Caine Sanchez
625.	30/10/2020	9th statement of CI Mark Wyan signed as complete. This statement relates to all exhibits that were seized in evidence and assist the prosecution case against Caine Sanchez. They have been placed into order of the following categories: Private Business with Levy/ Cornelio Putting pressure on HMGoG/ Undermining Bland Limited NSCIS Report initiated by Caine Sanchez

626.	31/10/2020	Further review of defence submissions. Consideration of further W/S to deal with issues raised. Review of docket continues.
627.	31/10/2020	Further email to CC Gear in respect of the IP address from the US.
628.	31/10/2020	10th statement of CI Wyan signed as complete. This statement relates to HMGoG complaint.
629.	31/10/2020	1st statement of Guy Christopher Stagnetto signed as complete. This statement relates to two without prejudice meetings between John Perez and James Gaggero.
630.	31/10/2020	8th statement of DC 211 James Currer signed as complete. This statement relates to various screenshot modification dates.
631.	31/10/2020	New List of actions including: • Review voluntary stat to see which ones to tender in evidence (where not in interview) • Deal with hash values for USB provided to Roisin • Ensure short chats have extended messages • Critique to be finalised • Put all statements in the docket that provide continuity of exhibits. • Complete the CJU form to indicate which of the exhibits are tendered by which person • Review all docket to ensure that copies are consistent with originals (JC/PC) • Print out Axiom tables to show continuity (JC) • Complete statement exhibiting continuity of used exhibits (JC) • Amend docket cover to ensure that it is updated. • Update witness availability. • Review Exhibit List to ensure it is in line with statements. • Defence review to be finalised.
632.	1/11/2020	Review of all joint defence submissions. At my request DS Clarke has tabulated and sub-divided all of the defences put forward. We have now both commented next to each section. We have identified whether there is a requirement to follow as a reasonable line of enquiry that may assist the defence.
633.	1/11/2020	On the review of the issue of ownership. I have been looking over the defence documents again. I retain the view that sufficient investigation into this matter has been completed. Whilst there are a few persons who could be approached, such investigation

		will have no further impact upon this case. Contrary to the views held by the defence, it is not evident that they own the NSCIS. In fact the stronger evidence in support of ownership has been provided by Bland. In the context of the case we can show that ownership is disputed. Regardless of any further statements, this position will not change until it is determined in a civil court. Given that ownership is disputed, and that we have a complaint from both purported owners, the criminal case can still proceed. The issue of authority is the next matter. This has been covered categorically by Bland. Authority by HMGoG is far more difficult given that CS is a defendant and was in charge of the platform on behalf of HMGoG. However, his interview provides evidence against TC, and the W/S of Canessa following instructions on the 4th October is also strong evidence of authority to access etc.
634.	02/11/2020	Call from Charles Bonfante in relation to the email sent to Louis Baglietto QC on the 28/10/20 in which Mr Levy was advised that he was no longer a suspect and that we would be returning his devices unopened. Explained that it was now a matter for Mr Levy to decide whether he would be a prosecution witness. He could amend the account already given or add, alter, correct as he saw fit.
635.	02/11/2020	3rd statement of DC 106 Jason Oton signed as complete. This statement relates to configuration files that were copied onto a CD and exhibited as JO/.CONFIGFILES/1
636.	03/11/2020	Review of all Cornelio defence submissions. At my request DS Clarke has tabulated and sub-divided all of the defences put forward. We have now both commented next to each section. We have identified whether there is a requirement to follow as a reasonable line of enquiry that may assist the defence.
637.	04/11/2020	Review of all Perez defence submissions. At my request DS Clarke has tabulated and sub-divided all of the defences put forward. We have now both commented next to each section. We have identified whether there is a requirement to follow as a reasonable line of enquiry that may assist the defence.
638.	04/11/2020	Disclosure presentation given to all officers assigned the task of disclosure. Presented by myself. SIO and CC Zammitt in attendance and spoke of the importance of the exercise and the requirement

		to comply with legislation so that documents were disclosed in the interests of fairness. Timescales for completion provided.
639.	04/11/2020	Email to Sgt Clarke where he is provided copies of the defence statements of TC and a joint ones summary. Sgt Clarke is asked to ensure that questions are specific enough so that they can be responded to accurately by the witnesses.
640.	05/11/2020	Instructions given to DC Currer in the context of disclosure. Given his involvement in the investigative process, he was instructed not to get involved in the disclosure decision process (beyond identifying relevant material). He was told that he should assist others given his knowledge of the case and act as an administrative assistant. Any involvement by him to be reviewed by DC Saxby.
641.	05/11/2020	During the review of CS defences I requested that JC extract exhibits which reflected discussions between TC/CS about electricity costs and cryptocurrency servers. Relevance – Evidence of a business venture between CS and TC.
642.	06/11/2020	Review of all Sanchez defence submissions. At my request DS Clarke has tabulated and sub-divided all of the defences put forward. We have now both commented next to each section. We have identified whether there is a requirement to follow as a reasonable line of enquiry that may assist the defence.
643.	06/11/2020	Email received from Charles Bonfante confirming that Mr Levy respectfully declines to be a prosecution witness. Also confirmed the return of his devices.
644.	07/11/2020	Based upon a full review of all defence statements I have reviewed a full list of additional questions that need to be pursued as reasonable lines of enquiry. They refer to questions for: 1) Aaron Chipol 2) The CM Fabian Picardo 3) HMGoG representative 4) James Gaggero 5) John Rodriguez 6) Peter Canessa 7) Jonathan Galliano 8) Philip Navas

645.	08/11/2020	List of 37 questions sent to JG following review of all defence submissions. To be included in additional witness statement.
646.	08/11/2020	Lists of questions sent to Bland employees in respect of reasonable lines of enquiry identified by the defence.
647.	08/11/2020	Email sent to the SIO. Lists of questions have been drafted in respect of: 1. Aaron Chipol; 2. John Rodriguez; 3. HMGoG (Darren Grech); 4. Chief Minister; 5. Peter Canesa. Email has been sent requesting advice on whether to approach the individuals. In particular, the HMGoG given that Mr Grech has now engaged with a lawyer.
648.	16/11/2020	Meeting at Bland following a request for clarification on the questions sent to various Bland employees. Mr J Gaggero explained to me his responses but only asked whether they were sufficient. Mr Navas wanted to understand what we were asking for in terms of documentation (invoices etc). Mr Galliano asked whether he could attend NMH for clarification on his questions given that it would take a considerable time.
649.	18/11/2020	Called Guy Stagnetto asking whether he would be willing to comment on the meetings that took place between John Perez and James Gaggero in which he was present. He stated that for personal reasons he did not wish to provide an additional statement.
650.	18/11/2020	Email to Sgt Clarke with an attached document titled "CM Questions". Asking Sgt Clarke if he can identify all of the meeting dates that took place between the CM and JG.
651.	18/11/2020	Instructions given to Insp Schembri to obtain a company profile for Rotunda Holdings on the basis that Caine Sanchez wrote an email 'on behalf of a friend' to try and sell to large supermarket chains. He was using his personal email account, and referred to his HMGoG position, but stated that it was in his personal capacity.

652.	20/11/2020	Review of response provided by Mr Costa (on behalf of the Chief Secretary). In particular references to HMGoG complaint, and suggestion that there should be a submission to the Council of Ministers. We disagree with this position. Matters such as conflicts of interest are not for us to determine.
653.	20/11/2020	Disclosure Management Document section 1 sent to DC 205 Saxby (with overview of defences put forward). He must add to Section 2 in relation to the devices (table format with sections that need populating).
654.	22/11/2020	2nd statement of Inspector Mark Schembri signed as complete. This statement relates to further checks done on multiple companies.
655.	23/11/2020	Request for witness statement drafted for the Chief Minister. Attached a copy of communication between the CM and JP/CS/JL (all relevant to the enquiry). Also attached a list of questions so that the CM could be guided to the important issues (based on defence submissions) in preparing his statement.
656.	24/11/2020	Disclosure Management Document reviewed for accuracy.
657.	24/11/2020	Email to COP Ullger and Supt Richardson with an attached draft of a letter to the CM requesting a witness statement. An attached timeline and a guidance document has also been provided in order to assist the CM in identifying the important issues.
658.	24/11/2020	Email to DC 205 Saxby, DC 211 Currer and Sgt Clarke with an attached document titled "Disclosure Management Document". DC Saxby is to read it and sign if happy with the contents. The document is to be served with the prosecution bundle today.
659.	25/11/2020	Email sent to the Chief Secretary, Mr Grech, requesting an additional statement to deal with matters raised by the defence in their submissions. The intention is to ensure compliance with statutory obligations to follow reasonable lines of enquiry including those that may undermine the prosecution or assist the defence. CS responded by stating that he would revert in due course.
660.	26/11/2020	In compliance with duties to pursue all reasonable lines of enquiry, I have today drafted a letter for the Gibraltar Regulatory Authority in which I identified them as holders of third party material relevant to the police investigation.

661.	26/11/2020	Letter drafted to the Chief Minister based upon reasonable lines of enquiry provided by the defence. Requested a witness statement based upon issues raised by the defence.
662.	26/11/2020	Instructions given to DC Currer to search for IP address [redacted] on all devices seized. At present the devices belonging to or connected with TC are the only ones that are seen to be accessing this IP address.
663.	27/11/2020	Email sent to Mr John Rodriguez (Collector of Customs) inviting him to provide police with an additional witness statement in light of representations made by the defence. This is in compliance with my duties to follow all reasonable lines of enquiry.
664.	27/11/2020	Emails sent to Joey Benrimoj and Marius Zalkauskas requesting witness statements in light of representations made by the defence. They have been specifically mentioned as potential witnesses in the defence statement of TC. Finch was copied in to the Benrimoj as a courtesy as he was representing during interview.
665.	27/11/2020	Email to Sgt Clarke and Supt Richardson requesting Sgt Clarke to chase up the Asda lead and an £8,000 deposit into Sanchez account that needs to be looked into.
666.	02/12/2020	The following exhibits were handed to me by DC 211 Currer: JC/LIDLEMAIL/1
667.	02/12/2020	Meeting with GRA at New Mole House. Discussion following request of third party disclosure in relation to the DPA investigation which is running parallel to the criminal investigation. The evidence may assist the defence if the GRA hold evidence that supports their version. For example, if they have found that Bland have breached the DPA. Joelle Hernandez and Maurice Hook (legal advisor) attended and met with myself and Mr Richardson. They had a number of questions about whether they needed to inform the defence, whether it would undermine their own duties. They felt as though a court order would be preferable to volunteering the information given that they had used their powers to obtain some information.
668.	03/12/2020	Meeting with PR/MW/DS/MZ to discuss disclosure issues. Concerns raised by MZ about the progress of disclosure process and timeline for completion. Only 4 months remain if we want to disclosure before or around May 2021. There has been a great deal of effort to update the OCPL old offices to include sufficient security (CCTV / locks / alarms / secure storage) as well as cabling

		that can support the network and computers capable of review. PCMH likely to be around March, and whilst the delays have been due to upgrading infrastructure, the courts will not accept this as a delay. Furthermore, as the work has progressed there has been a realisation of the size of the task. There are over 7 million items. Whilst Axiom can use keywords the XRY and Cellbrite are more limited meaning that only one keyword at a time. Every keyword item to be viewed in the interest of fairness to the defence. There are numerous system files that need to be excluded and duplication across devices is another issue. Redaction issues may have to be surmounted at a later time. Cabling means that admin staff cannot be moved in and although there are new computers IT needs to update them. Review of strategy to be conducted. Scale of the exercise is considered huge. Need to consider NCA to assist (in explaining how they conduct these exercises), extra staff, and whether staged disclosure is a possibility.
669.	07/12/2020	9th statement of DC 211 James Currer signed and handed to me. This statement provides tables where IP address [redacted] was searched for on all devices.
670.	17/12/2020	Worked on GRA application in support of prosecution. Provided overview of dates / requests made to GRA for material so that it could be used during the application process. It should be noted that it is anticipated that this application will more likely support the defence than the prosecution. However, it is considered a reasonable line of enquiry and therefore a duty to follow. It is important due to the fact that DPA issues were raised by the defence in a letter from Mr Fischel QC.
671.	05/01/2020	DC Hadlow explained that he had found Morocco related material that may be useful for the prosecution. Advised to retain and provide to me for review. Suggests civil unlawfulness by 36N in June 2018. I will review but I have tried to keep the case relevant to NSCIS rather than expanding beyond on the basis that it would be overwhelming for a jury to consider more information. However, all documents will be considered.
672.	07/01/2021	1st statement of Darren Lightbody signed as complete. This statement describes the current use of NSCIS.
673.	08/01/2021	1st statement of Christian Correa signed as complete. This statement describes the current use of NSCIS.
674.	11/01/2021	Discussed with prosecution the matter of the GRA disclosure evidence. Review of material considered to be relevant based upon the lists supplied by GRA lawyer. List of items identified.

		Also spoke about the possible need to obtain expert evidence to explain technical data. Whilst there has been a review by the NCA, they offer no opinions of the evidence as an expert. There are a number of issues that it would be useful to get the expert to explain including, the database reindexing, the geo-redundant server, whether weaknesses were introduced into the system etc.
675.	12/01/2021	Meeting with disclosure team. Discussed issues with XRY and Cellbrite and the duplication of files. Explained that some of the schedules were being reworked to ensure that there was sufficient detail in the relevant box. We also discussed that they should tag items that were being assessed as DIS 3 so that a digital report could be generated at the end of the process for the prosecutor and defence. This would allow them to review the material and navigate far more easily the information. DC Saxby brought to my attention the fact that he had discovered 158 accesses into a webpage called GoG Borders after Oct 2018. This was after TC told not to access Bland servers anymore. [redacted] – However this does not tell us which databases the information is being retrieved from. Spoke to JOG who stated that the best way to obtain this information was to retrieve the config files from the machine (LMW/Tower/1) and then to run a search to identify the connection strings. DC Oton was called and asked whether he could extract the relevant config files. Stated that he needed to image and that he would process the information. Consider whether expert can now review this.
676.	18/01/2021	Discussed with SIO that the CM and Chief Sec have not yet provided statements. PCMH is due on 20/02/21.
677.	18/01/2021	DC Currer update on progress of Bland additional Statements in response to defence submissions.
678.	18/01/2021	Discussed with prosecutor whether there might be a need to have expert testimony to explain some technical aspects of the evidence.
679.	18/01/2021	Spoke to Mr Gaggero on the phone. He confirmed that he had signed copies of his additional statement and had sent it via the post.

680.	18/01/2021	Request made to Jason Oton for him to verify the config files on the exhibit LMW/Tower/1. This was following a brief by DC Saxby that he had discovered references to access of GoG Borders after Oct 2018. Access was being made through localhost51018. The config files would help identify the database being accessed.
681.	19/01/2021	SIO sent an email to CoP. The CoP then emailed the CM asking for an update on whether his statement had been prepared and that the PCMH is tomorrow.
682.	19/01/2021	DC Oton returned results of config files. Showed myself and DC Currer how to search for relevant information. Instructed DC Currer to investigate whether he could ascertain link between the use of the GoG Borders page and database.
683.	19/01/2021	Review of additional material obtained (statements and exhibits).
684.	25/01/2021	GRA letter has returned. They are seeking clarification of what items we require.
685.	26/01/2021	Email to Danny Bourne (NCA) asking if he can assist with identifying a computer forensic expert.
686.	27/01/2021	Email to Supt Richardson with attached Application for Dismissal document submitted by Andrew Cardona on behalf of Caine Sanchez.
687.	08/02/2021	Confirmation from DC Currer that he was undertaking the ASDA enquiries in relation to CS.
688.	08/02/2021	The following exhibits were handed to CI Wyan from DC 211 Currer: JC/SCREENSHOT/1
689.	09/02/2021	Initial telephone conversation with Dr Paul Hunton about whether he would be able to assist with Operation Delhi. Discussion of qualifications, previous work, and hourly rate.
690.	23/02/2021	Discussion with CC Zammit regarding the need to obtain notes from ex-CoP McGrail in respect of Mr Levy. This is now a live issue raised by the defence so we must ensure that all relevant disclosable material is made available to them. He is currently a third party in possession of material.
691.	24/02/2021	Phone call with Danny Bourne of the NCA. He stated that despite the corroborative evidence, they would not be able to process the request under RIPA. The request for the owner of the IP address could not be regarded as necessary and proportionate in his view given the possibility for collateral intrusion. This was primarily

		because the UK will only keep records for 12 months, and will not record the criminality period. I argued that we were looking only for ownership of the address (a statistic IP address), even over a period of 1 day. However, the NCA felt that the request could not be justified given the time since the alleged offence took place.
692.	24/02/2021	Confirmation from the Chief Secretary that he would provide a statement. Apologises for tardiness. Clarification still required from his in relation to questions submitted (as a result of defence representations).
693.	24/02/2021	Further request made to Collector of Customs to clarify the questions put to him. Again these are raised by the defence.
694.	25/02/2021	The following exhibits were handed to me by DC 211 Currer: JC/TEXT/JPJL/1 JC/ICLOUDNOTES/1
695.	26/02/2021	The following exhibits were handed to me by DC 211 Currer: JC/EMAIL/JPTC/1
696.	02/03/2021	The following exhibits were handed to me by DC 211 Currer: JC/TERMINATIONLETTER/1
697.	02/03/2021	17th statement of JOG signed as complete. This statement relates to further questions that were raised in response to defence submissions.
698.	03/03/2021	10th statement of DC 211 James Currer signed as complete. This statement details dates of exhibits being extracted.
699.	03/03/2021	2nd statement of Joseph Molinari signed as complete. This statement relates to use of the NSCIS platform in his capacity as head of BCA.
700.	04/03/21	Table of unused exhibits updated. The table is based upon assessment of the statements and whether some documents that are tendered in these statements should remain in the prosecution material. The items identified I have decided are not to be disclosed as part of the prosecution case but may be disclosed by the prosecutor under the disclosure process.
701.	08/03/2021	Instructed DC Currer to: • Obtain a statement from Human Resource Manager with regards to the Caine Sanchez Interdiction • Identify all exhibits which are screenshots • Identify all exhibits which are database tables or data extracted from databases

		• Print copies of all exhibits that TC required • Confirm whether any source code has been tendered in evidence or whether this has been itemised in Exhibit MW/UNUSED • Contact expert witness to see if he has received CI Wyan's email and if he is able to assist • Follow lines of enquiry from Darren Grech statement including ITLD and procurement • Return all documents from Document bundle in office to owners • Obtain a statement from Darren Grech • Create package on Eddie Bradley • Force Intel Request on Nicholas Taube • Create a report on Michael Crome
702.	08/03/2021	Call to ex CoP McGrail to request disclosable material gathered during the course of the investigation.
703.	08/03/2021	Documents provided by Cornelio that they stated were of poor quality. To be copied again for defence.
704.	08/03/2021	Expert letter of instruction sent to Dr Paul Hunton to deal with expert evidence related to: 1. IP address [redacted]; 2. Database re-indexing and the geo-redundant server; 3. Replication of the indexing experiment; 4. Team Foundation Server account; 5. [redacted]; 6. Configuration files on JO/.configfiles/1); 7. Source code comparison (if possible given time constraints).
705.	11/03/2021	Additional two items (JOG/42 and PAC/Laptop/1/Doc/7) provided by Cornelio for the purpose of copying again.
706.	11/03/2021	Ex-CoP contacted again to ascertain whether there were any relevant documents for disclosure. He advised that there may be relevant emails although most would have been copied to the SIO. He would revert with more information if he found any documents.
707.	15/03/2021	All exhibits which are screenshots have been identified by DC Currer and highlighted in a table.
708.	15/03/2021	Expert witness contacted by DC Currer. Confirmed that he can assist the investigation.

709.	23/03/2021	All copied exhibits handed to TC by DC Currer.
710.	23/03/2021	Confirmation by Detective Chief Superintendent Adrian Green (Durham Constabulary) that Dr Hunton has worked for them on a number of cases in relation to forensic information technology and evidential analysis over 10 years. He has provided expert testimony in court.
711.	23/03/2021	Summary of Evidence and 1st witness statement of Jonathan Galliano sent to Dr Hunton.
712.	24/03/2021	1st statement of Collin Yeo signed as complete. This statement relates to the interdiction of Caine Sanchez and Collin Yeo's capacity of Human Resource Manager to interdict person's within Government along with the process of interdicting an officer.
713.	24/03/2021	Meeting with the DPP / MZ and PR at OCPL. Update from disclosure team is that they are on target to meet the deadline. The material from the GRA is yet to be reviewed. A secondary disclosure team may need to be in place to deal with any defence statement following initial disclosure. Discussion that a refined keyword list had not been provided by the defence. The DPP asked that I provide him with details of the dates of previous requests. Disclosure of documents in respect of the involvement of the AG in the JL investigation discussed. According to the DPP the AG did not believe that he had interfered. PR explained the sequence of events. DPP explained that according to the AG, he had become involved due to the potential JR of the warrants. Matter of Liesel Torres briefly discussed (and the reference to 36 North in Parliament). DC Currer was collating all the information with a view to Crime officers investigating. CM had set up a meeting on the 7th April 2021. Concerns that the statement had been requested some time ago and had still not been received. DPP discussed whether he may need to be summonsed. However, consideration needed to be had of his involvement in Covid / Brexit. He had stated that he wanted to provide a statement to police. Expert evidence had been requested but no timetable as yet. MZ stated that we would need to provide this evidence by late May 2021.
714.	29/03/2021	Additional statements of Jonathan Galliano and Roisin Cullen sent to Dr Hunton. (encrypted).

715.	30/03/2021	Email sent to DPP setting out the number of occasions where defence have been asked to supply keyword search terms. Defence council (Fischel QC and Cooper QC have not responded to emails, nor to the Disclosure Management Document). This means that the disclosure process will be delayed if they now provide additional search terms.
716.	30/03/2021	Provided with list of text messages (1285) (between May 2018 and May 2019) over 198 pages. This was following concerns raised by the disclosure team that Michael Crome may have committed a criminal offence, namely misconduct in public office. The texts indicate that in respect of JP, MC: • Provides JP with dates on which JG and FP were meeting; and • Is asked by JP to assist with an Evisas proposal on a number of occasions (although there is no evidence that MC does assist in any way. The only comment he makes is when he refers to the price offering for the project as "*a good price*.") • On the 20th August 2018 MC states that he has spoken to FP about JP and wants to brief him. There is no further information as to what is said, in what context or in what capacity. I do not consider that there are reasonable grounds to suspect that an offence has been committed by Michael Crome on the basis of the communication provided. However, I requested all other communication between Crome and Perez so that I could satisfy myself that no offence had been disclosed.
717.	31/03/2021	The above analysis together with relevant excerpts sent to the prosecution in the event that they had a differing view. Further review of additional communication provided by DC Currer. Only one email of relevance. The email indicates that on the 10th July 2018 Crome forwarded Perez an email he sent to the CM. In this email he was attempting to persuade the CM to go with "John" on the Evisas project rather than a UK supplier. Importantly, this email predates any communication we have where Perez is asking Crome to assist him. Moreover, it is not clear on what basis Crome is arguing the benefits in favour of "John" (with the last of the email deleted).

		I therefore remain satisfied, that on the basis of the evidence I have inspected, there are no reasonable grounds to suspect that an offence has been committed by Michael Crome.
718.	31/03/2021	Confirmation from DCI Chipolina that Dr Hunton has UK National Security clearance at level SC until 17/01/2022. He also holds police vetting clearance NPPV3.
719.	31/03/2021	2nd statement of Jonathan Gonzalez signed as complete. This statement relates to HMGoG policies on ownership of software and data storage.
720.	01/04/2021	Statement of Darren Grech has been completed and handed to DC Currer who has added it to additional evidence bundle
721.	07/04/2021	Further questions have arisen from Darren Grech's statement. Further questions have been sent to him for clarification.
722.	07/04/2021	Meeting with Chief Minister. Also present was AC Yeats, and Mr Canessa (PA). CM wished to discuss the questions posed in the email sent to him on the basis that he was extremely busy and required assistance in order to draft. He initially gave a background to the period under investigation before providing his response to the questions posed. • He essentially answered that he was not aware of, nor gave authority for TC to access the system after he terminated his consultancy period with Bland. • That HMGoG had partnered with Bland to sell the platform abroad • Maintained that HMGoG was the owner of the platform • Q1 - Understood that there were negotiations between Bland and 36N to take over the running of the platform but that this was a matter for them. HMGoG did not get involved, particularly since there was a dispute over ownership. • Q2 – No. The only other persons were the DCM (responsible for counting) and the FS (responsible for payments). He had no further knowledge. • Q3 – Read out whole extract of information to put into context what was said (to be obtained as an exhibit) • Q4 – TC had attempted to meet on a number of occasions. Very competent and hard working.

		• Q5 – No authority given to access after the end of the agreement with Bland. He was in the middle of the Withdrawal agreement and had no time to think. It was a very busy time. • Q6 – No knowledge of extracting information. Only found out about this in around Oct. Concerned about the suggestion that data was being mirrored outside the jurisdication. • Q7 – Never heard of the reference to Phoenix until now. • Q8 – Number of meetings. Can confirm the 3/9 as the Whatsapp messages should assist. On the 21/7 there was a telephone call for which he made notes on his iPad. • Instructions given following indications that the system may have been sabotaged. Too sensitive to take risk. Info given by JG. • That CS had disclosed information from a meeting in which he was asked not to divulge information. • Did not consider that HMGoG was a complainant for this matter on the basis that it was not authorised by the Council of Ministers. Would need to view the evidence of misconduct before a decision could be made in this regard. The CS was not the Government. • Agreed that there was a contract in place between HMGoG and Bland. This is reflected in payments to Bland (with adjustments). Not reduced into writing.
723.	08/04/2021	Further discussions with the disclosure team to ensure that information found in respect of L Torres was sent on to the investigating team. PC Hadlow to prepare a further report with associated evidence so that package could be passed on. This remains an offshoot of this investigation and therefore not under my supervision.
724.	09/04/2021	Full review of all documents supplied by the GRA and an assessment of whether any items should form part of the prosecution case. I have decided that none will be used as prosecution exhibits but should be itemised in disclosure for review by the prosecutor.
725.	13/04/2021	1st statement of Jordan Borg signed as complete. This statement relates to the matter of procurement and tendering the NSCIS platform.

726.	14/04/2021	Statement of Jordan Borg has been completed and handed to DC Currer who has added it to additional evidence bundle
727.	14/04/2021	Instructed DC Currer to do a company search on companies linked to Caine Sanchez, specifically Bordercheck and Energib
728.	14/04/2021	Package on Eddie Bradley complete. Confirmed that Bordercheck is not a company registered in Gibraltar
729.	14/04/2021	MS Teams meeting with Expert Paul Hunton. Discussion of questions posed to him and where he may be able to find the evidence. Explanation of witness statements provided in the context of the investigation. Advised that he may wish to discuss more technical aspects with Jonathan Galliano.
730.	16/04/2021	Confirmed by DC Currer that no source code has been tendered in evidence
731.	21/04/2021	Danny Golding of Tax Office confirmed that he is unable to ascertain if the employment dates were backdated, however, has provided us with employment history. Further DPA Form for ETB has been drafted
732.	21/04/2021	Response received from GFIU regarding Nicholas Taube. Negative results and no further action to be taken.
733.	26/04/2021	Draft statement sent to the CM based upon what he stated during our meeting of the 7th April 2021. Stated that he could add alter or correct as he saw fit.
734.	27/04/2021	MS Teams meeting with Dr Hunton following his discussions with Jonathan Galliano and the questions posed. He has advised that further assessment of the technical data is required. Estimated costs provided.
735.	27/04/2021	Advised that disclosure schedules have been submitted to MZ for final review.
736.	27/04/2021	Authorised to proceed with initial detailed assessment by Dr Hunton.
737.	28/04/2021	Contacted JOG in order to ascertain whether there is any other additional data that the expert will require in order to conduct his analysis.
738.	30/04/2021	Encrypted hard drives sent to Dr Hunton for analysis.
739.	04/05/2021	Confirmation by Dr Hunton that he has received the hard drives.
740.	05/05/2021	Dr Hunton confirmed that he is starting to load and process the data using their forensic software tools. This can take time depending on the volume and fragmentation of the data.

Exhibit MW3

722.	07/04/2021	Meeting with Chief Minister. Also present was AC Yeats, and Mr Canessa (PA). CM wished to discuss the questions posed in the email sent to him on the basis that he was extremely busy and required assistance in order to draft. He initially gave a background to the period under investigation before providing his response to the questions posed. • He essentially answered that he was not aware of, nor gave authority for TC to access the system after he terminated his consultancy period with Bland. • That HMGoG had partnered with Bland to sell the platform abroad • Maintained that HMGoG was the owner of the platform • Q1 - Understood that there were negotiations between Bland and 36N to take over the running of the platform but that this was a matter for them. HMGoG did not get involved, particularly since there was a dispute over ownership. • Q2 – No. The only other persons were the DCM (responsible for counting) and the FS (responsible for payments). He had no further knowledge. • Q3 – Read out whole extract of information to put into context what was said (to be obtained as an exhibit) • Q4 – TC had attempted to meet on a number of occasions. Very competent and hard working. • Q5 – No authority given to access after the end of the agreement with Bland. He was in the middle of the Withdrawal agreement and had no time to think. It was a very busy time. • Q6 – No knowledge of extracting information. Only found out about this in around Oct. Concerned about the suggestion that data was being mirrored outside the jurisdiction. • Q7 – Never heard of the reference to Phoenix until now. • Q8 – Number of meetings. Can confirm the 3/9 as the Whatsapp messages should assist. On the 21/7 there was a telephone call for which he made notes on his iPad. • Instructions given following indications that the system may have been sabotaged. Too sensitive to take risk. Info given by JG. • That CS had disclosed information from a meeting in which he was asked not to divulge information.

		• Did not consider that HMGoG was a complainant for this matter on the basis that it was not authorised by the Council of Ministers. Would need to view the evidence of misconduct before a decision could be made in this regard. The CS was not the Government. • Agreed that there was a contract in place between HMGoG and Bland. This is reflected in payments to Bland (with adjustments). Not reduced into writing.

Exhibit MW4

69.	17/07/2019	Meeting held with Albert Mena. Request for statement made regarding NSCIS payments. He provided an account of his involvement in this case in particular regarding why payments were withheld, and the correspondence with Sanchez, culminating in his sending the email to CS asking why he had produced the NSCIS report. Relevance – Line of enquiry for Sanchez.

Exhibit MW5

164.	25/09/2019	Meeting with Darren Grech, Chief Secretary of HMGOG with DCI Finlayson and DS Clarke. Meeting with CS: 1. Overview of work done by Sanchez. 2. Who he reported to for NSCIS 3. Did not report to Mr Grech. 4. He had complete autonomy. 5. Policy is the remit of the CM. The CS remit is administration. Relevance – Line of enquiry related to Sanchez.

Exhibit MW6

423.	30/04/2020	Meeting at No 6 with Mr Grech. Lloyd Divencenzi, CoP, PR and MW. Discussion with Chief Sec regarding ownership of the NSCIS platform. Contract sent to him by Robert Fischel as they did not have the document before. Reiterates that HMGoG are asserting ownership. They cannot provide any written evidence of ownership. CoP requests a formal complaint in the form of a witness statement if they wish to be complainants. Chief Sec will begin internal disciplinary proceedings regarding CS if there is a police prosecution. CoP informs the Chief Sec that CS has been involved in corrupt practices. For his consideration of whether CS should be allowed to continue working or be interdicted.

Exhibit MW7

435.	15/05/2020	Meeting with the AG and DPP (with CoP and Supt Richardson) to discuss the interview of JL. Asked whether he could be treated as a witness rather than a suspect. This was not possible. He could voluntarily provide an account to us before any interview and we would consider it. But there may still be a need to put further questions to him at a later date. Would only be a witness if his benefit as a witness outweighed the IOJ to prosecute. At this stage he remained a suspect. File Note made.

Notes of Meeting

Date: 15/05/20

At: Government Law Offices

Time: 1700 - 1830

In attendance: Commissioner of Police

Attorney General Michael Llamas QC

DPP Christopher Rocca

Supt Paul Richardson

Inspector Mark Wyan

- AG asked whether our position in respect of Mr Levy had changed since the last meeting. The CoP stated that it had not.
- AG asked whether we could achieve the same goal without the need to treat JL as a suspect.
- Asked whether we could interview but not under caution.
- If he is treated as a witness, it may undermine the case. The other suspects would question why this was the case.
- There is a fear that he may not turn up on Monday. Consider what the next steps would need to be.
- Considered the possibility of not interviewing at the police station but at his office. This may be possible in law but not certain under CPEA.
- AG did not think this would be satisfactory for JL who did not want under caution.
- Considered what was happening with the devices. CoP stated that they were sealed and kept in his safe. Not to be actioned at this stage.
- AG argued a distinction between Sanchez / Cornelio and the level of culpability of JL. Could he therefore be treated differently?
- DPP disagreed with the decision to use a warrant. But stated that this was an operational matter. He did say that he believed we would be successful in JR. He would defend us.
- AG agreed that:
    - AG (or someone) would call L Baglietto and ask him to consider submitting a full account
    - RGP would assess the evidence provided and possibly ask for clarity
    - RGP would reach a conclusion about whether the benefits of treating JL as a witness outweigh the need to prosecute (in light of the assistance to the prosecution case and not on his standing / problems associated with legal action)
    - Phones to be retained until a decision was made (with the possibility to analyse if he is a suspect or return if he is a witness).
    - Warrant to be retained in the event that it is needed later on
    - Interview to be suspended for the time being but could proceed if he was to remain a suspect.

Exhibit MW8

444.	20/05/2020	1200 Meeting with AG regarding letter from Hassans (DPP/AG/MW/PR/CoP). Discussed response in respect of JL and our position on him voluntarily disclosing information to the RGP. DPP will draft a response. We still consider him to be a suspect at this stage. Full File note made.

Meeting at OCPL

1200 hours - 20th May 2020

Present: AG Llamas / DPP Rocca / CoP / Supt Richardson / DI Wyan

RE: Letter from Hassans dated 20th May 2020 – Schedule 1 Search warrants dated 7 May 2020

AG – Letter required a succinct reply. That a procedure of co-operation had been started and the process should conclude. If we begin to rebut then everything could be undermined.

DPP – Concerned that if the reply was not robust enough then there could be repercussions in the context of the whole case later on.

DPP – We need a tempered rebuttal but one that makes clear our position.

CoP – Hassans are now asking for confirmation that JL is a witness. Agreed to review an unsolicited account but not that this was a witness statement.

AG – Confirmed that he had only indicated to Hassans that they would review a written response if it was provide.

AG – Concerned that a procedure had been put in place but that this type of letter was not helping. Not sure why they were doing it at this stage.

DPP – Believed that they may be getting ready for an abuse of process argument.

DPP – Need to respond to the assertion that prejudice to the investigation is not a ground to reject the application for disclosure of the warrant details.

DPP – We can give them a redacted version of the warrant application. To discuss with Supt Richardson.

DPP – 21 days is too long for notice.

MW – Concerned that the warrant will expire by 7/6/20. Little time to execute in the event that JL does not provide a sufficient account.

PR – Status of JL is still a suspect.

PR – Problem with asking questions after an account is that we would be conducting an interview.

PR – If JL provides an account this can be used against him.

DPP – We are keeping an open mind until he has provided his account.

AG – Advice to Hassans was that he provides RGP with his account. Let's go down that route. Other procedure is on hold until it is assessed.

CoP – His account will have to be substantive enough for him to be treated as a witness and to avoid interview under caution.

DPP – He will draft a response for CoP. He will address the issues and rebut.

AG – Conclusion should be that we are keeping an open mind.

Exhibit MW9

142.	04/09/2019	Meeting with CI Finlayson and DPP regarding legal matters including: • Asquez statement • Webber status • Security related information • Official Secrets Act • Conspiracy to Defraud Itinerary created for the meeting.

Exhibit MW10

254.	17/01/2020	Meeting with DPP regarding formulation of charges, summary and jury. Concerns were raised by DPP regarding expert witnesses required.

Exhibit MW11

352.	03/03/2020	Meeting with the DPP regarding JL. Advice requested on whether his involvement amounts to a criminal offence. Full report drafted by Supt Richardson. Relevance – Consideration of whether JL has committed a criminal offence.

Exhibit MW12

408.	08/04/2020	Video conference with the DPP. Advice sought on the basis of the report submitted by Supt Richardson on 1/4/20. He agreed that there was a realistic prospect of conviction for the proposed conspiracy to defraud. He also stated that there was evidence of misconduct for Sanchez although this would need to be discussed further. He stated that Chipol could be treated as a witness owing to the fact that he was not a beneficiary, and that he had ceased to assist 36 North. He agreed that Mr Levy should be treated as a suspect as there were questions which needed to be answered. He should be interviewed. File Note made.

File Note – Wednesday 8th April 2020 – 1550 hours

- Conference call with the DPP
- Myself and Supt Richardson in attendance for call at NMH
- DPP had consulted with CC Zammitt regarding the evidence. He stated that he was comfortable to proceed on the basis of what was provided.
- No grounds for him to stop any prosecution at this stage
- He had always been comfortable with the computer misuse charges
- There was evidence of a conspiracy to defraud. Agreed with the suggestion that there was a unlawfulness argument in respect of the breaches of contract (civil wrongs).
- There were still the issues of ownership which needed resolving and this would impact upon the case.
- The charges may need to be put together to reduce the numbers.
- The decision of why Chipol was arrested was discussed. DPP agreed that it may be preferable to treat him as a prosecution witness.
- Mr Levy was considered. DPP stated that there were still questions that he needed to answer. Interview under caution was appropriate.

Exhibit MW13

440.	18/05/2020	Meeting with DPP / CG / PR / MW – Discussion of redaction of search warrant application. Threshold is very serious prejudice to an important public interest. Concerns of serious prejudice to our interviews if the search warrant application is provided prior to interviews. Warrant has been lawfully obtained but due to expire. Redactions discussed and advised by DPP.

Exhibit MW14

454.	29/05/2020	1100 Meeting with DPP regarding redactions of Schedule 1 information. Present: MW/CG/PR/CR DPP set out the threshold for claiming PII. Very serious prejudice to the investigation. DPP confirmed that he believed the warrant had been lawfully obtained. He would protect if challenged. His view was to wait for the account before we interview. But this was operational matter. This could be defended in court. Discussions about whether Lewis Baglietto could inspect the computer misuse sections on a counsel to counsel basis. But no copy to be given so that it could not be read by anyone else. Agreed that this could be done. Computer misuse sections to remain redacted on the basis of prejudice if other co-conspirators were to access the information. Further minor paragraphs to be revealed to defence. Section 48 and 319(e) only. Other paragraphs to remain redacted. Would be objected to by DPP in any hearing before the Magistrate. Further revelations to be disclosed the same day to the defence. May require a witness statement claiming PII by myself. Discussions on whether there were legal implications to executing the search warrant. Particularly in light of the fact that the warrant was due to expire without the account of Levy being provided. However, given that Levy was on notice of our possible intention, a search warrant may no longer be necessary. (DPP acknowledged that the warrant was legally obtained however).

Exhibit MW15

538.	28/08/2020	Meeting at OCPL with DPP and Mark Zammit. Supt Richardson also present. Discussion of Op Delhi following report submitted on the 13th August together with USB (containing wit statements / exhibits / defence submissions / draft charges etc). 10 files were also submitted in paper based format. We discussed at length the investigation and went through each of the suspects as follows: Cornelio – Advised that there was a realistic prospect of conviction. Provided that the technical evidence in support was correct, the computer misuse offences could be charged. The view of the DPP was that there were certain dates on which the offences were stronger, and that we should charge within those periods. He did not view the issue of ownership as any bar to the prosecution, providing that the dates were within the ranges during which Cornelio could not have had authority. In the context of the conspiracy, the evidence of a conspiracy was clear given the exchange between Cornelio and the other suspects. The basis of the conspiracy was the computer misuse offences as well as the breaches of contract by Cornelio et al, given that he had a duty to his employer by virtue of his position in Bland. Sanchez – There is evidence which affords a realistic prospect of conviction for misconduct in public office and conspiracy to defraud. The MOU ties him in to 36N early in 2018. There are also messages that he wanted to assist in removing Wavetecx from Bland. The messages show that he was not impartial and that he was actively assisting 36N. In particular he was texting TC. He was also involved in the April report in which it is clear that he was acting contrary to instructions when he attempted to hide the fact that TC was reviewing the system. The DPP asked us to consider a charge under section 367 for April. Perez – There is a realistic prospect of conviction for conspiracy to defraud. He is involved in the planning / preparation to set up 36N and is aware of the pressure being placed on HMGoG. Furthermore he is aware of the deletion of the Wavetecx account and refers to TC as a "wizard". He also breaches contractual duties to Bland. There was also a message which TC sent to JP in which he was worried that JG would send them both to jail.

		Asquez – There is insufficient evidence to provide a realistic prospect of conviction given that he is only involved in the initial stages of setting up 36N. He is not a beneficiary of the company. Levy – There is insufficient evidence to provide a realistic prospect of conviction. He had no contractual duty to Bland and there is little evidence to support the fact that he had knowledge of the computer misuse offences. Chipol – The DPP felt that it was difficult to make a clear determination and that it could be argued either way. He referred to the fact that he sent on the email from TC as well as disclosed in December issues relating to the platform when he knew that TC should not have been involved. In the context of national security and the fact that he is the head of the BCA this could be misconduct. It was felt that he would add little as a credible witness if he were to give evidence for the prosecution.

Exhibit MW16

545.	04/09/2020	Meeting with the DPP. Mark Zammit and Paul Clarke also present. Discussed how to draft charges for the case. Went through the computer misuse charges that had been proposed. He advised on which charges should remain and which should be excluded. The DPP wanted to keep the computer misuse charges to a manageable level. It was agreed that we would have the proposed charges, but that they would include connection strings, Boolean variables and Time/Date variables from both servers and both programs. Also to include database re indexing, and the unauthorised access at times when there could be little dispute. The conspiracy charge was given an initial draft based upon a discussion around dates, and the ingredients of the conspiracy. Essentially the ingredients included the computer misuse, the pressure on government, and the breaches of contract. Meeting set for the 9th September 2020 to finalise the charges.

Exhibit MW17

559.	11/09/2020	Meeting with the DPP to discuss charges. Confirmed that we could charge with the 12 proposed computer misuse offences (and which related to the Port server) with the addition of the email account charge. All other parties to continue with the agreed charges. In respect of Chipol the DPP was unable to offer any other advice beyond that already given. It was therefore a matter for the RGP to determine.

Exhibit MW18

583.	25/09/2020	Meeting with the DPP regarding disclosure exercise. He was shown the AXIOM program and how the items were displayed. The size of the disclosure exercise was explained and concerns as to how long this was likely to take. He referred to the fact that he had offered paralegal to assist in the process. Agreed that we would use the program to identify hits that could be relevant material. This would then be disclosed to the prosecutor as a report. The report could then be further reduced down to material that was to be disclosed to the defence. This would avoid any issues of having to provide copies in paper format, which may take a considerable period.

Exhibit MW19

713.	24/03/2021	Meeting with the DPP / MZ and PR at OCPL. Update from disclosure team is that they are on target to meet the deadline. The material from the GRA is yet to be reviewed. A secondary disclosure team may need to be in place to deal with any defence statement following initial disclosure. Discussion that a refined keyword list had not been provided by the defence. The DPP asked that I provide him with details of the dates of previous requests. Disclosure of documents in respect of the involvement of the AG in the JL investigation discussed. According to the DPP the AG did not believe that he had interfered. PR explained the sequence of events. DPP explained that according to the AG, he had become involved due to the potential JR of the warrants. Matter of Liesel Torres briefly discussed (and the reference to 36 North in Parliament). DC Currer was collating all the information with a view to Crime officers investigating. CM had set up a meeting on the 7th April 2021. Concerns that the statement had been requested some time ago and had still not been received. DPP discussed whether he may need to be summonsed. However, consideration needed to be had of his involvement in Covid / Brexit. He had stated that he wanted to provide a statement to police. Expert evidence had been requested but no timetable as yet. MZ stated that we would need to provide this evidence by late May 2021.

Information supplied in support of application for search warrant: Criminal Procedure and Evidence Act 2011, Schedule 1 – First set of access conditions

(Criminal Procedure Rules, rr.47.26 & 47.30; s.13 & paragraphs 2 & 12 of Schedule 1, Criminal Procedure and Evidence Act 2011)

At Magistrates' Court on Thursday 7th May 2020.

Your Worship,

1. I am DS 130 Paul CLARKE of the Royal Gibraltar Police.

2. I am investigating offence of

    a. Conspiracy to Defraud contrary to Common Law.

3. My application has been approved by Detective Inspector Craig GOLDWIN

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4. The overarching matter of this case is the compromise of the National Security of Gibraltar. This is due to actions performed by the subjects in relation to Computer Misuse by intentionally causing the NSCIS Platform to malfunction and agreements to commit fraud to achieve their objective.

5. This application applies to premises owned or controlled by Haim Levy namely his home address and the Offices of Hassans International Law Firm.

6. The information below has been obtained via various different sources of information and intelligence available to the Royal Gibraltar Police, and the circumstances of this case are as follows:

    THE SUBJECTS

7. **Haim LEVY CBE QC** is a senior partner of law firm Hassans.

8. **Caine SANCHEZ** is a Senior Civil Servant employed by Her Majesty's Government of Gibraltar. He is the Principal Secretary to the Deputy Chief Minister of Gibraltar. Sanchez is the Government of Gibraltar's lead for the NSCIS platform.

9. **John PEREZ MBE** held the position of Chief Executive Officer of Bland Ltd between the 1st February 2010 and 10th September 2018. He was responsible for running Bland Group's interests in the Western Mediterranean and oversaw the senior management team who reported directly to him.

10. **Thomas 'Tommy' CORNELIO** held the position of Head of Software Development with Bland Ltd between 19th November 2012 and 10th August 2018. Between 11th – 31st August 2018, he remained with Bland working under a consultancy agreement. Thomas Cornelio was the architect of the NSCIS Platform.

11. **Edward ASQUEZ MBE** held the position of Operations Director with Bland Ltd between 24th June 2010 and 30th September 2018. He was employed by John Perez as they served together in the Gibraltar Regiment. He was tasked with a number of projects and was the ISO for Bland.

12. **Aaron CHIPOL** is the Chief Executive Officer of the Borders & Coastguards Agency (BCA). He was promoted to this position in August 2018, prior to this he was deputy head of Immigration.

THE COMPLAINANT

13. **James GAGGERO** is the Chairman of the Bland Group of Companies. He has held this position since 1997. Between 1987 – 1997, he was managing Director of the Bland Group of Companies. Bland has been in the Gaggero family for over 200 years.

14. **HMGoG** have laid a claim on the ownership of the NSCIS Platform. The ownership of the Platform is in dispute.

THE COMPANIES

15. **Bland Limited ("Bland")** is part of the Bland Group of companies which is registered in Gibraltar. Bland Limited trades under a number of entities including Bland Travel (a travel and transport business), Bland DMC (a travel business), The Calpe Lounge (an airport VIP lounges business), Avis (a car hire business), Operational Support Group ("OSG"), Wavetecx (a computer development business) and Gibair (an airport ground handling business).

16. **36 North Limited ("36 North")** is a Gibraltar registered company incorporated on the 23rd April 2018. The company carries on business as a computer software and security systems developer. PEREZ and ICode Limited, together with Astelon Limited, are beneficial owners in the company (each having a 33% shareholding). Following their resignations from Bland Ltd, Cornelio and Perez went on to work on a full time basis at 36 North.

17. **ICode Limited ("ICode")** is a Gibraltar registered company beneficially owned by Cornelio and incorporated on the 16th May 2018 for the purpose of holding shares in 36 North.

18. **Astelon Limited ("Astelon")** is a Gibraltar registered company beneficially owned by Hassans International Law Firm and incorporated on the 29th March 2018 for the purpose of holding shares in 36 North. The company has a 33% shareholding in 36 North.

19. **Hassans International Law Firm** is a Gibraltar based international law firm. Haim Levy is a senior partner of Hassans.

THE NSCIS PLATFORM

20. The National Security Central Intelligence System ("the NSCIS platform") is a modular, centralised IT software system developed and utilised for the collection, monitoring, background checking, and flagging of people and vehicle movements in and out of Gibraltar, via land, sea and air.

21. Thomas Cornelio, during the course of his employment with Bland, developed this system. The NSCIS Platform was first launched in December 2014 under the Frontier Management Project (FMP) and was subsequently developed over a number of years.

22. The NSCIS platform collects sensitive personal information from members of the public upon entry to and exit from Gibraltar. It is a key tool for law enforcement agencies in the protection of the National Security of Gibraltar.

23. Bland Limited state they own the NSCIS platform, the source code, object code and all database structures which form the platform. However this is contested by HMGoG.

24. The NSCIS platform is provided to HMGoG on the basis of an ongoing software license, for which HMGoG pay Bland a license fee. In addition, Bland provides continuing support and maintenance for the platform.

THIRD PARTY ACCOUNTS

25. Being the developer, Cornelio had an intimate knowledge of the NSCIS platform. [redacted]

[redacted]

THE NSCIS PLATFORM AND WAVETECX

26. The contract for the NSCIS platform commenced under the Bland security company Operational Support Group ("OSG"). Bland later set up a separate company to develop, brand, market and commercially exploit the NSCIS platform abroad ("Wavetecx").

27. Wavetecx was set up around January 2017 and headed by Perez as CEO. He was assisted by Cornelio.

28. Cornelio managed Wavetecx on a day-to-day basis in his capacity as the Head of Software Development. Two Software Developers worked for Wavetecx – Joseph (Joey) Benrimoj and Marius Zalkaukas.

36 NORTH LIMITED

29. 36 North Limited is a private company limited by shares, with a registered office at 57/63 Line Wall Road, Gibraltar.

30. 36 North was incorporated on the 23rd April 2018. Whilst still employees of Bland, Perez and Cornelio were appointed directors of the company.

31. On the 22nd June 2018, Perez, ICode (beneficially owned by Cornelio) and Astelon Limited (beneficially owned by Hassans) each acquired a 33% shareholding in 36 North. Levy, having a 32% shareholding in Hassans, was therefore a 10% beneficial owner of 36 North [with the other partners each having a smaller share according to their respective interests in Hassans]. Perez and Cornelio were still employees of Bland.

32. There continued to be changes to the company formation during the proceeding months. However, the ultimate beneficial owners of 36 North remained as Perez, Cornelio and Hassans Law Firm [with Levy owning 10% beneficial share in the company owing to his 32% share in Hassans].

ALLEGATION

33. In October 2018, James GAGGERO engaged the assistance of Pricewaterhouse Cooper (PwC) and Red Maple (formerly Infosec Consulting) to regain control of the NSCIS Platform. Following the departure of Tommy Cornelio and John Perez, the platform malfunctioned. Gaggero reported this to the Commissioner of Police as he believed Tommy Cornelio and John Perez were responsible for this.

SEARCH WARRANTS AND ARRESTS

34. On 10th May 2019, the RGP executed search warrants at the home addresses of Cornelio, Perez, Asquez, and the offices of 36 North. A large number of electronic and documentary exhibits were seized.

35. Cornelio, Perez and Asquez were arrested during these search warrants.

36. On 14th May 2019, the RGP executed search warrants at the home address and office of Sanchez. A number of electronic and documentary exhibits were seized.

37. Sanchez was arrested the same day at Gibraltar Airport as he had been in London.

38. On 24th July 2019, the RGP executed search warrants at the home address and office of Aaron Chipol. A number of electronic and documentary exhibits were seized.

39. Chipol was not arrested at this time however he voluntary attended New Mole House Police Station.

40. Haim Levy has not yet been subject to Police Intervention.

BACKGROUND

41. Haim Levy is extremely influential in Gibraltar with very close connections to the Chief Minister and other HMGoG ministers. He is a senior partner of Hassans and has significant financial capabilities available to him.

CONSPIRACY TO DISHONESTLY OBTAIN THE NSCIS PLATFORM MAINTENANCE AGREEMENT

42. During the course of their employment with Bland, Perez and Cornelio, together with Levy, conspired to defraud Bland by dishonestly appropriating the NSCIS platform maintenance contract for their own benefit, via their company 36 North Limited.

43. They were assisted in attempting to obtain the NSCIS platform contract by Sanchez and to a lesser degree, Chipol both of whom are Senior Government officials.

44. The evidence in support of this offence can be divided into the following:

    a. Planning / Preparation to Obtain the NSCIS Platform (agreement / dishonesty);
    b. Appropriation of business commenced by Bland (dishonesty);
    c. Pressure and Government Officials / Undermining Bland (dishonesty);
    d. Computer Misuse Offences / Knowledge of Computer Misuse Offences (dishonesty); and
    e. NSCIS Report for Caine Sanchez (dishonesty).

Planning / Preparation to Obtain the NSCIS Platform Maintenance Contract

45. Prior to 36 North being created and during the inception, Sanchez and Levy discussed a joint venture. In January 2018, Sanchez wrote from his personal email account "*YITU – (a) security company on AI. Europe director to propose to move services from London to Gibraltar (b) interested in a joint venture with Wavetech (John Perez) (c) YITU to negotiate deal with them and deal to remove company from Blands*."

46. In a text message between Sanchez and Levy, dated the 24th July 2018, Sanchez wrote "*James I received a call from James Gaggero last night reference the security programme. I have discussed it with John and emailed the CM. It may be wise for us to meet and maybe include David Weber to go over some aspects of the conversation*."

47. In a further text, dated the 14th August 2018, he stated, "*James just got John Perez company their Insurance broker. Everything is going well with this*. *Just drafted letter to send to James Gaggero and waiting for CM to approve. I have also urged them to sign the international agreement and they are moving forward with this.*" Sanchez was advising 36 North in a business capacity. He was not independent of 36 North and unable to make an impartial decision regarding the NSCIS security platform.

48. During the course of 2018 Cornelio, Perez and Levy planned to obtain the NSCIS platform maintenance contract. This contract was the property of Bland and worth over £60,000 a month.

49. In an email sent from Perez to Cornelio, dated the 24th February 2018, (and whilst still employees of Bland) Perez attached a "*Letter of Intent*". This letter purported that 36 North already had an existing contract with HMGoG for the NSICIS platform. This proposal evidenced the intent of the suspects to obtain the contract for the benefit of their company, 36 North.

50. Between 23rd April 2018 and 22nd June 2018, the company 36 North Limited was incorporated, with Cornelio, Perez and Hassans each being 33% beneficial owners. It is believed the company was incorporated with the intent that it would obtain the benefit of the NSCIS platform maintenance contract.

51. In an email exchange dated the 20th June 2018, and whilst still employed by Bland, Perez sent an email to Cornelio called, "*36 North Cash Flow*". The document showed a forecasted revenue in favour of 36 North which included the NSCIS platform (Global invoice) for £62,519 per month.

52. This evidence is consistent with an agreement between the suspects to appropriate the NSICS platform maintenance contract, the property of Bland.

53. In addition to preparing to take the NSCIS platform maintenance contract, Cornelio and Perez dishonestly planned to hinder the ability of Bland to carry out their contractual obligations.

54. As part of this preparation, the suspects engineered a situation whereby they, together with a number of software engineers, would resign from the company at the same time.

55. Without prior notification, on the 10th July 2018, Perez and Cornelio handed in their resignations from Bland. In accordance with their respective contracts, the resignation of Perez was to take effect on the 9th September 2018 and the resignation of Cornelio was to take effect from the 10th August 2018.

56. On the 19th July 2018 both software engineers sent a text to Cornelio in which they presented draft resignations. On the same date Cornelio wrote to the engineers, "*Marius ok give me a while to review and don't send email out until I confirm with John now ok*."

57. On the 20th July 2018, Cornelio wrote on the same chat, "*Remember to stick to the story when chairman calls Joey. He has already written to John and he is denying having known.*"

58. On the 20th July 2018, the software developers resigned from their employment with Bland to join 36 North. The resulting loss of staff undermined the ability of Bland to fulfil their NSCIS contractual obligations following the departure of Perez and Cornelio from the company.

59. On the 2nd August 2018 Cornelio wrote to one of the developers regarding Gaggero attempting to retain Bland projects saying, "*In order to keep things smooth we all need to leave asap, leaving him no option."* He wrote on the same date, "*You will need to make it clear that after the 20th you are finished with Blands. That will ensure that they can't buy time*."

60. These actions were consistent with an agreement to undermine Bland, by diminishing their IT capabilities [and thereby their ability to maintain the platform] and appropriate the NSCIS platform maintenance contract.

61. On the 10th June 2018 Perez wrote to Levy, "*Preparing for our departure on 29th June. Everything else is now almost in place. John*."

62. On the 30th August, and immediately prior to Cornelio terminating his consultancy, Levy wrote to Perez, "*John I just rang you to tell you everything is under control. I've been working with Tommy on the relevant letters. I am very confident that we will bring this to a close in a successful manner very shortly. You can rest assured I will do my best to help you in every way. I have great Respect and admiration for your ability and hard work. Do not worry if there is an attack I will help you to defend and to counter-attack. You're a military man so I'm writing to you in military terms.*"

Appropriation of Business Commenced by Bland

63. During the course of their employment with Bland Cornelio and Perez were involved in a number of projects. These included:

    a. A proposal for the Carnival Corporation for a "Centralised Vessel Security Management System"; and
    b. A "*Ministry of Defence and Public Security Border Management Proposal*" for Sao Tome and Principe.

64. In an email sent from Perez to Cornelio, dated the 24th February 2018, (and whilst still employees of Bland) Perez attached a "*Letter of Intent*". This letter purported that 36 North already had existing international contracts including Carnival Cruises and Sao Tome and Principe. These were in fact contracts that were being negotiated on behalf of Bland.

65. In respect of Sao Tome, the proposal stated, "*Contract about to be signed for 7 years. Contract worth 1.6m euros with a forecast 20% increase by year 3. Contract starts in Feb 18*." Under the heading "*Carnival Cruise Lines*" is stated, "*Currently negotiating an APIS maritime system with Carnival who dominates 70% of the Cruise liner industry. A pilot platform has already been designed and discussed with Carnival CEO. A visit by Carnival's Head of Security and International representative will be visiting us in Mar 2018. Negotiation ongoing. Contract worth £175k per year*."

66. It is clear that Cornelio and Perez intended to dishonestly appropriate the business of Bland commenced by them as employees of Bland and obtain the benefits for 36 North.

67. On the 6th July 2018, Perez discussed one of these projects, namely Carnival Cruises, with Levy, despite not having resigned from Bland. He wrote, "*James we have just finished with Carnival after a long day of negotiations. We have been successful and now moving to the pilot phase. Flying back tomorrow*."

68. In respect of the Sao Tome and Principe agreement, Cornelio specifically ensured that any signature would take place after he had resigned from Bland when he stated on the 24th July 2018, "*We can agree on timeline and agree a date to sign contract. After the 10th August*"

69. Both Sao Tome and Principe and the Carnival Security Management System continued to appear on the Agenda for 36 North after both Perez and Cornelio had left Bland.

70. On the 7th September 2018, and in respect of Sao Tome, Perez wrote to Levy, "*James this week we will be receiving a contract from São Tomé and Príncipe for review. The commercial elements of the contract have already been agreed in principle. We are also closing in on Equatorial Guinea*."

<u>Pressure on HM Government of Gibraltar</u>

71. Following his departure from Bland and termination of the consultancy period, Cornelio sought to apply pressure on HMGoG to transfer the NSCIS platform maintenance contract. In particular he used connections with Chipol, Levy and John Rodriguez, the Collector of Customs.

72. Between September 2018 – May 2019, Cornelio sent Chipol numerous messages regarding the NSCIS platform. Cornelio made various requests to Chipol, as head of BCA, during this period to undermine Bland in the favour of 36 North. These requests involved sending emails purporting to be from Chipol which Cornelio had drafted and speaking to Government officials.

73. The below paragraphs refer to communications between Cornelio and Levy.

74. On the 21st August, whilst still in the consultancy period, Cornelio wrote, "*Dear James, would it be possible to sit down with you or the CM to try and move forward with out projects? I currently have a lot of work on hold pending this decision*."

75. On the 29th August 2018 he similarly wrote, "*Dear James, please try and get me a 10 min slot for me to meet the CM. I believe I am best placed to explain the entire situation and advise the best technical solution possible*."

76. On the 12th September 2018 Cornelio wrote to Levy and attached a letter to be used by the Chief Minister to terminate the Bland contracts. This letter was addressed to James Gaggero of Bland and was titled "*Termination of NSCIS, DSS, BCA, ETB and Education contracts ("the contracts")*." It explained, "*Bland Limited has failed to perform its obligations under the Contracts and is therefore in repudiatory breach… In the circumstances, please accept this letter as HMGOG's termination of the Contracts with immediate effect*."

77. On the 23rd September 2018 Cornelio wrote, "*Attached is a letter which may be of use to the GoG in order to proceed with the new platform we have offered them*."

78. By the 27th December 2018 Cornelio was concerned that the Chief Minister would not be transferring the contract to 36 North. In response Levy wrote, "*I don't think he will transfer the contracts back to 36N. We have to work on alternatives. I am happy to help …*"

79. On the 18th February 2019 he wrote to Levy saying, "*Any merit in me writing to the CM directly to request he meet with me. I miss my contracts*."

80. On the 26th March 2019 he wrote, "*Perhaps CM would be willing to put the National Security system out for tender next month*."

81. On the 27th March 2019 Cornelio again asked, "*Do you think there is any chance of getting national security contract back at some point?*" Despite his answer on the 27th December 2018 Levy responded, "*Yes*."

82. On the 3rd May 2018 Cornelio wrote again saying, "*Dear James, the national security system* [redacted]*. Can I email the CM once again to meet me? He cannot allow this to continue*."

83. On the 9th October 2018 Perez wrote to Levy stating, "*James thank you so much for this morning. I am sure our sessions will become more enjoyable as we set of in our journey. With regards to dropping Fabian a note, let's give him a bit more time. As the pressure will naturally surface through his law enforcement heads*."

84. These messages demonstrate the relationship between Levy and 36 North.

85. The Below Paragraphs are a sample of the communications between Cornelio and Perez.



87. On the 12th March 2019 Cornelio wrote to Perez, "*Spoke to JL. Can u speak to John Rodriguez this morning*." Perez replied, "*I will call him this morning*." Cornelio continued, "*Yep now is the time to attack heavily. We have the upper hand. Use ur network*"

88. On the 21st March 2019 Cornelio texted, "*We need our old system back. These bastards cannot win. Call Aaron mate, this we need to take away from them ya*."

89. The above clearly show that Cornelio, together with Perez and Levy, attempted to dishonestly apply pressure on HMGoG in order to transfer the NSCIS platform maintenance contract.

Computer Misuse Offences

90. In furtherance of the agreement to obtain the NSCIS platform maintenance contract Cornelio committed numerous computer misuse offences. These offences were primarily designed to directly or indirectly disrupt the NSICS platform, and thereby bring into question the ability of Bland to maintain the said platform. As a direct consequence of his actions Cornelio compromised the national security of Gibraltar.

91. The Computer Misuse Offences are further detailed below.

NSCIS Report for Sanchez

92. On the 4th October 2018, Peter Canessa wrote to Caine Sanchez on behalf of the Chief Minister. In an email he wrote, "*Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be provided full control of the management, maintenance and support of the NSCIS platform … Once the handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform*."

93. On the 5th October 2018 Sanchez contacted Cornelio and passed on these instructions.

94. On the 9th October 2018 Cornelio sent an email to Sanchez (with James Gaggero copied in) in which he confirmed that he would no longer access the NSCIS platform as well as writing, "*In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms*."

95. After the 31st August 2018, and subsequent to the instructions from the Chief Minister on the 4th October 2018, Cornelio was not authorised to access the NSCIS platform.

96. Contrary to these instructions, between 2216 hours on the 11th April 2019 and 0013 hours on the 12th April 2019 Cornelio accessed the NSCIS platform using the credentials of Sanchez.
97. Cornelio thereby accessed a national security platform without authority, for the purpose of undermining Bland, and obtaining the NSCIS platform maintenance contract.

98. On the 11th April 2019 Cornelio wrote to Levy, *"We are going to have a field day on the national security report..just wait until you see it. For now I am reviewing every single module 1 by 1.* [redacted]*."*

Knowledge of Computer Misuse Offences - Levy

99. On the 19th October 2018 Cornelio wrote to Levy saying, "*Morning James. Very confidential. Note Gaggero has brought in a forensic team of six to look at anything John and I may have done to tamper with the system etc. Gaggero is going all out it seems*.

100. On the same day Cornelio wrote to Perez saying, "*Spoke to James ref forensic team confidentially. Spoke to him on the phone. Call me and I can discuss. He says not to worry. I am very concerned they will try to prove I have acted to sabotage the system in any way etc*."

101. The evidence indicates that Levy discussed the forensic team with Cornelio and that he had given him advice about the situation.

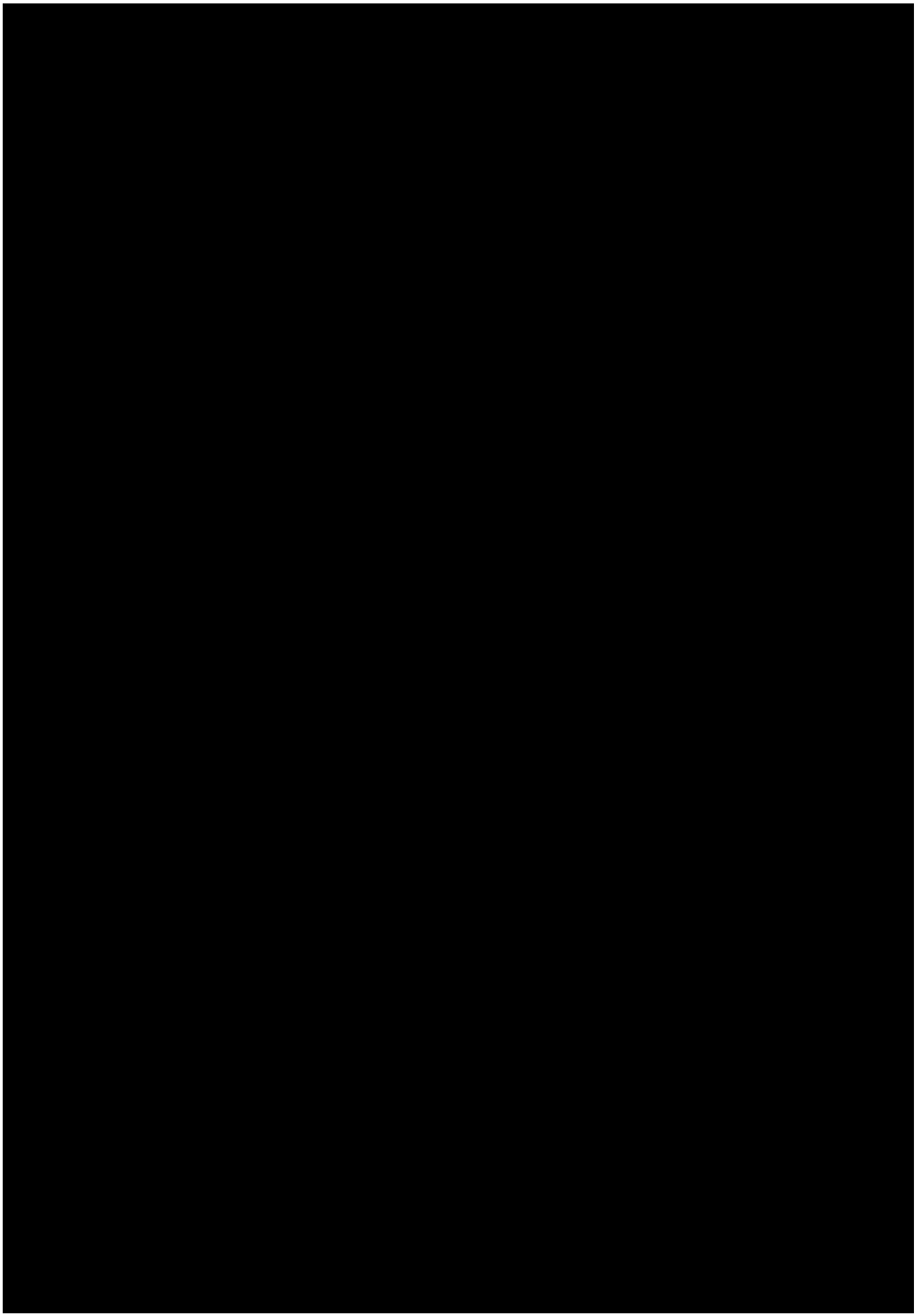
COMPUTER MISUSE OFFENCES

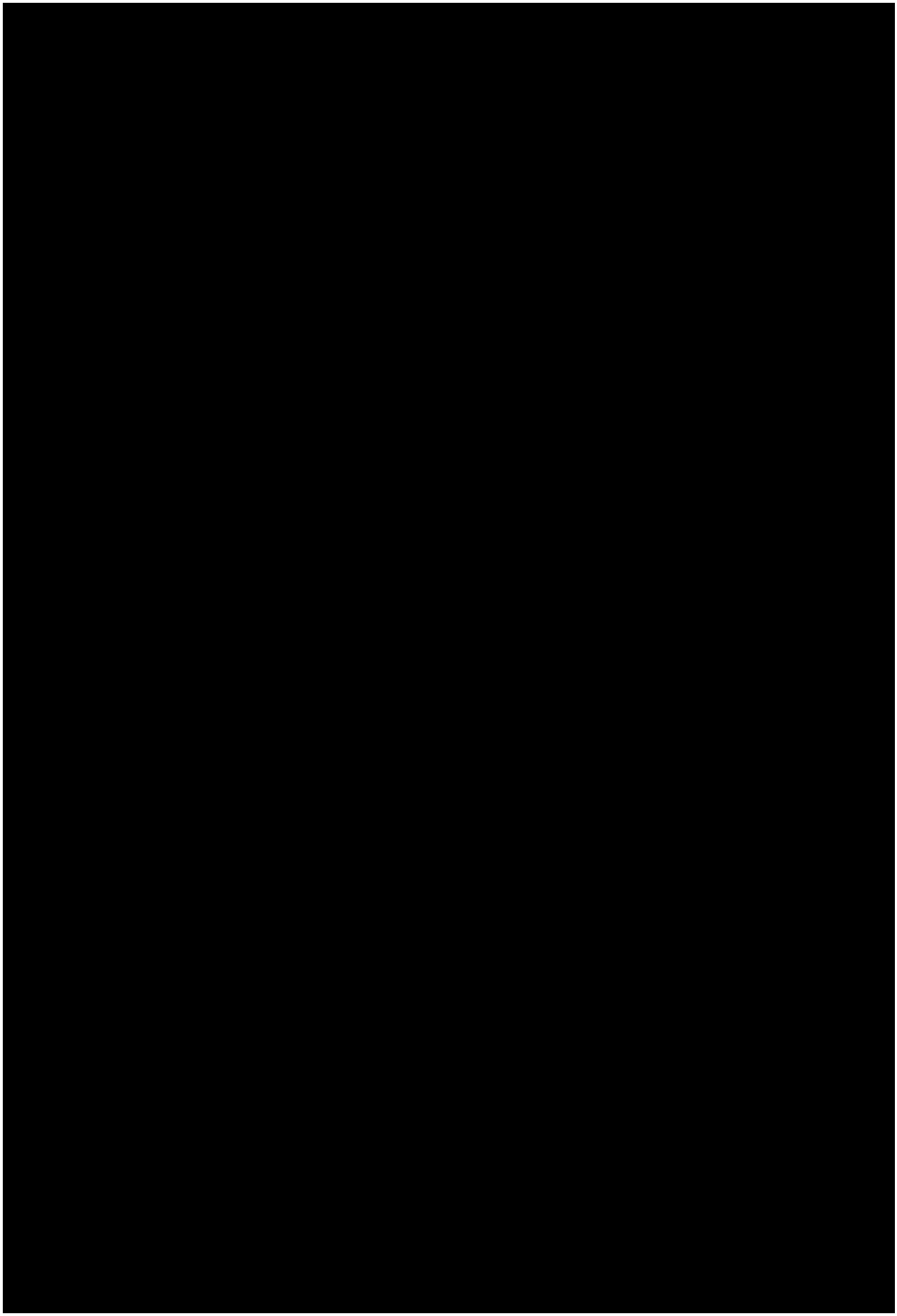
102. In furtherance of the agreement to obtain the NSCIS platform maintenance contract Cornelio committed numerous computer misuse offences. These offences were primarily designed to directly or indirectly disrupt the NSCIS platform, and thereby bring into question the ability of Bland to maintain the said platform. [redacted]

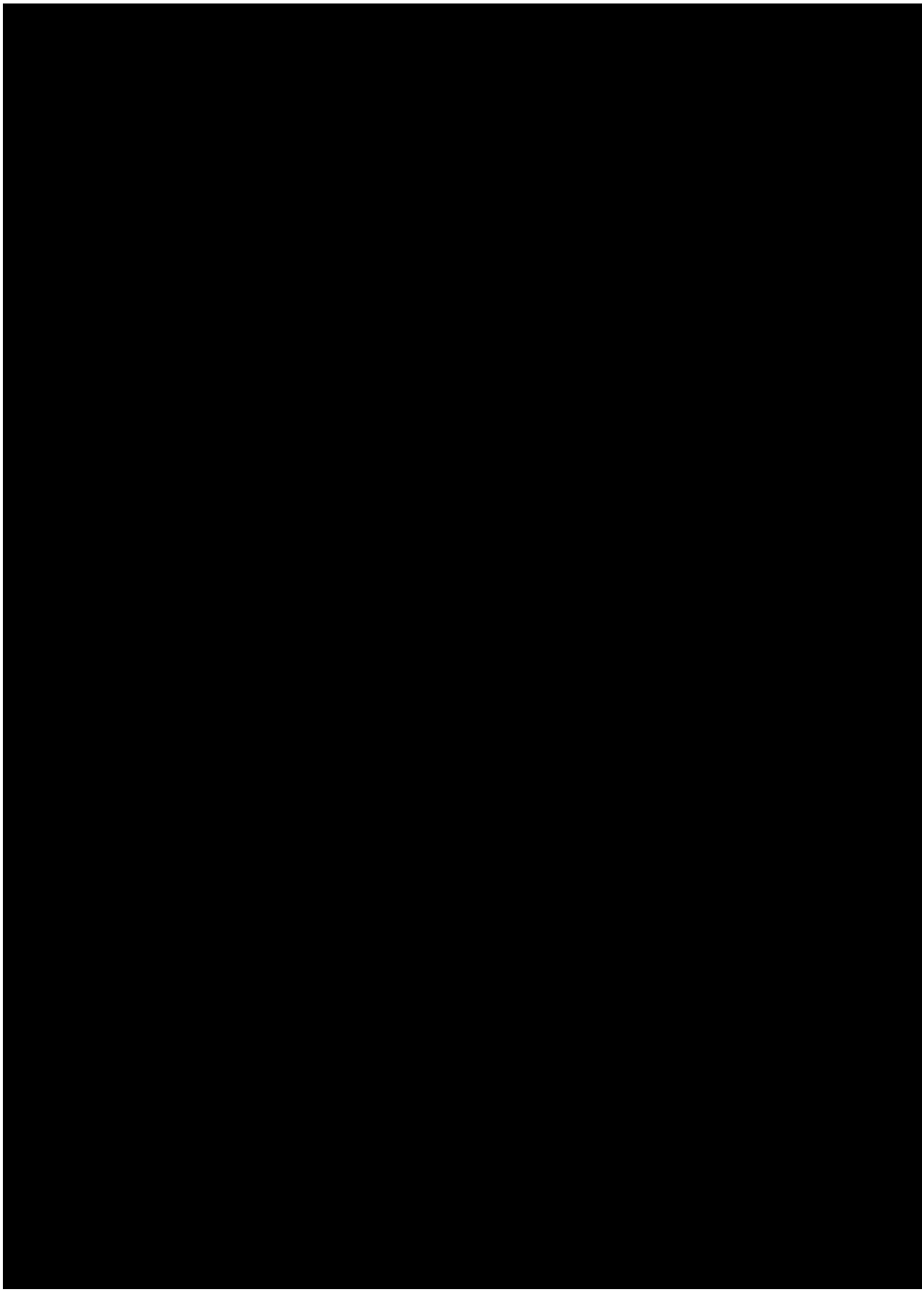
[redacted]

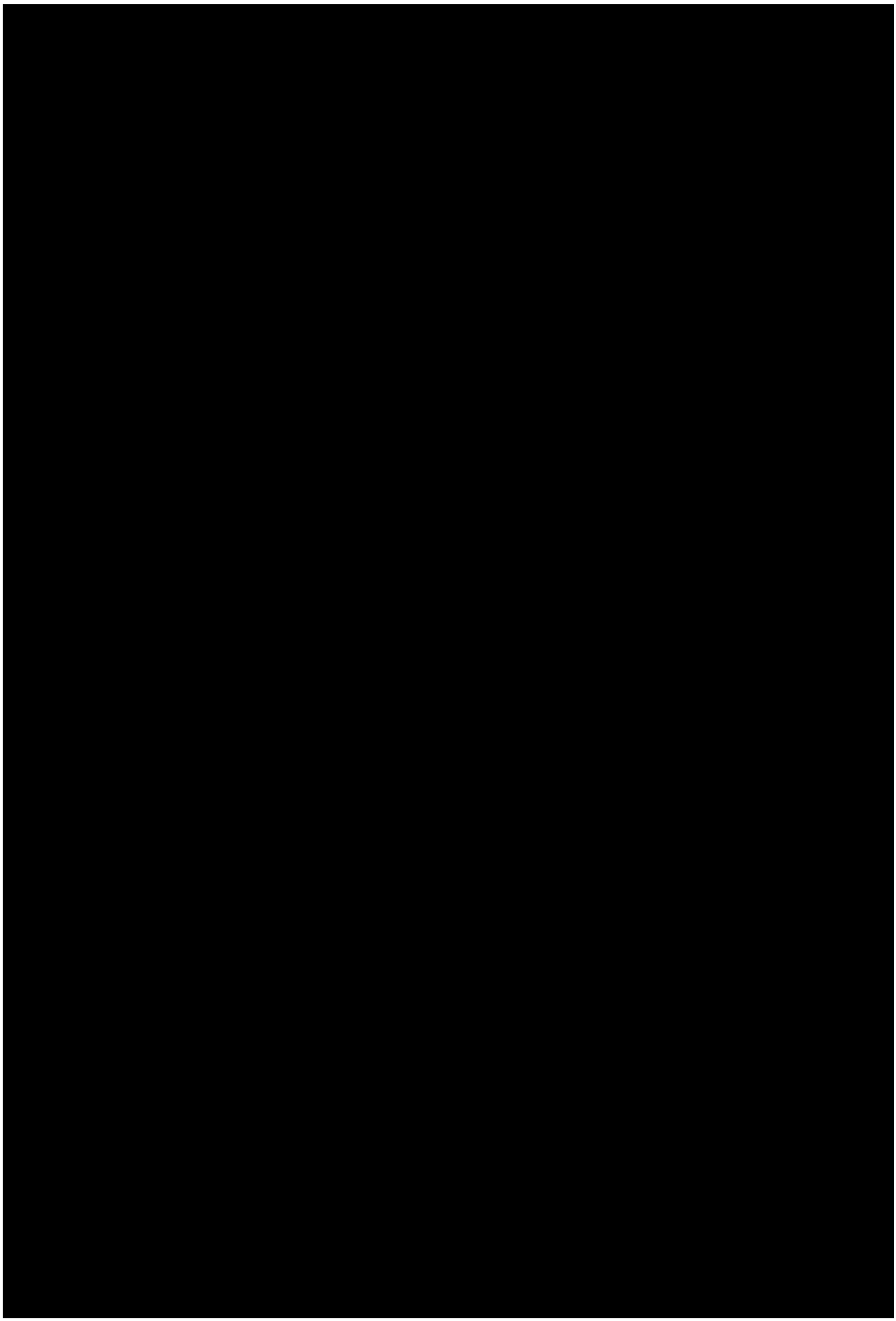
[redacted]

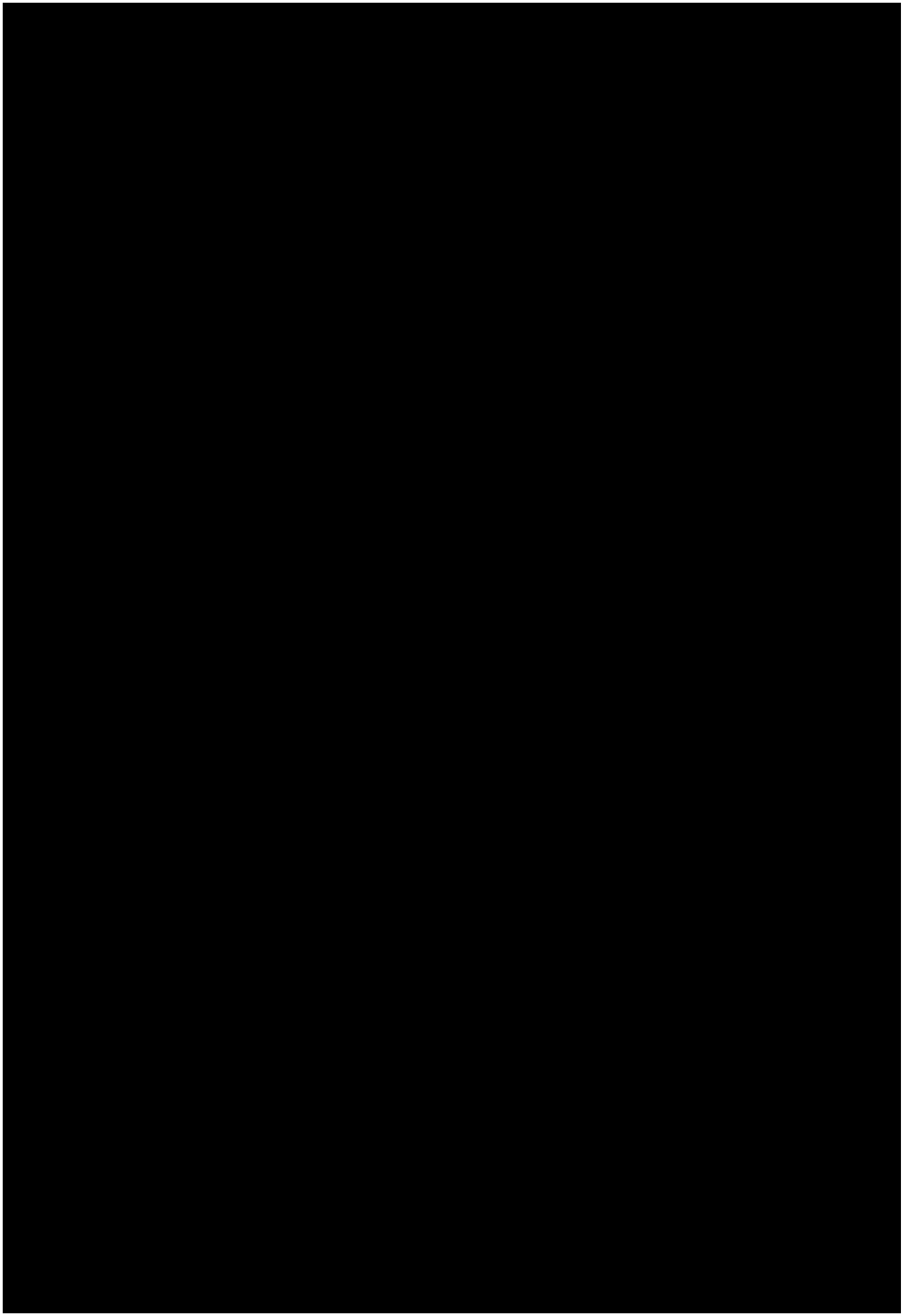
[redacted]

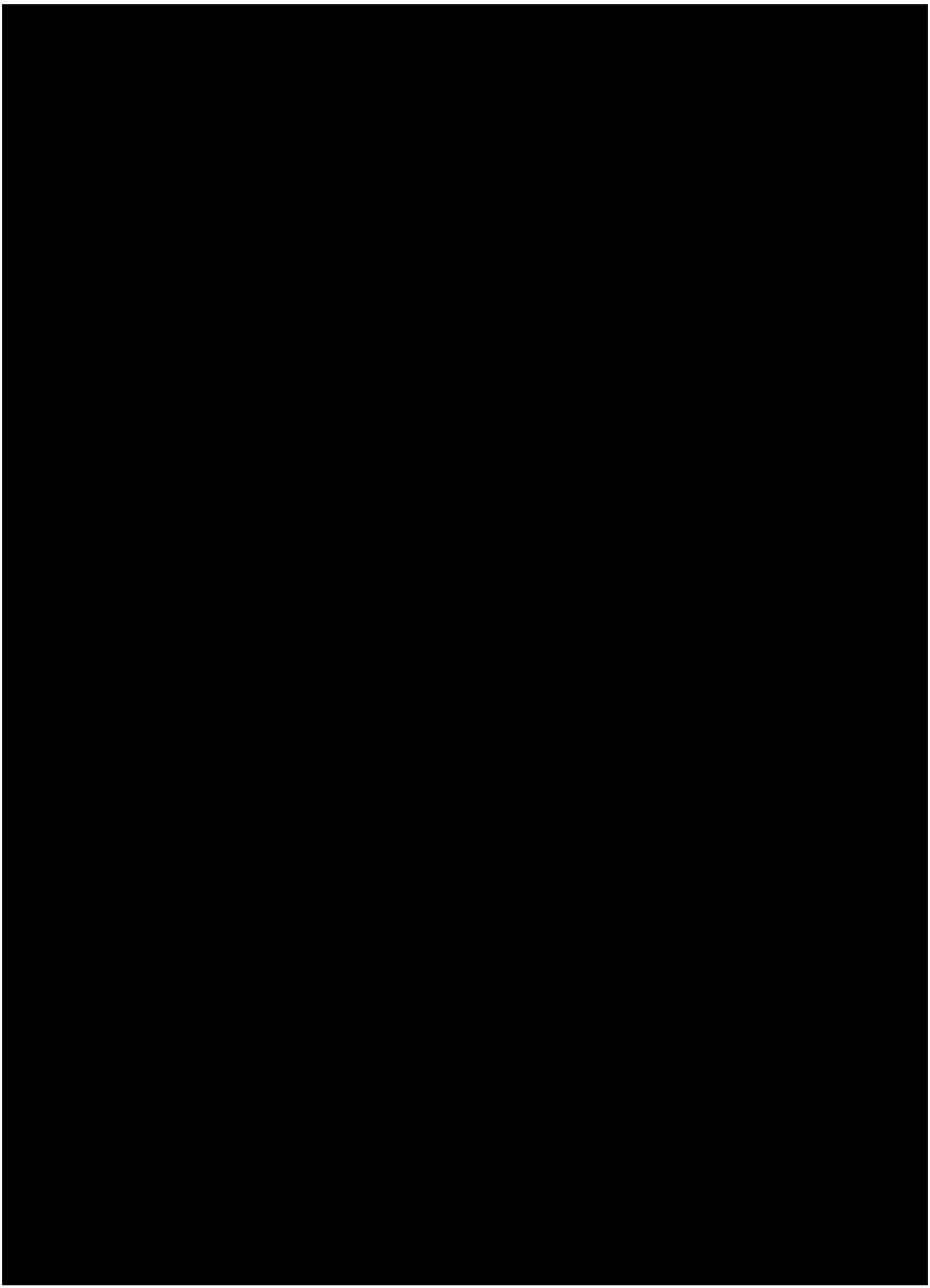


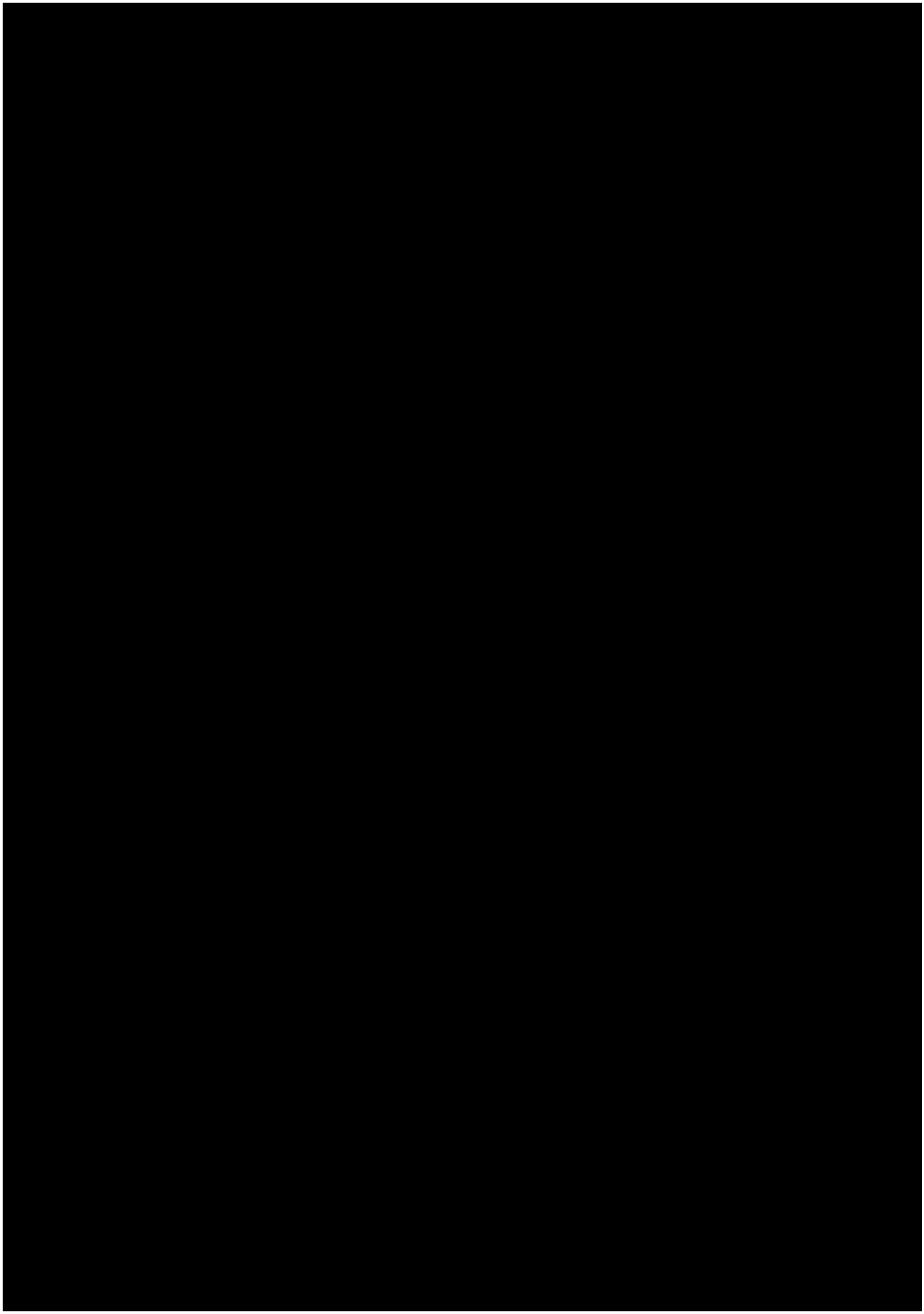


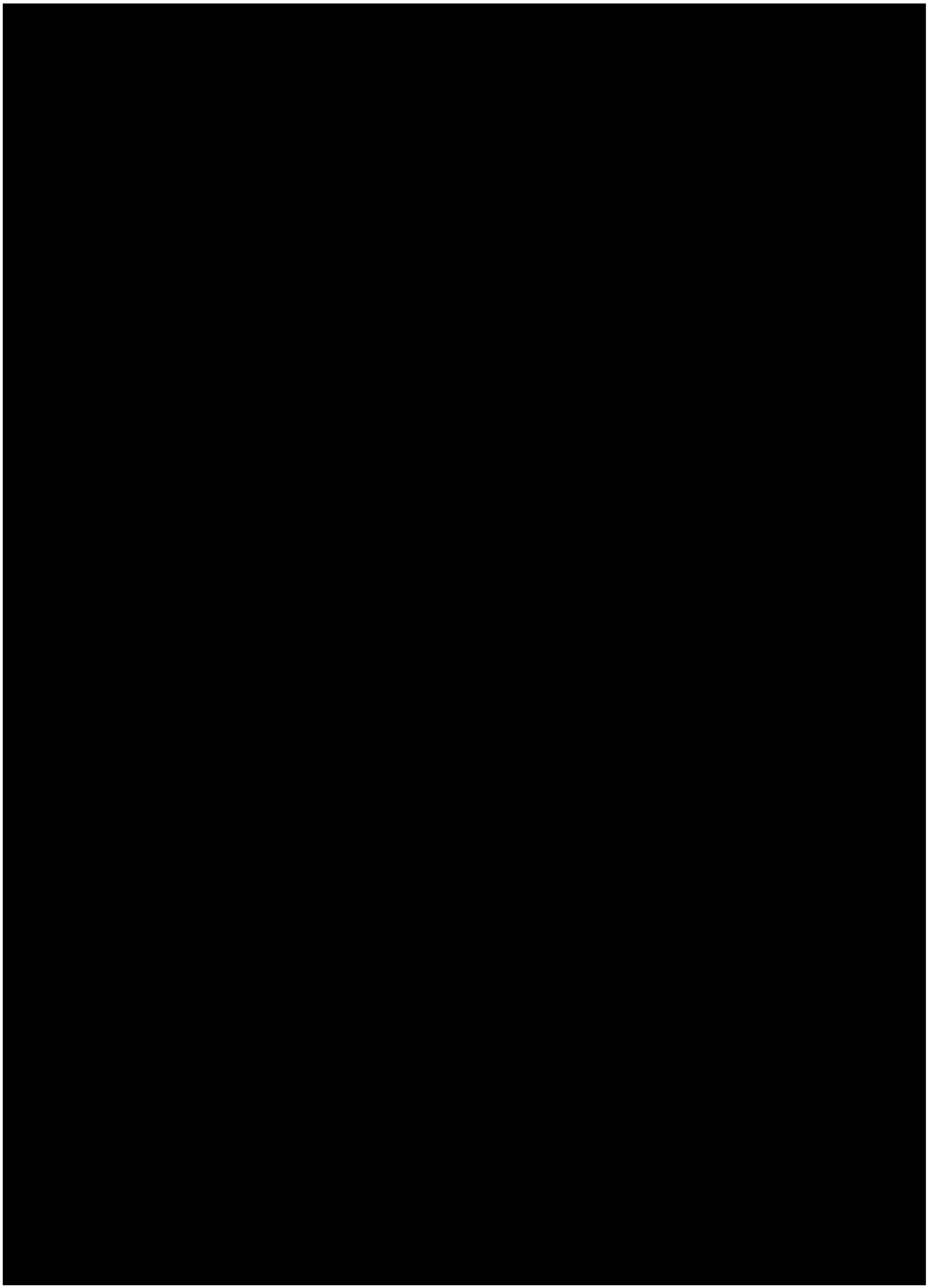














156. **Instance 31 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

157. On the 16th May 2018, being the same date on which ICode Limited was incorporated by Cornelio, the login credentials of Jonathan Galliano (Bland Head of IT and Infrastructure), in respect of the Bland Microsoft Azure account failed to work.

158. Cornelio persistently failed to restore the access despite repeated requests to do so. On 16th May 2018 he refused to grant Jonathan Galliano access. The login issues were due to Cornelio blocking the Microsoft Azure account of Galliano, as he was the only person authorised to do so.

159. These actions prevented Galliano, and thereby Bland, from accessing the NSCIS Azure resources, which hindered the ability of Bland to identify, diagnose, administer and repair issues associated with the NSCIS platform.

160. It further prevented Galliano (and thereby Bland) from accessing the Azure Management Portal activity logs, which would have identified actions carried out by Cornelio on the Microsoft Azure account.

161. These actions were consistent with an agreement to undermine Bland Limited and appropriate the NSCIS platform maintenance contract.

CHANGE OF MS AZURE BILLING DETAILS

162. The Bland Microsoft Azure account was originally set up on 24th July 2016 under the billing address "*Cloister Building, Irish Town, Gibraltar, Cadiz, Spain*". The account was paid for via Bland Group company credit cards. The account owner email address was specified as being tommy@wavetecx.com.

163. **Instance 32 - Unauthorised acts with intent to impair the operation of a computer – section 364(1) as read with s.364(2)(b) Crimes Act 2011 –**

164. Between 25th May 2018 and 25th June 2018, and without authority, the address on the account was changed by Cornelio (account administrator [redacted]) to "[redacted]". This address was Spanish property belonging to Cornelio.

165. On the 5th July 2018 the Bland Limited mobile phone numbers [redacted] (used by Perez) and [redacted] (used by Cornelio) were removed from the Bland Limited Gibtelecom account without authority.

166. On the 27th July 2018, and without authority, Cornelio deleted all Wavetecx mailboxes and data files from the Wavetecx server, including the email address tommy@wavetecx.com . Cornelio deleted this mailbox in the belief that it could not be recovered.

167. On the 17th October 2018, and with the assistance of InfoSec Consulting (subsequently Red Maple Technologies), Bland attempted to remove Cornelio as the default owner of the entire MS Azure account (Azure Account Administrator / Azure Service Administrator).

168. InfoSec initially attempted to remove Cornelio with the use of phone number support arrangements offered by Microsoft. The corporate Bland phone used by Cornelio as a backup device for account password recovery could not be located.

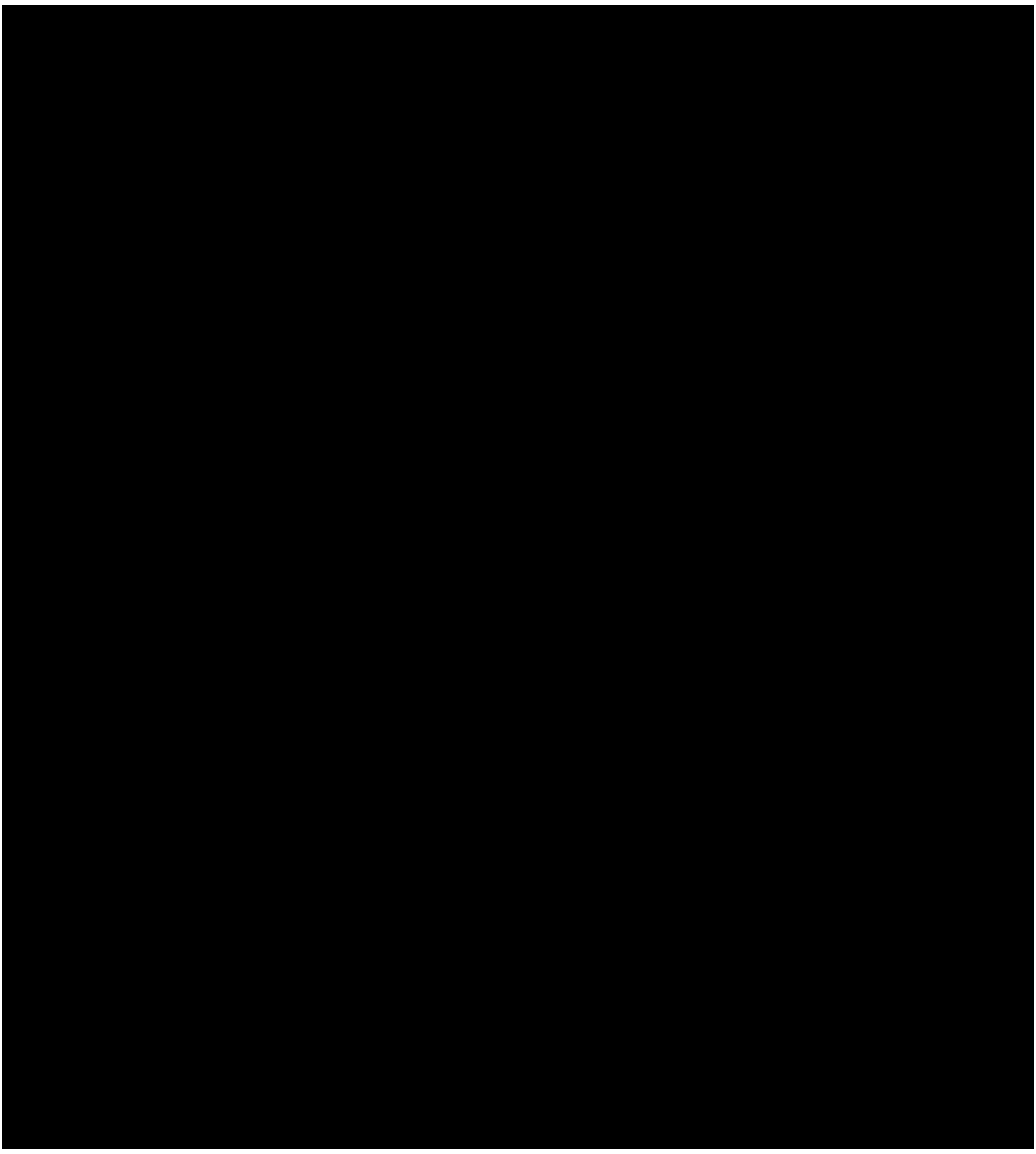
169. Microsoft support in the form of a Microsoft Enterprise Agreement was subsequently requested. This was substantially frustrated by the change of address, meaning that Bland found it difficult to prove that they were the valid owner of the account.

170. The actions were consistent with an agreement to undermine Bland Limited and to transfer the NSCIS platform maintenance contract to 36 North.

171. **Instance 33 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

172. On 9th July 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.

[redacted]



179. These actions were consistent with an agreement undermine Bland Limited and dishonestly appropriate the NSCIS platform maintenance contract.

180. **Instance 35 - Unauthorised acts with intent to impair the operation of a computer – section 364(1) as read with s.364(2)(b) Crimes Act 2011).**

181. Once Wavetecx were incorporated, Cornelio, Perez and Asquez used '@wavetecx.com' email addresses. These Wavetecx email accounts were the property of Bland Limited.

182. Between 23rd - 28th July 2018, without authority, and while still an employee of Bland (in his notice period), Cornelio logged onto the Wavetecx email server and exported all the data including user mailboxes and data files from all Wavetecx email accounts. These included the email accounts of Perez and Cornelio.

183. On the same date, and without authority, Cornelio deleted all Wavetecx mailboxes and data files from the Wavetecx server. The email accounts included evidence of the intent of Perez and Cornelio to appropriate the NSCIS maintenance contract, as well as potential customers of the NSCIS platform and communications with HMGoG relating to the NSCIS platform.

184. These actions were performed from IP addresses attributed to Cornelio.

185. Cornelio exported and deleted these mailboxes in the belief that these mailboxes could not be recovered.

186. Despite his belief that they could not be retrieved, the content of these mailboxes were later recovered by Bland.

187. These actions were consistent with the agreement to undermine Bland Limited and appropriate the NSCIS platform maintenance contract.

188. **Instance 36 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

189. On 24th July 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.

190. **Instance 37 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

191. On 25th July 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.

192. **Instance 38 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

193. On 26th July 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.

194. **Instance 39 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

195. On 31st July 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account. **(Exhibit JOG/17 refers).**

196. **Instance 40 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

197. On 2nd August 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.

198. **Instance 41 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

199. On 6th August 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.



206. The actions were consistent with an agreement to undermine Bland Limited and to transfer the NSCIS platform maintenance contract to 36 North.

TERMINATION OF CONSULTANCY PERIOD

207. On the 1st September 2018 Cornelio terminated the consultancy period with Bland. In an email to James Gaggero, dated the 30th August 2018 he wrote, "*Please let this email serve as official notice that as of 00:00 on 1st September 2018 I will no longer be supporting the NSCIS platform in any capacity*."

208. On the 9th October 2018 Cornelio sent an email to Sanchez (with James Gaggero copied in) in which he wrote, "*In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms*."

209. As of the 1st September 2018 Cornelio was no longer authorised by Bland to access the NSCIS platform.

210. However, Microsoft Azure logs revealed that Cornelio had logged on using his account [redacted] on numerous occasions after the 31st August 2018.



UNAUTHORISED UPDATING FIREWALL RULES

215. **Instance 44 - Unauthorised access to computer material – section 362 Crimes Act 2011). The exact nature of this action was not logged.**

216. On 5th September 2018, Cornelio logged onto the NSCIS Azure account using his Azure account [redacted] and made firewall rule changes

UNAUTHORISED DATABASE TRANSFER

217. **Instance 45 - Unauthorised acts with intent to impair the operation of a computer – section 364(1) as read with s.364(2)(e) Crimes Act 2011.**

218. On the 6th September 2018, Cornelio logged onto Azure using his account [redacted] and exported all eighteen NSCIS Azure SQL databases.

219. This action was carried out from an IP address directly connected to Cornelio.

UNAUTHORISED ACCESS – "NSCISBLOBS"

220. **Instance 46 - Unauthorised access to computer material – section 362 Crimes Act 2011**

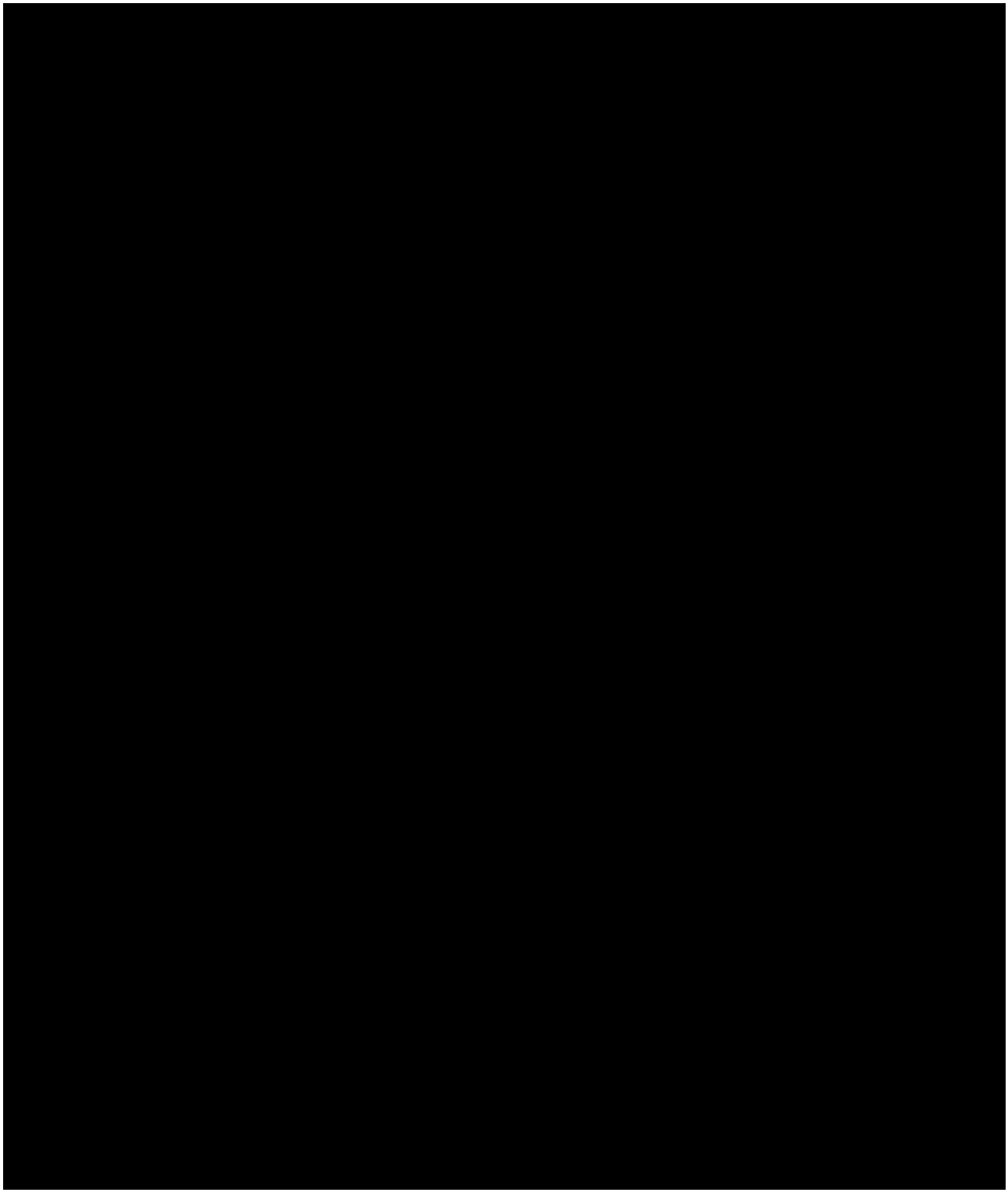
221. On 6th September 2018, that is, after the termination of the consultancy period, Cornelio logged onto the NSCIS Azure Blob Storage account "nscisblobs", using his Azure account [redacted].

[redacted]

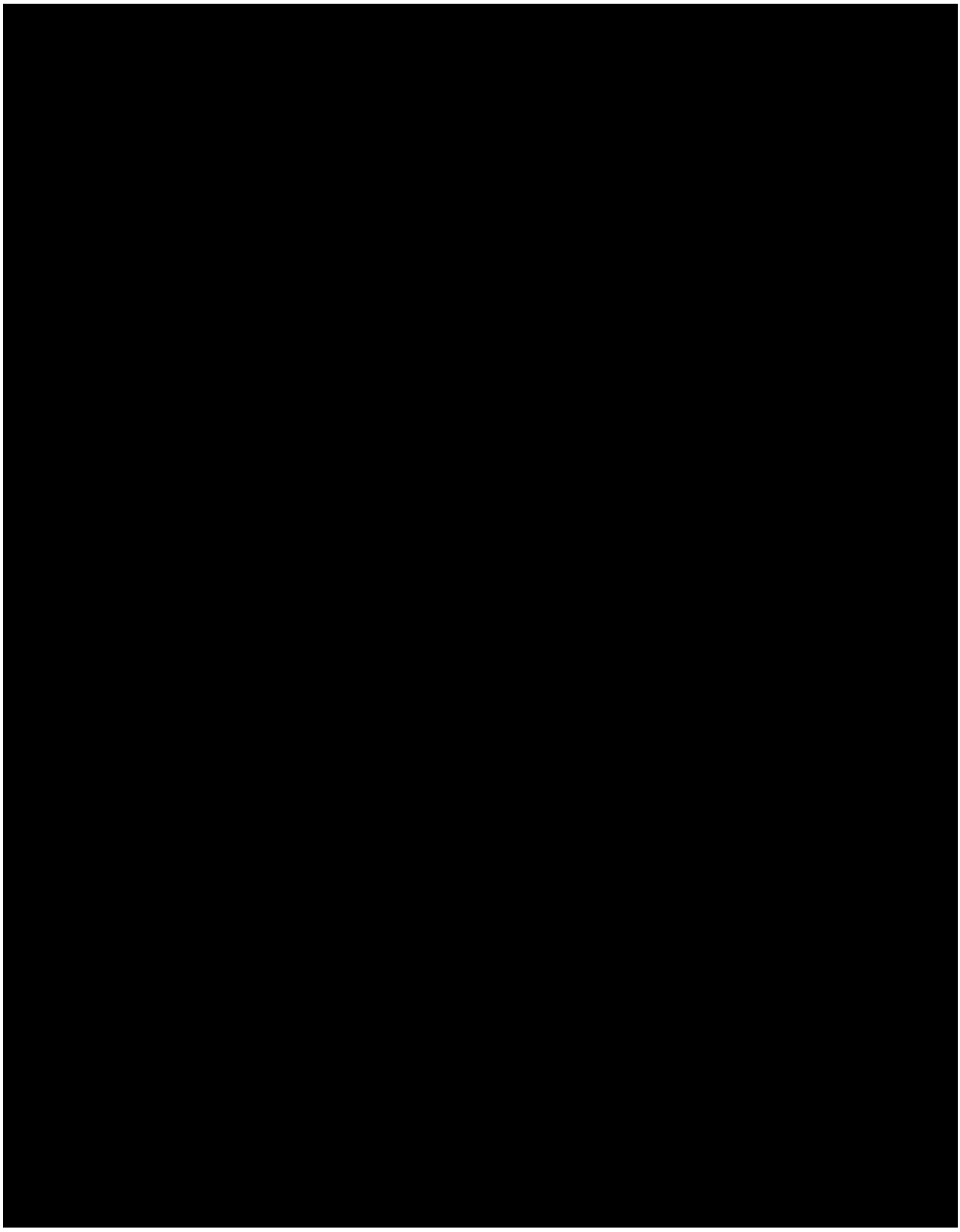


229. The actions were consistent with the agreement of Cornelio and Sanchez to undermine Bland Limited and appropriate the NSCIS platform maintenance contract.









TWITTER

256. Up until the 4th October 2018, that is, the day on which the Chief Minister gave instructions for the NSCIS platform not to be accessed by Cornelio, tweets of border queuing images were being posted by Bland to Twitter handle @gibraltarborder.

257. At that time Cornelio was the sole owner and administrator of both the Twitter handle @gibraltarborder and linked Twitter account (ID 2535097143). This account is owned by Bland and was administered by Cornelio during the course of his employment. The account had over 4400 followers, subscribers, and tweet history.

258. Linked to this account was the personal Twitter developer account of Cornelio.

259. As a result of the failure on the 4th October, Bland recreated the Twitter Windows service and software library source code. The Windows service had to be restored from the source code retrieved on the 19th July 2018 [and unknown to Cornelio]. The Twitter Windows service and software library was not present in the source code provided by Cornelio on the 7th September 2018.

260. This was put into operation on the 5th October 2018 at 1355 hours. The new Twitter service successfully posted tweets between 1355 hours and 1935 hours on the same day.

261. After 1935 hours the Twitter Windows service failed to post tweets due to an invalid or expired key token. Cornelio, as the administrator of his personal Twitter developer account was the only person able to change tokens required to access and post tweets to @gibraltarborder.

262. **Instance 62 - Fraud by failing to disclose information – contrary to section 417 Crimes Act 2011 –**

263. On 4th October, Cornelio failed to disclose to Bland, the location of the Twitter Windows service posting to Twitter account number 2535097143.

264. **Instance 63 - Fraud by failing to disclose information – contrary to section 417 Crimes Act 2011 -**

265. Between the 5th and 7th October 2018, immediately after the Chief Minister gave an instruction for Cornelio to no longer access NSCIS, Cornelio changed the twitter handle from @gibraltarborder to @gibraltarbord. In doing so he retained all of the original followers, subscribers and tweets associated with ID 2535097143.

266. At 1924 hours on the 7th October 2018 Cornelio created a new Twitter account (ID 10489875235226139904) with the now free handle @gibraltarborder from an IP address associated with his home address. He then provided the administrator credentials to this new account to Bland in an email.

267. Cornelio thereby retained the Bland Twitter account (ID 2535097143) and failed to disclose the administrator access to Bland on 8th October 2018.

268. The actions were consistent with an agreement to undermine Bland Limited and to transfer the NSCIS platform maintenance contract to 36 North.

269. Between April – December 2019, approximately 6600 tweets were deleted from the Twitter Handle @Gibraltarbord.

FRONTIER QUEUE HOTLINE

270. On the 8th August 2018, that is, 2 days before he resigned from Bland, Cornelio requested that the Frontier Queue Hotline phone number 20042777 be forwarded on to UK phone number +44 7428310899, and that voicemail on phone number 20042777 be disabled.

271. Bland hold an account with *Messagebird*, a third-party service provider. Bland use their services extensively within the NSCIS platform for voice and SMS capabilities. The number +44 7428310899 is a number held on a *Messagebird* account however it was not transferred by Cornelio to the Bland account. It was therefore not accessible by them.

272. The new UK number required the development of a new Windows service to update the new phone line with the frontier queue times. On the 9th August Cornelio wrote that the physical server at Cloister Building, which hosted the Frontier Queue Hotline, was redundant. This confirmed that the new Frontier Queue Hotline windows service had been relocated to a server not known to Bland.

273. **Instance 64 - Fraud by failing to disclose information – contrary to section 417 Crimes Act 2011 -**

274. On the 5th October, that is, the day on which Cornelio was officially informed that he was no longer to access the NSCIS platform, the Frontier Queue Hotline was disabled or failed. Bland was unable to remedy this as they had no knowledge of which server the Widows service was running from.

275. In order to restore the service a new Frontier Queue Hotline service had to be developed. This was further hindered by the fact that the source code provided by Cornelio on the 7th September 2018 did not contain the most up to date version of the Windows service.

276. As a result, the Frontier Queue Hotline service was not operating for a total of 26 days.

277. The actions were consistent with an agreement to undermine Bland Limited and to transfer the NSCIS platform maintenance contract to 36 North.

278. **Instance 65 - Fraud by failing to disclose information – contrary to section 417 Crimes Act 2011 -**

279. On the 7th October when requested to, did not disclose to Bland the location of the server on which the Frontier Queue Hotline Windows Service associated with Messagebird Number +447428310899 was running from.

UNAUTHORISED ACCESS - NSCIS BACKOFFICE

280. On the 4th October 2018, Peter Canessa wrote to Caine Sanchez on behalf of the Chief Minister. In an email he wrote, "*Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be provided full control of the management, maintenance and support of the NSCIS platform … Once the handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform*."

281. On the 5th October 2018 Sanchez contacted Cornelio and passed on these instructions.

282. On the 9th October 2018 Cornelio sent an email to Sanchez (with James Gaggero copied in) in which he confirmed that he would no longer access the NSCIS platform as well as writing, "*In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms*."

283. **Instance 66 - Unauthorised access to computer material – section 362 Crimes Act 2011 -**

284. In contravention of the instructions, on the 7th October 2018 Cornelio accessed the NSCIS back office using his Bland group email tommy.cornelio@blandgroup.com. The access was obtained from an IP address directly associated with Cornelio.

DATABASE REINDEXING

[redacted]









305. These actions were carried out from an IP address connected to Cornelio.



[redacted]

308. The actions of Cornelio between 7th – 11th October 2018 posed a serious and credible risk to the National Security of Gibraltar.

309. **Instance 76 - Unauthorised access to computer material – section 362 Crimes Act 2011**

310. On 17th October 2018, that is, after the termination of the consultancy period, Cornelio logged onto the NSCIS Azure Blob Storage account "nscisblobs", using his Azure account [redacted].

NSCIS REPORT FOR SANCHEZ

311. On the 4th October 2018, Peter Canessa wrote to Caine Sanchez on behalf of the Chief Minister. In an email he wrote, "*Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be provided full control of the management, maintenance and support of the NSCIS platform … Once the handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform*."

312. On the 5th October 2018 Sanchez contacted Cornelio and passed on these instructions.

313. On the 9th October 2018 Cornelio sent an email to Sanchez (cc. James Gaggero) in which he confirmed that he would no longer access the NSCIS platform as well as writing, "*In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms*."

314. Post 31st August 2018, Cornelio was not authorised to access the NSCIS platform. This was re-enforced by the instructions from the Chief Minister on the 4th October 2018.

315. **Instance 77 – Unauthorised access to computer material – contrary to section 362 Crimes Act 2011 -**

316. Contrary to these instructions, between 2216 hours on the 11th April 2019 and 0013 hours on the 12th April 2019 Cornelio accessed the NSCIS platform using the credentials of Sanchez which were provided to Cornelio by Sanchez.

317. Cornelio thereby accessed a national security platform without authority, for the purpose of undermining Bland, and obtaining the NSCIS platform maintenance contract.

318. On the 11th April 2019 Cornelio wrote to Levy, *"We are going to have a field day on the national security report..just wait until you see it. For now I am reviewing every single module 1 by 1. [redacted]."*

LEVY'S INVOLVEMENT

319. The above paragraphs demonstrate Levy was involved in the plan to remove the NSCIS contract from Bland at an early stage;

a. Messages between Levy and Sanchez show communication discussing moving the contract away from Bland in early 2018. (Paras 45 to 47)

b. Levy was instrumental in the creation of 36 North. Firstly, by being owning 32% of shares of Astelon Ltd, who in turn own 33% of shares of 36 North. (Paras 31 to 32) On behalf of Hassans, he injected a large sum of money into 36 North.

c. He was using his influence with the Chief Minister to the advantage of 36 North.

d. He was regularly contacting both Cornelio and Perez in relation to 36 North whilst they were still employed by Blands and following their resignations. (Paras 61 to 89).

e. Communications show he was aware of the Computer Misuse Offences committed by Cornelio. (Paras 99 to 100).

320. I now seek to recover –

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

I submit to your Worship that there are reasonable grounds for believing that:

321. **Indictable offences have been committed;**

Conspiracy to Defraud contrary to Common Law.

322. **There is material that consists of special procedure material or includes special procedure material and does not also include excluded material on premises specified in the application.**

Data has been created or acquired in the course of the business of Hassans International Law Firm, of which the subject is a senior partner. As a law firm, this data is held under an express or implied duty of confidence the company owes to their clients.

The material sought does not include any Excluded Material (i.e. it's not medical records or journalistic material or material held under secrecy imposed by a specific enactment such as the Official Secrets Act).

E.g. the material sought consists of communications between the subjects of this application. This would not be classified as legally privileged material. This material does not however consist of anything which could be regarded as Excluded material - i.e. medical records, records relating to counselling or welfare assistance, or journalistic material. The material sought is not, and does not contain any Legal Privilege Material however it is understood legally privileged material may be present on digital devices which will be seized. All digital devices will be reviewed by an appointed independent legal representative prior to the OIC being given access to any material.

The material sought does not contain any Legal Privilege material.

323. **The material is likely to be of substantial value to the investigation and is likely to be relevant evidence.**

a. The material will assist to prove or disprove the subject's involvement in the offences stated. The material sought will show to what level the subject was involved with 36 North.

b. This information is relevant because it will identify to the OIC if the suspected offence has been committed by the subject.

I also ask your Worship to consider the following points;

324. **Other methods of obtaining the material have not been tried because it appeared they were bound to fail.**

The material sought is held by a subject in this case and it is feared if notice was given to the subject to provide this material to the OIC, the subject would destroy, alter, deface or conceal the material sought.

325. **It is in the public interest that access to the material sought should be given, having regard to the benefit likely to accrue to the investigation if the material is obtained and to the circumstances under which the person in possession of the material holds it.**

a. The offence is of a serious nature and the material sought is likely to be valuable evidence that cannot be obtained from any other source.

b. If access to the material sought is obtained under the power of the warrant I apply for, any professional or ethical duties of confidentiality which may exist between the subject and Hassans and those persons or business to whom the material refers will be preserved.

326. **Service of notice of an application for a Production Order or der under Para 4 Schedule 1 CPE Act may seriously prejudice the investigation.**

A key subject in this case is the person I would serve a Production Order for the material sought. In the circumstances it is highly likely that they would destroy, alter, deface or conceal the material sought because it is evidence sought by the OIC which may prove their involvement in the offence.

327. **For these reasons I ask your Worship to grant the search warrant(s) I apply for.**

Prepared By:
Paul CLARKE
Detective Sergeant 130
Money Laundering Investigation Unit
Royal Gibraltar Police
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Royal Gibraltar POLICE | *Delivering a Safer Gibraltar through Excellence in Policing*

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Commissioner of Police
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14th May 2020

Our Ref: IM160

Mr Lewis Baglietto QC
PO Box 199
Madison Building
Midtown, Queensway
Gibraltar

Dear Sir,

I have been forwarded a copy of your letter addressed to Detective Superintendent Paul Richardson dated 13 May 2020 the contents of which have been noted.

I have been fully briefed as to the conduct of the investigation and given the seriousness of the allegations made and the matters raised. I have seen fit to respond directly.

At the outset I must point out that the sequence of events are not as you have described and I do not agree with you that there were reasonable grounds to believe that Mr Levy would have simply handed over his devices and documents.

Notwithstanding the fact the police attended with a search warrant issued by the Magistrates Court, an attempt was made to try and deal with the matter by consent. This involved Mr Levy consulting with 'senior silk' in private and informing the officers that he would consent to handing over the items sought as long as the interests of his clients were protected. Once the means in which they would be achieved was clear Mr Levy signed the relevant form after reading it and consulting with Mr Chincotta. Accordingly the search warrant was not executed but rather Mr Levy chose to hand over his devices voluntarily, albeit after some time and after extensive consultation.

I do not agree with you that warrant was excessive, unjustified or unlawful and in my view the action taken was both legitimate and proportionate in the circumstances. I do not think it would serve any purpose to enter into a discussion on the use of Productions Orders as opposed to a Search Warrant.

In relation to the items that you have requested I have attached a copy of the search warrant to this email. I am unable at this time to comply with your request for a copy of the application for the search warrant or any other written evidence as this could potentially compromise an ongoing investigation as Mr Levy has yet to be interviewed. The same applies to point 4 (any notes taken by the RGP of the hearing). The only order or ruling that I am aware of made by the Stipendiary Magistrate was the warrant itself. Although the DPP has been consulted on various non-operational issues concerning this investigation including the

status of various parties he has not provided advice on the application of a search warrant which remains an operational matter.

Please rest assured that the RGP has not copied or downloaded any material so far and in fact the devices remain sealed and I have assumed safe custody of them. I remain convinced of the legality of our course of conduct but undertake to postpone their submission to be examined for seven days from the date of this letter in the event that you may wish to make any legal challenge to this decision.

I would also ask you to please note that it is not a question of me refusing to meet with you and the Attorney General, but rather I view it as inappropriate given the circumstances in which we find ourselves which I trust you understand.

I enclose a copy of a notice regarding voluntary attendance for police interview. This sets out the topic areas which we seek to explore in the formal police interview. I should point that we have not shared this document with any other party. It would be very helpful if Mr Levy brings any material with him that may support his account or provide it in advance of his attendance. Additionally, as would be normal practice counsel will be provided with a pre-interview briefing

Finally, as you will no doubt be aware, Mr Levy undertook to voluntarily extract the relevant emails and other documents from Hassans servers and provide these to police along with all files concerning Astelon Ltd and 36 North Ltd. Grateful if you advise when these will be supplied to assist with our investigation.

Yours faithfully

Ian McGrail OTM MSc
Commissioner of Police

Hassans
International Law Firm

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F: +350 200 71966
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www.gibraltarlaw.com

Your reference
Our reference LB/JM/
Date 15 May 2020

Direct email: lewis.baglietto@hassans.gi

H.M. Attorney General
Attorney General's Chambers
40 Town Range
Gibraltar

Dear Attorney

Schedule 1 paragraph 12 Criminal Procedure and Evidence Act 2011 search warrants granted on 7 May 2020 in respect of premises at Don Place, 8 Governor's Lane; and Hassans International Law Firm Madison Building

We refer to our earlier correspondence with you in this matter, dated 12 May 2020, and to the Commissioner of Police's attached letter dated 14th May in reply to our letter to Superintendent Richardson dated 13th May, which we copied to you. We are copying this letter to the Commissioner of Police.

Introduction

We set out in outline below the reasons why there are very good grounds for believing that the warrants were improperly procured and wrongfully granted (in the course of an *ex parte* hearing), and why the RGP officers acted unlawfully in attending the premises and using the threat that they would execute the warrants to obtain from Mr Levy QC the material that they sought.

As we have stated in my earlier letter, it is extraordinary that the RGP should have thought it appropriate to resort to the draconian route of Schedule 1 paragraph 12 search warrants, and no less extraordinary that the Stipendiary Magistrate should have thought it right and appropriate to grant the two applications. There were serious and multiple breaches of the statutory requirements and wholesale departures from best practice. There can be little surprise that, as we believe is the case, the DPP advised the Commissioner against the making of these applications.

The issue of the warrants was unnecessary and oppressive, and the threat to use them highly distressing. Their issue directly impugned, as we have stated, Mr Levy's reputation and dignity as an officer of the court, the senior partner of Gibraltar's largest law firm and as a highly respected member of the local community.

It was also a gross abuse of power for RGP to have threatened the use of previously obtained search warrants to secure compelled and involuntary consent to enter the two premises and seize materials. Indeed, the very fact that Mr Levy QC was prepared to allow the officers entry (notwithstanding the non-execution of the warrants) belies RGP's unsupported assertion to the Magistrate that there were reasonable grounds for believing that "*other methods of obtaining the material have not been tried because it appeared that they were bound to fail*" (Schedule 1, paragraph 2(b)(ii)) and that there was a basis upon which he could be additionally satisfied that "*(b) it is practicable to communicate with a person entitled to grant entry to the premises, but not practicable to communicate with any person entitled to grant access to the material*" or "*(d) service of notice of an application for an order under paragraph 4 may seriously prejudice the investigation*" (Schedule 1, paragraphs 14(b) and (d)). Either the warrants were needed and justified, or they were not, and it is simply not correct for the Commissioner to state, as he does in his letter of 14th May 2020, that the items sought were handed over consensually, thereby rendering the RGP action 'legitimate and proportionate'.

The Commissioner has, so far, unlawfully refused to provide any detail of the basis upon which the applications for the warrants was made. Indeed, on 12 May 2020, following the events in question, the RGP provided Mr Levy QC with a misleading *proforma* which wrongly suggested that the search powers were being exercised under the section 21 "Entry for the purposes of arrest etc" power.

The Commissioner's refusal to provide a copy of the applications for the issue of the warrants that were made by his officers, or of any evidence adduced in support, or of any notes made by the RGP during the *ex parte* Magistrates' Court hearing, on the basis this could 'potentially undermine an ongoing investigation as Mr Levy has yet to be interviewed' is perverse and wrong in law, and provides a further basis for a potential challenge.

There exists a stand-alone obligation on the *ex parte* applicant for a warrant, and on the court that granted it, to provide all relevant material adduced in support of the application: R(Energy Financing Team Ltd) v Bow Street Magistrates' Court [2005] EWHC 1626 (Admin) at para 27; R(Gittins) v Central Criminal Court [2011] EWHC 131 (Admin, at para 25(2); R(Faisaltex) v Crown Court at Preston [2008] EWHC 2832 (Admin) at para 35; R(S) v Chief Constable of the BTP [2013] EWHC 2189 at para 46.

The person who is seeking to challenge the grant of a warrant is entitled to know the basis upon which it was granted, and the case law simply does not provide, in the absence of a properly formulated application by the body that obtained the warrant for relevant information to be withheld on the basis that its disclosure would seriously prejudice the public interest: R (Haralambous) v Crown Court at St Albans & Anor [2018] UKSC 1, for refusal on any lesser basis.

In the absence of proper disclosure of the basis upon which the applications were made, it is not possible to be certain as to what transpired in the Magistrates' Court. The 'information' in support of both applications should have set out in writing, by direct reference to the particular facts of the investigation and the belief of the investigating officer(s), why the statutory requirements were met. They did not.

Instead, with the exception of a single reference in each information to the indictable offence said to be believed to have been committed, 'namely conspiracy to defraud' (which words are in a different font to the rest of the information), they are wholly silent, and contain only a bare rehearsal of the statutory criteria. In the absence of a record of what DS Clarke, the officer who made the applications, told the court orally, it is impossible to know what information, if any, the court was given any in support of the applications. It is also impossible to know if he properly discharged the plain duty upon him of making plain any information or material that weighed against the application.

Moreover, in the absence of any ruling (the Commissioner in his letter has confirmed that the Magistrate gave no ruling), the reasons for the grant of the warrants are completely unknown. It is difficult to avoid the conclusion that, rather than seeking authorisation to obtain material in relation to genuinely suspected offences, instead the police were on *"a fishing expedition in the hope of finding some material upon which the charge can be hung"*: Williams v. Summerfield [1972] 2 QB 512, per Lord Widgery CJ at 518.

The illegality of the process, and the unlawfulness of the warrants, would appear to be clearly established on the following grounds.

Statutory provisions

In order for a warrant to have been properly issued pursuant to Paragraph 12 of Schedule 1, the Magistrate must have needed to be satisfied:

(a) that

(i) either set of access conditions is fulfilled; and

(ii) any of the further conditions set out in Paragraph 14 is also fulfilled;

OR

(b) that –

(i) the second set of access conditions is fulfilled; and

(ii) an Order under Paragraph 4 in relation to the material has not been complied with.

It is clear from the warrants that the police relied on the first set of access conditions, namely:

"2. The first set of access conditions is fulfilled if -

(a) that there are reasonable grounds for believing that-

(i) an indictable offence has been committed;

(ii) there is material which consists of special procedure material or also includes special procedure material and does not also include excluded material on premises specified in the application, or on premises occupied or controlled by a person specified in the application;

(iii) the material is likely to be of substantial value (whether by itself or together with other material) to the investigation in connection with which the application is made; and

(iv) the material is likely to be relevant evidence;

(b) other methods of obtaining the material have –

(i) been tried without success; or

(ii) not been tried because it appeared that they were bound to fail; and

(c) it is in the public interest, having regard to –

(i) the benefit likely to accrue to the investigation if the material is obtained; and

(ii) the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given."

The further conditions set out in Paragraph 14 are as follows:

"14. The further conditions mentioned in Paragraph 12(a)(ii) are that –

(a) it is not practicable to communicate with any person entitled to grant entry to the premises;

(b) it is practicable to communicate with a person entitled to grant entry to the premises, but not practicable to communicate with any person entitled to grant access to the material;

(c) the material contains information which –

(i) is subject to a restriction or obligation such as is mentioned in section 15(2)(b); and

(ii) is likely to be disclosed in breach of it if a warrant is not issued;

(d) service of notice of an application for an order under paragraph 4 may seriously prejudice the investigation."

The informations stated that the requirements of Paragraphs 2 and 14(b) and (d) of Schedule 1 were fulfilled: "The further conditions at **b & d** above apply"

First set of Access conditions (Schedule 1, paragraph 2, and 12(a)(i))

First, in the absence of any information, it is not known on what basis the Stipendiary Magistrate had reasonable grounds for believing that an indictable offence had been committed (let alone in relation to Mr Levy QC, whose premises were the subject of the applications).

Paragraph 2 requires that the constable has reasonable grounds for believing the matters set out in paragraph 2(a). It is plain that a belief is more than a suspicion and that the need to have reasonable grounds for a belief imposes a higher threshold than the need to have reasonable grounds for a suspicion: R(S) (supra) at [61]; R (Eastenders Cash and Carry plc) v South Western Magistrates' Court [2011] 2 Cr App R 123. A mere assertion cannot suffice.

We do not know on what basis the court was persuaded that this requirement was met. In any event, it is a matter that the duty of candour, which rests upon an *ex parte* applicant (*In re* Stanford International Bank Limited and Another [2010] EWCA Civ 137; [2010] 3

W.L.R. 941 at para 191), absolutely demanded be brought to the attention of the Magistrate. It is far from clear that it was.

We also note the basis of RGP's apparent beliefs have altered since the warrants were obtained. In the note 'Voluntary Attendance for Police Interview under Caution", a copy of which was given to Mr Levy QC on 12 May 2020, the RGP referred, at point 9 of the topic areas which they wished to explore in interview under caution, to 'Communication with the Chief Minister in relation to any of the above'. In the otherwise identical version provided under cover of the Commissioner's letter of 14 May 2020, that phrase has been removed.

Second, whilst it is plain from the warrants and from the informations in support, that the material sought consisted of or included Special Procedure Material, there appears to be no basis upon which the Magistrate could have had reasonable grounds for believing that there would be no "excluded material" on the premises.

As made clear in R(S) at [33] and [57], paragraph 2(a)(ii) is only fulfilled if the Court is satisfied with evidence that the items to be seized do not also contain "excluded material". As stated in R(S) at [57], a lawyer's mobile or laptop would certainly include 'special procedure material' and could possibly also comprise "excluded material". It is not clear on what basis DS Clarke satisfied the court that the devices would not contain "excluded material".

Third, the court had to be satisfied that the material sought would be of substantial value to the investigation and likely to be relevant evidence. Again, there is nothing to suggest that the police or court considered the balancing exercise which appraises, on the one hand, the benefit to the investigation of obtaining the information against, on the other hand, the seizure with the possibility that it would contain in it a mass of "excluded material" and/or material subject to LPP, which was not concerned with the investigation and the seizure of which might well cause considerable professional disruption: R(S) (supra). The court's attention should have been drawn to this point with an explanation as to why this balancing exercise should be resolved in favour of the police.

Taking into account that the investigation has, we understand, been ongoing for over 18 months, and that the other suspects have already been searched and questioned, it is not at all clear how this could have been demonstrated. Was it likely that material sought so belatedly would be of 'substantial value'? Seeking further evidence identical to what had already been obtained would not meet the statutory requirement.

Fourth, in relation to the requirements of paragraph 2(b), we note that the informations allege that other methods of obtaining the material had not been tried because it appeared that they were bound to fail. The court had to be satisfied of two things: that other methods of obtaining the material had not, in fact, been tried; and that DS Clarke believed any other method was bound to fail (*R v CCBTP* at [34]).

No basis upon which the court could have been so satisfied is provided in either information, and it is wholly implausible that any proper basis could have been advanced. The notion that Mr Levy QC, as an officer of the court and Queen's Counsel, would have refused a request is absurd and, of course, as noted above, the very fact that the police did obtain the material in the way they did (following the threat to execute the warrants and the clear misrepresentation that the warrants had been applied for on the advice of the DPP) supports this. As was noted in R(S), a practising solicitor against whom no allegation of dishonesty had previously been made would in the ordinary course of events be expected to comply with a request from the police to hand over a document or at least not to destroy material.

Fifth, the information also purports to deal with the unsubstantiated public interest requirements in 2(c) which we reserve our right to further comment once we have seen any further evidence in support. However, we note that the Magistrate in satisfying himself that the warrant was in the public interest would have had to have regard to two matters: 1. the benefit likely to accrue to the investigation if the material is obtained; and 2. the circumstances under which the person in possession of the material holds it.

Paragraphs 12(a)(ii)/14

The information states that the following further conditions in paragraph 12(a)(ii) of Schedule 1 apply (we take that to mean the conditions in paragraph 14 referred to in 12(a)(ii)), namely:

1. 14(b) - that it is practicable to communicate with a person entitled to grant entry to the premises, but it is not practicable to communicate with any person entitled to grant access to the material; and

2. 14(d) - that service of notice of an application for an Order under Paragraph 4 of Schedule 1 may seriously prejudice the investigation

First, in relation to 14(b), this is plainly untrue. If it was practicable to communicate with Mr Levy as the person entitled to grant entry to his office and home, it was obviously

practicable to communicate with him to grant access to the material (as proved to be the case). That such a statement should have been made on oath is nothing short of reckless and misleading.

Second, in relation to 14(d), it is impossible to see how the police could have so believed, or that the Magistrate could have been satisfied. Not only is this serious allegation not substantiated, but there can have been no basis for the notion that service of notice on Mr Levy of an application for an order under paragraph 4 of Schedule 1 risked him prejudicing the investigation (for example, by perverting the course of justice, or destroying or dissipating evidence) pending the hearing of an *inter partes* application for a production order.

Indeed, there was every reason for believing precisely the contrary. First, Mr Levy QC is the Senior Partner of Gibraltar's largest law firm, a Queen's Counsel, an officer of the Court, and a man of good character. As events transpired, the police themselves could not have believed that he would seriously prejudice the investigation, because they declined to execute the warrants they obtained, and allowed Mr Levy to remove his phone and copy the data before handing it over to them. They also now appear to trust him to provide voluntarily the emails they sought but failed to obtain. Secondly, the investigation has been ongoing for over 18 months, and Hassans acted, initially, for other suspects. The police knew that Mr Levy was aware of the investigation. Had he really wanted to destroy evidence, this could have been done months ago.

Width

The warrants at particular "(1)" sought the seizure of "*electronic devices (including but not limited to mobile telephones and computers) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device storing any of the aforementioned communications*".

These apparently unlimited terms were grossly wide. They were without limit in terms of scope or date, and completely failed to state what the sought material had to relate to. The plainly erroneous and inexplicable reference to '*any of the aforementioned communications*' (there being no such reference) simply reinforces the point.

It would have been quite impossible, within the four corners of the warrant, for a person executing it, or for the person whose premises are being searched, to be able to identify with any degree of certainty what the warrant authorised by way of seizure: McGrath v. Chief Constable of the Royal Ulster Constabulary [2001] 2 AC 731 at [18]; R (Energy

Financing Team Ltd) v. Bow Street Magistrates' Court (supra), at [24] and [37]; Power-Hynes v. Norwich Magistrates' Court [2009] EWHC 1512 (Admin), at [19] and [22]; R (Van der Pijl) v. Kingston Crown Court [2012] EWHC 3745, at [52]-[67]; C v. Nottingham and Newark Magistrates' Court [2013] EWHC 3790, at [48] and [51]. Particular (2) is similarly unrestricted in date range.

It follows that the warrants were grossly deficient on their face. The seizure of the phone and tablet would also necessarily have led to the seizure of a vast amount of irrelevant (and LPP) material that could not, on any view, have had any connection to the investigation and/or was not capable of being seized. The RGP took no steps to sift out this material.

LPP

Not only were the warrants drafted in impermissibly wide terms, but they contained no clear wording taking LPP material outside that which was authorised to be seized (R(A) v. Central Criminal Court [2017] EWHC 70 (Admin), at [81] and [84]). Nor can such an exclusion be implied from the wording of the warrant (cf. Gittins v Central Criminal Court [2011] EWHC 131 (Admin), at [36]-[37]).

A warrant which purports to authorise the seizure of LPP is invalid. See Gittins (above), per Gross LJ at [36(2)]:

> *"If on its true construction a warrant extends to material for which there are not reasonable grounds for believing that it does not consist of or include items subject to LPP then the warrant will be quashed, at least unless the offending passages can be severed. Such a warrant cannot be saved by precautions governing its execution on the day, such as, for example, the engagement of independent counsel."*

It was obvious that the search warrants would lead to the seizure of LPP material. However, the reality was that no consideration was likely to have been given at all to LPP material when applying for and issuing these search warrants. They are therefore invalid.

Conclusion

On any challenge by way of judicial review, the warrants are overwhelmingly likely to be declared to be unlawful for all or any of the reasons set out above.

We therefore request once again, as we have already requested also in the letter to Superintendent Richardson, that Mr Levy's possessions be returned to him.

We also seek an acknowledgment from RGP that they acted unlawfully in seeking and obtaining these warrants, and in entering Mr Levy's addresses. In this regard, we must record that Mr Levy has serious concerns that the RPG acted illegally, and we reserve his rights in this regard. If, indeed, RGP acted in this way in opposition to advice that it had received to the effect that the applications were inappropriate and unlawful, then it can only be concluded that there has been a gross abuse of executive power. On any basis these events are liable to have led to a serious loss of confidence in the RGP.

We look forward to hearing from you as a matter of urgency.

Yours faithfully



Lewis Baglietto

c.c. Commissioner of Police.

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Ian McGrail OTM MSc
Commissioner of Police
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14th May 2020

Our Ref: IM160

Mr Lewis Baglietto QC
PO Box 199
Madison Building
Midtown, Queensway
Gibraltar

Dear Sir,

I have been forwarded a copy of your letter addressed to Detective Superintendent Paul Richardson dated 13 May 2020 the contents of which have been noted.

I have been fully briefed as to the conduct of the investigation and given the seriousness of the allegations made and the matters raised. I have seen fit to respond directly.

At the outset I must point out that the sequence of events are not as you have described and I do not agree with you that there were reasonable grounds to believe that Mr Levy would have simply handed over his devices and documents.

Notwithstanding the fact the police attended with a search warrant issued by the Magistrates Court, an attempt was made to try and deal with the matter by consent. This involved Mr Levy consulting with 'senior silk' in private and informing the officers that he would consent to handing over the items sought as long as the interests of his clients were protected. Once the means in which they would be achieved was clear Mr Levy signed the relevant form after reading it and consulting with Mr Chincotta. Accordingly the search warrant was not executed but rather Mr Levy chose to hand over his devices voluntarily, albeit after some time and after extensive consultation.

I do not agree with you that warrant was excessive, unjustified or unlawful and in my view the action taken was both legitimate and proportionate in the circumstances. I do not think it would serve any purpose to enter into a discussion on the use of Productions Orders as opposed to a Search Warrant.

In relation to the items that you have requested I have attached a copy of the search warrant to this email. I am unable at this time to comply with your request for a copy of the application for the search warrant or any other written evidence as this could potentially compromise an ongoing investigation as Mr Levy has yet to be interviewed. The same applies to point 4 (any notes taken by the RGP of the hearing). The only order or ruling that I am aware of made by the Stipendiary Magistrate was the warrant itself. Although the DPP has been consulted on various non-operational issues concerning this investigation including the

status of various parties he has not provided advice on the application of a search warrant which remains an operational matter.

Please rest assured that the RGP has not copied or downloaded any material so far and in fact the devices remain sealed and I have assumed safe custody of them. I remain convinced of the legality of our course of conduct but undertake to postpone their submission to be examined for seven days from the date of this letter in the event that you may wish to make any legal challenge to this decision.

I would also ask you to please note that it is not a question of me refusing to meet with you and the Attorney General, but rather I view it as inappropriate given the circumstances in which we find ourselves which I trust you understand.

I enclose a copy of a notice regarding voluntary attendance for police interview. This sets out the topic areas which we seek to explore in the formal police interview. I should point that we have not shared this document with any other party. It would be very helpful if Mr Levy brings any material with him that may support his account or provide it in advance of his attendance. Additionally, as would be normal practice counsel will be provided with a pre-interview briefing

Finally, as you will no doubt be aware, Mr Levy undertook to voluntarily extract the relevant emails and other documents from Hassans servers and provide these to police along with all files concerning Astelon Ltd and 36 North Ltd. Grateful if you advise when these will be supplied to assist with our investigation.

Yours faithfully



Ian McGrail OTM MSc
Commissioner of Police

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21st May 2020

Our Ref: IM166

Mr Lewis Baglietto QC
PO Box 199
Madison Building
Midtown, Queensway
Gibraltar

Dear Mr Baglietto,

Re - Mr James Levy QC

Thank you for your letter dated 20th May 2020, the contents of which are noted. Given some of the matters of law raised in your letter I have sought advice from the DPP.

I do not propose to repeat the RGP's position regarding the legality of the search warrant, suffice to say that our position remains that the warrant was properly and lawfully obtained.

You are correct to say that the RGP has objected to the disclosure of the documents used in support of the application of the warrant and that continues to be the RGP's fundamental position regarding full provision of all material. Notwithstanding this, I have instructed my officers to consider, if possible, making available a redacted version of those documents which may satisfy you regarding the basis upon which the application was made. Additionally, you have had made available to you substantial information in the pre-interview disclosure information. I hope that this combined will make the application to the Magistrate unnecessary. However, I must reiterate that any application for full disclosure of the documents will be resisted on the basis previously set out. Our view is that our objection is encapsulated within the Criminal Procedure Rules provisions identified by you in your letter.

As already explained, the DPP's advice was not sought in relation to whether a warrant should be applied for or how it would be executed. Such matters are operational in nature. The DPP's advice was however sought at various times in relation to status of all persons subject to the investigation. In this regard we remain convinced that the RGP's actions were lawful.

I note your request for further assurances from me regarding the examination etc of the material voluntarily provided by your client. In this regard, I can assure you that the material will not be examined without my giving you 7 days notice in advance of our intention to do so. This will give you ample opportunity to take whatever action you may deem necessary in the event that you are put on notice given that already 8 days since the items were handed over voluntarily.

Whilst on the matter of the material provided, I note that you have failed to respond to the point raised in earlier correspondence, namely that the material was provided voluntarily by your client and the warrant was not executed. On that basis I would be grateful if you would clarify the relevance of the challenge of the warrant. You will appreciate that this is an important issue for a number of reasons and clarity is required. Any suggestion that Mr Levy was coerced in to acting against his will and under threat of the execution of a warrant is strongly denied and will be apparent from any viewing of the Body Worn Video footage that was taken at the time.

Finally, for the avoidance of doubt, your client continues to be a suspect in this investigation. Your client has been given an opportunity to provide a prepared statement which may assist in the RGP's enquiries and clarify any involvement he may have had in the matter under investigation. Needless to say, the RGP must reserve the right to interview Mr Levy under caution at any time and it is a matter for you to advise your client on the effect of any statements he may or may not provide to the RGP. I must repeat that notwithstanding the above the RGP have an open mind and will review our position as and when evidence becomes available to us.

Yours sincerely

Ian McGrail OTM MSc
Commissioner of Police

From: (RGP) Wyan, Mark
To: (RGP) Richardson, Paul (OTM)
Subject: Questions for JL 2
Date: 12 February 2020 15:48:00
Attachments: Questions for JL 2.docx
image002.png

Sir,

Please find attached the updated questions for Mr Levy.

Grateful if we could discuss how you wish to proceed.

Kind Regards,

Mark

Mark Wyan
Detective Inspector
Public Protection Unit

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ITEM	DATE	SUBJECT	INFORMATION / EVIDENCE	QUESTION(S)
1.	28/02/2017	Text from CS to JL	James I need to give you an update on several issues. **Also need to talk to you on John Perez and the security programme**. Let me know when we can meet	• What did you discuss in relation to the Security Platform? • Why was a civil servant approaching you to discuss matters of national security?
2.	19/01/2018	Text from CS to JL	**James I have a good proposal for investment**. I think you will like this	• What was the nature of your relationship with Caine Sanchez? • Why was a civil servant making investment proposals to you?
3.	18/02/2018	Proposed Email to JL	In a draft letter to JL from John Perez (on behalf of 36 North) they purported that the business had a contract with HMGoG for the NSCIS platform [with the platform being worth £7.5 million]. It also suggested that the company had an international contract for Sao Tome and Principe.	• Did you receive this letter? • Were you aware / made aware that Bland Limited were the holders of this contract? • What did you understand where the letter suggests that they had a current contract with HMGoG? • Did TC/JP discuss the means by which they would obtain this contract? • Were you aware that the Sao Tome and Principe contract was one which had been initiated on behalf of Bland Limited?
4.	28/03/18	Company Incorporation	Astelon Limited incorporated.	• Was the company incorporated in anticipation of acting as a shareholding company in 36 North?

5.	23/04/18	Company Incorporation	36 North incorporated.	• Astelon Limted (Hassans) have a 33% beneficial interest in this company. • What agreement was made in order for Hassans to acquire this interest? (i.e. initial investment etc). • Why was the company formed? (i.e. was this in accordance with the Letter of Intent?) • What were the terms of the initial agreement (in terms of salaries/ loan agreements etc). • Were any other partners actively involved in this company?
6.	10/06/2018	Text from JP to JL	Jaime we did not get a chance to catch up this week. I hope all is well with you and you have managed to slowly get back into it. David has already completed the SHA which is good news. I would appreciate discussing it with you when we get a chance. I am away from Gibraltar on business in Istanbul followed by Madrid (close hold please). **Preparing for our departure on 29th June. Everything else is now almost in place. John.**	• You were aware they were departing before they informed Bland Limited. • What did he mean when he said that everything was almost in place?
7.	06/07/2018	Text from JP to JL	**James we have just finished with Carnival after a long day of negotiations**. We have been successful and now moving to the pilot phase. Flying back tomorrow 👆	• Carnival Cruises was a project undertaken on behalf of Blands. • Why was Perez updating you about a potential client of Bland Limited?

				• Was it his intention to appropriate the business which had been pursued whilst working for Bland? • Was the completion of these projects held back by TC/JP until the new company was operating?
8.	24/07/2018	Text from CS to JL	James I received a call from James Gaggero last night reference the security programme. **I have discussed it with John** and emailed the CM. **It may be wise for us to meet** and maybe include David Weber to go over some aspects of the conversation.	• Why was CS contacting you to discuss the national security platform? • What was discussed during this meeting?
9.	06/08/2018	Text from JL and JP	**Looking Forward to working together**	• In what capacity did you intend to work with Perez / Cornelio? • What were the plans for 36 North?
10.	10/08/2018	Text from CS to JL	James I have asked the CM to see me **prior to his meeting with JG on Monday**. He has not responded yet. **Please give him a nudge**.	• Why was a Civil Servant asking you to prompt a meeting with the CM? • Was this because it was related to 36 North?
11.	14/08/2018	Text from CS to JL	**James just got John Perez company their Insurance broker. Everything is going well with this.** Just drafted letter to send to James Gaggero and waiting for CM to approve. **I have also urged them to sign the international agreement and they are moving forward with this**	• What involvement did Caine Sanchez have in 36 North? • Why was he advising on what contracts to sign?
12.	20/08/2018	Text from JP to JL	James, I thought I would send you an update so that you have a clear understanding of the current situation. **We continue to run the NSCIS (immigration/security/statistics) platform for the GOG whilst we wait to learn if we are formally**	• By this date Cornelio was working as a consultant for Bland. • There is a reference to running the NSCIS platform for HMGoG. However, this was a contract

			appointed to continue to run this service or whether the GOG has opted to go for our new proposal. As you aware Blands do not have the resources to do this but have contested the ownership of the code of the system (revenue exercise for them/we are covering the risks now). I believe their claim is flawed as this was built and paid module by module to meet a requirement based on law enforcement operational needs. For Gaggero it's his only stance as he tries to push for some form of compensation either from the Government or 36N in the future. By removing our costs and that of the developers (now with us) and one other obvious staff move Gaggero balances his net profit so he is not being entirely honest on that front. With regards to 36N developed an entirely new Border Management System which is better than NSCIS to safeguard any future challenges and to provide the GOG with an option to continue the operation without having to rely on any system that was developed by Blands. We also run a series of other key Government platforms all of which have pledged their full support on us. We continue to operate and add functionality to all of these platforms, currently for no renumeration as we wait for a decision to be taken by the GOG. **Best outcome for us is for the GoG to inform Gaggero that they are not in agreement with his claim and go with our new proposal which also saves the GOG a considerable amount of money. We must however continue to give the CM his space until ready**. With regards to 36N it is important that we are appointed to administer such a system as it will help for future	belonging to Bland Limited. On what basis were Perez / 36 North running the platform? • How were they running the platform if Bland had not been informed of this arrangement? • Who authorised this arrangement in Government? • Why would Perez / 36 North be asked to continue to run the service when Bland Limited had not been informed that they may have the contract withdrawn? • Had HMGoG been approached to formally consider 36N taking over the platform? • What discussions did you have with CM in relation to this matter?

			referencing for International sales. Currently we have 4 African states showing an expression of interest with one being signed early in September. Once my notice period is over I am going to focus on the British Independent Territories which will also be good for Gib plc. Hope this helps.	
13.	21/08/2018	Text from TC to JL	**Dear James, would it be possible to sit down with you or the CM to try and move forward with our projects**? **I currently have a lot of work on hold pending this decision**. I believe James Gaggero is attempting to stall us with empty threats.	
14.	29/08/2018	Text from TC to JL	**Dear James, please try and get me a 10 min slot for me to meet the CM. I believe I am best placed to explain the entire situation and advise the best technical solution possible. That should resolve any deadlock**.	• Was this meeting facilitated? • If so, what was the outcome of the meeting?
15.	30/08/2018	Text from JP to JL	John I just rang you to tell you everything is under control. I've been working with Tommy on the relevant letters. **I am very confident that we will bring this to a close in a successful manner very shortly**. You can rest assured I will do my best to help you in every way. I have great Respect and admiration for your ability and hard work. Do not worry if there is an attack I will help you to defend and to counter-attack. You're a military man so I'm writing to you in military terms😊	• Can you confirm that this text was in respect of the NSCIS platform? • If so, why were you confident in closing the matter?
16.	30/08/2018	Text forwarded from JL to TC	You should know that I have spoken to Tommy and **despite his letter to James G he will continue ensuring that the system is kept going until a solution is found acceptable the government**.	• Was this a forwarded text you sent to the CM? (The defence have suggested that it was).

				• On what basis was it agreed that they would continue to run the NSCIS platform? • On whose authority? • Why was he deceiving JG / Bland by stating that he would not be supporting the platform?
17.	05/09/2018	Text from TC to JL	Dear James, Just a suggestion...should there be hesitation to move contract to 36N which is partially owned by Hassans, could we not have the contracts given to ICODE Limited? (my company and i am the sole director). Agreements could then be put in place between ICODE and 36N. Your thoughts?	• Why might there have been an issue transferring the ownership to 36 North?
18.	07/09/2018	Text from JP to JL	James this week **we will be receiving a contract from São Tomé and Príncipe for review**. The commercial elements of the contract have already been agreed in principle. We are also closing in on Equatorial Guinea. I will work with the relevant inspectorate International bodies to make sure all risks are addressed. I need you to appoint a lawyer who can work in close liaison with me with these projects who is also not put of by the expeditionary nature of this work. Let's start putting a structure in place. Tommy has designed a completely new platform which is far more advanced than what we currently operate in Gib and thus we can move forward with this agenda without further delay.	• Were you aware that the contract for São Tomé and Príncipe was another business venture which was initiated on behalf of Bland Limited?
19.	12/09/2018	Text from TC to JL	Important **please advise chief as follows**: **As promised Tommy has continued to work on the platform to ensure that National Security is not**	• Did you advise the CM that TC continued to work on the system?

			compromised in any way. All systems have been redeveloped from scratch and now operate from a new platform using cutting edge technology ready for its international offering with 3 countries already confirmed.	• What was the nature of the meeting with the CM? • Why did he continue to work on the system after he terminated his employment / consultancy?
20.	23/09/2018	Text from TC to JL	**Attached is a letter which may be of use to the GoG in order to proceed with the new platform we have offered them.**	• We believe that this is a letter written as if drafted by HMGoG and informing Bland that they would no longer be contracted in respect of the software platforms. Is this correct?
21.	09/10/2018	Text from JP to JL	James thank you so much for this morning. I am sure our sessions will become more enjoyable as we set of in our journey. **With regards to dropping Fabian a note, let's give him a bit more time. As the pressure will naturally surface through his law enforcement heads**. We will get our chance to put the it right as JG has maliciously tried everything to try to discredit us unfairly. Please let me know if you are able to arrange a meeting with us with Raphael Benain with regards to our lottery proposal. Thank you. John.	• Were these discussions regarding the NSCIS platform? • If so, can you confirm the nature of the discussions with the CM at this time?
22.	19/10/2018	Text from TC to JL	Morning James. **Very confidential. Note Gaggero has brought in a forensic team of six to look at anything John and I may have done to tamper with the system etc.** Gaggero is going all out it seems.	
23.	19/10/2018	Text from TC to JP	Tommy Cornelio: **Spoke to James ref forensic team confidentially** Tommy Cornelio: **Spoke to him on the phone** Tommy Cornelio: Call me and i can discuss Tommy Cornelio: **He says not to worry**	• What was discussed in respect of the forensic team? • Did he say why he was so concerned that they would try to prove he sabotaged the system?

			Tommy Cornelio: **I am very concerned they will try an prove i have acted to sabotage the system in any way etc**	• Did he tell you that he had sabotaged the system? • Why did you tell him not to worry?
24.	28/11/2018	Text from TC to JP	Tommy Cornelio: **I wonder if JL managed to get a word in with the CM** John Perez: Possibly Tommy Cornelio: I think we will get some news soon Tommy Cornelio: **CM needs to take the decision** Tommy Cornelio: **I think he will do it** Tommy Cornelio: Surely cannot go back on his word John Perez: I think so. Tommy Cornelio: We are due a break John Perez: Yeap Tommy Cornelio: Its coming Tommy Cornelio: **Dont see CM saying no to JL** Tommy Cornelio: He would have to have a very good reason Tommy Cornelio: And he doesnt have it	• Did you discuss speaking to the CM with TC/JP? • Did you have this discussion with the CM? • What was the nature of this discussion? • What word was given by the CM?
25.	27/12/2018	Text from TC to JL Reply from JL	Tommy Cornelio: **If you do not believe CM will transfer contracts back to us early in the new year, please let us know as I need to ensure we are all working towards objectives that will generate revenue for us**. James Levy: I don't think he will transfer the contracts back to 36 N.We have to work on alternatives. I am happy to help or do you need.	• The platform had been handed back to Bland in early October. Why was TC uncertain as to where 36N stood at this stage? • Was HMGoG still considering transferring the contract at this time?
26.	26/03/2019	Text from TC to JL	Perhaps **CM would be willing to put the National Security system out for tender next month**.	• Was HMGoG still considering transferring the contract at this time? If so, why?

27.	27/03/2019	Text from TC to JL Reply from JL	Tommy Cornelio: **Do you think there is any chance of getting national security contract back at some point**? We have BCA CEO meeting CM next week and I am briefing him before the meeting. James Levy: **Yes**	• Why did you believe that HMGoG would be willing to give 36N the contract back at this stage?
28.	11/04/2019	Text from TC to JL	1. **I am preparing a report for Caine/Albert Mena with regards to the failures of the National Security platform** of [redacted]. Lesley is preparing a legal letter for your review in an attempt to speed up the process. This is ok?	• What were you told about this report and how it came about? • Given that you were aware that 36N did not have the contract for the NSCIS platform, did you not question how TC was accessing a national security system?
29.	11/04/2019	Text from TC to JL	We are going to have a field day on the national security report..just wait until you see it. For now I am reviewing every single module 1 by 1. [redacted].	• Were you shown a copy of this report?
30.	14/04/2019	Text from TC to JL	James, note I have provided Caine with a full report on the security platform, I have kept this simple and impartial.	
31.	23/04/2019	Text from TC to JL	Note I provided Albert Mena with a report on the National Security system. Has he made any comment to you about this? The report would have been delivered to him via Caine.	• Was this report discussed with you at any time by any representative of HMGoG?
32.	03/05/2019	Text from TC to JL	Dear James, the national security system [redacted]. **Can I email the CM once again to meet me?** He cannot allow this to continue.	• Did TC email the CM / meet him in respect of this matter?

From:	(RGP) Richardson, Paul (OTM)
To:	(RGP) McGrail, Ian M.Sc (OTM)
Cc:	(RGP) Ullger, Richard (COP 235); (RGP) Wyan, Mark (Supt 247); (RGP) Field, John (Supt 241)
Subject:	Re: Op Delhi - ND Assessment of JL Involvement in 36N
Date:	01 March 2020 22:18:00

Sir,

All noted. Will raise with DPP this week.

KR

Paul Richardson
Supt.

Get Outlook for Android

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: Sunday, March 1, 2020 9:24:36 PM
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Cc: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>; (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>; (RGP) Field, John <John.Field@royalgib.police.gi>
Subject: Re: Op Delhi - ND Assessment of JL Involvement in 36N

Paul -
I have perused the document you attached to your email below.

On the basis of the information contained in this document I support, in principle, the suggested course of action. As you know, the tactical detail of how you intend to set to achieve the objectives will be subject of further consideration, mainly to safeguard operational security.

Given the complex nature of this investigation and the reputational risks at stake I would ask that you consult with the DPP to ensure our intended activity is legally supported.

Regards
ComPol

Sent from my iPhone

> On 25 Feb 2020, at 15:47, (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi> wrote:
>
> Sir,
>
> Please find attached my assessment of J Levy's involvement in 36n and planned

course of action. I am of course at your disposal should you wish to discuss.

Kind regards

Paul

<image001.jpg>

Paul Richardson OTM
Det. Superintendent

Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile +[redacted]

<image004.png>

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<NDM assessment - Op dehli (002).docx>

From: (RGP) Wyan, Mark
To: (RGP) Richardson, Paul (OTM)
Subject: FW: Operation Delhi Report
Date: 24 March 2020 19:36:00
Attachments: image002.png
Charging Report 20.3.20.docx
Importance: High

Sir,

In the event that you haven't already sent the report to the DPP I would be grateful if you could send on the attached version. Some minor amendments only.

Kind Regards,

Mark

From: (RGP) Wyan, Mark
Sent: 24 March 2020 01:21
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: RE: Operation Delhi Report
Importance: High

Sir,

As requested, please find attached the amended Operation Delhi report into which has now been incorporated a timeline of events and a glossary of terms.

I would be very grateful if you could ask for the DPP to review the matter as soon as possible so that we can create a docket based upon the agreed charges.

Kind Regards,

Mark

From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Sent: 20 March 2020 17:26
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: Re: Operation Delhi Report

Mark,

Following on from our video conference please find my comments on the attached PDF. Once you have considered these, and the other issues raised during our conversation please return in order that I may forward to the DPP with a covering note.

As I mentioned, the report is (as one would expect from you) comprehensive and an absolute indictment of the actions of all of the suspects. It lays out in clear terms the conduct complained of and manages to summarise a plethora of evidence in an easy to follow manner which does credit to you all.

As we discussed I feel that the report would benefit form a timeline and glossary of terms as some of the IT descriptions may be difficult to fathom for the layperson.

I would like to place on record my most sincere thanks for all of the hard work that you, DS Clarke, DC Cullen and the rest of the team have committed to this investigation.

Kind regards

Paul

Paul Richardson OTM

Det. Superintendent

Crime Protective Services Division
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Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]





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From: (RGP) Wyan, Mark
Sent: 20 March 2020 16:12
To: (RGP) Richardson, Paul (OTM)
Subject: FW: Operation Delhi Report

Sir,

Grateful if you could advise whether you've had an opportunity to review the Operation Delhi report. I'm conscious that the DPP will need some time to review.

Kind Regards,

Mark

From: (RGP) Wyan, Mark
Sent: 19 March 2020 02:25
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Cc: (RGP) Clarke, Paul (PS130) <paul.clarke@royalgib.police.gi>
Subject: Operation Delhi Report
Importance: High

Sir,

RE: REQUEST FOR CHARGING ADVICE – OPERATION DELHI

Please find attached an extended summary of evidence in respect of Operation Delhi.

It is intended that this document should be sent to the DPP in order to obtain legal advice on charging.

I would be grateful if you could review the report with a view to forwarding it on as soon as possible.

Please note that a hard copy of all evidence had been made. The bundles can be taken to the OCPL in support of this report.

Kind Regards,

Mark

Mark Wyan
Detective Inspector
Public Protection Unit

Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
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From:	(RGP) Wyan, Mark
To:	(RGP) Richardson, Paul (OTM)
Subject:	Report Levy - Interview Approach
Date:	22 April 2020 16:24:00
Attachments:	Report Levy - Interview Approach.docx image002.png
Importance:	High

Sir,

As requested. Please see attached report in relation to options for interviewing Mr Levy.

Kind Regards,

Mark

Mark Wyan
Detective Inspector
Public Protection Unit

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Crime Division
New Mole House, Rosia Road, Gibraltar ♦ Tel (+350) 20048013 ♦ Centrex 2519 ♦ www.police.gi

To: Commissioner of Police
FAO: Supt Richardson
RE: Operation Delhi

Date: 22nd April 2020

Sir,

RE: INTERVIEW OF MR HAIM LEVY – OPERATION DELHI

1. The intention of this report is consider the options available when dealing with Mr Haim Levy in respect of Operation Delhi. Based upon the advice offered by the DPP, it is our intention to interview Mr Levy on the basis of a conspiracy to defraud.

2. In the NDM report you stated, "*The necessity to arrest JL will not be met in the event that he consents to a voluntary attendance police interview. In the absence of such consent an arrest would have to be made to secure his attendance to allow the prompt and effective investigation of the offence and secure evidence by questioning. There is no longer a need to prevent conferring between the defendants and a wider search of Hassan's legal premises would in my view be disproportionate*."

3. It is therefore my intention to request Mr Levy to voluntarily attend the police station for interview.

4. Whilst there has been a substantial time since the alleged offence(s) took place, there is still a requirement to seize digital devices. Given that we suspect that an offence may have been committed, and in order to prevent loss / destruction of evidence, we would ideally secure the evidence in situ, and without giving Mr Levy prior notice of our intent.

5. On arrival at the premises, we would therefore seek, in the first instance, to be granted access to the relevant devices without the use of the warrant. A warrant would only require execution where co-operation was not offered.

6. Likewise, an arrest would only be required where Levy failed to co-operate with voluntary attendance. An arrest would then become necessary pursuant to section 42(e) (prompt and effective investigation of the offence) in order to interview.

7. The issue of how and where to approach Mr Levy therefore needs to be considered.

8. Unfortunately, this decision has been complicated by the Covid-19 pandemic. In particular, I note that Mr Levy is 69 years of age, and will be 70 on the 23rd October 2020. He is therefore on the borderline of what is considered a high risk individual. Moreover, I am not aware of whether he has any existing condition that may increase his risk further.

9. In light of the above, I have considered three options for dealing with this matter:

    a. Approach Mr Levy at his residence;
    b. Approach Mr Levy at his place of work; and
    c. Request Mr Levy attend NMH.

An Approach at his Residence

10. Approaching Mr Levy at his residence would allow us to expedite the matter. In doing so, we could seize relevant devices from his home. This would allow the investigation to progress, in particular having regard to the effect that a delay may have on other suspects.

11. An approach at his home would still require a search of his offices for mobile devices etc, in the event that he had a number of phones / tablets. Whilst he may not need to be present during the search we would need to consider whether the Hassans offices are open, and whether there would be a need to call someone down to open them up.

12. The problem with this option is that we are approaching an individual who is at least, on the borderline of being a high risk individual. We may therefore be criticised for interacting with him at this point in time. This is particularly so given the length of the investigation. It may be difficult to argue that we could not wait until restrictions are lifted, or relaxed, and he has returned to work.

An Approach at his place of Work

13. This was the initial intention prior to the restrictions implemented by Covid-19 regulations. The advantage of this option is that Mr Levy could be approached whilst in the working environment. As such, there can be no criticism of having unnecessarily exposed him to the virus.

14. The problem with this option is that we may need to wait until the Covid-19 restrictions are lifted / relaxed and that he is going into work. This may have an effect in relation to the progression of the investigation, and thereby the other suspects.

Request Mr Levy attend NMH

15. Mr Levy could be requested to attend the police station. In doing so, he could be asked to bring any devices for analysis and to submit to an interview.

16. However, this would notify Mr Levy of our intentions and would thereby risk the loss of evidence. This would be contrary to the way we have dealt with the other suspects, although we could argue that given the amount of time, he will be well aware of the arrests and of the police investigation.

17. Moreover, we would still expose Mr Levy to a risk of exposure to the virus, albeit that he would come voluntarily [and could thereby raise any concerns beforehand].

Conclusion

18. In my view we should approach Mr Levy at work, when the restrictions have been relaxed / lifted. To do otherwise may attract criticism of how we deal with the Covid-19 virus.

19. If Mr Levy were requested to the station / approached at home, whilst the restrictions are in place, this may undermine the arguments we are making with regard to keeping the other suspects on bail (i.e. to reduce their exposure to the virus).

20. I have considered the need to expedite this case, in particular having regard to the other suspects. However, given his age, and that he may be a high risk individual, we should, in my opinion be extra cautious about how he is dealt with. This is relevant not only for the safety of the individual but also as to how the RGP are portrayed in dealing with the current crisis.

21. I recognise that the organisation may have a differing view, and that there are disadvantages to this approach. I do understand that an argument could be made that it is in the interests of justice to proceed as soon as possible. It is ultimately a matter of balancing the needs of the investigation (and the rights of suspects on bail) against any concerns for the health of Mr Levy.

22. If it is decided to approach Mr Levy during the current lockdown period, we could attempt to mitigate the risks to Mr Levy with the use of PPE equipment / distancing during interviews. However, IT have not yet provided us with the ability to remote view interviews.

Mark Wyan
Inspector

From: (RGP) Richardson, Paul (OTM)
To: (RGP) Wyan, Mark
Subject: RE: Search warrants Levy
Date: 23 April 2020 15:21:56
Attachments: image001.jpg
image004.png
image002.png

Mark,

Happy to discuss this afternoon.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent

Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]

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From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 23 April 2020 14:33
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>

Subject: Search warrants Levy

Sir,

We're in the process of starting to draft Schedule 1 warrants in respect of Levy. At this stage we need to consider putting the safeguards in place in order to deal with legally privileged material.

When you get a moment I would like to discuss which lawyer we would be instructing. It is unlikely we could use a lawyer from the OCPL.

Kind Regards,

Mark

Mark Wyan
Detective Inspector
Public Protection Unit

Crime and Protective Services
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From: (RGP) Wyan, Mark
To: (RGP) Richardson, Paul (OTM)
Subject: FW: Levy Search Warrants
Date: 04 May 2020 18:05:00
Attachments: image002.png
Importance: High

Sir,

Grateful if you could please consider the issues raised in my previous email (below) in respect of the Levy search warrant. With your permission I would like to write to the DPP and ask whether he would have an issue instructing a local lawyer for privileged material.

Kind Regards,

Mark

Mark Wyan
Detective Inspector
Public Protection Unit

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From: (RGP) Wyan, Mark
Sent: 30 April 2020 17:29
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: Levy Search Warrants

Importance: High

Sir,

In respect of the search warrants for Mr Levy, we are in the process of:

1. Drafting Schedule 1 warrants for the residence of Mr Levy and Hassans;
2. Arranging for the warrants to be signed;
3. Drafting a plan for the execution of the warrants (including officers required etc);
4. Drafting a list of questions for Mr Levy to consider before we interview him; and
5. Dealing with the problem of social distancing in the context of interviews.

All going well the above should be all ready next week. This still leaves two problems:

1. We have no lawyer to review the privileged material – I would suggest that we contact the DPP to see whether instructing / contacting a local lawyer is a viable option; and
2. Can Alfred be released to assist with devices at one of the locations?

Kind Regards,

Mark

Mark Wyan
Detective Inspector
Public Protection Unit

Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 52181 Centrex: **2340**

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From:	(RGP) Wyan, Mark
To:	(RGP) Richardson, Paul (OTM)
Subject:	Levy Disclosure
Date:	11 May 2020 15:27:00
Attachments:	Report Levy - Disclosure in Person.docx image002.png

Sir,

As requested.

Kind Regards,

Mark

Mark Wyan
Detective Inspector
Public Protection Unit

Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 52181 Centrex: **2340**

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Crime Division

New Mole House, Rosia Road, Gibraltar ♦ Tel (+350) 20048013 ♦ Centrex 2519 ♦ www.police.gi

Mr Levy,

The following information is being provided in relation to an ongoing police investigation into Conspiracy to Defraud.

In October 2018 Bland Limited discovered evidence of computer misuse within the National Security Central Intelligence System ("NSCIS"). This platform is an integral part of the national security of Gibraltar. The evidence suggested that, without authority from Bland Limited, the platform had been deliberately altered [redacted], that its performance would be hindered, thereby undermining Gibraltar's national security.

A complaint was made to the Royal Gibraltar Police and in May 2019, John Perez, Thomas Cornelio, Edward Asquez and Caine Sanchez were arrested on suspicion of conspiracy to defraud Bland Limited of the NSCIS platform maintenance contract, the property of Bland Limited. In addition they were arrested for related offences pursuant to Part 15 of the Crimes Act 2011 (Computer Misuse).

Search warrants were executed at home and business addresses as a result of which numerous digital devices were seized. Evidence recovered from the seized devices has been forensically extracted and examined by RGP officers. This evidence indicates that you may have been involved in the said conspiracy.

The evidence obtained suggests that the conspiracy was to dishonestly obtain the NSCIS platform maintenance contract, and to have it transferred to 36 North Limited. You are a shareholder of this company by virtue of a company wholly owned by Hassans named Astelon Limited, which owns 33% of 36 North Limited. You thereby owned in excess of a 10% shareholding in 36 North Limited and stood to directly benefit from the revenue created by the NSCIS maintenance contract.

Advice has been sought from the Director of Public Prosecutions who has concurred with the conclusions that have been reached.

Whilst the evidence so far indicates that you may have been involved in conspiring to dishonestly obtain the NSCIS maintenance contract, the RGP are keeping an open mind and have a duty to follow any reasonable lines of enquiry. It is therefore intended to interview you under caution so that you can provide your version of events. This interview will cover [but not be limited to] the following areas:

1. Role and responsibilities Hassans International Law Firm
2. 36 North Limited (incl. company formation / financing / business)
3. Astelon Limited (incl. company formation / business)
4. Icode Limited
5. Communication / relationship with Thomas Cornelio
6. Communication / relationship with John Perez
7. Communication / relationship with Caine Sanchez
8. Communication with the Chief Minister
9. The National Security Central Intelligence System (NSCIS)
10. Any other relevant evidence gathered from the search.

You are hereby invited to attend a voluntary interview under caution at New Mole House police station at …. on the …. May 2020.

The content disclosed in this document has been provided in order to assist you in responding to the police enquiries, and to assist you in instructing legal representation. This is an ongoing police investigation and the information provided herein must not be disclosed to any third party without authority of the Royal Gibraltar Police.

From:	(RGP) Richardson, Paul (OTM)
To:	(RGP) Wyan, Mark (Supt 247)
Subject:	FW: **URGENT** RGP - HASSANS
Date:	14 May 2020 12:48:38

From: (GCS) Turnock, Maurice <maurice.turnock@gcs.gov.gi>
Sent: 13 May 2020 14:07
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Cc: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>; (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: RE: **URGENT** RGP - HASSANS

Dear Detective Superintendent Richardson

I acknowledge and note the contents of your email.

Regards

Maurice

Maurice Turnock
Clerk of the Magistrates' Court / Deputy Registrar of the Supreme Court

Gibraltar Courts Service
Magistrates' & Coroner's Court
HM Government of Gibraltar
32-36 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20070471
Centrex: 3194
Fax: (+350) 20040483
maurice.turnock@gcs.gov.gi

www.gcs.gov.gi

Gibraltar Courts Service

HM Government of Gibraltar

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-----Original Message-----
From: (RGP) Richardson, Paul (OTM) [mailto:Paul.Richardson@royalgib.police.gi]
Sent: 13 May 2020 12:56

To: (GCS) Turnock, Maurice
Cc: (GLO) Rocca, Christian; (RGP) McGrail, Ian M.Sc (OTM)
Subject: **URGENT** RGP - HASSANS

Dear Mr Turnock,

Please refer to the attached letter from Lewis Baglietto of Hassans who is representing Mr Jaime Levy. I refute in the strongest terms possible the suggestion that there has been any misfeasance in public office. It is my duty to point out that, as you are aware, Mr Levy is a suspect in a live criminal investigation and has been invited to attend a voluntary police interview next Monday 18th May 2020. To release a copy of the application for the warrant and related documents would seriously compromise this investigation by providing the defence the evidence on which the prosecution may rely on before we have had an opportunity to explore this in the correct manner. Notwithstanding the above, there remains a number of persons on police bail in connection with this investigation and any disclosure prior to a decision being made to charge has the potential to seriously undermine the investigation and thereby the interests of justice.

Given the seriousness of the situation I am copying in the Director of Public Prosecutions and the Commissioner of Police.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent

Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 47996 Centrex: 2329
Mobile [redacted]

Web: www.police.gi
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-----Original Message-----

From: Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Sent: 13 May 2020 12:32
To: (GCS) Turnock, Maurice <maurice.turnock@gcs.gov.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: Search warrant

Dear Maurice

Please see attached letter.

Kind regards,

Lewis

GDPR IMPORTANT CHANGES TO OUR PRIVACY POLICIES

We have updated our Privacy Policy in line with the GDPR.
This document explains how and why we collect, store, use and share personal data and it explains your rights, and how to contact us or supervisory authorities if you have a complaint. Please read it carefully. To find out more please visit our website to view our Privacy Policy.

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From: (RGP) McGrail, Ian M.Sc (OTM)
To: Michael Llamas AG
Subject: Re: James Levy
Date: 13 May 2020 08:19:37

I am be seeking a written response from the investigation team on Mr Baglietto's email below to you.

I would rather the meeting takes place at a later time today to allow them time to prepare this for me.

Ian

Sent from my iPhone

> On 12 May 2020, at 23:12, (GLO) Llamas, Michael wrote:
>
> Please see below. I suggest you, Mr Baglietto and myself meet in my office at 10.00 am tomorrow to discuss this. Can you please confirm this is possible for you?
>
> Michael

Michael Llamas CMG QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

HM Government of Gibraltar

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-----Original Message-----
From: Lewis Baglietto QC [mailto:lewis.baglietto@hassans.gi]
Sent: 12 May 2020 23:03
To: (GLO) Llamas, Michael
Subject: James Levy

Dear Attorney

I write on behalf of my firm's senior partner James Levy QC in relation to the attendance of RGP at his home and office addresses earlier today.

The officers who attended informed him that they were investigating the offence of conspiracy to defraud in connection with the dishonest obtaining of a maintenance contract relating to the NCSIS platform. They told him, in terrorem, that they were in possession of a search warrant (although they left with him a copy of a proforma relating to section 21 warrants of arrest, it is plain that the warrant which they claim to have had must have been a section 12 warrant), and told him that unless he cooperated, the warrant would be executed. As you would expect of a person of Mr Levy QC's stature and standing, he agreed to cooperate. He permitted them to enter his home address, and to search it, which they did. Despite threatening to execute the warrant, the police officers declined to provide him with a copy, even though they left the proforma. They seized an ipad, and then left to search his office. At Hassans' offices, they entered his personal office, and asked for his iphone and copies of documents. Again, Mr Levy QC agreed to cooperate, and provided his phone, with the sim card removed (so as to allow him to continue to work).

I am extremely concerned by the apparent gross abuse of power that this conduct amounts to, and that the RGP has seen fit to proceed in this manner. Although Mr Levy has asked me to confirm that the officers in attendance were personally courteous to him at all times, it is absolutely unconscionable that they should have threatened to execute a warrant in order to secure entry so that police search powers could be used. Moreover, it is completely inexplicable how the RGP could have thought that any warrant was proper, let alone that any court could have considered that the statutory pre-conditions for the issue of a warrant were met. The issue of a warrant was unnecessary, oppressive and highly distressing to Mr Levy and his family. It directly impugned Mr Levy's reputation and dignity as an officer of the court, the senior partner of Gibraltar's largest law firm and a highly respected member of the local community. Putting aside the ridiculous notion that he is suspected of having been involved in this serious criminal activity, it is not even clear that a production order under section 13 could have been properly obtained. How could it have even been properly suggested that entry to the premises would not be granted unless a warrant was produced, or that the purpose of a search would be frustrated or seriously prejudiced?

Mr Levy and my firm are, in addition, highly aggrieved at the fact that the RGP have taken Mr Levy's tablet and mobile telephone, which, as you will appreciate, contain a vast amount of privileged and irrelevant information to which the RGP is clearly not entitled as a matter of trite law. Although the RGP undertook to engage an independent counsel in the UK to examine the material for LPP, this completely fails to provide the necessary assurances that LPP material, or unrelated personal, private and privileged information, will

be adequately protected. Not only was the material not 'blue-bagged' in his presence (presumably because the RGP intend to copy the device thereafter elsewhere) but the exercise appears to be intended to be carried out outside Gibraltar.

As you know, legal professional privilege is sacrosanct. The prohibition on the production of privileged material in the Criminal Procedure Act and under the general law are total and the firm's many clients are entitled to have the protection of their privileged and confidential affairs guaranteed in any disclosure process.

I am therefore writing to you in your capacity as guardian of the public interest to seek your urgent intervention with a view to ensuring that all the seized material is returned forthwith. Notwithstanding Mr Levy's open and sincere cooperation (which continues), the RGP were simply not entitled to take the material. To the extent that RGP wishes to obtain the material afresh, then consideration should be given by it to the making of a proper inter partes section 13/Schedule 1 production order application.

To that end, I would be grateful if you could give me the opportunity to urgently meet with a view to further discussing the above concerns with you and the RGP. I would venture to say that we are dealing with a serious abuse of law and power here.

Kind regards,

Lewis Baglietto

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From: (RGP) Clarke, Paul (PS130)
To: (GCS) Turnock, Maurice
Cc: (RGP) Wyan, Mark
Subject: FW: Application for Schedule 1 Search Warrants H M J Levy QC / Hassans International Law Firm
Date: 14 May 2020 11:02:48
Attachments: warrant hassans 0605.pdf
warrant hassans.pdf
warrant home .pdf
warrant home 060520.pdf

Dear Maurice,
As discussed, please find attached scanned copies of the aforementioned search warrants.
Many Thanks and Kind Regards,
Paul

From: (RGP) Clarke, Paul (PS130)
Sent: 14 May 2020 10:23
To: '(GCS) Turnock, Maurice'
Subject: RE: Application for Schedule 1 Search Warrants H M J Levy QC / Hassans International Law Firm
Dear Maurice,
I'll leave New Mole House shortly.
Many Thanks and Kind Regards,

Paul

From: (GCS) Turnock, Maurice <maurice.turnock@gcs.gov.gi>
Sent: 14 May 2020 10:21
To: (RGP) Clarke, Paul (PS130) <paul.clarke@royalgib.police.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: Re: Application for Schedule 1 Search Warrants H M J Levy QC / Hassans International Law Firm
Dear Paul
Anytime between 10:30am and 11:30am or after 2:30pm.
Regards
Maurice

Sent from my iPhone

On 14 May 2020, at 10:11, (RGP) Clarke, Paul (PS130) <paul.clarke@royalgib.police.gi> wrote:

Dear Maurice,
The warrants issued on 6th May 2020 were marked as void as I made a further application. The warrants issued on 7th May 2020 were not executed. I will return these warrants to you this morning. Could you please confirm a convenient time?
Many Thanks and Kind Regards,

Paul
Paul Clarke
Detective Sergeant No. 130
Money Laundering Investigation Unit

Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20043749 Centrex: 3317
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From: (GCS) Turnock, Maurice <maurice.turnock@gcs.gov.gi>
Sent: 13 May 2020 16:14
To: (RGP) Clarke, Paul (PS130) <paul.clarke@royalgib.police.gi>
Subject: Application for Schedule 1 Search Warrants H M J Levy QC / Hassans International Law Firm

Dear Police Sergeant Clarke

I write to you pursuant to Section 20(9) Criminal Procedure and Evidence Act 2011. I understand these warrants issued on the 6th and 7th May 2020 have now been executed. As you are aware once a search warrant is executed it must be returned to me. I now seek the return of those executed warrants.

Regards

Maurice

Maurice Turnock
Clerk of the Magistrates' Court / Deputy Registrar of the Supreme Court

Gibraltar Courts Service
Magistrates' & Coroner's Court
HM Government of Gibraltar
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From: (RGP) McGrail, Ian M.Sc (OTM)
To: (RGP) Richardson, Paul (OTM); (RGP) Wyan, Mark (Supt 247)
Subject: OFFICIAL -SENSITIVE Revised pre-interview disclosure
Date: 14 May 2020 09:27:04
Attachments: image002.png
Report Levy - Disclosure in Person rev PR MW Revised(003).docx

Gents, please see the attached revised pre-interview disclosure material for the inter if JL

Ian McGrail *OTM MSc*
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

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Crime Division

New Mole House, Rosia Road, Gibraltar ♦ Tel 200 52181 ♦ Centrex 2340 ♦ www.police.gi

12th May 2020

VOLUNTARY ATTENDANCE FOR POLICE INTERVIEW UNDER CAUTION

You are not obliged to say anything unless you wish to do so, but what you say may be put into writing and given in evidence.

The RGP are investigating offences against Part 15 of the Crimes Act 2011 (Computer Misuse) and Conspiracy to Defraud. This follows a complaint made in 2018.

In October 2018 Bland Limited uncovered evidence of computer misuse within the National Security Central Intelligence System ("NSCIS"). This system is an integral part of the national security of Gibraltar. The evidence suggests that without authority the NSCIS platform had been tampered with so that sensitive information would be diverted to unauthorised servers. In addition the performance of the platform was compromised by sabotage thereby undermining Gibraltar's national security.

A complaint was made to the Royal Gibraltar Police and in May 2019, John Perez, Thomas Cornelio, Edward Asquez (all former employees of Bland Limited) and Caine Sanchez (a senior civil servant) were arrested on suspicion of conspiracy to defraud Bland Limited of the NSCIS platform maintenance contract and for related offences pursuant to Part 15 of the Crimes Act 2011 (Computer Misuse).

Search warrants were executed at home and business addresses as a result of which numerous digital devices were seized. The evidence recovered has been forensically examined and affords reasonable grounds to suspect that you may have been involved in the said conspiracy, particularly in the planning and preparation stages and by improperly using your influence with a civil servant and others.

The evidence suggests that the conspiracy was to dishonestly obtain the NSCIS platform maintenance contract, and to have it transferred to 36 North Limited. According to Companies House records you are a shareholder of this company by virtue of a company wholly owned by Hassans named Astelon Limited, which owns 33% of the shares in 36 North Limited. You thereby hold over 10% of the shareholding in 36 North Limited and stood to directly benefit from the revenue created by the transfer of the NSCIS maintenance contract.

Whilst the evidence so far indicates that you may have been involved in conspiring to dishonestly obtain the NSCIS maintenance contract, the RGP are keeping an open mind and have a duty to follow all reasonable lines of enquiry.

The topic areas which we seek to explore in formal interview under caution include (but are not limited to) the following:

1. Your role and responsibilities with regard to Hassans International Law Firm
2. 36 North Limited (incl. the company formation / financing / business)
3. Astelon Limited (incl. the company formation / business)
4. Icode Limited
5. Communication / relationship with Thomas Cornelio
6. Communication / relationship with John Perez
7. Communication / relationship with Caine Sanchez
8. The National Security Central Intelligence System (NSCIS)
9. Communication with any other person in relation to any of the above
10. Evidence gathered from the search of your residence and workplace
11. Any other area relevant to this investigation

You are hereby invited to attend a voluntary interview under caution at New Mole House police station at 1000Hrs on Monday the 18th May 2020.

In the event that you unable to attend at this time please contact Detective Inspector Wyan by email at mark.wyan@royalgibpolice.gi.

The content disclosed in this document has been provided in order to assist you in responding to the police enquiries, and instructing legal representation. This is an ongoing police investigation and the information provided herein must not be disclosed to any third party without authority of the Royal Gibraltar Police.

From:	(RGP) McGrail, Ian M.Sc (OTM)
To:	lewis.baglietto@hassans.gi
Subject:	OFFICIAL - Response to letter from Lewis Baglietto
Date:	14 May 2020 10:03:22
Attachments:	image002.png Response Letter to Lewis Baglietto 13th May.pdf warrant home .pdf warrant hassans.pdf Voluntary attendance to police interview.pdf

Dear Mr Baglietto,

Attached please find a letter and other documents in response to your letter of 13th May 2020 to Det/Supt Paul Richardson.

Best wishes

Ian McGrail *OTM MSc*

Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) 20072500 Centrex: 2210

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Ian McGrail OTM MSc
Commissioner of Police
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14th May 2020

Our Ref: IM160

Mr Lewis Baglietto QC
PO Box 199
Madison Building
Midtown, Queensway
Gibraltar

Dear Sir,

I have been forwarded a copy of your letter addressed to Detective Superintendent Paul Richardson dated 13 May 2020 the contents of which have been noted.

I have been fully briefed as to the conduct of the investigation and given the seriousness of the allegations made and the matters raised. I have seen fit to respond directly.

At the outset I must point out that the sequence of events are not as you have described and I do not agree with you that there were reasonable grounds to believe that Mr Levy would have simply handed over his devices and documents.

Notwithstanding the fact the police attended with a search warrant issued by the Magistrates Court, an attempt was made to try and deal with the matter by consent. This involved Mr Levy consulting with 'senior silk' in private and informing the officers that he would consent to handing over the items sought as long as the interests of his clients were protected. Once the means in which they would be achieved was clear Mr Levy signed the relevant form after reading it and consulting with Mr Chincotta. Accordingly the search warrant was not executed but rather Mr Levy chose to hand over his devices voluntarily, albeit after some time and after extensive consultation.

I do not agree with you that warrant was excessive, unjustified or unlawful and in my view the action taken was both legitimate and proportionate in the circumstances. I do not think it would serve any purpose to enter into a discussion on the use of Productions Orders as opposed to a Search Warrant.

In relation to the items that you have requested I have attached a copy of the search warrant to this email. I am unable at this time to comply with your request for a copy of the application for the search warrant or any other written evidence as this could potentially compromise an ongoing investigation as Mr Levy has yet to be interviewed. The same applies to point 4 (any notes taken by the RGP of the hearing). The only order or ruling that I am aware of made by the Stipendiary Magistrate was the warrant itself. Although the DPP has been consulted on various non-operational issues concerning this investigation including the

status of various parties he has not provided advice on the application of a search warrant which remains an operational matter.

Please rest assured that the RGP has not copied or downloaded any material so far and in fact the devices remain sealed and I have assumed safe custody of them. I remain convinced of the legality of our course of conduct but undertake to postpone their submission to be examined for seven days from the date of this letter in the event that you may wish to make any legal challenge to this decision.

I would also ask you to please note that it is not a question of me refusing to meet with you and the Attorney General, but rather I view it as inappropriate given the circumstances in which we find ourselves which I trust you understand.

I enclose a copy of a notice regarding voluntary attendance for police interview. This sets out the topic areas which we seek to explore in the formal police interview. I should point that we have not shared this document with any other party. It would be very helpful if Mr Levy brings any material with him that may support his account or provide it in advance of his attendance. Additionally, as would be normal practice counsel will be provided with a pre-interview briefing

Finally, as you will no doubt be aware, Mr Levy undertook to voluntarily extract the relevant emails and other documents from Hassans servers and provide these to police along with all files concerning Astelon Ltd and 36 North Ltd. Grateful if you advise when these will be supplied to assist with our investigation.

Yours faithfully

Ian McGrail OTM MSc
Commissioner of Police

From:	(RGP) McGrail, Ian M.Sc (OTM)
To:	(RGP) Richardson, Paul (OTM); (RGP) Wyan, Mark (Supt 247); (RGP) Ullger, Richard (COP 235)
Cc:	(RGP) Yeats, Cathal (ACOP 236)
Subject:	FW: URGENT - Letter to AG - 15-5-20
Date:	15 May 2020 12:28:58
Attachments:	Letter to AG - 15-5-20.pdf

Gents - this came in at 1115hrs this morning.

Ian McGrail OTM MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

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-----Original Message-----
From: Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Sent: 15 May 2020 11:15
To: (EUID) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi>
Cc: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: URGENT - Letter to AG - 15-5-20

Please see attached letter

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Your reference
Our reference LB/JM/
Date 15 May 2020

Direct email: lewis.baglietto@hassans.gi

H.M. Attorney General
Attorney General's Chambers
40 Town Range
Gibraltar

Dear Attorney

Schedule 1 paragraph 12 Criminal Procedure and Evidence Act 2011 search warrants granted on 7 May 2020 in respect of premises at Don Place, 8 Governor's Lane; and Hassans International Law Firm Madison Building

We refer to our earlier correspondence with you in this matter, dated 12 May 2020, and to the Commissioner of Police's attached letter dated 14th May in reply to our letter to Superintendent Richardson dated 13th May, which we copied to you. We are copying this letter to the Commissioner of Police.

Introduction

We set out in outline below the reasons why there are very good grounds for believing that the warrants were improperly procured and wrongfully granted (in the course of an *ex parte* hearing), and why the RGP officers acted unlawfully in attending the premises and using the threat that they would execute the warrants to obtain from Mr Levy QC the material that they sought.

As we have stated in my earlier letter, it is extraordinary that the RGP should have thought it appropriate to resort to the draconian route of Schedule 1 paragraph 12 search warrants, and no less extraordinary that the Stipendiary Magistrate should have thought it right and appropriate to grant the two applications. There were serious and multiple breaches of the statutory requirements and wholesale departures from best practice. There can be little surprise that, as we believe is the case, the DPP advised the Commissioner against the making of these applications.

The issue of the warrants was unnecessary and oppressive, and the threat to use them highly distressing. Their issue directly impugned, as we have stated, Mr Levy's reputation and dignity as an officer of the court, the senior partner of Gibraltar's largest law firm and as a highly respected member of the local community.

It was also a gross abuse of power for RGP to have threatened the use of previously obtained search warrants to secure compelled and involuntary consent to enter the two premises and seize materials. Indeed, the very fact that Mr Levy QC was prepared to allow the officers entry (notwithstanding the non-execution of the warrants) belies RGP's unsupported assertion to the Magistrate that there were reasonable grounds for believing that "*other methods of obtaining the material have not been tried because it appeared that they were bound to fail*" (Schedule 1, paragraph 2(b)(ii)) and that there was a basis upon which he could be additionally satisfied that "*(b) it is practicable to communicate with a person entitled to grant entry to the premises, but not practicable to communicate with any person entitled to grant access to the material*" or "*(d) service of notice of an application for an order under paragraph 4 may seriously prejudice the investigation*" (Schedule 1, paragraphs 14(b) and (d)). Either the warrants were needed and justified, or they were not, and it is simply not correct for the Commissioner to state, as he does in his letter of 14th May 2020, that the items sought were handed over consensually, thereby rendering the RGP action 'legitimate and proportionate'.

The Commissioner has, so far, unlawfully refused to provide any detail of the basis upon which the applications for the warrants was made. Indeed, on 12 May 2020, following the events in question, the RGP provided Mr Levy QC with a misleading *proforma* which wrongly suggested that the search powers were being exercised under the section 21 "Entry for the purposes of arrest etc" power.

The Commissioner's refusal to provide a copy of the applications for the issue of the warrants that were made by his officers, or of any evidence adduced in support, or of any notes made by the RGP during the *ex parte* Magistrates' Court hearing, on the basis this could 'potentially undermine an ongoing investigation as Mr Levy has yet to be interviewed' is perverse and wrong in law, and provides a further basis for a potential challenge.

There exists a stand-alone obligation on the *ex parte* applicant for a warrant, and on the court that granted it, to provide all relevant material adduced in support of the application: R(Energy Financing Team Ltd) v Bow Street Magistrates' Court [2005] EWHC 1626 (Admin) at para 27; R(Gittins) v Central Criminal Court [2011] EWHC 131 (Admin, at para 25(2); R(Faisaltex) v Crown Court at Preston [2008] EWHC 2832 (Admin) at para 35; R(S) v Chief Constable of the BTP [2013] EWHC 2189 at para 46.

The person who is seeking to challenge the grant of a warrant is entitled to know the basis upon which it was granted, and the case law simply does not provide, in the absence of a properly formulated application by the body that obtained the warrant for relevant information to be withheld on the basis that its disclosure would seriously prejudice the public interest: R (Haralambous) v Crown Court at St Albans & Anor [2018] UKSC 1, for refusal on any lesser basis.

In the absence of proper disclosure of the basis upon which the applications were made, it is not possible to be certain as to what transpired in the Magistrates' Court. The 'information' in support of both applications should have set out in writing, by direct reference to the particular facts of the investigation and the belief of the investigating officer(s), why the statutory requirements were met. They did not.

Instead, with the exception of a single reference in each information to the indictable offence said to be believed to have been committed, 'namely conspiracy to defraud' (which words are in a different font to the rest of the information), they are wholly silent, and contain only a bare rehearsal of the statutory criteria. In the absence of a record of what DS Clarke, the officer who made the applications, told the court orally, it is impossible to know what information, if any, the court was given any in support of the applications. It is also impossible to know if he properly discharged the plain duty upon him of making plain any information or material that weighed against the application.

Moreover, in the absence of any ruling (the Commissioner in his letter has confirmed that the Magistrate gave no ruling), the reasons for the grant of the warrants are completely unknown. It is difficult to avoid the conclusion that, rather than seeking authorisation to obtain material in relation to genuinely suspected offences, instead the police were on *"a fishing expedition in the hope of finding some material upon which the charge can be hung"*: Williams v. Summerfield [1972] 2 QB 512, per Lord Widgery CJ at 518.

The illegality of the process, and the unlawfulness of the warrants, would appear to be clearly established on the following grounds.

Statutory provisions

In order for a warrant to have been properly issued pursuant to Paragraph 12 of Schedule 1, the Magistrate must have needed to be satisfied:

(a) that

(i) either set of access conditions is fulfilled; and

(ii) any of the further conditions set out in Paragraph 14 is also fulfilled;

OR

(b) that –

(i) the second set of access conditions is fulfilled; and

(ii) an Order under Paragraph 4 in relation to the material has not been complied with.

It is clear from the warrants that the police relied on the first set of access conditions, namely:

"2. The first set of access conditions is fulfilled if -

(a) that there are reasonable grounds for believing that-

(i) an indictable offence has been committed;

(ii) there is material which consists of special procedure material or also includes special procedure material and does not also include excluded material on premises specified in the application, or on premises occupied or controlled by a person specified in the application;

(iii) the material is likely to be of substantial value (whether by itself or together with other material) to the investigation in connection with which the application is made; and

(iv) the material is likely to be relevant evidence;

(b) other methods of obtaining the material have –

(i) been tried without success; or

(ii) not been tried because it appeared that they were bound to fail; and

(c) it is in the public interest, having regard to –

(i) the benefit likely to accrue to the investigation if the material is obtained; and

(ii) the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given."

The further conditions set out in Paragraph 14 are as follows:

"14. The further conditions mentioned in Paragraph 12(a)(ii) are that –

(a) it is not practicable to communicate with any person entitled to grant entry to the premises;

(b) it is practicable to communicate with a person entitled to grant entry to the premises, but not practicable to communicate with any person entitled to grant access to the material;

(c) the material contains information which –

(i) is subject to a restriction or obligation such as is mentioned in section 15(2)(b); and

(ii) is likely to be disclosed in breach of it if a warrant is not issued;

(d) service of notice of an application for an order under paragraph 4 may seriously prejudice the investigation."

The informations stated that the requirements of Paragraphs 2 and 14(b) and (d) of Schedule 1 were fulfilled: "The further conditions at **b & d** above apply"

First set of Access conditions (Schedule 1, paragraph 2, and 12(a)(i))

First, in the absence of any information, it is not known on what basis the Stipendiary Magistrate had reasonable grounds for believing that an indictable offence had been committed (let alone in relation to Mr Levy QC, whose premises were the subject of the applications).

Paragraph 2 requires that the constable has reasonable grounds for believing the matters set out in paragraph 2(a). It is plain that a belief is more than a suspicion and that the need to have reasonable grounds for a belief imposes a higher threshold than the need to have reasonable grounds for a suspicion: R(S) (supra) at [61]; R (Eastenders Cash and Carry plc) v South Western Magistrates' Court [2011] 2 Cr App R 123. A mere assertion cannot suffice.

We do not know on what basis the court was persuaded that this requirement was met. In any event, it is a matter that the duty of candour, which rests upon an *ex parte* applicant (*In re* Stanford International Bank Limited and Another [2010] EWCA Civ 137; [2010] 3

W.L.R. 941 at para 191), absolutely demanded be brought to the attention of the Magistrate. It is far from clear that it was.

We also note the basis of RGP's apparent beliefs have altered since the warrants were obtained. In the note 'Voluntary Attendance for Police Interview under Caution", a copy of which was given to Mr Levy QC on 12 May 2020, the RGP referred, at point 9 of the topic areas which they wished to explore in interview under caution, to 'Communication with the Chief Minister in relation to any of the above'. In the otherwise identical version provided under cover of the Commissioner's letter of 14 May 2020, that phrase has been removed.

Second, whilst it is plain from the warrants and from the informations in support, that the material sought consisted of or included Special Procedure Material, there appears to be no basis upon which the Magistrate could have had reasonable grounds for believing that there would be no "excluded material" on the premises.

As made clear in R(S) at [33] and [57], paragraph 2(a)(ii) is only fulfilled if the Court is satisfied with evidence that the items to be seized do not also contain "excluded material". As stated in R(S) at [57], a lawyer's mobile or laptop would certainly include 'special procedure material' and could possibly also comprise "excluded material". It is not clear on what basis DS Clarke satisfied the court that the devices would not contain "excluded material".

Third, the court had to be satisfied that the material sought would be of substantial value to the investigation and likely to be relevant evidence. Again, there is nothing to suggest that the police or court considered the balancing exercise which appraises, on the one hand, the benefit to the investigation of obtaining the information against, on the other hand, the seizure with the possibility that it would contain in it a mass of "excluded material" and/or material subject to LPP, which was not concerned with the investigation and the seizure of which might well cause considerable professional disruption: R(S) (supra). The court's attention should have been drawn to this point with an explanation as to why this balancing exercise should be resolved in favour of the police.

Taking into account that the investigation has, we understand, been ongoing for over 18 months, and that the other suspects have already been searched and questioned, it is not at all clear how this could have been demonstrated. Was it likely that material sought so belatedly would be of 'substantial value'? Seeking further evidence identical to what had already been obtained would not meet the statutory requirement.

Fourth, in relation to the requirements of paragraph 2(b), we note that the informations allege that other methods of obtaining the material had not been tried because it appeared that they were bound to fail. The court had to be satisfied of two things: that other methods of obtaining the material had not, in fact, been tried; and that DS Clarke believed any other method was bound to fail (*R v CCBTP* at [34]).

No basis upon which the court could have been so satisfied is provided in either information, and it is wholly implausible that any proper basis could have been advanced. The notion that Mr Levy QC, as an officer of the court and Queen's Counsel, would have refused a request is absurd and, of course, as noted above, the very fact that the police did obtain the material in the way they did (following the threat to execute the warrants and the clear misrepresentation that the warrants had been applied for on the advice of the DPP) supports this. As was noted in R(S), a practising solicitor against whom no allegation of dishonesty had previously been made would in the ordinary course of events be expected to comply with a request from the police to hand over a document or at least not to destroy material.

Fifth, the information also purports to deal with the unsubstantiated public interest requirements in 2(c) which we reserve our right to further comment once we have seen any further evidence in support. However, we note that the Magistrate in satisfying himself that the warrant was in the public interest would have had to have regard to two matters: 1. the benefit likely to accrue to the investigation if the material is obtained; and 2. the circumstances under which the person in possession of the material holds it.

Paragraphs 12(a)(ii)/14

The information states that the following further conditions in paragraph 12(a)(ii) of Schedule 1 apply (we take that to mean the conditions in paragraph 14 referred to in 12(a)(ii)), namely:

1. 14(b) - that it is practicable to communicate with a person entitled to grant entry to the premises, but it is not practicable to communicate with any person entitled to grant access to the material; and

2. 14(d) - that service of notice of an application for an Order under Paragraph 4 of Schedule 1 may seriously prejudice the investigation

First, in relation to 14(b), this is plainly untrue. If it was practicable to communicate with Mr Levy as the person entitled to grant entry to his office and home, it was obviously

practicable to communicate with him to grant access to the material (as proved to be the case). That such a statement should have been made on oath is nothing short of reckless and misleading.

Second, in relation to 14(d), it is impossible to see how the police could have so believed, or that the Magistrate could have been satisfied. Not only is this serious allegation not substantiated, but there can have been no basis for the notion that service of notice on Mr Levy of an application for an order under paragraph 4 of Schedule 1 risked him prejudicing the investigation (for example, by perverting the course of justice, or destroying or dissipating evidence) pending the hearing of an *inter partes* application for a production order.

Indeed, there was every reason for believing precisely the contrary. First, Mr Levy QC is the Senior Partner of Gibraltar's largest law firm, a Queen's Counsel, an officer of the Court, and a man of good character. As events transpired, the police themselves could not have believed that he would seriously prejudice the investigation, because they declined to execute the warrants they obtained, and allowed Mr Levy to remove his phone and copy the data before handing it over to them. They also now appear to trust him to provide voluntarily the emails they sought but failed to obtain. Secondly, the investigation has been ongoing for over 18 months, and Hassans acted, initially, for other suspects. The police knew that Mr Levy was aware of the investigation. Had he really wanted to destroy evidence, this could have been done months ago.

Width

The warrants at particular "(1)" sought the seizure of "*electronic devices (including but not limited to mobile telephones and computers) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device storing any of the aforementioned communications*".

These apparently unlimited terms were grossly wide. They were without limit in terms of scope or date, and completely failed to state what the sought material had to relate to. The plainly erroneous and inexplicable reference to '*any of the aforementioned communications*' (there being no such reference) simply reinforces the point.

It would have been quite impossible, within the four corners of the warrant, for a person executing it, or for the person whose premises are being searched, to be able to identify with any degree of certainty what the warrant authorised by way of seizure: McGrath v. Chief Constable of the Royal Ulster Constabulary [2001] 2 AC 731 at [18]; R (Energy

Financing Team Ltd) v. Bow Street Magistrates' Court (supra), at [24] and [37]; Power-Hynes v. Norwich Magistrates' Court [2009] EWHC 1512 (Admin), at [19] and [22]; R (Van der Pijl) v. Kingston Crown Court [2012] EWHC 3745, at [52]-[67]; C v. Nottingham and Newark Magistrates' Court [2013] EWHC 3790, at [48] and [51]. Particular (2) is similarly unrestricted in date range.

It follows that the warrants were grossly deficient on their face. The seizure of the phone and tablet would also necessarily have led to the seizure of a vast amount of irrelevant (and LPP) material that could not, on any view, have had any connection to the investigation and/or was not capable of being seized. The RGP took no steps to sift out this material.

LPP

Not only were the warrants drafted in impermissibly wide terms, but they contained no clear wording taking LPP material outside that which was authorised to be seized (R(A) v. Central Criminal Court [2017] EWHC 70 (Admin), at [81] and [84]). Nor can such an exclusion be implied from the wording of the warrant (cf. Gittins v Central Criminal Court [2011] EWHC 131 (Admin), at [36]-[37]).

A warrant which purports to authorise the seizure of LPP is invalid. See Gittins (above), per Gross LJ at [36(2)]:

> *"If on its true construction a warrant extends to material for which there are not reasonable grounds for believing that it does not consist of or include items subject to LPP then the warrant will be quashed, at least unless the offending passages can be severed. Such a warrant cannot be saved by precautions governing its execution on the day, such as, for example, the engagement of independent counsel."*

It was obvious that the search warrants would lead to the seizure of LPP material. However, the reality was that no consideration was likely to have been given at all to LPP material when applying for and issuing these search warrants. They are therefore invalid.

Conclusion

On any challenge by way of judicial review, the warrants are overwhelmingly likely to be declared to be unlawful for all or any of the reasons set out above.

We therefore request once again, as we have already requested also in the letter to Superintendent Richardson, that Mr Levy's possessions be returned to him.

We also seek an acknowledgment from RGP that they acted unlawfully in seeking and obtaining these warrants, and in entering Mr Levy's addresses. In this regard, we must record that Mr Levy has serious concerns that the RPG acted illegally, and we reserve his rights in this regard. If, indeed, RGP acted in this way in opposition to advice that it had received to the effect that the applications were inappropriate and unlawful, then it can only be concluded that there has been a gross abuse of executive power. On any basis these events are liable to have led to a serious loss of confidence in the RGP.

We look forward to hearing from you as a matter of urgency.

Yours faithfully



Lewis Baglietto

c.c. Commissioner of Police.

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Ian McGrail OTM MSc
Commissioner of Police
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14th May 2020

Our Ref: IM160

Mr Lewis Baglietto QC
PO Box 199
Madison Building
Midtown, Queensway
Gibraltar

Dear Sir,

I have been forwarded a copy of your letter addressed to Detective Superintendent Paul Richardson dated 13 May 2020 the contents of which have been noted.

I have been fully briefed as to the conduct of the investigation and given the seriousness of the allegations made and the matters raised. I have seen fit to respond directly.

At the outset I must point out that the sequence of events are not as you have described and I do not agree with you that there were reasonable grounds to believe that Mr Levy would have simply handed over his devices and documents.

Notwithstanding the fact the police attended with a search warrant issued by the Magistrates Court, an attempt was made to try and deal with the matter by consent. This involved Mr Levy consulting with 'senior silk' in private and informing the officers that he would consent to handing over the items sought as long as the interests of his clients were protected. Once the means in which they would be achieved was clear Mr Levy signed the relevant form after reading it and consulting with Mr Chincotta. Accordingly the search warrant was not executed but rather Mr Levy chose to hand over his devices voluntarily, albeit after some time and after extensive consultation.

I do not agree with you that warrant was excessive, unjustified or unlawful and in my view the action taken was both legitimate and proportionate in the circumstances. I do not think it would serve any purpose to enter into a discussion on the use of Productions Orders as opposed to a Search Warrant.

In relation to the items that you have requested I have attached a copy of the search warrant to this email. I am unable at this time to comply with your request for a copy of the application for the search warrant or any other written evidence as this could potentially compromise an ongoing investigation as Mr Levy has yet to be interviewed. The same applies to point 4 (any notes taken by the RGP of the hearing). The only order or ruling that I am aware of made by the Stipendiary Magistrate was the warrant itself. Although the DPP has been consulted on various non-operational issues concerning this investigation including the

status of various parties he has not provided advice on the application of a search warrant which remains an operational matter.

Please rest assured that the RGP has not copied or downloaded any material so far and in fact the devices remain sealed and I have assumed safe custody of them. I remain convinced of the legality of our course of conduct but undertake to postpone their submission to be examined for seven days from the date of this letter in the event that you may wish to make any legal challenge to this decision.

I would also ask you to please note that it is not a question of me refusing to meet with you and the Attorney General, but rather I view it as inappropriate given the circumstances in which we find ourselves which I trust you understand.

I enclose a copy of a notice regarding voluntary attendance for police interview. This sets out the topic areas which we seek to explore in the formal police interview. I should point that we have not shared this document with any other party. It would be very helpful if Mr Levy brings any material with him that may support his account or provide it in advance of his attendance. Additionally, as would be normal practice counsel will be provided with a pre-interview briefing

Finally, as you will no doubt be aware, Mr Levy undertook to voluntarily extract the relevant emails and other documents from Hassans servers and provide these to police along with all files concerning Astelon Ltd and 36 North Ltd. Grateful if you advise when these will be supplied to assist with our investigation.

Yours faithfully



Ian McGrail OTM MSc
Commissioner of Police

Royal Gibraltar POLICE

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• Email: pacompol@royalglb.police.gl • Website: www.police.gl •
• Facebook: royalglbpolice • Twitter: @rgpolice •

From: (RGP) McGrail, Ian M.Sc (OTM)
To: (RGP) Richardson, Paul (OTM)
Cc: Command Team; (RGP) Wyan, Mark (Supt 247)
Subject: Re: HJM Levy CBE QC
Date: 15 May 2020 13:26:49

Paul - noted with thanks.
The AG has called for a meeting at 1700hrs. I would want you and DI Wyan to come along with me.
Regards

> On 15 May 2020, at 13:05, (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi> wrote:
>
> Sir,
>
> We have 14 days in which to file an objection to the disclosure of the information laid before the Magistrate and the Clerk of the court appears to have accepted my email as notice. They will now determine whether or not a hearing is needed and not disclose any information before then.
> Maurice Turnock has called me to ensure that we have received this email and explained the contents to me.
>
> Kind regards
>
> Paul
>
> Paul Richardson
>
> Supt.
>
> ---
>
> **From:** (GCS) Turnock, Maurice <maurice.turnock@gcs.gov.gi>
> **Sent:** 15 May 2020 12:38
> **To:** (RGP) Richardson, Paul (OTM)

Cc: (GLO) Rocca, Christian
Subject: HJM Levy CBE QC

Dear Paul

Please find attached letter to Commissioner of Police and copy of letter which I will send shortly to Lewis Baglietto QC.

Regards

Maurice

<img03169 (1).pdf>

MAGISTRATES' COURT
32-36 TOWN RANGE
GIBRALTAR

Tel: (+350) 200 75671 200 70471 [Clerk of the Magistrates' Court Office]
Fax: (+350) 200 40483
e-mail: maurice.turnock@gcs.gov.gi

Your Ref :
Our Ref :
Date : 15th May 2020

Lewis Baglietto Q.C.,
Hassans
P.O. Box 199
Madison Building
Midtown, Queensway
Gibraltar

Dear Sir

H J M Levy Esq., CBE, QC.

I write further to your letter of the 13th May 2020 setting out particulars of an investigation carried out by you in respect of a set of search warrants issued by the Magistrates' Court. You seek from me a copy of the application with all supporting evidence; a copy of the transcript or clerk's notes of any hearing; and any ruling of the Magistrate or other written or recorded document.

I note that your letter of request has been served on the Royal Gibraltar Police. I can confirm that I have (after receiving your letter via email) received from the Royal Gibraltar Police an objection to the supply of the information requested in particular to the disclosure of the material upon which the Magistrate considered the application. I can confirm that the application for the search warrants were conducted in camera and not recorded. There is, however, a written note of the Magistrate's reasons on the grant of the application.

In accordance with Rule 5.7(6)(d) CrimPR, the Court must not permit the information requested to be supplied to you until the Royal Gibraltar Police has at least 14 days in which to file a notice of objection. Once this is received the Court will determine whether a hearing is required or not.

Yours faithfully

Maurice Turnock
CLERK OF THE MAGISTRATES' COURT

cc. Superintendent Paul Richardson OTM

MAGISTRATES' COURT
32-36 TOWN RANGE
GIBRALTAR

Tel: (+350) 200 75671 200 70471 [Clerk of the Magistrates' Court Office]
Fax: (+350) 200 40483
e-mail: maurice.turnock@gcs.gov.gi

Your Ref :
Our Ref :
Date : 15th May 2020

Ian McGrail Esq., OTM
Commissioner of Police
New Mole House Police Headquarters
Rosia Road
Gibraltar

Attn: Superintendent Paul Richardson OTM

Dear Sir

H J M Levy Esq., CBE, QC.

I write further to a letter of the 13th May 2020 received by me via email from Lewis Baglietto QC and which you were copied.

I can confirm that I did receive and acknowledge an email from Superintendent Paul Richardson that same day objecting to the supply of the information requested in particular to the disclosure of the material upon which the Magistrate considered the application.

In accordance with Rule 5.7(6)(d) CrimPR, the Court must not permit the information requested to be supplied to Lewis Baglietto QC until the Royal Gibraltar Police has had at least 14 days in which to file a notice of objection with the Court setting out the following:

1. Whether the objection is to the supply of any part of the information requested, or only to the supply of a specified part, or parts, of it;
2. Whether the objection is to the supply of the information at any time, or only to its supply before a date or event specified by the Royal Gibraltar Police; and grounds for objection.

Once this is received the Court will determine whether a hearing is required or not.

Yours faithfully

Maurice Turnock
CLERK OF THE MAGISTRATES' COURT

cc. Lewis Baglietto QC., Hassans

From:	(GLO) Rocca, Christian
To:	(RGP) Richardson, Paul (OTM)
Cc:	(RGP) McGrail, Ian M.Sc (OTM); (RGP) Wyan, Mark (Supt 247); (GCS) Turnock, Maurice
Subject:	Re: Letter to Magistrates - 15-05-20
Date:	15 May 2020 16:02:47

Dear Paul,

Many thanks and apologies for not reverting sooner.

I will consider and revert.

Best,

Christian

Sent from my iPhone

>

Christian Rocca QC
Director of Public Prosecutions

Office of Criminal Prosecutions & Litigation
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HM Government of Gibraltar
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On 15 May 2020, at 12:20, (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi> wrote:
>
> Good morning Mr Rocca,
>
> Please refer to the attached letter addressed to the Magistrates' Court by Lewis Baglietto QC on behalf of James Levy QC.
>
> Having considered the matter within the very limited time available the reasons that we wish to object to this application are as follows:
>
> 1. Any release of the information to Mr Levy before he is formally interviewed would seriously prejudice this criminal investigation and any other on which the police rely on the obtaining of a search warrant prior to an interview. This is scheduled for 1000hrs on Monday 18th May 2020. The Commissioner of Police has undertaken to Mr Baglietto in writing that he will not to break the seals on the exhibit bags containing those devices for a period of 7 days. This is in order to allow Mr Baglietto to challenge the decision made to examine the devices in question. It appears clear to me that the real intention in accessing the material laid before the Magistrate is to place Mr Levy at an unfair advantage in advance of his interview. In my view the arms of the prosecution and defence are already out of balance in Gibraltar as there is no right for a court to draw an inference in certain circumstances, this is not the case in the United Kingdom who chose to amend their law precisely to address this imbalance. To allow the defence access to material that clearly articulates the full basis on which a suspicion on of criminal activity is based before the police have an opportunity to put those facts to a suspect in a formal interview would in my view make a mockery of the legal system and thereby contrary to the interests of justice.
>
> 2) Any release of the said information may, in addition, further prejudice this criminal investigation given that a number of other suspects continue on police bail. It is the intention of the investigating team to interview these suspects at length in the near future. A release of the information used to obtain the search warrant would therefore be out of the control of the RGP. We are already aware that there has been communication between Mr Levy and Mr Fischel as Mr Levy said so whilst we were at his office earlier this week. The information used as the basis of the application was detailed and referred to exhibits on which the RGP will seek to rely in any future proceedings.
>
> 3) In any event, it is argued that the devices obtained from Mr Levy were not obtained under the powers conferred by the said search warrant. The devices were voluntarily handed over by Mr Levy without the need to execute the warrant. Any argument as to the lawfulness of the warrant is, in my view, irrelevant in the circumstances. Given that they were handed over, any decision regarding the lawfulness of the application is incapable of having any impact upon this matter.
>
>
>
>
> Kind regards
>
>
> Paul
>
> Paul Richardson OTM
> Det. Superintendent

>
>
> Crime Protective Services Division
> New Mole House, Rosia Road, Gibraltar, GX11 1AA
> Tel: (+350) 200 47996 Centrex: 2329
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>
>
>
> Web: www.police.gi
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> Like us on Facebook: www.facebook.com/royalgibpolice
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>
>
>
>
> -----Original Message-----
> From: Lewis Baglietto QC <lewis.baglietto@hassans.gi>
> Sent: 15 May 2020 09:39
> To: (GCS) Turnock, Maurice <maurice.turnock@gcs.gov.gi>
> Cc: (EUID) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi>; (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
> Subject: FW: Letter to Magistrates - 15-05-20
>
> Dear Maurice
>
> Please see attached letter.
>
> Kind regards
>
> Lewis
>
>
>
>
>
>
>
>
>
> <Letter to Magistrates - 15-05-20.pdf>

Hassans
International Law Firm

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T: +350 20079000
F: +350 20071966
E: info@hassans.gi
www.gibraltarlaw.com

Direct email: lewis.baglietto@hassans.gi

Your reference
Our reference LB/JM/
Date 15 May 2020

Maurice Turnock Esq
Clerk to the Magistrates
32-36 Main Street
Gibraltar

Dear Sir

Re: James Levy QC - Search Warrant issued on or about 11 May 2020

Further to our letter of 13 May, we would bring to your attention the following extracts of English authorities, which make plain that a person who is seeking to challenge the lawfulness of a search warrant granted in his absence is entitled, as a matter of trite natural justice, to know what the court was told in his absence and thus to a note or transcript of the hearing. This accords with principles applicable to any *ex parte* application, which apply with even greater rigour in relation to remedies as intrusive as search warrants.

We have underlined the relevant parts of those extracts for ease of reference.

R (Energy Financing Team Ltd) v Bow Street Magistrates' Court [2005] EWHC 1626 (Admin); [2006] 1 W.L.R. 1316

> "27. Turning to the material which was adduced in support of the application for the warrant (including the letters of request), the solicitors acting for EFT sought access to that material on 7 July 2004, and repeatedly thereafter, but were not granted it in any form. So, on 13 October 2004 they made an application for disclosure. That eventually resulted in a letter from the Treasury Solicitor dated 1 December 2004 (just over a week before the application was due to be heard) which disclosed the letters of request and, as Mr Downes concedes, enough information about the contents of the information and the proceedings before the district judge to enable EFT to take advice and to conduct these proceedings. In my judgment there is no adequate excuse for the delay in providing the information set out in the letter of 1 December 2004, and the solicitors should never have been put in the position of having to issue an application for disclosure in order to obtain it. That is why, as we indicated during the hearing, we have concluded that EFT are entitled to the costs of that application. It is no sufficient answer to say that in this case EFT knew the nature of the allegations in Bosnia and Herzegovina and had made representations in relation to them, including the production of a report prepared by KPMG. They still have the right to be satisfied as to what had happened before the district judge.

A list of Partners is available for inspection at our offices

R(Gittins) v Central Criminal Court [2011] EWHC 131 (Admin)

> "25 (2) When an application for judicial review is launched seeking to quash the grant of a search warrant, it is, again, in some respects, akin to the "return date" for Marevas , Anthony Pillers and Restraint Orders . Ordinarily, the expectation will be that the party challenging the grant of the warrant must be entitled to know the basis upon which the warrant was obtained."

R (Faisaltex Ltd) v Crown Court at Preston [2008] EWHC 2832 (Admin)

> "35. It is, of course, commendable that a party should seek to resolve an issue about the return of certain documents without the need for litigation. But while we can understand that this might have avoided, at least in part, a claim for excessive seizure of materials, it has little bearing on some of the main grounds of challenge now advanced, namely that the search warrants were themselves invalid and consequently all the seizures of property unlawful. Those grounds, as will be seen, include contentions that the warrants were too widely drafted and also that the material specified in them was, in part, incapable of being relevant evidence as required by the statute. It is right that some of the other grounds of challenge to the warrants could only have been advanced once the claimants' advisers had obtained copies of the informations put before the judge and the transcripts of the ex parte proceedings. But here again, it was not until 27 May 2008, nearly two months after the execution of the warrants, that solicitors for the claimants sought copies of the informations from the court. That was not acting promptly."

We would also refer you to the following extract from R (S) v Chief Constable of the British Transport Police and another [2013] EWHC 2189 (Admin) in relation to the importance for persons against whom a search warrant is issued ex parte to know what was said to and by the court:

> **[46]** We would also re-emphasise two further points. First, as a matter of practice all hearings for a search warrant, whether for a warrant under s 8 of PACE or of the 'special procedure' type, must be recorded so that there can be no dispute about what was or was not said to and by the judge.

We look forward to hearing from you as a matter of urgency, as our client is entitled to and requires to know what transpired in court, as well as the reason's for the Stipendiary Magistrate's decision, in order to vindicate his rights.

Yours faithfully

Lewis Baglietto

From: (RGP) Richardson, Paul (OTM)
To: (RGP) Wyan, Mark (Supt 247)
Subject: Fwd: Op Delhi - Pre Interview disclosure
Date: 16 May 2020 21:14:50
Attachments: image003.png

Sent from Outlook Mobile

From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: Saturday, May 16, 2020 8:24:39 PM
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Cc: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: Re: Op Delhi - Pre Interview disclosure

Dear Paul,

Many thanks for your e mail and attachment. I will not comment on operational matters which are matters solely for the RGP. There is nothing that I can see in the document at this stage and given the knowledge that I have at this stage which would impact any potential JR as the the lawfulness of the search warrant.

I have a couple of minor comments on form rather than substance and will call you to discuss.

Best regards,

Christian

Sent from my iPhone

> On 16 May 2020, at 20:01, (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi> wrote:
>
> Dear Mr Rocca,
>
> Interview Under caution
>
> I refer to our conversations concerning this matter and Lewis Baglietto QC's assertion that the investigation was unlawful, frivolous etc and his request for further pre-interview disclosure. This is not normal practice and not what we have done with the others persons subject to this investigation. That said, this is a very complex investigation and Mr Levy appears to have had less involvement than the others notwithstanding the fact that we still assert, and you have agreed, that there are reasonable grounds to consider that there are questions that need putting to Mr Levy under caution. In that regard, and in order for Lewis Baglietto to properly advise his client we have drafted the attached additional pre-interview disclosure with a simplified time-line.

Given the potential impact that this may have on the case as a whole, and the threat of legal action including a potential judicial review I should be grateful for your advice before forwarding to Mr Baglietto.

Kind regards

Paul

<image001.jpg>

Paul Richardson OTM
Det. Superintendent

Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile +350 56199004

<image003.png>

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<Pre Interview Dsiclcosure Levy.docx>
<Timeline - LEVY.docx>

Serial	Date	Event
1.	26/03/1996	**OFFICIAL SECRETS ACT:** Caine Sanchez signed the OSA.
2.	01/11/2009	**BLAND:** Blands Ltd expands into security sector
3.	01/12/2014	**BLAND:** National Security Central Intelligence System (NSCIS platform) developed and launched.
4.	18/02/2018	**36 NORTH:** Email from Eddie Asquez (Gmail) to John Perez (Gmail) detailing "letter of intent for 'JM' re 36 North" addressed to Jaime LEVY and "36 North Strategy".
5.	29/03/2018	**ASTELON** Limited No. 117165 Incorporated. 3000 ordinary shares. (Co-117165-2288101)
6.	23/04/2018	**36 NORTH:** Limited No. 117268 Incorporated. 3000 ordinary shares. (Document Co-117268-2292946)
7.	23/04/2018	**36 NORTH:** Perez and Cornelio appointed as Directors of 36 North Ltd.
8.	16/05/2018	**ICODE:** Limited No. 117376 Incorporated. 100 shares. (Co-117376-2297687)
9.	16/05/2018	**ICODE:** Cornelio appointed as sole shareholder of ICODE Ltd.
10.	20/06/2018	**36 NORTH:** Email from John Perez to Thomas titled 36 North Cash Flow which included the NSCIS Platform Global Invoice for £62,519 per month.
11.	22/06/2018	**36 NORTH**; [SUBSTITUTED] Return stamped, of Allotment of Shares made effected 22/06/2018, transferring 999 shares to ASTELON LIMITED, 1,000 shares to ICODE LIMITED, and 1,000 shares to John Christopher Perez, on behalf of LINE SECRETARIES LIMITED. (Co-117268-2306031)
12.	25/06/2018	**36 NORTH**; [SUBSTITUTED] Return of Particulars of Directors, appointing directors as from 23/04/2018 Thomas John Cornelio John Christopher Perez. Appointing as secretary, LINE SECRETARIES LIMITED. (Co-117268-2306017)
13.	03/07/2018	**36 NORTH**; Letter stamped, dated Monday 02/07/2018 to substitute Particulars of Directors claiming erroneous filing. (Co-117268-2309321)
14.	03/07/2018	**36 NORTH**; Return stamped, dated 25/06/2018 of appointment of corporate director CHEAM DIRECTORS LIMITED as from 23/04/2018. Appointment of LINE SECRETARIES LIMITED as Secretary as from 23/04/2018. Co-117268-2309322)
15.	04/07/2018	**36 NORTH**: Return stamped, of Allotment of Shares dated 25/06/2018 of allotment of 2,999 shares to LINE HOLDINGS LIMITED, disposal date 22/06/2018, on behalf of LINE SECRETARIES LIMITED. (Co-117268-2309768)
16.	04/07/2018	**36 NORTH**: Letter stamped, dated 02/07/2018 to substitute Return of Allotments and Return of Change of

		Members, claiming erroneous filing, Line Group. (Co-117268-2309767)
17.	10/07/2018	**RESIGNATIONS:** Perez and Cornelio provide notice of resignation from Bland.
18.	20/07/2018	**RESIGNATIONS:** Software Developers Joseph Benrimoj and Marius Zalkaulkas provide notice of resignation from Bland.
19.	22/07/2018	**36 NORTH**: ICODE, Astelon Ltd and John Perez Ltd each made 33% shareholders of 36 North.
20.	23/07/2018	**36 NORTH**: Stamped Memorandum of Association, dated 20/04/2018. (Co-117268-2313086)
21.	23/07/2018	**36 NORTH**: Stamped Articles of Association, dated 20/04/2018. (Co-117268-2313087)
22.	10/08/2018	**RESIGNATION:** Cornelio's employment terminated. Agreement reached for Cornelio to continue to maintain the NSCIS platform as a consultant.
23.	10/08/2018	**ICODE / 36N:** Cornelio appointed director of ICODE Ltd. ICODE and Astelon Ltd each allotted 50% shareholding in 36 North Ltd.
24.	11/08/2018	**BLANDS:** Cornelio commences Consultancy period
25.	20/08/2018	**RESIGNATION:** Joseph Benrimoj and Marius Zalkaulkas terminate employment with Bland.
26.	23/08/2018	**36 NORTH**; Return stamped, of Change of members, dated 23/08/2018 signed on behalf of LINE SECRETARIES LIMITED. Share transfer of 1,500 shares from LINE HOLDINGS LIMITED to ICODE LIMITED. Share transfer of 1,500 shares from LINE HOLDINGS LIMITED to ASTELON LIMITED. (Co-117268-2319880).
27.	23/08/2018	**36 NORTH**; Return stamped, Particulars of Directors dated 23/08/2018 signed on behalf of LINE SECRATARIES LIMITED. Appointment of Director, Thomas John Cornelio, on 10/08/2018. Termination of appointment as Director, CHEAM DIRECTORS LIMITED, on 10/08/2018. (Co-117268-2319899).
28.	30/08/2018	**TERMINATION OF CONSULTANCY:** Cornelio emails Gaggero stating he maintained NSCIS on behalf of Blands from 0000Hrs 11/08/2019 to allow time to resolve issue with HMGoG and to ensure Gibraltar's National Security. Gives notice to discontinue service with effect from 0000Hrs 01/09/18.
29.	09/09/2018	**RESIGNATION:** Perez terminates employment with Bland.
30.	03/10/2018	[redacted]

31.	04/10/2018	**CM INSTRUCTIONS:** 1110hrs email from Peter Canessa PPS to Chief Minister to Caine Sanchez stating the CM has instructed that access to our 'AZURE' system be given to Jonathan Galliano
32.	04/10/2018	**CM INSTRUCTIONS:** 1342Hrs email from Peter Canessa PPS to Chief Minister to Caine Sanchez stating the instruction from the CM are that Bland Ltd is to be provided with full control of the management, maintenance and support of the NSCIS platform…. Once the handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform'.
33.	05/10/2018	**CM INSTRUCTIONS:** Sanchez advises Corenlio via telephone of the instructions issued on 04/10/18.
34.	07/10/2018	[redacted] **-** Cornelio initiates database index operations which slows down the NSCIS Platform and [redacted]
35.	10/10/2018	**EMPLOYMENT OFFER -** Cornelio and Sanchez discuss employing Jonathan Galliano from Bland. Sanchez states he will speak to Jaime Levy.
36.	15/10/2018	**CRIMINAL OFFENCES IDENTIFIED –** [redacted]
37.	17/10/2018	**NSCIS INVOICE:** Sanchez refuses to pay NSCIS invoice.
38.	24/10/2018	[redacted]
39.	01/01/2019	[redacted].
40.	09-11/04/2019	**NSCIS CREDENTIALS:** Sanchez provides his personal NSCIS credentials to Cornelio.
41.	11-12/04/2019	**NSCIS REPORT:** Cornelio accesses NSCIS using Sanchez's credentials. Cornelio creates NSCIS report.
42.	16/04/2019	**NSCIS REPORT:** Sanchez sends the NSCIS report to Abert Mena.
43.	10/05/2019	**ARRESTS:** Search warrants executed at premises of Cornelio, Perez and Asquez. All three arrested
44.	14/05/2019	**ARREST:** Search warrant executed at premises of Sanchez. Sanchez arrested.
45.	24/07/2019	**SEARCH WARRANTS:** Search warrants executed at premises of BCA Employee.

From:	(RGP) Wyan, Mark
To:	(RGP) Richardson, Paul (OTM)
Subject:	JAIME LEVY - Interview Plan
Date:	17 May 2020 15:45:00
Attachments:	JAIME LEVY - Interview Plan.docx image002.png

Sir,

Please find attached the interview plan in respect of Mr Levy.

Kind Regards,

Mark

Mark Wyan
Detective Inspector
Public Protection Unit

Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 52181 Centrex: **2340**

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JAIME LEVY– CONSPIRACY TO DEFRAUD

NO COMMENT

At this time and based on the evidence gathered so far, we suspect that you may have committed these offences. However, we are keeping an open mind. This is your opportunity to give an account of your version of events.

This is a serious offence. It is an offence for which you may be tried in the Supreme Court of Gibraltar. Before we make a decision on charging, I would ask you again to give an account.

The allegation is serious and we believe there has been a breach of Gibraltar's National security.

INTERVIEW PLAN – LEVY – ACCOUNT PHASE

JOB ROLE at HASSANS	1. Role 2. Responsibilities 3. Do you have complete autonomy? 4. How does the process for investment work? Please explain
THOMAS CORNELIO	1. How long have you known him? 2. In what capacity? 3. How did you communicate? 4. What was the nature of these communications? 5. Were you in business with him? 6. What was the nature?
JOHN PEREZ	1. How long have you known him? 2. In what capacity? 3. How did you communicate? 4. What was the nature of these communications? 5. Were you in business with him? 6. What was the nature?
CAINE SANCHEZ	1. How long have you known him? 2. In what capacity? 3. How did you communicate? 4. What was the nature of these communications? 5. Were you in business with him? 6. What was the nature?
36 NORTH	1. What did you know about the company? 2. Shareholders 3. Directors 4. Employees 5. Investors
ASTELON	1. What did you know about the company? 2. Shareholders 3. Directors 4. Employees
ICODE	1. What did you know about the company? 2. Shareholders

	3. Directors 4. Employees?
NATIONAL SECURITY CENTRAL INTELLIGENCE SYSTEM (NSCIS)	1. What do you know about this? 2. Function / Purpose 3. Maintenance 4. Involvement 5. How did the License work? 6. Ownership
MOBILE DEVICES	1. Ownership 2. Passcodes etc

INTERVIEW PLAN – LEVY – CHALLENGE PHASE

1. During the course of 2018 Levy planned, together with Cornelio and Perez, to obtain the NSCIS platform maintenance contract.

Planning / Preparation to Obtain the NSCIS Platform Maintenance Contract - Levy

2. Together with Perez and Cornelio, Levy was involved in the planning to dishonestly appropriate the NSCIS maintenance contract.

3. On 28th February 2017, Sanchez sent a text message to Levy stating "James I need to give you an update on several issues. Also need to talk to you on John Perez and the security programme. Let me know when we can meet." (**Exhibit JC/Text/CSJL/1** refers).

4. During the course of 2018 Cornelio, Perez and Levy planned to obtain the NSCIS platform maintenance contract. This contract was the property of Bland.

5. On 19th January 2018 Sanchez sent a text message to Levy stating "James I have a good proposal for investment. I think you will like this." (**Exhibit JC/Text/CSJL/2** refers).

6. In an email from Sanchez ([redacted]) to Levy ([redacted]) he states "2. YITU – (a)Security company on AI. Europe director to propose to move services from London to Gibraltar (b) interested in joint venture with Wavetech (John Perez). (c) YITU to negotiate deal with them and deal to remove company from Blands" (**Exhibit PAC/PR/Toshiba/01/Email/3** refers).

7. In an email sent from Perez to Cornelio, dated the 24th February 2018, (and whilst still employees of Bland) Perez attached a "*Letter of Intent*". This letter purported that 36 North already had an existing contract with HMGoG for the NSICIS platform (**Exhibit JC/Emails/36North** refers). This proposal evidenced the intent of the suspects to obtain the contract for the benefit of their company, 36 North.

8. On 16th March 2018, CORNELIO sent himself an email detailing a £1 Million 33% stake buy in (**Exhibit PAC/JU/3/SSD0/DOC/1** refers)

9. Between 23rd April 2018 and 22nd June 2018, the company 36 North Limited was incorporated, with Cornelio, Perez and Hassans each being 33% beneficial owners The company was incorporated with the intent that it would obtain the benefit of the NSCIS platform maintenance contract. (**Exhibits MS/Emails/1, MS/UBOR/36N/1, MS/UBOR/36N/2 & MS/CREG/36N/2** refer)

10. On 10th June 2018, PEREZ contacted LEVY over Whats App where he stated "Preparing for our departure on 29th June. Everything else is now almost in place." (**Exhibit JC/CHAT/JPJL/1** refers)

11. In an email exchange dated the 20th June 2018, and whilst still employed by Bland, Perez sent an email to Cornelio called, "*36 North Cash Flow*". The document showed a forecasted revenue in favour of 36 North which included the NSCIS platform (Global invoice) for £62,519 per month. (**Exhibits JG/22** and **PAC/JU3/SSD0/Doc/2** refers).

12. This evidence is consistent with an agreement between the suspects to appropriate the NSICS platform maintenance contract, the property of Bland.

13. In addition to preparing to take the NSCIS platform maintenance contract, Cornelio and Perez dishonestly planned to hinder the ability of Bland to carry out their contractual obligations.

14. As part of this preparation, the suspects engineered a situation whereby they, together with a number of software engineers, would resign from the company at the same time.

15. Without prior notification, on the 10th July 2018, Perez and Cornelio handed in their resignations from Bland. In accordance with their respective contracts, the resignation of Perez was to take effect on the 9th September 2018 and the resignation of Cornelio was to take effect from the 10th August 2018.

16. On the 20th July 2018, the software developers resigned from their employment with Bland to join 36 North. The resulting loss of staff undermined the ability of

Bland to fulfil their NSCIS contractual obligations following the departure of Perez and Cornelio from the company.

17. These actions were consistent with an agreement to undermine Bland, by diminishing their IT capabilities [and thereby their ability to maintain the platform] and appropriate the NSCIS platform maintenance contract.

18. On 24th July 2018 Sanchez sent a text message to Levy stating "James I received a call from James Gaggero last night reference the security programme. I have discussed it with John and emailed the CM. It may be wise for us to meet and maybe include David Weber to go over some aspects of the conversation." (**Exhibit JC/Text/CSJL/3** refers).

19. On 14th August 2018 Sanchez sent a text message to Levy stating "James just got John Perez company their Insurance broker. Everything is going well with this. Just drafted the letter to send to James Gaggero and waiting for CM to approve. I have also urged them to sign the international agreement and they are moving forward with this." (**Exhibit JC/Text/CSJL/5** refers).

20. On 20th August 2018, PEREZ contacted LEVY over Whats App where he stated "James, I thought I would send you an update so you would have a clear understanding of the current situation. We continue to run the NCSIS platform for the GOG whilst we wait to learn if we are formally appointed to continue to run this service… As you are aware Bland do not have the resources to do this but have contested the ownership of the code of the system. I believe their claim is flawed… With regards to 36N developed an entirely new Border Management System which is better than NCSIS to safeguard any future challenges and to provide the GOG with an option to continue the operation without having to rely on any system that was developed by Blands… Best outcome for us is for the GOG to inform GAGGERO that they are not in agreement with his claim and go with our new proposal which also saves the GOG a considerable amount of money… Currently we hae 4 African states showing an expression of interest with one being signed early in September…" (**Exhibit JC/CHAT/JPJL/4** refers)

21. On 29th August 2019, CORNELIO contacted LEVY via email where he provided a proposed email to GAGGERO stating "Happy to discuss this offline with you" (**Exhibit PAC/JU/3/SSD0/EMAIL/2** refers)

22. On 30th August 2018, LEVY contacted PEREZ over Whats App where he stated "I am very confident that we will bring this to a close in a successful manner very shortly. You can rest assured that I will do my best to help you in every way." (**Exhibit JC/CHAT/JPJL/5** refers)

23. On 30th August 2018, LEVY contacted CORNELIO over Whats App where he stated "You should know that I have spoken to Tommy and despite his letter to

James G he will continue ensuring that the system is kept going until a solution is found acceptable the government." (**Exhibit JC/CHAT/TCJL/3** refers)

24. On 12th September 2018, CORNELIO contacted LEVY over Whats App where he stated "Draft termination letter templates for the CM…he is very busy" **(Exhibit JC/CHATTCJL/15** refers)

25. On 12th Sepetember 2018, CORNELIO conated LEVY over Whats App where he stated "critical that the CM is aware that I have designed an entirely new platform so there can be no legal challenge that the new software has been copied in any way… it uses completely different technology" **(Exhibit JC/WHATSAPP/TCJL/5** refers)

26. On 12th September 2019, CORNELIO contacted LEVY over Whats App where he stated "Key Points regarding Blands contract… Important, please advise chief as follows: As promised Tommy has continued to work on the platform to ensure that National Security is not compromised in any way. All systems have been redeveloped from scratch and now operate from a new platform using cutting edge technology ready for its international offering with 3 countries already confirmed." (**Exhibit JC/WHATSAPP/TCJL/4** refers)

27. On 10th October 2018, when the platform is failing, Cornelio and Sanchez are discussing employing Jonathan Galliano from Blands. Sanchez states "I will speak to JL on this as it may be a good quick solution if he quits". (**Exhibit JC/Whatsapp/TCCS/13** refers).

28. On 28th November 2018, LEVY and CORNELIO chat over Whats App where LEVY states "I have to get the right opportunity to discuss the whole issue with the CM. I know that when Brexit is over I shall have an opportunity to see him privately on a number of occasions and I will bring it up." (**Exhibit JC/WHATSAPP/TCJL/9** refers)

Appropriation of business commenced by Bland – Levy

29. Together with Perez and Cornelio, Levy was involved in planning to dishonestly appropriate the business commenced by Bland.

30. During the course of their employment with Bland Cornelio and Perez were involved in a number of projects. These included:

a. A proposal for the Carnival Corporation for a "Centralised Vessel Security Management System" (**Exhibits PAC/AG/Laptop/1/Doc/7** and **PAC/AG/Laptop/1/Doc/2** refer); and
b. A "*Ministry of Defence and Public Security Border Management Proposal*" for Sao Tome and Principe. (**Exhibit PAC/AG/Laptop/1/Doc/1** refers).

31. In an email sent from Perez to Cornelio, dated the 24th February 2018, (and whilst still employees of Bland) Perez attached a "*Letter of Intent*". This letter purported that 36 North already had existing international contracts including Carnival Cruises and Sao Tome and Principe. These were in fact contracts that were being negotiated on behalf of Bland. (**Exhibit JC/Email/36North** refers).

32. In respect of Sao Tome, the proposal stated, "*Contract about to be signed for 7 years. Contract worth 1.6m euros with a forecast 20% increase by year 3. Contract starts in Feb 18*." Under the heading "*Carnival Cruise Lines*" is stated, "*Currently negotiating an APIS maritime system with Carnival who dominates 70% of the Cruise liner industry. A pilot platform has already been designed and discussed with Carnival CEO. A visit by Carnival's Head of Security and International representative will be visiting us in Mar 2018. Negotiation ongoing. Contract worth £175k per year*."

33. It is clear that Cornelio and Perez intended to dishonestly appropriate the business of Bland commenced by them as employees of Bland and obtain the benefits for 36 North.

34. In respect of the Sao Tome and Principe agreement, Cornelio specifically ensured that any signature would take place after he had resigned from Bland when he stated on the 24th July 2018, "*We can agree on timeline and agree a date to sign contract. After the 10th August*" (**Exhibit JC/WHATSAPP/TCEA** refers).

35. Both Sao Tome and Principe and the Carnival Security Management System continued to appear on the Agenda for 36 North after both Perez and Cornelio had left Bland. (**Exhibit PAC/JU3/SSD0/Doc/8** refers).

36. Together with Levy and Cornelio, Perez was involved in the planning to appropriate the business commenced by Bland for the benefit of 36 North. In part, this is evidenced by the Letter of intent addressed to Levy and the subsequent setting up of 36 North. (**Exhibits JC/Emails/36North**).

37. In addition, on the 6th July 2018, Perez discussed one of these projects, namely Carnival Cruises, with Levy, despite not having resigned from Bland. He wrote, "*James we have just finished with Carnival after a long day of negotiations. We have been successful and now moving to the pilot phase. Flying back tomorrow*." (**Exhibit JC/CHAT/JPJL/2** refers).

38. On the 7th September 2018, and in respect of Sao Tome, Perez wrote to Levy, "*James this week we will be receiving a contract from São Tomé and Príncipe for review. The commercial elements of the contract have already been agreed in principle. We are also closing in on Equatorial Guinea*." (**Exhibit JC/CHAT/JPJL/6** refers).

39. *On 9th September 2018, PEREZ contacted SANCHEZ over Whats App where he stated "Spoke to JL. If you get a chance please call me. I will be receiving the Sao Tome and the Principe contract on Tuesday for review I am closing in on Equatorial Guinea. I will push forward with these…" (***Exhibit JC/WHATSAPP/CSJP/16 refers)**

Pressure on HM Government of Gibraltar – Levy

40. Levy assisted both Perez and Cornelio to apply pressure to HMGoG with the intention that the NSICS maintenance contract would be transferred to 36 North.

41. On 10th August 2018, Sanchez sent a text message to Levy stating "James I have asked the CM to see me prior to his meeting with JG on Monday. He has not responded yet. Please give him a nudge." (**Exhibit JC/Text/CSJL/4** refers).

42. On the 21st August, whilst still in the consultancy period, Cornelio wrote, "*Dear James, would it be possible to sit down with you or the CM to try and move forward with out projects? I currently have a lot of work on hold pending this decision*." (**Exhibit JC/WHATSAPP/TCJL/3** refers).

43. On the 29th August 2018 he similarly wrote, "*Dear James, please try and get me a 10 min slot for me to meet the CM. I believe I am best placed to explain the entire situation and advise the best technical solution possible*." (**Exhibit JC/WHATSAPP/TCJL/8** refers).

44. On the 12th September 2018 Cornelio wrote to Levy and attached a letter to be used by the Chief Minister to terminate the Bland contracts. (**Exhibit JC/CHAT/TCJL/15** refers). This letter was addressed to James Gaggero of Bland and was titled "*Termination of NSCIS, DSS, BCA, ETB and Education contracts ("the contracts")*." It explained, "*Bland Limited has failed to perform its obligations under the Contracts and is therefore in repudiatory breach… In the circumstances, please accept this letter as HMGOG's termination of the Contracts with immediate effect*." (**Exhibit PAC/JU/3/SSD0/Doc/4** refers).

45. On the 23rd September 2018 Cornelio wrote, "*Attached is a letter which may be of use to the GoG in order to proceed with the new platform we have offered them*." (**Exhibit JC/WHATSAPP/TCJL/7** refers).

46. By the 27th December 2018 Cornelio was concerned that the Chief Minister would not be transferring the contract to 36 North. In response Levy wrote, "*I don't think he will transfer the contracts back to 36N. We have to work on alternatives. I am happy to help …*" (**Exhibit JC/CHAT/TCJL/7** refers).

47. On the 18th February 2019 he wrote to Levy saying, "*Any merit in me writing to the CM directly to request he meet with me. I miss my contracts*." (**Exhibit JC/WHATSAPP/TCJL/11** refers).

48. On the 26th March 2019 he wrote, "*Perhaps CM would be willing to put the National Security system out for tender next month*." (**Exhibit JC/WHATSAPP/TCJL/12** refers).

49. On the 27th March 2019 Cornelio again asked, "*Do you think there is any chance of getting national security contract back at some point?*" Despite his answer on the 27th December 2018 Levy responded, "*Yes*." (**Exhibit JC/CHAT/TCJL/9** refers).

50. On the 3rd May 2019 Cornelio wrote again saying, "*Dear James, the national security system* [redacted]. *Can I email the CM once again to meet me? He cannot allow this to continue*." (**Exhibit JC/CHAT/TCJL/14** refers).

51. In addition, on the 9th October 2018 Perez wrote to Levy stating, "*James thank you so much for this morning. I am sure our sessions will become more enjoyable as we set of in our journey. With regards to dropping Fabian a note, let's give him a bit more time. As the pressure will naturally surface through his law enforcement heads*." (**Exhibit JC/CHAT/JPJL/7** refers).

Sub Conclusion

- You wanted to take the contract for the NSCIS system away from Blands
- You used your position within Hassans to put this plan into fruition
- You used your influence with members of HMGoG to achieve this
- You stood to make monetary gains
- You were in business with 36 North to take the contract.

Knowledge of Computer Misuse Offences – Levy

On 4th October 2018, the CM via Peter Canessa gave the following explicit instruction

"*Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be* ***provided full control of the management, maintenance and support of the NSCIS platform****. Please do all necessary to ensure that Tommy Cornelio fully cooperates in handing over to Jonathan Galliano of Bland Ltd access and control to all services and systems that make up the NSCIS platform immediately.* ***Once the handover process is completed Tommy Cornelio nor any 3rd part are to have access to the platform***."

52. On the 19th October 2018 Cornelio wrote to Levy saying, "*Morning James. Very confidential. Note Gaggero has brought in a forensic team of six to look at anything John and I may have done to tamper with the system etc. Gaggero is going all out it seems*. (**Exhibit JC/EHATSAPP/TCJL/2** refers).

53. In a text to Perez the same day Cornelio stated that he had spoken to Levy and was told not to worry. (**Exhibit JC/CHAT/TCJL/6** refers).

54. The evidence indicates that Levy discussed the forensic team with Cornelio and that he had given him advice about the situation.

Sub Conclusion

- You were aware Cornelio was accessing the system without authority and purposely causing the system to malfunction
- He was doing this in order to obtain the business for 36 North.
- Where you stood to make monetary gains

NSCIS Report for Sanchez - Levy

55. By 2019 Levy was in no doubt that Cornelio and 36 North had not been contracted to maintain the NSCIS platform. Despite this fact, he did not question Cornelio accessing the system in April 2019.

56. On the 11th April 2019 Cornelio wrote to Levy, "*I am preparing a report for Caine/Albert Mena with regards to the failures of the National Security platform of*

which [redacted]. *Lesley is preparing a legal letter for your review in an attempt to speed up the process. This is ok?*" (**Exhibit JC/CHAT/TCJL/15** refers). He went on to say, *"We are going to have a field day on the national security report..just wait until you see it. For now I am reviewing every single module 1 by 1.* [redacted]*."* (**Exhibit JC/CHAT/TCJL/11** refers).

57. On 14th April 2019, CORNELIO contacted LEVY over Whats App where he stated "James, note I have provided Caine with a full report on the security platform, I have kept this simple and impartial." (**Exhibit JC/WHATSAPP/TCJL/17** refers)

58. On the 23rd April 2019 he wrote to Levy, "*Note I provided Albert Mena with a report on the National Security system. Has he made any comment to you about this? The report would have been delivered to him via Caine*." (**Exhibit JC/CHAT/TCJL/18** refers).

Sub Conclusion

- This report was compiled to further undermine Bland.

Conclusion

- Made an agreement
- To dishonestly remove the NSCIS contract from Bland
- For the benefit of 36 North and therefore yourself

From: (RGP) Wyan, Mark
To: (RGP) Richardson, Paul (OTM)
Subject: FW: James Levy QC
Date: 17 May 2020 15:43:00

Sir,

We agreed to the written account in lieu of the interview tomorrow. However, we have to be careful that this agreement is not manipulated.

We have said that we will consider a written account prior to proceeding to interview. But not that we will accept a statement in lieu of any interview. His status at the moment remains that of a suspect.

Whether he will be accepted as a witness will have to be determined on its merits once we have had time to consider the content of the statement in the context of the prosecution as a whole. We do not want it suggested that he is a witness already.

Just my thoughts.

Kind Regards,

Mark

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 17 May 2020 15:15
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>; (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: Fwd: James Levy QC

Gents - please see below.
Rgds

Begin forwarded message:

> **From:** "(GLO) Llamas, Michael" <michael.llamas@gibraltar.gov.gi>
> **Date:** 17 May 2020 at 14:55:35 GMT+2
> **To:** Lewis Baglietto QC <lewis.baglietto@hassans.gi>
> **Cc:** "(RGP) McGrail, Ian M.Sc (OTM)" <Ian.McGrail@royalgib.police.gi>, Charles Bonfante <charles.bonfante@hassans.gi>
> **Subject: RE: James Levy QC**
>
> Dear Lewis,
>
> Many thanks for your email below, the contents of which are noted and are consistent with what I communicated to you on Friday afternoon.
>
> Kind regards,

Michael

From: Lewis Baglietto QC [mailto:lewis.baglietto@hassans.gi]
Sent: 17 May 2020 14:51
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Cc: (RGP) McGrail, Ian M.Sc (OTM) (Ian.McGrail@royalgib.police.gi) <Ian.McGrail@royalgib.police.gi>; Charles Bonfante <charles.bonfante@hassans.gi>
Subject: James Levy QC

Dear Attorney,

Further to your confirmation that the Commissioner would be content with a written statement from Mr Levy in lieu of proceeding with the RGP's proposed interview tomorrow, I confirm that Mr Levy will give a written statement.

We will be in touch shortly regarding the scope, realistic timetable and procedural safeguards in relation to such statement. I assume that we should liaise with Detective Superintendent Richardson with regard to such matters.

In the circumstances, Mr Levy will therefore not be attending for interview tomorrow.

I am copying this e-mail to the Commissioner for his information, and also to Charles Bonfante of my firm, who will be assisting in this matter.

Kind regards,

Lewis Baglietto

GDPR IMPORTANT CHANGES TO OUR PRIVACY POLICIES

We have updated our Privacy Policy in line with the GDPR.
This document explains how and why we collect, store, use and share personal data and it explains your rights, and how to contact us or supervisory authorities if you have a complaint. Please read it carefully. To find out more please visit our website to view our Privacy Policy.

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From:	(RGP) Richardson, Paul (OTM)
To:	(RGP) Wyan, Mark (Supt 247)
Cc:	(OCPL) Rocca, Christian
Subject:	Fwd: James Levy QC
Date:	04 June 2020 20:44:08
Attachments:	image003.png image005.png image007.png

Sir/Mark

Copy for your records.

Kind regards.

Paul Richardson
Supt.

Sent from Outlook Mobile

From: (RGP) Richardson, Paul (OTM)
Sent: Thursday, June 4, 2020 4:27:15 PM
To: 'Charles Bonfante'
Subject: RE: James Levy QC

Dear Charles,

Thank you for your reply.

Apologies for any misunderstanding, I took it that when you asked to be told what evidence or documents were causing the RGP particular concern you were seeking additional information.

The unlawful conduct that Mr Levy may have engaged is as follows:

1. Communicating with Caine Sanchez, in matters which are confidential and subject to the Official Secrets Act;
2. Planning with Caine Sanchez, a public office holder who by virtue of his position was obliged to maintain impartiality , to obtain the NSCIS maintenance contract,;
3. Planning with Thomas Cornelio and John Perez, who we understand to have breached express and implied contractual duties to Bland Ltd, to obtain the NSCIS maintenance contract;
4. Improperly using his personal influence with persons who were in a position to act in favour of 36 North Ltd against the legitimate interests of others.

I trust that this answers your questions. I look forward to receiving Mr Levy's account by the end of this week.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent
Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
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From: Charles Bonfante
Sent: 04 June 2020 12:35
To: (RGP) Richardson, Paul (OTM)
Cc: (RGP) Wyan, Mark ; Lewis Baglietto QC
Subject: RE: James Levy QC

Dear Paul,

Thank you for your email. My enquiry has been misunderstood. We are not asking for further information regarding the investigation. Mr Levy needs to know, and is entitled to know, on what basis you say he is suspected of having committed the offence of conspiracy to defraud. All the information you have provided us regarding Mr Levy's involvement refers to lawful conduct to achieve a lawful result - it discloses no criminality on the part of Mr Levy. We cannot ignore this.

Can you please tell us what is the unlawful conduct that you say Mr Levy may have engaged in to be suspected of having committed the offence of conspiracy to defraud? This is a fundamental question which must have been answered in order to consider Mr Levy a suspect.

As ever,

Charles

Charles Bonfante
Barrister

Hassans
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T: +350 20079000 F: +350 20071966
www.gibraltarlaw.com



From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Sent: 03 June 2020 14:29
To: Charles Bonfante <charles.bonfante@hassans.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>; Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Subject: RE: James Levy QC

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Dear Charles,

I write further to our telephone conversation of the 1st June 2020 and your email yesterday.

To date we have provided Mr Levy with:

1. A written outline of the allegation made against him on the 12.5.20. This was in advance of a request to attend a voluntary police interview under caution on 18.5.20.
2. On the 16.5.20 (and at Lewis Baglietto's request) a comprehensive document detailing the areas that we would seek to put to Mr Levy in the formal police interview including a timeline.
3. On the 22.5.20 a redacted version of the information laid before the Stipendiary Magistrate in order to obtain the search warrants.
4. A further redacted version of the information laid before the Stipendiary Magistrate in order to obtain search warrants with some redactions removed (what remains redacted concerns specific communication involving Mr Levy, computer misuse offences, other persons subject to this investigation and times and dates).

5. In addition, and following consultation with the DPP, we have agreed to allow a viewing of the redacted sections of the information which related to computer misuse offences only on a counsel to counsel basis on the understanding that no copy of this is provided.

Our understanding is that Mr Levy has offered to provide an account explaining his involvement in this matter and for that reason we agreed to postpone the interview until the account was provided. As I have mentioned on many occasions we are keeping an open mind and it may be that once we have considered Mr Levy's account we would be in a position to reconsider his status as a person who at this stage needs to be interviewed under caution in order to comply with the provisions of the Criminal Procedure and Evidence Act 2011 and Codes of Practice.

To provide more information at this stage would not in our view be appropriate. We have already clearly set out the areas that we would wish to consider in Mr Levy's account.

As with all police investigations we are seeking an untainted account and I would respectfully ask that we have Mr Levy's account without further delay.

Kind regards

Paul

Paul Richardson OTM

Det. Superintendent

Crime Protective Services Division

New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) **200 47996** Centrex: 2329

Mobile [redacted]

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From: Charles Bonfante <charles.bonfante@hassans.gi>

Sent: 02 June 2020 12:06

To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>

Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>; Lewis Baglietto QC <lewis.baglietto@hassans.gi>

Subject: RE: James Levy QC

Dear Paul

As I mentioned in our call yesterday Mr Levy's statement is at an advanced stage.

With regard to the allegation that Mr Levy had knowledge of the alleged computer misuse offences, I note, with thanks, your helpful indication that there is no evidence to suggest that Mr Levy was involved in any planning of the alleged sabotage to the NSCIS platform.

As I explained, we have reviewed the information laid before the magistrate in support of the application for the warrants ("the Information") and we cannot see that it discloses any grounds that can give rise to a reasonable suspicion that Mr Levy committed the offence of conspiracy to defraud. The offence of conspiracy to defraud must incorporate some unlawfulness, either in its objects or in it means (see Blackstones A5.64). Using lawful means to obtain a lawful result can never amount to a conspiracy to defraud.

Mr Levy is accused of conspiring with Mr Perez and Mr Cornelio to defraud Bland by "dishonestly appropriating the NSCIS platform maintenance contract for his own benefit, via their company 36

North Limited" (see paragraph 42 of the Information). The allegation against Mr Levy, as set out in the Information, is wholly predicated on discussions with Mr Perez and Mr Cornelio, whilst they were still employed by Bland, regarding the setting up of 36N and competing for the business of the maintenance of the NSCIS platform. This is not unlawful conduct.

Consequently, it is not understood on what basis Mr Levy is considered a suspect. It is essential that the basis on which he is considered a suspect, that is to say, the unlawful conduct that Mr Levy is alleged to have engaged in that would constitute the offence, is properly set out and understood so that it can be addressed directly in the statement. We would therefore be grateful if we were told precisely what unlawful acts on his part are suspected and what evidence or documents are causing the RGP particular concern so that Mr Levy can address these in his statement in order to avail himself of this opportunity to do so.

As ever,

Charles

Charles Bonfante
Barrister



From: Charles Bonfante
Sent: 27 May 2020 15:58
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>; Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Subject: RE: James Levy QC

Dear Paul,

We are at an advanced stage in the preparation of Mr Levy's statement. As mentioned in my last email, this Friday is a Jewish feast day and Mr Levy will be unable to work on the statement from Thursday to Sunday.

In light of this and the final work that needs to be done we envisage being able to send you the statement during the course of next week.

As ever,

Charles

Charles Bonfante
Barrister



From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 22 May 2020 15:16
To: Charles Bonfante <charles.bonfante@hassans.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: RE: James Levy QC

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Dear Charles,

I have been asked to respond to your email by Supt Richardson who has been committed with meetings today.

The content of your email has been noted and we look forward to an update on Wednesday 27th May.

Kind Regards,

Mark

Mark Wyan
Detective Inspector
Public Protection Unit
Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 52181 Centrex: **2340**

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From: Charles Bonfante <charles.bonfante@hassans.gi>
Sent: 22 May 2020 13:53
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: FW: James Levy QC

As ever,
Charles
Charles Bonfante
Barrister

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From: Charles Bonfante
Sent: 22 May 2020 13:28
To: '(RGP) Richardson, Paul (OTM)' <Paul.Richardson@royalgib.police.gi>
Cc: Lewis Baglietto QC <lewis.baglietto@hassans.gi>; (RGP) McGrail, Ian M.Sc (OTM)

<Ian.McGrail@royalgib.police.gi>
Subject: RE: James Levy QC

Dear Paul,

As envisaged Mr Levy's statement is not finalised. Mr Levy has been working on the document and has produced a draft which addresses the questions posed in the pre-interview disclosure document you provided, however, it still requires substantial work and review.

We estimate that an additional week will be required to complete the task. Given that this is a bank holiday weekend and that Mr Levy is unable to work on Saturdays or next Friday (which is a Jewish feast day) we are looking at Tuesday 2 June as the likely target date. Mr Levy will in any case continue working on the document and we propose to provide a further update on Wednesday 27 May. It may well be that the document is at a very advanced stage by then, if not complete.

As ever,

Charles

Charles Bonfante
Barrister

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International Law Firm
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www.gibraltarlaw.com



From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Sent: 19 May 2020 16:16
To: Charles Bonfante <charles.bonfante@hassans.gi>
Cc: Lewis Baglietto QC <lewis.baglietto@hassans.gi>; (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: RE: James Levy QC

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Dear Charles,

Thank you for your email of today's date, the contents of which are noted. Please accept the pre-interview disclosure that I sent to Mr Baglietto on Sunday and marked 'draft' as the final version as the term 'draft' was not removed in error.

The Commissioner of Police had indicated that a response would be required by Tuesday 26th May 2020 as this will be a two full weeks after the RGP attended the offices of Hassans with a search warrant, which as you are aware was not in fact executed, as at that stage Mr Levy elected to provide the information that we sought voluntarily. When I left Hassans' premises on that day the Hassans IT expert was liaising with the RGP expert and we expected to have the relevant emails handed over in a matter of days. The reason for the need to deal with this issue expeditiously is because it has a significant impact on the conduct of this investigation with regards to other persons who remain on police bail. I have no issue with Mr Levy accessing his own material for the purpose of refreshing his memory and providing a copy of whatever he feels appropriate. I understand that Mr Levy does not use the computer in his office or use a computer in his home and so I presume that he would ask somebody to retrieve what he requires for him. If that is the case then that person should keep a record of what he he/she has been asked to retrieve and his/her actions.

Monday 25th May is a public holiday so I would ask that that you provide us on update on the status of Mr Levy's account by Friday 15th May 2020. We would then be in position to know how much longer is required and understand the reasons why. At that stage we may be in a position to allow a

slightly longer period of time to complete the task.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent
Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]

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From: Charles Bonfante <charles.bonfante@hassans.gi>
Sent: 19 May 2020 13:53
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Cc: Lewis Baglietto QC <lewis.baglietto@hassans.gi>; (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: James Levy QC

Dear D/Supt Richardson,

I am assisting Mr Baglietto in this matter. The Commissioner has indicated to us that Mr Levy's statement is required by Tuesday 26 May. We must flag at this stage that although Mr Levy has begun the exercise, it will be impossible for him to review all the relevant correspondence (subject to the below) and draft a meaningful statement covering the many areas set out in the draft Pre-Interview Disclosure document by that deadline. As you know, drafting a meaningful statement takes time and more so in a case such as this and covering events that transpired a considerable time ago. That said, as mentioned, Mr Levy has started to prepare his statement and will endeavour to have his statement completed as soon as possible. I therefore suggest that we provide you with an update on the status of the statement on Monday 25 May.

We note that the draft Pre-Interview Disclosure document provided to us suggests that Mr Levy go through his correspondence in order to assist in the preparation of his statement. I will be grateful if you confirmed that you have no objection to Mr Levy refreshing his memory by reference to those materials as we do not wish his steps in this regard to be called into question at a later stage.

Please feel free to contact me directly on [redacted] should it assist in the liaison in this matter.

As ever,

Charles

Charles Bonfante
Barrister

Hassans
International Law Firm

PO Box 199, Madison Building
Midtown, Queensway, Gibraltar, GX11 1AA
T: +350 20079000 F: +350 20071966
www.gibraltarlaw.com



GDPR IMPORTANT CHANGES TO OUR PRIVACY POLICIES

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From: (RGP) Richardson, Paul (OTM)
To: (RGP) Wyan, Mark (Supt 247)
Subject: FW: James Levy QC -
Date: 03 June 2020 08:55:47
Attachments: image010.png
image012.png
image002.png
image003.png

Mark,
FYI. I will draft a reply to Charles and run it past you for comments before the DPP.

Kind regards

Paul

Paul Richardson OTM

Det. Superintendent

Crime Protective Services Division

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]

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From: (GLO) Rocca, Christian
Sent: 02 June 2020 18:38
To: (RGP) Richardson, Paul (OTM)
Subject: Re: James Levy QC

Hi Paul,
Happy to speak to discuss tomorrow.
Frankly, I do not see why you need to engage any further with Mr Bonfante in this manner. It is not appropriate, in the circumstances of this case, to litigate by letter with a potential D's lawyer in this manner or for the RGP to justify its conduct or findings.
They have what they have from you and that is all you are happy to give over at this stage. They should provide what they are able to provide based on your pre-interview disclosure and the redacted court document and if that is insufficient then if course you will need to decide on next steps as you seem operationally appropriate.
Kind regards,
Christian

Sent from my iPhone

On 2 Jun 2020, at 16:41, (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi> wrote:

Dear Mr Rocca,
Grateful for your advice on the latest email from Charles Bonfante.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent
Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
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Please consider the environment before printing this email.

From: Charles Bonfante <charles.bonfante@hassans.gi>
Sent: 02 June 2020 12:06
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>; Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Subject: RE: James Levy QC

Dear Paul
As I mentioned in our call yesterday Mr Levy's statement is at an advanced stage.
With regard to the allegation that Mr Levy had knowledge of the alleged computer misuse offences, I note, with thanks, your helpful indication that there is no evidence to suggest that Mr Levy was involved in any planning of the alleged sabotage to the NSCIS platform.
As I explained, we have reviewed the information laid before the magistrate in support of the application for the warrants ("the Information") and we cannot see that it discloses any grounds that can give rise to a reasonable suspicion that Mr Levy committed the offence of conspiracy to defraud. The offence of conspiracy to defraud must incorporate some unlawfulness, either in its objects or in it means (see Blackstones A5.64). Using lawful means to obtain a lawful result can never amount to a conspiracy to defraud.
Mr Levy is accused of conspiring with Mr Perez and Mr Cornelio to defraud Bland by "dishonestly appropriating the NSCIS platform maintenance contract for his own benefit, via their company 36 North Limited" (see paragraph 42 of the Information). The allegation against Mr Levy, as set out in the Information, is wholly predicated on discussions with Mr Perez and Mr Cornelio, whilst they were still employed by Bland, regarding the setting up of 36N and competing for the business of the maintenance of the NSCIS platform. This is not unlawful conduct.
Consequently, it is not understood on what basis Mr Levy is considered a suspect. It is essential that the basis on which he is considered a suspect, that is to say, the unlawful conduct that Mr Levy is alleged to have engaged in that would constitute the offence, is

properly set out and understood so that it can be addressed directly in the statement. We would therefore be grateful if we were told precisely what unlawful acts on his part are suspected and what evidence or documents are causing the RGP particular concern so that Mr Levy can address these in his statement in order to avail himself of this opportunity to do so.

As ever,

Charles

Charles Bonfante

Barrister

From: Charles Bonfante
Sent: 27 May 2020 15:58
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>; Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Subject: RE: James Levy QC

Dear Paul,

We are at an advanced stage in the preparation of Mr Levy's statement. As mentioned in my last email, this Friday is a Jewish feast day and Mr Levy will be unable to work on the statement from Thursday to Sunday.

In light of this and the final work that needs to be done we envisage being able to send you the statement during the course of next week.

As ever,

Charles

Charles Bonfante

Barrister

From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 22 May 2020 15:16
To: Charles Bonfante <charles.bonfante@hassans.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: RE: James Levy QC

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Dear Charles,

I have been asked to respond to your email by Supt Richardson who has been committed with meetings today.

The content of your email has been noted and we look forward to an update on Wednesday 27th May.

Kind Regards,

Mark

Mark Wyan

Detective Inspector

Public Protection Unit

Crime and Protective Services

New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) 200 52181 Centrex: **2340**

Web: www.police.gi

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From: Charles Bonfante <charles.bonfante@hassans.gi>
Sent: 22 May 2020 13:53
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: FW: James Levy QC

As ever,
Charles
Charles Bonfante
Barrister

From: Charles Bonfante
Sent: 22 May 2020 13:28
To: '(RGP) Richardson, Paul (OTM)' <Paul.Richardson@royalgib.police.gi>
Cc: Lewis Baglietto QC <lewis.baglietto@hassans.gi>; (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: RE: James Levy QC

Dear Paul,
As envisaged Mr Levy's statement is not finalised. Mr Levy has been working on the document and has produced a draft which addresses the questions posed in the pre-interview disclosure document you provided, however, it still requires substantial work and review.
We estimate that an additional week will be required to complete the task. Given that this is a bank holiday weekend and that Mr Levy is unable to work on Saturdays or next Friday (which is a Jewish feast day) we are looking at Tuesday 2 June as the likely target date. Mr Levy will in any case continue working on the document and we propose to provide a further update on Wednesday 27 May. It may well be that the document is at a very advanced stage by then, if not complete.
As ever,
Charles
Charles Bonfante
Barrister

From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Sent: 19 May 2020 16:16
To: Charles Bonfante <charles.bonfante@hassans.gi>
Cc: Lewis Baglietto QC <lewis.baglietto@hassans.gi>; (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: RE: James Levy QC

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Dear Charles,
Thank you for your email of today's date, the contents of which are noted. Please accept the pre-interview disclosure that I sent to Mr Baglietto on Sunday and marked 'draft' as the final version as the term 'draft' was not removed in error.
The Commissioner of Police had indicated that a response would be required by Tuesday 26th May 2020 as this will be a two full weeks after the RGP attended the offices of

Hassans with a search warrant, which as you are aware was not in fact executed, as at that stage Mr Levy elected to provide the information that we sought voluntarily. When I left Hassans' premises on that day the Hassans IT expert was liaising with the RGP expert and we expected to have the relevant emails handed over in a matter of days. The reason for the need to deal with this issue expeditiously is because it has a significant impact on the conduct of this investigation with regards to other persons who remain on police bail. I have no issue with Mr Levy accessing his own material for the purpose of refreshing his memory and providing a copy of whatever he feels appropriate. I understand that Mr Levy does not use the computer in his office or use a computer in his home and so I presume that he would ask somebody to retrieve what he requires for him. If that is the case then that person should keep a record of what he he/she has been asked to retrieve and his/her actions.

Monday 25th May is a public holiday so I would ask that that you provide us on update on the status of Mr Levy's account by Friday 15th May 2020. We would then be in position to know how much longer is required and understand the reasons why. At that stage we may be in a position to allow a slightly longer period of time to complete the task.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent
Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]
Web: www.police.gi
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From: Charles Bonfante <charles.bonfante@hassans.gi>
Sent: 19 May 2020 13:53
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Cc: Lewis Baglietto QC <lewis.baglietto@hassans.gi>; (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: James Levy QC

Dear D/Supt Richardson,

I am assisting Mr Baglietto in this matter. The Commissioner has indicated to us that Mr Levy's statement is required by Tuesday 26 May. We must flag at this stage that although Mr Levy has begun the exercise, it will be impossible for him to review all the relevant correspondence (subject to the below) and draft a meaningful statement covering the many areas set out in the draft Pre-Interview Disclosure document by that deadline. As you know, drafting a meaningful statement takes time and more so in a case such as this and covering events that transpired a considerable time ago. That said, as mentioned, Mr Levy has started to prepare his statement and will endeavour to have

his statement completed as soon as possible. I therefore suggest that we provide you with an update on the status of the statement on Monday 25 May.

We note that the draft Pre-Interview Disclosure document provided to us suggests that Mr Levy go through his correspondence in order to assist in the preparation of his statement. I will be grateful if you confirmed that you have no objection to Mr Levy refreshing his memory by reference to those materials as we do not wish his steps in this regard to be called into question at a later stage.

Please feel free to contact me directly on [redacted] should it assist in the liaison in this matter.

As ever,

Charles

Charles Bonfante

Barrister

GDPR IMPORTANT CHANGES TO OUR PRIVACY POLICIES

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From:	(GLO) Rocca, Christian
To:	(RGP) Richardson, Paul (OTM)
Cc:	(RGP) Wyan, Mark (Supt 247)
Subject:	Re: James Levy QC
Date:	04 June 2020 16:09:13
Attachments:	image003.png image005.png image007.png image011.png

Dear Paul,

Thanks for your e mail. First and foremost you might want to point out to mr Bonfante his views on the lawfulness of the conduct are pretty irrelevant at this juncture and you are not going to enter a debate on that point. Nonetheless, I don't think you are revealing anything in your draft email that you haven't revealed already to him in the various documents.

I don't think you need to mention the civil breaches and I would leave that out.

In all honesty you would be perfectly justified in directing him back to what you have disclosed. He offered to give a voluntary account so let him go ahead and give it.

Best,

C

Sent from my iPhone

Christian Rocca QC
Director of Public Prosecutions

Office of Criminal Prosecutions & Litigation
Government Law Offices
HM Government of Gibraltar
6th Floor, Natwest House
57/63 Line Wall Road
Gibraltar
GX11 1AA

Tel: (+350) 200 78882
Centrex: 2730
christian.rocca@gibraltar.gov.gi

www.gibraltar.gov.gi

Government Law Offices

HM Government of Gibraltar

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On 4 Jun 2020, at 15:58, (RGP) Richardson, Paul (OTM) wrote:

Dear Mr Rocca,
Please refer to the latest correspondence to and from Charles Bonfante i.r.o. JL.
I am mindful of your advice to avoid litigating by correspondence, however Charles Bonfante is insisting that nothing that we revealed thus far indicates any in criminality on behalf of his client. To that end, and in response to Mr Bonfante's assertion that *'It is essential that the basis on which he is considered a suspect, that is to say, the unlawful conduct that Mr Levy is alleged to have engaged in that would constitute the offence, is properly set out and understood so that it can be addressed directly in the statement'* we have drafted the following.
Grateful for your advice before sending.
*** D R A F T ***
Dear Charles,
Thank you for your reply.
Apologies for the misunderstanding, I took it that when you asked to be told what evidence or documents were causing the RGP particular concern you were seeking additional information.
The unlawful conduct that Mr Levy may have engaged is as follows:

<!--[if !supportLists]-->1. <!--[endif]-->Communicating with Caine Sanchez, in matters which are confidential and subject to the Official Secrets Act;

<!--[if !supportLists]-->2. <!--[endif]-->Planning with Caine Sanchez, a public office holder who by virtue of his position was obliged to maintain impartiality , to obtain the NSCIS maintenance contract,;

<!--[if !supportLists]-->3. <!--[endif]-->Planning with Thomas Cornelio and John Perez, who we understand to have breached express and implied contractual duties to Bland Ltd, to obtain the NSCIS maintenance contract (with civil wrongs amounting to unlawfulness for the purpose of a conspiracy to defraud);

<!--[if !supportLists]-->4. <!--[endif]-->Improperly using his personal influence with persons who were in a position to act in favour of 36 North Ltd against the legitimate interests of others.

I trust that this answers your questions. I look forward to receiving Mr Levy's account by the end of this week.
*** E N D S ***

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent
Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]

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From: Charles Bonfante
Sent: 04 June 2020 12:35
To: (RGP) Richardson, Paul (OTM)
Cc: (RGP) Wyan, Mark ; Lewis Baglietto QC
Subject: RE: James Levy QC

Dear Paul,

Thank you for your email. My enquiry has been misunderstood. We are not asking for further information regarding the investigation. Mr Levy needs to know, and is entitled to know, on what basis you say he is suspected of having committed the offence of conspiracy to defraud. All the information you have provided us regarding Mr Levy's involvement refers to lawful conduct to achieve a lawful result - it discloses no criminality on the part of Mr Levy. We cannot ignore this.

Can you please tell us what is the unlawful conduct that you say Mr Levy may have engaged in to be suspected of having committed the offence of conspiracy to defraud? This is a fundamental question which must have been answered in order to consider Mr Levy a suspect.

As ever,

Charles

Charles Bonfante

Barrister

From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Sent: 03 June 2020 14:29
To: Charles Bonfante <charles.bonfante@hassans.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>; Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Subject: RE: James Levy QC

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Dear Charles,

I write further to our telephone conversation of the 1st June 2020 and your email yesterday.

To date we have provided Mr Levy with:

1. A written outline of the allegation made against him on the 12.5.20. This was in advance of a request to attend a voluntary police interview under caution on 18.5.20.
2. On the 16.5.20 (and at Lewis Baglietto's request) a comprehensive document detailing the areas that we would seek to put to Mr Levy in the formal police interview including a timeline.
3. On the 22.5.20 a redacted version of the information laid before the Stipendiary Magistrate in order to obtain the search warrants.
4. A further redacted version of the information laid before the Stipendiary Magistrate in order to obtain search warrants with some redactions removed (what remains redacted concerns specific communication involving Mr Levy, computer misuse offences, other persons subject to this investigation and times and dates).
5. In addition, and following consultation with the DPP, we have agreed to allow a viewing of the redacted sections of the information which related to computer misuse offences only on a counsel to counsel basis on the understanding that no copy of this is provided.

Our understanding is that Mr Levy has offered to provide an account explaining his involvement in this matter and for that reason we agreed to postpone the interview until the account was provided. As I have mentioned on many occasions we are keeping an open mind and it may be that once we have considered Mr Levy's account we would be in a position to reconsider his status as a person who at this stage needs to be interviewed under caution in order to comply with the provisions of the Criminal Procedure and Evidence Act 2011 and Codes of Practice. To provide more information at this stage would not in our view be appropriate. We have already clearly set out the areas that we would wish to consider in Mr Levy's account.

As with all police investigations we are seeking an untainted account and I would respectfully ask that we have Mr Levy's account without further delay.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent
Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]

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From: Charles Bonfante <charles.bonfante@hassans.gi>

Sent: 02 June 2020 12:06
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>; Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Subject: RE: James Levy QC

Dear Paul

As I mentioned in our call yesterday Mr Levy's statement is at an advanced stage. With regard to the allegation that Mr Levy had knowledge of the alleged computer misuse offences, I note, with thanks, your helpful indication that there is no evidence to suggest that Mr Levy was involved in any planning of the alleged sabotage to the NSCIS platform.

As I explained, we have reviewed the information laid before the magistrate in support of the application for the warrants ("the Information") and we cannot see that it discloses any grounds that can give rise to a reasonable suspicion that Mr Levy committed the offence of conspiracy to defraud. The offence of conspiracy to defraud must incorporate some unlawfulness, either in its objects or in it means (see Blackstones A5.64). Using lawful means to obtain a lawful result can never amount to a conspiracy to defraud.

Mr Levy is accused of conspiring with Mr Perez and Mr Cornelio to defraud Bland by "dishonestly appropriating the NSCIS platform maintenance contract for his own benefit, via their company 36 North Limited" (see paragraph 42 of the Information). The allegation against Mr Levy, as set out in the Information, is wholly predicated on discussions with Mr Perez and Mr Cornelio, whilst they were still employed by Bland, regarding the setting up of 36N and competing for the business of the maintenance of the NSCIS platform. This is not unlawful conduct.

Consequently, it is not understood on what basis Mr Levy is considered a suspect. It is essential that the basis on which he is considered a suspect, that is to say, the unlawful conduct that Mr Levy is alleged to have engaged in that would constitute the offence, is properly set out and understood so that it can be addressed directly in the statement. We would therefore be grateful if we were told precisely what unlawful acts on his part are suspected and what evidence or documents are causing the RGP particular concern so that Mr Levy can address these in his statement in order to avail himself of this opportunity to do so.

As ever,

Charles

Charles Bonfante

Barrister

From: Charles Bonfante
Sent: 27 May 2020 15:58
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>; Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Subject: RE: James Levy QC

Dear Paul,

We are at an advanced stage in the preparation of Mr Levy's statement. As mentioned in my last email, this Friday is a Jewish feast day and Mr Levy will be unable to work on the statement from Thursday to Sunday.

In light of this and the final work that needs to be done we envisage being able to send you the statement during the course of next week.
As ever,
Charles
Charles Bonfante
Barrister

From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 22 May 2020 15:16
To: Charles Bonfante <charles.bonfante@hassans.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: RE: James Levy QC

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Dear Charles,
I have been asked to respond to your email by Supt Richardson who has been committed with meetings today.
The content of your email has been noted and we look forward to an update on Wednesday 27th May.
Kind Regards,
Mark

Mark Wyan
Detective Inspector
Public Protection Unit
Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 52181 Centrex: **2340**

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From: Charles Bonfante <charles.bonfante@hassans.gi>
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As ever,
Charles
Charles Bonfante

Barrister

From: Charles Bonfante
Sent: 22 May 2020 13:28
To: '(RGP) Richardson, Paul (OTM)' <Paul.Richardson@royalgib.police.gi>
Cc: Lewis Baglietto QC <lewis.baglietto@hassans.gi>; (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: RE: James Levy QC

Dear Paul,

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As ever,

Charles

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Barrister

From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Sent: 19 May 2020 16:16
To: Charles Bonfante <charles.bonfante@hassans.gi>
Cc: Lewis Baglietto QC <lewis.baglietto@hassans.gi>; (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: RE: James Levy QC

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Charles,

Thank you for your email of today's date, the contents of which are noted. Please accept the pre-interview disclosure that I sent to Mr Baglietto on Sunday and marked 'draft' as the final version as the term 'draft' was not removed in error.

The Commissioner of Police had indicated that a response would be required by Tuesday 26th May 2020 as this will be a two full weeks after the RGP attended the offices of Hassans with a search warrant, which as you are aware was not in fact executed, as at that stage Mr Levy elected to provide the information that we sought voluntarily. When I left Hassans' premises on that day the Hassans IT expert was liaising with the RGP expert and we expected to have the relevant emails handed over in a matter of days. The reason for the need to deal with this issue expeditiously is because it has a significant impact on the conduct of this investigation with regards to other persons who remain on police bail. I have no issue with Mr Levy accessing his own material for the purpose of refreshing his

memory and providing a copy of whatever he feels appropriate. I understand that Mr Levy does not use the computer in his office or use a computer in his home and so I presume that he would ask somebody to retrieve what he requires for him. If that is the case then that person should keep a record of what he he/she has been asked to retrieve and his/her actions.

Monday 25th May is a public holiday so I would ask that that you provide us on update on the status of Mr Levy's account by Friday 15th May 2020. We would then be in position to know how much longer is required and understand the reasons why. At that stage we may be in a position to allow a slightly longer period of time to complete the task.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent
Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]

Web: www.police.gi
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From: Charles Bonfante <charles.bonfante@hassans.gi>
Sent: 19 May 2020 13:53
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Cc: Lewis Baglietto QC <lewis.baglietto@hassans.gi>; (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: James Levy QC

Dear D/Supt Richardson,

I am assisting Mr Baglietto in this matter. The Commissioner has indicated to us that Mr Levy's statement is required by Tuesday 26 May. We must flag at this stage that although Mr Levy has begun the exercise, it will be impossible for him to review all the relevant correspondence (subject to the below) and draft a meaningful statement covering the many areas set out in the draft Pre-Interview Disclosure document by that deadline. As you know, drafting a meaningful statement takes time and more so in a case such as this and covering events that transpired a considerable time ago. That said, as mentioned, Mr Levy has started to prepare his statement and will endeavour to have his statement completed as soon as possible. I therefore suggest that we provide you with an update on the status of

the statement on Monday 25 May.
We note that the draft Pre-Interview Disclosure document provided to us suggests that Mr Levy go through his correspondence in order to assist in the preparation of his statement. I will be grateful if you confirmed that you have no objection to Mr Levy refreshing his memory by reference to those materials as we do not wish his steps in this regard to be called into question at a later stage.
Please feel free to contact me directly on [redacted] should it assist in the liaison in this matter.
As ever,
Charles
Charles Bonfante
Barrister

GDPR IMPORTANT CHANGES TO OUR PRIVACY POLICIES

We have updated our Privacy Policy in line with the GDPR.
This document explains how and why we collect, store, use and share personal data and it explains your rights, and how to contact us or supervisory authorities if you have a complaint. Please read it carefully. To find out more please visit our website to view our Privacy Policy.

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From:	(RGP) McGrail, Ian M.Sc (OTM)
To:	(RGP) Richardson, Paul (OTM); (RGP) Wyan, Mark (Supt 247)
Subject:	FW: Letter to Commissioner - 20-05-20
Date:	20 May 2020 10:38:32
Attachments:	Letter to Commissioner - 20-05-20.pdf

Please see below and attached

Ian McGrail OTM MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

Web: www.police.gi
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-----Original Message-----
From: Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Sent: 20 May 2020 10:25
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: (EUID) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi>; Charles Bonfante <charles.bonfante@hassans.gi>
Subject: FW: Letter to Commissioner - 20-05-20

Dear Commissioner,

Please see attached letter.

Kind regards,

Lewis Baglietto

Hassans
International Law Firm

Po Box 199
Madison Building
Midtown, Queensway
Gibraltar, GX11 1AA

T: +350 200 79000
F: +350 200 71966
E: info@hassans.gi

www.gibraltarlaw.com

Your reference
Our reference LB/JM/
Date 20 May 2020

Direct e-mail: Lewis.Baglietto@hassans.gi

Mr Ian McGrail OTM
Commissioner of Police
New Mole House
Rosia Road
Gibraltar

Dear Commissioner

Schedule 1 paragraph 12 Criminal Procedure and Evidence Act 2011 search warrants granted on 7 May 2020 in respect of premises at [redacted] and Hassans International Law Firm Madison Building and proposed interview of James Levy QC

I refer to your letter dated 14th May, enclosing copies of the above search warrants and a copy of a notice regarding voluntary attendance for police interview, and to your email of 18th May 2020.

The points you refer to in your letter concerning the legality and propriety of the warrants as well as the manner in which Mr Levy was obliged to allow RGP access to his home address and to the seizure of the material are addressed in my letter to the Attorney General of 15th May 2020 which was copied to you. I, therefore, do not propose to repeat our response to those points here.

I note that you do not agree to provide us with the documents that we have requested from you relating to the RGP's application for the search warrants on the grounds that doing so may potentially prejudice the investigation "as Mr Levy has yet to be interviewed". I have also been informed by the Clerk of the Magistrates' Court that the RGP has lodged an objection with the court against our application to the court under Crim PR 5.7 for the application for the warrants and other related material to be provided to us from the court record.

I would, however, urge you to re-consider your position, and the objection that you have lodged with the court. Mr Levy QC is entitled, as the person challenging the warrants, to disclosure of the information laid in support of the application for the warrants, and to know

on what basis the application was made, including any further information or evidence given to the court: R (Energy Financing Team Ltd) v Bow Street Magistrates' Court; R(Gittins) v Central Criminal Court.

The only basis upon which disclosure may nevertheless be refused by the court under Crim PR 5.7(6) to (9) is if the relevant material is protected by public interest immunity because disclosure would cause substantial harm or serious prejudice to the public interest: R v Chief Constable ex parte Wiley; R (Haralambous) v Crown Court at St Albans; R(Terra Services Ltd) v NCA. The reason provided for refusing to provide the material, namely that the investigation would be 'prejudiced….as Mr Levy has yet to be interviewed' would fall far short of the necessary PII threshold to justify non-disclosure.

I also note from your letter that the DPP's advice was not sought on the application for search warrants. This is contrary to what Mr Levy was led to believe by Detective Superintendent Richardson, and contrary to what we understand was the position. We would be grateful for details of the extent to which the DPP was informed of the prospective warrant applications (on account, of course, of LPP, we do not seek details of any advice that he may have given).

I note your assurances that the RGP has not so far downloaded or copied any of the material taken from Mr Levy, and would not do so for 7 days from the date of your letter pending a legal challenge. I also understand from the Attorney General that you have given a further undertaking to the effect that that material would not be accessed until after the conclusion of the process under which Mr Levy is to provide a written statement. We are grateful to you for these assurances. We would ask, however, that you give a further assurance that the RGP *thereafter* refrains from examining the seized material without giving 21 days' notice, so that we may, if appropriate, seek legal relief in advance of the RGP gaining access. Such a further elapse of time would also allow a disclosure application, to which reference is made above, to be determined. We are plainly unable to reach a final view on the full extent of a challenge to the warrants without this information. The seized material cannot be examined until the court has ruled on the propriety and validity of your objection to disclosure, and we are given a reasonable period thereafter to consider our position in light of all or any of the information that is ordered to be disclosed.

Finally, we acknowledge, and are grateful for, your confirmation that Mr Levy is to provide a written statement. However, I note that your letter states that, following the provision of a written statement, the RGP will reconsider whether it would 'require further written particulars or the need to interview Mr Levy' (under caution). I am concerned about this. As you know, an interview under caution may only take place where there are grounds to suspect the interviewed person of the commission of an offence. Mr Levy, I presume, is not now so

suspected (otherwise he would not have been offered the opportunity of instead providing a written statement), but were he to become so, and to be interviewed under caution, he would then have lost, in relation to the pre-existing statement, the procedural protections that the law allows for suspected persons, and the statement would be potentially admissible against him. I would be grateful if you would confirm that he will not be interviewed under caution at a later stage.

I look forward to hearing from you.

Yours sincerely,

Lewis Baghetto

c.c. Her Majesty's Attorney General

From:	(RGP) Wyan, Mark
To:	christian.rocca@gibraltar.gov.gi
Cc:	(RGP) Richardson, Paul (OTM); (RGP) McGrail, Ian M.Sc (OTM)
Subject:	Application for Disclosure of Material
Date:	21 May 2020 21:39:00
Attachments:	Taylor%20v%20Anderton.rtf.doc image002.png
Importance:	High

Dear Mr Rocca,

RE: Application for Disclosure of Material

I am aware that Superintendent Richardson has raised his concerns with you about releasing information prior to an interview. I think it is important to add my views on this matter given that it will affect the interviews I intend to conduct. My concerns are two-fold and are set out in the sub-headings below:

Prejudice to the Investigation

1. The redacted version of the information provides a substantial amount of evidence to the defence. As an interviewee, Mr Levy will therefore be in a position to anticipate questions that may be put to him. This will prevent police from obtaining an untainted version of events;

2. Releasing information following the interview of Mr Levy is further capable of undermining the case against co-conspirators. There are a number of other suspects on police bail who are pending interview. It is reasonable to suggest that they may become aware of the evidence provided to Mr Levy. This will hinder the ability of the police interviewer to obtain an untainted version of events from these suspects;

3. The release of information prior to an interview has the potential to undermine the investigative process of any future case. It is important to consider that we may be setting a precedent in which lawyers advise their clients to make no comment until such time as an application for the information has been made, and a redacted copy of the information is provided. This will equally allow future suspects to anticipate questions that may be put to them.

Legal Objections

5. I understand that the defence are making an application for disclosure of the information pursuant to r.5.7 of the Criminal Procedure Rules (as amended). You will be aware that the purpose of these rules is to set a procedural framework in relation to criminal matters. It is my understanding they any application must be made pursuant to an enabling local provision. It is not sufficient simply to refer to the rules without relying upon a specific statute. In the absence of such a provision, the defence application must fail.

6. Having read through the Criminal Procedure and Evidence Act 2011, there does not appear to be any provision which will allow the defence to make an application for the disclosure of information upon the strength of which a search warrant was obtained. There is a power to make an application, pursuant to section 38, for the return of property seized by police. [It is submitted that if Hassans want the phone /

IPad returned, an application could be made under this section]. Importantly however, there is no reference to an application for supplying search warrant information.

7. Notwithstanding the above, it is my view that public interest immunity can be successfully argued for the entirely of the information upon which the warrant was obtained. Such an argument would be made on the basis of the prejudice to the investigation, and set out in paragraphs 1 to 3.

8. Blackstones (2016) at F9.13, in respect of Police Communications states:

"*Public interest immunity also attaches to police communications relating to the investigation of crime, such as documents or information upon the strength of which search warrants have been obtained (Taylor v Anderton (1986) The Times, 21 October 1986)*."

9. In *Taylor v Anderton* the applicant sought disclosure of documents leading to the grant of search warrants. It was held that the application was refused on the basis that (1) there was no jurisdiction in either RSC Ord.29 r7A or the Supreme Court Act 1981 s.33; and (2) the documents were covered by public interest immunity.

10. The ruling indicates that the entirety of the search warrant information was covered by PII. There is no suggestion that disclosure of a redacted version was ordered by the Court.

11. In addition, the order was also refused on the basis that the court did not have jurisdiction to release the requested information (under RSC Ord.29 r7A or s.33 of the Supreme Court Act). In my view, this strengthens the argument that the court must be able to rely upon a statutory power to release the requested information. As stated previously, it is not apparent that such a provision exists in Gibraltar law. Moreover, there is an obligation on the prosecution to appraise the court of the absence of such a power.

Given the above, it is my view that we should be resisting the application made by the defence and not disclosing any of the search warrant information. There are a number of legal arguments that could be put to the Court. If the objections are rejected by the Court it would be for them to determine the nature and extent of disclosure.

Kind Regards,

Mark

Mark Wyan
Detective Inspector
Public Protection Unit

Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) 200 52181 Centrex: **2340**

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From:	(RGP) McGrail, Ian M.Sc (OTM)
To:	Lewis Baglietto QC
Subject:	OFFICIAL - Response to Hassans
Date:	21 May 2020 09:08:01
Attachments:	Letter to Mr Lewis Baglietto - 21st May.pdf image002.png

Dear Mr Baglietto,
Please find attached my response to your letter of 20th May 2020.

Kind regards

Ian McGrail *OTM MSc*
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

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Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

21st May 2020

Our Ref: IM166

Mr Lewis Baglietto QC
PO Box 199
Madison Building
Midtown, Queensway
Gibraltar

Dear Mr Baglietto,

Re - Mr James Levy QC

Thank you for your letter dated 20th May 2020, the contents of which are noted. Given some of the matters of law raised in your letter I have sought advice from the DPP.

I do not propose to repeat the RGP's position regarding the legality of the search warrant, suffice to say that our position remains that the warrant was properly and lawfully obtained.

You are correct to say that the RGP has objected to the disclosure of the documents used in support of the application of the warrant and that continues to be the RGP's fundamental position regarding full provision of all material. Notwithstanding this, I have instructed my officers to consider, if possible, making available a redacted version of those documents which may satisfy you regarding the basis upon which the application was made. Additionally, you have had made available to you substantial information in the pre-interview disclosure information. I hope that this combined will make the application to the Magistrate unnecessary. However, I must reiterate that any application for full disclosure of the documents will be resisted on the basis previously set out. Our view is that our objection is encapsulated within the Criminal Procedure Rules provisions identified by you in your letter.

As already explained, the DPP's advice was not sought in relation to whether a warrant should be applied for or how it would be executed. Such matters are operational in nature. The DPP's advice was however sought at various times in relation to status of all persons subject to the investigation. In this regard we remain convinced that the RGP's actions were lawful.

I note your request for further assurances from me regarding the examination etc of the material voluntarily provided by your client. In this regard, I can assure you that the material will not be examined without my giving you 7 days notice in advance of our intention to do so. This will give you ample opportunity to take whatever action you may deem necessary in the event that you are put on notice given that already 8 days since the items were handed over voluntarily.

Whilst on the matter of the material provided, I note that you have failed to respond to the point raised in earlier correspondence, namely that the material was provided voluntarily by your client and the warrant was not executed. On that basis I would be grateful if you would clarify the relevance of the challenge of the warrant. You will appreciate that this is an important issue for a number of reasons and clarity is required. Any suggestion that Mr Levy was coerced in to acting against his will and under threat of the execution of a warrant is strongly denied and will be apparent from any viewing of the Body Worn Video footage that was taken at the time.

Finally, for the avoidance of doubt, your client continues to be a suspect in this investigation. Your client has been given an opportunity to provide a prepared statement which may assist in the RGP's enquiries and clarify any involvement he may have had in the matter under investigation. Needless to say, the RGP must reserve the right to interview Mr Levy under caution at any time and it is a matter for you to advise your client on the effect of any statements he may or may not provide to the RGP. I must repeat that notwithstanding the above the RGP have an open mind and will review our position as and when evidence becomes available to us.

Yours sincerely

Ian McGrail OTM MSc
Commissioner of Police

From:	(RGP) Richardson, Paul (OTM)
To:	(RGP) Wyan, Mark (Supt 247)
Subject:	Fw: 2020.05.21 - Letter to Magistrates Court v2.docx
Date:	21 May 2020 18:46:46
Attachments:	2020.05.21 - Letter to Magistrates Court v2.docx ATT00001.txt Schedule 1 Affadavit - Levy REDACTED PDF.pdf image003.png

Mark,

I have checked the redacted PDF and it is quite easy to undo. Spoke to DPP and he says it can wait till we forward a hard copy tomorrow. Please print out a hard copy in advance of our meeting tomorrow with Ag and DPP.

Kind regards

Paul Richardson
Supt.

From: (RGP) Richardson, Paul (OTM)
Sent: 21 May 2020 17:41
To: (RGP) Wyan, Mark
Subject: FW: 2020.05.21 - Letter to Magistrates Court v2.docx

MARK,

Please find attached draft letter to the Magistrates' Court and supporting document by DPP.

2. I have included the redacted information laid for the warrant that we prepared this afternoon – please forward to DPP once you have checked it and I have confirmed that the redactions are secure.

C

Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]

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From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: 21 May 2020 16:12
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: 2020.05.21 - Letter to Magistrates Court v2.docx

Draft letter

Christian Rocca QC
Director of Public Prosecutions

Office of Criminal Prosecutions & Litigation
Government Law Offices
HM Government of Gibraltar
6th Floor, Natwest House
57/63 Line Wall Road
Gibraltar
GX11 1AA

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Government Law Offices

HM Government of Gibraltar

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From:	(RGP) Wyan, Mark
To:	(GLO) Rocca, Christian
Cc:	(RGP) Richardson, Paul (OTM)
Subject:	RE: H Levy - notice of objection
Date:	22 May 2020 12:06:00
Attachments:	Schedule 1 Information.pdf image001.jpg image003.png image004.png
Importance:	High

Dear Mr Rocca,
As discussed, please find attached the redacted version of the Schedule 1 information.
Kind Regards,
Mark

Mark Wyan

Detective Inspector

Public Protection Unit

Crime and Protective Services

New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) 200 52181 Centrex: **2340**

RGP Logo 2018 + vision (003)

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From: (GLO) Rocca, Christian
Sent: 22 May 2020 11:50
To: (RGP) Richardson, Paul (OTM) ; (RGP) Wyan, Mark
Subject: RE: H Levy - notice of objection

Thanks Paul, I will proceed to file and serve the Notice.

Best,

Christian

From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Sent: 22 May 2020 11:46
To: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>; (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: RE: H Levy - notice of objection

Dear Chris,

Many thanks for this. I have asked Mark Wyan (copied in) to forward a scanned copy of the printed version of the redacted information to you this morning.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent
Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]
RGP Logo 2018 + vision (003)
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Please consider the environment before printing this email.

From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: 22 May 2020 11:12
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>; (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: H Levy - notice of objection

Dear Paul,
Please find attached draft letter and notice of objection which I propose to file and serve today.
Please confirm that you are happy with this before I file.
As always, please feel free to call me if there is anything you wish to discuss.
Best regards,
Christian

Government Law Offices
HM Government of Gibraltar

Your Ref:
Our Ref: CMR/CRIM

Maurice Turnock
Clerk of the Magistrates Court
32-36 Town Range
Gibraltar

By email and by hand

21 May 2020

Dear Sirs

RE: Search Warrants granted on 7 May 2020 in respect of premises at [redacted]; and Hassans International Law Firm Madison Building.

We refer to your letter dated 15th May 2020 regarding the above captioned matter sent in response to a letter dated 13th May 2020 from Lewis Baglietto of Hassans.

We also refer to Det Supt Richardson's e-mail of 15th May 2020 setting out the basis of the objection to an application seeking disclosure of the following documents (as contained in your letter dated 13th May 2020):

1. The Search Warrant;
2. The application for the search Warrant;
3. Any written evidence filed in support of the application;
4. Any notes taken by the RGP of the hearing;
5. Any Order or Ruling made by the Stipendiary Magistrate;
6. Any instructions or briefing note issued by the RGP to the officers attending Mr Levy's home and offices; and
7. The substance of the advice given to the RGP in relation to the merits of seeking the warrant.

Office of Criminal Prosecutions & Litigation
HM Government of Gibraltar • 6th Floor NatWest House, 57/63 Line Wall Road • Gibraltar GX11 1AA
t +350 20078882 e info.ocpl@gibraltar.gov.gi w gibraltar.gov.gi

(together "**The Documents**")

We hereby give formal notice pursuant to Rule 5.7 Crim PR of our objection to the application and attach a notice of objection.

Please note that the objection is only in relation to item 3 above and to the extent particularised in the attached notice of objection. For the avoidance of doubt, items 4, 6 and 7 do not and have not ever existed.

Yours faithfully

Christian M Rocca QC
Director of Public Prosecutions

Government Law Offices
HM Government of Gibraltar

Your Ref:
Our Ref: CMR/CRIM

Maurice Turnock
Clerk of the Magistrates Court
32-36 Town Range
Gibraltar

By email and by hand

22 May 2020

Dear Sirs

RE: Search Warrants granted on 7 May 2020 in respect of premises at Don Place, 8 Governor's Lane; and Hassans International Law Firm Madison Building.

We refer to your letter dated 15th May 2020 regarding the above captioned matter sent in response to a letter dated 13th May 2020 from Lewis Baglietto of Hassans.

We also refer to Det Supt Richardson's e-mail of 15th May 2020 setting out the basis of the objection to an application seeking disclosure of the following documents (as contained in your letter dated 13th May 2020):

1. The Search Warrant;
2. The application for the search Warrant;
3. Any written evidence filed in support of the application;
4. Any notes taken by the RGP of the hearing;
5. Any Order or Ruling made by the Stipendiary Magistrate;
6. Any instructions or briefing note issued by the RGP to the officers attending Mr Levy's home and offices; and
7. The substance of the advice given to the RGP in relation to the merits of seeking the warrant.

Office of Criminal Prosecutions & Litigation
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t +350 20078882 e info.ocpl@gibraltar.gov.gi w gibraltar.gov.gi

(together "**The Documents**")

We hereby give formal notice pursuant to Rule 5.7 Crim PR of our objection to the application and attach a notice of objection.

Please note that the objection is only in relation to item 3 above and to the extent particularised in the attached notice of objection. For the avoidance of doubt, items 4, 6 and 7 do not and have not ever existed.

Yours faithfully



Christian M Rocca QC
Director of Public Prosecutions

NOTICE OF OBJECTION

PURSUANT TO RULE 5.7 OF THE CRIMINAL PROCEDURE RULES

In the matter of the search warrants granted on 7 May 2020 in respect of premises at Don Place, 8 Governor's Lane; and Hassans International Law Firm Madison Building.

Further to the written application contained in a letter from Hassans dated 13th May 2020.

The matters required to be set out pursuant to 5.7(7) are as follows:

(a) The objection relates to parts only of the information requested. A redacted version of the material will be made available to both the Court and the Applicant together with, where possible, a summary of the redacted paragraphs to allow the applicant to understand the material properly without undermining the basis of the objection.

(b) The objection to the provision of parts of the information applies until such time as the RGP have concluded any enquiries into the involvement of Mr James Levy QC and, in particular, carried out any interviews it may require to conduct as a result.

(c) The objection to disclosure item 3 of The Documents is made on public interest immunity grounds, namely that it is not in the public interest to disclose the information as disclosure would seriously prejudice the investigation at this time and hence would cause harm to the public interest. Further details are contained in the e-mail of Det Supt Richardson's to 15th May 2020 setting out the basis of the objection to an application seeking disclosure of The Documents.

22 MAY 2020

CHRISTIAN M ROCCA QC
Director of Public Prosecutions

For and on behalf of
Her Majesty's Attorney General For Gibraltar

From:	(RGP) Wyan, Mark
To:	(RGP) Richardson, Paul (OTM)
Subject:	FW: OP Delhi - redacted document
Date:	27 May 2020 12:40:00
Importance:	High

Sir,

Please find below my response to the issues raised by Mr Rocca (in red). Grateful if you could review and add / amend as you see fit:

45-47 – summary should refer to Levy also if we are insisting on redacting this – however, I am not sure what we are seeking to protect here in terms of PII – these are communications that JL will have had. And presumably will have.

The paragraphs relate to communications between Mr Sanchez and Mr Levy in respect of acquiring the NSCIS platform. They are very specific messages that we would like to put to Mr Levy [and Mr Sanchez] in interview. By revealing specific exchanges we will be informing Mr Levy exactly what the police are relying upon and what we will be asking him to account for in interview.

This will be likely to prejudice the investigation because it will allow fabrication to take place to fit in with police evidence. It will not allow for a truly untainted account to be provided by Mr Levy.

The evidence is also intended to be put to Mr Sanchez. If he becomes aware of this evidence it is equally likely to prejudice his interview.

Whilst Mr Levy may have the messages they may equally have been deleted by him. It does not necessarily follow that he still has them in his possession.

48 – redaction serves no purpose

Refers to "*the course of 2018*". Given what has been disclosed this can be un-redacted.

49, 51, 56, 57, 58, 59, 61 - what is the PII here we are seeking to protect?

The paragraphs refer to specific evidence we would like to put to Mr Levy in interview. Paragraphs 49 and 51 are relevant to showing that Mr Levy, together with co-conspirators, intended to appropriate assets belonging to Bland Limited. This is an integral part of the offence of conspiracy to defraud.

Paragraphs 56 – 59 relate to a deliberate attempt to undermine the ability of Bland to maintain the NSCIS platform, namely by reducing their skilled workers. In paragraph 61, there in a message from Mr Perez saying that everything was in place. Given that Mr Levy was involved in the planning, we would like to explore in interview whether he was involved in the decision to undermine Bland Limited having regard to paragraphs 56 to 59. If so, it would go towards showing dishonesty in the context of a conspiracy to defraud.

Revealing this information before interview is likely to prejudice the investigation as it will again not allow for an untainted account to be provided.

99-101 – I would unredact 101 as there is nothing to protect n terms of PII

Paragraphs 99 to 101 are very important to the investigation with regards to Mr Levy. They concern his knowledge of the computer misuse offences. It has not yet been established whether he knew about the offences before they took place, or indeed whether he actively encouraged / assisted Mr Cornelio to carry them out. However, the texts suggest that Mr Levy was talking about the sabotaged system, and offering Mr Cornelio advice. We would like to explore this in more detail in the interview. If he was involved in planning the computer misuse offences he would be guilty of an offence. Equally, if he was subsequently aware of the offences and yet did nothing to distance himself from Mr Cornelio, this would go towards showing dishonesty on his part. This is important given that his lawyers have already asserted that he could not be guilty of an offence and that he is of good character and ethical standing.

Revealing this information before interview is likely to prejudice the investigation as it will again not allow for an untainted account to be provided.

103 – these are specifics in terms of offences committed by Cornelio and do not related to JL – can we add wording to that effect?

Given the issues raised above, it may not be prudent at this time to disassociate the computer misuse offences from Mr Levy. This is an area we are seeking to explore in interview.

210 – what are we concerned about here? Relevance to JL interview?

This is relevant to the interview of Mr Cornelio and the specific evidence we are seeking to put to him. The PII interest is in ensuring that this information is not disclosed to co-conspirators prior to being able to put it to them in interview.

319 (e) – see no purpose behind this redaction

This redaction relates to the level of knowledge we believe that Mr Levy had of the computer misuse offences. It is an important topic area that we would like to explore. His answers may lead to further charges. We would therefore not like to give him the opportunity to prepare a response to this line of questioning in advance.

Revealing this topic area before interview is likely to prejudice the investigation as it will again not allow for an untainted account to be provided.

From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: 27 May 2020 11:19
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: OP Delhi - redacted document

Dear Mark,

Further to out brief telecon, my thoughts below on the redactions:

45-47 – summary should refer to Levy also if we are insisting on redacting this – however, I am not sure what we are seeking to protect here in terms of PII – these are communications that JL will have had. And presumably will have.

48 – redaction serves no purpose

49, 51, 56, 57, 58, 59, 61 - what is the PII here we are seeking to protect?

99-101 – I would unredact 101 as there is nothing to protect n terms of PII

103 – these are specifics in terms of offences committed by Cornelio and do not related to JL – can we add wording to that effect?

210 – what are we concerned about here? Relevance to JL interview?

319 (e) – see no purpose behind this redaction

Best regards,

Christian

Christian Rocca QC
Director of Public Prosecutions

Office of Criminal Prosecutions & Litigation
Government Law Offices
HM Government of Gibraltar
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From: (RGP) Wyan, Mark
To: (RGP) Richardson, Paul (OTM)
Subject: FW: Op Delhi - redactions
Date: 28 May 2020 17:34:00
Attachments: image002.png
Importance: High

Sir,
Please see the below link when considering whether there should be counsel to counsel discussions on the redacted paragraphs. Paragraph 5(b) is of particular note.
https://d17g388r7gqnd8.cloudfront.net/2017/03/non-disclosure_of_information_to_your_own_client.pdf
Kind Regards,
Mark

From: (GLO) Rocca, Christian
Sent: 28 May 2020 17:23
To: (RGP) Richardson, Paul (OTM)
Cc: (RGP) Wyan, Mark
Subject: Re: Op Delhi - redactions

Dear Paul,
Thanks for your e mail.
I would like to go through the redacted version in my office if possible tomorrow? Also, would you be happy for me to show to Lewis Baglietto only the paragraphs I drew your attention to in my earlier e mail? This would be on a counsel to counsel basis and could not be shared with his client or any other person.
Best regards,
Christian

Sent from my iPhone

> On 28 May 2020, at 16:51, (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi> wrote:
>
> Dear Mr Rocca,
> Thank you for your patience. I refer to your email of yesterday's date and request to consider the wider revelation of the redacted material as well the inclusion of additional wording.
> With the exception of paragraph 48, which we agree can be revealed, our concerns with regard to the others remains the same. These are all matters that we would seek to explore in interview if they were not adequately covered in the account which JL has undertaken to provide. To expose the level of detail that these paragraphs cover in advance of any account may adversely affect the investigation.
> As investigators and police officers we feel that any release of the information prior to the formal interview of a suspect has the potential to undermine the investigative process and must be managed carefully. For that reason pre-interview disclosure normally takes place in a staged manner on the day of the interview.
> Our objections to this were articulated in Inspector Wyan's email of the 21st May 2020 and to which you replied on the 22nd May 2020.

It was agreed that we would consider providing a redacted version of the information and on the 22nd May 2020 you and I met and prepared the first draft. I then revised this with Inspector Wyan that same day and we produced a consolidated redacted draft which we all agreed to forward to Hassans. Further revelation has an impact on the other persons that await interview too. It is also worth bearing in mind that the warrants for both JL's residence and Hassans need to be returned to the court before Sunday the 7th June. This means that the final day to return them will be Friday 5th June. Any delay in forming a view on how to proceed will cause additional difficulty.
After consideration of the above you have advised that a balance must be struck between two competing aspects of the public interest; (i) the public interest that the Court have all relevant material before it to determine disputes; and on the other hand (ii), that material should be withheld if by its production and disclosure the community would be adversely affected. This is a legal determination and one in which we feel necessary to follow your advice.
I have discussed this with the Assistant Commissioner Richard Ullger and Inspector Wyan whilst bearing in mind your previous advice and your email a few minutes ago. Although we continue to hold a different view we will, as I say follow your advice.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent
Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]
Web: www.police.gi
Follow Us on Twitter: @rgpolice
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From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: 28 May 2020 16:02
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>; (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: Re: Op Delhi - redactions

Dear Paul,

Sorry to chase you but we need to deal with this ASAP as I am not convinced that legally we are In a strong position to assert PII on the redacted portions.

Best regards,

Christian

Sent from my iPhone

>

Christian Rocca QC
Director of Public Prosecutions

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On 28 May 2020, at 10:47, (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi> wrote:
>
> Dear Paul,
>
> Many thanks. I will wait to hear from you.
>
> Best regards,
>
> Christian
>
> -----Original Message-----
> From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>

> Sent: 28 May 2020 09:36
> To: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>; (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
> Subject: RE: Op Delhi - redactions
>
> Dear Mr Rocca,
>
> Thank you for your email. As you may be aware I have been fully committed with another issue of pressing urgency and importance and apologise for not responding earlier.
>
> Insp Wyan has reminded me today and I will revert to you during the course of this morning with a substantive reply.
>
>
>
> Kind regards
>
>
> Paul
>
> Paul Richardson OTM
> Det. Superintendent
>
>
> Crime Protective Services Division
> New Mole House, Rosia Road, Gibraltar, GX11 1AA
> Tel: (+350) 200 47996 Centrex: 2329
> Mobile [redacted]
>
>
>
> Web: www.police.gi
> Follow Us on Twitter: @rgpolice
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> Please consider the environment before printing this email.
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>
>
>
> -----Original Message-----
> From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
> Sent: 27 May 2020 20:04
> To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>;

(RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
> Subject: Op Delhi - redactions
>
> Dear Both,
>
> Have you had an opportunity to consider my e mail this morning regarding the redactions?
>
> Hassan's have also asked that Lewis Baglietto be shown the numerous redacted paragraphs regarding the computer misuse offences on the basis that he undertakes not to discuss or share the contents with any person.
>
> I have no objection to this and this should show that there is nothing there which would assist or otherwise JL. Could I please have your thoughts on this as well as the matters raised in my e mail this morning.
>
> Many thanks.
>
> Best regards,
>
> Christian
>
>
> Sent from my iPhone

From: (GLO) Gomez, Cecile
To: (RGP) Richardson, Paul (OTM); (RGP) Wyan, Mark (Supt 247)
Cc: (OCPL) Rocca, Christian
Subject: FW: CrimPR 5.7 Application for the supply of information and documents
Date: 29 May 2020 14:42:35
Attachments: 2020.05.29 - Letter to Hassans.pdf
Enclosure (email 15 May 2020).pdf

Dear Paul / Mark

For your records I attach a copy of the letter sent to Hassans a short while ago.

Kind regards

Cecile

From: (GLO) Gomez, Cecile
Sent: 29 May 2020 14:14
To: Lewis Baglietto QC <lewis.baglietto@hassans.gi>; 'Charles Bonfante' <charles.bonfante@hassans.gi>
Cc: (GCS) Turnock, Maurice <maurice.turnock@gcs.gov.gi>; (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Subject: CrimPR 5.7 Application for the supply of information and documents

Dear Lewis and Charles

I hope this email finds you both well. Please see the attached letter and enclosure referred to therein.

Kind regards

Cecile

From: Charles Bonfante <charles.bonfante@hassans.gi>
Sent: 28 May 2020 13:16
To: (GCS) Turnock, Maurice <maurice.turnock@gcs.gov.gi>
Cc: Lewis Baglietto QC <lewis.baglietto@hassans.gi>; (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>; (GLO) Gomez, Cecile <cecile.gomez@gibraltar.gov.gi>
Subject: CrimPR 5.7 Application for the supply of information and documents

Dear Maurice,

Please see attached letter.

As ever,

Charles

Charles Bonfante
Barrister

Hassans
International Law Firm

PO Box 199, Madison Building
Midtown, Queensway, Gibraltar, GX11 1AA
T: +350 20079000 F: +350 20071966
www.gibraltarlaw.com



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Government Law Offices
HM Government of Gibraltar

Your Ref: LB/JM
Our Ref: CMR/CRIM

Mr Lewis Baglietto QC / Mr Charles Bonfante
Madison Building
Midtown Queensway
Gibraltar

By email

29 May 2020

Dear Sirs

RE: Application for the supply of information and documents from records and/ or case material pursuant to Crim PR 5.7.

We write further to your letter of the 28 May 2020 addressed to the Clerk of the Magistrates Court.

Before responding to the matters raised in your letter, we are concerned by your firm's insistence on conducting litigation by way of correspondence to the Court. This is neither appropriate nor necessary, particularly where the procedure governing your client's application is clearly contained within the Crim PR and there is likely to be a case management directions hearing in due course. We consider the matters raised in your letter should be reserved for oral or written submissions to the Court.

Dealing now with the matters raised in your letter, we adopt your numbering and comment as follows:

1. As you are aware the Office of Criminal Prosecutions and litigation regularly provides prosecutorial related legal advice to all law enforcement agencies including the RGP as well as other public authorities and Government Departments. In the circumstances, it should come as no surprise that the RGP has instructed this office in relation to this matter. For the avoidance of any doubt, the notice of objection filed on the 22nd May 2020 (the "Notice of Objection") was filed on behalf of the RGP and signed by the Director of Public Prosecutions for and on behalf of the Attorney-General whom instructs the DPP pursuant to section 59(3) of the Gibraltar Constitution Order 2006.

2. We respectfully disagree with your assertion that the Notice of Objection is inadequate. Rule 5.7 plainly states that the objector must give notice of the objection not more than 14 days after service of the request and that it must set out its grounds of objection [see Rules 5.7 (6) (b); and 5.7 (7)]. The RGP have complied with this requirement and there is nothing in this Rule or otherwise that requires the filing of evidence by the RGP at this stage. Following the receipt of the Notice, the Court may determine the application with or without a hearing [see Rule 6.7 (6) (c)].

We anticipate the Court will want to hear arguments for and against the grant of your client's application and is likely to direct that evidence be filed and/or that representations be made by the parties in due course.

3. Please find enclosed a copy of Det Supt Richardson's email to the Clerk to which you refer in which he sets out the basis of the RGP's objection.

You should be pleased to note that we are in the process of finalising a further version of the RGP's application for the search warrant which slightly scales back the extent of the redactions made to the document which was provided to you on the 27th May 2020.

Yours faithfully

Christian M Rocca QC
Director of Public Prosecutions

Enc

From: Lewis Baglietto QC
To: (RGP) Richardson, Paul (OTM)
Cc: (RGP) Wyan, Mark (Supt 247)
Subject: RE: CONFIDENTIAL - James Levy Statement
Date: 09 June 2020 15:43:19
Attachments: image004.png
image002.png

Dear Paul

I've just given the USB to DC Curren

The access password is "hassans"

Kind regards

Lewis

From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi<mailto:Paul.Richardson@royalgib.police.gi>>
Date: Tuesday, 09 Jun 2020, 2:28 pm
To: Lewis Baglietto QC <lewis.baglietto@hassans.gi<mailto:lewis.baglietto@hassans.gi>>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi<mailto:Mark.Wyan@royalgib.police.gi>>
Subject: RE: CONFIDENTIAL - James Levy Statement

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Dear Lewis,

Thank you for your email.

DC Curren will attend shortly to collect the pen disk

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent

Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 47996 Centrex: 2329
Mobile +350 56199004

[RGP Logo 2018 + vision (003)]

Web: www.police.gi<https://linkprotect.cudasvc.com/url?a=http%3a%2f%2fwww.police.gi%2f&c=E,1,TKSKq0Z6CyKAINXKPS-AO5IW3bONaD-SW7m_QW494tPEtZ_BzyEgu1lhAWbXrqapwVpd7br5uLSeP9iB1QFm6I5u0rn3JM_caVVMg6nmLA,,&typo=1>
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before 3pm.

From: Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Sent: 09 June 2020 13:25
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: CONFIDENTIAL - James Levy Statement

Dear Paul

Here is Mr Levy's statement and an attached document.

The USB with the e-mails is ready, but I'm going to be out of the office until 3.30pm.

Would you like to send someone round for it then? Please tell them to ask for me.

Kind regards,

Lewis

From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi<mailto:Paul.Richardson@royalgib.police.gi>>
Sent: 09 June 2020 10:47
To: Lewis Baglietto QC <lewis.baglietto@hassans.gi<mailto:lewis.baglietto@hassans.gi>>
Subject: JL Levy Account

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.
Dear Lewis,

I refer to your telephone calls yesterday evening and Monday lunchtime. Can you please confirm that Mr Levy's account can now be provided along with the supporting documents?

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent

Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 47996 Centrex: 2329
Mobile [redacted]

[RGP Logo 2018 + vision (003)]

Web: www.police.gi<https://linkprotect.cudasvc.com/url?a=http%3a%2f%2fwww.police.gi%2f&c=E,1,mYtswqFJpiAD7SaRKT6WkZ47KdOo4mtRUvWoo094qxZDn8By4a5GGF4OwgxeIvbjOhV9fVWhwcRwekcxKbWN92gusSZYan9kgxPE8lXVXOiHlPzTL8te0Q,,&typo=1>
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From:	(RGP) Wyan, Mark
To:	(RGP) Clarke, Paul (PS130)
Cc:	(RGP) James Currer (PC211)
Subject:	FW: CONFIDENTIAL - James Levy Statement
Date:	09 June 2020 15:12:00
Attachments:	image002.png 2020_06_09 JL statement.pdf document.pdf image004.png

Paul,

For our records and disclosure as necessary.

Kind Regards,

Mark

From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Sent: 09 June 2020 14:29
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: FW: CONFIDENTIAL - James Levy Statement

Sir/Mark,

JL's account finally arrived.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent

Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]

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From: Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Sent: 09 June 2020 13:25
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: CONFIDENTIAL - James Levy Statement

Dear Paul

Here is Mr Levy's statement and an attached document.

The USB with the e-mails is ready, but I'm going to be out of the office until 3.30pm.

Would you like to send someone round for it then? Please tell them to ask for me.

Kind regards,

Lewis

From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Sent: 09 June 2020 10:47
To: Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Subject: JL Levy Account

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Lewis,

I refer to your telephone calls yesterday evening and Monday lunchtime. Can you please confirm that Mr Levy's account can now be provided along with the supporting documents?

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent

Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
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Statement of James Levy CBE QC

1. I am Haim Judah Michael Levy CBE QC.

2. I am the Senior Partner of Hassans International Law Firm ("Hassans"). I have been a lawyer for over 47 years and began working in this firm in 1972 with its founder, my uncle, Sir Joshua Hassan QC. I was appointed Queen's Counsel in 2002. In 2013 I was made Commander of the Most Excellent Order of the British Empire for services to the Community of Gibraltar and work in helping to grow and develop the economy of Gibraltar. In 2015 Parliament awarded me the Gibraltar Medallion of Honour for services to the economy of Gibraltar. I have been, for at least 15 years, and continue to be, the chairman of Gibraltar Community Care, Gibraltar's largest charity, and the longest serving president of the Managing Board of the Jewish Community of Gibraltar since its inception.

3. Contrary to what the RGP appear to suspect, I have not conspired with anybody to defraud anyone; nor have I exerted any improper influence on any public official; nor have I breached the Official Secrets Act.

4. On 12 May 2020, Detective Superintendent Paul Richardson and other officers of the Royal Gibraltar Police attended the offices of my firm, in Madison Building, Midtown, with search warrants. I was told that if I did not cooperate in granting access to the office premises and my home, the search warrants would be executed. I was astounded to learn that search warrants had been applied for and issued against me. When I raised this with Detective Superintendent Richardson, I was told that advice had been obtained from the highest level, which I understood to be the Director of Public Prosecutions. I cooperated with the RGP and granted access as requested to both my offices and home, as I would have if search warrants had not been obtained, subject to my professional duties and personal rights. Despite my strong objection to the legality

of the warrants, I wish to record that both Detective Superintendent Richardson and Detective Inspector Wyan were at all times polite and courteous towards me.

5. Whilst at my offices, I was handed a document by Detective Superintendent Richardson entitled "Voluntary Attendance for Interview under Caution" and dated 12 May 2020, informing me of the background to the allegations and my alleged involvement. The document invited me to attend an interview under caution on Monday 18 May 2020 at 10am.

6. Following representations made by my legal representatives to the Attorney General and the Commissioner of Police about the unlawfulness of the search warrants I was subsequently invited to provide a written statement, albeit whilst still being considered a suspect by the RGP. Attached to one of the letters received from the Commissioner of Police was a document entitled "Voluntary Attendance for Interview under Caution" dated 12 May 2020. On the face of it this appeared to be the same document handed to me on 12 May, however, point 9 had been amended.

7. In order to prepare my written statement, Detective Superintendent Richardson sent my legal advisers a document by email, named: "Pre-Interview Disclosure". The document was marked "DRAFT", was undated and was also entitled "Voluntary Attendance for Interview under Caution". This document provided the background facts and details of my alleged involvement. I point out that none of the alleged facts in the document discloses any offence allegedly committed by me. The document also set out a list of specific questions which I answer below to the best of my recollection (given that the questions largely relate to events that occurred over two years ago) and subject to my professional duties.

8. Since the allegations against me have not been clearly specified for me to understand precisely, I have answered as best as I could. If the RGP need any further specific information, I would agree to provide this subject to any duty of privilege and confidentiality.

Questions posed by the RGP (in bold italics)

Hassans

His position, role, responsibilities, accountability (to whom?) Scope and limitation in engaging in new business and investing in new business by way of financing their ventures.

9. As mentioned above, I am the Senior Partner of Hassans. As Senior Partner, I chair partners' meetings and have general high-level oversight of Hassans and of the important matters that the firm deals with. I also deal with clients directly. Like all members of the firm I am accountable to the partnership. I also act as the initial point of contact for commercial transactions, bringing people and businesses together where I consider it to be in their best interests. By way of example, I was the person who brought the gaming industry as well as the insurance and other industries to Gibraltar.

10. Hassans' business ventures and investments are decided upon by a small group of partners, usually the Managing Partner (Javier Chincotta ("JC")), me and one or two other partners with some knowledge of the area that the venture or investment concerns.

11. Hassans are often approached by "start-ups" for investment in their ventures. Whether or not Hassans proceeds to invest in a particular business venture is a decision that is taken after careful consideration of all the relevant factors. There is no rigid structure for these decisions and each case is considered and decided individually and on its own merits.

12. Hassans has in fact supported and invested in numerous business ventures in the past, such as in construction companies, investment companies, insurance management companies, foreign trust companies, foreign property companies and even an individual who wanted to become, and successfully became, a football agent. This is not exclusive

to Hassans. Other legal practices do this, both in Gibraltar and internationally, sometimes taking a stake in the company in lieu of fees.

36 North Ltd (36N)

His involvement with this entity from the beginning and including before its incorporation as a limited liability company.

How Hassans became involved in 36N

The nature of the business of 36N including any business plan if relevant.

The financing of 36N by Hassans and what level of return was expected from the investment.

13. To the best of my recollection, at some point towards the end of 2017 or in the first quarter of 2018 Hassans was approached by John Perez, a former Commanding Officer of the Royal Gibraltar Regiment ("JP") and Tommy Cornelio ("TC").

14. At the time JP and TC were employed by Bland Limited ("Blands") but wanted to leave the company and set up on their own. It was in respect of this new start up that they approached Hassans for investment.

15. There was an initial meeting with them to discuss their proposal, I think this was in the first quarter of 2018 but I cannot recall exactly when. There were also other meetings with them, but I cannot recall how many or when as all this occurred two years ago. From that stage I involved David Weber ("DW"), a consultant solicitor in Hassans and formerly a senior partner in the City firm Linklaters, as legal advisor in connection with the project.

16. I recall that the main thrust of the business pitch was that they had a number of opportunities both in Gibraltar and internationally involving software development and the provision of computer-based services.

17. It was explained to us that TC had a particular expertise in computers and software development, that JP had extensive business experience and that by using their skills they could develop many new business opportunities internationally in places such as

Guinea Bissau, Sao Tome, Gabon and Angola and other countries. We were told that, among other things, they had in mind to develop a facial recognition programme for use by the cruise liner market. It was emphasised that the business would be based on software and programmes to be developed by TC and that JP would provide his business expertise to promote and market the business.

18. We were also told about another project concerning the setting up of the "Green Energy Cable" between Morocco and Gibraltar which was to provide electricity from Morocco to Gibraltar. JP had considerable experience in Morocco which he had gained during his former military career.

19. JP and TC explained that several computer programmes had been developed by TC for the Government of Gibraltar ("GoG"). They told us that any intellectual property rights for the programmes belonged to GoG. The programmes covered frontier management, employment and aviation for example. They said that they wanted to reach an agreement with Blands in relation to this area of work as it seemed clear to them that there would be no one with the required expertise and experience to maintain these systems once they left Blands.

20. JP and TC made it clear to us that after they left Blands they would develop new programmes which would not in any way infringe on anyone's intellectual property rights. They were confident that TC would be able to develop new programmes which would be profitable in Gibraltar and internationally. Whilst I understood the business concept and the commerciality of the proposal, I perceived that these were highly sophisticated programmes requiring specialist technical knowledge and skill which, given my very basic knowledge of IT, were way beyond my comprehension.

21. The business was portrayed as being very exciting, innovative and with the potential of international expansion. JP and TC had definitely decided to leave Blands and pursue their own business, with or without Hassans. They were determined not to be under James Gaggero's ("JG") control or influence. They wanted to be their own masters.

22. I was assured from the very beginning by JP and TC that after the termination of their employment they would not be prevented contractually or in any other way from conducting the business and competing with Blands. Consequently, I felt entirely reassured that there was no question of anyone's legal rights or obligations being breached in the setting up and operation of this new business.

23. I recall discussing the matter with JC and also other partners, but cannot recall when. We came to the view that this was an investment that we would be interested to participate in by providing a loan and taking shares.

24. In exchange for the loan JP and TC offered Hassans a third of the business. Hassans' participation was held through a company called Astelon Limited ("Astelon") owned by the partners of Hassans. I cannot recall when, but the details and terms of the investment were discussed and negotiated. I was not directly involved in these discussions, which were led by DW as legal advisor. I was involved occasionally at a high level when decisions had to be made. I see from the correspondence that the loan facility requested by JP and TC and provided by Astelon was up to £1,000,000. The loan was drawn down in stages and the sum of £400,000 had been drawn down by April 2019 shortly after which the facility was cancelled due to the failure of 36N to generate the anticipated level of income. In September 2019 revised cash flow forecasts were presented by JP and TC. On the basis of those forecasts it was decided that Astelon would make a further advance of £76,000. The total loan, which stands at £476,000, is to be repaid at the end of August 2020 or earlier if there is sufficient income from the business.

What was expected from Haim Levy as an associate of 36N

25. I am not and have never been an associate of 36N. Nothing was expected of me personally in relation to the management of 36N. I was not an officer of the company, nor did I have any day to day involvement in the business. As with other investments made by Hassans I would only be involved at a high level from a strategic point of view.

26. At all material times I was a representative and beneficiary of Astelon as shareholder and lender and all my dealings and involvement went no further than those expected of an investor in that capacity.

The corporate structure of 36N including its layered ownership

27. On 10 August 2018, when TC's employment with Bland terminated, JP was still under notice to Blands and was therefore contractually precluded from having an interest in the 36N business until his employment terminated at the latest on 10 September 2018 or earlier if released by Blands. It was therefore decided that between those two dates 50% of the shares in 36N would be issued to TC's company (Icode Limited) and the remaining 50% of the shares would be issued to Astelon. TC would be the sole director of 36N during this period and Icode Limited would be remunerated under a services agreement for providing TC's services to 36N. It was further agreed at that time that on 10 September 2018, or earlier if JP were released from his employment by Blands, the shares in 36N would be reorganised so that they were held in 1/3 equal shares by Icode Limited, Astelon and JP and at that time JP would be appointed an additional director of 36N and his services agreement with 36N would take effect. However, the reorganisation of the share capital of 36N had not happened as at 10 September 2018 and has not yet happened as far as I know, although Astelon still owns a 1/3 beneficial share of 36N.

Any KYC due diligence that was undertaken before participating in this business

28. Obtaining KYC due diligence is not something in which I would personally be involved. In any event, it is the firm's legal obligation to obtain this where required. I note from the correspondence that this was provided by JP and TC to DW in respect of the work that Hassans would have done for them as clients.

29. Additionally, JP, as a former Commanding Officer of the Royal Gibraltar Regiment, is very well known in Gibraltar, and TC is well known in the industry for his computer expertise. Moreover, they had both been the main persons involved in GoG work, not only for NSCIS but also for other software projects.

Astelon Ltd

The formation of this company and its purpose and ownership

30. Astelon was a shelf company. It was selected from a number of shelf companies for no particular reason. It is a single purpose vehicle ("SPV") whose purpose is to own shares in 36N for Hassans and to provide the financing from Hassans to 36N. An SPV for these purposes is an entirely normal and usual corporate set-up.

31. Astelon is beneficially owned by the partners from time to time of Hassans. This information was requested by Detective Sergeant Schembri from DW on 14 May 2019 and provided to him by email on the same day.

ICODE Ltd (1/3 shareholder in 36 North Ltd)

The business relationship with this company

32. The only relationship with Icode is that of Astelon as co-shareholder in 36N.

Any KYC due diligence conducted in connection with this company

33. I am informed by Line Group, who are Hassans' wholly owned fiduciary management company, that they did not incorporate Icode Ltd. I understand that Hassans obtained company documentation on Icode from TC as part of its normal AML process when acting as lawyers in a commercial transaction.

NSCIS platform

His understanding as to the ownership of the intellectual property of the platform given that the evidence suggests that it formed part of a 36N business plan. How was he satisfied that 36 North Ltd would be able to acquire the management of it given that Hassans invested in the company.

34. From the outset, I was told by JP and TC that the intellectual property of the NSCIS platform belonged to GoG. They were very clear about this, and that was my understanding throughout. I was told that GoG was free to use whatever contractor it wished to maintain and service the platform as there was no formal contract in existence between GoG and Blands. This information was essential to satisfy ourselves that the

project would not give rise to any civil liability. We were satisfied with the information we were given that no civil liability would arise, particularly so since JG, chairman of the Bland Group, was negotiating with JP and TC for JG to acquire a substantial holding in 36N. In fact, I was told that initially he was suggesting to them that they could take over the maintenance of NSCIS platform without him seeking anything in return.

35. At the time JP and TC envisaged, and were confident, that the maintenance of NSCIS would at some point be given to 36N with the agreement of Blands and JG. Initially, JP and TC confirmed that JG had agreed for JP and TC to take over the maintenance of the NSCIS from Blands. However, I was subsequently told by JP and TC that JG's stance had changed, and that JG was asking for 50% of the shares in 36N in exchange for Blands' agreement to allow 36N to manage the Platform. I was subsequently informed by JP that JG had lowered his demand to 33% of 36N. At that stage I suggested to JP and to TC that they should settle with JG at that level and that we would be happy to step back from the business. In the end no agreement was reached but what is clear is that JG was not only aware of JP's and TC's business interests in this area, he was actively involved in negotiations with them to try and obtain a share of 36N.

His understanding as to how the platform was to be removed from Blands and transferred to 36N

36. This question is based on an incorrect premise, as the platform did not belong to Blands but to GoG. However, in any event, it was never my understanding that the platform was to be "removed" from Blands. My understanding from JP and TC was that GoG owned the platform and GoG was free to employ any contractor to maintain and service it as there was no formal contract between GoG and Blands. JP and TC envisaged that 36N would try to commercially compete for the NSCIS business by tendering for the management of the platform or (since I understood Blands obtained the management without a tender) making representations to GoG to show that they could provide a better, more reliable and more competitive service. That kind of competition is completely normal and lawful and Blands would have no recourse, if as

a result, 36N won the ongoing business with GoG. Additionally, as I have already explained above, JP and TC were negotiating with JG for him to acquire a share in the new business.

Any knowledge that he had with regard to the malfunctioning of the platform and when he became aware of this

37. I am aware that after TC left Blands he was asked by JG to continue servicing the NSCIS platform because Blands did not have anyone with the required expertise to carry out this task. In effect, Blands was outsourcing the maintenance of the platform to TC.

38. I was made aware by TC on various occasions, after his departure from Blands and after he ceased his interim maintenance of the system for Blands, that the NSCIS system [redacted]

Any knowledge that he may have with regard to the tampering with and/or sabotage of the NSCIS platform

39. I had no knowledge of, or reason to suspect, any tampering with and/or sabotage of the NSCSI system as alleged. The first time I recall becoming aware of the alleged tampering/sabotage was after JP and TC were arrested when I was informed by them of what was being alleged and they strongly denied that any tampering or sabotage had taken place.

40. I note from paragraph 12 of the Pre-Interview Disclosure document that it is alleged that I became aware that Digital Forensic experts were conducting an investigation. As far as I recall, I only became aware that Digital Forensic experts were conducting an investigation when JP and TC told me after they were arrested and released on police bail. I was never aware of any alleged plan to sabotage the NSCIS platform or any computer misuse offences, nor would I countenance such behaviour

An explanation of what he did once he became aware of the alleged criminality of John Perez and Thomas Cornelio with regard to the reputational damage that may occur to himself and Hassan by being associated with them and 36 North through ownership of shares in 36N

41. Soon after the arrest DW and I met with JP and TC to discuss what had happened. JP and TC strenuously denied the allegations of tampering and sabotage and were adamant that the allegations were false and maliciously driven.

42. I was not concerned with reputational damage to me or my firm as we had acted properly and in good faith at all times and I was satisfied with the explanations that were given to me by JP and TC as described in the previous paragraph. I consider the matter to be, if anything, a commercial dispute and certainly not a criminal matter.

Communications and meetings with the following persons with regards to 36N and/or NSCIS

NOTE: Mr Levy retained a copy of the data on his mobile phone before eventually handing it over to police on the 12th May 2020 and has access to his email accounts. For this reason is should be possible for Mr Levy to extract the relevant conversations/emails from his own devices and may choose to provide these to police to support his account.

The persons are:

Eddie Asquez (a former employee of Bland Ltd)

John Perez

Thomas Cornelio

43. I do not believe I have ever met or communicated with Eddie Asquez.

44. I met with JP and TC on a number of occasions to discuss the business venture. I would generally meet them together. As I have mentioned, I was not directly involved in the detailed negotiations and our meetings and communications were limited to discussing high level aspects of the business.

45. Naturally, I received a number of emails from TC and JP regarding 36N and NSCIS. Some of these were addressed to me directly and in others I was a cc recipient.

46. Following discussions between our deputy head of IT and DC Jason Oton of the RGP, the Hassans servers were interrogated using agreed keywords and date parameters. I am providing the RGP with a USB stick which includes the emails that were identified using those keywords and parameters, but not those emails that are protected by Legal Professional Privilege or which are clearly unrelated to this matter.

47. The emails show that I was in contact with JP and TC and that the matters discussed were the setting up of the business and what the business would actually be doing. As explained below nothing about our communications were dishonest or unlawful.

48. I also recall that there were other communications with JP and TC but cannot recall the details given the passage of time.

Caine Sanchez

49. I met Caine Sanchez ("CS") a number of years ago through his father in law, James Pecino, who has been an employee of Hassans for many years, and therefore know CS personally.

50. Given the work Hassans does for the GoG, me and my colleagues often deal with civil servants. I therefore have cause to communicate with CS on many other matters. Indeed, some clients of Hassans who would come to set up their businesses in Gibraltar would have contact with CS as he was the Principal Secretary of the Deputy Chief Minister. He would therefore attend our offices for meetings on various matters.

51. CS was the Government officer responsible for the NSCIS and tasked with ensuring, on behalf of GoG, that the system was being properly maintained.

52. I cannot recall any specific meeting with CS on this matter at the time, however I note from the email correspondence that a meeting with CS took place in April 2018 and a

copy of the draft MOU in relation to 36N was sent to him by email. I recall that around that time CS was concerned that the NSCIS platform would not be properly managed after JP and TC left Blands. He believed that once JP and TC left Blands, Blands would have no expertise to reliably deliver the service and he was concerned that it could affect the whole security of Gibraltar. At no time did CS request any payment or other benefit from me and to the best of my knowledge he did not and does not have any direct or indirect interest in 36N.

53. I continue working with CS on other matters since he now works for Sir Joe Bossano, the Minister of Economic Development, whom I advise on a number of matters in his capacity as a Minister.

Whether the relationship was purely business or lawyer client based (all persons)

54. The relationship with JP and TC was primarily a business one, but they also asked me to provide them with high level legal advice from time to time.

55. As far as I was concerned CS's involvement in relation to 36N was purely in an official capacity as the Government officer responsible for NSCIS.

Sanchez-

explanation as to his business relationship with civil servant

56. I did not have a business relationship with CS.

When did he find out that Sanchez was arrested on suspicion of misconduct in public office and did he consider that Sanchez may have acted unethically and/or unlawfully in his dealings with Haim Levy

57. I found out that CS had been arrested very shortly after the fact, but cannot recall exactly when or by whom I was so informed.

58. I have had no business dealings with CS (other than those when he has acted on behalf of GoG) and have no reason to believe he has acted unethically and/or unlawfully at any time.

Any approach by Mr Levy to member of Government or the civil service in connection with 36N and or the NSCIS platform

59. If by "approach" it is suggested that there has been some impropriety, I have certainly not "approached" any member of the GoG or the civil service in connection with 36N and/or the NSCIS platform or at all. The nature of my contact with the GoG or the civil service in connection with 36N and the NSCIS platform is set out in this statement.

60. In fact, it seems clear that if anyone has used his influence successfully throughout this matter it is JG. I understand he had many meetings and conversations with the Chief Minister to try and ensure that Blands kept the business. Indeed, he successfully managed to keep the NSCIS business [redacted] I further understand, did not prevent him from invoicing and charging huge sums of money for services not rendered. I assume the RGP is making the necessary investigations in this regard.

61. After reviewing my correspondence history, I see that in August 2018, I forwarded to the Chief Minister an email containing a draft email prepared by TC addressed to JG regarding the termination of the NSCIS maintenance service that TC had been providing after his departure from Blands. To put this in context, I was aware that the NSCIS platform was one in which the GoG had a direct interest, as owners of it, and I therefore discussed the Blands/36N issues with the Chief Minister on a few occasions.

62. The Chief Minister informed me that he had discussed this matter with JG also on a number of occasions and had tried to promote a settlement between him, JP and TC of the commercial dispute that was emerging between them. It was clear that JG was very concerned at losing his 2 key employees on whom he depended to enable Blands to continue to meet its contractual obligations.

63. In those conversations I suggested that the Chief Minister should continue to encourage JP, TC and JG to find a way to work together amicably in the interests of maintaining the NSCIS platform for the benefit of GoG as I had been informed that

Blands did not have the expertise or capability to maintain it. I mentioned to the Chief Minister, and separately to JP and TC, that Hassans would be willing to give up all its shareholding in 36N if that would help reach an agreement between JP, TC and JG.

64. In relation to the maintenance issues regarding the platform that would arise after TC's departure from Blands, as mentioned above, I was aware that JG was negotiating a settlement agreement with JP and TC where JG was initially asking for a 50% stake in 36N. It was at that stage that I recall also informing JP and TC, in the presence of DW, that as far as Hassans was concerned we would be happy to step back from the investment, and that they should try to finalise an agreement with JG. JP and TC were adamant that they could not agree to that as they preferred not to work with JG and believed his demands were excessive.

65. By this time TC had already left Blands but had continued maintaining the NSCIS system on their behalf for the benefit of GoG and national security. TC did not want to continue providing this service on this informal basis and proposed to write to JG giving him notice of the termination of the service. TC sent me a draft of that letter for me to review.

66. It was against this backdrop of settlement talks, and the fact that I knew that the Chief Minister was also involved in trying to find a solution to the NSCIS operation issue that I forwarded the Chief Minister, by email, TC's draft email, as this was something which I thought he ought to be aware of.

Additional Comments

67. Having read the redacted information laid before the Magistrate in support of the application for the search warrants ("the Information") I find it even more incomprehensible why the police is investigating me at all. I am accused of conspiring with JP and TC to defraud Blands by "dishonestly appropriating the NSCIS platform maintenance contract for [our] own benefit, via [our] company 36 North Limited" (see paragraph 42 of the Information). There appear to be 3 strands to the alleged conspiracy:

a. that I was discussing obtaining the NSCIS maintenance business with JP and TC during their employment with Blands.
b. that I had conversations with Government and Government officials about the business.
c. that I was aware of alleged computer misuse offences.

68. The RGP appear to have proceeded with this criminal investigation against me on the misguided view that only Blands was entitled to deliver maintenance to the NSCIS platform, and that any lawful attempt by any competitor to obtain that business amounts to a conspiracy to defraud. The RGP will know that it is fundamental to a charge of conspiracy that the agreement between the alleged conspirators must be to use unlawful means or to obtain an unlawful result. Using lawful means to obtain a lawful result and promoting co-operation between those with competing interests as I did in this case and have often done throughout my career, can never be a conspiracy to defraud.

69. In relation to the discussions regarding obtaining the NSCIS business during JP and TC's employment with Blands, even if you take the allegation at its highest, there can be no conspiracy or dishonesty merely by planning to set up a business that will compete with your employer after the employment terminates. It was certainly not a crime for JP and TC to plan a competing business. In any event as stated above JG negotiated with JP and TC to take a stake in 36N and was fully aware of what was going on.

70. Moreover, the Information suggests that the RGP consider that the mere act of JP and TC resigning from Blands was itself dishonest because Blands would be unable to maintain the NSCIS platform. There is no basis for this conclusion. It is for any employer to ensure that it retains its employees to be able to deliver its services. How it goes about it is a matter for the employer, but losing employees and by implication losing business is a fact and risk of any business. An employee is entitled to resign from their employment, upon giving any notice legally required, for any reason.

71. Furthermore, competing for the NSCIS business could not have been a conspiracy to defraud Blands when Blands, through its chairman JG, actively negotiated with 36N with regard to the NSCIS business and for a 50% stake in 36N. In other words, JG, the person complaining of being the victim of a conspiracy to defraud, was negotiating for a stake in the company that could be competing for the NSCIS business. He was negotiating with the very individuals he now accuses of conspiring against him, as a result of a failed negotiation. It will not be lost on the RGP that these allegations were made after JG failed to obtain the stake in 36N or to keep two key employees.

72. In relation to communications with Government and Government officials and specifically the allegation at paragraph 319 c. of the Information, that I used my influence with the Chief Minister to the advantage of 36N, if it is alleged that by speaking to Governments minister or officials I was attempting to win business for 36N, there would have been nothing unlawful in me doing so.

73. My communications with Government must also be put into context. In over 47 years of practice I have been the partner of a Chief Minister (Sir Joshua Hassan QC) whilst he was in office for 16 years. I was the main legal advisor to Sir Joe Bossano during his 8 years in office. I advised Sir Peter Caruana QC in his first term of office on a number of legal issues and I have been a partner of the present Chief Minister during his tenure of 9 years, whom I have also advised on various matters including important and confidential matters of state. I have also advised a number of successive Governors, the Foreign Office, a number of Attorneys General, a number of Chief Justices, local and overseas law enforcement agencies and leaders of industry, both in Gibraltar and internationally. I have therefore, regularly in my 47 years of practice been in almost constant communication with Government and Government officials at the most senior level.

74. In relation to the allegation that I had knowledge of the alleged computer misuse offences, paragraphs 99 and 100 of the Information, purport to relate to communications between TC, an unnamed person and myself about "apparent

knowledge of the computer misuse offences". These paragraphs have been redacted and therefore I do not know why the RGP are alleging that I knew about the alleged computer misuse offences either at the time of their planning or at any time before JP and TC's arrest. It is impossible to understand how evidence of knowledge of an alleged crime after events can infer knowledge before the event. In other words, even if I had been told by JP and TC, which I deny, that there had been misuse of computers, that could not be used to infer that I knew about any such misuse when it was occurring or was about to occur

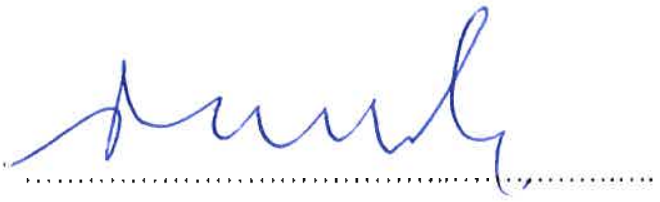
75. It appears that the RGP agree with me on this point because, despite the allegations in the Information, it has unsurprisingly been confirmed by the RGP to my legal representative Charles Bonfante, that there is no evidence that I was involved in or knew about the planning of the alleged sabotage to the NSCIS platform. I most certainly was not.

76. I have, in this statement, sought to address the facts from my knowledge and recollection, and from material at my disposal. I feel bound to remind the RGP that this investigation, as well as the draconian and wholly unnecessary step of seeking a search warrant on the basis that I could not be trusted, have, apart from the deep disappointment and offence caused to me, caused me and my family very considerable and lasting distress, which cannot simply be forgotten and cured with time. I therefore reserve all my rights in this respect.

77. I simply cannot comprehend how the RGP can genuinely consider that they have sufficient grounds to treat me as a suspect and I would expect that, having read this statement, they will reflect on and reconsider the enormity of what they appear to be alleging against me.

78. What is, however, clear to me is that the RGP has been overzealous in accommodating JG and allowed itself to be influenced by him in pursuing, what is essentially a commercially motivated complaint by him against former employees with whom he is

aggrieved for leaving him and competing with his business through a company which he wanted to be part of.



HJM Levy

Dated this 9th day of June 2020

Astelon Limited
57-63 Line Wall Road
Gibraltar

10 August 2018

John Christopher Perez ("**JP**")
St Stephens
4-8 Centre Pavilion Road
Gibraltar

ICode Limited ("**Icode**")
Suites 1 & 2, Newton House
5 Kings Yard Lane
Gibraltar

Dear Sirs

Shareholders Agreement between us currently being held in Escrow ("SHA")

We refer to the above-referenced SHA. Terms used in this letter agreement shall have the same meanings as therein.

It has been proposed by you to allow the Company's business to go live as from close of business on 10 August ("**1st Effective Date**"). At that time JP will still be under notice to his present employer and therefore he is contractually precluded from having an interest in the Company and its business until close of business on 10 September 2018 or such earlier date as JP's notice period comes to an end ("**2nd Effective Date**").

To facilitate the foregoing, we agree as follows:

1. The SHA will continue to be held in escrow until the 2nd Effective Date.

2. On the 1st Effective Date:

    a) the Company will adopt the New Articles;
    b) 50% of the shares in the Company will be issued to Icode;
    c) the remaining 50% of the shares in the Company will be issued to Astelon;
    d) TC will be appointed a director of the Company in place of Cheam Directors Limited;
    e) the Services Agreement with Icode will come out of escrow and will be dated that date and deemed to have commenced on that date irrespective of the date specified therein; and
    f) the Loan Facility Agreement will come out of escrow and will be dated that date.

3. Between the 1st Effective Date and the 2nd Effective Date, Astelon and Icode will apply the SHA as if it were in full force and effect but on the basis of a 50/50 joint venture between Astelon and TC.

4. On the 2nd Effective Date:

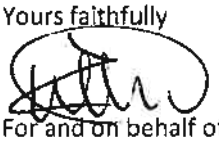
    a) the SHA will come out of escrow and will be dated that date;
    b) the shares of the Company will be reorganised so that they are held by each of us in the proportions set out in clause 3.1 of the SHA;

TC

c) JP will be appointed a director of the Company; and
d) the Services Agreement with JP will be signed and dated.

Pleas sign and return the copy of this letter to confirm your agreement to the foregoing.

Yours faithfully

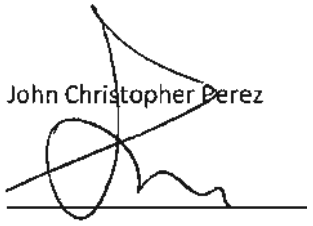


For and on behalf of
Astelon Limited

On copy:

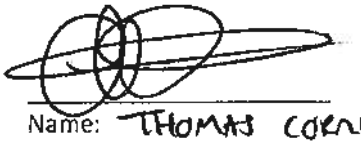
Agreed and Accepted

10 August 2018



John Christopher Perez

ICode Limited



Name: THOMAS CORNELIO
Title: DIRECTOR

From:	(RGP) Wyan, Mark
To:	(RGP) Richardson, Paul (OTM)
Subject:	RE: Levy Report
Date:	27 October 2020 16:25:00
Attachments:	Levy Report 27.10.20.docx image001.jpg image003.png image004.png
Importance:	High

Sir,
As discussed. Please find attached the amended report in respect of Mr Levy.
Kind Regards,
Mark

Mark Wyan

Chief Inspector

Corporate Services

New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) 200 48640 Centrex: 2272

RGP Logo 2018 + vision (003)

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From: (RGP) Richardson, Paul (OTM)
Sent: 27 October 2020 15:04
To: (RGP) Wyan, Mark
Subject: RE: Levy Report

Mark,

Further to our meeting please find attached the report with several alterations/amendments already made and which we were agreed this morning.

As discussed there is a need to include a paragraph outlining the issue concerning Mr. Levy retracting his consent to examine his devices the very next day after he had encouraged us not to execute the search warrant explaining that he would voluntarily hand over his devices and documentation. Although he initially declared that he was more than happy to cooperate and that there was no need for a search warrant, in his application the Magistrates' court made he claimed that he had only acted in *Terroris*. You will recall that following a meeting with the AG and the former COP we agreed to delay the unsealing of the devices which were held in COP'S safe (and remain there today) until we had examined the documentation and account that Levy had assured us through his counsel that would be forthcoming but which was only received on the 9th June 2020. By this stage we had returned the search warrant (unexecuted) to the Magistrates' Court.

On the 28th August 2020 we met with the DPP and MZ and discussed the pre-charge report and advice that followed. It was agreed at that stage that we would defer examining Mr Levy's devices

until we had received a substantive response from the USA LoR. Now that the LoR has been received and contents examined I agree that we can no longer assert that we believe that Mr Levy's devices contain material the indicates that he has committed the offence of conspiracy to defraud. I agree that our suspicion about his involvement remains but that is another thing all together. In my view his devices should now be returned unopened. I will consult the Commissioner once your report is amended as requested.

Kind regards

Paul

Paul Richardson OTM

Superintendent

Professionalism Division

New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) **200 47996** Centrex: 2329

Mobile [redacted]

RGP Logo 2018 + vision (003)

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From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>

Sent: 19 October 2020 16:56

To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>

Subject: Levy Report

Importance: High

Sir,

As promised, please find attached a draft report setting out why the Levy devices held by the RGP should now be returned.

Grateful for your comments.

Kind Regards,

Mark

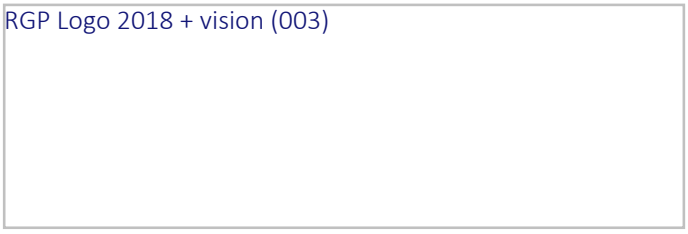
Mark Wyan

Chief Inspector

Corporate Services

New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) 200 48640 Centrex: 2272



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Crime Division
New Mole House, Rosia Road, Gibraltar ♦ Tel (+350) 20048013 ♦ Centrex 2212 ♦ www.police.gi

To: Commissioner of Police
FAO: Supt Richardson
RE: Operation Delhi – Mr Levy

Date: 19th October 2020

1. This report has been drafted in order to consider whether to search devices obtained from Mr Levy on the 12th May 2020 or whether to return the devices to the owner without further investigation.

<u>Suspected involvement in a Criminal Offence</u>

2. On the 1st April 2020 Supt Richardson produced a National Decision Model ("NDM") assessment regarding the involvement of Mr Levy with 36 North Limited. In this document he concluded:

"Based on the information and intelligence gathered thus far:

a) *We have reasonable grounds to suspect that JL has dishonestly used his influence with the CM, CS and possibly AM (the FS) to induce the relevant persons to transfer the maintenance contract of the NSCIS platform from Blands to 36N, a company in which he holds a 10.56% personal stake.*
b) *There is no evidence that the CM nor AM were aware that TC had compromised the operation of the NSCIS platform by sabotage.*
c) *We therefore that have reasonable grounds to suspect that an offence of conspiracy to defraud has been committed.*
d) *In the absence of anything to the contrary the evidence suggests that JL took part in this conspiracy together with JP, TC and CS. At this stage we have been unable to properly determine EA's involvement beyond the email to JL in February 2018.*
e) *As police officers we swear an oath to faithfully perform our duty by law appointed, without fear or favour or ill-will.*
f) *As investigators we are obliged to conduct all reasonable enquiries whether they lead toward or away from the suspects."*

3. On the 8th April 2020, during a video conference, advice was sought from the DPP on the evidence obtained. He agreed that there were reasonable grounds to suspect that Levy had committed the offence of conspiracy to defraud.

Offence of Conspiracy to Defraud

4. The offence considered was that of Conspiracy to Defraud. The issue was whether there were reasonable grounds to suspect that Levy was guilty of this offence.

Definition of Conspiracy to Defraud:

5. An agreement by two or more persons by dishonesty to deprive a person of something which is his *or to which is is or would be or might be entitled [or] an agreement by two or more by dishonesty to injure some proprietary right of his suffices to constitute the offence …*

Constituent Parts of the Offence

6. The constituent parts of the offence are as follows:

    a. Agreement by two or more persons
    b. By dishonesty
    c. To deprive a person of something which is his.

7. Each of the elements has been briefly set out below:

"To deprive a person of something which is his"

8. Bland Limited currently have a contract with HMGoG for the maintenance of the NSCIS platform. Whilst there may be a dispute over the ownership of the platform, evidence suggests that there was a contractual agreement that Bland would maintain the said platform.

9. There is clear and substantial evidence that the suspects wanted to obtain the NSCIS maintenance contract, and to transfer it to 36 North. This is evidenced primarily though communication between the parties.

10. In acquiring the maintenance contract for 36 North, the suspects sought to benefit financially in that Levy / Perez / Cornelio each had beneficial ownership of the company.

"Agreement by two or more persons"

11. The evidence indicates that Levy / Perez / Cornelio / Sanchez agreed to deprive Bland of the NSCIS maintenance contract.

"By Dishonesty"

12. The question was whether the agreement to deprive Bland Limited of the NSCIS maintenance contract was to do so by *dishonesty*. The grounds to suspect that this was the case were based on the following:

    a. Receiving business proposals/information directly from a Civil Servant;
    b. He was aware that business (such as Carnival Cruises and STP) initiated by Bland were being taken by 36 North;
    c. He was aware that TC continued to access the national security platform after TC had terminated his consultancy and that this information was being withheld from Bland;
    d. Was aware that TC had accessed the system and performed a full review of a national security platform despite the fact that 36 North were not contracted to maintain the platform;
    e. Was contacting / facilitating access to the CM with a view to discussing 36N and the NSCIS platform;
    f. In October 2018, spoke to TC about the forensic team investigating whether he was tampering with the system. It is reasonable to suggest that TC informed him that he had been sabotaging the system.

Search Warrant

13. On the 12th May 2020 officers attended Hassans law firm together with a Schedule 1 search warrant. The warrant was not executed on the basis that Mr Levy agreed to hand over his electronic devices and relevant emails, and in fact he asked that the warrant was not executed undertaking to hand over what was required.

14. Mr Levy was provided with a copy of pre-interview disclosure which outlined the topic areas that police wanted to discuss with him in an interview under caution.

15. An iPad belonging to Mr Levy was handed over during the course of the search. The iPhone was not initially handed over to police. At the request of Mr Levy it was backed up and subsequently handed over to police later the same evening.

Request to obtain Search Warrant Application / Written Account (Timeline)

16. On the 13th May 2020 a letter was sent by Lewis Baglietto QC to Supt Richardson. In this letter he requested copies of the search warrants as well as a copy of the application and any notes taken.

17. On the same date he made an application, pursuant to the Criminal Procedure Rules, for the disclosure of the search warrant application. In this application it was

claimed that Mr Levy had acted *en terrorem when handing over the devices,* despite initially insisting that he wished to co-operate with police. Supt Richardson responded to Maurice Turnock on the same date, objecting to the disclosure of the application.

18. On the 14th May 2020 a letter was sent from the Commissioner of Police to Lewis Baglietto QC, to which he attached copies of the search warrants and amended pre-interview disclosure asking that Mr Levy attend an interview under caution at 1000 hours on Monday 18th May 2020. He refused to provide the search warrant application / notes.

19. In anticipation of the interview under caution, an interview plan was concluded on the 15th May 2020.

20. On the 15th May 2020, a further letter was sent by Lewis Baglietto QC to the Magistrates' Court setting out legal cases in support of their application. On the same date he also sent a letter to the Attorney General, setting out their objections to the search warrants.

21. On the 17th May 2020 an email was sent by Lewis Baglietto QC to the Attorney General in which he stated that "*Mr Levy will give a written statement*." He stated that in the circumstances Mr Levy would not be attending the voluntary interview. (Objections were raised by Supt Richardson about the reference to a "*written statement*" as at that stage Mr Levy was still considered a suspect and it was inappropriate to treat him as a witness).

22. On the 18th May 2020 the Commissioner sent an email to Lewis Baglietto QC requesting that the account by Levy be received by the 26th May 2020.

23. On the 20th May 2020 a letter was received from Lewis Baglietto confirming that an application for the search warrant application had been made pursuant to CPR r.5.7. He asked for the police to reconsider the objection they had raised with the court. He noted that the police had agreed not to open the devices until such time as the account had been provided by Levy.

24. On the 20th May 2020 a meeting was held at the offices of the Attorney General. The AG enquired as to whether Levy could be considered a witness. The Commissioner pointed out that the RGP would review any unsolicited account but that his status must remain that of a suspect. It was further agreed that, in respect of the iPad and iPhone, that they would not be opened unless 10 days' notice (not 21) was given in writing to Hassans. A stay was agreed in respect of the devices until Levy had provided an account and his emails had been reviewed.

25. On the 21st May 2020 the Commissioner responded to Lewis Baglietto QC. In this letter he made reference to the fact that the RGP would be willing to provide a redacted copy of the search warrant application.

26. On the 21st May 2020, a letter was drafted for the Magistrates' Court formally objecting to the disclosure of the search warrant application.

27. On the 21st May 2020, a redacted version of the Schedule 1 affidavit was supplied to the DPP. On the same evening, Insp Wyan set out his concerns about the disclosure of the redacted document.

28. On the 22nd May 2020 the DPP filed and served the letter of objection. The same day the DPP was authorised by the RGP to provide the redacted copy of the search warrant application to Hassans.

29. On the same date a letter was received from Charles Bonfante stating that the account for Mr Levy had not been finalised and that they required an additional week to complete.

30. On the 27th May 2020 Hassans were provided with a redacted version of the search warrant application by the DPP.

31. Later the same day the DPP requested a meeting to further discuss the redactions provided. He subsequently asked whether further un-redactions could be made by the police.

32. On the 27th May 2020 Charles Bonfante requested further time to complete the statement of Mr Levy.

33. On the 28th May 2020 Supt Richardson responded to the DPP regarding the request for further un-redactions.

34. On the 29th May 2020 the DPP wrote to Lewis Baglietto QC. He referred to the fact that the RGP were further un-redacting the search warrant application. The document with further un-redactions was subsequently sent to the DPP.

35. On the 3rd June 2020 Supt Richardson wrote to Charles Bonfante setting out all of the information that had provided to him. He ended by requesting the agreed account of Mr Levy without further delay.

36. On the 8th June 2020 the search warrant was returned to the Magistrates' Court in accordance with s.20 of the CPEA.

Written Account from Haim Levy dated 9th June 2020

37. On the 9th June 2020 Levy produced an account to police. This was based upon topic areas that police had outlined as part of pre-interview disclosure as well as the redacted affidavit. A summary of his account is set out below:

38. *Roles and Responsibilities:*

a. Levy was accountable to the Hassans partnership.
b. He acted as the initial point of contact for commercial transactions.
c. Hassans are often approached by start-ups for investments in their ventures.

39. *36 North Limited:*

a. Levy was approached by Perez and Cornelio in late 2017 / early 2018. They wanted to leave Bland and start a new company. They approached Hassans for investment.
b. They had a number of opportunities in Gibraltar and internationally involving software development and computer based services.
c. International opportunities included Sao Tome and facial recognition used by the cruise liner market.
d. Perez and Cornelio explained that several computer programmes had been developed for HMGoG, and that the IP rights belonged to HMGoG.
e. Perez and Cornelio made it clear that they would develop new software after leaving Bland which would not infringe IP. This would be profitable in Gibraltar and internationally.
f. Levy was assured by Perez and Cornelio that after they terminated their employment they would not be contractually prevented from competing with Bland.
g. In exchange for a loan facility of up to £1,000,000 Perez and Cornelio offered Hassans a third of the business in shares. These were held by Astelon Limited which was owned by the partners of Hassans. £400,000 had been drawn down by April 2019 shortly after which the facility was cancelled to due failure to generate the anticipated income. A further £76,000 was advanced in September 2019 based on revised cash flow forecasts.

40. *Expectations of Mr Levy as an associate of 36 North:*

    a. Levy was not an associate of 36N and nothing was expected of him. He did not have any involvement in the day to day running of the business. He was involved only at a high level from a strategic point of view. His involvement went no further than as an investor of the company.

41. *Corporate Structure of 36 North:*

    a. When Cornelio terminated his employment with Bland on 10th August 2018 Perez was still under notice to Bland and therefore contractually precluded from having an interest in 36N. It was decided that between those two dates Cornelio would be the sole director, with 50% shares being held by Cornelio (through Icode Limited) and 50% issued to Astelon.
    b. It was agreed that after Perez was released the shares would be shared equally between Astelon, Cornelio and Perez. At that time Perez would be appointed an additional director.

42. *KYC Due Diligence:*

    a. This would not be dealt with by Levy personally.
    b. This was provided by Perez and Cornelio in respect of the work carried out by Hassans. They are both well known in Gibraltar for their work and had been involved in HMGoG work.

43. *Astelon Limited:*

    a. Astelon Limited was a shelf company. It is an SPV whose purpose is to hold shares in 36N for Hassans. An SPV for these purposes is entirely normal and usual corporate set-up.
    b. Astelon Limited is owned by the partners from time to time of Hassans.

44. *ICode Limited:*

    a. The only relationship with Icode is that of Astelon as a co-shareholder of 36N.
    b. Line Group (management company of Hassans) did not incorporate Icode Ltd.

45. *NSCIS Platform:*

a. Levy was informed by Perez and Cornelio that the IP (intellectual property) of the NSCIS platform belonged to HMGoG and that they were free to use whatever contractor it wished to maintain and service the platform (as there was no formal contract in existence).
b. They were satisfied that no civil liability would arise, particularly because Gaggero was negotiating to acquire a holding in 36N. He initially asked for 50% of the company and later lowered this to 33%. No agreement was reached.

46. *How the Platform would be Transferred to 36 North:*

a. HMGoG owned the platform and were free to employ any contractor, as there was no formal contract in place.
b. Perez and Cornelio envisaged that 36N would try to commercially compete for the NSCIS business by tendering for the management of the platform or (since Levy understood that Blands obtained the management without tender) making representations to HMGoG that they could provide a better, more reliable and more competitive service.
c. That kind of competition is normal and lawful and Blands would have no recourse if 36N won the ongoing business.

47. *Knowledge of Malfunctioning of the Platform:*

a. Levy was aware that after Cornelio left Blands he continued to service the NSCIS platform because Blands did not have the expertise.
b. Cornelio advised Levy that after his departure from Blands the NSCIS platform was not being properly maintained.

48. *Knowledge of Tampering and/or Sabotage of the NSCIS Platform:*

a. Levy had no knowledge of, or reason to suspect any tampering / sabotage of the NSCIS platform. The first time he became aware of the alleged offences was when Perez and Cornelio were arrested.

49. *What he did once he became aware of the alleged criminality of Cornelio and Perez:*

    a. Levy discussed the matter with Cornelio and Perez soon after arrest. They denied the allegations.
    b. Levy was not concerned with the reputational damage because Hassans had acted properly and in good faith, and he was satisfied with the explanations he had received.

50. *Communications with regards to 36 North:*

    a. Levy had a number of meetings with Perez and Cornelio but these were limited to discussing high level aspects of the business.

51. *Caine Sanchez:*

    a. Given that Hassans does work for HMGoG, Levy stated he has cause to communicate with Sanchez on many matters.
    b. A meeting took place with Sanchez in April 2018 and a copy of a draft MOU in relation to 36N was sent to him by email (**Exhibit JC/MOU/1** refers).
    c. Sanchez was concerned at that time that after Perez and Cornelio left Blands the NSCIS platform would not be properly managed. Sanchez was concerned that this would affect the whole security of Gibraltar.
    d. Sanchez did not request any payment or other benefit and to his knowledge he did not have direct or indirect interest in 36N.

52. *The Nature of the Relationship:*

    a. The relationship between Levy and Cornelio and Perez was primarily business, but they also asked for high level legal advice from time to time.
    b. The relationship with Sanchez in relation to 36N was purely in an official capacity as the HMGoG officer responsible for NSCIS. There was no business relationship with Sanchez.

53. *What JL did when he found out that Sanchez had been arrested and did he consider he may have acted unethically and / or unlawfully*:

    a. Levy stated he had no reason to believe that CS acted unethically and / or unlawfully.

54. *Any approach by Mr Levy to a member of the Government or civil service in connection with 36N and / or the NSCIS platform:*

a. There has been no impropriety with NSCIS or 36N.
b. In August 2018 Levy forwarded an email to the Chief Minister which contained a draft prepared by Cornelio for terminating the NSCIS platform. This was against the backdrop of settlement talks, and because he knew the Chief Minister was trying to find a solution to the NSCIS operation issue.
c. Levy discussed the Bland / 36 North issues with the Chief Minister as the NSCIS platform was one in which the HMGoG had a direct interest as owners.
d. The Chief Minister informed Levy that he had discussed the matter with Gaggero on a number of occasions and tried to promote a settlement between the parties. In those conversations Levy suggested that he should continue to encourage them to find a way to work together amicably.
e. Levy mentioned to the Chief Minister, and to Perez and Cornelio, that Hassans would be willing to give up all its shareholding in 36N if it would help to reach an agreement.

55. *Additional Comments by Levy:*

a. Using lawful means to obtain a lawful result and promoting co-operation between those with competing interests can never be conspiracy to defraud.
b. There can be no conspiracy or dishonesty merely by planning to set up a business that will compete with your employer after the employment terminates.
c. The mere act of Perez and Cornelio resigning from Bland cannot be dishonest. It is for the employer to ensure that it retains its employees to be able to deliver services. An employee is entitled to resign upon giving any notice legally required.
d. Gaggero actively negotiated for a 50% stake in 36N. He was negotiating with the very individuals he is now accusing of conspiring against him, as a result of a failed negotiation.
e. If Levy was speaking to Government ministers or officials for the benefit of 36N there would be nothing unlawful in doing so.
f. During 47 years of practice Levy has been in almost constant contact with Government and Government officials at the most senior level.

g. Even if Levy had been told by Perez and Cornelio (which is denied), of computer misuse, that cannot be used to infer the he knew about any such misuse when it was occurring or was about to occur.

56. On the 9th June 2020 Levy produced the emails and correspondence that had been promised on the 12th May 2020.

57. On the same date CoP McGrail resigned from the Royal Gibraltar Police.

Review of the Documents Submitted by Levy

58. Following the submission of his account, the material was reviewed.

59. On the 25th June 2020 the emails submitted by Levy on the 9th June were analysed. With the exception of a 36 North MOU (which evidenced the fact that Sanchez had been involved in setting up 36N), there was no other material disclosed that was relevant to the prosecution case (no material was considered exculpatory in respect of Mr Levy).

Review of Documents Obtained from the US

60. On the 28th August 2020, a meeting was held with the DPP in relation to pre-charge advice for Operation Delhi. It was agreed that whilst there was insufficient evidence to charge Levy at that stage, an examination of the devices would be deferred until the information obtained from the Letter of Request had been reviewed.

61. Information from the execution of a Letter of Request in the US finally arrived on the 8th September 2020 and was subsequently reviewed on the 12th September 2020. No incriminating evidence in respect of Levy was found.

The Position as of October 2020 / Considerations

62. Having regard to the matters referred to above, the following matters have been considered when assessing whether to return the devices to Mr Levy or to examine the content within.

a. The devices obtained from Mr Levy on the 12th May 2020 are unlikely to obtain evidence of criminality. This is on the basis that:

i. The phone of Mr Levy was imaged by him (his employees) in advance of handing the device over to police. This time could have been used to erase relevant material from the phone, before handing it over.

ii. The emails were voluntarily handed over to police on the 9th June 2020, almost a month after the iPhone / iPad were seized. Any evidence of criminality could have been deleted or the emails simply not handed over to police.

b. On the 2nd September 2020, and in response to an extended summary of evidence provided by police, the DPP agreed that, at that time, there was insufficient evidence to charge Levy with the offence of conspiracy to defraud.

c. The document provided by Levy on the 9th June 2020 gave a limited account of his involvement in the company 36 North. He explained his position in terms of commercial involvement. These actions may be regarded as unscrupulous but nothing he stated suggested criminal behaviour (or dishonestly within the meaning of conspiracy to defraud).

d. No evidence has been found which suggested that Levy placed pressure on the Chief Minister at the request of Cornelio.

e. With the exception of a text between Levy and Cornelio stating, "*Morning James. Very confidential. Note Gaggero has brought in a forensic team of six to look at anything John and I may have done to tamper with the system etc. Gaggero is going all out it seems*." there is no evidence that Levy knew about the alleged computer misuse offences committed by Cornelio.

f. Levy has no contractual obligation towards Bland. This is unlike Cornelio / Perez who had contracts of employment with Bland. As stated in previous reports a conspiracy to defraud must incorporate some unlawfulness, either in its object or its means (*Evans* [2014] 1 WLR 2817).

g. The evidence obtained following the International Letter of Request has not revealed any evidence of criminality by Levy.

h. There is no evidence following review of emails / texts between Levy and Sanchez to suggest criminality by Levy.

Decision

63. In light of the points made above, and having regard to the evidence reviewed since April 2020 (when the search warrant was obtained), we no longer continue to have reasonable grounds to believe that Levy committed the offence of conspiracy to defraud.

64. Given that reasonable grounds no longer exist (to suspect Levy of the offence), the legality of now searching the iPhone / iPad for evidence of this offence is in question.

65. The correct course of action is therefore to return the devices to Levy, without further investigation of their content.

Mark Wyan
Chief Inspector

From:	(RGP) Wyan, Mark
To:	(RGP) Richardson, Paul (OTM)
Subject:	RE: Levy Report 27.10.20
Date:	28 October 2020 11:04:00
Attachments:	image001.jpg image003.png image004.png

Sir,
In respect of the matters with which I had personal knowledge, the below accords with my recollection of events.
Kind Regards,
Mark

Mark Wyan

Chief Inspector

Corporate Services

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From: (RGP) Richardson, Paul (OTM)
Sent: 28 October 2020 10:45
To: (RGP) Wyan, Mark
Subject: FW: Levy Report 27.10.20

Mark,
Your views please..
Sir,
Please find attached CI Mark Wyan's comprehensive summary of James Levy's status as a suspect for Operation Delhi.
You will recall that Mr Levy's digital devices (iPad and iPhone) still remain in a sealed exhibit bag within your safe. This rather unorthodox situation can be summarised as follows:

1. Levy was considered a suspect early on in this investigation as forensically recovered messages suggested that he had participated in a conspiracy to defraud Blands together with Thomas Cornelio, John Perez and Eddie Asquez.
2. An NDM assessment of his involvement was drafted and shared with the DPP who agreed that Levy was a suspect and should be interviewed under caution.
3. We elected to obtain a search warrant for Levy's residential and work addresses and were successful in making a comprehensive application to the Magistrates' Court.
4. The DPP in retrospect stated that he would not have executed a warrant but would have

preferred to execute a production order instead. We did not agree and the DPP advised that the execution of the warrant was not unlawful and its execution was an operational matter for the RGP and that he would support us in that decision.

5. Levy persuaded us not to execute the warrant declaring (after consulting with leading UK silk) that he would hand over the material we required voluntarily. At his request I personally conducted a rudimentary and cursory search of his work and home office only. Levy declined to sign the relevant section of the warrant form until later arguing that the warrant was not executed as he had consented to the search. BWC footage of this exchange was taken.
6. Levy did not hand over his iPhone until hours after we left Hassans premises as he claimed that his IT expert needed to image the device in order that he could carry on working on other cases and with other clients. His emails were to provided subsequently due to the time that would be needed to execute keyword searches.
7. The day after handing over his devices voluntarily Levy served papers at the Magistrates' Court stating that he had acted *en terrorem* and that I had acted with malfeasance and that there had been an abuse of law.
8. Lewis Baglietto QC, acting for Levy sought an urgent meeting with the AG and the then COP to discuss the matter.
9. We took the view that it was inappropriate for the COP to meet with the defence particularly when they were making such serious, and baseless allegations.
10. Later that day the COP, Ag, DPP and I met to discuss the matter and we were persuaded to seal Levy's digital devices until we could deal with the issue of legally privileged material (which had already been considered as part of the NDM assessment of Levy's involvement referred to above). The AG had taken offence at how we (the RGP) could have considered Levy a suspect as he was an officer of the court, a senior barrister and QC and we exchanged different views on how the investigation could progress. The DPP reiterated his support and agreed that at that stage there was evidence that Levy had committed the offence of conspiracy to defraud and could only be properly be dealt with as a suspect. The then COP undertook to personally take possession of the devices and agreed not to open the devices for a period of 14 days which would allow Levy to make an application in court for their return.
11. The AG advised that he would deal with the allegations of impropriety explaining that that was what lawyers did and not to worry.
12. Arrangements were then made for Levy to attend NMH on a voluntary basis to submit to interview.
13. A lengthy exchange between lawyers for Levy and ourselves then took place in which they sought even further pre-interview disclosure (an initial pre-interview disclosure had already been served on Levy on the day that the warrant was to be executed). After consultation with the DPP this was exceptionally provided.
14. At a further meeting with the AG, DPP, COP, Insp Wyan and myself the AG asked that we explore ways of dealing with Levy without him attending the police station. This was debated at length and we agreed that in the event that Levy provided a comprehensive prepared account we may be in a position to re-consider his status as a suspect, however there would likely still be a need to interview him under caution if questions needed to be posed after consideration of his account.
15. Levy's lawyers then made an application to the Magistrates' Court for the release of the information laid before the Magistrate (affidavit) in order to obtain the search warrants. This was a lengthy document that outlined the full case against all defendants and we strenuously objected to its release.
16. In consultation with the DPP we agreed to disclose a heavily redacted version of the affidavit to Lewis Baglietto on a counsel to counsel basis.
17. Further to this we were asked to un-redact even more of the affidavit, which following lengthy

consultation with the DPP was done.

18. Levy's account was not received until the 9th June, the same day that he also finally handed over his documents that had been promised almost a month earlier and the same day that the then COP resigned.
19. Nothing incriminating was found in the documents supplied.
20. Levy gave partial explanations in his account but did not answer all of the issues that we sought to clarify.
21. We revisited the need to interview Levy under caution but agreed with the DPP to wait until we had reviewed the evidence from the US LOR which we had been assured was imminent.
22. Once the material from the US arrived it was reviewed urgently and found to contain nothing incriminating.
23. Two of the other suspects in the case have now been charged and a third (Asquez) released.
24. Based on the evidence that we have I agree that we no longer have reasonable grounds to believe that the devices held within your safe contain evidence that Levy has committed the offence of conspiracy to defraud Blands. For that reason I recommend that they are returned without opening.
25. This should not be seen as a vindication of Levy's innocence throughout the investigation which may have resulted in a different outcome had the warrant been executed and Levy interviewed under caution.

Kind regards

Paul

Paul Richardson OTM

Superintendent

Professionalism Division

New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) **200 47996** Centrex: 2329

Mobile [redacted]

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From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>

Sent: 28 October 2020 09:34

To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>

Subject: Levy Report 27.10.20

Sir,

As requested.

Kind Regards,

Mark

From: (RGP) Wyan, Mark
To: (RGP) Ullger, Richard; (RGP) Yeats, Cathal
Subject: FW: Police Investigation
Date: 06 November 2020 17:37:00
Attachments: image006.png

Dear Sirs,

For your information. Mr Levy has declined to provide a witness statement in relation to Operation Delhi. They have however confirmed that his devices have been returned.

Kind Regards,

Mark

Mark Wyan
Chief Inspector

Corporate Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 48640 Centrex: 2272

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From: Charles Bonfante <charles.bonfante@hassans.gi>
Sent: 06 November 2020 17:18
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>; Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>; (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Subject: RE: Police Investigation

Dear Mark,

Thank you for your email below and for taking my phone call earlier this week.

I am grateful for your confirmation that the RGP, following an extensive investigation, have concluded that Mr Levy is not a suspect in this matter.

In our call you said the next step was for Mr Levy to decide whether he would like to be a prosecution witness. Mr Levy respectfully declines your invitation to be a prosecution witness in this case. I understand from our call that this now brings Mr Levy's involvement with the RGP to an end. Please do let me know if this is not the case or if you wish to discuss anything further.

I can confirm that I was handed My Levy's property by DC Currer.

As ever,

Charles

Charles Bonfante
Barrister and Acting Solicitor

Hassans
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T: +350 20079000
F: +350 20071966
Hassans International Law Firm Limited - Registered in Gibraltar - Registration No: 115509

From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 28 October 2020 15:18
To: Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Cc: Charles Bonfante <charles.bonfante@hassans.gi>; (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>; (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Subject: Police Investigation
Importance: High

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Mr Baglietto QC,

You will no doubt be aware that the police investigation involving 36 North Ltd has resulted in three persons being charged with conspiracy to defraud Bland Ltd and that they have now appeared before the Supreme Court of Gibraltar.

Following an extensive investigation we have concluded that Mr Levy is no longer considered a suspect in this matter. Given that Mr Levy has already provided a written submission further to questions posed by the investigating team, I should be grateful if you would consider editing Mr Levy's account with a view of it being included in the evidence in the form of a witness statement.

Finally, in the circumstances it is our intention to return the devices that were handed over to police voluntarily on the 12th May 2020. These items (which remain unexamined) may be collected from NMH during normal office hours or alternatively I could arrange for them to be dropped off to you.

Kind Regards,

Mark

Mark Wyan
Chief Inspector

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NDM ASSESSMENT REGARDING THE INVOLVEMENT OF HAIM JUDAH LEVY WITH 36 NORTH LTD.

GATHER INFORMATION & INTELLIGENCE

1. In December 2018 a complaint was made by James Gaggero (JG), Chairman of Blands, that two of his former employees – John Perez (JP) and Tommy Cornelio (TC) had attempted to defraud Blands of their proprietary rights in the National Security Central Intelligence System (NSCIS), a platform that handles collects and processes sensitive personal data for law enforcement use and statistical data collection.

2. On the 9th July 2018 JP (the then CEO of Blands) and TC (software developer) had both submitted their resignations from Blands simultaneously in what is believed to be an orchestrated move to cause the most maximum possible damage to Blands in their ability to manage the NSCIS platform. On the 20th July 2018 two of the remaining software developers for Blands also left the firm without prior notice. All four JP, TC and the two developers began working for a company called 36 North Ltd (36N Ltd.)

3. JG described this as an existential threat to Blands in Gibraltar and was so concerned about the impact it would have on the NSCIS platform and thereby National Security, that he informed the Chief Minister (CM).

4. The NSCIS maintenance contract (although unsigned) is worth £816k p.a. There is a dispute as to the ownership of the intellectual property of the software between Blands and HMGOG. Blands asserts that they retain the IP rights for the software that they developed and submitted a contract to HMGOG through the then Chief Secretary Ernest Montado several years ago. This was never signed, although the government has continuously paid the maintenance and licencing fees.

5. Soon after the departure of the persons mentioned in paragraph 2 the NSCIS platform began to malfunction and the law enforcement users of it began to complain. It was later discovered that the complaints about the system were orchestrated and aggressively encouraged by TC with the assistance of Caine Sanchez (CS).

6. Caine Sanchez is a senior civil servant who at the relevant time was the Principal Private Secretary to the Deputy Chief Minister (DCM). He was also the project lead for NSCIS as the platform was initially developed to monitor frontier queues for EU purposes – this came under the DCM's portfolio.

7. In October 2018 JG commissioned a forensic investigation into the NSCIS platform by PWC after it began to malfunction. PWC's findings were presented to JG and subsequently to the RGP in support of his complaint in a report entitled Project Bass.

8. A police investigation commenced code named Operation Delhi and a number of search warrants were executed at the residences and workplaces of the principal suspects. The searches and interviews were supported by officers from the UK National Crime Agency.

9. The evidence gathered from digital media devices indicates that multiple Computer Misuse Offences [sections 362, 364, 365 and 366A Crimes Act 2011] have been committed by TC. It is unknown at this stage whether the other persons subject to the investigation had knowledge of TC's actions, although it is clearly implied that they were subsequently made aware of his actions in several conversations (both actual and through digital media).

10. The motive of the computer misuse offences appears to have been to sabotage the NSCIS platform and impede its effective and efficient performance with a view to undermine Bland's capability in managing it. This would create a situation in which CS would able to pass the service contract to 36N without repercussions.

11. A number of persons were arrested in May 2019 including Tommy Cornelio (TC) John Perez (JP) Eddie Asquez (EA – also a former employee of Blands) and sometime later Caine Sanchez (CS).

12. In addition to the computer misuse offences, the evidence gather thus far indicates that TC, JP, EA and CS conspired to defraud Blands of their intellectual property rights in NSCIS.

13. JP and TC both stood to personally benefit from the venture as they are each 1/3rd shareholders in 36N. CS has assisted them by encouraging users of the platform to complain about its functionality and acting in a biased manner in favour of 36N in his dealings with NSCIS. To this end, he disclosed confidential information about the state of the platform to TC after he was no longer an employee of Blands and facilitated TC access to the platform using his own login credentials. In addition, and during the same period, CS sought to begin a personal business venture with TC.

14. As mentioned above, TC and JP are each 1/3rd shareholders in 36N. The remaining 1/3 shares are held by Astelon Ltd whose shareholders are Line Holdings Ltd. (LHL) The shareholders of LHL are the partners of Hassans. Jaime Levy (JL) holds 32% of the shares in Astelon Ltd and thereby 10.56% of 36N. Other significant shareholders (albeit to a much lesser degree) in LHL include the current CM and Financial Secretary Fabian Picardo and Albert Mena who each hold 2.94%

15. An examination of the messages between TC JP and CS has shown that each has been communicating with JL with regard to the NSCIS platform.

16. JL's knowledge of the plan to remove the NSCIS platform management from Blands in favour of 36N pre-dates the departure of TC and JP from Blands and even the setup of 36N itself. Emails recovered forensically show that EA had drafted a business proposal for 36N [and intended for JL] as far back as February 2018 in which the revenue streams include the maintenance of the NSCIS platform.

17. Evidence of communication from CS to JL has shown that a civil servant was passing on confidential information to him about NSCIS and offering him 'good proposals for investment'

18. Evidence of communication from TC and JP to JL suggests that JL is in a position of influence with the CM and he is often requested to arrange meetings, or disclose or find out what is being decided with regard to 36 North's bid to take over the NSCIS platform.

19. There is a significant amount of evidence that suggests that JL was acting unethically in his dealings regarding the NSCIS platform. The question is whether this unethical behaviour is dishonest and crosses the line into the realms of criminality. JL is the senior partner in Gibraltar's largest law firm.

20. A summary of some of the key facts that assist in determining this question are found at Appendix A.

21. Each of the items in appendix A could potentially be considered as 'sharp business practice', however when considered in their totality they suggest dishonest and unethical conduct.

Conspiracy to Defraud Considerations

The offence being considered is that of Conspiracy to Defraud. The issue is therefore whether there are reasonable grounds to suspect that JL is guilty of this offence.

Conspiracy to defraud is "an agreement by two or more persons by dishonesty to deprive a person of something which is his or to which is or would be or might be entitled [or] an agreement by two or more by *dishonesty to injure some proprietary right of his suffices to constitute the offence …"*

22. The constituent parts of the offence are as follows:
    - Agreement by two or more persons
    - By dishonesty
    - To deprive a person of something which is his

23. Each element of the offence is considered below [albeit not in order]:

To deprive a person of something which is his

- Bland Limited currently have a contract (unsigned though implied) with HMGoG for the maintenance of the NSCIS platform. Whilst there may be a dispute over the ownership of the intellectual property of the platform, we have evidence confirming that there was a contractual agreement that Bland would maintain the said platform.
- There is clear and substantial evidence that the suspects wanted to obtain the NSCIS maintenance contract, and to transfer it to 36 North. This is evidenced primarily though communication between the parties.
- In acquiring the maintenance contract for 36 North, the suspects sought to benefit financially in that JL/JP/TC each had beneficial ownership of the company. (motive)

Agreement by two or more persons

- The evidence indicates that JP/TC/JL/CS agreed to deprive Bland of the NSCIS maintenance contract.

By Dishonesty

- The question is whether the agreement to deprive Bland Limited of the NSCIS maintenance contract was to do so by dishonesty. The grounds to suspect that this was the case are based on the following, JL:
  - Was receiving business proposals/information directly from a Civil Servant.
  - Was aware that business (such as Carnival Cruises and STP) initiated by Bland were being taken by 36N.
  - Was aware that TC continued to access the national security platform after TC had terminated his consultancy and that this information was being withheld from Bland.
  - Was aware that TC had accessed the system and performed a full review of a national security platform despite the fact that 36N were not contracted to maintain the platform.
  - Was contacting / facilitating access to the CM with a view to discussing 36N and the NSCIS platform.
  - In October 2018, spoke to TC about the forensic team investigating whether he was tampering with the system. It is reasonable to suggest that TC informed him that he had been sabotaging the system. Despite this information, JL continued to support TC and 36N in obtaining the platform and did not distance himself from this conduct.

Conclusion – Information and Intelligence

24. Based on the information and intelligence gathered thus far:

a) We have reasonable grounds to suspect that JL has dishonestly used his influence with the CM, CS and possibly AM (the FS) to induce the relevant persons to transfer the maintenance contract of the NSCIS platform from Blands to 36N, a company in which he holds a 10.56% personal stake.
b) There is no evidence that the CM nor AM were aware that TC had compromised the operation of the NSCIS platform by sabotage.
c) We therefore that have reasonable grounds to suspect that an offence of conspiracy to defraud has been committed.
d) In the absence of anything to the contrary the evidence suggests that JL took part in this conspiracy together with JP, TC and CS. At this stage we have been unable to properly determine EA's involvement beyond the email to JL in February 2018.
e) As police officers we swear an oath to faithfully perform our duty by law appointed, without fear or favour or ill-will.
f) As investigators we are obliged to conduct all reasonable enquiries whether they lead toward or away from the suspects.

ASSESS THREAT AND RISK AND DEVELOP A WORKING STRATEGY

25. In order to investigate this matter it is necessary to obtain further evidence by:

a) Interviewing JL
b) Conducting a digital forensic examination of the devices that he used to communicate with the other relevant parties.

26. As we have reasonable grounds to suspect that JL has participated in the offence under investigation the interview should be under caution.

27. I have considered whether JL should be arrested and wider searches conducted as was the case with TC, JP EA, and CS.

28. TC, JP and EA were arrested and their properties searched simultaneously in order to prevent conferring with each other and the potential loss of evidence. CS was treated in a similar manner once the extent of his involvement was discovered. The evidence gathered in these searches revealed the involvement of AC (see below) and JL

29. AC - Aaron Chipol (CEO of Borders and Coastguards) was not arrested but rather his digital devices seized under warrant and he was interviewed by means of voluntary attendance. The necessity to arrest was not made out in that case.

30. The necessity to arrest JL will not be met In the event that he consents to a voluntary attendance police interview. In the absence of such consent an arrest would have to be made to secure his attendance to allow the prompt and effective investigation of the offence and secure evidence by questioning. There is no longer a need to prevent conferring between the defendants and a wider search of Hassan's legal premises would in my view be disproportionate.

31. The seizure of the digital devices referred to in paragraph 25b should be by search warrant obtained in advance of approaching JL for interview.

32. Appropriate pre-interview disclosure will be served prior to a request for interview.

33. The examination of any content seized from JL may be complicated by claims of legal privilege. In that event the material will be reviewed by a lawyer first using keyword searches provided. We do not however believe that JL maintained a lawyer client relationship with any other person linked to this investigation and his dealings with them appear to restricted to a business relationship.

34. The warrant should be restricted to mobile devices only as this is the predominant means of communication between JL and the relevant parties.

35. Given the political sensitivities and potential reluctance for a JP issue a warrant for Hassan Law practice the warrant should be requested from the Chief Justice.

CONSIDER POWERS AND POLICY

36. I have considered the following in drawing my conclusions:

    a. Duty of police to investigate crime – S. 29c and 44b. Police Act 2006
    b. Police Oath of allegiance s.6 Oaths Act.
    c. Duty of investigators to investigate all reasonable lines of enquiry – s. 3.5 Code of Practice on the recording, retention and disclosure if material obtained in a criminal investigation.
    d. The relevant sections concerning voluntary attendance police interviews and arrest s. 47 and 42 of the Criminal Offences Act 2011.

e. Sections 1,3,7,8,13 of the Gibraltar Constitutional Order.

IDENTIFY OPTIONS AND CONTINGENCIES

37. Given the political sensitivities of the persons involved the least disruptive and most diplomatic means of police intervention will be deployed.

38. JL will be approached at his place of work and as far as possible in private. The warrant will be executed and a notice of pre-interview disclosure served. A date will then be agreed for voluntary attendance interview. I have chosen this method as I believe that it is the most likely to generate a response to the allegation as opposed to a no comment interview.

39. It is expected that any allegation of impropriety or illegality will be vigorously attacked using Hassans considerable legal resources. To protect the integrity of the investigation and avoid any misconstruing on the actual words said during the police intervention at Hassan, body warn footage will be taken.

Paul Richardson OTM

Detective Superintendent.

APPENDIX A

ITEM	DATE	SUBJECT	INFORMATION / EVIDENCE
1.	28/02/2017	Text from CS to JL	James I need to give you an update on several issues. Also need to talk to you on John Perez and the security programme. Let me know when we can meet
2.	19/01/2018	Text from CS to JL	James I have a good proposal for investment. I think you will like this
3.	18/02/2018	Proposed Email to JL	In a draft letter to JL from John Perez (on behalf of 36 North), they purported that the business had a contract with HMGoG for the NSCIS platform [with the platform being worth £7.5 million]. It also suggested that the company had an international contract for Sao Tome and Principe.
4.	28/03/18	Company Incorporation	Astelon Limited incorporated.
5.	23/04/18	Company Incorporation	36 North incorporated.
6.	10/06/2018	Text from JP to JL	Jaime we did not get a chance to catch up this week. I hope all is well with you and you have managed to slowly get back into it. David has already completed the SHA which is good news. I would appreciate discussing it with you when we get a chance. I am away from Gibraltar on business in Istanbul followed by Madrid (close hold please). Preparing for our departure on 29th June. Everything else is now almost in place. John.
7.	06/07/2018	Text from JP to JL	James we have just finished with Carnival after a long day of negotiations. We have been successful and now moving to the pilot phase. Flying back tomorrow 👍
8.	24/07/2018	Text from CS to JL	James I received a call from James Gaggero last night reference the security programme. I have discussed it with John and emailed the CM. It may be wise for us to meet and maybe include David Weber to go over some aspects of the conversation.
9.	06/08/2018	Text from JL and JP	Looking Forward to working together
10.	10/08/2018	Text from CS to JL	James I have asked the CM to see me prior to his meeting with JG on Monday. He has not responded yet. Please give him a nudge.
11.	14/08/2018	Text from CS to JL	James just got John Perez company their Insurance broker. Everything is going well with this. Just drafted letter to send to James Gaggero and waiting for CM to approve. I have also urged them to sign the international agreement and they are moving forward with this

ITEM	DATE	SUBJECT	INFORMATION / EVIDENCE
12.	20/08/2018	Text from JP to JL	James, I thought I would send you an update so that you have a clear understanding of the current situation. We continue to run the NSCIS (immigration/security/statistics) platform for the GOG whilst we wait to learn if we are formally appointed to continue to run this service or whether the GOG has opted to go for our new proposal. As you aware Blands do not have the resources to do this but have contested the ownership of the code of the system (revenue exercise for them/we are covering the risks now). I believe their claim is flawed as this was built and paid module by module to meet a requirement based on law enforcement operational needs. For Gaggero it's his only stance as he tries to push for some form of compensation either from the Government or 36N in the future. By removing our costs and that of the developers (now with us) and one other obvious staff move Gaggero balances his net profit so he is not being entirely honest on that front. With regards to 36N developed an entirely new Border Management System which is better than NSCIS to safeguard any future challenges and to provide the GOG with an option to continue the operation without having to rely on any system that was developed by Blands. We also run a series of other key Government platforms all of which have pledged their full support on us. We continue to operate and add functionality to all of these platforms, currently for no renumeration as we wait for a decision to be taken by the GOG. Best outcome for us is for the GoG to inform Gaggero that they are not in agreement with his claim and go with our new proposal which also saves the GOG a considerable amount of money. We must however continue to give the CM his space until ready. With regards to 36N it is important that we are appointed to administer such a system as it will help for future referencing for International sales. Currently we have 4 African states showing an expression of interest with one being signed early in September. Once my notice period is over I am going to focus on the British Independent Territories which will also be good for Gib plc. Hope this helps.
13.	21/08/2018	Text from TC to JL	Dear James, would it be possible to sit down with you or the CM to try and move forward with our projects? I currently have a lot of work on hold pending this decision. I believe James Gaggero is attempting to stall us with empty threats.
14.	29/08/2018	Text from TC to JL	Dear James, please try and get me a 10 min slot for me to meet the CM. I believe I am best placed to explain the entire situation and advise the best technical solution possible. That should resolve any deadlock.

ITEM	DATE	SUBJECT	INFORMATION / EVIDENCE
15.	30/08/2018	Text from JL to JP	John I just rang you to tell you everything is under control. I've been working with Tommy on the relevant letters. I am very confident that we will bring this to a close in a successful manner very shortly. You can rest assured I will do my best to help you in every way. I have great Respect and admiration for your ability and hard work. Do not worry if there is an attack I will help you to defend and to counter-attack. You're a military man so I'm writing to you in military terms😊
16.	30/08/2018	Text forwarded from JL to TC	You should know that I have spoken to Tommy and despite his letter to James G he will continue ensuring that the system is kept going until a solution is found acceptable the government.
17.	05/09/2018	Text from TC to JL	Dear James, Just a suggestion...should there be hesitation to move contract to 36N which is partially owned by Hassans, could we not have the contracts given to ICODE Limited? (my company and i am the sole director). Agreements could then be put in place between ICODE and 36N. Your thoughts?
18.	07/09/2018	Text from JP to JL	James this week we will be receiving a contract from São Tomé and Príncipe for review. The commercial elements of the contract have already been agreed in principle. We are also closing in on Equatorial Guinea. I will work with the relevant inspectorate International bodies to make sure all risks are addressed. I need you to appoint a lawyer who can work in close liaison with me with these projects who is also not put of by the expeditionary nature of this work. Let's start putting a structure in place. Tommy has designed a completely new platform which is far more advanced than what we currently operate in Gib and thus we can move forward with this agenda without further delay.
19.	12/09/2018	Text from TC to JL	Important please advise chief as follows: As promised Tommy has continued to work on the platform to ensure that National Security is not compromised in any way. All systems have been redeveloped from scratch and now operate from a new platform using cutting edge technology ready for its international offering with 3 countries already confirmed.
20.	23/09/2018	Text from TC to JL	Attached is a letter which may be of use to the GoG in order to proceed with the new platform we have offered them.

ITEM	DATE	SUBJECT	INFORMATION / EVIDENCE
21.	09/10/2018	Text from JP to JL	James thank you so much for this morning. I am sure our sessions will become more enjoyable as we set of in our journey. With regards to dropping Fabian a note, let's give him a bit more time. As the pressure will naturally surface through his law enforcement heads. We will get our chance to put the it right as JG has maliciously tried everything to try to discredit us unfairly. Please let me know if you are able to arrange a meeting with us with Raphael Benain with regards to our lottery proposal. Thank you. John.
22.	19/10/2018	Text from TC to JL	Morning James. Very confidential. Note Gaggero has brought in a forensic team of six to look at anything John and I may have done to tamper with the system etc. Gaggero is going all out it seems.
23.	19/10/2018	Text from TC to JP	Tommy Cornelio: Spoke to James ref forensic team confidentially Tommy Cornelio: Spoke to him on the phone Tommy Cornelio: Call me and i can discuss Tommy Cornelio: He says not to worry Tommy Cornelio: I am very concerned they will try an prove i have acted to sabotage the system in any way etc
24.	27/12/2018	Text from TC to JL Reply from JL	Tommy Cornelio: If you do not believe CM will transfer contracts back to us early in the new year, please let us know as I need to ensure we are all working towards objectives that will generate revenue for us. James Levy: I don't think he will transfer the contracts back to 36 N.We have to work on alternatives. I am happy to help or do you need.
25.	26/03/2019	Text from TC to JL	Perhaps CM would be willing to put the National Security system out for tender next month.
26.	27/03/2019	Text from TC to JL Reply from JL	Tommy Cornelio: Do you think there is any chance of getting national security contract back at some point? We have BCA CEO meeting CM next week and I am briefing him before the meeting. James Levy: Yes
27.	11/04/2019	Text from TC to JL	1. I am preparing a report for Caine/Albert Mena with regards to the failures of the National Security platform of which [redacted] Lesley is preparing a legal letter for your review in an attempt to speed up the process. This is ok?
28.	11/04/2019	Text from TC to JL	We are going to have a field day on the national security report..just wait until you see it. For now I am reviewing every single module 1 by 1. [redacted].
29.	14/04/2019	Text from TC to JL	James, note I have provided Caine with a full report on the security platform, I have kept this simple and impartial.

ITEM	DATE	SUBJECT	INFORMATION / EVIDENCE
30.	23/04/2019	Text from TC to JL	Note I provided Albert Mena with a report on the National Security system. Has he made any comment to you about this? The report would have been delivered to him via Caine.
31.	03/05/2019	Text from TC to JL	Dear James, the national security system [redacted]. Can I email the CM once again to meet me? He cannot allow this to continue.

Tape counter times	Person speaking	Text
00:0017	Supt Richardson	Okay the time is 1330 hrs, Tuesday the 12th of May 2020. My name is Paul Richardson, I'm a Detective Superintendent in the Royal Gibraltar Police. An also present is?
	Inspector Wyan	Inspector Mark Wyan.
	Supt Richardson	I'm here in Hassans boardroom together with Jaime Levy and Javier Chincotta. Mr Levy, thank you for coming in today. This is not a police interview under caution, but before I speak to you, I would like to caution you by saying, *'you are not obliged to say anything, unless you wish to do so. But what you say may be put in writing and given in evidence'.* The RGP are investigating offence against Part 15 of the Crimes Act 2011 which involves computer misuse and conspiracy to defraud. This follows a complaint made in 2018. In October 2018, Bland Limited uncovered evidence of computer misuse within the National Security Intelligence System. This system is an integral part of the National Security of Gibraltar. The evidence suggests that without authority the NSIS platform had been tampered with so that sensitive information would be diverted to unauthorised servers. In addition, the performance of the platform was compromised by sabotage, thereby undermining Gibraltar's National Security. A complaint was made to the Royal Gibraltar Police and in May 2019, John Perez, Thomas Comelio and Edward Asquez, all former employees of Bland Limited and Caine Sanchez, a Senior Civil Servant were arrested on Suspicion of Conspiracy to Defraud Bland Limited of the NSIS platform maintenance contract and for related offences pursuant to Part 15 of the Crimes Act 2011. These relates to computer misuse. Search warrants were executed at home and business addresses as a result of which numerous digital devices were seized. The evidence recovered is forensically examined and affords reasonable grounds to suspect that you may have been involved in the conspiracy. Particularly in the planning and preparation stages and by properly, improperly using your influence with a Civil Servant and others. The evidence suggests that the conspiracy was to dishonestly obtain the NSIS platform maintenance contract and to have it transferred to 36 North Limited. According to Companies House's records, you are a shareholder of this company, by virtue of a company wholly owned by Hassans named Astelon Limited which owns 33% of the shares in 36 North Limited. You thereby hold over 10% of the shareholding in 36 North Limited and stood directly to benefit from the revenue created by the transfer of the NSIS maintenance contract.

00:02:48	Supt Richardson	Whilst the evidence gathered so far indicates that you may have been involved in conspiring to dishonestly obtain the NSIS maintenance contract, the RGP are keeping an open mind and have a duty to follow all reasonable lines of inquiry. The topic areas that we seek to explore are informal interview under caution include but are not limited to the following: • your role and responsibilities with regards to Hassans International Law Firm • 36 North Limited including the company formation, financing and business • Astelon Limited including the company formation and business • Icode Limited • Any communication and your relationship with Thomas Cornelio, John Perez and Caine Sanchez • The National Security Intelligence System • And communication with the Chief Minister in relation to any of the above. • Evidence gathered from the search of your residence and your work place and any other evidence relevant to this investigation. You are hereby invited to attend a voluntary interview under caution at New Mole House Police Station at 10 o'clock in the morning on Monday the 18th of May. And in the event that you are not able to make this time, I would ask you to contact Mr Wyan, I've got his details here in order to arrange another, another appointment. And I ask you to please keep the contents of this document confidential because this is a live investigation with police, with persons on bail. The reason why we are dealing with you in this, in this matter and not as we have dealt with the other persons who have been arrested and on bail, in fact the bail has been extended twice, is because we are, we want to give you an opportunity to give your version of events, your account which may shed a completely different light on this. We've only dealt with one other person in this investigation in this manner and that was the Head of Borders and Coast Guards, who has a, an involvement in this matter and has had communication between him and the other players. That indicates that he may have had, he may have had involvement as well. He has been interviewed under caution on voluntary attendance and has attended several times with his lawyer. And that, that is exactly why we, why we wanted to speak to you rather than take the action, the executive action that we've done in the other case. Now, is there any questions that you would like to ask me in relation to the, to what I have said?
00:04:47	Mr Levy	I've heard what you've said.
	Supt Richardson	Sorry?

	Mr Levy	I've heard what you've said.
	Supt Richardson	Is there any questions that you would like to, to ask me?
	Mr Levy	*(nods head)*
00:05:03	Supt Richardson	Well, I'll, I'll give you a copy Mr, Mr Levy, so that you know what it is that, that we would like you to account for. The, the reason why we have applied for a warrant and been issued with a warrant to search your residence and Hassans premises, is because we have found from the devices of the other persons who are under arrest, a series of communications between you and them that suggests... (hello)...sorry about that Siri must have got confused. That suggests that you have had, you've been approached to use your influence with the Chief Minister and Caine Sanchez to ensure that the contract of 36 North was passed, sorry the contract of Blands was passed to 36 North. We only have one side of that conversation. We have the side of the conversation with people communicating with you and on occasions your, your response back to them. And we need to find the other side of that conversation and so we would like your devices, to take your devices, any device that you've used for communication and any physical documents that you have in relation to the, the matters that are there. • 36 North • Icloud Limited • Astelon
00:06:16	Mr Levy	Icloud, I don't know anything about that.
	Mr Chincotta	I don't know what Icloud is.
	Supt Richardson	Icloud is Tommy Cornelio's own company which owns a third of the shares in, in 36 North.
	Mr Levy	So what, why, why can't I voluntarily give you all that?
	Supt Richardson	You, you can handover all those devices
	Mr Levy	No problem.
	Supt Richardson	If, if you
	Mr Levy	You want my phone?
00:06:33	Supt Richardson	Your phone, I want you to check your office, if you have a laptop there...
	Mr Levy	I don't have a laptop.
	Supt Richardson	Do you have an I, an iPad?
	Mr Levy	I have an iPad, but I haven't used it for a long time.
	Supt Richardson	We would, we would have to
	Mr Levy	Just now I've used it because I'm, I'm at home.

	Supt Richardson	OK, I need any laptop. Do you have a computer at home you use?
	Mr Levy	No
	Supt Richardson	Do you have, do you have a computer in your office obviously?
	Mr levy	I don't use it.
	Mr Chincotta	Its there, look at it.
	Supt Richardson	We, we have somebody that can, that can download the information or take it, I'm not sure what the best way to deal with that. And we, the, the, the warrant we will be looking for all your email communication, from, what was the date?
	Insp Wyan	January 2017.
	Supt Richardson	January 2017 to the date now. Now is there anything ob, obviously.
	Mr Levy	All my, all my emails, I mean I'm a lawyer
	Supt Richardson	The, the...
	Mr Levy	I've got tons of clients.
	Supt Richardson	Let me, let me, let me finish. I'm perfectly aware that you're a lawyer that you are going to have lots of privy information in there. We will not be examining this material our self. We will engage a council to look through, we'll give them a list with the terms that we want to include. We will invite you to, to provide terms if you want them included as well. The, the lawyer, whoever is engaged, will then give us the output of anything that is not legally privileged. So I won't see any of the conversations with the Chief Minister or, or, or any other Senior Member of Government. In relation to anything other than this matter that, that we are looking at now. Have I missed anything out? I, I, I would ask you; do you have any preference about which lawyer we would engage to do this? Somebody local or somebody from the UK?
00:08:04	Mr Levy	Somebody from the UK I would assume.
	Supt Richardson	I, I, that's exactly what I would have thought. We would try and engage
	Mr Levy	But why, why, I mean obviously you can, but why don't you ask me the questions first? Before you take my mobile, which is where I live from.
	Supt Richardson	I, I can't do that because to, to do that
	Mr Levy	You can do that today.
	Supt Richardson	I can't because I have to, I have to get you a, I have to examine your device before we speak to you.

		There may be communication in, in your, in your device which supports or leads to or, or against the investigation of this offence. And I understand that you are an officer of the court, as I am an officer of the
00:08:41	Mr Levy	I don't, I don't understand this. I don't understand this. This is a commercial dispute, right between people, and I would suggested that I participate, well that the firm should participate in this. The partners knew what I told them, what I told them, I didn't keep anything from them. But they knew what I told them and as far I was concerned ____(inaudible) was negotiating with them to take shares that I told them, to give him shares and I, and I, I walk away I'm not interested in this. So something that goes like that, I mean I understand that the Government got involved, the Governor pressed the, the police to, to investigate this. I understand that there are other possible corruption elements, but I don't mind giving everything. But I don't understand, I mean, I don't know how, how you get this with, with my not be able to work. Mira, I've got, all my private life is here.
	Supt Richardson	But I, but I, as, as I explained, we won't be examining, I won't be sat down looking through your all your devices. I, it, it would be put through a forensic extraction system and then what we do is we examine it through a word search so, so they would be listed words that would be typed up, 36 North, Astelon. Then the names of the persons that are involved and the, the output of that would be an email, it would be a text message, it would be a picture.
	Mr Levy	But the
00:10:00	Supt Richardson	No nobody physically searches, it is impossible
	Mr Levy	But you've got, you've got all on the other side.
	Supt Richardson	Yes.
	Mr Levy	Why don't you tell me look, this is the other side, give me yours.
	Supt Richardson	Because this isn't a civil investigation, Mr Levy, it's a criminal investigation, and that's not how these investigations go. I have to treat you, as far as possible, as the way that I have treated everybody else in this investigation.
	Mr levy	I have no doubt that you, I'm not suggesting that.
	Supt Richardson	I, I have..
	Mr Levy	You are not giving me any special privileges.
	Supt Richardson	But that said, but the fact that we are here today, here in this manner, it shows the respect with how we are treating you.
	Mr Levy	And I'm grateful for that respect
	Supt Richardson	(Inaudible)
	Mr Levy	By the way this investigation is, to put it mildly flawed and I have

		evidence that it is being superbly influenced and you know that, you know that Mr Gaggero is very important. I also get evidence and I intend to bring it out and I intend to make a very big thing about the involvement of people who should not have been involved. The fact that one of the parties knew exactly when people were going to be arrested. That is very concerning to me. It shows to me that there is another, there is something else going on in this and of course, I mean whatever information I have, I shall of course use it, because this in my view an abuse of process. Its an absolute abuse of process. And you can ask me whatever questions, I don't know whether I'll decide not to answer or decide to, I'll take legal advise. But I think this is scandalous, the whole way this is being handled and there will be evidence brought out. When the things go out, charge me and take me to court if you have to, it's a matter for you. I will defend myself. I think I have done everything properly. I think this was a civil dispute and it had been raised, in this question in the National Security, what do you call it? Programme. This is something that the other side gave, the many, many years ago. It's not the National Security. I mean I understand, very clearly from information that I gleam, that the National Security Programme, [redacted]. And the government was paying huge sums of money to the provider. I've assumed that that could be false invoicing, I mean have you investigated that?
00:12:30	Supt Richardson	Allegations have been made
	Mr levy	But have you investigated it?
	Supt Richardson	Yes, yes we have.
	Mr Levy	And its all clear.
	Supt Richardson	Mr Levy is not appropriate for me to ask the questions for you. I've listened to what you've got to say, of course what you are saying you are entitled to say, but what we have omitted from that account, that this isn't just a civil dispute as you have described. This was a hacking of the National.
	Mr Levy	Hacking. I don't understand that computer, you can have a look at my computer. I very seldom use my computer.
	Supt Richardson	There is, there is very strong evidence.
	Mr Levy	Yes.
	Supt Richardson	That the system was accessed remotely. [redacted] And that's a very, very, very serious thing.

00:13:19	Mr Levy	Very serious thing. But since then, since, since, since [redacted]. Well that's also very serious wasn't it.
	Supt Richardson	It is. We'll explore all this in interview. But the person that was doing that is a shareholder and a director of the same firm for what we are talking about today.
	Mr Levy	I understand that, but I, that doesn't me that I, (laughs) I, I don't know how to handle a computer, and that's why I use it very little.
	Supt Richardson	Of course. And that's why I'm saying, that it isn't just your statement, dispute of ownership of a platform, that there is a more serious
	Mr Levy	I'm not saying ownership of the platform.
	Supt Richardson	Its an issue, issue behind it.
	Mr Levy	You mean the, you, are you alleging that I had anything to do with, with, with, with the investigation, with the, what do you call it? The
	Mr Chincotta	Hacking
	Mr Levy	Hacking of the, of the thing.
00:14:05	Supt Richardson	I haven't said that at all. You have omitted that when you, yourself told me about the, what this is all about. I'm saying that this isn't just about a dispute as to ownership or as to the management or, or software development. The issue comes about because [redacted] and evidence, very strong evidence show that the system was manipulated. They system
	Mr Levy	And I was involved?
	Supt Richardson	I haven't said that.
	Mr Levy	Oh.
	Supt Richardson	I haven't said that. I've made it clear, extremely clear of what I suspected, the, of what we suspected
	Mr Levy	So, that, that I used influence with the Chief Minister and the Civil Servant.
	Supt Richardson	Yes.
	Mr Levy	And those who used influence with Civil Servants and the Governor has also been questioned about that?
	Supt Richardson	In what regard?
	Mr Levy	I mean, do you know that the Governor was approached by this and the Governor approached the Commissioner?
	Supt Richardson	Well the conversation between the Governor and the Chief Minister are, are

	Mr Levy	No I, I, not the Chief Minister,
	Supt Richardson	The Chief Minister
00:15:00	Mr Levy	The Chief Minister wouldn't dare tell me that. The Chief Minister is very careful, he is a very correct man. I know it from other sources.
	Supt Richardson	I can assure you, and I, and I will
	Mr Levy	Yeah
	Supt Richardson	I will repeat it in front of Javier, that I have had contact with this investigation from the beginning, from, from day one. I am the Senior Investigating Officer, but I do not, I haven't been able to be involved in all the day to day staff, Inspector Wyan has been dealing with that. And I can assure you and I've known you for thirty-five years, since I've been in the police force and I've known Javier considerably longer, that I have done nothing, I am aware of nothing untoward in the management of this investigation. I can account for every single action and, and, and, and decision that has been taken.
	Mr Levy	So you can tell me categorically that the Governor wasn't involved in this?
00:15:51	Supt Richardson	I, I, the Governor has had no steering whatsoever
	Mr Levy	But has he been involved in it.
	Supt Richardson	Mr Levy it wouldn't be, if, if, even if I knew the answer to that question
	Mr Levy	You would not tell me.
	Supt Richardson	It wouldn't be appropriate, because I'll tell you about the conduct of my
	Mr Levy	Listen I've known you for a long time, I told you you'd go far etc, etc, so there is no hard feeling between us.
	Supt Richardson	Good. I'm glad I hear that.
	Mr Levy	But I can tell you one thing, that this is, this is, this investigation is an abuse of process and you involving me is a further abuse of process.
	Supt Richardson	Mr Levy
	Mr Levy	And I'm telling you, it will be shown like that, and then I will do what I haven't done in the past. And that is attack the establishment, I've never done in the past. I'm not threatening, I'm just telling you this is an abuse of process and it shows the influence that Mr Gaggero has in Gibraltar. And you can say all this in court I have no problem. You can do, I obviously, I, I, you've got a warrant, I either go to court and challenge your warrant or I give you everything. That's

		my options
00:16:54	Supt Richardson	Well that's, that is exactly as what we prefer, the warrant hasn't been obtained, we've had to swear an affidavit before the magistrate, that was, that took a considerable period of time, this wasn't a question as, as you might imagine in, twenty years ago we would go before a JP so and so and so and two to three minutes later you walked out with the warrant. This is, this is not that process at all, it took a considerable period of time. There was a lot deliberation, a lot of questions and so this is
	Mr Levy	But why didn't you approach me before?
	Supt Richardson	Because, because Mr Levy as I have explained to you, the evidence that has been gathered suggests with reasonable grounds that you have taken a part in this conspiracy. And therefore it is inappropriate for me to ask you in that manner. I have to deal with you in the same way as I would deal with anybody else.
	Mr Levy	But that would avoid, in a conspiracy
	Supt Richardson	You, you, you would, you have, have, have kindly offered to give your explanation and I am sure you have an explanation that would, that would put a different light on this. That investigation, sorry, that explanation, that you give at the appropriate time in the appropriate place, in the appropriate manner would, would lead us to follow whatever reasonable lines of inquiry come from that conversation. I, I have no doubt that whatever you say will allow us to consider this in a different matter. At the moment, the evidence that we've got suggests this. But that does not mean to say that in three days time or whatever it is that we meet or you meet with Mark that it, it, it would put things into a different perspective.
	Mr Levy	So what, how, what process do you want to search my office. Just have to think a minute whether we challenge this or we accept it.
	Supt Richardson	Alright, you, your, your purpose of challenging it would be to the court obviously.
	Mr Levy	Of course.
	Supt Richardson	If we have a, a warrant signed by the Magistrate
	Mr Levy	I understand, I would have to go to Supreme Court.
	Supt Richardson	I want to do this at least disruptive as possible and
00:18:39	Mr Levy	But you tell me what you looking for, I can direct you, I mean, twenty people
	Supt Richardson	Yes, yeah. No the, the, even though there are people waiting to come in, nobody has come up here and precisely, and for precisely that reason. There is a, a, an expert in forensics and there are a couple of people to, to, backs what I want.

		In fact I'll ask back to take you through exactly what it is we are looking for
00:19:22	Insp Wyan	Yeah okay, so what we, essentially what we are looking for is, we are looking for communications between yourself and the individuals. So in order to get those communications we are looking for devices that you hold that are capable of sending any communications. So they would be your personal telephone. They would be things like your PC in your office that is being used, any tablets that you may have
	Mr Levy	And one, one
	Insp Wyan	Any laptops
	Mr Levy	No laptop. One, what do you call it, one iPad, iPad. Which I stopped using and then I used again, but you can have it.
	Insp Wyan	Okay. So it would essentially be those kind of things for sending communications. So those are the devices side of thing. What we are also looking for is, because some of your business I would imagine is through emails sent through Hassans servers themselves. We know that you have e.g. Hassans email address and that is linked at least partially to some of the investigation. So what we would like to do is take with the assistance of your IT department to extract that information. Now from what I understand and your IT, IT maybe able to assist with this, what we want essentially are anything relevant to 36 North or those individuals or those particular companies. We are not interested in any, anything else. But it may be difficult to do that, it may be that we have to extract e.g. between certain dates and then go away and then using our software we run keyword searches.
	Mr Levy	I don't know, may be they are able to do it.
	Mr Chincotta	Our, our software does that. If you tell our IT guy
	Mr Levy	And you can supervise it.
00:20:31	Insp Wyan	Well, but that's the thing if, if
	Mr Chincotta	If you tell our IT guy, I want any email from James.Levy@hassans.gi that's sent to or received from any of these other emails you punch them in, you press the button, you get them out
	Mr Levy	And you can see them
	Mr Chincotta	You download them on a stick and you take them with you.
	Insp Wyan	Again as long as the guy who deals with IT because I am not the specialist
	Mr Chincota	As long as your IT guy confirms that what my IT guy is
	Mr Levy	Let him, let him supervise it. If we agree or decide whether I challenge this or not.

	Insp Wyan	I understand that. As Mr Richardson said we are trying to be as least intrusive as possible and we do understand it is difficult.
	Mr Levy	My house what do you, I don't have anything in my house.
	Supt Richardson	Do you have an office in your house?
	Mr Levy	I have study in my house but not an office.
	Supt Richardson	Okay so,
	Mr levy	I don't have a computer in my house, in my study.
	Supt Richardson	Do you have any files or any paperwork at all in relation to any of these matters?
	Mr levy	No. Everything that I have is here
	Supt Richardson	Would you, well then I would ask you please, just to go with a, with myself, with Mark and just show me so that I can see this for myself and that its, I will not search.
	Mr Levy	My office? Yeah you can see my study.
	Supt Richardson	I need to satisfy myself that I'm not
	Mr Levy	I'm happy to satisfy yourself.
	Supt Richardson	Treating you too differently from everybody else.
	Mr Levy	No, you can come with me and I'll show you my study and you can see whatever
	Supt Richardson	Thank you
	Mr Levy	Whatever, you know my study is full of books
	Supt Richardson	So
	Mr Levy	Nothing to do with law.
	Supt Richardson	Where do you, where do you have all the papers to do with Astelon Limited
00:21:55	Mr levy	Everything is here
	Supt Richardson	Okay
	Mr Levy	You know, there was nothing I was hiding so
	Insp Wyan	Would these be kept on, e.g. documents, I mean obviously,
	Mr Levy	I don't, I don't, you have to understand, I only work from this and partly from an iPad when I can't see anything
	Insp Wyan	Okay
	Mr Levy	That's in here.
	Insp Wyan	There is no problem, as long as the IT guy can direct us in the right direction.
	Supt Richardson	Some of the communication that was recovered showed that you

		were operating more than one phone. So you have UK numbers as well?
00:22:24	Mr Levy	Ooh, that's a long time ago. A long time ago, its, now my wife uses that UK number and it has, I didn't send, I didn't do any, any, we don't have WhatsApp, we didn't have WhatsApp in that. You can see that phone.
	Supt Richardson	Okay
	Mr Levy	If, if I
	Supt Richardson	If it was used for WhasApp though before?
	Mr Levy	No. No [redacted] s my wife's phone and it used to be my phone. Is that what you are asking for?
	Supt Richardson	I haven't got the, I haven't got the, I don't have, I have an extract of what the contents of the conversations are, but not which device it came from. But I do remember it was more than one number from which communication came from.
00:23:05	Insp Wyan	Yeah, there were two telephone numbers and two email address, one of the email address was your hassans account.
	Mr Levy	The other one was my private one.
	Insp Wyan	Presumably
	Mr Levy	Yeah my gmail.
	Insp Wyan	Yeah. That's right the gmail account.
	Supt Richardson	Where do you access that from?
	Mr Levy	That from, from, from here and from my iPad.
	Supt Richardson	Are you, are you willing to hand over your, the codes for those devices?
	Mr Levy	In what sense?
	Supt Richardson	In your, in your
	Mr Levy	I mean I have to, I have to decide whether, we have to decide what we do.
	Supt Richardson	You'll have
	Mr Levy	But in principal I have no problem.
	Supt Rihcardson	Thank you. Because that, that, in the absence of that it takes a lot longer
	Mr Levy	I'm gonna give you this and
	Supt Richardson	And then the number to access it.
	Mr Levy	If I give it to you, if I give it to you, if I give it to you, you know it's a, its going to be, its going to be with my, with my code. I have to think, I have to think what I do. See I'm just, this is an abuse o process and I have to see whether I go with the abuse of proces

		and answer it or whether I fight the abuse of process.
	Supt Richardson	That's it, its your decision entirely with you. I can, I can assure you, with my hand on my heart, that nobody has interfered at all, with the, with my conduct in this investigation. At all. I have
	Mr Levy	I accept your, your, your, your, your words. The question is whether there were other interferences. Not with you.
	Supt Richardson	Above me is the Commissioner and, and,
	Mr Levy	I would say, or below you I don't know
	Supt Richardson	Well. No definitely not below me, Mark, Mark is the, Mark is the Inspector
	Mr Levy	I'm not, I'm not making, I'm not saying anything now that I know. But I know certain things. I have to decide what, what, what to do. Give me five minutes with Javier.
	Supt Richardson	Yep Okay.
	Mr Chincotta	You stay here and we go
	Mr Levy	Yep lets go outside.
00:24:55		Left the boardroom (Time 13:59:51)
00:00:02		Returned to boardroom (Time 14:22:47)
	Supt Richardson	James please listen to what I have to say, I'm sure you will, you will, you will seek some comfort in this. The, the warrant is only a means of enforcing a right to exercise a, a, a power in law. It doesn't mean to say that I have to use it, I can, you can hand the stuff over by consent. So if I ask you what you want and you hand it over, we will put down that it was handed over by consent.
	Insp Wyan	I mean, there is a specific section in the forms we have, you sign off to say I consent and it's a voluntary, kind of, rather than a +
	Mr Levy	But that's what I offered to you at the beginning
	Supt Richardson	Yeah but, you, you were saying, telling me what you want I will give it to you. And originally you were saying I'll go and see you tomorrow. Now I can't do that.
	Mr Levy	I understand
	Supt Richardson	I can't do that.
	Mr Levy	So that's why
	Supt Richardson	Exactly, so that's, that's where we are now.
	Mr Levy	Right so, so, what, if you tell me what you want, right, I mean, all the communications from, I mean you can have your person be with my, my IT man to to make sure that all the communications to.
	Supt Richardson	Yeah.

	Mr Levy	I'm not trying to say
	Supt Richardson	And you will show us your office so we can see that there is no other device there that may be of interest to you
00:01:04	Mr Levy	Come to my office.
	Supt Richardson	And if, if you hand over your phone and your iPad
	Mr Ley	Pero, but why, why can't they take out from my phone your people everything with Caine and everybody else.
	Supt Richardson	Say that again?
	Mr Levy	Let them take out of my phone now,
	Supt Richardson	It doesn't work that way its, its too, what can kind of phone do you have?
	Mr Levy	An iPhone
	Supt Richardson	Yeah, it can, it can take over night to be able to
	Mr Levy	Okay so, you might
	Supt Richardson	(inaudible_
	Mr Levy	Okay if my people and your people do it together I have no problem.
	Supt Richardson	I, that I can't, I, that I can't promise James.
	Mr Levy	Well look, why don't we do one thing
	Supt Richardson	I, I, I, I, I'll explain to you why, I'm not trying to be difficult far from the contrary. And I didn't know how these things work until I was, until I was also the SIO for the ship, flock, what's its name?
	Mr Chincotta	Grace I
	Supt Richardson	Grace I. In which case we had dozens and dozens of devices and you suddenly become an expert in how these things go. When you image the device which is how you, which is how you describe it, you have to unlock it, you download a digital copy of it, then that copy is then indexed. It doesn't mean to say, it doesn't take two or three minutes it takes hours, sometimes takes overnight. And during that period the person that is doing it isn't sat there waiting for it to happen, he is doing another job. They guy that does forensics has fifty jobs to run at the same time. Plus in the morning when you go to access that image they come o ut corrupt sometimes, so when you try to open it, it gets to a c ertain point and then it stops working and then you have to do it a gain. This, this is just the nature of the, of the, of this business.
00:02:30	Mr Levy	R ight so first can I show you my office so you can see.
	Supt Richardson	O kay.
	Mr Levy	Le t me show one of you.

	Supt Richardson	Yeah, I'm happy to go.
	Mr Levy	Sir do you mind if we get the consent just signed off before we.
	Supt Richardson	Are you happy to sign the consent.
	Mr Levy	But lets, let me, let me just see what it is because I may have to go back to get legal advise.
	Insp Wyan	If, if you want to withdraw the consent at any time you can do it
	Mr Levy	Let me, can you
	Supt Richardson	Lets just do this and ....
	Insp Wyan	It's a difficult situation I think. Its unusual.
	Mr Chincotta	Its emm....
	Insp Wyan	I'm going to turn this off because its not evidential at the moment. So I'm, I'm turning this off, its 1421 hrs due to the fact that Mr Levy has left the room.
00:02:51		Left the boardroom (14:25:36)
00:00:03		Returned to boardroom (14:44:25)
	Mr Chincotta	Is saying, you are in a position to do your duty to of legal professional privilege to all your other clients.
	Supt Richardson	Yeah
	Mr Chincotta	And notwithstanding that you want to cooperate, he is saying I've done nothing wrong, I've, whatever you like etc, etc. He said, but in having whatever you like you are breaching your
	Supt Richardson	Potential breaching
	Mr Chincotta	Well for sure breaching because if I give you access to everything I've got anything that I've got which is not related to this is obviously privilege to somebody else.
	Supt Richardson	But
	Mr Chincotta	So
	Supt Richardson	It would be the police that would be examining this that you run on keyword searches
	Mr Levy	Yes we told him about (inaudible) the thing is whatever we give you, if we give you it, we claim legal privilege that is the advise to do,
	Supt Richardson	Yes
	Mr Levy	We claim legal privilege on everything okay.
	Mr Chincotta	And then he says he gets blue bags and the blue bags remains sealed until such time

00:01:00	Supt Richardson	Is your relationship with 36 North a legal one or a professional one?
	Mr Levy	No, no, no, no of every other information.
	Supt Richardson	Okay yes. Then that doesn't stop us from dealing with the matter, with the matter at hand which is
	Mr Levy	So shall we do one thing at a time, if we can? Still I, I don't know whether I'm gonna go back to him or no. First of all the emails can, can that be done between your people and my people?
	Supt Richardson	I think so.
	Insp Wyan	Well that as I was explaining, the only concern I have is if Jason thinks that the exaction from their system directly doesn't cover certain things.
	Supt Richardson	Well we have to ask Jason to do that.
	Insp Wyan	I mean he might extract cookies, or he might extract web addresses or relevant information that....
	Supt Richardson	Well subject to the expert who knows how these things work. I have no problem with that.
	Mr Levy	Right so say Mr Smith, Jones you give them what they want and they take it for you.
	Insp Wyan	Yes. Yes as long...
	Mr Levy	From my iPad and from my phone.
	Supt Richardson	No, the iPad and the phone has to come.
	Mr Levy	Yeah.
	Supt Richardson	As I explained it to you before, that has to be imaged. Once the image is done and we are satisfied that the image hasn't corrupted, which I've explained does happen on occasion and it might have to be done again. I'm happy to return those devices to you so you can carry on with business. The image that has been created will be interrogated by a, a, a, unless you tell me there is nothing legally privileged on those devices
	Mr Levy	No.
	Mr Chincotta	No there would be loads of legally privileged stuff on those devices. That's why we are saying blue bag them.
	Insp Wyan	Yeah, that's what the intention was. We were gonna bag them up.
	Supt Richardson	Yeah.
	Insp Wyan	We were gonna then seek counselling and then when that was in place, we would start
	Supt Richardson	Si, nobody is gonna being examining the, the, well for starters

		nobody examines the phone itself. You don't, it's not like picking up your phone, opening up your WhatsApp, it doesn't work that way. However, easy that seems, it just doesn't work that way. There is a far more complicated way that we've got to follow. And it creates and image just like a mirror, a mirror copy of what's on there and then from that it creates and index file. And the indexing takes a long time and then if I put in Javier, major dicho, if I put in windows, it will come up with everything to do with windows operating system. It will come up with a definition of windows in the dictionary, it will come up with an email with the word window. And then you then abstract, abstract, extract from that anything that is not relevant. So dictionary files, operating files will be excluded and then from what is there will look if there is anything legal privileged and then from that if its related to what we are looking and then they give us the output. But nobody examines the devices itself.
	Mr Chincotta	Yes but the, the issue isn't that, the issue is when somebody looks at it
	Supt Richardson	Yes
	Mr Chincotta	To see whether something is legally privileged or not *(phone rings_*
	Insp Wyan	But that would be the independent lawyer that would do that.
	Mr Levy	Go, go, go somewhere else. Sale and go to the boardroom
	Supt Richardson	The boardroom. What the other, one minute Sir. This one?
	Mr Levy	Ask the girl
	Mr Chincotta	Ask, ask, ask, I'll ask her.
	Mr Levy	Its very misconceived this and its going to cost.
	Insp Wyan	I understand that its difficult, I do.
	Mr Levy	No, no its more than difficult. Its misconceived. And its, its, its because I'm a clam person and its because I trust Paul, I know him for many years, that I haven't taken a different attitude. But this is not going to, and you can ask me all the questions that you want. But this is a (inaudible). This is not fair, there is something very dark in this investigation and we are going to get to the bottom of it.
	Insp Wyan	I, I can understand if you take that point of view and you want to look at it from that perspective, obviously you are more than entitled to, but I can tell you from me investigating this case, this has been done properly throughout. There has been no favour in terms of anybody. We've followed the evidence as it has come to us. Honestly, that is, that is the truth. Whether, you are aware of things that I am not, that's an entirely different matter. But I can assure you, from my point of view and Mr Richardson's that has not been
	Supt Richardson	I, I know him for forty years

00:05:03	Insp Wyan	And as I explained before, what I, there are some serious elements to this investigation particularly about the hacking of the system.
	Mr Levy	Yeah, but that is something that I wouldn't know how to, how it is.
	Insp Wyan	I un, I understand, but if that element goes to court and a decision hasn't been made, but if that does and we haven't discuss with you or put to you certain questions I would be attacked by the defence for why I didn't follow lines of inquiries and why I didn't put to you certain questions if there were certain communications. So, I need to make sure that I follow through to the end, just so that I can show I'm doing the investigation properly. Which is one of the reason why we are here. It's not anything other than I need to be shown to doing the investigation fairly.
	Mr Levy	I understand, you have to do your job.
	Insp Wyan	Exactly, that's my, my
	Mr Levy	I just think that the whole investigation is misconceived
	Insp Wyan	I'm hoping that you can explain some things to me that may, I've, I've said to your colleague that you might be able to put a different light on some of the things and we may see it from certain perspective and you make it
	Mr Levy	I think you are too much in, not you, the Police is too much in to this investigation to look at anything else. I think you are too, you know, it happens to us, in cases you get lawyers. Any how
00:06:10		Supt Richardson returns to boardroom
	Insp Wyan	Yeah.
	Mr Levy	It happens to us in cases where we think we are right and then
	Insp Wyan	It does, it does. Absolutely
	Mr Levy	Right
	Supt Richardson	And that's why we keep an open mind. With these things, always. Things take twists and turns
	Mr Levy	Yeah.
	Supt Richardson	And it's, it's
	Mr Levy	So anyhow? What are we gonna do? I mean I don't mind you tell them
00:06:33	Mr Chincotta	Do you, do you want to call, do you want to call your IT guy
	Supt Richardson	Yeah he's waiting downstairs.
	Insp Wyan	He is downstairs.
	Mr Chincotta	And we call our IT guy
	Supt Richardson	Yeah.
	Mr Chincotta	And they can have an IT discussion about what's possible.

	Insp Wyan	Yeah.
	Mr Chincotta	Because otherwise we are just
	Mr Levy	If your IT guy could say they just want information not that I am a suspect or anything like that.
	Insp Wyan	Oh to your, your IT.
	Supt Richardson	He doesn't, he doesn't need to say anything at all. He won't engage with anybody about what we are doing, he, he is there to do a job. We are the ones that negotiating the access.
	Mr Levy	Okay
	Supt Richardson	He won't . when you speak to him just tell him not to mention that you are executing a warrant that you are gonna work with Hassans IT Guy to secure some information for, that will help us with an investigation.
	Insp Wyan	Yeah.
	Supt Richardson	They don't have to discuss anything beyond that.
	Mr Levy	Right. You see, I think he goes to...I don't know, I just don't like
	Mr Chincotta	Treating you as a third party arms length client who gets a call and says hey and then we have a long drawn out six month with blue bags, sift through one paper bag at a time and it will all take three months and a £300,000 bill. Come on. That's what you are doing.
	Supt Richardson	I've seen a bit of that in this case as well.
	Mr Chincotta	Yeah
	Supt Richardson	With other lawyers that are
	Mr Chincotta	Yeah.
	Insp Wyan	The decision ultimately has to be yours about whether you want to voluntarily hand it over or not.
	Mr Levy	Yeah I mean, I want to hand it over voluntarily, just that I have a partner.
	Mr Chincotta	My only issue with (inaudible) is to the extent that you can ring fence what gets handed over (inaudible)
	Mr Levy	(inaudible)
	Mr Chincotta	I have no problem, but
	Mr Levy	For emails yes.
	Mr Chincotta	For emails yeah, you can. But as soon as you hand your phone over, right, if all your emails ever are recorded in your phone then you are breaching legal professional privilege big time.
	Insp Wyan	Well depending with how it is dealt with. So what we would do is bag it, get the lawyer out and once the extraction has taken place, then they would look at the contents of that extraction and then

		hand it to us. So we would never see professional privilege information. And, and we can give you assurances about how that is going to be laid out. Whether that's sufficient, may be you want to ask or seek advise on that. Would it, if we gave you assurances that there would be a set procedure in respect of how we were dealing with the items, whether that would satisfy you. In respect of your
00:08:57	Mr Levy	Well lets get on with the emails, if they can deal with that quickly. Lets get on with things. May I in the meantime walk with you home and
	Supt Richardson	Yeah sure.
	Mr Levy	And then we come back here?
	Insp Wyan	(inaudible) to sign.
	Mr Levy	I'll just tell my wife that we are going
	Supt Richardson	We are dealing with this by consent, is that what we've said.
	Mr Levy	I think so.
	Mr Chincotta	Yeah.
	Insp Wyan	We needs to be clear because otherwise we need to document how we are
	Supt Richardson	(inaudible) to deal with it.
	Insp Wyan	If it is the case then I'd ask Mr Levy to sign where it says
	Supt Richardson	Its just a difference in exercising a power and on doing something by consent which is obviously your, what you prefer.
	Insp Wyan	Shall I call Jason?
	Supt Richardson	You can ask him to come up yeah.
	Mr Chincotta	Yeah call him
	Supt Richardson	Just ask him to wait for you at the, at the
	Mr Chincotta	Yeah.
	Supt Richardson	But not to mention who he is, not to mention that he is from the police. Although its gonna be, it might be a little bit obvious.
	Mr Chincotta	Somebody call Jason is coming up, show him in when he gets here. Ashley, sorry, someone called Jason is coming up, when they come up show him in.
	Mr Levy	So shall we go home first and see. So whilst you work that and I decide what to do, you know. I would do it by consent but I want to
	Insp Wyan	I cannot do anything without one way or another. I can't ask Jason to start with your IT guy.

00:10:22	Mr Levy	Not even to talk to him to see how to do it.
	Insp Wyan	They can sort things out, bot not actually physically do it.
	Mr Levy	Yeah, yeah. Start that, while I take Paul home
	Insp Wyan	Okay. Okay.
	Mr Levy	Do you want to go
	Supt Richardson	(inaudible) it was so much easier before.
	Mr Levy	Paul do you want to go separately or
	Supt Richardson	As, as you wish?
	Mr Levy	What do you think its better
	Supt Richardson	I'm going to go into your house with you, what difference is going to make if we walk together.
	Mr Levy	No, no perhaps if I go
	Supt Richardson	Yeah
	Mr Levy	And I tell you where I live and I wait for you downstairs and take you in the lift. And then nobody, there is another office there so.
	Supt Richardson	I don't understand you, explain it to me again
	Mr Levy	If I walk home now.
	Supt Richardson	Yeah.
	Mr Levy	You know where I live don't you?
	Supt Richardson	I know its Governor's Lane but I don't
	Mr Levy	Well I tell you where it is. You know the Governor's backyard, you know where Peralta's has its office?
	Supt Richardson	No.
	Mr Levy	Its called Don Place
	Supt Richardson	Where the AG's used to be?
	Mr Chincotta	One up from where the AG's used to be.
	Supt Richardson	Ahha..
	Mr Chincotta	Where the (inaudible)
	Supt Richardson	(inaudible_
	Mr Chincotta	Where the ombudsman used to be
	Supt Richardson	Yeah
00:11:19	Mr Chincotta	Walk towards the Supreme Court, from the ombudsman
	Supt Richardson	Yeah.

	Mr Chincotta	And there is a wrote iron gate, turn it
	Insp Wyan	Just a couple of doors up. Its got like a gated sign.
	Mr Chincotta	In the meantime Jason can come in I'll get my IT guy, they can have a talk and we don't push any buttons until they can back.
	Insp Wyan	Yeah okay.
	Mr Chincotta	And then that gets signed.
	Insp Wyan	Yeah, yeah, exactly we can't proceed. And likewise Sir, Mark Garratt has one
	Mr Levy	No but it'll take ten minutes you, you are going home and I'll wait for you in the entrance to my house. I'll walk along and then I'll see you there.
	Supt Richardson	We have another one for the house, so we can deal with that in the same manner.
	Mr Levy	Si.
	Supt Richardson	Okay so Mark Garratt is there is he?
	Insp Wyan	Mark Garratt
	Mr Levy	Where in my house?
	Insp Wyan	No, no
	Supt Richardson	No
	Insp Wyan	In the area.
	Supt Richardson	Or at least I hope so.
	Mr Levy	You'll se
	Supt Richardson	I went to your brother's house King's Yard Lane.
	Mr Levy	King's Yard Lane. You'll, you'll see that all I have are, are Hebrew books and.
	Mr Chincotta	I've told them already what your study looks like.
	Mr Levy	I live very simply.
	Supt Richardson	I've just finished watch Orthodox on Netflix which is very good
	Mr Chincotta	On Netflix. I haven't seen it. Where they get, they have a force marriage and they run off to Germany or something.
	Supt Richardson	Very good.
	Mr Chincotta	I haven't seen that one.
	Supt Richardson	Not sure, not keen on the ending but very good. So many good things on Netflix these days.
	Mr Levy	Right so, I'm gonna tell my wife I'm on my way, because I have to... What time would you think we'll be finished here if I do it by consent?

00:12:56	Supt Richardson	You are happy with that.
	Insp Wyan	Yes Sir, so long as we have it signed off
	Mr Levy	The consent I have to talk to the boss, but I'm taking you there.
	Supt Richardson	My boss will be calling me as well. Why haven't you gone for lunch?
	Mr Levy	I'm going with a policeman home, so I'll go in the lift
	Supt Richardson	Hi Jason.
	PC Oton	Hi.
	Mr Chincotta	Ah mira quien es
	Supt Richardson	Tu que lo conoces
	Mr Chincota	Claro
	Mr Levy	We'll go straight to by study and see what he has to see and then go, and then go. He'll go back and I'll stay at home. Ah no, I have to come back. Okay. Can we go soon. Can we go say at five o'clock to (inaudible) okay.
	Mr Chincotta	Our kids used to play in the same team
	PC Oton	Buenas tarde
	Supt Richardson	He is younger than you. He is younger than us.
	Mr Chincotta	Yes but I was an old dad...
	PC Oton	Si, but he is a very old dad.
	Supt Richardson	As opposed to me no?
	Mr Chincotta	Eh?
	Supt Richardson	As opposed to me because I was a very young one. He and I were in school together, he was the clever one.
	Mr Chincotta	And our kids
	Mr Levy	You, tiene un degree no
	Supt Richardson	En business management and anti-money laundering
	Mr Levy	Anti-money laundering
	Supt Richardson	Forgive the punt. Javier was the cleverest in our class by far. He was the one who could get A's without even doing any work at all.
	Mr Chincotta	No.
	Mr Levy	He still gets A's without doing any work here.
	Supt Richardson	I believe I was telling, I was telling Mark that your dad used to play classical music.
	Mr Chincotta	Yeah, because he knew that you were interested in music, so whenever you came round, listen to this one. Dad por dios.

		Estaba loco por ponermelo a mi y yo se lo quitaba.
00:15:00	Mr Levy	Hello, what do I have this afternoon in my, further in the diary. I've got, I've cancelled up to now, what else do I have. Yeah. I'm not doing capital at six o'clock.

There are further discussions going on regarding diary and chitchat.

00:00:01	Mr Levy	So I have taken advise from leading counsel in England, a QC in England who has told me that your warrant is unlawful.
	Insp Wyan	Okay.
	Mr Levy	That you really should never have got a warrant against, against an officer of the court. But despite that, I am giving you the phone and the iPad. First, vol...voluntarily.
	Insp Wyan	Okay thank you.
	Mr Levy	Right. And I reserve my right to take action legally later. And I would ask you not to have anybody, that I would be given prior notice, before an independent counsel
	Insp Wyan	Yeah.
	Mr Levy	Examines it, to see whether I want to take it to court. That everything that I give you I claim LPP or confidentiality on.
	Insp Wyan	Yes
	Mr Levy	And that I believe this is an abuse of process and I reserve all my rights against whoever I have to. But lastly I have to thank you both for the sensitivity with which, within your limits and within your, your, you have carried out your duty as you see it, which I think is, is, is an abuse of process, but in doing so you have done it with great sensitivity.
	Insp Wyan	Thank you.
	Supt Richardson	Thank you.
	Insp Wyan	Thank you. Understood. I appreciate that.
	Mr Levy	Yeah.
	Mr Chincotta	Yeah.
	Mr Levy	Do I have to say anything else?
	Mr Chincotta	No.
	Mr Levy	Okay (laughs)
	Supt Richardson	So I just need you to sign the consent part of the order.

00:01:35	Mr Levy	Yes
	Supt Richardson	I wonder whether Gibraltar had mineral water, but I just read the back and its Spain.
	Mr Levy	Spain. So what, what does this form say?
	Insp Wyan	Okay so this is what we call
	Mr Levy	Let me read it for once in my life. I always rely on people, but I'll read it this time.
00:02:07	Insp Wyan	A lot of that is information for the officer, for filling out.
	Mr Levy	So this is for you? Not for me?
	Insp Wyan	That's right, that is for us.
	Mr Levy	But you've got to write anything in their now?
	Insp Wyan	I have to write today if we take something, so I'll write in their the times for example of what we take. So for example I'll make reference to that. *(mobile phone)* and anyhthign else you hand over. But before I do that, if you, if you are consenting if I can just, here you'll see that it says witness consent to the person, entitlement to crown entry, I hereby consent the police search in the above named premises. So its, its effectively a search. You are doing things voluntarily.
	Mr Levy	I put here by name?
	Insp Wyan	Yes please. And then I think your date of birth just to the right of that.
	Mr Levy	(inaudible) premises. What do I put?
	Insp Wayn	Occupant would be
	Mr Levy	Occupant
	Supt Richardson	Mark are you staying? You are staying to sort out this
	Mr Levy	So shall I sign.
	Insp Wyan	Yes please. That's it, thank you. So that's in relation to this one here sir. Did you want to deal with the home premises?
	Supt Richardson	Oh, I thought that was the home one you did.
	Insp Wyan	No
	Supt Richardson	We'll deal with the home exactly the same way then
	Insp Wyan	Have you got the?
	Supt Richardson	I gave it to you, its on the clipboard. Found it?
	Mr Levy	Tu le puedes decir a Arthur que me de un telefono, yo me tengo que ir pronto. Mi mujer me esta esperando.
	Supt Richardson	Jason would you make a note of his pin number please. Mr Levy's pin number to his devices. It's a high security one which

		you would never be able to work out if you managed to get hold of his devices.
	PC Oton	One, two, three, four
	Supt Richardson	No.
	PC Oton	Zero,zero, zero, zero
	Supt Richardson	No. [redacted]
	Mr Chincotta	Arthur tu puedes subir please. Thank you.
	Supt Richardson	I'm just as bad. I really can't have this.
	Mr Levy	Yo no puedo tener diez pin numbers
	Supt Richardson	And more no, everytime you log on to a website it asks you a pin or a password, no you have used this one before. Then you forget what you've done. So you put in a new one and then you have to reset it and then you forget what you've reset.
	Insp Wyan	Mr Levy, would you mind, again the same section, just.
	Mr Chincotta	I asked the IT guy
	Insp Wyan	Thank you. I do need to give you a copy of this which we are required by law to give you, your rights and your entitlements in respect of searches, you may want to give to your legal advisor.
	Mr Levy	I'm going to challenge you much deeper than this.
	Insp Wyan	I'm sure you are.
	Supt Richardson	Thank god we have a lawyer in the house.
	PC Oton	Who? Bueno three.
	Supt Richardson	I meant one, this side of the house.
	Insp Wyan	I don't count.
	Mr Levy	Tu tambien.
	PC Oton	No, Mr Levy.
	Mr Chincotta	In terms of, in terms of the phone
	Mr Levy	Yeah, and I want it diverted. Proque me van a llamar un monton de gente.
	Mr Chincotta	No ya. But in terms of the phone and the chip with his number
	Supt Richardson	Yes.
	Mr Chincotta	For him to get a mobile phone that receives calls he can...he can
	PC Oton	Yes.
	Mr Chincotta	Se lo voy a decir a hora.
	Supt Richardson	Messages stored on the chip, Jason.

	PC Oton	No, they are installed on the device.
	Supt Richardson	If you are happy with that Jason?
	PC oton	I'm happy with that.
	Mr Levy	Entonces dame, dame el chip
	Mr Chincotta	Puedes sacar el chip del telefono de Jaime, y puedes buscar un iPhone
00:06:04	Supt Richardson	(inaudible) what he tells me James
	Mr Chincotta	Con un telefono nuevo.
	Mr Levy	Pon lo anda. Y esta todo backed up in the cloud, me dice. Auque yo no lo sabia.
	???	Tiene un par de whatsapp ahi.
	Mr Levy	Esto no
	Insp Wyan	Do you want me to put you in charge of the search for the residential.
	Supt Richardson	Yes.
	Insp Wyan	What time?
	Supt Richardson	The time I sent you the message, I'll tell you now.
	PC Oton	Lo logging details pa dentro.
	Mr Chincotta	Tu creo que el lo sabe.
	PC Oton	No se yo.
	Mr Chincotta	Mira la cara de el, mira la cara de el.
	PC Oton	No por eso le he preguntado porque si le va dar un telefono nuevo para ser el backup, he needs to log in again, and if he doesn't know the
	Mr Levy	Pero que me estas diciendo
	PC oton	El lo sabe.
	Supt Richardson	15.14
	Insp Wyan	15.14
	Mr Levy	Yo quiero llamar, ni preguntarle a nadie, ni a el, ni a nadie.
	Insp Wyan	Please sign, just
	Supt Richardson	Do I need to
	???	Tu lo quiere un backup nuevo con whatsapp y todo eso
	Mr Levy	Si pero I need lo mismo que este, no me des otro, uno que no tenga esto
	Supt Richardson	Check it.

	???	El unico que tengo abajo es igual con boton asi, pero its this big.
	Mr Levy	Bueno por ahora, despues me busca uno mas chico o no?
	Mr Oton	Despues te doy ese para atras. Te doy ese pa tras
	Mr Levy	Ah, caundo me lo esto tu para atras?
	PC Oton	Pa manana listo ya
	Mr Levy	Ah esta bien. Entonces dame uno para esta noche please.
	????	Si, con whastapp, y email tambien.
	Mr levy	Y mi gmail tambien pon lo ahi.
	???	Anna sabe tu email y todo eso.
	Mr Levy	Anna no esta aqui. Esta aqui todo, tu que quieres mi password? Yo te doy mi password.
	PC Oton	[redacted]
	Mr Chincota	Que estas buscando el pin.
	Mr Levy	Tu sabes porque es [redacted]
	PC Oton	Claro
	Mr Levy	Porque?
	PC Oton	Linewall Road
	Mr Chincotta	Linewall Road
	Mr Levy	El address
	Supt Richardson	You put it in flight mode for whatever it is that you have to do.
	PC oton	He hasn't got a SIM anyway.
	Supt Richardson	Wifi
	PC Oton	No if it doesn't have a SIM it won't do 4G
	Mr Levy	[redacted]
	???	Ese es el pin
	Supt Richardson	But the phone can it not connect to wife can the phone not be backup and and restored through wifi without the SIM card in it.
00:08:27	PC Otton	If you have wifi connectivity yes, but you can't have wireless connectivity on a 4G network if you don't have a SIM.
	Supt Richardson	I'm not saying that Jason, I'm saying that you are now going to take possession of it
	PC Oton	Si, si, si, si.
	Mr Levy	No Paul, be (inaudible) all legit

	Supt Richardson	Everybody has stuff in their phones that
	Mr Levy	No, no, no
	Mr Chincotta	No, no, no Paul.
	Mr Levy	No, no, no yo soy muy prude. Yo no, a mi me Mandan un whastapp un poquito mas verde y yo no
	Supt Richardson	Tu lo hace deleting straight away. Si. They can be compromising. Mark this is your ...
	Mr Levy	No, no professional stuff.
	Supt Richardson	Okay. I understand. That's me fit. Mark do you need me for anything else?
	Insp Wyan	No sir, just the, the, so the start time was 1514 and what was the end time?
	Supt Richardson	Whatever time I got back in, take ten minutes off,
	Mr Levy	No five minutes only.
00:09:30	Supt Richardson	Five minutes off to walk back.
	insp Wyan	i don't know at what time you got back to be honest.
	Supt Richardson	It was no more than ten...ten minutes
	Mr Levy	No fifteen minutes
	Supt Richardson	It took me ten minutes to get to the house, because of the
	Mr Levy	Yeah. Fifteen, I hope the lift works now. Fifteen. I think it took fifteen minutes. I showed you every, every, what do you call it, I showed you every drawer there was.
	Supt Richardson	Yeah. Okay. So you don't need me for anything else no Mark?
	Insp Wyan	No sir, I think I should be okay.
	Supt Richardson	I'll go down with James, with Jaime, with Javier
	Mr Chincotta	I'll go down with you.
	Mr Levy	Thank you
	Supt Richardson	James
	Mr Levy	Thank you, no me puede dar la mano, tenemos que hacer asi. Paul thanks for your sensitivity
	Supt Richardson	Not at all.
	Mr Levy	If you are wrong, its an abuse of process and if I'm right I have to go against you as far as I can.
	Supt Richardson	I'm and, and there will be no hard feelings if you do. Obviously
	Mr Levy	Someday you'll be out. Bueno remember I've worked with this

		man for 35 years, I've got practically nearly everyday.
00:10:24	Supt Richardson	Yeah, yeah.
	Mr Levy	I was the one who told him, you'd go te acuerdas.
	Supt Richardson	And you were prophetic even then
	Mr Levy	I said to him you'll become Commissioner or
	Supt Richardson	No.
	Mr Levy	Correct o no?
	Supt Richardson	Definitely I'm not getting to Commissioner I shall be going shortly and Mark would be able to take over and he'll, he'll lead the ship
	Mr Levy	Poor Mark would get the, I'm very nice y todo eso, pero when I go I get, I go. Preguntale what I did with a lawyer who, who unfairly determined to us.
	Supt Richardson	Yeah, yeah.
	Mr Levy	I'm, I'm very nice, pero when people, I think you are being unfair. But, I, I, when people unfairly treat me well I behave
	Insp Wyan	I appreciate that I do. (laughs)
	Mr Levy	There is going to be a lot coming out of here because I know a lot.
	Mr Chincotta	Si pero remember, remember, remember that they are where they are because up to now they have had one side of the story.
	Mr Levy	Si pero I know, porque me lo dijo a mi, porque, porque por la boca muere el pez
	Mr Chincota	Si
	Mr Levy	Que, se lo digo o no se lo digo
	Mr Chincotta	Se lo va acabar deciendo el lunes que viene anyway
	Mr Levy	No, no, no se lo voy a decir. This is between us, I know that Gaggero knew the exact time when they were gonna be arrested and I don't know it from them. I know it from a very good independent source.
	Supt Richardson	What is that, what is that
	Mr Levy	(inaudible) for heaven's sakes Paul. Tu crees que, if I make a complaint you are not going to tell me when you are going to arrest Mr Smith. Come on. That's totally wrong. And that's for abuse of staff. And I know it for a fact. Uncontroverted evidence. Tengo otras cosas que I've got to look into to make sure that they are good. Pero this is good. (laughs)
	Mr Chincotta	I understand him.
	PC Otton	That's why I came to him for advise once Paul.
	Mr Levy	Si te acuerdas.

00:12:24	Supt Richardson	I came for advice and the advice from him was he sent me to another lawyer.
	PC Oton	(inaudible)
	Mr Levy	Who, you went to him no?
	Insp Wyan	He gave me advise for a separation at one point.
	Mr Levy	Tambien you.
	PC Oton	Usted se acuerda de mi
	Mr Levy	Disgraceful. Claro que me acuerdo de ti.
	PC Oton	Te acuerdas quien era el otrao gachon no entonces.
	Mr Levy	Preguntale si me acuerdo de las cosas.
	Mr Chincotta	Esto no tiene
	Mr Levy	Tomorrow when I go to see you I'm gonna (inaudible) separation. Who acted for your?
	Insp Wyuan	Sorry
	Mr Levy	Who acted for you?
	Insp Wyan	It was, whats her name now?
	Mr Levy	Anne Balestrino?
	Insp Wyan	No
	Supt Richardson	Janis was the marriage one no?
	Insp Wyan	She works for Janis Evans but
	Mr Levy	Oh she's good, she's very good.
	Insp Wyan	The Irish woman.
	Mr Levy	Yeah. She is very good
	Insp Wyan	She is.
	Mr Levy	Shes very good, I wanted her here, but she didn't come.
	Mr Chincotta	Paul came to me for advise and he is now going to tell you the advise I gave him.
	Supt Richardson	He said to me, after what I have been through you can go and see Janis Evans, even if you don't use her
	Mr Levy	Conflict her.
	Supt Richardson	Yes. And I did and it worked and it has worked not just for me but
	Mr Levy	Porque tu te separate?
	Supt Richardson	And for four, four of my colleagues.
	Mr Levy	Divorced. Is Paul divorced.

	Insp Wyan	Yes he is.
	Mr Levy	You are divorced?
	Supt Richardson	I'm divorced and married again.
	Mr Levy	No sabia eso.
	Mr Chincotta	Este es como yo pero si en married again.
	Mr levy	Pero tu estas peor, peor que estas tu.
	Supt Richardson	After saying years I'll never marry again I did, Bueno. Anyway.
	Mr Levy	Cada casa es un mundo. You can never tell
	Supt Rcihardson	Its very true.
	Mr Levy	Mira I've never, I've been married 47, 47 years in two weeks time. I really, el sabe, I'm very happy my wife es la que manda. You saw she is a stern lady.
	Supt Richardson	I think ...I think
	PC Oton	I think any man who says contrary to that is a liar.
	Mr Levey	Si. Pero you saw she is a stern lady. She wasn't happy with you (laughs_
	Supt Rcihardson	What can I say? What could I have done to make it any less
	Mr Levy	What did I say, I said it openly, I didn't say it,
	Mr Chincota	To the tape.
	Mr Levy	To the tape. I was grateful for the sensitivity. Yo I call the things as they are. But this will unleash certain problems. No por mi, no por mi because I think we respect your going, totally the wrong way about it.
	Supt Richardson	We are not going anywhere , you have to give your account, in which case we might
	Mr Levy	Not with me, not with me. Look I've been charged before, I've won and I was paid £2million cause, because it was all a...all a fraud and I proved it. And the judge said when they let me go in England this man has been very properly released because he was never, he shouldn't have been here. And I got £2million cause. I'm not, I'm not scared of this but I tell you that other people, they'll be, they'll be because I'm not let it go now. Before I knew, I knew, I know everything, everything, you;ll see it in my,I'm not going to hide it, I will send all the documents, I will that Fishcel sent to you and everything, pero yo no se lo que Fischel ... I don't know his, his (laughs) pero if I were advising them you, you, this would have been finished already. I would have gone for a, I would have gone for a, ya lo sabe todo el mundo, look I would have gone for an abuse and I, and I think of the one. It is what it is and you have to do your job. Entonces yo fui, cuando le di, a quien le di cine mil libras a alguien para que... come on. Are you still videoing me.

	Supt Richardson	I don't know.
	PC Oton	I think so.
	Insp Wyann	Yes. Actually sorry. I'll stop the video.
00:16:	Mr Levy	Thank you Paul. Thank you Paul. Thank you Paul thank you for your sensitivity.

Exhibit MW58

11/05/2020	Discussions regarding the search warrant for Mr Levy at his home residence and Hassans law firm. This is based on the NDM report prepared by Supt Richardson and the warrant overview document prepared by DS Clarke and Insp Goldwin. The warrant allows police to seize relevant digital devices used or owned by Mr Levy. These will be seized by searching officers. DS Oton will be required to obtain digital documents related to the relevant companies from the Hassans server. He will also need to take the email profile of Mr Levy (if possible restricted to January 2017 to date). This is the earliest reference to Mr Levy discussing Perez and the national security platform. Keyword searches will be run across devices once the seizures have taken place. However, before this can be done we will be required to instruct and independent lawyer in order to ascertain whether any material is legally privileged.
12/05/2020	Attendance at Midtown in order to execute warrants at Hassans law firm. On arrival with PR we spoke to Javier Cincotta. He then called JL to attend. Video recording taken of PR readying out the reasons for attendance. JL then sought advise from a UK silk and decided that he would voluntarily hand over digital devices. PR attended the residence of JL and retrieved an Ipad. JL then returned and stated that he would hand over the iPhone. However, this needed to be backed up first. He agreed to hand over once this was done. Agreements that IT would run keyword searches on their system in order to extract relevant emails and documents from their systems. This was to run overnight due to the amount of emails.
13/05/2020	IPhone of J Levy handed over to me by PS Riley in exhibit bag number M22459509 (LG/Mobile/1).
13/05/2020	iPhone and iPad belonging to J Levy left securely in the office of Supt Richardson. LG/Mobile/1 (M22459509) and PR/1 (B5006835443).

Hescomi 12/5/20. - S/W.
with PR / MW.

1230 Arrival. Wait for J. Chincotta

1230 Board room 12.
Officers wait downstairs. DC Oton
DS Clark
DC Currer.

Officers at house: DS Garrett
DC Rebano
DC Penalver.

Instructions to officers at house to follow.

1240 Discussion with J. Chincotta. PR explains reason for visit. Including reason / search warrants / intent to interview.

1250. Call made by J. Chincotta to JL. PR speaks directly to JL. Explain need to search home / business. JL upset. States there will be repercussions. PR says that he needs to follow lines of enquiry. JL says he will call back.

1305. JL calls back. Says he will come to explain matters.

1310 Moved to alternative board room - waiting for JL to attend.

1330 Recording of information given to Supt Richardson. Read script which was to be put to JL. (and handed over).

1355 Document handed over to JL.

[redacted]

1350. JL allowed to leave so that he could consider whether to voluntarily hand over items. This has been allowed to a certain.

1405 UK No [redacted]

1408 Turned off recording. Waiting for JL.

1450 JL to go with PR to his house. Signs for exhibits to be signed.

1700 End of records.

From:	(RGP) Richardson, Paul (OTM)
To:	(RGP) Ullger, Richard (COP 235)
Cc:	(RGP) Wyan, Mark (Supt 247)
Subject:	FW: HMGoG Statement of Complaint OP DELHI **GENTLE REMINDER**
Date:	03 July 2020 12:25:16
Attachments:	image002.png image003.png image004.png image006.png

Sir,

We spoke. You may wish to add that notwithstanding the fact that the Chief Secretary has informed us that HMGOG has filed a complaint we were advised in writing yesterday during TC's interview under caution that "I would again reiterate that no complaint has been made against me by HMGoG whereas it has in fact made a breach notification to the GRA in respect of Blands and/or its agents unauthorised access to their system. "we are dealing the GRA separately under an MOU that we signed with them and are assisting them in their investigation.

Kind regards

Paul

Paul Richardson OTM

Det. Superintendent

Crime Protective Services Division

New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) **200 47996** Centrex: 2329

Mobile [redacted]

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From: (RGP) Richardson, Paul (OTM)
Sent: 30 June 2020 09:40
To: (RGP) Ullger, Richard
Cc: (RGP) Wyan, Mark
Subject: FW: HMGoG Statement of Complaint OP DELHI

Sir,

We discussed the below. Grateful if you would kindly follow up with the Chief Secretary at your earliest convenience.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent
Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]





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From: (RGP) Richardson, Paul (OTM)
Sent: 19 June 2020 12:18
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: FW: HMGoG Statement of Complaint OP DELHI

Sir,

Inspector Wyan has sought clarity from the Chief Secretary with regard to HMGOG making an official complaint about the conduct of the subjects of the investigation for Op Delhi. Mr Grech's secretary has responded that the Government had already filed a complaint, but as you will see from the below, this is not actually the case. We had initially been directed to deal with the Financial Secretary, Mr Mena, to deal with this matter as it is concerns the NSCIS platform, its apparent inefficiency and the withdrawing of payment for the maintenance of it by Caine Sanchez. After some time Mr Mena directed enquires to Mr Grech in his capacity as Chief Secretary.

When I met with Mr Grech, Insp Wyan and ex-commissioner McGrail on the 30th April 2020, he was unable to provide much detail concerning the platform as he had not been able to find any records. He was however open and supportive of the investigation.

In my experience it has been difficult getting Mr Grech to respond to our emails in the past (he is clearly a very busy man) and Mr McGrail has been the interlocutor that has proved most successful and most appropriate given the position of the Chief Secretary. To that end I would ask if you would consider following up this line of enquiry which is important. Insp. Wyan has drafted a suggestion form of words below that you may find useful.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent
Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329

Mobile [redacted]

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From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 19 June 2020 11:34
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: HMGoG Statement of Complaint

Sir,

Please find below a draft to be sent to Mr Grech regarding a statement of complaint by HMGoG.

Kind Regards,

Mark

*****D R A F T ********

Dear Mr Grech,

I am writing to you with regards to the ongoing police investigation concerning the National Security Central Intelligence System (NSCIS) and for which I am grateful for your continued assistance.

I am aware that you have now provided the investigating team with an initial statement, dated the 21st January 2020, and a second statement, dated the 4th May 2020 (which is currently being transposed onto an official template). I understand the first deals with Mr Sanchez and an instruction given by the Chief Minister on the 4th October 2018, whilst the second asserts ownership of the NSCIS platform by HMGoG.

In addition to your statements the investigating team have obtained a statement from the Financial Secretary, Mr Mena, which deals with a decision made by Mr Sanchez to withhold payments to Bland Limited in respect of the NSCIS platform, and a subsequent report which was provided to him on the 16th April 2019. A further statement has also been provided by Mr Canessa, the Principal Secretary to the Chief Minister, again dealing mainly with the instruction which was given to Mr Sanchez on the 4th October 2018.

I am informed by Inspector Wyan that in light of your statement confirming that the ownership of the NSCIS platform is in dispute, he asked whether you would consider making a formal complaint, on behalf of the Government, about the conduct of the suspects subject to the investigation. Your secretary has responded to Inspector Wyan stating that the Government had already filed a complaint.

Unfortunately, there is nothing in any of the statements provided by HMGoG which, as purported owners of the NSCIS platform, makes an official complaint in respect of the computer misuse and related offences which the evidence suggests may have been committed. As you will no doubt appreciate, the investigation is a very serious one and relates to individuals who are suspected of attempting to sabotage a national security

platform. Without a formal complaint by the Government, as purported owners, this may significantly impact the ability of the police to prosecute this important matter. Given the above, I would be grateful if you could confirm the position of the Government with regards to taking action against the suspects, and whether you would be willing to provide a statement outlining this position.
Kind Regards,

Mark Wyan
Detective Inspector
Public Protection Unit
Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 52181 Centrex: **2340**





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From: (RGP) Wyan, Mark
To: (RGP) Richardson, Paul (OTM)
Subject: Op Delhi Charging
Date: 22 July 2020 12:06:00
Attachments: image002.png
Timeline Chief Minister.docx
Charging Report 17.07.20.docx
Importance: High

Sir,

Please find attached the latest Op Delhi report. It has now been updated with the accounts from the defence including summaries of interviews. (There are an additional 26 Appendices which cover ownership issues and defence accounts).

Grateful if we can discuss this week so that the report can be sent to the DPP and we can prepare the summary / charges well in advance of September.

However, there are a few outstanding matters as follows:

1) Response from the Chief Secretary as to whether he wants to proceed against the suspects;
2) Confirmation from the Chief Secretary that he does not wish to proceed against Blands for the allegations made by Mr Fischel QC;
3) An account from the Chief Minister having regard to the issues highlighted in the below email (19th June) and the attached communications (Timeline CM).

These matters may be raised by the DPP if he is considering the evidence to charge.

Kind Regards,

Mark

From: (RGP) Wyan, Mark
Sent: 19 June 2020 15:43
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: Communication with Chief Minister
Importance: High

Sir,

During the course of the Operation Delhi investigation, we have come across a number of relevant communications between the Chief Minister and John Perez / Haim Levy / Caine Sanchez (see attached table).

On the 24th January 2020 a letter of complaint was received from Mr Fischel QC, on behalf of his clients, together with supporting documentation. In the background section to this complaint Mr Fischel made specific reference to the Chief Minister. The relevant sections of the complaint are as follows [emphasis added]:

"*A.8 On 9 July 2018 Mr Cornelio and Mr Perez resigned from Blands and joined 36 North Limited ("36N") after the expiration of their respective notice periods. Blands' Chairman, Mr James Gaggero, agreed immediately after their resignations that the*

HMGoG Platforms would be taken over by 36N as Blands did not have either the resources or appetite to run these systems. ***The relevant Heads of Department, law enforcement and the NSCIS system controller all supported the transition and formal approval lay with the Chief Minister***."

"A.9 *At a meeting on 25 July 2018 attended by Mr Sanchez, Jonathan Galliano and Mr Cornelio, Mr Sanchez's instructions were that Mr Cornelio continue to run the NSCIS and that Blands should no longer access NSCIS code, services or data. The running of the system was to transition to 36N as HMGOG did not consider Blands had the capability to manage it. It was also agreed that 36N would sub-contract some hardware maintenance tasks to Blands. Seperately, Mr Sanchez also instructed Mr Cornelio to maintain a safe backup of the NSCIS to avoid any loss of service or compromise of data by Blands during the transition period.* ***36N ran and serviced the system functionality and al the HMGOG Platforms up to early October 2018 on HMGOG's authority and with the full knowledge of the Chief Minister***."

Given that Mr Fischel has specifically raised the Chief Minister in defence of his clients, I believe that it is necessary for him to be approached. He may be able to put the communication into context and help us understand what was happening during this period.

Kind Regards,

Mark

Mark Wyan
Detective Inspector
Public Protection Unit

Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
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From: (RGP) Ullger, Richard
To: (RGP) Wyan, Mark (Supt 247)
Cc: (RGP) Richardson, Paul (OTM)
Subject: RE: NSCIS
Date: 07 August 2020 13:53:57
Attachments: image005.png
image001.png

Dear Mark,
Thank you for this.
I feel that we should now be seeking DPP's advice.

Richard

Richard Ullger OTM, MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar, GX11 1AA
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From: (RGP) Wyan, Mark
Sent: 07 August 2020 13:11
To: (RGP) Ullger, Richard
Cc: (RGP) Richardson, Paul (OTM)
Subject: RE: NSCIS
Importance: High

Sir,
Just a quick email to update you on Operation Delhi.
Mr Fischel has now provided extensive defence submissions as to why his clients should not be charged. Of particular note is his reliance on case law which states that the criminal courts should not be used where property is in dispute (and should be delayed until the civil courts have made judgment). This issue of ownership is therefore critical.
As it stands, the case is likely to be significantly undermined if HMGoG do not provide a statement of complaint. If they were to do so, then the case could potentially proceed (because regardless of who the owner was, we would have a complainant).
I intend to provide a final report to the DPP during the course of next week. I would therefore be grateful if we could consider whether to approach the Chief Secretary again. However, it may be your view that you have already contacted him, and that we should seek advice from the DPP without pursuing the matter further.
Happy to discuss.
Kind Regards,

Mark

Mark Wyan
Chief Inspector
Corporate Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 52181 Centrex: **2340**





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From: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Sent: 27 July 2020 13:04
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: Re: NSCIS

Dear Mark,

I did so two weeks ago. I'll do so again this week.

Richard Ullger OTM, MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2271**





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On 27 Jul 2020, at 12:47, (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi> wrote:

Sir,

By way of gentle reminder, Mr Grech replied to your request for a witness statement on the 13th July, stating that he would revert. Two weeks have now elapsed since the reply.

I would be grateful if you could consider contacting him again. It is important that we resolve this issue before we seek further advice from the DPP as it is likely to have a significant impact on the case.

Happy to discuss further.

Kind Regards,

Mark

Mark Wyan

Detective Chief Inspector

Crime and Protective Services

New Mole House, Rosia Road, Gibraltar, GX11 1AA

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From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 13 July 2020 18:42
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>; (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: Re: NSCIS

Dear Commissioner,

Sincere thanks for this. Let me revert soonest I can.

Best wishes,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

''I am the master of my fate: I am the captain of my soul."

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar

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Office of the Chief Secretary

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On 13 Jul 2020, at 17:14, (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi> wrote:

Dear Chief Secretary ,
I am writing to you with regards to the ongoing police investigation concerning the National Security Central Intelligence System (NSCIS) and for which I am grateful for your continued assistance to the team.
I am aware that you have now provided the investigating team with an initial statement, dated the 21st January 2020, and a second statement, dated the 4th May 2020 (which is currently being transposed onto an official template). I understand the first deals with Mr Sanchez and an instruction given by the Chief Minister on the 4th October 2018, whilst the second asserts ownership of the NSCIS platform by HMGoG.
In addition to your statements the investigating team have obtained a statement from the Financial Secretary, Mr Mena, which deals with a decision made by Mr Sanchez to withhold payments to Bland Limited in respect of the NSCIS platform, and a subsequent report which was provided to him on the 16th April 2019. A further statement has also been provided by Mr Canessa, the Principal Secretary to the Chief Minister, again dealing mainly with the instruction which was given to Mr Sanchez on the 4th October 2018.
I am informed by Inspector Wyan that in light of your statement confirming that the ownership of the NSCIS platform is in dispute, he asked whether you would consider making a formal complaint, on behalf of the Government, about the conduct of the suspects subject to the investigation. Your secretary has responded to Inspector Wyan stating that the Government had already filed a complaint. This unfortunately is not the case and in actual fact we were advised in writing last week during one of the suspect's interviews under caution, that even they were

aware that no complaint had been made against them. Unfortunately, there is nothing in any of the statements provided which, as purported owners of the NSCIS platform, makes an official complaint in respect of the computer misuse and related offences which the evidence suggests may have been committed. As you will no doubt appreciate, the investigation is a very serious one and relates to individuals who are suspected of attempting to sabotage a national security platform. Without a formal complaint by HMGoG, as purported owners, this may significantly impact the ability of the police to prosecute this important matter.

Given the above, I would be grateful if you could confirm to Superintendent Richardson or Inspector Wyan the position with regards to taking action against the suspects, and whether you would be willing to provide a statement outlining this position.

Best wishes

Richard

Richard Ullger OTM, MSc

Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA

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From: (RGP) Ullger, Richard
To: (RGP) Wyan, Mark
Subject: FW: NSCIS - Letter from the Chief Secretary
Date: 14 August 2020 13:48:27
Attachments: COP - GOG formal complaint re NSCIS - 14.08.20.pdf
image002.png

Dear Mark,

Please see attached letter from CS.

Richard

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2271**

RGP Logo 2018 + vision (003)

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From: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Sent: 14 August 2020 12:54
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Cc: Darren Grech <darren.grech@gibraltar.gov.gi>
Subject: NSCIS - Letter from the Chief Secretary

Dear Mr Ullger

Please find attached a scanned copy of a letter re: NSCIS on behalf of the Chief Secretary, hardcopy to follow via mail.

Regards
Giselle

HM Government of Gibraltar

Office of the Chief Secretary

Your ref:
Our ref:

Mr R Ullger OTM, MSc
Commissioner of Police
Royal Gibraltar Police
Rosia Road
Gibraltar

14th August 2020

Dear Commissioner Ullger

Thank you for your email of 13th July 2020 regarding the making of a formal complaint, on behalf of the Government, about the conduct of suspects subject to the investigation regarding the National Security Central Intelligence System (NSCIS).

At the outset, I should like to apologise both for the delay in getting back to you and for any confusion regarding whether a complaint has been made, formally or otherwise.

To be clear, my understanding is that both the Government and Bland were cited as complainants in relevant search warrants, that the Chief Minister had separately indicated to the Royal Gibraltar Police the Government's status as a complainant, and that nothing further was needed.

Be that as it may, let me state on behalf of Government that it is willing to be a formal complainant in this matter if it has not been considered so up until this point. The Government's position as a complainant is as a result of information provided to it by the Royal Gibraltar Police itself, as well as Bland, such that the Government believes that wrongdoing may have been committed against it in connection with NSCIS.

I trust that this letter, together with the witness statements that have been provided to you and which you cite in your email, now suffice to constitute a formal complaint. However, if greater or different formality is needed in order for the Government to be considered an official complainant, please do let me know.

Yours sincerely

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar • 6 Convent Place • Gibraltar GX11 1AA
t+350 20051752 f+350 20040922 edarren.grech@gibraltar.gov.gi wgibraltar.gov.gi

From:	(RGP) Wyan, Mark
To:	Darren Grech
Cc:	(RGP) Richardson, Paul (OTM)
Subject:	Police Witness Statement
Date:	17 June 2020 14:46:00
Attachments:	image005.png
Importance:	High

Dear Mr Grech,

Further to my email of the 11th June, I have been contacted by Ms. Corby asking whether you can edit the witness statement yourself. I have confirmed that you may edit the document as you see fit.

Given that HMGoG have now formally asserted ownership of the NSCIS platform, I would respectfully ask you to consider including in your statement a complaint against those who the evidence suggests have committed multiple computer related offences. We understand that some of the suspects are stating that they were authorised to access the NSCIS system by Caine Sanchez (although he has not said this himself and has indicated through his lawyer that he will not provide an explanation in his next police interview). An official complaint and unequivocal assertion that HMGOG does not condone the activity relating to the tampering with the NSCIS platform would be very beneficial to the prosecution.

Kind Regards,

Mark Wyan

Mark Wyan
Detective Inspector
Public Protection Unit

Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 52181 Centrex: **2340**

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From: (RGP) Wyan, Mark
Sent: 11 June 2020 11:22
To: Darren Grech <darren.grech@gibraltar.gov.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: Police Witness Statement
Importance: High

Dear Mr Grech,

RE: Police Witness Statement

In relation to the ongoing police investigation into the NSCIS platform, and further to your witness statement dated the 4th May 2020, please find attached:

1. A pdf copy of your statement dated 04/05/2020;
2. A copy of your statement dated 04/05/20 transposed onto a police witness statement form;
3. Three exhibit label forms corresponding to your tendered exhibits.

I would be very grateful if you could sign the police witness statement form and each of the three exhibit label forms.

If you let me know when this has been done I'd be happy to arrange collection.

Kind Regards,

Mark Wyan

Mark Wyan
Detective Inspector
Public Protection Unit

Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 52181 Centrex: **2340**

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From:	(RGP) PA Compol
To:	Darren Grech
Cc:	David.Steel@fco.gov.uk; (MIN) Picardo, Fabian; (OCPL) Rocca, Christian
Subject:	RE: COP - Requesting further information re Complaint - 25.09.2020.pdf
Date:	29 September 2020 15:02:55
Attachments:	RU74 - Letter to Chief Secretary - requesting further information re complaint.pdf image003.png

Dear Chief Secretary,

Please find attached letter from the Commissioner of Police in answer to your letter dated the 25th September 2020. Original will follow by post.

With kind regards

Leeanne

Leeanne Desoiza
Personal Secretary to Commissioner of Police
Commissioner's Suite

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **20048007** Centrex: **2210**
Email: **leeanne.desoiza@royalgib.police.gi**

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From: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Sent: 28 September 2020 10:48
To: (RGP) PA Compol <pacompol@royalgib.police.gi>
Subject: COP - Requesting further information re Complaint - 25.09.2020.pdf

Importance: High

Dear Commissioner

Please find attached a letter which the Chief Secretary has asked that I send to you urgently. I have spoken to Leeane this morning.

Regards
Giselle

Giselle Corby
Personal Secretary to the Chief Secretary

Office of the Chief Secretary
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HM Government of Gibraltar

Office of the Chief Secretary

Your ref:
Our ref:

Mr R Ullger OTM, MSc
Commissioner of Police
Royal Gibraltar Police
Rosia Road
Gibraltar

25th September 2020

Dear Commissioner

I am writing to you in relation to the charges advanced against Civil Servant, Mr Caine Sanchez in the investigation conducted by the Royal Gibraltar Police in respect of the National Security Central Intelligence System ('NSCIS').

This letter is further to my letter of the 14th August 2020 in which I confirmed to you, for the reasons set out therein (and based solely (i) on the information contained in your email to me of 13th July 2020 and; (ii) the information you verbally relayed to me in our later meeting), my decision that Her Majesty's Government of Gibraltar ('the Government') was willing to be a complainant in respect of the offences alleged against Mr Sanchez and other defendants (Cornelio and Perez). You had clarified in your email that the Government was not previously 'formally' a complainant.

The media has reported that the charges have now been put to the defendants in this case, including Mr Sanchez. Reports have also confirmed that one of the charges against Mr Sanchez, arising from the Government's complaint, is that of misconduct in public office. (Incidentally, the public statement from the RGP suggests that the Government's complaint/s predate my communication to you of the 14th August 2020. I understand, from media inquiries to the Government Press Office that this is an issue that has been raised by Counsel for the defendants with various media organisations.)

In the circumstances, I would be grateful to urgently receive from you details of the facts alleged against Mr Sanchez, the key aspects of how the RGP alleges that the said offence is made out and any documentary evidence in support of the charge/s which stand in in the name of the Government as complainant against him. I require this information in order that:

1. I can confirm to you (with the benefit of careful consideration of the evidence the RGP's investigation has, with the Government's cooperation, uncovered), my position that the complaint should proceed in the name of the Government;

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2. **The Council of Ministers** can ratify my decision for the Government to proceed to be a complainant in this sensitive matter and with the benefit of the same careful consideration of the evidence in respect of the Government's role as complainant; and

3. **His Excellency the Governor** can confirm, or otherwise determine, the re-instatement of the interdiction of Mr Sanchez also with the benefit of the same careful consideration of the evidence available at this stage. In respect of this latter aspect of this matter, I will also be writing to Mr Sanchez to see his explanations. I will be suspending him from all duties (as he initially was pending the outcome of your investigations) until I have received those explanations and the relevant decisions are made about interdiction.

Thank you for your continued assistance in respect of this matter. As you will know, I am advised that this is the first instance that the offence of misconduct in public office has been charged in Gibraltar. I therefore want to ensure that the Government acts and has acted entirely properly in the manner in which we make decisions about being / continuing to be a complainant. Additionally, I must also ensure that Mr Sanchez is dealt with properly, in keeping with General Orders and all his other rights, in the context of his employment as an officer of the Government.

In light of the above, I shall very much look forward to hearing from you at your very earliest convenience.

Given the references at 2 and 3 above, I am copying His Excellency the Governor and the Chief Minister into this correspondence.

Yours sincerely

Darren Grech
Chief Secretary

cc. His Excellency the Governor
Chief Minister

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Richard Ullger OTM MSc
Commissioner of Police
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29th September 2020

Our Ref: RU74

Darren Grech
Office of the Chief Secretary
No. 6 Convent Place
Gibraltar

Dear Chief Secretary,

Thank you for your letter dated 25th September 2020, the contents of which I note. I have copied this reply to the same parties as are addressed in your letter. Additionally, having considered the issues raised by you, I have discussed them with Director of Public Prosecutions [DPP] and sought his advice, thus copying him in to this correspondence, given that he also has conduct of this matter post-charge.

I should start by pointing out that our understanding concurs with your own as expressed in your letter to me on the 14th August 2020. Her Majesty's Government of Gibraltar's [HMGoG] complaint was made verbally at a meeting at No 6 Convent Place, on the 13th May 2019, when the former Commissioner of Police briefed representatives of the Government and the administration including yourself. During this meeting, it was made clear that HMGoG wished to be considered a complainant. Given the seriousness of what had become known, it was decided that Mr Sanchez would be recalled from London immediately to answer the allegations. Following his arrest, he was, as we understand it, subsequently interdicted.

Your letter makes reference to the Royal Gibraltar Police's [RGP] Press release and you comment that 'the RGP suggests that the government's complaint/s predate my communication to you of the 14th August 2020....' This is in fact our understanding of the sequence of events as articulated above. For this reason, we consider the press release to be accurate.

In seeking to obtain a third statement from you in your capacity as Chief Secretary, the RGP was simply seeking to obtain evidence in the conventional manner that may be put before a court. A witness statement was signed by you on 21st January 2020, and this was followed up by a supplementary statement on 4th May 2020. The position was further clarified by your letter of the 14th August 2020, already referred to above.

If our understanding is incorrect as regards the timing and/or making of the complaint, I would be grateful for your clarification. Equally, if your position is now that you wish to withdraw your complaint I respectfully request that you advise us soonest. I should point out however, that it is not necessary for there to be a complainant in order to proceed with a charge of Misconduct in Public Office. Accordingly, regardless of any complaint or otherwise from HMGoG, the position as it stands is that Mr Sanchez has already been charged and the matter will proceed unless the DPP or AG is of the view that it is not in the public interest to proceed, or the AG enters a nolle prosequi.

It is of note that the charges do not stand in the name of the Government of Gibraltar as a complainant. Furthermore, your assertion that this is the first instance that the offence of Misconduct in Public Office has been charged in Gibraltar is incorrect. There are a number of other instances of such charges being laid and prosecuted which have led to convictions.

Turning now to your request, it is unprecedented for such a request to be made by a complainant at all, let alone for the purpose of deciding whether to provide a (further) statement 'formalising' a complaint. Furthermore, I am aware that in addition to the briefing previously mentioned on 13th May 2019, that the former Commissioner of Police and other senior police officers briefed you as to Mr Sanchez's alleged misconduct on the 30th April 2020. I have discussed this with the DPP and acting on his advice we do not consider it appropriate or indeed proper to disclose documentary evidence in the manner requested.

The RGP, in close consultation with the Office of Criminal Prosecutions and Litigation have concluded, that based on all the available evidence, there is a realistic prospect of conviction and on that basis have charged Mr Sanchez.

I should also highlight my concern regarding your seeking the views of Mr Sanchez in relation to this matter. Any communication with, including any response to the allegations made against Mr Sanchez are likely to be relevant to the investigation and therefore disclosable. This may lead to other lines of inquiry that the investigating team would need to consider.

I trust that I have answered as much as I am able to and made our position clear.

I am also conscious that any further discussion between us has the potential to adversely affect the prosecution of this case, which not only concerns Mr Sanchez but others too. For that reason, I would be grateful if any further communication be directed in the first instance to the Director of Public Prosecutions, as explained earlier, has conduct of this matter post-charge.

Yours Sincerely



Richard Ullger OTM MSc
Commissioner of Police

cc: His Excellency the Governor
Chief Minister
Director of Public Prosecution.

From:	(RGP) Ullger, Richard
To:	(RGP) Richardson, Paul (OTM); (RGP) Wyan, Mark (Supt 247); (RGP) Yeats, Cathal (ACOP 236)
Subject:	FW: Letter from the Chief Secretary
Date:	28 September 2020 21:28:14
Attachments:	image002.png image004.png image001.png

Gents,

In anticipation of our meeting tomorrow at 0930hrs, PSB. I wanted to share with you before I craft the final letter and resend to DPP for his final oversight.

Richard

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2271**

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Please consider the environment before printing this email.

From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: 28 September 2020 20:43
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: Re: Letter from the Chief Secretary

Rough first draft response:

Dear Chief Secretary,

Thank you for your letter dated XXX, the content of which I note. I have copied this letter in reply to the same parties as are addressed in your letter.

Additionally, given the matters raised by you, I have discussed the matter with Director of Public Prosecutions, particularly in relation to your request for the provision of information and documentation pertinent to the charging of Mr Sanchez and I have also copied him into this correspondence.

I should start by pointing out that the RGP's understanding is that the complaint was effectively made at a meeting in XXX 2019, at which the position was made clear that the GoG wished to be considered a complainant in relation to this matter, particularly as it involved the GoG's National Security platform. Indeed, at this meeting it was decided, given the seriousness of what had come to light, that Mr Sanchez would be recalled from London immediately to answer to the allegations. That the RGP considered this to be the case is borne out by the fact that the GoG appears as one of the complainants in the various search warrants that were executed subsequently. It is on this basis that the RGP consider the press release that it has issued to be accurate.

For your understanding, the RGP was simply seeking to formalize matters by having you, as CS, sign a statement reflecting the complaint.

I should point out at this stage that it is not necessary that this formality be observed nor indeed is it a requirement that there be a complainant to proceed with a charge and subsequent prosecution. Accordingly, regardless of any complaint or otherwise from the GoG, the position as it stands and given that Mr Sanchez has been charged is that the matter will proceed unless the DPP or AG is of the view that it is not in the public interest to proceed or the AG enters a nolle prosequi.

If our understanding is incorrect as regards the timing and/or making of the complaint I would be grateful for your clarification. Equally, if your position is that a complaint was never made or that any complaint that was made should be deemed withdrawn please advise soonest.

Prior to responding to your very surprising request for documentary evidence in support of the charge/s I should highlight a few points:

1. The charges do not stand in the name of the Government of Gibraltar as a complainant; and
2. Your assertion that this is the first instance that the offence of misconduct in public office has been charged in Gibraltar is incorrect. There are a number of instances of such charges being laid and prosecuted.

Turning now to your request. It is highly unusual for such a request to be made by a 'complainant' at all, let alone for the purpose of deciding whether to provide a statement formalizing a complaint. I have discussed this request with the DPP and I am not able to accede to your request for the provision to you of documentary evidence or information in support of

the charge as this would be irregular. The RGP, in close consultation with the OCPL have concluded, based on all the available evidence, that there is a reasonable prospect of conviction and on that basis have charged Mr Sanchez. With all due respect this should be sufficient for any decisions to be made, ratified or formalized, as the case may be.

I fail to understand the basis upon which you think the RGP's, conclusions should be analysed or scrutinised in the manner set out in your letter by the cabinet or, indeed, at all.

I should also highlight my concern regarding your seeking the views of Mr Sanchez in relation to this matter. Any correspondence, including any response to the allegations made against Mr Sanchez would likely be relevant to the investigation and disclosable.

I trust that I have made the position clear and I look forward to hearing from you shortly

Yours etc

Christian Rocca QC
Director of Public Prosecutions

Sent from my iPhone

> On 28 Sep 2020, at 15:50, (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi> wrote:
>
> Chris,
>
> These are some notes that we have put together…
>
> Richard
>
> **Richard Ullger OTM, MSc**
> **Commissioner of Police**
>
> New Mole House, Rosia Road, Gibraltar, GX11 1AA
> Tel: (+350) 20072500 Centrex: **2200**
>
> <image004.png>
>
> Web: www.police.gi
> Follow Us on Twitter: @rgpolice
> Like us on Facebook: www.facebook.com/royalgibpolice
>
> *This message, together with any attachment, is intended only for the use of the individual or entity to which it is addressed and may contain information that is legally privileged and*

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From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 28 September 2020 14:12
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>; (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Subject: Letter from the Chief Secretary

Dear Sirs,

Please find attached my notes on the letter received from the Chief Secretary.

Kind Regards,

Mark

Mark Wyan
Chief Inspector

Corporate Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 48640 Centrex: 2272

Web: www.police.gi
Follow Us on Twitter: @rgpolice
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<Grech letter to CoP.docx>

Dear Commissioner

I am writing to you in relation to the charges advanced against Civil Servant, Mr Caine Sanchez in the investigation conducted by the Royal Gibraltar Police in respect of the National Security Central Intelligence System ('NSCIS').

This letter is further to my letter of the 14th August 2020 in which I confirmed to you, for the reasons set out therein (and based solely (i) on the information contained in your email to me of 13th July 2020 and; (ii) the information you verbally relayed to me in our later meeting), my decision that Her Majesty's Government of Gibraltar ('the Government') was willing to be a complainant in respect of the offences alleged against Mr Sanchez and other defendants (Cornelio and Perez). You had clarified in your email that the Government was not previously 'formally' a complainant.

Mr Grech stated in his letter of the 14th August that, "… *let me state on behalf of Government that it is willing to be a formal complainant in this matter* …" A draft witness statement was sent to him on the 17th September requesting that he sign the complaint.

Prior to the 14th August 2020 HMGoG had always been considered a complainant. At the early stages of the investigation, in a meeting with the CM [Supt Richardson to clarify what was said and date] he stated that he wanted HMGoG to be a complainant in this matter.

The media has reported that the charges have now been put to the defendants in this case, including Mr Sanchez. Reports have also confirmed that one of the charges against Mr Sanchez, arising from the Government's complaint, is that of misconduct in public office.

Whilst it clearly will have a bearing on the case, the evidence against Mr Sanchez has already been obtained by the police. The charge could proceed even without a complaint by HMGoG (although the prosecution would be considerably undermined and may be withdrawn by the DPP).

(Incidentally, the public statement from the RGP suggests that the Government's complaint/s predate my communication to you of the 14th August 2020. I understand, from media inquiries to the Government Press Office that this is an issue that has been raised by Counsel for the defendants with various media organisations.)

See note above regarding complaint by the CM.

In the circumstances, I would be grateful to urgently receive from you details of the facts alleged against Mr Sanchez, the key aspects of how the RGP alleges that the said offence is made out and any documentary evidence in support of the charge/s which stand in in the name of the Government as complainant against him.

It is highly unusual to disclose detailed facts about a prosecution to a complainant so that they can decide whether to provide a statement.

However, it could be provided in the form of the summary of evidence which has already been disclosed to the court and defendants. The DPP would need to consent to this disclosure given that it is post charge. It could be edited to remove information relating to the other defendants.

Documentary evidence which is provided in the name of HMGoG relates to the statements and corresponding exhibits of Albert Mena / Andrew Bonfante / John Paul Galliano (ITLD) / Jonathan Gonzalez (ITLD) / Peter Canessa.

Other statements have been provided by law enforcement officials.

I require this information in order that:

1. I can confirm to you (with the benefit of careful consideration of the evidence the RGP's investigation has, with the Government's cooperation, uncovered), my position that the complaint should proceed in the name of the Government;

   See note above about proceeding with misconduct without a complainant.

2. The Council of Ministers can ratify my decision for the Government to proceed to be a complainant in this sensitive matter and with the benefit of the same careful consideration of the evidence in respect of the Government's role as complainant; and

   HMGoG have made numerous complaints to the police. I question why the Council of Ministers is now required to ratify the decision.

3. His Excellency the Governor can confirm, or otherwise determine, the reinstatement of the interdiction of Mr Sanchez also with the benefit of the same careful consideration of the evidence available at this stage. In respect of this latter aspect of this matter, I will also be writing to Mr Sanchez to see his explanations. I will be suspending him from all duties (as he initially was pending the outcome of your investigations) until I have received those explanations and the relevant decisions are made about interdiction.

The Chief Secretary should be advised that the matter is sub-judice. Any responses given by Mr Sanchez would relevant to the investigation and potentially disclosable to the court.

Thank you for your continued assistance in respect of this matter. As you will know, I am advised that this is the first instance that the offence of misconduct in public office has been charged in Gibraltar.

This is not correct. Caine Benteolo (17/3/2014) / Dean Penfold (3/10/2017) / Harry McIntosh (3/6/2004) were all charged with and convicted of misconduct in public office.

I therefore want to ensure that the Government acts and has acted entirely properly in the manner in which we make decisions about being / continuing to be a complainant. Additionally, I must also ensure that Mr Sanchez is dealt with properly, in keeping with General Orders and all his other rights, in the context of his employment as an officer of the Government.

In light of the above, I shall very much look forward to hearing from you at your very earliest convenience.

Given the references at 2 and 3 above, I am copying His Excellency the Governor and the Chief Minister into this correspondence.

From: (RGP) Wyan, Mark
To: (RGP) Richardson, Paul (OTM)
Subject: Sanchez report
Date: 02 October 2020 14:31:00
Attachments: CAINE SANCHEZ.docx
Importance: High

Sir,

Please find attached a summary of the evidence against Sanchez. This report has been created by the DPP based upon the summary we provided.

The report has been sent with a view to informing HMGoG of the facts against Sanchez. The DPP has asked that we not send anything on to HMGoG until advised.

Kind Regards,

Mark

From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: 02 October 2020 12:46
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject:

Christian Rocca QC
Director of Public Prosecutions

Office of Criminal Prosecutions & Litigation
Government Law Offices
HM Government of Gibraltar
6th Floor, Natwest House
57/63 Line Wall Road
Gibraltar
GX11 1AA

Tel: (+350) 200 78882
Centrex: 2730
christian.rocca@gibraltar.gov.gi

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CAINE SANCHEZ – Conspiracy to defraud and Misconduct in Public Office

Relationship between Sanchez and other persons involved

1. Although a public officer, Sanchez sought to get involved in private business ventures with another person. This is evident through the numerous WhatsApp messages Sanchez and that other person exchanged. An example is trading in cryptocurrency. These exchanges Show, by way of background, the relationship between them. These actions were likely contrary to Government General Orders.

2. There are other communications with other persons which also disclose the nature and impropriety of certain relationships which ties into the conspiracy charge.

Assistance to 36 North - Sanchez

3. During the course of 2018 Sanchez abused his position as a public official, and Government lead for the NSCIS platform, to actively assist 36 North in acquiring the NSCIS platform maintenance contract, for the benefit of 36 North and to the detriment of Bland. This is evidence by various email and whatsapp communications.

4. Despite his role as a government official, and a duty to remain impartial, Sanchez was actively involved with 36 North. This is evidence by various communications.

5. Sanchez wrote to the Chief Minster seeking to persuade him to transfer the NSCIS platform to 36 North.

6. Sanchez was asked by the Chief Minister to maintain confidential information, and not to disclose it to another person. He was subsequently alleged to have breached confidentiality. In an email to the Chief Minister he denied having leaked information stating. In the same email he urged the Chief Minister to make a decision on the platforms. Sanchez subsequently wrote to that other person to advise that he should deny he had been spoken to if asked by the CM.

7. There are email and whatsapp communications which indicate Sanchez was involved in attempts to undermine Blands ability to service the NCIS platform

8. By the 10th October 2018, Sanchez was aware of the instruction that Bland alone should maintain the NSCIS security platform and that neither another specified person nor 36 North were to

access the system. Sanchez deliberately sought to undermine the ability of Bland to maintain the national security system, for the commercial / financial benefit of 36 North, and in doing so knew, suspected or was reckless as to whether national security of Gibraltar would be compromised. On the same date, another person wrote to Sanchez and pointed out a way to further reduce the capability of Bland to maintain the system. Sanchez acted upon this suggestion.

9. Despite having been informed, on the 4th October, that another person was no longer to access the NSCIS platform, failed to act when that other person was clearly accessing the system on the 11th October 2018.

10. In contravention of the Official Secrets Act, Sanchez continued to discuss the NSCIS Platform with another person. These actions were, arguably, contrary to Government General Orders.

The NSCIS Report

11. In around February or March 2019, Albert Mena, the Financial Secretary for HMGoG, was advised that Sanchez had been withholding payments to Bland for a period of approximately six months. Mena described this decision as "unusual." The matter was discussed with Sanchez who advised it was on the basis of a decline in the performance of the services provided by Bland. In a meeting with Sanchez, Mena explained that it was not acceptable to withhold the entirety of the service fee and that a reduced payment of £50,000 [from £66,000] would be fair in the circumstances. Despite having previously withdrawn payment, Sanchez agreed with this figure.

12. Mena subsequently informed Sanchez that he intended to carry out an independent assessment of the NSCIS platform. It was made clear to Sanchez that Mena intended to appoint one of the large accounting firms in order to obtain an unbiased report.

13. On the 9th April 2019, Sanchez requested the assistance of another person (that person having a clear and competing commercial interest) in assessing the NSCIS platform. In doing so, he contravened the planned approach that had been made clear to him by Mena. Between the 9th April 2019 and 11th April 2019 (inclusive) Sanchez provided his own personal NSICS credentials to that other person for the purpose of accessing the NSCIS platform. This was in contravention of his statutory obligation under the Official Secrets Act 1911. This was also in contravention of the HMGoG ITLD Interim Guide to Security and the Government of Gibraltar Information Technology Security Policy which prohibit the disclosure of personal passwords and the sharing of accounts.

14. The access to the NSCIS platform was also in contravention of the instructions given to Sanchez from the Chief Minister on the 4th October 2018.

15. Between 2216 hours on the 11th April 2019 and 0013 hours on the 12th April 2019 another person accessed the NSCIS platform using the credentials of Sanchez. That other person inspected 36 NSCIS modules including vehicle searches, vehicle suspicious activity, APIS air passenger search, APIS air suspicious activity, passport checks, Interpol, person searches and wanted lists. This information was relevant to national security. The disclosure of this information, and the subsequent access to the NSCIS platform, were given by Sanchez to that other person, with knowledge of the fact that that other person:

a. Wanted to obtain the NSCIS platform maintenance contract and was therefore unable to provide an independent assessment;

b. May have deleted a total of 44 libraries from the NSCIS source code prior to handing it over to Bland on the 6th September 2018; and

c. Was concerned that Bland had "instructed a professional forensic team of six to look into any wrong doing" that may have been carried out by that other person.

16. On the 12th April 2019, and in knowledge of the fact that he should not have been accessing the NSICS platform, the other person advised Sanchez that if he was asked about it he should say that the tests were carried out by himself at home on the evening of the 11/04/2019 and 12/04/2019, which Sanchez agreed to

17. On the 14th April 2019, that other person sent Sanchez a review of the NSCIS platform. Upon sending the document, and in knowledge of the fact that he should not have been accessing the system, that other person advised Sanchez to copy the review to a new blank word file, to which Sanchez agreed. On the 16th April 2019 Sanchez sent an email to Mena in which he stated, "As per our last conversation I performed a full review of the system going module by module. The review was carried out between the 11th and 12th April. [redacted]" Attached to the email was a copy of the report compiled by the other person.

18. In a subsequent email Mena wrote, "This is NOT how I wanted this to be carried out, and frankly given your history puts you precisely where I would not put myself. You should NOT have carried out these test [sic] albeit they need to be carried out." In reply Sanchez stated that these were functions to which he already had access but dishonestly failed to disclose that the test was carried out by another person who should not have had access. Cornelio. Mena further responded, "That's not the point. We agreed to do this in a coordinated manner …" He finished his email, "In addition your results (which are concerning) are completely at odds with the reports we (Peter, Javier and I) have received back from the services …"

From: (GLO) Rocca, Christian
To: (RGP) Wyan, Mark (Supt 247)
Cc: (RGP) Richardson, Paul (OTM)
Subject: Re: Caine Sanchez
Date: 19 October 2020 11:30:27
Attachments: image002.png

Dear Mark,

No, we hold for now. Any disclosure of that summary will, if deemed appropriate, be through me.

Best regards,

Christian Rocca QC
Director of Public Prosecutions

Sent from my iPhone

> On 19 Oct 2020, at 10:51, (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi> wrote:
>
> Sir,
>
> Earlier this month you sent me the attached summary in respect of Caine Sanchez, and asked me not to send the information to HMGoG until they had made a request.
>
> Are you able to confirm whether they have made contact with you regarding this matter?
>
> Kind Regards,
>
> Mark
>
> **<image001.jpg>**
>
> **Mark Wyan**
> **Chief Inspector**
>
> **Corporate Services**
> New Mole House, Rosia Road, Gibraltar, GX11 1AA
> Tel: (+350) 200 48640 Centrex: 2272
>
> <image002.png>
>
> Web: www.police.gi
> Follow Us on Twitter: @rgpolice

Like us on Facebook: www.facebook.com/royalgibpolice

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From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: 02 October 2020 12:46
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject:

Christian Rocca QC
Director of Public Prosecutions

Office of Criminal Prosecutions & Litigation
Government Law Offices
HM Government of Gibraltar
6th Floor, Natwest House
57/63 Line Wall Road
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<CAINE SANCHEZ.docx>

From:	(RGP) Ullger, Richard
To:	(RGP) Richardson, Paul (OTM); (RGP) Wyan, Mark (Supt 247)
Subject:	FW: Your client: the Chief Secretary of Her Majesty"s Government of Gibraltar
Date:	10 November 2020 12:46:21
Attachments:	[Untitled].pdf image002.png

Gents,

For your records…

Richard

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2200**

Web: www.police.gi
Follow Us on Twitter: @rgpolice
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From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: 10 November 2020 12:40
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: FW: Your client: the Chief Secretary of Her Majesty's Government of Gibraltar

Copy attached for your records

Best,

C

Christian Rocca QC
Director of Public Prosecutions

Office of Criminal Prosecutions & Litigation
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From: (GLO) Rocca, Christian
Sent: 10 November 2020 12:39
To: Neil Costa <Neil.Costa@isolas.gi>
Cc: Kishin Daswani <Kishin.Daswani@isolas.gi>; Sharon Truman Davies <sharon.trumandavies@isolas.gi>; (GLO) Bautista, Sunita <sunita.bautista@gibraltar.gov.gi>
Subject: Your client: the Chief Secretary of Her Majesty's Government of Gibraltar

Dear Neil,

Please find attached my letter in response to your letter dated 6th November, a hard copy of which will be sent to your offices in due course.

Kind regards,

Christian

BARRISTERS & SOLICITORS
ISOLAS LLP
Portland House
Glacis Road, GX11 1AA, Gibraltar
Tel +350 2000 1892
www.gibraltarlawyers.com

Christian Rocca QC
The Director of Public Prosecutions
Office of Criminal Prosecutions and Litigation
Sir Joshua Hassan House
Secretary's Lane
Gibraltar

6 November 2020

Dear Christian

Our client: the Chief Secretary of Her Majesty's Government of Gibraltar ('HMGoG')

I hope that you are keeping well and safe.

Please note that the Chief Secretary has instructed Isolas LLP to reply to the Commissioner's letter to him of 29 September 2020 (the '**Letter**') as follows hereunder.

In accordance with the Commissioner's request in his Letter, I have been instructed to direct my reply to you in your capacity as Director of Public Prosecutions. Kindly note that I write this letter further to the Chief Secretary's letter to the Commissioner of 14 August 2020.

I think that it is important to note, at the outset, that the Chief Secretary writes to you in an attempt to narrow the issues that arise from the correspondence to date and to clarify the Chief Secretary's position on the various relevant matters. Whereas I am certain that it need not be said, this letter is written in good faith and with the primary purpose of addressing any confusion between my client and the Commissioner. Kindly note that the contents herein are not, therefore, meant in any disrespectful manner. I am also certain that both the Commissioner and my client agree that it is of the utmost importance that any ambiguity and misunderstanding should be elucidated as soon as is reasonably practicable.

Complaint by HMGoG

On bearing the above comments in mind, I start by noting that the Commissioner states at paragraph 2 of the Letter 'that our understanding concurs with your own as expressed in your [the Chief Secretary's] letter to me [the Commissioner] on the 14th August. Her Majesty's Government of Gibraltar's [HMGoG] complaint was made verbally at a meeting at No 6 Convent Place, on the 13th May … [and] during this meeting it was made clear that HMGoG wished to be considered a complainant.' For the reasons that now follow, my client finds this statement confusing.

In the Commissioner's email to the Chief Secretary of 13 July 2020 at 17:14 (the '**Email**'), written approximately 2 months before the Letter, the Commissioner disputes that HMGoG 'had already filed a complaint.' The Commissioner's Email continues: '[t]his unfortunately is not the case and in actual fact we were advised in writing last week … that even [the suspects] were aware that no complaint had been made against them [my underlining]. Unfortunately, there is nothing in any of the statements provided which … makes an official complaint in respect of the computer misuse and related offences which the evidence suggests may have been committed.' The Email continues: '[w]ithout a formal complaint by HMGoG, as purported owners [of the NSCIS system], this may significantly impact the ability of the police to prosecute this important matter.' The foregoing statements suggest that the Commissioner was unaware of the verbal complaint made by HMGoG on 13 May 2019 and/or that he did not consider

that a verbal complaint could amount to an official complaint and that HMGoG was required to make such a complaint in writing to constitute an official complaint.

As a result of the Commissioner's Email, my client replies by way of a letter of 14 August 2020 wherein he states, *inter alia*, that his 'understanding is that … the Chief Minister had … indicated to the Royal Gibraltar Police [('**RGP**')] the Government's status as complainant, and that nothing further was needed.' The letter continues: 'let me state on behalf of Government that it is willing to be a formal complainant in this matter if it has not been considered so up until this point.'

The Commissioner's Email, therefore, directly contradicts the Letter where the Commissioner states that HMGoG's 'complaint was made verbally at a meeting at No 6 Convent Place, on 13th May 2019…'. To the contrary, in his Email, the Commissioner categorically refutes my client's statement that HMGoG had already made a complaint. For the purposes of clarifying my client's position, it is immaterial whether the Commissioner is right or wrong as to whether a verbal complaint constitutes an official complaint or otherwise; the point here is not about the validity of such a view but, rather, to impress on the Commissioner that as far as the RGP was concerned, HMGoG was not a complainant on 13 July 2020 contrary to his assertion in his subsequent Letter.

Further, the Commissioner in his Letter quotes my client in his letter of 25 September 2020 as saying that 'the public statement from the RGP suggests that the Government's complaint/s predate my [the Chief Secretary's] communication to you [the Commissioner] on the 14th August 2020.' The Commissioner continues that: '[t]his is in fact our understanding of the sequence of events as articulated above. For this reason, we consider the press release to be accurate.' With the greatest respect to the Commissioner, this cannot have been his understanding of the sequence of events by virtue of the Commissioner's Email to my client whereby he categorically denies that HMGoG was a complainant and expressly requests that HMGoG files a complaint. Even if the Commissioner were not to agree with the Chief Secretary's understanding of the sequence of events, the Commissioner must, at a minimum, accept that it is entirely reasonable for the Chief Secretary to have been confused by the statements in his Email. The Chief Secretary's reply of 14 August to the Commissioner's Email is evidence of the Chief Secretary's understanding of the position.

Further still, the RGP's Press Release (66/20) of 15 September 2020 (the '**Press Release**') provides that the charge 'relates to conduct in 2018 and 2019, which resulted in a criminal complaint made by … [HMGoG] which led to a long … investigation …'. For the same reasons as set out above, namely, that the Commissioner categorically denied the existence of a complaint on 13 July 2020, the 'long' investigation cannot have resulted from a complaint by HMGoG in 2019. By virtue of the Commissioner's own Email, the Press Release is, in fact, not accurate because as far as the RGP was concerned, HMGoG was not a complainant in 2019.

Request for the evidence as it relates to Mr Caine Sanchez's ('CS') case

Notwithstanding all of the above, and as the RGP will confirm, my client has at all material times endeavoured to assist the RGP. The chronology of events set out above is to achieve clarity and to correct the matters in the Commissioner's Letter with which my client does not agree. I am sure that we concur that establishing facts is an important end in itself.

The reason, however, that my client has seen fit to detail above the chronology of events is in order to provide the context in which he has sought in his letter to the Commissioner of 25 September 'the details of the facts alleged against CS, the key aspects of how the RGP alleges that the said offence is made out and any documentary evidence in support of the charge/s which stand in … the name of the Government as complainant against him.' The letter continues by setting out the principal reasons why this information is sought by my client; namely, *inter alia,* and in brief so as not to repeat the same matters in full:

(a) to carefully consider the evidence and determine, with the benefit of careful consideration of the evidence, and in slower time whether HMGoG should continue to be a complainant; and

(b) to ask the Council of Ministers to ratify his decision for HMGoG to be a complainant in this matter; equally, with the benefit of having had the opportunity to carefully consider the evidence.

Before adding to points (a) and (b) above, I turn to note that it is unclear why the Commissioner should state in his Letter that 'it is unprecedented for such a request to be made by a complainant, let alone for the purpose of deciding whether to provide a (further) statement 'formalising' a complaint.' This statement raises various issues as follows:

1. my client does not express any view as to whether his request is unprecedented although he does express his surprise as to the Commissioner's response that it would be inappropriate to accede to his request. This is because the Commissioner continues in his Letter to state that: 'in addition to the briefing previously mentioned on 13th May 2019 … the former Commissioner of Police and the other senior officers briefed you as to Mr Sanchez's alleged misconduct on 30th April 2020.' It follows that if the RGP was willing to provide such briefings on the evidence, there should, similarly, be no difficulty in providing HMGoG with the information and documentation requested. Indeed, the former Commissioner by way of letter of 14 April 2020 wrote to my client that: '[g]iven the extent of [CS'] apparent criminality I would be happy to meet with you and outline the evidence against him [my underlining]. This may assist should there be a need to the issue of interdiction.' All the foregoing necessarily evidences that the RGP must have deemed – at all material times – that it was legally permissible, and indeed proper, to share the evidence with my client as the Chief Secretary of HMGoG and in his capacity as complainant and as CS's employer. The corollary is unthinkable, which is that the RGP shared evidence with the Chief Secretary having deemed such a course of action as unlawful and/or improper. Obviously, this cannot have been the case. This elicits the question as to why the RGP is no longer willing to furnish the Chief Secretary with the information that he seeks in his previously-cited capacities and which the RGP had no difficulty in sharing until now. As a result, the Commissioner's use of various adjectives in his Letter, such as 'unprecedented', not 'appropriate', and not 'proper' to describe my client's request for the disclosure of such evidence is, with the greatest respect to the Commissioner, incomprehensible in circumstances where the RGP had previously seen fit to brief the Chief Secretary on the evidence; and

2. further, please note that at no point in the Chief Secretary's letter of 25 September to the Commissioner does he say that the request for evidence is to decide whether to provide a further statement. This assertion is also, therefore, incorrect.

Basis for the request of information

On returning to, and repeating, points (a) and (b) above, the Chief Secretary further adds in his letter to the Commissioner of 25 September that 'he wants to ensure that the Government acts and has acted entirely properly in the manner in which we make decisions/continue to be a complainant.'

Whilst I hasten to add that the reasons that the Chief Secretary advances are perfectly clear, from a legal perspective, the Chief Secretary has a duty to brief the Council of Ministers as to why HMGoG should continue to be a complainant in this case. That the Chief Secretary should require sight of the evidence is, therefore, a natural request in seeking to understand the evidentiary position. Moreover, the Chief Secretary has at all material times agreed that HMGoG should be a complainant, primarily, but also solely and exclusively, on the basis of the RGP's various assurances and evidence briefings. My client now wishes for the opportunity to consider the evidence in slower time in order to consider the position and brief the Council of Ministers.

Again, and with due and sincere respect, the Commissioner should not conflate the Chief Secretary's willingness to agree for HMGoG to be a complainant on the basis of the evidence briefs and assurances, on the one hand, with a waiver of his right to carefully consider the evidence in slower time and satisfy himself of the various matters communicated to him by the RGP in the various briefings, on the other. From a legal standpoint, it is hard to understand the Commissioner's difficulty in sharing relevant information with my client to allow him to form a view.

The Commissioner in his Letter notes that 'regardless of any complaint or otherwise from HMGoG, the position as it stands is that Mr Sanchez has already been charged and the matter will process unless the DPP or AG is of the view that it is not in the public interest to proceed …'. To be clear, and for the avoidance of any doubt whatsoever, please note that the Chief Secretary has never suggested otherwise and that it is clear to my client that whether or not the prosecution proceeds is a matter entirely for the DPP and the AG.

It must be noted, however, that it was the Commissioner who stated to the Chief Secretary in his Email that the absence of a formal complaint by HMGoG could prejudice the criminal prosecution of the case against CS. It is as a direct result of this statement, and various other statements by the RGP, that my client, as the Chief Secretary of HMGoG, has always endeavoured to assist the RGP in this matter. The Chief Secretary's fulsome support of the RGP in its endeavours, not least in preparing three witness statements and always in reliance of the RGP's various assurances that they had a sound legal case against CS, is beyond question or reproach. Indeed, the Commissioner in his Email thanks the Chief Secretary for his 'continued assistance to the [RGP] team.' As a result, if the Chief Secretary has properly understood the tone of the Commissioner's letter to him, this is to be deprecated and regretted.

In view of all of the above, and in any case, especially for the Chief Secretary to discharge his duty to ensure that HMGoG should remain a complainant in this matter, please note that the Chief Secretary hereby repeats his request for the relevant information and documentation in the terms of his letter to the Commissioner of 25 September.

Clarification Request

Please note that, on behalf of my client, I seek to understand exactly what the Commissioner meant in his Letter when he noted his 'concern regarding [my client] seeking the views of Mr Sanchez in relation to this matter. Any communication with, including any response to the allegations made against Mr Sanchez are likely to be relevant to the investigation and therefore disclosable. This may lead to other lines of inquiry that the investigating team would need to consider.'

Whilst awaiting to hear from the Commissioner as to exactly what is meant in the last paragraph, in particular, the last sentence, various issues, once again, arise, as follows:

1. in his letter to the Commissioner of 25 September 2020, the Chief Secretary notes that he 'must also ensure that Mr Sanchez is dealt with properly, in keeping with General Orders and all his other rights, in the context of his employment as an officer of the Government.' As you will no doubt be aware from General Order 7.3.9(iii), the Chief Secretary has the right, arguably the duty as a responsible employer, to carry out his own disciplinary enquiries so long as they do not encroach or impede the RGP's investigations; and

2. moreover still, it is sincerely hoped that the Commissioner was not, in his Letter, implying any form of irregularity in the Chief Secretary undertaking disciplinary enquiries from CS as a civil servant, and as relates to the question of CS's interdiction, as to the circumstances of his arrest. (I reiterate that disciplinary enquiries are distinct and separate from the formal disciplinary proceedings under General Orders.) Surely, the Commissioner fully appreciates the needs of employers, at all times, to properly consider all relevant matters when considering interdiction in accordance with employment law and General Orders. In *Ali v Sovereign Buses (London) Ltd* UKEAT/0274/06, the court indicated that where the employer only learns of a problem when the police advise that they are bringing charges against an employee, the employer should still

undertake an investigation. Further still, I think that it is important to remember that the former Commissioner by way of letter of 14 April 2020 wrote to my client that: '[g]iven the extent of [CS'] apparent criminality I would be happy to meet with you and outline the evidence against him. This may assist should there be a need to the issue of interdiction [my underlining]. Put differently, the RGP has already accepted the existence of a direct link between the consideration of the evidence and the question of interdiction so that there should be no surprise by the same body that the Chief Secretary should require a slower and fuller examination of the evidence to assess the appropriateness of interdiction. Similarly, my client notes in his letter of 25 September that he will refer the results of his disciplinary enquiries to His Excellency the Governor so that that he 'can confirm, or otherwise determine, the reinstatement of the interdiction of Mr Sanchez also with the benefit of the same careful consideration of the evidence available at this stage.' If the former Commissioner of the RGP can meet with the Chief Secretary to brief him on evidence that forms part of a criminal investigation in respect of a civil servant and in connection with an issue that falls exclusively and solely within the Chief Secretary's purview, namely discipline, there should be no surprise that the Chief Secretary would wish to pursue whatever disciplinary enquiries may be appropriate to discharge his duties towards CS as his employer. This is provided, of course, that his investigations in no way prejudice the criminal investigations and proceedings.

I very much look forward to hearing from you in respect of the above.

With kind regards

Yours sincerely

The Hon Neil F Costa
Partner

Government Law Offices
HM Government of Gibraltar

Your Ref:
Our Ref: CMR/SB/CRIM 030/19

The Honourable Mr Neil Costa
Partner
Isolas
Portland House
Glacis Road
Gibraltar

10 November 2020

Dear Neil

RE: YOUR CLIENT: THE CHIEF SECRETARY OF HER MAJESTY'S GOVERNMENT OF GIBRALTAR ("HMGoG")

Thank you for your letter dated 6th November 2020, the contents of which are noted and which I have shared with the Commissioner of Police.

At the outset I would point out that I somewhat surprised that you have accepted instructions in this matter in light of the fact the you attended a very important meeting related to the investigation in your capacity and the then Minister for Justice held on 13th May 2019. This is of course a matter for you but it would be amiss of me not to highlight this important fact at this juncture.

I set out below my response to the maters raised in your letter:

Complaint by HMGoG

With respect, you are conflating matters somewhat. There is no doubt that HMGoG was and is a complainant in this matter as is quite clearly set out in the Commissioner of Police's ("**COP**") letter dated 29th September. The fact that this is the case is, inter alia, evident in that HMGoG is cited as a complainant in the applications for various search warrants obtained by the RGP. Indeed, as the COP points out in his letter, a verbal complaint was received from HMGoG on 13th May 2019 at a meeting held on that day ("**the Meeting**"). The lead RGP officer involved in investigating these matters was present at the Meeting and the COP was aware at all times of the outcome of the Meeting. It would be absurd for the RGP to cite HMGoG as a complainant in search warrants if it were not of the view that such a complaint had been made.

The Chief Secretary ("**CS**") had made the position quite clear in his letter to the COP dated 14th August 2020. It is evident that the CS had understood the RGP's desire to record the complaint in a witness statement and acknowledges that his understanding was that HMGoG had been considered a complainant as a result of the discussions had at the Meeting. It is worth noting that the CS himself refers to the search warrants and refers to HMGoG being cited as a complainant.

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I am informed by the RGP that various conversations were had with the CS explaining their desire to formally record the complaint in a WS from the CS, particularly in relation to the ownership of the NCIS platform and hence the computer misuse offences that flow. It is from those conversations that the COP's email of 13th July flows. Be that as it may, I would highlight once again that there is no need for a formal WS in this regard nor indeed is there a need to have any complainant at all.

I would respectfully suggest that you re-read the COP's e-mail dated 13th July 2020. He does not categorically deny the existence of a complaint; far from it. He recited the statements that the CS and others have provided and points out the desire to have a 'formal' complaint in relation to the computer misuse offences **i.e. platform ownership**.

The CS in his response dated 14th August 2020 confirms that the COP's e mail of 13th July is in relation to the making of a *"formal complaint....regarding the...(NSCIS)."* The CS further explains in the 3rd paragraph that his understanding was that HMGoG was cited as a complainant by reference to the search warrants stemming from the CM's indications at the Meeting held and ends *"...if greater or different formality is needed in order for the Government to be considered an official complainant, please do let me know."*

What comes as somewhat of a surprise is his letter, which follows on 25th September 2020. I shall return to this letter shortly.

Given the above and the comments made by the CS himself in the correspondence, it is very surprising that you should suggest that the COP's press release is not accurate. Clearly, all parties were of the view that HMGoG was a complainant as from the date of the Meeting, namely 13th May 2019. Any suggestion otherwise is, with respect, a nonsense.

Request for evidence as it relates to Mr Caine Sanchez

The position as set out in COP's letter remains unchanged and the information requested will not be provided to a non-party. I would point out that the process of disclosure in the criminal proceedings has not yet commenced let alone concluded and thus not even Mr Sanchez has received the documentary evidence held by the RGP. With all due respect, you fail to recognise the enormous distinction between an informal briefing/outline of the investigation to an employer and a party impacted by the alleged criminality, which was provided by the RGP and the provision to a non-party of *"...documentary evidence in support of the charge/s."* (as requested by CS in his letter dated 25th September). The provision of such evidence to the CS could amount to a breach of the duty of confidence owed to, for example, Mr Sanchez himself or other parties.

I am sure that on consideration you will now appreciate the distinction and assist you in comprehending the choice of language used by the COP in his letter.

For the avoidance of any doubt, let me make it clear that the RGP have not shared any evidence with the CS.

Basis for the request of information

The matters raised are matters for the CS and not for the RGP. The facts are that the RGP, in consultation with my offices, have concluded that there was sufficient evidence to lay the charges

against, inter alia, Mr Sanchez. Evidently, this involved a detailed analysis of all of the evidence and the representations received from Counsel for the Defendants.

To suggest that the CS "...requires sight of the evidence...in seeking to understand the evidentiary position" does not, for the reasons set out in this letter, bear analysis. The Crown is, at this juncture, legally unable to make available to, or share with the CS, or indeed any person other than the Defendants, the evidence it has acquired for the purpose of the investigation.

Clarification request

Most of the matters raised within this heading have been dealt with above.

For the avoidance of any doubt, no suggestion of irregularity was raised by the COP in his letter. The COP rightly pointed out that this was now an ongoing criminal matter and that care needed to be taken regarding any communications that took place between the CS and Mr Sanchez. For example, any new matters that might be raised by Mr Sanchez in such exchanges that might provide a defence in such communications would need to be considered and possibly further investigated. Indeed, in your final sentence you recognise that the CS should be alert to not prejudice the criminal investigations and proceedings. This is precisely what the COP was highlighting and is precisely why in cases such as this, disciplinary matters are usually held in abeyance pending a resolution of the criminal matter.

Interdiction or otherwise

In light of your letter, it would seem evident that Mr Sanchez is not currently interdicted contrary to what the RGP had been led to believe and what had been understood by the COP.

Whilst of course these are not matters for the COP, this would be extremely surprising in light of the seriousness of the charges facing Mr Sanchez and the fact that both the RGP and this office have, after a thorough and careful review of the evidence, considered the charging test to have been surpassed. Please confirm the position as your letter seems to suggest that at some stage Mr Sanchez was interdicted but that that interdiction was lifted for some reason:

"...there should be no surprise....that the CS should require a slower and fuller examination of the evidence to assess the appropriateness of interdiction...he will refer the results of his disciplinary enquiries to HE the Governor so that he can 'confirm, or otherwise determine, the reinstatement of the interdiction of Mr Sanchez'..."

Furthermore, on the assumption that your letter reflects the position accurately, I have no doubt that the RGP will shortly be in touch seeking any documentation and communications held in relation to the interdiction and/or lifting/reinstatement of the interdiction. It is likely that the RGP will require a further witness statement from the CS on this point. This is an issue that will be very relevant to the criminal proceedings and how the matter is subsequently presented at trial by the Crown.

Finally, I would echo the COP's request for clarification on HMGoG's desire to continue as a complainant in this matter. Our understanding is that HMGoG is and remains a complainant as ultimately set out in the CS's letter dated 14th August and confirmed in your letter of 6th instance. However, if this position has changed or were to change in the future for any reason I would be grateful

if you would advise soonest so that we may consider any impact on the ongoing proceedings against any or all of the Defendants.

Yours sincerely



Christian M Rocca QC
Director of Public Prosecutions

From:	(RGP) Ullger, Richard
To:	(RGP) Wyan, Mark (Supt 247); (RGP) Richardson, Paul (OTM)
Cc:	(RGP) Yeats, Cathal (ACOP 236)
Subject:	FW: Our client: the Chief Secretary of Her Majesty"s Government of Gibraltar
Date:	19 November 2020 17:37:30
Attachments:	Letter to DPP 19.11.20 - Signed.pdf image002.png

Gents,

FYI

Richard

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2200**

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From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: 19 November 2020 17:34
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: Fwd: Our client: the Chief Secretary of Her Majesty's Government of Gibraltar

See attached for discussion

Christian Rocca QC

Director of Public Prosecutions

Sent from my iPhone

Christian Rocca QC
Director of Public Prosecutions

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Begin forwarded message:

> **From:** Neil Costa <Neil.Costa@isolas.gi>
> **Date:** 19 November 2020 at 17:01:18 GMT+1
> **To:** "(GLO) Rocca, Christian" <christian.rocca@gibraltar.gov.gi>
> **Cc:** Sharon Truman Davies <sharon.trumandavies@isolas.gi>, Kishin Daswani <Kishin.Daswani@isolas.gi>, Aidan Plows <Aidan.Plows@isolas.gi>
> **Subject: Our client: the Chief Secretary of Her Majesty's Government of Gibraltar**
>
> Dear Christian
>
> I hope that you are well and safe.

Please find attached.

With kind regards

Neil

The Hon Neil F Costa
Partner
ISOLAS LLP

Portland House, Glacis Road, Gibraltar, GX11 1AA
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Our Ref: NC/KD/GG32-25

Christian Rocca QC
The Director of Public Prosecutions
Office of Criminal Prosecutions and Litigation
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19 November 2020

Dear Christian

Our client: the Chief Secretary of Her Majesty's Government of Gibraltar ('HMGoG')

Thank you for your letter of 10 November 2020 (the '**Response**') and for noting that you had shared my letter with the Commissioner of Police (the '**COP**'). Please note that my client has instructed me as follows hereunder:

The Complaint by HMGoG

I think that it is quite clear from your Response that the Commissioner disagrees with the Chief Secretary's understanding of the various events and matters that I set out in my letter to you of 6 November 2020 (the '**Letter**') and arising from the Commissioner's email of 13 July 2020 (the '**Email**'). My client and the Commissioner will have to agree to understand events differently, namely that whereas the Chief Secretary had, for all of the reasons that you state in your Response, and other reasons, always understood that HMGoG was a complainant, my client's understanding of the Email was that the Commissioner himself had not considered that to be the case. If the Commissioner had understood that HMGoG was a complainant by way of a verbal complaint on 13 May 2019, his request for a 'formal' or an 'official' complaint makes, with respect, no sense whatsoever. Surely, the verbal complaint was a formal or an official complaint. In fact, in your Response you state that '[i]t would be absurd for the RGP to cite HMGoG as a complainant in search warrants if it were not of the view that such a complaint had been made.' The Chief Secretary could not agree more with this statement, which is why the Commissioner's request for a 'formal' or 'official' complaint in his Email is inexplicable.

For the avoidance of any doubt, and to reiterate, it is not that my client is asserting that HMGoG was not a complainant or that the Royal Gibraltar Police ('**RGP**') issued warrants without being satisfied that HMGoG was a complainant, it is that the Commissioner's Email indicates his view that, absent a 'formal' or an 'official' complaint, HMGoG was not a complainant. His Email, again with respect, cannot be understood in any other way. It is as a result of the Email that my client reverts to express his surprise by way of his letter to the Commissioner of 14 August and to repeat his understanding that HMGoG was a complainant. It is to be noted that the Commissioner did not reply to this letter.

As I noted in my Letter, even if the Commissioner rejects my client's understanding of his Email, any objective reading of the Email certainly leads, at a minimum, to the conclusion that the Email is confusing and, more likely than not, evidences that the Commissioner did not think that HMGoG was a complainant. It is disappointing that the Commissioner has not, at the very least, agreed that the request in his Email for a 'formal' or an 'official' complaint is confusing given all the matters previous rehearsed, not least the existence of the warrants in the name of HMGoG. In any case, there is clearly no merit, as I have noted above, in taking this point further as the correspondence exchanged between us reflects that the Chief Secretary and the Commissioner are not going to agree on their respective

interpretations of the Commissioner's Email. As a result, and for the record, my client's position remains the same as that explained in my Letter.

Further, as I noted in my Letter, the Chief Secretary's understanding is set out in writing in order to explain his answers to the Commissioner's Letter of 25 September for the record and for no other reason.

Whether HMGoG will remain as a complainant

In any event, and regrettably, your Response to the Chief Secretary's entirely proper and reasonable request for relevant information and documentation relating to the charges against Caine Sanchez ('**CS**') has left the Chief Secretary in a difficult position in respect of his inability to carefully consider the evidence so as to determine whether HMGoG should continue to be a complainant. Without wishing to restate my client's position, the Chief Secretary seeks to brief the Council of Ministers as to whether HMGoG should remain a complainant in respect of the charges brought against CS with the benefit of a fuller brief of the evidence. Given that the Chief Secretary had been briefed on various occasions on the evidence against CS, it is incomprehensible that the Commissioner is refusing to provide my client with, at a minimum, a summary of the information on which he has already been briefed.

With respect, your reference to the 'enormous distinction between an informal briefing/outline of the investigation…and the provisions to a non-party of "…*documentary evidence in support of the charge/s*"' lacks a rational premise. Any previous briefing on this matter to the Chief Secretary would have necessarily involved an explanation of the evidence – indeed, the briefings could not have been based on anything else – so, refusing to provide the Chief Secretary with the information on which he has already been briefed does not, to borrow your expression, bear analysis. Further still, and as I noted in my Letter to you, the former Commissioner of Police wrote to my client to note that: [g]iven the extent of [CS'] criminality I would be happy to meet with you and <u>outline the evidence against him</u> [my underlining].' To repeat, my client now seeks to consider the evidentiary position in slower time to be able to properly advise HMGoG.

Although the legitimacy and rationale of the Chief Secretary's request for information relating to the charges against CS is patently clear, I draw your attention to the UK position where it has been established that there is no presumption against the disclosure of information by the police when there is a public interest reason for doing so (*R (on the application of L) (FC) (Appellant) v Commissioner of Police of the Metropolis* [2009] UKSC 3). It is, therefore, surprising to the Chief Secretary that the RGP should have at one point considered that there was a public interest for disclosing the relevant information to my client by way of the various evidentiary briefings, and that those briefings were entirely proper in the circumstances, but now consider that providing my client with the information relating to those same briefings is not appropriate. With respect, your arguments that seek to draw a distinction between an evidentiary briefing and evidence remind me of dancing on the head of a pin; I think that enough has been said on this point.

On having said all of the foregoing, the Chief Secretary fully accepts that the question of what information to disclose to a non-party in the circumstances, if any, is a matter entirely for you. Similarly, it is a matter for him to decide how he will advise the Council of Ministers as to whether or not HMGoG should continue to be a complainant in circumstances where he is not even afforded a summary of the evidentiary briefings previously provided.

Disciplinary enquiries

In the same vein, and as you know, the Chief Secretary has a duty to consider all relevant matters when assessing the appropriateness of interdiction in accordance with Gibraltar's employment law and General Orders. Given the RGP's sudden change in attitude in refusing to provide to my client the information requested – or even a summary of the briefings provided to him to date - it really does not lie in the mouth of the RGP to say whether interdiction should or should not take place or what is or is not 'surprising in the circumstances'. Highly regrettably, and due to

the refusal to provide the Chief Secretary with any further information or a written summary of what has already been provided, my client will inevitably have to determine the issue based on the material that is available to him and, ultimately, without the benefit of all the relevant information. As a result, my client will continue to discharge his responsibilities as the employer of CS in accordance with General Orders, general employment law, and relevant employment guidance documents.

Clarification request

The Chief Secretary is relieved to read that there is no suggestion from the Commissioner of any impropriety as to the Chief Secretary; my client extends his gratitude for the clarification. The Chief Secretary accepts that care needs to be taken regarding any communications that take place between the Chief Secretary and CS and that any disciplinary enquiries that the Chief Secretary undertakes must at all times comply with General Orders, general employment law, and relevant employment guidance documents.

Conflict of interest

Separately, in your Response you express surprise in my having accepted instructions in this matter. You explain that this is because on 13 May 2019, I attended 'a very important meeting related to the investigation' (the '**Meeting**') in my capacity as the then Minister for Justice. With respect, it is somewhat irrational that you should raise a potential conflict of interest in relation to my attendance at a meeting where you were also present. Given that the RGP does not instruct you and is not your client, you could, similarly, be called to testify as to the events in that meeting. It is self-evidently the case that you have not deemed yourself conflicted in prosecuting this case by having attended that meeting. In the circumstances, even if there was a conflict, which for the reasons that I set out below there is not, then, clearly, and undoubtedly, you too would be conflicted.

In addition to the foregoing, the reference to a potential conflict in your Letter is, with respect, entirely misconceived. I take the opportunity of referring you to the UK Bar Standards Board Code of Conduct (the '**BSB Code**'), which, as you know, is applicable in Gibraltar by virtue of section 33(2) of the Supreme Court Act.

Kindly note that Conduct Rule 21.2 of the BSB Code provides, *inter alia*, the following:

'You must not accept instructions to act in a particular matter if … there is a conflict of interest, or real risk of conflict of interest, between your own personal interests and the interests of the prospective client in respect of the particular matter…'.

If I understand from your Response that you are indicating that there could be a risk of a conflict between my personal interests and the interests of the Chief Secretary, the question that arises is the point at which my personal interests could conflict with the Chief Secretary's interests in: (a) representing him to seek the relevant information from you as the Director of Public Prosecutions, and the laws relating to such a request, for my client to determine whether HMGoG should continue to be a complainant; and (b) advising him as to his obligations as CS's employer. If one were to apply one's mind to this question, the only possible conclusion is that there is no point in time in which my personal interests could ever conflict with the Chief Secretary's interests in carrying out my instructions due to my attendance at the Meeting. Put differently, there is no impediment whatsoever in being able to fulfil my obligations to act in the Chief Secretary's best interests.

Further still, as you yourself note at page 2 of your Response, the Chief Secretary is a 'non-party' to the criminal proceedings and my advice, therefore, does not extend to representation at trial of the Chief Secretary but, rather, the

two discrete matters set out above. Once again, therefore, it is impossible for my personal interests to conflict with that of the Chief Secretary's.

Moreover, in circumstances where the Chief Secretary is, and has always been, fully aware that I had attended the Meeting in my capacity as the then Minister for Justice, and in circumstances where the Chief Secretary has expressly provided his consent for me to represent him in this matter notwithstanding my presence at the Meeting, there can be no question of a conflict of interest.

Further still, and without wishing to belabour the point, Guidance Rule 73 of the BSB Code provides as follows:

'Rule rC21.10 is an aspect of your broader obligation to maintain your independence (CD4). Your ability to perform your duty to the court (CD1) and act in the best interests of your client (CD2) may be put at risk if you act in circumstances where your independence is compromised. Examples of when you may not be able to maintain your independence include appearing as an advocate in a matter in which you are likely to be called as a witness (unless the matter on which you are likely to be called as a witness is peripheral or minor in the context of the litigation as a whole and is unlikely to lead to your involvement in the matter being challenged at a later date). However, if you are planning to withdraw from a case because it appears that you are likely to be a witness on a material question of fact, you should only withdraw if you can do so without jeopardising the client's interests.'

In the light of the above, therefore, even in the event that I am called as a witness by you or the defence:

(a) I am not appearing as an advocate in the criminal case and, therefore, Guidance Rule 73 is inapplicable; and

(b) even if I were to be incorrect as to the inapplicability of Guidance Rule 73 that evidently applies to representation in court as an advocate, any and all matters that I would be asked to speak about in court will not have any bearing whatsoever on my ability to perform my duty to the court and act in the best interests of the Chief Secretary; there is not a single impediment in maintaining my independence. Again, therefore, there can be no question of any contradiction between the matters I could be asked to attest in evidence and the interests of my client.

In any case, and for the avoidance of any doubt whatsoever, there is nothing in my having attended the Meeting that could in any way prejudice my ability to perform my duty to the court if called to give evidence nor to fulfil my obligation to act in the best interests of the Chief Secretary. I will always speak the truth and my representation of the Chief Secretary's interests will always remain fearless within the bounds of the law and my professional obligations.

Notwithstanding the foregoing, as you correctly state at page 1 of your Response, whether or not there could be a potential risk of conflict is a matter for my client and I. Frankly, given the perfectly fair and good faith reasons that led my client to write to the Commissioner, namely, to clear any confusion, to be able to advise HMGoG whether to remain a complainant, and to endeavour to explain his obligations as employer to CS, it is extremely disappointing that a potential risk of conflict has been raised, which, for all of the reasons set out above, not even the risk of a conflict arises let alone an actual conflict.

Conclusion

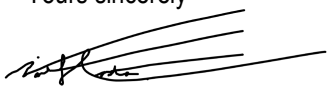
Kindly note that unless the RGP is willing to change its position to provide the Chief Secretary with the requested information or, at the very least, a written summary of the information that has already been provided to the Chief Secretary by virtue of the evidentiary briefings, the Chief Secretary will not entertain any further correspondence on this subject. If the position remains unchanged, there is clearly very little point in any further exchanges. As a result, the Chief Secretary will proceed to advise the Council of Ministers on the basis of the information that is available to

him. Similarly, he will proceed on disciplinary matters in accordance with General Orders and Gibraltar's employment law.

Should you revisit your decision and accede to the Chief Secretary's request to provide the further information that he requested in his letter of 25 September 2020, or furnish him with the degree of information and/or documentation that has already been provided to him, I would be grateful to hear from you.

With kind regards

Yours sincerely



The Hon Neil F Costa
Partner

From: (RGP) Ullger, Richard
To: (OCPL) Rocca, Christian
Cc: (RGP) Richardson, Paul (OTM); (RGP) Wyan, Mark (Supt 247)
Subject: RE: Second draft
Date: 20 November 2020 11:13:46
Attachments: image001.png

Dear Chris,

Following our collective discussions we have put together some thoughts that you may wish to consider and add:

1. Complaint by HMGoG – The matter around the 'formal complaint' continues to be convoluted by NC and the CS and I would add at the end of you last sentence…***which the CS in my view appears to have understood in his reply to the Commissioner in his letter on the 14th of August 2020, when he states…'Be that as it may, let me state on behalf of the Government that it is willing to be a formal complainant in this matter if it has not been considered so up until this point.'***

2. Whether HMGoG will remain as complainant -
   a. We do not agree that the COP has refused to provide to the evidence requested. The DPP has conduct of the matter post-charge and has refused to disclose any evidence at THIS stage. This in our view should be made clear.
   b. In our view the disclosure of the Summary of Evidence (already provided to the defendants) to the Chief Secretary would not appear to compromise any proceedings, however the OCPL has formed the view that it is not appropriate and that is worth noting that the decision is his. That said the assertion the COP is refusing to provide the evidence is incorrect and needs addressing.
   c. In our experience we have never encountered a situation where the Chief Secretary has had to provide evidence to the Council of Ministers in order to determine whether HMGoG will make a formal complaint. There are many instances to the contrary where we have acted on complaints made on behalf of the Government that to our knowledge have never necessitated a referral to the Council of Ministers. It may we worth considering whether this to be the case in the future? It was for this reason that we referred the matter to the Chief Secretary and if the position now is that we needs the consent of the council of Ministers in order to make a complaint then it suggests that we should have approached them direct rather than through an intermediary.

3. Disciplinary Enquiries with regards to the 'RGP's sudden change in attitude in refusing to provide' the information it should be clarified that the RGP is not refusing rather the decision lies with the DPP post –charge.

4. Conclusion ' Unless the RGP is willing to change its position' please see 2a.
   a. 'Similarly, he will proceed on disciplinary matters' It would appear that any disciplinary proceedings that start in the absence of evidence is designed to fail from the onset, and furthermore it would be absurd considering the risk that CS may be found guilty of a criminal charge before the Supreme Court.

Happy to discuss further if you so wish.

With best wishes

Richard

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2200**

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From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: 20 November 2020 10:30
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: Second draft

Dear Neil,

Many thanks for your letter of 19th November.

Complaint by HMGoG

I am delighted to see that we agree that HMGoG has been a complainant since 13th May 2019. Any other interpretation of the facts bears no analysis.

I do not propose to respond in detail to this part of your letter but suffice to say that the

correspondence between the CS and the RGP only makes sense when having regard to the telephone conversations that were had with the CS regarding the making of a 'formal' complaint (I.e. reducing the complaint to a written witness statement). Indeed, contrary to what you suggest, the Commissioner's email can only be explained in that way.

Whether HMGoG will remain as a complainant

This issue is now largely academic given that proceedings are now afoot and statements taken. Accordingly, I do not propose to rehearse the authorities in this area. Suffice to say that I disagree wholly with your view and documentary evidence will not be provided as requested. I do, however, note that what was a request by the CS for documentary evidence has now been watered down to a request for a summary of information. The CS has already been briefed, as you rightly point out, and hence will have that information to hand. I do not see the point in providing him with a summary of that briefing. I am sure he will have made or will be able to make a note of that briefing for whatever purpose he sees fit.

It is evident that HMGoG has, since May 2019, considered itself to be a Complainant in this matter. I am sure that such an important decision was taken most carefully based on the briefings that were provided on various occasions.

Disciplinary Enquiries

I note that yet again you have failed to provide a clear response on the question of Mr Sanchez's continued interdiction.

If the position has changed as regards his interdiction I am sure that you appreciate the importance of that information in the presentation of the case for the Prosecution at trial and, indeed, in considering any impact on the decision to proceed on certain charges. I would be grateful for a clear and unequivocal response as previously requested.

Conflict of interest

Whether there is a conflict of interest now or in the future is a matter for you. However, it would have been amiss of me not to have reminded you of your involvement as Minister for Justice at the first meeting in 2019. I have no doubt that if a conflict arises at any time you will act properly and in accordance with professional standards.

Your comparison with my own position does not, with respect, bear any analysis. I attended the meeting as DPP and continue to act as DPP. Starkly different to the position in which you find yourself.

Conclusion

With the exception of the clarification sought on the continued interdiction of Mr Sanchez, I agree that further correspondence will be pointless as regards the matters raised.

Christian Rocca QC
Director of Public Prosecutions

Sent from my iPhone

Christian Rocca QC

Director of Public Prosecutions

Office of Criminal Prosecutions & Litigation
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HM Government of Gibraltar
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From: (RGP) Richardson, Paul (OTM)
To: (RGP) Ullger, Richard (COP 235)
Cc: (RGP) Wyan, Mark (Supt 247)
Subject: FW: Govt Department Complaints
Date: 20 November 2020 12:30:34
Attachments: image002.png
Govt Complaints.xlsx
image004.png

Sir,

PSB for examples of cases prosecuted where HMGOG is a complainant and the matter was not referred to the Council of Ministers to our knowledge.

Kind regards

Paul

Paul Richardson OTM
Superintendent

Professionalism Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]

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From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 20 November 2020 12:18
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: FW: Govt Department Complaints

Sir,

We discussed other complaints by HMGoG. Please see the attached document for examples.

Kind Regards,

Mark

From: (RGP) Wood, Tamara <tamara.wood@royalgib.police.gi>
Sent: 20 November 2020 11:25
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: Govt Department Complaints

Hi Mark,

I have managed to extract the information and included Crime number, date reported, Person reporting, Aggrieved (included some govt owned companies, delete if not necessary) , offence and Details of the MO.
I haven't sorted the info for you as I don't really know what you are doing with it lol The GHA forgery is highlighted in yellow.

If you need any further info let me know.

Regards

Tamara

Tamara Wood
Executive Officer
Records Department

Professionalism Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 50177 Centrex: **3964**

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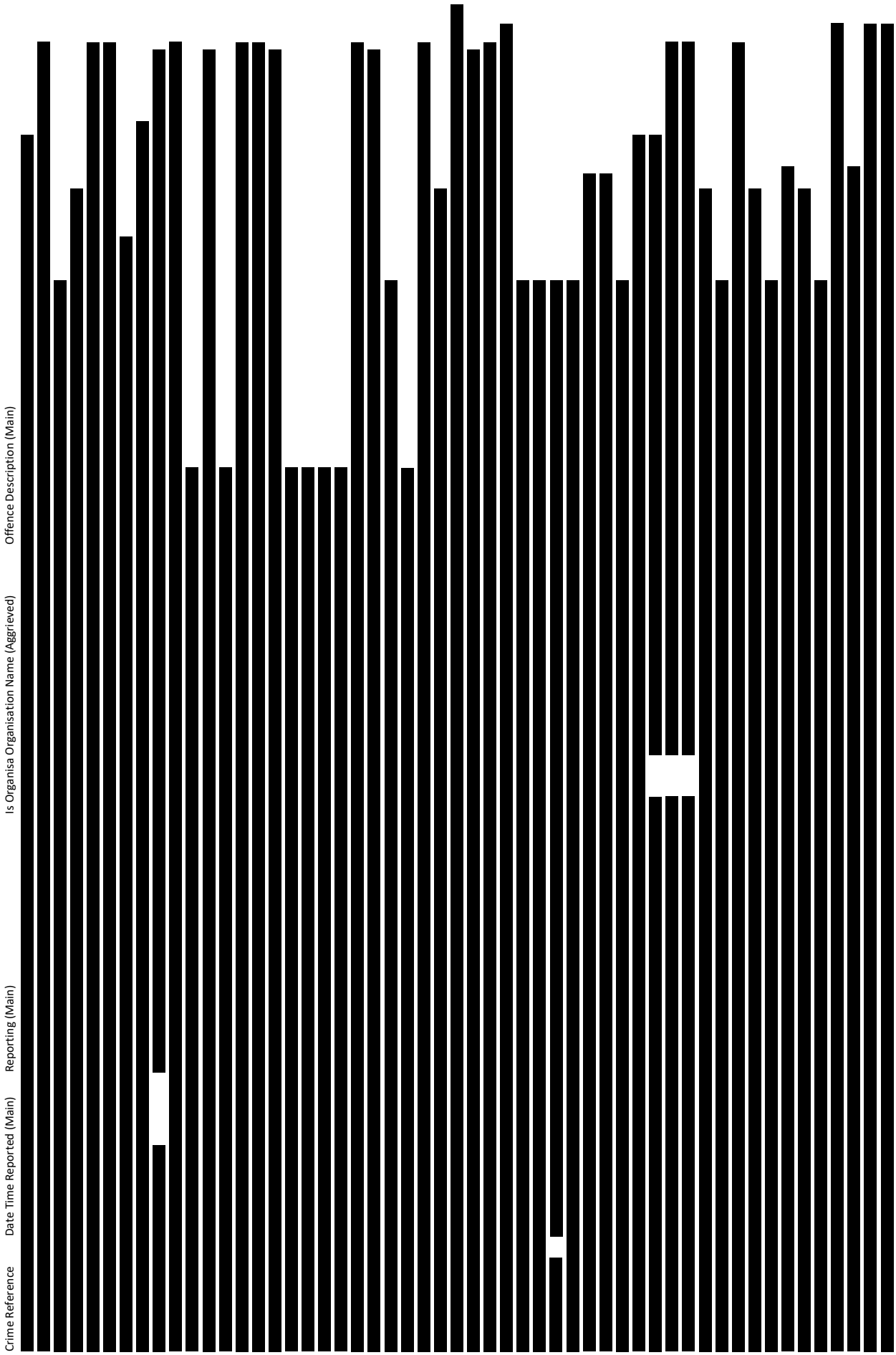
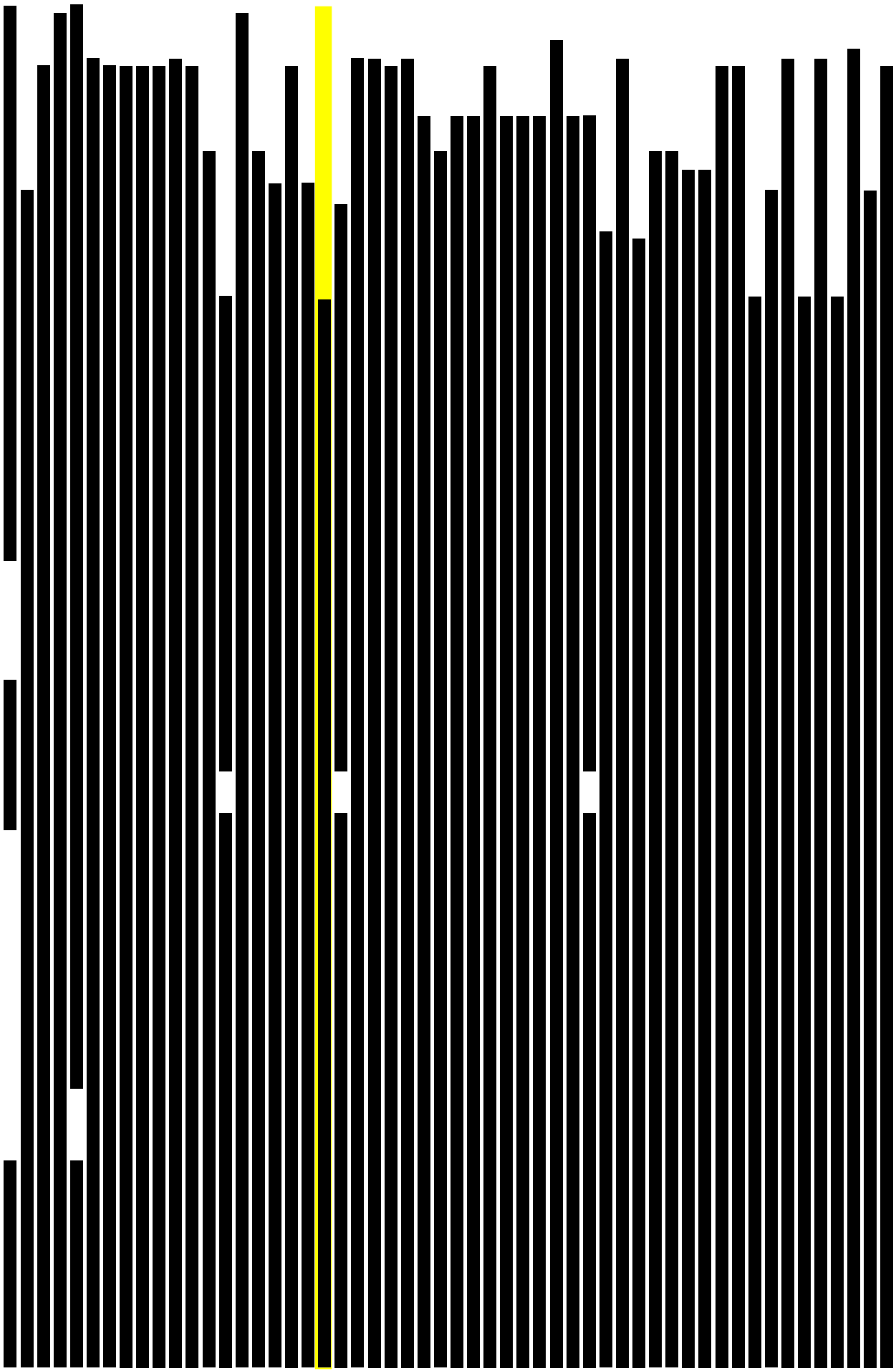
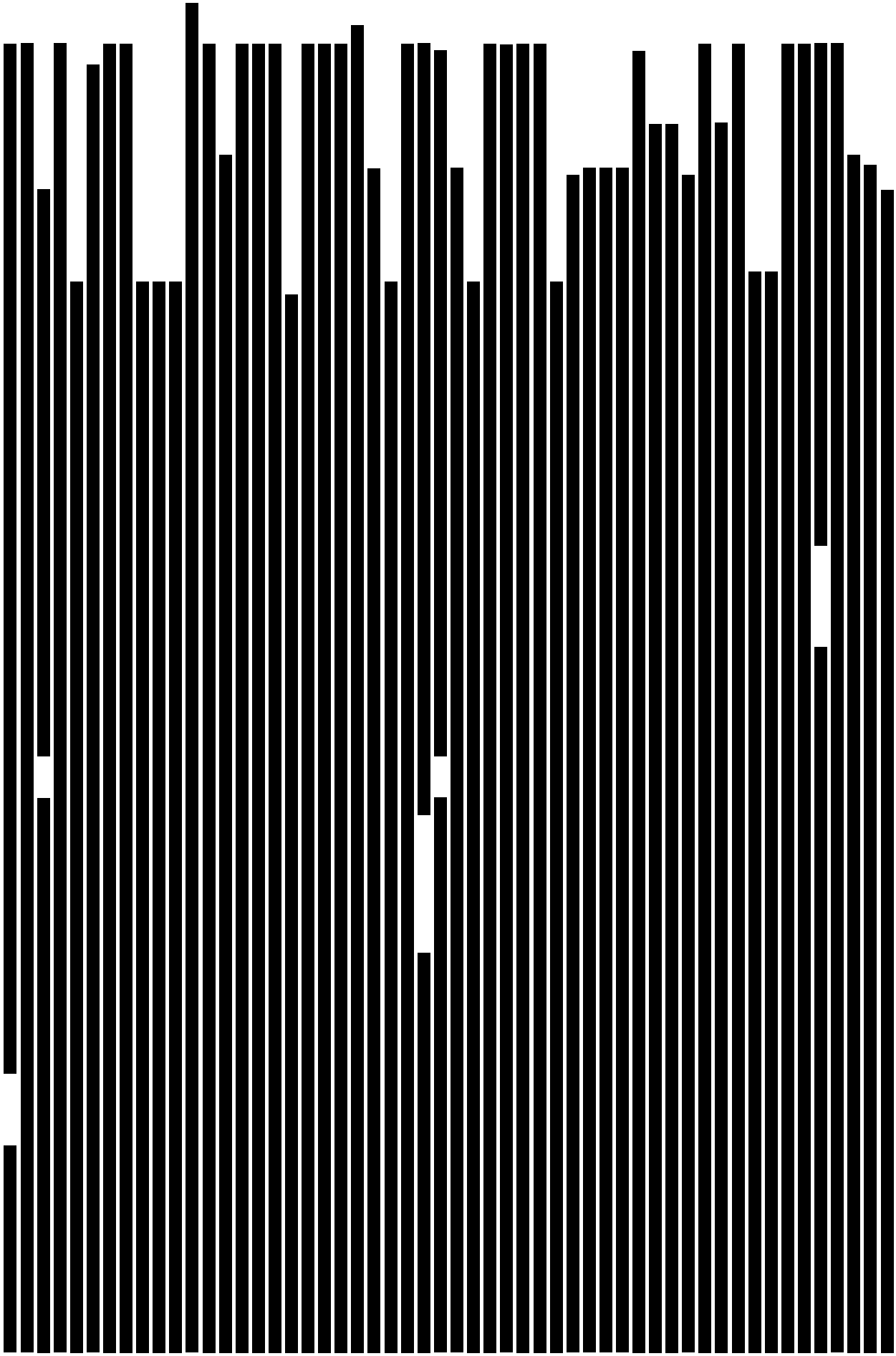
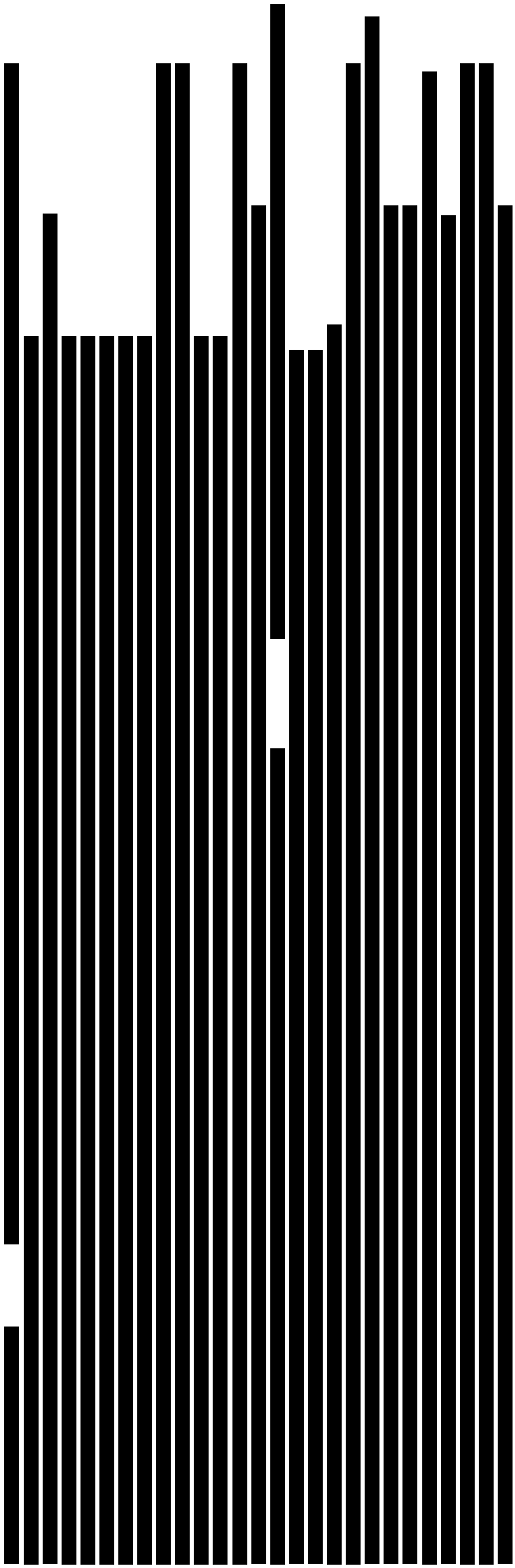

Crime Reference
Date Time Reported (Main)
Reporting (Main)
Is Organisa Organisation Name (Aggrieved)
Offence Description (Main)







From:	(RGP) Wyan, Mark
To:	(GLO) Zammit, Mark Clive
Cc:	(RGP) Richardson, Paul (OTM)
Subject:	RE: Letter from Chief Secretary - R v Perez, Cornelio and Sanchez
Date:	09 June 2021 09:51:49
Attachments:	image002.png

Dear Mark,

Thank you for providing a copy of the letter from Mr Grech. As the OIC I do not consider that the contents of the letter are required for the prosecution case. I will however pass it on to the disclosure officer for consideration of whether it undermines the prosecution / assists the defence.

Whilst the disclosure of the prosecution summary is a matter for the DPP to consider, I would like to clarify that on behalf of the RGP [and whilst irregular] we do not have any objection to its revelation to Mr Grech.

Kind Regards,

Mark

Mark Wyan
Chief Inspector

Corporate Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 63024 Centrex: 2273

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From: (GLO) Zammit, Mark Clive <mark.clive.zammit@gibraltar.gov.gi>
Sent: 09 June 2021 09:25
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>

Subject: FW: Letter from Chief Secretary - R v Perez, Cornelio and Sanchez

From: "(NO6) Corby, Giselle" <giselle.corby@gibraltar.gov.gi>
Date: 8 June 2021 at 16:12:35 GMT+2
To: "(GLO) Rocca, Christian" <christian.rocca@gibraltar.gov.gi>
Subject: Letter from Chief Secretary - R v Perez, Cornelio and Sanchez

Dear Mr Rocca

Please find attached a letter from the Chief Secretary on the above.

Regards
Giselle

Giselle Corby
Personal Secretary to the Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20051752
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Office of the Chief Secretary

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Mark Clive Zammit
Crown Counsel

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Office of the Chief Secretary

Your ref:
Our ref:

Christian Rocca QC
The Director of Public Prosecutions
Office of Criminal Prosecutions and Litigation
Natwest House
57/63 Line Wall Road
Gibraltar

8th June 2021

Dear Christian

I write in relation to R v Perez, Cornelio and Sanchez.

Please note that on having carefully considered the position as it relates to Mr Caine Sanchez, and for the reasons that I set out below, I, on behalf of Her Majesty's Government of Gibraltar ("**HMGoG**"), no longer consider that I have a basis on which to continue to be a complainant against Mr Sanchez in this matter.

As you know, to date, I, on behalf of HMGoG, have stood as a complainant against Mr Sanchez solely and exclusively on the basis of the Royal Gibraltar Police's (the "**RGP**") various assurances and evidence briefings, principally to me, in relation to the offences with which Mr Sanchez has been charged.

By virtue of a letter that I sent to the Commissioner of Police (the "**Commissioner**") on 25th September 2020, and two letters of 6th November 2020 and 19th November 2020 that Isolas sent to you on my behalf, I requested details of the facts alleged against Mr Sanchez, the key aspects of how the RGP alleges that the offences are made out and any documentary evidence in support of the charges which stand in the name of the Government as a complainant against Mr Sanchez. You will recall that the purpose of my request was so that:

1. I could confirm to the Commissioner (with the benefit of careful consideration of the evidence the RGP's investigation has, with HMGoG's cooperation, uncovered), my position that the complaint should proceed in the name of HMGoG.

2. The Council of Ministers could ratify my decision for HMGoG to proceed to be a complainant in this sensitive matter and with the benefit of the same careful consideration of the evidence in respect of the HMGoG's role as complainant.

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3. His Excellency the Governor could confirm, or otherwise determine, the reinstatement of the interdiction of Mr Sanchez also with the benefit of the same careful consideration of the evidence available at that stage.

4. HMGoG could act entirely properly, in keeping with General Orders and all Mr Sanchez's other rights, in the context of his employment as an officer of HMGoG.

Regrettably, for the reasons provided in the Commissioner's letter to me of 29th September 2020, and your letters to Isolas of 10th November 2020 and 20th November 2020, you declined to provide me with any of the information that I requested. You will recall that I was even willing to accept '...at the very least, a written summary of the information that has already been provided to [me] by virtue of the evidentiary briefings...' (letter of 19th November 2020 from Isolas to the Director of Public Prosecutions). This suggestion was also rejected. Given that I had been briefed on various occasions on the evidence against Mr Sanchez, I am still at a loss to understand the reasons for the refusal to provide me with, at a minimum, a summary of the information on which I had already been briefed. Please note that, at this juncture, I would have to insist on receiving the information and documentation that I requested in my letter to the Commissioner of 25th September 2020 should you wish to review your position and provide me with the said information and documentation.

In the circumstances, and as a result of not having been provided with any of the information and documentation requested in respect of the charges brought against Mr Sanchez, I, on behalf of HMGoG, no longer consider that I have a basis on which to continue to be a complainant against Mr Sanchez.

I note from the Commissioner's letter to me of 29th September 2020 that 'regardless of any complaint or otherwise from HMGoG, the position as it stands is that Mr Sanchez has already been charged and the matter will proceed unless the DPP or AG is of the view that it is not in the public interest to proceed...'. As I have previously noted, I reiterate that I have never stated otherwise, and I know that whether or not the prosecution proceeds is, of course, a matter entirely for you and for the Attorney General. In this respect, you can continue to count on my support as may be required by the RGP's investigations, including in providing additional witness statements.

I trust that the above is clear but please do not hesitate to contact me should you require anything further.

Yours sincerely

Darren Grech
Chief Secretary

From: (RGP) Wyan, Mark
To: "(RGP) Ullger, Richard"
Cc: "(RGP) Yeats, Cathal"
Subject: FW: Mr Caine Sanchez
Date: 28 October 2021 12:34:00
Attachments: image002.png
Sanchez letter to CS 13 April 2021.pdf
Importance: High

Sir,

Please find below the email that I recently sent to the Chief Secretary.

Kind Regards,

Mark

From: (RGP) Wyan, Mark
Sent: 27 October 2021 20:02
To: '(NO6) Grech, Darren' <darren.grech@gibraltar.gov.gi>
Subject: Mr Caine Sanchez
Importance: High

Dear Mr Grech,

RE: Mr Caine Sanchez

I trust this email finds you well.

I have been informed by the OCPL that on the 17th October 2021 they received an email from those acting for Caine Sanchez together with the attached document. The document is addressed to yourself and includes explanations from Mr Sanchez in respect of his actions relating to the NSCIS platform. It is thereby relevant to the ongoing judicial proceedings. It is my understanding that this document is now being relied upon by the defence in support of representations they are making to the prosecution.

There are some concerns that Mr Sanchez [being a defendant in a criminal matter] contacted you directly [and not via his legal advisor] in relation to an investigation in which you are a witness. Moreover, he pointed you to specific details of witness statements which form part of the criminal proceedings.

In the circumstances I would be grateful if you could confirm whether you have received any other communication from Mr Sanchez that may be relevant to the current proceedings. Moreover, given that the document is purportedly dated the 13th April 2021, I would respectfully ask you to confirm whether the document [or any other sent to you by Mr Sanchez] had any bearing on your decision to withdraw your complaint against him in your letter to Mr Rocca QC of the 8th June 2021.

Kind regards,

Mark

Mark Wyan
Superintendent (Des.)

Professionalism Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]





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Dear Darren

As you are aware I was arrested and subsequently charged on various criminal charges connected to the National Security Central Intelligence System (NSCIS).

I am writing to you as I was the person responsible for the establishment and maintenance of the NSCIS and feel compelled [redacted]

It is clear beyond any doubt that my position and role within the Civil Service was that of the Data Controller for the NSCIS. I was the Principal Secretary to the Office of the Deputy Chief Minister and Head of the government department with responsibility for the establishment, maintenance and operation of NSCIS, including its confidentiality, integrity and availability.

This was correct at the outset when establishing the NSCIS for the purposes of border queue information gathering for EU lobbying/statistical purposes, and which processing is governed by the GDPR and Part II of our Data Protection Act 2004 (DPA04).

It was also correct subsequently, when NSCIS use was later on expanded to cover Law Enforcement Processing purposes, and which processing is governed by Part III of our DPA04.

For ease of reference our DPA04 defines what a Data Controller is both in terms of Part II (GDPR processing) and Part III (Law Enforcement Processing). In summary, it is the person or competent authority who:

(a) determines both the purpose and the means of the processing, or (b)

processes personal data pursuant to an enactment.

I refer to your first Witness Statement of 21st January 2020, when speaking in general terms of my NSCIS role: you stated that I had “complete responsibility for the NSCIS” and that I “did not report to anybody”. As such I would have had “complete autonomy in this area.”

The role of Bland Ltd (Bland) on the other hand, was limited to that of a Data Processor and no further.

A Data Processor, as defined in the DPA04, is the person or entity which processes personal data *on behalf of* (emphasis added) a Data Controller.

Bland were engaged by me at the outset to set up the NSCIS on behalf of the Office of the Deputy Chief Minister, including purchasing hardware in order to fit the specific operational needs of the NSCIS as specified by me

I also engaged Bland to write up the operating software of the NSCIS, and to operate and maintain the NSCIS on behalf of my department.

These tasks necessarily required giving Bland access to personal data within the NSCIS for the exclusive purpose of fulfilling their operational and maintenance duties, thereby bringing their processing into scope of the GDPR and DPA04 and their role as a Data Processor.

It is also important to understand that Bland did not have any authority to process any NSCIS personal data for itself –it neither determined "the purpose" or "the manner" of any processing - and to the extent that Bland were authorised to process any NSCIS personal data it was required to do so on my instructions and at my request for the sole purposes of fulfilling their operational and maintenance duties which they were carrying out at my request on my behalf.

To illustrate our respective and distinct roles further, as part of my Data Controller tasks, I had the sole responsibility of considering requests for the disclosure of NSCIS footage from local law enforcement bodies or third parties. (Such requests were more common at the outset when processing under the NSCIS was limited to information gathering for EU lobbying/statistical purposes.)

In any event, all such disclosure requests were made exclusively to me for consideration. Only if I thought appropriate, would I then authorise Bland to release the relevant footage to the requesting party.

In other words, in the context of such disclosure requests, law enforcement bodies (and any anyone else asking for NSCIS footage) were required to approach the Data Controller for permission, and only when authorised by the Data Controller, would such data be disclosed via the Data Processor upon the Data Controller's specific instructions to the Data Processor.

Furthermore, because of the sensitive nature of personal data processed within the NSCIS, I stipulated specific access controls so that only individuals authorised by me (including Bland employees) were allowed to be given varying degrees of access to NSCIS data or the system itself.

My approval was conditional on a vetting procedure. This involved running a Police check on any proposed individual to whom access was being considered, which was then followed up with a face-to-face interview with me.

I had the final and only say on whether to approve or deny access (as well as the actual level of access) to the NSCIS and its data following that interview.

In addition, where I had agreed to grant access, it was a prerequisite for such individuals to sign an Official Secrets Act Confidentiality Undertaking .

As mentioned above, over time, the scope of the NSCIS grew to include law enforcement purposes and it evolved into a user interface which connected various modular systems used by the office of the Deputy Chief Minister, other government departments and law enforcement bodies in Gibraltar.

This meant granting direct viewing and retrieval permissions of NSCIS data to local law enforcement bodies, including the RGP, the BCA, Port Authority, and HM Customs (each a 'Recipient').

Note all Recipients also became Data Controllers in their own right, but only in respect of the NSCIS information they each used and had specific access to, and which was limited to, and relevant for, their respective and unique processing requirements as determined by me having regard to their individual operational needs.

It is important to understand that none of these Recipients were Data Controllers of the NSCIS itself; none of them had access to back codes of the operating software; and none of them had administrator privileges. The control over all such privileges were retained exclusively by me at all times.

Further, my department remained the Data Controller with responsibility for the system itself, retaining overall control over its access, as well as its operation, maintenance, confidentiality, integrity and availability.

To the extent that any codes or admin privileges were granted by me to Bland it was done in order for them to be able to carry out maintenance duties and ensure the system's operability. For the avoidance of doubt Bland had no authority to forward such codes or privileges to third parties – and even within their own organisation access (and the extent of access) was limited to individuals specifically authorised by me in line with my established access controls.

It is also worth mentioning that the additional use of the NSCIS for law enforcement purposes complicated the technical aspect of the platform given the diverse operational requirements of each of these different Recipients, and the requirement for a high degree of interoperability with other databases and modules such as Interpol.

As a result, the software needed to power this additional use became, and is, fairly volatile. It needs regular and constant management and updates, which if not done, undermines the ongoing availability and integrity of NSCIS data.

As part of Bland's maintenance duties, they were responsible for updating the software to ensure its continued availability and integrity and thus remaining fit for purpose.

It is only now, after my arrest, and in the absence of any prior training, that I have had the benefit of data protection advice and I now appreciate some of the obligations imposed on Data Controllers and Data Processors when processing personal data – both from a GDPR perspective - and also from a law enforcement perspective.

While a full analysis of the applicable rules is simply not possible in a letter such as this, [redacted]

To assist I have therefore set out in Table A some of the pressing data protection obligations which fall on Data Controllers from a high level perspective.

Nevertheless, I also urge a full review of all processes, procedures and agreements associated with the NSCIS to ensure a full compliance program with both the GDPR and Part III of the DPA04.

In a nutshell, you will need to conduct a GDPR and DPA04 gap analysis and then bridge areas of non-compliance by introducing appropriate policies and procedures including, organisational and technical measures.

The reason for this is because data protection law requires Data Controllers and Data Processors to be able to demonstrate compliance (under the key principle of "accountability") by having proper policies and documented procedures in place. Failure to have such policies and documents in place is a fundamental breach of data protection legislation.

Note however none were ever implemented as far as the NSCIS itself is concerned, and this needs to be remedied with immediate effect.

In addition, I also wish to highlight some serious irregularities and actual breaches of applicable data protection legislation specific to the NSCIS.

1. Breach of access controls by Bland and/or their employee

As stated above any person engaged to work on the NSCIS would need to have been approved by me as the system's Data Controller after Police vetting, interview and signing of Official Secrets Act Confidentiality Declaration.

Bland was fully aware of this following a meeting at No 6 Convent Place on 25 July 2018 between Jonathan Galliano, Thomas Cornelio and myself in which I explicitly set out these strict access controls.

In addition, such instructions were repeated by me in writing[1].

Notwithstanding these clear instructions, Jonathan Galliano, an employee of Bland, accessed the NSCIS backend master databases and modified system data without having been approved by me in order to obtain an elevated user account that would provide him with administrative access to all data within the NSCIS system.[2]

It is unknown whether Mr Galliano was acting of his own volition or on the instructions of his employers.

Regardless, it is clear that such unauthorised access was entirely unlawful and contrary to my clear and explicit written instructions and in breach of both the GDPR Art 28(3)(a) and (b), the standards required by Art 32 in terms of security and ss.66 and 75 Chapter 4, Part III of the DPA04 in the context of law enforcement purposes.

In addition, I refer you to s.175 of the DPA04 which makes it a criminal offence for a person to knowingly or recklessly obtain personal data without the consent of the controller.

2. The unauthorised and unlawful use of Sub Processors by Bland in respect of NSCIS contrary to the provisions of GDPR Art 28, and s.68 of Chapter 4, Part III of the DPA 04 for Law Enforcement Processing, and in direct contravention of the Data Controller's existing access controls and procedures:

A Data Processor may only engage the services of a Sub Processor in accordance with GDPR Art 28, and s.68 of Chapter 4, Part III of the DPA04 for Law Enforcement Processing purposes.

In particular:

- the Processor is required to obtain the Data Controller's prior written consent before a Sub Processor can be engaged, or in the case of a general authorisation, the processor must notify the Data Controller if it proposes to add to or replace any Sub Processors;
- the Processor needs to impose at least the same data protection obligations on a Sub Processor as stipulated by GDPR Art 28, and s.68. of Chapter 4, Part III of the DPA 04. As such, a Processor must ensure in respect of any Sub Processor that:
    - the Sub Processor does not process personal data except on instructions from the Data Controller
    - persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate duty of confidentiality

[1] See my email to Jonathan Galliano of 9 August 2018

[2] See email from Mr Galiano to Mr Cornelio on 7 October 2018

- the Sub Processor takes appropriate security measures.

From the evidence available, it is clear that Bland breached these provisions on at least 3 separate occasions and deliberately ignored my access controls as follows:

i. Infosec/Red Maple Technologies – Bland engaged the services of Infosec/Red Maple Technologies to work on the NSCIS in or around 12 October 2018 without my knowledge or consent[3] .

Furthermore, Bland gave unlawful access to the NSCIS (and as a consequence access to NSCIS personal data including all servers and equipment) to employees of Infosec/Red Maple Technologies without going through, and in breach of existing access controls specified by me with regards to Police vetting, interview and the signing of Official Secrets Act Confidentiality Declaration.

Known Infosec/Red Maple Technologies employees who were given access without my prior approval are Robert Stemp and a Mr/Mrs Mason.

Further, having read Robert Stemp's statement of 20th April 2019, it is evident that Infosec/Red Maple Technologies have been running the NSCIS without my prior knowledge or consent since October 2018 in breach of the rules relating to Sub Processors.

Also, the fact that the system was being remotely accessed[4] would have likely required a Data Protection Impact Assessment (DPIA) to assess and mitigate any identified risks given the sensitivity of the data processed by the NSCIS and the increased risks presented by remote access compared to physical access.

ii. PWC – were similarly engaged by Bland to work on the NSCIS in or around 15 October 2018, again without my knowledge or consent[5].

Bland gave PWC access to the NSCIS and given the scope of PWC's engagement[6], PWC

would also have had to have additionally been given access to the system's codes and NSCIS related data, including personal data.

As with Infosec/Red Maple Technologies, Bland did not follow all the existing access controls specified by me and unlawfully gave access to the NSCIS and its personal data to PWC employees. I know that Jonathan Holmes, Oliver Smith and Ronan Magee arrived in

[3] See Witness Statement of Jonathan Galliano dated 8 December 2019
[4] See Witness Statement of Robert Stemp dated 20 April 2019
[5] See Witness Statement of Jonathan Galliano dated 8 December 2019
[6] See Witness Statement of Jonathan Galliano dated 11 September 2020

Gibraltar on 15th October 2018[7] and worked on the system for a period of 5 days. Thereafter they worked remotely per PWC's own report of 23 April 2019.

As with Infosec/Red Maple Technologies, a DPIA should have been considered with regards to remote accessing of the system as per GDPR Art 35 and s.73 of the DPA04.

Additionally, and as a separate point, I refer to Peter Canessa's witness statement of 29 August 2019 in which he stated "*on 6th November 2018, I received an update on the NSCIS matter from John-Paul Payas, General Manager of OSG, a subsidiary company of Bland. He informed me that James Gaggero had sought the assistance of accountancy and audit firm Pricewaterhouse Coopers (PWC) who had produced a report. I requested that the Chief Minister be appraised of this report.*"

It is unclear if Mr Canessa, or anyone else within the Office of the Chief Minister, had actually authorised the PWC report or their work generally on the NSCIS.

However, for the avoidance of doubt, I was the only person with the requisite authority to be able to properly authorise a particular processing in respect of the NSCIS. The PWC report was not so authorised.

Further to the extent that the PWC Report required its authors to have access to NSCIS Personal Data, such processing would have been in breach of GDPR Art 28, and s.68 of Chapter 4, Part III of the DPA04 for Law Enforcement Processing purposes which require Sub Processors to only process personal data on the written instructions of the Data Controller.

In addition, the fact that the General Manager of OSG and not Bland was calling to provide Mr Canessa with an update shows that information relating to the NSCIS was clearly being shared within the Bland group. To the extent that this information contained personal data this would likely have been a further breach of data protection obligations and certainly increased the risk associated with the processing itself.

iii. Black Marble – were also engaged by Bland in or around November 2018[8] . As part of that engagement access to NCIS was given as well as to HMGOG codes containing credential details, allowing connection and access to NSCIS including sensitive and personal data.

As with Infosec/Red Maple Technologies Limited and PWC no prior consent was sought or notice was given to me in respect of their engagement and Bland did not follow all the access controls in place with regards to vetting, interview process and Official Secrets Act Confidentiality Declarations.

[7] See Witnes Statement of Jonathan Galliano dated 8th December 2019

[8] See Witness Statement of Johnathan Galliano of 8 December 2019

3. Unlawful access to NSCIS data and a Computer located in the Customs Building

I refer to Peter Canessa's witness statement of 29th August 2019. He says he authorised access to a computer within the Customs Building which was linked to the frontier cameras (and thus part of the NSCIS) to an unknown individual who was put through to him by the Chairman of Bland Group Mr James Gaggero, during a telephone call.

Mr Canessa said this happened when he was at home and after taking a call on his mobile from Mr Gaggero who passed him on to an unknown individual.

Mr Canessa, who was, and is, the Principal Private Secretary to the Chief Minister said "*I authorised this access however informed him to tell anyone that challenges him that he is conducting routine maintenance, nothing else.*"

As stated at the outset of this letter, the government department with overall responsibility for the NSCIS and its Data Controller was the Office of the Deputy Chief Minister.

S.199 of the DPA04 confirms that for the purposes of the GDPR and the DPA04 each government department is to be treated as a separate person from other governments departments.

Therefore, the NSCIS' Data Controller is and was at all material times the Office of the Deputy Chief Minister of which I was head of department and ultimately responsible for.

Mr Canessa, who did not form part of the Office of the Deputy Chief Minister, acted ultra vires in purporting to authorise access to the NSCIS.

Further the access given to this individual without my prior knowledge or consent and contrary to existing access controls is in clear breach of both GDPR and Part III of the DPA04 and demonstrates the lack of adequacy of appropriate security measures in place with regards the NSCIS generally, in breach of GDPR Art 32 and s.75 of Chapter 4 of Part III of the DPA04 in the context of Law Enforcement Processing.

In general, the appointment of Sub Processors by Bland without the prior knowledge or consent of the NSCIS' Data Controller is nothing short of scandalous.

At least in once instance, the actual day to day operation of Gibraltar's National Security Central Intelligence system was farmed out by the Data Processor to a third party unknown to the system's Data Controller in breach of applicable data protection legislation

Other third parties were also routinely given access to the NSCIS and its data by Bland, all in breach of applicable data protection legislation and with little or no regard to established access control protocols put in place by the system's Data Controller.

Lastly, the fact that Mr Canessa, without authority, was able to bypass my office and provide access to a computer system containing personal data used for law enforcement processing to a person he did not even know (on the mere basis of a phone call) is frankly astonishing and requires the immediate review of all security access controls which are clearly inadequate for system of this nature.

These are serious and repeated data protection irregularities; they need to be put right with immediate effect.

Furthermore, as you might appreciate, as the Data Controller with overall responsibility of the NSCIS, it was entirely within my own capability to provide access to third parties of my own choosing without having to consult or notify Bland or indeed anyone else.

In April 2019 I decided to give Mr Cornelio read only access to the NSCIS. This meant that his actions on the system's interface would be entirely auditable in contrast to the type of access Bland gave to Infosec/Red Maple Technologies, PWC and Black Marble as well as Mr Galliano, whose actions were not traceable and in breach of s.71 of Chapter 4, Part III of the DPA04 which requires a controller or processor to keep a log whenever the system is accessed for audit purposes related to law enforcement processing.

The reason for granting Mr Cornelio access was very straightforward and needs to be put in context.

[redacted]

Furthermore, at this time I was being put under pressure from the Chief Financial Secretary to settle Bland's outstanding retainer fees with regards to the NSCIS. Bland were usually paid monthly [redacted]

However, given the internal pressure I was being put under to pay, I decided that it would be in the public interest for me to at least try to find out what exactly was going on with the NSIC, in particular whether Bland had actually been doing the job I was being asked to pay them for doing.

It was then that I decided to engage Mr Cornelio's services. I had previously worked with him, vetted him, and authorised his access to NSCIS and knew that he knew the NSCIS system "inside out" and that he might be able to tell me fairly quickly what the situation was.

I therefore gave him the read access codes for him to see if he could appraise me of the current situation and what the problems were. I maintain this was entirely proper and correct in the circumstances.

There are other data protection breaches of which I am aware regarding Bland and Red Maple who have been subcontracted by Bland to deliver GoG projects such as the DSS Platform, ETB Platform and the Education Platform.

The delivery of these platforms all require access to sensitive government data about our citizens, and to my knowledge, no appropriate data protection documentation is in place, as well as instances of Bland access codes being passed on to Red Maple employees.

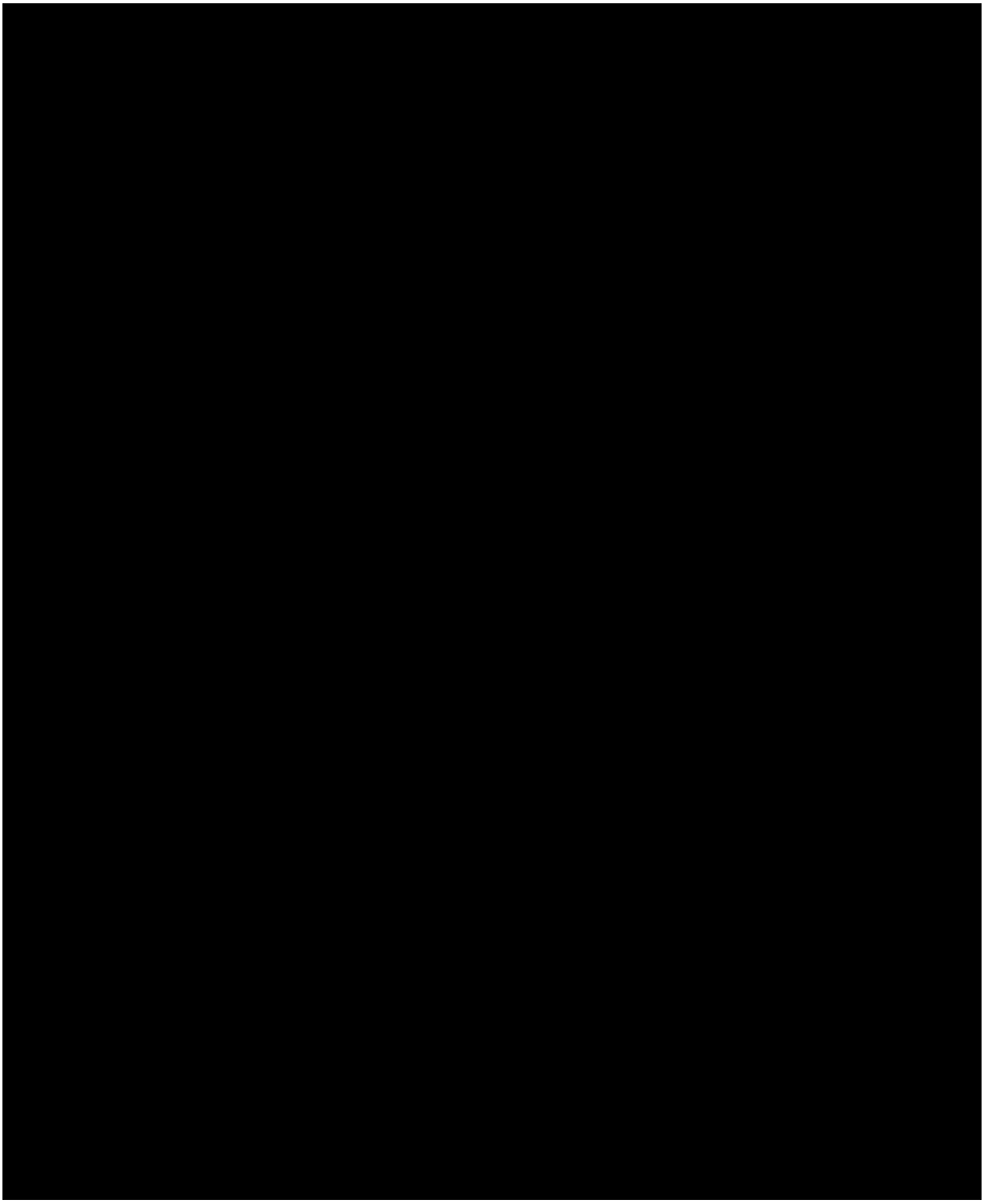
I therefore urge you to review all these matters and hope this letter provides you with an insight into the NSCIS that you might otherwise not be aware of and allows you to ensure that appropriate steps to deal with them.

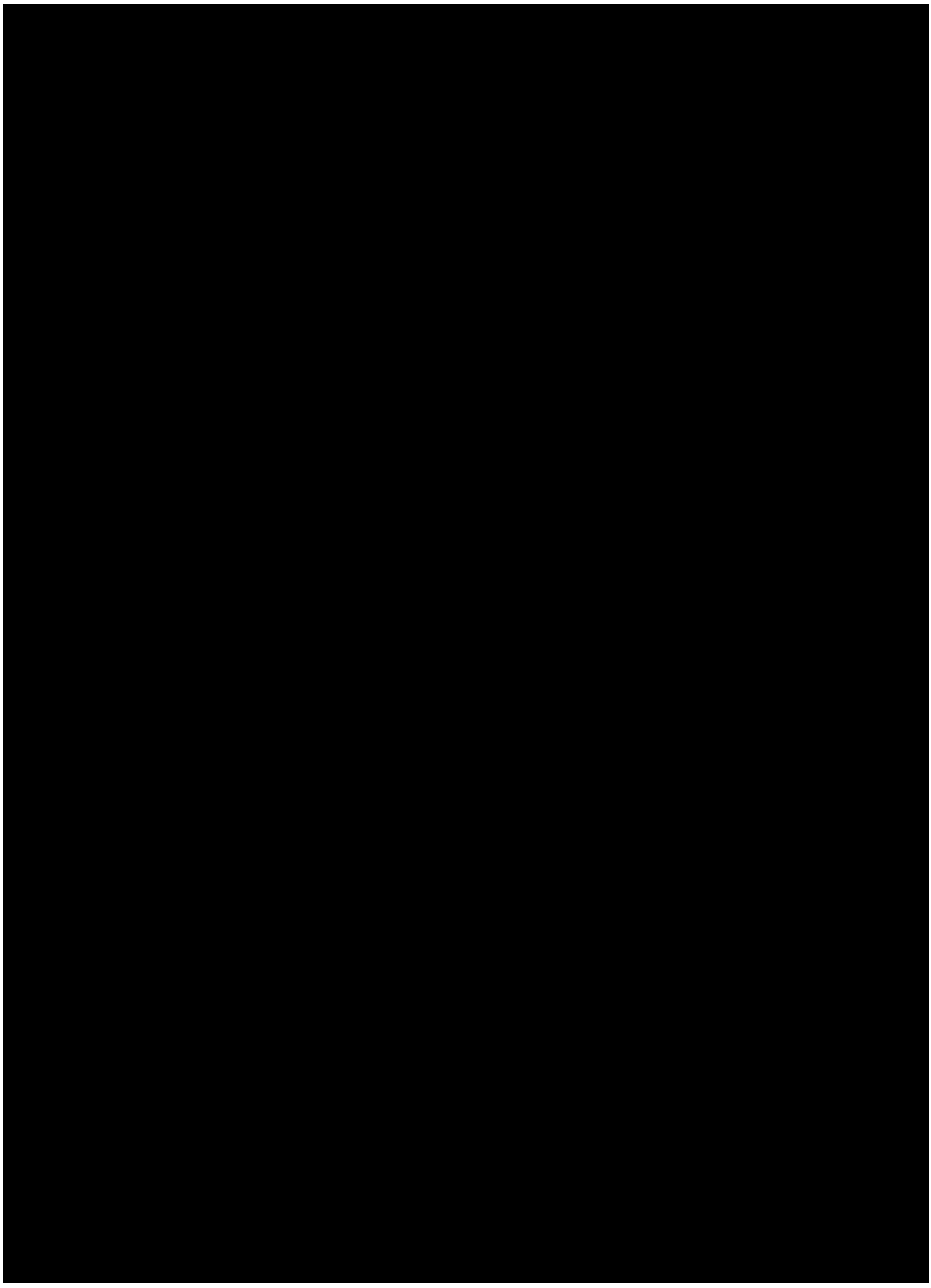
Yours sincerely

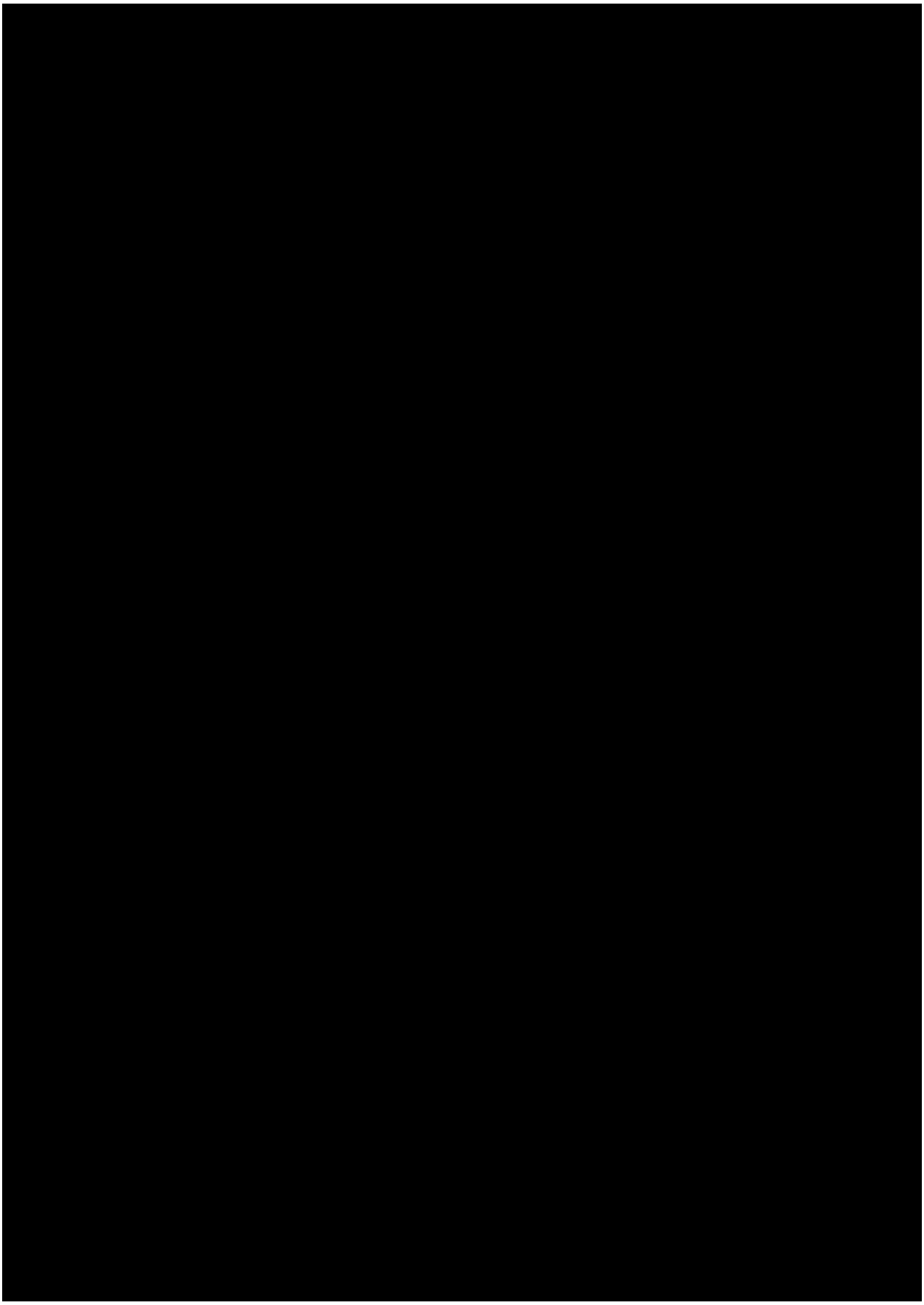
Caine Sanchez

(see below)

Table A









From: (RGP) Ullger, Richard
To: (MIN) Picardo, Fabian
Subject: RE: R V"s Perez, Cornelio and Sanchez
Date: 03 February 2021 12:53:36
Attachments: image004.png
image001.png

Dear Chief Minister,
I am grateful for our chat this morning and I totally understand the external matters that are having an impact on your ability to have time in drafting your statement. As discussed, I have spoken to the DPP and he too is fully cognisant of your position, and has suggested that if you could please have the statement available by the end of February, which will at least be before the next PCMH. I do hope this helps you somewhat.
Yours Ever,

Richard

Richard Ullger OTM, MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2200**

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From: (RGP) Ullger, Richard
Sent: 03 February 2021 08:03
To: '(MIN) Picardo, Fabian'
Subject: RE: R V's Perez, Cornelio and Sanchez

Good morning Chief Minister,
Not at all, I know how busy you are. I am at your disposal should you need to chat.
Yours ever,

Richard

Richard Ullger OTM, MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2200**

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From: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Sent: 02 February 2021 23:40
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: Re: R V's Perez, Cornelio and Sanchez

Dear Richard,
Sorry for late reply. Thank you for the below. Let's speak tomorrow.
Very best wishes,
Fabian

Sent from my iPad

> On 2 Feb 2021, at 17:46, (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi> wrote:
>
> Good afternoon Chief Minister
> I have been made aware by the Director of Public Prosecution that the Defendant Caine Sanchez has now filed an application in court to dismiss the case against him. This application is now pending a hearing date by the Supreme Court. This may be a significant development because we believe that some of the aspects covered in our request to you could have an impact on such an application.
> I thought I should inform you of this development.
> Yours Ever
> *Richard*
>
> **Richard Ullger OTM, MSc**
> **Commissioner of Police**
> New Mole House, Rosia Road, Gibraltar, GX11 1AA
> Tel: (+350) 20072500 Centrex: **2200**
> Web: www.police.gi
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From: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Sent: 19 January 2021 13:47
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: Re: R V's Perez, Cornelio and Sanchez

Dear Richard
Thank you for your email below.
I am sorry to say I have completely lost track of time on this. As you know, I had wanted to provide the statement before the end of the year, but the negotiations for the Framework Agreement became all consuming and requiring 20 hour days. Additionally, as you know, the COVID emergency has also kept me completely involved without reprieve. I know that you are aware I have to had one day off these past months, not even Christmas Day. You will be one of the few in Gibraltar who will understand that, as I know you have been working at the same pace on matters of your responsibility. I will seek to now finalise my work on this statement in the next 7 to 14 days. I think, hopefully, that after my evidence to the House of Lords this evening, I should be able to meet that timeline.
With very best wishes, as ever,
Fabian

On 19 Jan 2021, at 10:55, (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi> wrote:

Good morning Chief Minister,
The investigating Team are attending a PCMH tomorrow for the above mentioned case and are enquiring as to whether you have been able to progress on your statement. They are fully conscious of the demands and challenges you have been facing on behalf of Gibraltar over the past few weeks/months, and remain at your disposal should you require their assistance.
Yours Ever

Richard

Richard Ullger OTM, MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar, GX11 1AA
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From: (RGP) Ullger, Richard
Sent: 30 November 2020 12:47
To: '(MIN) Picardo, Fabian' <fabian.picardo@gibraltar.gov.gi>
Subject: RE: Letter to the Chief Minister

Dear Chief Minister,

Thank you for your email.

We are fully conscious of the demands and challenges you are currently facing in the future negotiations with the EU and therefore with this in mind, the investigating team together with the DPP have asked if you could be so kind as to submit your statement by the 13th of January 2021. This would be a week before the next PCMH.

We continue to be at your disposal should you require to discuss anything with us.

With very best wishes,

Richard

Richard Ullger OTM, MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar, GX11 1AA
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From: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Sent: 30 November 2020 10:00
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: Re: Letter to the Chief Minister

Dear Commissioner,

Thank you for your email below, receipt of which I acknowledge. As you will be aware, I am in the most complex stage of the negotiations of our future relationship with the European Union. For that reason, and although you will be pleased to note that I have already started my work to respond to the questions set out by your colleagues in the attachments to your email, I am unable to tell you how quickly I will be able to finalise it. I should therefore be grateful for an indication of any timings which may be relevant to your investing team's work, if any, so that I can try to work towards that.

With best wishes, as ever,

Fabian

Sent from my BlackBerry — the most secure mobile device

From: Richard.Ullger@royalgib.police.gi
Sent: 27 November 2020 12:01
To: fabian.picardo@gibraltar.gov.gi
Subject: FW: Letter to the Chief Minister

Good morning Chief Minister,

Please find attached a request from the investigating team into the fraud investigation surrounding the NSCIS.

We are at your disposal should you require to discuss anything with us.

With very best wishes.

Richard

Richard Ullger OTM, MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2200**
Web: www.police.gi
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From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 26 November 2020 15:05
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>; (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Subject: Letter to the Chief Minister
Importance: High

Sir,

Please find attached the following documents:

1. Letter to the Chief Minister;
2. Timeline of Communication;
3. Guidance document.

I would be very grateful if you could forward these documents on to the Chief Minister on my behalf.

Kind Regards,

Mark

Mark Wyan
Chief Inspector
Corporate Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 63024 Centrex: 2216

Web: www.police.gi
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Fabian Picardo QC MP
Chief Minister

Office of the Chief Minister
HM Government of Gibraltar
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Office of the Chief Minister

HM Government of Gibraltar

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Mark Wyan
Chief Inspector
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20063024 • Centrex 2216 • www.police.gi

26th November 2020

Our Ref: Op Delhi

The Hon Fabian Picardo QC
Chief Minister
No. 6 Convent Place
Gibraltar

Dear Chief Minister,

As you will be aware criminal complaints have been made to the RGP in relation to the National Security Centralised Intelligence System (NSCIS).

On the 10th May 2019 three persons were arrested on suspicion of Conspiracy to Defraud including Thomas Cornelio and John Perez. Mr. Cornelio was further arrested on suspicion of committing a number of computer misuse offences.

Digital forensic examination of the electronic devices seized under warrant revealed the suspected involvement of a fourth individual, Caine Sanchez, a senior civil servant employed as the Personal Private Secretary to the Deputy Chief Minister. On the 13th May 2019 the former Commissioner of Police, Ian McGrail, briefed you regarding Mr. Sanchez's suspected involvement and as a result he was recalled from the UK where he was conducting government business. Upon his return he was arrested on suspicion of Misconduct in Public Office and on suspicion of breaching the Official Secrets Act 1911.

Following a protracted investigation a case file was submitted to the Director of Public Prosecutions who determined that there was a realistic prospect of conviction and that it was in the public interest to proceed with the matter.

On the 15th September 2020 Messrs. Perez, Cornelio and Sanchez were charged with Conspiracy to Defraud Bland Limited by performing dishonest acts intended or designed to undermine the ability of Bland Limited to perform its contractual agreement with the Government of Gibraltar. In addition, Mr. Cornelio was charged with fourteen counts of computer misuse related offences and Mr. Sanchez was charged with Misconduct in Public Office as well as one computer

misuse offence. All defendants have now appeared before the Supreme Court of Gibraltar with the case being adjourned until the 20th January 2021.

During the course of the investigation the defendants and their legal advisors have referred the RGP to enquiries that they believe are relevant to their defence. You will be aware that the police have a statutory duty to follow all reasonable lines of enquiry, including those that may undermine the prosecution or assist the defence.

As you have been explicitly cited by the defence during the course of the investigation it is respectfully requested that you consider providing a witness statement to police.

In order to assist you in drafting a response the investigating team have created:

A list of questions that address issues of relevance; and
A list of relevant text messages sent to / from yourself (including those referred to by the defence).

The purpose of the questions is to guide you to the issues that we believe are important in light of the prosecution evidence and submissions made by the defence. It is respectfully suggested that your responses could be incorporated into a witness statement together with any other matters that you may deem relevant.

We are of course at your disposal if you have any questions or require clarification.

Yours sincerely,

Mark Wyan
Chief Inspector

COMMUNICATION WITH THE HON. FABIAN PICARDO QC

DATE	FROM	TO	CONTENT
08/07/18	JOHN PEREZ	CM	*Fabian, I hope this note finds you well. For info – please be aware that I will tomorrow inform James that both Tommy and will be serving our notices. All is in place.*
08/07/18	CM	JOHN PEREZ	*Good luck for tomorrow my friend. Best wishes. Fabian.*
08/07/18	JOHN PEREZ	CM	*Thank you Fabian.*
12/07/18	JOHN PEREZ	CM	*Fabian James is likely to come and see you he is paying out to our other developers to stay. Not critical. All law enforcement heads are aware that it's not just about the software which I doubt they can sustain but about the relationship. Both of us remain critical to sustain the current platform in place. Just for info.*
12/07/18	CM	JOHN PEREZ	*Thanks. Noted.*
12/07/18	JOHN PEREZ	CM	*Fabian all good so far he appears to accept the birth of 36 North as long as I assist him in some capacity with Blands. Next meeting set for Mon.*
13/08/18	CAINE SANCHEZ	CM	*CM this is the email that Blands have just sent to Tommy Cornelio. FYI*
13/08/18	CAINE SANCHEZ	CM	*They are asking for departments to write to blands stating that they are changing provider and that blands no longer has liability.*
13/08/18	CM	CAINE SANCHEZ	*Ok. Noted. Well, I guess if we are saying the programmes are ours, then they only really had maintenance liability or development liability. Tell the depts to send to you so we can get Lloyd or JP Fa to look at these.*
15/08/18	CAINE SANCHEZ	CM	*… With regards to the Security platform the cleanest way to get out of this is to source another programme that will interact with our hardware. I am afraid that we have little options left as we do not want to prolong this too much due to the sensitivities of the system as well as to the liability. The transition would be seamless with zero downtime.* *Only last year the system made us over £1m with regards to truck movements that tried to come through undeclared. So if only for value it is well worth it. It is classified by Interpol as one of the tope ten security platforms around.*

17/08/18	JOHN PEREZ	CM	*Fabian thank you for all your support as always – can I call you at a suitable time please. I am okay just keeping my discipline at the mo which I must admit is very frustrating. We are meeting one to one on Tue. I think they will try to offer me payment in lieu and some form of compromise. I have not fired a single rocket yet. With regards to the system it's now becoming difficult as we continue to run it under unnecessary strain. Done worry we will continue to do so if necessary. J.*
21/08/18	JOHN PEREZ	CM	*Dear Fabian just finished with Gaggero. Determined to get some form of compensation. Want your take on it before reverting. Let me know if we can catch up. J*
21/08/18	CM	JOHN PEREZ	*Lets talk. Happy to help with that. Was it pleasant or not?*
21/08/18	JOHN PEREZ	CM	*No a bit all over the place. Brief you when we talk.*
23/08/18	JOHN PEREZ	CM	*Fabian can we please have a catch up when available to discuss the situation. I also need to brief you about JG. With regards to DSS we have been given a rather pressing task which I believe is form your office regarding housing/pensioners. Can we proceed with the task. John.*
28/08/18	JOHN PEREZ	CM	*Fabian I am seeing Gaggero this morning. He continues to be a nasty piece of work. Mal. I am going to try to get him of our back and reach a compromise with him. Will let you know.*
30/08/18	JAMES LEVY	CM	*You should know that I have spoken to Tommy and despite his letter to James G he will continue ensuring that the system is kept going until a solution is found acceptable to the government.* Note: Message forwarded by JL to TC on 30/08/18.
30/08/08	CM	JAMES LEVY	*Will look forward to meeting him. Mena and me are the people who will understand him.* Note: Message forwarded by JL to TC on 30/08/18.

Statement Guidance for the Chief Minister

1. The defence assert that you instructed Mr Cornelio to continue running all HMGoG Platforms (including the NSCIS platform) after 1st September 2018. Could you please clarify;

    a. Whether this is correct; and
    b. If correct, what precise instruction was given to Mr Cornelio?

2. To your knowledge, did any other member of HMGoG instruct / request that Mr Cornelio maintain the NSCIS platform following the termination of his consultancy period with Bland Limited on the 31st August 2018?

3. The defence have drawn our attention to a text message sent from Mr Levy QC to yourself, dated 30th August 2018, in which he stated:

    "You should know that I have spoken to Tommy and despite his letter to James G he will continue ensuring that the system is kept going until a solution is found acceptable the government"

    The defence rely upon this text as evidence that you were aware of and /or gave authority for Mr Cornelio to access the NSCIS platform after 1st September 2018. However, Bland were not informed of any such arrangement. Can you please comment on your understanding of this text message?

4. The defence have drawn our attention to a text message sent from Mr Cornelio to Mr Levy QC (and which refers to the CM), dated 30th August 2018, in which he stated:

    "*Yep. Please tell him that if we meet I will be able to discuss in person as I feel sometimes the information he is getting is not correct … if he knew my solution in detail it would make any decision he makes easier also*."

    In the context of the police investigation, are you able to comment on the 'decision' that is referred to by Mr Cornelio?

5. The defence have argued that HMGoG authorised Mr Cornelio to access the NSCIS platform after August 2018. Did you authorise Mr Cornelio to access the NSCIS platform at any time between 31/08/2018 and 04/10/2018?

6. To your knowledge, did any representative of HMGoG instruct / authorise Mr Cornelio to extract a copy of the NSCIS data and/or source code for the purpose of ensuring services could run independently of Bland Limited?

7. The defence assert that on or around 30th August 2018 HMGoG asked Mr Cornelio / 36 North Limited to ensure 'Phoenix' (an NSCIS alternative platform) was ready to take over the NSCIS platform at short notice. Do you have any knowledge of these discussions?

8. The defence assert that you met with James Gaggero on a number of occasions between the 9th July 2018 and 4th October 2018 to discuss the NSCIS platform. We understand that meetings took place on the following dates:

    a. August 2018
    b. 3rd September 2018
    c. 27th September 2018

    Could you please confirm what was agreed during those meetings (or any other relevant meetings with Mr Gaggero) in relation to the NSCIS platform?

9. On 4th October 2018, we understand that you instructed Caine Sanchez (via Peter Canessa) to provide Bland with full control of the management, maintenance and support of the NSCIS Platform. In two emails sent from Mr Peter Canessa to Mr Caine Sanchez, dated 4th October 2018 he wrote:

> "*The Chief Minister has instructed that access to our "Azure" system be given to Jonathan Galliano at Bland/OSG immediately. He has also instructed that arrangements be made for any member of that company who will be dealing with HMGoG matters relating to security to sign the Official Secrets Act, if they haven't already done so, without delay.*"

> "*Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be provided full control of the management, maintenance and support of the NSCIS platform. Please do all the necessary to ensure that Tommy Cornelio fully cooperates in handing over to Jonathan Galliano of Bland Ltd access and control to all services and systems that make up the NSCIS platform immediately. Once the handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform*."

    Could you please clarify the reason why this instruction was necessary?

In The

Magistrates' Court, 32-36 Town Range, Gibraltar.

On Thursday 7th May 2020

Warrant to Enter and Search A Premises – Single Premises
Criminal Procedure and Evidence Act 2011, Schedule 1, Paragraph 12(a)

An application having been made by Detective Sergeant Paul Clarke of the Royal Gibraltar Police, I am satisfied that:-

The first set of access conditions specified in Paragraph 2 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are satisfied, and, that at least one of the further conditions set out in Paragraph 14 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are also fulfilled.

That there is at:-

Hassans International Law Firm, Madison Building, Midtown, Queensway, Gibraltar

material likely to be relevant evidence which is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

Authority is hereby given for any Constable to enter within one month from the date of this warrant the said premises and to search them and to seize material in respect of which the application is made.

The Constable may be accompanied by up to six other Constables or designated persons.

COURT STAMP

STIPENDIARY MAGISTRATE * GIBRALTAR *

Signature of Judge/Magistrate .....

Date 7th May 2020.

In The Magistrates' Court, 32-36 Town Range, Gibraltar.

Information in support of application for a 'Single Premises' search warrant

Criminal Procedure and Evidence Act Schedule 1 Paragraph 12(a) (first set of access conditions)

The information of Detective Sergeant Paul Clarke of the Royal Gibraltar Police, who upon oath states that:-

(a). There are reasonable grounds for believing:-

i. That an indictable offence has been committed, namely Conspiracy to Defraud contrary to Common Law;

ii. That there is material to which this information relates which consists of Special Procedure Material or includes Special Procedure Material and does not include Excluded Material on the premises specified in the application; or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify);

iii. That the material is likely to be of substantial value to the investigation in connection with which the application is made; and

iv. That the material is likely to be relevant evidence.

(b). Other methods of obtaining the material have not been tried because it appeared they were bound to fail;

(c). It is in the public interest, having regard:-

i. To the benefit likely to accrue to the investigation if the material is obtained; and

ii. To the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given.

AND that of the further conditions mentioned in para 12(a)(ii) of Schedule 1 of the Act, namely:-

a). that it is not practicable to communicate with any person entitled to grant entry to the premises to which the application relates;

b). that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material;

c). that the material contains information which;
i) is subject to a restriction or obligation such as is mentioned in section 15(2)(b) of the Criminal Procedure and Evidence Act 2011; and
ii) is likely to be disclosed in breach of it if a warrant is not issued;

d). that the service of notice of an application for an order under paragraph 4 of Schedule 1 to the Act may seriously prejudice the investigation.

The further conditions at **b & d**, above apply.

The material to which this application relates is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

The premises to which this application relates is:-

Hassans International Law Firm, Madison Building, Midtown, Queensway, Gibraltar

Signature of officer applying — Date 07/05/2020

Signature of officer approving application (Inspector or above) — Date 07/05/2020

Craig Goswin.

Name of officer approving application

ENDORSEMENT

(To be returned to the court of issue with the original copy of the Warrant)

1 The following items / No items* were found at:

.....

....

2 The following items other than items which were sought were seized
. No other item was seized*

3 The search was conducted on (date) .....
. between ..... am / pm* and ..... am / pm*
by (name all officers present)

4 A copy of this warrant was handed to the occupier / person in charge of the premises / left
. on the premises* (specify whereabouts)

Signature of Constable ..... Date .....

Name, Rank, No .....

Unit to which attached .....

* Delete as applicable

In The

Magistrates' Court, 32-36 Town Range, Gibraltar.

On Thursday 7th May 2020

Warrant to Enter and Search A Premises – Single Premises
Criminal Procedure and Evidence Act 2011, Schedule 1, Paragraph 12(a)

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The first set of access conditions specified in Paragraph 2 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are satisfied, and, that at least one of the further conditions set out in Paragraph 14 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are also fulfilled.

That there is at:-

[redacted]

material likely to be relevant evidence which is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

Authority is hereby given for any Constable to enter within one month from the date of this warrant the said premises and to search them and to seize material in respect of which the application is made.

The Constable may be accompanied by up to six other Constables or designated persons.

COURT STAMP

STIPENDIARY MAGISTRATE * GIBRALTAR *

Signature of Judge/Magistrate .....

Date 7th May 2020.

In The Magistrates' Court, 32-36 Town Range, Gibraltar.

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Criminal Procedure and Evidence Act Schedule 1 Paragraph 12(a) (first set of access conditions)

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(a). There are reasonable grounds for believing:-

i. That an indictable offence has been committed, namely Conspiracy to Defraud contrary to Common Law;

ii. That there is material to which this information relates which consists of Special Procedure Material or includes Special Procedure Material and does not include Excluded Material on the premises specified in the application; or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify);

iii. That the material is likely to be of substantial value to the investigation in connection with which the application is made; and

iv. That the material is likely to be relevant evidence.

(b). Other methods of obtaining the material have not been tried because it appeared they were bound to fail;

(c). It is in the public interest, having regard:-

i. To the benefit likely to accrue to the investigation if the material is obtained; and

ii. To the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given.

AND that of the further conditions mentioned in para 12(a)(ii) of Schedule 1 of the Act, namely:-

a). that it is not practicable to communicate with any person entitled to grant entry to the premises to which the application relates;

b). that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material;

c). that the material contains information which;
i) is subject to a restriction or obligation such as is mentioned in section 15(2)(b) of the Criminal Procedure and Evidence Act 2011; and
ii) is likely to be disclosed in breach of it if a warrant is not issued;

d). that the service of notice of an application for an order under paragraph 4 of Schedule 1 to the Act may seriously prejudice the investigation.

The further conditions at **b, & d,** above apply.

The material to which this application relates is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

The premises to which this application relates is:-

[redacted]

Signature of officer applying — Date: 07/05/2020

Signature of officer approving application (Inspector or above) — Date: 07/05/2020

Craig Goswell.

Name of officer approving application

ENDORSEMENT

(To be returned to the court of issue with the original copy of the Warrant)

1. The following items / No items* were found at:

.....

....

2. The following items other than items which were sought were seized
   No other item was seized*

3. The search was conducted on (date) .....
   between ..... am / pm* and ..... am / pm*
   by (name all officers present)

4. A copy of this warrant was handed to the occupier / person in charge of the premises / left on the premises* (specify whereabouts)

Signature of Constable ..... Date .....

Name, Rank, No .....

Unit to which attached .....

* Delete as applicable

From:	(RGP) Richardson, Paul (OTM)
To:	(OCPL) Rocca, Christian
Cc:	(RGP) Wyan, Mark (Supt 247)
Subject:	Operation Delhi - Pre-Charge Advice
Date:	01 April 2020 15:47:04
Attachments:	image002.png Charging Report 24.3.20.docx NDM assessment - Op dehli (002).docx

Dear Mr Rocca,

We last met to discuss this matter on the 3rd March 2020 with DI Wyan and considered the need to interview James Levy in order to complete our investigation. During the meeting we expressed differing views about some of the criminality identified particularly with regard to the conspiracy to defraud offences. Given our different viewpoints we agreed that it was important for you to have sight of the key evidence in order to make an informed decision.

DI Wyan has consolidated the considerable about of evidence that has been gathered thus far and has helpfully included a timeline and glossary of terms – which goes someway in assisting those unfamiliar with the more obtuse IT references. It also sets events out in a chronological order. In this way it is easier to understand the motive behind many of the individual actions and how they contribute towards the principal act, which we argue is the attempt to obtain the maintenance rights of Bland's contract by dishonest means.

I have also included my NDM assessment of the need to interview JL which sets out my rationale. Although this document is not intended as the basis of seeking legal advice, I hope that it will assist in the understanding of why we feel that it is necessary to follow the course of action that is proposed.

What we are seeking is your advice on whether the charges that we propose are warranted by the evidence , whether there is a reasonable prospect of conviction and (given the inherent political nature of this investigation) that it is in the public interest to proceed. In addition, and in respect of James Levy, we are seeking legal advice as to whether there are reasonable grounds to suspect that he has committed the offence as alleged.

The attached documents set out in great detail much of the evidence that has not yet been disclosed to the defence and I would ask please that you restrict access to it to yourself and CC Mark Zammitt (who is already been privy to previous discussions).

The defendants are due to surrender to police bail on the 15th April and we could, if required charge on that date, however given the Covid 19 restrictions the Magistrates' Court are only accepting urgent overnight matters. We also have re-interviews planned which will in some cases involve participation by technical experts from the National Crime Agency. There are however currently travel restrictions in place. Given the circumstances and the exceptional times that we now find ourselves in I will be recommending extending the bail of all defendants by a further 16 weeks by way of formal letter. In the event that the Covid 19 restrictions are lifted before then we will of course arrange for the matter to be dealt with earlier.

I will arrange for a hard copy of the report and the relevant exhibits to be delivered to your chambers shortly.

We are of course at your disposal should you wish to discuss either in person or remotely.

Kind regards.

Paul

Paul Richardson OTM
Det. Superintendent

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent

Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]

Royal Gibraltar POLICE
Delivering a Safer Gibraltar through Excellence in Policing

PROJECT SERVATOR
TOGETHER, WE'VE GOT IT COVERED

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Crime Division

New Mole House, Rosia Road, Gibraltar • Tel (+350) 20048013 • Centrex 2519 • www.police.gi

To: Commissioner of Police
FAO: Supt Richardson
RE: Operation Delhi

Date: 24th March 2020

Sir,

RE: CHARGING ADVICE – OPERATION DELHI

1. Please find below an extended summary in relation to Operation Delhi.

2. At this stage a decision whether to charge the subjects is required.

3. Given the complexity of the case, it is respectfully requested that advice be sought from the Director of Public Prosecutions as to what charges should be preferred.

4. The extended summary should provide sufficient evidence by which a decision can be made in compliance with the Code for Crown Prosecutors. However, hard copies of all statements and documentary evidence will be supplied in support of this request. A glossary of terms (Appendix A) and a timeline (Appendix B) can also be found at the end of this document.

5. It is requested that the following 76 charges be considered:

    a. Cornelio
        i. Conspiracy to Defraud (Joint Charge);
        ii. Unauthorised access to computer material (18 charges);
        iii. Unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer etc (14 charges);
        iv. Unauthorised acts causing, or creating risk of, serious damage (29 charges); and
        v. Fraud by failing to disclose information (11 charges).
    b. Perez
        i. Conspiracy to Defraud (Joint Charge)
    c. Levy
        i. Conspiracy to Defraud (Joint Charge)
    d. Sanchez

i. Conspiracy to Defraud (Joint Charge)
ii. Misconduct in Public Office
iii. Unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer etc

e. Chipol
i. Misconduct in Public Office

THE SUBJECTS

6. **Caine SANCHEZ** is a Senior Civil Servant employed by Her Majesty's Government of Gibraltar. He is the Principal Secretary to the Deputy Chief Minister of Gibraltar. Sanchez was the Government of Gibraltar lead for the NSCIS platform.

7. **John PEREZ MBE** held the position of Chief Executive Officer of Bland Ltd between the 1st February 2010 and 10th September 2018. He was responsible for running Bland Group's interests in the Western Mediterranean and oversaw the senior management team who reported directly to him.

8. **Thomas CORNELIO** held the position of Head of Software Development with Bland Ltd between 19th November 2012 and 10th August 2018. Between 11th August – 31st August 2018, he remained with Bland working under a consultancy agreement.

9. **Edward ASQUEZ MBE** held the position of Operations Director with Bland Ltd between June 2010 to September 2018. He was employed by John Perez as they served together in the Gibraltar Regiment. He was tasked with a number of projects and was the ISO for Bland.

10. **Aaron CHIPOL** is the CEO of the Borders & Coastguards Agency (BCA). He was promoted to this position in August 2018, prior to this he was deputy head of Immigration.

11. **Jaime LEVY QC** is a senior partner of the law firm Hassans.

THE COMPLAINANT

12. **James GAGGERO** is the Chairman of the Bland Group of Companies. He has held this position since 1997. Between 1987 – 1997, he was managing Director of the Bland Group of Companies. Bland has been in the Gaggero family for over 200 years.

THE COMPANIES

13. **Bland Limited** ("Bland") is part of the Bland Group of companies which is registered in Gibraltar. Bland Limited trades under a number of entities including Bland Travel (a travel and transport business), Bland DMC (a travel business), The Calpe Lounge (an airport VIP lounges business), Avis (a car hire business), Operational Support Group ("OSG"), Wavetecx (a computer development business) and Gibair (an airport ground handling business).

14. **36 North Limited ("36 North")** is a Gibraltar registered company incorporated on the 23rd April 2018. The company carries on business as a computer software and security systems developer. PEREZ and ICode Limited, together with Astelon Limited, are beneficial owners in the company (each having a 33% shareholding). Following their resignations from Bland Ltd, Cornelio and Perez went on to work on a full time basis at 36 North. (**Exhibits JG/9, JG/11 and JG/13** refer).

15. **ICode Limited ("ICode")** is a Gibraltar registered company beneficially owned by **CORNELIO** and incorporated on the 16th May 2018 for the purpose of holding shares in 36 North. (**Exhibit JG/10** refers).

16. **Astelon Limited ("Astelon")** is a Gibraltar registered company beneficially owned by Hassans International Law Firm and incorporated on the 28th March 2018 for the purpose of holding shares in 36 North. The company has a 33% shareholding in 36 North. (**Exhibit JG/11** refers).

THE *NSCIS* PLATFORM

17. During the course of his employment with Bland, Cornelio was involved in the development of the National Security Central Intelligence System ("the NSCIS platform"). The platform is a modular, centralised IT software system for the collection, monitoring, background checking, and flagging of people and vehicle movements in and out of Gibraltar via land, sea and air. This system was first launched in December 2014 and was subsequently developed over a number of years.

18. The platform collects sensitive personal information from members of the public upon entry to and exit from Gibraltar. It is a key tool for law enforcement agencies in the protection of national security.

19. Bland Limited own the NSCIS platform, the source code, object code and all database structures. **(Exhibits NG/2, NG/3 and NG/5** refer).

20. The NSCIS platform is provided to HMGoG on the basis of an ongoing software license, for which HMGoG pay Bland a license fee. In addition, Bland provides continuing support and maintenance for the platform. **(Exhibits PN/7, PN/8 & PN/9** refer).

21. The Contract for the NSCIS platform was initially partly oral and partly in writing by way of correspondence. Bland subsequently sent to HMGoG a master software development and maintenance agreement. This accurately reflects the terms and conditions upon which the NSCIS platform was provided to HMGoG **(Exhibit JG/5** refers). Whilst HMGoG did not sign the said agreement, they continue to pay the license fee.

22. This is corroborated by monthly payments by HMGoG to Bland [in respect of the NSCIS platform] under the head "Software Licence Fee" (**Exhibit PN/8** refers).

THIRD PARTY ACCOUNTS

23. Being the developer, Cornelio had an intimate knowledge of the NSCIS platform.

[redacted]

THE NSCIS PLATFORM AND WAVETECX

24. The contract for the NSCIS platform commenced under the Bland security arm, Operational Support Group ("OSG"). In light of the growing sophistication of the platform and the opportunities for its commercial exploitation and use beyond the contract with the Government of Gibraltar, Bland set up a separate division from

which to develop, brand, market and commercially exploit the NSCIS platform abroad ("Wavetecx").

25. Wavetecx was set up around January 2017 and headed by Perez. He was assisted by Cornelio in his capacity as Head of Software Development.

26. Cornelio, who had already gained an intimate understanding of the NSCIS platform, managed Wavetecx on a day-to-day basis in his capacity as the Head of Software Development. He reported to Perez as the CEO of Bland Limited, who oversaw Wavetecx. Two Software Developers worked for Wavetecx – Joseph Benrimoj and Marius Zalkaukas.

27. Perez and Cornelio travelled abroad on several occasions to discuss the possibility of licensing the NSCIS platform to, amongst others, Carnival Cruises, the São Tomé government, and Inchcape Shipping Services (**Exhibits PAC/AG/Laptop/1/Doc/1, PAC/AG/Laptop/1/Doc/2 & PAC/AG/Laptop/1/Doc/7** refer).

36 NORTH LIMITED

28. 36 North Limited is a private company limited by shares, with a registered office at 57/63 Line Wall Road, Gibraltar.

29. 36 North was incorporated on the 23rd April 2018. Whilst still employees of Bland, Perez and Cornelio were appointed directors of the company.

30. On the 22nd June 2018, whilst still employees of Bland, Perez, ICode (beneficially owned by Cornelio) and Astelon Limited (beneficially owned by Hassans) each acquired a 33% shareholding in 36 North. Levy, having a 32% shareholding in Hassans, was therefore a 10% beneficial owner of 36 North [with the other partners each having a smaller share according to their respective interests in Hassans].

31. There continued to be changes to the company formation during the proceeding months. However, the ultimate beneficial owners of 36 North remained as Perez, Cornelio and Hassans Law Firm [with Levy owning 10% beneficial share in the company owing to his 32% share in Hassans].

CONSPIRACY TO DISHONESTLY OBTAIN THE NSCIS PLATFORM MAINTENANCE AGREEMENT

32. During the course of their employment with Bland, Perez and Cornelio, together with Levy, conspired to defraud Bland by dishonestly appropriating the NSCIS platform maintenance contract for their own benefit, via their company 36 North Limited.

33. They were assisted in attempting to obtain the NSCIS platform contract by Sanchez (paragraphs 273 to 323), and to a lesser degree, Chipol (paragraphs 139 to167) both of whom are Government officials.

34. The evidence in support of this offence can be divided into the following:

    a. Planning / Preparation to Obtain the NSCIS Platform (agreement / dishonesty);
    b. Appropriation of business commenced by Bland (dishonesty);
    c. Pressure and Government Officials / Undermining Bland (dishonesty);
    d. Computer Misuse Offences / Knowledge of Computer Misuse Offences (dishonesty); and
    e. NSCIS Report for Caine Sanchez (dishonesty).

THOMAS CORNELIO – CONSPIRACY TO DEFRAUD (**[Joint] Charge 1**)

Planning / Preparation to Obtain the NSCIS Platform Maintenance Contract - Cornelio

35. During the course of 2018 Cornelio, Perez and Levy planned to obtain the NSCIS platform maintenance contract. This contract was the property of Bland.

36. In an email sent from Perez to Cornelio, dated the 24th February 2018, (and whilst still employees of Bland) Perez attached a "*Letter of Intent*". This letter purported that 36 North already had an existing contract with HMGoG for the NSICIS platform (**Exhibit JC/Emails/36North** refers). This proposal evidenced the intent of the suspects to obtain the contract for the benefit of their company, 36 North.

37. Between 23rd April 2018 and 22nd June 2018, the company 36 North Limited was incorporated, with Cornelio, Perez and Hassans each being 33% beneficial owners (paragraphs 28 – 31 refer). The company was incorporated with the intent that it would obtain the benefit of the NSCIS platform maintenance contract.

38. In an email exchange dated the 20th June 2018, and whilst still employed by Bland, Perez sent an email to Cornelio called, "*36 North Cash Flow*". The document showed a forecasted revenue in favour of 36 North which included the NSCIS platform (Global invoice) for £62,519 per month. (**Exhibits JG/22** and **PAC/JU3/SSD0/Doc/2** refers).

39. The evidence in paragraphs 35 - 38 is consistent with an agreement between the suspects to appropriate the NSICS platform maintenance contract, the property of Bland.

40. In addition to preparing to take the NSCIS platform maintenance contract, Cornelio and Perez dishonestly planned to hinder the ability of Bland to carry out their contractual obligations.

41. As part of this preparation, the suspects engineered a situation whereby they, together with a number of software engineers, would resign from the company at the same time. (Paragraphs 42 to 47 refer below).

42. Without prior notification, on the 10th July 2018, Perez and Cornelio handed in their resignations from Bland. In accordance with their respective contracts, the resignation of Perez was to take effect on the 9th September 2018 and the resignation of Cornelio was to take effect from the 10th August 2018. (**Exhibits JG/16** and **JG/17** refer).

43. On the 19th July 2018 both software engineers sent a text to Cornelio in which they presented draft resignations. On the same date Cornelio wrote to the engineers, "*Marius ok give me a while to review and don't send email out until I confirm with John now ok*." (**Exhibit JC/Whatsapp/36North/2** refers).

44. On the 20th July 2018, Cornelio wrote on the same chat, "*Remember to stick to the story when chairman calls Joey. He has already written to John and he is denying having known.*" (**Exhibit JC/Whatsapp/36North/2** refers).

45. On the 20th July 2018, the software developers resigned from their employment with Bland to join 36 North. The resulting loss of staff undermined the ability of Bland to fulfil their NSCIS contractual obligations following the departure of Perez and Cornelio from the company.

46. On the 2nd August 2018 Cornelio wrote to one of the developers regarding Gaggero attempting to retain Bland projects saying, "*In order to keep things smooth we all need to leave asap, leaving him no option."* (**Exhibit**

JC/Whatsapp/TCJB/1 refers). He wrote on the same date, "*You will need to make it clear that after the 20th you are finished with Blands. That will ensure that they can't buy time*." (**Exhibit JC/Whatsapp/TCJB/2** refers).

47. These actions were consistent with an agreement to undermine Bland, by diminishing their IT capabilities [and thereby their ability to maintain the platform] and appropriate the NSCIS platform maintenance contract.

Appropriation of Business Commenced by Bland - Cornelio

48. During the course of their employment with Bland Cornelio and Perez were involved in a number of projects. These included:

    a. A proposal for the Carnival Corporation for a "Centralised Vessel Security Management System" (**Exhibits PAC/AG/Laptop/1/Doc/7** and **PAC/AG/Laptop/1/Doc/2** refer); and
    b. A "*Ministry of Defence and Public Security Border Management Proposal*" for Sao Tome and Principe. (**Exhibit PAC/AG/Laptop/1/Doc/1** refers).

49. In an email sent from Perez to Cornelio, dated the 24th February 2018, (and whilst still employees of Bland) Perez attached a "*Letter of Intent*". This letter purported that 36 North already had existing international contracts including Carnival Cruises and Sao Tome and Principe. These were in fact contracts that were being negotiated on behalf of Bland. (**Exhibit JC/Email/36North** refers).

50. In respect of Sao Tome, the proposal stated, "*Contract about to be signed for 7 years. Contract worth 1.6m euros with a forecast 20% increase by year 3. Contract starts in Feb 18*." Under the heading "*Carnival Cruise Lines*" is stated, "*Currently negotiating an APIS maritime system with Carnival who dominates 70% of the Cruise liner industry. A pilot platform has already been designed and discussed with Carnival CEO. A visit by Carnival's Head of Security and International representative will be visiting us in Mar 2018. Negotiation ongoing. Contract worth £175k per year*."

51. It is clear that Cornelio and Perez intended to dishonestly appropriate the business of Bland commenced by them as employees of Bland and obtain the benefits for 36 North.

52. In respect of the Sao Tome and Principe agreement, Cornelio specifically ensured that any signature would take place after he had resigned from Bland when he stated on the 24th July 2018, "*We can agree on timeline and agree a*

date to sign contract. After the 10th August" (**Exhibit JC/WHATSAPP/TCEA** refers).

53. Both Sao Tome and Principe and the Carnival Security Management System continued to appear on the Agenda for 36 North after both Perez and Cornelio had left Bland. (**Exhibit PAC/JU3/SSD0/Doc/8** refers).

Pressure on HM Government of Gibraltar - Cornelio

54. Following his departure from Bland and termination of the consultancy period, Cornelio sought to apply pressure on HMGoG to transfer the NSCIS platform maintenance contract. In particular he used connections with Chipol, Levy and John Rodriguez, the Collector of Customs.

55. *Paragraphs 56 to 70 (below) refer to communications between Cornelio and Chipol.*

56. On the 14th September 2018 Cornelio wrote, "*Aaron .. grateful if you could send the following email on your behalf to Caine*." He then proceeded to type out a prepared email which finished, "*With regards to the National Security platform, there are many features that I would like to engage with Tommy in order so that he may incorporate as we have always done. Could you provide me with an update on this as we need to continue working with him as soon as possible*." (**Exhibit JC/WHATSAPP/TCAC/2** refers).



[redacted]

61. On the 15th October 2018, Cornelio wrote, in respect of the frontier queues, "*Try and put some pressure on Blands saying you need this sorted by today. Has been down for quite some time now.*" (**Exhibit JC/WHATSAPP/TCAC/12** refers).

62. On the 16th October 2018 he wrote with regard to Bland, "*Mandale un email a Jonathan saying you need everything up and running today*." He followed this up with a text on the 18th October saying, "*Maybe an email to CM letting him know about the meeting and that they are asking for more time*." (**Exhibit JC/WHATSAPP/TCAC/14** refers).

63. On the 30th October 2018 he again wrote to Chipol, "*If you have the time you can email the CM expressing your concerns, that they keep giving excuses and they are not able to deliver.*" (**Exhibit JC/WHATSAPP/TCAC/17** refers).

64. On the 31st October he wrote, "*If you manage to speak to Caine let me know, as I believe he is insisting on more complaints going to CM so that he acts on it*." (**Exhibit JC/WHATSAPP/TCAC/20** refers).

65. On the 4th November he asked, "*If you are able send CM an email saying you don't see how they can run with national security and continue developing the platform as neither the vision or skillset is there*." (**Exhibit JC/WHATSAPP/TCAC/22** refers).

66. On the 20th November 2018 Cornelio wrote, "*Msg from Caine … CM is under the impression that things are now stable* [redacted]".

[redacted]



71. *Paragraphs 72 to 80 (below) refer to communications between Cornelio and Levy.*

72. On the 21st August, whilst still in the consultancy period, Cornelio wrote, "*Dear James, would it be possible to sit down with you or the CM to try and move forward with out projects? I currently have a lot of work on hold pending this decision*." (**Exhibit JC/WHATSAPP/TCJL/3** refers).

73. On the 29th August 2018 he similarly wrote, "*Dear James, please try and get me a 10 min slot for me to meet the CM. I believe I am best placed to explain the entire situation and advise the best technical solution possible*." (**Exhibit JC/WHATSAPP/TCJL/8** refers).

74. On the 12th September 2018 Cornelio wrote to Levy and attached a letter to be used by the Chief Minister to terminate the Bland contracts. (**Exhibit JC/CHAT/TCJL/15** refers). This letter was addressed to James Gaggero of Bland and was titled "*Termination of NSCIS, DSS, BCA, ETB and Education*

contracts ("the contracts")." It explained, "*Bland Limited has failed to perform its obligations under the Contracts and is therefore in repudiatory breach… In the circumstances, please accept this letter as HMGOG's termination of the Contracts with immediate effect*." (**Exhibit PAC/JU/3/SSD0/Doc/4** refers).

75. On the 23rd September 2018 Cornelio wrote, "*Attached is a letter which may be of use to the GoG in order to proceed with the new platform we have offered them*." (**Exhibit JC/WHATSAPP/TCJL/7** refers).

76. By the 27th December 2018 Cornelio was concerned that the Chief Minister would not be transferring the contract to 36 Norh. In response Levy wrote, "*I don't think he will transfer the contracts back to 36N. We have to work on alternatives. I am happy to help …*" (**Exhibit JC/CHAT/TCJL/7** refers).

77. On the 18th February 2019 he wrote to Levy saying, "*Any merit in me writing to the CM directly to request he meet with me. I miss my contracts*." (**Exhibit JC/WHATSAPP/TCJL/11** refers).

78. On the 26th March 2019 he wrote, "*Perhaps CM would be willing to put the National Security system out for tender next month*." (**Exhibit JC/WHATSAPP/TCJL/12** refers).

79. On the 27th March 2019 Cornelio again asked, "*Do you think there is any chance of getting national security contract back at some point?*" Despite his answer on the 27th December 2018 Levy responded, "*Yes*." (**Exhibit JC/CHAT/TCJL/9** refers).

80. On the 3rd May 2018 Cornelio wrote again saying, "*Dear James, the national security system* [redacted]*. Can I email the CM once again to meet me? He cannot allow this to continue*." (**Exhibit JC/CHAT/TCJL/14** refers).

81. *Paragraphs 82 to 93 (below) refer to communications between Cornelio and Perez.*

82. On the 11th October 2018, Cornelio drafted an extensive email intended to be sent by John Rodriguez (Collector of Customs) to the Chief Minister. It began, "[redacted]

[redacted]

83. On the 20th November 2018 Cornelio texted, "*Spoke to Aaron. He is going to call Caine tomorrow. Abe si sorteamo eto ya*." (**Exhibit PAC/MG/PHONE/1/WHATSAPP/9** refers).

[redacted]

85. On the 22nd December 2018 Cornelio wrote to Perez, "*After xmas break u are going to have to push with john Rodriguez*." (**Exhibit PAC/MG/PHONE/1/WHATSAPP/17** refers).

86. On the 3rd January 2019 Cornelio wrote, "*We need some positive news*." Perez responded, "*We are good. Did not want to push JR etc. Will do so on Mon. The 7th*." (**Exhibit PAC/MG/PHONE/1/WHATSAPP/19** refers).

87. On the 8th January 2019 Cornelio wrote to Perez, "*Anything from John Rodriguez?*" Perez responded, "*No. You enjoy and let me focus on this*." (**Exhibit PAC/MG/PHONE/1/WHATSAPP/21** refers).

88. On the 11th February 2019 Cornelio wrote, "*Also we need to speak to John, Aaron and Caine. I think the timing is good for us to put a fresh proposal in to renew all national security.*" (**Exhibit PAC/MG/PHONE/1/WHATSAPP/26** refers).

89. On the 1st March 2019 Cornelio enquired, "*U called Aaron or JR? Al ke mete pressure otherwise the current position is taken for granted*." (**Exhibit PAC/MG/PHONE/1/WHATSAPP/29** refers).

90. On the 12th March 2019 Cornelio wrote to Perez, "*Spoke to JL. Can u speak to John Rodriguez this morning*." Perez replied, "*I will call him this morning*." Cornelio continued, "*Yep now is the time to attack heavily. We have the upper hand. Use ur network*" (**Exhibit PAC/MG/PHONE/1/WHATSAPP/30** refers).

91. On the 21st March 2019 Cornelio texted, "*We need our old system back. These bastards cannot win. Call Aaron mate, this we need to take away from them ya*." (**Exhibit PAC/MG/PHONE/1/WHATSAPP/31** refers).

[redacted]

94. Paragraphs 55 to 93 (above) clearly show that Cornelio, together with Perez and Levy, attempted to dishonestly apply pressure on HMGoG in order to transfer the NSCIS platform maintenance contract.

Computer Misuse Offences - Cornelio

95. In furtherance of the agreement to obtain the NSCIS platform maintenance contract Cornelio committed numerous computer misuse offences. These offences were primarily designed to directly or indirectly disrupt the NSICS platform, and thereby bring into question the ability of Bland to maintain the said platform. As a direct consequence of his actions Cornelio compromised the national security of Gibraltar.

96. Paragraphs 168 to 272 (below) set out the evidence in support of these offences.

NSCIS Report for Sanchez - Cornelio

97. On the 4th October 2018, Peter Canessa wrote to Caine Sanchez on behalf of the Chief Minister. In an email he wrote, "*Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be provided full control of the management, maintenance and support of the NSCIS platform … Once the handover process*

is completed Tommy Cornelio nor any 3rd party are to have access to the platform." (**Exhibits PC/01** and **PC/02** refer).

98. On the 5th October 2018 Sanchez contacted Cornelio and passed on these instructions. (**Exhibit PAC/JV/LAPTOP/1/EMAIL/1** refers).

99. On the 9th October 2018 Cornelio sent an email to Sanchez (with James Gaggero copied in) in which he confirmed that he would no longer access the NSCIS platform as well as writing, "*In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms*." (**Exhibit PAC/JV/LAPTOP/1/EMAIL/1** refers).

100. After the 31st August 2018, and subsequent to the instructions from the Chief Minister on the 4th October 2018, Cornelio was not authorised to access the NSCIS platform.

101. Contrary to these instructions, between 2216 hours on the 11th April 2019 and 0013 hours on the 13th April 2019 Cornelio accessed the NSCIS platform using the credentials of Sanchez. (**Exhibits JOG/10, JC/WHATSAPP/TCCS/29** and **JC/WHATSAPP/TCCS/30** refer).

102. Cornelio thereby accessed a national security platform without authority, for the purpose of undermining Bland, and obtaining the NSCIS platform maintenance contract. (**Charge 2** – *Unauthorised access to computer material – contrary to section 362 Crimes Act 2011*).

103. On the 11th April 2019 Cornelio wrote to Levy, *"We are going to have a field day on the national security report..just wait until you see it. For now I am reviewing every single module 1 by 1.* [redacted]*."*

104. The full facts of this offence are set out in paragraphs 308 to 323 below. (Caine Sanchez – The NSCIS report).

JOHN PEREZ – CONSPIRACY TO DEFRAUD (**[Joint] Charge 1**)

Planning / Preparation to Obtain the NSCIS Platform Maintenance Contract - Perez

105. During the course of 2018 Perez planned with Cornelio and Levy, to dishonestly obtain the NSCIS platform maintenance contract.

106. Paragraphs 35 to 47 are repeated. (Cornelio - Planning / Preparation to Obtain the NSCIS Platform Maintenance Contract).

107. In addition, on the 10th June 2018 Perez wrote to Levy, "*Preparing for our departure on 29th June. Everything else is now almost in place. John*." (**Exhibit JC/CHAT/JPJL/1** refers).

108. On the 30th August, and immediately prior to Cornelio terminating his consultancy, Levy wrote to Perez, "*John I just rang you to tell you everything is under control. I've been working with Tommy on the relevant letters. I am very confident that we will bring this to a close in a successful manner very shortly. You can rest assured I will do my best to help you in every way. I have great Respect and admiration for your ability and hard work. Do not worry if there is an attack I will help you to defend and to counter-attack. You're a military man so I'm writing to you in military terms."* (**Exhibit JC/CHAT/JPJL/5** refers).

<u>Appropriation of business commenced by Bland - Perez</u>

109. Together with Levy and Cornelio, Perez was involved in the planning to appropriate the business commenced by Bland for the benefit of 36 North. In part, this is evidenced by the Letter of intent addressed to Levy and the subsequent setting up of 36 North. (**Exhibits JC/Emails/36North**).

110. Paragraphs 48 to 53 are repeated (Cornelio – Appropriation of Business Commenced by Bland).

111. In addition, on the 6th July 2018, Perez discussed one of these projects, namely Carnival Cruises, with Levy, despite not having resigned from Bland. He wrote, "*James we have just finished with Carnival after a long day of negotiations. We have been successful and now moving to the pilot phase. Flying back tomorrow*." (**Exhibit JC/CHAT/JPJL/2** refers).

112. On the 7th September 2018, and in respect of Sao Tome, Perez wrote to Levy, "*James this week we will be receiving a contract from São Tomé and Príncipe for review. The commercial elements of the contract have already been agreed in principle. We are also closing in on Equatorial Guinea*." (**Exhibit JC/CHAT/JPJL/6** refers).

Pressure on HM Government of Gibraltar - Perez

113. Following his departure from Bland, Perez sought to apply pressure on HMGoG to transfer the NSCIS platform maintenance contract from Bland to 36 North.

114. Paragraphs 82 to 93 are repeated. (Cornelio – Pressure on HM Government of Gibraltar).

115. In addition, on the 9th October 2018 Perez wrote to Levy stating, "*James thank you so much for this morning. I am sure our sessions will become more enjoyable as we set of in our journey. With regards to dropping Fabian a note, let's give him a bit more time. As the pressure will naturally surface through his law enforcement heads*." (**Exhibit JC/CHAT/JPJL/7** refers).

Knowledge of Computer Misuse Offences - Perez

116. Evidence suggests that Perez was made aware of the computer misuse offences committed by Cornelio. (Paragraphs 168 to 272 refer).

117. On the 19th October 2018 Cornelio wrote to Perez saying, "*Spoke to James ref forensic team confidentially. Spoke to him on the phone. Call me and I can discuss. He says not to worry. I am very concerned they will try to prove I have acted to sabotage the system in any way etc*." (**Exhibit JC/CHAT/JPJL/6** refers).

118. On the 12th October 2018 Perez had a meeting with the Commissioner of Police. During this meeting he informed the Commissioner that they no longer had any involvement with the NSCIS platform but [redacted] When asked how he knew this information if they no longer exercised control he replied, "*Tommy is a wizard*."

NSCIS Report for Sanchez - Perez

119. Paragraphs 97 – 104 are repeated. (NSCIS Report for Sanchez – Cornelio)

120. Despite no longer having access to the NSCIS platform, Perez assisted Cornelio as he was writing the NSCIS report for Sanchez.

121. On the 13th April 2019, a day after Cornelio had accessed the platform, he wrote to Perez, "*I have done my NSCIS bit. I will type it up later tonight*." (**Exhibit PAC/MG/Phone/1/Whatsapp/36** refers).

122. On the 14th April 2019, Cornelio wrote to Perez, "*I'm doing the report for Caine now*." Perez later wrote, "*Ok. Once done send it by email. Can view better on the lap top*." (**Exhibit PAC/MG/Phone/1/Whatsapp/37** refers).

JAIME LEVY – CONSPIRACY TO DEFRAUD (**[Joint] Charge 1**)

123. During the course of 2018 Levy planned, together with Cornelio and Perez, to obtain the NSCIS platform maintenance contract.

Planning / Preparation to Obtain the NSCIS Platform Maintenance Contract - Levy

124. Together with Perez and Cornelio, Levy was involved in the planning to dishonestly appropriate the NSCIS maintenance contract.

125. Paragraphs 35 to 47 are repeated. (Cornelio - Planning / Preparation to Obtain the NSCIS Platform Maintenance Contract).

Appropriation of business commenced by Bland - Levy

126. Together with Perez and Cornelio, Levy was involved in planning to dishonestly appropriate the business commenced by Bland.

127. Paragraphs 48 to 53 are repeated (Cornelio – Appropriation of Business Commenced by Bland).

128. Paragraphs 109 to 112 are repeated (Perez – Appropriation of Business Commenced by Bland).

Pressure on HM Government of Gibraltar - Levy

129. Levy assisted both Perez and Cornelio to apply pressure to HMGoG with the intention that the NSICS maintenance contract would be transferred to 36 North.

130. Paragraphs 72 to 80 are repeated (Cornelio – Pressure on HM Government of Gibraltar).

131. Paragraph 115 is repeated (Perez – Pressure on HM Government of Gibraltar).

Knowledge of Computer Misuse Offences - Levy

132. On the 19th October 2018 Cornelio wrote to Levy saying, "*Morning James. Very confidential. Note Gaggero has brought in a forensic team of six to look at anything John and I may have done to tamper with the system etc. Gaggero is going all out it seems*. (**Exhibit JC/CHAT/TCJL/5** refers).

133. In a text to Perez the same day Cornelio stated that he had spoken to Levy and was told not to worry. (**Exhibit PAC/MG/Phone/1/Whatsapp/4** refers).

134. The evidence indicates that Levy discussed the forensic team with Cornelio and that he had given him advice about the situation.

NSCIS Report for Sanchez - Levy

135. By 2019 Levy was in no doubt that Cornelio and 36 North had not been contracted to maintain the NSCIS platform. Despite this fact, he did not question Cornelio accessing the system in April 2019.

136. On the 11th April 2019 Cornelio wrote to Levy, "*I am preparing a report for Caine/Albert Mena with regards to the failures of the National Security platform of which* [redacted] *Lesley is preparing a legal letter for your review in an attempt to speed up the process. This is ok?*" (**Exhibit JC/CHAT/TCJL/10** refers). He went on to say, *"We are going to have a field day on the national security report..just wait until you see it. For now I am reviewing every single module 1 by 1.* [redacted]*."*

137. On the 23rd April 2019 he wrote to Levy, "*Note I provided Albert Mena with a report on the National Security system. Has he made any comment to you about this? The report would have been delivered to him via Caine*." (**Exhibit JC/CHAT/TCJL/1** refers).

CAINE SANCHEZ – CONSPIRACY TO DEFRAUD (**[Joint] Charge 1**)

138. The evidence in support of Sanchez conspiring with Cornelio, Perez and Levy, to defraud Bland by dishonestly appropriating the NSCIS platform maintenance contract for the benefit of 36 North Limited is contained in paragraphs 274 to 324 below.

AARON CHIPOL – (**Charge 3** - Misconduct in Public Office)

139. Evidence of misconduct by Chipol can be arranged into the following sub-headings:

a. Attempts to undermine Blands in favour of 36 North;
b. Encouraging Cornelio to access the NSCIS system without authority;
c. Knowledge of unauthorised access to the NSCIS platform by Cornelio;
d. Disclosing sensitive information to Cornelio regarding the NSCIS platform;
e. Offering government funding to 36 North.

Attempts to undermine Blands in favour of 36 North

140. Between September 2018 and May 2019 both Cornelio and Chipol communicated on an almost daily basis. The exchanges predominantly revolved around the NSCIS platform and attempts to undermine Blands as the provider of such. Chipol appeared to be willing to place pressure upon the government in order to assist Cornelio [and thereby 36 North] in obtaining the NSCIS platform maintenance contract. On a number of occasions Chipol accepted drafts from Cornelio which he agreed to send on as complaints [as if he had written them himself].

141. On 14th September 2018 Cornelio sent Chipol a draft email as part of a Whatsapp chat in relation to ID Scanners to send on to Caine Sanchez. (**Exhibit JC/WHATSAPP/TCAC/1** refers).

142. On 17th September 2018 Chipol sent this email to Caine Sanchez as if it was himself who wrote it. This was shortly after Chipol was promoted to CEO of BCA. (**Exhibit JC/EMAIL/ACCS/2** refers)

143. On 17th September 2018 Cornelio informed Chipol "*Aaron...*[redacted]" Chipol replied "*Wow*" and "*are you able to fix it*". Cornelio then sent Chipol a draft of an email to forward to Caine Sanchez. (**Exhibit JC/WHATSAPP/TCAC/2** refers)

144. On 18th September 2018 Chipol sent an amended version of this email to Sanchez stating "*Yesterday I had a conversation with Tommy Cornelio who informed me of the following*:" The email sent by Chipol was less direct. (**Exhibit JC/EMAIL/ACCS/1** refers)

145. On 18th October 2018 Cornelio asked Chipol "*Did you put pressure on them?*" and "*Maybe an email to CM letting him know about the meeting and that they are*

asking for more time" Chipol replied "*I did Claro*". (**Exhibit JC/CHAT/TCAC/4** refers).

146. On 23rd October 2018 Cornelio and Chipol discussed the platform. Cornelio wrote, "*They are being very reckless pretending that they can work on the system*." Chipol replied "*ya*". He later stated "*More pressure the better*". (**Exhibit JC/CHAT/TCAC/5** refers).

147. On 30th October 2018, the conversations continued. Chipol informed Cornelio who he and other users of the system were directing their complaints to. Cornelio wrote "*As long as u copy in caine or cm i am sure the cm will sort out next week*" Chipol replied, "*Yep caine copied in all complaints*" (**Exhibit JC/CHAT/TCAC/7** refers).

148. On 22nd November 2018, Cornelio asked Chipol to send a "*strong email*" copying in Caine and CM. (**Exhibit JC/CHAT/TCAC/8** refers). From analysis of Chipol's emails this was not sent on.

149. On 5th December 2018, Cornelio drafted an email for Chipol to send to Sanchez. (**Exhibit JC/CHAT/TCAC/9** refers). From analysis of Chipol's emails this was not sent on.

150. On 11th December 2018, Cornelio stated "*Aaron thx...Caine said he got ur email*". (**Exhibit JC/CHAT/TCAC/10** refers). From analysis of Chipols emails, this was never sent however an email was sent on 11th December 2018 by Joseph Molinari (BCA Head of Immigration) to Sanchez. This is likely to be what Cornelio was referring to.

151. On 20th March 2019, Cornelio and Chipol discussed the APIS platform and a forthcoming meeting with the Chief Minister Chipol was due to attend. Cornelio asked to meet Chipol prior to this meeting. (**Exhibit JC/CHAT/TCAC/11** refers).

152. On 23rd April 2019, Cornelio drafted a further email for Chipol to send onto Sanchez. This email was in relation to the Twitter Feed and Frontier Queue times. From analysis of Chipol's emails, this was not sent on. (**Exhibit JC/CHAT/TCAC/12** refers)

153. On 5th May 2019, Cornelio asked Chipol if he wanted him to prepare a paragraph regarding the queue issue. Chipol replied "*Would be useful*". Cornelio later sent a draft in relation to NSCIS and that it should be brought down. (**Exhibit JC/CHAT/TCAC/13** refers). From analysis of Chipol's emails, this was not sent on.

154. The evidence in paragraphs 140 to 153 show that Chipol and Cornelio continued to discuss the NSCIS platform after Cornelio had left the employment of Bland. The language used suggests that he was supportive of Cornelio. However, whilst Chipol sent on an initial email that had been drafted by Cornelio, and amended a second, there is no evidence that he complied with further requests.

Encouraging Cornelio to access the NSCIS system without authority

155. On the 27th July 2018 Cornelio advised Chipol, following a request to check a registration number, that he would be 'out' as of the 10th August and that it would be more difficult in future. Chipol replied "*Really happy for you*." (**Exhibit JC/CHAT/TCAC/14** refers).

156. By the 31st August 2018 Cornelio had left Blands, and had terminated his consultancy period. He wrote to Chipol on the 7th September 2018 "*We need CM to move everything over to us officially asap*" Chipol replied "*Yep*". (**Exhibit JC/CHAT/TCAC/15** refers). The evidence suggests that Chipol was aware that Cornelio had left Bland after this date.

157. Despite the above, there are two occasions where Chipol encouraged Cornelio to access the system:

a. On 17th September 2018, Cornelio informed him that there were 15 entries to be appended. Chipol replied "*Wow*" "*You able to fix it*". (**Exhibit JC/CHAT/TCAC/16** refers).

b. On 28th September 2018, Chipol wrote to Cornelio "*Tommy I need to give access to an officer to see statistics*". Cornelio replied "*Sure np*". Chipol then asks "not here can you do". (**Exhibit JC/CHAT/TCAC/17** refers).

158. The evidence is paragraphs 155 to 157 suggest that Chipol encouraged Cornelio to access the national security platform.

Knowledge of unauthorised access to the NSCIS platform by Cornelio

159. Chipol was aware Cornelio should not have accessed the system after September 2018. Despite this, he failed to take action when Cornelio confirmed he was obtaining unauthorised access.

[redacted]

161. On the 11th October Chipol made it clear that Cornelio should not be involved in NSCIS. In response to an offer from Cornelio to access the system he stated, "*As Caine doesn't want you involved let me speak to moli as he should know* [redacted]." In turn, at 1246 hours, Cornelio confirmed that he had looked at the system [redacted] (**Exhibit JC/CHAT/TCAC/20** refers).

162. On 23rd April 2019, Cornelio sends Chipol a message "*aaron...take a look...top secret for your eyes only ok*" followed by an attachment. Cornelio wrote "*that is a full report into the system as commissioned by Albert Mena. Do not tell anyone i sent to you ok*" (Exhibit JC/CHAT/TCAC/22 refers)

<u>Disclosing Sensitive Information to Cornelio Regarding the NSCIS Platform</u>

163. In addition to knowing Cornelio was accessing the NSCIS platform, Chipol periodically updated Cornelio concerning deficiencies / problems with the system. In doing so he contravened his statutory duties under the section 2 of the Official Secrets Act 1911.

1[redacted]

165. On 24th October 2018, [redacted], Chipol confirmed to Cornelio that that elements of the security platform [redacted]. (**JC/CHAT/TCAC/23** refers) Chipol subsequently asked Cornelio to "*Please keep to yourself lol.*" (**JC/CHAT/TCAC/24** refers)

166. On 5th December 2018, Cornelio confirmed, "*14th August was my last day at Blands*" Despite this, Chipol went on to state "*I am logged in going through everything*". On the same date Cornelio asked Chipol to check a number of the NSCIS functions such as vehicle search, maritime data, suspicious persons etc. Chipol provided information about the status of the NSCIS platform to Cornelio. (Exhibits **JC/CHAT/TCAC/25** and **JOG/122** refer)

Offering Government Funding to 36 North

167. On the 1st November 2018 Chipol wrote to Cornelio and confirmed that he retained some of the BCA budget pending an anticipated transfer of the NSCIS maintenance contract to 36 North. (**Exhibit JC/CHAT/TCAC/27** refers).

COMPUTER MISUSE OFFENCES

168. In furtherance of the conspiracy to defraud Bland of the NSCIS platform maintenance agreement Cornelio committed a number of computer related offences. A number of these offences were initially discovered by PwC, who were engaged by Bland, in October 2018, following numerous performance issues associated with the system.

WAVETECX EMAIL ACCOUNTS

169. The Wavetecx email accounts were the property of Bland Limited.

170. On the 27th July 2018, without authority, and while still an employee of Bland (in his notice period), Cornelio logged onto the Wavetecx email server and exported all the data, including user mailboxes and data files from all Wavetecx email accounts. These included the email accounts of Perez and Cornelio.

171. On the same date, and without authority, Cornelio deleted all Wavetecx mailboxes and data files from the Wavetecx server. The email accounts included evidence of the intent of Perez and Cornelio to appropriate the NSCIS maintenance contract (**Exhibit JG/22** refers), as well as potential customers of the NSCIS platform and communications with HMGoG relating to the NSCIS platform. (**Exhibits JOG/11 & JOG/15** refer).

172. These actions were performed from IP addresses attributed to Cornelio. (Exhibits **JOG/12,PAC/JC/Tablet/1/IP/1, PAC/JU/3/SSD0/IP/1, PAC/JU/3/SSD0/Doc/9** and **PAC/JU/3/SSD0/IP/2** refer).

173. Cornelio exported and deleted these mailboxes in the belief that these mailboxes could not be recovered. (**Exhibit JC/Whatsapp/Ateam/1, JC/Whatsapp/Ateam/2** and **JC/Whatsapp/Ateam/3** refers). (**Charge 4** - Unauthorised acts with intent to impair the operation of a computer – section 364(1) as read with s.364(2)(b) Crimes Act 2011). Despite his belief that they could not be retrieved, the content of these mailboxes were later recovered.

174. These actions were consistent with the agreement to undermine Bland Limited and appropriate the NSCIS platform maintenance contract.

PREVENTING MICROSOFT AZURE ACCESS

175. On the 16th May 2018, being the same date on which ICode Limited was incorporated by Cornelio, the login credentials of Jonathan Galliano (Bland Head of IT and Infrastructure), in respect of the Bland Microsoft Azure account failed to work.

176. Cornelio persistently failed to restore the access despite repeated requests to do so on the 16th May 2018, 9th July 2018, 24th July 2018, 25th July 2018, 26th July 2018, 31st July 2018, 2nd August 2018, 6th August 2018 and 10th August 2018. (**Exhibit JOG/17** refers). (**Charges 5 to 13** – *Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011*).

177. The login issues were due to Cornelio blocking the Microsoft Azure account of Galliano, as he was the only person authorised to do so.

178. These actions prevented Galliano, and thereby Bland, from accessing the NSCIS Azure resources, which hindered the ability of Bland to identify, diagnose, administer and repair issues associated with the NSCIS platform.

179. It further prevented Galliano (and thereby Bland) from accessing the Azure Management Portal activity logs, which would have identified actions carried out by Cornelio on the Microsoft Azure account.

180. These actions were consistent with an agreement to undermine Bland Limited and appropriate the NSCIS platform maintenance contract.

TERMINATION OF CONSULTANCY PERIOD

181. On the 1st September 2018 Cornelio terminated the consultancy period with Bland. In an email to James Gaggero, dated the 30th August 2018 he wrote, "*Please let this email serve as official notice that as of 00:00 on 1st September 2018 I will no longer be supporting the NSCIS platform in any capacity*." (**Exhibit JG/29** refers).

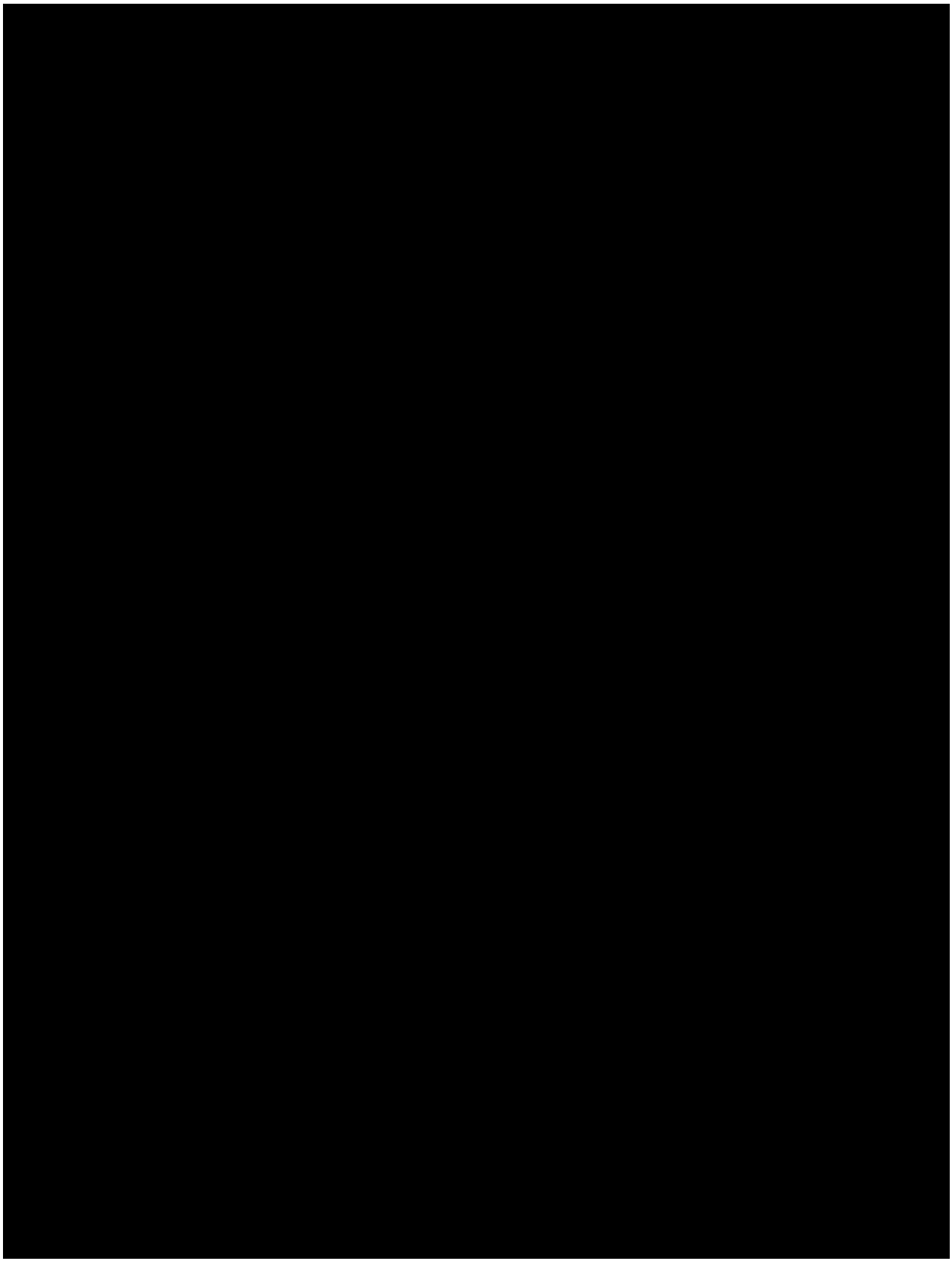
182. On the 9th October 2018 Cornelio sent an email to Sanchez (with James Gaggero copied in) in which he wrote, "*In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas*

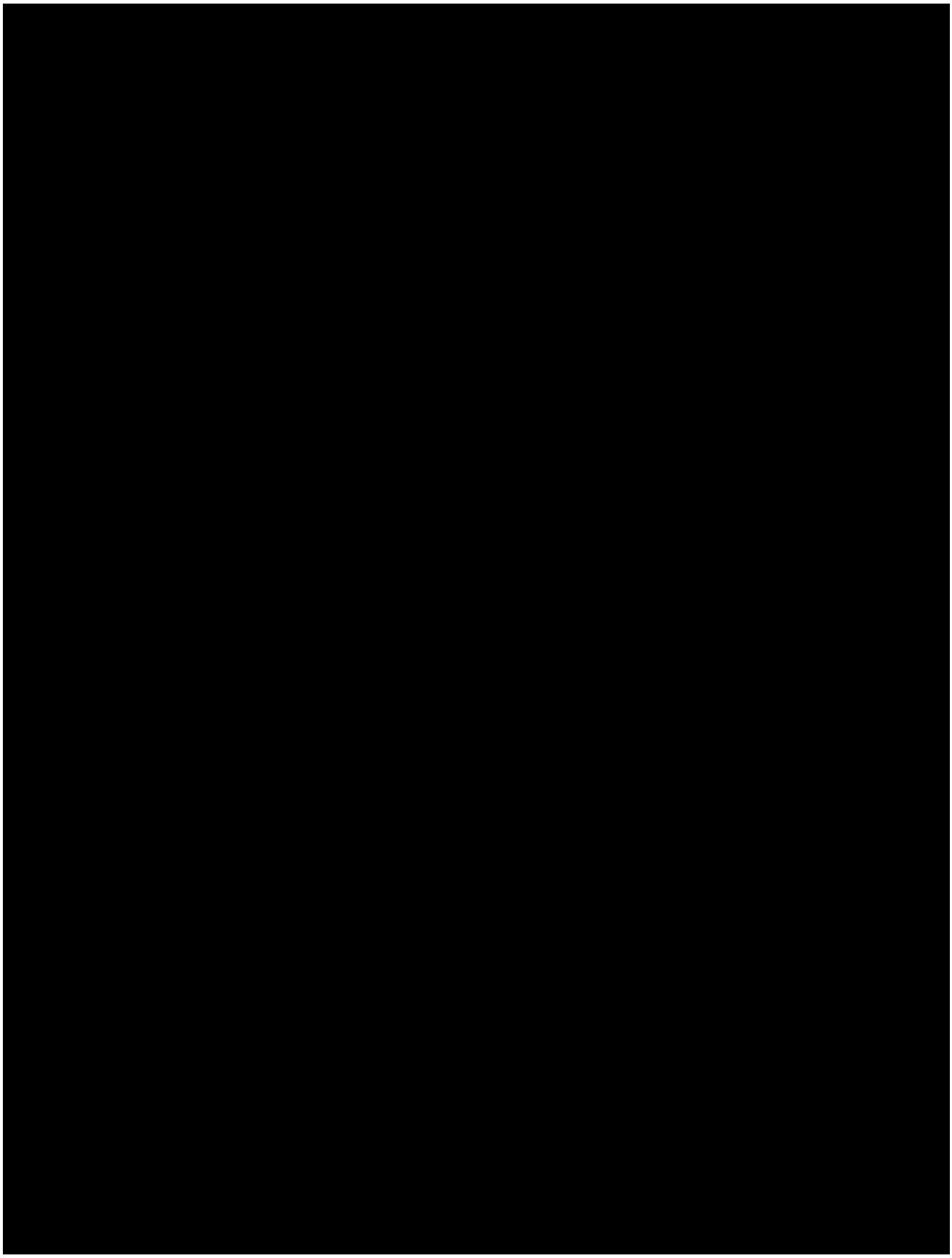
Cornelio have ongoing responsibilities to support these platforms." (Exhibit **JG/28** refers).

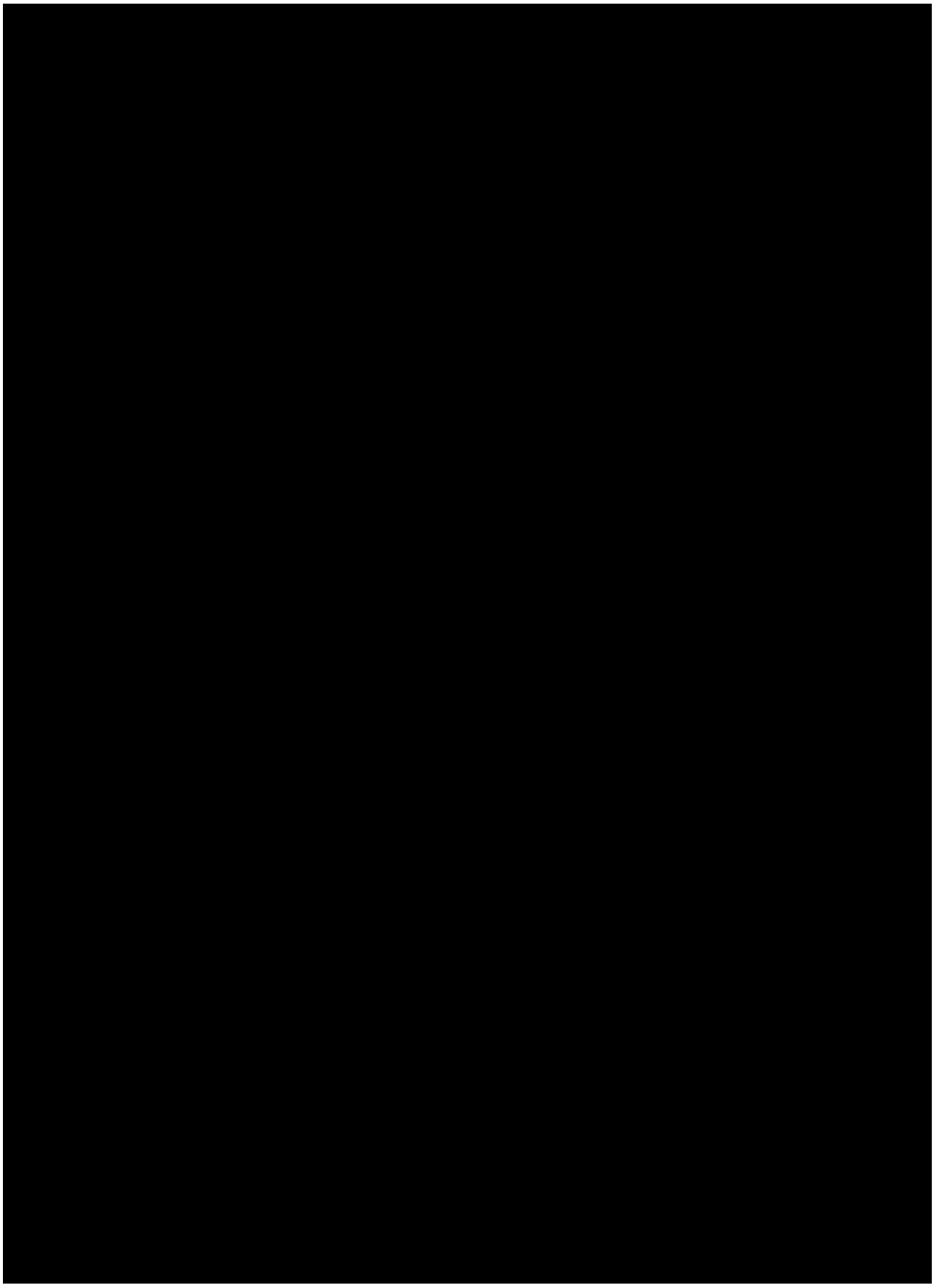
183. As of the 1st September 2018 Cornelio was no longer authorised by Bland to access the NSCIS platform.

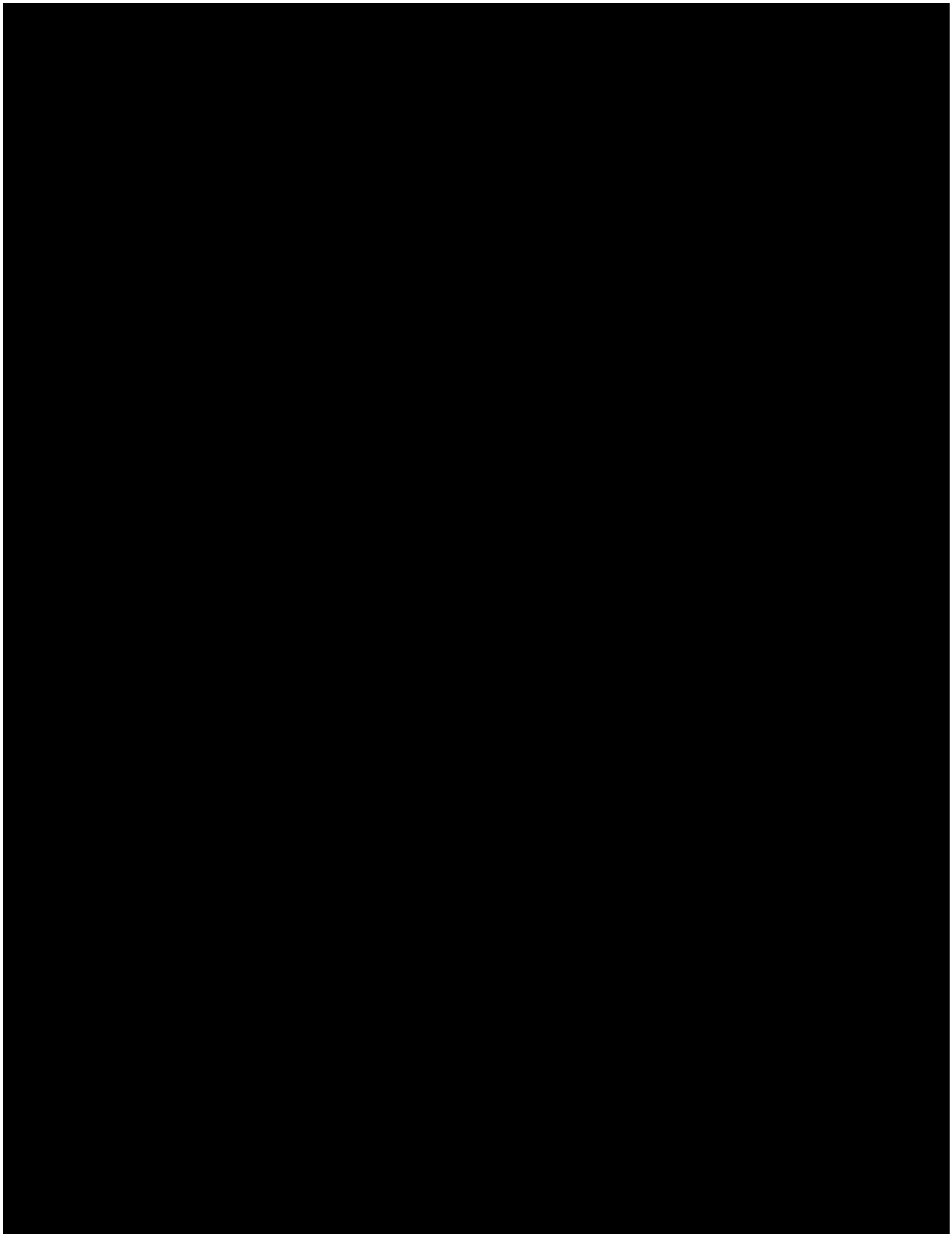
184. However, Microsoft Azure logs revealed that Cornelio had logged on using his account [redacted] on numerous occasions after the 31st August 2018 (Exhibit **JOG/26** refers).

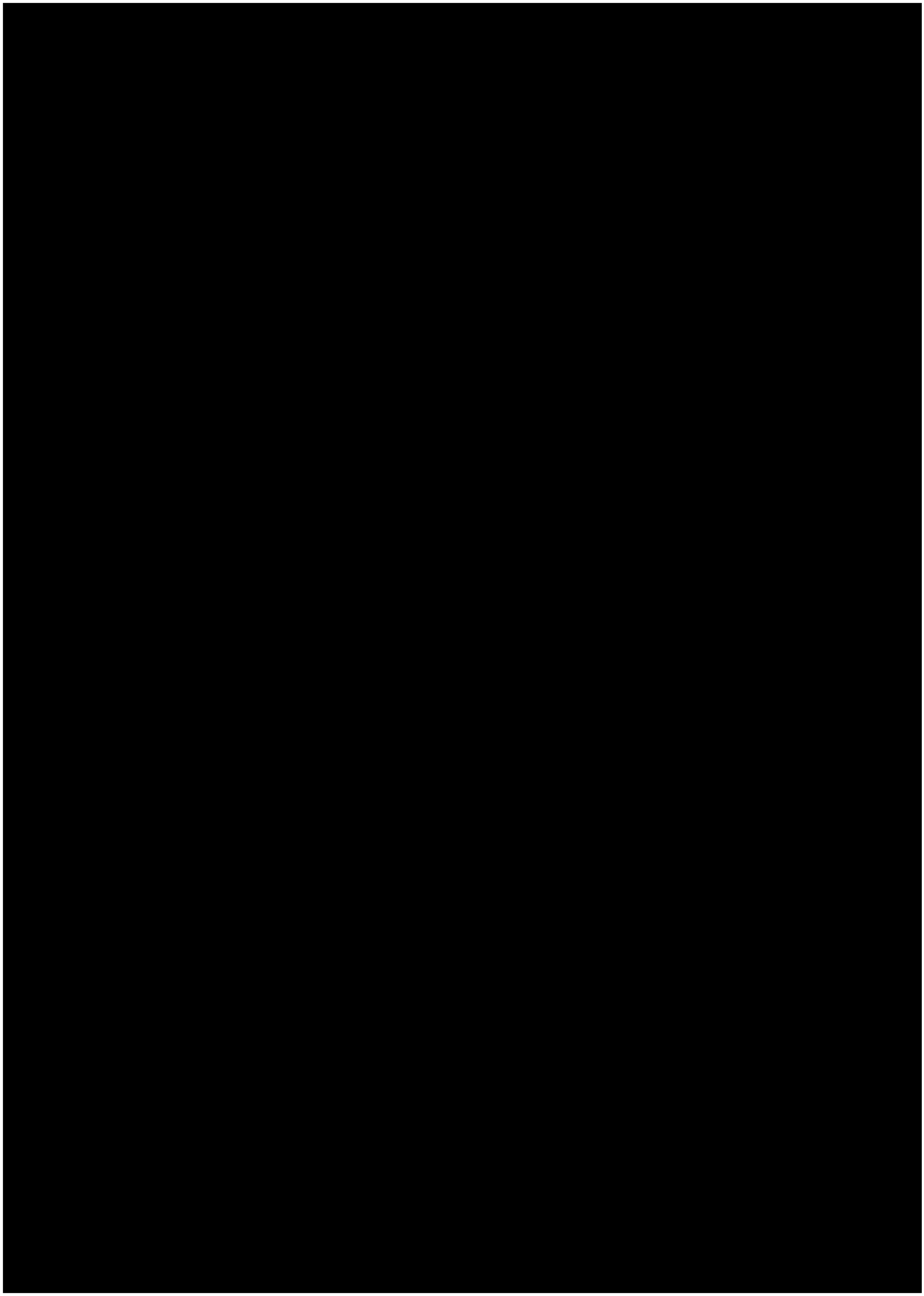
[redacted]

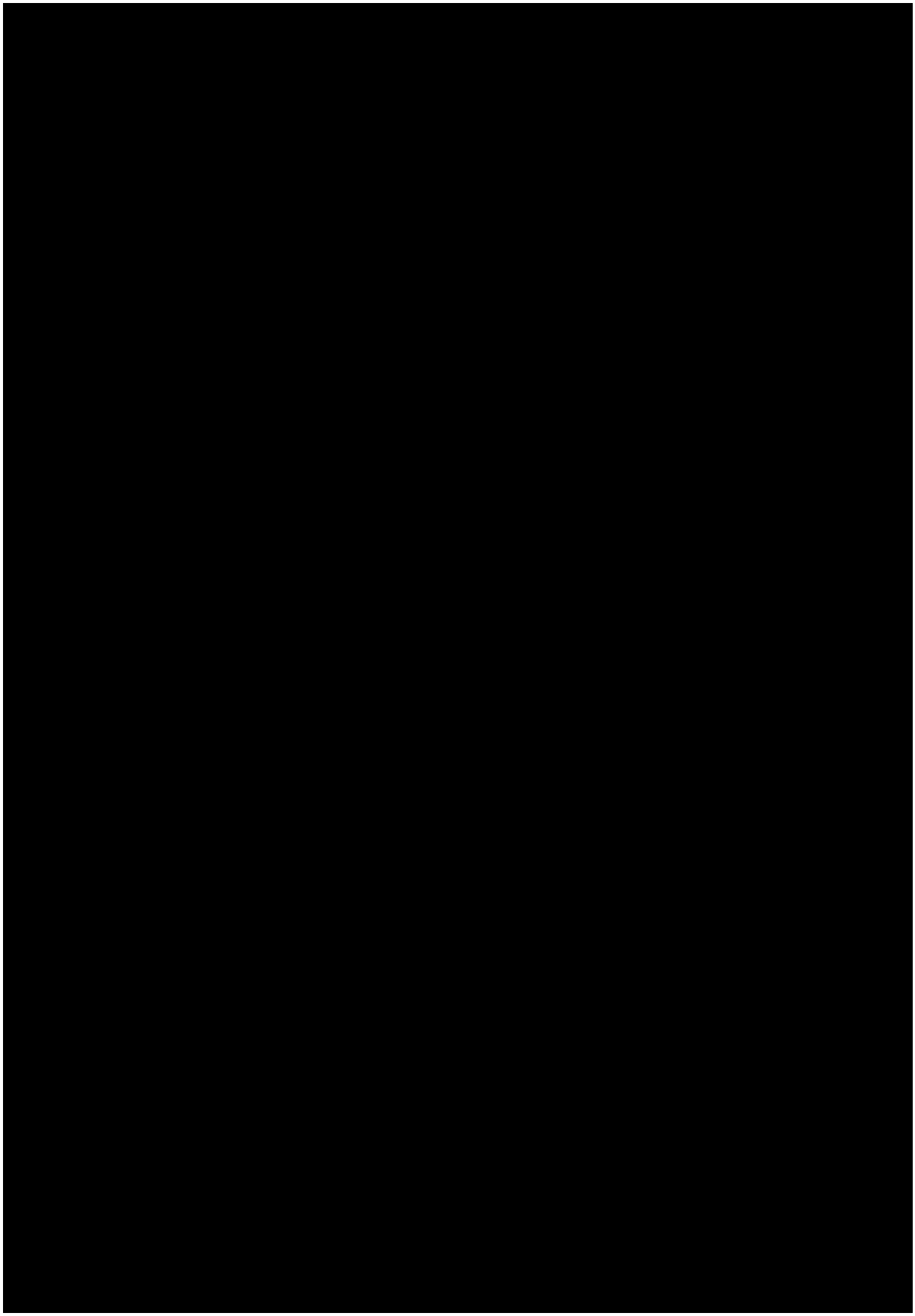


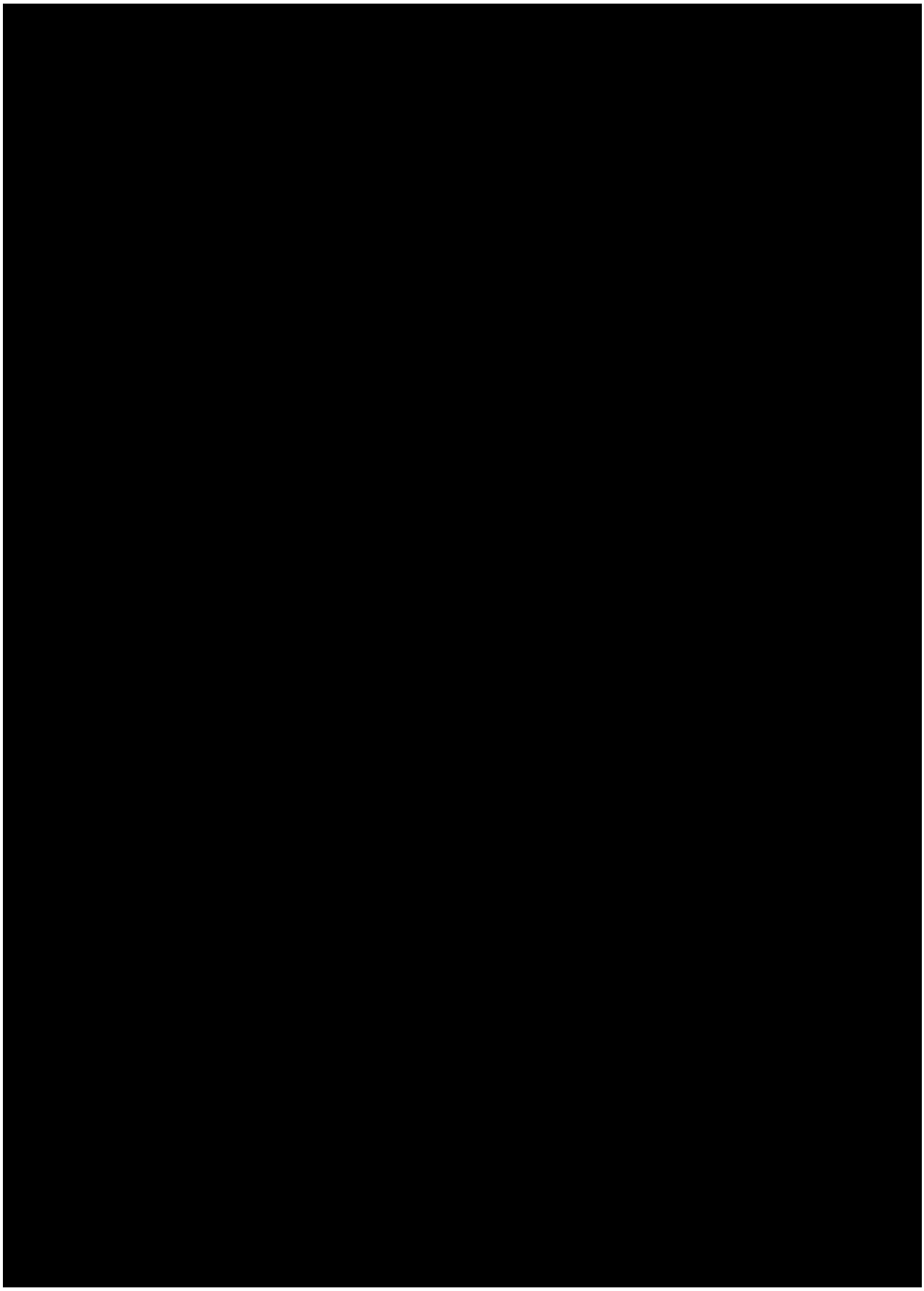


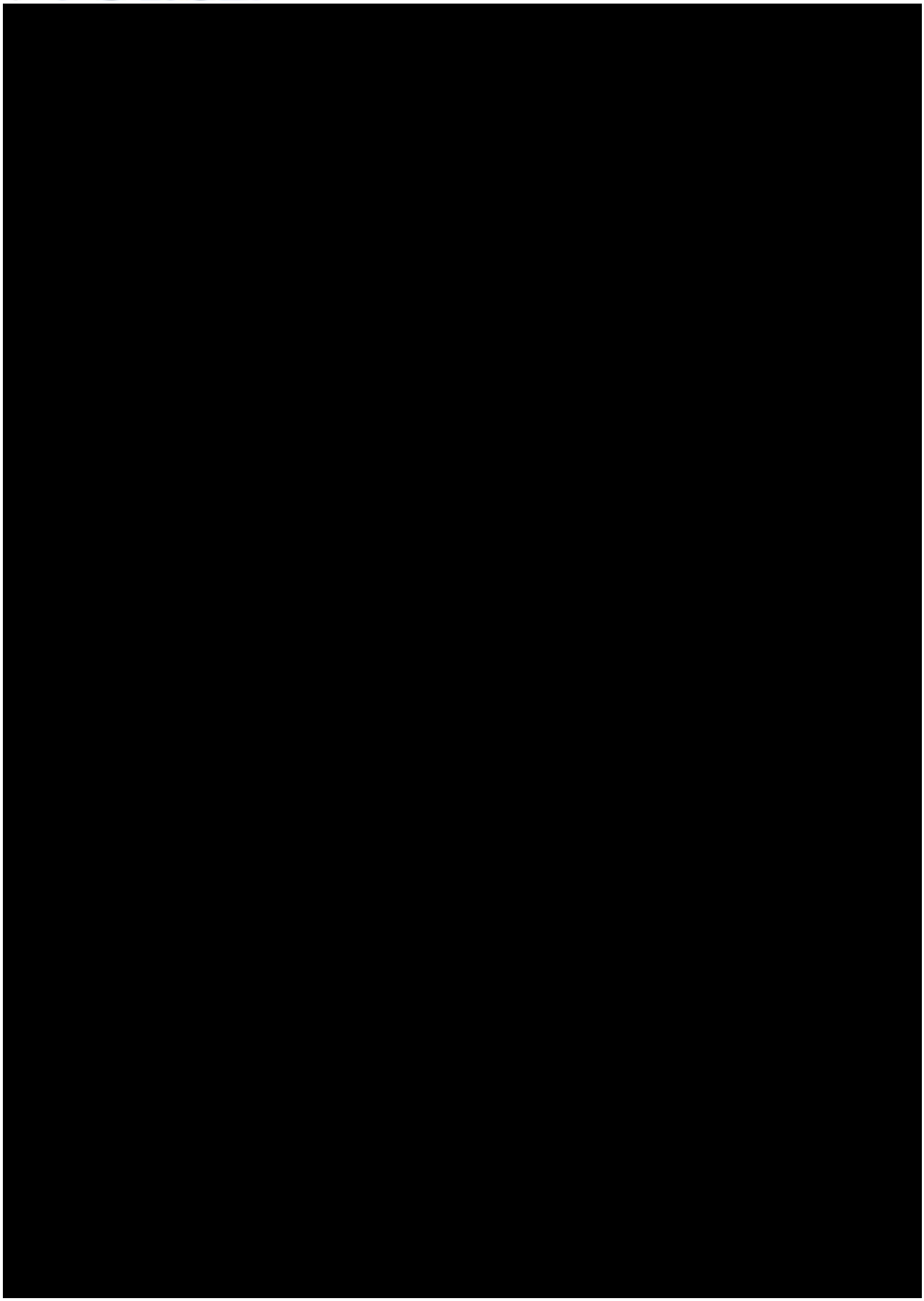


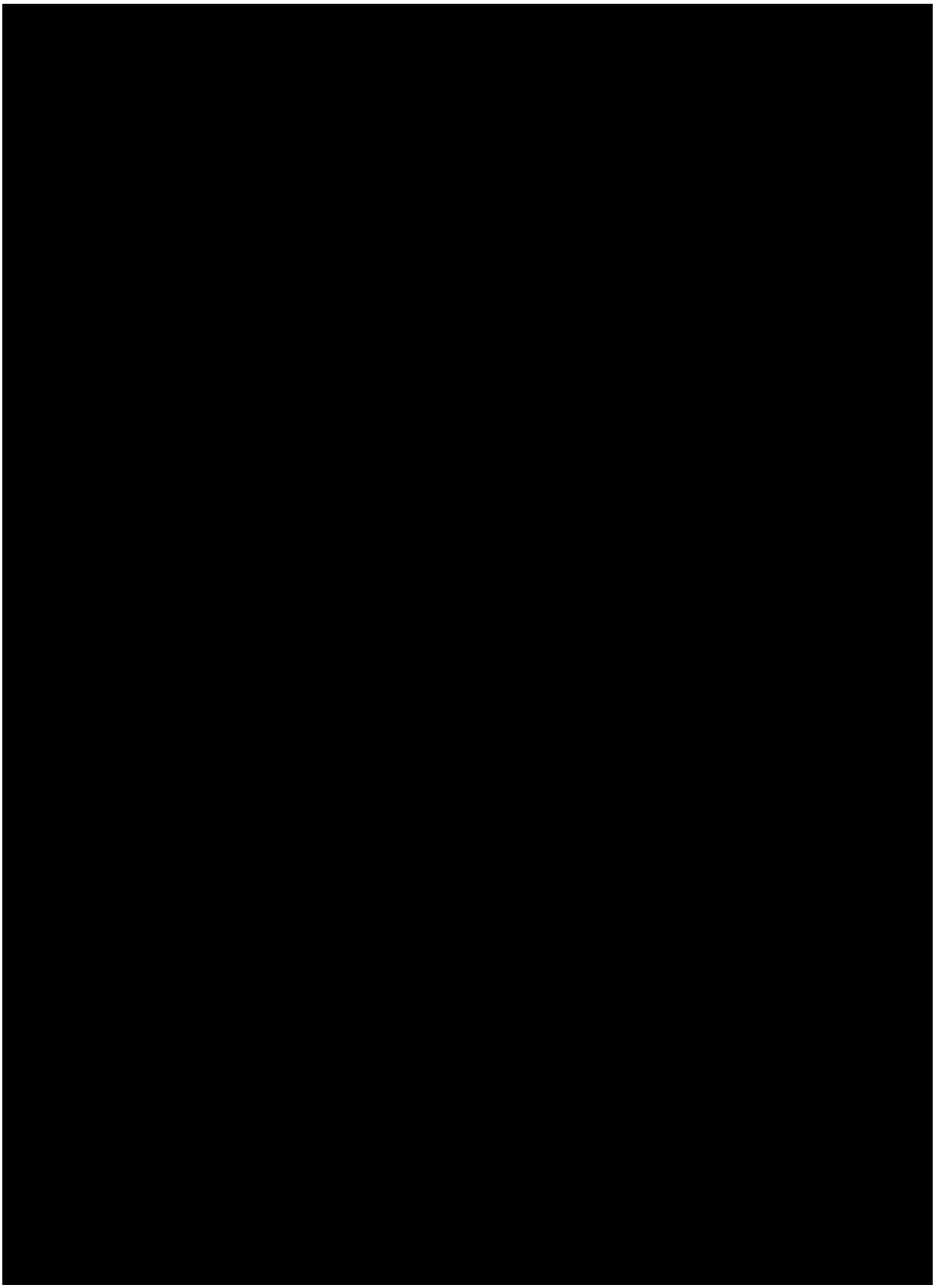


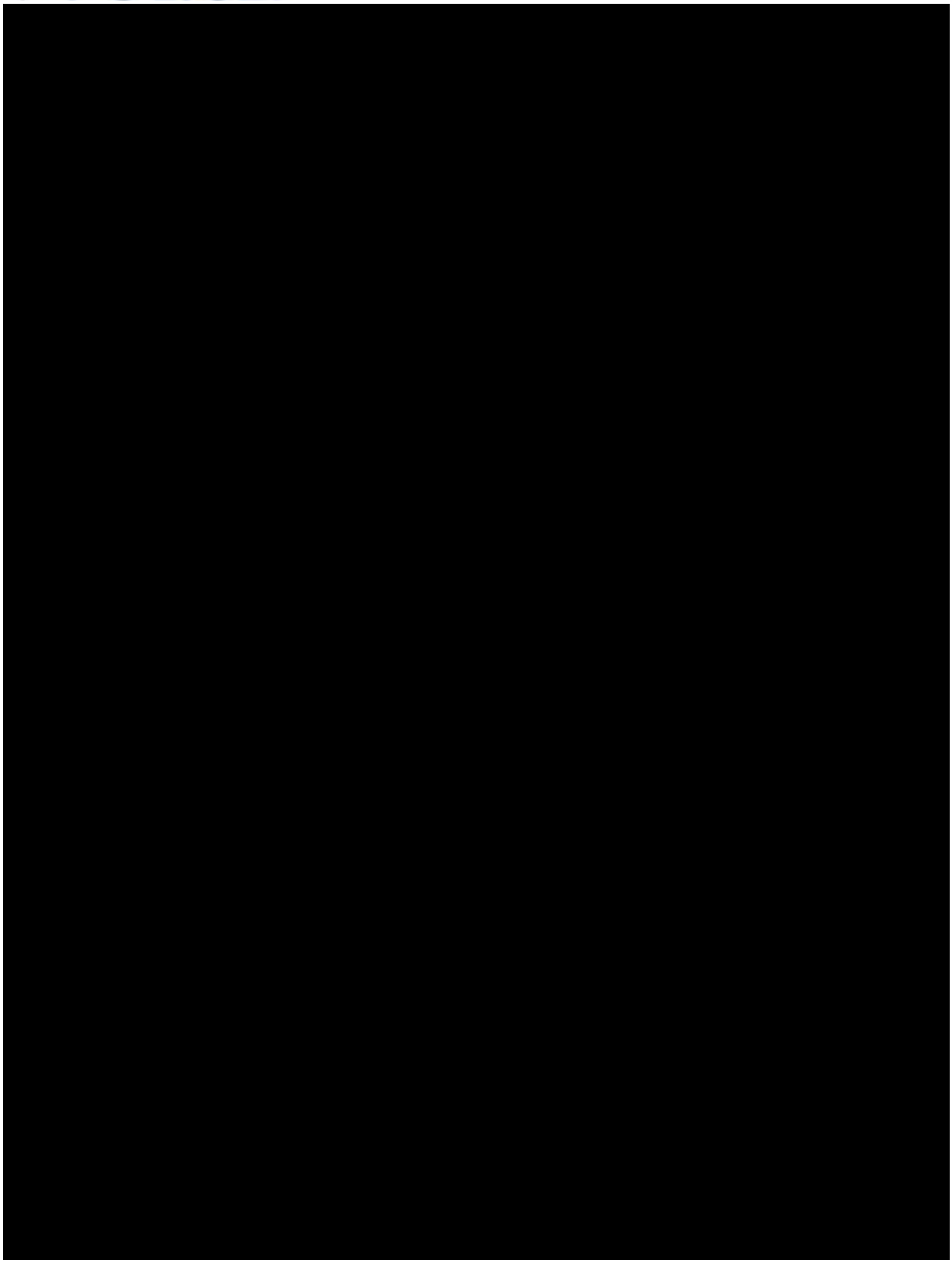


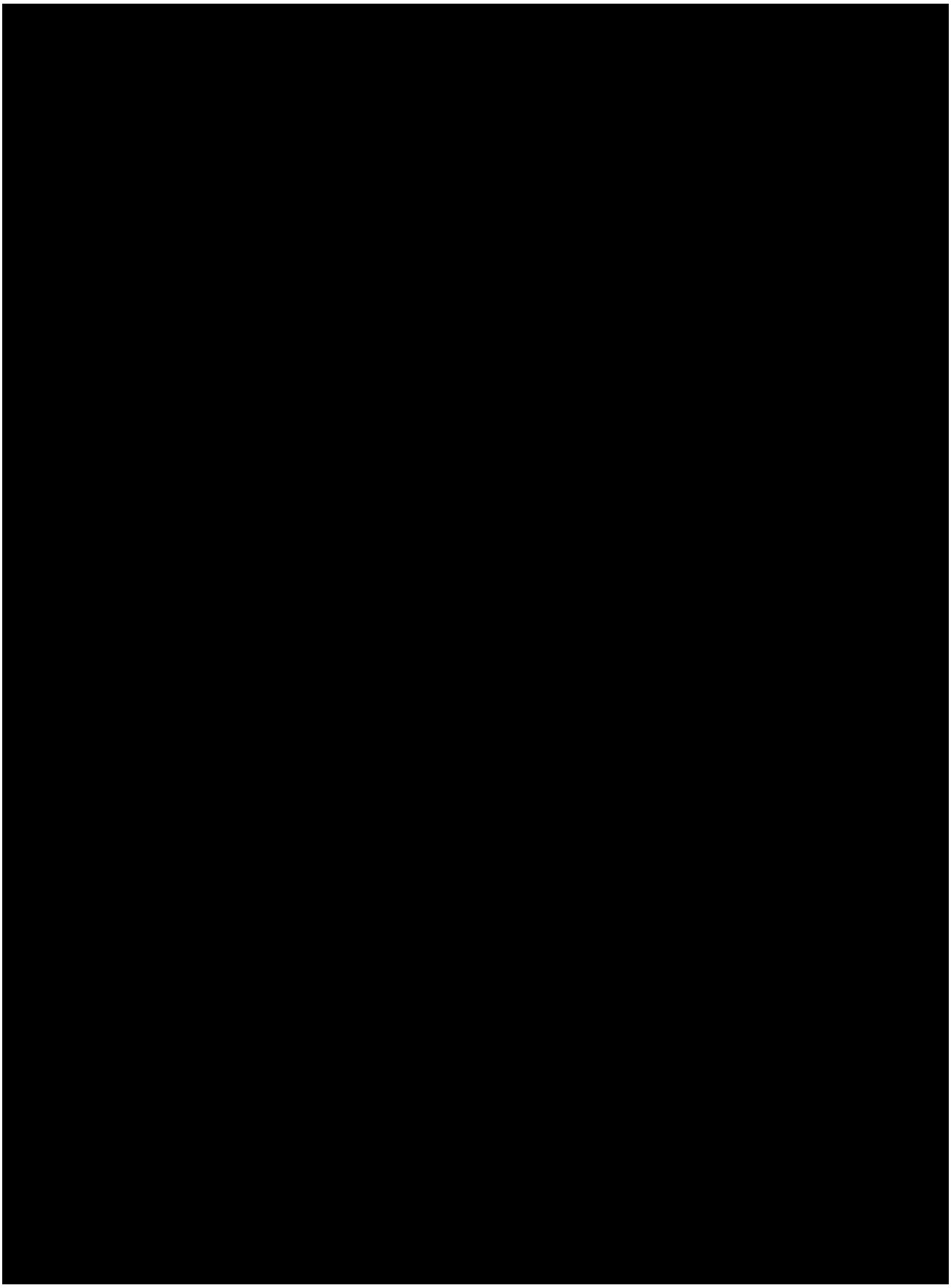


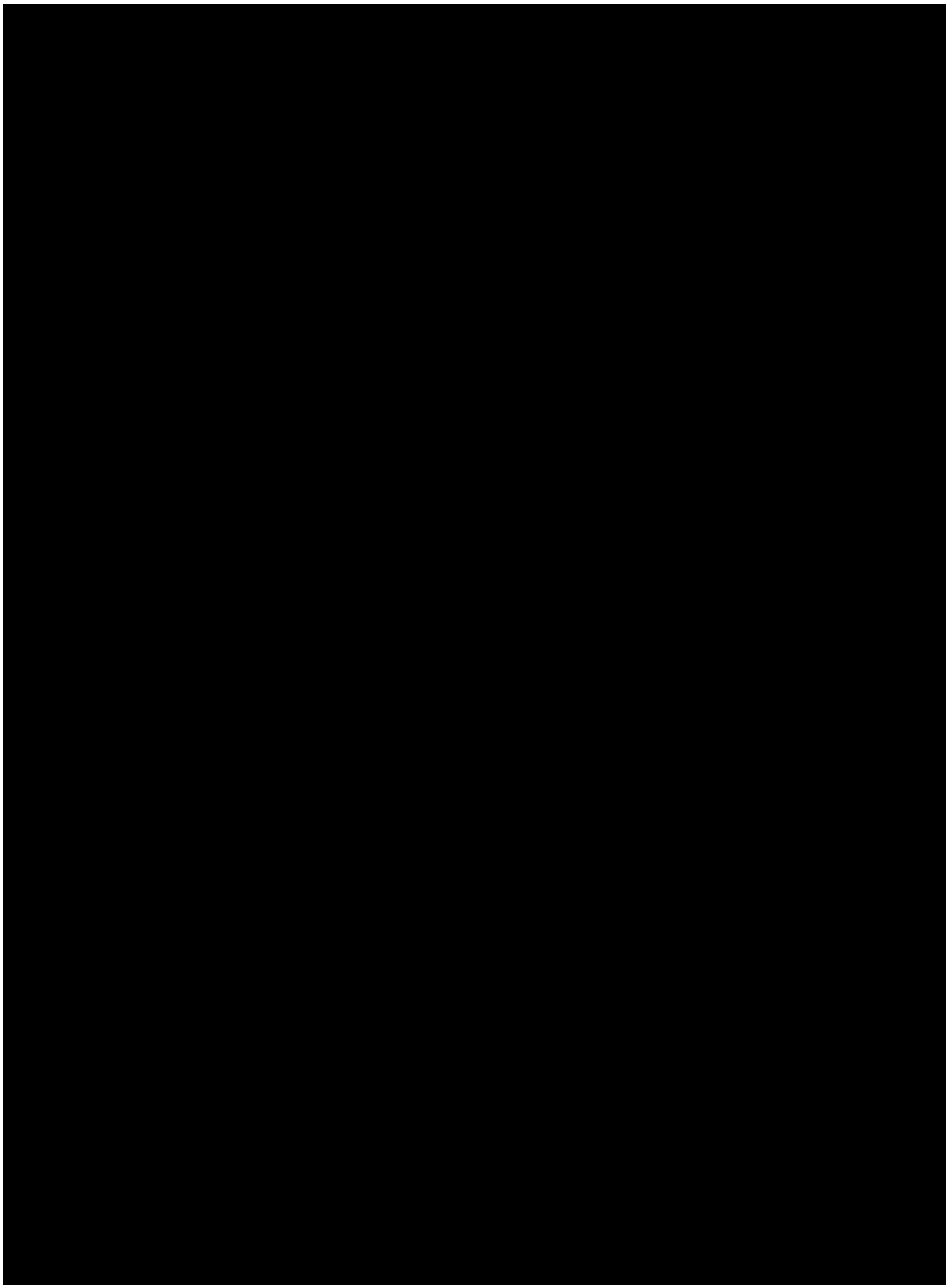


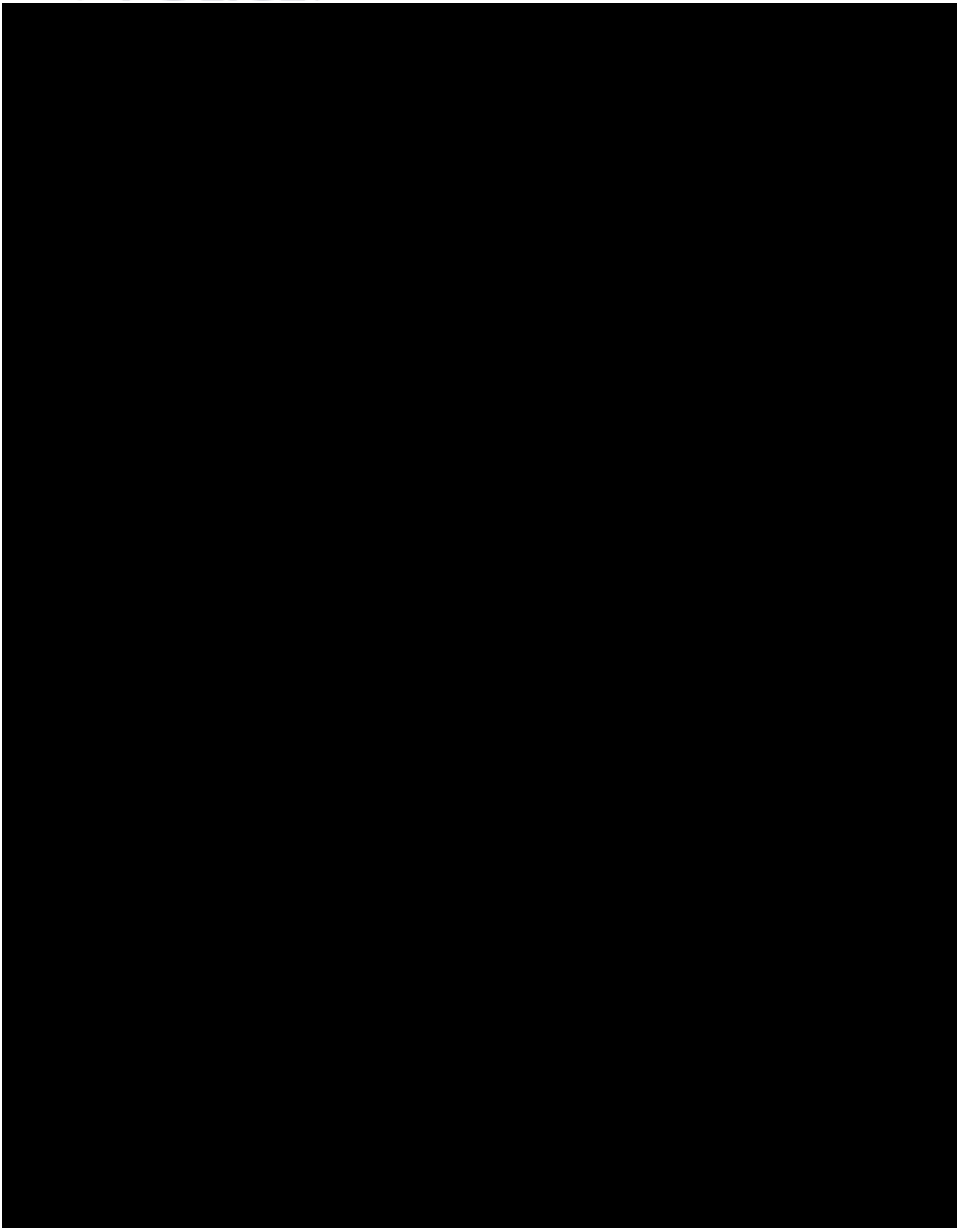


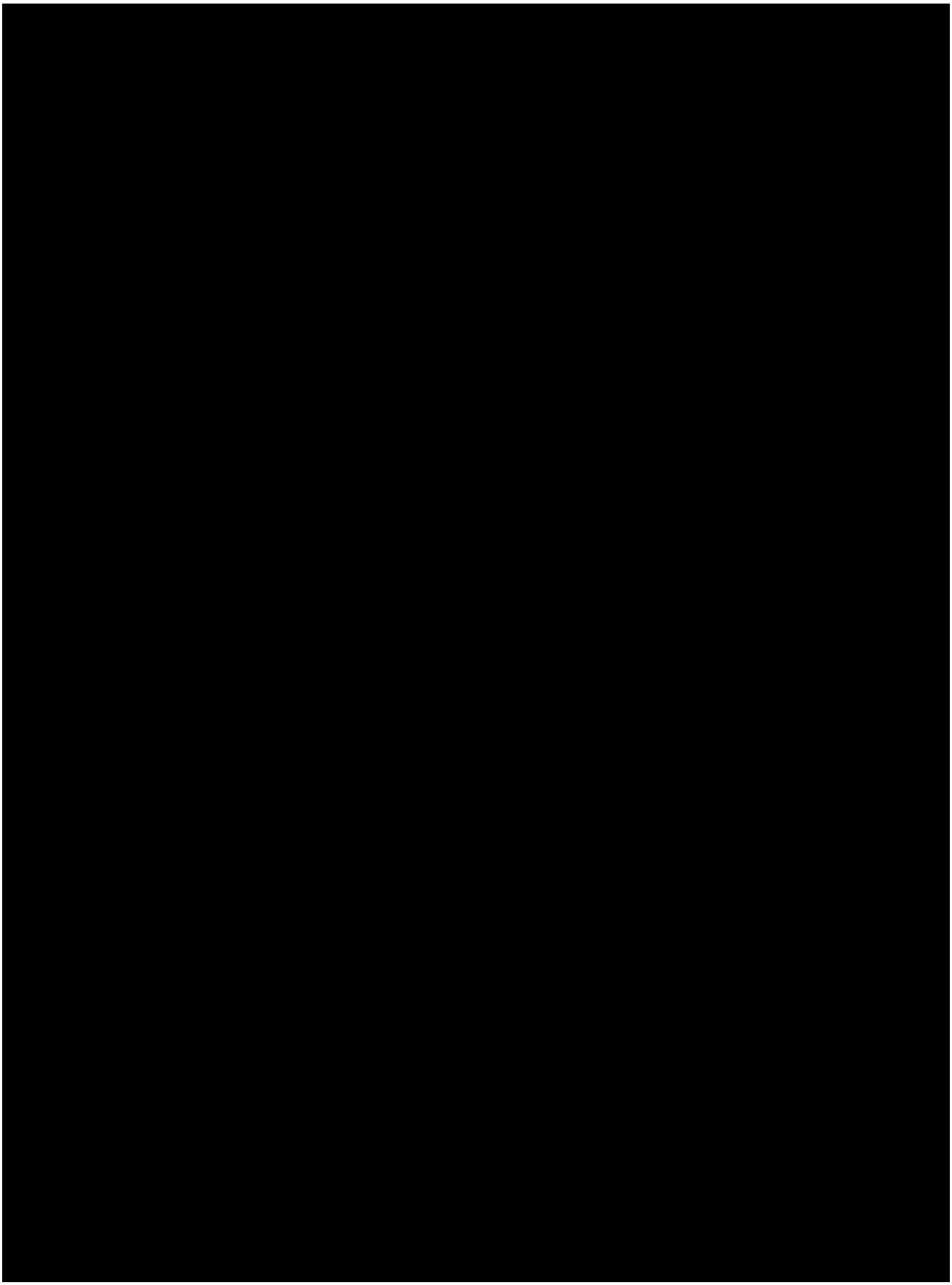


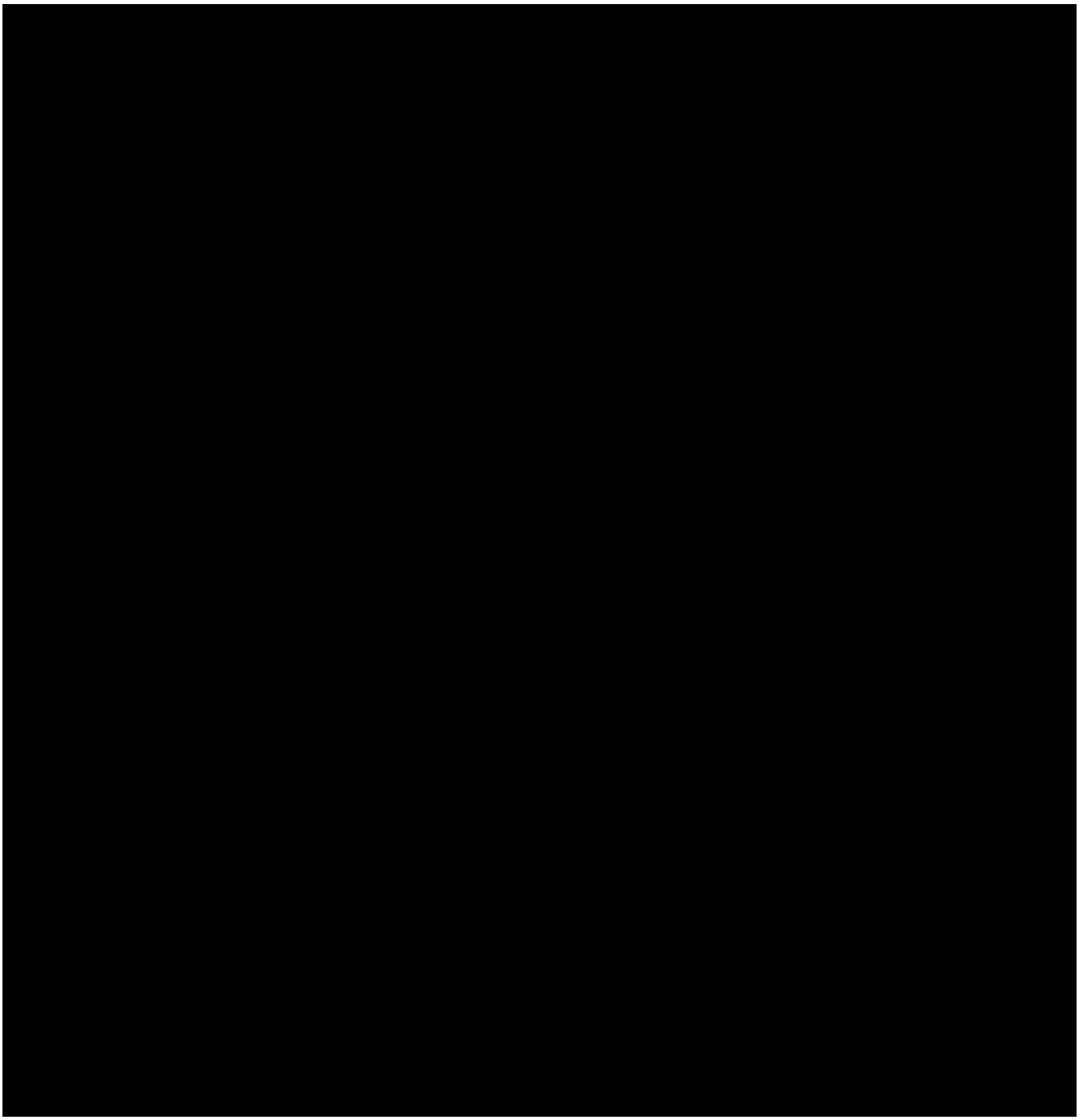












FRONTIER QUEUE HOTLINE

267. On the 8th August 2018, that is, 2 days before he resigned from Bland, Cornelio requested that the Frontier Queue Hotline phone number 20042777 be forwarded on to UK phone number +44 7428310899, and that voicemail on phone number 20042777 be disabled. (**Exhibit JOG/98** refers)

268. Bland hold an account with *Messagebird*, a third-party service provider. Bland use their services extensively within the NSCIS platform for voice and SMS

capabilities. The number +44 7428310899 is a number held on a *Messagebird* account however it was not transferred by Cornelio to the Bland account. It was therefore not accessible by them.

269. The new UK number required the development of a new Windows service to update the new phone line with the frontier queue times. On the 9th August Cornelio wrote that the physical server at Cloister Building, which hosted the Frontier Queue Hotline, was redundant. This confirmed that the new Frontier Queue Hotline windows service had been relocated to a server not known to Bland. (**Exhibit JOG/100** refers)

270. On the 5th October, that is, the day on which Cornelio was officially informed that he was no longer to access the NSCIS platform, the Frontier Queue Hotline was disabled or failed. Bland was unable to remedy this as they had no knowledge of which server the Widows service was running from. (**Charge 74** - *Fraud by failing to disclose information – contrary to section 417 Crimes Act 2011*).

271. In order to restore the service a new Frontier Queue Hotline service had to be developed. This was further hindered by the fact that the source code provided by Cornelio on the 7th September 2018 (**Exhibit JOG/22** refers) did not contain the most up to date version of the Windows service.

272. As a result, the Frontier Queue Hotline service was not operating for a total of 26 days.

273. The actions were consistent with an agreement to undermine Bland Limited and to transfer the NSCIS platform maintenance contract to 36 North.

CAINE SANCHEZ – (**Charge 75** - Misconduct In Public Office)

Business with Cornelio - Sanchez

274. Although a public officer, Sanchez sought to get involved in private business ventures involving Levy / Cornelio.

275. As early as February 2017, Sanchez wrote to Levy, "*James I need to give you an update on several issues. Also need to talk to you on John Perez and the national security programme*." (**Exhibit JC/TEXT/CSJL/1** refers).

276. In January 2018 he wrote to Levy, "*James I have a good proposal for investment. I think you will like this*." (**Exhibit JC/TEXT/CSJL/2** refers).

277. During 2018 Sanchez sought to go into business with Cornelio.

278. On the 9th October 2018 Cornelio wrote to Sanchez, "*Tonight crypto … let's see […] E.g. right now can make £80 every 20 min using $12,000. $1440 a day. With 448,000 $5760 a day. $180,000 per month*." Sanchez replied, "*Good. This would cover all costs. Concentrate on this*." (**Exhibit JC/WHATSAPP/TCCS/1** refers).

279. On the 10th October 2018 Sanchez wrote, "*Have you checked the license requirements. If not needed lets aim to go live in one month with small investment*." (**Exhibit JC/WHATSAPP/TCCS/2** refers).

280. On the 12th October 2018, and in response to Cornelio stating that people were not buying or selling cryptocurrency Sanchez wrote, "*We need a plan B then. Keep developing this and will think of something.*" Cornelio replied, "*Our new improved platform was plan b*." He subsequently wrote, *"…this was a good base to give me the freedom to come up with the next big thing to sort us all out*." (**Exhibit JC/WHATSAPP/TCCS/4** refers). Sanchez stood to benefit from 36 North acquiring the NSCIS platform maintenance contract.

281. On the same date Sanchez wrote, "*We can also look at the hassans client account as they need safe and cheap ways to transfer money on different currencies and right now it costs them quite a lot. We could use crypto to make the transfers*." (**Exhibit JC/WHATSAPP/TCCS/5** refers).

282. On the 7th November 2018 Cornelio wrote to Sanchez in relation to setting up a cryptocurrency account, "*We will have £1m in ur account shortly :)*" (**Exhibit JC/WHATSAPP/TCCS/8** refers).

283. On the 8th November 2018 Cornelio wrote, "*Algorithm just successfully simulated a transaction that would have made £20k in 1 second :)" Sanchez replied, "Good, no more simulations.*" (**Exhibit JC/WHATSAPP/TCCS/10** refers).

284. Based on paragraphs 274 to 283 despite being a public official, Sanchez sought to go into business with Cornelio for financial gain. This included benefitting from 36 North acquiring the NSCIS platform maintenance contract.

<u>Assistance to 36 North - Sanchez</u>

285. During the course of 2018 Sanchez abused his position as a public official, and Government lead for the NSCIS platform, to actively assist 36 North in

acquiring the NSCIS platform maintenance contract, for the benefit of 36 North and to the detriment of Bland.

286. In January 2018 Sanchez contacted Levy regarding potential business with Wavetecx. From his personal email account (cdjsanchez@yahoo.co.uk) he wrote, "*YITU – (a) security company on AI. Europe director to propose to move services from London to Gibraltar (b) interested in a joint venture with Wavetech (John Perez) (c) YITU to negotiate deal with them and deal to remove company from Blands*." (**Exhibit PAC/PR/Toshiba/01/Email/3** refers). Sanchez intended to assist in taking business away from Bland.

287. In April and May of 2018 Perez discussed with Sanchez business regarding Carnival Cruises and a facial recognition system for Banco Santander. Carnival Cruises was a prospective client of Bland. (**Exhibits ADR/MG/PHONE/1 whats app 3** and **ADR/MG/PHONE/1 whats app 4** refer).

288. On the 23rd July 2018, Sanchez sent an official email to Cornelio in which he thanked him for his service to the government. In the same email Sanchez indicated that he would be assessing whether Bland should continue to take the national security platform forward. (**Exhibit PAC/PR/Toshiba/01/Email/9** refers).

289. Despite his role as a government official, and a duty to remain impartial, Sanchez was actively involved with 36 North. In a text message between Sanchez and Levy, dated the 24th July 2018, he said, "*James I received a call from James Gaggero last night reference the security programme. I have discussed it with John and emailed the CM. It may be wise for us to meet and maybe include David Weber to go over some aspects of the conversation*." (**Exhibit JC/TEXT/CSJL/3** refers).

290. In a further text, dated the 14th August 2018, he stated, "*James just got John Perez company their Insurance broker. Everything is going well with this. Just drafted letter to send to James Gaggero and waiting for CM to approve. I have also urged them to sign the international agreement and they are moving forward with this.*" (**Exhibit PAC/JV/Phone/1/SMS/1** refers). Sanchez was advising 36 North in a business capacity. He was not independent of 36 North and unable to make an impartial decision regarding the NSCIS security platform.

291. On the 13th August 2018 a business document named "*Phoenix Border Management System Project Proposal*" was prepared for Sanchez from 36 North Limited. The proposal was for the Phoenix platform to take over from the NSCIS

platform at a cost to HMGoG of £65,892.50 per month (**Exhibit PAC/JU/3/SSD0/Doc/7** refers).

292. On the same date Perez wrote to Sanchez saying, "*Remember we can deploy a new platform. They will play the sympathy approach with Payas …. To mount pressure on the CM. Good luck Caine we cannot thank you enough for what you have done.*" (**Exhibit ADR/MG/PHONE/1whats app 9** refers). The following day the Phoenix Border Management System proposal was officially sent to Sanchez by Cornelio. (**Exhibit PAC/CT/Laptop/1/Letter/1** refers).

293. In an interview under caution, dated the 17th July 2019, Sanchez read a prepared statement in which he stated, "*If, as it is being alleged, I engaged in conduct for the benefit of a specific party, why would I repeatedly emphasise the need to go to tender?*" (**Exhibits MW/DVD/CS/2A and 2C** refer).

294. Despite his statement regarding the tender process, on the 15th August 2018, one day after the Phoenix Border Management System proposal (**Exhibit PAC/CT/Laptop/1/Letter/1** refers), Sanchez wrote a draft letter to James Gaggero. He wrote, "*Thank you for your meeting on the 13th August with the Chief Minister, which was eye opening. In view of the urgency to resolve the maintenance and liability matters, HM Government of Gibraltar has taken the following position … National Security platform – HM Government of Gibraltar has taken the decision to move away from the current platform and go with a new platform …*" Sanchez made a decision to transfer the NSCIS maintenance contract away from Bland a day after the 36 North proposal and without any tender process. (**Exhibit PAC/PR/Toshiba/01/Doc/1** refers).

295. The same date, Sanchez wrote to the Chief Minster seeking to persuade him of his decision to transfer the NSCIS platform to 36 North. He stated, "*With regards to the Security platform the cleanest way to get out of this is to source another programme that will interact with our hardware.*" (**Exhibit PAC/PR/Toshiba/01/Email/7** refers).

296. Around August 2018 Sanchez was asked by the Chief Minister to maintain confidential information, and not to disclose it to Perez. He was subsequently alleged to have breached confidentiality. In an email to the Chief Minister he denied having leaked information stating, "*I can categorically deny this. Specifically you instructed me not to relay any information to Mr Perez and that I did*." In the same email he urged the Chief Minister to make a decision on the platforms [including the NSCIS platform]. (**Exhibit PAC/PR/Toshiba/01/Email/5** refers).

297. The statement made in the email sent to the Chief Minister was untrue. On the 17th August 2018 he texted Perez stating, "*John please if the CM asks you I have not spoken to you about the meeting between him and Gaggero. His lawyer has accused me of this*." (**Exhibit ADR/MG/PHONE/1 whats app 11** refers). Sanchez breached confidentiality, and gave information provided to him in confidence owing to his position within HMGoG to a person not authorised to receive it. He thereby breached his statutory duty under section 2 of the Official Secrets Act 1911. (**Exhibit DG/2** refers).

298. On the 29th August 2018 Sanchez drafted a letter to James Gaggero on behalf of 36 North in which he stated, *"… please note that as of the 1st September 2018 I will no longer be in a position to continue to support Bland Limited GoG platforms. Kind Regards Tommy.*" (**Exhibit PAC/JV/Phone/1/Email/1** refers). This email was sent from his private email address cdjsanchez@yahoo.co.uk to the same account. It was intended to be a draft for Cornelio to terminate his consultancy period. On the same date Perez wrote to Sanchez saying, "*Tommy does not think our plan is good as he will seek alternative support to maintain it*." (**Exhibit ADR/MG/PHONE/1 whats app 15** refers). Sanchez had knowledge of / and assisted 36 North to place additional pressure on Bland. In doing so, he knew, suspected or was reckless at to the effect this may have had on the national security of Gibraltar.

299. On the 9th September 2018 Perez continued to update Sanchez on the business of 36 North. He texted, "*I will be receiving the São Tomé and Principe contract on Tuesday for review I am also closing in on Equatorial Guinea. I will push forward with theses [sic] to contracts with our new platform*." (**Exhibit ADR/MG/PHONE/1whats app 17** refers).

300. On the 9th October 2018, during the period of database re-indexing, and denial of service attacks by Cornelio (paragraphs 198 to 210 refer), he sent a text to Sanchez stating, "*If you can send them a formal email giving them 48 hrs to sort everything out that you put them under significant pressure*." On the same date Cornelio wrote, in respect of the Chief Minister, "*Abe he has a great opportunity now –* [redacted]" (**Exhibit JC/WHATSAPP/TCCS/13** refers).

301. On the 10th October 2018, Sanchez proposed that 36 North should employ Jonathan Galliano. Cornelio wrote, "*Lets see will speak to him, but we don't need him though. It's an added cost*." Sanchez responded, "*It may be the way to get back the system quickly. Speak to him then decide.*" He subsequently stated, "*Anyways I will speak to JL on this as it may be a good quick solution if he quits.*" When Cornelio argued that there may not be much profit left if he was hired

Sanchez responded, "*Yes but then all of JG aspirations will fall. I am sure you can make up to the shortfalls. But it is a good plan.*" (**Exhibit JC/WHATSAPP/CCS/13** refers). He later wrote, "*If you xan [sic] entice Jonathan all this does to rest*." (**Exhibit JC/WHATSAPP/CCS/14** refers). In making this proposal Sanchez deliberately sought to further reduce the ability of Bland to maintain the NSCIS platform.

302. By September 2018 Cornelio, together with two other software engineers had resigned from Bland, significantly reducing their IT capabilities. (**Exhibit PAC/PR/Toshiba/01/Email/9** refers). Furthermore, by the 10th October 2018, Sanchez was aware of the instruction that Bland alone should maintain the NSCIS security platform and that neither Cornelio nor 36 North were to access the system. (**Exhibits PC/1 and PC/2** refer). In attempting to recruit Jonathan Galliano, he deliberately sought to undermine the ability of Bland to maintain the national security system, for the commercial / financial benefit of 36 North, and in doing so knew, suspected or was reckless as to whether national security of Gibraltar would be compromised.

303. On the same date, Cornelio wrote to Sanchez and pointed out a way to further reduce the capability of Bland to maintain the system. "*Note I do not believe Krishan signed the secrets act with govt and he would be the only one working with the system*." (**Exhibit JC/WHATSAPP/TCCS/15** refers).

304. Sanchez acted upon this suggestion the same day by writing to Jonathan Galliano. He wrote, "*I don't know if Krishan has signed the Government's official secrets act. Please ask him and let me know as I don't have his on record.*" Again Sanchez deliberately sought to undermine the ability of Bland to maintain the national security system, for the commercial / financial benefit of 36 North, and in doing so knew, suspected or was reckless as to whether national security of Gibraltar would be compromised. (**Exhibit JC/Email/1** refers).

305. Despite having been informed, on the 4th October, that Cornelio was no longer to access the NSCIS platform, (**Exhibits PC/01** and **PC/02** refer) he failed to act when Cornelio was clearly accessing the system on the 11th October 2018. (**Exhibit JC/WHAPTSAPP/TCCS/15** refers).

306. Cornelio wrote on the 20th November 2018, "*Does the CM need any more complaints to be sent to him? …*" Sanchez replied, "*They need to send him more if not inform me that they are* [redacted] *the system*." He continued, "*If you talk to them ask them to inform me that theu [sic]* [redacted] *the system*." (**Exhibit JC/WHAPTSAPP/TCCS/22** refers). Sanchez continued to assist 36 North.

307. On the 11th December 2018 he continued to discuss the national security platform, and thereby national security matters with Cornelio, regardless of the fact that by this date he was not employed / contracted to deal with the NSCIS platform (**Exhibit JC/WHATSAPP/TCCS/24** refers).

308. Based on paragraphs 285 to 307 Sanchez abused his position within the government as a public officer, and dishonestly sought to transfer the NSCIS maintenance contract, worth £65,892.50 per month, away from Bland and for the benefit of 36 North. In doing so he misconducted himself by:

a. Breaching his statutory duties under the Official Secrets Act 1911;
b. Actively assisting 36 North to obtain the NSCIS platform;
c. Failing to act on information that Cornelio was unlawfully accessing the platform;
d. Attempting to undermine Bland's ability to maintain the platform; and
e. Knowing, suspecting or being reckless as to whether the national security of Gibraltar would be put at risk.

<u>The NSCIS Report</u>

309. On the 4th October 2018, Peter Canessa wrote to Caine Sanchez on behalf of the Chief Minister. In his first email, timed at 1130 hours, he wrote, "*The Chief Minister has instructed that access to our "Azure" system be given to Jonathan Galliano at Bland / OSG immediately*." In a subsequent email, timed at 1342 hours, he wrote, "*Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be provided full control of the management, maintenance and support of the NSCIS platform … Once the handover process is completed* Tommy Cornelio nor any 3rd party are to have access to the platform." Sanchez confirmed that he had received these instructions the same day. (**Exhibits PC/01** and **PC/02** refer). Given that this was an instruction from the Chief Minister, Sanchez was required to comply with it.

310. In around February or March 2019, Albert Mena, the Financial Secretary for HMGoG, was advised that Sanchez had been withholding payments to Bland for a period of approximately six months. Mena described this decision as "*unusual*."

311. The matter was discussed with Sanchez who advised it was on the basis of a decline in the performance of the services provided by Bland. In a meeting with Sanchez, Mena explained that it was not acceptable to withhold the entirety of the service fee and that a reduced payment of £50,000 [from £66,000] would be

fair in the circumstances. Despite having previously withdrawn payment, Sanchez agreed with this figure.

312. Mena subsequently informed Sanchez that he intended to carry out an independent assessment of the NSCIS platform. It was made clear to Sanchez that Mena intended to appoint one of the large accounting firms in order to obtain an unbiased report.

313. On the 9th April 2019, Sanchez requested the assistance of Cornelio in assessing the NSCIS platform. (**Exhibit JC/WHATSAPP/TCCS/28** refers). In doing so he contravened the planned approach that had been made clear to him by Mena.

314. Between the 9th April 2019 and 11th April 2019 (inclusive) Sanchez provided his own personal NSICS credentials to Cornelio for the purpose of accessing the NSCIS platform. This was in contravention of his statutory obligation under the Official Secrets Act 1911 and with intent to cause a loss of property to Bland / derive an economic benefit for 36 North (**Exhibit DG/2** refers). (**Charge 76** – *Unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer etc – contrary to s.364(1) as read with s.364(e) and s.364(f) of the Crimes Act 2011*).

315. This was also in contravention of the HMGoG ITLD Interim Guide to Security (**Exhibit JPG/01** refers) and the Government of Gibraltar Information Technology Security Policy (**Exhibit JPG/02** refers) which prohibit the disclosure of personal passwords and the sharing of accounts. The Technology Security Policy states that "*This document must be read and interpreted (both literally and in spirit) with the Official Secrets Act …*"

316. The access to the NSCIS platform was also in contravention of the instructions given to Sanchez from the Chief Minister on the 4th October 2018 (**Exhibits PC/01** and **PC/02** refer).

[redacted]

[redacted]

320. On the 12th April 2019, and in knowledge of the fact that he should not have been accessing the NSICS platform, Cornelio wrote, "*Note if asked, the tests were carried out by yourself at home on the evening of the 11/04/2019 and 12/04/2019*." (Exhibit **JC/WHATSAPP/TCCS/30** refers). Sanchez responded, "*No problem*."

321. On the 14th April 2019 Cornelio sent Sanchez a review of the NSCIS platform called NSCIS Review April 2019.docx **(Exhibit JV/4 refers).** Upon sending the document, and in knowledge of the fact that he should not have been accessing the system, Cornelio wrote, "*If you use anything that's there copy to a new blank word file ok :)*" Sanchez replied, "*Will do thanks*." (**Exhibit JC/WHATSAPP/TCCS/31** refers).

322. On the 16[redacted] April 2019 Sanchez sent an email to Mena in which he stated, "*As per our last conversation I performed a full review of the system*[redacted]." Attached to the email was a copy of the report compiled by Cornelio. (**Exhibit AAM/1** refers).

323. In a subsequent email Mena wrote, "*This is NOT how I wanted this to be carried out, and frankly given your history puts you precisely where I would not put myself. You should NOT have carried out these test [sic] albeit they need to*

be carried out." In reply Sanchez stated that these were functions to which he already had access but dishonestly failed to disclose that the test was carried out by Cornelio. Mena further responded, "*That's not the point. We agreed to do this in a coordinated manner …*" He finished his email, "*In addition your results (which are concerning) are completely at odds with the reports we (Peter, Javier and I) have received back from the services …*"

324. Based on paragraphs 309 to 323 Sanchez abused his position within the government as a public officer, and dishonestly sought to transfer the NSCIS maintenance contract, worth £65,892.50 per month, away from Bland and for the benefit of 36 North. In doing so he misconducted himself by:

a. Breaching his statutory duties under the Official Secrets Act 1911;
b. Breaching the HMGoG ITLD Interim Guide to Security and the Government of Gibraltar Information Technology Security Policy;
c. Contravening the planned approach set by the Financial Secretary;
d. Contravening the instructions of the Chief Minister;
e. Dishonestly purporting that he had created the NSCIS review document; and
f. Allowing [unsupervised] access to the NSCIS platform to Cornelio knowing, suspecting or being reckless as to whether the national security of Gibraltar would be put at risk.

SEARCH WARRANTS AND ARRESTS

325. On 10th May 2019, the RGP executed search warrants at the home addresses of Cornelio, Perez, Asquez, and the offices of 36 North. A large number of electronic and documentary exhibits were seized.

326. Cornelio, Perez and Asquez were arrested during these search warrants.

327. On 14th May 2019, the RGP executed search warrants at the home address and office of Sanchez. A number of electronic and documentary exhibits were seized.

328. Sanchez was arrested the same day at Gibraltar Airport as he had been in London.

329. On 24th July 2019, the RGP executed search warrants at the home address and office of Aaron Chipol. A number of electronic and documentary exhibits were seized.

330. Chipol was not arrested at this time however he voluntary attended New Mole House Police Station.

331. Jaime Levy has not yet been subject to Police Intervention.

SUBJECT INTERVIEWS

332. Cornelio was interviewed on three occasions on 10th May 2019;

a. Cornelio gave no comment to all questions asked of him. (**Exhibit NZ/TC/DVD/1C** refers).

b. Cornelio predominantly gave no comment to questions asked of him however, he asked for questions to be clearer and for the interviewing officers to be more clear. I.e. what part of the system had failed and questioning the accuracy of the data and accusations put to him. (**Exhibit NZ/TC/DVD/2C** refers).

c. In his final interview of the day, Cornelio read a prepared statement **(Exhibit NZ/TC/Statement/1 refers).** He denied accessing the system after 5th October 2018 until April 2019 when Sanchez requested he compile a report. Sanchez allowed him access to the system using Sanchez's credentials. **(Exhibit NZ/TC/DVD/3C** refers).

d. On 26th July 2019, Cornelio sent a voluntary statement to Police. He denied all offences put to him and stated at all times he was acting on authority of Sanchez to maintain the NSCIS platform. **(Exhibit PAC/TC/Statement/1** refers).

333. Perez was interviewed on four occasions on 10th May 2019;

a. Perez gave no comment to all questions asked of him. **(Exhibit MW/JP/DVD/1C** refers).

b. Perez again gave no comment to all questions asked of him. He stated "*When I feel the time is right then I'll advise accordingly*." **(Exhibit MW/JP/DVD/2C** refers).

c. Perez again gave no comment to all questions put to him. The interview was ended as Perez requested further consultation with his legal advisor. **(Exhibit MW/JP/DVD/3C** refers).

d. Perez's legal advisor read a prepared statement stating Perez had received a report from Cornelio which he was asked to write for the Gibraltar Government. **(Exhibit MW/JP/DVD/4C** refers**).**

e. On 26th July 2019, Perez sent a voluntary statement to Police. He denied all offences put to him and stated at all times Cornelio was acting on authority of Sanchez to maintain the NSCIS platform. **(Exhibit PAC/JP/Statement/1** refers).

334. Asquez was interviewed once on 10th May 2019;

a. Asquez stated he was Compliance Manager with Blands since 2010. He confirmed Perez was CEO. He then gave no comment to questions asked of him. **(Exhibit MW/EA/DVD/1C** refers).

335. Caine Sanchez was interviewed on two occasions;

a. 14th May 2019 – During this interview Sanchez confirmed his role within HMGoG. He confirmed he was the main person who dealt with the National Security Programme. After approximately 10 minutes into the interview, he requested further consultation. After this, he gave no comment to each question asked of him. The prepared statement by Cornelio in relation to the report in April 2019 **(Exhibit NZ/TC/Statement/1 refers)** was shown to Sanchez. Sanchez continued to give no comment to each question put to him. **(Exhibit PAC/CS/DVD/1C** refers).

b. 17th July 2019 – During this interview, Sanchez read a prepared statement. This explains the tender process (paragraph 293 refers), and the government withholding payment if the system did not work. He stated he was controller and systems administrator of NSCIS. He stated he authorised Cornelio to make the report however he did not refer to providing Cornelio with his access details. He stated the National Security of Gibraltar is his utmost concern. **(Exhibit MW/DVD/CS/2C** refers).

336. Aaron Chipol was interviewed on four occasions;

a. 24th July 2019 – Chipol did not answer any questions during this interview and none were put to him as his legal advisor requested he be interviewed at a later date/time. **(Exhibit MW/DVD/AC/1C** refers).

b. 2nd August 2019 – A large amount of this interview was in relation to a Visa Waiver Chipol completed as a favour for Perez. This is an unrelated matter. Chipol confirmed he is CEO of BCA. He confirmed he was a user of NSCIS and that it is used for the purpose of National Security. He stated Cornelio was the person who made the program and knew more than anybody else. It was for this reason, he suggested, that he spoke to him about the platform and about improvements / deficiencies. He maintains that this was done solely for the benefit of the BCA, and in accordance with his role as the Head of the organisation however he admits their relationship became personal stating "*TOMMY is friends with me, we used to… that's probably my fault*," He knew Cornelio was setting up a company to rival Bland. He stated Cornelio would have already known the information he provided to him in relation to the platform. This interview was stopped after 75 minutes. **(Exhibit MW/DVD/AC/2C** refers).

c. 3rd September 2019 – Again, the first hour of this interview was in relation to a Visa Waiver. He stated he was taking advice about the system from Cornelio. He admits sending the first email to Caine Sanchez which Cornelio drafted. He stated that the others were proposals but that he did not send them on. He maintained he was not dishonest and argued that he did not know that Cornelio could not access the NSCIS platform as September and October 2018 "*was a grey area*" and "n*obody knew*." He re-iterated that because Cornelio made the system he would have been aware of the errors. **(Exhibit MW/DVD/AC/3C** refers).

d. 24th October 2019 – He was asked about providing Cornelio information on 5th December 2018. He stated "*I don't think I actually went and, I don't know if I say no records but it's a long time on the system, I don't know if I did*." He was then asked about offering funding to 36 North. He stated the authorisation for funding is not his decision. **(Exhibit MW/DVD/AC/4C** refers).

REQUEST FOR ADVICE

337. In light of the evidence proffered above, it is requested that the 76 proposed charges be considered in accordance with the Code for Prosecutors. These being:

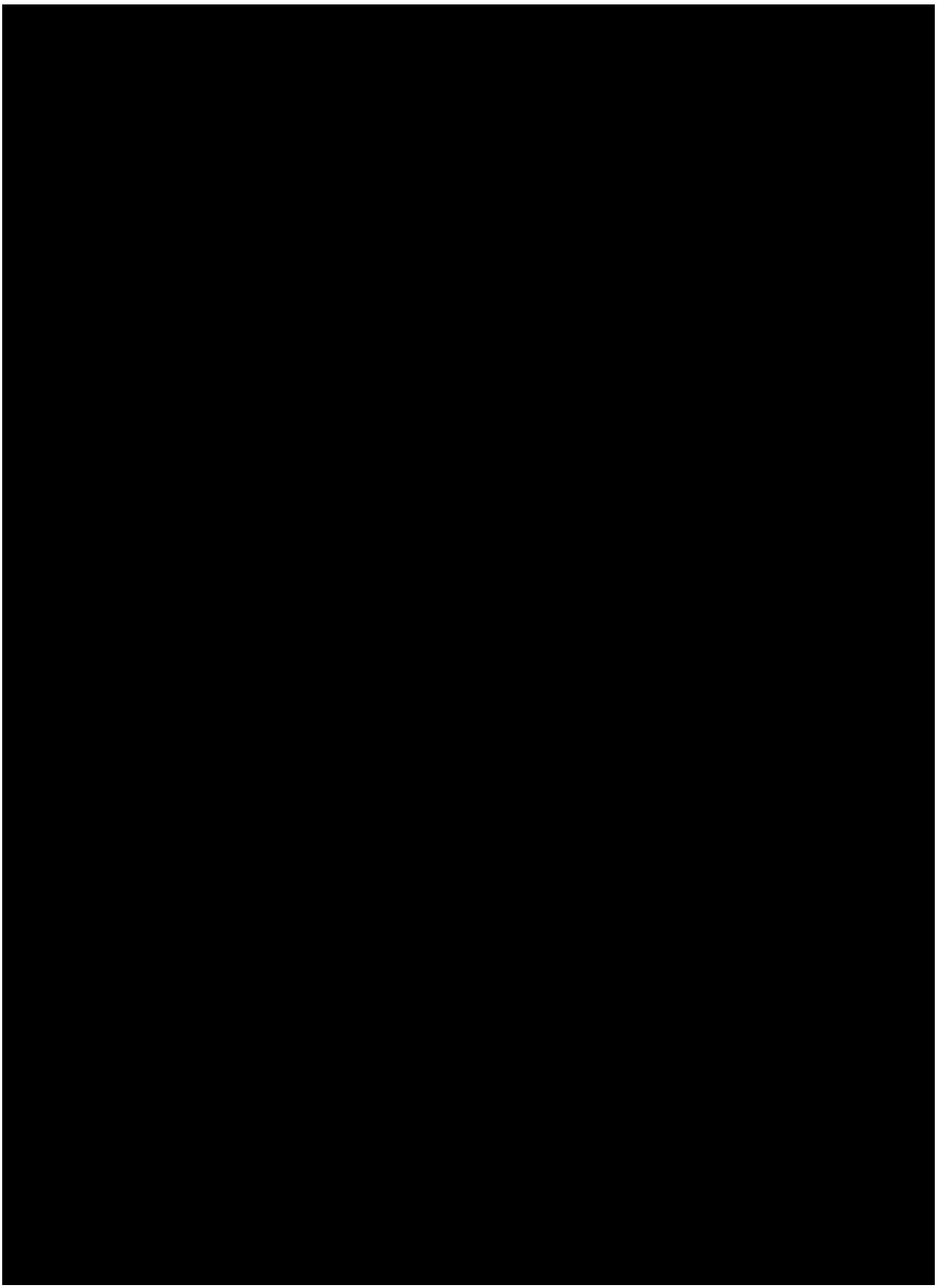
a. Cornelio
    i. Conspiracy to Defraud (Joint Charge);
    ii. Unauthorised access to computer material (18 charges);
    iii. Unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer etc (14 charges);
    iv. Unauthorised acts causing, or creating risk of, serious damage (29 charges); and
    v. Fraud by failing to disclose information (11 charges).
b. Perez
    i. Conspiracy to Defraud (Joint Charge)
c. Levy
    i. Conspiracy to Defraud (Joint Charge)
d. Sanchez
    i. Conspiracy to Defraud (Joint Charge)
    ii. Misconduct in Public Office
    iii. Unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer etc
e. Chipol
    i. Misconduct in Public Office

338. In addition to the proposed charges, advice is also sought as to whether, based on the above evidence, there are reasonable grounds to suspect that Levy has committed:

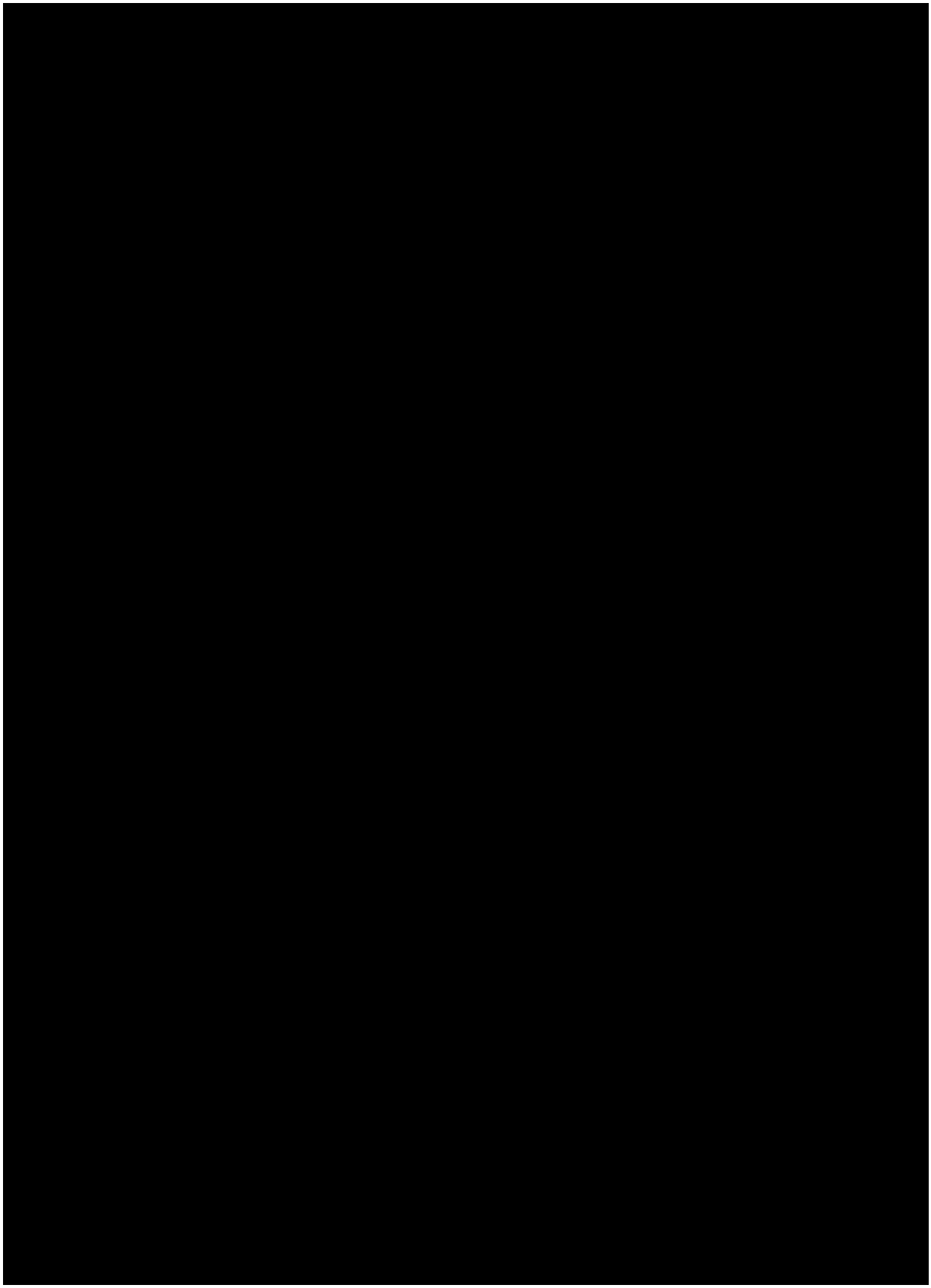
a. The offence of conspiracy to defraud; and / or
b. Any other criminal offences.

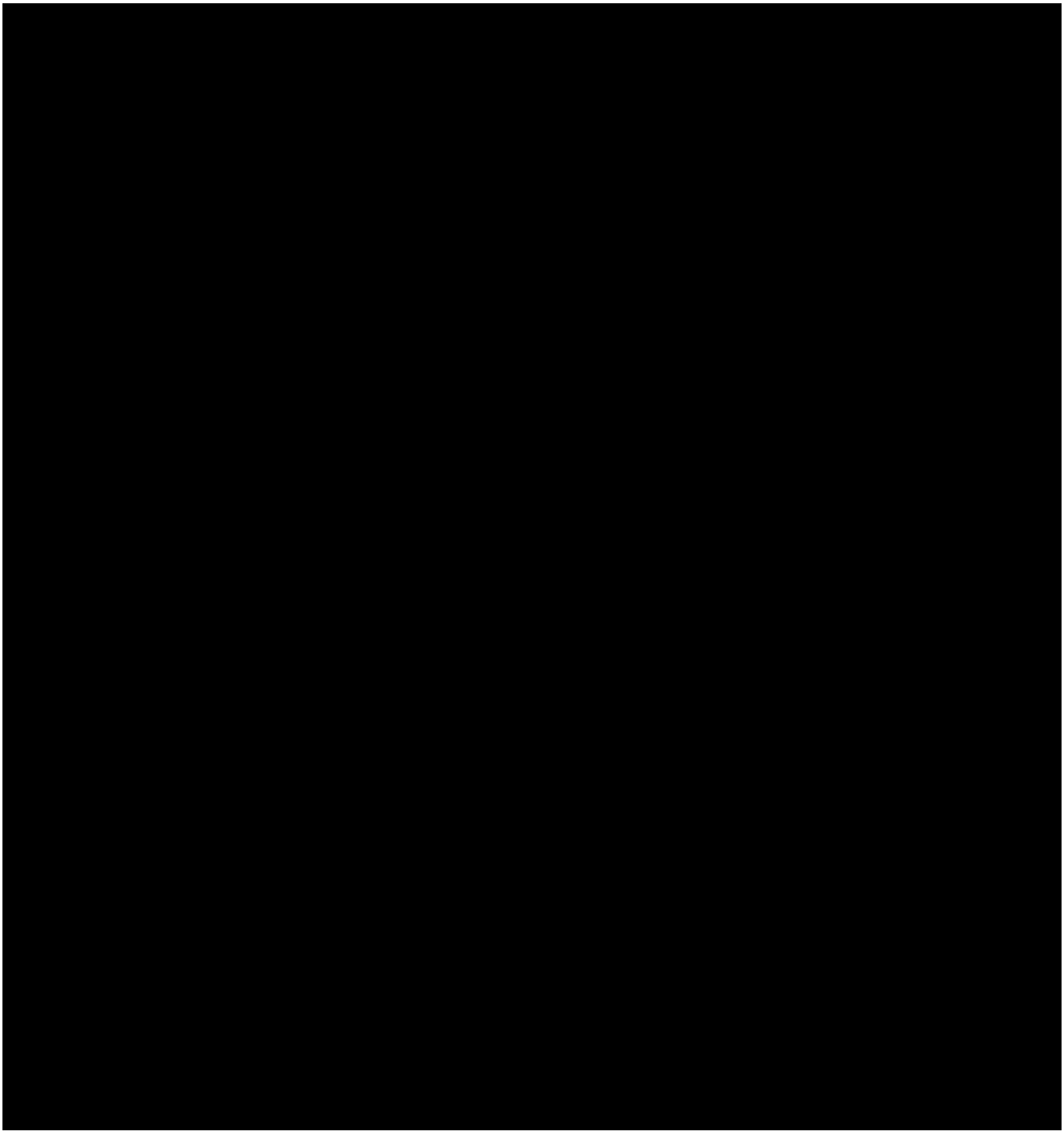
339. In the event that there are reasonable grounds to suspect Levy has committed any offence, the police will consider whether it is necessary to conduct further investigations in the form of search warrants / interview under caution.

Mark Wyan
Police Inspector



the “Online” method since there is no need to continuously pause and resume for incoming requests.





APPENDIX B – TIMELINE OF EVENTS

Serial	Date	Event	Exhibit No.	Charge No.
1.	01/11/2009	**BLAND:** Blands Ltd expands into security sector	**N/A**	**N/A**
2.	01/02/2010	**BLAND:** John Perez – Appointed CEO of Blands	**N/A**	**N/A**
3.	24/06/2010	**BLAND:** Eddie Asquez – Appointed Operations Director of Blands	**N/A**	**N/A**
4.	09/01/2012	**BLAND:** ICODE registered as business name by Thomas Cornelio	**N/A**	**N/A**
5.	19/11/2012	**BLAND:** Thomas Cornelio – Appointed as Head of Software Development	**N/A**	**N/A**
6.	01/12/2014	**BLAND:** National Security Central Intelligence System (NSCIS platform) developed and launched.	**N/A**	**N/A**
7.	01/02/2017	**WAVETECX:** Wavetecx incorporated. Emails run and managed on a separate server controlled by Cornelio	**N/A**	**N/A**
8.	04/10/2017	**WAVETECX:** Email from Cornelio to Carnival Maritime in relation to NSCIS	**N/A**	**N/A**
9.	15/10, 21/11, 30/11/2017	**WAVETECX:** Emails in relation to proposed Wavetecx project in Sao Tome & Principe	**N/A**	**N/A**
10.	18/12/2017	**WAVETECX:** Email from John Perez to Caine Sanchez detailing NSCIS plan for 2018/19	**N/A**	**1**
11.	18/02/2018	**36 NORTH:** Email from Eddie Asquez (Gmail) to John Perez (Gmail) detailing "letter of intent for 'JM' re 36 North" addressed to Jaime LEVY and "36 North Strategy".	**JC/Emails/36North**	**1**
12.	24/02/2018	**36 NORTH:** Above email forwarded from Perez (Gmail) to Cornelio (Wavetecx).	**JC/Emails/36North**	**1**
13.	29/03/2018	**ASTELON** Limited No. 117165 Incorporated. 3000 ordinary shares. (Co-117165-2288101)	**N/A**	**N/A**
14.	15/04/2018	**36 NORTH:** Email from Cornelio (Blands) to 'Abel Ivars' (abel@pdg.gi) requesting whitelisting of IP address [redacted]	**AI/01**	**N/A**
15.	[redacted]			
16.				
17.	23/04/2018	**36 NORTH:** Limited No. 117268 Incorporated. 3000 ordinary shares. (Document Co-117268-2292946)	**N/A**	**N/A**

18.	23/04/2018	**36 NORTH:** Perez and Cornelio appointed as Directors of 36 North Ltd.	**N/A**	**N/A**
19.	[redacted]			
20.				
21.	16/05/2018	**ICODE:** Limited No. 117376 Incorporated. 100 shares. (Co-117376-2297687)	**N/A**	**N/A**
22.	16/05/2018	**ICODE:** Cornelio appointed as sole shareholder of ICODE Ltd.	**N/A**	**N/A**
23.	05/06/2018	**36 NORTH:** Email from 'Krishan Benyunes' jhowesperez@..... to david.weber@hassans.gi with attachment of 36 North cashflow.	**JG/20 JG/21**	**1**
24.	18-27/06/2018	**BUSINESS PLANS** Various email exchanges between Corneli and Rockwell Collins requesting the setup a new ARINC registered to 36 North to receive identical Advanced Passenger Information as that sent to Bland.	**JOG/106**	**1**
25.	20/06/2018	**36 NORTH:** Email from Perez (Gmail) to Cornelio (Wavetecx) detailing business card and email address for Perez as CEO of 36 North.	**JG/20 JG/21**	**1**
26.	20/06/2018	**36 NORTH:** Email from Perez (Gmail) to Cornelio (Wavetecx) detailing Revised 36 North Cash Flow.	**JG/20 JG/21 PAC/JU3 /SSD0/D oc/2**	**1**
27.	25/06/2018	**36 NORTH**; [SUBSTITUTED] Return of Particulars of Directors, appointing directors as from 23/04/2018 Thomas John Cornelio John Christopher Perez. Appointing as secretary, LINE SECRETARIES LIMITED. (Co-117268-2306017)	**N/A**	**N/A**
28.	25/06/2018	**36 NORTH**; [SUBSTITUTED] Return stamped, of Allotment of Shares made and filed 25/06/2018 of allotment effected 22/06/2018, transferring 999 shares to ASTELON LIMITED, 1,000 shares to ICODE LIMITED, and 1,000 shares to John Christopher Perez, on behalf of LINE SECRETARIES LIMITED. (Co-117268-2306031)	**N/A**	**N/A**
29.	[redacted]			

	[redacted]			
30.	03/07/2018	**36 NORTH**; Letter stamped, dated Monday 02/07/2018 to substitute Particulars of Directors claiming erroneous filing. (Co-117268-2309321)	**N/A**	**N/A**
31.	03/07/2018	**36 NORTH**; Return stamped, dated 25/06/2018 of appointment of corporate director CHEAM DIRECTORS LIMITED as from 23/04/2018. Appointment of LINE SECRETARIES LIMITED as Secretary as from 23/04/2018. Co-117268-2309322)	**N/A**	**N/A**
32.	04/07/2018	**36 NORTH**: Return stamped, of Allotment of Shares dated 25/06/2018 of allotment of 2,999 shares to LINE HOLDINGS LIMITED, disposal date 22/06/2018, on behalf of LINE SECRETARIES LIMITED. (Co-117268-2309768)	**N/A**	**N/A**
33.	04/07/2018	**36 NORTH**: Letter stamped, dated 02/07/2018 to substitute Return of Allotments and Return of Change of Members, claiming erroneous filing, Line Group. (Co-117268-2309767)	**N/A**	**N/A**
34.	[redacted]			
35.	10/07/2018	**RESIGNATIONS:** Perez and Cornelio provide notice of resignation from Bland.	**JG/16 - JG/17**	**1**
36.	[redacted]			
37.				
38.	20/07/2018	**RESIGNATIONS:** Software Developers Joseph Benrimoj and Marius Zalkaulkas provide notice of resignation from Bland.	**JG/18 - JG/19**	**1**
39.	22/07/2018	**36 NORTH**: ICODE, Astelon Ltd and John Perez Ltd each made 33% shareholders of 36 North.	**N/A**	**N/A**
40.	23/07/2018	**36 NORTH**: Stamped Memorandum of Association, dated 20/04/2018. (Co-117268-2313086)	**N/A**	**N/A**
41.	23/07/2018	**36 NORTH**: Stamped Articles of Association, dated 20/04/2018. (Co-117268-2313087)	**N/A**	**N/A**
42.	23/07/2018	**RESIGNATION:** Sanchez sends email to Cornelio regarding resignation stating he was unaware.	**N/A**	**N/A**
43.	[redacted]			

44.	24/07/2018	**EMAIL DELETION -** Cornelio deletes wavetecx.com mailboxes for Perez, Asquez, and Eddie Bradley	**JOG/11**	**4**
45.	25/07/2018	**MEETING -** Gaggero, Sanchez, and Cornelio meet at No.6 to discuss moving forward with the NSCIS platform	**JOG/3**	**N/A**
46.	[redacted]			
47.	26/07/2018	**EMAIL ACCESS -**Cornelio enables Admin access to Galliano temporarily (2mins) then removes	**JOG/11**	**4**
48.	26/07/2018	**EMAIL DELETION** - Cornelio deletes all email nickname (aliases) to admin mailbox tommy@wavetecx.com	**JOG/11**	**4**
49.	26/07/2018	**EMAIL DELETION** - Cornelio creates new user tommy.cornelio@wavetecx.com and assigns Super Admin access and Primary admin role to new user from tommy@wavetecx.com before deleting mailbox	**JOG/11**	**4**
50.	26/07/2018	**EMAIL ACCESS** - Cornelio Assigns admin role to jonathan@wavetecx.com	**JOG/11**	**4**
51.	[redacted]			
52.				
53.	28/07/2018	**EMAIL ACCESS** - Galliano removes Cornelio as primary admin and disables access. Galliano restores all deleted users including former primary admin.	**JOG/15**	**4**
54.	29/07/2018	**EMAIL ACCESS** - Cornelio informs Galliano that he has lost access to administer Wavetecx.com mailboxes.	**JOG/14**	**4**
55.	[redacted]			
56.				

57.	06/08/2018	**MEETING** - Gaggero, Galliano and Cornelio meet at Cloister Building to discuss best way to continue providing software development services to HMGoG	**JOG/4**	**N/A**
58.	[redacted]			
59.	08/08/2018	**CHANGE TO ACCOUNT** - Cornelio moves service to new number +44 74183 10899 through an unknown VOIP provider; Not an authorized Bland administered account.	**JOG/98 JOG/99**	**74**
60.	10/08/2018	**RESIGNATION:** Cornelio's employment terminated. Agreement reached for Cornelio to continue to maintain the NSCIS platform as a consultant.	**N/A**	**1**
61.	10/08/2018	**ICODE / 36N:** Cornelio appointed director of ICODE Ltd. ICODE and Astelon Ltd each allotted 50% shareholding in 36 North Ltd.	**N/A**	**N/A**
62.	[redacted]			
63.	11/08/2018	**BLANDS:** Cornelio commences Consultancy period	**JOG/2**	**N/A**
64.	15/08/2018	**TEAMVIEWER USE -** Cornelio logs on to all servers at Four Corners and the Port to install and reconfigure "*Teamviewer*". Galliano raises email to Sanchez with concerns.	**JOG/103 JOG/104 JOG/105**	**N/A**
65.	20/08/2018	**RESIGNATION:** Joseph Benrimoj and Marius Zalkaulkas terminate employment with Bland.	**N/A**	**1**
66.	23/08/2018	**36 NORTH**; Return stamped, of Change of members, dated 23/08/2018 signed on behalf of LINE SECRETARIES LIMITED. Share transfer of 1,500 shares from LINE HOLDINGS LIMITED to ICODE LIMITED. Share transfer of 1,500 shares from LINE HOLDINGS LIMITED to ASTELON LIMITED. (Co-117268-2319880).	**N/A**	**N/A**
67.	23/08/2018	**36 NORTH**; Return stamped, Particulars of Directors dated 23/08/2018 signed on behalf of LINE SECRATARIES LIMITED. Appointment of Director, Thomas John Cornelio, on 10/08/2018. Termination of appointment as Director, CHEAM DIRECTORS LIMITED, on 10/08/2018. (Co-117268-2319899).	**N/A**	**N/A**
68.	30/08/2018	**TERMINATION OF CONSULTANCY:** Cornelio emails Gaggero stating he maintained NSCIS on behalf of Blands from 0000Hrs 11/08/2019 to allow time to resolve	**N/A**	**N/A**

		issue with HMGoG and to ensure Gibraltar's National Security. Gives notice to discontinue service with effect from 0000Hrs 01/09/18.		
69.	01/09/2018	**TERMINATION OF CONSULTANCY:** Cornelio discontinues support to Bland.	**JOG/2**	**N/A**
70.	[redacted]			
71.				
72.				
73.				
74.				
75.				
76.	08/09/2018	Cornelio emails Gaggero regarding Cornelio's conversation with Perez where JP stated that Gaggero had accused Cornelio of stealing a hard drive. Response "For the avoidance of doubt I would emphasis that I have neither taken any Blands property…all systems developed by Blands belongs to Blands &/or it's clients."	**N/A**	**N/A**
77.	09/09/2018	**RESIGNATION:** Perez terminates employment with Bland.	**N/A**	**1**
78.	[redacted]			
79.				
80.				
81.				

[redacted]

94.	30/09/2018	**DEPARTURE:** Asquez terminates employment with Bland.	**N/A**	**N/A**

[redacted]

96.	[redacted]			
97.				
98.	04/10/2018	**CM INSTRUCTIONS:** 1110hrs email from Peter Canessa PPS to Chief Minister to Caine Sanchez: The CM has instructed that access to our 'AZURE' system be given to Jonathan Galliano …immediately. Any member of that company (Blands) to sign Official Secrets Act if not done so already	**PC/1 PC/2**	**N/A**
99.	04/10/2018	**CM INSTRUCTIONS:** 1342Hrs email from Peter Canessa PPS to Chief Minister to Caine Sanchez: 'Further to my email below, and following further discussion with the CM, and to avoid and ambiguity, the instruction from the CM are that Bland Ltd is to be provided with full control of the management, maintenance and support of the NSCIS platform. Please do all the necessary to ensure that Tommy Cornelio fully cooperates in handing over to Jonathan Galliano of Bland Ltd access and control to all services and systems that make up the NSCIS platform immediately. Once the handover process is completed Tommy Cornelio nor any 3rd part are to have access to the platform'.	**PC/1 PC/2**	**N/A**
100	04/10/2018	**TWITTER DENIAL OF SERVICE** - Sanchez reports "Twitter" service offline	**JOG/81**	**N/A**
101	05/10/2018	**FQ HOTLINE DENIAL OF SERVICE** - FQ Hotline service offline. Source code and account details from 8th August 2019 not handed over.	**JOG/101 JOG/102**	**74**
102	05/10/2018	**TWITTER DENIAL OF SERVICE** - New "Twitter" service built by Benyunes and put into operation with existing credentials for @gibraltarborder. Works between 16:00 and 19:34 but then fails due to invalid credentials.	**JOG/22 KB/1 KB/2**	**73**
103	05/10/2018	**CM INSTRUCTIONS:** Sanchez advises Corenlio via telephone of the instructions issued on 04/10/18.	**JG/28**	**N/A**
104	05-07/10/2018	**TWITTER** – Cornelio renames @gibraltarborder handle to @gibraltarbord. New Twitter user account created by Cornelio for Bland. Handle @gibraltarborder is linked to the new Bland Twitter user account. All followers, subscribers and tweet history remain under @gibraltarbord handle	**JOG/93 JOG/94 JOG/95**	**73**

		administered and operated by Cornelio not Bland.		
105.	[redacted]			
106.				
107.				
108.				
109.				
110.				
111	08/10/2018	**RINGFENCING** NSCIS Ringfenced by Bland	**N/A**	**N/A**
112	08/10/2018	**FQ HOTLINE DENIAL OF SERVICE** MessageBird confirm that +44 74183 10899 belongs to another client. Details of client not disclosed.	**N/A**	**74**
113	09/10/2018	**TWITTER:** Galliano applies for "Twitter" developer account for Bland after Cornelio confirms BCA "Twitter" account is his own personal "Twitter" development account.	**N/A**	**73**
114	09/10/2018	**MEETING** Meeting between Galliano, Benyunes and Sanchez to discuss list of handover items missing; including 44 "NSCIS" "source code" libraries	**JOG/6 JOG/23**	**14**
115	09/10/2018	**AZURE** Cornelio requests his Microsoft Azure account administrator [redacted] be released.	**JOG/8**	**N/A**
116	09/10/2018	Email from [redacted] to Perez forwarding a dispute between Cornelio and Galliano in relation to access credentials for various platforms. Cornelio suggests offering JoG £75-80k to employ him.	**N/A**	**N/A**
117.	[redacted]			

118	[redacted]			
119				
120				
121				
122				
123				
124				
125				
126				
127				
128	12/10/2018	**VISIT TO COP:** Perez visit to Commissioner of Police. Perez concerned that system was malfunctioning and wanted COP to know that this was not anything to do with him. COP asks how does he know this – response 'Tommy is a wizard'	**N/A**	**1**
129	15/10/2018	**NEW FQ HOTLINE** Development of completely new hotline service commences.	**N/A**	**N/A**
130	15/10/2018	**PWC & INFOSEC:** PWC and Infosec arrive.	**N/A**	**N/A**
131	[redacted]			
132	18/10/2018	**PWC & INFOSEC:** Microsoft confirm account is moved from Cornelio to blandgroup@hotmail.com.	**JOG/9 PN/06**	**N/A**
133	19/10/2018	**PWC & INFOSEC:** PWC and InfoSec leave	**N/A**	**N/A**

134	[redacted]			
135				
136	24/10/2018	**NEW ACCOUNT** - "Twitter" developer account created for Bland Limited and approved by Twitter	**JOG/107**	**N/A**
137	[redacted]			
138				
139				
140	25/10/2018	**NEW SERVICE** "Twitter" handle @gibraltarborder; successfully deployed	**JOG/109**	**N/A**
141	01/11/2018	**NEW SERVICE** –New Frontier Queue Hotline rolled out.	**JOG/108**	**N/A**
142	09-11/04/2019	**NSCIS CREDENTIALS:** Sanchez provides his personal NSCIS credentials to Cornelio.	**JC/WHATSAPP/TCCS/28 DG/2**	**76**
143	11-12/04/2019	**NSCIS REPORT:** Cornelio accesses NSCIS using Sanchez's credentials. Cornelio creates NSCIS report.	**JOG/10, JC/WHATSAPP/TCCS/29 JC/WHATSAPP/TCCS/30**	**2 75**

From:	(RGP) Richardson, Paul (OTM)
To:	(RGP) Wyan, Mark (Supt 247)
Subject:	Op Delhi - DPP Advice
Date:	21 April 2020 16:47:59
Attachments:	image004.png

Mark,

Please check for accuracy and revert.

Sir,

Re: Commissioner's briefing Note - DPP's Advice OP Delhi

Date **Wednesday 8th April 2020**
Time **1548**
Duration **19' 20"**
Participating **DPP C Rocca, D/Supt Richardson DI Wyan**

- DPP had discussed matter with CC Mark Zammitt and they were comfortable to run the case of the basis of the summary of evidence provided.
- There were no grounds at this stage for him to pull any prosecution but mentioned that the AG would be speaking to COP.
- There was sufficient evidence to lead a jury to a realistic prospect of conviction with regard to the conspiracy to defraud charges, DPP had always been comfortable with the Computer Misuse Offences.
- Re: the need to interview JL – there are reasonable grounds to question him under caution. If we did not there a lingering doubt about him would remain.
- There is a need to drill down in to the detail as to the ownership of the platform to determine which charges should go ahead – there may be a need to revise (lessen) the number of charges.
- The rationale for not arresting Chipol was discussed and this was explained in the same terms as the rationale proposed for dealing with JL. It was agreed that it may be better for AC to testify for the crown.
- JL – Needs looking at – the ownership of the platform may not be critical but may direct who is charged and with what,
- Public Interest – DPP was not pulling this and AG in full agreement danger that names may come out public at a later stage.
- If we need to pull in JL then so be it.

Date **Monday 24th April 2020**
Time **1551**
Duration **12"**
Participating **DPP C Rocca, D/Supt Richardson**

- Sought DPP's advice as to MW's interpretation of the Magistrates' Court Corona Virus Rules regarding urgent matters that would be put before the Court. Our view had been that the matter was not urgent and therefore the Court would not hear a matter that did not that criterion. DPP advised that Court must accept the first appearance following arrest and that

the urgency issue does not arise in this case.

- DPP had had sight of CPS advice re social distancing during current crisis and if RF chooses to challenge the decision to rebail at judicial review then so be it. Our position is:
    - We are ready to charge – if pushed but would make no sense to rush now as:
        - Need to bottom out platform ownership as this will inform charging process (who and with what)
        - Need to explore JL's involvement
        - US Enquiries stalled due to Corona virus
        - Need to maintain social distancing for safety
        - Interview participation through remote means are being explored
        - Senseless to charge at the moment
- SPP had advised on:
    - Realistic prospect of conviction on the offences proposed
    - Application of Covid 19 regs to criminal proceedings
    - Matter of Bail – for POLICE ONLY – but was happy with our rationale and would support it if challenged.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent

Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
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Mobile [redacted]

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From:	(MOF) Mena, Albert
To:	(RGP) Wyan, Mark (Supt 247)
Cc:	(RGP) Richardson, Paul (OTM)
Subject:	RE: RGP Statement
Date:	25 October 2019 09:45:15
Attachments:	image002.png image003.png AAM 1.pdf AAM 2.pdf Witness statement.pdf

Dear Mark,

Thank you for your email below.

I have revised my statement to remove all highlight and also to correct the email timings. Please note that one of my emails was indeed sent at 09:45 and this is the time stamp on my email. I appreciate that Caine's immediate reply shows my email being sent at 09:44, however I must be guided by the timestamp on my own email.

HMGoG would have had the right to use the system either through its ownership of the system having received a direct assignment from OSG or by way of some form of licence from OSG. Having a right to use the system, HMGoG would also be able to direct third parties to use the system. I therefore feel that is not necessary for me to give a view as to any dispute regarding ownership of the system nor do I consider this the appropriate forum to air any differences.

I trust that you will find this statement duly signed. I am sending you a hard copy by hand. I am grateful if you would kindly confirm receipt.

Kind regards,

Albert

Albert Mena
Financial Secretary

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Office of the Financial Secretary

HM Government of Gibraltar

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From: (RGP) Wyan, Mark [mailto:Mark.Wyan@royalgib.police.gi]
Sent: 22 October 2019 15:39
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: RGP Statement
Importance: High

Dear Mr Mena,

RE: RGP Statement

Thank you for providing a draft copy of your statement. I have now had the opportunity to review the document and have made very minor changes [in particular regarding the times of the emails] which I have highlighted in yellow. I have also transferred the text onto a police witness statement form (see attached).

The only matter that I would ask you to consider is the asserted ownership of the NSCIS platform by HMGoG. So far all of our evidence [in respect of ownership] is based upon statements provided by Bland Limited. This is at odds with the contention [made by the suspects] that the platform was Government owned, and that acting on instructions from Mr Sanchez, they were authorised to carry out various acts. In this interests of fairness to the suspects, and for the sake of clarity, I would be grateful if you would consider outlining HMGoG's position in this regard. You may wish to simply add a brief sentence to paragraph 5 explaining that ownership is disputed.

Kind Regards,

Mark Wyan

Mark Wyan
Inspector
Resource Management

Operations Division
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From: (RGP) McGrail, Ian M.Sc (OTM)
To: (RGP) Richardson, Paul (OTM); (RGP) Wyan, Mark
Subject: FW: OFFICIAL - Op DELHI NSCIS hacking investigation
Date: 08 April 2020 17:22:10
Attachments: image002.png
Letter to CoP - Operation Delhi.pdf

Paul / Mark
Please see below and attached the response by the FS to my letter of earlier today.

Regards
Ian

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
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From: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Sent: 08 April 2020 16:32
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: Michael Llamas AG <michael.llamas@gibraltar.gov.gi>; Darren Grech <darren.grech@gibraltar.gov.gi>
Subject: RE: OFFICIAL - Op DELHI NSCIS hacking investigation

Dear Ian,

Thank you for your email and letter. I trust you are well too.

Please find attached my response which will also follow by hand. I have copied the Chief Secretary for the reasons I explain in my letter.

Kind regards

Albert

Albert Mena
Financial Secretary

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From: (RGP) McGrail, Ian M.Sc (OTM) [mailto:Ian.McGrail@royalgib.police.gi]
Sent: 08 April 2020 14:28
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Subject: OFFICIAL - Op DELHI NSCIS hacking investigation

Dear Albert –
I hope this email finds you well. Please find attached a scanned copy of a letter regarding a key issue that remains pending in the investigation of the hacking of the NSCIS platform. HM Attorney General asked to be copied in.

The original will follow via mail.

Best wishes
Ian

Ian McGrail *OTM MSc*
Commissioner of Police

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Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

Our Ref: IM155

8th April 2020

Mr Albert Mena
Financial Secretary
Government of Gibraltar
No 6 Convent Place
Gibraltar

Dear Albert,

Re: Op Delhi - Hacking of NSCIS platform

Amidst the current pandemic crisis, we find ourselves having to also deal with a host of 'normal' matters and it is on this note that I write to you to try resolve and a key issue concerning an on-going investigation the RGP is conducting.

You will recall the investigation the RGP commenced in late December 2018 into an alleged attempt to defraud Bland Limited of the National Security Central Intelligence System ("the NSCIS platform") maintenance contract and computer hacking related offences. In furtherance of this, former employees of Bland Limited, John Perez, Thomas Cornelio and Edward Asquez were arrested on the 10th May 2019.

On the 13th May 2019, you and I attended a meeting with the Chief Minster, together with Minister Costa (the then MoJ), the Director of Public Prosecutions, Mr Rocca, the Chief Secretary, Mr Grech, and Superintendent Richardson. During this meeting I outlined our suspicion that Caine Sanchez may have committed criminal offences and of our intent to arrest him. The Chief Minister mentioned his belief that the ownership of the NSCIS platform was in dispute and that HMGoG should be the complainant in this matter.

On the 17th July 2019 you met with Detective Inspector Wyan and Detective Sergeant Clarke of our Crime Division with regards to a witness statement in support of the investigation. One of the lines of enquiry we needed to close was that of the ownership of the platform, an issue which was discussed at this meeting. On the 17th October 2019 you provided a draft copy of your statement, however, the issue of ownership was not covered. As a result, on the 22nd October, DI Wyan sought clarification as to whether you would consider outlining the position of HMGoG in this regard. You responded on the 27th October 2019, stating that you did not feel it necessary to give a view on ownership, nor that it was the appropriate forum to air any differences. A copy of your response is attached.

During the course of this investigation Bland Limited have made clear the legal basis on which they assert ownership as well providing evidence in support. This includes a master software development and maintenance agreement, which although unsigned, reflected their understanding of the terms and conditions upon which the NSCIS platform was provided to HMGoG. This is further corroborated by monthly payments made by HMGoG to Bland Limited (in respect of the NSCIS platform) under the head "Software Licence Fee." They have also provided additional evidence by way of correspondence in support of their position including correspondence with Caine Sanchez.

The Director of Public Prosecutions has advised that the issue of ownership of the platform is integral to the prosecution of this case. This is based, in part, on statements made on 26th July 2019 by two of the subjects under investigation that the platform is owned by HMGoG. You will appreciate that this point needs clarification in fairness to the accused.

Those arrested continue on police bail. The RGP finds itself in an awkward position - in the absence of a definitive response, and by this I mean a witness statement by HMGoG as to the ownership of the NSCIS platform, we will have to rely upon the evidence provided by Bland Limited, who have emphatically asserted their ownership of the platform from the onset of this investigation and on whose evidence we have based all our activity.

I look forward to hearing from you at your earliest convenience.

Yours,

Ian McGrail OTM MSc
Commissioner of Police

cc HM Attorney General

Office of the Financial Secretary
HM Government of Gibraltar

8 April 2020

Ian McGrail OTM MSc
Commissioner of Police
Royal Gibraltar Police
New Mole House
Rosia Road
Gibraltar

Dear Commissioner,

I refer to your letter of today, for which I thank you.

I would like to clarify from the outset that, as Financial Secretary, my involvement in this matter, as is clear from the Witness Statement I have provided, is in relation to financial matters, as indeed it is for all financial matters concerning HM Government of Gibraltar.

In my reply of 25 October 2019 to Detective Inspective Wyan's email of 22 October 2019 I sought to confine myself to the financial matters that were in issue. I did not, and still do not, consider it appropriate for me to make statements on matters that go beyond that, especially in the context of a matter that I had not been involved in from the beginning. So it was with a view to being cautious and proper that I confined myself in my reply to state what I considered was relevant for me to state and within my capacity as Financial Secretary.

I did go to see the Chief Secretary upon receiving Detective Inspective Wyan's email and discussed it with him. I assumed that the question of ownership would then be addressed to or by him, as the relevant competent officer within the Government.

As it transpires, the RGP never received a reply from the Government to the question as to whether the Government asserts ownership of the NSCIC platform.

I have brought this matter to the attention of the Chief Secretary who will be replying to you separately.

I would like to thank you for the opportunity to explain the nature of my reply of 25 October 2019.

Yours sincerely,

Albert Mena
Financial Secretary

c.c. Mr Darren Grech, Chief Secretary

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From:	(RGP) McGrail, Ian M.Sc (OTM)
To:	(RGP) Richardson, Paul (OTM); (RGP) Wyan, Mark (Supt 247)
Subject:	FW: COP - NSCIC Platform.pdf
Date:	08 April 2020 19:21:48
Attachments:	COP - NSCIC Platform.pdf ATT00001.txt

Gents please attached letter from Chief Secretary

regards

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 08 April 2020 18:10
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>; (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Subject: COP - NSCIC Platform.pdf

Dear Ian,

I hope you are well - these are difficult times for all and hopefully soon "normality" shall return - whatever this was.

Please find enclosed herewith a letter which relates to some questions I gather have been raised this week on the NSCIC platform. As usual I will be happy to assist and help in any way I can.

Best wishes,

Darren

Darren Grech
Chief Secretary

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Office of the Chief Secretary

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HM Government of Gibraltar

Office of the Chief Secretary

Your ref:
Our ref:

Mr I McGrail OTM MSc
Commissioner of Police
Police Headquarters
New Mole House
Rosia Road
GIBRALTAR

8th April 2020

Dear Commissioner

The Financial Secretary has brought to my attention the email and letter that he has received today from you.

He has also shown me the reply that he will be sending to you.

In my capacity as Chief Secretary of HM Government of Gibraltar I can confirm that ownership of the NSCIC platform is contested between the Government and Bland Limited.

It is the Government's firm view that it has ownership over the said platform.

Indeed, the Government has always viewed ownership of the platform as forming an integral part of the services for which it pays a considerable amount of money to Bland Limited under the arrangements that have existed.

In your letter to the Financial Secretary you have asked for a Witness Statement on the question of ownership of the platform. I am sending this letter now in order to clarify the Government's position immediately. I will provide you with the Witness Statement during the course of next week. I trust this will be acceptable.

Furthermore, I would be grateful if any further questions that the RGP may have on this matter are addressed directly to me as the single interlocutor for the RGP.

Your sincerely

Darren Grech
Chief Secretary

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From:	(RGP) Richardson, Paul (OTM)
To:	(RGP) McGrail, Ian M.Sc (OTM)
Cc:	(RGP) Wyan, Mark (Supt 247)
Subject:	FW: OFFICIAL - SENSITIVE NSCIS PLATFORM
Date:	22 April 2020 11:36:54
Attachments:	image002.png Letter to Chief Secretary re Op Delhli - Hacking of NSCIS Platform.pdf image004.png
Importance:	High

Sir,

We spoke about this earlier. Grateful if you could chase up with the Chief Secretary.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent

Crime Protective Services Division
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From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 22 April 2020 09:46
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: FW: OFFICIAL - SENSITIVE NSCIS PLATFORM
Importance: High

Sir,

By way of reminder, please find attached the letter sent by CoP to the Chief Secretary. On reviewing the letter I noted that we should have received the statement by the end of last week. To my knowledge this has still not been provided.

Kind Regards,

Mark

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 14 April 2020 13:50
To: Darren Grech <darren.grech@gibraltar.gov.gi>
Cc: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>; (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>; (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: OFFICIAL - SENSITIVE NSCIS PLATFORM

Dear Darren – please see attached letter reference details which we require you to cover in your additional statement.
Best wishes
Ian

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
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From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 08 April 2020 19:21
To: Darren Grech <darren.grech@gibraltar.gov.gi>
Cc: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>; (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Subject: RE: COP - NSCIC Platform.pdf

Dear Darren –
Many thanks for your email and attached letter. We will revert with any questions we feel should be covered by you in the statement.

Regards
Ian

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 08 April 2020 18:10
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>; (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Subject: COP - NSCIC Platform.pdf

Dear Ian,

I hope you are well - these are difficult times for all and hopefully soon "normality" shall return - whatever this was.

Please find enclosed herewith a letter which relates to some questions I gather have been raised this week on the NSCIC platform. As usual I will be happy to assist and help in any way I can.

Best wishes,

Darren

Darren Grech
Chief Secretary

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HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

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Centrex: 2832
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HM Government of Gibraltar

Office of the Chief Secretary

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Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 200/2500 • Centrex 2210 • www.police.gi

Our Ref: IM156

14th April 2020

Darren Grech
Chief Secretary
No. 6 Convent Place
Gibraltar
GX11 1AA

Dear Darren,

Re: Op Delhi – Hacking of NSCIS Platform

Thank you for your response to my letter and for clarifying the position of HMGoG asserting ownership of the NSCIS platform.

With regards to the witness statement, the investigating team will require as much detail as possible on the subject of ownership. This will necessitate not only the assertion that HMGoG are the legal owners of the platform, but also the basis of that belief, as well as any evidence in support of that position. My officers will assist you if you have any questions about the statement. In this regard please contact Detective Inspector Mark Wyan mark.wyan@royalgib.police.gi

As the police investigation comes to a close, we now have a much clearer picture of the role played by Caine Sanchez and evidence that the investigators argue amounts to criminal misconduct, a view which is shared by the Director of Public Prosecutions. Given the extent of his apparent criminality I would be happy to meet with you and outline the evidence against him. This may assist should there be a need to the issue of interdiction.

I should be grateful if were able to have your statement by the end of this week please.

Yours,

Ian McGrail
Commissioner of Police

HM Government of Gibraltar

Office of the Chief Secretary

Handed over by CoP at 11:20. 13.5.20. Sept.

SUPPLEMENTARY WITNESS STATEMENT

This statement (consisting of 7 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

My name is Darren Grech. I am currently employed as Chief Secretary by Her Majesty's Government of Gibraltar (HMGoG).

I am making this Supplementary Witness Statement further to the first Witness Statement I made dated 21 January 2020.

This Supplementary Witness is made pursuant to a letter I received from the Commissioner of Police, Mr Ian McGrail OTM MSc, dated 14 April 2020. I now tender in evidence "**Exhibit DG/3**" a copy of the said letter.

In that letter, the Commissioner has requested that I provide "*as much detail as possible on the subject of ownership*" of the NSCIS platform. The Commissioner stated that this "*will necessitate not only the assertion that HMGoG are the legal owners of the platform, but also the basis of that belief, as well as any evidence in support of that position*".

Office of the Chief Secretary
HM Government of Gibraltar • 6 Convent Place • Gibraltar GX11 1AA
t +350 20051752 f +350 20040922 e darren.grech@gibraltar.gov.gi w gibraltar.gov.gi

The purpose of this Supplementary Witness Statement is to provide such information.

I would like to state from the outset, that ever since receiving the Commissioner's letter, I have asked for a search to be carried out of all relevant documents and material that may be held by HMGoG on this matter. I have, for now, refrained from contacting Mr Caine Sanchez for this purpose. Those documents and material are still being amassed for me and I expect to have them shortly. I therefore produce this Supplementary Witness Statement on the basis of the information which I have been able to obtain thus far. I reserve my position to complement this information once any further material is provided to me.

In light of the foregoing, in answer to the Commissioner's request I can say the following:

The Bland Group has a wide commercial relationship with HMGoG. This includes an arrangement for the provision of reporting and security services by OSG Limited, a company in the Bland Group, at the various entry points into Gibraltar (the "Services"). That arrangement existed before I took office as Chief Secretary. To the best of my knowledge it has existed for around five to six years.

I have asked to be shown a copy of the written contract between HMGoG and OSG Limited/Bland Group pursuant to which the latter provides the Services to the former. I have been informed that no such contract exists and, to the best of my knowledge, I believe this to be true.

It appears to me to be relevant to start by saying that both parties agree that there is a dispute as to the ownership of the NSCIS platform. For instance, in an email dated as recently as Monday 2 March 2020 sent at 20:02 hrs by HMGoG's Financial Secretary to Mr Nicholas Gaggero of the Bland Group, the Financial Secretary stated as follows:

> *"As you know at present there is a level of dispute between us as to ownership of the NSCIC system that has been developed for Government. I prefer not to go into the detail save to say that agreeing to the statement of work would effectively signify our agreement with the ownership of the Intellectual Property. This would have an impact not just on this module of work but by extension to the whole NSCIS system".*

Mr Gaggero replied almost immediately, at 20:35 hrs, as follows:

> *"I understand. Let me take this offline and come back to you tomorrow with a proposal to overcome this issue".*

That exchange originated in an email sent by Mr Gaggero to the Financial Secretary dated Thursday 20 February 2020 in which Mr Gaggero made a proposal for the provision by the Bland Group of a further service to HMGoG, namely, a mobile passport scanning application for Gibraltar's law enforcement agencies. Attached to Mr Gaggero's email was a draft Statement of Work which had a proposed clause on "Intellectual Property" which provided that *"[t]he compiled final system as well as the source*

code will remain the intellectual property of Bland Group". It is this that the Financial Secretary contested, and which Mr Gaggero accepted as being contested, in their email exchange of Monday 2 March 2020.

I now tender in evidence "**Exhibit DG/4**" a copy of the said emails of Thursday 20 February 2020 and Monday 2 March 2020.

Two matters appear to me to be clear from the foregoing:

- there is no written contract between HMGoG and OSG/Bland Group that could have clarified the question of ownership of the NSCIC platform; and
- there is a very clear disagreement between the parties on the question of ownership.

Thus, although there has clearly been an arrangement between HMGoG and OSG/Bland Group whereby the latter has been providing the Services to the former, and even if one were to consider that that arrangement constitutes an implied or oral agreement between the parties, on which I do not express any view, the stark reality is that, as the exchange of emails of Monday 2 March 2020 between the Financial Secretary and Mr Nicholas Gaggero shows, both parties agree that there exists a dispute as to the ownership of the NSCIS platform.

I would like to point out that HMGoG officials I have consulted are unanimous in the view that they never had any doubt that HMGoG was indeed the owner of the NSCIS platform.

For instance, I have been informed and, to the best of my knowledge, I believe this to be true, that in or around September 2013 HMGoG purchased from the Bland Group the so-called "Frontier Monitoring Project" or "FMP" system. This consisted of a CCTV and ANPR system to monitor movements at the border which was required by HMGoG for the purposes of compiling data on queuing times at the border. This was for the purposes of an investigation being conducted by the European Commission on border delays applied by Spain. The FMP system captured data on flow at the border. That arrangement was subsequently extended to cover other entry points in Gibraltar. This led to an iterative process whereby the system was repeatedly expanded and redesigned and became what is in place today, namely, the NSCIS system. In particular, I have been informed and, to the best of my knowledge, I believe this to be true, that HMGoG was intrinsically involved in the redesign and development of the platform; that all key decisions in relation to the platform were taken by HMGoG; that the decisions concerning the addition of users of the platform were taken by HMGoG; that the cameras used for the collection of the data are all owned by HMGoG; that at all times HMGoG has had complete control over the data; that the data was being used by HMGoG, and that OSG knew fully well that the data was being used by HMGoG, for sharing with third parties including law enforcement agencies in Gibraltar and elsewhere, and not least the European Commission. Indeed, that was the very purpose for the original need of the platform.

5

I have further been informed and, to the best of my knowledge, I believe this to be true, that HMGoG pays OSG/Bland Group a sum of approximately £66,693.75 per month for the operation of the NCSIS platform. This appears to me to be a very considerable amount of money which, it seems to me, confirms that HMGoG was paying in consideration for, inter alia, full ownership of the NSCIS platform otherwise that sum appears to me to make very little sense.

For the sake of completeness, in an email sent to me dated 25 October 2019, HMGoG's Data Protection Officer, Mr Tito Garro, attached what appears to me a standard template draft contract proposed by the Blands Group in the context of regularising the relationship between HMGoG and the Blands Group for the future. It appears to me that the context of this correspondence was the continued disagreement between the parties on the question of ownership of the NSCIS platform. I now tender in evidence "**Exhibit DG/5**" a copy of the said template. I do not believe that this template does anything other than, in effect, confirm the existence of such disagreement. Needless to say, HMGoG never accepted or signed it.

I am clearly not privy to what arguments OSG/Bland Group have put forward to the Royal Gibraltar Police to allege ownership of the NSCIS platform, let alone the detail of that argument, the basis of their belief or any evidence that they have put forward to support their assertion. In light of what I truly believe to be the true position on that matter, as set out in this Supplementary Witness Statement, such assertions cannot be based on any written contract nor, indeed, on any written or oral evidence and HMGoG strongly contests such assertions.

6

Furthermore, I have been advised by the Government Law Offices that, in the absence of a written contract setting out the position on ownership in clear and unambiguous language, it is indeed very difficult for OSG/Bland Group to make such an assertion.

Finally, I would like to place on record that on Thursday 30 April 2020, the Attorney General forwarded to me an email he had received from Mr Robert Fischel QC who is acting for Messrs Cornelio, Perez and Asquez. Mr Fischel's email contains a letter of that same date addressed to the Commissioner and addressing the issue of ownership of the NCSIS platform. I can confirm that I have read that letter but that the contents of this Supplementary Witness Statement, which had been largely drafted before I saw Mr Fischel's letter, have not been influenced by it.

Mr Darren Grech
Chief Secretary
HMGoG
4 May 2020

From:	(RGP) Wyan, Mark
To:	Darren Grech
Cc:	(RGP) Richardson, Paul (OTM)
Subject:	Police Witness Statement
Date:	17 June 2020 14:46:00
Attachments:	image005.png
Importance:	High

Dear Mr Grech,

Further to my email of the 11th June, I have been contacted by Ms. Corby asking whether you can edit the witness statement yourself. I have confirmed that you may edit the document as you see fit.

Given that HMGoG have now formally asserted ownership of the NSCIS platform, I would respectfully ask you to consider including in your statement a complaint against those who the evidence suggests have committed multiple computer related offences. We understand that some of the suspects are stating that they were authorised to access the NSCIS system by Caine Sanchez (although he has not said this himself and has indicated through his lawyer that he will not provide an explanation in his next police interview). An official complaint and unequivocal assertion that HMGOG does not condone the activity relating to the tampering with the NSCIS platform would be very beneficial to the prosecution.

Kind Regards,

Mark Wyan

Mark Wyan
Detective Inspector
Public Protection Unit

Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 52181 Centrex: **2340**

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From: (RGP) Wyan, Mark
Sent: 11 June 2020 11:22
To: Darren Grech <darren.grech@gibraltar.gov.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: Police Witness Statement
Importance: High

Dear Mr Grech,

RE: Police Witness Statement

In relation to the ongoing police investigation into the NSCIS platform, and further to your witness statement dated the 4th May 2020, please find attached:

1. A pdf copy of your statement dated 04/05/2020;
2. A copy of your statement dated 04/05/20 transposed onto a police witness statement form;
3. Three exhibit label forms corresponding to your tendered exhibits.

I would be very grateful if you could sign the police witness statement form and each of the three exhibit label forms.

If you let me know when this has been done I'd be happy to arrange collection.

Kind Regards,

Mark Wyan

Mark Wyan
Detective Inspector
Public Protection Unit

Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 52181 Centrex: **2340**

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From: (RGP) Wyan, Mark
To: (NO6) Corby, Giselle
Subject: RE: Witness Statements
Date: 19 June 2020 12:33:00
Attachments: image002.png

Dear Giselle,

Thank you for your email and assistance. I have sent an officer down to pick up the statement.

Kind Regards,

Mark

From: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Sent: 19 June 2020 11:48
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: RE: Witness Statements

Dear Mark

The witness statement has now been signed by Mr Grech. Would you please arrange for collection; officer collecting to ask for me downstairs.

Regards
Giselle

From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 18 June 2020 10:38
To: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Subject: RE: Witness Statements

Dear Giselle,

Many thanks for your email. I would be grateful if you could confirm when the statement has been signed by the Chief Secretary so that I can arrange collection.

Kind Regards,

Mark

Mark Wyan
Detective Inspector
Public Protection Unit

Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 52181 Centrex: **2340**

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From: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Sent: 17 June 2020 16:11
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: RE: Witness Statements

Dear Mark

The Chief Secretary has asked me to convey the following information:

The witness statement will stand as is, barring the transcription errors which were not of his making, and which did not appear in the original statement he submitted before your request came for reformatting.

Regarding the second point, the Government has already filed a complaint.

Regards
Giselle

Giselle Corby
Personal Secretary to the Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20051752
Centrex: 2832
giselle.corby@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

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From: (NO6) Corby, Giselle
Sent: 17 June 2020 12:47
To: '(RGP) Wyan, Mark' <Mark.Wyan@royalgib.police.gi>
Subject: RE: Witness Statements

Dear Mark

Thanks for your prompt reply. I also thought that Mr Grech's statement would have been copied but upon proof reading it I found several inconsistencies. I have amended it to reflect his and will hold off until you contact us.

Regards
Giselle

From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 17 June 2020 12:36
To: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Subject: RE: Witness Statements

Dear Giselle,

My apologies that I wasn't available to take your call. The witness statement was copied directly from the copy provided by Mr Grech on the 4th May so there shouldn't be any inconsistencies. That said, he is perfectly entitled to amend the statement as he sees fit. He was sent a Word version of the statement so it can be edited.

Before you finalise the statement I have realised that there is a point I would like him to consider. Grateful if you could hold off finalising the statement until I have sent him another email. I'll be doing so shortly.

Please feel free to contact me if you need any clarification.

Kind Regards,

Mark

Mark Wyan
Detective Inspector

Public Protection Unit

Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 52181 Centrex: **2340**





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From: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Sent: 17 June 2020 11:17
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: Witness Statements

Dear Mark

I have tried contacting you twice before via telephone to no avail and have decided to email you instead. I have been asked by the Chief Secretary to check and print his Witness Statement to which I have found several errors. Are we allowed to change them before Mr Grech signs it? Or does it have to be done from your end?

Regards
Giselle

Exhibit MW84

210.	15/11/2019	PWC considerations including production orders, exhibiting of evidence, PWC report from Gaggero, computer forensics. Plan to go to London to speak with PWC in relation to obtaining evidence of their actions when they forensically examined the NSCIS platform and produced their report. Required in order to support their assertions. The report is hearsay without further evidence / direct evidence of involvement. I proposed that we may wish to consider that there was a conspiracy to deprive Bland of the maintenance contract rather than the NSCIS platform. This is on the basis that the contract is subject to less dispute (as to ownership) and may therefore pose less of an issue in presenting to the jury. SIO discussed financial investigation of Sanchez to determine whether or not there has been any financial benefit accrued beyond his HMGoG salary. Relevance – Line of enquiry regarding computer misuse offences / benefit accrued by Sanchez.

Exhibit MW119

244.	13/01/2020	Review of JOG statements / charge identification. 51 offences identified. To be selected based upon the advice of DPP.

Exhibit MW95

263.	21/01/2020	Meeting with Supt Richardson, CI Field, and DS Clarke. Discussed: • Analysis by NCA (Roisin) • PWC unable to be an expert. Quoted at £35,000 to £50,000 for a statement of fact (likely to be at the upper end). This is without the independence of an expert who could offer opinion. • Charges – Over 50 possible charges identified (predominantly computer misuse). To be refined down. • Asquez – Previously offered to obtain a prepared statement. To interview and possibly obtain a statement if no evidence of criminality.

403.	06/04/2020	Awaiting instructions from DPP as to whether to charge and with what offences. A decision not to release at this point has been made by the SIO. Once instructions are issued we will proceed with interviews etc. The intention is to charge / release as soon as possible in order to limit the time the suspects are on bail. Attempts have been made via IT to try and install software that will allow Live Link facilities in compliance with interviewing instructions issued by CPS in light of the Covid-19 virus. At the moment we may be limited in interviewing owing to the fact that we do not have the facilities to have individuals separated in other rooms.

From:	(RGP) Clarke, Paul (PS130)
To:	(RGP) Goldwin, Craig (Insp 11)
Cc:	(RGP) Wyan, Mark (Supt 247)
Subject:	Schedule 1 Warrant Application
Date:	04 May 2020 19:44:47
Attachments:	Sch 1 Warrant Hassans.docx Sch 1 Warrant Levy Home Address.docx Schedule 1 Affadavit - Levy.docx image002.png

Sir,

As discussed, please find attached application for Schedule 1 Warrant.

Many Thanks and Kind Regards,

Paul

Paul Clarke
Detective Sergeant No. 130
Money Laundering Investigation Unit
Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20048040 Centrex: 2263

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[redacted]

In The Magistrates' Court, 32-36 Town Range, Gibraltar.

On Wednesday 6th May 2020

Warrant to Enter and Search Premises – 'All Premises'
Criminal Procedure and Evidence Act 2011, Schedule 1, Paragraph 12(a)

An application having been made by Detective Sergeant Paul Clarke of the Royal Gibraltar Police, I am satisfied that:-

The first set of access conditions specified in Paragraph 2 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are satisfied, and, that at least one of the further conditions set out in Paragraph 14 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are also fulfilled.

There is, at premises or sets of premises occupied or controlled by;

Jaime Levy

including those premises or sets of premises listed in the attached Schedule 'A', and other premises or sets of premises that it is not reasonably practicable to specify at the time of issuing this warrant;

material likely to be relevant evidence which is;

Electronic devices (including but not limited to mobile telephones, laptop computers, servers) capable of sending and receiving text messages, instant messages and/or electronic mails, owned and/or used by Jaime Levy and any device capable of storing any of the aforementioned messages.

Authority is hereby given for any Constable to enter within one month from the date of this warrant the said premises, or sets of premises, and to search them and to seize material in respect of which the application is made.

The Constable may be accompanied by up to six other Constables or designated persons.

COURT STAMP

Signature of Judge/Magistrate ……..... Date ……..……

This Warrant consists of 5 page(s)

Schedule ‘A’

List Of Premises To Be Searched

Hassans International Law Firm, Madison Building, Midtown, Queensway, Gibraltar		
COURT STAMP	Signature of Judge ……..	Date ……

Schedule ‘B’

Additional Premises To Be Searched

(with the written authorisation of an officer not below the rank of Inspector)

Premises	Rank & Name Of Officer Authorising	Signature Of Officer Authorising

In The Magistrates' Court, 32-36 Town Range, Giibraltar.

Information in support of application for an 'All Premises' search warrant

Criminal Procedure and Evidence Act Schedule 1 Paragraph 12(a) (first set of access conditions)

The information of Detective Sergeant Paul Clarke of the Royal Gibraltar Police, who upon oath states that:-

(a). There are reasonable grounds for believing:-

i. That an indictable offence has been committed, namely Conspiracy to Defraud contrary to Common Law;

ii. That there is material to which this information relates which consists of Special Procedure Material or includes Special Procedure Material and does not include Excluded Material on the premises specified in the application; or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify);

iii. That the material is likely to be of substantial value to the investigation in connection with which the application is made; and

iv. That the material is likely to be relevant evidence.

(b). Other methods of obtaining the material have not been tried because it appeared they were bound to fail;

(c). It is in the public interest, having regard:-

i. To the benefit likely to accrue to the investigation if the material is obtained; and

ii. To the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given.

AND that of the further conditions mentioned in para 12(a)(ii) of Schedule 1 of the Act, namely:-

a). that it is not practicable to communicate with any person entitled to grant entry to the premises to which the application relates;

b). that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material;

c). that the material contains information which;
i) is subject to a restriction or obligation such as is mentioned in section 15(2)(b) of the Criminal Procedure and Evidence Act 2011; and
ii) is likely to be disclosed in breach of it if a warrant is not issued;

d). that the service of notice of an application for an order under paragraph 4 of Schedule 1 to the Act may seriously prejudice the investigation.

The further conditions at **a, b, c, d,** above apply.

The material to which this application relates is:-

Electronic devices (including but not limited to mobile telephones, laptop computers, servers) capable of sending and receiving text messages, instant messages and/or electronic mails, owned and/or used by Jaime Levy and any device capable of storing any of the aforementioned messages.

There are reasonable grounds for believing that it is necessary to search all the premises occupied or controlled by:

Jaime Levy

Including the following premises / set of premises:.

Hassans International Law Firm, Madison Building, Midtown, Queensway, Gibraltar

in order to find the material in question, and it is not reasonably practicable to specify all such premises.

Signature of officer applying	Date
Signature of officer approving application (Inspector or above)	Date
Name of officer approving application	

ENDORSEMENT – one per premises

(To be returned to the court of issue with the original copy of the Warrant)

1. The following items were found / No items were found* at:

……

…

2. The following items other than items which were sought were seized

No other item was seized*

3. The search was conducted on (date) …….

between …… am / pm* and …….. am / pm*

by (name all officers present)

4. A copy of this warrant was handed to the occupier / person in charge of the premises / left on the premises* (specify whereabouts)

Signature of Constable ……. Date …….

Name, Rank, No ……

Station / Unit to which attached ……

* Delete as applicable

[redacted]

In The Magistrates' Court, 32-36 Town Range, Gibraltar.

On Wednesday 6th May 2020

Warrant to Enter and Search Premises – 'All Premises'
Criminal Procedure and Evidence Act 2011, Schedule 1, Paragraph 12(a)

An application having been made by Detective Sergeant Paul Clarke of the Royal Gibraltar Police, I am satisfied that:-

The first set of access conditions specified in Paragraph 2 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are satisfied, and, that at least one of the further conditions set out in Paragraph 14 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are also fulfilled.

There is, at premises or sets of premises occupied or controlled by;

Jaime Levy

including those premises or sets of premises listed in the attached Schedule 'A', and other premises or sets of premises that it is not reasonably practicable to specify at the time of issuing this warrant;

material likely to be relevant evidence which is;

Electronic devices (including but not limited to mobile telephones, laptop computers, servers) capable of sending and receiving text messages, instant messages and/or electronic mails, owned and/or used by Jaime Levy and any device capable of storing any of the aforementioned messages.

Authority is hereby given for any Constable to enter within one month from the date of this warrant the said premises, or sets of premises, and to search them and to seize material in respect of which the application is made.

The Constable may be accompanied by up to six other Constables or designated persons.

COURT STAMP

Signature of Judge/Magistrate ……..... Date ……..……

This Warrant consists of 5 page(s)

Schedule ‘A’

List Of Premises To Be Searched

[redacted]		
COURT STAMP	Signature of Judge ……..	Date ……

Schedule ‘B’

Additional Premises To Be Searched

(with the written authorisation of an officer not below the rank of Inspector)

Premises	Rank & Name Of Officer Authorising	Signature Of Officer Authorising

In The Magistrates' Court, 32-36 Town Range, Giibraltar.

Information in support of application for an 'All Premises' search warrant

Criminal Procedure and Evidence Act Schedule 1 Paragraph 12(a) (first set of access conditions)

The information of Detective Sergeant Paul Clarke of the Royal Gibraltar Police, who upon oath states that:-

(a). There are reasonable grounds for believing:-

i. That an indictable offence has been committed, namely Conspiracy to Defraud contrary to Common Law;

ii. That there is material to which this information relates which consists of Special Procedure Material or includes Special Procedure Material and does not include Excluded Material on the premises specified in the application; or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify);

iii. That the material is likely to be of substantial value to the investigation in connection with which the application is made; and

iv. That the material is likely to be relevant evidence.

(b). Other methods of obtaining the material have not been tried because it appeared they were bound to fail;

(c). It is in the public interest, having regard:-

i. To the benefit likely to accrue to the investigation if the material is obtained; and

ii. To the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given.

AND that of the further conditions mentioned in para 12(a)(ii) of Schedule 1 of the Act, namely:-

a). that it is not practicable to communicate with any person entitled to grant entry to the premises to which the application relates;

b). that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material;

c). that the material contains information which;
i) is subject to a restriction or obligation such as is mentioned in section 15(2)(b) of the Criminal Procedure and Evidence Act 2011; and
ii) is likely to be disclosed in breach of it if a warrant is not issued;

d). that the service of notice of an application for an order under paragraph 4 of Schedule 1 to the Act may seriously prejudice the investigation.

The further conditions at **a, b, c, d,** above apply.

The material to which this application relates is:-

Electronic devices (including but not limited to mobile telephones, laptop computers, servers) capable of sending and receiving text messages, instant messages and/or electronic mails, owned and/or used by Jaime Levy and any device capable of storing any of the aforementioned messages.

There are reasonable grounds for believing that it is necessary to search all the premises occupied or controlled by:

Jaime Levy

Including the following premises / set of premises:.

[redacted]

in order to find the material in question, and it is not reasonably practicable to specify all such premises.

Signature of officer applying — Date

Signature of officer approving application (Inspector or above) — Date

Name of officer approving application

ENDORSEMENT – one per premises

(To be returned to the court of issue with the original copy of the Warrant)

1. The following items were found / No items were found* at:

……

…

2. The following items other than items which were sought were seized

No other item was seized*

3. The search was conducted on (date) …….

between …… am / pm* and …….. am / pm*

by (name all officers present)

4. A copy of this warrant was handed to the occupier / person in charge of the premises / left on the premises* (specify whereabouts)

Signature of Constable ……. Date …….

Name, Rank, No ……

Station / Unit to which attached ……

* Delete as applicable

Information supplied in support of application for search warrant: Criminal Procedure and Evidence Act 2011, Schedule 1 – First set of access conditions

(Criminal Procedure Rules, rr.47.26 & 47.30; s.13 & paragraphs 2 & 12 of Schedule 1, Criminal Procedure and Evidence Act 2011)

At Magistrates' Court on Wednesday 6th May 2020.

Your Worship,

1. I am DS 130 Paul CLARKE of the Royal Gibraltar Police.

2. I am investigating offence of

    a. Conspiracy to Defraud contrary to Common Law.

3. My application has been approved by Detective Inspector Craig GOLDWIN

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4. The overarching matter of this case is the compromise of the National Security of Gibraltar. This is due to actions performed by the subjects in relation to Computer Misuse by intentionally causing the NSCIS Platform to malfunction and agreements to commit fraud to achieve their objective.

5. This application applies to premises owned or controlled by Jaime Levy namely his home address and the Offices of Hassans International Law Firm.

6. The information below has been obtained via various different sources of information and intelligence available to the Royal Gibraltar Police, and the circumstances of this case are as follows:

    THE SUBJECTS

7. **Jaime LEVY CBE QC** is a senior partner of law firm Hassans.

8. **Caine SANCHEZ** is a Senior Civil Servant employed by Her Majesty's Government of Gibraltar. He is the Principal Secretary to the Deputy Chief Minister of Gibraltar. Sanchez is the Government of Gibraltar's lead for the NSCIS platform.

9. **John PEREZ MBE** held the position of Chief Executive Officer of Bland Ltd between the 1st February 2010 and 10th September 2018. He was responsible for running Bland Group's interests in the Western Mediterranean and oversaw the senior management team who reported directly to him.

10. **Thomas 'Tommy' CORNELIO** held the position of Head of Software Development with Bland Ltd between 19th November 2012 and 10th August 2018. Between 11th – 31st August 2018, he remained with Bland working under a consultancy agreement. Thomas Cornelio was the architect of the NSCIS Platform.

11. **Edward ASQUEZ MBE** held the position of Operations Director with Bland Ltd between 24th June 2010 and 30th September 2018. He was employed by John Perez as they served together in the Gibraltar Regiment. He was tasked with a number of projects and was the ISO for Bland.

12. **Aaron CHIPOL** is the Chief Executive Officer of the Borders & Coastguards Agency (BCA). He was promoted to this position in August 2018, prior to this he was deputy head of Immigration.

THE COMPLAINANT

13. **James GAGGERO** is the Chairman of the Bland Group of Companies. He has held this position since 1997. Between 1987 – 1997, he was managing Director of the Bland Group of Companies. Bland has been in the Gaggero family for over 200 years.

14. **HMGoG** have laid a claim on the ownership of the NSCIS Platform. The ownership of the Platform is in dispute.

THE COMPANIES

15. **Bland Limited ("Bland")** is part of the Bland Group of companies which is registered in Gibraltar. Bland Limited trades under a number of entities including Bland Travel (a travel and transport business), Bland DMC (a travel business), The Calpe Lounge (an airport VIP lounges business), Avis (a car hire business), Operational Support Group ("OSG"), Wavetecx (a computer development business) and Gibair (an airport ground handling business).

16. **36 North Limited ("36 North")** is a Gibraltar registered company incorporated on the 23rd April 2018. The company carries on business as a computer software and security systems developer. PEREZ and ICode Limited, together with Astelon Limited, are beneficial owners in the company (each having a 33% shareholding). Following their resignations from Bland Ltd, Cornelio and Perez went on to work on a full time basis at 36 North.

17. **ICode Limited ("ICode")** is a Gibraltar registered company beneficially owned by Cornelio and incorporated on the 16th May 2018 for the purpose of holding shares in 36 North.

18. **Astelon Limited ("Astelon")** is a Gibraltar registered company beneficially owned by Hassans International Law Firm and incorporated on the 29th March 2018 for the purpose of holding shares in 36 North. The company has a 33% shareholding in 36 North.

19. **Hassans International Law Firm** is a Gibraltar based international law firm. Jaime Levy is a senior partner of Hassans.

THE NSCIS PLATFORM

20. The National Security Central Intelligence System ("the NSCIS platform") is a modular, centralised IT software system developed and utilised for the collection, monitoring, background checking, and flagging of people and vehicle movements in and out of Gibraltar, via land, sea and air.

21. Thomas Cornelio, during the course of his employment with Bland, developed this system. The NSCIS Platform was first launched in December 2014 under the Frontier Management Project (FMP) and was subsequently developed over a number of years.

22. The NSCIS platform collects sensitive personal information from members of the public upon entry to and exit from Gibraltar. It is a key tool for law enforcement agencies in the protection of the National Security of Gibraltar.

23. Bland Limited state they own the NSCIS platform, the source code, object code and all database structures which form the platform. However this is contested by HMGoG.

24. The NSCIS platform is provided to HMGoG on the basis of an ongoing software license, for which HMGoG pay Bland a license fee. In addition, Bland provides continuing support and maintenance for the platform.

THIRD PARTY ACCOUNTS

25. Being the developer, Cornelio had an intimate knowledge of the NSCIS platform. [redacted]

[redacted]

THE NSCIS PLATFORM AND WAVETECX

26. The contract for the NSCIS platform commenced under the Bland security company Operational Support Group ("OSG"). Bland later set up a separate company to develop, brand, market and commercially exploit the NSCIS platform abroad ("Wavetecx").

27. Wavetecx was set up around January 2017 and headed by Perez as CEO. He was assisted by Cornelio.

28. Cornelio managed Wavetecx on a day-to-day basis in his capacity as the Head of Software Development. Two Software Developers worked for Wavetecx – Joseph (Joey) Benrimoj and Marius Zalkaukas.

36 NORTH LIMITED

29. 36 North Limited is a private company limited by shares, with a registered office at 57/63 Line Wall Road, Gibraltar.

30. 36 North was incorporated on the 23rd April 2018. Whilst still employees of Bland, Perez and Cornelio were appointed directors of the company.

31. On the 22nd June 2018, Perez, ICode (beneficially owned by Cornelio) and Astelon Limited (beneficially owned by Hassans) each acquired a 33% shareholding in 36 North. Levy, having a 32% shareholding in Hassans, was therefore a 10% beneficial owner of 36 North [with the other partners each having a smaller share according to their respective interests in Hassans]. Perez and Cornelio were still employees of Bland.

32. There continued to be changes to the company formation during the proceeding months. However, the ultimate beneficial owners of 36 North remained as Perez, Cornelio and Hassans Law Firm [with Levy owning 10% beneficial share in the company owing to his 32% share in Hassans].

ALLEGATION

33. In October 2018, James GAGGERO engaged the assistance of Pricewaterhouse Cooper (PwC) and Red Maple (formerly Infosec Consulting) to regain control of the NSCIS Platform. Following the departure of Tommy Cornelio and John Perez, the platform malfunctioned. Gaggero reported this to the Commissioner of Police as he believed Tommy Cornelio and John Perez were responsible for this.

SEARCH WARRANTS AND ARRESTS

34. On 10th May 2019, the RGP executed search warrants at the home addresses of Cornelio, Perez, Asquez, and the offices of 36 North. A large number of electronic and documentary exhibits were seized.

35. Cornelio, Perez and Asquez were arrested during these search warrants.

36. On 14th May 2019, the RGP executed search warrants at the home address and office of Sanchez. A number of electronic and documentary exhibits were seized.

37. Sanchez was arrested the same day at Gibraltar Airport as he had been in London.

38. On 24th July 2019, the RGP executed search warrants at the home address and office of Aaron Chipol. A number of electronic and documentary exhibits were seized.

39. Chipol was not arrested at this time however he voluntary attended New Mole House Police Station.

40. Jaime Levy has not yet been subject to Police Intervention.

BACKGROUND

41. Jaime Levy is extremely influential in Gibraltar with very close connections to the Chief Minister and other HMGoG ministers. He is a senior partner of Hassans and has significant financial capabilities available to him.

CONSPIRACY TO DISHONESTLY OBTAIN THE NSCIS PLATFORM MAINTENANCE AGREEMENT

42. During the course of their employment with Bland, Perez and Cornelio, together with Levy, conspired to defraud Bland by dishonestly appropriating the NSCIS platform maintenance contract for their own benefit, via their company 36 North Limited.

43. They were assisted in attempting to obtain the NSCIS platform contract by Sanchez and to a lesser degree, Chipol both of whom are Senior Government officials.

44. The evidence in support of this offence can be divided into the following:

    a. Planning / Preparation to Obtain the NSCIS Platform (agreement / dishonesty);
    b. Appropriation of business commenced by Bland (dishonesty);
    c. Pressure and Government Officials / Undermining Bland (dishonesty);
    d. Computer Misuse Offences / Knowledge of Computer Misuse Offences (dishonesty); and
    e. NSCIS Report for Caine Sanchez (dishonesty).

Planning / Preparation to Obtain the NSCIS Platform Maintenance Contract

45. Prior to 36 North being created and during the inception, Sanchez and Levy discussed a joint venture. In January 2018, Sanchez wrote from his personal email account "*YITU – (a) security company on AI. Europe director to propose to move services from London to Gibraltar (b) interested in a joint venture with Wavetech (John Perez) (c) YITU to negotiate deal with them and deal to remove company from Blands*."

46. In a text message between Sanchez and Levy, dated the 24th July 2018, Sanchez wrote "*James I received a call from James Gaggero last night reference the security programme. I have discussed it with John and emailed the CM. It may be wise for us to meet and maybe include David Weber to go over some aspects of the conversation*."

47. In a further text, dated the 14th August 2018, he stated, "*James just got John Perez company their Insurance broker. Everything is going well with this. Just drafted letter to send to James Gaggero and waiting for CM to approve. I have also urged them to sign the international agreement and they are moving forward with this.*" Sanchez was advising 36 North in a business capacity. He was not independent of 36 North and unable to make an impartial decision regarding the NSCIS security platform.

48. During the course of 2018 Cornelio, Perez and Levy planned to obtain the NSCIS platform maintenance contract. This contract was the property of Bland and worth over £60,000 a month.

49. In an email sent from Perez to Cornelio, dated the 24th February 2018, (and whilst still employees of Bland) Perez attached a "*Letter of Intent*". This letter purported that 36 North already had an existing contract with HMGoG for the NSICIS platform. This proposal evidenced the intent of the suspects to obtain the contract for the benefit of their company, 36 North.

50. Between 23rd April 2018 and 22nd June 2018, the company 36 North Limited was incorporated, with Cornelio, Perez and Hassans each being 33% beneficial owners. It is believed the company was incorporated with the intent that it would obtain the benefit of the NSCIS platform maintenance contract.

51. In an email exchange dated the 20th June 2018, and whilst still employed by Bland, Perez sent an email to Cornelio called, "*36 North Cash Flow*". The document showed a forecasted revenue in favour of 36 North which included the NSCIS platform (Global invoice) for £62,519 per month.

52. This evidence is consistent with an agreement between the suspects to appropriate the NSICS platform maintenance contract, the property of Bland.

53. In addition to preparing to take the NSCIS platform maintenance contract, Cornelio and Perez dishonestly planned to hinder the ability of Bland to carry out their contractual obligations.

54. As part of this preparation, the suspects engineered a situation whereby they, together with a number of software engineers, would resign from the company at the same time.

55. Without prior notification, on the 10th July 2018, Perez and Cornelio handed in their resignations from Bland. In accordance with their respective contracts, the resignation of Perez was to take effect on the 9th September 2018 and the resignation of Cornelio was to take effect from the 10th August 2018.

56. On the 19th July 2018 both software engineers sent a text to Cornelio in which they presented draft resignations. On the same date Cornelio wrote to the engineers, "*Marius ok give me a while to review and don't send email out until I confirm with John now ok*."

57. On the 20th July 2018, Cornelio wrote on the same chat, "*Remember to stick to the story when chairman calls Joey. He has already written to John and he is denying having known.*"

58. On the 20th July 2018, the software developers resigned from their employment with Bland to join 36 North. The resulting loss of staff undermined the ability of Bland to fulfil their NSCIS contractual obligations following the departure of Perez and Cornelio from the company.

59. On the 2nd August 2018 Cornelio wrote to one of the developers regarding Gaggero attempting to retain Bland projects saying, "*In order to keep things smooth we all need to leave asap, leaving him no option."* He wrote on the same date, "*You will need to make it clear that after the 20th you are finished with Blands. That will ensure that they can't buy time*."

60. These actions were consistent with an agreement to undermine Bland, by diminishing their IT capabilities [and thereby their ability to maintain the platform] and appropriate the NSCIS platform maintenance contract.

61. On the 10th June 2018 Perez wrote to Levy, "*Preparing for our departure on 29th June. Everything else is now almost in place. John*."

62. On the 30th August, and immediately prior to Cornelio terminating his consultancy, Levy wrote to Perez, "*John I just rang you to tell you everything is under control. I've been working with Tommy on the relevant letters. I am very confident that we will bring this to a close in a successful manner very shortly. You can rest assured I will do my best to help you in every way. I have great Respect and admiration for your ability and hard work. Do not worry if there is an attack I will help you to defend and to counter-attack. You're a military man so I'm writing to you in military terms.*"

Appropriation of Business Commenced by Bland

63. During the course of their employment with Bland Cornelio and Perez were involved in a number of projects. These included:

    a. A proposal for the Carnival Corporation for a "Centralised Vessel Security Management System"; and
    b. A "*Ministry of Defence and Public Security Border Management Proposal*" for Sao Tome and Principe.

64. In an email sent from Perez to Cornelio, dated the 24th February 2018, (and whilst still employees of Bland) Perez attached a "*Letter of Intent*". This letter purported that 36 North already had existing international contracts including Carnival Cruises and Sao Tome and Principe. These were in fact contracts that were being negotiated on behalf of Bland.

65. In respect of Sao Tome, the proposal stated, "*Contract about to be signed for 7 years. Contract worth 1.6m euros with a forecast 20% increase by year 3. Contract starts in Feb 18*." Under the heading "*Carnival Cruise Lines*" is stated, "*Currently negotiating an APIS maritime system with Carnival who dominates 70% of the Cruise liner industry. A pilot platform has already been designed and discussed with Carnival CEO. A visit by Carnival's Head of Security and International representative will be visiting us in Mar 2018. Negotiation ongoing. Contract worth £175k per year*."

66. It is clear that Cornelio and Perez intended to dishonestly appropriate the business of Bland commenced by them as employees of Bland and obtain the benefits for 36 North.

67. On the 6th July 2018, Perez discussed one of these projects, namely Carnival Cruises, with Levy, despite not having resigned from Bland. He wrote, "*James we have just finished with Carnival after a long day of negotiations. We have been successful and now moving to the pilot phase. Flying back tomorrow*."

68. In respect of the Sao Tome and Principe agreement, Cornelio specifically ensured that any signature would take place after he had resigned from Bland when he stated on the 24th July 2018, "*We can agree on timeline and agree a date to sign contract. After the 10th August*"

69. Both Sao Tome and Principe and the Carnival Security Management System continued to appear on the Agenda for 36 North after both Perez and Cornelio had left Bland.

70. On the 7th September 2018, and in respect of Sao Tome, Perez wrote to Levy, "*James this week we will be receiving a contract from São Tomé and Príncipe for review. The commercial elements of the contract have already been agreed in principle. We are also closing in on Equatorial Guinea*."

<u>Pressure on HM Government of Gibraltar</u>

71. Following his departure from Bland and termination of the consultancy period, Cornelio sought to apply pressure on HMGoG to transfer the NSCIS platform maintenance contract. In particular he used connections with Chipol, Levy and John Rodriguez, the Collector of Customs.

72. Between September 2018 – May 2019, Cornelio sent Chipol numerous messages regarding the NSCIS platform. Cornelio made various requests to Chipol, as head of BCA, during this period to undermine Bland in the favour of 36 North. These requests involved sending emails purporting to be from Chipol which Cornelio had drafted and speaking to Government officials.

73. The below paragraphs refer to communications between Cornelio and Levy.

74. On the 21st August, whilst still in the consultancy period, Cornelio wrote, "*Dear James, would it be possible to sit down with you or the CM to try and move forward with out projects? I currently have a lot of work on hold pending this decision*."

75. On the 29th August 2018 he similarly wrote, "*Dear James, please try and get me a 10 min slot for me to meet the CM. I believe I am best placed to explain the entire situation and advise the best technical solution possible*."

76. On the 12th September 2018 Cornelio wrote to Levy and attached a letter to be used by the Chief Minister to terminate the Bland contracts. This letter was addressed to James Gaggero of Bland and was titled "*Termination of NSCIS, DSS, BCA, ETB and Education contracts ("the contracts")*." It explained, "*Bland Limited has failed to perform its obligations under the Contracts and is therefore in repudiatory breach… In the circumstances, please accept this letter as HMGOG's termination of the Contracts with immediate effect*."

77. On the 23rd September 2018 Cornelio wrote, "*Attached is a letter which may be of use to the GoG in order to proceed with the new platform we have offered them*."

78. By the 27th December 2018 Cornelio was concerned that the Chief Minister would not be transferring the contract to 36 North. In response Levy wrote, "*I don't think he will transfer the contracts back to 36N. We have to work on alternatives. I am happy to help …*"

79. On the 18th February 2019 he wrote to Levy saying, "*Any merit in me writing to the CM directly to request he meet with me. I miss my contracts*."

80. On the 26th March 2019 he wrote, "*Perhaps CM would be willing to put the National Security system out for tender next month*."

81. On the 27th March 2019 Cornelio again asked, "*Do you think there is any chance of getting national security contract back at some point?*" Despite his answer on the 27th December 2018 Levy responded, "*Yes*."

82. On the 3rd May 2018 Cornelio wrote again saying, "*Dear James, the national security system* [redacted]*. Can I email the CM once again to meet me? He cannot allow this to continue*."

83. On the 9th October 2018 Perez wrote to Levy stating, "*James thank you so much for this morning. I am sure our sessions will become more enjoyable as we set of in our journey. With regards to dropping Fabian a note, let's give him a bit more time. As the pressure will naturally surface through his law enforcement heads*."

84. These messages demonstrate the relationship between Levy and 36 North.

85. The Below Paragraphs are a sample of the communications between Cornelio and Perez.

[redacted]th [redacted]

87. On the 12th March 2019 Cornelio wrote to Perez, "*Spoke to JL. Can u speak to John Rodriguez this morning*." Perez replied, "*I will call him this morning*." Cornelio continued, "*Yep now is the time to attack heavily. We have the upper hand. Use ur network*"

88. On the 21st March 2019 Cornelio texted, "*We need our old system back. These bastards cannot win. Call Aaron mate, this we need to take away from them ya*."

89. The above clearly show that Cornelio, together with Perez and Levy, attempted to dishonestly apply pressure on HMGoG in order to transfer the NSCIS platform maintenance contract.

Computer Misuse Offences

90. In furtherance of the agreement to obtain the NSCIS platform maintenance contract Cornelio committed numerous computer misuse offences. These offences were primarily designed to directly or indirectly disrupt the NSICS platform, and thereby bring into question the ability of Bland to maintain the said platform. As a direct consequence of his actions Cornelio compromised the national security of Gibraltar.

91. The Computer Misuse Offences are further detailed below.

NSCIS Report for Sanchez

92. On the 4th October 2018, Peter Canessa wrote to Caine Sanchez on behalf of the Chief Minister. In an email he wrote, "*Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be provided full control of the management, maintenance and support of the NSCIS platform … Once the handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform*."

93. On the 5th October 2018 Sanchez contacted Cornelio and passed on these instructions.

94. On the 9th October 2018 Cornelio sent an email to Sanchez (with James Gaggero copied in) in which he confirmed that he would no longer access the NSCIS platform as well as writing, "*In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms*."

95. After the 31st August 2018, and subsequent to the instructions from the Chief Minister on the 4th October 2018, Cornelio was not authorised to access the NSCIS platform.

96. Contrary to these instructions, between 2216 hours on the 11th April 2019 and 0013 hours on the 12th April 2019 Cornelio accessed the NSCIS platform using the credentials of Sanchez.
97. Cornelio thereby accessed a national security platform without authority, for the purpose of undermining Bland, and obtaining the NSCIS platform maintenance contract.

98. On the 11th April 2019 Cornelio wrote to Levy, *"We are going to have a field day on the national security report..just wait until you see it. For now I am reviewing every single module 1 by 1.* [redacted]*."*

Knowledge of Computer Misuse Offences - Levy

99. On the 19th October 2018 Cornelio wrote to Levy saying, "*Morning James. Very confidential. Note Gaggero has brought in a forensic team of six to look at anything John and I may have done to tamper with the system etc. Gaggero is going all out it seems*.

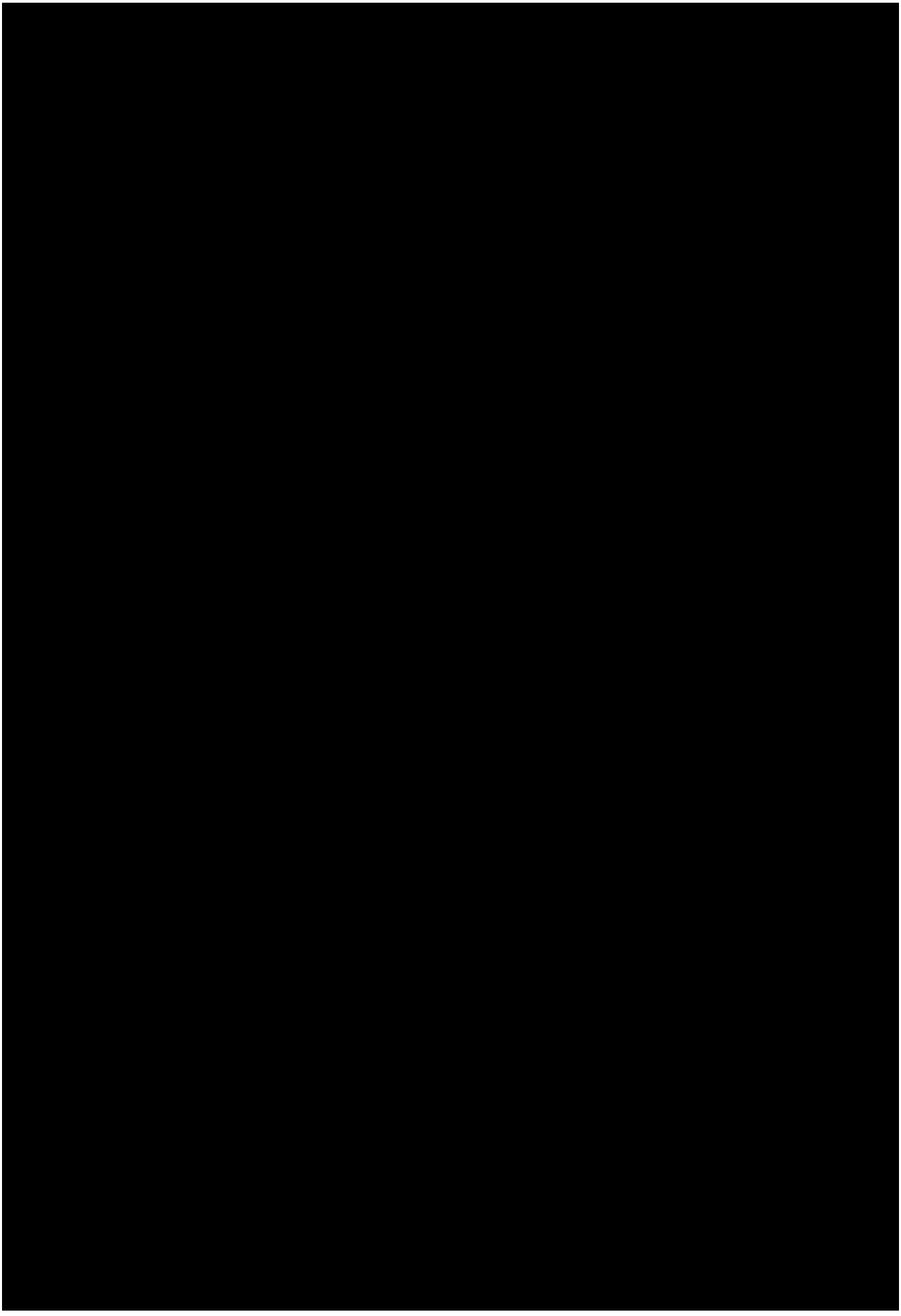
100. On the same day Cornelio wrote to Perez saying, "*Spoke to James ref forensic team confidentially. Spoke to him on the phone. Call me and I can discuss. He says not to worry. I am very concerned they will try to prove I have acted to sabotage the system in any way etc*."

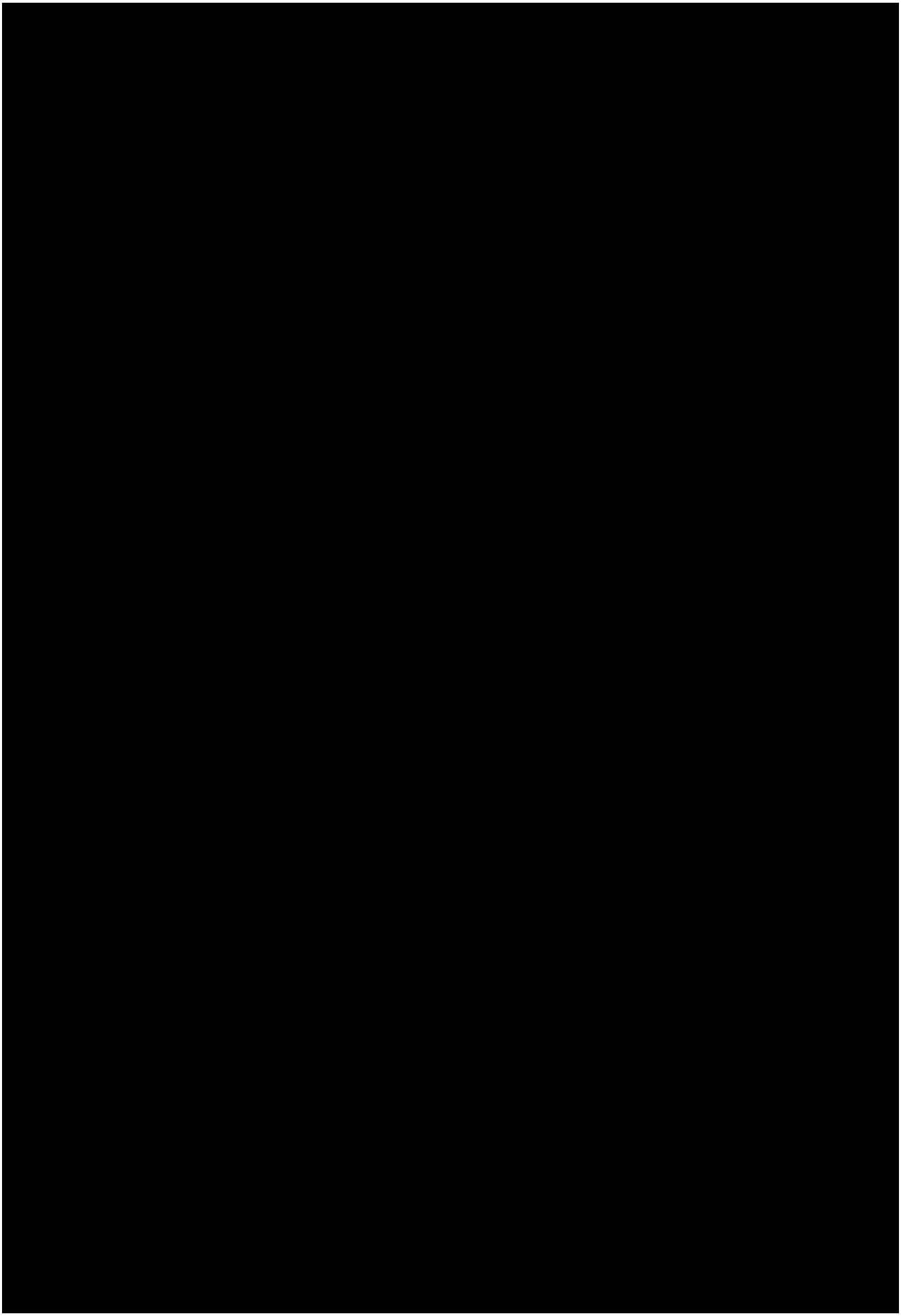
101. The evidence indicates that Levy discussed the forensic team with Cornelio and that he had given him advice about the situation.

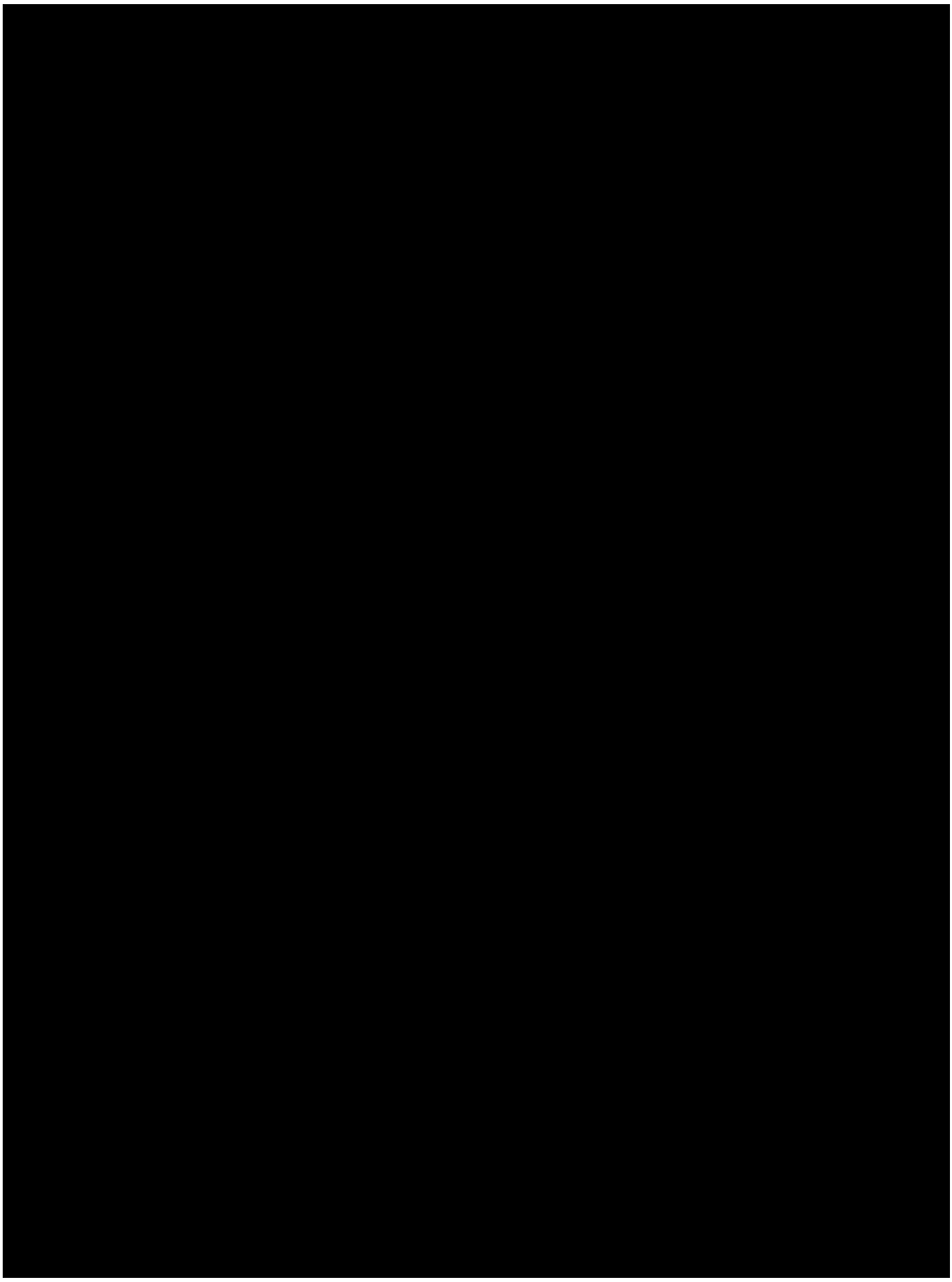
COMPUTER MISUSE OFFENCES

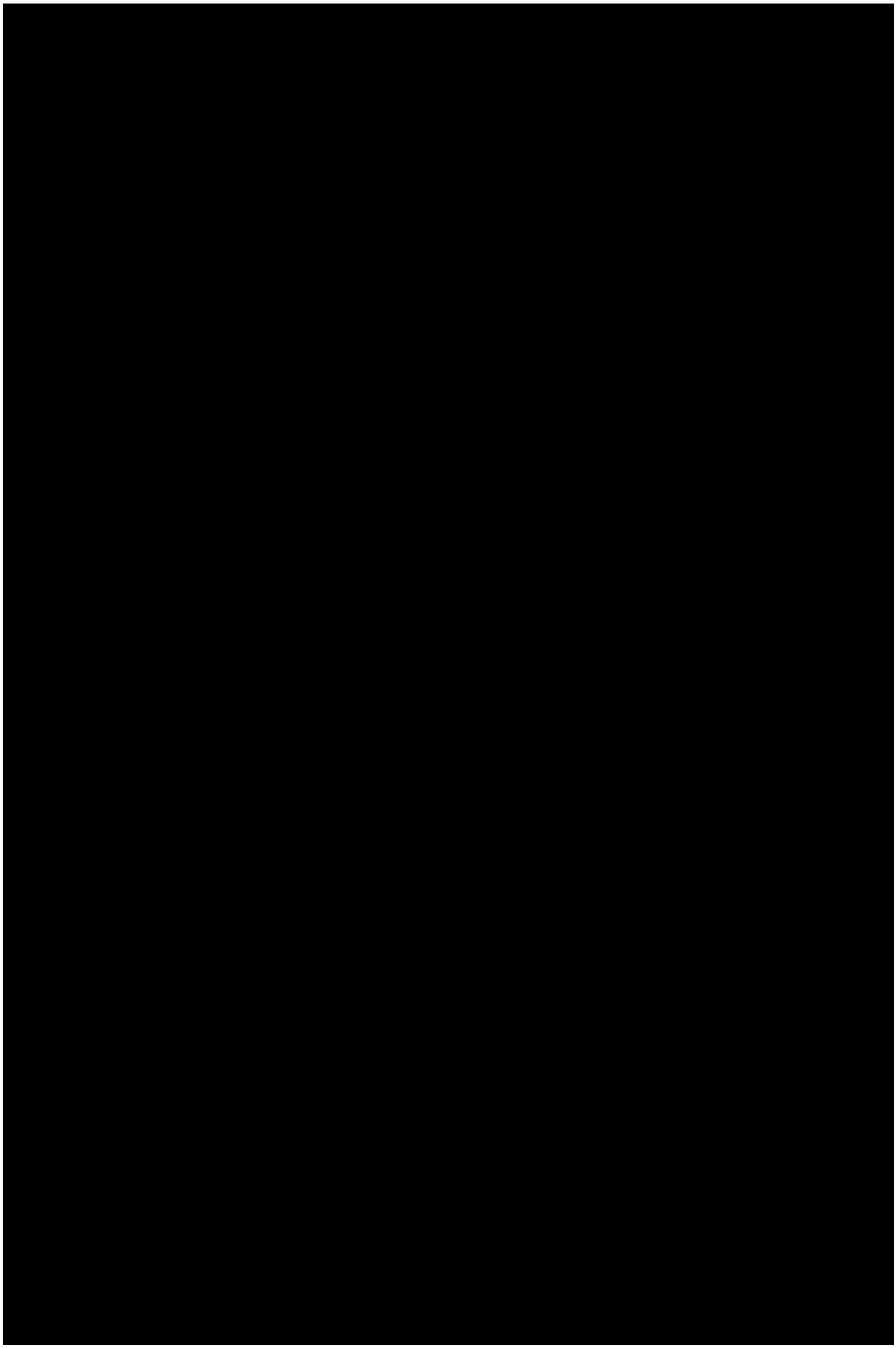
102. In furtherance of the agreement to obtain the NSCIS platform maintenance contract Cornelio committed numerous computer misuse offences. These offences were primarily designed to directly or indirectly disrupt the NSCIS platform, and thereby bring into question the ability of Bland to maintain the said platform. As a direct consequence of his actions Cornelio compromised the national security of Gibraltar. A number of these offences were initially discovered by PwC, who were appointed by Bland, in October 2018, following numerous performance issues associated with the system.

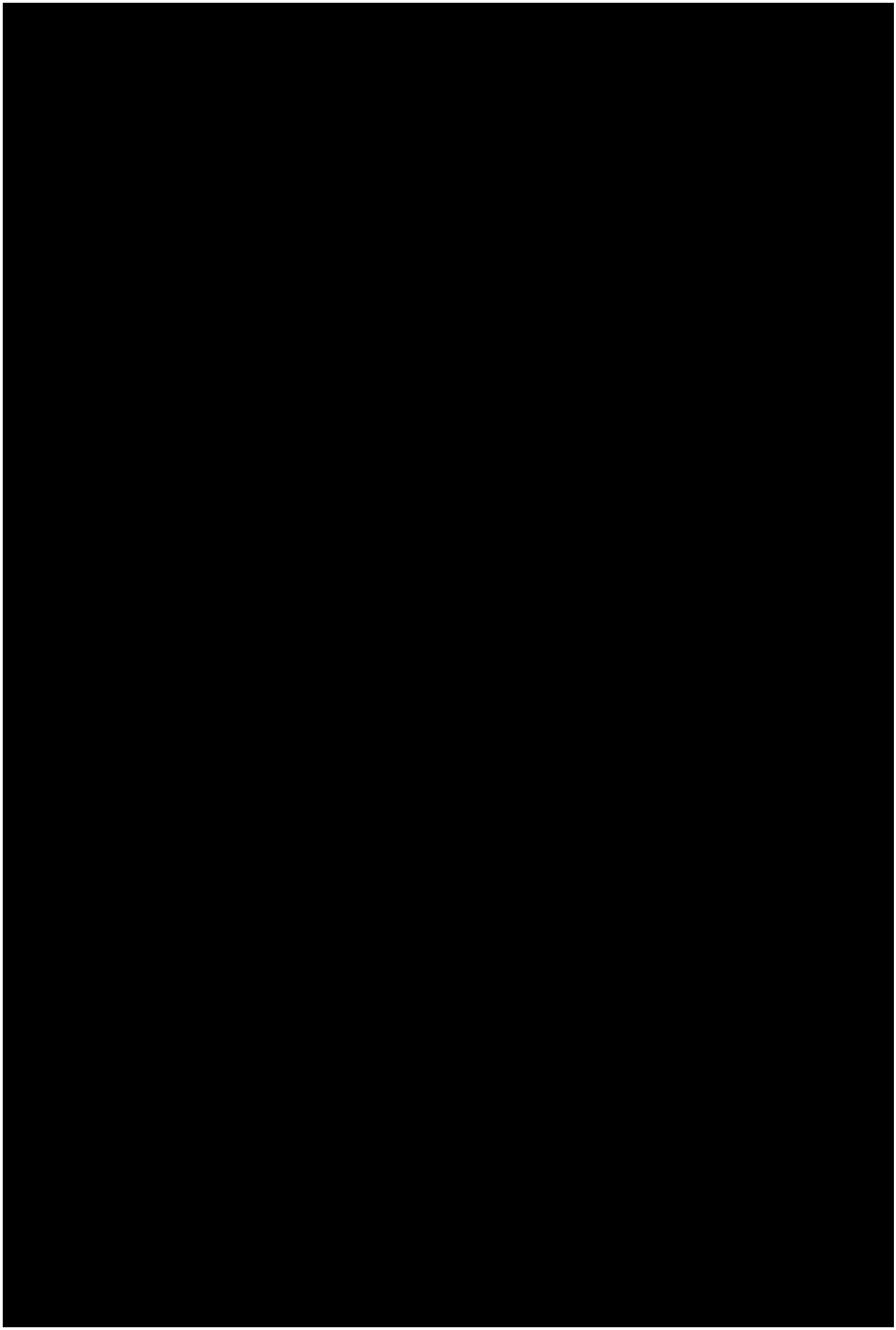
[redacted]

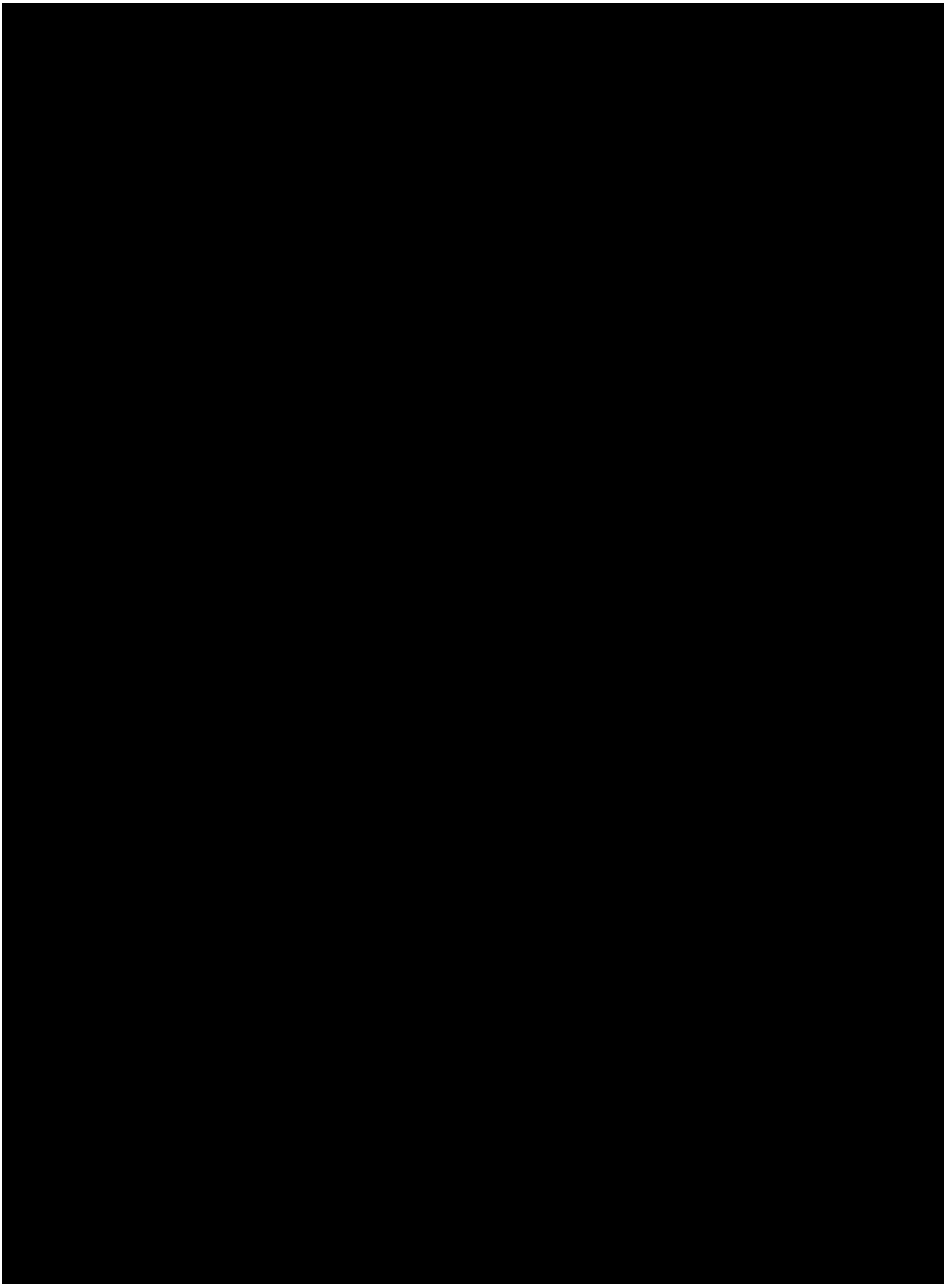


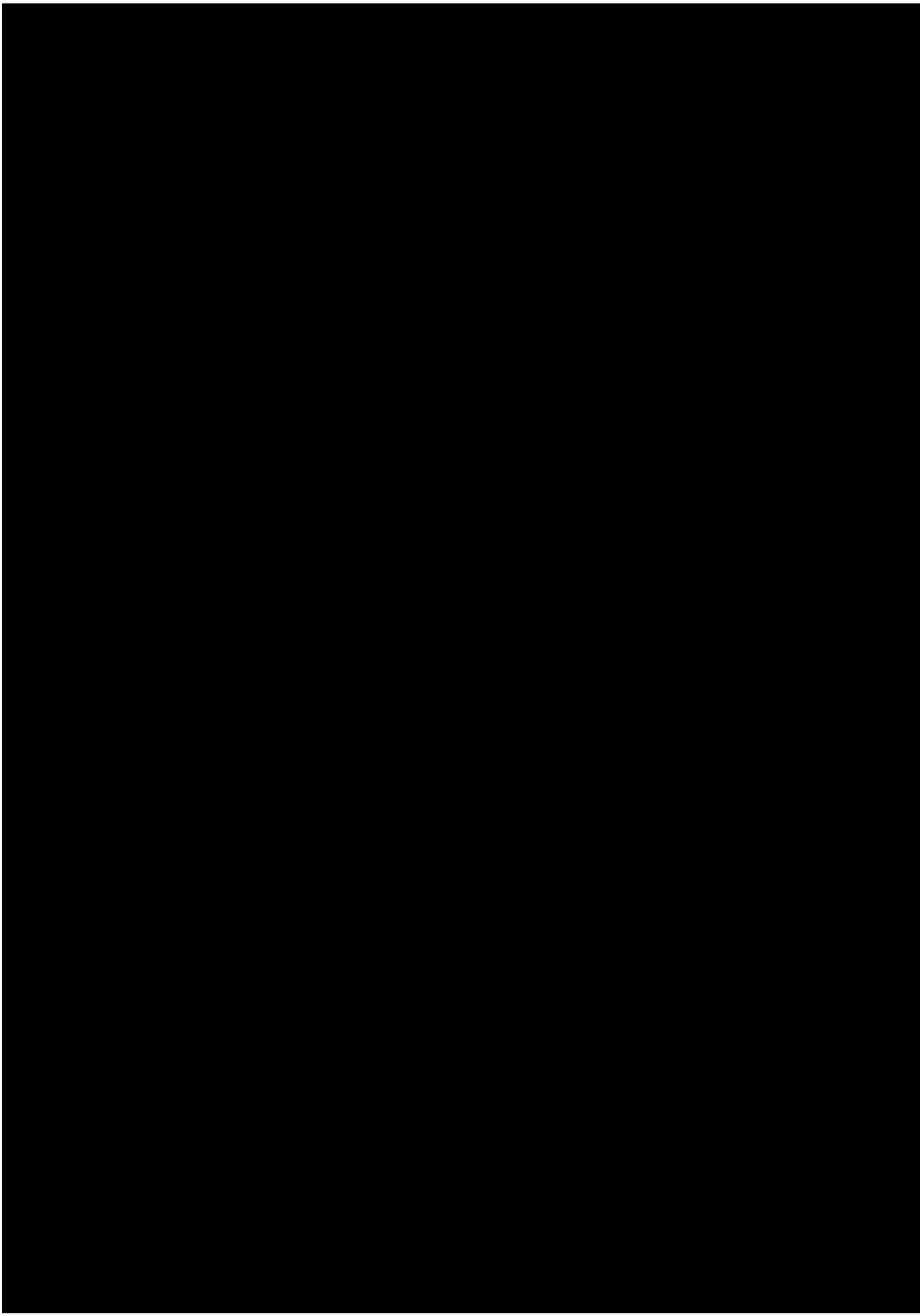


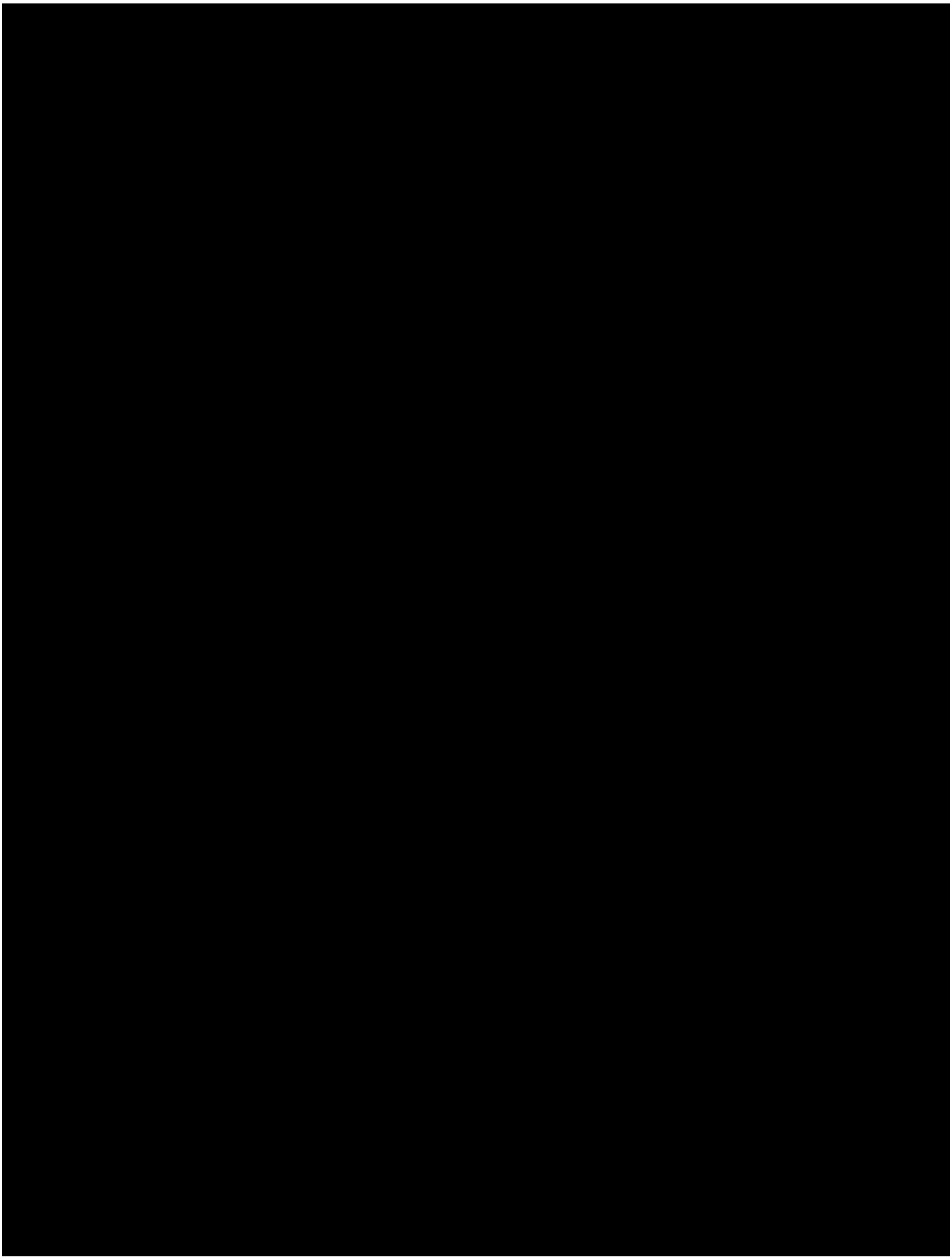














156. **Instance 31 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

157. On the 16th May 2018, being the same date on which ICode Limited was incorporated by Cornelio, the login credentials of Jonathan Galliano (Bland Head of IT and Infrastructure), in respect of the Bland Microsoft Azure account failed to work.

158. Cornelio persistently failed to restore the access despite repeated requests to do so. On 16th May 2018 he refused to grant Jonathan Galliano access. The login issues were due to Cornelio blocking the Microsoft Azure account of Galliano, as he was the only person authorised to do so.

159. These actions prevented Galliano, and thereby Bland, from accessing the NSCIS Azure resources, which hindered the ability of Bland to identify, diagnose, administer and repair issues associated with the NSCIS platform.

160. It further prevented Galliano (and thereby Bland) from accessing the Azure Management Portal activity logs, which would have identified actions carried out by Cornelio on the Microsoft Azure account.

161. These actions were consistent with an agreement to undermine Bland Limited and appropriate the NSCIS platform maintenance contract.

CHANGE OF MS AZURE BILLING DETAILS

162. The Bland Microsoft Azure account was originally set up on 24th July 2016 under the billing address "*Cloister Building, Irish Town, Gibraltar, Cadiz, Spain*". The account was paid for via Bland Group company credit cards. The account owner email address was specified as being tommy@wavetecx.com.

163. **Instance 32 - Unauthorised acts with intent to impair the operation of a computer – section 364(1) as read with s.364(2)(b) Crimes Act 2011 –**

164. Between 25th May 2018 and 25th June 2018, and without authority, the address on the account was changed by Cornelio (account administrator [redacted]) to "[redacted]. This address was Spanish property belonging to Cornelio.

165. On the 5th July 2018 the Bland Limited mobile phone numbers [redacted] (used by Perez) and [redacted] (used by Cornelio) were removed from the Bland Limited Gibtelecom account without authority.

166. On the 27th July 2018, and without authority, Cornelio deleted all Wavetecx mailboxes and data files from the Wavetecx server, including the email address tommy@wavetecx.com . Cornelio deleted this mailbox in the belief that it could not be recovered.

167. On the 17th October 2018, and with the assistance of InfoSec Consulting (subsequently Red Maple Technologies), Bland attempted to remove Cornelio as the default owner of the entire MS Azure account (Azure Account Administrator / Azure Service Administrator).

168. InfoSec initially attempted to remove Cornelio with the use of phone number support arrangements offered by Microsoft. The corporate Bland phone used by Cornelio as a backup device for account password recovery could not be located.

169. Microsoft support in the form of a Microsoft Enterprise Agreement was subsequently requested. This was substantially frustrated by the change of address, meaning that Bland found it difficult to prove that they were the valid owner of the account.

170. The actions were consistent with an agreement to undermine Bland Limited and to transfer the NSCIS platform maintenance contract to 36 North.

171. **Instance 33 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

172. On 9th July 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.

[redacted]

179. These actions were consistent with an agreement undermine Bland Limited and dishonestly appropriate the NSCIS platform maintenance contract.

180. **Instance 35 - Unauthorised acts with intent to impair the operation of a computer – section 364(1) as read with s.364(2)(b) Crimes Act 2011).**

181. Once Wavetecx were incorporated, Cornelio, Perez and Asquez used '@wavetecx.com' email addresses. These Wavetecx email accounts were the property of Bland Limited.

182. Between 23rd - 28th July 2018, without authority, and while still an employee of Bland (in his notice period), Cornelio logged onto the Wavetecx email server and exported all the data including user mailboxes and data files from all Wavetecx email accounts. These included the email accounts of Perez and Cornelio.

183. On the same date, and without authority, Cornelio deleted all Wavetecx mailboxes and data files from the Wavetecx server. The email accounts included evidence of the intent of Perez and Cornelio to appropriate the NSCIS maintenance contract, as well as potential customers of the NSCIS platform and communications with HMGoG relating to the NSCIS platform.

184. These actions were performed from IP addresses attributed to Cornelio.

185. Cornelio exported and deleted these mailboxes in the belief that these mailboxes could not be recovered.

186. Despite his belief that they could not be retrieved, the content of these mailboxes were later recovered by Bland.

187. These actions were consistent with the agreement to undermine Bland Limited and appropriate the NSCIS platform maintenance contract.

188. **Instance 36 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

189. On 24th July 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.

190. **Instance 37 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

191. On 25th July 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.

192. **Instance 38 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

193. On 26th July 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.

194. **Instance 39 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

195. On 31st July 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account. **(Exhibit JOG/17 refers).**

196. **Instance 40 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

197. On 2nd August 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.

198. **Instance 41 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

199. On 6th August 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.

DELETION OF NSCIS BACKOFFICE AUDIT LOGS

200. The NSCIS backoffice audit log is a sequential counter that increases by one when each action by a user is logged.

201. **Instance 42 - Unauthorised acts with intent to impair the operation of a computer – section 364(1) as read with s.364(2)(b) Crimes Act 2011 -**

202. Between 7th August 2018 [2 days before Cornelio terminated at Bland] and 8th October 2018 [the day after Cornelio logged onto the NSCIS backoffice] a total of 340 log entries were deleted on 60 separate occasions.

203. A total of 31 logged actions were deleted between the 7th October 2018 at 1657 hours and the 8th October 2018 at 0716 hours.

204. The deletions coincided with the time when Cornelio was accessing the NSCIS backoffice and the initiation of the database re-indexing.

205. A log can only be deleted manually on the NSCIS production Azure SQL database and not through the NSCIS Back Application. To delete logs it would require an in-depth knowledge of:

a. What database server the database is stored in;
b. Database credentials to access and log in to the said database;
c. What tables the audit logs reside in;
d. What type of information is audited and when; and
e. The SQL code required to delete these entries manually to achieve this.

206. The actions were consistent with an agreement to undermine Bland Limited and to transfer the NSCIS platform maintenance contract to 36 North.

TERMINATION OF CONSULTANCY PERIOD

207. On the 1st September 2018 Cornelio terminated the consultancy period with Bland. In an email to James Gaggero, dated the 30th August 2018 he wrote, "*Please let this email serve as official notice that as of 00:00 on 1st September 2018 I will no longer be supporting the NSCIS platform in any capacity*."

208. On the 9th October 2018 Cornelio sent an email to Sanchez (with James Gaggero copied in) in which he wrote, "*In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms*."

209. As of the 1st September 2018 Cornelio was no longer authorised by Bland to access the NSCIS platform.

210. However, Microsoft Azure logs revealed that Cornelio had logged on using his account [redacted] on numerous occasions after the 31st August 2018.

[redacted]



UNAUTHORISED ACCESS – "NSCISBLOBS"

220. **Instance 46 - Unauthorised access to computer material – section 362 Crimes Act 2011**

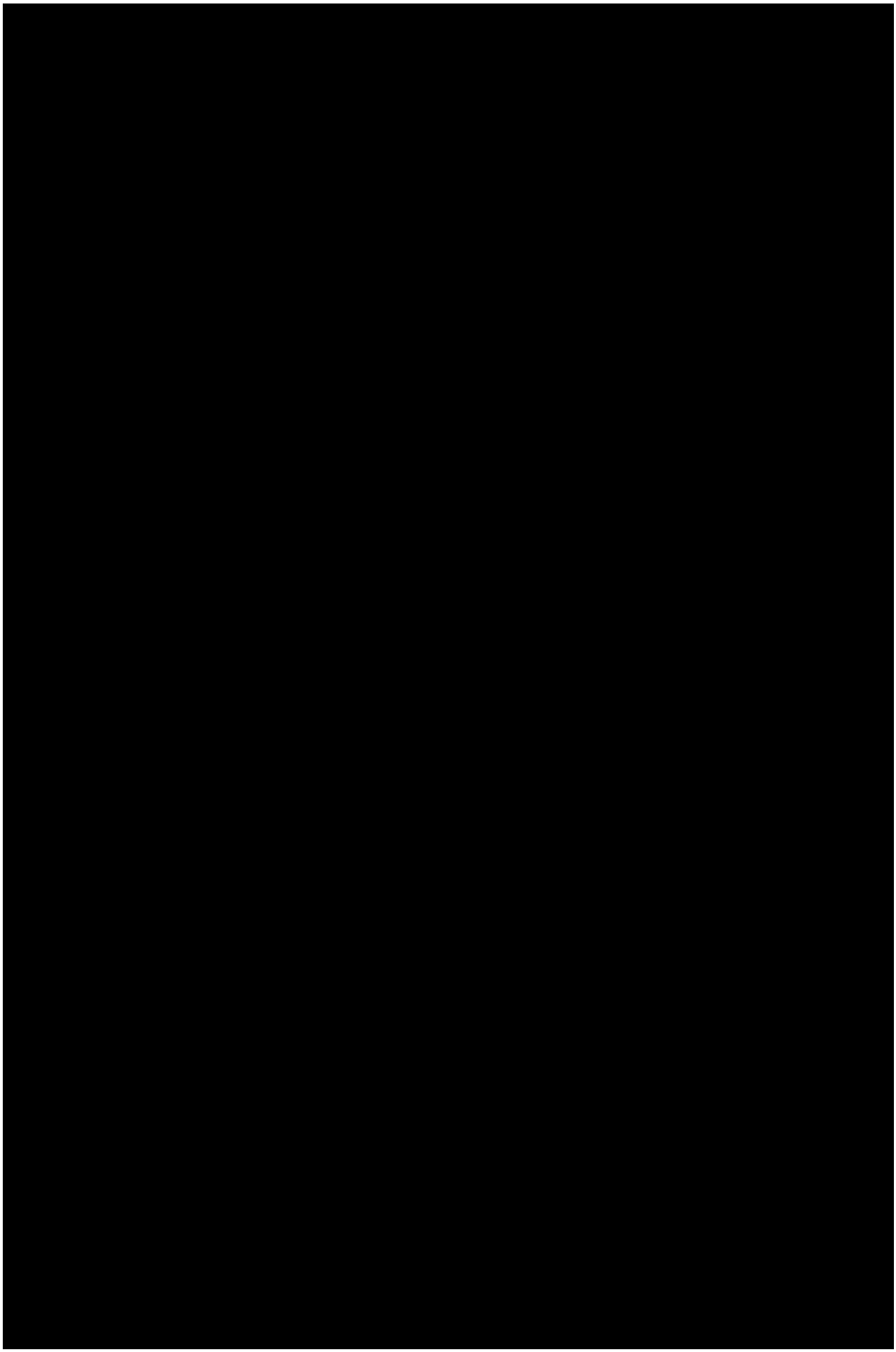
221. On 6th September 2018, that is, after the termination of the consultancy period, Cornelio logged onto the NSCIS Azure Blob Storage account "nscisblobs", using his Azure account [redacted].

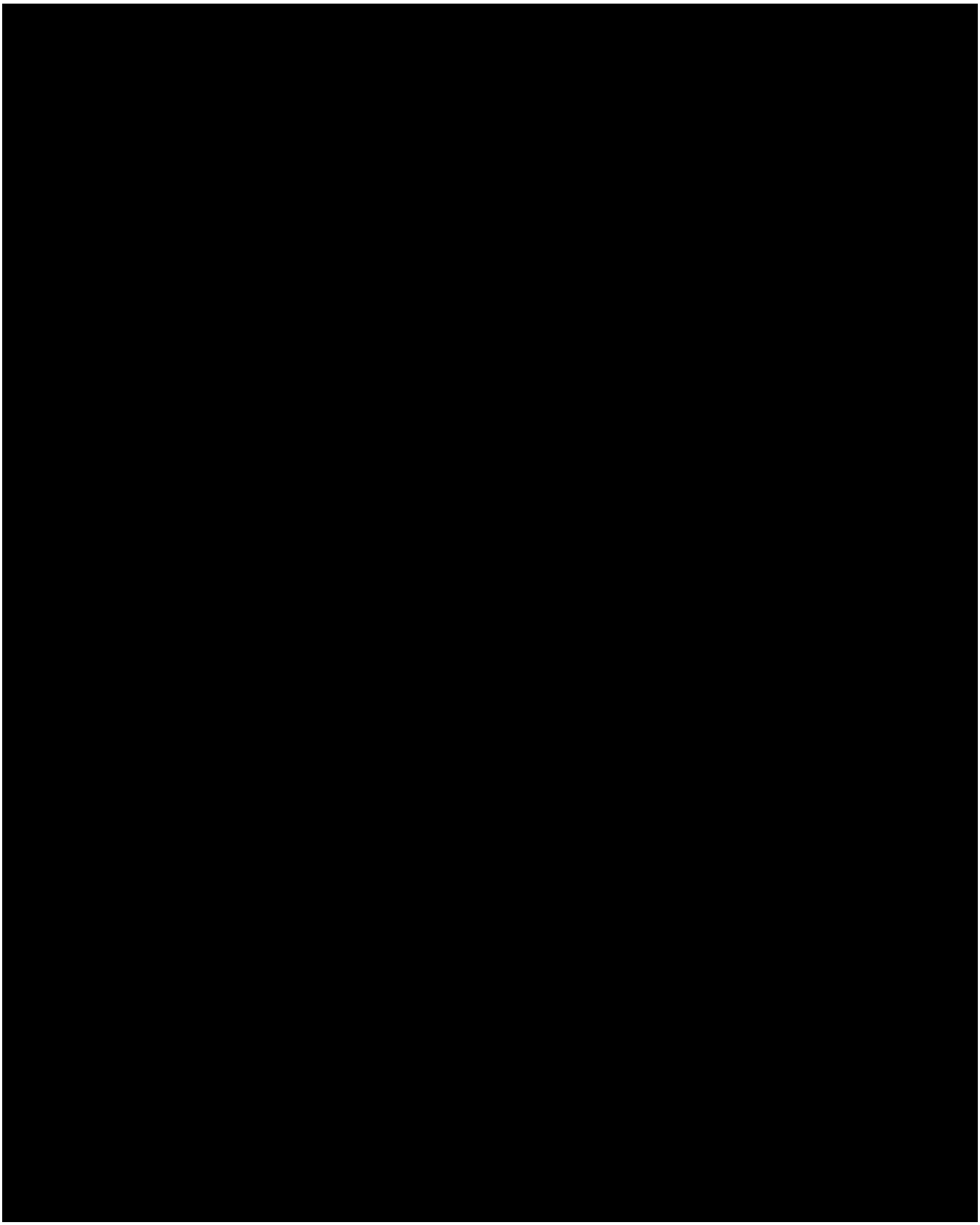




229. The actions were consistent with the agreement of Cornelio and Sanchez to undermine Bland Limited and appropriate the NSCIS platform maintenance contract.







TWITTER

256. Up until the 4th October 2018, that is, the day on which the Chief Minister gave instructions for the NSCIS platform not to be accessed by Cornelio, tweets of border queuing images were being posted by Bland to Twitter handle @gibraltarborder.

257. At that time Cornelio was the sole owner and administrator of both the Twitter handle @gibraltarborder and linked Twitter account (ID 2535097143). This account is owned by Bland and was administered by Cornelio during the course of his employment. The account had over 4400 followers, subscribers, and tweet history.

258. Linked to this account was the personal Twitter developer account of Cornelio.

259. As a result of the failure on the 4th October, Bland recreated the Twitter Windows service and software library source code. The Windows service had to be restored from the source code retrieved on the 19th July 2018 [and unknown to Cornelio]. The Twitter Windows service and software library was not present in the source code provided by Cornelio on the 7th September 2018.

260. This was put into operation on the 5th October 2018 at 1355 hours. The new Twitter service successfully posted tweets between 1355 hours and 1935 hours on the same day.

261. After 1935 hours the Twitter Windows service failed to post tweets due to an invalid or expired key token. Cornelio, as the administrator of his personal Twitter developer account was the only person able to change tokens required to access and post tweets to @gibraltarborder.

262. **Instance 62 - Fraud by failing to disclose information – contrary to section 417 Crimes Act 2011 –**

263. On 4th October, Cornelio failed to disclose to Bland, the location of the Twitter Windows service posting to Twitter account number 2535097143.

264. **Instance 63 - Fraud by failing to disclose information – contrary to section 417 Crimes Act 2011 -**

265. Between the 5th and 7th October 2018, immediately after the Chief Minister gave an instruction for Cornelio to no longer access NSCIS, Cornelio changed the twitter handle from @gibraltarborder to @gibraltarbord. In doing so he retained all of the original followers, subscribers and tweets associated with ID 2535097143.

266. At 1924 hours on the 7th October 2018 Cornelio created a new Twitter account (ID 10489875235226139904) with the now free handle @gibraltarborder from an IP address associated with his home address. He then provided the administrator credentials to this new account to Bland in an email.

267. Cornelio thereby retained the Bland Twitter account (ID 2535097143) and failed to disclose the administrator access to Bland on 8th October 2018.

268. The actions were consistent with an agreement to undermine Bland Limited and to transfer the NSCIS platform maintenance contract to 36 North.

269. Between April – December 2019, approximately 6600 tweets were deleted from the Twitter Handle @Gibraltarbord.

FRONTIER QUEUE HOTLINE

270. On the 8th August 2018, that is, 2 days before he resigned from Bland, Cornelio requested that the Frontier Queue Hotline phone number 20042777 be forwarded on to UK phone number +44 7428310899, and that voicemail on phone number 20042777 be disabled.

271. Bland hold an account with *Messagebird*, a third-party service provider. Bland use their services extensively within the NSCIS platform for voice and SMS capabilities. The number +44 7428310899 is a number held on a *Messagebird* account however it was not transferred by Cornelio to the Bland account. It was therefore not accessible by them.

272. The new UK number required the development of a new Windows service to update the new phone line with the frontier queue times. On the 9th August Cornelio wrote that the physical server at Cloister Building, which hosted the Frontier Queue Hotline, was redundant. This confirmed that the new Frontier Queue Hotline windows service had been relocated to a server not known to Bland.

273. **Instance 64 - Fraud by failing to disclose information – contrary to section 417 Crimes Act 2011 -**

274. On the 5th October, that is, the day on which Cornelio was officially informed that he was no longer to access the NSCIS platform, the Frontier Queue Hotline was disabled or failed. Bland was unable to remedy this as they had no knowledge of which server the Widows service was running from.

275. In order to restore the service a new Frontier Queue Hotline service had to be developed. This was further hindered by the fact that the source code provided by Cornelio on the 7th September 2018 did not contain the most up to date version of the Windows service.

276. As a result, the Frontier Queue Hotline service was not operating for a total of 26 days.

277. The actions were consistent with an agreement to undermine Bland Limited and to transfer the NSCIS platform maintenance contract to 36 North.

278. **Instance 65 - Fraud by failing to disclose information – contrary to section 417 Crimes Act 2011 -**

279. On the 7th October when requested to, did not disclose to Bland the location of the server on which the Frontier Queue Hotline Windows Service associated with Messagebird Number +447428310899 was running from.

UNAUTHORISED ACCESS - NSCIS BACKOFFICE

280. On the 4th October 2018, Peter Canessa wrote to Caine Sanchez on behalf of the Chief Minister. In an email he wrote, "*Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be provided full control of the management, maintenance and support of the NSCIS platform … Once the handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform*."

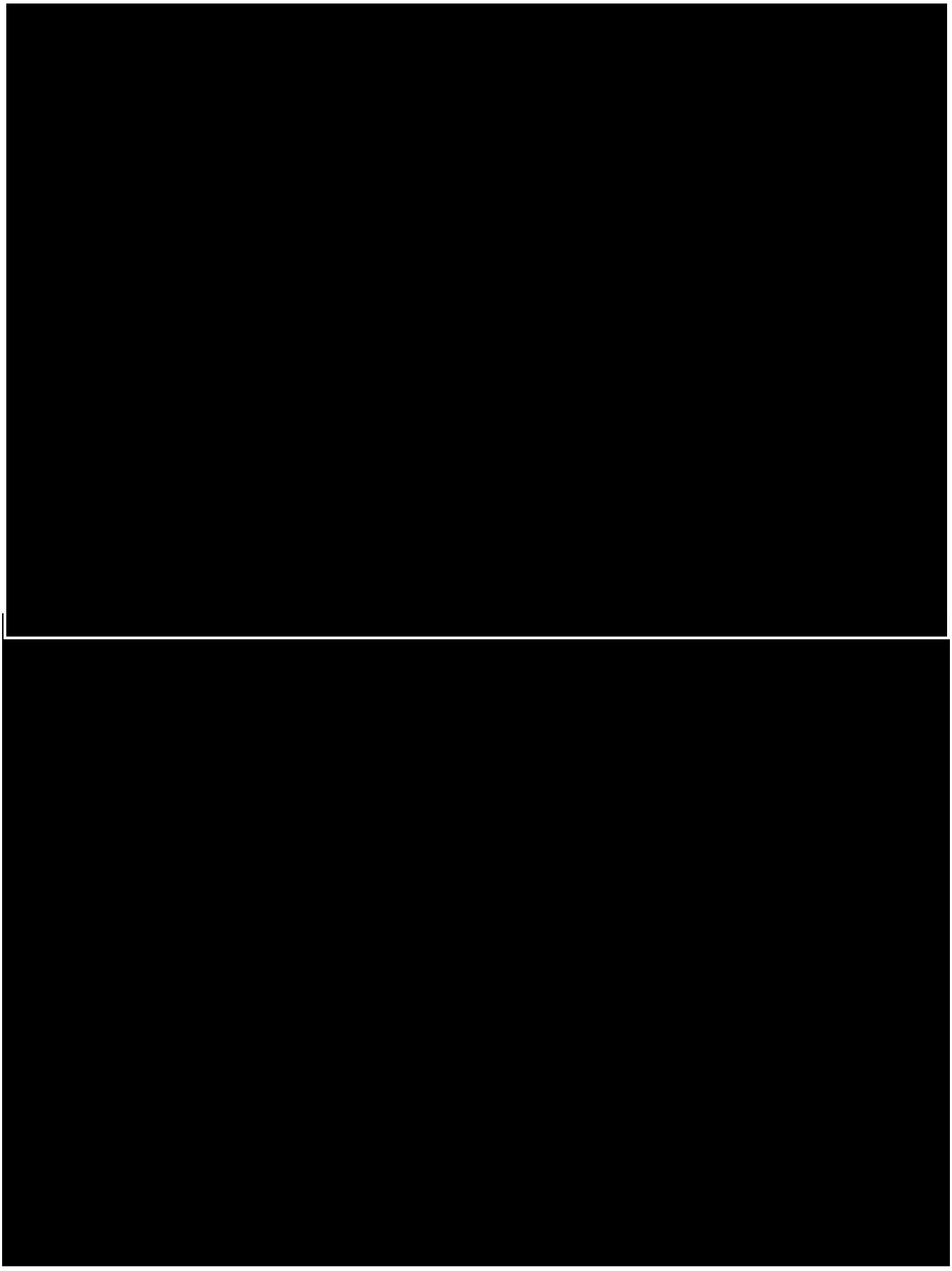
281. On the 5th October 2018 Sanchez contacted Cornelio and passed on these instructions.

282. On the 9th October 2018 Cornelio sent an email to Sanchez (with James Gaggero copied in) in which he confirmed that he would no longer access the NSCIS platform as well as writing, "*In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms*."

283. **Instance 66 - Unauthorised access to computer material – section 362 Crimes Act 2011 -**

284. In contravention of the instructions, on the 7th October 2018 Cornelio accessed the NSCIS back office using his Bland group email tommy.cornelio@blandgroup.com. The access was obtained from an IP address directly associated with Cornelio.









305. These actions were carried out from an IP address connected to Cornelio.



[redacted]

308. The actions of Cornelio between 7th – 11th October 2018 posed a serious and credible risk to the National Security of Gibraltar.

309. **Instance 76 - Unauthorised access to computer material – section 362 Crimes Act 2011**

310. On 17th October 2018, that is, after the termination of the consultancy period, Cornelio logged onto the NSCIS Azure Blob Storage account "nscisblobs", using his Azure account [redacted].

NSCIS REPORT FOR SANCHEZ

311. On the 4th October 2018, Peter Canessa wrote to Caine Sanchez on behalf of the Chief Minister. In an email he wrote, "*Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be provided full control of the management, maintenance and support of the NSCIS platform … Once the handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform*."

312. On the 5th October 2018 Sanchez contacted Cornelio and passed on these instructions.

313. On the 9th October 2018 Cornelio sent an email to Sanchez (cc. James Gaggero) in which he confirmed that he would no longer access the NSCIS platform as well as writing, "*In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms*."

314. Post 31st August 2018, Cornelio was not authorised to access the NSCIS platform. This was re-enforced by the instructions from the Chief Minister on the 4th October 2018.

315. **Instance 77 – Unauthorised access to computer material – contrary to section 362 Crimes Act 2011 -**

316. Contrary to these instructions, between 2216 hours on the 11th April 2019 and 0013 hours on the 12th April 2019 Cornelio accessed the NSCIS platform using the credentials of Sanchez which were provided to Cornelio by Sanchez.

317. Cornelio thereby accessed a national security platform without authority, for the purpose of undermining Bland, and obtaining the NSCIS platform maintenance contract.

318. On the 11th April 2019 Cornelio wrote to Levy, *"We are going to have a field day on the national security report..just wait until you see it. For now I am reviewing every single module 1 by 1.* [redacted]*."*

LEVY'S INVOLVEMENT

319. The above paragraphs demonstrate Levy was involved in the plan to remove the NSCIS contract from Bland at an early stage;

a. Messages between Levy and Sanchez show communication discussing moving the contract away from Bland in early 2018. (Paras 45 to 47)

b. Levy was instrumental in the creation of 36 North. Firstly, by being owning 32% of shares of Astelon Ltd, who in turn own 33% of shares of 36 North. (Paras 31 to 32) On behalf of Hassans, he injected a large sum of money into 36 North.

c. He was using his influence with the Chief Minister to the advantage of 36 North.

d. He was regularly contacting both Cornelio and Perez in relation to 36 North whilst they were still employed by Blands and following their resignations. (Paras 61 to 89).

e. Communications show he was aware of the Computer Misuse Offences committed by Cornelio. (Paras 99 to 100).

320. I now seek to recover –

Electronic devices (including but not limited to mobile telephones, laptop computers, servers) capable of sending and receiving text messages, instant messages and/or electronic mails, owned and/or used by Jaime Levy and any device capable of storing any of the aforementioned messages.

I submit to your Worship that there are reasonable grounds for believing that:

321. **Indictable offences have been committed;**

Conspiracy to Defraud contrary to Common Law.

322. **There is material that consists of special procedure material or includes special procedure material and does not also include excluded material on premises specified in the application.**

Data has been created or acquired in the course of the business of Hassans International Law Firm, of which the subject is a senior partner. As a law firm, this data is held under an express or implied duty of confidence the company owes to their clients.

The material sought does not include any Excluded Material (i.e. it's not medical records or journalistic material or material held under secrecy imposed by a specific enactment such as the Official Secrets Act).

E.g. the material sought consists of communications between the subjects of this application. This would not be classified as legally privileged material. This material does not however consist of anything which could be regarded as Excluded material - i.e. medical records, records relating to counselling or welfare assistance, or journalistic material. The material sought is not, and does not contain any Legal Privilege Material however it is understood legally privileged material may be present on digital devices which will be seized. All digital devices will be reviewed by an appointed independent legal representative prior to the OIC being given access to any material.

The material sought does not contain any Legal Privilege material.

323. **The material is likely to be of substantial value to the investigation and is likely to be relevant evidence.**

a. The material will assist to prove or disprove the subject's involvement in the offences stated. The material sought will show to what level the subject was involved with 36 North.

b. This information is relevant because it will identify to the OIC if the suspected offence has been committed by the subject.

I also ask your Worship to consider the following points;

324. **Other methods of obtaining the material have not been tried because it appeared they were bound to fail.**

The material sought is held by a subject in this case and it is feared if notice was given to the subject to provide this material to the OIC, the subject would destroy, alter, deface or conceal the material sought.

325. **It is in the public interest that access to the material sought should be given, having regard to the benefit likely to accrue to the investigation if the material is obtained and to the circumstances under which the person in possession of the material holds it.**

a. The offence is of a serious nature and the material sought is likely to be valuable evidence that cannot be obtained from any other source.

b. If access to the material sought is obtained under the power of the warrant I apply for, any professional or ethical duties of confidentiality which may exist between the subject and Hassans and those persons or business to whom the material refers will be preserved.

326. **Service of notice of an application for a Production Order or der under Para 4 Schedule 1 CPE Act may seriously prejudice the investigation.**

A key subject in this case is the person I would serve a Production Order for the material sought. In the circumstances it is highly likely that they would destroy, alter, deface or conceal the material sought because it is evidence sought by the OIC which may prove their involvement in the offence.

327. **For these reasons I ask your Worship to grant the search warrant(s) I apply for.**

Prepared By:
Paul CLARKE
Detective Sergeant 130
Money Laundering Investigation Unit
Royal Gibraltar Police
Email: paul.clarke@royalgib.police.gi

From: (RGP) Clarke, Paul (PS130)
To: (RGP) De los Santos, John (Insp 25)
Cc: (RGP) Wyan, Mark (Supt 247)
Subject: RE: R v [redacted]
Date: 05 May 2020 15:58:17
Attachments: image004.png
image005.png
image006.png

John,

DI Wyan, Jamie and I have been put back onto 8-4 as we are swamped with work for Op Delhi. Tomorrow I am applying for very sensitive search warrants which will be executed early next week. We have a lot of work to prep before the execution of these.

DI Wyan is also currently self-isolating pending his Covid-19 test result as he has symptoms.

Due to this I am unfortunately extremely reluctant to release Jamie for any longer than absolutely necessary.

Many Thanks and Kind Regards,

Paul

Paul Clarke
Detective Sergeant No. 130
Money Laundering Investigation Unit
Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20048040 Centrex: 2263

Royal Gibraltar POLICE
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Exhibit MW89

8.	07/05/2019	Meeting with James Gaggero, Insp Zammitt, Supt Richardson and CI Finlayson. Mr Gaggero provided an overview of the allegations. Necessary to better understand the nature of the allegations.

Exhibit MW90

141.	04/09/19	Consideration of legal issues and advice to be sought from DPP. In particular: 1) Asquez statement – Consideration of whether there would be a conflict for Mr Fischel to act on behalf of Cornelio / Perez and represent Asquez in providing a full account? 2) Webber – Keyword search has recovered correspondence with David Webber who appears to be involved in setting up the 36N business. Consideration of whether this is legally privileged or simply business actions. Note that he is working for Levy / Hassans and is arguably not a lawyer / client relationship. If it is, how do we proceed moving forward? 3) The platform is related to national security. See for example the evidence of Insp Chipolina. What level of detail is required for the purpose of section 366A? If detail is required, can any special measures be introduced to protect this public interest? 4) Consideration of Official Secrets act offence (section 2 of 1911). Is it defence to disclose the information to a person if you honestly believed the person was authorised to receive it (even if they were not)? Is misdemeanour offence tried in Supreme? 5) Conspiracy to defraud – Does the agreement to take the NSCIS contract from Bland amount to a conspiracy to defraud? Consideration to the term 'by dishonesty.' Or is it simply a commercial dispute, and civil action is appropriate? Relevance – Legal advice sought in respect of the ongoing investigation.
142.	04/09/2019	Meeting with CI Finlayson and DPP regarding legal matters including: • Asquez statement • Webber status • Security related information • Official Secrets Act • Conspiracy to Defraud Itinerary created for the meeting.

Information supplied in support of application for search warrant: Criminal Procedure and Evidence Act 2011, Schedule 1 – First set of access conditions

(Criminal Procedure Rules, rr.47.26 & 47.30; s.13 & paragraphs 2 & 12 of Schedule 1, Criminal Procedure and Evidence Act 2011)

At Magistrates' Court on Thursday 7th May 2020.

Your Worship,

1. I am DS 130 Paul CLARKE of the Royal Gibraltar Police.

2. I am investigating offence of

    a. Conspiracy to Defraud contrary to Common Law.

3. My application has been approved by Detective Inspector Craig GOLDWIN

---

4. The overarching matter of this case is the compromise of the National Security of Gibraltar. This is due to actions performed by the subjects in relation to Computer Misuse by intentionally causing the NSCIS Platform to malfunction and agreements to commit fraud to achieve their objective.

5. This application applies to premises owned or controlled by Haim Levy namely his home address and the Offices of Hassans International Law Firm.

6. The information below has been obtained via various different sources of information and intelligence available to the Royal Gibraltar Police, and the circumstances of this case are as follows:

    THE SUBJECTS

7. **Haim LEVY CBE QC** is a senior partner of law firm Hassans.

8. **Caine SANCHEZ** is a Senior Civil Servant employed by Her Majesty's Government of Gibraltar. He is the Principal Secretary to the Deputy Chief Minister of Gibraltar. Sanchez is the Government of Gibraltar's lead for the NSCIS platform.

9. **John PEREZ MBE** held the position of Chief Executive Officer of Bland Ltd between the 1st February 2010 and 10th September 2018. He was responsible for running Bland Group's interests in the Western Mediterranean and oversaw the senior management team who reported directly to him.

10. **Thomas 'Tommy' CORNELIO** held the position of Head of Software Development with Bland Ltd between 19th November 2012 and 10th August 2018. Between 11th – 31st August 2018, he remained with Bland working under a consultancy agreement. Thomas Cornelio was the architect of the NSCIS Platform.

11. **Edward ASQUEZ MBE** held the position of Operations Director with Bland Ltd between 24th June 2010 and 30th September 2018. He was employed by John Perez as they served together in the Gibraltar Regiment. He was tasked with a number of projects and was the ISO for Bland.

12. **Aaron CHIPOL** is the Chief Executive Officer of the Borders & Coastguards Agency (BCA). He was promoted to this position in August 2018, prior to this he was deputy head of Immigration.

THE COMPLAINANT

13. **James GAGGERO** is the Chairman of the Bland Group of Companies. He has held this position since 1997. Between 1987 – 1997, he was managing Director of the Bland Group of Companies. Bland has been in the Gaggero family for over 200 years.

14. **HMGoG** have laid a claim on the ownership of the NSCIS Platform. The ownership of the Platform is in dispute.

THE COMPANIES

15. **Bland Limited ("Bland")** is part of the Bland Group of companies which is registered in Gibraltar. Bland Limited trades under a number of entities including Bland Travel (a travel and transport business), Bland DMC (a travel business), The Calpe Lounge (an airport VIP lounges business), Avis (a car hire business), Operational Support Group ("OSG"), Wavetecx (a computer development business) and Gibair (an airport ground handling business).

16. **36 North Limited ("36 North")** is a Gibraltar registered company incorporated on the 23rd April 2018. The company carries on business as a computer software and security systems developer. PEREZ and ICode Limited, together with Astelon Limited, are beneficial owners in the company (each having a 33% shareholding). Following their resignations from Bland Ltd, Cornelio and Perez went on to work on a full time basis at 36 North.

17. **ICode Limited ("ICode")** is a Gibraltar registered company beneficially owned by Cornelio and incorporated on the 16th May 2018 for the purpose of holding shares in 36 North.

18. **Astelon Limited ("Astelon")** is a Gibraltar registered company beneficially owned by Hassans International Law Firm and incorporated on the 29th March 2018 for the purpose of holding shares in 36 North. The company has a 33% shareholding in 36 North.

19. **Hassans International Law Firm** is a Gibraltar based international law firm. Haim Levy is a senior partner of Hassans.

THE NSCIS PLATFORM

20. The National Security Central Intelligence System ("the NSCIS platform") is a modular, centralised IT software system developed and utilised for the collection, monitoring, background checking, and flagging of people and vehicle movements in and out of Gibraltar, via land, sea and air.

21. Thomas Cornelio, during the course of his employment with Bland, developed this system. The NSCIS Platform was first launched in December 2014 under the Frontier Management Project (FMP) and was subsequently developed over a number of years.

22. The NSCIS platform collects sensitive personal information from members of the public upon entry to and exit from Gibraltar. It is a key tool for law enforcement agencies in the protection of the National Security of Gibraltar.

23. Bland Limited state they own the NSCIS platform, the source code, object code and all database structures which form the platform. However this is contested by HMGoG.

24. The NSCIS platform is provided to HMGoG on the basis of an ongoing software license, for which HMGoG pay Bland a license fee. In addition, Bland provides continuing support and maintenance for the platform.

THIRD PARTY ACCOUNTS

25. Being the developer, Cornelio had an intimate knowledge of the NSCIS platform. [redacted]

c. [redacted]

THE NSCIS PLATFORM AND WAVETECX

26. The contract for the NSCIS platform commenced under the Bland security company Operational Support Group ("OSG"). Bland later set up a separate company to develop, brand, market and commercially exploit the NSCIS platform abroad ("Wavetecx").

27. Wavetecx was set up around January 2017 and headed by Perez as CEO. He was assisted by Cornelio.

28. Cornelio managed Wavetecx on a day-to-day basis in his capacity as the Head of Software Development. Two Software Developers worked for Wavetecx – Joseph (Joey) Benrimoj and Marius Zalkaukas.

36 NORTH LIMITED

29. 36 North Limited is a private company limited by shares, with a registered office at 57/63 Line Wall Road, Gibraltar.

30. 36 North was incorporated on the 23rd April 2018. Whilst still employees of Bland, Perez and Cornelio were appointed directors of the company.

31. On the 22nd June 2018, Perez, ICode (beneficially owned by Cornelio) and Astelon Limited (beneficially owned by Hassans) each acquired a 33% shareholding in 36 North. Levy, having a 32% shareholding in Hassans, was therefore a 10% beneficial owner of 36 North [with the other partners each having a smaller share according to their respective interests in Hassans]. Perez and Cornelio were still employees of Bland.

32. There continued to be changes to the company formation during the proceeding months. However, the ultimate beneficial owners of 36 North remained as Perez, Cornelio and Hassans Law Firm [with Levy owning 10% beneficial share in the company owing to his 32% share in Hassans].

ALLEGATION

33. In October 2018, James GAGGERO engaged the assistance of Pricewaterhouse Cooper (PwC) and Red Maple (formerly Infosec Consulting) to regain control of the NSCIS Platform. Following the departure of Tommy Cornelio and John Perez, the platform malfunctioned. Gaggero reported this to the Commissioner of Police as he believed Tommy Cornelio and John Perez were responsible for this.

SEARCH WARRANTS AND ARRESTS

34. On 10th May 2019, the RGP executed search warrants at the home addresses of Cornelio, Perez, Asquez, and the offices of 36 North. A large number of electronic and documentary exhibits were seized.

35. Cornelio, Perez and Asquez were arrested during these search warrants.

36. On 14th May 2019, the RGP executed search warrants at the home address and office of Sanchez. A number of electronic and documentary exhibits were seized.

37. Sanchez was arrested the same day at Gibraltar Airport as he had been in London.

38. On 24th July 2019, the RGP executed search warrants at the home address and office of Aaron Chipol. A number of electronic and documentary exhibits were seized.

39. Chipol was not arrested at this time however he voluntary attended New Mole House Police Station.

40. Haim Levy has not yet been subject to Police Intervention.

BACKGROUND

41. Haim Levy is extremely influential in Gibraltar with very close connections to the Chief Minister and other HMGoG ministers. He is a senior partner of Hassans and has significant financial capabilities available to him.

CONSPIRACY TO DISHONESTLY OBTAIN THE NSCIS PLATFORM MAINTENANCE AGREEMENT

42. During the course of their employment with Bland, Perez and Cornelio, together with Levy, conspired to defraud Bland by dishonestly appropriating the NSCIS platform maintenance contract for their own benefit, via their company 36 North Limited.

43. They were assisted in attempting to obtain the NSCIS platform contract by Sanchez and to a lesser degree, Chipol both of whom are Senior Government officials.

44. The evidence in support of this offence can be divided into the following:

    a. Planning / Preparation to Obtain the NSCIS Platform (agreement / dishonesty);
    b. Appropriation of business commenced by Bland (dishonesty);
    c. Pressure and Government Officials / Undermining Bland (dishonesty);
    d. Computer Misuse Offences / Knowledge of Computer Misuse Offences (dishonesty); and
    e. NSCIS Report for Caine Sanchez (dishonesty).

Planning / Preparation to Obtain the NSCIS Platform Maintenance Contract

45. Prior to 36 North being created and during the inception, Sanchez and Levy discussed a joint venture. In January 2018, Sanchez wrote from his personal email account "*YITU – (a) security company on AI. Europe director to propose to move services from London to Gibraltar (b) interested in a joint venture with Wavetech (John Perez) (c) YITU to negotiate deal with them and deal to remove company from Blands*."

46. In a text message between Sanchez and Levy, dated the 24th July 2018, Sanchez wrote "*James I received a call from James Gaggero last night reference the security programme. I have discussed it with John and emailed the CM. It may be wise for us to meet and maybe include David Weber to go over some aspects of the conversation*."

47. In a further text, dated the 14th August 2018, he stated, "*James just got John Perez company their Insurance broker. Everything is going well with this*. *Just drafted letter to send to James Gaggero and waiting for CM to approve. I have also urged them to sign the international agreement and they are moving forward with this.*" Sanchez was advising 36 North in a business capacity. He was not independent of 36 North and unable to make an impartial decision regarding the NSCIS security platform.

48. During the course of 2018 Cornelio, Perez and Levy planned to obtain the NSCIS platform maintenance contract. This contract was the property of Bland and worth over £60,000 a month.

49. In an email sent from Perez to Cornelio, dated the 24th February 2018, (and whilst still employees of Bland) Perez attached a "*Letter of Intent*". This letter purported that 36 North already had an existing contract with HMGoG for the NSICIS platform. This proposal evidenced the intent of the suspects to obtain the contract for the benefit of their company, 36 North.

50. Between 23rd April 2018 and 22nd June 2018, the company 36 North Limited was incorporated, with Cornelio, Perez and Hassans each being 33% beneficial owners. It is believed the company was incorporated with the intent that it would obtain the benefit of the NSCIS platform maintenance contract.

51. In an email exchange dated the 20th June 2018, and whilst still employed by Bland, Perez sent an email to Cornelio called, "*36 North Cash Flow*". The document showed a forecasted revenue in favour of 36 North which included the NSCIS platform (Global invoice) for £62,519 per month.

52. This evidence is consistent with an agreement between the suspects to appropriate the NSICS platform maintenance contract, the property of Bland.

53. In addition to preparing to take the NSCIS platform maintenance contract, Cornelio and Perez dishonestly planned to hinder the ability of Bland to carry out their contractual obligations.

54. As part of this preparation, the suspects engineered a situation whereby they, together with a number of software engineers, would resign from the company at the same time.

55. Without prior notification, on the 10th July 2018, Perez and Cornelio handed in their resignations from Bland. In accordance with their respective contracts, the resignation of Perez was to take effect on the 9th September 2018 and the resignation of Cornelio was to take effect from the 10th August 2018.

56. On the 19th July 2018 both software engineers sent a text to Cornelio in which they presented draft resignations. On the same date Cornelio wrote to the engineers, "*Marius ok give me a while to review and don't send email out until I confirm with John now ok*."

57. On the 20th July 2018, Cornelio wrote on the same chat, "*Remember to stick to the story when chairman calls Joey. He has already written to John and he is denying having known.*"

58. On the 20th July 2018, the software developers resigned from their employment with Bland to join 36 North. The resulting loss of staff undermined the ability of Bland to fulfil their NSCIS contractual obligations following the departure of Perez and Cornelio from the company.

59. On the 2nd August 2018 Cornelio wrote to one of the developers regarding Gaggero attempting to retain Bland projects saying, "*In order to keep things smooth we all need to leave asap, leaving him no option."* He wrote on the same date, "*You will need to make it clear that after the 20th you are finished with Blands. That will ensure that they can't buy time*."

60. These actions were consistent with an agreement to undermine Bland, by diminishing their IT capabilities [and thereby their ability to maintain the platform] and appropriate the NSCIS platform maintenance contract.

61. On the 10th June 2018 Perez wrote to Levy, "*Preparing for our departure on 29th June. Everything else is now almost in place. John*."

62. On the 30th August, and immediately prior to Cornelio terminating his consultancy, Levy wrote to Perez, "*John I just rang you to tell you everything is under control. I've been working with Tommy on the relevant letters. I am very confident that we will bring this to a close in a successful manner very shortly. You can rest assured I will do my best to help you in every way. I have great Respect and admiration for your ability and hard work. Do not worry if there is an attack I will help you to defend and to counter-attack. You're a military man so I'm writing to you in military terms.*"

Appropriation of Business Commenced by Bland

63. During the course of their employment with Bland Cornelio and Perez were involved in a number of projects. These included:

    a. A proposal for the Carnival Corporation for a "Centralised Vessel Security Management System"; and
    b. A "*Ministry of Defence and Public Security Border Management Proposal*" for Sao Tome and Principe.

64. In an email sent from Perez to Cornelio, dated the 24th February 2018, (and whilst still employees of Bland) Perez attached a "*Letter of Intent*". This letter purported that 36 North already had existing international contracts including Carnival Cruises and Sao Tome and Principe. These were in fact contracts that were being negotiated on behalf of Bland.

65. In respect of Sao Tome, the proposal stated, "*Contract about to be signed for 7 years. Contract worth 1.6m euros with a forecast 20% increase by year 3. Contract starts in Feb 18*." Under the heading "*Carnival Cruise Lines*" is stated, "*Currently negotiating an APIS maritime system with Carnival who dominates 70% of the Cruise liner industry. A pilot platform has already been designed and discussed with Carnival CEO. A visit by Carnival's Head of Security and International representative will be visiting us in Mar 2018. Negotiation ongoing. Contract worth £175k per year*."

66. It is clear that Cornelio and Perez intended to dishonestly appropriate the business of Bland commenced by them as employees of Bland and obtain the benefits for 36 North.

67. On the 6th July 2018, Perez discussed one of these projects, namely Carnival Cruises, with Levy, despite not having resigned from Bland. He wrote, "*James we have just finished with Carnival after a long day of negotiations. We have been successful and now moving to the pilot phase. Flying back tomorrow*."

68. In respect of the Sao Tome and Principe agreement, Cornelio specifically ensured that any signature would take place after he had resigned from Bland when he stated on the 24th July 2018, "*We can agree on timeline and agree a date to sign contract. After the 10th August*"

69. Both Sao Tome and Principe and the Carnival Security Management System continued to appear on the Agenda for 36 North after both Perez and Cornelio had left Bland.

70. On the 7th September 2018, and in respect of Sao Tome, Perez wrote to Levy, "*James this week we will be receiving a contract from São Tomé and Príncipe for review. The commercial elements of the contract have already been agreed in principle. We are also closing in on Equatorial Guinea*."

<u>Pressure on HM Government of Gibraltar</u>

71. Following his departure from Bland and termination of the consultancy period, Cornelio sought to apply pressure on HMGoG to transfer the NSCIS platform maintenance contract. In particular he used connections with Chipol, Levy and John Rodriguez, the Collector of Customs.

72. Between September 2018 – May 2019, Cornelio sent Chipol numerous messages regarding the NSCIS platform. Cornelio made various requests to Chipol, as head of BCA, during this period to undermine Bland in the favour of 36 North. These requests involved sending emails purporting to be from Chipol which Cornelio had drafted and speaking to Government officials.

73. The below paragraphs refer to communications between Cornelio and Levy.

74. On the 21st August, whilst still in the consultancy period, Cornelio wrote, "*Dear James, would it be possible to sit down with you or the CM to try and move forward with out projects? I currently have a lot of work on hold pending this decision*."

75. On the 29th August 2018 he similarly wrote, "*Dear James, please try and get me a 10 min slot for me to meet the CM. I believe I am best placed to explain the entire situation and advise the best technical solution possible*."

76. On the 12th September 2018 Cornelio wrote to Levy and attached a letter to be used by the Chief Minister to terminate the Bland contracts. This letter was addressed to James Gaggero of Bland and was titled "*Termination of NSCIS, DSS, BCA, ETB and Education contracts ("the contracts")*." It explained, "*Bland Limited has failed to perform its obligations under the Contracts and is therefore in repudiatory breach… In the circumstances, please accept this letter as HMGOG's termination of the Contracts with immediate effect*."

77. On the 23rd September 2018 Cornelio wrote, "*Attached is a letter which may be of use to the GoG in order to proceed with the new platform we have offered them*."

78. By the 27th December 2018 Cornelio was concerned that the Chief Minister would not be transferring the contract to 36 North. In response Levy wrote, "*I don't think he will transfer the contracts back to 36N. We have to work on alternatives. I am happy to help …*"

79. On the 18th February 2019 he wrote to Levy saying, "*Any merit in me writing to the CM directly to request he meet with me. I miss my contracts*."

80. On the 26th March 2019 he wrote, "*Perhaps CM would be willing to put the National Security system out for tender next month*."

81. On the 27th March 2019 Cornelio again asked, "*Do you think there is any chance of getting national security contract back at some point?*" Despite his answer on the 27th December 2018 Levy responded, "*Yes*."

82. On the 3rd May 2018 Cornelio wrote again saying, "*Dear James, the national security system* [redacted] *. Can I email the CM once again to meet me? He cannot allow this to continue*."

83. On the 9th October 2018 Perez wrote to Levy stating, "*James thank you so much for this morning. I am sure our sessions will become more enjoyable as we set of in our journey. With regards to dropping Fabian a note, let's give him a bit more time. As the pressure will naturally surface through his law enforcement heads*."

84. These messages demonstrate the relationship between Levy and 36 North.

85. The Below Paragraphs are a sample of the communications between Cornelio and Perez.

86 [redacted]

87. On the 12th March 2019 Cornelio wrote to Perez, "*Spoke to JL. Can u speak to John Rodriguez this morning*." Perez replied, "*I will call him this morning*." Cornelio continued, "*Yep now is the time to attack heavily. We have the upper hand. Use ur network*"

88. On the 21st March 2019 Cornelio texted, "*We need our old system back. These bastards cannot win. Call Aaron mate, this we need to take away from them ya*."

89. The above clearly show that Cornelio, together with Perez and Levy, attempted to dishonestly apply pressure on HMGoG in order to transfer the NSCIS platform maintenance contract.

Computer Misuse Offences

90. In furtherance of the agreement to obtain the NSCIS platform maintenance contract Cornelio committed numerous computer misuse offences. These offences were primarily designed to directly or indirectly disrupt the NSICS platform, and thereby bring into question the ability of Bland to maintain the said platform. As a direct consequence of his actions Cornelio compromised the national security of Gibraltar.

91. The Computer Misuse Offences are further detailed below.

NSCIS Report for Sanchez

92. On the 4th October 2018, Peter Canessa wrote to Caine Sanchez on behalf of the Chief Minister. In an email he wrote, "*Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be provided full control of the management, maintenance and support of the NSCIS platform … Once the handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform*."

93. On the 5th October 2018 Sanchez contacted Cornelio and passed on these instructions.

94. On the 9th October 2018 Cornelio sent an email to Sanchez (with James Gaggero copied in) in which he confirmed that he would no longer access the NSCIS platform as well as writing, "*In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms*."

95. After the 31st August 2018, and subsequent to the instructions from the Chief Minister on the 4th October 2018, Cornelio was not authorised to access the NSCIS platform.

96. Contrary to these instructions, between 2216 hours on the 11th April 2019 and 0013 hours on the 12th April 2019 Cornelio accessed the NSCIS platform using the credentials of Sanchez.
97. Cornelio thereby accessed a national security platform without authority, for the purpose of undermining Bland, and obtaining the NSCIS platform maintenance contract.

98. On the 11th April 2019 Cornelio wrote to Levy, *"We are going to have a field day on the national security report..just wait until you see it. For now I am reviewing every single module 1 by 1.* [redacted]*."*

Knowledge of Computer Misuse Offences - Levy

99. On the 19th October 2018 Cornelio wrote to Levy saying, "*Morning James. Very confidential. Note Gaggero has brought in a forensic team of six to look at anything John and I may have done to tamper with the system etc. Gaggero is going all out it seems*.

100. On the same day Cornelio wrote to Perez saying, "*Spoke to James ref forensic team confidentially. Spoke to him on the phone. Call me and I can discuss. He says not to worry. I am very concerned they will try to prove I have acted to sabotage the system in any way etc*."

101. The evidence indicates that Levy discussed the forensic team with Cornelio and that he had given him advice about the situation.

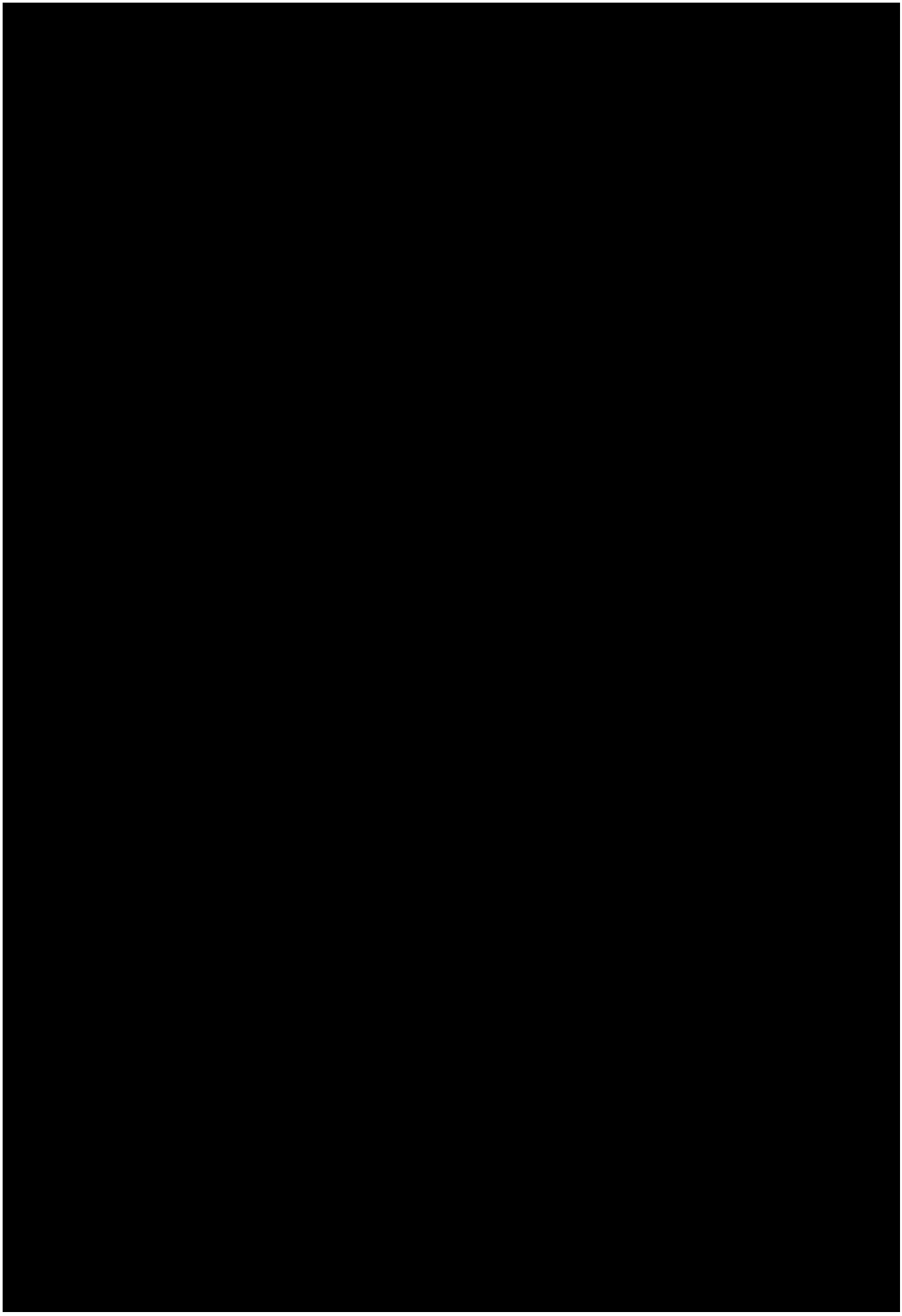
COMPUTER MISUSE OFFENCES

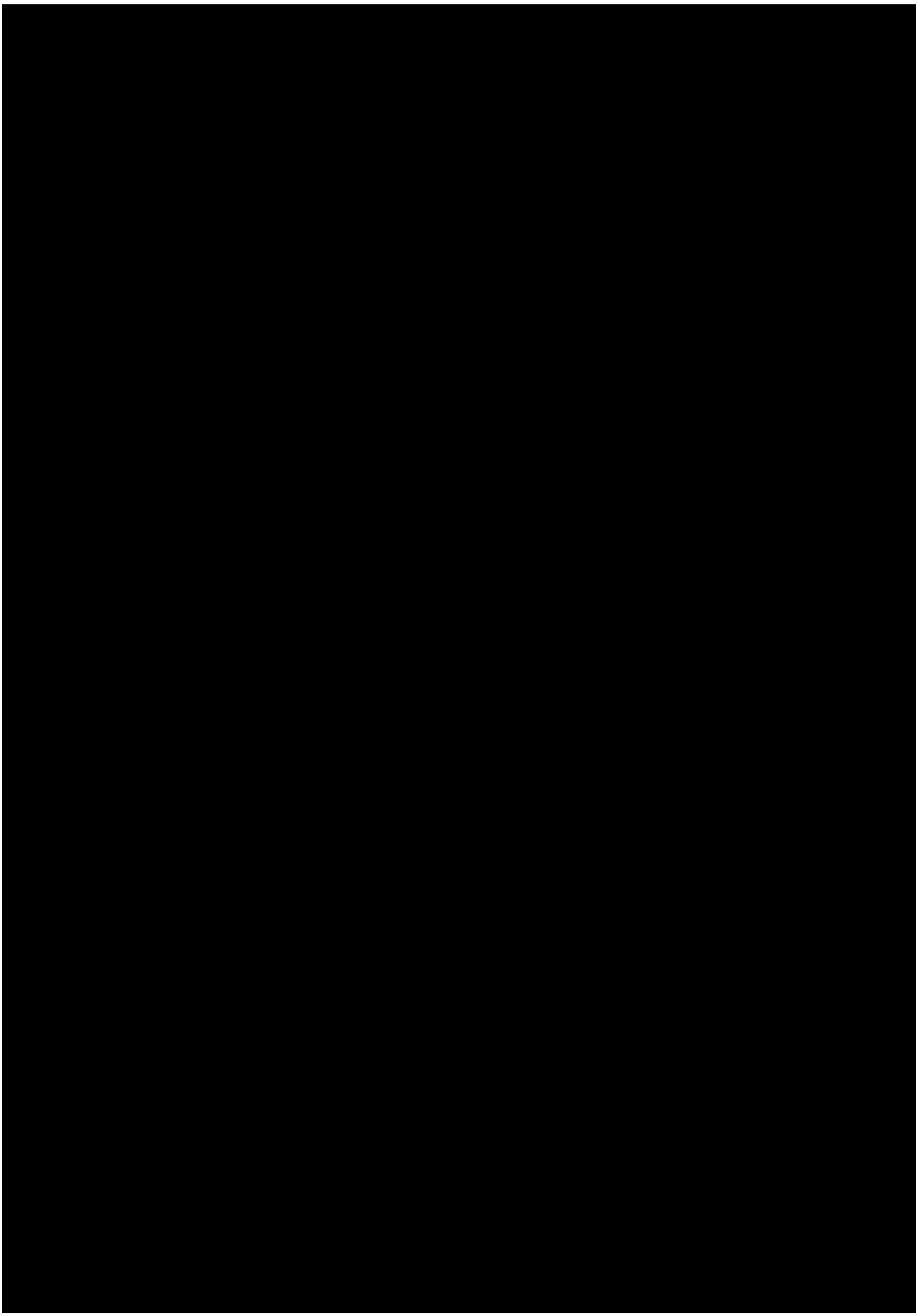
102. In furtherance of the agreement to obtain the NSCIS platform maintenance contract Cornelio committed numerous computer misuse offences. These offences were primarily designed to directly or indirectly disrupt the NSCIS platform, and thereby bring into question the ability of Bland to maintain the said platform. [redacted]

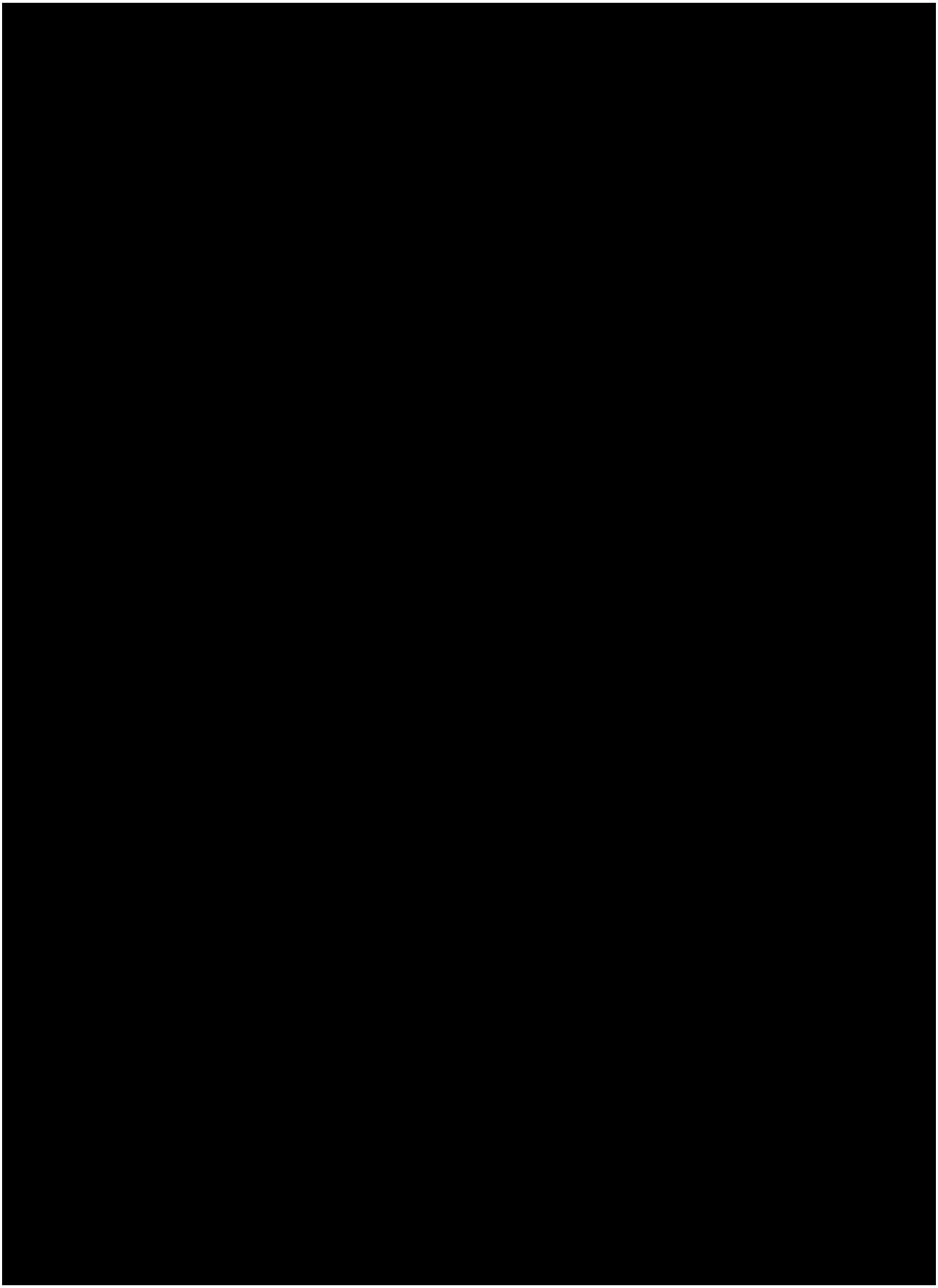
[redacted]

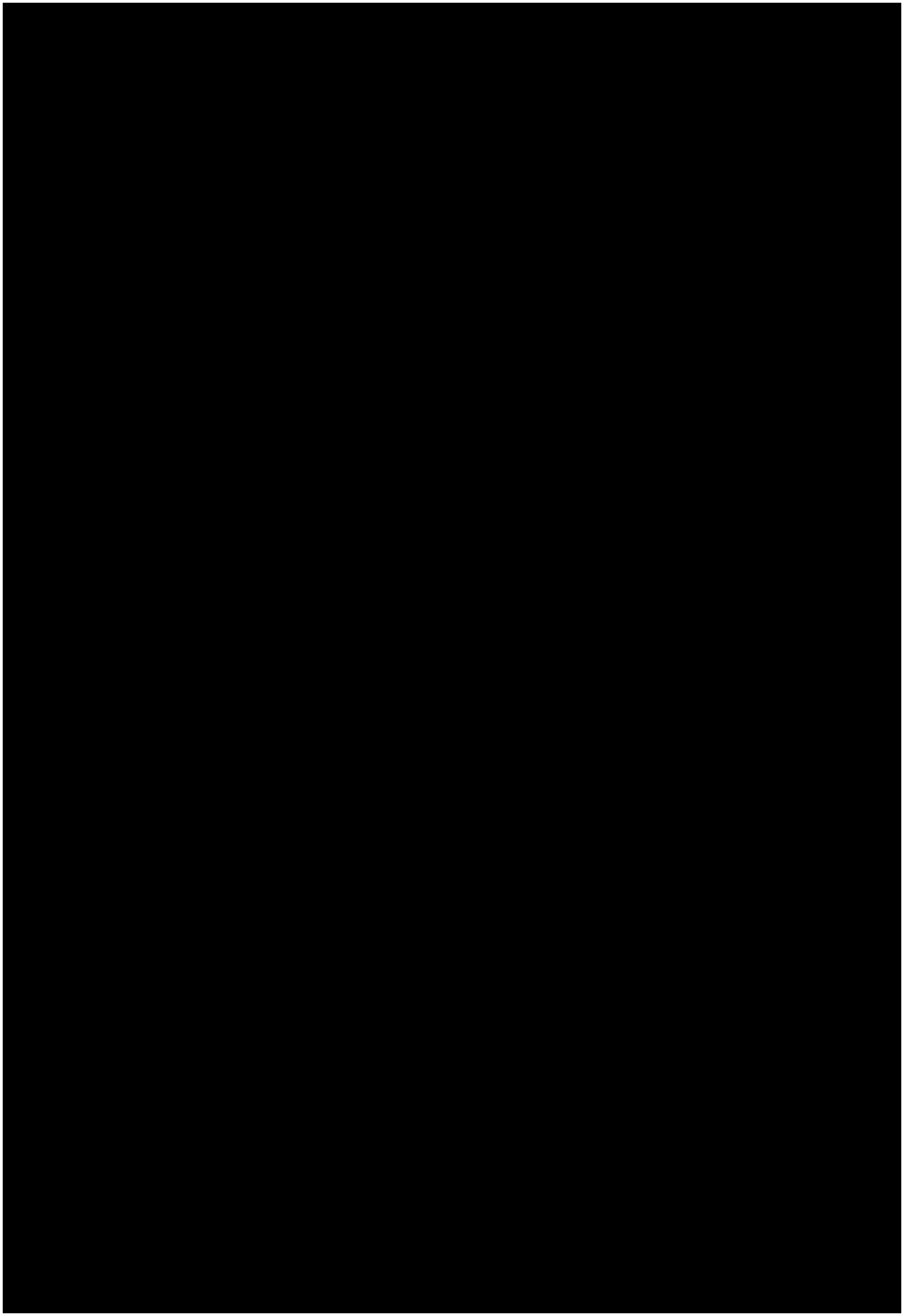
[redacted]

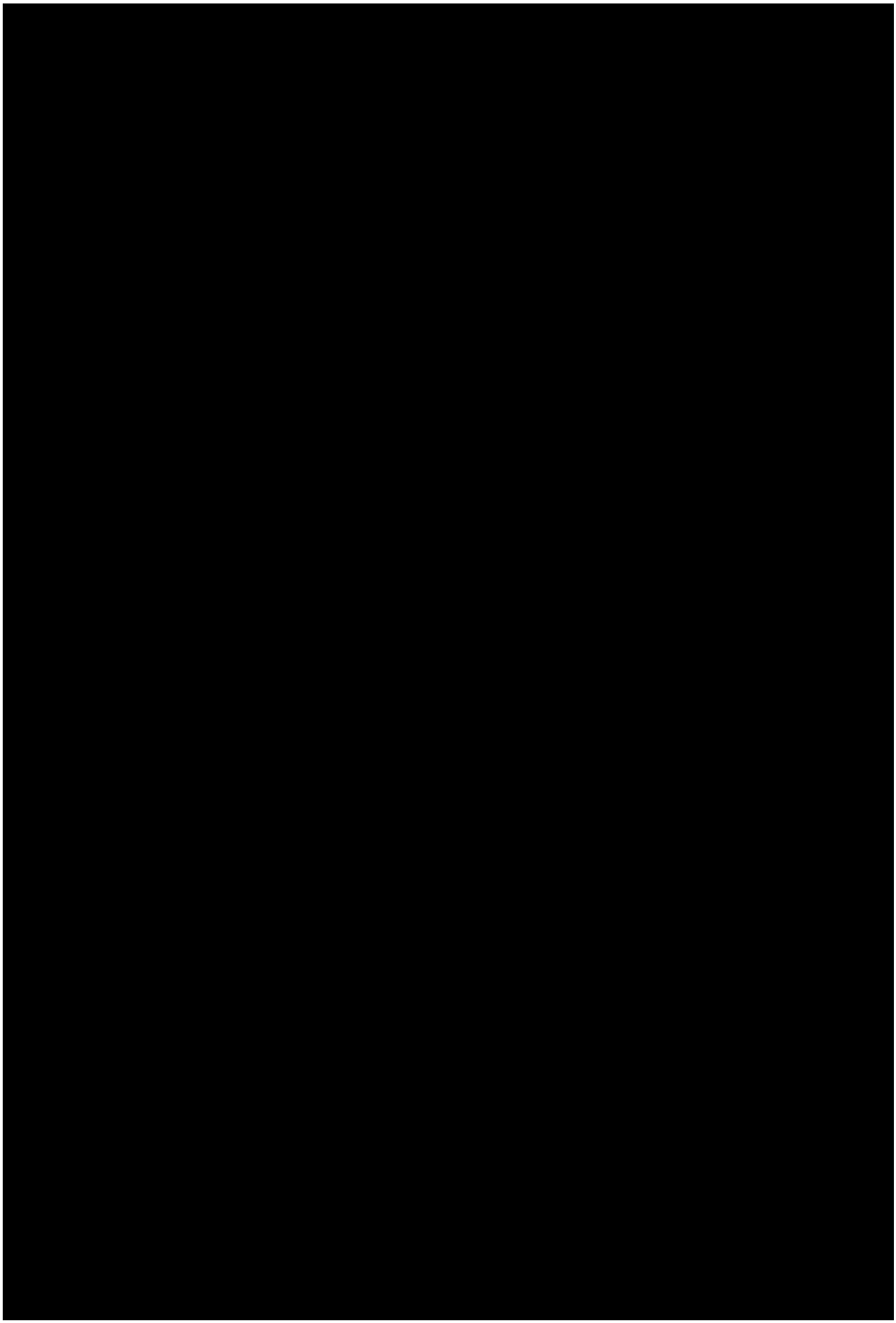
[redacted]

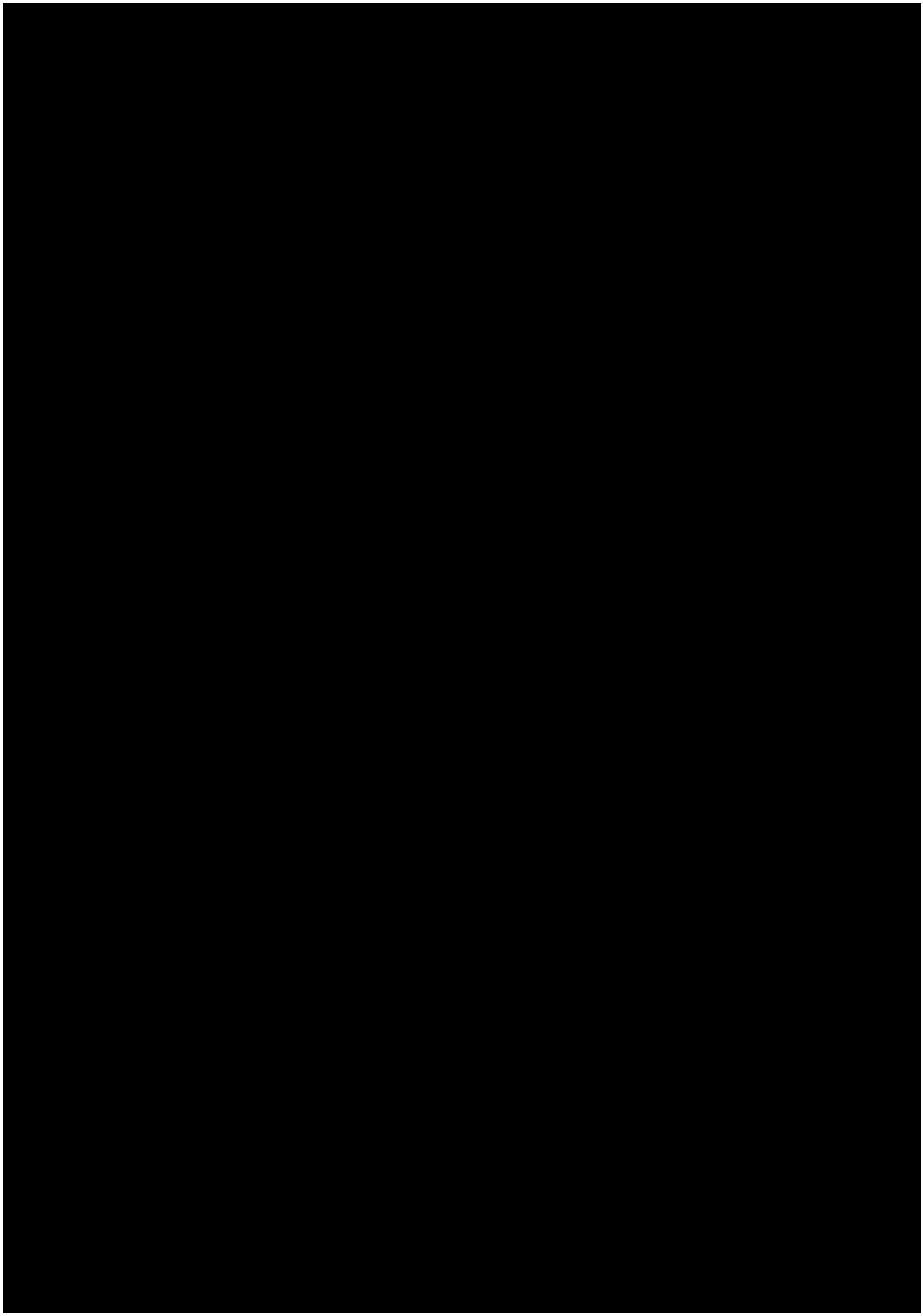


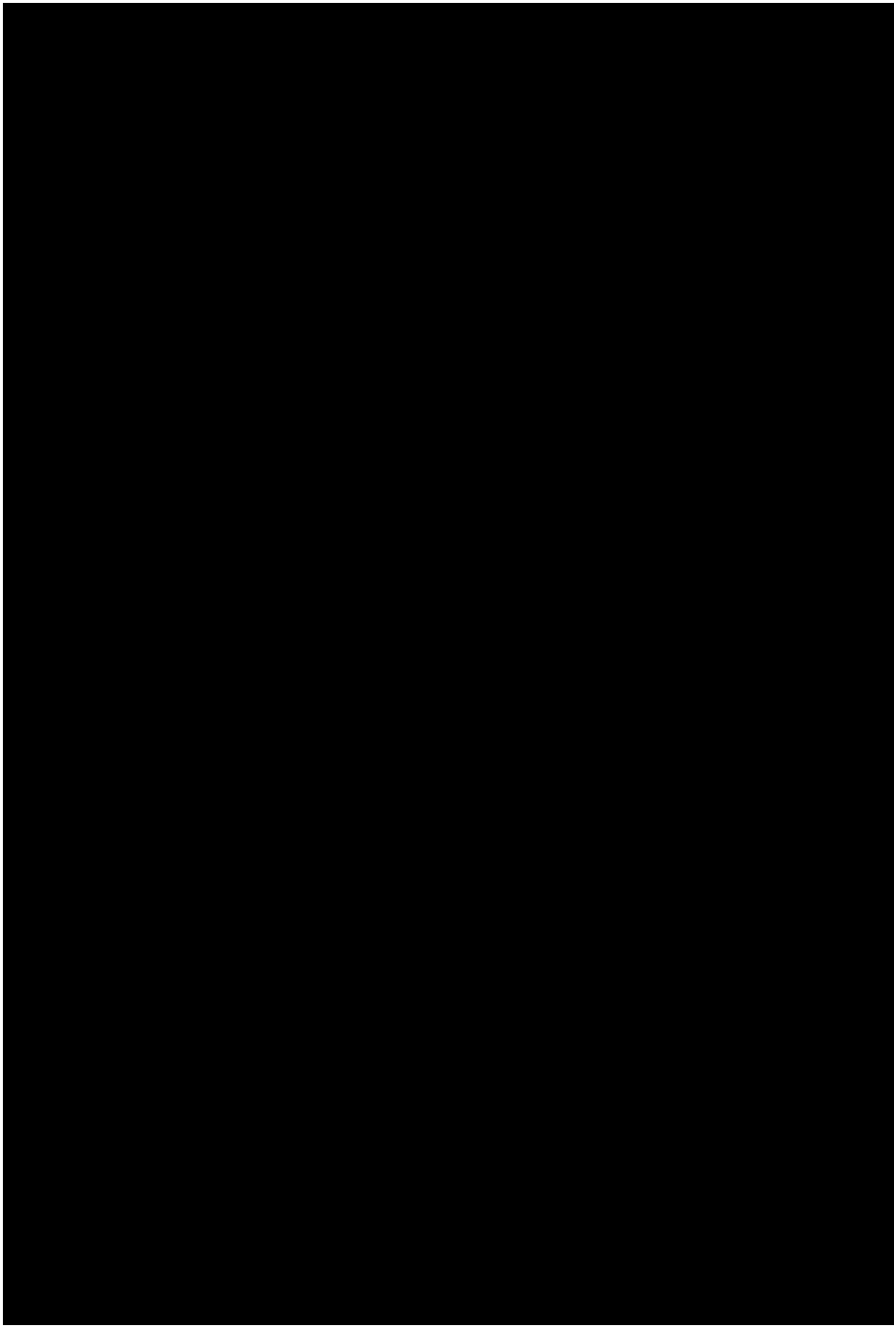


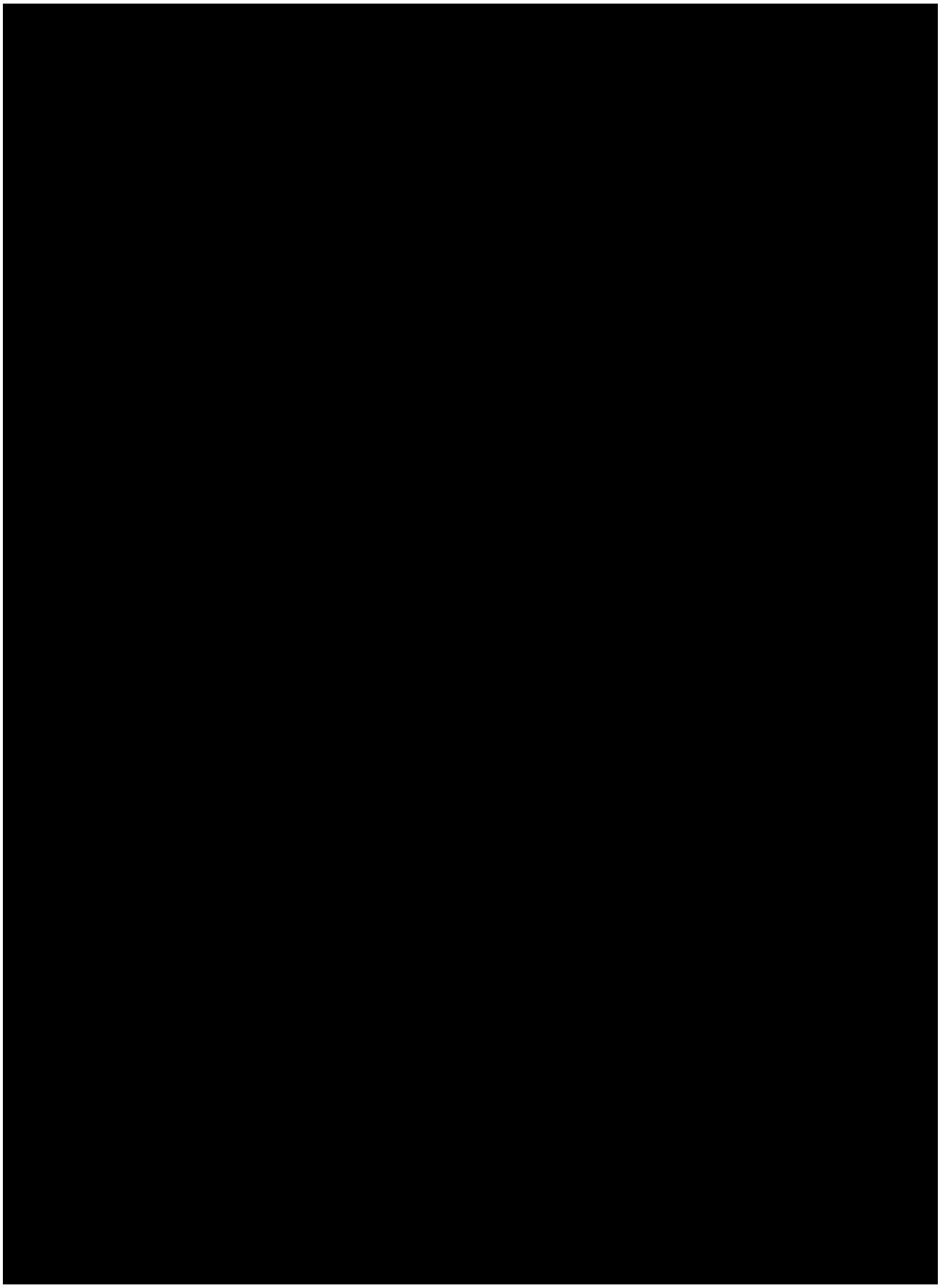














156. **Instance 31 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

157. On the 16th May 2018, being the same date on which ICode Limited was incorporated by Cornelio, the login credentials of Jonathan Galliano (Bland Head of IT and Infrastructure), in respect of the Bland Microsoft Azure account failed to work.

158. Cornelio persistently failed to restore the access despite repeated requests to do so. On 16th May 2018 he refused to grant Jonathan Galliano access. The login issues were due to Cornelio blocking the Microsoft Azure account of Galliano, as he was the only person authorised to do so.

159. These actions prevented Galliano, and thereby Bland, from accessing the NSCIS Azure resources, which hindered the ability of Bland to identify, diagnose, administer and repair issues associated with the NSCIS platform.

160. It further prevented Galliano (and thereby Bland) from accessing the Azure Management Portal activity logs, which would have identified actions carried out by Cornelio on the Microsoft Azure account.

161. These actions were consistent with an agreement to undermine Bland Limited and appropriate the NSCIS platform maintenance contract.

CHANGE OF MS AZURE BILLING DETAILS

162. The Bland Microsoft Azure account was originally set up on 24th July 2016 under the billing address "*Cloister Building, Irish Town, Gibraltar, Cadiz, Spain*". The account was paid for via Bland Group company credit cards. The account owner email address was specified as being tommy@wavetecx.com.

163. **Instance 32 - Unauthorised acts with intent to impair the operation of a computer – section 364(1) as read with s.364(2)(b) Crimes Act 2011 –**

164. Between 25th May 2018 and 25th June 2018, and without authority, the address on the account was changed by Cornelio (account administrator [redacted]) to "*Urbanización Nueva Alcaidesa 2, Complejo 6 Bloque 3 Entrada 2 Bajo, 11360 SAN ROQUE Cádiz, Spain*". This address was Spanish property belonging to Cornelio.

165. On the 5th July 2018 the Bland Limited mobile phone numbers [redacted] (used by Perez) and [redacted] (used by Cornelio) were removed from the Bland Limited Gibtelecom account without authority.

166. On the 27th July 2018, and without authority, Cornelio deleted all Wavetecx mailboxes and data files from the Wavetecx server, including the email address tommy@wavetecx.com . Cornelio deleted this mailbox in the belief that it could not be recovered.

167. On the 17th October 2018, and with the assistance of InfoSec Consulting (subsequently Red Maple Technologies), Bland attempted to remove Cornelio as the default owner of the entire MS Azure account (Azure Account Administrator / Azure Service Administrator).

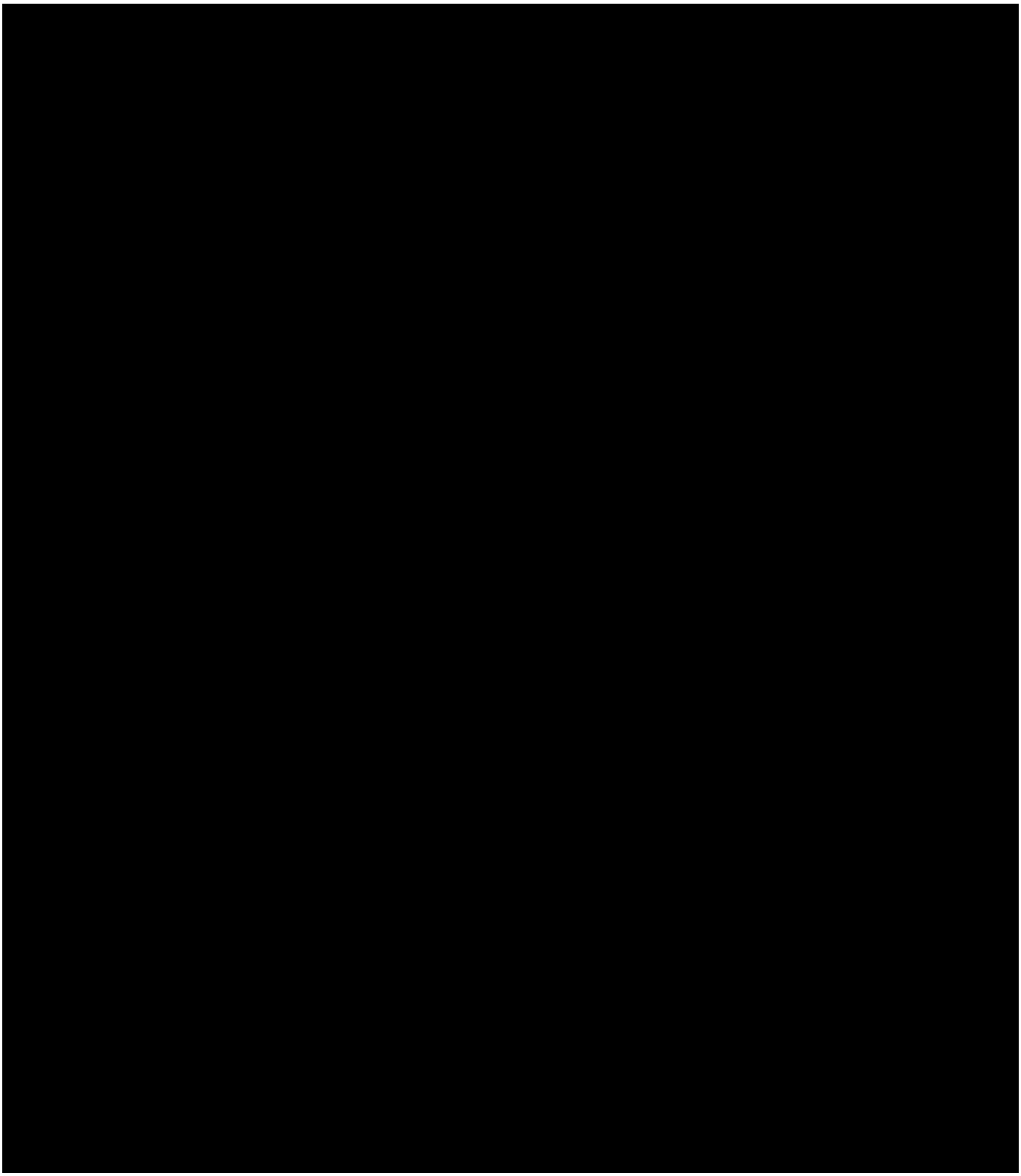
168. InfoSec initially attempted to remove Cornelio with the use of phone number support arrangements offered by Microsoft. The corporate Bland phone used by Cornelio as a backup device for account password recovery could not be located.

169. Microsoft support in the form of a Microsoft Enterprise Agreement was subsequently requested. This was substantially frustrated by the change of address, meaning that Bland found it difficult to prove that they were the valid owner of the account.

170. The actions were consistent with an agreement to undermine Bland Limited and to transfer the NSCIS platform maintenance contract to 36 North.

171. **Instance 33 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

172. On 9th July 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.



179. These actions were consistent with an agreement undermine Bland Limited and dishonestly appropriate the NSCIS platform maintenance contract.

180. **Instance 35 - Unauthorised acts with intent to impair the operation of a computer – section 364(1) as read with s.364(2)(b) Crimes Act 2011).**

181. Once Wavetecx were incorporated, Cornelio, Perez and Asquez used '@wavetecx.com' email addresses. These Wavetecx email accounts were the property of Bland Limited.

182. Between 23rd - 28th July 2018, without authority, and while still an employee of Bland (in his notice period), Cornelio logged onto the Wavetecx email server and exported all the data including user mailboxes and data files from all Wavetecx email accounts. These included the email accounts of Perez and Cornelio.

183. On the same date, and without authority, Cornelio deleted all Wavetecx mailboxes and data files from the Wavetecx server. The email accounts included evidence of the intent of Perez and Cornelio to appropriate the NSCIS maintenance contract, as well as potential customers of the NSCIS platform and communications with HMGoG relating to the NSCIS platform.

184. These actions were performed from IP addresses attributed to Cornelio.

185. Cornelio exported and deleted these mailboxes in the belief that these mailboxes could not be recovered.

186. Despite his belief that they could not be retrieved, the content of these mailboxes were later recovered by Bland.

187. These actions were consistent with the agreement to undermine Bland Limited and appropriate the NSCIS platform maintenance contract.

188. **Instance 36 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

189. On 24th July 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.

190. **Instance 37 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

191. On 25th July 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.

192. **Instance 38 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

193. On 26th July 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.

194. **Instance 39 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

195. On 31st July 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account. **(Exhibit JOG/17 refers).**

196. **Instance 40 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

197. On 2nd August 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.

198. **Instance 41 – Fraud by Failing to Disclose Information – contrary to section 417 Crimes Act 2011.**

199. On 6th August 2018 he refused to grant Jonathan Galliano access to the Bland Microsoft Azure account.

DELETION OF NSCIS BACKOFFICE AUDIT LOGS

200. The NSCIS backoffice audit log is a sequential counter that increases by one when each action by a user is logged.

201. **Instance 42 - Unauthorised acts with intent to impair the operation of a computer – section 364(1) as read with s.364(2)(b) Crimes Act 2011 -**

202. Between 7th August 2018 [2 days before Cornelio terminated at Bland] and 8th October 2018 [the day after Cornelio logged onto the NSCIS backoffice] a total of 340 log entries were deleted on 60 separate occasions.

203. A total of 31 logged actions were deleted between the 7th October 2018 at 1657 hours and the 8th October 2018 at 0716 hours.

204. The deletions coincided with the time when Cornelio was accessing the NSCIS backoffice and the initiation of the database re-indexing.

205. A log can only be deleted manually on the NSCIS production Azure SQL database and not through the NSCIS Back Application. To delete logs it would require an in-depth knowledge of:

a. What database server the database is stored in;
b. Database credentials to access and log in to the said database;
c. What tables the audit logs reside in;
d. What type of information is audited and when; and
e. The SQL code required to delete these entries manually to achieve this.

206. The actions were consistent with an agreement to undermine Bland Limited and to transfer the NSCIS platform maintenance contract to 36 North.

TERMINATION OF CONSULTANCY PERIOD

207. On the 1st September 2018 Cornelio terminated the consultancy period with Bland. In an email to James Gaggero, dated the 30th August 2018 he wrote, "*Please let this email serve as official notice that as of 00:00 on 1st September 2018 I will no longer be supporting the NSCIS platform in any capacity*."

208. On the 9th October 2018 Cornelio sent an email to Sanchez (with James Gaggero copied in) in which he wrote, "*In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms*."

209. As of the 1st September 2018 Cornelio was no longer authorised by Bland to access the NSCIS platform.

210. However, Microsoft Azure logs revealed that Cornelio had logged on using his account [redacted] on numerous occasions after the 31st August 2018.

[redacted]

UNAUTHORISED UPDATING FIREWALL RULES

215. **Instance 44 - Unauthorised access to computer material – section 362 Crimes Act 2011). The exact nature of this action was not logged.**

216. On 5th September 2018, Cornelio logged onto the NSCIS Azure account using his Azure account [redacted] and made firewall rule changes

UNAUTHORISED DATABASE TRANSFER

217. **Instance 45 - Unauthorised acts with intent to impair the operation of a computer – section 364(1) as read with s.364(2)(e) Crimes Act 2011.**

218. On the 6th September 2018, Cornelio logged onto Azure using his account [redacted] and exported all eighteen NSCIS Azure SQL databases.

219. This action was carried out from an IP address directly connected to Cornelio.

UNAUTHORISED ACCESS – "NSCISBLOBS"

220. **Instance 46 - Unauthorised access to computer material – section 362 Crimes Act 2011**

221. On 6th September 2018, that is, after the termination of the consultancy period, Cornelio logged onto the NSCIS Azure Blob Storage account "nscisblobs", using his Azure account [redacted]

[redacted]

[redacted]



229. The actions were consistent with the agreement of Cornelio and Sanchez to undermine Bland Limited and appropriate the NSCIS platform maintenance contract.

230. **Instance 47 - Unauthorised access to computer material – section 362 Crimes Act 2011). The exact nature of this action was not logged.**

231. On 11th September 2018, Cornelio logged onto the NSCIS Azure account using his Azure account [redacted] and made firewall rule changes.

232. **Instances 48 & 49 - Unauthorised access to computer material – section 362 Crimes Act 2011**

233. Twice on 11th September 2018, that is, after the termination of the consultancy period, Cornelio logged onto the NSCIS Azure Blob Storage account "nscisblobs", using his Azure account [redacted].

234. **Instance 50 - Unauthorised access to computer material – section 362 Crimes Act 2011**

235. On 12th September 2018, that is, after the termination of the consultancy period, Cornelio logged onto the NSCIS Azure Blob Storage account "nscisblobs", using his Azure account [redacted].

236. **Instance 51 - Unauthorised access to computer material – section 362 Crimes Act 2011**

237. On 16th September 2018, that is, after the termination of the consultancy period, Cornelio logged onto the NSCIS Azure Blob Storage account "nscisblobs", using his Azure account [redacted].

238. **Instance 52 - Unauthorised access to computer material – section 362 Crimes Act 2011**

239. On 17th September 2018, that is, after the termination of the consultancy period, Cornelio logged onto the NSCIS Azure Blob Storage account "nscisblobs", using his Azure account [redacted].

UNAUTHORISED UPDATE – SQL POOL

240. **Instances 53 and 54 - Unauthorised acts with intent to impair the operation of a computer – section 364(1) as read with s.364(2)(e) and s.364(3) Crimes Act 2011.**

241. On the 21st September 2018 that is, after the termination of the consultancy period, at 2125hrs and 2223 hours, Cornelio logged onto the NSCIS Azure account, using his username [redacted] and updated SQL Database SQL elastic pool settings thereby incurring additional cost to Bland.

UNAUTHORISED ACCESS – "NSCISVM"

242. **Instance 55 - Unauthorised access to computer material – section 362 Crimes Act 2011.**

243. On the 21st September 2018 that is, after the termination of the consultancy period, Cornelio logged onto the NSCIS Azure account, using his username [redacted] and updated the configuration on the virtual server named "*NSCISVM*." The exact nature of this action was not logged.

244. **Instance 56 - Unauthorised access to computer material – section 362 Crimes Act 2011). The exact nature of this action was not logged.**

245. On 21st September 2018, Cornelio logged onto the NSCIS Azure account using his Azure account [redacted] and made firewall rule changes.

246. **Instance 57 - Unauthorised access to computer material – section 362 Crimes Act 2011**

247. On 21st September 2018, that is, after the termination of the consultancy period, Cornelio logged onto the NSCIS Azure Blob Storage account "nscisblobs", using his Azure account [redacted].

248. **Instance 58 - Unauthorised access to computer material – section 362 Crimes Act 2011**

249. On 27th September 2018, that is, after the termination of the consultancy period, Cornelio logged onto the NSCIS Azure Blob Storage account "nscisblobs", using his Azure account [redacted].

250. **Instance 59 - Unauthorised access to computer material – section 362 Crimes Act 2011**

251. On 30th September 2018, that is, after the termination of the consultancy period, Cornelio logged onto the NSCIS Azure Blob Storage account "nscisblobs", using his Azure account [redacted].

252. **Instance 60 - Unauthorised access to computer material – section 362 Crimes Act 2011**

253. On 3rd October 2018, that is, after the termination of the consultancy period, Cornelio logged onto the NSCIS Azure Blob Storage account "nscisblobs", using his Azure account [redacted].

254. **Instance 61 - Unauthorised access to computer material – section 362 Crimes Act 2011). The exact nature of this action was not logged.**

255. On 4th October 2018, Cornelio logged onto the NSCIS Azure account using his Azure account [redacted] and made firewall rule changes.

TWITTER

256. Up until the 4th October 2018, that is, the day on which the Chief Minister gave instructions for the NSCIS platform not to be accessed by Cornelio, tweets of border queuing images were being posted by Bland to Twitter handle @gibraltarborder.

257. At that time Cornelio was the sole owner and administrator of both the Twitter handle @gibraltarborder and linked Twitter account (ID 2535097143). This account is owned by Bland and was administered by Cornelio during the course of his employment. The account had over 4400 followers, subscribers, and tweet history.

258. Linked to this account was the personal Twitter developer account of Cornelio.

259. As a result of the failure on the 4th October, Bland recreated the Twitter Windows service and software library source code. The Windows service had to be restored from the source code retrieved on the 19th July 2018 [and unknown to Cornelio]. The Twitter Windows service and software library was not present in the source code provided by Cornelio on the 7th September 2018.

260. This was put into operation on the 5th October 2018 at 1355 hours. The new Twitter service successfully posted tweets between 1355 hours and 1935 hours on the same day.

261. After 1935 hours the Twitter Windows service failed to post tweets due to an invalid or expired key token. Cornelio, as the administrator of his personal Twitter developer account was the only person able to change tokens required to access and post tweets to @gibraltarborder.

262. **Instance 62 - Fraud by failing to disclose information – contrary to section 417 Crimes Act 2011 –**

263. On 4th October, Cornelio failed to disclose to Bland, the location of the Twitter Windows service posting to Twitter account number 2535097143.

264. **Instance 63 - Fraud by failing to disclose information – contrary to section 417 Crimes Act 2011 -**

265. Between the 5th and 7th October 2018, immediately after the Chief Minister gave an instruction for Cornelio to no longer access NSCIS, Cornelio changed the twitter handle from @gibraltarborder to @gibraltarbord. In doing so he retained all of the original followers, subscribers and tweets associated with ID 2535097143.

266. At 1924 hours on the 7th October 2018 Cornelio created a new Twitter account (ID 10489875235226139904) with the now free handle @gibraltarborder from an IP address associated with his home address. He then provided the administrator credentials to this new account to Bland in an email.

267. Cornelio thereby retained the Bland Twitter account (ID 2535097143) and failed to disclose the administrator access to Bland on 8th October 2018.

268. The actions were consistent with an agreement to undermine Bland Limited and to transfer the NSCIS platform maintenance contract to 36 North.

269. Between April – December 2019, approximately 6600 tweets were deleted from the Twitter Handle @Gibraltarbord.

FRONTIER QUEUE HOTLINE

270. On the 8th August 2018, that is, 2 days before he resigned from Bland, Cornelio requested that the Frontier Queue Hotline phone number 20042777 be forwarded on to UK phone number +44 7428310899, and that voicemail on phone number 20042777 be disabled.

271. Bland hold an account with *Messagebird*, a third-party service provider. Bland use their services extensively within the NSCIS platform for voice and SMS capabilities. The number +44 7428310899 is a number held on a *Messagebird* account however it was not transferred by Cornelio to the Bland account. It was therefore not accessible by them.

272. The new UK number required the development of a new Windows service to update the new phone line with the frontier queue times. On the 9th August Cornelio wrote that the physical server at Cloister Building, which hosted the Frontier Queue Hotline, was redundant. This confirmed that the new Frontier Queue Hotline windows service had been relocated to a server not known to Bland.

273. **Instance 64 - Fraud by failing to disclose information – contrary to section 417 Crimes Act 2011 -**

274. On the 5th October, that is, the day on which Cornelio was officially informed that he was no longer to access the NSCIS platform, the Frontier Queue Hotline was disabled or failed. Bland was unable to remedy this as they had no knowledge of which server the Widows service was running from.

275. In order to restore the service a new Frontier Queue Hotline service had to be developed. This was further hindered by the fact that the source code provided by Cornelio on the 7th September 2018 did not contain the most up to date version of the Windows service.

276. As a result, the Frontier Queue Hotline service was not operating for a total of 26 days.

277. The actions were consistent with an agreement to undermine Bland Limited and to transfer the NSCIS platform maintenance contract to 36 North.

278. **Instance 65 - Fraud by failing to disclose information – contrary to section 417 Crimes Act 2011 -**

279. On the 7th October when requested to, did not disclose to Bland the location of the server on which the Frontier Queue Hotline Windows Service associated with Messagebird Number +447428310899 was running from.

UNAUTHORISED ACCESS - NSCIS BACKOFFICE

280. On the 4th October 2018, Peter Canessa wrote to Caine Sanchez on behalf of the Chief Minister. In an email he wrote, "*Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be provided full control of the management, maintenance and support of the NSCIS platform … Once the handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform*."

281. On the 5th October 2018 Sanchez contacted Cornelio and passed on these instructions.

282. On the 9th October 2018 Cornelio sent an email to Sanchez (with James Gaggero copied in) in which he confirmed that he would no longer access the NSCIS platform as well as writing, "*In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms*."

283. **Instance 66 - Unauthorised access to computer material – section 362 Crimes Act 2011 -**

284. In contravention of the instructions, on the 7th October 2018 Cornelio accessed the NSCIS back office using his Bland group email tommy.cornelio@blandgroup.com. The access was obtained from an IP address directly associated with Cornelio.

DATABASE REINDEXING

Online Database Reindexing

285. Database indexing is a method used to optimize a database. Carrying out index maintenance operations will affect access to data in a database. Online index builds will slow down system response times as the database can still be queried by a user. Online index builds are therefore typically carried out outside peak database hours.

286. **Instances 66 to 71 - Unauthorised acts causing, or creating risk of serious dam age – section 366A(1) as read with s 366A(2)(d) Crimes Act 2011.**

287. On the 7th October 2018, that is, after the termination of the consultancy period, Cornelio logged onto Microsoft Azure using his username [redacted]. Between

1547-1548 hours he initiated the creation of six recommended indexes on the NSCIS Azure SQL databases for ANPR, APIS Air, APIS Maritime, Facial Recognition, and Passport Scanning modules.

288. **Instances 72 and 73 - Unauthorised acts causing, or creating risk of serious dam age – section 366A(1) as read with s 366A(2)(d) Crimes Act 2011.**

289. Whilst logged onto Microsoft Azure, at 1546 hours, on the 7th October 2018, Cornelio twice enabled auto database tuning. This led to eight further re-indexing tasks being created, which were automatically initiated.

290. These actions were carried out from an IP addresses directly connected to Cornelio

291. As a result of the database re-indexing, by about 1600 hours on the 11th October 2018, [redacted] In addition, [redacted]

292. On the evening of the 11th October 2018 a decision was made to undo the index online operations initiated by Cornelio. The index operations were still running at the time with no indication of when they would be completed.

[redacted]

[redacted]

Offline Database Reindexing

301. Offline index builds lock the system database until the process is completed. Users are thereby prevented from storing or retrieving information from the database during this time.

302. **Instance 75 - Unauthorised acts causing, or creating risk of serious damage – section 366A(1) as read with s. 366A(2)(d).**

303. By the 12th October 2018, despite successfully reversing the online database index operations, the system continued to consume high levels of resources, and as a result NSCIS Windows services were unable to collect, process and insert data into the NSCIS Azure SQL databases.

304. Investigations revealed that at about 2037 hours local-time on the 11th October 2018, Cornelio logged onto an external server, whose name mimicked the NSCIS server [NSCISVM], and initiated offline database re-indexing from Microsoft SQL Server Management Studio. [redacted].

305. These actions were carried out from an IP address connected to Cornelio.

[redacted]



308. The actions of Cornelio between 7th – 11th October 2018 posed a serious and credible risk to the National Security of Gibraltar.

309. **Instance 76 - Unauthorised access to computer material – section 362 Crimes Act 2011**

310. On 17th October 2018, that is, after the termination of the consultancy period, Cornelio logged onto the NSCIS Azure Blob Storage account "nscisblobs", using his Azure account [redacted].

NSCIS REPORT FOR SANCHEZ

311. On the 4th October 2018, Peter Canessa wrote to Caine Sanchez on behalf of the Chief Minister. In an email he wrote, "*Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be provided full control of the management, maintenance and support of the NSCIS platform … Once the handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform*."

312. On the 5th October 2018 Sanchez contacted Cornelio and passed on these instructions.

313. On the 9th October 2018 Cornelio sent an email to Sanchez (cc. James Gaggero) in which he confirmed that he would no longer access the NSCIS platform as well as writing, "*In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms*."

314. Post 31st August 2018, Cornelio was not authorised to access the NSCIS platform. This was re-enforced by the instructions from the Chief Minister on the 4th October 2018.

315. **Instance 77 – Unauthorised access to computer material – contrary to section 362 Crimes Act 2011 -**

316. Contrary to these instructions, between 2216 hours on the 11th April 2019 and 0013 hours on the 12th April 2019 Cornelio accessed the NSCIS platform using the credentials of Sanchez which were provided to Cornelio by Sanchez.

317. Cornelio thereby accessed a national security platform without authority, for the purpose of undermining Bland, and obtaining the NSCIS platform maintenance contract.

318. On the 11th April 2019 Cornelio wrote to Levy, *"We are going to have a field day on the national security report..just wait until you see it. For now I am reviewing every single module 1 by 1.* [redacted]*."*

LEVY'S INVOLVEMENT

319. The above paragraphs demonstrate Levy was involved in the plan to remove the NSCIS contract from Bland at an early stage;

a. Messages between Levy and Sanchez show communication discussing moving the contract away from Bland in early 2018. (Paras 45 to 47)

b. Levy was instrumental in the creation of 36 North. Firstly, by being owning 32% of shares of Astelon Ltd, who in turn own 33% of shares of 36 North. (Paras 31 to 32) On behalf of Hassans, he injected a large sum of money into 36 North.

c. He was using his influence with the Chief Minister to the advantage of 36 North.

d. He was regularly contacting both Cornelio and Perez in relation to 36 North whilst they were still employed by Blands and following their resignations. (Paras 61 to 89).

e. Communications show he was aware of the Computer Misuse Offences committed by Cornelio. (Paras 99 to 100).

320. I now seek to recover –

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

I submit to your Worship that there are reasonable grounds for believing that:

321. **Indictable offences have been committed;**

Conspiracy to Defraud contrary to Common Law.

322. **There is material that consists of special procedure material or includes special procedure material and does not also include excluded material on premises specified in the application.**

Data has been created or acquired in the course of the business of Hassans International Law Firm, of which the subject is a senior partner. As a law firm, this data is held under an express or implied duty of confidence the company owes to their clients.

The material sought does not include any Excluded Material (i.e. it's not medical records or journalistic material or material held under secrecy imposed by a specific enactment such as the Official Secrets Act).

E.g. the material sought consists of communications between the subjects of this application. This would not be classified as legally privileged material. This material does not however consist of anything which could be regarded as Excluded material - i.e. medical records, records relating to counselling or welfare assistance, or journalistic material. The material sought is not, and does not contain any Legal Privilege Material however it is understood legally privileged material may be present on digital devices which will be seized. All digital devices will be reviewed by an appointed independent legal representative prior to the OIC being given access to any material.

The material sought does not contain any Legal Privilege material.

323. **The material is likely to be of substantial value to the investigation and is likely to be relevant evidence.**

a. The material will assist to prove or disprove the subject's involvement in the offences stated. The material sought will show to what level the subject was involved with 36 North.

b. This information is relevant because it will identify to the OIC if the suspected offence has been committed by the subject.

I also ask your Worship to consider the following points;

324. **Other methods of obtaining the material have not been tried because it appeared they were bound to fail.**

The material sought is held by a subject in this case and it is feared if notice was given to the subject to provide this material to the OIC, the subject would destroy, alter, deface or conceal the material sought.

325. **It is in the public interest that access to the material sought should be given, having regard to the benefit likely to accrue to the investigation if the material is obtained and to the circumstances under which the person in possession of the material holds it.**

a. The offence is of a serious nature and the material sought is likely to be valuable evidence that cannot be obtained from any other source.

b. If access to the material sought is obtained under the power of the warrant I apply for, any professional or ethical duties of confidentiality which may exist between the subject and Hassans and those persons or business to whom the material refers will be preserved.

326. **Service of notice of an application for a Production Order or der under Para 4 Schedule 1 CPE Act may seriously prejudice the investigation.**

A key subject in this case is the person I would serve a Production Order for the material sought. In the circumstances it is highly likely that they would destroy, alter, deface or conceal the material sought because it is evidence sought by the OIC which may prove their involvement in the offence.

327. **For these reasons I ask your Worship to grant the search warrant(s) I apply for.**

Prepared By:
Paul CLARKE
Detective Sergeant 130
Money Laundering Investigation Unit
Royal Gibraltar Police
Email: paul.clarke@royalgib.police.gi

From: (RGP) Wyan, Mark (Supt 247) <Mark.Wyan@royalgib.police.gi>
Sent: Friday, 15 May 2020 12:28
To: (RGP) Clarke, Paul (PS130)
Cc: (RGP) James Currer (PC211)
Subject: FW: Letter to Magistrates - 15-05-20
Attachments: Letter to Magistrates - 15-05-20.pdf

-----Original Message-----
From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Sent: 15 May 2020 12:21
To: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Cc: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>; (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>; maurice.turnock@gcs.gov.gi
Subject: FW: Letter to Magistrates - 15-05-20

Good morning Mr Rocca,

Please refer to the attached letter addressed to the Magistrates' Court by Lewis Baglietto QC on behalf of James Levy QC.

Having considered the matter within the very limited time available the reasons that we wish to object to this application are as follows:

1. Any release of the information to Mr Levy before he is formally interviewed would seriously prejudice this criminal investigation and any other on which the police rely on the obtaining of a search warrant prior to an interview. This is scheduled for 1000hrs on Monday 18th May 2020. The Commissioner of Police has undertaken to Mr Baglietto in writing that he will not to break the seals on the exhibit bags containing those devices for a period of 7 days. This is in order to allow Mr Baglietto to challenge the decision made to examine the devices in question. It appears clear to me that the real intention in accessing the material laid before the Magistrate is to place Mr Levy at an unfair advantage in advance of his interview. In my view the arms of the prosecution and defence are already out of balance in Gibraltar as there is no right for a court to draw an inference in certain circumstances, this is not the case in the United Kingdom who chose to amend their law precisely to address this imbalance. To allow the defence access to material that clearly articulates the full basis on which a suspicion on of criminal activity is based before the police have an opportunity to put those facts to a suspect in a formal interview would in my view make a mockery of the legal system and thereby contrary to the interests of justice.

2) Any release of the said information may, in addition, further prejudice this criminal investigation given that a number of other suspects continue on police bail. It is the intention of the investigating team to interview these suspects at length in the near future. A release of the information used to obtain the search warrant would therefore be out of the control of the RGP. We are already aware that there has been communication between Mr Levy and Mr Fischel as Mr Levy said so whilst we were at his office earlier this week. The information used as the basis of the application was detailed and referred to exhibits on which the RGP will seek to rely in any future proceedings.

3) In any event, it is argued that the devices obtained from Mr Levy were not obtained under the powers conferred by the said search warrant. The devices were voluntarily handed over by Mr Levy without the need to execute the warrant. Any argument as to the lawfulness of the warrant is, in my view, irrelevant in the circumstances. Given that they were handed over, any decision regarding the lawfulness of the application is incapable of having any impact upon this matter.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent

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Please consider the environment before printing this email.

-----Original Message-----
From: Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Sent: 15 May 2020 09:39
To: (GCS) Turnock, Maurice <maurice.turnock@gcs.gov.gi>
Cc: (EUID) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi>; (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: FW: Letter to Magistrates - 15-05-20

Dear Maurice

Please see attached letter.

Kind regards

Lewis

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Your reference
Our reference LB/JM/
Date 15 May 2020

Maurice Turnock Esq
Clerk to the Magistrates
32-36 Main Street
Gibraltar

Dear Sir

Re: James Levy QC - Search Warrant issued on or about 11 May 2020

Further to our letter of 13 May, we would bring to your attention the following extracts of English authorities, which make plain that a person who is seeking to challenge the lawfulness of a search warrant granted in his absence is entitled, as a matter of trite natural justice, to know what the court was told in his absence and thus to a note or transcript of the hearing. This accords with principles applicable to any *ex parte* application, which apply with even greater rigour in relation to remedies as intrusive as search warrants.

We have underlined the relevant parts of those extracts for ease of reference.

R (Energy Financing Team Ltd) v Bow Street Magistrates' Court [2005] EWHC 1626 (Admin); [2006] 1 W.L.R. 1316

> "27. Turning to the material which was adduced in support of the application for the warrant (including the letters of request), the solicitors acting for EFT sought access to that material on 7 July 2004, and repeatedly thereafter, but were not granted it in any form. So, on 13 October 2004 they made an application for disclosure. That eventually resulted in a letter from the Treasury Solicitor dated 1 December 2004 (just over a week before the application was due to be heard) which disclosed the letters of request and, as Mr Downes concedes, enough information about the contents of the information and the proceedings before the district judge to enable EFT to take advice and to conduct these proceedings. In my judgment there is no adequate excuse for the delay in providing the information set out in the letter of 1 December 2004, and the solicitors should never have been put in the position of having to issue an application for disclosure in order to obtain it. That is why, as we indicated during the hearing, we have concluded that EFT are entitled to the costs of that application. It is no sufficient answer to say that in this case EFT knew the nature of the allegations in Bosnia and Herzegovina and had made representations in relation to them, including the production of a report prepared by KPMG. They still have the right to be satisfied as to what had happened before the district judge.

A list of Partners is available for inspection at our offices

R(Gittins) v Central Criminal Court [2011] EWHC 131 (Admin)

> "25 (2) When an application for judicial review is launched seeking to quash the grant of a search warrant, it is, again, in some respects, akin to the "return date" for Marevas , Anthony Pillers and Restraint Orders . Ordinarily, the expectation will be that the party challenging the grant of the warrant must be entitled to know the basis upon which the warrant was obtained."

R (Faisaltex Ltd) v Crown Court at Preston [2008] EWHC 2832 (Admin)

> "35. It is, of course, commendable that a party should seek to resolve an issue about the return of certain documents without the need for litigation. But while we can understand that this might have avoided, at least in part, a claim for excessive seizure of materials, it has little bearing on some of the main grounds of challenge now advanced, namely that the search warrants were themselves invalid and consequently all the seizures of property unlawful. Those grounds, as will be seen, include contentions that the warrants were too widely drafted and also that the material specified in them was, in part, incapable of being relevant evidence as required by the statute. It is right that some of the other grounds of challenge to the warrants could only have been advanced once the claimants' advisers had obtained copies of the informations put before the judge and the transcripts of the ex parte proceedings. But here again, it was not until 27 May 2008, nearly two months after the execution of the warrants, that solicitors for the claimants sought copies of the informations from the court. That was not acting promptly."

We would also refer you to the following extract from R (S) v Chief Constable of the British Transport Police and another [2013] EWHC 2189 (Admin) in relation to the importance for persons against whom a search warrant is issued ex parte to know what was said to and by the court:

> **[46]** We would also re-emphasise two further points. First, as a matter of practice all hearings for a search warrant, whether for a warrant under s 8 of PACE or of the 'special procedure' type, must be recorded so that there can be no dispute about what was or was not said to and by the judge.

We look forward to hearing from you as a matter of urgency, as our client is entitled to and requires to know what transpired in court, as well as the reason's for the Stipendiary Magistrate's decision, in order to vindicate his rights.

Yours faithfully

Lewis Baglietto

From: (RGP) Wyan, Mark (Supt 247) <Mark.Wyan@royalgib.police.gi>
Sent: Thursday, 14 May 2020 10:40
To: (RGP) Clarke, Paul (PS130)
Subject: FW: OFFICIAL - Response to letter from Lewis Baglietto
Attachments: Response Letter to Lewis Baglietto 13th May.pdf; warrant home .pdf; warrant hassans.pdf; Voluntary attendance to police interview.pdf

From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Sent: 14 May 2020 10:06
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: FW: OFFICIAL - Response to letter from Lewis Baglietto

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 14 May 2020 10:03
To: lewis.baglietto@hassans.gi
Subject: OFFICIAL - Response to letter from Lewis Baglietto

Dear Mr Baglietto,
Attached please find a letter and other documents in response to your letter of 13th May 2020 to Det/Supt Paul Richardson.
Best wishes

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

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Commissioner of Police
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14th May 2020

Our Ref: IM160

Mr Lewis Baglietto QC
PO Box 199
Madison Building
Midtown, Queensway
Gibraltar

Dear Sir,

I have been forwarded a copy of your letter addressed to Detective Superintendent Paul Richardson dated 13 May 2020 the contents of which have been noted.

I have been fully briefed as to the conduct of the investigation and given the seriousness of the allegations made and the matters raised. I have seen fit to respond directly.

At the outset I must point out that the sequence of events are not as you have described and I do not agree with you that there were reasonable grounds to believe that Mr Levy would have simply handed over his devices and documents.

Notwithstanding the fact the police attended with a search warrant issued by the Magistrates Court, an attempt was made to try and deal with the matter by consent. This involved Mr Levy consulting with 'senior silk' in private and informing the officers that he would consent to handing over the items sought as long as the interests of his clients were protected. Once the means in which they would be achieved was clear Mr Levy signed the relevant form after reading it and consulting with Mr Chincotta. Accordingly the search warrant was not executed but rather Mr Levy chose to hand over his devices voluntarily, albeit after some time and after extensive consultation.

I do not agree with you that warrant was excessive, unjustified or unlawful and in my view the action taken was both legitimate and proportionate in the circumstances. I do not think it would serve any purpose to enter into a discussion on the use of Productions Orders as opposed to a Search Warrant.

In relation to the items that you have requested I have attached a copy of the search warrant to this email. I am unable at this time to comply with your request for a copy of the application for the search warrant or any other written evidence as this could potentially compromise an ongoing investigation as Mr Levy has yet to be interviewed. The same applies to point 4 (any notes taken by the RGP of the hearing). The only order or ruling that I am aware of made by the Stipendiary Magistrate was the warrant itself. Although the DPP has been consulted on various non-operational issues concerning this investigation including the

status of various parties he has not provided advice on the application of a search warrant which remains an operational matter.

Please rest assured that the RGP has not copied or downloaded any material so far and in fact the devices remain sealed and I have assumed safe custody of them. I remain convinced of the legality of our course of conduct but undertake to postpone their submission to be examined for seven days from the date of this letter in the event that you may wish to make any legal challenge to this decision.

I would also ask you to please note that it is not a question of me refusing to meet with you and the Attorney General, but rather I view it as inappropriate given the circumstances in which we find ourselves which I trust you understand.

I enclose a copy of a notice regarding voluntary attendance for police interview. This sets out the topic areas which we seek to explore in the formal police interview. I should point that we have not shared this document with any other party. It would be very helpful if Mr Levy brings any material with him that may support his account or provide it in advance of his attendance. Additionally, as would be normal practice counsel will be provided with a pre-interview briefing

Finally, as you will no doubt be aware, Mr Levy undertook to voluntarily extract the relevant emails and other documents from Hassans servers and provide these to police along with all files concerning Astelon Ltd and 36 North Ltd. Grateful if you advise when these will be supplied to assist with our investigation.

Yours faithfully

Ian McGrail OTM MSc
Commissioner of Police

In The

Magistrates' Court, 32-36 Town Range, Gibraltar.

On Thursday 7th May 2020

Warrant to Enter and Search A Premises – Single Premises
Criminal Procedure and Evidence Act 2011, Schedule 1, Paragraph 12(a)

An application having been made by Detective Sergeant Paul Clarke of the Royal Gibraltar Police, I am satisfied that:-

The first set of access conditions specified in Paragraph 2 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are satisfied, and, that at least one of the further conditions set out in Paragraph 14 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are also fulfilled.

That there is at:-

[redacted]

material likely to be relevant evidence which is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

Authority is hereby given for any Constable to enter within one month from the date of this warrant the said premises and to search them and to seize material in respect of which the application is made.

The Constable may be accompanied by up to six other Constables or designated persons.

COURT STAMP

STIPENDIARY MAGISTRATE * GIBRALTAR *

Signature of Judge/Magistrate .....

Date 7th May 2020.

In The Magistrates' Court, 32-36 Town Range, Gibraltar.

Information in support of application for a 'Single Premises' search warrant

Criminal Procedure and Evidence Act Schedule 1 Paragraph 12(a) (first set of access conditions)

The information of Detective Sergeant Paul Clarke of the Royal Gibraltar Police, who upon oath states that:-

(a). There are reasonable grounds for believing:-

i. That an indictable offence has been committed, namely Conspiracy to Defraud contrary to Common Law;

ii. That there is material to which this information relates which consists of Special Procedure Material or includes Special Procedure Material and does not include Excluded Material on the premises specified in the application; or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify);

iii. That the material is likely to be of substantial value to the investigation in connection with which the application is made; and

iv. That the material is likely to be relevant evidence.

(b). Other methods of obtaining the material have not been tried because it appeared they were bound to fail;

(c). It is in the public interest, having regard:-

i. To the benefit likely to accrue to the investigation if the material is obtained; and

ii. To the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given.

AND that of the further conditions mentioned in para 12(a)(ii) of Schedule 1 of the Act, namely:-

a). that it is not practicable to communicate with any person entitled to grant entry to the premises to which the application relates;

b). that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material;

c). that the material contains information which;
i) is subject to a restriction or obligation such as is mentioned in section 15(2)(b) of the Criminal Procedure and Evidence Act 2011; and
ii) is likely to be disclosed in breach of it if a warrant is not issued;

d). that the service of notice of an application for an order under paragraph 4 of Schedule 1 to the Act may seriously prejudice the investigation.

The further conditions at **b, & d,** above apply.

The material to which this application relates is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

The premises to which this application relates is:-

The [redacted]

Signature of officer applying — Date 07/05/2020

Signature of officer approving application (Inspector or above) — Date 07/05/2020

Craig Goswell.

Name of officer approving application

ENDORSEMENT

(To be returned to the court of issue with the original copy of the Warrant)

1. The following items / No items* were found at:

.....

....

2. The following items other than items which were sought were seized
   No other item was seized*

3. The search was conducted on (date) .....
   between ..... am / pm* and ..... am / pm*
   by (name all officers present)

4. A copy of this warrant was handed to the occupier / person in charge of the premises / left on the premises* (specify whereabouts)

Signature of Constable ..... Date .....

Name, Rank, No .....

Unit to which attached .....

* Delete as applicable

In The

Magistrates' Court, 32-36 Town Range, Gibraltar.

On Thursday 7th May 2020

Warrant to Enter and Search A Premises – Single Premises

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The first set of access conditions specified in Paragraph 2 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are satisfied, and, that at least one of the further conditions set out in Paragraph 14 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are also fulfilled.

That there is at:-

Hassans International Law Firm, Madison Building, Midtown, Queensway, Gibraltar

material likely to be relevant evidence which is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

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Authority is hereby given for any Constable to enter within one month from the date of this warrant the said premises and to search them and to seize material in respect of which the application is made.

The Constable may be accompanied by up to six other Constables or designated persons.

COURT STAMP

STIPENDIARY MAGISTRATE * GIBRALTAR *

Signature of Judge/Magistrate .....

Date 7th May 2020.

In The Magistrates' Court, 32-36 Town Range, Gibraltar.

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iii. That the material is likely to be of substantial value to the investigation in connection with which the application is made; and

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d). that the service of notice of an application for an order under paragraph 4 of Schedule 1 to the Act may seriously prejudice the investigation.

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The premises to which this application relates is:-

Hassans International Law Firm, Madison Building, Midtown, Queensway, Gibraltar

Signature of officer applying — Date 07/05/2020

Signature of officer approving application (Inspector or above) — Date 07/05/2020

Craig Gowans

Name of officer approving application

ENDORSEMENT

(To be returned to the court of issue with the original copy of the Warrant)

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   No other item was seized*

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Signature of Constable ..... Date .....

Name, Rank, No .....

Unit to which attached .....

* Delete as applicable

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You are not obliged to say anything unless you wish to do so, but what you say may be put into writing and given in evidence.

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Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

14th May 2020

Our Ref: IM160

Mr Lewis Baglietto QC
PO Box 199
Madison Building
Midtown, Queensway
Gibraltar

Dear Sir,

I have been forwarded a copy of your letter addressed to Detective Superintendent Paul Richardson dated 13 May 2020 the contents of which have been noted.

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Yours faithfully



Ian McGrail OTM MSc
Commissioner of Police

Royal Gibraltar POLICE

• Emergency Tel: 199 • General Enquiries Tel: (+350) 20072500 •
• Email: pacompol@royalglb.police.gl • Website: www.police.gl •
• Facebook: royalglbpolice • Twitter: @rgpolice •

From: (RGP) Wyan, Mark (Supt 247) <Mark.Wyan@royalgib.police.gi>
Sent: Friday, 15 May 2020 12:44
To: (RGP) Clarke, Paul (PS130)
Cc: (RGP) James Currer (PC211)
Subject: FW: URGENT - Letter to AG - 15-5-20
Attachments: Letter to AG - 15-5-20.pdf

For Filing

-----Original Message-----
From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 15 May 2020 12:29
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>; (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>; (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Cc: (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Subject: FW: URGENT - Letter to AG - 15-5-20

Gents - this came in at 1115hrs this morning.

Ian McGrail OTM MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

Web: www.police.gi
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-----Original Message-----
From: Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Sent: 15 May 2020 11:15
To: (EUID) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi>
Cc: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: URGENT - Letter to AG - 15-5-20

Please see attached letter

GDPR !MPORTANT CHANGES TO OUR PRIVACY POLICIES

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www.gibraltarlaw.com

Your reference
Our reference LB/JM/
Date 15 May 2020

Direct email: lewis.baglietto@hassans.gi

H.M. Attorney General
Attorney General's Chambers
40 Town Range
Gibraltar

Dear Attorney

Schedule 1 paragraph 12 Criminal Procedure and Evidence Act 2011 search warrants granted on 7 May 2020 in respect of premises at [redacted] and Hassans International Law Firm Madison Building

We refer to our earlier correspondence with you in this matter, dated 12 May 2020, and to the Commissioner of Police's attached letter dated 14th May in reply to our letter to Superintendent Richardson dated 13th May, which we copied to you. We are copying this letter to the Commissioner of Police.

Introduction

We set out in outline below the reasons why there are very good grounds for believing that the warrants were improperly procured and wrongfully granted (in the course of an *ex parte* hearing), and why the RGP officers acted unlawfully in attending the premises and using the threat that they would execute the warrants to obtain from Mr Levy QC the material that they sought.

As we have stated in my earlier letter, it is extraordinary that the RGP should have thought it appropriate to resort to the draconian route of Schedule 1 paragraph 12 search warrants, and no less extraordinary that the Stipendiary Magistrate should have thought it right and appropriate to grant the two applications. There were serious and multiple breaches of the statutory requirements and wholesale departures from best practice. There can be little surprise that, as we believe is the case, the DPP advised the Commissioner against the making of these applications.

The issue of the warrants was unnecessary and oppressive, and the threat to use them highly distressing. Their issue directly impugned, as we have stated, Mr Levy's reputation and dignity as an officer of the court, the senior partner of Gibraltar's largest law firm and as a highly respected member of the local community.

It was also a gross abuse of power for RGP to have threatened the use of previously obtained search warrants to secure compelled and involuntary consent to enter the two premises and seize materials. Indeed, the very fact that Mr Levy QC was prepared to allow the officers entry (notwithstanding the non-execution of the warrants) belies RGP's unsupported assertion to the Magistrate that there were reasonable grounds for believing that "*other methods of obtaining the material have not been tried because it appeared that they were bound to fail*" (Schedule 1, paragraph 2(b)(ii)) and that there was a basis upon which he could be additionally satisfied that "*(b) it is practicable to communicate with a person entitled to grant entry to the premises, but not practicable to communicate with any person entitled to grant access to the material*" or "*(d) service of notice of an application for an order under paragraph 4 may seriously prejudice the investigation*" (Schedule 1, paragraphs 14(b) and (d)). Either the warrants were needed and justified, or they were not, and it is simply not correct for the Commissioner to state, as he does in his letter of 14th May 2020, that the items sought were handed over consensually, thereby rendering the RGP action 'legitimate and proportionate'.

The Commissioner has, so far, unlawfully refused to provide any detail of the basis upon which the applications for the warrants was made. Indeed, on 12 May 2020, following the events in question, the RGP provided Mr Levy QC with a misleading *proforma* which wrongly suggested that the search powers were being exercised under the section 21 "Entry for the purposes of arrest etc" power.

The Commissioner's refusal to provide a copy of the applications for the issue of the warrants that were made by his officers, or of any evidence adduced in support, or of any notes made by the RGP during the *ex parte* Magistrates' Court hearing, on the basis this could 'potentially undermine an ongoing investigation as Mr Levy has yet to be interviewed' is perverse and wrong in law, and provides a further basis for a potential challenge.

There exists a stand-alone obligation on the *ex parte* applicant for a warrant, and on the court that granted it, to provide all relevant material adduced in support of the application: R(Energy Financing Team Ltd) v Bow Street Magistrates' Court [2005] EWHC 1626 (Admin) at para 27; R(Gittins) v Central Criminal Court [2011] EWHC 131 (Admin, at para 25(2); R(Faisaltex) v Crown Court at Preston [2008] EWHC 2832 (Admin) at para 35; R(S) v Chief Constable of the BTP [2013] EWHC 2189 at para 46.

The person who is seeking to challenge the grant of a warrant is entitled to know the basis upon which it was granted, and the case law simply does not provide, in the absence of a properly formulated application by the body that obtained the warrant for relevant information to be withheld on the basis that its disclosure would seriously prejudice the public interest: R (Haralambous) v Crown Court at St Albans & Anor [2018] UKSC 1, for refusal on any lesser basis.

In the absence of proper disclosure of the basis upon which the applications were made, it is not possible to be certain as to what transpired in the Magistrates' Court. The 'information' in support of both applications should have set out in writing, by direct reference to the particular facts of the investigation and the belief of the investigating officer(s), why the statutory requirements were met. They did not.

Instead, with the exception of a single reference in each information to the indictable offence said to be believed to have been committed, 'namely conspiracy to defraud' (which words are in a different font to the rest of the information), they are wholly silent, and contain only a bare rehearsal of the statutory criteria. In the absence of a record of what DS Clarke, the officer who made the applications, told the court orally, it is impossible to know what information, if any, the court was given any in support of the applications. It is also impossible to know if he properly discharged the plain duty upon him of making plain any information or material that weighed against the application.

Moreover, in the absence of any ruling (the Commissioner in his letter has confirmed that the Magistrate gave no ruling), the reasons for the grant of the warrants are completely unknown. It is difficult to avoid the conclusion that, rather than seeking authorisation to obtain material in relation to genuinely suspected offences, instead the police were on *"a fishing expedition in the hope of finding some material upon which the charge can be hung"*: Williams v. Summerfield [1972] 2 QB 512, per Lord Widgery CJ at 518.

The illegality of the process, and the unlawfulness of the warrants, would appear to be clearly established on the following grounds.

Statutory provisions

In order for a warrant to have been properly issued pursuant to Paragraph 12 of Schedule 1, the Magistrate must have needed to be satisfied:

(a) that

(i) either set of access conditions is fulfilled; and

(ii) any of the further conditions set out in Paragraph 14 is also fulfilled;

OR

(b) that –

(i) the second set of access conditions is fulfilled; and

(ii) an Order under Paragraph 4 in relation to the material has not been complied with.

It is clear from the warrants that the police relied on the first set of access conditions, namely:

"2. The first set of access conditions is fulfilled if -

(a) that there are reasonable grounds for believing that-

(i) an indictable offence has been committed;

(ii) there is material which consists of special procedure material or also includes special procedure material and does not also include excluded material on premises specified in the application, or on premises occupied or controlled by a person specified in the application;

(iii) the material is likely to be of substantial value (whether by itself or together with other material) to the investigation in connection with which the application is made; and

(iv) the material is likely to be relevant evidence;

(b) other methods of obtaining the material have –

(i) been tried without success; or

(ii) not been tried because it appeared that they were bound to fail; and

(c) it is in the public interest, having regard to –

(i) the benefit likely to accrue to the investigation if the material is obtained; and

(ii) the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given."

The further conditions set out in Paragraph 14 are as follows:

"14. The further conditions mentioned in Paragraph 12(a)(ii) are that –

(a) it is not practicable to communicate with any person entitled to grant entry to the premises;

(b) it is practicable to communicate with a person entitled to grant entry to the premises, but not practicable to communicate with any person entitled to grant access to the material;

(c) the material contains information which –

(i) is subject to a restriction or obligation such as is mentioned in section 15(2)(b); and

(ii) is likely to be disclosed in breach of it if a warrant is not issued;

(d) service of notice of an application for an order under paragraph 4 may seriously prejudice the investigation."

The informations stated that the requirements of Paragraphs 2 and 14(b) and (d) of Schedule 1 were fulfilled: "The further conditions at **b & d** above apply"

First set of Access conditions (Schedule 1, paragraph 2, and 12(a)(i))

First, in the absence of any information, it is not known on what basis the Stipendiary Magistrate had reasonable grounds for believing that an indictable offence had been committed (let alone in relation to Mr Levy QC, whose premises were the subject of the applications).

Paragraph 2 requires that the constable has reasonable grounds for believing the matters set out in paragraph 2(a). It is plain that a belief is more than a suspicion and that the need to have reasonable grounds for a belief imposes a higher threshold than the need to have reasonable grounds for a suspicion: R(S) (supra) at [61]; R (Eastenders Cash and Carry plc) v South Western Magistrates' Court [2011] 2 Cr App R 123. A mere assertion cannot suffice.

We do not know on what basis the court was persuaded that this requirement was met. In any event, it is a matter that the duty of candour, which rests upon an *ex parte* applicant (*In re* Stanford International Bank Limited and Another [2010] EWCA Civ 137; [2010] 3

W.L.R. 941 at para 191), absolutely demanded be brought to the attention of the Magistrate. It is far from clear that it was.

We also note the basis of RGP's apparent beliefs have altered since the warrants were obtained. In the note 'Voluntary Attendance for Police Interview under Caution", a copy of which was given to Mr Levy QC on 12 May 2020, the RGP referred, at point 9 of the topic areas which they wished to explore in interview under caution, to 'Communication with the Chief Minister in relation to any of the above'. In the otherwise identical version provided under cover of the Commissioner's letter of 14 May 2020, that phrase has been removed.

Second, whilst it is plain from the warrants and from the informations in support, that the material sought consisted of or included Special Procedure Material, there appears to be no basis upon which the Magistrate could have had reasonable grounds for believing that there would be no "excluded material" on the premises.

As made clear in R(S) at [33] and [57], paragraph 2(a)(ii) is only fulfilled if the Court is satisfied with evidence that the items to be seized do not also contain "excluded material". As stated in R(S) at [57], a lawyer's mobile or laptop would certainly include 'special procedure material' and could possibly also comprise "excluded material". It is not clear on what basis DS Clarke satisfied the court that the devices would not contain "excluded material".

Third, the court had to be satisfied that the material sought would be of substantial value to the investigation and likely to be relevant evidence. Again, there is nothing to suggest that the police or court considered the balancing exercise which appraises, on the one hand, the benefit to the investigation of obtaining the information against, on the other hand, the seizure with the possibility that it would contain in it a mass of "excluded material" and/or material subject to LPP, which was not concerned with the investigation and the seizure of which might well cause considerable professional disruption: R(S) (supra). The court's attention should have been drawn to this point with an explanation as to why this balancing exercise should be resolved in favour of the police.

Taking into account that the investigation has, we understand, been ongoing for over 18 months, and that the other suspects have already been searched and questioned, it is not at all clear how this could have been demonstrated. Was it likely that material sought so belatedly would be of 'substantial value'? Seeking further evidence identical to what had already been obtained would not meet the statutory requirement.

Fourth, in relation to the requirements of paragraph 2(b), we note that the informations allege that other methods of obtaining the material had not been tried because it appeared that they were bound to fail. The court had to be satisfied of two things: that other methods of obtaining the material had not, in fact, been tried; and that DS Clarke believed any other method was bound to fail (*R v CCBTP* at [34]).

No basis upon which the court could have been so satisfied is provided in either information, and it is wholly implausible that any proper basis could have been advanced. The notion that Mr Levy QC, as an officer of the court and Queen's Counsel, would have refused a request is absurd and, of course, as noted above, the very fact that the police did obtain the material in the way they did (following the threat to execute the warrants and the clear misrepresentation that the warrants had been applied for on the advice of the DPP) supports this. As was noted in R(S), a practising solicitor against whom no allegation of dishonesty had previously been made would in the ordinary course of events be expected to comply with a request from the police to hand over a document or at least not to destroy material.

Fifth, the information also purports to deal with the unsubstantiated public interest requirements in 2(c) which we reserve our right to further comment once we have seen any further evidence in support. However, we note that the Magistrate in satisfying himself that the warrant was in the public interest would have had to have regard to two matters: 1. the benefit likely to accrue to the investigation if the material is obtained; and 2. the circumstances under which the person in possession of the material holds it.

Paragraphs 12(a)(ii)/14

The information states that the following further conditions in paragraph 12(a)(ii) of Schedule 1 apply (we take that to mean the conditions in paragraph 14 referred to in 12(a)(ii)), namely:

1. 14(b) - that it is practicable to communicate with a person entitled to grant entry to the premises, but it is not practicable to communicate with any person entitled to grant access to the material; and

2. 14(d) - that service of notice of an application for an Order under Paragraph 4 of Schedule 1 may seriously prejudice the investigation

First, in relation to 14(b), this is plainly untrue. If it was practicable to communicate with Mr Levy as the person entitled to grant entry to his office and home, it was obviously

practicable to communicate with him to grant access to the material (as proved to be the case). That such a statement should have been made on oath is nothing short of reckless and misleading.

Second, in relation to 14(d), it is impossible to see how the police could have so believed, or that the Magistrate could have been satisfied. Not only is this serious allegation not substantiated, but there can have been no basis for the notion that service of notice on Mr Levy of an application for an order under paragraph 4 of Schedule 1 risked him prejudicing the investigation (for example, by perverting the course of justice, or destroying or dissipating evidence) pending the hearing of an *inter partes* application for a production order.

Indeed, there was every reason for believing precisely the contrary. First, Mr Levy QC is the Senior Partner of Gibraltar's largest law firm, a Queen's Counsel, an officer of the Court, and a man of good character. As events transpired, the police themselves could not have believed that he would seriously prejudice the investigation, because they declined to execute the warrants they obtained, and allowed Mr Levy to remove his phone and copy the data before handing it over to them. They also now appear to trust him to provide voluntarily the emails they sought but failed to obtain. Secondly, the investigation has been ongoing for over 18 months, and Hassans acted, initially, for other suspects. The police knew that Mr Levy was aware of the investigation. Had he really wanted to destroy evidence, this could have been done months ago.

Width

The warrants at particular "(1)" sought the seizure of "*electronic devices (including but not limited to mobile telephones and computers) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device storing any of the aforementioned communications*".

These apparently unlimited terms were grossly wide. They were without limit in terms of scope or date, and completely failed to state what the sought material had to relate to. The plainly erroneous and inexplicable reference to '*any of the aforementioned communications*' (there being no such reference) simply reinforces the point.

It would have been quite impossible, within the four corners of the warrant, for a person executing it, or for the person whose premises are being searched, to be able to identify with any degree of certainty what the warrant authorised by way of seizure: McGrath v. Chief Constable of the Royal Ulster Constabulary [2001] 2 AC 731 at [18]; R (Energy

Financing Team Ltd) v. Bow Street Magistrates' Court (supra), at [24] and [37]; Power-Hynes v. Norwich Magistrates' Court [2009] EWHC 1512 (Admin), at [19] and [22]; R (Van der Pijl) v. Kingston Crown Court [2012] EWHC 3745, at [52]-[67]; C v. Nottingham and Newark Magistrates' Court [2013] EWHC 3790, at [48] and [51]. Particular (2) is similarly unrestricted in date range.

It follows that the warrants were grossly deficient on their face. The seizure of the phone and tablet would also necessarily have led to the seizure of a vast amount of irrelevant (and LPP) material that could not, on any view, have had any connection to the investigation and/or was not capable of being seized. The RGP took no steps to sift out this material.

LPP

Not only were the warrants drafted in impermissibly wide terms, but they contained no clear wording taking LPP material outside that which was authorised to be seized (R(A) v. Central Criminal Court [2017] EWHC 70 (Admin), at [81] and [84]). Nor can such an exclusion be implied from the wording of the warrant (cf. Gittins v Central Criminal Court [2011] EWHC 131 (Admin), at [36]-[37]).

A warrant which purports to authorise the seizure of LPP is invalid. See Gittins (above), per Gross LJ at [36(2)]:

> *"If on its true construction a warrant extends to material for which there are not reasonable grounds for believing that it does not consist of or include items subject to LPP then the warrant will be quashed, at least unless the offending passages can be severed. Such a warrant cannot be saved by precautions governing its execution on the day, such as, for example, the engagement of independent counsel."*

It was obvious that the search warrants would lead to the seizure of LPP material. However, the reality was that no consideration was likely to have been given at all to LPP material when applying for and issuing these search warrants. They are therefore invalid.

Conclusion

On any challenge by way of judicial review, the warrants are overwhelmingly likely to be declared to be unlawful for all or any of the reasons set out above.

We therefore request once again, as we have already requested also in the letter to Superintendent Richardson, that Mr Levy's possessions be returned to him.

We also seek an acknowledgment from RGP that they acted unlawfully in seeking and obtaining these warrants, and in entering Mr Levy's addresses. In this regard, we must record that Mr Levy has serious concerns that the RPG acted illegally, and we reserve his rights in this regard. If, indeed, RGP acted in this way in opposition to advice that it had received to the effect that the applications were inappropriate and unlawful, then it can only be concluded that there has been a gross abuse of executive power. On any basis these events are liable to have led to a serious loss of confidence in the RGP.

We look forward to hearing from you as a matter of urgency.

Yours faithfully

Lewis Baglietto

c.c. Commissioner of Police.

From: (RGP) Clarke, Paul (PS130) <paul.clarke@royalgib.police.gi>
Sent: Tuesday, 12 May 2020 18:06
To: Arthur Mills
Cc: (RGP) Wyan, Mark (Supt 247)
Subject: FW: Keyword Searches

Dear Arthur,

Just for clarification, could the emails please be between the period of 1st January 2017 – Present day?

Many Thanks and Kind Regards,

Paul

From: (RGP) Clarke, Paul (PS130)
Sent: 12 May 2020 17:42
To: 'Arthur Mills'
Cc: (RGP) Wyan, Mark
Subject: RE: Keyword Searches

Dear Arthur,

Could we please have any emails including attachments containing any of the "keyword searches" where James Levy is either the Recipient / Sender / CC or BCC?

In relation to documents, we seek any material containing information related to –

- 36 North Limited
- Astelon Limited

Many Thanks and Kind Regards,

Paul

Paul Clarke
Detective Sergeant No. 130
Money Laundering Investigation Unit
Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20043749 Centrex: 3317

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From: Arthur Mills <arthur.mills@hassans.gi>
Sent: 12 May 2020 17:35
To: (RGP) Clarke, Paul (PS130) <paul.clarke@royalgib.police.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: RE: Keyword Searches

Dear Paul

For the sake of clarity,

You request I export all emails containing any of the "keyword searches" **only in which James Levy is either Recipient / Sender / CC or BCC?**
I will limit the searches to only include those emails where James is in the to \ sender fields.

Kind regards

Arthur Mills
Deputy Head Of IT
DD: (+350) 20020497 M: (+350) [redacted]

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International Law Firm

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T: +350 20079000
F: +350 20071966
www.gibraltarlaw.com

From: (RGP) Clarke, Paul (PS130) [mailto:paul.clarke@royalgib.police.gi]
Sent: 12 May 2020 17:18
To: Arthur Mills <arthur.mills@hassans.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: Keyword Searches

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Dear Arthur,

Please find attached document detailing search terms in relation to Police enquiries.

Many Thanks and Kind Regards,

Paul

Paul Clarke
Detective Sergeant No. 130
Money Laundering Investigation Unit
Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20043749 Centrex: 3317

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Sent: Tuesday, 12 May 2020 17:18
To: arthur.mills@hassans.gi
Cc: (RGP) Wyan, Mark (Supt 247)
Subject: Keyword Searches
Attachments: Levy - Keywords.docx

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Money Laundering Investigation Unit
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Keywords	
Jaime LEVY	1. Icode 2. Astelon 3. 36 North / 36N / 36 degrees North 4. Caine 5. [redacted] 6. [redacted] 7. Bland 8. Eddie / Edward Asquez 9. Aaron 10. Thomas / Tommy Cornelio 11. [redacted] 12. [redacted] 13. [redacted] 14. James Gaggero 15. Wavetecx 16. NSCIS / Security Platform 17. Red Maple 18. Infosec 19. John Perez 20. Phoenix

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Kind regards

Arthur Mills
Deputy Head Of IT
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Tel: (+350) 20043749 Centrex: 3317

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Please consider the environment before printing this email

From: (RGP) Clarke, Paul (PS130) <paul.clarke@royalgib.police.gi>
Sent: Wednesday, 13 May 2020 10:22
To: Arthur Mills
Cc: (RGP) Wyan, Mark (Supt 247)
Subject: RE: Keyword Searches

Dear Arthur,

Could you please advise on a timescale of when the emails and any electronic documents will be ready?

Many Thanks and Kind Regards,

Paul

From: Arthur Mills
Sent: 12 May 2020 18:07
To: (RGP) Clarke, Paul (PS130)
Cc: (RGP) Wyan, Mark
Subject: RE: Keyword Searches

You must have read my mind ☺, I just emailed to ask - Thanks

Arthur Mills
Deputy Head Of IT
DD: (+350) 20020497 M: (+350) [redacted]

Hassans
International Law Firm

PO Box 199, Madison Building
Midtown, Queensway, Gibraltar, GX11 1AA
T: +350 20079000
F: +350 20071966
www.gibraltarlaw.com

From: (RGP) Clarke, Paul (PS130) [mailto:paul.clarke@royalgib.police.gi]
Sent: 12 May 2020 18:06
To: Arthur Mills <arthur.mills@hassans.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: FW: Keyword Searches

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Arthur,

Just for clarification, could the emails please be between the period of 1st January 2017 – Present day?

Many Thanks and Kind Regards,

Paul

From: (RGP) Clarke, Paul (PS130)
Sent: 12 May 2020 17:42
To: 'Arthur Mills' <arthur.mills@hassans.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: RE: Keyword Searches

Dear Arthur,

Could we please have any emails including attachments containing any of the "keyword searches" where James Levy is either the Recipient / Sender / CC or BCC?

In relation to documents, we seek any material containing information related to –

- 36 North Limited
- Astelon Limited

Many Thanks and Kind Regards,

Paul

Paul Clarke
Detective Sergeant No. 130
Money Laundering Investigation Unit
Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20043749 Centrex: 3317

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Please consider the environment before printing this email

From: Arthur Mills <arthur.mills@hassans.gi>
Sent: 12 May 2020 17:35
To: (RGP) Clarke, Paul (PS130) <paul.clarke@royalgib.police.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: RE: Keyword Searches

Dear Paul

For the sake of clarity,

You request I export all emails containing any of the "keyword searches" **only in which James Levy is either Recipient / Sender / CC or BCC?**
I will limit the searches to only include those emails where James is in the to \ sender fields.

Kind regards

Arthur Mills
Deputy Head Of IT
DD: (+350) 20020497 M: (+350) [redacted]

Hassans
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F: +350 20071966
www.gibraltarlaw.com



From: (RGP) Clarke, Paul (PS130) [mailto:paul.clarke@royalgib.police.gi]
Sent: 12 May 2020 17:18
To: Arthur Mills <arthur.mills@hassans.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: Keyword Searches

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Arthur,

Please find attached document detailing search terms in relation to Police enquiries.

Many Thanks and Kind Regards,

Paul

Paul Clarke
Detective Sergeant No. 130
Money Laundering Investigation Unit
Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20043749 Centrex: 3317

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Please consider the environment before printing this email

23/4/20.

MEETING - COP, A/COP, SUPT, DI

34. (2) -

DISHONESTY - HOW?

CIVIL WRONGS - EXPAND ON.

INTRODUCTION - EXPAND

Ub-

P.10 - GOOD. - PRESSURE OF HMCOC.

JOHN RODRIGUEZ - STATEMENT.

80. DATE. 3rd MAY '19 - CHANGE.

82. CLARIFY.

84→

102. APRIL REPORT. CHARGES - CHECK.

162. SUBHEADING. - CHANGE.

WAITROSE FEMALES - ON DEVICES?

Typed Copy of Page 77 of Daybook 2 of DS Clarke

23/04/20

Meeting – COP, A/COP, SUPT, DI

34. (D) –

DISHONESTY – HOW?

CIVIL WRONGS – EXPAND ON

INTRODUCTION – EXPAND

46 –

P.10 GOOD – PRESSURE ON HMGOG –

JOHN RODRIGUEZ – STATEMENT.

80. DATE – 3rd MAY '19 – CHANGE

82. CLARIFY

84 ⟶

102. APRIL REPORT – CHARGES – CHECK

162. SUBHEADING – CHANGE.

WAVETECX EMAILS – ON DEVICES?

Transcribed by DS Clarke

OPERATION DELHI

File Note

Date: 23rd April 2020

Subject: Case Meeting

On Thursday 23rd April 2020, I attended a case meeting with Commissioner McGrail, Assistant Commissioner Ullger, D/Supt Richardson and DI Wyan.

The summary of evidence of the case was discussed.

During this meeting, I made notes on page 77 of my daybook 2.

DS130 Paul Clarke

18/7/19

ALBERT MENA - MEETING. 0930

- CONTROLLING OFFICER - PAYMENTS : NO KNOWLEDGE OF.
- BLANDS - NOT BEEN PAID IN MONTHS.
- CS → CONTROLLING OFFICER - WITHOUT PAYMENTS
- NOT UNUSUAL IF NOT CORRECT
- FEB/MARCH → PAYMENTS HELD SINCE SEPTEMBER.
- AM → ASKED BY BLANDS RE PAYMENTS
- AM → ASKED CS RE PAYMENTS.
- SPECIAL OLYMPICS → CS. SOON AFTER MEETING.
- PAYMENT LIST PROVIDED TO AM. ANALYSE. [redacted]
- NOT PAID FOR SERVICES NOT RECEIVED.
- CALCULATE FIGURE TO PAY BLANDS. - £50K of £100K.
- JGE PHONES → AM NOT MAKING PAYMENT WITH CS IS BACK.
- WILL NOT OVERRIDE CS. NEED TO DISCUSS WITH H.M.
- GONE STILL AWAY. (SPECIAL OLYMPICS)
- CS SUGGESTS £45K. AFTER SAYING NOTHING. DON'T KNOW WHY THAT FIGURE. NOT GOING TO ARGUE OVER £5K.

[redacted]

- NSCS Agreement Between Agencies + Blaud etc etc.

[redacted]

- JC - PWC Report → Came in
- Time of Budget - Looks at Third Party. 6 week window
- Do not Respond to Emails at Time of Budget.
- CS Stands AM Report - 16/4/19. - Why?

[redacted]

- Fight with JC - no validity due to ongoing issues.
- CS knew AM Did not want it Produced.
- AM now Had to Act.
- Wanted a Third Party Test carried out → Neutral
- Audit Firm - AM as JCAC used PWC.
- Wanted to complete Private Neutral Test without knowledge of JCAC, 36N, CS, etc.
- FY - Company - Report → not completed. Signs 6th May.
- Date Q2 within days of 16/4/19. Encouraging letter.
- CS Arrest 14/5/19.
- "Same Respect" → could have overlooked CS.
- "Different Way" - independent Review.
- "Given your history" - Dispute with JCAC.
- Believe Government own system - Paid for everything. -
- Payments for maintenance + Development.
- Hardware + Software - Lack of Clarity. Want involve in structuring.
- What are we paying for? Contact? What do we want?
- Need Clarity.
- JP → Entrepreneur - Developed Service.
- "As per our last conversation" → not correct. Do not happen.
- Javier Redondo + Pet Caunsa → C/M Private Secretary.
- Only Peuche know about Disagreement. Meeting with JC - Taking minutes. Asked by AM to Deal with [illegible]

95

MESSAGES -

- PLAN IN PLACE → NOT SURE WHAT IT MEANS.
- I DID NOT COMMISSION THIS REPORT AT ALL.
- NOT AN ACCIDENT ~~WHEN~~ THE DATE HE CAME HE REPORT.
  DUE TO BUDGET PREP. DAY + WENT TO PRINTERS.
- JCHC KNEW SOMETHING WOULD HAPPEN
- NEVER SPOKE TO TC + NEVER MET HIM.
- WENT TO SCHOOL WITH JP + KNOWN HIM - PERSONAL FRIEND.
- CS - NO INSTRUCTION FROM ME. TO MAKE REPORT.

[redacted]

- MULTI-AGENCY MEETING. - BETWEEN TIMES.
- "DIDN'T HAPPEN WHEN TOMMY WAS AROUND" - AGENCIES
- CS - NOT MEANT TO REQUEST FEEDBACK FROM AGENCIES. ESP THEN.
- DID NOT WANT TO DISCUSS WIDER ALLEGATION.
- CS - REPORT - SHOULD NOT HAVE BEEN PROVIDED.
-

- SPOKE TO COP 2 + JP WHEN HE WAS ON LEAVE IN FLORIDA.

-

Typed Copy of Page 35 of Daybook 1 of DS Clarke

35

16/7/19

ALBERT MENA – MEETING. 0930

- CONTROLLING OFFICIAL – PAYMENTS. NO KNOWING OF
- BLANDS – NOT BEEN PAID IN MONTHS
- CS → CONTROLLING OFFICER – WITHOLDING PAYMENTS
- NOT UNUSUAL IF NOT CORRECT
- FEB\MARCH → PAYMENTS HELD SINCE SEPTEMBER.
- AM → ASKED CS RE PAYMENTS
- SPECIAL OLYMPICS → CS. SOON AFTER MEETING.
- PAYMENT LIST PROVIDED TO AM. ANALYSE – [redacted]
- NOT PAID FOR SERVICES NOT RECEIVED.
- CALCULATE FIGURE TO PAY BLANDS. - £50K OF £66K.
- JGAG PHONES → AM NOT MAKING PAYMENT UNTIL CS IS BACK
- WILL NOT OVERRIDE CS. NEED TO DISCUSS WITH HIM.
- CANE STILL AWAY. (SPECIAL OLYMPICS)
- CS SUGGESTS £45K. AFTER SAYING NOTHING. DON'T KNOW WHY THAT FIGURE. NOT GOING TO ARGUE OVER £5K.

[redacted]

Transcribed by DS Clarke

Typed Copy of Page 36 of Daybook 1 of DS Clarke

(36)

- NSCIS AGREEMENT BETWEEN AGENCIES + BLAND – TC ETC.
- [redacted]
- JG – PWC REPORT ⟶ CAME IN
- TIME OF BUDGET – LOOKING AT THIRD PARTY. 6 WEEK WINDOW.
- DO NOT RESPOND TO EMAILS AT TIME OF BUDGET.
- CS SENDS AM REPORT – 16/4/19. – WHY?
- [redacted]
- FIGHT WITH JG – NO VALIDITY DUE TO ONGOING ISSUES.
- CS KNEW AM DID NOT WANT IT PRODUCED.
- AM NOW HAS TO ACT.
- WANTED A THIRD PARTY TEST CARRIED OUT ⟶ NEUTRAL.
- AUDIT FIRM – AM AS JGAG USED PWC.
- WANTED TO COMPLETE PRIVATE NEUTRAL TEST WITHOUT KNOWLEDGE OF JGAG, 36N,CS ETC.
- EY – COMPANY – REPORT ⟶ NOT COMPLETED. SIGNED 6TH MAY.
- DALE CRUZ. WITHIN DAYS OF 16/4/19. ↘ ENGAGEMENT LETTER.
- CS ARREST 14/5/19.
- 'SAME REPORT' ⟶ COULD HAVE OVERULLED CS.
- 'DIFFERENT WAY' – INDEPENDENT REVIEW.
- 'GIVEN YOUR HISTORY' – DISPUTE WITH JGAG.
- BELIEVE GOVERNMENT OWN SYSTEM – PAID FOR EVERYTHING. -
- PAYMENTS FOR MAINTENANCE + DEVELOPMENT.
- HARDWARE + SOFTWARE – LACK OF CLARITY, WASN'T INVOLVED IN STRUCTURING.
- WHAT ARE WE PAYING FOR? CONTACT? WHAT DO WE WANT?
- NEED CLARITY.
- JP ⟶ ENTRPRENEUR – DEVELOPED SERVICE.
- " AS PER OUR CONVERSATION" ⟶ NOT CORRECT. DID NOT HAPPEN.
- JAVIER REDONDO + PETER CANESSA ⟶ C/M PRIVATE SECRETARY.
- ONLY PEOPLE KNOW ABOUT DEVELOPMENT. MEETINGS WITH JG – TAKING MINUTES. ASKED BY AM TO DEAL WITH ISSUES

Transcribed by DS Clarke

Typed Copy of Page 37 of Daybook 1 of DS Clarke

(37)

- MESSAGES –

- PLAN IN PLACE ⟶ NOT SURE WHAT IT MEANS.
- I DID NOT COMMISSION THIS REPORT AT ALL.
- NOT AN ACCIDENT. ~~WHEN~~ THE DATE HE GAVE REPORT.
  DUE TO BUDGET PREP. DAY ~~I W~~ I WENT TO PRINTERS.
- JGAG KNEW SOMETHING WOULD HAPPEN
- NEVER SPOKEN TO TC + NEVER MET HIM.
- WENT TO SCHOOL WITH JP + KNOW HIM – PERSONAL FRIEND.
- CS – NO INSTRUCTION FROM ME. TO MAKE REPORT.
- [redacted]
- [redacted]
- MULTI-AGENCY MEETING. – BETWEEN TIMES.
- "DIDN'T HAPPEN WHEN TOMMY WAS AROUND" – AGENCIES
- CS – NOT MEANT TO REQUEST FEEDBACK FROM AGENCIES. ESP THEN.
- DID NOT WANT TO DISCUSS WIDER ALLEGATION.
- CS – REPORT – SHOULD NOT HAVE BEEN PROVIDED.
-

- SPOKE TO COP RE JP WHEN HE WAS ON HOLIDAY IN FLORIDA.

-

Transcribed by DS Clarke

OPERATION DELHI

File Note

Date: 16th July 2019

Subject: Meeting – Albert Mena

On 16th July 2019 at 0930hrs I attended a meeting with Albert Mena at No.6 with Insp Wyan. Mr Mena gave his account of the situation. I made notes on pages 35-37 of my daybook.

DC130 Paul Clarke

25/9/19

GRECH - 0930.

UNDERSTANDING OF OWNERSHIP - PAY LICENCE FEE / MAINTENANCE FEE
- MONTHLY. (INVOICE)

- DCI BF
- DI MW
- DI PL
- DG
- LLOYD
- COLIN

- IN ONLY ON BREXIT RELATED MATTERS. - BREXIT CONTINGENCY.
  - NSCIS - SEEMS ME HAD TOTAL CONTROL. - FINANCIAL SEC INPUT.
  - DO NOT REPORT TO ME. → NSCIS
  - REPORTED TO NOBODY. DCM (SPOKE TO) IN RELATION TO BREXIT
  - NSCIS - FROM WHAT I CAN INTERPRET - YES.
  - DISREGARD INSTRUCTION FROM CM → NO. POLICY / ADMINISTRATION.
    ↘ OBLIGED TO FOLLOW FINAL INSTRUCTION.
  - INDEPENDENT REVIEW - DG. ↘ LAWFUL INSTRUCTION

DCM - STARTS NSCS - EARLY ON. - BLANDS
- IT DEVELOPS - BCA, CUSTOMS, RGP - DCM LOST TRACK

- PROCEDURALLY - LEFT WANTING. - HMGOG

- DATA - STORED 3RD PARTY - DATA PROTECTION OFFICER. - REPORT.

CDRR - FCO, D. GOVERNOR

102

(2)

CONTRACT – VIEW OF HMGOG – FIN SEC.

MARK ZAMMITT –

– PROS TO PROVE BEYOND REASONABLE DOUBT – DIDN'T HAVE AUTHORITY.

CS – 3½ – WHATSAPP CHATS AT TIME – TC + CS

(91) 25/9/19

GRECH – 0930.

UNDERSTANDING OF OWNERSHIP – PAY LICENCE FEE / MAINTENANCE FEE

- MONTHLY. (INVOICE)

- DCI BF
- DI MW
- DC PC
- DG
- LLOYD
- COLIN

- 1. ONLY ON BREXIT RELATED MATTERS. – BREXIT CONTINGENCY.
  - NSCIS – SEEMS HE HAD TOTAL CONTROL. – FINANCIAL SEC INPUT.
  - DID NOT REPORT TO ME → NSCIS
    (SPOKE TO)
  - REPORTED TO NOBODY. DCM IN RELATION TO BREXIT
  - NSCIS – FROM WHAT I CAN INTERPRET – YES.
  - DISREGARD INSTRUCTION FROM CM → NO. POLICY/ADMINISTRATION.
    → OBLIGED TO FOLLOW EMAIL INSTRUCTION
- INDEPENDENT REVIEW – DG → LAWFUL INSTRUCTION

- DCM – STARTS NSCIS – EARLY ON. – BLANDS
- IT DEVELOPS – BCA, CUSTOMS, RGP – DCM LOST TRACK
-

- PROCEDURALLY – LEFT WANTING. – HMGOG

- DATA – STORED 3RD PARTY – DATA PROTECTION OFFICE. – REPORT.

- GDPR – FGO, D.GOVERNOR

Transcribed by DS Clarke

Typed Copy of Page 92 of Daybook 1 of DS Clarke

92

CONTRACT – VIEW OF HMGOG – FIN SEC

MARK ZAMMITT –

- PROS TO PROVE BEYOND REASONABLE DOUBT – DIDN'T HAVE AUTHORITY.

CS – 362 – WHATSAPP CHATS AT TIME – TC + CS

Transcribed by DS Clarke

OPERATION DELHI

File Note

Date: 25th September 2019

Subject: Meeting – Darren Grech

On Wednesday 25th September 2019 at 0930hrs I attended a meeting with Darren Grech, Chief Secretary of HMGOG with DCI Finlayson and Insp Wyan.

I made notes of this meeting on pages 91-92 of my daybook.

DC130 Paul Clarke

(78)

MEETING DPP - CHRISTIAN ROCCA. - 1300

BF

MW

- FISCHEL - WATHERAN OFFER DUE TO REPRESENTATION OF TC + JP.
  - REMIND DOCUMENTATION PROVIDED WAS FOR FEA ONLY.

- LEGAL PRIVILEGE - COULD WRITE TO TC + JP TO WELCOME VIEWS ON PRIVILEGE. NOT EVIDENTIAL IN INVESTIGATION. XX
  WAIVE LEGAL PRIVILEGE?

NAT SECURITY - CHIPOWNA - NOT PH. - ALREADY IN PUBLIC DOMAIN.
  - ELABORATE NS - LIVE EXAMPLE

OFFICIAL SECRETS ACT - CS, AC - STRICT LIABILITY?
  - MISDEMEANOUR - HOW DO WE DEAL WITH IT?

CHIPOL - WITNESS?

CONSPIRACY TO DEFRAUD - INSIDE PEREL -

COMPLAINANT? - STATEMENT ON BEHALF OF HMCOG.

Typed Copy of Page 78 of Daybook 1 of DS Clarke

(78)

MEETING DPP – CHRISTIAN ROCCA -1300

BF

MW

- FISCHEL – WITHDRAW OFFER DUE TO REPRESENTATION OF TC + JP.
- REMIND DOCUMENTATION PROVIDED WAS FOR EA ONLY.
-

- LEGAL PRIVILEGE – COULD WRITE TO TC + JP TO WELCOME VIEWS
  ON PRIVILEGE. NOT EVIDENTIAL IN INVESTIGATION.
  WAIVE LEGAL PRIVILEGE?

NAT SECURITY – CHIPOLINA – NOT PII. – ALREADY IN PUBLIC DOMAIN.

- ELABORATE NS – LIVE EXAMPLE

OFFICIAL SECRETS ACT – CS, AC – STRICT LIABILITY?

- MISDEMENOUR – HOW DO WE DEAL WITH IT?

CHIPOL – WITNESS?

CONSPIRACY TO DEFRAUD – INCLUDE PEREZ –

COMPLAINANT? – STATEMENT ON BEHALF OF HMGOG.

Transcribed by DS Clarke

OPERATION DELHI

File Note

Date: 4th September 2019

Subject: Meeting – DPP

On Wednesday 4th September 2019 at 1300hrs I attended a meeting with Christian Rocca, Director of Public Prosecutions at OCPL Offices with DCI Finlayson and Insp Wyan.

I made notes during this meeting on page 78 of my daybook.

DC130 Paul Clarke

7/1/20.

DPP - 1430.

- EXPERT STATEMENT PRIOR TO CHARGE.
- SUMMARY - AS MUCH DETAIL AS POSSIBLE.

KB - WHAT TO LOOK FOR ON TC COMPUTERS.
- SEALED USB - EXHIBITS + STATEMENT.

JOG - TIMELINE
- FLOW CHART NAME.
- SCREENSHOTS OF MODIFIED FOLDERS
- 2ND STATEMENT - RE-INDEXING
- EXHIBITS - 2ND STATEMENT.
- SEALED USB - EXHIBITS + STATEMENT

GAGGERO - EXHIBITS - USB.

(32)

17/1/20

DPP – 1430

- EXPERT STATEMENT PRIOR TO CHARGE
- SUMMARY – AS MUCH DETAIL AS POSSIBLE

KB – WHAT TO LOOK FOR ON TC COMPUTERS.
- SEALED USB – EXHIBITS + STATEMENT.

JOG – TIMELINE
- FLOW CHART NAME.
- SCREENSHOTS OF MODIFIED FOLDERS
- 2ND STATEMENT – RE-INDEXING
- EXHIBITS – 2ND STATEMENT.
- SEALED USB – EXHIBITS + STATEMENT

GAGGERO – EXHIBITS – USB.

Transcribed by DS Clarke

OPERATION DELHI

File Note

Date: 17th January 2020

Subject: Meeting – Director of Public Prosecutions

On Friday 17th January 2020 at 1430hrs, I attended a meeting with Christian Rocca, Director of Public Prosecutions at the OCPL Offices with Insp Wyan.

During the meeting, the summary of evidence was discussed.

I made brief notes of this meeting on page 32 of my daybook 2.

DS130 Paul Clarke

Commissions of Inquiry Act

INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

Convened by a Commission issued by His Majesty's Government of Gibraltar on 4th February 2022 in Legal Notice No.34 of 2022

EXHIBIT PC11 TO THE SECOND WITNESS STATEMENT OF DETECTIVE SERGEANT PAUL CLARKE

MEETING OCPL - MARK W/AS MARK ZAMMITT

CHARGES -

COMMON LAW - CONSPIRACY - BLAND LTD.

JE, JP, CS BETWEEN 1st APRIL 18 - 13th APRIL 19

DISHONESTLY - CONTRACT
- MISCONDUCT (CS)
- COMP MISUSE
-

1) BREACH OF CONTRACT -
2) COMP MISUSE ACTS - ACCESS
ACTS - INTER/RECKLESS IMPAIR
CAUSING/RECKLESS RISK SERIOUS DAMAGE
3) INAPPROPRIATE COMMS W/M HM GOC → PRESSURE.

[illegible] CNAL GISH ACCESS TO COMPUTER PROGRAM OF

CS, - 1/4/18 - 17/4/19 -

9/9/20 - 1PM. - DPP.

Typed Copy of Page 161 of Daybook 2 of DS Clarke

(161)

04/09/20

MEETING OCPL – MARK WYAN MARK ZAMMITT

CHARGES –

COMMON LAW – CONSPIRACY – BLAND LTD.

TC, JP, CS BETWEEN 1ST APRIL '18 – 17TH/APRIL '19

DISHONESTLY – CONTRACT
- MISCONDUCT (CS)
- COMP MISUSE
-

1) BREACH OF CONTRACT –
2) COMP MISUSE ACTS – ACCESS; ACTS – INTENT/RECKLESS IMPAIR; CAUSING/CREATING RISK SERIOUS DAMAGE
3) INAPPROPRIATE COMMS WITH HMGOG → PRESSURE.

CAUSING THE UNAUTHORISED ACCESS TO COMPUTER. PROGRAM ETC.

CS, - 1/4/18 – 17/4/19 –

9/9/20. – 1PM – DPP

Transcribed by DS Clarke

OPERATION DELHI

File Note

Date: 4th September 2020

Subject: Meeting - DPP

On Friday 4th September 2020, I attended a meeting with the Director of Public Prosecutions with Insp Wyan and Crown Counsel Mark Zammittt.

The purpose of the meeting was to discuss charges of the subjects.

I made notes during this meeting on page 161 of my daybook 2.

DS130 Paul Clarke

DPP 0930 - 11/9/20.

CHPOL - 18th December - Chat - Lecs on at Home.
'18

To B Decided - Summons?

Wavertrex - Emails -

Computer Mouse -

Poll - Wavertrex Emails +
Conversation Cap +
April Email Deletion.

Summary - Detail Specimen Charges.

4 CRWS Sewer 7 - OLB 39.

Typed Copy of Page 171 of Daybook 2 of DS Clarke

(171)

11/09/20

DPP 0930 –

CHIPOL – 18TH DECEMBER – CHAT – LOGS ON AT HOME.
'18

TO BE DECIDED – SUMMONS?

WAVETECX EMAILS –

COMPUTER MISUSE –

PEREZ – WAVETECX EMAILS +
- CONVERSATION COP +
- APRIL EMAIL DELETION

SUMMARY – DETAIL SPECIMIN CHARGES.

4 CRNS SERVER 7 – OLD 39.

Transcribed by DS Clarke

[illegible]

MEETING - DPP. 0900.

- MARK [illegible]
- CI [illegible]
- DC [illegible]

SENSITIVE MATERIAL -

KEYWORD SEARCHES - DEFENCE LISTS.

DOCKET -

FRONT PAGE - DONE

STATEMENTS -

MR - PROCEDURE FOR AXIOM EXTRACTION ETC.

JMR

MW

JO + ASP AG

JOC + KB → WHAT EXHIBITS TO USE → HOW TO PRESENT.

IAN MACKIE

UMER - JAMMY / MOSSI

EXHIBIT LIST

WITNESS LIST + AVAILABILITY → BY PCMH 21/10.

CIVILIAN / POLICE PREVIOUS → DONE.

NCA / MTCU - COLLATE ALL MATERIAL → USBS ETC.

Typed Copy of Page 191 of Daybook 2 of DS Clarke

(191)

25/09/20

MEETING – DPP. 0900

- MARK ZAMMITT
- CI WYAN
- DC SAXBY.

SENSITIVE MATERIAL –

KEYWORD SEARCHES – DEFENCE LISTS

DOCKET –

FRONT PAGE – DONE

STATEMENTS –

ME – PROCEDURE FRO AXIOM EXTRACTION ETC.

JAMIE

MW

RDP

JO + AG

JOG + KB ⟶ WHAT EXHIBITS TO USE ⟶ HOW TO PRESENT.

IAN MACKIE

UMEE – JIMMY IMOSSI

EXHIBIT LIST

WITNESS LIST + AVAILABILITY ⟶ BY PCMH 21/10.

CIVILIAN / POLICE PREVIOUS ⟶ DONE.

NCA/HTCU – COLLATE ALL MATERIAL ⟶ USBS ETC.

Transcribed by DS Clarke

OPERATION DELHI

File Note

Date: 25th September 2020

Subject: Meeting - DPP

On Friday 25th September 2020, I attended a meeting with the Director of Public Prosecutions with Mark Wyan, Daniel Saxby and Crown Counsel Mark Zammittt.

The purpose of the meeting was to discuss disclosure.

I made notes during this meeting on page 191 of my daybook 2.

DS130 Paul Clarke

OPERATION DELHI

File Note

Date: 23rd October 2020

Subject: Meeting – DPP

On Friday 23rd October 2020, I attended a meeting with the Director of Public Prosecutions with Mark Wyan, Paul Richardson, and Crown Counsel Mark Zammittt and Kerrin Drago.

The purpose of the meeting was to discuss disclosure.

I made notes during this meeting on page 30 of my daybook 3.

DS130 Paul Clarke

(39)

MEETING - DPP MZ. PL. MW.
1100 VERLIN DIAGO

→ [illegible] ON TIME PCMH 25/11/20

DISCLOSURE -

[illegible]

6 MONTHS - 6-8 OFFICERS - WHERE FROM? + MZ?

KEYWORDS - DEFENCE - NOT RECEIVED. - JP + TC

DISCLOSURE PLAN / MANAGEMENT STRATEGY.

DTC, OLD OCPL OFFICES, EUROPORT?

128

Typed Copy of Page 30 of Daybook 3 of DS Clarke

(30)

MEETING – DPP MZ, PR, MW,

1100 KERRIN DRAGO

→ DOCKET ON TIME PCMH 25/11/20

DISCLOSURE –

NUIX – EXPLAINED

6 MONTHS – 6-8 OFFICERS – WHERE FROM? + MZ?

KEYWORDS – DEFENCE – NOT RECEIVED. – JP + TC.

DISCLOSURE PLAN / MANAGEMENT STRATEGY.

DTC, OLD OCPL OFFICES, EUROPORT?

Transcribed by DS Clarke


14:38
GPF Board Members
Albert, Alfred, kevin, Lee, Maur...
Henry Bautista 17 October 2018
Dear All
The Commissioner of Police has requested all board members of the Federation to attend to a meeting at COP's office on Friday 19th October 2018 at 15.00 hrs.
Kind regards
Henry J Bautista 16:49
Anna Jones
17:02
17:06
Albert Fernandez
17:29
Maurice Morello

Federation Secretary

From: Anna Jones <anna.jones@gibpolfed.org>
Sent: 28 November 2018 09:29
To: Frank Barton; (RGP) Fernandez, Albert; (RGP) Garcia, Alfred (PC038); (RGP) Morello, Maurice (PS032); (RGP) Pozo, Lee (PC155); (RGP) Simpson, Leif (PC206); Henry Bautista
Subject: Joint Working agreement
Attachments: Survey Joint Working Agreement.docx

Dear All,
We've had to cancel a command team meeting today as we hadn't yet had a meeting with everyone to finally be able to sign off the agreement or not. Unfortunately Henry is ill and won't be in for the rest of the week. We need however to get this formalised asap so that Henry and I can meet with them early next week.
As we briefly discussed in our last meeting, The COP and SMT have been liaising with a company called AAP which seem to the very reputable in their field. Henry and I have been copied into correspondence in relation to the company. The other thing that has been mentioned by COP is how this will be funded. He has asked if the GPF would be prepared to contribute. Whilst at first that sounds like a bad idea, in a completely personal view, I feel it may be a good idea, depending on costs. The first thing we all become suspicious of is the fact that if the organisation is paying then they'll err on their side. If we are also paying then their loyalty if you are concerned about their integrity is also for the Federation. As I say that is completely personal view and I'll go with majority there.
It clearly states in the working agreement that Terms of reference will jointly be agreed.
If anyone can meet this week please let me know.
Best
Anna

Anna Jones
Secretary

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
[redacted]

Email: anna.jones@gibpolfed.org

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3rd December 2018

Joint working agreement between the Office of Commissioner of Police

and the Gibraltar Police Federation

Information;

On June 15, Gibraltar Parliament enacted the Gibraltar Police Federation (GPF) in law as an independent body and it currently represents a high percentage of the Police workforce (94%).

One of their internal tasks was to engage a private entity to provide statistical data to a number of key Police issues that they felt was needed, regarding working conditions and welfare. From 1st August, 2018, to 3rd September 2018, Federation members were given the opportunity to complete an online survey. The result of which were subsequently made public on 24th September 2018.

On 27th September 2018, the Commissioner of Police responded to the Workforce in Force orders 39/18, expressing his commitment to address the issues raised in the online survey together with GPF.

Joint Working Streams;

It is agreed that the Commissioner of Police and his Command Team, and the GPF will continue to work together for everyone's benefit, inclusive of non-members, to address the issues that have been raised in the survey, providing subsequent documented progress made by the Joint Working Group.

The workstreams will focus solely and will include governance in the following areas of concern;

- Human Resources
- Allegations of bullying
- Estates
- IT Infrastructure
- Overworked/work Related Stress and Burnout
- Morale
- Health and Safety

Independent Review;

In consultation, parts of, or all of the work streams, may be subjected to independent review, providing transparency, accountability and good governance. Partners whom are reputable in this field of consultation should be agreed by the Commissioner of Police, Command Team and the Gibraltar Police Federation. Terms of reference should be agreed by all parties and instruction to act should be made jointly.

Review of Progress;

It is agreed between both parties that there will be fortnightly reviews of the different joint working streams.

Media Strategy

It is agreed between both parties that in the interest of maintaining good dialogue and accurate information throughout this process, with their best endeavours and in good faith, only future press releases regarding any matters connected to the survey or the work streams, are agreed before and are jointly released.

Signed: _____

Commissioner of Police
Ian McGrail OTM MSc

Signed: _____

Chairman of the Gibraltar Police Federation
Henry J Bautista

Royal Gibraltar Police

A review to contextualise recent staff surveys and underlying issues

AAP Associates

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ROYAL GIBRALTAR POLICE

Executive Summary

The suggestion that there is bullying and harassment in the Royal Gibraltar Police (RGP) is not new. It has been a matter for occasional debate both internally and publicly in the local media for many years. Various attempts have been made to understand the issues and act; but the suggestion has persisted.

A staff survey prepared and circulated by the new Royal Gibraltar Police Federation (RGPF) was conducted by them for the first time in late 2018 and once again brought the issue to the fore; leading to some differing views between the RGPF and the Commissioner. The findings of that survey, if true, were concerning and led to a number of working groups being established by the Commissioner. The RGPF were invited to these groups.

AAP Associates (AAP) were asked to provide consultancy support to the Commissioner to better understand these issues and to examine the effectiveness of the current approach to dealing with them.

We interviewed about 150 staff members from all RGP departments. These interviews took place individually and in focus groups. In addition, we were also pleased to interview the Commissioner, Assistant Commissioner and all members of the senior management team as well as the former and current chair of the RGPF and members of the RGPF board. During two on site phases we also visited much of the police estate and examined vehicles and personal equipment. In addition, all grievance files, ten personal files and ten evidence files were examined.

We concluded that there was not systematic bullying in the organisation but that there was some evidence of bullying and harassment by a minority of managers, supervisors and peers that was not being reported and consequently not being addressed.

We examined the use of the force grievance procedure and concluded the system was not trusted and hardly used. We have suggested ways in which confidence in the procedure could be improved by a tailored RGP approach with lead supervisors, oversight, independent monitoring and mediation. We emphasise the importance of senior managers being consistent in acknowledging there is some bullying and harassment, as there is in many other organisations.

We also examined concerns expressed by staff about the poor quality of the police estate, some vehicles and information technology but found there to be a sense of pragmatism amongst staff about how quickly improvements could be achieved notwithstanding the negative impact this has on their working lives and their efficiency.

At the core of many staff concerns was not the buildings or equipment but people issues; particularly being treated fairly and having consistent decision-making. We have made suggestions in this report as to how fairness and consistency might be improved in key areas that

particularly concerned staff. We recognise that addressing many of these issues is already underway within the seven joint working groups established by the Commissioner, but, for understandable reasons progress in some of these groups has been slower than everybody expected.

We concur with the current rationale for each of these working groups but believe some of these groups will need to merge and be aligned over the next few months as the work picks up pace. The RGPF are members of all the working groups and now that they have newly elected board members, will also be better placed to make an effective and positive contribution. It will also be important to ensure that regular updates are communicated to staff. The Commissioner is monitoring progress of these groups and is keen to ensure positive results.

The RGPF survey proved to be a significant area of debate. We found that although the approach and questions could be improved that nevertheless many staff believed it offered another opportunity to express their views to help improve the service. We found that many of the issues raised in the survey were also raised in our staff interviews, but we were able to gain more detail. In this report we examine the RGPF and the RGP surveys and make suggestions for their further improvement. We have been pleased with the positive view taken by the RGPF in our discussions with them about developing the survey and of the RGP in taking a constructive approach to dealing with many of the issues through the working groups.

The RGP survey also offers a rich source of information about the force but could be further enhanced. We consider that although the time may not currently be right to undertake a joint survey that at the least the RGP and RGPF should work together to coordinate and plan their respective surveys.

The new RGPF Board know it has a significant role to fulfil on behalf of their members in working with the Commissioner and senior managers. To assist their progress, we set out our advice that will help establish the new RGPF board with a structured and evidence approach offering the prospect of effective representation.

We are pleased that the new RGPF board and the Commissioner have expressed a clear intent to work together while recognising their distinctly different roles and responsibilities. We are confident that our findings will contribute towards the future success of that working relationship. We conclude by expressing our thanks for the way in which staff have engaged with this process and to offer our continued support.

Chapter one

1.1 Our commission

On the 4 January 2019 AAP was invited by the RGP to provide independent consultancy support to the Commissioner in order to contextualise the findings of recent surveys, assist RGP and the RGPF to better understand the problems, and to examine the effectiveness of the current approach. The RGPF survey in particular had highlighted a range of important issues including allegations of bullying and harassment and health and safety concerns that would benefit from independent, expert evaluation.

The evaluation was conducted in two phases; the first between the 15 April 2019 and the 18 April 2019 and the second between the 29 May 2019 and the 31 May 2019. The evaluation was undertaken by two AAP Directors with extensive policing experience as senior police officers in England and Wales and as former senior members of Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services. In addition, the evaluation was supported by an AAP Associate who was a former senior police officer and long-standing Chair of the Police Federation of England and Wales. This report represents our independent views based on our strategic, operational, police federation and inspection experience.

1.2 Terms of Reference

The terms of reference were agreed as follows: -

"To provide independent support to the RGP Commissioner in order to contextualise the findings of recent surveys, assist RGP and the RGPF to better understand the problems, and to examine the effectiveness of the current approach to dealing with the issues".

1.3 Methodology

We first met with the Assistant Commissioner and RGPF officers in London to detail the requirement and time scales[1]. A comprehensive review of all the documentation provided was undertaken following submission of a document request. This included, but was not limited to, the RGP staff survey, the RGPF survey, related project plans, action plans and proposals, grievance procedures, bullying and harassment policies and information and data about current reporting levels.

We examined the procedures that RGP has in place to prevent workforce bullying and harassment and the procedure to investigate them. This included the RGP policies, procedures, training and ethos against good practice. The effectiveness of the RGP grievance and procedures was also considered and included a review against good practice.

[1] An outline proposal by AAP Associates for Independent support to the Royal Gibraltar Police Commissioner and the Royal Gibraltar Police Federation.

Recent grievance investigations were also examined to assess their effectiveness and fairness. Staff knowledge of the procedures and level of reporting was tested, and an examination undertaken of the awareness and experience of supervisors and the capability of professional standards.

We also conducted a review as to whether there was evidence of systematic bullying and harassment. This involved examining current reporting levels, interviewing staff at all levels, offering opportunities for confidential disclosure and identifying any common themes.

An evaluation of the concerns raised in the RGPF survey about health and safety issues was undertaken. This included interviewing staff, examining personal safety equipment, the records of use, the effectiveness of vehicles and related equipment and assessing relevant policy.

We also undertook a review of the RGP and RGPF surveys in order to offer guidance about the preparation and use of surveys.

During this work programme we interviewed about 150 staff members from all RGP departments. These interviews took place individually and in focus groups. We also listened to staff members who approached us confidentially outside the interview process. In addition, we were also pleased to interview the Commissioner, Assistant Commissioner and all members of the senior management team as well as the former and current chair of the RGPF and members of the RGPF Board. We triangulated evidence with managers, supervisors and peers and where feasible with documentary examination. During the two on site phases we also visited much of the police estate and examined vehicles and personal equipment. In addition, all grievance files, ten personal files and ten evidence files were examined.

The AAP team recognise the inconvenience that any such process can cause and are grateful for the full co-operation and support that were given to us by so many people. We were particularly impressed by the number of staff members that had the courage to discuss personal matters with us and take us into their confidence in order for the organisation to learn and improve. We respect that confidence and focus in this report on the organisational issues those disclosures revealed.

1.4 Overview

Gibraltar is a British Overseas Territory and is home to over 30,000 people, with thousands more commuting daily across the land border with Spain. Located on the southern end of the Iberian Peninsula at the entrance to the Mediterranean Sea, Gibraltar is a major tourism and leisure destination, which receives approximately 10.5 million visitors a year, many of whom arrive on cruise ships. The economy is growing fast with general trade, the provision of financial services, communications, e-gaming, tourism and maritime activities.

The RGP has a unique policing challenge and is responsible for the preservation of the peace; the maintenance of law and order; the prevention and detection of crime; the apprehension and

guarding of offenders; and the protection of property. Community expectations of the service are high, with the RGP striving hard to be equal to those expectations.

To enable the RGP to deal with these responsibilities, the force has a budget of 16.167m in 2018/19. This provides for 240 officers and 44 members of support staff. RGP is led by a Commissioner of Police and is overseen by the Gibraltar Police Authority (GPA), an independent body.

Until 2018 police officers were represented by a Police Association but in 2018 the RGPF was established in law[2] in order to represent members of the Force in all matters affecting their welfare and efficiency[3]. It was established as being entirely independent of and unassociated with any body or person outside the Force[4].

On the 22 May 2019 a new Police Federation Board was elected by members; this included a new chair and secretary. Both the new Board and the Commissioner have expressed a clear intent to work together while recognising their distinctly different roles and responsibilities.

1.5 Report Structure

The report is structured around the terms of reference and following this introduction in **Chapter One** we start with an assessment of the measures in place to prevent workforce bullying and harassment and its procedures to investigate allegations in **Chapter Two**. The chapter is set out under headings of grievance procedures, professional standards policy and the code of ethics for ease of reference. An examination as to whether there is evidence of systematic bullying and harassment is the subject of **Chapter Three**. We were also asked to focus upon concerns raised about health and safety issues and the evidence we found forms the content of **Chapter Four.** Key areas are set out under the respective headings of staffing, workloads and sickness. In **Chapter Five** we consider the RGPF survey and the RGP survey. The RGPF survey had already proved to be a significant area of debate and we have sought in this chapter to provide a view that moves that debate away from the process and focuses upon the findings. The new Federation Board knows it has a significant role on behalf of their members in working with the Commissioner and to assist this to happen we include our views that might assist the new Police Federation Board. This forms **Chapter Six.**

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[2] Police Amendment Act 2018 that amended the Police Act 2006

[3] There are exceptions including questions of promotion affecting individuals; and questions of discipline although the Police Federation may represent a member of the Force at any stage of disciplinary proceedings brought under regulations made in accordance with section 79.

[4] The Government may, on the recommendation of the GPA authorise RGP or a branch of the RGP to be associated with a person or body outside the police service in such cases and manner, and subject to such conditions, as it may specify; and vary or withdraw an authorisation previously given. (Section 52 (2)

Chapter Two

Assess the measures RGP has in place to prevent workforce bullying and harassment and its procedure to investigate allegations of bullying and harassment.

2.1 The purpose of a grievance policy

A grievance policy is designed to maintain good employee relations by providing a means of dealing with and preventing further grievances in the workplace effectively and expediently. The policy should aim to address grievances that cannot be resolved informally at the appropriate level of management. The procedure should provide the framework by which views can be expressed freely and without prejudice and to have those issues resolved in a fair and equitable manner. It is always best to try to address workplace grievances informally and at as early a stage as possible. However, if a grievance cannot be resolved in this way, then having a formal procedure in place can help avoid later legal action. The effective handling of staff grievances has a positive and productive impact on staff wellbeing. It enhances staff loyalty and reduces absenteeism, undisciplined behaviour and poor work.

2.2 RGP Grievance procedure

RGP introduced a grievance procedure in 2007 which was reviewed and relaunched in 2017. A further review took place in May 2018. The introduction to that procedure states that "This shows the RGP's commitment to equal opportunities for all police officers, support staff, trainees and temporary employees". The policy is that bullying, and harassment should be reported through the grievance procedure.

While the grievance procedure sets out the broad scope, there could be more detail, especially when compared to the grievance procedures used by other forces[5]. It does however set out a four-stage process; an informal stage, a first stage for resolution by a departmental inspector, a second stage for resolution by a divisional chief inspector and a third stage for resolution by the divisional superintendent.

We found that this grievance procedure is not working effectively and that senior managers were seeking to improve the process. There was a slight improvement in 2018 when three grievances were recorded but there were none in 2017. It is clear from the interviews that some staff considered they had a grievance but would not report it. In the absence of a trusted system we found their grievances were often discussed openly and critically with peers, reinforcing perceptions about unfairness and consistency.

[5] Dorset Police grievance procedure is one such example. The Advisory, Conciliation and Arbitration Service (ACAS) code of practice on disciplinary and grievance procedures provides detailed guidance on the process.

2.3 Staff confidence in the RGP grievance procedure

During interviews we explored the reasons for the lack of confidence in the system. A commonly held view by staff members was that the process was akin to a complaint investigation. Many of them referred to the fact that RGP is a relatively small police force where everybody generally knows everybody else and that people have long memories. The consequent starting position for them was that the current system could never be fair. This must be overcome by taking positive action to ensure fairness to gain their confidence. We suggest a way forward in this report.

While there had been briefings when the procedure was introduced, we found that staff and supervisors had limited understanding how it worked in practice although most knew of its existence. A few interviewed knew that if the staff member does not want to discuss their grievance informally with their line manager, they could go direct to the first stage departmental inspector. Even then staff did not consistently consider this to be an action they could legitimately take as they believed it would be viewed negatively by that supervisor. Consequently, the perception was that it would not lead to a resolution but recrimination.

It was also clear from supervisors and managers that they were not consistently clear about how to handle a grievance. We did see an example of a minor matter that should have been dealt with by a first line supervisor being unnecessarily escalated by them rather than dealing with it themselves.

2.4 Building trust in the RGP grievance procedure

The current RGP grievance procedure is modelled on the procedures commonly seen in England and Wales. All England and Wales forces have a greater number of staff and supervisors and have a greater number of options to resolve grievances, such as staff moving departments, areas or police stations where it assists resolution. Due to RGP having one main police station, fewer departments and fewer staff less resolution options are available.

Grievances are best dealt with informally at an early stage, with the immediate line manager. This gives everyone involved a chance to resolve matters effectively before they escalate.

However, where there is a reluctance to report matters to supervisors informally, it becomes important to have a formal procedure for handling grievances. We take the view that the force would benefit from a tailored RGP grievance procedure.

There is a critical need to build trust in the system. An important way in which RGP could consider building that trust is by reviewing who deals with each of the formal grievance stages. Currently all supervisors might have to deal with a grievance. The current policy also directs staff to their own line manager.

2.5 Grievance champions

RGP could consider appointing just a few supervisors as grievance handlers to whom staff from any department or unit could refer their grievances. Supervisors could be selected for their skills and experience and the staff could refer to those in whom they had the most confidence. Managers for stage two grievances could also be selected for their skills and experience. Selection for these posts would be a management decision.

These grievance 'champions' could also have a proactive role in briefing staff on the grievance process. Such a role is intended to enhance, not compromise, supervision and management. In time, when reporting grievances becomes a trusted process, RGP can then decide if more grievance handlers were appropriate, leading to a point where the procedure is the norm and all supervisors have a direct role. Such a process should not stop a member of staff just talking to their supervisor to informally resolve problems. However, if they do not wish to do so or it becomes a grievance then the new process would ensure the matter is dealt with by an experienced grievance handler.

2.6 Oversight

In addition, independent oversight of the grievance process would help to build trust and confidence in the process and to ensure that it remains consistent.

The GPA have the responsibility, among other responsibilities, to secure the maintenance of an efficient and effective police force within the financial resources available to it and on a value for money basis, to ensure high standards of integrity, probity and independence of policing and to establish, operate and supervise the process for investigating complaints against police officers. The GPA has a role in providing that independent oversight and should have anonymised information submitted to them for scrutiny and be provided with relevant statistics alongside other force data.

2.7 Independence

In order to build staff confidence in the grievance procedure it would be helpful if there was an individual who had specific oversight and who could scrutinize the overall progress of cases. The person would not make decisions about the case but have access to the information to ensure that matters were being dealt with expeditiously. There is some logic in an individual member of the police authority having that responsibility – but if not, importantly an individual that is conversant with how grievance procedures should operate and be security vetted. This would be a positive step in gaining staff confidence.

2.8 Mediation

An independent third party or mediator can also be an option to help resolve disciplinary or grievance issues[5]. Individuals could usefully be identified by the force to fulfil this responsibility. Mediation is a voluntary process conducted by an independent third party where the mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator.

The mediator is not there to judge, to say one person is right and the other wrong, or to tell those involved in the mediation what they should do. The mediator oversees the process of seeking to resolve the problem but not the outcome. To be effective both parties need to be committed to reaching a solution. Mediators may be employees trained and accredited by an external mediation service who act as internal mediators in addition to their day jobs. They can be from an external mediation organisation. The RGP could usefully seek potential mediators to be available for appropriate grievance resolutions.

2.9 Learning from experience

Those invoking the grievance procedure could usefully be invited to participate in evaluation to assess its ease of use, overall effectiveness and to identify any potential areas for improvement. Any feedback received would then be considered and if appropriate, incorporated at an annual review. A point to where all feedback goes, either in writing or by e-mail, should be identified for that purpose.

2.10 Managerial ownership

For many staff that we interviewed grievances and complaints are the same in all but name. It is not surprising in a small organisation that this is the case as many of the supervisors and managers involved in the creation and dissemination of the policy have a professional standards background. To build staff confidence there needs to be a separation of managerial ownership of the grievance procedure and those matters investigated by the professional standards department. This extends to having different policy leads.

2.11 A relaunch of the grievance procedure

Once all the developmental points in this report have been considered there should be a relaunch of the new grievance procedure. Even then a new procedure alone will not make it work. The senior management need to ensure they are all in agreement with the importance of addressing bullying and harassment, acknowledging its presence in the workplace and take steps to act. RGPF should positively engage in this process in order to help resolve members grievances.

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[5] The Advisory, Conciliation and Arbitration Service (ACAS) Working for everyone guidance on bullying and harassment.

Leadership and setting good examples are critical to success in tackling bullying and harassment in any workplace.

RECOMMENDATION 1

RGP should introduce a grievance procedure that reflects the local needs as outlined in this report. This work should be prioritised, and it is suggested could be the core work for the bullying and harassment working group. It is also suggested that this should be completed in three months.

2.12 Professional Standards Policy

The RGP Professional Standards policy was approved in 2008 and last reviewed in February 2017. It is an overview of some professional standards issues and provides some guidance on how investigations should be conducted. Separately the team did see copies of information and guidance to managers in other documents. The policy aims to set out the organisational vision on professional standards and the mechanisms it will work with to ensure high professional and integrity standards are maintained.

2.13 The investigations

During interviews it was clear that some staff perceived there was a lack of openness and transparency with professional standards investigations and that this caused them anxiety. To an extent some anxiety is to be expected. We frequently heard claims that those investigated are not kept up to date with the progress of investigations and some cases investigations were underway without staff being aware. There will be circumstances when professional standards investigators cannot be as open and transparent about progress as staff would like them to be. However, we were advised senior managers do strive to keep people informed. To bridge this gap and to deal with staff concerns it would assist if senior managers were to place renewed emphasis on continuing to both record and check that staff are being appropriately updated.

2.14 Who deals with investigations?

The professional standards department consists of one chief inspector with direct support from one inspector. Most of the work is reactive with limited time for proactive work such as the monitoring or analysis of corruption triggers. These staff members are committed and deal with a wide spectrum of investigations. Early positive action by a first line supervisor is important in avoiding matters escalating but this is not happening consistently, adding pressure to an already busy department.

During interviews with sergeants and inspectors there was a frequent concern expressed about their not making a mistake. This is not unexpected given that RGP has many new supervisors. Clearly, these supervisors have responsibilities by virtue of the rank but in fulfilling those

responsibilities it could usefully be reiterated to them that making a mistake with honest endeavour and intent can be a learning process and not a fault.

2.15 Standards

It was also apparent that staff were not consistently clear about the standards expected of them. Coupled with supervisors having an uncertainty about how to deal with transgressions this leads to inconsistent decision making. it is vital that supervisors set standards and ensure intrusive supervision. The RGP should consider briefings and discussions with staff about standards of behaviour addressing such issues, for example, as the use of social media. This could be reinforced in publications such as the 'Bobby', the official magazine of the RGP.

2.16 Legal requirements

The professional standards department of course have clear legal requirements and policies that guide their investigations.[7] However where interdiction is a consideration there is no option of retaining an officer on duty with a non-public facing role. In addition, there is no effective process for informal resolutions to provide a pathway for early finalisation. Equally there is no effective route for confidential reporting or policy in place to protect whistle blowers.

We found staff generally unaware of the reasons why professional standards investigations must take a particular course and this gave rise to them being regarded by them as heavy handed and unfair. This is notwithstanding that during interviews with the senior managers they confirmed this was never their intent. This is also not reflected in the overall results as we were informed that of 61 complaints in the last 18 months only four cases proceeded to a discipline panel. Information about how the professional standards system works could usefully allay the concerns expressed by staff.

2.17 Awareness

There is a real opportunity now for RGP to deal with these issues by considering an in-Force awareness package that includes standards, the grievance procedure and the professional standards system. By exploring boundaries and providing examples of effective decision making it can only serve to reduce the sense of uncertainty expressed by interviewees.

[7] Police Act 2006, Police Complaints Regulation 2008 and the Code of Professional Standards for Police Officers 2007

RECOMMENDATION 2

RGP should introduce an in-force awareness package that includes standards, grievances and the professional standards system. Particular focus should be on exploring boundaries and providing examples of effective decision making. It is suggested that this could be the core work of the 'Low Morale' working group. It is suggested that the awareness package should be completed in six months.

2.18 Welfare

The force does have a police officer appointed as the welfare officer who has recourse to support from a qualified government welfare officer. She also networks with welfare officers from other departments. However, she is not professionally trained and has other important responsibilities. We raise this point later in discussing staff wellbeing but having continued support available to officers under investigation, particularly those interdicted, would demonstrate that apart from a supervisor maintaining contact, that those officers are still valued and appropriately assisted. In time RGP should consider civilianising this role but in the meantime, they should continue to support this important post.

2.19 Investigation results

When an investigation is concluded other members of staff will learn about the result, but those interviewed say this is usually through word of mouth and other informal channels. Through personal contact they often hear about the circumstances and draw informal conclusions about inconsistency of results and unfairness. The commissioner has taken the initiative and recently posted disciplinary results and further to that it is suggested that RGP could usefully ensure increased efforts are made to circulate relevant learning points to all staff.

2.20 Code of Ethics

The Code of Ethics should underpin every policy, procedure, decision and action in policing today and be an everyday business consideration.

The RGP Code of Ethics was approved in 2015 and is due for review. There are significant variations from the College of Policing code. This includes there being no reference to relationships for sexual gain, responsibilities in relation to business interests' associations and political activity, fitness for work, or a requirement to report action taken for criminal offences in any location against a person.

The College of Policing code sets out the importance of challenging and reporting improper conduct – including protection of whistle-blowers. The RGP code is less specific.

Officers were in the main generally aware about the RGP Code of Ethics but only a handful could highlight specifics, and this included supervisors. We are aware that the RGP Code of Ethics is to

be reviewed this year. Such a review could usefully seek the views of staff and the RGPF, as by participating in a discussion about the Code makes it more likely that staff consider they are part of it and consequently adherence to it is more likely.

RECOMMENDATION 3

RGP should bring forward their review of the Code of Ethics and values to ensure that it reflects local circumstances. Action should be taken to ensure there is renewed emphasis on the code through, briefings, publications, news items and other similar methods. It is suggested that this could be the core work of the 'Low Morale' working group. It is suggested that this should be completed in three months.

2.21 Annual Policing Plan

The current Annual Policing Plan makes only brief mention of the Code of Ethics at the outset. Delivery plan number 1 for goal 4 says that the RGP will strictly adhere to its values and Code of Ethics. It also refers to continuing to pursue equality, diversity and inclusivity in the workplace in delivery plan number 14. The RGP could usefully ensure that the Code of Ethics is given a much higher profile in the plan.

2.22 Working Groups

RGP has seven working groups recently established by the Commissioner. These were formed as a positive response to the RGPF survey. It is through these groups that many of the issues identified in this report will be addressed. The working groups are human resources, allegations of bullying, real estate, information technology infrastructure, wellbeing, low morale and health and safety. It is important that these groups are fully utilised to take the initiative to ensure improvement. However, the need for the working groups continued existence should be reviewed to eventually bring the resultant work into the day to day RGP business meetings. This will ensure the momentum is maintained and becomes part of day to day business including formal consultative meetings between the RGPF and the Commissioner.

RECOMMENDATION 4

RGP should review the seven workstreams in order to bring their work into the day to day force business meetings. It is suggested that this should occur not later than 12 months.

Chapter Three

Review whether there is evidence of systematic bullying and harassment.

3.1 Bullying and Harassment

There is some evidence of bullying and harassment in the organisation, but staff consider there is an improving position from the past. During focus groups, individual interviews and informal disclosures staff discussed examples with us. Some of these examples were of what they had seen or heard themselves and others what they had experienced personally. It was evident that there were some cases where bullying and harassment had occurred within the last two years.

We also heard of cases that, if true, amounted to blatant bullying and harassment, but most of these occurred many years ago. Some of these were cases over 10 years old that had been informally dealt with, but the negative experience had stayed with the individuals concerned and still had an impact on them many years later.

Other officers expressed the view that they had no personal experience of bullying or harassment.

It was however common to learn from interview that where bullying and harassment did occur it often involved perceived unfairness and inconsistency. For example, those interviewed say staff in specialised units are sometimes told minor infringements might result in their moving to a shift role. This can only reinforce a perceived view that a response officer shift or posting is not always valued. Equally some staff seeking promotion were told that the same minor infringement would affect their chances.

Equally some staff interviewed considered that some managers and supervisors were just providing strong leadership and that there was a gap between the longer service supervisors and newer recruits with differing expectations about how supervisory orders and instructions should be delivered.

We heard a variety of explanations from about 150 staff. There was a marked lack of clarity and hence understanding as to what amounted to bullying and harassment. The legal position regarding police officers being excluded from bullying at work in Gibraltar means there is an even higher responsibility on the Force to ensure working practices do not exploit staff or allow them to be treated unfairly in the workplace.

We take the view that bullying, and harassment is any unwanted behaviour that makes someone feel intimidated, degraded, humiliated or offended. A strong person shows good interpersonal skills, empathy for others and motivates. A bully lacks empathy for others, ridicules and demotivates others. It is not something that is necessarily always obvious or apparent to others and may happen in the workplace without an employer's awareness. Bullying or harassment can be between two individuals or it may involve groups of people.

It might be obvious, or it might be insidious. It may be persistent or an isolated incident. It can also occur in written communications, by phone or through email, not just face-to-face.[8]

For practical purposes though staff usually define what they mean by bullying or harassment. Something has happened to them that is unwelcome, unwarranted and causes a detrimental effect. If staff are concerned, they are being bullied or harassed, then they have a grievance which must be dealt with regardless of whether or not their complaint accords with a standard definition. There are often grey areas as to what is or is not bullying and harassment. We consider it to be good practise to provide examples to staff of what is considered unacceptable behaviour.

RGP should continue to use a variety of methods to ensure staff are made aware of this but importantly the senior management team should be unequivocal that it has no place in the RGP of today.

We concluded that there was not systematic bullying in the organisation but that there was some evidence of bullying and harassment by a minority of managers, supervisors and peers that was not being reported and consequently not being addressed.

In the United Kingdom surveys of workplaces, employees and health and safety representatives all indicate that there are problems with workplace bullying and ill treatment[9]. It is best prevented by strategies that focus proactively on ensuring worker wellbeing and fostering good relations, giving employees and managers the confidence to engage in early and informal resolution.

We saw no evidence of a separate bullying and harassment policy. The RGP could usefully consider framing such a workplace policy on bullying and harassment and this could be the vehicle that sets out the commitment of senior management[10]. This helps recognise the importance of the issue.

RECOMMENDATION 5

RGP should introduce a clear bullying and harassment policy that sets out the RGP acknowledgement, commitment and expectations. It is suggested that this should be developed in the bullying and harassment working group. It is also suggested that this should be completed in three months.

RGP should not underestimate the importance of including reference to tackling bullying and harassment in public reports and the policing plan. It is important in that it demonstrates an

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[8] This ACAS description of bullying and harassment is widely used in the United Kingdom and is pertinent to Gibraltar.

[9] Employment Research - Justine Evesson and Sarah Oxenbridge, David Taylor (ACAS) November 2015 Policy discussion paper

[10] ACAS Bullying and Harassment a guide for managers and employers sets out useful information as to what such a policy should contain.

acknowledgement that bullying, and harassment occurs and could set out an intent and willingness to act.

3.2 The acceptability of banter

During interviews the level of what was termed 'acceptable banter' was referred to regularly and the subject of debate. It was apparent that banter was not usually challenged by supervisors. Banter can easily become bullying or harassment. Clearly there is a difference between that and banter that encourages a good inclusive team dynamic. What was apparent though was the degree of acceptable banter we heard about appeared far removed from that we have experienced in England and Wales. Many of those interviewed endeavoured to describe it as cultural but this cannot be the case when it becomes focused upon or against an individual. This cannot be acceptable and will come to the fore with an effective grievance procedure but also in other circumstances given that RGP officers do attend UK courses.

3.3 Joint Learning

It was clear from our interviews that there was a lack of understanding of what is and is not unacceptable behaviour. Some joint learning through the bullying working group around promoting and rewarding the right behaviours could prove helpful.

RECOMMENDATION 6

RGP should adopt good practice and ensure that staff are provided with examples of what is and is not unacceptable behaviour in RGP. It is suggested that examples could be developed in the bullying and harassment working group. It is also suggested that this should be completed in three months.

Chapter Four

Evaluate the concerns raised in the RGPF survey about health and safety issues

4.1 The police estate, vehicles and equipment

During our visit we familiarised ourselves with the police estate, examined personal equipment, checked vehicles and learnt about the information technology available. It was clear that the police estate is in generally poor condition and that investment is badly needed to provide premises fit for a modern police force. We heard about the action being taken and the plans to improve the police estate, information technology and maintain the vehicle fleet.

We also examined the personal equipment issued to police officers and sought their views. Most staff were generally satisfied with their personal equipment. Some staff raised concerns about not having personal radios for major events and senior management explained their approach. However, most staff were pragmatic and understood that the police estate, vehicles and information technology involved long term planning and investment but considered they could be better informed about how this was progressing. This is a key area as many staff just did not know what was happening and in the absence of reliable up to date information considered that there was some inaction or that their concerns were not being heard. We are advised that drop in clinics, force orders and training days are already used to keep staff informed.

It was frequently expressed during staff interviews that other agencies in Gibraltar receive preferential treatment. We did not have the remit to investigate this and therefore cannot validate these comments, but the concerns of staff are genuinely felt. They suggest this makes them feel less valued. RGP and the RGPF clearly have a role in helping to understand these concerns. In some key areas such as police estate and information technology it should be possible for the RGP and RGPF to work together by having a common research goal and evidence-based approach and in doing so helping to either allay these concerns or provide further evidence for business cases.

The RGP currently has separate workstreams for Real Estate, Information Technology and Health and Safety in the workplace. There is a logic in these issues being separated but there is also a need for a clear strategy and approach to resolve the problems. The RGPF are members of each of these working groups and could usefully continue to work closely with the RGP in developing that approach.

RECOMMENDATION 7

RGP and RGPF should work together on the obvious improvements needed to the police estate, information technology and vehicles while recognising their different responsibilities through the relevant workstreams. This is a key area where a joint enterprise is beneficial to success

but importantly staff need to be kept apprised with progress. It is suggested that staff should be fully apprised within three months and then ongoing with appropriate information.

4.2 Staffing Issues

The working environment and equipment make a positive contribution to helping staff feel valued and enabling them to do their job effectively, but the predominant issue staff expressed concern about was the need for them and others to be treated fairly and consistently. This extended to the way duties were allocated, staff were selected for posts, how discipline cases were dealt with and how some supervisors operated.

We explored the reason as to why there might be the level of perceived inconsistency referred to by staff.

4.3 Duty planning

We interviewed resource management staff about how they allocate duties including long term event planning. These staff members strive to limit duty changes and for the most part appear to do a good job, but it is clear some departmental line managers do change officers shifts on a regular basis. This should be monitored holistically as for some officers the claim that their shifts are regularly changed is a fact. We are not suggesting single changes are inappropriate or indeed any specific number of changes are inappropriate but senior managers need to know the extent to which some individuals are being affected. By monitoring this centrally and being armed with this information senior managers can ensure some staff are not being unduly affected. It was noted however that where resource management changed staff shifts overtime was paid where it was appropriate to do so.

4.4 Staff Appraisals

An immediate observation is that staff have not had an appraisal in most cases for several years. In the absence of such a system decisions about staff development can be inconsistent even with the best of intent by supervisors. Senior Management recognise this is the case and have been working towards appraisals being included in wider improvements of human resource management. For good reason there have been significant delays in the introduction of a new system amid concerns about bureaucracy.

We would advocate that a staff appraisal system is so important these concerns must be cast aside with the introduction of a straightforward meaningful assessment process at the earliest opportunity. This should not be stand-alone but be central to decision making.

RECOMMENDATION 8

RGP should introduce a new appraisal system for staff. This work should be prioritised, and it is suggested should be the core work of the Human Resources workstream. It is also suggested that this should be completed in six months.

We asked managers and supervisors where they might source information and evidence currently when making decisions. The officer's own application, their personal knowledge, personal files and evidence files were all referred to.

4.5 Personal files and evidence files

RGP has a system where the force centrally retains a personal file for the officer and an evidence file is usually retained by the line supervisor. We examined ten random personal files and evidence files asking the staff member involved if they wished to be present. Two police officers took up that opportunity.

We were told that evidence included in the file should have previously been seen by the officer and noted. We found this did not always take place. Some information was incorrectly filed, in one case information should have been removed and in another case was not appropriate.

The perception of officers was that evidence files were about negative misdemeanours. We did see evidence of this but importantly there was no consistency as to the documents and information included in a personal file or an evidence file. In addition, we could find no evidence of any weeding policy. RGP should consider working towards one file and importantly ensure in the meantime that evidence files retained by supervisors are used for all relevant evidence, be it positive or negative and that is subject to a clear weeding policy.

4.6 Personal development plans

These plans are intended to be used to help a staff member enhance their skills and experiences in their current role or for the next role. Staff perceive that development plans have a negative connotation. It was consistently believed that they were a professional standards improvement plan and not a plan to enhance their career prospects. An effective appraisal system would identify staff development needs, including upskilling for officers who have spent some time in one department. This would lead toward a change in perception. Clarity could usefully be given as to the purpose of these plans, with managers and supervisors leading by example with their own personal use of developmental plans.

4.7 Promotions and transfers

The staff perceived there was unfairness in the promotion and transfer system. We did not examine all selection and promotion processes but when we made enquiries about particular cases found that for the most part managers and supervisors work hard to ensure they are fair

and that the selection rationale was honestly made with the best intent. However, many staff believe that the requirements for the posts and closing dates are not consistently applied. We found this led to the perception of unfairness in the system. Dealing with this perception is important. During any process there might be variations but if this is the case additional effort needs to be given to ensuring all candidates are aware of the rationale.

Clearly, the selection processes can only be enhanced by effective staff appraisals and improving the available information.

4.8 Staff Workloads

We do not have the remit to scrutinise shift patterns or allocation of resources, but concerns were raised in staff interviews about the demands placed upon them, the impact of sickness on workloads and the link these additional pressures have on some cases of bullying and harassment.

We asked senior managers about the plans that might improve the demand upon officers. We learnt that the RGP has taken positive steps supported by the GPA in striving to improve their understanding of demand in the organisation by using integrated information in the CYCLOPS system. This is a computer database that includes management of calls, crime, cases, intelligence and incidents with other databases being added for full integration. This remains work in progress and although integration of systems is proceeding at the time of our visit the full benefits had yet to be realised.

We also asked senior managers for examples of where action was being taken on specific issues It is evident that RGP have taken some action to reduce the demand on officers. One such example is the Commissioners policy decision to remove the need for police involvement in minor traffic incidents that could more appropriately be dealt with by insurance companies.

There have also been some positive steps to maximize resources with an RGP business case being accepted by the Gibraltar Government for the appointment of civilian custody detention officers rather than sworn police officers. Given the Commissioner has also seen recent success in the bid for additional police officers it bodes well that that there will be an increase of 25 police officers in addition to those released by civilianising police posts.

Staff interviewed suggested several other areas where workloads could be reduced. One point featuring regularly that we checked was that there is a high level of unnecessary paperwork caused by the requirement for a prosecution file to provide all the evidence, whether for a minor case or a serious crime. Others pointed to supervisors sending them to deal with minor matters such as non-crime problems with cats and placement of plant pots. Staff perceived there was an inconsistency between supervisors' requirements about incident attendance, notwithstanding there was a policy in place. Supervisors could usefully be reminded of that policy. All these

matters were readily disclosed by staff but there will be others and their ideas should continue to be openly sought.

It was also clear from the interviews that many supervisors did not have a grip on the workload of their staff. It is important that supervisors know this and act appropriately to ensure the fair allocation of work. In the absence of this happening an inherent sense of unfairness can develop.

We have read the report commissioned by the Gibraltar Police Authority in 2016[11] and agree with the strategic findings in relation to demand and resources. At the next level there is more that can be done to communicate with staff about what the Force is doing, what is expected of them and how they can help. This can only enhance their wider understanding of the action the Force is taking and help reduce their concerns about unfairness and inconsistency.

RECOMMENDATION 9

RGP should ensure they continue to focus upon initiatives to understand workloads and reduce demand. These initiatives should be grouped as an RGP approach and communicated to staff. Identifying new initiatives could usefully be identified as the core work of the 'Wellbeing workstream' and it is suggested a first tranche identified in three months.

4.9 Sickness and wellbeing

An effective sickness management policy aims to provide a framework to support staff who are unable to work due to illness, assist them back to work as quickly as possible and to reduce the impact on other staff who are covering for them. It is best considered as part of a broader staff wellbeing programme.

We found there was a need for improvement as although the RGP monitored sickness it was less able to manage it. It was pleasing to note from our interviews however that when a staff member or a direct family member is seriously sick or injured, they felt fully supported by managers, supervisors and peers.

However overall sickness and the impact on the remaining staff was a regular point raised by staff during our interviews. Staff who had to provide cover were encouraging more action to appropriately manage sick leave. There have been recent attempts to analyse sickness but at present force managers concur that sickness management could be improved. Return to work forms exist but are usually marked no further action, if completed, and make no contribution to the understanding of the problem. There is also no link between performance appraisal and

[11] Her Majesty's Inspectorate of Constabulary - An inspection of leadership, crime management, demand and resources 2016

sickness. Most staff regarded the ten days uncertified sick leave as a benefit. This is understood to be a common cultural view in Gibraltar.

We heard about work that was ongoing within the resource management team to develop an effective sickness management policy. This has been set back while the departmental Inspector is temporarily assigned to an external investigation but is a policy that warrants early development. The force does have a welfare officer post as previously discussed. An effective sickness management policy should be supported by the force welfare officer and have a strong focus on officer wellbeing.

RECOMMENDATION 10

RGP should introduce a new sickness management policy. This should be supported by a welfare officer that is afforded the time and training to fulfil the responsibilities effectively. It is suggested that the sickness management policy should be prioritised and taken forward by the 'Wellbeing' workstream. It is suggested this policy should be prepared in three months.

4.10 Civilian Staff

We noted that civilian staff feel valued, have annual assessments and those interviewed have been working for the force for many years. They are very positive about the organisation. These staff have an extensive and detailed knowledge of the force and how it works. Their value should not be underestimated in adding a useful perspective in the RGP work-streams.

Chapter Five

Review RGP and RGPF surveys and provide advice with guidance about the preparation and use of surveys

5.1 RGPF Survey

In 2018 the then newly established RGPF decided to undertake a survey of all federated staff members. The survey results were released internally and to the media and a response published by the Commissioner about the findings. We have not sought to analyse the events leading up to publication but instead have concentrated on providing our views about the use of such a survey. However, we do make comment that as the RGPF establish their new responsibilities it is important that they have a plan as to how they seek to use and publish the survey results. We would encourage the RGPF to do so in a way that also helps build trust with management. In that way the survey can make an effective contribution to force improvement.

5.2 Staff view

We found staff considered that the RGPF survey added a perspective to the discussion. One staff member, not directly involved in the planning for the survey, explained that he saw it "as *another way of us having a voice to improve the force by saying what needs to be done and what is going well*" That was a consistent view expressed by staff members.

However, the survey was not without some criticism. Staff expressed concerns about ensuring anonymity, the survey not being refined and some officers viewing it as not being entirely fair by asking a broad question that they sought to expand upon but with no avenue to do so.

5.3 Our view

We take the view that conducting such a survey is a positive step in an open and learning organisation. The attempt to gain a clear picture of the matters affecting RGPF members is helpful. It is only by identifying both areas of strength and weakness than improvements to policing can be assisted through the consultative mechanisms. However, the first survey can be improved upon and we consider it important RGPF now pause to review the next survey so as to enhance its future evidential value.

The information obtained from an effective survey can be used to assist an evidence-based approach to inform the RGPF in future discussions and negotiation with management. With a sound evidence base there is a stronger likelihood that the RGPF will be able to be successful in meeting their responsibilities.

5.4 Avoiding problems and pitfalls.

That said, it is important to recognise that there are some inherent problems and potential pitfalls from solely relying on the results gained from any survey. Survey results potentially offer an important view at a given time but if the survey results are to be used in business cases RGPF should take care to support the findings with other evidence.

In conducting research work it is of critical importance to ensure the correct methodological approach and some essential precautions are taken to be certain that the conclusions reached are the correct ones. The RGPF has elected to use what is termed a 'self-completion questionnaire' (SCQ) to gather the views of its membership. The use of the SCQ approach clearly has several advantages for the type of research being conducted by the RGPF. But with these advantages come a few caveats regarding its use.

People filling them in must understand exactly what is being asked of them. Instructions must be clear, and questions must be unambiguous to ensure different people do not interpret the questions in different ways. This is particularly the case when carrying out attitudinal surveys where feelings or beliefs are being tested.

There are specific precautions well documented in research literature, aimed at minimising the difficulties that badly worded questions or imprecise terms can cause. These include consistent trialling and re-editing of questionnaires in the light of field-testing. RGPF would find it adds validity to the process by taking such steps.

Any survey should aim to minimise the factors that might interfere with the validity of the information gathered from its user. These can be sources of either conscious or unconscious bias on the part of respondents when completing them. Often a trained interviewer can respond to potential bias as it emerges but a SCQ relies on identification of such potential bias and constructing questions to avoid them emerging.

5.5 Memory

One of the most common causes of bias in questionnaires about people's experiences are those caused by memory. One source is what is termed 'telescoping'. With this phenomenon, the respondent may genuinely believe that a very vivid or emotional event was a lot more recent than it actually is. In policing terms, victims of assault, sometimes believe that the assault happened far more recently than it actually did.

Researchers have recognised the value of what are termed 'anchor points'' to help people properly judge when an experience actually happened as opposed to when they may imagine them to have occurred. Sign-postings such as "since last Christmas" or "since last summer" have been found to significantly help the ordering of remembered events.

It is important to have these anchor points in time otherwise the respondents may include information from outside the period envisaged. For example, we spoke to a staff member who had 20 years police service and who had initial doubts about joining the police service who was now content with their role. We also spoke to a staff member who had recently thought about leaving the RGP. The current RGPF survey in asking "Are you or have you contemplated leaving the RGP" could place them both in the same category. RGPF could usefully review their survey to ensure there are relevant anchor points.

5.6 Social desirability

Another consideration when completing any survey is about how 'social desirability' might influence the results – the person completing the questionnaire being inadvertently drawn into providing the answers or comments that they believe are being looked for or will better conform to the social expectations around them. In the context of this survey, officers completing many of the questions posed were very familiar with what their colleagues or federation representatives might say if asked these questions publicly. Examples of this are "do you feel overworked" or "with the current minimum manning levels set by management, how safe do you feel carrying out your operational duties"?

As with many police forces it came as no surprise to us to find significant numbers within the survey were answering that these were current issues for them. However, RGPF care should take care when using such responses as evidence given the way the bias of 'social desirability' might work.

In any survey questions should be drawn up, tested and modified rigorously to ensure the truest possible answer is achieved and that there is no influencing of the respondent in any way. Without this care, a biased or distorted set of responses could be obtained. We advise RGPF to ensure that such tests are undertaken in order to enhance future surveys.

5.7 Types of questions

There is considerable guidance on question construction in the research about questionnaires, such as about leading questions or vague questions. A leading question is one that suggests an answer to the respondent. Its use in a questionnaire can make it less reliable. We would suggest that with the experience gained this year RGPF should review the leading questions in the survey.

A vague question is obviously one that includes vague words or phrases, whose meaning is not clear or commonly understood. Morale is an example. The issue with such a question is perhaps best summarised by one of the individuals who commented within the questionnaire itself, when they pointed out' *"As per perception of morale, depending who you are and who you know reflects on the morale of the individual."*

Similarly, the survey refers to bullying and victimisation in three separate questions and sets out the legal definition. These questions rely on staff members having a collective understanding and common interpretation of what constitutes bullying and harassment. Interestingly we found during our interviews that there is a lack of such clarity amongst staff about what these terms mean. By RGPF leaving it open to the respondent to make the judgement, there is the risk, for example, that episodes of robust management are interpreted and included as acts of bullying and harassment.

5.8 Survey comments

We have read the comments made by staff members in the survey and had the opportunity to hear some similar points from a few people during interview. The written survey responses expressed concerns about a wide range of issues. We studied this further. When the comments in the survey are clustered according to the numbered identifier of the respondent it became immediately noticeable that a relatively small cohort of individuals make the majority of these negative remarks. These individuals appear to contribute on almost every supplementary question posed in the questionnaire. This is in contrast to the majority of respondents. Most people, who make comments at all, are moved into adding the occasional comment on what could be termed "big ticket items." In this case it could be that a small group of RGP officers feel particularly badly affected by the operation of the force and they voice their concerns in a consistent and cohesive way. There may of course be other explanations, but the comments are not common to all staff. They are an indication of how some staff feel but may not necessarily be representative.

5.9 Survey opportunities

On the strength of the material available, the survey used by the RGPF has produced some interesting insights into the views of their members, but the results need to be taken in perspective. These areas are now the subjects of further research in the working groups established by the Commissioner aimed at organisational improvements.

The RGPF survey offers an opportunity to source valuable information from staff. It was pleasing to note that some of the responses in the survey reflect a desire for positive organisational change which we also found during our interviews. This could be the subject of further exploration as by engaging in new initiatives staff could make an effective contribution and gain a sense of ownership.

In addition, by continuing to review and improve this survey, the overall level of confidence will be enhanced and consequently the responses will help provide a rich source of evidence to assist organisational improvement. As discussed previously there must be clarity in advance about how this and other information is to be shared, particularly with members, senior management and the commissioner. In our last chapter, focused upon assisting the RGPF, we make suggestions

about formal meetings and suggest this is one important matter that would be included on the agenda.

5.10 RGP (Management) Staff Survey

The RGP staff survey is not online and has limitations in that staff members doubt the level of anonymity afforded to them. The findings of the survey are shared on force orders, but senior managers could also consider using them by way of "you said – we did" circulations. The results do reflect that staff consider they are not always treated fairly and are reluctant to speak up. The RGP survey has proved to be a useful and positive tool and another source of information to support management action. The RGP will be aware of the importance of question setting in much the same way as in the RGPF survey.

The survey is very short when compared to surveys of England and Wales forces or to Guernsey or Jersey. It is particularly notable that there are no questions about bullying and harassment in it, although it does include some graded questions that help the SMT understand staff perceptions of fairness and respect. These are:

- I enjoy working within my organisation
- I feel everyone is treated fairly and consistently with regard to opportunities
- The organisation provides good support to help me balance work and home responsibilities
- I feel everyone is treated equally with regard to their domestic commitments

It also includes questions to elicit whether the workforce feel involved in decision making and empowered to challenge how things are done.

- If I want to put forward new ideas or suggestions for improvement,
- I am confident my ideas or suggestions will be listened to
- I am confident I would get feedback on my ideas and suggestions
- I think it is safe to speak up and comment on the way things are done in this organisation

The RGP Survey covers similar areas to the RGPF survey and there would be a strengthening of both and of the overall evidence base were the surveys to be more in tune.

While it may not be the time to jointly undertake a survey with RGPF it should be possible to ensure the respective surveys are coordinated with questions that can be worked together and the timing of them in order to explore key issues. The way in which the new RGPF could work on this and other issues is considered in the next section.

RECOMMENDATION 11

RGP and the RGPF should work together to ensure that their respective surveys are coordinated and where achievable the questions worked together. It is suggested that how these links occur should be considered in the 'Low Morale' work stream. It is also suggested this takes place prior to the intended publication date of both the next RGPF survey and the RGP survey.

Chapter Six

Police Federation

Until 2018 RGP police officers were represented by a Police Association but in 2018 the RGPF was established in law[12] as having the object of representing members of the Force in all matters affecting their welfare and efficiency[13]. It was established as being entirely independent of and unassociated with anybody or person outside the Force[14].

6.1 The new RGPF board

A new chairman, secretary and board were elected on the 22 May 2019 for a period of four years[15]. These two posts have been given full-time status in order to represent the members effectively. Together with the new board they recognize they now have an opportunity to make a positive difference to the welfare and efficiency of officers in RGP and of the importance of how they first set out on this important responsibility.

They are also keen that they all continue to build their knowledge and skills as federation representatives. They are developing the networks and relationships established previously by the Royal Gibraltar Police Staff Association with police federations and associations throughout the United Kingdom and across Europe. Sharing experiences and identifying good practice will assist in the early days of RGPF. There is an advantage in ensuring that this is a structured approach rather than just having ad hoc contacts. In this way the RGPF can target contacts to assist with specific issues.

Some of the board have also benefitted from training such as for discipline, health and safety, and equality. The officers particularly should continue to hone their representative skills, understanding different negotiating styles and as to how and when to deploy them. They would also benefit from shadowing a branch board chair and secretary or by seeking a mentor.

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[12] Police Amendment Act 2018 that amended the Police Act 2006

[13] There are exceptions including questions of promotion affecting individuals; and questions of discipline although the Police Federation may represent a member of the Force at any stage of disciplinary proceedings brought under regulations made in accordance with section 79.

[14] The Government may, on the recommendation of the GPA authorise RGP or a branch of the RGP to be associated with a person or body outside the police service in such cases and manner, and subject to such conditions, as it may specify; and vary or withdraw an authorisation previously given. (Section 52 (2)

[15] There are some exceptions referred to in the Police Federation Regulations 2018 4 (4) including ceasing to be a member of the force

6.2 Federation membership

Not all eligible officers below the rank of superintendent are subscribing members of the RGPF. Members receive a number of benefits including legal support. We heard from a minority of staff that they have joined the RGPF to just have the insurance cover. Equally some staff had not joined who were eligible to do so. The RGPF understands this is the case and are keen to gain the confidence of these members and all eligible staff.

Many officers expressed a desire for the RGPF to establish effective lines of communications with all its members to ensure they are updated on issues affecting members welfare and efficiency. This can only assist staff confidence in the RGPF. The need to improve communications was not confined to the RGPF as a few staff members expressed some concern about communications by senior management. Both parties should strive to enhance their internal communications to keep staff apprised of developments. There will be opportunities to ensure the information flow is coordinated. For example, in each of the working groups[16] the agenda should include an item at the end of each meeting to discuss and agree how to communicate what they have done internally to staff. In that way there will be clarity about the outcome of these important groups.

Where there is a vacancy the board may nominate a member of the federation of the appropriate rank to fill that vacancy until the next election.[17]. Given the close-knit culture of RGP we take the view that although there is a legal entitlement to do so were there to be a vacancy such an appointment at this stage could be problematic. The electorate is small, and we would suggest that the board could consider holding a by-election under those circumstances in order to continue to build staff confidence.

6.3 Federation structure, position and policy statements

A significant minority held strong views about the need for the RGPF to have a clear structure and to develop position and policy statements in addition to representing individual officers. There is some evidence from staff that representation previously had been focused in an ad-hoc way upon individual cases. No matter how effective that was there is an acknowledgement by the new RGPF that they now have an opportunity to be better organised. We agree. Clear position and policy statements and good organisation will go some way to building staff confidence.

---

[16] The attendance includes senior management and RGPF.

[17] Police Regulations 2018 - Regulation 4 (5)

6.4 RGPF survey

One of the first steps the RGPF undertook was to conduct a survey aimed at providing an opportunity to evidence, benchmark and prioritise the issues facing members. As indicated in the previous chapter we consider this to be a positive step. We were pleased with the open discussions to improve the structure and content of the survey in order to continue to improve the accuracy of any future survey.

6.5 Relationships with management

During our interviews officers of all ranks spoke about the benefit of, and need for, the RGPF and RGP senior management team to develop a constructive working relationship. In our meetings with both the RGPF and SMT we found more issues that united than divided them; they are both striving to improve policing for the benefit of the community in Gibraltar.

The new status of RGPF provides the senior management team and RGPF with an opportunity to develop a proactive two-way consultative process for all matters affecting officer's welfare and efficiency. Working with the RGPF is new to the senior management team as well. We would encourage both parties to set aside time to explore ways of working effectively together, identifying common goals and developing structures and arrangements. By positively engaging in such meetings it will enable the RGPF to fulfil their statutory responsibilities.

Although it may take time and commitment to establish these working relationships and build trust, the initiative to form working groups with RGPF representation is positive and provides a good vehicle to address many of the issues identified within the force and RGPF surveys. Reports indicate some working groups are more productive than others; it will be important to set and agree action plans for all and communicate progress across the force.

RGPF must recognise the Commissioner has responsibility for the direction and control of the Force, delivering value for money and an efficient administration. Effective communication and pro-active consultation do not remove the right of management to manage but can provide a broader perspective and the potential for better decision making. Custom, practice and research indicates a positive impact on staff well-being where arrangements exist to constructively involve and communicate with staff.[18]

[18] The "Good Workplace": The Role of Joint Consultative Committees, Unions and HR policies in Employee Ratings of Workplaces in Britain, Oct 2018

6.6 RGPF and senior management meeting

Arrangements for meetings between the SMT and RGPF are not currently formalised. While there will be informal meetings between the RGPF officers and the Commissioner there is a benefit in there also being regular meetings between them. These should have an agenda and minutes which are published in force. The agenda should focus on matters related to welfare and efficiency, such as, health and safety, uniform and equipment, grievance handling, resource management, duty planning, sickness, welfare, career development and fairness. We suggest both parties identify issues for discussion.

In England and Wales forces Joint Negotiating and Consultative Committees (JNCC) provide chief officers and staff associations, (police federation, superintendents association, support staff) with a regular forum to discuss matters concerning staff welfare and efficiency. We realise that the superintending ranks and support staff are in a different position to their counterparts in England and Wales. However, a locally tailored JNCC has merit. At present much of this business will be discussed in the working groups and the need for a JNCC option increases in importance as the working groups become business as usual.

Such a meeting would be to secure acceptable outcomes and to establish and promote agreements on matters including health and safety, discipline, fairness, selection procedures, welfare, sickness, duty planning, leave, uniform and equipment. The process can assist with problem solving and provide for escalation where there is disagreement and conciliation for resolution of any disputes. Were the RGP to adopt a similar model membership might include Commissioner, Assistant Commissioner, a superintendent, Chairman and, Secretary of RGPF and a civilian staff representative. This would be a new way of working and given there is no precedent initially RGPF might find it useful in being supported on their responses, evidence and business cases for presentation in such a forum.

6.7 Major event planning

In the United Kingdom it has become recognised good practice to include police federation representation at the planning, briefing and debriefing stages of major events. Involvement at the planning stage has provided operational commanders with an additional perspective which focuses on officer welfare and their efficiency. This currently does not happen in RGP and instead sometimes results in the issues only being discussed after the event. We suggest RGPF representation should take place at planning meetings and would be professionally beneficial if the specific member attending is consistent. Key to this working is the RGPF having a clear focus upon their specific responsibilities.

6.8 RGPF and RGP – a final point

RGPF officers and the board will no doubt have significant challenges to deal with as they become established in the new role. We have set out many of those challenges but importantly *it is people that make relationships work*. We are pleased that the RGPF have expressed positive intentions, as has the Commissioner and senior management team, to work together while respecting the differing responsibilities.

This will be a learning exercise as to how to work together and from time to time each will be challenged. However, we have confidence in the ability of all concerned to be equal to that challenge.

SUMMARY OF RECOMMENDATIONS

1. RGP should introduce a grievance procedure that reflects the local needs as outlined in this report. This work should be prioritised, and it is suggested could be the core work for the bullying and harassment working group. It is also suggested that this should be completed in three months.
2. RGP should introduce an in-force awareness package that includes standards, grievances and the professional standards system. Particular focus should be on exploring boundaries and providing examples of effective decision making, say, between supervisory action, misconduct and complaints. It is suggested that this could be the core work of the 'Low Morale' working group. It is suggested that the awareness package should be completed in six months.
3. RGP should bring forward their review of the Code of Ethics and values to ensure that it reflects local circumstances. Action should be taken to ensure there is renewed emphasis on the code through, briefings, publications, news items and other similar methods. It is suggested that this could be the core work of the 'Low Morale' working group. It is suggested that this should be completed in three months.
4. RGP should review the seven workstreams in order to bring their work into the day to day force business meetings. It is suggested that this should occur not later than 12 months.
5. RGP should introduce a clear bullying and harassment policy that sets out the RGP acknowledgement, commitment and expectations. It is suggested that this should be developed in the bullying and harassment working group. It is also suggested that this should be completed in three months.
6. RGP should adopt good practice and ensure that staff are provided with examples of what is and is not unacceptable behaviour in RGP. It is suggested that examples could be developed in the bullying and harassment working group. It is also suggested that this should be completed in three months.
7. RGP and RGPF should work together on the obvious improvements needed to the police estate, information technology and vehicles while recognising their different responsibilities through the relevant workstreams. This is a key area where a joint enterprise is beneficial to success but importantly staff need to be kept apprised with progress. It is suggested that staff should be fully apprised within three months and then ongoing with appropriate information.
8. RGP should introduce a new appraisal system for staff. This work should be prioritised, and it is suggested should be the core work of the Human Resources workstream. It is also suggested that this should be completed in six months.

9. RGP should ensure they continue to focus upon initiatives to understand workloads and reduce demand. These initiatives should be grouped as an RGP approach and communicated to staff. Identifying new initiatives could usefully be identified as the core work of the 'Wellbeing workstream' and it is suggested a first tranche identified in three months.
10. RGP should introduce a new sickness management policy. This should be supported by a welfare officer that is afforded the time and training to fulfil the responsibilities effectively. It is suggested that the sickness management policy should be prioritised and taken forward by the 'Wellbeing' workstream. It is suggested this policy should be prepared in three months.
11. RGP and the RGPF should work together to ensure that their respective surveys are coordinated and where achievable the questions worked together. It is suggested that how these links occur should be considered in the 'Low Morale' work stream. It is also suggested this takes place prior to the intended publication date of both the next RGPF survey and the RGP survey.

Federation Chairman

From: Henry Bautista
Sent: 03 December 2018 15:52
To: (RGP) McGrail, Ian M.Sc (OTM)
Cc: Anna Jones
Subject: Joint Working Agreement
Attachments: Survey Joint Working Agreement - Final.docx

Dear Sir

Please find attached Joint Working Agreement that we are prepared to sign. We have had various meetings of the Federation board discussing at length the implications of this agreement vis a vis the independency of the Federation.
Although we are still not happy with the media clause, in the spirit of continuing and progressing with this matter and the fact that we are committed to working together as long as there is continued consensus.
We will continue to work and dialogue in our best endeavours, but if after exhaustive representations we do not agree, we reserve the right to withdraw from this clause/agreement.

At board level we discussed about your request for assistance with funding for the independent review from our Federation membership fund but unfortunately this was declined.

Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: [redacted]

Email: henry.bautista@gibpolfed.org

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Federation Secretary

From: Henry Bautista <henry.bautista@gibpolfed.org>
Sent: 04 December 2018 12:10
To: (RGP) Fernandez, Albert; (RGP) Garcia, Alfred (PC038); Anna Jones; Frank Barton; Henry Bautista; (RGP) Pozo, Lee (PC155); (RGP) Simpson, Leif (PC206); (RGP) Morello, Maurice (PS032)
Subject: FW: Joint Working Agreement
Attachments: Survey Joint Working Agreement - Final.docx

Dear All

Please find attached email thread correspondence with the Commissioner of Police for your information.

Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
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Gibraltar
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From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: Monday, 3 December, 2018 6:32 PM
To: Henry Bautista

Cc: Anna Jones ; Command Team
Subject: Re: Joint Working Agreement

Dear Henry - many thanks for your email. I am currently on leave returning to work next Monday. However, I have to nip in to the office on Wednesday so if you can leave two copies (signed/dated by yourself) with the AC then I will sign the documents on Wednesday. I will return one of documents to you for your records once signed.

I again want to reassure the Board that the Command Team is NOT in dispute with the GPF. I offer these repeated reassurances in light of the continued and apparent sense of mistrust held by the Board who regard the Terms of Reference in question as somewhat restrictive and prejudicial for the Board. These are not designed to 'gag' the Board but rather to create an understanding in order to operate in a responsible and mature way to address the work streams contained in the document.

Finally, it is regrettable that the Board has turned down the proposal to contribute to the joint commissioning of independent experts to look at the issues of concern and work with both GPF & Command Team to attempt to contexualize and resolve them. You will recall that it was the GPF that asked for an independent body to be engaged. I take it that the Board, like the Command Team, still feel the need to delve deeper in to the results reaped by the survey so that we look for the so many unanswered questions & provide a qualitative measure & contexualised picture in order to be able to better focus our efforts.

In any case, I will still consider engaging the independent body but for obvious reasons I will discuss with the Command Team what status, if any, the GPF will have in the contractual arrangements with whichever independent body I decide to contract for this work. Notwithstanding, I trust that the Board & GPF are still committed to the process to fully partake and address the issues of concern with whoever I end up engaging. What I do not want is to engage a firm at considerable cost and for the GPF to then decline participation.

Best regards
ComPol

Sent from my iPhone

On 3 Dec 2018, at 15:51, Henry Bautista <henry.bautista@gibpolfed.org> wrote:

> Dear Sir
>
> Please find attached Joint Working Agreement that we are prepared to sign. We have had various meetings of the Federation board discussing at length the implications of this agreement vis a vis the independency of the Federation.
> Although we are still not happy with the media clause, in the spirit of continuing and progressing with this matter and the fact that we are committed to working together as long as there is continued consensus.
> We will continue to work and dialogue in our best endeavours, but if after exhaustive representations we do not agree, we reserve the right to withdraw from this clause/agreement.
>
> At board level we discussed about your request for assistance with funding for the independent review from our Federation membership fund but unfortunately this was declined.
>
> Kind regards
>
> Henry J Bautista

Chairman

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Federation Secretary

From: Henry Bautista <henry.bautista@gibpolfed.org>
Sent: 20 December 2018 13:51
To: (RGP) McGrail, Ian M.Sc (OTM)
Cc: (RGP) Mifsud, Richard (OTM); (RGP) Ullger, Richard; (RGP) Yeats, Cathal; (RGP) Tunbridge, Wayne; (RGP) Richardson, Paul (OTM); Anna Jones; (RGP) Fernandez, Albert; (RGP) Garcia, Alfred (PC038); Frank Barton; Henry Bautista; (RGP) Pozo, Lee (PC155); (RGP) Simpson, Leif (PC206); (RGP) Morello, Maurice (PS032)
Subject: New Year's Eve Deployment - Exigency - Meeting Request

Dear Sir

I write as I feel obliged to inform you of the numerous complaints of officers received by board members and to the Federation with respect to New Year's eve deployment.

I have enquired with SMT about the deployment and rationale behind their decision. The following has been the reasoning afforded by SMT.

It was intended by SMT to increase the compliment of shift by 5 extra officers for Policing New Year's Eve.
There are several functions at Casemates and several large dance parties around Gibraltar, apart from the crowds that will be roaming the streets.
I have been informed that they tried to get officers on overtime from the beginning of the month. But this has been refused/ turned down by officers.
Apparently the Response night shift in question has 2 officers on sick leave thus under the required compliment.
This has resulted in the operational decision to redeploy PMB to support shift.
But there are still three shift posts that still require to be filled. SMT have stated that the most fair way to address this is by requesting one officer from the 3 divisions to work.
Thus the decision of "drawing someone form a hat". If not, they would have no option but to force someone to work.
SMT now claim that this is an "exigency" and that they can do this at short notice.

Officers that will be expected to work will be paid double time and will be entitled to an extra eight hours in lieu.

The federation's position is not at all happy with this situation as you may understand that many officers have already made private arrangements for the festive period and unfair and disappointing for officers at the last minute to rearrange their family affairs.
We are of the opinion that poor planning has turned this now into an exigency! SMT should have made an Operations Order informing officers, in September, making provisions well in advance that they would be required to work and not at the 11th hour.
As you may recall , we had a similar situation on National Day where officers did not know their deployment until a few days before.

As you are aware morale in our the force is at rock bottom and matters like this do not help at all.

I understand that you have your opinions of what constitutes an exigency of the force. Though we have the accepted definition of what an "exigency" is, as per guidelines for Policing in England and Wales, we respectfully request for a meeting with you and your Senior Management Team at your earliest convenience to clarify this ambiguity once and for all.

With kind regards

Henry J Bautista

Chairman

Gibraltar Police Federation
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Tel: +350 20050199
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Email: henry.bautista@gibpolfed.org

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Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 12 December 2018 12:44
To: (RGP) Field, John (Supt 241)
Cc: (RGP) Romero, Nolan (Supt 242); Command Team
Subject: Re: Response Team resources

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Blue Category

John / Nolan - many thanks for this. I wholeheartedly agree that the GPF will need to be specific when raising these matters with me. I will not be able to entertain issues of this sort in the future unless the specifics are there. It is wholly unjustifiable that so much time and energy is employed to verify what in essence has been in ill-informed complaint.

I am also copying Command Team so they are all in the picture.

Once again my thanks and to extent my apologies too for making this request. Certainly another lesson learnt.

I will address the Convenors accordingly so that they in turn revert to the 'complainants'.

Rgds
ComPol

Sent from my iPhone

On 12 Dec 2018, at 12:35, (RGP) Field, John <John.Field@royalgib.police.gi> wrote:

> Sir,
> As expected there may have been a day in which we were one short but three, never. These exercises are time consuming so I have asked Anna Jones to be more specific in the future.
>
> **From:** (RGP) Romero, Nolan <Nolan.Romero@royalgib.police.gi>
> **Sent:** 12 December 2018 12:26
> **To:** (RGP) Field, John <John.Field@royalgib.police.gi>
> **Subject:** Response Team resources
> John
> You requested a few weeks ago clarification regarding a concern raised by the Federation relating to shifts working on 3 officers below the minimum agreed manning levels.
> I can confirm that Resource Management (previously Ops Admin) ensures that all shifts work at least on the minimum agreed levels. On the occasions that an officer reports USL at the last moment and outside of normal working hours whereby it would be the responsibility of the Duty Insp to authorise overtime, and it may be the case (not often) that no overtime takers are identified so a shift would work with one below minimum. However, PMB officers are available to assist the Response Teams if and when required.
> If there is a scenario that Resource Management cannot obtain the agreed minimum manning levels, then officers from PMB have been moved to the respective Response Team and PMB closed for that particular duty.
> According to our duties, and to my knowledge, no Response team has worked with 3 officers below the agreed minimum manning level.

Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 20 December 2018 16:11
To: (RGP) All Police Staff; (RGP) All Civilian Staff
Subject: OFFICIAL - Response to GPF e-mail

Dear all –

It is with regret and not a little sadness that I find myself writing to you all to rebut in their entirety, the misleading assertions contained in the email sent out by the Chair of the Gibraltar Police Federation (GPF) earlier today.

In the email the Command Team is accused of poor planning that has led to conducting a draw that has further led to three officers drawing the short straw and having, at the eleventh hour to work New Year's Eve. The Command Team is further accused of abusing the term 'exigency of the service'.

Please allow me to explain the Command Team's [factual] version of events as explained to the GPF Chair by CI Romero yesterday and again by CI Field this morning. On both occasions, the Chair expressed satisfaction and understanding with the actions taken by the Operations Division Command Team. I repeated our rationale to him at an emergency meeting this afternoon at which, once again he accepted our rationale. The facts are as follows:

Planning for this [and with most policing events] started months ago and the assessed required resource levels were determined at the beginning of December. At this point, in a bid to avoid exercising my right to change officers' Rest Days given the date in question we decided to seek volunteers on overtime. At the time, there was an assessed requirement for five (5) officers above complement. Given the duty shift had projected one above minimum manning levels there was only a need for four (4) volunteers. Regrettably, and, I accept understandably so, none chose to work.

Despite this setback, the Operations Division Command Team chose to, reluctantly redeploy the PMB to town in support of their colleagues as opposed to change Rest Days, which they were perfectly entitled to do. Still reluctant to spoil officers' New Year's Eve plans, the planners elected to accept the risk of operating with four (4) above complement as opposed to the original five (5).

This was followed by an additional event being communicated to the RGP on Friday the 14th December, the resignation of one officer and the sickness of another. This meant that despite the fact that they had redeployed the PMB they now found that the duty shift would, for circumstances beyond the planners' control, be left with just two (2) officers above complement and required to police an additional unscheduled event.

It was only then that the Operations Division Command Team decided to arrange, in the interests of fairness, for a drawing of lots from all three divisions. This has now raised the additional complement to the required five (5) above complement, which satisfies the planners' Health and Safety concerns and assessed policing resource requirements.

All of the above was fully communicated to the GPF Chair yesterday and again today and on both occasions he expressed satisfaction at the Operations Division Command Team's efforts and rationale for the actions they took. At no time did he intimate any dissatisfaction with the explanations offered, which incidentally were offered and not requested.

The GPF Chair has also alluded to the fact that pre-planned events are not exigencies of the service, he is right and neither are these deemed to be so by me. What he fails to mention is that unforeseen circumstances in the lead up to an event may create exigency situations. For the reasons explained above, my planners assessed these circumstances, which only arose over the past several days as an exigency.

It is regrettable that the GPF has chosen to promulgate inaccurate facts and offer gratuitous comments as to the Command Team's lack of professionalism. I find this totally reprehensible and undermining of the office of Commissioner of Police. It also seriously undermines our ability to jointly address the many important issues that arose from the GPF's and indeed the RGP's staff surveys for the benefit of all, members and non-members.

Ideally, my Command Team and I would wish to resolve matters such as this jointly with the GPF and in a spirit of goodwill however if they choose to challenge us in the courts we stand ready to robustly defend the legal action alluded to in the Chair's email.

I sincerely hope that my Christmas message to you in tomorrow's Force Orders, delivered, as it is, in good faith and openness is not tarnished by the negative impression caused by inaccurate and misleading communications to you.

With best regards

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Please consider the environment before printing this email.

Federation Chairman

From: (RGP) Finlayson, Brian <brian.finlayson@royalgib.police.gi>
Sent: 20 December 2018 13:22
To: Command Team
Subject: FW: New Years Eve Deployment

Importance: High

Sirs,

You probably have had sight of the email sent by GPF regarding NYE, but in case you have not, see below.

Brian

Brian Finlayson
Detective Chief Inspector,
Crime and Protective Services.

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 76921 Centrex [redacted]

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From: Henry Bautista
Sent: 20 December 2018 13:19
To: (RGP) Field, John ; (RGP) Finlayson, Brian ; Frank Barton ; (RGP) Quigley, Dylan ; (RGP) Olivera, John (PS008) ; (RGP) Enriles, Alexander ; (RGP) Cerisola, Damian ; (RGP) Fernandez, Albert ; (RGP) Chipolina, Paul ; (RGP) Tunbridge, Thomas ; (RGP) Lutkin, John (PS023) ; (RGP) Perera, Sean ; (RGP) Wyan, Mark ; (RGP) Payas, Patrick ; (RGP) Philbin,

Craig (PS2) ; (RGP) Finegan, Stewart (PS003) ; (RGP) Deborah Jones (PS004) ; (RGP) Balloqui, Douglas (PS005) ; (RGP) Stone, Stewart (PS006) ; (RGP) Zammitt, Neil (PS009) ; (RGP) Rocca, Albert (PS012) ; (RGP) Daniel Ruffle (PS013) ; (RGP) Gonzalez, Patricia (PS014) ; (RGP) Garratt, Mark (PS015) ; (RGP) Cottam, Samuel (PS016) ; (RGP) Desoiza, Jonothan (PS017) ; (RGP) Barker, Paul (PS018) ; (RGP) Jones, Anna (PS019) ; (RGP) Peliza, Nicholas (PS020) ; (RGP) Chiara, Paul (PS021) ; (RGP) Fortuna, Kevin (PS022) ; (RGP) Howard, Danny (PS24) ; (RGP) De los Santos, John (PC025) ; (RGP) Riley, Stephen (PS027) ; (RGP) Reyes, Sean (PS028) ; (RGP) Bruce, Calum (PS029) ; (RGP) Diaz, Mark (PS030) ; (RGP) Loddo, Albert (PS031) ; (RGP) Morello, Maurice (PS032) ; Francis Marin ; (RGP) Finlayson, Tony (PS034) ; (RGP) Pisarello, Eddie (PS035) ; (RGP) Ignacio, Aaron (PS36) ; (RGP) Strachan, Scott (PC086) ; (RGP) Schembri, Mark (PC210) ; (RGP) Bruzon, Louis (PC132) ; (RGP) Picton, Sean (PC191) ; (RGP) Tanya McLeod (PC192) ; (RGP) balloqui, Earon (PC037) ; (RGP) Garcia, Alfred (PC038) ; (RGP) Bennet, Joanne (PC039) ; (RGP) Rooke, Catherine G (PC040) ; (RGP) Figueras, Stefan (PC41) ; (RGP) Anson, Stuart (PC042) ; (RGP) McKnight, Robert (PC043) ; (RGP) Smith, Tania (PC044) ; (RGP) Celecia, Jaydan (PC045) ; (RGP) Gaetto, Michael (PC046) ; (RGP) Cano, Gareth (PC047) ; (RGP) Benhakim, Mojib (PC048) ; (RGP) Zweig, Karl (PC049) ; (RGP) Berridge, Laura (PC050) ; (RGP) Olivero, Jansen (PC051) ; (RGP) Samira Mohamed (PC052) ; (RGP) Christopher Santos (PC053) ; (RGP) Waters, Ian (PC054) ; (RGP) Chappory, Catherine (PC55) ; (RGP) Bolanos, Antony (PC056) ; (RGP) Bingham, Robert (PC057) ; (RGP) Chambers, David (PC058) ; (RGP) Almeida, Radka (PC059) ; (RGP) Joaquin, Kevin (PC060) ; (RGP) Harrison, Victor (PC061) ; (RGP) Stephanie Apap (PC062) ; (RGP) Dyer, Mark (PC063) ; (RGP) Bonet, Gregory (PC064) ; (RGP) Macias, Mark (PC065) ; (RGP) Dennis Penalver (PC066) ; (RGP) Caffrey, Duncan (PC67) ; (RGP) Bassadone, Ryan (PC068) ; (RGP) Cruz, Julian (PC069) ; (RGP) Paul Gache (PC070) ; (RGP) Canepa, Jason (PC071) ; (RGP) Goodson, Jonathan (PC072) ; (RGP) Celecia, Joseph (PC073) ; (RGP) Galia, Donovan (PC074) ; (RGP) Shute, Byron (PC75) ; (RGP) Alvarez, Francis (PC076) ; (RGP) Abdelhamed Rahmouni (PC077) ; (RGP) Rodriguez, James (PC078) ; (RGP) Cassaglia, Joseph (PC079) ; (RGP) Frost, Christopher (PC080) ; (RGP) Reyes, David (PC081) ; (RGP) Buhagiar, Jared (PC84) ; (RGP) Rodriguez, Maxine (PC083) ; (RGP) El-Yabani, Ziad (PC085) ; (RGP) Bourke, James (PC87) ; (RGP) Allen, Wesley (PC088) ; (RGP) Christopher Catania (PC089) ; (RGP) Montegriffo, Tyron ; (RGP) Elliot Brooke (PC091) ; (RGP) Gonzalez, Richard (PC092) ; (RGP) Yeo, Mark (PC093) ; (RGP) Cumbo, Keith (PC094) ; (RGP) Garcia, Dylan (PC095) ; (RGP) Hermida, Mark (PC096) ; (RGP) Alecio, Joseph (PC097) ; (RGP) Hill, Stuart (PC098) ; (RGP) O'Flaherty, David (PC100) ; (RGP) Fendley, Daniel (PC101) ; (RGP) Stewart, Duncan (PC102) ; (RGP) Sita, Paul (PC104) ; (RGP) McGinley, Denise (PC105) ; (RGP) Oton, Jason (PC106) ; (RGP) Ferrary, Maria (PC107) ; (RGP) Vallee, Amandine (PC108) ; (RGP) Berini, Sharon (PC109) ; (RGP) Fraser, Andrew (PC110) ; (RGP) Cowles, Kevin (PC111) ; (RGP) Simon Todd (PC112) ; (RGP) Moreno Tania (PC113) ; (RGP) Trinidad, Alexander (PC114) ; (RGP) Borge, Peter (PC115) ; (RGP) Romero, Cheryl (PC116) ; (RGP) Fortunato, Helena (PC117) ; (RGP) De Soto, Anthony (PC118) ; (RGP) Howard, Danny (PS24) ; (RGP) Constant-Brittenden, Tracey (PC120) ; (RGP) Luque, Brian (PC121) ; (RGP) Motero, Spencer (PC122) ; (RGP) Fothergill, Hayley (PC123) ; (RGP) Ballantine, Glen (PC124) ; (RGP) Balban, Dwayne (PC125) ; (RGP) Barcio, Jonathan (PC126) ; (RGP) White, Luis (PC127) ; (RGP) Palmer, Stephen (PC128) ; (RGP) Moody, Karl (PC129) ; (RGP) Clarke, Paul (PC130) ; (RGP) Gonzalez, Kyron (PC131) ; Daniel Sanchez ; (RGP) Bentley, Benjamin (PC134) ; (RGP) Hermida, Nathan (PC135) ; (RGP) Victory, Joseph (PC136) ; (RGP) Wink, Natalie (PC137) ; (RGP) Docherty, Brandon (PC138) ; (RGP) Philbin, Eric (PC139) ; (RGP) McKinnon, Robert (PC140) ; (RGP) Bonfiglio, Keith (PC141) ; (RGP) Davis, Stefan (PC142) ; (RGP) Gaul, Antony (PC143) ; (RGP) Ackerley, Philip (PC144) ; (RGP) Maer, Ashley (PC145) ; (RGP) Dreher, Frances (PC146) ; (RGP) Ullger, Joanna (PC147) ; (RGP) Olivero, Jotham (PC148) ; (RGP) Penalver, Mark (PC150) ; (RGP) McIntosh, Jared (PC152) ; (RGP) Manfred, Stuart (PC153) ; (RGP) Malcolm, Jane (PC154) ; (RGP) Pozo, Lee (PC155) ; (RGP) Povedano, Alexander (PC156) ; (RGP) Gonzalez, Manuel (PC157) ; (RGP) Desantos, Mary (PC158) ; (RGP) Rodriguez, Nicholas (PC159) ; (RGP) Warwick, Herbert (PC160) ; (RGP) Given, Joseph (PC161) ; (RGP) Benhakim, Mondir (PC162) ; (RGP) Bautista, Henry (PC163) ; (RGP) Ahammad, Mohammed (PC164) ; (RGP) Reyes, Keiron (PC165) ; (RGP) Hermida, Emily (PC166) ; (RGP) Risso, Thomas (PC167) ; (RGP) Christian Lyons (PC168) ; (RGP) Kingsley, Kasmira (PC169) ; (RGP) David Bragg (PC170) ; (RGP) Martinez, Gerald (PC171) ; (RGP) Davies, Paul (PC172) ; (RGP) Cruz, Vincent (PC173) ; (RGP) Chipolina, Christian (PC174) ; (RGP) Victor, Ivan (PC175) ; (RGP) Gomez, Lionel (PC176) ; (RGP) Garcia, Christian (PC177) ; (RGP) Terence Martinez (PC178) ; (RGP) Penfold, Paul (PC180) ; (RGP) Wyatt, Jeremy (PC181) ; (RGP) Victor, John (PC182) ; (RGP) Gonzalez, John Paul (PC183) ; (RGP) Apap, Sabadak (PC184) ; (RGP) Russel, Jason (PC185) ; (RGP) Parker, Caitriana (PC186) ; (RGP) Minter, Tamya (PC188) ; (RGP) Ward, Johan (PC189) ; (RGP) Rahmouni, Ilias (PC190) ; (RGP) Oliveira, Darrel, (PC193) ; (RGP) Peach, Stephen (PC194) ; (RGP) Passano, Natalie (PC195) ; (RGP) Watson, Andrew (PC196) ; (RGP) Rowbottom, Emma (PC197) ; (RGP) Goldwin, Louise (PC198) ; (RGP) Rodriguez, Daniel (PC199) ; (RGP) Debono, Anthony (PC200) ; (RGP) Vilerio, Manuel (PC201) ; (RGP) Santos, Anabell (PC202) ; (RGP) Potter, Darryl (PC204) ; (RGP) Saxby, Daniel (PC205) ; (RGP) Simpson, Leif (PC206) ; (RGP) Read, James (PC207) ; (RGP) Lopez, Anthony (PC208) ; (RGP) Tester, Colin (PC209) ; (RGP) Schembri, Mark (PC210) ; (RGP) James Currer (PC211) ; (RGP) Golledge, Kyle (PC212) ; (RGP) David Beddar (PC213) ; (RGP) Ryan Green (PC214) ; (RGP) Perez, Jonathan (PC215) ; (RGP) Connor, Martyn (PC217) ; (RGP) Heap, Michael (PC218) ; (RGP) Bellingan,

Julie Ann (PC119) ; (RGP) Yeo, Daniel (PC216)
Subject: New Years Eve Deployment
Importance: High

Dear Colleagues

I write due to the numerous complaints received to board members and to the Federation with respect to New Year's eve deployment.

I have enquired with SMT to find out their rationale for this and this has been SMT's reply.

It was intended by SMT to increase the compliment of shift by 5 extra officers for Policing New Year's Eve.
There are several functions at Casemates and several large dance parties around Gibraltar, apart from the crowds that will be roaming the streets.
I have been informed that they tried to get officers on overtime from the beginning of the month. But this has been refused/ turned down by officers.
Apparently the Response night shift in question has 2 officers on sick leave thus under the required compliment.
This has resulted in the operational decision to redeploy PMB to support shift.
But there are still three shift posts that still require to be filled. SMT have stated that the most fair way to address this is by requesting one officer from the 3 divisions to work.
Thus the decision of "drawing someone form a hat". If not, they would have no option but to force someone to work.

SMT now claim that this is an "exigency" and that they can do this at short notice. Officers that will be expected to work will be paid double time and will be entitled to an extra eight hours in lieu.

The federation's position is not at all happy with this situation as many officers have already made private arrangements for the festive period. We will be formally writing to complain to the Commissioner about this.
We are of the opinion that poor planning has turned this into an exigency! SMT should have made an Operations Order informing officers, in September, making provisions well in advance that they would be required to work and not at the 11th hour.

Though we have the accepted definition of what is an "exigency" as per guidelines for Policing in England and Wales, the Gibraltar Police Federation will also be obtaining professional and legal opinions on the firm definition of what is/constitutes an "exigency".
If required we will challenge these through the courts.

With kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: [redacted]

Email: henry.bautista@gibpolfed.org



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Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 01 January 2019 16:43
To: michelle.hook@gpa.gi
Subject: Fwd: OFFICIAL - Issues with GPF
Attachments: FW: New Years Eve Deployment; ATT00001.htm; New Year's Eve Deployment - Exigency - Meeting Request; ATT00002.htm; OFFICIAL - Response to GPF e-mail; ATT00003.htm

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

FYI

Sent from my iPhone

Begin forwarded message:

> **From:** "(RGP) McGrail, Ian M.Sc (OTM)" <Ian.McGrail@royalgib.police.gi>
> **Date:** 21 December 2018 at 10:16:24 GMT+1
> **To:** Director Education <joey.britto@gibraltar.gov.gi>
> **Subject: OFFICIAL - Issues with GPF**
>
> Dear Joey –
> I want to bring you up to speed on what in my view is the incessant path of destruction that the Gibraltar Police Federation (Henry Bautista *et al*) is set on. You can read their latest diatribe in the attached e-mails. I called an emergency meeting yesterday to discuss his email communication to the whole of the work force and a separate one to myself. He attended the meeting and simply directed blame to his fellow Board members as he accepted what I had to say and what had been said to him the day before and earlier yesterday by two other senior officers. The GPF has again acted totally out of order providing misleading and inaccurate information to the work force which severely undermines all our efforts to bring positivity to the workplace.
> I have responded to his communication, also copying the whole of the workforce with the factual account and showing up the GPF for their apparent mischievous attempt to have a dig at my office and create negativity amongst the rank and file.
> Other than this, all is good. I want to wish you and your family a happy festive season and look forward to progressing all our pending issues in the new year.
> Best
> Ian

Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 21 December 2018 10:16
To: Director Education
Subject: OFFICIAL - Issues with GPF
Attachments: FW: New Years Eve Deployment; New Year's Eve Deployment - Exigency - Meeting Request; OFFICIAL - Response to GPF e-mail

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Dear Joey –

I want to bring you up to speed on what in my view is the incessant path of destruction that the Gibraltar Police Federation (Henry Bautista *et al*) is set on. You can read their latest diatribe in the attached e-mails. I called an emergency meeting yesterday to discuss his email communication to the whole of the work force and a separate one to myself. He attended the meeting and simply directed blame to his fellow Board members as he accepted what I had to say and what had been said to him the day before and earlier yesterday by two other senior officers. The GPF has again acted totally out of order providing misleading and inaccurate information to the work force which severely undermines all our efforts to bring positivity to the workplace.

I have responded to his communication, also copying the whole of the workforce with the factual account and showing up the GPF for their apparent mischievous attempt to have a dig at my office and create negativity amongst the rank and file.

Other than this, all is good. I want to wish you and your family a happy festive season and look forward to progressing all our pending issues in the new year.

Best
Ian

Federation Chairman

From: Henry Bautista <henry.bautista@gibpolfed.org>
Sent: 22 January 2019 16:38
To: (RGP) All Police Staff
Cc: (RGP) All Civilian Staff
Subject: GPF Designate Chairman & Secretary

Dear Colleagues

As you may be aware, Anna and I will be retiring soon from the Police Service on the 21st March and 5th April 2019 respectively,
This afternoon at an executive board meeting of the Gibraltar Police Federation we balloted to select for the upcoming positions of Chairman and Secretary (Full time convenors of the Federation).

Mr Maurice Morello was the only candidate for the post of Chairman. Mr Leif Simpson and Mr Albert Fernandez for Secretary.

Mr Maurice Morello was duly elected as Chairman (Designate) and **Mr Leif Simpson** as Secretary (Designate).

I congratulate them on their future positions.

I also wish to inform you that Inspector Frank Barton has today resigned from the Federation Executive Board as Chief Inspector/Inspector Representative.
His vacancy will be duly advertised shortly.

I would like to take this opportunity in thanking Inspector Barton for his work and valuable contribution to the board throughout the years.

I also would like to thank all the members for their continued support.

With Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: [redacted]

Email: henry.bautista@gibpolfed.org



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Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 14 January 2019 11:23
To: (MIN) Costa, Neil
Subject: FW: Gibraltar Police Federation - Vacancies - Chair and Secretary
Attachments: GPF Convener's - Federation Representative Role and Job Description.doc

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Dear Minister –

I refer to the below thread from the Gibraltar Police Federation. They are seeking to replace the two current convenors who are retiring in the next few months. You will recall when we last met that I raised some concerns on the convenors' motivations and you agreed you would be raising these with the CM with the view of considering whether their conditions merited review. I am gently nudging you to remind you of these concerns and that I am happy to discuss these further with you and the CM at your convenience.

Regards
Ian

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex [redacted]

Royal Gibraltar POLICE
Delivering a Safer Gibraltar through Excellence in Policing

PROJECT SERVATOR
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Please consider the environment before printing this email.

From: Henry Bautista
Sent: 14 January 2019 10:54
To: (RGP) McGrail, Ian M.Sc (OTM) ; Dr Joey Britto ; (MIN) Costa, Neil
Cc: (RGP) Mifsud, Richard (OTM) ; (RGP) Ullger, Richard ; michael.crome@gibraltar.gov.gi; Anna Jones
Subject: FW: Gibraltar Police Federation - Vacancies - Chair and Secretary
Importance: High

Dear Sirs

Please find the below emails for your information.

I will be officially notifying you with the designated applicants when they are selected.

With kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: [redacted]

Email: henry.bautista@gibpolfed.org

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From: Henry Bautista <henry.bautista@gibpolfed.org>
Sent: Monday, 14 January, 2019 10:38 AM
To: Albert Fernandez <albert.fernandez@royalgib.police.gi>; Alfred Garcia <alfred.garcia@royalgib.police.gi>; Frank Barton <frank.barton@royalgib.police.gi>; Henry Bautista <henry.bautista@gibpolfed.org>; Lee Pozo <lee.pozo@royalgib.police.gi>; Leif Simpson <leif.simpson@royalgib.police.gi>; Maurice Morello

<maurice.morello@royalgib.police.gi>
Cc: Anna Jones <anna.jones@gibpolfed.org>
Subject: FW: Gibraltar Police Federation - Vacancies - Chair and Secretary
Importance: High

Dear All

Please be advised that the closing date and time for both Chairman and Secretary vacancies of the Gibraltar Police Federation expires today at 16.00 hrs.
We will be advising board members who are the aspiring applicants tomorrow.

Applications should be made in writing, stating the position you are applying and addressed/emailed to the Secretary of the Gibraltar Police Federation, anna.jones@gibpolfed.org
and copied to me, henry.bautista@gibpolfed.org , the term for these posts are for the ensuing 4 years.

Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
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GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
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Email: henry.bautista@gibpolfed.org

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From: Henry Bautista
Sent: Monday, 10 December, 2018 11:05 AM
To: Albert Fernandez <albert.fernandez@royalgib.police.gi>; Alfred Garcia <alfred.garcia@royalgib.police.gi>; Anna Jones <anna.jones@gibpolfed.org>; Frank Barton <frank.barton@royalgib.police.gi>; Henry J Bautista <henry.bautista@gibpolfed.org>; Lee Pozo <lee.pozo@royalgib.police.gi>; Leif Simpson

<leif.simpson@royalgib.police.gi>; Maurice Morello <maurice.morello@royalgib.police.gi>
Subject: Gibraltar Police Federation - Vacancies - Chair and Secretary
Importance: High

Dear members of the board

As you may be aware, Anna and I will be retiring from the Royal Gibraltar Police on the 20th April 2019 and 22nd May 2019 respectively.
With annual leave and accumulated time in lieu we will both be finishing a few weeks earlier.

I therefore now formally inform all board members that both vacancies, that of Chairman and Secretary of the Federation are being advertised
and invite any board member who might be interested to apply for these positions.

The closing date will be **Monday 14th January 2019 at 16.00 hours**. Please note that applications received after the date and time in question will not be considered.

Application should be made in writing, stating the position you are applying and addressed/emailed to the Secretary of the Gibraltar Police Federation, anna.jones@gibpolfed.org
and copied to me, henry.bautista@gibpolfed.org , the term for these posts are for the ensuing 4 years.

An executive board meeting of the Federation will be held on **Tuesday 22nd January 2018** to be held at 14.30 hours at the GPF Office where the candidates may address the board and
a ballot will take place. I therefore urge you all to please attend this important meeting.

Please find attached job description/role for the full time convenor posts.

I take this opportunity in thanking all board members for their support throughout the years.

Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex [redacted]
Tel: +350 20050199
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Email: henry.bautista@gibpolfed.org

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Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 22 January 2019 17:25
To: neil.costa@gibraltar.gov.gi; fabian.picardo@gibraltar.gov.gi
Subject: OFFICIAL - SENSITIVE Fwd: GPF Designate Chairman & Secretary

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Dear CM & MoJ
It is my understanding that the Gibraltar Police Federation Board have already communicated the news to you that they have conducted an election amongst themselves of who the next two full time convenors will be after the retirements of the incumbents Anna Jones and Henry Bautista later on this year (3 & 4 months away respectively).

I refer you to the below email from Henry Bautista to the workforce announcing the appointments.

I have concerns with how they have gone about making this 'designate' selection. In my view the process they have followed is quite shambolic and reeks of nepotism. The transparent thing would have been to wait for Anna Jones and Henry Bautista to retire, replace them with two new board members and then have the new board elect a Chairman and Secretary (the convenors). To compound it Frank Barton, another Board member, has voted and then resigned straight away at the same meeting; so in essence three people out of eight Board members have voted who in my view should not have.

The fact that GPF is independent from the RGP does not allow me any locus in their business - they are practically a creature unto their own and therefore prone to issues and malpractices as the one I have highlighted and with no responsible governance.

I would be grateful if I could meet with you both to discuss the matter further as I have serious concerns with how the GPF is manifesting itself with the detrimental effect this is likely to have on the organisation.

With kind regards

Ian

Sent from my iPhone

Begin forwarded message:

> **From:** Henry Bautista <henry.bautista@gibpolfed.org>
> **Date:** 22 January 2019 at 16:38:02 GMT+1
> **To:** "AllPoliceStaff@royalgib.police.gi" <AllPoliceStaff@royalgib.police.gi>
> **Cc:** "(RGP) All Civilian Staff" <AllCivilianStaff@royalgib.police.gi>
> **Subject: GPF Designate Chairman & Secretary**
>
> Dear Colleagues
> As you may be aware, Anna and I will be retiring soon from the Police Service on the 21st March and 5th April 2019 respectively,
> This afternoon at an executive board meeting of the Gibraltar Police Federation we balloted to select for the upcoming positions of Chairman and Secretary (Full time convenors of the Federation).

Mr Maurice Morello was the only candidate for the post of Chairman. Mr Leif Simpson and Mr Albert Fernandez for Secretary.
Mr Maurice Morello was duly elected as Chairman (Designate) and **Mr Leif Simpson** as Secretary (Designate).
I congratulate them on their future positions.
I also wish to inform you that Inspector Frank Barton has today resigned from the Federation Executive Board as Chief Inspector/Inspector Representative.
His vacancy will be duly advertised shortly.
I would like to take this opportunity in thanking Inspector Barton for his work and valuable contribution to the board throughout the years.
I also would like to thank all the members for their continued support.
With Kind regards

Henry J Bautista
Chairman
Gibraltar Police Federation
Unit 1.12 Retrenchment Block
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Email: henry.bautista@gibpolfed.org

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Federation Chairman

From: (NO6) Britto, Joey <joey.britto@gibraltar.gov.gi>
Sent: 22 January 2019 18:53
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: Re: OFFICIAL - SENSITIVE Fwd: GPF Designate Chairman & Secretary

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Dear Ian,

I can make myself available - I can certainly accompany you if you feel I should. It goes without saying that you can count with my support.

Best

Joey

On 22 Jan 2019, at 18:06, (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi> wrote:

> Dear Joey -
> Please see below email which I have sent to the CM & MOJ over concerns I am expressing with the Gibraltar Police Federation and the way they are conducting themselves.
>
> I am seeking a meeting with the CM & MoJ to discuss my concerns - please feel free to indicate if you want to attend to this meeting yourself.
>
> Regards
> Ian
>
> Sent from my iPhone

Dr Joey Britto

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20051752
Centrex [redacted]
Fax: (+350) 20040922
joey.britto@gibraltar.gov.gi

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HM Government of Gibraltar

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Begin forwarded message:

From: "(RGP) McGrail, Ian M.Sc (OTM)" <Ian.McGrail@royalgib.police.gi>
Date: 22 January 2019 at 17:25:16 GMT+1
To: "neil.costa@gibraltar.gov.gi" <neil.costa@gibraltar.gov.gi>, "fabian.picardo@gibraltar.gov.gi" <fabian.picardo@gibraltar.gov.gi>
Subject: OFFICIAL - SENSITIVE Fwd: GPF Designate Chairman & Secretary

Dear CM & MoJ
It is my understanding that the Gibraltar Police Federation Board have already communicated the news to you that they have conducted an election amongst themselves of who the next two full time convenors will be after the retirements of the incumbents Anna Jones and Henry Bautista later on this year (3 & 4 months away respectively).

I refer you to the below email from Henry Bautista to the workforce announcing the appointments.

I have concerns with how they have gone about making this 'designate' selection. In my view the process they have followed is quite shambolic and reeks of nepotism. The transparent thing would have been to wait for Anna Jones and Henry Bautista to retire, replace them with two new board members and then have the new board elect a Chairman and Secretary (the convenors). To compound it Frank Barton, another Board member, has voted and then resigned straight away at the same meeting; so in essence three people out of eight Board members have voted who in my view should not have.

The fact that GPF is independent from the RGP does not allow me any locus in their business - they are practically a creature unto their own and therefore prone to issues and malpractices as the one I have highlighted and with no responsible governance.

I would be grateful if I could meet with you both to discuss the matter further as I have serious concerns with how the GPF is manifesting itself with the detrimental effect this is likely to have on the organisation.

With kind regards

Ian

Sent from my iPhone

Begin forwarded message:

From: Henry Bautista <henry.bautista@gibpolfed.org>
Date: 22 January 2019 at 16:38:02 GMT+1

To: "AllPoliceStaff@royalgib.police.gi"
<AllPoliceStaff@royalgib.police.gi>
Cc: "(RGP) All Civilian Staff" <AllCivilianStaff@royalgib.police.gi>
Subject: GPF Designate Chairman & Secretary

Dear Colleagues
As you may be aware, Anna and I will be retiring soon from the Police Service on the 21st March and 5th April 2019 respectively,
This afternoon at an executive board meeting of the Gibraltar Police Federation we balloted to select for the upcoming positions of Chairman and Secretary (Full time convenors of the Federation).
Mr Maurice Morello was the only candidate for the post of Chairman. Mr Leif Simpson and Mr Albert Fernandez for Secretary.
Mr Maurice Morello was duly elected as Chairman (Designate) and **Mr Leif Simpson** as Secretary (Designate).
I congratulate them on their future positions.
I also wish to inform you that Inspector Frank Barton has today resigned from the Federation Executive Board as Chief Inspector/Inspector Representative.
His vacancy will be duly advertised shortly.
I would like to take this opportunity in thanking Inspector Barton for his work and valuable contribution to the board throughout the years.
I also would like to thank all the members for their continued support.
With Kind regards

Henry J Bautista
Chairman
Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA
Centrex: [redacted]
Tel: +350 20050199
Mob: [redacted]
Email: henry.bautista@gibpolfed.org

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Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 23 January 2019 09:07
To: Henry Bautista
Cc: (RGP) Fernandez, Albert; (RGP) Garcia, Alfred (PC038); Anna Jones; Frank Barton; (RGP) Pozo, Lee (PC155); (RGP) Simpson, Leif (PC206); (RGP) Morello, Maurice (PS032); (RGP) Fernandez, Albert; Command Team
Subject: RE: GPF Survey working Streams - Designate GPF Chairman & Secretary

Dear Henry -

Many thanks for your two emails of yesterday afternoon where amongst other matters you advise me of the selection of the designate Chairperson and designate Secretary to replace you and Anna on both of your retirements later on this year.
You also ask me to release these two officers as soon as possible so that you can commence a process of handing over.

Having closely read the Police Federation Regulations 2018 I must advise you of expressed concerns that I have in connection with the manner these elections have been carried out. Whilst your view will no doubt be that this is a matter for the GPF and not for myself as Commissioner, I am concerned of the adverse impact this may have on the workforce if they feel unrepresented by the current composition of the Board. I will explain my interpretation of these regulations and where my rationale hinges.
I refer you to regulation 5 which I have pasted below for ease of reference.

5. Chairman and secretary of Board.
(1) At its first meeting after election, the Board shall elect a chairman and secretary from among its members.

As I see it, this refers to the election of a full Board and not a partial one – and therefore it follows that the entire Board should be elected every four years on the completion of tenure of the two convenors. According to the law, the election of the Chairman and Secretary should be conducted after the Board has been elected.

The elections you carried out yesterday included both Anna and yourself, two members of the Board that ethically should not have voted for the positions you will leave vacant on your retirement. In my view and in the interests of fairness and transparency, what should have happened is that the new Board should have been elected, including those two [new] members to replace you and Anna, and it should be this 'new' Board that elects its new Chairperson and Secretary. This is certainly what the Regulation above suggests – otherwise, the two new members would (a) not have had a chance to put them names forward for the Chairmanship or Secretary and (b) they have not had a chance to cast their vote to select any of these two posts. To compound what I view as a flawed process, it is my understanding that Insp Frank Barton voted and then straight away resigned from the Board when in essence what should have happened is the reverse and allow for a new elected member to cast his/her vote.

In sum, the process adopted suggests that 3 of the 8 members of the Board, two of which will no longer be members after they retire and one who has resigned after the vote, have improperly involved themselves in the election process of the new Chairperson and Secretary. That this process is in contravention of Regulation 5(1) of the Police Federation Regulations 2018 and it should be rectified internally by yourselves with the membership being advised accordingly.

For these reasons and until I am satisfied that the law has been properly applied in this very important election of Chairperson and Secretary, I am unable to commit to releasing PS Morello and PC Simpson as requested.

I trust you fully understand my standpoint. For the sake of your membership and the proper functioning of the GPF I hope that you obtain clarity immediately.

Please do not take this intervention of mine as anything other than a position of well-intended principle.

Regards

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Sent: 22 January 2019 16:25
To: (RGP) McGrail, Ian M.Sc (OTM)
Cc: (RGP) Ullger, Richard ; (RGP) Fernandez, Albert ; (RGP) Garcia, Alfred (PC038) ; Anna Jones ; Frank Barton ; Henry Bautista ; (RGP) Pozo, Lee (PC155) ; (RGP) Simpson, Leif (PC206) ; (RGP) Morello, Maurice (PS032)
Subject: FW: GPF Survey working Streams - Designate GPF Chairman & Secretary

Sorry Sir,

I forgot to mention that Inspector Frank Barton has resigned from his position as Inspector/Chief Inspector Representative.

His vacancy will be advertised shortly.

Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar

GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
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Email: henry.bautista@gibpolfed.org

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Cc: '(RGP) Ullger, Richard' <Richard.Ullger@royalgib.police.gi>; Albert Fernandez <albert.fernandez@royalgib.police.gi>; Alfred Garcia <alfred.garcia@royalgib.police.gi>; Anna Jones <anna.jones@gibpolfed.org>; Frank Barton <frank.barton@royalgib.police.gi>; Henry J Bautista <henry.bautista@gibpolfed.org>; Lee Pozo <lee.pozo@royalgib.police.gi>; Leif Simpson <leif.simpson@royalgib.police.gi>; Maurice Morello <maurice.morello@royalgib.police.gi>
Subject: GPF Survey working Streams - Designate GPF Chairman & Secretary

Good afternoon Sir,

May I firstly thank you for affording facility time for the federation Board members these past two days, where we have worked incessantly, brain storming and discussing on the agreed Survey working streams.
I can now say that we are now ready to start working with SMT on these issues. We have allocated the following board members to the working groups.

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I would further like to inform you that the board has this afternoon voted on the designated posts of Chairman and Secretary (Full time Convenors) of the Gibraltar Police Federation.
Mr Maurice Morello as Chairman and Mr Leif Simpson as Secretary have been duly selected.

With accumulated time in lieu and annual leave, Anna will be retiring on the 21st of March 2019 and I will be retiring on the 5th April 2019 respectively.
It is therefore kindly requested that both officers be released from their current roles/duties as soon as practically possible so that an orderly handing over may be carried out.

The Gibraltar Police Authority and the Minister of Justice have also been duly informed.

Best regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
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Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 23 January 2019 09:12
To: (MIN) Costa, Neil; Director Education
Subject: FW: GPF Survey working Streams - Designate GPF Chairman & Secretary

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Dear Minister and GPA Chair

Further to yesterday's email to yourselves concering the election of the designate Chairperson and Secretary of the GPF please see below my response to the GPF Chairman Henry Bautista.
This is not certainly the last we have heard from him or the GPF on this matter. My concerns still prevail though.

Regards
Ian

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex [redacted]

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Cc: (RGP) Fernandez, Albert ; (RGP) Garcia, Alfred (PC038) ; Anna Jones ; Frank Barton ; (RGP) Pozo, Lee (PC155) ;

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Cc: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>; (RGP) Fernandez, Albert <Albert.Fernandez@royalgib.police.gi>; (RGP) Garcia, Alfred (PC038) <Alfred.Garcia@royalgib.police.gi>; Anna Jones <anna.jones@gibpolfed.org>; Frank Barton <frank.barton@royalgib.police.gi>; Henry Bautista <henry.bautista@gibpolfed.org>; (RGP) Pozo, Lee (PC155) <Lee.Pozo@royalgib.police.gi>; (RGP) Simpson, Leif (PC206) <leif.simpson@royalgib.police.gi>; (RGP) Morello, Maurice (PS032) <Maurice.Morello@royalgib.police.gi>
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Chairman

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Best regards

Henry J Bautista
Chairman

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Federation Chairman

From: Henry Bautista <henry.bautista@gibpolfed.org>
Sent: 23 January 2019 16:35
To: (RGP) McGrail, Ian M.Sc (OTM)
Cc: (RGP) Fernandez, Albert; (RGP) Garcia, Alfred (PC038); Anna Jones; Frank Barton; (RGP) Pozo, Lee (PC155); (RGP) Simpson, Leif (PC206); (RGP) Morello, Maurice (PS032); (RGP) Fernandez, Albert; Command Team; (RGP) Ullger, Richard; (RGP) Yeats, Cathal; (GCID) Lopez, Edgar; (RGP) Tunbridge, Wayne; (RGP) Richardson, Paul (OTM)
Subject: RE: GPF Survey working Streams - Designate GPF Chairman & Secretary

Dear Sir

I thank you for your email. In answer to your expressed concerns in connection with the manner these elections have been carried out I can categorically state that the election process was transparent and under current regulations.

For clarity's sake, this matter and the process was thoroughly discussed with the GLO when drafting the Police Federation legislation.

The process is as follows: members of the federation from the floor elect the board members, i.e. Chief Inspectors/inspectors – 2 are selected, Sergeants – 2 are selected, Constables -4 are selected. These 8 form the Federation Executive Board, and from these, the Chairperson and secretary are elected.

The full current board members were present and elected the designate Chair and Secretary and then Mr Frank Barton resigned from the council.

The current board members have that responsibility as they are working alongside all board members and are better suited to select the most suitable candidate from those that apply for the positions.

We have contacted GLO for advice who have agreed that the correct criteria has been applied.

However, they have recommended a meeting with Mr Devincenzi head of the GLO for further clarity.

Should you wish in the meantime to discuss this please advise us when it is most convenient for you.

Regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
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Cc: (RGP) Fernandez, Albert ; (RGP) Garcia, Alfred (PC038) ; Anna Jones ; Frank Barton ; (RGP) Pozo, Lee (PC155) ; (RGP) Simpson, Leif (PC206) ; (RGP) Morello, Maurice (PS032) ; (RGP) Fernandez, Albert ; Command Team
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In sum, the process adopted suggests that 3 of the 8 members of the Board, two of which will no longer be members after they retire and one who has resigned after the vote, have improperly involved themselves in the election process of the new Chairperson and Secretary. That this process is in contravention of Regulation 5(1) of the Police Federation Regulations 2018 and it should be rectified internally by yourselves with the membership being advised accordingly.

For these reasons and until I am satisfied that the law has been properly applied in this very important election of Chairperson and Secretary, I am unable to commit to releasing PS Morello and PC Simpson as requested.

I trust you fully understand my standpoint. For the sake of your membership and the proper functioning of the GPF I hope that you obtain clarity immediately.

Please do not take this intervention of mine as anything other than a position of well-intended principle.

Regards

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Please consider the environment before printing this email.

From: Henry Bautista <henry.bautista@gibpolfed.org>
Sent: 22 January 2019 16:25
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>

Cc: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>; (RGP) Fernandez, Albert <Albert.Fernandez@royalgib.police.gi>; (RGP) Garcia, Alfred (PC038) <Alfred.Garcia@royalgib.police.gi>; Anna Jones <anna.jones@gibpolfed.org>; Frank Barton <frank.barton@royalgib.police.gi>; Henry Bautista <henry.bautista@gibpolfed.org>; (RGP) Pozo, Lee (PC155) <Lee.Pozo@royalgib.police.gi>; (RGP) Simpson, Leif (PC206) <leif.simpson@royalgib.police.gi>; (RGP) Morello, Maurice (PS032) <Maurice.Morello@royalgib.police.gi>
Subject: FW: GPF Survey working Streams - Designate GPF Chairman & Secretary

Sorry Sir,

I forgot to mention that Inspector Frank Barton has resigned from his position as Inspector/Chief Inspector Representative.

His vacancy will be advertised shortly.

Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
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Centrex [redacted]
Tel: +350 20050199
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Email: henry.bautista@gibpolfed.org

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Cc: '(RGP) Ullger, Richard' <Richard.Ullger@royalgib.police.gi>; Albert Fernandez <albert.fernandez@royalgib.police.gi>; Alfred Garcia <alfred.garcia@royalgib.police.gi>; Anna Jones

<anna.jones@gibpolfed.org>; Frank Barton <frank.barton@royalgib.police.gi>; Henry J Bautista <henry.bautista@gibpolfed.org>; Lee Pozo <lee.pozo@royalgib.police.gi>; Leif Simpson <leif.simpson@royalgib.police.gi>; Maurice Morello <maurice.morello@royalgib.police.gi>
Subject: GPF Survey working Streams - Designate GPF Chairman & Secretary

Good afternoon Sir,

May I firstly thank you for affording facility time for the federation Board members these past two days, where we have worked incessantly, brain storming and discussing on the agreed Survey working streams.
I can now say that we are now ready to start working with SMT on these issues. We have allocated the following board members to the working groups.

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Wellbeing [overworked/work related stress/burnout] AC (Des) Ullger/CI Field – GPF: Anna Jones / Albert Fernandez / Maurice Morello

Low morale Supt. (Des) Richardson/CI (Des) Perez – GPF: Lee Pozo / Maurice Morello / Anna Jones

Health and Safety in the workplace SEO Ramos/CI Finlayson – GPF: Leif Simpson / New Insp / Henry J Bautista

I would further like to inform you that the board has this afternoon voted on the designated posts of Chairman and Secretary (Full time Convenors) of the Gibraltar Police Federation.
Mr Maurice Morello as Chairman and Mr Leif Simpson as Secretary have been duly selected.

With accumulated time in lieu and annual leave, Anna will be retiring on the 21st of March 2019 and I will be retiring on the 5th April 2019 respectively.
It is therefore kindly requested that both officers be released from their current roles/duties as soon as practically possible so that an orderly handing over may be carried out.

The Gibraltar Police Authority and the Minister of Justice have also been duly informed.

Best regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar

GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
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Email: henry.bautista@gibpolfed.org

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Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 24 January 2019 08:41
To: Henry Bautista
Cc: (RGP) Fernandez, Albert (Insp 248); (RGP) Garcia, Alfred (PC038); Anna Jones; Frank Barton; (RGP) Pozo, Lee (PC155); (RGP) Simpson, Leif (PC206); (RGP) Morello, Maurice (PS032); (RGP) Fernandez, Albert (Insp 248); Command Team; (RGP) Ullger, Richard (COP 235); (RGP) Yeats, Cathal (ACOP 236); (GCID) Lopez, Edgar; (RGP) Tunbridge, Wayne; (RGP) Richardson, Paul (Supt 238)
Subject: RE: GPF Survey working Streams - Designate GPF Chairman & Secretary

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Dear Henry –

I know we are meeting this morning, but I feel that for the record it is important that I respond to you latest email below in response to mine dated 23rd January.

Unfortunately I do not think you grasp the essence of my email and observations. In a nutshell, I am advising you that the elections you have recently carried out have NOT been in compliance with the law – particularly with regards to Reg 5 and the Schedule mentioned in Reg 4. The law as I see it is very clear on how these elections have to carried out and how the Chairperson and Secretary are elected at its first meeting of the after the Board is elected in an AGM. This has simply NOT taken place.

As regards the legal advice you allude to, I also challenge that, and therefore would ask you to present this advice in writing so that I am in a better position to assimilate the matter.

Look forward to a constructive and positive meeting today.

Regards

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
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Please consider the environment before printing this email.

From: Henry Bautista
Sent: 23 January 2019 16:35
To: (RGP) McGrail, Ian M.Sc (OTM)
Cc: (RGP) Fernandez, Albert ; (RGP) Garcia, Alfred (PC038) ; Anna Jones ; Frank Barton ; (RGP) Pozo, Lee (PC155) ; (RGP) Simpson, Leif (PC206) ; (RGP) Morello, Maurice (PS032) ; (RGP) Fernandez, Albert ; Command Team ; (RGP) Ullger, Richard ; (RGP) Yeats, Cathal ; (GCID) Lopez, Edgar ; (RGP) Tunbridge, Wayne ; (RGP) Richardson, Paul (OTM)
Subject: RE: GPF Survey working Streams - Designate GPF Chairman & Secretary

Dear Sir

I thank you for your email. In answer to your expressed concerns in connection with the manner these elections have been carried out I can categorically state that the election process was transparent and under current regulations.

For clarity's sake, this matter and the process was thoroughly discussed with the GLO when drafting the Police Federation legislation.

The process is as follows: members of the federation from the floor elect the board members, i.e. Chief Inspectors/inspectors – 2 are selected, Sergeants – 2 are selected, Constables -4 are selected. These 8 form the Federation Executive Board, and from these, the Chairperson and secretary are elected.

The full current board members were present and elected the designate Chair and Secretary and then Mr Frank Barton resigned from the council.

The current board members have that responsibility as they are working alongside all board members and are better suited to select the most suitable candidate from those that apply for the positions.

We have contacted GLO for advice who have agreed that the correct criteria has been applied.

However, they have recommended a meeting with Mr Devincenzi head of the GLO for further clarity.

Should you wish in the meantime to discuss this please advise us when it is most convenient for you.

Regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
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Email: henry.bautista@gibpolfed.org



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From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: Wednesday, 23 January, 2019 9:07 AM
To: Henry Bautista <henry.bautista@gibpolfed.org>
Cc: (RGP) Fernandez, Albert <Albert.Fernandez@royalgib.police.gi>; (RGP) Garcia, Alfred (PC038) <Alfred.Garcia@royalgib.police.gi>; Anna Jones <anna.jones@gibpolfed.org>; Frank Barton <frank.barton@royalgib.police.gi>; (RGP) Pozo, Lee (PC155) <Lee.Pozo@royalgib.police.gi>; (RGP) Simpson, Leif (PC206) <leif.simpson@royalgib.police.gi>; (RGP) Morello, Maurice (PS032) <Maurice.Morello@royalgib.police.gi>; (RGP) Fernandez, Albert <Albert.Fernandez@royalgib.police.gi>; Command Team <CommandTeam@royalgib.police.gi>
Subject: RE: GPF Survey working Streams - Designate GPF Chairman & Secretary

Dear Henry -

Many thanks for your two emails of yesterday afternoon where amongst other matters you advise me of the selection of the designate Chairperson and designate Secretary to replace you and Anna on both of your retirements later on this year.
You also ask me to release these two officers as soon as possible so that you can commence a process of handing over.

Having closely read the Police Federation Regulations 2018 I must advise you of expressed concerns that I have in connection with the manner these elections have been carried out. Whilst your view will no doubt be that this is a matter for the GPF and not for myself as Commissioner, I am concerned of the adverse impact this may have on the workforce if they feel unrepresented by the current composition of the Board. I will explain my interpretation of these regulations and where my rationale hinges.
I refer you to regulation 5 which I have pasted below for ease of reference.

5. Chairman and secretary of Board.

(1) At its first meeting after election, the Board shall elect a chairman and secretary from among its members.

As I see it, this refers to the election of a full Board and not a partial one – and therefore it follows that the entire Board should be elected every four years on the completion of tenure of the two convenors. According to the law, the election of the Chairman and Secretary should be conducted after the Board has been elected.

The elections you carried out yesterday included both Anna and yourself, two members of the Board that ethically should not have voted for the positions you will leave vacant on your retirement. In my view and in the interests of fairness and transparency, what should have happened is that the new Board should have been elected, including those two [new] members to replace you and Anna, and it should be this 'new' Board that elects its new Chairperson and Secretary. This is certainly what the Regulation above suggests – otherwise, the two new members would (a) not have had a chance to put them names forward for the Chairmanship or Secretary and (b) they have not had a chance to cast their vote to select any of these two posts. To compound what I view as a flawed process, it is my understanding that Insp Frank Barton voted and then straight away resigned from the Board when in essence what should have happened is the reverse and allow for a new elected member to cast his/her vote.

In sum, the process adopted suggests that 3 of the 8 members of the Board, two of which will no longer be members after they retire and one who has resigned after the vote, have improperly involved themselves in the election process of the new Chairperson and Secretary. That this process is in contravention of Regulation 5(1) of the Police Federation Regulations 2018 and it should be rectified internally by yourselves with the membership being advised accordingly.

For these reasons and until I am satisfied that the law has been properly applied in this very important election of Chairperson and Secretary, I am unable to commit to releasing PS Morello and PC Simpson as requested.

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Subject: FW: GPF Survey working Streams - Designate GPF Chairman & Secretary

Sorry Sir,

I forgot to mention that Inspector Frank Barton has resigned from his position as Inspector/Chief Inspector Representative.

His vacancy will be advertised shortly.

Kind regards

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IN THE MATTER OF
POLICE FEDERATION REGULATIONS 2018 – ELECTION OF CHAIRMAN AND SECRETARY OF THE FEDERATION BOARD

ADVICE

1. INTRODUCTION

1. I understand that the incumbent Chairman and Secretary of the Gibraltar Police Federation (the "GPF") are due to retire in April 2019 and March 2019, respectively. Consequently at an executive board meeting on 22 January 2019, the incumbent Federation Board (the "Board") balloted for the upcoming positions of Chairman and Secretary (full time conveners of the GPF). Following the election, a member of the Board resigned.

2. I understand that the Chairman of the Board communicated these elections to the Commissioner of Police and requested that the new officers taking on the position of Chairman and Secretary be released from their current roles and duties as soon as possible to allow for a hand over.

3. The Commissioner of Police is of the view that the election of Chairman and Secretary to the Board has not been carried out in accordance with the Police Federation Regulations 2018 (the "2018 Regulations") and, as a result, is unable to release the new officers from their duties.

4. I have, therefore, been asked by the Commissioner of Police to advise whether the procedure adopted by the Board in the election of the new Chairman and Secretary to the Board was in accordance with the 2018 Regulations.

2. CONCLUSION

5. The election of the new Chairman and Secretary to the Board was not in accordance with the procedure laid down in regulation 5(1) of the 2018 Regulations.

3. ANALYSIS

Legal Provisions

6. I set out below the relevant provisions of the 2018 Regulations for ease of reference.

7. Regulation 4 of the 2018 Regulations entitled "*The Board*" provides:

> "*(1) The governing of the Police Federation shall be the Federation Board (the "Board").*
>
> *(2) The Board shall consist of-*

(a) *two officers of the rank of inspector or chief inspector;*
(b) *two sergeants; and*
(c) *four constables.*

(3) Elections to the Board shall be conducted in accordance with the Schedule.

(4) A person elected in accordance with the Schedule shall remain a member of the Board for a period of four years unless he-

(a) *ceases to be a member of the Force;*
(b) *ceases to hold the rank in respect of which he was qualified to be elected;*
(c) *resigns as a member of the Board by notice in writing to the Board; or*
(d) *is removed by the members of the GPF in accordance with subregulation (7).*

(5) If there is a vacancy in the Board, the Board may nominate a member of the Federation of the appropriate rank to fill such vacancy until the next election of the Board…." (my emphasis).

8. Regulation 5 of the 2018 Regulations entitled "*Chairman and Secretary of Board*" provides:

"*(1) At its **first** meeting **after election**, the **Board shall elect** a chairman and secretary from among its members.*

(2) A person elected as chairman and secretary shall hold office for a period of four years unless he-

(a) *ceases to be a member of the Force;*
(b) *resigns from the position by notice in writing to the Board; or*
(c) *is removed from the office in accordance with subregulation (5)…."* (my emphasis).

9. Regulation 6 of the 2018 Regulations governs the procedure at Board meetings. Regulation 9 of the 2018 Regulations governs the procedure for an Annual General Meeting of the Federation, which shall be held every year, while regulation 10 provides for Extraordinary General Meetings.

10. The Schedule to the 2018 Regulations provides the procedure for Elections to the Board, which includes compiling a list of eligible members, nominations and polls.

Election of Chairman and Secretary

11. The election of Chairman and Secretary of the Board is governed by regulation 5(1) of the 2018 Regulations, set out in full at para 8 above.

12. In essence, regulation 5(1) of the 2018 Regulations requires that a general election of members of the Board be held in accordance with the Schedule to the 2018 Regulations (regulation 4(3) of the 2018 Regulations) prior to the election of the chairman and secretary. The new Board then elects a Chairman and Secretary from among its members.

13. Given the facts set out in paragraph 1 above, it is clear that this procedure has not been followed. Indeed, the incumbent Chairman and Secretary have not yet resigned in accordance with regulation 5(2)(b) of the 2018 Regulations. They have both balloted, along with the incumbent members of the Board, at an executive board meeting for the positions of Chairman and Secretary. This is contrary to regulation 5(1) of the 2018 Regulations.

14. As a final note, regulation 5 of the 2018 Regulations, unlike regulation 4(5), is silent on what happens after the chairman and secretary resign etc. before the 4 year term in accordance with regulation 5(2). Regulation 4(5) for instance, allows the Board to nominate a member to fill the vacancy until the next election of the Board, following a resignation etc. of a member of the Board. The same provision is not found in regulation 5 of the 2018 Regulations. Accordingly, regulation 5(1) requires a general election of members of the Board where the chairman and/ or secretary resign etc. before the 4 year term.

Yvette Sanguinetti
Crown Counsel
Government Law Offices
24 January 2019

REF: Gibraltar Police Federation ("GPF") – Police Federation Regulations 2018 ("the Regulations") – election of Chairman and Secretary of the Board of the Federation.

NOTE

---

1. I am instructed by Henry Bautista ("**HB**") and Anna Jones ("**AJ**"), currently the Chairman and Secretary respectively of the GPF, on behalf of the GPF, to advise the GPF on a number of issues that have arisen in relation to the election of their replacements as Chairman and Secretary.

Background and facts

2. The GPF was established under section 49 of the Police Act 2006 ("**the Act**"), as substituted by section 3 of the Police (Amendment) Act 2018. The GPF replaced the "Police Association" established under the previous iteration of S.49 of the Act.

3. The Regulations, made under s. 79(3) of the Act , as amended by the Police (Amendment) Act 2018 came into effect on 21 June 2018.

4. HB and AJ were the duly elected Chairman and Secretary of the now abolished Police Association, and hold the same offices in the GPF (as do members of the Board) by virtue of the transitional provisions in regulation 19 of the Regulations.

5. HB and AJ will cease to be members of the RGP (on retirement) with effect 22 May 2019 and 20 April 2019 respectively. Each has annual and accumulated leave which means that they will be on a period of leave before retirement date, but I do not think that that alters the effective date on which they cease to be members of the RGP.

6. In anticipation of their so ceasing to be members of the RGP, and thus vacating their seats on the Board and their respective offices of chairman and secretary, the Board purported to elect, on a designate basis, replacements from among the remaining members of the Board, to hold the offices of chairman and secretary (**"the Elections"**).

7. Having done so, they requested the Commissioner of Police ("COP") to release the designate appointees from their current responsibilities within the RGP to be transitioned into their new posts in the GPF. The chairman and secretary of the GPF are full time conveners of the GPF by operation of law (reg. 5(3) of the Regulations). The COP has refused to release the designated appointees on the basis that they have not yet been properly appointed to those offices in the GPF.

8. The view has been expressed that on the proper legal interpretation of reg. 5 of the Regulations, upon the cessation of the chairman and/or the secretary the entire Board of the GPF must dissolve and new elections must be held for all Board members (**"the View Expressed"**).

Advice sought

9. My opinion has been requested on three issues, namely:

   9.1 Is the View Expressed correct?
   9.2 Were the Elections flawed and therefore invalid?
   9.3 Was the COP entitled to refuse to release the designate appointees to be full time conveners of the GPF?

   I will answer each of these questions in turn.

Is the View Expressed correct

10. In my opinion, and for the reasons explained in paragraphs 11 to 22 below, there is no basis in law or in any principle of statutory interpretation for the

View Expressed, and there is no realistic prospect that a court would sustain it. It is, in my opinion and with respect to those who have expressed it, wrong.

11. By virtue of the transitional provisions in regulation 19, the Board members and HB and AJ hold their respective offices in the GPF on the basis that they are deemed to have been elected "under these Regulations until the expiry of the period for which they were elected" to their respective positions in the Police Association. Accordingly, the Board members and the chairman and secretary hold their office (for whatever period was left on 21 June 2018 of their mandate in the Police Association) on the terms of the Regulations and the amended Act.

12. Reg. 5(2) of the Regulations provides that the chairman and secretary shall hold office for a period of four years unless he/she ceases to be a member of the RGP, resigns or is removed. Similar provisions apply to members of the Board under regulation 4(4). In respect of the Board members and office holders to which the above transitional provisions relate, the period of four years referred to in regulations 5(2) and 4(4) is substituted by whatever period was left on 21 June 2018 of their mandate in the Police Association.

13. It is clearly the intention of the law that the chairman and secretary of the GPF be appointed by the Board from among its members (reg 5(1)). For the reasons set out in paragraph 11 above there is already a properly constituted Board under the Regulations.

14. The View Expressed includes the proposition (indeed it is fundamentally based on it) that "regulation 5(1) requires a general election of members of the Board where the chairman and/or secretary resign etc before the 4 year term". This supposedly because as regulation 5(1) says that "at its first meeting after election, the Board shall elect a chairman and secretary from among its members", it is necessary for there to be new elections for the entire Board so that there can be a "first meeting" of the Board at which to elect a chairman and secretary (at its first meeting). In other words, that there must

be new Board elections so that the meeting at which the Board elects the new chairman and secretary is its "first meeting".

15. There is nothing in the Regulations or in any applicable principle of law or statutory interpretation that would sustain this remarkable proposition, or the argument on which it is based.

16. Indeed, if the argument were correct, it would result in the remarkable, and obviously incorrect and unintended consequence, that every time a chairman or secretary ceased to be a member of the RGP (whether on death, retirement or dismissal), was removed from office under the provisions for that in the Regulations or simply resigned from the position by notice in writing to the Board, the entire Board would have to be dissolved and new elections would have to be held for all Board member positions. That is an absurd result. In my opinion, a court will not interpret the Regulations to that effect.

17. Applying applicable general legal principles, if there is a vacancy in an office in respect of which a Board has the power of appointment, then that same Board has the power of appointment to fill any vacancy that may arise in that office.

18. It needs to be borne in mind that a person could resign from the post of chairman or secretary without resigning as a member of the Board. They are separate things. So, prior to the effective date of ceasing to be members of the RGP (e.g. during their period of pre-retirement leave) HB and/or AJ could resign as chairman/secretary and remain on the Board until the effective date of ceasing to be members of the RGP. There could be no legal objection to them, in those circumstances, forming part of the Board that appoints new chairman and/or secretary because they would still be eligible and valid Board Members.

19. Furthermore, the Regulations are clear about the length of the mandate of Board members, the circumstances in which the Board is dissolved, how often and how elections of the Board must occur and how any vacancies in Board

members that may occur in the meantime may be filled. It is not legally admissible to superimpose on those provisions, by stint of an impossibly strained interpretation of regulation 5(1), an additional circumstance in which the whole Board must be re-elected and which the legislature has simply not stipulated.

20. So, the Board member regime is as follows:

(1) The first Board members are transitioned from the Police Association Council for whatever period was left on 21 June 2018 of their mandate in the Council of the Police Association (reg. 19);

(2) A general election of members of the Board must be held every four years at an annual general meeting (paragraph 1(1) of the Schedule to the Regulations);

(3) If there is a vacancy in the Board in the meantime, the Board "may" (i.e. it does not have to) nominate a member of the GPF of the appropriate rank to fill such vacancy until the next election of the Board (reg. 4(5)); and

(4) An act of the Board is not affected by the fact that there is an unfilled vacancy in the Board (reg. 4(7)) and the continuing members of the Board may act notwithstanding any vacancy in the Board (reg. 6(7)).

21. Accordingly, it is my strongly held opinion that upon HB and AJ (or any chairman or secretary in the future) ceasing to be members of the RGP they cease to be both holders of that office and members of the Board. The remaining Board members may then:

(1) Elect a new chairman and secretary from among their number; and
(2) May (but are not obliged to) appoint new persons of the appropriate rank to replace them on the Board. I would advise the GPF to replace outgoing Board members, despite the provisions cited above that are permissive (but not mandatory) and which allow the Board to function without such

appointments (subject to their being a quorum). The reason for my advice in this respect is that regulation 4(1) says that the Board of the GPF "shall" consist of the numbers and ranks therein specified. It might be argued that a gratuitous refusal of the Board to appoint new members within a reasonable period of time might breach this regulation.

22. The point has also been made that, to be valid, an election of new chairman and secretary from among the Board members must take place after the appointment by the Board of replacement Board members to fill the vacancy created by the separate vacation of the Board seats held by the outgoing chairman and secretary. I do not think that the legal validity of an election of new chairman and secretary depends on that, since there appears to be no compulsion to appoint replacements within any period of time, and in any event there are the cited provisions validating the acts of the Board regardless of the existence of vacancies on the Board. But whatever may be its legal status, the point is otherwise attractive, and the Board may well wish to consider choreographing things in that order.

23. There is nothing in the Act or the Regulations capable of being correctly interpreted to mean that if there is a vacancy in either the chairman or secretary the entire Board must resign and submit to general elections before a chairman and secretary can be validly appointed.

Were the Elections flawed and therefore invalid?

24. It is not so much a case of the Elections being flawed or invalid, as of there not yet having been any appointments.

25. There is currently no vacancy in the offices of chairman and secretary, and so the Board does not have the power to make an appointment to those offices.

26. In principle, it is not legally objectionable for a body that has a power of appointment of an officeholder to select a future appointee on a designate

basis in anticipation and in preparation for the cessation of the incumbent in that office. But designation and appointment are different things. Nor can such a designation be legally binding, since the power of appointment has not yet arisen.

27. But the Board is free, and indeed, if it wants to appoint the designated persons, it must, meet to ratify the designation by making a formal election decision (and thus appoint) the new office holders once the cessation of HB and/or AJ is effective.

28. In my opinion, if the Board does what is stated in paragraph 27 above, the appointments will be legally valid and binding. It will make no difference to that that HB and AJ participated in the initial designation decision, because that is not the appointment, and the remaining Board members, when they meet to make the appointment to fill the vacancies in chairman and secretary after their retirement are not bound to appoint the designated persons, and may appoint different persons.

29. The view has also been expressed that it is somehow objectionable that a member of the Board voted and then immediately resigned from the Board. In my firmly held opinion, this is legally unobjectionable. Until a member resigns from the Board he is entitled to vote on any and every matter that comes before the Board for decision. The fact that when he voted he had the firm intention to resign immediately or shortly thereafter is legally irrelevant.

Was the COP entitled to refuse to release the designate appointees to be full time conveners of the GPF?

30. In my opinion the COP was fully entitled to refuse to release from their existing duties in the RGP the designated appointees to replace HB and AJ as chairman and secretary, respectively, for the reasons explained above, namely, as there is currently no vacancy in those offices, no-one can have been appointed to fill those vacancies. In those circumstances, the provisions of

regulation 5(3) which makes appointees to the office of chairman and secretary full time conveners of the GPF by operation of law, has not yet been engaged.

31. That said, I do not think that the COP is entitled not to release appointees until he is "satisfied that the law has been properly applied" in the election of chairman and secretary. The law says that the persons appointed by the Board are full time conveners. Any possible irregularity in the procedures of the GPF is an internal matter for the GFP and its members, any one of who could challenge a decision of the Board on grounds of irregularity of procedure. But that is a matter for members of the GFP and the courts, not a matter upon which the law gives the COP a power to adjudicate by withholding appointees. The COP does not have the power to decide on the legality of the GPF's internal procedures.

Additional matter

32. Before concluding this opinion note, I would like to bring one further matter to the attention of those instructing me.

33. I have been informed by HB and AJ that in the Police Association, appointments to the Council were of staggered duration in order to ensure continuity. I do not think that this system works under the Regulations, which seem to me to envisage elections for the whole Board every four years.

34. I am supported in this view by the following provisions of the Regulations:

    (1) Reg. 5(1) – "At its first meeting after election, the Board.....";
    (2) Para 1(1) of the Schedule to the Regulations- "A general election of the members of the Board must be held every four years.....": and
    (3) The general provisions of the Schedule.

35. In my opinion, the proper interface between (i) the transitional appointment of Police Association Council appointees to the Board of the GPF and (ii) the

above provisions requiring elections to the Board every four years, is the following:

(1) Transitioned Board members' appointments last until the expiry of whatever period was left on 21 June 2018 of their individual mandate in the Police Association Council ("the remaining period");

(2) When a Board Member's remaining period expires his position on the Board automatically expires and his seat is vacant. The Board may, and in my opinion should, fill that vacancy from the appropriate rank. The Board could appoint the vacating member or someone else. Any person so appointed to fill a vacancy will serve only until the next elections for the whole Board.

(3) No later than four years from 21 June 2018 (and every four years thereafter) there have to be elections for the whole Board.

(4) On its first meeting after each such elections, the newly elected Board meets and elects a chairman and secretary from among its members, to serve for four years.

(5) This will put an end to the staggering of appointments as occurred in the Council. A continuation of that practice will require appropriate amendments to the Regulations.

Sir Peter Caruana KCMG, QC
Suite 841, Europort
Gibraltar

Federation Chairman

From: (RGP) Olivera, John (PS008)
Sent: 25 January 2019 07:47
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: Federation draft 2
Attachments: Federation draft 2.docx

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Sir

I am intending to send the email below along with the attachment this morning.

Before doing so, I would like you to have sight of this and I invite your comments.

Also, the GPF will need to select a date and time for the EGM and I think that in order to ensure there are sufficient members present, it would be wise to hold the EGM during a working day rather than after work. Perhaps at 3pm? I seek your approval for this also.

John

All

On Wednesday when I sent you all an email I was offering an opinion, which whilst unsupported by legislation, nonetheless felt morally appropriate. I felt that before selecting two new conveners, the Executive Board should have sought our opinion as Federation members.
I was told that the legislation did not require them to do so. But I was of the opinion that whether it was required by law or not, it was appropriate to seek the views of the Federation members before making such an important decision. It was more a case of it being the right way to approach this; the moral way to do things, than anything else.
It was on this basis that I sought your support and I am pleased to say with 37 people writing to support me, I have successfully secured an EGM (Extraordinary General Meeting) where the Executive Board will have to hear our opinions. The date and time will be set by the Executive Board in due course.
I have now read the relevant legislation in detail and I am, formally challenging what the Executive Board have done. Having interpreted the legislation, I have attached an information leaflet which explains some important information that you as Federation members all need to understand. I urge you to read this leaflet.
I hope that after reading the leaflet you will all fully understand the situation.
If you agree with me that the Executive Board should be dissolved with immediate effect; giving us all the opportunity to elect a new Executive Board under the new legislation and subsequently giving us all an opportunity to have an input in the selection of the new Chairman and Secretary (convener roles) from that new Executive Board. Please reply to me accordingly.

If enough of you respond to me now, it may be that the Executive Board will agree to stand down without forcing an EGM.

If an EGM is held, as many of you as possible will need to attend in order to have this motion passed.
It may be that a motion of no confidence in the Executive Board will need to be tabled at the EGM.
On a final note, just in case anyone thinks I have any ulterior motive, I want to assure you that I have no desire or intention to be either a member of the Executive Board or a convener. I am just determined to ensure that those who fulfil these roles, do so correctly and in the best interests of all of us. Anyone who knows me knows that if I see something is wrong, I don't sit around complaining about it, I do something about it.

There are people who make things happen, there are people who watch things happen, and there are people who wonder what happened.

Make things happen. Reply to this email if you agree with me and remind your Executive Board that they serve you.

Federation Chairman

From: (RGP) Olivera, John (PS008)
Sent: 25 January 2019 14:20
To: (RGP) Romero, Nolan (Supt 242)
Subject: FW: Federation draft 2
Attachments: Federation draft 2.docx

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

As discussed, see below draft unsent email and attachment – not for wider circulation please

John Louis Olivera MSc.
Police Inspector (des)
Recruitment & Training Department
Planning, Development & Support Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20048013 Centrex [redacted]

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All

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I was told that the legislation did not require them to do so. But I was of the opinion that whether it was required by law or not, it was appropriate to seek the views of the Federation members before making such an important

decision. It was more a case of it being the right way to approach this; the moral way to do things, than anything else.
It was on this basis that I sought your support and I am pleased to say with 37 people writing to support me, I have successfully secured an EGM (Extraordinary General Meeting) where the Executive Board will have to hear our opinions. The date and time will be set by the Executive Board in due course.
I have now read the relevant legislation in detail and I am, formally challenging what the Executive Board have done. Having interpreted the legislation, I have attached an information leaflet which explains some important information that you as Federation members all need to understand. I urge you to read this leaflet.
I hope that after reading the leaflet you will all fully understand the situation.
If you agree with me that the Executive Board should be dissolved with immediate effect; giving us all the opportunity to elect a new Executive Board under the new legislation and subsequently giving us all an opportunity to have an input in the selection of the new Chairman and Secretary (convener roles) from that new Executive Board. Please reply to me accordingly.

If enough of you respond to me now, it may be that the Executive Board will agree to stand down without forcing an EGM.

If an EGM is held, as many of you as possible will need to attend in order to have this motion passed.
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On a final note, just in case anyone thinks I have any ulterior motive, I want to assure you that I have no desire or intention to be either a member of the Executive Board or a convener. I am just determined to ensure that those who fulfil these roles, do so correctly and in the best interests of all of us. Anyone who knows me knows that if I see something is wrong, I don't sit around complaining about it, I do something about it.

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Make things happen. Reply to this email if you agree with me and remind your Executive Board that they serve you.

Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 25 January 2019 15:52
To: Anna Jones
Cc: (RGP) Yeats, Cathal (ACOP 236); (RGP) Richardson, Paul (Supt 238); Henry Bautista
Subject: Re: Elections

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Anna - noted with many thanks.
Rgds

Sent from my iPhone

On 25 Jan 2019, at 15:34, Anna Jones <anna.jones@gibpolfed.org> wrote:

> Dear Sir,
> Please find below our communication to our members earlier this afternoon. We have also informed MOJ Costa and GPA Chair Joey Britto.
> Dear Federation Members
> Following our recent election of the Designate Chairman and Secretary of the board held on Tuesday 22nd of January 2019,
> the Commissioner has sought legal advice in relation to the process.
> As a result of said legal advice, it has been deemed that the Regulations have not been followed.
> The results of the Ballot are therefore declared unratified by the Federation.
> We will be updating you accordingly.
> The Federation Board
> Best regards
> Anna
> Anna Jones
> Secretary
> Gibraltar Police Federation
> Unit 1.12 Retrenchment Block
> PO Box 1325
> Gibraltar
> GX11 1AA
> Centrex: [redacted]
> Tel: +350 20050199
> [redacted]
> Email: anna.jones@gibpolfed.org
>
> *This message, together with any attachment, is intended only for the use of the individual or entity to which it is addressed and may contain information that is legally privileged and confidential. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, please be informed that any dissemination, distribution, copying, printing or retaining of this message, or any attachment is strictly prohibited. If you have received this message in error, please advise the sender by reply email and delete the message.*

Federation Chairman

From: (RGP) Ullger, Richard
Sent: 29 January 2019 11:12
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: Fwd: GPF - Email comments
Attachments: image001.jpg; ATT00001.htm; image002.png; ATT00002.htm; image003.png; ATT00003.htm; image001.jpg; ATT00004.htm; image002.png; ATT00005.htm; image003.png; ATT00006.htm; GPF - Email comments.xlsx; ATT00007.htm

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Sir,

FYI

Richard.



Richard Ullger
Police Superintendent
Planning, Development and Support Division,
New Mole House, Rosia Road, Gibraltar GX11 1AA
t (+350) **20047996** [redacted] www.police.gi
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Begin forwarded message:

> **From:** "(RGP) Olivera, John (PS008)" <John.Olivera@royalgib.police.gi>
> **Date:** 29 January 2019 at 11:05:37 CET
> **To:** "(RGP) Ullger, Richard" <Richard.Ullger@royalgib.police.gi>, "(RGP) Yeats, Cathal" <Cathal.Yeats@royalgib.police.gi>
> **Subject: FW: GPF - Email comments**
>
> Sir
> FYI, the email below was sent to Henry a few moments ago.
> On Thursday or Friday, I will send my proposed email along with an adapted version of my information booklet to all police staff.
> John

Federation Chairman

From: (RGP) Richardson, Paul (OTM)
Sent: 30 January 2019 09:35
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: Police Fed Meeting notes

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

COP	Difficult conversation needs to be had. RGP as institution not as individuals Bit of a mess
HB	Your opinion. It has been done legally
COP	2015 call from Lloyd Devincenci and prev email 'its important' wanted to call HB tomorrow (today) You need to listen to the legal advice from Lloyd to COP and take legal advice from FED lawyers. Govt can ask questions of the Fed, not wanting to meddle but needs to see things done properly
HB	I take offence
COP	4(3) read out - elections
HB	I agree with everything mentions transitional arrangements under 19
COP	You are barking up the wrong tree, go and consult your own lawyers, an inch away from writing to membership direct. I am on solid footing. Have serious concern about conduct of Fed.
AJ	We will be writing to membership and hold an EGM
HB	We were elected under old regs in 2016 therefore in office until 2020 under transitional regs.
COP	As you have been in office for over 4 years you need to be elected under an AGM
AJ	LLOYD interpreted it one way then and another now. We will take the legal advice
COP	You need to get your own legal advice not take mine. LLOYD represents the Govt. Let's call LLYOD. If it's not a lie (you have not been given advice) or at least tried to mislead me, how did you think that you were going to get away with it. You will not ride over the office of the COP I warned you before Christmas when you emailed about the board forcing you to do it when the board (after speaking to them) denied this.
AJ	You are saying we had not sought advice (heated) and we HB had from Nadia
CY	No he said you had not *received* advice
COP	The GPF have not received advice. Email read.
HB	You are mixing things up. What they said is (interrupted) are you giving me the caution? Called Nadia, she said she shouldn't really be doing this as tied up with Brexit. She looked at it, and said you are right, it is a bit ambiguous, we discussed the intention when law was drafted and the intention to have continuity. I brought up the schedule which says every 4 years, I think diremos that the COP has a point. She made ref to the transitional arrangements.
COP	Shows email from LLYOD yesterday (LLYOD not available for call - LD) COP calls mobile. 58008266 0934Hrs. I had sent a copy of HB's email to lawyer.
HB	Last AGM as council in 2016 for term of 4 years.
COP	Receives call from Yvette Sanguinetti -speakerphone, (Lloyd) Nadia Sissarello here too.
NADIA	Yesterday HB called me and briefed me briefly, but advised New board that elected chairman and secretary, discussed having an EGM but it board which chose Chair and Sec. Once You and Anna stepped down the new board would elect, BUT informal advice and need to speak to Lloyd or Yvette.
HB	I agree. What I said is we elected Chair and Sec

Lloyd	Intervening - I read email and your email gives a different impression and what we said is not what you said in your email and I find this problematic.
COP	We are working constructively to resolve this today.
HB	Your tactic is to ...
COP	The bottom line is we move on from this, let's be sensible. I am holding back to write to workforce. I cannot tell you what to do and suggest you get your own legal advice. I will back down if I am wrong
HB	We are not conniving to get people in, this is what hurts me.
COP	The workforce think that. Break for Christian Rocca - ? Resume later.

Federation Chairman

From:	Henry Bautista <henry.bautista@gibpolfed.org>
Sent:	31 January 2019 10:47
To:	(RGP) McGrail, Ian M.Sc (OTM)
Cc:	(RGP) Ullger, Richard (COP 235); (RGP) Yeats, Cathal (ACOP 236); (RGP) Tunbridge, Wayne; (RGP) Richardson, Paul (Supt 238)
Subject:	GPF AGM
Follow Up Flag:	Follow up
Flag Status:	Completed
Categories:	Red Category

Dear Sir

For your information – email sent to the members this morning.

Dear Colleagues

Please find attached as per legislation requirement and compliance with the Police Federation Regulations 2018,
Schedule – Elections to the Federation Board Sec 2(1) Lists of Electors / current Members, eligible to vote and or be elected, as at 31st January 2019.

The Annual General Meeting of the Gibraltar Police Federation will be held on ***Wednesday 22nd May 2019****. The time and venue will be published in due course. This will be circulated in Force Orders, the Police Intranet and billboards throughout all police stations.*

The Agenda will also be confirmed not later than ***Wednesday 8th of May 2019*** *(fourteen days before the AGM).*
Prior to 8th of May, nominations for vacancies will be sought, and details of the procedure will be published for all members. The elections of the Federation Board will be carried out at the AGM.

We invite anyone wishing to have any motions/specific matters included in the agenda, to forward these, in writing, as soon as possible to either the Federation Secretary anna.jones@gibpolfed.org or to the Chairman henry.bautista@gibpolfed.org

Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: [redacted]

Email: henry.bautista@gibpolfed.org

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Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 31 January 2019 10:00
To: Command Team
Subject: Fwd: Gibraltar Police Federation AGM
Attachments: image002.jpg; ATT00001.htm; image003.png; ATT00002.htm; image004.png; ATT00003.htm; image001.jpg; ATT00004.htm; GPF Lists of Electors 31.01.19.pdf; ATT00005.htm

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Gents - please see below communique that has been pushed out by the GPF with an attachment containing their 'register of electors'. I am surprised that Supt Lopez features in it. I need to hear from Edgar whether he wants to continue being a member of the Command Team - if he does he needs to exclude himself from the list being circulated by the GPF.

Rgds
Sent from my iPhone

Begin forwarded message:

> **From:** "(RGP) Payas, Patrick" <Patrick.Payas@royalgib.police.gi>
> **Date:** 31 January 2019 at 09:51:32 GMT+1
> **To:** "(RGP) McGrail, Ian M.Sc (OTM)" <Ian.McGrail@royalgib.police.gi>
> **Cc:** "(RGP) Payas, Patrick" <Patrick.Payas@royalgib.police.gi>
> **Subject: FW: Gibraltar Police Federation AGM**

Federation Chairman

From: (RGP) Olivera, John (PS008)
Sent: 31 January 2019 11:32
To: (RGP) All Police Staff
Subject: Gibraltar Police Federation update
Attachments: GPF - Email comments.xlsx; GPF Q&A.docx

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

All

As stated by the Police Federation Chairman in his email on Friday 25 January 2019, the Federation Board ballot undertaken last week will not stand.

The Police Federation will need to elect a new Executive Board and once formed, the new Executive Board will then decide who the Chairman & Secretary will be.

The current legislation does not require the new board to seek input from the Federation Board membership in making this decision, but I believe that an Executive Board would want to seek your opinions at that time in the interests of all members.

My call for support in this matter resulted in 41 responses and I have attached the anonymised text of these responses to this email for your further information.

There was enough support for my proposal to call an EGM and the Police Federation Chairman has therefore approached me and offered to call an EGM forthwith.

However, given that an AGM has now been scheduled for Wednesday 22nd May 2019; at which point the arrangements for establishing a new Executive Board will be discussed, the Chairman and I discussed the possibility of holding off on the EGM and tabling my motions at the AGM.

For clarity, I am intending to table the following motions at the AGM:

1) That the legislation should be amended to allow for all members of the Police Federation to vote for the convener roles (Chairman and Secretary) – these amendments must be completed before the formation of the next Executive Board in 4 years' time.

2) That on this occasion, as the legislation will not be amended in time, that the Executive Board should seek input from all members of the Federation and take these opinions in to account when deciding who to appoint as Chairman and Secretary for the next 4 years

I hope you all agree with me that it seems illogical to hold an EGM now to discuss one issue, when said issue can be tabled and voted on at the AGM and dealt with just as effectively, alongside other related matters.

If anyone disagrees, and wishes to push for the EGM that we are entitled to demand at this stage, then please let me know and I will raise this with the Chairman.

Also attached to this email is a Q&A that I have devised to ensure that everyone is clear about what will be happening over the next few weeks and how it affects us all.

I urge you to read this Q&A and consider the content carefully.

John

John Louis Olivera MSc.
Police Inspector (des)
Recruitment & Training Department
Planning, Development & Support Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20048013 Centrex: [redacted]

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Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 31 January 2019 20:37
To: (RGP) Richardson, Paul (Supt 238)
Subject: Re: Police Fed

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

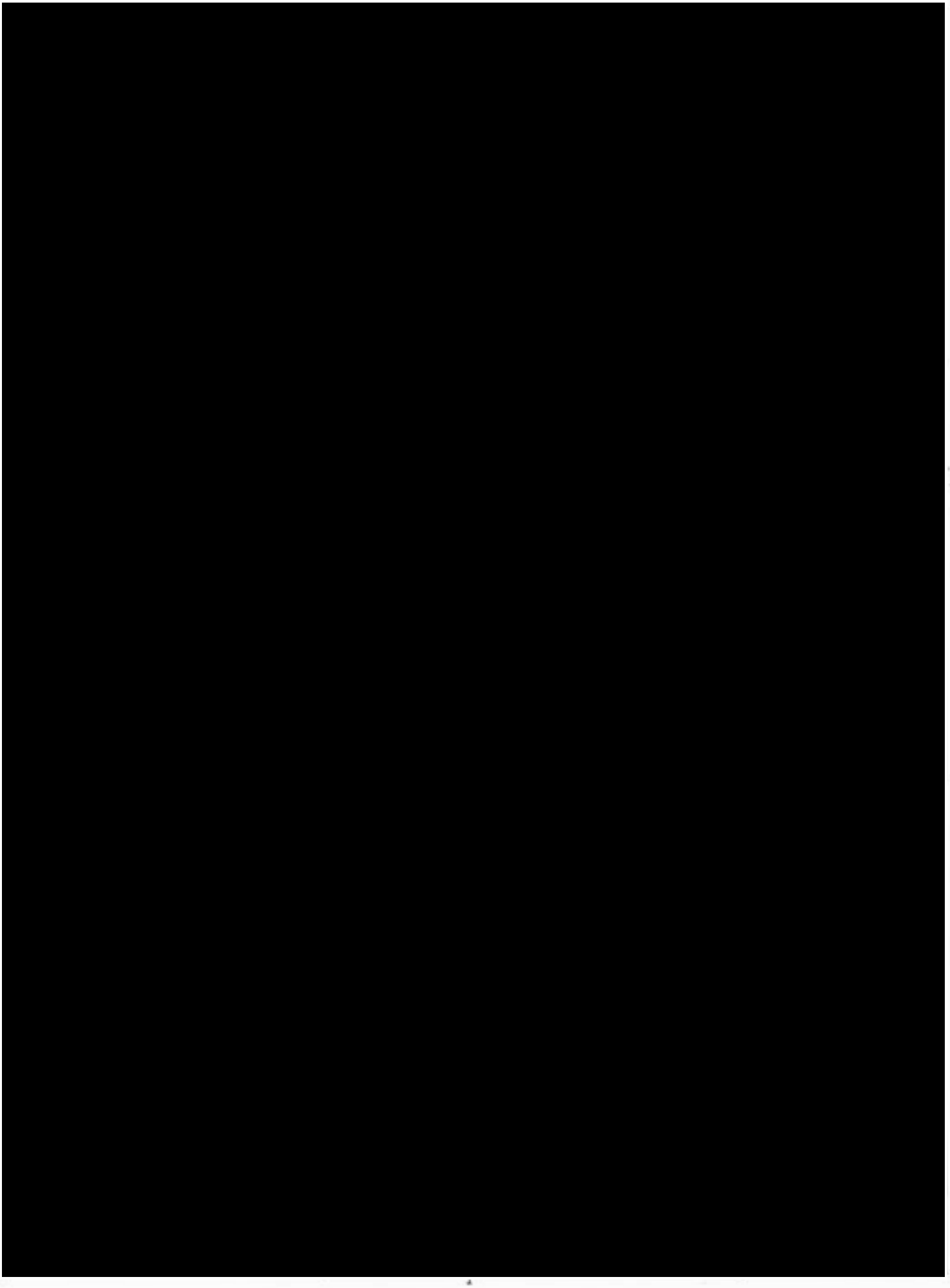
Paul - many thanks. I thought as much. The PSA are also full time sort of conveners and they don't get the extra remuneration. Their Fed is quite big in terms of member numbers. They are also putting their careers on hold for the cause and not getting financially compensated. Food for thought.

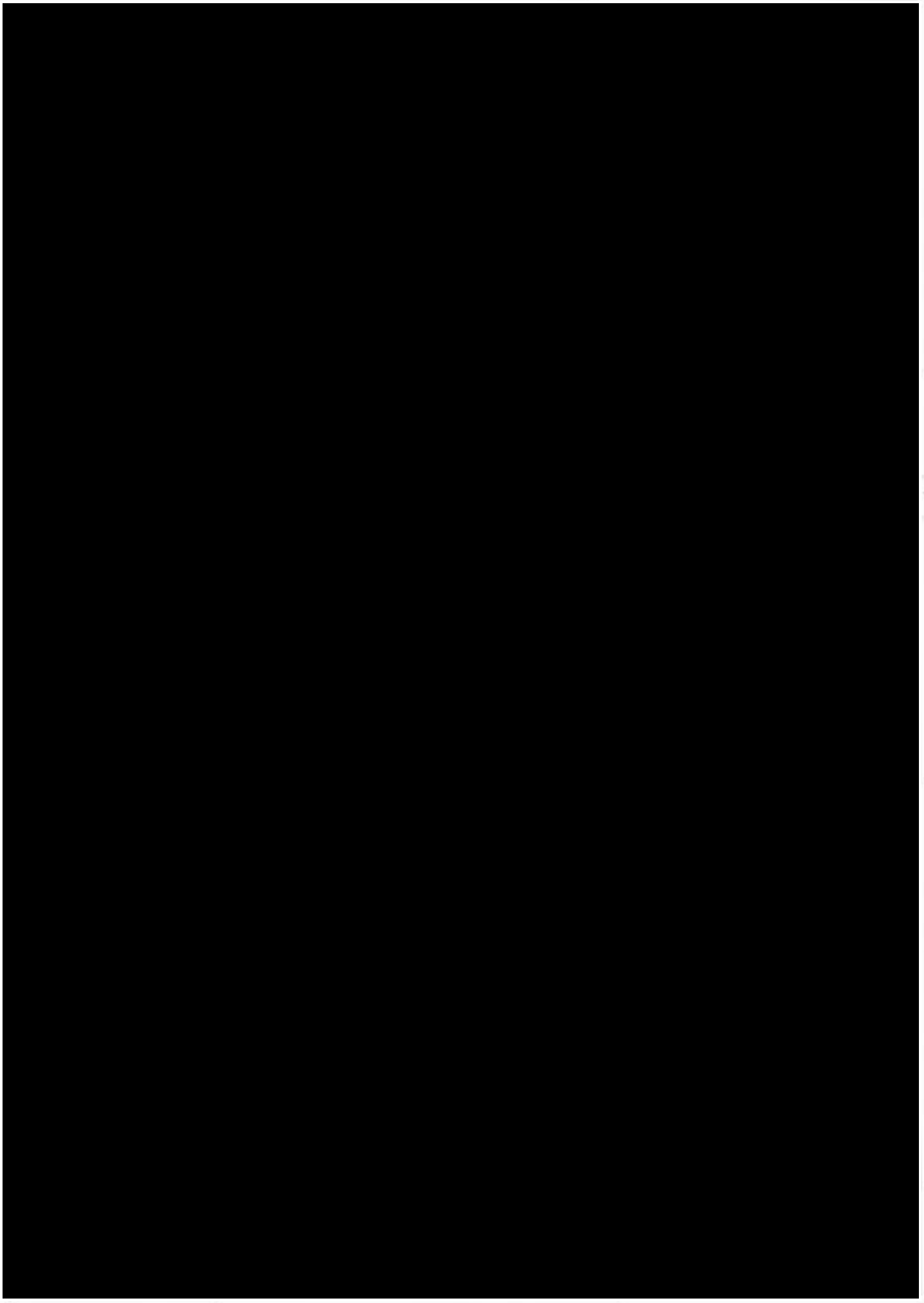
Thanks.

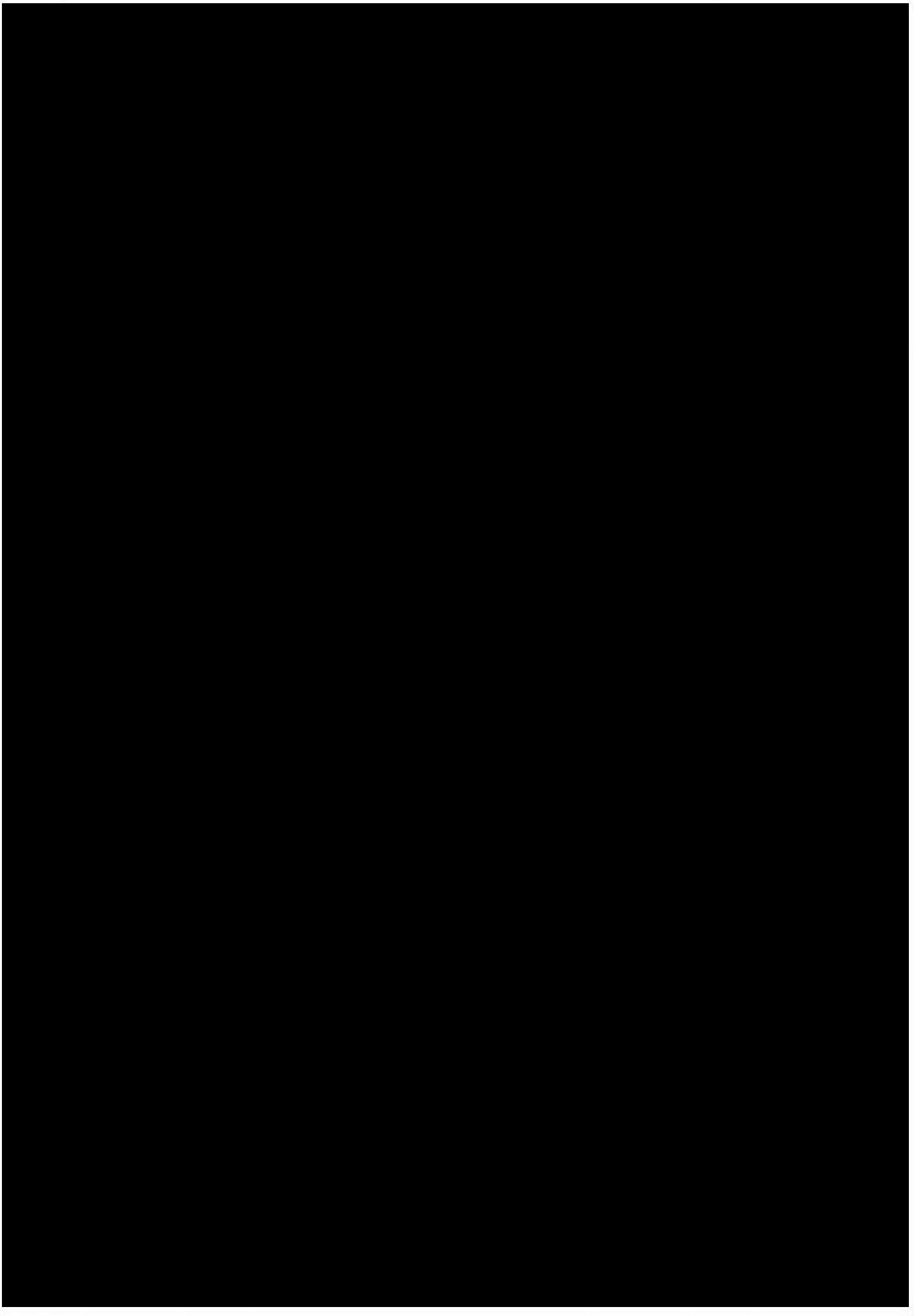
Sent from my iPhone

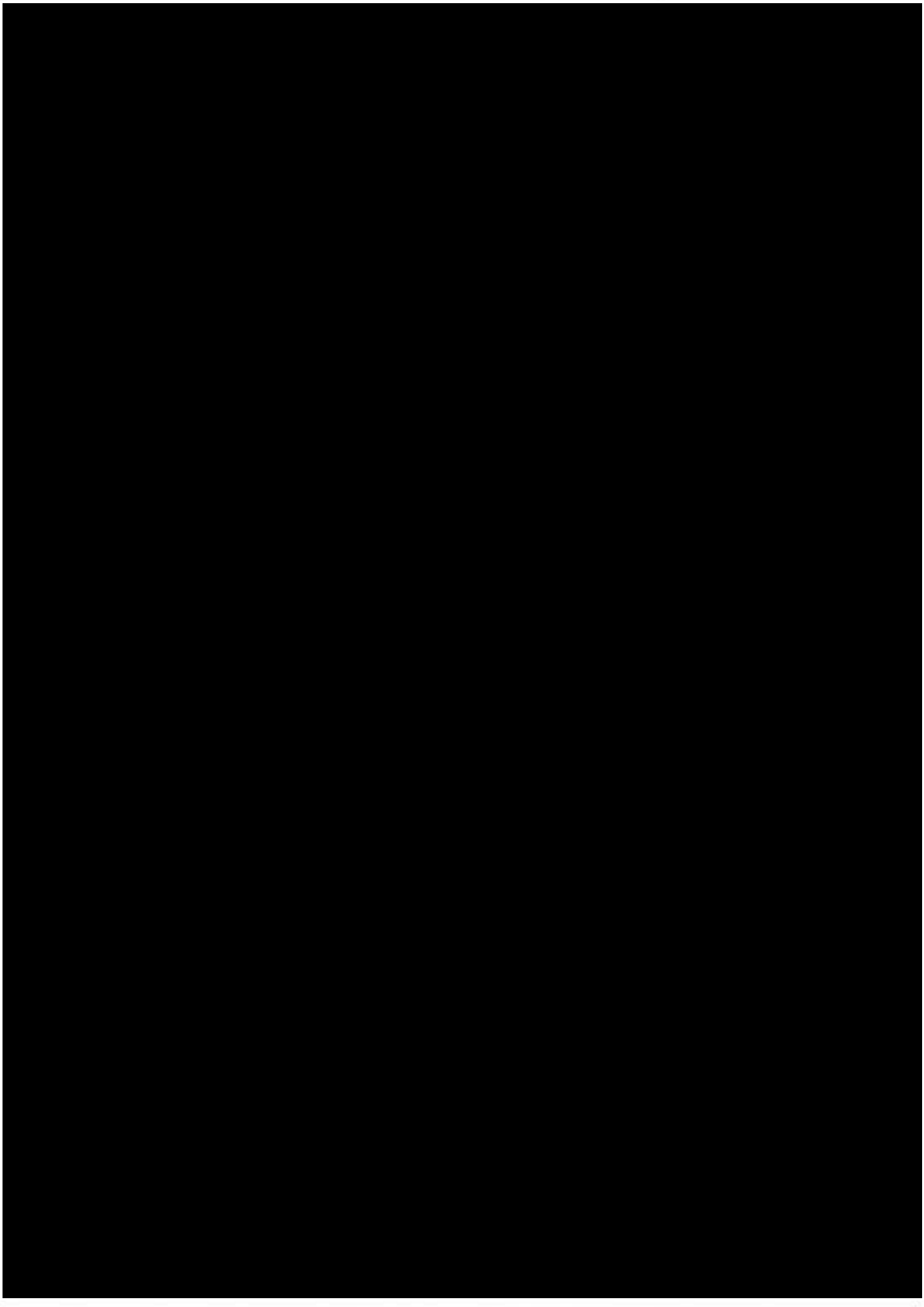
On 31 Jan 2019, at 18:46, (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi> wrote:

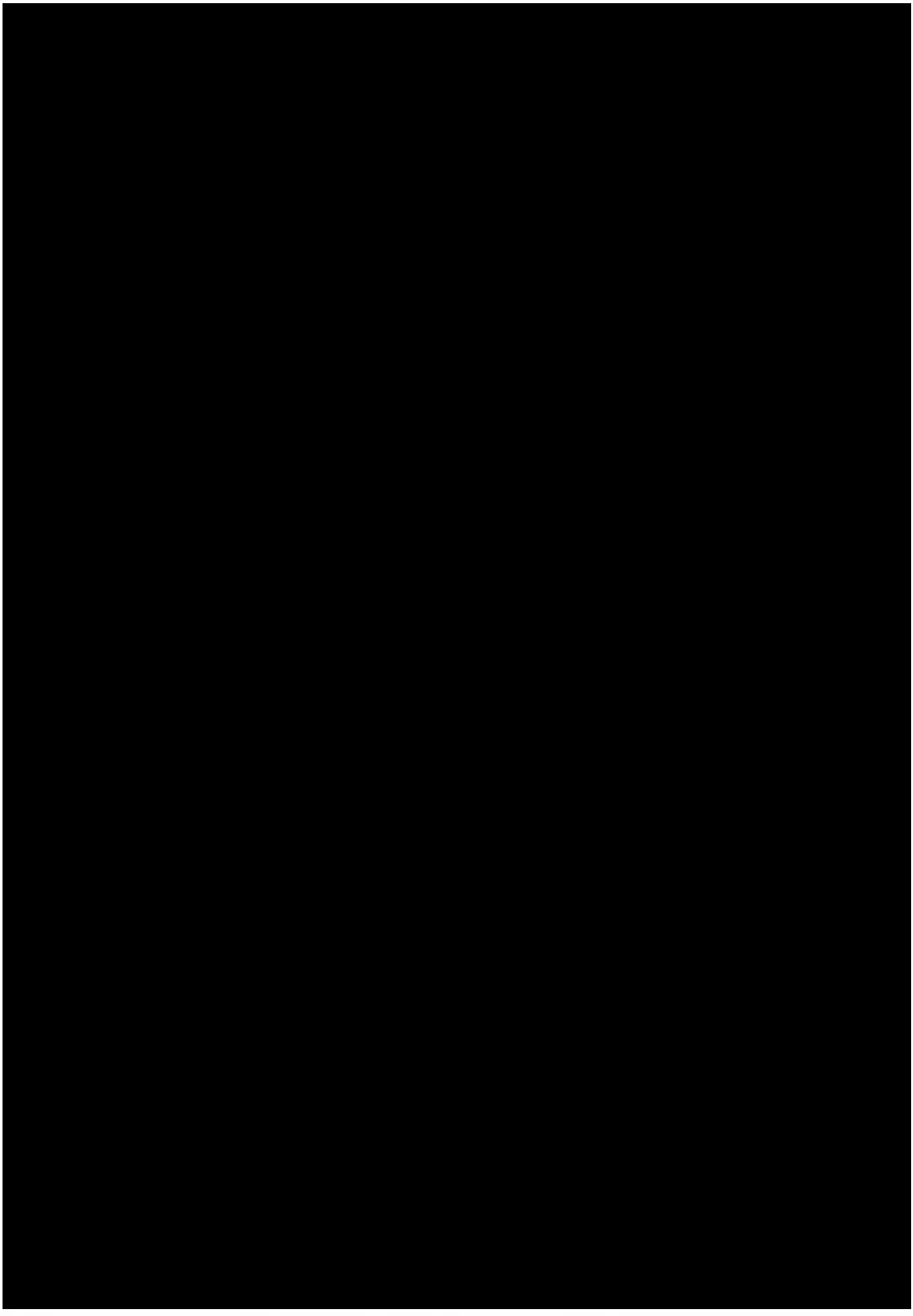
> Sir,
>
> I spoke to Dan Murphy today, he explained that the three members of the Uk Police Supers Association all keep their original salaries when performing Association work, however he did state that Federated Convenors are paid at CI rate.
>
> Kind regards
>
> Paul













Federation Chairman

From: (RGP) Ullger, Richard
Sent: 22 February 2019 20:26
To: (RGP) Morello, Maurice (PS032)
Cc: Command Team; Henry Bautista; Anna Jones; (RGP) Pozo, Lee (PC155); (RGP) Garcia, Alfred (PC038); (RGP) Simpson, Leif (PC206); (RGP) Fernandez, Albert (Insp 248)
Subject: Re: AAP WORKSTREAMS

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Dear Maurice,

I am saddened at the tone of your email to Mr Richardson and at the remarks that you suggest that the Command are interfering and are being intrusive towards Federation business. This is wholly untrue and I hope that your remarks which show the systematic intent to damage the relationship between the Command and the Federation are yours only and not that of other members. It was certainly not the case yesterday when we met the Chairman and the Secretary, where the Chairman subsequently thanked the Commissioner for a very positive meeting.

Furthermore, your mere suggestion that it is only the Federation that are acting in good faith is totally uncalled for, particularly with all the work that is currently being done to facilitate AAP's visit to The RGP. I have spent the past few days collecting information for them when I could have been doing other pending business which is as equally important.

What I will apologise for is the fact that you may have been called down for the work streams on your day off, when I did ask those coordinating it to avoid people coming to work on their days off. This equally may have been considered, but was an impossible task.

Again, I reiterate the Command's position as one of working together with the Federation in order to improve the internal and external service delivery of the service. After all, we are first and foremost all police officers fighting the same cause.

Enjoy your well earned rest day.

Best wishes

Assistant Commissioner.

Sent from my iPhone

On 22 Feb 2019, at 19:20, (RGP) Morello, Maurice (PS032) <Maurice.Morello@royalgib.police.gi> wrote:

> Sir
> Yesterday I received an email from you regarding a pre meeting for one of the work streams that we are involved in. On both of the that dates you suggested I was on my well earned rest days but nevertheless I agreed to attend this pre-meeting as a gesture of good faith. However, having thought about this overnight the gestures of good faith only seem to be on the part of the Fed members and of late all we have seen by Command is interference and intrusiveness in Federation matters. As a result I have taken the decision not to attend any AAP meetings planned outside of my working hours and as a result if you want my attendance at this meeting I am afraid you will have to reschedule this for when I am on duty.

Regards

Maurice Morello
Police Sergeant No 32
Response Team 3
Operations Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]
Web: www.police.gi
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Federation Chairman

From: (RGP) Ullger, Richard
Sent: 22 February 2019 12:30
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: FW: Elections

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Sir,

PSB

John Olivera's email

Richard

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex [redacted]

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From: (RGP) Olivera, John (PS008)
Sent: 22 February 2019 12:04

To: (RGP) Ullger, Richard
Subject: RE: Elections

Sir

Please see below. I am planning to send this to Anna & Henry ASAP and then see how they respond before going out to the wider membership.

John

Anna/ Henry

I am giving you both a heads up out of respect, but I'm sorry to say that I do not agree with your interpretation of the legislation in two key areas.

Term of office

Section 19.(1) says:

The persons elected to be members of the Police Council immediately prior to the commencement date shall, on the commencement date, be deemed to have been elected as members of the board under these regulations until the expiry of the period for which they were elected.

The purpose of this section is to allow serving council members to remain in situ rather than having to be immediately replaced on the commencement date.

The purpose of this section is not to allow members to serve for 4 years instead of 3. In fact it is very clear that they may only serve for the period for which they were elected.

Elected officials cannot decide to remain in office for any longer than the term for which they were elected.

If a government were elected for a term of 3 years and then pushed through legislation which allowed elected members to remain in office for 4 years and then decided that they should all remain in office for 4 years despite only being elected for 3 years. There would be a public outcry. Because this challenges the very concept of democracy.

This is, in effect, what you are doing. The current members of the board were elected under legislation that no longer exists for a term of 3 years. A new piece of legislation has now been passed by government, which you have been instrumental in constructing. This new legislation allows for executive board members to be elected for 4 years instead of 3 but it does not say anywhere that those elected for 3 years can now remain for 4 years. On the contrary, it clearly states *'until the expiry of the period for which they were elected'*.

You were all elected for 3 years and as such need to stand for re-election after 3 years of service like any other elected official.

I think it is highly inappropriate for an elected official who was elected for a term of 3 years to stay any longer.

Therefore, I think your list (original below) should read as follows:

Henry Bautista elected March 2016 term ends March 2019 (retiring May 2019)
Anna Jones elected March 2016 term ends March 2019 (retiring April 2019)
Maurice Morello elected October 2016 term ends Oct 2019
Alfred Garcia elected February 2017 term ends February 2020
Albert Fernandez elected June 2018 term ends June 2021
Leif Simpson elected May 2018 term ends May 2021
Lee Pozo elected May 2018 term ends May 2021

Selection of a new board

Furthermore section 5.(1) states

At it's first meeting after election, the board shall elect a chairman and secretary from among it's members

This clearly infers that the board shall be elected together not individually as each of their terms expires.

Furthermore section 1.1 of the schedule states:

A general election of members of the board must be held every four years at an Annual General Meeting.

Again, this clearly infers that the board will be elected together, every four years and serve together for that term.

I have found no reference anywhere in the legislation to the four year transitional period that you mention in your email. There is no justification for holding off an election until 21/06/2022 that I can see.

The time to re-elect the Executive Board is now and I will be calling for support from our membership accordingly.

In summary

In my opinion, this legislation has been poorly written and this has created these issues.

I do not think that replacing individuals as each of their 3 year terms expire is what the legislation intended. I think it intended that a new board should be formed every 4 years but failed to explicitly state how the transition from the old system to the new should be properly managed; which is a failing in the writing of the legislation.

In my opinion, what you need to do is to get out in front of this and not rely on legislation that is open to interpretation to justify your decisions.

Clearly a decision needs to be made as to how to proceed and the answer does not lie in the legislation because the transition has not been properly described.

You can't wait until each 3 year term expires and re-elect. Because the legislation expects all members to be elected together. So at some point a line has to be drawn as to when the full board election will take place.

You can't decide that this date is beyond the term of any of the elected periods – because an elected official cannot remain in post beyond the date they were elected to - and as the two of you were only elected until March this year, you need to hold the full board election in March this year.

I realise that this has personal implications for both of you and this is unfortunate.

But the Police Federation membership have a right to choose a new board now before two new conveners are appointed. They have already made it clear in supporting my call for an EGM that they want a say. If you represent the membership, then you need to listen to what they are saying.

I really don't want to have to call for support for an EGM again.

Please consider what I am saying and try to come up with a solution that gives the members a way to choose a new Executive Board now (or very soon).

I am sure that a two month delay from March to May would be agreeable to members if they get to re-elect a new board now. But a 4 year delay is not acceptable in my opinion and I am sure others will agree.

John

John Louis Olivera MSc.
Police Training Inspector
Recruitment & Training Department
Planning, Development & Support Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20048013 Centrex: [redacted]

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From: Anna Jones <anna.jones@gibpolfed.org>
Sent: 22 February 2019 08:51
To: (RGP) Olivera, John (PS008) <John.Olivera@royalgib.police.gi>
Subject: Elections

Good morning John,
Please find below the terms for the members of the Board.

Henry Bautista elected March 2016 term ends March 2020 (retiring May 2019)
Anna Jones elected March 2016 term ends March 2020 (retiring April 2019)
Maurice Morello elected October 2016 term ends Oct 2020
Alfred Garcia elected February 2017 term ends February 2021
Albert Fernandez elected June 2018 term ends June 2022
Leif Simpson elected May 2018 term ends May 2022
Lee Pozo elected May 2018 term ends May 2022

Best
Anna

Anna Jones
Secretary

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: [redacted]

Email: anna.jones@gibpolfed.org

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I agree wholeheartedly!!!!
I agree with you
Totally agree with you
I agree with you views on this matter.
I think you raise a valid point and I am in agreement with it.
Agree with you totally – the members' should be allowed to vote for both posts via a secret ballot
I think you make a very valid point and I am glad someone has spoken up about the. I will back you on this matter.
I agree entirely with you, all members should have a say in such important appointments, not least in the interests of an open and democratic process for all members to have a voice.
I agree with you.
I agree entirely with you.
I agree with you this should be a ballot amongst all the members and not just the board
You have my support in this.
I totally agree and support your points raised.
I agree
I agree with you in principle. Count me in.
Yes I agree with you
I agree with your opinion and would also like the EGM.
I totally agree
Whilst not disagreeing with the choice of the 2 x conveners per se, I fully support your view that the voting system requires to be addressed in a fairer manner.
With regards to your email I am of the same opinion and would at the very least allow our voice to be heard on who should take up the aforementioned roles.
I agree with your proposal, i believe all members of the federation who together represent all officers within the organisation should have each of their voices heard especially for such an important decision.

I agree, it would make sense that as members of the federation, we should have a vote as to who represents us.

I agree, all paying members of the federation should be allowed to vote on who represents us at that level. Not only for this time but future occasions also. Without a force wide vote, the board can make their own arrangements to suit themselves.
I agree in principal. I'm not saying I necessarily disagree with the appointments however I believe the process should be discussed and agreed upon for now and for the future.
You can count on my support.
I am of the opinion that all paying members of the federation should be given the right to vote on who represents us at such a level. Not only for this time but all future occasions.
I agree, members should at least be able to voice their opinion on who takes on such an important role.
I agree that all the members force wide should be able to vote on this decision, not solely the 8 members of the Executive Board.
I agree with this.

Sir, I agree with your comments.
I am in agreement that a decsion such as this, should be one made with consideration of its members, prior to approval.
I agree that the paying members of the federation should be entitled to vote on the representatives that hold positions at this level. It would not be proper for the board to thereby make arrangements that may benefit themselves, without first having listened to the majority by way of a vote.
I agree that all paying members should have a say in who represents them at the highest level of the federation. An open vote, as should be, shows transparency and involvement to all members of the federation – something which has not been previously granted.
I am in an agreement with yourself. I believe all members should be able to vote.
I agree with the concerns raised. As a member of the Federation I believe that we should all have a say when decisions such as these are being made.
I agree with you.
I agree with you.
Whilst I have no qualms with who has been nominated I do believe, in the interest of fairness, that a more thorough process of election should be followed.
I think what you say makes sense and agree with it. Whilst I'm not 100% sure that all the members have the right to take part in the final selection of the Chairman and Secretary it would make sense for there to be some form of consensus, generated by way of a meeting prior to the decision being made by the executive board. Not sure how this stands legally but it does make sense in my mind.
I agree too that all paying members should have a right to vote who represents us. It is not good practice to go forward with such an important decision without consolidating all paying members first.
Even though I agree with Sgt Morello's appointment as chairman, I am of the opinion that these positions should have been voted for by the federation members and not just the executive board as it has been done.

Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 22 February 2019 20:58
To: neil.costa@gibraltar.gov.gi
Subject: OFFICIAL - Gibraltar Police Federation

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Dear Minister -
It is unfortunate that I again raise the matter of the Gibraltar Police Federation.

The rebellious attitude being expressed by some of the Executive Board members is doing no-one any favours, quite the contrary it is causing a great deal of strain. It is these same Board members that are insistently pushing for key convenor positions which I am afraid to say will only aggravate the situation. To compound matters we now have conflicting legal advice and my command team and I are concerned this can escalate to a dispute. Their inexperience and rather brash approach to business is evident and they feel on top of the world in terms of power under the new regulations.

My involvement in raising concerns with them on how they are handling their business is now also being questioned and challenged by the GPF's advice. I actually do view my as involvement as justified given the powers conferred on me by sec.33 of the Police Act 2006 whereby it states that I have command, superintendence, direction and control of the Force and shall also be responsible for the efficient administration and government of the Force for proper expenditure of all public monies assigned for expenditure to the Force. The activity being contemplated by the Board is having a potential impact on operational effectiveness and efficiency hence expressing my concerns to them

Underlying all of this is the carrot dangling of the favourable remuneration which the convernors currently enjoy and which the new aspiring convenors are aspiring to - something we have touched upon at our meetings.

For the sake of minimizing this path of negativity & conflict I would like to specifically discuss the GPF with you early next week for 15mins to prevent their toxic approach of causing unsettlement.

Wishing you a nice weekend
Kind regards
Ian

Sent from my iPhone

Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 22 February 2019 14:22
To: Henry Bautista
Cc: (RGP) Ullger, Richard (COP 235); Anna Jones; (RGP) Yeats, Cathal (ACOP 236)
Subject: RE: Designate Secretary

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category, SMT

Henry –
At this point we will have accept there is disagreement with our respective understandings of whether Sir Peter's advice is aligned with my position when I actually see it as otherwise. Hopefully, all this will be cleared up once and for all.

Regards

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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From: Henry Bautista
Sent: 22 February 2019 12:02
To: (RGP) McGrail, Ian M.Sc (OTM)

Cc: (RGP) Ullger, Richard ; Anna Jones ; (RGP) Yeats, Cathal
Subject: RE: Designate Secretary

Dear Sir

We had agreed with the initial advice from GLO that we had possibly pre-empted an outcome in relation to the Convenor posts and our voting for the said positions and as I stated this was upheld by the opinion from Sir Peter Caruana.

I explained to you yesterday that we had asked for further legal advice due to the fact that it was our understanding that there would be a transitional period in relation to staggering the board members appointment therefore providing provisions for continuity etc.

However as above we still queried the procedure of the necessity for the whole board to be dissolved and felt that the transitional clause could apply in a manner that enabled the staggering of board members.
To this end we sought a further legal opinion and as I stated yesterday this is how we will proceed in this first AGM after our positions become vacant.

It is at odds only in respect to the transitional period, which is why I opened the meeting with the statement that you were right that we had held the vote for our replacements prematurely.
it nevertheless agrees that by 4 years from June 2018 under the legislation as it stands the full board would be required to stand for re-election at the same time.
We discussed that this was a matter for the new board to lobby for change should that be the will of the board/membership moving forward.

Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: [redacted]

Email: henry.bautista@gibpolfed.org

GPF
Gibraltar Police Federation

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From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: Friday, 22 February, 2019 11:31 AM
To: Henry Bautista <henry.bautista@gibpolfed.org>
Cc: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>; Anna Jones <anna.jones@gibpolfed.org>; (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Subject: RE: Designate Secretary

Dear Henry –
I echo your words that yesterday's meeting was a positive one and I hope future ones continue in the same vein.

I have briefly gone through the legal advice produced by the GPF - **it is clearly at odds** to the one provided by GLO counsel and therefore I am surprised that you opened yesterday's meeting saying that my positon had been found to be correct – it clearly has not according to Sir Peter's advice. Therefore I am going to share your advice with GLO crown counsel and seek further advice from them.

Consequently, I am still not in a position to oblige to the request to release PC Simpson as requested. I will of course revert as soon I have obtained the necessary clarity on the matter.

Regards

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Please consider the environment before printing this email.

From: Henry Bautista <henry.bautista@gibpolfed.org>
Sent: 21 February 2019 17:12
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>; Anna Jones <anna.jones@gibpolfed.org>
Subject: Designate Secretary

Dear Sir

Thank you for today's meeting.

I believe it was a good one. We seem to be slowly progressing and obviously, I am determined to continue with the momentum until everyone is back on track and closely working together.

As you may be aware, I have released our communique to the members and have explained to them the GPF's way forward, as discussed.

I understand that you are not now in a position to release anyone, but just for clarity's sake, can you please confirm if you will be able to kindly release Mr Leif Simpson as from the 20th April till the 22nd May 2019 (after Anna has finished and until we have held the AGM).
As we informed you, Mr Simpson, was unanimously elected as "Designate Secretary" for the transitional period, so that there will be a continuity element with the Federation's affairs and in preparation for my departure, until the new board and convenors are constituted.

Thanking you for your kind attention to this matter.

Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex [redacted]
Tel: +350 20050199
Mob: [redacted]

Email: henry.bautista@gibpolfed.org

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Federation Chairman

From: (RGP) Ullger, Richard
Sent: 23 February 2019 15:05
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: Re: OFFICIAL - Gibraltar Police Federation

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Sir,

Indeed, I don't think he realises what we are asking for.

I can arrange for us to meet KT next week if you so wish, though we need to move fast and Karl is not the best for moving quick. Will arrange with him and put some urgency on him.

Richard.

Sent from my iPhone

On 23 Feb 2019, at 13:47, (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi> wrote:

> Rich - see below response from MoJ. He is not on the same page as we are; thinking that the Regs involve him in some way or another. But hopefully by fully briefing up Karl Tonna we may get further than at present.
>
> We'll also have to see what GLO counsel come back with with regards to the GPF's legal advice.
>
> Rgds
> Ian
>
> Sent from my iPhone
>
> Begin forwarded message:
>
> **From:** "(MIN) Costa, Neil" <neil.costa@gibraltar.gov.gi>
> **Date:** 23 February 2019 at 13:41:49 GMT+1
> **To:** "(RGP) McGrail, Ian M.Sc (OTM)" <Ian.McGrail@royalgib.police.gi>
> **Subject: Re: OFFICIAL - Gibraltar Police Federation**
>
> Thank you kindly. KR
>
> Sent from my iPhone
>
> On 23 Feb 2019, at 13:30, (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi> wrote:
>
> > Minister -
> > Agreed, I will touch base with Karl next week.
> > Rgds

Ian

Sent from my iPhone

On 23 Feb 2019, at 11:01, (MIN) Costa, Neil <neil.costa@gibraltar.gov.gi> wrote:

> Dear Ian, good morning
>
> Thank you for your email.
>
> Given how long ago I read and reviewed the amending Bill and regulations, I will need to be reminded of all the relevant provisions, as I am not sure or my standing here, if any.
>
> I think the most efficient way to proceed in this instance is for you to meet first with my Legal Counsel early next week for him to advise legally, and then we can meet to discuss meaningfully.
>
> Agreed? We can also take the opportunity to discuss progression of the business case.
>
> KR
>
> Sent from my iPhone
>
> >

Neil F Costa MP
Minister for Health, Care and Justice

Ministry of Health, Care and Justice
HM Government of Gibraltar
Zone 1, Level 7
St Bernard's Hospital
Harbour Views Road
Gibraltar
GX11 1AA

Tel: (+350) 20007011
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Ministry of Health, Care and Justice

HM Government of Gibraltar

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On 22 Feb 2019, at 20:58, (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi> wrote:

> Dear Minister -
> It is unfortunate that I again raise the matter of the Gibraltar Police Federation.
>
> The rebellious attitude being expressed by some of the Executive Board members is doing no-one any favours, quite the contrary it is causing a great deal of strain. It is these same Board members that are insistently pushing for key convenor positions which I am afraid to say will only aggravate the situation. To compound matters we now have conflicting legal advice and my command team and I are concerned this can escalate to a dispute. Their inexperience and rather brash approach to business is evident and they feel on top of the world in terms of power under the new regulations.
>
> My involvement in raising concerns with them on how they are handling their business is now also being questioned and challenged by the GPF's advice. I actually do view my as involvement as justified given the powers conferred on me by sec.33 of the Police Act 2006 whereby it states that I have command, superintendence, direction and control of the Force and shall also be responsible for the efficient administration and government of the Force for proper expenditure of all public monies assigned for expenditure to the Force. The activity being contemplated by the Board is having a potential impact on operational effectiveness and efficiency hence expressing
> my concerns to them
>
> Underlying all of this is the carrot dangling of the favourable remuneration which the convernors currently enjoy and which the new aspiring convenors are aspiring to - something we have touched upon at our meetings.
>
> For the sake of minimizing this path of negativity & conflict I would like to specifically

discuss the GPF with you early next week for 15mins to prevent their toxic approach of causing unsettlement.
>
> Wishing you a nice weekend
> Kind regards
> Ian
>
>
> Sent from my iPhone

Henry

Thank you for the detailed reply and sight of the legal opinion from Mr Caruana; which was very interesting.

However, with respect, you have still not convinced me on this important issue. As a member of the GPF, it is my intention to challenge you on this point via an EGM and to call for the support of the wider membership ASAP to call said EGM.

My rationale is as follows:

Regardless of whether or not the Chief Minister, the Minister for Justice, the Commissioner of Police or indeed anyone else may have understood your appointments to have been changed from 3 years to 4 years during your negotiations/ discussions in recent years, the people who matter are the electorate; the members of the Federation who you serve.

The question is not whether or not those making decisions behind the scenes understood/ expected/ anticipated that you would remain for 4 years instead of 3. But whether the people who put you in that position in the first place understood that fact at the point you were elected.

Can you provide me with any evidence that on electing the eight current Executive Board members, those voting were explicitly informed that they were electing these persons for 4 years rather than 3?

Furthermore, even if you are able to provide such evidence, I question whether, in the absence of any supporting legislation, which allowed for the appointments to be for 4 years as opposed to 3, whether such evidence is even meaningful.

Just as you are using the current legislation to justify your current course of action, the flip side of this, is that the prior legislation was the only legislation that was relevant prior to 21/06/2018 and said legislation only allowed for members to be elected for a period of 3 years.

I have also read that Mr Caruana is of the opinion that the new board does not need to be formed until 2022. With the utmost respect to Mr Caruana, how can it possibly be legal for persons appointed for a period of 3 years to effectively be allowed to remain for up to 7 years simply because new legislation has been introduced. With the greatest respect to this opinion, and in the absence of clear legislation, I am of the opinion that the new executive board should have been appointed as soon as practicable after the 21/06/2018. Therefore this should happen now or very soon. Not in 4 years; this makes no logical sense at all.

Once again, I am at pains to point out that the legality of the issue is less relevant than the spirit of the appointment. What is it that the board are so afraid of? If you feel that you have the support of the membership, then there will not be a problem being re-elected. If you fear that you may not be re-elected; then clearly you doubt whether you have the trust of the electorate; in which case surely you would want to step down anyway. What would be the point of being a member of an Executive Board whose sole purpose is to serve the wider membership if that wider membership don't want you?

I very much question the legality of what you are doing. But even if I am wrong and I were to be legally proven to be wrong, the fact remains that the eight members of the Executive Board were elected to serve the membership of the GPF. From a moral perspective, surely you must see that being challenged on this point is indicative of an issue between the Executive Board and those they serve (the membership) and that being the case, you should want to reassure the membership of your commitment to serving them according to what they want from you rather than what the law allows you to do.

Please re-consider your standpoint on this. By all means run this by Mr Caruana as well. Please revert ASAP. As I will need to go out to the membership this week.

John

John Louis Olivera MSc.
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Please consider the environment before printing this email.

From: Henry Bautista <henry.bautista@gibpolfed.org>
Sent: 25 February 2019 10:18
To: (RGP) Olivera, John (PS008) <John.Olivera@royalgib.police.gi>; Anna Jones <anna.jones@gibpolfed.org>
Subject: RE: Elections

Dear John,

Let me explain some matters which I believe you are not privy to.

From November 2015 to February 2016, Anna and I (the then Secretary and Chairman of the Gibraltar Police Association) had several negotiating meetings with the Chief Minister and Minister of Justice. The Gibraltar Police Federation legislation draft was already a working document and it was decided by the Government Ministers that we would forthwith be working in the spirit of the new legislation, mirroring conditions of the Police Federation of England and Wales, encompassing the new terms for federation board members, including their appointment of 4 years. The then Commissioner of Police, Mr Yome, was also present in several of these negotiating meetings. Mr Michael Chrome, PA to the Chief Minister for Union Affairs, played a huge part in assisting the creation of the Federation and facilitating our requests.

As requested by the Chief Minister, on the 1st of March 2016, Commissioner Yome, released Anna and I from operational duties after the RGP received two extra officers to the compliment of the Force and an extra Police Sergeant was promoted in lieu of Anna's rank. The convener's posts were also unanimously ratified by all the then members of the Police Association's Council.

HM Government of Gibraltar then appointed Anna and I as full-time conveners and we were provided with premises and a full working office. All purchased by government with an office and expenses grant.

Our board positions and appointment terms were also ratified by the members at the Police Association's AGM held on the 29th June 2016. Since then all successive board members have been duly elected and properly appointed for their ensuing 4 years.

The federation legislation should have been implemented shortly after our appointments (something which I reported continuously through updates to our members) but unfortunately this was delayed until it was passed through Gibraltar Parliament on the 15th of June 2018.
But as we both have attained the retirement age of 55, we have both decided to step down from the board on the 20th of April and 22nd of May 2019 respectively, effectively also retiring from the RGP.

I have attached for your information our legal opinion from Sir Peter Caruana QC which I believe will answer many of your questions. On his recommendations, this is the procedure that the Federation board has unanimously decided and will be taking forward.

I recommend that you please forward your proposed motions to me as previously discussed, so that I may include them in the Federation's AGM agenda, where they will be put forward to the members at the meeting. They will be discussed at the already arranged venue of the John Mackintosh Hall on the 22nd of May 2019.

I have already requested to the Commissioner that time be afforded for all officers who will be on duty that day, could attend the AGM and vote and he has agreed.

Here, before any elections take place, the proposed motions can be discussed/carried by a vote from all members. Obviously ensuring we have a quorum.

If carried, it would then secure a mandate from the floor for the new Federation Board to adhere to and follow.

As already announced there will be three vacancies that will need to be balloted for at the AGM. The respective rank branches will vote for their candidates to complete the new board. As stated in the regulations the new elected board will then elect the new chair and secretary (the new convenors). The constituted new board will remain until June 2022, when all will have to step down from the board and re-elected if they so wished at the AGM.

We thank you for your input and we see that you feel strongly about Federation matters. I encourage you to put your name forward for the vacancy of inspector representative as the Federation board needs good representation of their ranks throughout.

Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
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Centrex [redacted]
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Email: henry.bautista@gibpolfed.org



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From: (RGP) Olivera, John (PS008) <John.Olivera@royalgib.police.gi>
Sent: Friday, 22 February, 2019 2:52 PM
To: Anna Jones <anna.jones@gibpolfed.org>; Henry Bautista <henry.bautista@gibpolfed.org>
Subject: RE: Elections

Anna/ Henry

In relation to the email sent to all Police Federation Board members from the Executive Board yesterday and in reply to that email and the below information which was supplied to me this morning by Anna (thanks again).

I am giving you both a heads up out of respect, but I'm sorry to say that I do not agree with your interpretation of the legislation in two key areas.

Term of office

Section 19.(1) says:

The persons elected to be members of the Police Council immediately prior to the commencement date shall, on the commencement date, be deemed to have been elected as members of the board under these regulations until the expiry of the period for which they were elected.

The purpose of this section is to allow serving council members to remain in situ rather than having to be immediately replaced on the commencement date.

The purpose of this section is not to allow members to serve for 4 years instead of 3. In fact it is very clear that they may only serve for the period for which they were elected.

Elected officials in any organisation cannot decide to remain in office for any longer than the term for which they were elected.

If a government were elected for a term of 3 years and then pushed through legislation which allowed elected members to remain in office for 4 years and then decided that they should all remain in office for 4

years despite only being elected for 3 years. There would be a public outcry. Because this challenges the very concept of democracy.

This is, in effect, what you are doing. The current members of the board were elected under legislation that no longer exists for a term of 3 years. A new piece of legislation has now been passed by government, which you have been instrumental in constructing. This new legislation allows for executive board members to be elected for 4 years instead of 3 but it does not say anywhere that those elected for 3 years can now remain for 4 years. On the contrary, it clearly states *'until the expiry of the period for which they were elected'.*

You were all elected for 3 years and as such you all need to stand for re-election after 3 years of service like any other elected official.

I think it is highly inappropriate for an elected official who was elected for a term of 3 years to stay any longer.

Therefore, I think your list (original below) should read as follows:

Henry Bautista elected March 2016 term ends March 2019 (retiring May 2019)
Anna Jones elected March 2016 term ends March 2019 (retiring April 2019)
Maurice Morello elected October 2016 term ends Oct 2019
Alfred Garcia elected February 2017 term ends February 2020
Albert Fernandez elected June 2018 term ends June 2021
Leif Simpson elected May 2018 term ends May 2021
Lee Pozo elected May 2018 term ends May 2021

<u>Selection of a new board</u>

Furthermore section 5.(1) states

At it's first meeting after election, the board shall elect a chairman and secretary from among it's members

This clearly infers that the board shall be elected together not individually as each of their terms expires.

Furthermore section 1.1 of the schedule states:

A general election of members of the board must be held every four years at an Annual General Meeting.

Again, this clearly infers that the board will be elected together, every four years and serve together for that term.

I have found no reference anywhere in the legislation to the four year transitional period that you mentioned in your email to all members yesterday.

There is no justification, that I have found, for holding off an election until 21/06/2022.

The time to re-elect the Executive Board is now and I will be calling for support from our membership accordingly.

<u>In summary</u>

In my opinion, this legislation has been poorly written and this has created these issues.

I do not think that replacing individuals as each of their 3 year terms expire is what the legislation intended. I think it intended that a new board should be formed soon after the commencement date and every 4 years thereafter, but failed to explicitly state how the transition from the old system to the new should be properly managed; which is a failing in the writing of the legislation.

In my opinion, what you need to do is to get out in front of this and not rely on legislation that is open to interpretation to justify your decisions.

Clearly a decision needs to be made as to how to proceed and the answer does not lie in the legislation because the transition has not been properly described.

You can't wait until each board member's 3 year term expires and re-elect. Because the legislation expects all members to be elected together. So at some point a line has to be drawn as to when the full board election will take place.

You can't decide that this date is beyond the term of any of the elected periods – because an elected official cannot remain in post beyond the date they were elected to - and as the two of you were only elected until March this year, you need to hold the full board election in March this year.

I realise that this has personal implications for both of you and this is unfortunate.

But the Police Federation membership have a right to choose a new board now before two new conveners are appointed. They have already made it clear in supporting my call for an EGM that they want a say. If you represent the membership, then you need to listen to what they are saying.

I really don't want to have to call for support for an EGM again.

Please consider what I am saying and try to come up with a solution that gives the members a way to choose a new Executive Board now (or very soon).

I am sure that a short delay (from March to May for instance) would be agreeable to members; if they get to re-elect a new board now. But a 4 year delay is not acceptable in my opinion and I am sure others will agree.

On a final note, it saddens me that the Police Federation Executive Board are now locked in a dispute with the members they were elected to serve - regarding their own terms of service. Surely you must realise that this disagreement weakens rather than strengthens the Police Federation. As I have said before, the point here goes beyond whether or not you can defend your actions via the legislation. Sometimes, a win is actually a loss. You might win this from a legislative perspective but you are losing the support of those you were elected to serve!

Please give this serious consideration and let me have your thoughts soonest.

John

John Louis Olivera MSc.
Police Training Inspector
Recruitment & Training Department
Planning, Development & Support Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA

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From: Anna Jones <anna.jones@gibpolfed.org>
Sent: 22 February 2019 08:51
To: (RGP) Olivera, John (PS008) <John.Olivera@royalgib.police.gi>
Subject: Elections

Good morning John,
Please find below the terms for the members of the Board.

Henry Bautista elected March 2016 term ends March 2020 (retiring May 2019)
Anna Jones elected March 2016 term ends March 2020 (retiring April 2019)
Maurice Morello elected October 2016 term ends Oct 2020
Alfred Garcia elected February 2017 term ends February 2021
Albert Fernandez elected June 2018 term ends June 2022
Leif Simpson elected May 2018 term ends May 2022
Lee Pozo elected May 2018 term ends May 2022

Best
Anna

Anna Jones
Secretary

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex [redacted]
Tel: +350 20050199

Mob: [redacted]

Email: anna.jones@gibpolfed.org



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Federation Chairman

From: (RGP) Olivera, John (PS008)
Sent: 25 February 2019 11:56
To: (RGP) Yeats, Cathal (ACOP 236)
Subject: FW: Elections

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category, SMT

Sir

FYI please see email reply from Henry and my reply to him.

John

John Louis Olivera MSc.
Police Training Inspector
Recruitment & Training Department
Planning, Development & Support Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
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From: (RGP) Olivera, John (PS008)
Sent: 25 February 2019 11:51
To: 'Henry Bautista' <henry.bautista@gibpolfed.org>
Cc: 'Anna Jones' <anna.jones@gibpolfed.org>
Subject: RE: Elections

Henry

Thank you for the detailed reply and sight of the legal opinion from Mr Caruana; which was very interesting.

However, with respect, you have still not convinced me on this important issue. As a member of the GPF, it is my intention to challenge you on this point via an EGM and to call for the support of the wider membership ASAP to call said EGM.

My rationale is as follows:

Regardless of whether or not the Chief Minister, the Minister for Justice, the Commissioner of Police or indeed anyone else may have understood your appointments to have been changed from 3 years to 4 years during your negotiations/ discussions in recent years, the people who matter are the electorate; the members of the Federation who you serve.

The question is not whether or not those making decisions behind the scenes understood/ expected/ anticipated that you would remain for 4 years instead of 3. But whether the people who put you in that position in the first place understood that fact at the point you were elected.

Can you provide me with any evidence that on electing the eight current Executive Board members, those voting were explicitly informed that they were electing these persons for 4 years rather than 3?

Furthermore, even if you are able to provide such evidence, I question whether, in the absence of any supporting legislation, which allowed for the appointments to be for 4 years as opposed to 3, whether such evidence is even meaningful.

Just as you are using the current legislation to justify your current course of action, the flip side of this, is that the prior legislation was the only legislation that was relevant prior to 21/06/2018 and said legislation only allowed for members to be elected for a period of 3 years.

I have also read that Mr Caruana is of the opinion that the new board does not need to be formed until 2022. With the utmost respect to Mr Caruana, how can it possibly be legal for persons appointed for a period of 3 years to effectively be allowed to remain for up to 7 years simply because new legislation has been introduced. With the greatest respect to this opinion, and in the absence of clear legislation, I am of the opinion that the new executive board should have been appointed as soon as practicable after the 21/06/2018. Therefore this should happen now or very soon. Not in 4 years; this makes no logical sense at all.

Once again, I am at pains to point out that the legality of the issue is less relevant than the spirit of the appointment. What is it that the board are so afraid of? If you feel that you have the support of the membership, then there will not be a problem being re-elected. If you fear that you may not be re-elected; then clearly you doubt whether you have the trust of the electorate; in which case surely you would want to step down anyway. What would be the point of being a member of an Executive Board whose sole purpose is to serve the wider membership if that wider membership don't want you?

I very much question the legality of what you are doing. But even if I am wrong and I were to be legally proven to be wrong, the fact remains that the eight members of the Executive Board were elected to serve the membership of the GPF. From a moral perspective, surely you must see that being challenged on this point is indicative of an issue between the Executive Board and those they serve (the membership) and that being the case, you should want to reassure the membership of your commitment to serving them according to what they want from you rather than what the law allows you to do.

Please re-consider your standpoint on this. By all means run this by Mr Caruana as well. Please revert ASAP. As I will need to go out to the membership this week.

John

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We thank you for your input and we see that you feel strongly about Federation matters. I encourage you to put your name forward for the vacancy of inspector representative as the Federation board needs good representation of their ranks throughout.

Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
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Email: henry.bautista@gibpolfed.org

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Sent: Friday, 22 February, 2019 2:52 PM
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The purpose of this section is to allow serving council members to remain in situ rather than having to be immediately replaced on the commencement date.

The purpose of this section is not to allow members to serve for 4 years instead of 3. In fact it is very clear that they may only serve for the period for which they were elected.

Elected officials in any organisation cannot decide to remain in office for any longer than the term for which they were elected.

If a government were elected for a term of 3 years and then pushed through legislation which allowed elected members to remain in office for 4 years and then decided that they should all remain in office for 4

years despite only being elected for 3 years. There would be a public outcry. Because this challenges the very concept of democracy.

This is, in effect, what you are doing. The current members of the board were elected under legislation that no longer exists for a term of 3 years. A new piece of legislation has now been passed by government, which you have been instrumental in constructing. This new legislation allows for executive board members to be elected for 4 years instead of 3 but it does not say anywhere that those elected for 3 years can now remain for 4 years. On the contrary, it clearly states *'until the expiry of the period for which they were elected'*.

You were all elected for 3 years and as such you all need to stand for re-election after 3 years of service like any other elected official.

I think it is highly inappropriate for an elected official who was elected for a term of 3 years to stay any longer.

Therefore, I think your list (original below) should read as follows:

Henry Bautista elected March 2016 term ends March 2019 (retiring May 2019)
Anna Jones elected March 2016 term ends March 2019 (retiring April 2019)
Maurice Morello elected October 2016 term ends Oct 2019
Alfred Garcia elected February 2017 term ends February 2020
Albert Fernandez elected June 2018 term ends June 2021
Leif Simpson elected May 2018 term ends May 2021
Lee Pozo elected May 2018 term ends May 2021

Selection of a new board

Furthermore section 5.(1) states

At it's first meeting after election, the board shall elect a chairman and secretary from among it's members

This clearly infers that the board shall be elected together not individually as each of their terms expires.

Furthermore section 1.1 of the schedule states:

A general election of members of the board must be held every four years at an Annual General Meeting.

Again, this clearly infers that the board will be elected together, every four years and serve together for that term.

I have found no reference anywhere in the legislation to the four year transitional period that you mentioned in your email to all members yesterday.

There is no justification, that I have found, for holding off an election until 21/06/2022.

The time to re-elect the Executive Board is now and I will be calling for support from our membership accordingly.

In summary

In my opinion, this legislation has been poorly written and this has created these issues.

I do not think that replacing individuals as each of their 3 year terms expire is what the legislation intended. I think it intended that a new board should be formed soon after the commencement date and every 4 years thereafter, but failed to explicitly state how the transition from the old system to the new should be properly managed; which is a failing in the writing of the legislation.

In my opinion, what you need to do is to get out in front of this and not rely on legislation that is open to interpretation to justify your decisions.

Clearly a decision needs to be made as to how to proceed and the answer does not lie in the legislation because the transition has not been properly described.

You can't wait until each board member's 3 year term expires and re-elect. Because the legislation expects all members to be elected together. So at some point a line has to be drawn as to when the full board election will take place.

You can't decide that this date is beyond the term of any of the elected periods – because an elected official cannot remain in post beyond the date they were elected to - and as the two of you were only elected until March this year, you need to hold the full board election in March this year.

I realise that this has personal implications for both of you and this is unfortunate.

But the Police Federation membership have a right to choose a new board now before two new conveners are appointed. They have already made it clear in supporting my call for an EGM that they want a say. If you represent the membership, then you need to listen to what they are saying.

I really don't want to have to call for support for an EGM again.

Please consider what I am saying and try to come up with a solution that gives the members a way to choose a new Executive Board now (or very soon).

I am sure that a short delay (from March to May for instance) would be agreeable to members; if they get to re-elect a new board now. But a 4 year delay is not acceptable in my opinion and I am sure others will agree.

On a final note, it saddens me that the Police Federation Executive Board are now locked in a dispute with the members they were elected to serve - regarding their own terms of service. Surely you must realise that this disagreement weakens rather than strengthens the Police Federation. As I have said before, the point here goes beyond whether or not you can defend your actions via the legislation. Sometimes, a win is actually a loss. You might win this from a legislative perspective but you are losing the support of those you were elected to serve!

Please give this serious consideration and let me have your thoughts soonest.

John

John Louis Olivera MSc.
Police Training Inspector
Recruitment & Training Department
Planning, Development & Support Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA

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Please consider the environment before printing this email.

From: Anna Jones <anna.jones@gibpolfed.org>
Sent: 22 February 2019 08:51
To: (RGP) Olivera, John (PS008) <John.Olivera@royalgib.police.gi>
Subject: Elections

Good morning John,
Please find below the terms for the members of the Board.

Henry Bautista elected March 2016 term ends March 2020 (retiring May 2019)
Anna Jones elected March 2016 term ends March 2020 (retiring April 2019)
Maurice Morello elected October 2016 term ends Oct 2020
Alfred Garcia elected February 2017 term ends February 2021
Albert Fernandez elected June 2018 term ends June 2022
Leif Simpson elected May 2018 term ends May 2022
Lee Pozo elected May 2018 term ends May 2022

Best
Anna

Anna Jones
Secretary

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
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GX11 1AA

Centrex: [redacted]
Tel: +350 20050199

Mob: [redacted]

Email: anna.jones@gibpolfed.org



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Federation Chairman

From: (RGP) Ullger, Richard
Sent: 25 February 2019 11:58
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: FW: Elections

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Sir,

See JO's response to the Fed

Richard

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex [redacted]

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From: (RGP) Olivera, John (PS008)
Sent: 25 February 2019 11:55
To: (RGP) Ullger, Richard
Subject: FW: Elections

Sir

FYI please see email reply from Henry and my reply to him.

John

John Louis Olivera MSc.
Police Training Inspector
Recruitment & Training Department
Planning, Development & Support Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20048013 Centrex: [redacted]

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Please consider the environment before printing this email.

From: (RGP) Olivera, John (PS008)
Sent: 25 February 2019 11:51
To: 'Henry Bautista' <henry.bautista@gibpolfed.org>
Cc: 'Anna Jones' <anna.jones@gibpolfed.org>
Subject: RE: Elections

Henry

Thank you for the detailed reply and sight of the legal opinion from Mr Caruana; which was very interesting.

However, with respect, you have still not convinced me on this important issue. As a member of the GPF, it is my intention to challenge you on this point via an EGM and to call for the support of the wider membership ASAP to call said EGM.

My rationale is as follows:

Regardless of whether or not the Chief Minister, the Minister for Justice, the Commissioner of Police or indeed anyone else may have understood your appointments to have been changed from 3 years to 4 years during your

negotiations/ discussions in recent years, the people who matter are the electorate; the members of the Federation who you serve.

The question is not whether or not those making decisions behind the scenes understood/ expected/ anticipated that you would remain for 4 years instead of 3. But whether the people who put you in that position in the first place understood that fact at the point you were elected.

Can you provide me with any evidence that on electing the eight current Executive Board members, those voting were explicitly informed that they were electing these persons for 4 years rather than 3?

Furthermore, even if you are able to provide such evidence, I question whether, in the absence of any supporting legislation, which allowed for the appointments to be for 4 years as opposed to 3, whether such evidence is even meaningful.

Just as you are using the current legislation to justify your current course of action, the flip side of this, is that the prior legislation was the only legislation that was relevant prior to 21/06/2018 and said legislation only allowed for members to be elected for a period of 3 years.

I have also read that Mr Caruana is of the opinion that the new board does not need to be formed until 2022. With the utmost respect to Mr Caruana, how can it possibly be legal for persons appointed for a period of 3 years to effectively be allowed to remain for up to 7 years simply because new legislation has been introduced. With the greatest respect to this opinion, and in the absence of clear legislation, I am of the opinion that the new executive board should have been appointed as soon as practicable after the 21/06/2018. Therefore this should happen now or very soon. Not in 4 years; this makes no logical sense at all.

Once again, I am at pains to point out that the legality of the issue is less relevant than the spirit of the appointment. What is it that the board are so afraid of? If you feel that you have the support of the membership, then there will not be a problem being re-elected. If you fear that you may not be re-elected; then clearly you doubt whether you have the trust of the electorate; in which case surely you would want to step down anyway. What would be the point of being a member of an Executive Board whose sole purpose is to serve the wider membership if that wider membership don't want you?

I very much question the legality of what you are doing. But even if I am wrong and I were to be legally proven to be wrong, the fact remains that the eight members of the Executive Board were elected to serve the membership of the GPF. From a moral perspective, surely you must see that being challenged on this point is indicative of an issue between the Executive Board and those they serve (the membership) and that being the case, you should want to reassure the membership of your commitment to serving them according to what they want from you rather than what the law allows you to do.

Please re-consider your standpoint on this. By all means run this by Mr Caruana as well. Please revert ASAP. As I will need to go out to the membership this week.

John

John Louis Ollvera MSc.
Police Training Inspector
Recruitment & Training Department
Planning, Development & Support Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20048013 Centrex [redacted]

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Please consider the environment before printing this email.

From: Henry Bautista <henry.bautista@gibpolfed.org>
Sent: 25 February 2019 10:18
To: (RGP) Olivera, John (PS008) <John.Olivera@royalgib.police.gi>; Anna Jones <anna.jones@gibpolfed.org>
Subject: RE: Elections

Dear John,

Let me explain some matters which I believe you are not privy to.

From November 2015 to February 2016, Anna and I (the then Secretary and Chairman of the Gibraltar Police Association) had several negotiating meetings with the Chief Minister and Minister of Justice. The Gibraltar Police Federation legislation draft was already a working document and it was decided by the Government Ministers that we would forthwith be working in the spirit of the new legislation, mirroring conditions of the Police Federation of England and Wales, encompassing the new terms for federation board members, including their appointment of 4 years. The then Commissioner of Police, Mr Yome, was also present in several of these negotiating meetings. Mr Michael Chrome, PA to the Chief Minister for Union Affairs, played a huge part in assisting the creation of the Federation and facilitating our requests.

As requested by the Chief Minister, on the 1st of March 2016, Commissioner Yome, released Anna and I from operational duties after the RGP received two extra officers to the compliment of the Force and an extra Police Sergeant was promoted in lieu of Anna's rank. The convener's posts were also unanimously ratified by all the then members of the Police Association's Council.

HM Government of Gibraltar then appointed Anna and I as full-time conveners and we were provided with premises and a full working office. All purchased by government with an office and expenses grant.

Our board positions and appointment terms were also ratified by the members at the Police Association's AGM held on the 29th June 2016. Since then all successive board members have been duly elected and properly appointed for their ensuing 4 years.

The federation legislation should have been implemented shortly after our appointments (something which I reported continuously through updates to our members) but unfortunately this was delayed until it was passed

through Gibraltar Parliament on the 15th of June 2018.
But as we both have attained the retirement age of 55, we have both decided to step down from the board on the 20th of April and 22nd of May 2019 respectively, effectively also retiring from the RGP.

I have attached for your information our legal opinion from Sir Peter Caruana QC which I believe will answer many of your questions. On his recommendations, this is the procedure that the Federation board has unanimously decided and will be taking forward.

I recommend that you please forward your proposed motions to me as previously discussed, so that I may include them in the Federation's AGM agenda, where they will be put forward to the members at the meeting. They will be discussed at the already arranged venue of the John Mackintosh Hall on the 22nd of May 2019.

I have already requested to the Commissioner that time be afforded for all officers who will be on duty that day, could attend the AGM and vote and he has agreed.

Here, before any elections take place, the proposed motions can be discussed/carried by a vote from all members. Obviously ensuring we have a quorum.

If carried, it would then secure a mandate from the floor for the new Federation Board to adhere to and follow.

As already announced there will be three vacancies that will need to be balloted for at the AGM. The respective rank branches will vote for their candidates to complete the new board. As stated in the regulations the new elected board will then elect the new chair and secretary (the new convenors). The constituted new board will remain until June 2022, when all will have to step down from the board and re-elected if they so wished at the AGM.

We thank you for your input and we see that you feel strongly about Federation matters. I encourage you to put your name forward for the vacancy of inspector representative as the Federation board needs good representation of their ranks throughout.

Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex [redacted]
Tel: +350 20050199
Mob [redacted]

Email: henry.bautista@gibpolfed.org

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From: (RGP) Olivera, John (PS008) <John.Olivera@royalgib.police.gi>
Sent: Friday, 22 February, 2019 2:52 PM
To: Anna Jones <anna.jones@gibpolfed.org>; Henry Bautista <henry.bautista@gibpolfed.org>
Subject: RE: Elections

Anna/ Henry

In relation to the email sent to all Police Federation Board members from the Executive Board yesterday and in reply to that email and the below information which was supplied to me this morning by Anna (thanks again).

I am giving you both a heads up out of respect, but I'm sorry to say that I do not agree with your interpretation of the legislation in two key areas.

Term of office

Section 19.(1) says:

The persons elected to be members of the Police Council immediately prior to the commencement date shall, on the commencement date, be deemed to have been elected as members of the board under these regulations until the expiry of the period for which they were elected.

The purpose of this section is to allow serving council members to remain in situ rather than having to be immediately replaced on the commencement date.

The purpose of this section is not to allow members to serve for 4 years instead of 3. In fact it is very clear that they may only serve for the period for which they were elected.

Elected officials in any organisation cannot decide to remain in office for any longer than the term for which they were elected.

If a government were elected for a term of 3 years and then pushed through legislation which allowed elected members to remain in office for 4 years and then decided that they should all remain in office for 4 years despite only being elected for 3 years. There would be a public outcry. Because this challenges the very concept of democracy.

This is, in effect, what you are doing. The current members of the board were elected under legislation that no longer exists for a term of 3 years. A new piece of legislation has now been passed by government, which you have been instrumental in constructing. This new legislation allows for executive board members to be elected for 4 years instead of 3 but it does not say anywhere that those elected for 3 years can now remain for 4 years. On the contrary, it clearly states *'until the expiry of the period for which they were elected'*.

You were all elected for 3 years and as such you all need to stand for re-election after 3 years of service like any other elected official.

I think it is highly inappropriate for an elected official who was elected for a term of 3 years to stay any longer.

Therefore, I think your list (original below) should read as follows:

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Anna Jones elected March 2016 term ends March 2019 (retiring April 2019)
Maurice Morello elected October 2016 term ends Oct 2019
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Lee Pozo elected May 2018 term ends May 2021

Selection of a new board

Furthermore section 5.(1) states

At it's first meeting after election, the board shall elect a chairman and secretary from among it's members

This clearly infers that the board shall be elected together not individually as each of their terms expires.

Furthermore section 1.1 of the schedule states:

A general election of members of the board must be held every four years at an Annual General Meeting.

Again, this clearly infers that the board will be elected together, every four years and serve together for that term.

I have found no reference anywhere in the legislation to the four year transitional period that you mentioned in your email to all members yesterday.

There is no justification, that I have found, for holding off an election until 21/06/2022.

The time to re-elect the Executive Board is now and I will be calling for support from our membership accordingly.

In summary

In my opinion, this legislation has been poorly written and this has created these issues.

I do not think that replacing individuals as each of their 3 year terms expire is what the legislation intended. I think it intended that a new board should be formed soon after the commencement date and every 4 years thereafter, but failed to explicitly state how the transition from the old system to the new should be properly managed; which is a failing in the writing of the legislation.

In my opinion, what you need to do is to get out in front of this and not rely on legislation that is open to interpretation to justify your decisions.

Clearly a decision needs to be made as to how to proceed and the answer does not lie in the legislation because the transition has not been properly described.

You can't wait until each board member's 3 year term expires and re-elect. Because the legislation expects all members to be elected together. So at some point a line has to be drawn as to when the full board election will take place.

You can't decide that this date is beyond the term of any of the elected periods – because an elected official cannot remain in post beyond the date they were elected to - and as the two of you were only elected until March this year, you need to hold the full board election in March this year.

I realise that this has personal implications for both of you and this is unfortunate.

But the Police Federation membership have a right to choose a new board now before two new conveners are appointed. They have already made it clear in supporting my call for an EGM that they want a say. If you represent the membership, then you need to listen to what they are saying.

I really don't want to have to call for support for an EGM again.

Please consider what I am saying and try to come up with a solution that gives the members a way to choose a new Executive Board now (or very soon).

I am sure that a short delay (from March to May for instance) would be agreeable to members; if they get to re-elect a new board now. But a 4 year delay is not acceptable in my opinion and I am sure others will agree.

On a final note, it saddens me that the Police Federation Executive Board are now locked in a dispute with the members they were elected to serve - regarding their own terms of service. Surely you must realise that this disagreement weakens rather than strengthens the Police Federation. As I have said before, the point here goes beyond whether or not you can defend your actions via the legislation. Sometimes, a win is actually a loss. You might win this from a legislative perspective but you are losing the support of those you were elected to serve!

Please give this serious consideration and let me have your thoughts soonest.

John

John Louis Olivera MSc.
Police Training Inspector
Recruitment & Training Department
Planning, Development & Support Division
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From: Anna Jones <anna.jones@gibpolfed.org>
Sent: 22 February 2019 08:51
To: (RGP) Olivera, John (PS008) <John.Olivera@royalgib.police.gi>
Subject: Elections

Good morning John,
Please find below the terms for the members of the Board.

Henry Bautista elected March 2016 term ends March 2020 (retiring May 2019)
Anna Jones elected March 2016 term ends March 2020 (retiring April 2019)
Maurice Morello elected October 2016 term ends Oct 2020
Alfred Garcia elected February 2017 term ends February 2021
Albert Fernandez elected June 2018 term ends June 2022
Leif Simpson elected May 2018 term ends May 2022
Lee Pozo elected May 2018 term ends May 2022

Best
Anna

Anna Jones
Secretary

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centr[redacted]
Tel: +350 20050199
M[redacted]

Email: anna.jones@gibpolfed.org



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Federation Chairman

From: Board <board@gibpolfed.org>
Sent: 28 February 2019 17:15
Cc: Anna Jones; Henry Bautista
Subject: AGM / EGM Procedure
Attachments: 20190207 PRC Legal Opinion to the GPF.pdf

Dear Colleagues,

Further to our recent email of the 21st February 2019

We respect the fact that any Federation member may request to call for an EGM. The motion must be supported as per legislation. When the EGM takes place and should a quorum vote to pass the motion, that motion will qualify to be tabled at the AGM on the 22nd May 2019, where attendees at the AGM will vote and the motion will be passed or not accordingly.

We would like to recap the following:

- The Federation Board held elections for the designate Chairman and Secretary on the 22nd January 2019 so as to provide continuity and a hand over period nearer to May 2019.

- On the 22nd January 2019 the results of said elections were published to all members.

- On the 23rd January 2019 the Commissioner of Police contested the results and obtained a legal opinion from GLO.

- On the 25th January 2019 we emailed the membership to the effect that those positions will be held unratified until such time as we clarified our position with further legal advice.

- We obtained legal advice and a precis of this advice was communicated to the members on the 21st February 2019.

- Within this advice, it was upheld that the Board had indeed called an election before the posts were in actual fact vacant, therefore voiding the results.

- There are transitional provisions 19(1) of the Police Federation Regulations 2018 that state; transitioned Board members appointments last until the expiry of whatever period was left on the 21st June 2018 of their individual mandate in the Police Association Council (the remaining period)

- The transitional period will terminate 21st June 2022 when all Board members will need to step down from the Board and either be re-elected or new members elected.

- **Attached is the full legal advice obtained by the board.**

- At this point in time it is the board's decision to follow the attached advice and the procedure for upcoming vacancies to the board which has already been communicated to the members in our email of the 21st February 2019.

Any member requiring any further clarification please contact any of the board members.

Kind regards

The Federation Board

Federation Chairman

From: (RGP) Field, John
Sent: 18 March 2019 12:16
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: Fwd: New Co-opted Gibraltar Police Federation Board Member

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Fyi

Sent from my Samsung Galaxy smartphone.

-------- Original message --------
From: Henry Bautista
Date: 18/03/2019 11:35 (GMT+01:00)
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Subject: New Co-opted Gibraltar Police Federation Board Member

Dear Colleagues

As you may be aware, Inspector Frank Barton recently resigned from the Federation Board. This left a vacancy for Inspector/Chief Inspector Representative in the board for this particular rank.

Chief Inspector John Field has since shown interest in joining the Federation board. The Inspectors and Chief Inspectors Branch Board have been consulted and they have supported Mr Field as one of their representatives.

I therefore write to formally inform all our members that Mr Field is being co-opted into the Federation Board until the 22nd May 2019.

This position will be formally advertised for election at the upcoming AGM.

Kind regards
Henry J Bautista
Chairman
Gibraltar Police Federation
Unit 1.12 Retrenchment Block
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Federation Chairman

From: (RGP) Ullger, Richard
Sent: 18 March 2019 12:56
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: Fwd: New Co-opted Gibraltar Police Federation Board Member

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

FYI.

Sent from my iPhone

Begin forwarded message:

From: "(RGP) Field, John" <John.Field@royalgib.police.gi>
Date: 18 March 2019 at 11:40:53 CET
To: "(RGP) Ullger, Richard" <Richard.Ullger@royalgib.police.gi>
Subject: Fwd: New Co-opted Gibraltar Police Federation Board Member

Fyi

Sent from my Samsung Galaxy smartphone.

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Subject: New Co-opted Gibraltar Police Federation Board Member

Dear Colleagues

As you may be aware, Inspector Frank Barton recently resigned from the Federation Board. This left a vacancy for Inspector/Chief Inspector Representative in the board for this particular rank.

Chief Inspector John Field has since shown interest in joining the Federation board. The Inspectors and Chief Inspectors Branch Board have been consulted and they have supported Mr Field as one of their representatives.

I therefore write to formally inform all our members that Mr Field is being co-opted into the Federation Board until the 22nd May 2019.

This position will be formally advertised for election at the upcoming AGM.

Kind regards

Henry J Bautista
Chairman
Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
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Federation Chairman

From: (RGP) Ullger, Richard
Sent: 18 March 2019 12:56
To: (RGP) Field, John (Supt 241)
Subject: Re: New Co-opted Gibraltar Police Federation Board Member

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Brill

Sent from my iPhone

On 18 Mar 2019, at 11:41, (RGP) Field, John <John.Field@royalgib.police.gi> wrote:

> Fyi
>
> Sent from my Samsung Galaxy smartphone.
>
> -------- Original message --------
> From: Henry Bautista <henry.bautista@gibpolfed.org>
> Date: 18/03/2019 11:35 (GMT+01:00)
> To: "(RGP) Field, John" <John.Field@royalgib.police.gi>, "(RGP) Finlayson, Brian" <brian.finlayson@royalgib.police.gi>, Frank Barton <frank.barton@royalgib.police.gi>, "(RGP) Quigley, Dylan" <dylan.quigley@royalgib.police.gi>, "(RGP) Enriles, Alexander" <Alex.Enriles@royalgib.police.gi>, "(RGP) Cerisola, Damian" <Damian.Cerisola@royalgib.police.gi>, "(RGP) Fernandez, Albert" <Albert.Fernandez@royalgib.police.gi>, "(RGP) Chipolina, Paul" <Paul.Chipolina@royalgib.police.gi>, "(RGP) Tunbridge, Thomas" <Thomas.Tunbridge@royalgib.police.gi>, "(RGP) Lutkin, John (PS023)" <John.Lutkin@royalgib.police.gi>, "(RGP) Perera, Sean" <Sean.Perera@royalgib.police.gi>, "(RGP) Wyan, Mark" <Mark.Wyan@royalgib.police.gi>, "(RGP) Payas, Patrick" <Patrick.Payas@royalgib.police.gi>, "(RGP) Bruzon, Louis (PC132)" <louis.bruzon@royalgib.police.gi>, "(RGP) Philbin, Craig (PS2)" <craig.philbin@royalgib.police.gi>, "(RGP) Finegan, Stewart (PS003)" <stewart.finegan@royalgib.police.gi>, "(RGP) Deborah Jones (PS004)" <deborah.jones@royalgib.police.gi>, "(RGP) Balloqui, Douglas (PS005)" <Douglas.Balloqui@royalgib.police.gi>, "(RGP) Stone, Stewart (PS006)" <Stewart.Stone@royalgib.police.gi>, "(RGP) Cottam, Samuel (PS016)" <Samuel.Cottam@royalgib.police.gi>, "(RGP) Olivera, John (PS008)" <John.Olivera@royalgib.police.gi>, "(RGP) Zammitt, Neil (PS009)" <Neil.Zammitt@royalgib.police.gi>, "(RGP) Daniel Ruffle (PS013)" <daniel.ruffle@royalgib.police.gi>, "(RGP) Gonzalez, Patricia (PS014)" <patricia.gonzalez@royalgib.police.gi>, "(RGP) Garratt, Mark (PS015)" <Mark.Garrat@royalgib.police.gi>, "(RGP) Picton, Sean (PC191)" <sean.picton@royalgib.police.gi>, "(RGP) Desoiza, Jonothan (PS017)" <Jonothan.Desoiza@royalgib.police.gi>, "(RGP) Barker, Paul (PS018)"

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"(RGP) Minter, Tarnya (PC188)" <tarnya.minter@royalgib.police.gi>, "(RGP) Rahmouni, Ilias (PC190)" <ilias.rahmouni@royalgib.police.gi>, Matthew Arnold <matthew.arnold@royalgib.police.gi>, Richard Cunningham <richard.cunningham@royalgib.police.gi>, "(RGP) Oliveira, Darrel, (PC193)" <Darrell.Oliveira@royalgib.police.gi>, "(RGP) Peach, Stephen (PC194)" <stephen.peach@royalgib.police.gi>, "(RGP) Passano, Natalie (PC195)" <Natalie.Passano@royalgib.police.gi>, "(RGP) Watson, Andrew (PC196)" <Andrew.Watson@royalgib.police.gi>, "(RGP) Rowbottom, Emma (PC197)" <Emma.Rowbottom@royalgib.police.gi>, "(RGP) Goldwin, Louise (PC198)" <Louise.Goldwin@royalgib.police.gi>, "(RGP) Rodriguez, Daniel (PC199)" <Daniel.Rodriguez@royalgib.police.gi>, "(RGP) Debono, Anthony (PC200)" <Anthony.Debono@royalgib.police.gi>, "(RGP) Vilerio, Manuel (PC201)" <manuel.vilerio@royalgib.police.gi>, "(RGP) Santos, Anabell (PC202)" <Anabell.Santos@royalgib.police.gi>, Natalie Atkinson <natalie.atkinson@royalgib.police.gi>, Jordan Recagno <jordan.recagno@royalgib.police.gi>, "(RGP) Saxby, Daniel (PC205)" <daniel.saxby@royalgib.police.gi>, "(RGP) Simpson, Leif (PC206)" <leif.simpson@royalgib.police.gi>, "(RGP) Read, James (PC207)" <james.read@royalgib.police.gi>, "(RGP) Lopez, Anthony (PC208)" <Anthony.Lopez@royalgib.police.gi>, "(RGP) Tester, Colin (PC209)" <colin.tester@royalgib.police.gi>, "(RGP) Schembri, Mark (PC210)" <Mark.Schembri@royalgib.police.gi>, "(RGP) James Currer (PC211)" <james.currer@royalgib.police.gi>, "(RGP) Golledge, Kyle (PC212)" <kyle.golledge@royalgib.police.gi>, "(RGP) David Beddar (PC213)" <david.beddar@royalgib.police.gi>, "(RGP) Ryan Green (PC214)" <ryan.green@royalgib.police.gi>, "(RGP) Perez, Jonathan (PC215)" <jonathan.perez@royalgib.police.gi>, "(RGP) Yeo, Daniel (PC216)" <daniel.yeo@royalgib.police.gi>, "(RGP) Connor, Martyn (PC217)" <martyn.connor@royalgib.police.gi>, "(RGP) Heap, Michael (PC218)" <michael.heap@royalgib.police.gi>, Matthew Myhill <matthew.myhill@royalgib.police.gi>, Mark Perry <robert.perry@royalgib.police.gi>, Darren Gonzalez <darren@royalgib.police.gi>
Subject: New Co-opted Gibraltar Police Federation Board Member

Dear Colleagues

As you may be aware, Inspector Frank Barton recently resigned from the Federation Board. This left a vacancy for Inspector/Chief Inspector Representative in the board for this particular rank.

Chief Inspector John Field has since shown interest in joining the Federation board. The Inspectors and Chief Inspectors Branch Board have been consulted and they have supported Mr Field as one of their representatives.

I therefore write to formally inform all our members that Mr Field is being co-opted into the Federation Board until the 22nd May 2019.

This position will be formally advertised for election at the upcoming AGM.

Kind regards

Henry J Bautista
Chairman
Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA
Centrex [redacted]
Tel: +350 20050199
Mob [redacted]
Email: henry.bautista@gibpolfed.org

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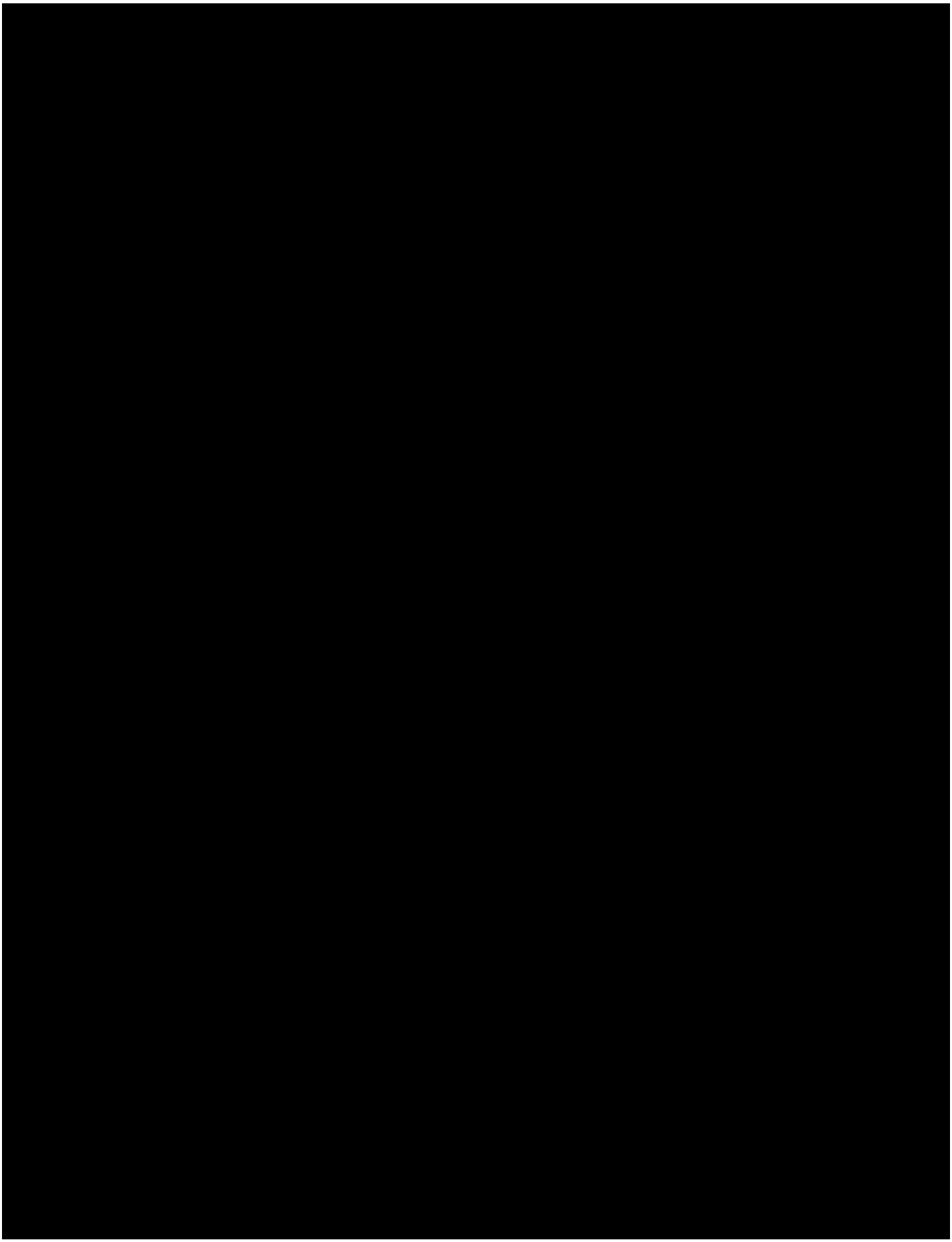



Federation Chairman

From: Henry Bautista <henry.bautista@gibpolfed.org>
Sent: 18 March 2019 11:35
Subject: New Co-opted Gibraltar Police Federation Board Member

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Dear Colleagues

As you may be aware, Inspector Frank Barton recently resigned from the Federation Board. This left a vacancy for Inspector/Chief Inspector Representative in the board for this particular rank.

Chief Inspector John Field has since shown interest in joining the Federation board. The Inspectors and Chief Inspectors Branch Board have been consulted and they have supported Mr Field as one of their representatives.

I therefore write to formally inform all our members that Mr Field is being co-opted into the Federation Board until the 22nd May 2019.

This position will be formally advertised for election at the upcoming AGM.

Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex [redacted]
Tel: +350 20050199
Mob [redacted]

Email: henry.bautista@gibpolfed.org

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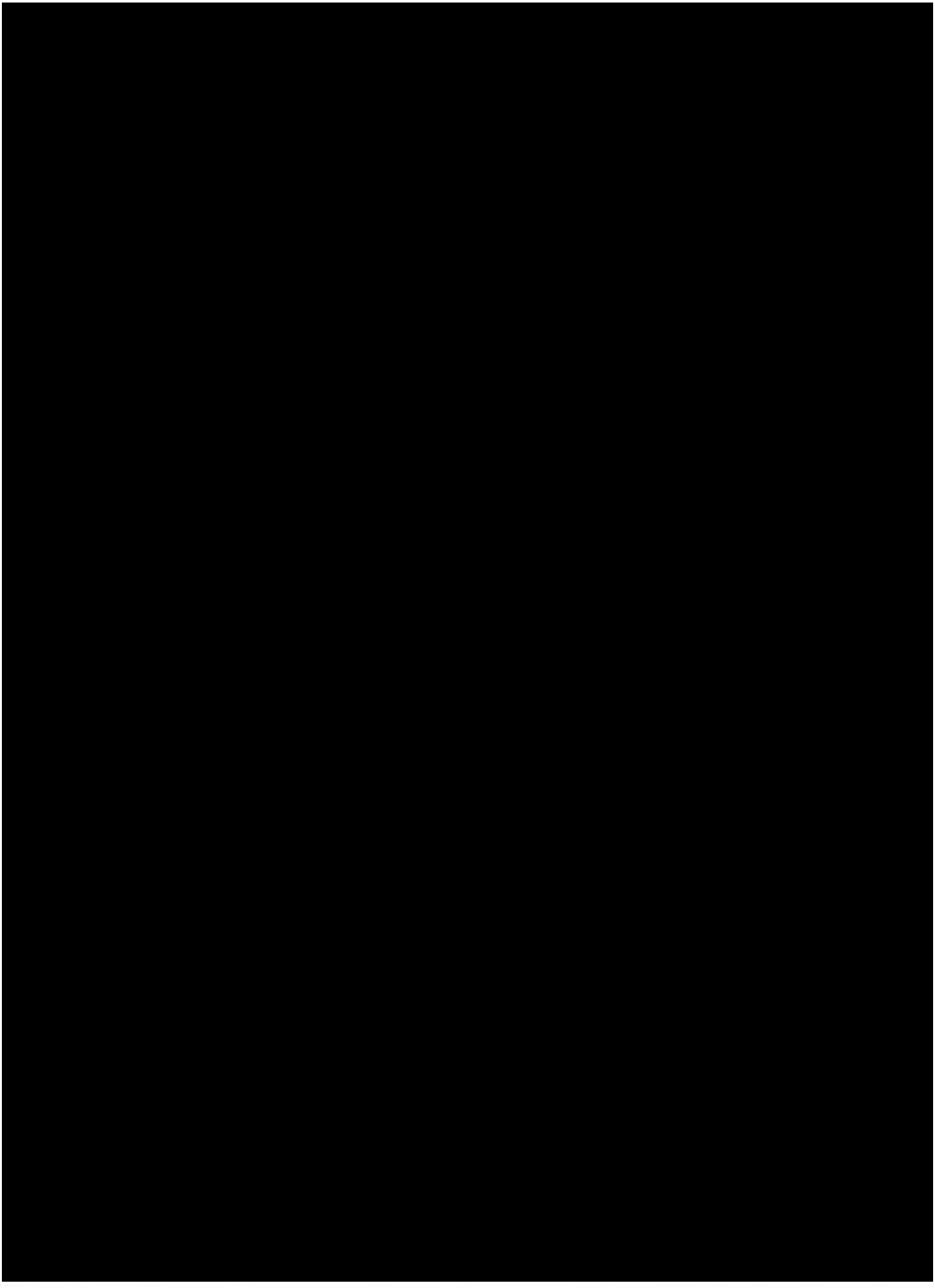



Federation Chairman

From: Henry Bautista <henry.bautista@gibpolfed.org>
Sent: 20 March 2019 12:12
To: (RGP) Morello, Maurice (PS032); (RGP) Fernandez, Albert; (RGP) Simpson, Leif (PC206); (RGP) Garcia, Alfred (PC038); (RGP) Pozo, Lee (PC155); Anna Jones
Subject: FW: Designate Secretary
Attachments: GPF Update AGM & Board Vacancies 21.02.19.docx

From: Henry Bautista
Sent: Wednesday, 20 March, 2019 12:09 PM
To: 'peter@caruana.gi'
Cc: 'patrick@caruana.gi'
Subject: FW: Designate Secretary

Dear Sir Peter

I write to you to inform you that I received a telephone call from the Commissioner of Police this morning requesting to meet with the remaining members of the board as he has again sought advice from the GLO on your document. He stated that the advice he had received contradicts your legal opinion.

He will be disclosing to us this information together with his proposals on how he sees we should move on this Friday afternoon.

Obviously we will attend this meeting but we will have to revert to you.

As previously advised we will continue to follow as per your instructions.

Please do not hesitate to contact me if you have anything to advise in the meantime.

Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: [redacted]

Email: henry.bautista@gibpolfed.org



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From: Henry Bautista
Sent: Friday, 22 February, 2019 12:31 PM
To: 'peter@caruana.gi' <peter@caruana.gi>
Cc: Anna Jones <anna.jones@gibpolfed.org>; Albert Fernandez <albert.fernandez@royalgib.police.gi>; Alfred Garcia <alfred.garcia@royalgib.police.gi>; Henry J Bautista <henry.bautista@gibpolfed.org>; Lee Pozo <lee.pozo@royalgib.police.gi>; Leif Simpson <leif.simpson@royalgib.police.gi>; Maurice Morello <maurice.morello@royalgib.police.gi>
Subject: FW: Designate Secretary

Dear Sir Peter

Yesterday morning we had a meeting with the Commissioner of Police where we handed to him a copy of your legal opinion.
Please find below email stream for your information, with the Commissioner of Police for your information, after we held the meeting.

It appears, the Commissioner is now going to refer your report to the GLO Crown Counsel and seek further advice from them.

I have also attached for your information our communique to the members of how the Federation would be progressing forward.

Thank you again for your advice. It may be that we may need to call for your services again for a meeting with the Commissioner of Police as previously discussed.

Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex [redacted]
Tel: +350 20050199
Mob: [redacted]

Email: henry.bautista@gibpolfed.org

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From: Henry Bautista <henry.bautista@gibpolfed.org>
Sent: Friday, 22 February, 2019 12:02 PM
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>; Anna Jones <anna.jones@gibpolfed.org>; (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Subject: RE: Designate Secretary

Dear Sir

We had agreed with the initial advice from GLO that we had possibly pre-empted an outcome in relation to the Convenor posts and our voting for the said positions and as I stated this was upheld by the opinion from Sir Peter Caruana.

I explained to you yesterday that we had asked for further legal advice due to the fact that it was our understanding that there would be a transitional period in relation to staggering the board members appointment therefore providing provisions for continuity etc.

However as above we still queried the procedure of the necessity for the whole board to be dissolved and felt that the transitional clause could apply in a manner that enabled the staggering of board members.
To this end we sought a further legal opinion and as I stated yesterday this is how we will proceed in this first AGM after our positions become vacant.

It is at odds only in respect to the transitional period, which is why I opened the meeting with the statement that you were right that we had held the vote for our replacements prematurely.
it nevertheless agrees that by 4 years from June 2018 under the legislation as it stands the full board would be required to stand for re-election at the same time.
We discussed that this was a matter for the new board to lobby for change should that be the will of the board/membership moving forward.

Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex [redacted]
Tel: +350 20050199
Mob: [redacted]

Email: henry.bautista@gibpolfed.org

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From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: Friday, 22 February, 2019 11:31 AM
To: Henry Bautista <henry.bautista@gibpolfed.org>
Cc: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>; Anna Jones <anna.jones@gibpolfed.org>; (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Subject: RE: Designate Secretary

Dear Henry –
I echo your words that yesterday's meeting was a positive one and I hope future ones continue in the same vein.

I have briefly gone through the legal advice produced by the GPF - **it is clearly at odds** to the one provided by GLO counsel and therefore I am surprised that you opened yesterday's meeting saying that my positon had been found to be correct – it clearly has not according to Sir Peter's advice. Therefore I am going to share your advice with GLO crown counsel and seek further advice from them.

Consequently, I am still not in a position to oblige to the request to release PC Simpson as requested. I will of course revert as soon I have obtained the necessary clarity on the matter.

Regards

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex [redacted]

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Please consider the environment before printing this email.

From: Henry Bautista <henry.bautista@gibpolfed.org>
Sent: 21 February 2019 17:12
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>; Anna Jones <anna.jones@gibpolfed.org>
Subject: Designate Secretary

Dear Sir

Thank you for today's meeting.

I believe it was a good one. We seem to be slowly progressing and obviously, I am determined to continue with the momentum until everyone is back on track and closely working together.

As you may be aware, I have released our communique to the members and have explained to them the GPF's way forward, as discussed.

I understand that you are not now in a position to release anyone, but just for clarity's sake, can you please confirm if you will be able to kindly release Mr Leif Simpson as from the 20th April till the 22nd May 2019 (after Anna has finished and until we have held the AGM).
As we informed you, Mr Simpson, was unanimously elected as "Designate Secretary" for the transitional period, so that there will be a continuity element with the Federation's affairs and in preparation for my departure, until the new board and convenors are constituted.

Thanking you for your kind attention to this matter.

Kind regards

Henry J Bautista
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex [redacted]
Tel: +350 20050199
Mob: [redacted]

Email: henry.bautista@gibpolfed.org



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F.deration Chairman

From: (RGP) Yeats, Cathal
Sent: 22 March 2019 10:02
To: (RGP) McGrail, Ian M.Sc (OTM)
Cc: (RGP) Ullger, Richard (COP 235)
Subject: OFFICIAL: Federation Meeting

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Sir,

A proposed text for the Federation.

Starts:

Summary of Office of Advisory Council advice to the Commissioner:

1) The GPF Board were elected or nominated to the Police Council under the revoked Gibraltar Police Association Regulations [GPAR].
    a. The earliest applicable date is March 2016 when the current Chairman and Secretary were elected.
    b. The transitional provisions of the Police Federation Regulations 2018 [PFR] state the members of the board are deemed to have been elected until the expiry of the period for which they were elected.
    c. The GPAR envisaged elections every three years and the replacement of vacancies by way of nomination and **NOT** election. Any member "elected" for a three year term other than at the "third year" general meeting would be *ultra vires*.
    d. There is no amendment by way of Legal Notice to the GPAR extending the three term for which the board would have been elected to four. The PFR refer to the entire Council mandate in the transitional provisions, therefore they are deemed to have been elected or nominated until the end of the three year tenure. The three year tenure expires in March of 2019.
2) The Federation board are only able to elect a Chairman and Secretary if that board is newly constituted following a general election.
    a. The board can nominate to replace vacant positions including those created by the departure of the Chairman and Secretary, but it cannot choose to appoint replacements to those two posts.
    b. It is not an absurd proposition to have the board stand down following the departure of the Chairman and Secretary.
3) The mistaken historical practice of electing replacements to the Council board following individual vacancies (albeit *ultra vires*) cannot now make the holding of a general election of the entire board absurd.
    a. The board does not have to dissolve following the departure of the Chairman and Secretary within the four year term, but given it cannot replace them it is the implicit outcome.

Ends

We should discuss before this afternoon.

Regards.

Cathal

Cathal Yeats

Superintendent

Organisational Development
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20045082 Centrex [redacted]

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Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 25 March 2019 08:22
To: Henry Bautista
Subject: OFFICIAL - Advice from CC GLO

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Dear Henry –

Further to our last meeting held on Friday 22nd March 2019, please see below a summary of the advice from Counsel of the GLO. Apologies for not sending this at the weekend but I could not remotely access the text from home.

Starts:

Summary of Office of Advisory Council advice received :

1) The GPF Board were elected or nominated to the Police Council under the revoked Gibraltar Police Association Regulations [GPAR].
    a. The earliest applicable date is March 2016 when the current Chairman and Secretary were elected.
    b. The transitional provisions of the Police Federation Regulations 2018 [PFR] state the members of the board are deemed to have been elected until the expiry of the period for which they were elected.
    c. The GPAR envisaged elections every three years and the replacement of vacancies by way of nomination and **NOT** election. Any member "elected" for a three year term other than at the "third year" general meeting would be *ultra vires*.
    d. There is no amendment by way of Legal Notice to the GPAR extending the three term for which the board would have been elected to four. The PFR refer to the entire Council mandate in the transitional provisions, therefore they are deemed to have been elected or nominated until the end of the three year tenure. The three year tenure expires in March of 2019.
2) The Federation board are only able to elect a Chairman and Secretary if that board is newly constituted following a general election.
    a. The board can nominate to replace vacant positions including those created by the departure of the Chairman and Secretary, but it cannot choose to appoint replacements to those two posts.
    b. It is not an absurd proposition to have the board stand down following the departure of the Chairman and Secretary.
3) The mistaken historical practice of electing replacements to the Council board following individual vacancies (albeit *ultra vires*) cannot now make the holding of a general election of the entire board absurd.
    a. The board does not have to dissolve following the departure of the Chairman and Secretary within the four year term, but given it cannot replace them it is the implicit outcome.

Ends

Best wishes

Ian McGrail *OTM MSc*
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) 20072500 Centrex [redacted]

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Please consider the environment before printing this email.

Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 03 April 2019 16:57
To: Command Team
Subject: Fwd: GPF - Proposition on the way forward

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

Gents -please see below. I would ask that you read the proposal and provide me with your views. We can discuss in slower time tomorrow once I return from the disciplinary board.

I will respond with a holding reply and seek a meeting with the GOF for with either Friday or early next week.

Rgds

Sent from my iPhone

Begin forwarded message:

> **From:** Board <board@gibpolfed.org>
> **Date:** 3 April 2019 at 16:49:28 GMT+2
> **To:** "(RGP) McGrail, Ian M.Sc (OTM)" <Ian.McGrail@royalgib.police.gi>
> **Cc:** Anna Jones <anna.jones@gibpolfed.org>, Albert Fernandez <albert.fernandez@royalgib.police.gi>, Alfred Garcia <alfred.garcia@royalgib.police.gi>, Henry Bautista <henry.bautista@gibpolfed.org>, John Field <john.field@royalgib.police.gi>, Lee Pozo <lee.pozo@royalgib.police.gi>, Leif Simpson <leif.simpson@royalgib.police.gi>, Maurice Morello <maurice.morello@royalgib.police.gi>
> **Subject: GPF - Proposition on the way forward**
>
> Dear Sir
> We have now received further legal advice.
> Working in the spirit of the legislation requires all sides to agree. Our legal advice has confirmed with you that there is nothing in legislation confirming the four-year board appointment that we have been working on.
> Appointments to the board should have been three years as stated.
> Our advice nevertheless reaffirms that there is in legislation provision for a transitional period.
> The transitional period of the Board members are as follows
> Mr Henry Bautista elected in June 2016 term ends June 2019
> Ms Anna Jones elected in June 2016 term ends June 2019
> Mr Maurice Morello elected in October 2016 term ends October 2019
> Mr Alfred Garcia elected in February 2017 term ends February 2020
> Mr Albert Fernandez elected in June 2018 term ends June 2021
> Mr Leif Simpson elected in June 2018 term ends June 2021
> Mr Lee Pozo elected in June 2018 term ends June 2021
> Mr Henry Bautista and Ms Anna Jones were re-elected in June 2016 at the Association's AGM and not in March 2016 as mentioned (they both started their appointed Convenor positions in March 2016).

As they both will be retiring, both their vacancies will be advertised for the AGM together with Inspector Barton's vacancy. (Mr John Field was co-opted by the board until 22nd May 2019) The latter was co-opted by the board and not elected by the members.
Mr Maurice Morello and Mr Leif Simpson have now decided that they will both stand down on the 21st May 2019 and will be seeking re-election to the board at our next AGM on the 22nd May 2019 from the members.
The other board members have decided to remain and continue through their transitional period until their term expires in June 2021. They will then decide whether to be co-opted by the board or stand for re-election at their next respective AGM.
The Federation Board has therefore decided on the following way forward.
Vacancies for the Federation Board will be advertised to all members for election at the Federation's AGM to be held on the 22nd May 2019.
From the 8 positions of the Federation, the following 5 vacancies will be published.
2 vacancies for Constable's Representative
2 vacancies for Sergeant's Representative and
1 vacancy for Inspector/Chief Inspector's
We hope that you will agree with the board on this way forward. We believe that both you and the Federation would like to see this matter resolved as soon as possible.
Although we do not object to arbitration, we have been advised that the Chief Minister would be a more appropriate person for such a task due to reasons of impartiality.
In this respect we are happy to consider other alternatives.
Having said that, we believe that this is the best compromise, taking on board advice from both positions, and the best reasonable way forward.
We kindly await your reply
The Federation Board

Gibraltar Police Federation

Unit 1.12 Retrenchment Block

PO Box 1325

Gibraltar

GX11 1AA

Centrex: [redacted]

Tel: +350 20050199

Email: board@giboolfed.org

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Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 03 April 2019 17:04
To: Board
Cc: Anna Jones; (RGP) Fernandez, Albert; (RGP) Garcia, Alfred (PC038); Henry Bautista; (RGP) Field, John; (RGP) Pozo, Lee (PC155); (RGP) Simpson, Leif (PC206); (RGP) Morello, Maurice (PS032); Command Team; (RGP) PA Compol
Subject: Re: GPF - Proposition on the way forward

Dear Henry - many thanks for your email and the proposal contained in it. It is certainly very refreshing indeed that we can see progress which may meet both our respective stances. I am confident that this will soon be resolved.

I will consult with the Command Team and revert by tomorrow; it may be a good idea to meet up before the end of this week to ratify the arrangements once we agree to them.

I will ask my PA to link up with you to pencil in a meeting for Friday.

Regards
CoP

Sent from my iPhone

On 3 Apr 2019, at 16:49, Board <board@gibpolfed.org> wrote:

> Dear Sir
> We have now received further legal advice.
> Working in the spirit of the legislation requires all sides to agree. Our legal advice has confirmed with you that there is nothing in legislation confirming the four-year board appointment that we have been working on.
> Appointments to the board should have been three years as stated.
> Our advice nevertheless reaffirms that there is in legislation provision for a transitional period.
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> As they both will be retiring, both their vacancies will be advertised for the AGM together with Inspector Barton's vacancy. (Mr John Field was co-opted by the board until 22nd May 2019) The latter was co-opted by the board and not elected by the members.
> Mr Maurice Morello and Mr Leif Simpson have now decided that they will both stand down on the 21st May 2019 and will be seeking re-election to the board at our next AGM on the 22nd May 2019 from the members.
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Vacancies for the Federation Board will be advertised to all members for election at the Federation's AGM to be held on the 22nd May 2019.
From the 8 positions of the Federation, the following 5 vacancies will be published.
2 vacancies for Constable's Representative
2 vacancies for Sergeant's Representative and
1 vacancy for Inspector/Chief Inspector's
We hope that you will agree with the board on this way forward. We believe that both you and the Federation would like to see this matter resolved as soon as possible.
Although we do not object to arbitration, we have been advised that the Chief Minister would be a more appropriate person for such a task due to reasons of impartiality.
In this respect we are happy to consider other alternatives.
Having said that, we believe that this is the best compromise, taking on board advice from both positions, and the best reasonable way forward.
We kindly await your reply
The Federation Board

Gibraltar Police Federation

Unit 1.12 Retrenchment Block

PO Box 1325

Gibraltar

GX11 1AA

Centrex [redacted]

Tel: +350 20050199

Email: board@gibpolfed.org

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Federation Chairman

From: Board <board@gibpolfed.org>
Sent: 03 April 2019 16:49
To: (RGP) McGrail, Ian M.Sc (OTM)
Cc: Anna Jones; (RGP) Fernandez, Albert; (RGP) Garcia, Alfred (PC038); Henry Bautista; (RGP) Field, John; (RGP) Pozo, Lee (PC155); (RGP) Simpson, Leif (PC206); (RGP) Morello, Maurice (PS032)
Subject: GPF - Proposition on the way forward

Dear Sir

We have now received further legal advice.

Working in the spirit of the legislation requires all sides to agree. Our legal advice has confirmed with you that there is nothing in legislation confirming the four-year board appointment that we have been working on.

Appointments to the board should have been three years as stated.

Our advice nevertheless reaffirms that there is in legislation provision for a transitional period.

The transitional period of the Board members are as follows

Mr Henry Bautista elected in June 2016 term ends June 2019
Ms Anna Jones elected in June 2016 term ends June 2019
Mr Maurice Morello elected in October 2016 term ends October 2019
Mr Alfred Garcia elected in February 2017 term ends February 2020
Mr Albert Fernandez elected in June 2018 term ends June 2021
Mr Leif Simpson elected in June 2018 term ends June 2021
Mr Lee Pozo elected in June 2018 term ends June 2021

Mr Henry Bautista and Ms Anna Jones were re-elected in June 2016 at the Association's AGM and not in March 2016 as mentioned (they both started their appointed Convenor positions in March 2016).

As they both will be retiring, both their vacancies will be advertised for the AGM together with Inspector Barton's vacancy. (Mr John Field was co-opted by the board until 22nd May 2019) The latter was co-opted by the board and not elected by the members.

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In this respect we are happy to consider other alternatives.

Having said that, we believe that this is the best compromise, taking on board advice from both positions, and the best reasonable way forward.

We kindly await your reply

The Federation Board

Gibraltar Police Federation

Unit 1.12 Retrenchment Block

PO Box 1325

Gibraltar

GX11 1AA

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Tel: +350 20050199

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Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 04 April 2019 21:19
To: Board
Cc: Command Team; [RGP] PA Compol
Subject: Re: GPF - Proposition on the way forward

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Blue Category

Noted with many thanks.

@PA - please diarise this meeting for Monday at midday

Regards

Sent from my iPhone

On 4 Apr 2019, at 21:08, Board <board@gibpolfed.org> wrote:

> Dear Sir
>
> Although I am on annual leave I will go and see you on Monday at midday if that's okay. Leif Simpson will also be attending.
>
> Kind regards
>
> Henry J Bautista
> Chairman
> Gibraltar Police Federation
>
> Sent from my Samsung Galaxy smartphone.
>
> -------- Original message --------
> From: "(RGP) McGrail, Ian M.Sc (OTM)" <Ian.McGrail@royalgib.police.gi>
> Date: 04/04/2019 19:23 (GMT+01:00)
> To: Board <board@gibpolfed.org>
> Cc: Command Team <CommandTeam@royalgib.police.gi>, "(RGP) PA Compol" <pacompol@royalgib.police.gi>
> Subject: FW: GPF - Proposition on the way forward
>
> Dear all –
> My most sincere apologies for not reverting today with a time to meet tomorrow. I have literally just walked in to the office having been out all day with a disciplinary hearing. I had asked my PA to arrange to with yourselves for a meeting but for some reason or another she has been able to fix this.

I have a really packed day tomorrow but would be able to fit you in at 0900Hrs I am eager to meet asap to resolve the issue. Failing this it would either have to be after 1630Hrs tomorrow or midday on next Monday.
Please advise.
regards

Ian McGrail ***OTM MSc***
Commissioner of Police
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

Royal Gibraltar POLICE
Delivering a Safer Gibraltar through Excellence in Policing

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Please consider the environment before printing this email.

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 03 April 2019 17:04
To: Board <board@gibpolfed.org>
Cc: Anna Jones <anna.jones@gibpolfed.org>; (RGP) Fernandez, Albert <Albert.Fernandez@royalgib.police.gi>; (RGP) Garcia, Alfred (PC038) <Alfred.Garcia@royalgib.police.gi>; Henry Bautista <henry.bautista@gibpolfed.org>; (RGP) Field, John <John.Field@royalgib.police.gi>; (RGP) Pozo, Lee (PC155) <Lee.Pozo@royalgib.police.gi>; (RGP) Simpson, Leif (PC206) <leif.simpson@royalgib.police.gi>; (RGP) Morello, Maurice (PS032) <Maurice.Morello@royalgib.police.gi>; Command Team <CommandTeam@royalgib.police.gi>; (RGP) PA Compol <pacompol@royalgib.police.gi>
Subject: Re: GPF - Proposition on the way forward

Dear Henry - many thanks for your email and the proposal contained in it. It is certainly very refreshing indeed that we can see progress which may meet both our respective stances. I am confident that this will soon be resolved.
I will consult with the Command Team and revert by tomorrow; it may be a good idea to meet up before the end of this week to ratify the arrangements once we agree to them.
I will ask my PA to link up with you to pencil in a meeting for Friday.
Regards
CoP
Sent from my iPhone

On 3 Apr 2019, at 16:49, Board <board@gibpolfed.org> wrote:

> Dear Sir
> We have now received further legal advice.

Working in the spirit of the legislation requires all sides to agree. Our legal advice has confirmed with you that there is nothing in legislation confirming the four-year board appointment that we have been working on.
Appointments to the board should have been three years as stated.
Our advice nevertheless reaffirms that there is in legislation provision for a transitional period.
The transitional period of the Board members are as follows
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We kindly await your reply
The Federation Board

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Federation Secretary

From: Board <board@gibpolfed.org>
Sent: 08 April 2019 16:54
To: (RGP) Simpson, Leif (PC206)
Subject: Re: Gibraltar Police Federation - Vacancies to the Federation board

Thanks Leif

Noted

KR

Henry

Sent from my Samsung Galaxy smartphone.

-------- Original message --------
From: "(RGP) Simpson, Leif (PC206)"
Date: 08/04/2019 15:33 (GMT+01:00)
To: Board
Subject: Re: Gibraltar Police Federation - Vacancies to the Federation board

Sorry for not putting the constables supporting my post, from the board I have Lee Pozo and Alfred Garcia and from outside the board I have Duncan Caffrey and Keith Bonfiglio.

Kind Regards

Leif Simpson

Sent from my Samsung Galaxy smartphone.

-------- Original message --------
From: Board
Date: 08/04/2019 15:18 (GMT+01:00)
To: "(RGP) Field, John" , "(RGP) Finlayson, Brian" , Frank Barton , "(RGP) Quigley, Dylan" , "(RGP) Enriles, Alexander" , "(RGP) Cerisola, Damian" , "(RGP) Fernandez, Albert" , "(RGP) Chipolina, Paul" , "(RGP) Tunbridge, Thomas" , "(RGP) Lutkin, John (PS023)" , "(RGP) Perera, Sean" , "(RGP) Wyan, Mark" , "(RGP) Payas, Patrick" , "(RGP) Bruzon, Louis (PC132)" , "(RGP) Philbin, Craig (PS2)" , "(RGP) Finegan, Stewart (PS003)" , "(RGP) Deborah Jones (PS004)" , "(RGP) Balloqui, Douglas (PS005)" , "(RGP) Stone, Stewart (PS006)" , "(RGP) Cottam, Samuel (PS016)" , "(RGP) Olivera, John (PS008)" , "(RGP) Zammitt, Neil (PS009)" , "(RGP) Daniel Ruffle (PS013)" , "(RGP) Gonzalez, Patricia (PS014)" , "(RGP) Garratt, Mark (PS015)" , "(RGP) Picton, Sean (PC191)" , "(RGP) Desoiza, Jonothan (PS017)" , "(RGP) Barker, Paul (PS018)" , "(RGP) Jones, Anna (PS019)" , "(RGP) Peliza, Nicholas (PS020)" , "(RGP) Chiara, Paul (PS021)" , "(RGP) Fortuna, Kevin (PS022)" , "(RGP) Tanya McLeod (PC192)" , "(RGP) Howard, Danny (PS24)" , "(RGP) De los Santos, John (PC025)" , "(RGP) Riley, Stephen (PS027)" , "(RGP) Reyes, Sean (PS028)" , "(RGP) Bruce, Calum (PS029)" , "(RGP) Diaz, Mark (PS030)" , "(RGP) Loddo, Albert (PS031)" , "(RGP) Morello, Maurice (PS032)" , Francis Marin , "(RGP) Finlayson, Tony (PS034)" , "(RGP) Pisarello, Eddie (PS035)" , "(RGP) Ignacio, Aaron (PS36)" , "(RGP) balloqui, Earon (PC037)" , "(RGP) Garcia, Alfred (PC038)" , "(RGP) Bennet, Joanne (PC039)" , "(RGP) Rooke, Catherine G (PC040)" ,

"(RGP) Figueras, Stefan (PC41)" , "(RGP) Anson, Stuart (PC042)" , "(RGP) McKnight, Robert (PC043)" , "(RGP) Smith, Tania (PC044)" , "(RGP) Celecia, Jaydan (PC045)" , "(RGP) Gaetto, Michael (PC046)" , "(RGP) Cano, Gareth (PC047)" , "(RGP) Benhakim, Mojib (PC048)" , "(RGP) Zweig, Karl (PC049)" , "(RGP) Casey Azopardi" , "(RGP) Olivero, Jansen (PC051)" , "(RGP) Samira Mohamed (PC052)" , "(RGP) Christopher Santos (PC053)" , "(RGP) Waters, Ian (PC054)" , "(RGP) Chappory, Catherine (PC55)" , "(RGP) Bolanos, Antony (PC056)" , "(RGP) Bingham, Robert (PC057)" , "(RGP) Chambers, David (PC058)" , "(RGP) Almeida, Radka (PC059)" , "(RGP) Joaquin, Kevin (PC060)" , "(RGP) Harrison, Victor (PC061)" , "(RGP) Stephanie Apap (PC062)" , "(RGP) Dyer, Mark (PC063)" , "(RGP) Bonet, Gregory (PC064)" , "(RGP) Macias, Mark (PC065)" , "(RGP) Dennis Penalver (PC066)" , "(RGP) Caffrey, Duncan (PC67)" , "(RGP) Bassadone, Ryan (PC068)" , "(RGP) Cruz, Julian (PC069)" , "(RGP) Paul Gache (PC070)" , "(RGP) Canepa, Jason (PC071)" , "(RGP) Goodson, Jonathan (PC072)" , "(RGP) Celecia, Joseph (PC073)" , "(RGP) Galia, Donovan (PC074)" , "(RGP) Shute, Byron (PC75)" , "(RGP) Alvarez, Francis (PC076)" , "(RGP) Abdelhamed Rahmouni (PC077)" , "(RGP) Rodriguez, James (PC078)" , "(RGP) Cassaglia, Joseph (PC079)" , "(RGP) Frost, Christopher (PC080)" , "(RGP) Reyes, David (PC081)" , "(RGP) Buhagiar, Jared (PC84)" , "(RGP) Rodriguez, Maxine (PC083)" , "(RGP) El-Yabani, Ziad (PC085)" , "(RGP) Strachan, Scott (PC086)" , "(RGP) Bourke, James (PC87)" , "(RGP) Allen, Wesley (PC088)" , "(RGP) Christopher Catania (PC089)" , "(RGP) Montegriffo, Tyron" , "(RGP) Elliot Brooke (PC091)" , "(RGP) Gonzalez, Richard (PC092)" , "(RGP) Yeo, Mark (PC093)" , "(RGP) Cumbo, Keith (PC094)" , "(RGP) Garcia, Dylan (PC095)" , "(RGP) Hermida, Mark (PC096)" , Kris Timmins , "(RGP) Hill, Stuart (PC098)" , "(RGP) O'Flaherty, David (PC100)" , "(RGP) Fendley, Daniel (PC101)" , "(RGP) Stewart, Duncan (PC102)" , Matthew Hayward , "(RGP) Sita, Paul (PC104)" , "(RGP) McGinley, Denise (PC105)" , "(RGP) Oton, Jason (PC106)" , "(RGP) Ferrary, Maria (PC107)" , "(RGP) Vallee, Amandine (PC108)" , "(RGP) Berini, Sharon (PC109)" , "(RGP) Fraser, Andrew (PC110)" , "(RGP) Cowles, Kevin (PC111)" , "(RGP) Simon Todd (PC112)" , "(RGP) Moreno Tania (PC113)" , "(RGP) Trinidad, Alexander (PC114)" , "(RGP) Borge, Peter (PC115)" , "(RGP) Romero, Cheryl (PC116)" , "(RGP) Fortunato, Helena (PC117)" , "(RGP) De Soto, Anthony (PC118)" , "(RGP) Bellingan, Julie Ann (PC119)" , "(RGP) Constant-Brittenden, Tracey (PC120)" , "(RGP) Luque, Brian (PC121)" , "(RGP) Motero, Spencer (PC122)" , "(RGP) Fothergill, Hayley (PC123)" , "(RGP) Ballantine, Glen (PC124)" , Richard Guarnieri , "(RGP) Barcio, Jonathan (PC126)" , "(RGP) White, Luis (PC127)" , "(RGP) Palmer, Stephen (PC128)" , "(RGP) Moody, Karl (PC129)" , "(RGP) Clarke, Paul (PC130)" , "(RGP) Gonzalez, Kyron (PC131)" , "(RGP) Balban, Dwayne (PC125)" , Daniel Sanchez , "(RGP) Bentley, Benjamin (PC134)" , "(RGP) Hermida, Nathan (PC135)" , "(RGP) Victory, Joseph (PC136)" , "(RGP) Wink, Natalie (PC137)" , "(RGP) Docherty, Brandon (PC138)" , "(RGP) Philbin, Eric (PC139)" , "(RGP) McKinnon, Robert (PC140)" , "(RGP) Bonfiglio, Keith (PC141)" , "(RGP) Davis, Stefan (PC142)" , "(RGP) Gaul, Antony (PC143)" , "(RGP) Ackerley, Philip (PC144)" , "(RGP) Maer, Ashley (PC145)" , "(RGP) Dreher, Frances (PC146)" , "(RGP) Ullger, Joanna (PC147)" , "(RGP) Olivero, Jotham (PC148)" , Allan Bartram , "(RGP) Penalver, Mark (PC150)" , Nigel Kells , "(RGP) McIntosh, Jared (PC152)" , "(RGP) Manfred, Stuart (PC153)" , "(RGP) Malcolm, Jane (PC154)" , "(RGP) Pozo, Lee (PC155)" , "(RGP) Povedano, Alexander (PC156)" , "(RGP) Gonzalez, Manuel (PC157)" , "(RGP) Desantos, Mary (PC158)" , "(RGP) Rodriguez, Nicholas (PC159)" , "(RGP) Warwick, Herbert (PC160)" , "(RGP) Given, Joseph (PC161)" , "(RGP) Benhakim, Mondir (PC162)" , "(RGP) Bautista, Henry (PC163)" , "(RGP) Ahammad, Mohammed (PC164)" , "(RGP) Reyes, Keiron (PC165)" , "(RGP) Hermida, Emily (PC166)" , "(RGP) Risso, Thomas (PC167)" , "(RGP) Christian Lyons (PC168)" , "(RGP) Kingsley, Kasmira (PC169)" , "(RGP) David Bragg (PC170)" , "(RGP) Martinez, Gerald (PC171)" , "(RGP) Davies, Paul (PC172)" , "(RGP) Cruz, Vincent (PC173)" , "(RGP) Chipolina, Christian (PC174)" , "(RGP) Victor, Ivan (PC175)" , "(RGP) Gomez, Lionel (PC176)" , "(RGP) Garcia, Christian (PC177)" , "(RGP) Terence Martinez (PC178)" , "(RGP) Penfold, Paul (PC180)" , "(RGP) Wyatt, Jeremy (PC181)" , "(RGP) Victor, John (PC182)" , "(RGP) Gonzalez, John Paul (PC183)" , "(RGP) Apap, Sabadak (PC184)" , "(RGP) Russel, Jason (PC185)" , "(RGP) Parker, Caitriana (PC186)" , Tanya Reddy , "(RGP) Minter, Tamya (PC188)" , "(RGP) Rahmouni, Ilias (PC190)" , Matthew Arnold , Richard Cunningham , "(RGP) Oliveira, Darrel, (PC193)" , "(RGP) Peach, Stephen (PC194)" , "(RGP) Passano, Natalie (PC195)" , "(RGP) Watson, Andrew (PC196)" , "(RGP) Rowbottom, Emma (PC197)" , "(RGP) Goldwin, Louise (PC198)" , "(RGP) Rodriguez, Daniel (PC199)" , "(RGP) Debono, Anthony (PC200)" , "(RGP) Vilerio, Manuel (PC201)" , "(RGP) Santos, Anabell (PC202)" , Natalie Atkinson , Jordan Recagno , "(RGP) Saxby, Daniel (PC205)" , "(RGP) Simpson, Leif (PC206)" , "(RGP) Read, James (PC207)" , "(RGP) Lopez, Anthony (PC208)" , "(RGP) Tester, Colin (PC209)" , "(RGP) Schembri, Mark (PC210)" , "(RGP) James Currer (PC211)" , "(RGP) Golledge, Kyle (PC212)" , "(RGP) David Beddar (PC213)" , "(RGP) Ryan Green (PC214)" , "(RGP) Perez, Jonathan (PC215)" , "(RGP) Yeo, Daniel (PC216)" , "(RGP) Connor, Martyn (PC217)" , "(RGP) Heap, Michael (PC218)" , Matthew Myhill , Mark Perry , Darren Gonzalez
Cc: Anna Jones , Henry Bautista
Subject: Gibraltar Police Federation - Vacancies to the Federation board

Dear Colleagues
As per our recent update:

Please find herewith notification of the available vacancies to the Federation board for election at the Gibraltar Police Federation's
Annual General Meeting to be held on Wednesday 22nd May 2019 at the Charles Hunt Room, John Mackintosh Hall at 16.30 hrs.

2 x vacancies for Constable's Representative
2 x vacancies for Sergeant's Representative
2 x vacancies foe Inspector/Chief Inspector's Representative

Please forward your applications in reply to this email address: board@gibpolfed.org
Your application must be supported by two federation members of the same rank.
Closing date for these vacancies is Tuesday 23rd April 2019 at 15.00 hours .
Mr Leif Simpson, Mr Maurice Morello and Mr Albert Fernandez will be stepping down from the board on the 21st May 2019 and will be seeking re-election.
Candidate names will be communicated to the membership in the AGM's Agenda before Wednesday 8th May 2019.
The Federation Board

Gibraltar Police Federation

Unit 1.12 Retrenchment Block

PO Box 1325

Gibraltar

GX11 1AA

Centrex [redacted]

Tel: +350 20050199

Email: board@gibpolfed.org

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Dear Colleagues,

Further to our recent email:

In December 2018 the Commissioner of Police was informed that Gibraltar Police Federation would be holding elections for the new fulltime Convenors, to replace the retiring Chairman and Secretary. This was done with three months grace so as to allow some continuity and to give notice for the organisation to prepare for the replacement of these individuals. They were to be "Designate", and we would ask for some handover period to facilitate the change of signatories, training for deductions management, etc.

As you are aware, the board held elections on the 22nd January 2019.

Upon notification, the Commissioner queried the results and obtained a legal opinion. This was in essence with regard to whether the Election of the Chairman and Secretary was in accordance with the procedure laid down in regulation 5(1) of the 2018 Regulations.

The conclusion in this legal opinion has been that they were not in accordance with the above regulations, i.e.; that the incumbent Chairman and Secretary were not eligible to vote for their replacements as the vacancies were not in fact available as yet, and would not be until and 22nd May and 20th April 2019 respectively.

Following this advice, the Board have declared the results unratified, and in order to clarify the procedure for the way forward, the Board have sought further legal opinion.

Any Federation member that would like to see this legal opinion can do so by contacting any of the board members or full-time convenors.

It was further upheld in this advice;

- that the Board had indeed called an election before the posts were in actual fact vacant, therefore voiding the results.
- The vacancies are available as from 22nd May and 20th April 2019 respectively, although it is permissible for the Board to fill that vacancy from the appropriate rank, however, this will be only as "designate" until the AGM. At the AGM the three applicants i.e.; Inspector, Sergeant and Constable representatives will be selected. This will complete the new Board. The Board will then, subsequently, elect the new Chair and Secretary. To this end, the Board has unanimously designated Mr Leif Simpson to act as Secretary in the interim period between 20th April and 22nd May 2019.
- There are transitional provisions 19(1) of the Police Federation Regulations 2018 that sate; transitioned Board members appointments last until the expiry of whatever period was left on the 21st June 2018 of their individual mandate in the Police Association Council (the remaining period)
- The transitional period will terminate 21st June 2022 when all Board members will need to step down from the Board and either be re-elected or new members elected.
- Any amendments to these Regulations must be passed through Parliament.

It is noted that under these Regulations, as from the 21st June 2022 if all Board members are required to step down at the same time, whilst unlikely, there could possibly be a situation where there would be no experienced members of the Board.

This would be highly unsatisfactory for both general Members and the Organisation, without continuity for finances, representation of Members during Disciplinary matters, legal advice and Accounts etc.

The procedure for AGM 2019

1. The AGM will be carried out at 1630 hrs on Wednesday 22nd May at John Mackintosh Hall in the Charles Hunt room.
2. The Federation will request the Commissioner so that personnel who are on duty may attend the AGM and be able to vote.
3. Vacancies for an Inspector, a Sergeant and a Constable representative will be advertised shortly and applications invited.
4. Each applicant must be nominated and should be seconded by two Officers in writing before the date of expiry which will be given.
5. Their names will be added to the Agenda and a ballot will be carried out at the AGM (ballots counted in situ and results will be announced in the meeting).
6. Motions previously submitted and included in the agenda will be discussed.
7. The Board may vote the new Chairman and Secretary immediately or meet soon after to consult and ratify those appointments.

A further update will be communicated to you shortly.

Kind regards

The Federation Board

Gibraltar Police Federation

Unit 1.12 Retrenchment Block

PO Box 1325

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Centrex: [redacted]

Tel: +350 20050199

Email: board@gibpolfed.org



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Federation Chairman

From: Board <board@gibpolfed.org>
Sent: 23 May 2019 10:24
To: (RGP) All Police Staff; (RGP) All Civilian Staff
Subject: GPF ELECTION RESULTS

Dear colleagues,

I am writing to inform you of the results of the ballot for the GPF board which was conducted at AGM yesterday 22nd May. The new board is now comprised of the following members:

- CI/ Insp rep: John Field, Albert Fernandez
- Sergeant rep: Maurice Morello, Kevin Fortuna
- Constables rep: Leif Simpson, Alfred Garcia, Antony Gaul, Lee Pozo

On selection of the new board these balloted to select the positions of Chairman and Secretary (Full time convenors of the Federation) following the retirement of Henry Bautista and Anna Jones.

Mr Maurice Morello was the only candidate for the post of Chairman. Mr Leif Simpson and Mr Antony Gaul applied for the post of Secretary.

Mr Maurice Morello was duly elected as Chairman and **Mr Leif Simpson** as Secretary.

I would like to thank all 166 of you who took the time to vote yesterday taking the total percentage of members casting their vote to 73%

Both Chairman and Secretary have now been released by the Commissioner of Police and have started their new positions. As you may or may not be aware there has not been any transitional period between the outgoing and incoming Chairman and Secretary and as a result I ask you to please be patient as there may be issues that are ongoing and that we may not be aware of.

The new Board will meet next week with a view to discussing our short and long term objectives. As I stated yesterday the Federation is much more that the Chairman, Secretary and the board, it is all of us and I encourage any member who has any suggestions or ideas to please put these forward via email so that the Board can consider these (board@gibpolfed.org).

The new board looks forward to working together in partnership with the Commissioner and his team always working in the best interests of the members.

Regards

Maurice Morello

Chairman

Gibraltar Police Federation

Unit 1.12 Retrenchment Block

PO Box 1325

Gibraltar

GX11 1AA

Centrex [redacted]

Tel: +350 20050199

Mob: [redacted]

Email: board@gibpolfed.org

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Federation Chairman

From: (RGP) Ullger, Richard
Sent: 23 May 2019 11:58
To: David Roberts
Subject: AAP - Federation

Follow Up Flag: Follow up
Flag Status: Completed

Dear Dave,

I hope this email finds you well.

In anticipation to your visit next week, I thought I should let you know that both Maurice Morello and Leif Simpson were selected as the new convenors for the Federation.

Unfortunately, we already have doubts about our relationship with them, as we know that their style is not coherent with ours. Needless to say that we will endeavour to forge good relationships, but that we foresee challenges ahead is an understatement, particularly because of Maurice's comments to COP a few month ago.

I am sorry that I will not be here to greet you all, but Mary is at your disposal should you need anything.

With very best wishes.

Richard

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centre: [redacted]

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Dear [redacted]

I expect that [redacted] will reply separately. I am not sure whether you require my views on whether the sentence in red should be included, I think it should. I also note that you suggest that the allowance will increase as if the Convenor were on the Chief Inspector salary scale. Surely the allowance is meant to compensate for the supposed additional workload but not to equalise their salary with that of substantive Chief Inspectors?

I do not agree with your suggestion that we reflect the two current Conveners as supernumerary officers. The term supernumerary implies that there is a temporary nature to the existence of the convenor post. I would prefer that they are reflected as Conveners in the complement. For example [redacted] will never be a supernumerary [redacted] if and when he returns to mainstream policing as he will be immediately replaced as a convener by another officer. The same applies to Morello unless he is replaced by a constable, in which case he will truly be a supernumerary sergeant. In this latter case there would be 36 operational sergeants and one would be supernumerary in the true sense, and would remain so until a sergeant retired or was promoted to a higher rank.

[redacted]

Happy to discuss.

Regards,

[redacted]

[redacted]

Sent: 05 July 2019 14:17

[redacted]

From: [redacted]
Sent: 05 July 2019 14:17
To: [redacted]
Cc:
Subject: Convenor Letter - Draft
Attachments: Maurice Morello.docx; [redacted]

Dear [redacted]

Please see attached draft Convenor Letters for you views and recommendations.

We have also made mention (highlighted in red) within the letter when the remuneration for the Convenor would cease i.e. if the individuals undertaking the role are voted out or step down. Given that the RGP for operational reasons now needs to recruit officers to take up Mr Morello's role as Police Sergeant and [redacted], we recommend that these individuals (namely Morello [redacted]) remain on your complement as a Police Sergeant (Convenor) & [redacted] on a supernumerary basis . Once/ if, Mr Morello [redacted] step down or are voted out from the Convenor position, they should revert to their former grade and the RGP should slot them in the next available position at their current grade, in order to abolish the supernumerary post as soon as possible. We must also note that supplementary funding may need to be requested by the RGP in order to cater for this eventuality.

Grateful for your views on the above. Thanks.

Have a nice weekend.

Best regards,

[redacted]

[redacted]

Human Resources Department
HM Government of Gibraltar

Mr Maurice Morello
Ufs Commissioner of Police

Your ref:
Our ref: P3486

31 May 2019

Dear Mr Morello

RE: APPOINTMENT AS GIBRALTAR POLICE FEDERATION CONVENOR

It has been agreed that as from 22 May 2019, and for the duration of your appointment as Convenor of the Gibraltar Police Federation, you shall be paid an allowance which together with your basic salary shall bring your total earnings up to the level of Chief Inspector as follows:

Date	Basic salary	Allowance	Total earnings
22 May 2019	£55,758	£14,278	£70,036
22 May 2020*	£55,758	£15,660	£71,418
22 May 2021*	£55,758	£17,106	£72,864

* These are current rates. Actual figures to be revised in line with any future pay increases.

The allowance shall be pensionable if in receipt on retirement subject to a minimum of three years in such post.

Please note that if you are no longer discharging the duties and responsibilities of the Convenor role, the allowance will no longer be paid and you will revert to your former grade.

Yours sincerely

N Saltariche (Miss)
For Human Resources Manager

Copy to: Hd of dept
Treasury (Salaries)
P/Aud
P/File

Human Resources Department
HM Government of Gibraltar • 82-86 Harbours Walk, The New Harbours, Rosia Road • Gibraltar GX11 1AA
t +350 20071911 f +350 20079689 e humanresources@gibraltar.gov.gi w gibraltar.gov.gi

[redacted] In the UK, police convenors representing their force do not receive any pay increase whatsoever and it is only the national lead for Police Forces in England and Wales who receives this allowance [wage equivalent to that of a Chief Inspector]. He represents over 100,000 officers.

[redacted] is leading on this, but it would be helpful if we could all meet to discuss this further and have a steer that will settle this matter on justified terms. Equally, [redacted] needs clarity too.

I look forward to hearing from you.

Best wishes

[redacted]

[redacted]

[redacted]

[redacted]

From: [redacted]
Sent: 09 July 2019 11:11
To: [redacted]
Cc: [redacted]
[redacted]
Subject: Re: Convenors Allowance

Dear [redacted]

This was a decision made by [redacted] therefore I believe that this should be raised directly with him through [redacted]

Regards

[redacted]

Sent from my iPhone

On 9 Jul 2019, at 10:19, [redacted] wrote:

> Good morning [redacted]
>
> We have raised the above mentioned matter with you in the past and today in conversation with [redacted] we feel that now is the right time to address this, particularly that the new convenors have taken up their positions and are requesting their wage increase.

[redacted]

From: [redacted]
Sent: 11 July 2019 12:38
To: [redacted]
Cc: [redacted]
Subject: RE: Convenors Allowance

Dear [redacted]

Thank you for this information.

Please see attached email which we have been able to locate with regards to the Convenor Allowance.

Best regards,

[redacted]

From: [redacted]
Sent: 11 July 2019 09:38
To: [redacted]
Cc: [redacted]
Subject: RE: Convenors Allowance

Dear [redacted]

[redacted] is going to raise the matter with [redacted] so we are hopeful that the matter will be resolved soon.

We will keep you informed.

Best wishes

[redacted]

[redacted]

From: [redacted]
Sent: 11 July 2019 08:59
To: [redacted]
Cc: [redacted]
Subject: RE: Convenors Allowance

Dear all,

I believe it would be prudent at this point in time for HR not to issue the new GPF Convenors with the respective allowance letters, until the matter of remuneration is discussed given the valid concerns raised by the RGP.

Mr Morello and [redacted] were appointed as Convenors on the 22 May 2019 and are constantly chasing me for their Convenor allowance letter. Can I inform them that Government is reviewing the current situation with regards to the Convenor salary?

Best wishes,

[redacted]

(HRD) Zammit, Daniel

From: (HRD) Zammit, Daniel <daniel.zammit@gibraltar.gov.gi>
Sent: 11 July 2019 15:10
To: Federation Secretary
Cc: Federation Chairman; (HRD) Yeo, Collin
Subject: RE: Conveners Allowance

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Leif,

I met with the Human Resources Manager last week and as mentioned in my previous email we are trying to locate/ establish the Convenors terms and conditions so we may proceed accordingly.

I will keep you abreast of any developments.

Best regards,

Daniel

From: Federation Secretary [mailto:secretary@gibpolfed.org]
Sent: 11 July 2019 13:02
To: (HRD) Zammit, Daniel <daniel.zammit@gibraltar.gov.gi>
Cc: Federation Chairman <chair@gibpolfed.org>; (HRD) Yeo, Collin <collin.yeo@gibraltar.gov.gi>
Subject: Re: Conveners Allowance

Afternoon Daniel.

Does this mean that the meeting that was scheduled last Tuesday did not happen as said it would because the said document could not be located?

Kind Regards

Leif Simpson
Secretary

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325

Centre [redacted]
Tel: +350 20050199
Mobile [redacted]

Email: secretary@gibpolfed.org

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-------- Original message --------
From: "(HRD) Zammit, Daniel" <daniel.zammit@gibraltar.gov.gi>
Date: 11/07/2019 12:34 (GMT+01:00)
To: Federation Secretary <secretary@gibpolfed.org>
Cc: Federation Chairman <chair@gibpolfed.org>, "(HRD) Yeo, Collin" <collin.yeo@gibraltar.gov.gi>
Subject: RE: Conveners Allowance

Dear Maurice and Leif,

I am currently trying to locate the official documentation relating to the Convenors terms and conditions. Once I have this information we will be in a position to issue the necessary correspondence. I have also engaged with the RGP who confirm that they have nothing on file.

Apologies for the delay.

Best regards,

Daniel

Daniel Zammit
Senior Executive Officer RSM

Human Resources Department
HM Government of Gibraltar
82-86 Harbours Walk
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Rosia Road
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GX11 1AA

Tel: (+350) 20051670
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Human Resources Department

HM Government of Gibraltar

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From: Federation Secretary [mailto:secretary@gibpolfed.org]
Sent: 11 July 2019 11:35
To: (HRD) Zammit, Daniel <daniel.zammit@gibraltar.gov.gi>
Cc: Federation Chairman <chair@gibpolfed.org>
Subject: Re: Conveners Allowance

Morning Daniel,

Can you please get back to me on the email below soonest as we are still waiting on your call or reply.

Thanks

Kind Regards

Leif Simpson
Secretary

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325

Centrex [redacted]
Tel: +350 20050199
Mobile: [redacted]

Email: secretary@gibpolfed.org
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-------- Original message --------
From: Federation Secretary <secretary@gibpolfed.org>
Date: 05/07/2019 10:22 (GMT+01:00)
To: daniel.zammit@gibraltar.gov.gi
Cc: Federation Chairman <chair@gibpolfed.org>
Subject: Conveners Allowance

Morning Daniel,

We called you on Thursday like you said, but haven't heard back from you and like we discussed, I also can't seem to get you via land line. Could you please let us know what the score is with the conveners allowance, as you said there was a meeting on Tuesday 2nd July 2019, reference this.

In hope to hear from you soon, thanks.

Kind Regards

Leif Simpson
Secretary

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex [redacted]
Tel: +350 20050199
Mob: [redacted]

Email: secretary@gibpolfed.org



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[redacted]

From: [redacted]
Sent: 20 July 2019 12:53
To: [redacted]
Cc: [redacted]
Subject: RE: Convenors Allowance

Thank you for your prompt reply [redacted] have a nice weekend.

[redacted]

From: [redacted]
Sent: 20 July 2019 12:52
To: [redacted]
Cc: [redacted]
Subject: Re: Convenors Allowance

[redacted] - I am meeting [redacted] on Tuesday of next week and hopefully before that I will also see [redacted]
As soon as I have any further info I will revert to you.
Rgds
[redacted]

Sent from my iPhone

On 20 Jul 2019, at 12:49, [redacted] wrote:

> Good afternoon [redacted]
>
> I hope this email finds you well.
>
> Do we have any further information with regards to the Convenor matter? Please let me know if I can assist in any way.
>
> Best regards,
>
> [redacted]
>
> **From:** [redacted]
> **Sent:** 11 July 2019 12:43
> **To:** [redacted]
> **Cc:** [redacted]
> **Subject:** RE: Convenors Allowance
>
> [redacted] – many thanks for this. [redacted] alludes to remuneration and not the terms and conditions for the convenors. We will need this clarified. Hopefully, next week I will be in a better position to advise.
>
> Regards

Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 30 July 2019 17:52
To: (NO6) Crome, Michael
Subject: Re: OFFICIAL - CONFIDENTIAL Gibraltar Police Federation
Attachments: image001.jpg; image002.png; image003.png

Michael - thanks.
Rgds

Sent from my iPhone

On 30 Jul 2019, at 17:41, (NO6) Crome, Michael <michael.crome@gibraltar.gov.gi> wrote:

> Ian
> I think your email is spot on. I will send something to Darren and the CM tomorrow. I will suggest that I should follow the same process that I did with Unite and remove the allowance. I will copy you in.
> Michael

Michael Crome
Industrial Relations and MOD Advisor

Office of the Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20051746
Centrex: [redacted]
Mobile: [redacted]

michael.crome@gibraltar.gov.gi

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Office of the Chief Minister

HM Government of Gibraltar

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From: (RGP) McGrail, Ian M.Sc (OTM) [mailto:Ian.McGrail@royalgib.police.gi]
Sent: 30 July 2019 13:03
To: (NO6) Crome, Michael <michael.crome@gibraltar.gov.gi>
Subject: FW: OFFICIAL - CONFIDENTIAL Gibraltar Police Federation
Michael – Please see below – for your eyes only.

Regards
Ian

Ian McGrail ***OTM MSc***
Commissioner of Police
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]
Web: www.police.gi
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From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 24 July 2019 09:41
To: Darren Grech <darren.grech@gibraltar.gov.gi>
Cc: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: OFFICIAL - CONFIDENTIAL Gibraltar Police Federation

Dear Darren –

Yesterday, I met with the CM to discuss the terms and conditions of the role of the two convenors of the Gibraltar Police Federation (GPF). The reason I met with him was because Michael Crome and Min Costa had mentioned that all negotiations for these posts had been personally dealt with by the CM. In this regard, the CM stated that he had only assisted in the forming up of the GPF but that the advice on remuneration and terms had been provided by Michael Crome and the two recently retired convenors themselves. It is the uncertainty of these arrangements that I would like to air out with you.

I would start by dispelling a common misconception held by many, both in RGP management and GPF, that the latter is a totally independent creature of statute. Yes, the GPF has been created in law (Police Act sec 49 & Police Federation Regulations 2018) but there is no reference to the GPF being independent from the RGP - the fact that the conveners continue to have and enjoy all the rights, powers, authorities, privileges and immunities of a constable [reg 5(3) of the Police Federation Regs 2018] clearly suggests that they fall under the governance and superintendence of the Commissioner of Police – there cannot be any interpretation other than this one. What the law does state, however, is that the GPF "shall be entirely independent of and unassociated with any body or person **outside** the Force" (sec 52(1) Police Act) – the spirit of this being to prevent the GPF from associating with trade unions and the likes. It is evident that this is where the misunderstanding has originated from. The unfortunate misconceived expectation of independence is probably the precursor to a wide range of issues, not least the negotiations that led to the [unwritten] terms and conditions of the two conveners.

You will find out that there is no binding agreement in place to explain what the terms and conditions of the convenors are or indeed the basis on which they were agreed upon, though I do have my theories. What I can say is that RGP management were not consulted at all on these – conditions which in the view of my Command Team and all inspecting ranks (& more) are totally unjustified and unfair. You will grasp the reasons for our dissenting views further along. The question of governance, management and administration of the two conveners is as blurred as blurred as it gets. It would be worthwhile understanding a proper regime of terms and conditions for audit purposes eg, who supervises that conveners' work their required hours? who approves their leave? can they be used as operational officers? who manages any time in lieu? who authorises this ? who keeps an eye on what we suspect are extravagant travel arrangements? etc

In my efforts to reel in and educate the expectations of the GPF I feel duty bound to argue that there is sound rationale for a full review of the terms and conditions of the conveners. My argument is evidence based and whilst the CM saw much logic in them he felt the need to step back and leave these to your adjudication. I feel it is only proper that the CM adopts this stance and therefore I will

articulate my argument for your subsequent perusal and consideration. His views though were that whilst the previous two conveners did enjoy the very enhanced perks, these could be attributable to the effort required to establish the GPF but that not necessarily did these conditions have to prevail, more so if there was argument to suggest the contrary.

The two recently appointed conveners, PS Maurice Morello and PC Leif Simpson, are lobbying at HRD for the same terms and conditions their predecessors enjoyed. These were as follows;

- The conveners pay to be set to the equivalent of a chief Inspector (3 spine points starting from £72K to £75K & pensionable if retirement occurs whilst they are in post).
- Entitlement of the high competency threshold allowance of £1212 per year pertinent to their current junior rank but also climbing the spine points of the Chief Inspector scale.
- On call allowance of approx. £2.7K each per year.
- Entitlement of 'Time in Lieu' for any extra hours worked.

The final salary for the convenors will reach the £80k+ when housing allowance of £1500pa is also factored in.

These conditions far supersede those for inspector and chief inspector ranks. For starters, an inspector and chief inspector's role carries far more responsibilities than that of the conveners. An officer promoted to inspector or chief inspector would have to prove high levels of competency a year after reaching the 3rd spine point before they are entitled to the pensionable threshold allowance - the convenors do not have this qualifying period. Inspectors and chief Inspectors are salaried and therefore are not entitled to accrue time in lieu, yet the conveners are allowed to do so. These points bring about discontent and affect the morale of inspectors and chief inspectors who understandably feel very hard done by. The on-call criteria applied by the GPF contravenes RGP policy in that their application of the requirement is not seen as justified in our view.

The GPF's case for this inordinate level of remuneration is based on a comparison/alignment with the UK's National Police Federation Chairman who represents 120,000 police officers in England and Wales. Can you imagine if I used the same analogy and requested the same salary as the Commissioner of the Metropolitan Police = £276k+ !!! It would be totally absurd to draw comparisons with UK national portfolios. Our research on the matter suggests that even the smallest of county forces, the likes of Cambridge and Warwickshire, who themselves are 8-10 times larger than the RGP, do enjoy having a force federation chair/secretary earning the salary pertinent to their rank with a non-pensionable allowance of approx. £225 to compensate for extra responsibilities assumed. In fact each of the 43 UK county forces all have different configurational full time representation of the Fed but for obvious reasons none align themselves to the UK National Board in terms of remuneration and working arrangements. The latter have 8 principal officers employed as full time office bearers who look after the whole of England and Wales piece. They are in turn supported by a further 22 pax who form the National Council which is representative of 8 joint regional branch boards of the 43 county/metropolitan forces https://www.polfed.org/about-us/structure/structure-of-the-federation/ & https://www.polfed.org/about-us/structure/principal-officers/ Smaller forces more akin to ourselves like Guernsey, Jersey and Isle of Man do not remunerate their federation reps in this way and neither do they have full time conveners. The attached briefing paper explains the UK set-up in some detail. I really struggle to understand how the GPF can claim any similarity with the UK Fed's structure and conditions, it is simply ludicrous.

We recently brought in consultants to help contextualise the very damning federation survey results and they were themselves startled at how over-resourced and over-funded the GPF were, expressing the view that the workload the conveners were facing was not overbearing in the slightest. Amongst the consultants was a retired UK Police National Fed Chairwoman who echoed our views on the unjustified remuneration. They did not report on these views to avoid antagonising the GPF as their reemit was to actually build bridges with them rather can create animosity. The consultants are, however, ready to engage with HMGOG to impart they views should you feel the need for this. What I submit as totally disproportionate and unfair is that the GPF conveners who represent 219 officers are expecting to be treated the same as the UK National Board Chair who represents 120,000 officers.

To address this lack of justification I propose the following 3 options which takes into consideration cost efficiencies where these can be made;

Option 1 – the two conveners to remain as full time appointees with their remuneration set commensurate with the rank they hold. That they receive a monthly honorarium of £220 for PC

Simpson and £156 for PS Morello. Based on current pay scales an initial cost saving of approx £38k would be made in year one, this increasing to approximately £44K per annum by year three and increasing with the public sector increases for consecutive years.

Option 2 – Only one of the conveners remains full time in the role with salary commensurate to existing rank plus monthly honorarium; the other convener returns to main stream policing with 1 day 'facility' time for Fed work per week, retaining existing rank salary plus honorarium. There would be a requirement to employ an admin assistant to provide office support to the GPF. However, there would no longer be a requirement to have the two supernumerary posts we currently carry and therefore a constable post would be deducted from the HR business case submitted to HMGoG. Savings of £88k rising to £94k per annum after year three and for consecutive years would be made in this regard. The cost of an AA would need to be factored @ £26k so a net saving of approx. £68k per year would be made for successive years.

Option 3 - Both conveners revert to main stream policing and retain their salary according to their rank plus an honorarium and 1 day each of 'facility' time per week for Fed matters. The need for the existing two supernumerary posts would no longer be required and therefore two constable posts from the HR business case would no longer be required thus making savings of £100k for these two posts plus the no longer entitled Ch Inspector top-up of between £38k and £44k per annum. Total savings per year after three years (applying current scales) would be approx £144k per annum for successive years. It would be appropriate to assign an admin grade as office manager at the cost of £26K. Further facility time could be agreed upon by mutual understanding.

NB - Options 2 and 3 would require amendment to the extant regulations but the CM did allude to these changes, if applicable, once the accepted proposal was signed. Amending regulations is not too an elaborate process.

Our preferred options would work in reverse order i.e. 3-2-1

Happy to explain the mathematics in finer detail &/or further discuss the above contents if so required.

Best wishes

Ian

Ian McGrail *OTM MSc*

Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA

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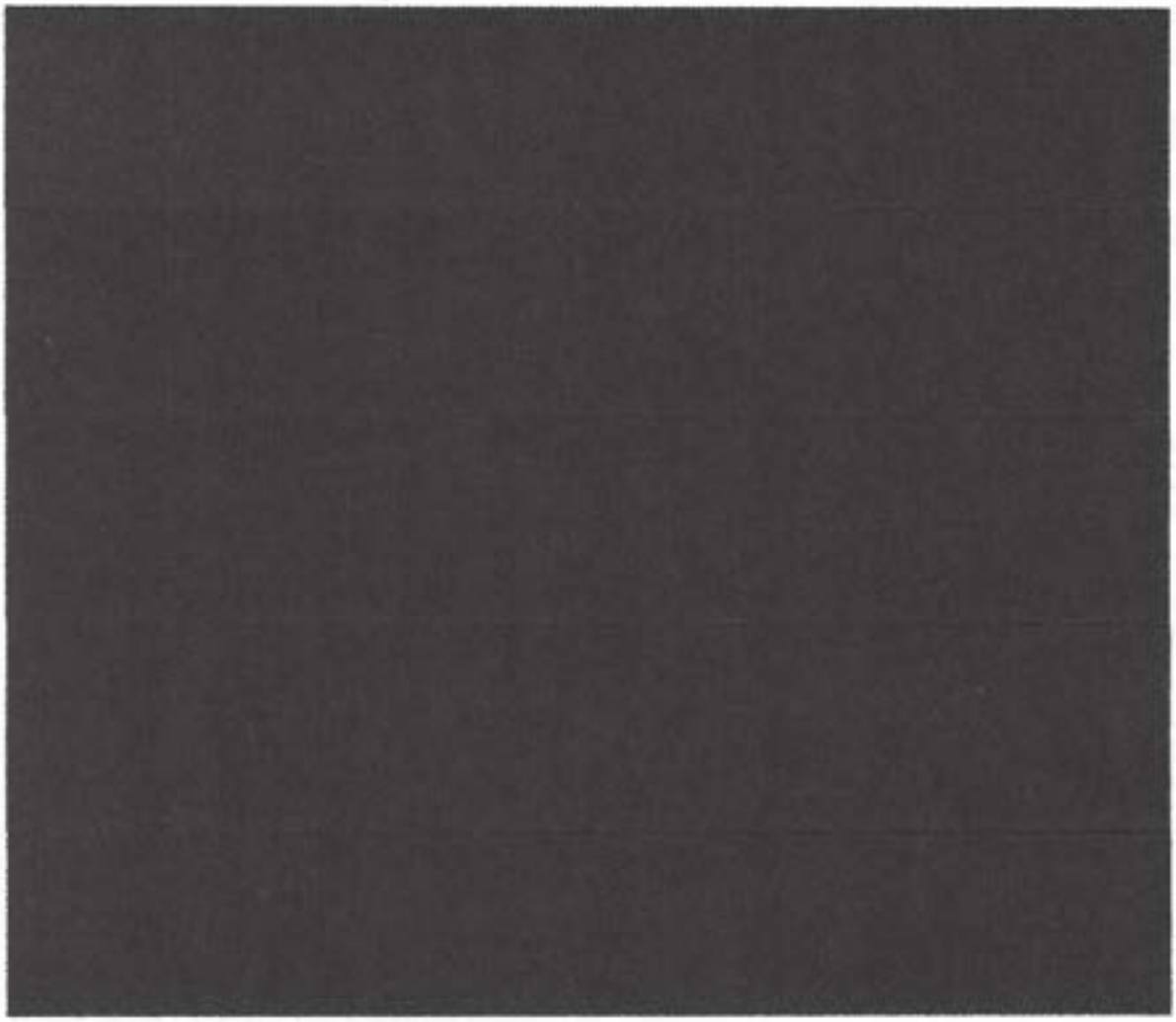
[redacted]

Sent from my iPhone

On 29 Jul 2019, at 14:20, [redacted] wrote:

> Dear [redacted]
>
> It was great to catch up with you both on Friday.
>
> Please see below latest email from [redacted] for your information.
>
> I will reply [redacted] and let him know that the Gibraltar Police Federation conditions are still under review and until this matter is finalised we cannot proceed with the payment of the Convenor Allowance.
>
> Should I include anything else in my reply?

Best regards,



From: Federation Secretary [mailto:secretary@gibpolfed.org]
Sent: 29 July 2019 11:01
To: (HRD) Zammit, Daniel <daniel.zammit@gibraltar.gov.gi>
Cc: Federation Chairman <chair@gibpolfed.org>
Subject: RE: Conveners Allowance

Good morning Daniel,

Could you please get back to us this week in relation to an update on our allowance. Please understand that this matter in my view is being ignored, I say this because we have replaced to persons, i.e. Henry Bautista and Anna Jones who for the last three years were getting paid the Conveners allowance and all that's happen is Maurice and myself replacing them, like for like, so I do not see how that allowance has all of a sudden come to a stop, as it would have continued if they stayed. I completely understand your last email but surely like Henry and Anna the allowance could still be paid and conditions then sign or agreed etc.

Please understand that Maurice and myself are now not able to claim, coxswain allowance, overtime, bank holidays, etc etc. As from this month our overdue overtime has finished so we are now on our basic pay with more responsibilities hours etc. Also there is more child care involved now as my children are now on permanent child care and before on shift I only had child care for when I was working, so currently I am earning less and paying out more.

Please have this matter looked into soonest so that this can be sorted. if it helps I have a letter that Henry wrote to the Chief Minister when he became a Convener for the allowance to be paid, unfortunately I do not have the reply but obviously that is what was agreed as that was his allowance at the time and scaled up with the years.

Hope to hear from you soonest.

Kind Regards

<image001.gif>

Leif Simpson
Secretary

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: +[redacted]

Email: secretary@gibpolfed.org

<image002.jpg>

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Please consider the environment before printing this email.

From: Federation Secretary
Sent: 24 July 2019 11:08
To: 'daniel.zammit@gibraltar.gov.gi' <daniel.zammit@gibraltar.gov.gi>
Cc: Federation Chairman <chair@gibpolfed.org>
Subject: Conveners Allowance

Morning Daniel,

Could you please give us an update on our allowance soonest.

Thanks

Kind Regards

<image001.gif>

Leif Simpson

Secretary

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: +[redacted]

Email: secretary@gibpolfed.org

<image002.jpg>

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[redacted]

From: [redacted]
Sent: 13 August 2019 18:14
To: [redacted]
Subject: Fwd: RGP Federation

Dear [redacted]

Please see email below for your info. I am aware that [redacted] were in the process of arranging the required meeting to discuss the undermentioned confidential matter. I would be grateful if they could include [redacted] who is [redacted] and if we could try and have the meeting early next week as the situation needs to be addressed quickly before it escalates any further.

Thank you.

Best regards,

[redacted]

Sent from my iPhone

Begin forwarded message:

> **From:** [redacted]
> **Date:** 13 August 2019 at 18:10:10 CEST
> **To:** [redacted]
> **Subject: Re: RGP Federation**
>
> Good afternoon [redacted]
>
> Thanks for the heads up. I will let you know as soon as we have been able to identify a date and time to meet with [redacted] Hopefully we will be able to meet up soon so that we can discuss and finally address the Convenor issue. The last email I received from them was one that they addressed to [redacted] which again highlighted that they had still to be remunerated for there work as Convenors. They also included a letter that had been issued by the previous Convenor. I informed [redacted] of the situation and made him aware that we are in the process of meeting up with [redacted]
>
> I can send you the above-mentioned email tomorrow if you wish as I can't seem to locate it on my phone.
>
> Best regards,
>
> [redacted]
>
> Sent from my iPhone
>
> On 13 Aug 2019, at 14:13, [redacted] wrote:
>
> > Good afternoon [redacted]
> >
> > I spoke to the [redacted] earlier and he said that [redacted] may call a meeting next week re the above. [redacted]

[redacted] so should you hear of anything please let me know, so I can attend. Have you received any recent calls or visits from them?

[redacted]

[redacted]

[redacted]

Federation Secretary

From: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Sent: 29 August 2019 16:57
To: Federation Chairman
Cc: Federation Secretary; Command Team
Subject: RE: AAP Recommendations Workstreams

Follow Up Flag: FollowUp
Flag Status: Flagged

Dear Mr Chairman,

Thank you for your email which I duly note. Firstly, let me express to you my disgust at the tone of your reply to me and one which I will be raising with the Command. Your message to me is filled with little cooperation and signs of confrontation.

I shall answer all the points you raise.

You Say: I note that two of the recommendations are at an advanced stage with no prior consultation or input from ourselves, especially on two topics which have been the subject of debate over the last few years. This is simply unacceptable

Recommendation 3 of the AAP report was to adopt the College of Policing Code of Ethics. This has simply been a copy and paste of what they have and adopting both the Principles and Behaviours. There is no discussion to be had over this, as it is a tried and tested Code. We have since included it in Force Orders, but the management and monitoring of it has to continue in the Work Streams. With regards to recommendation 5, we asked the secretary to provide us with what the Federation in the UK adhere to [Bullying and Harassment / Grievance Policy] and his answer was that he was going to ask Che Donald [Deputy Chair], but unfortunately this was never forthcoming. In this regard, we have again taken on the AAP recommendations by researching in to the Dorset Police Policy and ACAS Best Practice. We are at and advance stage of drafting the document, but this has not been shared with anyone yet, not even the Command.

You Say: For sake of clarity if a bullying policy or document is simply presented to the GPF, without having any input it will not have our seal of approval. Be advised that on the subject of bullying I personally will not be accepting any document that does not mirror that of the Bullying at Work Act with minor tweeks here and there.

As already stated above, the policies are still being written up and will be debated once this happens in the work stream. Your personal opinion of course will be taken into consideration, but your opinion only will not dictate how we proceed. Please remember, that it is the Commissioner under Section 33[1] of the Police Act that has command, superintendence, direction and control of the Force, and shall be responsible for the efficient administration and government of the Force...and certainly not the Chair of the Federation.

You Say: Again with the grievance procedure the same applies. The unfairness of the process has been talked about by officers for years and we are now in a position to draft up a document acceptable to all and get it right.
To finish off Command and GPF do not have to be "seen" to be working together we simply have to work together and that I am afraid is not happening.

In the last comment you have made, it is clear that you have cemented your position in the relationship between the Command and Federation and I fear that your intention is not to work with the command, but to attempt to destroy

everything we try to do, and this we will not accept. It saddens me to know that all the energy we have put into having AAP undertake a review and to start working on the recommendations at the back of the Federation's survey has been futile in your eyes.

Richard

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Please consider the environment before printing this email.

From: Federation Chairman <chair@gibpolfed.org>
Sent: 29 August 2019 15:10
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Cc: Federation Secretary <secretary@gibpolfed.org>
Subject: RE: AAP Recommendations Workstreams

Dear Richard

Thank you for the update on the work streams.

I note that two of the recommendations are at an advanced stage with no prior consultation or input from ourselves, especially on two topics which have been the subject of debate over the last few years. This is simply unacceptable.

For sake of clarity if a bullying policy or document is simply presented to the GPF, without having any input it will not have our seal of approval. Be advised that on the subject of bullying I personally will not be accepting any document that does not mirror that of the Bullying at Work Act with minor tweeks here and there.

Again with the grievance procedure the same applies. The unfairness of the process has been talked about by officers for years and we are now in a position to draft up a document acceptable to all and get it right.

To finish off Command and GPF do not have to be "seen" to be working together we simply have to work together and that I am afraid is not happening.

I look forward to attending the work streams.

Kind Regards

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: +[redacted]

Email: chair@gibpolfed.org

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Please consider the environment before printing this email.

From: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Sent: 28 August 2019 16:27
To: (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>; (GFIU) Lopez, Edgar <edgar.Lopez@gfiu.gov.gi>; (RGP) Romero, Nolan <Nolan.Romero@royalgib.police.gi>; (RGP) Pozo, Lee (PC155) <Lee.Pozo@royalgib.police.gi>; (RGP) Perez, Roy <Roy.Perez@royalgib.police.gi>; (RGP) Enriles, Alexander <Alex.Enriles@royalgib.police.gi>; (RGP) Fernandez, Albert <Albert.Fernandez@royalgib.police.gi>; (RGP) Ramos, Darrien <darrien.ramos@royalgib.police.gi>; (RGP) Garcia, Alfred (PC038) <Alfred.Garcia@royalgib.police.gi>; (RGP) Fortuna, Kevin (PS022) <Kevin.Fortuna@royalgib.police.gi>; (RGP) Field, John <John.Field@royalgib.police.gi>; (RGP) Tunbridge, Wayne <Wayne.Tunbridge@royalgib.police.gi>
Cc: Federation Chairman <chair@gibpolfed.org>; Federation Secretary <secretary@gibpolfed.org>
Subject: FW: AAP Recommendations Workstreams

Dear All,

There are 11 recommendations, with 2 of these being a combination of work in progress, for which I have allocated a yearly review. These are to Review the 7 work streams [this has been done by reducing the work streams from 7 to 5 and changing the task owners] and a review of progress in relationship between the RGP/RGPF and the survey.

I have today allocated the following command officers with tasks for the subject areas and they will be reporting back on the progress of the particular work streams. Invited to the work streams are RGPF members, who will be key to ensuring that we are seen to be working together, thus seeking for solutions. Some of the work has happened already, particularly Recommendation 3 in adopting the College of Policing Code of Ethics, and the new Grievance Process [Recommendation 1] with the Bullying and Harassment Policy [Recommendation 5] is at an advanced stage.

I am cognisant that some of the RGPF officers will not be able to attend meetings because of duties, so the Chair and Secretary have agreed to sit in all of the work streams.

Bullying / Harassment Allegations	AC / Supt Yeats / CI Romero / PC Pozo
Low Morale	Supt Lopez / CI Perez / Insp Enriles / Inspector Fernandez
Estates / IT / Health and Safety	Supt Yeats / SEO Ramos / PC Garcia
HR	AC / Supt Yeats / SEO Ramos / PS Fortuna
Health and Wellbeing	Supt Tunbridge / CI Field / SEO Ramos / PC Gaul

I look forward to hearing from the respective work streams in due course.

With best wishes

Richard

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Please consider the environment before printing this email.

Federation Secretary

From: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Sent: 02 October 2019 14:04
To: Federation Chairman
Cc: Federation Secretary; CommandTeam Full; Dr Joey Britto
Subject: RE: GPF SURVEY RESULTS 2019

Follow Up Flag: FollowUp
Flag Status: Flagged

Dear Mr Chairman,

Thank you for submitting to the Commissioner and me the results of the survey, which we have already shared with members of the Command. We thought that at this stage it was totally unnecessary to forward it to Fabian Picardo QC MP, particularly because there is an election process in place.

We also take note of all of your comments in your email to us and wish to make the following comments:

1. As you are well aware, the Command was in disagreement with the Federation undertaking another survey, particularly when you had just completed one a year ago, and we were working towards the review conducted by AAP. We therefore continue to absorb this work in our work streams and will take into consideration the data in the 2019 survey.
2. Equally, we are also not content with the structure of the survey, because most of the options provided to questions only facilitate **negative input**. For example, **'Why have you contemplated leaving?' – Options Low Morale, Poor Organisation Management, High Stress and Poor work Life Balance.** There are no options like – **Policing was not for me, Seeking other Opportunities, better pay etc.** We have discussed this before in our conversations about the 2018 survey and you have chosen to continue with the negative stance. There are many more, but I won't delve any further into this.
3. You raise the issue of bullying as a concern, and yet you fail to ask those surveyed if they knew what the meaning of bullying is. Their ignorance of the meaning could be reflected when you ask them the question, **Do you know the process of the Grievance Procedure?** and 49% claim they don't. We continue to work towards a new Grievance and Bullying Policy as you know in our work streams, taking on the best practice from ACAS and Dorset Police, who championed it for CoP. We have informed you in the past and I inform you again, we will have no involvement with the Dignity at Work Group, as you aspire to try and achieve. This group is represented by unions and you should have no affiliation to unions whatsoever, your independence is of paramount importance.
4. We are also extremely disappointed that you chose to share the results of the survey with the media. We feel that this is very irresponsible of you and that you achieve nothing other than feeding those that always negatively hit out at our organisation. The question we ask is, what did you achieve by doing so last year? – Nothing.

Lastly, I would appreciate a reply of my email to you on the 26th of September 2019, with regards to the potential data breach made by your secretary.

Best wishes

Richard

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Please consider the environment before printing this email.

From: Federation Chairman [mailto:chair@gibpolfed.org]
Sent: 30 September 2019 6:57 PM
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>; (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>; (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>; (MIN) Costa, Neil <neil.costa@gibraltar.gov.gi>; Dr Joey Britto <[redacted]
Cc: michael.crome@gibraltar.gov.gi; Federation Secretary <secretary@gibpolfed.org>
Subject: GPF SURVEY RESULTS 2019

Sir,

In August 2018 the Gibraltar Police Federation carried out an online survey to give members a voice on what issues affected them. The Board agreed that they would carry out an annual survey for a period of three years to assess whether there had been any improvements in the issues raised by members. The results of the 2018 survey were subsequently shared with management, Federation members and the media. Several issues were highlighted.

In May 2019 a new Chairman and Secretary were elected to the GPF together with new Board members.

The decision taken by the previous GPF board in 2018 to carry out an annual survey for a period of three years was respected and as a result we recently asked our members to take part in our second online Staff Survey, which has been conducted from the 5th August to the 16th September 2019.

The survey covers all aspects of members working conditions and welfare in the RGP.

This survey has been conducted completely confidentially by an independent marketing agency.

The completion rate of **90%** has been slightly higher than last year, which stood at **87%**.

We feel that the results of the survey reinforce our concerns and further corroborates the highlighted issues that need to be dealt with.

There are three documents attached:

1. The main survey results with comments [comments have been redacted to comply with GDPR].

2. An infographic of the results.

3. A comparison of results 2018/19.

The attached survey data represents the results of **197** members that completed the survey out of our **217** members. The results show that:

- **52%** of the respondents expressed low or very low morale whilst **88%** of officers perceiving the morale of the organisation as low or very low.
- **47%** of the workforce have stated that they have contemplated in leaving the RGP in the last twelve months.
- **46%** of the officers have reported that they have been a victim of bullying/victimisation at work. **59%** of these officers state that have been bullied within the last year
- This **46%** represents **93** officers who state they had been bullied', **55** of which state that they had been bullied just this past year. **92%** of officers state that they have been bullied by either middle or senior management.
- **63%** have stated that they have witnessed bullying / victimisation at work with **89%** not reporting it, many commenting fearing possible repercussions and no faith in a positive outcome.
- **129** officers reported having witnessed bullying with **106** respondents stating that they had witnessed the bullying within the last twelve months.
- **58%** remain unconfident of the current grievance procedure process.
- **39%** of Response Team officers were satisfied with the current 5-shift system. **72 %** think the RGP should operate a different Response Team pattern (12-hour shift system 4 on 4 off) as many feel current man power levels are not properly sustained with rest days and change of hours constantly changed to meet operational demands.
- Although **54%** of the members are satisfied or very satisfied with their current salary, **65%** are unsatisfied or very unsatisfied with their allowances.

- **79%** of the members are unsatisfied with the current staffing levels in their shifts and departments highlighting health and safety issues with respect to low manpower levels and continued higher operational demands.
- **67%** reported that they feel unsafe whilst carrying out operational duties.
- **77%** feel overworked with **44%** currently suffering from work related stress. **58%** were unsatisfied or extremely unsatisfied with the level of aftercare provided to officers by the organisation after an incident.
- **75%** of officers are not satisfied with the level of counselling offered by the organisation with **79%** stating they would make use of this service if it improved.
- **59%** of the members have reported that they have had instances of their rest days changed with **61%** not been given the required 15 days' notice.
- **91%** of the members have reported that their working hours/shifts been changed with **73%** not being consulted and **63%** not been given enough notice.
- **57%** of officers have reported that they have been unhappy with the management of refreshment breaks and facilities.
- **44%** were satisfied with their personal safety equipment. **85%** of officers are unsatisfied or very unsatisfied with IT facilities and **49%** unhappy with the maintenance of vehicles and vessels.
- **73%** of officers were unsatisfied with the security at police buildings.
- **75%** did not feel that their promotion prospects were linked to their experience /qualifications and a large percentage did not feel that they were adequately managed with respect to personal assessments, mentoring/attachments, internal transfers, specialist training and retraining.

From the above data there are many issues that require addressing but one that stands out from the rest in my opinion are the statistics in relation to bullying in. No one can now argue that the bullying in the organisation is historical. The statistics speak for themselves. The only process an officer has to report bullying in the organisation is to go down the route of the grievance procedure. The results of the survey show that 58% of officers are unconfident or extremely unconfident in this procedure. More worryingly is the fact that the organisation does not have a policy on Bullying at Work and we are informed by management that the Employment (Bullying at Work) Act 2014 is not applicable to Police officers due to their employment status.

After the 2018 survey results were published working groups were established by management to deal with the issues raised in the survey. In August 2019, revised working groups were formed as a result of the AAP report. I strongly believe that these work streams need to be accelerated so that issues raised are dealt with promptly and the results of these work streams can be seen in the 2020 survey results.

We thank HM Government for increasing our manning levels. We have now seen ten extra new officers been employed recently and these are now going through their training period with a further extra fifteen officers to be recruited within the next two training schools. Further posts currently performed by officers will be civilianized meaning that more officers will be able to be deployed to front line policing. However, some of the survey results cannot be attributed solely to the lack of manpower. Many officers complain in the various

comments section throughout the survey about the lack of respect shown to them by their line managers and senior officers, which in turn affects their morale. This needs to change.

The most valuable asset of our organisation are its officers. Employee satisfaction stems for working for an organization that values employees' talents, qualifications and expertise. Officers need to feel valued and treated with respect, they need to have their proper refreshment breaks and unbroken rest days to be fresh, ready and able to deal with the demands that come with the job. Needless to say, a happy workforce will promote morale and will increase productivity.

This is the Federation's second survey in as many years and our intentions are to again conduct another survey next year as had been agreed by the Gibraltar Police Federation Board in 2018. This will give us the data to be able to assess and substantiate progression in the issues raised and to be able to identify any future concerns that may arise.

The Federation members will be receiving the Survey results tomorrow, with the media being given the infographic data on Thursday evening, embargoed until Friday morning.

Kind Regards

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: +[redacted]

Email: chair@gibpolfed.org

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Federation Secretary

From: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Sent: 02 October 2019 14:04
To: Federation Chairman
Cc: Federation Secretary; CommandTeam Full; Dr Joey Britto
Subject: RE: GPF SURVEY RESULTS 2019

Follow Up Flag: FollowUp
Flag Status: Flagged

Dear Mr Chairman,

Thank you for submitting to the Commissioner and me the results of the survey, which we have already shared with members of the Command. We thought that at this stage it was totally unnecessary to forward it to Fabian Picardo QC MP, particularly because there is an election process in place.

We also take note of all of your comments in your email to us and wish to make the following comments:

1. As you are well aware, the Command was in disagreement with the Federation undertaking another survey, particularly when you had just completed one a year ago, and we were working towards the review conducted by AAP. We therefore continue to absorb this work in our work streams and will take into consideration the data in the 2019 survey.
2. Equally, we are also not content with the structure of the survey, because most of the options provided to questions only facilitate **negative input**. For example, **'Why have you contemplated leaving?' – Options Low Morale, Poor Organisation Management, High Stress and Poor work Life Balance.** There are no options like – **Policing was not for me, Seeking other Opportunities, better pay etc.** We have discussed this before in our conversations about the 2018 survey and you have chosen to continue with the negative stance. There are many more, but I won't delve any further into this.
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4. We are also extremely disappointed that you chose to share the results of the survey with the media. We feel that this is very irresponsible of you and that you achieve nothing other than feeding those that always negatively hit out at our organisation. The question we ask is, what did you achieve by doing so last year? – Nothing.

Lastly, I would appreciate a reply of my email to you on the 26th of September 2019, with regards to the potential data breach made by your secretary.

Best wishes

Richard

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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From: Federation Chairman [mailto:chair@gibpolfed.org]
Sent: 30 September 2019 6:57 PM
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>; (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>; (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>; (MIN) Costa, Neil <neil.costa@gibraltar.gov.gi>; Dr Joey Britto <[redacted]
Cc: michael.crome@gibraltar.gov.gi; Federation Secretary <secretary@gibpolfed.org>
Subject: GPF SURVEY RESULTS 2019

Sir,

In August 2018 the Gibraltar Police Federation carried out an online survey to give members a voice on what issues affected them. The Board agreed that they would carry out an annual survey for a period of three years to assess whether there had been any improvements in the issues raised by members. The results of the 2018 survey were subsequently shared with management, Federation members and the media. Several issues were highlighted.

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The decision taken by the previous GPF board in 2018 to carry out an annual survey for a period of three years was respected and as a result we recently asked our members to take part in our second online Staff Survey, which has been conducted from the 5th August to the 16th September 2019.

The survey covers all aspects of members working conditions and welfare in the RGP.

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We feel that the results of the survey reinforce our concerns and further corroborates the highlighted issues that need to be dealt with.

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2. An infographic of the results.

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From the above data there are many issues that require addressing but one that stands out from the rest in my opinion are the statistics in relation to bullying in. No one can now argue that the bullying in the organisation is historical. The statistics speak for themselves. The only process an officer has to report bullying in the organisation is to go down the route of the grievance procedure. The results of the survey show that 58% of officers are unconfident or extremely unconfident in this procedure. More worryingly is the fact that the

organisation does not have a policy on Bullying at Work and we are informed by management that the Employment (Bullying at Work) Act 2014 is not applicable to Police officers due to their employment status.

After the 2018 survey results were published working groups were established by management to deal with the issues raised in the survey. In August 2019, revised working groups were formed as a result of the AAP report. I strongly believe that these work streams need to be accelerated so that issues raised are dealt with promptly and the results of these work streams can be seen in the 2020 survey results.

We thank HM Government for increasing our manning levels. We have now seen ten extra new officers been employed recently and these are now going through their training period with a further extra fifteen officers to be recruited within the next two training schools. Further posts currently performed by officers will be civilianized meaning that more officers will be able to be deployed to front line policing. However, some of the survey results cannot be attributed solely to the lack of manpower. Many officers complain in the various comments section throughout the survey about the lack of respect shown to them by their line managers and senior officers, which in turn affects their morale. This needs to change.

The most valuable asset of our organisation are its officers. Employee satisfaction stems for working for an organization that values employees' talents, qualifications and expertise. Officers need to feel valued and treated with respect, they need to have their proper refreshment breaks and unbroken rest days to be fresh, ready and able to deal with the demands that come with the job. Needless to say, a happy workforce will promote morale and will increase productivity.

This is the Federation's second survey in as many years and our intentions are to again conduct another survey next year as had been agreed by the Gibraltar Police Federation Board in 2018. This will give us the data to be able to assess and substantiate progression in the issues raised and to be able to identify any future concerns that may arise.

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Kind Regards

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325

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GX11 1AA

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Federation Chairman

From: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Sent: 02 October 2019 14:04
To: Federation Chairman
Cc: Federation Secretary; CommandTeam Full; Dr Joey Britto
Subject: RE: GPF SURVEY RESULTS 2019

Dear Mr Chairman,

Thank you for submitting to the Commissioner and me the results of the survey, which we have already shared with members of the Command. We thought that at this stage it was totally unnecessary to forward it to Fabian Picardo QC MP, particularly because there is an election process in place.

We also take note of all of your comments in your email to us and wish to make the following comments:

1. As you are well aware, the Command was in disagreement with the Federation undertaking another survey, particularly when you had just completed one a year ago, and we were working towards the review conducted by AAP. We therefore continue to absorb this work in our work streams and will take into consideration the data in the 2019 survey.
2. Equally, we are also not content with the structure of the survey, because most of the options provided to questions only facilitate **negative input**. For example, **'Why have you contemplated leaving?' – Options Low Morale, Poor Organisation Management, High Stress and Poor work Life Balance.** There are no options like – **Policing was not for me, Seeking other Opportunities, better pay etc.** We have discussed this before in our conversations about the 2018 survey and you have chosen to continue with the negative stance. There are many more, but I won't delve any further into this.
3. You raise the issue of bullying as a concern, and yet you fail to ask those surveyed if they knew what the meaning of bullying is. Their ignorance of the meaning could be reflected when you ask them the question, **Do you know the process of the Grievance Procedure?** and 49% claim they don't. We continue to work towards a new Grievance and Bullying Policy as you know in our work streams, taking on the best practice from ACAS and Dorset Police, who championed it for CoP. We have informed you in the past and I inform you again, we will have no involvement with the Dignity at Work Group, as you aspire to try and achieve. This group is represented by unions and you should have no affiliation to unions whatsoever, your independence is of paramount importance.
4. We are also extremely disappointed that you chose to share the results of the survey with the media. We feel that this is very irresponsible of you and that you achieve nothing other than feeding those that always negatively hit out at our organisation. The question we ask is, what did you achieve by doing so last year? – Nothing.

Lastly, I would appreciate a reply of my email to you on the 26th of September 2019, with regards to the potential data breach made by your secretary.

Best wishes

Richard

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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2019 GPF Survey comments – un-redacted COP

COP needs to listen to officers and their strength of feeling. if things do not change more and more good officers will leave the service as there are no bonus' to being in the police now

Nothing will change unless there is change from SMT.
Officers make all the sacrificies yet reap no rewards or appreciation.
Morale will continue to remain low unless treated fairly.
Expectation from SMT is unrealistic with no considerations given to work - life balance.
but "we all know what we signed up for....." according to COP

last year COP said that the survey was exaggerated which was disappointing to say the least. this year i hope he takes on board what is being said and supports the officers instead of disregarding their views. it is very easy for SMT to sit in an office and forget what it is like to be a front line officer, they have no idea what it is to be an officer on shift now. no idea what the lack of resources does to officers morale and well being, no idea that some of SMT's behaviour towards officers and Sergeants is despicable to say the least. If things dont change then more and more good officers will be more likely to leave. i certainly am looking to leave the RGP as soon as i can.

At shift/department level it might be OK hence the reason why senior management might "confuse" this with 'their' morale levels. However, generally the majority or a large number of officers are 'disgusted' of how they are managed, treated or valued. We are tired of Cheap, twitter posts to show how much 'they value' their officers for their false public perception, the false image they try to show which the public don't swallow (hence the trouble they have to recruit locals, the same locals that in a small community know the actual truth and therefore prefer other jobs where they are generally going to be happier). So much going on about training and training when it should be mid and top managers who should be 'training' to have a little bit of positive psychology....or perhaps no training can give you the 'human' qualities that the likes of Richardson, Field or the current COP lack!

We were asked about this last year and I think the answers were pretty clear. So what happened? What did SMT do with the results? Did anyone take it seriously? Nothing happened. SMT wiped theirs arses with the results. No one took it seriously. We had a real opportunity to fix things from last years survey but all COP did was deny it all and in doing so gave every officer that was crying out for help a big 'fuck you'. How is my morale not going to be low when no one upstairs gives a shit about my morale?

One person can destroy £250,000 of marine assets and not get even a white paper notice because he is a friend of the COP, while another damages a patrol van and gets interdicted for 9 months because the COP wants him out. How are we supposed to have confidence in this corrupt system?

SMT need to wake up and smell the roses, we have a problem as do any organisation, I for one am not blaming our current Commissioner for everything that has happened in the past, but I honestly believed that he would have turned our organisation to the right path only to be disapointed. i feel we are treated like a number and not as a human being. we are over worked and our COP has the power to settel this issue with Ministers/SMT once and for all

the whole promotion procedure is fake, its who the SMT want and where not what you can do and if you can do the job. the Next promotions will be 90% non locals as the COP has already made his intentions known thart he dose not wish for locals to be promoted.

am personally treated very well but despite this I still struggle to digest or deal with the RGP day to day. just empower the correct senior managers and sergeants and obviously ensure from CoP's perspective these individuals are doing there job to the best of there ability!!

untill the COP is willing to accept the Federation, the GPF will be powless to do anything

First step was getting rid of the 2 former conveners, useless pair. Having said that I'm not sure how far this federation can go with possibly the biggest bully in the RGP sitting on the board. I think we all know he's there at the request and under the direct instructions of the COP. Please do a better job than the last two of resisting this influence.

help the COP with his photo shoots? they can all pose together.

Comments 2019 SMT [Senior Management Team]

SMT need to get real and realise there is only so much officers can do. Especially when they aren't supported with manpower, kit or training. Yet they expect miracles from shift officers. They are there to respond to crimes and carry out enquiries. Not to do traffic summons and tick boxes for matrix patrols. Growing a set of balls and publically protecting officers would be good start. As would addressing the bullies. Everyone knows who they are yet the ones with power do nothing.

I have no faith in anything changing as a result of this survey as the SMT do not want to change. Unless they are forced to change (which is very unlikely to happen) things will either remain as bad as they are or will get worse

Management of the force is shameful, the constant politics that happens behind closed doors, and only with those of higher rank, is enough to make you realize that your position is meaningless for those who want to achieve a greater work environment. The senior management team is responsible for the direction of this organisation and it is clear that the direction they are taking us is nothing but to the ground, the constant and increasing demand of resources needed for the this job is ignored on a daily basis without hesitation. We are not prepared to deal with any major incidents at all.
The Grace 1 tanker seizure, the Island game demands, along with UEFA Football matches have proven, without a shadow of a doubt that the force can not run without going against it's own policy and procedures, along with the basic European Law just to supply numbers. But god forbid if you haven't completed a cyclops task in time, It is clear that persons of higher rank are NOT held accountable for their actions compared to your average beat cop. Senior ranking officers have always made quick judgement of officers actions and are constantly hammering shift and departments with their Nazi like rule, where they are never wrong while you a struggling beat cop/DC trying to stay on top the constant demand is "Lazy, Trying to cut corners and not fit for the job" and managements response is "Tough, this is what you signed up for" the old school mentality of policing is still present in many SMT members and it is reflected on on their actions. It is time to suggest an independent PSD department in hopes that persons of high rank will be held accountable and we could start to a shift in the direction and mentality in hopes of improvements in this organisation.

dont believe this survey help us as SMT are judge and jury, what they say goes and seem not to be willing to sort the problems, we can all work togather to make our organization a great pleace of work. in regards to bullying it happens more then often, we had a lazy police officer who was screwed over for years her father is an ex-commisioner a basterd called WINK who by defenition is a bully. when he retired, he bought some peice to some SMT, who took their revenge on his children, natalie could have been managed properly but SMT have failed her big time, her biggest fault was her family name. to summaries the way i strongly feel, the rgp is just like am infected tree, SMT sit on top and the ranks go lower, SMT look down and see nothing but happy smily faces lower ranks look up and see nothing but ASSHOLESS. Fuck this place it has been the worst mistake ever joining, i am gutted that the burden will be past to the next idiot who will not be treated like a human being but rather an Number, sorry for this but i cannot take this anymore. i cannot even risk talking out loud and loosing everything.

SMT should learn to manage personel by treating people equally all they need to do is open their eyes to see the morale off 80 percent of the force.

Unfortunately although the right questions are being asked in this survey SMT will continue to do what it wants with officers. Morale is at the lowest its

been and with SMT continually on the hunt for internal dispensaries over actually helping out officers or punishing those that deserve to be, there is no faith whatsoever in any realistic change for the better. As can be seen in recent force orders where we get the facade of SMT stating how bullying is unacceptable when they are the biggest bullies in the force and the main reason why morale is lower than ever with a high number of officers, a lot of which have been with the Police for a substantial amount of years already looking outside of the RGP for their futures. Another problem encountered as of late is cases being set down for hearings when officers are on annual leave and have stated so since the initial mention. This was reported to CJU with the response being either for a new OIC to be appointed for the trail or would quickly blame the OIC for not submitting the witness availability in a timely manner which was not the case on all occasions. I have been witness to how a case was set for hearing with the AG not even looking at the witness calendar.

The above is now practically a daily occurrence and events like above just make one feel like leaving regardless of pay as as much as one loves the job it is hampered at every corner by either SMT imposing there own private agendas or the shear amount of work imposed by unnecessary overly complicated dockets which should be done by an increased FPU as in other countries which would also free up officers allowing more patrols on the streets, more detection in crime and further public confidence in the force with the added boost to visual patrols.

Instead of SMT taking these surveys as a personal affront by GPF members they should accept that there are real problems and issues within the Force with regards to morale, welfare etc. and act upon the findings of these surveys and display to their Officers that they are actually proactive in attempting to improve things

feel that SMT are not supporting the Fed on the issues raised last year
Many officers are taking reports of petty crimes every day and not given time to investigate and complete paperwork. The work is not evenly distributed resulting in some shift officers having no paperwork whilst other drown in it. A system needs to be put in place to deal with Bullying in the workplace.
How can officers report bullying to line managers if line managers are causing the problems or are close friends with those who do. We do a hard job and there are those who make the lives of other officers harder for their own amusement. I will be Extremely Disappointed it the Police Federation does nothing about Bullying in the future. Bullying should be dealt with at every internal level including SMT and federation members

I'm trying to think of a single thing that has been achieved by management since the last survey. We have some really good bosses in the RGP, and some not so good. All the good work that might get done by the good bosses will be irrelevant as it only takes one bad one to fuck things up. During my years in the job all I have seen is division between the officers and the SMT and this division is driven almost entirely by the bosses, some of whom

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have a seemingly endlessly vindictive nature. Management don't seem to understand that when we see a colleague being treated unfairly it affects us all negatively. It lowers the morale of ALL of us because we know any one of us might make a genuine mistake and then it will be us next. I've never worked at a place where I've been treated with such disdain before as if some bosses look down on us as stats to be cultivated to further their own careers. Can you not see what that does to a person?

The results of the last survey were clearly published and unanimously the officers expressed their disatisfaction. SMT officers then stated that the survey was inaccurate and they set about employing an external company (which cost a large quantity of money) to try and rebut the officers results. These findings/results have still not been published, can we (the Federation) ask SMT to publish these results to either prove or disprove (according to them) what we originally stated? Indirectly, SMT stated that we, the officers, were overexagerating the negativity within the force. Perhaps this external survey can prove or disprove our findings? The money that was spent on this independant survey could have been used to amend some of the issues that were highlighted in the past survey.

Senior management seem to be more focused on finding faults and punishing officers than praising them, every one knows how low moral is and how little the current SMT are doing to boost this. We come up with solutions and smt just disregard any suggestion . Officers are scared of making mistakes , scared of doing their job for fear of making a mistake, as frontline officers and officers within departments we find our own ways to raise our own moral however more than once I have witnessed SMT crushing these attempts to raise moral.

I believe that moral of officers within the RGP has lowered during the time that I have been in; I believe this is due to more then ever being expected of officers, deadlines that are getting harder and harder to keep with the amount of work that we take on with little or no thanks for our efforts by SMT

The RGP has been stretched beyond its limits, there is a severe lack of staff and forward planning and more and more responsibilities are being placed on officers by SMT who appear to have a lack of regard for their mental health and well being more and more demands are being placed on officers when we are at least 54 officers under what we require in order to do our jobs effectively (as of 3 years ago, when a review of our service was carried out and the service has evolved since then!) plus the 13 vacancies which are due to be filled in the next recruit school. officers are having their rest days changed and change of hours at short notice in order to try to reduce the overtime budget which is bound to be extortionate due to being severly undermanned. there seems to be denial in the SMT as to just how bad it is to be a front line officer right now

Over the last 12 months, esspecially the last 3-4 months, the bullying is rife. Ops CI Field, uses bullying as a regular management tool and has the officers, sgts and Inspectors scared of making any mistakes incase he decides

to make them a target. It is widely believed that if he decides to make you his target then you will suffer relentless bullying to the point where you are forced to go off sick or quit.
In recent months PS Strachan, PS Philbin and PS Stone have gone off sick after being bullied by CI Field.
It is my belief that he has been placed in this role to bully the officers as a form of discipline.
His behaviour is widely known and very visible, yet despite this the SMT do not challenge this behaviour and allow him to do this.

I mostly hear people complaining mainly about the SMT and poor management

morale between officers is good and they keep the ship floating but its a constant battle to keep them motivated when SMT choose in mico manage and run the RGP as per their own rules

unrealistic expectations being placed on officers. decisions being made by people who have no idea what it is to be a police officer now. RGP intent on over policing at events, stretching limited resources far beyond their stretching point. no leadership skills being displayed b SMT. Officers are constantly being placed at risk

There is a massive divide between shift officers and the rest of the force, special SMT.
No interaction from SMT with shift officers at anytime.

We were asked about this last year and I think the answers were pretty clear. So what happened? What did SMT do with the results? Did anyone take it seriously? Nothing happened. SMT wiped theirs arses with the results. No one took it seriously. We had a real opportunity to fix things from last years survey but all COP did was deny it all and in doing so gave every officer that was crying out for help a big 'fuck you'. How is my morale not going to be low when no one upstairs gives a shit about my morale

There appears to be a clear disconnect between SMT and front line officers. Morale could have been vastly improved after last year's survey if it was take seriously and not brushed under the carpet or rejected. There are constant demands or threats of disciplinary action, placed on officers with very little recognition or appreciation given back

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Morale is extremely low in the RGP. it is the workers who constantly get penalised and messed around while the lazy officers get rewarded. there is no regard from SMT for the truth of what is happening in the RGP right now.

Because the CI will crucify you when he finds out and SMT will not taken any action. CI Field has been placed in this role too bully

It all depends on the matter you're being investigated about, and whether SMT want to you gone or not.

If your face doesnt fit then you are dealt with more harshly. If you have ever challenged SMT they will remember this and target you.

Defendants appear to have more rights than police constables and are treated with more integrity.
The message that the SMT appears to send is that they are more concerned with punishing officers than the day to day criminal. Officers are afraid to deal with people, general public and suspects due to fear of being reported for the smallest of infractions

it is my strong held belief that when we (Police Constables) are put under investigation are not treated fairly, firstly SMT, can take as much time as they want as there is no time limit for PSD investigation which leaves officers without updates for several months. This does affect our performance. On the other hand, Defendants are interviewed and investigated by strictly following the guidelines provided in PACE Act which is a matter of LAW. PSD seem to do whatever they feel is necessary to reach the next RANK, breaching every Code of practice without any reprecautions and you are GUILTY no matter what, its that simple they have to unnecessary screw you over so that it looks good on their next promotion pack. IF WE ARE GIVEN THE NOTICE OF INVESTIGATION THEY PSD SHOULD GIVE US A UPDATE WITHIN 6 WEEKS JUST LIKE DEFENDANTS. WE SHOULD ALL BE TREATED THE SAME!!!!

It is ironic that officers are punished for the slightest errors or even differences in approach, when certain members of the SMT collude in illegal activity such as changing the weights of drugs in order to give cautions to ex-officers/staff relatives

SMT respecting rest days and learning how to say NO to things that arent necessary or simply can't meet the demands.

During major incidents, all is forgotten, SMT take over and there is a lot of panicking rather than proper management.

Planning is atrocious for events of which some occur every year!! SMT do not accept suggestions or recommendations from junior Officers and are not in touch with the real issues experienced at the coal face of Policing. Poor IT issues have been raised time and again with no improvement. With regards to equipment, body worn cameras which are not supported by proper maintenance meaning most of the time they are unfit for purpose. Frontline Officers only issued with 2 x pairs of trousers to cover 6 or sometimes 7 days duties whilst Office staff are issued the same. Money wasted on PT kit which looks cheap and scruffy and is hardly worn over the course of a year..this money could have been invested in supplying frontline Officers with an extra pair of trousers and/or better quality uniform/kit.

Just communicate to the officers what you are doing from a SMT's point of view and have / show empathy for your officers

I was one of the officers involved in the recent violent incident at Watergardens. We have had nothing. No debrief, no support or any kind of feedback session about it. It was an extremely violent and anti-police situation and SMT just say "it's what you signed up for"... brilliant management. I am an officer who never goes sick and so just carries on but it is disheartening when no one gives a shit.

Since time immemorial it comes down to, who you are, who you know and who you are related to in order to get any where within the organisation. Favoratism undoubtedly plays a big part when it comes down to applying to a new post or for promotion. The sad truth is that SMT know this to be true however will not tell you and rather lie with a smile and say that it is not so, but how many traditional rules have been changed to cater for a specific officer or how many times has an inexperienced officer been given priority over an experienced officer for a particular post. Let's not disregard that gender and racial also influence promotion and career opportunities.

Depends who you know more than anything. If you do not have a great rapore with SMT you need to work twice as hard to be recognised.

Officers with either zero experience or still in probation period getting attachments/placings due to either family connections to SMT or because they've come from UK Policing force and are presumed to be better than local officers or officers whom have done their years on the streets/getting cases. Although there are a few ex UK officers who consider themselves better than the local officers, this is by no means an attack on officers whom joined from abroad but is the common perception among other officers as is evident by treatment they receive from SMT with regards to duties etc.

Making sure the officers are treated fairly and respectfully and when SMT are wrong in a case, defend the officer.

The general consensus within the lower tier of the force believe that the federation needs to be more robust when it comes to the challenging of

members of the SMT regarding the discipline of front line officers, as all officers are treated differently depending on who they are.

adequate manning levels
helping SMT to be more realistic in their demands of officers. Especially CI FIELD's relentless demands with no regard to officers well being

Officer welfare and personal development. Address old fashioned views of some of the SMT

SMT need to get real and realise there is only so much officers can do. Especially when they aren't supported with manpower, kit or training. Yet they expect miracles from shift officers. They are there to respond to crimes and carry out enquiries. Not to do traffic summons and tick boxes for matrix patrols. Growing a set of balls and publically protecting officers would be good start. As would addressing the bullies. Everyone knows who they are yet the ones with power do nothing.

I have no faith in anything changing as a result of this survey as the SMT do not want to change. Unless they are forced to change (which is very unlikely to happen) things will either remain as bad as they are or will get worse.

Management of the force is shameful, the constant politics that happens behind closed doors, and only with those of higher rank, is enough to make you realize that your position is meaningless for those who want to achieve a greater work environment. The senior management team is responsible for the direction of this organisation and it is clear that the direction they are taking us is nothing but to the ground, the constant and increasing demand of resources needed for the this job is ignored on a daily basis without hesitation. We are not prepared to deal with any major incidents at all.
The Grace 1 tanker seizure, the Island game demands, along with UEFA Football matches have proven, without a shadow of a doubt that the force can not run without going against it's own policy and procedures, along with the basic European Law just to supply numbers. But god forbid if you haven't completed a cyclops task in time, It is clear that persons of higher rank are NOT held accountable for their actions compared to your average beat cop. Senior ranking officers have always made quick judgement of officers actions and are constantly hammering shift and departments with their Nazi like rule, where they are never wrong while you a struggling beat cop/DC trying to stay on top the constant demand is "Lazy, Trying to cut corners and not fit for the job" and managements response is "Tough, this is what you signed up for" the old school mentality of policing is still present in many SMT members and it is reflected on on their actions. It is time to suggest an independent PSD department in hopes that persons of high rank will be held accountable and we could start to a shift in the direction and mentality in hopes of improvements in this organisation.

i dont believe this survey help us as SMT are judge and jury, what they say goes and seem not to be willing to sort the problems, we can all work

GIBRALTAR POLICE FEDERATION
BOARD MEETINGS

MEETING AGENDA

Meeting/Project Name:	Board Meeting		
Date of Meeting:	24/9/2019	Time:	1427 h
Meeting Facilitator:	Maurice Morello	Location:	GPF office

1. Meeting Objective

Federation Survey 2019.

Submitted by: Leif Simpson

GIBRALTAR POLICE FEDERATION
BOARD MEETINGS

2. Attendees

Name	Department/Division	E-mail	Phone
Maurice Morello	GPF	chair@gibpolfed.org	[redacted]
Leif Simpson	GPF	secretary@gibpolfed.org	
Lee Pozo	PmB	LeePozo@royalgibpolice.g	
Alfred Garcia	HTCU	Alfred.Garcia@royalgibpolice	
John Field	CI OPS	John.field@royalgibpolice	
Kevin Fortuna	white shife	Kevin.Fortuna@royalgibpolice	
Tony Gaul	PmB	Antony.Gaul@royalgibpolice	

3. Meeting Agenda

Topic	Owner	Time
Albert not coming - start meeting reference Federation Survey 2019.	Maurice	1427h

Submitted by: Leif Simpson

GIBRALTAR POLICE FEDERATION
BOARD MEETINGS

MEETING MINUTES

Minutes Taken By:	Leif Simpson

4. Minutes

Topic	Owner
1427hrs - Albert Fernandez apologise that he can't attend.	Maurice
we have put on the table all documents and Press	
Sentence and infographics comparisons from last year and	
this year. GRA recommends for any names or persons	
that can be identified, like C1 OPS just to C1.	
Agree to this and have names removed, to just,	All
C1, Snrp, Senior high ranking officer, sgt, constable,	
Insp.	
We will make notes on the PDF and sent to James	Maurice
so they edit this and not us so it is done properly.	
On Page 17 remove ex-commissioner and son with	
ex-senior high ranking officer and family member.	
All agreed.	All
Page 17 remove 9 ~~months~~ months, and Page 18 [redacted]	Maurice
All agreed.	All
Page 57 ~~Mr~~ [redacted] is mentioned. We need to double	John
check and remove [redacted].	
All agreed.	All
Page 29, current commissioner and CoP.	Maurice
All agreed.	All
We should minimise the amount of edits	Alfred
I agree, I would leave as much as possible but comply	Leif

Submitted by: Leif Simpson

GIBRALTAR POLICE FEDERATION
BOARD MEETINGS

Minutes Taken By:	Leif Simpson	(2)
with the GRA.		Leif
Agrees		Lee
Agrees		Alfred
Agrees		Kevin
Agrees		Maurice
I'm just saying that we need to be careful not to identify anyone.		John
I don't even know who it is as it stands so I see no problem changing ex-cop to ex-high ranking officer.		Maurice
Agreed.		All
Page 49, "look at [redacted]" comment to remove [redacted] remove name and just put redacted.		Tony Lee
Agreed.		All
Page 50, a sof is mentioned by a comment which we can clearly work out who it is.		Lee
Yes but not everyone can and he is not mentioned so I would only remove COP which we have to.		Leif
Agree		All
Reference Page 57 last comments needs reducting as the not just Wink or COP that's mentioned but Natalie, and worded to all this, I propose that we just remove ex-commissioner, wink, children, natalie, ~~ext~~		Maurice
All agreed.		All
On Page 52, near the top they say 'Has improved since the other two downs left'. I say more than 2 have left and the question asks "where do you feel		Leif

Submitted by: Leif Simpson

GIBRALTAR POLICE FEDERATION
BOARD MEETINGS

Minutes Taken By:	Leif Simpson.	(3)
the GPF can improve, so they are not asking about a certain person so I think it should say clown as its open to interpretation.		Leif
I Agree that and we should edit the least and leave clown.		Alfred
I don't agree with that word but I agree that it should stay.		Lee
Put reducted.		Tony
Same as Tony		John
I say if on page 57 if we remove ASSHOLESS we need to remove Clown.		Kevin
I dont agree in any way with comments made about insults but I also dont agree with removing or editing this when its not directed at a specific person		Alfred
I agree with Alfred.		Leif
I also agree with Alfred.		Lee
I don't see a problem with Clown and even ASSHOLES as reducted can be interpreted as a much worst comment.		Maurice
I am not comfortable with editing members comments that much.		Lee
Maybe ask GRA again on insults		John
I only agree that if the insult directed at someone specific, but its not.		Leif
I agree with Leif.		Alfred
I think what Alfred said as leaving as is and starting on our part that we do not condemn this comments		Tony

Submitted by: Leif Simpson

GIBRALTAR POLICE FEDERATION
BOARD MEETINGS

Minutes Taken By:	Leif Simpson. (4)
or behaviour.	Tony
I think we should all look at this at home and meet again about it.	Lee
I have no problem send an electronic copy to you all but the comments are neither here or there that we need to put out in the GRA recommendations	Maurice
I agree but I would push SMT about the working groups now.	Kevin
Agreed.	All
I hope we have a position come back from this survey and work together straight away as there is a totally different vibe from last year.	Tony
I think we need to release a joint press release.	John
I don't think so but I agree to work together and they have there press release and us ours.	Leif
Ok but maybe mention that we should add that we are working together on working groups.	John
I totally agree with that.	Leif
I want to take this home.	John
John no one is taking any documents home because no one else is taking anything home.	Maurice
Well I am entitled on the documents and I am taking them home.	John
We are running all matters as discussed and if you need to read the documents come tomorrow and help yourself to the documents.	Leif
I am taking the forms I don't care.	Tony John

Submitted by: Lee Simpson

GIBRALTAR POLICE FEDERATION
BOARD MEETINGS

Minutes Taken By:	Leif Simpson

John I am not allowing you to take the forms because no one is taking forms so we are to work on this and prevent a data protection breach. You are putting me in a position which is not fair and if you take it without my concern I will be informing Mr Ullger and reporting it as theft.	Maurice
OK, I will compromise and leave it here, it's ok.	John
You have to understand that this belongs to the chairman same as DAP belongs to GOP and we cannot take or share without his consent. Also you are using your position as a board & member for your benifit and thats wrong when we are here as board members discussing what the GRA requires for us and the interest of members.	Leif
OK, on that note we will end this meeting and John if you want this documents please request them via the proper channels and I will give them to you.	Maurice
OK, I will inform my lawyer	John
OK I have no problem with that. We will approach GRA again and edit what we have discussed. End of meeting.	Maurice

Submitted by: Leif Simpson

GIBRALTAR POLICE FEDERATION
BOARD MEETINGS

Minutes Taken By:	Leigh Simpson.

4. Action Items

Edit names as requested by GRA.

Ask GRA about comments made with no ~~names~~ names but identifies, ~~and~~ a person.

5. Next Meeting (if applicable)

Date:	24/9/2019	Time:	1720hrs	Location:	GPF office
Signature:					

Submitted by: Leigh Simpson

Federation Secretary

From: (HRD) Olivero, Lyzanne <lyzanne.zammittolivero@gibraltar.gov.gi>
Sent: 27 February 2020 10:08
To: Federation Secretary
Cc: Federation Chairman; Darrien Ramos (external); (HRD) Vallejo, Katrina
Subject: RE: Threshold Payment

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Leif,

We are looking into this matter and we will revert as soon as possible.

Kind regards

Lyzanne

Lyzanne Olivero
Senior Executive Officer (PP)

Human Resources Department
HM Government of Gibraltar
82-86 Harbours Walk
The New Harbours
Rosia Road
Gibraltar
GX11 1AA

Tel: (+350) 20041728
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Human Resources Department

HM Government of Gibraltar

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From: Federation Secretary <secretary@gibpolfed.org>
Sent: 27 February 2020 10:01

To: (HRD) Olivero, Lyzanne <lyzanne.zammittolivero@gibraltar.gov.gi>
Cc: Federation Chairman <chair@gibpolfed.org>
Subject: FW: Threshold Payment

Morning Lyzanne,

We spoke to Darrien Ramos yesterday reference the email below, he informed us that you would be able to help us in relation to the correspondence between HRD and the Commissioner in relation to the Conveners Threshold payments.

Please don't hesitate to contact either myself or Maurice.

Thanks

Kind Regards

Leif Simpson
Secretary

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: +[redacted]

Email: secretary@gibpolfed.org

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From: (RGP) Ramos, Darrien <darrien.ramos@royalgib.police.gi>
Sent: 26 February 2020 15:08

To: Federation Secretary <secretary@gibpolfed.org>
Subject: Threshold Payment

Dear Leif,

Please note that on review of Threshold Payment entitlement, and in accordance with HRD instructions to the previous Commissioner stating that "the convenor allowances were arrived at by establishing the difference between the officer's basic salary and the salary of Chief Inspector... should not continue to attract threshold payment given that the officer would no longer be exercising full policing duties and would therefore be unable to demonstrate the competence necessary to qualify for such allowance", instructions have therefore been issued to Finance for threshold payment receipt to cease and threshold payments made since your appointment as convenor to be recovered.

Unfortunately these instructions were not applied to your convenor allowance on receipt of the HRD Appointment of RGP Convenor Letters dated 26th November 2019.

Amounts to be recovered are listed below:

May 22nd to 31st - £32.58
June – £101.00
July – £101.00
August – £101.00
September – £101.00
October – £101.00
November – £101.00
December – £101.00
January – £101.00
February – £101.00
TOTAL: £941.58

Please advise if you would prefer for this amount to be recovered in one or more instalments – i.e. in your April salary or over 3 months up to and including June (end of the tax year).

I am aware that the RGP Convenor Terms and Conditions are presently under review and being negotiated and that the entitlement to Threshold payments forms part of this review. Payment may therefore be reinstated and backdated if and when this is considered and approved by HMGoG.

Please do not hesitate to contact me should you require further information.

Kind regards
Darrien

Darrien Ramos
Senior Executive Officer

Planning Development & Support Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20048003 Centrex: [redacted]

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Federation Secretary

From: (HRD) Olivero, Lyzanne <lyzanne.zammittolivero@gibraltar.gov.gi>
Sent: 27 February 2020 13:19
To: Darrien Ramos (external); Federation Chairman; Federation Secretary
Cc: (HRD) Yeo, Collin; (NO6) Crome, Michael; (HRD) Vallejo, Katrina
Subject: POLICE FEDERATION - CONVENOR PAY

Follow Up Flag: Flag for follow up
Flag Status: Completed

Dear All,

I have looked into the matter regarding the treatment of the Threshold Allowance in respect to the appointment to the Convenor role.

I can confirm that the threshold allowance should no longer be made payable as both officers have been formally appointed into the Convenor role. The letters dated 26 November 2019 that issued to both current post holders states that "you shall be paid an allowance which together with your basic salary shall bring your total earnings up to the level of Chief Inspector." This was also the case for the previous post holders whereby their threshold allowance ceased.

However, it is noted that the threshold has been removed as a result of the change in appointment and both PS Morello and PC Simpson may revert back to their former grade once there tenure in the convenor role has expired. I believe that if this occurs the threshold payment should be restored once they revert back to their former grade as they had shown competency and had met all the threshold criteria in these roles. Should these officers apply for and are successful for promotion whilst undertaking the convenor role the threshold would be lost as they would need to requalify as is currently the case. Nevertheless, I have copied in the Human Resources Manager and Mr M Crome to make them aware of this matter and for any further information or instruction they wish to add.

As is the case for all overpayments, any overpayment will need to be restored. If the monies cannot be restored in full arrangements can be made with Treasury Salaries to make regular monthly payments until the overpayment is recovered.

I hope the above clarifies the positon.

Kind regards

Lyzanne

Lyzanne Olivero
Senior Executive Officer (PP)

Human Resources Department
HM Government of Gibraltar
82-86 Harbours Walk
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Human Resources Department

HM Government of Gibraltar

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Federation Chairman

From:	Federation Chairman
Sent:	10 June 2021 10:35
To:	michael.crome@gibraltar.gov.gi
Cc:	Federation Secretary
Subject:	THRESHOLD PAYMENT
Attachments:	Competence Related Threshold Payment Scheme.pdf; POLICE FEREDRATION REGULATIONS.PDF; PFEW REGULATIONS 2017.pdf

Dear Michael,

We spoke yesterday reference the threshold payment which we currently not being paid. I have attached the policy so that you can refer to this is if required.

On 2nd March 2020, I emailed you in relation to this same matter as the RGP had taken advice from HRD to stop paying this allowance to us.

HR'S advice on the matter

Dear All,

I have looked into the matter regarding the treatment of the Threshold Allowance in respect to the appointment to the Convenor role.

I can confirm that the threshold allowance should no longer be made payable as both officers have been formally appointed into the Convenor role. The letters dated 26 November 2019 that issued to both current post holders states that "you shall be paid an allowance which together with your basic salary shall bring your total earnings up to the level of Chief Inspector." This was also the case for the previous post holders whereby their threshold allowance ceased.

However, it is noted that the threshold has been removed as a result of the change in appointment and both PS Morello and PC Simpson may revert back to their former grade once there tenure in the convenor role has expired. I believe that if this occurs the threshold payment should be restored once they revert back to their former grade as they had shown competency and had met all the threshold criteria in these roles. Should these officers apply for and are successful for promotion whilst undertaking the convenor role the threshold would be lost as they would need to requalify as is currently the case. Nevertheless, I have copied in the Human Resources Manager and Mr M Crome to make them aware of this matter and for any further information or instruction they wish to add.

As is the case for all overpayments, any overpayment will need to be restored. If the monies cannot be restored in full arrangements can be made with Treasury Salaries to make regular monthly payments until the overpayment is recovered.

I hope the above clarifies the positon.

As a result of this advice we received an email from Darion Ramos [see below]

Please note that on review of Threshold Payment entitlement, and in accordance with HRD instructions to the previous Commissioner stating that **"the convenor allowances were arrived at by establishing the difference between the officer's basic salary and the salary of Chief Inspector... should not continue to attract threshold payment given that the officer would no longer be exercising full policing duties and would therefore be unable to demonstrate the competence necessary to qualify for such allowance"**, instructions have therefore been issued to Finance for threshold payment receipt to cease and threshold payments made since your appointment as convenor to be recovered.

As a result the threshold which had been paid to us was paid back as follows:

Leif Simpson:
May 20: £57.69
June 20: £57.69
July 20: £57.69
August 20: £57.69
September 20: £57.69
October 20: £57.69
November 20: £57.69
December 20: £57.69
January 21: £57.69
February 21: £57.69
Total: £576.90

Maurice Morello:
May 20: £67.82
June 20: £67.82
July 20: £67.82
August 20: £67.82
September 20: £67.82
October 20: £67.82
November 20: £67.82
December 20: £67.82
January 21: £67.82
February 21: £67.75
Total: £678.13

At the time we requested to see the correspondence from Central HR but were informed that due to data protection issues this could not be disclosed to us. It appears that the previous convenors arrived at an agreement with all stakeholders when they were elected as Chairman and Secretary of the Gibraltar Police Federation, where they agreed **"give up"** their entitlements to receive the competence threshold payment.

This appears to be a **"personal to holder contract"** which as a matter of principle I would not have agreed to.

In fact the GPF Convenors agreement which we drafted in December 2019 and which is still pending ratifcation, includes that this allowance be paid to Convenors.

When applying the RGP's criteria for the competence threshold payment [as per Force policy, see attached] there are four points that you have to meet in order to obtain the threshold.

- Professional competence and results
- Commitment to the job
- Relations with the public and colleagues
- Willingness to learn and adjust to new circumstances

I believe that as long as we keep up to date on new policies and procedures and attend the training days, remaining **"competent"** the threshold allowance should be continued to be paid to us.

I have been receiving the threshold payment since 2010, when I was a Constable, which was then removed after I was promoted to Sergeant in 2012. In 2016, I again applied for the threshold as a Sergeant, and again it was approved.

Leif has been receiving the threshold payment since 2017.

As per the policy the threshold allowance could be removed if you are deemed to have fallen below the standard required:

Maintaining standards [Competence related threshold policy extract]

26. It is expected that officers awarded the payment will maintain the level of performance and commitment to the job necessary to achieve the payment. The RGP will have systems in place that will support and encourage officers to maintain those standards.

27. Where concerns are identified in the Annual Staff Appraisal System, with respect to maintenance of high professional competence by an officer in receipt of the payment, managers should trigger a reassessment of suitability for on-going payment. In these circumstances, the officer should be notified in writing of the areas for concern and invited to resubmit an application which will then be considered in line with the procedures outlined in paragraphs 15-22 above. 28 A reassessment would not normally be triggered by a single incident or event, but be based on broader concerns by management about the officer's overall performance against any of the Scheme criteria. However, the threat of the removal of this payment must not be used by managers as an alternative to normal management support or appropriate action under the Police Discipline Regulations and Government General Orders. Each case must be considered on its merits.

None of the above is applicable to us.

Section 29 states that when an officer is promoted, the payment will be discontinued from the effective date of the promotion. The officer will then be eligible to apply once they reach the top scale of the said promotion.

There is nothing in the policy to cover the fact that the "threshold" should be discontinued because Convenors receive an allowance [as per PFEW Regulations 2017, see below]

Subject to paragraph (5), the Regulations mentioned in paragraph (3) are to have effect as if the national chair and the national secretary held the rank of chief inspector in the metropolitan police; but nothing in this paragraph transfers any rights or liabilities to the local policing body maintaining that force [find PFEW regulations attached].

Moreover, Section 32/33 of the competence threshold policy deals with officers on maternity leave and long term sickness. These officers can also apply for the payment citing examples from the two-year period leading up to the absence commenced, so in effect this could also be applicable to us.

Section 40 goes on to state that it is the responsibility of HMGoG to assure itself that the arrangements in place in the RGP for assessment and payment under this scheme including arrangements for triggering assessment and efficient and effective.

Our Police Federation Regulations 2018 state:

5(3) The chairman and secretary of the Board shall be **full time conveners** of the Federation and shall continue to have and enjoy all the rights, powers, authorities, **privileges** and immunities of a constable.
Surely, the threshold allowance has to fall within the remit of a privilege.

One more point for you consider. If the decision made is not to grant the threshold to convenors what will happen when convenors go back to their policing roles after their elected term? Surely after the four years in post, as the RGP is applying the criteria, we will have to once again demonstrate to the organisation that we are competent in order to receive the payment.

Once again, thank you for assistance in this matter.

Kind Regards

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: [redacted]

Email: chair@gibpolfed.org

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Federation Secretary

From: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Sent: 10 July 2019 13:03
To: Federation Chairman
Cc: Federation Secretary; (RGP) Tunbridge, Wayne
Subject: RE: Operational Policing

Dear Mr Chairman,

I take note of the comments in your email and the fact that you will be attending the football match as a paid entrant. Please note that you are not operationally deployed by us and that any liability at the event or any future event rests with yourselves.

May I suggest that if you wish to engage with our officers on any matter regarding the policing of the event, this should only be done in a de-brief phase and we invite you to any debrief the commander may hold. Equally, other board members are operational, so you may wish to use their presence as police officers at the event to share with you subsequently the negatives, and of course the positives of the management of the operation.

With very best wishes

Richard

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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From: Federation Chairman <chair@gibpolfed.org>
Sent: 10 July 2019 11:59
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Cc: Federation Secretary <secretary@gibpolfed.org>
Subject: RE: Operational Policing

Mr Ullger,

Thank you for your email. Our presence at the football match yesterday was not meant to disrupt or interfere with the command structure, neither was it to meant to distract officers on points which I believe was not the case. Our presence there was to gauge at first hand the welfare and conditions of the officers policing the event. Having been involved in these events for the past twenty years I can say that the organisation is quite bad at looking after our own in these types of events. Quite frankly on this occasion the setup of the hangar for the PSU officers was pretty good, with food included. I also observed that there were rotations between the officers on static points. We identified an issue of a shortage of radios, again and this needs to be addressed asap.

I agree that maybe our presence in the hangar, and it's a maybe, was not the most appropriate but I assure you that the officers there were receptive to our brief visit, which was not at all disruptive. Whether you accept it or not this short visit and chat with the officers raises morale.

An issue which was raised by officers [after the match and in writing] was the fact that officers were being told off for arriving to work at 1340 hours when they were due to start at 1400 the reason being that they wanted these officers [PSU] deployed at 1400 hours. This might sound petty but when everyone is under stress these little things are magnified.

Let me inform you that we will both again be attending the football match on Thursday, in fact we will be watching the game and have already purchased tickets. I take on board your comments in relation to the hangar. We will be engaging with officers before entry to the match because at the end of the day they are our colleagues and we will not walk past or ignore them. To keep your mind at ease I can assure you that we will not be disrupting, unsettling or disturbing officers and if we see that they are busy and if so we will keep conversation to a minimum.

Kind Regards

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
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From: Federation Secretary <secretary@gibpolfed.org>
Sent: Wednesday, 10 July, 2019 9:44 AM
To: Federation Chairman <chair@gibpolfed.org>
Subject: Fwd: Operational Policing

FYI

Kind Regards

Leif Simpson
Secretary

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325

Centrex: [redacted]
Tel: +350 20050199
[redacted]

Email: secretary@gibpolfed.org

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-------- Original message --------
From: "(RGP) Ullger, Richard" <Richard.Ullger@royalgib.police.gi>
Date: 10/07/2019 08:42 (GMT+01:00)
To: Federation Secretary <secretary@gibpolfed.org>
Subject: Operational Policing

Dear Both,

I write to you with regards to our conversation yesterday at Victoria Stadium, during the Operational Policing of the Football Game of St. Joseph's and Rangers FC.

Although we understand that your presence at the game was well intended, you need to understand that this was an operational policing event that contained command structures. Any concerns that the officers may have had, or any operational matter that needed attention should be first addressed at a supervisory level and not with the Federation. These conversations are best had after the event where the officers can allay with you any positive/negative feedback in another environment, but not operationally. Furthermore, entering into the confines of the operational plan has implications, simply because you are not warranted to be there. Any policing deployment or logistical support would have been addressed by us and this includes the welfare of our people.

Again, we understand that your presence was well intended, but I ask you to refrain from doing it again.

With best wishes.

Richard

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Federation Chairman

Subject:	CoP - Meeting with GPF (full board)
Location:	Training Wing
Start:	Thu 13/02/2020 10:30
End:	Thu 13/02/2020 12:00
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	(RGP) PA Compol
Required Attendees:	(RGP) McGrail, Ian M.Sc (OTM); (RGP) Ullger, Richard; (RGP) Morello, Maurice (PS032); (RGP) Simpson, Leif (PC206); (RGP) Field, John; (RGP) Fernandez, Albert; (RGP) Fortuna, Kevin (PS022); (RGP) Pozo, Lee (PC155); (RGP) Gaul, Antony (PC143); (RGP) Garcia, Alfred (PC038); chair@gibpolfed.org; Federation Secretary; Command Team

[redacted]
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex [redacted] www.police.gi

[redacted] Meeting with CM – Federation

The Set Up in the UK:

Each police force in England and Wales has a Police Federation Branch. Branches are made up of local workplace representatives for that force who represent officers from the rank of constable to Chief Inspector. The Branch Council, who are elected by members from that force - workplace reps undertake their work alongside their duties as full-time police officers. The Branch Board is elected from the Branch Council, which includes a Branch Secretary, Chair and Treasurer. Branch Boards meet regularly throughout the year to consider issues that affect their electorate.

Branch Boards act as the negotiation and consultative body for 1000's of men and women when dealing with their force's Chief Constable, senior officers and the Police and Crime Commissioners, providing an effective link between officers and senior management. They deal with the day-to-day problems Federated officers face, and work to improve the status of the police service and its members.

Each Force runs the Branch Council on different terms, but by in large most Force's will have full time Chairs and Secretaries. They are funded by Forces with their wages maintained at the rank they hold in service with an honorarium linked to rank [e.g. a PC will receive £220 net per month, a Sergeant £156 and an Inspector £86 net]. The Branch Council does not incur any overtime, but manages its own TOIL. Most Federation Branches are funded with membership subscriptions and legacy funding from Forces which is about £35K/year.

The Branch Chair and Secretary from each force, as well as other individuals from protected characteristics groups, make up the **National Council**, which meets regularly throughout the year to discuss national issues. John Apter [It is only this position that receives a wage irrespective of rank similar to that of a Chief Inspector] currently chairs the National Chair.

The Local Set Up:

- The RGP Command was not involved in the creation of the new Federation. This was done between the Office of the Chief Sec and the Federation Members.
- Previously, both the Chair and the Secretary aligned themselves to the National Chair's pay conditions and represent the Force. This makes no sense when the National Chair is the only person that receives this pay in the UK and represents over 100K officers. This needs reviewing and to be aligned to individual Force set-up. This is funded by the RGP.
- They receive a yearly budget, which appears to have no head of charge or controlling officer.

- Their budget for training is £20K and there is no control over flight/hotel/travel expenditure [this should be controlled by us].

- Their relationship with the RGP Command has been one of confrontation, with little consultation on their next steps. They have been disruptive in police operations and are currently causing disaffection amongst the rank and file.

- They meet up with the AC every three weeks to discuss matters of mutual benefit.

[redacted]

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Our Ref:- IM150

7th February 2020

[redacted]

Dear Mr Chairman,

RE- Gibraltar Police Federation

I refer to my letter of the 5th February concerning the above captioned and our subsequent discussions with the GPA members.

Firstly, I would like thank you for allowing me the opportunity to answer and/or address any issues the GPA had on the subject matter. Secondly, it is important that I clarify the intention of the letter was certainly not to suggest a curtailment of the prerogative of HMGOG to create new legislation or amend existing ones on matters of the Gibraltar Police Federation (GPF) but rather to inform you of concerns if indeed any changes were being contemplated as intimated in the letter.

As discussed at yesterday's meeting with the GPA, I propose a course of action which will hopefully draw the line under the past two years of what has been a difficult working relationship between the GPF and RGP senior management – all borne out from conflicting standpoints. I am strongly of the opinion that an independent review of the functions of the GPF and their relationship with the RGP is an appropriate vehicle to address the issues concerned. I am glad that the GPA support this approach as indeed HE the Governor and the Chief Minister.

I will be meeting with the full GPF Board to advise them of these intentions and hopefully enlist their support. I would ask that we meet at a mutually convenient time/date for the GPA, GPF and RGP to discuss the terms of reference for this review and intricacies of who is best placed to conduct it. My first thoughts are that the review team should be subject matter experts in policing, preferably serving officers (a Police Federation of England & Wales chairperson of a UK police force and an officer of chief officer rank, ACC or above, who is well acquainted with federation/management matters, protocols, arrangements etc). I mention these two categories of personalities because they will no doubt have mediatory abilities to assist

us all in this journey. To keep the review impartial I further recommend that these individuals should not have had any previous relationship with either RGP senior management or GPF Board members and a declaration should be made to this effect.

I look forward to this process commencing the sooner the better.

Yours,

[redacted]

Copy to: HE The Governor
Chief Minister
Minister for Justice

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HM Government of Gibraltar

GPF Gibraltar Police Federation

JOB DESCRIPTION

Job Title:	**Chairman & Secretary Gibraltar Police Federation**
Grade:	**As substantive post**
Responsible to:	**Gibraltar Police Authority**
Accountable to:	**Gibraltar Police Authority**

1. History

In June 2018, the Gibraltar Parliament unanimously approved an amendment in the Police Act 2006 which empowered the Gibraltar Police Federation with its new Regulations in statute. The Gibraltar Police Federation is an independent body from the Royal Gibraltar Police. The officers elected, as Chairman and Secretary in the Gibraltar Police Federation remain as warranted officers' and are still accountable to the Commissioner of Police under the Police Discipline Regulations 1991. In 2016, an agreement was reached with HM Government of Gibraltar to increase the Royal Gibraltar Police's compliment by two officers on creation of the Gibraltar Police Federation. As a result, the Royal Gibraltar Police were able to release two officers to carry out their full-time roles as Chairman and Secretary of the Gibraltar Police Federation. In effect, both Convenors are supernumerary.

2. Appointment

Both Chairman and Secretary will be elected to act as convenors for the Gibraltar Police Federation by the Gibraltar Police Federation Board, at an AGM every four years as per the Gibraltar Police Federation Regulations. At the end of their term, and if not re-elected, Convenors will revert to their original post and grade.

3. Facilities Agreement

Gibraltar Police Federation Convenors will be afforded 100% facility time and will be based at their offices at Unit 1.12 Retrenchment Block. As part of an agreement reached with HM Government of Gibraltar, an annual grant will be provided to the GPF for the running of the offices and to enable Convenors and Board members to attend courses and conferences. The amount may be reviewed annually at the discretion of HM Government of Gibraltar if valid representations are made in writing to HM Government of Gibraltar that extra funds are required.

4. Terms and Conditions

Convenors will retain their HM Government of Gibraltar contracted terms and conditions while serving their elected term. Gibraltar Police Federation Convenors will receive an allowance, which will bring their earnings in line with that of a Chief Inspector in the Royal Gibraltar Police. This allowance is pensionable and will be in recognition of the additional responsibilities within the role, the need and requirement for flexible working, plus additional hours worked beyond contracted hours. Convenors will commence at the first point of the Chief Inspectors scale and will move up the scale annually on the date of their appointment as convenors.

If at the time, the officers elected to act as Chairman and Secretary, are being paid the threshold payment this will continue to be paid throughout their elected term as there has been no promotion in rank.

Whilst the HM Government of Gibraltar/Gibraltar Police Authority shall retain overall management of the convenors as employees, the Human Resources Department within the Royal Gibraltar Police will assume day to day management of the convenors in relation to annual leave, sickness, absence, etc, although annual leave will be approved in house by the convenors. All attempts should be made for annual leave not to be taken simultaneously.

The Gibraltar Police Federation convenors agreement will be up for review no later than three months before the next round of quadrennial convenor elections and will be agreed by the outgoing convenors in consultation with HM Government of Gibraltar.

5. Discipline

Both convenors remain warranted officers and still accountable to the Commissioner of Police under the Police Discipline Regulations 1991. It is impossible for Convenors to have complete independence from the Royal Gibraltar Police as the organisation can still exercise control via the disciplinary route.

As a result, even though convenors are warranted officers, any complaint made against them in regards of discipline whilst performing their Federation roles will be forwarded to the Chairman of the Gibraltar Police Authority for him to consider.

If the Chairman of the Gibraltar Police Authority is satisfied that there is a case to answer, he will advise the Royal Gibraltar Police of this. In the case that convenors actions are so grave that this merits them to face a disciplinary panel at a hearing then an independent panel will be selected by the Chairman of the Gibraltar Police Authority.

Any disciplinary action taken by the Royal Gibraltar Police in respect of the Convenors in their role as Chairman and Secretary of the Federation as from the date they have been elected until the date of this signed agreement will be referred to the GPA for them to review.

Any discipline offence[s] committed by Convenors whilst not performing their roles will still fall under the Commissioner of Police.

6. Deployment

Convenors will only be deployable by the Royal Gibraltar Police in exceptional circumstances, i.e. terrorist attack, air crash disaster.

7. Overview of Main Duties Responsibilities

As Chairman and Secretary of the Federation our role is to work independently from the Royal Gibraltar Police, ensuring that officers (up to and including the rank of Chief Inspector) are treated fairly, looking after their rights and that officers have a good and proper work life balance.

We also:

1) Advise the organisation on better efficiency in the work place.
2) Ensure officer's health and safety.
3) Look after officer's welfare, bringing matters of welfare to the attention of both the Welfare Officer and Senior Management.
4) Assist officers during any performance or conduct matters brought by management. Our role being to expedite a mutually satisfactory outcome for both the organisation and the member with a view to the quickest possible outcome at the lowest possible level. This ensures that matters are dealt with in a timely fashion thus being time and financially cost effective and those proceedings are fairly carried out.
5) When a member has been accused of a disciplinary offence, they are entitled to support and presence from a **"Fed Friend"**. This may be a convenor, member of the Federation Board or when required a solicitor.
6) The support given will range from advising the member on his/her rights, attending a management interview with them, general support, helping them to understand the view of the organisation and any possible courses of action.

7) Advise officers on their contracted terms and conditions of service and when required, address any breach of these, by the organisation.

8) Arrange legal assistance through our insurance policy when this is required by a member in relation to a disciplinary/criminal matter.

9) In the event of a major/critical incident, we would ensure that Post Incident Procedures are adhered to by allocating a trained/qualified member of the Gibraltar Police Federation to facilitate a transparent investigation.

10) To establish and maintain regular, timely and comprehensive communication, with our members.

11) We will communicate with senior management on a monthly basis ensuring dialogue and reporting on such matters as morale and efficiency.

12) We will notify Senior management of any complaints or grievances on behalf of our members and ensure that the views of members are accurately represented.

13) We will liaise with senior management in relation to Continuous Improvement and Development of the organisation and its procedures and policies.

14) Liaise with line managers.

15) We will act as a conduit to liaise with HM Government of Gibraltar Human Resources Department on behalf of our members.

16) When required, have meetings with the Chief Secretary and our HM Government of Gibraltar liaison contact Industrial Relations and MOD Advisor.

17) Liaise with the Gibraltar Police Authority (GPA) to provide feedback and input in relation to the Annual Policing Plan.

18) Negotiate with HM Government of Gibraltar any pay increases and remuneration on behalf of the members.

19) Conduct Press releases and interviews.

20) Support the establishment when and where required.

21) Mentor other Gibraltar Police Federation Board members for succession planning.

22) Undertake accredited training in courses such as Post Incident Procedures, Health and Safety, Equality and Diversity, Advocacy, Conduct and Performance to enhance the knowledge of all Board members to be able to conduct their role as professionally as possible.

23) To keep abreast of current conditions through close interaction with the Police Federation of England and Wales and the European Confederation of Police (EuroCOP).

24) To attend conferences and participate in forums.

25) Attending meetings with the Overseas Police Associations Group (OPAG) a forum initiated for discussing similar policing issues that occur within small territories such as Guernsey, Jersey, Isle of Man, Isle of Wight etc with a view to improving training and studying the possibility of secondments with similar sized police forces.

26) To constantly keep abreast of current media and community affairs.

27) To ensure that officers are working within the European Working Time Directive notwithstanding a work agreement in place.

28) To review our conditions of service, moving forward with the times in order to have a modern Police Service.

29) To organise Constables, Sergeants and Inspectors/Chief Inspectors Branch boards, Annual General Meetings and Extraordinary General Meetings.

30) To carry out ballot and elections for representatives to the board.

31) To survey members on issues requested by members of the Federation or by the Gibraltar Police Authority.

32) To arrange officer's monthly pay deductions for the Royal Gibraltar Police Finance Department.

8. Communication

1) Establish and maintain regular, timely and comprehensive two-way communication, with our members, management and any other stakeholder.

2) Respond to emails and phone calls in a timely manner.

3) Communicate with people in a manner which is consistent with their level of understanding, culture, background and preferred ways of communicating.

4) Communicate appropriately to the complexity of the context and encouraging members to communicate with us.

5) Recognise and manage differences of opinion with a view to enabling a constructive outcome to be achieved.

6) Use a range of skills to improve communication between everyone involved; being proactive in seeking out different styles and methods of communicating to assist longer term needs and aims

7) Maintain confidentiality, promoting and modelling good practice during communication.

9. Personal Development and Development of Others

1. Seek and gain access to appropriate learning opportunities for others.
2. Alert management to resource issues which affect officers in relation to health and safety, performance and morale.

10. Partnership Working

1. Understand and value others' roles and contributions.
2. Enable others to contribute effectively.

11. Leadership

1. Identify clear benefits, goals and processes for developing knowledge, ideas and work practice; and communicating these effectively to others members.
2. Anticipate, plan and advocate for personal development and change whilst acknowledging traditions and background.

3. Present recommendations for development to senior management highlighting the benefits these will bring.
4. Understand member's contributions.
5. Communicate member's views about improvements.
6. Allowing members to make suggestions on how to improve and what issues to focus on.
7. Network with others.
8. Share achievements with members.
9. Challenge, be robust and express dissatisfaction when necessary but always with respect.
10. Overcome barriers to development and constructively challenging those whose views and actions are not consistent with development.
11. Maintain stability during times of change.

This document is a description of the main duties and responsibilities that the post carries and such is not intended to be exhaustive. The job description **could** be periodically reviewed and be changed prior to Convenors elections after consultation with HMGOG.

Mr Michael Crome
For HMGoG

Darren Grech
Chief Secretary

Maurice Morello
Chairman
Gibraltar Police Federation

Federation Secretary

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 24 February 2020 15:00
To: Federation Chairman; Federation Secretary
Cc: Command Team
Subject: OFFICIAL - Terms of Reference for review

Gents –
I refer to our meeting of 13th February where we agreed to arrange for an independent review to clarify our differing standpoints which we accepted were contributing to a deteriorating relationship between the command team and yourselves. In this regard I suggest that we exchange ideas of what the terms of this review should entail before proceeding any further.

Could I ask that we exchange our respective proposed TORs by close of play this coming Thursday 27th February and then convene to meet to discuss these on Friday 28th February @ 0930Hrs.

Regards

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 28 February 2020 12:23
To: Federation Chairman; Federation Secretary
Cc: (RGP) Uliger, Richard
Subject: FW: OFFICIAL - Terms of Reference for review

Gents – many thanks for this morning's contribution to the subject matter. I am happy that we have agreed to the common terms of reference for the review. For the record these are as follows:-

"To provide independent support to the RGP Commissioner of Police and Gibraltar Police Federation (GPF) by examining and advising on the differing standpoints between the GPF and RGP of the current [Federation] model and make recommendations to afford clarification on roles of the parties to ensure a better understanding of each of their respective positions in terms of their working relationship and responsibilities"

We also mentioned that before we proceed to engage the review team that there consensus between us in accepting the outcomes and any recommendations arising from the review as binding - we agreed this.

We further agreed on the desired composition of the review team as follows;-

A UK PFEW National Board representative
A UK PFEW Regional Board Chair or Secretary
A senior police officer ACC rank or above
A senior police officer of either the States of Jersey of Police, Guernsey Police of Isle of Man Police (to bring the small island context to the review team).

Finally, we agreed that I would email HMI Matt Parr and seek his assistance in putting together the members of the said review team.

Wishing you all a good weekend
regards

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Please consider the environment before printing this email.

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 27 February 2020 14:10
To: 'Federation Chairman' <chair@gibpolfed.org>
Cc: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>; Federation Secretary <secretary@gibpolfed.org>
Subject: RE: OFFICIAL - Terms of Reference for review

Dear Mr Chairman
Many thanks for sharing the GPF's proposed TORs for the review.

Below please find mine. I have included two versions for discussion tomorrow. You will note that the final version will bear very similar resemblance to both our proposals.

Version 1
"To provide independent support to the RGP Commissioner of Police and Gibraltar Police Federation (GPF) by examining and advising on the differing standpoints between the GPF and RGP of the current [Federation] model and make recommendations to afford clarification on roles of the parties to ensure a better understanding of each of their respective positions in terms of their working relationship."

Version 2
"To provide independent support to the RGP Commissioner of Police and Gibraltar Police Federation (GPF) by examining and advising on the differing standpoints between the GPF and RGP of the current [Federation] model and make recommendations to afford clarification to each of the parties to ensure a better understanding of each of their respective positions."

Reasonable questions to ask from the review team in my view are also the following;

- The [GPF] model operated - is this like the UK National Board or more like a UK Branch Board?
- Which is the most appropriate model to apply when read with the extant regulations and the Gibraltar jurisdictional context (size of force, membership of the GPF etc) ?
- The extent the GPF should be independent from the RGP. Eg Any limitations? Governance arrangements? Communicating with Trade Unions etc
- The status of the two full time post holders of Chair and Sec *viz* their positions in the organisation & GPF. Eg Should they be the same as the other 6 GPF Board members or be treated differently *viz* code of ethics and standards of professional behaviour?
- Opinion on the ToC's as you ask in your proposal.

I look forward to a constructive meeting tomorrow.
Regards

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Please consider the environment before printing this email.

From: Federation Chairman <chair@gibpolfed.org>
Sent: 27 February 2020 12:09
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>; Federation Secretary <secretary@gibpolfed.org>
Subject: RE: OFFICIAL - Terms of Reference for review

Sir,

After consulting with the Board the following TOR have been identified:

1. Clarity on the independence of GPF
2. Discipline [acting in the capacity as convenors] which also encompasses how and if Board members can be disciplined when GPF makes a "controversial" decision as a Board
3. Deployment of convenors by SMT
4. Outreach to Media
5. Events

The Convenors TOC'S [as supplied] is what we essentially wish to achieve.

Kind Regards

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: +[redacted]

Email: chair@gibpolfed.org

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Please consider the environment before printing this email.

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 24 February 2020 15:00
To: Federation Chairman <chair@gibpolfed.org>; Federation Secretary <secretary@gibpolfed.org>
Cc: Command Team <CommandTeam@royalgib.police.gi>
Subject: OFFICIAL - Terms of Reference for review

Gents –
I refer to our meeting of 13th February where we agreed to arrange for an independent review to clarify our differing standpoints which we accepted were contributing to a deteriorating relationship between the command team and yourselves. In this regard I suggest that we exchange ideas of what the terms of this review should entail before proceeding any further.

Could I ask that we exchange our respective proposed TORs by close of play this coming Thursday 27th February and then convene to meet to discuss these on Friday 28th February @ 0930Hrs.

Regards

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 02 March 2020 14:41
To: (NO6) Crome, Michael; (NO6) Martin, Frederick
Cc: (HRD) Yeo, Collin; (PSSU) Olivero, Lyzanne; (NO6) Grech, Darren; (RGP) Ullger, Richard; Cathal Yeats (external); Darrien Ramos (external)
Subject: OFFICIAL - RGP Business case & other ancillary important matters

Dear Michael and Fred –
I hope this email finds you both well. Below please find 3 very important items which require addressing/resolving. I require your support in all of them.

[redacted]

[redacted]

GPF Chairman and Secretary (HRM & Chief Sec copied in for this item)
Since the creation of the Gibraltar Police Federation there has been a lack of clarity on how to treat the additional two constable posts established to replace the Chairman and Secretary of the GPF. The fact that one or both could be ranking officers has caused additional confusion in discussions on the established complement with HRD. In July of last year the following text was proposed:

Our understanding of what was agreed with HMGoG at the time is as follows:

1. Constable complement was increased to 183 [from 181] to allow for two officers to act as full time representatives of the GPF. The operational constable complement would therefore remain at 181 with two additional officers acting as Chair Secretary of the GPF. This complement rose to 191 operational constables + 2 for the Chairman and Secretary following the first tranche of the 25 officer uplift.

2. If a ranking officer were to be appointed as a full time GPF representative, then a promotion occurs to the equivalent rank, with corresponding promotions to all lower ranks as applicable. A constable promoted to sergeant in this context will not cause a vacancy to arise, [see point 1] in the establishment.
3. The Chairman and Secretary standing down following their term of appointment will revert to operational duties at their rank. Should a promotion have occurred to maintain complement at that rank [see point 2], and the replacing conveners be of a lower rank than the outgoing convener, then there will be a supernumerary officer at the rank of the outgoing convener until an officer of that rank retires, is promoted, or a convener is appointed of that rank, whichever is the sooner. This is the only circumstance in which a rank may have supernumerary posts in its complement arising from the appointment of conveners. Should the full time reps be replaced like for like in terms of rank, no promotions would arise.

In our current reconciliation of vacancies with HRD due to the ongoing recruitment process we are again having to clarify the position with regard to the two posts , Chairman and Secretary. HRD say they have nothing in writing to support the argument I have posed, on indeed the fact that our complement should always be 191 constables without counting the Chairman and Secretary, regardless of their rank.

It would be very helpful if you [Michael] could advise HRD along the lines of what I have described above.

In closing, I more than happy to meet and discuss any of the above items at a mutually convenient time.

Best regards
Ian

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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PO Box. 1325
Gibraltar
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Tel: +350 200 50199
Centrex: [redacted]
Email: chair@gibpolfed.org

Subject – Inspector/Chief Inspectors letter to GPF

Date: 07/02/2020

Dear Mr Fernandez,

Thank you for your letter received on 4th February 2020.

Let me put you at ease that the Gibraltar Police Federation did not endorse the Panorama article when it reposted this on Facebook. The point of our post was to highlight how independent the GPF was when their Chairman and Secretary were being investigated when acting in their capacity as convenors.

We spoke at the Board meeting about the wording that was used in the caption to introduce the Facebook post which we agreed could have been worded differently. It was also agreed to share with other Board members any post that could be controversial, before uploading to Facebook. This however does not mean that we will not be challenging the organisation when necessary.

The Panorama article makes mention of HE, HMGoG and the GPA. The GPF does not agree with any of the comments made against the above. In fact, a couple of days later we had a meeting which had already been scheduled with the GPA. The Panorama article was not on the agenda but I thought it appropriate to bring the matter up and reinforce the fact that we did not endorse the comments of the Panorama. Our relationship with the GPA is very good, and they are 100% supportive of the GPF.

Our relationship with HMGoG is also very good, who I can confirm are 100% behind the GPF.

I must reinforce again that the GPF did not at any point approach the Panorama newspaper. It was the organisation that fed the information to the Panorama and as a result the article was published.

You make mention in your letter to "airing dirty laundry" in public and keeping things "in house". Unfortunately, sometimes matters have to be made public, in order to get results. The GPF survey that has been shared with the media for the past two years is a clear example of this. As a result of this going public, and external pressures, we are finally seeing some of the issues raised by our members in the survey being dealt with.

The fact that we have aired this matter in the media has also given us the unexpected support of the three local trade unions which I have never seen before in my policing career.

Their may be a perception between members that the relationship between the GPF and Command is not good and things are not progressing. This is not true and I can inform you that we are working closely with Command on issues such

as morale, bullying, the grievance procedure, wellbeing, and the conditions of service, which needs to be revamped completely.

You did not mention in your letter, but we did discuss in the Board meeting that the Inspector/ Chief Inspectors felt they were being "forgotten" and "not backed up". This cannot be further from the truth. It is difficult to keep all members happy but both myself and the Secretary strive to work for all members not only for the Constable and Sergeants rank.

If there are any Inspectors that wish to speak to me directly, you can inform them that they can call me 24/7, I am always open to any suggestions that might improve the way that we do our business.

For sake of clarity, I would like to inform the Inspectors/ Chief Inspectors that in my nearly 21 years of service, I have never been disciplined. In my term as Chairman, I have received a written warning for an exchange of emails with senior command in relation to the Gift fund and two reg 9 notices, the last one after the latest Facebook post.

The Secretary also has an unblemished discipline record in his years as a police officer. During his term as Secretary, he has also received a written warning and has been served with two reg 9 notices.

When you meet up at a later date and discuss the matter with the Inspectors / Chief Inspector I would be grateful to know what the general feeling is amongst them in relation to this.

Yours sincerely

Maurice Morello
Chairman

Inspector Albert Fernandez
Operations Division
Specialist Ops Inspector
GPF CI & Insp representative
12th February 2020

Dear Mr Chairman & Secretary.

References –

1. Our letter dated the 4th February 2020
2. Your letter dated the 7th February 2020.

Thank you for your prompt response to our letter.

Yesterday afternoon we had another meeting with our branch members to discuss the contents of your letter.

The following was a consensus from all present;

- The Chairman's explanation stating that the Face book post did not endorse the Panorama article was discussed at length.
- There were differing opinions from those present but it was accepted that it may have been a matter of perception in which case negative inferences could be drawn. We did however welcome the fact that any further posts deemed to be potentially controversial will be shown to the board members before they are made public. This was viewed as a satisfactory outcome and should prevent further misunderstandings.

- The branch were glad to hear that you maintain a good working relationship with the HMGOG and GPF. We would like to hear of more positive interactions with the RGP SMT and for these to be cascaded to our front ranks as they appear to have different perceptions.

- With regards to any current disciplinary procedures you and the Secretary are undergoing, the branch felt that we should not be commenting on these sensitive investigations. We have to remember that we fall under the codes of ethics and it would not be right to engage with opinions.

To conclude, the branch are satisfied with the Chairman's response and hope that this will taken as an opportunity to move forward in a positive manner. Should any further issues arise from any similar occurrences we would reserve our right to address them accordingly.

Regards.

Albert Fernandez
Police Inspector
Special Operations

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Criminal Justice Unit – Planning, Development and Support Division

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Dear Mr Chairman & Secretary

I write to you as the representative of the Chief Inspectors and & Inspectors rank within The Gibraltar Police Federation.

As you are aware and as a consequence of a recent post on Facebook by yourselves a meeting of the above mentioned ranks was called due to concerns regarding the board's current attitude and behavior. This was raised by several members. Of the 13 officers eligible to attend 12 were in attendance. A number which demonstrates the strength of feeling with regards to this subject. The only Inspector not in attendance was Inspector Olivera, who had been spoken to prior to the meeting and was in agreement with the suggested approach.

With regards to the Post on the GPF Facebook page the members felt that the endorsement of the Panorama Article was not appropriate for the following reasons:

1. The article does not represent the views of the membership and is in itself written in a divisive and contentious manner making negative references to The Governor, HM Government, GPA and the Commissioner.
2. The comment posted by the Chairman and & Secretary does not represent the view of the whole board who were also not consulted but rather shows a personal view held by them.
3. The post refers to an on-going investigation which should not be commented on in a public forum until such time as it is dealt with.

The current program of confrontation, especially in such a public forum is not conducive to achieving the goals of either the GPF or RGP. It only serves to alienate those entities which we have to work with on a daily basis such as the GPA, HE and
HM Government.

The Inspectors rank finds itself in the unique position of being represented by the GPF whilst at the same time being part of the management structure and it is felt that the GPF Board is failing to recognize this when making decisions which may lead to conflict with the officers they manage.

Finally the members feel that these matters should be dealt with "in-house" and that going public and "airing our dirty laundry" is not appropriate. There is enough criticism of the police as it is without generating more ourselves. It also has the effect of causing disaffection within the ranks bringing officers into conflict with each other and empowering those officers whose only goal is to cause problems for the service.

It is the hope of the members that this current conduct gives way to one of reconciliation so that we can move past this juncture and move forward with improving things for all the officers of the RGP.

I look forwarded to hearing your thoughts on the matter and addressing the above issues.

Albert Fernandez
Police Inspector
Special Operations

Appendix B

ROYAL GIBRALTAR POLICE
GIFT/BENEVOLENT FUND
RULES

ROYAL GIBRALTAR POLICE GIFT/BENEVOLENT FUND RULES

1. NAME

The name of the fund shall be the Royal Gibraltar Police Gift/Benevolent Fund hereinafter referred to as the "Fund".

2. OBJECTS

Benevolent Fund

To provide support to members of Royal Gibraltar Police Benevolent Fund their spouse/partner and children.

Gift Fund

To provide a retirement gift on behalf of all members of Royal Gibraltar Police Gift Fund as stipulated in 5(f).

3. MEMBERSHIP

(a) Membership of the Fund shall be confined to regular paid up serving members, officers and support staff (Support Staff members' contributions will be at a reduced rate, as they will be excluded from the Gift Fund).

(b) A member may resign membership on giving at least 28 days written notice of intention to resign to the Secretary of the Fund.

(c) There shall be no refund of contributions on cessation of membership.

4. MANAGEMENT

(a) The Fund shall be managed by a Committee consisting of a Chairman, Treasurer and Secretary and the appointed representatives who shall be subscribing members.

(b) The Chairman will be the Superintendent Support. The Welfare Officer, the Executive Officer and Administrative Officer Corporate Development, the Chief Inspector and Inspector Professional Standards shall be appointed members. The Chairman will appoint a Secretary and Treasurer from the appointed members.

(c) The Secretary/Treasurer shall keep a record of the business transacted and generally act on behalf of the said committee in all matters concerning the affairs of the Fund. Proceedings of Committee meetings shall be recorded.

(d) Any member of the Fund may address suggestions or complaints in writing to the Secretary of the Fund.

5. CONDUCT OF BUSINESS

(a) No payment from the Fund shall be made unless it has been authorised by at least two members.

(b) An independent auditor shall be appointed annually by the Management Committee to audit the accounts of the Fund.

(c) The Treasurer shall receive all income and keep a record showing the income and expenditure of the Fund and shall prepare an Annual Balance Sheet.

(d) Monies or dividends received by the Treasurer for the Fund shall be paid into the accounts of the Fund in the name of the Royal Gibraltar Police Gift/Benevolent Fund.

(e) The financial year of the Fund shall end on 31st December.

(f) Gift Fund Entitlements

These entitlements paid to the departing members shall be at a rate agreed annually at the Annual General Meeting.

5 to 15 years
Appropriately engraved Police related memento or financial contribution towards purchase of other item requested by retiring officer *(not to exceed the amount paid or £85 whichever is the less amount.)*

16 to 20 years
Appropriately engraved Police related memento or financial contribution towards purchase of other item requested by retiring officer *(not to exceed the amount paid or £120 whichever is the less amount.)*

21 years to Full Service
Appropriately engraved Police related memento or financial contribution towards purchase of other item requested by retiring officer *(not to exceed the amount paid or £190 whichever is the less amount.)*

Retirement Party
To members with over 20 years service a £100 Cash contribution to a retirement party if held at the IPA Club and all members of the Service are invited. This is paid directly to the IPA Club.

6. CONTRIBUTIONS BY MEMBERS

The contributions to be paid to the Fund by members shall be at a rate agreed annually at the Annual General Meeting. Support Staff members' contributions will be at a reduced rate in view of their exclusion from the Gift Fund. These contributions shall be deducted from pay.

7. INCOME FROM OTHER SOURCES

In addition to such contributions the income shall include any subscription, legacy, gratuity, grant, interest, or any other source of revenue. Donations from members of the public may be accepted at the discretion of the Chairman or other member designated by him. Donations may also be accepted from sources within the police service for credit to the Fund. An official receipt will acknowledge all donations.

8. ALTERATION OF RULES

Any proposed alteration in the Rules regulating the Fund, not being an alteration which is covered by Rule 6 hereof, shall be decided by a majority of the members attending and voting at the Annual General Meeting or Special Meeting. It shall not be competent to alter any Rule unless written notice has been sent to the Secretary at least 21 days before the meeting and at least 14 days notice of intention to propose such alteration has been circulated to the members of the Fund.

We certify that this is a true copy of the Rules of the Royal Gibraltar Police Gift/Benevolent Fund, which were adopted at a Special Meeting of the Fund on 6 October 2009.

(Signed), Chairman

(Signed), Secretary

Federation Secretary

From: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Sent: 06 September 2019 19:33
To: Federation Chairman
Cc: Federation Secretary
Subject: Re: BENEVOLENT FUND

Dear Mr Chairman,

Thank you for your email regarding the fund.

I think you are well aware about the rules and conditions set for the fund, as I shared this with you some time ago. We, as you did, knew that this was not going to be favoured by the officers, but as I have told you time and time again, the command have decided to put an end to a fund that was unjustly set up some 40 years ago.

There is little that we can do other than closing the fund and returning monies paid in by the officers as stipulated by the rules. As I have told you before, there are not enough monies to give to the officers what they have exactly put into the fund, so I have no idea what you wish to speak to me about.

I see that in you email to your members that you make no mention of the rules for the fund that you have already seen, but instead you say, and I quote...

'We all appear to be short changed. I will be requesting a meeting with Mr Ullger to try and sort out the matter asap.'

This you know is a misleading statement that you have pushed out to the officers, as you have very cleverly omitted to say that there are rules governing the fund and that the officers were only entitled to specific sums appertaining to their years of service.

Best wishes.

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
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On 6 Sep 2019, at 13:46, Federation Chairman <chair@gibpolfed.org> wrote:

> Good afternoon Mr Ullger
>
> I hope you are enjoying your days off in Portugal. We have been in email correspondence over the past few weeks in relation to the winding down of Benevolent Fund and how the monies are to be distributed.
>
> As I could well foresee members are not happy with the amounts they are to receive and quite rightly so.
>
> Grateful if we could meet up next week to discuss the matter.
>
> Kind Regards
>
> <image001.gif>
>
> Maurice Morello
> Chairman
>
> Gibraltar Police Federation
> Unit 1.12 Retrenchment Block
> PO Box 1325
> Gibraltar
> GX11 1AA
>
> Centrex: [redacted]
> Tel: +350 20050199
> Mob: [redacted]
>
> Email: chair@gibpolfed.org
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Federation Secretary

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 08 September 2019 13:54
To: Federation Chairman; Federation Secretary
Cc: (RGP) PA Compol; Command Team
Subject: OFFICIAL - Gift fund

Dear Chair & Secretary -

I am unformed that some members of the Gift Fund are not in agreement with the decision to close the said fund & particulary with the intended arrangements to split the monies in the fund.

There are probably many arguments for and against the decision coupled with some lack of understanding of the issues at stake and which have led to the decision taken.

I think that we have to try and share some common understanding so that contributors of the fund get the information accurately with no distortions or the need for members to cast nasty aspersions. To this end I would like to address the whole of the GPF Board on Thursday 12th Sept @1030hrs on this matter specifically. It will serve as an opportunity to listen to the specific concerns and hopefully either allay these or provide any answers to their questions .

Grateful if you could acknowledge acceptance.

Regards
ComPol

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Federation Secretary

From: (RGP) Simpson, Leif (PC206) <leif.simpson@royalgib.police.gi>
Sent: 09 September 2019 09:44
To: Federation Chairman; Federation Secretary
Subject: FW: The Gift Fund

From: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Sent: 07 September 2019 13:37
To: (RGP) All Police Staff <AllPoliceStaff@royalgib.police.gi>
Cc: Command Team <CommandTeam@royalgib.police.gi>
Subject: The Gift Fund

Dear All,

I have found it necessary to write to you all regarding the Gift Fund, in response to the RGPF's email, as it would appear that there are some, if not, many of you, disappointed with the funds you are due to receive from the winding up of the Gift Fund. Please be rest assured that this disappointment is shared by the Commissioner and the Command, and it is for this reason why we thought it was necessary to close the fund.

The fund was created maybe some 40 years ago, or even more, with a set of rules that governed it, hence the reason why after having completed so many years, and you were due to retire, that you received X amount. The fund as contributions were being constantly used for gifts for retiring colleagues who contributed to the fund. The argument that members should receive the amount of money they have contributed is flawed, as part of those contributions have been spent on presents for retiring colleagues". We acknowledge that this may not appease some of the members of the fund, but this has been a practice that has been happening for years. We have therefore prevented new entrants joining and sought the best and most fair way to wind up the fund, with a decision having been made to do so as explained in Force Orders on Thursday.

Returning to the email sent by the Chairman of the Federation yesterday, I think it is important that I inform you that we had already discussed the matter with him and that he was provided with the rules of the fund. He knew very well that the intention of the Command was to do a right from something that had been managed wrongly by others for many years and that we wanted to prevent it happening any further. His insinuation that he would seek a meeting to discuss this is misleading, as we had already done so. He also knew that there was little that could be done other than wind it up and that the only funds available was the funds that could be provided to officers as stipulated by the rules.

Trust us, that this was done out of the best of intentions, so much so that the command have even donated their contributions to the charity committee. I am more than happy to discuss this with any of you who need further clarification. Remember, we run an open door policy and we will make time to see any of you who wish to chat about the matter. Please also remember that this is something that the Commissioner has inherited and he is trying to make a right out of it.

Enjoy your weekend and stay safe.

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]



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Federation Chairman

From: Federation Chairman
Sent: 13 September 2019 15:56
To: (RGP) McGrail, Ian M.Sc (OTM)
Cc: Federation Secretary
Subject: AAP report/ Benevolent fund

Sir,

I have had several officers approach me regarding the final AAP report and whether Command are going to share this document with the officers.
Will you be sharing this document with them?

On another note I have read your latest email where you make reference to several remarks made on a WhatsApp chat. Whilst I am not privy to what has been said here [and I am not defending their actions or comments] this has all been brought upon by the fact that the winding up of the fund had not been properly explained to officers.

In fact, if the closing of this fund would have been explained properly from the start as I have just done with facts and figures I assure you that most officers would have accepted this explanation.

We were informed that the fund was closing down as this was now untenable. Officers were then informed that they would receive much less than they had contributed. What do you think people thought? I am not trying to justify anyone's comments but simply putting forward that the communication between Command and officers in this matter has been poor and as a result has given rise to certain comments.

You highlight the fact **"the administrator of which is the GPF Secretary"** of the group as if he was responsible for the comments. This is simply not acceptable. But you then thank him for dealing with the matter people privately. It appears that at every possible opportunity you try and discredit the Federation or its convenors.

You may not think so but the Federation is here to help, and I find myself in the enviable position of getting the best deal for our members whilst making others accountable for their actions.

Enjoy your weekend.

Kind Regards

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199

Mob: +[redacted]

Email: chair@gibpolfed.org



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Please consider the environment before printing this email.

From: Federation Chairman <chair@gibpolfed.org>
Sent: 13 September 2019 12:56
To: (RGP) All Police Staff <AllPoliceStaff@royalgib.police.gi>
Cc: Federation Secretary <secretary@gibpolfed.org>
Subject: BENEVOLENT FUND

Dear All,

I would just like to clear up some issues in relation to the Gift & Benevolent Fund, which has been the subject of much conversation over the past few days.

The Gift fund was started in the 1950/1960's where an officer would contribute 50 pence towards his final retirement gift.

In October 2009, it was ascertained that the fund could no longer continue with the 50 pence contribution as the fund was in the red so a decision was taken to increase the contribution to one pound a month. [see table below]. These contributions commenced as from November 2009.

2009	**-748.99**
2010	1134.84
2011	1748.89
2012	2386.97
2013	3399.01
2014	3726.35
2015	4667.23
2016	5217.58
2017	7575.64
2018	8418.13
2019	8919.45

These were published in Force Orders 43/09 on 04/11/2009 with the rules been published in Appendix B with a reminder being again issued in Force Orders 44/09 [find rules attached]

I have personally gone through the figures calculating the amounts officers have put into the fund up to 2009 and 2009-2019. If any officer wishes to see what they have contributed, please get in contact with Accounts Department who will be more than happy to show these to you.

So in essence, the total contributed into the fund from 2010 onwards is **£17760**. You will see that the funds held are £8919.45.

The £8841 difference in the total contributed of **£17760** are the gifts or cheques, which the officers have received when retiring over the years. Again, I have compared the above mentioned figure to all officers who have retired from 2010 onwards and therefore, I can allay any fears from officers that any funds are missing.

The funds will therefore be paid out as per the rules.

If any of you have any further questions you can contact me.

Kind Regards

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
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Email: chair@gibpolfed.org



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Please consider the environment before printing this email.

Federation Secretary

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 13 September 2019 14:28
To: Federation Chairman; (RGP) All Police Staff
Cc: Federation Secretary
Subject: RE: BENEVOLENT FUND

Follow Up Flag: Follow up
Flag Status: Flagged

Dear all –

The Command Team and I are pleased that common sense has prevailed in accepting the manner in which the winding up of the Gift/Benevolent Fund will be carried out. Like explained by the GPF Chair in the below e-mail and in the Force Orders 35/19 and the email circulated by the Assistant Commissioner to all staff, the fund was not a savings fund and any payments made from it were those precisely for what the fund was created for – to purchase gifts for retiring contributing members – bank charges were also debited from the account.

Having explained the above I will address the totally unnecessary and unethical remarks posted by some constables in a 'Whatsapp' constables forum the administrator of which is the GPF Secretary. The defamatory and insulting remarks suggesting that the volunteers and management who have been running the fund have defrauded you, the members, is simply unacceptable and unbecoming behaviour of police officer. Parts of this chat were not conducive to good discipline and contrary to our code of ethics. Importantly so, the Command is pleased that the administrator (GPF secretary) shares these same sentiments and has stated that those officers who over stepped the mark have been messaged in private to call them to order.

I take this opportunity to thank those officers and support staff members (past and present) who have voluntarily assumed added responsibilities of keeping the fund alive for so many years.

A notice will be published advising contributors of the method of returning the funds as stipulated in the rules.

Wishing you all a good weekend – and for those working, please stay safe.

Best wishes

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Please consider the environment before printing this email.

From: (RGP) Ullger, Richard [mailto:Richard.Ullger@royalgib.police.gi]
Sent: 20 August 2019 16:15
To: Federation Chairman <chair@gibpolfed.org>
Cc: (RGP) Ramos, Darrien <darrien.ramos@royalgib.police.gi>; (RGP) Posso, Angela <Angela.Posso@royalgib.police.gi>; (RGP) Perez, Roy <Roy.Perez@royalgib.police.gi>
Subject: Gift and Benevolent Fund

Dear Maurice,

Over the years officers have been contributing towards the Gift and Benevolent Fund, with the latter also being supported by our Support Staff. The funds have recently been managed by the Federation, but at a Command meeting we decided to do away with both funds and wrap them up, simply because of the risks they carry, the funds were created in years when financial hardship was more prevalent, but more importantly, no one wants to really manage them any longer. We will now be ceasing contributions as from next month.

It is therefore our intention to reimburse contributors of the Gift Fund in accordance with the rules.

5 to 15 years of contribution £85.00
16 to 20 year of contribution £120.00
21 years to full service contribution £190.00

Again, in accordance with the rules, officers with less than 5 years' service are not entitled to receive any funds, but because it was deemed that officers contributed towards their final retirement gift and we are now doing away with it, we have decided to cap this at £28.00 up to 5 years, or return their contribution, but not exceeding £28.00 for those officers not having attained 5 years.

The Command [CI and above] have all agreed to donate the £190 they would each be getting to the Charity Committee and we will be offering the rank and file whether they wish to do the same. This of course is optional, with no obligation whatsoever, but it is needless to say that we would already be donating £1900.00.

The funds appertaining to the Benevolent Fund will be transferred to the Charity Committee account and will be used solely for donations by the committee. They will now manage Benevolent issues as they already do.

Happy to discuss this with you before we announce it in Force Orders this week.

Best wishes

Richard

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Please consider the environment before printing this email.

Federation Secretary

From: Federation Chairman
Sent: 29 August 2019 15:33
To: (RGP) Ullger, Richard
Cc: Federation Secretary
Subject: RE: Gift and Benevolent Fund

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr Ullger

Thank you for your email.

The winding down of the benevolent fund is an issue that will be controversial. I agree that the funds objective which was to give a parting gift to the officer who was about to retire is now obsolete in this day and age.

However, I still believe that the manner in which this intends to be done is not right. You rightly say that the Fund was governed by rules and I have these and have read them. I do not believe the organisation has ever followed any of these rules. I do not believe any serving or retired officer for that matter has ever caught sight of these rules because if they would have, no one would have ever signed up for this.

So to now say that you will be compensating the officers as per rules is simply unacceptable.

If the fund is to be winded down/closed I will be asking for transparency in relation to the accounts. I would like to know:

Who the Chairman/Secretary and Treasurer for the fund are. As per rules the Chairman is the Superintendent in charge of Support. The Welfare Officer, EO and AO of Corporate Development together with the CI and Insp of PSD should all sit on the board. The Chairman should have appointed a Secretary and Treasurer from this board.

What bank account is the money held in (interest account?) and how much money is held in the account.

Surely officers cannot receive half the amount of money that they put in. There has to be money left over.

I am happy to discuss matter but it appears of late that you have been extremely busy and we have not been able to meet as frequently as we would have liked.

Kind Regards

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325

Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: +[redacted]

Email: chair@gibpolfed.org

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Please consider the environment before printing this email.

From: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Sent: 29 August 2019 10:09
To: Federation Chairman <chair@gibpolfed.org>
Cc: Federation Secretary <secretary@gibpolfed.org>
Subject: RE: Gift and Benevolent Fund

Dear Mr Chairman and Secretary,

Last week I emailed you regarding the Command's decision to do away with the Gift and Benevolent Fund. This was done with a view of sharing it with you both before coming out externally and officially to the workforce. It is now my information that the rank and file are fully aware of it, as officers have been personally asking Finance what they will be receiving when the accounts are closed. I refer to the last sentence of my email to you on the 20th of Gust 2019...

'Happy to discuss this with you before we announce it in Force Orders this week.'

In the future, I respectfully ask that you respect the Commands decision to inform officers officially through the proper means, rather than through word of mouth from the Federation. This provides a very unprofessional communication forum and has the potential of misinforming people, allowing them to make their own judgements without being informed properly.

Please remember that the Federation is consulted by the Command on different issues we are addressing internally, so as to ensure that we work together, but it does not expect the Federation to by the speaker on behalf of the Command. Communicating to our work force is key and therefor an element of trust and respect is expected when matters are discussed amongst ourselves.

Best wishes

Richard

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Please consider the environment before printing this email.

From: Federation Chairman <chair@gibpolfed.org>
Sent: 21 August 2019 09:59
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: RE: Gift and Benevolent Fund

Dear Richard

Thank you for your email.

Whilst the winding down of the gift and benevolent fund by the organisation is inconsequential to the GPF I have to bring to your attention that the funds have never been managed by the Federation. The only role of the Federation has in this matter is to produce an Excel document with all deductions from officers at the end of each month which includes the £1 contribution towards the gift fund.

A point that will surely raise eyebrows will be how you intend to reimburse officers.

5 to 15 years of contribution £85.00
16 to 20 year of contribution £120.00
21 years to full service contribution £190.00

If for example I have contributed £243 over the years towards the gift fund I expect that these monies are reimbursed in full.

If you proceed to reimburse officers as above I strongly suspect that there will be monies left unaccounted for in the gift account.

You state that this is as "per rules" and I now have to ask the question, what rules?

I am sure these rules do not cater for the "winding down" of the fund and the rules will only apply to officers that are retiring. I would be grateful if you could please show me this document.

A question that will be asked by members will be who has been managing the fund over the years? what account were the monies placed in? was there any interest from the monies? how much money is presently in the account? and how much is left over after payment is made to the officers?

Kind Regards

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: [redacted]

Email: chair@gibpolfed.org

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Please consider the environment before printing this email.

From: (RGP) Ullger, Richard [mailto:Richard.Ullger@royalgib.police.gi]
Sent: 20 August 2019 16:15
To: Federation Chairman <chair@gibpolfed.org>
Cc: (RGP) Ramos, Darrien <darrien.ramos@royalgib.police.gi>; (RGP) Posso, Angela <Angela.Posso@royalgib.police.gi>; (RGP) Perez, Roy <Roy.Perez@royalgib.police.gi>
Subject: Gift and Benevolent Fund

Dear Maurice,

Over the years officers have been contributing towards the Gift and Benevolent Fund, with the latter also being supported by our Support Staff. The funds have recently been managed by the Federation, but at a Command meeting we decided to do away with both funds and wrap them up, simply because of the risks they carry, the funds were created in years when financial hardship was more prevalent, but more importantly, no one wants to really manage them any longer. We will now be ceasing contributions as from next month.

It is therefore our intention to reimburse contributors of the Gift Fund in accordance with the rules.

5 to 15 years of contribution £85.00
16 to 20 year of contribution £120.00
21 years to full service contribution £190.00

Again, in accordance with the rules, officers with less than 5 years' service are not entitled to receive any funds, but because it was deemed that officers contributed towards their final retirement gift and we are now doing away with it, we have decided to cap this at £28.00 up to 5 years, or return their contribution, but not exceeding £28.00 for those officers not having attained 5 years.

The Command [CI and above] have all agreed to donate the £190 they would each be getting to the Charity Committee and we will be offering the rank and file whether they wish to do the same. This of course is optional, with no obligation whatsoever, but it is needless to say that we would already be donating £1900.00.

The funds appertaining to the Benevolent Fund will be transferred to the Charity Committee account and will be used solely for donations by the committee. They will now manage Benevolent issues as they already do.

Happy to discuss this with you before we announce it in Force Orders this week.

Best wishes

Richard

Richard Ullger OTM, MSc
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Please consider the environment before printing this email.

Federation Chairman

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 15 September 2019 13:49
To: Federation Chairman
Subject: Re: AAP report/ Benevolent fund

Dear Mr Chairman -
Regarding your below email, please come to my office tomorrow (Monday 16th Sept) @ 0900hrs.
Rgds
ComPol

Sent from my iPhone

On 13 Sep 2019, at 15:56, Federation Chairman <chair@gibpolfed.org> wrote:

> Sir,
>
> I have had several officers approach me regarding the final AAP report and whether Command are going to share this document with the officers.
> Will you be sharing this document with them?
>
> On another note I have read your latest email where you make reference to several remarks made on a WhatsApp chat. Whilst I am not privy to what has been said here [and I am not defending their actions or comments] this has all been brought upon by the fact that the winding up of the fund had not been properly explained to officers.
>
> In fact, if the closing of this fund would have been explained properly from the start as I have just done with facts and figures I assure you that most officers would have accepted this explanation.
>
> We were informed that the fund was closing down as this was now untenable. Officers were then informed that they would receive much less than they had contributed. What do you think people thought? I am not trying to justify anyone's comments but simply putting forward that the communication between Command and officers in this matter has been poor and as a result has given rise to certain comments.
>
> You highlight the fact **"the administrator of which is the GPF Secretary"** of the group as if he was responsible for the comments. This is simply not acceptable. But you then thank him for dealing with the matter people privately.
> It appears that at every possible opportunity you try and discredit the Federation or its convenors.
>
> You may not think so but the Federation is here to help, and I find myself in the enviable position of getting the best deal for our members whilst making others accountable for their actions.
>
> Enjoy your weekend.
>
> Kind Regards
>
> <image001.gif>

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: +[redacted]

Email: chair@gibpolfed.org

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Federation Chairman

From: Federation Chairman
Sent: 15 September 2019 17:28
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: Re: AAP report/ Benevolent fund

Sir

Your assumption is wrong. I will be attending a scheduled meeting with our Federation business relationship manager at Natwest.

Kind Regards

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325

Centrex: [redacted]
Tel: +350 20050199
Mobile: +[redacted]

Email: chair@gibpolfed.org



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Please consider the environment before printing this email.

On 15 Sep 2019, at 17:21, (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi> wrote:

Mr Chairman - Is it a question that you are on approved leave, which is why you have an appointment with your bank at 0900hrs tomorrow and cannot attend my office? I am assuming you are attending the bank for a personal matter?

ComPol

Sent from my iPhone

On 15 Sep 2019, at 17:09, Federation Chairman <chair@gibpolfed.org> wrote:

> Sir
>
> I have a bank appointment. I'm sorry I won't be attending..
>
> Kind Regards
>
> ---
>
> Maurice Morello
> Chairman
>
> Gibraltar Police Federation
> Unit 1.12 Retrenchment Block
> PO Box 1325
>
> Centrex: [redacted]
> Tel: +350 20050199
> Mobile: +[redacted]
>
> Email: chair@gibpolfed.org



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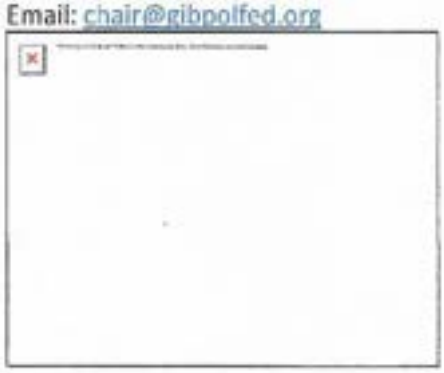
On 15 Sep 2019, at 14:46, (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi> wrote:

> Mr Chairman -
> Unless you have a work commitment which you cannot reschedule I am requesting that you attend my office at the stipulated time.
> Rgds
> ComPol
>
> Sent from my iPhone
>
> On 15 Sep 2019, at 14:43, Federation Chairman <chair@gibpolfed.org> wrote:
>
> > Sir
> >
> > I am unable to meet with you at this time tomorrow
> >
> > Kind Regards
> >
> > ---
> >
> > Maurice Morello
> > Chairman
> >
> > Gibraltar Police Federation
> > Unit 1.12 Retrenchment Block
> > PO Box 1325
> >
> > Centrex: [redacted]
> > Tel: +350 20050199
> > Mobile: +[redacted]
> >
> > Email: chair@gibpolfed.org
> >
> > 
> >
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On 15 Sep 2019, at 13:48, (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi> wrote:

> Dear Mr Chairman -
> Regarding your below email, please come to my office tomorrow (Monday 16th Sept) @ 0900hrs.
> Rgds
> ComPol
>
> Sent from my iPhone
>
> On 13 Sep 2019, at 15:56, Federation Chairman <chair@gibpolfed.org> wrote:
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In fact, if the closing of this fund would have been explained properly from the start as I have just done with facts and figures I assure you that most officers would have accepted this explanation.

We were informed that the fund was closing down as this was now untenable. Officers were then informed that they would receive much less than they had contributed. What do you think people thought? I am not trying to justify anyone's comments but simply putting forward that the communication between Command and officers in this matter has been poor and as a result has given rise to certain comments.

You highlight the fact **"the administrator of which is the GPF Secretary"** of the group as if he was responsible for the comments. This is simply not acceptable. But you then thank him for dealing with the

matter people privately.
It appears that at every possible opportunity you try and discredit the Federation or its convenors.

You may not think so but the Federation is here to help, and I find myself in the enviable position of getting the best deal for our members whilst making others accountable for their actions.

Enjoy your weekend.

Kind Regards

<image001.gif>

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12
Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: [redacted]
Tel: +350 20050199
Mob: +[redacted]

Email: chair@gibpolfed.org

<image002.jpg>

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ROYAL GIBRALTAR POLICE
Professional Standards Department
Planning, Development & Support Division
Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 20072500

Date: 28/01/2020
Ref: Int. 25/19

CONFIDENTIAL

To: Police Constable 206 Simpson

Alleged Offences Against Discipline

Regulation 9 Police (Discipline Regulations) 1991

This notice has been issued to inform you as soon as is practicable that an allegation has been made.

Discreditable Conduct. Contrary to Regulation 1 of Schedule 1 of the Police (Discipline) Regulations 1991.

Information for Accused Officer:

It is alleged that on a 27th January 2020, as a serving member of the Royal Gibraltar Police, you acted in a manner which would reasonably likely bring discredit upon the reputation of the Royal Gibraltar Police, namely by publishing or allowing to be published via Facebook and Twitter, comments which were disrespectful towards the Commissioner of Police and the Royal Gibraltar Police, contrary to the Police Code of Ethics.

This notice has been issued to inform you, at the earliest possible stage that an allegation has been made and an investigation commenced.

You are not obliged to say anything concerning the above matter but you may, if you so wish, make an oral or written statement to the investigating officer. This statement may be used in any subsequent disciplinary proceedings.

Whatever the outcome of the investigation, you will be informed of the result and you should also be informed if there is likely to be any undue delay in completing the procedure.

(SIMPSON)
Signature of Investigating Officer

28/01/2020
Date

I acknowledge that I have been served with the original of this document.

Signed

Date

Refused to sign as Regulation 9 notice was addressed to them as Police officer and act as conveyance of the Federation (SIMPSON)

ROYAL GIBRALTAR POLICE
Professional Standards Department
Planning, Development & Support Division
Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 20072500

Date: 10/10/2019
Ref: Int. 25/19

CONFIDENTIAL

To: Police Constable 206 Simpson

Alleged Offences Against Discipline

Regulation 9 Police (Discipline Regulations) 1991

This notice has been issued to inform you as soon as is practicable that an allegation has been made.

Discreditable Conduct. Contrary to Regulation 1 of Schedule 1 of the Police (Discipline) Regulations 1991.

Information for Accused Officer:

It is alleged that on a date unknown between the 30th of September and the 9th of October 2019, as a serving member of the Royal Gibraltar Police, you acted in a manner which would reasonably likely bring discredit upon the reputation of the Royal Gibraltar Police, namely by encouraging Leo Olivero, a writer for the Panorama (Gibraltar) newspaper, to publish negative press regarding the Command Team of the Royal Gibraltar Police.

This notice has been issued to inform you, at the earliest possible stage that an allegation has been made and an investigation commenced.

You are not obliged to say anything concerning the above matter but you may, if you so wish, make an oral or written statement to the investigating officer. This statement may be used in any subsequent disciplinary proceedings.

Whatever the outcome of the investigation, you will be informed of the result and you should also be informed if there is likely to be any undue delay in completing the procedure.

Signature of Investigating Officer — Date: 10/10/2019

I acknowledge that I have been served with the original of this document.

Signed — Date: 10/10/2019

The summary is incorrect this is not exactly like it was said and a simple misunderstanding is what I see for not hearing.

ROYAL GIBRALTAR POLICE
Professional Standards Department
PLANNING, DEVELOPMENT & SUPPORT DIVISION
Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 20048640
E-mail: alex.enriles@royalgib.police.gi

Date: 09th October 2019

To: PC 206 SIMPSON

Re: Conduct Likely to Bring the Force into Disrepute – Warning Notice

It has come to the attention of the organisation that on a Social Media site "Kop on the Rock", which you are a member of, you made comments of a nature which could bring the Force in disrepute. Specifically, these comments related to Bein Sport commentators where you used derogatory comments to describe them.

Although you are free to belong and contribute to any social media site in your own free time, your conduct as a Police Officer should at all times reflect the principles and standards of behaviour set out in our code of ethics. The comments referred to above falls well below the standards expected of an officer of the Royal Gibraltar Police and is in direct contradiction with our code of ethics, and as such can bring the reputation of the force into ill repute.

Thus, on this occasion, you are being issued with this written warning, which will be placed into your personal file, but any reoccurrence of similar conduct will result in a sterner view being taken.

Alexander ENRILES
Inspector
PSD

I am very disappointed at this when I think that what Insp Enriles did on Monday asking to delete the post which I did was enough, especially as no one on the secret group has complaint and the comment was not political or law enforcement orientated. All I take from this love of response for speaking so poorly, when much worst things have happened in this force and nothing has happened a clear example that not everyone is treated the same. This looks to me as a personal grudge.

Date Received by Officer: 9/10/2019

Signature of Officer Receiving:

CC. Personal file.
PSD

"Delivering a Safer Gibraltar through Excellence in Policing"

pounding today just hope yours withstood the heart stopping ending to the match!! **#nerviosdeacero**

6

Like Comment

Leif Simpson
Conversation starter · 4 hrs ·

wow wow wow what fucking cunts, hate watching bein sports coz who they have as presenters, sack the fucking pair ya

5 2 comments

Like Comment

Nikolai Gafan
3 hrs ·

And in two weeks time....drum roll.....Old Trafford!!! Imagine matching Man City's

ROYAL GIBRALTAR POLICE
Professional Standards Department
Planning, Development & Support Division
Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 20072000

Date: 10/10/2019
Ref: Int. 25/19

CONFIDENTIAL

To: Police Sergeant 32 Morello

Alleged Offences Against Discipline

Regulation 9 Police (Discipline Regulations) 1991

This notice has been issued to inform you as soon as is practicable that an allegation has been made.

Discreditable Conduct. Contrary to Regulation 1 of Schedule 1 of the Police (Discipline) Regulations 1991.

Information for Accused Officer:

It is alleged that on a date unknown between the 30th of September and the 9th of October 2019, as a serving member of the Royal Gibraltar Police, you acted in a manner which would reasonably likely bring discredit upon the reputation of the Royal Gibraltar Police, namely by encouraging Leo Olivero, a writer for the Panorama (Gibraltar) newspaper, to publish negative press regarding the Command Team of the Royal Gibraltar Police.

This notice has been issued to inform you, at the earliest possible stage that an allegation has been made and an investigation commenced.

You are not obliged to say anything concerning the above matter but you may, if you so wish, make an oral or written statement to the investigating officer. This statement may be used in any subsequent disciplinary proceedings.

Whatever the outcome of the investigation, you will be informed of the result and you should also be informed if there is likely to be any undue delay in completing the procedure.

Signature of Investigating Officer

10/10/2019
Date

I acknowledge that I have been served with the original of this document.

Signed

10/10/19
Date

The summary of facts are incorrect + the conversation has been misinterpreted.

32.

ROYAL GIBRALTAR POLICE
Professional Standards Department
Planning, Development & Support Division
Police Headquarters, New Mole House, Rosia Road, Gibraltar
Telephone: (350) 20072500

Date: 10/10/2019
Ref: Int. 25/19

CONFIDENTIAL

To: Police Sergeant 32 Morello

Alleged Offences Against Discipline

Regulation 9 Police (Discipline Regulations) 1991

This notice has been issued to inform you as soon as is practicable that an allegation has been made.

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Whatever the outcome of the investigation, you will be informed of the result and you should also be informed if there is likely to be any undue delay in completing the procedure.

Signature of Investigating Officer

10/10/2019
Date

I acknowledge that I have been served with the original of this document.

Signed

10/10/19
Date

The summary of facts are incorrect + the conversation has been misquoted.

32

Royal Gibraltar POLICE | *Delivering a Safer Gibraltar through Excellence in Policing*

Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

16th September 2019

Our Ref: IM111

PS 32 Maurice Morello

WRITTEN WARNING

Since taking up the role of Chairman of the Gibraltar Police Federation a pattern of conduct has been developing that is regarded as insubordination towards the office of the Commissioner of Police and other senior officers.

As the Chair of the Federation, your role may require you to challenge The Command, when such challenge is warranted, but always with respect and courtesy. However, the manner in which you have chosen to carry out this function so far has been unbecoming in that you have demonstrated disrespect and a confrontational attitude. Notwithstanding your federation role, you remain a warranted Police Officer and as such subject to the Police Discipline Regulations and our Code of Ethics.

You are hereby being warned as to your course of conduct in this regard. A copy of this warning letter will be placed in your personal file.

Ian McGrail OTM MSc
Commissioner of Police

⚠ ↓LINE VISIT HTTPS://WWW.POLICE.GI/REPORT-ONLINE ***

COMMISSIONER'S RESPONSE TO GPF's PRESS RELEASE

The Commissioner of Police is disappointed with the decision by the Gibraltar Police Federation to unilaterally publish an internal staff survey without any consultation, or input, from senior management. The RG Police respects the right of the GPF to conduct such exercises, and the RG Police is proud of its record of transparency and openness. The RG Police, however, has no choice but to reply publically to the survey and note our conclusion that the findings of the report give a distorted, incomplete and wholly unbalanced picture of the reality of our organisation.

In the past five years, we have been working in close cooperation with the Gibraltar Government across a whole range of issues to tackle long-standing grievances caused by increased policing challenges. These difficulties are made more acute by historical under-investment in the force, and the need to carry out adjustments necessary to address the RG Police's changing, and increasingly demanding, work streams.

We are satisfied that the Gibraltar Government has taken note of our representations regarding the burdens we are facing due to limited resources being unremittingly stretched, and are pleased to report that there have been significant advances in this period.

The incumbent administration's support for the RG Police has been reflected in substantial investment in human, material resources and real estate, including assets for the maritime section, together with much needed cash injections into vital equipment and technology. Moreover, the RG Police has seen an increase in 15 more sworn in police officers in the last 7 years.

The GPF has been regularly briefed about our meaningful discussions with the Gibraltar Government and the verifiable progress that has been achieved. In view of this, it is regrettable that they should have unilaterally published the survey without discussing the findings with senior management and giving us an opportunity to establish clear guidelines of action to jointly address the concerns that may have been identified.

Although outstanding issues remain, and we look forward to facing them in a spirit of mutual trust with the GPF, it is unfair to undermine all the hard work that has been done to date by creating a negative impression. We have a cordial relationship with the GPF and hold regular meetings with them, to review outstanding issues of mutual interest in a constructive atmosphere.

The RG Police force, its senior ranks and officers are committed to the delivery of excellent service to the public, and we call on the GPF to assist us in ensuring that we accomplish that critical objective in the most positive manner.

SHARE:

GPF survey distorts reality says Police Commissioner



In reply the Commissioner of Police says the findings of the report give a distorted, incomplete and wholly unbalanced picture of the reality of the RGP, and says he is disappointed that the Federation has chosen to publish the survey without any consultation or input from senior management.

Commissioner Ian McGrail says over the last five years the RGP been working together with the Government to tackle long-standing grievances cased by increasing policing challenges, made more acute by historical under-investment in the force. He says the Government has taken note of these representations and significant advances have been made.

He says the current administration has made substantial investment in human, material and real estate resources, incuding equipment, technology and 15 more officers in the last 7 years.

Commissioner McGrail says the Federation has been regularly briefed about discussions with the Government, and regrets that the report has been made public without giving senior management a chance to discuss the findings and set a plan of action in place. He says it is unfair to undermine all the work done so far by creating a negative impression.

The Commissioner says the RGP has a cordial relationship with the Federation, and calls on them to help the RGP accomplish its objectives in a positive way.

GIBRALTAR CHRONICLE

LOCAL NEWS

Police work force is overstretched – Yome

BY GABRIELLA PERALTA Share

18th July 2016

The Royal Gibraltar Police is in talks with the Gibraltar Government to increase its personnel, amid concerns its resources are overstretched to near breaking point, police Commissioner Eddie Yome has told the Chronicle.

He was reflecting on the findings of a report by HM Inspectorate of Constabulary which noted that, despite a vastly changed policing climate, the RGP's size had remained the same since 1946.

"We are presently in negotiations with government and we have submitted a business case through the Police Authority to government on where we need those resources and why we need those resources and hopefully that will come to fruition in the not too distant future but basically our work force is really, really stretched," Commissioner Yome said.
"My concerns are the elastic band will break."

Mr Yome also said Gibraltar is a different territory to what it was 70 years ago, adding that further resources are needed to meet the current workload.

ADMINISTRACIÓN DE JUSTICIA

NOTIFICADO
17/12/2018

SENTENCIA Nº 322/18

En Algeciras a quince de noviembre de dos mil dieciocho.

Vistos por DOÑA NURIA GARCÍA DE LUCAS, Magistrada-Juez del Juzgado de lo Penal número Uno de Algeciras, los presentes autos de Procedimiento Abreviado seguidos con el número 214/18 dimanantes de las Diligencias Previas número 1.131/10 tramitadas por el Juzgado de Primera Instancia e Instrucción número Uno de San Roque por DELITOS DE ALLANAMIENTO DE MORADA Y DE HURTO contra los siguientes acusados:

[redacted]

en los que ha sido parte el Ministerio Fiscal, en ejercicio de la acción pública.

ANTECEDENTES DE HECHO

PRIMERO.- Las presentes diligencias se incoaron en virtud de atestado. Practicadas las oportunas actuaciones, se dio traslado de las mismas al Ministerio Fiscal que solicitó la apertura del Juicio Oral, formulando escrito de acusación, del que se dio traslado a las defensas de los acusados para que formularan sus escritos de defensa, y una vez verificado lo anterior, se remitieron las actuaciones a este Juzgado de lo Penal para su enjuiciamiento y fallo, dando lugar a la incoación del procedimiento mencionado en el encabezamiento de esta resolución, señalándose fecha de celebración del juicio, a cuyo acto se citó a las partes, que se desarrolló con el resultado que obra en autos.

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SEGUNDO.- En el acto del juicio oral el Ministerio Fiscal, modificando sus conclusiones provisionales, solicitó la condena de [redacted] como autor de tres delitos de allanamiento de morada del artículo 202, uno de ellos en concurso real con un delito de hurto del artículo 234, ambos del Código Penal, con la atenuante muy cualificada de dilaciones indebidas del artículo 21-6 del mismo texto legal, a la pena de prisión de un mes y medio que se sustituye por imperativo legal por multa de tres meses con una cuota diaria de cinco euros por cada delito de allanamiento de morada y a la misma pena por el delito de hurto; la condena de [redacted] y d[redacted]omo autores de un delito de allanamiento de morada del artículo 202 del Código Penal, con la atenuante muy cualificada de dilaciones indebidas del artículo 21-6 del mismo texto legal, a la pena de prisión de un mes y medio que se sustituye por imperativo legal por multa de tres meses con una cuota diaria de cinco euros; la condena de [redacted] como autor de un delito de allanamiento de morada del artículo 202, en concurso real con un delito de hurto del artículo 234, ambos del Código Penal, con la atenuante muy cualificada de dilaciones indebidas del artículo 21-6 del mismo texto legal, a la pena de prisión de un mes y medio que se sustituye por imperativo legal por multa de tres meses con una cuota diaria de cinco euros por el delito de allanamiento de morada y a la misma pena por el delito de hurto y la condena de [redacted] como autor de un delito de allanamiento de morada del artículo 202 del Código Penal, con la atenuante muy cualificada de dilaciones indebidas del artículo 21-6 del mismo texto legal, a la pena de prisión de un mes y medio que se sustituye por imperativo legal por multa de tres meses con una cuota diaria de cinco euros.

Los acusados mostraron su conformidad con la calificación jurídica y penas solicitadas, estimando sus defensas innecesaria la continuación del juicio.

Seguidamente se dictó Sentencia in voce que fue declarada firme en el acto.

TERCERO.- En la tramitación del presente procedimiento se han observado las prescripciones legales.

HECHOS PROBADOS

Los acusados son: [redacted] todos ellos mayores de edad y sin antecedentes penales.

El jueves 5 de agosto de 2010 los acusados [redacted] se dirigieron al domicilio de [redacted] sito en [redacted] Dicha casa es propiedad de [redacted] pero la tenía arrendada por un contrato de arrendamiento concertado por 12 meses con Rebeca. Pese a conocerlo, los tres acusados, sin contar con ningún tipo de consentimiento de la misma, entraron en la vivienda ese día 5 de agosto utilizando para ello unas llaves obtenidas sin ningún tipo de autorización de Rebeca. Los acusados estuvieron durante un largo rato en el interior de la vivienda, registrándola, y descubriendo todos las intimidades de Rebeca.

El sábado día 7 agosto, dos días después de los primeros hechos [redacted] volvió a repetir los hechos, en dos ocasiones. La primera vez lo hizo acompañado

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ADMINISTRACIÓN DE JUSTICIA

del acusado [redacted] Esta vez los acusados no se contentaron con vulnerar la intimidad de Rebeca, sino que, con ánimo de ilícito beneficio, sustrajeron del domicilio diversos efectos, concretamente una motocicleta marca Kawasaki, 3 cascos de motocicleta, 2000 libras esterlinas y un reloj marca Rólex de oro, objetos todos ellos que han sido pericialmente tasados en 4610,96 euros.

La tercera vez fue también el mismo día 7. En esta ocasión [redacted] entró en el domicilio de [redacted] acompañado de su suegro [redacted] que tampoco contaba con ningún tipo de autorización para ello.

[redacted] ha renunciado a cualquier indemnización que le correspondiera por estos hechos.

La duración del procedimiento se ha prolongado en exceso en el tiempo por causas no imputables a los acusados.

FUNDAMENTOS DE DERECHO

PRIMERO.- Los hechos declarados probados son legalmente constitutivos de tres delitos de allanamiento de morada del artículo 202 y de un delito de hurto del artículo 234, ambos del Código Penal, por lo que, dada la conformidad prestada por los acusados y sus defensas y vista la legalidad, naturaleza y duración de la calificación y penas pedidas por el Ministerio Fiscal, procede dictar Sentencia de estricta conformidad (artículo 787 de la Ley de Enjuiciamiento Criminal).

SEGUNDO.- Son responsables en concepto de autores los acusados, de conformidad con lo dispuesto en los artículos 27 y 28 del Código Penal, por su participación directa, material y voluntaria en la ejecución de los hechos en la forma que se establece en la parte dispositiva de la presente resolución.

TERCERO.- Concurre la circunstancia atenuante muy cualificada de dilaciones indebidas del artículo 21-6 del Código Penal.

CUARTO.- Los artículos 109 y siguientes del vigente Código Penal y 100 y siguientes de la Ley de Enjuiciamiento Criminal regulan la responsabilidad civil de todo criminalmente responsable de un delito. Sin embargo, no procederá pronunciamiento de tal naturaleza por haber renunciado la perjudicada a toda indemnización por estos hechos.

QUINTO.- Los artículos 123 y 124 del vigente Código Penal regulan la imposición de las costas procesales a todo criminalmente responsable de un delito, procediendo la condena de los acusados a su abono en la forma que se establece en la parte dispositiva de la presente resolución.

Vistos los preceptos legales citados y los demás de general y pertinente aplicación

FALLO

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ADMINISTRACIÓN DE JUSTICIA

Que por conformidad de las partes y con ratificación del fallo dictado in voce, debo condenar y condeno al acusado [redacted] como autor penalmente responsable de **tres delitos de allanamiento de morada del artículo 202, uno de ellos en concurso real con un delito de hurto del artículo 234**, ambos del Código Penal, con la atenuante muy cualificada de dilaciones indebidas del artículo 21-6 del mismo texto legal, a quien impongo, **por cada delito**, la pena de **prisión de un mes y medio que se sustituye por imperativo legal por multa de tres meses con una cuota diaria de cinco euros.**

Que debo condenar y condeno a [redacted] como autores penalmente responsables de **un delito de allanamiento de morada del artículo 202 del Código Penal**, con la atenuante muy cualificada de dilaciones indebidas del artículo 21-6 del mismo texto legal, imponiendo a cada uno de ellos la pena de **prisión de un mes y medio que se sustituye por imperativo legal por multa de tres meses con una cuota diaria de cinco euros.**

Que debo condenar y condeno a [redacted]) como autor penalmente responsable de **un delito de allanamiento de morada del artículo 202, en concurso real con un delito de hurto del artículo 234**, ambos del Código Penal, con la atenuante muy cualificada de dilaciones indebidas del artículo 21-6 del mismo texto legal, a quien impongo, **por cada delito**, la pena de **prisión de un mes y medio que se sustituye por imperativo legal por multa de tres meses con una cuota diaria de cinco euros.**

Que debo condenar y condeno a [redacted] como autor penalmente responsable de **un delito de allanamiento de morada del artículo 202 del Código Penal**, con la atenuante muy cualificada de dilaciones indebidas del artículo 21-6 del mismo texto legal, a quien impongo la pena de **prisión de un mes y medio que se sustituye por imperativo legal por multa de tres meses con una cuota diaria de cinco euros.**

Se impone a [redacted] el abono de cuatro novenas partes de las costas devengadas, a [redacted] el abono de una novena parte, cada uno de ellos, y a [redacted] el abono de dos novenas partes.

La presente Sentencia es firme al haber manifestado las partes su voluntad de no recurrir. Procédase a su ejecución.

Llévese certificación de la presente Sentencia a los autos principales y notifíquese al Ministerio Fiscal, a las partes y a los acusados.

Así, por esta mi sentencia, lo pronuncio, mando y firmo.

DILIGENCIA DE PUBLICACION.- Dada, leída y publicada fue la anterior Sentencia por la Ilma. Sra. Magistrada-Juez que la dictó, estando constituida en audiencia pública en el mismo día de su fecha, de lo que doy fe.

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Gibraltar PANORAMA
The FIRST Gibraltar paper on the Web
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Extracts from case in Spain of two RGP officers

Thursday, June 27, 2019 - 10:14

When we have asked the Commissioner of Police McGrail about the two police officers that were arrested, charged and sentenced in a Spanish court, he repeats in parrot fashion that 'it is our understanding that there are no adverse records in respect of any RGP officer in Spain.'

When the Chronicle and GBC followed up our report, and asked the RGP for a comment, they also got the same reply.

As stated in our report on Tuesday, we have legal documentation - even quoting the Spanish judge that took the case - but people wonder why Mr McGrail keeps insisting that he knows nothing - or is it that he doesn't want to know?

In the reports we have published, we have left out names, as that is not the point, the point is that the RGP want to cover up the matter.

At this stage we are not going to serialise the legal documentation, but we will publish some extracts - obviously in Spanish - which should prove that what Leo Olivero has been writing about is the truth and nothing but the truth.

*The extracts are in our print edition.

27-06-19 PANORAMA/dailyGIBRALTAR

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During the weekend a very disappointed and concerned Henry Bautista now in retirement, again reiterated to Panorama, that the latest RGP federation survey confirmed and reflected his call last year for an 'independent survey' to be conducted, the results this year he told us presents an even graver situation then it did last!

The Governor and the GPA directly responsible for these matters never commissioned an independent inquiry, they probably never gave it a second thought, which appears to be the case again this year. So far there has been no response to the serious BPF press statement on Friday from either the Convent or the GPA.

With the latter comment in mind, the incriminatory and again damning survey result this year can hardly be surprising, particularly if the matter was never fairly and impartially handled with health, safety and the welfare of officers in mind. But instead the GPF survey reflects, more bullying as the order of the day it seems!

I have no doubt, the Governor and the GPA must bear the brunt of the criticism.

No lessons were learnt last year, which essentially is the purpose of these internal surveys. What the Governor and GPA fail to see, is that bullying in the workplace, particularly within the police service, affects not only the working environment, health and safety, but also in cases, domestic life and the right of police officers to equal opportunity and treatment.

And what the powers that be should be concerned about is the damage and harmful effects of bullying; they should be leading from the front in eradicating from the service. This will never be achieved if potential bullying perpetrators are handed the role of doing it themselves!

08-10-2019 PANORAMAdailyGIBRALTAR

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EXCLUSIVE -

Police Cover-Up - After two RGP officers sentenced in Spanish Criminal Court

Tuesday, June 25, 2019 - 10:36

LEO OLIVERO

While a breakdown in trust between police and the public is by no means uniform across the community. Over a period of time and more recently, certain operational police activity has dominated headlines, like the current RGP illegal fishing enforcement policy in BGTW.

However, the main issue of this report has nothing to do with illegal fishing but how the police have repeatedly attempted, to mislead, ignore, confuse and in this case blatantly cover up their way out of answering repeated questions on an issue or incident that goes back 10 years.

The issue in question was a serious high profile incident of great public interest and political involvement. In fact, the matter concluded a number of months ago when two serving RGP officers were brought before a Spanish Criminal Courtroom to face charges. The case today whether the police like it or not is still of public interest as it was 10 years ago!

Information regarding the conclusion of the case has intentionally been kept under wraps it seems. Not withstanding and repeating the point about public and political interest, especially in an era, where international-cross border police cooperation appears to be dominating 'operational policing decisions'.

RGP Officers Charged With Theft Related Charges

Panorama can exclusively confirm, that two serving RGP officers last year just before Christmas appeared with three other local men, in front of a Spanish criminal court charged with offences, crimes, where in UK or in local law would be classed as cases of dishonesty.

In fact, the two officers together with the others were charged with offences akin to theft, bordering a more serious charge of burglary. Involving an unlawful entry into a dwelling or private apartment in Spain where an unlawful search of the premises was conducted and a number of items illegally removed.

The outcome of the court proceedings took place before a 'magistrate or juez del juzgado'.

In her sentencing summing up, the magistrate said that "Primarily the penalty for 'search' or 'break-in' ranges from six months to two years, and 'theft' which depends on the assessment of the theft; but in this case and due to circumstances not linked to the defendants but to the procedure and considering that the case is not of a major complexity, the Judge decided to reduce the penalty to "one and a half months imprisonment" for all the defendants including the two RGP officers, which the judge replaced by a monetary fine, (the latter was a legal translation from the official court document)

Violent Robbery in Gibraltar

The case dates back to August 2010 when the RGP who at the time were investigating a violent robbery at the 'Cellini Goldsmith' shop in Main Street where two men a Gibraltarian and a UK national were subsequently arrested.

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Two RGP officers investigating the local robbery, for reasons best known to them and their superiors, crossed the frontier into Spain and proceeded to a private residence in San Roque. The officers it seems, were acting as police officers involved in a criminal investigation that took place in a foreign jurisdiction (Gibraltar). During the investigation in Spain, the officers entered private dwelling and allegedly removed items of jewellery, money and a motorcycle, that were conveyed back to Gibraltar. It all seems to have taken place without the consent of the owner of the flat and without notifying the Spanish authorities of their official action.

At the time, I penned a few reports, how these officers had made a huge mistake whilst conducting an investigation into a crime in Gibraltar, naively making a serious inexperienced decision to cross into Spain another jurisdiction, to recover evidence from a private property.

In 2010 as it is today, this incident is still of great public interest and political importance and relevance, a situation that has not changed. But information generally concerning this incident from the start has been scarce, misleading and ambiguous! All the ingredients of a good cover up believe me I know!

This incident became high profile in 2010, because it followed a similar one months earlier when four Guardia Civil officers unlawfully entered GB waters landing ashore in the Harbour Views area where they drew weapons in a hostile and aggressive manner. The Spanish officers thought they were in Spanish territory, but happened to miss a huge world iconic landmark Rock right in front of them, we call home!

The incident involving the four Guardia Civil went politically and diplomatically ballistic in Gibraltar, Madrid and London!

At the time, the then Chief Minister spoke with his opposite number in Madrid. A Spanish apology was made and accepted. A few months after, it was the turn of Mr Caruana to make the same apology to the Spanish Government. Although the stupidity of the RGP officer's in Spain, could not possibly be compared with the serious armed Spanish police presence in Gibraltar months earlier!

Following Caruana's apology, the Spanish government issued a statement with positive assurances it was the end of the matter. Where Peter Caruana warned that "he hoped the Spanish authorities would take the same view as was taken when the Guardia Civil landed on local shores and offending Spanish officers were not prosecuted".

Importantly Mr Caruana adding, "that if there is no reciprocity and a prosecution of RGP officers in Spain were to ensue, the harm it will do to cross-border relations at a local level will be incalculable".

Well it took 10 years - but a Spanish Prosecution did take place as Sir Peter kind of feared, though I don't think he thought it was going to take 10 years!

So what changed in 10 years? After so much time, the two local officers have been dragged back-and-forth through the Spanish legal system, ending up in the Spanish Criminal Court where they were found guilty of serious offences and sentenced!

Where is the Spirit of One-Way International Police Cooperation?

As unprofessional as the RGP'S actions in Spain was in 2010, it could hardly be in the same league as the 100's if not 1000's of blatant illegal incursions that continue today by Spanish state vessels into BGTW and still continues today. Now illegal fishing in BGTW is causing concern, where the RGP have gone soft and do absolutely nothing, seriously undermining the Rocks sovereignty, a vital point exclusively confirmed last week by us citing International courts of justice decisions on Sovereignty Claims!

The Spirit of International Police Cooperation is One Way...it Seems!

The Commissioner of Police would have us all believe the RGP is at the centre of all this international police cooperation. Yet two ranking RGP officers are forced onto the wrong side of the Spanish Criminal Justice System for a mistake collecting a criminal record on the way out! Did anyone inform the Spanish female judge about all the positive cross border police cooperation when she sentenced the local officers in Algeciras Court?

Recently in consecutive weeks, Panorama has contacted the RGP press people posing the same question regarding this matter; we received the same reply on Friday:

1...Can you please confirm once again, that no serving officer is subject of an adverse record in Spain?

2...Would the RGP have absolute knowledge that any serving officer(s) had appeared in any Spanish criminal court in the last 7 or 8 months to face what are considered criminal charges?

3...Did the RGP or anyone else conduct an internal investigation as to how two officers on duty were allowed to cross into a foreign jurisdiction to conduct an investigation and conduct an illegal entry into a private residence without the permission of the owner or without informing the Spanish authorities...if so

4...What was the outcome of the investigation or any subsequent action taken as a disciplined body?

5...Can you supply any further related information of public interest on this matter?

The RGP Repeated Answer:

"We reiterate that it is our understanding that there are no adverse records in respect of any RGP officer in Spain. The RGP does not comment on internal disciplinary matters"

It was a disgraceful, unprofessional and a contemptible reply and unfortunately a measure of policing today. We are led to believe with the answer, the RGP had no knowledge that two of their supervisory ranking officers had been charged to appear in a Spanish Criminal court where a prison sentence was imposed, substituted or downgraded to a fine!

We cannot believe and accept what the RGP continue to tell Panorama or the public.

Panorama has answers to questions from the police going back years, where the RGP are perfectly aware of the case brought against these officers and what was on going.

Did the RGP just switch off and took no further interest in the welfare of their officers?

Panorama will happily share with the RGP, Governor, the Government and GPA the documents in our possession, but only on the condition that an investigation is initiated to investigate who gave the instructions for the officers to illegally wander off into Spain, another jurisdiction, to search a private dwelling to obtain evidence. Though I'm sure they are all well aware and know much more, then what they want to share with the public or the press on this issue of great public interest!

No Intention of Publishing Officers Names

Its important to point out; Panorama has never had the intention of publishing the police officers names or their rank now. Even though today we are legally in position to do so having conducted our own investigation in Spain and retrieving official information and documentation with other information that might be an embarrassment to others?

What Panorama cannot allow is the RGP Senior Command treating the media, especially this newspaper, with constant disdain, not only on this matter, but others, and why publicly we intend to expose this RGP and their attempt to 'Cover Up' this matter!

Which begs the question, if the RGP has repeatedly tried to cover up this important matter, which is obvious. How many other police cover-ups have not seen the light of day!

The RGP senior command has tried to suppress information from the public. But unfortunately for them, they have not been clever as they think they are, and have obviously underestimated Panorama's drive to inform the public which is our obligation to expose and question once again - Just What is Happening to Policing in Gibraltar Today?

While all this is happening, at such an important national juncture for Gibraltar, the Governor and Gibraltar Police Authority sit idly by sitting on the proverbial lethargic fence doing and saying nothing – which has become what appears to be a lazy or uninterested habit with the Tenant at the Convent!

Media Play Significant Role Holding Police to Account

Some living so-called Professional Fairytales, would be wise to remember that the media has a significant role in holding policing to account and informing the public about the work of the police service. Not only that, but there is an obligation on the police service to engage with the media, both to communicate what the police are trying to do strategically and, at an operational level.

Of course the police has a duty to safeguard the confidentiality and integrity of information, but this must be balanced against the duty to be open, transparent and truthful all the time!

One wonders if the RGP have a communications strategy or do they make it up as they go along, even today, with a full time press officer and an experienced Corporate Communications GURU! - They have seriously flunked their lines of communication! – NOW WHAT?

25-06-19 PANORAMAdailyGIBRALTAR

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WHO IS POLICING THE POLICE? - Not the Police Authority

Monday, February 10, 2020 - 11:26

LEO OLIVERO

In 2018 the Governor, the Government of Gibraltar and the Gibraltar Police Authority generally acknowledged the seriousness of a very damning and morale damaging result of the Gibraltar Police Federation (GPF) survey of officers, the RGP were less convincing, where senior police command was unable to admit or acknowledge the seriousness surrounding the whole internal bullying situation engulfing local policing. And still going strong it seems.

Last year, the 2019 survey was published in October, similarly, it produced an even more serious result than the previous mentioned year, this was extensively reported in Panorama.

As was the case in the 2018, the GPF survey result in 2019 received the 'Silent Contemptible Denial' from the Commissioner of Police Ian McGrail who again failed to acknowledge the survey result or the seriousness of the situation effecting his main workforce or 85% of them. And, where he failed together with the GPA to do anything to stop or improve this serious workplace abuse!

Democracy in a Workplace is Yet to Embrace the RGP Involved in Internal Witch Hunt

Instead, the Commissioner of Police, using all his experience and senior management knowledge with staff, already ankle high in moral, ordered an investigation of the two GPF convenors (police officers) where the RGP senior command senselessly attempted, to involve Panorama against the two GPF officers. Which did not work, as it was clear what the RGP senior officers were trying to do. This again was reported in this newspaper!

The investigation by the Commissioner into the two GPF officers, is in fact no more than an old fashion 'Witch Hunt'. Believe me I know. In my own experience I've seen it happen many times. I have even been at the wrong end of one or two myself, it's so obvious. What is not that evident, is why in 2020 with everything so hi-tech and modern and management styles having moved into the 21st century, so I thought, I'm surprised this destructive management tactic is still going on!

It wasn't surprising, when Gibraltar's three main unions last week publicly raised their own concerns regarding the petty police investigation against the leaders of the Gibraltar Police Federation.

Unite the Union, the GGCA and the Gibraltar NASUWT said, 'it was crucial that those who take on leadership roles are not targeted or censored in any away and that there should be protection for those who stand up for the rights of others who engage in activism that benefits not only Gibraltarian workers but also the community at large'. Democracy in a Workplace is yet to embrace the Royal Gibraltar Police!

In contrast, to the statement made by the combine unions. The Governor, the GPA and the Gibraltar Government remain hidden in the empty shadows of nothing. They have publicly demonstrated little or zero interest. This is an example, how pitiful and disgracefully bad this serious situation of great public interest, involving the RGP of all public essential services, is being perceived by those at the top, who should be setting examples, not making bad ones, by doing nothing!

When the GPF the official full-time body representing the 85% of the police workforce publicly declare "that they are at the mercy of the commissioner of police". What message, does that send to front line police officers on the ground, when their representatives the Chairman and Secretary are under investigation for doing their job or looking after the welfare of members: What a Morale Booster by the Senior Police Command Team.

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06-02-2020 PANORAMAdailyGIBRALTAR

REVEALED - RGP investigate an alleged connection of the Police Federation and Panorama

Monday, January 27, 2020 - 11:21

JOE GARCIA

RGP Senior Command Through Their Decisions Provide Their Own Negative News

I purposely delayed preparing this report in the hope that an RGP senior officer would contact me or Panorama to hopefully confirm they have put a stop, to a simply outrageous RGP senior command decision to investigate top Gibraltar Police Federation representatives, which without doubt, can only be a misguided allegation by the RGP top senior brains, where it is alleged, Gibraltar Police Federation Chairman Sergeant Maurice Morello and Secretary PC. Leif Simpson supplied or encouraged me, to report in Panorama or criticise senior RGP officers!

The whole thing is simply preposterous, you couldn't make it up. This is really why, newspaper reporters like me often do criticise the RGP senior command.

Why would I require the help or encouragement from any member of the police service, when I get all the material I need from regular poor and often controversial RGP senior command decisions. Like conducting this investigation, which is the substance of this report!

However, I also get inspiration, by the poor, visionless and inexperienced manner police services are locally led. This latter points, a disturbing situation, plain for all to see and also regularly criticised by the public, not only by us!

RGP Professional Standards Investigate the Allegedly Panorama Connection

Recently, I was contacted by an RGP Inspector from the RGP 'Professional Standards Unit' who I later met. He explained that he had been instructed to conduct an 'internal disciplinary investigation' as a senior police officer had reported, that both Sergeant Morello and PC Simpson had spoken with me (your reporter) during an unknown date in October last year. These officers it is alleged, encouraged me to write or report in Panorama negatively about RGP senior officers!

These allegations it seems, go back to last October, coinciding with the period, when the Police Federation publicly released its very damning internal survey of its members, highlighting once again, for the second year in succession, the very high levels of 'bullying and plummeting force morale' in the service. This obviously did not make positive reading. Well it wouldn't, if I had been the Commissioner of Police or any officer of senior rank!

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Gibraltar Police Federation

Posted by Leif Simpson

27 Jan 2020 ·

How independent can the Gibraltar Police Federation be when it still falls under the umbrella of the Police discipline regulations and at the mercy of the Commissioner of
Police. What message does this send out to officers on the ground when the Chairman and Secretary are being investigated for a ridiculous allegation. We will work to resolve this and support our members tirelessly with any issues they may have.



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Gibraltar's three main unions raise concerns over recent disciplinary action against leaders of the Gibraltar Police Federation

Gibraltar's three main unions have raised concerns over the recent disciplinary action against the leaders of the Gibraltar Police Federation.

The Federation has confirmed on its facebook page that its Chairman and Secretary are being investigated for, what it describes as a "ridiculous allegation" concerning an interview with Panorama last year.

Unite the Union, the GGCA and the Gibraltar NASUWT say it's imperative that those who take on leadership roles are not targeted or censored in any away.

In a joint statement, the three organisations representing workers on the Rock, said there should be protection for those who stand up for the rights of others, and who engage in activism that benefits not only Gibraltarian workers but also the community at large.

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Unions Concerned By Disciplinary Action Against Gibraltar Police Federation Leaders

Written by YGTV Team on 03 February 2020.

Unite the Union, the GGCA and Gibraltar NASWUT say they are "concerned" by the recent disciplinary actions taken against the leaders of the Gibraltar Police Federation.

A spokesperson for the unions said: "We are all organizations that represent workers and who have as a principal focus the furtherance of workers' rights. This is oftentimes difficult and personally demanding for anyone taking on a leadership role. Therefore, it is imperative that such individuals are not targeted or censored in any way. We feel that there should be protection for those who stand up for the rights of others and who engage in activism that benefits not only Gibraltarian workers, but our community at large.

"Therefore, Unite the Union, GGCA and Gibraltar NASWUT would like to publicly express our support for our GPF colleagues, with whom we stand in solidarity."

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"At the Mercy of the Commissioner of Police" say Gibraltar Police Federation

Tuesday, January 28, 2020 - 11:27

LEO OLIVERO

There was generally, a somewhat disturbing response to our report yesterday where I revealed 'the RGP were investigating an alleged connection between the Gibraltar Police Federation (GPF) and Panorama.'

At the centre of this investigation is the October 2019 article which this newspaper published where we reported on the GPF internal survey of officers. Where once again for the second year running it was highlighted that there were continuing serious 'workplace bullying' issues which in parts, surpassed the same survey result conducted in 2018.

The GPF responded on the Facebook page when they posted:

"How independent can the Gibraltar Police Federation be when it still falls under the umbrella of the Police discipline regulations and at the mercy of the Commissioner of Police. What message does this send out to officers on the ground when the Chairman and Secretary are being investigated for a ridiculous allegation. We will work to resolve this and support our members tirelessly with any issues they may have"

Yesterday's reaction by the GPF was one of rightly questioning, the foundations of the Federation's existence, or 'how the federation could act as an independent body to support and look after the welfare of its members, if the Commissioner of Police embarked in conducting disciplinary investigations when there is negative RGP news in the public domain'. This was my understanding.

In this case, there was no leaked news passed on to the media, but a news report arising out of a legitimate GPF press release.

However, what I am sure, the GPF are quite rightly fearful of, is the fact that the Commissioner of Police can pick on any issue or set of circumstances and then order a disciplinary investigation as was the case in the current problem, where RGP senior command came to the wrong conclusion that the GPF Chairman and Secretary had encouraged me to negatively report in this newspaper on RGP senior officers. As I said yesterday 'You Could Not Make It Up'!

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The Governor and the GPA directly responsible for these matters never commissioned an independent inquiry, they probably never gave it a second thought, which appears to be the case again this year. So far there has been no response to the serious BPF press statement on Friday from either the Convent or the GPA.

With the latter comment in mind, the incriminatory and again damning survey result this year can hardly be surprising, particularly if the matter was never fairly and impartially handled with health, safety and the welfare of officers in mind. But instead the GPF survey reflects, more bullying as the order of the day it seems!

I have no doubt, the Governor and the GPA must bear the brunt of the criticism.

No lessons were learnt last year, which essentially is the purpose of these internal surveys. What the Governor and GPA fail to see, is that bullying in the workplace, particularly within the police service, affects not only the working environment, health and safety, but also in cases, domestic life and the right of police officers to equal opportunity and treatment.

And what the powers that be should be concerned about is the damage and harmful effects of bullying; they should be leading from the front in eradicating from the service. This will never be achieved if potential bullying perpetrators are handed the role of doing it themselves!

08-10-2019 PANORAMAdailyGIBRALTAR

Federation Secretary

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 08 March 2020 08:55
To: (RGP) All Police Staff
Cc: Federation Chairman; Federation Secretary
Subject: OFFICIAL - SENSITIVE

Dear all –
I want to address the whole of the workforce on the tragic events that have occurred on the early hours of today Sunday 8th March 2020.
Our duty marine crew has been involved in a collision at sea with a suspect RHIB that had four men on board (3 Spanish nationals from Ceuta and a Portuguese national). Regrettably, two of these men have lost their lives from serious injuries sustained. We are thankful that none of our colleagues were injured although they are understandably shaken and shocked.

I have called for Post Incident Procedures to be implemented as per Force Policy in order to look after the welfare of the duty crew, facilitate the investigation that naturally has to take place and to also ensure the integrity of the process.

The loss of any life is deeply regretted and our thoughts are with the families of the deceased. Equally, we have to spare our thoughts for our colleagues who have experienced this traumatic occurrence. It is on this latter note that I want to stress the importance of not engaging in a form of speculation or commentary (whether in person or via social media or chat groups) which could potentially compromise the due processes that have been implemented. I would also ask you all, for operational security/safety reasons, that the anonymity of the members of the our crew is safeguarded and respected. It is through hard times such as these that support is required to minimise the effect the incident is having on those colleagues involved and therefore I implore to you all that you comply with this message fully.

Regards

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Federation Secretary

From: Albert Buhagiar
Sent: 08 June 2015 16:43
To: Marine Section
Subject: Daily PMB Revised Policing Instructions

Importance: High

Gents,

The following are the revised instructions to be adhered to forthwith:

1) Previous instructions allowing crews to leave BGTW at the invitation of the Guardia Civil, whilst in pursuit of a vessel and with the authority of the Duty Inspector or other senior officer are revoked. RGP vessels ***will not*** operate outside BGTW other than in support of a search and rescue operation led by the Gibraltar Port Authority. In summary:
    a. PMB will not operate outside BGTW in pursuit of criminal activity.
    b. PMB may operate outside BGTW in support of search and rescue operations coordinated by the Gibraltar Port Authority.
2) As from 0800hrs, 9th June 2015, crews will operate from 0800hrs to 1600hrs in the Sir Adrian Johns or the Sir William Jackson and not the interceptor vessels [deploy baby RHIBs as necessary]. From 1600hrs to 0800hrs crews will able to use an interceptor vessel which will be made available on a rotation basis by PS Stone. This will ensure that there is an equitable distribution of engine hours clocked in each vessel.

Whilst carrying out beach policing the deployment will consist of one of either the Sir Adrian Johns or Sir William Jackson and a jet ski, depending on crew numbers. The patrol vessels will also deploy their respective baby RHIB's as necessary. Interceptor capability will become available as required from termination of beach duties daily at 2000hrs.

Inspector Albert J Buhagiar OTM
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Territorial Policing
Operations Division
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Policy Document

Policy Title	**Police Vessel Patrol & Pursuit Policy**
Policy Statement	To provide guidance and a safe environment for all Royal Gibraltar Police (RGP) officers and support staff, engaged in the navigation of police marine vessels during a patrol and/or pursuit, including passengers, other seafarers and the general public.

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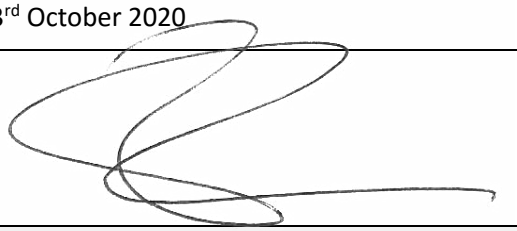
Signature	
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1. Introduction

1.1 This Policy provides RGP officers engaged in police marine vessel patrols and pursuit navigation with guidance on what the RGP requires of them.

1.2 A Police vessel will mean any motor vessel owned, hired, loaned or otherwise operated for any purpose by the Royal Gibraltar Police (RGP). These vessels will be registered under the provisions of the Gibraltar Merchant Shipping (Registration) Act 1993 and the Gibraltar Merchant Shipping (Ship Registration) Regulations 1987. HM Government of Gibraltar's Insurance Police Scheme will also cover them.

1.3 The Government of the United Kingdom extended the United Kingdom's accession to the United Nations Convention on the Law of the Sea 1982 ("UNCLOS") to Gibraltar. Pursuant to Article 2(1) and (2) UNCLOS "*the sovereignty of the coastal State extends…to an adjacent belt of sea, described as the territorial sea… as well as to its bed and subsoil*".

1.4 The territorial sea of Gibraltar within the meaning of Article 2 UNCLOS is known as British Gibraltar Territorial Waters ("BGTW",) which is under British sovereignty. BGTW consists of the area of the sea, the sea bed and subsoil within the seaward limits of the territorial sea adjacent to Gibraltar which, in accordance with Article 3 UNCLOS, currently extends to three nautical miles and to the median line in the Bay of Gibraltar (see the map in Appendix A).

1.5 The strategic location of Gibraltar has allowed it to become a maritime 'centre of excellence'. Located at a crossroads of the Mediterranean and Atlantic shipping lanes, Gibraltar is ideally placed to provide a wide range of services to vessels of all sizes and types, and with nearly 240 million gross tonnes of vessel calls per year.

1.6 Gibraltar is located between Morocco, one of the largest producers of cannabis resin and Spain, the gateway to Europe. Organised Crime Groups ("OCGs") use Rigid-Hulled Inflatable Boats ("RHIBs") to transport the said merchandise to Europe, and on occasions, this activity enters BGTW. It is the RGP's responsibility, together with other local Law Enforcement Agencies ("LEAs") to uphold our laws.

1.7 The RGP Marine Section is based at the Gibraltar Government Marine Section ("GGMS") at Gun Wharf. Police Marine Boats ("PMB") are deployable 24/7, 365 days a year, unless due to other policing commitments resources are needed elsewhere. The RGP works together with other LEAs, who also have a 24/7 capability. This includes the Gibraltar Port Authority ("GPA"), the Gibraltar Defence Police ("GDP") and HM Customs ("HMC").

1.8 The RGP coxswains often perform their duties in challenging and demanding environments, but they are expected and must endeavour to set a good example to other seafarers, regardless of the nature of any particular incident or role in which police vessels are used. They also have a duty of care to ensure the safety of the public we serve, as well as the safety of our own police officers and support staff at all times.

1.9 Persons who use the sea know that its very nature creates a dangerous and unpredictable environment, which can and does, catch many unaware. The secret to staying safe is good preparation and knowing exactly what to do if something goes wrong and this is no different for the RGP when undertaking our legal responsibilities.

1.10 The International Maritime Organization ("IMO") is the United Nation's specialized agency with responsibility for the safety and security of shipping and the prevention of marine and atmospheric pollution by ships. The IMO published the International Regulations for Preventing Collisions at Sea 1972 (Collision Regulations), setting out, among other things, the "rules of the road" or navigation rules to be followed by ships and other vessels at sea to prevent collisions between two or more vessels.

1.11 The Collision Regulations ("ColRegs") cover every type of situation between sea-going vessels, regardless of size, speed and purpose and apply to all vessels upon the high seas and within BGTW. In other words, the ColRegs represent the 'Highway Code' on the water and all commercial, leisure and law enforcement vessels must abide by them on navigable waters. The ColRegs are set out in Appendix B for ease of reference.

1.12 The ColRegs are given effect in the law of Gibraltar by the Gibraltar Merchant Shipping (Safety, etc.) Act 1993. Understanding the rights and obligations that arise when at sea and accordingly knowledge of the ColRegs forms part of the RGP's Gibraltar Law Enforcement RHIB coxswain course, endorsed by the Gibraltar Maritime Administration ("GMA") of HM Government of Gibraltar ("HMGOG"). See Appendix C for a list of the course modules.

2. Statement of Intent

2.1 The intention of this Policy document is to provide all RGP PMB coxswains and crewmembers with clear guidance in relation to patrolling and pursuit navigation of RGP vessels and to establish and maintain a reasonable, practical, safe and responsible approach to RGP activities. By operating in a safe environment when undertaking our responsibilities whilst at sea we will ensure that we discharge our duty of care, to all members of the public, to our police officers and support staff.

3. Code of Ethics

3.1 Our Code of Ethics underpins every day policy, procedures, decisions and action in policing today. The Code of Ethics is an everyday business consideration. This document has been developed with the Code of Ethics at the heart, ensuring consideration of the 9 Policing principles and the 10 standards of professional behaviour.

4. National Decision Model ("NDM")

4.1 The NDM is the primary decision-making model used by the RGP. The NDM is flexible and is applied to the development and review of all policy, procedure, strategy, project, plan or guidance. Understanding, using and measuring the NDM ensures that we are able to make ethical (see Code of Ethics Policy), proportionate and defensible decisions in relation to policy, procedure, strategy, project, plan or guidance.

5. Definitions

5.1 "Coxswain" will mean "marine coxswain". Coxswain is the person navigating and steering the vessel and is responsible for its safe operation and navigation.

They will ultimately be responsible for the decisions they take, the achievement of operational policing objectives, ensuring the safety of all persons on-board their vessel and the integrity of the said vessel.

5.2 "Crew" will mean "marine crew" and means any marine constable employed or engaged in the safe operation or navigation of the vessel.

5.3 For the purposes of this Policy, a "pursuit"[1] is when, *'A police coxswain is deemed to be in pursuit, when an coxswain in charge of a vessel indicates, by their actions or continuance of their manner of piloting/riding that:*

- *They have no intention of stopping for the police, and*
- *The police coxswain believes that the coxswain of the subject vessel is aware of the requirement to stop and decides to continue behind the subject vessel with a view to either reporting its progress or stopping it".*

5.4 Similarly, a "spontaneous pursuit"[2] is:-

- *"When the actions of the suspect coxswain in deciding to flee are triggered by the presence of a RGP vessel and there is no prior warning or sufficient time to develop a specific strategy and plans, regardless of whether or not the RGP crew made an initial requirement for the vessel to stop".*

[1] There is no specific maritime pursuit definition, so this definition has been tailored to best define, as per the UK College of Policing's Authorised Professional Practice ("APP") on police pursuits in respect of vehicles.
[2] As per 1 above.

6. Objectives

6.1 The strategic objective of any pursuit is to ensure a safe resolution which will lead to the apprehension of offenders and the prevention of crime.

6.2 The RGP's Marine Section's aim is to enforce the law within BGTW by working in partnership with LEAs and other agencies, both locally and internationally to bring about a safer community, reduce disorder, crime and the fear of crime and to contribute to the delivery of justice in a way which secures and maintains public confidence. The RGP's PMB plays a vital role in the international fight against drug smuggling, within BGTW by preventing prohibited imports and enforcing Port legislation.

6.3 The RGP will minimise risks and ensure safety where necessary by adopting best practice. PMB line managers must instruct those affected about the risks and how to ensure their own health and safety and the health and safety of others.

6.4 Much like the presence of a police vehicle on the road, a Police vessel often commands a natural level of authority, which can confuse inexperienced water users. In addition, competent vessel skippers will sometimes attempt to be helpful and give a Police Vessel priority. These factors can lead to confusion and an increased likelihood of collision. Police coxswains will at all times adhere to the instructions in this Policy, to promote a professional image and ensure they are beyond reproach. Where coxswains are subject to vessel indecision, early actions demonstrating a clear intent combined with a polite and courteous approach are often effective mitigation measures.

6.5 RGP vessels will only operate in conditions appropriate to the vessel's capabilities.

6.6 The RGP's over-arching objective is to ensure that Police vessels are at least as safe as those used commercially and that similar or higher levels of safety are applied due to the special nature of the work that the RGP Marine Section undertakes within BGTW (and outside BGTW in exceptional cases – see paragraph 7.4 and 7.5 below).

6.7 The RGP PMB will operate within BGTW **ONLY.** The RGP's strategic principles are as follows, in order of priority:

- Minimise Risk to the public (includes alleged offenders);
- Maximise Safety of officers;
- Enforce the laws of Gibraltar using the minimum force necessary;
- Protect British sovereignty of BGTW.

6.8 The current RGP PMB operational objectives are:

- The security of BGTW;
- Enforcement of Port and Maritime Rules and Regulations;

- Prevention and detection of crime at sea;
- Prevent the use of BGTW by Organised Crime Groups (OCGs) for drug smuggling;
- Support Royal Navy when foreign state vessels challenge British sovereignty;
- Support Environmental Agency operations to protect marine environment;
- Support HM Customs operations;
- Support GDP operations;
- Reassurance of beach users and legitimate seafarers.

7 Extent of Operational Deployments

7.1 Prior to this Policy, the RGP PMB operated in accordance with the Marine Section Instructions dated the 8th July 2016 (these instructions are set out in Appendix D for ease of reference). This Policy incorporates and replaces the original Instructions in their entirety.

7.2 **The Police Act 2006**

Section 29 of the Police Act provides that:

"The Force shall be employed in and throughout Gibraltar".

The Police Act 2006 does not extend beyond Gibraltar. It does not have extraterritorial effect. As a result, the establishment of the force and the composition of its officers has, in principle, effect in and in respect of the territory of Gibraltar.

As per paragraph 1.3 of the Introduction, BGTW is under British sovereignty and, in accordance with Article 3 UNCLOS, currently extends to three nautical miles and to the median line in the Bay of Gibraltar. Accordingly, RGP officers do not have any powers or protections in the said Act, to operate outside of the territory (and waters) of Gibraltar.

7.3 **RGP vessels and Police Officers will ONLY operate within BGTW**, except where paragraphs 7.4 a) or b) apply. **These instructions will be adhered to at all times.**

7.4 Officers are **NOT** authorised to operate outside of BGTW, within Spanish territorial waters or International Waters. **Under NO circumstances will RGP vessels leave BGTW whilst engaged on a patrol or pursuit of any other type of vessel,** unless and only when responding to one of the following situations:

a) Subject to paragraph 7.5, participating in a Search and Rescue ("SAR") operation, led by the GPA.

b) Responding to an incident where there is an imminent and serious risk to life.

7.5 Officers are **NOT** authorised to enter Spanish territorial waters unless when responding to and participating in a SAR operation at the invitation of Spanish authorities and only when incidents are being co-ordinated by the GPA.

7.6 Failure to comply with RGP BGTW patrolling restrictions may result in disciplinary proceedings.

8 PMB Governance

8.1 All PMB officers have an individual responsibility for ensuring that they are fully conversive with all relevant:

- RGP instructions;
- RGP policies;
- Legislation.

It is the responsibility of the PMB Sergeant to ensure that all PMB officers are briefed and understand the requirements and implications of the above mentioned documents. A record of all officers at a briefing, whereby any of the above are presented, must be incorporated into the daily briefing sheet.

8.2 **Briefings**

It is the responsibility of the PMB Sergeant and/or the PMB Inspector to brief all PMB officers in respect of the extent of their legal powers and the context within which these powers can be properly exercised. Briefings will always include the RGP's Code of Ethics, the NDM and the political ambiance at that time. Officers require to be fully aware of the local/international political environment at that point in time. Those topics discussed and the officers in attendance will be recorded in the respective briefing sheet.

8.3 The nature of marine policing means that RGP PMB officers respond to unpredictable and rapidly changing situations. During a spontaneous incident the coxswain, in consultation with a PMB line manager, the Crown Sergeant or the Duty Inspector, should undertake a dynamic assessment of the hazards. Any decisions made will be transferred to an appropriate risk assessment document, when it is reasonably practicable to do so. Importantly, dynamic risk assessments should not be considered as a substitute for a formal risk assessment for all anticipated and planned operations.

8.4 Despite making important and often time critical decisions, RGP PMB officers are still accountable in law for their actions. While the law provides that the police may use reasonable force when lawfully exercising their powers, the use of force by police officers may, in certain circumstances, result in judicial proceedings through both the criminal justice system and civil courts.

8.5 The Gibraltar Constitution Order 2006, (the "Constitution") incorporates the European Convention on Human Rights ("ECHR") into the law of Gibraltar. As policing inevitably involves interferences with the human rights of individuals, all RGP PMB officers must consider and adopt a human rights compliant approach when discharging their duties.

8.6 Section 2 of the Constitution (Article 2 of the ECHR) on the right to life provides that all police actions must be proportionate and necessary. Every effort should be made to resolve a situation without resorting to the use of force and the overriding consideration should be the protection of the fundamental rights and freedoms of the public and officers. Where the use of force is required in the performance/course of duties to achieve a legitimate purpose, any force deployed will be the minimum necessary, reasonable, proportionate and lawful.

8.7 All credible allegations of violations of improper use of force will be investigated. In cases where death results from the use of force by the police or any police action, an independent investigation will be instigated in accordance with Article 2 of the ECHR and a public enquiry or other enquiry will be held by the coroner or other officers.

9 PMB coxswain liability

9.1 RGP PMB officers are potentially liable to prosecution for 'breaches' of either the ColRegs or Gibraltar Merchant Shipping (Safety, etc.) Act, 1993 (see Section 27 (1) - Misconduct endangering ships, persons or structures of the Act, 1993).

9.2 Consequently, RGP PMB officers need to remain cognisant of the potential implications of using tactics outlined within this Policy ensuring that the use of the tactic is justifiable, proportionate and necessary in dealing with the perceived threat.

10 Crew Composition

10.1 Due to the physical demands of PMB work, the RGP has a responsibility for the occupational health of all officers within the Marine Section. PMB line managers must, therefore consider each officer's individual health, ability and fitness levels to perform specific PMB tasks and duties at sea. Appropriate medical and fitness tests will be undertaken for the safety of all PMB officers, to ensure that the appropriate service is being provided to the public and that public confidence in the RGP is maintained.

10.2 On implementation of this Policy, all PMB officers will be informed of occupational health issues and requirements. There will be a three month grace period for those officers identified as requiring to improve their levels of fitness and general health.

10.3 The training and experience required to carry out the role of a RGP PMB coxswain or crewmember is dependent on where that coxswain / crewmember is required to operate and

the range of tactical capability afforded. The skills and experience of the Second Crew and other crewmembers and passengers will also have a bearing on a unit's range of capabilities.

10.4 All crews must be authorised RGP Marine Section officers, meaning that they, due to relevant professional qualifications, practical experience or expertise are authorised in writing by the Divisional Commander to perform their duties.

10.5 PMB line managers will assess all existing PMB officers every six months, in relation to their qualifications, competencies, health, fitness and suitability to remain in post. Their recommendations will then be forwarded to the Divisional Commander for their authorisation.

10.6 Any officer transferring to the PMB will undertake a six-month probationary period, whereby the PMB line managers will assess their qualities, competencies, health and fitness. If their probationary period is successful and their line managers recommend them, then the written authority from the Divisional Commander will be required to confirm the officer in post within the PMB.

10.7 All RGP vessels must have a qualified coxswain at the helm. For specific RGP vessels to be operational, a minimum number of PMB crewmembers will always be required (including a coxswain) and strictly adhered to, as follows:

- Sir Adrian Johns (Bravo 2) – A coxswain & a minimum of 3 additional crew, without using tender RHIB or 6 if intention is to launch the tender RHIB with a two man crew.
- Sir Francis Richards (Bravo 3) Interceptor – A coxswain and a minimum of 2 additional crew.
- Sir John Chapple (Bravo 4) Interceptor – A coxswain and a minimum of 2 additional crew.
- Sir Joshua Hassan (Bravo 7) – A coxswain and a minimum of 2 additional crew.

10.8 All line managers must be cognisant of the practicalities and risks around issues such as two officer crews conducting boarding at sea, where it is likely that only one member of crew will be able to board a subject vessel. For this reason, where a RGP Vessel is engaged on duties likely to entail regular patrolling, boarding's and interception work, a minimum crew of three police officers must be on-board.

11 Crew Roles

11.1 As with all commercially operated vessels, a defined command structure on board a RGP vessel is essential and based upon the qualifications and experience of each crewmember on board. Every time a RGP Vessel puts to sea, this structure must be confirmed. This will ensure that each crewmember clearly understands their own individual and designated

responsibilities from the outset. Further details on RGP PMB coxswain and crewmember professional profiles and key accountabilities can be found in Appendix E.

11.2 **Coxswains**

The RGP Coxswain will be in overall charge of any RGP Vessel. They will ultimately be responsible for the decisions they take, for the safety of all persons on-board their vessel and the integrity of the said vessel. RGP coxswains will respond to a wide range of incidents in an appropriate, professional and timely manner, in accordance with guidance, policies and procedures, in order to support public confidence in policing.

The RGP's Gibraltar Law Enforcement RHIB coxswain course assesses and qualifies all officers as competent RHIB coxswains. On doing so, a RGP coxswain should have the necessary skills to operate a RHIB effectively and safely.

The course is designed with a view to training officers from novice to fully qualified coxswain level. It considers the reality of operational needs creating a credible framework without sacrificing the effective teaching of officers or health and safety requirements. On successful completion of the course, the RGP coxswain should be able to satisfactorily operate RHIBs with two or more engines, under law enforcement conditions, in a manner, which is deemed to be responsible and safe for the coxswains, crews and other users. RGP coxswain competency criteria can be found in Appendix F.

11.3 **The Second Crew**

This officer will act as a deputy to the RGP coxswain, whenever the RGP vessel is being used in an operational police capacity. They will also be a trained coxswain and will have the ability to assume command in the event that the coxswain can no longer fulfil their function. See Appendix E for professional profile and key accountabilities.

11.4 **Third crew**

This refers to all other RGP PMB officers and support staff on board a RGP vessel, charged with any responsibility concerned in the operation of that RGP vessel. The third crewmember will be a PMB officer. Inexperienced and untrained officers shall NOT be permitted to cover any shortfalls within a crew. Either a present PMB officer or an officer with previous PMB experience (as part of the actual PMB complement) and appropriate training will be able to cover this post. See Appendix E, for professional profile and key accountabilities.

11.5 **Fourth crew**

Similar to the third crewmember, this post also refers to all other RGP PMB officers and support staff on board a RGP vessel, charged with any responsibility concerned in the operation of that RGP vessel. Coxswains must take into consideration minimal crew numbers required to man specific RGP vessels. The fourth crewmember will also be a PMB officer. Inexperienced and untrained officers shall NOT be permitted to cover any shortfalls within a crew. Either a present PMB officer or an officer with previous PMB experience (as part of the

actual PMB complement) and appropriate training will be able to cover this post. See Appendix E, for professional profile and key accountabilities.

11.6 **Passengers**

Any RGP officers (irrespective of rank or role), support staff or other persons aboard, that do not fall into one of the three crewmember categories above, will be considered as passengers. They will take no active role in the operation of the RGP vessel they are aboard, at any time, unless required to do so by the coxswain in charge of the vessel in an emergency.

12 Coxswain and crew responsibilities prior to leaving GGMS

12.1 Prior to any RGP vessel leaving GGMS, the Duty Coxswain must undertake the following actions:

- **Environmental Factors** - Liaise with the appropriate sources to obtain all relevant environmental details to evaluate the meteorological conditions to make a risk-based decision on whether to deploy the vessel.

- Assess **Crew experience** and competencies, conduct appropriate **vessel and equipment checks and maintenance.**

- Complete a **Patrol Plan** incorporating approved tactics and methods that are consistent with the capabilities of the vessel and crew and as per this Policy.

- Ensure that all crewmembers and/or passengers have been issued with and are wearing their **Personal Protection Equipment (PPE)** and are briefed on health and safety procedures to follow in case of an emergency.

13 Environmental factors

13.1 The operation of Police vessels at sea is a high-risk occupation, largely due to the unpredictable nature of the environment. The coastal area of Gibraltar and BGTW are unique in terms of the density and types of marine traffic, the number of port activities and the challenges posed by the combination of local geographical and environmental features. Every time a police coxswain decides to go afloat, they must consider their legal obligation for the safety of those on board and their capability to operate against the environmental factors during the time they will be on patrol. This decision must be made in relation to the nature of the patrol they are required to complete and the vessels at their disposal. Their daily assessment of the unit's ability to deploy MUST be based on the following changeable environmental factors and prevailing weather conditions:

13.2 **Tides**

They are the rise and fall of sea levels, caused by the combined effects of the gravitational forces exerted by the Moon and the Sun and the rotation of the Earth. The height of tide, and therefore the strength of water flow, changes dependant on the position of the moon and sun creating spring and neap tides.

13.3 **Wind**

In general, wind is caused by changes in atmospheric pressure. In addition, in coastal regions, sea breezes and land breezes caused by the different rates that the sun heats the land and sea can be important factors in a location's prevailing winds. The effect of the wind on the sea can be dramatic, particularly when the wind is blowing in the opposite direction to the tide as this often has the effect of increasing wave height and creating unnaturally choppy conditions. The effect of the wind and tide on the sea state can be amplified by geographical features such as noticeable changes in depth caused by submerged banks or narrow channels caused by the close vicinity of two land masses to one another.

13.4 **Visibility**

The state of visibility will have a large determining factor on the safe deployment of a RGP vessel and the effectiveness of the crew during patrols, pursuits and SAR operations. Areas of fog and mist can occur at sea without warning and severely inhibit the operational capability of a RGP vessel. It should be recognised that operating RGP vessels during the hours of darkness, also carries similar additional risks to the safety of the crew and vessel.

13.5 **Local Notice to Mariners ("LNTM's")**

Other considerations to factor into a patrol plan arise from temporary or permanent changes to the area of operation. Local information and navigational warnings can be obtained from the GPA. It is very important to be aware of such notices before a patrol is commenced. Where temporary maintenance affects navigational aids and access routes, safety may dictate that during the hours of darkness some areas are avoided.

It may be that RGP vessels may only be able to deploy safely to a limited section of their operational area. Therefore, RGP coxswains must ensure they have obtained and recorded accurate and relevant real time information regarding wind, visibility and tidal data prior to commencing any form of deployment.

14 Crew experience, Vessel checks, Equipment checks and Maintenance

14.1 Once patrolling and out at sea, crews are in some way isolated and will have to be to a degree self-sufficient. This, inevitably results in a heavy reliance on the crew's experience, the vessels and equipment on board. It is vital that the coxswain has given due consideration to the proven level of expertise of their crew prior to leaving GGMS, as demonstrated through previous deployments and training exercises.

14.2 In addition, the crew must be familiar with the working systems on the said vessel to be used. Crews should have a working knowledge of each vessel so that basic engine and equipment checks can be undertaken regularly to ensure the safety of the team. To achieve maximum effectiveness it is important that the boat crew are aware of the limitations of the equipment fitted and are confident in its use. This can only be achieved by ongoing training in varying conditions. Any identified issues, will instigate the PMB fault-reporting system, ensuring necessary maintenance is completed promptly, maintaining maximum operational capability.

14.3 **Radar** is an acronym for Radio Detection And Ranging. It is an object-detection system that uses radio waves to determine the range, angle, or velocity of objects. It can be used to detect aircraft, ships, motor vehicles, weather formations, and terrain. A radar system consists of a transmitter producing electromagnetic waves in the radio or microwaves domain, an emitting antenna, a receiving antenna (separate or the same as the previous one) to capture any returns from objects in the path of the emitted signal, a receiver and processor to determine properties of the object(s). Radar devices form an essential part of the navigational equipment required by vessels operating in limited visibility.

From a policing perspective, radar offers the potential to scan large areas of water for potential targets and can be especially useful during pursuits and security operations where the early identification of potential threats increases the reactionary gap. All RGP vessels are fitted with radar.

14.4 **Radar Governance**

a) It is the responsibility of all crewmembers to be proficient in its use and this must be recorded in their training files.

b) The second crew member is responsible to ensure that the said equipment is functional prior to leaving GGMS. It is the responsibility of the second crewmember to operate the Radar equipment during the course of a patrol or pursuit.

14.5 **The Automatic Identification System ("AIS")** is an automatic tracking system used on ships for identifying and locating vessels by electronically exchanging data with other nearby ships, AIS base stations and satellites. When satellites are used to detect AIS signatures, the term Satellite-AIS ("S-AIS") is used. AIS information supplements marine radar, which continues to be the primary method of collision avoidance for vessels. Information provided by AIS equipment, such as unique identification, position, course, and speed, can be displayed on a screen or an ECDIS. AIS is intended to assist a vessel and allow maritime authorities to track and monitor vessel movements. AIS integrates a standardized VHF transceiver with a positioning system such as a GPS receiver, with other electronic navigation sensors, such as a gyrocompass or rate of turn indicator. Vessels fitted with AIS transceivers can be tracked by AIS base stations located along coast lines or, when out of range of terrestrial networks, through a growing number of satellites.

The IMO's International Convention for the Safety of Life at Sea requires AIS to be fitted aboard international voyaging ships with gross tonnage (GT) of 300 or more, and all passenger ships regardless of size. All RGP vessels are equipped with AIS.

14.6 **AIS Governance**

a) It is the coxswain's responsibility to ensure that all RGP vessels have their AIS activated prior to leaving GGMS to commence any form of patrol, including pursuits. The AIS will remain activated and **WILL NOT BE SWITCHED OFF FOR ANY REASON**, throughout the duration of the patrol / pursuit and return to GGMS. This will ensure that both MOD Windmill Hill signal station ("WHSS") and the GPA can plot any incident.

b) It is the responsibility of the PMB Sergeant to obtain on a weekly basis, the AIS data appertaining to each RGP vessel. They will then conduct a review of all RGP AIS vessel data. This data and analysis will be forwarded to Inspector Special Operations.

c) Failure to comply with RGP BGTW patrolling instructions may result in disciplinary proceedings.

14.7 **Global Positioning System ("GPS")** is an accurate worldwide navigational and surveying facility. All RGP vessels have been installed with a GPS receiver, enabling the integration of the vessel's position into the Gibraltar Geographical Information System (GIS).

14.8 **GPS Governance**

a) It is the responsibility of the Crown Sergeant, to ensure that on PMB's instructions to the control room of their commencement of a patrol and/or pursuit, that the GPS of that vessel in functioning correctly and can be monitored by the control room command and dispatch ("CAD")

b) It is the responsibility of the PMB Sergeant to obtain on a weekly basis, the GPS data, in addition to AIS data appertaining to each RGP vessel. They will then conduct a review of all RGP GPS/AIS vessel data. This data and analysis will be forwarded to Inspector Special Operations.

c) Failure to comply with RGP BGTW patrolling instructions may result in disciplinary proceedings.

14.9 **A Night vision device ("NVD")** enhances the user's ability to see in darkness by either intensifying the image received or actively illuminating it with infrared light. Low light cameras can be fitted to vessels or the crew to enhance their ability to detect objects at night by using portable devices such as goggles or handheld binoculars. The coxswain must avoid using such a device to avoid temporary loss of sight in the event that the device is pointed at a bright light. NVD's do not afford the opportunity to penetrate physical visual inhibitors such as fog or

smoke (as a general rule if you cannot see through something in daylight, NVD's will not see through it).

Thermal imaging detects the temperature difference between the background and the foreground objects. Thermal imaging cameras are excellent tools for night vision. They detect thermal radiation and do not need a source of illumination. They produce an image in the darkest of nights and can see through light fog, rain and smoke (to a certain extent). Thermal imaging cameras make small temperature differences visible. Thermal imaging cameras are widely used to complement new or existing security networks, and for night vision on aircraft, where they are commonly referred to as "FLIR" (for "forward-looking infrared"). They are especially effective in identifying bodies on shorelines or in water where the subtle temperature difference between the surrounding land or water mass and the body shows clearly. It should be noted that where a body has been in cold water or exposed to the elements for a significant period, the chances of detecting them using thermal imaging diminish.

14.10 **NVD Governance**

It is the responsibility of the third Crewmember to ensure that the NVD equipment is functioning correctly and on board the vessel.

14.11 **Cameras / Video Recording**

The PMB will be issued with appropriate camera equipment. A camera will be mounted on each vessel and will commence recording prior to the RGP vessel leaving its berth. Video footage will provide vital evidence, when attending to incidents/operations/pursuits. This will be the rule and not the exception. When pre-planned boarding operations are undertaken, coxswains and line managers must consider the issue and use of Body Worn Cameras ("BWCs") to enhance evidence-gathering opportunities.

14.12 **Video Recording Governance**

It is the responsibility of the third Crewmember to ensure that the camera(s) are mounted correctly, functioning correctly and recording is commenced prior to deployment. Standard procedures, as per the Evidential Digital Imagery Policy will be undertaken.

14.13 **Radio & Telephone communication**

The PMB will be issued with appropriate radio and telephone equipment. Appropriate methods of communication with CAD and other LEAs are essential whilst at sea, undertaking patrols, incidents, operations and pursuits.

Whilst at sea, there will be no direct telephone communication between any PMB crew and all Spanish LEAs, who are also at sea or are land based. All telephone communication undertaken with all Spanish LEAs will ONLY be conducted via CAD and/or the Crown Sergeant. Any communication between RGP crews and Spanish LEA crews will be via radio and only under the supervision of the Crown Sergeant and CAD.

14.14 **Radio & Telephone communication Governance**

a) It is the responsibility of all crewmembers to be proficient in their use and this must be recorded in their training files.

b) The second crewmember is responsible to ensure that the said equipment is functional prior to leaving GGMS. It is their responsibility to ensure that they are protected from prevailing weather conditions. It is their responsibility to operate the said equipment during the course of a patrol or pursuit.

14.15 **Navigational Lights**

During the hours of darkness, all RGP vessels will have their navigation lights switched on and they will remain switched on throughout the duration of every patrol and/or pursuit.

14.16 **Navigational Lights Governance**

It is the responsibility of the coxswain to ensure that the navigational lights of their vessel are functioning, prior to leaving GGMS. It is also their responsibility to ensure that the said lights remain switched on during the duration of their time at sea.

15 Patrol Plans and Operating Procedures

15.1 This section details the general considerations for RGP PMB officers during a patrol, the tactics and techniques that may be employed during vessel interaction whilst on patrol and on-scene advice around dealing with spontaneous maritime police incidents, e.g. pursuits.

15.2 The effectiveness of the RGP PMB will be largely dependent on the level to which the crew prepare prior to deployment and the maintenance regime in place to support their operational capability. As with any commercial marine outfit, the completion of regular training, proactive checks and the adoption of good maritime working practices will have a positive effect on both.

15.3 Having obtained the appropriate information on the prevailing weather conditions, the coxswain will be able to predict the effect these factors will have on the sea state at different stages during their patrol. Coxswains will plan their patrols and workload around the likely effect that those conditions will have on their area of operation. By creating a basic patrol plan for the duration of their duty, they can minimise crew fatigue and wear and tear on vessels.

15.4 Whilst developing their patrol plan, coxswains must consider the NDM together with all the intelligence and information available to them and this must be evidenced in their plan. Additionally, in view of the fundamental rights and freedoms contained in the ECHR / Constitution, the Constitution must be considered to see how it affects the said plan and operational policing.

15.5 However, ultimately, at the PMB, the coxswain will make the final decision on where and when his crew and vessel commences a patrol. These decisions and the patrol plan will be forwarded to CAD and added to the CAD log. This will also include any subsequent alterations to the original plan brought about by a dynamic change in patrol priorities.

15.6 **Prior to leaving GGMS and commencing every patrol, the coxswain will, after completing their own checks and governance, inform CAD of the following:**

- The crew complement and if their expertise is sufficient for the task;
- That the appropriate vessel checks and governance has been conducted and found to be correct (or not);
- The level of risk due to prevailing weather conditions;
- The level of risk in general assessed for the task;
- A completed Patrol Plan;
- To instruct MOD (WHSS) and the GPA that a patrol is being commenced.

If a coxswain is not content with any of the above and the safety of his crew and the RGP vessel is in question, then the deployment must be reassessed. If there is no change in risk status, then the PMB vessel and crew will remain at GGMS and NOT deploy.

15.7 CAD will automatically commence a separate CAD log for each individual patrol and record the details supplied by the Coxswain. **Once the CROWN Sergeant is satisfied that the coxswain has undertaken all appropriate checks, they will then authorise the patrol / task to commence and authorisations will be recorded on the CAD log.**

15.8 All RGP coxswains will ensure that departures from GGMS and Gun Wharf, are not undertaken at an excessive and unsafe speed. RGP vessels maybe responding to a call and are on 'blue lights', however, this does not excuse unnecessary speed. This is not only dangerous within the Gun Wharf basin, but also because it exits into the Inner Harbour where other vessels or recreational craft may be obscured.

Rule 6 of the IMO's ColRegs (see Appendix B) states that *"every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions".* Additionally, rule 9(f) states that "*a vessel nearing a bend or an area of a narrow channel or fairway where other vessels may be obscured by an intervening obstruction shall navigate with particular alertness and caution"*.

Exiting Gun Wharf will be in accordance with ColRegs and the speed limits of 5kts within the Gun Wharf area and inner harbour. Additionally, the proximity of the sea walls is another concern for the safety of the crew and vessel, should there be a vessel malfunction or avoidance requirement.

16 Personal Protection Equipment (PPE)

16.1 RGP PMB Officers face the same risks as land-based colleagues and as such, will be issued with the same standard PPE as regular land patrol officers. This equipment will be accessible to crewmembers, accepting that heavy items such as body armour may be unsuitable as routine dress whilst afloat. During the carriage of Armed Police Teams or where PMB officers are deployed to incidents that present a firearms threat, they will be issued with firearms grade body armour. PMB Line managers should also consider the corrosive nature of the maritime environment and its' effect on the operational practicalities of radio handsets and metal items such as handcuffs (see paragraph 25 – Prisoner Handling).

16.2 The minimum level of safety and First Aid equipment must be available on all RGP Vessels. All crewmembers will provide medical first aid commensurate with their training as required to preserve life, to a fellow crewmember or any other person. The coxswain will have the final say on whether they believe it is safe for their crew to board the suspect vessel, to administer first aid. If there are serious injuries or risk to life, then the coxswain must broadcast a 'Mayday' call to all other vessels in the area to request assistance. First Aid Training must be recorded in the individual officer's training files.

16.3 In terms of PPE, all PMB officers engaged in PMB duties, will wear a lifejacket at all times (irrespective of the RGP vessel in use); when they are in the vicinity of water and certainly when on a vessel, unless there is a specific and justifiable reason not to do so (such as water entry to search or recover where a buoyancy aid may be more appropriate). All passengers on a RGP vessel will wear a lifejacket at all times.

16.4 There will be a level of protective clothing provided to PMB officers operating an open vessel (with no cabin) such as RHIBs. Operational immersion / dry suits must be provided for all crewmembers, when:

- Operating on open craft more than 1 mile from a safe haven;
- At any other time when the coxswain of the vessel so orders, having made a suitable and sufficient risk assessment with particular reference to the area of operation, weather conditions and the availability or otherwise of a life craft or other out of water support;
- Or at any time when the coxswain deems it necessary.

PMB officers on all RGP vessels must be provided with suitable appropriate protective clothing. Where the wearing of immersion/dry suits is not deemed suitable, appropriate protective clothing of a standard, which affords protection from the elements and reduces the likelihood of hypothermia, shall be worn.

16.5 Protective headgear and visors that meets a recognised marine standard and facilitates communication will be worn where appropriate when undertaking any form of patrols. However, in respect of PMB crews utilising Interceptors or RHIBS, for patrolling and pursuits, headgear and visors will be worn **AT ALL TIMES** from the time the vessel leaves

GGMS throughout the patrol and every pursuit by all crewmembers. Headgear and visors **will ONLY** be removed once the vessel is berthed back at the GGMS.

17 Presence and positioning whilst on patrol

17.1 RGP PMB crews are to conduct systematic periodic patrols of Gibraltar's coastline throughout their tour of duty. Depending on the threat level at the time, this will determine patrol frequency.

17.2 Once a RGP vessel goes afloat and begins to actively patrol, RGP coxswains must be fully cognisant of the effect that their vessel's presence and positioning has on other water users to maximise the effectiveness of each patrol. The RGP coxswain and crew must clearly understand that their actions at sea will have a direct impact on the public's confidence of both the RGP's PMB and the force in general.

17.3 **The RGP coxswain has the responsibility to operate the RGP vessel in relation to speed and manoeuvring in a manner that is consistent with achieving operational objectives whilst also having appropriate regard to the wellbeing of persons on board and those aboard other vessels, to ensure the safe and successful outcome of operational objectives.**

17.4 Whilst on patrol, if PMB officers are confronted with noncompliant/threatening persons or the officers find themselves outnumbered, a safe distance **MUST** be maintained to avoid the possibility of being injured by weapons or missiles, until other assistance arrives, which will make it safer or remove the risk/threat. In the event that a firearm is drawn, the situation will then be classified, as a 'Firearms Incident' and appropriate RGP procedures will be instigated. The following are areas of business commonly dealt with by RGP PMB:

- High Visibility Policing;
- Tangier Ferry;
- Incursion by Spanish law enforcement (LEA) and navy vessels;
- SARs;
- Summer bathing season;
- Fishing vessels;
- Illegal immigrants;
- Drugs trafficking;
- Ports Policing / Immigration / Intelligence gathering.

17.5 **High Visibility Patrols**

PMB crews will conduct high visibility sea and land patrols, assisting Response Teams, and, in marinas or any other locations, assisting with anti-social behaviour on the instructions of the Crown Sergeant. On these occasions, CAD will inform HMC and GDP that there are no RGP vessels at sea at that time. However, if the PMB crew is required to deploy to sea, then the appropriate checklists and criteria will be instigated.

17.6 **Tangier ferry**

The Tangier ferry is the only direct maritime link between Gibraltar and the North African mainland. It is a vital link between Gibraltar's Moroccan community and their homeland and a potential security breach. The ferry arrives on a Friday and returns on a Sunday (though these dates can change). PMB crews are to attend the arrival and departure of the Tangier ferry on both days and assist in policing the embarkation and disembarkation of passengers. When policing the ferry officers must be alert to the following: Breaches of security, illegal immigrants, drug smuggling, stolen cars and public order and deal with any offences appropriately.

17.7 **Incursion by Spanish Law Enforcement Agencies (LEA) and navy vessels**

The RGP's position is clear. We are charged with policing our territorial waters in all respects and this will continue. We are not however responsible for the protection of our waters. That is the exclusive responsibility of HM Government exercised locally through WHSS and the Gibraltar squadron.

We will continue to cooperate with Spanish Law Enforcement Agencies (SLEA) to combat smuggling activities. Although Spanish LEA vessels transit BGTW on innocent passage and chases they will not be allowed to take executive action within our waters and will be required to give up the chase once we get involved.

As already stated, the RGP will only operate outside BGTW as per paragraph 7.4. Every time there is Executive Action in BGTW by a Spanish state vessel, a report is to be sent via email to Chief Inspector Operations ("CI OPS"), via the appropriate channels.

Rules of Engagement - The following procedure will be adopted to deter Spanish law enforcement action **within BGTW**. The procedure should be escalated as necessary and each step followed until the objective is achieved. The Crown Sergeant will take control of CAD and the incident. Once the Royal Navy (RN) are at location, primacy of jurisdiction will revert to them.

a. SLEA vessels transiting through BGTW:
    i. WHSS to be informed of presence, position and heading of SLEA.
    ii. WHSS to be requested to deploy RN assets.
    iii. In the absence of RN the SLEA vessel to be shadowed at a distance.

b. SLEA vessel intending to, or attempting to carry out executive action within BGTW:
    i. Engage video and audio recording equipment.
    ii. WHSS to be informed of presence, position and heading of SLEA vessel.
    iii. WHSS to be requested to deploy RN assets in order to assume primacy.
    iv. Guardia Civil CoS to be contacted by CAD to declare intentions of SLEA.
    v. WHSS to be contacted via VHF situation report to be given and asked to consider issue of UNCLOS warnings.
    vi. SLEA vessel to be approached, asked by PMB to declare intentions and to desist.
        1. Contact CAD and report.
    vii. Engage beacons and sirens.
        1. Contact CAD and report intention to deter.

2. Duty Officer to contact Senior Officer on Call or CI OPS and report.

viii. Position PMB between SLEA vessel and target vessel, deter, and prevent SLEA from interfering with target vessel.

1. Contact GPA, WHSS, and request recording of incident.

ix. Contact SLEA vessel via VHF and state: "Vessel "-------"you are currently operating within British Gibraltar Territorial Waters and your actions are being recorded. You do not have competence to act in this jurisdiction. It is our intention to impede your action. You should cease immediately and leave British Gibraltar Territorial Waters."

17.8 **SAR**

The GPA is the lead agency for maritime SAR within BGTW. Where there is a SAR operation or a very serious incident at sea, where lives are in danger, the RGP will support the GPA, who will co-ordinate and be the lead agency in this field and any incident. In view of their immediate response capabilities, RGP PMB will fully support the GPA in any SAR operation. On the request of the GPA, a SAR is the ONLY occasion that a RGP vessel can leave BGTW. However, the Crown Sergeant or the Duty Inspector must supply authority, prior to undertaking assistance outside of BGTW and rationale recorded on the CAD log.

17.9 **Summer Bathing Season**

Commencing in mid-June and ending in mid-September, the bathing season sees the congregation of a large proportion of the community at both the Eastern and Western coastline beaches. There is an increase in water leisure activities such as use of jet skis, speedboats and pleasure boats all of which are a concern and can pose a danger to bathers. Prior to commencement of the Bathing Season, CI OPS will advise on PMB deployment, roles, responsibilities, duty hours and crew complements, after liaising with HMC and GDP.

17.10 **Fishing vessels**

With the aim of preventing the flaring of an excuse for a political situation, when on patrols, if the PMB come across a commercial fishing vessel within BGTW, coxswains will follow the following criteria:

a) On every occasion, where there is a report of a commercial fishing vessel, CAD will contact the Department for the Environment, requesting their presence.
b) If the Department of the Environment are unable to attend, then the RGP PMB will approach and engage with the master or any crewmember on every occasion to find out their intentions.
c) Record their activity, catch if any close up of their faces and recording position together with vessel's details.
d) If the vessel is lifting their fishing gear, thus on a trajectory out of BGTW or they have informed the RGP that they are just about to lift their fishing gear and leave BGTW, then the RGP PMB are to inform them that they are illegally fishing within BGTW and they have to leave.
e) Discretion falls upon the coxswain at the time, whether to report for process, with the knowledge that they may become difficult and/or not provide any details.

f) Under no circumstances are PMB officers to board the fishing vessel, without prior consent from Divisional Commander.
g) If the fishing vessel is laying their fishing gear down, in preparation for fishing or have just commenced fishing, then with the same guidelines, informing them that they are fishing illegally and should cease their activity and leave the area, failure to do so would result in them being reported for process.
h) A report of RGP actions will be forwarded via email to CI OPS.

17.11 **Illegal Immigrants**

The planned response to this type of incident incorporates many different sections of the RGP and the involvement of numerous outside agencies. The RGP's response to this type of incident can be found in the RGP's Migrant Plan.

17.12 **Drugs trafficking**

The straits of Gibraltar and its environs is a well-known smuggling route with drug and human trafficking taking place from the North African coastline to Spain. On many occasions, this smuggling activity enters our territorial waters.

PMB crews will conduct systematic periodic patrols of Gibraltar's coastline and territorial waters throughout their tour of duty. They will pursue suspect vessels in a determined though safe manner **ONLY** within BGTW and liaise with Spanish LEAs.

All communication to / from the PMB vessel and Spanish LEA, will be directed via CAD. There will be NO direct communication between the PMB crew and any Spanish LEA (land based) whilst at sea. CAD and/or the Crown Sergeant will undertake all communications with Spanish LEA's.

When a report of a pursuit is received by the RGP, and once CAD has complied with the THRIVE model and graded the response as immediate, the PMB will be informed. At this stage, the coxswain will undertake the following actions:

If still at GGMS, the checks as per sections 12.1 & 15.4 must be undertaken

If already on patrol, then the checks as per sections 12.1 & 15.4 have already been undertaken at the outset of the patrol. However, if there are any changes to the initial risk assessment and checklists supplied to CAD prior to leaving GGMS, then the coxswain must inform CAD immediately. A decision must then be made by the coxswain, in consultation with and authorisation of the Crown Sergeant to instigate the pursuit.

17.13 **Ports Policing / Immigration / Intelligence gathering**

The PMB in conjunction with RGP Special Branch (SB) officers will conduct policing of vessel entry points e.g. the Tangier Ferry and marinas. They will also offer support with seaborne enquiries and intelligence gathering opportunities with vessels in both the Western and Eastern anchorages.

18 Incident Response

18.1 The decision to utilise statutory exemptions should always be balanced against the nature of the incident, the distance of the intended location, vessels in the area and the weather conditions prevalent at the time.

18.2 Statutory exemptions exist in relation to exceeding the speed limit within the harbour. Where RGP vessels are on urgent duty and engaged in an emergency, they are authorised to proceed at a speed, exceeding the 5 knots limit. However, the coxswain must still exercise due care and attention, in accordance of rule 6 of the IMO's ColRegs (see Appendix B), as failure to do so may result in prosecution regardless of the statutory exemptions.

19 Pursuits

19.1 **Pursuit Navigation**

All Police officers have an individual responsibility for ensuring that they are aware of the relevant legislation and are informed about the extent of their legal powers and the context within which these powers can be properly exercised. When a situation falls within the definition of a pursuit, the RGP PMB coxswain **MUST** use the pneumonic JAPAN (see below) to assist them in immediately risk assessing the situation and deciding whether the pursuit is:

- **Justified -** Is what you are doing justifiable in the circumstances i.e. can you justify the need to pursue?
- **Authorised** - Are you authorised to undertake the pursuit? Alternatively, is it the responsibility of another officer to issue authority to you to continue?
- **Proportional** - Is what you are doing proportional to the purpose? Could the goal be achieved, if the pursuit was not commenced?
- **Auditable** - Have you shared your rationale with CAD, so that there is evidence of your actions?
- **Necessary** - Is what you are doing necessary or can the result be achieved in some other way without this a pursuit?

19.2 Pursuits may be spontaneous or part of pre-planned operations. The only vessels to be used in pursuits are marked RGP registered patrol vessels and RGP PWC (jet skis) fitted with emergency beacons and audible warning equipment.

19.3 Only RGP PMB officers who have undergone and passed the RGP RHIB course (see Appendix C) and are currently authorised as coxswains, will be authorised to coxswain any

RGP vessel involved in a patrol or pursuit. RGP coxswains are only authorised to operate a suitable RGP vessel in a manner that is consistent with achieving operational objectives, to ensure a safe and successful outcome to the incident. Additionally, **ONLY** after the appropriate Crown sergeant authorisations have been given to continue.

19.4 The aim of the coxswain should be to identify the vessel, if possible its coxswain and occupants. If there is evidence to suggest that the suspect vessel is involved in drug smuggling, the coxswain is to ascertain if the said vessel is loaded or unloaded. Once achieved the coxswain will update the control room, then pull back, and shadow the subject vessel at a safe distance. However, the reality of policing is that there will be times when there will be no other alternative but to pursue a vessel in order to detain the occupant(s), due to the serious nature of the offence, or to secure a vulnerable person. In these situations when faced with a vessel that is failing to stop or is fleeing, the coxswain must consider the criteria outlined in 19.7 and decide if to pursue the suspect vessel in the first instance.

19.5 **Pursuit Criteria**

On the commencement of every pursuit, the Crown Sergeant will take charge of CAD, the pursuit and incident. CAD will THRIVE the PMB's response using the same model as for land deployments. The Duty Inspector is to be informed as soon as practicable and will monitor. The second crewmember will relay all pursuit information, with a running commentary over the radio to CAD. If this process is not adhered, the Crown Sergeant can terminate the pursuit.

19.6 WHSS and the GPA would already be aware that our RGP vessel is out on patrol, as CAD would have already informed them. However, CAD must contact both WHSS and the GPA again at this point, confirming the commencement of a pursuit, and requesting the use of their CCTV cameras (VTS), with night time thermal imaging capabilities to record the said pursuit for evidential purposes.

19.7 With the relevant criteria in mind, coxswains should then carry out the pursuit by adhering to set procedures within this Policy and always bearing in mind their training (Gibraltar Law Enforcement R.H.I.B. coxswain course) undertaken, in relation to coxswain response and the exemptions open to them when coxswaining a RGP vessel at speed. The following guidelines must be undertaken:

- Decide upon the justification of the pursuit (within BGTW);
- Considering all known factors in accordance with policy and legislation;
- Weather and sea conditions;
- Risk assess;
- Identify the need for the pursuit, and request resources necessary to resolve the pursuit safely;
- The NDM must be applied when consideration is being given whether to pursue a vessel, and continually evaluated during the pursuit.
- Assess suitability of the RGP vessel for the pursuit;
- Coxswain the RGP vessel within their authorisation and personal limitation;

- Ensure that audible and visual warning equipment is used to best effect during the pursuit;
- Ensure that on board cameras / BWC equipment is used to best effect during the pursuit;
- Continued running commentary of anticipated route and continued route including the pursued vessels piloting manner and speed;
- Maintain safe following distances, decline any form of challenge from the suspect and remain calm;
- Avoid any activity that would place the pilot refusing to stop under any additional pressure. Research has shown that following a vessel too closely can significantly increase the pressure upon the subject vessel's coxswain being pursued and increase the likelihood of a collision;
- Resist the tendency to become focused (Red Mist) on the 'subject vessel' by continually scanning the environment;
- At the earliest opportunity, inform the control room of a vessel's failure to stop.
- Objectively assess and review the risks associated with the safe continuance of the pursuit.
- Discontinue a pursuit as soon as the pursuit becomes too dangerous in comparison with the offence(s) suspected or committed, if the suspect vessel performs evasive and/or dangerous manoeuvres.
- A crewmember should relay information such as the description and identification of the vessel, the pilot, the occupants, direction of travel and any other relevant information to the control room;
- Should the subject vessel leave BGTW the pursuit will be discontinued immediately and the control room informed, using set radio messages, as per paragraph 22.1.

20 Application of Emergency Warning Equipment

20.1 On land, the illumination of blue lights and sirens on a police vehicle is the most recognised method of requiring a subject vehicle to stop. The public's understanding of blue lights and sirens is transferrable and on the water, most will acknowledge a Police vessel displaying them and stop accordingly. Police coxswains should be cognisant of the extra engine noise of power driven vessel and consider the adoption of a dominant position to gain the visual attention of subject coxswains who appear to be failing to comply.

20.2 Coxswains will only deploy their emergency beacons and audible warning devices in the following situations:

- On the direction of CAD;
- To warn other seafarers and the public of their presence whilst dealing with an incident for their own and officers safety;

- To safely request a vessel and its occupants to stop, as they may have or are committing Criminal Offences;
- In the event of a vessel failing to stop;
- On the request for immediate assistance (10/5);
- In the event of escorting vessels or dignitaries;
- Any other time where a coxswain deploys their emergency equipment and an incident happens, the emphasis shall be on the coxswain to justify the reasoning behind it.

21 Vessel interception and stopping tactics

21.1 This Section provides an outline of the tactical options open to PMB officers in an escalating level of force and risk to the officers and the public. Waterborne tactical response options should follow the conflict resolution model and consideration must be given to the use of each escalating level starting with 'officer presence' and working up in conjunction with the NDM.

21.2 Tactical options are summarised in the following table:

<table>
<tr><td>Tactical options</td><td>Disengage</td><td colspan="3">Engage</td></tr>
<tr><td>Force</td><td colspan="3">Non-Lethal</td><td>Less Lethal</td></tr>
<tr><td>Reasonable officer response options</td><td>Withdraw</td><td>Officer (Vessel) presence</td><td>Communication skills</td><td>Primary control skills</td><td>Secondary control skills</td></tr>
<tr><td rowspan="2">Tactical Considerations</td><td colspan="4">Pacing</td></tr>
<tr><td>Observe</td><td>Vessel position (show of force)</td><td>VHF
Verbal Hand Signals
Written Signs</td><td>Slow speed ride off</td><td>Vessel stopping system (not presently available to the RGP)</td></tr>
</table>

21.3 **General considerations:**

- The NDM should be followed before taking any action using response options or tactics with appropriate referral to a recognised command structure where circumstances permit.

- The more extreme stopping tactics carry a greater risk of damaging a subject vessel and injuring its occupants. Is the tactic justifiable, auditable, proportionate, achievable, necessary and lawful?
- Has each tactic been considered in ascending order?
- The RGP coxswain and other crew who are practically involved in the execution of any tactic should be trained and practised in the activity prior to operational deployment. This requirement is in addition to their basic ability to helm the police vessel.
- Prevailing weather conditions and sea state must be considered and whether or not they will reduce the effectiveness of a tactic or make it more dangerous.
- Geographical features may restrict the tactics available.
- The specific characteristics of the Police vessel and whether it is a capable platform from which to execute the chosen tactic.
- Are there sufficient numbers of vessels available to meet the objective or execute the tactic?
- What contingencies are in place if something goes wrong? Have escape routes and man overboard plans been created and practiced?
- Communication between coxswain and crew should be considered along with a plan to contact other Police vessels, partner agencies and the public.
- The reactions by other water users during use of police tactics.
- What effect will the use of the tactic have on the subject vessel's behaviour? Is it likely to prompt a change in course or speed?
- Is there a role for other partner agencies?
- Tactical contact between vessels should always be proportionate.
- The final decision to perform any tactic should rest with the RGP coxswain and the Crown Sergeant / Duty Inspector.

21.4 Vessel Presence and Static Positioning

Explanation

The lowest level of engagement is "officer presence". This level of action is equally effective in the marine environment and the presence of the police vessel shadowing subject vessels or persons may deter and prevent them from escalating their actions. The subject maybe on the shoreline or waterside structure, on a waterborne structure such as a pontoon, or afloat on a vessel.

Considerations

- Useful for low level action where small numbers of persons or vessels are expected;
- Potentially less effective against larger, more powerful vessels;
- Minimal resources required;
- Care should be taken to maintain the distance between the subject and police vessel to maintain an overview of all subjects.

21.5 Communication with the Subject Vessel

Explanation

Where the presence of a police officer or vessel is no longer sufficient to contain and control a passive subject, communication should be established to achieve the police objective and give direction. Communication is the most effective way to gauge intention and the subject's reaction, or failure to respond, to this approach may then provide grounds to increase the level of force.

Considerations

- Communication is low level action;
- The resources required to conduct effective communication are minimal;
- There is potential that a subject, especially in a moving vessel is not aware of the RGP vessel presence and communication is a useful, proportionate escalation to gain attention and compliance.

Techniques

- Methods of communication can be considered on an escalating scale in themselves: for example, in the case of a vessel failing to stop on approach to a security area, the following progressive use of communication tactics could be considered, time and distance permitting. In most circumstances, blue lights and sirens will be sufficient to halt the subject. If not, police officers can then use the VHF radio to try and make contact. If still unsuccessful, stop signs and loud hailers can be used to raise the level of communication and maximize the opportunity of achieving subject compliance prior to escalating the level of force used. (There is no fixed escalation of police communication tactics and in each situation the most relevant forms of interaction should be adopted first).

- The crew should document (via CAD) their attempts to communicate with a subject vessel should it fail to stop. This will include, but not exclusively, communication methods attempted; duration of attempted communication; and, the response from the subject coxswain/crew (e.g. looked towards police displaying stop sign, but failed to respond). Relevant communication updates should be relayed to the Police Coxswain to assist them in adopting the most appropriate escalated tactic in response.

21.6 Vectoring

Vectoring describes the tactic of approaching a high-speed subject vessel from any angle to enable the RGP Vessel to match the speed and pace of the subject and adopt the optimum position in preparation for employing an escalated level of force.

A high-speed vessel (similar or excess speed to that of the RGP vessel) presents PMB officers with the issue of being unable to "catch up" and employ the use of any form of stopping tactics such as the vessel stopping devices. However, the RGP do not have this resource at their disposal. When RGP vessels are positioned on a cordon or control point bordering a vulnerable area, the RGP vessel would generally see an approaching vessel coming from the side or ahead. The coxswain should aim to intercept the subject vessel so that a pacing position is achieved without the subject being ahead at any time.

Considerations are:

- Executed correctly, this tactic presents a low risk of injury or damage to the police or the public but can act as a good 'show of strength'.
- Vectoring requires the careful positioning and adjustment of the Police Vessel as well as the accurate use of throttles and steering to prevent loss of speed through the turn and avoid finishing behind the subject.
- Coxswains should practice manoeuvres, as it is very easy to end up closer to the subject vessel than intended, with the associated dangers of unintentional ramming and injury. A well-practiced coxswain should be able to prevent the subject vessel getting ahead of them assuming the vessels are capable of similar speed and manoeuvrability
- Subject vessels may attempt evasive measures such as altering speed and steering behind the RGP vessel and coxswains should be prepared to react to this accordingly.
- It is unlikely that a subject vessel will intentionally ram a RGP vessel as the police vector onto them. Where an intention to ram the RGP vessel is anticipated or identified, immediate evasive action should be followed by the adoption of a side stand by position from which the RGP coxswain can maintain observations on the subject vessel safely, react to further aggression and mount an escalated use of force or call the required support.

Techniques

90° Vectoring

- Having identified a subject vessel, the RGP vessel will make rapid progress towards the subject's general direction being mindful of hazards and other vessels in the vicinity.
- Once under way, the RGP coxswain should judge the speed of the subject vessel and begin to aim the RGP vessel at the anticipated meeting point ahead of the subject.
- This change in course should be gradual and controlled to maintain speed and retain a view of the subject vessel at all times.
- The RGP coxswain must ensure that they time their arc to prevent an opportunity for the subject vessel to turn towards them and go behind the RGP vessel.
- The interception should end in a pacing position a safe distance from the subject vessel relative to the conditions and other relevant factors.

180° Vectoring:

- Having identified a subject vessel, the RGP vessel will get up to speed towards the subject's general direction being mindful of hazards & other vessels in the vicinity.
- Once under way and on the plane, the RGP Coxswain should begin an early turn out and away from the subject vessel to create space for a turning circle between them, keeping sight of the subject vessel at all times.
- When sufficient room has been created, the RGP coxswain should arc back in at the subject vessel judging the speed of the subject vessel.
- As the angle reduces to 90° and less, the RGP coxswain can adopt the same approach as described above.
- During a head-on interception, it is especially important to avoid sharp turns in order to maintain sufficient speed and momentum through the water.
- The interception should end in a pacing position a safe distance from the subject vessel, relative to the conditions and other relevant factors.

21.7 **Pacing**

The term 'pacing' means to match the speed of the police vessel to that of a subject vessel and adopt a parallel position to the port or starboard quarter.

Explanation

In essence, pacing is the preparatory position from which the RGP coxswain and crew can risk assess the subject vessel, make their presence known to the subject vessel coxswain, communicate with the occupants of the subject vessel, mount a boarding operation or initiate an escalated tactic. No contact should be made with the subject vessel and the RGP Coxswain will maintain a safe distance between the two vessels with particular regard for the conditions, the vessels' characteristics, the subject vessel coxswain apparent level of competence, surrounding hazards and the purpose of the manoeuvre.

Consideration

The considerations for pacing mirror those described in a boarding operation and vectoring. It is important to emphasise that at the conclusion of the manoeuvre, coxswains must avoid turning away more than 90° from their pacing course to reduce the risk of collision with any following or shadowing vessels.

21.8 **Ride off**

A vessel 'ride off' is where the RGP coxswain causes the RGP vessel to make gentle tactical contact with the subject vessel and guide them off course.

Explanation

Where the occupants of a subject vessel fail to react to the presence of the RGP vessel, the RGP crew's attempted communication or the RGP's adoption of a dominant or pacing position, the RGP coxswain may deem a ride off to be the most appropriate escalation. By physically making contact and causing the alteration of a subject's course, the ride off provides the subject with an assertive early indication of the RGP coxswain's intention to enforce

previous instruction. Where a subject has merely shown disregard for the RGP action or is contemplating whether or not to try and persevere with their initial non-compliance, the ride off can be a swift resolution, as the RGP do not have the resources to more extreme measures, such as the vessel stopping device or deployable booms.

Considerations

When locking on to a subject vessel, the RGP coxswain should also be mindful of the following issues:-

- **The RGP coxswain will ONLY undertake this manoeuvre/tactic where there is a clear and immediate risk to life, to the RGP crew, any member of the suspect crew, any passengers on the suspect vessel or any other member of the public.**
- The mere fact that a suspect vessel is involved in drug trafficking, irrespective of being loaded or unloaded at the time, does not justify the use of this tactic, unless the incident falls within the description above.
- A ride off can cause injury and damage and should be considered a **moderate risk** tactic.
- Where time allows, all possible attempts should be made to communicate with the subject vessel using as many methods as possible and those attempts should be recorded.
- This tactic is specifically aimed at small vessels – coxswains have to consider the characteristics of the RGP and subject vessel, before employing this tactic and ensure they will be able to dominate the subject vessel in terms of weight, size and engine power.
- The faster the two vessels are travelling when this tactic is employed, the higher the risk of damage or injury and as such, it is normally more suited to slower speed encounters.
- It is vitally important that this lock on manoeuvre is ***not*** construed as an attempt to ram the subject vessel
- As stipulated all RGP crewmembers on a RGP interceptor or RHIB will wear helmets and visors. Spray between the vessels can affect vision and there is a small potential for fixtures and fittings to break off one of the vessels and strike them.
- This tactic should not be allowed to evolve into a situation where the subject vessel is trying to evade the RGP vessel, by deliberately altering speed or course. The coxswain must dynamically assess the risk of serious injury and damage to either vessel or crew and consider another, potentially safer option.
- A ride off should only be used for sufficient time to persuade the subject vessel to stop, or proceed on a course as required.
- The tactic of a RGP vessel “coming together” with a subject vessel may result in damage to both the police and subject vessels. The deployment of this tactic must at all-time be safe and proportionate to the evolving threat and coxswains should be cognisant of their personal liability

21.9 **Locking On**

Considerations

The method of initiating a ride off is very similar to "locking on".

- **<u>The RGP coxswain will ONLY undertake this manoeuvre/tactic where there is a clear and immediate risk to life, to the RGP crew, any member of the suspect crew, any passengers on the suspect vessel or any other member of the public.</u>**
- The mere fact that a suspect vessel is involved in drug trafficking, irrespective of being loaded or unloaded at the time, does not justify the use of this tactic, unless the incident falls within the description above.
- The Police coxswain matches the subject vessel's speed and adopts a pacing position to maximise the crew's ability to communicate with the occupants of the subject vessel.
- Having decided to engage, the coxswain slowly manoeuvres the police vessel towards the subject vessel closing the gap, briefly holds off the subject vessel a metre away.
- When the police vessel has evened out, the shoulder of the vessel is gently lent against the side of the subject vessel in a safe position. This is often most effective in a location further forward towards the bow of the subject vessel (on the shoulder) than the normal position adopted for a cross decking operation.
- By gently increasing power and turning inwards, the Police coxswain can physically guide the subject vessel to alter course.
- The Police coxswain must not make contact so far forward of the subject vessel that a risk is created of wrapping around the front of the bow.
- The coxswain must also ensure that the bow of the Police vessel does not ride up over the front of the subject vessel.
- The Police coxswain must be prepared to increase or decrease power and steer away at any point to prevent either of the occurrences above and to react to an alteration in course or power by the subject vessel.
- Having manoeuvred the subject onto the desired course, the Police Vessel should slowly disengage and increase the space between the two vessels.

21.10 **<u>It is possible that the only option left to the RGP coxswain is to make firm tactical contact with a subject vessel that exceeds the Ride Off procedure. This tactic will only be executed, where there is a clear and immediate risk to life, to the RGP crew, any member of the suspect crew, any passengers on the suspect vessel or any other member of the public.</u>** It will be the decision of the coxswain to undertake the said tactic/action. However, the execution of the tactic must receive prior authority from the Crown Sergeant or Duty Inspector. All rationale must be recorded in the CAD log.

The following considerations (in addition to those above) must be made:-

- The coxswain and crew should consider wearing all available safety gear including helmets with visors down to protect themselves.
- In the event that any such manoeuvre has to be attempted, there is a high risk of injury and damage to the occupants and vessels involved. If

possible, assistance should be pre-empted and called for prior to the execution of the manoeuvre. The GPA should be provided with the vessel coordinates and direction of travel immediately prior to the contact being made. Members of the public in the vicinity on their own private vessels may be a justifiable rescue resource in the aftermath of the incident and consideration should be given to hailing all nearby vessels on VHF channel 16.

- A collision is likely to cause damage and ingress to the vessels involved which could result in the rapid sinking of one or both of the vessels. If time permits, life rafts and other relevant lifesaving equipment on board the RGP vessel should be prepared prior to the contact being made.
- Most vessels' propulsion systems are at the rear so logic would suggest that the most likely way of successfully disabling a subject vessel would be the initiation of contact at the front of the RGP vessel on, or near, the subject vessel's engines. **However, due to the high level of risk, such a tactic cannot be trained for and no practical guidance can be offered on how this type of manoeuvre should be executed.**

As soon as the manoeuvre is over, it is imperative that the welfare of the occupants on the subject vessel and those on the RGP vessel take primacy, with First Aid administered where required.

21.11 **Escalated Options**

In the event that all the tactics in this Section have failed to be successful and a serious threat to life still exists, RGP coxswains may deem it necessary to consider the use of escalated options. It should be understood that all the options in this Section present a high risk to the police officers and public involved.

Where circumstances permit, RGP coxswains are strongly advised to seek guidance and authority through the recognized Gold, Silver & Bronze ("GSB"), and command structure before resorting to any action or assistance described in this Section.

21.12 **Military assistance**

During some pre-planned events or in response to a spontaneous incident, there is the option of calling on military maritime assistance through the Military Assistance to the Civil Authority ("MACA") process in the resolution of a serious incident.

It is highly likely that Military teams will be called to resolve any armed situation on a vessel in BGTW, where there is time for them to respond. In such circumstances, the RGP PMB are likely to be asked to stand off and provide containment, but it is possible that they may be asked to provide transportation if no other options are available.

21.13 **Armed Police Response**

The RGP will take the same stance as that of the UK's National Police Firearms Training Curriculum, where it clearly states that under no normal circumstances, police officers should

fire at moving vessels due to huge number of risks that such action would create. However, if there is no option left, where life is at risk and officers deem the use of firearms necessary, it is conceded that this tactic may have to be used as a last resort. The Armed officer onboard the RGP vessel will be aware of the considerations prior to employing this tactic and they will make the final decision on whether to use their firearm.

22 Termination of a Pursuit

22.1 If at any point during a pursuit, the coxswain, the Crown Sergeant, or the Duty Inspector deems the pursuit to be unsafe and that the risk being taken is too great or the pursuit leaves BGTW, the pursuit is to be cancelled immediately, using the following words:

'PURSUIT CANCELLED'

The second crewmember, on the instructions of the coxswain will answer CAD (or CAD to PMB), acknowledging by stating:

'PURSUIT CANCELLED'

The coxswain will turn off all emergency warning equipment.

22.2 If the suspect vessel subsequently returns into BGTW, the pursuit will be re-engaged, as per above procedures and continuously updated by the second crewmember, allowing CAD to deploy accordingly.

22.3 Contact will only be made if the police vessel is struck by the pursued vessel and it is seen as a safe way to conclude the pursuit this is a judgement call by the coxswain. If the Coxswain uses contact against a pursued vessel without the above criteria it will be for them to justify.

23 Officer to officer communication

23.1 It is essential that any RGP boarding officer(s) retain constant communication with one another, as the coxswain will stay aboard the Police vessel having delivered them to a subject vessel. The coxswain should adopt the most appropriate standby position to enable good visibility of the subject vessel and boarding crew – they may have to alter their position during the operation in response to the boarding crew movements.

23.2 Communication is likely to be conducted using police radios, but coxswains and crewmembers should be conversant in hand signals to account for equipment failure or excessive background noise. As such, boarding officers should avoid going below deck or out of sight where possible. It is important to remember that large vessels are usually constructed of thick metal that often affects radio transmissions.

23.3 Checks must be made on all communication equipment, prior to leaving GGMS. Once aboard a suspect vessel, the Police coxswain, to ensure the welfare of the boarding officer, will carry out regular checks. The coxswain and crew should agree on the maximum amount of time before the first status update to negate any communication issues and ensure that the boarding crew will initiate contact with the coxswain in the event that they have not been prompted. Crews should consider the creation of a code word or phrase in order to covertly raise the alarm in the event that their safety is compromised once aboard the subject vessel.

24 Boarding / Transfer

24.1 Boarding other vessels is a regular marine policing function but with the vast number of variables in the maritime environment, boarding is often a complex area of expertise with the potential to present a high risk to crewmembers and vessels.

24.2 Any decision to board a vessel must be based on the application of the NDM. The coxswain must determine what necessity exists to board a subject vessel, balancing the risk of harm to their crew, the vessel and the public with policing obligations at the scene of an incident. Where appropriate, consideration should be given to other available options such as an overt escort to land or a withdrawal followed by discreet observations conducted from the Police vessel or other assets.

Having made the decision to board a vessel, the coxswain and Crew must be certain of the boarding officer's intention once aboard the subject vessel. It is important to assess the likelihood that this intention is achievable in the circumstances and develop a contingency to deal with unforeseen factors that arise during the boarding with particular reference to an 'escape plan'.

24.3 The location of a vessel boarding will affect the level of risk posed to the boarding officer(s) and where possible, coxswains should attempt to influence a subject vessel's location in their favour. It may be appropriate to escort the subject to a more secluded area such as a bay or harbour and in some instances, to a recognised mooring where safe boarding can take place from the land. Where this is not practical or achievable, the remoteness of a location and the vicinity of police back up (often non-existent at sea) should be considered.

24.4 The feasibility of a boarding will be largely dictated by the sea state and weather conditions. Adverse conditions and large swells increase the risk of injury to crewmembers and damage to both the RGP and subject vessel.

24.5 In addition to the strengths and limitations of the RGP vessel, the coxswain and crew will have to consider the number of crewmembers & additional police officers (passengers) available to conduct an appropriate boarding. This is particularly relevant at sea where the boarding officer(s) are isolated once aboard the subject vessel.

24.6 For marine policing purposes, boarding will fall into two categories, which are entirely dictated by the occupants on the subject vessel:-

a) During a pre-planned operation where the level of opposition is anticipated or predicted to be beyond RGP parameters, military assistance is likely to be sought through established processes.

b) In reactive situations, the RGP PMB officers may be faced with a level of non-compliance. As with all non-compliant boarding, the coxswain will have to make a dynamic NDM led decision, based on the risk to his crew and the public in respect of;

- The necessity to board;
- The level of opposition;
- The achievability of the boarding;
- The police resources available on the PMB with particular consideration to armed capability and where applicable, the tactical guidance of an Operational Firearms Commander (OFC) on board.

24.7 **Boarding (Training) Governance**

Boarding a subject vessel is a technical activity that should be regularly practiced to ensure that during live deployments, teams have a pre-existing understanding of the procedure and what is expected of each person.

a) It is the responsibility of the PMB instructors to keep up-to-date training manuals / files on all PMB personnel, in relation to this training. The entries must show exactly what the officers have been trained in, competent in and authorized to undertake.

b) The training files must contain details of all continuous training carried out.

c) PMB Sergeant must ensure that every PMB officer's training files are completed appropriately and securely stored. Any areas of concern identified by the instructors and/or the PMB Sergeant must be evidenced and reported in writing to the PMB Inspector.

25 Prisoner Handling

25.1 Dealing with prisoners or detained persons afloat or near water creates additional risk for both RGP officers and detained persons. Risks include drowning, entrapment in confined spaces, injury from unstable platforms and readily available articles on boats capable of causing injury.

25.2 The following resources will be required to undertake prisoner handling:

- Lifejackets;
- Buoyancy Aids for prisoners;
- Plastic handcuffs;
- Scarab cutters.

25.3 The Intended outcomes are as follows:

- To effectively detain (for search etc.), arrest and transport persons from avessel or waterside structure to land;
- To prevent injury to detainees or officers involved.

25.4 Methodology:

All officers must have undergone personal safety training. There are four principle guidelines that should be adhered to where police detain or arrest a subject afloat or on waterside structures:

i. A minimum of two officers should be in direct physical control of each subject at all times until the detainee is safely on land. This includes persons detained but not arrested for search.

ii. Handcuffing a detainee puts them at risk and should only be carried out if officers have no alternative. In the event that it is deemed necessary for safety because violence is being, or is likely to be, used or believing that the person may try to escape, prisoners should be handcuffed to the front stack position rather than rear. In this position, should a prisoner then fall or jump into the water, they are more likely to be able to keep their head above water and are able to hold lines or objects to maintain buoyancy. Once safely ashore, rigid handcuffs should be applied.

iii. As soon as possible after control of a detainee is established, a buoyancy aid or lifejacket must be fitted to them. Buoyancy aids are particularly useful for this purpose as they can be fitted to a person restrained by handcuffs. If the detainee is already wearing their own lifejacket the correct operation cannot readily be ascertained by officers. This should be removed and replaced with a DfT approved collar buoyancy aid if practical.

iv. Prisoners should only be transferred to the RGP vessel if they are compliant and the coxswain and crew consider it safe to do so. Many factors will influence this decision including water conditions and height of access into the RGP vessel. Other options to consider include towing the subject vessel to a safer location such as a pontoon where additional officers can be made available to extract the prisoner(s) from the vessel.

25.5 **Prisoner Handling (Training) Governance**

a) It is the responsibility of the PMB instructors to keep up-to-date training manuals / files on all PMB personnel, in relation to this training. The entries must show exactly what the officers have been trained in, competent in and authorized to undertake.

b) The training files must contain details of all continuous training carried out.

c) PMB Sergeant must ensure that every PMB officer's training files are completed appropriately and securely stored. Any areas of concern identified by the instructors and/or the PMB sergeant must be evidenced and reported in writing to the PMB Inspector.

25.6 Prior to boarding a vessel or waterside structure to deal with subjects, consideration must be given to the environment and the subject. Competent communication skills with, and intelligence on the subject are important in successfully detaining a subject.

25.7 Ships and vessels often contain confined spaces making a tactical retreat by officers difficult. Additional consideration must be given to the impact and use of any incapacitant sprays or batons in such situations and the likely effect on the subject or officers, such as:

a) Is there sufficient space for officers and the detained person to retreat from the effects of the spray?

b) Is the detainee likely to fall or jump overboard to escape effects?

25.8 Smaller vessels and pontoons are likely to be unstable platforms. Consideration should be given as to whether to try to detain a person on such a platform or in the case of a compliant detainee, request the subject move themselves onto the RGP vessel in a controlled manner. The positioning of officers and the detainee(s) aboard smaller vessels and RHIBs will offer greater stability. Keeping low on smaller vessels and sitting the detainee(s) down can make the vessel more stable.

25.9 Many vessels legitimately contain equipment and tools, which may be used as weapons against officers. It is common for tools and knives to be kept around the wheelhouse and helm area. Oars, marine flares, and fuel are all generally readily available on boats and can be used as weapons against officers. Where possible, ask the subject to turn off the engine or remove the kill cord and move away from the controls to an open space on the vessel at the stern or bow, ensuring they are not carrying potential weapons before boarding. Pay particular attention to personal knives or flares when searching detainees.

Having boarded and gained control of the detainee, control of the vessel should be established, ensuring that it cannot be deliberately or accidentally moved. CAD must be informed immediately and updated on the situation. Depending on the location, this may simply be taking control of the keys if there is no immediate danger to the vessel. Consideration should be given to towing, moving or anchoring the vessel to secure and control it.

In the event that it is not considered safe to move a prisoner to the Police vessel due to conditions or violence by the prisoner, the vessel can be towed to shore, preferably to a pontoon or dock where additional assistance can be used to move the prisoner to land.

26 General PMB Training

26.1 The RGP PMB receives accredited training from the AllAboard Maritime Academy, together with in house training delivered by qualified RGP PMB instructors. This training endorsed by the GMA, enabling PMB officers to attain recognised boat handling qualifications.

26.2 The RGP PMB relies heavily upon Royal Yachting Association ("RYA") qualifications and the GMA to assess our training and that of coxswains. This shows transparency in RGP systems and ensures that PMB officers are delivering a maximum quality of service. The overall aim is to minimise risks in our sometimes hostile and exposed environment.

26.3 The training programme will be a continuous and scheduled daily process, where the PMB officer will gain experience through hours at sea and set / planned training scenarios. Continuous coaching from PMB line managers, training instructors, senior coxswains and crewmembers. Every officer will continue training throughout his or her tenure in the PMB. All continuous in-house training will be recorded.

26.4 All PMB officers undertake the Standards of Training, certification and watch keeping (STCW 95) and RYA courses. The STCW 95 is an agreed and standardised training course, throughout the world. STCW is required by all seafarers who are working on-board commercial ships and superyachts and is valid for 5 years. Once the PMB officers have obtained the said STCW 95, they are ready to advance to their Boat Masters Certificate that is issued by the GMA, after taking practical and theory exams conducted by the GMA, which is also valid for 5 years.

The RHIB Coxswain certificate is obtained by PMB officers once they have completed all the above, and undergo the final RHIB assessments conducted in-house. Full details of RGP training can be found in the RGP PMB Manual.

26.5 **General Training Governance**

a) It is the responsibility of the PMB instructors to keep up-to-date training manuals/files on all PMB personnel, in relation to ALL forms of training. The entries must show exactly what the officers have been trained in, their competencies and what authorized to undertake.

b) The training files must contain details of all continuous training carried out.

c) PMB Sergeant must ensure that every PMB officer's training files are completed appropriately and securely stored. Any areas of concern identified by the instructors and/or the PMB Sergeant must be evidenced and reported in writing to the PMB Inspector.

27 RHIB Training

27.1 The GMA endorses the RGP's Gibraltar Law Enforcement RHIB Coxswain Course (Appendix C refers).

27.1 On successful completion of the coxswain course, the officers are able to satisfactorily operate twin engine and above RHIB's under law enforcement conditions in a manner which is deemed to be responsible and safe for the coxswains, crews and other users.

27.2 The course consists of 25 modules, explained further in Appendix C. These include theory and practical work as well as exam and practical assessment. It is designed around several scheduled mini courses, training days and in-house training during working hours. The course is not time specific and is dependent on the officers learning capacity and time constraints placed by operational commitments.

27.3 The course covers all aspects and material in depth. Officers will be tested and signed off on the different subjects as they successfully complete them. Officers must prove to be competent in handling a RHIB at this advanced level of powerboating and be able to plan and navigate Gibraltar waters in different sea and weather conditions during the day and night. The designated assessor then completes the final assessment form.

27.4 **RHIB Training Governance**

a) It is the responsibility of the PMB instructors to keep up-to-date training manuals/files on all PMB personnel, in relation to coxswain training. The entries must show exactly what the officers have been trained in, their competencies and authorized to undertake.

b) The training files must contain details of all continuous training carried out.

c) PMB Sergeant must ensure that every PMB officer's training files are completed appropriately and securely stored. Any areas of concern identified by the instructors and/or the PMB sergeant must be evidenced and reported in writing to the PMB Inspector.

28 Post Incident Procedure (PIP)

28.1 Depending on the seriousness of a situation, the Command Team will appoint a qualified Post Incident Manager (PIM).

28.2 In accordance with approved practice, PIP investigations are instigated when certain criteria are met, where the Police have been involved and this deployment has resulted in death or serious injury. The aim is to detail the management arrangements for such incidents

and relate to the safety and security of person(s), property/critical infrastructure and includes and are not limited to various instances, including:

- Pursuits;
- Accidents during operational activity;
- Serious collisions;
- Any situation where a critical incident has been declared.

The objectives of the procedure are to:

- Look after the welfare of Key Police Witnesses;
- Facilitate the investigation;
- Ensure the integrity of the procedure.

28.3 One of the PIM's responsibilities is to ensure that the officers' wellbeing and safeguards are considered at every stage of the process. The PIM gathers all relevant and available information, makes assessments and rationalises their decisions in a log.

28.4 If appropriate, the decision can be made to afford officers involved anonymity to mitigate the risk of their names being disclosed to persons involved in criminality. Accordingly as part of the PIP process, the officers can be identified as Officers 1, 2 etc.

28.5 Gibraltar Police Federation ("GPF") representatives will be present at the initiation of the PIP process and arrange legal representation, if appropriate.

28.6 If any other local LEAs are involved in the incident, they will also be included in the PIP process and afforded anonymity if required.

28.7 A return to work strategy for the officers involved must be implemented, including restricting their duties to non-operational and non-public facing duties. All officers will also be offered professional counselling, through the RGP's established Mental Wellbeing Policy and referral process with Ocean Views Mental Health Facility.

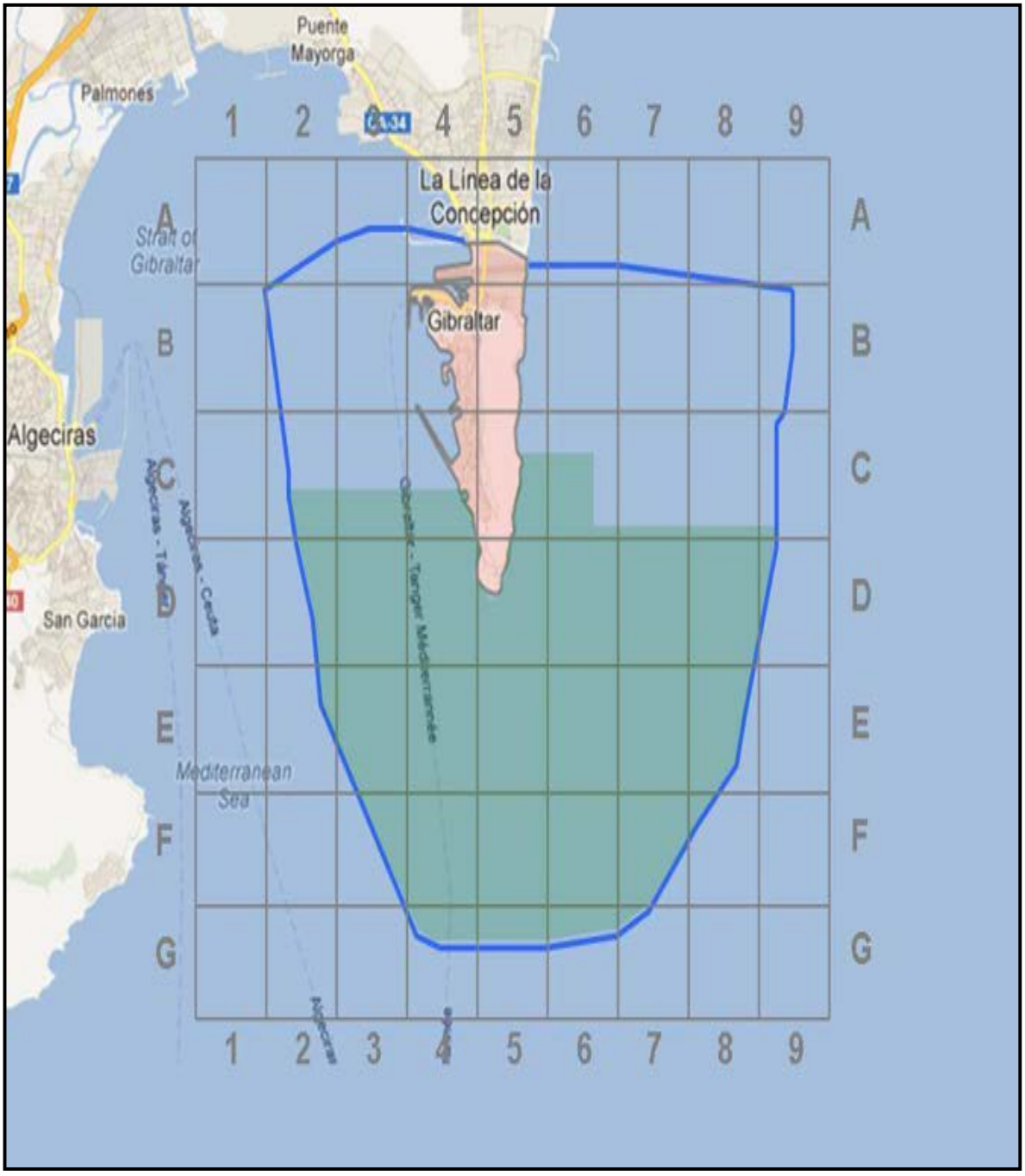
29 Related Policies and Documents

29.1 The implementation of this Policy will also be supported by the following RGP policies, documents other agency documentation:

- Code of Ethics;
- Competency and Values Framework (CVF);
- National Decision Model (NDM);
- The United Nations (UN) International Maritime Organisation's (IMO) International Regulations for Preventing Collisions at Sea 1972 (IRPCS) (ColRegs);
- Gibraltar Merchant Shipping (Safety, etc.) Act 1993;
- RGP Gibraltar Law Enforcement RHIB Coxswain Course Training Manual;
- RGP PMB Standing Orders 2016;
- Mental Wellbeing Policy.

APPENDIX A

Map of British Gibraltar Territorial Waters (BGTW)



APPENDIX B

INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

PART A- GENERAL

Rule 1: Application

- (a) These Rules shall apply to all vessels upon the high seas and in all waters connected therewith navigable by seagoing vessels.
- (b) Nothing in these Rules shall interfere with the operation of special rules made by an appropriate authority for road steads, harbours, rivers, lakes or inland waterways connected with the high seas and navigable by seagoing vessels. Such special rules shall conform as closely as possible to these Rules.
- (c) Nothing in these Rules shall interfere with the operation of any special rules made by the Government of any State with respect to additional station or signal lights, shapes or whistle signals for ships of war and vessels proceeding under convoy, or with respect to additional station or signal lights or shapes for fishing vessels engaged in fishing as a fleet. These additional station or signal lights, shapes or whistle signals shall, so far as possible, is such that they cannot be mistaken for any light, shape or signal authorised elsewhere under these Rules.
- (d) Traffic separation schemes may be adopted by the Organization for the purpose of these Rules.
- (e) Whenever the Government concerned shall have determined that a vessel of any special construction or purpose cannot comply with the provisions of any of these Rules with respect to the number, position, range or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signalling appliances, such vessel shall comply with such other provisions in regard to the number, position, range or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signalling appliances, as her Government shall have determined to be the closest possible compliance with these Rules in respect of that vessel.

Rule 2: Responsibility

- (a) Nothing in these Rules shall exonerate any vessel, or the owner, master or crew thereof, from the consequences of any neglect to comply with these Rules or of the neglect of any precaution, which may be required by the ordinary practice of seamen, or by the special circumstances of the case.
- (b) In construing and complying with these Rules due regard shall be had to all dangers of navigation and collision and to any special circumstances, including the limitations of the vessels involved, which may make a departure from these Rules necessary to avoid immediate danger.

Rule 3: General definitions

For the purpose of these Rules, except where the context otherwise requires:

- (a) The word “vessel” includes every description of watercraft, including non-displacement craft, WIG craft and seaplanes, used or capable of being used as a means of transportation on water.
- (b) The term “power-driven vessel” means any vessel propelled by machinery.

- (c) The term “sailing vessel” means any vessel under sail provided that propelling machinery, if fitted, is not being used.
- (d) The term “vessel engaged in fishing” means any vessel fishing with nets, lines, trawls or other fishing apparatus which restrict maneuverability, but does not include a vessel fishing with trolling lines or other fishing apparatus which do not restrict maneuverability.
- (e) The word “seaplane” includes any aircraft designed to manoeuvre on the water.
- (f) The term “vessel not under command” means a vessel which through some exceptional circumstance is unable to manoeuvre as required by these Rules and is therefore unable to keep out of the way of another vessel.
- (g) The term “vessel restricted in her ability to manoeuvre” means a vessel which from the nature of her work is restricted in her ability to manoeuvre as required by these Rules and is therefore unable to keep out of the way of another vessel. The term “vessels restricted in their ability to manoeuvre” shall include but not be limited to:
    - (i) a vessel engaged in laying, servicing or picking up a navigation mark, submarine cable or pipeline;
    - (ii) a vessel engaged in dredging, surveying or underwater operations;
    - (iii) a vessel engaged in replenishment or transferring persons, provisions or cargo while underway;
    - (iv) a vessel engaged in the launching or recovery of aircraft;
    - (v) a vessel engaged in mine clearance operations;
    - (vi) a vessel engaged in a towing operation such as severely restricts the towing vessel and her tow in their ability to deviate from their course.
- (h) The term “vessel constrained by her draught” means a power-driven vessel, which, because of her draught in relation to the available depth and width of navigable water, is severely restricted in her ability to deviate from the course she is following.
- (i) The word “underway” means that a vessel is not at anchor, or made fast to the shore, or aground.
- (j) The words “length” and “breadth” of a vessel mean her length overall and greatest breadth.
- (k) Vessels shall be deemed to be in sight of one another only when one can be observed visually from the other.
- (l) The term “restricted visibility” means any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms or any other similar causes.
- (m) The term “Wing-in-Ground (WIG) craft” means a multimodal craft which, in its main operational mode, flies in close proximity to the surface by utilizing surface-effect action.

PART B - STEERING AND SAILING RULES

Section I - Conduct of vessels in any condition of visibility

Rule 4: Application

Rules in this Section apply in any condition of visibility.

Rule 5: Lookout

Every vessel shall at all times maintain a proper look-out by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

Rule 6: Safe speed

Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions. In determining a safe speed, the following factors shall be among those taken into account:

- (a) By all vessels:
  - (i) the state of visibility;
  - (ii) the traffic density including concentrations of fishing vessels or any other vessels;
  - (iii) the maneuverability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions;
  - (iv) at night the presence of background light such as from shore lights or from back scatter of her own lights;
  - (v) the state of wind, sea and current, and the proximity of navigational hazards;
  - (vi) the draught in relation to the available depth of water.
- (b) Additionally, by vessels with operational radar:
  - (i) the characteristics, efficiency and limitations of the radar equipment;
  - (ii) any constraints imposed by the radar range scale in use;
  - (iii) the effect on radar detection of the sea state, weather and other sources of interference;
  - (iv) the possibility that small vessels, ice and other floating objects may not be detected by radar at an adequate range;
  - (v) the number, location and movement of vessels detected by radar;
  - (vi) the more exact assessment of the visibility that may be possible when radar is used to determine the range of vessels or other objects in the vicinity.

Rule 7: Risk of collision

- (a) Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt such risk shall be deemed to exist.
- (b) Proper use shall be made of radar equipment if fitted and operational, including long-range scanning to obtain early warning of risk of collision and radar plotting or equivalent systematic observation of detected objects.
- (c) Assumptions shall not be made on the basis of scanty information, especially scanty radar information.
- (d) In determining if risk of collision exists the following considerations shall be among those taken into account:
  - (i) such risk shall be deemed to exist if the compass bearing of an approaching vessel does not appreciably change;
  - (ii) such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large vessel or a tow or when approaching a vessel at close range.

Rule 8: Action to avoid collision

- (a) Any action taken to avoid collision shall be taken in accordance with the Rules of this Part and shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship.

- (b) Any alteration of course and/or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another vessel observing visually or by radar; a succession of small alterations of course and/or speed should be avoided.
- (c) If there is sufficient sea-room, alteration of course alone may be the most effective action to avoid a close-quarters situation provided that it is made in good time, is substantial and does not result in another close-quarters situation.
- (d) Action taken to avoid collision with another vessel shall be such as to result in passing at a safe distance. The effectiveness of the action shall be carefully checked until the other vessel is finally past and clear.
- (e) If necessary to avoid collision or allow more time to assess the situation, a vessel shall slacken her speed or take all way off by stopping or reversing her means of propulsion.
- (f)
    - (i) A vessel which, by any of these Rules, is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea-room for the safe passage of the other vessel.
    - (ii) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by the Rules of this Part.
    - (iii) A vessel the passage of which is not to be impeded remains fully obliged to comply with the Rules of this Part when the two vessels are approaching one another so as to involve risk of collision.

Rule 9: Narrow channels

- (a) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway, which lies on her starboard side as is safe and practicable.
- (b) A vessel of less than 20 metres in length or a sailing vessel shall not impede the passage of a vessel, which can safely navigate only within a narrow channel or fairway.
- (c) A vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway.
- (d) A vessel shall not cross a narrow channel or fairway if such crossing impedes the passage of a vessel, which can safely navigate only within such channel, or fairway. The latter vessel may use the sound signal prescribed in Rule 34(d) if in doubt as to the intention of the crossing vessel.
- (e)
    - (i) In a narrow channel or fairway when overtaking can take place only if the vessel to be overtaken has to take action to permit safe passing, the vessel intending to overtake shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) (i). The vessel to be overtaken shall, if in agreement, sound the appropriate signal prescribed in Rule 34(c) (ii) and take steps to permit safe passing. If in doubt she may sound the signals prescribed in Rule 34(d).
    - (ii) This Rule does not relieve the overtaking vessel of her obligation under Rule 13.
- (f) A vessel nearing a bend or an area of a narrow channel or fairway where other vessels may be obscured by an intervening obstruction shall navigate with particular alertness and caution and shall sound the appropriate signal prescribed in Rule 34(e).
- (g) Any vessel shall, if the circumstances of the case admit, avoid anchoring in a narrow channel.

Rule 10: Traffic separation schemes

- (a) This Rule applies to traffic separation schemes adopted by the Organization and does not relieve any vessel of her obligation under any other Rule.
- (b) A vessel using a traffic separation scheme shall:
    - (i) proceed in the appropriate traffic lane in the general direction of traffic flow for that lane;
    - (ii) so far as practicable keep clear of a traffic separation line or separation zone;
    - (iii) normally join or leave a traffic lane at the termination of the lane, but when joining or leaving from either side shall do so at as small an angle to the general direction of traffic flow as practicable.
- (c) A vessel shall, so far as practicable, avoid crossing traffic lanes but if obliged to do so shall cross on a heading as nearly as practicable at right angles to the general direction of traffic flow.
- (d)
    - (i) A vessel shall not use an inshore traffic zone when she can safely use the appropriate traffic lane within the adjacent traffic separation scheme. However, vessels of less than 20 metres in length, sailing vessels and vessels engaged in fishing may use the inshore traffic zone.
    - (ii) Notwithstanding sub-paragraph (d) (i), a vessel may use an inshore traffic zone when enroute to or from a port, offshore installation or structure, pilot station or any other place situated within the inshore traffic zone, or to avoid immediate danger.
- (e) A vessel other than a crossing vessel or a vessel joining or leaving a lane shall not normally enter a separation zone or cross a separation line except:
    - (i) in cases of emergency to avoid immediate danger;
    - (ii) to engage in fishing within a separation zone.
- (f) A vessel navigating in areas near the terminations of traffic separation schemes shall do so with particular caution.
- (g) A vessel shall so far as practicable avoid anchoring in a traffic separation scheme or in areas near its terminations.
- (h) A vessel not using a traffic separation scheme shall avoid it by as wide a margin as is practicable.
- (i) A vessel engaged in fishing shall not impede the passage of any vessel following a traffic lane.
- (j) A vessel of less than 20 metres in length or a sailing vessel shall not impede the safe passage of a power-driven vessel following a traffic lane.
- (k) A vessel restricted in her ability to manoeuvre when engaged in an operation for the maintenance of safety of navigation in a traffic separation scheme is exempted from complying with this Rule to the extent necessary to carry out the operation.
- (l) A vessel restricted in her ability to manoeuvre when engaged in an operation for the laying, servicing or picking up of a submarine cable, within a traffic separation scheme, is exempted from complying with this Rule to the extent necessary to carry out the operation.

Section II - Conduct of vessels in sight of one another

Rule 11: Application

Rules in this Section apply to vessels in sight of one another.

Rule 12: Sailing Vessels

- (a) When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows:
    - (i) when each has the wind on a different side, the vessel which has the wind on the port side shall keep out of the way of the other;
    - (ii) when both have the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward;
    - (iii) if a vessel with the wind on the port side sees a vessel to windward and cannot determine with certainty whether the other vessel has the wind on the port or on the starboard side, she shall keep out of the way of the other.
- (b) For the purposes of this Rule the windward side shall be deemed to be the side opposite to that on which the mainsail is carried or, in the case of a square-rigged vessel, the side opposite to that on which the largest fore-and-aft sail is carried.

Rule 13: Overtaking

- (a) Notwithstanding anything contained in the Rules of Part B, Sections I and II, any vessel overtaking any other shall keep out of the way of the vessel being overtaken.
- (b) A vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft her beam, that is, in such a position with reference to the vessel she is overtaking, that at night she would be able to see only the stern light of that vessel but neither of her sidelights.
- (c) When a vessel is in any doubt as to whether she is overtaking another, she shall assume that this is the case and act accordingly.
- (d) Any subsequent alteration of the bearing between the two vessels shall not make the overtaking vessel a crossing vessel within the meaning of these Rules or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

Rule 14: Head-on situation

- (a) When two power-driven vessels are meeting on reciprocal or nearly reciprocal courses so as to involve risk of collision each shall alter her course to starboard so that each shall pass on the port side of the other.
- (b) Such a situation shall be deemed to exist when a vessel sees the other ahead or nearly ahead and by night she would see the mast head lights of the other in a line or nearly in a line and or both sidelights and by day she observes the corresponding aspect of the other vessel.
- (c) When a vessel is in any doubt as to whether such a situation exists she shall assume that it does exist and act accordingly.

Rule 15: Crossing situation

When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on her own starboard side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel.

Rule 16: Action by give-way vessel

Every vessel, which is directed to keep out of the way of another vessel, shall, so far as possible, take early and substantial action to keep well clear.

Rule 17: Action by stand-on vessel

- (a)
  - (i) Where one of two vessels is to keep out of the way the other shall keep her course and speed.
  - (ii) The latter vessel may however take action to avoid collision by her manoeuvre alone, as soon as it becomes apparent to her that the vessel required to keep out of the way is not taking appropriate action in compliance with these Rules.
- (b) When, from any cause, the vessel required to keep her course and speed finds herself so close that collision cannot be avoided by the action of the give-way vessel alone, she shall take such action as will best aid to avoid collision.
- (c) A power-driven vessel which takes action in a crossing situation in accordance with sub-paragraph (a)(ii) of this Rule to avoid collision with another power-driven vessel shall, if the circumstances of the case admit, not alter course to port for a vessel on her own port side.
- (d) This Rule does not relieve the give-way vessel of her obligation to keep out of the way.

Rule 18: Responsibilities between vessels

Except where Rules 9, 10 and 13 otherwise require:

- (a) A power-driven vessel underway shall keep out of the way of:
  - (i) a vessel not under command;
  - (ii) a vessel restricted in her ability to manoeuvre;
  - (iii) a vessel engaged in fishing;
  - (iv) a sailing vessel.
- (b) A sailing vessel underway shall keep out of the way of:
  - (i) a vessel not under command;
  - (ii) a vessel restricted in her ability to manoeuvre;
  - (iii) a vessel engaged in fishing.
- (c) A vessel engaged in fishing when underway shall, so far as possible, keep out of the way of:
  - (i) a vessel not under command;
  - (ii) a vessel restricted in her ability to manoeuvre.
- (d)
  - (i) Any vessel other than a vessel not under command or a vessel restricted in her ability to manoeuvre shall, if the circumstances of the case admit, avoid impeding the safe passage of a vessel constrained by her draught, exhibiting the signals in Rule 28.
  - (ii) A vessel constrained by her draught shall navigate with particular caution having full regard to her special condition.
- (e) A seaplane on the water shall, in general, keep well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, she shall comply with the Rules of this Part.
- (f)
  - (i) A WIG craft shall, when taking off, landing and in flight near the surface, keep well clear of all other vessels and avoid impeding their navigation;
  - (ii) A WIG craft operating on the water surface shall comply with the Rules of this Part as a power-driven vessel.

Section III - Conduct of vessels in restricted visibility

Rule 19: Conduct of vessels in restricted visibility

- (a) This Rule applies to vessels not in sight of one another when navigating in or near an area of restricted visibility.
- (b) Every vessel shall proceed at a safe speed adapted to the prevailing circumstances and conditions of restricted visibility. A power-driven vessel shall have her engines ready for immediate manoeuvre.
- (c) Every vessel shall have due regard to the prevailing circumstances and conditions of restricted visibility when complying with the Rules of Section I of this Part.
- (d) A vessel which detects by radar alone the presence of another vessel shall determine if a close-quarters situation is developing and/or risk of collision exists. If so, she shall take avoiding action in ample time, provided that when such action consists of an alteration of course, so far as possible the following shall be avoided:
    - (i) an alteration of course to port for a vessel forward of the beam, other than for a vessel being overtaken;
    - (ii) an alteration of course towards a vessel abeam or abaft the beam.
- (e) Except where it has been determined that a risk of collision does not exist, every vessel which hears apparently forward of her beam the fog signal of another vessel, or which cannot avoid a close-quarters situation with another vessel forward of her beam, shall reduce her speed to the minimum at which she can be kept on her course. She shall if necessary take all her way off and in any event navigate with extreme caution until danger of collision is over.

PART C - LIGHTS AND SHAPES

Rule 20: Application

- (a) Rules in this Part shall be complied with in all weathers.
- (b) The Rules concerning lights shall be complied with from sunset to sunrise and during such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in these Rules or do not impair their visibility or distinctive character, or interfere with the keeping of a proper look-out.
- (c) The lights prescribed by these Rules shall, if carried, also be exhibited from sunrise to sunset in restricted visibility and may be exhibited in all other circumstances when it is deemed necessary.
- (d) The Rules concerning shapes shall be complied with by day.
- (e) The lights and shapes specified in these Rules shall comply with the provisions of Annex I to these Regulations.

Rule 21: Definitions

- (a) “Masthead light” means a white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side of the vessel.
- (b) “Sidelights” means a green light on the starboard side and a red light on the port side each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from the right ahead to 22.5 degrees abaft the beam on its respective side. In a vessel of less than 20 metres in length the sidelights may be combined in one lantern carried on the fore and aft centerline of the vessel.

- (c) “Stern light” means a white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel.
- (d) “Towing light” means a yellow light having the same characteristics as the “stern light” defined in paragraph (c) of this Rule.
- (e) “All-round light” means a light showing an unbroken light over an arc of the horizon of 360 degrees.
- (f) “Flashing light,” means a light flashing at regular intervals at a frequency of 120 flashes or more per minute.

Rule 22: Visibility of lights

The lights prescribed in these Rules shall have an intensity as specified in Section 8 of Annex I to these Regulations so as to be visible at the following minimum ranges:

- (a) In vessels of 50 metres or more in length:
  - a masthead light, 6 miles;
  - a sidelight, 3 miles;
  - a stern light, 3 miles;
  - a towing light, 3 miles;
  - a white, red, green or yellow all-round light, 3 miles.
- (b) In vessels of 12 metres or more in length but less than 50 metres in length:
  - a masthead light, 5 miles; except that where the length of the vessel is less than 20 metres, 3 miles;
  - a sidelight, 2 miles;
  - a stern light, 2 miles;
  - a towing light, 2 miles;
  - a white, red, green or yellow all-round light, 2 miles.
- (c) In vessels of less than 12 metres in length:
  - a masthead light, 2 miles;
  - a sidelight, 1 mile;
  - a sternlight, 2 miles;
  - a towing light, 2 miles
  - a white, red, green or yellow all-round light, 2 miles.
- (d) In inconspicuous, partly submerged vessels or objects being towed:
  - a white all-round light, 3 miles.

Rule 23: Power-driven vessels underway

- (a) A power-driven vessel underway shall exhibit:
  - (i) a masthead light forward;
  - (ii) a second masthead light abaft of and higher than the forward one; except that a vessel of less than 50 metres in length shall not be obliged to exhibit such light but may do so;
  - (iii) sidelights;
  - (iv) a stern light.
- (b) An air-cushion vessel when operating in the non-displacement mode shall, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit an all-round flashing yellow light.
- (c) A WIG craft only when taking off, landing and in flight near the surface shall, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit a high intensity all-round flashing red light.

- (d)
    - (i) A power-driven vessel of less than 12 metres in length may in lieu of the lights prescribed in paragraph (a) of this Rule exhibit an all-round white light and sidelights;
    - (ii) a power-driven vessel of less than 7 metres in length whose maximum speed does not exceed 7 knots may in lieu of the lights prescribed in paragraph (a) of this Rule exhibit an all-round white light and shall, if practicable, also exhibit sidelights;
    - (iii) the masthead light or all-round white light on a power-driven vessel of less than 12 metres in length may be displaced from the fore and aft centreline of the vessel if centreline fitting is not practicable, provided that the sidelights are combined in one lantern which shall be carried on the fore and aft centreline of the vessel or located as nearly as practicable in the same fore and aft line as the masthead light or the all-round white light.

Rule 24: Towing and pushing

- (a) A power-driven vessel when towing shall exhibit:
    - (i) instead of the light prescribed in Rule 23(a)(i) or (a)(ii), two masthead lights in a vertical line. When the length of the tow, measuring from the stern of the towing vessel to the after end of the tow exceeds 200 metres, three such lights in a vertical line;
    - (ii) sidelights;
    - (iii) a stern light;
    - (iv) a towing light in a vertical line above the stern light;
    - (v) when the length of the tow exceeds 200 metres, a diamond shape where it can best be seen.
- (b) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and exhibit the lights prescribed in Rule 23.
- (c) A power-driven vessel when pushing ahead or towing alongside, except in the case of a composite unit, shall exhibit:
    - (i) instead of the light prescribed in Rule 23(a)(i) or (a)(ii), two masthead lights in a vertical line;
    - (ii) sidelights;
    - (iii) a stern light.
- (d) A power-driven vessel to which paragraph (a) or (c) of this Rule applies shall also comply with Rule 23(a) (ii).
- (e) A vessel or object being towed, other than those mentioned in paragraph (g) of this Rule, shall exhibit:
    - (i) sidelights;
    - (ii) a stern light;
    - (iii) when the length of the tow exceeds 200 metres, a diamond shape where it can best be seen.
- (f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel,
    - (i) a vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end sidelights;
    - (ii) a vessel being towed alongside shall exhibit a stern light and at the forward end, sidelights.
- (g) An inconspicuous, partly submerged vessel or object, or combination of such vessels or objects being towed, shall exhibit:

  - (i) if it is less than 25 metres in breadth, one all-round white light at or near the forward end and one at or near the after end except that dracones need not exhibit a light at or near the forward end;
  - (ii) if it is 25 metres or more in breadth, two additional all-round white lights at or near the extremities of its breadth;
  - (iii) if it exceeds 100 metres in length, additional all-round white lights between the lights prescribed in sub-paragraphs (i) and (ii) so that the distance between the lights shall not exceed 100 metres;
  - (iv) a diamond shape at or near the aftermost extremity of the last vessel or object being towed and if the length of the tow exceeds 200 metres an additional diamond shape where it can best be seen and located as far forward as is practicable.
- (h) Where from any sufficient cause it is impracticable for a vessel or object being towed to exhibit the lights or shapes prescribed in paragraph (e) or (g) of this Rule, all possible measures shall be taken to light the vessel or object towed or at least to indicate the presence of such vessel or object.
- (i) Where from any sufficient cause it is impracticable for a vessel not normally engaged in towing operations to display the lights prescribed in paragraph (a) or (c) of this Rule, such vessel shall not be required to exhibit those lights when engaged in towing another vessel in distress or otherwise in need of assistance. All possible measures shall be taken to indicate the nature of the relationship between the towing vessel and the vessel being towed as authorized by Rule 36, in particular by illuminating the towline.

Rule 25: Sailing vessels underway and vessels under oars

- (a) A sailing vessel underway shall exhibit:
  - (i) sidelights;
  - (ii) a stern light.
- (b) In a sailing vessel of less than 20 metres in length the lights prescribed in paragraph (a) of this Rule may be combined in one lantern carried at or near the top of the mast where it can best be seen.
- (c) A sailing vessel underway may, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower green, but these lights shall not be exhibited in conjunction with the combined lantern permitted by paragraph (b) of this Rule.
- (d)
  - (i) A sailing vessel of less than 7 metres in length shall, if practicable, exhibit the lights prescribed in paragraph (a) or (b) of this Rule, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.
  - (ii) A vessel under oars may exhibit the lights prescribed in this Rule for sailing vessels, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.
- (e) A vessel proceeding under sail when also being propelled by machinery shall exhibit forward where it can best be seen a conical shape, apex downwards.

Rule 26: Fishing Vessels

- (a) A vessel engaged in fishing, whether underway or at anchor, shall exhibit only the lights and shapes prescribed in this Rule.
- (b) A vessel when engaged in trawling, by which is meant the dragging through the water of a dredge net or other apparatus used as a fishing appliance, shall exhibit:

- (i) two all-round lights in a vertical line, the upper being green and the lower white, or a shape consisting of two cones with their apexes together in a vertical line one above the other;
- (ii) a masthead light abaft of and higher than the all-round green light; a vessel of less than 50 metres in length shall not be obliged to exhibit such a light but may do so;
- (iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a stern light.

- (c) A vessel engaged in fishing, other than trawling, shall exhibit:
  - (i) two all-round lights in a vertical line, the upper being red and the lower white, or a shape consisting of two cones with apexes together in a vertical line one above the other;
  - (ii) when there is outlying gear extending more than 150 metres horizontally from the vessel, an all- round white light or a cone apex upwards in the direction of the gear;
  - (iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a stern light.
- (d) The additional signals described in Annex II to these Regulations apply to a vessel engaged in fishing in close proximity to other vessels engaged in fishing.
- (e) A vessel when not engaged in fishing shall not exhibit the lights or shapes prescribed in this Rule, but only those prescribed for a vessel of her length.

Rule 27: Vessels not under command or restricted in their ability to manoeuvre

- (a) A vessel not under command shall exhibit:
  - (i) two all-round red lights in a vertical line where they can best be seen;
  - (ii) two balls or similar shapes in a vertical line where they can best be seen;
  - (iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a stern light.
- (b) A vessel restricted in her ability to manoeuvre, except a vessel engaged in mine-clearance operations, shall exhibit:
  - (i) three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;
  - (ii) three shapes in a vertical line where they can best be seen. The highest and lowest of these shapes shall be balls and the middle one a diamond;
  - (iii) when making way through the water, a masthead light or lights, sidelights and a stern light, in addition to the lights prescribed in sub-paragraph (i);
  - (iv) when at anchor, in addition to the lights or shapes prescribed in sub-paragraphs (i) and (ii), the light, lights or shape prescribed in Rule 30.
- (c) A power-driven vessel engaged in a towing operation such as severely restricts the towing vessel and her tow in their ability to deviate from their course shall, in addition to the lights or shapes prescribed in Rule 24(a), exhibit the lights or shapes prescribed in sub-paragraphs (b)(i) and (ii) of this Rule.
- (d) A vessel engaged in dredging or underwater operations, when restricted in her ability to manoeuvre, shall exhibit the lights and shapes prescribed in sub-paragraphs (b) (i), (ii) and (iii) of this Rule and shall in addition, when an obstruction exists, exhibit:
  - (i) two all-round red lights or two balls in a vertical line to indicate the side on which the obstruction exists;
  - (ii) two all-round green lights or two diamonds in a vertical line to indicate the side on which another vessel may pass;
  - (iii) when at anchor, the lights or shapes prescribed in this paragraph instead of the lights or shape prescribed in Rule 30.

- (e) Whenever the size of a vessel engaged in diving operations makes it impracticable to exhibit all lights and shapes prescribed in paragraph (d) of this Rule, the following shall be exhibited:
    - (i) three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;
    - (ii) a rigid replica of the International Code flag "A" not less than 1 metre in height. Measures shall be taken to ensure its all-round visibility.
- (f) A vessel engaged in mine-clearance operations shall in addition to the lights prescribed for a power-driven vessel in Rule 23 or to the lights or shape prescribed for a vessel at anchor in Rule 30 as appropriate, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach within 1000 metres of the mine clearance vessel.
- (g) Vessels of less than 12 metres in length, except those engaged in diving operations, shall not be required to exhibit the lights and shapes prescribed in this Rule.
- (h) The signals prescribed in this Rule are not signals of vessels in distress and requiring assistance. Such signals are contained in Annex IV to these Regulations.

Rule 28: Vessels constrained by their draught

A vessel constrained by her draught may, in addition to the lights prescribed for power-driven vessels in Rule 23, exhibit where they can best be seen three all-round red lights in a vertical line, or a cylinder.

Rule 29: Pilot vessels

- (a) A vessel engaged on pilotage duty shall exhibit:
    - (i) at or near the masthead, two all-round lights in a vertical line, the upper being white and the lower red;
    - (ii) when underway, in addition, sidelights and a stern light;
    - (iii) when at anchor, in addition to the lights prescribed in sub-paragraph (i), the light, lights or shape prescribed in Rule 30 for vessels at anchor.
- (b) A pilot vessel when not engaged on pilotage duty shall exhibit the lights or shapes prescribed for a similar vessel of her length.

Rule 30: Anchored vessels and vessels aground

- (a) A vessel at anchor shall exhibit where it can best be seen:
    - (i) in the fore part, an all-round white light or one ball;
    - (ii) at or near the stern and at a lower level than the light prescribed in sub-paragraph (i), an all-round white light.
- (b) A vessel of less than 50 metres in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in paragraph (a) of this Rule.
- (c) A vessel at anchor may, and a vessel of 100 metres and more in length shall, also use the available working or equivalent lights to illuminate her decks.
- (d) A vessel aground shall exhibit the lights prescribed in paragraph (a) or (b) of this Rule and in addition, where they can best be seen:
    - (i) two all-round red lights in a vertical line;
    - (ii) three balls in a vertical line.
- (e) A vessel of less than 7 metres in length, when at anchor, not in or near a narrow channel, fairway or anchorage, or where other vessels normally navigate, shall not be required to exhibit the lights or shape prescribed in paragraphs (a) and (b) of this Rule.

- (f) A vessel of less than 12 metres in length, when aground, shall not be required to exhibit the lights or shapes prescribed in sub-paragraphs (d) (i) and (ii) of this Rule.

Rule 31: Seaplanes

Where it is impracticable for a seaplane or a WIG craft to exhibit lights and shapes of the characteristics or in the positions prescribed in the Rules of this Part she shall exhibit lights and shapes as closely similar in characteristics and position as is possible.

PART D - SOUND AND LIGHT SIGNALS

Rule 32: Definitions

- (a) The word "whistle" means any sound signaling appliance capable of producing the prescribed blasts and which complies with the specifications in Annex III to these Regulations.
- (b) The term "short blast" means a blast of about one second's duration.
- (c) The term "prolonged blast" means a blast of from four to six seconds' duration.

Rule 33: Equipment for sound signals

- (a) A vessel of 12 metres or more in length shall be provided with a whistle, a vessel of 20 metres or more in length shall be provided with a bell in addition to a whistle, and a vessel of 100 metres or more in length shall, in addition, be provided with a gong, the tone and sound of which cannot be confused with that of the bell. The whistle, bell and gong shall comply with the specifications in Annex III to these Regulations. The bell or gong or both may be replaced by other equipment having the same respective sound characteristics, provided that manual sounding of the prescribed signals shall always be possible.
- (b) A vessel of less than 12 metres in length shall not be obliged to carry the sound signaling appliances prescribed in paragraph (a) of this Rule but if she does not, she shall be provided with some other means of making an efficient sound signal.

Rule 34: Manoeuvring and warning signals

- (a) When vessels are in sight of one another, a power-driven vessel underway, when manoeuvring as authorized or required by these Rules, shall indicate that manoeuvre by the following signals on her whistle:
    - one short blast to mean "I am altering my course to starboard";
    - two short blasts to mean "I am altering my course to port";
    - three short blasts to mean "I am operating astern propulsion".
- (b) Any vessel may supplement the whistle signals prescribed in paragraph (a) of this Rule by light signals, repeated as appropriate, whilst the manoeuvre is being carried out:
    - (i) these light signals shall have the following significance
        - one flash to mean "I am altering my course to starboard";
        - two flashes to mean "I am altering my course to port";
        - three flashes to mean "I am operating astern propulsion";
    - (ii) the duration of each flash shall be about one second, the interval between flashes shall be about one second, and the interval between successive signals shall be not less than ten seconds;

    - (iii) the light used for this signal shall, if fitted, be an all-round white light, visible at a minimum range of 5 miles, and shall comply with the provisions of Annex I to these Regulations.
- (c) When in sight of one another in a narrow channel or fairway:
    - (i) a vessel intending to overtake another shall in compliance with Rule 9(e)(i) indicate her intention by the following signals on her whistle:
        - two prolonged blasts followed by one short blast to mean "I intend to overtake you on your starboard side";
        - two prolonged blasts followed by two short blasts to mean "I intend to overtake you on your port side".
    - (ii) the vessel about to be overtaken when acting in accordance with Rule 9(e)(i) shall indicate her agreement by the following signal on her whistle:
        - one prolonged, one short, one prolonged and one short blast, in that order.
- (d) When vessels in sight of one another are approaching each other and from any cause either vessel fails to understand the intentions or actions of the other, or is in doubt whether sufficient action is being taken by the other to avoid collision, the vessel in doubt shall immediately indicate such doubt by giving at least five short and rapid blasts on the whistle. Such signal may be supplemented by a light signal of at least five short and rapid flashes.
- (e) A vessel nearing a bend or an area of a channel or fairway where other vessels may be obscured by an intervening obstruction shall sound one prolonged blast. Such signal shall be answered with a prolonged blast by any approaching vessel that may be within hearing around the bend or behind the intervening obstruction.
- (f) If whistles are fitted on a vessel at a distance apart of more than 100 metres, one whistle only shall be used for giving manoeuvring and warning signals.

Rule 35: Sound signals in restricted visibility

In or near an area of restricted visibility, whether by day or night, the signals prescribed in this Rule shall be used as follows:

- (a) A power-driven vessel making way through the water shall sound at intervals of not more than 2 minutes one prolonged blast.
- (b) A power-driven vessel underway but stopped and making no way through the water shall sound at intervals of not more than 2 minutes two prolonged blasts in succession with an interval of about 2 seconds between them.
- (c) A vessel not under command, a vessel restricted in her ability to manoeuvre, a vessel constrained by her draught, a sailing vessel, a vessel engaged in fishing and a vessel engaged in towing or pushing another vessel shall, instead of the signals prescribed in paragraphs (a) or (b) of this Rule, sound at intervals of not more than 2 minutes three blasts in succession, namely one prolonged followed by two short blasts.
- (d) A vessel engaged in fishing, when at anchor, and a vessel restricted in her ability to manoeuvre when carrying out her work at anchor, shall instead of the signals prescribed in paragraph (g) of this Rule sound the signal prescribed in paragraph (c) of this Rule.
- (e) A vessel towed or if more than one vessel is towed the last vessel of the tow, if manned, shall at intervals of not more than 2 minutes sound four blasts in succession, namely one prolonged followed by three short blasts. When practicable, this signal shall be made immediately after the signal made by the towing vessel.
- (f) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and shall give the signals prescribed in paragraphs (a) or (b) of this Rule.

- (g) A vessel at anchor shall at intervals of not more than one minute ring the bell rapidly for about 5 seconds. In a vessel of 100 metres or more in length the bell shall be sounded in the forepart of the vessel and immediately after the ringing of the bell the gong shall be sounded rapidly for about 5 seconds in the after part of the vessel. A vessel at anchor may in addition sound three blasts in succession, namely one short, one prolonged and one short blast, to give warning of her position and of the possibility of collision to an approaching vessel.
- (h) A vessel aground shall give the bell signal and if required the gong signal prescribed in paragraph (g) of this Rule and shall, in addition, give three separate and distinct strokes on the bell immediately before and after the rapid ringing of the bell. A vessel aground may in addition sound an appropriate whistle signal.
- (i) A vessel of 12 metres or more but less than 20 metres in length shall not be obliged to give the bell signals prescribed in paragraphs (g) and (h) of this Rule. However, if she does not, she shall make some other efficient sound signal at intervals of not more than 2 minutes.
- (j) A vessel of less than 12 metres in length shall not be obliged to give the above-mentioned signals but, if she does not, shall make some other efficient sound signal at intervals of not more than 2 minutes.
- (k) A pilot vessel when engaged on pilotage duty may in addition to the signals prescribed in paragraphs (a),(b) or (g) of this Rule sound an identity signal consisting of four short blasts.

Rule 36: Signals to attract attention

If necessary to attract the attention of another vessel any vessel may make light or sound signals that cannot be mistaken for any signal authorised elsewhere in these Rules, or may direct the beam of her searchlight in the direction of the danger, in such a way as not to embarrass any vessel. Any light to attract the attention of another vessel shall be such that it cannot be mistaken for any aid to navigation. For the purpose of this Rule the use of high intensity intermittent or revolving lights, such as strobe lights, shall be avoided.

Rule 37: Distress signals

When a vessel is in distress and requires assistance she shall use or exhibit the signals described in Annex IV to these Regulations.

PART E - EXEMPTIONS

Rule 38: Exemptions

Any vessel (or class of vessels) provided that she complies with the requirements of the International Regulations for Preventing Collisions at Sea, 1960 (a), the keel of which is laid or which is at a corresponding stage of construction before the entry into force of these Regulations may be exempted from compliance therewith as follows:

- (a) The installation of lights with ranges prescribed in Rule 22, until 4 years after the date of entry into force of these Regulations.
- (b) The installation of lights with colour specifications as prescribed in Section 7 of Annex I to these Regulations, until 4 years after the date of entry into force of these Regulations.
- (c) The repositioning of lights as a result of conversion from Imperial to metric units and rounding off measurement figures, permanent exemption.
- (d)
    - (i) The repositioning of masthead lights on vessels of less than 150 metres in length, resulting from the prescriptions of Section 3(a) of Annex I to these Regulations, permanent exemption.

- (ii) The repositioning of masthead lights on vessels of 150 metres or more in length, resulting from the prescriptions of Section 3(a) of Annex I to these Regulations, until 9 years after the date of entry into force of these Regulations.
- See Cmnd.2956 and Schedule 1 to the Collision Regulations (Ships and Seaplanes on the Water) and Signals of Distress (Ships) Order 1965 (S.I. 1965/1525)

- (e) The repositioning of masthead lights resulting from the prescriptions of Section 2(b) of Annex I to these Regulations, until 9 years after the date of entry into force of these Regulations.
- (f) The repositioning of sidelights resulting from the prescriptions of Sections 2(g) and 3(b) of Annex I to these Regulations, until 9 years after the date of entry into force of these Regulations.
- (g) The requirements for sound signal appliances prescribed in Annex III to these Regulations, until 9 years after the date of entry into force of these Regulations.
- (h) The repositioning of all-round lights resulting from the prescription of Section 9(b) of Annex I to these Regulations, permanent exemption.

ANNEX I: Positioning and technical details of lights and shapes

1. Definition

The term “height above the hull” means height above the uppermost continuous deck. This height shall be measured from the position vertically beneath the location of the light.

2. Vertical positioning and spacing of lights

- (a) On a power-driven vessel of 20 metres or more in length the masthead lights shall be placed as follows:
  - (i) the forward masthead light, or if only one masthead light is carried, then that light, at a height above the hull of not less than 6 metres, and, if the breadth of the vessel exceeds 6 metres, then at a height above the hull not less than such breadth, so however that the light need not be placed at a greater height above the hull than 12 metres;
  - (ii) when two masthead lights are carried the after one shall be at least 4.5 metres vertically higher than the forward one.
- (b) The vertical separation of masthead lights of power-driven vessels shall be such that in all normal conditions of trim the after light will be seen over and separate from the forward light at a distance of 1,000 metres from the stem when viewed from sea level.
- (c) The masthead light of a power-driven vessel of 12 metres but less than 20 metres in length shall be placed at a height above the gunwale of not less than 2.5 metres.
- (d) A power-driven vessel of less than 12 metres in length may carry the uppermost light at a height of less than 2.5 metres above the gunwale. When however a masthead light is carried in addition to sidelights and a stern light or the all-round light prescribed in Rule 23(c)(i) is carried in addition to sidelights, then such masthead light or all-round light shall be carried at least 1 metre higher than the sidelights.
- (e) One of the two or three masthead lights prescribed for a power-driven vessel when engaged in towing or pushing another vessel shall be placed in the same position as either the forward masthead light or the after masthead light; provided that, if carried on the aftermast, the lowest after masthead light shall be at least 4.5 metres vertically higher than the forward masthead light.
- (f)
  - (i) The masthead light or lights prescribed in Rule 23(a) shall be so placed as to be above and clear of all other lights and obstructions except as described in sub-paragraph (ii).
  - (ii) When it is impracticable to carry the all-round lights prescribed by Rule 27(b)(i) or Rule 28 below the masthead lights, they may be carried above the after masthead light(s) or vertically

in between the forward masthead light(s) and the after masthead light(s) provided that in the latter case the requirement of Section 3(c) of this Annex shall be complied with.

- (g) The sidelights of a power-driven vessel shall be placed at a height above the hull not greater than three-quarters of that of the forward masthead light. They shall not be so low as to be interfered with by deck lights.
- (h) The sidelights, if in a combined lantern and carried on a power-driven vessel of less than 20 metres in length, shall be placed not less than 1 metre below the masthead light.
- (i) When the Rules prescribe two or three lights to be carried in a vertical line, they shall be spaced as follows:
  - (i) on a vessel of 20 metres in length or more such lights shall be spaced not less than 2 metres apart, and the lowest of these lights shall, except where a towing light is required, be placed at a height of not less than 4 metres above the hull;
  - (ii) on a vessel of less than 20 metres in length such lights shall be spaced not less than 1 metre apart and the lowest of these lights shall, except where a towing light is required, be placed at a height of not less than 2 metres above the gunwale;
  - (iii) when three lights are carried they shall be equally spaced.
- (j) The lower of the two all-round lights prescribed for a vessel when engaged in fishing shall be at a height above the sidelights not less than twice the distance between the two vertical lights.
- (k) The forward anchor light prescribed in Rule 30(a)(i), when two are carried, shall not be less than 4.5 metres above the after one. On a vessel of 50 metres or more in length this forward anchor light shall be placed at a height of not less than 6 metres above the hull.

3. Horizontal positioning and spacing of lights

- (a) When two masthead lights are prescribed for a power-driven vessel, the horizontal distance between them shall not be less than one-half of the length of the vessel but need not be more than 100 metres. The forward light shall be placed not more than one-quarter of the length of the vessel from the stem.
- (b) On a power-driven vessel of 20 metres or more in length the sidelights shall not be placed in front of the forward masthead lights. They shall be placed at or near the side of the vessel.
- (c) When the lights prescribed in Rule 27(b)(i) or Rule 28 are placed vertically between the forward masthead light(s) and the after masthead light(s) these all-round lights shall be placed at a horizontal distance of not less than 2 metres from the fore and aft centreline of the vessels in the athwartship direction.
- (d) When only one masthead light is prescribed for a power-driven vessel, this light shall be exhibited forward of amidships; except that a vessel of less than 20 metres in length need not exhibit this light forward of amidships but shall exhibit it as far forward as is practicable.

4. Details of location of direction-indicating lights for fishing vessels, dredgers and vessels engaged in underwater operations

- (a) The light indicating the direction of the outlying gear from a vessel engaged in fishing as prescribed in Rule 26(c)(ii). shall be placed at a horizontal distance of not less than 2 metres and not more than 6 metres away from the two all-round red and white lights. This light shall be placed not higher than the all-round white light prescribed in Rule 26(c)(i) and not lower than the sidelights.
- (b) The lights and shapes on a vessel engaged in dredging or underwater operations to indicate the obstructed side and or the side on which it is safe to pass, as prescribed in Rule 27(d)(i) and (ii), shall be placed at the maximum practical horizontal distance, but in no case less than 2 metres, from the lights or shapes prescribed in Rule 27(b)(i) and (ii). In no case shall the upper of these

lights or shapes be at a greater height than the lower of the three lights or shapes prescribed in Rule 27(b)(i) and (ii).

5. Screens for sidelights

The sidelights of vessels of 20 metres or more in length shall be fitted with inboard screens painted matt black, and meeting the requirements of Section 9 of this Annex. On vessels of less than 20 metres in length the sidelights, if necessary to meet the requirements of Section 9 of this Annex, shall be fitted with inboard matt black screens. With a combined lantern, using a single vertical filament and a very narrow division between the green and red sections, external screens need not be fitted.

6. Shapes

- (a) Shapes shall be black and of the following sizes:
  - (i) a ball shall have a diameter of not less than 0.6 metre;
  - (ii) a cone shall have a base diameter of not less than 0.6 metre and a height equal to its diameter;
  - (iii) a cylinder shall have a diameter of at least 0.6 metre and a height of twice its diameter
  - (iv) a diamond shape shall consist of two cones as defined in (ii) above having a common base.
- (b) The vertical distance between shapes shall be at least 1.5 metres.
- (c) In a vessel of less than 20 metres in length shapes of lesser dimensions but commensurate with the size of the vessel may be used and the distance apart may be correspondingly reduced.

7. Colour specification of lights

The chromaticity of all navigation lights shall conform to the following standards, which lie within the boundaries of the area of the diagram specified for each colour by the International Commission on Illumination (CIE).

The boundaries of the area for each colour are given by indicating the corner co-ordinates, which are as follows:

- (i) White

x 0.525 0.525 0.452 0.310 0.310 0.443 y 0.382 0.440 0.440 0.348 0.283 0.382 29

- (ii) Green

x 0.028 0.009 0.300 0.203 y 0.385 0.723 0.511 0.356

- (iii) Red

x 0.680 0.660 0.735 0.721 y 0.320 0.320 0.265 0.259

- (iv) Yellow

x 0.612 0.618 0.575 0.575 y 0.382 0.382 0.425 0.406

8. Intensity of lights

- (a) The minimum luminous intensity of lights shall be calculated by using

I = 3.43 x 106 x T x D2 x K–D where I is luminous intensity in candelas under service conditions, T is threshold factor 2 x 10-7 lux, D is range of visibility (luminous range) of the light in nautical miles, K is atmospheric transmissivity. For prescribed lights the value of K shall be 0.8, corresponding to a meteorological visibility of approximately 13 nautical miles.

- (b) A selection of figures derived from the formula is given in the following table:

Range of visibility Luminous intensity of

- (luminous range) of light in candelas for

light in nautical K=0.8 miles D I 1 0.9 2 4.3 3 12 4 27 5 52 6 94

Note: The maximum luminous intensity of navigation lights should be limited to avoid undue glare. This shall not be achieved by a variable control of the luminous intensity.

9. Horizontal sectors

- (a)
  - (i) In the forward direction, sidelights as fitted on the vessel shall show the minimum required intensities. The intensities shall decrease to reach practical cut-off between 1 degree and 3 degrees outside the prescribed sectors.
  - (ii) For stern lights and masthead lights at 22.5 degrees abaft the beam for sidelights, the minimum required intensities shall be maintained over the arc of the horizon up to 5 degrees within the limits of the sectors prescribed in Rule 21. From 5 degrees within the prescribed sectors the intensity may decrease by 50 per cent up to the prescribed limits: it shall decrease steadily to reach practical cut-off at not more than 5 degrees outside the prescribed sector
- (b)
  - (i) All-round lights shall be so located as not to be obscured by masts, topmasts or structures within angular sectors of more than 6 degrees, except anchor lights prescribed in Rule 30, which need not be placed at an impracticable height above the hull.
  - (ii) If it is impracticable to comply with paragraph (b) (i) of this section by exhibiting only one all-round light, two all-round lights shall be used suitably positioned or screened so that they appear, as far as practicable, as one light at a distance of one mile.

10. Vertical sectors

- (a) The vertical sectors of electric lights as fitted, with the exception of lights on sailing vessels underway shall ensure that:
  - (i) at least the required minimum intensity is maintained at all angles from 5 degrees above to 5 degrees below the horizontal;
  - (ii) at least 60 per cent of the required minimum intensity is maintained from 7.5 degrees above to 7.5 degrees below the horizontal.
- (b) In the case of sailing vessels underway the vertical sectors of electric lights as fitted shall ensure that:
  - (i) at least the required minimum intensity is maintained at all angles from 5 degrees above to 5 degrees below the horizontal;
  - (ii) at least 50 per cent of the required minimum intensity is maintained from 25 degrees above to 25 degrees below the horizontal.
- (c) In the case of lights other than electric these specifications shall be met as closely as possible.

11. Intensity of non-electric lights

Non-electric lights shall so far as practicable comply with the minimum intensities, as specified in the table given in Section 8 of this Annex.

12. Manoeuvring light

Notwithstanding the provisions of paragraph 2(f) of this Annex the manoeuvring light described in Rule 34(b) shall be placed in the same fore and aft vertical plane as the masthead light or lights and, where practicable, at a minimum height of 2 metres vertically above the forward masthead light, provided that it shall be carried not less than 2 metres vertically above or below the after masthead light. On a vessel where only one masthead light is carried the manoeuvring light, if fitted, shall be carried where it can best be seen, not less than 2 metres vertically apart from the masthead light.

13. High Speed Craft*

- (a) The masthead light of high-speed craft may be placed at a height related to the breadth of the lower than that prescribed in paragraph 2(a)(i) of this annex, provided that the base angle of the isosceles triangles formed by the sidelights and masthead light, when seen in end elevation, is not less than 27o.
- (b) On high-speed craft of 50 metres or more in length, the vertical separation between foremast and mainmast light of 4.5 metres required by paragraph 2(a)(ii) of this annex may be modified provided that such distance shall not be less than the value determined by the following formula:

Where: y is the height of the mainmast light above the foremast light in metres; Ais the height of the foremast light above the water surface in service condition in metres; Cis the trim in service condition in degrees; Cis the horizontal separation of masthead lights in metres.

- Refer to the International Code of Safety for High-Speed Craft, 1994 and the International Code of Safety for High-Speed Craft, 2000.

14. Approval

The construction of lights and shapes and the installation of lights on board the vessel shall be to the satisfaction of the appropriate authority of the State whose flag the vessel is entitled to fly. Y= 32

ANNEX II: Additional signals for fishing vessels fishing in close proximity

1. General

The lights mentioned herein shall, if exhibited in pursuance of Rule 26(d), be placed where they can best be seen. They shall be at least 0.9 metre apart but at a lower level than lights prescribed in Rule 26(b)(i) and (c)(i). The lights shall be visible all round the horizon at a distance of at least 1 mile but at a lesser distance than the lights prescribed by these Rules for fishing vessels.

2. Signals for trawlers

- (a) Vessels of 20 metres or more in length when engaged in trawling, whether using demersal or pelagic gear, shall exhibit:
  - (i) when shooting their nets, two white lights in a vertical line;
  - (ii) when hauling their nets, one white light over one red light in a vertical line;
  - (iii) when the net has come fast upon an obstruction, two red lights in a vertical line.
- (b) Each vessel of 20 metres or more in length engaged in pair trawling shall exhibit:
  - (i) by night, a searchlight directed forward and in the direction of the other vessel of the pair;
  - (ii) when shooting or hauling their nets or when the nets have come fast upon an obstruction, the lights prescribed in 2(a) above.
- (c) A vessel of less than 20 metres in length engaged in trawling, whether using demersal or pelagic gear or engaged in pair trawling, may exhibit the lights prescribed in paragraphs
- (a) or (b) of this Section, as appropriate.

3. Signals for purse seiners

Vessels engaged in fishing with purse seine gear may exhibit two yellow lights in a vertical line. These lights shall flash alternately every second and with equal light and occultation duration. These lights may be exhibited only when the vessel is hampered by its fishing gear.

ANNEX III: Technical details of sound signal appliances

1. Whistles

- (a) Frequencies and range of audibility

The fundamental frequency of the signal shall lie within the range 70 - 700 Hz. The range of audibility of the signal from a whistle shall be determined by those frequencies, which may include the fundamental and/or one or more higher frequencies, which lie within the range 180 - 700 Hz (+/-1%) for a vessel of 20 metres or more in length, or 180-2100Hz (+/-1%) for a vessel of less than 20 metres in length and which provide the sound pressure levels specified in paragraph l(c) below.

- (b) Limits of fundamental frequencies

To ensure a wide variety of whistle characteristics, the fundamental frequency of a whistle shall be between the following limits:

  -
  - (i) 70 - 200 Hz, for a vessel 200 metres or more in length;
  - (ii) 130 - 350 Hz, for a vessel 75 metres but less than 200 metres in length;
  - (iii) 250 - 700 Hz, for a vessel less than 75 metres in length.

- (c) Sound signal intensity and range of audibility

A whistle fitted in a vessel shall provide, in the direction of maximum intensity of the whistle and at a distance of 1 metre from it, a sound pressure level in at least one 1/3rd-octave band within the range of frequencies 180 - 700 Hz (+/-1%) for a vessel of 20 metres or more in length, or 180-2100Hz (+/-1%) for a vessel of less than 20 metres in length, of not less than the appropriate figure given in the table below. The range of audibility in the table above is for information and is approximately the range at which a whistle may be heard on its forward axis with 90 per cent probability in conditions of still air on board a vessel having average background noise level at the listening posts (taken to be 68 dB in the octave band centered on 250 Hz and 63 dB in the octave band centered on 500Hz. In practice the range at which a whistle may be heard is extremely variable and depends critically on weather conditions; the values given can be regarded as typical but under conditions of strong wind or high ambient noise level at the listening post the range may be much reduced.

- (d) Directional Properties

The sound pressure level of a directional whistle shall be not more than 4 dB below the prescribed sound pressure level on the axis at any direction in the horizontal plane within ±45 degrees of the axis. The sound pressure level at any other direction in the horizontal plane shall be not more than 10 dB below the prescribed sound pressure level on the axis, so that the range in any direction will be at least half the range on the forward axis. The sound pressure level shall be measured in that 1/3rd-octave band which determines the audibility range.

Length of vessel in metres 1/3rd-octave band level at Audibility range in 1 metre in dB referred to nautical miles 2x10-5N/m2 200 or more 143 2 75 but less than 200 138 1.5 20 but less than 75 130 1 120 * Less than 20 115 † 0.5 111 ‡

- When the measured frequencies lie within the range 180-450Hz

† When the measured frequencies lie within the range 450-800Hz ‡ When the measured frequencies lie within the range 800-2100Hz

- (e) Positioning of whistles

When a directional whistle is to be used as the only whistle on a vessel, it shall be installed with its maximum intensity directed straight ahead. A whistle shall be placed as high as practicable on a vessel, in order to reduce interception of the emitted sound by obstructions and also to minimize hearing damage risk to personnel. The sound pressure level of the vessel's own signal at listening posts shall not exceed 110 dB (A) and so far as practicable should not exceed 100 dB (A).

- (f) Fitting of more than one whistle

If whistles are fitted at a distance apart of more than 100 metres, it shall be so arranged that they are not sounded simultaneously.

- (g) Combined whistle systems

If due to the presence of obstructions the sound field of a single whistle or one of the whistles referred to in paragraph l(f) above is likely to have a zone of greatly reduced signal level, it is recommended that a combined whistle system be fitted so as to overcome this reduction. For the purposes of the Rules a combined whistle system is to be regarded as a single whistle. The whistles of a combined system shall be located at a distance apart of not more than 100 metres and arranged to be sounded simultaneously. The frequency of any one whistle shall differ from those of the others by at least 10 Hz.

2. Bell or gong

- (a) Intensity of signal

A bell or gong, or other device having similar sound characteristics shall produce a sound pressure level of not less than 110 dB at a distance of 1 metre from it.

- (b) Construction

Bells and gongs shall be made of corrosion-resistant material and designed to give a clear tone. The diameter of the mouth of the bell shall be not less than 300 mm for vessels of 20 metres or more in length. Where practicable, a power-driven bell striker is recommended to ensure constant force but manual operation shall be possible. The mass of the striker shall be not less than 3 per cent of the mass of the bell.

3. Approval

The construction of sound signal appliances, their performance and their installation on board the vessel shall be to the satisfaction of the appropriate authority of the State whose flag the vessel is entitled to fly.

ANNEX IV : Distress signals

1. The following signals, used or exhibited either together or separately, indicate distress and need of assistance:

- (a) a gun or other explosive signal fired at intervals of about a minute;
- (b) a continuous sounding with any fog-signalling apparatus;
- (c) rockets or shells, throwing red stars fired one at a time at short intervals;

- (d) a signal made by radiotelegraphy or by any other signalling method consisting of the group • • • — — — • • • (SOS) in the Morse Code;
- (e) a signal sent by radiotelephony consisting of the spoken word "Mayday";
- (f) the International Code Signal of distress indicated by N.C.;
- (g) a signal consisting of a square flag having above or below it a ball anything resembling a ball;
- (h) flames on the vessel (as from a burning tar barrel, oil barrel, etc.);
- (i) a rocket parachute flare or a hand flare showing a red light;
- (j) a smoke signal giving off orange-coloured smoke;
- (k) slowly and repeatedly raising and lowering arms outstretched to each side;
- (l) a distress alert by means of digital selective calling (DSC) transmitted on
  - (i) VHF channel 70, or
  - (ii) MF/HF on the frequencies 2187.5 kHz, 8414.5 kHz, 4207.5 kHz, 6312 kHz, 12577 kHz or 16804.5 kHz;
- (m) a ship-to-shore distress alert transmitted by the ship's Inmarsat or other mobile satellite service provider ship earth station;
- (n) signals transmitted by emergency position-indicating radio beacons;
- (o) approved signals transmitted by radio communication systems, including survival craft radar transponders.

2. The use or exhibition of any of the foregoing signals except for the purpose of indicating distress and need of assistance and the use of other signals which may be confused with any of the above signals is prohibited.

3. Attention is drawn to the relevant sections of the International Code of Signals, the Merchant Ship Search and Rescue Manual, Annex III and the following signals:

- (a) a piece of orange-coloured canvas with either a black square and circle or other appropriate symbol (for identification from the air);
- (b) a dye marker.

APPENDIX C

RGP - GIBRALTAR LAW ENFORCEMENT RHIB COXSWAIN COURSE

The topics covered in two-week final qualification course include:

Module 1 – Introduction to Marine Section and Vessel Familiarisation. This is a theory-based lesson, which allows students to obtain an understanding of their role within the marine section. To familiarise themselves with the type of vessels and equipment carried on board and their general maintenance.

Module 2 – Introduction to Marine Section and Vessel Familiarisation. This is a practical based lesson, which allows students to obtain an understanding of their role within the marine section. To familiarise themselves with the type of vessels and equipment carried on board and their general maintenance.

Module 3 – Rope Work. This is both a theory and practical based lesson, which enables the students to learn how to perform the different types of knots available and its correct use for different situations – mooring, anchoring, etc.

Module 4 – International Rules for Prevention of Collisions at Sea (IRPCS). This is a theory-based lesson, which aims for students to acknowledge the importance of observing safety at sea for themselves and other water users to prevent a collision at sea by understanding the rules of IRPCS.

Module 5 – Buoyage – International Association of Lighthouse Authorities (IALA). This is a theory-based lesson, which allows students to familiarise themselves with daytime and night time buoyage signage and their different purposes.

Module 6 – Buoyage – International Association of Lighthouse Authorities (IALA). This is a practical based lesson, which allows students to familiarise themselves with daytime and night time buoyage signage and their different purposes whilst navigating.

Module 7 – Chart work and Navigation. This is both a theory and practical based lesson, which provides for students to understand the terms used within a navigation chart to be able to interpret basic techniques in navigation.

Module 8 – Distress Signals. A theory and practical lesson, which allows the students to understand the interpretation of each different types of distress signals and how to apply them should they find themselves, is a dangerous situation.

Module 9 – RHIB Launch and Recovery – (Use of Trailer and Crane). A theory and practical lesson, which is aimed for students to understand the importance of all safety features when

launching and recovering RHIB from sea through means of a slipway and trailer or via lifting with a crane.

Module 10 – Controlled Handling Drills – Single Engine RHIB. This is a theory and practical based lesson for students to demonstrate a level of competence in controlled handling and slow speed precision manoeuvres of RHIB's in a confined space.

Module 11 – Rough Sea Passage. A theory based lesson, which allows students to understand the importance of controlled speeds of RHIB's in varying weather/ sea conditions and their safety and all of others on board.

Module 12 – Rough Sea Passage. A practical lesson for students to demonstrate competency in the safe and controlled handling approach of RHIB's at various speeds in varying sea/ weather conditions. To develop an understanding of when to "Power On" and "Power Off".

Module 13 – Anchoring. Both a theory and practical based lesson for students to understand the correct use of anchor and anchor line depending on seabed and/ or weather conditions.

Module 14 – Man Overboard Manoeuvres & Casualty Rescue. A theory based lesson, which teaches students the importance of safety of everyone on board a RHIB, and of the consequent rescue approach and procedures should a casualty fall overboard from a moving RHIB.

Module 15 – Man Overboard Manoeuvres & Casualty Rescue. A practical lesson, which requires the student to achieve an understanding of the procedures, required to perform a man overboard rescue. Students to be able to demonstrate their competence in demonstrating the above.

Module 16 – Search and Rescue Patterns. A theory based lesson which requires the students to understand how to apply correct search and rescue pattern methods whilst observing own safety. Factors to consider i.e. weather conditions, number of casualties and communications with other agencies.

Module 17 – Search and Rescue Patterns. A practical based lesson, which allows students to demonstrate their competence in the correct application of the different search and rescue pattern methods.

Module 18 – Controlled Handling Drills – Twin Engine RHIB. A theory and practical based lesson for students to demonstrate a level of competence in controlled handling and slow speed precision manoeuvres of RHIB's in a confined area.

Module 19 – Prisoner Handling. A theory and practical lesson, which allows students to understand the importance of their own safety and that of prisoners when on board a RHIB.

Module 20 – Towing. A theory lesson which provides for students to understand the importance on towing methods in relation different types of vessels and emergency situations.

Module 21 – Towing. A practical based lesson for the students to demonstrate competency in the safe and controlled handling of different towing situations involving small crafts.

Module 22 – Climbing a Pilot Ladder. Both a theory and practical based lesson for students to understand the importance of all safety aspects when climbing a pilot ladder and dangers involved.

Module 23 Pacing Manoeuvres- A) Pacing Parallel B) Pacing Alongside. This is a theory-based lesson for students to achieve and understanding of the skills required to perform pacing manoeuvres; parallel and alongside.

Module 24 Pacing Manoeuvres- A) Pacing Parallel B) Pacing Alongside. A practical lesson which allows students to demonstrate a safe handling of vessels when performing pacing manoeuvres in following areas; a) when performing the approach, b) parallel pacing of target vessel, c) coming alongside target vessel, d) departing target vessel.

Module 25 Helicopter SAR Recovery Operations. A theory based lesson, which enables the student to demonstrate an understanding of safety aspects and the dangers involved during helicopter operations and the actions to be taken; a) prior to the helicopters arrival b) during the helicopters approach c) whilst recovering a casualty d) on the helicopters departure.

APPENDIX D

Marine Section Instructions 8th July 2016

With immediate effect, the following instructions will be adhered to.

1. **Extent of Operational Deployments**

   Deployment into the different jurisdictions surrounding the territory of Gibraltar are described below. Officers will only operate within BGTW unless in accordance with the specific situations described in paragraphs 3 and 4 below. These instructions will be adhered to until further notice. All previous instructions are rescinded.

2. **British Gibraltar Territorial Waters**

   British Gibraltar Territorial Waters is the natural operating environment for the Royal Gibraltar Police's Marine Section. The current operational objectives are defined below in order of priority:

   a. Reassurance of beach users and legitimate seafarers.
   b. Prevention and detection of crime at sea and law enforcement
   c. Support Royal Navy challenges to sovereignty.
   d. Support Environmental Agency operations.
   e. Support HM Customs and GDP operations.

3. **International Waters – High Seas**

   Officers are **NOT** authorised to operate outside BGTW and in International Waters unless when responding to a situation as described in paragraph 3(a) or 3(b).

   a. Participating in a Search and Rescue operation.
   b. Responding to an incident where there is an imminent and serious risk to life.

4. **Spanish Territorial Waters**

   Officers are **NOT** authorised to operate outside BGTW and in Spanish Waters unless when responding to a situation as described in paragraph 4(a).

   a. Participating in a Search and Rescue operation at the invitation of Spanish authorities.

5. **Rules of Engagement**

The following procedure will be adopted to deter Spanish law enforcement action **within BGTW**. The procedure should be escalated as necessary and each step followed until the objective is

achieved. Once Royal Navy are at location primacy will revert to them.

a. Spanish law enforcement (SLE) vessels transiting through BGTW:
   i. WHSS to be informed of presence, position and heading of SLE.
   ii. WHSS to be requested to deploy RN assets.
   iii. In the absence of RN the SLE vessel to be shadowed at a distance.

b. Spanish law enforcement (SLE) vessel intending to, or attempting to carry out executive action within BGTW:
   i. Engage video and audio recording equipment. WHSS to be informed of presence, position and heading of SLE vessel.
   ii. WHSS to be requested to deploy RN assets in order to assume primacy.
   iii. Guardia Civil CoS to be contacted to declare intentions of SLE.
   iv. WHSS to be contacted via VHF situation report to be given and asked to consider issue of UNCLOS warnings.
   v. SLE vessel to be approached, asked to declare intentions and to desist.
      1. Contact Duty Officer and report.
   vi. Engage beacons and sirens.
      1. Contact Duty Officer and report intention to deter.
      2. Duty Officer to contact Senior Officer on Call or CI Ops and report.
   vii. Position PMB between SLE vessel and target vessel and deter and prevent SLE from interfering with target vessel.
      1. Contact Gibraltar Port Authority and WHSS and request recording of incident.
   viii. Contact SLE vessel via VHF and state: "Vessel "-------" you are currently operating within British Gibraltar Territorial Waters and your actions are being recorded. You do not have competence to act in this jurisdiction. It is our intention to impede your action. You should cease immediately and leave British Gibraltar Territorial Waters."

6. Safety

Officers should act safely at all times and not act in a manner that may endanger themselves or others.

7. Temporary Guidelines for On Call PMB Crew from 2300hrs to 0700hrs.

Commencing on Friday the 8th July 2016 the RGP will **NOT** deploy a crew during the hours of 2300Hrs to 0700Hrs. During this period HMC will provide cover for all offences involving imports and exports and as is usual Port Dept. will remain responsible for coordinating any search rescue response. During the period of cover (2300-0700) the RGP will have a crew of three officers on standby which will be available for immediate recall to duty and which will be ready to deploy in 60 mins from time of call out. This duty will attract the on-call duty allowance.

It is not expected that there is much likelihood of the need to call out the crew on standby principally as the time required to recall the crew to duty and set sail will make their deployment ineffective in most circumstances. The decision to call out the crew will lie with the Duty Officer whilst there is one physically on duty and where not OIC Marine Section Insp. Buhagiar or his deputy Sgt. Stone.

Instances which may result in the need to recall the on-call crew include:

- Search and rescue operations at the request of the Port Dept.
- Assistance to other LEAs already deployed at their request e.g when another agency is at a standoff with foreign state vessels and/or suspected offenders where the occurrence is likely to last more than one hour.
- When there is a threat to national security.

In the event that during this period the RGP become aware of an ongoing chase by another agency our aim shall be to support that agency on land by:

- Deploying an officer to the Upper to rock to act as look out and advise control room of movements
- Continue to disrupt spotters on the Upper Rock through the use of Operation Hercules
- Deploy officer on land as appropriate to possible landing sites etc.

APPENDIX E

RGP PROFESSIONAL PROFILES – KEY ACCOUNTABILITIES

PMB CREWS

Role	KA Descriptors	RGP
Marine Coxswain	Incident Response	Respond to a wide range of incidents in an appropriate, professional and timely manner, in accordance with guidance, policies and procedures, in order to support public confidence in policing.
Marine Coxswain	Incident Management	Take initial control of the incident as the primary agency, and where appropriate liaise with supervisors, partners and other agencies to develop initial and dynamic working strategies.
Marine Coxswain	Conducting Investigations	Conduct efficient and effective investigations, determining the significance of information, intelligence and evidence from a variety of sources to generate lines of enquiry, inform decision making, achieve appropriate disposals that are public-focused and to support evidence based policing.
Marine Coxswain	Plan Operations	Plan marine police operations and employ approved tactics and methods that are consistent with the capabilities of the vessel and crew, mitigate known or anticipated risks, and are authorised if necessary to meet the policing objectives.
Marine Coxswain	Pre-deployment Safety	Carry out pre-deployment checks of the vessel, its equipment and crew; to ensure that the engines, controls, instruments, and other systems are functioning properly and that the vessel is appropriately equipped and crewed to fulfil the needs of the operation.

Marine Coxswain	Crew Roles	Oversee all crewmembers, assigning duties to them in line with their competence and ensuring that each understands and carries out their assigned duties to the required standard to ensure the safe running of the vessel.
Marine Coxswain	Ensuring Crew Safety	Ensure that all persons on board are briefed on the stowage and use of personal equipment such as lifejackets, thermal protective aids and lifebuoys, and the procedures to be followed in cases of emergency to ensure the safety of all aboard the vessel
Marine Coxswain	Safe Navigation	Evaluate the meteorological conditions prior to leaving harbour to make a risk-based decision on whether to deploy the vessel.
Marine Coxswain	Assessing Risk	Identify emerging risks and issues during the operation and take appropriate action to mitigate or resolve these whilst ensuring the safety of the vessel, other craft in the vicinity, and all persons on board the vessels involved to complete the operation where possible
Marine Coxswain	Operating Vessels Safely	Operate the vessel in relation to speed and manoeuvring in a manner that is consistent with achieving operational objectives whilst having appropriate regard to the wellbeing of persons on board and those aboard other vessels, to ensure the safe and successful outcome of operational objectives.
Marine Coxswain	Record Management	Maintain logs, risk assessments and other records, and file reports; to comply with statutory regulations and force policies.
Marine Coxswain	Information & Intelligence Management	Collate and record information, intelligence and evidence gathered, where appropriate recording crimes and incidents in accordance with force standards, to ensure the investigation can proceed promptly and effectively.

Marine Constable	Incident Response	Respond to a wide range of incidents in an appropriate, professional and timely manner, in accordance with guidance, policies and procedures, in order to support public confidence in policing.
Marine Constable	Incident Management	Take initial control of the incident as the primary agency, and where appropriate liaise with supervisors, partners and other agencies to develop initial and dynamic working strategies.
Marine Constable	Conducting Investigations	Conduct efficient and effective investigations, determining the significance of information, intelligence and evidence from a variety of sources to generate lines of enquiry, inform decision making, achieve appropriate disposals that are public-focused and to support evidence based policing.
Marine Constable	Effective Communications	Use a variety of communication methods, VHF radio, loud hailer, signs, blue lights and hand signals to effectively communicate with and give direction to the subject and to provide evidence of the subject's failure to comply with directions.
Marine Constable	Operating Vessels Safely	Operate the vessel in relation to speed and manoeuvring in a manner that is consistent with achieving operational objectives whilst having appropriate regard to the wellbeing of persons on board and those aboard other vessels, to ensure the safe and successful outcome of operational objectives.
Marine Constable	Deployment of stopping options	None
Marine Constable	Management of Crew and Equipment	Assess prevailing conditions to determine the safest speed and course to safely and effectively move crew, detainees, other persons and equipment between the Police boat and static vessels or structure ladders in a variety of conditions.

Marine Constable	Detainee Management	Apply specific waterborne procedures and policies to detain, arrest and transport persons from a vessel or waterside structure to land, identifying and mitigating the risks of prisoner handling aboard vessels to prevent injury to detainees or officers involved.
Marine Constable	Record Management	Maintain logs, risk assessments and other records, and file reports; to comply with statutory regulations and force policies.
Marine Constable	Information & Intelligence Management	Collate and record information, intelligence and evidence gathered, where appropriate recording crimes and incidents in accordance with force standards, to ensure the investigation can proceed promptly and effectively.
Marine Constable	First Aid	Provide medical aid commensurate with training as required to preserve life.

APPENDIX F

RGP COXSWAIN REQUIREMENTS

A RGP Coxswains must meet the following criteria and have obtained the following qualifications:

- Must be over the age of 21
- Have completed sufficient service (to the satisfaction of the Gibraltar Maritime Administrator), preferably on the type of vessel which the prospective certificate holder will be entitled to command;
- Have a valid Medical Fitness Certificate;
- Produce documentary evidence that the following additional qualifications, or equivalent, have been achieved: Basic Training (4 elements as outlined in STCW '95 A-VI/1.2); Small Vessels' Navigation and Radar Course; GMDSS (ROC); Successfully completed an approved 2-day course (the Maritime Administrator may exempt a candidate from this requirement where an applicant has additional experience);
- Have passed the Practical and the Oral Examination conducted by the Gibraltar Maritime Administrator.
- Practical test (This test should take place on a vessel of a type for which the applicant is requesting a certificate)
- Boat handling: Berthing and unberthing; Coming to and weighing anchor; Making fast to and leaving a buoy; Boat manoeuvring in confined waters; Turning short round; Knowledge and effect of transverse thrust; Steering a compass course and taking a rough bearing; Practical demonstration on the use of VHF;
- Boat-masters Certificate

APPENDIX G

RGP PMB General Training

1. On joining, officers will undertake an induction course, where they will be continually assessed on the following areas:

    - Safety at sea, and the use of safety equipment.
    - Basic knots & tying to cleats.
    - Vessel familiarisation
    - Pre-Start Checks
    - Basic boat handling and seamanship.
    - Leaving a berth.
    - Coming alongside.
    - Navigating in a straight line (Medium speed)
    - Approaching a floating object
    - Manoeuvring in close quarters
    - Assisting in the launching and recovery of vessels with crane.
    - General vessel maintenance.

    The above will ensure that the officer has attained enough basic knowledge and experience as a Seafarer.

2. After 6 months and once confirmed in post within the PMB, officers will undertake the following courses, which will prepare them in their PMB career, to develop and attain the necessary qualifications of Coxswain:

    - RYA National Power Boat level one - providing a practical introduction to boat handling and safety in power boats.
    - STCW 95 (International convention on standards of training, certification and watch keeping for seafarers) covering basic safety training, personal survival techniques, firefighting, fire prevention, elementary first aid.
    - Introduction to radar reading, radar use, VHF and Joint Operational Channel (Inter Ops).

3. After 12 months, officers will undertake the following courses:

    - RYA Day Skipper, covering chart work, VHF, radar and navigational skills.
    - RYA National Power Boat level 2 - providing the skills and background knowledge to drive a powerboat and is the basis of the International Certificate of Competence.

    These courses will ensure that the officers have developed adequately and gained the necessary skills, knowledge and experience in his development. At this stage the officer would have attained the qualifications to use Police Launches such as Sir Joshua Hassan & Sir Adrian John.

4. After 18 months the officers will undertake:

    - RYA Advanced Power Boat qualification
    - RGP RHIB course whereby and external assessment by the GMA is conducted as part of the course, and upon completion the officer receives qualification to operate interceptor RHIBS.

The above will ensure all officers develop smoothly, whereby they will have attained and been exposed to realise their role as Able Seafarers or Coxswains

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Approved Practice for Post Incidents

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TYPE OF EMERGENCY

This plan relates to the following:

Approved Practice for Post Incidents

AIMS AND OBJECTIVES

A Post Incident investigation will be implemented if one of the following criteria have been met;

1. In situations where there has been a discharge of a weapon by the police (including those involving a conventional firearm or less lethal weapon), whether intentional or unintentional which has or may have:

- Resulted in death or serious injury, or
- Revealed failings in command, or
- Caused danger to officers or the public.

2. Any non-firearms incident where the police have been involved and this deployment has resulted in:

- Death or Serious Injury

The aim of **this Approved Practice** is to detail the management arrangements for such incidents and relate to the safety and security of Person(s), property/critical infrastructure and include but are not limited to:

- Pursuits
- Adverse custody incidents
- Accidents during operational activity
- Serious collisions
- Any situation where a critical incident has been declared

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The objectives of the procedure are to:

- Look after the welfare of Key Police Witnesses
- Facilitate the investigation
- Ensure the integrity of the process

In making decisions as to whether an incident meets the criteria it may also be useful to consider the following three points:

1. Have the officers been involved in some degree of trauma?
2. Is there the potential for individual or corporate jeopardy?
3. Is a formal investigation into police action foreseeable?

DUTIES AND RESPONSIBILITIES

As upheld by Stage 1:

Any officer in command of an incident where the criteria are met should seek to supply sufficient information about the incident. This will permit the ongoing management of the incident and provide the control room with a situational report for inclusion in the Incident Log.

The Commissioner of Police/Gold Commander on call will be responsible for implementing a post incident procedure. A trained Post Incident Manager (PIM) and a trained PIP Federation member will be contacted immediately (see Appendix A)

At this stage, the Control room should restrict access to the incident log created to the PIM and the Commissioner of Police/Gold Command on Call.

Please see roles and responsibilities attached to this document.

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PROCEDURES

On receipt of a report of the need for SOPPI and once a PIM has been appointed, the following procedure is to be adopted:

1. The Post Incident Manager to ensure that access to the incident log is restricted.

2. A Post Incident Room will be identified by the PIM and made available for all those officers (Key Police Witnesses, KPW) who have been involved in the incident. Entry into this room is on agreement of the PIM only and all access will be recorded.

3. Anonymity procedures will be implemented. The PIM will keep a register of the anonymous references and true identities. This will only be available to the Commissioner of Police/Gold Commander.

4. Immediate medical support and welfare support will be made available for all KPW's involved. Facilities for the removal of equipment, contaminated clothing and showers will be made available. This will include the provision for refreshments if required.

5. PIM will facilitate evidence for the investigation and ensure the integrity of the process.

6. PIM will provide a stage 1 and stage 2 account (basic facts) to the Initial Investigating Officer (IIO).

7. KPW's will provide a stage 3 account to the PIM before termination of duty. The account of the officer will be conducted via written layout in the format of a statement, having been signed and dated suitably.

8. A check will be conducted on how KPW's intend to return home and support and transport will be provided where required. In all cases consideration will be given to the time already spent on duty and involvement in a traumatic event would make driving undesirable and facilitate alternatives.

9. A return to work strategy to be discussed and implemented by the Commissioner of Police/Gold Commander, Federation Representative and PIM.

10. After 48 hours and preferably before 7 days, the KPW's will provide their stage 4 account. This may be an additional KPW statement or a witness interview if required by the Investigating Officer.

11. PIM to consider and conduct a debrief if appropriate.

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ROLES AND RESPONSIBILITIES

POST INCIDENT MANAGER (PIM)

- Commence PIP log and record all relevant events.
- Contact Bronze Commander (commander at scene) and Silver Commander (commander at station) and establish from the initial situation report scale of Post Incident process and identify Key Police Witnesses.
- If appropriate arrange for the opening of a PIP Suite or identify a suitable location for this. Default PIP Suite will be the RGP Training Wing. This can change depending on appropriateness.
- Arrange PIM Support Team. Brief PIM team on roles and expectations. Record all information to state the role of the individuals in charge.
- Ensure Police Federation are notified and seek their attendance at the identified PIP suite or location.
- Appoint an 'Appointed Officer'. This should be another officer trained in PIM or a suitable person in support.
- Establish immediate contact with KPW'S and ensure that they are given immediate support. This includes refreshment, showers etc. where available. Explain that PIP has been implemented and the role of the PIM- give consideration for the giving of conferring advice.
- Ensure relocation of KPW'S to the PIP Suite or the agreed appropriate location.
- Make contact with the Initial Investigating Officer (PSD Officer or SIO)
- Take measures to ensure the physical and emotionally well being of the staff involved.
- Consider the attendance of a FME

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On arrival at the PIP Suite the PIM Should:

- Consider who will/will not be allowed access. Brief and appoint staff to control and record an access log.
- Allocate rooms within the PIP Suite or suitable location
- Arrange refreshments as appropriate
- Discuss and agree working practices and communication protocols with the Police Federation representatives
- Establish conditions and prognosis of any casualties and/or confirm any fatalities

ARRIVAL OF KPW'S AT PIP SUITE

- If anonymous references have not already been implemented commence anonymity procedures, providing each KPW with an anonymous reference and a lanyard to be worn with that reference. The PIM should maintain a register of the anonymous references with true identities. The register should be made on Plain Paper and sealed in an envelope and kept by the PIM subject to later SMT decisions on the maintenance or removal of anonymity.
- Immediate medical and welfare support (consider requirement to remove contaminated clothing and shower. Consider process by which effective evidential recovery of clothing can be achieved should it be required).
- Management of PPE/Weapons and Body Worn Cameras if available.
- Meet and greet and introduce Appointed Officer and PIM team with explanation of roles. Provision of conferring advice by Appointed Officer (Appendix A) and update as appropriate the condition of any casualties or confirm fatalities.
- Explain the 4 Stage Account Process:

    1. **Stage 1 – Situation Report**. Provide a concise operational document intended to support the coordination of officer's response in an acute

crisis including the permissions of the TFC to fulfill their Post Incident Responsibilities.

2. **Stage 2 – PIM Basic facts**, i.e. who was at the scene, brief description of roles of those at the scene, confirm who was involved.
3. **Stage 3 – Personal Initial Accounts**. Subject to legal and medical advice, officers should provide a Personal Initial Account of the incident before going off duty. This should be written, signed and dated.
4. **Stage 4** – **Detailed Accounts, Statements and Interviews**. These can be left until the officers involved in the incident are better able to articulate their experience in a coherent format. This will usually happen at least 48hours after the incident and preferably within 7 days. PSD/SIO will be responsible for the proceedings along with the presence of the Appointed Officer to supervise the process.

- ❖ Facilitate access to telephone communication.
- ❖ Consider access of Body Worn Camera footage and CCTV footage available before Stage 4 and after stage 3 Accounts. Record rationale if denied and consider the Body Worn Video Policy and guidelines.
- ❖ Facilitate access to the Police Federation Representatives, external agencies such as PFOA and legal advice.
- ❖ Ensure that Key Police Witnesses are given appropriate and suitable advice.
- ❖ In order to ensure the integrity of the investigation and to safeguard the welfare of the officers involved, access to the PIP Suite will only be allowed once authorised by the PIM.
- ❖ Facilitate examination by health professional if required.
- ❖ Check incident log has been restricted and other identifying documentation is controlled.
- ❖ Discuss with the IIO and confirm status of KPW'S and identify any immediate evidential requirements and need for Stage 2 and Stage 3 Accounts. This could

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include the fact as to whether or not the KPW is a suspect, the medical state of the KPW and if weapons were in attendance.

- ❖ Update KPW'S and Police Federation of IIO'S requirements
- ❖ If required obtain Stage 2 Basic Facts
- ❖ If required and prior to going off duty the Appointed Officer is to ensure that Stage 3 Personal Initial Account is provided. The PIM should ensure this process is being managed.

Prior to PIP Suite/Location Closure PIM to consider:

- ❖ Explain the Stage 4 Detailed Accounts process. Appointed Officer should ensure that the process is clear and, in conjunction with Police Federation and Legal Advisor, agree an appropriate venue and time for the process.
- ❖ If appropriate, explain the Independent Investigation Team's ability to compel KPW'S to attend an interview in relation to any investigation managed or undertaken by the PIM.
- ❖ PIM to explain and document removal of operational status as applicable to role.
- ❖ Establish intended media release with the Police Federation and SMT and ensure KPW'S are aware of content. Ensure anonymity is maintained on KPW'S.
- ❖ Briefing of all officers and staff involved regarding the issues relating to conferring and document that this has been done.
- ❖ Ongoing welfare needs and support required.
- ❖ Explain that Line Managers will be informed and their role in the ongoing welfare.
- ❖ Ensure there is PIM Resilience.
- ❖ Discuss the next 48 hours and their work schedule i.e. when will they come back into the work environment? Is it to be automatically assumed that the officer will be suspended from duty or given compulsory leave? The Commissioner of

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Police/ Gold Commander, Federation Representative and PIM will discuss and implement a return to work strategy.

- Devise a Return to Work Programme for the officers involved in the incident. This should include their removal from that particular duty and re-allocation to another duty within their department.

- Check how KPW intends to return home and consider, if travelling alone if support for transport is required or appropriate. In all cases consider the time already spent on duty and involvement in a traumatic event would make driving undesirable and facilitate alternatives.

- Consider welfare support for family/family liaison function.

- Identify how contact and communication with the PIM/IIO/IIT will be managed.

- Consider media coverage – updating officers with likely interests and their responsibilities especially with reference to Social Media.

- Ensure the appropriate Divisional/Departmental command are informed.

- Consider and document if a debriefing meeting is required.

- If for any reason there is concern for the officer's physical and psychological welfare, special leave may be granted by the Commissioner of Police after completion of the IIO's initial inquiry and following consultation with the PIM, Federation Rep and Welfare Officer. Non-special or light duties could be used to support the individual as well as granting leave if applicable.

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INITIAL INVESTIGATING OFFICER (IIO)

This officer is the Initial Investigating Officer and may be a PSD officer or an SIO appointed by the PSD department. They should:

- Open a log and ensure all relevant information and decisions are recorded, including issues of anonymity.
- Agree initial terms of reference with the Gold Command.
- Identify and preserve evidence.
- Ensure effective scene management.
- Consider which officers are to be treated as KPW'S in conjunction with Gold Command, PIM and Tactical Firearms Commander or Officer Commanding the incident.
- Identify and consider relevant guidelines which may be applicable. This includes Pre-Determined Plans of Action.
- Liaise with the Tactical Firearms Commander (TFC) or officer commanding the incident on initial action at the scene.
- Liaise with Chief Officers on Media Policy.
- Liaise with and consult the PIM.
- Carry out those enquiries deemed urgent and those that may assist in the collation of evidence.
- Agree initial objectives in relation to forensic evidence.
- Make early contact with the Pathologist (where appropriate).
- Liaise with the Crime Scene Investigators.

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APPOINTED OFFICER (AO)

This officer provides a positive obligation on the Police Service to ensure that all activity, including that which relates to the recording of accounts, is transparent and capable of withstanding scrutiny. Where an officer has concerns that the integrity of the process is not being maintained, they must immediately draw this to the attention of the Post Incident Manager and ensure that this is documented.
Their responsibilities include:

- Establish who the KPW's are
- Ensure access to legal reps/Police Federation
- Reinforce the conferring guidance
- Prevent any inappropriate conferring
- Ensure any reference material used by officers is secured and handed to investigators
- Document process by which accounts are provided and any conferring.
- Ensure accounts are time stamped by those making them

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TACTICAL FIREARMS COMMANDER (TFC)

- Remain operationally active until stood down.
- Ensure that the scene is protected and that evidence is preserved until the arrival of the IIO.
- Consider the safety of the public and police personnel, and the immediate welfare of any casualties.
- Initially identify which officers are to be treated as KPW'S in conjunction with senior officer, IIO and PIM.
- Ensure the transfer of OFC and AFO'S to the relocation point and assist in identifying KPW'S.
- Establish the facts of what has taken place and ensure that all relevant information is recorded.
- Inform the control room and the Strategic Firearms Commander (SFC) if available, of the incident.
- Determine the RVP for incoming resources.
- Brief and formally hand over to the IIO.
- Brief the SFC.
- TFC to attend the PIM Suite.

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OPERATIONAL FIREARMS COMMANDER (OFC)

- Remain operationally active until stood down.
- In the absence of the Tactical Firearms Commander, ensure that the scene is protected and that evidence is preserved until the arrival of the IIO.
- Communicate with control room the fact that weapons have been discharged and details of any persons injured or killed should be reported to the control room and/or tactical firearms commander as soon as practicable. Situational and safety critical information should be relayed as soon as possible.
- Provision of medical aid is a priority.
- Secure the scene.
- Secure firearms and ammunition.
- Securing firearms and ammunition carried by officers is an important part of the evidence gathering process. Weapons which have been fired should, as far as practicable, be maintained in the condition they were in immediately after being fired, pending forensic examination. Where any police weapon has failed to fire, was discharged unintentionally, or is suspected of any malfunction, it should be isolated for forensic examination.
- All firearms which have been discharged, operationally drawn or pointed during the operation should be identified, as this will be relevant information in the post incident investigation. The IIO will determine which of these weapons need to be treated as exhibits.
- Where a subject has been shot and a weapon is still in their possession, it should be removed from them and secured. Any other weapons found at a scene should remain where they are located, unless this compromises public safety or the security of the exhibit. Wherever possible, weapons recovered at the scene should not be interfered with or made safe, unless there is an operational or safety imperative.
- Ensure a weapons safety check is carried out by officers.
- The position of recovered weapons should be noted and relayed to the person who is taking charge at the scene. Where, for operational or security reasons, it

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has been necessary to take any action in respect of a recovered weapon, details of the precise procedures followed should be recorded.

- Liaise with the IIO and where necessary, with the scenes of crime officer, supervise the unloading of the weapons and identify which weapon was carried by each officer.

- Ensure transfer of himself and AFO'S into PIM Suite.

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COMMANDING OFFICER FOR KPW'S (NON FIREARMS INCIDENT)

- This is likely to be the Team Leader or Duty Officer.
- Remain operationally active until stood down.
- Ensure that the scene is protected and that evidence is preserved until the arrival of the IIO.
- Consider the safety of the public and police personnel, and the immediate welfare of casualties.
- Consider which officers are to be treated as KPW'S in conjunction with the Senior Officer, IIO and PIM.
- Ensure the transfer of officers and staff to a relocation point and assist in identifying KPW'S.
- Establish the facts of what has taken place and ensure that all relevant information is recorded.
- Inform the control room and the Senior Officer of the incident.
- Determine the RVP for incoming resources.
- Brief and formally hand over to the IIO.
- Brief the Senior Officer commanding the incident.

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STRATEGIC COMMANDER/STRATEGIC FIREARMS COMMANDER

- Remain in position to maintain command until the strategic intention of the operation is achieved, or they have been relieved.
- Continue to be available to the Tactical Firearms Commander (TFC), if applicable.
- Inform the Gold Command on call of the incident.
- Ensure all relevant information is recorded.

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COMMISSIONER OF POLICE/GOLD COMMAND ON CALL

- The Post Incident Investigation (Including informing the PCB).
- Overall Post Incident Management
- They also:
  - ensure that investigation and welfare procedures are implemented
  - Appoint a PIM
  - Appoint an IIO in conjunction with PCB
  - Ensure that the KPW's are identified
  - Ensure that all relevant information is recorded.

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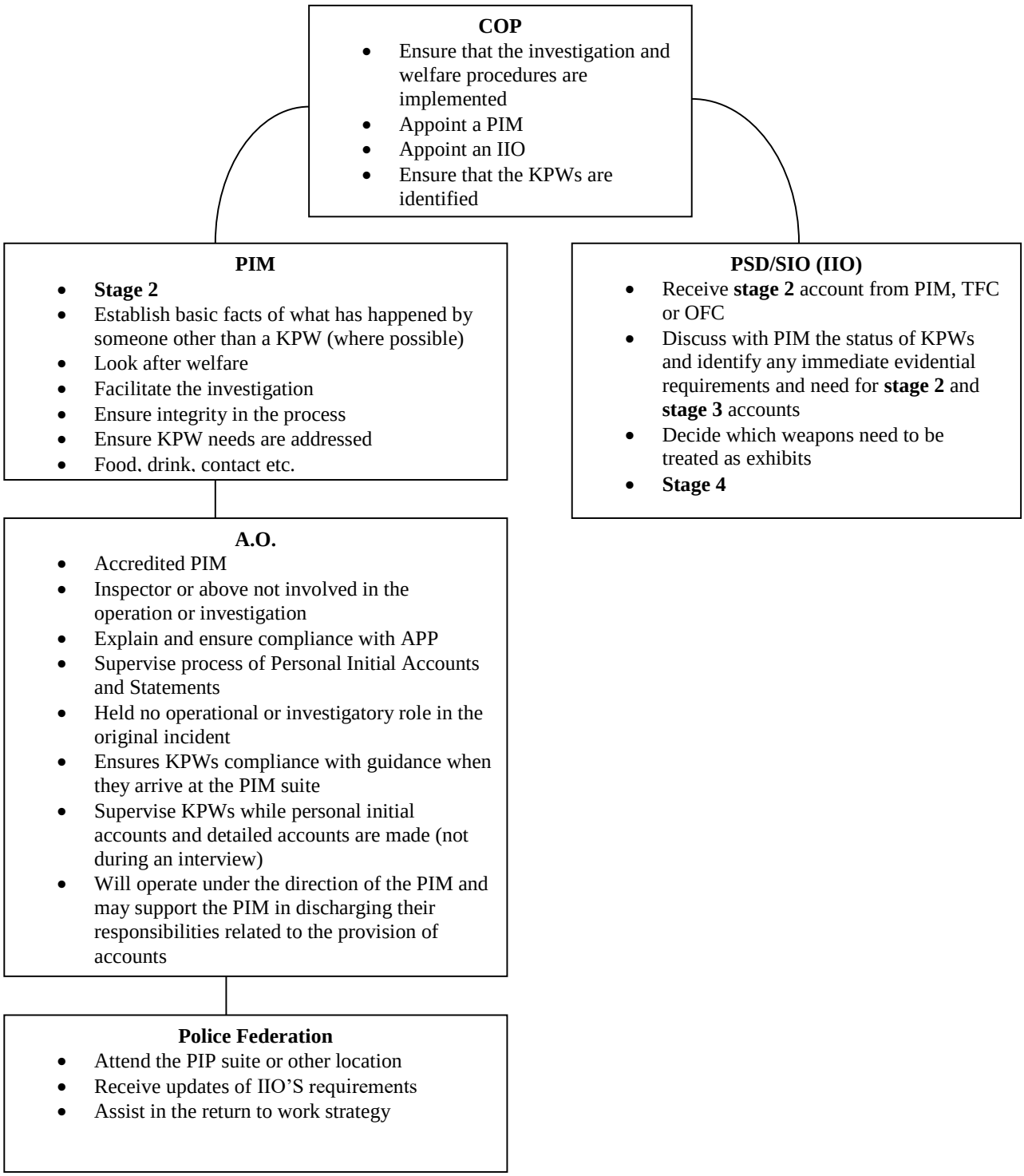

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Appendix A

NAME	POST	CONTACT NUMBER
Inspector Nolan Romero	Post Incident Manager (PIM)	[redacted]
Henry Bautista	Trained PIP Federation Rep	
Anna Jones	Trained PIP Federation Rep	
Craig Philbin	Trained PIP	

PIP LOG

Legal privilege applies

08/03/2020 03:54 hours

Received a call from officer 1 on my personal mobile. Stated that they had been involved in a collision at sea and as a result there was 1 person deceased with possibly a second. I informed 1 that I was in Sotogrande, Spain and that it would take me 30 minutes to drive to Gibraltar. 1 informed me that it would take them longer than that to reach land as they had a RHIB which they were towing. Informed 1 that he was not to speak to anyone or to answer any questions in relation to the incident until I was present.

04:50 hours

Arrived at New Mole House [NMH] after first attending GPF officers to get the PIP file. On arrival at NMH officers were still not at location. Shortly after I was advised that Commissioner of Police [COP] was in office with other senior officers. Made my way to COP's office where I asked him whether he was going to called Post Incident Procedure [PIP]. Stated he was in the process of calling me. Had a brief with COP about certain measures he would be putting in place to safeguard all officers. CI Field was nominated as IIO.

05:20 hours

Short brief with CI Field/Insp Enriles/Insp Perera 2ic. Confirmed shortly after we have a second deceased person. Short discussion as to where the PIP suite would be located. As per the PIP "policy" document this was supposed to be the Training Wing but this was full of lockers and equipment due to refurbishment of the locker room. It was decided to use the ABE interview room as the PIP suite as this had a sofa and was comfortable enough for the

three officers. CI Romero the only Post Incident Manager [PIM] in the Royal Gibraltar Police [RGP] could not be contacted so Insp would be acting/covering until his arrival.

0540 hours

Received a telephone call from Insp Fernandez to the effect that officers 1,2,3 had arrived at Police Marine Base [PMB] and that he was on his way up to NMH with them.

06:00 hours

Officers 1,2,3 arrive at NMH with Insp Fernandez and escorted to ABE interview suite. Offered tea or coffee.

06:15 hours

Informed Insp Fernandez whether 1,2,3 had been informed that they were Key Police Witnesses [KPW] and not suspects. I informed Insp Fernandez as to officers' anonymity and whether he had explained the conferring guidelines to them. I then proceeded to explain to 1,2,3 these guidelines. Officers were wet and smelled of petrol. All had a change of clothing except 3.

0630 hours

PC Russell attended the PIP suite with instructions to exhibit 1,2,3's clothing, Arrangements were made for the Police Store to open to get 3 a change of clothing. COP & Supt Richardson attend PIP suite to check on the welfare of 1,2,3.

0640 hours

CI Romero attends PIP suite. Officer 1,2,3 tea or coffee and whether they want to shower. Gives a quick overview of how process works.

0720 hours

Officer 1,2,3 attend File Preparation Unit [FPU] to prepare their Stage 3 account. Officers given anonymity. CI Romero informed the Stage 3 would be extremely basic. Statements done. CI Romero stated they were too basic, required more substance. I informed him that this was all he was getting until their Stage 4 account. Asked me whether they could add two points which were the fact that they had received a report from the Guardia Civil in relation to the RHIB and whether they were in British Territorial Waters [BTGW]. No issues to that, 1,2,3 added that to their accounts.

07:43 hours

Stage 3 accounts finished. CI Romero informed that even though 1,2,3 looked okay they wanted to attend counselling. CI Romero stated he would be showing the accounts to investigators and to hold on.

09:00 hours

1,2,3 left NMH. 3 attended stores. Contacted our legal adviser about incident and asked him for a meeting for the Tuesday.

09:30 hours

I drove 1,2,3 down to PMB. 1 asked me whether I could go to his residence and explain what had occurred to his wife.

10:00 hours

Attended 1's residence where incident was explained to wife.

10:30 hours

Left residence.

No further contact with 1,2,3 that day.

09/03/2020

Contact with ARC ref legal advice

Created a WhatsApp group for 1,2,3 and Federation Secretary.

10/03/2020

10:00 hours

Met up with 1,2,3, Fed Sec at local café before our meeting with our legal adviser. Shortly after CI Romero and Insp Fernandez arrived [previously arranged] where they updated 1,2,3 on the investigation and informed all three that they all had the full support of management. Enquired as to whether they would be providing their Stage 4 account and he was informed that until they received the all clear from mental health practitioner this would not be done.

11:00 hours

Meeting with our legal adviser.

11/03/2020

15:00 hours

Called by CI Romero and asked to meet with myself and Fed Sec. Arrangements had been made with Ocean Views [OV] but the appointments for 1,2,3 to visit the mental health practitioner has still not materialized. Appointments given to all three later on that day. 1 & 3 went for counselling, 2 got appointment for the following day.

12/03/2020

Arrangements in hand with ARC to bring over legal adviser from the UK

14:00 hours

1,2,3 attend GPF officers to provide Stage 4 account. Advice received from legal adviser to postpone the accounts for another day.

15:00 hours

CI Romero & AC Ullger attend GPF offices to speak to 1,2,3 reference their welfare and to offer them their full support. Given encrypted pen drives to be able to save their accounts. Return to work strategy touched upon.

13/03/2020

10:30 hours

1,2,3 myself and Fed Sec called to NMH for update by CI Romero. Informed that they had received specific threats towards PMB crew out at sea. A further more specific threat had been received from a source in relation to 1. Monies to be paid for destruction of property.

Positive action taken by RGP. 1,2,3 given panic alarms which if activated would go directly through to duty Crown Sergeant.

12:30 hours

Meeting with legal adviser.

rEaCh
ALCANCE
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McGrail

Soraya Fernández · Photos: Fran Montes



by **ReachExtra**
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Interview with Commissioner of the Royal Gibraltar Police, Ian McGrail

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A firm believer of trans-frontier police cooperation, McGrail recognizes that Gibraltar is a very safe community and a model of coexistence, even though it has its challenges.

The first modern police force to have emerged within the Commonwealth following London's, the Royal Gibraltar Police force (RGP), was founded in 1830, only a few months after the London Metropolitan Police was set up.



The RGP has a complement of 246 officers in separate departments; Prosecution, Narcotics, Scientific Police, Technological Crimes, Traffic, Neighbourhood Police, Maritime Section, Support Division and Information and Intelligence.

Ian McGrail has been the Commissioner of the RGP for a year.

Born on the Rock and with more than 30 years of experience in the force,

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border, a financial centre and UK defence facilities.



RGP Commissioner Ian McGrail: "A police officer is a police officer, wherever he may be. A border should not be an obstacle for collaboration."

So, McGrail is reasonably cautious: "We are not immune to what can happen anywhere else, more so considering this area. In addition, where there are financial centres there is always associated crime, as is true of cities like Madrid or London." Gender violence has increased, although not as tragically as in Spain.

In fact, the most serious crime recently that occurred in Gibraltar was the murder of a woman by her husband.

Smuggling

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The RGP supports Customs in Gibraltar in the fight against tobacco smuggling: "It is a Customs function, but we provide support. We have storage rooms full of tobacco that we eliminate annually, but they're always full at the end of the year. The tobacco seizures are constant."

In recent weeks, the RGP made headlines for its collaboration with the Security Forces of Spain in the arrest and return of alleged drug traffickers. A vocation of public service and the will to collaborate fit in line with a well-established system cooperation.

"Our collaboration with the Security Forces of Spain dates back many years and continues to be maintained. A police officer is a police officer, wherever he may be. A border should not be an obstacle for collaboration. I have officers who testify in the Spanish courts with regards to crimes committed in Spain, because they require our witness evidence. I would like this to be reciprocated. This has not happened yet, but I have not lost faith," he acknowledges.

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Collaboration



Brexit is perhaps the most important challenge: "Whatever Brexit brings, I hope that the politicians on both sides of the frontier allow the police to do our work because, if not, the criminals will win. I ask that they let us continue collaborating in a fluid and effective manner." In this sense, he also highlights the harmony between police officers on both sides.

"A police officer is a police officer, wherever he or she may be. Mutual respect is evident. I hope, I ask, I pray for it to be maintained because our goal continues to be the same," he says. This collaboration with Spanish authorities also exists at sea, despite the well-known disputes over the sovereignty of the waters surrounding the Rock.

"Collaboration exists, with some agencies more than with others, but it exists. In fact, the two cases my Officers will testify to in the courts of

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Terrorism



Another threat to be confronted is terrorism, something unthinkable in a community that is a model example for the coexistence between Catholics, Protestants, Jews ,Muslims, and Hindus.

"These days, nobody can be completely safe. We are a great example and yet, it is still possible that an outsider could break this climate or stir things up. We take this matter very seriously and Police, Customs, Immigration and Defense Agencies are all working together as a unit," he says.

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CAL NEWS

RGP steps up cooperation with Spanish law enforcement agencies

nmisioner Ian McGrail 260419 (seq) (Photo John Bugeja) Interview

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yal Gibraltar Police officers will be called to testify in two drug

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e occupants had been chased at sea by Spanish law forcement officers who had also retrieved bales of cannabis ich had been jettisoned overboard.

e suspects were arrested and processed through the courts here local offences such as importing a RHIB, but as the drug bales re retrieved in Spanish waters they will face drug charges in the jeciras courts.

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e've got a summons from Algeciras asking us to release our icers so they can give evidence there," Mr McGrail said.

e second case involved a "dynamic" chase at sea on the Western e.

RGP officer boarded a smuggling vessel and a struggle ensued which the officer sustained serious injuries to his shoulder, Mr :Grail explained.

ne thing is the justice system [in Spain] - as confirmed by my unterparts in Spain - is quite tedious and the process is not as ift as it is here," he said.

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ney laundering activity on the Rock connected to drug fficking.

February, as Guardia Civil officers carried out a series of raids in Campo that led to the arrest of 29 people, detectives from the P's economic crime unit, backed up by armed officers, ultaneously raided a flat in Ocean Village.

at resulted in the arrest of three Spaniards and one local man on spicion of money laundering in relation to drug trafficking ences.

operation has always been there but we want to take it up a tch further," Mr McGrail said.

is all arises as a result of the building of trust and relationships."

ganised criminality has no borders and when we see that that is opening we have to join up because it's more effective to tackle m jointly than in silence."

d therefore, while we intervene at their request or they intervene our request, I think that is the best way, more so in this region."

s well documented that there has been a lot of concern over janised criminality particularly in the hinterland."

e can't sit back and not do anything about it," he said.

here will be more activities taking place across a full range of minality, not just drug trafficking or money laundering."

here will be other interventions in the pipeline."

UNTER TERRORISM

McGrail also underscored the importance of a joined-up proach in respect of counter terrorism.

at is something that we want to be joined up on, with any nation t only the one next to us, and very rarely are you going to come oss a Government that it not going to be supportive of laborative work on counter terrorism," he said, adding "it doesn't ike sense" not to cooperate.

anwhile, Project Servator - the policing tactic designed to deter,

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d locally-based training, as well as engagement with UK partner ganisations.

e're already reaping results and there's good community gagement from the business sector in particular," Mr McGrail d.

t the project will soon be rolled out to other continents given its ccess, with trials planned for Australia and New Zealand.

e tactic sees the deployment of highly visible police officers, pported by other resources such as police dogs, firearms officers, in clothes officers, marine police units, vehicle checkpoints and TV, across Gibraltar's points of entry, city centre, leisure areas d other crowded places.

ey are supported by officers specially-trained to spot the tell-tale ns that an individual may have criminal intent.

e deployments are highly unpredictable and intelligence-led.

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AFP

Spain, Gibraltar police seize hashish after high-speed boat chase



This handout image obtained from the Royal Gibraltar Police shows ten bales of cannabis resin siezed in a joint operation by Spanish and Gibraltarian police in the Bay of Gibraltar January 5, 2017 Nearly 800 kilos of hashish worth over four million pounds were thrown into the sea by drug traffickers during a high-speed boat chase. (AFP Photo/HO) (AFP)

January 5, 2017

Gibraltar (AFP) - Spanish and Gibraltarian police on Thursday recovered hashish worth nearly five million dollars that was thrown into the Bay of Gibraltar by drug traffickers to escape a high-speed chase.

Acting on a tipoff, Royal Gibraltar Police located five inflatable boats loaded with hashish resin in the contested

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started to throw their cargo overboard in an attempt to lighten their load and pick up speed, Royal Gibraltar Police said in a statement.

The boat left Gibraltar's territorial waters and the chase was then taken up by Spain's Guardia Civil police force but the traffickers managed to escape, it added.

Authorities retraced the route of the chase and picked up 34 bales of hashish resin – Gibraltar police and customs recovered 27 bales and the Guardia Civil another seven.

The drugs weighed around 800 kilos (1,800 pounds) and are estimated to have a street value of Â£4,050,000 ($4,968,000/4,762,000 euros).

"This highlights the close cooperation that exists not just among local law enforcement agencies, but also with the Guardia Civil in combating crime, particularly drug trafficking, across the Straits of Gibraltar," the statement said.

Madrid ceded Gibraltar in 1713 under the Treaty of Utrecht. The territory remains a source of British-Spanish tensions, with Madrid long claiming it should be returned to Spanish sovereignty.

While Spanish and Gibraltar police cooperate regularly at the grass roots level, there are often flare-ups between the two sides over jurisdiction and sovereignty.

Gibraltar says Spanish vessels regularly stray deep into its territorial waters and Britain's Foreign Office has attacked such incidents as provocative.

In the most serious recent incident, a British navy patrol boat fired flares to warn off a survey ship operated by Spain's Oceanographic Institute which had entered disputed waters.



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GIBRALTAR POLICE OFFICERS AWARDED SPAIN'S ORDER OF MERIT FOR CROSS-BORDER POLICE COOPERATION AGAINST CRIMINAL GANGS

Chief Inspector Sean Perera and Detective Inspector Craig Goldwin received the awards

By Elena Gormen Rueda • 14 Oct, 2021 @ 13:08

Two officers from Gibraltar's police force have been honoured for their work with Spain's Guardia Civil in tackling money laundering and drug trafficking crimes.

In a display of the close collaboration and a sign of the "excellent working relationship" between the two forces, the RGP officers were awarded Spain's Order of Merit in a ceremony held in Tarifa on October 10.



Image: Royal Gibraltar Police

Chief Inspector Sean Perera and Detective Inspector Craig Goldwin received the awards as part of the celebration of the Virgin del Pilar fiesta, the patron saint of the Guardia Civil for police work carried out in joint operations dating back to 2019,

Their police work led to the arrest of members of a criminal organ
Gibraltar to launder its profits as well as the dismantling of the en

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Image: Royal Gibraltar Police

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Image: Royal Gibraltar Police

The ceremony was attended by the Director General of the Guardia Civil, Maria Gamez, and RGP Commissioner Richard Ullger who said approval of the honour had come right from the top, from Spain's Interior Minister of the Interior, Fernando Grande-Marlaska.

Gibraltar police addressing the event in Twitter

"The work of my officers has been of international importance and I am delighted that it has been formally recognised by the senior officers of the Guardia Civil", said Ullger after the event.

"In fact, the awarding of this medal is a historic milestone, as it wa Minister of the Interior himself."

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Former Commissioner of Police Ian McGrail honoured by the Policia Nacional in Spain



Former Commissioner of Police Ian McGrail has been honoured by the Policia Nacional in Spain.

He's received an award recognising his co-operation with the Spanish authorities and his contribution to the fight against drug trafficking.

The award ceremony took place in La Linea yesterday, when Ian McGrail was presented with a plaque by the La Lineaand Algeciras Police Commissioners. They praised his professionalism and work on both cross-border operations and in the exchange of information, saying Mr McGrail recognised that crime did not have frontiers.

For his part, the former RGP Commissioner said he was honoured to have had his work recognised. He said he's always been a great advocate in the establishing of mechanisms to enable joint operations between the Gibraltar and Spanish authorities. He adds he's always been a firm believer that joint operational activity and exchange of intelligence bodes well for the building of trust among law enforcement officials which in turn develops into a very effective weapon to combat serious & organised crime.

Ian McGrail says he's delighted to have struck a professional & personal relationship with his Spanish counterparts as with other other senior officials in the UK, USA and other nations to ensure the world knows Gibraltar is not a "safe" jurisdiction for serious and organised criminality.

(WHATSAPP://SEND?TEXT=HTTP://WWW.GBC.GI/NEWS/FORMER-COMMISSIONER-POLICE-IAN-MCGRAIL-HONOURED-POLICIA-NACIONAL-SPAIN)

(HTTPS://WWW.FACEBOOK.COM/SHARER.PHP?U=HTTP://WWW.GBC.GI/NEWS/FORMER-COMMISSIONER-POLICE-IAN-MCGRAIL-HONOURED-POLICIA-NACIONAL-SPAIN)

(HTTPS://TWITTER.COM/HOME?STATUS=HTTP://WWW.GBC.GI/NEWS/FORMER-COMMISSIONER-POLICE-IAN-MCGRAIL-HONOURED-POLICIA-NACIONAL-SPAIN)

(MAILTO:?&SUBJECT=FORMER COMMISSIONER OF POLICE IAN MCGRAIL HONOURED BY THE POLICIA NACIONAL IN SPAIN &BODY=FORMER COMMISSIONER OF POLICE IAN MCGRAIL HAS BEEN HONOURED BY THE POLICIA NACIONAL IN SPAIN%0A%0AHTTP://WWW.GBC.GI/NEWS/FORMER-COMMISSIONER-POLICE-IAN-MCGRAIL-HONOURED-POLICIA-NACIONAL-SPAIN)

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IN THE MATTER OF AN INQUIRY UNDER THE COMMISSIONS OF INQUIRY ACT

AND

IN THE MATTER OF AN INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE SPECIFIED IN L.N.2022/034 DATED 4th FEBRUARY 2022

This is the Exhibit Marked "CMR1" referred to in the Affidavit of **CHRISTIAN MANUEL ROCCA, SWORN** on the 21st day of June 2022.

Before me

Michael Adamberry
COMMISSIONER FOR OATHS

Notes of Meeting

Date: 15/05/20

At: Government Law Offices

Time: 1700 - 1830

In attendance: Commissioner of Police

Attorney General Michael Llamas QC

DPP Christopher Rocca

Supt Paul Richardson

Inspector Mark Wyan

- AG asked whether our position in respect of Mr Levy had changed since the last meeting. The CoP stated that it had not.
- AG asked whether we could achieve the same goal without the need to treat JL as a suspect.
- Asked whether we could interview but not under caution.
- If he is treated as a witness, it may undermine the case. The other suspects would question why this was the case.
- There is a fear that he may not turn up on Monday. Consider what the next steps would need to be.
- Considered the possibility of not interviewing at the police station but at his office. This may be possible in law but not certain under CPEA.
- AG did not think this would be satisfactory for JL who did not want under caution.
- Considered what was happening with the devices. CoP stated that they were sealed and kept in his safe. Not to be actioned at this stage.
- AG argued a distinction between Sanchez / Cornelio and the level of culpability of JL. Could he therefore be treated differently?
- DPP disagreed with the decision to use a warrant. But stated that this was an operational matter. He did say that he believed we would be successful in JR. He would defend us.
- AG agreed that:
    - AG (or someone) would call L Baglietto and ask him to consider submitting a full account
    - RGP would assess the evidence provided and possibly ask for clarity
    - RGP would reach a conclusion about whether the benefits of treating JL as a witness outweigh the need to prosecute (in light of the assistance to the prosecution case and not on his standing / problems associated with legal action)
    - Phones to be retained until a decision was made (with the possibility to analyse if he is a suspect or return if he is a witness).
    - Warrant to be retained in the event that it is needed later on
    - Interview to be suspended for the time being but could proceed if he was to remain a suspect.

Meeting at OCPL

1200 hours - 20th May 2020

Present: AG Llamas / DPP Rocca / CoP / Supt Richardson / DI Wyan

RE: Letter from Hassans dated 20th May 2020 – Schedule 1 Search warrants dated 7 May 2020

AG – Letter required a succinct reply. That a procedure of co-operation had been started and the process should conclude. If we begin to rebut then everything could be undermined.

DPP – Concerned that if the reply was not robust enough then there could be repercussions in the context of the whole case later on.

DPP – We need a tempered rebuttal but one that makes clear our position.

CoP – Hassans are now asking for confirmation that JL is a witness. Agreed to review an unsolicited account but not that this was a witness statement.

AG – Confirmed that he had only indicated to Hassans that they would review a written response if it was provide.

AG – Concerned that a procedure had been put in place but that this type of letter was not helping. Not sure why they were doing it at this stage.

DPP – Believed that they may be getting ready for an abuse of process argument.

DPP – Need to respond to the assertion that prejudice to the investigation is not a ground to reject the application for disclosure of the warrant details.

DPP – We can give them a redacted version of the warrant application. To discuss with Supt Richardson.

DPP – 21 days is too long for notice.

MW – Concerned that the warrant will expire by 7/6/20. Little time to execute in the event that JL does not provide a sufficient account.

PR – Status of JL is still a suspect.

PR – Problem with asking questions after an account is that we would be conducting an interview.

PR – If JL provides an account this can be used against him.

DPP – We are keeping an open mind until he has provided his account.

AG – Advice to Hassans was that he provides RGP with his account. Let's go down that route. Other procedure is on hold until it is assessed.

CoP – His account will have to be substantive enough for him to be treated as a witness and to avoid interview under caution.

DPP – He will draft a response for CoP. He will address the issues and rebut.

AG – Conclusion should be that we are keeping an open mind.

IN THE MATTER OF AN INQUIRY UNDER THE COMMISSIONS OF INQUIRY ACT

AND

IN THE MATTER OF AN INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE SPECIFIED IN LN.2022/034 DATED 4th FEBRUARY 2022

This is the Exhibit Marked "CMR2" referred to in the Affidavit of **CHRISTIAN MANUEL ROCCA, SWORN** on the 21st day of June 2022.

Before me

Michael Adamberry
COMMISSIONER FOR OATHS

(GLO) Rocca, Christian

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 13 May 2020 14:12
To: (GLO) Llamas, Michael
Cc: (GLO) Rocca, Christian
Subject: OFFICIAL - SENSITIVE RE: James Levy

Dear AG,

Further to my email this morning I now able to provide the substantive response that I promised.

Mr Baglietto is incorrect in the sequence of events and we would also argue incorrect with the conclusions that are drawn from them. Body worn video footage was taken yesterday and this will provide an accurate record and corroborate the following version of events:

1. Mr Levy was requested to attend his office in order to execute a warrant issued by the Magistrates' Court. He initially refused to attend stating that he was busy that day and offered to try and meet on the following day asserting that the officers did not know what they were doing and that there would be serious repercussions. The execution of the warrant was planned and executed in the most tactful and least intrusive way possible and all persons were treated with the utmost respect and courtesy. After initially refusing to attend, Mr Levy asked for time to consider and agreed to revert to the officers in due course. After some fifteen minutes he capitulated and agreed to attend his own office.

2. On his arrival Mr Levy was cautioned as is required by law and a prepared summary of the relevant facts on which it was suspected that he may have taken part in a criminal conspiracy were read over to him and this recorded on a body worn camera. It was stressed that the police were keeping an open mind and that any explanation that he provided may cause the investigation to proceed in a different direction.

3. The purpose of the warrant and the material searched for was discussed and Mr Levy declared that as an officer of the court he would of course comply but needed to consider the rights of his clients as the material we sought was subject to legal privilege. The means by which legally privileged material is seized and handled was discussed and his views were sought as to whether local or UK counsel should be chosen to examine the content seized and he declared a preference for UK counsel.

4. Mr Levy pressed for an explanation as to why we had not simply obtained a production order and therefore not need to use a warrant; the reasons are as follows:
    a. Search warrants were used for all other suspects in this case and he was subject to the investigation as an individual and this does not necessarily imply that Hassan's as an entity were suspect of criminal liability.
    b. There was a need to seize his devices at that time, not ask for them to be handed over on request.
    c. Production Orders are obtained through an inter-party application and this would involve disclosing details of the investigation to an interested party in advance of any formal police interview and thereby potentially compromise any line of questioning.

5. Although Mr Levy asserted his willingness to cooperate he asked to consult privately with Mr Chincotta and left the room with him. Some twenty minutes later they returned and advised that they had consulted with a top UK Silk and that even though he had been advised that the execution of a

warrant was an abuse of process the means to challenge it was by judicial review. He therefore wanted to cooperate but was still uncertain as to whether to handover the items voluntarily or be compelled to do so by warrant.

6. After much discussion with Javier Chincotta it was decided to try and come to an arrangement with Hassan's IT technician and the RGP IT forensic examiner to extract the items required from Hassan's servers on a voluntary basis. As this involved technical cooperation Mr Levy asked that in the meantime that his office was searched, assuring the officers that he never used the computer located there. Insp Wyan sought clarity as to whether this would amount to a voluntary search or whether the warrant would be executed and Mr Levy stated that he wanted the search to be on a voluntary basis and would sign the relevant sections of the warrant after the issue of extracting the emails was resolved. He asked that only Supt. Richardson accompany him to his office and this was agreed. In the office he opened the cupboards and drawers and declared that nothing concerning 36 North was held within. A cursory visual examination satisfied the officer that it was unlikely that the material sought was there.

7. Once back in the boardroom it was noted that the IT staff were still trying to determine the best way to address the problem and both men left to pursue this. As they left, and at the request of Mr Levy, Supt. Richardson and Mr Levy left for a search of his home office. Once again the terms of the search were discussed and again Mr Levy asserted that he wanted the search to be on a voluntary basis and that he would sign the relevant form once the email situation was concluded. Inside his office a rudimentary search was conducted with Mr Levy opening drawers and storage areas and explaining their content. Nothing was removed from the office and Mr Levy was asked to produce his iPad and a telephone which had been used to send messages to the other persons subject to this investigation. After initially declaring that he did not recognise the telephone number subject to the investigation (a UK based number) he asked his family who informed him that it was a number that he had previously used for WhatsApp as his Blackberry (which he previously used) did not have that function. He was however unable to remember what had happened to that phone and could not provide it.

8. The ipad was handed over to him by his wife and he volunteered the PIN code. The device was not taken into police custody at that stage as Mr Levy had still not formally agreed to hand over the items on a voluntary basis by signing the necessary form.

9. Once Mr Levy and Supt. Richardson returned to the board room at Hassans, Mr Levy agreed that he would provide the items on a voluntary basis and signed the relevant forms in the presence and with the agreement of Mr Chincotta.

10. The warrant has been obtained pursuant to schedule 1 paragraph 12 the Criminal Procedure and Evidence Act 2011. Mr Baglietto appears to be confused by the copy of the form provided to Mr Levy entitled "Statutory Powers of Police to Search Premises and the Rights of Occupiers which caters for warrants other than the one in issue and includes a reference at paragraph 6 to the With Consent searches. Mr Levy signed to consent to a search by consent at 1700 and at this point handed over his IPad. He retained his iPhone until he had made arrangements with his own IT specialist to obtain a backup copy. The phone was handed over to police, again on a voluntary basis at 2100Hrs at NMH.

11. The issue of the emails is still live given that Hassans declared that they had over 80,000,000 emails and the time to extract the relevant ones may take several days. At the time of writing we are under the belief that these would be hand over voluntarily, however given the contents of Mr Baglietto's letter to the Clerk of the Magistrates' Court this would seem to be unlikely.

12. The warrant was issued by the Magistrates' Court and followed the correct process where a substantial affidavit was produced and examined by the Magistrate over a period exceeding 90

minutes having been provided with a copy of it in advance. You will note that Mr Baglietto is seeking to obtain a copy of the information laid before the Magistrate and making the absurd allegation that there has been misfeasance in public office. This investigation will be severely prejudiced should this information be is provided at this stage and the DPP and the Clerk to the Magistrates' Court has been informed.

13. Finally I am informed that no copy of the warrant was provided and neither was it asked for. This is because it was not relied on as the items were handed over voluntarily.

I hope the chronology of events as recorded by the team and explained above provides you with the details you require fro our meeting in a short while.

Sincerely,

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

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From: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Sent: 13 May 2020 12:41
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Subject: RE: James Levy

Yes. That works. Thanks. See you here.

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 13 May 2020 12:37
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Cc: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Subject: Re: James Levy

AG - would 3pm work for you?

Rgds

On 13 May 2020, at 11:56, (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi> wrote:

Dear Commissioner,

With all due respect, I can formulate my own view on what is, or is not, appropriate. Be that as it may, yes we should meet. The DPP (copied) will also be present.

Please let me know at what time you wish to meet.

Yours sincerely,

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 13 May 2020 11:27
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Subject: RE: James Levy

Dear AG –

I have now had an opportunity to discuss the contents of your email sent at 2312Hrs yesterday and which I only read this morning. I am confident that Mr Baglietto is incorrect in some of the facts he sets out and the conclusions that he draws from them. I have seen nothing to suggest that the investigating team have acted improperly and refute in the strongest terms that there has been a serious abuse of law or power.

My response will be on the understanding that is in your capacity as guardian of the public interest, as this is how Lewis Baglietto has sought urgent intervention from yourself, in what is a protracted and serious live criminal investigation.

In my view, it would not be appropriate for the Commissioner of Police and the Attorney General to meet with counsel representing a person under investigation to discuss matters concerning a live investigation and which may be subject a legal challenge at later date. This is particularly so as Mr Levy has indicated that he is likely to ask Mr Baglietto to represent him in the formal police interview under caution scheduled for next week. That said it would be appropriate for you and I to meet and discuss the preparation of legal arguments to defend any possible legal challenge following on from yesterday's intervention.

I am working to provide a substantive response and would ask for your patience whilst I prepare this: I aim to revert to you by close of play today if not earlier.

Yours sincerely,

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

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From: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Sent: 13 May 2020 10:49
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: FW: James Levy

Ian,

Please see email below. There is clearly some urgency in meeting. Can we please meet at midday?

Michael

Michael Llamas CMG QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

HM Government of Gibraltar

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-----Original Message-----
From: Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Sent: 13 May 2020 09:35

To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Subject: RE: James Levy

Dear Michael

Sorry for not reverting earlier

I don't have an issue meeting later today, but, given the contents of my e-mail, the matter is obviously very urgent

Kind regards

Lewis

From: (GLO) Llamas, Michael
<michael.llamas@gibraltar.gov.gi<mailto:michael.llamas@gibraltar.gov.gi>>
Date: Wednesday, 13 May 2020, 8:27 am
To: Lewis Baglietto QC <lewis.baglietto@hassans.gi<mailto:lewis.baglietto@hassans.gi>>
Subject: Re: James Levy

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Lewis,

The Commissioner has reverted to me just now. He is amenable to meeting but later on today to allow him and his team to consider your email. I have accepted that and told him to revert to me with a time. I trust you don't have an issue with this.

Michael

Sent from my iPhone

>

Michael Llamas CMG QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas@gibraltar.gov.gi

www.gibraltar.gov.gi<http://www.gibraltar.gov.gi>

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On 12 May 2020, at 23:30, Lewis Baglietto QC <lewis.baglietto@hassans.gi> wrote:
>
> Dear Michael
>
> Many thanks for reverting so quickly. I appreciate it.
>
> Yes, I will be happy to meet with you and the Commissioner at your offices at 10am tomorrow
>
> Kind regards
>
> Lewis
>
>
>
>
> From: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi<mailto:michael.llamas@gibraltar.gov.gi>>
> Date: Tuesday, 12 May 2020, 11:15 pm
> To: Lewis Baglietto QC <lewis.baglietto@hassans.gi<mailto:lewis.baglietto@hassans.gi>>
> Subject: RE: James Levy
>
>
> CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.
>
> Dear Lewis,
>
> I acknowledge receipt of your email below. I have passed it on to the Commissioner of Police and suggested to him that the three of us meet tomorrow in my office at 10.00 am. Can you please confirm it would be possible for you to attend. If so, I will confirm the meeting once I have heard from the Commissioner.
>
> Michael
>
>
> _____

> Michael Llamas CMG QC
> Attorney General
>
> Government Law Offices
> HM Government of Gibraltar
> 40 Town Range
> Gibraltar
> GX11 1AA
>
> Tel: (+350) 20051118
> michael.llamas@gibraltar.gov.gi
>
> www.gibraltar.gov.gi<http://www.gibraltar.gov.gi>
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> -----Original Message-----
> From: Lewis Baglietto QC [mailto:lewis.baglietto@hassans.gi]
> Sent: 12 May 2020 23:03
> To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
> Subject: James Levy
>
> Dear Attorney
>
> I write on behalf of my firm's senior partner James Levy QC in relation to the attendance of RGP at his home and office addresses earlier today.
>
> The officers who attended informed him that they were investigating the offence of conspiracy to defraud in connection with the dishonest obtaining of a maintenance contract relating to the NCSIS platform. They told him, in terrorem, that they were in possession of a search warrant (although they left with him a copy of a proforma relating to section 21 warrants of arrest, it is plain that the warrant which they claim to have had must have been a section 12 warrant), and told him that unless he cooperated, the warrant would be executed. As you would expect of a person of Mr Levy QC's stature and standing, he agreed to cooperate. He permitted them to enter his home address, and to search it, which they did. Despite threatening to execute the warrant, the police officers declined to provide him with a copy, even though they left the proforma. They seized an ipad, and then left to search his office. At Hassans' offices, they entered his personal office, and asked for his iphone and copies of documents. Again, Mr Levy QC agreed to cooperate, and provided his phone, with the sim card removed (so as to allow him to continue to work).

>
> I am extremely concerned by the apparent gross abuse of power that this conduct amounts to, and that the RGP has seen fit to proceed in this manner. Although Mr Levy has asked me to confirm that the officers in attendance were personally courteous to him at all times, it is absolutely unconscionable that they should have threatened to execute a warrant in order to secure entry so that police search powers could be used. Moreover, it is completely inexplicable how the RGP could have thought that any warrant was proper, let alone that any court could have considered that the statutory pre-conditions for the issue of a warrant were met. The issue of a warrant was unnecessary, oppressive and highly distressing to Mr Levy and his family. It directly impugned Mr Levy's reputation and dignity as an officer of the court, the senior partner of Gibraltar's largest law firm and a highly respected member of the local community. Putting aside the ridiculous notion that he is suspected of having been involved in this serious criminal activity, it is not even clear that a production order under section 13 could have been properly obtained. How could it have even been properly suggested that entry to the premises would not be granted unless a warrant was produced, or that the purpose of a search would be frustrated or seriously prejudiced?
>
> Mr Levy and my firm are, in addition, highly aggrieved at the fact that the RGP have taken Mr Levy's tablet and mobile telephone, which, as you will appreciate, contain a vast amount of privileged and irrelevant information to which the RGP is clearly not entitled as a matter of trite law. Although the RGP undertook to engage an independent counsel in the UK to examine the material for LPP, this completely fails to provide the necessary assurances that LPP material, or unrelated personal, private and privileged information, will be adequately protected. Not only was the material not 'blue-bagged' in his presence (presumably because the RGP intend to copy the device thereafter elsewhere) but the exercise appears to be intended to be carried out outside Gibraltar.
>
> As you know, legal professional privilege is sacrosanct. The prohibition on the production of privileged material in the Criminal Procedure Act and under the general law are total and the firm's many clients are entitled to have the protection of their privileged and confidential affairs guaranteed in any disclosure process.
>
> I am therefore writing to you in your capacity as guardian of the public interest to seek your urgent intervention with a view to ensuring that all the seized material is returned forthwith. Notwithstanding Mr Levy's open and sincere cooperation (which continues), the RGP were simply not entitled to take the material. To the extent that RGP wishes to obtain the material afresh, then consideration should be given by it to the making of a proper inter partes section 13/Schedule 1 production order application.
>
> To that end, I would be grateful if you could give me the opportunity to urgently meet with a view to further discussing the above concerns with you and the RGP. I would venture to say that we are dealing with a serious abuse of law and power here.
>
> Kind regards,
>
> Lewis Baglietto
>
> ----------
>
> GDPR IMPORTANT CHANGES TO OUR PRIVACY POLICIES
>
> We have updated our Privacy Policy in line with the GDPR.
> This document explains how and why we collect, store, use and share personal data and it explains your rights, and how to contact us or supervisory authorities if you have a

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IN THE MATTER OF AN INQUIRY UNDER THE COMMISSIONS OF INQUIRY ACT

AND

IN THE MATTER OF AN INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE SPECIFIED IN LN.2022/034 DATED 4th FEBRUARY 2022

This is the Exhibit Marked "CMR3" referred to in the Affidavit of **CHRISTIAN MANUEL ROCCA, SWORN** on the 21st day of June 2022.

Before me

Michael Adamberry
COMMISSIONER FOR OATHS

(GLO) Rocca, Christian

From: (GLO) Rocca, Christian
Sent: 16 May 2020 20:25
To: (RGP) Richardson, Paul (OTM)
Cc: (RGP) McGrail, Ian M.Sc (OTM)
Subject: Re: Op Delhi - Pre Interview disclosure

Dear Paul,

Many thanks for your e mail and attachment. I will not comment on operational matters which are matters solely for the RGP. There is nothing that I can see in the document at this stage and given the knowledge that I have at this stage which would impact any potential JR as the the lawfulness of the search warrant.

I have a couple of minor comments on form rather than substance and will call you to discuss.

Best regards,

Christian

Sent from my iPhone

> On 16 May 2020, at 20:01, (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi> wrote:
>
> Dear Mr Rocca,
>
> Interview Under caution
>
> I refer to our conversations concerning this matter and Lewis Baglietto QC's assertion that the investigation was unlawful, frivolous etc and his request for further pre-interview disclosure. This is not normal practice and not what we have done with the others persons subject to this investigation. That said, this is a very complex investigation and Mr Levy appears to have had less involvement than the others notwithstanding the fact that we still assert, and you have agreed, that there are reasonable grounds to consider that there are questions that need putting to Mr Levy under caution. In that regard, and in order for Lewis Baglietto to properly advise his client we have drafted the attached additional pre-interview disclosure with a simplified time-line.
>
> Given the potential impact that this may have on the case as a whole, and the threat of legal action including a potential judicial review I should be grateful for your advice before forwarding to Mr Baglietto.
>
> **Kind regards**
>
> *Paul*
> <image001.jpg>
> **Paul Richardson OTM**
> **Det. Superintendent**

Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: [redacted]
Mobile [redacted]

Web: www.police.gi
Follow Us on Twitter: @rgpolice
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<Pre Interview Dsiclcosure Levy.docx>
<Timeline - LEVY.docx>

(GLO) Rocca, Christian

From: (GLO) Rocca, Christian
Sent: 17 May 2020 16:34
To: (RGP) Richardson, Paul (OTM)
Cc: (RGP) McGrail, Ian M.Sc (OTM); (RGP) Wyan, Mark
Subject: Re: James Levy QC

Dear Paul,

Many thanks for your e mail copying the relevant exchange of e mails which I have discussed briefly with the AG to get a clear picture of discussions with Mr Baglietto.

As matters were left at the meeting, my understanding was that the AG would communicate to LB that the RGP would not be averse to a written statement from Mr Levy to assist with enquiries and that thereafter matter would be looked at afresh and if needed further questions put. The mechanics of how that would be communicated were not really discussed. I am aware that the AG and COP spoke during the course of yesterday.

There is nothing in the emails to suggest that the RGP will not, if it sees fit at a subsequent date, interview Mr Levy and that that option remains in the table.

As regards the suggested procedural safeguards it would be best for us to await further communication and then consider.

Best regards,

Christian

Sent from my iPhone

Christian Rocca QC
Director of Public Prosecutions

Office of Criminal Prosecutions & Litigation
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HM Government of Gibraltar
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On 17 May 2020, at 15:45, (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi> wrote:

Dear Mr Rocca,

I note that you were not copied into the lastest correspondence from Lewis Baglietto which is included below. I have concerns about the areas highlighted in yellow which do no reflect my recollection of our meeting. That said I will wait to see what the response from Hassans will be and what they expect, especially in terms of scope, which was made clear yesterday, and 'procedural safeguards'.

Kind regards

Paul

Paul Richardson

Det Supt.

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 17 May 2020 15:15
To: (RGP) Richardson, Paul (OTM); (RGP) Wyan, Mark
Subject: Fwd: James Levy QC

Gents - please see below.
Rgds

Begin forwarded message:

> **From:** "(GLO) Llamas, Michael" <michael.llamas@gibraltar.gov.gi>
> **Date:** 17 May 2020 at 14:55:35 GMT+2
> **To:** Lewis Baglietto QC <lewis.baglietto@hassans.gi>
> **Cc:** "(RGP) McGrail, Ian M.Sc (OTM)" <Ian.McGrail@royalgib.police.gi>, Charles Bonfante <charles.bonfante@hassans.gi>
> **Subject: RE: James Levy QC**
>
> Dear Lewis,
>
> Many thanks for your email below, the contents of which are noted and are consistent with what I communicated to you on Friday afternoon.
>
> Kind regards,
>
> Michael
>
> ---
>
> **From:** Lewis Baglietto QC [mailto:lewis.baglietto@hassans.gi]
> **Sent:** 17 May 2020 14:51
> **To:** (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
> **Cc:** (RGP) McGrail, Ian M.Sc (OTM) (Ian.McGrail@royalgib.police.gi) <Ian.McGrail@royalgib.police.gi>; Charles Bonfante <charles.bonfante@hassans.gi>
> **Subject:** James Levy QC
>
> Dear Attorney,
>
> Further to your confirmation that the Commissioner would be content with a written statement from Mr Levy in lieu of proceeding with the RGP's proposed interview tomorrow, I confirm that Mr Levy will give a written statement.
>
> We will be in touch shortly regarding the scope, realistic timetable and procedural safeguards in relation to such statement. I assume that we should liaise with Detective Superintendent Richardson with regard to such matters.
>
> In the circumstances, Mr Levy will therefore not be attending for interview tomorrow.
>
> I am copying this e-mail to the Commissioner for his information, and also to Charles Bonfante of my firm, who will be assisting in this matter.
>
> Kind regards,
>
> Lewis Baglietto
>
> ---
>
> GDPR IMPORTANT CHANGES TO OUR PRIVACY POLICIES
>
> We have updated our Privacy Policy in line with the GDPR.
> This document explains how and why we collect, store, use and share personal data and it explains your rights, and how to contact us or supervisory authorities if you have a complaint. Please read it carefully. To find out more please visit our website to view our Privacy Policy.

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IN THE MATTER OF AN INQUIRY UNDER THE COMMISSIONS OF INQUIRY ACT

AND

IN THE MATTER OF AN INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE SPECIFIED IN LN.2022/034 DATED 4th FEBRUARY 2022

This is the Exhibit Marked "CMR4" referred to in the Affidavit of **CHRISTIAN MANUEL ROCCA, SWORN** on the 21st day of June 2022.

Before me

.....
Michael Adamberry
COMMISSIONER FOR OATHS

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Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

14th May 2020

Our Ref: IM160

Mr Lewis Baglietto QC
PO Box 199
Madison Building
Midtown, Queensway
Gibraltar

Dear Sir,

I have been forwarded a copy of your letter addressed to Detective Superintendent Paul Richardson dated 13 May 2020 the contents of which have been noted.

I have been fully briefed as to the conduct of the investigation and given the seriousness of the allegations made and the matters raised. I have seen fit to respond directly.

At the outset I must point out that the sequence of events are not as you have described and I do not agree with you that there were reasonable grounds to believe that Mr Levy would have simply handed over his devices and documents.

Notwithstanding the fact the police attended with a search warrant issued by the Magistrates Court, an attempt was made to try and deal with the matter by consent. This involved Mr Levy consulting with 'senior silk' in private and informing the officers that he would consent to handing over the items sought as long as the interests of his clients were protected. Once the means in which they would be achieved was clear Mr Levy signed the relevant form after reading it and consulting with Mr Chincotta. Accordingly the search warrant was not executed but rather Mr Levy chose to hand over his devices voluntarily, albeit after some time and after extensive consultation.

I do not agree with you that warrant was excessive, unjustified or unlawful and in my view the action taken was both legitimate and proportionate in the circumstances. I do not think it would serve any purpose to enter into a discussion on the use of Productions Orders as opposed to a Search Warrant.

In relation to the items that you have requested I have attached a copy of the search warrant to this email. I am unable at this time to comply with your request for a copy of the application for the search warrant or any other written evidence as this could potentially compromise an ongoing investigation as Mr Levy has yet to be interviewed. The same applies to point 4 (any notes taken by the RGP of the hearing). The only order or ruling that I am aware of made by the Stipendiary Magistrate was the warrant itself. Although the DPP has been consulted on various non-operational issues concerning this investigation including the

status of various parties he has not provided advice on the application of a search warrant which remains an operational matter.

Please rest assured that the RGP has not copied or downloaded any material so far and in fact the devices remain sealed and I have assumed safe custody of them. I remain convinced of the legality of our course of conduct but undertake to postpone their submission to be examined for seven days from the date of this letter in the event that you may wish to make any legal challenge to this decision.

I would also ask you to please note that it is not a question of me refusing to meet with you and the Attorney General, but rather I view it as inappropriate given the circumstances in which we find ourselves which I trust you understand.

I enclose a copy of a notice regarding voluntary attendance for police interview. This sets out the topic areas which we seek to explore in the formal police interview. I should point that we have not shared this document with any other party. It would be very helpful if Mr Levy brings any material with him that may support his account or provide it in advance of his attendance. Additionally, as would be normal practice counsel will be provided with a pre-interview briefing

Finally, as you will no doubt be aware, Mr Levy undertook to voluntarily extract the relevant emails and other documents from Hassans servers and provide these to police along with all files concerning Astelon Ltd and 36 North Ltd. Grateful if you advise when these will be supplied to assist with our investigation.

Yours faithfully

Ian McGrail OTM MSc
Commissioner of Police

(GLO) Rocca, Christian

From: (GLO) Rocca, Christian
Sent: 13 May 2020 19:48
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: Re: OFFICIAL - SENSITIVE Op Delhi response to letter from Hassans 13 May
Attachments: RGP draft letter.docx

Dear Ian,

many thanks for your e mail and attachment. for ease of reference I have copied the draft text on to a word document and have tracked my proposed changes on that document and attach it to this e mail.

if there are any proposed amendments you wish to discuss please do not hesitate to call me.

Best regards,

Christian

Christian Rocca QC
Director of Public Prosecutions

Office of Criminal Prosecutions & Litigation
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HM Government of Gibraltar
6th Floor, Natwest House
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From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 13 May 2020 19:16
To: (GLO) Rocca, Christian
Subject: OFFICIAL - SENSITIVE Op Delhi response to letter from Hassans 13 May

Dear Chris,
Below please find my proposed response to Louis Baglietto's letter of today addressed to Det/Supt Richardson. Grateful if you could peruse it and advise.

STARTS
Dear Sir,

I have been forwarded a copy of your letter addressed to Detective Superintendent Paul Richardson dated 13 May 2020 the contents of which have been noted.

I have been fully briefed as to the conduct of the investigation and given the seriousness of the allegations that you have made I have seen fit to respond directly. The sequence of events are not as you have described and I do not agree with you that there were reasonable grounds that Mr Levy would have simply handed over his devices and documents. You should note that Mr Levy initially declined to attend the offices of Hassans when requested and only agreed to do so after considering the matter for some twenty minutes. I note that notwithstanding an undertaking to comply with the request to hand over Mr Levy's iPad and iPhone that the facts are that the iPad was not handed over until he had agreed to do so voluntarily several hours after police arrival and had signed the relevant form. The IPhone was not handed over until some considerable time later at around 2100Hrs at New Mole House Police Station.

Notwithstanding the fact the police attended with a search warrant issued by the Magistrates Court, an attempt was made to try and deal with the matter by consent. This involved Mr Levy consulting with 'senior silk' in private and informing the officers that he would consent to handing over the items sought as long as the interests of his clients were protected. Once the means in which they would be achieved was clear Mr Levy signed the relevant form after reading it and consulting with Mr Chincotta. Accordingly the search warrant was not executed but rather Mr Levy chose to hand over his devices voluntarily.

I do not agree with you that warrant was excessive, unjustified or unlawful and in my view the action taken was both legitimate and proportionate in the circumstances.

In relation to the items that you have requested I have attached a copy of the search warrant to this email. I cannot comply with your request for a copy of the application for the search warrant or any other written evidence as this would potentially compromise an ongoing investigation as Mr Levy has yet to be interviewed. The same applies to point 4 (any notes taken by the RGP of the hearing). The only order or ruling that I am aware of made by the Stipendiary Magistrate was the warrant itself. Although the DPP has been consulted on various issues concerning this investigation including the criminal status of dealing with Mr Levy he has not provided advice on the application of a search warrant which remains an operational matter.

Please rest assured that the RGP has not copied or downloaded any material so far and in fact the devices remain sealed and I have assumed safe custody of them. I remain convinced of the legality of our course of conduct but undertake to postpone any examination for seven days from the date of this letter in the event that you may wish to make any legal challenge to this decision.

I would also ask you to please note that it is not a question of me refusing to meet with you and the Attorney General, but rather I view it as inappropriate given the circumstances in which we find ourselves which I trust you understand.

I enclose a copy of the notice regarding voluntary attendance for police interview which was provided to Mr Levy yesterday. This sets out the topic areas which we seek to explore in the formal police interview. I should point that we have not shared this document with any other party. It would be very helpful if Mr Levy brings any material with him that may support his account or provide it in advance of his attendance.

Finally, as you will no doubt be aware, Mr Levy undertook to voluntarily extract the relevant emails and other documents from Hassans servers and provide these to police along with all files concerning Astelon Ltd and 36 North Ltd. Grateful if you advise when these will be supplied to assist with our investigation.

Yours faithfully
ENDS

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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provide it in advance of his attendance. Additionally, as would be normal practice counsel will be provided with a pre-interview briefing

Finally, as you will no doubt be aware, Mr Levy undertook to voluntarily extract the relevant emails and other documents from Hassans servers and provide these to police along with all files concerning Astelon Ltd and 36 North Ltd. Grateful if you advise when these will be supplied to assist with our investigation.

(GLO) Rocca, Christian

From: (GLO) Rocca, Christian
Sent: 14 May 2020 09:41
To: (RGP) McGrail, Ian M.Sc (OTM)
Subject: RGP draft letter.docx
Attachments: RGP draft letter.docx

Attached as per our telecom

Best,

C

Christian Rocca QC
Director of Public Prosecutions

Office of Criminal Prosecutions & Litigation
Government Law Offices
HM Government of Gibraltar
6th Floor, Natwest House
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Hassans
International Law Firm

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Gibraltar, GX11 1AA

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F: +350 200 71966
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Your reference
Our reference LB/JM/
Date 20 May 2020

Direct e-mail: Lewis.Baglietto@hassans.gi

Mr Ian McGrail OTM
Commissioner of Police
New Mole House
Rosia Road
Gibraltar

Dear Commissioner

Schedule 1 paragraph 12 Criminal Procedure and Evidence Act 2011 search warrants granted on 7 May 2020 in respect of premises at [redacted]; and Hassans International Law Firm Madison Building and proposed interview of James Levy QC

I refer to your letter dated 14th May, enclosing copies of the above search warrants and a copy of a notice regarding voluntary attendance for police interview, and to your email of 18th May 2020.

The points you refer to in your letter concerning the legality and propriety of the warrants as well as the manner in which Mr Levy was obliged to allow RGP access to his home address and to the seizure of the material are addressed in my letter to the Attorney General of 15th May 2020 which was copied to you. I, therefore, do not propose to repeat our response to those points here.

I note that you do not agree to provide us with the documents that we have requested from you relating to the RGP's application for the search warrants on the grounds that doing so may potentially prejudice the investigation "as Mr Levy has yet to be interviewed". I have also been informed by the Clerk of the Magistrates' Court that the RGP has lodged an objection with the court against our application to the court under Crim PR 5.7 for the application for the warrants and other related material to be provided to us from the court record.

I would, however, urge you to re-consider your position, and the objection that you have lodged with the court. Mr Levy QC is entitled, as the person challenging the warrants, to disclosure of the information laid in support of the application for the warrants, and to know

on what basis the application was made, including any further information or evidence given to the court: R (Energy Financing Team Ltd) v Bow Street Magistrates' Court; R(Gittins) v Central Criminal Court.

The only basis upon which disclosure may nevertheless be refused by the court under Crim PR 5.7(6) to (9) is if the relevant material is protected by public interest immunity because disclosure would cause substantial harm or serious prejudice to the public interest: R v Chief Constable ex parte Wiley; R (Haralambous) v Crown Court at St Albans; R(Terra Services Ltd) v NCA. The reason provided for refusing to provide the material, namely that the investigation would be 'prejudiced….as Mr Levy has yet to be interviewed' would fall far short of the necessary PII threshold to justify non-disclosure.

I also note from your letter that the DPP's advice was not sought on the application for search warrants. This is contrary to what Mr Levy was led to believe by Detective Superintendent Richardson, and contrary to what we understand was the position. We would be grateful for details of the extent to which the DPP was informed of the prospective warrant applications (on account, of course, of LPP, we do not seek details of any advice that he may have given).

I note your assurances that the RGP has not so far downloaded or copied any of the material taken from Mr Levy, and would not do so for 7 days from the date of your letter pending a legal challenge. I also understand from the Attorney General that you have given a further undertaking to the effect that that material would not be accessed until after the conclusion of the process under which Mr Levy is to provide a written statement. We are grateful to you for these assurances. We would ask, however, that you give a further assurance that the RGP *thereafter* refrains from examining the seized material without giving 21 days' notice, so that we may, if appropriate, seek legal relief in advance of the RGP gaining access. Such a further elapse of time would also allow a disclosure application, to which reference is made above, to be determined. We are plainly unable to reach a final view on the full extent of a challenge to the warrants without this information. The seized material cannot be examined until the court has ruled on the propriety and validity of your objection to disclosure, and we are given a reasonable period thereafter to consider our position in light of all or any of the information that is ordered to be disclosed.

Finally, we acknowledge, and are grateful for, your confirmation that Mr Levy is to provide a written statement. However, I note that your letter states that, following the provision of a written statement, the RGP will reconsider whether it would 'require further written particulars or the need to interview Mr Levy' (under caution). I am concerned about this. As you know, an interview under caution may only take place where there are grounds to suspect the interviewed person of the commission of an offence. Mr Levy, I presume, is not now so

Hassans
international Law Firm

suspected (otherwise he would not have been offered the opportunity of instead providing a written statement), but were he to become so, and to be interviewed under caution, he would then have lost, in relation to the pre-existing statement, the procedural protections that the law allows for suspected persons, and the statement would be potentially admissible against him. I would be grateful if you would confirm that he will not be interviewed under caution at a later stage.

I look forward to hearing from you.

Yours sincerely,

Lewis Baglietto

c.c. Her Majesty's Attorney General

Royal Gibraltar POLICE | *Delivering a Safer Gibraltar through Excellence in Policing*

Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

21st May 2020

Our Ref: IM166

Mr Lewis Baglietto QC
PO Box 199
Madison Building
Midtown, Queensway
Gibraltar

Dear Mr Baglietto,

Re - Mr James Levy QC

Thank you for your letter dated 20th May 2020, the contents of which are noted. Given some of the matters of law raised in your letter I have sought advice from the DPP.

I do not propose to repeat the RGP's position regarding the legality of the search warrant, suffice to say that our position remains that the warrant was properly and lawfully obtained.

You are correct to say that the RGP has objected to the disclosure of the documents used in support of the application of the warrant and that continues to be the RGP's fundamental position regarding full provision of all material. Notwithstanding this, I have instructed my officers to consider, if possible, making available a redacted version of those documents which may satisfy you regarding the basis upon which the application was made. Additionally, you have had made available to you substantial information in the pre-interview disclosure information. I hope that this combined will make the application to the Magistrate unnecessary. However, I must reiterate that any application for full disclosure of the documents will be resisted on the basis previously set out. Our view is that our objection is encapsulated within the Criminal Procedure Rules provisions identified by you in your letter.

As already explained, the DPP's advice was not sought in relation to whether a warrant should be applied for or how it would be executed. Such matters are operational in nature. The DPP's advice was however sought at various times in relation to status of all persons subject to the investigation. In this regard we remain convinced that the RGP's actions were lawful.

I note your request for further assurances from me regarding the examination etc of the material voluntarily provided by your client. In this regard, I can assure you that the material will not be examined without my giving you 7 days notice in advance of our intention to do so. This will give you ample opportunity to take whatever action you may deem necessary in the event that you are put on notice given that already 8 days since the items were handed over voluntarily.

Whilst on the matter of the material provided, I note that you have failed to respond to the point raised in earlier correspondence, namely that the material was provided voluntarily by your client and the warrant was not executed. On that basis I would be grateful if you would clarify the relevance of the challenge of the warrant. You will appreciate that this is an important issue for a number of reasons and clarity is required. Any suggestion that Mr Levy was coerced in to acting against his will and under threat of the execution of a warrant is strongly denied and will be apparent from any viewing of the Body Worn Video footage that was taken at the time.

Finally, for the avoidance of doubt, your client continues to be a suspect in this investigation. Your client has been given an opportunity to provide a prepared statement which may assist in the RGP's enquiries and clarify any involvement he may have had in the matter under investigation. Needless to say, the RGP must reserve the right to interview Mr Levy under caution at any time and it is a matter for you to advise your client on the effect of any statements he may or may not provide to the RGP. I must repeat that notwithstanding the above the RGP have an open mind and will review our position as and when evidence becomes available to us.

Yours sincerely

Ian McGrail OTM MSc
Commissioner of Police

(GLO) Rocca, Christian

From: (GLO) Llamas, Michael
Sent: 20 May 2020 20:41
To: (GLO) Rocca, Christian
Subject: Fwd: OFFICIAL - Op Delhi

Sent from my iPhone

Begin forwarded message:

> **From:** "(RGP) McGrail, Ian M.Sc (OTM)" <Ian.McGrail@royalgib.police.gi>
> **Date:** 20 May 2020 at 18:30:20 GMT+2
> **To:** "(GLO) Llamas, Michael" <michael.llamas@gibraltar.gov.gi>
> **Subject: Re: OFFICIAL - Op Delhi**
>
> Michael - Yes, I have consulted with Christian on this.
> I also take on board your suggestions.
> Many thanks
> Rgds
> Ian
>
> > On 20 May 2020, at 18:26, (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi> wrote:
> >
> > Ian,
> >
> > It is very legalistic and I assume you have consulted Christian. I make some suggestions below of what I would take out since I do not consider it strictly speaking necessary.
> >
> > Michael

Michael Llamas CMG QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

HM Government of Gibraltar

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Please consider the environment before printing this email.

From: (RGP) McGrail, Ian M.Sc (OTM) [mailto:Ian.McGrail@royalgib.police.gi]
Sent: 20 May 2020 17:13
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Subject: OFFICIAL - Op Delhi

Dear Michael –
Please see below my intended response to Lewis Baglietto which has been drafted in consultation with Chris.

STARTS
Dear Mr Baglieto,

Thank you for your letter dated 20th May 2020, the contents of which are noted. Given some of the matters of law raised in your letter I have sought advice from the DPP.

I do not propose to repeat the RGP's position regarding the legality of the search warrant, suffice to say that our position remains that the warrant was properly and lawfully obtained.

You are correct to say that the RGP has objected to the disclosure of the documents used in support of the application of the warrant and that continues to be the RGP's fundamental position regarding full provision of all material. Notwithstanding this, I have instructed my officers to consider, if possible, making available a redacted version of those documents which may satisfy you regarding the basis upon which the application was made. Additionally, you have had made available to you substantial information in the pre-interview disclosure information. I hope that this combined will make the application to the Magistrate unnecessary. However, I must reiterate that any application for full disclosure of the documents will be resisted on the basis previously set out. Our view is that our objection is encapsulated within the Criminal Procedure Rules provisions identified by you in your letter.

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I note your request for further assurances from me regarding the examination etc of the material voluntarily provided by your client. In this regard, I can assure you that the material will not be examined without my giving you 7 days notice in advance of my intention to do so. This will give you ample opportunity to take whatever action you may deem necessary in the event that you are put on notice given that already 8 days since the items were handed over voluntarily.

Whilst on the matter of the material provided, I note that you have failed to respond to the point raised in earlier correspondence, namely that the material was provided voluntarily by your client and the warrant was not executed. On that basis I would be grateful if you would clarify the relevance of the challenge of the warrant. You will appreciate that this is an important issue for a number of reasons and clarity is required. ~~Is your position now that Mr Levy did not hand over the material voluntarily and that the warrant was in fact executed? Is your client now withdrawing his offer to voluntarily provide the emails and correspondence etc that he offered to provide to Supt. Richardson? I must request an urgent response to this point and we must reserve our position to execute the warrant if your client is now resiling from his position of cooperation.~~ Any suggestion that Mr Levy was coerced in to acting against his will and under threat of the execution of a warrant is strongly denied and will be apparent from any viewing of the Body Warn Footage that was taken at the time.

Finally, for the avoidance of doubt, your client continues to be a suspect in this investigation. Your client has been given an opportunity to provide a prepared statement ~~if he so chooses~~ which may assist in the RGP's enquiries and clarify any involvement he may have had in the matter under investigation. Needless to say, the RGP must reserve the right to interview Mr Levy under caution at any time and it is a matter for you to advise your client on the effect of any statements he may or may not provide to the RGP. I must repeat that notwithstanding the above the RGP have ~~a duty to keep~~ an open mind and will review their position as and when evidence becomes available to them.
ENDS

<image001.jpg>
Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]
<image002.png>
Web: www.police.gi
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Darren Grech
First Affidavit
15 September 2022

In the Matter of the Commissions of Inquiry Act

- and –

In the Matter of an Inquiry into the retirement of the former Commissioner of Police by a Commission issued by Her Majesty's Government of Gibraltar on 4 February 2022 in Legal Notice No. 34 of 2022 (the 'Inquiry')

AFFIDAVIT OF
Darren Grech

EXHIBIT 'DG1'

This is Exhibit 'DG1' to the First Affidavit of Darren Grech dated the 15 day of September 2022.



INDEX

&

CHRONOLOGY

2019	
1.	**Email correspondence dated 13 May 2019.** The Chief Secretary instructs Mr Caine Sanchez ('**Mr Sanchez**') to return to Gibraltar.
2.	**Email correspondence from 7 August 2019 to 20 September 2019.** Correspondence between the Royal Gibraltar Police (the '**RGP**') and the Office of the Chief Secretary to arrange a meeting between the Chief Secretary and RGP Officers.
3.	**Email correspondence dated 17 September 2019.** Correspondence between the RGP, the Chief Secretary and Her Majesty's Government of Gibraltar's ('**HMGoG**') Data Protection Officer in relation to National Security Central Intelligence System ('**NSCIS**') platform data protection matters.
4.	**Email correspondence from 5 September to 24 September 2019.** Email sent by Phillips LLP to the RGP, the Chief Secretary and others attaching a letter dated 5 September 2019 and the Chief Secretary's letter of response to Phillips LLP dated 24 September 2019.
5.	**Email correspondence from 30 September 2019 to 2 October 2019.** The Office of the Chief Secretary emails the RGP attaching Official Secrets Act signed by Mr Sanchez and the Letter of Appointment of Mr Sanchez.
2020	
6.	**Witness Statement dated 21 January 2020.** Enclosing Exhibits DG/1 and DG/2.
7.	**Email correspondence from 8 April 2020 to 14 April 2020.** Email from the Chief Secretary attaching letter to the Commissioner of Police dated 8 April 2020 and the Commissioner of Police's letter of response dated 14 April 2020.
8.	**Supplementary Witness Statement dated 4 May 2020.** Enclosing Exhibits DG/3, DG/4 and DG/5.
9.	**Email correspondence dated 11 June 2020.** Email from RGP Officer Mark Wyan attaching a PDF copy of the Chief Secretary's Supplementary Witness Statement dated 4 May 2020, a copy of the same Supplementary Witness Statement transposed onto a Police Witness Statement Form and three Exhibit Label Forms with the corresponding Exhibits.

10.	**Email correspondence from 7 July 2020 to 8 July 2020.** Email from Ernest Francis, Principal Secretary to the Deputy Chief Minister, attaching the minutes of a meeting of 31 October 2018 in respect of various issues relating to NSCIS platform.
11.	**Email correspondence from 13 July 2020 to 28 September 2020.** Email from the Office of the Chief Secretary to the Commissioner of Police attaching the Chief Secretary's letter dated 14 August 2020 confirming that HMGoG is a complainant in the criminal matter; email from RGP Officer Mark Wyan attaching a draft Witness Statement for the Chief Secretary's consideration; and email from the Office of the Chief Secretary attaching a letter dated 25 September 2020 requesting information and documentation of the evidence of the RGP's investigation in respect of Mr Sanchez.
12.	**Email correspondence from 6 November 2020 to 17 February 2021.** Email and letter from ISOLAS LLP ('**ISOLAS**') to the Director Public Prosecutions (the '**DPP**') attaching letter dated 6 November 2020 repeating the Chief Secretary's request of 25 September 2020 for evidence as it relates to Mr Sanchez; email and letter from the DPP to ISOLAS attaching letter dated 10 November 2020 refusing the Chief Secretary's request; email and letter from ISOLAS attaching letter dated 19 November 2020 reiterating the Chief Secretary's request and the legal basis on which the evidence was sought; and email and letter from the Office of the DPP attaching the DPP's letter dated 20 November 2020 refusing the Chief Secretary's request. Email from the DPP to ISOLAS in respect of the continued interdiction or otherwise of Mr Sanchez. ISOLAS called the DPP to confirm the position.
13.	**Email correspondence dated 25 November 2020.** Email from RGP Officer Mark Wyan dated 25 November 2020 setting out questions to the Chief Secretary.
14.	**Email correspondence from 1 June 2020 to 4 December 2020.** Emails between [redacted] Bland Group and the Chief Secretary attaching NSCIS platform November invoice. ***(I am advised and believe that these documents are likely not relevant to the terms of reference. Subject to a direction of the Inquiry Commissioner, these documents will not be disclosed.)***
2021	
15.	**Email correspondence from 1 February 2021 to 26 February 2021.** Emails between the Financial Secretary of HMGoG, the Ministry of Finance, the Bland Group and the Chief Secretary relating to the overall settlement of invoices to the Bland Group as stipulated in the correspondence. ***(I am advised and believe that these***

	documents are likely not relevant to the terms of reference. Subject to a direction of the Inquiry Commissioner, these documents will not be disclosed.)
16.	**Email correspondence dated 24 February 2021.** Email from the Commissioner of Police to the Chief Secretary requesting a Second Supplementary Witness Statement.
17.	**Email correspondence dated 26 November 2020 to 17 March 2021.** Email exchange between the Commissioner of Police and the Honourable the Chief Minister requesting a Witness Statement from the Chief Minister. Reply from the Chief Secretary dated 17 March 2021 to the Commissioner of Police noting that the Commissioner of Police should hear from him on the same day on the additional questions posed and additional material requested.
18.	**Email correspondence dated 17 March 2021.** Email from the Office of the Chief Secretary to the Commissioner of Police attaching Second Supplementary Witness Statement enclosing Exhibits DG/6 and DG/7.
19.	**Email correspondence from 15 March 2021 to 29 March 2021.** Email from RGP Officer James Currer to the Chief Secretary requesting a further Witness Statement from the Chief Secretary and email exchanges between the Chief Secretary and the Commissioner of Police in this respect.
20.	**Chief Secretary's letter to the DPP dated 8 June 2021.** The Letter explains the Chief Secretary's reasons on behalf of HMGoG as to why he no longer considered HMGoG has a basis to continue to be a complainant against Mr Sanchez in the criminal matter.
21.	**Email from RGP Officer Mark Wyan dated 28 October 2021.** Email from RGP Officer Mark Wyan attaching document that Mr Sanchez had prepared in respect of NSCIS platform.
22.	**Draft Third Supplementary Witness Statement of Chief Secretary and draft Exhibits DG/8 and DG/9.** This draft Third Supplementary Witness Statement was never issued. ***(I am advised and believe that the draft Witness Statement is likely protected by legal professional privilege. The exhibits attached to the draft Witness Statement have already been disclosed. Subject to a direction of the Inquiry Commissioner, the draft Witness Statement will not be disclosed.)***

(NO6) Corby, Giselle

From: (NO6) Grech, Darren
Sent: 13 May 2019 14:57
To: (DCM) Sanchez, Caine

Dear Caine,

This is not an easy email to have to write.

This morning serious allegations have been put to me which concern you and your professional conduct. I cannot discuss these on an email, or even by phone. I am therefore instructing you to please suspend your activities in London and to return to Gibraltar with immediate effect. A flight has been booked for tomorrow Tuesday 14th May under your name, details below:

BA 490 terminal 3, Heathrow
Departing 1135am
Online checking details if required: UQCMMD
Otherwise you can check in at the airport

Kind regards,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex: 2832
Fax: +(350) 20040922
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

(NO6) Corby, Giselle

From: Elizabeth Adnett <EAdnett@mhbland.com>
Sent: 13 May 2019 14:56
To: (NO6) Corby, Giselle
Subject: FW: Your e-ticket receipt UQCMMD: 14 May 2019 11:35

Dear Giselle

Please find confirmation below

Many thanks

Kind Regards

Elizabeth Adnett
Travel Services Manager
.H Bland Travel Services
www.traveltheworld.gi

• Port Agency, Gibraltar, Spain, Morocco • MH Bland Marine Services
• Calypso Tours, Gibraltar, Spain, Morocco • MHB Travel Services • Cable Car, Mons Calpe Suite

E: eadnett@mhbland.com
T: +350 200 12755/0 F: +350 200 79244
Cloister Building, Market Lane, PO Box 554, GX11 1AA, Gibraltar

BRITISH AIRWAYS

Your e-ticket receipt

Dear Mrs Adnett,

Booking reference: **UQCMMD**

Thank you for booking with British Airways.

Ticket Type: e-ticket

This is your e-ticket receipt. Your ticket is held in our systems, you will not receive a paper ticket for your booking.

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Your Itinerary

BA0490
British Airways | Euro Traveller | Confirmed

14 May 2019	14 May 2019
11:35	15:30
Heathrow (London)	Gibraltar
Terminal 3	

Passenger MR CAINE SANCHEZ

Baggage allowances

Hand and checked baggage allowances

Baggage allowances apply to each passenger in your booking.

Flights	Hand baggage	Checked baggage
London to Gibraltar	1 handbag/laptop bag, plus 1 additional cabin bag	1 bag at 23kg (51lbs)
	British Airways hand baggage sizes and weight limitations	British Airways checked baggage sizes and weight limitations

There are restrictions on what you may pack

You may also be charged for extra or overweight checked bags.

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You cannot pay to take extra bags for an infant, or extra hand baggage.

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Extra baggage charges for flight BA0490
Heathrow (London) to Gibraltar
14 May 2019 11:35

Extra baggage	Airport Price	Pre-airport price*

1st item of luggage (max 23kg)	GBP 65.00	GBP 60.00
2nd item of luggage (max 23kg)	GBP 65.00	GBP 60.00
Any additional items of luggage (max 23kg)	GBP 65.00	GBP 60.00

Over weight baggage	
Each item of baggage	GBP 65

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*Pre-airport price checks online or by booking through the British Airways contact centre.

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Air Passenger Duty - United Kingdom	GBP 13.00
Passenger Service Charge - United Kingdom	GBP 20.44
Total government, authority and airport charges*	**GBP 33.44**
> More information	
Total British Airways fees and surcharges	**GBP 0.00**
> More information	
Total taxes, fees and surcharges per person	**GBP 33.44**

*Government and/or airport taxes are refundable, however some countries will apply a Value Added Tax, Sales Tax or equivalent, which will only be refunded on fully flexible tickets.

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Yours sincerely,

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If you have received this email in error

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More information on security prohibited items (PDF, 29 kb, English only)

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British Airways General Conditions of Carriage

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Overbooking policy

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travel aware

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(NO6) Corby, Giselle

From: (NO6) Grech, Darren
Sent: 13 May 2019 15:09
To: Ian.McGrail@royalgib.police.gi
Subject: Fwd: Re:

Thanks, Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

''I am the master of my fate: I am the captain of my soul."

Begin forwarded message:

From: "(DCM) Sanchez, Caine" <caine.sanchez@gibraltar.gov.gi>
Date: 13 May 2019 at 15:07:04 GMT+2
To: "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
Subject: Re:

Will do thanks

Sent from my Samsung Galaxy smartphone.

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

Office of the Deputy Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20043055
Centrex: 4006
Fax: (+350) 20059271
Mobile: (+350) 56001559
caine.sanchez@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Deputy Chief Minister

-------- Original message --------
From: "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
Date: 13/05/2019 13:56 (GMT+00:00)
To: "(DCM) Sanchez, Caine" <caine.sanchez@gibraltar.gov.gi>
Subject:

Dear Caine,

This is not an easy email to have to write.

This morning serious allegations have been put to me which concern you and your professional conduct. I cannot discuss these on an email, or even by phone. I am therefore instructing you to please suspend your activities in London and to return to Gibraltar with immediate effect. A flight has been booked for tomorrow Tuesday 14th May under your name, details below:

BA 490 terminal 3, Heathrow
Departing 1135am
Online checking details if required: UQCMMD
Otherwise you can check in at the airport

Kind regards,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex: 2832
Fax: +(350) 20040922
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

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(NO6) Corby, Giselle

From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 04 September 2019 09:32
To: (NO6) Corby, Giselle
Cc: (RGP) Finlayson, Brian; (RGP) Clarke, Paul (PC130)
Subject: RE: Caine Sanchez

Dear Giselle,

Many thanks for getting back to me with a provisional date. I'll be in the UK on Monday 16th however my colleague, Chief Inspector Finlayson (copied in), will be available to attend.

Kind Regards,

Mark Wyan

Mark Wyan
Inspector
Resource Management

Operations Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 66271 Centrex: 2212

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Please consider the environment before printing this email.

From: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Sent: 03 September 2019 16:06
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: RE: Caine Sanchez

Dear Mark

I apologise for the delay in contacting you. Looking through the Chief Secretary's diary I have tentatively set down Monday 16th September 2019 @ 15.00 hrs for you to come in, pending that we have all the information you require by then. Unfortunately this is the soonest that Mr Grech will be able to meet with you as he is away next week attending meetings in the UK. I will confirm nearer the date.

Regards
Giselle

Giselle Corby
Personal Secretary to the Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20051752
Centrex: 2832
giselle.corby@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

From: (RGP) Wyan, Mark [mailto:Mark.Wyan@royalgib.police.gi]
Sent: 29 August 2019 10:34
To: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Subject: RE: Caine Sanchez

Dear Giselle,

Further to the email sent by Mr Grech on the 27th August (below), I would be very grateful if you could advise when he would be available for a meeting next week.

Kind Regards,

Mark Wyan

Mark Wyan
Inspector

Operations Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 66271 Centrex: 2212

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Please consider the environment before printing this email.

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 27 August 2019 15:26
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>; (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Subject: Re: Caine Sanchez

Yes Mark, back on line. We need to meet soonest moving forward. Giselle in copy should set up for next week. Best, D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 27 Aug 2019, at 15:17, (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi> wrote:

> Dear Mr Grech,
>
> **RE: Caine Sanchez**

Further to our email correspondence on the 7th and 8th August, I'd be very grateful if you could find time to meet regarding Mr Caine Sanchez. As previously stated, I am interested in the below matters with a view to obtaining a witness statement if possible.

1) The role / responsibilities of Mr Sanchez (in particular with regards to the NSCIS system);
2) Who he reported to (in particular with regards to the NSCIS system);
3) His level of authority over the NSCIS system (i.e. Did he have complete autonomy?);
4) Whether he had the power to disregard instructions issued by the Chief Minister on the 4th October 2018 (via Peter Canessa) if he felt it necessary to do so;
5) A copy of the Official Secrets Act signed by Mr Sanchez;
6) A copy of the IT security police signed by Mr Sanchez.

Many thanks for your assistance.

Kind Regards,

Mark

Mark Wyan
Inspector

Operations Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 66271 Centrex: 2212

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Please consider the environment before printing this email.

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 08 August 2019 16:47

To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>; (OCS) Montado, Richard <richard.montado@gibraltar.gov.gi>; (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: Re: Cain Sanchez

Thanks Mark, no apology needed. Best, D (somewhere in the Baltic Sea)

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

On 8 Aug 2019, at 17:33, (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi> wrote:

> Dear Mr Grech,
>
> Many thanks for your prompt reply.
>
> Having spoken to the Commissioner he has advised that you would be the best person to provide this information. I'd be happy to discuss the matter further, at your convenience, when you return to work.
>
> Apologies for disturbing you whilst on leave.
>
> Kind Regards,
>
> Mark Wyan

<image001.jpg>
Mark Wyan
Inspector
Resource Management

Operations Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 66271 Centrex: 2212

<image002.png>

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<image003.png>

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received this message in error, please advise the sender by reply email and delete the message.

Please consider the environment before printing this email.

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 07 August 2019 16:47
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>; (RGP) Finlayson, Brian <brian.finlayson@royalgib.police.gi>; (RGP) Clarke, Paul (PC130) <paul.clarke@royalgib.police.gi>; (OCS) Montado, Richard <richard.montado@gibraltar.gov.gi>
Subject: Re: Cain Sanchez

Dear Mark,

sensitive

I am just leaving St Petersburg and have still at least 10 days left of annual leave. Has Mr Sanchez therefore been officially arrested etc? The interdiction I issued was temporary pending further developments.

On the questions you raise I will certainly need to be in Gibraltar to address these properly as I would need to consult a number of people in this respect. If you can afford to wait, then I would happily do this for you as from late next week, when back in Gibraltar, even though still on leave. If not, I would have to delegate this sensitive issue to my acting Chief Secretary, Richard Montado, in copy.

Please revert at your earliest convenience; I do check emails daily but intermittently as I am cruising the Baltic States

Best,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

On 7 Aug 2019, at 17:24, (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi> wrote:

> Dear Mr Grech,
>
> My name is Inspector Mark Wyan and I am the officer in charge of the investigation which has led to the arrest of Cain Sanchez. As part of my investigation I am interested in the following areas:

1) The role / responsibilities of Mr Sanchez (in particular with regards to the NSCIS system);
2) Who he reported to (in particular with regards to the NSCIS system);
3) His level of authority over the NSCIS system (i.e. Did he have complete autonomy?);
4) Whether he had the power to disregard instructions issued by the Chief Minister on the 4th October 2018 (via Peter Canessa) if he felt it necessary to do so;
5) A copy of the Official Secrets Act signed by Mr Sanchez.

I would be very grateful if you could provide me with a witness statement covering the above points. In the event that you are not able to answer particular questions, I would appreciate if you could direct me to someone who may be able to help.

I would be happy to meet at your convenience or alternatively to talk on the phone so that we can discuss further.

Kind Regards,

Mark Wyan

<image001.jpg>
Mark Wyan
Inspector
Resource Management

Operations Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 66271 Centrex: 2212

<image002.png>

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Darren Grech
Chief Secretary

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www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

(NO6) Corby, Giselle

From: (NO6) Corby, Giselle
Sent: 16 September 2019 08:56
To: '(RGP) Wyan, Mark'
Cc: (RGP) Clarke, Paul (PC130); (RGP) Finlayson, Brian
Subject: RE: Caine Sanchez

Dear Mark

We apologise for the short notice but the Chief Secretary has been called in by the Chief Minister and will not be free for his meeting with the RGP. I have rescheduled the meeting for Wednesday 25th September 2019 @ 15.00 hrs. Will send a calendar invite shortly.

Regards
Giselle

From: (RGP) Wyan, Mark [mailto:Mark.Wyan@royalgib.police.gi]
Sent: 11 September 2019 15:59
To: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Cc: (RGP) Clarke, Paul (PC130) <paul.clarke@royalgib.police.gi>; (RGP) Finlayson, Brian <brian.finlayson@royalgib.police.gi>
Subject: RE: Caine Sanchez

Dear Giselle,

Grateful if you could please confirm whether the meeting with Mr Grech on the 16th September has been confirmed.

Kind Regards,

Mark

Mark Wyan
Inspector
Resource Management

Operations Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 66271 Centrex: 2212

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Please consider the environment before printing this email.

From: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Sent: 03 September 2019 16:06
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: RE: Caine Sanchez

Dear Mark

I apologise for the delay in contacting you. Looking through the Chief Secretary's diary I have tentatively set down Monday 16th September 2019 @ 15.00 hrs for you to come in, pending that we have all the information you require by then. Unfortunately this is the soonest that Mr Grech will be able to meet with you as he is away next week attending meetings in the UK. I will confirm nearer the date.

Regards
Giselle

Giselle Corby
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Office of the Chief Secretary

From: (RGP) Wyan, Mark [mailto:Mark.Wyan@royalgib.police.gi]
Sent: 29 August 2019 10:34
To: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Subject: RE: Caine Sanchez

Dear Giselle,

Further to the email sent by Mr Grech on the 27th August (below), I would be very grateful if you could advise when he would be available for a meeting next week.

Kind Regards,

Mark Wyan

Mark Wyan
Inspector

Operations Division
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Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>; (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Subject: Re: Caine Sanchez

Yes Mark, back on line. We need to meet soonest moving forward. Giselle in copy should set up for next week. Best, D

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Chief Secretary
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Gibraltar

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>
> Many thanks for your assistance.
>
> Kind Regards,
>
> Mark

Mark Wyan
Inspector

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New Mole House, Rosia Road, Gibraltar, GX11 1AA
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Sent: 08 August 2019 16:47
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>; (OCS) Montado, Richard <richard.montado@gibraltar.gov.gi>; (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: Re: Cain Sanchez

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Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

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> Apologies for disturbing you whilst on leave.
>
> Kind Regards,
>
> Mark Wyan
>
> <image001.jpg>
> **Mark Wyan**
> **Inspector**
> **Resource Management**
>
> **Operations Division**

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 66271 Centrex: 2212

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Subject: Re: Cain Sanchez

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Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

On 7 Aug 2019, at 17:24, (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi> wrote:

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> I would be happy to meet at your convenience or alternatively to talk on the phone so that we can discuss further.
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> Kind Regards,
>
> Mark Wyan

Mark Wyan
Inspector
Resource Management

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Darren Grech
Chief Secretary

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No.6 Convent Place
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GX11 1AA

Tel: +(350) 20051752
Centrex: 2832
Fax: +(350) 20040922
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

(NO6) Corby, Giselle

From: (RGP) Finlayson, Brian <brian.finlayson@royalgib.police.gi>
Sent: 20 September 2019 08:42
To: (NO6) Corby, Giselle
Subject: RE: Meeting with CS - Caine Sanchez

Would do for me

Brian Finlayson
Detective Chief Inspector,
Crime and Protective Services.

New Mole House, Rosia Road, Gibraltar, GX11 1AA
T: (+350) 200 76921 Centrex: 3441

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Please consider the environment before printing this email.

From: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Sent: 20 September 2019 08:42
To: (RGP) Finlayson, Brian <brian.finlayson@royalgib.police.gi>; (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Cc: (RGP) Clarke, Paul (PC130) <paul.clarke@royalgib.police.gi>
Subject: RE: Meeting with CS - Caine Sanchez

Morning

I might have to change it again as one of the people attending cannot make it that time. To get options would 9.30 be ok for you guys?

Regards
Giselle

From: (RGP) Finlayson, Brian [mailto:brian.finlayson@royalgib.police.gi]
Sent: 20 September 2019 08:40
To: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>; (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Cc: (RGP) Clarke, Paul (PC130) <paul.clarke@royalgib.police.gi>
Subject: RE: Meeting with CS - Caine Sanchez

Morning Giselle,

That's fine with me. Will wait to see what mark and Paul's availability is.

Brian

Brian Finlayson
Detective Chief Inspector,
Crime and Protective Services.

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 76921 Centrex: 3441

Royal Gibraltar POLICE
Delivering a Safer Gibraltar through Excellence in Policing

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From: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Sent: 19 September 2019 17:02
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>

Cc: (RGP) Finlayson, Brian <brian.finlayson@royalgib.police.gi>; (RGP) Clarke, Paul (PC130) <paul.clarke@royalgib.police.gi>
Subject: Meeting with CS - Caine Sanchez

Dear Mark

Reference the meeting with Mr Grech on Wednesday 25th September 2019. We need to bring this meeting forward to 11.30 hrs on the same day. Please confirm your attendance.

Regards
Giselle

Giselle Corby
Personal Secretary to the Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20051752
Centrex: 2832
giselle.corby@gibraltar.gov.gi

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HM Government of Gibraltar

Office of the Chief Secretary

(NO6) Corby, Giselle

From: (NO6) Grech, Darren
Sent: 17 September 2019 14:30
To: (GLO) Garro, Tito
Cc: (RGP) McGrail, Ian M.Sc (OTM); (RGP) Richardson, Paul (OTM); (RGP) Finlayson, Brian
Subject: Re: OFFICIAL - SENSITIVE Operation DELHI

Tito please continue if Ian gives you green light. I have to stay out as CS allowing due process to happen. D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 17 Sep 2019, at 13:18, (GLO) Garro, Tito <tito.garro@gibraltar.gov.gi> wrote:

> Dear all
>
> Could we please meet at some point this afternoon to discuss this incident? I am free all afternoon now and can make my way up to your offices.
>
> I need more information to undertake the report that will likely be made to the GRA.
>
> Best
>
> Tito

Tito Garro
Data Protection Officer (DPO)

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20069917
Centrex: 2766
tito.garro@gibraltar.gov.gi

www.gibraltar.gov.gi

Government Law Offices

HM Government of Gibraltar

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 17 September 2019 09:56
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>; (RGP) Finlayson, Brian <brian.finlayson@royalgib.police.gi>; (GLO) Garro, Tito <tito.garro@gibraltar.gov.gi>
Subject: Re: OFFICIAL - SENSITIVE Operation DELHI

Dear Commissioner,

Sincere thanks for bringing this serious matter to my attention; accordingly I am copying my Data Protection Officer so that he may take all the prudent steps he deems appropriate.

(Dear Tito, you are completely authorised to engage and take whatever steps you deem are necessary.)

I would ask that you please all keep me in the loop, understanding of course that there are confidentiality protocols that should be respected.

Best,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 17 Sep 2019, at 09:09, (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi> wrote:

> Dear Chief Secretary –
> You are well aware of a current investigation the RGP is conducting in to alleged hacking of a solution/platform commissioned by HMGoG to perform a range of [key] services.



Best wishes
Ian

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

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Darren Grech
Chief Secretary

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HM Government of Gibraltar

Office of the Chief Secretary

(NO6) Corby, Giselle

From: (NO6) Corby, Giselle
Sent: 24 September 2019 16:00
To: andrew.cardona@phillips.gi
Subject: FW: The NSCIS Platform
Attachments: Mr A Cardona - NSCIS Platform.pdf

Dear Mr Cardona

Attached please find a scanned copy of a letter sent to you by Mr Darren Grech (original to follow by post).

Regards
Giselle

From: Andrew Cardona <andrew.cardona@phillips.gi>
Date: 5 September 2019 at 17:47:52 GMT+2
To: "'(RGP) Wyan, Mark'" <Mark.Wyan@royalgib.police.gi>
Cc: <Ian.mcgrail@royalgib.gi>, <aaron.chipol@bca.gov.gi>, <christian.rocca@gibraltar.gov.gi>, <darren.grech@gibraltar.gov.gi>, <john.rodriguez@hmcustoms.gov.gi>
Subject: The NSCIS Platform

Dear Sirs,

Please find attached our Letter dated 5 September 2019.

Kind regards,

Andrew Cardona

Partner
Phillips Barristers & Solicitors
292A Main Street
Gibraltar

TEL: +350 200 73900
FAX: +350 200 74072

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You should not copy it or use it for any purpose nor disclose its contents to any other person. It is also recommended that any attachments in this message be scanned prior to opening, as we cannot accept liability for any loss or damage caused by software viruses.

How we deal with your personal data is of great importance to us and as a result of the GDPR we have updated our privacy policy which sets out the basis upon which we process any personal data held by us.

A copy of our privacy policy can be obtained from our offices and sets out how Phillips will collect and use your personal data together with an outline of the rights you have in relation to your data.

Rest assured that we are not changing the way we currently collect or use your personal data but should you have any questions, or require any advice in relation to data protection, please do not hesitate to contact us and our data protection team will be in touch.

Giselle Corby
Personal Secretary to the Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
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HM Government of Gibraltar

Office of the Chief Secretary

HM Government of Gibraltar

Office of the Chief Secretary

Your ref:
Our ref:

Mr A Cardona
Phillips Barristers & Solicitors
292A Main Street
Gibraltar

September 2019

Dear Sirs

Re: NSCIS Platform

I refer to your letter of 5th September 2019 to the Royal Gibraltar Police for the attention of Inspector Mark Wyan, in which you copy me in.

I have taken note of your concerns regarding a possible breach of data and security, and have raised this with the appropriate authorities.

Yours faithfully

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar • 6 Convent Place • Gibraltar GX11 1AA
t +350 20051752 f +350 20040922 e darren.grech@gibraltar.gov.gi w gibraltar.gov.gi

(NO6) Grech, Darren

From: Andrew Cardona <andrew.cardona@phillips.gi>
Sent: 05 September 2019 17:48
To: '(RGP) Wyan, Mark'
Cc: Ian.mcgrail@royalgib.gi; (BCA) Chipol, Aaron; (GLO) Rocca, Christian; (NO6) Grech, Darren; (HMC) Rodriguez, John
Subject: The NSCIS Platform
Attachments: Letter to RGP 05.09.19.pdf

Dear Sirs,

Please find attached our Letter dated 5 September 2019.

Kind regards,

Andrew Cardona

Partner
Phillips Barristers & Solicitors
292A Main Street
Gibraltar

TEL: +350 200 73900
FAX: +350 200 74072

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A copy of our privacy policy can be obtained from our offices and sets out how Phillips will collect and use your personal data together with an outline of the rights you have in relation to your data.

Rest assured that we are not changing the way we currently collect or use your personal data but should you have any questions, or require any advice in relation to data protection, please do not hesitate to contact us and our data protection team will be in touch.

Lawyers
T. G. PHILLIPS, LL.B., TEP, FRNS
A. L. BALESTRINO, LL.B.
A. M. CARDONA, LL.B., APIL
J. L. W. PHILLIPS, LL.B., APIL
C.P.A. SALTER, B.Sc
C.J. BRUNT, LL.B., APIL
J.L. ALLEN, MLaw.
S.M. CARDONA, B.Sc., APIL

Of Counsel
D.G. HUGHES, BA. (Hons)
A-F. DURAND, MLA, DEA, Av., Abogada

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Barristers & Solicitors

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TEL: +(350) 200 73900
FAX: +(350) 200 74072

Our Ref: AC/S-404

5 September 2019

BY E-MAIL: Mark.Wyan@royalgib.police.gi
&
BY POST

Royal Gibraltar Police
New Mole House Police Station
Gibraltar

Attn: Inspector Mark Wyan

Dear Sirs,

Re: The NSCIS Platform

We refer to our Client's arrest on 14 May 2019 and his subsequent voluntary second interview on 17 July 2019.

We have brought to your attention guidance issue UK Crown Prosecution Service as regards the primary offence for which our client was charged, namely the common law offence of 'Misconduct in Public Office'. That guidance cautions that this offence is to be used sparingly and in limited circumstances hence the reason why we asked you to consult the DPP.

Nearly 4 months have elapsed since our client's arrest and it seems that you are still not in a position to charge or release him from police bail so it is likely that his bail will be extended well into 2020. In the meantime, my client continues to be suspended from work with his reputation tarnished and suffering from stress and anxiety as a result of having these serious allegations hanging over his head.

Our client is a man of impeccable record who has always been held in high esteem in the public service for his honesty and competence. He continues to be dumbfounded by his arrest for what is, at its highest, an employment issue between him and his employer. Rest assured that once he is released

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from bail or, if charged, once he is acquitted, he will demand an explanation as to what has led to his pre-mature arrest.

Be that as it may, and given that the RGP take extremely seriously all matters relating to the NSCIS Platform, our client wishes to volunteer the following report for you to investigate.

The NSCIS platform, its underlying modules and relevant hardware were sold by Blands to HMGOG. Accordingly, all NSCIS related intellectual property belongs to HMGOG. This position is consistent with HMGOG policy that it is necessary for it to own all software which it pays to have developed. We are instructed that all other software projects developed by Blands for HMGOG, namely the ETB, Education and DSS systems were also sold to HMGOG on this basis.

In respect of the NSCIS, raw data is captured and generated by HMGOG owned hardware. This data belongs to HMGOG and our Client is the data controller appointed by HMGOG for this purpose. We are instructed that our Client is also the designated super user of the NSCIS platform. There are three designated administrative users, which comprise one individual from each of the three law enforcement agencies, being the RGP, HM Customs and BCA. As super user, our Client oversees all NSCIS system activity and exercises control over the administrative users; the three administrative users are limited to activity within their own law enforcement agencies. The effect of this set-up is that no third party can access the NSCIS platform, data or source code without Mr Sanchez's prior approval.

It has come to our Client's attention in the course of this investigation that the Bland Group commissioned a forensic audit of the NSCIS platform and source code by PwC and Infosec in October 2018. This audit was conducted in breach of the Data Protection Act 2004 as it was carried out without our Client's consent as the NSCIS system and data controller. We are instructed that no other HMGOG officer or Minister, other than the Chief Secretary, can authorise access to the NSCIS platform and data. We understand that the Chief Secretary has had little to no involvement with regards to the NSCIS platform and that he at no point consulted our Client with regards to any request by Blands. As far as our Client is aware, the Chief Secretary did not authorise access by the forensic team to NSCIS data and code. In the circumstances, our Client considers that the audit team, through Bland Group, has had unauthorised access to Gibraltar's national security data and NSCIS source code. This may well constitute a criminal offence under the relevant legislation and we trust that the RGP will investigate this thoroughly.

We have copied in the Chief Secretary, Director of Public Prosecutions and Heads of the relevant law enforcement agencies to this letter as under the relevant legislation they may be required to take necessary action against the breach of data and security by Bland Group.

Yours faithfully,

Phillips

cc. Mr Darren Grech, Chief Secretary

Mr Chris Rocca QC, Director of Public Prosecution

Mr Ian McGrail, Commissioner of Police

Mr Aaron Chipol, CEO BCA

Mr John Rodriguez, Collector of Customs

(NO6) Corby, Giselle

From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 02 October 2019 09:01
To: (NO6) Corby, Giselle
Subject: RE: Caine Sanchez

Dear Giselle,

Many thanks for the documents.

Kind Regards,

Mark

Mark Wyan
Inspector
Resource Management

Operations Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 66271 Centrex: 2212

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Please consider the environment before printing this email.

From: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Sent: 30 September 2019 16:09
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Cc: (RGP) Finlayson, Brian <brian.finlayson@royalgib.police.gi>; (RGP) Clarke, Paul (PC130) <paul.clarke@royalgib.police.gi>
Subject: Caine Sanchez

Dear Mark

Please find attached Official Secrets Act signed by Mr Sanchez and his Letter of Appointment which in the last paragraphs states "is subject to Information Technology Security Policy.

Regards
Giselle

Giselle Corby
Personal Secretary to the Chief Secretary

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HM Government of Gibraltar
No.6 Convent Place
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giselle.corby@gibraltar.gov.gi

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HM Government of Gibraltar

Office of the Chief Secretary

(NO6) Corby, Giselle

From: (NO6) Corby, Giselle
Sent: 30 September 2019 16:09
To: (RGP) Wyan, Mark
Cc: (RGP) Finlayson, Brian; (RGP) Clarke, Paul (PC130)
Subject: Caine Sanchez
Attachments: Caine Sanchez - Letter of Appointment.pdf; OSA 1.pdf; OSA 2.pdf

Dear Mark

Please find attached Official Secrets Act signed by Mr Sanchez and his Letter of Appointment which in the last paragraphs states "is subject to Information Technology Security Policy.

Regards
Giselle

Giselle Corby
ersonal Secretary to the Chief Secretary

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HM Government of Gibraltar

Office of the Chief Secretary

74

GOVERNMENT OF GIBRALTAR
HUMAN RESOURCES DEPARTMENT
83-86 Harbour's Walk
The New Harbours
Rosia Road
Gibraltar

Your ref:
Our ref: P3110

13 August 2010

Mr Caine Sanchez
ufs Minister for Justice

Dear Mr Sanchez,

LETTER OF APPOINTMENT NO. 79/2010

I am pleased to inform you that your promotion to Higher Executive Officer initially in the Ministry of Justice has been approved with effect from 9 August 2010.

2 This appointment will be permanent and pensionable and on probation for one year

3 Salary will be payable at the rate of £32,726 per annum in the salary scale: £29,258; £30,239; £32,726; £34,051; £34,731; £35,428; £36,137; £37,482. Incremental date will be 22 July 2011 and 22 July thereafter.

4 This appointment is subject to Government Security Instructions; Accounting Instructions; Stores Instructions; Departmental and General Orders and the Information Technology Security Policy.

Yours sincerely

K J Martinez (Miss)
for Human Resources Manager

Copy to Hd of Dept
Dir of HR, GHA
GHA (Salaries)
Treasury (Salaries)
P/Aud
GGCA
P/File

Telephone: (350) 20071911, Centrex 2786; Fax: (350) 20079689, Centrex 2796,
email: humanresources@gibraltar.gov.gi

OFFICIAL SECRETS ACTS 1911 TO 1939

Section 2 of the Official Secrets Act 1911 as follows: —

2. (1) If any person having in his possession or control any secret official code word, or pass word, or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under Her Majesty or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under Her Majesty, or as a person who holds or has held a contract made on behalf of Her Majesty, or as a person who is or has been employed under a person who holds or has held such an office or contract, —

(a) communicates the code word, pass word, sketch, plan, model, article, note, document, or information to any person, other than a person to whom he is authorised to communicate it, or a person to whom it is in the interests of the State his duty to communicate it; or,

(a) (a) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety or interests of the State; or,

(b) retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it or when it is contrary to his duty to retain it or fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or,

(c) fails to take reasonable care of, or so conducts himself as to endanger the safety of the sketch, plan, model, article, note, document, secret official code or pass word or information,

that person shall be guilty of a misdemeanour.

(1A) If any person having in his possession or control any sketch, plan, model, article, note, document, or information which relates to munitions of war, communicates it directly or indirectly to any foreign power, or in any other manner prejudicial to the safety or interests of the State, that person shall be guilty of a misdemeanour.

(2) If any person receives any secret official code word, or pass word, or sketch, plan, model, article, note, document, or information, knowing, or having reasonable ground to believe, at the time when he receives it, that the code word, pass word, sketch, plan, model, article, note, document, or information is communicated to him in contravention of this Act, he shall be guilty of a misdemeanour, unless he proves that the communication to him of the code word, pass word, sketch, plan, model, article, note, document, or information was contrary to his desire.

Section 1(2) and (3) of the Official Secrets Act 1920 provides as follows: —

(2) If any person —

(a) retains for any purpose prejudicial to the safety or interests of the State any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or fails to comply with any directions issued by any Government Department or any person authorised by such department with regard to the return or disposal thereof; or

(b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code word or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code word or pass word issued for the use of some person other than himself, or on obtaining possession of any official document by finding or otherwise, neglects or fails to restore it to the person or authority by whom or for whose use it was issued, or to a police constable; or

(c) without lawful authority or excuse, manufactures or sells or has in his possession for sale any such die, seal or stamp as aforesaid,

he shall be guilty of a misdemeanour.

DECLARATION TO BE SIGNED BY MEMBERS OF GOVERNMENT DEPARTMENTS ON APPOINTMENT AND, WHERE DESIRABLE, BY NON-CIVIL SERVANTS ON FIRST BEING GIVEN ACCESS TO GOVERNMENT INFORMATION.

My attention has been drawn to the provisions of the Official Secret Acts, which are set out on the back of this document, and I am fully aware of the serious consequences which may follow any breach of those provisions.

I understand that the sections of the Official Secrets Acts, set out on the back of this document, cover material published in a speech, lecture, or radio or television broadcast, or in the Press or in book form. I am aware that I should not divulge any information gained by me as a result of my appointment to any unauthorised person, either orally or in writing, without the previous official sanction in writing of the Department appointing me, to which written application should be made and two copies of the proposed publication be forwarded. I understand also that I am liable to be prosecuted if I publish without official sanction any information I may acquire in the course of my tenure of an official appointment (unless it has already officially been made public) or retain without sanction any sketch, plan, model, article, note or official documents which are no longer needed for my official duties, and that these provisions apply not only during the period of my appointment but also after my appointment has ceased.

Signed .....

Date 26/3/96

GC (54e1)

RESTRICTED – FOR POLICE & PROSECUTION ONLY

(Criminal Procedure and Evidence Act 2011 ss. 187 and 405; Criminal Procedure Rules r 16.2)

CR/OB No [ ][ ] — [ ][ ] — [ ][ ][ ][ ][ ][ ][ ][ ] — [ ]

Witness Address:	[redacted]		
Home Telephone Number:	[redacted]	Work Telephone No:	[redacted]
Mobile No:	[redacted]	Email Address:	
Preferred means of contact:	Work Telephone Number		
Date of Birth:	[redacted]	Place of Birth:	Gibraltar
Gender:	Male	ID / Passport No:	[redacted]
Dates of Non-Availability:	Impossible to determine given nature of position		

Witness Care		
1) Is the witness willing and likely to attend court?		No
If 'No' include reasons below and whether anything can be done to ensure attendance:		
2) Does the witness require 'special measures' as a vulnerable or intimidated witness?		No
If 'Yes' please complete the 'Initial Witness Assessment Form.'		
3) Does the witness have any specific care needs?		No
If 'Yes' what are they? (Healthcare, childcare, transport, disability, language difficulties, restricted mobility, or other concerns?)		

Witness Consent (for witness completion)			
a) As a victim I consent to police having access to my medical / dental record(s) in relation to this matter	Yes	No	N/A
b) As a victim I consent to my medical / dental record(s) being disclosed to the defence	Yes	No	N/A
c) As a victim I wish to seek compensation in relation to this matter	Yes	No	N/A
d) I consent to the statement being disclosed for the purpose of civil proceedings e.g. child care proceedings	Yes	No	N/A

If 'Yes' to (a) please specify the name of the examiner (if any) and date of examination below.

If 'Yes' to (c) please specify the nature of the loss and amount being sought below (Supporting documentation must be provided).

Signature of Witness:		Print Name:	Mr Darren Grech
Signature of Parent/ Guardian/ Appropriate Adult *(if under 18 yrs)*		Print Name:	
Address / Telephone: *(if different)*			

Statement taken by: (name/ number)	
Time and Place statement taken:	

ROYAL GIBRALTAR POLICE

STATEMENT OF WITNESS

Criminal Procedure and Evidence Act 2011 ss. 187 and 405; Criminal Procedure Rules r 16.2

CR/OB No | | | --- | | | --- | | | | | | | | | | --- | |

Surname: **GRECH** Forenames: **DARREN**

Age of witness (if over 18 enter over 18): **Over 18**

Occupation: **CHIEF SECRETARY – HER MAJESTY'S GOVERNMENT OF GIBRALTAR**

This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 21st day of January 2020

Signed: _____

My name is Darren Grech and I am the above-described person. I am currently employed as Chief Secretary by Her Majesty's Government of Gibraltar (HMGoG).

The first time I became aware of the matter under investigation was at a meeting called by the Chief Minister at the request of the Commissioner of the Royal Gibraltar Police. That meeting was held on 13 May 2019.

In answer to police questions I can say the following:

Mr Caine Sanchez is employed as a Higher Executive Officer (HEO) within HMGoG. Mr Sanchez's role was that of Principal Secretary to the Deputy Chief Minister. My understanding is that, as Principal Secretary, he was tasked to deal with Brexit-related matters, in particular Brexit contingencies. In addition, it is my understanding that he had [redacted] for the National Security Central Intelligence System ("NSCIS").

Signed: _____ Signature Witnessed by: _____

(NOTE: FILL IN WIT2 FORM OVERLEAF)

The contents of this document will be processed in strict compliance with the Royal Gibraltar Police's policy on Data Protection, which has been compiled in accordance with the provisions of the *Data Protection Act 2004*

To the best of my knowledge, his immediate line manager within the government was the Deputy Chief Minister, to whom I believe he reported directly for all Brexit-related matters. However, as regards the NSCIS platform, my understanding is that Mr Sanchez [redacted]

I have been made aware that on 4 October 2018 the Chief Minister (through his Principal Secretary, Peter Canessa) instructed Mr Sanchez not to allow Thomas Cornelio further access to the NSCIS platform.

Given that this was an instruction originating from the Chief Minister, Mr Sanchez was required to comply with it. In my view, Mr Canessa's position or rank vis-a-vis Mr Sanchez is immaterial in that Mr Canessa was conveying an instruction on behalf of the Chief Minister, whose capacity to issue such an instruction is not in question.

At the request of the Royal Gibraltar Police, I now tender in evidence:

Exhibit DG/1, a copy of a Letter of Appointment (dated 13 August 2010) confirming the promotion of Mr Sanchez to HEO. Paragraph 4 of this document states that "*The appointment is subject to Government Security Instructions, Accounting Instructions; Stores Instructions; Departmental and General Orders and the Information Technology Security Policy.*"; and

Exhibit DG/2, a copy of the Official Secrets Act signed by Mr Sanchez and dated 26 March 1996.

Signed: Signature Witnessed by:

The contents of this document will be processed in strict compliance with the Royal Gibraltar Police's policy on Data Protection, which has been compiled in accordance with the provisions of the ***Data Protection Act 2004***

GOVERNMENT OF GIBRALTAR
HUMAN RESOURCES DEPARTMENT
83-86 Harbour's Walk
The New Harbours
Rosia Road
Gibraltar

Your ref:
Our ref: P3110

13 August 2010

Mr Caine Sanchez
ufs Minister for Justice

Dear Mr Sanchez,

LETTER OF APPOINTMENT NO. 79/2010

I am pleased to inform you that your promotion to Higher Executive Officer initially in the Ministry of Justice has been approved with effect from 9 August 2010.

2 This appointment will be permanent and pensionable and on probation for one year.

3. Salary will be payable at the rate of £32,726 per annum in the salary scale: £29,258; £30,239; £32,726; £34,051; £34,731; £35,428; £36,137; £37,482. Incremental date will be 22 July 2011 and 22 July thereafter.

4. This appointment is subject to Government Security Instructions; Accounting Instructions; Stores Instructions; Departmental and General Orders and the Information Technology Security Policy.

Yours sincerely

K J Martinez (Miss)
for Human Resources Manager

Copy to Hd of Dept
Dir of HR. GHA
GHA (Salaries)
Treasury (Salaries)
P/Aud
GGCA
P/File

Telephone: (350) 20071911, Centrex 2786; Fax: (350) 20079689, Centrex 2796,
email. humanresources@gibraltar.gov.gi

OFFICIAL SECRETS ACTS 1911 TO 1939

Section 2 of the Official Secrets Act 1911 as follows:—

2. (1) If any person having in his possession or control any secret official code word, or pass word, or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under Her Majesty or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under Her Majesty, or as a person who holds or has held a contract made on behalf of Her Majesty, or as a person who is or has been employed under a person who holds or has held such an office or contract,—

(a) communicates the code word, pass word, sketch, plan, model, article, note, document, or information to any person, other than a person to whom he is authorised to communicate it, or a person to whom it is in the interests of the State his duty to communicate it; or,

(a) (a) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety or interests of the State; or,

(b) retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it or when it is contrary to his duty to retain it or fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or,

(c) fails to take reasonable care of, or so conducts himself as to endanger the safety of the sketch, plan, model, article, note, document, secret official code or pass word or information,

that person shall be guilty of a misdemeanour.

(1A) If any person having in his possession or control any sketch, plan, model, article, note, document, or information which relates to munitions of war, communicates it directly or indirectly to any foreign power, or in any other manner prejudicial to the safety or interests of the State, that person shall be guilty of a misdemeanour.

(2) If any person receives any secret official code word, or pass word, or sketch, plan, model, article, note, document, or information, knowing, or having reasonable ground to believe, at the time when he receives it, that the code word, pass word, sketch, plan, model, article, note, document, or information is communicated to him in contravention of this Act, he shall be guilty of a misdemeanour, unless he proves that the communication to him of the code word, pass word, sketch, plan, model, article, note, document, or information was contrary to his desire.

Section 1(2) and (3) of the Official Secrets Act 1920 provides as follows:—

(2) If any person—

(a) retains for any purpose prejudicial to the safety or interests of the State any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or fails to comply with any directions issued by any Government Department or any person authorised by such department with regard to the return or disposal thereof; or

(b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code word or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code word or pass word issued for the use of some person other than himself, or on obtaining possession of any official document by finding or otherwise, neglects or fails to restore it to the person or authority by whom or for whose use it was issued, or to a police constable; or

(c) without lawful authority or excuse, manufactures or sells or has in his possession for sale any such die, seal or stamp as aforesaid;

he shall be guilty of a misdemeanour.

DECLARATION TO BE SIGNED BY MEMBERS OF GOVERNMENT DEPARTMENTS ON APPOINTMENT AND, WHERE DESIRABLE, BY NON-CIVIL SERVANTS ON FIRST BEING GIVEN ACCESS TO GOVERNMENT INFORMATION.

My attention has been drawn to the provisions of the Official Secret Acts, which are set out on the back of this document, and I am fully aware of the serious consequences which may follow any breach of those provisions.

I understand that the sections of the Official Secrets Acts, set out on the back of this document, cover material published in a speech, lecture, or radio or television broadcast, or in the Press or in book form. I am aware that I should not divulge any information gained by me as a result of my appointment to any unauthorised person, either orally or in writing, without the previous official sanction in writing of the Department appointing me, to which written application should be made and two copies of the proposed publication be forwarded. I understand also that I am liable to be prosecuted if I publish without official sanction any information I may acquire in the course of my tenure of an official appointment (unless it has already officially been made public) or retain without sanction any sketch, plan, model, article, note or official documents which are no longer needed for my official duties, and that these provisions apply not only during the period of my appointment but also after my appointment has ceased.

Signed .....

Date 26/3/96

GC (5461)

(NO6) Corby, Giselle

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 08 April 2020 19:21
To: (NO6) Grech, Darren
Cc: (NO6) Corby, Giselle; (MOF) Mena, Albert
Subject: RE: COP - NSCIC Platform.pdf

Dear Darren –
Many thanks for your email and attached letter. We will revert with any questions we feel should be covered by you in the statement.

Regards
Ian

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 08 April 2020 18:10
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>; (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Subject: COP - NSCIC Platform.pdf

Dear Ian,

I hope you are well - these are difficult times for all and hopefully soon "normality" shall return - whatever this was.

Please find enclosed herewith a letter which relates to some questions I gather have been raised this week on the NSCIC platform. As usual I will be happy to assist and help in any way I can.

Best wishes,

Darren

Darren Grech
Chief Secretary

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No.6 Convent Place
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GX11 1AA

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Centrex: 2832
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

HM Government of Gibraltar

Office of the Chief Secretary

Your ref:
Our ref:

Mr I McGrail OTM MSc
Commissioner of Police
Police Headquarters
New Mole House
Rosia Road
GIBRALTAR

8th April 2020

Dear Commissioner

The Financial Secretary has brought to my attention the email and letter that he has received today from you.

He has also shown me the reply that he will be sending to you.

In my capacity as Chief Secretary of HM Government of Gibraltar I can confirm that ownership of the NSCIC platform is contested between the Government and Bland Limited.

It is the Government's firm view that it has ownership over the said platform.

Indeed, the Government has always viewed ownership of the platform as forming an integral part of the services for which it pays a considerable amount of money to Bland Limited under the arrangements that have existed.

In your letter to the Financial Secretary you have asked for a Witness Statement on the question of ownership of the platform. I am sending this letter now in order to clarify the Government's position immediately. I will provide you with the Witness Statement during the course of next week. I trust this will be acceptable.

Furthermore, I would be grateful if any further questions that the RGP may have on this matter are addressed directly to me as the single interlocutor for the RGP.

Your sincerely

Darren Grech
Chief Secretary

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t +350 20051752 f +350 20040922 e darren.grech@gibraltar.gov.gi w gibraltar.gov.gi

(NO6) Corby, Giselle

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 14 April 2020 13:50
To: (NO6) Grech, Darren
Cc: (NO6) Corby, Giselle; (RGP) Richardson, Paul (OTM); (RGP) Wyan, Mark
Subject: OFFICIAL - SENSITIVE NSCIS PLATFORM
Attachments: Letter to Chief Secretary re Op Delhli - Hacking of NSCIS Platform.pdf

Dear Darren – please see attached letter reference details which we require you to cover in your additional statement.
Best wishes
Ian

Ian McGrail *OTM MSc*
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
I: (+350) 20072500 Centrex: 2210

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Please consider the environment before printing this email.

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 08 April 2020 19:21
To: Darren Grech <darren.grech@gibraltar.gov.gi>
Cc: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>; (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
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Ian

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Cc: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>; (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Subject: COP - NSCIC Platform.pdf

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Best wishes,

Darren

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Chief Secretary

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Commissioner of Police
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Our Ref: IM156

14th April 2020

Darren Grech
Chief Secretary
No. 6 Convent Place
Gibraltar
GX11 1AA

Dear Darren,

Re: Op Delhi – Hacking of NSCIS Platform

Thank you for your response to my letter and for clarifying the position of HMGoG asserting ownership of the NSCIS platform.

With regards to the witness statement, the investigating team will require as much detail as possible on the subject of ownership. This will necessitate not only the assertion that HMGoG are the legal owners of the platform, but also the basis of that belief, as well as any evidence in support of that position. My officers will assist you if you have any questions about the statement. In this regard please contact Detective Inspector Mark Wyan mark.wyan@royalgib.police.gi

As the police investigation comes to a close, we now have a much clearer picture of the role played by Caine Sanchez and evidence that the investigators argue amounts to criminal misconduct, a view which is shared by the Director of Public Prosecutions. Given the extent of his apparent criminality I would be happy to meet with you and outline the evidence against him. This may assist should there be a need to the issue of interdiction.

I should be grateful if were able to have your statement by the end of this week please.

Yours,

Ian McGrail
Commissioner of Police

HM Government of Gibraltar

Office of the Chief Secretary

SUPPLEMENTARY WITNESS STATEMENT

This statement (consisting of 7 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

My name is Darren Grech. I am currently employed as Chief Secretary by Her Majesty's Government of Gibraltar (HMGoG).

I am making this Supplementary Witness Statement further to the first Witness Statement I made dated 21 January 2020.

This Supplementary Witness is made pursuant to a letter I received from the Commissioner of Police, Mr Ian McGrail OTM MSc, dated 14 April 2020. I now tender in evidence "**Exhibit DG/3**" a copy of the said letter.

In that letter, the Commissioner has requested that I provide "*as much detail as possible on the subject of ownership*" of the NSCIS platform. The Commissioner stated that this "*will necessitate not only the assertion that HMGoG are the legal owners of the platform, but also the basis of that belief, as well as any evidence in support of that position*".

Office of the Chief Secretary
HM Government of Gibraltar • 6 Convent Place • Gibraltar GX11 1AA
t +350 20051752 f +350 20040922 e darren.grech@gibraltar.gov.gi w gibraltar.gov.gi

The purpose of this Supplementary Witness Statement is to provide such information.

I would like to state from the outset, that ever since receiving the Commissioner's letter, I have asked for a search to be carried out of all relevant documents and material that may be held by HMGoG on this matter. I have, for now, refrained from contacting Mr Caine Sanchez for this purpose. Those documents and material are still being amassed for me and I expect to have them shortly. I therefore produce this Supplementary Witness Statement on the basis of the information which I have been able to obtain thus far. I reserve my position to complement this information once any further material is provided to me.

In light of the foregoing, in answer to the Commissioner's request I can say the following:

The Bland Group has a wide commercial relationship with HMGoG. This includes an arrangement for the provision of reporting and security services by OSG Limited, a company in the Bland Group, at the various entry points into Gibraltar (the "Services"). That arrangement existed before I took office as Chief Secretary. To the best of my knowledge it has existed for around five to six years.

I have asked to be shown a copy of the written contract between HMGoG and OSG Limited/Bland Group pursuant to which the latter provides the Services to the former. I have been informed that no such contract exists and, to the best of my knowledge, I believe this to be true.

2

It appears to me to be relevant to start by saying that both parties agree that there is a dispute as to the ownership of the NSCIS platform. For instance, in an email dated as recently as Monday 2 March 2020 sent at 20:02 hrs by HMGoG's Financial Secretary to Mr Nicholas Gaggero of the Bland Group, the Financial Secretary stated as follows:

> *"As you know at present there is a level of dispute between us as to ownership of the NSCIC system that has been developed for Government. I prefer not to go into the detail save to say that agreeing to the statement of work would effectively signify our agreement with the ownership of the Intellectual Property. This would have an impact not just on this module of work but by extension to the whole NSCIS system".*

Mr Gaggero replied almost immediately, at 20:35 hrs, as follows:

> *"I understand. Let me take this offline and come back to you tomorrow with a proposal to overcome this issue".*

That exchange originated in an email sent by Mr Gaggero to the Financial Secretary dated Thursday 20 February 2020 in which Mr Gaggero made a proposal for the provision by the Bland Group of a further service to HMGoG, namely, a mobile passport scanning application for Gibraltar's law enforcement agencies. Attached to Mr Gaggero's email was a draft Statement of Work which had a proposed clause on "Intellectual Property" which provided that *"[t]he compiled final system as well as the source*

code will remain the intellectual property of Bland Group". It is this that the Financial Secretary contested, and which Mr Gaggero accepted as being contested, in their email exchange of Monday 2 March 2020.

I now tender in evidence "**Exhibit DG/4**" a copy of the said emails of Thursday 20 February 2020 and Monday 2 March 2020.

Two matters appear to me to be clear from the foregoing:

- there is no written contract between HMGoG and OSG/Bland Group that could have clarified the question of ownership of the NSCIC platform; and
- there is a very clear disagreement between the parties on the question of ownership.

Thus, although there has clearly been an arrangement between HMGoG and OSG/Bland Group whereby the latter has been providing the Services to the former, and even if one were to consider that that arrangement constitutes an implied or oral agreement between the parties, on which I do not express any view, the stark reality is that, as the exchange of emails of Monday 2 March 2020 between the Financial Secretary and Mr Nicholas Gaggero shows, both parties agree that there exists a dispute as to the ownership of the NSCIS platform.

I would like to point out that HMGoG officials I have consulted are unanimous in the view that they never had any doubt that HMGoG was indeed the owner of the NSCIS platform.

4

For instance, I have been informed and, to the best of my knowledge, I believe this to be true, that in or around September 2013 HMGoG purchased from the Bland Group the so-called "Frontier Monitoring Project" or "FMP" system. This consisted of a CCTV and ANPR system to monitor movements at the border which was required by HMGoG for the purposes of compiling data on queuing times at the border. This was for the purposes of an investigation being conducted by the European Commission on border delays applied by Spain. The FMP system captured data on flow at the border. That arrangement was subsequently extended to cover other entry points in Gibraltar. This led to an iterative process whereby the system was repeatedly expanded and redesigned and became what is in place today, namely, the NSCIS system. In particular, I have been informed and, to the best of my knowledge, I believe this to be true, that HMGoG was intrinsically involved in the redesign and development of the platform; that all key decisions in relation to the platform were taken by HMGoG; that the decisions concerning the addition of users of the platform were taken by HMGoG; that the cameras used for the collection of the data are all owned by HMGoG; that at all times HMGoG has had complete control over the data; that the data was being used by HMGoG, and that OSG knew fully well that the data was being used by HMGoG, for sharing with third parties including law enforcement agencies in Gibraltar and elsewhere, and not least the European Commission. Indeed, that was the very purpose for the original need of the platform.

I have further been informed and, to the best of my knowledge, I believe this to be true, that HMGoG pays OSG/Bland Group a sum of approximately £66,693.75 per month for the operation of the NCSIS platform. This appears to me to be a very considerable amount of money which, it seems to me, confirms that HMGoG was paying in consideration for, inter alia, full ownership of the NSCIS platform otherwise that sum appears to me to make very little sense.

For the sake of completeness, in an email sent to me dated 25 October 2019, HMGoG's Data Protection Officer, Mr Tito Garro, attached what appears to me a standard template draft contract proposed by the Blands Group in the context of regularising the relationship between HMGoG and the Blands Group for the future. It appears to me that the context of this correspondence was the continued disagreement between the parties on the question of ownership of the NSCIS platform. I now tender in evidence "**Exhibit DG/5**" a copy of the said template. I do not believe that this template does anything other than, in effect, confirm the existence of such disagreement. Needless to say, HMGoG never accepted or signed it.

I am clearly not privy to what arguments OSG/Bland Group have put forward to the Royal Gibraltar Police to allege ownership of the NSCIS platform, let alone the detail of that argument, the basis of their belief or any evidence that they have put forward to support their assertion. In light of what I truly believe to be the true position on that matter, as set out in this Supplementary Witness Statement, such assertions cannot be based on any written contract nor, indeed, on any written or oral evidence and HMGoG strongly contests such assertions.

6

Furthermore, I have been advised by the Government Law Offices that, in the absence of a written contract setting out the position on ownership in clear and unambiguous language, it is indeed very difficult for OSG/Bland Group to make such an assertion.

Finally, I would like to place on record that on Thursday 30 April 2020, the Attorney General forwarded to me an email he had received from Mr Robert Fischel QC who is acting for Messrs Cornelio, Perez and Asquez. Mr Fischel's email contains a letter of that same date addressed to the Commissioner and addressing the issue of ownership of the NCSIS platform. I can confirm that I have read that letter but that the contents of this Supplementary Witness Statement, which had been largely drafted before I saw Mr Fischel's letter, have not been influenced by it.

Mr Darren Grech
Chief Secretary
HMGoG
4 May 2020

Exhibit DG/3

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Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

Our Ref: IM156

14th April 2020

Darren Grech
Chief Secretary
No. 6 Convent Place
Gibraltar
GX11 1AA

Dear Darren,

Re: Op Delhi – Hacking of NSCIS Platform

Thank you for your response to my letter and for clarifying the position of HMGoG asserting ownership of the NSCIS platform.

With regards to the witness statement, the investigating team will require as much detail as possible on the subject of ownership. This will necessitate not only the assertion that HMGoG are the legal owners of the platform, but also the basis of that belief, as well as any evidence in support of that position. My officers will assist you if you have any questions about the statement. In this regard please contact Detective Inspector Mark Wyan mark.wyan@royalgib.police.gi

As the police investigation comes to a close, we now have a much clearer picture of the role played by Caine Sanchez and evidence that the investigators argue amounts to criminal misconduct, a view which is shared by the Director of Public Prosecutions. Given the extent of his apparent criminality I would be happy to meet with you and outline the evidence against him. This may assist should there be a need to the issue of interdiction.

I should be grateful if were able to have your statement by the end of this week please.

Yours,

Ian McGrail
Commissioner of Police

Exhibit DG/4

(NO6) Grech, Darren

From: (MOF) Mena, Albert
Sent: 02 March 2020 20:03
To: 'Nicholas Gaggero'
Cc: (NO6) Redondo, Javier; John-Paul Payas
Subject: RE: Mobile Scanner Proposal

Dear Nicholas,

Thank you for the attached.

The body of the email sets out what you had indicated to me informally and based on this we were keen to progress this matter. However having read the Statement of Work I am unable to sign it or indeed say I am in agreement with this.

As you know at present there is a level of dispute between us as to ownership of the NCIS system that has been developed for Government. I prefer not to go into the detail save to say that agreeing to the statement of work would effectively signify our agreement with the ownership of the Intellectual Property. This would have an impact not just on this module of work but by extension to the whole NCIS system.

I thought we had an understanding to remain neutral on this specific point until wider matters presently under investigation are resolved and brought to a logical conclusion.

You will therefore appreciate that we cannot proceed with this on this basis.

I remain available to discuss these issues with you.

Kind regards

Albert

Albert Mena
Financial Secretary

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HM Government of Gibraltar
No.6 Convent Place
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Centrex: 2112
Fax: (+350) 20079901
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Office of the Financial Secretary

From: Nicholas Gaggero [mailto:Nicholas.Gaggero@blandgroup.com]
Sent: 20 February 2020 14:30
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; John-Paul Payas <jp.payas@osgops.com>
Subject: Mobile Scanner Proposal

Dear Albert,

Please find attached Bland Group's proposal for Mobile Passport Scanners. I have summarized the key points below

Technical summary

- Bland Group have scoped a system that can scale to 50 devices, significantly more than the single device in service
- The system will integrate with Interpol NSCIS Wanted and Messaging modules remotely using the 4/5G network
- The system will not only scan passports but ID cards, driving licenses, and visas based on ICAO standards

Financial summary

- We propose to remove [redacted] from the monthly NSCIS global invoice for the existing mobile scanning solution
- Software development [redacted]
- Monthly maintenance: [redacted] month
- This plan covers 10 devices. Should this increase, we propose an additional [redacted] device / month

Please confirm you authorize this proposal. My team is standing by and plan to have a prototype ready by the end of March.

With kind regards

Nicholas

BG BLAND GROUP

BLAND GROUP
Cloister Building
Irish Town | Gibraltar

Telephone: +350 200 79200
Website: www.blandgroup.com

EU GDPR

here

(NO6) Grech, Darren

From: Nicholas Gaggero <Nicholas.Gaggero@blandgroup.com>
Sent: 20 February 2020 14:30
To: (MOF) Mena, Albert
Cc: (NO6) Redondo, Javier; John-Paul Payas
Subject: Mobile Scanner Proposal
Attachments: Mobile Passport Scanners v1.2.pdf

Dear Albert

Please find attached Bland Group's proposal for Mobile Passport Scanners. I have summarized the key points below

Technical summary:

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EU GDPR

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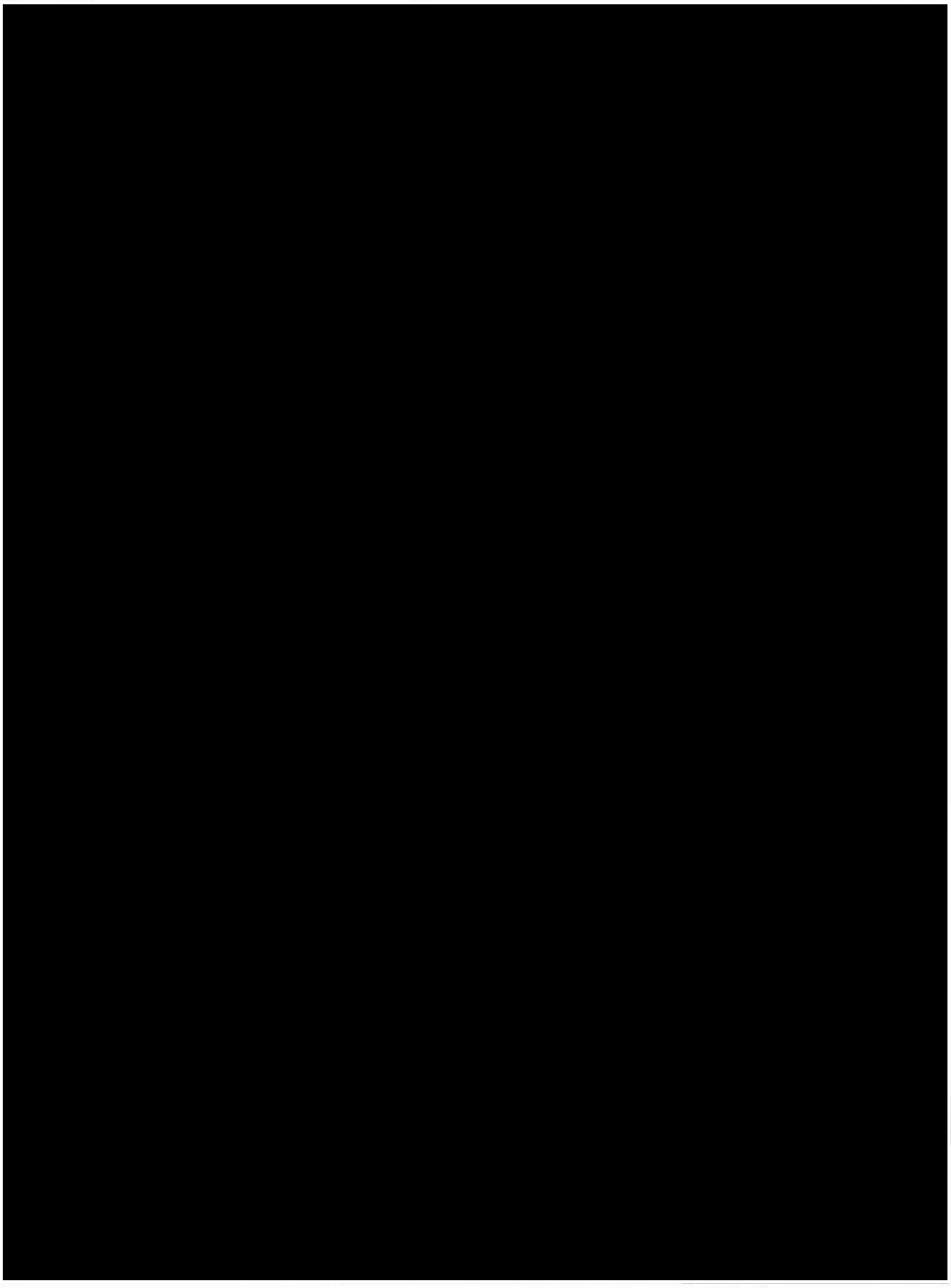

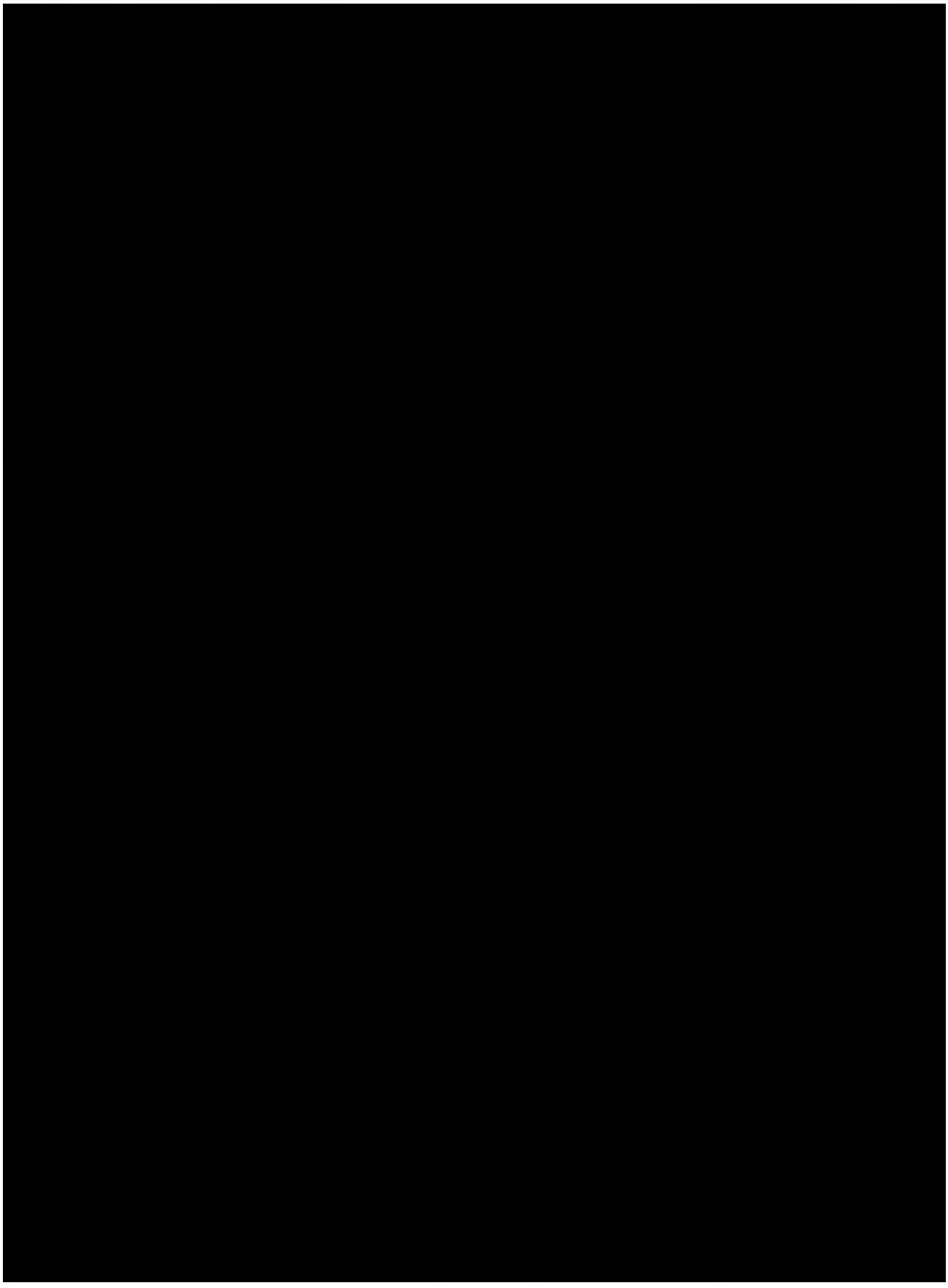

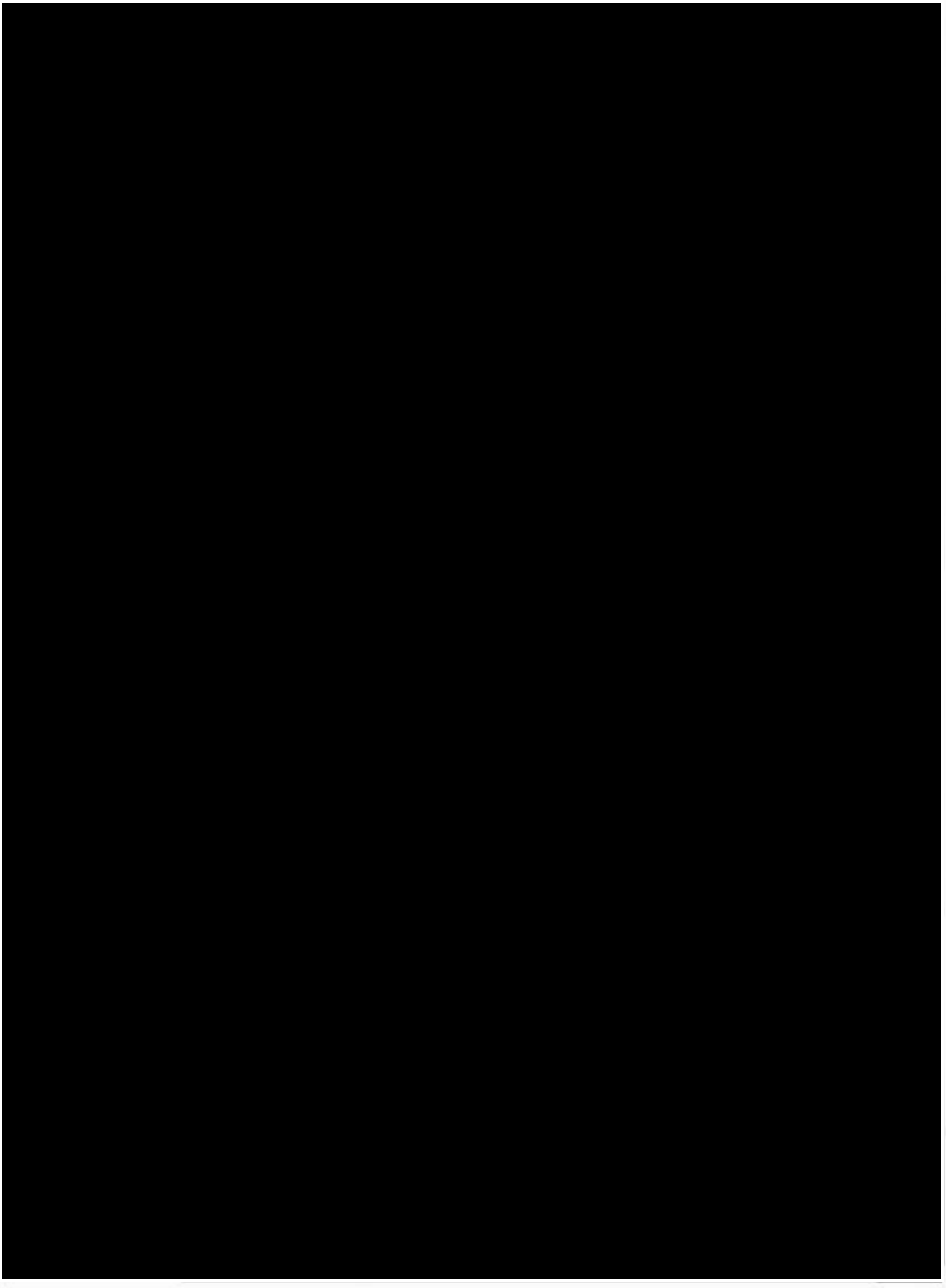

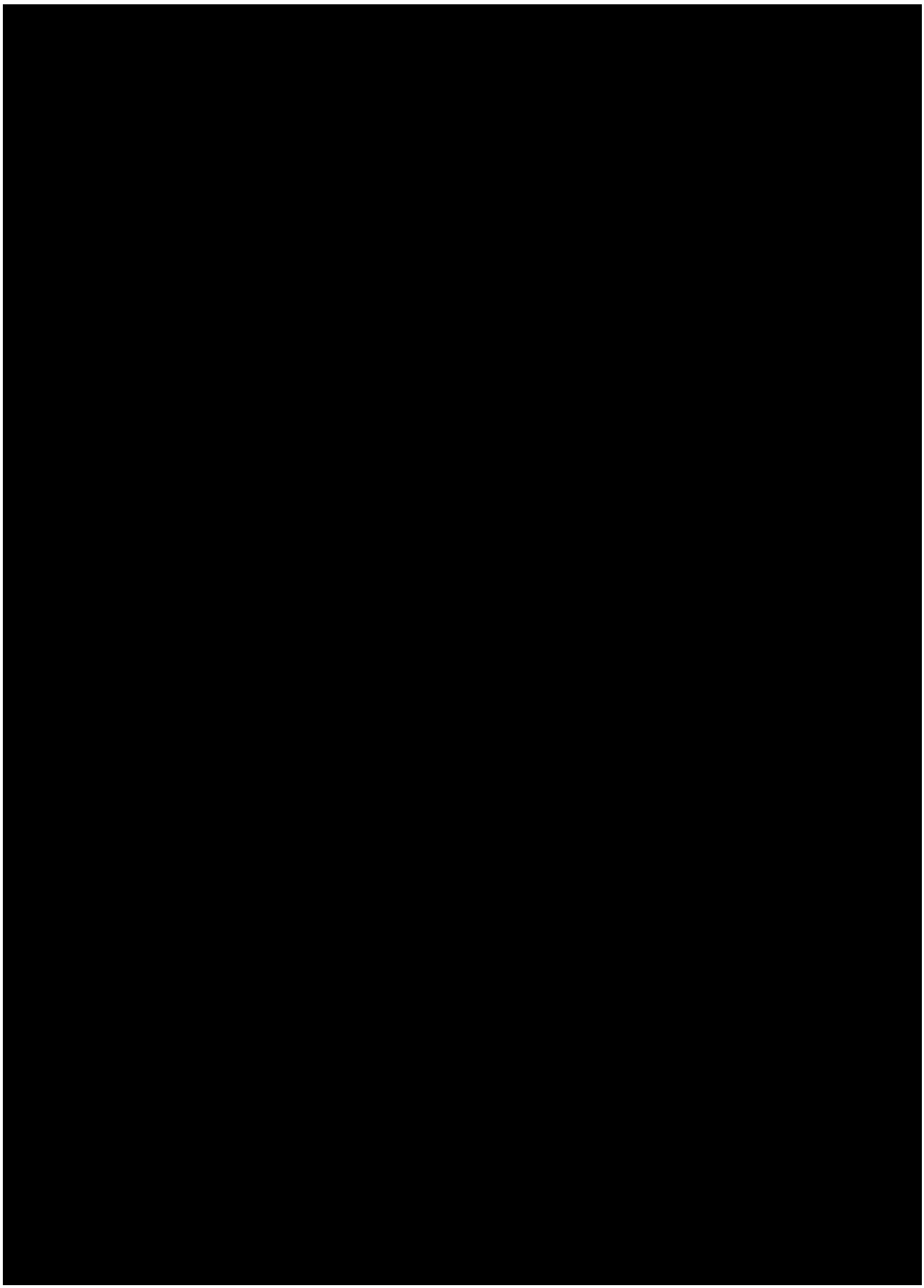

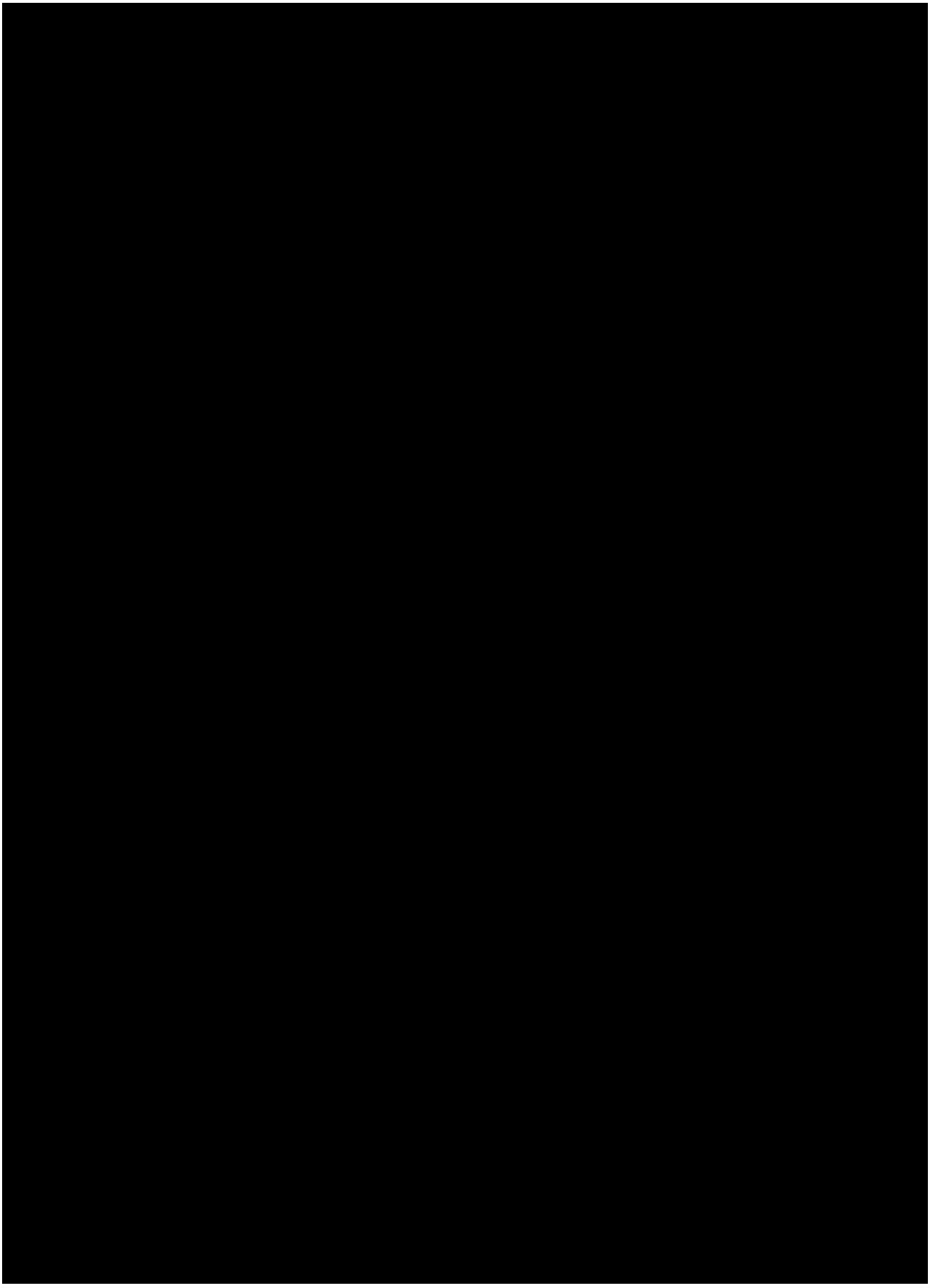

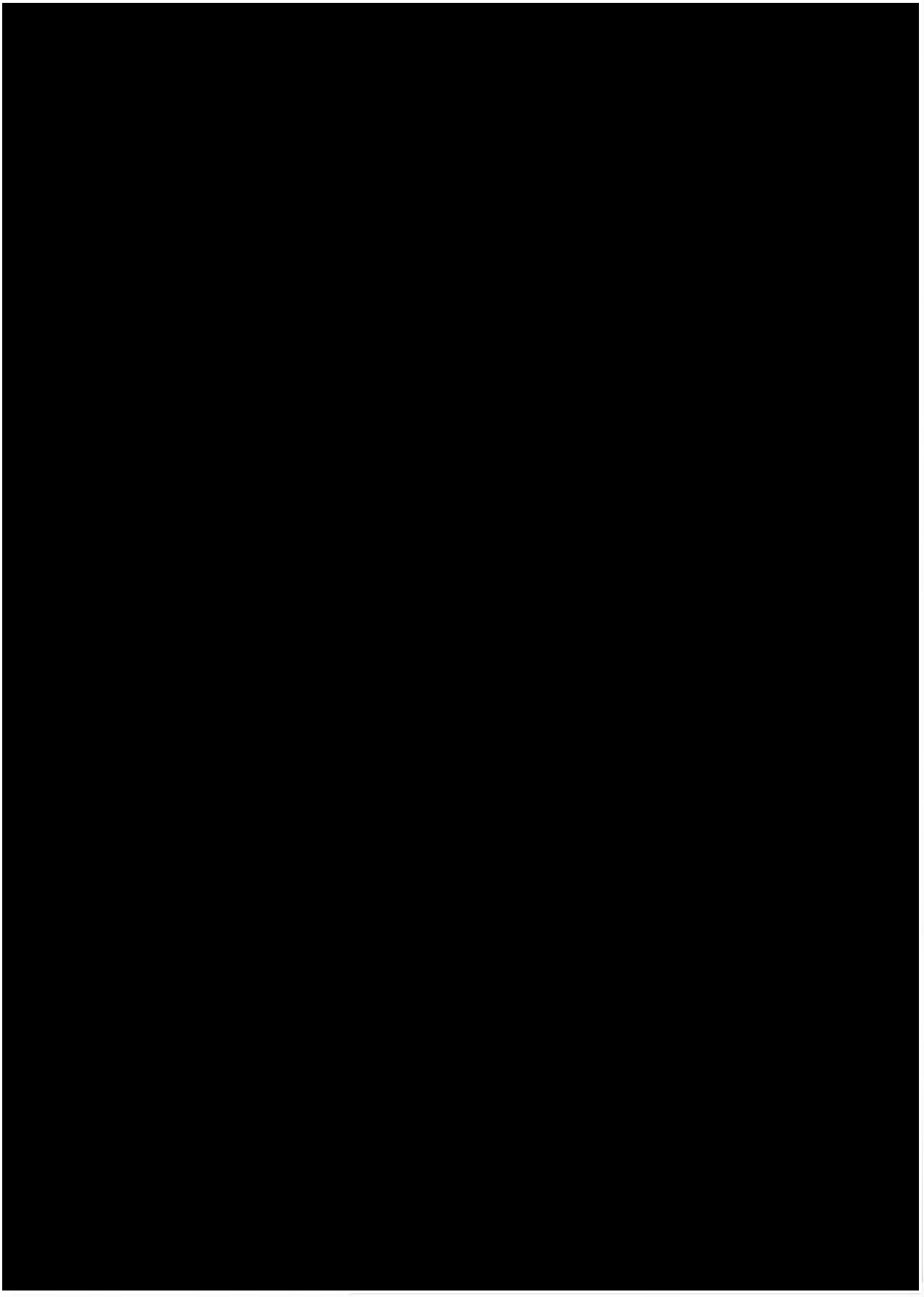

(NO6) Grech, Darren

From: Nicholas Gaggero <Nicholas.Gaggero@blandgroup.com>
Sent: 02 March 2020 20:35
To: (MOF) Mena, Albert
Cc: (NO6) Redondo, Javier; John-Paul Payas
Subject: Re: Mobile Scanner Proposal

Hi Albert,

I understand. Let me take this offline and come back to you tomorrow with a proposal to overcome this issue.

Nicholas

Nicholas Gaggero



Bland Group
Cloister Building
Gibraltar GX11 1AA
www.blandgroup.com

On Mar 2, 2020, at 20:02, (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi> wrote:

> **[EXTERNAL EMAIL. Please check sender's email address is correct before responding, opening any attachments or clicking on any links]**
>
> Dear Nicholas,
>
> Thank you for the attached.
>
> The body of the email sets out what you had indicated to me informally and based on this we were keen to progress this matter. However having read the Statement of Work I am unable to sign it or indeed say I am in agreement with this.
>
> As you know at present there is a level of dispute between us as to ownership of the NCIS system that has been developed for Government. I prefer not to go into the detail save to say that agreeing to the statement of work would effectively signify our agreement with the ownership of the Intellectual Property. This would have an impact not just on this module of work but by extension to the whole NCIS system.
>
> I thought we had an understanding to remain neutral on this specific point until wider matters presently under investigation are resolved and brought to a logical conclusion.
>
> You will therefore appreciate that we cannot proceed with this on this basis.
>
> I remain available to discuss these issues with you.

Kind regards

Albert

Albert Mena
Financial Secretary

Office of the Financial Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20051168
Centrex: 2112
Fax: (+350) 20079901
albert.mena@gibraltar.gov.gi

www.gibraltar.gov.gi

Office of the Financial Secretary

HM Government of Gibraltar

From: Nicholas Gaggero [mailto:Nicholas.Gaggero@blandgroup.com]
Sent: 20 February 2020 14:30
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; John-Paul Payas <jp.payas@osgops.com>
Subject: Mobile Scanner Proposal

Dear Albert,

Please find attached Bland Group's proposal for Mobile Passport Scanners. I have summarized the key points below:

Technical summary:

- Bland Group have scoped a system than can scale to 50 devices, significantly more than the single device in service
- The system will integrate with Interpol, NSCIS Wanted and Messaging modules remotely using the 4/5G network
- The system will not only scan passports but ID cards, driving licenses, and visas based on ICAO standards

Financial summary:

- We propose to remove [redacted] from the monthly NSCIS global invoice for the existing mobile scanning solution
- Software development: [redacted]
- Monthly maintenance [redacted] month
- This plan covers 10 devices. Should this increase, we propose an additional [redacted] device / month

Please confirm you authorize this proposal. My team is standing by and plan to have a prototype ready by the end of March.

With kind regards,

Nicholas

Nicholas Gaggero
Chief Executive Officer

<image002.jpg>



BLAND GROUP
Cloister Building
Irish Town | Gibraltar

Telephone: +350 200 79200
Website: www.blandgroup.com

<image003.png>

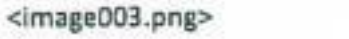

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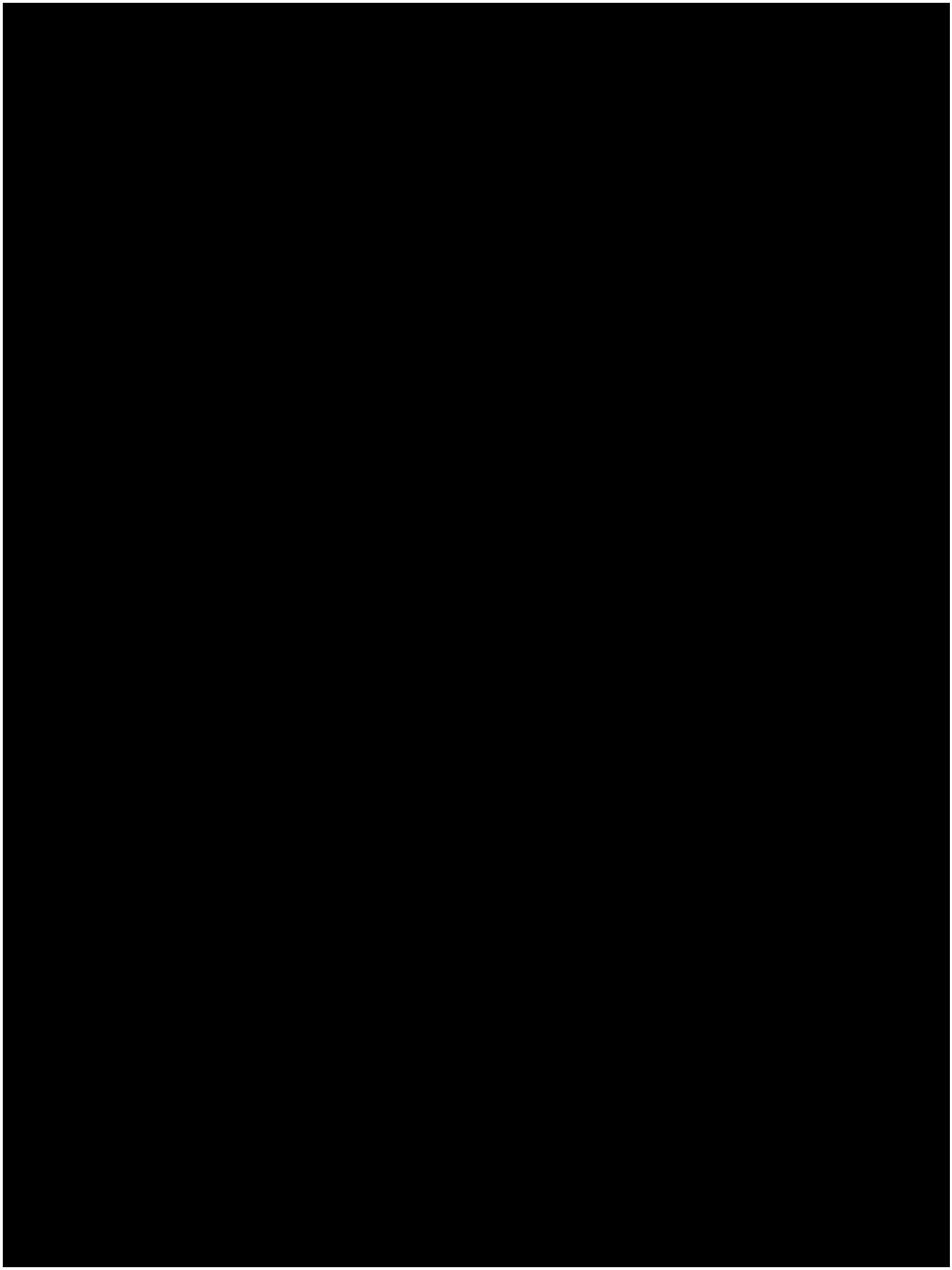
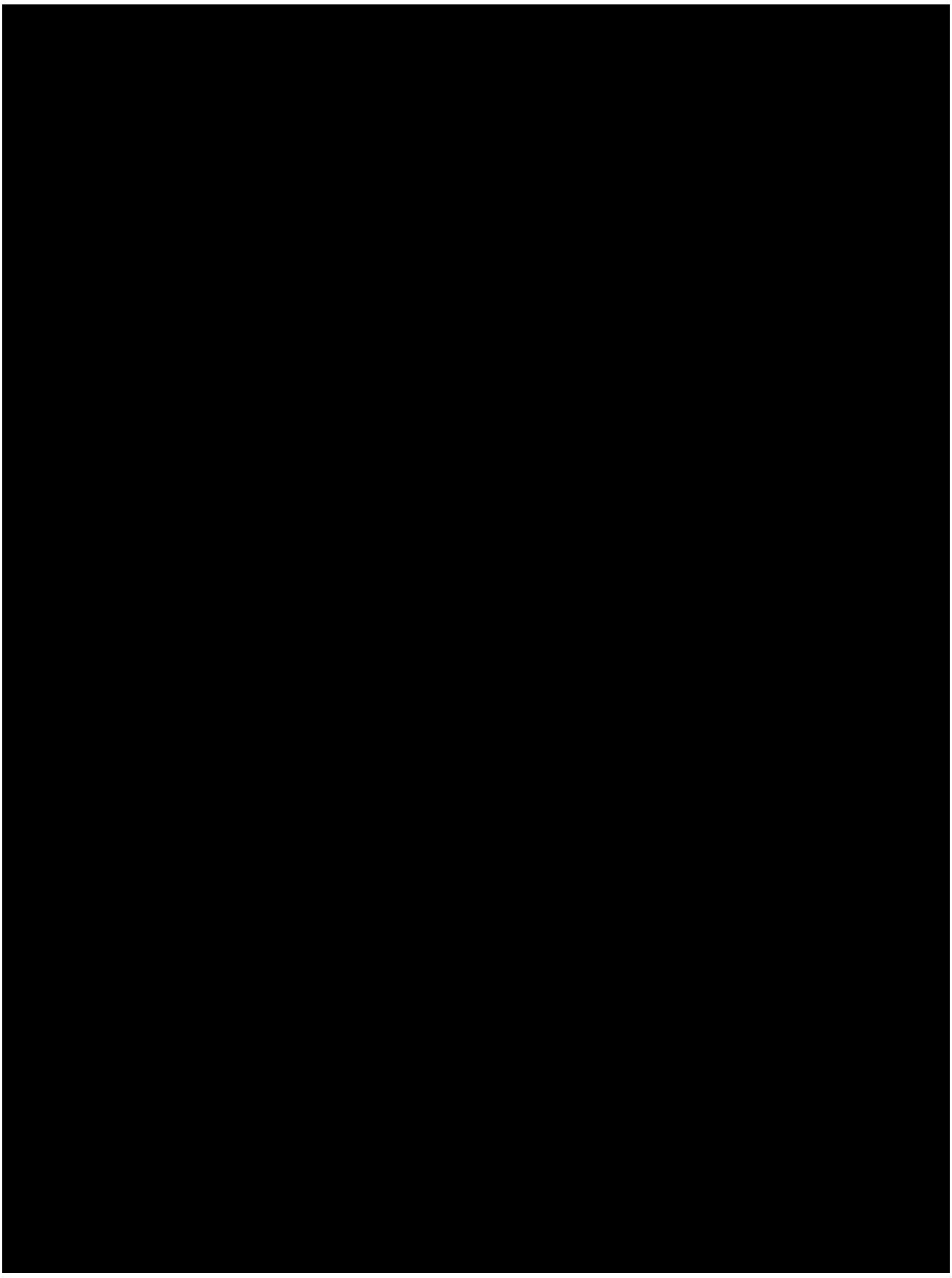
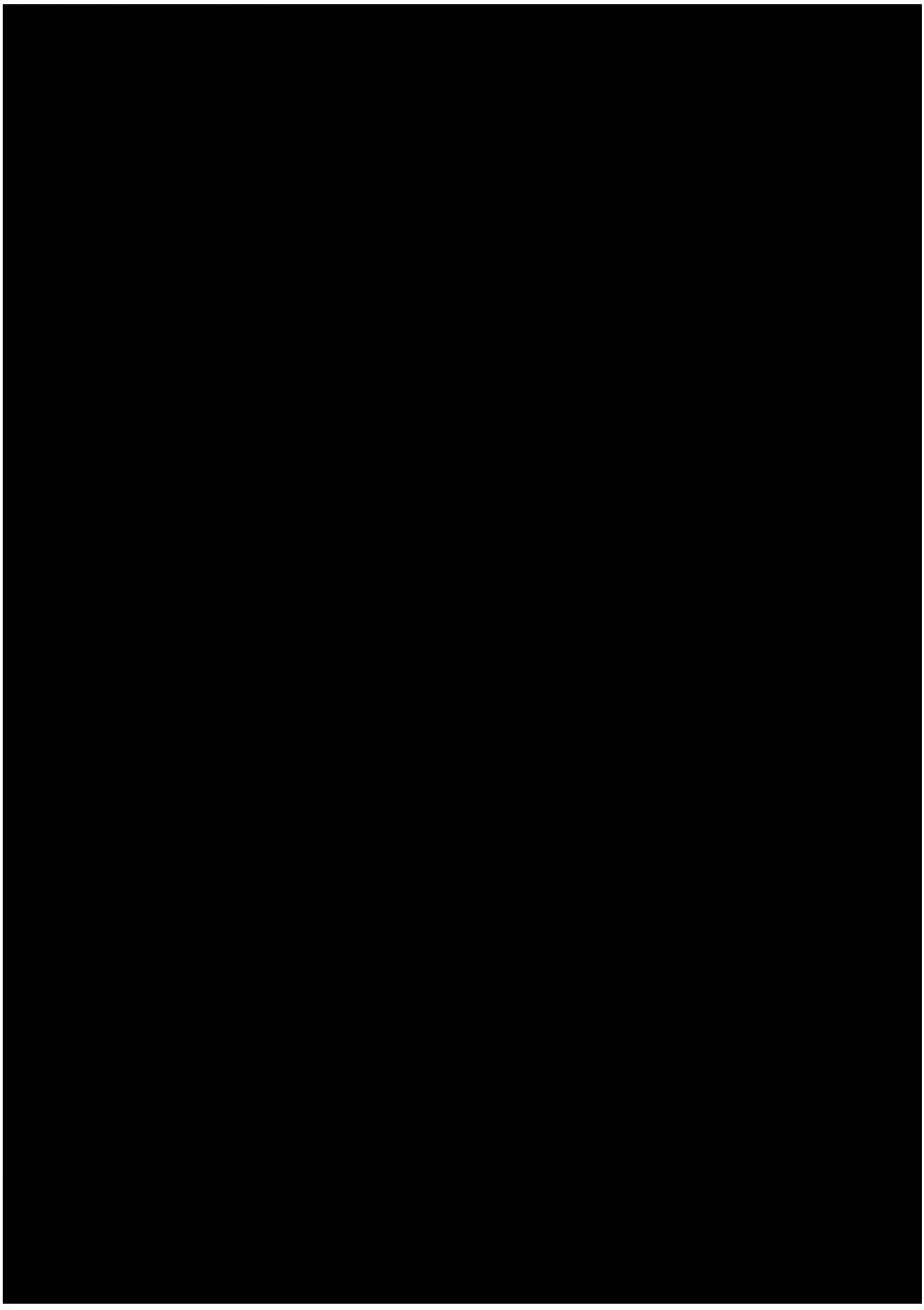
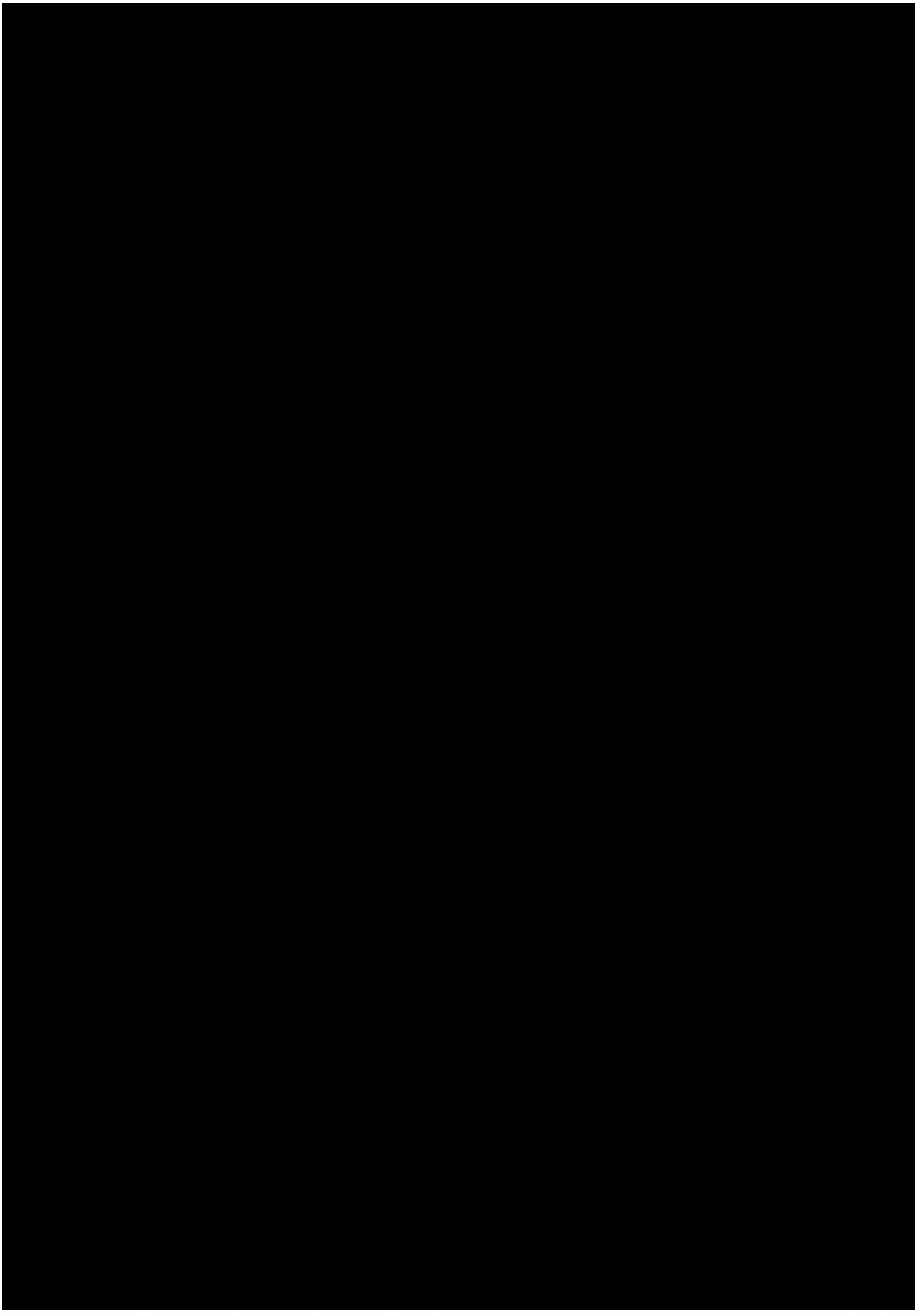
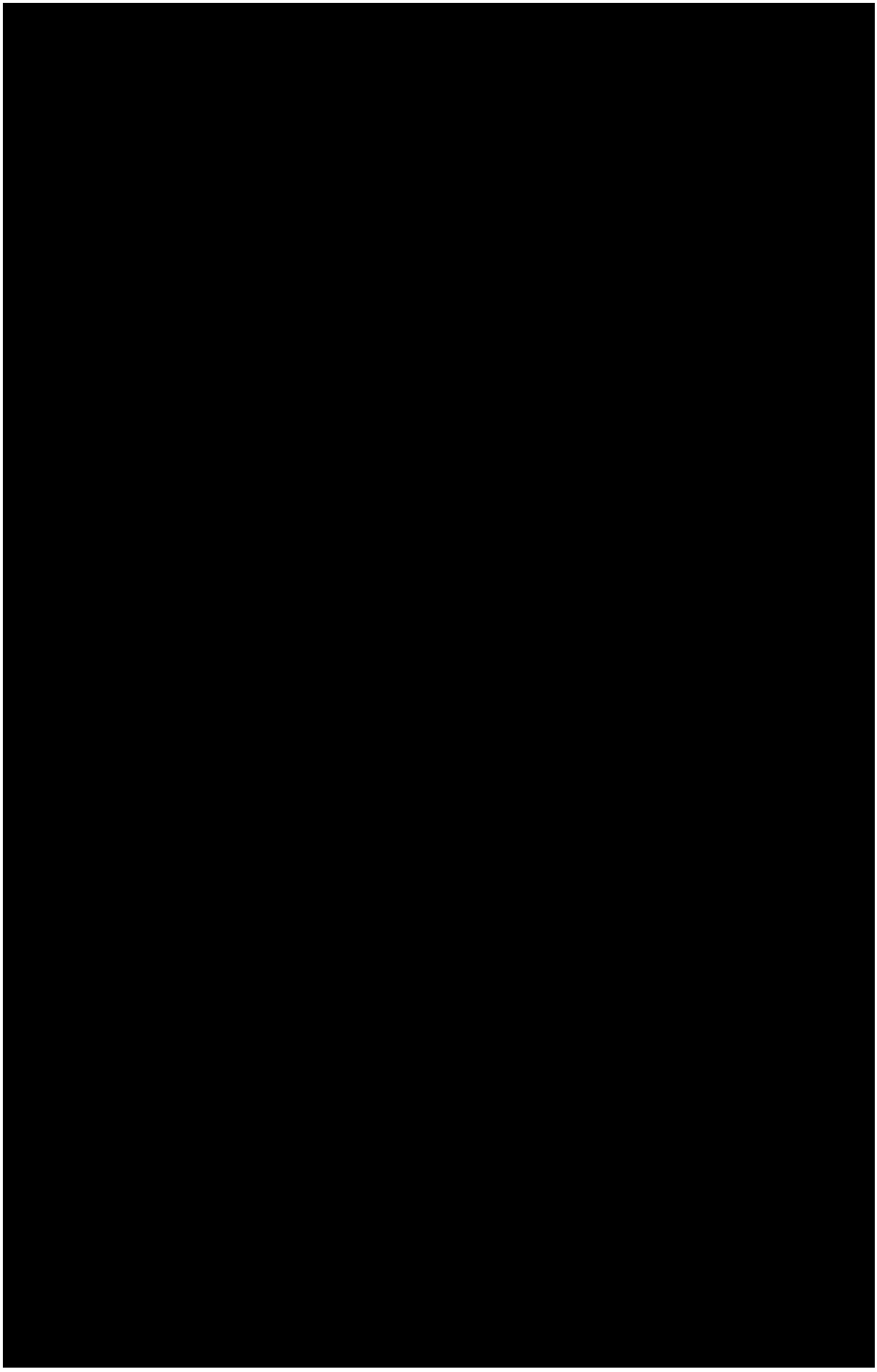
Exhibit DG/5

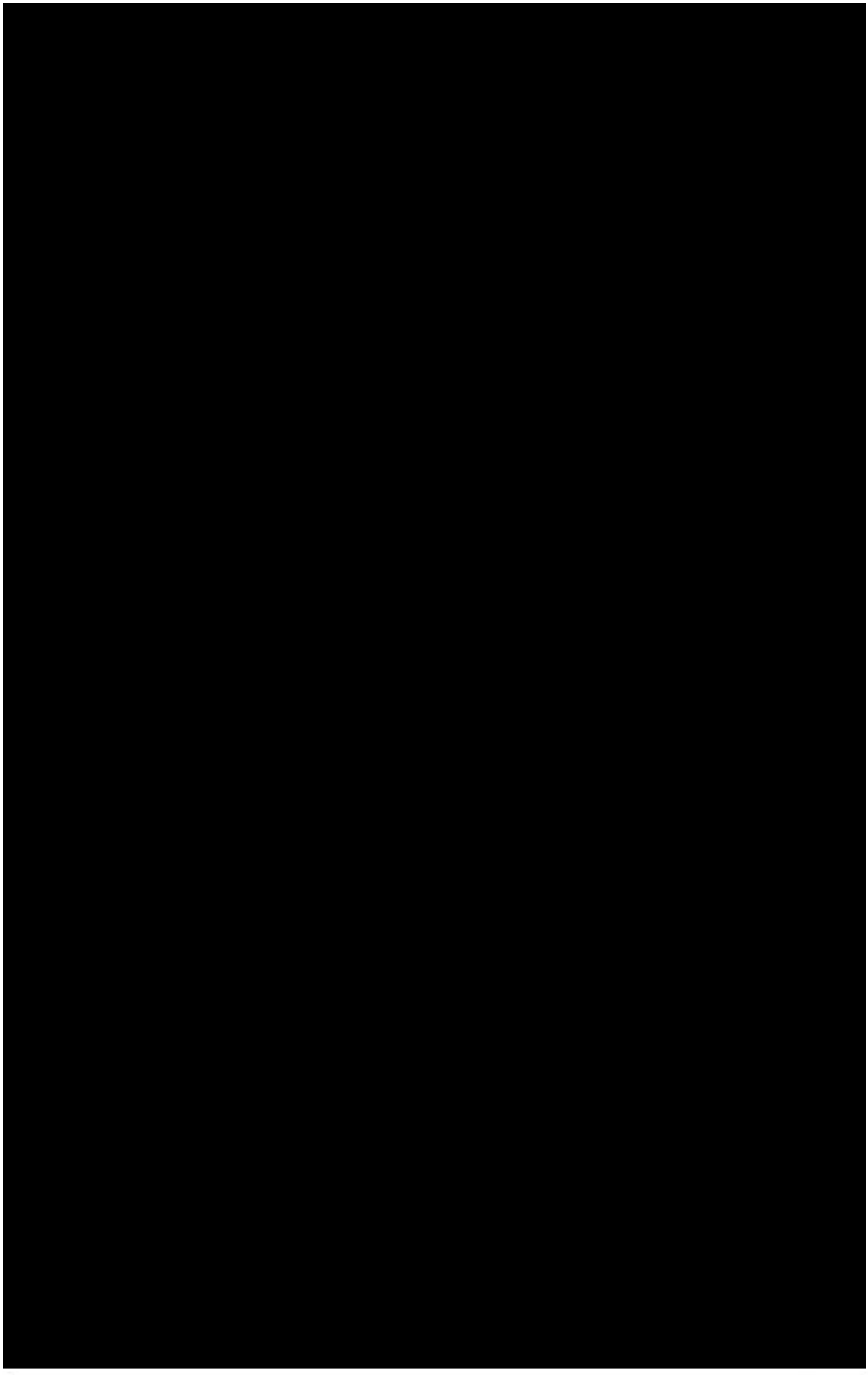


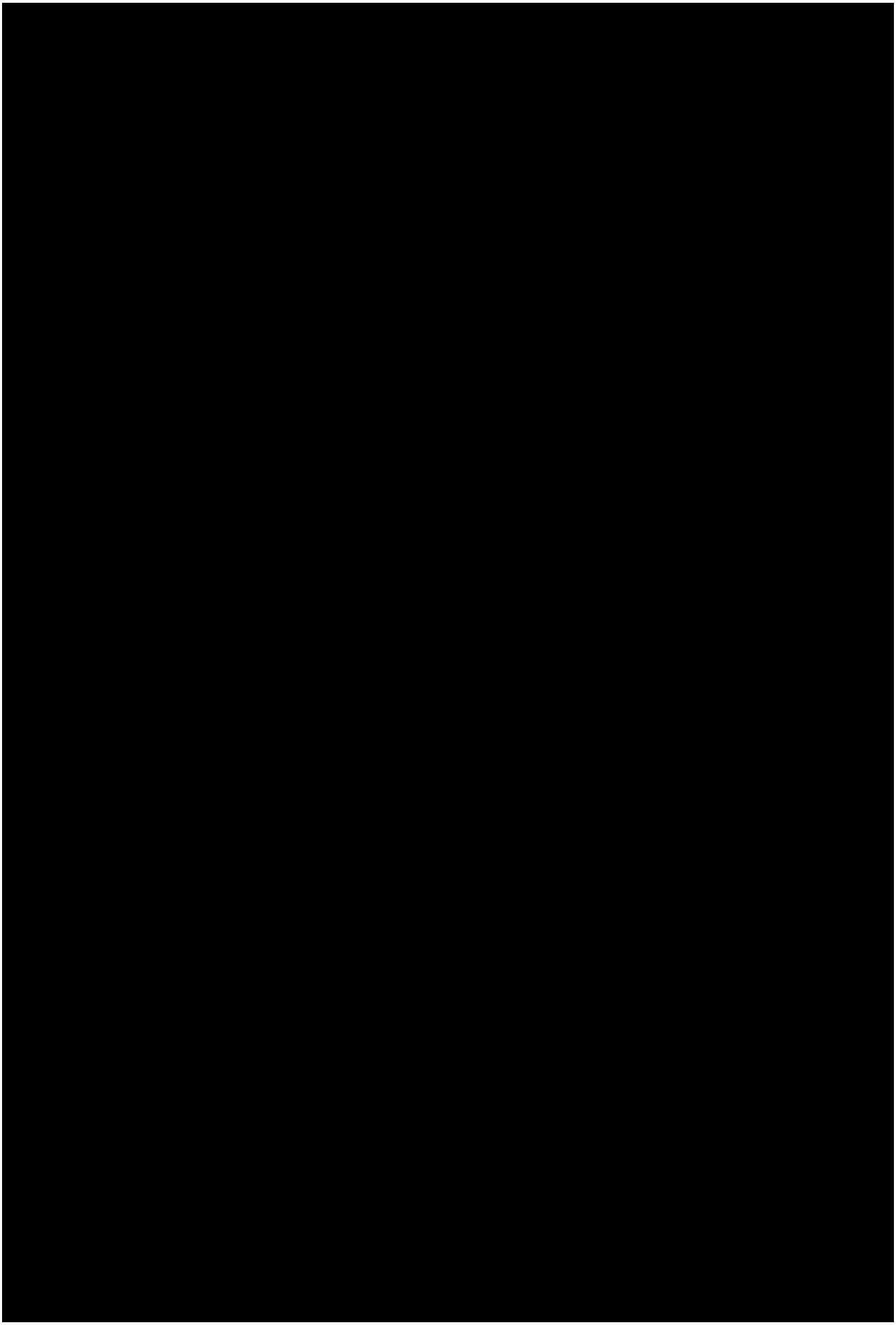


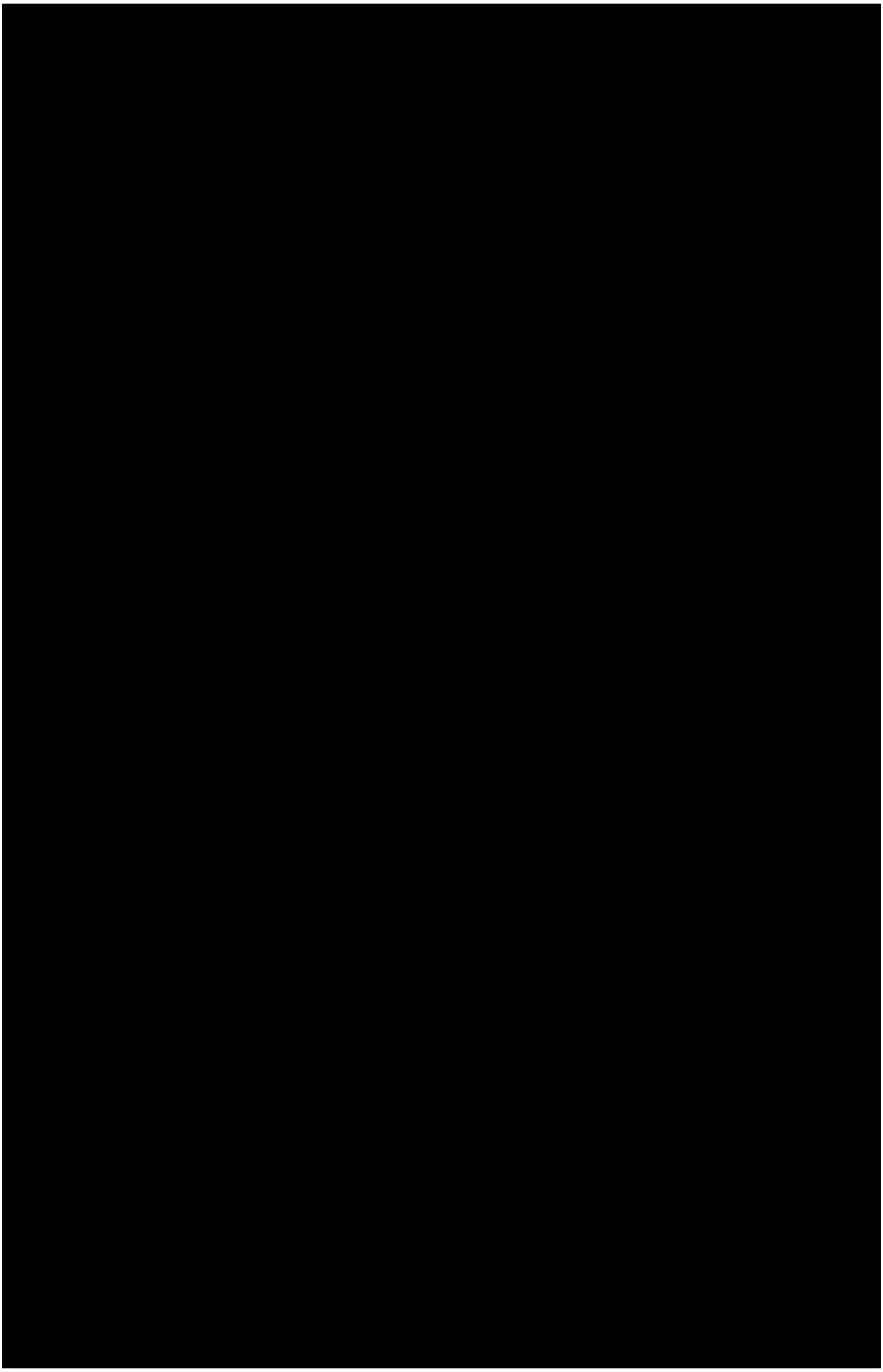


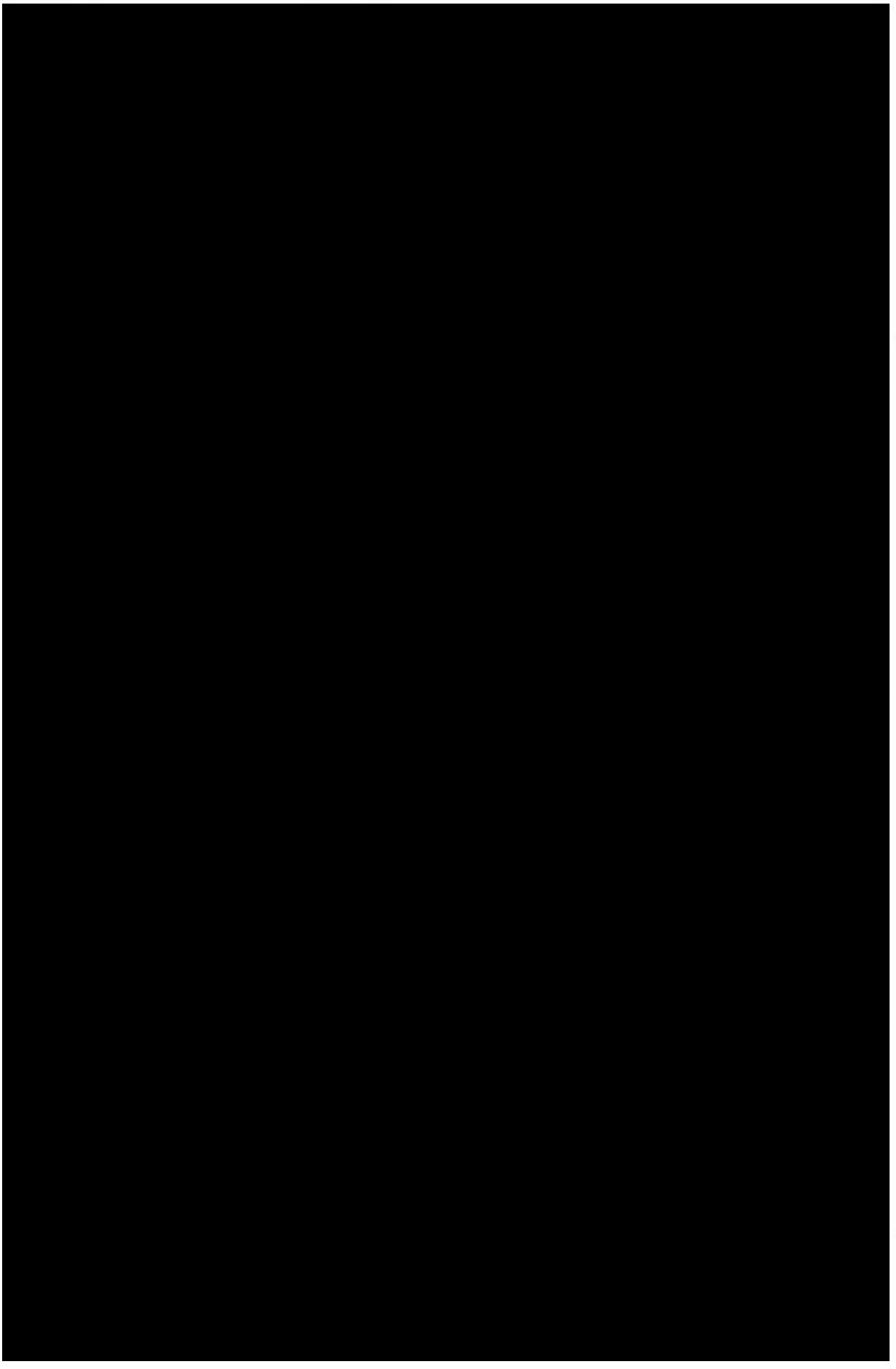


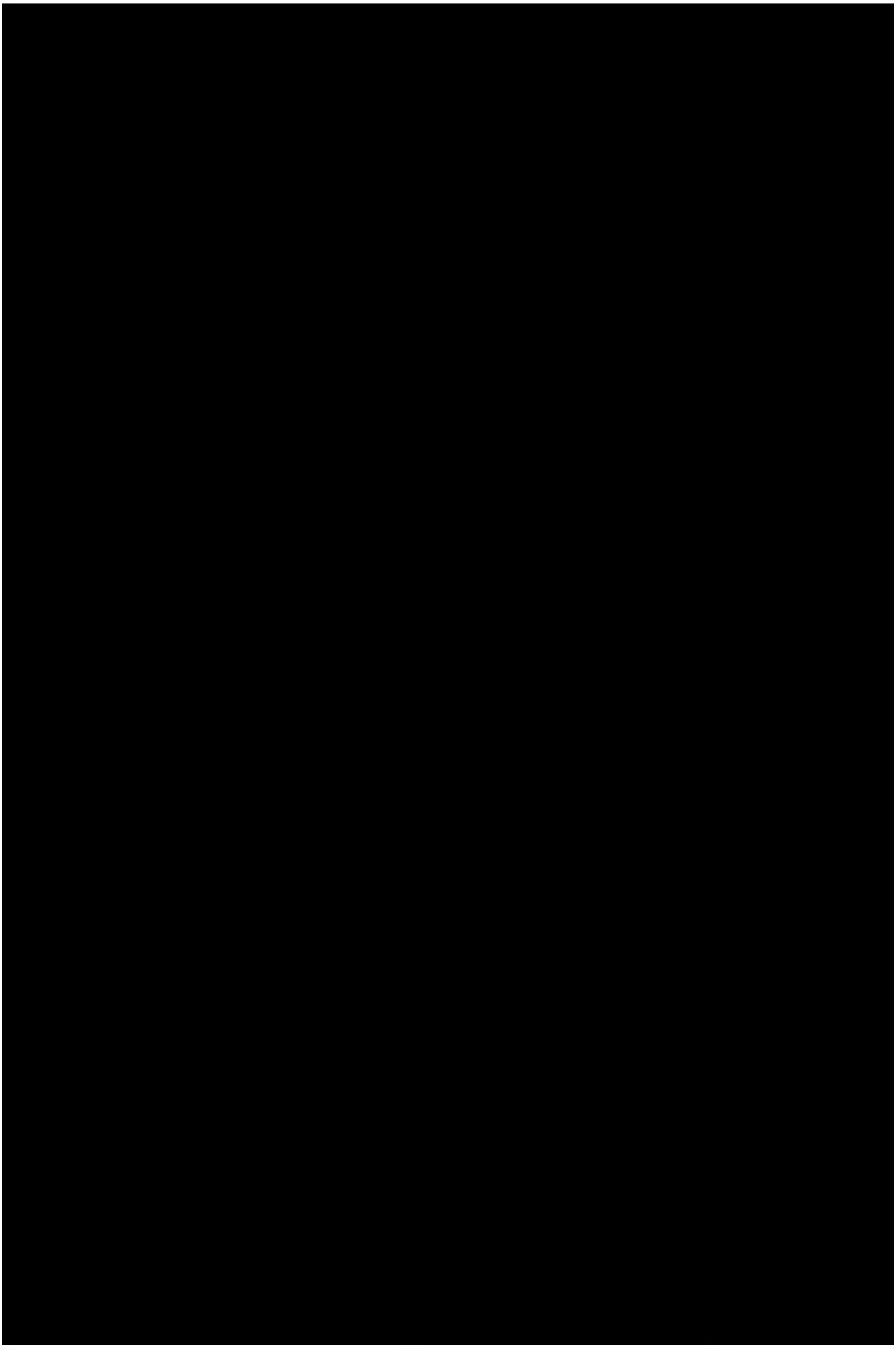


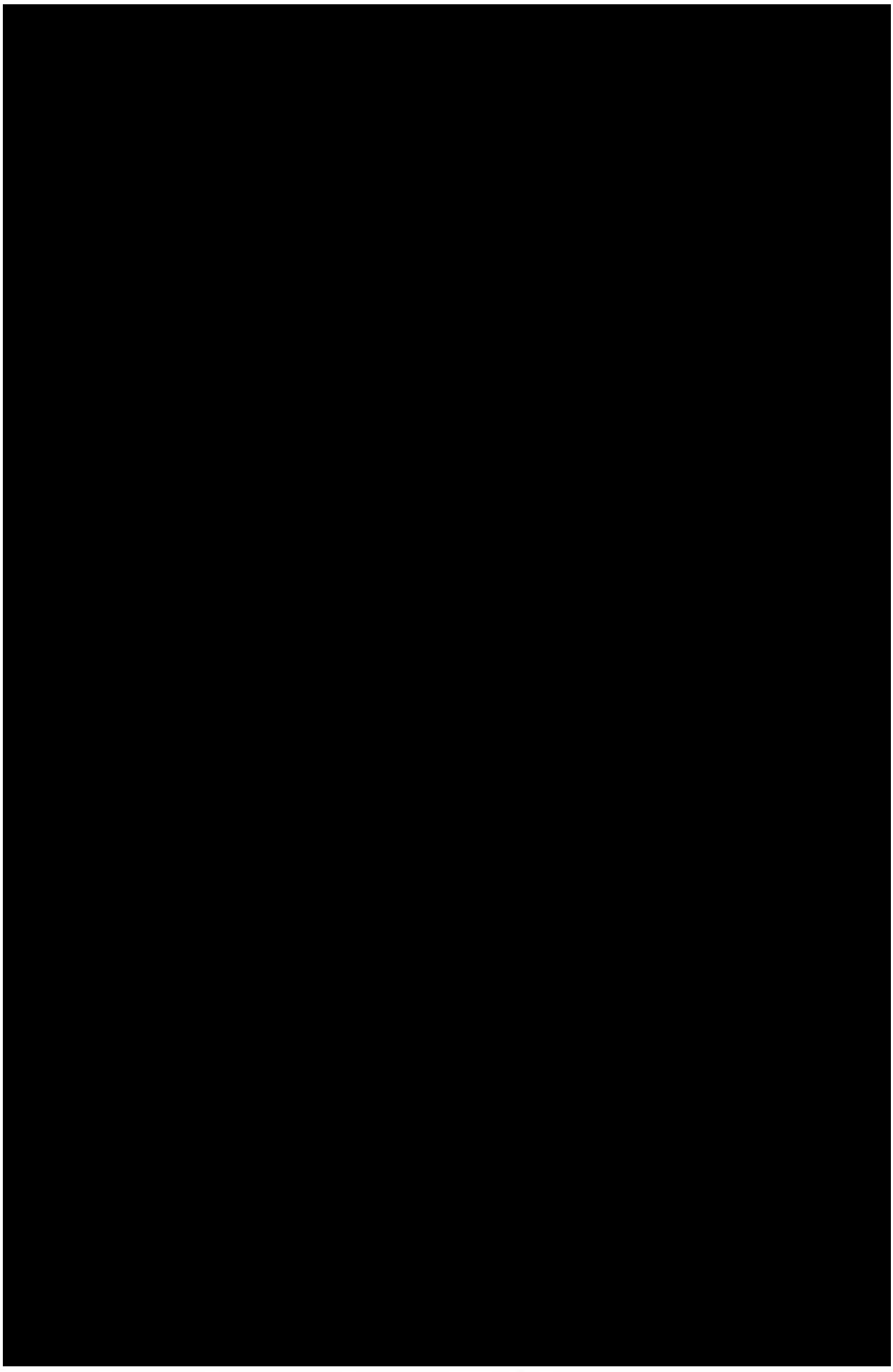


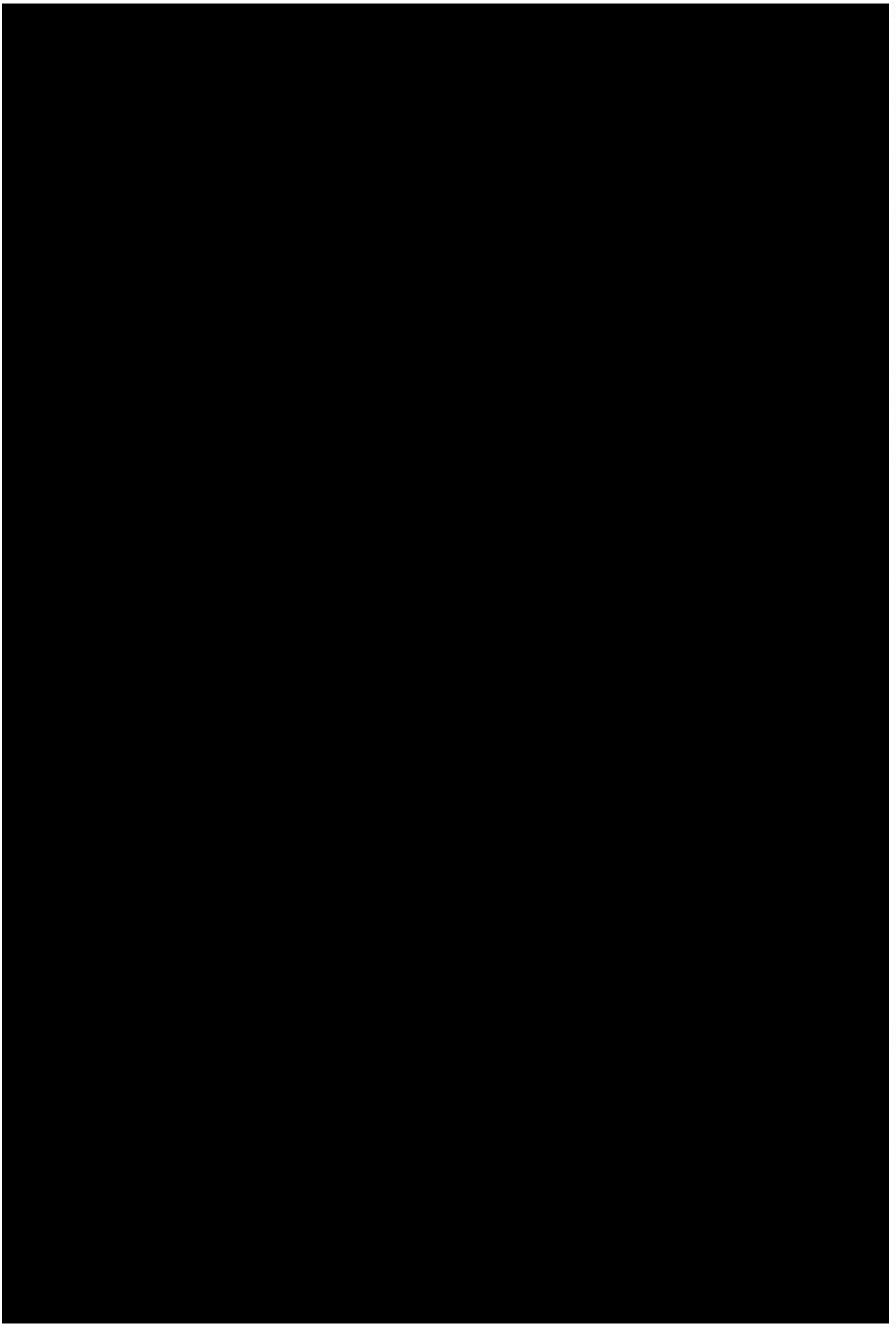


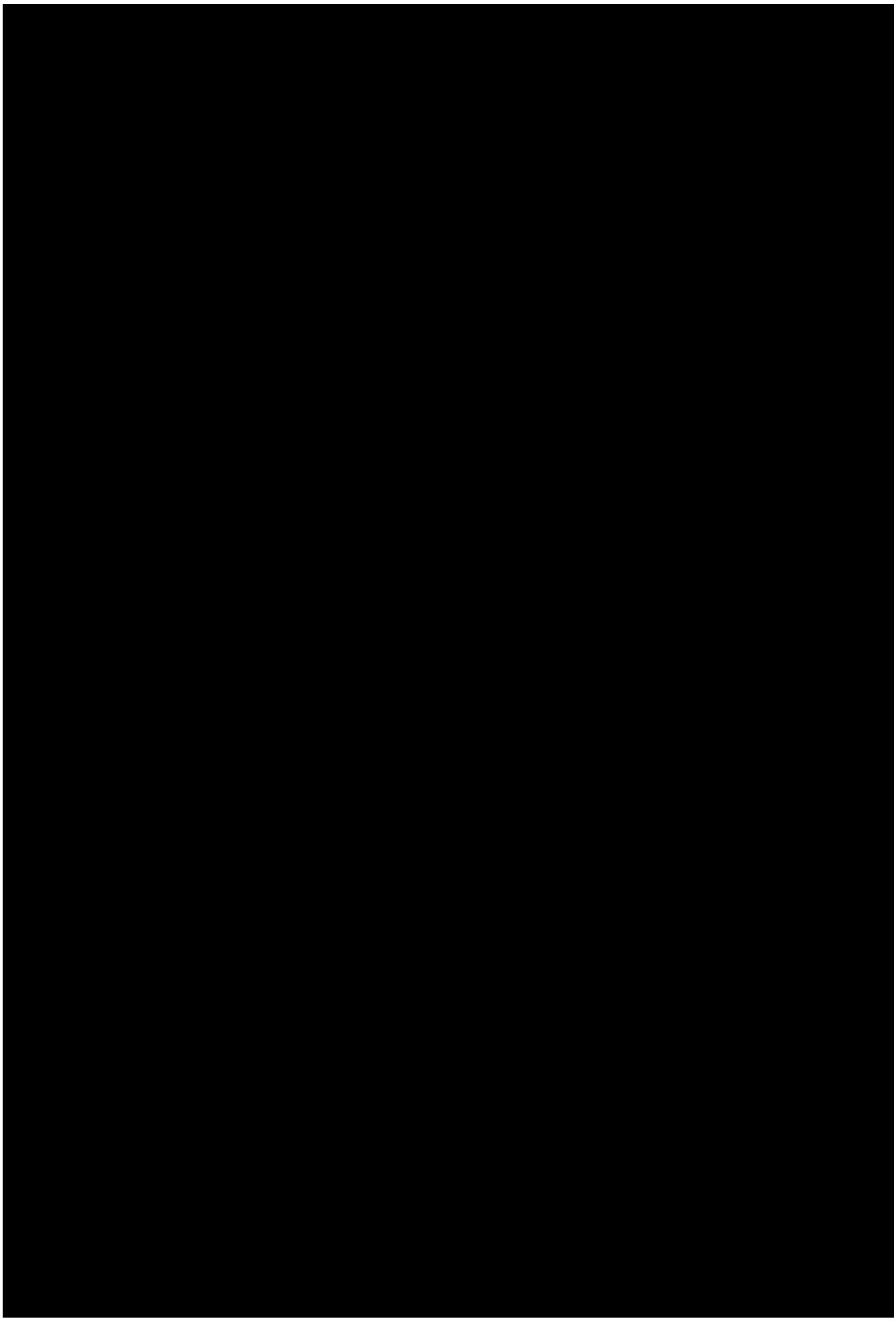


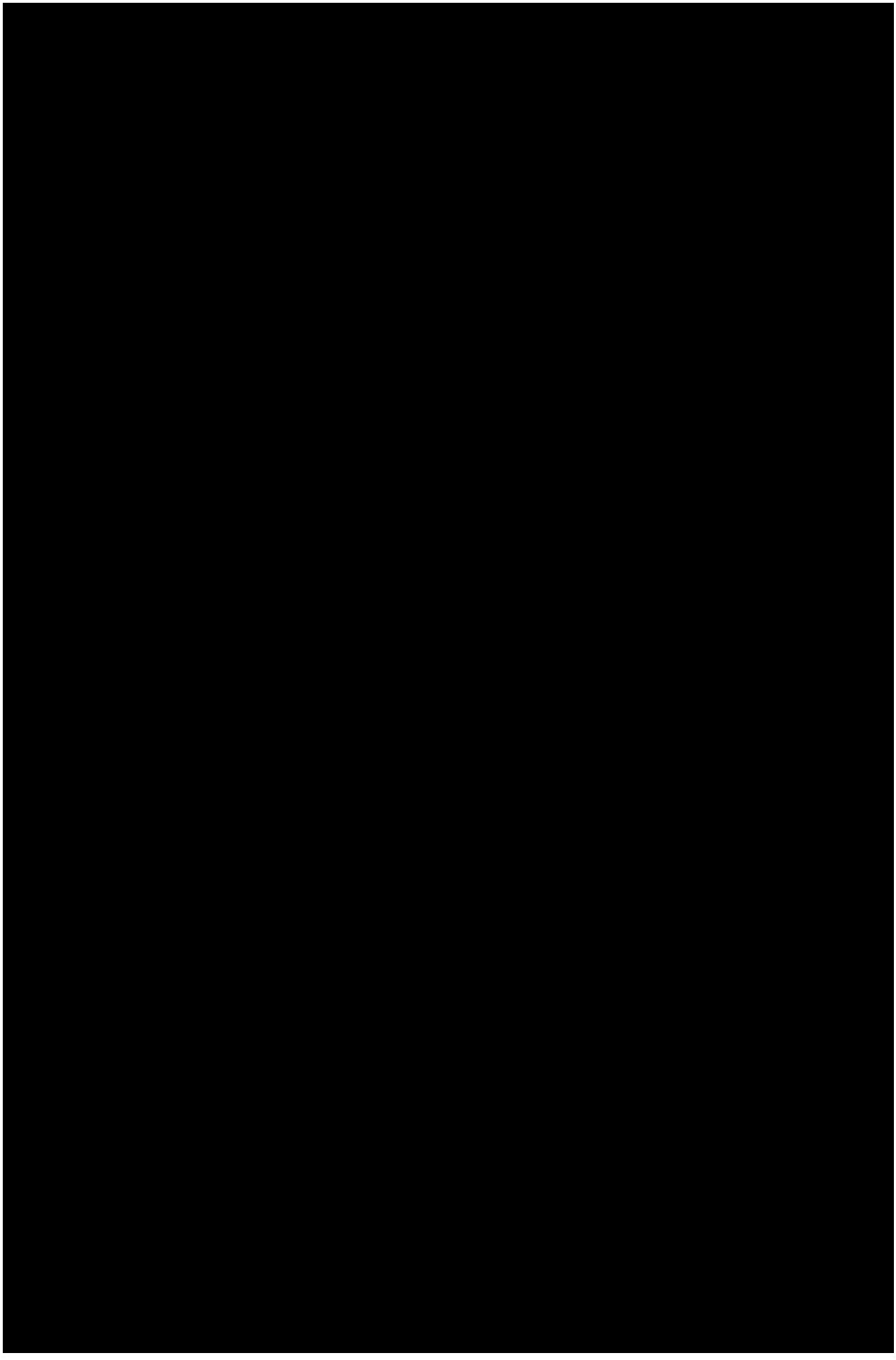


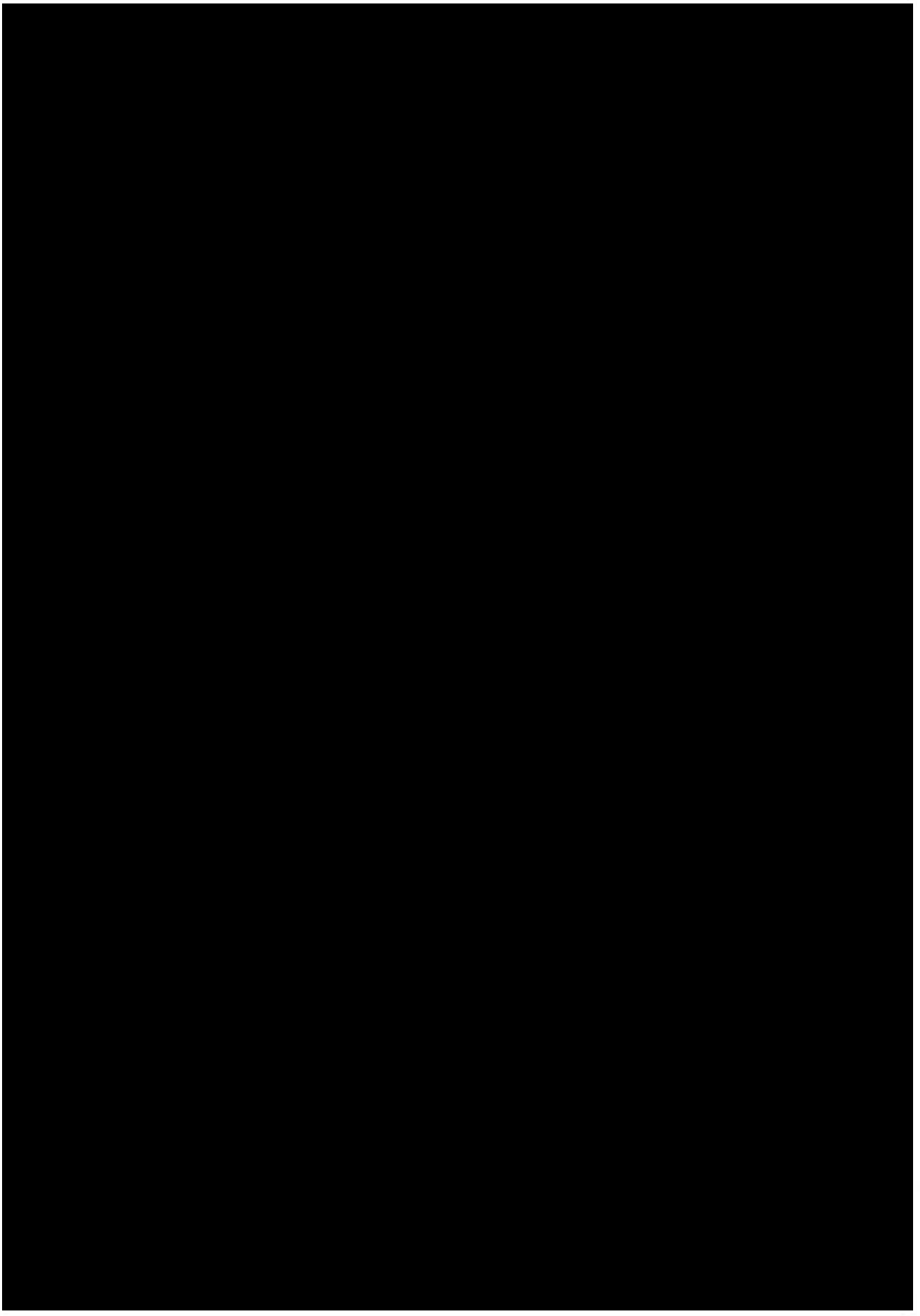


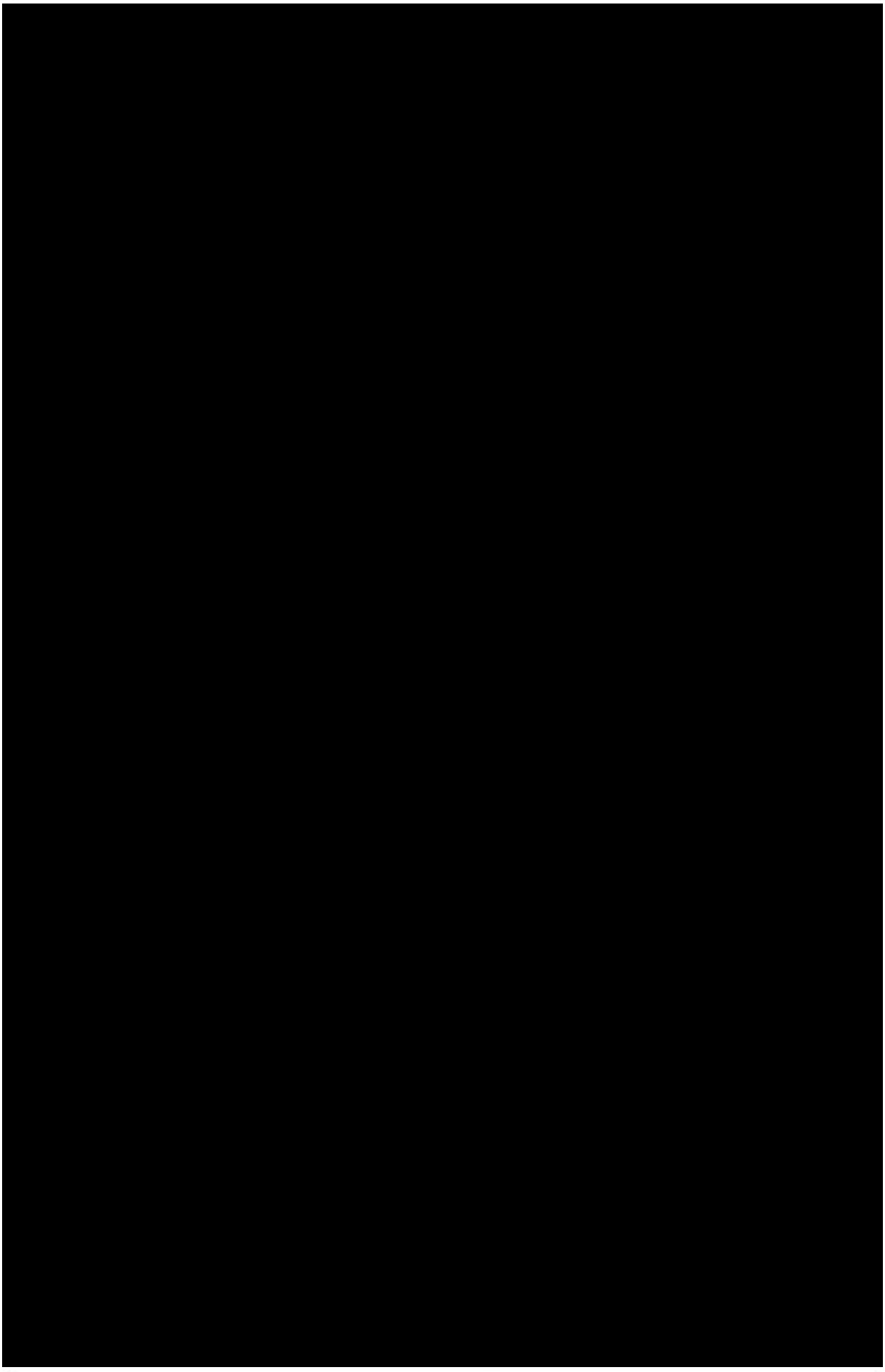


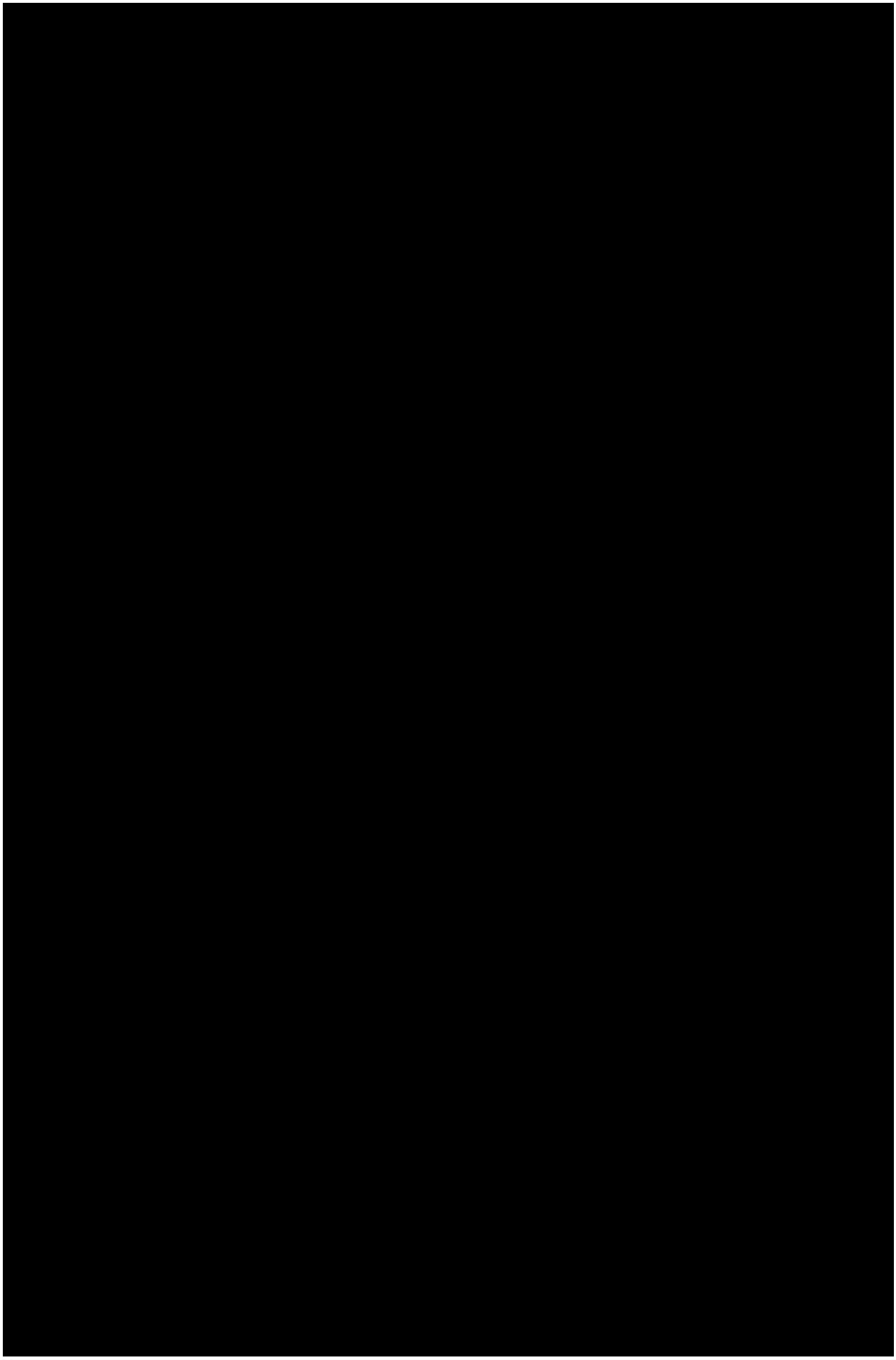


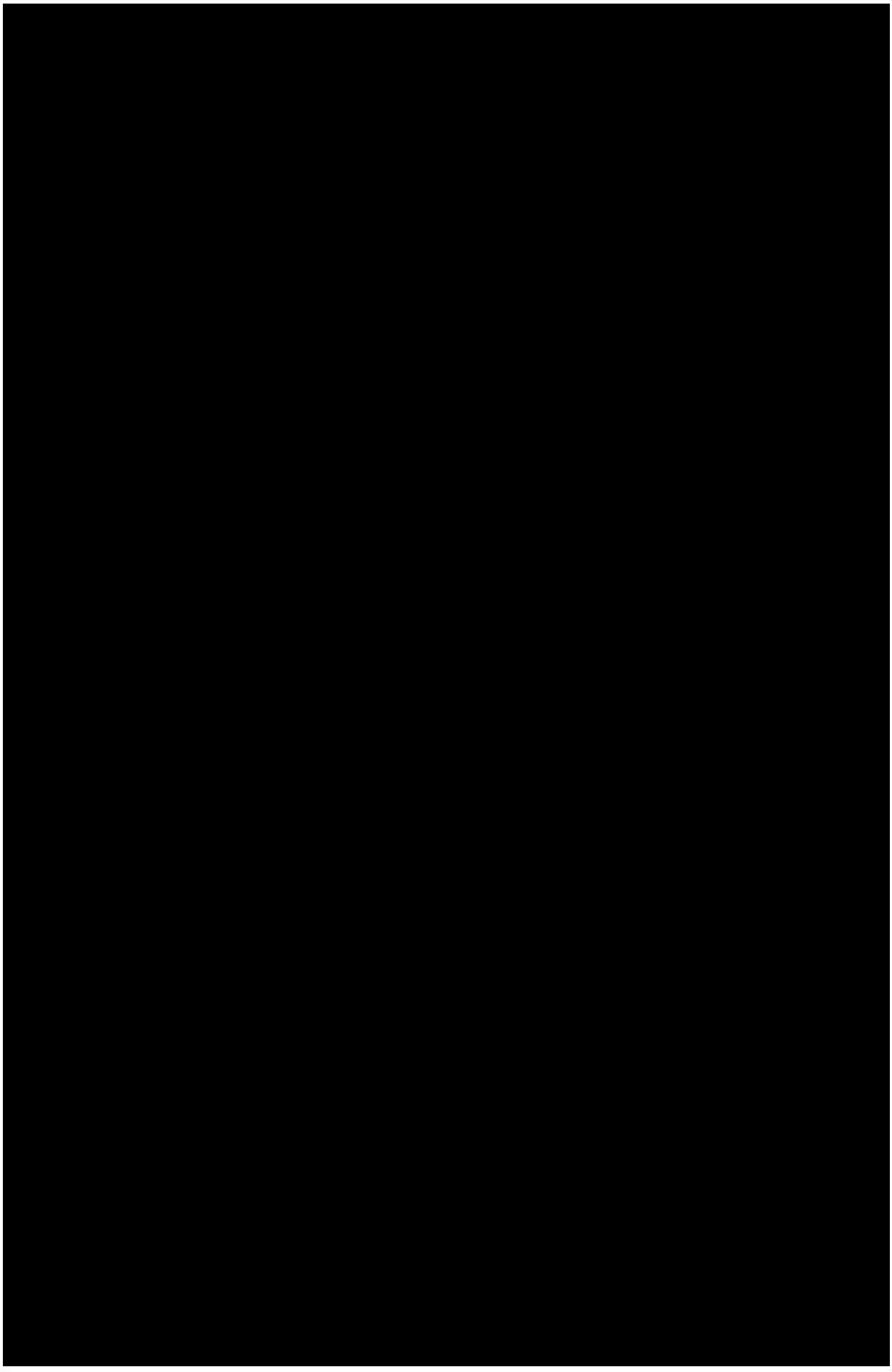


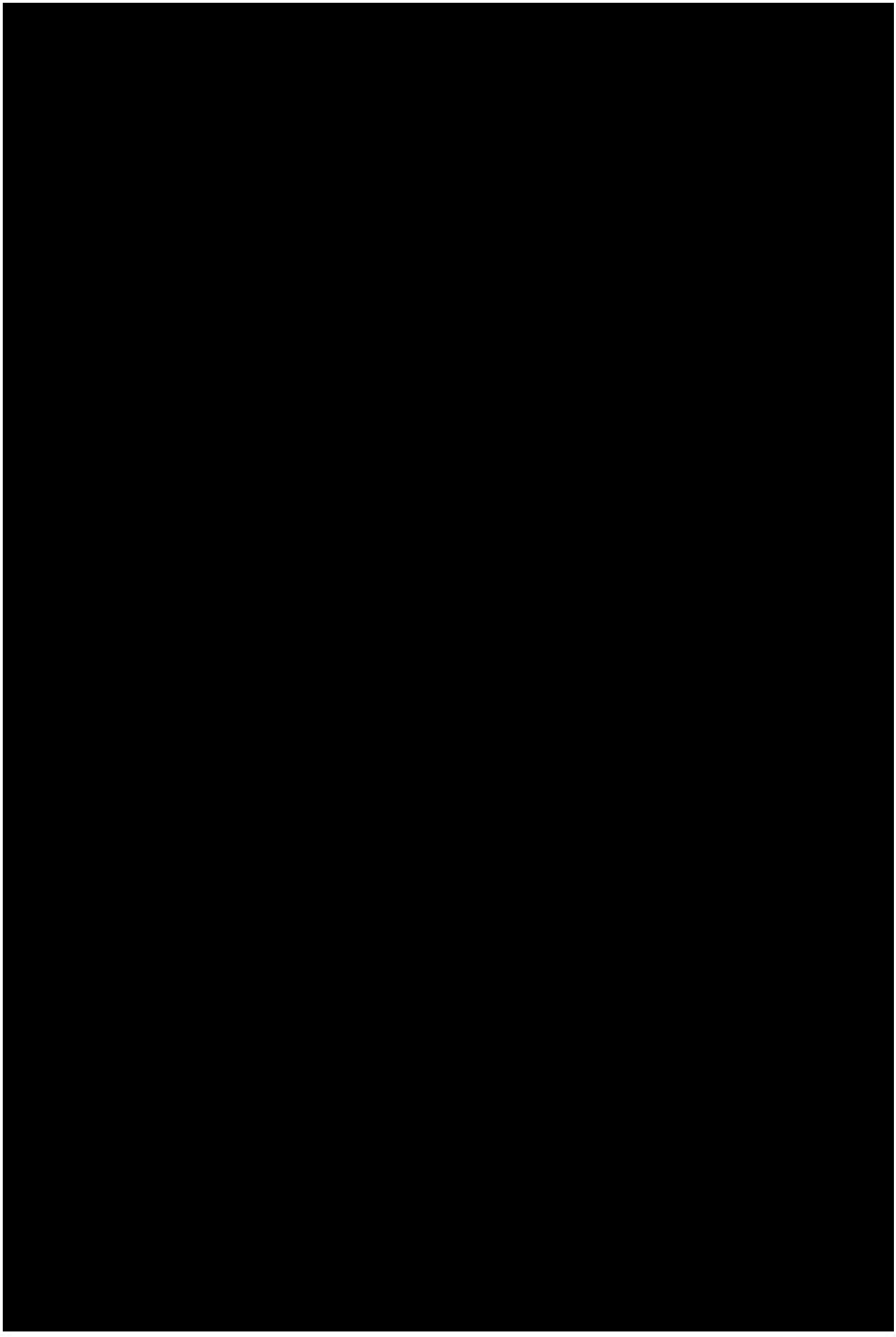


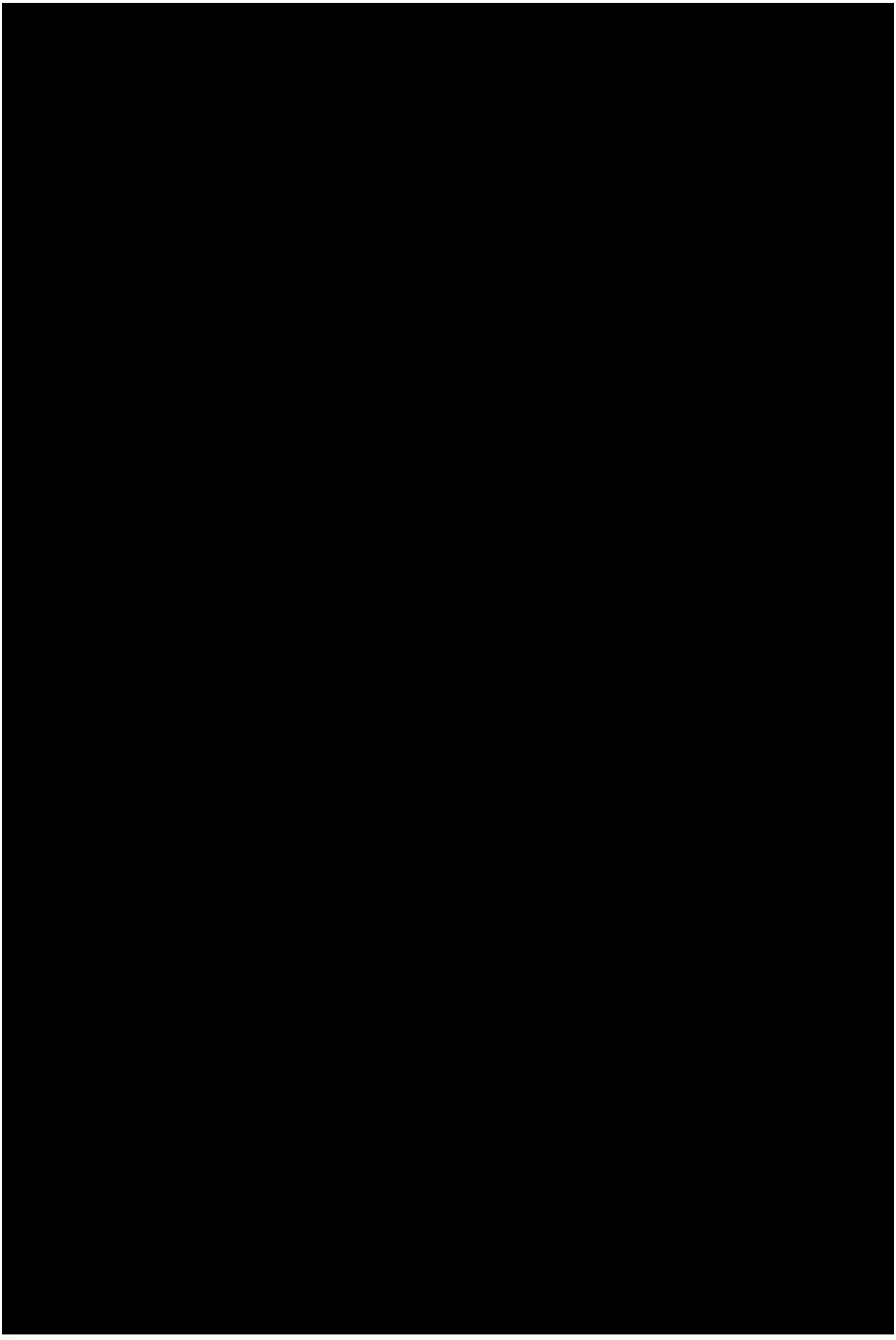


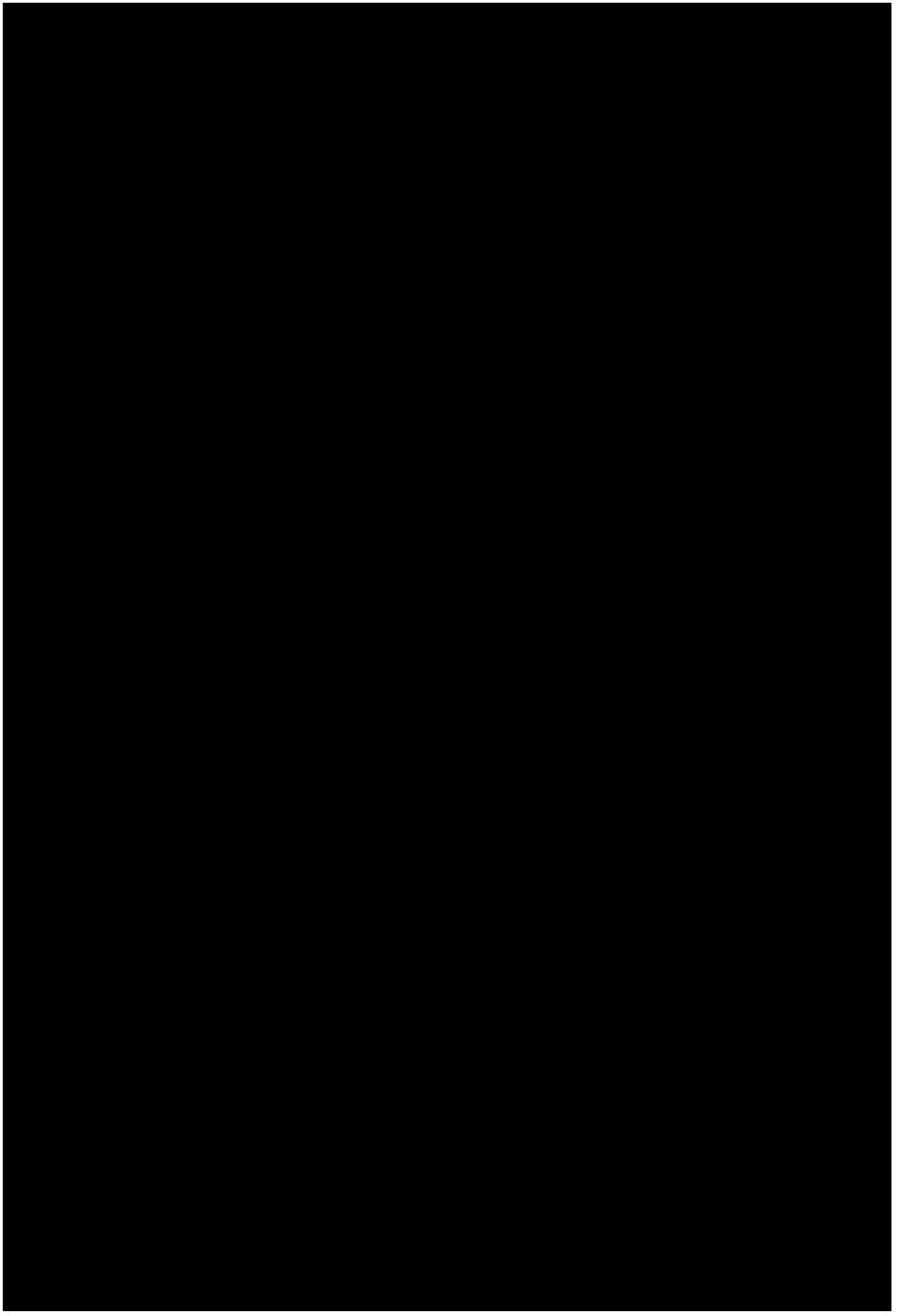


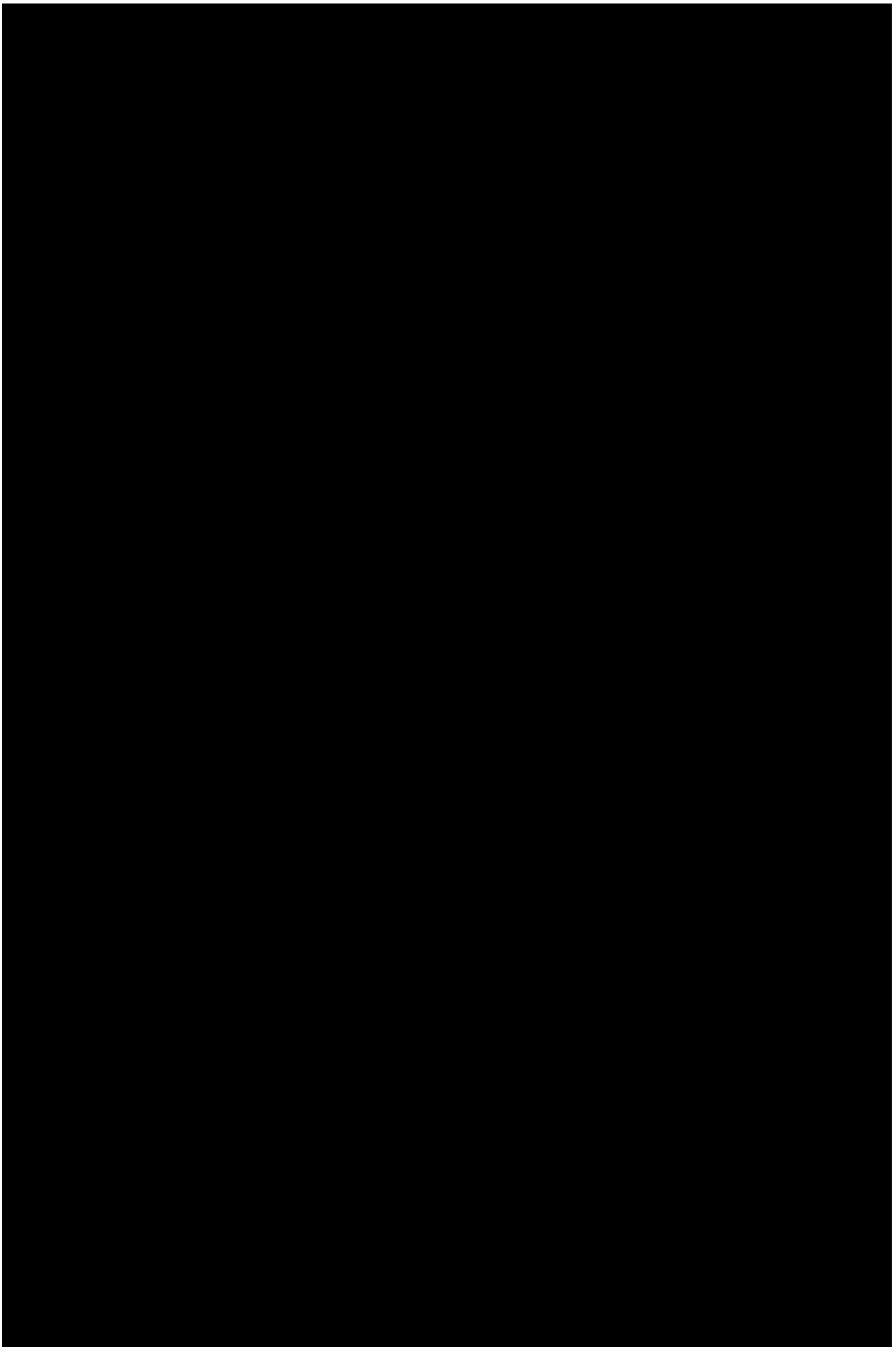


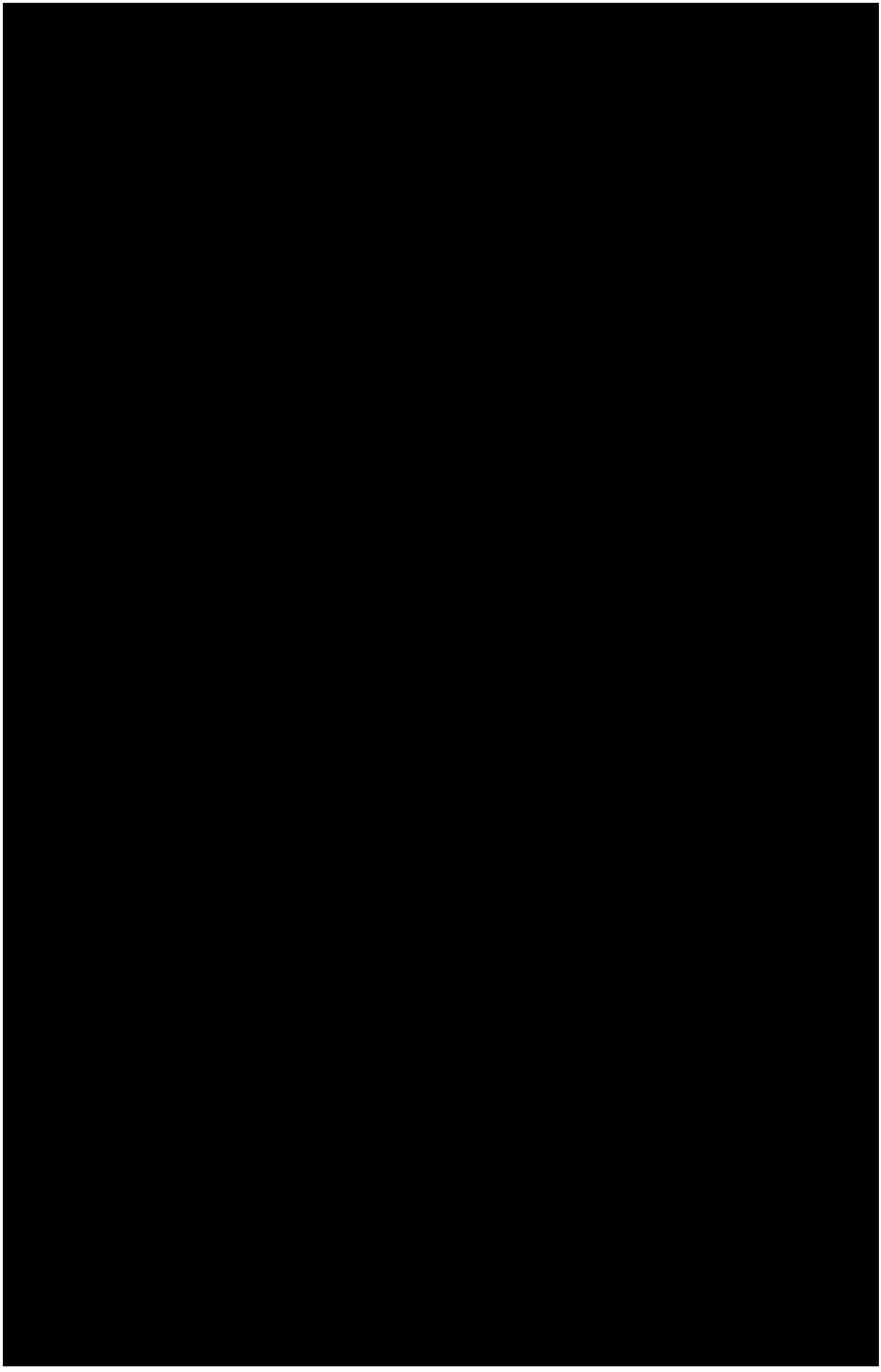


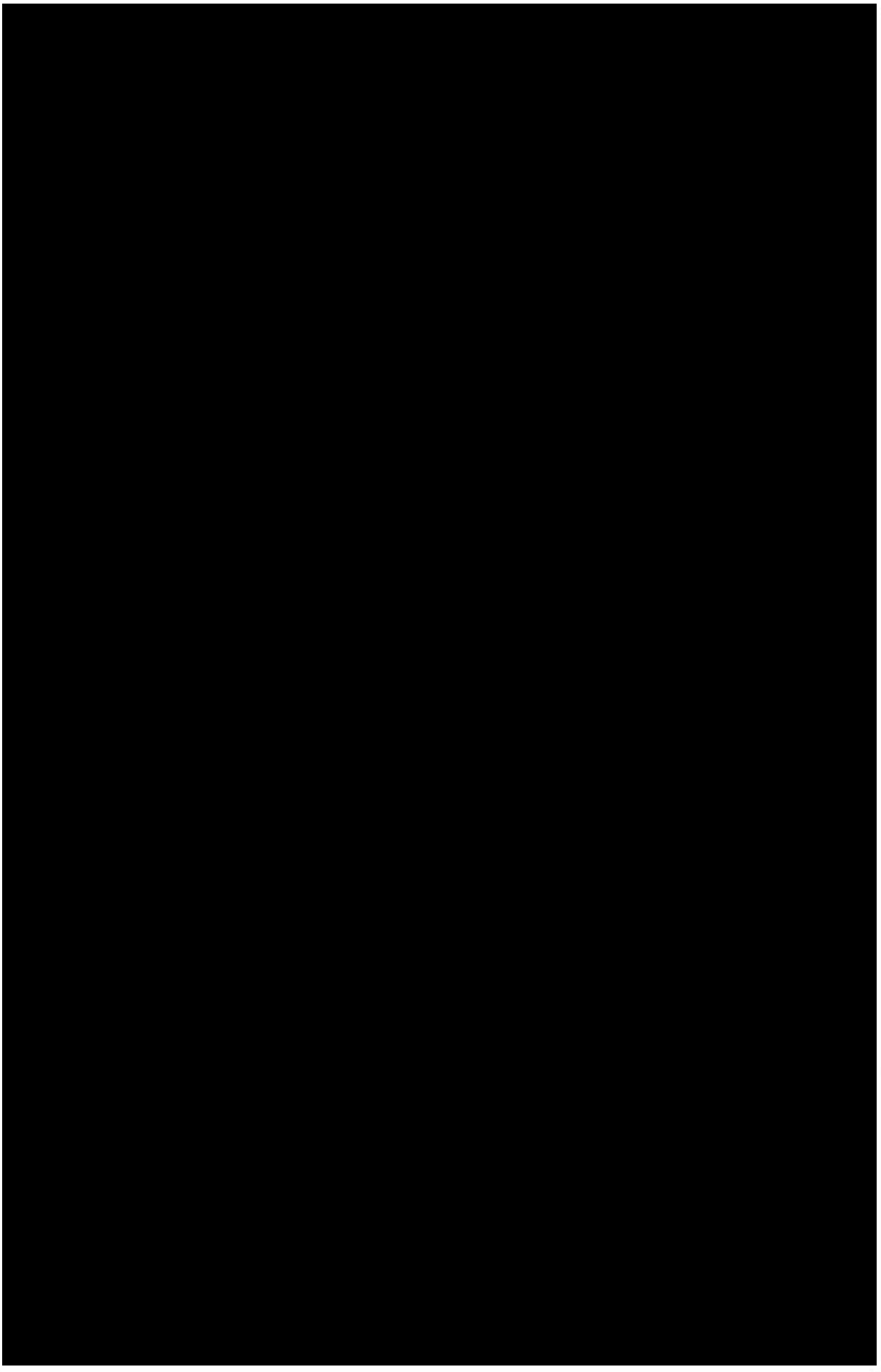


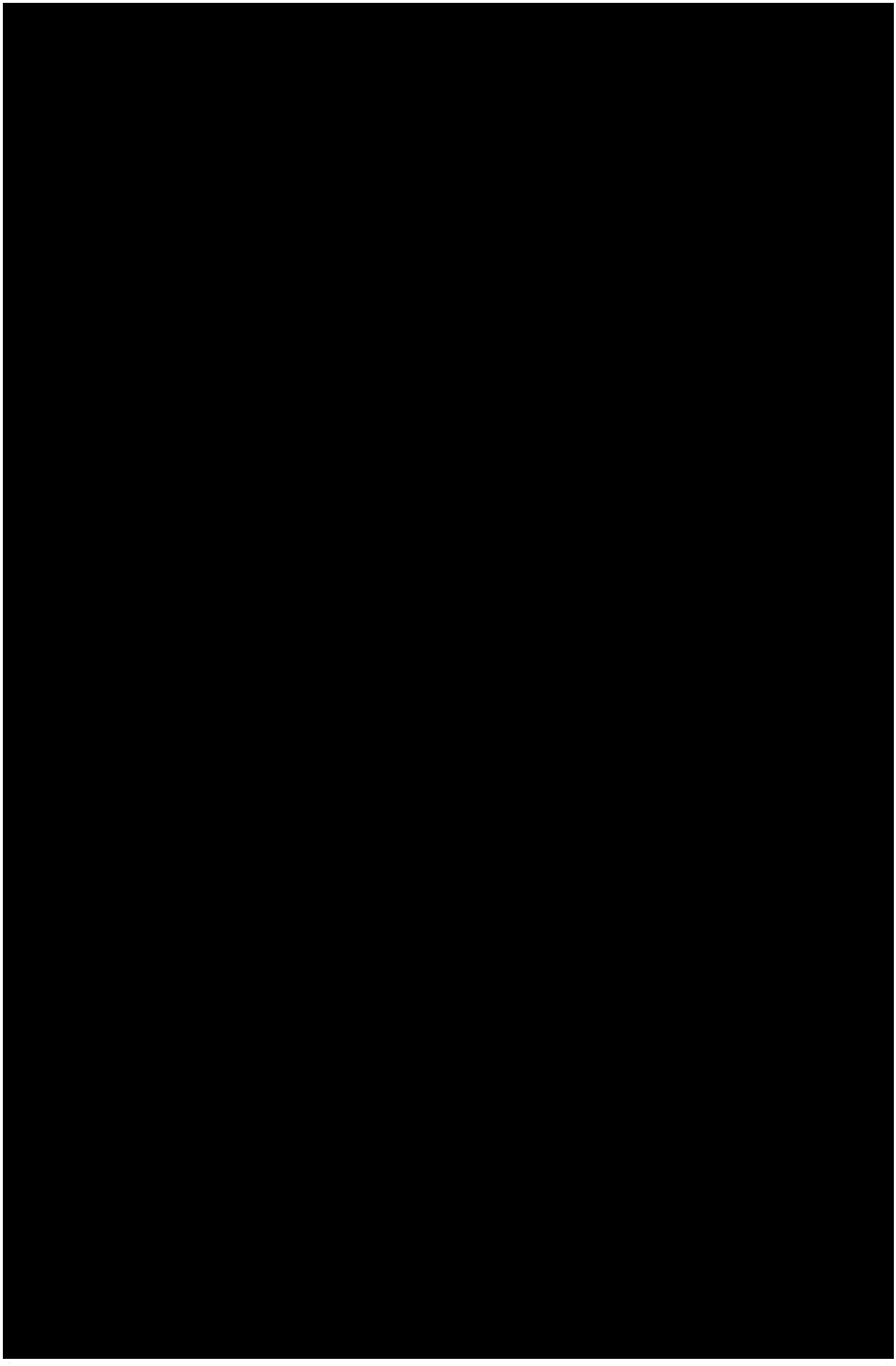


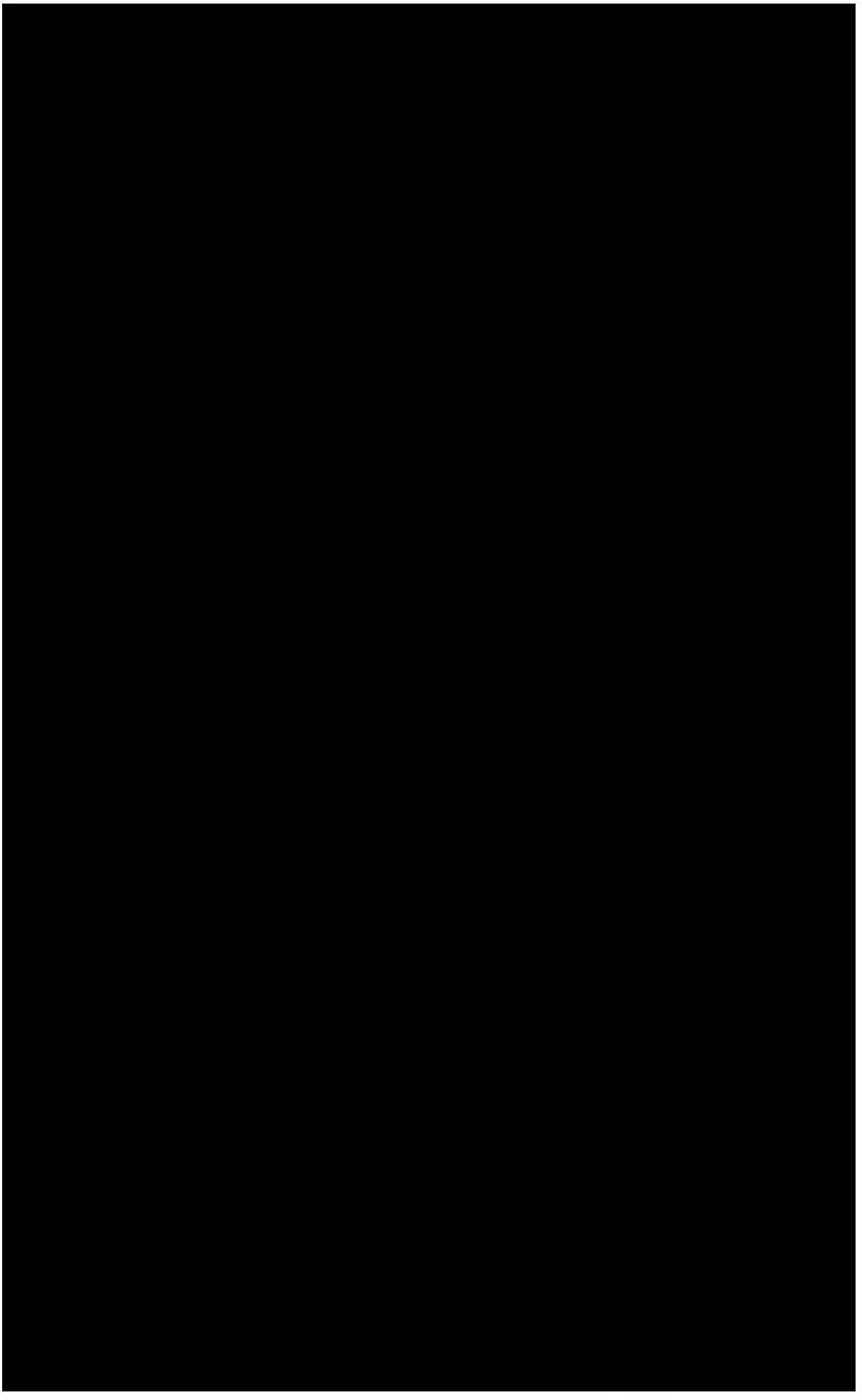


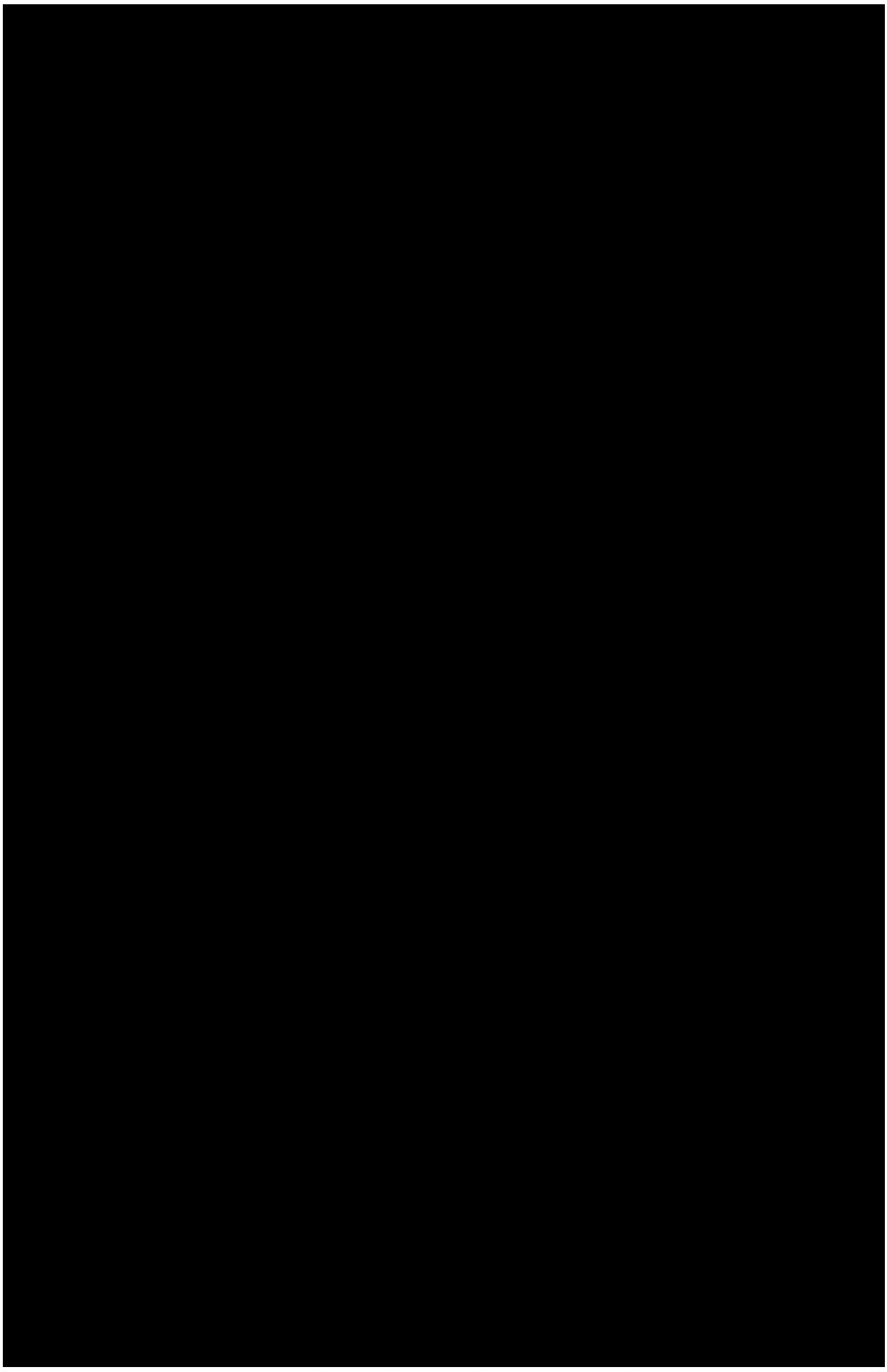


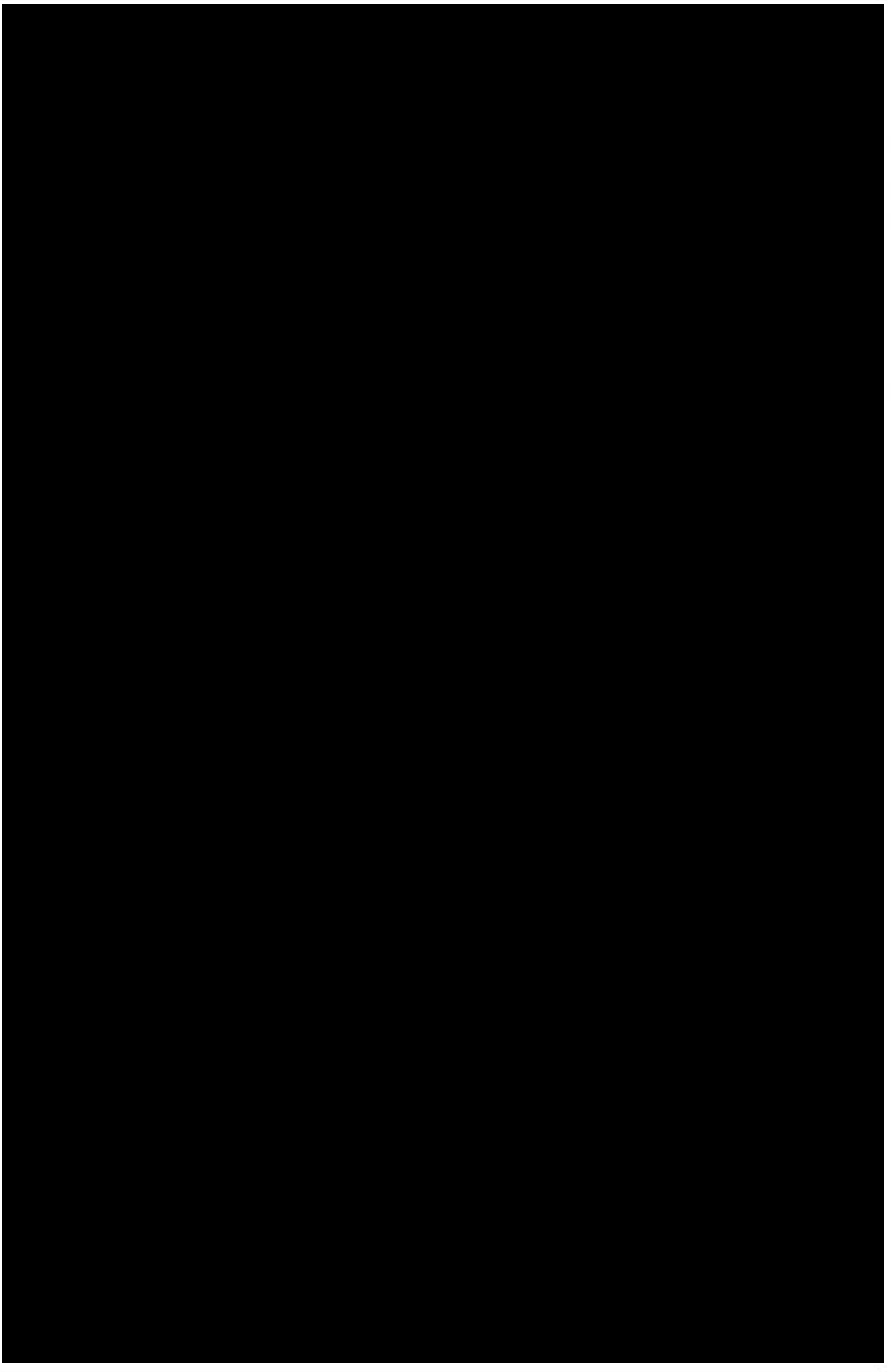


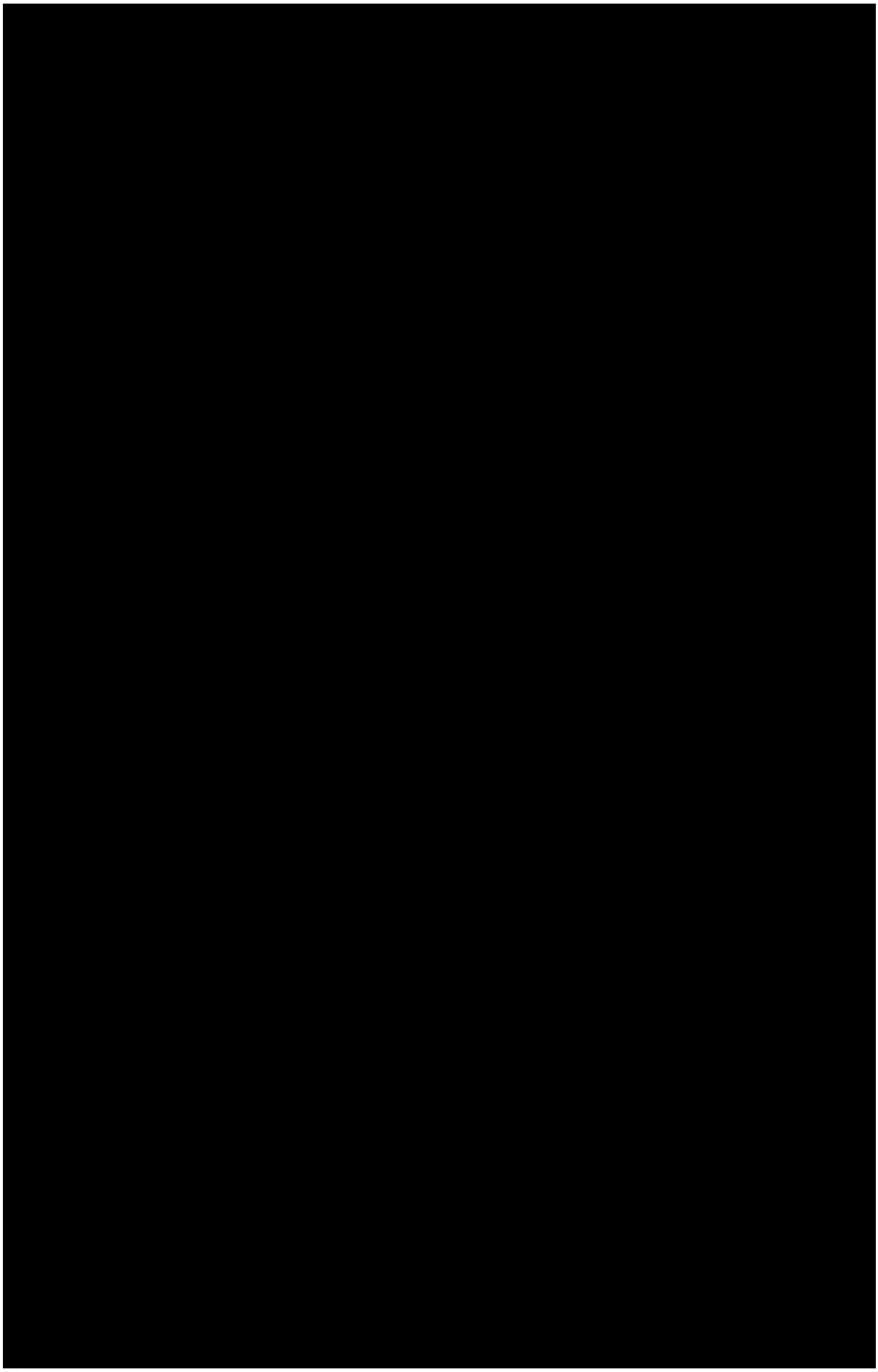


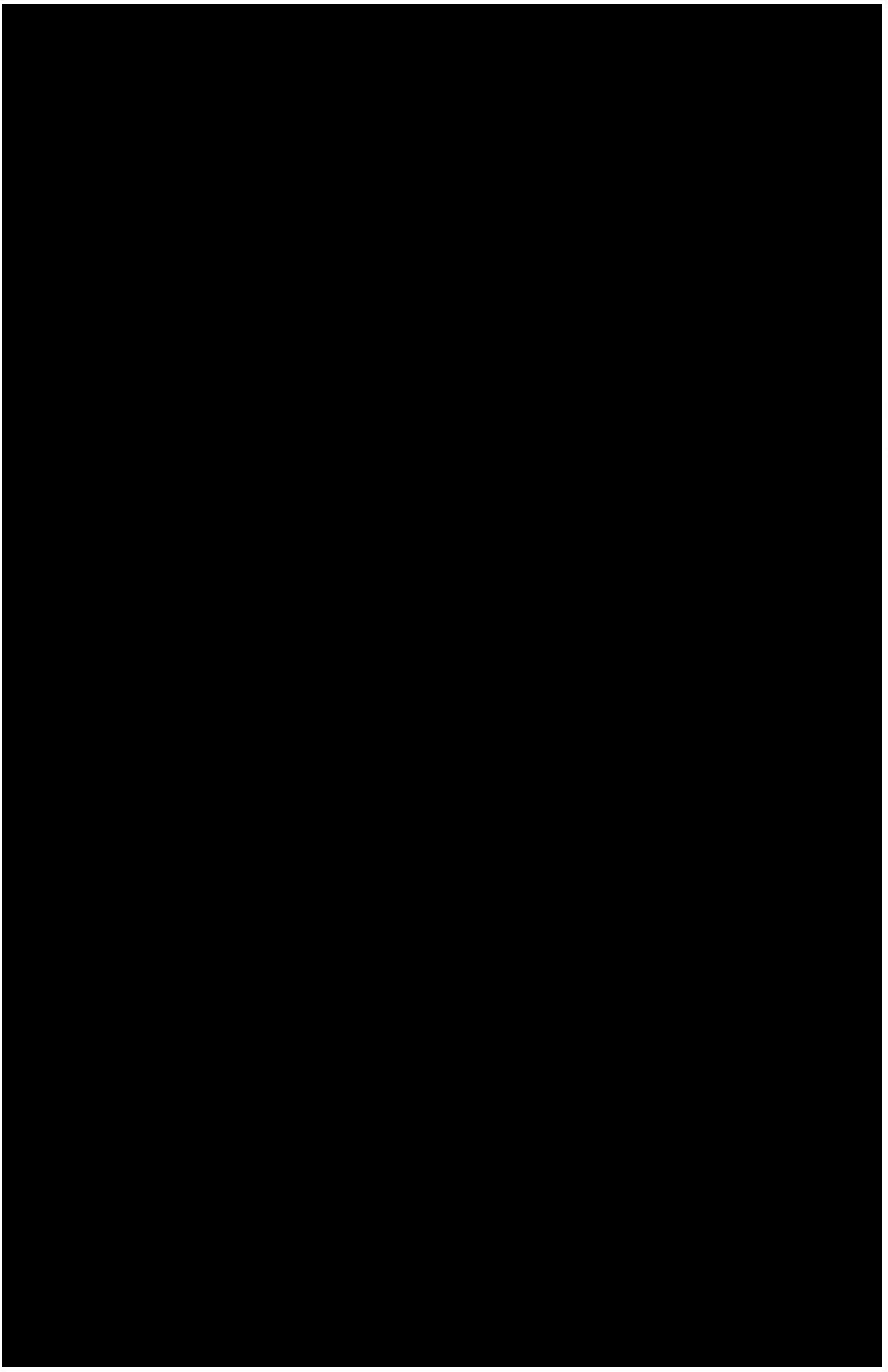


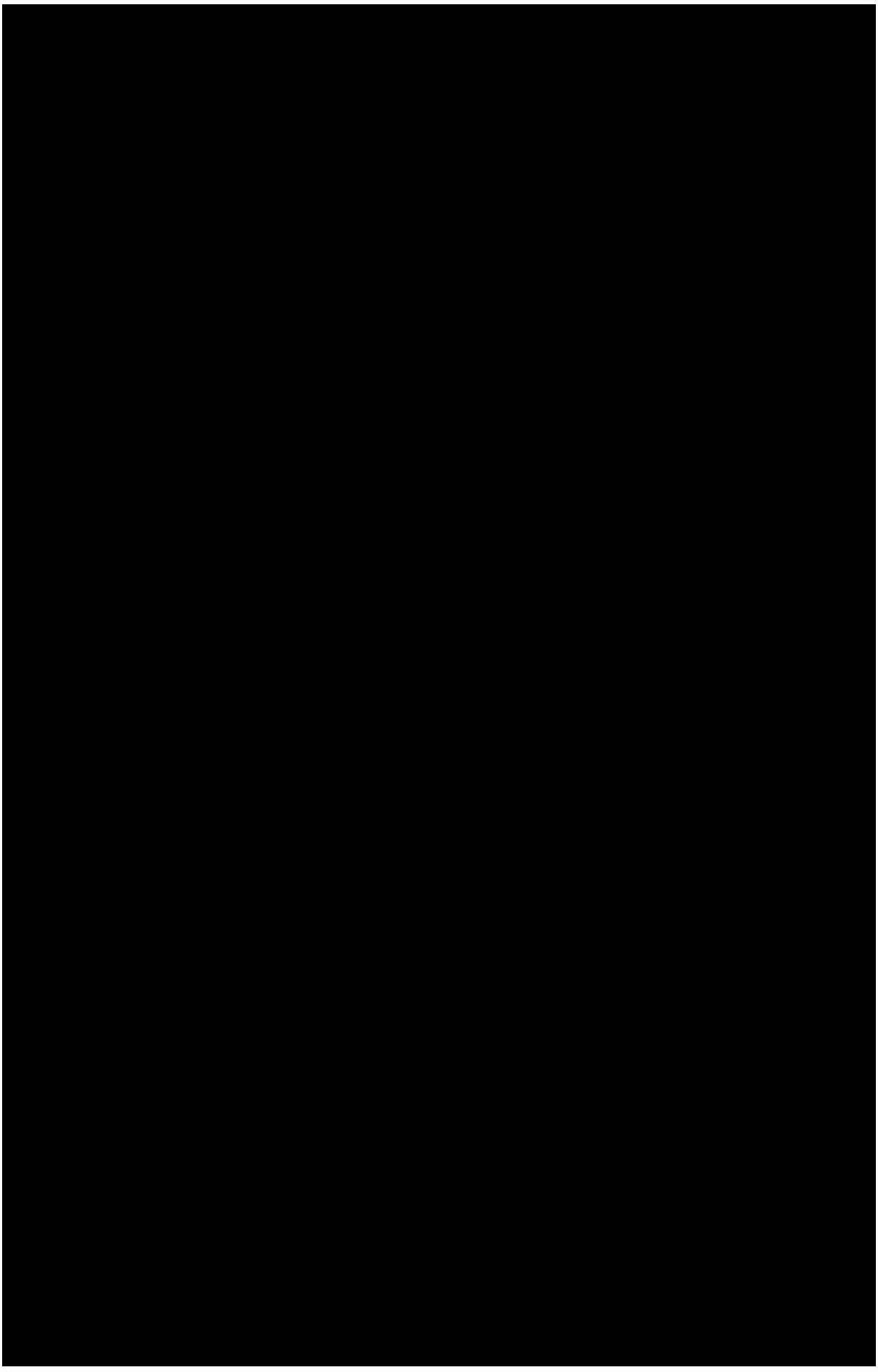


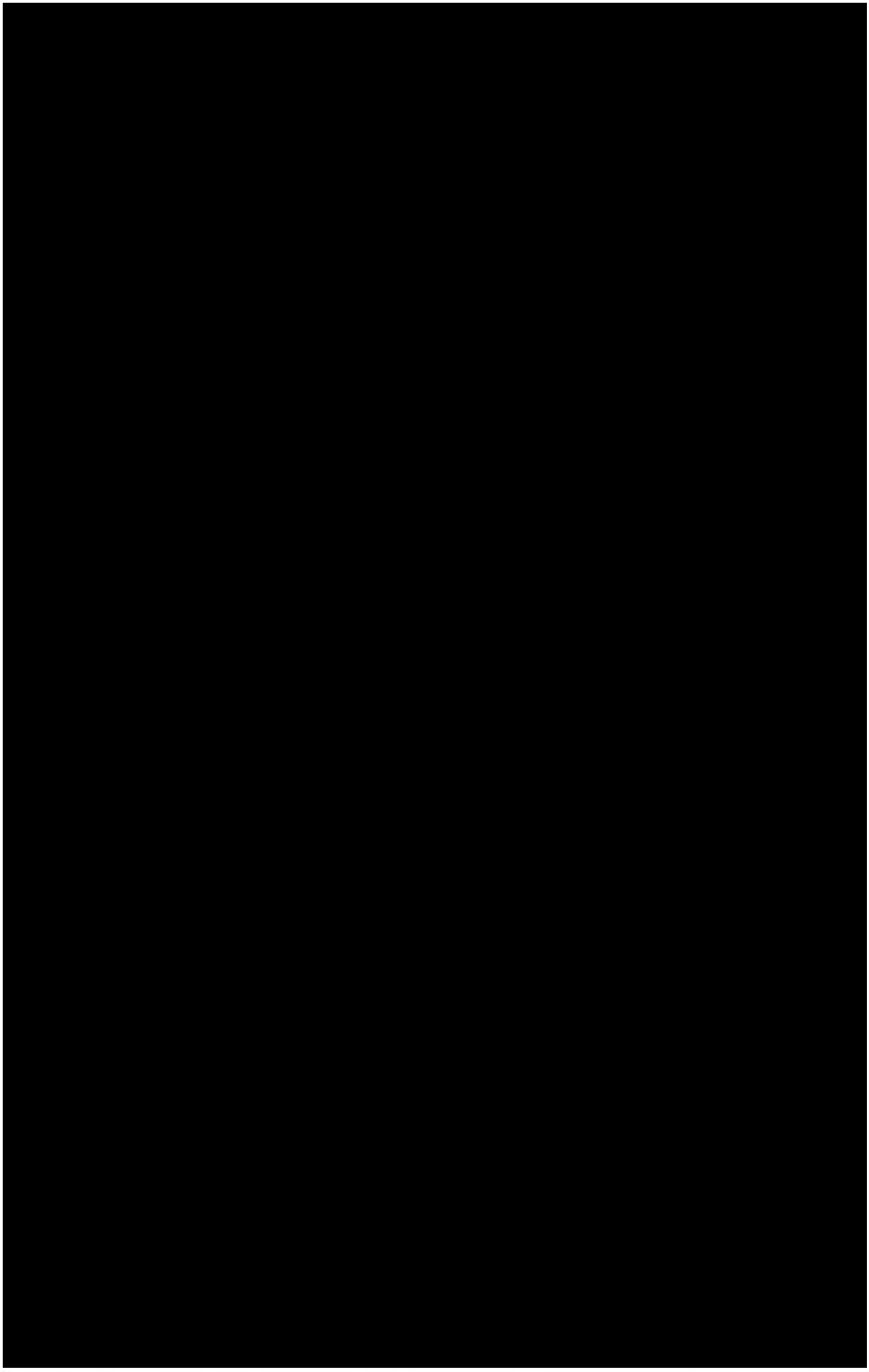


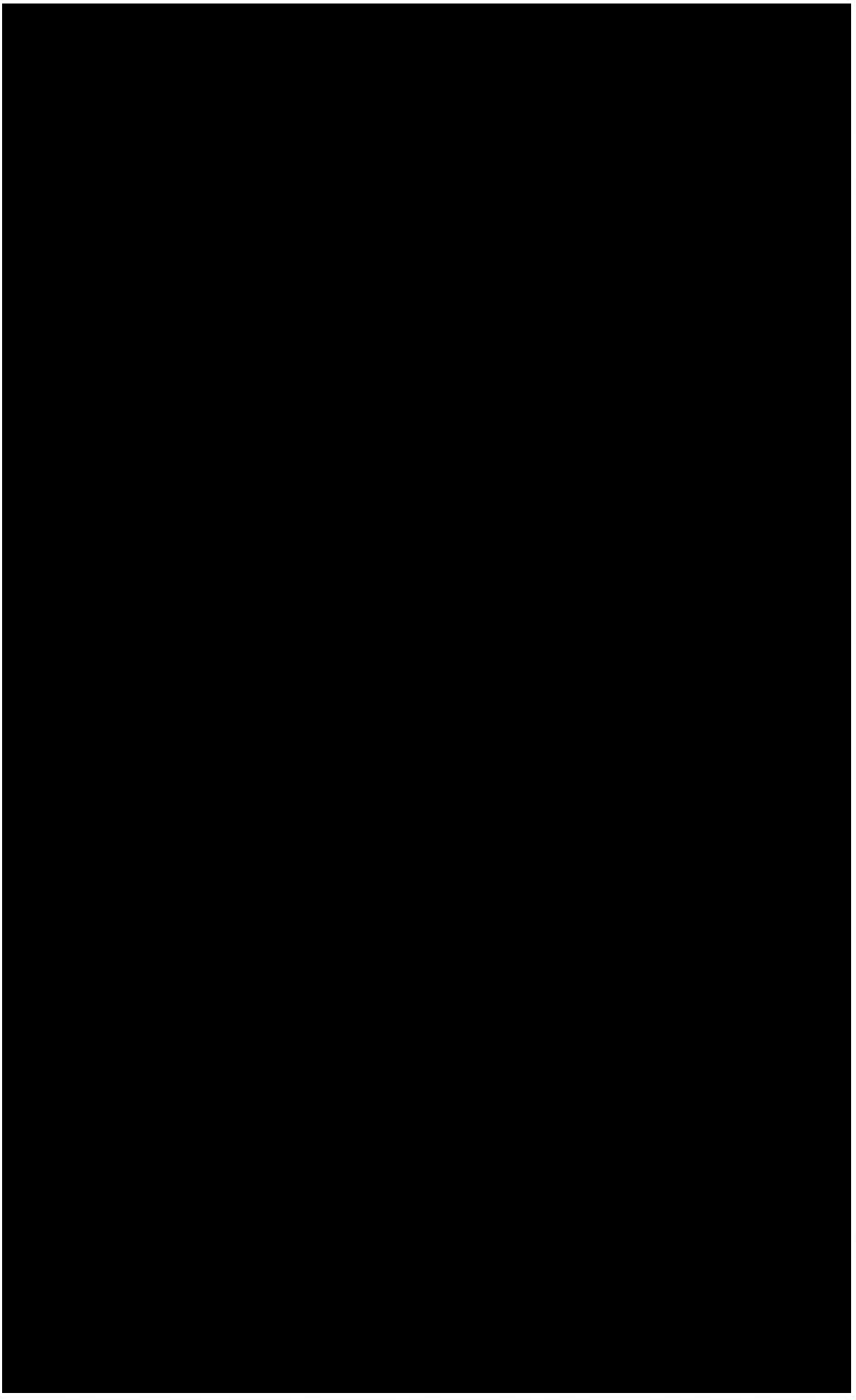


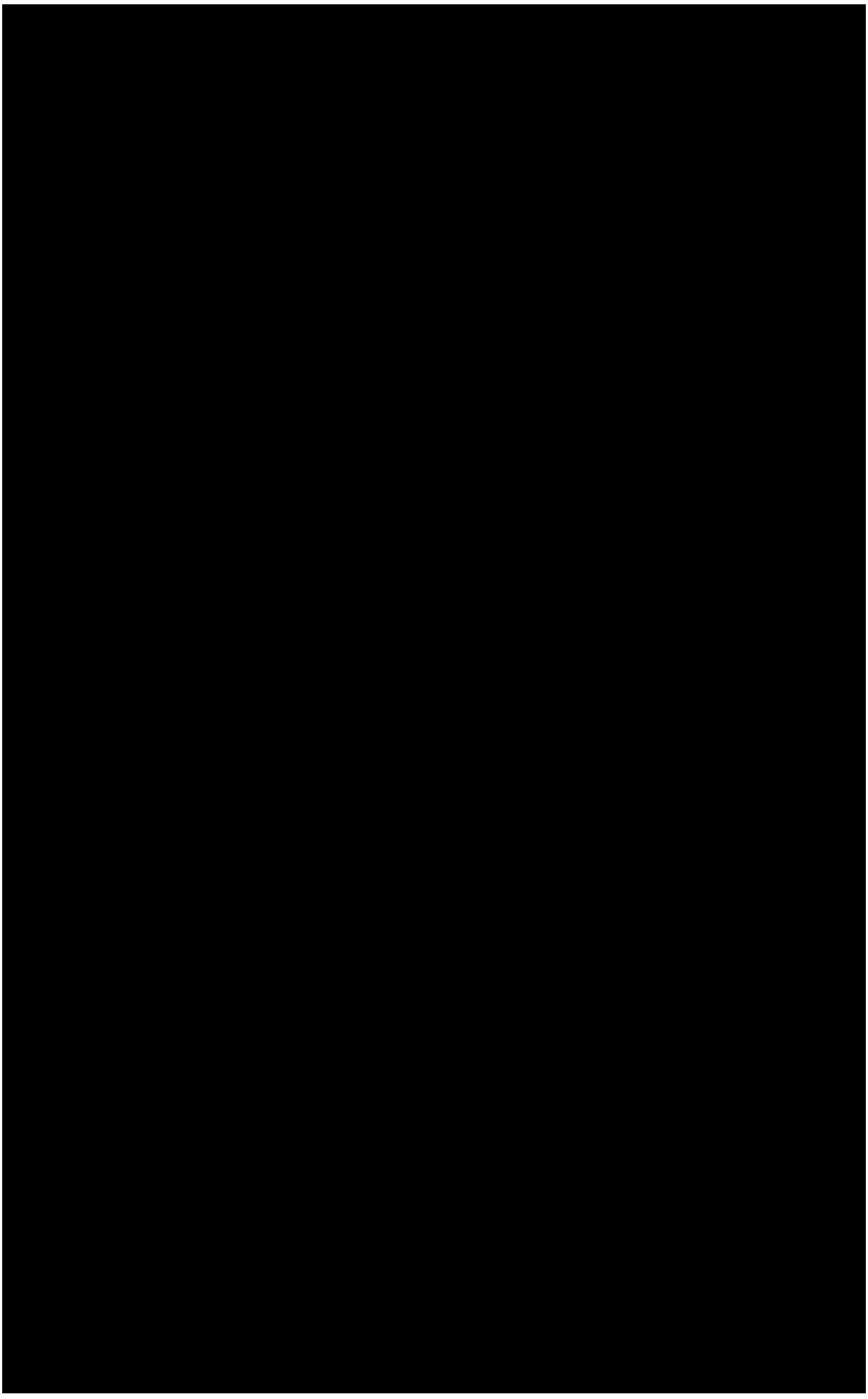


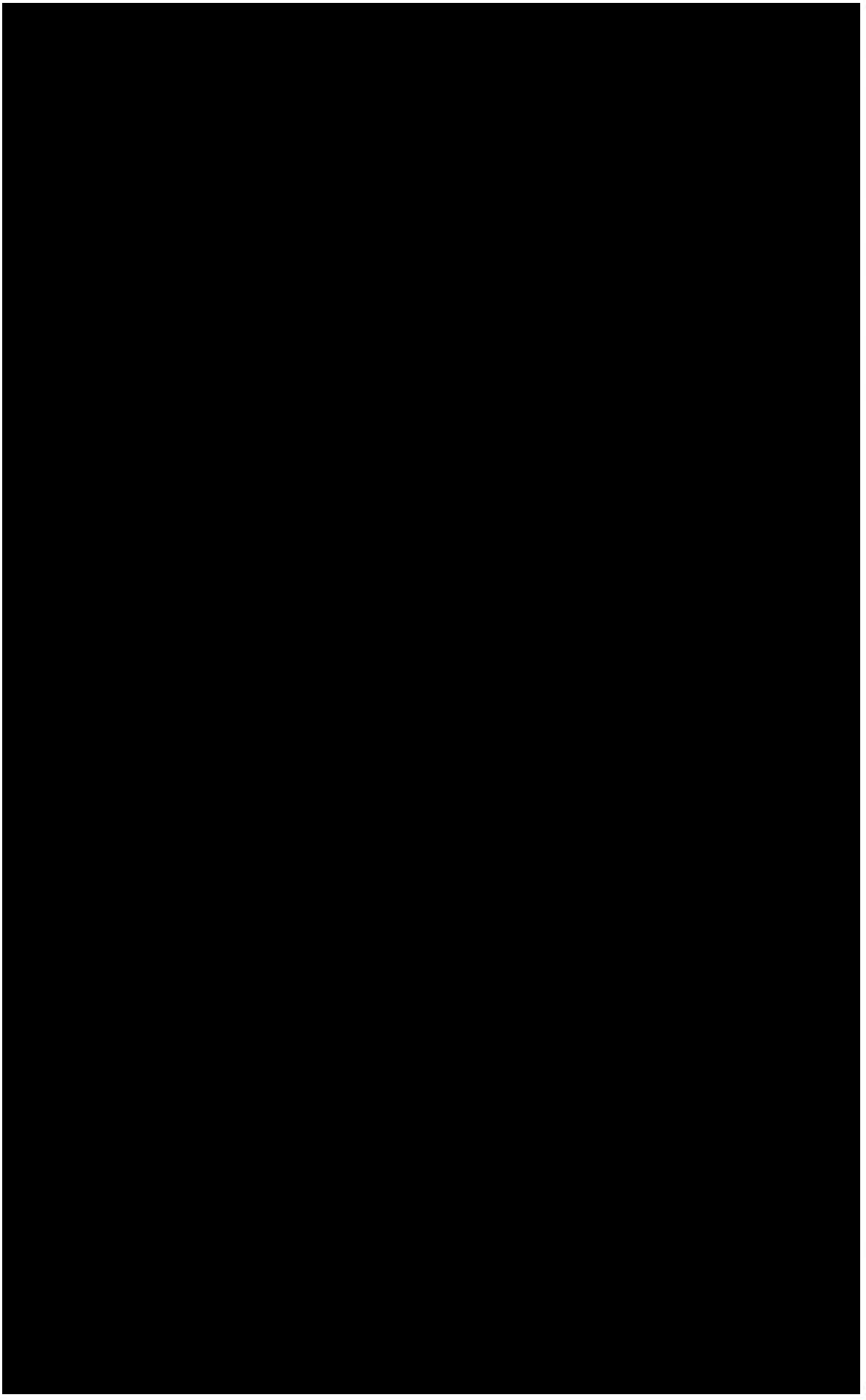


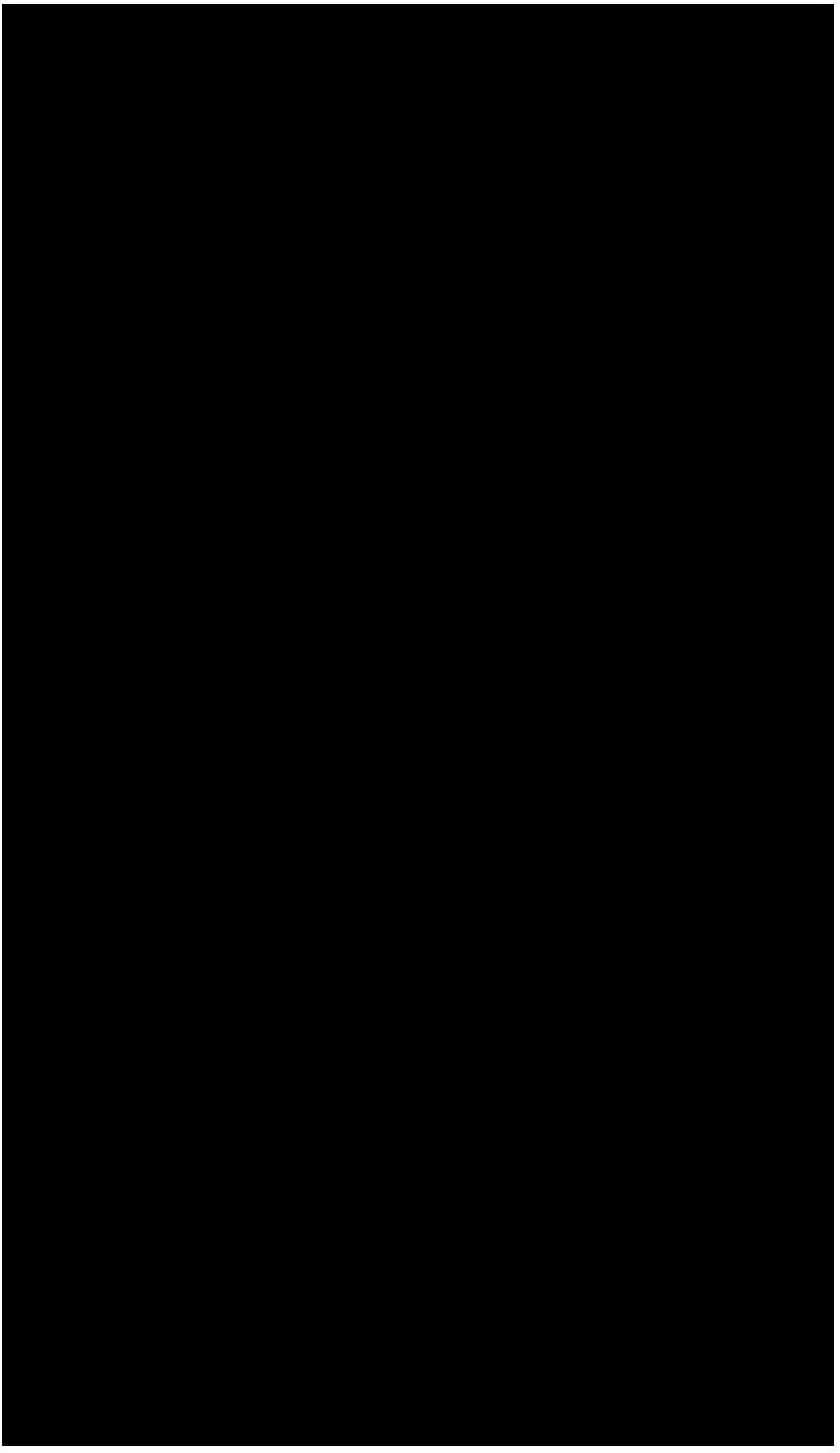


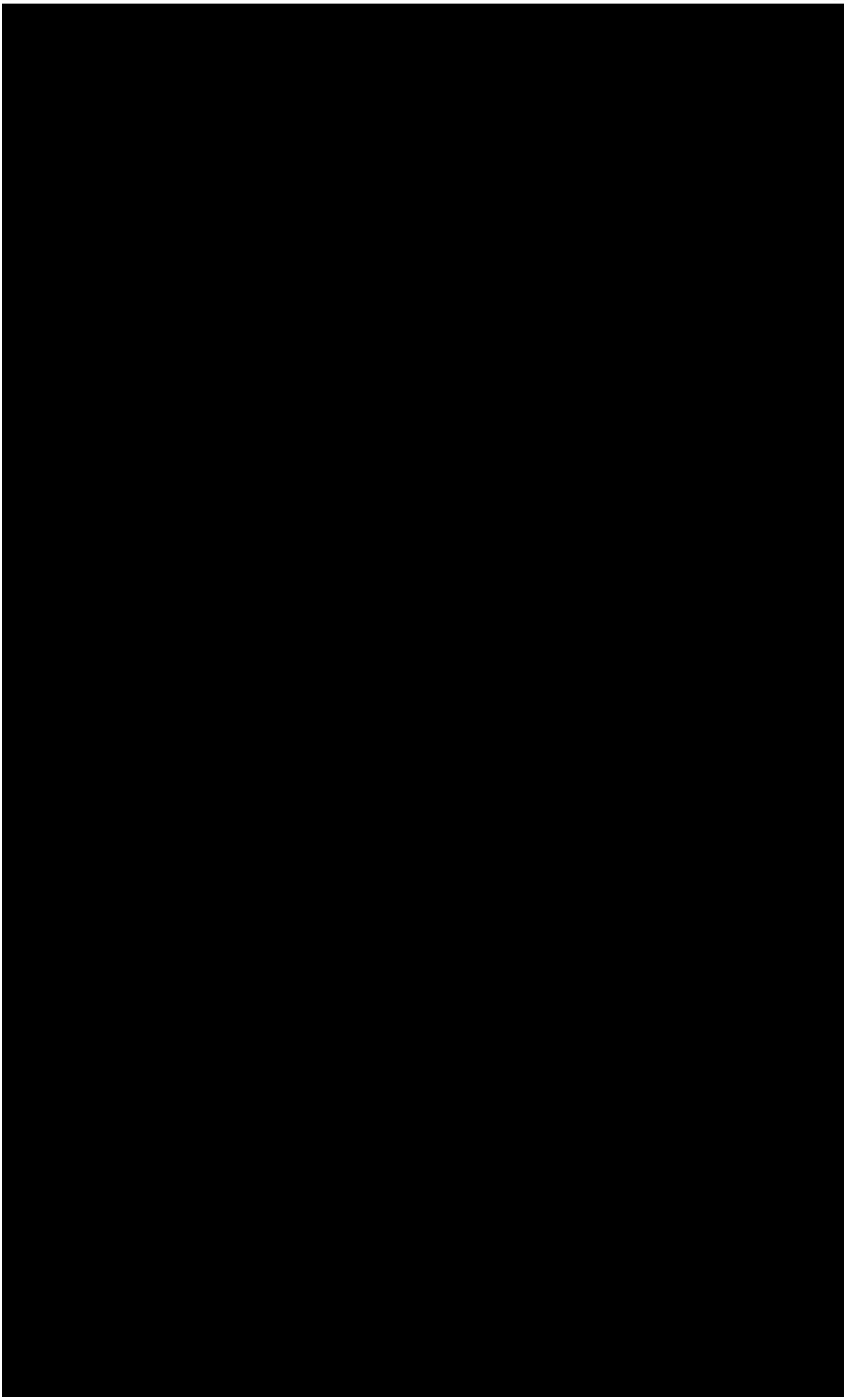












(NO6) Corby, Giselle

From: (NO6) Grech, Darren
Sent: 11 June 2020 16:33
To: (NO6) Corby, Giselle
Subject: Fwd: Police Witness Statement
Attachments: image001.jpg; ATT00001.htm; image002.png; ATT00002.htm; Witness Statement Grech.pdf; ATT00003.htm; exhibit label DG-5.docx; ATT00004.htm; exhibit label DG-4.docx; ATT00005.htm; exhibit label DG-3.docx; ATT00006.htm; STATEMENT OF WITNESS.docx; ATT00007.htm

G email trail self-explanatory. Could I please have hard copies to sign. D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

am the master of my fate: I am the captain of my soul."

Begin forwarded message:

From: "(RGP) Wyan, Mark" <Mark.Wyan@royalgib.police.gi>
Date: 11 June 2020 at 11:21:59 GMT+2
To: "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
Cc: "(RGP) Richardson, Paul (OTM)" <Paul.Richardson@royalgib.police.gi>
Subject: Police Witness Statement

Dear Mr Grech,

RE: Police Witness Statement

In relation to the ongoing police investigation into the NSCIS platform, and further to your witness statement dated the 4th May 2020, please find attached:

1. A pdf copy of your statement dated 04/05/2020;
2. A copy of your statement dated 04/05/20 transposed onto a police witness statement form;
3. Three exhibit label forms corresponding to your tendered exhibits.

I would be very grateful if you could sign the police witness statement form and each of the three exhibit label forms.

If you let me know when this has been done I'd be happy to arrange collection.

Kind Regards,

Mark Wyan

HM Government of Gibraltar

Office of the Chief Secretary

Handed over by CoP at 1120 hrs. 13.5.20. Supt.

SUPPLEMENTARY WITNESS STATEMENT

This statement (consisting of 7 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

My name is Darren Grech. I am currently employed as Chief Secretary by Her Majesty's Government of Gibraltar (HMGoG).

I am making this Supplementary Witness Statement further to the first Witness Statement I made dated 21 January 2020.

This Supplementary Witness is made pursuant to a letter I received from the Commissioner of Police, Mr Ian McGrail OTM MSc, dated 14 April 2020. I now tender in evidence "**Exhibit DG/3**" a copy of the said letter.

In that letter, the Commissioner has requested that I provide "*as much detail as possible on the subject of ownership*" of the NSCIS platform. The Commissioner stated that this "*will necessitate not only the assertion that HMGoG are the legal owners of the platform, but also the basis of that belief, as well as any evidence in support of that position*".

Office of the Chief Secretary
HM Government of Gibraltar • 6 Convent Place • Gibraltar GX11 1AA
t +350 20051752 f +350 20040922 e darren.grech@gibraltar.gov.gi w gibraltar.gov.gi

The purpose of this Supplementary Witness Statement is to provide such information.

I would like to state from the outset, that ever since receiving the Commissioner's letter, I have asked for a search to be carried out of all relevant documents and material that may be held by HMGoG on this matter. I have, for now, refrained from contacting Mr Caine Sanchez for this purpose. Those documents and material are still being amassed for me and I expect to have them shortly. I therefore produce this Supplementary Witness Statement on the basis of the information which I have been able to obtain thus far. I reserve my position to complement this information once any further material is provided to me.

In light of the foregoing, in answer to the Commissioner's request I can say the following:

The Bland Group has a wide commercial relationship with HMGoG. This includes an arrangement for the provision of reporting and security services by OSG Limited, a company in the Bland Group, at the various entry points into Gibraltar (the "Services"). That arrangement existed before I took office as Chief Secretary. To the best of my knowledge it has existed for around five to six years.

I have asked to be shown a copy of the written contract between HMGoG and OSG Limited/Bland Group pursuant to which the latter provides the Services to the former. I have been informed that no such contract exists and, to the best of my knowledge, I believe this to be true.

It appears to me to be relevant to start by saying that both parties agree that there is a dispute as to the ownership of the NSCIS platform. For instance, in an email dated as recently as Monday 2 March 2020 sent at 20:02 hrs by HMGoG's Financial Secretary to Mr Nicholas Gaggero of the Bland Group, the Financial Secretary stated as follows:

> *"As you know at present there is a level of dispute between us as to ownership of the NSCIC system that has been developed for Government. I prefer not to go into the detail save to say that agreeing to the statement of work would effectively signify our agreement with the ownership of the Intellectual Property. This would have an impact not just on this module of work but by extension to the whole NSCIS system".*

Mr Gaggero replied almost immediately, at 20:35 hrs, as follows:

> *"I understand. Let me take this offline and come back to you tomorrow with a proposal to overcome this issue".*

That exchange originated in an email sent by Mr Gaggero to the Financial Secretary dated Thursday 20 February 2020 in which Mr Gaggero made a proposal for the provision by the Bland Group of a further service to HMGoG, namely, a mobile passport scanning application for Gibraltar's law enforcement agencies. Attached to Mr Gaggero's email was a draft Statement of Work which had a proposed clause on "Intellectual Property" which provided that *"[t]he compiled final system as well as the source*

code will remain the intellectual property of Bland Group". It is this that the Financial Secretary contested, and which Mr Gaggero accepted as being contested, in their email exchange of Monday 2 March 2020.

I now tender in evidence "**Exhibit DG/4**" a copy of the said emails of Thursday 20 February 2020 and Monday 2 March 2020.

Two matters appear to me to be clear from the foregoing:

- there is no written contract between HMGoG and OSG/Bland Group that could have clarified the question of ownership of the NSCIC platform; and
- there is a very clear disagreement between the parties on the question of ownership.

Thus, although there has clearly been an arrangement between HMGoG and OSG/Bland Group whereby the latter has been providing the Services to the former, and even if one were to consider that that arrangement constitutes an implied or oral agreement between the parties, on which I do not express any view, the stark reality is that, as the exchange of emails of Monday 2 March 2020 between the Financial Secretary and Mr Nicholas Gaggero shows, both parties agree that there exists a dispute as to the ownership of the NSCIS platform.

I would like to point out that HMGoG officials I have consulted are unanimous in the view that they never had any doubt that HMGoG was indeed the owner of the NSCIS platform.

For instance, I have been informed and, to the best of my knowledge, I believe this to be true, that in or around September 2013 HMGoG purchased from the Bland Group the so-called "Frontier Monitoring Project" or "FMP" system. This consisted of a CCTV and ANPR system to monitor movements at the border which was required by HMGoG for the purposes of compiling data on queuing times at the border. This was for the purposes of an investigation being conducted by the European Commission on border delays applied by Spain. The FMP system captured data on flow at the border. That arrangement was subsequently extended to cover other entry points in Gibraltar. This led to an iterative process whereby the system was repeatedly expanded and redesigned and became what is in place today, namely, the NSCIS system. In particular, I have been informed and, to the best of my knowledge, I believe this to be true, that HMGoG was intrinsically involved in the redesign and development of the platform; that all key decisions in relation to the platform were taken by HMGoG; that the decisions concerning the addition of users of the platform were taken by HMGoG; that the cameras used for the collection of the data are all owned by HMGoG; that at all times HMGoG has had complete control over the data; that the data was being used by HMGoG, and that OSG knew fully well that the data was being used by HMGoG, for sharing with third parties including law enforcement agencies in Gibraltar and elsewhere, and not least the European Commission. Indeed, that was the very purpose for the original need of the platform.

5

I have further been informed and, to the best of my knowledge, I believe this to be true, that HMGoG pays OSG/Bland Group a sum of approximately £[redacted] per month for the operation of the NCSIS platform. This appears to me to be a very considerable amount of money which, it seems to me, confirms that HMGoG was paying in consideration for, inter alia, full ownership of the NSCIS platform otherwise that sum appears to me to make very little sense.

For the sake of completeness, in an email sent to me dated 25 October 2019, HMGoG's Data Protection Officer, Mr Tito Garro, attached what appears to me a standard template draft contract proposed by the Blands Group in the context of regularising the relationship between HMGoG and the Blands Group for the future. It appears to me that the context of this correspondence was the continued disagreement between the parties on the question of ownership of the NSCIS platform. I now tender in evidence "**Exhibit DG/5**" a copy of the said template. I do not believe that this template does anything other than, in effect, confirm the existence of such disagreement. Needless to say, HMGoG never accepted or signed it.

I am clearly not privy to what arguments OSG/Bland Group have put forward to the Royal Gibraltar Police to allege ownership of the NSCIS platform, let alone the detail of that argument, the basis of their belief or any evidence that they have put forward to support their assertion. In light of what I truly believe to be the true position on that matter, as set out in this Supplementary Witness Statement, such assertions cannot be based on any written contract nor, indeed, on any written or oral evidence and HMGoG strongly contests such assertions.

Furthermore, I have been advised by the Government Law Offices that, in the absence of a written contract setting out the position on ownership in clear and unambiguous language, it is indeed very difficult for OSG/Bland Group to make such an assertion.

Finally, I would like to place on record that on Thursday 30 April 2020, the Attorney General forwarded to me an email he had received from Mr Robert Fischel QC who is acting for Messrs Cornelio, Perez and Asquez. Mr Fischel's email contains a letter of that same date addressed to the Commissioner and addressing the issue of ownership of the NCSIS platform. I can confirm that I have read that letter but that the contents of this Supplementary Witness Statement, which had been largely drafted before I saw Mr Fischel's letter, have not been influenced by it.

Mr Darren Grech
Chief Secretary
HMGoG
4 May 2020

ROYAL GIBRALTAR POLICE

STATEMENT OF WITNESS

Criminal Procedure and Evidence Act 2011 ss. 187 and 405; Criminal Procedure Rules r 16.2

CR/OB No [ ][ ] --- [ ][ ] --- [ ][ ][ ][ ][ ][ ][ ][ ] --- [ ]

Surname: **Grech** Forenames: **Darren**

Age of witness (if over 18 enter over 18): **Over 18**

Occupation: **Chief Secretary at HMGOG**

This statement (consisting of 5 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 4th day of May 2020

Signed: _____

My name is Darren Grech. I am currently employed as Chief Secretary by Her Majesty's Government of Gibraltar (HMGoG).

I am making this Supplementary Witness Statement further to the first Witness Statement I made dated 21 January 2020.

This Supplementary Witness is made pursuant to a letter I received from the Commissioner of Police, Mr Ian McGrail OTM MSc, dated 14 April 2020. I now tender in evidence "***Exhibit DG/3***" a copy of the said letter.

In that letter, the Commissioner has requested that I provide "*as much detail as possible on the subject of ownership*" of the NSCIS platform. The Commissioner stated that this "*will necessitate not only the assertion that HMGoG are the legal owners of the platform, but also the basis of that belief, as well as any evidence in support of that position*".

The purpose of this Supplementary Witness Statement is to provide such information.

Signed: _____ Signature Witnessed by: _____

The contents of this document will be processed in strict compliance with the Royal Gibraltar Police's policy on Data Protection, which has been compiled in accordance with the provisions of the *Data Protection Act 2004*

I would like to state from the outset, that ever since receiving the Commissioners letter, I have asked for a search to be carried out of all relevant documents and material that may be held by HMGoG on this matter. I have, for now, refrained from contacting Mr Caine Sanchez for this purpose. Those documents and material are still being amassed for me and I expect to have them shortly. I therefore produce this Supplementary Witness Statement on the basis of the information which I have been able to obtain thus far. I reserve my position to complement this information once any further material is provided to me.

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> *"As you know at present there is a level of dispute between us as to ownership of the NSCIS system that has been developed for Government. I prefer not to go into the detail save to say that agreeing to the statement of work would effectively signify our agreement with the ownership of the Intellectual Property. This would have an impact not just on this module of work but by extension to the whole NSCIS system".*

Mr Gaggero replied almost immediately, at 20:35 hrs, as follows:

> *"I understand. Let me take this offline and come back to you tomorrow with a proposal to overcome this issue".*

Signed: _____ Signature Witnessed by: _____

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- *there is a very clear disagreement between the parties on the question of ownership.*

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Signed: _____ Signature Witnessed by: _____

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arrangement was subsequently extended to cover other entry points in Gibraltar. This led to an iterative process whereby the system was repeatedly expanded and redesigned and became what is in place today, namely, the NSCIS system. In particular, I have been informed and, to the best of my knowledge, I believe this to be true, that HMGoG was intrinsically involved in the redesign and development of the platform; that all key decisions in relation to the platform were taken by HMGoG; that the decisions concerning the addition of users of the platform were taken by HMGoG; that the cameras used for the collection of the data are all owned by HMGoG; that at all times HMGoG has had complete control over the data; that the data was being used by HMGoG, and that OSG knew fully well that the data was being used by HMGoG, for sharing with third parties including law enforcement agencies in Gibraltar and elsewhere, and not least the European Commission. Indeed, that was the very purpose for the original need of the platform.

I have further been informed and, to the best of my knowledge, I believe this to be true, that HMGoG pays OSG/Bland Group a sum of approximately £[redacted] per month for the operation of the NCSIS platform. This appears to me to be a very considerable amount of money which, it seems to me, confirms that HMGoG was paying in consideration for, inter alia, full ownership of the NSCIS platform otherwise that sum appears to me to make very little sense.

For the sake of completeness, in an email sent to me dated 25 October 2019, HMGoG's Data Protection Officer, Mr Tito Garro, attached what appears to me a standard template draft contract proposed by the Blands Group in the context of regularising the relationship between HMGoG and the Blands Group for the future. It appears to me that the context of this correspondence was the continued disagreement between the parties on the question of ownership of the NSCIS platform. I now tender in evidence "***Exhibit DG/5***" a copy of the said template. I do not believe that this template does anything other than, in effect, confirm the existence of such disagreement. Needless to say, HMGoG never accepted or signed it.

I am clearly not privy to what arguments OSG/Bland Group have put forward to the Royal Gibraltar Police to allege ownership of the NSCIS platform, let alone the detail of that argument, the basis of their belief or any evidence that they have put forward to support their assertion. In light of what I truly believe to be the true position on that matter, as set out in this supplementary Witness Statement, such assertions cannot be based on any written contract nor, indeed, on any written or oral evidence and HMGoG strongly contests such assertions.

Signed: _____ Signature Witnessed by: _____

The contents of this document will be processed in strict compliance with the Royal Gibraltar Police's policy on Data Protection, which has been compiled in accordance with the provisions of the *Data Protection Act 2004*

Cont. of statement of: Darren Grech

Furthermore, I have been advised by the Government Law Offices that, in the absence of a written contract setting out the position on ownership in clear and unambiguous language, it is indeed very difficult for OSG/Bland Group to make such an assertion.

Finally, I would like to place on record that on Thursday 30 April 2020, the Attorney General forwarded to me an email he had received from Mr Robert Fischel QC who is acting for Messrs Cornelio, Perez and Asquez. Mr Fischel's email contains a letter of that same date addressed to the Commissioner and addressing the issue of ownership of the NCSIS platform. I can confirm that I have read that letter but that the contents of this Supplementary Witness Statement, which had been largely drafted before I saw Mr Fischel's letter, have not been influenced by it.

Signed: _____ Signature Witnessed by: _____

The contents of this document will be processed in strict compliance with the Royal Gibraltar Police's policy on Data Protection, which has been compiled in accordance with the provisions of the *Data Protection Act 2004*

OB No	Royal Gibraltar Police	Exhibits Stores ID No
Exhibit Book No		Identification No
		DG/3

Name of Case

Operation Delhi

Full names of all defendants in case. (Include Forenames and Surname(s).	1) 2) 3) 4) 5) 6)

Officer in Charge of Case:- Insp Mark Wyan

Description of Exhibit:
Copy of a letter received from Commissioner of Police Mr Ian McGrail, dated 14th April 2020

Person producing exhibit:	Darren Grech	Signed:
Person Identifying exhibit:	Name, Rank & No.	Signed:
Person Identifying exhibit:	Name, Rank & No.	Signed:

FOR COURT USE ONLY

Court:-

Case:-

Signature of Magistrates/Justice of the Peace/Clerk to the Court							Exhibit No.
Date:							

Exhibit DG/3

Royal Gibraltar POLICE | *Delivering a Safer Gibraltar through Excellence in Policing*

Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

Our Ref: IM156

14th April 2020

Darren Grech
Chief Secretary
No. 6 Convent Place
Gibraltar
GX11 1AA

Dear Darren,

Re: Op Delhi – Hacking of NSCIS Platform

Thank you for your response to my letter and for clarifying the position of HMGoG asserting ownership of the NSCIS platform.

With regards to the witness statement, the investigating team will require as much detail as possible on the subject of ownership. This will necessitate not only the assertion that HMGoG are the legal owners of the platform, but also the basis of that belief, as well as any evidence in support of that position. My officers will assist you if you have any questions about the statement. In this regard please contact Detective Inspector Mark Wyan mark.wyan@royalgib.police.gi

As the police investigation comes to a close, we now have a much clearer picture of the role played by Caline Sanchez and evidence that the investigators argue amounts to criminal misconduct, a view which is shared by the Director of Public Prosecutions. Given the extent of his apparent criminality I would be happy to meet with you and outline the evidence against him. This may assist should there be a need to the issue of interdiction.

I should be grateful if were able to have your statement by the end of this week please.

Yours,

Ian McGrail
Commissioner of Police

OB No	Royal Gibraltar Police	Exhibits Stores ID No
Exhibit Book No		Identification No
		DG/4

Name of Case

Operation Delhi

Full names of all defendants in case. (Include Forenames and Surname(s))	1) 2) 3) 4) 5) 6)

Officer in Charge of Case:- Insp Mark Wyan

Description of Exhibit:
Copy of emails sent from Mr Nicholas Gaggero dated 2nd March 2020

Person producing exhibit:	Darren Grech	Signed:
Person Identifying exhibit:	Name, Rank & No.	Signed:
Person Identifying exhibit:	Name, Rank & No.	Signed:

FOR COURT USE ONLY

Court:-

Case:-

Signature of Magistrates/Justice of the Peace/Clerk to the Court	Exhibit No.
Date:	

(NO6) Grech, Darren

From: Nicholas Gaggero <Nicholas.Gaggero@blandgroup.com>
Sent: 02 March 2020 20:35
To: (MOF) Mena, Albert
Cc: (NO6) Redondo, Javier; John-Paul Payas
Subject: Re: Mobile Scanner Proposal

Hi Albert,

I understand. Let me take this offline and come back to you tomorrow with a proposal to overcome this issue.

Nicholas

Nicholas Gaggero

Bland Group
Cloister Building
Gibraltar GX11 1AA
www.blandgroup.com

On Mar 2, 2020, at 20:02, (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi> wrote:

> **[EXTERNAL EMAIL. Please check sender's email address is correct before responding, opening any attachments or clicking on any links]**
>
> Dear Nicholas,
>
> Thank you for the attached.
>
> The body of the email sets out what you had indicated to me informally and based on this we were keen to progress this matter. However having read the Statement of Work I am unable to sign it or indeed say I am in agreement with this.
>
> As you know at present there is a level of dispute between us as to ownership of the NCIS system that has been developed for Government. I prefer not to go into the detail save to say that agreeing to the statement of work would effectively signify our agreement with the ownership of the Intellectual Property. This would have an impact not just on this module of work but by extension to the whole NCIS system.
>
> I thought we had an understanding to remain neutral on this specific point until wider matters presently under investigation are resolved and brought to a logical conclusion.
>
> You will therefore appreciate that we cannot proceed with this on this basis.
>
> I remain available to discuss these issues with you.

Kind regards

Albert

Albert Mena
Financial Secretary

Office of the Financial Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20051168
Centrex: 2112
Fax: (+350) 20079901
albert.mena@gibraltar.gov.gi

www.gibraltar.gov.gi

Office of the Financial Secretary

HM Government of Gibraltar

From: Nicholas Gaggero [mailto:Nicholas.Gaggero@blandgroup.com]
Sent: 20 February 2020 14:30
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; John-Paul Payas <jp.payas@osgops.com>
Subject: Mobile Scanner Proposal

Dear Albert,

Please find attached Bland Group's proposal for Mobile Passport Scanners. I have summarized my key points below.

Technical summary:

- Bland Group have scoped a system that can scale to 50 devices, significantly more than the single device in service.
- The system will integrate with the [illegible] NSC Silverted and Messaging [illegible] the 4.5G network.
- The system will not only scan passports but [illegible] standards.

[illegible]

- We propose to remove [redacted] from the monthly NSC15 global invoice for the existing mobile scanning solution
- Software development [redacted]
- Monthly maintenance [redacted] month
- This plan covers 10 devices. Should this increase, we propose an additional [redacted] device month

Please confirm you authorise this proposal. My team is standing by and plan to have a prototype ready by the end of March.

With kind regards

Nicholas

<image002.jpg>

BLAND GROUP
Cloister Building
Irish Town | Gibraltar

Telephone: +350 200 79200
Website: www.blandgroup.com

<image003.png>

here

here

The Bland Group has taken all reasonable effort to ensure this message and any attached files are fre-

Exhibit DG/4

(NO6) Grech, Darren

From: (MOF) Mena, Albert
Sent: 02 March 2020 20:03
To: 'Nicholas Gaggero'
Cc: (NO6) Redondo, Javier; John-Paul Payas
Subject: RE: Mobile Scanner Proposal

Dear Nicholas,

Thank you for the attached.

The body of the email sets out what you had indicated to me informally and based on this we were keen to progress this matter. However having read the Statement of Work I am unable to sign it or indeed say I am in agreement with this.

As you know at present there is a level of dispute between us as to ownership of the NCIS system that has been developed for Government. I prefer not to go into the detail save to say that agreeing to the statement of work would effectively signify our agreement with the ownership of the Intellectual Property. This would have an impact not just on this module of work but by extension to the whole NCIS system.

I thought we had an understanding to remain neutral on this specific point until wider matters presently under investigation are resolved and brought to a logical conclusion.

You will therefore appreciate that we cannot proceed with this on this basis.

I remain available to discuss these issues with you.

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Tel: (+350) 20051168
Centrex: 2112
Fax: (+350) 20079901
albert.mena@gibraltar.gov.gi

www.gibraltar.gov.gi

Office of the Financial Secretary

From: Nicholas Gaggero [mailto:Nicholas.Gaggero@blandgroup.com]
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To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; John-Paul Payas <jp.payas@osgops.com>
Subject: Mobile Scanner Proposal

[redacted]

BLAND GROUP
Cloister Building
Irish Town | Gibraltar

Telephone: +350 200 79200
Website: www.blandgroup.com

[redacted]

here

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Sent:	20 February 2020 14:30
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Cc:	(NO6) Redondo, Javier; John-Paul Payas
Subject:	Mobile Scanner Proposal
Attachments:	Mobile Passport Scanners v1.2.pdf

Dear Albert

Please find attached Bland Group's proposal for Mobile Passport Scanners. I have summarized the key points below.

Technical summary:

- Bland Group have scoped a system than can scale to 50 devices, significantly more than the single device in service
- The system will integrate with Interpol, NSCIS Wanted and Messaging modules remotely using the 4.5G network
- The system will not only scan passports but ID cards, driving licenses, and visas based on ICAO standards

Financial summary:

- We propose to remove [redacted] from the monthly NSCIS global invoice for the existing mobile scanning solution
- Software development [redacted]
- Monthly maintenance [redacted] month
- This plan covers 10 devices. Should this increase, we propose an additional [redacted] device / month

Please confirm you authorize this proposal. My team is standing by and plan to have a prototype ready by the end of March.

With kind regards

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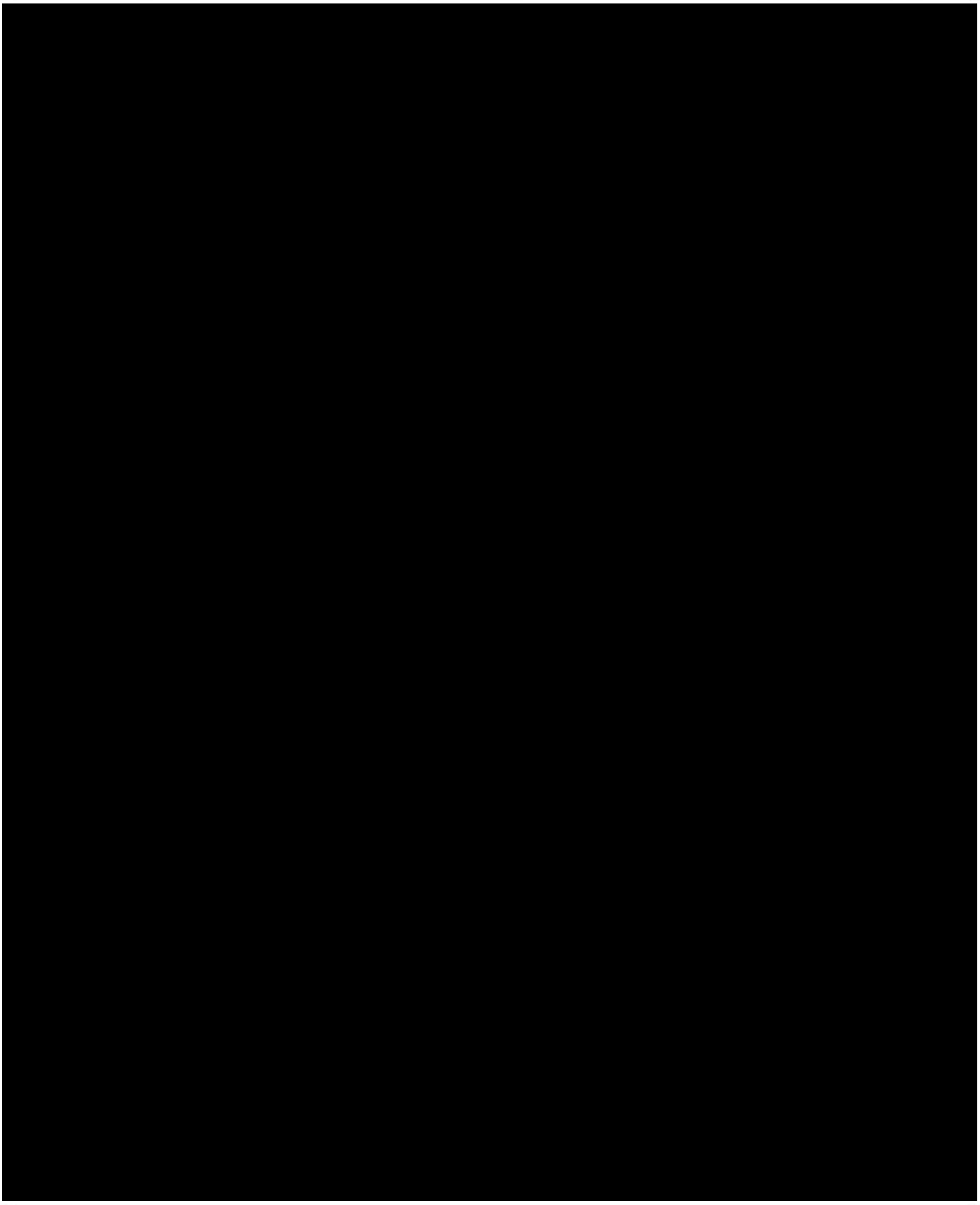
BLAND GROUP
Cloister Building
Irish Town | Gibraltar

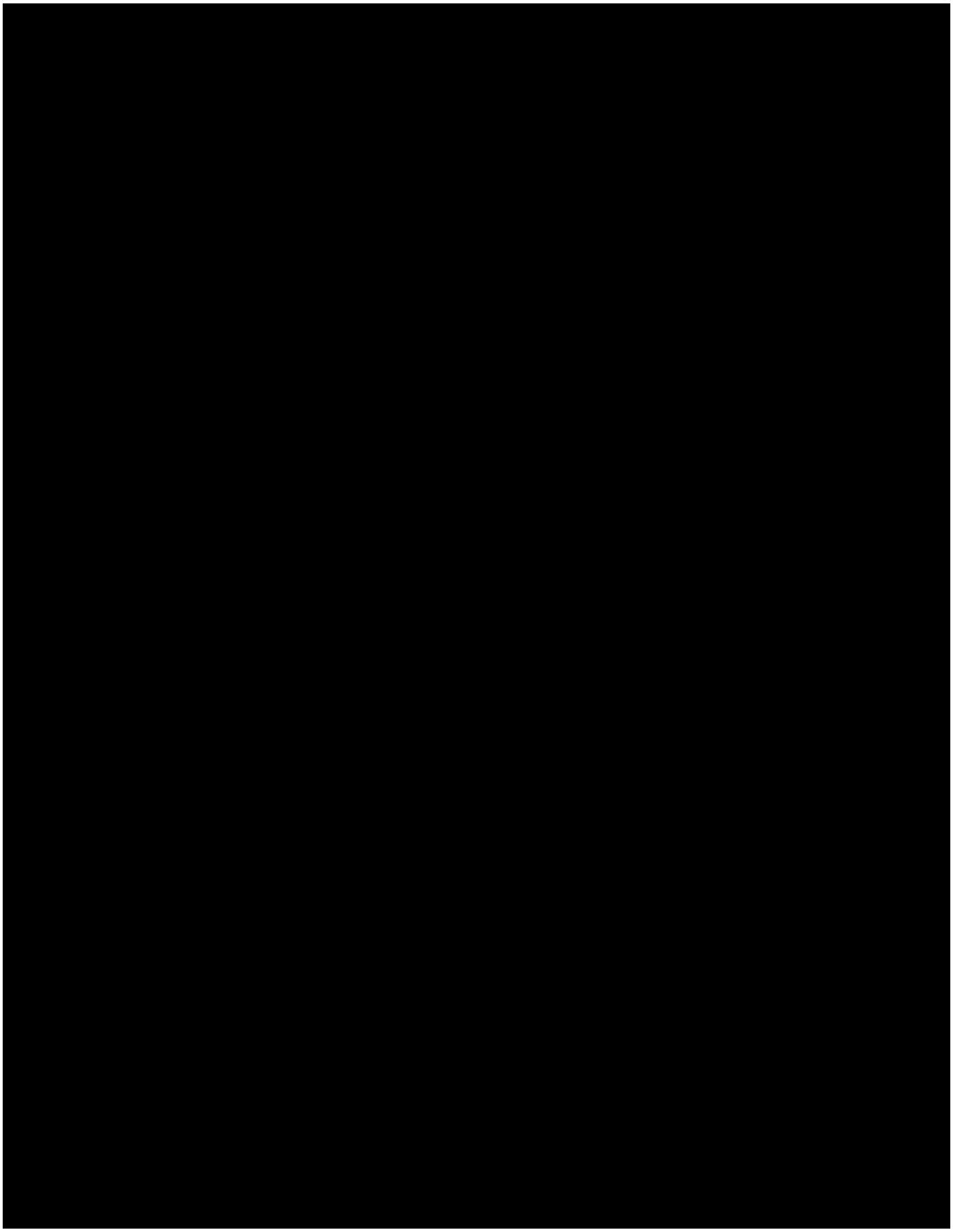
Telephone: +350 200 79200
Website: www.blandgroup.com

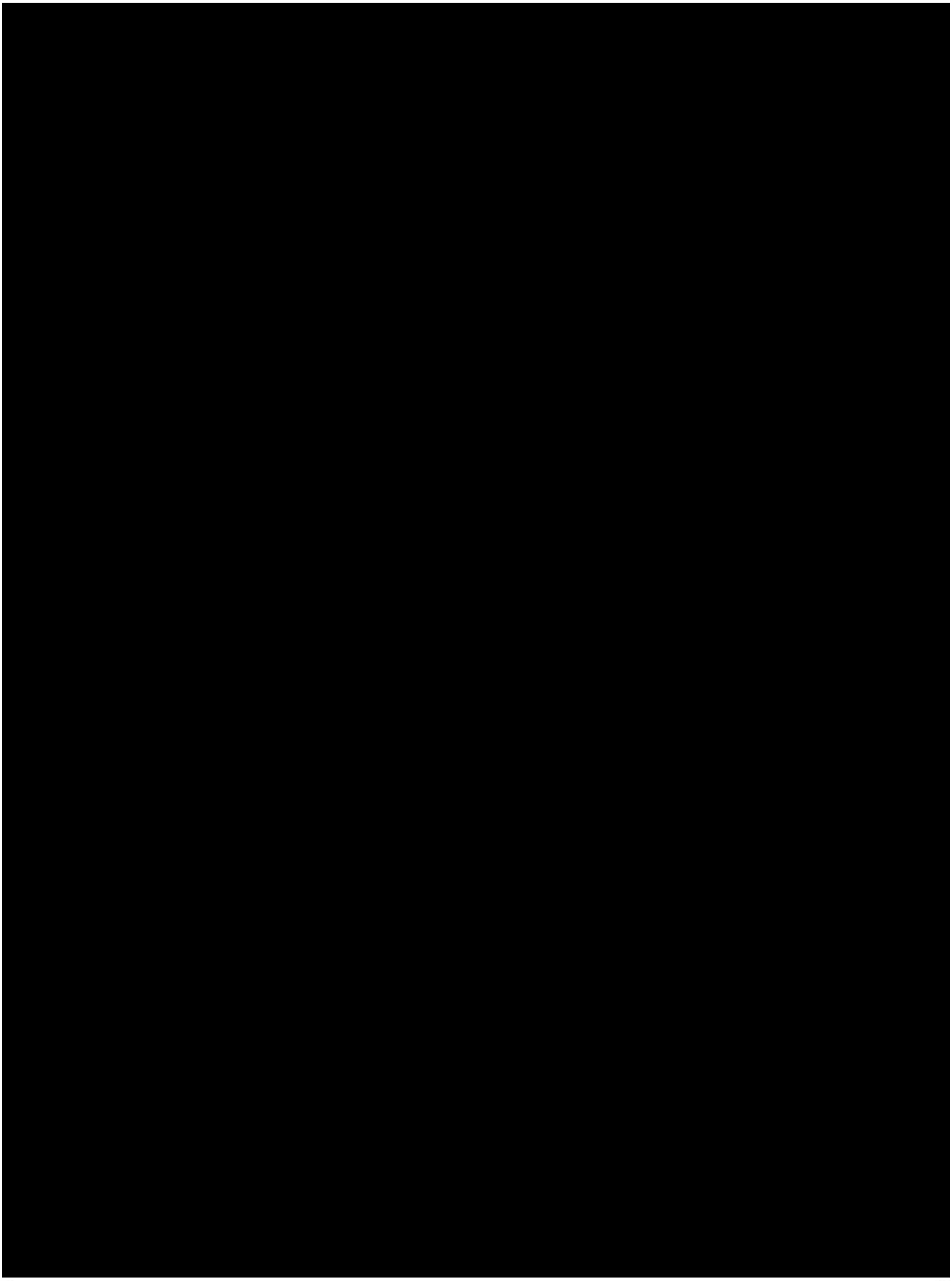
EU GDPR

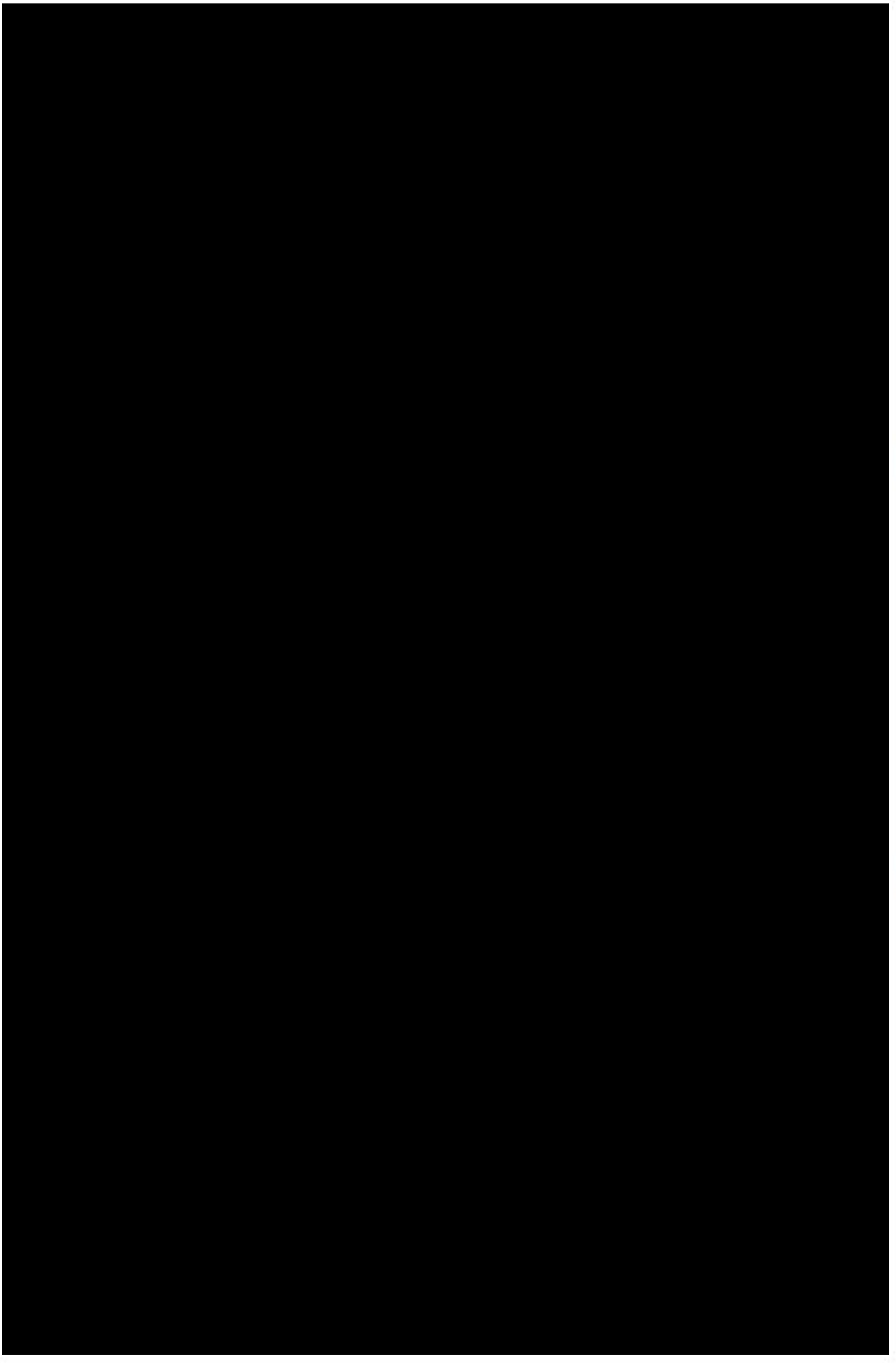
here

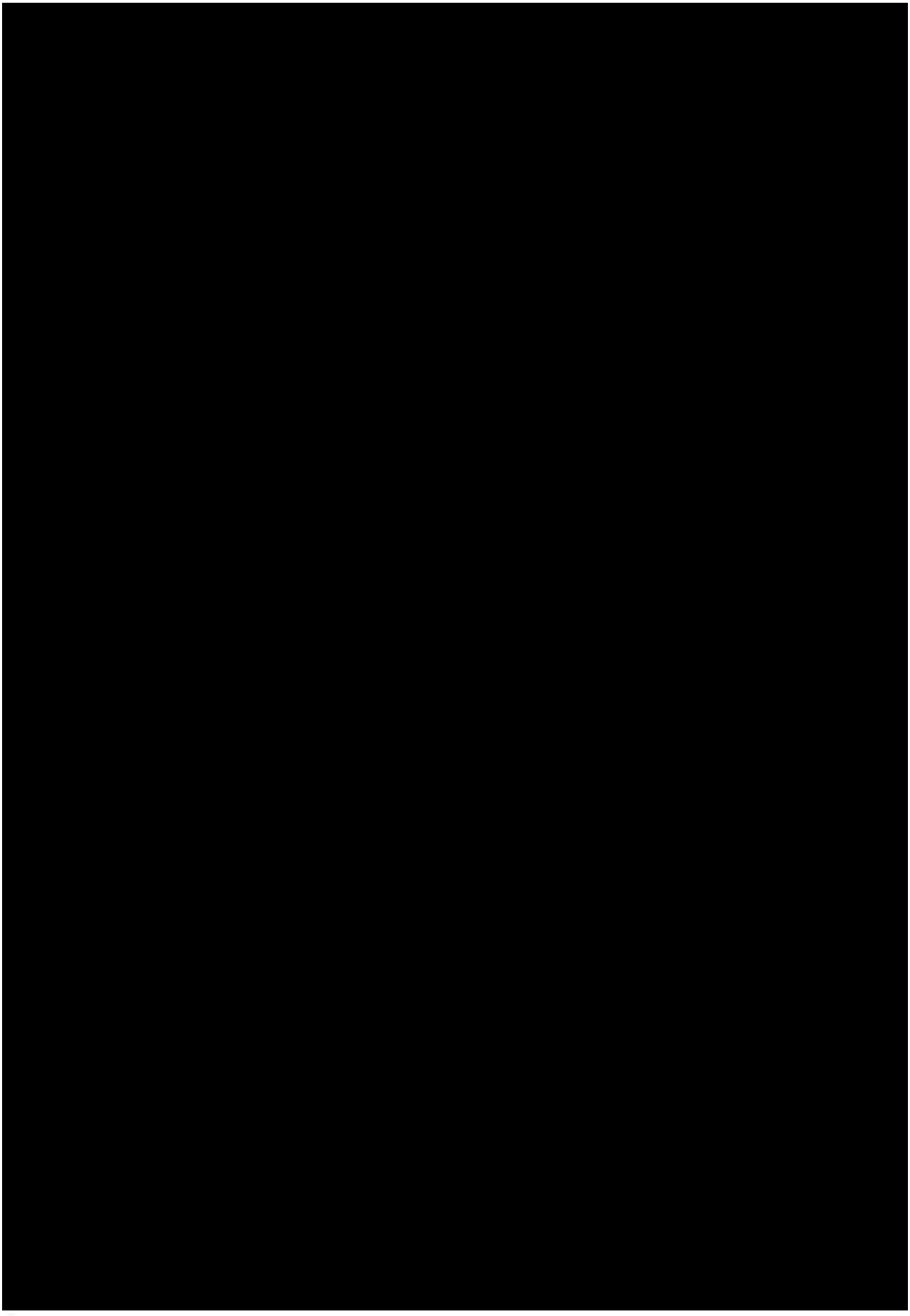
The Bland Group has taken all reasonable effort to ensure this message and any attached files are free

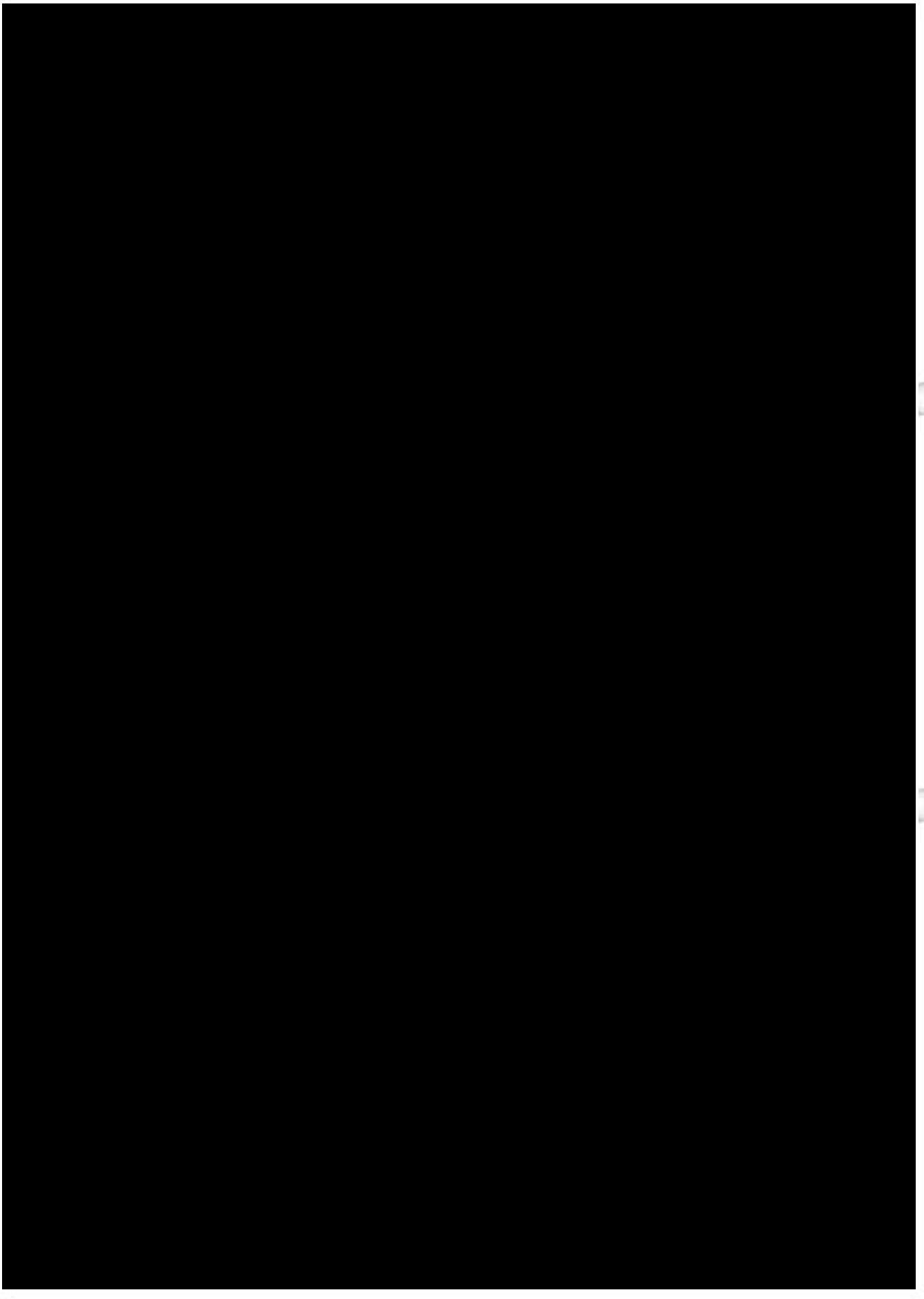












OB No	Royal Gibraltar Police	Exhibits Stores ID No
Exhibit Book No		Identification No
		DG/5

Name of Case

Operation Delhi

Full names of all defendants in case. (Include Forenames and Surname(s).	1) 2) 3) 4) 5) 6)

Officer in Charge of Case:- Insp Mark Wyan

Description of Exhibit:
Copy of an email sent from Mr Tito Garro dated 25th October 2019

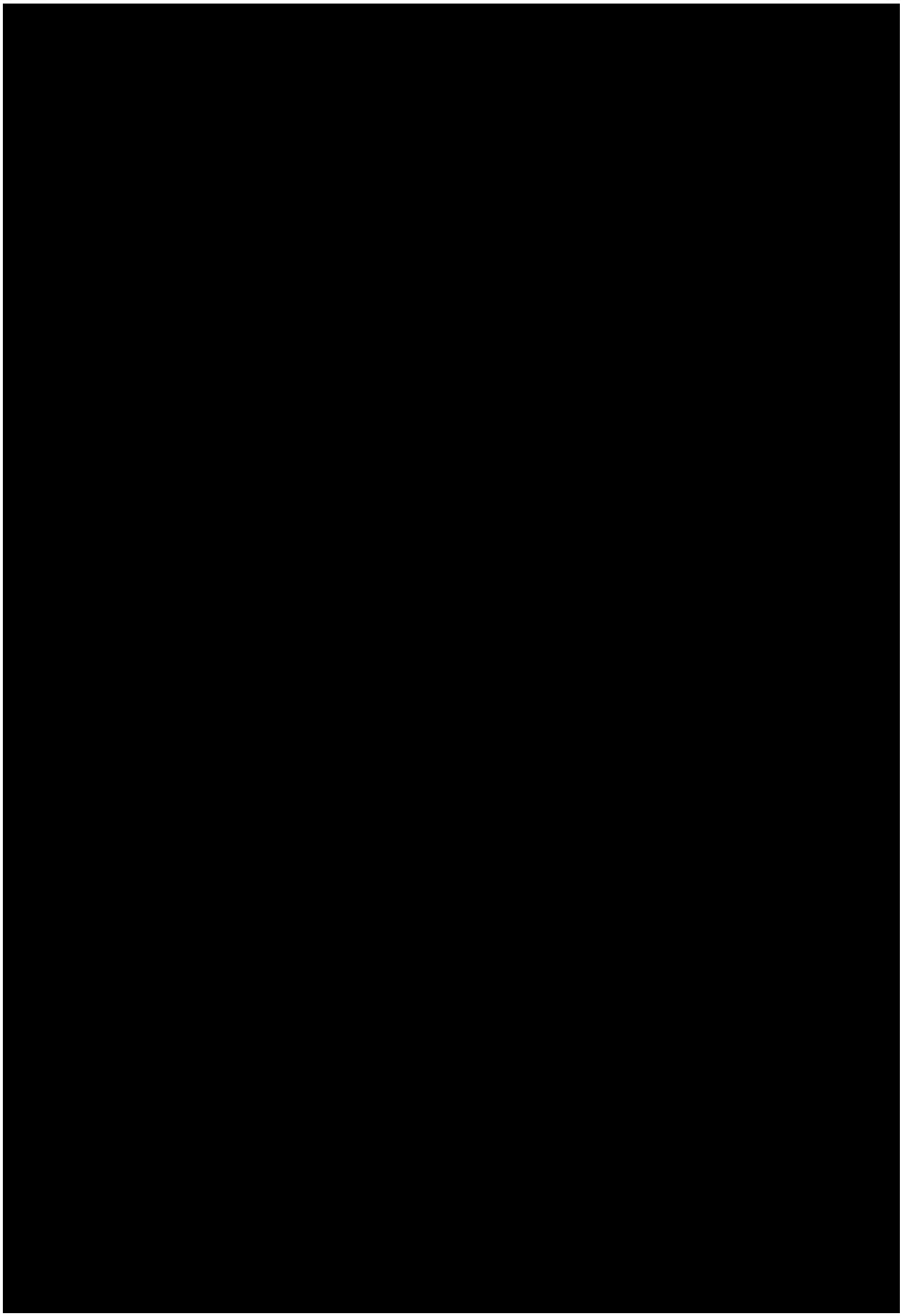
Person producing exhibit:	Darren Grech	Signed:
Person Identifying exhibit:	Name, Rank & No.	Signed:
Person Identifying exhibit:	Name, Rank & No.	Signed:

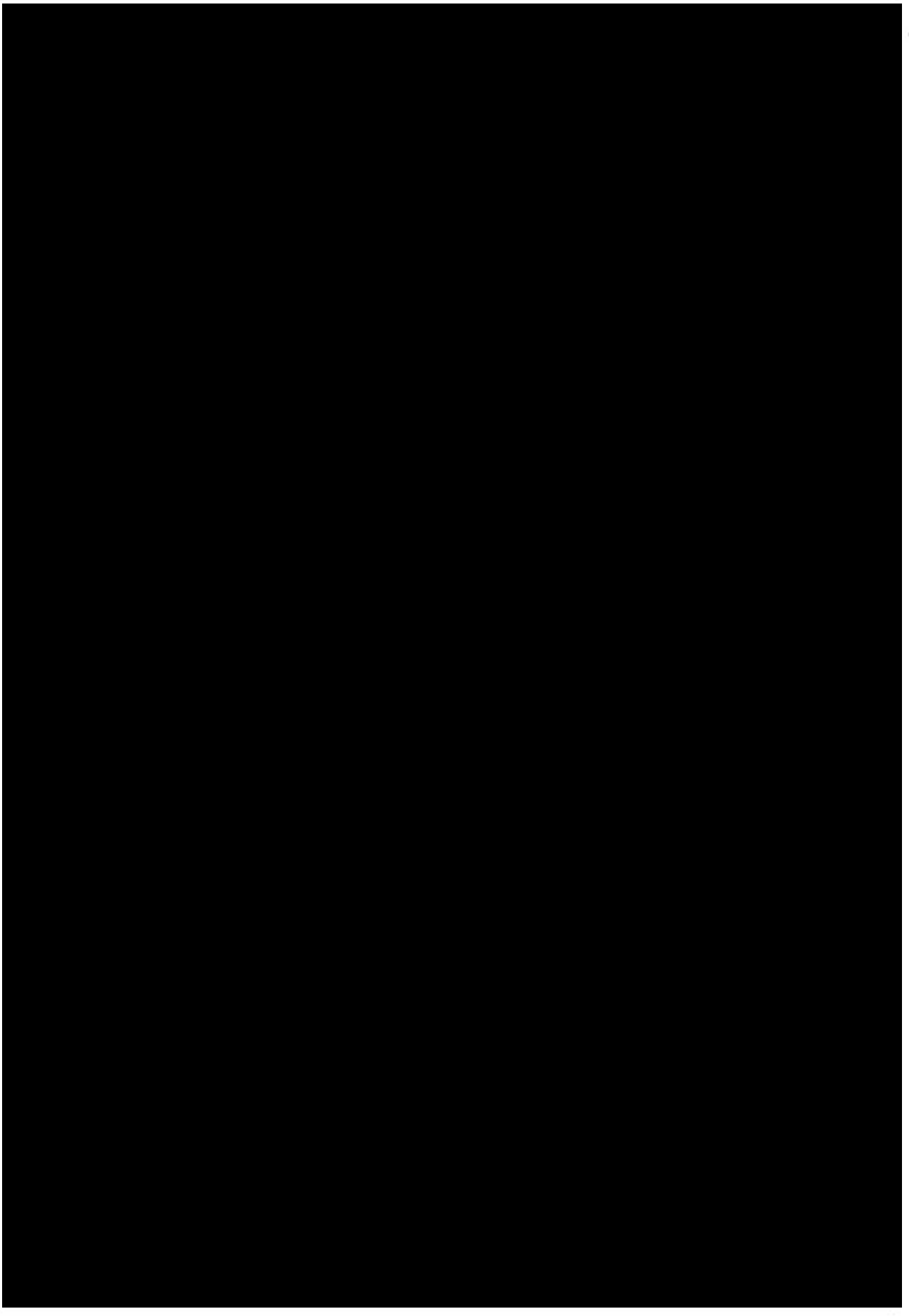
FOR COURT USE ONLY

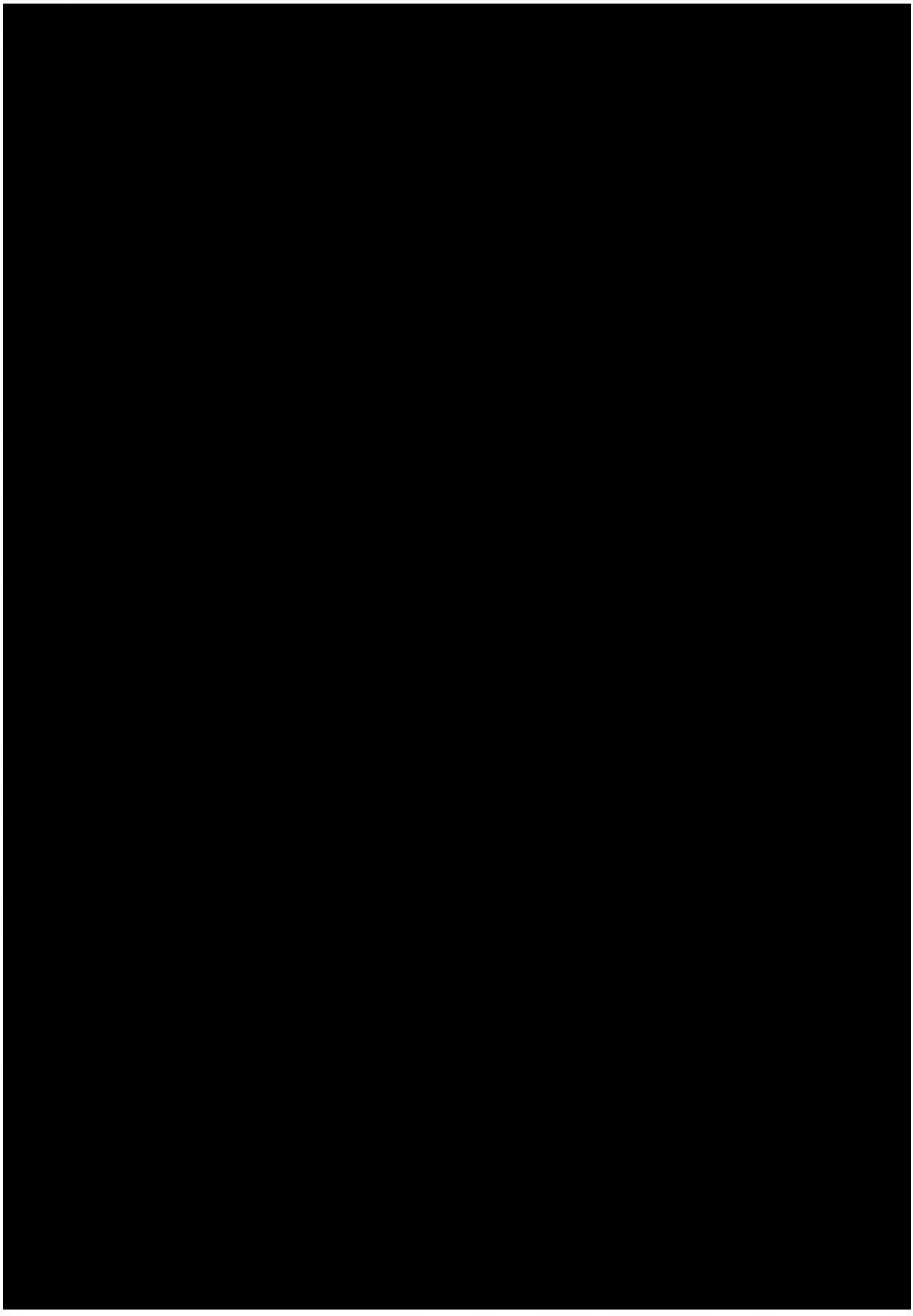
Court:-

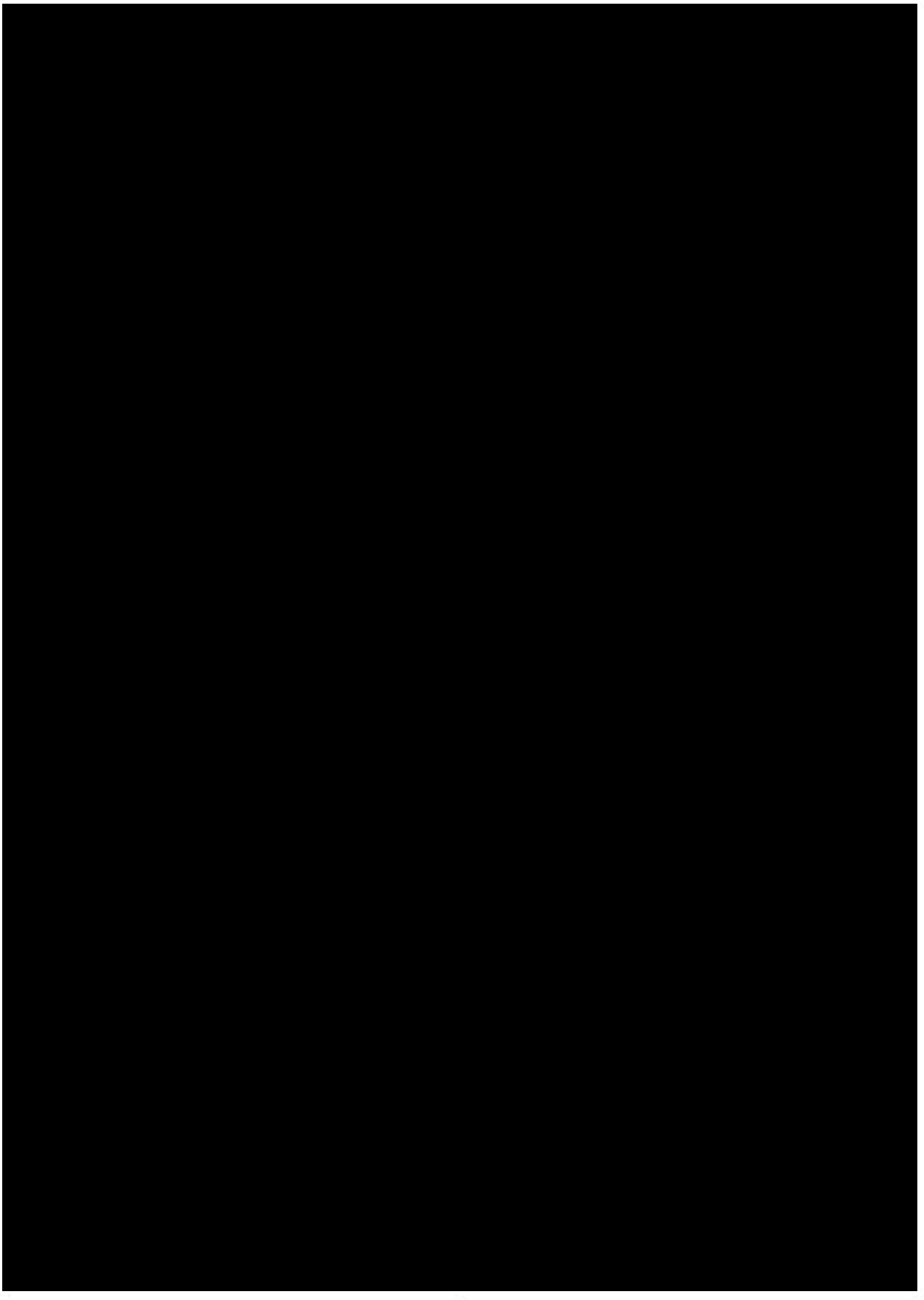
Case:-

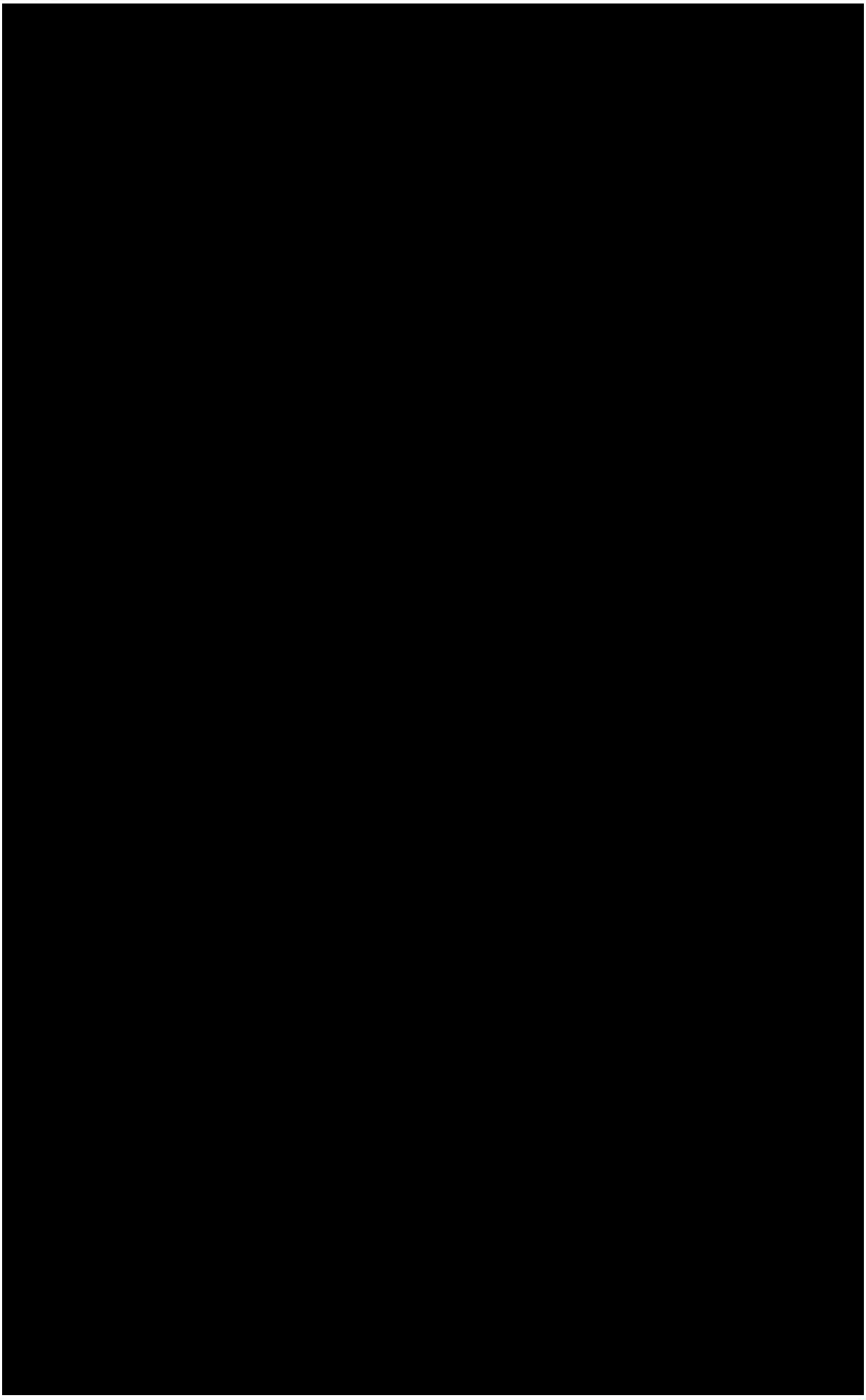
Signature of Magistrates/Justice of the Peace/Clerk to the Court	Exhibit No.
Date:	

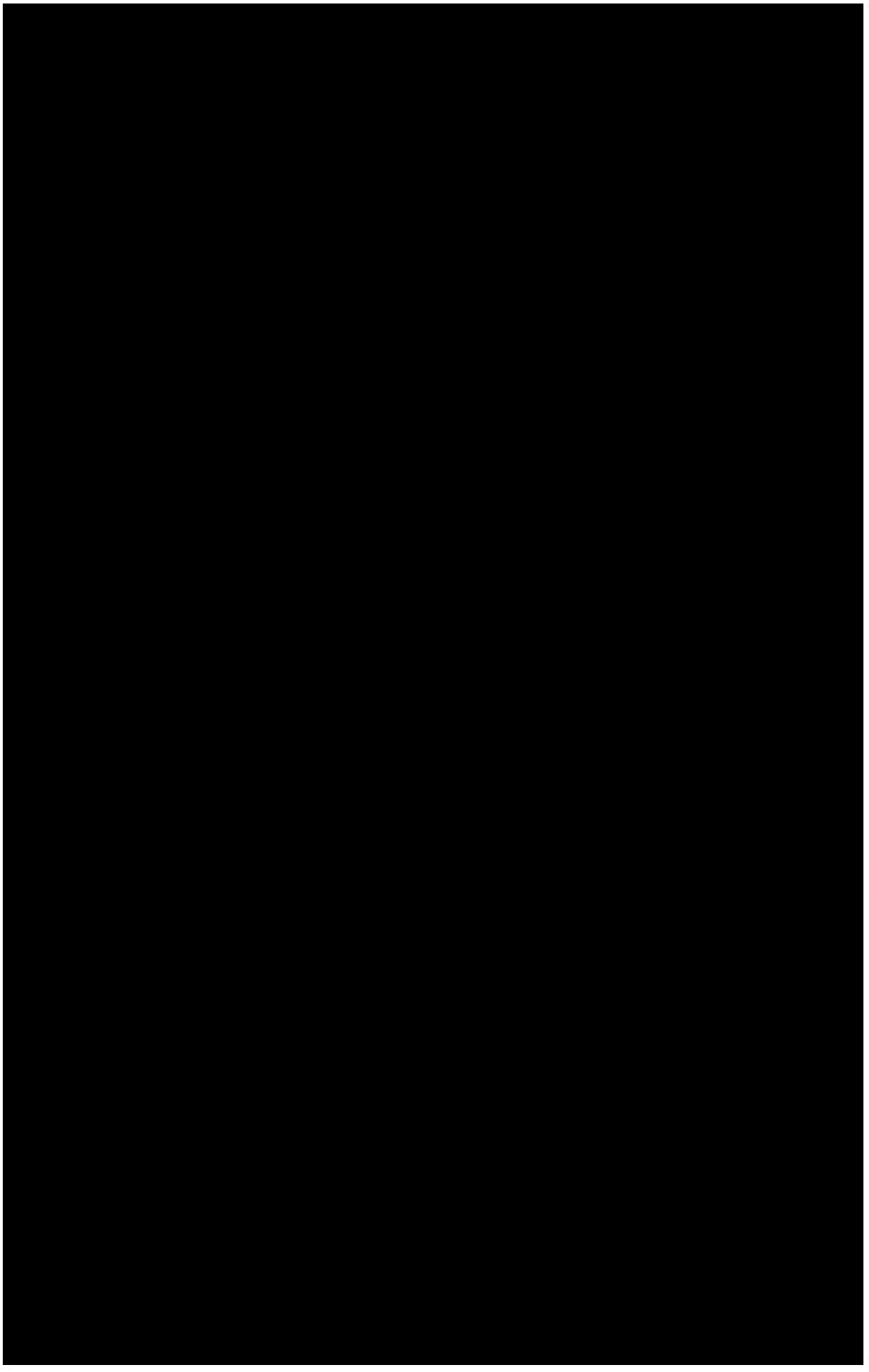


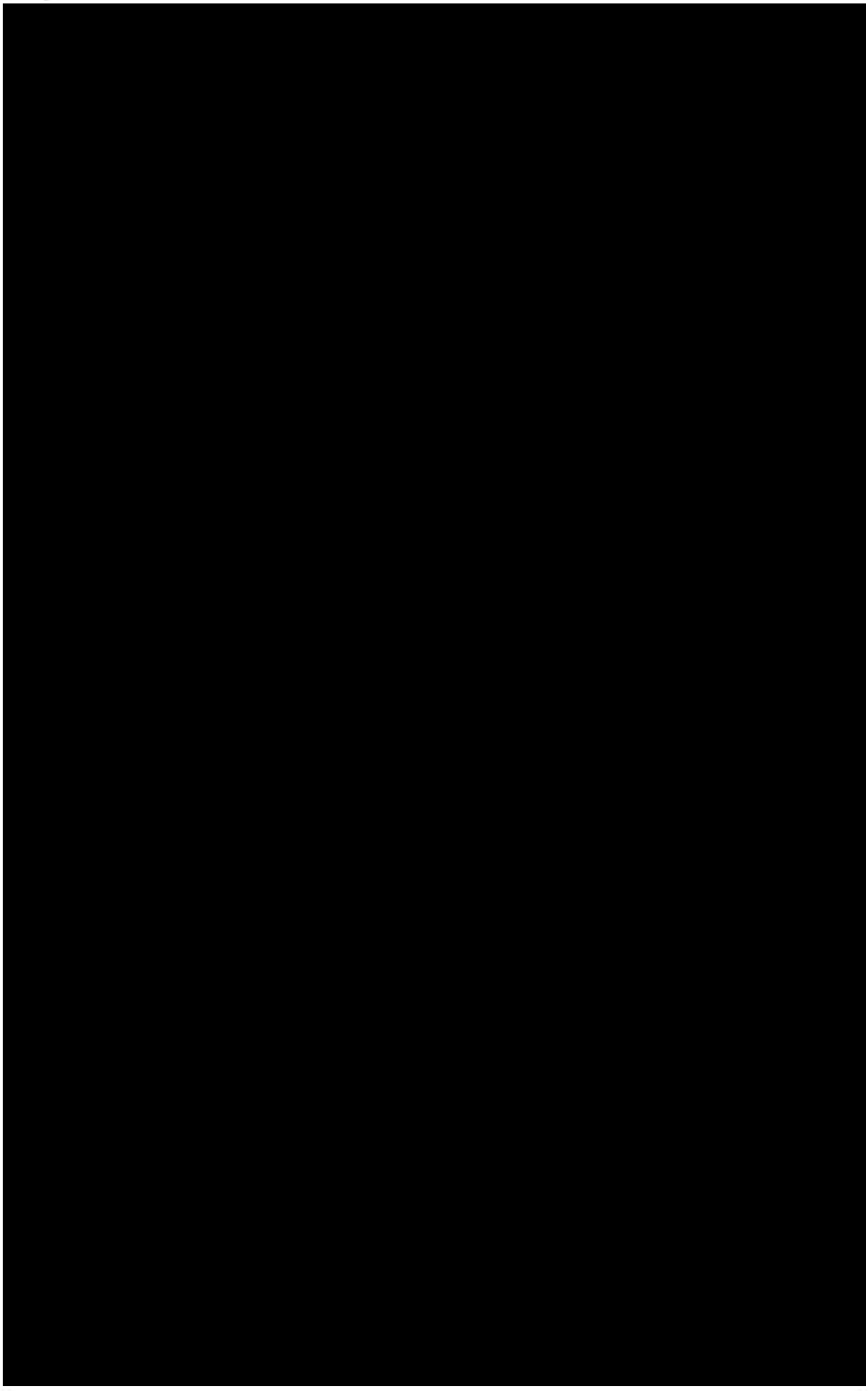


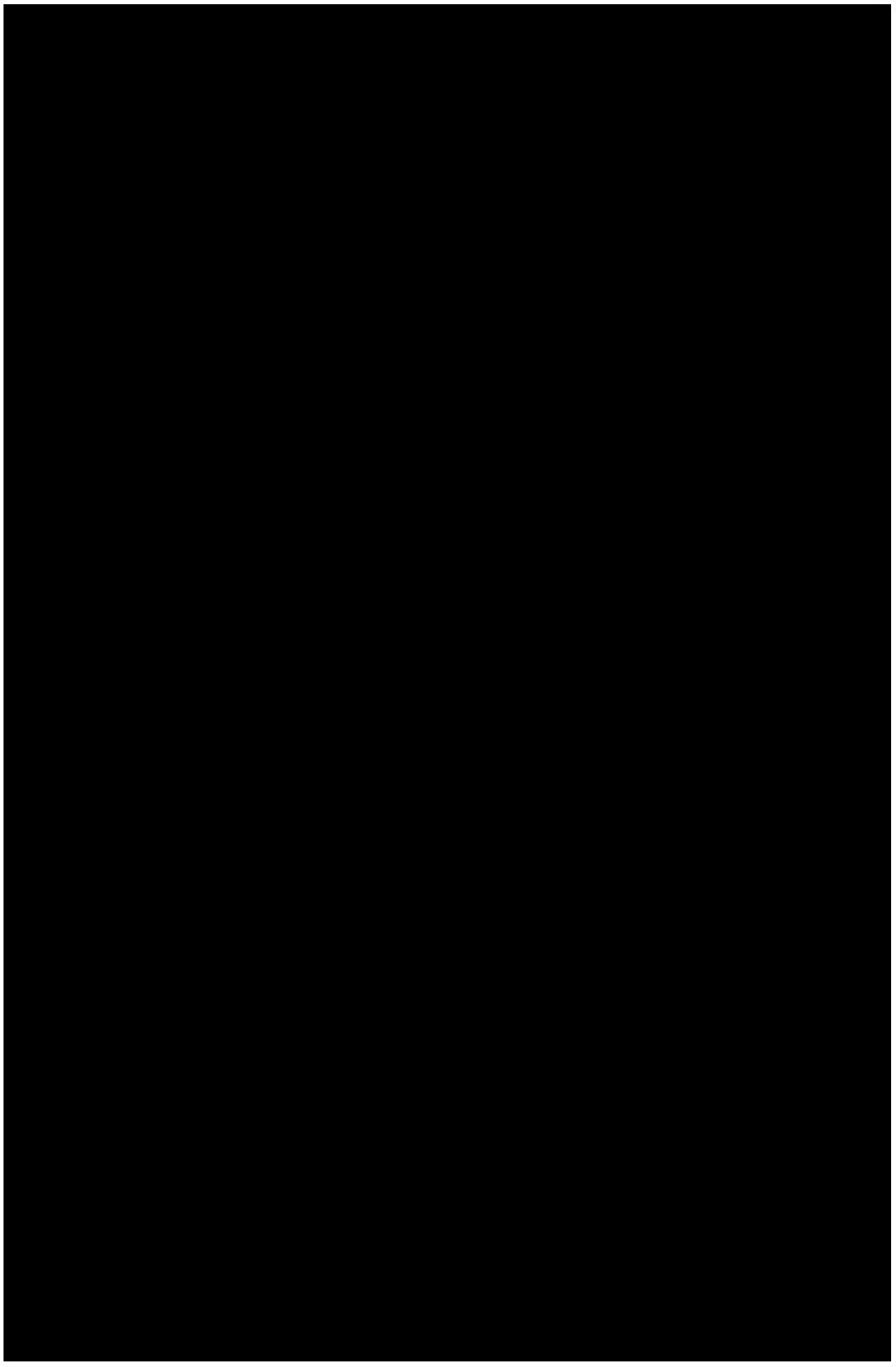


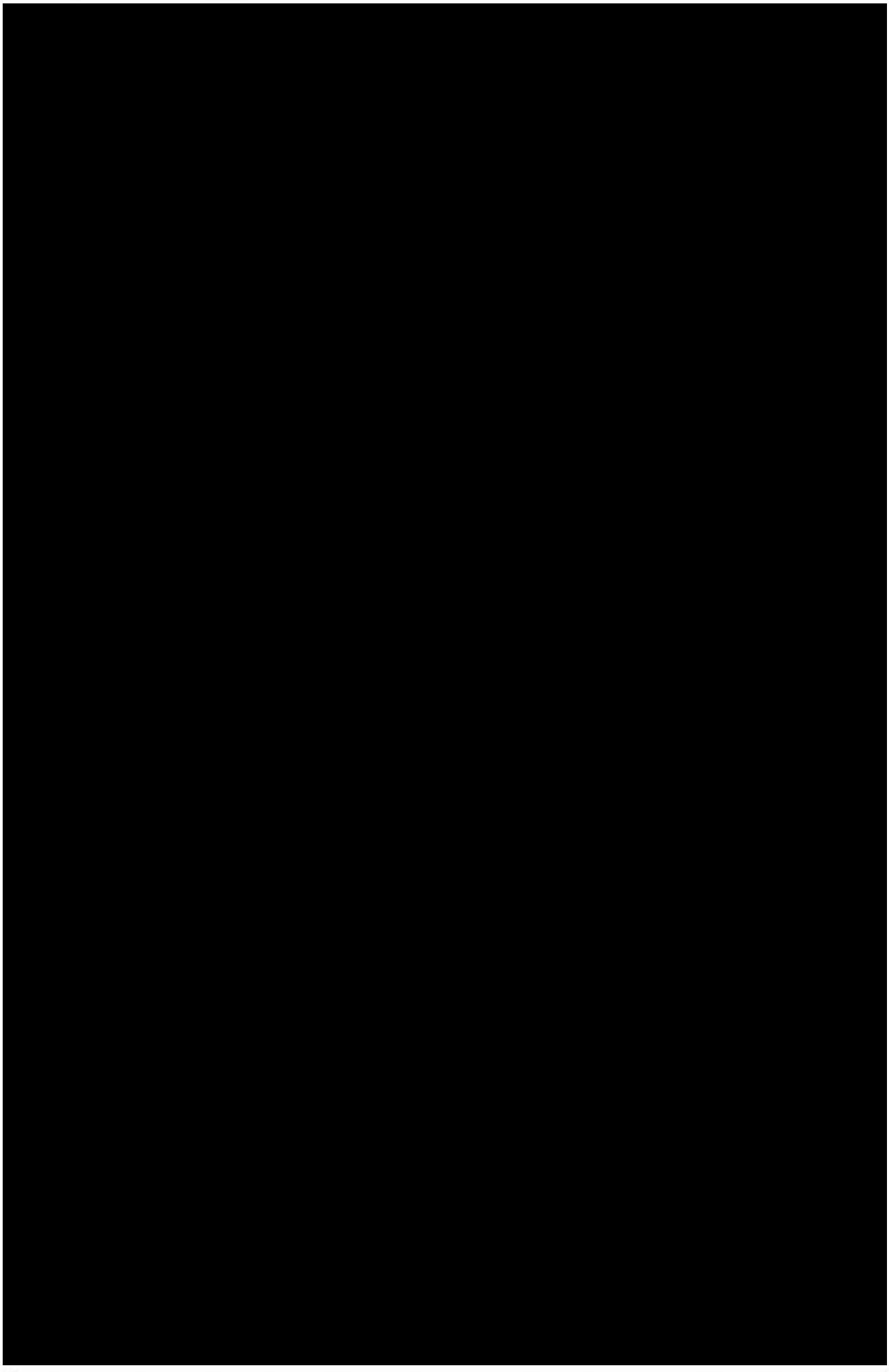


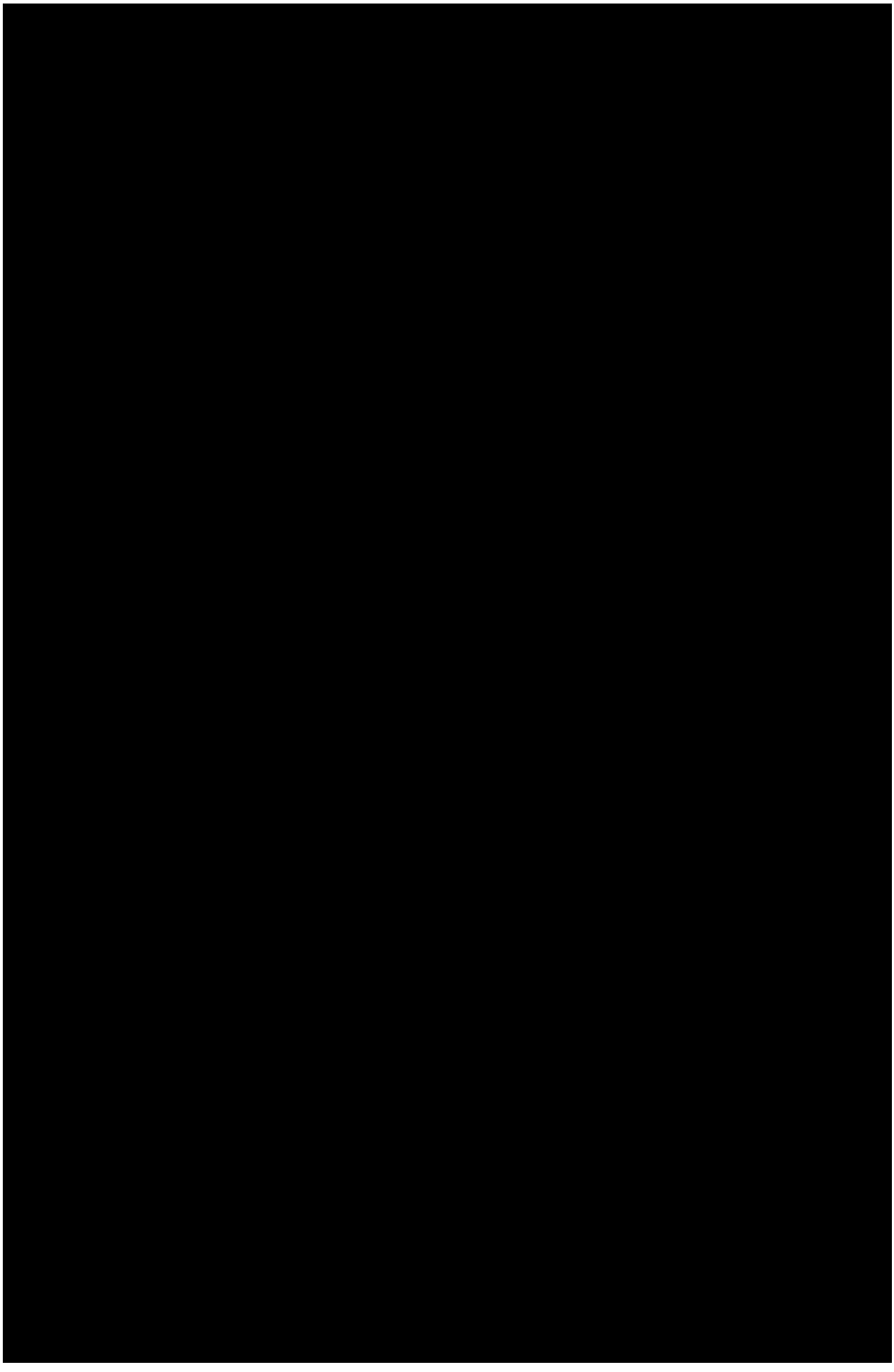


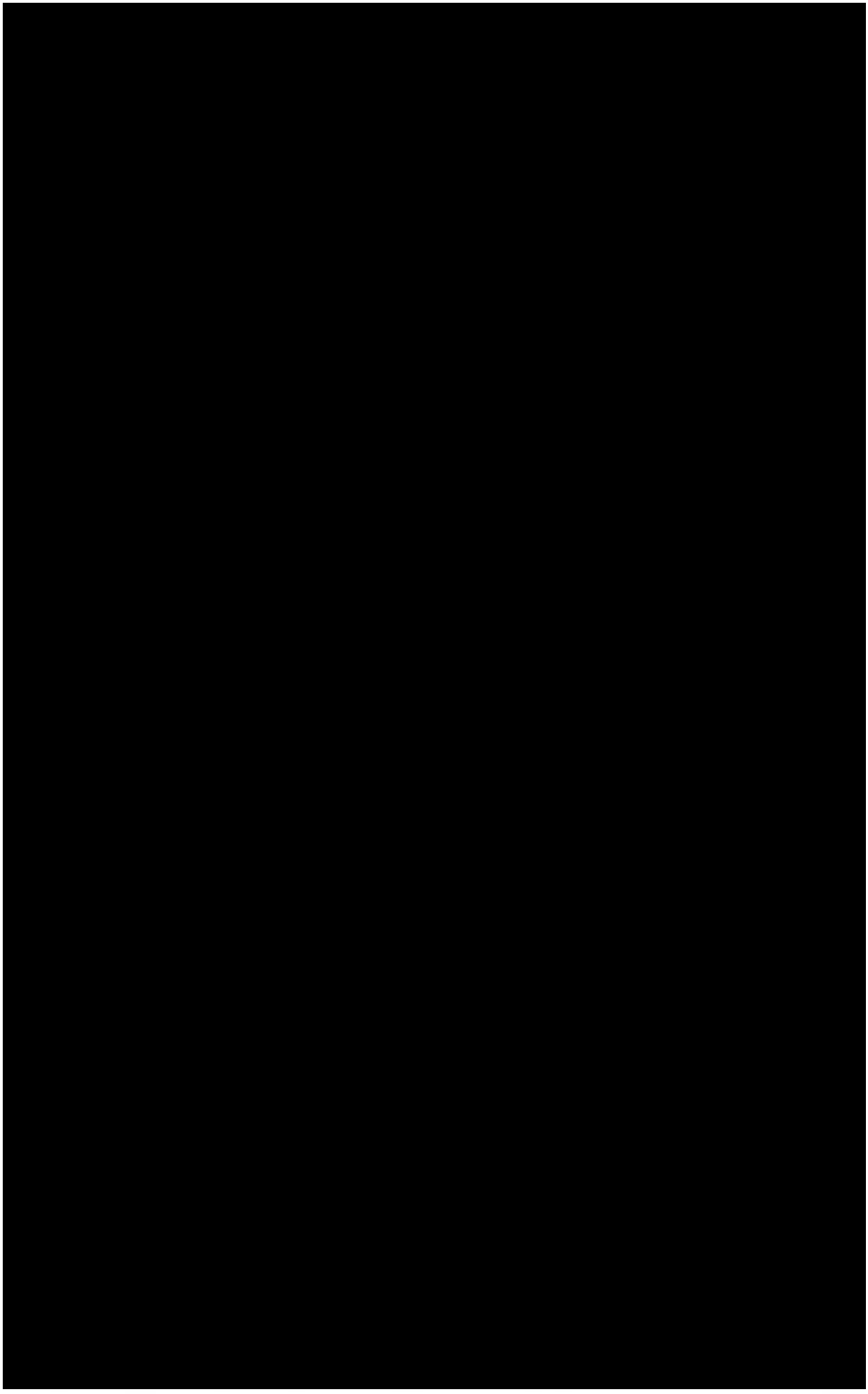


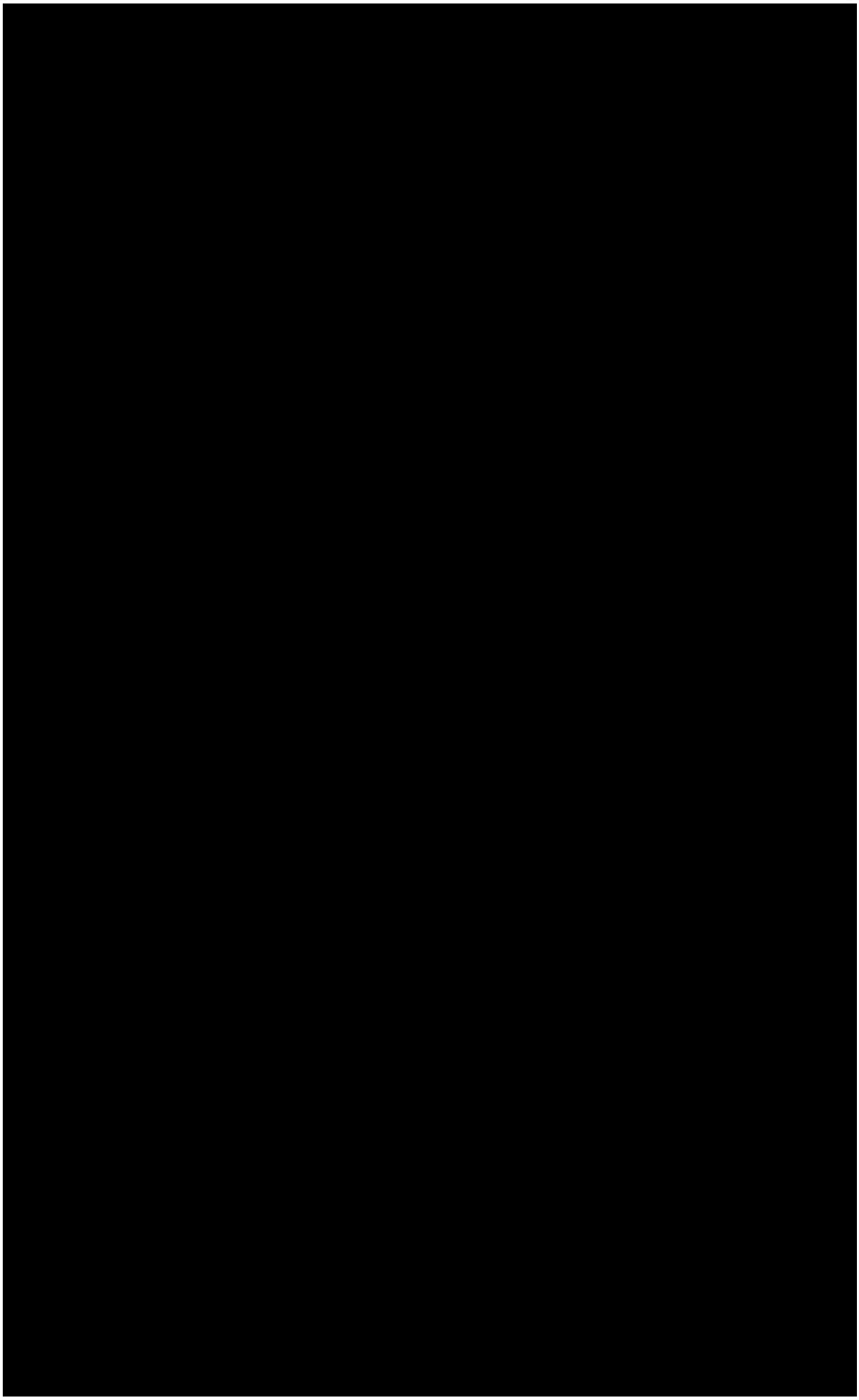


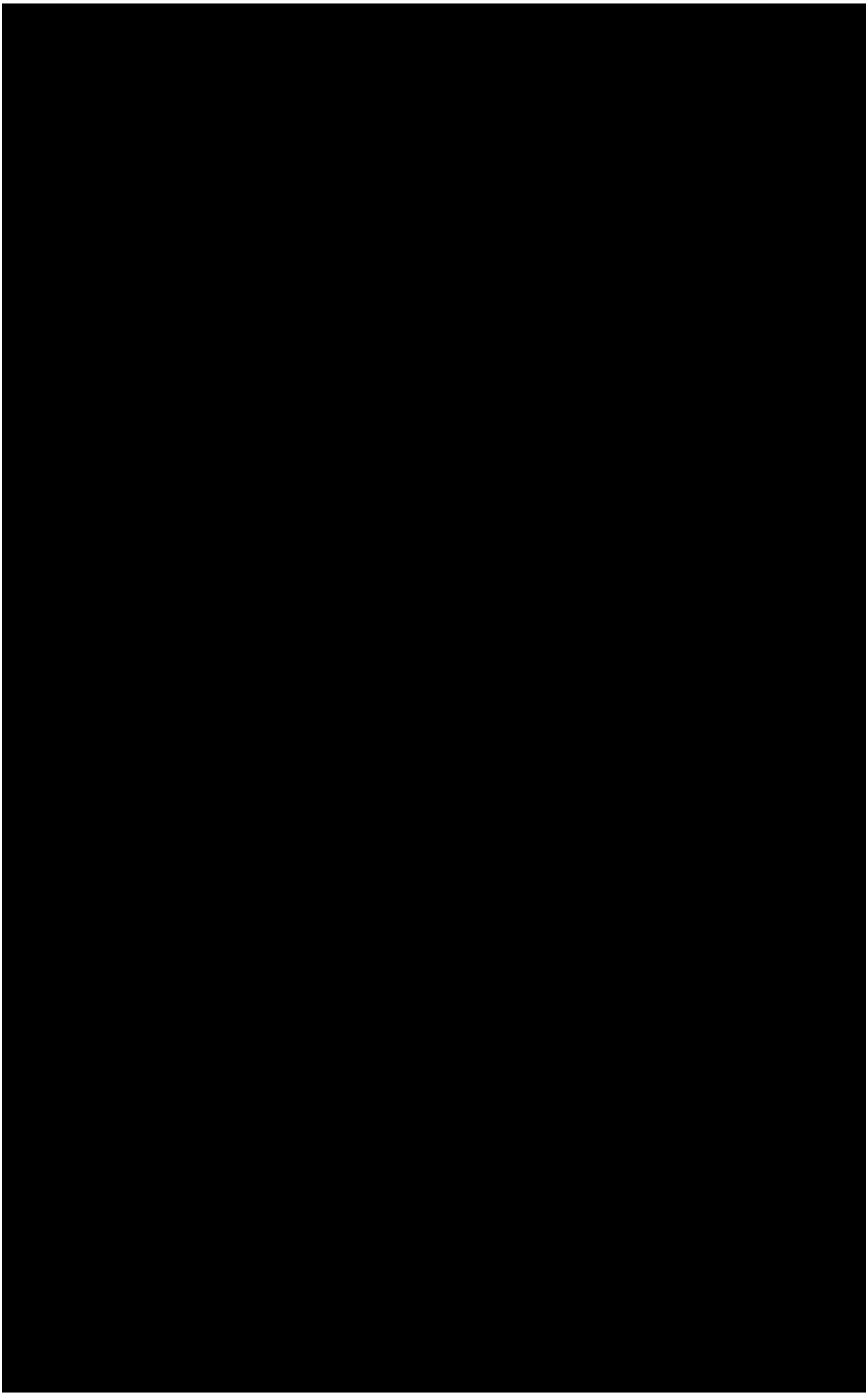


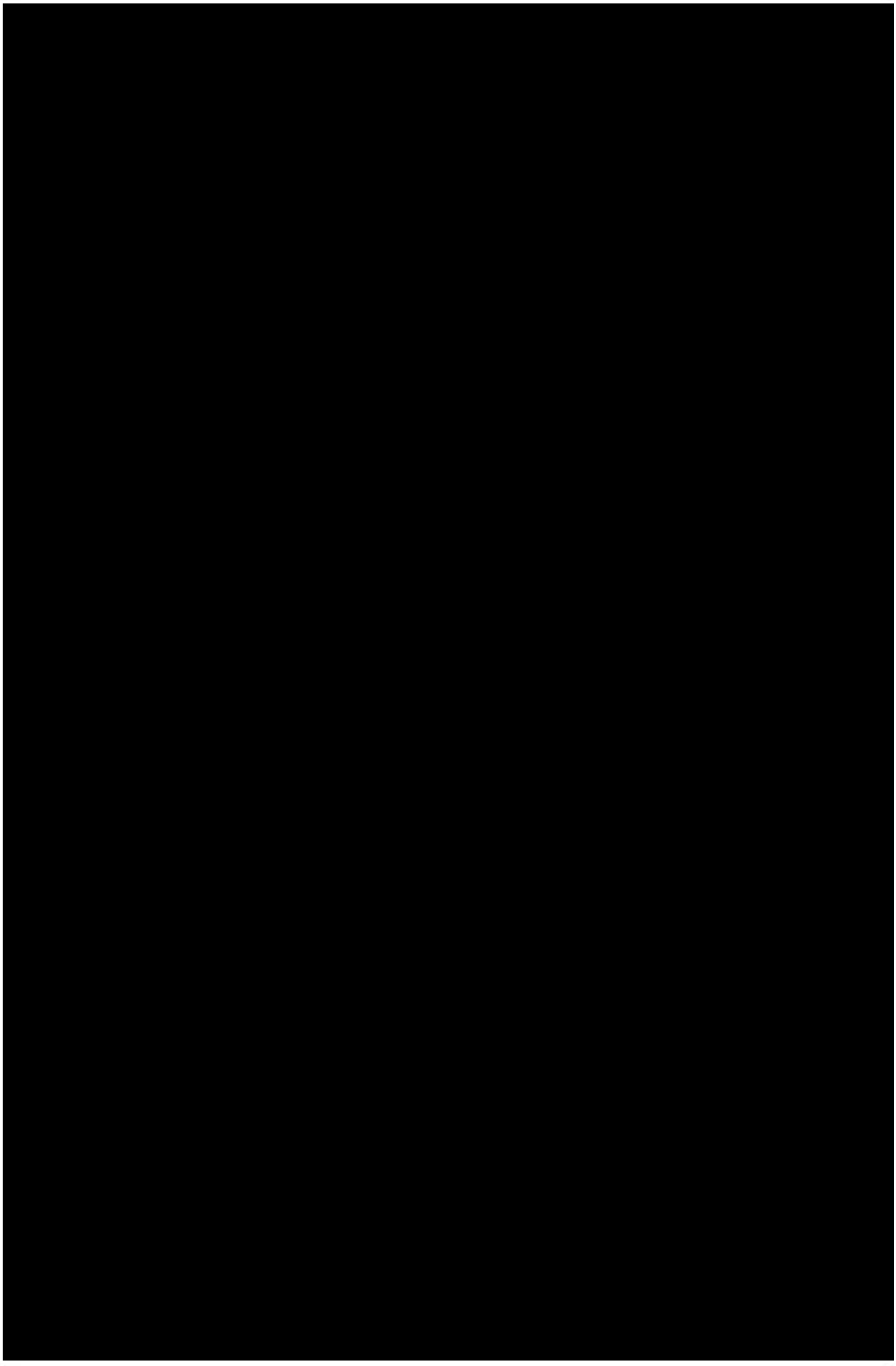


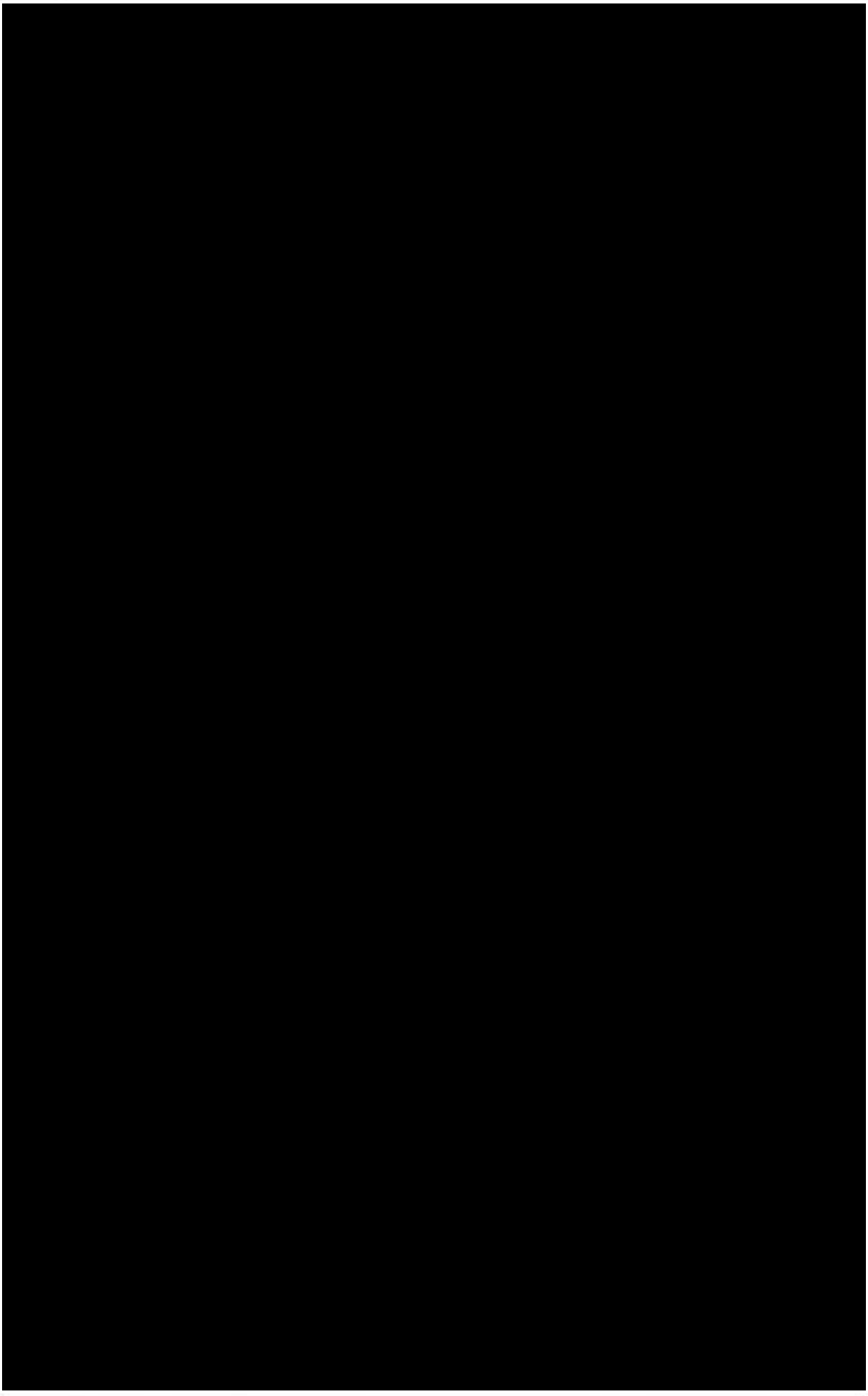


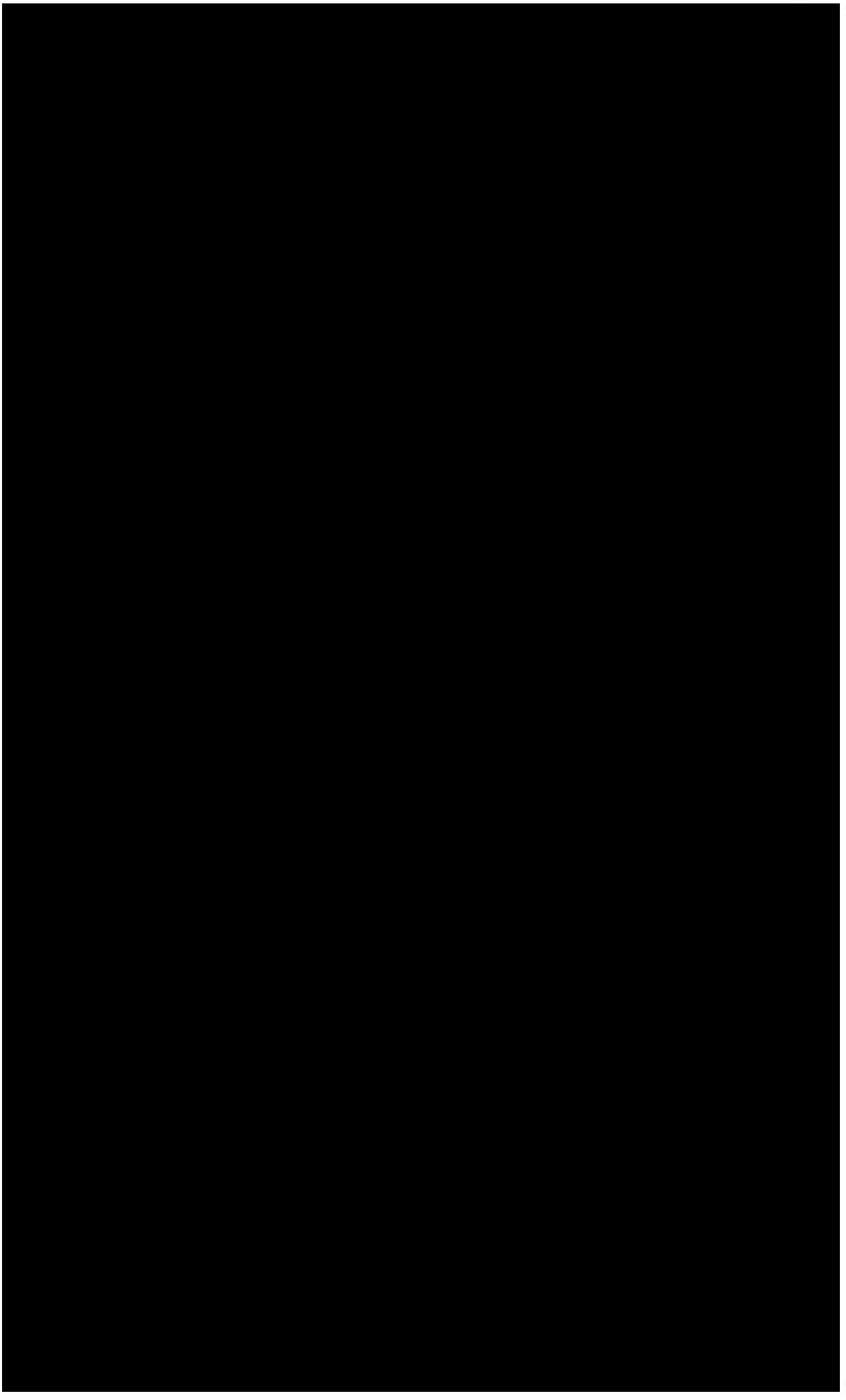


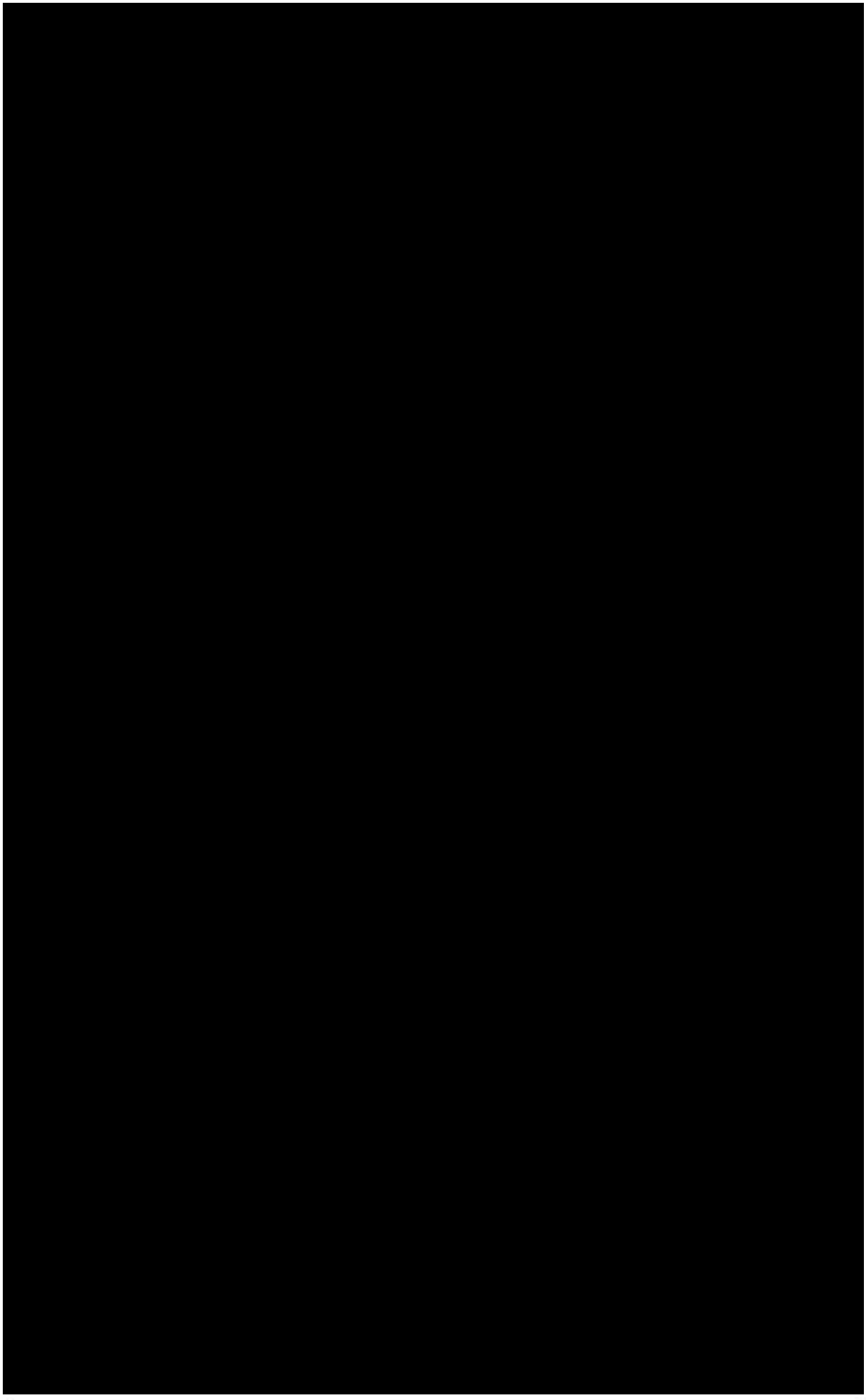


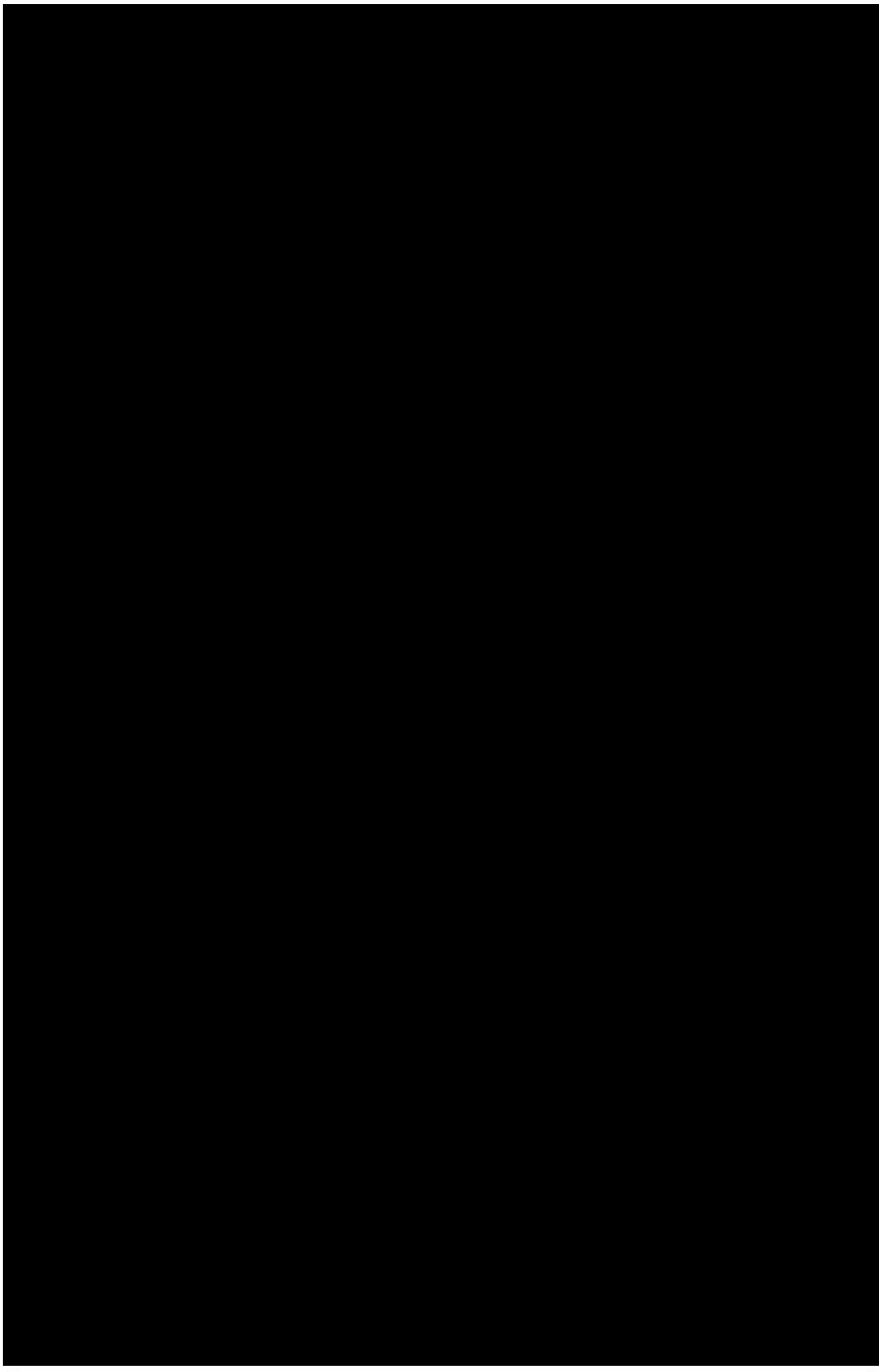


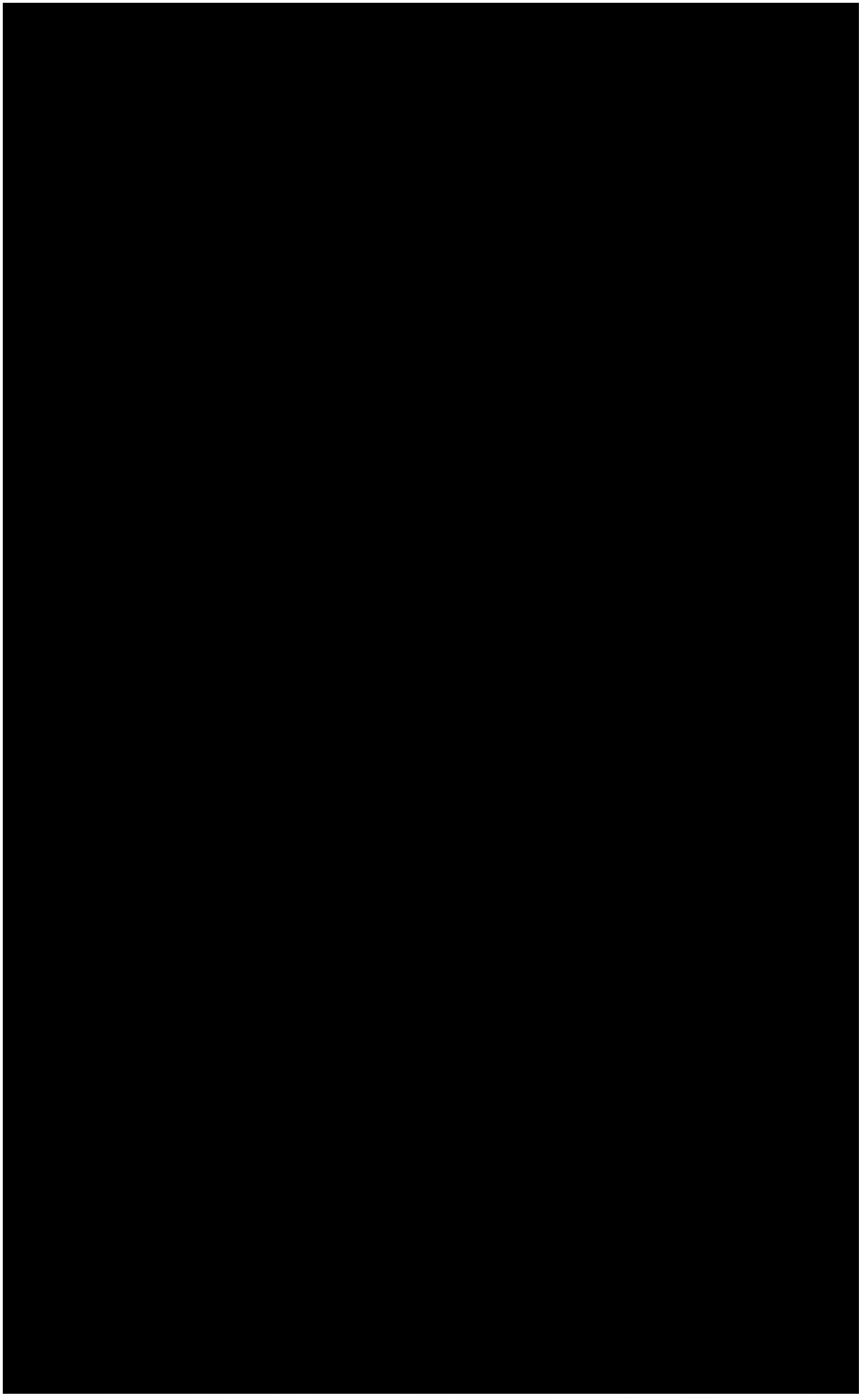


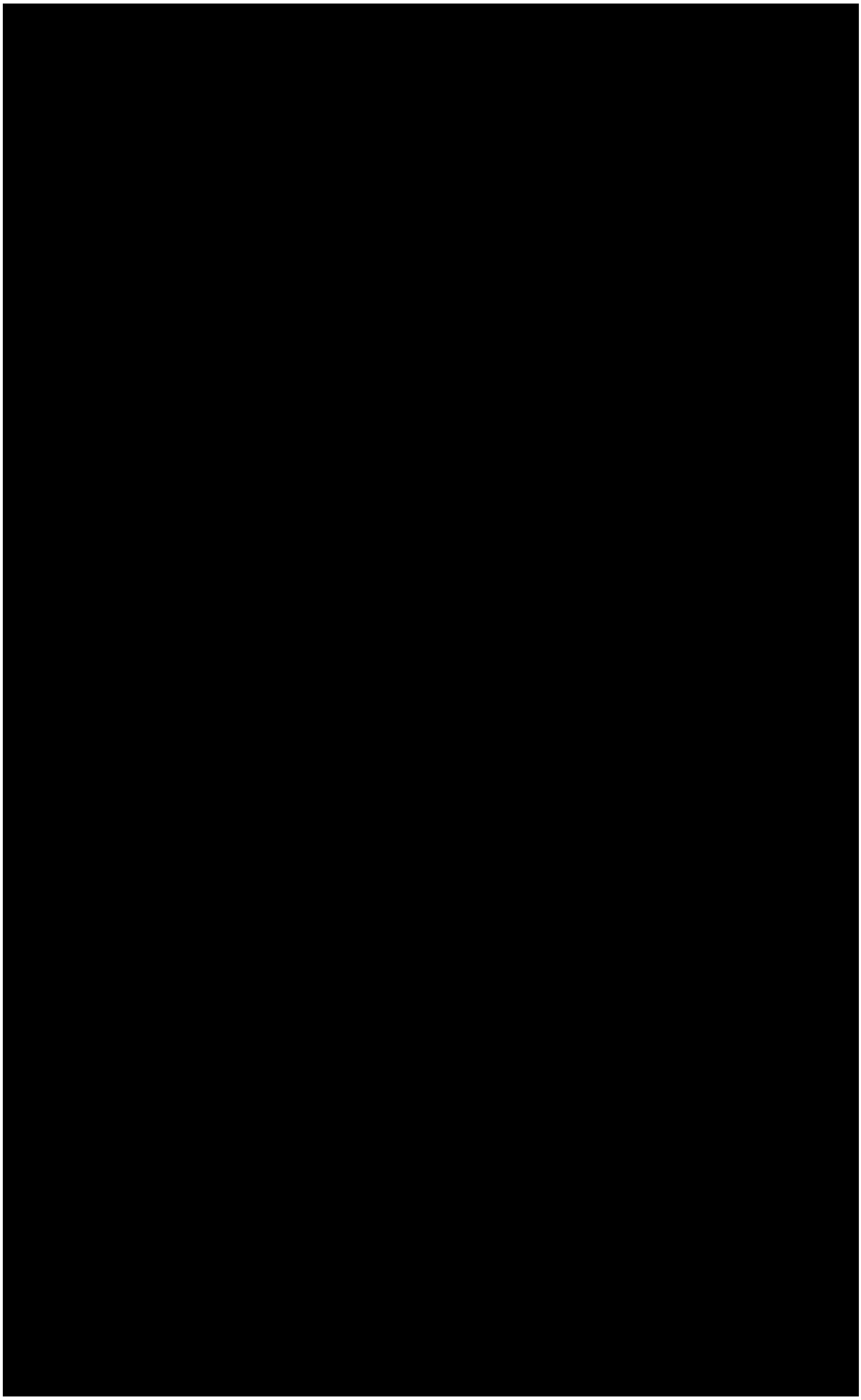


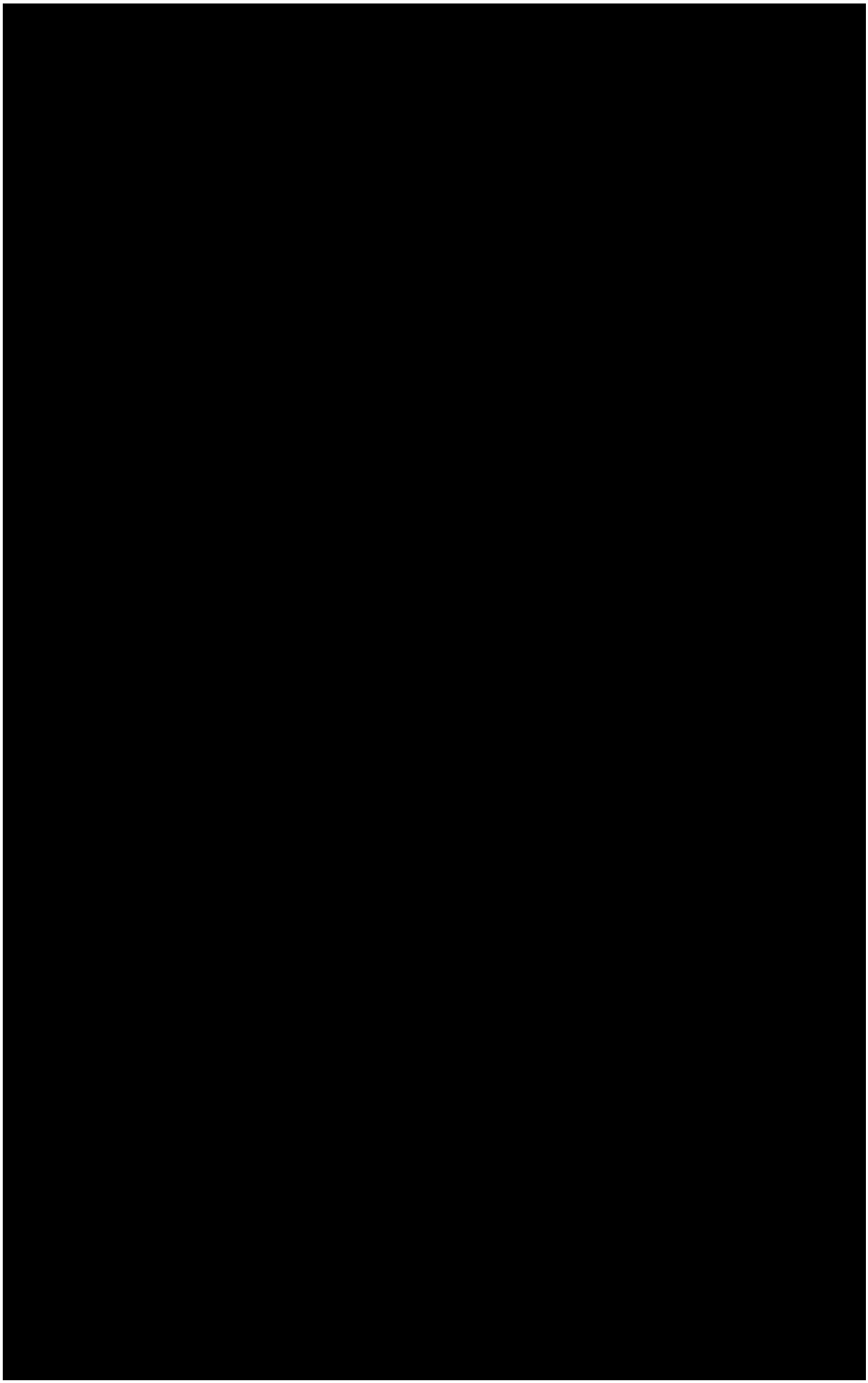


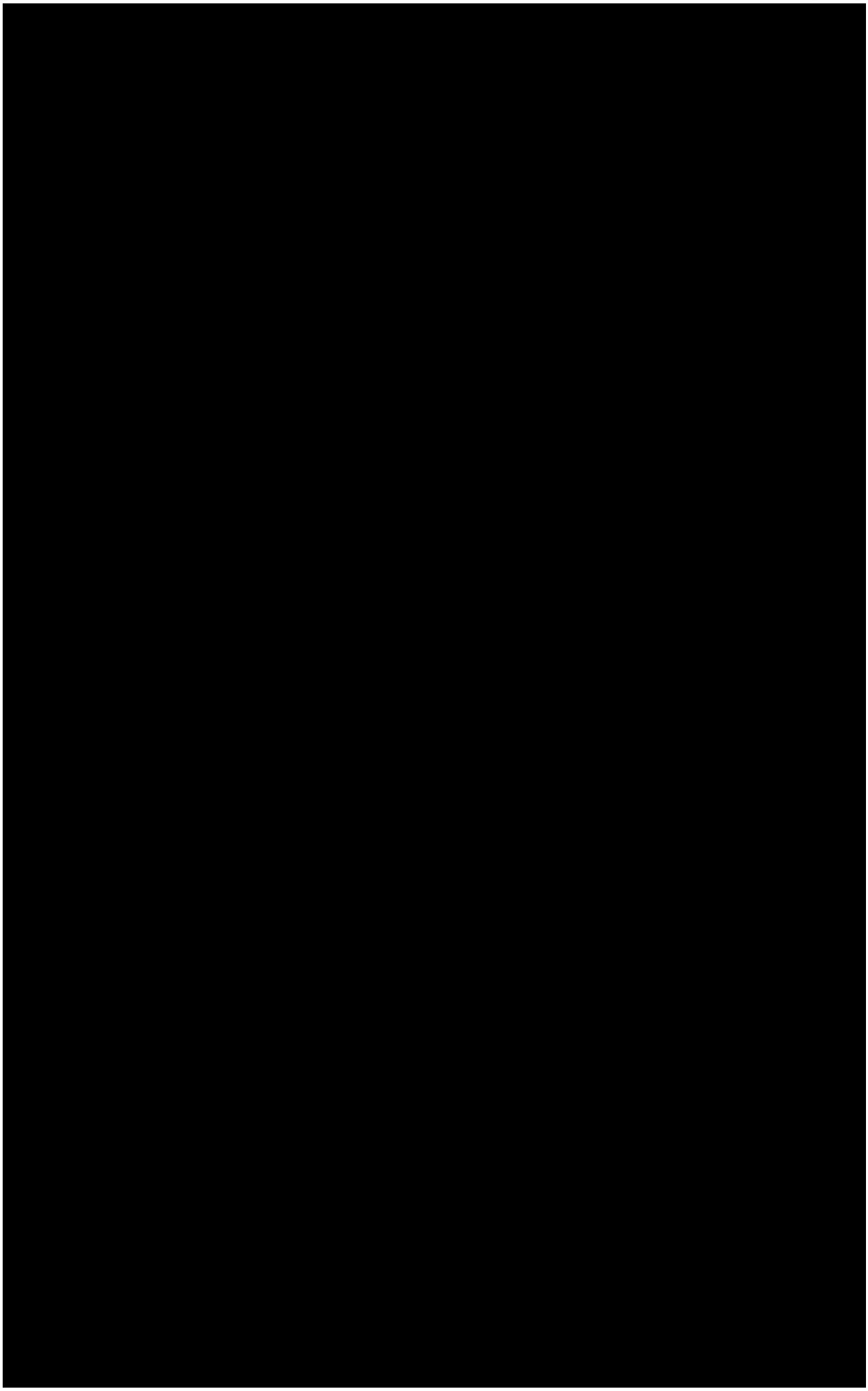


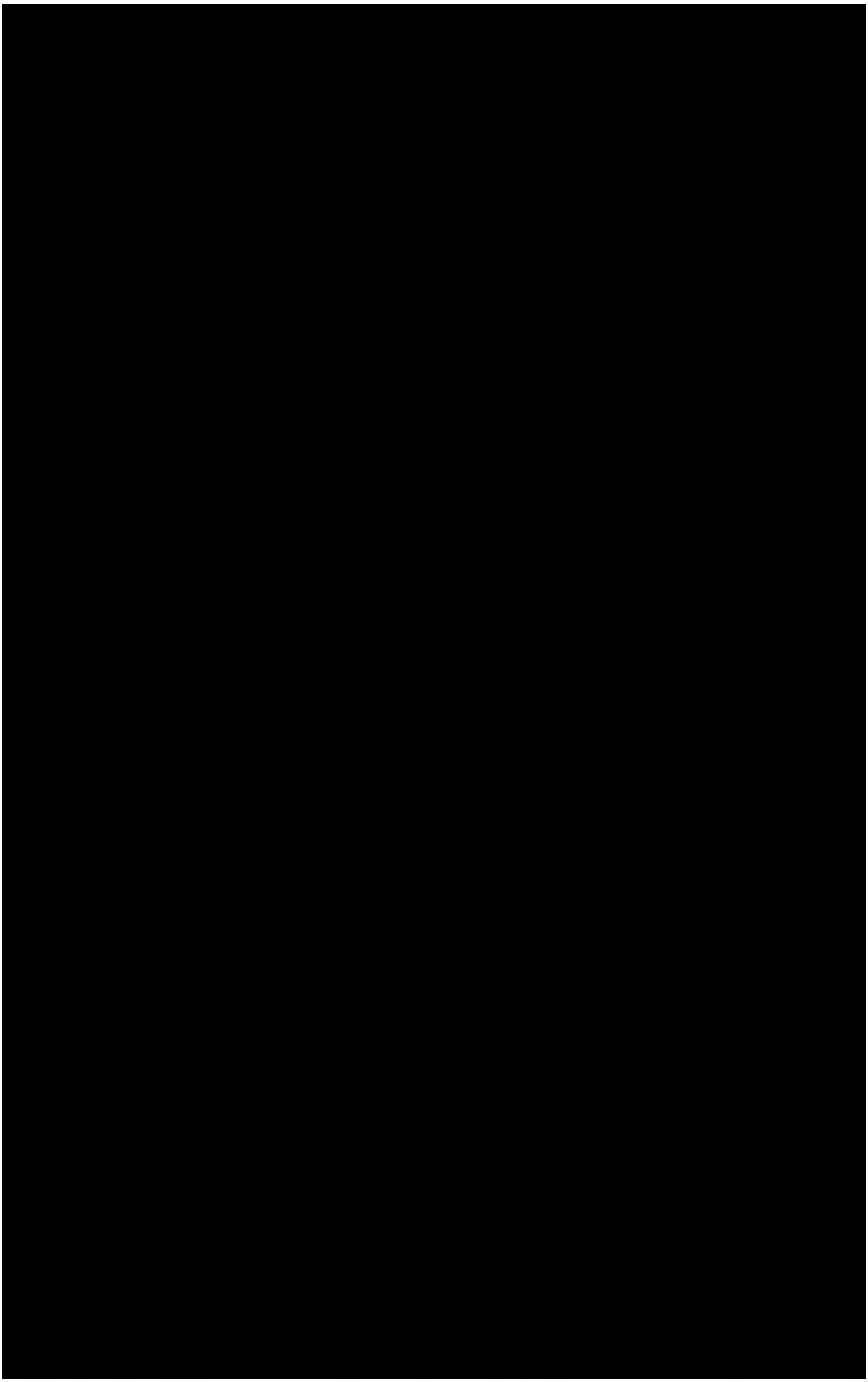


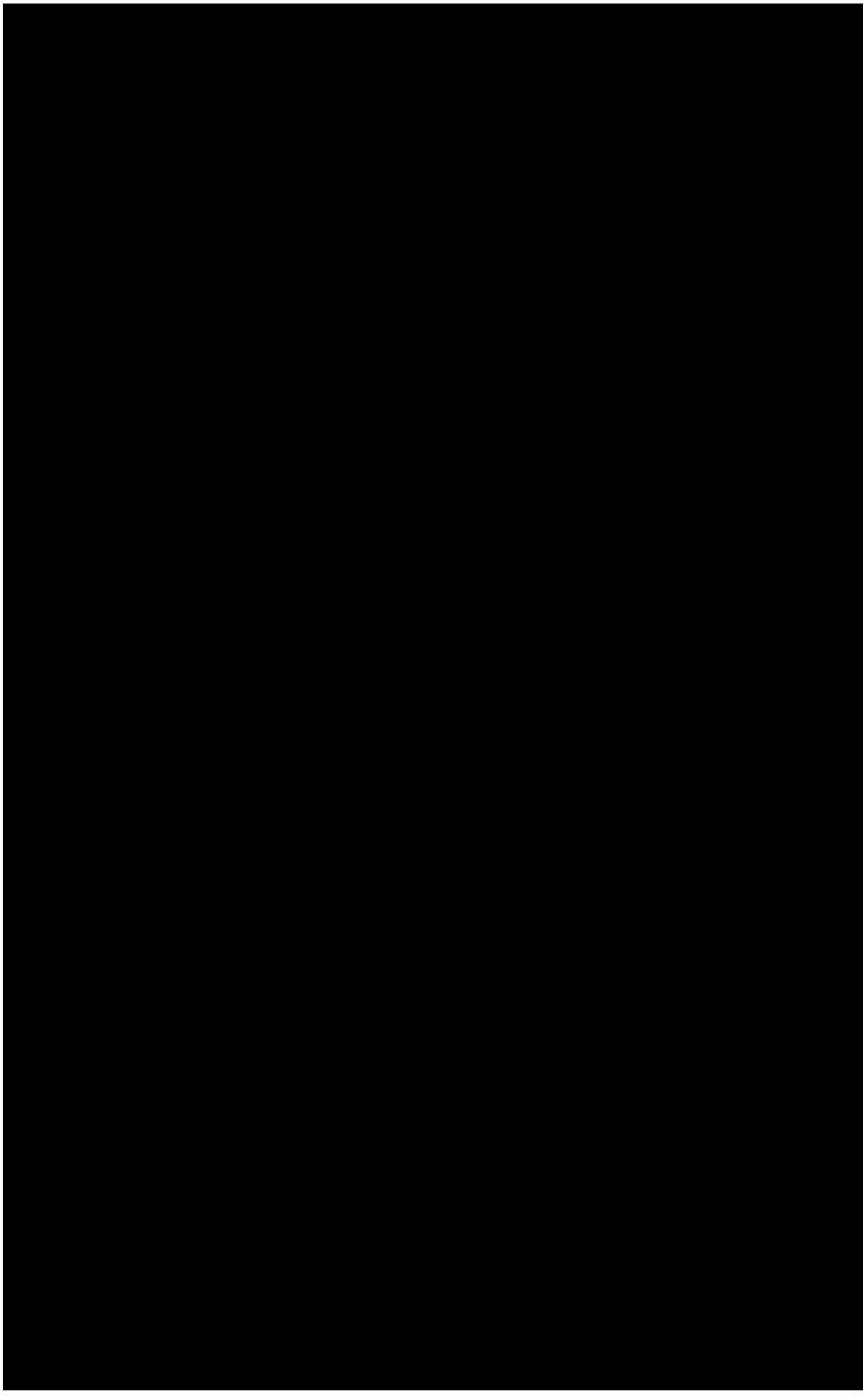


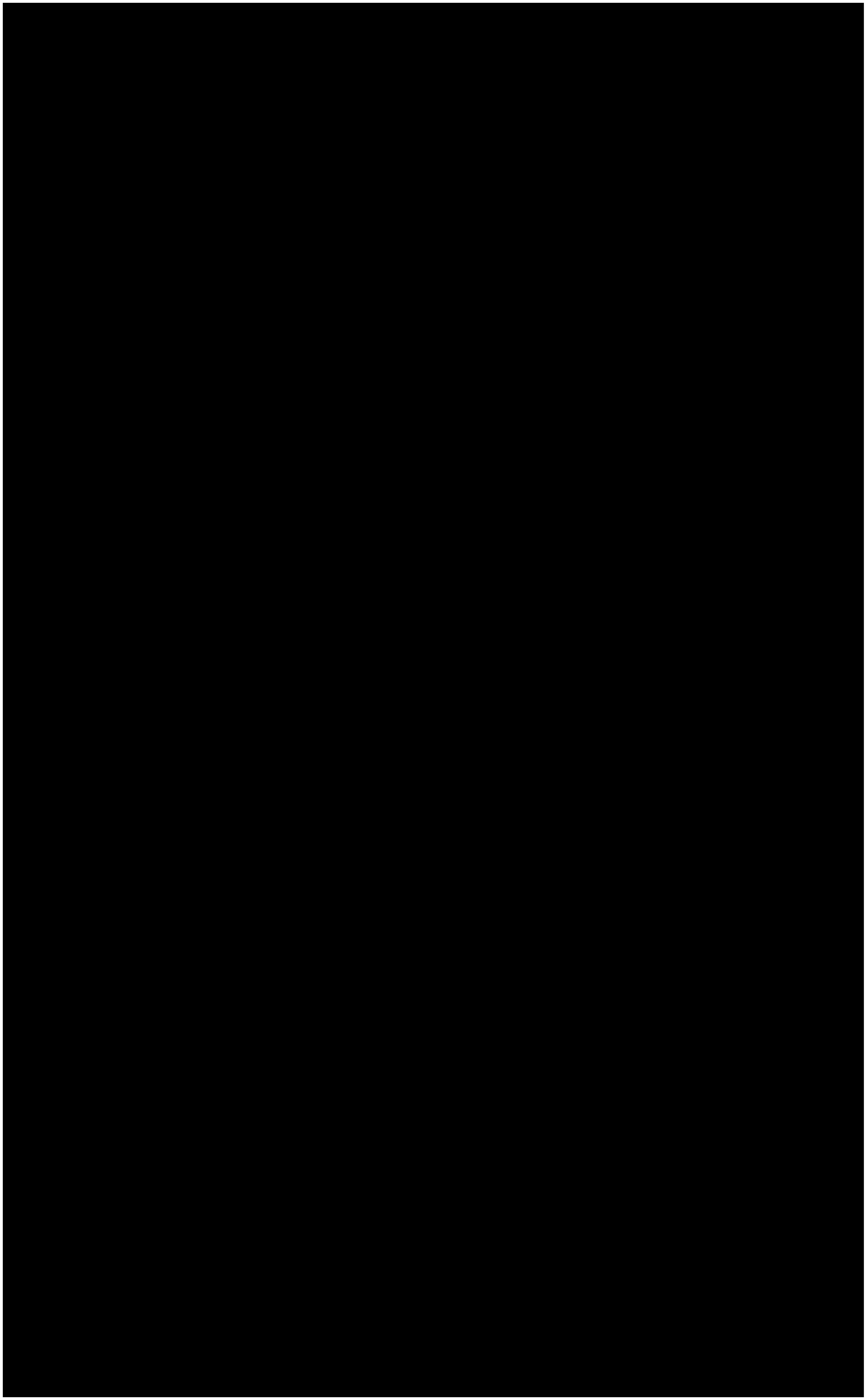


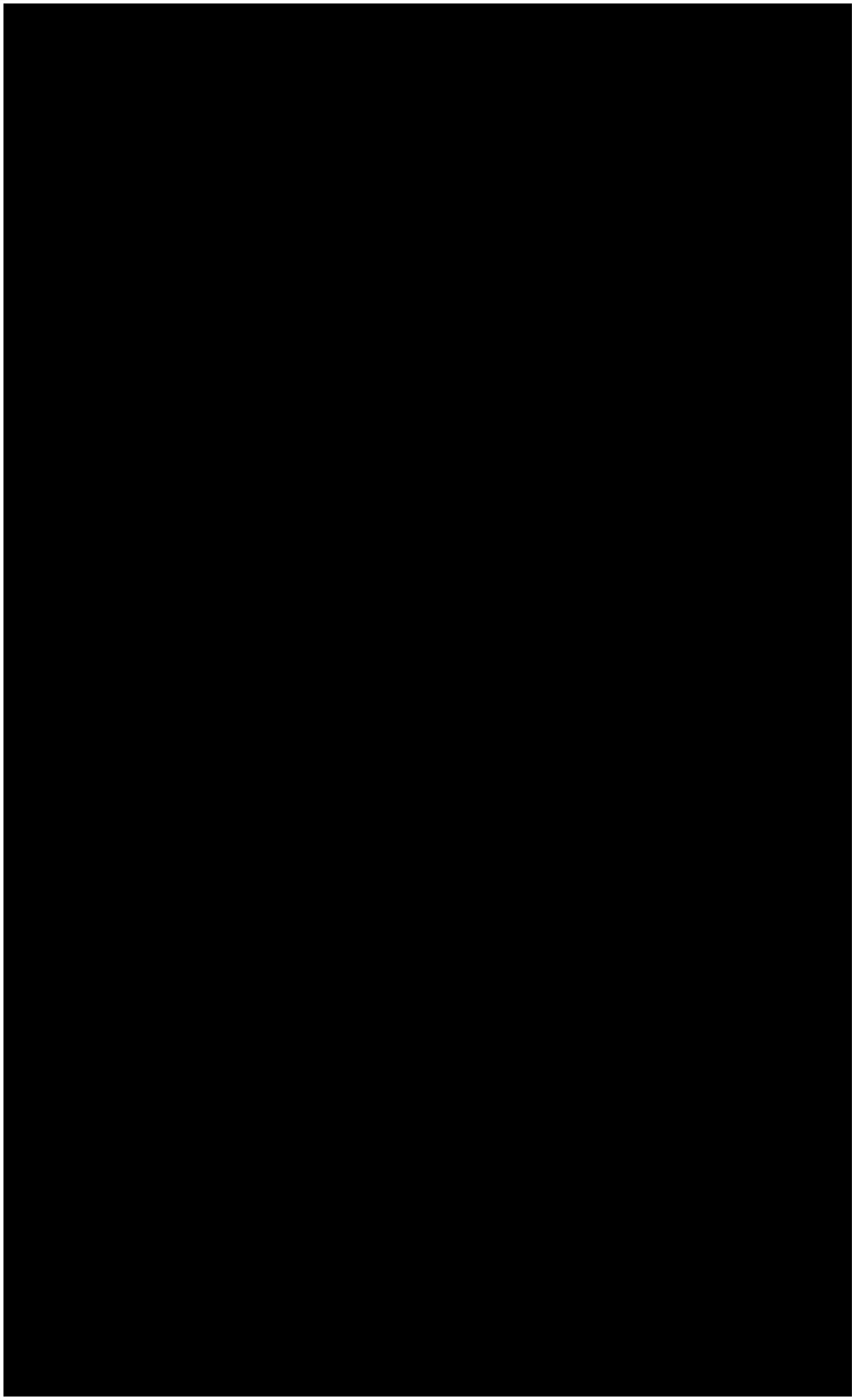


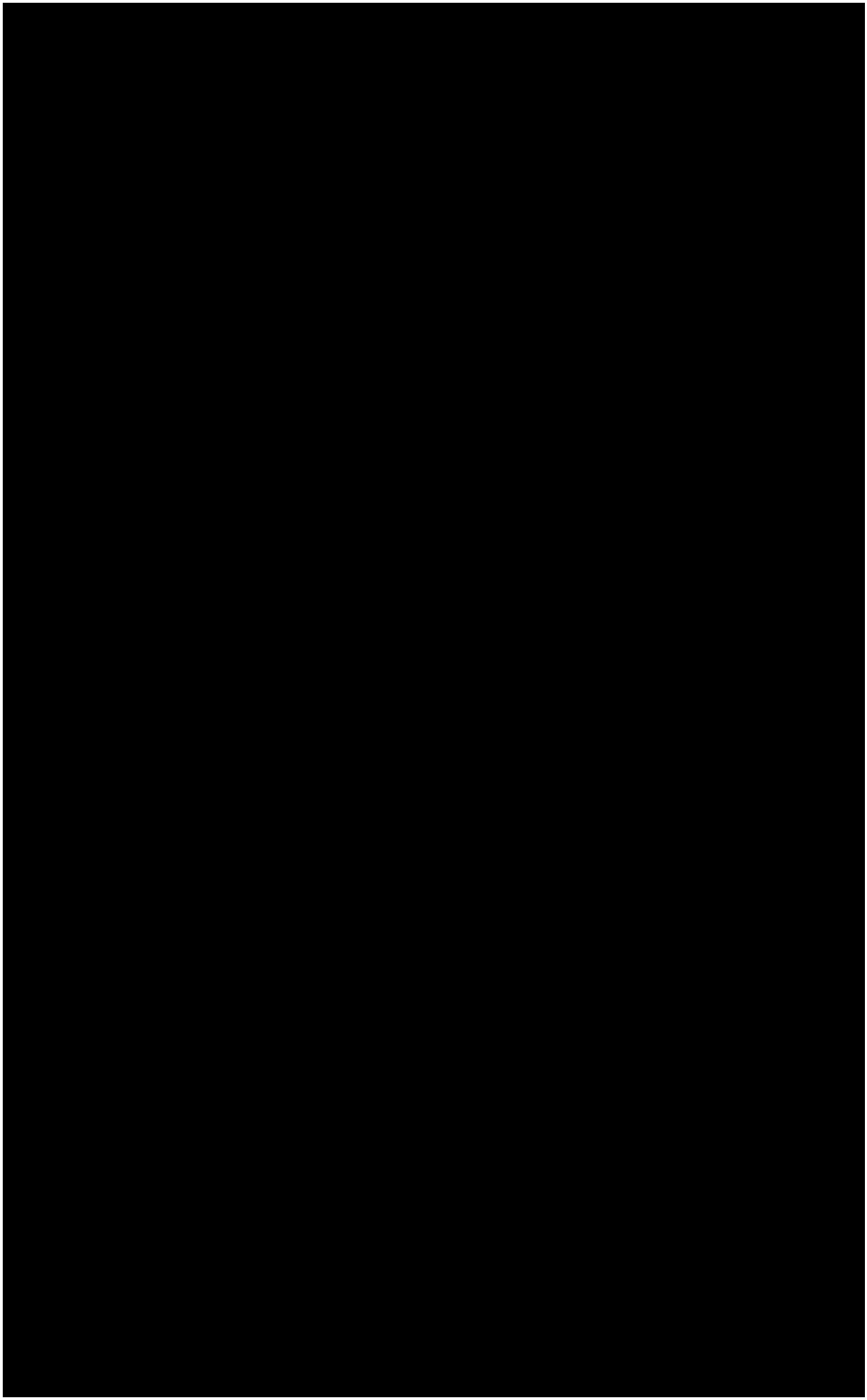


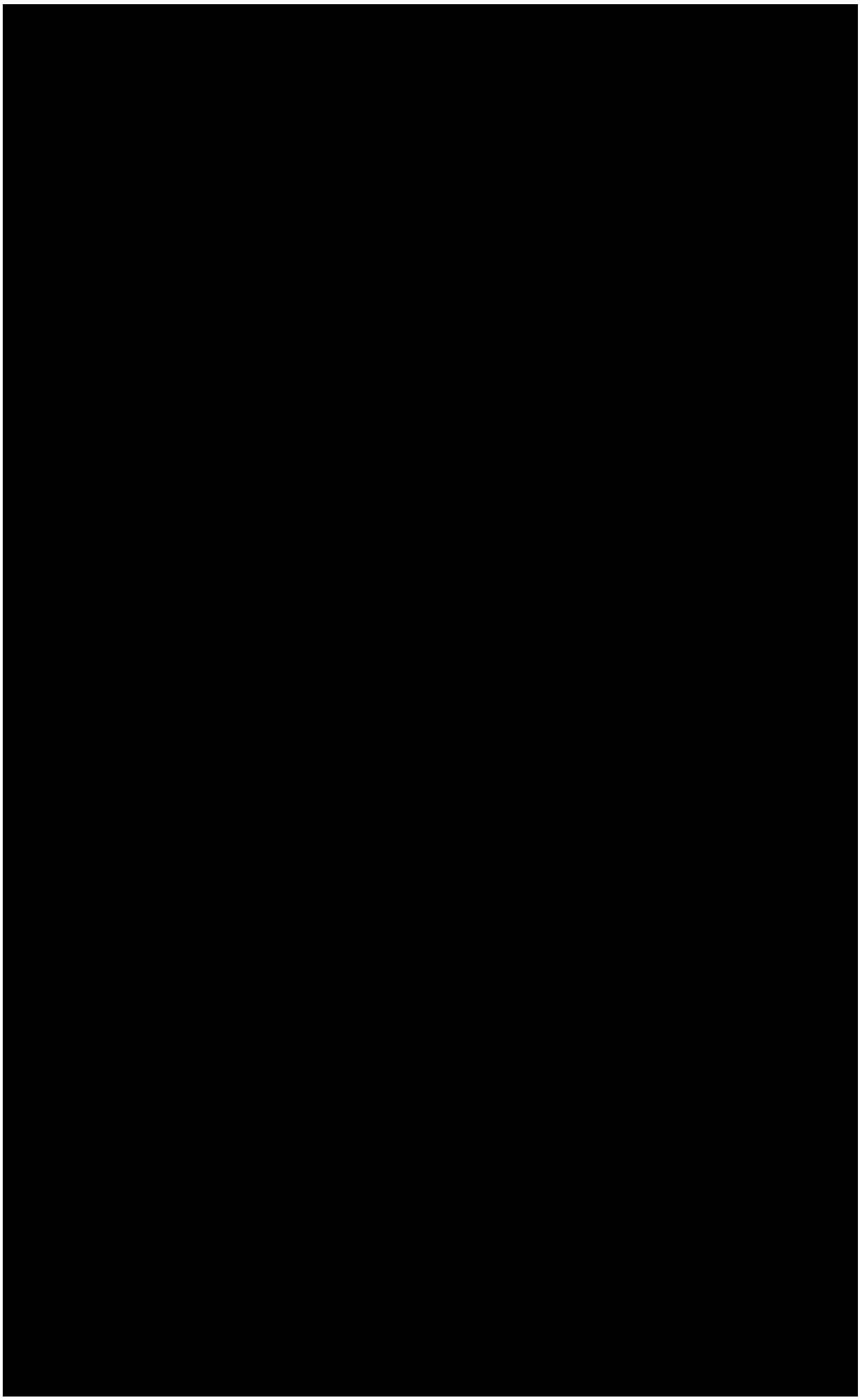


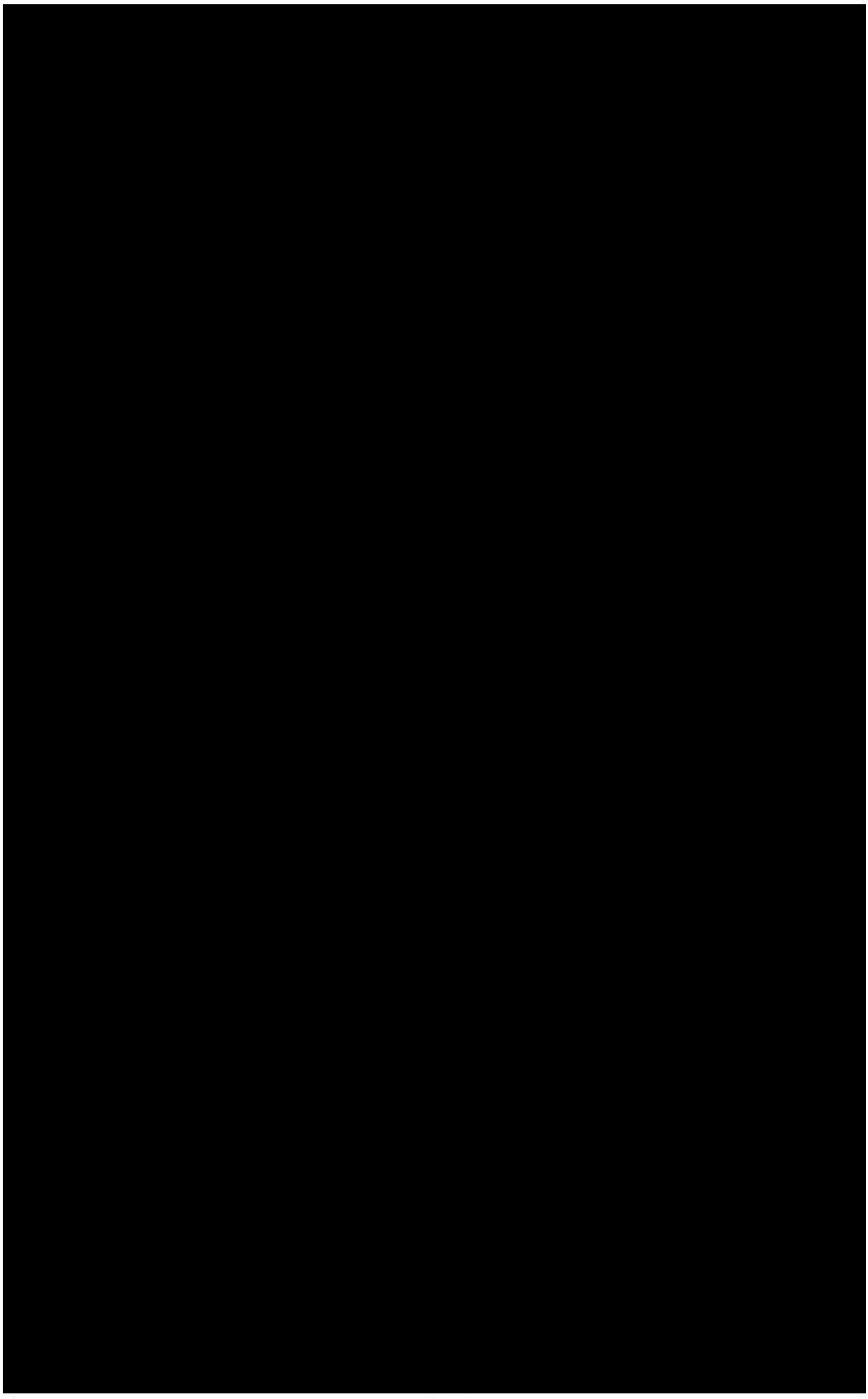


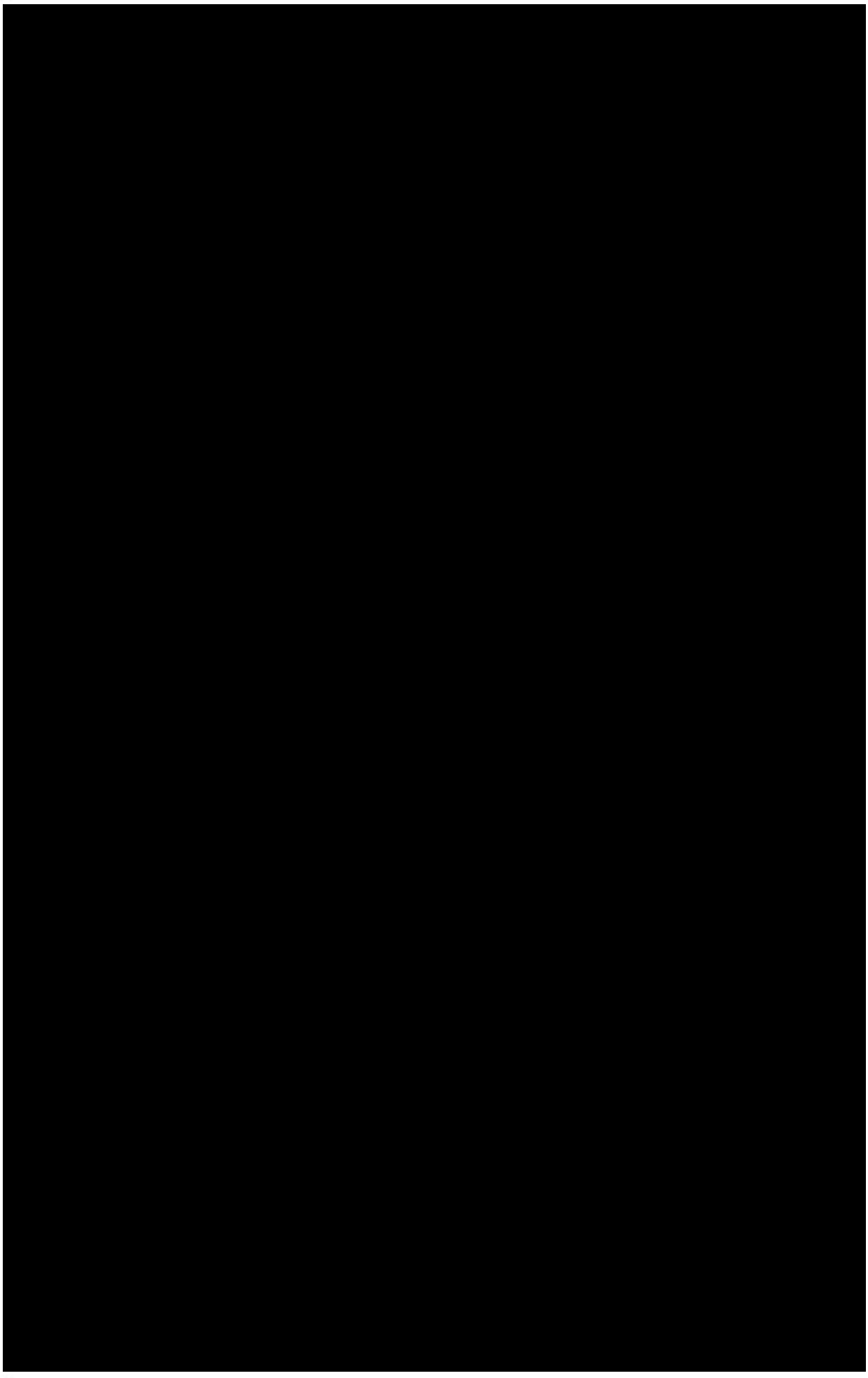


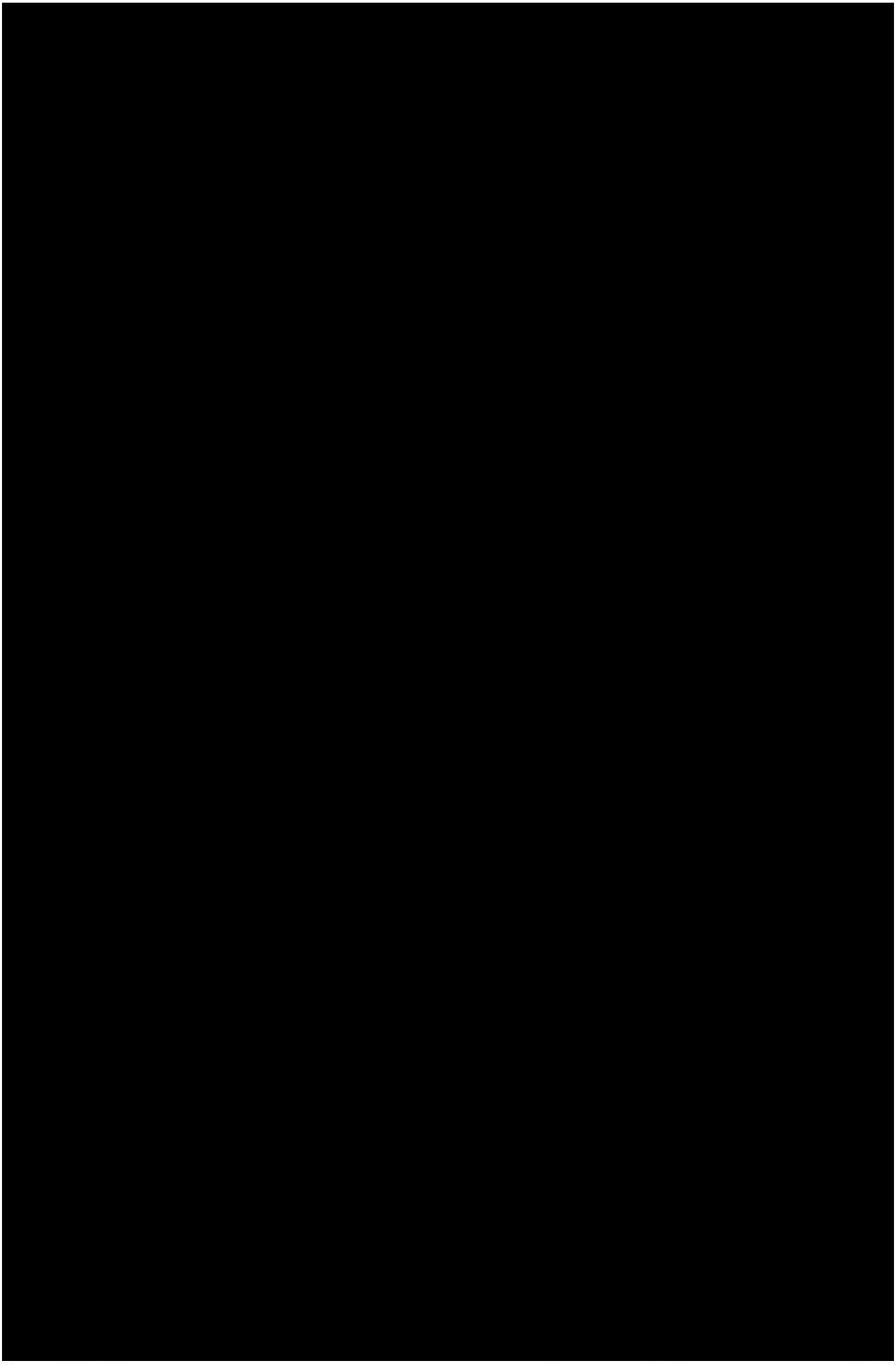


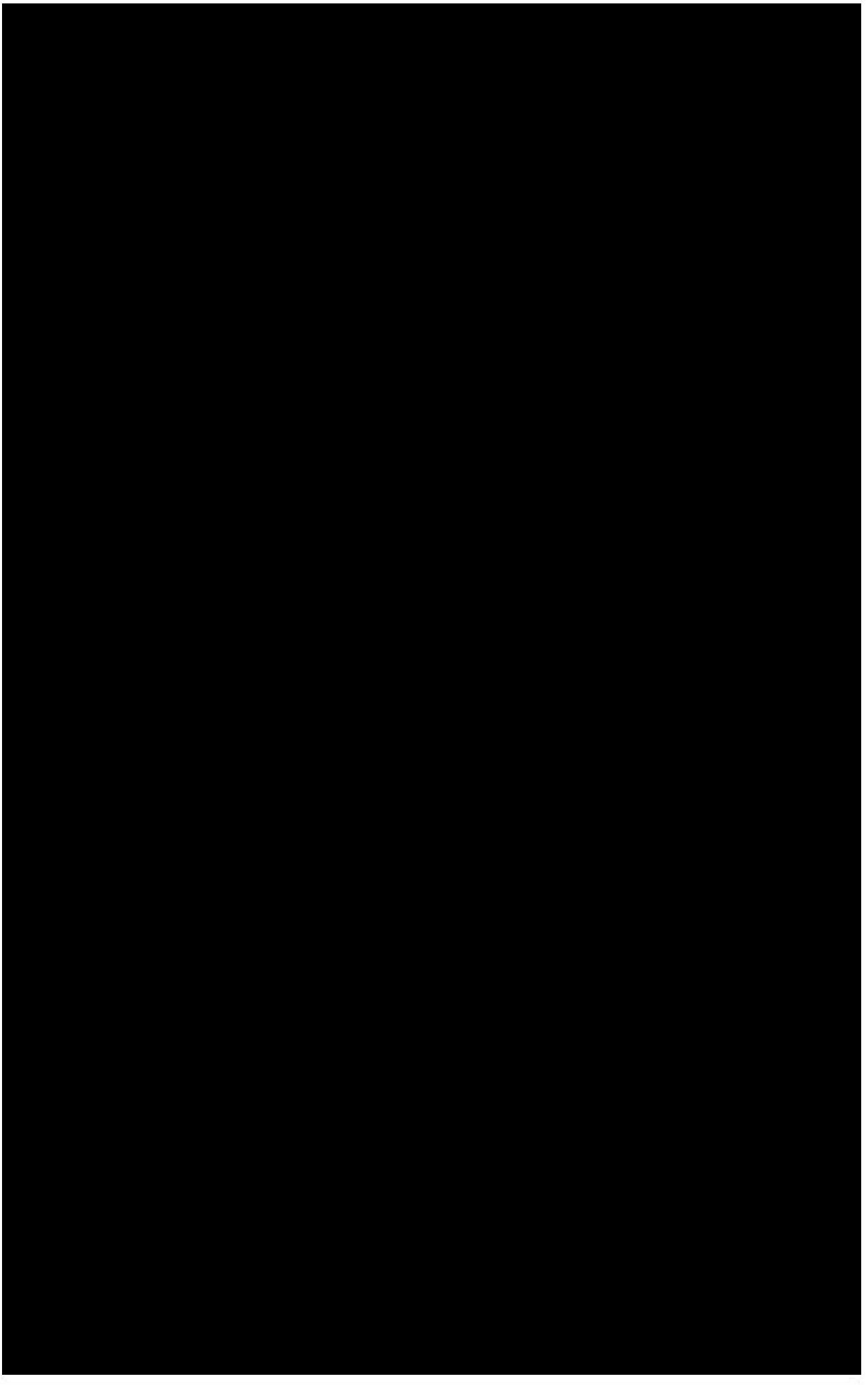


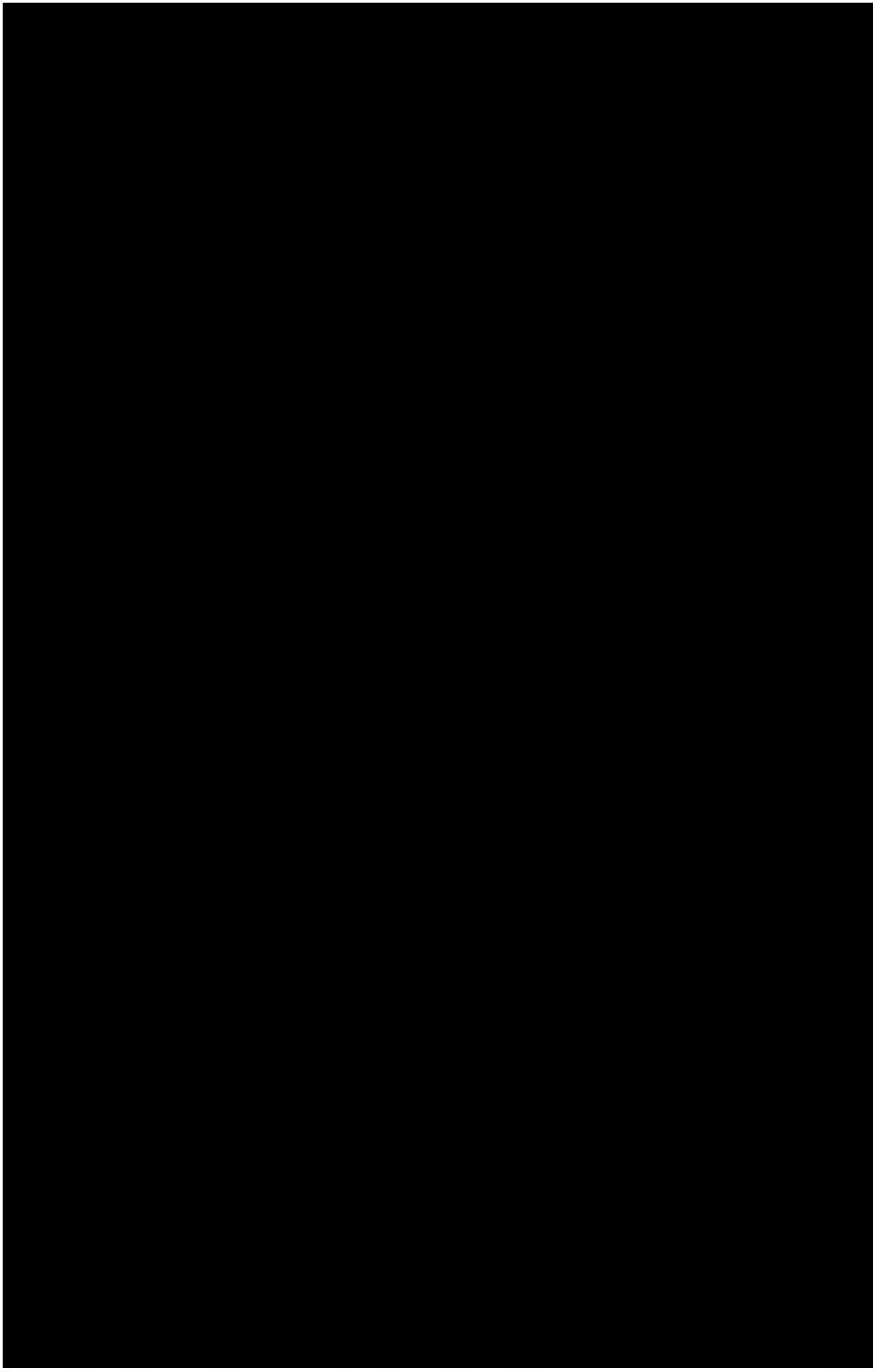


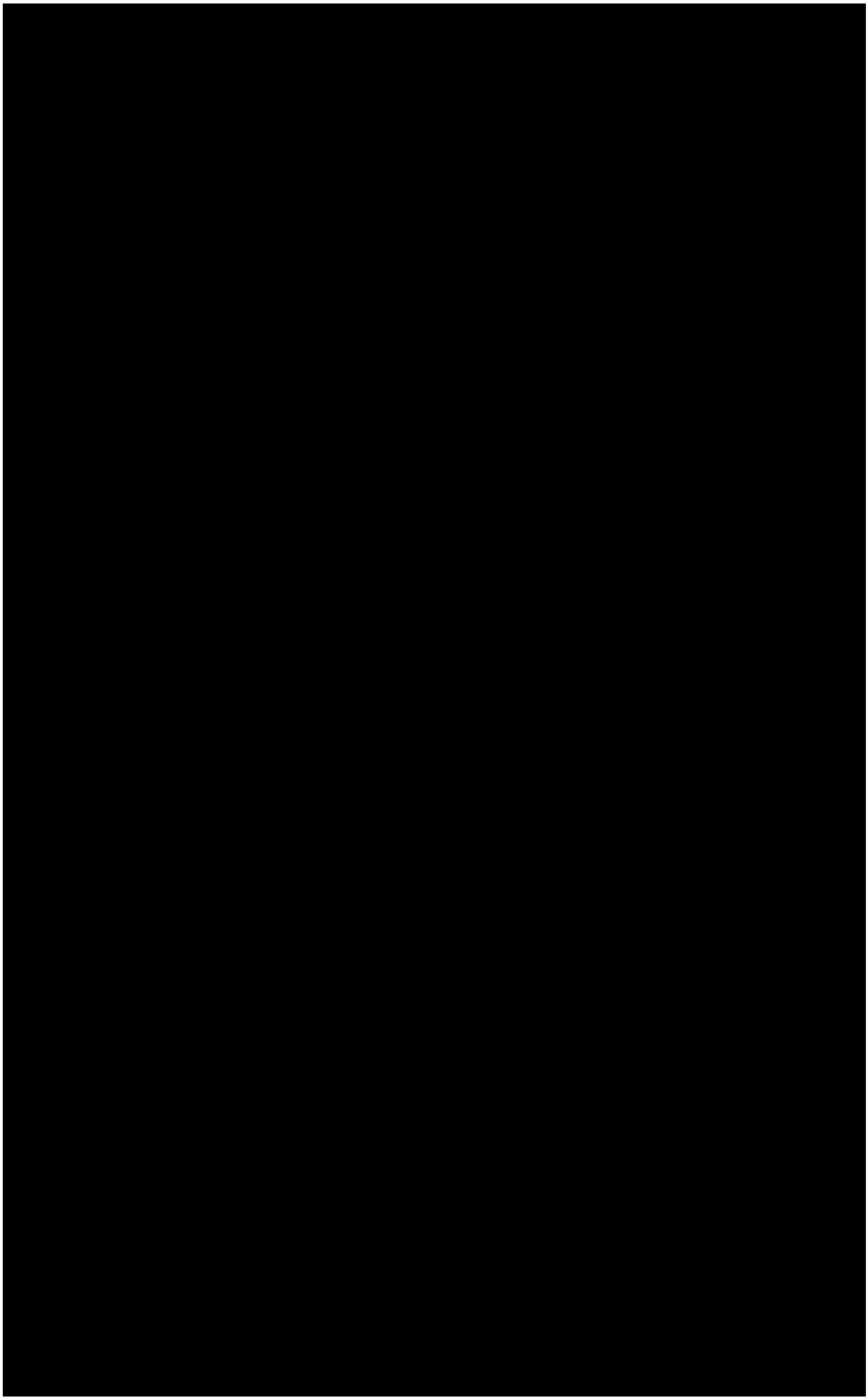


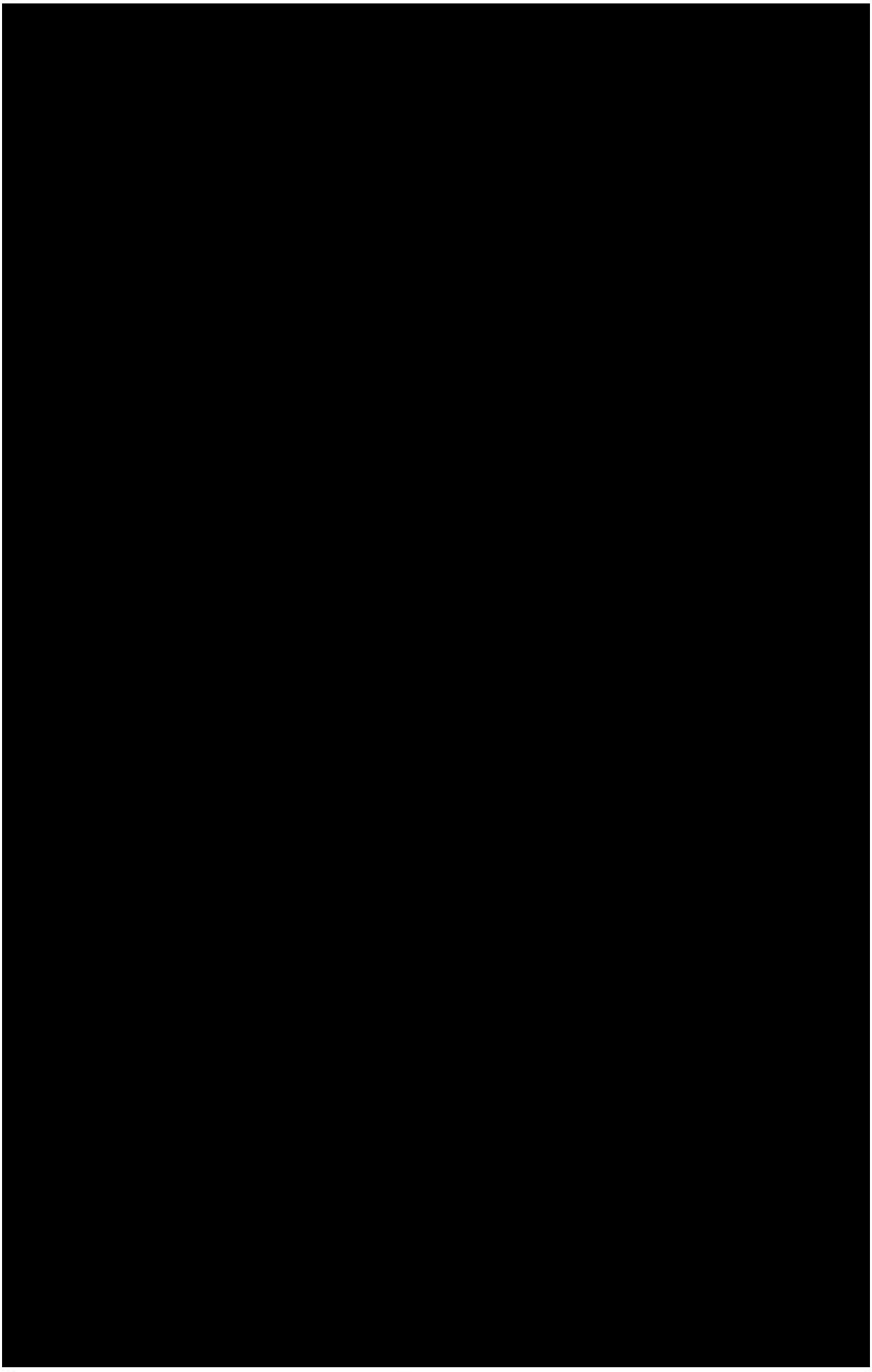


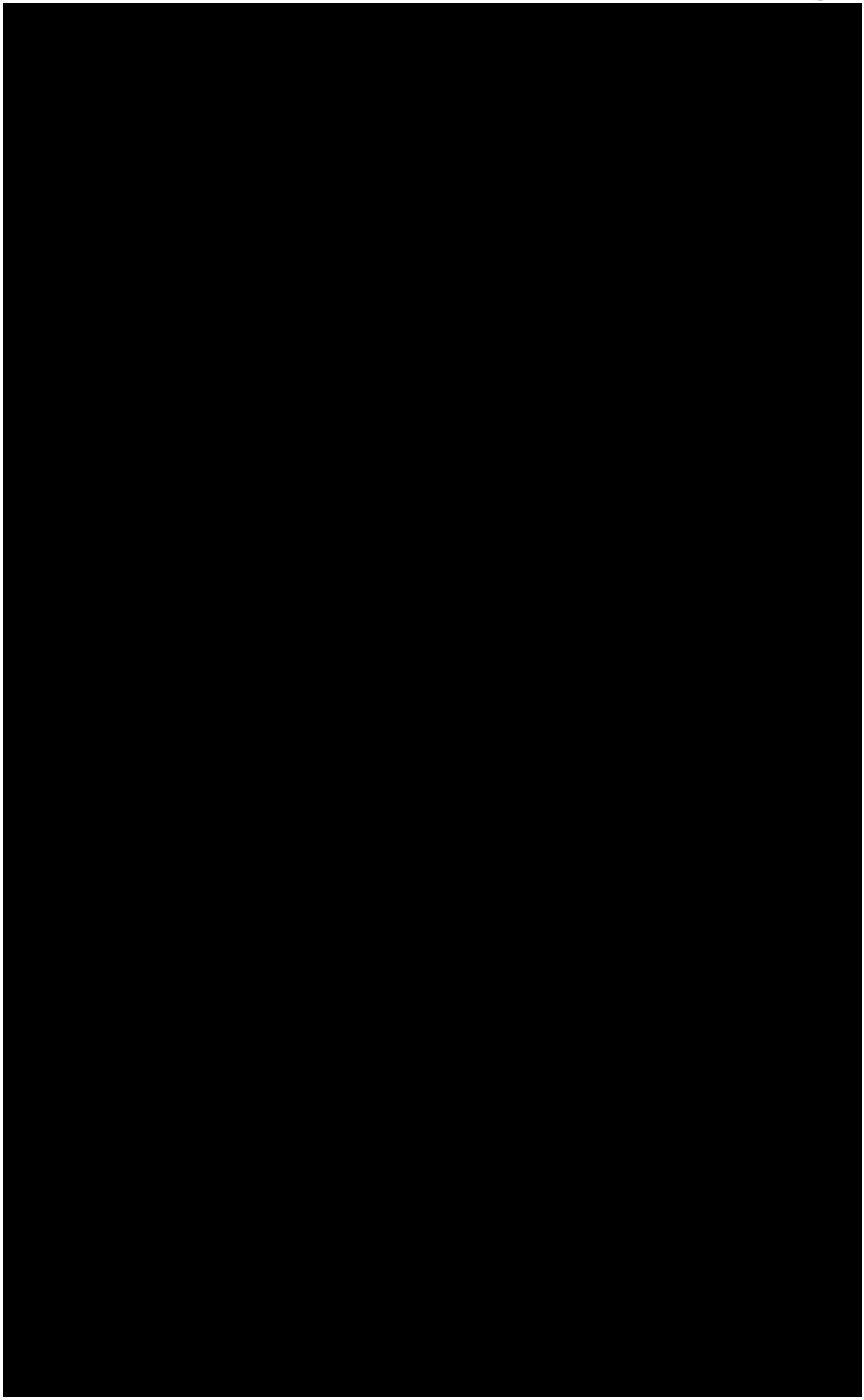


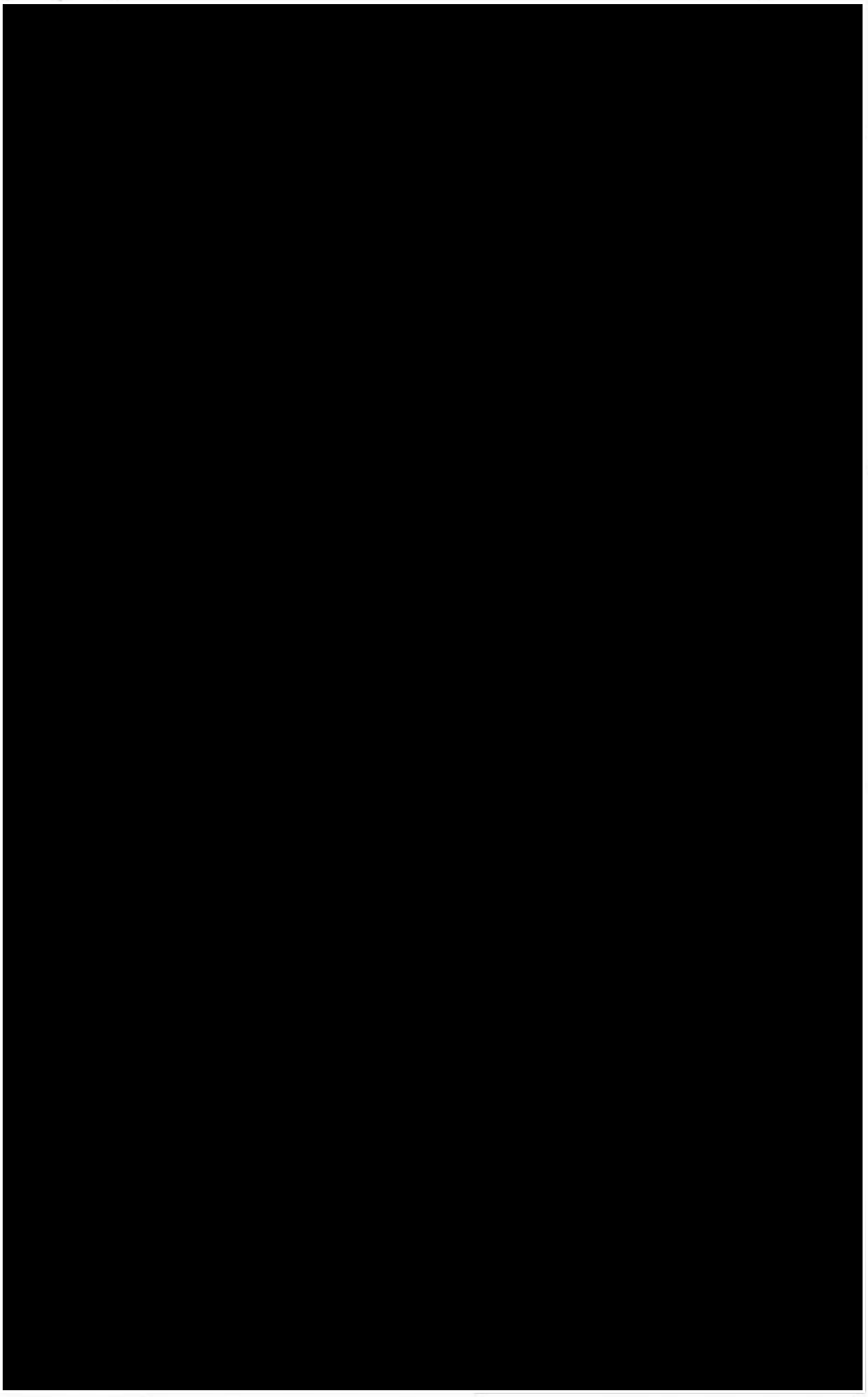












(NO6) Corby, Giselle

From: (DCM) Francis, Ernest
Sent: 08 July 2020 12:10
To: (NO6) Grech, Darren
Cc: (NO6) Corby, Giselle
Subject: FW: Minutes of Meeting
Attachments: NSCIS Meeting notes 31.10.18.docx

Dear Darren

Please see e-mail below from RGP requesting information relating to an on-going case.

Attached please find said information. Please advise whether I can proceed to issue or whether you wish request to be directed through your office. Alternatively I can issue and advise that any future requests be directed through your office.

Kind Regards

Ernest

Ernest Francis
Principal Secretary

Office of the Deputy Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20051983
Centrex: 3244
Fax: (+350) 20059271
ernest.francis@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Deputy Chief Minister

From: (RGP) James Currer (PC211) <james.currer@royalgib.police.gi>
Sent: 07 July 2020 11:22
To: (DCM) Francis, Ernest <ernest.francis@gibraltar.gov.gi>

Cc: (RGP) Clarke, Paul (PS130) <paul.clarke@royalgib.police.gi>
Subject: Minutes of Meeting

Good Morning,

My name is James Currer and I am currently serving as a Detective Constable within the Royal Gibraltar Police. I am currently working on a case where enquiries have been conducted and I have been informed that Mr Caine Sanchez was part of a meeting between Mr James Gaggero, himself, John Paul Payas & Philip Navas where minutes of the meeting were taken. I am unable to provide a date of this meeting, however, was hoping you may be able to provide these minutes? I apologise, however, I do not have any more information other than this.

Please do not hesitate to contact me for any further information.

Kind regards,

James CURRER
Detective Constable No 211
Criminal Investigation Department

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 54038385

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Meeting held on 31 October 2018 with Bland Limited

Present: Caine Sanchez
John Paul Payas
Phillip Navas
Ayshea De La Cruz



(NO6) Grech, Darren

From: (GLO) Llamas, Michael
Sent: 13 July 2020 18:47
To: (NO6) Grech, Darren; (GLO) DeVincenzi, Lloyd
Cc: (GLO) Rocca, Christian
Subject: RE: NSCIS

Dear Christian,

Please see below. Although I have not seen relevant papers, it has been categorically confirmed to me that HMGoG is indeed one of the complainants and is recorded as such in documents prepared by the RGP. Are you in a position to shed light on this?

Many thanks.

Michael

Michael Llamas CMG QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

HM Government of Gibraltar

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From: (NO6) Grech, Darren
Sent: 13 July 2020 18:43
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>; (GLO) DeVincenzi, Lloyd <lloyd.devincenzi@gibraltar.gov.gi>
Subject: Fwd: NSCIS

Michael again this surfaces. Grateful for a steer/answer. Best, D

Darren Grech
Chief Secretary

HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex: 2832
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

[illegible]

Begin forwarded message:

From: "(RGP) Ullger, Richard" <Richard.Ullger@royalgib.police.gi>
Date: 13 July 2020 at 17:14:11 GMT+2
To: "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
Cc: "(RGP) Richardson, Paul (OTM)" <Paul.Richardson@royalgib.police.gi>, "(RGP) Wyan, Mark" <Mark.Wyan@royalgib.police.gi>
Subject: NSCIS

Dear Chief Secretary ,

I am writing to you with regards to the ongoing police investigation concerning the National Security Central Intelligence System (NSCIS) and for which I am grateful for your continued assistance to the team.

I am aware that you have now provided the investigating team with an initial statement, dated the 21st January 2020, and a second statement, dated the 4th May 2020 (which is currently being transposed onto an official template). I understand the first deals with Mr Sanchez and an instruction given by the Chief Minister on the 4th October 2018, whilst the second asserts ownership of the NSCIS platform by HMGoG.

In addition to your statements the investigating team have obtained a statement from the Financial Secretary, Mr Mena, which deals with a decision made by Mr Sanchez

to withhold payments to Bland Limited in respect of the NSCIS platform, and a subsequent report which was provided to him on the 16th April 2019. A further statement has also been provided by Mr Canessa, the Principal Secretary to the Chief Minister, again dealing mainly with the instruction which was given to Mr Sanchez on the 4th October 2018.

I am informed by Inspector Wyan that in light of your statement confirming that the ownership of the NSCIS platform is in dispute, he asked whether you would consider making a formal complaint, on behalf of the Government, about the conduct of the suspects subject to the investigation. Your secretary has responded to Inspector Wyan stating that the Government had already filed a complaint. This unfortunately is not the case and in actual fact we were advised in writing last week during one of the suspect's interviews under caution, that even they were aware that no complaint had been made against them.

Unfortunately, there is nothing in any of the statements provided which, as purported owners of the NSCIS platform, makes an official complaint in respect of the computer misuse and related offences which the evidence suggests may have been committed. As you will no doubt appreciate, the investigation is a very serious one and relates to individuals who are suspected of attempting to sabotage a national security platform. Without a formal complaint by HMGoG, as purported owners, this may significantly impact the ability of the police to prosecute this important matter.

Given the above, I would be grateful if you could confirm to Superintendent Richardson or Inspector Wyan the position with regards to taking action against the suspects, and whether you would be willing to provide a statement outlining this position.

Best wishes

Richard

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2271**

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(NO6) Corby, Giselle

From: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Sent: 14 August 2020 13:50
To: (NO6) Corby, Giselle
Cc: (NO6) Grech, Darren
Subject: RE: NSCIS - Letter from the Chief Secretary

Dear Giselle,

Please thank the Chief Secretary for his letter to me which I have passed on to the investigating team.

With best wishes

Richard

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2271**

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From: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Sent: 14 August 2020 12:54
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Cc: Darren Grech <darren.grech@gibraltar.gov.gi>
Subject: NSCIS - Letter from the Chief Secretary

Dear Mr Ullger

Please find attached a scanned copy of a letter re: NSCIS on behalf of the Chief Secretary, hardcopy to follow via mail.

Regards
Giselle

HM Government of Gibraltar

Office of the Chief Secretary

Your ref:
Our ref:

Mr R Ullger OTM, MSc
Commissioner of Police
Royal Gibraltar Police
Rosia Road
Gibraltar

14th August 2020

Dear Commissioner Ullger

Thank you for your email of 13th July 2020 regarding the making of a formal complaint, on behalf of the Government, about the conduct of suspects subject to the investigation regarding the National Security Central Intelligence System (NSCIS).

At the outset, I should like to apologise both for the delay in getting back to you and for any confusion regarding whether a complaint has been made, formally or otherwise.

To be clear, my understanding is that both the Government and Bland were cited as complainants in relevant search warrants, that the Chief Minister had separately indicated to the Royal Gibraltar Police the Government's status as a complainant, and that nothing further was needed.

Be that as it may, let me state on behalf of Government that it is willing to be a formal complainant in this matter if it has not been considered so up until this point. The Government's position as a complainant is as a result of information provided to it by the Royal Gibraltar Police itself, as well as Bland, such that the Government believes that wrongdoing may have been committed against it in connection with NSCIS.

I trust that this letter, together with the witness statements that have been provided to you and which you cite in your email, now suffice to constitute a formal complaint. However, if greater or different formality is needed in order for the Government to be considered an official complainant, please do let me know.

Yours sincerely

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar • 6 Convent Place • Gibraltar GX11 1AA
t +350 20051752 f +350 20040922 e darren.grech@gibraltar.gov.gi w gibraltar.gov.gi

(NO6) Corby, Giselle

From:	(RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent:	18 August 2020 09:54
To:	(NO6) Corby, Giselle
Cc:	(RGP) Richardson, Paul (OTM)
Subject:	NSCIS - Letter from the Chief Secretary
Attachments:	COP - GOG formal complaint re NSCIS - 14.08.20.pdf; Darren Grech - Complaint from HMGoG.docx
Importance:	High

Dear Giselle,

In his the letter to the Commissioner of Police on the 14th August the Chief Secretary confirmed that, on behalf of HMGoG, he wished to make a formal complaint in relation to the NSCIS investigation. In order to formalise the complaint we will require a short additional statement. I have therefore drafted a statement of complaint based upon his letter (see attached).

I would be very grateful if you could ask the Chief Secretary to review the attached statement and amend it as he sees fit. Once signed I will arrange for an officer to collect.

Please let me know if you require any additional information.

Kind Regards,

Mark

Mark Wyan
Chief Inspector

Corporate Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 52181 Centrex: **2340**

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From: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Sent: 14 August 2020 12:54
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Cc: Darren Grech <darren.grech@gibraltar.gov.gi>
Subject: NSCIS - Letter from the Chief Secretary

Dear Mr Ullger

Please find attached a scanned copy of a letter re: NSCIS on behalf of the Chief Secretary, hardcopy to follow via mail.

Regards
Giselle

HM Government of Gibraltar

Office of the Chief Secretary

Your ref:
Our ref:

Mr R Ullger OTM, MSc
Commissioner of Police
Royal Gibraltar Police
Rosia Road
Gibraltar

14th August 2020

Dear Commissioner Ullger

Thank you for your email of 13th July 2020 regarding the making of a formal complaint, on behalf of the Government, about the conduct of suspects subject to the investigation regarding the National Security Central Intelligence System (NSCIS).

At the outset, I should like to apologise both for the delay in getting back to you and for any confusion regarding whether a complaint has been made, formally or otherwise.

To be clear, my understanding is that both the Government and Bland were cited as complainants in relevant search warrants, that the Chief Minister had separately indicated to the Royal Gibraltar Police the Government's status as a complainant, and that nothing further was needed.

Be that as it may, let me state on behalf of Government that it is willing to be a formal complainant in this matter if it has not been considered so up until this point. The Government's position as a complainant is as a result of information provided to it by the Royal Gibraltar Police itself, as well as Bland, such that the Government believes that wrongdoing may have been committed against it in connection with NSCIS.

I trust that this letter, together with the witness statements that have been provided to you and which you cite in your email, now suffice to constitute a formal complaint. However, if greater or different formality is needed in order for the Government to be considered an official complainant, please do let me know.

Yours sincerely

Darren Grech
Chief Secretary

Office of the Chief Secretary
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t +350 20051752 f +350 20040922 e darren.grech@gibraltar.gov.gi w gibraltar.gov.gi

ROYAL GIBRALTAR POLICE

STATEMENT OF WITNESS

Criminal Procedure and Evidence Act 2011 ss. 187 and 405; Criminal Procedure Rules r 16.2

CR No | | | | | | | | | | | | | | | | | | |

Surname: **GRECH** Forenames: **Darren**

Age of witness (if over 18 enter over 18): **Over 18**

Occupation: **Chief Secretary at HMGOG**

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated 1 day of August 2020

Signed: _____

My name is Darren Grech. I am currently employed as Chief Secretary by Her Majesty's Government of Gibraltar (HMGoG).

I am making this Supplementary Witness Statement further to the Witness Statements I made dated 21st January 2020 and 4th May 2020.

In my capacity as Chief Secretary of HMGoG I have received information from both Bland Limited and the Royal Gibraltar Police in relation to the conduct of suspects subject to an investigation regarding the National Security Centralised Intelligence System (NSCIS).

On behalf of HMGoG I would like the Royal Gibraltar Police to take formal action against any suspect responsible for criminal offences committed against HMGoG in connection with the NSCIS platform.

Signed: _____ **Signature Witnessed by:** _____

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(NO6) Corby, Giselle

From: (NO6) Corby, Giselle
Sent: 28 September 2020 10:48
To: 'pacompol@royalgib.police.gi'
Subject: COP - Requesting further information re Complaint - 25.09.2020.pdf
Attachments: COP - Requesting further information re Complaint - 25.09.2020.pdf

Importance: High

Dear Commissioner

Please find attached a letter which the Chief Secretary has asked that I send to you urgently. I have spoken to Leeane this morning.

Regards
Giselle

HM Government of Gibraltar

Office of the Chief Secretary

Your ref:
Our ref:

Mr R Ullger OTM, MSc
Commissioner of Police
Royal Gibraltar Police
Rosia Road
Gibraltar

25th September 2020

Dear Commissioner

I am writing to you in relation to the charges advanced against Civil Servant, Mr Caine Sanchez in the investigation conducted by the Royal Gibraltar Police in respect of the National Security Central Intelligence System ('NSCIS').

This letter is further to my letter of the 14th August 2020 in which I confirmed to you, for the reasons set out therein (and based solely (i) on the information contained in your email to me of 13th July 2020 and; (ii) the information you verbally relayed to me in our later meeting), my decision that Her Majesty's Government of Gibraltar ('the Government') was willing to be a complainant in respect of the offences alleged against Mr Sanchez and other defendants (Cornelio and Perez). You had clarified in your email that the Government was not previously 'formally' a complainant.

The media has reported that the charges have now been put to the defendants in this case, including Mr Sanchez. Reports have also confirmed that one of the charges against Mr Sanchez, arising from the Government's complaint, is that of misconduct in public office. (Incidentally, the public statement from the RGP suggests that the Government's complaint/s predate my communication to you of the 14th August 2020. I understand, from media inquiries to the Government Press Office that this is an issue that has been raised by Counsel for the defendants with various media organisations.)

In the circumstances, I would be grateful to urgently receive from you details of the facts alleged against Mr Sanchez, the key aspects of how the RGP alleges that the said offence is made out and any documentary evidence in support of the charge/s which stand in in the name of the Government as complainant against him. I require this information in order that:

1. I can confirm to you (with the benefit of careful consideration of the evidence the RGP's investigation has, with the Government's cooperation, uncovered), my position that the complaint should proceed in the name of the Government;

Office of the Chief Secretary
HM Government of Gibraltar • 6 Convent Place • Gibraltar GX11 1AA
t +350 20051752 f +350 20040922 e darren.grech@gibraltar.gov.gi w gibraltar.gov.gi

2. **The Council of Ministers** can ratify my decision for the Government to proceed to be a complainant in this sensitive matter and with the benefit of the same careful consideration of the evidence in respect of the Government's role as complainant; and

3. **His Excellency the Governor** can confirm, or otherwise determine, the re-instatement of the interdiction of Mr Sanchez also with the benefit of the same careful consideration of the evidence available at this stage. In respect of this latter aspect of this matter, I will also be writing to Mr Sanchez to see his explanations. I will be suspending him from all duties (as he initially was pending the outcome of your investigations) until I have received those explanations and the relevant decisions are made about interdiction.

Thank you for your continued assistance in respect of this matter. As you will know, I am advised that this is the first instance that the offence of misconduct in public office has been charged in Gibraltar. I therefore want to ensure that the Government acts and has acted entirely properly in the manner in which we make decisions about being / continuing to be a complainant. Additionally, I must also ensure that Mr Sanchez is dealt with properly, in keeping with General Orders and all his other rights, in the context of his employment as an officer of the Government.

In light of the above, I shall very much look forward to hearing from you at your very earliest convenience.

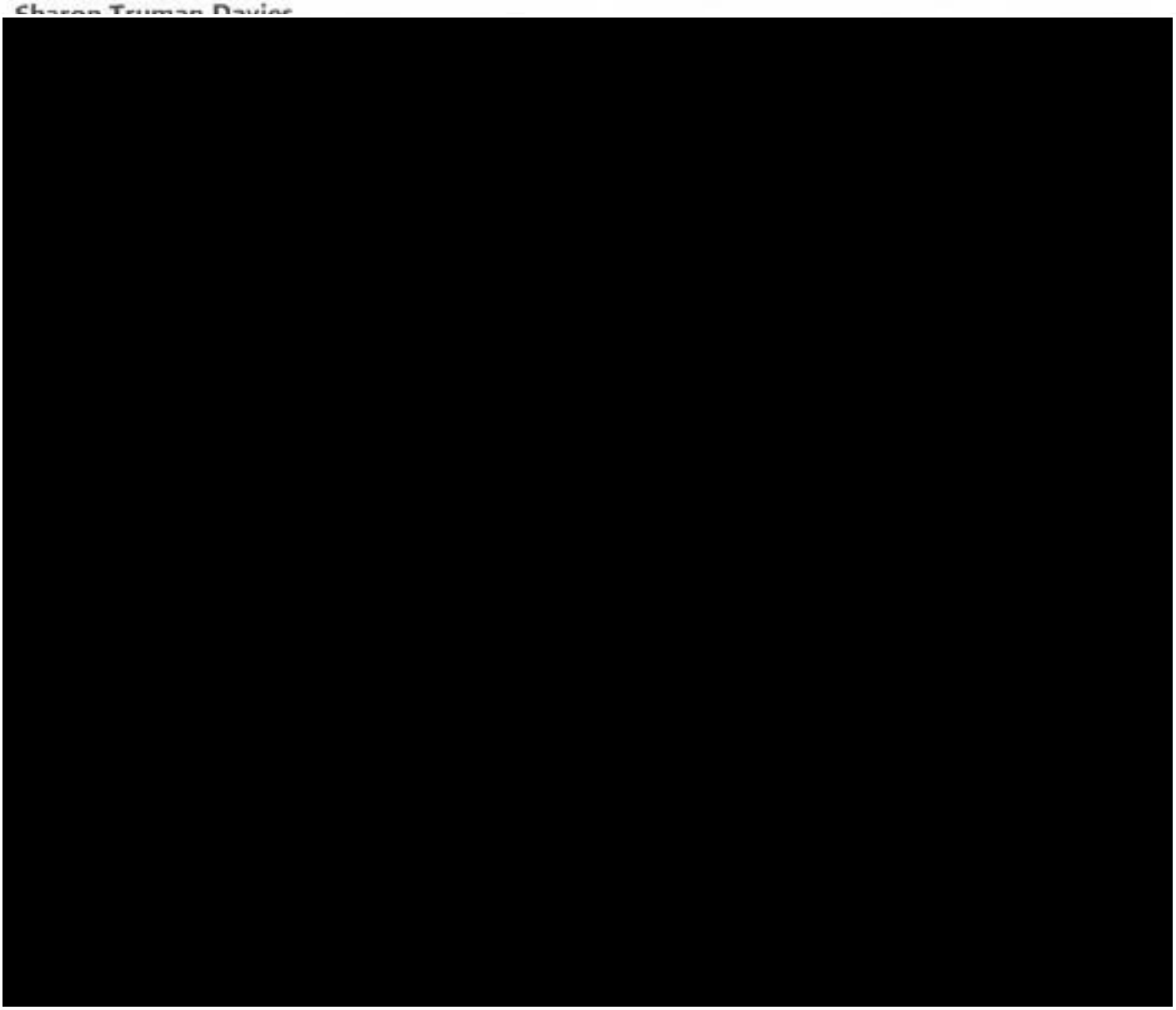
Given the references at 2 and 3 above, I am copying His Excellency the Governor and the Chief Minister into this correspondence.

Yours sincerely

Darren Grech
Chief Secretary

cc. His Excellency the Governor
Chief Minister

Sharon Truman Davies



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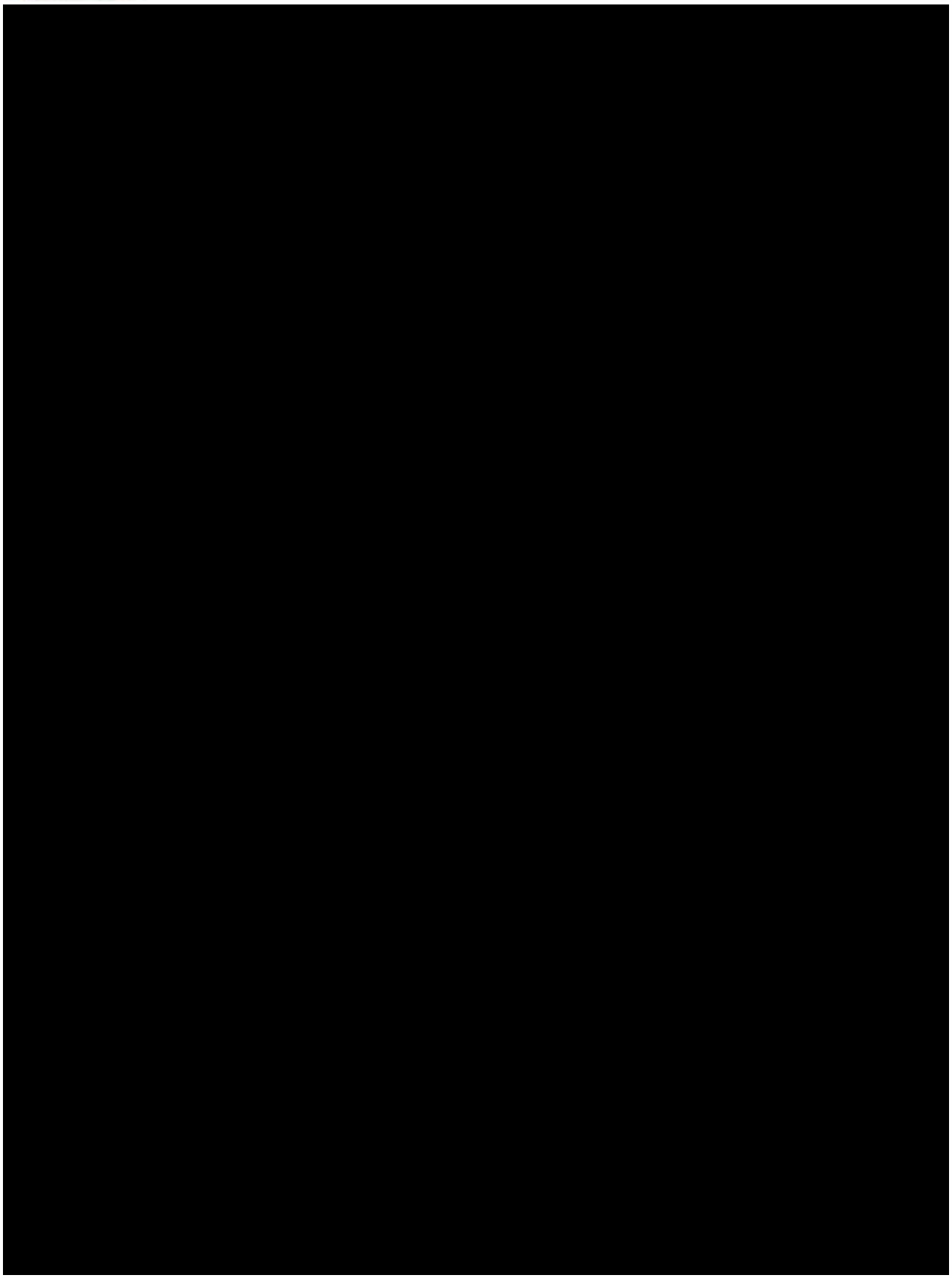

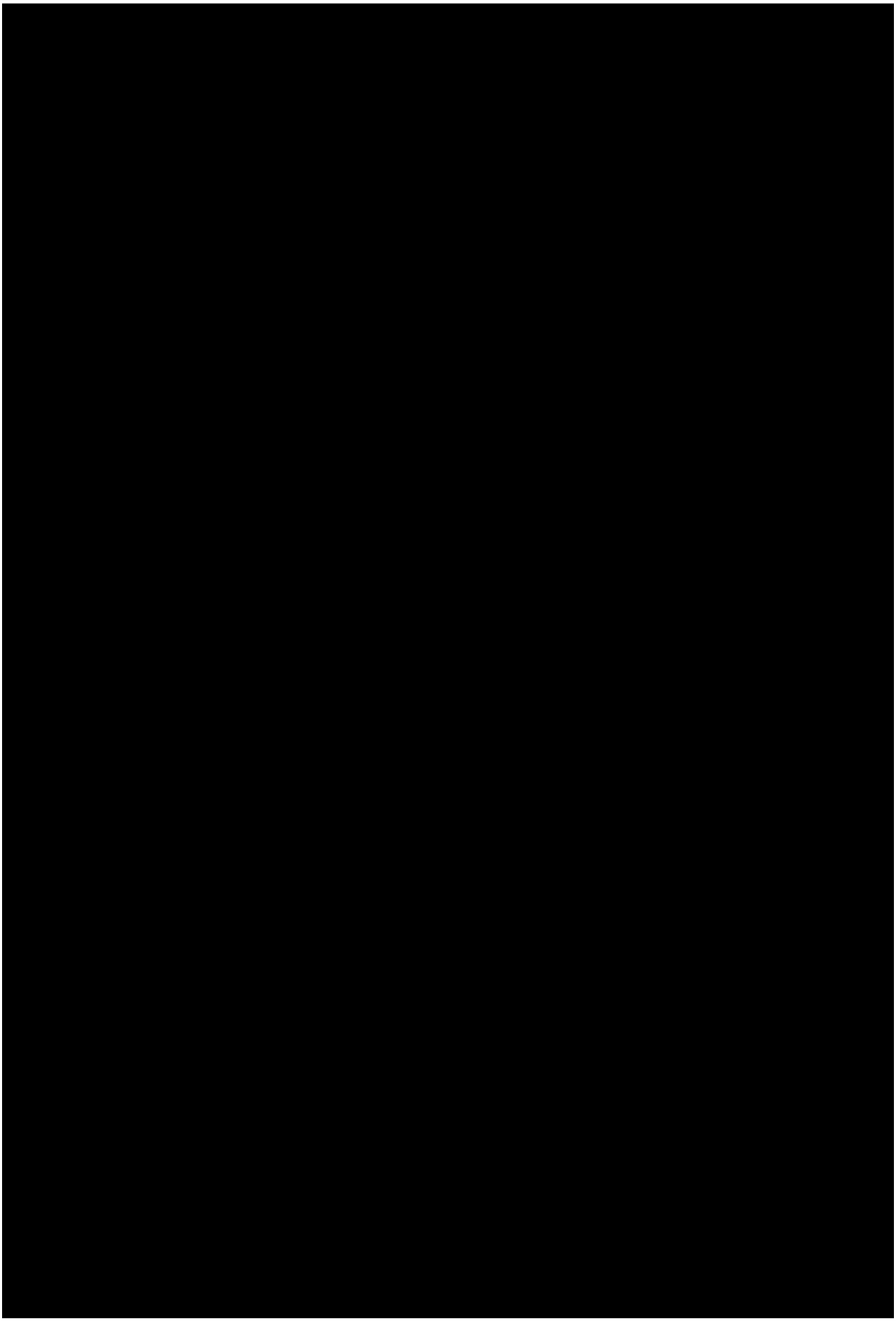

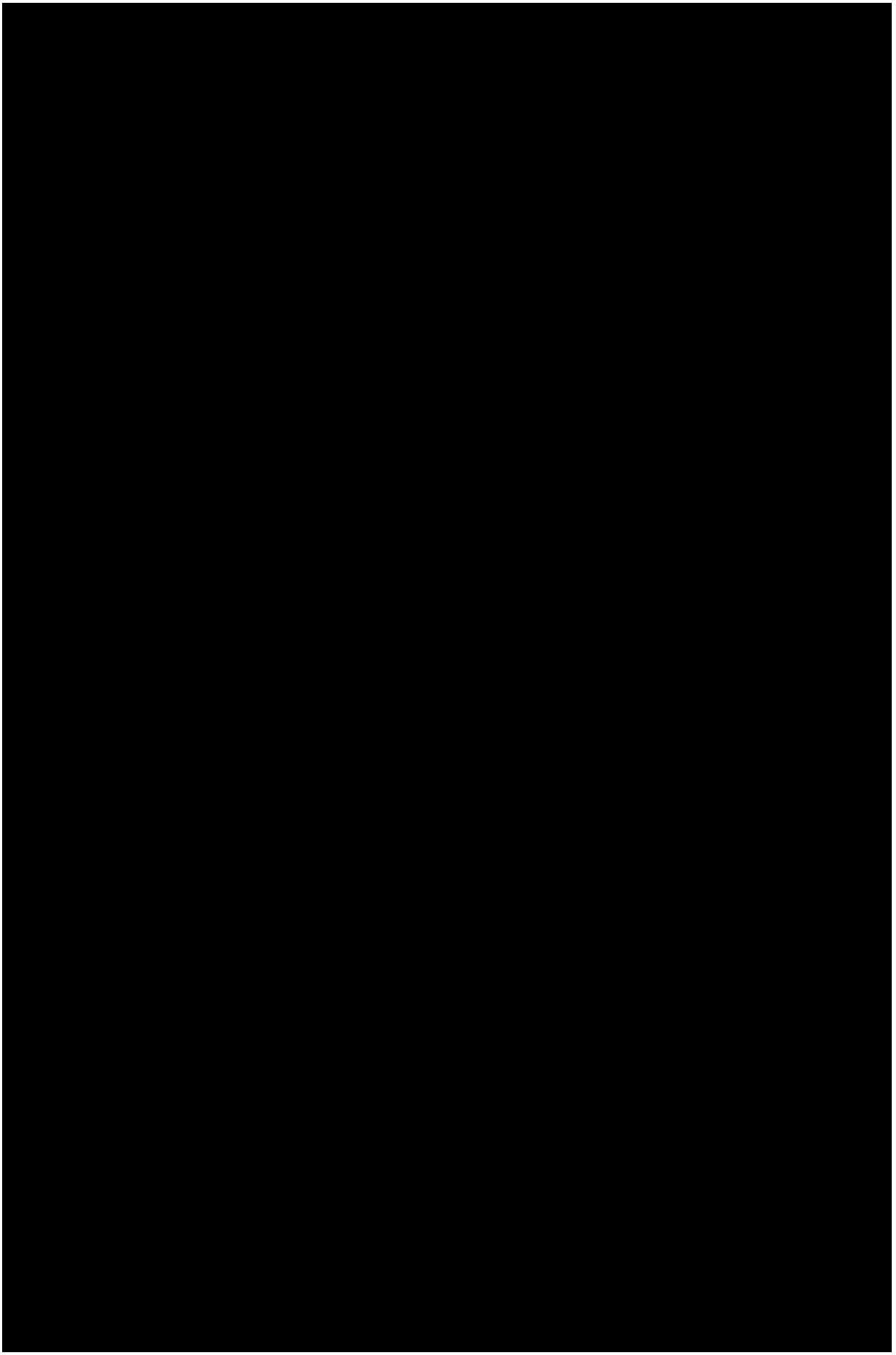



Sharon Truman Davies

From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: 10 November 2020 12:39
To: Neil Costa
Cc: Kishin Daswani; Sharon Truman Davies; (GLO) Bautista, Sunita
Subject: Your client: the Chief Secretary of Her Majesty's Government of Gibraltar
Attachments: [Untitled].pdf

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Dear Neil,

Please find attached my letter in response to your letter dated 6th November, a hard copy of which will be sent to your offices in due course.

Kind regards,

Christian

Christian Rocca QC
Director of Public Prosecutions

Office of Criminal Prosecutions & Litigation
Government Law Offices
HM Government of Gibraltar
6th Floor, Natwest House
57/63 Line Wall Road
Gibraltar
GX11 1AA

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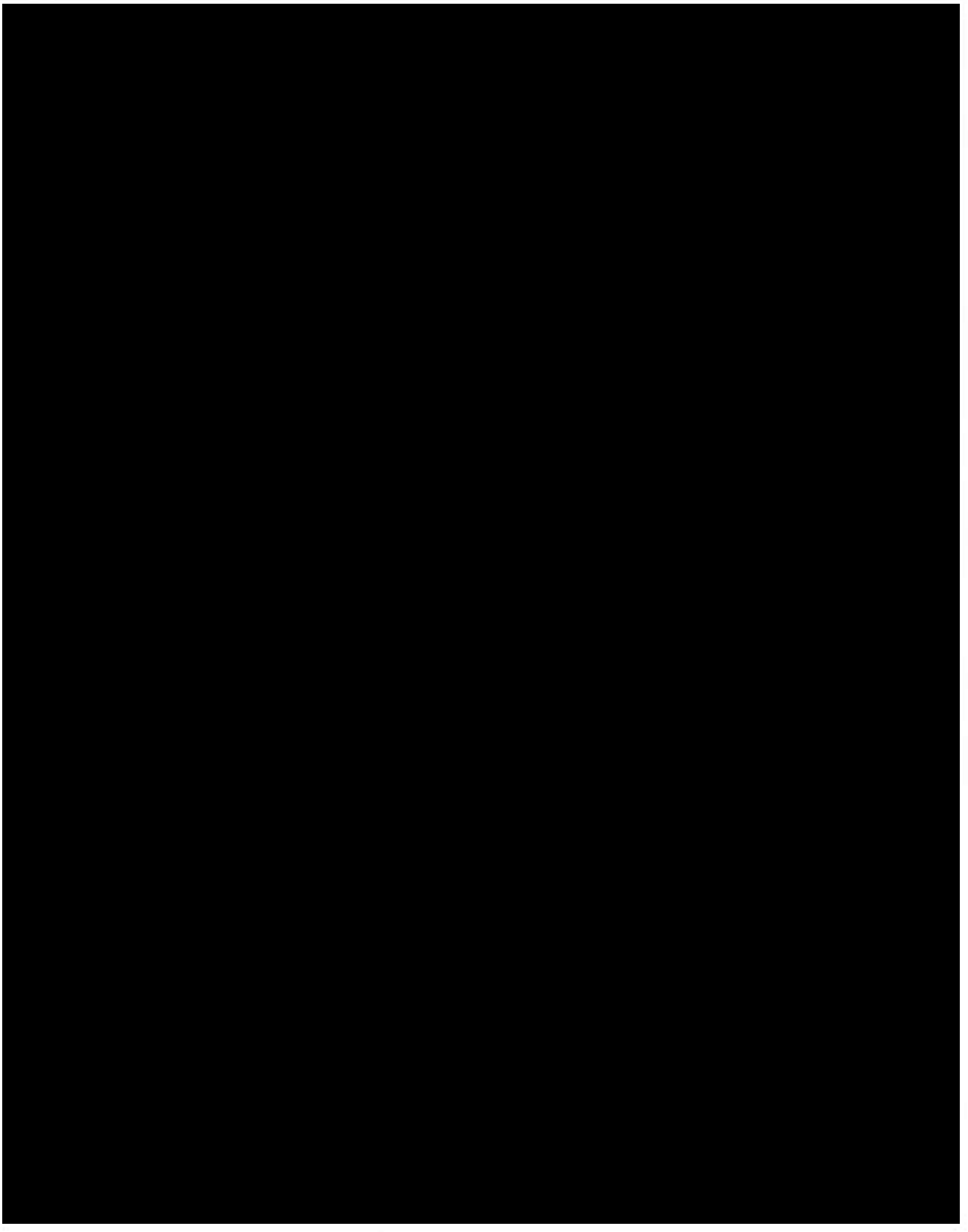

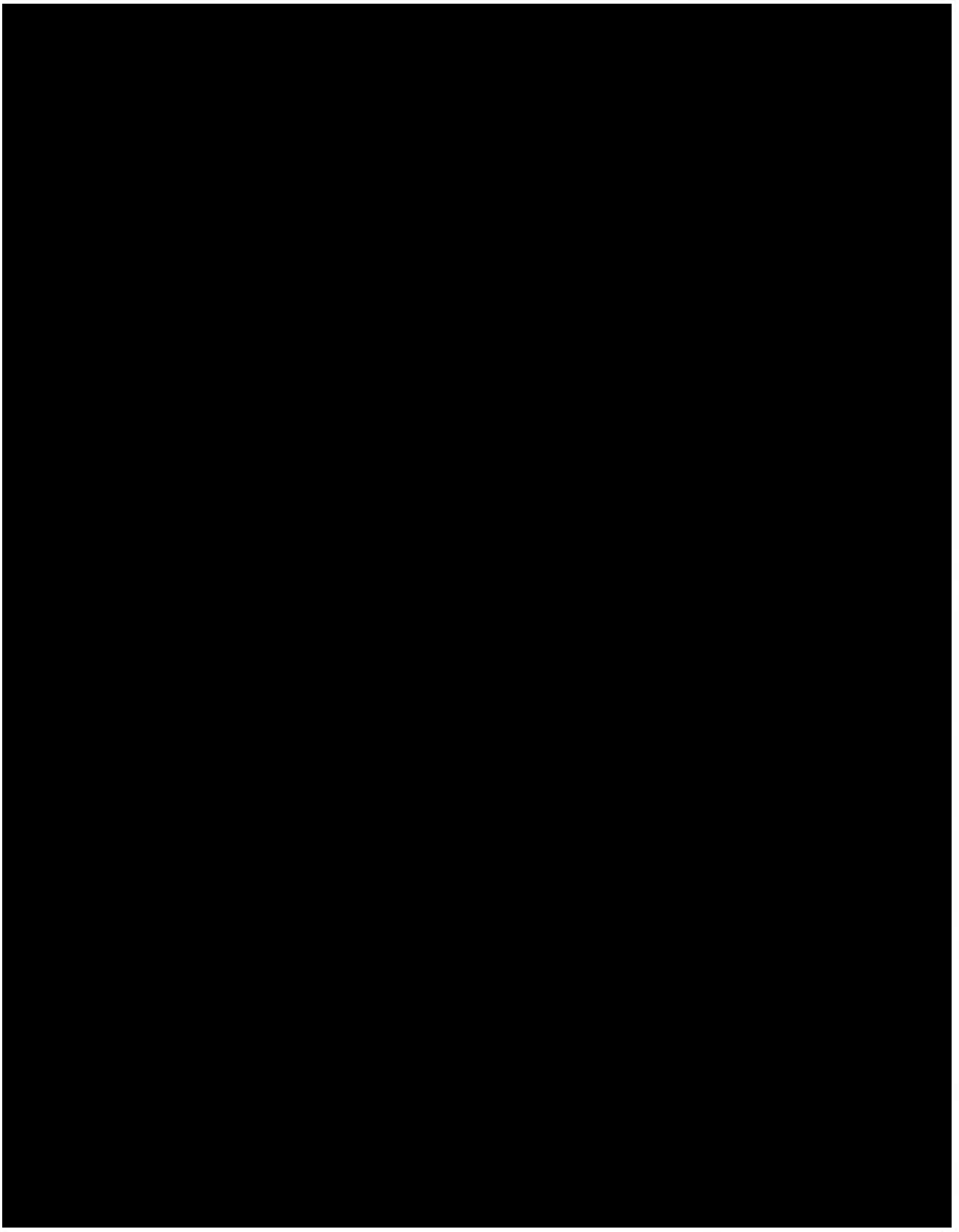



Christian M Rocca QC
Director of Public Prosecutions

Sharon Truman Davies

From: Neil Costa
Sent: 19 November 2020 17:02
To: '(GLO) Rocca, Christian'
Cc: Sharon Truman Davies; Kishin Daswani; Aidan Plows
Subject: Our client: the Chief Secretary of Her Majesty's Government of Gibraltar
Attachments: Letter to DPP 19.11.20 - Signed.pdf

Dear Christian

I hope that you are well and safe.

Please find attached.

With kind regards

Neil

Neil Costa
Partner
ISOLAS LLP

BARRISTERS & SOLICITORS
ISOLAS LLP
Portland House
Glacis Road, GX11 1AA, Gibraltar
Tel +350 2000 1892
www.gibraltarlawyers.com

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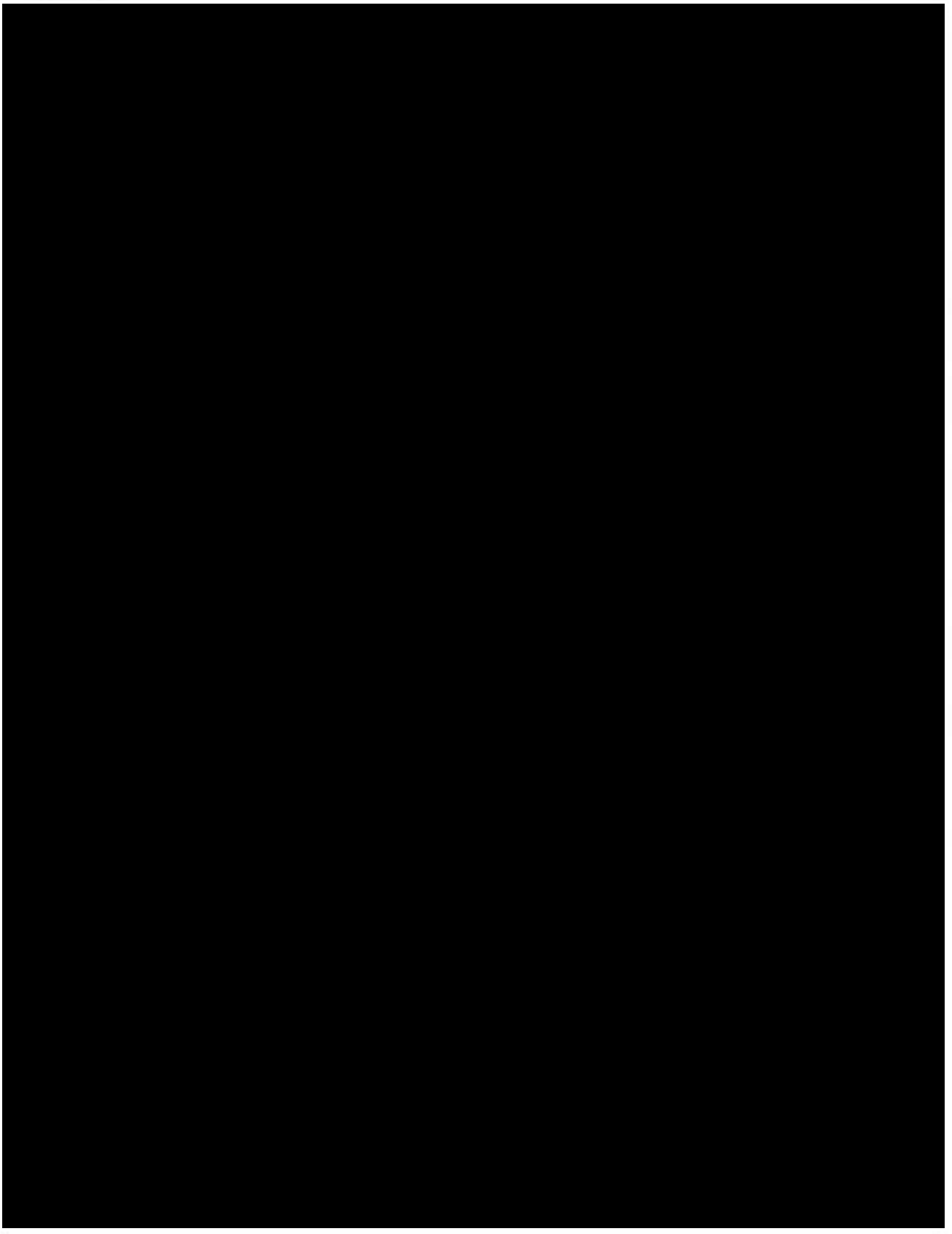

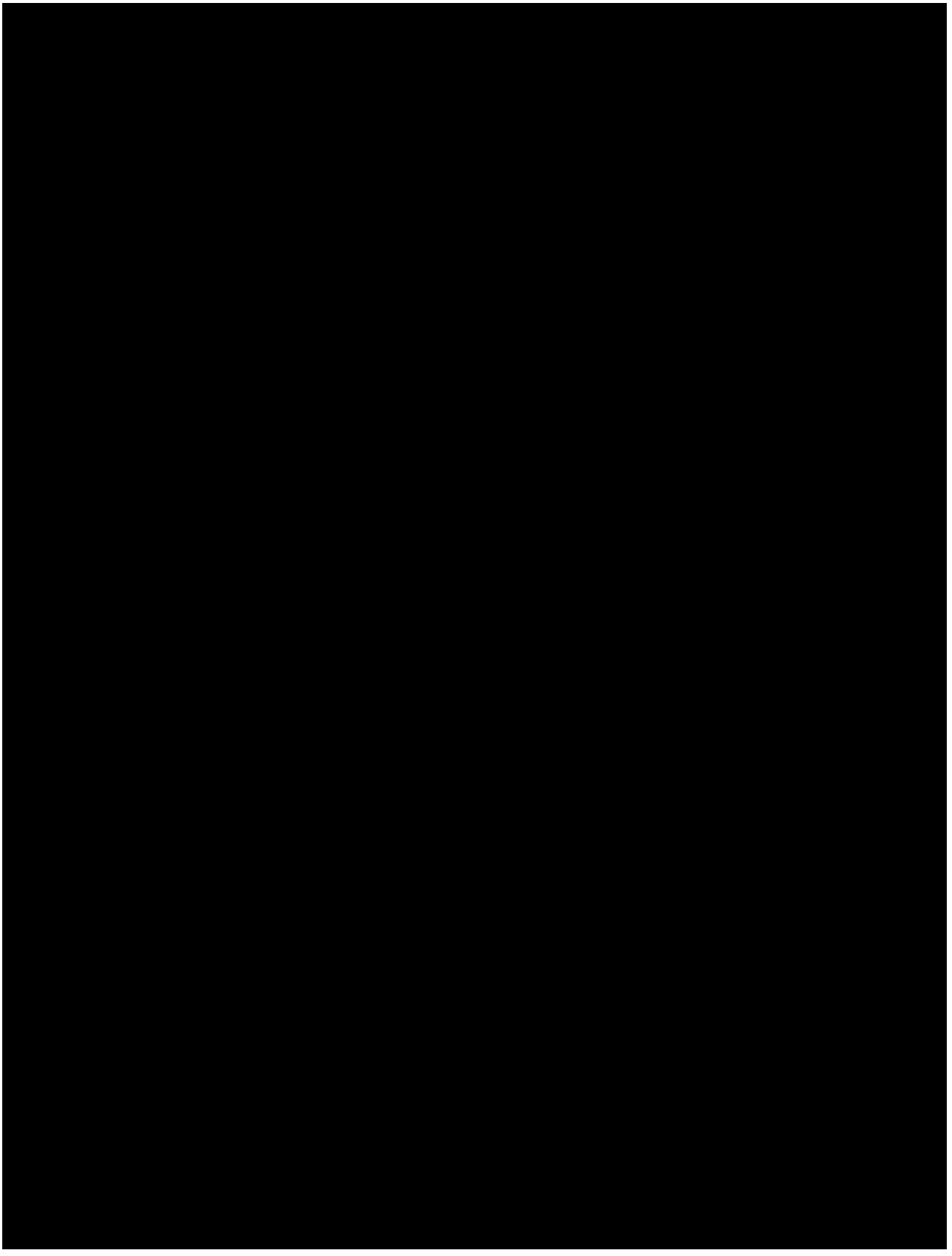

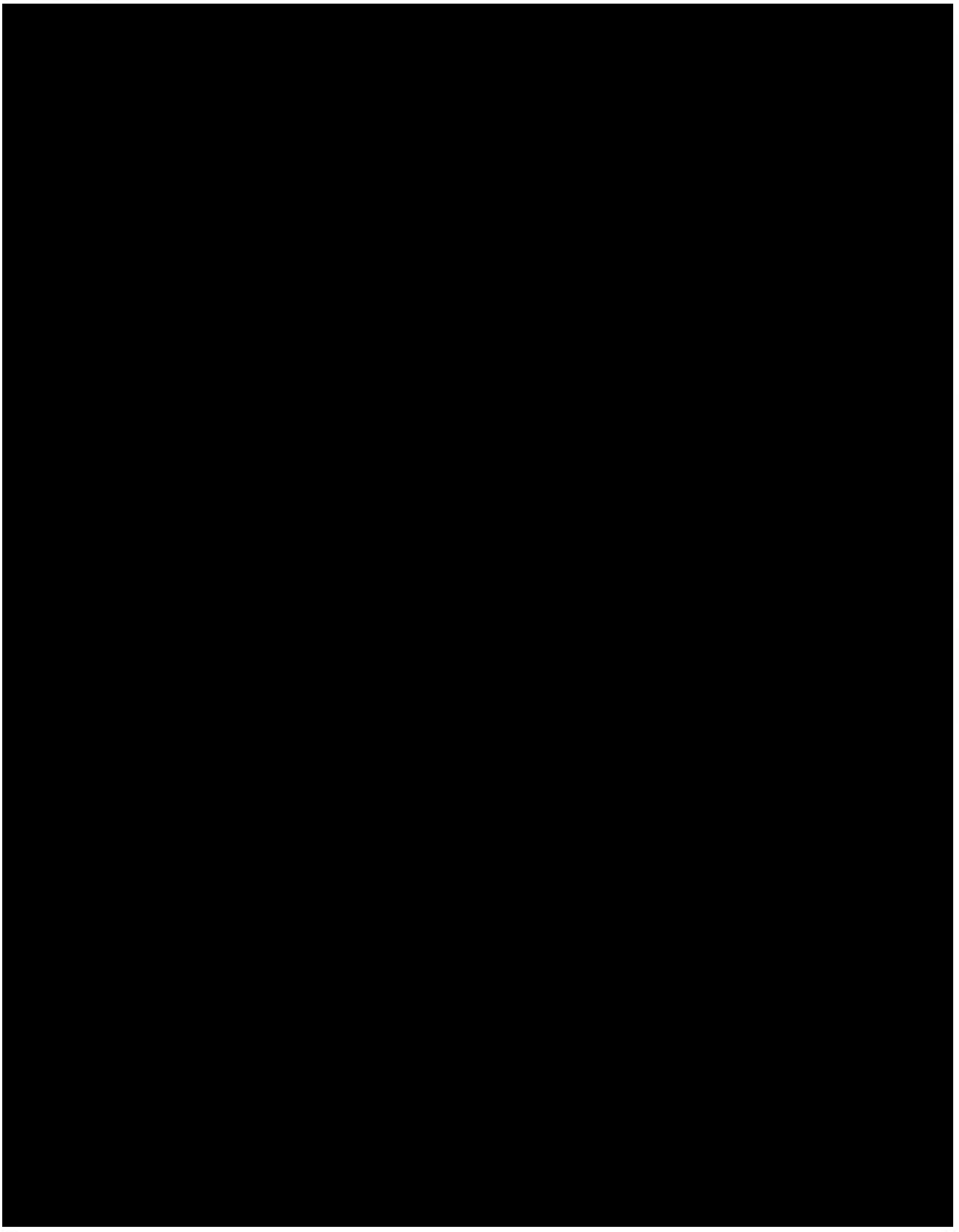



From: (GLO) Bautista, Sunita <sunita.bautista@gibraltar.gov.gi>
Sent: 20 November 2020 15:04
To: Neil Costa <Neil.Costa@isolas.gi>
Cc: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Subject: THE CHIEF SECRETARY OF HER MAJESTY'S GOVERNMENT OF GIBRALTAR
Importance: High

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Dear Mr Costa

Please find attached herewith letter addressed to yourself from the DPP, Mr Christian Rocca QC, regarding the above captioned matter.

Thank you.

Regards.

Yours sincerely

Sunita Bautista
Personal Secretary

Sunita Bautista
Personal Secretary

Office of Criminal Prosecutions & Litigation
Government Law Offices
HM Government of Gibraltar
6th Floor, Natwest House
57/63 Line Wall Road
Gibraltar
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Our Ref: CMR/TB/CRIM 030/19

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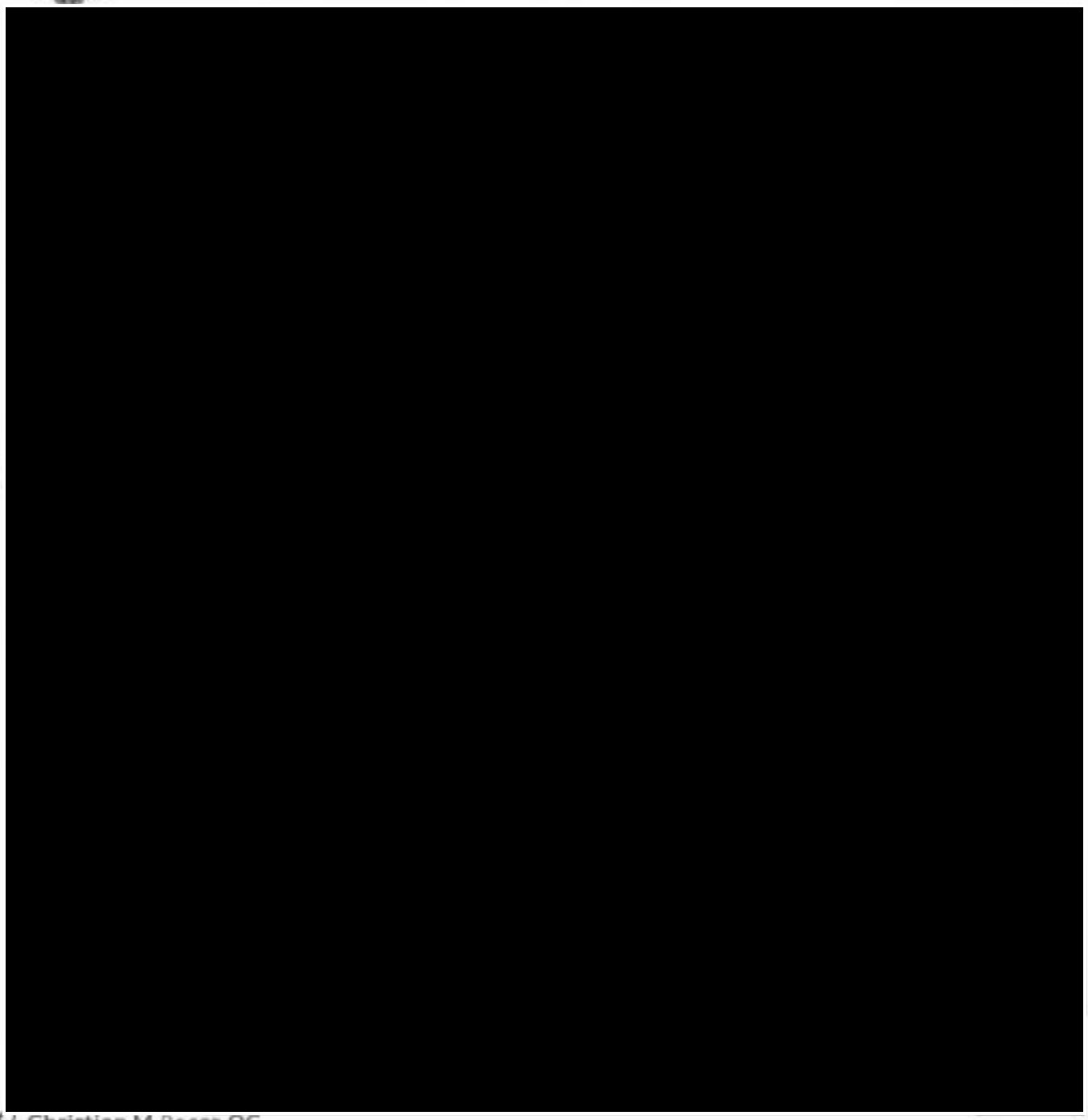

Christian M Rocca QC
Director of Public Prosecutions

Julian Warwick

Subject: FW: The Chief Secretary of HM Government of Gibraltar - R v Perez, Cornelio & Sanchez

[redacted]

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[redacted]

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(NO6) Corby, Giselle

From: (NO6) Grech, Darren
Sent: 25 November 2020 16:49
To: (RGP) Wyan, Mark
Cc: (RGP) Richardson, Paul (OTM)
Subject: Re: R v Cornelio, Perez and Sanchez

Dear Mark,

Thanks for this. I shall revert in due course.

Best wishes,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex: 2832
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

On 25 Nov 2020, at 16:09, (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi> wrote:

Dear Chief Secretary,

RE: R v Cornelio, Perez and Sanchez

I write to you in connection with the police investigation regarding the National Security Centralised Intelligence System (NSCIS).

During the course of the investigation the defendants have provided police with voluntary statements in defence of their actions. As investigators police have a statutory duty to follow all reasonable lines of enquiry, including those that may undermine the prosecution or assist the defence. In order to comply with our statutory obligations we are ensuring that witnesses capable of verifying the defences put forward are contacted.

Please find below a list of questions that have been drafted for your attention. The purpose of the questions is to guide you to the issues that are considered important in light of the prosecution evidence and submissions made by the defence. They are as follows:

1. In the event that HMGoG wished to cancel the NSCIS contract with Bland, would this contract always be required to go out to tender? If so, could you please explain the tender process including, if relevant, why some contracts may be excluded from the tender process?

2. Could you please explain the HMGoG software ownership policy? Was/is there a policy of HMGoG always owning software that it paid to develop? Are there now or have there been any exceptions to this?

3. As a Bland employee, Thomas Cornelio was vetted to access the NSCIS platform. Did this vetting expire once he terminated working with Bland on the 1st September 2018? If not, for how long would this vetting remain valid?

4. For the purpose of disciplinary action, can the terms *'trading or commercial activity'* as specified in paragraph 6.4.1(a) of Government General Orders be defined?

5. Is there is a HMGoG data storage policy in relation to the storage of data collected by the NCSIS Platform? If so please provide a copy of this.

6. To your knowledge, during 2018, did any officer of HMGoG instruct Thomas Cornelio to keep data or a copy of the source code related to the NSCIS platform safe, to ensure services could run independently of Bland?

7. To your knowledge, did any officer of HMGoG request that Thomas Cornelio maintain the NSCIS platform following the termination of his consultancy period with Bland (post 31st August 2018)?

8. To your knowledge was Bland and/or Thomas Cornelio given complete autonomy over the day-to-day functioning of the NSCIS Platform? Were there any agreed instructions or established protocols in place?

9. To your knowledge, does HMGoG restrict which Bland employees have access to the NSCIS platform?

Further to the evidence already provided to police we would be grateful if you could respond to these questions with a view to incorporating them into an additional witness statement. Where you are unable to answer any questions, such as those that fall outside your knowledge, we would be most grateful if you could direct us to an appropriate officer of HMGoG.

Given that the defendants have already appeared before the Supreme Court we should be grateful for a reply at your earliest convenience.

Please feel free to contact me if you have any questions or require clarification.

Kind Regards,

Mark

Mark Wyan
Chief Inspector

Corporate Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 63024 Centrex: 2216

Web: www.police.gi
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(NO6) Grech, Darren

From: (NO6) Grech, Darren
Sent: 24 February 2021 17:55
To: (RGP) Ullger, Richard
Subject: Re: Witness Statement

Richard I really must apologise for the tardiness. Please rest assured it will climb up to a top priority. Best, D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 24 Feb 2021, at 12:58, (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi> wrote:

Good afternoon Chief Secretary,

I know that you have been extremely busy with a number of key issues, but the investigating team do really need to have your statement regarding the pertinent questions around the NSCIS platform.

The matter is set down for the next PCMH on the 5th March 2021 and the defence have submitted an application to dismiss the case and intend to rely (amongst other statements) upon your statement. It is therefore important that we have as much evidence before the court as possible so that an informed ruling can be made.

The investigating team is at your disposal should you need to clarify any issues.

With best wishes

Richard

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2200**

<image003.png>

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(NO6) Corby, Giselle

From: (NO6) Grech, Darren
Sent: 17 March 2021 11:27
To: (RGP) Ullger, Richard
Cc: (MIN) Picardo, Fabian
Subject: Re: R V's Perez, Cornelio and Sanchez

Dear Richard,

The additional questions posed by the RGP together with the additional material asked for were all completed by me by close of business yesterday. My PA Giselle was going to liaise with you today to deliver these.

With best wishes,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

On 17 Mar 2021, at 08:44, (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi> wrote:

Good morning Chief Minister,

The Supreme Court will now be hearing an application to dismiss the case against Cain Sanchez, John Perez and Thomas Cornelio on the 21st July 2021. At the last PCMH which was on the 5th of March 2021, the defence have already sought your statement and that of the Chief Secretary, including related matters around the disclosure of communications. The DPP has now indicated to the Investigating Team that it is extremely important that your statements are provided, as further delays could have an impact on the journey this investigation takes.

We are fully cognisant that you are extremely busy with other equally important matters, so if the Investigating Team can provide you any assistance, or to the Chief Secretary, we are at your disposal to assist.

With very best wishes

Richard

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2200**

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From: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Sent: 04 February 2021 15:42
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: Re: R V's Perez, Cornelio and Sanchez

Dear Richard. That is really very helpful. It is much appreciated. Very best wishes, as ever. Fabian

From: "(RGP) Ullger, Richard" <Richard.Ullger@royalgib.police.gi>
Date: Wednesday, 3 February 2021 at 12:53
To: Fabian Picardo <fabian.picardo@gibraltar.gov.gi>
Subject: RE: R V's Perez, Cornelio and Sanchez

Dear Chief Minister,

I am grateful for our chat this morning and I totally understand the external matters that are having an impact on your ability to have time in drafting your statement. As discussed, I have spoken to the DPP and he too is fully cognisant of your position, and has suggested that if you could please have the statement available by the end of February, which will at least be before the next PCMH. I do hope this helps you somewhat.

Yours Ever,

Richard

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
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From: (RGP) Ullger, Richard
Sent: 03 February 2021 08:03
To: '(MIN) Picardo, Fabian' <fabian.picardo@gibraltar.gov.gi>
Subject: RE: R V's Perez, Cornelio and Sanchez

Good morning Chief Minister,

Not at all, I know how busy you are. I am at your disposal should you need to chat.

Yours ever,

Richard

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2200**

<image004.png>

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From: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Sent: 02 February 2021 23:40
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: Re: R V's Perez, Cornelio and Sanchez

Dear Richard,

Sorry for late reply. Thank you for the below. Let's speak tomorrow.

Very best wishes,

Fabian

Sent from my iPad

On 2 Feb 2021, at 17:46, (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi> wrote:

Good afternoon Chief Minister

I have been made aware by the Director of Public Prosecution that the Defendant Caine Sanchez has now filed an application in court to dismiss the case against him. This application is now pending a hearing date by the Supreme Court. This may be a significant development because we believe that some of the aspects covered in our request to you could have an impact on such an application.

I thought I should inform you of this development.

Yours Ever

Richard

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2200**

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From: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Sent: 19 January 2021 13:47
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: Re: R V's Perez, Cornelio and Sanchez

Dear Richard

Thank you for your email below.

I am sorry to say I have completely lost track of time on this. As you know, I had wanted to provide the statement before the end of the year, but the negotiations for the Framework Agreement became all consuming and requiring 20 hour days. Additionally, as you know, the COVID emergency has also kept me completely involved without reprieve. I know that you are aware I have to had one day off these past months, not even Christmas Day. You will be one of the few in Gibraltar who will understand that, as I know you have been working at the same pace on matters of your responsibility. I will seek to now finalise my work on this statement in the next 7 to 14 days. I think, hopefully, that after my evidence to the House of Lords this evening, I should be able to meet that timeline.

With very best wishes, as ever,

Fabian

On 19 Jan 2021, at 10:55, (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi> wrote:

Good morning Chief Minister,

The investigating Team are attending a PCMH tomorrow for the above mentioned case and are enquiring as to whether you have been able to progress on your statement. They are fully conscious of the demands and challenges you have been facing on behalf of Gibraltar over the past few weeks/months, and remain at your disposal should you require their assistance.

Yours Ever

Richard

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2200**

<image001.png>

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From: (RGP) Ullger, Richard
Sent: 30 November 2020 12:47
To: '(MIN) Picardo, Fabian' <fabian.picardo@gibraltar.gov.gi>
Subject: RE: Letter to the Chief Minister

Dear Chief Minister,

Thank you for your email.

We are fully conscious of the demands and challenges you are currently facing in the future negotiations with the EU and therefore with this in mind, the investigating team together with the DPP have asked if you could be so kind as to submit your statement by the 13th of January 2021. This would be a week before the next PCMH.

We continue to be at your disposal should you require to discuss anything with us.

With very best wishes,

Richard

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2200**

<image003.png>

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From: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Sent: 30 November 2020 10:00
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: Re: Letter to the Chief Minister

Dear Commissioner,

Thank you for your email below, receipt of which I acknowledge.

As you will be aware, I am in the most complex stage of the negotiations of our future relationship with the European Union. For that reason, and although you will be pleased to note that I have already started my work to respond to the questions set out by your colleagues in the attachments to your email, I am unable to tell you how quickly I will be able to finalise it. I should therefore be grateful for an indication of any timings which may be relevant to your investing team's work, if any, so that I can try to work towards that.

With best wishes, as ever,

Fabian

Sent from my BlackBerry — the most secure mobile device

From: Richard.Ullger@royalgib.police.gi
Sent: 27 November 2020 12:01
To: fabian.picardo@gibraltar.gov.gi
Subject: FW: Letter to the Chief Minister

Good morning Chief Minister,

Please find attached a request from the investigating team into the fraud investigation surrounding the NSCIS.

We are at your disposal should you require to discuss anything with us.

With very best wishes.

Richard

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2200**

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From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 26 November 2020 15:05
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>; (RGP) Yeats, Cathal <Cathal.Yeats@royalgib.police.gi>
Subject: Letter to the Chief Minister
Importance: High

Sir,

Please find attached the following documents:

1. Letter to the Chief Minister;
2. Timeline of Communication;
3. Guidance document.

I would be very grateful if you could forward these documents on to the Chief Minister on my behalf.

Kind Regards,

Mark

<image005.jpg>
Mark Wyan

Chief Inspector

Corporate Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 63024 Centrex: 2216

<image006.png>

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Fabian Picardo QC MP
Chief Minister

Office of the Chief Minister
HM Government of Gibraltar
No.6 Convent Place
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GX11 1AA

Tel: (+350) 20070071
Fax: (+350) 20076396

fabian.picardo@gibraltar.gov.gi

www.gibraltar.gov.gi

Office of the Chief Minister

HM Government of Gibraltar

(NO6) Corby, Giselle

From: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Sent: 17 March 2021 16:57
To: (NO6) Corby, Giselle
Subject: RE: R V's Perez, Cornelio and Sanchez

Dear Giselle,

Thank you for this. I shall forward it to the Investigating Team. Please thank the CS for me.

With best wishes

Richard

Richard Ullger OTM, MSc
mmissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
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From: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Sent: 17 March 2021 16:53
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: Re: R V's Perez, Cornelio and Sanchez

Dear Commissioner

The Chief Secretary has asked that we send you a Second Supplementary Witness Statement on his behalf (attached) on the above-mentioned. May you please acknowledge receipt.

Regards
Giselle

Giselle Corby
Personal Secretary to the Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20051752
Centrex: 2832
giselle.corby@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

HM Government of Gibraltar

Office of the Chief Secretary

SECOND SUPPLEMENTARY WITNESS STATEMENT

This statement (the '**Second Supplementary Witness Statement**') (consisting of 3 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

My name is Darren Grech. I am currently the Chief Secretary of Her Majesty's Government of Gibraltar ('**HMGoG**').

I make this Second Supplementary Witness Statement further to my Supplementary Witness Statement of 4th May 2020 (the '**Supplementary Witness Statement**') and my first Witness Statement of 21st January 2020 (the '**First Witness Statement**').

I make this Second Supplementary Witness Statement following an email that I received from Chief Inspector Mark Wyan (the '**Chief Inspector**') on 25th November 2020 at 16:09 (the '**Email**'). I now tender in evidence '**Exhibit DG/6**' a true copy of the Email.

In the Email, the Chief Inspector requests from me answers to '*...a list of questions that have been drafted for your attention. The purpose of the questions is to guide you to the issues that are considered important in light of the prosecution evidence and submissions made by the defence.*'

The purpose of this Second Supplementary Witness Statement is to provide answers to the questions asked by the Chief Inspector to the best of my knowledge and belief and where those questions fall outside my knowledge, I endeavour to direct the Royal Gibraltar Police (the '**RGP**') to an appropriate HMGoG officer and/or HMGoG

department. I would like to clarify at the outset that numerous of the questions put to me by the Chief Inspector fall outside my knowledge and capacity as Chief Secretary.

I produce this Second Supplementary Witness Statement on the basis of the information that has been made available to me thus far. I reserve my position to complement this information in the light of any new material provided to me after the production of this Second Supplementary Witness Statement.

For greater ease of reference, I set out below the Chief Inspector's questions in bold below followed by my answers to each question.

1. 'In the event that HMGoG wished to cancel the NSCIS contract with Bland, would this contract always be required to go out to tender? If so, could you please explain the tender process including, if relevant, why some contracts may be excluded from the tender process?'

A: Matters relating to HMGoG's tender process are dealt with by HMGoG's Procurement Office. I believe that the Procurement Office will be able to provide the names of the relevant HMGoG officers that conduct the tender process. For the avoidance of any doubt, I do not have any knowledge whether the NSCIS contract would always be required to go out to tender in the event that HMGoG wished to cancel the NSCIS maintenance contract with Bland Ltd or whether some contracts may be excluded by HMGoG from the tender process.

2. 'Could you please explain the HMGoG software ownership policy? Was/is there a policy of HMGoG always owning software that it paid to develop? Are there now or have there been any exceptions to this?'

A: Matters relating to HMGoG's software ownership policies are dealt with by HMGoG's Information Technology & Logistics Department (the '**ITLD**') and the relevant HMGoG Minister. I believe that the ITLD will be able to provide the names of any relevant HMGoG officers that manage HMGoG software ownership policies.

3. 'As a bland employee, Thomas Cornelio was vetted to access the NSCIS platform. Did this vetting expire once he terminated working with Bland on 1st September 2018? If not, for how long would this vetting remain valid?'

A: I do not have any knowledge whether Thomas Cornelio was vetted by HMGoG to access the NSCIS Platform, whether this vetting expired once Mr Cornelio terminated working with Bland Ltd, how long such vetting would have remained valid and/or which of HMGoG's Department had responsibility over such matters. I am aware that on 4th October 2018, the Chief Minister (through his Principal Secretary, Peter Canessa) instructed Caine Sanchez not to allow Thomas Cornelio further access to the NSCIS Platform.

4: 'For the purpose of disciplinary action, can the terms 'trading or commercial activity' as specified in paragraph 6.4.1(a) of Government General Orders be defined?'

A: The terms 'trading or commercial activity' as specified in General Order 6.4.1(a) are not defined in General Orders. In my view, a plain interpretation of the terms 'trading or commercial activity' suggests that it may be defined as a wide-ranging expression that likely includes any form of gainful business activity.

5: 'Is there is a HMGoG data storage policy in relation to the storage of data collected by the NCSIS Platform? If so please provide a copy of this.'

A: The appointment of HMGoG employees is usually subject to the Government of Gibraltar Information Technology Security Policy Version 01.2007 (the '**HMGoG Security Policy**'). I now tender in evidence '**Exhibit DG/7**' a true copy of the HMGoG Security Policy. I do not know whether the HMGoG Security Policy applies in relation to the storage of data collected by the NCSIS Platform. HMGoG's data storage policies and matters arising therefrom are dealt with by the ITLD. I believe that the ITLD will be able to provide the names of any relevant HMGoG officers that manage

HMGoG's data storage policies in relation to the storage of the data collected by the NSCIS Platform.

6: 'To your knowledge, during 2018, did any officer of HMGoG instruct Thomas Cornelio to keep data or a copy of the source code related to the NSCIS platform safe, to ensure services could run independently of Bland?'

A: I am not aware of any HMGoG officer who instructed Thomas Cornelio to keep data or a copy of the source code related to the NSCIS Platform safe to ensure services could run independently of Bland Ltd or otherwise. As I stated in my First Witness Statement, I am aware that on 4th October 2018, the Chief Minister (through his Principal Secretary, Peter Canessa) instructed Caine Sanchez not to allow Thomas Cornelio further access to the NSCIS Platform.

7: 'To your knowledge, did any officer of HMGoG request that Thomas Cornelio maintain the NSCIS platform following the termination of his consultancy period with Bland (post 31st August 2018)?'

A: I am not aware of any officer of HMGoG who requested that Thomas Cornelio maintain the NSCIS Platform following the termination of his consultancy period with Bland Ltd. As I stated in my First Witness Statement, it is my understanding that Caine Sanchez had complete autonomy in respect of the NSCIS Platform.

[redacted]

9: 'To your knowledge, does HMGoG restrict which Bland employees have access to the NSCIS platform?'

A: I am not aware whether HMGoG restrict which Bland Ltd employees have access to the NSCIS Platform. Unfortunately, most of the questions put to me by the Chief Inspector fall outside the scope of my responsibilities and capacity as Chief Secretary and, therefore, I do not have knowledge on many of the matters raised in the Chief Inspector's Email. Notwithstanding the foregoing, where the Chief Inspector has asked a question that falls outside the scope of my responsibilities, I have endeavoured to direct the RGP to an appropriate HMGoG officer and/or HMGoG department.

Mr Darren Grech
Chief Secretary
HMGoG
17th March 2021



IN THE SUPREME COURT OF GIBRALTAR
CRIMINAL JURISDICTION

Crim No. 21 of 2020

BETWEEN:-

REGINA

-v-

THOMAS CORNELIO

-and-

JOHN PEREZ

-and-

CAINE SANCHEZ

EXHIBIT "DG/6"

This is Exhibit "DG/6" to the Second Supplementary Witness Statement of Darren Grech dated the 17th March 2021.

I certify that this is a true copy of the e-mail transcript.

On 25 Nov 2020, at 16:09, (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi> wrote:

Dear Chief Secretary,

RE: R v Cornelio, Perez and Sanchez

I write to you in connection with the police investigation regarding the National Security Centralised Intelligence System (NSCIS).

During the course of the investigation the defendants have provided police with voluntary statements in defence of their actions. As investigators police have a statutory duty to follow all reasonable lines of enquiry, including those that may undermine the prosecution or assist the defence. In order to comply with our statutory obligations we are ensuring that witnesses capable of verifying the defences put forward are contacted.

Please find below a list of questions that have been drafted for your attention. The purpose of the questions is to guide you to the issues that are considered important in light of the prosecution evidence and submissions made by the defence. They are as follows:

1. In the event that HMGoG wished to cancel the NSCIS contract with Bland, would this contract always be required to go out to tender? If so, could you please explain the tender process including, if relevant, why some contracts may be excluded from the tender process?

2. Could you please explain the HMGoG software ownership policy? Was/is there a policy of HMGoG always owning software that it paid to develop? Are there now or have there been any exceptions to this?

3. As a Bland employee, Thomas Cornelio was vetted to access the NSCIS platform. Did this vetting expire once he terminated working with Bland on the 1st September 2018? If not, for how long would this vetting remain valid?

4. For the purpose of disciplinary action, can the terms '*trading or commercial activity*' as specified in paragraph 6.4.1(a) of Government General Orders be defined?

5. Is there is a HMGoG data storage policy in relation to the storage of data collected by the NCSIS Platform? If so please provide a copy of this.

6. To your knowledge, during 2018, did any officer of HMGoG instruct Thomas Cornelio to keep data or a copy of the source code related to the NSCIS platform safe, to ensure services could run independently of Bland?

7. To your knowledge, did any officer of HMGoG request that Thomas Cornelio maintain the NSCIS platform following the termination of his consultancy period with Bland (post 31st August 2018)?

8. To your knowledge was Bland and/or Thomas Cornelio given complete autonomy over the day-to-day functioning of the NSCIS Platform? Were there any agreed instructions or established protocols in place?

9. To your knowledge, does HMGoG restrict which Bland employees have access to the NSCIS platform?

Further to the evidence already provided to police we would be grateful if you could respond to these questions with a view to incorporating them into an additional witness statement. Where you are unable to answer any questions, such as those that fall outside your knowledge, we would be most grateful if you could direct us to an appropriate officer of HMGoG.

Given that the defendants have already appeared before the Supreme Court we should be grateful for a reply at your earliest convenience.

Please feel free to contact me if you have any questions or require clarification.

Kind Regards,

Mark

<image005.jpg>

Mark Wyan

Chief Inspector

Corporate Services

New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) 200 63024 Centrex: 2216

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IN THE SUPREME COURT OF GIBRALTAR
CRIMINAL JURISDICTION

Crim No. 21 of 2020

BETWEEN:-

REGINA

-v-

THOMAS CORNELIO

-and-

JOHN PEREZ

-and-

CAINE SANCHEZ

EXHIBIT "DG/7"

This is Exhibit "DG/7" to the Second Supplementary Witness Statement of Darren Grech dated the 17th March 2021.

This is certified as a true copy of the Government of Gibraltar's Information Technology Security Policy

Government of Gibraltar
Information Technology Security Policy
Version 01.2007



it_ld

Executive Summary of Policy Statements

Information Security Policy The information security policy provides a proper strategic direction. This direction has been adopted by, is propagated and will be maintained by the Government.
Overall Organisational Security Everyone associated with the Government of Gibraltar has a role in information security. By clearly defining roles and responsibilities relating to information security, the Government can ensure that proper protection of information assets occurs. Security within the Government depends on cooperation and a multi-disciplinary approach. All employees and persons contracted by the Government are responsible for maintaining a secure environment. Management will provide guidance to create this secure environment through this security policy, approving roles and responsibilities, and providing consistent coordination of security efforts across the organisation.
Asset Classification and Control All Government of Gibraltar information assets must be accounted for and controlled in the proper manner. This applies to both physical and logical assets. These assets are crucial to the Government and must be protected by the proper controls to minimise any risk of harm, disruption of services, or disclosure of confidential information. All information, both electronic and hard copy must be classified per the definitions described in the asset classification and control standards. The classification of information will provide a level of criticality, sensitivity, and protection standards. It will also provide the basis for the level of controls needed to protect the information and/or system.
Personnel Security Employees are the Government of Gibraltar's most valuable assets. They need to assist in creating a secure workplace environment. Controls must be in place in departments to communicate changes in personnel (hiring, transferring, or terminating) and computing resource requirements to the ITLD. These changes must be acted upon in a timely manner.
Physical and Environmental Security Physical security measures must be in place to ensure the physical security and integrity of building facilities and computer centres. Protection measures must be appropriate to the classification level of the assets and information processed, stored, and handled within all Government of Gibraltar facilities.

Communications and Operations Management

Communications and operational management of information resources and systems are essential to maintaining a high level of service. Therefore, security requirements must be developed and implemented to maintain control over communications and operations.

Operational procedures and responsibilities for maintaining proper access, control and availability of systems must be included in all operations functions. All communications and exchanges of information, either within Government of Gibraltar facilities and systems or external to the Government, must be secured in a proper manner commensurate with the information asset value.

Access Control

Government of Gibraltar's information resources are essential to its success. Therefore, access to all information resources will be granted in a controlled manner driven by business requirements. Employees will be explicitly granted access to information or systems. There is no implicit right of access.

The process to manage access to information must include:
- proper documentation, management and responsibilities of all users
- development and implementation of access control mechanisms, both technical and non-technical, to protect unauthorised access to information resources within networked information and application systems
- proper monitoring of access and use of information resources
- proper controls for any mobile access to Government of Gibraltar information.

Controls must be developed, implemented, monitored and maintained to prevent any compromise of the confidentiality, availability and integrity of Government of Gibraltar information resources.

Acceptable Use Policy

In today's business environment, computers, networks, and telephones are pervasive and an essential part of doing business. Therefore, proper use and protection of Government of Gibraltar resources and information is essential for business operations. It is each user's responsibility and obligation to ensure that all computing and communications resources are used only for its intended business purpose and that information contained or transmitted via these resources are protected from unauthorised use, appropriation, or corruption.

Systems Development and Maintenance

The design of the Government of Gibraltar infrastructure, business applications, and end-user applications must support Government of Gibraltar's overall security requirement as documented by the Security Policy. These requirements must be incorporated in each step of the system development life cycle including all design, development, maintenance, and operations phases.

Security and control requirements must be:
- determined during any system design,
- developed within the system architecture, and

- implemented in the final system deployment.

Furthermore all development and support processes for these systems must also support the security requirements as outlined in the security policy.

Business Continuity Management

A Business Continuity Plan will include processes and procedures to recover from any business disruption, regardless of the cause. It is the responsibility of all management to assist in the development and support of this plan. This BCP Management process will:
- Analyse and assess the business impact and likelihood of threats to business functions and information systems;
- evaluate and recommend strategies for the reduction or transfer of risk (including appropriate insurance, where available);
- develop the BCP strategy consistent with the organisation's overall business and security strategy;
- regularly test, review, and update all procedures relating to the BCP; and
- ensure business continuity planning is integrated into departmental functions and daily operations.

Compliance

The Government complies with all rules and regulations as applicable by law. This includes any criminal or civil law, statutory, regulatory, or contractual obligation made on behalf of the Government of Gibraltar. Any security requirements incorporated in these laws, including protection of Government of Gibraltar proprietary information and client/customer data, are essential to maintain compliance.

In addition, the Government of Gibraltar's security and controls environment is subject to continued and periodic reviews and assessments. It is the responsibility of all individuals associated with the Government of Gibraltar to assist in the continued compliance with both security requirements and regulations (e.g. EU directives).

Exceptions to Policy

In instances where there is a justifiable business need to perform actions that are in conflict with Government of Gibraltar policy standards, management will consider providing a waiver for these exceptions. The Government of Gibraltar recognizes that policies cannot be created and enforced which address 100% of all business issues. Exceptions are designed to facilitate new Government of Gibraltar business, or to address areas where technological changes are not addressed by current policies. However, it is the responsibility of management to understand and mitigate risks.

Any exceptions will be reviewed on a periodic basis dependent on the level of risk involved in the exception and the level of mitigating controls implemented to manage the risk of the exception.

In cases of conflict, the provisions of General Orders take precedence over the provisions of this policy.

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1. Glossary of Terms

1. Purpose and Scope

This section provides definitions for terms that are commonly used throughout the Information Security policies.

2. Glossary Statement

A common glossary of security related terms ensures that meanings are clearly understood and consistently applied across all departments of the Government of Gibraltar. If any term is contained in the security policy that needs clarification, please contact the Information Technology and Logistics Department (ITLD) for details and inclusion in this glossary.

3. Glossary

3.1 Definitions

3.1.1 Authentication:
A process whereby a computing system confirms the identity of a user by means of an account validation and password verification scheme.

3.1.2 Authorisation:
Permissions associated with identity of the user.

3.1.3 Availability:
The characteristic of data, information, and information systems being accessible and usable on a timely basis in the required manner.

3.1.4 Confidentiality:
The characteristic of data and information being disclosed only to authorised persons, entities, and processes with a right to know at authorised times and in an authorised manner.

3.1.5 Contractor:
For the purpose of this document, a contractor is defined as a person or group of persons that provide services to the Government of Gibraltar but are not directly employed by the Government.

3.1.6 Data:
Any information, regardless of form, contained in or processed by the Government's information system's facilities, communications networks, or storage media. This data may reside in many forms including but not limited to: printed copy, magnetic media, microfiche, online storage, and physical materials.

3.1.7 Guideline:
Recommendations set forth by the Government of Gibraltar's ITLD Management to be utilised in the meeting of objectives.

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3.1.8 Information Custodians:
An Information Custodian is a person or organisation that is delegated responsibility over information by the RDO or Information "Owners" (see 3.1.9 below).

3.1.9 Information "Owner" or Responsible Departmental Officer (RDO):
An RDO (often referred to as "information owner" in commercial organisations) is a departmental manager responsible for the creation of or reliance on, organisational information assets.

3.1.10 Information User:
An Information User is any employee, vendor, contractor, or other authorised person who uses the information in the course of their daily work.

3.1.11 Information Systems:
The computers, communications facilities, networks, data, and information (including relevant manual/supporting systems) that may be stored, processed, retrieved or transmitted by them, including programs, specifications, and procedures for their operation, use and maintenance.

3.1.12 Integrity:
The characteristic of data and information being accurate and complete and the preservation of accuracy and completeness.

3.1.13 Logical Security:
Refers to software-based controls commonly found in information systems that support the objectives of the security policy statement.

3.1.14 Non-Employee:
Any person or persons that is not directly employed by the Government of Gibraltar (e.g., contractors, consultants, vendors and visitors).

3.1.15 Objective:
An objective states what is being accomplished or what control is being satisfied by following the prescribed procedures.

3.1.16 Physical Security:
Addresses access to tangible information assets that impact the smooth continuous operation of the computing environment, or assets that have a high intrinsic value to the Government of Gibraltar.

3.1.17 Policy:
A policy is a broad statement of principle that presents the Government's position for each defined control area. Policies are interpreted and supported by standards, objectives, and procedures. Policies are intended to be long-term and guide the development of rules to address specific situations.

3.1.18 Problem Management:
For the purposes of problem management, a problem is defined as any deviation from, or imminent threat to, service level standards-either explicit or implicit.

3.1.19 Procedure:
A procedure documents a plan of action or response to a given situation. Procedures are designed to ensure that Government's objectives are met and policies are enforced. Procedures are to be followed unless there is a documented and approved reason to exclude them.

3.1.20 Record:
Refers to any information generated as a result of a procedure or used in accordance with a procedure that has retention requirements. The Records sections of this document will describe what the record is, who is responsible for maintaining it, where it will be kept and for how long.

3.1.21 Remote Access:
Connecting to the Government of Gibraltar's networked computing resources from an off-site location over a public switched network.

3.1.22 Responsibility:
For purposes of this document, responsibility refers to the person or persons that are accountable for carrying out the prescribed procedures.

3.1.23 Risk Assessment:
The process of weighing the cost/benefit of securing an information asset relative to the value of that asset to the Government. There are a number of measures that can be employed to protect information assets; however, the cost-effectiveness of these measures must be carefully evaluated.

3.1.24 The Official Secrets Acts:
This document must be read along with the Official Secrets Acts, which refers to the Official Secrets Act, 1911, as amended by the Official Secrets Act 1920.

3.1.25 Third Party Services:
For the purposes of this document, third party services include, but are not limited to, data storage and data processing services, hardware/software vendors, business consultants and security personnel. Third party services also include the types of services that cannot be provided internally such as internet service providers.

3.1.26 Third Party Service Provider:
For the purpose of this document, a third party service provider is a provider of third party services, as defined above.

3.1.27 Vendor:
For the purpose of this document, a vendor is a person or Government that provides products or services to the Government of Gibraltar.

2: Information Security Policy

1. Purpose and scope

The Government of Gibraltar's Information Security Policy is intended to provide management with direction and support, establish an implementation framework for security, and ensure compliance of information security within the Government.

2. Policy statement

The information security policy provides a proper strategic direction. This direction has been adopted by, is propagated, and will be maintained by the Government.

3. Information security policy document

3.1 Information security policy document

3.1.1 This document must be read and interpreted (both literally and in spirit) in conjunction with the Official Secrets Act.

3.2 Information security policy review and evaluation

3.2.1 The Information Technology and Logistics Department (ITLD) is the sponsor for the information security policy responsible for enforcement and evaluation of the information security policy.

3.3 Non-compliance with security policy

3.3.1 For Government of Gibraltar employees, contractors and third parties, disciplinary action resulting from violation of the security policy will be consistent with the severity of the incident, as determined by an investigation. Disciplinary actions may include, but are not limited to, loss of access privileges to data processing resources, dismissal of consultants, cancellation of contracts, termination of employment, or other actions as deemed appropriate. Disciplinary actions are coordinated through the Human Resources Department.

3: Overall Organisational Security

1. Purpose and Scope

This policy defines the various roles and responsibilities that are found throughout the Government organisation pertaining to the protection of information resources. This policy applies to all employees and non-employees associated with the Government of Gibraltar.

2. Policy Statement

Everyone associated with the Government of Gibraltar has a role in information security. By clearly defining roles and responsibilities relating to information security, the Government can ensure that proper protection of information assets occurs.

Security within the Government depends on cooperation and a multi-disciplinary approach. All employees and persons contracted by the Government are responsible for maintaining a secure environment. Management will provide guidance to create this secure environment through this security policy, approving roles and responsibilities, and providing consistent coordination of security efforts across the organisation.

3. Information Security Infrastructure

3.1 Authorisation process for information processing facilities

3.1.1 All information processing facilities must be approved and authorised by the Information Technology and Logistics Department (ITLD). All facilities must undergo a risk assessment and each facility must meet the organisational security requirements determined by the ITLD. Any deviation or non-compliance issue resulting in this review must be addressed and resolved within an appropriate time scale as determined by the ITLD.

3.1.2 All departments, in consultation with the ITLD, must submit an inventory of all hardware and software currently deployed or in testing and/or development. This inventory will be checked against current Government of Gibraltar accepted technologies. If any component is incompatible, a project must be scheduled to address modifications.

3.1.3 All personal information processing devices (e.g., employee owned computers or personal digital assistants (PDAs)) must be approved and authorised by the ITLD management if the personal devices are used to store and/or, process Governmental information or otherwise interact with the Government's information or systems.

3.1.4 All personal information processing devices (e.g., employee owned computers or personal digital assistants (PDAs)) will be held to the Government's security standards. Proper controls must be employed to protect Government information and systems and any device must conform to the Government's security policy and technical standards.

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3.2 Co-operation between organisations

3.2.1 Security contacts to appropriate external parties must be maintained. This includes Information Service Providers, telecommunications companies, trade organisations, and any other external organisation. All communications between the Government and third party enforcement agencies must be maintained in confidentiality.

3.3 Independent review of Information Security

3.3.1 The Government's security policy, standards, and security environment will be reviewed periodically. This review of the information security environment will be performed in accordance with standards set by the ITLD. The review will provide assurance on policy and standards content as applicable to the Government, as well as the communication and implementation of the policy. Determining this assurance is the responsibility of the ITLD.

3.4 Information Security Co-ordination

3.4.1 The ITLD group will provide security related services to the various groups within the Government, including management of the overall Information Security program, and coordination of efforts between technical and business persons responsible for information and related security.

The ITLD is responsible for:
- setting and documenting the security responsibilities of the organisation;
- maintaining the Government's Security Policy, standards, and technical controls for the organisation, including the review of policy and standards on a regular basis;
- determining and supporting proper methodologies and processes for security;
- communicating security basics to the general user population, including formalising and implementing a Security Awareness program;
- developing, identifying, and documenting technical security controls for technologies deployed by the Government, including the monitoring of systems vulnerabilities documented by vendors and external security organisations;
- monitoring compliance and enforcement of the Government's Security Policy;
- managing and investigating any security incidents or violations of Government security and assisting other Government groups with the handling of violations; and
- security testing and product evaluation of security elements of technologies, systems, or applications deployed within the Government.

3.5 Information Security Responsibilities

3.5.1 Individual departments (via a Responsible Departmental Officer) will assume accountability for all information, not the ITLD, although the latter may be consulted extensively on all security related matters.

Responsibilities include, but are not limited to:
- Assigning initial information classification levels;
- Periodic reviews to ensure current information classification meets the current business need;
- Ensuring security controls are in place commensurate to the classification;
- Ensuring that information is labelled according to its classification regardless of the media;
- Verifying the currency of access rights;
- Determining security access criteria to departmental data;

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- Communicating to the ITLD back-up requirements for the information they possess; and
- Taking appropriate action on security violations, in consultation with the ITLD.

3.5.2 An Information User is any employee, vendor, contractor, or other authorised person who uses the information in the course of their daily work.

User responsibilities include, but are not limited to:
- Maintaining the confidentiality of operating system and application passwords;
- Reporting suspected security violations to the ITLD;
- adhering to the Government's information security policies, standards, and technical controls; and
- Using Government information and information resources for responsible and for authorised purposes.

3.5.3 The Gibraltar Audit Office may assist the ITLD in the identification of security threats and vulnerabilities throughout the Government of Gibraltar. When these risks are communicated to the various Government Departments by the ITLD they must ensure that appropriate countermeasures are addressed.

3.5.4 An Information Security Specialist is an internal (e.g. member of the ITLD) or external person focused on providing security advice. These individuals provide knowledge and experience, outside security resources and information, including but not limited to:
- providing input into new system deployments and implementations;
- providing support during any security incident;
- providing input from outside sources to maintain relevance to the current security industry; and
- providing input for new security technologies.

3.5.5 Departmental heads are responsible for designating a Responsible Departmental Officer (RDO) for all electronic information possessed or used by that Government Department. RDOs must determine the individuals with rights to access and utilise the data. All persons utilising Government of Gibraltar data must comply with the control requirements set by the RDO.

3.5.6 An Information Custodian is any employee, vendor, contractor, or other authorised person who has the responsibility for maintaining and/or supporting organisational information.

RDOs may delegate data maintenance and ownership responsibilities to Information Custodians. When RDOs choose to delegate, service level agreements must be drafted between the RDO and the Information Custodian to communicate expectations and responsibilities. The RDO may designate one or more information custodians based on the level of delegated responsibilities. The Information Custodian must provide the following:
- proper service levels for the RDO;
- assistance to the RDO in determining the best technical solutions; and
- operationally provide assurance for the confidentiality, availability, and integrity of information.

3.6 Information Security Steering Committee

3.6.1 The Information Systems Security Steering Committee shall be comprised of senior managers or their delegates from each of the Government of Gibraltar's major departments, including representatives from the ITLD.

This committee will meet at least bi-annually to:
- review the current status of Government of Gibraltar's information security;
- review and monitor security incidents within the Government;
- approve and subsequently review information security projects;

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- approve new or modified information security standards; and
- perform other necessary high-level information security management activities.

3.7 Specialist in information security advice

3.7.1 Key personnel shall be identified to manage and support the Information Security function within the Government. There are typically three types of positions that are required to effectively manage and support the ITLD's information security function:
- Chief Information Security Officer (CISO),
- Departmental Security Officers (DSO) who are part of the ITLD, and
- Departmental Liaison Officers, who are part of the departments and are responsible for coordinating IT issues with the ITLD.

3.7.2 A CISO is the individual responsible for managing and directing the Government-wide information protection program. Specific CISO responsibilities include:
- Developing and maintaining the security policy, standards, guidelines, and procedures;
- Managing an appropriate data, application, and platform classification program including the identification of data and departmental personnel with accountability over applications ("owners");
- Overseeing or approving change and problem management activities;
- Ensuring the coordination of all organisational security related functions (e.g., physical security, personnel security, and the security of information stored in non-electronic form);
- Identifying information protection goals and objectives within the scope of a strategic plan;
- Identifying key information security program elements;
- Identifying key organisational information security initiatives and standards (e.g., virus prevention, use of security monitoring tools);
- Developing and managing an information security program budget;
- Ensuring the timely publication of approved information security related policies and procedures;
- Coordinating information security decisions with facility security regarding emergency conditions, including facilities and human resources issues;
- Reporting on a regular basis to the relevant Minister(s); and
- Supervising information security staff.

3.7.3 The DSO or Security Coordinators within the ITLD will work closely with identified Departmental Liaison Officers to ensure that security policies, requirements and procedures are implemented at the individual departments. Specific responsibilities include:
- Assisting the CISO with policy, procedure, and guideline development;
- Working with departmental management to identify specific computer security personnel for departments;
- Ensuring that program elements are implemented by each department;
- Assisting local security personnel in implementing specific security tools and procedures;
- Reporting all security incidents to the CISO;
- Reporting the status of departmental security activities to departmental managers and the CISO;
- Ensuring that security standards and procedures are implemented;
- Reviewing periodically departmental systems for compliance with all applicable standards and procedures; and
- Conducting annual security awareness training at the departmental level.

3.7.4 DSOs are also responsible for ensuring all critical/sensitive systems comply with all applicable information security policies, standards, and technical controls. Specific responsibilities further include:
- Network access administration;
- Intranet access administration;
- Development of authorisation and authentication procedures;
- Monitoring local compliance of the security policy and procedures;
- Investigation of security breaches/incidents;

- Training and coaching of employees regarding security; and
- Assisting in back-up, recovery, and business continuation procedures.

4. Security of Third Party Access

4.1 Identification of risks from Third Party access

4.1.1 The Government of Gibraltar has set a minimum requirement that third party service providers adhere to the same access restrictions as internal users. Access to information must be limited to meet work efficiency requirements. Exceptions are at the discretion of the ITLD, including both physical access to the Government's facilities and logical access to the Government's information systems.

4.1.2 All non-Government personnel that require access to the Government's information resources must have a Government employee sponsor them. Access will not be granted until written authorisation is obtained from the sponsor. The sponsor will be held responsible for all actions taken by the sponsored.

4.1.3 Third party employees, consultants, or contractors working directly for Government of Gibraltar shall sign a Non-Disclosure Agreement regardless of physical location (e.g., on-site, remote). This agreement shall be completed prior to issuing access to the Government's network accounts, or access to any Government data.

4.1.4 All contract personnel shall be informed in a written statement of the importance of information security. For third party service providers, a blanket confidentiality agreement must be signed and retained. The Government employee responsible for the contract must ensure that vendors sign Non-Disclosure and/or Confidentiality Agreements.

4.1.5 The Government's Non-Disclosure Agreements shall be re-signed after any modification to existing third party contracts.

4.1.6 Where there is a business need for third party connection, a risk assessment shall be carried out to determine security implications and control requirements. An adequate controls strategy shall be agreed upon and defined in a contract with the third party.

4.1.7 All Government of Gibraltar network connections to third party networks must be configured using a firewall design approved by the ITLD.

4.1.8 Vendors requiring remote access to the Government of Gibraltar information systems shall have this access provided on a need basis. Maintenance ports and modems should be disabled until they are required for use. If a vendor requires access for maintenance purposes, the opened ports must be disabled upon completion.

4.1.9 All inbound connections from external organisations must be limited to specific hosts and specific applications on these hosts. If possible, these specific hosts and applications must be physically or logically segmented from live (production environment) Government networks. External parties are not permitted unlimited access to the Government computers or networks.

4.2 Security requirements in third party contracts

4.2.1 Managers must request background information for unknown vendors that may include customer referrals.

4.2.2 The group responsible for the selection and approval of third party services and a representative from the ITLD must approve all contracted information services agreements.

4.2.3 The manager responsible for contracts with outside data processing services must specify security requirements and potential actions to be taken for violations in the contracts.

4.2.4 Ownership of software developed by outside personnel (e.g., contractors) must be defined in the contract agreement.

4.2.5 Third party access may also involve other participants. Contracts conferring third party access must include allowance for designation of other eligible participants and conditions for their access.

4.2.6 All contracts must include a "Right to Audit" clause ensuring Government of Gibraltar personnel and/or an authorised representative may physically and logically evaluate a third party's control environment.

5. Outsourcing

5.1 Security requirements in outsourcing contracts

5.1.1 The manager responsible for contracts with outside data processing services must specify security requirements and potential actions to be taken for violations in the contracts.

5.1.2 All outsourcing contracts must include the following:
- agreements on acceptable security controls and policies;
- determination of acceptable service levels and availability;
- the right for Government of Gibraltar to audit outsourcer's environment for security controls surrounding Government of Gibraltar's data and systems;
- documentation of physical and logical controls employed by outsourcer to protect the confidentiality, integrity, and availability of Government of Gibraltar data and equipment;
- determination of all legal requirements including privacy and data protection; and
- agreement that outsourcer must test and maintain system security on an on-going basis.

5.1.3 The vendor is responsible for immediately informing the manager responsible for the contract of any security breaches, including unauthorised access to or compromise of Government data or resources. Any Government employee who is aware of security violations by vendors must report them to the ITLD.

4: Asset Classification and Control

1. Purpose and Scope

This policy defines the requirements for information asset classification and controls. An asset is defined as any tangible item owned or controlled by the Government of Gibraltar. This includes both logical (e.g. intellectual property and data) and physical assets (e.g. equipment). This policy applies to all employees and non-employees associated with Government.

2. Policy Statement

All Government of Gibraltar information assets must be accounted for and controlled in the proper manner. This applies to both physical and logical assets. These assets are crucial to the Government and must be protected by the proper controls to minimise any risk of harm, disruption of services, or disclosure of confidential information.

All information, both electronic and hard copy must be classified per the definitions described in the asset classification and control standards. The classification of information will provide a level of criticality, sensitivity, and protection standards. It will also provide the basis for the level of controls needed to protect the information and/or system.

3. Accountability for Assets

3.1 General Standards

3.1.1 The ITLD, in consultation with the departmental heads, must compile and maintain a data repository catalogue or high-level description of all major Government of Gibraltar information assets. This catalogue must be reviewed and updated annually. The catalogue must contain descriptive asset information (e.g., data type, logical locations/associated applications or systems, physical location (if applicable), RDO, data custodial responsibilities, information classification, and a criticality level).

3.1.2 ITLD must also compile and maintain a data repository catalogue on all third party software related assets (e.g., application software, development tools, and all third party purchased software). This catalogue must be reviewed and updated annually. The catalogue should contain descriptive asset information (e.g., vendor, logical locations/associated applications or systems, physical location (if applicable), RDO/responsible party, data custodial responsibilities, information classification, and a criticality level).

Departmental managers are required to assist ITLD in maintaining this catalogue and should communicate any changes or additions to the Information Catalogue.

3.1.3 All production information possessed or used by a particular organisation or department within Government of Gibraltar must have a designated RDO.

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3.1.4 During personnel workspace location changes or facility changes, all applicable asset inventory control documentation must be updated to reflect the changes made.

4. Information Classification

4.1 Information Classification Guidelines

4.1.1 Senders of information must ensure intended recipients of that information have the right to know before transferring the information. The right to know principal can be equated to a justifiable business case. If the user needs access to the information to fill a bona fide business need then that user will be given access.

4.1.2 Government of Gibraltar information in any format (e.g., hard copy, disk, tape) must be protected by all employees, contractors, and vendors at the level commensurate with its value as determined by its information classification. These standards mitigate the risk that information of different classification levels be inadvertently combined and released. Correctly classified information with proper controls can be instituted to manage the dissemination of information throughout the organisation.

4.1.3 In order to properly protect information assets all information must be classified into one of the four categories as defined by the Government of Gibraltar Security Policy:
- "secret",
- "confidential",
- "internal use only", and
- "public".

By classifying data, departments can determine the appropriate resources needed to protect the information. The objective is to dedicate greater resources to the information that needs that greatest amount of protection and minimise the impact on the business process.

4.1.4 Sensitive information in electronic form requires special procedures during storage to protect it from accidental or malicious disclosure. All employees must ensure any sensitive information is protected from improper disclosure.

4.1.5 Information cannot be downgraded to a lower classification without undergoing a formal declassification effort sponsored by the RDO. The RDO must determine if any information can be moved to a lower classification based upon the definitions of the classifications. Alternatively, RDOs must determine if an information asset's classification should be raised based upon the definitions.

It is the RDO's responsibility to monitor information assets and continuously review the information's classification.

4.2 Information Labelling and handling

4.2.1 All media must be labelled with its information classification (i.e., "public", "internal use only", "confidential", or "secret"). Media of different classifications must be stored in separate containers or drawers to ensure that inadvertent integration of information from different classifications does not occur.

4.2.2 Electronic information classified "public" can be stored on any Government of Gibraltar computer system. Efforts must be made to separate public and "secret" information.

4.2.3 All "confidential" and "secret" data must be marked at the top and bottom of every page with the classification of the information contained in the document.

Electronic documents must have the classification label in the header and footer of each page. Hard copy documents must be stamped with the classification or a physical label must be applied.

4.2.4 All "confidential" and "secret" documents must have a cover page identifying the classification of the information.

4.2.5 Information labelled "secret" must be secured in one of the following ways:

- Hard Copy information must be kept in an access controlled room and locked when unoccupied. Only authorised personnel should be given access to the room. Non-authorised individuals (e.g., cleaning staff, visitors) must be accompanied in the room. Hard Copy information can also be stored in locked file cabinets with limited access if a secured room is not available.

- Electronic information must be encrypted using a Government of Gibraltar Information Security Organisation approved method when stored on any media (e.g., hard drive, floppy, tape, compact disc).

4.2.6 Media containing "secret" level information must be stored in a locked container or room designated for the storage of such information (e.g., computer hard drives). Instead of physical locking of the media, "secret" information may be protected by approved encryption techniques.

5: Personnel Security

1. Policy Purpose and Scope

This policy defines the security standards that must be applied in regards to personnel. Standards regarding personnel must be followed to ensure that employees are readily identifiable while employed and that access is revoked in a timely manner when an employee is transferred or the appointment is terminated. Additional standards must be followed to ensure the continued awareness of all personnel to their security responsibilities and proper action in reporting incidents.

This policy applies to all Government of Gibraltar employees, contract staff and vendors.

2. Policy Statement

Employees are the Government of Gibraltar's most valuable assets. They need to assist in creating a secure workplace environment.

Controls must be in place in departments to communicate changes in personnel (hiring, transferring, or terminating) and computing resource requirements to the ITLD. These changes must be acted upon in a timely manner.

3. Security in job definitions and resourcing

3.1 General Responsibilities

3.1.1 All employees, contractors, vendors, and persons with access to Government of Gibraltar facilities and information must abide by the standards as documented in the Government of Gibraltar security policy and include security as one of their core job responsibilities.

3.1.2 The Human Resources Department will as far as possible facilitate secure and confidential information handling policies when introducing new individuals to the Government (through induction lectures involving ITLD etc). All new employees must receive a copy of the information security policies and/or security awareness materials appropriate for their position and role within the Government and acknowledge in writing that they understand their responsibilities as stated in the policies.

3.1.3 The Human Resources Department must immediately notify the ITLD upon the resignation or termination of employees. Upon notification of transfer or termination, the appropriate ITLD contact must ensure that the user ID access is revoked or modified. Upon notification of transfer or termination, any items issued to the employee or vendor such as laptop computers, keys, ID cards, software, data, documentation, manuals etc. must be returned to their manager or the Human Resources Department, as appropriate, in consultation with the ITLD.

3.2 General Standards

3.2.1 All users are responsible for making themselves familiar with and understanding Government of Gibraltar's Security policies and procedures. Employees must agree in writing to accept and abide by the standards set forth in the policies. Any questions on specific details of the policies should be directed to the ITLD.

3.2.2 Proper security responsibility is part of the terms and conditions of employment. Violation or disregard for the responsibilities and standards documented in the Government of Gibraltar Security Policy will be grounds for disciplinary actions.

3.2.3 Before receiving their first computer account, all users must sign a statement that they are aware that actions on Government of Gibraltar networks may be monitored and that they give their consent to the monitoring.

3.2.4 Information stored on or passed through Government computer communications hardware is not considered private. Users of this equipment must not have expectations of privacy of any data or information. Electronic mail and voice mails are specifically covered under this policy.

3.2.5 Security responsibilities are extended beyond the premises of the Government of Gibraltar with regard to Government of Gibraltar information. Therefore, employees must maintain confidentiality of information outside work, in home-working or remote access situations.

3.2.6 It is not the intention that ITLD security officers should casually browse all email and voicemail. However, management has the right to examine any such information without prior specific consent of, or notification to, the employee if it is believed that the employee is misusing Government equipment.

4. User Training

4.1 General Responsibilities

4.1.1 It is the responsibility of the Government of Gibraltar's ITLD to promote constant security awareness to all information system users. The security awareness program consists of awareness training and continuous awareness briefings.

4.2 Security Awareness Training

4.2.1 The ITLD actively considers issuing/putting up security advice/warnings for all users who may be affected by security issues. Security advisories include warnings on specific risks including issues such as viruses, social engineering, new technical vulnerabilities and Government of Gibraltar specific risks and countermeasures.

4.2.2 Security awareness comes only through constant exposure to security issues. To meet that objective the awareness program includes, but is not limited to, the following elements:
- Custom video presentations
- Commercially available security videos
- Commercially prepared newsletters
- In-house written newsletters
- Presentations
- Security awareness days
- Posters

- Items such as key fobs, specially printed 'post-it notes', etc., all prepared with a special message or slogan emphasising the user's participation in the security process etc.

4.2.3 All users must be briefed on Information Security Awareness annually, particularly focussing on the amendments. A written summary of the basic information security measures must be provided to each member of staff and a signed copy must be kept on file in the employee folder.

4.2.4 Components of security awareness training include, but are not limited to:

- User ID and password requirements
- PC security, including virus protection, reporting and elimination
- High level overview on the Information Classification programme and the appropriate handling (and destruction) of the information of the different classifications
- Awareness of social engineering techniques employed by hackers
- ITLD's role in Information Security Administration
- Internet access guidelines
- E-mail use guidelines
- Information security monitoring processes in use and compliance programmes
- Whom to contact for additional information

5. Responding to Security Incidents and Malfunctions

5.1 General Responsibilities

5.1.1 If a security incident is suspected or noticed by any employee, the employee must immediately notify the relevant Departmental Liaison Officer (DLO).

5.1.2 If a virus is suspected on a system, the user must disconnect the system from the network immediately, notify the DLO, and work with them to remove the virus prior to any re-connection to network services. It is the responsibility of the user, with appropriate technical assistance, to ensure that the virus has been successfully removed before resuming communications on Government of Gibraltar networks.

5.1.3 If an employee suspects a security weakness or notices an area of exposure to Government of Gibraltar security, the employee must notify the DLO. The employee is forbidden to test the security weakness without the cooperation and involvement of Information Security.

5.2 General Standards

5.2.1 The ITLD must document all reports of security incidents. Information Security must also include a process to review all incidents, document "lessons learnt" and coordinate training and learning sessions for applicable areas within Government of Gibraltar.

5.2.2 For Government of Gibraltar employees, contractors and third parties, disciplinary action resulting in violation of the security policy will be consistent with the severity of the incident, as determined by an investigation. Disciplinary actions may include, but are not limited to, loss of access privileges to data processing resources, dismissal of consultants, cancellation of contracts, termination of employment, or other actions as deemed appropriate. Disciplinary actions are coordinated through the Human Resources Department.

6: Physical and Environmental Security

1. Policy Purpose and Scope

This policy defines the physical security standards for Government of Gibraltar facilities and the information assets located within those facilities. This policy establishes standards that must be followed in order to maintain a minimum level of physical protection for these assets.

This policy applies to all employees and non-employees associated with the Government of Gibraltar.

2. Policy Statement

Physical security measures must be in place to ensure the physical security and integrity of building facilities and computer centres. Protection measures must be appropriate to the classification level of the assets and information processed, stored, and handled within all Government of Gibraltar facilities.

3. Secure Areas

3.1 Employee Relocations

3.1.1 During any relocation of an employee's workspace, the relocating employee must ensure all information assets are protected during the moving process. This includes, but is not limited to, computer and hard copy files.

3.2 Delivery and Loading

3.2.1 Personnel responsible for receiving deliveries of materials must exercise appropriate supervision, so that physical security is not compromised.

3.3 Physical entry controls

3.3.1 All employees and visitors must be authorised for physical entry into Government of Gibraltar facilities. Access rights to all areas must be reviewed on an ongoing basis.

3.3.2 All employees and visitors must comply with any Government guidelines pertaining to identification badges (wherever applicable). It is the responsibility of the department managers and employees to ensure that all employees are in compliance with these procedures.

3.3.3 Physical access to all computer rooms must be tightly controlled. Doors must be locked at all times with only authorised personnel having the combination or key.

3.3.4 Authorised personnel must not allow unknown or unauthorised individuals into restricted areas without escort. Any unrecognised and unescorted personnel within a computer room must be immediately challenged to determine the reason for their presence. Personnel without a valid reason for being in the computer room must be escorted out of the computer room immediately.

3.4 Removal of property

3.4.1 Employees or contractors must not remove property off Government of Gibraltar premises, without prior authorisation. All individuals must be aware that spot checks can take place. All equipment that is removed must be logged out and logged back when returned.

3.5 Securing offices, rooms and facilities

3.5.1 All critical computer rooms and data centres must be monitored 24 hours a day. This monitoring can be by cameras, alarmed doors and windows, people manning the centres, or a combination of the above.

3.5.2 Buildings that house Government computers or communications systems must be protected with physical security measures that prevent unauthorised persons from gaining access.

3.5.3 Computer room access must be limited to only those people with a valid business reason for access. Access must be reviewed on an ongoing basis and revoked immediately once it is no longer needed.

3.5.4 Any hazardous or combustible materials must be stored at a safe distance from any secure area as per any Government safety regulations and manufacturer specifications.

3.5.5 All doors and windows must be locked when unattended and comply with any Government safety regulations.

3.5.6 Computer facility rooms must not be used for general printing, faxing, storage of computers, parts of computers or stationary.

3.5.7 Computer facility rooms must not be shared with third parties.

3.5.8 Backup and recovery media and facilities must be located at a safe distance from main facilities. The backup facilities must be at a distance that would protect it from damage from any incident at the main site.

3.6 Working in secure areas

3.6.1 Any third party access granted to a 'secure area' must be strictly controlled and monitored. All parties with access to the area must be authorised and logged. This includes support services such as cleaning or waste removal.

4. Equipment Security

4.1 Cabling security

4.1.1 Ethernet ports or network cabling must be protected from physical tampering.

4.1.2 All power and telecommunications equipment and cabling must be protected against deliberate or accidental interruption of service. This includes protecting control boxes, cables, wiring hubs and other equipment from fire, vandalism, interception of communications or disruption of service.

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4.1.3 All Government of Gibraltar network connections must be removed and/or deactivated when a site is being vacated.

4.2 Equipment Maintenance

4.2.1 All equipment must be correctly maintained to provide availability and protect the integrity and confidentiality of information. In accordance with manufacturer's specifications, equipment should be monitored and inspected. Only authorised maintenance personnel are allowed to perform repairs and all repairs or service work must be recorded. If equipment must be sent offsite for repairs, the confidentiality and integrity of any information must be ensured.

4.3 Equipment location and protection

4.3.1 All Government of Gibraltar equipment must be located in such a way as to minimise risks or threat. This includes, but is not limited to:
- threats of theft or vandalism
- risk of fire, explosion, smoke, chemical agents
- loss of services such as power, communication or water
- any other physical threat.

4.3.2 Smoking, drinking and eating in computer processing rooms is strictly prohibited.

4.3.3 Computer equipment must be housed in an environment equipped with fire detection and prevention measures.

4.3.4 Rooms adjacent to the computer facility room must not be used for purposes that may involve high risks (i.e. storage space, electricity room).

4.3.5 The walls surrounding critical computer facilities should be non-combustible and resistant to fire for at least one hour.

4.3.6 To minimise theft and water damage, servers and other IT equipment and communications facilities must be located above the ground floor in buildings, wherever feasible.

4.3.7 All computer equipment must operate in a climate-controlled atmosphere at all times. Backup ventilation plans should be provided in the computer rooms.

4.3.8 Procedures must exist for facilities management to monitor and test fire suppression system test equipment at least every 6 months and document the test results.

4.3.9 All computer room personnel must be trained in the use of any automatic fire suppression systems, the use of portable fire extinguishers, and in the proper response to smoke and fire alarms.

4.4 Laptop Travel Standards

4.4.1 Employees that travel with a laptop computer must not check-in the laptop as luggage when travelling. The laptop must always be hand carried in the briefcase or a carrying case.

4.4.2 Employees that travel with a laptop or other Government of Gibraltar equipment or information, including briefcases must be cautious and keep the items with them at all times.

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4.4.3 When the laptop is left unattended, employees must always physically secure it using cable locks or other approved techniques, where appropriate.

4.5 Power supplies

4.5.1 To avoid power failures, a suitable electrical power supply must be provided in such way that Single Points of Failure can be avoided. Based on business criticality, the use of a back-up generator should be considered. In addition, recovery procedures must be documented to ensure proper fallback or fail over processes. These procedures should be part of the disaster recovery plan.

4.5.2 Uninterruptible Power Supplies (UPS) must be used for equipment supporting critical business operations to orderly close down or allow systems to continue running. UPS equipment will be checked on a quarterly basis to ensure it has adequate capacity and tested in accordance with the manufacturer's recommendations.

4.6 Secure disposal or re-use of equipment

4.6.1 Any Government of Gibraltar information processing equipment that is to be disposed of, or reused, must undergo a cleansing process before release. The cleansing process must consist of destruction of the information residing on equipment; validation of the process and testing of the process to ensure no data is left on the equipment.

If the equipment stored information is classified as 'secret' or extremely confidential and/or proprietary, the equipment must be physically destroyed beyond repair or restoration before being disposed of.

4.7 Security of equipment off-premise

4.7.1 Management must authorise any equipment used to process Government of Gibraltar information. Also, security standards documented within the Government of Gibraltar security policy still apply to all Government of Gibraltar equipment and information regardless of location.

5. General Controls

5.1 Clear desk policy

5.1.1 All confidential information must be properly archived into secure file cabinets, closets or storage rooms after use. If the confidential information is not to be either used or archived, it must be shredded.

5.1.2 Employees must collect all printed documents (printers, faxes, photocopies) in a timely manner. Printers, faxes and photocopiers must be checked regularly (at least every day after business hours) for prints that are not collected. The items must be secured until the proper owners of the documents are available.

5.1.3 All information on whiteboards or work boards must be wiped after use.

5.2 Clear screen policy

5.2.1 A PC must not stay logged on while unattended. In this case, access to the PC or terminal must be temporarily blocked, e.g. through the keyboard protection facility or screensaver password.

5.2.2 Where necessary and possible, measures must be taken ensuring that after a specific period of time, to be determined in advance, during which the user has not used the PC or terminal:
- the PC or terminal will be logged off automatically, or
- the screen will turn dark, to preclude the possibility of further use without the password being re-entered.

5.3 General Standards

5.3.1 All mail points, both incoming and outgoing, photocopiers and fax machines must be protected from unauthorised access. Care must be taken during off hours to protect against improper usage of these resources.

7: Communications and Operations Management

1. Policy Purpose and Scope

The purpose of this policy is to reduce the risk of errors occurring during systems processing by the careful control of system operations. This policy applies to all employees of the Government of Gibraltar, especially those in an operational function relating to information systems.

2. Policy Statement

Communications and operational management of information resources and systems are essential to maintaining a high level of service. Therefore, security requirements must be developed and implemented to maintain control over communications and operations.

Operational procedures and responsibilities for maintaining proper access, control and availability of systems must be included in all operations functions. All communications and exchanges of information, either within Government of Gibraltar facilities and systems or external to the Government, must be secured in a proper manner commensurate with the information asset value.

3. Operational Procedures and Responsibilities

3.1 Documented operating procedures

3.1.1 Documented and maintained information systems procedures (including procedures for handling systems and application errors, as well as system restart and shutdown procedures) must be used and considered as formal documentation. As such, technical service managers must authorise any changes within the documents. These documents must contain specific instructions on processing and handling information.

If service or application involves any external parties, all contact information for operational or technical difficulties must be included in the documentation.

3.2 External Facilities Management

3.2.1 All operational processes performed by external or third parties must be assessed for security exposures and appropriate risks and procedures must be developed.

3.3 Operational Change Control

3.3.1 All non-emergency changes to Government of Gibraltar computer networks must follow the approved standards. This includes any changes to networking devices or software, cabling, communication lines or similar devices.

3.3.2 Only those persons authorised by the ITLD are allowed to make emergency changes to Government of Gibraltar networks. These changes must be clearly and completely documented and approved within 24 hours of resolution of the problem.

3.3.3 The roles and responsibilities for individuals involved in the change control process must be clearly defined and properly segregated.

3.3.4 Production source code should not be directly changed (where feasible), in response to an emergency change. Instead, a controlled temporary version or a patch must be created and executed until the production source can be changed and the executable updated.

3.3.5 Change requests must be adequately documented via the approved change request form. The change request form must contain the following information:

Determined by the Requestor:

- Nature and business justification for the change
- Nature of defect (if applicable)

Determined by the Developer:
- Estimated resource requirements necessary to complete the change
- Testing required
- Back-out procedures
- Systems impacted
- User contact

3.3.6 The RDO must approve change requests. If the request involves incorporating data from a different application, the RDO of that application must also approve the request. Any significant changes should be approved by the Head of Department.

3.3.7 All emergency requests must be documented in an incident or trouble log. An automated audit trail of the emergency activity must also be generated which logs all activity including the user id making the change, time and date, the commands executed, the program and data files affected, etc. The person making the emergency change must also provide a written description of what was done to address the emergency to their manager.

3.3.8 System and application software backup must be performed before system upgrades and/or maintenance occurs.

3.4 Security Incident Management

3.4.1 Once incidents have been reported to the appropriate parties the incident must be escalated for investigation. Security incidents will be investigated by the ITLD to determine the severity of the incident. Security violations will be followed by corrective action by management.

3.4.2 The ITLD is responsible for following up on the reported issues in a timely and confidential manner.

3.4.3 Non-emergency computer incidents are violations of the Government of Gibraltar Information Security Policy that do not involve an active risk to Government resources or systems.

3.4.4 A summary record of each incident must be maintained.

3.4.5 The ITLD can be called in to assist in other computer related incidents such as inappropriate use of system resources, employee misconduct or other situations. The ITLD can

assist in these types of investigations by assisting in the collection of electronic evidence and/or technical investigative processes, for internal purposes only (e.g. disciplining an employee).

3.4.6 The ITLD must maintain a database or records containing information about violations of Government Information Security policies and will report on these violations. All records of policy violations shall be accessible to appropriate senior management, but will not be available to other staff.

In cases where the violation is clearly illegal with intent, notification to senior management must be immediate. In cases where the intent is not clear, the violator shall be advised to correct the violation. A repeat violation must be reported immediately to management and the appropriate disciplinary action will be taken based on the severity of the infraction.

3.4.7 For external incidents or threats, action must be taken to ensure evidential integrity (including electronic evidence) is maintained and the appropriate legal action can be taken, if deemed necessary.

3.5 Segregation of duties

3.5.1 The following IT duties must ideally be performed by separate groups/employees, wherever feasible:

- IT management
- Software development
- Program promotion/migration
- Systems operations / daily administration
- Application and end-user administration
- Helpdesk / support
- Network management

Exceptions to this standard (e.g. due to limited staff availability within the ITLD), must be reviewed by management and authorised.

3.6 Separation of Development and Operational facilities

3.6.1 Ideally, separate, controlled environments must exist for development, staging, system integration and user acceptance testing, and production source and production executable code. If separate production and development environments are not feasible, then the development environment will be created from the production environment by locking the latter against modification by the programmers.

4. System Planning and Acceptance

4.1 Capacity planning

4.1.1 All information systems must meet anticipated capacity requirements. It is the responsibility of the system's development and operational teams to determine anticipated hardware requirements and capacity and monitor system capacity performance. This includes, but is not limited to:
- disk usage and size
- network traffic load
- load balancing

- necessary processing power
- necessary memory requirements

4.2 System Acceptance

4.2.1 The ITLD must ensure that the criteria for acceptance of new systems is clearly defined and agreed upon. The controls should take into consideration:
- the performance and computer capacity requirements
- contingency planning
- testing procedures and methodologies
- documented security and controls procedures
- manual procedures
- determination of impact to overall Government of Gibraltar security and technical architecture
- training requirements for operational and user support
- adherence to the Government's Development and Maintenance standards

5. Protection against malicious software

5.1 General Responsibilities

5.1.1 The ITLD will make the best efforts to determine the origin of the virus infection and whether any other Government of Gibraltar computers have been infected. This insures that the total problem is addressed and computers are not constantly being re-infected.

5.1.2 User possession or development of viruses or other malicious software is prohibited. Non-compliance with this Information Security Policy can result in disciplinary action and legal action.

5.1.3 E-mail attachments and files downloaded from the Internet must be scanned before execution. External storage media (floppy disks, etc.) that have been out of the control of the user must be scanned before use.

5.1.4 The ITLD must approve all executable files before use.

5.2 General Standards

5.2.1 The virus screening software must be enabled on all computers and updated every 30 days. It is the responsibility of the end user to ensure this process is running on their assigned laptops or desktops, even if not connected to the Government network.

5.2.2 Virus scanners and/or detection programs must be installed on all information systems as part of the start-up process. These programs will be updated regularly to scan for new strains of viruses. Where it has been determined that virus scanners cannot be used, the system administrators are responsible for documenting the reason and developing a strategy to migrate to configurations that can support virus filters.

5.2.3 PCs must be scanned on each boot, and the anti-virus software must remain memory resident throughout the computing session. The complete hard drive must be scanned at least weekly.

6. Housekeeping

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6.1 Fault Logging

6.1.1 ITLD Operational personnel must log all reports of errors or problems with information processing or communication systems. Open errors or issues must remain open until satisfactorily resolved. Also, these logs must be archived and available for independent verification.

6.2 Information back-up

6.2.1 Tape backups of all critical applications must be sent off-site to a remote location daily for essential information and periodically (based on back-up schedule) for normal data.

6.2.2 Each department must ensure that all information related to their work on Government of Gibraltar servers is backed up consistently. Each department must work with the ITLD to ensure that all information is backed up and available to be restored in the case of an emergency.

6.2.3 Each department must have documented backup and recovery procedures. The Departmental Head and the ITLD must approve these procedures.

6.2.4 The ITLD must consider off-site backup rotation and retention schedules for each application that they support, based on requirements set forth by the RDOs. This schedule must reflect the risk assessment of the information being stored.

6.2.5 Users must backup critical files on their PCs by transferring or duplicating files onto the local area network server, which is backed up on a scheduled basis.

6.2.6 The ITLD must ensure that quarterly restoration testing of tape backups are performed. Ideally, restoration testing must be performed with live production backup data on the test systems in the test environment only, where possible/feasible.

6.2.7 If backups are performed at the server or host level, the backup schedule of the most critical application determines the backup frequency of the server.

6.2.8 Electronic messages, like all other network information, must be periodically backed-up and retained by automated devices, where feasible.

7. Network Management

7.1 Network Controls

7.1.1 Network managers must ensure proper operational network controls are implemented. This includes:
- documented roles and responsibilities for network operations
- procedures for management of equipment, both local and remote
- proper data integrity controls when data is passed over public network or communication lines
- proper availability for network operations and services
- consistent and optimised controls

8. Media Handling and Security

8.1 Disposal of Information

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8.1.1 All employees must use proper destruction methods when disposing of Government of Gibraltar information. The proper destruction method for paper copies of Confidential or Executive information is shredding or incineration. It is the responsibility of the user to ensure proper destruction methods are used or the information is disposed of in secure disposal containers.

8.1.2 Any external firm responsible for disposing of "secret" or "confidential" information must be held to the standards of Outsourcing contracts. This includes Confidentiality agreements, proper security controls and verification of controls.

8.1.3 Electronic information storage devices (hard drives, tapes, floppies, CDs, etc) must be disposed of in a manner commensurate with the information classification stored there.

8.2 Information handling procedures

8.2.1 Government of Gibraltar information must only be generated in hard copy to the extent necessary to complete normal business operations. Copies of information must be kept to a minimum to better facilitate control and distribution. When not in use, "secret" and/or "confidential" information must be stored in locked drawers, cabinets, or rooms specifically designated for that purpose and that are accessible only by authorised individuals.

8.2.2 Physical access to magnetic tape, disk, and documentation libraries must be restricted to employees whose job responsibilities require access. This authorisation list for access to media must be reviewed periodically for appropriateness.

8.2.3 Any data or media waiting to be distributed or produced must be secured to a level consistent to its sensitivity. This includes, but is not limited to:
- printer spools on systems
- printed materials awaiting distribution
- printed materials awaiting pickup for external delivery services
- media, such as backup tapes, awaiting pickup for offsite storage

8.2.4 Manufacture specifications must be met when storing any electronic media such as floppy disks, hard drives or CD-ROMS.

8.2.5 Recipients of data must be clearly marked. Any media sent via interoffice mail, courier, or other means, must be clearly labelled with the appropriate recipient information.

8.3 Management of removable computer media

8.3.1 All media, including paper and digital media, must be stored in a secure manner. This includes physical security to prevent theft, and environmental control to prevent media degradation.
Any computer media leaving the organisation's facilities must be authorised by appropriate management prior to leaving. Media containing sensitive organisational information should be accounted for with an audit log.
If the media's content is no longer required it must be erased prior to removal from site.

9. Exchanges of information and security

9.1 E-Mail Standards

9.1.1 Electronic mail (e-mail) messages must be considered to be the same as formal, written Government memoranda. As such, email messages are considered part of Government records and subject to monitoring, auditing and discovery acts. Therefore, when composing e-mail messages, users must comply with all policies regarding the use of inappropriate language.

9.1.2 Government of Gibraltar electronic mail systems must not be used to:
- send chain letters
- forward security related messages not originating from the Government of Gibraltar's ITLD or engage in any illegal, unethical or improper activities
- further any non-Government business or provide a "chat" forum on non-official matters
- disseminate internal mail addresses to external mailing lists.

9.1.3 The use of 'auto-forward' rules to send Government of Gibraltar business e-mail to a non-Government of Gibraltar computer is forbidden.

9.2 Information & software exchange agreements

9.2.1 Controls must be established over information and software exchange with Third Parties in order to ensure:
- Confidentiality of the information is maintained;
- The intellectual property contained within the information/software is safeguarded;
- The integrity of the information is maintained.

9.3 Publicly available systems

9.3.1 There must be a formal authorisation process before information is made publicly available. This includes publicly available web sites. Software, data and other information that requires a high level of integrity and made available on publicly available systems, must be protected by appropriate technical security standards.

9.3.2 Modification in the use of cgi, asp or other web server utilities must be considered as software development and must also adhere to the change management policies.

9.3.3 Appropriate disclaimers must accompany all publicly accessible information on web servers/websites.

9.3.4 Anonymous file transfers or receiving file attachments from unknown sources, are not permitted; uploading from the internet to the web servers shall only take place under authorisation control. Appropriate disclaimers must accompany downloading facilities.

9.4 Security of electronic office systems

9.4.1 Printers and copiers must not be left unattended when 'secret' or 'confidential' data is being printed or copied. Persons monitoring these processes and/or having access to these devices must be authorised to examine the data being printed.

9.4.2 Where telephone systems are used to transmit or store confidential organisational data (for example conference calls and recorded telephone conversations), the media used to store and/or transmit this must be subject to access controls.

9.4.3 "Secret" data must be printed only on printers approved and designated for this level of data. This requirement applies to each individual printer and not to entire printer classes.

9.4.4 Fax machines must not be left unattended when 'confidential' or 'secret' data is being faxed. Persons monitoring these processes and/or having access to these devices must be authorised to examine the data being printed. Any unneeded hard copies of information classified as "Confidential" must be disposed of properly. This includes waste copies generated from printing, copying, or faxing.

9.4.5 Information sent via fax and email must include a Government of Gibraltar Fax message or cover page with a disclaimer that the information sent is for the use of the intended recipient only.

8 Access Control

1. Policy Purpose and Scope

This policy defines control requirements for access to Government of Gibraltar's information resources. This policy applies to employees and non-employees associated with Government of Gibraltar who access or administer access to information resources.

2. Policy Statement

Government of Gibraltar's information resources are essential to its success. Therefore, access to all information resources will be granted in a controlled manner driven by business requirements. Employees will be explicitly granted access to information or systems. There is no implicit right of access.

The process to manage access to information must include:
- proper documentation, management and responsibilities of all users
- development and implementation of access control mechanisms, both technical and non-technical, to protect unauthorised access to information resources within networked information and application systems
- proper monitoring of access and use of information resources
- proper controls for any mobile access to Government of Gibraltar information.

Controls must be developed, implemented, monitored and maintained to prevent any compromise of the confidentiality, availability and integrity of Government of Gibraltar information resources.

3. Business requirements for access control

3.1 Access Control Policy

3.1.1 Users must obtain permission from the RDO and demonstrate a justifiable business case to access data. Authorisation must be documented via the approved access request form, which must be retained for historical purposes. RDOs will grant access on a need to know basis, as required by job functions.

3.1.2 Access rules must be explicitly documented for mandatory or optional access rights. If profiles are used, each profile must include documentation for access that is mandatory or optional.

3.1.3 The default permissions on any files created must restrict access to the general users of the system. System administrators must ensure the operating system restricts "global" access on any new files created and permission to extended groups of users must explicitly be allowed.

3.1.4 Access controls must explicitly state the rules and rights of the user. All user access must be driven by business requirements. The requirements for access must be communicated to all concerned persons including Users, Information Custodians, Service providers, and ITLD. All

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access must provide a consistent relationship between information classification and the rights, privileges, and access of the user.

3.1.5 Applicable legislation or regulatory restrictions (e.g. Data Protection Legislation, when applicable) must be considered when creating or issuing access to Government of Gibraltar data or systems. Any system covered under legislation must include the legislative restrictions within the access process.

3.1.6 Where possible, user access must be profiled based upon job description, duties or function. The use of profiles assists in management of user access and provides consistency.

4. User access management

4.1 Review of user access rights

4.1.1 All special or privileged access to systems (such as administrative or supervisor accounts) must be reviewed on an ongoing basis.

4.1.2 The departmental liaison officers are responsible for reviewing system privileges on a periodic basis and must promptly request ITLD to revoke all privileges no longer required by users. Reviews must be performed on an ongoing basis due to the ever-changing business environment and the importance of the data. It is the responsibility of ITLD to ensure that departmental liaison officers are provided with the proper reports to review current user access.

4.1.3 Access rights must be reviewed on an ongoing basis.

4.2 User Account Privilege and Rights Management

4.2.1 The RDO must work with the ITLD to remove access to information as soon as that access is no longer needed. It is the responsibility of the RDO to see that access privileges are aligned with the needs of the department and are assigned on a need to know basis and proper access lists are communicated to ITLD.

4.2.2 Authorisation for privileged access must be received from RDOs prior to access being given.

4.2.3 Any special privileges granted to users on technical platforms (e.g., administration accounts for operating systems, databases or applications or accounts that can override system or application controls) must be based upon function and job necessity. These privileges must only be allocated on a need-to-have basis for technical support or operations processes.

4.2.4 Upon termination or resignation of any employee, it is the responsibility of the employee's departmental management to promptly review any paper or computer files of the employee. The manager must also assign proper ownership of the information to relevant persons as well as determine proper disposal of unneeded files.

4.2.5 Development of technical solutions must be sought to avoid the need for unnecessary or extensive privileged access.

4.2.6 All users that have access to privileged accounts must have their own personal accounts for normal business use. Therefore, system administrators and employees with access to the privileged accounts must use their personal accounts for conducting non-privileged activities.

4.3 User Account/Password Management

4.3.1 User accounts that have not been accessed for 90 days will automatically be disabled. ITLD must inform the RDO of inactive accounts at regular intervals.

4.3.2 All access to computer systems must be controlled by an authentication method involving a minimum of a Username/Password combination. The Username/Password combination must provide verification of the user's identity.

4.3.3 To the extent feasible, new users will be forced by the system they are accessing to change their initial password to one that meets Password standards.

4.3.4 Users must be forced to change passwords every sixty (60) days. The ITLD, shall, to the extent feasible, enforce this through technical means by deploying password aging on systems. Users will not use cyclical passwords. For example, users cannot add a numeric at the end of the password in sequence. Users should try to use various password schemes as outlined in the other Password Standards.

4.3.5 For users with similar duties, user groups or role based access controls (RBAC) will be used to assign permissions and accesses to the individual accounts.

4.3.6 Users will generally be limited to one user ID for access to any systems, except in special circumstances authorised by the ITLD. Government of Gibraltar account naming standards must be followed across all systems. Any deviations from this, including application or special use accounts, must be approved by the ITLD.

4.3.7 Where technically feasible, systems must use password history techniques to maintain a password history of users. The history file must contain the last 13 passwords of users and store them in encrypted form.

4.3.8 All users of Government computer systems must be supplied with a unique user ID that is valid throughout the user's employment. Unique user IDs may not be reused for other individuals even after termination of the original employee.

4.3.9 Unless authorised to the user, systems must not allow users to log in more than once on the same system.

4.4 User registration

4.4.1 Computer system administrators must create initial passwords that are a minimum of six (6) characters in length and are comprised of letters, numbers, and special characters, with at least one uppercase letter.

4.4.2 Initial passwords must not be easily associated with Government of Gibraltar or the user (e.g., social security number, employee number, address, numerical equivalent of name)

4.4.3 User registration and de-registration procedures must be implemented when granting access rights for all information systems.
These procedures must be documented and include:
- proper authorisation from RDOs to gain access to systems or information resources;
- sign off and verification that access granted is the same as the access requested; and
- maintaining a record of all user registration history.

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5. User Responsibilities

5.1 General Responsibilities

5.1.1 Screensavers on all PCs and servers must be implemented. The screensaver must activate after 5 minutes of inactivity.

5.1.2 All activity performed under a user ID is the responsibility of the employee assigned to that user ID. Therefore, users must not share their account information with others or allow other employees to use their account to perform any actions. Also, users are forbidden to perform any actions under any user ID other than their own.

5.1.3 Passwords must never be stored in clear text. Therefore, users must not hard code any username/passwords in scripts or clear text files such as system shell scripts, batch jobs or word processing documents.

5.2 Password Standards

5.2.1 Computer users must create passwords that are a minimum of six (6) characters in length and be comprised of letters, numbers, and special characters to the extent possible. An ideal password is created from a pass phrase. For example the phrase "security is vital to the Government and me" might result in the password of "siv2tGam!" by using the first letter of each word in the phrase, substituting the number 2 for "to", using an uppercase "G" and adding the exclamation mark.

5.2.2 Passwords must not be easily associated with the Government of Gibraltar or the user (e.g., social security number, employee number, address, numerical equivalent of name, family names, pet names). Also, passwords should not be based upon month/year combinations such as "jan07" or "april2007".

5.2.4 User ID must be explicitly assigned to an individual. No group or shared accounts are permissible. The Departmental Heads and the ITLD must approve exceptions to this standard.

6. Network Access control

6.1 External Network Connectivity

6.1.1 All Government of Gibraltar network connections to the Internet must be firewalled to prevent unauthorised entry to the Government of Gibraltar network. The ITLD must approve all external connections.

6.1.2 All connections between Government of Gibraltar networks and the Public Internet must be proxied by an application proxy. Only connections originating from within the Government of Gibraltar network are allowed through the firewall. Some inbound traffic may be necessary for connections that originate inside Government of Gibraltar due to technical requirements. These connections must be addressed on a service-by-service basis and must be approved by ITLD.

6.1.3 Access originating from the Internet into the Government of Gibraltar network is not allowed without some form of token or certificate based unique authentication.

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6.1.4 The Government of Gibraltar internal network addressing scheme must not be visible to external connections.

6.1.5 To eliminate many of the vulnerabilities inherent with TCP/IP, routers, and firewalls must not accept external connections that appear to be coming from internal addresses.

6.2 General Standards

6.2.1 Servers with protocols that allow packet forwarding or re-routing must be configured to disallow this function. For example, 'IP forwarding' and the 'passive' feature of FTP will be disabled.

6.2.3 Only TCP/IP based protocols must be allowed to cross Government of Gibraltar network boundaries unencrypted.

6.3 Policy on use of network services

6.3.1 All internal and external network connections must be compliant with the Government policies on network services and access control. Therefore, it is the responsibility of ITLD to determine the following:
- What elements of the network may be accessed;
- The authorisation procedure for gaining access; and
- Controls to protect the network.

6.3.2 Network services on systems must be disabled unless a specific business reason for the service is needed and documented. Risks associated with the network service must be determined and resolved prior to implementation of the service. Some services are strictly forbidden including TFTP and IRC/Chat.

6.4 Remote Access

6.4.1 Systems providing remote access to the Government's system resources must use Enhanced Authentication. Remote users must need a user-ID, a password and another authentication method for access.

6.4.2 All remote access points into the Government of Gibraltar's environment must be assessed and approved by the ITLD. The use of non-authorised modems or remote access solutions is strictly forbidden and a violation of the Government of Gibraltar security policy. Therefore, no unauthorised modems or remote access software may be used without the express written consent of the ITLD.

6.5 Segregation in networks

6.5.1 Full unrestricted connections of different networks are not allowed. Separation of networks, dependent on information class, must be implemented to increase the level of security provided during information transport/storage, including remote access points. Where technically feasible, strict routing architectures must be used to limit remote access to specific necessary points in the network.

7. Operating system access control

7.1 General Standards

7.1.1 For high security environments it may be necessary to limit session initiation to specific terminals or locations. In this case, unique device identifiers must be associated with the approved connection points or direct connection to a server may be required.

7.1.2 Users with access to super user or privileged accounts must use their normal account to log into systems. Administrators must then switch the current account to the privileged account.

7.1.3 Users given command line access to systems must, where feasible, be limited to the access or service needed. This may include restricted shells, application menu restrictions, and the like.

7.1.4 All users must have a unique user id. The use of shared accounts or guest accounts must be subject to authorisation. Each user account must have an associated password known only to the approved owner. Additional security can be added to the process by the use of, for example, smart cards and biometrics.

7.2 Limitation of connection time

7.2.1 Key applications must be subject to access time limitation, wherever feasible. The operating window must be structured around only those times identified as necessary for completion of the business process. At all other times access to the application must be disabled/suspended.

7.3 Password management system

7.3.1 DSOs must perform password testing at appropriate intervals (e.g. monthly) to ensure proper passwords are being used. This includes the use of password cracking tools. This process must be controlled in the strictest manner and subject to explicit supervision.

7.3.2 All computers, databases, or applications that store user account and password information must be secured in the strictest manner. Access to the user account base must be restricted to only authorised administrators. This access must be reviewed on an ongoing basis along with a technical review of the host/server/user store.

7.4 System Inactivity

7.4.1 Systems sessions that are not active for thirty (30) minutes must be automatically terminated, where feasible. For systems that cannot automatically terminate connections, password protected screensavers, or terminal locks must be activated. Users must not attempt to circumvent the use of these controls.

7.4.2 PCs/laptops and Servers, when applicable, must be configured with a password protected screen-saver. The screen-saver must require the entry of a password after a PC/laptop or Server console has been left idle for 5 minutes.

7.4.3 Systems must force users off after two (2) hours of inactivity. The user should have to log back into the system.

7.5 System Logon Standards

7.5.1 Upon three (3) consecutive authentication failures, users must be locked out of the resource in which they are attempting to gain access to and will have to have their account manually reset.

7.5.2 Before being given the opportunity to log onto a computer facility, intended users must be presented with a login banner. This provides users a chance to terminate the login before accessing a computer for which they are not authorised. This also provides the Government of Gibraltar legal grounds to prosecute unauthorised access.

7.5.3 Every login banner on Government of Gibraltar computers must include a special notice which includes:

(1) the system is to be used only by authorised users
(2) by continuing to use the system, the user represents that he/she is an authorised user
(3) use of this system constitutes consent to monitoring

7.5.4 Identification of the Government, network, location, or host must not appear prior to a successful login.

7.5.5 Systems must be configured to not give any information on an unsuccessful login. This includes identifying which portion of login sequence (user-ID or password) was incorrect.

7.6 Use of system utilities

7.6.1 Any utilities that enable system administrators to perform low-level maintenance tasks on a system must:
- Be stored off-line if not required on a daily basis;
- Have access restricted to a very limited group of authorised users; and
- Include logging facilities to record their use.

8. Application Access Control

8.1 Information access restriction

8.1.1 All users must only be provided with the minimum level of access required to perform their duties. This should be achieved using a combination of:
- Logical security within an application
- Limiting the availability of unauthorised options
- Restricting access to command line driven navigation
- Restricting application content and functionality
- Limiting file permissions, e.g. read-only
- Control of output distribution

8.2 Sensitive System Isolation (ISO/IEC 17799 9.6.2)

8.2.1 Based on information class, networks may require separation. Where very sensitive information is processed, a system must be physically segregated with no direct connection to other networks or systems holding less critical data.

9. Monitoring system access and use

9.1 Clock Synchronisation

9.1.1 System clocks must be synchronised to an agreed standard to ensure the accuracy of audit logs. A procedure must be implemented to ensure that any 'drift' must be corrected.

9.2 General Responsibilities

9.2.1 System administrators must perform system monitoring as part of their daily work routine. This includes, but is not limited to, monitoring system usage and performance, processing, user access and overall system services.

Automated tools may be used for this as long as they have been tested extensively and accepted by the ITLD.

9.3 Monitoring System Use

9.3.1 ITLD System Administrators must ensure that monitoring tools are installed in order to log activity and security violations against critical production data. Only authorised individuals with prior management approval will use network or screen monitoring software or hardware.

9.4 System Event Logs

9.4.1 User access activity records must be kept for those users that access information classified as "confidential" or "secret". The RDO must review these records on a monthly basis and these records must be maintained in accordance with the guidelines set by any applicable Government Records Management Program.

9.4.2 All security relevant events must be logged on any computer or communications system handling confidential or executive information, including but not limited to, login failures, data modifications, use of privileged accounts, changes to access models or file permissions, modification to installed software, or the operating system, changes to user permissions, or privileges or use of any privileged system function.

9.4.3 Security logs must be retained for a minimum of 3 months. Access to security logs during this time must be allowed for only authorised persons. Logs should be retained on read-only media if possible.

10. Mobile computing and telenetworking

10.1 General Responsibilities

10.1.1 Users who work with Government of Gibraltar information from home must understand what security threats exist in their home office environment and take appropriate measures to ensure the security of the information in that environment.

10.1.2 Remote control software such as pcAnywhere or Carbon Copy is strictly prohibited from use on Government of Gibraltar computing resources without the express written consent of the ITLD.

10.2 General Standards

10.2.1 All of the Government of Gibraltar policies applicable for in-office operations still apply when working from home when home equipment is used for Government work. This includes, but is not limited to, standards outlined in the security policies.

10.3 Remote Access

10.3.1 Additional security measures must be implemented to protect data held on or accessed via remote devices, e.g. laptop computers, and mobile communication devices. All laptop computers must include:
- Encryption of storage media (when possible)
- PowerOn passwords
- Devices for physically securing mobile equipment
- Protection of data being transmitted to / from the mobile device, e.g. VPN, SSL or PGP
- Additional logical authentication controls to gain access to networks, e.g. SecureID Tokens

Additionally, mobile or remote users must be trained specifically in security measures to be taken for remote access.

10.3.2 Users must use Government of Gibraltar configured computers to access or connect to the Government networks. Home PCs, personal laptops or other non-Government of Gibraltar computers are prohibited.

10.3.3 Only users that have a justifiable business case for remote access will be authorised for that access by the RDO.

10.3.4 All dial-in/dial-out access ports must be strictly controlled. Any user who requires an individual analog line for dial-in/dial-out must obtain approval for the Information Security Organisation. Dial-up lines should be configured to "dial-out" only, to the extent possible. Dial-in access to Government of Gibraltar resources must be restricted to the centrally administered and approved dial-in solution.

9: Acceptable Use Policy

1. Policy Purpose and Scope

This policy defines the appropriate use of computing and communications resources. This policy addresses the information stored on or transferred via computers, networks, telephones or other communications devices, as well as the usage and protection of the physical assets themselves. This policy applies to all employees and non-employees associated with Government of Gibraltar.

2. Policy Statement

In today's business environment, computers, networks, and telephones are pervasive and an essential part of doing business. Therefore, proper use and protection of Government of Gibraltar resources and information is essential for business operations. It is each user's responsibility and obligation to ensure that all computing and communications resources are used only for its intended business purpose and that information contained or transmitted via these resources are protected from unauthorised use, appropriation, or corruption.

3. Acceptable Usage of Internet

3.1 General Standards

3.1.1 Internet connectivity will be granted to users with valid business purposes and proper justification and authorisation. Public and workstation Internet access must be re-authorised periodically to ensure that Internet access is still required. The ITLD is responsible for approving any new information servers. A viable business justification is necessary before an information server is put into production. Additionally, it is necessary to evaluate the security risks associated with utilising such a server.

3.1.2 Internet access is made available to Government of Gibraltar employees to provide resources for activities directly related to the discharge of responsibilities of the Government. This level of access is expected to enhance the efficiency and effectiveness of Government work production. Refer to the Non-Business Acceptable Use standard within this policy for details regarding personal use of the Internet.

3.1.3 Users must be familiar with the risks associated with accessing the Internet. This includes the lack of confidentiality or integrity of any information accessed or sent via the Internet.

3.1.4 Users must not disseminate any data classified as Internal Use Only, Confidential or Secret over the Internet.

3.1.5 Users must not use Government addresses to post information on public Internet sites that are not approved.

3.1.6 Proper approval is necessary before moving new information to the information servers. A Webmaster must be delegated and is responsible for moving approved information to the information server. Normal Government change control procedures will be followed.

3.1.7 Information and/or application servers will not be implemented if the security risks outweigh the benefit of providing such access via the Internet.

3.1.8 Authorised users must use the Government-provided LAN hardware and software as a gateway to the Internet.

3.1.9 The ITLD must approve all web servers and electronic bulletin boards. The Media Director or any other authorised person must approve information placed on these web servers or bulletin boards.

3.1.10 Any information posted to discussion groups bearing the Government of Gibraltar's address must only reflect the Government of Gibraltar's positions and will be approved by the ITLD or relevant Head of Department.

3.1.11 Users must be aware that when browsing the WWW, each web server can obtain information relating to the individual, the computer that he/she was using, and the other web locations that have been visited during this browsing session. Therefore, discretion must be used in determining which web sites to visit from a Government of Gibraltar computer.

3.1.12 Information transferred from the Government of Gibraltar's email address will be treated with the same standards as information on Government of Gibraltar's letterhead. Internet use will be monitored periodically. If there is reason to believe misuse or violations are occurring, the Government of Gibraltar may review the contents of Internet communications.

4. Non-business use of Government resources

4.1 General Standards

4.1.1 While Government of Gibraltar assets are intended primarily for business use, a small amount of non-business use of Government resources is anticipated and is acceptable. ITLD is responsible for determining at what point non-business use becomes "abuse" and/or affects job performance. These exceptions will be kept to a minimum and must not cause Government of Gibraltar to need additional resources or network bandwidth. None of these exceptions include use for private commercial enterprises or personal gain.

4.1.2 Telephones and voice mail may be used for minor personal business as long as it does not distract from Government of Gibraltar work.

4.1.3 Personal e-mail may be sent/received from Government of Gibraltar computers as long as it does not distract from Government work. All e-mail must be in good taste and comply with all policies regarding the use of inappropriate language and topics.

4.1.4 Non-business use of the World Wide Web (WWW) can be used on a limited basis as long as it does not distract from Government of Gibraltar work. Sites that could be considered offensive are strictly prohibited.

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10: Systems Development and Maintenance

1. Policy Purpose and Scope

This policy includes all standards relating to systems development and maintenance.

This policy applies to all employees responsible for design, development, maintenance, and operations of Government of Gibraltar's information systems.

2. Policy Statement

The design of the Government of Gibraltar infrastructure, business applications, and end-user applications must support Government of Gibraltar's overall security requirement as documented by the Security Policy. These requirements must be incorporated in each step of the system development life cycle including all design, development, maintenance, and operations phases.

Security and control requirements must be:
- determined during any system design.
- developed within the system architecture, and
- implemented in the final system deployment.

Furthermore all development and support processes for these systems must also support the security requirements as outlined in the security policy.

3. Security requirements of systems

3.1 Change Control

3.1.1 The ITLD must retain all change request forms, program change test plans, and testing results consistent with Government of Gibraltar Record Retention standards.

3.1.2 Testing procedures must be properly documented on the change request forms. If problems are noted during the testing process, the developer must document the problem, make appropriate modifications in the development environment, and submit it for retesting.

3.2 General Standards

3.2.1 System default settings must be reviewed prior to installation to determine potential security holes. Settings that could potentially compromise security must be changed prior to the system being placed in a production environment.

3.2.2 Since they are well known to the computer community, all vendor supplied default passwords must be changed prior to the system being placed in a production environment.

3.2.3 Network services should only be enabled for documented business reasons. This includes TCP/IP services such as FTP, HTTP and Telnet. Administrators must disable any services that

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are not required. Services that are enabled must be subjected to a "risk assessment" process to identify the security risks associated with enabling the service.

3.3 Security requirements analysis & specification

3.3.1 For all systems developed within or for Government of Gibraltar, security requirements must be determined prior to the application development phase. During the system design phase, RDOs and the ITLD must determine the proper control environment of the application. These requirements must include, but are not limited to:
- Access control,
- Authorisation,
- System criticality,
- Information Classification,
- System availability, and
- Information Confidentiality and Integrity.

4. Security in application systems

4.1 Application Development and Testing

4.1.1 The developer must supervise unit testing in the testing environment. Testing procedures must be properly documented on the change request forms. The Developer's Manager must perform an independent review of unit test results. The Developer's Manager must evidence formal sign-off of the test results on the change request form.

4.1.2 All significant modifications, major enhancements, and new systems must be integration tested prior to installation of the software in production. System stress testing and volume testing must be performed, and in some cases, parallel testing will be required. Integration testing must be conducted in a separate, independently controlled environment.

4.1.3 During integration testing, logical access restrictions must ensure that developers have no update access and the code being tested cannot be modified without written consent from the user. Copies of production data or pre-designed test datasets must be used for testing purposes.

4.1.4 During acceptance testing, logical access restrictions must ensure that developers have no update access and that the code being tested cannot be modified without the written consent of the user. If problems are noted, the user will document the problem. The developer must make appropriate modifications in the development environment and submit it for retesting.

4.1.5 All significant modifications, major enhancements and new systems must be acceptance tested by the appropriate users prior to installation of the software in production. The user acceptance plan will include tests of all major functions, processes, and interfacing systems. Testing procedures must be properly documented on the change request forms.

4.2 Control of internal processing

4.2.1 To prevent the corruption of data by processing errors or by malicious acts, validation checks must be built in to key applications.

4.3 Input data validation

4.3.1 All applications requiring data input must include data validation checks. These checks include:
- Error detection (e.g., hash totals and missing values);
- Checks for invalid characters or inconsistent data (e.g., text in number fields); and
- Logical inaccuracy (e.g., impossible dates or contradiction).

4.3.2 All data must be reviewed on a periodic basis for:
- Accuracy (e.g., using exception reports);
- Unauthorised changes (e.g., comparing data to hard copy input documents); and
- Currency comparison with other data sources (e.g., re-requesting the data from the data subject).

4.4 Message authentication

4.4.1 In all instances where key or sensitive data is transmitted from one system to another, message authentication must be enabled. Message authentication detects unauthorised changes to the content of transmitted messages

4.5 Output data validation

4.5.1 Where information is outputted from a computer system, checks must be performed to ensure it is:
- Complete via reconciliation controls;
- Correct via plausibility checking or sample checking; and
- Private information that is only available to the appropriate recipient.

5. Cryptographic controls

5.1 Digital signatures

5.1.1 The authenticity and integrity of electronic documents can be verified using digital signatures.

5.2 Encryption Policy

5.2.1 Data labelled 'public' does not require encryption.

5.2.2 Data labelled 'secret' must be encrypted whenever it is transmitted over any network, computer, or telephone.

5.2.3 Data labelled "confidential" must be encrypted whenever it travels over any network not completely under the control of Government of Gibraltar.

5.3 Key Management

5.3.1 Cryptographic keys must be managed and protected effectively with the use of standards, policies and other methods. This protection must include:
- the creation and issuing of keys,
- the confidentiality of private keys,

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- the integrity of public keys,
- revocation of keys,
- recovery of lost keys,
- the archiving of old keys,
- destruction of no longer needed keys, and
- compliance with any and all legal requirements as required by local jurisdiction.

5.4 Policy on the use of cryptographic controls

5.4.1 Assessments of risks and existing controls must be performed before cryptographic protections are implemented on a system. This will determine the level of cryptography that may be needed.

6. Security of system files

6.1 Access control to program source library

6.1.1 Libraries/directories containing application source code must be secured from unauthorised access using the following controls:
- Source code must not be stored on operational systems (when possible);
- Access controls developed to prevent IT staff from gaining access to source code in an uncontrolled manner;
- Implementation of change control procedures;
- Separation of live source from development source libraries;
- Authorisation for updating program source libraries; and
- Archives maintained from previous versions.

6.2 Protection of system test data

6.3.1 Where operational data is copied to a test system, it must be subject to a similar level of control as the live version. The controls must include:
- Authorisation,
- Deletion after testing has been completed,
- Audit log maintained of activity and personnel, and
- Access controls to ensure confidentiality is maintained.

7. Security in development and support processes

71 General Standards

7.3.1 All new or modified software must be adequately tested and approved consistent with Government of Gibraltar's Change and Problem Management standards before deployment into Government of Gibraltar's production environment.

7.4 Technical review of operating system changes

7.4.1 All operating system releases must be checked for functionality and security. Implementations must include back-out planning and review of security controls.

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11: Business Continuity Management

1. Policy Purpose and Scope

A business continuity plan (BCP) is a comprehensive set of business strategies and actions designed to minimise the impacts of a business interruption and to facilitate the return to normal levels of operation and service delivery This policy describes the core processes that need to be addressed to create a functional Business Continuity Plan and applies to all employees.

2. Policy Statement

A Business Continuity Plan will include processes and procedures to recover from any business disruption, regardless of the cause. It is the responsibility of all management to assist in the development and support of this plan. This BCP Management process will:
- Analyse and assess the business impact and likelihood of threats to business functions and information systems;
- evaluate and recommend strategies for the reduction or transfer of risk (including appropriate insurance, where available);
- develop the BCP strategy consistent with the organisation's overall business and security strategy;
- regularly test, review, and update all procedures relating to the BCP; and
- ensure business continuity planning is integrated into departmental functions and daily operations.

3. Aspects of business continuity management

3.1 Business continuity & impact analysis

3.1.1 A risk assessment or strategy plan shall be determined to assist in the development and approach of the business continuity plan. The risk assessment shall identify all key systems, critical business functions, and the threats to those assets. The threats include, but are not limited to:
- natural disasters,
- fire,
- loss of critical infrastructure services such as power, communications or water,
- deliberate or accidental damage to equipment or data,
- strikes or labour disruptions,
- system failures,
- security breaches, and
- deliberate or accidental disclosure of confidential or proprietary information.

The likely impact of these threats shall be determined for each asset, including a damage analysis and priorities for recovery. The plan must clearly define recovery time objectives and minimum acceptable recovery resources.

3.2 Business continuity planning framework

3.2.1 Management must create a standard framework for all Business Continuity Plans. A consistent format must be published and communicated to BCP owners.

3.3 General Standards

3.3.1 Each department must develop a business continuity plan consistent with organisational guidelines. Without a properly documented and tested plan, the Government of Gibraltar will be unable to ensure that all departments can re-establish normal and complete business operations in a timely manner.

3.3.2 At a minimum, contingency plans must be tested on an annual basis. Significant changes to the business should alter the contingency plan and be reviewed and tested. In complex organisations with sophisticated plans, testing must be more regular. Tests must be documented and the results reported to the RDOs and any other committee that is designated by Government of Gibraltar Management.

3.4 Writing & implementing continuity plans

3.4.1 All Business Continuity Plans must restore or maintain business operations in the required time following any interruption of service or disaster. Therefore, the following elements must be included in the plan:
- documentation of all roles, responsibilities, and agreements regarding actions during execution of the BCP including internal personnel or any external party agreements;
- documentation of explicit procedures for restoration of resources (e.g., all major services and systems, manual backup process documentation, logistics and action plans);
- training and education schedule for all affected or involved personnel;
- testing and updated schedule for the plan; and
- recovery and after-action reporting process.

3.4.2 All Business Continuity Plans must have a designated owner of the plan and process. The responsibility of the BCP owner includes maintenance and testing of the plan, development of execution criteria, and requirements and determination of activation status.

3.4.3 Management must approve all Business Continuity plans prior to implementation and rollout. The plan must contain all necessary documentation, have approval by affected departments, and meet all necessary requirements as determined by management.

3.4.4 All continuity plans must have a testing schedule. BCPs considered critical by management will be tested on a periodic basis. The management and the BCP owner will determine the process of testing. This test may include a full execution of plan including change-over of production operations or simulations of plan to include contingencies and variations.

3.4.5 All BCP plans must have a training and education schedule and requirements for all affected personnel.

3.4.6 All BCP plans must have a maintenance schedule. Each BCP must be reviewed at least on an annual basis or as determined by the BCP Owner.

12: Compliance

1. Policy Purpose and Scope

This policy defines the actions necessary to maintain compliance to all rules and regulations as applicable by law.

This policy applies to all employees and non-employees associated with the Government of Gibraltar.

2. Policy Statement

The Government of Gibraltar complies with all rules and regulations as applicable by law. This includes any criminal or civil law, statutory, regulatory, or contractual obligation made on behalf of the Government of Gibraltar. Any security requirements in organisation in these laws, including protection of Government of Gibraltar proprietary information and client/customer data, are essential to maintain compliance.

In addition, the Government of Gibraltar's security and controls environment is subject to continued and periodic reviews and assessments. It is the responsibility of all individuals associated with the Government of Gibraltar to assist in the continued compliance with both security requirements and regulations (e.g. EU directives).

3. Compliance with legal requirements

3.1 Data protection & privacy of personal information

3.1.1 A Privacy or Data protection officer must be designated to ensure compliance with all legal regulations regarding personal information.

3.1.2 Compliance with local regulations for data protection and privacy must be obtained. This includes the gathering, securing, and dissemination of personal information via any media, including information processing systems, and physical and verbal communications.

3.2 Identification of applicable legislation

3.2.1 Departments are responsible for determining specific requirements and responsibilities for controls or other activities arising from legislation, and then to ensure compliance.

3.3 Protection of Intellectual Property

3.6.1 Computer software developed by or for the Government of Gibraltar is the property of the Government of Gibraltar. This policy must be conveyed to all third parties who develop software or applications for the Government of Gibraltar's use to prevent any dispute about ownership of the software once the project is complete. Software developed by Government of Gibraltar employees on Government time is considered the property of the Government of Gibraltar.

3.4 Software Licenses

3.4.1 Purchase and use of third party software must comply with third party licensing agreements. These agreements may detail specific user restrictions (e.g., number of copies allowed to be installed, the number of machines the software can be installed on, or the number of concurrent users of the software allowed at any one time). Customer support levels (on-site or by telephone) may also be specified within the agreement.
The use or copying of purchased software to be used on a computer other than a computer for which it is licensed, is strictly prohibited.

3.4.2 All users of software on Government of Gibraltar Information Systems must strictly abide by copyright laws and restrictions detailed by the software manufacturer.

3.4.3 ITLD must perform periodic reviews of software usage on Government of Gibraltar PC's, laptops, and servers to ensure all computer resources are in compliance with licensing agreements. All software found in violation must be removed immediately. Parties responsible for loading and/or using non-compliant software will be subject to corrective actions by Management.

3.5 Third Party Software

3.5.1 Information Systems and Information Security must approve all shareware and freeware for use on Government of Gibraltar computer resource to ensure inefficient, unsecure, or malicious code is not present in the software.

4. Reviews of security policy and technical compliance

4.1 General Responsibilities

4.1.1 The ITLD shall assign review activities to parties to maintain compliance with Government of Gibraltar security policies. Situations resulting in non-compliance to the policies must be reported to the appropriate management function. Review activities include, but are not limited to:
- system self-assessments,
- third party testing,
- internal compliance testing, and
- procedure reviews.

4.2 Remote Access

4.2.1 Periodic reviews must be conducted to identify unauthorised dial-up lines. This will include reviews of phone Government records and/or "war-dialing" attempts to identify rogue modems which may exist on the Government of Gibraltar computing network.

4.3 Technical compliance checking

4.3.1 Operational systems must be checked at regular intervals for their technical compliance. This includes checking compliance of all technologies, both hardware and software, to security implementation standards as detailed in the Government of Gibraltar Security Policy and technical control documentation.

5. System Audit Considerations

5.1 Protection of system audit tools

5.1.1 All tools (e.g., software, applications, documentation, work papers) required for system audits must be protected from potential threats as outlined by the Government of Gibraltar Security Policy.

5.2 System audit controls

5.2.1 All system audit activities (by GAO or their agents) must be reviewed for proper audit planning and execution, including but not limited to:
- minimizing any disruption or interruption of business operations;
- agreeing on all audit activities and objectives with management;
- limiting scope of assessment to a controlled environment ensuring no improper access is given to perform the audit tasks;
- identifying resource and skill needs for any technical tasks; and
- logging all audit activities and providing documentation of tasks performed, audit procedures, findings, and recommendations.

13: Exceptions to Policy

1. Purpose and Scope

This policy defines the procedures that will be followed by personnel to identify any exceptions to policies that must occur in order to successfully complete business operations. It outlines the documentation that must be completed as well as the approvals that must occur before the exception to policy will be allowed.

2. General Orders

If there is a conflict between anything contained in this policy and the Government's General Orders, the provisions of General Orders shall take precedence over the provisions of this policy.

3. Exceptions to Policy Statement

In instances where there is a justifiable business need to perform actions that are in conflict with Government of Gibraltar policy standards, management will consider providing a waiver for these exceptions. The Government of Gibraltar recognizes that policies cannot be created and enforced which address 100% of all business issues. Exceptions are designed to facilitate new Government of Gibraltar business, or to address areas where technological changes are not addressed by current policies. However, it is the responsibility of management to understand and mitigate risks.

Any exceptions will be reviewed on a periodic basis dependent on the level of risk involved in the exception and the level of mitigating controls implemented to manage the risk of the exception.

4. Procedures for Requesting Exceptions to Policies

4.1 Guidelines

4.1.1 Requests for exceptions to policies must have a justifiable business case documented and must have the necessary approvals to be considered valid. Exceptions must be approved and signed by the RDO, Department Head and by the ITLD. Once approved, exceptions to policy will be valid for a period of one year at which time the exception must be re-evaluated and re-approved.

4.1.2 If policy exceptions potentially circumvent existing internal controls then mitigating or compensating controls must be implemented and followed.

it, ltd

(NO6) Corby, Giselle

From: (NO6) Grech, Darren
Sent: 25 November 2020 16:49
To: (RGP) Wyan, Mark
Cc: (RGP) Richardson, Paul (OTM)
Subject: Re: R v Cornelio, Perez and Sanchez

Dear Mark,

Thanks for this. I shall revert in due course.

Best wishes,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

Darren Grech
Chief Secretary

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HM Government of Gibraltar

Office of the Chief Secretary

On 25 Nov 2020, at 16:09, (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi> wrote:

Dear Chief Secretary,

RE: R v Cornelio, Perez and Sanchez

I write to you in connection with the police investigation regarding the National Security Centralised Intelligence System (NSCIS).

During the course of the investigation the defendants have provided police with voluntary statements in defence of their actions. As investigators police have a statutory duty to follow all reasonable lines of enquiry, including those that may undermine the prosecution or assist the defence. In order to comply with our statutory obligations we are ensuring that witnesses capable of verifying the defences put forward are contacted.

Please find below a list of questions that have been drafted for your attention. The purpose of the questions is to guide you to the issues that are considered important in light of the prosecution evidence and submissions made by the defence. They are as follows:

1. In the event that HMGoG wished to cancel the NSCIS contract with Bland, would this contract always be required to go out to tender? If so, could you please explain the tender process including, if relevant, why some contracts may be excluded from the tender process?

2. Could you please explain the HMGoG software ownership policy? Was/is there a policy of HMGoG always owning software that it paid to develop? Are there now or have there been any exceptions to this?

3. As a Bland employee, Thomas Cornelio was vetted to access the NSCIS platform. Did this vetting expire once he terminated working with Bland on the 1st September 2018? If not, for how long would this vetting remain valid?

4. For the purpose of disciplinary action, can the terms '*trading or commercial activity*' as specified in paragraph 6.4.1(a) of Government General Orders be defined?

5. Is there is a HMGoG data storage policy in relation to the storage of data collected by the NCSIS Platform? If so please provide a copy of this.

6. To your knowledge, during 2018, did any officer of HMGoG instruct Thomas Cornelio to keep data or a copy of the source code related to the NSCIS platform safe, to ensure services could run independently of Bland?

7. To your knowledge, did any officer of HMGoG request that Thomas Cornelio maintain the NSCIS platform following the termination of his consultancy period with Bland (post 31st August 2018)?

8. To your knowledge was Bland and/or Thomas Cornelio given complete autonomy over the day-to-day functioning of the NSCIS Platform? Were there any agreed instructions or established protocols in place?

9. To your knowledge, does HMGoG restrict which Bland employees have access to the NSCIS platform?

Further to the evidence already provided to police we would be grateful if you could respond to these questions with a view to incorporating them into an additional witness statement. Where you are unable to answer any questions, such as those that fall outside your knowledge, we would be most grateful if you could direct us to an appropriate officer of HMGoG.

Given that the defendants have already appeared before the Supreme Court we should be grateful for a reply at your earliest convenience.

Please feel free to contact me if you have any questions or require clarification.

Kind Regards,

Mark



Mark Wyan
Chief Inspector

Corporate Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 63024 Centrex: 2216



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(NO6) Grech, Darren

From: (NO6) Grech, Darren
Sent: 29 March 2021 17:27
To: (RGP) Ullger, Richard
Cc: (RGP) Wyan, Mark
Subject: Re:

Thanks Richard. I obviously want to help, to support and to facilitate things in order for the process to proceed with absolute integrity, adhering to deadlines. I will try my utmost to deliver soonest. Regards, D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

On 29 Mar 2021, at 17:17, (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi> wrote:

Dear Darren,

Thank you for raising this with me, which I kindly appreciate. I had no knowledge of this at all, or in fact that PC Currer was going to write to you, and neither did the Senior Investigating Officer [SIO].

I don't know the full details of what is happening daily with this case, as the SIO is responsible for this. I therefore purposely remain distant from it, so as to ensure that all matters that come to my attention are strategic ones in support of the SIO.

I am now informed that DC Currer is part of the investigating team and was tasked with identifying gaps in your statement [which I haven't read] in order for the prosecution to be prepared to rebut any lines of defence at the No Case To Answer Phase of this judicial process. I am also informed that these questions have been crafted at the behest of the DPP's office.

It is regretful that you may need to spend some time further in order to seek that extra information to assist us strengthen the case in these matters, and if the SIO who is copied in this email can assist you in any way, he is more than amenable to do so. In actual fact, he is meeting with the Chief minister sometime soon to do something similar. We are therefore at your disposal, so do not hesitate to contact me or the SIO for this support, as we will be more than happy to oblige.

Yours Ever,

Richard

Richard Ullger OTM, MSc
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2200**

<image002.png>

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From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 29 March 2021 16:27
To: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>
Subject: Fwd:

Dear Richard,

Please see below - I take it you have knowledge of this.

I do of course realise the importance of this investigation and, furthermore, that deadlines exist, yet I find the email curt and insensitive with no hint of apology in relation to the additional time I will once again have to invest on this.

I will of course oblige as always, but please be patient with me.

Regards,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

Begin forwarded message:

> **From:** "(RGP) James Currer (PC211)" <james.currer@royalgib.police.gi>
> **Date:** 29 March 2021 at 15:30:25 GMT+2
> **To:** "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
> **Subject: RE:**
>
> Good Morning,
>
> Thank you for your email, the contents of which are noted.

- Due to a further statement having been received, further questions have now arisen. I will need a further statement from yourself to clarify the points raised. The questions are as follows:

1. We understand that Caine Sanchez was interdicted pursuant to Government General Orders. Can you confirm on what date he was interdicted and by who ?

2. Were you the direct line manager / head of Dept of Caine Sanchez?

3. As per your email to DC 211 Currer dated 15/03/2021 you stated "***If you have any questions on Mr Sanchez's provisional interdiction and the subsequent lifting of the same, please email these directly to me as I was responsible for those decisions***". In respect of this, we understand that pursuant to Government General Orders:

Paras 7.2.3 If a head of department considers it necessary that an officer should be interdicted under General Order 7.2.1 he may do so provisionally and at the same time report the matter to the Governor through the Human Resources Manager for confirmation or otherwise.

Did you report the matter to the Governor in accordance with para 7.2.3 of GO ? – para 7.2.3

If so when was the Governor informed ? – para 7.2.3

What was the outcome? – para 7.2.3

How many types of interdiction are outlined in Government General Orders ? Is it correct to say that all interdictions are formal and provisional ?

Para 7.2.8 The decision to interdict an officer will be communicated to him in writing by the Human Resources Manager and a proper record will be placed in his personal file. The decision and details of the level of pay awarded will also be communicated to the Head of Department, the Industrial Relations Officer and the Principal Auditor.

Why did the HRM not communicate the decision in writing to provisionally interdict to Mr Sanchez as set out in para 7.2.8 of GO ?

When did Human Resource Manager communicate in writing the decision to provisionally interdict to Mr Sanchez? para 7.2.8

Please confirm:

- Who decided to lift the interdiction?

- Given that the alleged offences were committed by virtue of his role in the Service what considerations did you take account of in order to conclude that the public interest could be safeguarded from the offences of Conspiracy to Defraud and Misconduct in Public office which Sanchez is charged with?
- When was such a decision taken?

Kind regards,

<image005.jpg>
James CURRER
Detective Constable No 211
Criminal Investigation Department

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 54074399

<image006.png>

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From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 15 March 2021 18:14
To: (RGP) James Currer (PC211) <james.currer@royalgib.police.gi>
Cc: (HRD) Yeo, Collin <collin.yeo@gibraltar.gov.gi>; (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>; (NO6) Payas, Daniella <daniella.payas@gibraltar.gov.gi>
Subject:

Dear Detective Constable,

I refer to your emails to the Human Resources Manager, Collin, herein copied.

Please note that Collin wrote to the Director of Public Prosecutions on my behalf in his capacity as the Human Resources Manager of HMGoG to provide the Director with the information requested in respect of Mr Sanchez's employment status.

If you have any questions on Mr Sanchez's provisional interdiction and the subsequent lifting of the same, please email these directly to me as I was responsible for those decisions.

I look forward to hearing from you so that I may answer any questions that you have.

Best wishes,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

Darren Grech
Chief Secretary

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HM Government of Gibraltar

Office of the Chief Secretary

HM Government of Gibraltar

Office of the Chief Secretary

Your ref:
Our ref:

Christian Rocca QC
The Director of Public Prosecutions
Office of Criminal Prosecutions and Litigation
Natwest House
57/63 Line Wall Road
Gibraltar

8th June 2021

Dear Christian

I write in relation to R v Perez, Cornelio and Sanchez.

Please note that on having carefully considered the position as it relates to Mr Caine Sanchez, and for the reasons that I set out below, I, on behalf of Her Majesty's Government of Gibraltar ("**HMGoG**"), no longer consider that I have a basis on which to continue to be a complainant against Mr Sanchez in this matter.

As you know, to date, I, on behalf of HMGoG, have stood as a complainant against Mr Sanchez solely and exclusively on the basis of the Royal Gibraltar Police's (the "**RGP**") various assurances and evidence briefings, principally to me, in relation to the offences with which Mr Sanchez has been charged.

By virtue of a letter that I sent to the Commissioner of Police (the "**Commissioner**") on 25th September 2020, and two letters of 6th November 2020 and 19th November 2020 that Isolas sent to you on my behalf, I requested details of the facts alleged against Mr Sanchez, the key aspects of how the RGP alleges that the offences are made out and any documentary evidence in support of the charges which stand in the name of the Government as a complainant against Mr Sanchez. You will recall that the purpose of my request was so that:

1. I could confirm to the Commissioner (with the benefit of careful consideration of the evidence the RGP's investigation has, with HMGoG's cooperation, uncovered), my position that the complaint should proceed in the name of HMGoG.

2. The Council of Ministers could ratify my decision for HMGoG to proceed to be a complainant in this sensitive matter and with the benefit of the same careful consideration of the evidence in respect of the HMGoG's role as complainant.

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3. His Excellency the Governor could confirm, or otherwise determine, the reinstatement of the interdiction of Mr Sanchez also with the benefit of the same careful consideration of the evidence available at that stage.

4. HMGoG could act entirely properly, in keeping with General Orders and all Mr Sanchez's other rights, in the context of his employment as an officer of HMGoG.

Regrettably, for the reasons provided in the Commissioner's letter to me of 29th September 2020, and your letters to Isolas of 10th November 2020 and 20th November 2020, you declined to provide me with any of the information that I requested. You will recall that I was even willing to accept '...at the very least, a written summary of the information that has already been provided to [me] by virtue of the evidentiary briefings...' (letter of 19th November 2020 from Isolas to the Director of Public Prosecutions). This suggestion was also rejected. Given that I had been briefed on various occasions on the evidence against Mr Sanchez, I am still at a loss to understand the reasons for the refusal to provide me with, at a minimum, a summary of the information on which I had already been briefed. Please note that, at this juncture, I would have to insist on receiving the information and documentation that I requested in my letter to the Commissioner of 25th September 2020 should you wish to review your position and provide me with the said information and documentation.

In the circumstances, and as a result of not having been provided with any of the information and documentation requested in respect of the charges brought against Mr Sanchez, I, on behalf of HMGoG, no longer consider that I have a basis on which to continue to be a complainant against Mr Sanchez.

I note from the Commissioner's letter to me of 29th September 2020 that 'regardless of any complaint or otherwise from HMGoG, the position as it stands is that Mr Sanchez has already been charged and the matter will proceed unless the DPP or AG is of the view that it is not in the public interest to proceed...'. As I have previously noted, I reiterate that I have never stated otherwise, and I know that whether or not the prosecution proceeds is, of course, a matter entirely for you and for the Attorney General. In this respect, you can continue to count on my support as may be required by the RGP's investigations, including in providing additional witness statements.

I trust that the above is clear but please do not hesitate to contact me should you require anything further.

Yours sincerely

Darren Grech
Chief Secretary

(NO6) Grech, Darren

From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 28 October 2021 10:35
To: (NO6) Grech, Darren
Subject: Mr Caine Sanchez
Attachments: Sanchez letter to CS 13 April 2021.pdf

Importance: High

Dear Mr Grech,

RE: Mr Caine Sanchez

I trust this email finds you well.

I have been informed by the OCPL that on the 17th October 2021 they received an email from those acting for Caine Sanchez together with the attached document. The document is addressed yourself and includes explanations from Mr Sanchez in respect of his actions relating to the NSCIS platform. It is thereby relevant to the ongoing judicial proceedings. It is my understanding that this document is now being relied upon by the defence in support of representations they are making to the prosecution.

There are some concerns that Mr Sanchez [being a defendant in a criminal matter] contacted you directly [and not via his legal advisor] in relation to an investigation in which you are a witness. Moreover, he pointed you to specific details of witness statements which form part of the criminal proceedings.

In the circumstances I would be grateful if you could confirm whether you have received any other communication from Mr Sanchez that may be relevant to the current proceedings. Moreover, given that the document is purportedly dated the 13th April 2021, I would respectfully ask you to confirm whether the document [or any other sent to you by Mr Sanchez] had any bearing on your decision to withdraw your complaint against him in your letter to Mr Rocca QC of the 8th June 2021.

Kind regards,

Mark

Mark Wyan
Superintendent (Des.)

Professionalism Division
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Dear Darren

As you are aware I was arrested and subsequently charged on various criminal charges connected to the National Security Central Intelligence System (NSCIS).

I am writing to you as I was the person responsible for the establishment and maintenance of the NSCIS and feel compelled to point out certain issues to you, given that there existed, and continues to exist, a plethora of serious data protection deficiencies that need to be addressed.

It is clear beyond any doubt that my position and role within the Civil Service was that of the Data Controller for the NSCIS. I was the Principal Secretary to the Office of the Deputy Chief Minister and Head of the government department with responsibility for the establishment, maintenance and operation of NSCIS, including its confidentiality, integrity and availability.

This was correct at the outset when establishing the NSCIS for the purposes of border queue information gathering for EU lobbying/statistical purposes, and which processing is governed by the GDPR and Part II of our Data Protection Act 2004 (DPA04).

It was also correct subsequently, when NSCIS use was later on expanded to cover Law Enforcement Processing purposes, and which processing is governed by Part III of our DPA04.

For ease of reference our DPA04 defines what a Data Controller is both in terms of Part II (GDPR processing) and Part III (Law Enforcement Processing). In summary, it is the person or competent authority who:

(a) determines both the purpose and the means of the processing, or (b)

processes personal data pursuant to an enactment.

I refer to your first Witness Statement of 21st January 2020, when speaking in general terms of my NSCIS role: you stated that I had "complete responsibility for the NSCIS" and that I "did not report to anybody". As such I would have had "complete autonomy in this area."

The role of Bland Ltd (Bland) on the other hand, was limited to that of a Data Processor and no further.

A Data Processor, as defined in the DPA04, is the person or entity which processes personal data *on behalf of* (emphasis added) a Data Controller.

Bland were engaged by me at the outset to set up the NSCIS on behalf of the Office of the Deputy Chief Minister, including purchasing hardware in order to fit the specific operational needs of the NSCIS as specified by me

I also engaged Bland to write up the operating software of the NSCIS, and to operate and maintain the NSCIS on behalf of my department.

These tasks necessarily required giving Bland access to personal data within the NSCIS for the exclusive purpose of fulfilling their operational and maintenance duties, thereby bringing their processing into scope of the GDPR and DPA04 and their role as a Data Processor.

It is also important to understand that Bland did not have any authority to process any NSCIS personal data for itself –it neither determined "the purpose" or "the manner" of any processing - and to the extent that Bland were authorised to process any NSCIS personal data it was required to do so on my instructions and at my request for the sole purposes of fulfilling their operational and maintenance duties which they were carrying out at my request on my behalf.

To illustrate our respective and distinct roles further, as part of my Data Controller tasks, I had the sole responsibility of considering requests for the disclosure of NSCIS footage from local law enforcement bodies or third parties. (Such requests were more common at the outset when processing under the NSCIS was limited to information gathering for EU lobbying/statistical purposes.)

In any event, all such disclosure requests were made exclusively to me for consideration. Only if I thought appropriate, would I then authorise Bland to release the relevant footage to the requesting party.

In other words, in the context of such disclosure requests, law enforcement bodies (and any anyone else asking for NSCIS footage) were required to approach the Data Controller for permission, and only when authorised by the Data Controller, would such data be disclosed via the Data Processor upon the Data Controller's specific instructions to the Data Processor.

Furthermore, because of the sensitive nature of personal data processed within the NSCIS, I stipulated specific access controls so that only individuals authorised by me (including Bland employees) were allowed to be given varying degrees of access to NSCIS data or the system itself.

My approval was conditional on a vetting procedure. This involved running a Police check on any proposed individual to whom access was being considered, which was then followed up with a face-to-face interview with me.

I had the final and only say on whether to approve or deny access (as well as the actual level of access) to the NSCIS and its data following that interview.

In addition, where I had agreed to grant access, it was a prerequisite for such individuals to sign an Official Secrets Act Confidentiality Undertaking .

As mentioned above, over time, the scope of the NSCIS grew to include law enforcement purposes and it evolved into a user interface which connected various modular systems used by the office of the Deputy Chief Minister, other government departments and law enforcement bodies in Gibraltar.

This meant granting direct viewing and retrieval permissions of NSCIS data to local law enforcement bodies, including the RGP, the BCA, Port Authority, and HM Customs (each a 'Recipient').

Note all Recipients also became Data Controllers in their own right, but only in respect of the NSCIS information they each used and had specific access to, and which was limited to, and relevant for, their respective and unique processing requirements as determined by me having regard to their individual operational needs.

It is important to understand that none of these Recipients were Data Controllers of the NSCIS itself; none of them had access to back codes of the operating software; and none of them had administrator privileges. The control over all such privileges were retained exclusively by me at all times.

Further, my department remained the Data Controller with responsibility for the system itself, retaining overall control over its access, as well as its operation, maintenance, confidentiality, integrity and availability.

To the extent that any codes or admin privileges were granted by me to Bland it was done in order for them to be able to carry out maintenance duties and ensure the system's operability. For the avoidance of doubt Bland had no authority to forward such codes or privileges to third parties – and even within their own organisation access (and the extent of access) was limited to individuals specifically authorised by me in line with my established access controls.

It is also worth mentioning that the additional use of the NSCIS for law enforcement purposes complicated the technical aspect of the platform given the diverse operational requirements of each of these different Recipients, and the requirement for a high degree of interoperability with other databases and modules such as Interpol.

As a result, the software needed to power this additional use became, and is, fairly volatile. It needs regular and constant management and updates, which if not done, undermines the ongoing availability and integrity of NSCIS data.

As part of Bland's maintenance duties, they were responsible for updating the software to ensure its continued availability and integrity and thus remaining fit for purpose.

It is only now, after my arrest, and in the absence of any prior training, that I have had the benefit of data protection advice and I now appreciate some of the obligations imposed on Data Controllers and Data Processors when processing personal data – both from a GDPR perspective - and also from a law enforcement perspective.

While a full analysis of the applicable rules is simply not possible in a letter such as this, I remain concerned at the total lack of a compliant data protection framework with regards to the NSCIS.

To assist I have therefore set out in Table A some of the pressing data protection obligations which fall on Data Controllers from a high level perspective.

Nevertheless, I also urge a full review of all processes, procedures and agreements associated with the NSCIS to ensure a full compliance program with both the GDPR and Part III of the DPA04.

In a nutshell, you will need to conduct a GDPR and DPA04 gap analysis and then bridge areas of non-compliance by introducing appropriate policies and procedures including, organisational and technical measures.

The reason for this is because data protection law requires Data Controllers and Data Processors to be able to demonstrate compliance (under the key principle of "accountability") by having proper policies and documented procedures in place. Failure to have such policies and documents in place is a fundamental breach of data protection legislation.

Note however none were ever implemented as far as the NSCIS itself is concerned, and this needs to be remedied with immediate effect.

In addition, I also wish to highlight some serious irregularities and actual breaches of applicable data protection legislation specific to the NSCIS.

1. Breach of access controls by Bland and/or their employee

As stated above any person engaged to work on the NSCIS would need to have been approved by me as the system's Data Controller after Police vetting, interview and signing of Official Secrets Act Confidentiality Declaration.

Bland was fully aware of this following a meeting at No 6 Convent Place on 25 July 2018 between Jonathan Galliano, Thomas Cornelio and myself in which I explicitly set out these strict access controls.

In addition, such instructions were repeated by me in writing[1].

Notwithstanding these clear instructions, Jonathan Galliano, an employee of Bland, accessed the NSCIS backend master databases and modified system data without having been approved by me in order to obtain an elevated user account that would provide him with administrative access to all data within the NSCIS system.[2]

It is unknown whether Mr Galliano was acting of his own volition or on the instructions of his employers.

Regardless, it is clear that such unauthorised access was entirely unlawful and contrary to my clear and explicit written instructions and in breach of both the GDPR Art 28(3)(a) and (b), the standards required by Art 32 in terms of security and ss.66 and 75 Chapter 4, Part III of the DPA04 in the context of law enforcement purposes.

In addition, I refer you to s.175 of the DPA04 which makes it a criminal offence for a person to knowingly or recklessly obtain personal data without the consent of the controller.

2. The unauthorised and unlawful use of Sub Processors by Bland in respect of NSCIS contrary to the provisions of GDPR Art 28, and s.68 of Chapter 4, Part III of the DPA 04 for Law Enforcement Processing, and in direct contravention of the Data Controller's existing access controls and procedures:

A Data Processor may only engage the services of a Sub Processor in accordance with GDPR Art 28, and s.68 of Chapter 4, Part III of the DPA04 for Law Enforcement Processing purposes.

In particular:

- the Processor is required to obtain the Data Controller's prior written consent before a Sub Processor can be engaged, or in the case of a general authorisation, the processor must notify the Data Controller if it proposes to add to or replace any Sub Processors;
- the Processor needs to impose at least the same data protection obligations on a Sub Processor as stipulated by GDPR Art 28, and s.68. of Chapter 4, Part III of the DPA 04. As such, a Processor must ensure in respect of any Sub Processor that:
    - the Sub Processor does not process personal data except on instructions from the Data Controller
    - persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate duty of confidentiality

[1] See my email to Jonathan Galliano of 9 August 2018
[2] See email from Mr Galiano to Mr Cornelio on 7 October 2018

- the Sub Processor takes appropriate security measures.

From the evidence available, it is clear that Bland breached these provisions on at least 3 separate occasions and deliberately ignored my access controls as follows:

i. **Infosec/Red Maple Technologies** – Bland engaged the services of Infosec/Red Maple Technologies to work on the NSCIS in or around 12 October 2018 without my knowledge or consent[1].

Furthermore, Bland gave unlawful access to the NSCIS (and as a consequence access to NSCIS personal data including all servers and equipment) to employees of Infosec/Red Maple Technologies without going through, and in breach of existing access controls specified by me with regards to Police vetting, interview and the signing of Official Secrets Act Confidentiality Declaration.

Known Infosec/Red Maple Technologies employees who were given access without my prior approval are Robert Stemp and a Mr/Mrs Mason.

Further, having read Robert Stemp's statement of 20th April 2019, it is evident that Infosec/Red Maple Technologies have been running the NSCIS without my prior knowledge or consent since October 2018 in breach of the rules relating to Sub Processors.

Also, the fact that the system was being remotely accessed[2] would have likely required a Data Protection Impact Assessment (DPIA) to assess and mitigate any identified risks given the sensitivity of the data processed by the NSCIS and the increased risks presented by remote access compared to physical access.

ii. **PWC** – were similarly engaged by Bland to work on the NSCIS in or around 15 October 2018, again without my knowledge or consent[3].

Bland gave PWC access to the NSCIS and given the scope of PWC's engagement[4], PWC would also have had to have additionally been given access to the system's codes and NSCIS related data, including personal data.

As with Infosec/Red Maple Technologies, Bland did not follow all the existing access controls specified by me and unlawfully gave access to the NSCIS and its personal data to PWC employees. I know that Jonathan Holmes, Oliver Smith and Ronan Magee arrived in

[1] See Witness Statement of Jonathan Galliano dated 8 December 2019
[2] See Witness Statement of Robert Stemp dated 20 April 2019
[3] See Witness Statement of Jonathan Galliano dated 8 December 2019
[4] See Witness Statement of Jonathan Galliano dated 11 September 2020

Gibraltar on 15th October 2018[7] and worked on the system for a period of 5 days. Thereafter they worked remotely per PWC's own report of 23 April 2019.

As with Infosec/Red Maple Technologies, a DPIA should have been considered with regards to remote accessing of the system as per GDPR Art 35 and s.73 of the DPA04.

Additionally, and as a separate point, I refer to Peter Canessa's witness statement of 29 August 2019 in which he stated *"on 6th November 2018, I received an update on the NSCIS matter from John-Paul Payas, General Manager of OSG, a subsidiary company of Bland. He informed me that James Gaggero had sought the assistance of accountancy and audit firm Pricewaterhouse Coopers (PWC) who had produced a report. I requested that the Chief Minister be appraised of this report."*

It is unclear if Mr Canessa, or anyone else within the Office of the Chief Minister, had actually authorised the PWC report or their work generally on the NSCIS.

However, for the avoidance of doubt, I was the only person with the requisite authority to be able to properly authorise a particular processing in respect of the NSCIS. The PWC report was not so authorised.

Further to the extent that the PWC Report required its authors to have access to NSCIS Personal Data, such processing would have been in breach of GDPR Art 28, and s.68 of Chapter 4, Part III of the DPA04 for Law Enforcement Processing purposes which require Sub Processors to only process personal data on the written instructions of the Data Controller.

In addition, the fact that the General Manager of OSG and not Bland was calling to provide Mr Canessa with an update shows that information relating to the NSCIS was clearly being shared within the Bland group. To the extent that this information contained personal data this would likely have been a further breach of data protection obligations and certainly increased the risk associated with the processing itself.

iii. **Black Marble** – were also engaged by Bland in or around November 2018[8]. As part of that engagement access to NCIS was given as well as to HMGOG codes containing credential details, allowing connection and access to NSCIS including sensitive and personal data.

As with Infosec/Red Maple Technologies Limited and PWC no prior consent was sought or notice was given to me in respect of their engagement and Bland did not follow all the access controls in place with regards to vetting, interview process and Official Secrets Act Confidentiality Declarations.

---

[7] See Witnes Statement of Jonathan Galliano dated 8th December 2019

[8] See Witness Statement of Johnathan Galliano of 8 December 2019

3. **Unlawful access to NSCIS data and a Computer located in the Customs Building**

I refer to Peter Canessa's witness statement of 29th August 2019. He says he authorised access to a computer within the Customs Building which was linked to the frontier cameras (and thus part of the NSCIS) to an unknown individual who was put through to him by the Chairman of Bland Group Mr James Gaggero, during a telephone call.

Mr Canessa said this happened when he was at home and after taking a call on his mobile from Mr Gaggero who passed him on to an unknown individual.

Mr Canessa, who was, and is, the Principal Private Secretary to the Chief Minister said *"I authorised this access however informed him to tell anyone that challenges him that he is conducting routine maintenance, nothing else."*

As stated at the outset of this letter, the government department with overall responsibility for the NSCIS and its Data Controller was the Office of the Deputy Chief Minister.

S.199 of the DPA04 confirms that for the purposes of the GDPR and the DPA04 each government department is to be treated as a separate person from other governments departments.

Therefore, the NSCIS' Data Controller is and was at all material times the Office of the Deputy Chief Minister of which I was head of department and ultimately responsible for.

Mr Canessa, who did not form part of the Office of the Deputy Chief Minister, acted ultra vires in purporting to authorise access to the NSCIS.

Further the access given to this individual without my prior knowledge or consent and contrary to existing access controls is in clear breach of both GDPR and Part III of the DPA04 and demonstrates the lack of adequacy of appropriate security measures in place with regards the NSCIS generally, in breach of GDPR Art 32 and s.75 of Chapter 4 of Part III of the DPA04 in the context of Law Enforcement Processing.

In general, the appointment of Sub Processors by Bland without the prior knowledge or consent of the NSCIS' Data Controller is nothing short of scandalous.

At least in once instance, the actual day to day operation of Gibraltar's National Security Central Intelligence system was farmed out by the Data Processor to a third party unknown to the system's Data Controller in breach of applicable data protection legislation

Other third parties were also routinely given access to the NSCIS and its data by Bland, all in breach of applicable data protection legislation and with little or no regard to established access control protocols put in place by the system's Data Controller.

Lastly, the fact that Mr Canessa, without authority, was able to bypass my office and provide access to a computer system containing personal data used for law enforcement processing to a person he did not even know (on the mere basis of a phone call) is frankly astonishing and requires the immediate review of all security access controls which are clearly inadequate for system of this nature.

These are serious and repeated data protection irregularities; they need to be put right with immediate effect.

Furthermore, as you might appreciate, as the Data Controller with overall responsibility of the NSCIS, it was entirely within my own capability to provide access to third parties of my own choosing without having to consult or notify Bland or indeed anyone else.

In April 2019 I decided to give Mr Cornelio read only access to the NSCIS. This meant that his actions on the system's interface would be entirely auditable in contrast to the type of access Bland gave to Infosec/Red Maple Technologies, PWC and Black Marble as well as Mr Galliano, whose actions were not traceable and in breach of s.71 of Chapter 4, Part III of the DPA04 which requires a controller or processor to keep a log whenever the system is accessed for audit purposes related to law enforcement processing.

The reason for granting Mr Cornelio access was very straightforward and needs to be put in context.

At the time, I received multiple reports from Recipients, namely HM Customs and BCA that the system was not functioning as required. In other words, the availability of the NSCIS was failing.

The RGP by contrast did not report any issues with the NSCIS even though at the time the APIS Air, APIS Maritime, ANPR, Passport Scanning and other systems (all of which comprised the NSCIS) were either not working properly or were offline.

It came to my attention that for about eight months it was simply not possible to check passengers at the Port through the NSCIS platforms as a result of the lack of availability of service on the NSCIS. No interpol or wanted persons checks could be provided and this was extremely concerning as ultimately, I was responsible as the systems Data Controller for its availability and integrity.

Note that both availability and integrity are data protection obligations under GDPR Art 32 (Security of Processing) and Ss.75(2)(c) and(d) of the DPA04 for Law Enforcement Processing.

Furthermore, at this time I was being put under pressure from the Chief Financial Secretary to settle Bland's outstanding retainer fees with regards to the NSCIS. Bland were usually paid monthly but I had not authorised payment of their fees as I had been receiving increasing reports of the NSCIS not being fit for purpose.

However, given the internal pressure I was being put under to pay, I decided that it would be in the public interest for me to at least try to find out what exactly was going on with the NSIC, in particular whether Bland had actually been doing the job I was being asked to pay them for doing.

It was then that I decided to engage Mr Cornelio's services. I had previously worked with him, vetted him, and authorised his access to NSCIS and knew that he knew the NSCIS system "inside out" and that he might be able to tell me fairly quickly what the situation was.

I therefore gave him the read access codes for him to see if he could appraise me of the current situation and what the problems were. I maintain this was entirely proper and correct in the circumstances.

There are other data protection breaches of which I am aware regarding Bland and Red Maple who have been subcontracted by Bland to deliver GoG projects such as the DSS Platform, ETB Platform and the Education Platform.

The delivery of these platforms all require access to sensitive government data about our citizens, and to my knowledge, no appropriate data protection documentation is in place, as well as instances of Bland access codes being passed on to Red Maple employees.

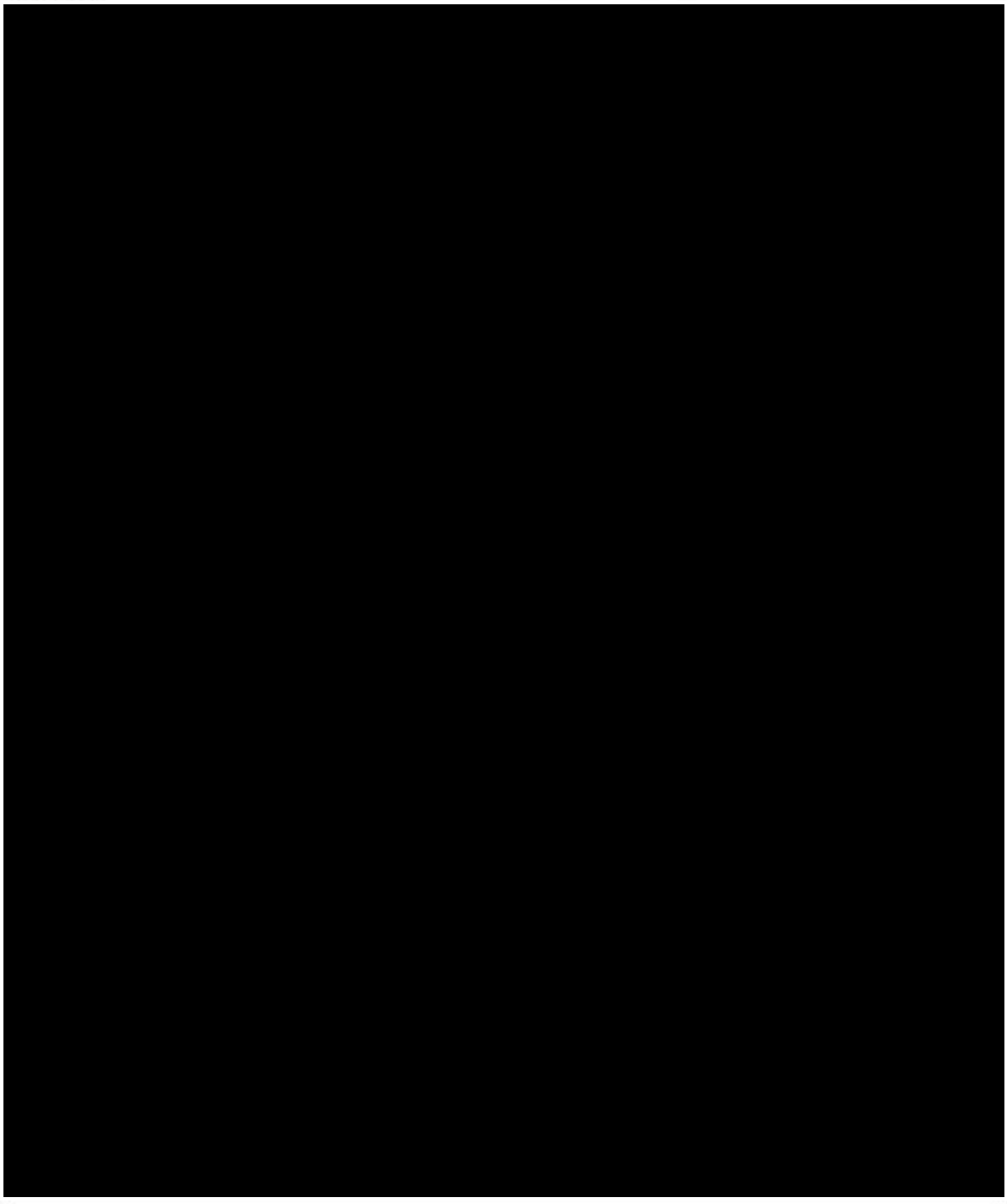
I therefore urge you to review all these matters and hope this letter provides you with an insight into the NSCIS that you might otherwise not be aware of and allows you to ensure that appropriate steps to deal with them.

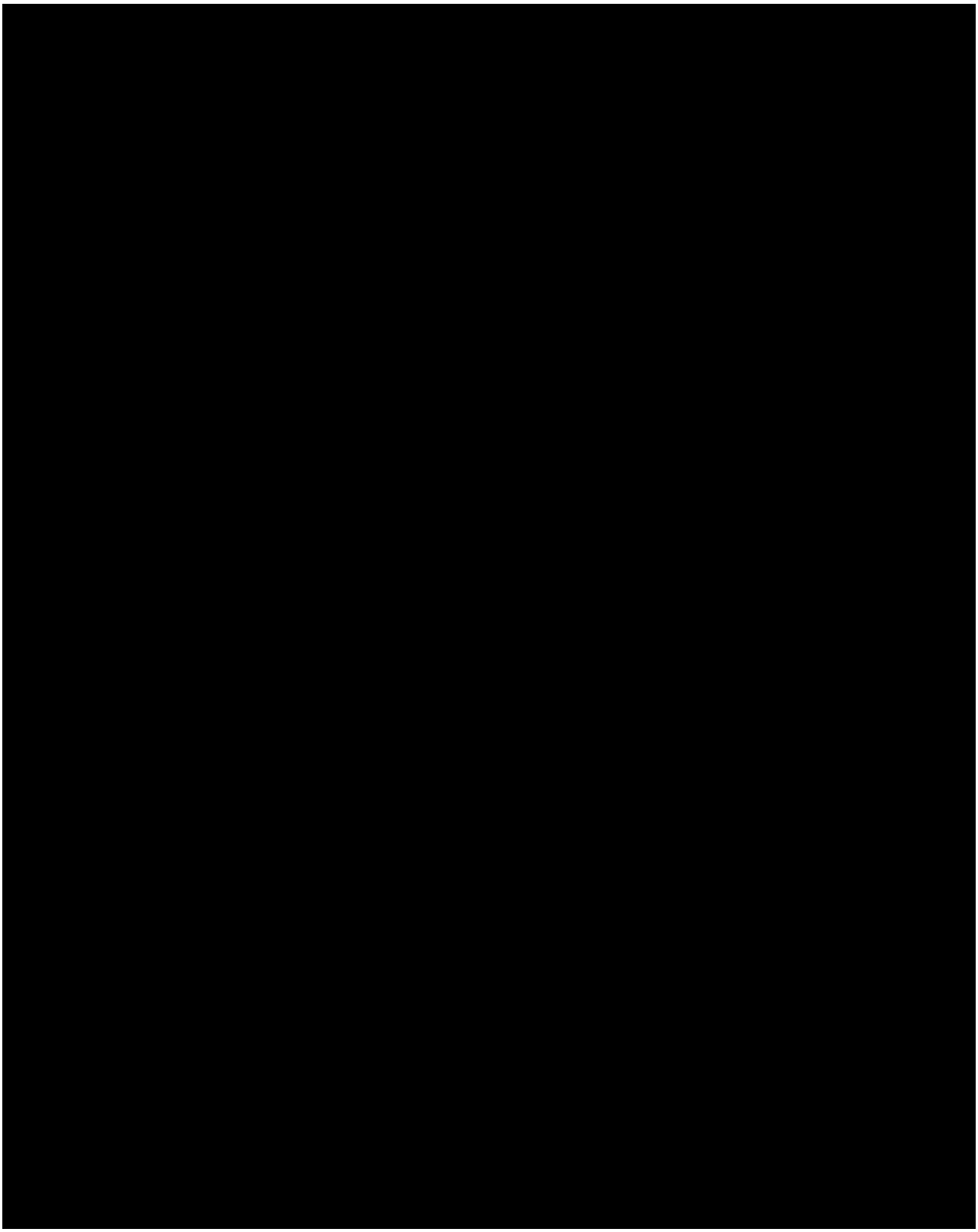
Yours sincerely

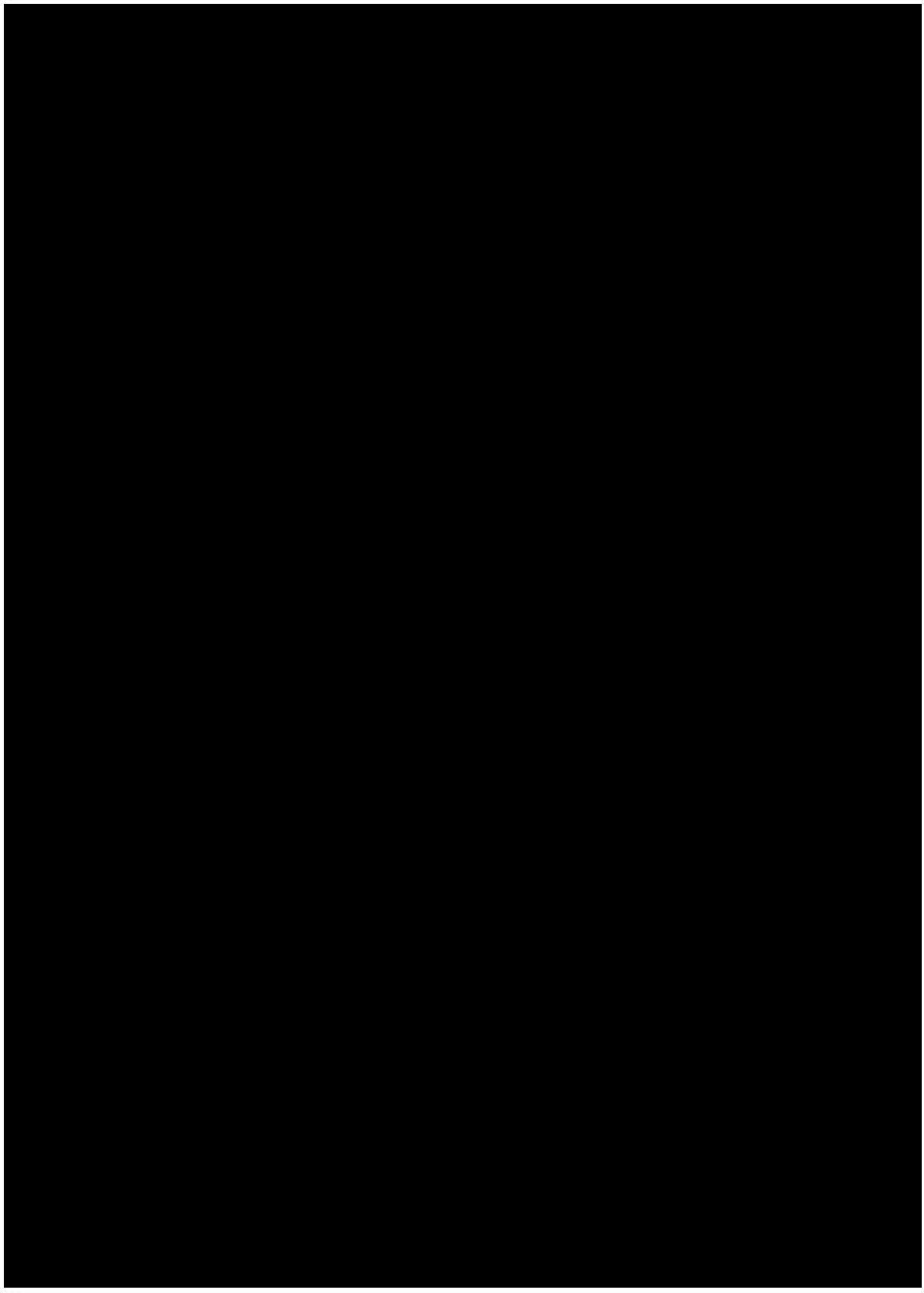
Caine Sanchez

(see below)

Table A









Darren Grech
First Affidavit
15 September 2022

In the Matter of the Commissions of Inquiry Act

- and –

In the Matter of an Inquiry into the retirement of the former Commissioner of Police by a Commission issued by Her Majesty's Government of Gibraltar on 4 February 2022 in Legal Notice No. 34 of 2022 (the 'Inquiry')

AFFIDAVIT OF
Darren Grech

EXHIBIT 'DG2'

This is Exhibit 'DG2' to the First Affidavit of Darren Grech dated the 15 day of September 2022.



INDEX

TAB	CORRESPONDENCE
1.	Emails dated 30 August 2019 to 20 September 2019 between Giselle Corby ('**GC**'), Collin Yeo ('**CY**'), Charlene Galvizo and Mark Wyan (RGP) ('**MW**').
2.	Emails dated 3 September 2019 and 16 September 2019 between CY, GC, Lloyd Devincenzi ('**LD**') requesting meeting with the Chief Secretary, Darren Grech ('**CS**'), and emails dated 4 September 2019 between GC and Ernest Francis ('**EF**').
3.	Emails dated 4 September 2019 from GC to EF. ***(These emails contain contemporaneous written notes.)***
4.	Emails dated 1 October 2019 between the CS and Tito Garro ('**TG**').
5.	Emails dated 10 October 2019 from TG to the CS.
6.	Emails dated 30 October 2019 from TG to the CS.
7.	Emails dated 22 November 2019 to 9 January 2020 between LD, the Attorney General, Michael Llamas ('**AG**'), and the CS. ***(I am advised and believe that these documents could be protected by legal professional privilege. Subject to a direction of the Inquiry Commissioner, these documents will not be disclosed.)***
8.	Emails dated 20 February 2020 to 11 May 2020 between Nicholas Gaggero, the Financial Secretary, Albert Mena ('**AM**'), and the CS.
9.	Letter dated 8 April 2020 from AM to the former Commissioner of the Royal Gibraltar Police, Ian McGrail ('**IM**').
10.	Letter dated 30 April 2020 from Verralls to IM.
11.	Letter dated 29 September 2020 from the Royal Gibraltar Police to the CS.
12.	Email dated 25 January 2021 from the CS to MW
13.	Email dated 15 February 2022 from GC to the AG.
14.	Email dated 8 April 2022 from the CS to the Honourable the Chief Minister, Fabian Picardo ('**CM**').
15.	Blands Group Statement of Work.

(NO6) Corby, Giselle

From: (HRD) Gaivizo, Charlene
Sent: 20 September 2019 12:46
To: (NO6) Corby, Giselle
Cc: (HRD) Walker, Tyron
Subject: RE: Cain Sanchez
Attachments: DOC016.pdf

Good afternoon Giselle,

Sorry I thought I had replied to your email.

I have checked the file and he never signed an IT security policy as such but in his letter of appointment attached it does refer to the policy - "his appointment is subject to Information Technology Security Policy".

KR

Charlene

From: (NO6) Corby, Giselle
Sent: 03 September 2019 16:15
To: (HRD) Gaivizo, Charlene <charlene.gaivizo@gibraltar.gov.gi>
Subject: RE: Cain Sanchez

Dear Charlene

I understand that you might have a copy of the IT security policy signed by Mr Sanchez in his file. May you send us a scanned of this?

Regards
Giselle

From: (HRD) Gaivizo, Charlene
Sent: 30 August 2019 13:32
To: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Subject: FW: Cain Sanchez

Dear Giselle,

Please find attached Official Secrets act signed by Mr Sanchez.

We are unable to answer 1-4. The best person to speak to would be senior members of staff at the Deputy Chief Ministers office.

KR
Charlene

Charlene Gaivizo
Executive Officer

Human Resources Department
HM Government of Gibraltar
82-86 Harbours Walk
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Gibraltar
GX11 1AA

Tel: (+350) 20060012
Centrex: 3276
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charlene.gaivizo@gibraltar.gov.gi

www.gibraltar.gov.gi

Human Resources Department

HM Government of Gibraltar

From: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Sent: 30 August 2019 09:49
To: (HRD) Yeo, Collin <collin.yeo@gibraltar.gov.gi>
Subject: FW: Cain Sanchez

Dear Collin

As per our telecom just now. Before I set up a meeting between CS and Mr Wyan I need the information requested below. If you are not able to answer any of requests would you be able to direct me to the right person.

Regards
Giselle

On 7 Aug 2019, at 17:24, (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi> wrote:

> Dear Mr Grech,
>
> My name is Inspector Mark Wyan and I am the officer in charge of the investigation which has led to the arrest of Cain Sanchez. As part of my investigation I am interested in the following areas:
>
> 1) The role / responsibilities of Mr Sanchez (in particular with regards to the NSCIS system);
> 2) Who he reported to (in particular with regards to the NSCIS system);
> 3) His level of authority over the NSCIS system (i.e. Did he have complete autonomy?);
> 4) Whether he had the power to disregard instructions issued by the Chief Minister on the 4th October 2018 (via Peter Canessa) if he felt it necessary to do so;
> 5) A copy of the Official Secrets Act signed by Mr Sanchez.
>
> I would be very grateful if you could provide me with a witness statement covering the above points. In the event that you are not able to answer particular questions, I would appreciate if you could direct me to someone who may be able to help.

I would be happy to meet at your convenience or alternatively to talk on the phone so that we can discuss further.

Kind Regards,

Mark Wyan

Mark Wyan
Inspector
Resource Management

Operations Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 66271 Centrex: 2212

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Darren Grech
Chief Secretary

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HM Government of Gibraltar

Giselle Corby
Personal Secretary to the Chief Secretary

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HM Government of Gibraltar

Office of the Chief Secretary

74

GOVERNMENT OF GIBRALTAR
HUMAN RESOURCES DEPARTMENT
83-86 Harbour's Walk
The New Harbours
Rosia Road
Gibraltar

Your ref:
Our ref: P3110

13 August 2010

Mr Caine Sanchez
ufs Minister for Justice

Dear Mr Sanchez,

LETTER OF APPOINTMENT NO. 79/2010

I am pleased to inform you that your promotion to Higher Executive Officer initially in the Ministry of Justice has been approved with effect from 9 August 2010.

2 This appointment will be permanent and pensionable and on probation for one year

3 Salary will be payable at the rate of £32,726 per annum in the salary scale: £29,258; £30,239; £32,726; £34,051; £34,731; £35,428; £36,137; £37,482. Incremental date will be 22 July 2011 and 22 July thereafter.

4 This appointment is subject to Government Security Instructions; Accounting Instructions; Stores Instructions; Departmental and General Orders and the Information Technology Security Policy.

Yours sincerely,

K J Martinez (Miss)
for Human Resources Manager

Copy to Hd of Dept
Dir of HR, GHA
GHA (Salaries)
Treasury (Salaries)
P/Aud
GGCA
P/File

Telephone: (350) 20071911, Centrex 2786; Fax: (350) 20079689, Centrex 2796,
email. humanresources@gibraltar.gov.gi

OFFICIAL SECRETS ACTS 1911 TO 1939

Section 2 of the Official Secrets Act 1911 as follows: —

2. (1) If any person having in his possession or control any secret official code word, or pass word, or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under Her Majesty or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under Her Majesty, or as a person who holds or has held a contract made on behalf of Her Majesty, or as a person who is or has been employed under a person who holds or has held such an office or contract, —

(a) communicates the code word, pass word, sketch, plan, model, article, note, document, or information to any person, other than a person to whom he is authorised to communicate it, or a person to whom it is in the interests of the State his duty to communicate it; or,

(a) (a) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety or interests of the State; or,

(b) retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it or when it is contrary to his duty to retain it or fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or,

(c) fails to take reasonable care of, or so conducts himself as to endanger the safety of the sketch, plan, model, article, note, document, secret official code or pass word or information,

that person shall be guilty of a misdemeanour.

(1A) If any person having in his possession or control any sketch, plan, model, article, note, document, or information which relates to munitions of war, communicates it directly or indirectly to any foreign power, or in any other manner prejudicial to the safety or interests of the State, that person shall be guilty of a misdemeanour.

(2) If any person receives any secret official code word, or pass word, or sketch, plan, model, article, note, document, or information, knowing, or having reasonable ground to believe, at the time when he receives it, that the code word, pass word, sketch, plan, model, article, note, document, or information is communicated to him in contravention of this Act, he shall be guilty of a misdemeanour, unless he proves that the communication to him of the code word, pass word, sketch, plan, model, article, note, document, or information was contrary to his desire.

Section 1(2) and (3) of the Official Secrets Act 1920 provides as follows: —

(2) If any person—

(a) retains for any purpose prejudicial to the safety or interests of the State any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or fails to comply with any directions issued by any Government Department or any person authorised by such department with regard to the return or disposal thereof; or

(b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code word or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code word or pass word issued for the use of some person other than himself, or on obtaining possession of any official document by finding or otherwise, neglects or fails to restore it to the person or authority by whom or for whose use it was issued, or to a police constable; or

(c) without lawful authority or excuse, manufactures or sells or has in his possession for sale any such die, seal or stamp as aforesaid;

he shall be guilty of a misdemeanour.

DECLARATION TO BE SIGNED BY MEMBERS OF GOVERNMENT DEPARTMENTS ON APPOINTMENT AND, WHERE DESIRABLE, BY NON-CIVIL SERVANTS ON FIRST BEING GIVEN ACCESS TO GOVERNMENT INFORMATION.

My attention has been drawn to the provisions of the Official Secret Acts, which are set out on the back of this document, and I am fully aware of the serious consequences which may follow any breach of those provisions.

I understand that the sections of the Official Secrets Acts, set out on the back of this document, cover material published in a speech, lecture, or radio or television broadcast, or in the Press or in book form. I am aware that I should not divulge any information gained by me as a result of my appointment to any unauthorised person, either orally or in writing, without the previous official sanction in writing of the Department appointing me, to which written application should be made and two copies of the proposed publication be forwarded. I understand also that I am liable to be prosecuted if I publish without official sanction any information I may acquire in the course of my tenure of an official appointment (unless it has already officially been made public) or retain without sanction any sketch, plan, model, article, note or official documents which are no longer needed for my official duties, and that these provisions apply not only during the period of my appointment but also after my appointment has ceased.

Signed .....

Date 26/3/96

GC (5401)

(NO6) Corby, Giselle

From: (HRD) Yeo, Collin
Sent: 03 September 2019 16:12
To: (NO6) Corby, Giselle; (GLO) DeVincenzi, Lloyd
Subject: RE: Meeting with the Chief Secretary

Dear Giselle

Fine by me.

Regards

Collin

Collin Yeo
Human Resources Manager

Human Resources Department
HM Government of Gibraltar
82-86 Harbours Walk
The New Harbours
Rosia Road
Gibraltar
GX11 1AA

Tel: (+350) 20051685
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Fax: (+350) 20079689
Mobile: (+350) 54011675
collin.yeo@gibraltar.gov.gi

www.gibraltar.gov.gi

Human Resources Department

HM Government of Gibraltar

From: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Sent: 03 September 2019 16:10
To: (HRD) Yeo, Collin <collin.yeo@gibraltar.gov.gi>; (GLO) DeVincenzi, Lloyd <lloyd.devincenzi@gibraltar.gov.gi>
Subject: Meeting with the Chief Secretary

Dear Colin / Lloyd

The Chief Secretary has requested that I arrange a meeting in regards to Caine Sanchez. Looking through Mr Grech's diary I have tentatively set down the meeting with the RGP (Mark Wyan) for Monday 16th September 2019 @ 15.00 hrs. The Chief Secretary wishes to meet you both before at 14.30 hrs. I am in the process of collecting some information requested by Mr Wyan and will confirm the meeting nearer the date.

Regards
Giselle

Giselle Corby
Personal Secretary to the Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20051752
Centrex: 2832
giselle.corby@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

(NO6) Corby, Giselle

From: (GLO) DeVincenzi, Lloyd
Sent: 03 September 2019 19:15
To: (NO6) Corby, Giselle; (HRD) Yeo, Collin
Subject: RE: Meeting with the Chief Secretary

Dear Giselle,

Thank you, I will attend.

Kind regards,

Lloyd

Lloyd DeVincenzi
Senior Advisory Counsel

Office of the Advisory Counsel
Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20066153
Centrex: 1978
lloyd.devincenzi@gibraltar.gov.gi

www.gibraltar.gov.gi

Government Law Offices

HM Government of Gibraltar

From: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Sent: 03 September 2019 16:10
To: (HRD) Yeo, Collin <collin.yeo@gibraltar.gov.gi>; (GLO) DeVincenzi, Lloyd <lloyd.devincenzi@gibraltar.gov.gi>
Subject: Meeting with the Chief Secretary

Dear Colin / Lloyd

The Chief Secretary has requested that I arrange a meeting in regards to Caine Sanchez. Looking through Mr Grech's diary I have tentatively set down the meeting with the RGP (Mark Wyan) for Monday 16th September 2019 @ 15.00 hrs. The Chief Secretary wishes to meet you both before at 14.30 hrs. I am in the process of collecting some information requested by Mr Wyan and will confirm the meeting nearer the date.

Regards
Giselle

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Office of the Chief Secretary

(NO6) Corby, Giselle

From: (NO6) Corby, Giselle
Sent: 04 September 2019 16:20
To: (DCM) Francis, Ernest
Subject: RE: Caine Sanchez

Tracking:	**Recipient**	**Read**
	(DCM) Francis, Ernest	Read: 04/09/2019 16:50

Dear Ernest

We have received the list below from the RGP to which we need answers to. I would be grateful if you could provide me with these answers soonest or direct me to someone who can.

1) The role / responsibilities of Mr Sanchez (in particular with regards to the NSCIS system);
2) Who he reported to (in particular with regards to the NSCIS system);
3) His level of authority over the NSCIS system (i.e. Did he have complete autonomy?);
4) Whether he had the power to disregard instructions issued by the Chief Minister on the 4th October 2018 (via Peter Canessa) if he felt it necessary to do so;

We are in the process of arranging a meeting with RGP and I require this information before I can confirm.

Regards
Giselle

(NO6) Corby, Giselle

From: (NO6) Corby, Giselle
Sent: 16 September 2019 08:58
To: (GLO) DeVincenzi, Lloyd; (HRD) Yeo, Collin
Subject: RE: Meeting with the Chief Secretary

Tracking:

Recipient	Read
(GLO) DeVincenzi, Lloyd	Read: 16/09/2019 09:30
(HRD) Yeo, Collin	Read: 16/09/2019 09:18

Dear Collin / Lloyd

We apologise for the short notice but the Chief Secretary has been called in by the Chief Minister and will not be free for his meeting with yourselves and the RGP. I have rescheduled the meeting for Wednesday 25th September 2019 @ 14.30 hrs (pre meeting) and RGP at 15.00 hrs. Will send a calendar invite shortly.

Regards
Giselle

From: (GLO) DeVincenzi, Lloyd
Sent: 03 September 2019 19:15
To: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>; (HRD) Yeo, Collin <collin.yeo@gibraltar.gov.gi>
Subject: RE: Meeting with the Chief Secretary

Dear Giselle,

Thank you, I will attend.

Kind regards,

Lloyd

Lloyd DeVincenzi
Senior Advisory Counsel

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Government Law Offices
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40 Town Range
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HM Government of Gibraltar

From: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Sent: 03 September 2019 16:10
To: (HRD) Yeo, Collin <collin.yeo@gibraltar.gov.gi>; (GLO) DeVincenzi, Lloyd <lloyd.devincenzi@gibraltar.gov.gi>
Subject: Meeting with the Chief Secretary

Dear Colin / Lloyd

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Regards
Giselle

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Personal Secretary to the Chief Secretary

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Office of the Chief Secretary

(DCM) Francis, Ernest

From: (NO6) Corby, Giselle
Sent: 04 September 2019 16:20
To: (DCM) Francis, Ernest
Subject: RE: Caine Sanchez

Replies provided by DCM to AG 24/09, 17.15 hrs.

Dear Ernest

We have received the list below from the RGP to which we need answers to. I would be grateful if you could provide me with these answers soonest or direct me to someone who can.

1) The role / responsibilities of Mr Sanchez (in particular with regards to the NSCIS system); [redacted]
2) Who he reported to (in particular with regards to the NSCIS system); [redacted]
3) His level of authority over the NSCIS system [redacted]
4) Whether he had the power to disregard instructions issued by the Chief Minister on the 4th October 2018 (via [redacted] Peter Canessa) if he felt it necessary to do so; NO.

We are in the process of arranging a meeting with RGP and I require this information before I can confirm. Not discussed with FS.

Regards
Giselle

Giselle Corby
Personal Secretary to the Chief Secretary

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HM Government of Gibraltar
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Office of the Chief Secretary

[illegible]

(DCM) Francis, Ernest

From: (NO6) Corby, Giselle
Sent: 04 September 2019 16:20
To: (DCM) Francis, Ernest
Subject: RE: Caine Sanchez

Dear Ernest

We have received the list below from the RGP to which we need answers to. I would be grateful if you could provide me with these answers soonest or direct me to someone who can.

1) The role / responsibilities of Mr Sanchez (in particular with regards to the NSCIS system);
2) Who he reported to (in particular with regards to the NSCIS system);
3) His level of authority over the NSCIS system [redacted]
4) Whether he had the power to disregard instructions issued by the Chief Minister on the 4th October 2018 (via Peter Canessa) if he felt it necessary to do so;

We are in the process of arranging a meeting with RGP and I require this information before I can confirm.

Regards
Giselle

[redacted]

Giselle Corby
Personal Secretary to the Chief Secretary

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4) No.

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— 3 way contract.

— Tito → DCM Interdiction Bosano.

— Commision an independent investigation for GoV independent of criminal RGP

[redacted]. DCM/FJ

— Wendy: this is a matter I will be discussing RGP.

(NO6) Corby, Giselle

From: (NO6) Grech, Darren
Sent: 01 October 2019 15:06
To: (GLO) Garro, Tito
Cc: (GLO) Llamas QC, Michael; (NO6) Corby, Giselle
Subject: Re: NSCIS

Tito imperative but not easy; Michael loaded, DCM election, I am off to Cambridge Friday, return Wednesday, and start chairing HEO interviews the day after. Giselle in copy to solve a very difficult puzzle. We might have to do late evening .... Giselle please liaise with all parties concerned. D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 1 Oct 2019, at 13:11, (GLO) Garro, Tito <tito.garro@gibraltar.gov.gi> wrote:

> Dear Darren
>
> We have received three formal letters of investigation from the GRA regarding the NSCIS platform.
>
> I would be extremely grateful if we could meet, along with the DCM and any other relevant senior member that might have information. Without this information I am limited as to how I can respond.
>
> Please also note that the deadlines for response are **15th October** and **22nd October**, so time is of the essence.
>
> Best
>
> Tito

Tito Garro
Data Protection Officer (DPO)

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20069917
Centrex: 2766
tito.garro@gibraltar.gov.gi

www.gibraltar.gov.gi

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Chief Secretary

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Fax: +(350) 20040922
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

(NO6) Corby, Giselle

From: (GLO) Garro, Tito
Sent: 01 October 2019 15:54
To: (NO6) Grech, Darren
Cc: (GLO) Llamas QC, Michael; (NO6) Corby, Giselle
Subject: RE: NSCIS

Importance: High

Dear Darren

I have responded to Giselles separate email re availability to have a meeting either on the 10th or 11th.

I will definitely make myself available for that, but my only concern is that a meeting that close to the deadline does not give us a lot of room to manoeuvre and compile evidence. [redacted]

Is there no availability before those dates, perhaps this Thursday?

Best

Tito

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 01 October 2019 15:06
To: (GLO) Garro, Tito <tito.garro@gibraltar.gov.gi>
Cc: (GLO) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi>; (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Subject: Re: NSCIS

Tito imperative but not easy; Michael loaded, DCM election, I am off to Cambridge Friday, return Wednesday, and start chairing HEO interviews the day after. Giselle in copy to solve a very difficult puzzle. We might have to do late evening .... Giselle please liaise with all parties concerned. D

Darren Grech
Chief Secretary
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Please also note that the deadlines for response are **15th October** and **22nd October**, so time is of the essence.

Best

Tito

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Office of the Chief Secretary

(NO6) Grech, Darren

From: (GLO) Garro, Tito
Sent: 10 October 2019 16:25
To: (NO6) Grech, Darren
Subject: RE: NSCIS platform

Importance: High

I have managed to speak with the contact point at Blands, and he is willing to provide information about the set-up, this should hopefully help me in providing a better response to the GRA.

The GRA have phoned me back and stated that we would need to officially write to them to seek an extension and provide reasons to justify why this extension is required. They have also told me that having other matters on our plate is not a sufficient justification (i.e.: Brexit and the elections). However, I believe that I could argue that my interaction with Blands today will produce more information, which if they are minded to give us more time, would allow for the provision of a better response to their inquiries, ultimately helping them in their investigation. I will email them now along these lines and seek the extension.

I will let you know as soon as I hear back from them. Hopefully it will buy us more time, and also hopefully the Blands information is useful; this should place us in a much better position than what we have been in thus far.

Thanks and best

Tito

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 10 October 2019 13:56
To: (GLO) Garro, Tito <tito.garro@gibraltar.gov.gi>
Subject: Re: NSCIS platform

Tito I fully recognise this is critical; I find myself in quick sand at the moment: chairing interview boards today, tomorrow and Monday for HEO; an election on Thursday with the precursors to this to work through; and generally a mountain of work and not enough hours. If you can obtain an extension I would be forever grateful - pulling the plug now under a caretaker Government is not advisable either. Obviously if we can't we would have to find the time to meet - but us meeting does not solve the problem. Let me know please. D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 10 Oct 2019, at 13:45, (GLO) Garro, Tito <tito.garro@gibraltar.gov.gi> wrote:

Dear Darren

[redacted]



As always I am available to discuss in greater detail

Best

Tito

Tito Garro
Data Protection Officer (DPO)

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

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(NO6) Corby, Giselle

From: (GLO) Garro, Tito
Sent: 30 October 2019 09:05
To: (NO6) Grech, Darren
Cc: (NO6) Corby, Giselle
Subject: RE: NSCIS platform

Will do, the first two responses were delivered to the GRA yesterday.

I have meetings next week with the law enforcement bodies, and with the DCM.

Best

Tito

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 30 October 2019 00:11
To: (GLO) Garro, Tito <tito.garro@gibraltar.gov.gi>
Cc: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Subject: Re: NSCIS platform

Tito thanks for today; please keep me in check over this. D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

Darren Grech
Chief Secretary

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Office of the Chief Secretary

On 25 Oct 2019, at 14:18, (GLO) Garro, Tito <tito.garro@gibraltar.gov.gi> wrote:

Dear Darren



As always I appreciate your assistance and am available to meet and discuss in greater detail

Thanks and best

Tito

Tito Garro
Data Protection Officer (DPO)

Government Law Offices
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tito.garro@gibraltar.gov.gi

www.gibraltar.gov.gi

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HM Government of Gibraltar

(NO6) Grech, Darren

From: Ian McGrail <ianmcgrail@gibtelecom.net>
Sent: 02 November 2021 18:30
To: (NO6) Grech, Darren
Subject: Re: Personal - letter

Dear Darren -

Many thanks for your response but I am afraid that is not good enough.

You told me that I should not worry and that you would resolve this matter several months ago.

If you have changed your position please let me know why. Otherwise please confirm my entitlement as we discussed.

I thank you in advance for your kind attention.

Regards

Ian

On 2 Nov 2021, at 17:16, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Dear Ian,

I hope you are well; I am truly sorry for the delay. We should revert shortly.

Best wishes,

D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 2 Nov 2021, at 10:12, ianmcgrail@gibtelecom.net wrote:

Dear Darren
Please see attached.
Regards
Ian

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 11 October 2021 16:13
To: ianmcgrail@gibtelecom.net
Subject: Re: Personal - letter

Thanks Ian. D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

> On 11 Oct 2021, at 16:03, ianmcgrail@gibtelecom.net wrote:
>
> Dear Darren,
> Please see attached letter.
> Kind regards
> Ian
> <letter to Chief Sec 11 Oct 2021.pdf>

Darren Grech
Chief Secretary

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<Letter to Chief Secretary - 2nd November 2021.pdf>
<letter to Chief Sec 11 Oct 2021.pdf>

Sharon Truman Davies

From: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Sent: 11 May 2020 11:21
To: (NO6) Grech, Darren
Subject: Exchange of correspondence
Attachments: Mobile Scanner Proposal; RE: Mobile Scanner Proposal; Re: Mobile Scanner Proposal

Darren,

Here is the exchange you requested in soft copy.

I spoke to Mr Gaggero Snr on Thursday last week and made it very clear that I would no longer be dealing with this issue.

Kind regards

Albert

Albert Mena
Financial Secretary

Office of the Financial Secretary
HM Government of Gibraltar
No.6 Convent Place
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GX11 1AA

Tel: (+350) 20051168
Centrex: 2112
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Office of the Financial Secretary

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Please consider the environment before printing this email.

Sharon Truman Davies

From: Nicholas Gaggero <Nicholas.Gaggero@blandgroup.com>
Sent: 02 March 2020 20:35
To: (MOF) Mena, Albert
Cc: (NO6) Redondo, Javier; John-Paul Payas
Subject: Re: Mobile Scanner Proposal

Hi Albert,

I understand. Let me take this offline and come back to you tomorrow with a proposal to overcome this issue.

Nicholas

Nicholas Gaggero



Bland Group
Cloister Building
Gibraltar GX11 1AA
www.blandgroup.com

On Mar 2, 2020, at 20:02, (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi> wrote:

[EXTERNAL EMAIL. Please check sender's email address is correct before responding, opening any attachments or clicking on any links]

Dear Nicholas,
Thank you for the attached.
The body of the email sets out what you had indicated to me informally and based on this we were keen to progress this matter. However having read the Statement of Work I am unable to sign it or indeed say I am in agreement with this.
As you know at present there is a level of dispute between us as to ownership of the NCIS system that has been developed for Government. I prefer not to go into the detail save to say that agreeing to the statement of work would effectively signify our agreement with the ownership of the Intellectual Property. This would have an impact not just on this module of work but by extension to the whole NCIS system.
I thought we had an understanding to remain neutral on this specific point until wider matters presently under investigation are resolved and brought to a logical conclusion.
You will therefore appreciate that we cannot proceed with this on this basis.
I remain available to discuss these issues with you.
Kind regards
Albert

Albert Mena
Financial Secretary

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Please consider the environment before printing this email.

From: Nicholas Gaggero [mailto:Nicholas.Gaggero@blandgroup.com]
Sent: 20 February 2020 14:30
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; John-Paul Payas <jp.payas@osgops.com>
Subject: Mobile Scanner Proposal

Dear Albert,

Please find attached Bland Group's proposal for Mobile Passport Scanners. I have summarized the key points below:

Technical summary:

- Bland Group have scoped a system than can scale to 50 devices, significantly more than the single device in service
- The system will integrate with Interpol, NSCIS Wanted and Messaging modules remotely using the 4/5G network
- The system will not only scan passports but ID cards, driving licenses, and visas based on ICAO standards

Financial summary:

- We propose to remove £[redacted] from the monthly NSCIS global invoice for the existing mobile scanning solution
- Software development: £[redacted]
- Monthly maintenance: £[redacted] / month
- This plan covers 10 devices. Should this increase, we propose an additional £[redacted] / device / month

Please confirm you authorize this proposal. My team is standing by and plan to have a prototype ready by the end of March.

With kind regards,

Nicholas

Nicholas Gaggero
Chief Executive Officer
BLAND GROUP
Cloister Building

Irish Town | Gibraltar

Telephone: +350 200 79200
Website: www.blandgroup.com

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Sharon Truman Davies

From: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Sent: 02 March 2020 20:03
To: 'Nicholas Gaggero'
Cc: (NO6) Redondo, Javier; John-Paul Payas
Subject: RE: Mobile Scanner Proposal

Dear Nicholas,

Thank you for the attached.

The body of the email sets out what you had indicated to me informally and based on this we were keen to progress this matter. However having read the Statement of Work I am unable to sign it or indeed say I am in agreement with this.

As you know at present there is a level of dispute between us as to ownership of the NCIS system that has been developed for Government. I prefer not to go into the detail save to say that agreeing to the statement of work would effectively signify our agreement with the ownership of the Intellectual Property. This would have an impact not just on this module of work but by extension to the whole NCIS system.

I thought we had an understanding to remain neutral on this specific point until wider matters presently under investigation are resolved and brought to a logical conclusion.

You will therefore appreciate that we cannot proceed with this on this basis.

I remain available to discuss these issues with you.

Kind regards

Albert

Albert Mena
Financial Secretary

Office of the Financial Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20051168
Centrex: 2112
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Office of the Financial Secretary

HM Government of Gibraltar

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Please consider the environment before printing this email.

From: Nicholas Gaggero [mailto:Nicholas.Gaggero@blandgroup.com]
Sent: 20 February 2020 14:30
To: (MOF) Mena, Albert
Cc: (NO6) Redondo, Javier ; John-Paul Payas
Subject: Mobile Scanner Proposal

Dear Albert,

Please find attached Bland Group's proposal for Mobile Passport Scanners. I have summarized the key points below:

Technical summary:

- Bland Group have scoped a system than can scale to 50 devices, significantly more than the single device in service
- The system will integrate with Interpol, NSCIS Wanted and Messaging modules remotely using the 4/5G network
- The system will not only scan passports but ID cards, driving licenses, and visas based on ICAO standards

Financial summary:

- We propose to remove [redacted] from the monthly NSCIS global invoice for the existing mobile scanning solution
- Software development: £[redacted]
- Monthly maintenance: £[redacted] / month
- This plan covers 10 devices. Should this increase, we propose an additional £[redacted] / device / month

Please confirm you authorize this proposal. My team is standing by and plan to have a prototype ready by the end of March.

With kind regards,

Nicholas

Nicholas Gaggero
Chief Executive Officer

BG | BLAND GROUP

BLAND GROUP
Cloister Building
Irish Town | Gibraltar

Telephone: +350 200 79200
Website: www.blandgroup.com

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Sharon Truman Davies

From:	Nicholas Gaggero <Nicholas.Gaggero@blandgroup.com>
Sent:	20 February 2020 14:30
To:	(MOF) Mena, Albert
Cc:	(NO6) Redondo, Javier; John-Paul Payas
Subject:	Mobile Scanner Proposal
Attachments:	Mobile Passport Scanners v1.2.pdf

Dear Albert,
Please find attached Bland Group's proposal for Mobile Passport Scanners. I have summarized the key points below:

Technical summary:

- Bland Group have scoped a system than can scale to 50 devices, significantly more than the single device in service
- The system will integrate with Interpol, NSCIS Wanted and Messaging modules remotely using the 4/5G network
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With kind regards,
Nicholas

Nicholas Gaggero
Chief Executive Officer

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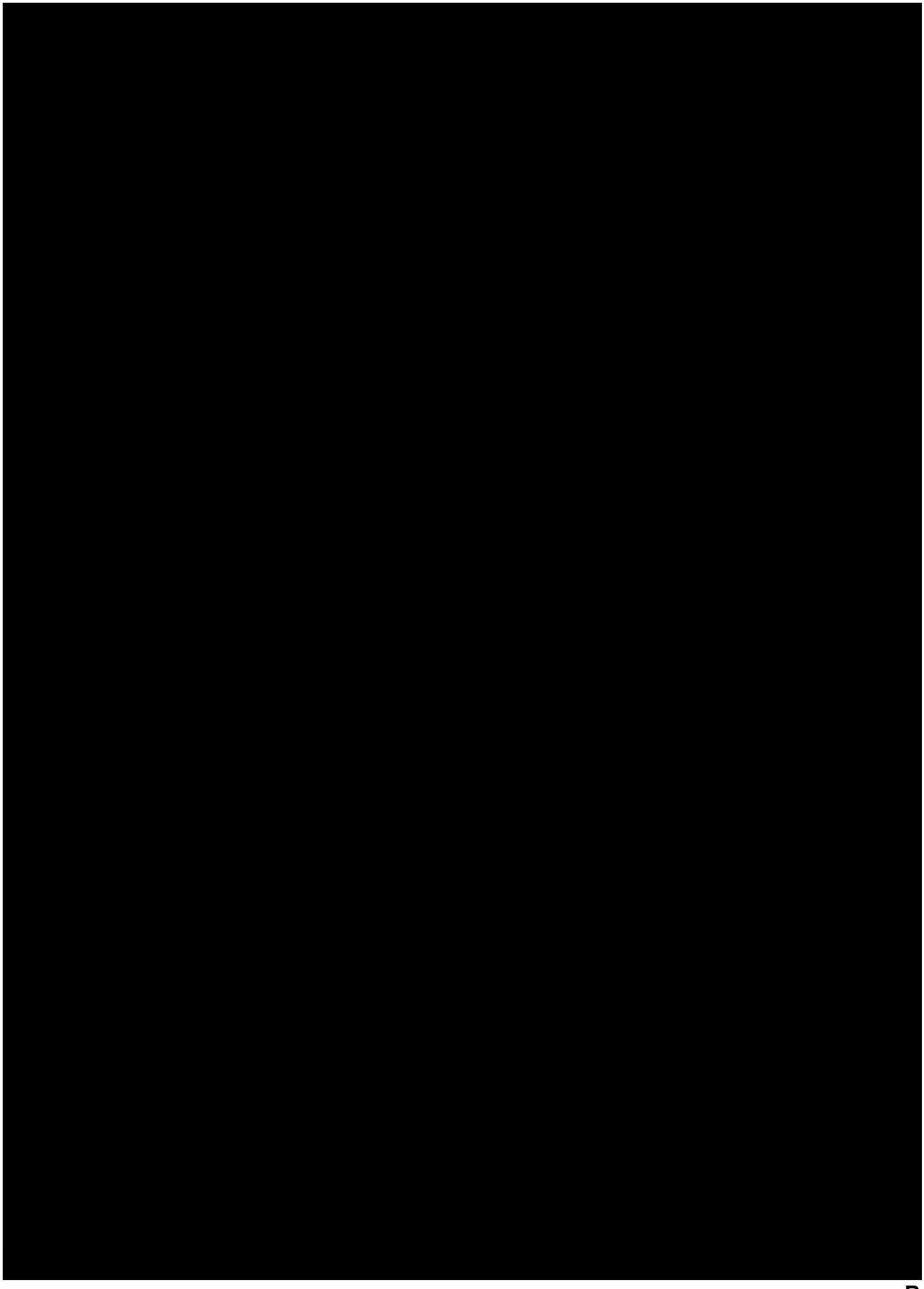

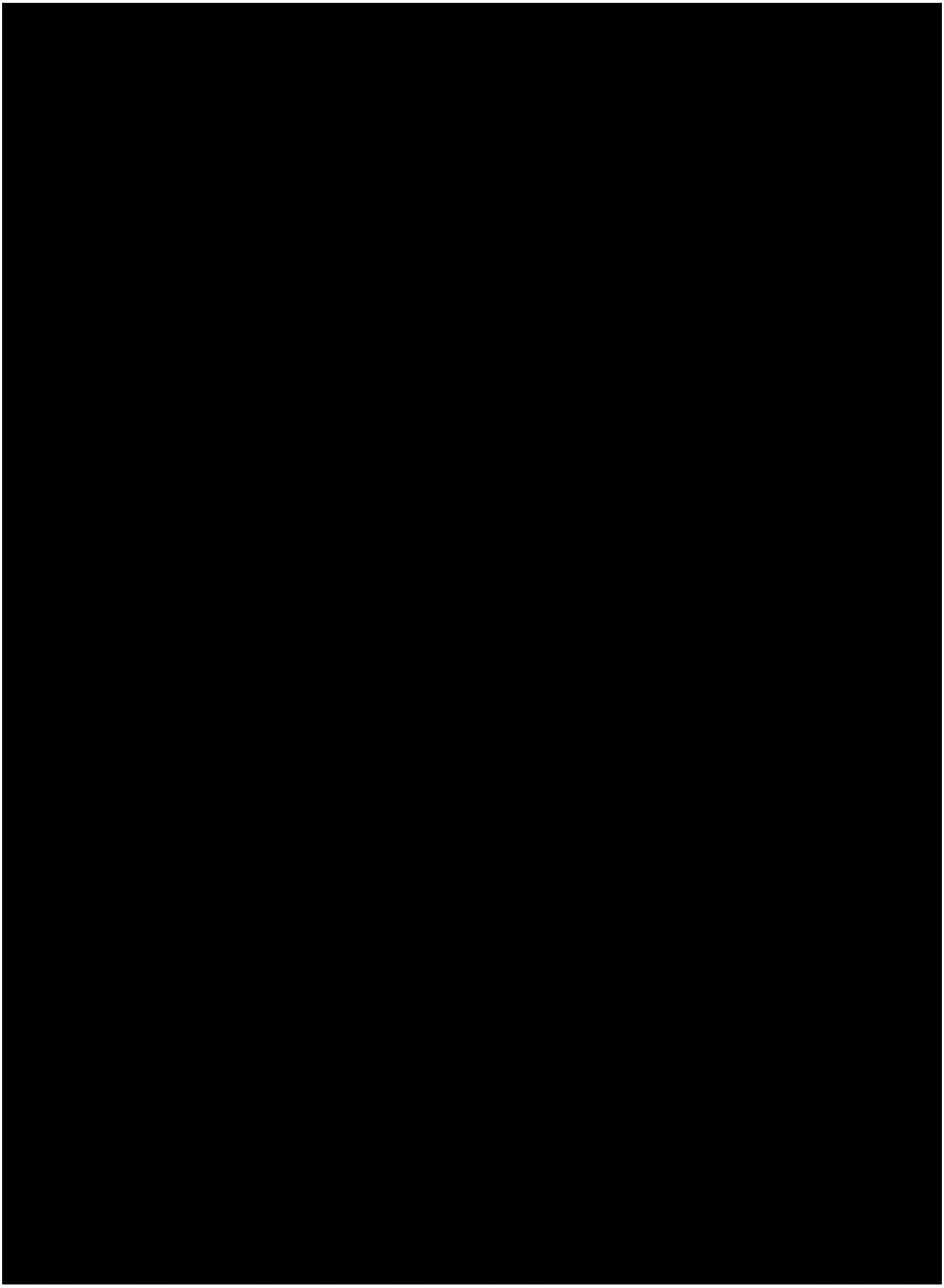

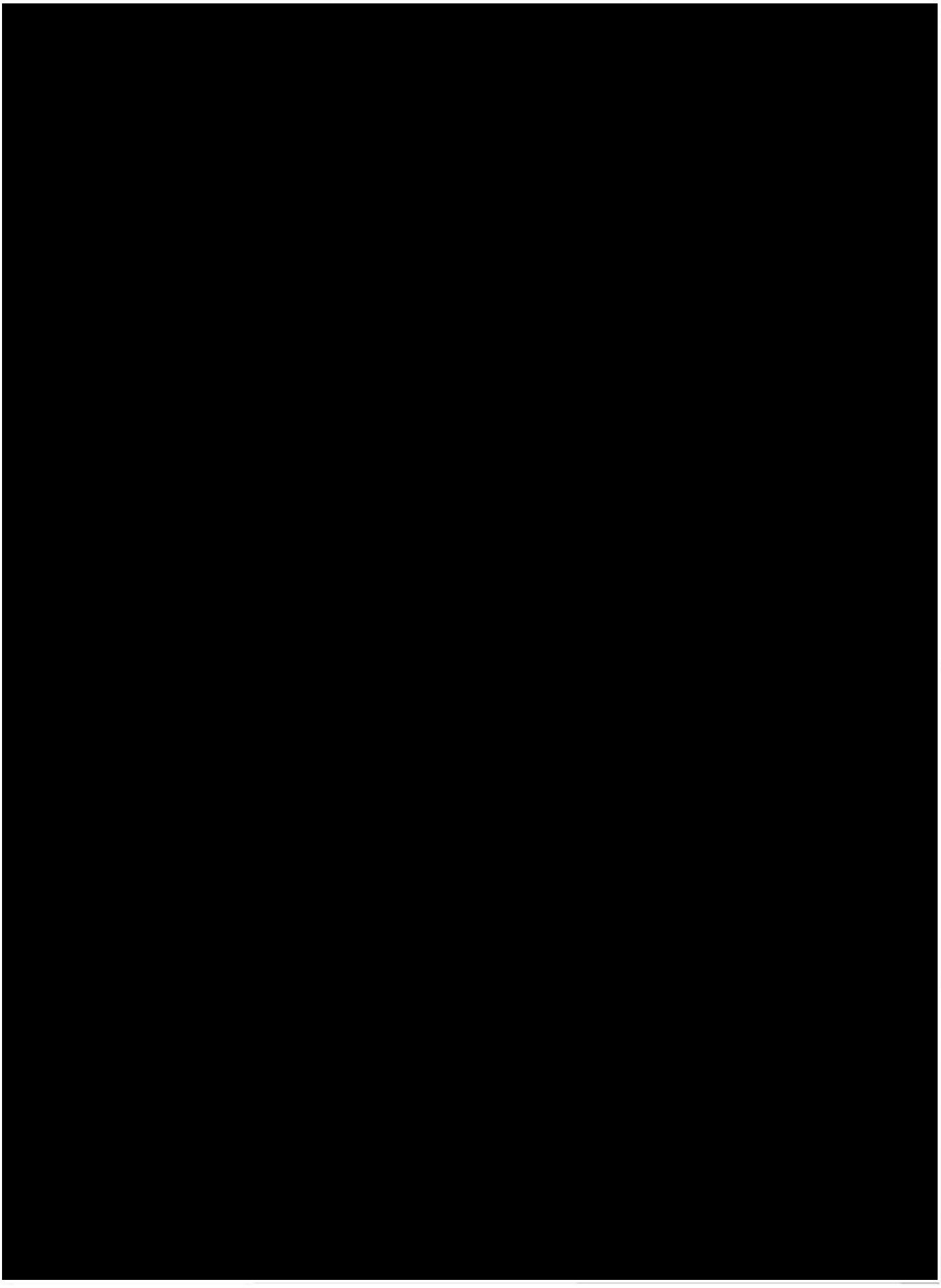

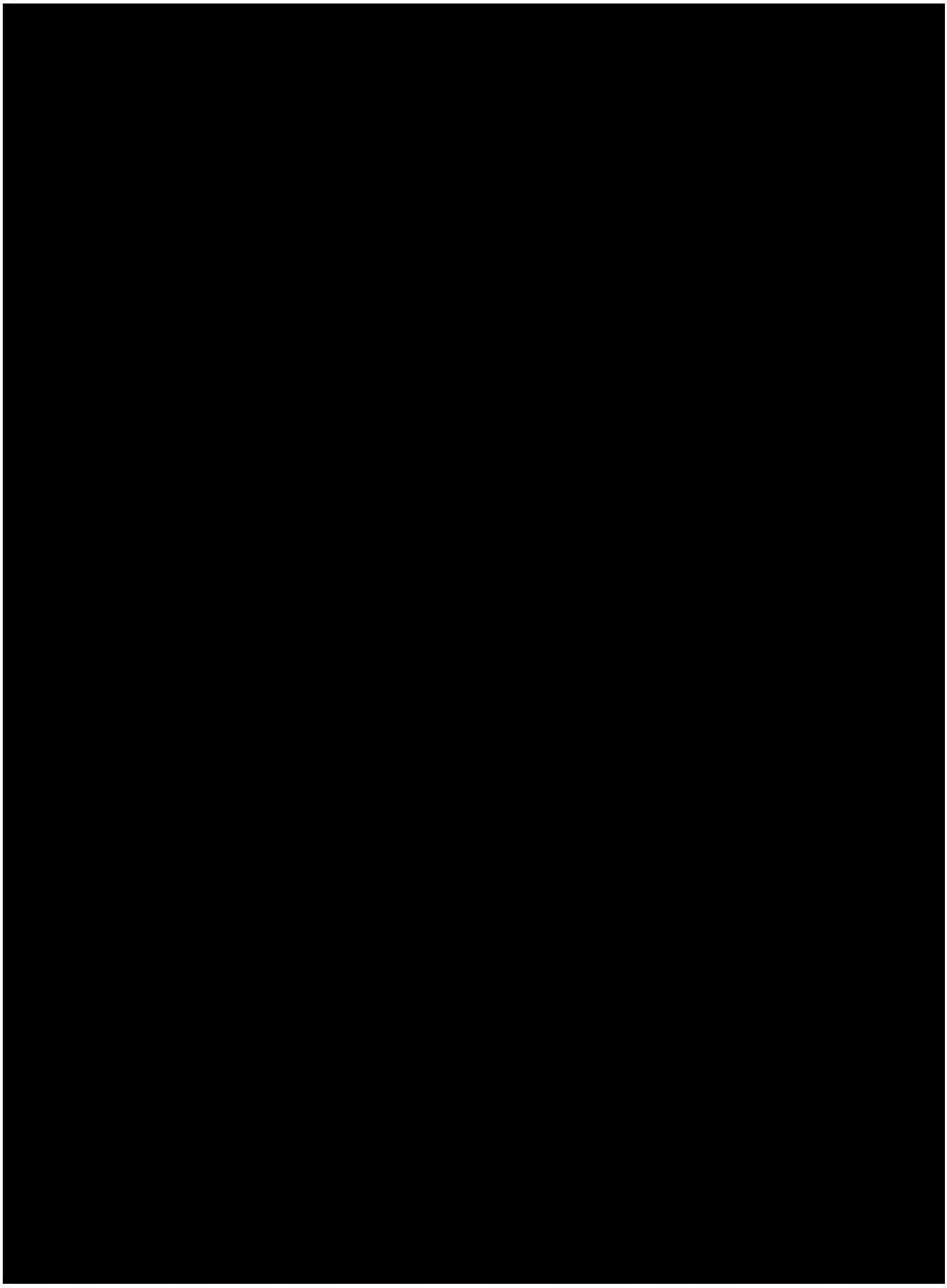

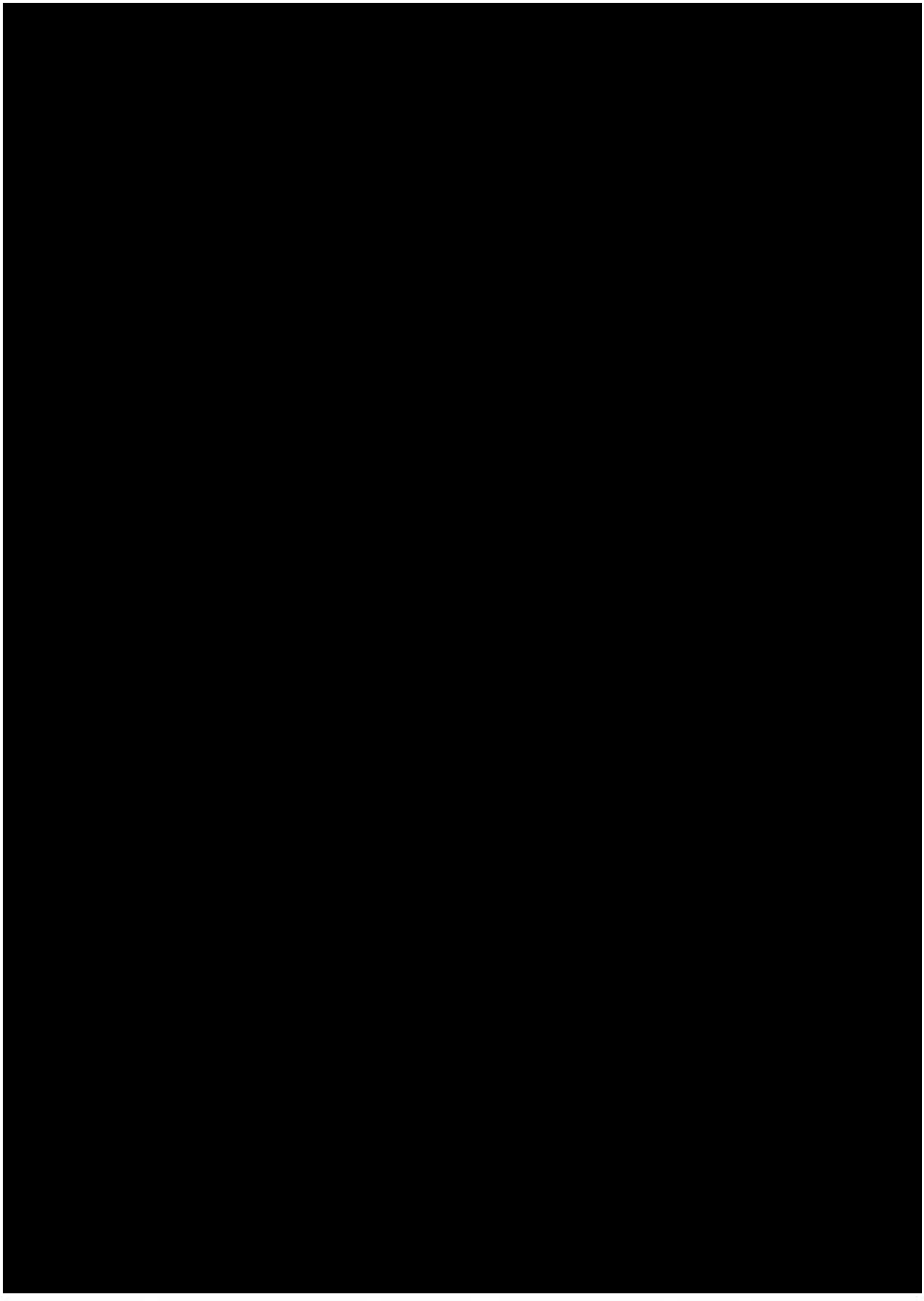

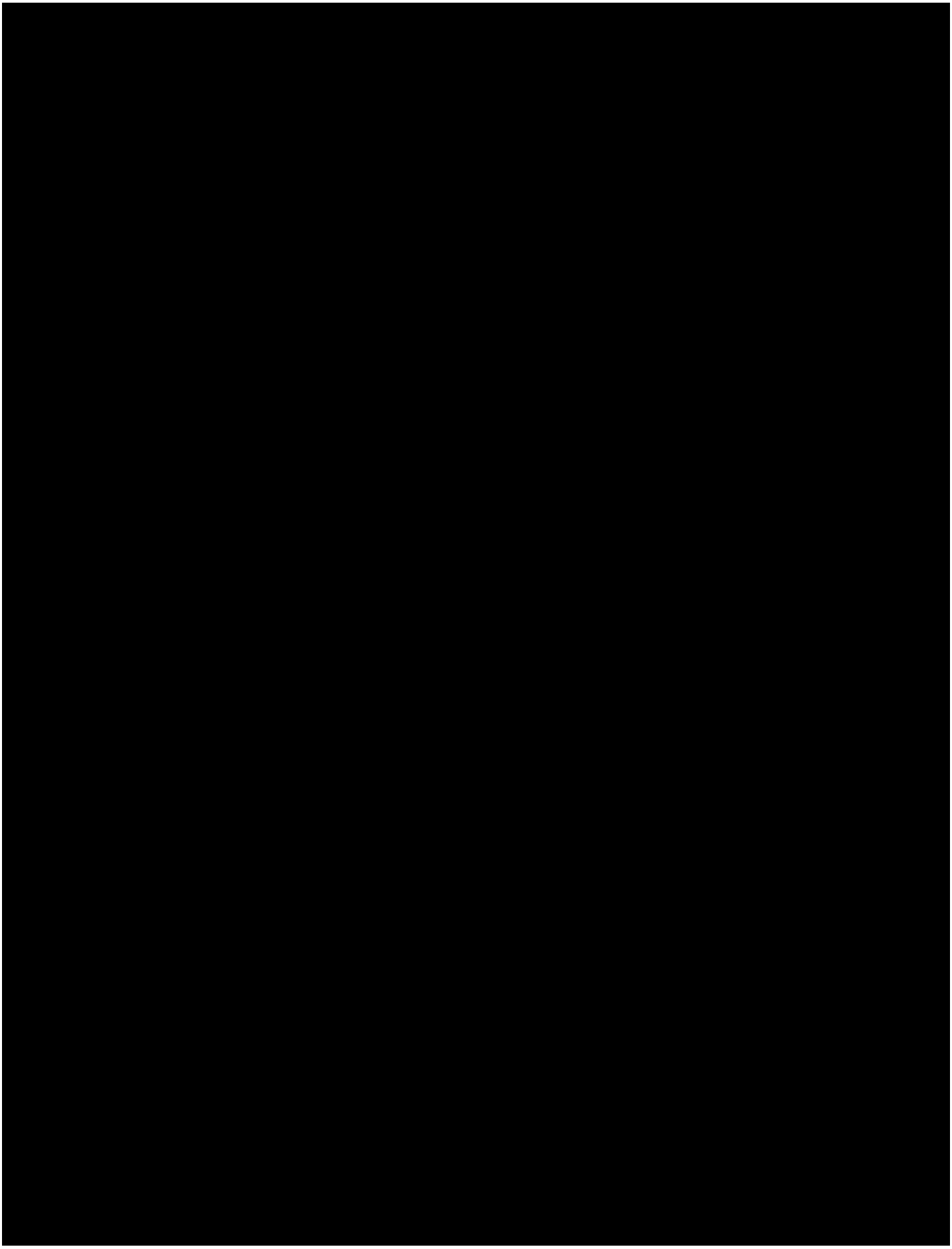

Office of the Financial Secretary
HM Government of Gibraltar

8 April 2020

Ian McGrail OTM MSc
Commissioner of Police
Royal Gibraltar Police
New Mole House
Rosia Road
Gibraltar

Dear Commissioner,

I refer to your letter of today, for which I thank you.

I would like to clarify from the outset that, as Financial Secretary, my involvement in this matter, as is clear from the Witness Statement I have provided, is in relation to financial matters, as indeed it is for all financial matters concerning HM Government of Gibraltar.

In my reply of 25 October 2019 to Detective Inspective Wyan's email of 22 October 2019 I sought to confine myself to the financial matters that were in issue. I did not, and still do not, consider it appropriate for me to make statements on matters that go beyond that, especially in the context of a matter that I had not been involved in from the beginning. So it was with a view to being cautious and proper that I confined myself in my reply to state what I considered was relevant for me to state and within my capacity as Financial Secretary.

I did go to see the Chief Secretary upon receiving Detective Inspective Wyan's email and discussed it with him. I assumed that the question of ownership would then be addressed to or by him, as the relevant competent officer within the Government.

As it transpires, the RGP never received a reply from the Government to the question as to whether the Government asserts ownership of the NSCIC platform.

I have brought this matter to the attention of the Chief Secretary who will be replying to you separately.

I would like to thank you for the opportunity to explain the nature of my reply of 25 October 2019.

Yours sincerely,

Albert Mena
Financial Secretary

c.c. Mr Darren Grech, Chief Secretary

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Mobile Telephone : +350 54030747

Commissioner Ian McGrail
Royal Gibraltar Police
New Mole House Police Station
Rosia Road
Gibraltar GX11 1AA

Our ref: RGF/V18101
Your ref:

30th April 2020

BY E-Mail

Dear Ian,

Re: Thomas CORNELIO, John PEREZ and Edward ASQUEZ

As I am sure you are aware I represent the above-named three persons and refer to Superintendent Richardson's email dated 22 April 2020.

As previously advised, my clients do not accept that there is a dispute as to the ownership of the FMP/ NSCIS as suggested by Detective Inspector Wyan in his email of 11th February 2020. The FMP/ NSCIS has at all times since its inception belonged to HMGoG. As more particularly set out below, all associated software and hardware was sold by Blands to HMGoG on a module by module basis, with any such agreements negotiated and finalised by Mr Perez (who Mr Gaggero acknowledges had complete autonomy to run the business and negotiate and enter into agreements on Blands' behalf) directly with HMGoG on the collective understanding that the system

belonged to HMGoG. This position has also been confirmed by Mr Caine Sanchez who was as you know, responsible for negotiating the agreements on HMGoG's behalf.

Chronology of events

1. Frontier Queue CCTV website

In December 2012 Blands entered into an agreement with HMGoG to develop the Frontier Queue CCTV website with all required hardware for £[redacted] together with a monthly maintenance fee of £[redacted] which covered web site maintenance costs, and web hosting fees on behalf of HMGoG. This agreement was negotiated by Mr Perez in his capacity as Blands CEO directly with HMGoG.

2. Interpol Passport Control

In May 2013 the Interpol Passport Control module was sold to HMGoG for a one-off fee of £[redacted] The sale agreement was negotiated by Mr Perez directly with Andrew Bonfante, then CEO of the Borders and Coastguard Agency, John Rodriguez, Collector of Customs, and Caine Sanchez on behalf of HMGoG.

I am instructed that during this period my clients were clearly informed by Mr Eddie Yome, then Commissioner of Police, that only HMGoG owned the software and would be allowed to access and receive information from the Interpol FIND & MIND systems which was the basis of this module.

3. Passport Scanner Maintenance

In June 2013, Blands entered into an agreement with HMGoG for passport scanner maintenance which stated that "*The Borders & Coastguard agency is now in possession of an automated tool...*" [emphasis added] and carried a recurring fee of £850.00 per month. The agreement was negotiated by Mr Perez directly with Andrew Bonfante on behalf of the BCA and Caine Sanchez on behalf of HMGoG. The monthly maintenance covered:

i. Any outages related to the Interpol Passport Scanner software.

ii. Any bugs/malfunctions as a direct result of the software.

iii. Any outages caused by hardware malfunction. Any hardware outside of warranty was to be replaced and installed but charged to HMGoG.

iv. Regular system updates to keep up with Interpol service releases. Maintenance included unlimited upgrades to the system in order to keep current with Interpol releases.

v. Assistance within 24 hours of notice in a service affecting scenario.

vi. For a service affecting scenario not brought about by the system but by the Government network or any other third party, Blands were to liaise directly with this external entity in order to provide a solution.

A copy of the final draft of this agreement is attached as ***Annex 1.***

4. Schengen Visa system

This module was sold to HMGoG for a one-off fee of £[redacted] in June 2013. This fee was payable 25% on project approval, 25% on presentation and approval of the database schema, 25% on presentation of the graphical user interface and 25% payable on project completion and handover to the BCA. [emphasis added] The agreement also carried a recurring maintenance fee of £[redacted] per month which included unlimited support to any system malfunctions pertaining to system errors. This agreement was negotiated and agreed by Mr Perez directly with both Andrew Bonfante on behalf of the BCA and Caine Sanchez on behalf of HMGoG.

A copy of the agreement is attached as ***Annex 2.***

5. Europe ID card integration system

This module was sold by Blands to HMGoG for £[redacted] in July 2013. The fee was payable 50% payable upon project approval and 50% payable upon project completion and handover to the BCA. [emphasis added] Maintenance was offered free of charge as it fell within the Passport Scanner Maintenance Agreement.

The agreement for the sale of the Europe ID card integration system was negotiated and agreed by Mr Perez directly with Andrew Bonfante on behalf of the BCA and Caine Sanchez on behalf of HMGoG.

A copy of the agreement is attached as ***Annex 3.***

6. FMP Agreement

The Frontier Monitoring Project ("FMP") provided HMGoG with a centralised user interface to manage all the platforms delivered for HMGoG to date as

well as new projects such as ANPR and the management of frontier queue times.

The FMP was completed and sold to HMGoG for £[redacted] on or around 30 September 2013. The sale price included the total cost for the development of the system, the sale of all hardware and software required for the project together with a £[redacted] monthly maintenance fee which was broken down into £[redacted] for the maintenance of 3 ANPR cameras and £[redacted] for software maintenance on a 24/7 support basis. The FMP Agreement was for a minimum term of 36 months and expired on or about September 2016. The FMP Agreement was negotiated and finalised by John Perez directly with Andrew Bonfante on behalf of the BCA and Caine Sanchez on behalf of HMGoG. It was signed by Nicholas Gaggero, then Head of Operations, for and on behalf of Blands, a copy of the Agreement is attached hereto as **Annex 4**.

7. Custom EU, GOG FMP Reporting Tool

The Custom EU, GOG FMP Reporting Tool was developed by Blands and sold to HMGoG for [redacted] in March 2014. The agreement also carried a maintenance fee of £[redacted] per month consisting of £[redacted] for server hosting fees and £[redacted] for 24/7 technical support and system maintenance. Mr Sanchez approved the quote provided on 20 March 2014 (see attached as ***Annex 5***).

Ms Jenella Olivera from Blands' Accounts Department confirmed on 21 May 2014 that the amount of £22,693 had been invoiced to HMGoG on 31 March 2014 and that Blands "*began the monthly maintenance invoicing of £[redacted] in April 2014...*" [emphasis added] (see attached as **Annex 6**).

These agreements are reflected in 2014 HMGoG statistics:

Government awarded contracts over £2000 by Ministerial application

Government Contract	Company	Value	Link
Custom EU, GOG Frontier Monitoring Project Reporting Tool	Bland Ltd	£[redacted]	https://www.gibraltar.gov.gi/new/images/stories/PDF/statistics/statistics_topic_area/2014/Government_Contracts/GC.6.pdf

Private consultants engaged by Government

Consultant name	Consultant Areas	Value	Link
Custom EU, GOG Frontier Monitoring Project Reporting Tool	Bland Ltd	£[redacted]	https://www.gibraltar.gov.gi/new/images/stories/PDF/statistics/statistics_topic_area/2014/Private_Consultants/PC.1.pdf

8. People counting solution

On 25 October 2013 Andrew Bonfante of BCA approved an additional module for a people counting solution to be added to the FMP. The quote specified that all costs were for the development, deployment and installation of the system (see attached as ***Annex 7***). The module was sold on or around October 2013 for a one-off cost of £[redacted] including hardware and software development and configuration. It also carried monthly maintenance fees of £[redacted] which was broken down into camera maintenance at £[redacted] Cognomatics UK's licence fee of £[redacted] reporting functionality of £[redacted] and software maintenance and upkeep of £[redacted]

9. Frontier Queue hotline system

A frontier queue hotline system was approved by Andrew Bonfante on 19 December 2013 (see attached as ***Annex 8***). The system was developed and sold to HMGoG on or around that date for a one-off cost of £[redacted] for hardware together with £[redacted] per month for 24/7 support and monthly cloud-based server hosting. The installation of an additional People Counter camera at the frontier exit point was also approved on the same financial terms as the first one by Andrew Bonfante.

10. Eastgate ANPR system

In June 2014 the Eastgate ANPR system was sold to HMGoG for a total of £[redacted] and a monthly maintenance fee of £[redacted] The monthly maintenance fee consisted of £[redacted] for ANPR and CCTV maintenance and £[redacted] for a required VDSL connection. The sale agreement stated that the monthly maintenance fee would be added to the existing FMP Agreement. The sale was negotiated by Mr Perez directly with Mr Sanchez on behalf of HMGoG.

11. 30 June 2014 Budget Speech by the Chief Minister, The Hon. Fabian Picardo QC

"As part of the Government's programme to make use of information and communication technology more generally, the Agency has been engaged together with other Law Enforcement partners and Government IT contractors in the setting up of a modern fit for purpose IT infrastructure platform for the frontier. The Frontier Management Project will be available to the public very soon; it will enable us to access real time frontier queue information including cameras, statistics and an improved and digitised frontier queue hotline service. In addition, the Agency is also developing its online presence with an interactive webpage which amongst other things will enable visitors to apply for visa waivers online, thus 1100 improving the visitor experience." (emphasis added)

A copy of the full transcript can be found at:

https://parliament.gi/images/hansard/hansard_2014/consolidated/june_july_2014.pdf

12. 30 June 2014 Budget Speech by the Deputy Chief Minister, The Hon. Dr Joseph Garcia

"FRONTIER MONITORING PROJECT

The House will know that the Government has set up a website in order to monitor the frontier delays. This has proved an extremely useful tool for persons who want to cross the border into Spain. We also know that the European Commission itself use it to monitor border flow.

The website was launched on the 7th December 2012 which is about a year after we came into office. In the time since then, there have been over twelve million page views. The current average stands at about one million hits per month which equates to about 32,000 page views every day.

This system is being upgraded to a new one using the latest available technology. This is known as the Frontier Monitoring Project (FMP). The House will see that this is provided for in the Estimates.

The FMP system will give up to date information on queuing time, flow rates and camera imaging. Historical data going back 2-3 years will also be available. This will allow a correlation to be made between the length of the

queue and key political events that Spain may not like. The system will allow registered users to receive information on queuing times at pre-set regular intervals via email or whatsapp. This means that it can be programmed to send information on the queues, for example, from 5.00pm - 7.00pm on weekdays for people returning home from work.

It can also be programmed to supply information on a one-off basis for someone who does not cross the border regularly. The system will give the user the optimal time to cross in either direction because it works using the flow rate of cars across the land frontier.

The system has the capability to detect suspicious activities. This gives it a law enforcement capability through the use of ANPR (Automated Number Plate Recognition). Law enforcement agencies will be able to track down any particular vehicle from Devils Tower road to the frontier loop area. It will also allow for quicker response times for traffic management purposes." (emphasis added)

A copy of the full transcript can be found at:
https://www.gibraltar.gov.gi/new/sites/default/files/press/2014/Press%20Releases/325-2014.pdf

13. Renaming of FMP to NSCIS

In October 2014, the FMP became known as the NSCIS to reflect the upgrades purchased by HMGoG and the system's law enforcement capabilities. The NSCIS, however, remained the same system as the FMP which had been sold to HMGoG in 2013 with the addition to the user interface of the new modules which had been sold to HMGoG since the inception of the system.

14. HMGoG Annual Accounts 2014-2015

The following is set out in Page 17 of the 2014-2015 HMGoG Annual Accounts:

"Subhead 5 – Other Projects (zl) ***Frontier Monitoring Project***
Original Estimate - £100,000 Actual Expenditure - £818,249

The Principal Secretary, Operations, Deputy Chief Minister's Office explained that the subhead was initially intended solely to monitor the flow at the border. However, the system was subsequently upgraded to include crime detection and prevention to assist

the law enforcement agencies, at a substantial increase in costs." (emphasis added).

The complete document can be found at the following link: https://www.gaa.gov.gi/wpcontent/uploads/2018/12/Government.of_.Gibraltar.Annual.Accounts.2014-15.pdf

15. APIS Air system

In October 2015 an Advanced Passenger Information system for aviation ("APIS Air") was sold to HMGOG for £[redacted] and carried a £[redacted] per month maintenance fee. The agreement was negotiated by Mr Perez directly with Mr Sanchez on behalf of HMGoG.

16. Draft Software Maintenance Agreement

On or around 22 October 2015, a Master Software and Development Agreement ("MSDA") was drafted by Blands' UK in-house lawyer, David Arthur. The concept was based on a generic cover from a standard template from Practical Law. The draft contained schedules where it was proposed to set out the various software programs developed for HMGoG which Blands was proposing to retrospectively own and licence back to HMGoG. It was intended that this agreement include the systems developed and sold by Blands to the DSS, ETB and Education Departments as well as the FMP/NSCIS. The document was incomplete and very much a draft; the Schedules were never completed and only included the following headings: 1. Department of Social Security; 2. Employment Services; 3. Borders and Coastguards Agency; 4. Department of Education and 5. Deputy Chief Minister's Office. A copy of the MSDA is attached as **Annex 9.**

The draft MSDA was forwarded by Abigail Carroll (then COO of Blands) to Mr Cornelio on 8 October 2015 for his comments. Mr Cornelio replied on 9 October 2015 emphasising that "*...I am not convinced that encapsulating all projects under one contract makes sense for us ...I am very concerned at what the outcome may be.*" (a copy of this correspondence is attached as Annex 10).

I am instructed that Mr Perez, clearly acting in Blands' best interests, discussed the proposed draft with Mr Sanchez at a meeting in 2015. I am further instructed that Mr Sanchez's position was abundantly clear in that he reiterated that the FMP/NSCIS had been **sold to HMGoG and at all times was and continued to be owned by HMGoG.**

Mr Perez subsequently attempted to discuss the matter with the then Chief Secretary, Ernest Gomez, to see if he had a different view. On 26 October 2015 Mr Perez emailed Mr Gomez as follows:

"...I would very much like a 30 minute meeting with you to discuss contractual capture of projects delivered by Bland Ltd to the Government of Gibraltar.

As you may be aware we have supported a number of Government lead initiatives designing bespoke software where necessary and whilst there is related correspondence we would like to engage in proper contractual arrangements.

I would very much like to discuss this face to face with you, please let me know if (date/time) is good for you to meet..." (copy of email is attached as **Annex 11***).*

17. NSCIS Meeting

On the 14 January 2016 an NSCIS meeting was held at the Rock Hotel with the following individuals in attendance: Caine Sanchez, Eddie Yome, Edgar Lopez (Detective Inspector GCID), Sean Perera (Detective Inspector Intelligence), Paul Chipolina (Inspector as Staff Officer), Bob Sanguinetti (Captain of the Port), Joseph Molinari (Duty Manager BCA), Aaron Chipol (Senior Immigration Office BCA), Ernest Pallas (Assistant Collector of Customs), John Paul Payas, Daniel Bosano, Mr Cornelio and Mr Perez.

Mr Perez had prepared an agenda which he had emailed in advance to all those in attendance, which included as the fourth item in the agenda, the handover of NSCIS to HMGoG/law enforcement agencies (see **Annex 12**).

18. Facial Recognition system

On 28 February 2016 Mr Perez emailed the Chief Minister to provide him with an update on the NSCIS as follows:

"I write to update you on the progress that has been made since we last met regarding our National Security project which you personally started about 2 years ago... in relation to the acquisition of intelligence hardware/software programmes in this financial year (which were in principle approved), I need your authority to please authorise the purchase of the last of our facial recognition systems (Border/Port – Operational) for the Gibraltar International

Airport (GIA). In addition to 2x ANPRs (£[redacted] to be deployed at the North Mole. This will allow us to complete our "membrane of capabilities" in relation to our main points of entry, thus addressing our 2 remaining areas of concern." (emphasis added).

On 31 May 2016 Mr Perez wrote to the Chief Minister again seeking his authority to purchase the two ANPR cameras for the North Mole referred to in his email of 28 February 2016. The Chief Minister replied saying "*At £[redacted] the answer would be yes. But is there additional monthly cost? Copying Albert Mena so we are all always on the same page.*" Copies of these email exchanges are attached as Annex 13.

In 2016, the facial recognition system (with appropriate hardware) at all the points of entry in Gibraltar was sold to HMGoG at a one-off cost of £[redacted] with a monthly maintenance fee of £[redacted]. An annual licence fee of £[redacted] was also to be paid to a UK based company, HRS, who provided the facial recognition service on a licence. The agreement was negotiated by Mr Perez directly with both Mr Bonfante on behalf of the BCA and Mr Sanchez on behalf of HMGoG.

19. HMGoG Annual Accounts 2015-2016

The following is set out in the 2015-2016 Accounts:

Page 10

"Head 2 – No.6 Convent Place
Subhead 2 Other Charges – (25) ***Frontier Monitoring Expenses***
Original Estimate - £200,000 Actual Expenditure - £629,424

The Chief Secretary informed me that originally the cost charged to this subhead related to the statistical information gathered for the EU Commission. However, the system now operates a law enforcement side which includes intelligence gathering of licence plates, Interpol passport scanners and Schengen processing, people counters, public web portal and the national central intelligence system with the use of facial recognition and vehicle number plate recognition." (emphasis added)

Page 20

"Head 102 – Projects
Subhead 4 – Other Projects (za) (i) ***Frontier Monitoring Project***
Original Estimate - £7,000 Actual Expenditure - £254,579

The Principal Secretary, Operations, Deputy Chief Minister's Office informed that the increase in expenditure under this capital subhead was as a result of proposed changes to the EU Schengen Border Code which meant that if Gibraltar wanted to stop systematic checks done by Spain, the Government of Gibraltar needed to increase ***its*** *security systems at the land frontier. This meant the inclusion of passport and ID scanners, automatic number plate recognition systems and facial recognition systems amongst other infrastructure works that were required. The Principal Secretary added that, as a result, Government managed to alleviate the issue and the EU were happy with the changes made. The Principal Secretary said that at the time Cabinet verbally approved for these works to be done with immediate effect thus resulting in the extra expenditure under this I&DF subhead." (emphasis added)*

The entire document can be found in the following link: https://www.gao.gov.gi/wp-content/uploads/2019/06/Government.of .Gibraltar.Annual.Accounts.2015-16.pdf

20. APIS Maritime system

In 2017 an Advanced Passenger Information system for maritime was sold to HMGOG for £70,000 and carried a £2,400 per month maintenance fee. The agreement was also negotiated by Mr Perez directly with Mr Sanchez on behalf of HMGoG.

21. Port ANPR system

In January 2018 the Port ANPR system was sold by Blands to HMGOG for a total of £18,002.75 with a maintenance fee of £200 per camera as per the FMP

Agreement. The agreement was negotiated by John Perez directly with Caine Sanchez on behalf of HMGoG.

22. Blands' Report and Financial Statements for year ending 2017

Please see below extract from Bland Limited's audited Report and Financial Statements prepared by Grant Thornton for the year ending 2017. It is noteworthy that neither the FMP/NSCIS nor any software assets / intellectual property rights are listed by them as assets:

	Note	2017 £	2017 £	2016 £	2016 £
Fixed assets					
Tangible assets	11		708,555		915,357

11 Tangible fixed assets

	Leasehold improve-ments £	Special equipment £	Motor transport £	Fixtures & fittings, plant and machinery £	Computer and office equipment £	Total £
Cost						
At 1 April 2016	424,819	561,475	748,095	468,561	433,109	2,636,057
Additions	29,425	-	47,742	-	1,904	79,071
Write-off	(102,813)	-	-	-	-	(102,813)
At 31 March 2017	351,431	561,475	795,795	468,561	435,013	2,612,275
Depreciation						
At 1 April 2016	45,216	343,920	637,360	336,397	357,827	1,720,660
Charge (see note 6)	93,881	81,554	25,881	36,966	44,561	285,873
Write-off	(102,813)	-	-	-	-	(102,813)
At 31 March 2017	36,284	425,474	686,181	373,363	382,388	1,903,720
Net book value						
At 31 March 2017	315,147	135,971	109,614	93,198	52,625	708,555
At 31 March 2016	379,603	217,555	90,753	132,164	93,282	915,357

I am instructed that at no point during Messrs Asquez, Cornelio and Perez's employment with Blands was any software or intellectual property listed by Bland Limited as assets. If Mr Gaggero or the company believed that the FMP/NSCIS was a Blands' owned asset it should have been reflected in the accounts as an asset which consequently is demonstrative of the fact that at the time the accounts were drafted and or signed this belief did not exist.

23. Management Accounts

Commissioner Ian McGrail

30th April 2020

Please see below relevant extracts from Bland Ltd Management Accounts for May 2018, two months prior to Mr Cornelio and Mr Perez's resignations. Management Accounts were prepared internally by the Financial Controller, Philip Navas. It is also noteworthy that there is again no mention of any software assets or intellectual property rights listed as an asset:

	Prior Year	Previous Months			Current
	May-17	Feb-18	Mar-18	Apr-18	May-18
Fixed Assets	€	€	€	€	€
Leasehold Property	314,968	303,054	302,849	301,724	**259,497**
Motor vehicles	110,088	193,526	189,266	185,007	**180,748**
Office equipment	39,119	21,855	20,477	19,412	**21,702**
Plant & machinery	13,245	11,393	11,188	10,982	**10,776**
Total Fixed Assets	477,420	531,828	523,779	517,125	**512,723**
Current Assets					
Sales ledger debtors	1,784,991	1,162,001	1,131,913	1,305,058	**1,544,557**
Stock and Work in Progress	56,042	67,181	61,657	61,657	**56,149**
Other debtors	89,380	6,498	3,147	4,553	**3,921**
Prepayments and accrued income	353,141	358,289	407,551	419,926	**264,651**
Gibair Intercompany Account	(37,744)	9,654	1,100	20,857	**(15,047)**
Cash and bank accounts	871,348	1,169,539	1,319,416	1,300,883	**1,395,649**
Deferred tax asset / Liability	119,871	119,871	119,871	119,871	**119,871**
Suspense account	102	9,750	4,377	4,377	**5,501**
Total Current Assets	3,241,131	2,897,762	3,049,031	3,233,002	**3,375,251**

It is to be noted that the Income Statement for Wavetecx which managed the FMP / NSCIS and all other software projects lists **"Software regular maintenance"**, not licences, as monthly revenue. The relevant extract is reproduced below for ease of reference:

Income Statement - May 2018

WAVETECX ADVANCED SOLUTIONS

	Monthly Actuals vs Budget			2017-18 YTD vs Budget YTD		
	May-18 Actuals	May-18 Budget	May-18 Variance	May-18 Actuals	May-18 Budget	May-18 Variance
Revenue						
Software regular maintenance	60,558	60,558	-	**121,115**	121,115	-
New software programmes	-	-	-	-	-	-
Other Tech sales	-	-	-	-	-	-
BGI Tech sales	-	-	-	-	-	-
Total Revenue	60,558	60,558	-	**121,115**	121,115	-

24. Correspondence between Mr Cornelio and Mr Gaggero in August 2018

In an email to Mr Gaggero on 8 August 2018, Mr Cornelio emphasised that:

"...4. Just for clarification, with respect to your quote that I mentioned, "what has been built by Bland is owned by Bland", the words that I said were: "whatever I have done during my time with Blands belongs to Blands". In turn, however, Blands sold my work on to the Government of Gibraltar as it was a requirement on their part that they owned the code. To this effect, the code for all of these systems resides on Government servers..." (emphasis added).

Mr Gaggero replied on 9 August 2018, stating inter alia:

"..I completely agree with you on the fact that if a software program developed by Bland Ltd is sold to GoG, then GoG undoubtedly owns the software code. It is very clear to me that the Education, ETB and DSS systems have been sold to GoG..."

Mr Cornelio subsequently replied stating:

"...regarding the sale of NSCIS, this platform was sold and invoiced to the GOG on a module by module basis. I recall quoting for each individual module and sending it for invoice to our accounts department. I am unsure why you would differentiate ownership of NSCIS to the other platforms that were sold to the GOG on the same terms." (emphasis added)

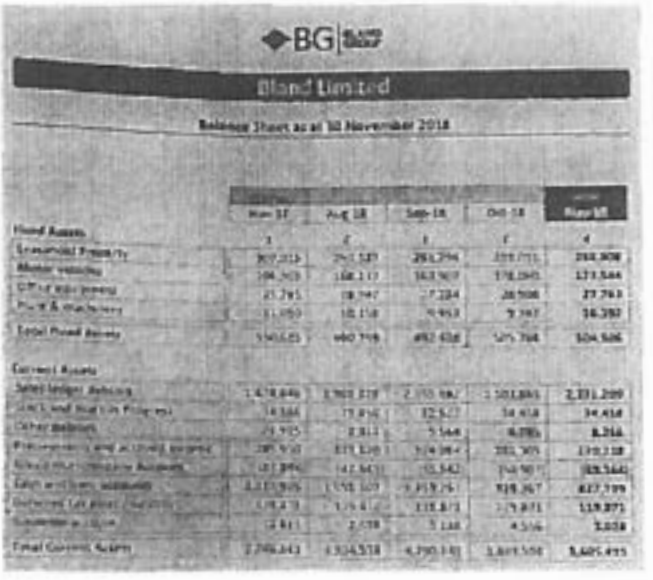
In his reply, Mr Gaggero stated:

"...in respect of the NSCIS, as you are aware, we take a different position and whilst we are content for you to come to an arrangement with GoG for the continued support and maintenance of that platform, our position in this respect and indeed in respect of the other platforms should not be taken as a waiver of Bland's rights over the NSCIS platform. Given the importance of that platform, we suggest that any communication in respect of NSCIS should occur after my meeting with the Chief Minister on Monday. In the meantime I confirm you will continue to have unfettered access as requested by Mr Caine Sanchez."

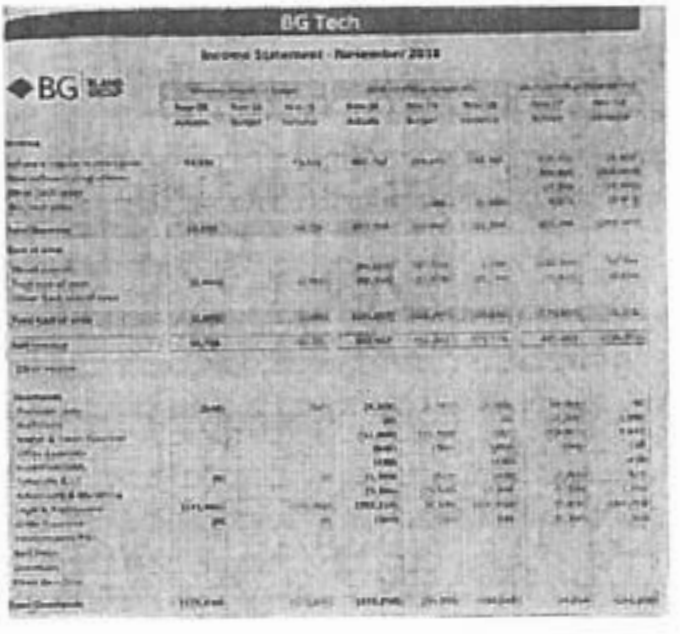
Copies of the relevant correspondence are attached as **Annex 14**.

25. Bland Ltd Managerial Accounts 30 November 2018

Please see below extracts from Bland Ltd Management Accounts for November 2018, four months after Mr Cornelio and Mr Perez's resignations. Again, there is no mention of any software assets or intellectual property rights listed as an asset:



By this stage, as Mr Cornelio and Mr Perez have previously advised, Wavelecx had been discontinued and replaced by BG Tech as Mr Gaggero had no interest in continuing with it. The Income Statement for BG Tech continued to list **"Software regular maintenance"**, not licences, as monthly revenue. The relevant extract is set out below:



26. Press conference by the Chief Minister, The Hon. Fabian Picardo QC on 23 April 2020

In a live broadcast on 23 April 2020, the Chief Minister said as follows:

*"Additionally, we may also bring into use other technologies which we already have in place in Gibraltar, like **our** GIS system or **our NSCIS** systems being brought in to play to work together." (emphasis added)*

This is a clear statement on ownership by the Chief Minister. It is important to note that the GIS system was also developed in conjunction with external IT contractors, namely Near Technologies and Dominion Global, and the software is owned by HMGoG which again illustrates HMGoG's policy to own all software which it pays to have developed.

For the avoidance of doubt, the full transcript and video of the press conference can be found on the HMGoG official website: https://www.gibraltar.gov.gi/press-releases/press-conference-23rd-april-2020-5834. The relevant excerpts of the Chief Minister's speech can be heard from minute 6:03 to 6:30 in the full video.

Conclusion

I would respectfully suggest that the evidence herein provided clearly demonstrates that the proprietary rights to the FMP/NSCIS belongs to HMGoG and that my clients and relevant HMGoG Ministers and officials, reasonably and genuinely believed that this was the case. The Chief Minister's comments during the press conference on 23 April 2020 puts the question of ownership beyond all reasonable doubt. Blands' alleged ownership of the system was only raised by Mr Gaggero following Mr Cornelio and Mr Perez's resignations in an attempt to obtain royalties from either HMGoG or 36 North and it is submitted for the purpose of misleading, deliberately or otherwise, the RGP. It is evident from the documents provided that Mr Gaggero had little or no understanding or indeed involvement in the running of the day-to-day business let alone the agreements which were entered into with HMGoG regarding the sale of the FMP/NSCIS and its modules. It is also to be remembered that the civil proceedings originally commenced by Mr Gaggero have in fact been discontinued.

I would yet again emphasise my understanding that HMGoG, as proprietary owners of the FMP / NSCIS and all data contained within the system, have not made a complaint about any of my clients' conduct. The complaint made by

Mr Gaggero against my clients is therefore clearly unsustainable and, in the circumstances, I would respectfully request that they be released.

Yours ever,

ROBERT G. FISCHEL Q.C.
CONSULTANT

Royal Gibraltar POLICE | *Delivering a Safer Gibraltar through Excellence in Policing*

Richard Ullger OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel: +350 20072500 • Central 2210 • [illegible]

29th September 2020

Our Ref: RU74

Darren Grech
Office of the Chief Secretary
No. 6 Convent Place
Gibraltar

Dear Chief Secretary,

Thank you for your letter dated 25th September 2020, the contents of which I note. I have copied this reply to the same parties as are addressed in your letter. Additionally, having considered the issues raised by you, I have discussed them with Director of Public Prosecutions [DPP] and sought his advice, thus copying him in to this correspondence, given that he also has conduct of this matter post-charge.

I should start by pointing out that our understanding concurs with your own as expressed in your letter to me on the 14th August 2020. Her Majesty's Government of Gibraltar's [HMGoG] complaint was made verbally at a meeting at No 6 Convent Place, on the 13th May 2019, when the former Commissioner of Police briefed representatives of the Government and the administration including yourself. During this meeting, it was made clear that HMGoG wished to be considered a complainant. Given the seriousness of what had become known, it was decided that Mr Sanchez would be recalled from London immediately to answer the allegations. Following his arrest, he was, as we understand it, subsequently interdicted.

Your letter makes reference to the Royal Gibraltar Police's [RGP] Press release and you comment that 'the RGP suggests that the government's complaint/s predate my communication to you of the 14th August 2020....' This is in fact our understanding of the sequence of events as articulated above. For this reason, we consider the press release to be accurate.

In seeking to obtain a third statement from you in your capacity as Chief Secretary, the RGP was simply seeking to obtain evidence in the conventional manner that may be put before a court. A witness statement was signed by you on 21st January 2020, and this was followed up by a supplementary statement on 4th May 2020. The position was further clarified by your letter of the 14th August 2020, already referred to above.

If our understanding is incorrect as regards the timing and/or making of the complaint, I would be grateful for your clarification. Equally, if your position is now that you wish to withdraw your complaint I respectfully request that you advise us soonest. I should point out however, that it is not necessary for there to be a complainant in order to proceed with a charge of Misconduct in Public Office. Accordingly, regardless of any complaint or otherwise from HMGoG, the position as it stands is that Mr Sanchez has already been charged and the matter will proceed unless the DPP or AG is of the view that it is not in the public interest to proceed, or the AG enters a nolle prosequi.

It is of note that the charges do not stand in the name of the Government of Gibraltar as a complainant. Furthermore, your assertion that this is the first instance that the offence of Misconduct in Public Office has been charged in Gibraltar is incorrect. There are a number of other instances of such charges being laid and prosecuted which have led to convictions.

Turning now to your request, it is unprecedented for such a request to be made by a complainant at all, let alone for the purpose of deciding whether to provide a (further) statement 'formalising' a complaint. Furthermore, I am aware that in addition to the briefing previously mentioned on 13th May 2019, that the former Commissioner of Police and other senior police officers briefed you as to Mr Sanchez's alleged misconduct on the 30th April 2020. I have discussed this with the DPP and acting on his advice we do not consider it appropriate or indeed proper to disclose documentary evidence in the manner requested.

The RGP, in close consultation with the Office of Criminal Prosecutions and Litigation have concluded, that based on all the available evidence, there is a realistic prospect of conviction and on that basis have charged Mr Sanchez.

I should also highlight my concern regarding your seeking the views of Mr Sanchez in relation to this matter. Any communication with, including any response to the allegations made against Mr Sanchez are likely to be relevant to the investigation and therefore disclosable. This may lead to other lines of inquiry that the investigating team would need to consider.

I trust that I have answered as much as I am able to and made our position clear.

Royal Gibraltar POLICE
• Emergency Tel. 199 • General Enquiries Tel. (+350) 20072500 •
• Email: pacompol@royalgib.police.gi • Website: www.police.gi •
• Facebook: royalgibpolice • Twitter: @rgpolice •

I am also conscious that any further discussion between us has the potential to adversely affect the prosecution of this case, which not only concerns Mr Sanchez but others too. For that reason I would be grateful if any further communication be directed in the first instance to the Director of Public Prosecutions, as explained earlier, has conduct of this matter post-charge.

Yours Sincerely

Richard Uliger OTM MSc
Commissioner of Police

cc: His Excellency the Governor
Chief Minister
Director of Public Prosecution

Royal Gibraltar POLICE
• Emergency for 199 • General Enquiries Tel (+350) 20072500 •
• Email: pacompol@royalgib.police.gi • Website: www.police.gi •
• Facebook: royalgibpolice • Twitter: @rgpolice •

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 25 January 2021 18:23
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: Re: R v Cornelio, Perez and Sanchez

Caution: This message originated outside of Isolas / Fiduciary. Do not click links or open attachments unless you are expecting this message.

Thanks Mark; will try to expedite - it has been very busy battling on all fronts, COVID, Brexit and all. D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

On 25 Jan 2021, at 17:54, (RGP) Wyan, Mark < > wrote:

Dear Chief Secretary,

RE: R v Cornelio, Perez and Sanchez

I would be most grateful if you could confirm whether you have had an opportunity to consider the matters raised in my email of the 25th November 2020.

The defendants have recently appeared before the Supreme Court for a second time and remain on court bail. It is therefore important that any outstanding enquiries are completed expeditiously.

I am happy to discuss further if you have any queries.

Kind Regards,

From: (NO6) Corby, Giselle
Sent: 15 February 2022 11:16
To: (GLO) Llamas, Michael
Cc: (NO6) Grech, Darren
Subject: RE: McGrail Inquiry

Dear Michael

Attached are Mr Grech's witness statements. Hope this is what you require.

Regards
Giselle

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 15 February 2022 00:38
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>; (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Subject: Re: McGrail Inquiry

Dear Michael,

My apologies; I was following your requirements rigorously and was therefore waiting to peruse the file I am building for you to hand over this Friday. If however you want the WSs before, even though I will still include them in the chronology within the file, Giselle in copy will happily afford you these tomorrow Tuesday.

I return Wednesday evening and will spend Thursday reading over the full version I intend to hand over on Friday.

Apologies for the delay in replying as I took Anna out to dinner.

Best wishes,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
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Tel: +(350) 20051752
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darren.grech@gibraltar.gov.gi

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HM Government of Gibraltar

Office of the Chief Secretary

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Please consider the environment before printing this email.

On 14 Feb 2022, at 20:18, (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi> wrote:

The rest can follow in slower time

Sent from my iPhone

Michael Llamas CMG QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118

michael.llamas@gibraltar.gov.gi

www.gibraltar.gov.gi<http://www.gibraltar.gov.gi>

The Attorney General

HM Government of Gibraltar

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On 14 Feb 2022, at 20:36, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Michael I am in Cambridge - thought you said Friday. Can accelerate to Thursday if you want as fly in Wednesday. Please let me know. D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

On 14 Feb 2022, at 19:22, (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi> wrote:

Darren where is yours? Can you send it now? M

Sent from my iPhone

On 14 Feb 2022, at 13:29, (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi> wrote:

Dear Michael,

Please find the WS attached. I am making good progress on the more substantive document which I should be able to let you have by the end of the week.

Kind regards

Albert

Albert Mena
Financial Secretary

Office of the Financial Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20051168
Centrex: 2112
Fax: (+350) 20079901
albert.mena@gibraltar.gov.gi

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Office of the Financial Secretary

HM Government of Gibraltar

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Please consider the environment before printing this email.

From: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Sent: 14 February 2022 12:43
To: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>; (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Subject: RE: McGrail Inquiry

Dear both,

Could you please send me now the WS that you have already provided, and everything else I have asked for by the end of the week please.

Thanks.

Michael

From: (NO6) Grech, Darren
<darren.grech@gibraltar.gov.gi<mailto:darren.grech@gibraltar.gov.gi>>

Sent: 06 February 2022 19:14
To: (GLO) Llamas, Michael
<michael.llamas@gibraltar.gov.gi<mailto:michael.llamas@gibraltar.gov.gi>>
Cc: (MOF) Mena, Albert
<albert.mena@gibraltar.gov.gi<mailto:albert.mena@gibraltar.gov.gi>>; (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi<mailto:fabian.picardo@gibraltar.gov.gi>>
Subject: Re: McGrail Inquiry

Dear Michael,

Thanks. Will do so soonest possible and with the pertinent urgency. Do you have a working deadline?

Best wishes,

Darren
Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
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Office of the Chief Secretary

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On 6 Feb 2022, at 18:45, (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi<mailto:michael.llamas@gibraltar.gov.gi>> wrote:

Dear both,

I have spent this weekend preparing the chronology for the above.

I would be most grateful if you could both do the same especially in relation to your involvement on the issue of the "contract" with Bland and the dispute over the ownership of the platform.

I would like you to send me:

* A Chronology of your Events;
* All the documents which appear relevant to you.

That should include letters/emails you would have received from the RGP, as well as the various WS you prepared including exhibits, particularly in the period April 2020. Anything you would have received from the RGP is essential.

I would be grateful if you could send me that in hard copy in an organised File with an Index. Please prepare an additional set for yourselves.

Many thanks.

Michael

Michael Llamas CMG QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA
Tel: (+350) 20051118

michael.llamas@gibraltar.gov.gi<mailto:michael.llamas@gibraltar.gov.gi>

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The Attorney General

HM Government of Gibraltar

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Please consider the environment before printing this email.

From: "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
Date: 8 April 2022 at 09:36:52 GMT+2
To: "(MIN) Fabian Picardo" <Fabian.picardo.cm@gibraltar.gov.gi>
Subject: Fwd: My personal tax & social insurance status

F, please see below. D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

Begin forwarded message:

> **From:** ianmcgrail@gibtelecom.net
> **Date:** 8 April 2022 at 09:24:11 GMT+2
> **To:** "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
> **Subject: FW: My personal tax & social insurance status**
>
> Dear Darren –
> It is now practically 11 months since I first raised the matter of my personal tax and social insurance status with you. During all this time you have assured me that you would be resolving the matter as per our agreement in June 2020. In fact, you assured me that when you sorted it all out you would apply the change retrospective to May 2021.
>
> You must be fully aware of the financial shortfall I am carrying monthly because of the agreement not being fulfilled. You also acknowledged the implications this would have on my (Old Age Pension) if the matter was not resolved. I continue to be anxious with this void of uncertainty.
>
> You have also not responded to my two last emails I sent you on the 1st and 8th March 2022 where I ask very simple and straight forward questions of you.

During one point in our numerous exchanges in the past 11 months, you asked me not to despair; that you were at the point of having my matter sorted out. I respectfully ask that you give my matter the attention it merits and that you respond to this communication with the news that it has been finally sorted. Any other response that you provide would be unsatisfactory given the inordinate amount of time that you have been dealing with this. I remain extremely worried with the way I am being treated by you.

Regards
Ian

From: ianmcgrail@gibtelecom.net <ianmcgrail@gibtelecom.net>
Sent: 08 March 2022 10:22
To: '(NO6) Grech, Darren' <darren.grech@gibraltar.gov.gi>
Subject: FW: My personal tax & social insurance status

Dear Darren,
I refer to my last email to you of 7 days ago which I have not received a reply.

Please accept this email as a gentle nudge that my matter still remains unresolved by you.

Would you be kind enough to advise me whether the agreement we reached back in June 2020 still stands? Conversely, please confirm if your position and assurances over the past 10 months have changed, and if so, what has driven you to that change. I know that I have mentioned this before in previous emails, but I take this opportunity to remind you again that on two occasions, at the point of my retirement, the Governor told me that he would ensure that I was treated fairly and with respect at all times. I sincerely feel that I am not being treated fairly on this matter which as you well know preceded any other issue relating to my early retirement.

I look forward to your response.

Kind regards
Ian

From: ianmcgrail@gibtelecom.net <ianmcgrail@gibtelecom.net>
Sent: 01 March 2022 10:29
To: '(NO6) Grech, Darren' <darren.grech@gibraltar.gov.gi>
Subject: My personal tax & social insurance status

Dear Darren –
Our numerous exchanges of communication on this subject refers.

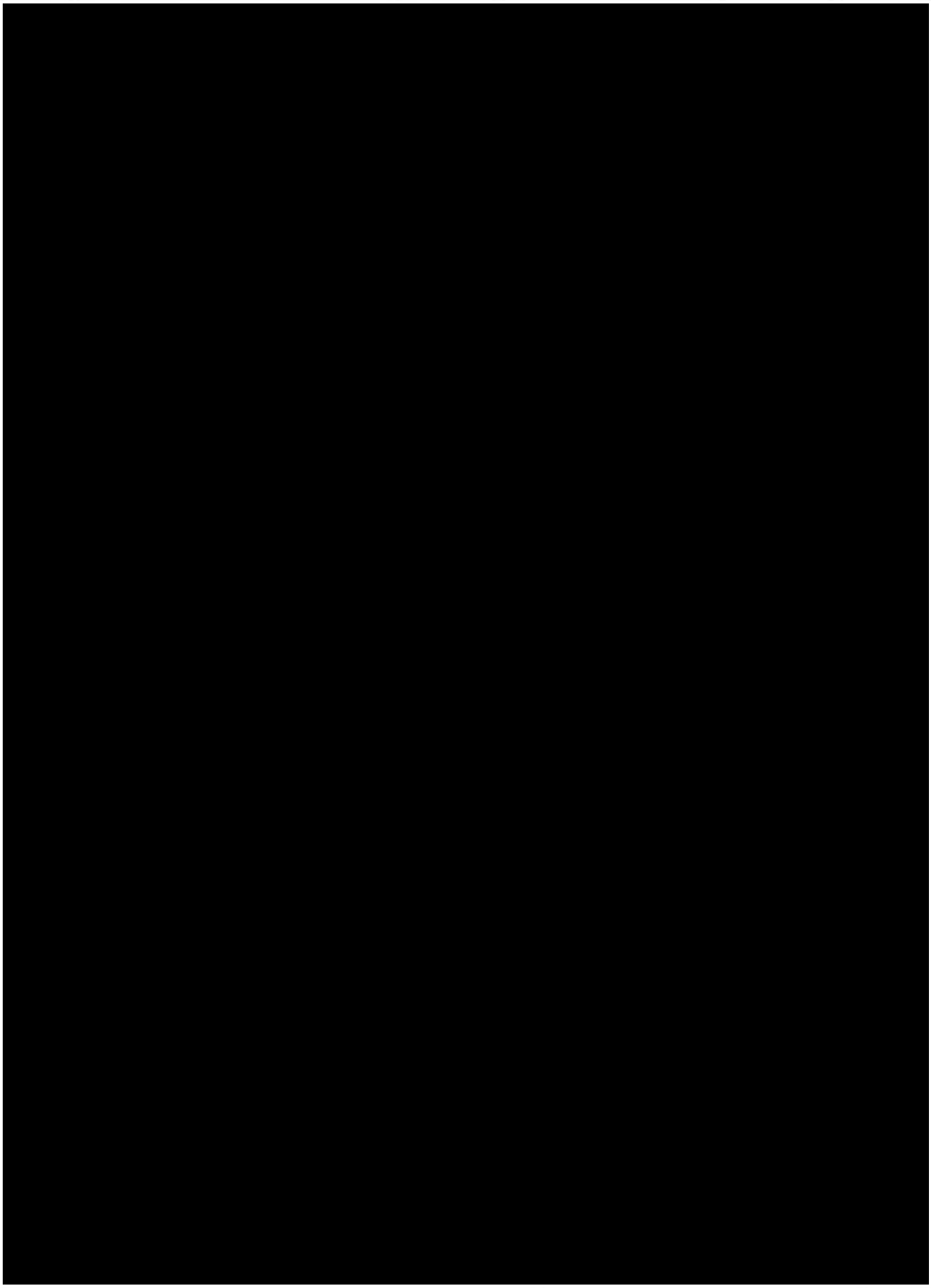
It is now 10 months since I first raised the matter with you and it still remains unresolved despite the repeated assurances that you have given me that you would

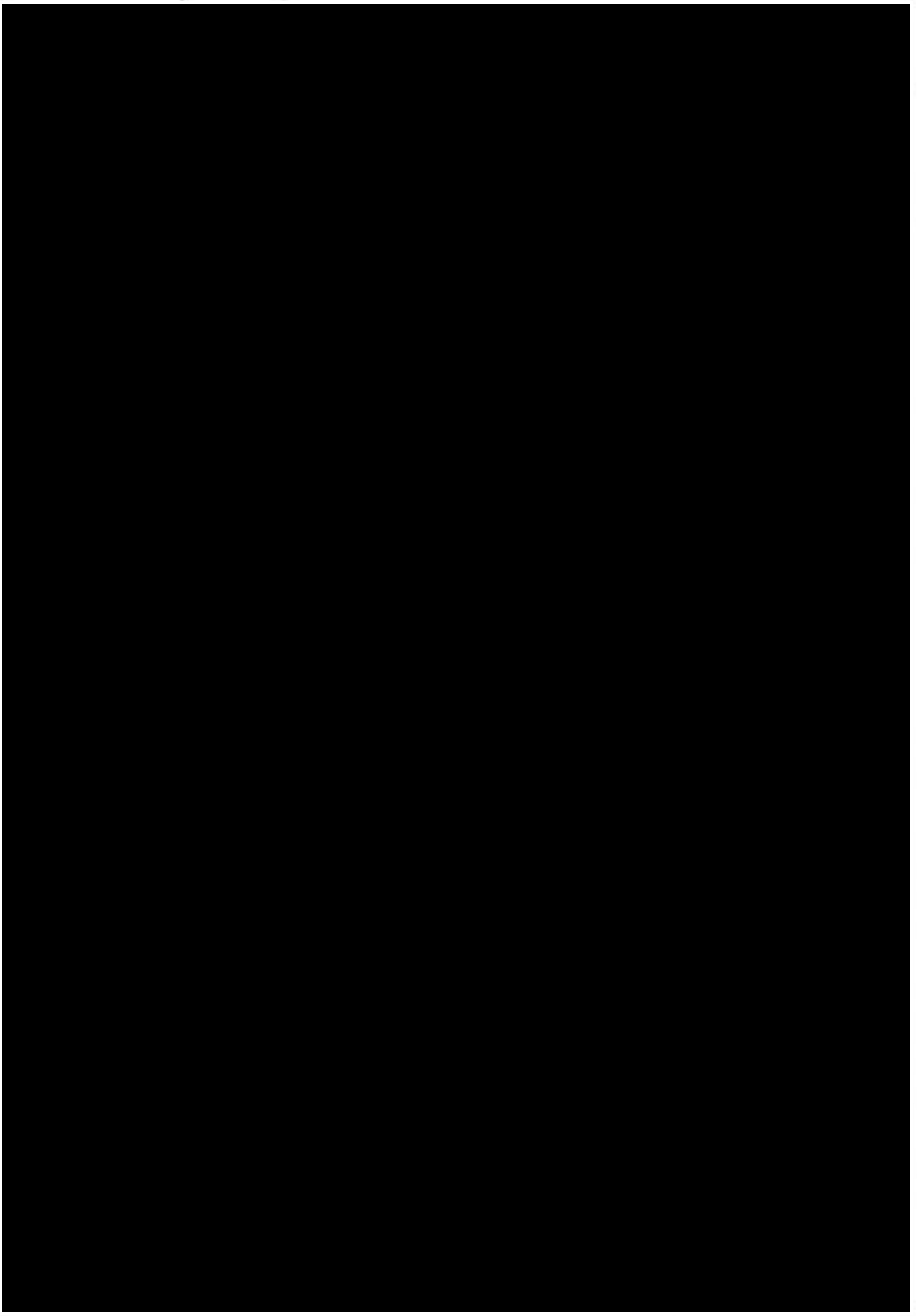
indeed ensure to abide to the agreement we reached on my retirement in June 2020.

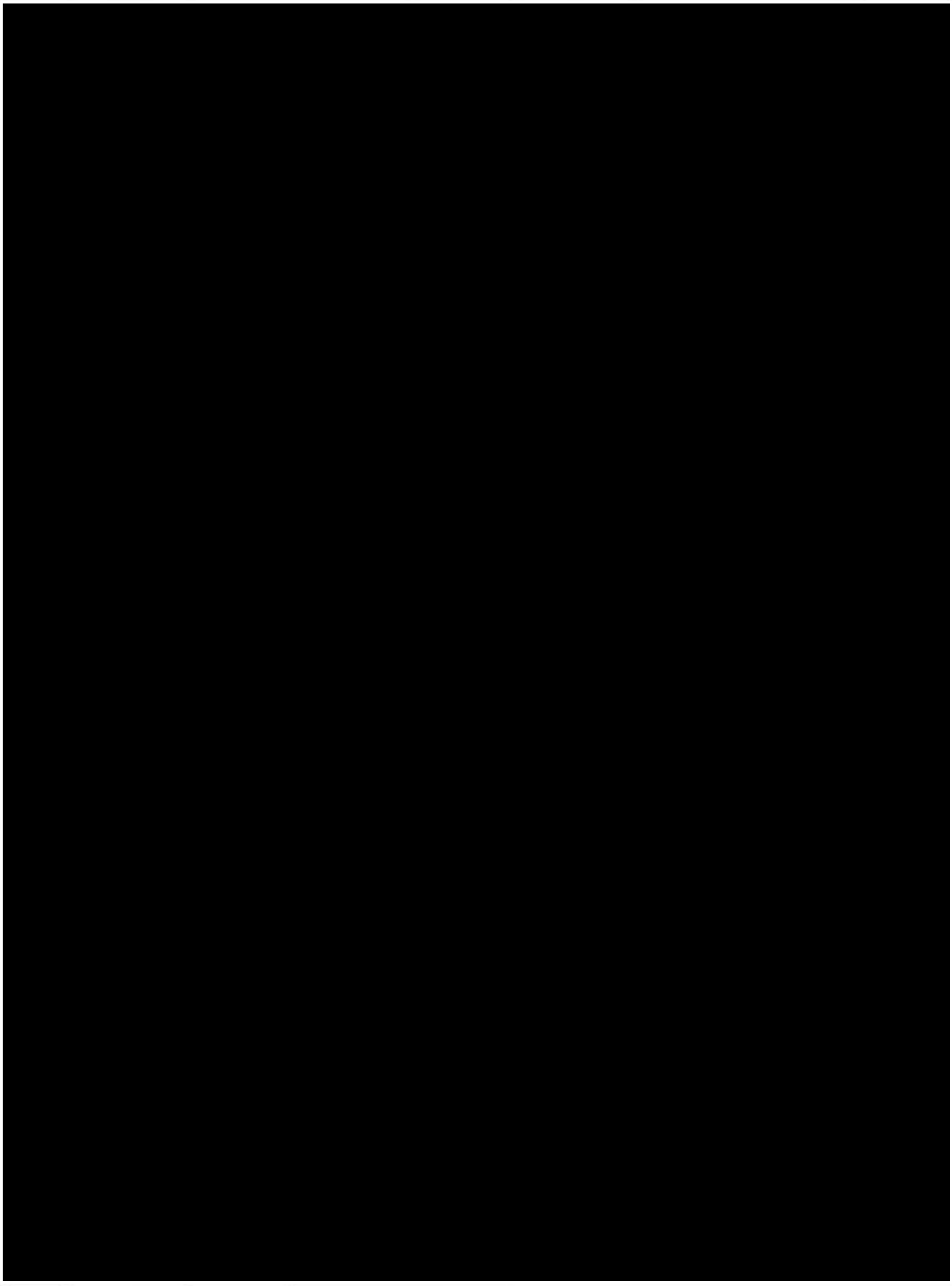
In previous emails you have told me that the matter was practically resolved but then all went cold. You kept telling me not to worry and to trust you - that you were still on my case. 10 months down the road and I am still in limbo. Surely, this is not such an administrative burden on you not to be able to resolve it after so many months!

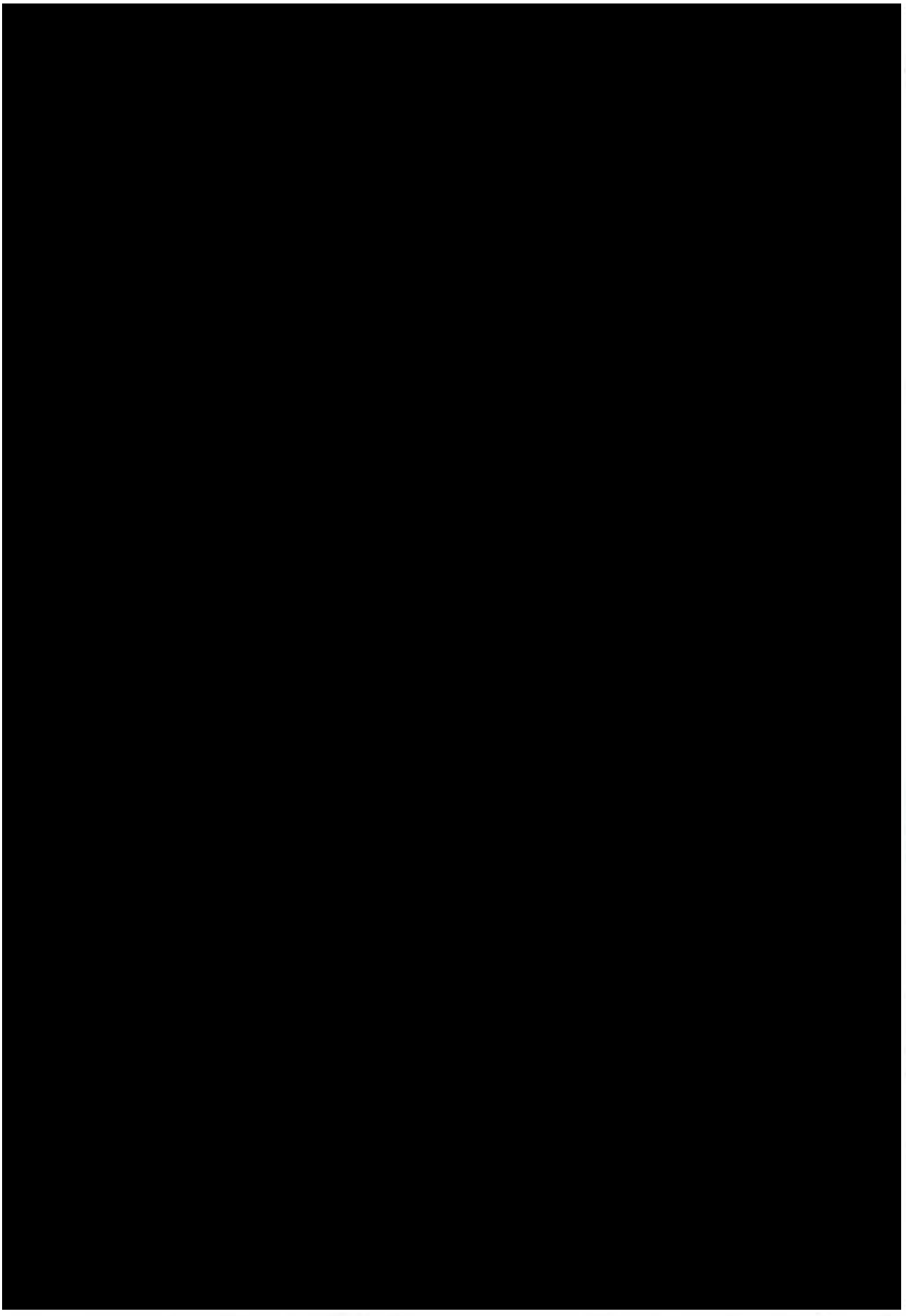
I look forward to hearing from you.

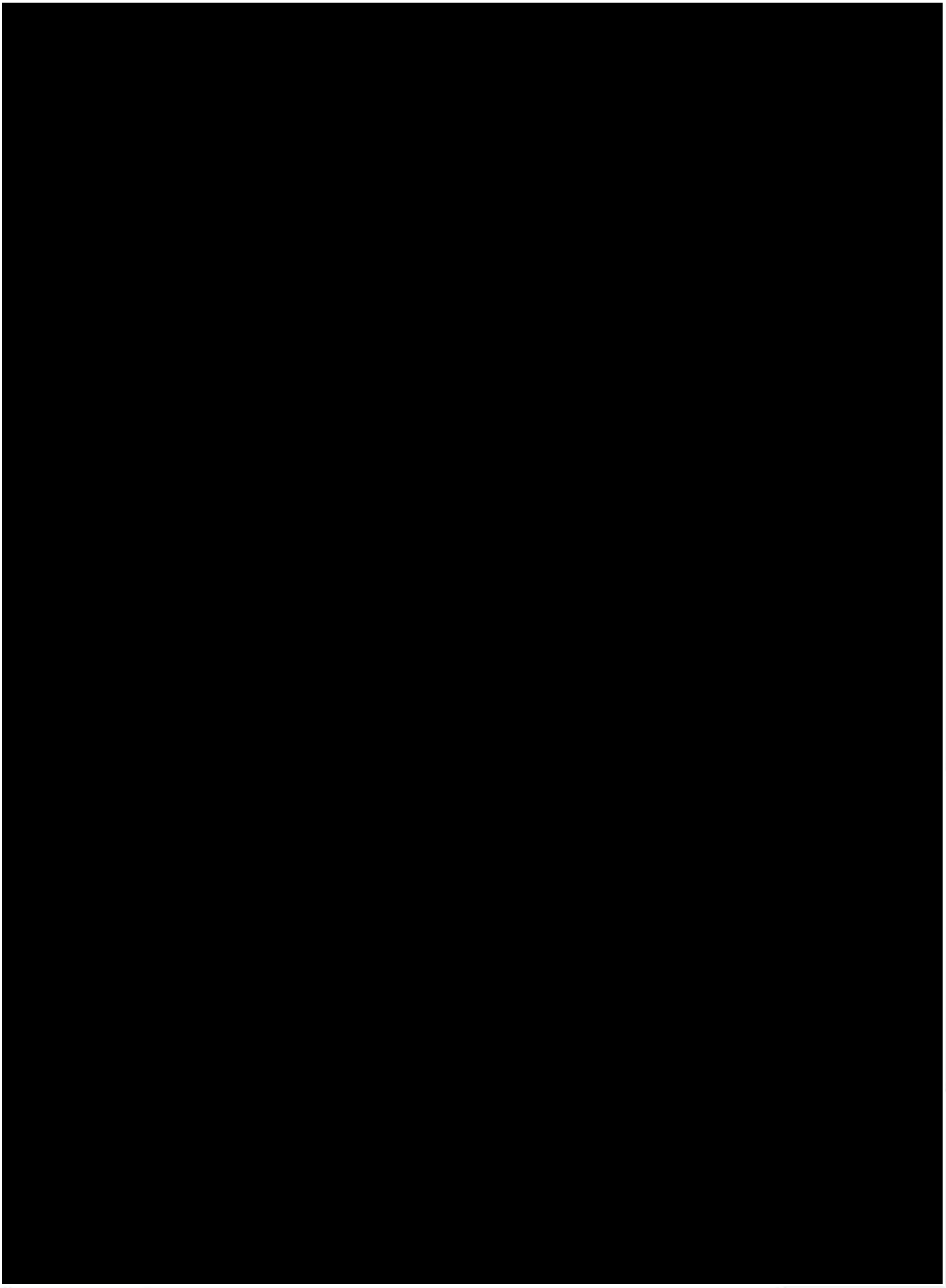
Best wishes
Ian

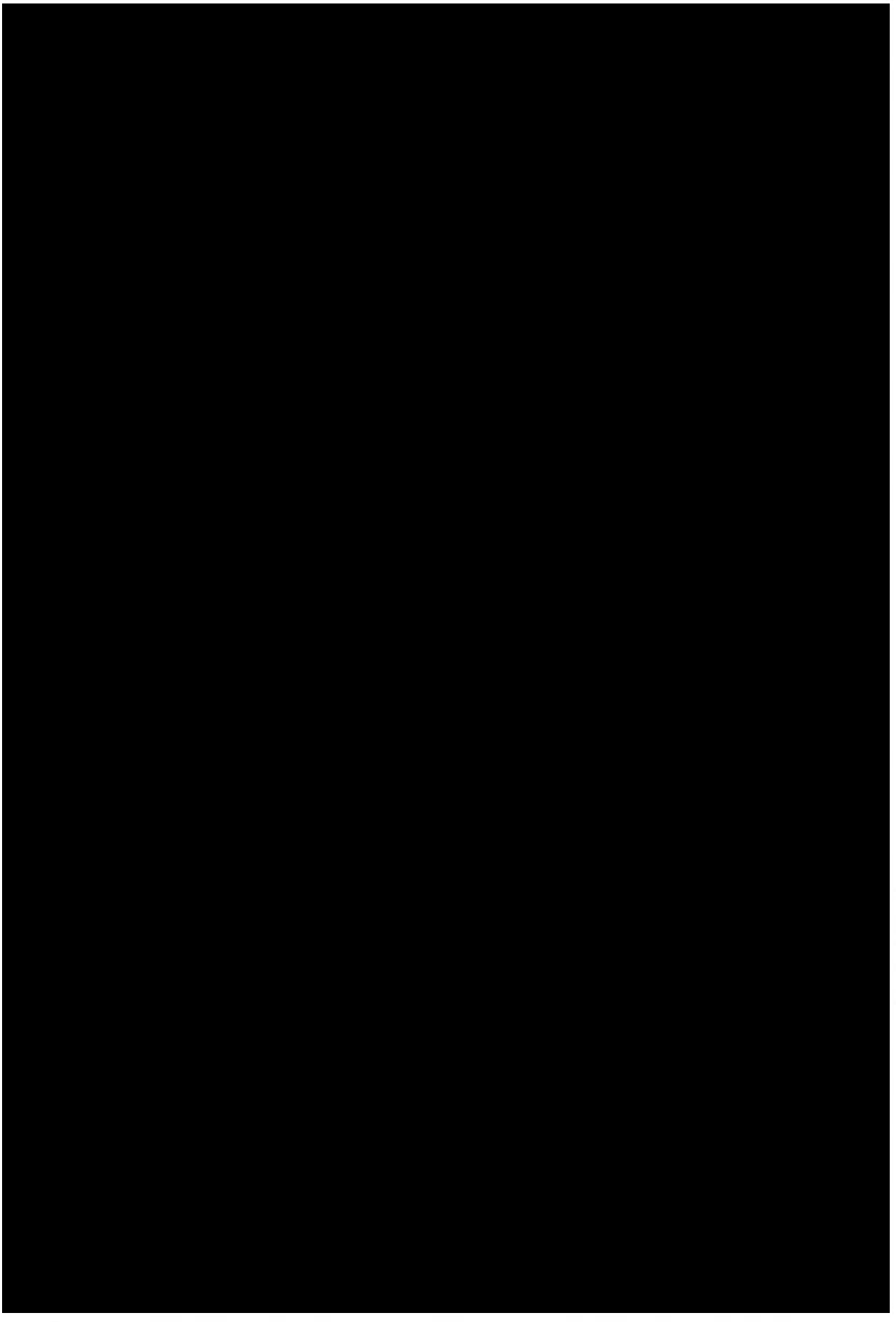












Darren Grech
First Affidavit
15 September 2022

In the Matter of the Commissions of Inquiry Act

- and –

In the Matter of an Inquiry into the retirement of the former Commissioner of Police by a Commission issued by Her Majesty's Government of Gibraltar on 4 February 2022 in Legal Notice No. 34 of 2022 (the 'Inquiry')

AFFIDAVIT OF
Darren Grech

EXHIBIT 'DG3'

This is Exhibit 'DG3' to the First Affidavit of Darren Grech dated the 15 day of September 2022.

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TAB	CORRESPONDENCE
1.	Emails dated 28 May 2022 to 13 September 2022 between the former Commissioner of the Royal Gibraltar Police, Ian McGrail ('**IM**'), and the Chief Secretary ('**CS**').
2.	Letter to the CS from Attias & Levy dated 2 August 2022.
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4.	Email from IM to the CS dated 13 December 2021.
5.	Email from IM to the CS dated 13 December 2021.
6.	Email from IM to the CS dated 23 December 2021.
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14.	Email from the former Director of Social Security, Nicholas Richardson ('**NR**'), to the CS dated 26 May 2021.
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19.	Email from Lyzanne Olivero ('**LO**') to the CS dated 24 September 2020.
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25.	Email from the CM to the CS dated 8 June 2020.
26.	Email from IM to the CS dated 8 June 2020.

Sharon Truman Davies

From: Neil Costa
Sent: 14 September 2022 09:05
To: Sharon Truman Davies
Subject: FW: Personal Tax and Social Insurance

From: Ian McGrail <ianmcgrail@gibtelecom.net>
Date: 13 September 2022 at 13:29:21 GMT+2
To: "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
Subject: Personal Tax and Social Insurance

Dear Darren-
My last two emails to you as per below have not been responded to or even acknowledged by you. I am referring to the emails of 1st and 25th August 2022.

I find this extremely out of character on your part because you yourself have said this is not your style.

Am I meant to continue to trust you as you have repeatedly asked me to do for you to resolve the very long outstanding matter of my personal tax and social insurance status?

Regards
Ian

Sent from my iPhone

Begin forwarded message:

Neil Costa
Partner
ISOLAS LLP

From: Ian McGrail <ianmcgrail@gibtelecom.net>
Date: 25 August 2022 at 15:34:36 CEST
To: Darren Grech <darren.grech@gibraltar.gov.gi>
Subject: Personal Tax and Social Insurance

Dear Darren,
I refer to my last email below dated 1st August 2020 which you have not responded to.

I continue to enquire whether after over 1 year & 4 months you have been able to address the issue of my personal tax and social insurance status.

You have previously ask me to continue to trust that you will sort it out which is why I continue to chase you up on this.

I look forward to no more delays and that your agreement with me in June 2020 is respected. I am sure that you cannot disagree with me that the delay is at all reasonable or indeed fair.

Kind regards
Ian

Sent from my iPhone

Begin forwarded message:

> **From:** ianmcgrail@gibtelecom.net
> **Date:** 1 August 2022 at 15:55:00 CEST
> **To:** "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
> **Subject: Personal Tax and Social Insurance**
>
> Dear Darren,
> A further two months have elapsed since we last corresponded and because I have not heard any news I am chasing you up to find out whether you have managed to resolve the issue of my personal tax and social insurance. This issue has been dragging on since May 2021 when I first raised it with you i.e. for over 15 months. You have to agree it is quite inordinate that it has not been resolved despite the repeated assurances and promises that you have provided me.
>
> I sincerely and respectfully seek closure on this arrangement without any further delay.
>
> I look forward to hearing from you.
> Regards
> Ian
>
> **From:** (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
> **Sent:** 28 May 2022 19:07
> **To:** ianmcgrail@gibtelecom.net
> **Subject:** Re: Last night at Hall of Fame
>
> Dear Ian,
>
> Thanks for this.
>
> Let me please make one thing clear: when I said goodbye to your uncle I honestly did not see you next to him. This is the gospel truth. I have the utmost respect and yes even love for your family. We go back a long time when Kenneth (Junior) and I went to the same Uni and your uncle and lovely auntie invited us to a slap up meal, which after months of hall dining felt like heaven.
>
> Again with the same honesty, I did see you earlier by the bar and wanted to somehow engage. Embarrassment about what to say took over me given I have not answered your email(s) beyond my original replies, and for this I can only but apologise, because it is certainly not my style, and you must know this as a judge of

character and from those who know me well. I actually said hello to Erika who reciprocated.

I still have not resolved the issues you raised despite promising I would look into these.

Please continue to trust me.

D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

On 28 May 2022, at 18:52,
ianmcgrail@gibtelecom.net wrote:

Dear Darren,
I hope this email finds you well.

It is regarding my family's get-together last night, which you attended, and the fact that you blanked me out as if I was invisible, that I write to enquire why you have behaved like that towards me. I can only assume that it has to do with the fact that the matter of my personal and social security status which you undertook to resolve over a year ago actually remains unresolved - that you have not responded to my latest emails of 1st & 8th March 2022 and 8th April 2022 - and that out of a sense of embarrassment/shame you felt it best to blank me out completely. It even caught the attention of my uncle, who is like a father to me, and who you effusively said good night to whilst I was sitting next to him.

I remind you of the many assurances you provided me that you would arrange for my tax and social security issue to be sorted as per our agreement in June 2020, pledging me to trust you and asking me not to despair as you would indeed deal with it. I suppose that trust has to be earned and the fact that you have still not resolved my situation after over 12 months has indeed caused me to despair. Neither have you

answered the very simple and straightforward questions I have put to you concerning this same matter. It is for this reason that I urge you to do the right and honourable thing; keep to your word and to the agreement we reached on the day before I applied to retire from the RGP.

I look forward to hearing from you .

Sincerely,
Ian

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex: 2832
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

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FHQ

OFFICE OF THE CHIEF SECRETARY
- 2 AUG 2022
GIBRALTAR

attias & levy
Barristers & Solicitors
Notary Public

Your Ref:
Our Ref: SVC/SGC/JLE/I82

2 August 2022

BY HAND AND BY EMAIL (darren.grech@gibraltar.gov.gi)

Darren Grech, Chief Secretary
HM Government of Gibraltar
No. 6 Convent Place
Gibraltar

For the attention of Mr Darren Grech

Dear Sir

Re: Inquiry into the Retirement of the Former Commissioner of Police ("the Inquiry") – Darren Grech

We draw your attention to Legal Notice No.34 of 2022 in the Second Supplement to the Gibraltar Gazette on 4 February 2022 ('**Attachment A**'), which gave notice that Her Majesty's Government of Gibraltar ('**the Government**') has commissioned an Inquiry under the Commissions of Inquiry Act 1888 ('**the Inquiry**').

Sir Peter Openshaw DL, a retired judge of the High Court of England and Wales, has been appointed as Commissioner for the purposes of the Inquiry. The Commissioner is appointed pursuant to section 3(1) of the Commissions of Inquiry Act 1888 ('**the Act**'), which states that:

> *"The Government may, whenever he* (sic.) *shall deem it advisable so to do, issue a commission under his (sic.) hand and the public seal appointing one or more commissioners to inquire into any matter in which an inquiry would, in the opinion of the Government, be for the public welfare."*

Stephen V. Catania of this firm has been instructed as Solicitor to the Inquiry, and will be principally assisted by Sunil G. Chandiramani and Jemma-Louise Emmerson also of this firm. Julian Santos of 5RB has been appointed as Counsel to the Inquiry.

Under the same Legal Notice, the Commissioner is appointed to inquire, as he shall in his absolute discretion consider appropriate, into:

First Floor Suites, 39 Irish Town, P.O. Box 466, Gibraltar, Tel: +350 200 72150, Fax: +350 200 74986, Email: attlev@gibraltar.gi, www.attiaslevy.gi

> "*the reasons and circumstances leading to Mr Ian McGrail ceasing to be Commissioner of Police in June 2020 by taking early retirement*" (**'the Terms of Reference'**).

The Commissioner is required to "*ascertain the facts and report to the Government on*" the Terms of Reference.

Pursuant to section 8 of the Act, the Inquiry may require by summons the attendance of any person whose evidence may be material to the subject matter of the Inquiry, and/or to produce all such books, papers and writings as "*may appear necessary for arriving at the truth of all matters*".

Background: Evidence Gathering and First Preliminary Hearing

In April 2022, we sought evidence from individuals and bodies who had a statutory role in Mr McGrail's retirement through the provisions of the Police Act 2006. We have now received accounts from those individuals and bodies. An additional request for information was made thereafter.

On 22 June 2022, the first preliminary hearing for the Inquiry was held at the Garrison Library (**'the First Preliminary Hearing'**). The primary purpose of the First Preliminary Hearing was to attend to procedural and administrative matters in respect of the Inquiry in preparation for the main hearing. A transcript of the First Preliminary Hearing is available on the Inquiry website.[1]

We are continuing to widen our investigation for the Inquiry; seeking evidence and/or documents from other individuals and bodies whose evidence in the judgment of the Commissioner may be material to the subject matter of the Inquiry, in accordance with section 8 of the Act.

Request for Information and Evidence

We therefore request you to cooperate with the Inquiry by preparing and producing:

1. A statement under oath providing an account of your interactions with the individuals and bodies listed below, on matters relevant to the Terms of Reference of the Inquiry:
    a. Ian McGrail, Former Commissioner of Police
    b. Fabian Picardo QC MP, the Chief Minister (**'the Chief Minister'**)

[1] http://coircomp.gi.e documents

c. Michael Llamas QC, Attorney General ('**the Attorney General**')
d. Christian Rocca QC, Director of Public Prosecutions ('**the DPP**'), or any employee of the Office of Criminal Prosecutions and Litigation
e. Nicholas Pyle, Deputy Governor ('**Mr Pyle**')
f. Lt. General Ed Davis, former Governor of Gibraltar
g. The Magistrates' Court (either the Clerk or Deputy Clerk to the Magistrates' Court, the Stipendiary Magistrate or the Justices of the Peace)
h. Albert Mena, Financial Secretary
i. Neil Costa, former Minister for Justice
j. Dr Joseph Garcia, Deputy Chief Minister
k. Samantha Sacramento, Minister for Justice
l. Lloyd DeVincenzi, Solicitor General
m. Any member of the Foreign, Commonwealth and Development Office
n. Dr Joseph Britto, Chairman of the Gibraltar Police Authority, or any other member of the Gibraltar Police Authority
o. Maurice Morello, Chairman of the Gibraltar Police Federation, or any other member of the Gibraltar Police Federation
p. Paul Richardson, former Superintendent
q. Superintendent Mark Wyan (formerly Detective Inspector)
r. James Gaggero, Chairman of Bland Group Limited
s. James Levy QC CBE
t. Lewis Baglietto QC or any other partner, associate or employee of Hassans International Law Firm
u. Sir Peter Caruana QC, formerly instructed on behalf of Bland Group

2. Any documents (including but not limited to electronic documents such as emails, word documents, PDFs and SMS, WhatsApp or other instant messages) in your possession or control relevant to the matters in paragraph (1) above. All electronic documents are to be provided in their native format with the original metadata preserved.

At this stage, we consider that the following topics are relevant to the Terms of Reference of the Inquiry for the purposes of the present request for information and evidence:

A. The Royal Gibraltar Police ('**RGP**') investigation into the suspected hacking/sabotage of the National Security Centralised Intelligence System ('**NSCIS**'), known as "Operation Delhi"; and/or

B. The RGP's investigation into James Levy QC CBE as part of the investigation referred to in A above, including the RGP's execution of search warrants at Mr

Levy's home and office on 12 May 2020, and any subsequent discussions, correspondence, submissions, evidence or complaints about the same; and/or

C. The negotiation of Mr McGrail's retirement package.

It should be noted that the questions above are non-exhaustive and we may consider further follow-up questions if necessary based on the responses and any other material that we may receive from other sources in due course.

In requesting your cooperation, we draw your attention to sections 8(2) and 10 of the Act, which provide that:

(a) where a person attends before the Inquiry pursuant to a summons, they must answer questions put to them by the Commissioner and produce all books, papers and writings required by the summons. This is subject to the proviso that: "*no statement by any person in answer to any question put by such commissioners shall, except in cases of indictment for perjury committed in such answers, be admissible in evidence in any proceeding civil or criminal.*" (Section 8(2))

(b) more generally, "*No person who shall give evidence upon any inquiry under this Act shall be liable to any civil proceedings or criminal prosecution for or in respect of any statement or discovery made by such person concerning any matter connected with such inquiry, and no person shall be excused from answering any question put to him by the commissioners on the ground of any privilege, or on the ground that the answer to such question will tend to incriminate such person.*" (Section 10)

Please provide us with the requested documents by **24 August 2022**. We would be willing to consider reasonable requests for additional time, if so required.

Next steps

As stated above, the First Preliminary Hearing for the Inquiry took place on 22 June 2022. It is anticipated that a second preliminary hearing will take place between 19–20 September 2022, commencing at 10am in the Garrison Library ('**the Second Preliminary Hearing**').

A draft agenda for the Second Preliminary Hearing has been published on the Inquiry website.[2] As you will see, the said draft agenda includes the finalisation of the provisional list of issues in preparation for main hearing, which is due to take place in March 2023.

[2] https://coirs.comp.gi/wp-content/uploads/2022/06/Agenda-Preliminary-Issue-Hearing_14.06.22.pdf

It is therefore imperative that we receive the requested documents from you by the deadline referred to above in order that we can, amongst other things, compile the provisional list of issues in good time prior to the Second Preliminary Hearing.

In the meantime, if you have any queries or concerns please do not hesitate to contact us.

Yours faithfully

Attias & Levy

Attias & Levy

RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

ISSUE OF COMMISSION

LN.2022/034

WHEREAS the Government has committed to issue a commission for an Inquiry under the Commissions of Inquiry Act into the matters more particularly detailed below;

AND WHEREAS the Government has requested that His Excellency the Governor, Vice Admiral Sir David Steel KBE, DL, identify a retired High Court Judge of the jurisdiction of England & Wales to carry out such an Inquiry;

AND WHEREAS His Excellency the Governor has, with his consent, identified Sir Charles Peter Lawford Openshaw, DL, formerly a judge of the High Court of England and Wales, Queen's Bench Division;

THE GOVERNMENT NOW HEREBY, in exercise of the powers conferred on it by Section 3 of the Commissions of Inquiry Act, appoints the aforesaid Sir Charles Peter Lawford Openshaw, DL, as Commissioner to inquire, as he shall in his absolute discretion consider appropriate, into the reasons and circumstances leading to Mr Ian McGrail ceasing to be Commissioner of Police in June 2020 by taking early retirement.

The Commissioner is to ascertain the facts and report to the Government on the above matters.

Save as the Commissioner may in his discretion determine, the Inquiry is to be held in public at a venue, and to commence on a date, to be specified by the Government by notice in the Gazette.

Dated: 4th February 2022.

VICE ADMIRAL SIR DAVID STEEL KBE, DL,
Governor,
For the Government,
At the request of the Chief Minister.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(NO6) Grech, Darren

From: Ian McGrail <ianmcgrail@gibtelecom.net>
Sent: 02 February 2022 09:54
To: (NO6) Grech, Darren
Subject: Re:

Dear Darren -
I hope you have had a good start to the year and that pressures at work have somewhat eased off for you to see to my matter.

I first raised the issue of my tax and social insurance status with you in May 2021. You provided me with repeated assurances that you would resolve the situation for me in accordance with the agreement we entered back
in June 2020. You will accept from our email exchanges that you have stated on a number of occasions that the matter was practically resolved, yet I have not heard anything from you confirming it.

Could you please confirm to me that what we agreed is being respected?

I look forward to hearing from you.

Regards
Ian

Sent from my iPhone

> On 13 Dec 2021, at 20:16, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:
>
> Dear Ian,
>
> I do not think I deserve to be addressed in that manner. I have already set out my position below and do not intend to reply to another intemperate message if you are minded to send one. I reiterate my best wishes for Christmas.
>
> D
>
> Darren Grech
> Chief Secretary
> HM Government of Gibraltar
> No 6 Convent Place
> Gibraltar
>
> > On 13 Dec 2021, at 19:19, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:
> >
> > Ian, I was referring to the collective needs of Gibraltar amidst Brexit and Covid in particular. D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

On 13 Dec 2021, at 19:05, Ian McGrail <ianmcgrail@gibtelecom.net> wrote:

Dear Darren,
In my many years in the public service I never told anyone that their concerns were less pressing than others.

You have kept me on a string now for 7 months. That is not how gentlemen behave.

Please confirm what you agreed without more delay.

Sincerely,
Ian McGrail

Sent from my iPhone

On 13 Dec 2021, at 15:52, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Dear Ian,

I hope you are well and apologies for the tardiness of my reply.

I am not treating you in any way, I am simply under immense pressure on more pressing matters. I will revert on the substance in due course as soon as I can. I cannot promise you a time frame.

Best wishes for Christmas.

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
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Tel: +(350) 20051752
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HM Government of Gibraltar

Office of the Chief Secretary

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(NO6) Grech, Darren

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Best wishes for Christmas.

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place

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GX11 1AA

Tel: +(350) 20051752
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darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

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(NO6) Grech, Darren

From: Ian McGrail <ianmcgrail@gibtelecom.net>
Sent: 13 December 2021 09:46
To: (NO6) Grech, Darren
Subject: Fwd: Personal

Dear Darrren
It has been 41 days since your last corresponded with me saying you would revert shortly.

I did not receive a response from you on 2nd November and neither did you acknowledge my further chaser on 23rd November 2021.

What is happening Darren? What am I supposed to out make of your repeated assurances, promises that you would revert with the matter resolved and your pledge for me to trust you?

I know you hold a very demanding post which is why I have exercised the utmost of patience, but please Darren, why are you treating me like this?

Sincerely
Ian

Sent from my iPhone

Begin forwarded message:

> **From:** Ian McGrail <ianmcgrail@gibtelecom.net>
> **Date:** 23 November 2021 at 09:04:38 CET
> **To:** Darren Grech <darren.grech@gibraltar.gov.gi>
> **Subject: Fwd: Personal - letter**

Dear Darren -

A further 21 days have now gone by since my last correspondence to you on 2nd November 2021 which was in response to your consistently very short apologetic stance to excuse the lack of progress in resolving my personal tax and social insurance matter dated the same day.

Your response on this day was "Dear Ian, I hope you are well; I am truly sorry for the delay. We should revert shortly". I responded to your email a few moments later expressing my discontent with the manner I was being treated, more so when what I am chasing you about is something you had acknowledged months back. I also enquired from you whether your position in this regard had changed and if it had I was respectfully asking you why this was the case - Conversely, I asked you to confirm what we had discussed back in June 2020 if this was not the case.

Not only have you not responded to my last email, the fact that you stated you would revert shortly but still haven't after 21 days worries me a great deal.

I reiterate my pledge to you as Chief Secretary of HM Government of Gibraltar: What have I done not to be treated fairly in terms of the arrangements reached with you at the time of my

retirement? Why can't I get straight forward and clear answers to the questions I am posing you? Do I merit this disdain after 36 loyal years of public service? Surely you will have to agree that it is not me who is being the unreasonable one here.

I look forward to hearing from you and receiving closure once and for all.

Regards
Ian

Begin forwarded message:

> **From:** Ian McGrail <ianmcgrail@gibtelecom.net>
> **Date:** 2 November 2021 at 18:30:07 CET
> **To:** "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
> **Subject: Personal - letter**
>
> Dear Darren -
>
> Many thanks for your response but I am afraid that is not good enough.
>
> You told me that I should not worry and that you would resolve this matter several months ago.
>
> If you have changed your position please let me know why. Otherwise please confirm my entitlement as we discussed.
>
> I thank you in advance for your kind attention.
>
> Regards
>
> Ian
>
> > On 2 Nov 2021, at 17:16, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:
> >
> > Dear Ian,
> >
> > I hope you are well; I am truly sorry for the delay. We should revert shortly.

Best wishes,

D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

> On 2 Nov 2021, at 10:12,
> ianmcgrail@gibtelecom.net wrote:
>
> Dear Darren
> Please see attached.
> Regards
> Ian
>
> **From:** (NO6) Grech, Darren
> <darren.grech@gibraltar.gov.gi>
> **Sent:** 11 October 2021 16:13
> **To:** ianmcgrail@gibtelecom.net
> **Subject:** Re: Personal - letter
>
> Thanks Ian. D
>
> Darren Grech
> Chief Secretary
> HM Government of Gibraltar
> No 6 Convent Place
> Gibraltar
>
> "I am the master of my fate: I am the captain of my soul."
>
> > On 11 Oct 2021, at 16:03,
> > ianmcgrail@gibtelecom.net wrote:
> >
> > Dear Darren,
> > Please see attached letter.
> > Kind regards
> > Ian
> > <letter to Chief Sec 11 Oct
> > 2021.pdf>

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex: 2832
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

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Please consider the environment before printing this email.

<Letter to Chief Secretary - 2nd November 2021.pdf>
<letter to Chief Sec 11 Oct 2021.pdf>

(NO6) Grech, Darren

From: Ian McGrail <ianmcgrail@gibtelecom.net>
Sent: 23 November 2021 09:05
To: (NO6) Grech, Darren
Subject: Fwd: Personal - letter

Dear Darren -

A further 21 days have now gone by since my last correspondence to you on 2nd November 2021 which was in response to your consistently very short apologetic stance to excuse the lack of progress in resolving my personal tax and social insurance matter dated the same day.

Your response on this day was "Dear Ian, I hope you are well; I am truly sorry for the delay. We should revert shortly". I responded to your email a few moments later expressing my discontent with the manner I was being treated, more so when what I am chasing you about is something you had acknowledged months back. I also enquired from you whether your position in this regard had changed and if it had I was respectfully asking you why this was the case - Conversely, I asked you to confirm what we had discussed back in June 2020 if this was not the case.

Not only have you not responded to my last email, the fact that you stated you would revert shortly but still haven't after 21 days worries me a great deal.

I reiterate my pledge to you as Chief Secretary of HM Government of Gibraltar: What have I done not to be treated fairly in terms of the arrangements reached with you at the time of my retirement? Why can't I get straight forward and clear answers to the questions I am posing you? Do I merit this disdain after 36 loyal years of public service? Surely you will have to agree that it is not me who is being the unreasonable one here.

I look forward to hearing from you and receiving closure once and for all.

Regards
Ian

Begin forwarded message:

> **From:** Ian McGrail <ianmcgrail@gibtelecom.net>
> **Date:** 2 November 2021 at 18:30:07 CET
> **To:** "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
> **Subject: Personal - letter**
>
> Dear Darren -
>
> Many thanks for your response but I am afraid that is not good enough.
>
> You told me that I should not worry and that you would resolve this matter several months ago.

If you have changed your position please let me know why. Otherwise please confirm my entitlement as we discussed.

I thank you in advance for your kind attention.

Regards

Ian

On 2 Nov 2021, at 17:16, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Dear Ian,

I hope you are well; I am truly sorry for the delay. We should revert shortly.

Best wishes,

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Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 2 Nov 2021, at 10:12, ianmcgrail@gibtelecom.net wrote:

Dear Darren
Please see attached.
Regards
Ian

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 11 October 2021 16:13
To: ianmcgrail@gibtelecom.net
Subject: Re: Personal - letter

Thanks Ian. D

Darren Grech
Chief Secretary

HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

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Dear Darren,
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Kind regards
Ian
<letter to Chief Sec 11 Oct 2021.pdf>

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
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darren.grech@gibraltar.gov.gi

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<Letter to Chief Secretary - 2nd November 2021.pdf>
<letter to Chief Sec 11 Oct 2021.pdf>





(NO6) Grech, Darren

From: Ian McGrail <ianmcgrail@gibtelecom.net>
Sent: 02 November 2021 18:30
To: (NO6) Grech, Darren
Subject: Re: Personal - letter

Dear Darren -

Many thanks for your response but I am afraid that is not good enough.

You told me that I should not worry and that you would resolve this matter several months ago.

If you have changed your position please let me know why. Otherwise please confirm my entitlement as we discussed.

I thank you in advance for your kind attention.

Regards

Ian

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Dear Ian,

I hope you are well; I am truly sorry for the delay. We should revert shortly.

Best wishes,

D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

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Please see attached.
Regards
Ian

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Sent: 11 October 2021 16:13
To: ianmcgrail@gibtelecom.net
Subject: Re: Personal - letter

Thanks Ian. D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

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Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
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Tel: +(350) 20051752
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<Letter to Chief Secretary - 2nd November 2021.pdf>
<letter to Chief Sec 11 Oct 2021.pdf>





Mr Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar:

11th October 2021

Dear Chief Secretary,

Re:- My personal tax and social insurance status

Our e-mail exchanges of diverse dates between 11th May and 13th September 2021 refer.

Throughout this correspondence you have repeatedly given me assurances that the matter that I raised with you regarding my tax and social insurance status would be resolved. In our last exchange on the 13th September, following my request to meet you face to face, you advised me that you had spoken to the Chief Minister and that he had asked that I refer this matter to him. Under the circumstances I do not consider it appropriate to re-open discussion and agreements which had already been reached between you and I with the Chief Minister.

Aside from my misgivings as explained above, the Chief Minister has given public notice that he is currently fully focussed on the Brexit discussions and this is another reason why I think it would be inappropriate to try and engage with Mr Picardo. As Chief Secretary of the Government of Gibraltar, I am sure that you will want to avoid involving the political government in a matter which relates to arrangements/entitlements which you have acknowledged. Your asked me to pledge my trust in you and I did.

I look forward to receiving closure on this matter which as you too have acknowledged is taking an inordinate amount of time to resolve. You will no doubt appreciate the obvious implications *viz-a-viz* my Old Age Pension, when the time comes, if this is not resolved as per our agreement.

With anticipated thanks.

Yours faithfully,

Ian McGrail

6 Electra Flats
Scud Hill Gibraltar
ianmcgrail@gibtelecom.net

(NO6) Corby, Giselle

Subject: FW: Personal - social insurance contributions & PAYE

From: Ian McGrail <ianmcgrail@gibtelecom.net>
Sent: 31 August 2021 10:03
To: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Subject: Re: Personal - social insurance contributions & PAYE

Dear Darren,

Have you any news on my matter? I am conscious that our last communication was 5 weeks ago. I am resisting any despair because you have reassured me that it WILL be sorted but then again I cannot help but feel concerned.
Kind regards
Ian

Sent from my iPhone

On 3 Aug 2021, at 19:33, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Yes Ian I will help in every respect. D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

On 3 Aug 2021, at 19:32, Ian McGrail <ianmcgrail@gibtelecom.net> wrote:

Darren - many thanks. I will await to hear from you.

Nearly 4 months have now flown by from when I was meant to have had my tax and SI status amended as per arrangements when I retired. I take it that you will be applying the change retrospectively to 4th May 2021?

I honestly didn't expect this was going to be such an elaborate procedure considering that there is precedence to my circumstances.

Best wishes.

Ian

Sent from my iPhone

On 3 Aug 2021, at 17:47, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Good afternoon Ian,

I apologise for the delay; I am awaiting for some final advice on this and will revert soonest.

Please forgive me.

D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 3 Aug 2021, at 08:53, Ian McGrail <ianmcgrail@gibtelecom.net> wrote:

Good morning Darren -
It is a month since our last email exchange and I was wondering if you knew whether my tax & social insurance status will be resolved for this month.

Best wishes

Ian

Sent from my iPhone

On 5 Jul 2021, at 11:26, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Cheers mom ami

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

On 5 Jul 2021, at 11:24, Ian McGrail <ianmcgrail@gibtelecom.net> wrote:

Darren - most grateful. Just needed the reassurance that it was going to be sorted. Promise I won't despair from hereon.

Sent from my iPhone

On 5 Jul 2021, at 11:16, (NO6) Grech, Darren <darren.grech





(NO6) Grech, Darren

From: Ian McGrail <ianmcgrail@gibtelecom.net>
Sent: 03 August 2021 19:32
To: (NO6) Grech, Darren
Subject: Re: Personal - social insurance contributions & PAYE

Darren - many thanks. I will await to hear from you.

Nearly 4 months have now flown by from when I was meant to have had my tax and SI status amended as per arrangements when I retired. I take it that you will be applying the change retrospectively to 4th May 2021?

I honestly didn't expect this was going to be such an elaborate procedure considering that there is precedence to my circumstances.

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Chief Secretary

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Sent from my iPhone

On 5 Jul 2021, at 11:16, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

On its way to sorting. Will let you know. Please don't despair with me. D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

On 5 Jul 2021, at 11:14, Ian McGrail <ianmcgrail@gibtelecom.net> wrote:

Good morning Darren -
You asked me to remind you this week about my pending matter. I truly hope that it has now been sorted.

Regards

Ian

Sent from my iPhone

On 28 Jun 2021, at 09:32, (NO6) Grech,





(NO6) Corby, Giselle

Subject: FW: Personal - social insurance contributions & PAYE

From: Ian McGrail <ianmcgrail@gibtelecom.net>
Sent: 28 June 2021 09:26
To: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Subject: Re: Personal - social insurance contributions & PAYE

Dear Darren,

Many thanks, and yes, I will follow up next week with you.

Regards

Ian

Sent from my iPhone

On 28 Jun 2021, at 09:23, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Good morning Ian,

I do of course understand. We should be closer this week on this. I am interviewing mostly all week with full PSC but kindly remind me please early next week.

I hope you are well.

Best wishes,

D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 28 Jun 2021, at 09:14, Ian McGrail <ianmcgrail@gibtelecom.net> wrote:

Dear Darren,

I have purposely not chased up our last email exchange of 3 weeks ago (9th June) precisely to allow you plenty of time to resolve my issue.

I would be very grateful if you could advise by when I should expect this to be sorted out bearing in mind that I first raised the matter with you on 11th May.

I trust you fully understand my predicament and concern at resolving this matter as soon as possible.

I look forward to hearing from you and bring closer to this subject.

Kind regards

Ian

Sent from my iPhone

Begin forwarded message:

> **From:** Ian McGrail <ianmcgrail@gibtelecom.net>
> **Date:** 9 June 2021 at 09:33:46 GMT+2
> **To:** "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
> **Subject: Personal - social insurance contributions & PAYE**
>
> Dear Darren -
> Have you been able progress my matter? I am conscious that by next week Treasury will have prepared all pensions and I do not want to also miss out on this month too.
>
> KR
>
> Ian
>
> Sent from my iPhone
>
> > On 4 Jun 2021, at 16:25, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:
> >
> > Thanks Ian; promise to revert quickly. D
> >
> > Darren Grech
> > Chief Secretary
> >
> > HM Government of Gibraltar
> >
> > No 6 Convent Place
> >
> > Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 4 Jun 2021, at 13:18, ianmcgrail@gibtelecom.net wrote:

Dear Darren –

Many thanks for your response yesterday but would you be able to advise me what are the difficulties you are facing to resolve the issue. I merely enquire because it is a matter that was agreed upon when my early retirement was accepted.

In utmost confidence, please note that the CM has asked to see me. I was meant to be seeing him this evening but this has been rescheduled for next Monday and I would sincerely like the matter of my tax status sorted before meeting him.

Under the circumstances I look forward to hearing from you soonest.

Kind regards

Ian

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 03 June 2021 15:59
To: Ian McGrail <ianmcgrail@gibtelecom.net>
Subject: Re: Personal - social insurance contributions & PAYE

Ian not an easy puzzle but on it. D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 3 Jun 2021, at 08:48, Ian McGrail <ianmcgrail@gibtelecom.net> wrote:

Good morning Darren -
Was wondering if you had been able to resolve the issue of my tax status and social insurance contributions essential credits.

Regards

Ian

Sent from my iPhone

On 27 May 2021, at 17:44, (NO6) Grech, Darren <darren.grech@gibraltar.gov

(NO6) Grech, Darren

From: ianmcgrail@gibtelecom.net
Sent: 04 June 2021 13:18
To: (NO6) Grech, Darren
Subject: RE: Personal - social insurance contributions & PAYE

Dear Darren –

Many thanks for your response yesterday but would you be able to advise me what are the difficulties you are facing to resolve the issue. I merely enquire because it is a matter that was agreed upon when my early retirement was accepted.

In utmost confidence, please note that the CM has asked to see me. I was meant to be seeing him this evening but this has been rescheduled for next Monday and I would sincerely like the matter of my tax status sorted before meeting him.

Under the circumstances I look forward to hearing from you soonest.

'nd regards

Ian

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 03 June 2021 15:59
To: Ian McGrail <ianmcgrail@gibtelecom.net>
Subject: Re: Personal - social insurance contributions & PAYE

Ian not an easy puzzle but on it. D

Darren Grech
Chief Secretary

HM Government of Gibraltar

o 6 Convent Place

Gibraltar

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> Was wondering if you had been able to resolve the issue of my tax status and social insurance contributions essential credits.
>
> Regards
>
> Ian
>
> Sent from my iPhone

On 27 May 2021, at 17:44, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

I asked Nicholas to give me some options so I could consider. D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

"I am the master of my fate: I am the captain of my soul."

> On 27 May 2021, at 12:27, Ian McGrail <ianmcgrail@gibtelecom.net> wrote:
>
> Dear Darren -
> Have you any news for me?
>
> Rgds
>
> Ian
>
> Sent from my iPhone
>
> > On 20 May 2021, at 16:50, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:
> >
> > Thanks, D
> >
> > Darren Grech
> > Chief Secretary
> >
> > HM Government of Gibraltar
> >
> > No 6 Convent Place
> >
> > Gibraltar
> >
> > "I am the master of my fate: I am the captain of my soul."
> >
> > > On 20 May 2021, at 16:01, ianmcgrail@gibtelecom.net wrote:
> > >
> > > Dear Darren –

By way of update I attach a letter from the Income Tax Office dated 11th May which I have only received in the mail today informing me that my application for Essential Credits has not been approved. As you know, the implications of this non approval is that my pension will remain taxable until I attain the age of 60 which is contrary to what we agreed on my retirement.

I know you are waiting for the Director of Social Insurance, Nicholas Richardson, to return from leave next week to action the conditions we agreed for my retirement but I nonetheless wanted to share with you the correspondence I have received from the Tax Office. Evidently the matter will not be resolved in time for the payment of this month's pension but I trust it will be resolved as soon as possible when Mr Richardson returns to work.

For your information I have also attached a copy of my warrant of appointment, issued by HE The Governor under section 3.2 of the Police Act 2006 (itself a statutory instrument) which highlights the term of office as four years and which by default confirms that my compulsory retirement age was not 60 years as is being interpreted by the Tax Office.

As you copied Nicholas Richardson in our last exchange I have done likewise in the hope that the matter is expedited on his return to the office.

Best wishes

Ian

Darren Grech
Chief Secretary

Office of the Chief Secretary

HM Government of Gibraltar
No.6 Convent Place
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Tel: +(350) 20051752
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darren.grech@gibraltar.gov.gi

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Please consider the environment before printing this email.

From: Ian McGrail <ianmcgrail@gibtelecom.net>
Sent: 18 May 2021 14:23
To: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Cc: (DSS) Richardson, Nicholas <nicholas.richardson@gibraltar.gov.gi>
Subject: Re: Personal - social insurance contributions & PAYE

Darren - noted with many thanks.

Regards

Ian

Sent from my iPhone

On 18 May 2021, at 14:08, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Ian I am waiting on Nicholas

Richardson who was on leave. D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

On 18 May 2021, at 12:56, Ian McGrail <ianmcgrail@gibtelecom.net> wrote:

Dear Darren - Would you have an update

5

for me in relation to your intended intervention with the Tax Office as referred to in your email of 11th May 2021.

Regards

Ian

Sent from my

(NO6) Corby, Giselle

Subject: FW: Personal - social insurance contributions & PAYE

From: Ian McGrail <ianmcgrail@gibtelecom.net>
Sent: 03 June 2021 08:48
To: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Subject: Re: Personal - social insurance contributions & PAYE

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Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

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Dear Darren –

By way of update I attach a letter from the Income Tax Office dated 11th May which I have only received in the mail today informing me that my application for Essential Credits has not been approved. As you know, the implications of this non approval is that my pension will remain taxable until I attain the age of 60 which is contrary to what we agreed on my retirement.

I know you are waiting for the Director of Social Insurance, Nicholas Richardson, to return from leave next week to action the conditions we agreed for my retirement but I nonetheless wanted to share with you the correspondence I have received from the Tax Office. Evidently the matter will not be resolved in time for the payment of this month's pension but I trust it will be resolved as soon as possible when Mr Richardson returns to work.

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As you copied Nicholas Richardson in our last exchange I have done likewise in the hope that the matter is expedited on his return to the office.

Best wishes

Ian

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex: 2832
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

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Please consider the environment before printing this email.

From: Ian McGrail <ianmcgrail@gibtelecom.net>
Sent: 18 May 2021 14:23
To: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Cc: (DSS) Richardson, Nicholas <nicholas.richardson@gibraltar.gov.gi>
Subject: Re: Personal - social insurance contributions & PAYE

Darren - noted with many thanks.

Regards

Ian

Sent from my iPhone

On 18 May 2021, at 14:08, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Ian I am waiting on Nicholas Richardson who was on leave. D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

On 18 May 2021, at 12:56, Ian McGrail <ianmcgrail@gibtelecom.net> wrote:

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Regards

Ian

Sent from my iPhone

On 11 May 2021, at 17:27, Ian McGrail <ianm

(NO6) Grech, Darren

From: (DSS) Richardson, Nicholas
Sent: 26 May 2021 16:18
To: (NO6) Grech, Darren
Subject: RE: Personal - social insurance contributions & PAYE

Chief, just a thought but a possible way around it could be to have Mr McGrail become a voluntary contributor so that this does not affect his OAP and have GoG reimburse him for the cost (approx £13 per week); and whilst his pension is taxable GOG pay him the value of the amounts deducted in tax as a monthly ex-gratia payment. The net effect would be the same as the intended arrangement but would on paper be in line with the legislation. This may be easier, more streamlined and less risky than amending the pensions act itself?

Best

N

Sent from my Galaxy

-------- Original message --------

From: "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>

Date: 26/05/2021 4:06 pm (GMT+01:00)

To: "(DSS) Richardson, Nicholas" <nicholas.richardson@gibraltar.gov.gi>

Subject: Re: Personal - social insurance contributions & PAYE

Thanks Nick. More thinking for me. D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 26 May 2021, at 14:55, (DSS) Richardson, Nicholas <nicholas.richardson@gibraltar.gov.gi> wrote:

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(b) **has retired at age 55 by operation of law,** (My emphasis)

(c) is not entitled in respect of the same week to a credit under any other provision of these regulations.

The law referred to above, would in this case be the Pensions Act 1961-13, which governs Civil Service Pensions.

Under Compulsory Retirement 8.(1), the Act states;

The Governor on the advice of the Government may require an officer to retire from the public service under the Government

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(b) in special cases at any time after he attains the age of fifty years.

(2) In the case of any fire officer, **police officer**, (my emphasis) prison officer, customs officer or port officer the Governor, on the advice of the Government, may require such officer to retire from the public service under the Government at any time after he has attained the age of fifty years **and retirement shall be compulsory for every such officer on attaining the age of fifty - five years** (my emphasis) Provided that the Governor shall, in exceptional circumstances and on the recommendation of the Government, increase the compulsory retirement age in this subsection with respect to a particular police, fire, prison, customs or port officer or officers.

However, the Act goes on to define a Police Officer under the "Interpretation" as;

"Police Officer" includes all members of the civil police force ***other than the Commissioner of Police*** (my emphasis) The same is true of the respective heads of the Port, Prison and Fire services;

"Port Officer" means an officer of the Gibraltar Port Authority of a marine grade, other than the Captain of the Port

"Prison officer" includes all members of the prison service other than the Superintendent of the Prison.

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Therefore, neither the age of 55, nor the powers of the Governor to exceptionally increase the compulsory age as stipulated at 8.(1) (2) above, apply to the Commissioner of Police. As a result he cannot be considered to have retired at age 55 by **"operation of the law"** as stated under 11.A(1) of the Social Insurance (Contributions) Regulations above. The CoP normal retirement age would

therefore be 60 and not the compulsory retirement age of 55. I can confirm that I have cross checked this against Mr Louis Wink's and Mr Eddie Yome's insurance records (both previous CoP) and that the same applied.

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Please do not hesitate to contact me if I can be of any further assistance. (please note my landline is down and is reported; I am available on mobile/WhatsApp if you want to discuss the above.)

Best regards

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Nicholas Richardson
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Department of Social Security
HM Government of Gibraltar
14 Governor's Parade
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From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 11 May 2021 16:39

To: (DSS) Richardson, Nicholas <nicholas.richardson@gibraltar.gov.gi>
Subject: Fwd: Personal - social insurance contributions & PAYE

Dear Nicholas,

I hope you are well.

The below is an email from retired Commissioner Iain McGrail. Can you afford me some guidance please? I did agree a set of circumstances with him just before he left us.

Best wishes,

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> I hope this e-mail finds you well.
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contract] and therefore my compulsory retirement age would not have been 60 but rather 56. You will agree that my situation as commissioner of police under a specific contract is completely different to that of another head of department and you will be aware that there is precedent for this.

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Look forward to hearing from you.

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Importance: High

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(NO6) Grech, Darren

From: ianmcgrail@gibtelecom.net
Sent: 20 May 2021 16:01
To: (NO6) Grech, Darren
Cc: (DSS) Richardson, Nicholas
Subject: FW: Personal - social insurance contributions & PAYE
Attachments: Warrant of appointment.JPG; letter from Tax Office dated 11 05 2021.pdf

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> > **From:** "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
> > **Date:** 11 May 2021 at 16:37:21 GMT+2
> > **To:** ianmcgrail@gibtelecom.net
> > **Subject: Re: Personal - social insurance contributions & PAYE**
> >
> > Dear Ian,
> >
> > I hope you are well and enjoying life.

I will action this with SI.

Best wishes,

D

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Chief Secretary

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His Excellency
Lieutenant General Edward Davis CB CBE KStJ
Governor & Commander-in-Chief

The Convent
Gibraltar

WARRANT OF APPOINTMENT

COMMISSIONER OF POLICE GIBRALTAR

Pursuant of Section 3.2 of the Gibraltar Police Act 2006, and acting in accordance with the advice of the Gibraltar Police Authority, I hereby appoint you,

Superintendent Ian McGrail MSc OTPM

to be Commissioner of Police Gibraltar for a tenure of four years with effect from the First day of May, 2018, in the Sixty-eighth year of Her Majesty's Reign.

Given under my hand this 26th day of April 2018.

Lieutenant General Edward Davis CB CBE KStJ
Governor and Commander-in-Chief

Income Tax Office
HM Government of Gibraltar

Your ref: 25542

Ian McGrail
6 Electra Flats
Scud Hill
Gibraltar

11 May 2021

Dear Sir

RE: CREDITS FOR PERSONS AGED 55 AND OVER

I regret to inform you that your application dated 29th April 2021 for credits under section 11A. (1)(b) of the Social Security Insurance Contributions Regulations has not been approved.

'Credits for persons aged 60 or over or having attained statuary retirement age.
11A (1) This regulation applies to any person who:
(b) has retired at age 55 by operation of law'

As Ex-Commissioner of Police, your compulsory retirement age is 60 years.

Please do not hesitate to contact me on Tel: 200 76816 should you require any further information.

Yours faithfully

A Collado (Mrs)
for Commissioner of Income Tax

Telephone No: (350) 20052737, Centrex 2369; Fax No: (350) 20048474, Centrex: 2356;

(NO6) Grech, Darren

From: Ian McGrail <ianmcgrail@gibtelecom.net>
Sent: 18 May 2021 12:57
To: (NO6) Grech, Darren
Subject: Re: Personal - social insurance contributions & PAYE

Dear Darren -

Would you have an update for me in relation to your intended intervention with the Tax Office as referred to in your email of 11th May 2021.

Regards

Ian

Sent from my iPhone

On 11 May 2021, at 17:27, Ian McGrail <ianmcgrail@gibtelecom.net> wrote:

Darren -
Many thanks for your kind attention and intervention on this matter.

Best wishes

Ian

Sent from my iPhone

Begin forwarded message:

From: "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
Date: 11 May 2021 at 16:37:21 GMT+2
To: ianmcgrail@gibtelecom.net
Subject: Re: Personal - social insurance contributions & PAYE

Dear Ian,

I hope you are well and enjoying life.

I will action this with SI.

Best wishes,

D

Darren Grech
Chief Secretary

HM Government of Gibraltar

No 6 Convent Place

Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 11 May 2021, at 10:05, ianmcgrail@gibtelecom.net wrote:

Dear Darren –

I hope this e-mail finds you well.

Time flies and it is practically coming up to a year since I left the RGP. Now that I am 55 years old I have been doing the rounds with the Income Tax Department *viz* my social insurance contributions and tax status in accordance with the instructions I received from the DSS in the pension forecast they provided me. It is for this reason that I am writing to you.

I have been informed by the Social Insurance Contributions Section at the Tax Office that I do not qualify for Essential Credits because I was a head of department and I retired before the compulsory retirement age of 60. This is technically incorrect as in my case I was serving under a Governor's warrant for a term of 4 years [my contract] and therefore my compulsory retirement age would not have been 60 but rather 56. You will agree that my situation as commissioner of police under a specific contract is completely different to that of another head of department and you will be aware that there is precedent for this.

With regards to my tax status I have been informed by PAYE that my code will be amended so that I do not pay tax on my occupational pension. However, the very kind lady attending to me mentioned this would still need approval from SI contributions section and Treasury. Given the position of SI contributions section mentioned above I am concerned that the same interpretation of the compulsory retirement age will be applied to me on this matter too.

You will recall during my final e-mail exchanges with you on 8th June 2020 that I made certain requests on the conditions for my early retirement. These conditions I had also discussed with Nick Pyle

who was the interim Governor at the time. He relayed these conditions to you and an exchange of emails between you and I ensued. Of the 5 conditions I put forward you did not accept one and partially accepted another one, i.e. the claim for payment until end of contract and my legal fees. The other conditions were accepted. One of these related to my pension where I asked that this be worked out based on my salary at the time. Under this condition I also expressed my understanding that my pension would be taxable until I attained the age of 55. There was tacit approval from you on this and based of this agreement I worked out my pension/gratuity package for my future income.

It is evident that the compulsory retirement age being referred to by SI contributions section is not applicable to my case for the reasons already alluded to above. I respectfully ask that you impart the conditions of my early retirement to the SI contributions and PAYE sections respectively so that they can action accordingly.

Look forward to hearing from you.

Best wishes

Ian

(NO6) Corby, Giselle

Subject: FW: Personal - social insurance contributions & PAYE

From: ianmcgrail@gibtelecom.net <ianmcgrail@gibtelecom.net>
Sent: 11 May 2021 10:06
To: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Subject: Personal - social insurance contributions & PAYE

Dear Darren –

I hope this e-mail finds you well.

Time flies and it is practically coming up to a year since I left the RGP. Now that I am 55 years old I have been doing the rounds with the Income Tax Department *viz* my social insurance contributions and tax status in accordance with the instructions I received from the DSS in the pension forecast they provided me. It is for this reason that I am writing to you.

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With regards to my tax status I have been informed by PAYE that my code will be amended so that I do not pay tax on my occupational pension. However, the very kind lady attending to me mentioned this would still need approval from SI contributions section and Treasury. Given the position of SI contributions section mentioned above I am concerned that the same interpretation of the compulsory retirement age will be applied to me on this matter too.

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It is evident that the compulsory retirement age being referred to by SI contributions section is not applicable to my case for the reasons already alluded to above. I respectfully ask that you impart the conditions of my early retirement to the SI contributions and PAYE sections respectively so that they can action accordingly.

Look forward to hearing from you.

Best wishes

Ian

(NO6) Grech, Darren

From: (HRD) Olivero, Lyzanne
Sent: 24 September 2020 15:31
To: Tony Sacramento (external); (HRD) Yeo, Collin
Cc: (NO6) Grech, Darren; (HRD) Vallejo, Katrina; Sergio Braz (external); Michelle Imossi (external); Edgar Harper (external)
Subject: RE: Commissioner of Police Mr I McGrail - Claim for Rest Days Worked
Attachments: Accountant General - Commissioner of Police Payment of Annual Leave and Rest Days.pdf; Email - COP Pension and Gratuity Award.pdf

Dear Tony,

Firstly apologies for not having replied sooner. I do understand the positon and that under the Police Regulations the rules may not allow the actual claiming of TOIL, untaken rest days and public holiday. Nevertheless, a commitment was made to the Ex Commissioner of Police to have these days, which seem to have been recorded, paid to him exceptionally as part of his retirement package. Is it my understanding that these days have not yet been made payable to Mr McGrail?

If this has not yet been processed then a possible solution to the above would be to explore and consider the awarding of an ex-gratia payment and equate the amount owed under such agreement as a one off payment to regularise this matter.

I would welcome your views and recommendations.

Kind regards

Lyzanne

Lyzanne Olivero
Senior Executive Officer (PP)

Human Resources Department
HM Government of Gibraltar
82-86 Harbours Walk
The New Harbours
Rosia Road
Gibraltar
GX11 1AA

Tel: (+350) 20041728
Centrex: 2791
Fax: (+350) 20079689
lyzanne.zammittolivero@gibraltar.gov.gi

www.gibraltar.gov.gi

Human Resources Department

HM Government of Gibraltar

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Please consider the environment before printing this email.

From: Tony Sacramento <tony.sacramento@audit.gov.gi>
Sent: 04 September 2020 15:50
To: (HRD) Yeo, Collin <collin.yeo@gibraltar.gov.gi>
Cc: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>; (HRD) Olivero, Lyzanne <lyzanne.zammittolivero@gibraltar.gov.gi>; (HRD) Vallejo, Katrina <katrina.vallejo@gibraltar.gov.gi>; Sergio Braz (external) <sergio.braz@audit.gov.gi>; Michelle Imossi (external) <michelle.imossi@audit.gov.gi>; Edgar Harper (external) <edgar.harper@audit.gov.gi>
Subject: Commissioner of Police Mr I McGrail - Claim for Rest Days Worked

Dear Collin,

Apologies, but further to my email below I want to make clear, in connection with the last sentence of paragraph 2 of my email, that the rules do not allow the actual claiming (as TOIL) of untaken rest days and public holidays, let alone the payment of such days.

Kind regards,

Tony

From: Tony Sacramento
Sent: Friday, 4 September 2020 15:16
To: (HRD) Yeo, Collin <collin.yeo@gibraltar.gov.gi>
Cc: '(NO6) Grech, Darren' <darren.grech@gibraltar.gov.gi>; '(HRD) Olivero, Lyzanne' <lyzanne.zammittolivero@gibraltar.gov.gi>; (HRD) Vallejo, Katrina <katrina.vallejo@gibraltar.gov.gi>; Sergio Braz <Sergio.Braz@audit.gov.gi>; Michelle Imossi <Michelle.Imossi@audit.gov.gi>; Edgar Harper <Edgar.Harper@audit.gov.gi>
Subject: Commissioner of Police Mr I McGrail - Claim for Rest Days Worked

Dear Collin,

I refer to my email below in connection with the claim for rest days by the outgoing Commissioner of Police, Mr Ian McGrail.

I should be grateful for your comments specifically regarding paragraph 3(a) of my email below (highlighted in yellow). I am aware that the payment of untaken rest days and public holidays made to Mr McGrail was treated exceptionally and therefore approved by the Chief Secretary on this basis as part of his retirement arrangements. However, the rules clearly do not allow such payments and consequently there is a need for your department to inform the Commissioner of Police that claims for payments of untaken rest days and public holidays is not allowed.

I look forward to your reply.

Best regards,

Tony

From: Tony Sacramento
Sent: Monday, 22 June 2020 18:19

To: (HRD) Yeo, Collin <collin.yeo@gibraltar.gov.gi>; (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Cc: Sergio Braz <Sergio.Braz@audit.gov.gi>; Michelle Imossi <Michelle.Imossi@audit.gov.gi>; (HRD) Olivero, Lyzanne <lyzanne.zammittolivero@gibraltar.gov.gi>; (HRD) Vallejo, Katrina <katrina.vallejo@gibraltar.gov.gi>
Subject: Commissioner of Police Mr I McGrail - Claim for Rest Days Worked

Dear Collin,

1. By cover of memorandum dated 11 June 2020 (see copy attached) you requested the Accountant General, in connection with Commissioner of Police McGrail's retirement on 10 June 2020, that he make arrangements to pay Mr McGrail 47 days of untaken annual leave and 61 accumulated rest days similarly untaken. The payment of untaken annual leave in addition to untaken days off in lieu were approved for payment by the Chief Secretary.

2. The 47 days of untaken annual leave represents a sum payment of **£25,217.80;** whilst the 61 untaken rest days amounts to **£32,729.49**, a total of **£57,947.29** payable in untaken leave.

3. However, I would like to bring to your attention the following observations in relation to the payment of the untaken rest days.

   (a) There appears to be no provision in the Police Regulations, nor in the Police Conditions of Service, that allows the Commissioner of Police, to be eligible to, or to claim, rest days and public holidays which he has been unable to take because of work commitments. Similarly, the rank of Superintendent is also not included as a police grade eligible to get time-off for working on rest days and public holidays. Mr McGrail has claimed 33 days of untaken rest days as a Superintendent, in addition to 28 days of untaken rest days as Commissioner of Police, a total of 61 days of untaken rest days and public holidays.

   (b) Nevertheless, further examination of the reasons for claiming untaken rest days shows that 11 days out of the 56 days claimed (marked in yellow in the chart below) refer to travelling time which is correctly allowed to be claimed by civil servants requiring to travel on official business during rest days or public holidays. Hence, Mr McGrail is legitimately entitled to claim a total of 11 rest days during which he was on business travel.

   (c) The Commissioner of Police, in addition to the Assistant Commissioner of Police, has an annual leave allowance of 42 days (48 days after 10 years) pursuant to General Orders. These two grades have the highest annual leave allowance in the civil service, as the majority of grades in the Service have a maximum of 30 days of annual leave per calendar year. Although I cannot find anything that explains the reasons for these two senior police grades having a higher level of annual leave, I would guess that the higher leave allowance for these police officers is to compensate for any additional police work that these officers are required to undertake on rest days and public holidays, however, this is just an assumption on my part.

   (d) The 33 days of untaken rest days worked as Superintendent were authorised to be taken 'in lieu' by the previous Commissioner of Police Mr Eddie Yome, or by the Chief Superintendent Mr Richard Mifsud; however, the 28 untaken rest days worked as Commissioner of Police have been authorised to be taken in lieu by Mr McGrail himself which is not an acceptable practice.

Commissioner of Police Mr I McGrail - Claim for Rest Days Worked

Grade	Date	Number of Days	Reason for working on Rest Day
Superintendent	18 January 2014	1	RGP Selection Weekend
Superintendent	19 January 2014	1	RGP Selection Weekend
Superintendent	4 October 2014	1	Mini Olympiad
Superintendent	15 November 2014	1	Arrest of PC Antony Sweet. Interdiction and ov
Superintendent	6 December 2014	1	RGP Selection Weekend
Superintendent	18 January 2015	1	Preparations of security brief for Commissione
Superintendent	1 February 2015	1	Travel to Madrid to liaise with CNP ref. CM's ta
Superintendent	4 July 2015	1	RG Parade (Cadets and GBH Register) represen
Superintendent	26 September 2015	1	Freedom of the City Parade

Superintendent	10 October 2015	1	Mini Olympiad
Superintendent	11 October 2015	1	Travelling to UK for series of meetings Home O
Superintendent	7 November 2015	1	Travelling back from ACPO meeting
Superintendent	5 December 2015	1	RGP Selection Weekend
Detective/Superintendent	14 March 2016	1	Travelling to Jersey for SINCERE Project
Detective/Superintendent	27 March 2016	1	Zack Valance - Serious Injury. Detainee Sean C
Detective/Superintendent	28 March 2016	1	Internal investigations arising from detainee Se
Superintendent	28 April 2016	1	RGP meetings with Moroccan LEA in Rabat, Mc
Detective/Superintendent	7 May 2016	1	Travelling following attendance at NCTP HQ (B
Detective/Superintendent	9 July 2016	1	Attended to sudden death of Brian Payas
Detective/Superintendent	10 September 2016	1	Travelling to Israel to attend World Summit on
Detective/Superintendent	11 September 2016	1	Attendance at CT conference and meetings
Detective/Superintendent	17 September 2016	1	Preparation of TTX Multi-Agency
Detective/Superintendent	18 September 2016	1	Preparation of TTX Multi-Agency
Detective/Superintendent	13 November 2016	1	Preparations for GIB-EX 2016
Detective/Superintendent	26 November 2016	1	Selection Weekend - undertaking integrity inte
Detective/Superintendent	27 November 2016	1	Preparations for GIB-EX 2016 multi-agency exe
Detective/Superintendent	11 February 2017	1	Report writing - Op. Apache (MoD incident
Detective/Superintendent	12 February 2017	1	Report writing - Op. Apache (MoD incident - Sg
Detective/Superintendent	26 March 2017	1	Preparations for intervention of bulk carrier fol
Detective/Superintendent	28 August 2017	1	Security arrangements for MTV event
Detective/Superintendent	2 September 2017	1	MTV Gibraltar Calling - GOLD Command
Commissioner of Police (designate)	13 January 2018	1	RGP Selection Weekend
Commissioner of Police (designate)	14 January 2018	1	RGP Selection Weekend
Commissioner of Police	1 May 2018	1	May Day Rally - Casemates
Commissioner of Police	13 May 2018	1	Clearing-up work load
Commissioner of Police	8 September 2018	1	Our Lady of Europe Procession at sea
Commissioner of Police	10 September 2018	1	National Day policing operation
Commissioner of Police	30 September 2018	1	Attendance at Narcotics Anonymous seminar -
Commissioner of Police	21 October 2018	1	Trafalgar Remembrance Service
Commissioner of Police	18 November 2018	1	Attendance at INTERPOL General Assembly - D
Commissioner of Police	11 March 2019	1	Clearing backlog of pending actions (GCID
Commissioner of Police	23 March 2019	1	Supporting the policing operations for the Gibr
Commissioner of Police	29 April 2019	1	Workers Memorial Day
Commissioner of Police	1 May 2019	1	May Day Public Holiday
Commissioner of Police	29 June 2019	1	Operation Florence - VCCL Grace 1
Commissioner of Police	30 June 2019	1	Operation Florence - VCCL Grace 1
Commissioner of Police	6 July 2019	1	Meetings with GFA CEO ref. St. Joseph's Footbi
Commissioner of Police	10 September 2019	1	National Day 2019 - policing operation
Commissioner of Police	12 October 2019	1	Official attendance at the GC Commemorative
Commissioner of Police	26 October 2019	1	Attendance at the International Association of
Commissioner of Police	27 October 2019	1	Attendance at the International Association of
Commissioner of Police	8 March 2020	1	Collision at sea - call out - 2 fatalities - Sir Franc
Commissioner of Police	9 March 2020	1	GOLD group meeting ref. collision at sea with f.
Commissioner of Police	22 March 2020	1	Attendance at Cabinet meeting at the Bunker r
Commissioner of Police	28 March 2020	1	GOLD group meeting at Training Wing re. Oper
Commissioner of Police	10 April 2020	1	Good Friday public holiday COVID-19 Strategic

Commissioner of Police	3 May 2020	1	COVID-19 Public information briefing at No. 6 (
Commissioner of Police	10 May 2020	1	COVID-19 Public information briefing at No. 6 (
Commissioner of Police	23 May 2020	1	Preparation of factual report for CM re. Operat
Commissioner of Police	24 May 2020	1	Preparation of factual report for CM re. Operat
Commissioner of Police	25 May 2020	1	Preparation of factual report for CM re. Operat
Total number of untaken Rest Days		**61**	

Kind regards,

Tony

Tony Sacramento
Principal Auditor

Gibraltar Audit Office
Suite 3.30 World Trade Center
6 Bayside Road
Gibraltar
GX11 1AA

Tel: (00350) 20051137; (centrex 2373)
Fax: (00350) 20051136; (centrex 2372)
Email: tony.sacramento@audit.gov.gi

Before printing, think about the environment

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Human Resources Department
HM Government of Gibraltar

Accountant General
Treasury (Salaries)

Your ref:
Our ref: P1914

11 June 2020

RE: MR IAN MCGRAIL – COMMISSIONER OF POLICE – PAYMENT OF ANNUAL LEAVE AND REST DAYS

I should be grateful if you would make the necessary arrangements to pay the abovementioned officer a one off payment in respect of 47 days annual leave of which he has been unable to take in accordance with General Order 1.2.18 (f) at the following rate of pay:

- 47 days @ August 2019 rate.

2. I should also be grateful if you would make the necessary arrangements to pay the abovementioned officer a one off payment in respect of 61 rest days of which he has been unable to take at the following rate of pay:

- 33 days at the grade of Superintendent @ August 2019 rate.
- 28 days at the grade of Commissioner of Police @ August 2019 rate.

K J Vallejo (Mrs)
for Human Resources Manager

Copy to: Commissioner of Police.
P/Aud
P/File

Human Resources Department
HM Government of Gibraltar • 82-86 Harbours Walk, The New Harbours, Rosia Road • Gibraltar GX11 1AA
t +350 20071911 f +350 20079689 e humanresources@gibraltar.gov.gi w gibraltar.gov.gi

25/6/2020

(NO6) Corby, Giselle

From: (HRD) Olivero, Lyzanne
Sent: 25 June 2020 12:38
To: (NO6) Grech, Darren
Cc: (HRD) Yeo, Collin; (HRD) Vallejo, Katrina; (NO6) Corby, Giselle; Tony Sacramento (external)
Subject: RE: Commissioner of Police - Mr Ian McGrail - Pension and Gratuity Award

Dear Mr Grech,

Further to my email hereunder I have now been informed by the Principal Auditor that there must be a mention of the provision in which the Commissioner is to early retire. In view of this please find hereunder the amended email which includes this, therefore I would be grateful if you could officially sign this email thread, scan and revert to us as soon as possible to be able to activate the pension and gratuity payment to ratify this retirement:

I have been instructed by the Human Resources Manager to seek the necessary approvals and your official signature to finalise Mr Ian Mc Grails Pension Process.

As you are aware Mr McGrail's request for early retirement and receive a pension award under the provisions of 6.1 (a)(i) of the Pensions Act was accepted and approved by His Excellency the Governor. Mr McGrail's Pension and Gratuity Award was processed immediately due to the urgency and upon the instructions that had been received at the time via email correspondence. Nevertheless the Gibraltar Audit Office require the following to complete the instruction under the provisions of the Pensions Act:

1) Although the Governor approved and signed the Early Retirement your official signature as the Chief Secretary is also required.
2) That confirmation is given that the agreement undertaken for Mr McGrail as listed below, is personal to holder, and no one else will benefit from such arrangements. It was confirmed that the following points where negotiated and forms part of the retirement agreement and will be paid to Mr McGrail under exceptional circumstances in full and final settlement of any claims, whatsoever and howsoever arising.

   (i) untaken leave will be paid;

   (ii) days off in lieu which have not been taken as leave will be paid;

   (iii) pension will be agreed at current salary;

   (iv) no sum can be paid in respect of months not worked or due as holiday and/or time in lieu;

   (v) I agree to a reimbursement of legal fees capped at a maximum of £2,500.

In view of the above and to expedite matters the Gibraltar Audit Office will accept your approval of this email and an officially signed scanned copy carrying your approval of your signature enclosed in this email.

Kind regards

Lyzanne

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 24 June 2020 18:00

To: (HRD) Olivero, Lyzanne <lyzanne.zammittolivero@gibraltar.gov.gi>
Cc: (HRD) Yeo, Collin <collin.yeo@gibraltar.gov.gi>; (HRD) Vallejo, Katrina <katrina.vallejo@gibraltar.gov.gi>; (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Subject: Re: Commissioner of Police - Mr Ian McGrail - Pension and Gratuity Award

Thanks.

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

> On 24 Jun 2020, at 17:55, (HRD) Olivero, Lyzanne <lyzanne.zammittolivero@gibraltar.gov.gi> wrote:
>
> Dear Darren,
>
> Many thanks for your approval. Once received we will send to the GAO for their immediate action.
>
> KR
>
> Lyzanne
>
> Sent from my iPhone

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex: 2832
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

On 24 Jun 2020, at 17:28, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Thanks Lyzanne,

I approve as discussed below. A signed copy of the email trail below will be scanned and sent in due course.

(Giselle could you please print for me etc)

Best wishes,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

> On 24 Jun 2020, at 13:11, (HRD) Olivero, Lyzanne <lyzanne.zammittolivero@gibraltar.gov.gi> wrote:
>
> Dear Mr Grech,
>
> I have been instructed by the Human Resources Manager to seek the necessary approvals and your official signature to finalise Mr Ian Mc Grails Pension Process.
>
> As you are aware Mr McGrail's request for early retirement was accepted and approved by His Excellency the Governor. Mr McGrail's Pension and Gratuity Award was processed immediately due to the urgency and upon the instructions that had been received at the time via email correspondence. Nevertheless the Gibraltar Audit Office require the following to complete the instruction under the provisions of the Pensions Act:
>
> 1) Although the Governor approved and signed the Early Retirement your official signature as the Chief Secretary is also required.
> 2) That confirmation is given that the agreement undertaken for Mr McGrail as listed below, is personal to holder, and no one else will benefit from such arrangements. It was confirmed that the following points where negotiated and forms part of the retirement agreement and will be paid to Mr McGrail under exceptional circumstances in full and final settlement of any claims, whatsoever and howsoever arising.

(i) untaken leave will be paid;

(ii) days off in lieu which have not been taken as leave will be paid;

(iii) pension will be agreed at current salary;

(iv) no sum can be paid in respect of months not worked or due as holiday and/or time in lieu;

(v) I agree to a reimbursement of legal fees capped at a maximum of £2,500.

In view of the above and to expedite matters the Gibraltar Audit Office will accept your approval of this email and an officially signed scanned copy carrying your approval of your signature enclosed in this email.

Kind regards

Lyzanne

Lyzanne Olivero
Senior Executive Officer (PP)

Human Resources Department
HM Government of Gibraltar
82-86 Harbours Walk
The New Harbours
Rosia Road
Gibraltar
GX11 1AA

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Fax: (+350) 20079689
lyzanne.zammittolivero@gibraltar.gov.gi

www.gibraltar.gov.gi

Human Resources Department

HM Government of Gibraltar

[illegible]

[illegible]

(NO6) Corby, Giselle

From:	(HRD) Olivero, Lyzanne
Sent:	26 June 2020 09:14
To:	(NO6) Grech, Darren
Cc:	Tony Sacramento (external); (HRD) Yeo, Collin; (HRD) Vallejo, Katrina; (NO6) Corby, Giselle
Subject:	Mr Ian McGrail - Commissioner of Police - Approval to early retire and received a Pension and Reduced Gratuity
Attachments:	Email - COP Pension and Gratuity Award.pdf
Importance:	High
Sensitivity:	Confidential

Dear Mr Grech,

Further approval is sought to allow Mr McGrail to be the recipient of the payment of a reduced pension and gratuity award.

Mr McGrail has been allowed to retire before the age of 55, under the provisions of the Pensions Act 6. 1. (a) (i), nevertheless a further formal signed approval is required to allow for the Pension Award to be processed as a reduced pension and gratuity payment, rather than a 100% commutation award that is granted to officers who are eligible to retire before the age of 55.

I apologise for this omission in my email of yesterday and for the inconvenience. However, would be grateful to receive a signed scanned copy of this email to finalise this process.

Kind regards

Lyzanne

26.6.2020

(NO6) Corby, Giselle

Subject: FW: Mr Ian McGrail - Commissioner of Police - Approval to early retire and received a Pension and Reduced Gratuity

Sensitivity: Confidential

From: Tony Sacramento <tony.sacramento@audit.gov.gi>
Sent: 26 June 2020 13:23
To: (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Cc: (HRD) Yeo, Collin <collin.yeo@gibraltar.gov.gi>; (HRD) Vallejo, Katrina <katrina.vallejo@gibraltar.gov.gi>; (HRD) Olivero, Lyzanne <lyzanne.zammittolivero@gibraltar.gov.gi>; (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Subject: RE: Mr Ian McGrail - Commissioner of Police - Approval to early retire and received a Pension and Reduced Gratuity
Sensitivity: Confidential

Many thanks Giselle,

The timing was very good, because coincidentally the Treasury messenger was here in our office delivering mail when you sent the email so he managed to take Mr McGrail's pension file, with the printed email duly signed by the Chief Secretary, immediately to the Financial Secretary.

Thank you once again,

Best regards,
Tony

From: (NO6) Corby, Giselle [mailto:giselle.corby@gibraltar.gov.gi]
Sent: 26 June 2020 12:44
To: Tony Sacramento <tony.sacramento@audit.gov.gi>
Cc: (HRD) Yeo, Collin <collin.yeo@gibraltar.gov.gi>; (HRD) Vallejo, Katrina <katrina.vallejo@gibraltar.gov.gi>; (HRD) Olivero, Lyzanne <lyzanne.zammittolivero@gibraltar.gov.gi>; (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Subject: RE: Mr Ian McGrail - Commissioner of Police - Approval to early retire and received a Pension and Reduced Gratuity
Importance: High
Sensitivity: Confidential

Dear Tony

Please find attached email re the above approved by the Chief Secretary.

Regards
Giselle

From: (HRD) Olivero, Lyzanne <lyzanne.zammittolivero@gibraltar.gov.gi>
Sent: 26 June 2020 09:14
To: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Cc: Tony Sacramento (external) <tony.sacramento@audit.gov.gi>; (HRD) Yeo, Collin <collin.yeo@gibraltar.gov.gi>; (HRD) Vallejo, Katrina <katrina.vallejo@gibraltar.gov.gi>; (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Subject: Mr Ian McGrail - Commissioner of Police - Approval to early retire and received a Pension and Reduced

Gratuity
Importance: High
Sensitivity: Confidential

Dear Mr Grech,

Further approval is sought to allow Mr McGrail to be the recipient of the payment of a reduced pension and gratuity award.

Mr McGrail has been allowed to retire before the age of 55, under the provisions of the Pensions Act 6. 1. (a) (i), nevertheless a further formal signed approval is required to allow for the Pension Award to be processed as a reduced pension and gratuity payment, rather than a 100% commutation award that is granted to officers who are eligible to retire before the age of 55.

I apologise for this omission in my email of yesterday and for the inconvenience. However, would be grateful to receive a signed scanned copy of this email to finalise this process.

Kind regards

Lyzanne

25/6/2020

(NO6) Corby, Giselle

From: (HRD) Olivero, Lyzanne
Sent: 25 June 2020 12:38
To: (NO6) Grech, Darren
Cc: (HRD) Yeo, Collin; (HRD) Vallejo, Katrina; (NO6) Corby, Giselle; Tony Sacramento (external)
Subject: RE: Commissioner of Police - Mr Ian McGrail - Pension and Gratuity Award

Dear Mr Grech,

Further to my email hereunder I have now been informed by the Principal Auditor that there must be a mention of the provision in which the Commissioner is to early retire. In view of this please find hereunder the amended email which includes this, therefore I would be grateful if you could officially sign this email thread, scan and revert to us as soon as possible to be able to activate the pension and gratuity payment to ratify this retirement:

I have been instructed by the Human Resources Manager to seek the necessary approvals and your official signature to finalise Mr Ian Mc Grails Pension Process.

As you are aware Mr McGrail's request for early retirement and receive a pension award under the provisions of 6.1 (a)(i) of the Pensions Act was accepted and approved by His Excellency the Governor. Mr McGrail's Pension and Gratuity Award was processed immediately due to the urgency and upon the instructions that had been received at the time via email correspondence. Nevertheless the Gibraltar Audit Office require the following to complete the instruction under the provisions of the Pensions Act:

1) Although the Governor approved and signed the Early Retirement your official signature as the Chief Secretary is also required.
2) That confirmation is given that the agreement undertaken for Mr McGrail as listed below, is personal to holder, and no one else will benefit from such arrangements. It was confirmed that the following points where negotiated and forms part of the retirement agreement and will be paid to Mr McGrail under exceptional circumstances in full and final settlement of any claims, whatsoever and howsoever arising.

   (i) untaken leave will be paid;

   (ii) days off in lieu which have not been taken as leave will be paid;

   (iii) pension will be agreed at current salary;

   (iv) no sum can be paid in respect of months not worked or due as holiday and/or time in lieu;

   (v) I agree to a reimbursement of legal fees capped at a maximum of £2,500.

In view of the above and to expedite matters the Gibraltar Audit Office will accept your approval of this email and an officially signed scanned copy carrying your approval of your signature enclosed in this email.

Kind regards

Lyzanne

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 24 June 2020 18:00

To: (HRD) Olivero, Lyzanne <lyzanne.zammittolivero@gibraltar.gov.gi>
Cc: (HRD) Yeo, Collin <collin.yeo@gibraltar.gov.gi>; (HRD) Vallejo, Katrina <katrina.vallejo@gibraltar.gov.gi>; (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Subject: Re: Commissioner of Police - Mr Ian McGrail - Pension and Gratuity Award

Thanks.

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

> On 24 Jun 2020, at 17:55, (HRD) Olivero, Lyzanne <lyzanne.zammittolivero@gibraltar.gov.gi> wrote:
>
> Dear Darren,
>
> Many thanks for your approval. Once received we will send to the GAO for their immediate action.
>
> KR
>
> Lyzanne
>
> Sent from my iPhone

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
Centrex: 2832
darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

On 24 Jun 2020, at 17:28, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Thanks Lyzanne,

I approve as discussed below. A signed copy of the email trail below will be scanned and sent in due course.

(Giselle could you please print for me etc)

Best wishes,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

> On 24 Jun 2020, at 13:11, (HRD) Olivero, Lyzanne <lyzanne.zammittolivero@gibraltar.gov.gi> wrote:
>
> Dear Mr Grech,
>
> I have been instructed by the Human Resources Manager to seek the necessary approvals and your official signature to finalise Mr Ian Mc Grails Pension Process.
>
> As you are aware Mr McGrail's request for early retirement was accepted and approved by His Excellency the Governor. Mr McGrail's Pension and Gratuity Award was processed immediately due to the urgency and upon the instructions that had been received at the time via email correspondence. Nevertheless the Gibraltar Audit Office require the following to complete the instruction under the provisions of the Pensions Act:
>
> 1) Although the Governor approved and signed the Early Retirement your official signature as the Chief Secretary is also required.
> 2) That confirmation is given that the agreement undertaken for Mr McGrail as listed below, is personal to holder, and no one else will benefit from such arrangements. It was confirmed that the following points where negotiated and forms part of the retirement agreement and will be paid to Mr McGrail under exceptional circumstances in full and final settlement of any claims, whatsoever and howsoever arising.

(i) untaken leave will be paid;

(ii) days off in lieu which have not been taken as leave will be paid;

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(v) I agree to a reimbursement of legal fees capped at a maximum of £2,500.

In view of the above and to expedite matters the Gibraltar Audit Office will accept your approval of this email and an officially signed scanned copy carrying your approval of your signature enclosed in this email.

Kind regards

Lyzanne

Lyzanne Olivero
Senior Executive Officer (PP)

Human Resources Department
HM Government of Gibraltar
82-86 Harbours Walk
The New Harbours
Rosia Road
Gibraltar
GX11 1AA

Tel: (+350) 20041728
Centrex: 2791
Fax: (+350) 20079689
lyzanne.zammittolivero@gibraltar.gov.gi

www.gibraltar.gov.gi

Human Resources Department

HM Government of Gibraltar

[illegible]

(NO6) Corby, Giselle

Subject: FW: Commissioner of Police - Mr Ian McGrail - Pension and Gratuity Award

From: (HRD) Olivero, Lyzanne <lyzanne.zammittolivero@gibraltar.gov.gi>
Sent: 24 June 2020 17:55
To: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Cc: (HRD) Yeo, Collin <collin.yeo@gibraltar.gov.gi>; (HRD) Vallejo, Katrina <katrina.vallejo@gibraltar.gov.gi>; (NO6) Corby, Giselle <giselle.corby@gibraltar.gov.gi>
Subject: Re: Commissioner of Police - Mr Ian McGrail - Pension and Gratuity Award

Dear Darren,

Many thanks for your approval. Once received we will send to the GAO for their immediate action.

KR

yzanne

Sent from my iPhone

On 24 Jun 2020, at 17:28, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

Thanks Lyzanne,

I approve as discussed below. A signed copy of the email trail below will be scanned and sent in due course.

(Giselle could you please print for me etc)

Best wishes,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 24 Jun 2020, at 13:11, (HRD) Olivero, Lyzanne <lyzanne.zammittolivero@gibraltar.gov.gi> wrote:

Dear Mr Grech,

I have been instructed by the Human Resources Manager to seek the necessary approvals and your official signature to finalise Mr Ian Mc Grails Pension Process.

As you are aware Mr McGrail's request for early retirement was accepted and approved by His Excellency the Governor. Mr McGrail's Pension and Gratuity Award was processed immediately due to the urgency and upon the instructions that had been received at the time via email correspondence. Nevertheless the Gibraltar Audit Office require the following to complete the instruction under the provisions of the Pensions Act:

1) Although the Governor approved and signed the Early Retirement your official signature as the Chief Secretary is also required.
2) That confirmation is given that the agreement undertaken for Mr McGrail as listed below, is personal to holder, and no one else will benefit from such arrangements. It was confirmed that the following points where negotiated and forms part of the retirement agreement and will be paid to Mr McGrail under exceptional circumstances in full and final settlement of any claims, whatsoever and howsoever arising.

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   (ii) days off in lieu which have not been taken as leave will be paid;

   (iii) pension will be agreed at current salary;

   (iv) no sum can be paid in respect of months not worked or due as holiday and/or time in lieu;

   (v) I agree to a reimbursement of legal fees capped at a maximum of £2,500.

In view of the above and to expedite matters the Gibraltar Audit Office will accept your approval of this email and an officially signed scanned copy carrying your approval of your signature enclosed in this email.

Kind regards

Lyzanne

Lyzanne Olivero
Senior Executive Officer (PP)

Human Resources Department
HM Government of Gibraltar
82-86 Harbours Walk
The New Harbours
Rosia Road
Gibraltar
GX11 1AA

Tel: (+350) 20041728
Centrex: 2791

Fax: (+350) 20079689
lyzanne.zammittolivero@gibraltar.gov.gi

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Human Resources Department

HM Government of Gibraltar

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(NO6) Corby, Giselle

Subject: FW: OFFICIAL - letter of retirement
Attachments: Letter of Early Reitrement to Governor.pdf

From: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Sent: 09 June 2020 09:00
To: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Cc: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>; (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Subject: Fwd: OFFICIAL - letter of retirement

I've acknowledged and said I would confirm terms with the Chief Secretary and revert accordingly.

I'll then write approving the request and ask that we discuss media handling with a view to statements at 15.00 or as early as you deem fit.

Nick

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: Tuesday, June 9, 2020 8:13:52 AM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: OFFICIAL - letter of retirement

Nick
Please see attached. Shall we fix for midday to issue media release? Mine is going to be very brief too, just incorporating my farewell to the workforce etc.

Regards
Ian

Ian McGrail *OTM MSc*
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

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Delivering a Safer Gibraltar through Excellence in Policing

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Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

9th June 2020

His Excellency Nick Pyle OBE
Governor
The Convent
Gibraltar

Your Excellency,

Further to our meetings, discussions and correspondence of the last weeks and yesterday, I respectfully submit my application for early retirement from my post as Commissioner of the Royal Gibraltar Police on the following terms;

(i) Untaken leave will be paid
(ii) Days off in lieu which have not been taken as leave will be paid.
(iii) Pension will be calculated at current salary. Payments to begin on 1st July 2020.
(iv) A contribution of £2500 towards my legal fees.

Should you agree, I would relinquish command of the RGP by 1800Hrs on Tuesday 9th June 2020.

Yours sincerely

Ian McGrail OTM MSc
Commissioner of Police

(NO6) Corby, Giselle

Subject: FW: Fwd: Your offer of retirement

From: (MIN) Fabian Picardo <Fabian.picardo.cm@gibraltar.gov.gi>
Sent: 08 June 2020 19:31
To: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>; (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>; (GLO) DeVincenzi, Lloyd <lloyd.devincenzi@gibraltar.gov.gi>; (NO6) Britto, Joey <joey.britto@gibraltar.gov.gi>
Subject: Re: Fwd: Your offer of retirement

Must be also: 'in full and final settlement of all and any claims, whatsoever and howsoever arising.'

Sent from my BlackBerry — the most secure mobile device

From: Fabian.picardo.cm@gibraltar.gov.gi
Sent: 8 June 2020 19:21
To: darren.grech@gibraltar.gov.gi; michael.llamas@gibraltar.gov.gi; lloyd.devincenzi@gibraltar.gov.gi; joey.britto@gibraltar.gov.gi
Subject: Re: Fwd: Your offer of retirement

Hi.

As Minister for Finance, my position is as follows:

1. Untaken leave allowance should be paid;

2. Days off in lieu which have not been taken as leave should be paid;

3. Pension can be agreed at current salary. This may require consent of the Principal Auditor as a formality.

4. No sum should be paid in respect of months not worked or due as holiday / time in lieu.

5. The flaws in the GPA process here were not the flaws which were addressed in Mr McGrail's lawyers letters. Much of what is contained in the letters is a recitation of unjustified allegations. The GPA should nonetheless, in recognition of its problems with quorum, agree to make a contribution to his proper costs. These should be capped at a maximum of £2,500.

I hope this is helpful.

Best wishes

Fabian

Sent from my BlackBerry — the most secure mobile device

From: darren.grech@gibraltar.gov.gi
Sent: 8 June 2020 19:10

To: Fabian.picardo.cm@gibraltar.gov.gi; michael.llamas@gibraltar.gov.gi; lloyd.devincenzi@gibraltar.gov.gi; joey.britto@gibraltar.gov.gi
Subject: Fwd: Your offer of retirement

Dear CM,

Please give me a steer on the below.

Best wishes,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

''I am the master of my fate: I am the captain of my soul."

Begin forwarded message:

> **From:** "(RGP) McGrail, Ian M.Sc (OTM)" <Ian.McGrail@royalgib.police.gi>
> **Date:** 8 June 2020 at 19:01:33 GMT+2
> **To:** "Nick Pyle (Sensitive)" <Nick.Pyle@fco.gov.uk>
> **Cc:** "(NO6) Grech, Darren" <darren.grech@gibraltar.gov.gi>
> **Subject: Re: Your offer of retirement**
>
> Dear Darren - I note your email below where the terms I discussed with HE are not acceptable to government, in particular the 22 months salary and the legal costs.
>
> I note you make no reference to my untaken annual leave and days owed in lieu which I would ask should be paid.
>
> In terms of my pension/gratuity I explained to HE that I would ask for this to be worked out on my currently salary. I understand My pension would be taxable until I attain the age of 55yrs.
>
> I terms of the legal costs I would make the follow submission for your consideration:-
> The Section 34 Police Act (2006) procedure was withdrawn because it was flawed.
>
> In order to establish this I had to retain lawyers. In fact, it was recommended to me by the GPA Chair that I should get legal advice.
>
> Moreover, the matter was sufficiently complex for the GPA itself to engage a QC who correctly advised that the process was flawed.
>
> As a result of the expense I have had to incur the GPA now has the benefit of legal advice which will ensure that the mistake is not repeated.
>
> The custom in situations such as this is for the public body to pay the cost of the citizen against whom a flawed process was initiated.

Finally, I feel entitled to retire in the same position I would have done so had I not been practically compelled to retire which is why I included the remaining months of salary as a consideration. If this is not possible, would you consider 12 months salary instead?

I look forward to hearing from you. If you feel we can discuss the matter over the phone please do let me know.

Regards
Ian

On 8 Jun 2020, at 17:55, Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk> wrote:

Dear Ian

In view of this correspondence, could you please confirm whether it is still your intention to retire with effect from 18.00 tomorrow (9June).

Regards

Nick

N J Pyle
Governor

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: Monday, June 8, 2020 5:47:12 PM
To: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Cc: Ian McGrail <Ian.McGrail@royalgib.police.gi>
Subject: Re: Your offer of retirement

Dear Commissioner,

Further to the additional information from the Governor, pension rights is one thing we could consider. Please inform what you have in mind.

Best wishes,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

On 8 Jun 2020, at 17:42, Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk> wrote:

Dear Chief Secretary

With apologies for not making myself clear, the Commissioner did make reference to pension rights as well.

Regards

Nick

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: Monday, June 8, 2020 5:33:33 PM
To: Ian McGrail <Ian.McGrail@royalgib.police.gi>
Cc: Nick Pyle (Sensitive) <Nick.Pyle@fco.gov.uk>
Subject: Your offer of retirement

Dear Commissioner,

The Governor has informed me of your offer to retire as from 18.00 tomorrow, 9 June 2020, subject to the following terms:

- Payment up until end of contract (April 2022);
- Payment of Legal Fees.

These terms are not acceptable to the Government.

Yours sincerely,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: +(350) 20051752
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darren.grech@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Chief Secretary

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(NO6) Corby, Giselle

Subject: FW:

-----Original Message-----
From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 08 June 2020 21:27
To: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Cc: Nick Pyle <nick.pyle@fco.gov.uk>
Subject: Re:

Dear Darren -
Many thanks for this. I will be handing in my letter to the Governor first thing in the morning. I will have it hand delivered to him by 0830hrs.

Regards
Ian

Sent from my iPhone

> On 8 Jun 2020, at 21:16, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:
>
> Dear Ian,
>
> Further to your email of today 8 June 2020 received by me at 19:01, I can confirm the following:
>
> (i) untaken leave will be paid;
>
> (ii) days off in lieu which have not been taken as leave will be paid;
>
> (iii) pension will be agreed at current salary;
>
> (iv) no sum can be paid in respect of months not worked or due as holiday and/or time in lieu;
>
> (v) I agree to a reimbursement of legal fees capped at a maximum of £2,500.
>
> You should note this is in full and final settlement of any claims, whatsoever and howsoever arising.
>
>
> Your sincerely,
>
>
> Darren
>
> Darren Grech
> Chief Secretary
> HM Government of Gibraltar
> No 6 Convent Place
> Gibraltar
>
>

In the Matter of the Commissions of Inquiry Act

and

In the Matter of an Inquiry into the retirement of the former Commissioner of Police convened by a Commission issued by HM Government of Gibraltar on the 4th February 2022 in Legal Notice No 34 of 2022 ("the Inquiry")

EXHIBIT AM1

This is the bundle of exhibits marked **"AM1"** referred to in the Affidavit of Albert Mena sworn this 15th day of September 2022.

Before me,

Callum Smith
Commissioner of Oaths

Commissioner for Oaths

(MOF) Cruz, Alison

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 11 May 2019 18:30
To: (MIN) Picardo, Fabian; (MIN) Costa, Neil; (GLO) Llamas QC, Michael; (MOF) Mena, Albert; (NO6) Grech, Darren; (GLO) Rocca, Christian
Subject: OFFICIAL - SENSITIVE - Op Delhi

Dear all –

I believe you are aware of the investigation we are conducting following a complaint filed by James Gaggero, Chairman of the Bland Group. Yesterday, we carried out executive action on three ex-Bland Group employees and they are now on police bail. Immediate enquires post to our intervention have revealed issues of serious concern which I require to brief you on. Please advise when we could meet - the sooner the better. I would also ask that this request to meet is not shared with anyone other than those copied in this email.

KR
Ian

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

Royal Gibraltar POLICE
Delivering a Safer Gibraltar through Excellence in Policing

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Follow Us on Twitter: @rgpolice
Like us on Facebook: www.facebook.com/royalgibpolice

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Please consider the environment before printing this email.

(MOF) Cruz, Alison

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 11 May 2019 19:14
To: (GLO) Rocca, Christian
Cc: (MOF) Mena, Albert; (MIN) Picardo, Fabian; (MIN) Costa, Neil; (GLO) Llamas QC, Michael; (NO6) Grech, Darren
Subject: Re: OFFICIAL - SENSITIVE - Op Delhi

Dear All -
We have agreed to meet at 0915hrs on Monday at the CM's office.
Many thanks.
KR
Ian

Sent from my iPhone

On 11 May 2019, at 18:37, (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi> wrote:

> Dear Ian,
>
> Further to the FS's e mail I am free tomorrow (Sunday) as required.
>
> Best Regards,
>
> Christian
>
> Sent from my iPhone
>
> On 11 May 2019, at 18:33, (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi> wrote:
>
> > Ian,
> >
> > Thank you for your email.
> >
> > I am travelling on Monday so this would need to be early Monday morning or before to suit.
> >
> > I will make myself available to align with the CM and the Minister.
> >
> > Kind regards
> >
> > Albert

Albert Mena
Financial Secretary

Office of the Financial Secretary
HM Government of Gibraltar
No.6 Convent Place

AM1/2

Gibraltar
GX11 1AA

Tel: (+350) 20051168

Centrex [redacted]

Fax: (+350) 20079901

albert.mena@gibraltar.gov.gi

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Office of the Financial Secretary

HM Government of Gibraltar

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Christian Rocca
Director of Public Prosecutions

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AM1/3

Please consider the environment before printing this email.

From: (RGP) McGrail, Ian M.Sc (OTM) <ian.mcgrail@royalgib.police.gi>
Sent: Saturday, May 11, 2019 6:29 pm
To: (MIN) Picardo, Fabian; (MIN) Costa, Neil; (GLO) Llamas QC, Michael; (MOF) Mena, Albert; (NO6) Grech, Darren; (GLO) Rocca, Christian
Subject: OFFICIAL - SENSITIVE - Op Delhi

Dear all –

I believe you are aware of the investigation we are conducting following a complaint filed by James Gaggero, Chairman of the Bland Group. Yesterday, we carried out executive action on three ex-Bland Group employees and they are now on police bail. Immediate enquires post to our intervention have revealed issues of serious concern which I require to brief you on. Please advise when we could meet - the sooner the better. I would also ask that this request to meet is not shared with anyone other than those copied in this email.

KR

Ian

Ian McGrail*OTM MSc*
Commissioner of Police
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex [redacted]

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Please consider the environment before printing this email.

(MOF) Cruz, Alison

From: (RGP) Clarke, Paul (PC130) <paul.clarke@royalgib.police.gi>
Sent: 04 July 2019 08:37
To: (MOF) Mena, Albert
Cc: (MOF) Cruz, Alison
Subject: RE: Caine Sanchez

Dear Mr Mena,

Thank you for your reply. Tuesday 16th July at 09:30 is absolutely fine. I will come to you at No.6.

I cannot envisage our meeting lasting more than around 30 minutes. In order to save time, I propose to take notes then draft a statement in my Office to send to you via email for approval.

Many Thanks and Kind Regards,

Paul

Paul Clarke
Detective Constable No. 130

Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex [redacted]

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Please consider the environment before printing this email.

From: (MOF) Mena, Albert [mailto:albert.mena@gibraltar.gov.gi]
Sent: 03 July 2019 16:32
To: (RGP) Clarke, Paul (PC130)
Cc: (MOF) Cruz, Alison
Subject: RE: Caine Sanchez

AM1/5

Dear DC Clarke,

Thank you for your email. I could meet on the 16 July at 9:30am.

Would you come to me at No 6 ?

I have copied my PA to facilitate arrangements.

Kind regards

Albert

Albert Mena
Financial Secretary

Office of the Financial Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20051168
Centrex [redacted]
Fax: (+350) 20079901
albert.mena@gibraltar.gov.gi

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Office of the Financial Secretary

HM Government of Gibraltar

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Please consider the environment before printing this email.

From: (RGP) Clarke, Paul (PC130) [mailto:paul.clarke@royalgib.police.gi]
Sent: 03 July 2019 15:14
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Subject: Caine Sanchez

Dear Mr Mena,

AM1/6

I am a Detective Constable with the Royal Gibraltar Police, part of the investigation team in relation to the arrest of Caine Sanchez. I would like to obtain a statement from you in relation to Caine Sanchez and in particular an email exchange between you and Mr Sanchez regarding NSCIS on 16th April 2019.

Due to the Island Games, I am abstracted for the majority of next week however would we be able to schedule a meeting for a time in the week commencing 15th July?

I look forward to your response.

Many Thanks and Kind Regards,

Paul

Paul Clarke
Detective Constable No. 130

Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: [redacted]

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Please consider the environment before printing this email.

(MOF) Cruz, Alison

From: (MOF) Mena, Albert
Sent: 25 October 2019 09:45
To: '(RGP) Wyan, Mark'
Cc: (RGP) Richardson, Paul (OTM)
Subject: RE: RGP Statement
Attachments: AAM 1.pdf; AAM 2.pdf; Witness statement.pdf

Dear Mark,

Thank you for your email below.

I have revised my statement to remove all highlight and also to correct the email timings. Please note that one of my emails was indeed sent at 09:45 and this is the time stamp on my email. I appreciate that Caine's immediate reply shows my email being sent at 09:44, however I must be guided by the timestamp on my own email.

HMGoG would have had the right to use the system either through its ownership of the system having received a direct assignment from OSG or by way of some form of licence from OSG. Having a right to use the system, HMGoG would also be able to direct third parties to use the system. I therefore feel that is not necessary for me to give a view as to any dispute regarding ownership of the system nor do I consider this the appropriate forum to air any differences.

I trust that you will find this statement duly signed. I am sending you a hard copy by hand. I am grateful if you would kindly confirm receipt.

Kind regards,

Albert

Albert Mena
Financial Secretary

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Office of the Financial Secretary

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message or any attachments are those of the individual and may not necessarily reflect the views of the employer. E-mail communications are not secure. Neither the sender and employer will not accept legal responsibility for the contents of this message.

Please consider the environment before printing this email.

From: (RGP) Wyan, Mark [mailto:Mark.Wyan@royalgib.police.gi]
Sent: 22 October 2019 15:39
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: RGP Statement
Importance: High

Dear Mr Mena,

RE: RGP Statement

Thank you for providing a draft copy of your statement. I have now had the opportunity to review the document and have made very minor changes [in particular regarding the times of the emails] which I have highlighted in yellow. I have also transferred the text onto a police witness statement form (see attached).

The only matter that I would ask you to consider is the asserted ownership of the NSCIS platform by HMGoG. So far all of our evidence [in respect of ownership] is based upon statements provided by Bland Limited. This is at odds with the contention [made by the suspects] that the platform was Government owned, and that acting on instructions from Mr Sanchez, they were authorised to carry out various acts. In this interests of fairness to the suspects, and for the sake of clarity, I would be grateful if you would consider outlining HMGoG's position in this regard. You may wish to simply add a brief sentence to paragraph 5 explaining that ownership is disputed.

Kind Regards,

Mark Wyan

Mark Wyan
Inspector
Resource Management

Operations Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 66271 Centrex: [redacted]

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AM1/9

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ROYAL GIBRALTAR POLICE

STATEMENT OF WITNESS

Criminal Procedure and Evidence Act 2011 ss. 187 and 405; Criminal Procedure Rules r 16.2

CR/OB No [ ][ ] --- [ ][ ] --- [ ][ ][ ][ ][ ][ ][ ][ ] --- [ ]

Surname: MENA	Forenames: ALBERT ANTHONY

Age of witness (if over 18 enter over 18): Over 18

Occupation: Financial Secretary - HMGoG

This statement (consisting of 5 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 24 day of October 2019

Signed: _____

1. My name is Albert Anthony Mena. I am the Financial Secretary to Her Majesty's Government of Gibraltar ("HMGoG") and have been in office since September 2014. I am, amongst other duties and responsibilities, ultimately responsible for all payments made or to be made by HMGoG.

2. Each year an Approved Government of Gibraltar Estimates of Revenue and Expenditure ("Estimates") is laid before Parliament typically towards the end of June. The preparation of this document is particularly intense around April.

3. The Estimates sets out the Controlling Officers who have controlling responsibilities over their respective heads of expenditure. Controlling officers bear responsibility for signing-off on payments for their respective heads but the Financial Secretary has the authority to direct a controlling officer to effect payment or to make direct payments without controlling officer sign-off in the interests of the reputation of Gibraltar. This is an authority that I have rarely used since my appointment in 2014.

4. One of the entries in the Controlling Officers list is "PSO" which relates to "Principal Secretary, Operations, Deputy Chief Minister's Office". Up until his interdiction, Mr Caine Sanchez was the Principal Secretary, Operations, to the Deputy Chief

Signed: _____ Signature Witnessed by: _____

(NOTE: FILL IN WITH FORM OVERLEAF)

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AM1/11

Minister's Office and will have had controlling officer duties over the associated heads of expenditure.

5. The Bland Group has a wide commercial relationship with HMGoG, part of which involves a contract for the provision of reporting and security services by OSG Limited at the various entry points into Gibraltar. The agreement originated as a reporting service for HMGoG to report on border fluidity however, over time the agreement evolved and took on a security based dimension. As a bespoke system developed for HMGoG, the system is a work in progress and system faults, malfunctions and improvements are all dealt with on an ongoing basis. The OSG agreement falls under the PSO's head of expenditure although various HMGoG departments, agencies and authorities also have direct access to the system provided by OSG.

6. It came to my attention that OSG claimed that they had not been paid by HMGoG for approximately 6 months in respect of the agreement and that this was due to Mr Sanchez not releasing the payment. I cannot recall the exact dates but expect that I was advised of this around February or March 2019, with the payments having been held up since around September 2018. My immediate reaction was that this was unusual and I attempted to find out why.

7. I joined the Chief Minister, the Hon Fabian Picardo QC, and Mr Javier Redondo, Private Secretary to the Chief Minister, when they met Mr James Gaggero, the Chairman to the Bland Group (the "Chairman"). The Chairman claimed to have commissioned a report from PwC in respect of the system. The Chairman also claimed that since two former OSG employees (Mr John Perez and Mr Tommy Cornello) had departed from OSG, the system had been interfered with [redacted] The Chairman stated that he intended on taking appropriate action and that he would send the report to the Royal Gibraltar Police. The Chairman also raised the fact that OSG had not being paid for some time, which is primarily why I participated in the meeting.

8. I raised this matter directly with Mr Sanchez who explained that the reason for withholding payment was that, [redacted]

9. Shortly thereafter the Chairman phoned me to chase a payment of outstanding sums, Mr Sanchez was away at the time and I explained that this payment would need to involve Mr Sanchez as controlling officer with overall responsibility for the contract under which the payment would be engaged. At this stage the Chairman admitted to me that he had experienced personal difficulties with Mr Sanchez. I further explained that I was not prepared to approve the payment over Mr Sanchez's head.

Signed: Signature Witnessed by:

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10. Under the agreement there are a number of HMGOG departments, agencies and authorities that are the recipient of these services from OSG. I initially asked Mr Redondo to meet with the senior management of each of these departments, agencies and authorities who reported via Mr Redondo that the services were satisfactory. I then attended further meetings with these senior managers [redacted]

11. I requested and obtained a breakdown of the OSG service fee arrangement from Mr Sanchez and determined how this sum was quantified. The service fee was comprised by a series of individual components. I calculated a partial payment of the monthly service fee owed to OSG that would exclude those service components that were not being delivered satisfactorily by OSG. I did this with a view to acting fairly and unblocking the main dispute. I had calculated that a fair payment would be in the region o[redacted]per month out of a total fee of aroun[redacted]per month.

12. My next step was to meet with Mr Sanchez where I explained that I thought it reasonable for HMGoG to make a partial payment to OSG given that the service had been partly delivered to HMGoG. I further explained to Mr Sanchez that to withhold the entirety of the service fee was not acceptable in these circumstances. I asked Mr Sanchez to make a fair assessment as to how much he would be prepared to pay OSG and Mr Sanchez suggested an amount o[redacted] This was not far from the sum o[redacted]that I had in my mind. Mr Sanchez explained to me that he would not have a disagreement with me over a difference o[redacted]and that as controlling officer he was prepared to make a monthly service fee payment o[redacted] Mr Sanchez made me aware that he had had a disagreement with the Chairman at a personal level however, Mr Sanchez's response inspired confidence that we would be able to arrive at a sum that would be acceptable to both him and the Chairman.

13. The service provided by OSG centres around a high value software package that holds several data inputs together. When I met with HMGoG department, agency and authority officers that use the system [redacted]

14. During my meetings with HMGoG department, agency and authority officers that use the system, I was made aware that the system had been developed and serviced by an employee from OSG named Mr Cornelio. Although I never met Mr Cornelio, it was made clear to me that he had provided a thoroughly dedicated service to HMGoG

Signed: _____ Signature Witnessed by: _____

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from system inception and that he provided a highly responsive personal response to all enquiries. Once Mr Cornelio's employment with OSG terminated, [redacted]

15. My next attempt to further progress matters was to suggest that an independent protocol be set up to assess the system and I explained this to Mr Sanchez. I did not want OSG to know that we were going to carry out this assessment until it had been completed in order to maximise its independence as the assessment programme involves the use of "mystery shopper" type tests. [redacted] it would have given HMGoG a platform to review and revise the service fee payable to OSG over the 6 month period and beyond. The Chairman had indicated that they had carried out their own independent assessment of the service delivery through PwC, so I made it clear to Mr Sanchez that I intended to appoint one of the other "big four" accounting firms to carry out this assessment.

16. 17. My view at the time was that an independent accounting firm would have been far better placed to carry out a neutral and dispassionate review of OSG's service. This could be achieved by setting up a standardised testing programme that could be tested periodically and at regular intervals to assess the ongoing functionality of the system. The Chairman would also find it challenging to claim that an independent accountant's report was biased or inaccurate. Given that a large part of the payment backlog had been resolved, I expected a grace period during which I could focus on the Estimates and foresaw engaging this after Estimates were submitted.

17. On 16 April 2019 at 09:03 I received an email from Mr Sanchez with a system report attached (the "Report"). A copy of the e-mail I now tender in evidence as Exhibit AAM/1. Whilst I thought that Mr Sanchez's intention was to be proactive in preparing the report, I was surprised and frustrated when I received it for several reasons. The first was that the report would not be treated as independent by OSG, a feature that would have been critical to accurately determining and agreeing the ongoing service fee that HMGoG should pay OSG. This undermined my rationale for initiating the report. I was also concerned that the report had not been based on the same instructions that I would have conveyed to an independent assessor, therefore compromising the quality of the assessment. I was also concerned that Mr Sanchez's email accompanying the report, in stating that he was "not comfortable in proceeding with any further payments until these issues are resolved.", was at odds with my discussion with him whereby we had agreed that the entirety of the service fee should not be withheld. Lastly, I was also frustrated that the report had been sent to me during the Estimates period due to my lack of capacit [redacted]

Signed: Signature Witnessed by:

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These failures were also at odds with the feedback I had received when I met with HMGoG departments, agencies and authorities who routinely use the system. I replied to Mr Sanchez on the same day (16 April 2019) at 09:14, 09:36 and 09:45. I now tender copies of these emails in evidence as Exhibit AAM/2.

18. In his email of 09:03, Mr Sanchez states "as per out last conversation, I have conducted a formal review". This does not represent the factual background as I have described it above nor is it consistent with my recollection of events. I did not have any conversation with Mr Sanchez whereby I instructed him to carry out a formal review of the system, irrespective of whether he had the functions to do so at his disposal. My almost immediate email response of 09:14 to Mr Sanchez reflects this. In this email I also state that Mr Sanchez should not have carried out the report and the reasons for doing so have been explained in detail above, together with my preferred method of commissioning a report.

19. The reference in my email of 09:14 to "given your history" referred to the personal disagreement between Mr Sanchez and the Chairman that each of them had made me aware of.

20. On 6 May 2019 I signed an engagement letter on behalf of HMGoG engaging Ernst & Young to carry out an assessment of the service provided by OSG. Save for my engagement of Ernst & Young, I did not instruct Mr Sanchez, Mr Cornelio or any other person to assess the services undertaken by OSG. In ordinary course of events, I would not have instructed Mr Cornelio to carry out services and/or to report or assess the provision of the services to me. I have explained above the reasons for having wanted to instruct an independent accounting firm to carry out these services. The engaged services with Ernst & Young have not been carried out due to the ongoing criminal investigation.

21. Further meetings were organised periodically with service recipients across HMGOG departments, agencies and authorities some attended by Mr Redondo and some by myself. The feedback received was that many elements of the system were satisfactory. At no time has the feedback mirrored or even come close to the findings in the Repor [redacted]

Signed: _____ Signature Witnessed By: _____

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AA M/1

(MOF) Mena, Albert

From: (DCM) Sanchez, Caine
Sent: 16 April 2019 09:03
To: (MOF) Mena, Albert
Cc: (NO6) Redondo, Javier; (NO6) Canessa, Peter
Subject: Security Platform review.docx
Attachments: Security Platform review.docx

Dear Albert

As per our last conversation I performed a full review of the system going module by module. The review was carried out between the 11th and 12th April [redacted]

At this stage I am not comfortable in proceeding with any further payments until these issues are resolved. I would be happy to go over these findings with you all.

Regards

Caine

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

Office of the Deputy Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

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Centre [redacted]
Fax: (+350) 20059271
Mob [redacted]
caine.sanchez@gibraltar.gov.gi

www.gibraltar.gov.gi

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Office of the Deputy Chief Minister

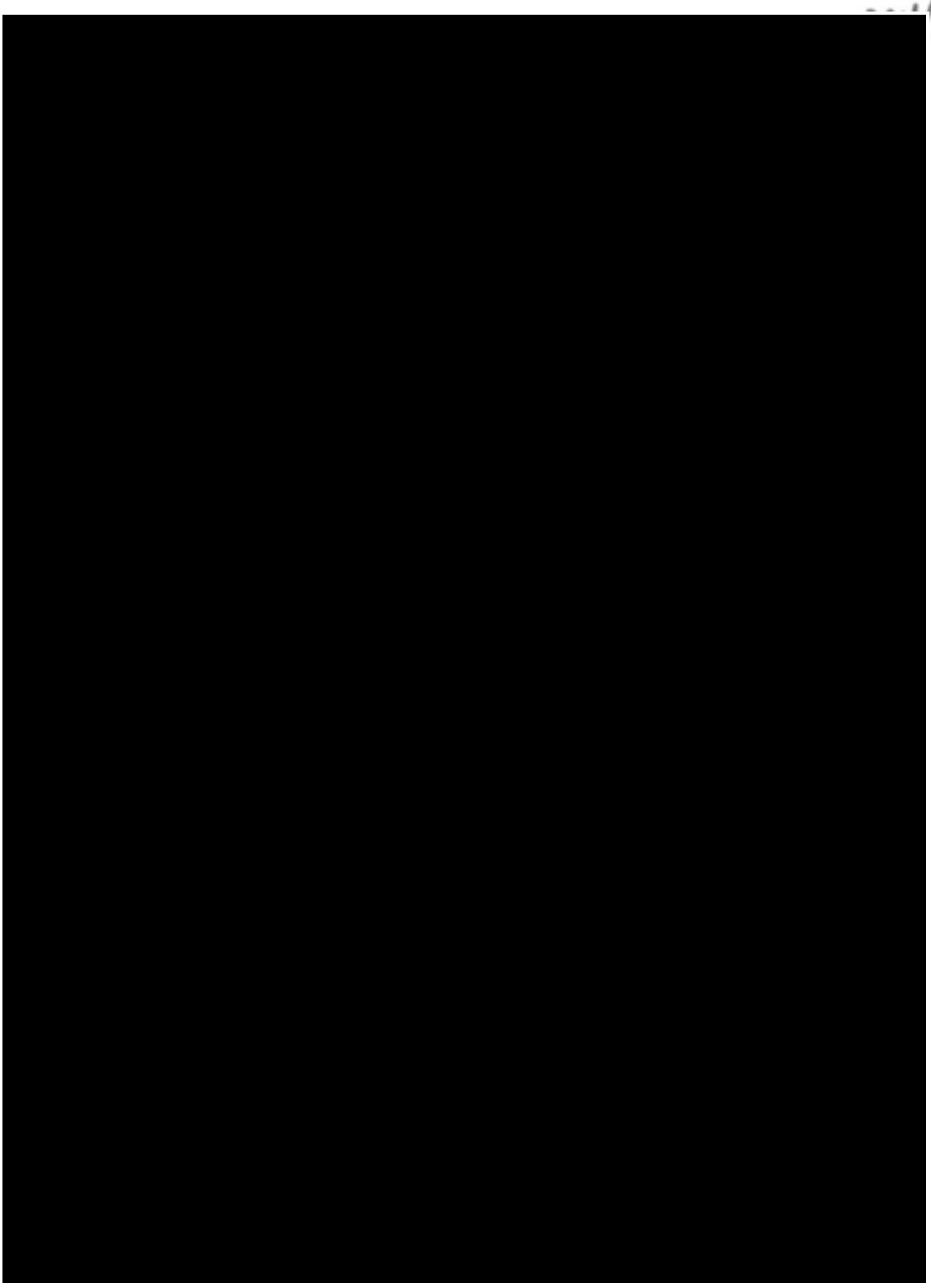
AM1/16

AAM/1

[redacted]

2

AM1/17



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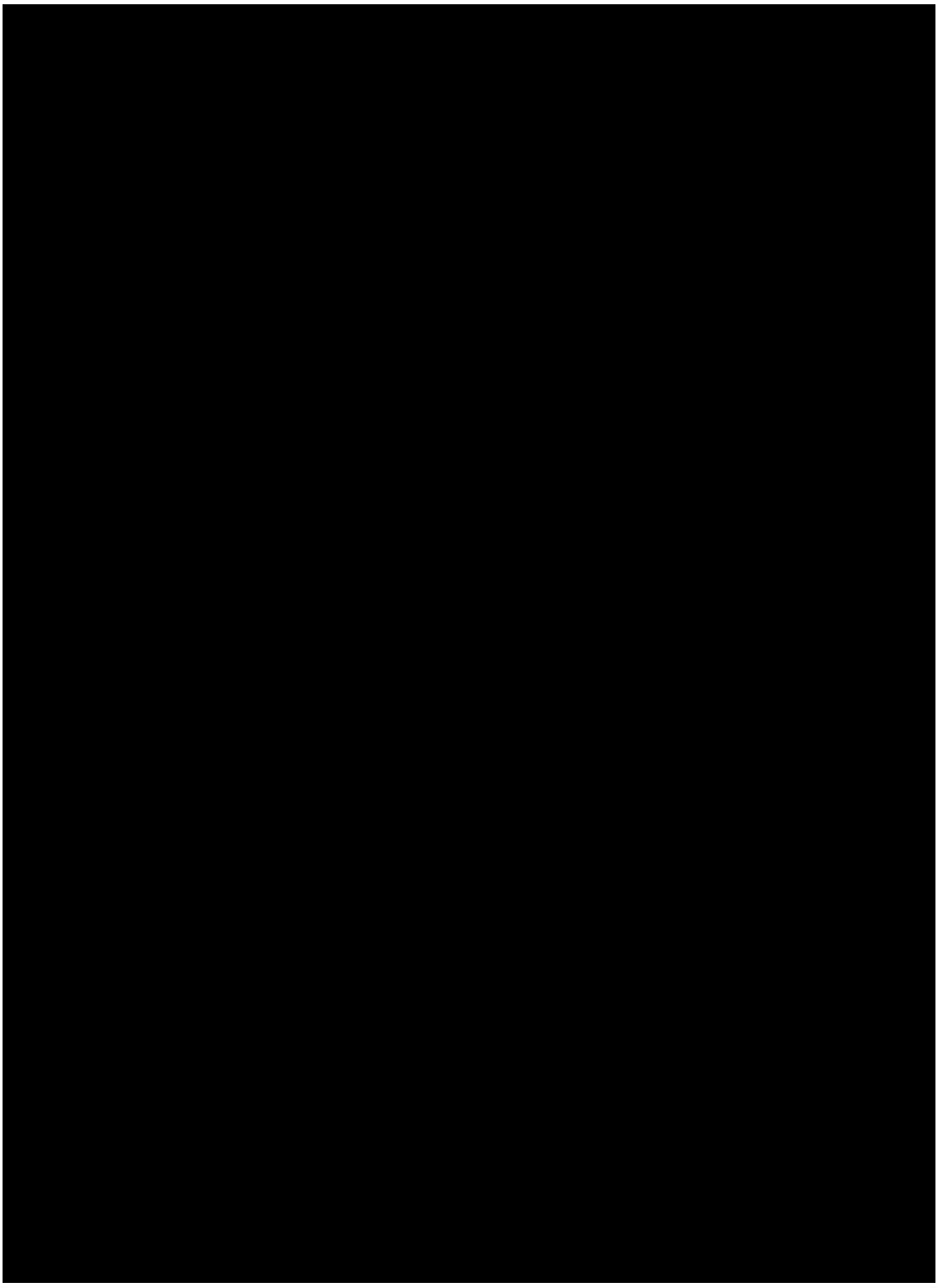
AM1/18

AAM/1



4

AM1/19

AAM/1

[redacted]

5

AM1/20

AAM/1



6

AM1/21

AAM/2

(MOF) Mena, Albert

From: (MOF) Mena, Albert
Sent: 16 April 2019 09:14
To: (DCM) Sanchez, Caine
Cc: (NO6) Redondo, Javier; (NO6) Canessa, Peter
Subject: RE: Security Platform review.docx

Caine,

This is NOT how I wanted this to be carried out, and frankly given your history puts you precisely where I would not put myself. You should NOT have carried out these test albeit they need to be carried out. Had you asked me we could have got there in a different way – we should nonetheless discus[redacted]

Yours

Albert

Albert Mena
Financial Secretary

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Office of the Financial Secretary

HM Government of Gibraltar

From: (DCM) Sanchez, Caine
Sent: 16 April 2019 09:03
To: (MOF) Mena, Albert
Cc: (NO6) Redondo, Javier ; (NO6) Canessa, Peter
Subject: Security Platform review.docx

AM1/22

AAM/2

Dear Albert

As per our last conversation I performed a full review of the system going module by module. The review was carried out between the 11th and 12th April. [redacted]

At this stage I am not comfortable in proceeding with any further payments until these issues are resolved. I would be happy to go over these findings with you all.

Regards

Caine

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

Office of the Deputy Chief Minister
HM Government of Gibraltar
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Office of the Deputy Chief Minister

2

2

AM1/23

AAM/2

(MOF) Mena, Albert

From: (MOF) Mena, Albert
Sent: 16 April 2019 09:36
To: (DCM) Sanchez, Caine
Cc: (NO6) Redondo, Javier; (NO6) Canessa, Peter
Subject: RE: Security Platform review.docx

Caine,

That's not the point. We agreed to do this in a coordinated manner – to have reached out to me BEFORE doing them would have been the right thing as I had the courtesy to do with you.

As you well know, and I'm not saying this is right, but with Gaggero these results will be challenged for lack of independence, so we now have a further problem without a solution. I don't think this get us anywhere as you well know other than you setting the timetable at a time in the year where given budgetary pressures I can't attend to this.

In addition, your results (which are concerning) are completely at odds with the reports Iwe (Peter, Javier and I) have received bad [redacted] position I was keen to avoid as it put you in an invidious position.

Yours

Albert

From: (DCM) Sanchez, Caine
Sent: 16 April 2019 09:22
To: (MOF) Mena, Albert
Cc: (NO6) Redondo, Javier ; (NO6) Canessa, Peter
Subject: Re: Security Platform review.docx

Dear Albert

These are the normal functions that I have available for me so nothing that I can't look at. I am happy for another person to carry these out. Happy to discuss further.

Regards

Caine

Sent from my Samsung Galaxy smartphone.

-------- Original message --------
From: "(MOF) Mena, Albert" <albert.mena@gibraltar.gov.gi>
Date: 16/04/2019 09:14 (GMT+01:00)

3

AM1/24

AAM/2

To: "(DCM) Sanchez, Caine" <caine.sanchez@gibraltar.gov.gi>
Cc: "(NO6) Redondo, Javier" <javier.redondo@gibraltar.gov.gi>, "(NO6) Canessa, Peter" <peter.canessa@gibraltar.gov.gi>
Subject: RE: Security Platform review.docx

Caine,

This is NOT how I wanted this to be carried out, and frankly given your history puts you precisely where I would not put myself. You should NOT have carried out these test albeit they need to be carried out. Had you asked me we could have got there in a different way – we should nonetheless discuss [redacted]

Yours

Albert

Albert Mena
Financial Secretary

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albert.mena@gibraltar.gov.gi

www.gibraltar.gov.gi

Office of the Financial Secretary

HM Government of Gibraltar

From: (DCM) Sanchez, Caine
Sent: 16 April 2019 09:03
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; (NO6) Canessa, Peter <peter.canessa@gibraltar.gov.gi>
Subject: Security Platform review.docx

Dear Albert

As per our last conversation I performed a full review of the system going module by module. The review was carried out between the 11th and 12th April [redacted]

4
AM1/25

APM/2

At this stage I am not comfortable in proceeding with any further payments until these issues are resolved. I would be happy to go over these findings with you all.

Regards

Caine

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

Office of the Deputy Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20043055
Centrex [redacted]
Fax: (+350) 20059271
Mobile [redacted]
caine.sanchez@gibraltar.gov.gi

www.gibraltar.gov.gi

HM Government of Gibraltar

Office of the Deputy Chief Minister

5

AM1/26

AAM/2

(MOF) Mena, Albert

From: (MOF) Mena, Albert
Sent: 16 April 2019 09:45
To: (DCM) Sanchez, Caine
Subject: Re: Security Platform review.docx

Caine,

I am happy to meet but not this week as I am under pressure closing the book.

I am only aware of the disagreement you had with Gaggero but happy to discuss. My concern if anything is to protect you and Goverment.

Speak next week.

Kind regards

Albert
Sent from my iPhone

On 16 Apr 2019, at 09:35, (DCM) Sanchez, Caine <caine.sanchez@gibraltar.gov.gi> wrote:

> Dear Albert
>
> Grateful if we could arrange to meet on a one to one. Today I am still unaware of what I have been accused of and what evidence they have provided. This has made my work in this area very difficult. I understand that the accusations were not made to you but some clarity on the matter would be greatly appreciated.
>
> Kind regards
>
> Caine

Sent from my Samsung Galaxy smartphone.

-------- Original message --------
From: "(MOF) Mena, Albert" <albert.mena@gibraltar.gov.gi>
Date: 16/04/2019 09:14 (GMT+01:00)
To: "(DCM) Sanchez, Caine" <caine.sanchez@gibraltar.gov.gi>
Cc: "(NO6) Redondo, Javier" <javier.redondo@gibraltar.gov.gi>, "(NO6) Canessa, Peter" <peter.canessa@gibraltar.gov.gi>
Subject: RE: Security Platform review.docx

Caine,
This is NOT how I wanted this to be carried out, and frankly given your history puts you precisely where I would not put myself. You should NOT have carried out these test albeit they need to be

6

AM1/27

AAM/2

carried out. Had you asked me we could have got there in a different way – we should nonetheless discuss [redacted]
Yours
Albert

Albert Mena
Financial Secretary

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GX11 1AA

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Centrex: [redacted]
Fax: (+350) 20079901
albert.mena@gibraltar.gov.gi

www.gibraltar.gov.gi

Office of the Financial Secretary

HM Government of Gibraltar

[redacted]

From: (DCM) Sanchez, Caine
Sent: 16 April 2019 09:03
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; (NO6) Canessa, Peter <peter.canessa@gibraltar.gov.gi>
Subject: Security Platform review.docx
Dear Albert
As per our last conversation I performed a full review of the system going module by module. The review was carried out between the 11th and 12th April. [redacted]
At this stage I am not comfortable in proceeding with any further payments until these issues are resolved. I would be happy to go over these findings with you all.
Regards
Caine

Caine Sanchez
Principal Secretary to the Deputy Chief Minister

Office of the Deputy Chief Minister
HM Government of Gibraltar
No.6 Convent Place
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GX11 1AA

AM1/28

AAM/2

Tel: (+350) 20043055
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Office of the Deputy Chief Minister

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AM1/29

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Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

Our Ref: IM155

8th April 2020

Mr Albert Mena
Financial Secretary
Government of Gibraltar
No 6 Convent Place
Gibraltar

Dear Albert,

Re: Op Delhi - Hacking of NSCIS platform

Amidst the current pandemic crisis, we find ourselves having to also deal with a host of 'normal' matters and it is on this note that I write to you to try resolve and a key issue concerning an on-going investigation the RGP is conducting.

You will recall the investigation the RGP commenced in late December 2018 into an alleged attempt to defraud Bland Limited of the National Security Central Intelligence System ("the NSCIS platform") maintenance contract and computer hacking related offences. In furtherance of this, former employees of Bland Limited, John Perez, Thomas Cornelio and Edward Asquez were arrested on the 10th May 2019.

On the 13th May 2019, you and I attended a meeting with the Chief Minster, together with Minister Costa (the then MoJ), the Director of Public Prosecutions, Mr Rocca, the Chief Secretary, Mr Grech, and Superintendent Richardson. During this meeting I outlined our suspicion that Caine Sanchez may have committed criminal offences and of our intent to arrest him. The Chief Minister mentioned his belief that the ownership of the NSCIS platform was in dispute and that HMGoG should be the complainant in this matter.

AM1/30

On the 17th July 2019 you met with Detective Inspector Wyan and Detective Sergeant Clarke of our Crime Division with regards to a witness statement in support of the investigation. One of the lines of enquiry we needed to close was that of the ownership of the platform, an issue which was discussed at this meeting. On the 17th October 2019 you provided a draft copy of your statement, however, the issue of ownership was not covered. As a result, on the 22nd October, DI Wyan sought clarification as to whether you would consider outlining the position of HMGoG in this regard. You responded on the 27th October 2019, stating that you did not feel it necessary to give a view on ownership, nor that it was the appropriate forum to air any differences. A copy of your response is attached.

During the course of this investigation Bland Limited have made clear the legal basis on which they assert ownership as well providing evidence in support. This includes a master software development and maintenance agreement, which although unsigned, reflected their understanding of the terms and conditions upon which the NSCIS platform was provided to HMGoG. This is further corroborated by monthly payments made by HMGoG to Bland Limited (in respect of the NSCIS platform) under the head "Software Licence Fee." They have also provided additional evidence by way of correspondence in support of their position including correspondence with Caine Sanchez.

The Director of Public Prosecutions has advised that the issue of ownership of the platform is integral to the prosecution of this case. This is based, in part, on statements made on 26th July 2019 by two of the subjects under investigation that the platform is owned by HMGoG. You will appreciate that this point needs clarification in fairness to the accused.

Those arrested continue on police bail. The RGP finds itself in an awkward position - in the absence of a definitive response, and by this I mean a witness statement by HMGoG as to the ownership of the NSCIS platform, we will have to rely upon the evidence provided by Bland Limited, who have emphatically asserted their ownership of the platform from the onset of this investigation and on whose evidence we have based all our activity.

I look forward to hearing from you at your earliest convenience.

Yours,

Ian McGrail OTM MSc
Commissioner of Police

cc HM Attorney General

AM1/31

Office of the Financial Secretary
HM Government of Gibraltar

8 April 2020

Ian McGrail OTM MSc
Commissioner of Police
Royal Gibraltar Police
New Mole House
Rosia Road
Gibraltar

Dear Commissioner,

I refer to your letter of today, for which I thank you.

I would like to clarify from the outset that, as Financial Secretary, my involvement in this matter, as is clear from the Witness Statement I have provided, is in relation to financial matters, as indeed it is for all financial matters concerning HM Government of Gibraltar.

In my reply of 25 October 2019 to Detective Inspective Wyan's email of 22 October 2019 I sought to confine myself to the financial matters that were in issue. I did not, and still do not, consider it appropriate for me to make statements on matters that go beyond that, especially in the context of a matter that I had not been involved in from the beginning. So it was with a view to being cautious and proper that I confined myself in my reply to state what I considered was relevant for me to state and within my capacity as Financial Secretary.

I did go to see the Chief Secretary upon receiving Detective Inspective Wyan's email and discussed it with him. I assumed that the question of ownership would then be addressed to or by him, as the relevant competent officer within the Government.

As it transpires, the RGP never received a reply from the Government to the question as to whether the Government asserts ownership of the NSCIC platform.

I have brought this matter to the attention of the Chief Secretary who will be replying to you separately.

I would like to thank you for the opportunity to explain the nature of my reply of 25 October 2019.

Yours sincerely,

Albert Mena
Financial Secretary

c.c. Mr Darren Grech, Chief Secretary

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t +350 20051168 (Centrex 2112) f +350 20079901 (Centrex 2113) e alison.cruz@gibraltar.gov.gi w gibraltar.gov.gi

AM1/32

(MOF) Mena, Albert

From: (MOF) Mena, Albert
Sent: 27 April 2020 11:11
To: (GLO) Llamas, Michael
Cc: (NO6) Grech, Darren
Subject: RE: Op Delhi
Attachments: SUPPLEMENTARY WITNESS STATEMENT am tracked.docx

Michael,

I think this reads well and is consistent with my own understanding. I have added some explanation below for Darren's/your benefit.

I have added a little language to the statement on the redesign of the system (tracked). This I understand it the process was iterative, in other words, changes were made, the system was improved and then further changes were made and so on.

An example of this is that the frontier cameras just picked up the flow. They then introduced the capacity to pick up the number plates of cars. From there the ability to search if a car had left / re-entered Gibraltar was added. Then this resulted in the cameras being too good in that you could identify who was in the car as well as the driver, which meant the feed to the frontier camera output had to be reduced in quality whilst the cameras still picked up and recorded cars. When this worked other cameras with ANPR (numberplate recognition) were installed in key locations in Gibraltar and this was fed into the system allowing the police to search for movements of vehicles where they were trying to pin down the movements of people. This I hope gives you a flavour of the changes to the process and how to my mind this was iterative.

The same happened with individuals at the frontier and entry points as they worked on facial recognition and so on.

Passenger manifest for aircraft was another improvement. Which I can explain.

The mobile scanners in my discussions with Nicholas, which I stopped as a result of ownership concerns, is another area of constant improvement and innovation which would have allowed a mobile checking of people. Government makes all of these decisions with the provider. The proposal would mean that officers could go an greet yachts when they arrive and check those on board as opposed to a declaration at an office in the marina. This has numerous benefits which we can discuss later.

All of these are the iterative improvements that were added to the system, all involving a cost / benefit analysis and thereby taking place with Government. Some of these were at the suggestion of Government, others by the supplier others in joint discussions. Whilst a number of these were made in my time post Caine, the mobile scanners is the first time I was sent an agreement which I rejected for the reasons set out in the attached.

Happy to discuss later.

Kind regards

Albert

Albert Mena
Financial Secretary

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From: (GLO) Llamas, Michael
Sent: 27 April 2020 09:26
To: (NO6) Grech, Darren
Cc: (MOF) Mena, Albert
Subject: RE: Op Delhi

Dear both,

Please find attached a revised draft of the supplementary witness statement. I have highlighted in yellow information that I require or that needs to be confirmed.

Darren, please bring at 3.00pm a copy of the 2015 Agreement.

Thanks.

Michael

From: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Sent: 26 April 2020 18:53
To: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Cc: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Subject: Re: Op Delhi

Darren I then suggest that you either ask DCM or you get someone in your office to ask CS where the files are. There is no way you can do the WS without sight of at least that agreement of 2015.

Otherwise tomorrow 3.00pm good for me.

Michael

Sent from my iPhone

On 26 Apr 2020, at 18:22, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:

I draw a blank with this gents; never heard, never seen .... we can discuss. D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

Darren Grech
Chief Secretary

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On 26 Apr 2020, at 13:12, (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi> wrote:

Gents,

The Statement of Work for a mobile passport scanning application attached to Nicholas Gaggero's email to Albert dated 2 March 2020 refers to a "Consultant Services Master Agreement between HMGoG and Bland Group effective 22 November 2015".

I need to see that. Do any of you have a copy and, if not, Darren could your offices please obtain one as send it to me.

Many thanks.

AM1/35

Michael

Michael Llamas CMG QC
Attorney General

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HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

HM Government of Gibraltar

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SUPPLEMENTARY WITNESS STATEMENT.

This statement (consisting of [X] page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

My name is Darren Grech. I am currently employed as Chief Secretary by Her Majesty's Government of Gibraltar (HMGoG).

I am making this Supplementary Witness Statement further to the first Witness Statement I made dated 21 January 2020.

This Supplementary Witness is made pursuant to a letter I received from the Commissioner of Police, Mr Ian McGrail OTM MSc, dated 14 April 2020. I now tender in evidence "**Exhibit DG/3**" a copy of the said letter.

In that letter, the Commissioner has requested that I provide "*as much detail as possible on the subject of ownership*" of the NSCIC platform. The Commissioner stated that this "*will necessitate not only the assertion that HMGoG are the legal owners of the platform, but also the basis of that belief, as well as any evidence in support of that position*".

The purpose of this Supplementary Witness Statement is to provide such information.

In answer to the Commissioner's request I can say the following:

The Bland Group has a wide commercial relationship with HMGoG. This includes an arrangement for the provision of reporting and security services by OSG Limited, a company in the Bland Group, at the various entry points into Gibraltar (the "Services"). That arrangement existed before I took office as Chief Secretary. To the best of my knowledge it has existed for around four to five years.

I have asked to be shown a copy of the written contract between HMGoG and OSG Limited pursuant to which the latter provides the Services to the former. I have been informed that no such contract exists and, to the best of my knowledge, I believe this to be true.

AM1/37

It appears to me to be relevant to start by saying that both parties agree that there is a dispute as to the ownership of the NSCIC platform. For instance, in an email dated as recently as Monday 2 March 2020 sent at 20:02 hrs by HMGoG's Financial Secretary to Mr Nicholas Gaggero of the Bland Group, the Financial Secretary stated as follows:

> *"As you know at present there is a level of dispute between us as to ownership of the NSCIC system that has been developed for Government. I prefer not to go into the detail save to say that agreeing to the statement of work would effectively signify our agreement with the ownership of the Intellectual Property. This would have an impact not just on this module of work but by extension to the whole NCIS system".*

Mr Gaggero replied almost immediately, at 20:35 hrs, as follows:

> *"I understand. Let me take this offline and come back to you tomorrow with a proposal to overcome this issue".*

That exchange originated in an email sent by Mr Gaggero to the Financial Secretary dated Thursday 20 February 2020 in which Mr Gaggero made a proposal for the provision by the Bland Group of a further service to HMGoG, namely, a mobile passport scanning application for Gibraltar's law enforcement agencies. Attached to Mr Gaggero's email was a draft Statement of Work which had a proposed clause on "Intellectual Property" which provided that *"[t]he compiled final system as well as the source code will remain the intellectual property of Bland Group"*. It is this that the Financial Secretary contested, and which Mr Gaggero accepted as being contested, in their email exchange of Monday 2 March 2020.

I now tender in evidence "**Exhibit DG/4**" a copy of the said emails of Thursday 20 February 2020 and Monday 2 March 2020.

Two matters appear to me to be clear from the foregoing:

- there is no written contract between HMGoG and OSG/Bland Group that could have clarified the question of ownership of the NSCIC platform; and
- there is a very clear disagreement between the parties on the question of ownership.

Thus, although there has clearly been an arrangement between HMGoG and OSG/Bland Group whereby the latter has been providing the Services to the former, and even if one were to consider that that arrangement constitutes an implied or oral agreement between the

AM1/38

parties, on which I do not express any view, the stark reality is that, as the exchange of emails of Monday 2 March 2020 between the Financial Secretary and Mr Nicholas Gaggero shows, both parties agree that there exists a dispute as to the ownership of the NCSIS platform.

Even though he was the principal civil servant involved in the operation of the Services, I have refrained from consulting Mr Caine Sanchez for the preparation of this Supplementary Witness Statement. However, all HMGoG officials I have consulted [who can we name here other than FS?] are unanimous in the view that they never had any doubt that HMGoG was indeed the owner of the NCSIS platform.

For instance, I have been informed and, to the best of my knowledge, I believe this to be true, that originally OSG Limited was asked to develop a limited CCTV system to monitor movements at the border which was required by HMGoG for the purposes of compiling data on queuing times at the border. This was for the purposes of an investigation being conducted by the European Commission on border delays applied by Spain. It was a basic system that merely captured data on flow at the border. That arrangement was subsequently extended to cover other entry points in Gibraltar. This led to an iterative process whereby the system was repeatedly expanded and redesigned and became what is in place today, a platform which considerably different and more sophisticated than the original frontier camera system. In particular, I have been informed and, to the best of my knowledge, I believe this to be true, that HMGoG was intrinsically involved in the redesign and development of the platform; that all key decisions in relation to the platform were taken by HMGoG; that the decisions concerning the addition of users of the platform were taken by HMGoG; that the cameras used for the collection of the data are all owned by HMGoG; that at all times HMGoG has had complete control over the data; that the data was being used by HMGoG, and that OSG knew fully well that the data was being used by HMGoG, for sharing with third parties including law enforcement agencies in Gibraltar and elsewhere, and not least the European Commission. Indeed, that was the very purpose for the original need of the platform.

I have further been informed and, to the best of my knowledge, I believe this to be true, that HMGoG pays OSG/Bland Group a sum of approximately [£66,000693.75] per month for the operation of the NCSIS platform. This appears to me to be a very considerable amount of money which, it seems to me, confirms that HMGoG was paying in consideration for, inter alia, full ownership of the NCSIS platform otherwise that sum appears to me to make very little sense.

AM1/39

Finally, I am clearly not privy to what arguments OSG/Bland Group have put forward to the Royal Gibraltar Police to allege ownership of the NCSIS platform, let alone the detail of that argument, the basis of their belief or any evidence that they have put forward to support their assertion. In light of what I truly believe to be the true position on that matter, as set out in this Supplementary Witness Statement, such assertions cannot be based on any written contract nor, indeed, on any written or oral evidence and HMGoG strongly contests such assertions.

Furthermore, I have been advised by the Government Law Offices that, in the absence of a written contract setting out the position on ownership in clear and unambiguous language, it is indeed very difficult for OSG/Bland Group to make such an assertion.

(MOF) Cruz, Alison

From: (RGP) Perez, Roy <Roy.Perez@royalgib.police.gi>
Sent: 18 August 2021 12:40
To: (MOF) Mena, Albert
Subject: RE: Meeting request

Dear Mr Mena

Thank you for your email, and I appreciate that you are on leave.
Apologies for my email, for some reason it appears that certain contents were omitted / erased upon being sent.

I require clarity on what would be the procedure when an invitation is submitted by GoG on expression of interest subjects and whether such is dealt with through procurement or at departmental level.

Happy to be able to meet next week at your convenience.

With best regards

Roy Francis Perez MSc

Detective Chief Inspector
Crime, Security & Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 72500 Centrex [redacted]
Mobile [redacted]

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From: (MOF) Mena, Albert
Sent: 18 August 2021 11:53

To: (RGP) Perez, Roy
Subject: Re: Meeting request

Dear Detective Chief Inspector Perez,

I will of course make myself available to meet with you and assist in any way I can. In order to be able to assist as much as possible it would be helpful if you would clarify what it is you are investigating so I can locate my emails / file notes / documents or recollections on this before we meet.

As you will have seen I am away from the office this week and unless it is urgent (in which case I will make myself available) I would prefer to schedule something for the middle to end of next week, if this works with you.

Please let me know.

Kind regards

Albert
Sent from my iPad

Albert Mena
Financial Secretary

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AM1/42

On 17 Aug 2021, at 13:23, (RGP) Perez, Roy <Roy.Perez@royalgib.police.gi> wrote:

Good morning

I would de most grateful if we could have a meeting to seek clarification on certain matters of we are currently investigating.

Best regards

Roy Francis Perez MSc

Detective Chief Inspector
Crime, Security & Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 72500 Centrex [redacted]
Mobile [redacted]

Web: www.police.gi
Follow Us on Twitter: @rgpolice
Like us on Facebook: www.facebook.com/royalgibpolice

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(MOF) Cruz, Alison

Subject:	Meeting Albert Mena
Location:	No 6
Start:	Wed 25/08/2021 09:30
End:	Wed 25/08/2021 10:00
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	(RGP) Perez, Roy

AM1/44


11:03
2
Ian McGrail
19 Jul 2019
Good morning Albert - I'm in London attending meetings and I'm flying back today. Last night my people told me that Tommy Cornelio was doing some work in the Dept of Environment. I just thought I'd let you know in case you weren't aware. It looks a bit untidy & odd that we have CS interdicted and TC who is the main suspect working on GoG systems. My tuppence worth as in essence it isn't a call for me.
KR
Ian
Ian thanks for the heads up. No I didn't know. Listen whilst people are innocent until proven guilty we really don't need to be exposing ourselves to this. Please let me look into this. Albert
07:57

AM1/45


11:04
2
Ian McGrail
thought I'd let you know in case you weren't aware. It looks a bit untidy & odd that we have CS interdicted and TC who is the main suspect working on GoG systems. My tuppence worth as in essence it isn't a call for me.
KR
Ian
Ian thanks for the heads up. No I didn't know. Listen whilst people are innocent until proven guilty we really don't need to be exposing ourselves to this. Please let me look into this. Albert
07:57
Thank you too. Safe flight. A
07:58
29 Nov 2019
Albert can you take a quick call?

AM1/46

(MOF) Cruz, Alison

From: (MIN) Cortes, John
Sent: 25 July 2019 11:28
To: (MOF) Mena, Albert
Cc: (NO6) Grech, Darren
Subject: RE: Tommy Cornelio

Dear Albert

Thank you for your email. I am also in receipt of Darren's, and will reply to him separately, and of course copy you to that reply.

I can confirm that immediately on hearing of your concerns, as expressed to me in person on Friday 19 July, I gave instruction that Mr Tommy Cornelio should not be allowed access to Government premises or computers until further notice. To my knowledge, this exclusion has been adhered to. Wright Tech Media has been advised that Mr Cornelio much not have any such access in exercising any of their obligations in any contact that they may have with Government.

I will address other matters in my reply to Darren.

Best wishes

John

From: (MOF) Mena, Albert
Sent: 24 July 2019 20:19
To: (MIN) Cortes, John
Cc: (NO6) Grech, Darren
Subject: Tommy Cornelio

Dear Minister,

I write further to our recent exchange in connection with the direct or indirect provision of services by Tommy Cornelio to HMGoG.

By way of background, you are aware that a senior civil servant (Caine Sanchez) has been arrested by the RGP and interdicted by HMGoG on suspicion of misconduct. There is an ongoing criminal investigation connected to this arrest whereby a number of other individuals have also been arrested, one of whom is Tommy Cornelio.

On Wednesday 16 July 2019 I met with two RGP officers in connection with their investigation. The crux of our discussion revolved around whether I had instructed Caine Sanchez to prepare a report on the delivery of a service by a third party (OSG/Blands) and whether I had authorised Tommy Cornelio (ex-OSG/Blands employee) to be granted access to HMGoG systems in order to prepare this report, or otherwise. The answers to both of these questions was negative. I confirmed that I had met with Caine and others to discuss the issue with the delivery by OSG and agreed we would be outsourcing the report to an independent third party (probably a firm of accountants) and that I had not in any way whatsoever authorised Tommy Cornelio to have access to HMGoG systems to prepare the report, or otherwise.

I expanded on my replies in terms of HMGoG policy. Policy would dictate that a report of this nature should have been carried out by an independent third party for obvious reasons: namely so that it could be relied on by both HMGoG and Blands. Policy would also prevent someone like Tommy being granted access to HMGoG systems to

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prepare a report given that his impartiality would be compromised due to conflict of interest and his previous role with OSG.

It was brought to my attention early morning on Friday 19 July 2019 that HMGoG had concluded (or was about to conclude) a contract with Wright Tech Media. I was also informed that Wright Tech Media relied heavily on the provision of services by Tommy Cornelio them and that these services required Tommy Cornelio to have access to HMGoG systems as well as being present on HMGoG premises.

Notwithstanding my intense diary obligations, I met urgently with your Stephen Warr on Friday morning (with Liesl on the line) and voiced my concerns. Given HMGoG's interdiction of Caine Sanchez, I find it unfathomable that HMGoG would entertain receipt of any services directly or indirectly from one of those individuals arrested as part of the criminal investigation until that investigation is closed. This would be consistent with the decision to interdict Caine Sanchez. I also made it clear to Stephen that I would need to contact the RGP and clarify my statement given that my view of HMGoG policy had been compromised by whoever took the decision to enter into this contract. This is no longer a view I will be able to communicate as I am now less able to speak confidently for HMGoG policy on record.

The purpose of this email is for me to have a record of the events that transpired last week and our communication in respect of the same. I appreciate that I have already laboured these points in our discussions but I thought it prudent to have it on email for our respective records.

Kind regards,

Albert

Albert Mena
Financial Secretary

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HM Government of Gibraltar
No.6 Convent Place
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GX11 1AA

Tel: (+350) 20051168
Centrex [redacted]
Fax: (+350) 20079901
albert.mena@gibraltar.gov.gi

www.gibraltar.gov.gi

Office of the Financial Secretary

HM Government of Gibraltar

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AM1/48

(MOF) Cruz, Alison

From: (NO6) Grech, Darren
Sent: 27 July 2019 11:03
To: (MIN) Cortes, John
Cc: (MOF) Mena, Albert
Subject: Re: Tommy Cornelio

Thanks John. Best D

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

On 27 Jul 2019, at 08:49, (MIN) Cortes, John <john.cortes@gibraltar.gov.gi> wrote:

> Dear Darren
>
> Liesl was informed immediately I had the conversation with Albert on 19 July.
>
> Regards
>
> John
> John Cortes
> Minister for Education, Heritage, Environment, Energy and Climate Change
> HM GOVERNMENT OF GIBRALTAR
> Duke of Kent House
> Cathedral Square
> Gibraltar
>
> Tel 00350 20066491
>
> On 27 Jul 2019, at 02:10, (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi> wrote:
>
> > Thanks John, duly noted; I have not wanted to forward Liesl this email and the corresponding thread, but must require that you inform her accordingly. Best, D
> >
> > Darren Grech
> > Chief Secretary
> > HM Government of Gibraltar
> > No 6 Convent Place
> > Gibraltar
> >
> > "I am the master of my fate: I am the captain of my soul."

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On 25 Jul 2019, at 11:46, (MIN) Cortes, John <john.cortes@gibraltar.gov.gi> wrote:

Dear Darren
You will have seen my reply to Albert of a few minutes ago.
I note your grave concerns, and must reassure you that any impression of misconduct or irresponsibility on the part of either any public servant in any of my departments or, indeed, myself would be totally unfounded.
For such reassurance, I am informed that Mr Cornelio, who I only met for the first time several months ago, has not had any access whatsoever to Government computers or computer systems.
I must point out that at no time have I been formally or informally informed either of Mr Cornelio's criminal investigation, nor indeed of the detail of Mr Sanchez's interdiction, nor have I received any guidance on the matter. I have picked up pieces from the media, or from conversations, but never have I been informed of any facts, nor been given direction as to how to behave towards these individuals. I believe the same to be true for my Departments. Had I had such details, I would have ensured that the access that has now been denied, would have been denied previously.
My comments of course do not imply any guilt on Mr Cornelio who as we know, in law is innocent until otherwise proven in a Court of Law. However, while the case is live, I of course support, the necessary precautionary action taken by you as Chief Secretary both in the case of Mr Sanchez in the civil service context and of Mr Cornelio in being consistent with the latter.
I repeat my confirmation that Mr Cornelio has not had physical or digital access to Government since 19 July, and indeed as I mention above, no digital access at any time.
Kind Regards
John
John Cortes
Minister for Education, Heritage, Environment, Energy and Climate Change
HM GOVERNMENT OF GIBRALTAR
Duke of Kent House
Cathedral Square
Gibraltar

From: (NO6) Grech, Darren <darren.grech@gibraltar.gov.gi>
Sent: 25 July 2019 00:29
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: (MIN) Cortes, John <john.cortes@gibraltar.gov.gi>
Subject: Re: Tommy Cornelio
Dear John,

I am gravely concerned having read Albert's email below; in particular I feel I must comment on the following:

"Given HMGoG's interdiction of Caine Sanchez, I find it

unfathomable that HMGoG would entertain receipt of any services directly or indirectly from one of those individuals arrested as part of the criminal investigation until that investigation is closed."

To avoid any confusion, none of the individuals under investigation are allowed access into any HMGoG building, let alone should be operating any computer housed in such a building, or indeed be remotely accessing data or software which remains directly or indirectly within the domain of HMGoG. I sincerely hope this is not the case given there is an ongoing criminal investigation happening, and, furthermore, that I issued the interdiction order corresponding to Caine Sanchez.

I seek further clarification on this matter.

Best,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

"I am the master of my fate: I am the captain of my soul."

>

Darren Grech
Chief Secretary

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HM Government of Gibraltar

Office of the Chief Secretary

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Please consider the environment before printing this email.

On 24 Jul 2019, at 20:19, (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi> wrote:
>
> Given HMGoG's interdiction of Caine Sanchez, I find it unfathomable that HMGoG would entertain receipt of any services directly or indirectly from one of those individuals arrested as part of the criminal investigation until that investigation is closed.

(MOF) Cruz, Alison

From: Philip Navas <Philip.Navas@blandgroup.com>
Sent: 30 January 2019 17:37
To: (MOF) Mena, Albert
Cc: John-Paul Payas; (NO6) Redondo, Javier
Subject: RE: NSCIS Invoices
Attachments: 31523 GOG Jan-19.pdf

Dear Albert,
Attached please find the NSCIS invoice for January 2019.
The following table shows amounts due since Sep-18 less our proposed discounts. The total amount due over the 5 month period from Sep-18 to Jan-19 less the proposed discount is now at [redacted]

No.	Sep-18 Invoice - Service Description	Total Service Value	Discount %	Sep-18 Discount Value	Oct-18 Discount Value	Nov-18 Discount Value	Dec-18 Discount Value	Jan-19 Discount Value
2	BCA Interpol Centralization		10%					
3	BCA Passport Scanning and Schengen		25%					
5a	Frontier Queue Hotline - (FMP)		100%					
5d	ANPR Phase 1 & 2		50%					
7	Frontier Facial Recognition + Management		50%					
10	Cruise Terminal Facial Recognition + Management		50%					
13	GIB Airport Facial Recognition		50%					
16	APIS Maritime Licence Fee		75%					
18	Port ANPR Licence Fee x6		50%					
			Discount:					
			Total Invoice					
			Proposed Revised Invoice					
			% Total Discount					

[redacted]

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I look forward to discussing the above during our meeting on Friday.
Regards,

Philip Navas
Financial Controller

BG BLAND GROUP

BLAND GROUP
PO Box 212
Cloister Building
Irish Town
Gibraltar

Telephone: +350 200 79200
Facsimile: +350 200 76189
Website: www.blandgroup.com

From: Philip Navas
Sent: 18 December 2018 19:55
To: '(MOF) Mena, Albert'
Cc: John-Paul Payas ; 'javier.redondo@gibraltar.gov.gi'
Subject: NSCIS Invoices

Dear Albert,

I was briefed by James Gaggero and John Paul Payas in relation to the meeting held with the CM and yourself regarding the National Security platform yesterday. One of the outcomes of the meeting was for me to provide you with the outstanding monthly invoices since Sep-18 and the discounts for the period. The last payment we received in relation to the NSCIS platform was for the full Aug-18 invoice on 17-Aug-2018 [redacted] These invoices have historically been approved for payment by Caine Sanchez.

I attach the complete invoices for the period Sep-18 to Dec-18 period. However, certain modules of the system have not been operating at 100% since Sep-18 and we are therefore happy to discount the invoices on specific modules as follows:

No.	Service Description	Total Module Value	Discount %	Sep-18 Discount Value	Oct-18 Discount Value	Nov-18 Discount Value	Dec-18 Discount Value
2	Interpol Document Centralization	[redacted]					
3	BCA Passport Scanning and Schengen						
5a	Frontier Queue Hotline						
5d	ANPR Phase 1 & 2						
7	Frontier Facial Recognition + Management						

10	Cruise Terminal Facial Recognition + Management	[redacted]
13	GIB Airport Facial Recognition	
16	APIS Maritime Licence Fee	
18	Port ANPR Licence Fee x6	
	Total	

Total Invoice		[redacted]
Revised Invoice		
	% Total Discount	

The above represents a total discount over the 4 months of [redacted] We shall issue a credit note for this amount once we receive confirmation from your side.
The main issues Bland Group software team are currently working on to resolve relate to ANPR (number plate recognition) cameras at the Port/Frontier exit and the APIS maritime module.
Javi Redondo attended the last NSCIS meeting held with all law enforcement users and may be able to provide further background on the above.
If you need any further information on the invoice/services/discounts I am happy to discuss.
Regards,

Philip Navas
Financial Controller

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Irish Town
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Telephone: +350 200 79200
Facsimile: +350 200 76189
Website: www.blandgroup.com

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P O Box 212
Cloister Building
Irish Town
Gibraltar
GX11 1AA
GI 3044

Government of Gibraltar
Attention: Caine Sanchez
No 6 Convent Place
Gibraltar

Deliver To

Invoice

For Order	0000008081
All Amounts in	Pound Sterling
Terms	0 days from document date
Current Balance	284375.00
Your VAT Number	GI
Doc No.	0000031523
Doc Date.	01/01/2019
Cust Ref.	
Acc No.	GOGCAINE

Line	Item Code	Description	Quantity	Unit	Selling Price	Net
860		Monthly Global invoice for the month of January 2019 Please see attached for breakdown	1		[redacted]	
861		1. NSCIS - National Security Centralised Intelligence System	1			
862		2. Interpol Document Centralization	1			
863		3. BCA Passport Scanning and Schengen	1			
864		4. People Counters	1			
865		5. Frontier Monitoring Project a. Frontier Queue Hotline	1			
866		b. Public Web Portal	1			
867		c. Automated Reporting Tools	1			
868		d. ANPR Phase 1 & 2 preventative monthly maintenance	1			
869		6. Frontier entrance cameras/Footage contract	1			
870		7. Frontier Facial Recognition	1			
871		8. APIS (AIR) + IATA	1			
872		9. Frontier Exit Pedestrian Cam	1			
873		10. Cruise Terminal Facial Recognition	1			
874		11. Border Web Cameras	1			
875		12. Cruise Terminal CCTV Maintenance and 24/7 on-call	1			

OSG

P O Box 212
Cloister Building
Irish Town
Gibraltar
GX11 1AA
GI 3044

Government of Gibraltar
Attention: Caine Sanchez
No 6 Convent Place
Gibraltar

Deliver To

Invoice

For Order	0000008061
All Amounts in	Pound Sterling
Terms	0 days from document date
Current Balance	264375.00
Your VAT Number	GI
Doc No.	0000031523
Doc Date.	01/01/2019
Cust Ref.	
Acc No.	GOGCAINE

Line	Item Code	Description	Quantity	Unit	Selling Price	Net
876		13. GIB Airport Facial Recognition	1		[redacted]	
877		14. Air Terminal Mflow System Licence Fee	1			
878		15. Land Border Mflow System Licence Fee	1			
879		16. APIS Maritime Licence Fee	1			
880		17. Cruise Terminal Mflow System Licence Fee	1			
881		18. Port ANPR Licence Fee x6	6			
882		19. Port CCTV Maintenance & Systems Integration	4			
883		20. Port System Connectivity	1			

Bland Limited
Sort Code : [redacted]
Account Number : [redacted]
IBAN
[redacted]

NET
VAT
GROSS
DUE WITHIN SETTLEMENT DAYS

[redacted]

BLAND GROUP INTERNATIONAL

Operational Support Services
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t: +350 200 44999 f: +350 200 44988 e: info@osgops.com www.osgops.com

AM1/58

(MOF) Cruz, Alison

From: Philip Navas <Philip.Navas@blandgroup.com>
Sent: 18 December 2018 19:55
To: (MOF) Mena, Albert
Cc: John-Paul Payas; (NO6) Redondo, Javier
Subject: NSCIS Invoices
Attachments: 29776 GOG Sep-18.pdf; 30398 GOG Oct-18.pdf; 30923 GOG Nov-18.pdf; 30924 GOG Dec-18.pdf

Dear Albert,
I was briefed by James Gaggero and John Paul Payas in relation to the meeting held with the CM and yourself regarding the National Security platform yesterday. One of the outcomes of the meeting was for me to provide you with the outstanding monthly invoices since Sep-18 and the discounts for the period. The last payment we received in relation to the NSCIS platform was for the full Aug-18 invoice on 17-Aug-2018 [redacted]. These invoices have historically been approved for payment by Caine Sanchez.
I attach the complete invoices for the period Sep-18 to Dec-18 period. However, certain modules of the system have not been operating at 100% since Sep-18 and we are therefore happy to discount the invoices on specific modules as follows:

No.	Service Description	Total Module Value	Discount %	Sep-18 Discount Value	Oct-18 Discount Value	Nov-18 Discount Value	Dec-18 Discount Value
2	Interpol Document Centralization	[redacted]					
3	BCA Passport Scanning and Schengen						
5a	Frontier Queue Hotline						
5d	ANPR Phase 1 & 2						
7	Frontier Facial Recognition + Management						
10	Cruise Terminal Facial Recognition + Management						
13	GIB Airport Facial Recognition						
16	APIS Maritime Licence Fee						
18	Port ANPR Licence Fee x6						
	Total						

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% Total Discount [redacted]

The above represents a total discount over the 4 months of [redacted]. We shall issue a credit note for this amount once we receive confirmation from your side.
The main issues Bland Group software team are currently working on to resolve relate to ANPR (number plate recognition) cameras at the Port/Frontier exit and the APIS maritime module.
Javi Redondo attended the last NSCIS meeting held with all law enforcement users and may be able to provide further background on the above.
If you need any further information on the invoice/services/discounts I am happy to discuss.
Regards,

Philip Navas
Financial Controller

BG BLAND GROUP

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Website: www.blandgroup.com

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Cloister Building
Irish Town
Gibraltar
GX11 1AA
GI 3044

Government of Gibraltar
Attention: Caine Sanchez
No 6 Convent Place
Gibraltar

Deliver To

Invoice

For Order	0000008061
All Amounts in	Pound Sterling
Terms	0 days from document date
Current Balance	264375.00
Your VAT Number	GI
Doc No.	0000029776
Doc Date.	01/09/2018
Cust Ref.	
Acc No.	GOGCAINE

Line	Item Code	Description	Quantity	Unit	Selling Price	Net
764		Monthly Global invoice for the month of September 2018 Please see attached for breakdown	1		[redacted]	
765		1. NSCIS - National Security Centralised Intelligence System	1			
766		2. Interpol Document Centralization	1			
767		3. BCA Passport Scanning and Schengen	1			
768		4. People Counters	1			
769		5. Frontier Monitoring Project a. Frontier Queue Hotline	1			
770		b. Public Web Portal	1			
771		c. Automated Reporting Tools	1			
772		d. ANPR Phase 1 & 2 preventative monthly maintenance	1			
773		6. Frontier entrance cameras/Footage contract	1			
774		7. Frontier Facial Recognition	1			
775		8. APIS (AIR) + IATA	1			
776		9. Frontier Exit Pedestrian Cam	1			
777		10. Cruise Terminal Facial Recognition	1			
778		11. Border Web Cameras	1			
779		12. Cruise Terminal CCTV Maintenance and 24/7 on-call	1			

OSG

P O Box 212
Cloister Building
Irish Town
Gibraltar
GX11 1AA
GI 3044

Government of Gibraltar
Attention: Caine Sanchez
No 6 Convent Place
Gibraltar

Deliver To

Invoice

For Order	0000008061
All Amounts in	Pound Sterling
Terms	0 days from document date
Current Balance	264375.00
Your VAT Number	GI
Doc No.	0000029776
Doc Date.	01/09/2018
Cust Ref.	
Acc No.	GOGCAINE

Line	Item Code	Description	Quantity	Unit	Selling Price	Net
780		13. GIB Airport Facial Recognition	1		[redacted]	
781		14. Air Terminal Mflow System Licence Fee	1			
782		15. Land Border Mflow System Licence Fee	1			
783		16. APIS Maritime Licence Fee	1			
784		17. Cruise Terminal Mflow System Licence Fee	1			
785		18. Port ANPR Licence Fee x6	6			
786		19. Port CCTV Maintenance & Systems Integration	4			
787		20. Port System Connectivity	1			

Bland Limited
Sort Code [redacted]
Account Number [redacted]
IBAN
[redacted]

NET	[redacted]
VAT	
GROSS	
DUE WITHIN SETTLEMENT DAYS	

BLAND GROUP INTERNATIONAL

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AM1/62

OSG

P O Box 212
Cloister Building
Irish Town
Gibraltar
GX11 1AA
GI 3044

Government of Gibraltar
Attention: Caine Sanchez
No 6 Convent Place
Gibraltar

Deliver To

Invoice

For Order	0000008061
All Amounts in	Pound Sterling
Terms	0 days from document date
Current Balance	64293 75
Your VAT Number	GI
Doc No.	0000030398
Doc Date.	01/10/2018
Cust Ref.	
Acc No.	GOGCAINE

Line	Item Code	Description	Quantity	Unit	Selling Price	Net
788		Monthly Global invoice for the month of October 2018 Please see attached for breakdown	1		[redacted]	
789		1. NSCIS - National Security Centralised Intelligence System	1			
790		2. Interpol Document Centralization	1			
791		3. BCA Passport Scanning and Schengen	1			
792		4. People Counters	1			
793		5. Frontier Monitoring Project a. Frontier Queue Hotline	1			
794		b. Public Web Portal	1			
795		c. Automated Reporting Tools	1			
796		d. ANPR Phase 1 & 2 preventative monthly maintenance	1			
797		6. Frontier entrance cameras/Footage contract	1			
798		7. Frontier Facial Recognition	1			
799		8. APIS (AIR) + IATA	1			
800		9. Frontier Exit Pedestrian Cam	1			
801		10. Cruise Terminal Facial Recognition	1			
802		11. Border Web Cameras	1			
803		12. Cruise Terminal CCTV Maintenance and 24/7 on-call	1			

OSG

P O Box 212
Cloister Building
Irish Town
Gibraltar
GX11 1AA
GI 3044

Government of Gibraltar
Attention: Caine Sanchez
No 6 Convent Place
Gibraltar

Deliver To

Invoice

For Order	0000008061
All Amounts In	Pound Sterling
Terms	0 days from document date
Current Balance	64293.75
Your VAT Number	GI
Doc No.	0000030398
Doc Date.	01/10/2018
Cust Ref.	
Acc No.	GOGCAINE

Line	Item Code	Description	Quantity	Unit	Selling Price	Net
804		13. GIB Airport Facial Recognition	1		[redacted]	
805		14. Air Terminal Mflow System Licence Fee	1			
806		15. Land Border Mflow System Licence Fee	1			
807		16. APIS Maritime Licence Fee	1			
808		17. Cruise Terminal Mflow System Licence Fee	1			
809		18. Port ANPR Licence Fee x6	6			
810		19. Port CCTV Maintenance & Systems Integration	4			
811		20. Port System Connectivity	1			

Bland Limited
Sort Cod [redacted]
Account Numbe [redacted]
IBAN
[redacted]

NET	
VAT	[redacted]
GROSS	
DUE WITHIN SETTLEMENT DAYS	

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AM1/64

OSG

P O Box 212
Cloister Building
Irish Town
Gibraltar
GX11 1AA
GI 3044

Government of Gibraltar
Attention: Caine Sanchez
No 6 Convent Place
Gibraltar

Deliver To

Invoice

For Order	0000008061
All Amounts in	Pound Sterling
Terms	0 days from document date
Current Balance	130987.50
Your VAT Number	GI
Doc No.	0000030923
Doc Date.	01/11/2018
Cust Ref.	
Acc No.	GOGCAINE

Line	Item Code	Description	Quantity	Unit	Selling Price	Net
812		Monthly Global invoice for the month of November 2018 Please see attached for breakdown.	1		[redacted]	
813		1. NSCIS - National Security Centralised Intelligence System	1			
814		2. Interpol Document Centralization	1			
815		3. BCA Passport Scanning and Schengen	1			
816		4. People Counters	1			
817		5. Frontier Monitoring Project a. Frontier Queue Hotline	1			
818		b. Public Web Portal	1			
819		c. Automated Reporting Tools	1			
820		d. ANPR Phase 1 & 2 preventative monthly maintenance	1			
821		6. Frontier entrance cameras/Footage contract	1			
822		7. Frontier Facial Recognition	1			
823		8. APIS (AIR) + IATA	1			
824		9. Frontier Exit Pedestrian Cam	1			
825		10. Cruise Terminal Facial Recognition	1			
826		11. Border Web Cameras	1			
827		12. Cruise Terminal CCTV Maintenance and 24/7 on-call	1			

OSG

P O Box 212
Cloister Building
Irish Town
Gibraltar
GX11 1AA
GI 3044

Government of Gibraltar
Attention: Caire Sanchez
No 6 Convent Place
Gibraltar

Deliver To

Invoice

For Order	0000008061
All Amounts in	Pound Sterling
Terms	0 days from document date
Current Balance	130987.50
Your VAT Number	GI
Doc No.	0000030923
Doc Date.	01/11/2018
Cust Ref.	
Acc No.	GOGCAINE

Line	Item Code	Description	Quantity	Unit	Selling Price	Net
828		13. GIB Airport Facial Recognition	1		[redacted]	
829		14. Air Terminal Mflow System Licence Fee	1			
830		15. Land Border Mflow System Licence Fee	1			
831		16. APIS Maritime Licence Fee	1			
832		17. Cruise Terminal Mflow System Licence Fee	1			
833		18. Port ANPR Licence Fee	6			
834		19. Port CCTV Maintenance & Systems Integration	4			
835		20. Port System Connectivity	1			

Bland Limited
Sort Code [redacted]
Account Number [redacted]
IBAN
[redacted]

NET
VAT
GROSS
DUE WITHIN SETTLEMENT DAYS

[redacted]

BLAND GROUP INTERNATIONAL

Operations Support Group
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T: +350 200 44999 T: +350 200 44888 E: info@osgops.com www.osgops.com

AM1/66

OSG

P O Box 212
Cloister Building
Irish Town
Gibraltar
GX11 1AA
GI 3044

Government of Gibraltar
Attention: Caine Sanchez
No 6 Convent Place
Gibraltar

Deliver To

Invoice

For Order	0000008061
All Amounts in	Pound Sterling
Terms	0 days from document date
Current Balance	130987.50
Your VAT Number	GI
Doc No.	0000030924
Doc Date.	01/12/2018
Cust Ref.	
Acc No.	GOGCAINE

Line	Item Code	Description	Quantity	Unit	Selling Price	Net
836		Monthly Global invoice for the month of December 2018 Please see attached for breakdown	1		[redacted]	
837		1. NSCIS - National Security Centralised Intelligence System	1			
838		2. Interpol Document Centralization	1			
839		3. BCA Passport Scanning and Schengen	1			
840		4. People Counters	1			
841		5. Frontier Monitoring Project a. Frontier Queue Hotline	1			
842		b. Public Web Portal	1			
843		c. Automated Reporting Tools	1			
844		d. ANPR Phase 1 & 2 preventative monthly maintenance	1			
845		6. Frontier entrance cameras/Footage contract	1			
846		7. Frontier Facial Recognition	1			
847		8. APIS (AIR) + IATA	1			
848		9. Frontier Exit Pedestrian Cam	1			
849		10. Cruise Terminal Facial Recognition	1			
850		11. Border Web Cameras	1			
851		12. Cruise Terminal CCTV Maintenance and 24/7 on-call	1			

OSG

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GX11 1AA
GI 3044

Government of Gibraltar
Attention: Caine Sanchez
No 6 Convent Place
Gibraltar

Deliver To

Invoice

For Order	0000008061
All Amounts in	Pound Sterling
Terms	0 days from document date
Current Balance	130987.50
Your VAT Number	GI
Doc No.	0000030924
Doc Date.	01/12/2018
Cust Ref.	
Acc No.	GOGCAINE

Line	Item Code	Description	Quantity	Unit	Selling Price	Net
852		13. GIB Airport Facial Recognition	1		[redacted]	
853		14. Air Terminal Mflow System Licence Fee	1			
854		15. Land Border Mflow System Licence Fee	1			
855		16. APIS Maritime Licence Fee	1			
856		17. Cruise Terminal Mflow System Licence Fee	1			
857		18. Port ANPR Licence Fee x6	6			
858		19. Port CCTV Maintenance & Systems Integration	4			
859		20. Port System Connectivity	1			

Bland Limited
Sort Code [redacted]
Account Number [redacted]
IBAN
[redacted]

NET
VAT
GROSS
DUE WITHIN SETTLEMENT DAYS

[redacted]

Sept ort

OSG

GOG - OSG Global Invoice - Detailed Breakdown

No.	Service Description	Detailed Breakdown							Total Invoiced
		Software Licence Fee	Hardware Maintenance Fee	On Call Service Fee	System Maintenance Fee	Hosting Fee	Integration Fee	Other Fees	
	Cyber Security	[redacted]							
	Amazon EC2 Cloud Hosting								
	Encrypted Communication Chapters								
	NSOS Software Licence								
	NSOS System Maintenance								
1	NSOS - National Security Centralised Intelligence System								
	Bandwidth Fees								
	Interpol Centralisation Licence Fees								
	System Maintenance, Technical support & 24/7 availability								
2	BCA Interpol Centralisation								
	Mobile Unit								
	Fixed Scanners								
	Schengen Processing Platform								
3	BCA Passport Scanning and Schengen								
	Pedestrian Monitoring System - Frontier Inbound								
	Pedestrian Monitoring System - Frontier Outbound								
4	People Counters								
5a	Frontier Quick Hotline - (FMP)								
5b	NSOS - Frontier Monitoring Project (FMP) Licence								
5c	FMP - Automated Reports Module								
5d	ANPR Phase 1 & 2								
	Footage Intrusion + external hard drive (service reduced as from May 16)								
	Network Storage Management - NRS								
6	Frontier entrance cameras/Footage contract								
7	Frontier Facial Recognition + Amazon EC2 + Management								
8	APIS (NRS) + IRSA								
9	Frontier Exit Pedestrian Cam + Server Management + Bandwidth								
10	Cruise Terminal Facial Recognition + Amazon EC2 + Management								
11	Frontier Quick Webcams + Uplink + Bandwidth + Encoders								
12	Cruise Terminal CCTV Maintenance and 24/7 on-call								
13	Exit Airport Facial Recognition								
14	Air Terminal Mflow System Licence Fee								
15	Land Border Mflow System Licence Fee								
16	APIS Maritime Licence Fee								
17	Cruise Terminal Mflow System Licence Fee								
18	Port ANPR Licence Fee all								
19	Port CCTV Maintenance & Systems Integration								
20	Port System Connectivity								
	Global Invoice Total								

NL - Service included as part of the fee

AM1/69

(MOF) Cruz, Alison

From: (MOF) Mena, Albert
Sent: 18 February 2021 11:31
To: 'Philip Navas'
Cc: Nicholas Gaggero; John-Paul Payas; Jonathan Galliano; (NO6) Redondo, Javier; (NO6) Grech, Darren; (MOF) Gonzalez, Susan
Subject: RE: Agreement to settle NCIS outstanding invoices
Attachments: Credit Note 9002533 - NSCIS Settlement.pdf; NSCIS Settlement 05-02-2021.pdf; Invoice 39029 - NSCIS Mobile Scanner.pdf; Mobile Passport Scanner - 20201124 _DEV_008.pdf

Dear Philip,

Yes, in terms of payments going forward, I think this is what I have already said in my summary.

Please send your invoices to the Chief Secretary (whom I have copied) for settlement going forward.

Kind regards

Albert

From: Philip Navas
Sent: 17 February 2021 12:38
To: (MOF) Mena, Albert
Cc: Nicholas Gaggero ; John-Paul Payas ; Jonathan Galliano ; (NO6) Redondo, Javier
Subject: RE: Agreement to settle NCIS outstanding invoices

Dear Albert,

Thank you for your time in addressing this matter in a fair and reasonable manner.

Following on from our discussions on the financial aspects and based on the revised NSCIS settlement, attached please find the credit note fo[redacted] which covers the 29 month period from Sep-18 to Jan-21.

As from Feb-21 the NSCIS invoice will be revised to the agreed monthly total [redacted] as follows:

[redacted]

Should we continue to send this invoice to the Chief Secretary?

I also take this opportunity to attach the invoice in relation to the delivery of Mobile Passport Scanner application for [redacted] as per the agreed statement of work.

Please advise if anything further is required on this matter from my side.

AM1/70

Regards,

Philip Navas
Financial Controller



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From: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Sent: 01 February 2021 18:06
To: Nicholas Gaggero <Nicholas.Gaggero@blandgroup.com>
Cc: Philip Navas <Philip.Navas@blandgroup.com>; John-Paul Payas <jp.payas@osgops.com>; Jonathan Galliano <jonathan.galliano@blandgroup.com>; (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>
Subject: Agreement to settle NCIS outstanding invoices

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Dear Nicholas,

I refer to the meeting that took place by Teams on Wednesday 27 January 2021.

As promised I have set out attach a brief history in terms of number between the amounts invoices, paid and your proposal in November 2020.

It encompasses the amounts we agreed to in terms of overall settlemen[redacted]o October 2020) together with the payments for the months of November, December a[redacted] month (excluding the mobile scanners contracted in late November 2020 which I recognise are se[redacted]. Please let me know if this accords your understanding of what we agreed. If this is so can I please leave it with Philip Navas to consider how he wants to deal with this – an additional invoice or a credit note etc etc. We will then proceed to settle.

I recognise that going forward we would expect to receive an invoice f[redacted] as per above a[redacted] for the scanners). Again please correct me if I am mistaken[redacted]

I trust this brings this matter to a satisfactory conclusion. I would then seek to find a proper contact point. At the same time I look forward to receipt of those statistics we said we would look into to ensure the system is being maximised to all its potential.

If you have any difficulty with the attached I am happy to get on a call to resolve.

Kind regards

AM1/71

Albert

EU GDPR

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AM1/72

(MOF) Cruz, Alison

From: (MOF) Mena, Albert
Sent: 01 February 2021 18:06
To: 'Nicholas Gaggero'
Cc: 'Philip Navas'; John-Paul Payas; 'jonathan.galliano@blandgroup.com'; (NO6) Redondo, Javier
Subject: Agreement to settle NCIS outstanding invoices
Attachments: NCIS settlement as agreed on 27 January 2021.pdf

Dear Nicholas,
I refer to the meeting that took place by Teams on Wednesday 27 January 2021.
As promised I have set out attach a brief history in terms of number between the amounts invoices, paid and your proposal in November 2020.
it encompasses the amounts we agreed to in terms of overall settlement (a further [redacted] to October 2020) together with the payments for the months of November, December and January [redacted] per month (excluding the mobile scanners contracted in late November 2020 which I recognise are separate). Please let me know if this accords your understanding of what we agreed. If this is so can I please leave it with Philip Navas to consider how he wants to deal with this – an additional invoice or a credit note etc etc. We will then proceed to settle.
I recognise that going forward we would expect to receive an invoice for [redacted] being [redacted] as per above and [redacted] for the scanners). Again please correct me if I am mistaken.
I trust this brings this matter to a satisfactory conclusion. I would then seek to find a proper contact point. At the same time I look forward to receipt of those statistics we said we would look into to ensure the system is being maximised to all its potential.
If you have any difficulty with the attached I am happy to get on a call to resolve.
Kind regards
Albert

AM1/73

BLAND GROUP ("BG") NSCIS SETTLEMENT

Period October 2018 - October 2020 - 25 months

NSCIS

Total for period (25 months)

Difference

BG's proposal was: first 13 months
second 12 months

Gives proposal involves a reduction of

As a gesture of goodwill HMGoG paid

This balances as follows:

Owed per invoice

During the call on 27 January 2021 it was agreed

Paid already

Going forward from October

BG accept APIS Maritime is less than ideal
The mobile scanners don't work
It was agreed on the call to pay nothing for the scanners and pay [redacted] or APIS Maritime

Adjusts as follows :
Existing invoice amount
Less

Plus for APIS marine
Total per month exclusive of the [redacted] or the mobile scanners contracted in December 2020
BG's proposal was
Difference

To bring up to date

November, December, January =

Based on our agreement during the call on 27 Jan 2021 HMGoG would make a payment now for :

[redacted]

AM1/74

(MOF) Cruz, Alison

From: (MOF) Gonzalez, Susan
Sent: 28 January 2020 08:21
To: (MOF) Mena, Albert
Subject: RE: NSCIS Invoice Jan-20

Dear Albert
The last payment we made was in November 2019 amounting to [redacted]. This payment was in respect of the months August 2019, September 2019, and October 2019.
I will arrange for another payment of [redacted] to be processed covering the months of November 2019 to January 2020.
Regards
Susie

From: (MOF) Mena, Albert
Sent: 27 January 2020 18:31
To: (MOF) Gonzalez, Susan
Subject: Re: NSCIS Invoice Jan-20
Susie,
I think we have not paid the last few as I had hoped to meet internally to discuss these issues and agree what the payments should be.
Please get Alison to dig these out if you don't have them but I thought I had forwarded these to you.
Kind regards
Albert

From: (MOF) Gonzalez, Susan <susan.gonzalez@gibraltar.gov.gi>
Sent: Monday, January 27, 2020 5:05 pm
To: (MOF) Mena, Albert
Subject: RE: NSCIS Invoice Jan-20
Dear Albert
We have made payments of [redacted] per month.
I will check which is the last month we have paid.
Regards
Susie

Susan Gonzalez
Senior Executive Officer

Office of the Financial Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20061836
Centre: [redacted]
Fax: (+350) 20079901
susan.gonzalez@gibraltar.gov.gi

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Office of the Financial Secretary

HM Government of Gibraltar

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From: (MOF) Mena, Albert
Sent: 27 January 2020 18:01
To: (MOF) Gonzalez, Susan <susan.gonzalez@gibraltar.gov.gi>
Subject: Fwd: NSCIS Invoice Jan-20

Susie,
Sorry to bother you but can you seek to settle this invoice and the previous two up to the amount we have usually been paying for this service.
When I meet with them I will then see how we do a retrospective catch up if we are content with the services we have received.
Please do let me know if you need to discuss.
Kind regards
Albert

From: Philip Navas <philip.navas@blandgroup.com>
Sent: Monday, January 27, 2020 1:54 pm
To: (MOF) Mena, Albert
Cc: John-Paul Payas; (NO6) Redondo, Javier; (NO6) Canessa, Peter
Subject: NSCIS Invoice Jan-20

Dear Albert,
Attached please find the NSCIS invoice for the month of January 2020.
Please note that we are awaiting payment for the Nov-19 and Dec-19 NSCIS invoices in addition to the Gibair KPI Fee for 2018/19.
As regards the meeting to discuss the NSCIS invoice, will you be able to meet up to address this matter in February?
Regards,

Philip Navas
Financial Controller

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Website: www.blandgroup.com

From: Philip Navas
Sent: 06 January 2020 14:28
To: '(MOF) Mena, Albert' <albert.mena@gibraltar.gov.gi>
Cc: 'John-Paul Payas' <jp.payas@osgops.com>; '(NO6) Redondo, Javier' <javier.redondo@gibraltar.gov.gi>; '(NO6) Canessa, Peter' <peter.canessa@gibraltar.gov.gi>
Subject: NSCIS Invoice Dec-19

Dear Albert,
Firstly I would like to wish you all the best for the New Year ahead.

AM1/76

Secondly, attached please find the Dec-19 NSCIS Global invoice. As per the update to NSCIS users on 17th December, the new ANPR cameras have been fully launched and the system's effectiveness in capturing vehicle/motorcycle plates has improved significantly.
I believe we are now in a good position to reconvene and discuss the unpaid aspects of the NSCIS invoice dating back to October 2018 so that we can agree a position on the historical invoices plus clarify how best to proceed going forward. I was informed that the facial recognition was discussed during the last meeting with yourself and the CM. This will also be an area to discuss and clarify from an invoicing perspective.
Please advise if you will be able to meet up on the matter at some point during January.
Regards,

Philip Navas
Financial Controller

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From: Philip Navas
Sent: 04 December 2019 14:08
To: '(MOF) Mena, Albert' <albert.mena@gibraltar.gov.gi>
Cc: 'John-Paul Payas' <jp.payas@osgops.com>; '(NO6) Redondo, Javier' <javier.redondo@gibraltar.gov.gi>; '(NO6) Canessa, Peter' <peter.canessa@gibraltar.gov.gi>
Subject: NSCIS Invoice Nov-19
Hi Albert,
Attached please find the Nov-19 NSCIS Global invoice.
The new ANPR cameras testing phase has now been completed. The results have shown a significant improvement both in quality of image and in capture rates to the extent that the system is now capturing motorcycle plates with much greater accuracy and consistency.
We are now in a position to remove the old cameras at the frontier and launch the new cameras into the live environment. The old cameras will be repurposed and used to replace the sub-optimal cameras at the Port. This phase will be completed by 17th December which means that as from this date the whole ANPR system will be operating effectively and with greater accuracy than ever before.
The users will be updated on progress at the next NSCIS working group meeting (Tuesday 17th December).
Regards,

Philip Navas
Financial Controller

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From: Philip Navas
Sent: 31 October 2019 13:37
To: '(MOF) Mena, Albert' <albert.mena@gibraltar.gov.gi>
Cc: 'John-Paul Payas' <jp.payas@osgops.com>; '(NO6) Redondo, Javier' <javier.redondo@gibraltar.gov.gi>; '(NO6) Canessa, Peter' <peter.canessa@gibraltar.gov.gi>
Subject: NSCIS Invoices Oct-19

Dear Albert,

Attached please find the Oct-19 NSCIS invoice. Please note that as per our records we have not yet received payment for the Aug-19 and Sep-19 invoices.

As regards the installation of the new ANPR cameras at the frontier, these have been installed and our IT team will now be running them parallel to the current cameras over a 2 week testing phase to ensure the system is functioning correctly before the live launch.

The users will be updated on progress at the next NSCIS working group meeting (Tuesday 5th November).

Regards,

Philip Navas
Financial Controller

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Website: www.blandgroup.com

From: Philip Navas
Sent: 09 October 2019 18:22
To: '(MOF) Mena, Albert' <albert.mena@gibraltar.gov.gi>
Cc: 'John-Paul Payas' <jp.payas@osgops.com>; '(NO6) Redondo, Javier' <javier.redondo@gibraltar.gov.gi>; '(NO6) Canessa, Peter' <peter.canessa@gibraltar.gov.gi>
Subject: NSCIS Invoices Aug-19 & Sep-19

Dear Albert,

Attached please find the Aug-19 and Sep-19 NSCIS invoices.

I confirm receipt of the [redacted] payment for both the Jun-19 and Jul-19 invoices.

Regards,

Philip Navas
Financial Controller

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Website: www.blandgroup.com

From: Philip Navas
Sent: 09 August 2019 10:22

AM1/78

To: '(MOF) Mena, Albert' <albert.mena@gibraltar.gov.gi>
Cc: 'John-Paul Payas' <jp.payas@osgops.com>; '(NO6) Redondo, Javier' <javier.redondo@gibraltar.gov.gi>; '(NO6) Canessa, Peter' <peter.canessa@gibraltar.gov.gi>
Subject: NSCIS Invoices Jun-19 to Jul-19

Dear Albert,

I can confirm receipt of the Apr-19 and May-19 NSCIS invoice payments – thanks on that front.

I attach the June-19 and Jul-19 NSCIS invoices that are currently outstanding.

Regards,

Philip Navas

Financial Controller

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Telephone: +350 200 79200
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Website: www.blandgroup.com

From: Philip Navas
Sent: 24 July 2019 11:04
To: '(MOF) Mena, Albert' <albert.mena@gibraltar.gov.gi>
Cc: John-Paul Payas <jp.payas@osgops.com>; (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; (NO6) Canessa, Peter <peter.canessa@gibraltar.gov.gi>
Subject: RE: NSCIS Invoices Apr-19 to Jun-19

Dear Albert,

Thanks for your swift response on the matter.

I refer to the amount as "pending resolution" since as you mentioned yourself, we have not gone through a scientific exercise to establish a final agreed position.

I fully understand your reservation of rights in relation to this amount. However until such time that we sit down and address the past issues in a reasonable manner, I will obviously not be in a position to write-off any amount.

I believe you are aware that regular meetings are taking place between our technical team and NSCIS system users. Within this environment system users are able to raise any system issues and they are also updated on the changes and enhancements being made to the system. This improved line of communication means that both parties are now able to clearly understand [redacted]

I believe that this clear understanding will allow us to address the historical amounts due in a precise manner once we are able to review.

Kind Regards,

Philip Navas

Financial Controller

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Website: www.blandgroup.com

AM1/79

From: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Sent: 24 July 2019 09:22
To: Philip Navas <Philip.Navas@blandgroup.com>
Cc: John-Paul Payas <jp.payas@osgops.com>; (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; (NO6) Canessa, Peter <peter.canessa@gibraltar.gov.gi>
Subject: RE: NSCIS Invoices Apr-19 to Jun-19

Dear Philip,
I gave instruction for April and May, which is what I has at the time, to be settled last week. They must be somewhere within the system expect payment any day for these two.
I should comment that you talk about the balance as "pending resolution". The amount we have been paying so far is simply a pragmatic amount, and not a scientific one, to ensure something is paid [redacted] we should then sit down and discuss how we address the past in a reasonable manner.
I therefore have to reserve our rights fully in this regard as I have done previously.
Kind regards
Albert

From: Philip Navas [mailto:Philip.Navas@blandgroup.com]
Sent: 23 July 2019 17:14
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: John-Paul Payas <jp.payas@osgops.com>; (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; (NO6) Canessa, Peter <peter.canessa@gibraltar.gov.gi>
Subject: NSCIS Invoices Apr-19 to Jun-19

Dear Albert,
I attach the Jun-19 NSCIS invoice together with the invoices for Apr-19 and May-19 that remain outstanding.
The following table shows the amount due as per the agree[redacted]per month and the amount pending resolution:

Description	Total Invoice Amount	Amount to be settled	Pending Resolution
NSCIS Invoice - Apr-1[redacted]			
NSCIS Invoice - May-1			
NSCIS Invoice - Jun-1[redacted]			
Total:			

Please advise when we can expect to receive th[redacted] payment covering these 3 months.
Regards,

Philip Navas
Financial Controller

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Website: www.blandgroup.com

From: Philip Navas
Sent: 29 May 2019 15:26
To: '(MOF) Mena, Albert' <albert.mena@gibraltar.gov.gi>
Cc: John-Paul Payas <jp.payas@osgops.com>; (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; (NO6)

AM1/80

Canessa, Peter <peter.canessa@gibraltar.gov.gi>
Subject: RE: NSCIS Invoices Apr-19 & May-19
Hi Albert,
Thanks for your prompt response on the matter.
Your position in relation to the outstanding amounts and the proposed [redacted]ayments for the April and May 2019 is noted and understood.
Just to clarify, by "outstanding" I simply meant pending resolution.
Regards,

Philip Navas
Financial Controller

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Facsimile: +350 200 76189
Website: www.blandgroup.com

From: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Sent: 29 May 2019 14:26
To: Philip Navas <Philip.Navas@blandgroup.com>
Cc: John-Paul Payas <jp.payas@osgops.com>; (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; (NO6) Canessa, Peter <peter.canessa@gibraltar.gov.gi>
Subject: RE: NSCIS Invoices Apr-19 & May-19
Dear Philip,
Noted I will deal with the two invoices outstanding for April and May 2019.
Please also note that I whilst I recognise these as not paid in whole or in part I reserve our rights fully in respect of the amounts you claim as outstanding from Sep 2018 to Mar 2019. In this regard I propose to only settl[redacted] for April and May 2019 as had been the position in previous months i[redacted] we will be in a better position to quantify everything and reach a settlement.
I will nonetheless address your invoices shortly.
Best
Albert

Albert Mena
Financial Secretary

Office of the Financial Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20051168
Centre: [redacted]
Fax: (+350) 20079901
albert.mena@gibraltar.gov.gi

www.gibraltar.gov.gi

Office of the Financial Secretary

AM1/81

HM Government of Gibraltar

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Please consider the environment before printing this email.

From: Philip Navas [mailto:Philip.Navas@blandgroup.com]
Sent: 29 May 2019 14:18
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: John-Paul Payas <jp.payas@osgops.com>
Subject: NSCIS Invoices Apr-19 & May-19

Hi Albert,

Attached please find the NSCIS invoices for April and May 2019.

I am aware that further discussions will be required in relation to the performance of the system in order to establish and agree upon final amounts due in relation to NSCIS invoices since Sep-18.

NSCIS Invoices - Current Position

Month	Invoice No.	Total Invoice	Payment	Outstanding
May-19	32583	[redacted]		
Apr-19	32264			
Mar-19	31931			
Feb-19	31912			
Jan-19	31523			
Dec-18	30924			
Nov-18	30923			
Oct-18	30398			
Sep-18	29776			
	Total:			

Regards,

Philip Navas

Financial Controller

BG BLAND GROUP

BLAND GROUP
PO Box 212
Cloister Building
Irish Town
Gibraltar

Telephone: +350 200 79200
Facsimile: +350 200 76189
Website: www.blandgroup.com

From: Philip Navas
Sent: 29 March 2019 13:46
To: 'albert.mena@gibraltar.gov.gi' <albert.mena@gibraltar.gov.gi>
Cc: 'John-Paul Payas' <jp.payas@osgops.com>
Subject: RE: NSCIS Invoices Sep-18 to Feb-19

Hi Albert,

I can confirm receipt [redacted] in relation to the NSCIS invoices.

Thank you for settling the matter before our financial year end – much appreciated.

AM1/82

On another note, [redacted] Calpe Lounge payment processed today.
Regards,
Philip Navas
Financial Controller



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PO Box 212
Cloister Building
Irish Town
Gibraltar

Telephone: +350 200 79200
Facsimile: +350 200 76189
Website: www.blandgroup.com

From: Philip Navas
Sent: 05 March 2019 11:18
To: 'albert.mena@gibraltar.gov.gi' <albert.mena@gibraltar.gov.gi>
Cc: 'John-Paul Payas' <jp.payas@osgops.com>
Subject: NSCIS Invoices Sep-18 to Feb-19
Hi Albert,
Attached are the 5 NSCIS invoices from Sep-18 to Jan-19 pending the agreed payment o[redacted]subject to further discussion.
I also attach the Feb-19 invoice which from our perspective can fall into the same category as the previous 5 invoices [redacted] payment subject to further discussion).
Please advise if anything further is needed from our end so that payment can be processed.
Regards,
Philip Navas
Financial Controller



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EU GDPR

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AM1/83

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AM1/84

(MOF) Cruz, Alison

From: (MOF) Mena, Albert
Sent: 24 July 2019 09:22
To: 'Philip Navas'
Cc: John-Paul Payas; (NO6) Redondo, Javier; (NO6) Canessa, Peter
Subject: RE: NSCIS Invoices Apr-19 to Jun-19

Dear Philip,

I gave instruction for April and May, which is what I has at the time, to be settled last week. They must be somewhere within the system expect payment any day for these two.

I should comment that you talk about the balance as "pending resolution". The amount we have been paying so far is simply a pragmatic amount, and not a scientific one, to ensure something is paid i[redacted] we should then sit down and discuss how we address the past in a reasonable manner.

I therefore have to reserve our rights fully in this regard as I have done previously.

Kind regards

Albert

From: Philip Navas [mailto:Philip.Navas@blandgroup.com]
Sent: 23 July 2019 17:14
To: (MOF) Mena, Albert
Cc: John-Paul Payas ; (NO6) Redondo, Javier ; (NO6) Canessa, Peter
Subject: NSCIS Invoices Apr-19 to Jun-19

Dear Albert,

I attach the Jun-19 NSCIS invoice together with the invoices for Apr-19 and May-19 that remain outstanding.

The following table shows the amount due as per the agreed [redacted] per month and the amount pending resolution:

Description	Total Invoice Amount	Amount to be settled	Pending Resolution
NSCIS Invoice - Apr-19	[redacted]		
NSCIS Invoice - May-19			
NSCIS Invoice - Jun-19			
Total:			

Please advise when we can expect to receive th[redacted] payment covering these 3 months.

Regards,

AM1/85

Philip Navas
Financial Controller

BG BLAND GROUP

BLAND GROUP
PO Box 212
Cloister Building
Irish Town
Gibraltar

Telephone: +350 200 79200
Facsimile: +350 200 76189
Website: www.blandgroup.com

From: Philip Navas
Sent: 29 May 2019 15:26
To: '(MOF) Mena, Albert' <albert.mena@gibraltar.gov.gi>
Cc: John-Paul Payas <jp.payas@osgops.com>; (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; (NO6) Canessa, Peter <peter.canessa@gibraltar.gov.gi>
Subject: RE: NSCIS Invoices Apr-19 & May-19

Hi Albert,

Thanks for your prompt response on the matter.

Your position in relation to the outstanding amounts and the propose[redacted]payments for the April and May 2019 is noted and understood.

Just to clarify, by "outstanding" I simply meant pending resolution.

Regards,

Philip Navas
Financial Controller

BG BLAND GROUP

BLAND GROUP
PO Box 212
Cloister Building
Irish Town
Gibraltar

Telephone: +350 200 79200
Facsimile: +350 200 76189
Website: www.blandgroup.com

From: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Sent: 29 May 2019 14:26

AM1/86

To: Philip Navas <Philip.Navas@blandgroup.com>
Cc: John-Paul Payas <jp.payas@osgops.com>; (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; (NO6) Canessa, Peter <peter.canessa@gibraltar.gov.gi>
Subject: RE: NSCIS Invoices Apr-19 & May-19

Dear Philip,

Noted I will deal with the two invoices outstanding for April and May 2019.

Please also note that I whilst I recognise these as not paid in whole or in part I reserve our rights fully in respect of the amounts you claim as outstanding from Sep 2018 to Mar 2019. In this regard I propose to only settle [redacted] for April and May 2019 as had been the position in previous months [redacted] we will be in a better position to quantify everything and reach a settlement.

I will nonetheless address your invoices shortly.

Best

Albert

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[illegible]

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Cc: John-Paul Payas <jp.payas@osgops.com>
Subject: NSCIS Invoices Apr-19 & May-19

Hi Albert,

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I am aware that further discussions will be required in relation to the performance of the system in order to establish and agree upon final amounts due in relation to NSCIS invoices since Sep-18.

NSCIS Invoices - Current Position

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Regards,

Philip Navas
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From: Philip Navas
Sent: 29 March 2019 13:46
To: 'albert.mena@gibraltar.gov.gi' <albert.mena@gibraltar.gov.gi>
Cc: 'John-Paul Payas' <jp.payas@osgops.com>
Subject: RE: NSCIS Invoices Sep-18 to Feb-19

Hi Albert,

I can confirm receipt [redacted] in relation to the NSCIS invoices.

Thank you for settling the matter before our financial year end – much appreciated.

On another not[redacted] Calpe Lounge payment processed today.

AM1/88

Regards,

Philip Navas
Financial Controller

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AM1/89

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AM1/90

(MOF) Cruz, Alison

From: (MOF) Mena, Albert
Sent: 29 May 2019 14:28
To: (MIN) Picardo, Fabian
Subject: FW: NSCIS Invoices Apr-19 & May-19

Just FYI.

[redacted] having said that I want the EY exercise to be carried out and I can then determine factually.

I trust you concur with my approach. I have cleared this with the RGP.

Kind regards

Albert

From: (MOF) Mena, Albert
Sent: 29 May 2019 14:26
To: 'Philip Navas'
Cc: John-Paul Payas ; (NO6) Redondo, Javier ; (NO6) Canessa, Peter
Subject: RE: NSCIS Invoices Apr-19 & May-19

Dear Philip,

Noted I will deal with the two invoices outstanding for April and May 2019.

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I will nonetheless address your invoices shortly.

Best

Albert

Albert Mena
Financial Secretary

Office of the Financial Secretary
HM Government of Gibraltar
No.6 Convent Place

AM1/91

Gibraltar
GX11 1AA

Tel: (+350) 20051168
Centrex: [redacted]
Fax: (+350) 20079901
albert.mena@gibraltar.gov.gi

www.gibraltar.gov.gi

Office of the Financial Secretary

HM Government of Gibraltar

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From: Philip Navas [mailto:Philip.Navas@blandgroup.com]
Sent: 29 May 2019 14:18
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: John-Paul Payas <jp.payas@osgops.com>
Subject: NSCIS Invoices Apr-19 & May-19

Hi Albert,

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Oct-18	30398			
Sep-18	29776			
	Total:			

Regards,

Philip Navas
Financial Controller

BG BLAND GROUP

AM1/92

BLAND GROUP
PO Box 212
Cloister Building
Irish Town
Gibraltar

Telephone: +350 200 79200
Facsimile: +350 200 76189
Website: www.blandgroup.com

From: Philip Navas
Sent: 29 March 2019 13:46
To: 'albert.mena@gibraltar.gov.gi' <albert.mena@gibraltar.gov.gi>
Cc: 'John-Paul Payas' <jp.payas@osgops.com>
Subject: RE: NSCIS Invoices Sep-18 to Feb-19

Hi Albert,

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Thank you for settling the matter before our financial year end – much appreciated.

On another note [redacted]Calpe Lounge payment processed today.

Regards,

Philip Navas
Financial Controller

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From: Philip Navas
Sent: 05 March 2019 11:18
To: 'albert.mena@gibraltar.gov.gi' <albert.mena@gibraltar.gov.gi>
Cc: 'John-Paul Payas' <jp.payas@osgops.com>
Subject: NSCIS Invoices Sep-18 to Feb-19

Hi Albert,

Attached are the 5 NSCIS invoices from Sep-18 to Jan-19 pending the agreed payment [redacted]ubject to further discussion.

AM1/93

I also attach the Feb-19 invoice which from our perspective can fall into the same category as the previous 5 invoices [redacted] payment subject to further discussion).

Please advise if anything further is needed from our end so that payment can be processed.

Regards,

Philip Navas
Financial Controller

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AM1/94

(MOF) Cruz, Alison

From: (MOF) Mena, Albert
Sent: 29 May 2019 14:26
To: 'Philip Navas'
Cc: John-Paul Payas; (NO6) Redondo, Javier; (NO6) Canessa, Peter
Subject: RE: NSCIS Invoices Apr-19 & May-19

Dear Philip,

Noted I will deal with the two invoices outstanding for April and May 2019.

Please also note that I whilst I recognise these as not paid in whole or in part I reserve our rights fully in respect of the amounts you claim as outstanding from Sep 2018 to Mar 2019. In this regard I propose to only settle [redacted] for April and May 2019 as had been the position in previous months [redacted] we will be in a better position to quantify everything and reach a settlement.

I will nonetheless address your invoices shortly.

Best

Albert

Albert Mena
Financial Secretary

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albert.mena@gibraltar.gov.gi

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Office of the Financial Secretary

HM Government of Gibraltar

[redacted]

AM1/95

From: Philip Navas [mailto:Philip.Navas@blandgroup.com]
Sent: 29 May 2019 14:18
To: (MOF) Mena, Albert
Cc: John-Paul Payas
Subject: NSCIS Invoices Apr-19 & May-19

Hi Albert,

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	Total:			

Regards,

Philip Navas
Financial Controller

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Irish Town
Gibraltar

Telephone: +350 200 79200
Facsimile: +350 200 76189
Website: www.blandgroup.com

From: Philip Navas
Sent: 29 March 2019 13:46
To: 'albert.mena@gibraltar.gov.gi' <albert.mena@gibraltar.gov.gi>
Cc: 'John-Paul Payas' <jp.payas@osgops.com>
Subject: RE: NSCIS Invoices Sep-18 to Feb-19

AM1/96

Hi Albert,

I can confirm receipt of [redacted] in relation to the NSCIS invoices.

Thank you for settling the matter before our financial year end – much appreciated.

On another note, [redacted]alpe Lounge payment processed today.

Regards,

Philip Navas
Financial Controller

BG BLAND GROUP

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PO Box 212
Cloister Building
Irish Town
Gibraltar

Telephone: +350 200 79200
Facsimile: +350 200 76189
Website: www.blandgroup.com

From: Philip Navas
Sent: 05 March 2019 11:18
To: 'albert.mena@gibraltar.gov.gi' <albert.mena@gibraltar.gov.gi>
Cc: 'John-Paul Payas' <jp.payas@osgops.com>
Subject: NSCIS Invoices Sep-18 to Feb-19

Hi Albert,

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I also attach the Feb-19 invoice which from our perspective can fall into the same category as the previous 5 invoices [redacted]payment subject to further discussion).

Please advise if anything further is needed from our end so that payment can be processed.

Regards,

Philip Navas
Financial Controller

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AM1/97

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AM1/98

(MOF) Cruz, Alison

From: (MOF) Mena, Albert
Sent: 29 May 2019 11:27
To: 'John-Paul Payas'
Cc: (NO6) Redondo, Javier; (NO6) Canessa, Peter
Subject: RE: Strictly Confidential

John Paul,

We have discussed at length today. Please send invoices to me. From what I've seen from the output of the meetings the progress is good and most welcome.

When you have implemented this we will be in a good position to discuss current performance and consider payments in the round [redacted]

As ever I look forward to continuing to work with you on this.

Kind regards

Albert

From: John-Paul Payas [mailto:jp.payas@osgops.com]
Sent: 22 May 2019 09:20
To: (MOF) Mena, Albert
Subject: FW: Strictly Confidential

Good morning Albert,

With regards to the below email could you please advise.

Regards.

John Paul.

From: John-Paul Payas
Sent: 16 May 2019 09:18
To: '(MOF) Mena, Albert' <albert.mena@gibraltar.gov.gi>
Subject: FW: Strictly Confidential

Good morning Albert,

I hope this email finds you well.

Given the circumstances could you please advise who we forward the NSCIS invoice to.

Kind regards.

John Paul.

AM1/99

From: John-Paul Payas
Sent: 13 May 2019 14:24
To: '(MOF) Mena, Albert' <albert.mena@gibraltar.gov.gi>
Subject: RE: Strictly Confidential

Dear Albert,

I can confirm that the below request has been carried out and the required restrictions are now in place.

Please don't hesitate to contact me should you require anything else.

Kind regards.

John Paul.

From: (MOF) Mena, Albert [mailto:albert.mena@gibraltar.gov.gi]
Sent: 13 May 2019 11:01
To: John-Paul Payas <jp.payas@osgops.com>
Subject: Strictly Confidential

Dear John Paul,

We have spoken. Given recent events I would be grateful if you would kindly suspend Caine Sanchez access to the NSCIS system with immediate effect. His account should therefore be in lock down.

If he asks please just limit yourself to saying you'll look into it.

Please let me know if you require anything further.

Kind regards

Albert

Albert Mena
Financial Secretary

Office of the Financial Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20051168
Centrex: 2112
Fax: (+350) 20079901
albert.mena@gibraltar.gov.gi

www.gibraltar.gov.gi

Office of the Financial Secretary

HM Government of Gibraltar

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AM1/100

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(MOF) Cruz, Alison

From: (MOF) Mena, Albert
Sent: 04 November 2019 12:00
To: (NO6) Redondo, Javier
Cc: (NO6) Canessa, Peter
Subject: RE: NSCIS Invoices Oct-19
Attachments: RE: Outstanding items with ITLD for NSCIS; NSCIS Invoices Oct-19

Javi,

We should at least pa[redacted] They have since installed the cameras but these are being tested as per attached. We really need to consider the make up of the [redacted] nd see how we move them towards the actual invoice amount of £ 66k albeit the cameras don't resolve everything.

I did agree to pay them for this part of the invoice as from Jul[redacted] the attached chain explains my thinking clearly). I do believe we need a meeting with all to see progress on other issues – but it is perhaps best if we sit together with the service costs breakdown and look at what these cameras represent and make a retrospective payment once they are up and running.

For now we should certainly pay [redacted]r month but perhaps tell OSG we are making this assessment and will have this done during November. Can we arrange to meet but please have that make up of the invoice amount to hand when we do so.

Kind regards

Albert

From: (NO6) Redondo, Javier
Sent: 04 November 2019 11:41
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: (NO6) Canessa, Peter <peter.canessa@gibraltar.gov.gi>
Subject: RE: NSCIS Invoices Oct-19

Good morning FS,

I'd be grateful if you can please advise whether we should proceed to p[redacted]n respect of the above invoices, for the months of Aug-19 to Oct-19 via the DCM's Office?

Thanks.
Best,
Javi

Javier Redondo
Private Secretary to the Chief Minister

Office of the Chief Minister
HM Government of Gibraltar
No.6 Convent Place

AM1/102

Gibraltar
GX11 1AA

Tel: (+350) 20070071
Centrex: [redacted]

javier.redondo@gibraltar.gov.gi

www.gibraltar.gov.gi

Office of the Chief Minister

HM Government of Gibraltar

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Please consider the environment before printing this email.

From: Philip Navas <Philip.Navas@blandgroup.com>
Sent: 31 October 2019 13:40
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: John-Paul Payas <jp.payas@osgops.com>; (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; (NO6) Canessa, Peter <peter.canessa@gibraltar.gov.gi>
Subject: NSCIS Invoices Oct-19

Dear Albert,

Attached please find the Oct-19 NSCIS invoice. Please note that as per our records we have not yet received payment for the Aug-19 and Sep-19 invoices.

As regards the installation of the new ANPR cameras at the frontier, these have been installed and our IT team will now be running them parallel to the current cameras over a 2 week testing phase to ensure the system is functioning correctly before the live launch.

The users will be updated on progress at the next NSCIS working group meeting (Tuesday 5th November).

Regards,
Philip Navas
Financial Controller

BLAND GROUP
PO Box 212
Cloister Building
Irish Town
Gibraltar

Telephone: +350 200 79200
Facsimile: +350 200 76189
Website: www.blandgroup.com

From: Philip Navas
Sent: 09 October 2019 18:22
To: '(MOF) Mena, Albert' <albert.mena@gibraltar.gov.gi>
Cc: 'John-Paul Payas' <jp.payas@osgops.com>; '(NO6) Redondo, Javier' <javier.redondo@gibraltar.gov.gi>; '(NO6) Canessa, Peter' <peter.canessa@gibraltar.gov.gi>
Subject: NSCIS Invoices Aug-19 & Sep-19

Dear Albert,

Attached please find the Aug-19 and Sep-19 NSCIS invoices.

I confirm receipt of th[redacted]payment for both the Jun-19 and Jul-19 invoices.

Regards,

Philip Navas
Financial Controller

BG BLAND GROUP

BLAND GROUP
PO Box 212
Cloister Building
Irish Town
Gibraltar

Telephone: +350 200 79200
Facsimile: +350 200 76189
Website: www.blandgroup.com

From: Philip Navas
Sent: 09 August 2019 10:22
To: '(MOF) Mena, Albert' <albert.mena@gibraltar.gov.gi>
Cc: 'John-Paul Payas' <jp.payas@osgops.com>; '(NO6) Redondo, Javier' <javier.redondo@gibraltar.gov.gi>; '(NO6) Canessa, Peter' <peter.canessa@gibraltar.gov.gi>
Subject: NSCIS Invoices Jun-19 to Jul-19

Dear Albert,

I can confirm receipt of the Apr-19 and May-19 NSCIS invoice payments – thanks on that front.

I attach the June-19 and Jul-19 NSCIS invoices that are currently outstanding.

Regards,

Philip Navas
Financial Controller

BG BLAND GROUP

AM1/104

BLAND GROUP
PO Box 212
Cloister Building
Irish Town
Gibraltar

Telephone: +350 200 79200
Facsimile: +350 200 76189
Website: www.blandgroup.com

From: Philip Navas
Sent: 24 July 2019 11:04
To: '(MOF) Mena, Albert' <albert.mena@gibraltar.gov.gi>
Cc: John-Paul Payas <jp.payas@osgops.com>; (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; (NO6) Canessa, Peter <peter.canessa@gibraltar.gov.gi>
Subject: RE: NSCIS Invoices Apr-19 to Jun-19

Dear Albert,

Thanks for your swift response on the matter.

I refer to the amount as "pending resolution" since as you mentioned yourself, we have not gone through a scientific exercise to establish a final agreed position.

I fully understand your reservation of rights in relation to this amount. However until such time that we sit down and address the past issues in a reasonable manner, I will obviously not be in a position to write-off any amount.

I believe you are aware that regular meetings are taking place between our technical team and NSCIS system users. Within this environment system users are able to raise any system issues and they are also updated on the changes and enhancements being made to the system. This improved line of communication means that both parties are now able to clearly understand [redacted]

I believe that this clear understanding will allow us to address the historical amounts due in a precise manner once we are able to review.

Kind Regards,

Philip Navas
Financial Controller

BG BLAND GROUP

BLAND GROUP
PO Box 212
Cloister Building
Irish Town
Gibraltar

Telephone: +350 200 79200
Facsimile: +350 200 76189
Website: www.blandgroup.com

From: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Sent: 24 July 2019 09:22
To: Philip Navas <Philip.Navas@blandgroup.com>
Cc: John-Paul Payas <jp.payas@osgops.com>; (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; (NO6) Canessa, Peter <peter.canessa@gibraltar.gov.gi>
Subject: RE: NSCIS Invoices Apr-19 to Jun-19

Dear Philip,

I gave instruction for April and May, which is what I has at the time, to be settled last week. They must be somewhere within the system expect payment any day for these two.

I should comment that you talk about the balance as "pending resolution". The amount we have been paying so far is simply a pragmatic amount, and not a scientific one, to ensure something is paid [redacted] we should then sit down and discuss how we address the past in a reasonable manner.

I therefore have to reserve our rights fully in this regard as I have done previously.

Kind regards

Albert

From: Philip Navas [mailto:Philip.Navas@blandgroup.com]
Sent: 23 July 2019 17:14
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: John-Paul Payas <jp.payas@osgops.com>; (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; (NO6) Canessa, Peter <peter.canessa@gibraltar.gov.gi>
Subject: NSCIS Invoices Apr-19 to Jun-19

Dear Albert,

I attach the Jun-19 NSCIS invoice together with the invoices for Apr-19 and May-19 that remain outstanding.

The following table shows the amount due as per the agreed [redacted] per month and the amount pending resolution:

Description	Total Invoice Amount	Amount to be settled	Pending Resolution
NSCIS Invoice - Apr-19	[redacted]		
NSCIS Invoice - May-19			
NSCIS Invoice - Jun-19			
Total:			

Please advise when we can expect to receive th[redacted] payment covering these 3 months.

Regards,

AM1/106

Philip Navas
Financial Controller

BG BLAND GROUP

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PO Box 212
Cloister Building
Irish Town
Gibraltar

Telephone: +350 200 79200
Facsimile: +350 200 76189
Website: www.blandgroup.com

From: Philip Navas
Sent: 29 May 2019 15:26
To: '(MOF) Mena, Albert' <albert.mena@gibraltar.gov.gi>
Cc: John-Paul Payas <jp.payas@osgops.com>; (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; (NO6) Canessa, Peter <peter.canessa@gibraltar.gov.gi>
Subject: RE: NSCIS Invoices Apr-19 & May-19

Hi Albert,

Thanks for your prompt response on the matter.

Your position in relation to the outstanding amounts and the propose[redacted]payments for the April and May 2019 is noted and understood.

Just to clarify, by "outstanding" I simply meant pending resolution.

Regards,

Philip Navas
Financial Controller

BG BLAND GROUP

BLAND GROUP
PO Box 212
Cloister Building
Irish Town
Gibraltar

Telephone: +350 200 79200
Facsimile: +350 200 76189
Website: www.blandgroup.com

From: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Sent: 29 May 2019 14:26
To: Philip Navas <Philip.Navas@blandgroup.com>

AM1/107

Cc: John-Paul Payas <jp.payas@osgops.com>; (NO6) Redondo, Javier <javier.redondo@gibraltar.gov.gi>; (NO6) Canessa, Peter <peter.canessa@gibraltar.gov.gi>
Subject: RE: NSCIS Invoices Apr-19 & May-19

Dear Philip,

Noted I will deal with the two invoices outstanding for April and May 2019.

Please also note that I whilst I recognise these as not paid in whole or in part I reserve our rights fully in respect of the amounts you claim as outstanding from Sep 2018 to Mar 2019. In this regard I propose to only settl[redacted] for April and May 2019 as had been the position in previous months [redacted] we will be in a better position to quantify everything and reach a settlement.

I will nonetheless address your invoices shortly.

Best

Albert

Albert Mena
Financial Secretary

Office of the Financial Secretary
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel: (+350) 20051168
Centrex: 2112
Fax: (+350) 20079901
albert.mena@gibraltar.gov.gi

www.gibraltar.gov.gi

Office of the Financial Secretary

HM Government of Gibraltar

[illegible]

[illegible]

From: Philip Navas [mailto:Philip.Navas@blandgroup.com]
Sent: 29 May 2019 14:18
To: (MOF) Mena, Albert <albert.mena@gibraltar.gov.gi>
Cc: John-Paul Payas <jp.payas@osgops.com>
Subject: NSCIS Invoices Apr-19 & May-19

Hi Albert,

Attached please find the NSCIS invoices for April and May 2019.

I am aware that further discussions will be required in relation to the performance of the system in order to establish and agree upon final amounts due in relation to NSCIS invoices since Sep-18.

NSCIS Invoices - Current Position

Month	Invoice No.	Total Invoice	Payment	Outstanding
May-19	32583	[redacted]		
Apr-19	32264			
Mar-19	31931			
Feb-19	31912			
Jan-19	31523			
Dec-18	30924			
Nov-18	30923			
Oct-18	30398			
Sep-18	29776			
	Total:			

Regards,

Philip Navas
Financial Controller

BG BLAND GROUP

BLAND GROUP
PO Box 212
Cloister Building
Irish Town
Gibraltar

Telephone: +350 200 79200
Facsimile: +350 200 76189
Website: www.blandgroup.com

From: Philip Navas
Sent: 29 March 2019 13:46
To: 'albert.mena@gibraltar.gov.gi' <albert.mena@gibraltar.gov.gi>
Cc: 'John-Paul Payas' <jp.payas@osgops.com>
Subject: RE: NSCIS Invoices Sep-18 to Feb-19

Hi Albert,

I can confirm receipt [redacted] in relation to the NSCIS invoices.

Thank you for settling the matter before our financial year end – much appreciated.

On another noti[redacted] Calpe Lounge payment processed today.

AM1/109

Regards,

Philip Navas
Financial Controller

BG BLAND GROUP

BLAND GROUP
PO Box 212
Cloister Building
Irish Town
Gibraltar

Telephone: +350 200 79200
Facsimile: +350 200 76189
Website: www.blandgroup.com

From: Philip Navas
Sent: 05 March 2019 11:18
To: 'albert.mena@gibraltar.gov.gi' <albert.mena@gibraltar.gov.gi>
Cc: 'John-Paul Payas' <jp.payas@osgops.com>
Subject: NSCIS Invoices Sep-18 to Feb-19

Hi Albert,

Attached are the 5 NSCIS invoices from Sep-18 to Jan-19 pending the agreed payment of [redacted] subject to further discussion.

I also attach the Feb-19 invoice which from our perspective can fall into the same category as the previous 5 invoices (£50k payment subject to further discussion).

Please advise if anything further is needed from our end so that payment can be processed.

Regards,

Philip Navas
Financial Controller

BG BLAND GROUP

BLAND GROUP
PO Box 212
Cloister Building
Irish Town
Gibraltar

Telephone: +350 200 79200
Facsimile: +350 200 76189
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AM1/110

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AM1/111

In the Matter of the Inquiry into the Retirement of the Former Commissioner of Police

Attached is the Exhibit marked JPG 1 referred to in the Affidavit of James Gaggero sworn this 6th day of October 2022

Before me,

Nicholas Bernard Pitaluga
Commissioner for Oaths
Gibraltar

COMMISSIONER FOR OATHS

Exhibit JPG 1

hp

Login / Sign up Currency: GBP

Gibraltar .GI Registry

HOME DOMAINS

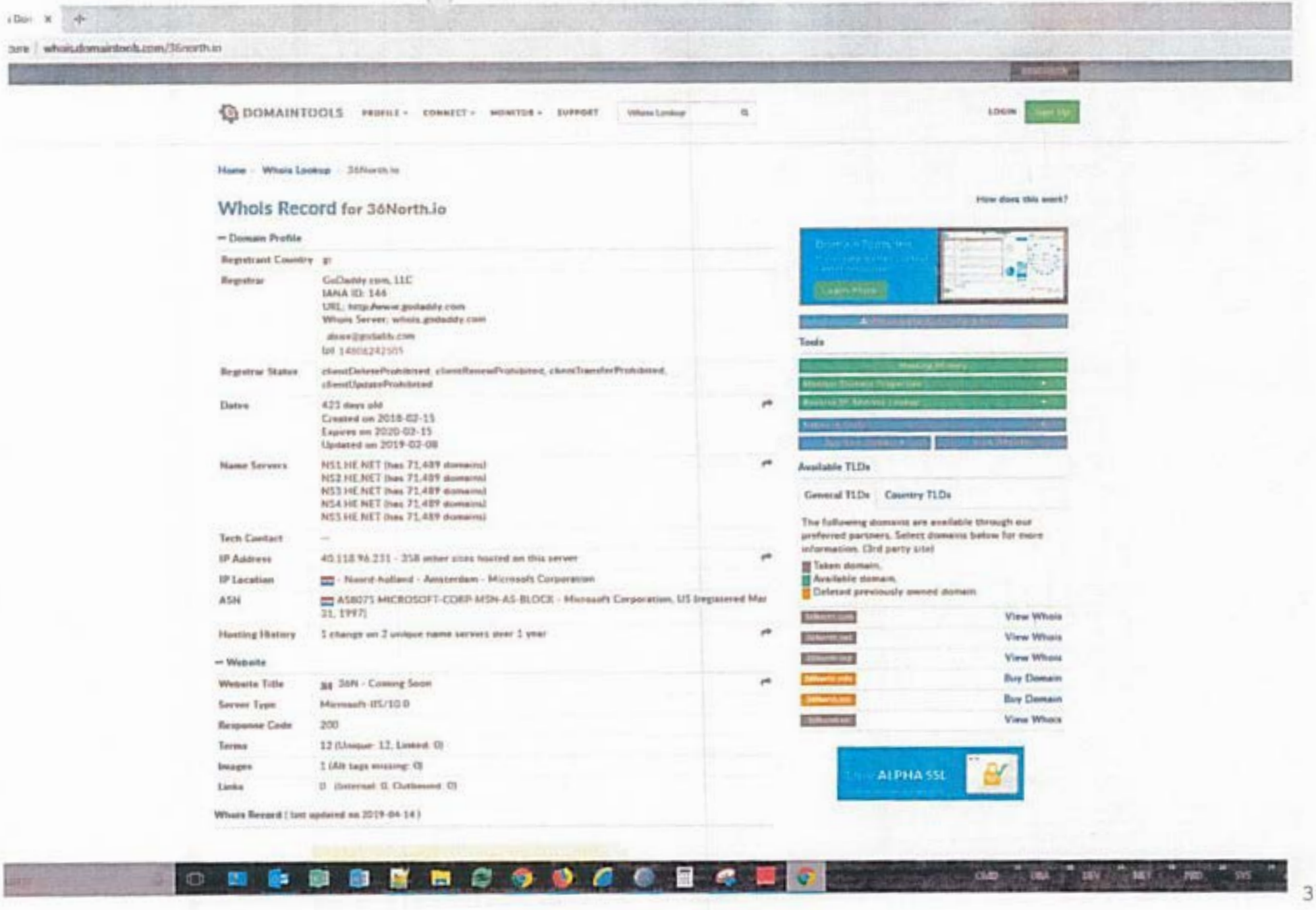
Whois Search Results

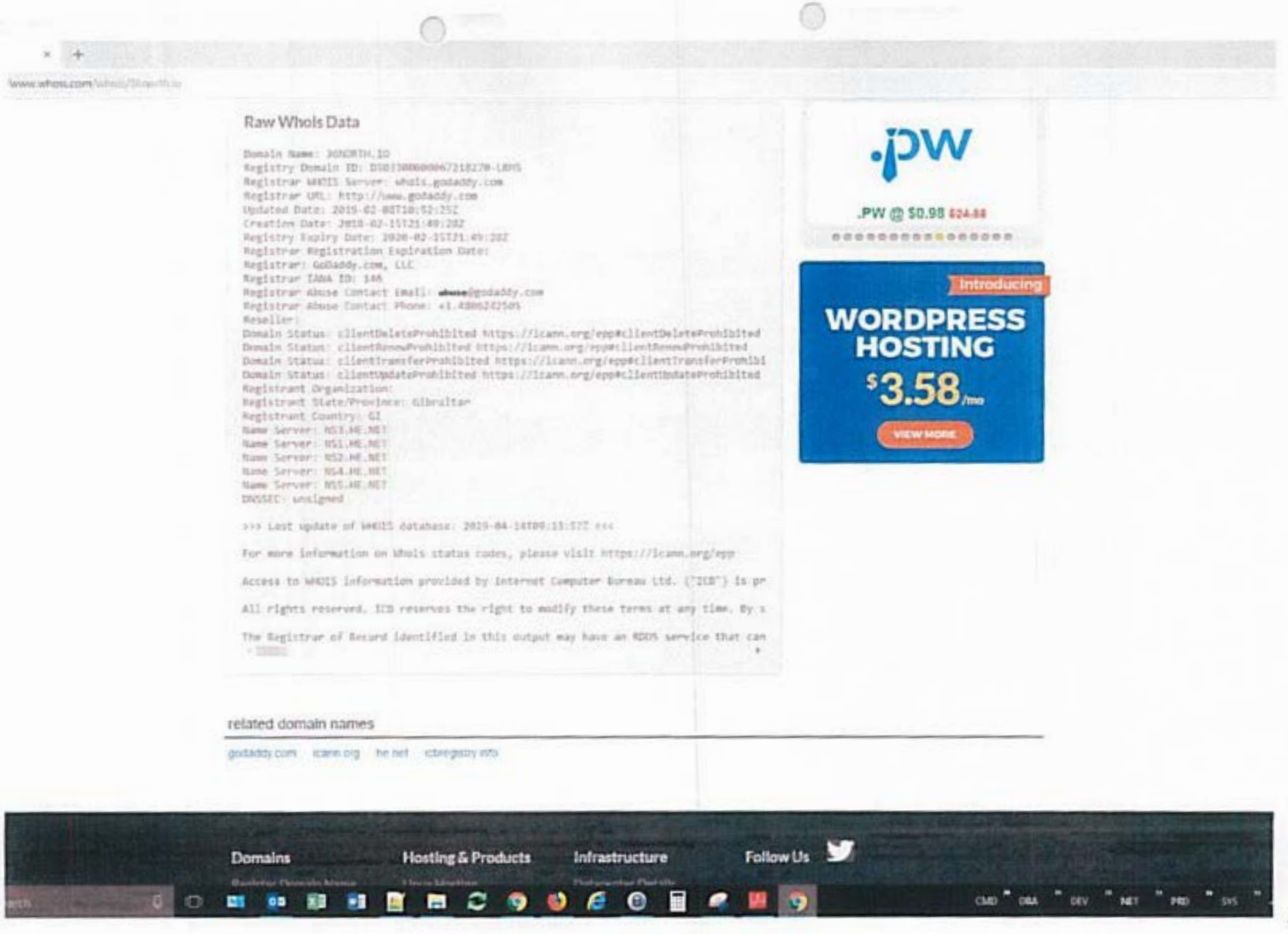
Domain Name : 36north.gi

Domain Name: 36NORTH.GI
Registry Domain ID: D42550000000481719 61-AGRS
Registrar WHOIS Server:
Registrar URL:
Updated Date: 2018-10-01T15:32:40Z
Creation Date: 2018-04-20T14:47:31Z
Registry Expiry Date: 2020-04-20T14:47:31Z
Registrar Registration Expiration Date:
Registrar: GibNet Registrar
Registrar IANA ID: 800072
Registrar Abuse Contact Email:
Registrar Abuse Contact Phone:
Reseller:
Domain Status: clientTransferProhibited https://icann.org/epp#clientTransferProhibited
Registrant Organization: GDPR Masked
Registrant State/Province: GDPR Masked
Registrant Country: US
Name Server: NS2.HE.NET
Name Server: NS4.HE.NET
Name Server: NS3.HE.NET
Name Server: NS1.HE.NET
Name Server: NS5.HE.NET
DNSSEC: unsigned

>>> Last update of WHOIS database: 2019-04-26T08:43:29Z <<<

For more information on Whois status codes, please visit https://icann.org/epp


whois.domaintools.com/36north.io
DOMAINTOOLS
PROFILE
CONNECT
MONITOR
SUPPORT
LOGIN
Home
Whois Lookup
36North.io
Whois Record for 36North.io
How does this work?
Domain Profile
Registrant Country
Registrar
GoDaddy.com, LLC
IANA ID: 146
URL: http://www.godaddy.com
Whois Server: whois.godaddy.com
Registrar Status
clientDeleteProhibited, clientRenewProhibited, clientTransferProhibited, clientUpdateProhibited
Dates
423 days old
Created on 2018-02-15
Expires on 2020-02-15
Updated on 2019-02-08
Name Servers
NS1.HE.NET (has 71,489 domains)
NS2.HE.NET (has 71,489 domains)
NS3.HE.NET (has 71,489 domains)
NS4.HE.NET (has 71,489 domains)
NS5.HE.NET (has 71,489 domains)
Tech Contact
IP Address
40.118.96.231 - 358 other sites hosted on this server
IP Location
- Noord-holland - Amsterdam - Microsoft Corporation
ASN
AS8075 MICROSOFT-CORP-MSN-AS-BLOCK - Microsoft Corporation, US (registered Mar 31, 1997)
Hosting History
1 change on 2 unique name servers over 1 year
Website
Website Title
36N - Coming Soon
Server Type
Microsoft-IIS/10.0
Response Code
200
Terms
12 (Unique: 12, Linked: 0)
Images
1 (Alt tags missing: 0)
Links
0 (Internal: 0, Outbound: 0)
Whois Record (last updated on 2019-04-14)
Tools
Available TLDs
General TLDs
Country TLDs
The following domains are available through our preferred partners. Select domains below for more information. (3rd party site)
Taken domain
Available domain
Deleted previously owned domain
View Whois
View Whois
View Whois
Buy Domain
Buy Domain
View Whois
ALPHA SSL



www.whois.com/whois/3lnorth.io

Raw Whois Data

```
Domain Name: 3GNORTH.IO
Registry Domain ID: D503300000067218270-LRMS
Registrar WHOIS Server: whois.godaddy.com
Registrar URL: http://www.godaddy.com
Updated Date: 2019-02-08T10:52:25Z
Creation Date: 2018-02-15T21:49:28Z
Registry Expiry Date: 2020-02-15T21:49:28Z
Registrar Registration Expiration Date:
Registrar: GoDaddy.com, LLC
Registrar IANA ID: 146
Registrar Abuse Contact Email: abuse@godaddy.com
Registrar Abuse Contact Phone: +1.4806242505
Reseller:
Domain Status: clientDeleteProhibited https://icann.org/epp#clientDeleteProhibited
Domain Status: clientRenewProhibited https://icann.org/epp#clientRenewProhibited
Domain Status: clientTransferProhibited https://icann.org/epp#clientTransferProhibi
Domain Status: clientUpdateProhibited https://icann.org/epp#clientUpdateProhibited
Registrant Organization:
Registrant State/Province: Gibraltar
Registrant Country: GI
Name Server: NS3.HE.NET
Name Server: NS1.HE.NET
Name Server: NS2.HE.NET
Name Server: NS4.HE.NET
Name Server: NS5.HE.NET
DNSSEC: unsigned

>>> Last update of WHOIS database: 2019-04-14T09:13:57Z <<<

For more information on Whois status codes, please visit https://icann.org/epp

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The Registrar of Record identified in this output may have an RDDS service that can
```

.pw

.PW @ $0.98 $24.88

Introducing
WORDPRESS HOSTING
$3.58/mo
VIEW MORE

related domain names

godaddy.com icann.org he.net icbregistry.info

Domains Hosting & Products Infrastructure Follow Us

CMD DBA DEV NET PRD SYS

4

Latest / Current Available Information on Company:

Incorporation No.	117268	Operator	Generic Web User
REID Number	GICO.117268-4	Date Profile issued	December 3, 2018
Name	36 North Limited		
Incorporation Date	April 23, 2018		
Type	PRIVATE COMPANY LIMITED BY SHARES		
Status			
Last Annual Return filed made up to	00/00/00		
Last Accounts filed made up to	00/00/00		
Registered Office	57/63 LINE WALL ROAD GIBRALTAR GX11 1AA GIBRALTAR GIBRALTAR		

The authorised nominal share capital of the company is:

GBP 3,000.00 divided into:

3000 ORDINARY shares of GBP 1 each

Total Number of Authorised Shares 3,000.00

The issued nominal share capital of the company is:

GBP 3000 divided into: 3000 ORDINARY shares of GBP 1 each

Total Number of Issued Shares 3,000.00

If the company has issued any shares at a premium no such premium will appear on this profile, such information must be obtained from the Return of Allotments and/or the published accounts filed by the company at the Registry.

Shareholders

Name	ICODE LIMITED
Address	SUITE & 2 NEWTON HOUSE 5 KING'S YARD LANE GIBRALTAR
Nationality	
Occupation	
Shares held	1500 ORDINARY shares of GBP 1 each

Name	ASTELON LIMITED
Address	57/63 LINE WALL ROAD GIBRALTAR
Nationality	
Occupation	
Shares held	1500 ORDINARY shares of GBP 1 each

Directors

Name	THOMAS JOHN CORNELIO
Address	[redacted]
Nationality	BRITISH
Occupation	SOFTWARE ENGINEER
Appointed on	10/08/2018
Resigned on	

Secretaries

Name	LINE SECRETARIES LIMITED
Address	57/63 LINE WALL ROAD GX11 1AA GIBRALTAR
Nationality	N/A
Occupation	CORPORATION
Appointed on	23/04/2018
Resigned on	

This information has been extracted from public records held at the Registry of Companies in Gibraltar. However, the information is only as accurate as that which is filed by the Company.

For a more in-depth historical record of the Company, it is necessary to carry out a search of the Company's File at Companies House.

Copies of any public documents filed at the Registry are available subject to payment of a fee.

Latest / Current Available Information on Company:

Incorporation No.	117376	Operator	Generic Web User
REID Number	GICO.117376-68	Date Profile issued	December 3, 2018
Name	ICODE Limited		
Incorporation Date	May 16, 2018		
Type	PRIVATE COMPANY LIMITED BY SHARES		
Status			
Last Annual Return filed made up to	00/00/00		
Last Accounts filed made up to	00/00/00		
Registered Office	SUITE 1 & 2 NEWTON HOUSE 5 KING'S YARD LANE GIBRALTAR GX11 1AA GIBRALTAR GIBRALTAR		

The authorised nominal share capital of the company is:

GBP 100.00 divided into:

98 ORDINARY shares of GBP 1 each

2 REDEEMABLE PREFERENCE - NON VOTING shares of GBP 1 each

Total Number of Authorised Shares 100.00

The issued nominal share capital of the company is:

GBP 98 divided into: 98 ORDINARY shares of GBP 1 each

GBP 2 divided into: 2 REDEEMABLE PREFERENCE - NON VOTING shares of GBP 1 each

Total Number of Issued Shares 100.00

If the company has issued any shares at a premium no such premium will appear on this profile, such information must be obtained from the Return of Allotments and/or the published accounts filed by the company at the Registry.

Shareholders

Name	THOMAS JOHN CORNELIO
Address	[redacted]
Nationality	
Occupation	
Shares held	98 ORDINARY shares of GBP 1 each 2 REDEEMABLE PREFERENCE - NON VOTING shares of GBP 1 each

Directors

Name	THOMAS JOHN CORNELIO
Address	[redacted]
Nationality	BRITISH
Occupation	SOFTWARE ENGINEER
Appointed on	16/05/2018
Resigned on	

Secretaries

Name	JARD SECRETARIES LIMITED
Address	[redacted]
Nationality	N/A
Occupation	LIMITED COMPANY
Appointed on	16/05/2018
Resigned on	

This information has been extracted from public records held at the Registry of Companies in Gibraltar. However, the information is only as accurate as that which is filed by the Company.

For a more in-depth historical record of the Company, it is necessary to carry out a search of the Company's File at Companies House.

Copies of any public documents filed at the Registry are available subject to payment of a fee.

Return of Allotment of Shares

In accordance with Section 86 of the Companies Act 2014 to be delivered to the Registrar within 30 days of the allotment

Company Number	**117268**

15 JUN 2018

Co-117268-2306031
36 North Limited
Document 058 (15)
RETURN OF ALLOTMENT OF SHARES

Company Name In Full	**36 North Limited**

Made the *date* 22 June 2018 **(or)**[1]

From the *date* [2] **to the *date***

Number of [3] Ordinary shares allotted payable in cash	2,999
Number of [3] _____ shares allotted payable in cash	
Nominal amount of the shares so allotted	GBP 2,999.00
Nominal amount of the shares so allotted	
Amount paid or due payable on each such Shares	GBP 1.00
Amount paid or due payable on each such Shares	
Number of shares allotted for a consideration other than in cash **Please see note 4**	
Nominal amount of the Shares so allotted	
Amount to be treated as paid of each such share	

THIS DOCUMENT HAS BEEN SUBSTITUTED

The consideration for which such Shares have been allotted is as follows [4] :-

[1] One option only
[2] When a return includes several Allotments made on different dates, the dates of only the first and the last of such Allotments should be entered at the top of the front page, and the registration of the return should be effected within one month of the first date.
[3] Distinguish between Preference, Ordinary, etc.
[4] If the shares have been paid for otherwise than in cash, please attach an original or a certified copy of the contract or supply details of the verbal contract under which the shares have been allotted.

Names and addresses of the allottees and the number and class of shares allotted to each

Shareholders Details [5]

Date of Allotment	22 June 2018				
Forename		**Title**			
Surname / Corporate Name in full	Astelon Limited				
Class of Shares [6]	**Number of shares**	**Currency**	**Nominal value of each share**	**Amount (if any) unpaid**	**Amount paid**
Ordinary	999	GBP	1.00	0.00	999.00

THIS DOCUMENT HAS BEEN SUBSTITUTED

Usual Address or Registered or Principal Office Address	
Building name/number	57/63 Line Wall Road
Street	
Town	
Region or State	
Postcode	
Country	Gibraltar

I [7] Cathy Borg for and on behalf of Line Secretaries Limited am signing this Return on behalf of the company.

Signature

Position held Secretary

Date 25 June 2018

For additional Allottee's Details please use 'Allottee's Details' continuation page

[5] List joint allottees as one shareholder
[6] Distinguish between Preference, Ordinary, etc.
[7] This form may be signed by a Director, Secretary or Person authorised

Names and addresses of the allottees and the number and class of shares allotted to each

Shareholders Details [5]

Date of Allotment	22 June 2018

Forename	**Title**

Surname / Corporate Name in full

ICODE Limited

Class of Shares [6]	**Number of shares**	**Currency**	**Nominal value of each share**	**Amount (if any) unpaid**	**Amount paid**
Ordinary	1,000	GBP	1.00	0.00	1,000.00

THIS DOCUMENT HAS BEEN SUBSTITUTED

Usual Address or Registered or Principal Office Address	
Building name/number	Suite 1 & 2 Newton House, 5 King's Yard Lane,
Street	
Town	
Region or State	
Postcode	
Country	Gibraltar

I [7] Cathy Borg for and on behalf of Line Secretaries Limited am signing this Return on behalf of the company.

Signature

Position held Secretary

Date 25 June 2018

For additional Allottee's Details please use 'Allottee's Details' continuation page

[5] List joint allottees as one shareholder
[6] Distinguish between Preference, Ordinary, etc.
[7] This form may be signed by a Director, Secretary or Person authorised

Names and addresses of the allottees and the number and class of shares allotted to each

Shareholders Details [5]

Date of Allotment	22 June 2018				
Forename John Christopher		**Title** Mr			
Surname / Corporate Name in full Perez					
Class of Shares [6]	**Number of shares**	**Currency**	**Nominal value of each share**	**Amount (if any) unpaid**	**Amount paid**
Ordinary	1,000	GBP	1.00	0.00	1,000.00

Usual Address or Registered or Principal Office Address	
Building name/number	[redacted]
Street	
Town	
Region or State	
Postcode	
Country	Gibraltar

THIS DOCUMENT HAS BEEN SUBSTITUTED

I [7] Cathy Borg for and on behalf of Line Secretaries Limited am signing this Return on behalf of the company.

Signature

Position held Secretary

Date 25 June 2018

For additional Allottee's Details please use 'Allottee's Details' continuation page

[5] List joint allottees as one shareholder
[6] Distinguish between Preference, Ordinary, etc.
[7] This form may be signed by a Director, Secretary or Person authorised

line|group

P.O. Box 612
57/63 Line Wall Road, Gibraltar

Admin Office:
237 Main Street, Gibraltar

Tel: + 350 200 79000
Fax: + 350 200 40249
info@linegroup.gi
www.linegroup.gi

Your Ref:
Our Ref: CJB/36NORTH

2 July 2018

By Hand

Attn: Nadine Balban
Companies House (Gibraltar) Limited
The Registrar
1st Floor
The Arcade
30-38 Main Street
P O Box 848
Gibraltar

REGISTRY OF COMPANIES
- 3 JUL 2018
GIBRALTAR

Dear Sirs

36 North Limited –reg no. 117268

We should be very grateful if you could substitute the previously filed Particulars of Directors dated 25th June 2018 in respect of the above named Company, for the attached Particular of Directors of the same date.

The reason for the substitution is that in the previously filed Particulars of Directors:-

- Erroneously showed two individuals being appointed as directors instead of a corporate director.

Please debit the relevant fee from our account.

We trust the attached meets with your approval.

Yours faithfully

CATHY BORG
Senior Company Administrator
e-mail: cathy.borg@linemanagement.gi

Co-117268-2309321
36 North Limited
Document 041 (E)
LETTER OF SUBSTITUTION

line|group

P.O. Box 612
57/63 Line Wall Road, Gibraltar

Admin Office:
237 Main Street, Gibraltar

Tel: + 350 200 79000
Fax: + 350 200 40249
info@linegroup.gi
www.linegroup.gi

REGISTRY OF COMPANIES
- 4 JUL 2018
GIBRALTAR

Your Ref:
Our Ref: CJB/36NORTH

2 July 2018

117268

By Hand

Attn: Nadine Balban
Companies House (Gibraltar) Limited
The Registrar
1st Floor
The Arcade
30-38 Main Street
P O Box 848
Gibraltar

Dear Sirs

36 North Limited –reg no. 117268

We should be very grateful if you could substitute the previously filed Return of Allotments and Return of Change of Members dated 25th June 2018 in respect of the above named Company, for the attached Return of Allotment of the same date.

The reason for the substitution is that in the previously filed Return of Allotment:-

- The shareholders were originally intended to be representatives of the three initial investors to the company, these being represented by two corporate bodies with the third individual hold the shares directly. In anticipation of closing of the initial investment round the Company Secretary erroneously filed a Return of Change of Members for the transfer of the subscriber share and a Return of Allotments showing the three investors as holding their respective shares. It now transpires that closing of the investment round did not take place and that the shares should be held by a nominee shareholder until such time as they are transferred to the three investors.

Please debit the relevant fee from our account.

We trust the attached meets with your approval.

Co-117268-2309767
36 North Limited
Document 172 (10)
LETTER OF SUBSTITUTION

Yours faithfully

CATHY BORG
Senior Company Administrator
e-mail: cathy.borg@linemanagement.gi

JP/JCG

16/7/18

- Bland No change! (Waveter invisible)
- 100% Reputation with JPG.
- Stabilisation of CMC contracts
- Handover day to day to GMs and full Agenda
- Gibair (Letter to Mona 19/6/18 (£57K net ff against Calpeda)
- Bland x 4 Key Parts OSG/Travel/CIT/CMC
- Travel Link
- Rock*
- GHL
- Relationship with family.
- ADam Great Work (Short Term?)
- Better 10 hours a week!
- IT Johnathan
- Gibair Cargo – Daniel Wilson - Derek use App to restructure
- " " Duty officers don't add anything
- General Aviation – Requests for service now Online. SAOF re reputation! CM
- Derek/Jan/Yolanda Salary increase.

* Rock Pool – Greg Butcher

- Jan/Stephen Davenport re Sotomar £800/m

JP/JG

16/7/18

5%

- 2.6% RPI + 2.4% level 2 ↑
- Capex re equipment / CNX Sita / Upgrade
- Toby re Wemax lounge much more active (CM!)
- Duty Officers to move behind ticket desk
  Standardise policies — HR — DOs different attitudes time off.
- Derek well able & be self contained but Eddie can help and they work well together.
- £340k/annum net (inc £150k KPI) re Gibair
- Cost + Contracts can be delivered successfully (eg Gibair) Many more opportunities on the horizon

---

- GM Paul Hayward Travel/DMC. Support Nuria and enable her to develop Travel
- Nuria needs to replace Nadia with a good Office Mgr/A/c.
- Nuria working v. well with Avis
- " + Calp lounge.

- Ernest MacMahon — Returned. (6 months probation.)

- Martin Nuza Run Ops Sta Reliable
- John Nusan Career scare resigned
- Phil

16

3 (JP/JG)

16/7/18

- Shuttle working well.
- GFA (travel partner)
- Nuria key front facing £70K (+£10K)
  - Bland
  - Travel link
  - Avis
  - Calp Lounge
- Back Office System Essential for Travel

*
- Joey / Johnathan
- Piranah involved in building website / Payment System

OSG (14% growth projected.)

- Lawrence Podesta / David Bruce 3yr Contracts Good Reputat
- Mr. Cortes contracting us re Nature Reserve
- Education / New Schools
- John Paul (RSM) Within the Wire — Not Business Development

GoG Budget defined Jun / July Aug Hols / Sept Oct Nov Traction!

(4) JP/JG

16/7/18

New Recruits

- Charles Domino needs Head of Sales
  Alexandra Montegrifo.

- Nurin – Paul Hayward
- John Paul – Head of Ops – Systems Sales and Manning Sales
- Derk – Head of Ops – Standardisation

(5) JP/JG 16/7/18

Rock

- £120K Landslide Argos
- Wisteria Terrace Covered
- Compliments
- Disabled Toilets 1st Floor?
- Head of Sales Alexandra Montegrifo
- Food/Bev Sales. Good results + Growth forecast
- Cable Car – Tuesday 19/7/18. JP

- Garage for
- EY?? Betkan
- Branding Post

---

* Maria Jesus (Maschu) Sweden.

Thomas Cornelio

[redacted]

10th July 2018

John Perez
CEO
Bland Limited

Dear John,

I am writing to provide you with my formal notice of resignation from Bland Limited. My last day will be August 10, 2018, one month from today.

This was not an easy decision to make, and I appreciate your support over the course of my employment. I truly value the experience, training, and knowledge I gained over the past 7 years. It has been a pleasure working with you and the team.

Please let me know how I can help during my notice period. I wish you all the best as the company continues to grow.

Sincerely,



Thomas Cornelio

John Perez

[redacted]

9th July 2018

Mr James Gaggero
Chairman
Bland Limited

Dear James,

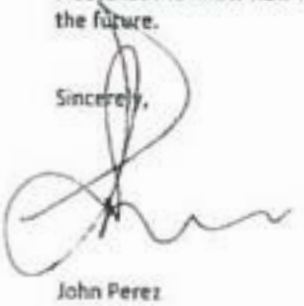
I am writing to provide you with my formal notice of resignation from Bland Limited. My last day will be September 09, 2018, two months as from today.

This was one of the hardest decisions I have had to make as I am entirely grateful to you and your family for having given me the opportunity to be a key integral part of Blands post my retirement from the army. I have over the last few years committed myself fully to reestablish Blands where it belongs.

I am delighted to leave the company in a good position and have no doubt that under your leadership it will continue for generations to come.

Please let me know how I can help during my notice period. I wish you and the company all the best for the future.

Sincerely,



John Perez

Emma Dudley

From: Thomas Cornelio <[redacted]>
Sent: 06 March 2019 08[redacted]
To: Jonathan Galliano; Philip Navas; John-Paul Payas; Chairman
Subject: Fwd: DIGITAL EMAIL SIGNATURE - ATTACHED - TEST FILE

---------- Forwarded message ---------
From: **John Perez** [redacted]
Date: Wed, 20 Jun 2018 at 07:20
Subject: Fwd: DIGITAL EMAIL SIGNATURE - ATTACHED - TEST FILE
To [redacted]

Sent from my iPhone

Begin forwarded message:

From: Ad Aol <ad.aol@aol.com>
Date: 19 June 2018 at 23:45:15 CEST
T[redacted]
Subject: DIGITAL EMAIL SIGNATURE - ATTACHED - TEST FILE

DIGITAL EMAIL SIGNATURE - ATTACHED

Embed into email as signature - To test.

36 NORTH

John Perez MBE
Chief Executive Officer

[redacted]

36 North Ltd
World Trade Centre
6 Bayside Road
Gibraltar GX11 1AA

22

--
Thomas Cornelio
CTO



Emma Dudley

From: Thomas Cornelio [redacted]
Sent: 06 March 2019 0[redacted]
To: Jonathan Galliano; Philip Navas; John-Paul Payas; Chairman
Subject: Fwd: BUSINESS CARDS - PRINT READY PDF (Attached)
Attachments: Mimecast Attachment Protection Instructions (10.1 KB)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

---------- Forwarded message ---------
From: **John Pere**[redacted]
Date: Wed, 20 Ju[redacted]
Subject: Fwd: BUSINESS CARDS - PRINT READY PDF (Attached)
To[redacted]

Sent from my iPhone

Begin forwarded message:

> **From:** Ad Aol <ad.aol@aol.com>
> **Date:** 19 June 2018 at 23:33:14 CEST
> [redacted]
> **Subject: BUSINESS CARDS - PRINT READY PDF (Attached)**
>
> **36 NORTH BUSINESS CARDS:**
> **PRINT READY PDF (Attached) for Professional Printing**
>
> **Important:** Specify to the Printer the following: Cards must be printed on: 400 gsm Matt Coated Paper.
>
> **Note:** Cards to be printed professionally for Premium Finish.

--
Thomas Cornelio
CTO

John Perez MBE
Chief Executive Officer

john.perez@36north.io
[redacted]

36 North Ltd
World Trade Centre
6 Bayside Road
Gibraltar GX11 1AA

36 N

25


36 NORTH

Emma Dudley

From: Thomas Cornelio [redacted]
Sent: 06 March 2019 0[redacted]
To: Jonathan Galliano; Philip Navas; Chairman; John-Paul Payas
Subject: Fwd: FW: Revised Cash Flow
Attachments: Mimecast Attachment Protection Instructions (10.1 KB)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

--------- Forwarded message ---------
From: **Tommy Cornelio** <Tommy.Cornelio@blandgroup.com>
Date: Tue, 5 Jun 2018 at 14:24
Subject: FW: Revised Cash Flow
To: tommy.cornel[redacted]

This message is intended for the addressee only and its contents and any attached files are strictly confidential. The data contained in, or attached to, this e-mail, may contain information covered by legal, professional or other privilege. If you are not the intended addressee you must not use, disclose or copy this transmission. In these circumstances please notify the sender and then delete both the message any attached files

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The Bland Group has taken all reasonable effort to ensure this message and any attached files are free from Viruses. It is highly recommended that, before you open any attached files, you should check for Viruses. The sender does not accept any liability or responsibility for the consequences of the delivery of any viruses.

From: John Perez
Sent: 05 June 2018 13:23:01 (UTC+00:00) Dublin, Edinburgh, Lisbon, London
To: david.weber@hassans.gi
Cc: Tommy Cornelio
Subject: Fwd: Revised Cash Flow

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

David

Attached is a revised cash flow with a line added for dividends (but none shown) and a line to show an initial draw down of funds from the facility, and a staged repayment over a number of months.

Regards,

John

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–
Thomas Cornelio
CTO

36 North Ltd
Cash Flow Forecast
Year 1

	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Total	
Opening bank balances			18,199	106,329	126,334	146,329	211,327	356,317	391,311	436,309	401,309	526,294		
Income														
NSCIS (Global Movers)		62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	687,709	For Gold contracts
Dept. of Employment		3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	33,000	cash receipt assumed
Dept. of Education		775	775	775	775	775	775	775	775	775	775	775	8,525	1 month following sale
BCA scanners		400	400	400	400	400	400	400	400	400	400	400	4,400	
BCA mobile scanners		1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	17,600	
DSS maintenance		4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	44,000	
Gibor (ATA)		800	800	800	800	800	800	800	800	800	800	800	8,800	
Border Management (two Forts)			15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	150,000	
BCA upgrades		30,000											30,000	
Superpitch development/Versa			55,000	1,850	1,850	1,850	1,850	1,850	1,850	1,850	1,850	1,850	71,650	
e-Visas						70,000							70,000	
Licensing software							70,000						70,000	
Carnival Cruise						15,000	15,000	15,000	15,000	15,000	15,000	15,000	105,000	
GoG environmental consultancy			2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	20,000	
Mobile AMMs														
GoG payment gateway														
Liftbit delivery														
Renewable energy														
Banco Santander facial recognition														
Inchcape Shipping crew charge														
General consultancy														
Total income		£101,094	£147,094	£91,944	£91,944	£179,944	£170,944	£106,944	£106,944	£106,944	£106,944	£106,944	£1,270,884	
Expenditure														
Payroll														
Directors	£2,000	£2,000	£6,000	£2,000	£2,000	£2,000	£2,000	£2,000	£2,000	£2,000	£2,000	£2,000	£30,000	
Employees	£,666	£,667	£,667	£,666	£,667	£,667	£,666	£,667	£,667	£,666	£,667	£,667	£,000	
Social insurance	£11	£11	£11	£11	£12	£11	£11	£11	£11	£11	£11	£12	£134	
	£7,244	£7,845	£7,844	£7,244	£7,822	£7,822	£7,844	£7,844	£7,844	£7,844	£7,844	£7,844	£67,594	
Premises														
Rent	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£2,000	
Cleaning														
	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£2,000	
Office Costs														
Insurance														
Equipment maintenance														
Cleaning														
Sundries														
Travel Expenses														
Travel & accommodation costs	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£,000	£4,000	
Entertainment	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£,400	
	£,200	£,244	£,200	£,200	£,222	£,200	£,200	£,244	£,200	£,244	£,222	£,244	£6,400	
Telecoms & IT														
Mobile telephones	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£,200	
Internet and hosting	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£,600	
Computer consumables	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£,200	
Software licenses														
	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£,800	
Advertising & Marketing														
Advertising & Marketing														
Legal & Professional														
Legal fees	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£,000	
Audit & accountancy														
Consultancy														
	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£00	£,200	
Other expenses														
Sub-contract costs														
Bank charges	£0	£0	£0	£0	£0	£0	£0	£0	£0	£0	£0	£0	£00	
Sundry costs														
	£0	£0	£0	£0	£0	£0	£0	£0	£0	£0	£0	£0	£00	
Capital Expenditure														
Computers	4,000												4,000	
Furniture														
Mobile phones	2,000												2,000	
	6,000												6,000	
Dividends														
Total expenditure	£7,949	£1,950	£1,950	£2,844	£1,950	£1,950	£2,849	£1,950	£1,950	£1,949	£1,950	£1,950	£34,396	
Draw down / (repayment) of facility	£7,949	(7,949)	(15,000)	(10,000)	(15,000)	(15,000)	(15,000)	(10,000)						
Closing bank balance		£8,199	£96,329	£26,334	£46,329	£72,327	£56,317	£91,311	£36,309	£01,309	£26,294	£71,288	£71,288	
	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Total	

Emma Dudley

From: Thomas Cornelio [redacted]
Sent: 06 March 2019 0[redacted]
To: Jonathan Galliano; Philip Navas; John-Paul Payas; Chairman
Subject: Fwd: Revised Cash Flow
Attachments: Mimecast Attachment Protection Instructions (10.1 KB)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

---------- Forwarded message ---------
From: **John Pere**[redacted]
Date: Wed, 20 Ju[redacted]
Subject: Revised Cash Flow
To: <tomn[redacted]

--
Thomas Cornelio
CTO



36 North Ltd
Cash Flow Forecast
Year 1

	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Total	
Opening bank balances			20,577	81,497	111,492	141,486	216,486	371,471	416,469	461,463	506,458	551,452		
Income														
NSCIB (Global income)		62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	687,709	For GoG contracts
Dept. of Employment		3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	33,000	cash receipt assumed
Dept. of Education		775	775	775	775	775	775	775	775	775	775	775	8,525	1 month following site
BCA scanners		400	400	400	400	400	400	400	400	400	400	400	4,400	
BCA mobile scanners		1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	17,600	
DIS maintenance		4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	44,000	
Gibair (IATA)		800	800	800	800	800	800	800	800	800	800	800	8,800	
Border Management (Gas Tunnel)			15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	150,000	
BCA upgrades		80,000											80,000	
Superyacht development/survey			15,000	1,850	1,850	1,850	1,850	1,850	1,850	1,850	1,850	1,850	71,650	
e-Visas						70,000							70,000	
Licensing software							70,000						70,000	
Cornwall Cruise						15,000	15,000	15,000	15,000	15,000	15,000	15,000	105,000	
GoG environmental consultancy			2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	20,000	
Mobile AMPSs														
GoG payment gateway														
UKMR licensing														
Renewable energy														
Banco Santander facial recognition														
Inchcape Shipping crew change														
Consular consultancy														
Total income		109,094	107,094	91,944	91,944	176,944	176,944	106,944	106,944	106,944	106,944	106,944	1,370,684	
Expenditure														
Payroll														
Directors	25,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	575,000	
Employees	6,666	6,667	6,667	6,666	6,667	6,667	6,666	6,667	6,667	6,666	6,667	6,667	80,000	
Social insurance	475	633	633	633	633	633	633	633	633	633	633	633	7,438	
	32,141	57,300	57,300	57,299	57,300	57,300	57,299	57,300	57,300	57,299	57,300	57,300	662,438	
Premises														
Rent	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000	
Cleaning														
	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000	
Office Costs														
Insurance														
Equipment maintenance														
Cleaning														
Sundries														
Travel Expenses														
Travel & accommodation costs	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	24,000	
Entertainment	200	200	200	200	200	200	200	200	200	200	200	200	2,400	
	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	26,400	
Telecoms & IT														
Mobile telephones	500	500	500	500	500	500	500	500	500	500	500	500	6,000	
Internet and hosting	300	300	300	300	300	300	300	300	300	300	300	300	3,600	
Computer consumables	100	100	100	100	100	100	100	100	100	100	100	100	1,200	
Software licences														
	900	900	900	900	900	900	900	900	900	900	900	900	10,800	
Advertising & Marketing														
Advertising & Marketing														
Legal & Professional														
Legal fees	500	500	500	500	500	500	500	500	500	500	500	500	6,000	
Audit & accountancy														
Consultancy														
	500	500	500	500	500	500	500	500	500	500	500	500	6,000	
Other expenses														
Sub-contract costs														
Bank charges	50	50	50	50	50	50	50	50	50	50	50	50	600	
Sundry costs														
	50	50	50	50	50	50	50	50	50	50	50	50	600	
Capital Expenditure														
Computers	4,000												4,000	
Furniture														
Mobile phones	2,000												2,000	
	6,000												6,000	
Dividends														
Total expenditure	41,791	63,950	61,950	61,949	61,950	61,950	61,949	61,950	61,950	61,949	61,950	61,950	714,238	
Draw down / (repayment) of facility	41,791	(20,573)	(22,228)											
Closing bank balance		20,577	81,497	111,492	141,486	216,480	371,475	416,469	461,463	506,458	551,452	596,446	596,446	
	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Total	

From: James Levy QC <james.levy@hassans.gi>
Sent: 07 March 2018 16:52
To: John Perez <john.perez@blandgroup.com>
Subject: FW: CONFIDENTIAL

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

Dear John

I received this from an Israeli contact, can you discuss this with Tommy and see what he thinks and we can discuss this tomorrow when we meet.

Kind regards

James

From: Zalli Jaffe [mailto:zalli@jfg.co.il]
Sent: 28 February 2018 15:08
To: James Levy QC
Subject: Fwd: CONFIDENTIAL

I am taking the liberty of sending the attached email to you. OSR Enterprises AG is a Swiss company - having its high tech in Israel - revolutionises the auto industry. It has been evaluated inter alia by **Baker McKenzie** and others, as is reflected by the herein under email. If you have a few minutes just to read the hereunder, and you find interest in it, I am enclosing more information. The company is interested in raising additioanl fund. I know that the number quoted by Delloit and Baker McKenzie is at the level you look at.

In 2016 , Deloitte,Touche carried-out a valuation of OSR of US$ 2.47 Billion followed by a valuation dated December 17 , 2017 of US$ 10.3 Billion conducted by the Head of the Valuations Department at Herzog, Fox & Neeman, one of Israel's leading law firms . These valuations have been vetted, signed and approved by Baker McKenzie's US Economic Group's - Global Valuation Services in accordance with the valuation standards and principles applicable in the U.S. (Will be made available to potential investors).

James, they need more funds. Can we help them?

With kind regards,

Zalli

OSR Enterprises AG is a Swiss-based privately owned company, founded in 2011, employing some 100 engineers at it's Swiss HQ and its main development center in Israel.

This company has developed the future "brain" of vehicles, a solution adapted to the next generation of vehicles in one small sized low-cost full turn key system, that allows the control and operation of everything ; remote control and speech control of the vehicle, a personalized user experience, artificial intelligence, entertainment

and services system, phone, internet/wi-fi, and a cyber-secured autonomous car platform .

OSR has already completed the development of what giant companies such as Google and Apple have only defined as a future objective and a long-term vision for development (different than the systems they currently present). Based on this accomplishment, the company has set-out as its objective - the "conquest" of the market during the next coming two years, up to its IPO, and to maximize the technological advantage it currently enjoys.

The company integrates interface abilities to various and versatile sensors, combined with unique artificial intelligence – creating a platform that constitutes not only a device that technologically upgrades the vehicle, but a tool that is capable of gathering precise data on the driver and the passengers, up to the position of the pupils and the mood of the respective passengers , at the fraction of a second, whilst providing customized information such as advertisement and content .

In terms of the profit model, this is not only a one-time sale of units for vehicles, but also the management of the data generated , its sale ,for example, to advertising agencies, and selling content to users. The business model is closer to the business model of Apple who sells units systems and services integrated with Facebook's who sell information and advertising. Therefore – the company's current technological positioning, combined with the fact that this is still a pristine and an untouched market – forms a fertile basis for the creation of a new technology giant, like Apple, Google or Facebook.

As in the case of Apple, our system will also lead to the development of a whole community of applications and of sensors, which contrary to a mobile phone will enhance its power , and due to its integrated unique location in the vehicle will render it very difficult to replace with competing elements

The market, for which the company developed its unique product, is estimated to reach 19 trillion dollars by 2020

The company is planning an IPO on the NYSE and has engaged in sales activity, whilst pursuing its business development program and already holding advanced negotiations with some of the leading automotive manufacturers. In parallel OSR has entered into collaboration agreements with a number of technology giants.

So far,the company has been operating "under the radar", but will soon start various launch activities. Thus for example, OSR's Founder, Group CEO and Chairman , Advoc. Orit Shifman has been a guest speaker on an exclusive panel at the "Viva Tech" exhibition in Paris, at which Larry Schmidt of Google and Alibaba's Chairman have also spoken, and has also addressed a 3-speakers main panel together with two other prominent industry figures: the Head of Volkswagen"s R&D, and the Head of Here's business development, a consortium of Mercedes and other automotive companies. This can attest as a seal of approval to the company's positioning as a technological pioneer in the automotive industry.

Furthermore, Orit Shifman participated at the IAA Convention which took place in Frankfurt this past September as a Main Guest Speaker at its New Mobility World - Media Night, which was attended , among others , by the President of the German Association of the Automotive Industry.
Matthias Wissmann, by Steven Armstrong , Ford Group Vice President and President of EMEA , and senior representatives of Google and of Facebook's top managements.

To conclude her participation at this important convention Orit Shifman lead a panel entitled " Everything is connected , the Internet

of Everything" together with Qualcomm Technologies CEO , Steve Mollenkopf , followed by a press conference which she hosted.

OSR has been approached by 80% of the world's leading car manufacturers as well as with major electric power groups with which it has signed agreements and with others with which it is holding discussions towards various formats of collaboration .

The company is close to concluding a $230 million capital investment with a leading financial North American group and is planning an IPO in 2018 in the US to be followed by additional public issues in other stock exchanges .

It is presently seeking a private placement in the form of a convertible loan agreement in an amount of $30 million for a period of 2 to 4 years with a ticket of 4.5% in tranches of $1 million . The investor will have the option to convert the loan to shares with a 30% discount according to the valuation of the upcoming strategic investment , or a 30% discount from the IPO price or that of an M&A or acquisition agreement.

CONFIDENTIAL

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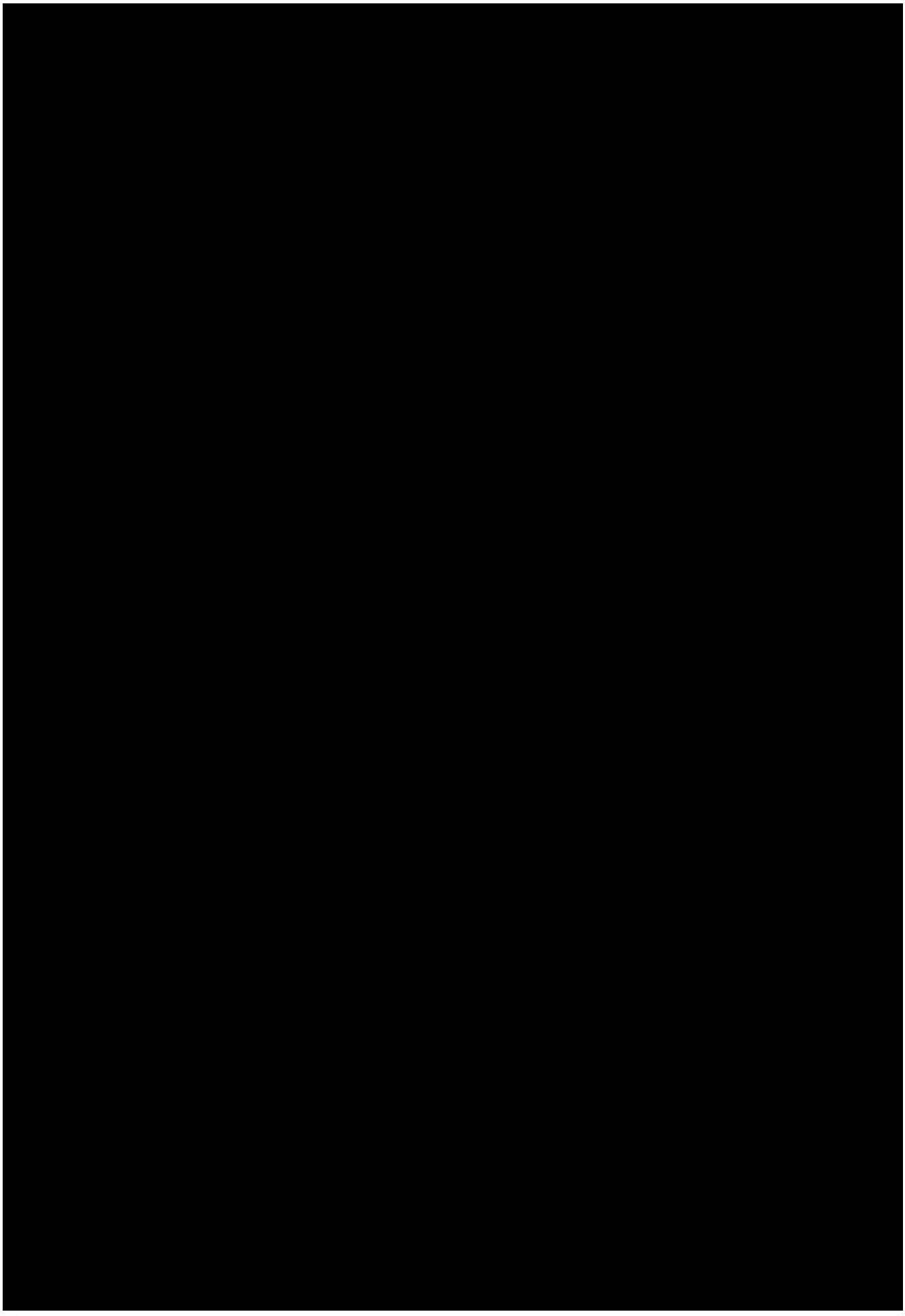

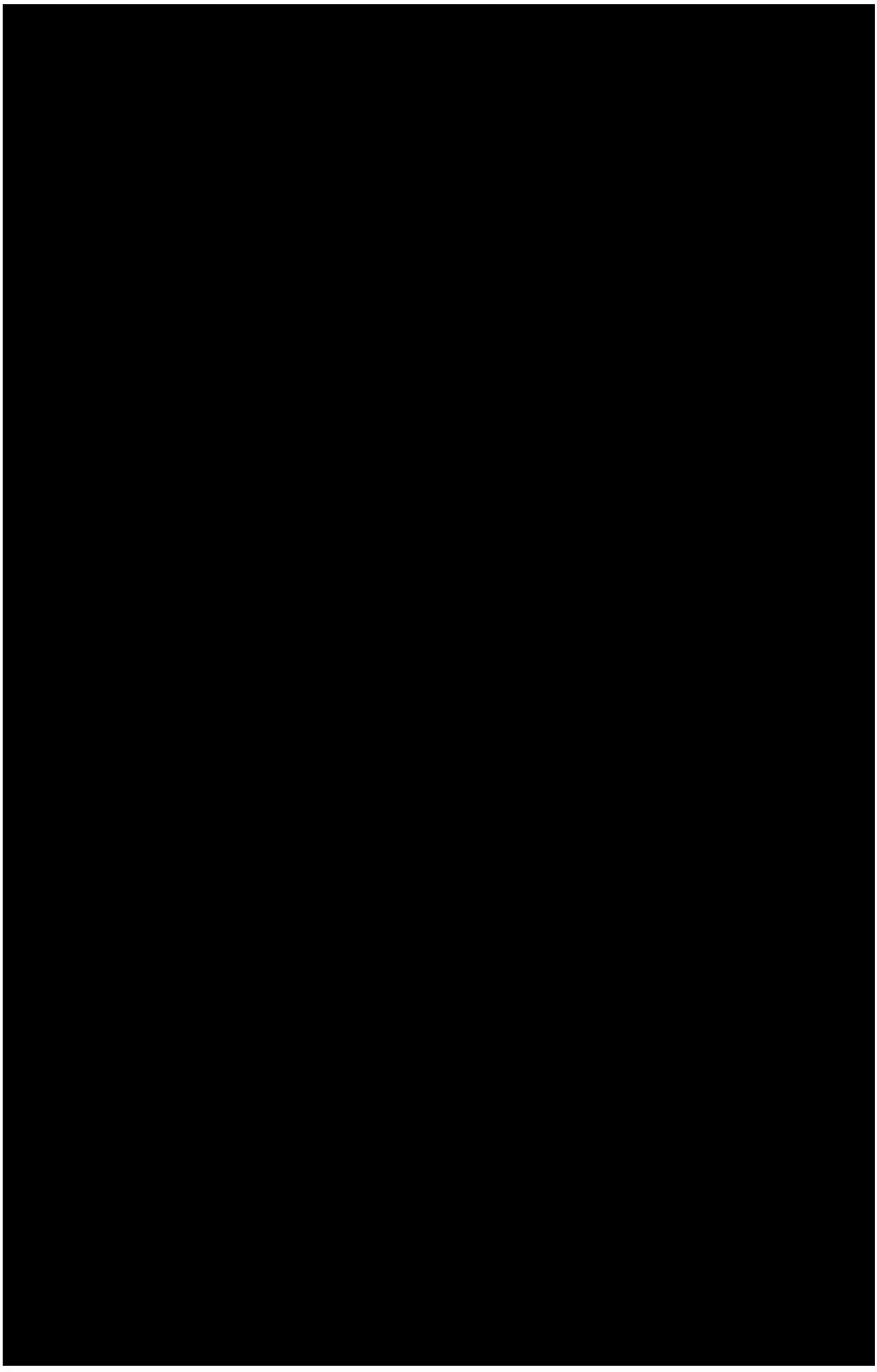

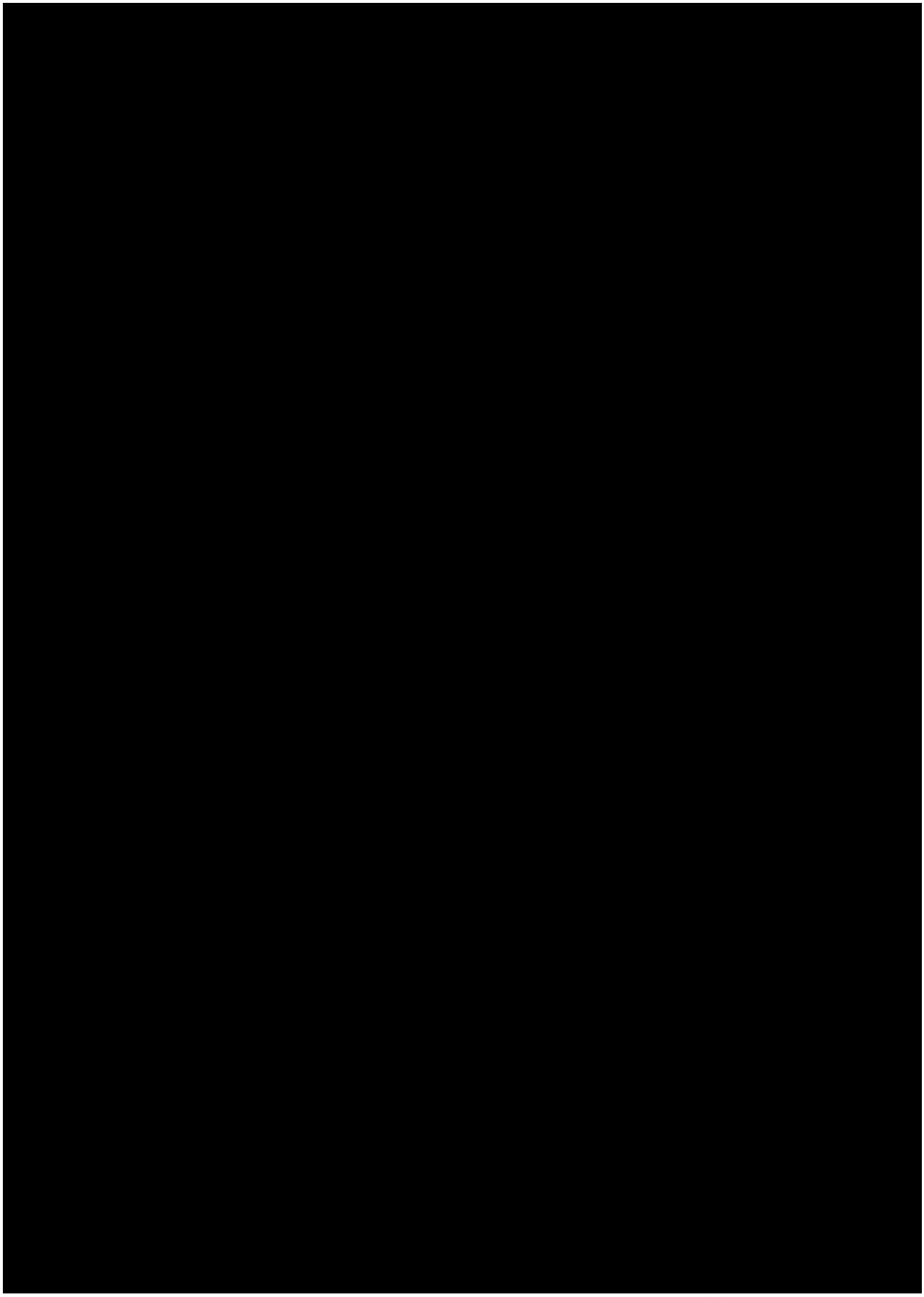

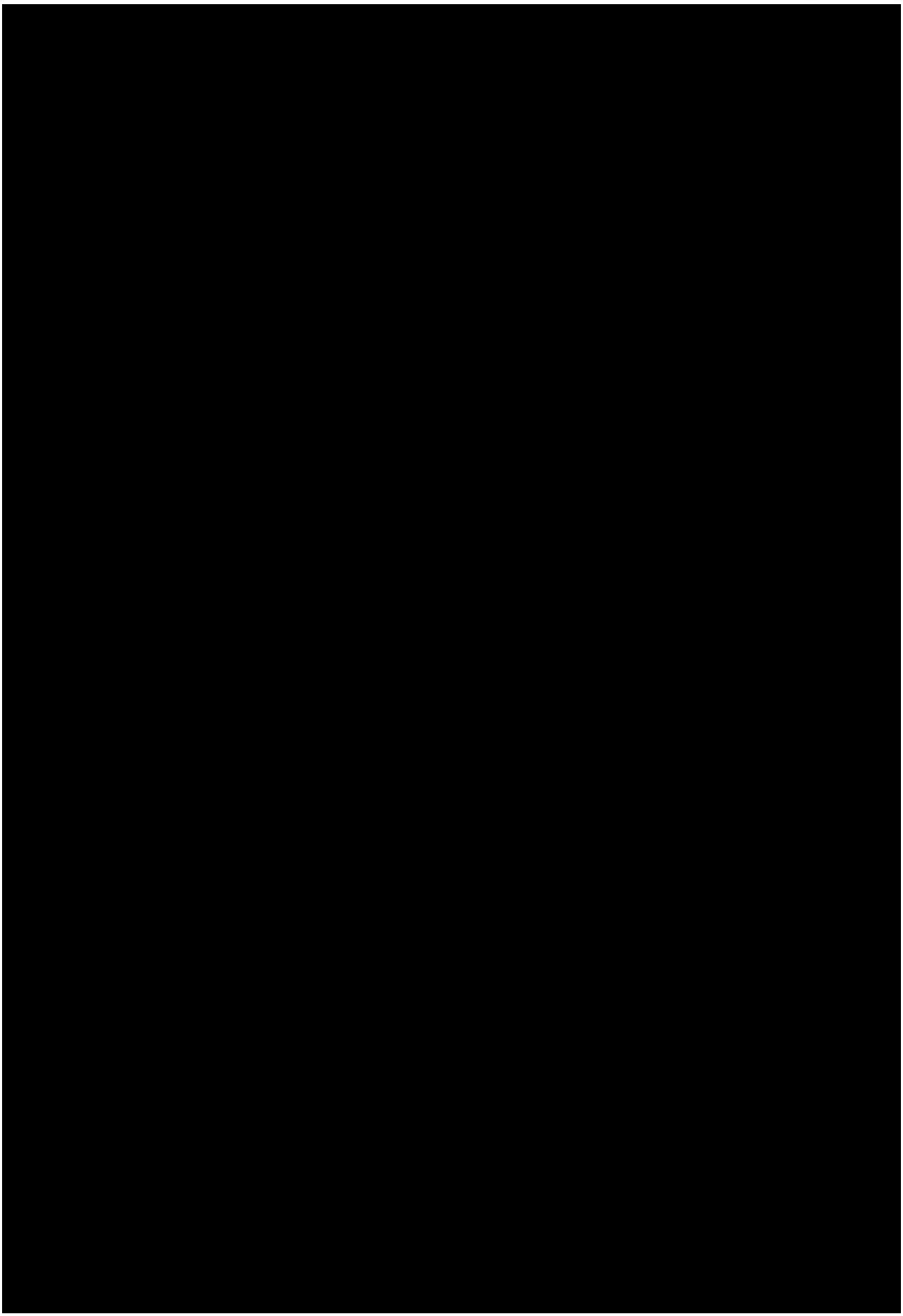

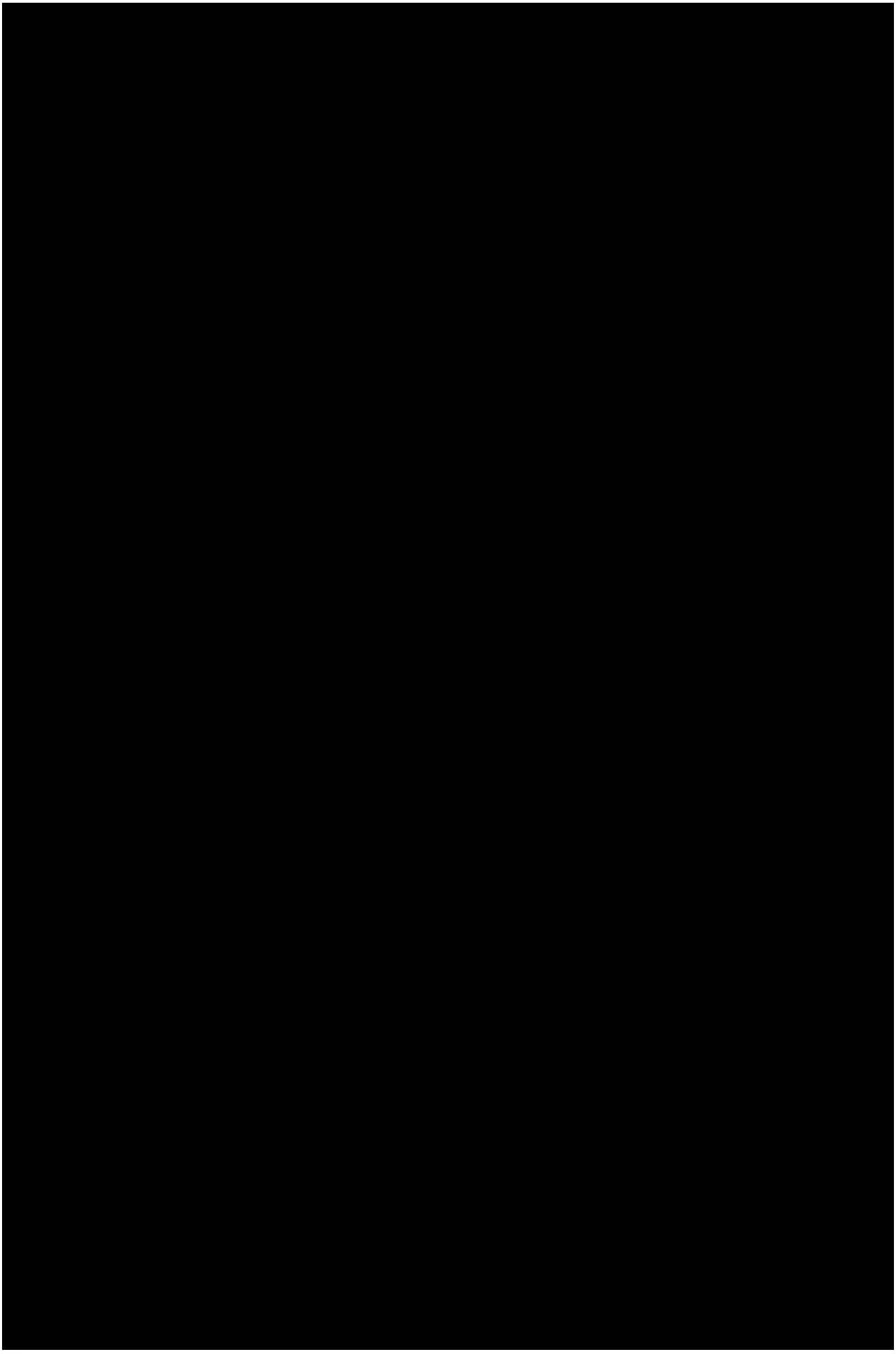

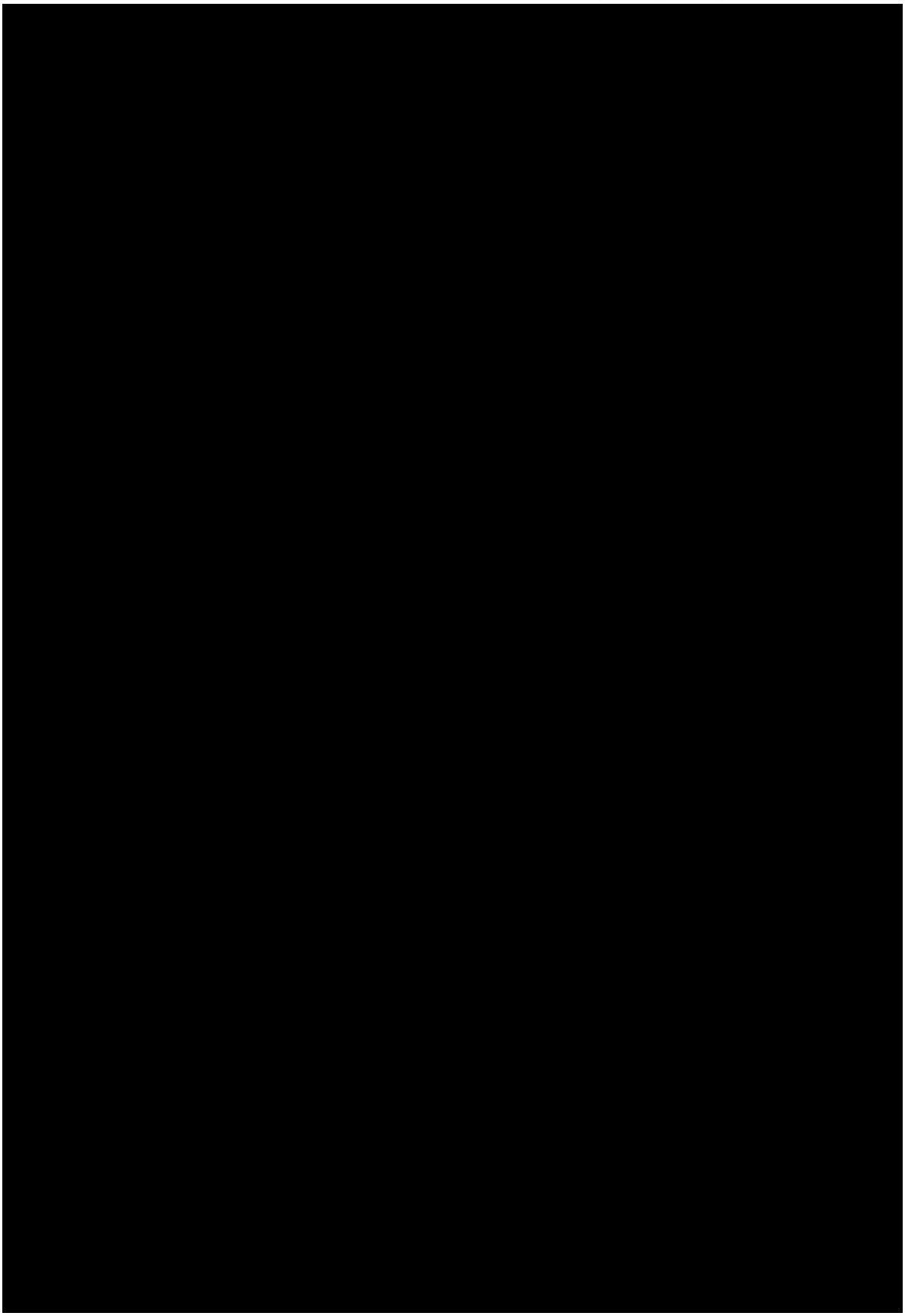

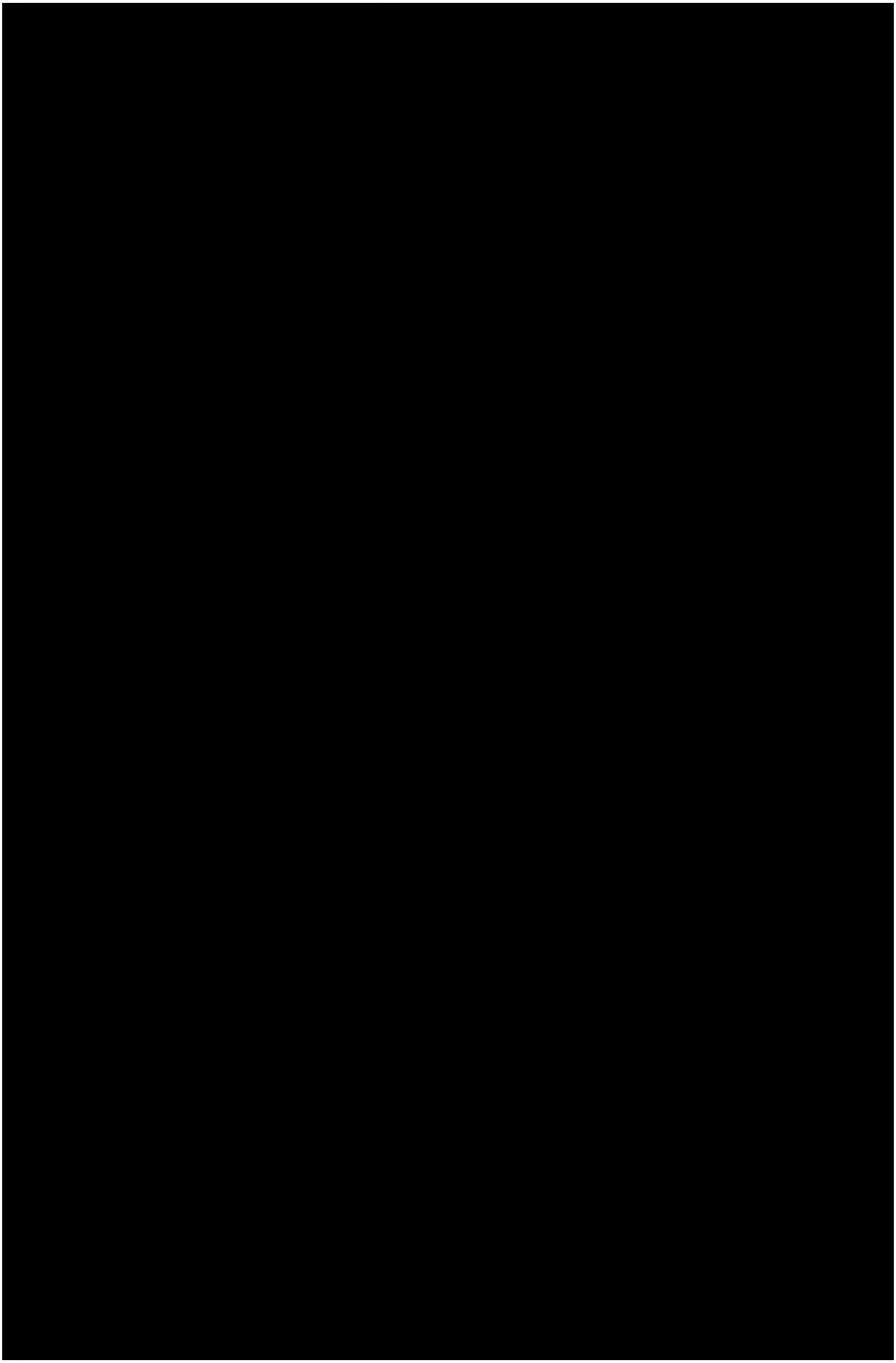

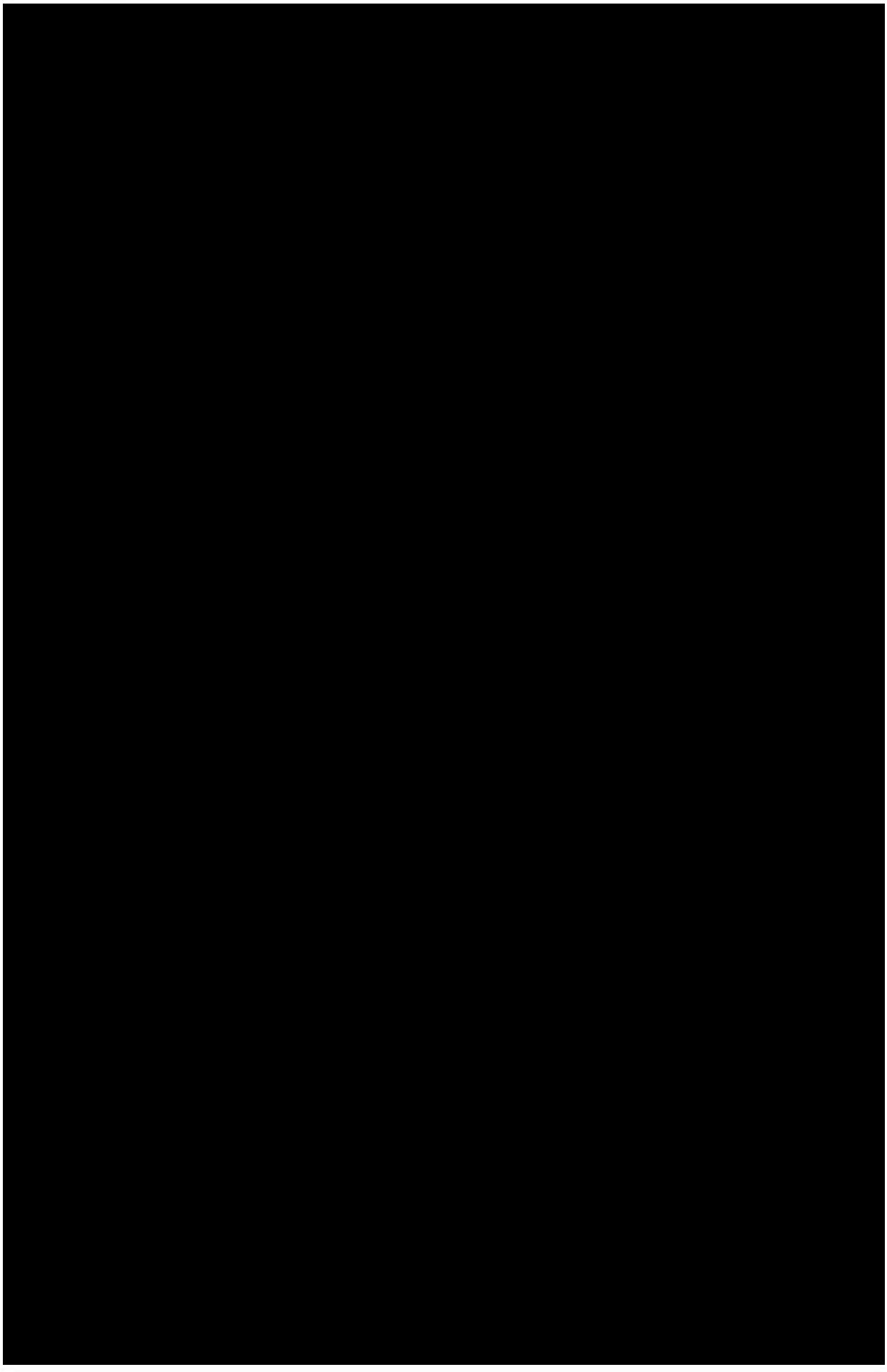

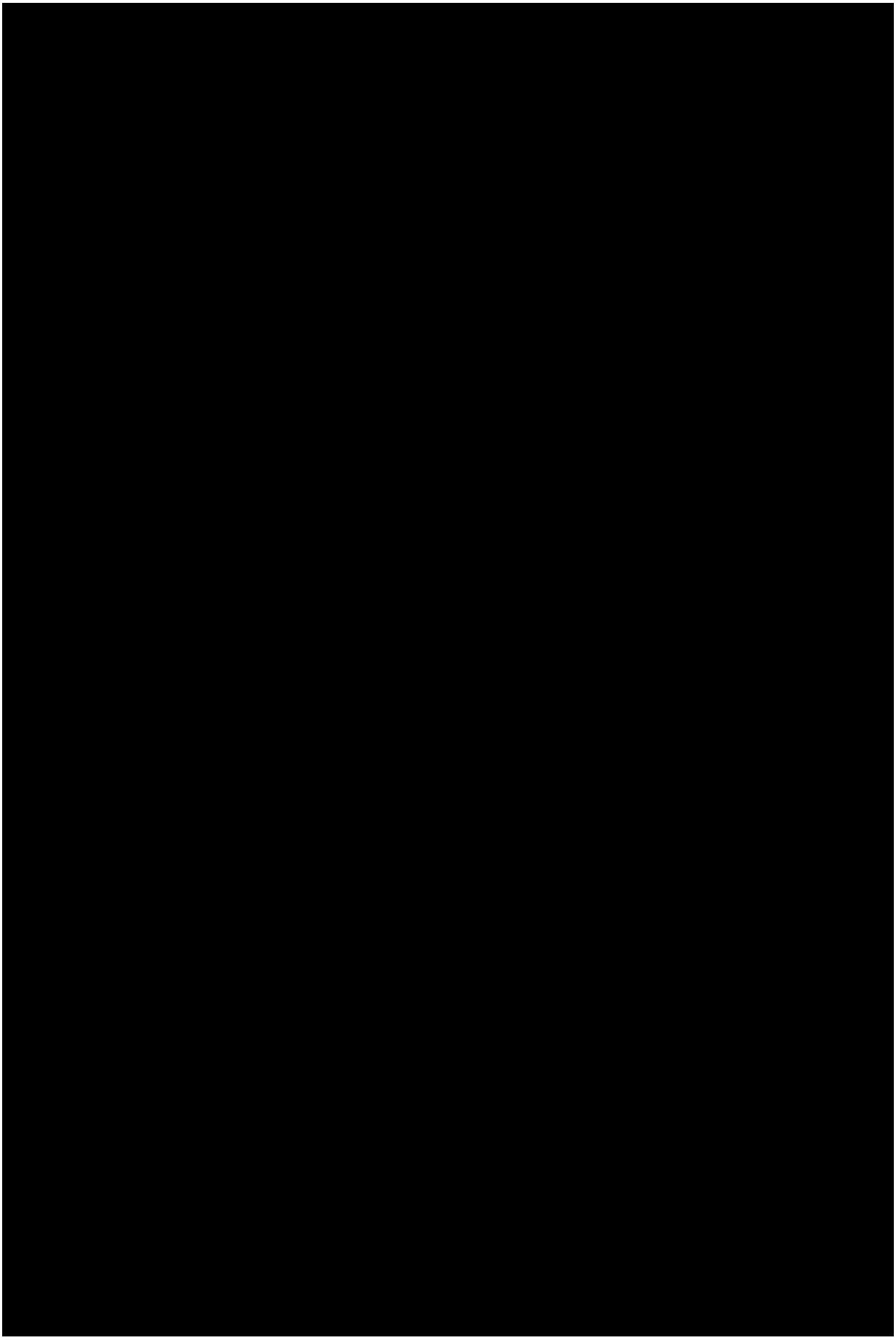

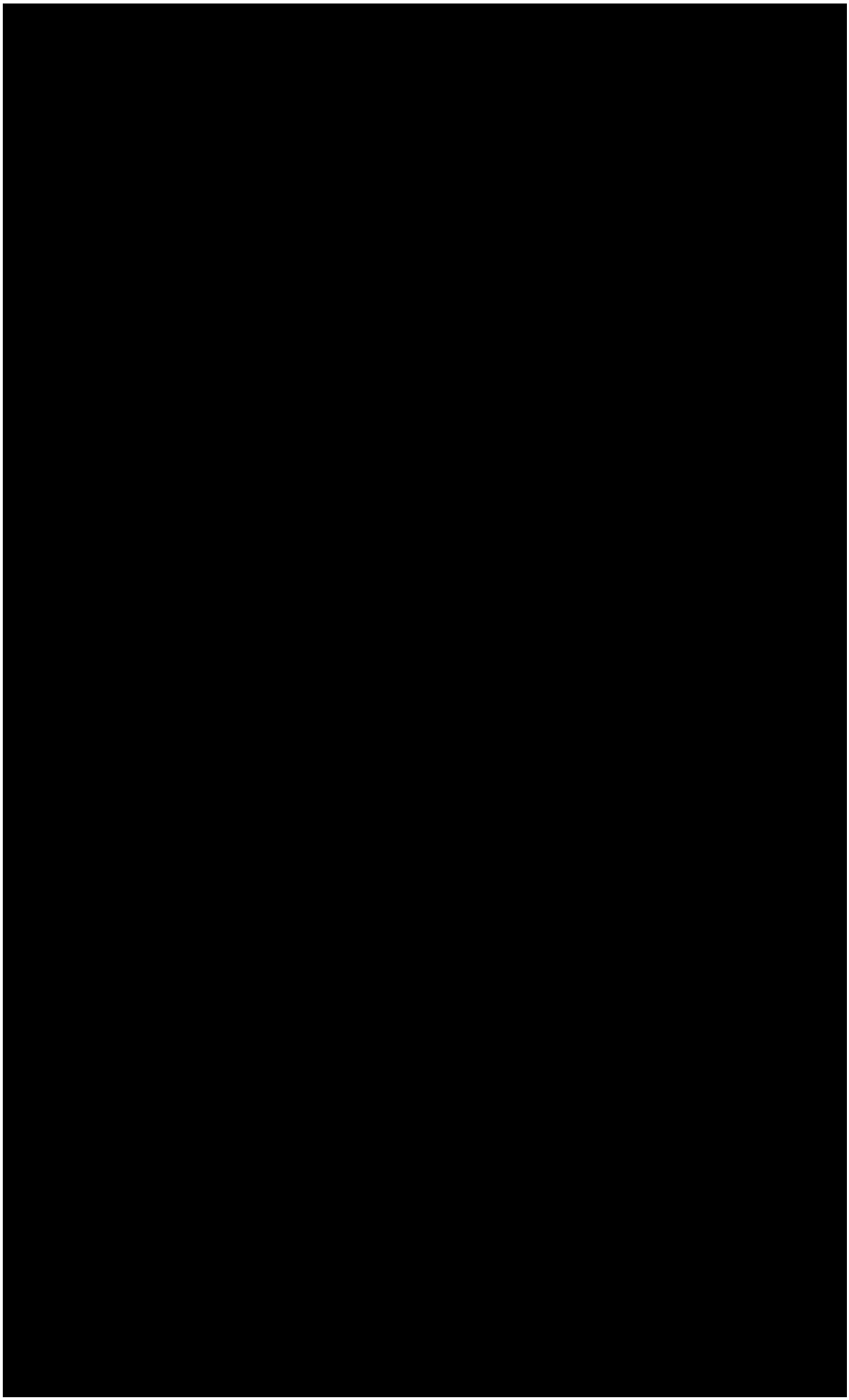

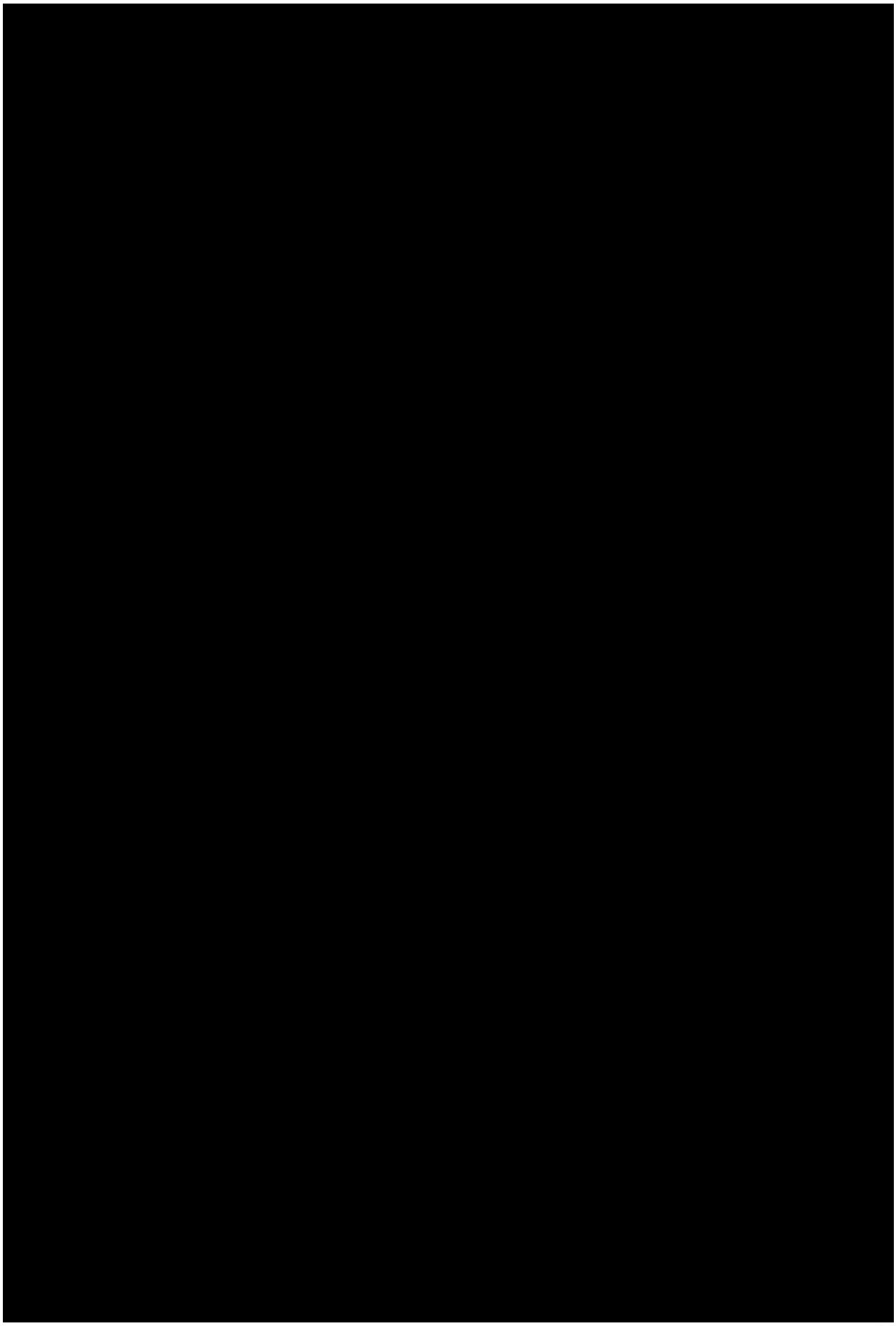

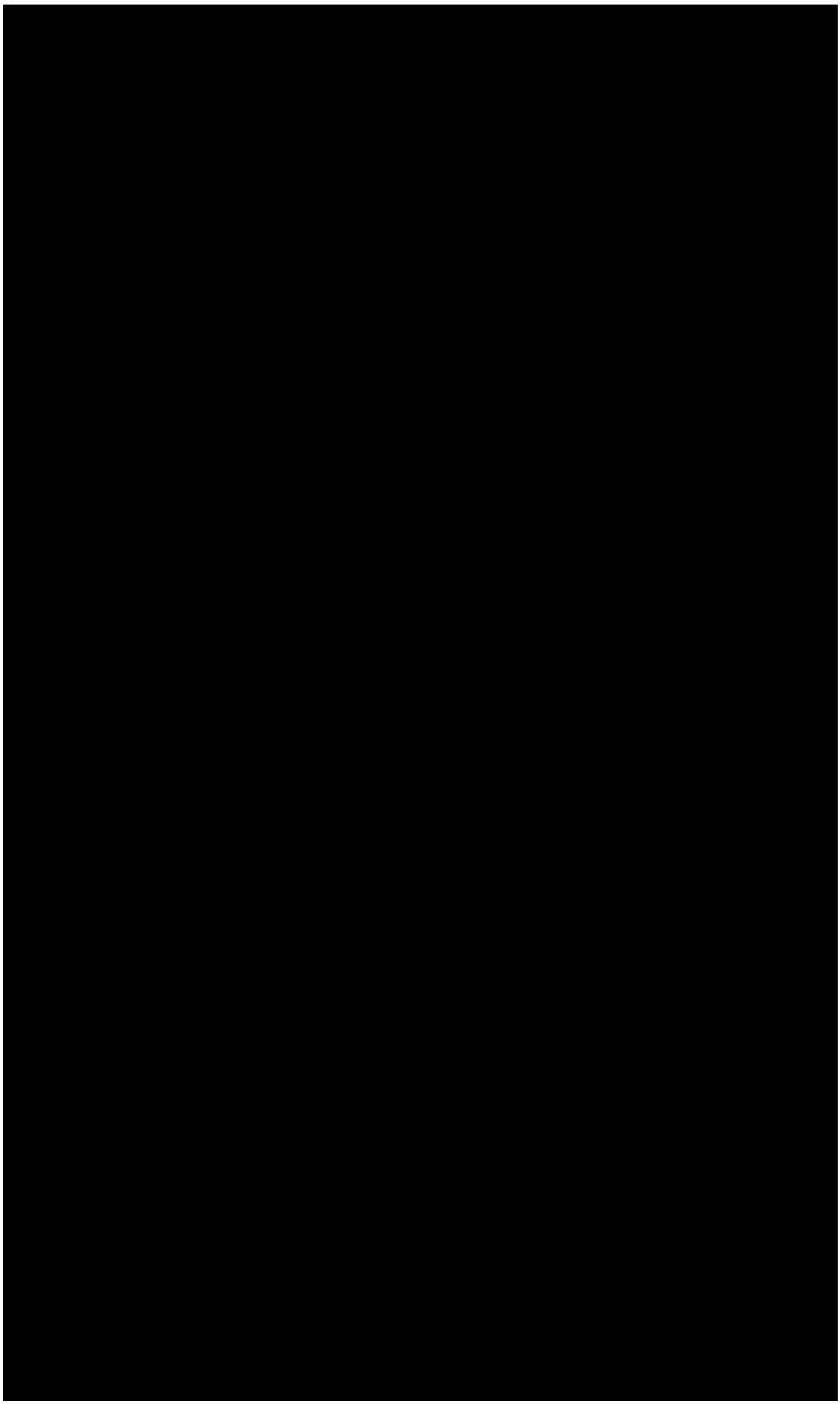

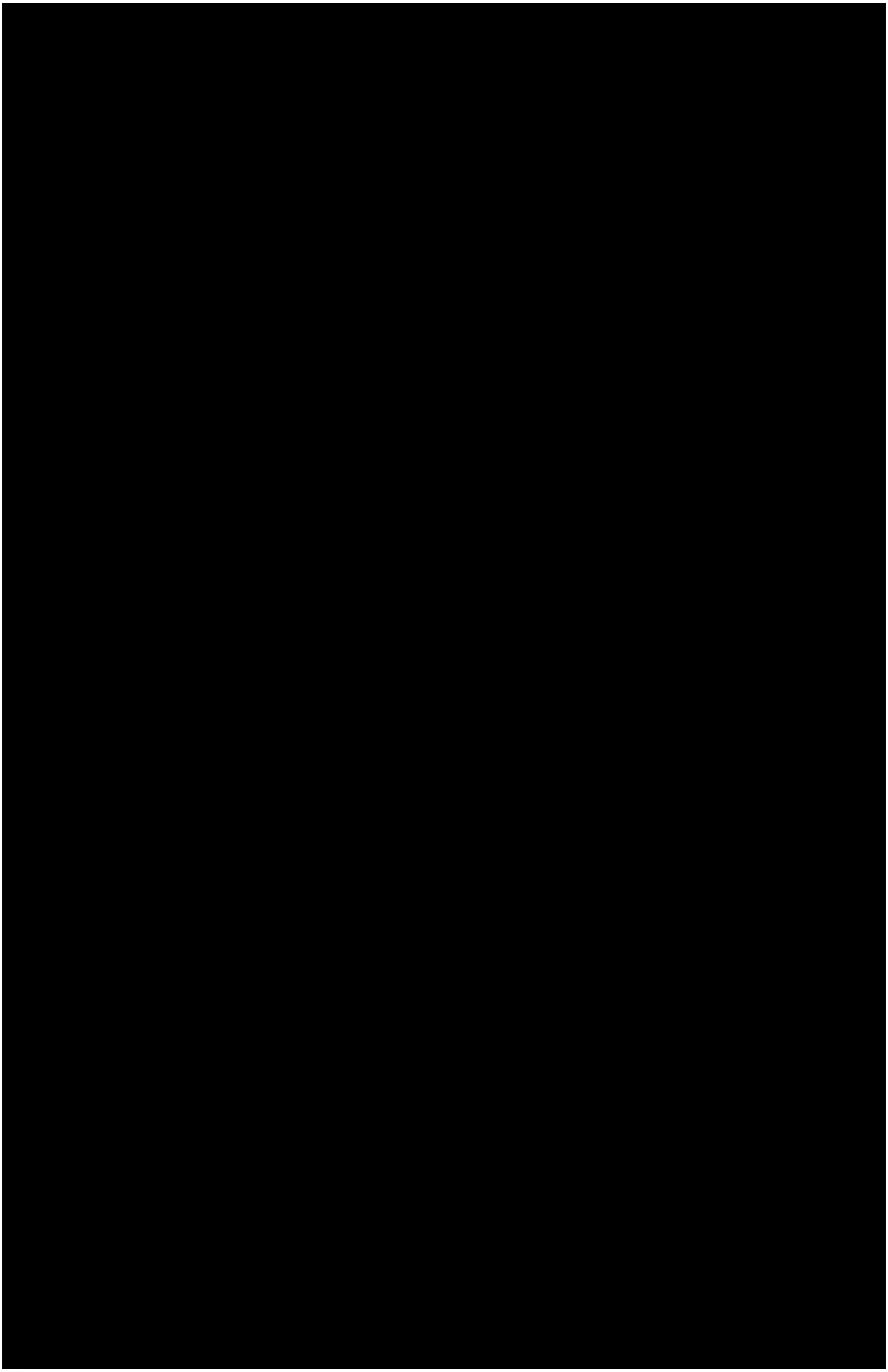

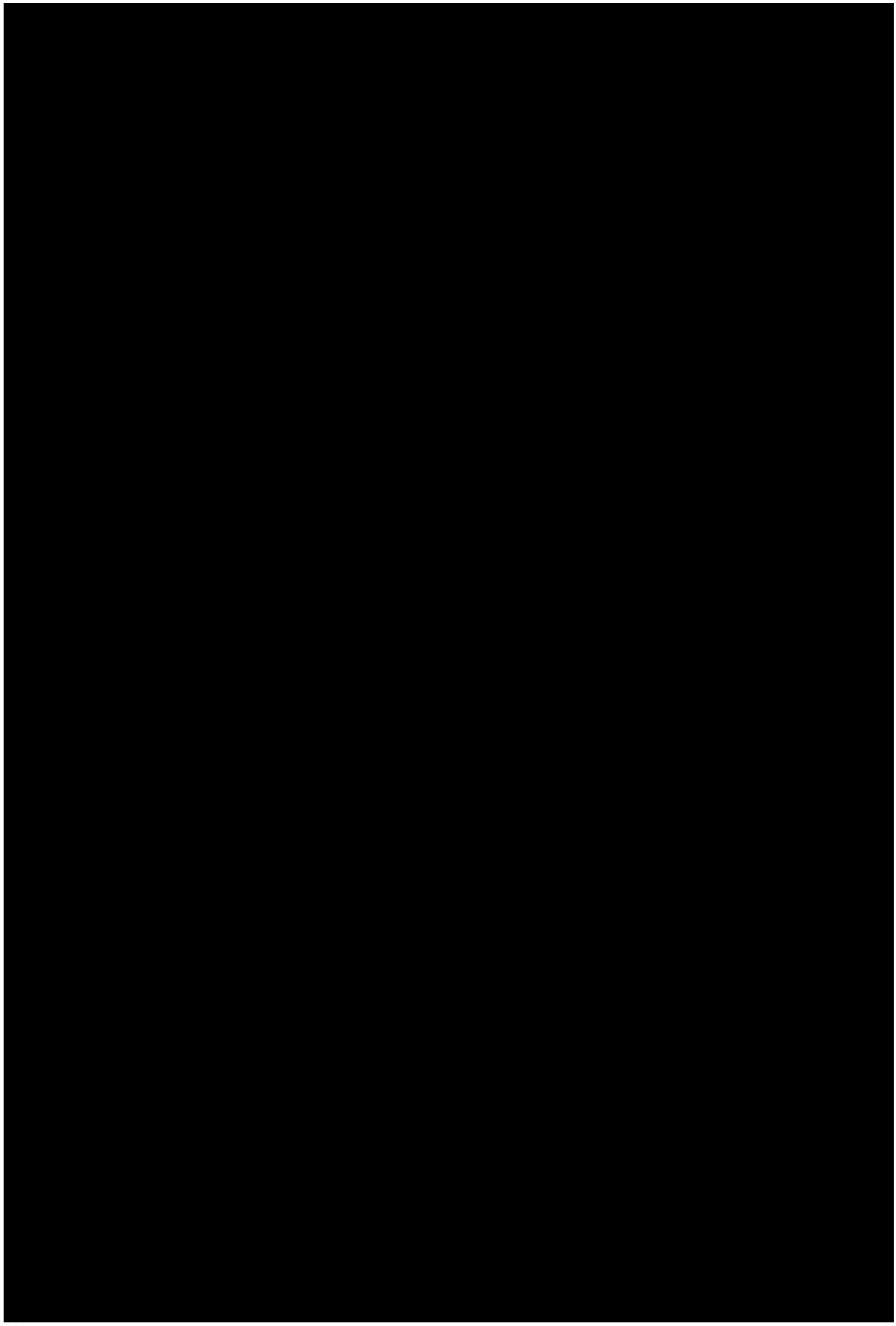

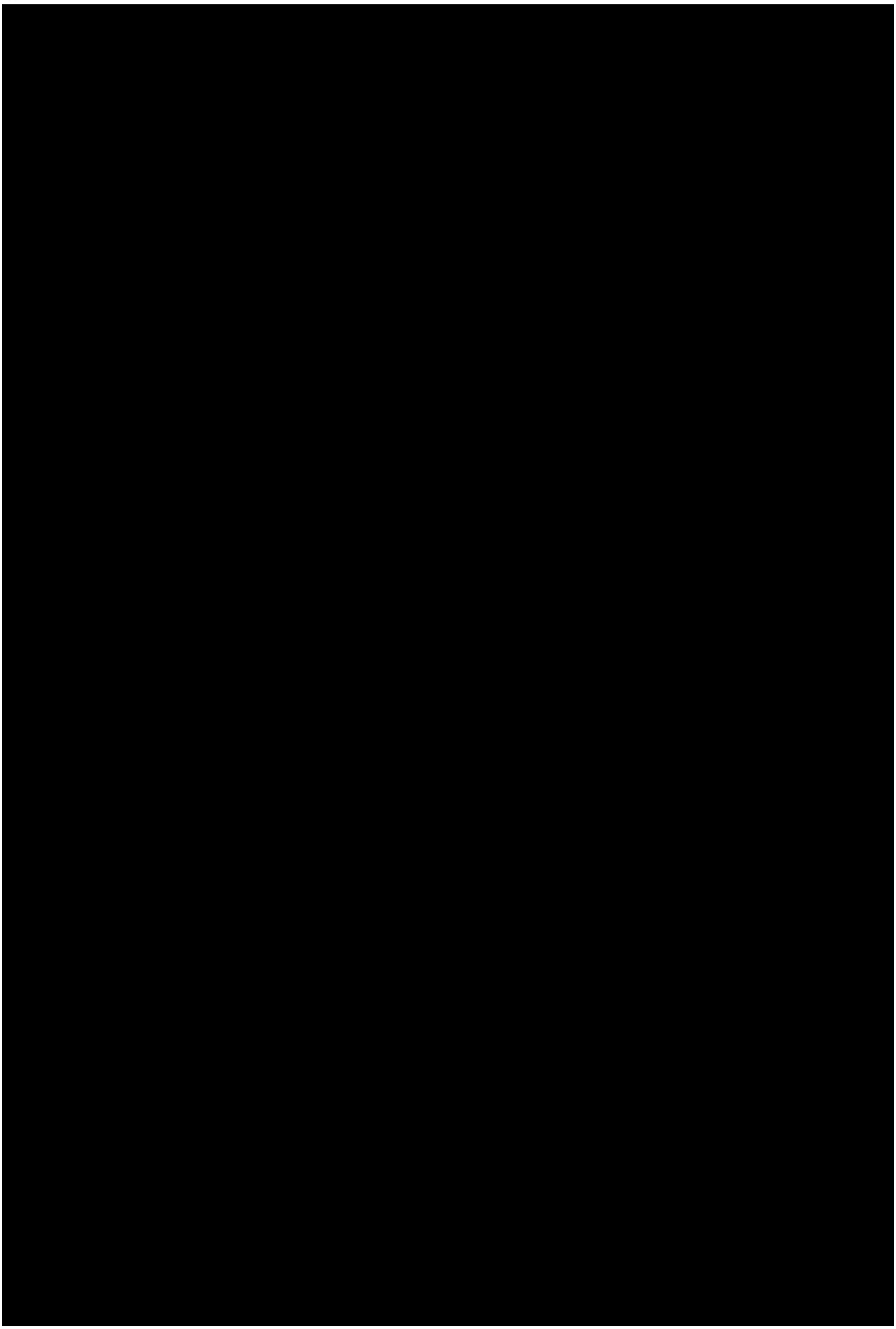

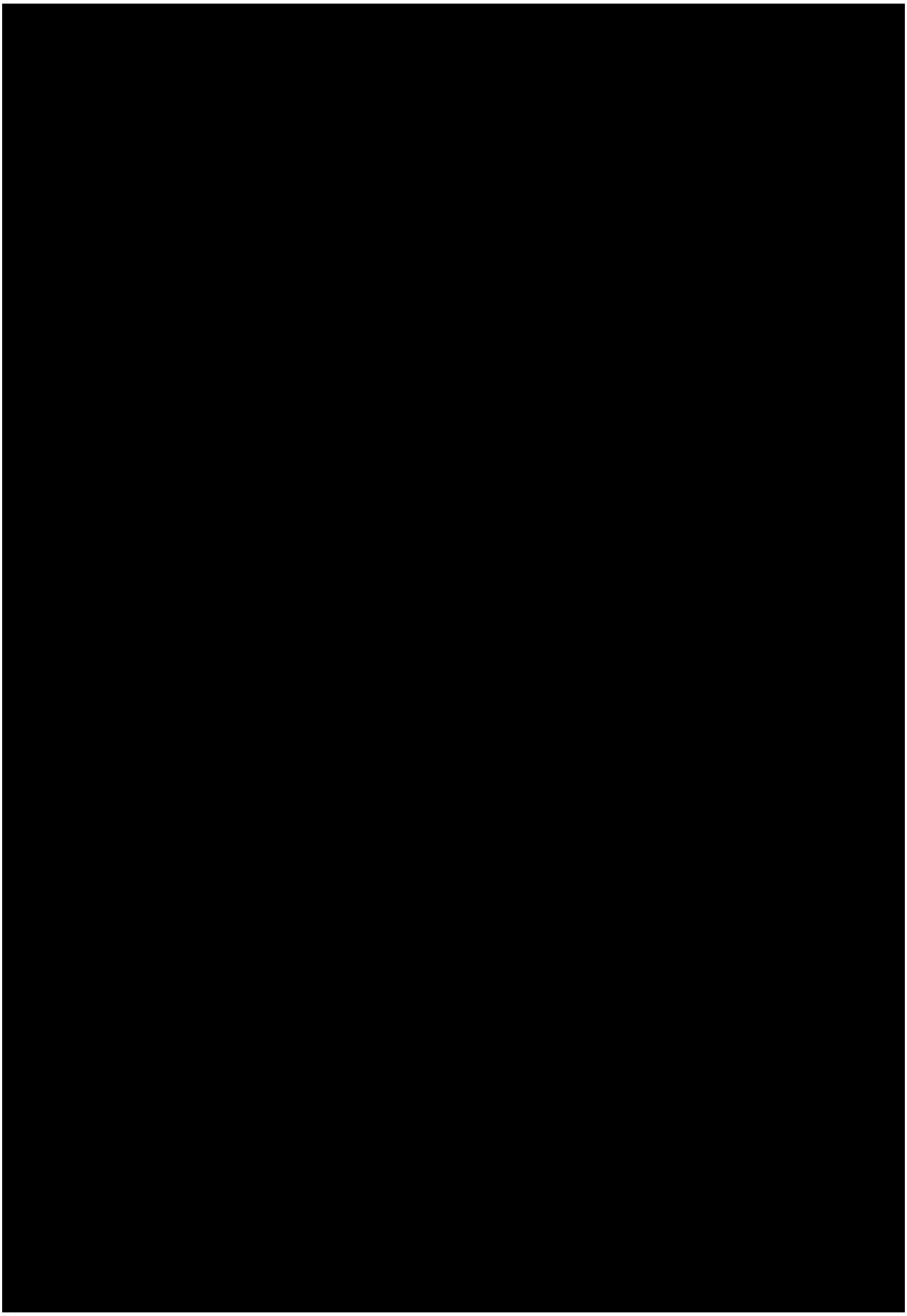

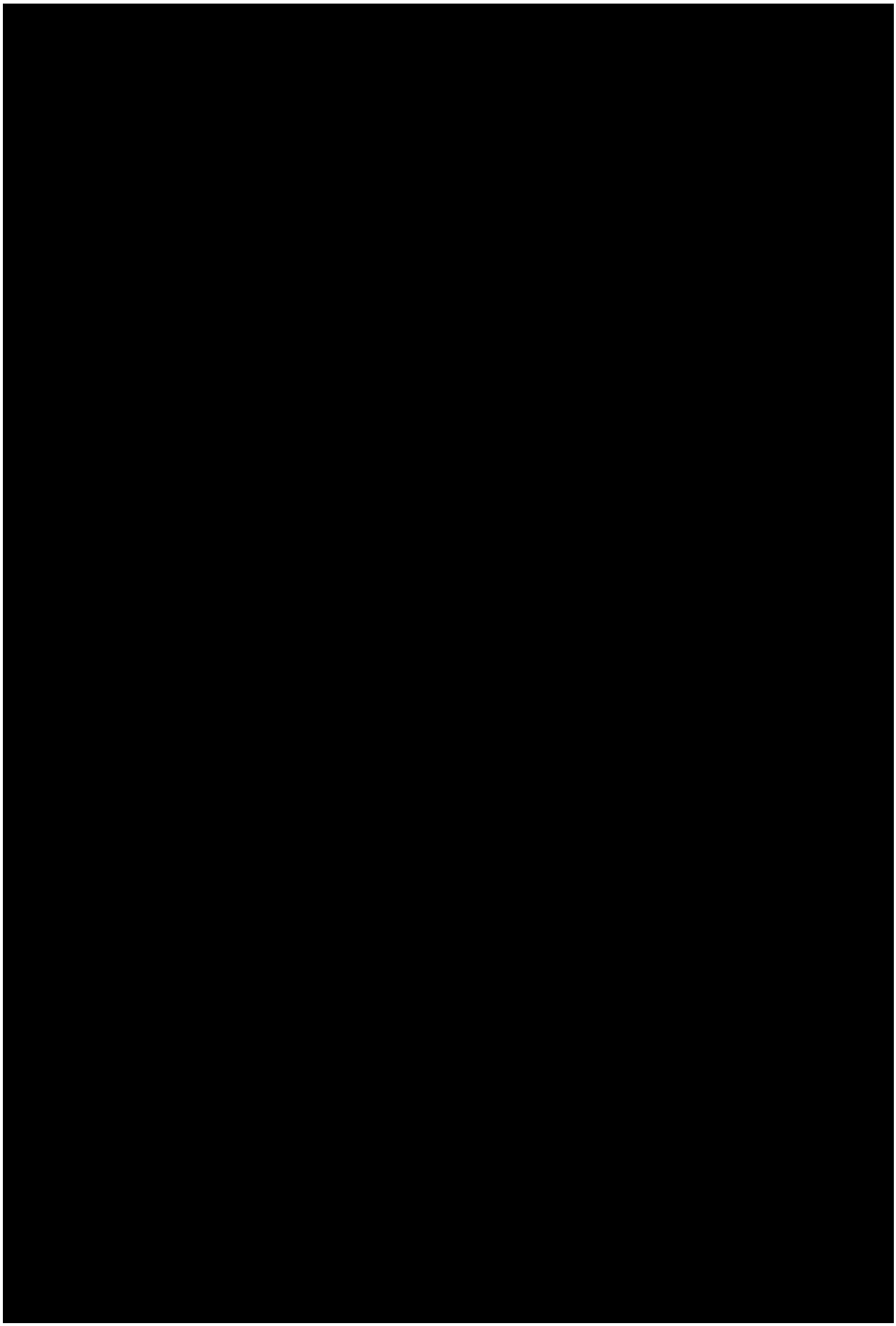

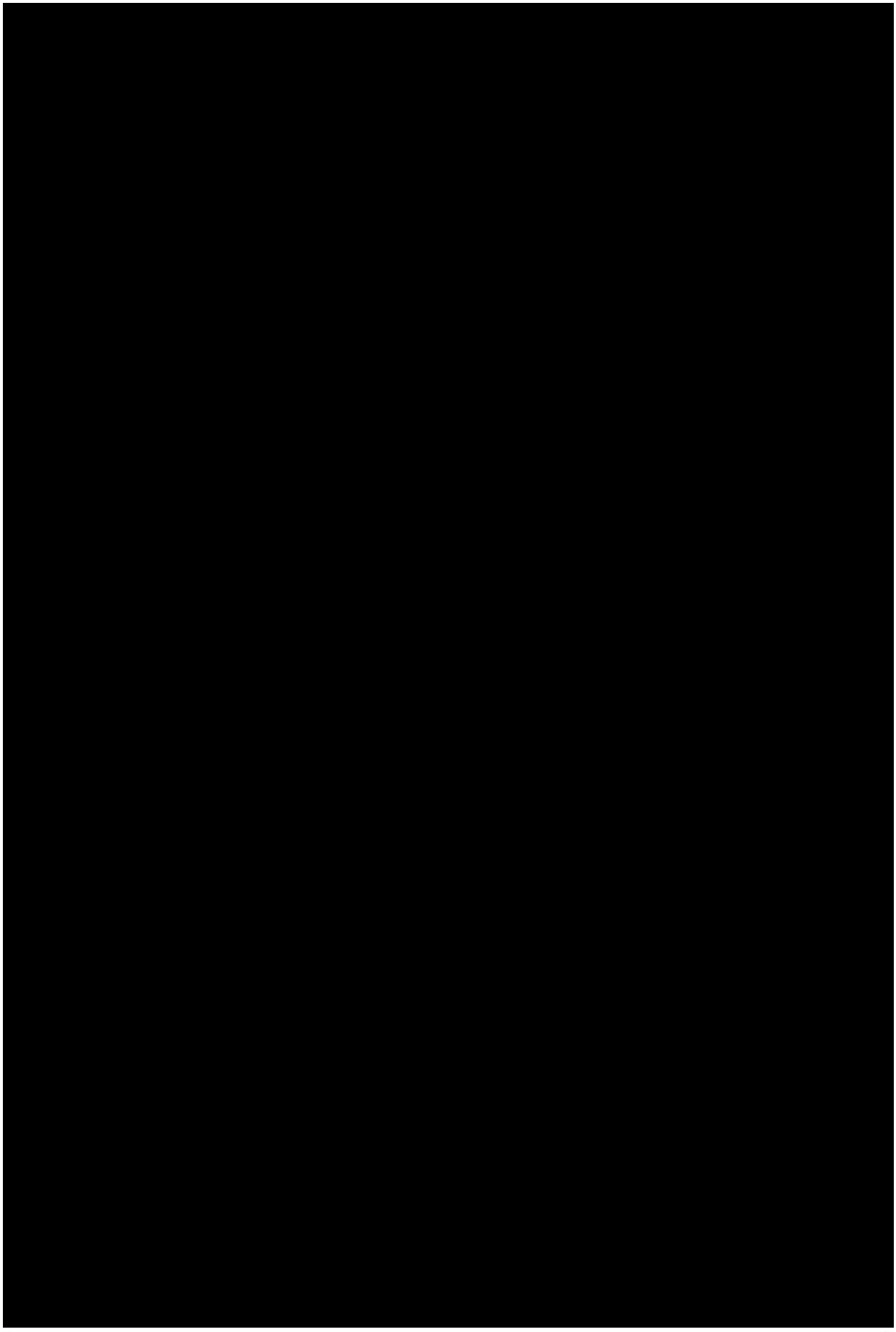

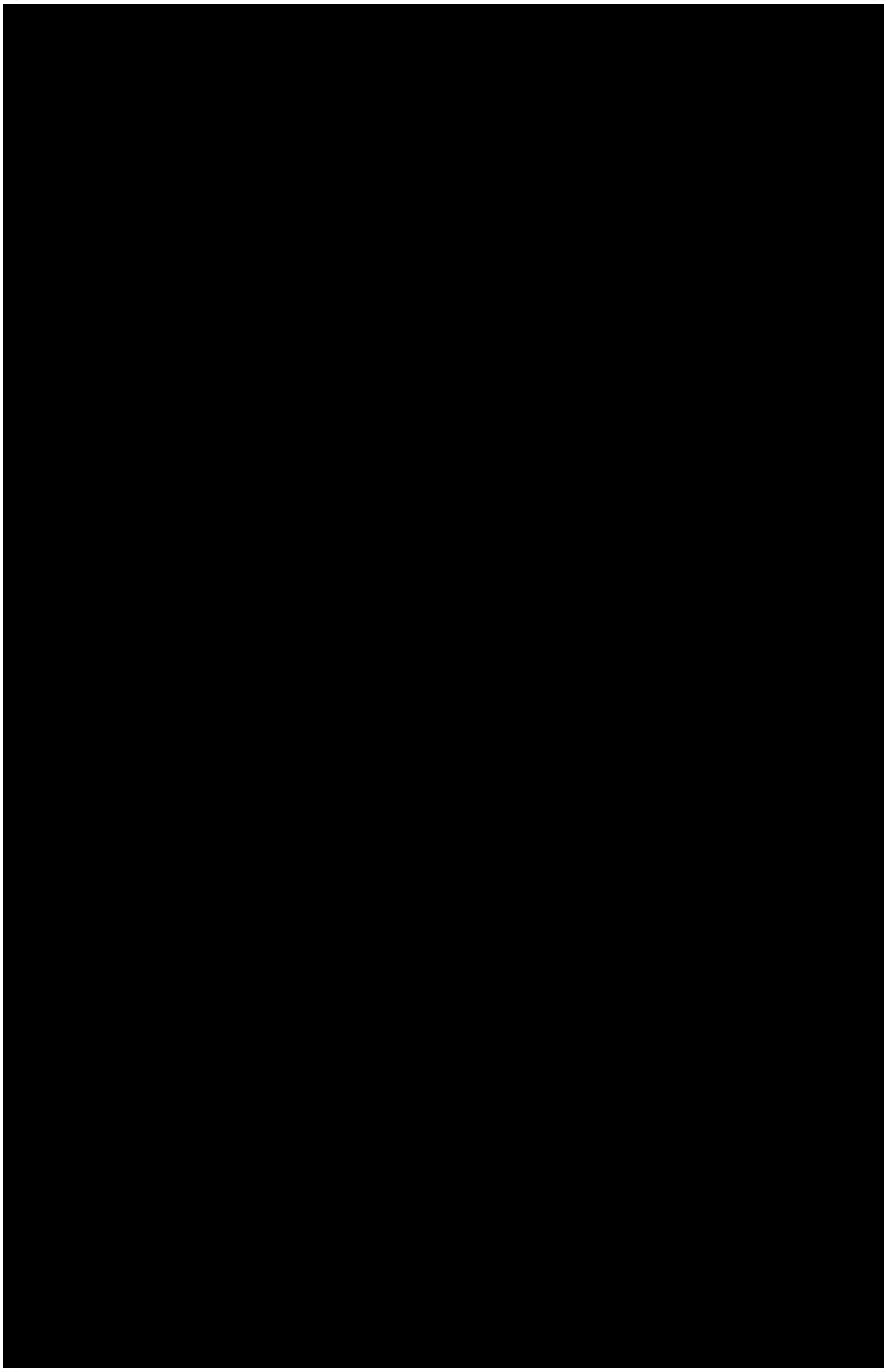

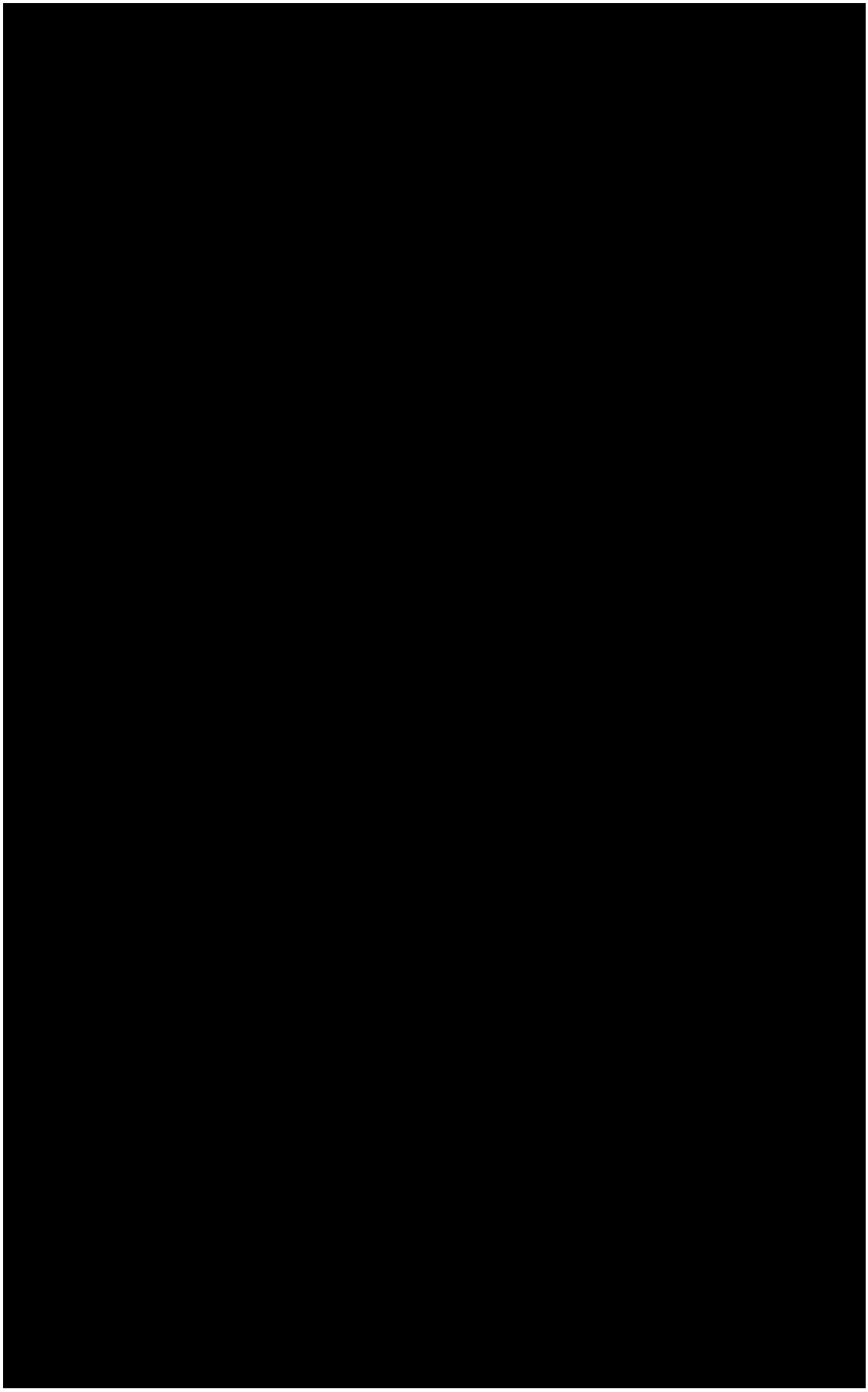

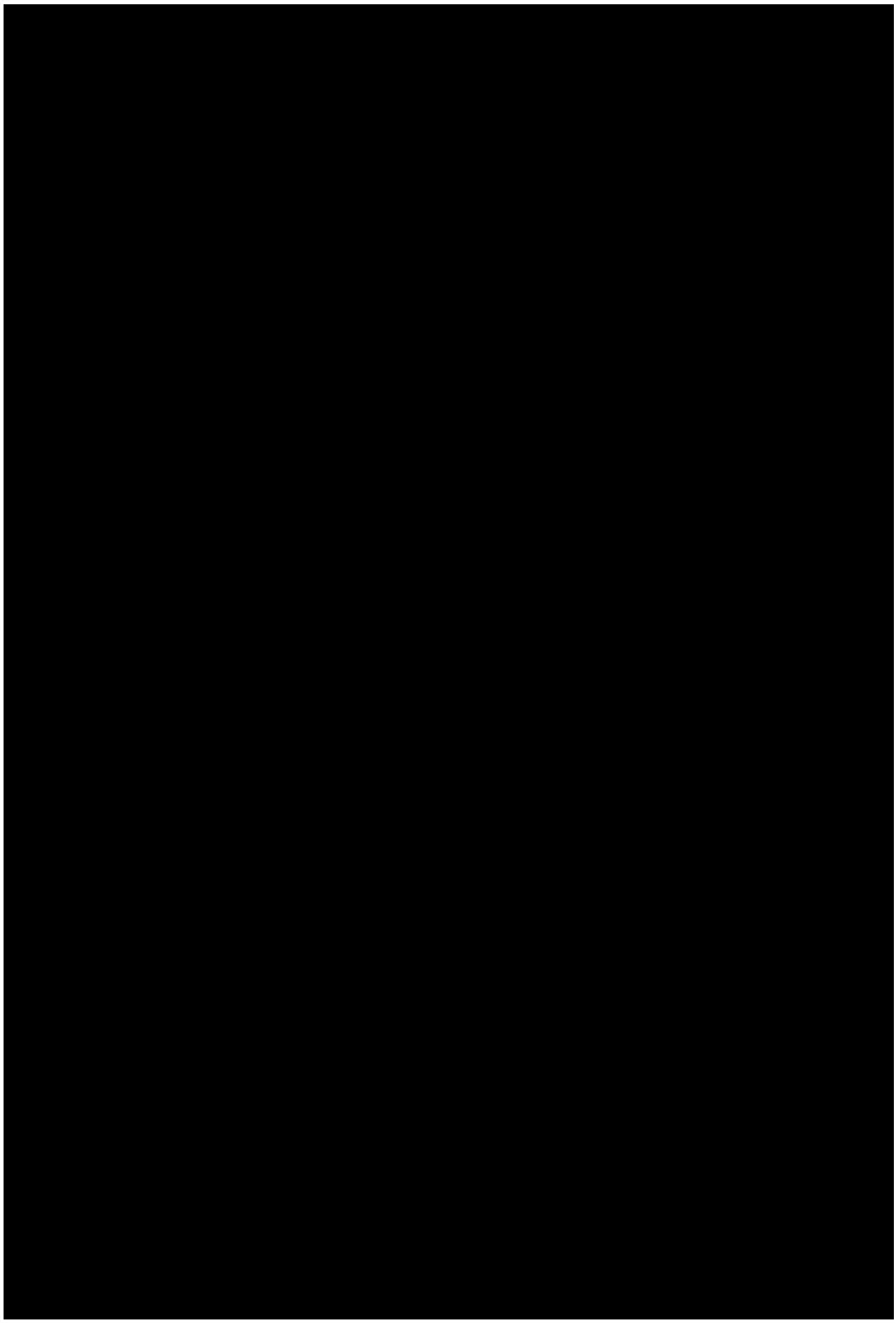

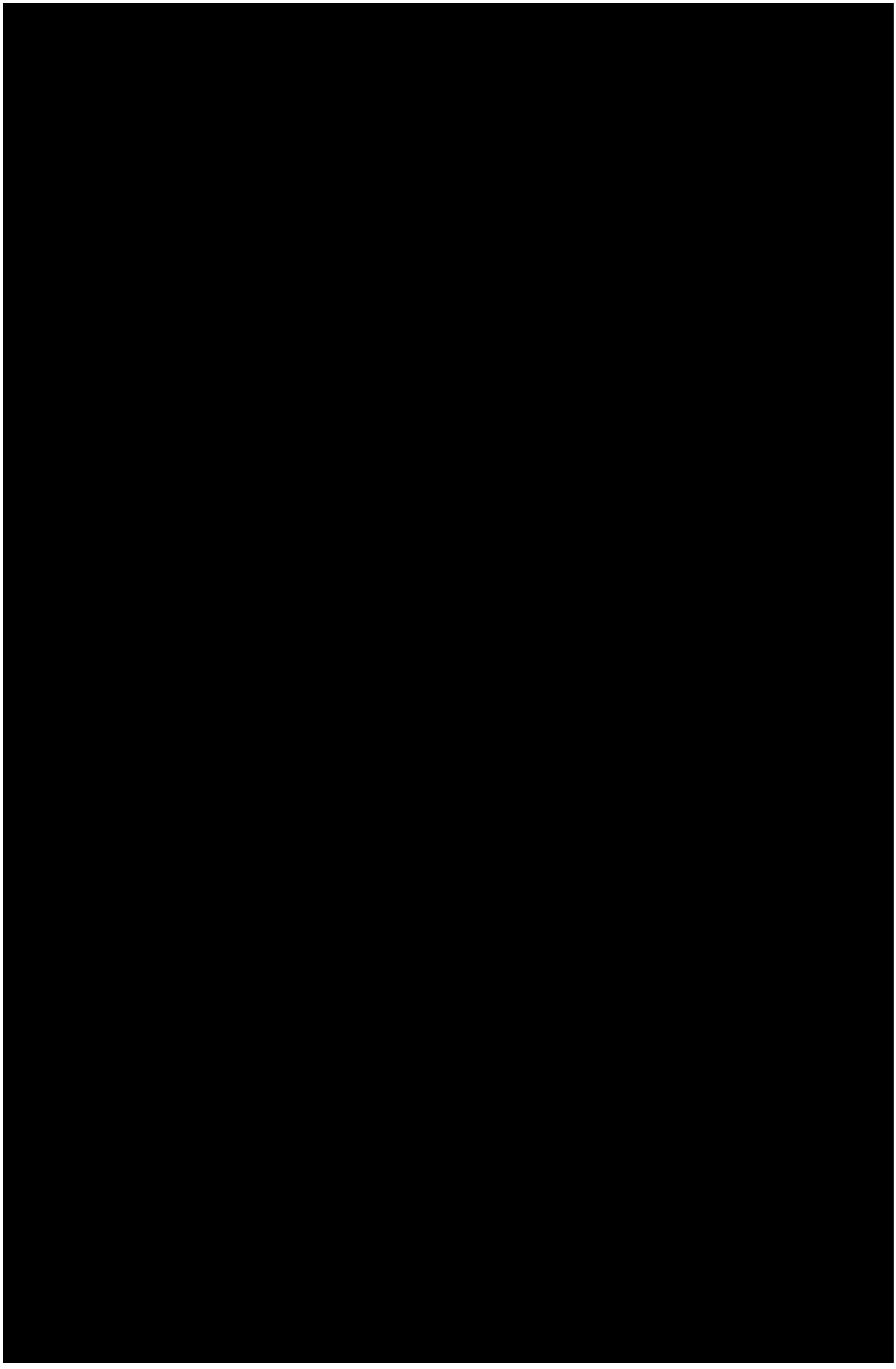

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Mr Ian McGrail
Commissioner of Police
Royal Gibraltar Police
New Mole House, Rosia Road
Gibraltar, GX11 1AA

18th December 2018

Dear Commissioner,

Further to my previous oral report to you, I write to formally bring to your attention and to make a complaint in relation to the acts of Thomas Cornelio ("Mr Cornelio") described in this letter and which we believe may constitute criminal offences.

A. Mr John Perez's and Mr Cornelio's employment with us

1. John Perez commenced employment with us as Chief Executive Officer on the 1st February 2010. Mr Cornelio commenced employment with us as Head of Software Development on the 19th November 2012. A copy of their contracts of employment with us (hereafter 'the Employment Contracts') are enclosed with this letter.

2. During the course of his employment, Mr Cornelio was involved with the development of the following IT software systems by us:

2.1 A modular, centralised IT software system for the collection, monitoring, background checking, and flagging of people and vehicle movements in and out of Gibraltar via land, sea and air. This system was first launched in December 2014 and was subsequently developed over the course of several years to become known as the National Security Central Intelligence System (the 'NSCIS Platform'). As you know, it collects sensitive personal information from members of the public upon entry to and exit from Gibraltar and is a key tool for law enforcement agencies in the protection of national security. The NSCIS Platform is provided by us to the HMGoG on the basis of an on-going software licence, for which we also provide continuing system support and maintenance. The NSCIS Platform has always been and remains our intellectual property;

2.2 An IT software system for use by the Department of Education to manage student and scholarship records (the 'DoE Platform'). The DoE Platform went live in April 2015 and was provided to HMGoG by way of sale, and for which we provide continuing system support and maintenance;

2.3 The development of an IT software system for use by the Department of Employment to manage the employment records of all persons in Gibraltar (the 'ETB

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Platform'). The ETB Platform went live in July 2016 and was provided to HMGoG by way of sale, and for which we provide continuing system support and maintenance;

2.4 The development of an IT software system for use by the Department of Social Security to manage HMGoG's benefits payments to entitled persons in Gibraltar (the 'DSS Platform'). The DSS Platform is still under production by us.

(collectively, the 'IT Systems Contracts').

2.5 The NSCIS Platform, DoE Platform, ETB Platform and DSS Platform are hereafter collectively referred to as 'the Platforms').

3. Pursuant to clause 3.8 of the Employment Contracts (and in any event by operation of law), all intellectual property rights in respect of all intellectual property made by Mr Cornelio and/or any other employee of Bland during their employment by us belong to and are vested in us upon creation and thereafter.

4. In relation to the NSCIS Platform and the DSS Platform and/or their development (including compilations of elements of the software), we own the copyright of the following, (among other things), namely, all and any:

4.1 functional, technical and other specifications;

4.2 flowcharts and graphs;

4.3 descriptions of the software;

4.4 the source code, including its revision history;

4.5 the object code;

4.6 all other documentation associated with the development of the software relating to all stages of development commencing with the initial broad idea;

4.7 all databases
(hereafter collectively, 'Our Intellectual Property').

5. Access to third party accounts

Mr Cornelio had the administrator access and control over the following third party accounts belonging to us and used by us in providing our solutions under the IT Systems Contracts:

[redacted]

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[redacted]

The 3rd Party Accounts were created and managed by Mr Cornelio in the course of his employment with us and were and remain our sole property.

6. The NSCIS Platform and Wavetecx

6.1 The contract for the NSCIS Platform commenced under our security arm, Operational Support Group ('OSG'). In light of the growing sophistication of the NSCIS Platform, and the opportunities that existed for its commercial exploitation and use beyond the contract with HMGoG and indeed Gibraltar, we set up a separate division from which to develop, brand, market and commercially exploit the NSCIS Platform abroad ('Wavetecx').

6.2 Wavetecx was set up (in around January 2017) and headed by John Perez. Having gained an intimate understanding of the NSCIS Platform, Mr Cornelio assisted John Perez with Wavetecx in his capacity as our Head of Software Development.

6.3 Wavetecx's emails (the 'Wavetecx Emails') were run and managed on a separate server controlled by John Perez and/or Mr Cornelio in conjunction with him, instead of the UK based company we routinely outsourced to run and manage all of our other emails. As a result of this, we had severely limited, if any, visibility over their dealings in/with Wavetecx for and on our behalf. The Wavetecx Emails were at all times and remain our sole property.

7. ICODE Ltd and 36 North Ltd

7.1 A company called 36 North Ltd was incorporated on the 23rd April 2018, of which John Perez and Mr Cornelio were appointed as directors on the same date.

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7.2 On the 16th May 2018, a company called ICODE Ltd was incorporated of which Mr Cornelio is the sole shareholder.

7.3 On the 22nd June 2018 John Perez, ICODE Ltd and a company called Astelon Ltd each acquired a 33% shareholding in 36 North Ltd.

7.4 On the 25th June 2018 an application was filed at Companies' House to replace John Perez and Mr Cornelio as directors of 36 North Ltd on the stated basis (that we do not accept as true) that the initial appointments had been filed in error. They were replaced by Cheam Directors Limited, a company operated by professional service providers to act as director of client companies.

7.5 On the 2nd July 2018, an application was filed at Companies' House to amend the shareholding of 36 North Ltd on the stated basis (that we do not accept as true) of an erroneous filing on the 22nd June 2018. John Perez, ICODE Ltd and Astelon Ltd were then removed as shareholders. The shares were then said to have been allotted to Line Holdings Limited, a nominee shareholding company operated by professional service providers in Gibraltar.

8. JOHN PEREZ AND MR CORNELIO'S TERMINATION OF THEIR EMPLOYMENT WITH US

8.1 On the 10th July 2018 both John Perez and Mr Cornelio handed in letters of resignation from their employment with us. John Perez's resignation was to take effect on the 9th September 2018 and Mr Cornelio's on the 9th August 2018 reflecting the different notice provisions in their respective contracts of employment.

8.2 On the 10th August 2018 Mr Cornelio's employment with us terminated and, on the same date he was appointed a director of ICODE Ltd, and ICODE Ltd and Astelon Ltd were each allotted a 50% shareholding in 36 North Ltd.

8.3 On the 10th August 2018 it was agreed between Mr Cornelio and us that he would continue maintaining the NSCIS Platform on our behalf, as a consultant, for a temporary period in order to avoid jeopardising national security.

8.4 Accordingly, and notwithstanding the termination of Mr Cornelio's employment with us, and pursuant to the agreement referred to in paragraph 8.3 above, he continued to have authorised access and control over the 3rd Party Accounts and other hardware and/or systems in relation to the NSCIS Platform for the sole purpose of maintaining the integrity and ongoing functionality of the NSCIS Platform on our behalf. That consultancy agreement endured from the 10th August 2018 to 31st August 2018 (when Mr Cornelio himself formally terminated it in writing).

8.5 To the extent that this letter complains of Mr Cornelio's unauthorised access to any of the above between the 10th-31st August 2018 , it refers to his use of the access he already had (and continued to have) pursuant to the agreement in

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paragraph 8.3 for illegitimate purposes for which he was not and he knew that he was not authorised by, and which was severely detrimental and intended to be severely detrimental to us.

8.6 John Perez's employment with us terminated on the 10th September 2018.

8. CONDUCT OF WHICH WE COMPLAIN

The following conduct forms the basis of our complaint to you:

*

[redacted]

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with the modifications in paragraphs 9.1 and 9.2 above and thus raised an exception, causing it to fail and exit without sending any data to NSCIS Azure Server;

[redacted]

9.5 We believe that the aforesaid conduct by Mr Cornelio may amount to criminal offences by him (and anyone working in concert with him) contrary to:

9.5.1 Section 175 of the Data Protection Act 2004;

9.5.2 Section 128(2) of the Intellectual Property (Copyright and Related Rights) Act 2015;

9.5.3 Sections 362, 364, 365 and 366A of the Crimes Act 2011.

10. Deletion of the Wavetecx Emails

10.1 Between the 24th July and 27th July 2018, whilst still our employee (but during his notice of termination period), Mr Cornelio:

10.1.1 logged into our Wavetecx mail server for a purpose that was not legitimate in the context of his duties, and thus without authorisation from us;

10.1.2 exported all the data, including emails mail boxes and data files, from the following accounts:

(i) eddie.asquez@wavetecx.com,
(ii) john.perez@wavetecx.com,
(iii) eddie.bradley@wavetecx.com,
(iv) tommy@wavetecx.com

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10.1.3 deleted all the data, including emails, mailboxes and data files from the above accounts from our Wavetecx mail server.

10.1.4 In an email dated 31 August 2018 Mr Cornelio told us that he had done this for the purpose of "cutting costs by removing the paid subscription for dormant email accounts". This is not a serious or credible explanation for his unauthorised and unlawful conduct in this respect, and in any event it does not explain his exportation of the data.

10.2 We believe the aforesaid conduct by Mr Cornelio may amount to criminal offences by him (and anyone working in concert with him) contrary to :

10.2.1 Section 128(1)(c) of the Intellectual Property (Copyright and Related Rights) Act 2015;

10.2.2 Sections 362, 364 and 391(1) of the Crimes Act 2011.

*

[redacted]

11.4 He thereby caused significant disruption to the NSCIS Platform [redacted] with a view to damaging HMGoG's confidence in our ability to continue the future servicing of the NSCIS Platform and diverting the benefit of that contract to John Perez and/or Mr Cornelio and/or 36 North Ltd.

11.5 We believe that the aforesaid conduct may amount to criminal offences by him (and anyone working in concert with him) contrary to Sections 362, 364, 365 and 366A of the Crimes Act 2011.

12. Team Foundation Server / unauthorised access to and use of, and misappropriation of source code

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[redacted]

12.3 We believe the aforesaid conduct may amount to criminal offences by Mr Cornelio by him (and anyone working in concert with him) contrary to

12.3.1 Section 128(1)(c) of the Intellectual Property (Copyright and Related Rights) Act 2015;

12.3.2 Sections 362, 364, 366A and 391(1) of the Crimes Act 2011.

[redacted]

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[redacted]

The matters described above have been verified both by our own technical staff and by PWC. A copy of the report produced by PWC is enclosed herewith.

We remain at your disposal to provide you with such assistance as you may require from us.

Yours faithfully,

James Gaggero
Chairman
Bland Group

Emma Dudley

From: Ian.McGrail@royalgib.police.gi
Sent: 10 June 2020 07:41
To: Chairman
Subject: Re: Retirement
Attachments: 120061004442500525.png

Dear James
Many thanks for you email and very kind words.

Indeed it has been a tough decision to make but one which I think is for the best.

When you're next over in Gibraltar I'd be happy to have a face to face to contexualise everything as it would not be right to do so via these means.

Until then, I wish all the very best myself.

Kind regards
Ian

Sent from my iPhone

On 10 Jun 2020, at 05:44, Chairm[redacted] wrote:

My dear Ian,

It has been my pleasure to have had the opportunity to spend time with you over the last two years and get to know you. I have been struck by your decency, honour, courage and commitment to the force that you led.

Although I was surprised to read the article that appeared in the Panorama last week, I assumed it was the price one has to pay for being in a high profile role in the public eye. I had no doubt the crisis would pass and that your many attributes would enable you to prevail.

Today's lead article in the Chronicle shocked me. I simply could not let the situation pass without reaching out to you to express my regret at your decision and my appreciation for your professional support, advice and willingness to be available in dealing with the matter that had deeply affected me and my team at Bland since July 2018

The Royal Gibraltar Police are losing an exemplary leader, but knowing you, I have no doubt you will have done all necessary to prepare the ground for your successor.

I realise there is more to this turn of events than meets the eye. As I am unaware of any the aspects behind your decision, I am forced to accept it is a fait accompli. I can hardly bring myself to believe this is what you wanted. So I am left with no option but to accept this sad outcome and to express my sincerest regrets and repeat my thanks for your steadfast support.

With my very best wishes

Yours ever

James

Sent on the move by James Gaggero.

<120061004442500525.png>

Please be aware that our Privacy Notice has been updated in line with the General Data Protection Regulation (GDPR) requirements. You can view our Privacy Notice here

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ROYAL GIBRALTAR POLICE

STATEMENT OF WITNESS

Criminal Procedure and Evidence Act 2011 ss. 167 and 405; Criminal Procedure Rules r 27.2

Surname: Gaggero	Forenames: James Peter George

Age of witness (if over 18 enter over 18): Over 18

Occupation: Company Chairman

This statement (consisting of 10 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 27th day of August 2019

Signed .....

1. My name is James Gaggero, and I am chairman of the Bland Group of Companies.

BLAND

2. Bland Ltd (hereafter "Bland") traces its roots back to 1810 and is the company under which a number of trading entities or activities are organised. These include, Bland Travel, Bland DMC, The Calpe Lounge, Avis, OSG, CMC, Wavetecx and Gibair.

3. I was appointed Managing Director of Bland in 1987 and Chairman in 1997. Bland's board of directors is currently made up of myself (as Chairman) and Ian Mackie (a non-executive director). Although he is not a statutory director of the company, the finance director, Philip Navas attends meetings. I am currently also the Chief Executive Officer. The company has a senior management team comprised of six general managers.

4. Bland is part of the Bland Group, which is headquartered in the Chanel Islands, and of which I am also Chairman.

Signed: **Signature Witnessed by:**

(NOTE: FILL IN PAGE OVERLEAF)

The contents of this document will be processed in strict compliance with the Royal Gibraltar Police's policy on Data Protection, which has been compiled in accordance with the provisions of the ***Data Protection Act 2004***

5. John Perez commenced employment with Bland as Chief Executive Officer on the 1st March 2010. I now tender in evidence as **Exhibit JG / 1** a copy of Mr Perez's employment contract showing his commencement date as 1st March 2010. He became known to me during his time as commanding officer of the Royal Gibraltar Regiment. Although it was clear that he had no business experience, it appeared to me at the time that he had many attributes that I considered to be useful in running an enterprise like Bland, namely, he was well-connected, energetic, driven, willing to learn and, importantly, available. Between the 1st February 2010 and 10th July 2018 (the date on which he resigned as CEO) I acted as a non-executive Chairman.

6. As CEO Mr Perez was responsible for running Bland Group's interests in the Western Mediterranean and oversaw our senior management team, who reported to him directly. Mr Perez had complete autonomy and latitude to run Bland Group interests in the Western Mediterranean including The Rock Hotel, Travellink and Viajes Med, subject to high-level matters, which required the approval of the Board. He was totally responsible for the day-to-day management of Bland and all general managers reported to him as the Chief Executive Officer.

7. Mr Perez reported directly to me. I reviewed monthly management activity reports and accounts. We were in regular communication and met from time to time to ensure that I was appraised of his activities and the progress he was making from one month to the next. He would also attend quarterly Board Meetings during which he would report on all activities under his charge and would be questioned on these. All budgets were approved by the board and this included wages and salaries, investment strategy and capital expenditure.

8. He was especially hands-on in the case of Wavetecx (on which, see paragraph 26 below) and appeared less inclined to share as much information about what he and the Head of Software Development were up to, especially during the final 12 months leading up to his departure. I now tender in evidence as **Exhibit JG / 2** a copy of my email to Mr Perez dated 5th July 2018 in which I highlight missing information following a monthly report and ask him to provide this.

BLAND'S MOVE INTO SECURITY SECTOR AND SOFTWARE

9. In 2009, the opportunity arose to invest in a number of businesses in the security sector and in or around November 2009, Bland took the decision to move into this sector. When Mr Perez joined in February 2010, he was given the responsibility of bringing these plans to fruition. He was given free rein to recruit a team under him.

10. During this period, Bland acquired 3 companies in the security sector and merged them into a division now known as Operations Support Group ("OSG"). This was done for the purposes of offering end-to-end security solutions under one name.

Signed: Signature Witnessed By:

11. In April 2011 Mr Perez produced a plan of how Bland might develop its security footprint in order to dominate the local market and begin to expand overseas. This formed the blue print of Bland's continuing expansion in this sector.

12. Bland's initial involvement in the security sector was selling hardware such as CCTV and providing guard manning solutions to the business community and, subsequently, to agencies of Her Majesty's Government of Gibraltar (hereafter "HMGoG").

13. Having acquired other companies and brought in Gareth Jones, a software developer, this quickly evolved to providing software solutions, including to HMGoG. This was carried out through OSG, then BGiTech and latterly Wavetecx. BGiTech was an internal name for the Bland division then responsible for developing software for government agencies.

THOMAS CORNELIO

14. When Gareth Jones indicated he wanted to move on it became critical to replace him with a software developer with high levels of skills. Thomas Cornelio was just such an individual. He was employed by Bland as IT Developer on the 19th November 2012, at the instigation of Mr Perez. I now tender in evidence as **Exhibit JG / 3** a copy of Mr Cornelio's employment contract with Bland.

15. It did not take Mr Cornelio long to establish his mark and he quickly assumed more and more responsibilities as he delivered results. He received support from the central head office and especially from the CEO, who he reported to. He was trusted to prioritise his work according to the needs of the clients we served, principally HMGoG departments.

16. In due course Mr Cornelio had two software developers, Joey Benrimoj and Marius Zalkauskas, working directly for him that he was responsible for managing. He also had access to other service entities such as OSG to assist with projects, for example those requiring hardware installation.

17. He was very self-assured and was intolerant of his areas of responsibility being micro-managed. With the benefit of hindsight it is clear that Mr Cornelio resisted efforts to provide support and oversight of his activities. Mr Perez used the excuse that he was a mercurial character and free spirit to explain his difficulty in managing him.

18. At the time I had no reason not to trust Mr Cornelio and he therefore enjoyed very considerable latitude to act in the best interests of the company. He reported directly to Mr Perez and so my only day to day engagement with Mr Cornelio was to superficially discuss progress and understand if there were any problem areas that I might be able to support him with during my infrequent visits to Gibraltar.

Signed: **Signature Witnessed By:**

Cont. of statement of:.....James GAGGERO.....

THE SOFTWARE SYSTEM PLATFORMS

19. During the course of his employment, Mr Cornelio was the principal software developer involved with the development of the following IT software systems by Bland:

19.1. A centralised IT software system for the collection, monitoring, background checking, and flagging of people and vehicle movements in and out of Gibraltar via land, sea and air. This system was first launched in December 2014 and was subsequently developed, also principally by Mr Cornelio as an employee of Bland and on behalf of Bland, over the course of several years to become known as the National Security Central Intelligence System (the 'NSCIS Platform'). It collects sensitive personal information from members of the public upon entry to and exit from Gibraltar and is a key tool for law enforcement agencies in the protection of national security. The NSCIS Platform is provided by Bland to the HMGoG on the basis of an on-going software licence, for which Bland also provides continuing system support and maintenance. All Bland employees who were involved with this contract, including Mr Cornelio and Mr Perez, were required to sign and, did in fact sign, documents acknowledging they were bound by the Official Secrets Act. I now tender copies of the documents signed by Mr Cornelio and Mr Perez in evidence as **Exhibit JG / 4**;

19.2. An IT software system for use by the Department of Education to manage student and scholarship records (the 'DoE Platform'). The DoE Platform went live in April 2015 and was provided to HMGoG by way of sale, and for which Bland provides continuing system support and maintenance;

19.3. The development of an IT software system for use by the Department of Employment to manage the employment records of all persons in Gibraltar (the 'ETB Platform'). The ETB Platform went live in July 2016 and was provided to HMGoG by way of sale, and for which Bland provide continuing system support and maintenance;

19.4. The development of an IT software system for use by the Department of Social Security to manage HMGoG's benefits payments to entitled persons in Gibraltar (the 'DSS Platform'). The DSS Platform is still under production by Bland. (collectively, the 'IT Systems Contracts').

20. The NSCIS Platform, DoE Platform, ETB Platform and DSS Platform are hereafter collectively referred to as 'the Platforms').

21. Mr Perez dealt with all day to day affairs relating to, and regularly briefed and reported to me on the IT Systems Contracts, and I in turn would seek to have higher level oversight provided by my team of senior executives and advisors at the Bland Group in the UK. For example, one of the areas that caused me greatest concern was risk mitigation and it was decided that it was necessary to ensure that the work being carried out on the IT Systems Contracts for the Government should be governed by a written contract. Much time, effort and cost was expended

Signed: **Signature Witnessed By:**

on seeking professional advice to this end through the Bland Group's Legal Counsels in both Gibraltar and the UK, which resulted in a master agreement being created and tabled to the Administrative Secretary of HMGoG. This document was never signed, but this did not detract from the existence of valid contracts between Bland and the Government in respect of the IT Systems Contracts, on which Government made the due payments to Bland. I now tender in evidence as **Exhibit JG / 5** a copy of the contract together with an email from Mr Perez to HmGoG in which he provides it to HMGoG.

INTELLECTUAL PROPERTY RIGHTS IN THE PLATFORMS

22. Initially, it was intended (as was communicated by Mr Perez to the Board and me) that all the Platforms would be developed based on the fact that the Intellectual Property for these resided with the company and indeed this is reflected in the draft written contract referred to above. However, in the end, the DoE Platform and the ETB Platform were sold outright to the Government.

23. But, the NSCIS Platform was not sold outright to the Government, and the intellectual property rights in it have always been and remains Bland's property. This is reflected in (i) the fact that the Government pay a licence fee to Bland for its use and (ii) the fact (as to which see paragraph 26 below) that Bland, including through Mr Perez and Mr Cornelio while they were employed by Bland, have sought to exploit the commercial opportunities for this Platform abroad, neither of which would be apposite if Bland did not own the intellectual property rights in the Platform. I now tender in evidence as **Exhibit JG / 6** copies of several invoices issued by Bland to HMGoG which have been paid by HMGoG and which describe the charges in respect of the NSCIS Platform as a "Licence Fee".

24. Pursuant to clause 3.8 of both Mr Cornelio's and Mr Perez's employment contract with Bland (**Exhibits JG/1** and **JG/3** refer) (and, I am advised, in any event by operation of law), all intellectual property rights in respect of all intellectual property created or developed by Mr Cornelio and/or any other employee of Bland during their employment by Bland belong to and are vested in Bland upon creation and thereafter.

25. In relation to the NSCIS Platform and the DSS Platform and/or their development (including compilations of elements of the software), I am advised and believe that Bland owns the copyright of the following, (among other things), which also constitute Bland's trade secrets namely, all and any:

25.1. functional, technical and other specifications;
25.2. flowcharts and graphs;
25.3. descriptions of the software;
25.4. the source code, including its revision history;
25.5. the object code;
25.6. all other documentation associated with the development of the software relating to all stages of development commencing with the initial broad idea;

Signed: **Signature Witnessed By:**

25.7. all databases

(hereafter collectively, 'Bland's Intellectual Property').

THE NSCIS PLATFORM AND WAVETECX

26. The contract for the NSCIS Platform commenced under the name of OSG. However, in light of the growing sophistication of the NSCIS Platform, and the opportunities that existed for its commercial exploitation and use beyond the contract with HMGoG and indeed Gibraltar, Mr Perez advocated for the setting up of a separate division with Bland through which to develop, brand, market and commercially exploit the NSCIS Platform abroad.

27. As it was always expected that Bland's new investments in Gibraltar should create a new capability that would eventually lead to expansion overseas, Mr Perez's plan met the Board's requirements to establish a ring fence around the higher risk software creating enterprise and segregate this from the legacy businesses of Bland's traditional businesses in Gibraltar.

28. Accordingly, Wavetecx was set up (in around January 2017). This was overseen by Mr Perez in his role as CEO of Bland Ltd. Having gained an intimate understanding of the NSCIS Platform, Mr Cornelio headed Wavetecx in his capacity as Bland's Head of Software Development. I now tender in evidence as **Exhibit JG / 7** a copy of an old Wavetecx brochure extolling the benefits of the NSCIS platform.

29. Based on information provided to me by management and other relevant employees of Bland and/or the books and records of Bland, I believe that between September 2017 and July 2018 Mr Perez together with other members of staff worked to develop the commercial exploitation abroad of the NSCIS Platform. To this end, they made various business trips in relation to the sale and marketing of the NSCIS system and other matters. These included trips to meet potential clients and trips to border security conferences in order to market the NSCIS system. A total of £39,514 was spent in the period with trips to Dubai, São Tomé and Príncipe, Bruges, Salzburg, Istanbul, Prague, Rome, Madrid and Southampton.

30. Based on information provided to me by management and other relevant employees of Bland, I believe that Mr Perez had identified and interacted with potential overseas customers for the NSCIS Platform, including Carnival Cruises, the Spanish National Police, the Falkland Islands Government, Inchcape Shipping, The Government of Sao Tome & Principe.

THE ESTABLISHMENT OF ICODE LTD & 36 NORTH LTD

31. On the 15th February 2018, the domain name "36north.io" was registered. The owner's identity on the WHOIS record was and remains concealed. The domain name "36north.gi" was registered on the 20th April 2018. Again, the owner's identity on the WHOIS record was and remains concealed. I now tender in evidence as **Exhibit JG / 8** copies of the WHOIS records for 36north.io and 36north.gi.

Signed: **Signature Witnessed By:**

32. As appears from public records at the Companies Registry :

32.1. A company called 36 North Ltd was incorporated in Gibraltar on the 23rd April 2018, of which Mr Perez and Mr Cornelio were appointed as directors on the same date. I now tender in evidence as **Exhibit JG / 9** a profile in respect of 36 North Ltd from Companies House

32.2. On the 16th May 2018, a company called ICODE Ltd was incorporated of which Mr Cornelio is the sole shareholder. I now tender a profile in respect of ICODE Ltd from Companies House in evidence as **Exhibit JG / 10**.

32.3. On the 22nd June 2018 Mr Perez, ICODE Ltd and a company called Astelon Ltd each acquired a 33% shareholding in 36 North Ltd. I now tender in evidence as **Exhibit JG / 11** the return of allotment of shares in respect of 36 North Ltd from Companies House.

32.4. On the 25th June 2018 an application was filed at Companies' House to replace Mr Perez and Mr Cornelio as directors of 36 North Ltd on the stated basis that the initial appointments had been filed in error. They were replaced by Cheam Directors Limited, a company operated by professional service providers to act as director of client companies. I now tender in evidence as **Exhibit JG / 12** a letter from Line Group to Companies House making the application.

32.5. On the 2nd July 2018, an application was filed at Companies' House to amend the shareholding of 36 North Ltd on the stated basis of an erroneous filing on the 22nd June 2018. Mr Perez, ICODE Ltd and Astelon Ltd were then removed as shareholders. The shares were then said to have been allotted to Line Holdings Limited, a nominee shareholding company operated by professional service providers in Gibraltar. I now tender in evidence as **Exhibit JG / 13** a letter from Line Group to Companies House making the application.

33. I did not discover these developments until after Mr Perez and Mr Cornelio's resignation from Bland, as set out below.

THE RESIGNATION OF MR PEREZ AND MR CORNELIO FROM BLAND

34. On my arrival in Gibraltar on 9th July 2018 I found Mr Perez in the general office of Bland looking anxious and ill at ease. I formed this view based on his body language and demeanor, which on this occasion was very different from what I have always known it to be. I suggested that we go into his office. As I closed the door and before we had a chance to sit down his first words to me were "I am leaving". He also reported that he had just learnt that Mr Cornelio also planned to leave to do "his own thing".

35. During a subsequent meeting that followed on the 16th July, he briefed me at length on all the activities and pending matters relating to Bland in Gibraltar, Viajes Med in Spain and Travellink in Morocco throughout which I took copious notes. On reflection I was surprised that he failed to mention Wavetecx once, especially since I had written to him on the 5th July expressing surprise that his monthly report had given no sense of what was going on in this critically important division of Bland. I now tender in evidence as **Exhibit JG / 14** a copy of my notes of my meeting with him on the 16th July.

Signed: **Signature Witnessed By:**

36. Mr Perez told me that he was too stressed to continue working as a Chief Executive of Bland. He explained that he had too much responsibility and was not coping with the pressure. He thought it was time to do "his own thing" for the benefit of his family, with which, he asserted, he was not spending enough time. He also advised that he wanted to establish a presence in the field of crypto currencies and block chain. Perhaps it is relevant to point out in this respect that at the time that Mr Perez and Mr Cornelio were establishing 36North in April 2018, Mr Perez authorised Mr Cornelio to spend £296 at Bland's expense on the purchase of books relating to Crypto Currencies notwithstanding Bland had no intention to move into this industry. Mr Perez was acting outside his authority in sanctioning this expenditure given it was for no legitimate purpose of Bland. Mr Cornelio took the books with him on his last day at Bland's office in an attempt to keep them. It was not until after repeated requests by Bland for him to do so that he eventually returned the books on the 15th October 2018. I now tender in evidence as **Exhibit JG / 15** a copy of Bland's requests to Mr Cornelio.

37. During meetings with me on the 9th and 10th July Mr Cornelio explained to me that he wanted to do "his own thing" having suffered stress and ill-health in recent months. He said that he could not see the point of working so hard in order to carry 360 members of staff at Bland. He also told me that he wanted to establish a presence in the new world of crypto currencies and block chain.

38. On the 9th July 2018 both Mr Perez and Mr Cornelio handed in letters of resignation from their employment with Bland. I now tender in evidence as **Exhibit JG / 16** and **Exhibit JG / 17** respectively Mr Cornelio's and Mr Perez's letters of resignation. Mr Perez's resignation was to take effect on the 9th September 2018 and Mr Cornelio's on the 9th August 2018, reflecting the different notice provisions in their respective contracts of employment. I noted that both letters of resignation followed identical formats.

39. During the immediate aftermath of the resignations of Mr Perez and Mr Cornelio I met with Joey Benrimoj and Marius Zalkauskas, the two software developers working under Mr Cornelio at the time. I realized that Bland was facing a serious crisis and wanted to ensure that we could count on these two critically important employees. I attempted to bring them into our confidence and leave them in no doubt that they would enjoy bright and secure futures in Bland if they would remain with us. Separately during this period Mr Cornelio explained that he had no immediate intention to poach staff as he couldn't afford them but sometime later in the future he would not hesitate to do so.

40. Both Mr Benrimoj and Mr Zalkauskas resigned on 20th July. I now tender in evidence as **Exhibit JG / 18** and **Exhibit JG / 19** respectively their emails of resignation. On bringing the resignations of the two software developers to the notice of Mr Perez he wrote "I certainly did not expect this! I presume it could have happened at some point further down the line. I am devastated with all of this." I now tender in evidence as **Exhibit JG / 20** my email exchange with Mr Perez in this regard.

Signed: **Signature Witnessed By:**

41. Within days of Mr Perez and Mr Cornelio's resignations, I learned about the registration of the domain name for 36 North in February, the creation of 36 North Ltd in April, and about meetings and plans they had with potential or supposed investors and partners in their new venture: 36 North Limited. I also received feedback from members of staff and others about Mr Perez and Mr Cornelio's efforts to take over the business of Wavetecx.

42. I have recently been provided with a number of emails and attachments belonging to Mr Cornelio and which have been recovered by my staff from his Wavetecx email account. In one set of emails exchanged between Mr Perez (from a personal email address) and Mr Cornelio on the 20th June 2018, Mr Perez provided Mr Cornelio with 36 North Ltd business cards and email signatures naming Mr Perez as CEO of the company. I now tender in evidence as **Exhibit JG / 21** this email exchange. In another set of emails exchanged on the 5th June 2018 and the 20th June 2018 (which I now tender in evidence as **Exhibit JG / 22**), Mr Perez provided 'revised cash flows' in respect of 36 North Ltd to David Webber of Hassans and Mr Cornelio, respectively. These 36 North Limited cash flow projections, although appearing to be slightly different versions of the same document, show (amongst other things) a forecasted revenue in favour of 36 North Ltd which includes:

    42.1. all licensing fees and/or support services for each of the IT Systems Contracts that Bland currently receives from HMGOG; and

    42.2. the onboarding of Carnival Cruise as a client as from January 2019. Inchcape Shipping is mentioned but does not have any projected revenue allocated to it for the time period covered by the forecast. Both of those entities were prospective customers of Bland.

    This evidence suggests that both Mr Perez and Mr Cornelio, while still employees of Bland, planned and intended what they later did, namely, to misappropriate and violate Bland's intellectual property and trade secrets, to attempt to divert the benefit of the IT Systems Contracts and to exploit Bland's intellectual property for their own benefit, all via 36 North Limited.

THE TERMINATION OF MR PEREZ'S AND MR CORNELIO'S EMPLOYMENT WITH BLAND

43. On the 10th August 2018 Mr Cornelio's employment with Bland terminated and, on the same date he was appointed a director of ICODE Ltd, and ICODE Ltd and Astelon Ltd each became 50% shareholding in 36 North Ltd. I now tender in evidence as **Exhibit JG / 23** copies of the Companies' House records evidencing this.

44. On the 10th August 2018 it was agreed between Mr Cornelio and me that he would continue maintaining the NSCIS Platform on Bland's behalf, as a consultant, for a temporary period in order to avoid jeopardising national security, on a per diem rate based on the current rate of his salary at that time. I now tender in evidence as **Exhibit JG / 24** my email exchange with Mr Cornelio in this regard.

Signed: **Signature Witnessed By:**

45. Accordingly, and notwithstanding the termination of Mr Cornelio's employment with Bland, and pursuant to the agreement referred to in paragraph 44 above, he continued to have authorised access and control over the NSCIS Platform's systems and hardware for the sole purpose of maintaining the integrity and ongoing functionality of the NSCIS Platform on Bland's behalf. That consultancy agreement endured from the 10th August 2018 to 31st August 2018 (when Mr Cornelio himself formally terminated it in writing). I now tender in evidence as **Exhibit JG / 25** Mr Cornelio's email terminating the consultancy arrangement.

46. To the extent that I complain of Mr Cornelio's unauthorised access to any of the 3RD Party Accounts between the 10th-31st August 2018, I refer to his use of the access he already had (and continued to have) pursuant to the agreement in paragraph 44 above for illegitimate purposes for which he was not and he knew that he was not authorised by Bland and which was severely detrimental to Bland and I believe were intended to be severely detrimental to Bland.

47. Mr Perez's employment with Bland terminated on the 10th September 2018 upon expiry of the period of notice given by him as required by his contract of employment.

DELETION OF THE WAVETECX EMAILS

48. In an email dated 31 August 2018 Mr Cornelio told Bland that he had deleted the wavetecx emails for the purpose of "cutting costs by removing the paid subscription for dormant email accounts". This explanation does not explain his exportation of the data to servers/accounts under his control. I now tender in evidence as **Exhibit JG / 26** the email from Mr Cornelio in which he asserts this.

TEAM FOUNDATION SERVER / UNAUTHORISED ACCESS TO AND USE OF, AND MISAPPROPRIATION OF SOURCE CODE

49. Mr Cornelio failed to comply with our repeated instructions to return the full source code in respect of each of the Platforms. I now tender in evidence as **Exhibit JG / 27** email correspondence between Mr Cornelio and Jonathan Galliano relating to this.

50. On advising Mr Sanchez of Mr Cornelio's decision to tender his resignation from Bland on 9th July 2018, Mr Sanchez expressed concern as to who would manage the NSCIS Platform on Bland's behalf. Initially he seemed satisfied that Bland had agreed with Mr Cornelio to maintain the systems and Platform until an orderly handover to Bland's other employees had been achieved. Later, he insisted that Bland should hand control of the Platform to Mr Cornelio to the exclusion of Bland for the purpose of maintaining the software, whilst Bland should continue to provide hardware infrastructural support. Even though Mr Cornelio had handed in his resignation and would not be a Bland employee after 10 August.

51. I struggled to comprehend Mr Sanchez's stance at the time as it seriously undermined Bland's position and weakened the Govenerment's position by creating a single point of failure and I did not feel it reflected the nature of the contractual relationship between Bland and HMGoG. In particular, Bland's exclusion was irreconcilable with the fact that it is Bland and not Mr Cornelio

Signed: **Signature Witnessed By:**

that is contractually obliged to ensure the effective operation of the Platform and furthermore owned the Platform.

52. Nevertheless, given Mr Sanchez was the point of contact with HMGoG, and even though it looked as if our contract and property were being hijacked, we reluctantly concluded we had to comply with this request, but whilst making it plain that we were being undermined, creating a serious risk that Mr Cornelio might malliciously damage the system and that we would be creating a single point of failure. I stressed that we were not conceding our legal position and that we would be seeking to obtain clarification of the Government's position at a more senior, political level through the office of the Chief Minister.

53. Following Mr Sanchez's instructions, after Mr Cornelio terminated his consultancy agreement with Bland on the 31st August and until the Government's final decision as to the previous paragraph (on the 4th October) it appears that the NSCIS was no longer being provided with software support by anyone.

[redacted]

55. On 21st July I had been told by the Chief Minister to take no action until he returned from leave in August when he would meet with me. I informed Mr Sanchez that we could not intervene until cleared to do so by the Chief Minister.

56. On the 4th October, the Chief Minister informed me that, contrary to Mr Sanchez's stance as set out above, the Government's contract with Bland would continue and he issued clear instructions that Mr Cornelio hand over all access and control to Bland and that he cease accessing the NSCIS Platform with immediate effect. This decision was communicated via Mr Sanchez to Mr Cornelio, which he acknowledged by way of email (see attached "NSCIS"), which I now tender in evidence as **exhibit JG / 28**. From at least the 5th October, Mr Cornelio knew that he did not have either Bland's or HMGoG's authority to access any parts of the NSCIS Platform and in any event he stated in an email (see attached End of support") that he would "no longer support the NSCIS platform in any capacity.", which I now tender in evidence as **exhibit JG / 29**.

Signed: **Signature Witnessed By:**

[redacted]

59. As the technical team began gaining control it became apparent from their inspection of the source code that conduct that was possibly criminal behaviour had been perpetrated. I immediately made it their priority to lock down and ring fence the system as best they could whilst also doing what they could to solve the issues that arose. The seriousness of the matter caused me to decide that we should access independent experts in this field to advise us and I therefore contracted the top UK national cyber crime experts, PWC, to independently verify what the facts were, so that Bland could be as certain as possible of its ground before making any complaint to the Royal Gibraltar Police.

60. I believe that criminal offences have been committed and am willing to testify in court.

Signed:

Signature Witnessed By:

ROYAL GIBRALTAR POLICE

STATEMENT OF WITNESS

Criminal Procedure and Evidence Act 2011 ss. 187 and 405; Criminal Procedure Rules r 16.2

CR/OB No [ ][ ] — [ ][ ] — [ ][ ][ ][ ][ ][ ][ ][ ] — [ ]

Surname: **GAGGERO** Forenames: JAMES PETER GEORGE

Age of witness (if over 18 enter over 18): **Over 18**

Occupation: **Company Chairman**

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 6th day of March 2020

Signed: _____

My name is James Gaggero, and I am the Chairman of the Bland Group of Companies.

I am providing this statement further to the statement I provided on 27th August 2019.

In October 2018, due to issues which arose with the NSCIS Platform, I engaged the services of PricewaterhouseCoopers (PwC), UK national cyber crime experts.

Representatives from PwC attended Cloister Building between 15th-19th October 2018 with further work completed remotely.

As a result, PwC provided an Investigation Report titled Project Bass dated 14th December 2018. **I now tender this report in evidence as JG/30.**

PwC later provided an updated Project Bass Report dated 23rd April 2019. **I now tender this report in evidence as JG/31.**

Carina Axdsson

Signed: _____ Signature Witnessed by: _____

(NOTE: FILL IN WITH FORM OVERLEAF)

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ROYAL GIBRALTAR POLICE

STATEMENT OF WITNESS

Criminal Procedure and Evidence Act 2011 ss. 187 and 405; Criminal Procedure Rules r 16.2

CR No | | | --- | | | --- | | | | | | | | | | --- | |

Surname: **GAGGERO** Forenames: JAMES PETER GEORGE

Age of witness (if over 18 enter over 18): **Over 18**

Occupation: **Company Chairman**

This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated 20 day of August 2020

Signed: _____

My name is James Gaggero and I am the Chairman of the Bland Group of Companies.

I am making this supplementary witness statement in addition to the witness statements I provided to police on the 27th August 2019 and 6th March 2020. I am providing this statement on the basis that John Perez has already referred to the below mentioned meetings when alleging unlawful behaviour by myself in a formal complaint to the Royal Gibraltar Police.

Following the resignation of John Perez and Thomas Cornelio from Bland Ltd in July 2018, John Perez and I agreed to hold meetings on a Private and Confidential basis and Without Prejudice. The attendees of these meetings were John Perez, Bland's Legal Attorney Guy Stagnetto QC and I. No minutes were taken during these meetings and the notes I made were provided to Guy Stagnetto QC at the conclusion of the meeting for destruction.

Signed: _____ Signature Witnessed by: _____

(NOTE: FILL IN WITNESS FORM OVERLEAF)

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Prior to attending the first meeting, I was aware of activities by John Perez and Thomas Cornelio to suspect their collusion, pre-planning, manipulative behaviour and possible deceit. I wished to establish if John Perez was willing to be honest about what he and Thomas Cornelio were intent on undertaking. It was intended that this might then form the basis of further discussions to explore a workable plan for the way ahead.

The first meeting was held on Tuesday 21st August 2018 at 11:00 in the offices of TSN. During this meeting I asked John Perez a number of questions in relation to events leading up to the resignations of the two former employees. I gave him five separate opportunities to tell the truth. On each occasion John Perez chose to lie or deliberately deceive me. As a result I explained to him that we could not continue to work together in future because he had provided no basis on which I could trust him.

As the meeting concluded I challenged him about stealing the National Security Centralised Intelligence System (NSCIS) given that it was the Intellectual Property (IP) of Bland Limited. He replied by stating that it would be easy to circumvent the IP as all Thomas Cornelio would have to do is alter aspects of the source code. In response I explained to him that I had contracted Peter Caruana & Co and that Bland Limited would aim to protect its IP and trading interests.

At the end of the meeting I told John that he and Thomas Cornelio should make a realistic offer if they wanted to take over the IP and trading business of BGI Tech.

On Monday 27th August 2018, I received a message from John Perez via WhatsApp requesting a further meeting. I replied explaining that I would be happy to meet on a Without Prejudice basis to discuss sensible and realistic proposals that would provide the Bland Group with an appropriate remedy and avoid litigation. John replied by questioning the grounds on which litigation would be commenced. However, he agreed to meet the next day in order to try and settle the issues without the need for court proceedings.

Signed: _____ Signature Witnessed by: _____

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Cont. of statement of: James GAGGERO

The second meeting was held on Tuesday 28th August 2018 at 10:00 in the offices of TSN. During this meeting John Perez offered to purchase the IP rights to the NSCIS platform. However, he explained at length that he and Thomas Cornelio were paying themselves £300,000 and that they could only afford to purchase the IP rights for £300,000. I informed him that Bland would not consider selling it for less than £1,200,000.

Signed: _____ Signature Witnessed by: _____

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ROYAL GIBRALTAR POLICE

STATEMENT OF WITNESS

Criminal Procedure and Evidence Act 2011 ss. 187 and 405; Criminal Procedure Rules r 16.2

CR No [ ][ ] --- [ ][ ] --- [ ][ ][ ][ ][ ][ ][ ][ ] --- [ ]

Surname: **Gaggero** Forenames: [Subject] JAMES PETER GEORGE

Age of witness (if over 18 enter over 18): **Over 18**

Occupation: **Company Chairman**

This statement (consisting of 8 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 15th day of January 2021

Signed: _____

I am the above described person. I provide this statement as an additional to my previous statements dated 27th August 2019, 6th March 2020 and 20th August 2020.

In response to queries posed by the Royal Gibraltar Police dated 8th November 2020, I wish to state the following:

John Perez and Thomas Cornelio were offered shares in Wavetecx, not Bland. To my knowledge, nothing was agreed as John Perez consistently demonstrated reticence whenever invited to engage in the process of discussing the best way forward.

Bland was taken by surprise by the resignations of John Perez, Thomas Cornelio, Marius Zalkauskas and Joey Benrimoj and as a consequence, was left in a vulnerable position in so far as concerned its capacity to continue to provide operational and maintenance support to HMGoG in respect of the NSCIS Platform given that these persons were the employees who were most involved and familiar with it. I now believe this was John Perez and Thomas Cornelio's intention as part of their wider plans, but I did not know this at the time. Our

Signed: _____ Signature Witnessed by: _____

(NOTE: FILL IN WIT2 FORM OVERLEAF)

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immediate priority was to ensure that HMGoG was able to continue the effective operation of NSCIS Platform so that national security would not be impaired by any inability on Bland's part to service it. This is why we engaged Thomas Cornelio, its chief architect, as a consultant following the termination of his employment. In order to provide maximum support to HMGoG in this overriding objective we offered HMGoG the freedom to consider all potential options available to it, including the option to acquire the NSCIS Platform from us and thereafter make other arrangements for its support and maintenance, if it chose to do so. There were three options available to and discussed with HMGoG, and we were willing to go with whichever one HMGoG, as the customer, decided best met its needs. One option was that we would sell the platform to HMGoG who would then conduct ongoing maintenance and support "in house". Another was that we would sell the Platform to 36 North, who would then provide ongoing maintenance and support. The third option, which was our commercial preference, was that we would retain ownership of the Platform and continue to provide the ongoing maintenance and support as best we could. The Chief Minister decided upon the third option at our meeting on the 4th October 2018. We were always confident that, given enough time to recover operationally from the coordinated exodus, our remaining personnel, bolstered with additional recruits if required, would be able to continue to maintain and support the NSCIS Platform effectively. This is what in fact happened, and indeed it would have happened sooner if Thomas Cornelio had conducted a proper handover in good faith to our remaining personnel and had he not taken the detrimental steps against the Platform, the details of which you are already aware.

Bland advertised role vacancies for Software Developers on the Bland Group website in March 2018, before the resignation of Marius Zalkauskas and Joey Benrimoj. This posting remains on the website and has been unedited since its posting.

I did not agree for John Perez and Thomas Cornelio to manage the NSCIS and Bland be subcontracted for hardware maintenance during a telephone call with Caine Sanchez around 23-24th July 2018. I tender in evidence ***Exhibit JG/32***, contemporaneous notes of

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meeting emailed to Bland senior executive team and the company's lawyer, Guy Stagnetto titled "Re: Resignation.eml".

I did not attend a meeting with Caine Sanchez and Thomas Cornelio on 25th July 2018. An email exchange between myself and Caine Sanchez did occur, however, the word "transition" was used in the context of a transition to whichever of the three options HMGoG chose out of those set out above. In no sense was the word used in the context of an agreed transition to 36 North or anyone else. There was no such agreement by Bland.

No agreement was reached for a transition of the maintenance of the NSCIS to Thomas Cornelio / 36 North.

I did not believe I would receive royalties / funds in relation to the NSCIS Platform if Thomas Cornelio / 36 North maintained it or even enter discussions with anybody regarding these matters.

I did not agree for John Perez and Thomas Cornelio to run the NSCIS system until ownership was clarified.

I do not know the reason why Caine Sanchez was excluded from meetings between the Chief Minister and myself.

Nothing was agreed during my meetings with the Chief Minister with regards to the maintenance of the NSCIS platform , until my meeting with him on the 27th September when he decided that the Government wanted Bland to continue maintaining the platform as hitherto.

Wavetecx was not to be discontinued following the resignation of John Perez and Thomas Cornelio.

I did not make a significant offer to Thomas Cornelio to remain with Bland and offer to fly him and his family to the Encombe Estate.

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It was not agreed that 36 North would permanently take over the HMGoG software projects.

There was an agreement with Thomas Cornelio in relation to payment for the 'consultancy period'. I tender in evidence ***Exhibit JG/33***, an email titled "Re: Meeting Minutes.eml" which is an email thread between myself and Thomas Cornelio discussing a continued conversation regarding issues encompassing NSCIS which lays out the terms of this agreement. I now tender in evidence ***Exhibit JG/34***, an email titled "Re- Twitter.eml" which is an email thread between Jonathan Galliano, Thomas Cornelio and James Gaggero which discusses false comments made by Thomas Cornelio as well as which explains why no payment has been made as Thomas Cornelio refused to submit a fresh invoice or even accept payment on the basis of our agreement.

I attended a meeting on 19th September 2018 with Thomas Cornelio, Jonathan Galliano and Philip Navas where we discussed if Thomas Cornelio and John Perez had fallen out. I deduced this from an exchange in emails. I now tender this email exchange in evidence as ***Exhibit JG/35***. No request was made to Thomas Cornelio to assist with running HMGoG systems.

Bland did not agree to the transition of the NSCIS Platform to 36 North.

The contractual agreement between Bland and Red Maple was that Infosec/Red Maple would provide support in securing locking down. Red Maple then developed the DSS platform and provides ongoing security advice to Bland through Dauntless.

Jonathan Galliano, John Paul Payas and Philip Navas did not receive significant pay rises following the arrests of Thomas Cornelio and John Perez on 10th May 2019. However, following the departure of the CEO and Head of Software Development in July 2018, I apportioned additional responsibilities to the three members of the Senior Leadership Team in Bland. The following increases were subsequently actioned: Jonathan Galliano – Salary increase by 14% 30th November 2018 John Paul Payas – Salary increased by 14% 30th April 2019 Philip Navas – Salary increased by 11% 30th April 2019.

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Bland are not currently being paid the full amount invoiced to HMGoG for the NSCIS platform. Due to the alleged damage caused to the system by the outgoing Head of Software Development, Thomas Cornelio, HMGoG withheld part of the payment of those modules affected. This has resulted in a protracted negotiation to seek a mutually satisfactory solution to the short payment. HMGoG recently settled 36% of the shortfall and we expect to secure a final resolution in the coming weeks, which will then enable Bland to consider suing John Perez & Thomas Cornelio for the losses they have caused the company to suffer.

At the time that John Perez and Thomas Cornelio resigned, Wavetecx was a trading name/brand, as is BG Tech. Bland Ltd covers the entire period as the underlying entity contracted to deliver the services to HMGoG.

The IT department was not instructed to remove the Wavetecx website around this time, however, Wavetecx was no longer critical as a potential vehicle to reward the resigning executives so it was eventually disbanded, sometime later.

I was not made aware of "transition software" .

I was not aware of transition from NSCIS to Phoenix and Bland did not have knowledge of or give consent to a DTU increase which incurred cost to Bland.

I was not aware whether the potential Sao Tome & Principe opportunity was lost in March 2018.

I did not have knowledge of John Perez leaving prior to July 2018.

In May 2018 I travelled to Morocco with John Perez to discuss Travel Link. During this trip, John Perez and I did not discuss his future with Bland.

I was not aware if the potential Carnival Cruise Project collapsed in July 2018.

At the time John Perez resigned, Bland was recovering after years of underperformance.

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I engaged in 2 lengthy conversations with John Perez in the days following his announcement that he wished to leave "to do his own thing". This included covering the possibility that we might wish to secure his services as a non-executive director of the Rock Hotel as well as other Group companies in Gibraltar and abroad. As soon as it became clear that Bland had been ambushed and that John Perez / Thomas Cornelio had been involved in a concerted, long in the making, plan to take Bland's tech businesses for themselves, all discussions about co-operation evaporated.

In a meeting with John Perez on 9th July 2018 where he informed me of his resignation, I did not inform him that I had no desire to continue to run HMGoG systems.

Bland has ongoing contracts with HMGoG regarding the NSCIS platform even though no written contract has been signed. Bland has agreed to provide and is providing certain services to HMGoG (in addition to licensing the use of the NSCIS platform), and HMGoG has agreed to and is paying for those services. The services agreed to be provided by Bland are Software License Fees/Hardware Maintenance Fees/ System Maintenance Fee/Hosting Fees/System Integration Fees/On Call Service Fees . The payments agreed by HMGoG to be made to Bland for those services are £[redacted] This is evidenced by the invoices issued by Bland to the HMGoG and paid by the latter subject to an amount, which has been withheld, due to service problems caused by the attacks on the platform by the outgoing executive and which has been partially resolved recently.

As the Master Software Development and Maintenance Agreement was never signed by HMGoG, an alternate agreement was initially proposed. Initially, it was the intention that the contract should be in writing and signed and a draft Master Service Agreement was drawn up and handed to HMGoG. This was never actually signed by the parties. As above, there is a contract between Bland and HMGoG whether or not it is in writing and/or signed.

While not the original intention, Bland later agreed that the DSS, ETB and Dept of Education platforms would belong to the Government. This is reflected in the fact that invoices for these platforms did not include a licensing fee payable to Bland by Government. This was a

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commercial decision by Bland based on the fact that these platforms had less ongoing commercial value to Bland. However, this was not the case of the NSCIS platform, as evidenced by the facts that (i) invoices to Government included a licensing fee payable by Government to Bland for use by Government of the Platforms and (ii) John Perez on behalf of Bland sought to commercially exploit the NSCIS platform to third parties such as the Government of San Tome and Principe and Carnival Cruises. This would not have been possible if the platform did not belong to Bland.

There are no plans for Bland and Red Maple to set up a joint venture company.

At the end of October 2020 I became aware that there was about to be a change of CEO at Red Maple, which would provide a route for Bland Group to purchase a minority shareholding in the up-and-coming company.

I am not aware of a company called Yitu, nor if they were brought over by Hassans to assist in removing Wavetecx from Bland as well as a joint venture with Wavetecx.

By early September 2018 I was being led to suspect that Thomas Cornelio and John Perez might be at odds with each other now that their heist appeared to be falling apart. Thomas Cornelio was either fishing for information or was genuinely trying to create blue water between himself and John Perez. An email exchange titled "Without prejudice and Confidential Meetings.eml" and marked as ***Exhibit JG/35*** refers.

I believed that Caine Sanchez had disclosed information to John Perez because within hours of a meeting terminating at No 6 attended by, myself, 3 executives from Bland, the Chief Minister, his Personal Assistant and Caine Sanchez, John Perez replayed key points discussed at the meeting to Bland's lawyer and his onetime friend, Guy Stagnetto, who in turn warned me that the contents of the meeting were known to John Perez.

I now tender in evidence an audio file of a telephone conversation at 1836hrs on 8th October 2018 as ***Exhibit JG/36***. My plan was to secure Caine Sanchez's support following the Chief Minister's directive that Thomas Cornelio be instructed to cooperate with an orderly hand

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over. Caine Sanchez attempted to conflate the issues we discussed with a false argument that I had conceded Bland's IP rights, which I strongly denied in a subsequent exchange of email between myself and Caine Sanchez which I now tender in evidence as ***Exhibit JG/37***.

I also tender in evidence ***Exhibit JG/38***, a pair of emails titled "End of Support.eml" and "FW-INV-0002.eml" relating to Thomas Cornelio's invoice for the 20 days he supported the NSCIS platform. We were shocked to see how deluded Thomas Cornelio appeared on charging Bland £48,685.28 for 20 days of work.

Signed: _____ Signature Witnessed by: _____

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MEETING COMMISIONER RGP

Ian MacGrail JPP / JPG
27/09/18 14:00

- Promoted April (Eddie Gomez)
- Public CCTV - Monitored by RGP (90)
- CCTV Nav Mole/Stores etc
- RGP Control Room
- CCTV Public footage / GB airways Days long before APIS

* Public Events (eg GMF etc)
* Cash in transit + CMC
* Prison Guards *
- NSCIS - Transition period. CM

INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

EXHIBIT HJML1 TO THE
WITNESS STATEMENT OF JAMES LEVY CBE KC
DATED 31 OCTOBER 2022

Statement of James Levy CBE QC

1. I am Haim Judah Michael Levy CBE QC.

2. I am the Senior Partner of Hassans International Law Firm ("Hassans"). I have been a lawyer for over 47 years and began working in this firm in 1972 with its founder, my uncle, Sir Joshua Hassan QC. I was appointed Queen's Counsel in 2002. In 2013 I was made Commander of the Most Excellent Order of the British Empire for services to the Community of Gibraltar and work in helping to grow and develop the economy of Gibraltar. In 2015 Parliament awarded me the Gibraltar Medallion of Honour for services to the economy of Gibraltar. I have been, for at least 15 years, and continue to be, the chairman of Gibraltar Community Care, Gibraltar's largest charity, and the longest serving president of the Managing Board of the Jewish Community of Gibraltar since its inception.

3. Contrary to what the RGP appear to suspect, I have not conspired with anybody to defraud anyone; nor have I exerted any improper influence on any public official; nor have I breached the Official Secrets Act.

4. On 12 May 2020, Detective Superintendent Paul Richardson and other officers of the Royal Gibraltar Police attended the offices of my firm, in Madison Building, Midtown, with search warrants. I was told that if I did not cooperate in granting access to the office premises and my home, the search warrants would be executed. I was astounded to learn that search warrants had been applied for and issued against me. When I raised this with Detective Superintendent Richardson, I was told that advice had been obtained from the highest level, which I understood to be the Director of Public Prosecutions. I cooperated with the RGP and granted access as requested to both my offices and home, as I would have if search warrants had not been obtained, subject to my professional duties and personal rights. Despite my strong objection to the legality

of the warrants, I wish to record that both Detective Superintendent Richardson and Detective Inspector Wyan were at all times polite and courteous towards me.

5. Whilst at my offices, I was handed a document by Detective Superintendent Richardson entitled "Voluntary Attendance for Interview under Caution" and dated 12 May 2020, informing me of the background to the allegations and my alleged involvement. The document invited me to attend an interview under caution on Monday 18 May 2020 at 10am.

6. Following representations made by my legal representatives to the Attorney General and the Commissioner of Police about the unlawfulness of the search warrants I was subsequently invited to provide a written statement, albeit whilst still being considered a suspect by the RGP. Attached to one of the letters received from the Commissioner of Police was a document entitled "Voluntary Attendance for Interview under Caution" dated 12 May 2020. On the face of it this appeared to be the same document handed to me on 12 May, however, point 9 had been amended.

7. In order to prepare my written statement, Detective Superintendent Richardson sent my legal advisers a document by email, named: "Pre-Interview Disclosure". The document was marked "DRAFT", was undated and was also entitled "Voluntary Attendance for Interview under Caution". This document provided the background facts and details of my alleged involvement. I point out that none of the alleged facts in the document discloses any offence allegedly committed by me. The document also set out a list of specific questions which I answer below to the best of my recollection (given that the questions largely relate to events that occurred over two years ago) and subject to my professional duties.

8. Since the allegations against me have not been clearly specified for me to understand precisely, I have answered as best as I could. If the RGP need any further specific information, I would agree to provide this subject to any duty of privilege and confidentiality.

Questions posed by the RGP (in bold italics)

Hassans

His position, role, responsibilities, accountability (to whom?) Scope and limitation in engaging in new business and investing in new business by way of financing their ventures.

9. As mentioned above, I am the Senior Partner of Hassans. As Senior Partner, I chair partners' meetings and have general high-level oversight of Hassans and of the important matters that the firm deals with. I also deal with clients directly. Like all members of the firm I am accountable to the partnership. I also act as the initial point of contact for commercial transactions, bringing people and businesses together where I consider it to be in their best interests. By way of example, I was the person who brought the gaming industry as well as the insurance and other industries to Gibraltar.

10. Hassans' business ventures and investments are decided upon by a small group of partners, usually the Managing Partner (Javier Chincotta ("JC")), me and one or two other partners with some knowledge of the area that the venture or investment concerns.

11. Hassans are often approached by "start-ups" for investment in their ventures. Whether or not Hassans proceeds to invest in a particular business venture is a decision that is taken after careful consideration of all the relevant factors. There is no rigid structure for these decisions and each case is considered and decided individually and on its own merits.

12. Hassans has in fact supported and invested in numerous business ventures in the past, such as in construction companies, investment companies, insurance management companies, foreign trust companies, foreign property companies and even an individual who wanted to become, and successfully became, a football agent. This is not exclusive

to Hassans. Other legal practices do this, both in Gibraltar and internationally, sometimes taking a stake in the company in lieu of fees.

36 North Ltd (36N)

His involvement with this entity from the beginning and including before its incorporation as a limited liability company.

How Hassans became involved in 36N

The nature of the business of 36N including any business plan if relevant.

The financing of 36N by Hassans and what level of return was expected from the investment.

13. To the best of my recollection, at some point towards the end of 2017 or in the first quarter of 2018 Hassans was approached by John Perez, a former Commanding Officer of the Royal Gibraltar Regiment ("JP") and Tommy Cornelio ("TC").

14. At the time JP and TC were employed by Bland Limited ("Blands") but wanted to leave the company and set up on their own. It was in respect of this new start up that they approached Hassans for investment.

15. There was an initial meeting with them to discuss their proposal, I think this was in the first quarter of 2018 but I cannot recall exactly when. There were also other meetings with them, but I cannot recall how many or when as all this occurred two years ago. From that stage I involved David Weber ("DW"), a consultant solicitor in Hassans and formerly a senior partner in the City firm Linklaters, as legal advisor in connection with the project.

16. I recall that the main thrust of the business pitch was that they had a number of opportunities both in Gibraltar and internationally involving software development and the provision of computer-based services.

17. It was explained to us that TC had a particular expertise in computers and software development, that JP had extensive business experience and that by using their skills they could develop many new business opportunities internationally in places such as

Guinea Bissau, Sao Tome, Gabon and Angola and other countries. We were told that, among other things, they had in mind to develop a facial recognition programme for use by the cruise liner market. It was emphasised that the business would be based on software and programmes to be developed by TC and that JP would provide his business expertise to promote and market the business.

18. We were also told about another project concerning the setting up of the "Green Energy Cable" between Morocco and Gibraltar which was to provide electricity from Morocco to Gibraltar. JP had considerable experience in Morocco which he had gained during his former military career.

19. JP and TC explained that several computer programmes had been developed by TC for the Government of Gibraltar ("GoG"). They told us that any intellectual property rights for the programmes belonged to GoG. The programmes covered frontier management, employment and aviation for example. They said that they wanted to reach an agreement with Blands in relation to this area of work as it seemed clear to them that there would be no one with the required expertise and experience to maintain these systems once they left Blands.

20. JP and TC made it clear to us that after they left Blands they would develop new programmes which would not in any way infringe on anyone's intellectual property rights. They were confident that TC would be able to develop new programmes which would be profitable in Gibraltar and internationally. Whilst I understood the business concept and the commerciality of the proposal, I perceived that these were highly sophisticated programmes requiring specialist technical knowledge and skill which, given my very basic knowledge of IT, were way beyond my comprehension.

21. The business was portrayed as being very exciting, innovative and with the potential of international expansion. JP and TC had definitely decided to leave Blands and pursue their own business, with or without Hassans. They were determined not to be under James Gaggero's ("JG") control or influence. They wanted to be their own masters.

22. I was assured from the very beginning by JP and TC that after the termination of their employment they would not be prevented contractually or in any other way from conducting the business and competing with Blands. Consequently, I felt entirely reassured that there was no question of anyone's legal rights or obligations being breached in the setting up and operation of this new business.

23. I recall discussing the matter with JC and also other partners, but cannot recall when. We came to the view that this was an investment that we would be interested to participate in by providing a loan and taking shares.

24. In exchange for the loan JP and TC offered Hassans a third of the business. Hassans' participation was held through a company called Astelon Limited ("Astelon") owned by the partners of Hassans. I cannot recall when, but the details and terms of the investment were discussed and negotiated. I was not directly involved in these discussions, which were led by DW as legal advisor. I was involved occasionally at a high level when decisions had to be made. I see from the correspondence that the loan facility requested by JP and TC and provided by Astelon was up to £1,000,000. The loan was drawn down in stages and the sum of £400,000 had been drawn down by April 2019 shortly after which the facility was cancelled due to the failure of 36N to generate the anticipated level of income. In September 2019 revised cash flow forecasts were presented by JP and TC. On the basis of those forecasts it was decided that Astelon would make a further advance of £76,000. The total loan, which stands at £476,000, is to be repaid at the end of August 2020 or earlier if there is sufficient income from the business.

What was expected from Haim Levy as an associate of 36N

25. I am not and have never been an associate of 36N. Nothing was expected of me personally in relation to the management of 36N. I was not an officer of the company, nor did I have any day to day involvement in the business. As with other investments made by Hassans I would only be involved at a high level from a strategic point of view.

26. At all material times I was a representative and beneficiary of Astelon as shareholder and lender and all my dealings and involvement went no further than those expected of an investor in that capacity.

The corporate structure of 36N including its layered ownership

27. On 10 August 2018, when TC's employment with Bland terminated, JP was still under notice to Blands and was therefore contractually precluded from having an interest in the 36N business until his employment terminated at the latest on 10 September 2018 or earlier if released by Blands. It was therefore decided that between those two dates 50% of the shares in 36N would be issued to TC's company (Icode Limited) and the remaining 50% of the shares would be issued to Astelon. TC would be the sole director of 36N during this period and Icode Limited would be remunerated under a services agreement for providing TC's services to 36N. It was further agreed at that time that on 10 September 2018, or earlier if JP were released from his employment by Blands, the shares in 36N would be reorganised so that they were held in 1/3 equal shares by Icode Limited, Astelon and JP and at that time JP would be appointed an additional director of 36N and his services agreement with 36N would take effect. However, the reorganisation of the share capital of 36N had not happened as at 10 September 2018 and has not yet happened as far as I know, although Astelon still owns a 1/3 beneficial share of 36N.

Any KYC due diligence that was undertaken before participating in this business

28. Obtaining KYC due diligence is not something in which I would personally be involved. In any event, it is the firm's legal obligation to obtain this where required. I note from the correspondence that this was provided by JP and TC to DW in respect of the work that Hassans would have done for them as clients.

29. Additionally, JP, as a former Commanding Officer of the Royal Gibraltar Regiment, is very well known in Gibraltar, and TC is well known in the industry for his computer expertise. Moreover, they had both been the main persons involved in GoG work, not only for NSCIS but also for other software projects.

Astelon Ltd

The formation of this company and its purpose and ownership

30. Astelon was a shelf company. It was selected from a number of shelf companies for no particular reason. It is a single purpose vehicle ("SPV") whose purpose is to own shares in 36N for Hassans and to provide the financing from Hassans to 36N. An SPV for these purposes is an entirely normal and usual corporate set-up.

31. Astelon is beneficially owned by the partners from time to time of Hassans. This information was requested by Detective Sergeant Schembri from DW on 14 May 2019 and provided to him by email on the same day.

ICODE Ltd (1/3 shareholder in 36 North Ltd)

The business relationship with this company

32. The only relationship with Icode is that of Astelon as co-shareholder in 36N.

Any KYC due diligence conducted in connection with this company

33. I am informed by Line Group, who are Hassans' wholly owned fiduciary management company, that they did not incorporate Icode Ltd. I understand that Hassans obtained company documentation on Icode from TC as part of its normal AML process when acting as lawyers in a commercial transaction.

NSCIS platform

His understanding as to the ownership of the intellectual property of the platform given that the evidence suggests that it formed part of a 36N business plan. How was he satisfied that 36 North Ltd would be able to acquire the management of it given that Hassans invested in the company.

34. From the outset, I was told by JP and TC that the intellectual property of the NSCIS platform belonged to GoG. They were very clear about this, and that was my understanding throughout. I was told that GoG was free to use whatever contractor it wished to maintain and service the platform as there was no formal contract in existence between GoG and Blands. This information was essential to satisfy ourselves that the

project would not give rise to any civil liability. We were satisfied with the information we were given that no civil liability would arise, particularly so since JG, chairman of the Bland Group, was negotiating with JP and TC for JG to acquire a substantial holding in 36N. In fact, I was told that initially he was suggesting to them that they could take over the maintenance of NSCIS platform without him seeking anything in return.

35. At the time JP and TC envisaged, and were confident, that the maintenance of NSCIS would at some point be given to 36N with the agreement of Blands and JG. Initially, JP and TC confirmed that JG had agreed for JP and TC to take over the maintenance of the NSCIS from Blands. However, I was subsequently told by JP and TC that JG's stance had changed, and that JG was asking for 50% of the shares in 36N in exchange for Blands' agreement to allow 36N to manage the Platform. I was subsequently informed by JP that JG had lowered his demand to 33% of 36N. At that stage I suggested to JP and to TC that they should settle with JG at that level and that we would be happy to step back from the business. In the end no agreement was reached but what is clear is that JG was not only aware of JP's and TC's business interests in this area, he was actively involved in negotiations with them to try and obtain a share of 36N.

His understanding as to how the platform was to be removed from Blands and transferred to 36N

36. This question is based on an incorrect premise, as the platform did not belong to Blands but to GoG. However, in any event, it was never my understanding that the platform was to be "removed" from Blands. My understanding from JP and TC was that GoG owned the platform and GoG was free to employ any contractor to maintain and service it as there was no formal contract between GoG and Blands. JP and TC envisaged that 36N would try to commercially compete for the NSCIS business by tendering for the management of the platform or (since I understood Blands obtained the management without a tender) making representations to GoG to show that they could provide a better, more reliable and more competitive service. That kind of competition is completely normal and lawful and Blands would have no recourse, if as

a result, 36N won the ongoing business with GoG. Additionally, as I have already explained above, JP and TC were negotiating with JG for him to acquire a share in the new business.

Any knowledge that he had with regard to the malfunctioning of the platform and when he became aware of this

37. I am aware that after TC left Blands he was asked by JG to continue servicing the NSCIS platform because Blands did not have anyone with the required expertise to carry out this task. In effect, Blands was outsourcing the maintenance of the platform to TC.

38. I was made aware by TC on various occasions, after his departure from Blands and after he ceased his interim maintenance of the system for Blands, that the NSCIS system was not being properly maintained by Blands, due to the lack of suitably experienced personnel, [redacted]

Any knowledge that he may have with regard to the tampering with and/or sabotage of the NSCIS platform

39. I had no knowledge of, or reason to suspect, any tampering with and/or sabotage of the NSCSI system as alleged. The first time I recall becoming aware of the alleged tampering/sabotage was after JP and TC were arrested when I was informed by them of what was being alleged and they strongly denied that any tampering or sabotage had taken place.

40. I note from paragraph 12 of the Pre-Interview Disclosure document that it is alleged that I became aware that Digital Forensic experts were conducting an investigation. As far as I recall, I only became aware that Digital Forensic experts were conducting an investigation when JP and TC told me after they were arrested and released on police bail. I was never aware of any alleged plan to sabotage the NSCIS platform or any computer misuse offences, nor would I countenance such behaviour

An explanation of what he did once he became aware of the alleged criminality of John Perez and Thomas Cornelio with regard to the reputational damage that may occur to himself and Hassan by being associated with them and 36 North through ownership of shares in 36N

41. Soon after the arrest DW and I met with JP and TC to discuss what had happened. JP and TC strenuously denied the allegations of tampering and sabotage and were adamant that the allegations were false and maliciously driven.

42. I was not concerned with reputational damage to me or my firm as we had acted properly and in good faith at all times and I was satisfied with the explanations that were given to me by JP and TC as described in the previous paragraph. I consider the matter to be, if anything, a commercial dispute and certainly not a criminal matter.

Communications and meetings with the following persons with regards to 36N and/or NSCIS

NOTE: Mr Levy retained a copy of the data on his mobile phone before eventually handing it over to police on the 12th May 2020 and has access to his email accounts. For this reason is should be possible for Mr Levy to extract the relevant conversations/emails from his own devices and may choose to provide these to police to support his account.

The persons are:

Eddie Asquez (a former employee of Bland Ltd)

John Perez

Thomas Cornelio

43. I do not believe I have ever met or communicated with Eddie Asquez.

44. I met with JP and TC on a number of occasions to discuss the business venture. I would generally meet them together. As I have mentioned, I was not directly involved in the detailed negotiations and our meetings and communications were limited to discussing high level aspects of the business.

45. Naturally, I received a number of emails from TC and JP regarding 36N and NSCIS. Some of these were addressed to me directly and in others I was a cc recipient.

46. Following discussions between our deputy head of IT and DC Jason Oton of the RGP, the Hassans servers were interrogated using agreed keywords and date parameters. I am providing the RGP with a USB stick which includes the emails that were identified using those keywords and parameters, but not those emails that are protected by Legal Professional Privilege or which are clearly unrelated to this matter.

47. The emails show that I was in contact with JP and TC and that the matters discussed were the setting up of the business and what the business would actually be doing. As explained below nothing about our communications were dishonest or unlawful.

48. I also recall that there were other communications with JP and TC but cannot recall the details given the passage of time.

Caine Sanchez

49. I met Caine Sanchez ("CS") a number of years ago through his father in law, James Pecino, who has been an employee of Hassans for many years, and therefore know CS personally.

50. Given the work Hassans does for the GoG, me and my colleagues often deal with civil servants. I therefore have cause to communicate with CS on many other matters. Indeed, some clients of Hassans who would come to set up their businesses in Gibraltar would have contact with CS as he was the Principal Secretary of the Deputy Chief Minister. He would therefore attend our offices for meetings on various matters.

51. CS was the Government officer responsible for the NSCIS and tasked with ensuring, on behalf of GoG, that the system was being properly maintained.

52. I cannot recall any specific meeting with CS on this matter at the time, however I note from the email correspondence that a meeting with CS took place in April 2018 and a

copy of the draft MOU in relation to 36N was sent to him by email. I recall that around that time CS was concerned that the NSCIS platform would not be properly managed after JP and TC left Blands. He believed that once JP and TC left Blands, Blands would have no expertise to reliably deliver the service and he was concerned that it could affect the whole security of Gibraltar. At no time did CS request any payment or other benefit from me and to the best of my knowledge he did not and does not have any direct or indirect interest in 36N.

53. I continue working with CS on other matters since he now works for Sir Joe Bossano, the Minister of Economic Development, whom I advise on a number of matters in his capacity as a Minister.

Whether the relationship was purely business or lawyer client based (all persons)

54. The relationship with JP and TC was primarily a business one, but they also asked me to provide them with high level legal advice from time to time.

55. As far as I was concerned CS's involvement in relation to 36N was purely in an official capacity as the Government officer responsible for NSCIS.

Sanchez-

explanation as to his business relationship with civil servant

56. I did not have a business relationship with CS.

When did he find out that Sanchez was arrested on suspicion of misconduct in public office and did he consider that Sanchez may have acted unethically and/or unlawfully in his dealings with Haim Levy

57. I found out that CS had been arrested very shortly after the fact, but cannot recall exactly when or by whom I was so informed.

58. I have had no business dealings with CS (other than those when he has acted on behalf of GoG) and have no reason to believe he has acted unethically and/or unlawfully at any time.

Any approach by Mr Levy to member of Government or the civil service in connection with 36N and or the NSCIS platform

59. If by "approach" it is suggested that there has been some impropriety, I have certainly not "approached" any member of the GoG or the civil service in connection with 36N and/or the NSCIS platform or at all. The nature of my contact with the GoG or the civil service in connection with 36N and the NSCIS platform is set out in this statement.

60. In fact, it seems clear that if anyone has used his influence successfully throughout this matter it is JG. I understand he had many meetings and conversations with the Chief Minister to try and ensure that Blands kept the business. Indeed, he successfully managed to keep the NSCIS business which I understand was not functioning for months, yet this, I further understand, did not prevent him from invoicing and charging huge sums of money for services not rendered. I assume the RGP is making the necessary investigations in this regard.

61. After reviewing my correspondence history, I see that in August 2018, I forwarded to the Chief Minister an email containing a draft email prepared by TC addressed to JG regarding the termination of the NSCIS maintenance service that TC had been providing after his departure from Blands. To put this in context, I was aware that the NSCIS platform was one in which the GoG had a direct interest, as owners of it, and I therefore discussed the Blands/36N issues with the Chief Minister on a few occasions.

62. The Chief Minister informed me that he had discussed this matter with JG also on a number of occasions and had tried to promote a settlement between him, JP and TC of the commercial dispute that was emerging between them. It was clear that JG was very concerned at losing his 2 key employees on whom he depended to enable Blands to continue to meet its contractual obligations.

63. In those conversations I suggested that the Chief Minister should continue to encourage JP, TC and JG to find a way to work together amicably in the interests of maintaining the NSCIS platform for the benefit of GoG as I had been informed that

Blands did not have the expertise or capability to maintain it. I mentioned to the Chief Minister, and separately to JP and TC, that Hassans would be willing to give up all its shareholding in 36N if that would help reach an agreement between JP, TC and JG.

64. In relation to the maintenance issues regarding the platform that would arise after TC's departure from Blands, as mentioned above, I was aware that JG was negotiating a settlement agreement with JP and TC where JG was initially asking for a 50% stake in 36N. It was at that stage that I recall also informing JP and TC, in the presence of DW, that as far as Hassans was concerned we would be happy to step back from the investment, and that they should try to finalise an agreement with JG. JP and TC were adamant that they could not agree to that as they preferred not to work with JG and believed his demands were excessive.

65. By this time TC had already left Blands but had continued maintaining the NSCIS system on their behalf for the benefit of GoG and national security. TC did not want to continue providing this service on this informal basis and proposed to write to JG giving him notice of the termination of the service. TC sent me a draft of that letter for me to review.

66. It was against this backdrop of settlement talks, and the fact that I knew that the Chief Minister was also involved in trying to find a solution to the NSCIS operation issue that I forwarded the Chief Minister, by email, TC's draft email, as this was something which I thought he ought to be aware of.

Additional Comments

67. Having read the redacted information laid before the Magistrate in support of the application for the search warrants ("the Information") I find it even more incomprehensible why the police is investigating me at all. I am accused of conspiring with JP and TC to defraud Blands by "dishonestly appropriating the NSCIS platform maintenance contract for [our] own benefit, via [our] company 36 North Limited" (see paragraph 42 of the Information). There appear to be 3 strands to the alleged conspiracy:

a. that I was discussing obtaining the NSCIS maintenance business with JP and TC during their employment with Blands.
b. that I had conversations with Government and Government officials about the business.
c. that I was aware of alleged computer misuse offences.

68. The RGP appear to have proceeded with this criminal investigation against me on the misguided view that only Blands was entitled to deliver maintenance to the NSCIS platform, and that any lawful attempt by any competitor to obtain that business amounts to a conspiracy to defraud. The RGP will know that it is fundamental to a charge of conspiracy that the agreement between the alleged conspirators must be to use unlawful means or to obtain an unlawful result. Using lawful means to obtain a lawful result and promoting co-operation between those with competing interests as I did in this case and have often done throughout my career, can never be a conspiracy to defraud.

69. In relation to the discussions regarding obtaining the NSCIS business during JP and TC's employment with Blands, even if you take the allegation at its highest, there can be no conspiracy or dishonesty merely by planning to set up a business that will compete with your employer after the employment terminates. It was certainly not a crime for JP and TC to plan a competing business. In any event as stated above JG negotiated with JP and TC to take a stake in 36N and was fully aware of what was going on.

70. Moreover, the Information suggests that the RGP consider that the mere act of JP and TC resigning from Blands was itself dishonest because Blands would be unable to maintain the NSCIS platform. There is no basis for this conclusion. It is for any employer to ensure that it retains its employees to be able to deliver its services. How it goes about it is a matter for the employer, but losing employees and by implication losing business is a fact and risk of any business. An employee is entitled to resign from their employment, upon giving any notice legally required, for any reason.

71. Furthermore, competing for the NSCIS business could not have been a conspiracy to defraud Blands when Blands, through its chairman JG, actively negotiated with 36N with regard to the NSCIS business and for a 50% stake in 36N. In other words, JG, the person complaining of being the victim of a conspiracy to defraud, was negotiating for a stake in the company that could be competing for the NSCIS business. He was negotiating with the very individuals he now accuses of conspiring against him, as a result of a failed negotiation. It will not be lost on the RGP that these allegations were made after JG failed to obtain the stake in 36N or to keep two key employees.

72. In relation to communications with Government and Government officials and specifically the allegation at paragraph 319 c. of the Information, that I used my influence with the Chief Minister to the advantage of 36N, if it is alleged that by speaking to Governments minister or officials I was attempting to win business for 36N, there would have been nothing unlawful in me doing so.

73. My communications with Government must also be put into context. In over 47 years of practice I have been the partner of a Chief Minister (Sir Joshua Hassan QC) whilst he was in office for 16 years. I was the main legal advisor to Sir Joe Bossano during his 8 years in office. I advised Sir Peter Caruana QC in his first term of office on a number of legal issues and I have been a partner of the present Chief Minister during his tenure of 9 years, whom I have also advised on various matters including important and confidential matters of state. I have also advised a number of successive Governors, the Foreign Office, a number of Attorneys General, a number of Chief Justices, local and overseas law enforcement agencies and leaders of industry, both in Gibraltar and internationally. I have therefore, regularly in my 47 years of practice been in almost constant communication with Government and Government officials at the most senior level.

74. In relation to the allegation that I had knowledge of the alleged computer misuse offences, paragraphs 99 and 100 of the Information, purport to relate to communications between TC, an unnamed person and myself about "apparent

knowledge of the computer misuse offences". These paragraphs have been redacted and therefore I do not know why the RGP are alleging that I knew about the alleged computer misuse offences either at the time of their planning or at any time before JP and TC's arrest. It is impossible to understand how evidence of knowledge of an alleged crime after events can infer knowledge before the event. In other words, even if I had been told by JP and TC, which I deny, that there had been misuse of computers, that could not be used to infer that I knew about any such misuse when it was occurring or was about to occur

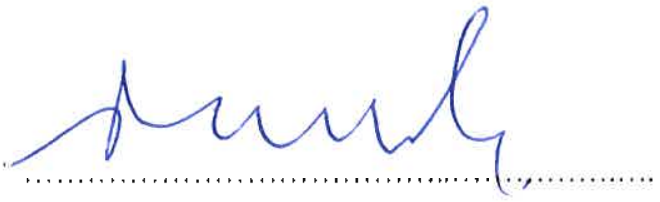
75. It appears that the RGP agree with me on this point because, despite the allegations in the Information, it has unsurprisingly been confirmed by the RGP to my legal representative Charles Bonfante, that there is no evidence that I was involved in or knew about the planning of the alleged sabotage to the NSCIS platform. I most certainly was not.

76. I have, in this statement, sought to address the facts from my knowledge and recollection, and from material at my disposal. I feel bound to remind the RGP that this investigation, as well as the draconian and wholly unnecessary step of seeking a search warrant on the basis that I could not be trusted, have, apart from the deep disappointment and offence caused to me, caused me and my family very considerable and lasting distress, which cannot simply be forgotten and cured with time. I therefore reserve all my rights in this respect.

77. I simply cannot comprehend how the RGP can genuinely consider that they have sufficient grounds to treat me as a suspect and I would expect that, having read this statement, they will reflect on and reconsider the enormity of what they appear to be alleging against me.

78. What is, however, clear to me is that the RGP has been overzealous in accommodating JG and allowed itself to be influenced by him in pursuing, what is essentially a commercially motivated complaint by him against former employees with whom he is

aggrieved for leaving him and competing with his business through a company which he wanted to be part of.



HJM Levy

Dated this 9th day of June 2020

INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

EXHIBIT HJML2 TO THE
WITNESS STATEMENT OF JAMES LEVY CBE KC
DATED 31 OCTOBER 2022

Moshe Levy

From: John Perez <john.perez@36north.io>
Sent: 28 March 2018 10:22
To: James Levy Qc
Cc: Thomas Cornelio
Subject: John Perez - Thomas Cornelio - 36 NORTH

CONFIDENTIAL

Dear James,

Please find below the key headers as requested. We have kept them simple and to the point,with our full trust that you will elaborate accordingly in the best interest of all parties involved and advise the best type of company to be setup.

1. Company Name: 36 NORTH
2. Shareholders: Hassans 33.33%, John Perez 33.33% & Thomas Cornelio 33.33%.
3. Revenue Forecast: £1M Yr1, £1.6M Yr2, £2.4M Yr3. (Note this does not include any of our international pipeline projects which could significantly increase our conservative forecast).
4. Salaries: John Perez & Thomas Cornelio £300,000 each, guaranteed for up to 3 years. No liability either jointly or severally to repay our salaries (or any proportion thereof) should the business not be profitable.
5. Staff Recruitment Costs: £200,000.
6. Start Up Costs: £100,000 (To include office premises, Branding, Equipment, Cloud Hosting, Travel & General expenses etc).
7. Legal cover provided by Hassans.
8. Draw-down facility of £1M for year 1 to cover costs as above.

The business should be able to cover its own costs shortly after operation.

The company will trade in the following markets:

Software Development, Energy, Security, Consultancy, DLT, Training/Mentoring, Hardware Sales, Logistics.

Kind Regards

John

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 05 April 2018 18:06
To: James Levy Qc
Subject: 36 North
Attachments: 18-04-05 mou.docx; 36 north 18-03-28 mail from john perez.pdf

Dear James,

I attach a first pass at the MOU and would be glad to amend it after I have got the background from you and we have discussed it.

Best regards

David

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 10 April 2018 12:03
To: James Levy Qc; Caine
Subject: 36 North MOU
Attachments: 18-04-10 mou.docx; image001.png

Dear James and Caine,

Here attached is a revised draft MOU reflecting the points discussed this morning. Please do not hesitate to let me know if you have any comments or questions on it.

I assume you will copy this draft to John Perez and Thomas Cornelio or let me know if you would like me to do so.

Best regards

David

David Weber
Hassans
International Law Firm
57/63 Line Wall Road
Gibraltar

M: (+350) 5600 1266
T: (+350) 200 79000
DD: (+350) 200 51912 (ext 448)
F: (+350) 200 71966
W: www.gibraltarlaw.com

From: [redacted] Personal email of Caine Sanchez
Sent: 10 April 2018 10:59
To: David Weber
Subject: Contact

Dear David

My private email.

Caine

Sent from my Samsung Galaxy smartphone.

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 10 April 2018 15:38
To: James Levy Qc
Subject: 36 North Ltd

Dear James,

Some practical points:

1/ According to LIne, the JV company has not been incorporated. Shall I get it done when the MOU is signed or have you already given instructions?

2/ Which Hassans company will be used as shareholder and lender?

3/ Pease could Anna let me have the contacts of Thomas Cornelio and John Perez so I can arrange KYC, consents to act etc once the MOU has been agreed?

Best regards

David

David H Weber
Hassans International Law Firm
59-63 Line Wall Road
Gibraltar GX111AA
Tel: +350 56 00 12 66
E-m: david.weber@hassans.gi

Moshe Levy

From: Caine [redacted]
Sent: 10 April 2018 16:25
To: David Weber; James Levy Qc
Subject: Re: 36 North MOU

Dear David

Nice to have met you today. I am happy with the MOU. Lets wait for James's comments and then I will be happy for this to be forwarded to them.

Regards

Caine

Sent from my Samsung Galaxy smartphone.

-------- Original message --------
From: David Weber <David.Weber@hassans.gi>
Date: 10/04/2018 12:02 (GMT+01:00)
To: James Levy QC <james.levy@hassans.gi>, [redacted] personal email of C. Sanchez
Subject: 36 North MOU

Dear James and Caine,

Here attached is a revised draft MOU reflecting the points discussed this morning. Please do not hesitate to let me know if you have any comments or questions on it.

I assume you will copy this draft to John Perez and Thomas Cornelio or let me know if you would like me to do so.

Best regards

David

David Weber [redacted]
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International Law Firm
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Subject: Contact

Dear David

My private email.

Caine

Sent from my Samsung Galaxy smartphone.

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 10 April 2018 18:01
To: Johnperez@36north.io
Cc: James Levy Qc
Subject: 36 North MOU
Attachments: 18-04-10 mou.docx; att07217

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 10 April 2018 18:04
To: John Perez
Cc: James Levy Qc
Subject: 36 North MOU

Dear John,

I attach a draft MOU for the JV, subject to ongoing internal Hassans review.

I would be happy to discuss it with you in person or by phone or receive your comments by email whichever is more convenient for you.

Please forward a copy of the MOU to Thomas as I do not have his contact details.

If the JV company is already incorporated, please let me have copies of its corporate documents (certificate of incorporation, memorandum and articles of association, register of shareholders and directors etc).

Alternatively please let me know if you would like us to incorporate the company.

We need to put in place an engagement letter and go through the standard KYC process. I would appreciate if in the first instance you would provide copies of your and Thomas's passport and a copy utility bill for each of you.

I look forward to working with you and Thomas.

Best regards

David

David Weber
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W: www.gibraltarlaw.com

18-04-10 mou.docx

att87455

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 11 April 2018 00:22
To: David Weber
Cc: James Levy Qc; John Perez
Subject: Re: 36 North MOU

Dear David,

Thank you for your email.

Having reviewed the initial MOU prepared our notes are as follows:

1. We believe it would be in both John's and my own interest that our shares be assigned to a company incorporated for us. E.g. John will incorporate Company X and I will incorporate Company Y. Ideally should you agree that this is the best option we would like to instruct Hassan's Line Group to incorporate and manage these for us and advise applicable costs as well as provide guidance on tax where possible. I believe this setup would be in our interest especially when receiving dividends at the end of the year. Consultancy fees would be paid to our companies.
2. Consultancy fees should be guaranteed for 36 months and not 12 months. This security is in return for our 33.33% share offering to Hassan's although it is unlikely that such guarantees will be required. It it is indeed expected that the company will be self sufficient very soon after its incorporation.
3. It should be declared that in the unlikely event that the business proves not to be profitable, we would not be liable to pay back the loan.
4. 9(i) states that there is an intention to sell the company within 3 to 5 years. An IPO for a tech company such as ours may prove to be a very lucrative proposition however we would like a clause added that a majority or unanimous decision should be required for this. Note also this should be 9(c) and not 9(i).
5. 11(a) states that one party can force all other parties to sell, this i believe should be either a majority or unanimous decision.

The JV company 36 North has not yet been incorporated as we have waited for Hassan's Line Group to incorporate this on our behalf with the appropriate setup and shareholders in place.

I will forward John's and my passport and a copy of a utility bill each to you on a separate email.

We hope to have the MOU signed promptly and the SHA so that we can commence this new venture as soon as possible, we already have several contracts on hold awaiting for this JV to be formed.

John is currently attending a conference in the UK and will return to Gibraltar on Saturday. We are both available to sign the amended MOU and SHA as well as incorporate our individual companies on Sunday should you and James be available.

On another note, we are currently undecided on whether to rent out an office at WTC or perhaps Hassan's can offer some temporary accommodation until the Midtown development is ready and we can rent or ideally purchase an office there. Perhaps this is something you can guide us on.

Kind Regards

Thomas Cornelio

On Tue, Apr 10, 2018 at 11:33 PM, John Perez <john.perez@36north.io> wrote:

---------- Forwarded message ---------
From: David Weber <David.Weber@hassans.gi>
Date: Tue, 10 Apr 2018, 18:04
Subject: 36 North MOU
To: John Perez (john.perez@36north.io) <john.perez@36north.io>
Cc: James Levy QC <james.levy@hassans.gi>

Dear John,

I attach a draft MOU for the JV, subject to ongoing internal Hassans review.

I would be happy to discuss it with you in person or by phone or receive your comments by email whichever is more convenient for you.

Please forward a copy of the MOU to Thomas as I do not have his contact details.

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I look forward to working with you and Thomas.

Best regards

David

[redacted]
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W: www.gibraltarlaw.com

David Weber
Hassans
International Law Firm
57/63 Line Wall Road
Gibraltar

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 12 April 2018 17:40
To: Thomas Cornelio
Cc: James Levy Qc; Javier Chincotta; John Perez
Subject: 36 North MOU
Attachments: image001.png

Dear Thomas

Many thanks for your mail with your and John's comments on which I comment **in red** below.

I suggest that all parties meet to finalise and sign the MOU as soon as we have been able to complete our KYC/compliance process.

In that respect I urgently need to receive the documents requested in my mail of Tuesday so I can set the process in motion.

Best regards

David

David Weber
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W: www.gibraltarlaw.com

From: Thomas Cornelio [mailto:thomas.cornelio@36north.io]
Sent: 11 April 2018 00:22
To: David Weber
Cc: James Levy QC; John Perez
Subject: Re: 36 North MOU

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1. We believe it would be in both John's and my own interest that our shares be assigned to a company incorporated for us. E.g. John will incorporate Company X and I will incorporate Company Y. Ideally should you agree that this is the best option we would like to instruct Hassan's Line Group to incorporate and manage these for us and advise applicable costs as well as provide guidance on tax where possible. I believe this setup would be in our interest especially when receiving dividends at the end of the year. Consultancy fees would be paid to our companies.

Noted and this can be discussed once the engagement is in place and KYC documents provided and our internal compliance approval obtained.

2. Consultancy fees should be guaranteed for 36 months and not 12 months. This security is in return for our 33.33% share offering to Hassan's although it is unlikely that such guarantees will be required. It it is indeed expected that the company will be self sufficient very soon after its incorporation.

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   The lender understands and accepts that repayment of the loan will depend on cash flow. There can be no dividends prior to full repayment of the loan however.

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To be discussed with James and Javier when we meet.

Kind Regards

Thomas Cornelio

On Tue, Apr 10, 2018 at 11:33 PM, John Perez <john.perez@36north.io> wrote:

---------- Forwarded message ---------
From: David Weber <David.Weber@hassans.gi>
Date: Tue, 10 Apr 2018, 18:04
Subject: 36 North MOU
To: John Perez (john.perez@36north.io) <john.perez@36north.io>
Cc: James Levy QC <james.levy@hassans.gi>

Dear John,

I attach a draft MOU for the JV, subject to ongoing internal Hassans review.

I would be happy to discuss it with you in person or by phone or receive your comments by email whichever is more convenient for you.

Please forward a copy of the MOU to Thomas as I do not have his contact details.

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We need to put in place an engagement letter and go through the standard KYC process. I would appreciate if in the first instance you would provide copies of your and Thomas's passport and a copy utility bill for each of you.

I look forward to working with you and Thomas.

Best regards

David

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M: [redacted]
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W: www.gibraltarlaw.com

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 12 April 2018 23:53
To: David Weber
Cc: James Levy Qc; Javier Chincotta; John Perez
Subject: Re: 36 North MOU
Attachments: image001.png; john christopher_perez passport.jpg; john perez utility bill.jpg; thomas cornelio passport (2).jpg; thomas cornelio utility bill.pdf

Dear David,

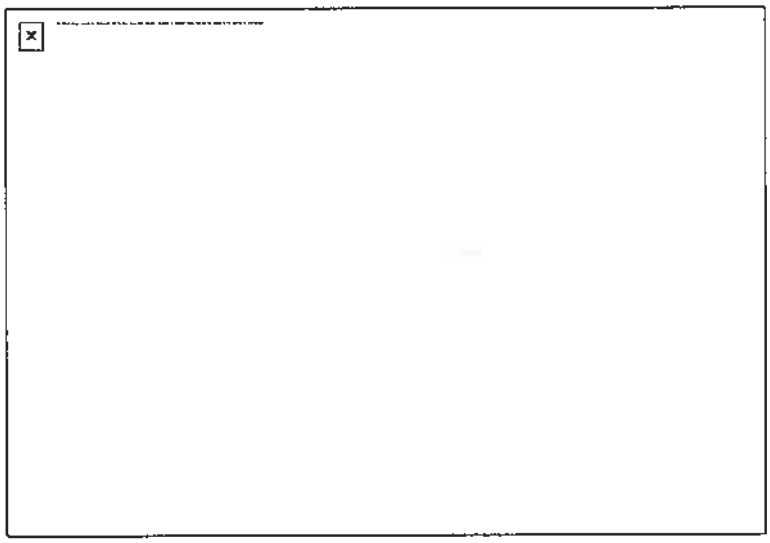
Attached as requested please find a copy of our passports and a utility bill.

We would be happy to discuss further on Sunday subject to availability and then proceed to sign the MOU early next week provided all parties are in agreement.

Kind Regards

Thomas

00350 [redacted]



Moshe Levy

From: James Levy Qc </o=first organization/ou=first administrative group/cn=recipients/cn=james.levy>
Sent: 13 April 2018 11:42
To: David Weber
Subject: RE: 36 North Ltd

Dear David

Thank you for your e-mail of the 10th April 2018.

The same numbering as follows:-

1. Please proceed to ask for the company to be incorporated;
2. Javier wanted to have a special SPV owned by the Partners of Hassans for this. I shall contact Line;
3. I think you are in touch already with Thomas Cornelio in respect of KYC,

Kind regards

James

From: David Weber
Sent: 10 April 2018 15:38
To: James Levy QC
Subject: 36 North Ltd

Dear James,

Some practical points:

1/ According to LIne, the JV company has not been incorporated. Shall I get it done when the MOU is signed or have you already given instructions?

2/ Which Hassans company will be used as shareholder and lender?

3/ Pease could Anna let me have the contacts of Thomas Cornelio and John Perez so I can arrange KYC, consents to act etc once the MOU has been agreed?

Best regards

David

David H Weber
Hassans International Law Firm
59-63 Line Wall Road
Gibraltar GX11 1AA
Tel: +350 56 00 12 66
E-m: david.weber@hassans.gi

Moshe Levy

From: James Levy Qc </o=first organization/ou=first administrative group/cn=recipients/cn=james.levy>
Sent: 13 April 2018 11:43
To: Lee Abudarham
Cc: Javier Chincotta; Mark Okes Voysey
Subject: 36 North Limited

Dear Lee

We have to form a new Hassans company to own some shares in a company called 36 North Limited, which Line is going to be asked to incorporate.

We do not need any particular name so I would be grateful if you would let me have a shelf list so that I can choose a name.

I am copying Javier so that he can tell you exactly how to structure the company.

Trust everything well at home!

Kindest regards

James

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 16 April 2018 10:22
To: James Levy Qc
Subject: Two points please if poss before you fly

Dear James,

I know you are travelling today. 2 quick poionts:

1. Hercules. I am meeting the clients at 2.30pm. Is it possible for you to look at the atached proopsed remuneration schedule?
2. 36 North. I understand you are unlikely to be able to meet the clients this week. Could Javier deputise for you to act as the Hassans ?client? in your absence so we can finalise and sign the MOU?

Best wishes – safe trip

David



18-04-12 fee structure v2.doc...

Hassans Fee Structure

For the provision of legal and business support services

Services	Payment Event	Remuneration
Legal and business support including if and to the extent required preparation of investment memorandum, letters of support from Host Governments, assistance with business plan and financial model, project contracts including (to the extent required) Host Government Agreements, EPC Contract, EIG Interconnection Agreement, Services Agreements with Operators, corporate structures in Gibraltar and Morocco (Shareholders' Agreement(s), Articles of Association etc.) and loan and/or equity funding agreements	Upon the company entering into a binding commitment for £3m of start up finance	2% shareholding (carried/un-dilutable)
	Upon the company's first drawdown under a commitment for a further £75m of debt or equity funding (provisional sum)	3% shareholding (carried/un-dilutable) Payment of 2½% of the total amount of debt or equity funding committed to the company (excluding the £3m start up finance)

Notes:

1. Total shareholding of promotor group (CY, KP/Hassans) 20% (split 75/25 CY, KP/Hassans).
2. Project to pay other professional advisers, e.g. Moroccan legal adviser, accountant to verify financial model and technical and market consultants.
3. If required, director's fees for phase 2 to be negotiated separately.
4. Fees are exclusive of disbursements, e.g. travel, which will be reimbursed by the company at cost at financial closing.
5. Estimated funding amounts subject to change.

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 16 April 2018 12:19
To: Thomas Cornelio
Cc: James Levy Qc; John Perez
Subject: RE: 36 North MOU

Dear John and Thomas

Yes 1pm at Hassans tomorrow is fine. I look forward to meeting you.

Bets regards

Davkd

David H Weber
Hassans International Law Firm
59-63 Line Wall Road
Gibraltar GX11 1AA
Tel: +350 56 00 12 66
E-m: david.weber@hassans.gi

From: Thomas Cornelio <thomas.cornelio@36north.io>
Date: Monday, 16 Apr 2018, 12:17 pm
To: David Weber <David.Weber@hassans.gi>
Cc: James Levy QC <james.levy@hassans.gi>, John Perez <john.perez@36north.io>
Subject: Re: 36 North MOU

Dear David,

Confirmed for 13:00 tomorrow.

6th floor Hassan's building?

Kind Regards

Thomas

On Mon, Apr 16, 2018 at 11:55 AM, David Weber <David.Weber@hassans.gi> wrote:

Desr Thomas

Yes tomorrow at 13:00 wouod work for me. Please confirm when you can.

Best regards

David

David H Weber
Hassans International Law Firm
59-63 Line Wall Road

Gibraltar GX11 1AA
Tel: +350 56 00 12 66
E-m: david.weber@hassans.gi

From: Thomas Cornelio <thomas.cornelio@36north.io<mailto:thomas.cornelio@36north.io>>
Date: Monday, 16 Apr 2018, 11:53 am
To: David Weber <David.Weber@hassans.gi<mailto:David.Weber@hassans.gi>>
Subject: Re: 36 North MOU

Dear David,

John is currently in a meeting.

I am aware that he is meeting with a minister tomorrow at 3pm. Could you potentially meet us at 1pm? I will need to confirm this with John as soon as he is available though.

Kind Regards

Thomas

On Mon, Apr 16, 2018 at 10:59 AM, David Weber <David.Weber@hassans.gi<mailto:David.Weber@hassans.gi>> wrote:
Dear John,

I have tried to call you to arrange a meeting on the MOU. Would 2.30pm tomorrow Tuesday work for you and Thomas?

Best regards

David

David Weber
Hassans
International Law Firm
57/63 Line Wall Road
Gibraltar<https://maps.google.com/?q=57/63+Line+Wall+Road%0D%0A+%0D%0A+Gibraltar&entry=gmail&source=g>

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W: www.gibraltarlaw.com<http://www.gibraltarlaw.com/>

[cid:image001.png@01D0BF3C.1CC17D90]<http://www.gibraltarlaw.com/>

From: David Weber
Sent: 13 April 2018 06:23
To: 'Thomas Cornelio'
Cc: James Levy QC; Javier Chincotta; John Perez; Anna Norris
Subject: RE: 36 North MOU

Dear Thomas,

Many thanks for the KYC documentation which I have submitted to our Compliance team for urgent approval.

By copy of this mail to James's PA Anna Norris, I am asking her to coordinate with James to find the earliest day/time when he and I can be available for a meeting of principals. I am out of the office today and unavailable until Monday at the earliest but will endeavour to make time available to meet.

Best regards

David

[Description: Description: Description: Description: Description: Description: cid:image001.png@01CECF72.632DF260]<http://www.gibraltarlaw.com/>

David Weber
Hassans
International Law Firm
57/63 Line Wall Road
Gibraltar<https://maps.google.com/?q=57/63+Line+Wall+Road%0D%0A+%0D%0A+Gibraltar&entry=gmail&source=g>

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From: Thomas Cornelio [mailto:thomas.cornelio@36north.io]
Sent: 12 April 2018 23:55
To: David Weber
Cc: James Levy QC; Javier Chincotta; John Perez
Subject: Re: 36 North MOU

Dear David,

Attached as requested please find a copy of our passports and a utility bill.

We would be happy to discuss further on Sunday subject to availability and then proceed to sign the MOU early next week provided all parties are in agreement.

Kind Regards

Thomas

[redacted]

[cid:image002.jpg@01D3D571.E023CE20]

[cid:image003.jpg@01D3D571.E023CE20]

[cid:image004.jpg@01D3D571.E023CE20]

On Thu, Apr 12, 2018 at 5:39 PM, David Weber <David.Weber@hassans.gi<mailto:David.Weber@hassans.gi>> wrote:
Dear Thomas

Many thanks for your mail with your and John's comments on which I comment in red below.

I suggest that all parties meet to finalise and sign the MOU as soon as we have been able to complete our KYC/compliance process.

In that respect I urgently need to receive the documents requested in my mail of Tuesday so I can set the process in motion.

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W: www.gibraltarlaw.com<http://www.gibraltarlaw.com/>

[cid:image001.png@01D08F3C.1CC17D90]<http://www.gibraltarlaw.com/>

From: Thomas Cornelio [mailto:thomas.cornelio@36north.io<mailto:thomas.cornelio@36north.io>]
Sent: 11 April 2018 00:22
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From: David Weber <David.Weber@hassans.gi<mailto:David.Weber@hassans.gi>>
Date: Tue, 10 Apr 2018, 18:04
Subject: 36 North MOU
To: John Perez (john.perez@36north.io<mailto:john.perez@36north.io>)
<john.perez@36north.io<mailto:john.perez@36north.io>>
Cc: James Levy QC <james.levy@hassans.gi<mailto:james.levy@hassans.gi>>

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I attach a draft MOU for the JV, subject to ongoing internal Hassans review.

I would be happy to discuss it with you in person or by phone or receive your comments by email whichever is more convenient for you.

Please forward a copy of the MOU to Thomas as I do not have his contact details.

If the JV company is already incorporated, please let me have copies of its corporate documents (certificate of incorporation, memorandum and articles of association, register of shareholders and directors etc).

Alternatively please let me know if you would like us to incorporate the company.

We need to put in place an engagement letter and go through the standard KYC process. I would appreciate if in the first instance you would provide copies of your and Thomas's passport and a copy utility bill for each of you.

I look forward to working with you and Thomas.

Best regards

David

David Weber
Hassans
International Law Firm
57/63 Line Wall Road
Gibraltar<https://maps.google.com/?q=57/63+Line+Wall+Road%0D%0A+%0D%0A+%0D%0A+%0D%0A+Gibraltar&entry=gmail&source=g>

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Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 17 April 2018 15:01
To: James Levy Qc
Cc: Javier Chincotta
Subject: 36 North Ltd

Dear James

I met today with John Perez and Thomas Cornelio and formed an excellent impression of both of them. Key points:

1. We discussed their comments on the MOU and I think we have reached an landing on all except one point which they wanted to think more about.

2. The outstanding point is the 3 year guarantee of consultancy fees which they are seeking. It is clear that there isn't enough headroom in the ?1m loan amount to give them this security and pay the start-up costs and I suppose Hassans would have a problem allowing a drawdown to pay compensation once the company had effectively stopped trading. One solution would be for John and Thomas to be engaged by Hassans under three year contracts and to be seconded to the project company at a fee. I don't know if you would accept that kind of solution but it seems to me a good compromise and as they would have the security they want and Hassans would get value from being able to take the services of two IT high flyers into Hassans if the company is unsuccessful.

3. We discussed the loan structure and it seems that they are agreeable to there being a one year term which could be extended by agreement with equal monthly repayments starting after an initial period and with each payment being the lesser of cash flow or the scheduled repayment and with a bullet repayment at the end if required.

4. As regards share transfers we discussed that there would be a lock in period during which there would be no transfer of shares except with unanimous agreement – say 5 years if you agree – and that after that transfers of shares would be subject to pre-emption, drag and tag.

5. They would like tax advice on the setting up of intermediate holding companies for each of them and those companies would also hold the consultancy agreements. Should I ask Grahame Jackson or do you have an alternative preference?

6. The position with the current employer is obviously sensitive (according to John the new business would represent about 25% of the current employer's turnover) but they confirmed to me that:

    - There are no term contracts between the current employer and the main customer.
    - The notice periods under their contracts of employment are 2 months for John and 1 month for Thomas.
    - There are no non-compete covenants in their contracts of employment.

They will probably only give notice after the SHA is signed which should be within a couple of weeks after signing the MOU.

7. There is an existing company called 36 Degrees North Ltd (the caf? at the airport) but it has given a consent letter – I have asked the LG company admin team to raise this with the Registrar of Companies on a confidential basis.

8. I am working on the KYC and Line Group compliance submission forms and do not foresee any issues.

We left it that they would think about the 3 year guarantee point and I would be ready to finalise the MOU when you get back at the end of the week.

Please let me know if you have any comments. I do not yet have the details of the company that Hassans will use to hold the shares and make the loan.

Best regards

David

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 18 April 2018 16:26
To: James Levy Qc; Javier Chincotta
Subject: 36 North Ltd- Revised draft MOU

Dear James and Javier,

Further to my earlier email, I attach the amended draft MOU reflecting conversations to date and tracked against the first draft. Points on which I urgently need your input please:

- Do you agree the suggestion to give JP/TC security by providing them a 3 year consultancy agreement and seconding them to the project company or do you have an alternative suggestion for giving them this security? Javier I have their CVGs if you would like to see them.
- Who at Hassans do you recommend to give JP/TC tax advice on structuring their interests in the JV?
- Which company on the attached shelf list would you like to be reserved for the Hassans holding co?

Please let me know if you are content for the draft MOU to be sent to JP/TC (revised as necessary to take account of any comments you have on it and your response to the first bullet).

Best regards

David


18-04-18 mou.docx


shelf list gib.doc

From: David Weber
Sent: 17 April 2018 15:01
To: James Levy QC
Cc: Javier Chincotta
Subject: 36 North Ltd

Dear James

I met today with John Perez and Thomas Cornelio and formed an excellent impression of both of them. Key points:

1. We discussed their comments on the MOU and I think we have reached an landing on all except one point which they wanted to think more about.

2. The outstanding point is the 3 year guarantee of consultancy fees which they are seeking. It is clear that there isn't enough headroom in the ?1m loan amount to give them this security and pay the

Moshe Levy

From: James Levy Qc </o=first organization/ou=first administrative group/cn=recipients/cn=james.levy>
Sent: 20 April 2018 16:08
To: David Weber
Cc: Javier Chincotta
Subject: RE: 36 North Ltd

Dear David

Thank you for your e-mail of the 17th April, the contents of which I note.

With regard to your paragraph numbered 2, to give a guarantee for 3 years would mean that the company would make no profit for 3 years. They have represented to us that the company would be in profit from the first year so I do not understand their concern. I think it is best sorted by a meeting and I assume you are progressing the other matters as required.

Happy to discuss the matter over the phone.

Kind regards

James

From: David Weber
Sent: 17 April 2018 15:01
To: James Levy QC
Cc: Javier Chincotta
Subject: 36 North Ltd

Dear James

I met today with John Perez and Thomas Cornelio and formed an excellent impression of both of them. Key points:

1. We discussed their comments on the MOU and I think we have reached an landing on all except one point which they wanted to think more about.

2. The outstanding point is the 3 year guarantee of consultancy fees which they are seeking. It is clear that there isn't enough headroom in the ?1m loan amount to give them this security and pay the start-up costs and I suppose Hassans would have a problem allowing a drawdown to pay compensation once the company had effectively stopped trading. One solution would be for John and Thomas to be engaged by Hassans under three year contracts and to be seconded to the project company at a fee. I don't know if you would accept that kind of solution but it seems to me a good compromise and as they would have the security they want and Hassans would get value from being able to take the services of two IT high flyers into Hassans if the company is unsuccessful.

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 26 April 2018 17:47
To: Cathy Borg
Cc: James Levy Qc; Javier Chincotta; Thomas Potter; Lee Abudarham
Subject: RE: 36 North Ltd
Attachments: nba and kyc docs.pdf

Dear Cathy

Thank you for your mail.

There will be equal one–third shareholdings in 36 North Ltd as follows:

- new Gib company to be set up - owned by John Perez.
- new Gib company to be set up - owned by Thomas Cornelio
- single purpose company - owned by Hassans. James has chosen a company from the shelf list – Astelon Ltd – please reserve it if it is still available.

There will initially be two directors John Perez and Thomas but the Hassans shareholder will have the right to nominate a third director.

Please let know which shelf companies are still available so we can reserve two for the above purposes.

I attach copies of the KYC. Please let me know if you need further information and send me the relevant documentation so I can arrange signature.

Best regards

David

From: Cathy Borg
Sent: 26 April 2018 13:19
To: David Weber
Cc: Thomas Potter; Lee Abudarham
Subject: 36 North Ltd - consent for name

Dear David

Following our recent exchanges, attached please find the Certificate of Incorporation for 36 North Limited.

Please note that we are still awaiting details of the directors of the company, as well as details of the company to be selected to act as the Hassans intermediate shareholder and lender.

Kind regards

Cathy Borg
Company Manager

Line Group Limited
associated with Hassans International Law Firm
T- +(350) 200 79000
F- +(350) 200 40249
E- cathy.borg@linegroup.gi

From: Cathy Borg
Sent: 20 April 2018 12:45
To: David Weber
Cc: Thomas Potter
Subject: RE: 36 North Ltd - consent for name

Thanks David

Yes, Companies House confirmed that the letter is sufficient for the purposes of incorporating the company. This should be incorporated by next Wednesday.

I will forward you a copy of the Certificate of Incorporation as soon as it is received.

Kind regards

Cathy Borg
Company Manager
Line Group Limited
associated with Hassans International Law Firm
T- +(350) 200 79000
F- +(350) 200 40249
E- cathy.borg@linegroup.gi

From: David Weber
Sent: 20 April 2018 12:34
To: Cathy Borg
Cc: Thomas Potter
Subject: RE: 36 North Ltd - consent for name

Cathy,

Thank you. It's ok – IO was passing.

With non-urgent does that mean we will have it by Wednesday?

Did the Companies Registry confirm the letter is sufficient for the name to be sued or is this the view of our administration team?

Best regards

David

From: Cathy Borg
Sent: 20 April 2018 12:27
To: David Weber

Cc: Thomas Potter
Subject: 36 North Ltd - consent for name

Hi David

Sorry to have missed you this morning.

We have already asked our admin team to start the incorporation process and have delivered the original letter to them. Instructions have been given to incorporate the company on a non-urgent basis (3 working days) however this can been changed to urgent incorporation (within 24 hours) if necessary, please advise.

Kind regards

Cathy Borg
Company Manager
Line Group Limited
associated with Hassans International Law Firm
T- +(350) 200 79000
F- +(350) 200 40249
E- cathy.borg@linegroup.gi

From: David Weber
Sent: 20 April 2018 12:20
To: Cathy Borg
Cc: Thomas Potter
Subject: RE: 36 North Ltd - consent for name

Thanks Cathy. You now have the original letter. How quickly will it be incorporated?
David

From: Cathy Borg <cathy.borg@linegroup.gi>
Date: Friday, 20 Apr 2018, 10:52 am
To: David Weber <David.Weber@hassans.gi>
Cc: Thomas Potter <thomas.potter@linegroup.gi>
Subject: 36 North Ltd - consent for name

Dear David

I have now heard back from our Admin team that have confirmed that the letter is sufficient for Companies House for the purposes of incorporating the company.

Please provide us with the original at your earliest convenience. Once received we will arrange for this to be submitted to Companies House together with the application for incorporation.

Kind regards

Cathy Borg
Company Manager
Line Group Limited
associated with Hassans International Law Firm
T- +(350) 200 79000
F- +(350) 200 40249
E- cathy.borg@linegroup.gi

From: David Weber
Sent: 19 April 2018 14:54
To: Cathy Borg
Subject: 36 North Ltd - consent for name
Importance: High

Dear Cathy,

Here is the signed consent leter – please let me know urgently as soon as you have a response from the Companies Registry regarding the name.

Best regarrds

David

<< File: 18-04-18 Consent Letter 36 Degrees North Ltd.pdf >>

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 26 April 2018 18:11
To: James Levy Qc
Subject: 36 North - Letter Agreement
Attachments: 18-04-26 letter agreement.docx

Dear James,

I attach a letter agreement along the lines we discussed today to provide the 3 year security of employment that John and Tommy are seeking.

Please let me know if you are content with it or have any comments.

Best regards

David

Draft/26.4.18

[On Hassans letterhead]

[●] 2018

Mr John Perez

[redacted]

Mr Thomas Cornelio

[redacted]

Strictly Confidential

Dear John and Tommy,

36 North Limited (the "Company")

I refer to the Shareholders Agreement related to the Company which is to be signed today.

The Company's business plan contemplates the Company breaking even within [●] to [●] months after today's date. However, like all new business ventures there is an element of risk. Accordingly, and to provide you with an element of security, in the event the Company ceases trading within a period (the "Relevant Period") of 3 years commencing on today's date, Hassans would by mutual agreement between us take you onto our staff as full time consultants for the balance of the Relevant Period in each case at an annual consultancy fee of £300,000 gross or offer you a suitable alternative post.

Yours sincerely

James Levy

For and on behalf of Hassans International Law Firm

In consideration of your agreeing to enter into the SHA, we agree as follows.

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 08 June 2018 12:27
To: David Weber
Cc: John Perez; James Levy Qc; Cathy Borg; Javier Chincotta
Subject: Re: 36 North Limited
Attachments: 36 north cash flow.pdf; image001.png

Dear David,

In order to facilitate approval from SMRCC and for them to classify the level of risk accordingly please find the below information describing the operations of the business together with our projected cash flow forecast attached detailing our revenue streams of which the Government of Gibraltar is currently our top contributor.

36 North Limited is predominantly a software engineering company, providing a wide range of solutions to governments and major international players. We are currently 100% reliant on work from the GOG however we are about to sign two significant international contracts, one with Carnival Maritime (based in Miami) and another with the government of Sao Tome. Both of these are for our border and security management artificial intelligence software. Our geographical scope is therefore currently limited to Gibraltar, USA & Sao Tome however we have expressions of interest from several other countries and we envisage working with them in the near future.

With respect to the sale of hardware, this will mainly be hardware to support our software systems. The company will not have a shop to sell its products to the general public, at least this is not the initial intention but we reserve the right to do so in future should such trade be determined to be of benefit to the company.

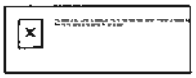
We are currently spearheading a GOG initiative to purchase renewable energy from Morocco in addition to developing wider trade opportunities post Brexit.

Consultancy work is also to be provided, we engage in providing international businesses with advice and direction in the market segments we operate.

Please note that even though we expect growth within the local market in the short and long term, our main effort will be to increase our international footprint where we believe we can be most profitable.

I hope the above answers most of your questions raised by your compliance team, should this not be the case please advise and we will be more than happy to elaborate further as required.

Kind Regards

Thomas Cornelio
CTO

Office 328
World Trade Centre
Tel: (+350) 56001454



On Mon, Jun 4, 2018 at 3:13 PM, David Weber <David.Weber@hassans.gi> wrote:

Dear John and Tommy,

I have had the following information request from Line Group in order to seek Compliance approval:

From compliance risk perspective we need to classify the risk involved and have a detailed analysis of the scope of activities in order to ascertain whether these are high/medium/low risk. Given the partners involvement in the venture, the application and ancillary documentation will need to be referred to SMRCC for approval. Therefore, we will need to understand the basis or essence of the business i.e. is this consultancy services, marketing, software, as well as its geographical scope. Are the activities to be limited to Gibraltar and a local market, or will the business be trading international, and if so who are the core clients and what countries will be involved? There is mention in the MOU of hardware sales, what hardware is to be sold, will the company have a physical presence here i.e.: a shop. We note that they will have offices and employees. Additionally, the company will also engage in energy trading. Grateful if you could expand on what this entails.

Grateful if you would provide a note replying to this request. Meanwhile I look forward to seeing Tommy as arranged at 4pm today.

Best regards

David

David Weber
Hassans
International Law Firm
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Gibraltar

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W: www.gibraltarlaw.com

36 North Ltd
Cash Flow Forecast
Year 1

	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Total	
Opening bank balances			33,195	106,339	126,334	146,328	251,322	356,317	391,311	436,305	481,300	526,294		
Income														
NSCIS (Global invoice)		62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	687,709	For GoG contracts
Dep. Tpt Employment		3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	33,000	cash receipt assumed
Dep. Tpt Education		775	775	775	775	775	775	775	775	775	775	775	8,525	1 month following sale
BC Scanners		400	400	400	400	400	400	400	400	400	400	400	4,400	
BC Mobile scanners		1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	17,600	
DSS maintenance		4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	44,000	
Gibair (IATA)		800	800	800	800	800	800	800	800	800	800	800	8,800	
Border Management (Sao Tome)			15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	150,000	
BCA upgrades		30,000											30,000	
Supervacht development/marina			55,000	1,850	1,850	1,850	1,850	1,850	1,850	1,850	1,850	1,850	71,650	
e Visas						70,000							70,000	
Licencing software							70,000						70,000	
Carnival Cruise						15,000	15,000	15,000	15,000	15,000	15,000	15,000	105,000	
GoG environmental consultancy			2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	20,000	
Mobile ANPRs														
GoG payment gateway														
URNR ticketing														
Renewable energy														
Banco Santander facial recognition														
Inchcape Shipping crew change														
General consultancy														
Total income		103,094	145,094	91,944	91,944	176,944	176,944	106,944	106,944	106,944	106,944	106,944	1,320,684	
Expenditure														
Payroll														
Directors	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	600,000	
Employees	6,666	6,667	6,667	6,666	6,667	6,666	6,667	6,666	6,667	6,666	6,667	6,667	80,000	
Social Insurance	633	633	633	633	633	633	633	633	633	633	633	633	7,596	
	57,299	57,300	57,300	57,299	57,300	57,300	57,299	57,300	57,300	57,299	57,300	57,300	687,596	
Premises														
Rent	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000	
Cleaning														
	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000	
Office Costs														
Insurance														
Equipment maintenance														
Cleaning														
Sundries														
Travel Expenses														
Travel & accommodation costs	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	24,000	
Entertainment	200	200	200	200	200	200	200	200	200	200	200	200	2,400	
	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	26,400	
Telecoms & IT														
Mobile telephones	500	500	500	500	500	500	500	500	500	500	500	500	6,000	
Internet and hosting	300	300	300	300	300	300	300	300	300	300	300	300	3,600	
Computer consumables	100	100	100	100	100	100	100	100	100	100	100	100	1,200	
Software licences														
	900	900	900	900	900	900	900	900	900	900	900	900	10,800	
Advertising & Marketing														
Advertising & Marketing														
Legal & Professional														
Legal fees	500	500	500	500	500	500	500	500	500	500	500	500	6,000	
Audit & accountancy														
Consultancy														
	500	500	500	500	500	500	500	500	500	500	500	500	6,000	
Other expenses														
Sub-contract costs														
Bank charges	50	50	50	50	50	50	50	50	50	50	50	50	600	
Sundry costs														
	50	50	50	50	50	50	50	50	50	50	50	50	600	
Capital Expenditure														
Computers	4,000												4,000	
Furniture														
Mobile phones	2,000												2,000	
	6,000												6,000	
Dividends														
Total expenditure	67,949	61,950	61,950	61,949	61,950	61,950	61,949	61,950	61,950	61,949	61,950	61,950	749,396	
Draw down / (repayment) of facility	67,949	(7,949)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)						
Closing bank balance		33,195	106,339	126,334	146,328	251,322	356,317	391,311	436,305	481,300	526,294	571,288	571,288	
	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Total	

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 21 June 2018 10:32
To: David Weber
Cc: John Perez; James Levy Qc; Javier Chincotta
Subject: Re: 36 N JV
Attachments: 36 north limited cff yr1.pdf; image001.png

Dear David,

Attached please find our revised cash flow forecast as requested.

Please note that with regards to the loan facility we still believe that the £1m should be in place as initially agreed.

Will revert back shortly with our scope of works for the consultancy agreements.

Kind Regards

Tommy

On Wed, Jun 20, 2018 at 5:30 PM, David Weber <David.Weber@hassans.gi> wrote:

Dear John and Tommy,

To follow up the points discussed at the meeting with Tommy on 13 June:

1. We discussed amending the repayment provisions of the loan agreement to require dedication to repayment of a specified portion of net cash flow – say 50% - to allow some funds to be retained in the company. You are to revert.

2. You are to provide an updated cash flow reflecting in particular the proposed repayment of the loan facility agreement.

3. You are to propose a more realistic loan facility amount. In view of the forecast cash flow, it would be excessive for Hassans to reserve a potential loan of £1m in its accounts.

4. You are to propose scopes of work for each of your consultancy agreements.

5. Line Group is working on getting the necessary risk assessment/compliance team sign off and will then structure 36N and the Hassans vehicle company. Line Group needs Javier's instructions prior to structuring the Hassans vehicle company which they will seek next week on Javier's return to the office.

6. Tommy proposed Carboni Jardim as auditors. I will check if James is content.

7. With regard to Tommy's suggestion about mediation, we agreed to retain court dispute resolution for the loan (as is normal) and to provide in the SHA for arbitration after a compulsory 21 day period for negotiation in good faith with a view to finding a solution.

8. John is to review the existing draft documents and let me know if he has any comments in addition to those which Tommy gave me.

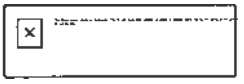
I will update the agreements when I hear from you. Please let me know if there is anything else pending.

Best regards

David

David Weber
Hassans
International Law Firm
57/63 Line Wall Road
Gibraltar

M: [redacted]
T: (+350) 200 79000
DD: (+350) 200 51912 (ext 448)
F: (+350) 200 71966
W: www.gibraltarlaw.com



--

Thomas Cornelio, CTO

36 NORTH Limited

World Trade Centre,

6 Bayside Road,

Gibraltar, GX11 1AA

36 North Ltd
Cash Flow Forecast
Year 1

	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Total	
Opening bank balance		133,692	91,742	58,314	87,386	122,213	182,964	275,690	317,193	358,696	400,200	441,703		
Income														
NCIS (Global invoice)			62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	625,190	For GoG contracts
Dept. of Employment			3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	30,000	cash receipt assumed
Dept. of Education			775	775	775	775	775	775	775	775	775	775	7,750	1 month following sale
BCA scanners			400	400	400	400	400	400	400	400	400	400	4,000	
BCA mobile scanners			1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	16,000	
DSS maintenance			4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	40,000	
G pair (IATA)			800	800	800	800	800	800	800	800	800	800	8,000	
Border Management (Sao Tome)				15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	135,000	
BCA upgrades				30,000									30,000	
Supervachi development/service					15,000	1,350	1,850	1,850	1,850	1,850	1,850	1,350	67,950	
eVisas						70,000							70,000	
Licencing software							70,000						70,000	
Carnival Cruise						15,000	15,000	15,000	15,000	15,000	15,000	15,000	105,000	
GoG environmental consultancy			2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	20,000	
Mobile ANPRs														
GoG payment gateway														
URBA ticketing														
Renewable energy														
Banco Santander facial recognition														
Inchcape Shipping crew change														
General consultancy														
Total income			75,094	120,094	145,094	176,944	176,944	308,944	108,944	106,944	106,944	106,944	1,228,890	
Expenditure														
Payroll														
Directors	25,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	575,000	
Employees		6,667	6,667	6,666	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	100,000	
Social Insurance	158	633	633	633	791	791	791	791	791	791	791	791	8,184	
	25,158	57,300	57,300	57,299	60,791	60,791	60,791	60,791	60,791	60,791	60,791	60,791	683,184	
Premises														
Rent	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000	
Cleaning														
		1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000	
Office Costs:														
Insurance														
Equipment maintenance														
Cleaning														
Sundries														
Travel Expenses:														
Travel & accommodation costs	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	24,000	
Entertainment	200	200	200	200	200	200	200	200	200	200	200	200	2,400	
	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	26,400	
Telecoms & IT:														
Mobile telephones	500	500	500	500	500	500	500	500	500	500	500	500	6,000	
Internet and hosting	300	300	300	300	300	300	300	300	300	300	300	300	3,600	
Computer consumables	100	100	100	100	100	100	100	100	100	100	100	100	1,200	
Software licences														
	900	900	900	900	900	900	900	900	900	900	900	900	10,800	
Advertising & Marketing:														
Advertising & Marketing														
Legal & Professional														
Legal fees	500	500	500	500	500	500	500	500	500	500	500	500	6,000	
Audit & accountancy														
Consultancy														
	500	500	500	500	500	500	500	500	500	500	500	500	6,000	
Other expenses:														
Sub contract costs														
Bank charges	50	50	50	50	50	50	50	50	50	50	50	50	600	
Sundry costs														
	50	50	50	50	50	50	50	50	50	50	50	50	600	
Capital Expenditure														
Computers	6,000												6,000	
Furniture														
Mobile phones	1,500												1,500	
	7,500												7,500	
Dividends														
Total expenditure	36,308	61,950	61,950	61,949	65,441	65,441	65,441	65,441	65,441	65,441	65,441	65,441	748,684	
Drawdown / (repayment) of facility	150,000		6,572	29,073	39,377	55,752	18,778						101	
Closing bank balance	133,692	91,742	58,314	87,386	122,213	182,964	275,690	317,193	358,696	400,200	441,703	483,206	483,206	
	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Total	

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 21 June 2018 16:02
To: Javier Chincotta
Cc: James Levy Qc
Subject: 36 North - JV Agreements
Attachments: 18-06-21 v2 36 north cash flow.xlsx; image001.png

Dear Javier,

The draft documents that I circulated on 8 June are still essentially the deal. I will circulate final versions early next week and the parties want to sign on Thursday 28 June so that JP and TC can give their notice to Bland.

The reason for this mail is a question that has arisen regarding the loan facility to be granted by Hassans. Originally a loan facility of £1m was agreed but when I reviewed the cash flows (see attached excel sheet) it became apparent that the company is unlikely to need such a large facility. I attach the latest cash flow forecast. It shows a loan of £150k being drawn down and being repaid out of 50% of surplus cash by February 2019. I have suggested that we lower the amount so that Hassans does not have to book such a large loan facility commitment but JP and TC are insisting on the original £1m facility being granted.

One concern that I have is the following. The 'deal' is that JP and TC each have a 3 year contract at £300k per annum. Obviously if the facility amount is too high, and the business does not take off as envisaged and the JV is aborted, the loan facility could end up being used to pay compensation for terminated consultancy contracts with no prospect of repayment.

I don't know if this is a concern for you but, if it is, I propose one of two alternative courses:

- We insist on lowering the amount of the facility to, say £500k.
- If as I expect that will not be accepted, we provide in the loan agreement that Hassans can cancel the facility if there is a material (which would have to be defined) underperformance on the expected cash flow forecast.

Please let know your views in your capacity as lender.

Best regards

David

David Weber
Hassans
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From: David Weber
Sent: 08 June 2018 15:48
To: John Perez (john.perez@36north.io); 'Thomas Cornelio'
Cc: James Levy QC; Javier Chincotta
Subject: 36 North - JV Agreements
Importance: High

Dear John and Tommy,

I attach the following draft documents for review and discussion:

Shareholders Agreement
Memorandum and Articles of the Company
Facility Agreement
Consultancy Agreement

The documents are subject to review and comment by James and Javier.

We will need to go through the documents page by page when we meet but at this stage I would like to highlight the following comments:

1. I have departed in one respect from the MOU. Instead of having decisions by simple majority with Hassans approval being required for certain "restricted matters", as contemplated by the MOU, I have provided that decisions would be by unanimity wand with the approval of Ascelon as shareholder being required before it nominates a board member. I think this is more straightforward and simpler than having to work out now exactly what decisions should be subject to a Hassans veto.

2. The consultancy agreement attached is for John, I propose we finalise it and then I will clone it for ICode Ltd (as it is a company, and will second Tommy's services to 36 North Ltd, that consultancy agreement will need some additional provisions).

3. I have left blank the amount of the loan facility – we originally understood it would be for up to £1m, but I see from your cash flow that the estimated requirement is somewhat lower.

4. I have adopted a "light" approach to the Shareholders Agreement and the Articles of Association by keeping the "bespoke" provisions regarding the board and the share rights in the Shareholders Agreement but including a special article (article 104A) in the Articles of Association which refers (obliquely) to the Shareholders Agreement. The alternative approach would be to create different classes of shares in the Articles of Association with the class rights specified. There are pros and cons to the suggested approach. On the pro side, it keeps the Articles of Association "light" and in relatively standard format and avoids the "bespoke" provisions being in the public domain – as the Articles of Association will be on public record. On the con side, a breach of the "bespoke" provisions would be enforceable only by an action for breach of contract (or in some circumstances by proceedings for an injunction) and it is less clear that it would be null and void as it would have been if detailed in the Articles of Association. We can discuss this point further when we meet and it may be that James and Javier will also have comments on the suggested approach.

Please let me know when you will be available to get together to discuss and finalise the documents.

Best regards

David

David Weber
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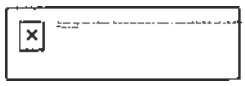

36 North Ltd
Cash Flow Forecast
Year 1

	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Total	
Opening bank balances		113,692	49,742	56,314	85,386	125,213	180,964	273,690	315,193	356,696	398,200	439,703		
Income														
NSCIS [Global Invoice]			62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	62,519	625,190	For GoG contracts
Dept. of Employment			3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	30,000	cash receipt assumed
Dept. of Education			775	775	775	775	775	775	775	775	775	775	7,750	1 month following sale
BCA scanners			400	400	400	400	400	400	400	400	400	400	4,000	
BCA mobile scanners			1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	16,000	
DSS maintenance			4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	40,000	
Gibair [IATA]			800	800	800	800	800	800	800	800	800	800	8,000	
Border Management (Sao Tome)				15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	135,000	
BCA upgrades				30,000									30,000	
Superyacht development/mkte					55,000	1,850	1,850	1,850	1,850	1,850	1,850	1,850	67,950	
e-Visas						70,000							70,000	
Licencing software							70,000						70,000	
Carnival Cruise						15,000	15,000	15,000	15,000	15,000	15,000	15,000	105,000	
GoG environmental consultancy			2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	20,000	
Mobile ANPRs														
GoG payment gateway														
URNR ticketing														
Renewable energy														
Banco Santander facial recognition														
Inchcape Shipping crew change														
General consultancy														
Total income			75,094	120,094	145,094	175,944	175,944	106,944	106,944	106,944	106,944	106,944	1,228,890	
Expenditure														
Payroll:														
Directors	25,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	575,000	
Employees		6,667	6,667	6,666	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	100,000	
Social Insurance	158	633	633	633	791	791	791	791	791	791	791	791	8,384	
	25,158	57,300	57,300	57,299	60,791	60,791	60,791	60,791	60,791	60,791	60,791	60,791	683,384	
Premises:														
Rent	2,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	13,000	
Cleaning														
	2,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	13,000	
Office Costs:														
Insurance														
Equipment maintenance														
Cleaning														
Sundries														
Travel Expenses:														
Travel & accommodation costs	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	24,000	
Entertainment	200	200	200	200	200	200	200	200	200	200	200	200	2,400	
	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	26,400	
Telecoms & IT:														
Mobile telephones	500	500	500	500	500	500	500	500	500	500	500	500	6,000	
Internet and hosting	300	300	300	300	300	300	300	300	300	300	300	300	3,600	
Computer consumables	100	100	100	100	100	100	100	100	100	100	100	100	1,200	
Software licences														
	900	900	900	900	900	900	900	900	900	900	900	900	10,800	
Advertising & Marketing:														
Advertising & Marketing														
Legal & Professional:														
Legal fees	500	500	500	500	500	500	500	500	500	500	500	500	6,000	
Audit & accountancy														
Consultancy														
	500	500	500	500	500	500	500	500	500	500	500	500	6,000	
Other expenses:														
Sub-contract costs														
Bank charges	50	50	50	50	50	50	50	50	50	50	50	50	600	
Sundry costs														
	50	50	50	50	50	50	50	50	50	50	50	50	600	
Capital Expenditure:														
Computers	6,000												6,000	
Furniture														
Mobile phones	1,500												1,500	
	7,500												7,500	
Dividends														
Total expenditure	38,308	61,950	61,950	61,949	65,441	65,441	65,441	65,441	65,441	65,441	65,441	65,441	747,684	
Draw down / (repayment) of facility	150,000		6,572	29,073	39,827	55,752	18,776						(0)	
Closing bank balance	113,692	49,742	56,314	85,386	125,213	180,964	273,690	315,193	356,696	398,200	439,703	481,206	481,206	
	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Total	

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 22 June 2018 09:50
To: David Weber
Cc: John Perez; James Levy Qc; Javier Chincotta
Subject: Re: 36 N JV
Attachments: image001.png

Dear David,

Below please find my scope of works, this is not an exhaustive list but it should cover my main tasks and responsibilities within the company.

1) Development of advanced software solutions & managing a team of highly skilled, certified and experienced software engineers.
2) Day to day running of the company.
3) Research & Development into potential new products and services.
4) Provision of consultancy work for clients.
5) Project management and documentation.
6) Innovating new ideas to offer as part of the business product portfolio.
7) DLT software development & provision of mining platforms.
8) Meeting clients & providing training, support and maintenance services.
9) Project assessments and preparation of scoping documents.
10) Growing out international portfolio and marketing our products worldwide.

Kind Regards

On Wed, Jun 20, 2018 at 5:30 PM, David Weber <David.Weber@hassans.gi> wrote:

Dear John and Tommy,

To follow up the points discussed at the meeting with Tommy on 13 June:

1. We discussed amending the repayment provisions of the loan agreement to require dedication to repayment of a specified portion of net cash flow – say 50% - to allow some funds to be retained in the company. You are to revert.

2. You are to provide an updated cash flow reflecting in particular the proposed repayment of the loan facility agreement.

3. You are to propose a more realistic loan facility amount. In view of the forecast cash flow, it would be excessive for Hassans to reserve a potential loan of £1m in its accounts.

4. You are to propose scopes of work for each of your consultancy agreements.

5. Line Group is working on getting the necessary risk assessment/compliance team sign off and will then structure 36N and the Hassans vehicle company. Line Group needs Javier's instructions prior to structuring the Hassans vehicle company which they will seek next week on Javier's return to the office.

6. Tommy proposed Carboni Jardim as auditors. I will check if James is content.

7. With regard to Tommy's suggestion about mediation, we agreed to retain court dispute resolution for the loan (as is normal) and to provide in the SHA for arbitration after a compulsory 21 day period for negotiation in good faith with a view to finding a solution.

8. John is to review the existing draft documents and let me know if he has any comments in addition to those which Tommy gave me.

I will update the agreements when I hear from you. Please let me know if there is anything else pending.

Best regards

David

David Weber
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International Law Firm
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--

Thomas Cornelio, CTO

36 NORTH Limited

World Trade Centre,

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 25 June 2018 19:32
To: John Perez; Thomas Cornelio
Cc: James Levy Qc; Javier Chincotta; Cathy Borg; Lee Abudarham; Thomas Potter
Subject: RE: 36 North Limited
Attachments: 18-05-25 shareholders agreement 36 north.docx; 18-06-25 facility agreement.docx; 18-06-25 hassans letter (draft).docx; 18-06-25 icode consultancy letter (tracked vs jp consultancy letter).docx; 18-06-25 jp consultancy letter.docx; 36n memorandum & articles of association.doc; image001.png

Dear John and Tommy,

In further anticipation of closing on Thursday, I attach final drafts of the JV documents, comprising:

1. Shareholders Agreement (tracked against the last draft)
2. Loan Facility Agreement (tracked against the last draft)
3. Hassans comfort letter (tracked against the last draft)
4. Memorandum and Articles of Association (these are unchanged from the previous version)

The draft documents have been amended in line with the meeting which we had with Tommy on 4 June and the changes are shown by tracking. The main point which we left open at that meeting was the facility amount given that the cash flow forecast shows a much lower funding requirement than was expected. In recognition of your request to maintain the facility amount at that level the draft loan facility remains at the £1m level but the drawdown mechanics have been tightened to ensure that the lender is not required to fund into a situation where there is not a reasonable prospect of repayment.

At the time of writing I have not yet received the scope of work for John's consultancy agreement and would appreciate receiving it as soon as possible.

Please read the attached draft documents carefully and I would be happy to meet with you tomorrow or Wednesday if you wish to talk them through with you with a view to ensuring that we can go ahead and complete on Thursday as planned. If you would like to meet tomorrow or Wednesday please call so we can arrange a convenient time.

I should mention that the attached drafts are sent subject to any comments James may have and subject to Hassans management approval.

Best regards

David

David Weber
Hassans
International Law Firm
57/63 Line Wall Road
Gibraltar

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From: David Weber
Sent: 25 June 2018 12:07

To: John Perez (john.perez@36north.io); 'Thomas Cornelio'
Cc: James Levy QC; Javier Chincotta
Subject: 36 North Limited
Importance: High

Dear John and Tommy,

In anticipation of closing, please find attached a mail from Line Group and various documents for signature. It would be helpful if before closing you are able to drop the documents into the office duly signed where shown.

I suggest we set up a time to meet for the closing – does 3pm on Thursday 28 June work for you?

I will circulate final draft agreements as far as possible ahead of the closing.

Best regards

David

David Weber
Hassans
International Law Firm
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From: Cathy Borg
Sent: 25 June 2018 10:51
To: David Weber
Cc: Thomas Potter; Lee Abudarham
Subject: 36 North Limited and Astelon Limited

Good morning David

It would appear that our emails have crossed.

I note in your e-mail below that the new Articles of Association as now to be adopted. The most efficient way of adopting the new Articles is by shareholder resolution in lieu of an EGM. Attached please find draft of both the shareholder resolution and the special resolution for the adoption of the Articles. Kindly note that the special resolution is to be filed, in original form, at Companies House in order to effect the change. The shareholders resolution is to be entered into in lieu of holding a physical EGM and is to be signed by all the shareholders. The original is then filed with the Company books.

Please be advised that the special resolution carries a 30 day filing deadline.

Following our call, attached please also find the following documents:

1. Revised director first board resolution
2. Director consent letters
3. Share certificates
4. Engagement letters
5. Terms and conditions

Additionally, please note that the basic costs for the company will be as follows:

Standard Incorporation (one-off charge) – GBP600
Annual responsibility fee for the provision of registered office and company secretary - GBP 550
Annual statutory compliance fee – GBP 150.
Disbursements (charged at cost) - GBP 86 for the filing of the Annual Return & GBP 17.50 for the filing of the accounts.

Total: GBP1,403.50

Let me know if you need any further information.

Kind regards

Cathy Borg
Company Manager
Line Group Limited
associated with Hassans International Law Firm
T- +(350) 200 79000
F- +(350) 200 40249
E- cathy.borg@linegroup.gi

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 28 June 2018 16:22
To: John Perez; Thomas Cornelio
Cc: James Levy Qc; Cathy Borg; Lee Abudarham
Subject: 36 North Limited
Attachments: image001.png

Dear John and Tommy,

Thank you for coming in today to sign the agreements and many congratulations for the birth of the new venture.

As discussed, we have executed the agreements in escrow, meaning that they are to be held by me, undated, and will come into force and be dated only when you inform me that your notice periods from Bland Ltd have expired or you have been released from your employments.

The documents that are being held in escrow are:

1. Shareholders Agreement
2. Loan Facility Agreement
3. Two Consultancy Agreements
4. Hassans Letter.

In addition, Line Group are holding undated your signed consents to act as directors of 36 North Limited and the related resolutions. During the escrow period you are not directors and cannot bind the company. The company will remain inactive during this period and Line Group will provide a temporary corporate director from the Line Group of Companies.

You mentioned that you will be meeting James Gaggero on 8 or 9 July as soon as he returns to Gibraltar to give your notices. I hope the meeting goes well and will look forward to hearing from you afterwards.

Best regards

David

David Weber
Hassans
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Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 09 July 2018 19:39
To: James Levy Qc
Subject: 36N

Dear James

I had a chat with John Perez this evening.

He and Tommy have had a hard emotional day but they have probably got through the hardest part and appear still to be resolute to go ahead.

Delivery of formal notices at James Gaggero's request were delayed 24 hrs and will be given tomorrow.

Best regards

David

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 30 July 2018 10:59
To: David Weber
Cc: James Levy Qc; John Perez
Subject: 36 North

Dear David,

I trust you are keeping well.

We have been through a very busy and tough period since our resignation in order to ensure everything is in place for our new venture. The transition it seems will be far more amicable than what I had initially envisaged.

Our office at WTC is now in place and all the required IT hardware has been purchased to ensure that the team and myself are able to work effectively.

My last day at Blands will be on the 10th August 2018. Would it be possible to meet up on this day or as soon as possible after this so that we can finalise all documents? This will allow me to register our bank account which is the last item outstanding on our agenda.

Kind Regards

--
Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Tel:+350 56001454





Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 30 July 2018 13:48
To: Thomas Cornelio
Cc: James Levy Qc; John Perez
Subject: RE: 36 North
Attachments: ~wrd000.jpg; image001.png; image002.jpg

Dear Tommie,

Thank you for your mail. I spoke with John a couple of times over the past weeks and he updated me on what has been happening.

Unless John can get a waiver from Bland, it seems to me closing will have to be after John is released from his obligations to Bland.

Best regards

David

David Weber
Hassans
International Law Firm
57/63 Line Wall Road
Gibraltar

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From: Thomas Cornelio [mailto:thomas.cornelio@36north.io]
Sent: 30 July 2018 11:02
To: David Weber
Cc: James Levy QC; John Perez
Subject: 36 North

Dear David,

I trust you are keeping well.

We have been through a very busy and tough period since our resignation in order to ensure everything is in place for our new venture. The transition it seems will be far more amicable than what I had initially envisaged.

Our office at WTC is now in place and all the required IT hardware has been purchased to ensure that the team and myself are able to work effectively.

My last day at Blands will be on the 10th August 2018. Would it be possible to meet up on this day or as soon as possible after this so that we can finalise all documents? This will allow me to register our bank account which is the last item outstanding on our agenda.

Kind Regards

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 30 July 2018 14:14
To: David Weber
Cc: James Levy Qc; John Perez
Subject: Re: 36 North
Attachments: ~wrd000.jpg; image001.png; image002.jpg

Dear David,

Thank you for taking my call.

We will need to find a way around this as we have already arranged with our clients (both local and internationally) to provide them with our services as from mid August.

Lets discuss further when you are available, i am sure there is a solution.

Kind Regards

Tommy

On Mon, Jul 30, 2018 at 1:47 PM, David Weber <David.Weber@hassans.gi> wrote:

Dear Tommie,

Thank you for your mail. I spoke with John a couple of times over the past weeks and he updated me on what has been happening.

Unless John can get a waiver from Bland, it seems to me closing will have to be after John is released from his obligations to Bland.

Best regards

David

David Weber
Hassans
International Law Firm
57/63 Line Wall Road
Gibraltar

M: (+350) [redacted]
T: (+350) 200 79000
DD: (+350) 200 51912 (ext 448)
F: (+350) 200 71966
W: www.gibraltarlaw.com



Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 31 July 2018 14:51
To: Cathy Borg; Lee Abudarham
Cc: James Levy Qc; Javier Chincotta; Trevor Rocca
Subject: 36 North Limited - closing
Attachments: image001.png

Dear Cathy and Lee,

Tomas Cornelio's notice expires on 10 August and as from midnight 10-11 August (Friday night) the company needs to be live so it can take over certain Government IT systems seamlessly.

John Perez will still be under contract to his present employer at that time, so initially the company will have to be 50/50 owned by the Hassans SPV and Tommie and with Tommie as director. The adjustment to one third each with John Perez, and John's appointment as a director, would be made as soon as possible afterwards once John has been released and failing early release as from 8 September.

By copy to James and Javier I am asking them to confirm their agreement to the above. I also ask James to confirm who will be Hassans' representative pursuant to the JV agreement (assuming he still intends that the Hassans SPV will not exercise its right for the time being to appoint a director).

Please therefore prepare documentation in draft for the company to be handed over from Line Group management to the Hassans SPV and Tommie 50/50 and for Tommie to be appointed as a director in place of Line group.

I will not be in the office on 10 August so I am suggesting that we meet at 10-am with Tommie (i.e. you, me and Tommie) so the documents can be signed and subsequently dated 11 August.

Please confirm if you are available to meet at the time for the signing and I would meanwhile appreciate receiving the draft as soon as possible please.

Best regards

David

From: David Weber
Sent: 28 June 2018 16:20
To: John Perez (john.perez@36north.io); Thomas Cornelio
Cc: James Levy QC; Cathy Borg; Lee Abudarham
Subject: 36 North Limited

Dear John and Tommy,

Thank you for coming in today to sign the agreements and many congratulations for the birth of the new venture.

As discussed, we have executed the agreements in escrow, meaning that they are to be held by me, undated, and will come into force and be dated only when you inform me that your notice periods from Bland Ltd have expired or you have been released from your employments.

The documents that are being held in escrow are:

1. Shareholders Agreement
2. Loan Facility Agreement
3. Two Consultancy Agreements
4. Hassans Letter.

In addition, Line Group are holding undated your signed consents to act as directors of 36 North Limited and the related resolutions. During the escrow period you are not directors and cannot bind the company. The company will remain inactive during this period and Line Group will provide a temporary corporate director from the Line Group of Companies.

You mentioned that you will be meeting James Gaggero on 8 or 9 July as soon as he returns to Gibraltar to give your notices. I hope the meeting goes well and will look forward to hearing from you afterwards.

Best regards

David

David Weber
Hassans
International Law Firm
57/63 Line Wall Road
Gibraltar

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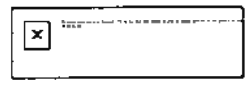

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 06 August 2018 13:06
To: Javier Chincotta
Cc: James Levy Qc; Lee Abudarham; Trevor Rocca
Subject: 36 North Limited - Loan Disbursement

Dear Javier,

As you know the arrangement with John and Tommy includes a loan facility from Hassans' SPV (Astelon Ltd). The loan agreement has been signed in escrow and will come out of escrow as of first thing on 11 August.

Subject to the bank account being operational by that time, I understand they would like to draw down a disbursement of £150,000. Timing of the loan disbursement depends on how long after 11 August it will take to open the company's bank account but the indications are that it will be around 15 August. We will get a loan disbursement request signed on 9 August and will hold it undated until Tommy is appointed a director. John and Tommy indicated that assuming all goes as expected the company is unlikely to require more funding.

I will send you the drawdown notice when it is signed. Under the loan agreement the drawdown date is the first business day of the calendar month following the month in which the Drawdown Request is delivered to the Lender provided the Drawdown Request is delivered not later than 5 Business Days before the last day of the month.

Best regards

David

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 06 August 2018 17:45
To: John Perez; Thomas Cornelio
Cc: James Levy Qc; Lee Abudarham; Trevor Rocca
Subject: 36N - Letter Agreement
Attachments: 18-04-26 letter agreement.docx

Dear John and Tommy

To deal with the transitional period from 10 August to 10 September I have prepared a letter agreement. I believe it is self-explanatory, but if you have any comments on it please let me know. It would be helpful if Tommy could bring it signed by John to the meeting which is confirmed for 9am Thursday 9 August at Hassans main office.

Best regards

David

Draft/26.4.18

[On Hassans letterhead]

[●] 2018

Mr John Perez

[redacted]

Mr Thomas Cornelio

[redacted]

Strictly Confidential

Dear John and Tommy,

36 North Limited (the "Company")

I refer to the Shareholders Agreement related to the Company which is to be signed today.

The Company's business plan contemplates the Company breaking even within [●] to [●] months after today's date. However, like all new business ventures there is an element of risk. Accordingly, and to provide you with an element of security, in the event the Company ceases trading within a period (the "Relevant Period") of 3 years commencing on today's date, Hassans would by mutual agreement between us take you onto our staff as full time consultants for the balance of the Relevant Period in each case at an annual consultancy fee of £300,000 gross or offer you a suitable alternative post.

Yours sincerely

James Levy

For and on behalf of Hassans International Law Firm

In consideration of your agreeing to enter into the SHA, we agree as follows.

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 06 August 2018 18:35
To: David Weber
Cc: John Perez; James Levy Qc; Lee Abudarham; Trevor Rocca
Subject: Re: 36N - Letter Agreement

Dear David,

Thanks for this, will ensure John signs this and will take it to Thursday meeting.

KR

T

On Mon, Aug 6, 2018 at 6:21 PM, David Weber <David.Weber@hassans.gi> wrote:

Dear All,
This time with correct letter.
David

-----Original Message-----
From: David Weber
Sent: 06 August 2018 17:42
To: John Perez (john.perez@36north.io); 'Thomas Cornelio'
Cc: James Levy QC; Lee Abudarham; Trevor Rocca
Subject: 36N - Letter Agreement

Dear John and Tommy

To deal with the transitional period from 10 August to 10 September I have prepared a letter agreement. I believe it is self-explanatory, but if you have any comments on it please let me know. It would be helpful if Tommy could bring it signed by John to the meeting which is confirmed for 9am Thursday 9 August at Hassans main office.

Best regards

David

--
Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Tel: +350 [redacted]

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 29 August 2018 16:13
To: James Levy Qc
Subject: Letter Discussed

Dear James,

As discussed please see my proposed email to Mr Gaggero below. Happy to discuss this offline with you.

Kind Regards

Tommy

Dear James,

As you are aware, I have been running and maintaining the NSCIS platform on behalf of Bland Limited as from 00:00 on 11th August 2018. I have done this in good faith in order to allow you time to resolve the issue with the Government and, of course, to ensure that Gibraltar's national security measures are not affected.

I have done my best to maintain the platform during these difficult times, especially in circumstances where our working relationship has broken down and whilst also setting up my own company. I have to date received no communication from either Bland Limited or the Government of Gibraltar with regards to a possible solution to the problems faced by Bland Limited.

Unfortunately, circumstances are such that it is not possible for me to continue working under the current conditions. Please let this email serve as official notice that as of 00:00 on 1st September 2018 I will no longer be supporting the NSCIS platform in any capacity. Please also note that I will shortly be invoicing Bland Limited in respect of my fees for the period 11 August 2018 to 31 August 2018.

Kind Regards

--
Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Tel: +350 2000 8140
Mob:+350 [redacted]





Moshe Levy

From: James Levy Qc </o=first organization/ou=first administrative group/cn=recipients/cn=james.levy>
Sent: 29 August 2018 23:10
To: Thomas Cornelio
Subject: Re: Letter Discussed wait before sending till we speak in the morning

Dear James,

As you are aware, I have been running and maintaining the NSCIS platform on behalf of Bland Limited as from 00:00 on 11th August 2018. I have done this in good faith in order to allow you time to resolve the issue with the Government and, of course, to ensure that Gibraltar's national security measures are not affected. I have proceeded on the basis that my company will be fairly remunerated for this work.

I have done my best to maintain the platform during these difficult times, especially in circumstances where our working relationship has ended and at the same time as setting up my own company. I have to date received no communication from either Bland Limited or the Government of Gibraltar with regard to a possible solution to the problems faced by Bland Limited.

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Kind Regards

--
Thomas Cornelio, CTO
36 NORTH Limited

From: Thomas Cornelio [mailto:thomas.cornelio@36north.io]
Sent: Wednesday, August 29, 2018 04:14 PM Romance Standard Time
To: James Levy QC
Subject: Letter Discussed

Dear James,

As discussed please see my proposed email to Mr Gaggero below. Happy to discuss this offline with you.

Kind Regards

Tommy

Dear James,

As you are aware, I have been running and maintaining the NSCIS platform on behalf of Bland Limited as from 00:00 on 11th August 2018. I have done this in good faith in order to allow you time to resolve the issue with the Government and, of course, to ensure that Gibraltar's national security measures are not affected.

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Kind Regards

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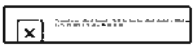
Tel: +350 2000 8140
Mob:+350 [redacted]





Moshe Levy

From: James Levy Qc </o=first organization/ou=first administrative group/cn=recipients/cn=james.levy>
Sent: 29 August 2018 23:18
To: Thomas Cornelio
Subject: Re: Letter Discussed wait before sending till we speak in the morning

Please ring now [redacted]

From: Thomas Cornelio [mailto:thomas.cornelio@36north.io]
Sent: Wednesday, August 29, 2018 11:15 PM Romance Standard Time
To: James Levy QC
Subject: Re: Letter Discussed wait before sending till we speak in the morning

No problem James.

Happy to discuss any time tonight or tomorrow.

KR

T

On Wed, Aug 29, 2018 at 11:13 PM James Levy QC <james.levy@hassans.gi> wrote:

Dear James,

As you are aware, I have been running and maintaining the NSCIS platform on behalf of Bland Limited as from 00:00 on 11th August 2018. I have done this in good faith in order to allow you time to resolve the issue with the Government and, of course, to ensure that Gibraltar's national security measures are not affected. I have proceeded on the basis that my company will be fairly remunerated for this work.

I have done my best to maintain the platform during these difficult times, especially in circumstances where our working relationship has ended and at the same time as setting up my own company. I have to date received no communication from either Bland Limited or the Government of Gibraltar with regard to a possible solution to the problems faced by Bland Limited.

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Kind Regards

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GDPR IMPORTANT CHANGES TO OUR PRIVACY POLICIES

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This e-mail is confidential and may also be privileged. If you are not the intended recipient please notify us immediately by return e-mail or by telephoning the number shown above. You should not copy it or use it for any purpose nor disclose its contents to any other person. It is also recommended that any attachments in this message be scanned prior to opening, as we cannot accept liability for any loss or damage caused by software viruses.

From: Thomas Cornelio [mailto:thomas.cornelio@36north.io]
Sent: Wednesday, August 29, 2018 04:14 PM Romance Standard Time
To: James Levy QC
Subject: Letter Discussed

Dear James,

As discussed please see my proposed email to Mr Gaggero below. Happy to discuss this offline with you.

Kind Regards

Tommy

Dear James,

As you are aware, I have been running and maintaining the NSCIS platform on behalf of Bland Limited as from 00:00 on 11th August 2018. I have done this in good faith in order to allow you time to resolve the issue with the Government and, of course, to ensure that Gibraltar's national security measures are not affected.

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Kind Regards

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 30 August 2018 11:03
To: James Levy Qc
Subject: Re: Letter Discussed wait before sending till we speak in the morning

Ok to send this email?

On Wed, Aug 29, 2018 at 11:29 PM Thomas Cornelio <thomas.cornelio@36north.io> wrote:

Dear James,

With amendments...

Dear James,

As you are aware, I have been running and maintaining the NSCIS platform on behalf of Bland Limited as from 00:00 on 11th August 2018. I have done this in good faith in order to allow you time to resolve the issue with the Government and, of course, to ensure that Gibraltar's national security measures are not affected. I have proceeded on the basis that I will be fairly remunerated for this work.

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NOTE...We need to give some thought as to whether it is best not to advice that an invoice for fees will be served. The email will also be sent from my personal gmail account, emphasising that the mentioned works have been carried out solely from a personal capacity.

Kind Regards

T

On Wed, Aug 29, 2018 at 11:13 PM James Levy QC <james.levy@hassans.gi> wrote:

Dear James,

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Kind Regards

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Thomas Cornelio, CTO
36 NORTH Limited

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Web: http://www.gibraltarlaw.com

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From: Thomas Cornelio [mailto:thomas.cornelio@36north.io]
Sent: Wednesday, August 29, 2018 04:14 PM Romance Standard Time
To: James Levy QC
Subject: Letter Discussed

Dear James,

As discussed please see my proposed email to Mr Gaggero below. Happy to discuss this offline with you.

Kind Regards

Tommy

Dear James,

As you are aware, I have been running and maintaining the NSCIS platform on behalf of Bland Limited as from 00:00 on 11th August 2018. I have done this in good faith in order to allow you time to resolve the issue with the Government and, of course, to ensure that Gibraltar's national security measures are not affected.

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Kind Regards

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Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Tel: +350 2000 8140
Mob:+350 [redacted]





--
Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Tel: +350 2000 8140
Mob:+350 [redacted]





Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 30 August 2018 11:12
To: James Levy Qc
Subject: Blands Invoice

Dear James,

Revenue i would have generated for Blands this month sits at £71,868.75. This is the amount they will be invoicing the GoG for my services in August.

Should I invoice for this work as from the 11th August? This would equate to £48,685.28 (21 days).

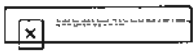
Note if you are having trouble calling me, please call me on my office number 2000 8140 as I do not have any mobile coverage.

Kind Regards

--
Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Tel: +350 2000 8140
Mob:+350 [redacted]





Moshe Levy

From: James Levy Qc </o=first organization/ou=first administrative group/cn=recipients/cn=james.levy>
Sent: 30 August 2018 12:01
To: [redacted] Fabian Picardo's Personal Email Address
Subject: Fw: Letter Discussed wait before sending till we speak in the morning

Tommy wants to send this - I have asked him to wait. What do you think?

From: Thomas Cornelio [mailto:thomas.cornelio@36north.io]
Sent: Wednesday, August 29, 2018 11:29 PM Romance Standard Time
To: James Levy QC
Subject: Re: Letter Discussed wait before sending till we speak in the morning

Dear James,

With amendments...

Dear James,

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Kind Regards

T

On Wed, Aug 29, 2018 at 11:13 PM James Levy QC <james.levy@hassans.gi> wrote:

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Kind Regards

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36 NORTH Limited

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To: James Levy QC
Subject: Letter Discussed

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Kind Regards

Tommy

Dear James,

As you are aware, I have been running and maintaining the NSCIS platform on behalf of Bland Limited as from 00:00 on 11th August 2018. I have done this in good faith in order to allow you time to resolve the issue with the Government and, of course, to ensure that Gibraltar's national security measures are not affected.

I have done my best to maintain the platform during these difficult times, especially in circumstances where our working relationship has broken down and whilst also setting up my own company. I have to date received no communication from either Bland Limited or the Government of Gibraltar with regards to a possible solution to the problems faced by Bland Limited.

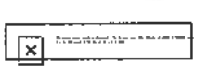
Unfortunately, circumstances are such that it is not possible for me to continue working under the current conditions. Please let this email serve as official notice that as of 00:00 on 1st September 2018 I will no longer be supporting the NSCIS platform in any capacity. Please also note that I will shortly be invoicing Bland Limited in respect of my fees for the period 11 August 2018 to 31 August 2018.

Kind Regards

--
Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Tel: +350 2000 8140
Mob:+350 [redacted]





--
Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
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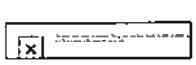
Tel: +350 2000 8140
Mob:+350 [redacted]



Moshe Levy

From: Tommy 1 [redacted]
Sent: 30 August 2018 18:59
To: James Levy Qc
Subject: Fwd: End of support
Attachments: 118083017563001201.png

---------- Forwarded message ---------
From: **Chairman** <chairman@blandgroup.com>
Date: Thu, 30 Aug 2018, 18:56
Subject: Re: End of support
To: Thomas Cornelio [redacted]

Dear Tommy,

Thank you for your email.
I fully understand your disappointment that the issues we face have not been resolved by now.
I share your frustration.
Like you I find myself awaiting the outcome of HMGoG's decision as to how they wish to proceed. I can only imagine Brexit is consuming their available time.
On a more positive note the Peter Canessa has only just this afternoon confirmed that the CM is ready to meet me and a date has been set immediately following his return to Gib next week. More anon.

In the meantime I reiterate my appreciation for all you have done to ensure that the NSCIS platform has operated without a single discernible problem since you left the company. Thank you. I will make it plain to the CM the extent of your unfailing commitment during this period.

In return I will of course honour my commitment to you to settle your fees for carrying out these services. And will ensure prompt payment the moment you submit your invoice.

I am sorry you feel you are no longer able to support the platform with effect from 00:00 on the 1st September in any capacity. All the more so when one considers all that is at stake. Naturally I will communicate your decision to Caine Sanchez immediately and the CM when we meet next week.

Regarding your point that you have not heard from me recently: I can only apologise for this but I was led to believe you were away for two weeks. As the platform seemed to be running without problems I did not feel my intervention was required.

I know Bethan has communicated with you re your request under GDPR and that this matter is of course in hand.

Again with many thanks for all you have done to assist the Government and ourselves during this difficult period.

Kind regards

James

Sent on the move by James Gaggero.

On 30 Aug 2018, at 18:12, Thomas Cornelio [redacted] wrote:

Dear James,

As you are aware, I have been running and maintaining the NSCIS platform on behalf of Bland Limited as from 00:00 on 11th August 2018. I have done this in good faith in order to allow you time to resolve the issue with the Government and, of course, to ensure that Gibraltar's national security measures are not affected. I have proceeded on the basis that I will be fairly remunerated for this work.

I have done my best to maintain the platform during these difficult times, especially in circumstances where our working relationship has ended and at the same time as setting up my own company. I have to date received no communication from either Bland Limited or the Government of Gibraltar with regard to a possible solution to the problems faced by Bland Limited.

Unfortunately, circumstances are such that it is not possible for me to continue working under the current conditions. Please let this email serve as official notice that as of 00:00 on 1st September 2018 I will no longer be supporting the NSCIS platform in any capacity. Please also note that I will shortly be invoicing Bland Limited in respect of my fees for the period 11 August 2018 to 31 August 2018.

Kind Regards

Tommy

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Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 12 September 2018 18:05
To: James Levy Qc
Subject: Termination Letter Draft
Attachments: termination.docx; termination.pdf

Dear James,

Please find attached proposed letter.

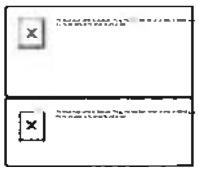
It's a quick draft and not yet finalised but your thoughts on the overall approach please.

Kind Regards

--
Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Tel: +350 2000 8140
Mob:+350 [redacted]



Dear Sirs

Termination of NSCIS, DSS, BCA, ETB & Education contracts ("the Contracts")

We refer to the above matter.

As you are aware, Her Majesty's Government of Gibraltar ("HMGOG") has been left without satisfactory support on the NSCIS, ETB & Education platforms since 10th August 2018 due to internal organisational issues at Bland Limited.

HMGOG is sensitive to Bland Limited's position, however, despite assurances that it would continue to perform its obligations pursuant to the Contracts, we understand that the following material breaches have occurred:

1. NSCIS Platform

(i) APIS Maritime data has not been populated since the 14th August;

(ii) Interpol checks have been offline since the 10th September;

(iii) Facial recognition entries for wanted individuals have not been appended to the system;

(iv) Gibraltar registered number plates are not been recognised correctly by the number plate recognition system;

(v) Frontier queue times not accurate as a result of Gibraltar registered plates not being detected properly;

(vi) Wanted vehicles have been allowed to enter/exit unchallenged since the alerts have not been issued;

(vii) Images for most vehicles at the Eastgate site are not showing on the system;

(viii) The motorcycle ANPR system is still pending installation despite this being paid some time ago; and

(ix) There is a growing number of requests made by law enforcement to upgrade system modules which requires urgent attention, no development has however taken place.

You will appreciate that the above represents a serious risk to Gibraltar's national security. To date, Bland Limited has not sought to rectify the position or provided a permanent solution. HMGOG takes issues of national security very seriously and this position cannot therefore be allowed to continue.

2. ETB, BCA & Education

The following agreed works for the ETB, BCA & Education projects have not been completed as agreed:

(i).....

Bland Limited's failure to complete the agreed works has resulted in HMGOG incurring significant costs in order to provide alternate facilities to the public.

Termination of Contracts

In the circumstances, Bland Limited has failed to perform its obligations under the Contracts. Please take this letter as notice that HMGOG hereby terminates the Contracts with immediate effect.

In addition, HMGOG also requests a refund for any sums paid towards the DSS project (specifics) within 14 days from the date hereof. Alternatively, please provide a proposal that would ensure the project is completed in a timely manner within the next 7 days.

Finally, we also understand that Bland Limited is claiming ownership of the NSCIS system code. As you are aware, HMGOG has paid approximately £500,000 for the design of the NSCIS platform and it was a condition of the NSCIS contract that ownership would be transferred to HMGOG upon payment. We therefore request that either the system code to be handed over in full or that these payments be refunded to HMGOG within 14 days of the date hereof.

HMGOG reserves all its rights and remedies in relation to the breaches of contract.

Yours faithfully

Y

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Finally, we also understand that Bland Limited is claiming ownership of the NSCIS system code. As you are aware, HMGOG has paid approximately £500,000 for the design of the NSCIS platform and it was a condition of the NSCIS contract that ownership would be transferred to HMGOG upon payment. We therefore request that either the system code to be handed over in full or that these payments be refunded to HMGOG within 14 days of the date hereof.

HMGOG reserves all its rights and remedies in relation to the breaches of contract.

Yours faithfully

Y

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 12 September 2018 18:09
To: James Levy Qc
Subject: Re: Termination Letter Draft
Attachments: termination.docx; termination.pdf

Some amendments...

On Wed, Sep 12, 2018 at 6:04 PM Thomas Cornelio <thomas.cornelio@36north.io> wrote:

Dear James,

Please find attached proposed letter.

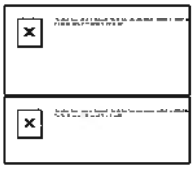
It's a quick draft and not yet finalised but your thoughts on the overall approach please.

Kind Regards

--
Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Tel: +350 2000 8140
Mob:+350 [redacted]



--
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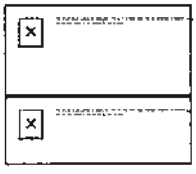

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2. ETB, BCA & Education

The following contractually agreed works for the ETB, BCA & Education projects have not been completed:

(i).....

Bland Limited's failure to complete the agreed works has resulted in HMGOG incurring significant costs in providing alternative facilities to the public.

Termination of Contracts

As more particularly set out above, Bland Limited has failed to perform its obligations under the Contracts and is therefore in repudiatory breach. These breaches have deprived HMGOG of substantially all the benefit of the Contracts. In the circumstances, please accept this letter as termination of the Contracts with immediate effect.

In addition, HMGOG also requests a refund for any sums paid towards the DSS project [specifics] within 14 days from the date hereof. Alternatively, please provide a proposal that would ensure the [first phase of the?] project is completed in a timely manner within the next 7 days.

Finally, we also understand that Bland Limited is claiming ownership of the NSCIS system code. As you are aware, HMGOG has paid approximately £500,000 for the design of the NSCIS platform and it was a condition of the contract that ownership would be transferred to HMGOG upon payment. We therefore request that either the system code to be handed over in full or that these payments be refunded to HMGOG within 14 days of the date hereof.

We reserve all our rights and remedies in relation to any or the breaches of the Contracts.

Yours faithfully

Y

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As more particularly set out above, Bland Limited has failed to perform its obligations under the Contracts and is therefore in repudiatory breach. These breaches have deprived HMGOG of substantially all the benefit of the Contracts. In the circumstances, please accept this letter as termination of the Contracts with immediate effect.

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Finally, we also understand that Bland Limited is claiming ownership of the NSCIS system code. As you are aware, HMGOG has paid approximately £500,000 for the design of the NSCIS platform and it was a condition of the contract that ownership would be transferred to HMGOG upon payment. We therefore request that either the system code to be handed over in full or that these payments be refunded to HMGOG within 14 days of the date hereof.

We reserve all our rights and remedies in relation to any or the breaches of the Contracts.

Yours faithfully

Y

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 13 September 2018 18:27
To: James Levy Qc
Subject: 36 North - Update to discuss with You

Dear James,

I had a call from John Perez this afternoon. He explained to me that you and he spoke about the situation at Blands and James G's attitude towards him and you and he agreed that temporarily John would not come into 36N as a director and shareholder until the situation with Blands is clearer. He told me he wants/needs to be active with customers on behalf of 36N and asked whether it would make sense to employ him in some other capacity (e.g. not as a director) at least for the short term so he could do so. We left it that I would get back to him after talking with you.

There follow my thoughts for discussion with you before I get back to John.

1. Liability. From the outset we were told by John and Tommy that 36N would not interefere with any of Blands' contracts as each job is a single contract. I do not to know to what extent, if at all, John solicited customers of Blands while still employed by Blands. If this did happen there could be a claim against John personally. If he did so on behalf of 36N, there could be a claim against 36N.

   If you are concerned about liability, we could have one of our litigators:
   - Meet John and Tommy and ascertain how much soliciting of Blands customers was done while they were Blands employees and, if so, whether it was done on behalf of 36N.
   - Evaluate whether on that basis there could be a claim against either/both of them personally and/or against 36N and if so what would be the quantum of liability.

2. Going forward. There are two immediate practical issues:
   - John wants/needs to be active straight away on behalf of 36N, e.g. pitching for new work.
   - He will need a mechanism for his remuneration having left Blands on 11 September.

   In my view, if John is going to be active with actual/potential customers on behalf of 36N and receive remuneration he might as well be a director/shareholder rather than an employee or consultant directly or indirectly via Tommy's company.

   So the choice is between:
   - Taking John fully on board now as a director and shareholder
     or
   - Deferring his start and meanwhile not having him work on behalf of 36, as if on gardening leave.

Can we discuss please? I said I would get back to John as soon as possible.

Best regards

David

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 13 September 2018 11:42
To: Trevor Rocca
Cc: James Levy Qc
Subject: Re: 36 North

Morning Trevor,

Please put this on hold for now until further notice.

Kind Regards

Tommy

On Thu, 13 Sep 2018, 11:32 Trevor Rocca, <trevor.rocca@hassans.gi> wrote:

Dear Thomas,

Trust all is well.

Can please confirm date of Johns appointment as director of 36 North.

Best Regards

Trevor Rocca

Hassans International Law Firm
59-63 Line Wall Road
Gibraltar GX11 1AA
Tel: +350 54036171
E-m: trevor.rocca@hassans.gi

Moshe Levy

From: Tommy 1 [redacted]
Sent: 06 October 2018 10:52
To: James Levy Qc
Subject: Fwd: Twitter
Attachments: 118100609322400529.png

FYI

---------- Forwarded message ---------
From: **Thomas Cornelio** [redacted]
Date: Sat, 6 Oct 2018, 10:42
Subject: Re: Twitter
To: Jonathan Galliano <jonathan.galliano@blandgroup.com>
Cc: <caine.sanchez@gibraltar.gov.gi>, Chairman <chairman@blandgroup.com>

Dear Jonathan,

As per my previous email Bland Limited has full access to all systems and third party credentials. Despite your veiled accusations there is nothing further for me to provide.

I note your insistence on the documentation but the fact is that wrongly or rightly this was not produced, nor was i requested to produce it during my time with the company.

Again I do not want any further involvement with these projects unless my time will be remunerated accordingly and outstanding invoices settled beforehand.

Kind Regards

Tommy

On Sat, 6 Oct 2018, 10:32 Jonathan Galliano, <jonathan.galliano@blandgroup.com> wrote:
Dear Tommy,

My sole concern is in the handover of all the platforms, systems and services so that there is minimal impact to the end user, client and national security. To that effect the outstanding points you raise in your last paragraph regarding leave and outstanding invoices has been escalated internally and will be addressed during the course of next week.

Returning to the handover of credentials and documentation. Gsuite admin account credentials for the mail servers of nscis.eu and frontierqueue.gi have nothing to do with domain names and records. Methods and API credentials/tokens to external systems are in the source code otherwise third party services would not be working. What is yet to be handed over is access to the management portals / accounts of these third party services. An example in case is the Twitter feed where we have API credentials on the system but authorisations are failing and they can only be rectified by using the registered account to verify or correct the account status. Service providers such as MessageBird, the new Hotline service among others have both API tokens and also portals to manage the account themselves.

Regardless of what service or system you may perceive Bland Ltd may or may not have access to, the provision of all accounts and credentials forms part of an orderly and timely handover process. I trust you will cooperate with this request in the public interests and of course National Security.

As head of the Bland Ltd software development team documentation would have been something you would have had direct ownership of, oversight on and responsibility to maintain. How no documentation or records, statement of works, current tasks working on and new features in the pipeline can exist at all is difficult to comprehend.

Regards
Jonathan

On 6 Oct 2018, at 09:27, Thomas Cornelio <[redacted]> wrote:

> Dear Jonathan,
>
> Please note that Bland Ltd never requested the production of any documentation, functional specs, operational processes and or procedures. Therefore such documents do not exist.
>
> With regards to access to the services described below you already have full control of the nscis.eu and frontierqueue.gi domains, don't see why you need my assistance to gain access to any account. Furthermore the logon credentials were provided along with the full system code. Note the Gendorize account is not used. In such circumstances I fail to see how you claim not to have access to certain accounts.
>
> I would once again reiterate that Bland Limited has not yet paid the outstanding invoice for all services provided during the month of August or my 25.5 days leave. Grateful if this could be addressed and that in future no further assistance is requested from me, unless Bland Limited will remunerate me accordingly.
>
> Kind Regards
>
> Tommy

> On Sat, 6 Oct 2018 at 09:00, Jonathan Galliano <jonathan.galliano@blandgroup.com> wrote:
> Morning Tommy.
>
> Look forward to receiving credentials and access to the Twitter account as the service stopped processing yesterday evening again due to authorisation errors.
>
> We do not have access to the majority of the third party provider service accounts and therefore request that all these credentials be handed over to us to ensure a smooth transition.
>
> I had already raised this point with Caine in a separate email so he is aware of what we currently have access to and what is still outstanding. Another example is the new hotline service that was introduced as recently as in August, Gsuite account for nscis.eu and frontierqueue.gi email service, MessageBird, Gendorize, AngelCam to name but a few. There are more.
>
> Documentation, functional specs, operational processes, procedures be it in electronic format or otherwise pertaining to all of the software projects also forms part of the handover process and therefore you are bound to transfer to Bland Ltd. This also must include a list and description of

outstanding requests, tasks currently being worked on and specs or description of new features and functionality agreed with clients that have not yet been delivered (with planned delivery dates).

Regards
Jonathan

On 5 Oct 2018, at 23:46, Thomas Cornelio <[redacted]> wrote:

> Dear Jonathan,
>
> I did advise that I would not help Blands any further however in the interests of the public and because you will not be able to resolve the matter without the BCA's twitter account credentials please take note of the following.
>
> I believe the Twitter service stopped functioning as a result of a new policy by Twitter which requires all existing developer accounts to go through a new application verification process (https://blog.twitter.com/developer/en_us/topics/tools/2018/new-developer-requirements-to-protect-our-platform.html). It appears that they provided a 90 day notice period but since no one monitors the mailbox linked to this Twitter account it would have gone unnoticed. I may be mistaken but i suspect this to be the reason why the service stopped tweeting out on the 27th September.
>
> The twitter account was registered with the email address bordersbcatwitter@gmail.com. I am attempting to gain access and as soon as I do I will provide the account details to you so that you can verify the account as required after which the service should automatically continue to tweet out.
>
> Please note there will be no further gestures of goodwill on my behalf, unless it relates to an account which you do not have access to such as per the scenario above in which case I am bound to transfer the account details to you. I can not think of any others though.
>
> Kind Regards
>
> Tommy

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Moshe Levy

From: Tommy 1 [redacted]>
Sent: 07 October 2018 09:41
To: Jonathan Galliano
Cc: Caine Sanchez; Chairman
Subject: Re: Twitter
Attachments: 118100612441900481.png; 118100612441900481.png

Dear Jonathan,

I handed my notice to Blands on the 9th July 2018 after which I continued to fully support Blands up to the 31st August 2018, the latter period of which I have still not been remunerated for. It is noteworthy that during this two month period Blands made no attempt to familiarise itself with any of its software platforms or dictate how the handover process should be carried out. In fact, I quote Mr Gaggero's comment "It's the Government's problem" - you were also present when he said this. Despite this, I proceeded to handover the projects and complied with all requests made to hand over credentials. Blands has always had full access to all platforms notwithstanding your claims. This is evident from the fact that you were able to assign administrative rights to your NSCIS user account shortly after my departure. In any event, Blands was and is the account owner of all third party services and could simply have reset credentials or used other available methods to easily gain access and bypass me entirely. Instead, however, Blands has continuously attempted to mitigate the failure of services through conveniently alleging it did not have access to certain accounts.

For the avoidance of doubt, therefore, please find below credentials requested:

[redacted]

[redacted]

message bird:

[redacted]

These software systems are administered by Blands and any issues should therefore be dealt with internally and not through recourse to me. I trust this is the end of the matter and look forward to hearing from Blands regarding my unpaid leave and outstanding invoice.

Kind regards

Tommy

On Sat, 6 Oct 2018 at 13:44, Jonathan Galliano <jonathan.galliano@blandgroup.com> wrote:
Dear Tommy,

There are no accusations and this is not a matter of goodwill but rather a process of handing over control of various systems which you have been ultimately in full control off.

To date Bland Ltd does not have on file or have received a complete list of credentials to all the systems and service providers used to support all these projects. This is a standard request and deliverable when handing over projects of this nature. I trust this list will therefore be forthcoming during the course of next week.

Your leave and outstanding invoice are personal matters to be taken directly with Bland Ltd and totally unrelated to the smooth transition and handover of full control of these projects. They are certainly not be used as leverage for goodwill on your part in what is a formal handover and direct instruction to handover full control. As mentioned in my earlier email I have already escalated your leave and invoice internally and you will hear more from Bland Ltd next week on this front.

Regards
Jonathan

On 6 Oct 2018, at 10:42, Thomas Cornelio <[redacted] wrote:

> Dear Jonathan,
>
> As per my previous email Bland Limited has full access to all systems and third party credentials. Despite your veiled accusations there is nothing further for me to provide.
>
> I note your insistence on the documentation but the fact is that wrongly or rightly this was not produced, nor was i requested to produce it during my time with the company.
>
> Again I do not want any further involvement with these projects unless my time will be remunerated accordingly and outstanding invoices settled beforehand.
>
> Kind Regards
>
> Tommy

On Sat, 6 Oct 2018, 10:32 Jonathan Galliano, <jonathan.galliano@blandgroup.com> wrote:

> Dear Tommy,
>
> My sole concern is in the handover of all the platforms, systems and services so that there is minimal impact to the end user, client and national security. To that effect the outstanding points you raise in your last paragraph regarding leave and outstanding invoices has been escalated internally and will be addressed during the course of next week.
>
> Returning to the handover of credentials and documentation. Gsuite admin account credentials for the mail servers of nscis.eu and frontierqueue.gi have nothing to do with domain names and records. Methods and API credentials/tokens to external systems are in the source code otherwise third party services would not be working. What is yet to be handed over is access to the management portals / accounts of these third party services. An example in case is the Twitter feed where we have API credentials on the system but authorisations are failing and they can only be rectified by using the registered account to verify or correct the account status. Service providers such as MessageBird, the new Hotline service among others have both API tokens and also portals to manage the account themselves.
>
> Regardless of what service or system you may perceive Bland Ltd may or may not have access to, the provision of all accounts and credentials forms part of an orderly and timely handover process. I trust you will cooperate with this request in the public interests and of course National Security.
>
> As head of the Bland Ltd software development team documentation would have been something you would have had direct ownership of, oversight on and responsibility to maintain. How no

documentation or records, statement of works, current tasks working on and new features in the pipeline can exist at all is difficult to comprehend.

Regards
Jonathan

On 6 Oct 2018, at 09:27, Thomas Cornelio [redacted]> wrote:

> Dear Jonathan,
>
> Please note that Bland Ltd never requested the production of any documentation, functional specs, operational processes and or procedures. Therefore such documents do not exist.
>
> With regards to access to the services described below you already have full control of the nscis.eu and frontierqueue.gi domains, don't see why you need my assistance to gain access to any account. Furthermore the logon credentials were provided along with the full system code. Note the Gendorize account is not used. In such circumstances I fail to see how you claim not to have access to certain accounts.
>
> I would once again reiterate that Bland Limited has not yet paid the outstanding invoice for all services provided during the month of August or my 25.5 days leave. Grateful if this could be addressed and that in future no further assistance is requested from me, unless Bland Limited will remunerate me accordingly.
>
> Kind Regards
>
> Tommy

> On Sat, 6 Oct 2018 at 09:00, Jonathan Galliano <jonathan.galliano@blandgroup.com> wrote:
> Morning Tommy.
>
> Look forward to receiving credentials and access to the Twitter account as the service stopped processing yesterday evening again due to authorisation errors.
>
> We do not have access to the majority of the third party provider service accounts and therefore request that all these credentials be handed over to us to ensure a smooth transition.
>
> I had already raised this point with Caine in a separate email so he is aware of what we currently have access to and what is still outstanding. Another example is the new hotline service that was introduced as recently as in August, Gsuite account for nscis.eu and frontierqueue.gi email service, MessageBird, Gendorize, AngelCam to name but a few. There are more.
>
> Documentation, functional specs, operational processes, procedures be it in electronic format or otherwise pertaining to all of the software projects also forms part of the handover process and therefore you are bound to transfer to

Bland Ltd. This also must include a list and description of outstanding requests, tasks currently being worked on and specs or description of new features and functionality agreed with clients that have not yet been delivered (with planned delivery dates).

Regards
Jonathan

On 5 Oct 2018, at 23:46, Thomas Cornelio [redacted] wrote:

> Dear Jonathan,
>
> I did advise that I would not help Blands any further however in the interests of the public and because you will not be able to resolve the matter without the BCA's twitter account credentials please take note of the following.
>
> I believe the Twitter service stopped functioning as a result of a new policy by Twitter which requires all existing developer accounts to go through a new application verification process (https://blog.twitter.com/developer/en_us/topics/tools/2018/new-developer-requirements-to-protect-our-platform.html). It appears that they provided a 90 day notice period but since no one monitors the mailbox linked to this Twitter account it would have gone unnoticed. I may be mistaken but i suspect this to be the reason why the service stopped tweeting out on the 27th September.
>
> The twitter account was registered with the email address bordersbcatwitter@gmail.com. I am attempting to gain access and as soon as I do I will provide the account details to you so that you can verify the account as required after which the service should automatically continue to tweet out.
>
> Please note there will be no further gestures of goodwill on my behalf, unless it relates to an account which you do not have access to such as per the scenario above in which case I am bound to transfer the account details to you. I can not think of any others though.
>
> Kind Regards
>
> Tommy

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Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 08 October 2018 19:56
To: James Levy Qc; David Weber
Cc: John Perez
Subject: Meeting
Attachments: 36 north limited - 8102018.pdf; 36 north limited - balance sheet.pdf; 36 north limited - cash summary.pdf; 36 north limited - profit loss.pdf

Gentlemen,

Attached please find a short agenda for tomorrows meeting at 10:15 AM.

I have also included our current **P&L** account, cash summary and balance sheet.

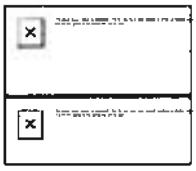
Looking forward to tomorrows meeting.

Kind Regards

--
Thomas Cornelio
Chief Technical Officer
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Tel: +350 2000 8140
Mob:+350 [redacted]



Agenda

1. Business update
2. Resources & Works
3. Projects in development, in the pipeline & business ideas.
4. Finances
5. Staff & Recruitment
6. Premises
7. Branding & Website
8. Any other business

Business Update

During the first two months of operation our efforts have mainly concentrated in assisting the Government in order to maintain and run its National Security platform as well as its ETB, Education & DSS projects.

As of the 5th October 2018 we were requested by the Government to stop all support offered to its various law enforcement agencies and departments. We have issued invoices for the works carried out, however so far payment has not been fourthcoming.

Despite the above we have actively been pursuing new contracts and working on our new Border Management solution which is now very close to competition. This solution has already been offered to the Government of Gibraltar as well as to two other countries and to Carnival Maritime Cruises.

Projects

SOFTWARE

1. HM GOG Border Management
2. Phoenix Border Management
3. Mobile Automated Number Plate Recognition Platform
4. Mobile Passport | ID | Travel Document Scanner
5. Sao Tome & Principe Phase 1 Border Management
6. Carnival Maritime Passenger Security Management System
7. DLT Exchange Trading Platform
8. DLT Mining
9. Social Media Data Mining
10. Department of Social Security Management Platform
11. Government Payment Gateway
12. DLT Carbon Trading Platform
13. Gibraltar Government – Innovative Lottery Platform
14. Gibraltar Mail – Locker Delivery Service
15. 199 Emergency Call Handler Platform
16. Gibraltar Business Cloud Based Payroll System
17. Insurance Compliance – Vehicle & Vessel Government Management System
18. Super Yacht Clearance Software
19. Equatorial Guinea – Border Management Platform

CONSULTANCY

1. Renewal energy cable project
2. Ferry – Gibraltar Morocco Trade Opportunities
3. Africa/Morocco Tobacco Export
4. Wastage Disposal Morocco
5. Energy China – Infrastructure & Development Projects Africa
6. Indigo Hotel Project
7. Gibraltar Capsule Experience
8. HeliPortugal – Transit & VIP Tours
9. Civil Contingency
10. Sales Support – Sky Sipience – Hovermast Capability
11. Phoenix Border Management System – British Independent Territories

Finances

We had hoped to be in a better financial position at this moment in time, however unfortunately contracts have not come our way as promptly as we had initially anticipated, our overall outlook remains very positive and we are actively pursuing a wide range of projects which have significant profit potential for us.

Both John Perez and myself are happy to decrease our salaries by 50% until such time that the business performs as forecasted.

Attached please find our current P&L account, cash summary and balance sheet.

Staff & Recruitment

36N has recruited two talented software engineers, both of whom commenced their employment on the 1st September 2018. John Perez also started his employment as our CEO on the 11th September 2018.

We shortly hope to be in a position to take on at least a further two developers in order to strengthen our position and be able to deliver projects in a timely manner. We will also need to establish a small technical team, initially recruiting a single technician to carry our daily onsite physical tasks.

Premises

Our current contract at World Trade Center expires in February 2019, we are inclined to vacate the office and move to a more permanent address.

Branding & Website

It is critical that we complete our branding exercise and have our coporate website up and running as soon as possible.

We have already commenced works and have purchased a suitable template for the design of our website. We are also considering purchasing the 36north.com domain at a cost of $5000 however there is no urgency for this.

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 09 October 2018 13:22
To: David Weber
Cc: John Perez; James Levy Qc
Subject: Re: Draft letter to GOG
Attachments: picture (device independent bitmap) 1.jpg; picture (device independent bitmap) 1.jpg

Dear David,

Thanks for this, I have now issued the letter to Caine.

KR

Tommy

On Tue, Oct 9, 2018 at 12:15 PM David Weber <David.Weber@hassans.gi> wrote:

Dear John and Tommy
Draft letter as discussed.
Best regards
David

David Weber
Hassans
International Law Firm
57/63 Line Wall Road
Gibraltar

M: (+350) [redacted]
T: (+350) 200 79000
DD: (+350) 200 51912 (ext 448)
F: (+350) 200 71966
W: www.gibraltarlaw.com

Draft

Dear Caine

I refer to your call on 5 October 2018 instructing me with immediate effect to cease provision of all services related to the NSCIS platform as well as ETB, education and DSS projects. In fact, as you are aware, our provision of support ended on 31 August 2018 and neither Icode Limited nor Thomas Cornelio have ongoing responsibilities to support these programs.

Yours faithfully

For and on behalf of
Icode Ltd

c.c. J Gaggero, Bland Limited

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 29 October 2018 18:45
To: James Levy Qc
Subject: 36 North - Drawdown Request
Attachments: image001.jpg; image001.png; image002.jpg; image004.jpg; image005.jpg

Dear James,

There is potentially an "out" for material adverse change (see below) in the Loan Agreement if you want to avoid having to advance the requested second drawdown of £150,000; but it would mean pulling the plug on the new business and writing off the existing drawdown of £150,000 and would trigger the commitment of Hassans to take over John and Tommy's consultancies of and bring them onto Hassans staff.

Tommy has indicated that we will receive a new 12 month cash flow forecast tomorrow.

Please let me know whether you want to trigger the "out".

Best regards

David

"**Material Adverse Change**" means any event or circumstance occurring after the date of this Agreement which materially and adversely affects (i) the business or financial or trading condition or prospects of the Borrower, or (ii) its ability to perform its obligations under this Agreement. Without prejudice to the generality of the foregoing, a Material Adverse Change shall be deemed to have occurred if for any period of three months commencing at least three months after the date of this Agreement the pre-tax net cash flow of the Borrower (disregarding loan disbursements and repayments) is forecast to be or shall have been negative;

From: Thomas Cornelio [mailto:thomas.cornelio@36north.io]
Sent: 29 October 2018 09:47
To: David Weber
Cc: James Levy QC; John Perez
Subject: Re: Drawdown Notice

Morning David,

Will certainly provide this, currently significantly tied up working on projects but will get this to you by tomorrow morning at the latest.

Kind regards

Tommy

On Mon, Oct 29, 2018 at 9:32 AM David Weber < > wrote:

Dear Tommy

Thank you for your mail. Please send an updated cash flow statement for the next 123 months as provided in the loan facility agreement.

Best regards

David

David Weber
Hassans
International Law Firm
57/63 Line Wall Road
Gibraltar

M: (+350) [redacted]
T: (+350) 200 79000
DD: (+350) 200 51912 (ext 448)
F: (+350) 200 71966
W: www.gibraltarlaw.com

From: Thomas Cornelio [mailto:thomas.cornelio@36north.io]
Sent: 29 October 2018 09:25
To: David Weber
Cc: James Levy QC; John Perez
Subject: Drawdown Notice

Dear David,

Attached please find our second loan funding request.

Please note that we are working tirelessly to ensure that no further requests will be required and to commence paying back the amount loaned so far which we will hopefully be able to settle relatively quickly.

As you are aware both John and myself have halved our salaries as from last month to ensure that the business is in a better financial position until the contracts we are pursuing come in.

Kind regards

Moshe Levy

From: James Levy Qc </o=first organization/ou=first administrative group/cn=recipients/cn=james.levy>
Sent: 08 November 2018 16:48
To: David Weber
Subject: RE: 36 North - Drawdown Request
Attachments: image001.jpg; image002.jpg

Dear David

I think we have no option but to proceed.

Please let me know what you think.

Kind regards

James

From: David Weber
Sent: 29 October 2018 18:45
To: James Levy QC
Subject: 36 North - Drawdown Request
Importance: High

Dear James,

There is potentially an "out" for material adverse change (see below) in the Loan Agreement if you want to avoid having to advance the requested second drawdown of £150,000; but it would mean pulling the plug on the new business and writing off the existing drawdown of £150,000 and would trigger the commitment of Hassans to take over John and Tommy's consultancies of and bring them onto Hassans staff.

Tommy has indicated that we will receive a new 12 month cash flow forecast tomorrow.

Please let me know whether you want to trigger the "out".

Best regards

David

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From: Thomas Cornelio [mailto:thomas.cornelio@36north.io]
Sent: 29 October 2018 09:47
To: David Weber
Cc: James Levy QC; John Perez
Subject: Re: Drawdown Notice

Morning David,

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 08 November 2018 17:16
To: James Levy Qc
Subject: RE: 36 North - Drawdown Request
Attachments: image001.jpg; image002.jpg

Dear James,

Tommy says depending on the outcome of your meeting with the CM they may not need to draw down. Did the meeting take place?

Best regards

David

From: James Levy QC
Sent: 08 November 2018 16:48
To: David Weber
Subject: RE: 36 North - Drawdown Request

Dear David

I think we have no option but to proceed.

Please let me know what you think.

Kind regards

James

From: David Weber
Sent: 29 October 2018 18:45
To: James Levy QC
Subject: 36 North - Drawdown Request
Importance: High

Dear James,

There is potentially an "out" for material adverse change (see below) in the Loan Agreement if you want to avoid having to advance the requested second drawdown of £150,000; but it would mean pulling the plug on the new business and writing off the existing drawdown of £150,000 and would trigger the commitment of Hassans to take over John and Tommy's consultancies of and bring them onto Hassans staff.

Tommy has indicated that we will receive a new 12 month cash flow forecast tomorrow.

Please let me know whether you want to trigger the "out".

Best regards

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 16 November 2018 15:27
To: James Levy Qc
Subject: 36N Drawdown
Attachments: image001.png

Dear James,

I have reviewed the documents sent by Tommy today.

First, you have no legal obligation to make a drawdown, as the Loan Agreement's 'Material Adverse Change' condition to each drawdown has clearly been triggered by the loss of the GOG contract and the resulting negative cash flow. Whether to make the loan is therefore a question of whether you still believe in the company's prospects.

Secondly, the forecast assumes a dramatic rate of increase of revenue over the coming months – from zero in October to £1,500 in November and forecasted to increase to £207,075 in December and with a very large spike to £468,275 in April. Let me know if you would like me to ask John and Tommy to come in to discuss the basis of the forecasts.

Thirdly, the £150,000 drawdown requested is clearly much more than the Loan Facility Agreement provides. Under the Loan Facility Agreement, the borrower can request an amount equal to the forecast negative cash flow of the immediately following month. On Tommy's numbers I believe this would give rise to a November drawdown of £8,112. If in December the forecast negative cash flow is the same as now there would be a December drawdown of £41,749. If subsequent forecasts are unchanged there would be drawdowns in January of £8,530 and February of £1,335 and the loan which by February would have reached £209,726 (including the £150,000 lent in October) would be repaid in March and April 2019.

If you are minded to continue to support the company, I suggest:

1. We ask John and Tommy to come in to discuss the basis of the forecasts so we can see if they are robust.
2. If you are satisfied with the forecasts, I recommend the Material Adverse Change condition should be waived only on an individual monthly drawdown basis, consistent with the terms of the Loan Facility Agreement, so you can reconsider at any time in the light of monthly cash flow forecasts as required by the Loan Facility Agreement,
3. In compliance with the Loan Facility Agreement, instead of advancing £150,000 in November you make monthly advances equal to the forecast cash flow at the time of each monthly drawdown request, perhaps if you think fit with a small margin.

Best regards

David

David Weber
Hassans International Law Firm
Madison Building, MidTown
Gibraltar GX11 1AA

T: (+350) 5600 1266
W: www.gibraltarlaw.com

From: Thomas Cornelio [mailto:thomas.cornelio@36north.io]
Sent: 12 November 2018 09:35
To: David Weber <David.Weber@hassans.gi>

Cc: James Levy QC <james.levy@hassans.gi>; John Perez <john.perez@36north.io>
Subject: Re: Drawdown Notice

Morning David,

Attached please find our latest cash flow forecast for the next 12 months as well the following reports showing all our expenses and revenue in detail to date:

1. Profit & Loss
2. Cash Summary
3. Balance Sheet

Note that I have deducted all revenue from GoG projects that we had anticipated to come over, we are now projecting for these to come back to us during the month of January. We are hopeful that these could come back earlier than this but it also remains a possibility that they may not come at all, at the moment it remains out of our control. We continue to have the full support of all key system stakeholders, a final decision on this is however currently still outstanding.

We are working tirelessly on other opportunities also to ensure that our forecast will remain positive should a worst case scenario materialize.

Kind regards

Tommy


Virus-free. www.avast.com

On Mon, Oct 29, 2018 at 9:24 AM Thomas Cornelio <thomas.cornelio@36north.io> wrote:

Dear David,

Attached please find our second loan funding request.

Please note that we are working tirelessly to ensure that no further requests will be required and to commence paying back the amount loaned so far which we will hopefully be able to settle relatively quickly.

As you are aware both John and myself have halved our salaries as from last month to ensure that the business is in a better financial position until the contracts we are pursuing come in.

Kind regards

--
Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 19 November 2018 13:49
To: James Levy Qc
Subject: 36N Drawdown

Dear James

This message received today from Tommy re salaries for November.

Hi David, we do have an issue to cover salaries this month. Do you believe the fund request will be actioned in time? Thanks

Regarding your question, the text of the Hassans letter states:

The Company's business plan contemplates the Company breaking even within 6 months after today's date. However, like all new business ventures there is an element of risk. Accordingly, and to provide you with an element of security, in the event the Company ceases trading within a period (the "Relevant Period") of 3 years commencing on today's date, Hassans would by mutual agreement between us take you onto our staff as full time consultants for the balance of the Relevant Period in each case at an annual consultancy fee of £300,000 gross or offer you a suitable alternative post.

Despite the 'by mutual agreement' qualification in the wording, in my view the letter does rise to a legal obligation, more likely enforceable by damages than by specific performance although the possibility of the latter cannot be ruled out.

I am of course at your disposal if you would discuss this mail or my mail below.

Best regards

David

From: James Levy QC <james.levy@hassans.gi>
Date: Monday, 19 Nov 2018, 12:55 pm
To: David Weber <David.Weber@hassans.gi>
Subject: RE: 36N Drawdown

Dear David

Thanks for your email of earlier. I will review and perhaps we can discuss further next week.

Perhaps in advance of our discussion, you can consider the potential effect a Material Adverse Change would have vis a vis the Hassans Letter relating to their consultancies.

Kind regards

James

From: David Weber
Sent: 16 November 2018 15:27
To: James Levy QC <james.levy@hassans.gi>
Subject: 36N Drawdown
Importance: High

Dear James,

I have reviewed the documents sent by Tommy today.

First, you have no legal obligation to make a drawdown, as the Loan Agreement's 'Material Adverse Change' condition to each drawdown has clearly been triggered by the loss of the GOG contract and the resulting negative cash flow. Whether to make the loan is therefore a question of whether you still believe in the company's prospects.

Secondly, the forecast assumes a dramatic rate of increase of revenue over the coming months – from zero in October to £1,500 in November and forecasted to increase to £207,075 in December and with a very large spike to £468,275 in April. Let me know if you would like me to ask John and Tommy to come in to discuss the basis of the forecasts.

Thirdly, the £150,000 drawdown requested is clearly much more than the Loan Facility Agreement provides. Under the Loan Facility Agreement, the borrower can request an amount equal to the forecast negative cash flow of the immediately following month. On Tommy's numbers I believe this would give rise to a November drawdown of £8,112. If in December the forecast negative cash flow is the same as now, there would be a December drawdown of £41,749. If subsequent forecasts are unchanged, there would be drawdowns in January of £8,530 and February of £1,335 and the loan which by February would have reached £209,726 (including the £150,000 lent in October) would be repaid in March and April 2019.

If you are minded to continue to support the company, I suggest:

1. We ask John and Tommy to come in to discuss the basis of the forecasts so we can see if they are robust.
2. If you are satisfied with the forecasts, I recommend the Material Adverse Change condition should be waived only on an individual monthly drawdown basis, consistent with the terms of the Loan Facility Agreement, so you can reconsider at any time in the light of monthly cash flow forecasts as required by the Loan Facility Agreement,
3. In compliance with the Loan Facility Agreement, instead of advancing £150,000 in November you make monthly advances equal to the forecast cash flow at the time of each monthly drawdown request, perhaps if you think fit with a small margin.

Best regards

David

From: Thomas Cornelio [mailto:thomas.cornelio@36north.io]
Sent: 12 November 2018 09:35
To: David Weber <David.Weber@hassans.gi>
Cc: James Levy QC <james.levy@hassans.gi>; John Perez <john.perez@36north.io>
Subject: Re: Drawdown Notice

Morning David,

Attached please find our latest cash flow forecast for the next 12 months as well the following reports showing all our expenses and revenue in detail to date:

1. Profit & Loss

2. Cash Summary
3. Balance Sheet

Note that I have deducted all revenue from GoG projects that we had anticipated to come over, we are now projecting for these to come back to us during the month of January. We are hopeful that these could come back earlier than this but it also remains a possibility that they may not come at all, at the moment it remains out of our control. We continue to have the full support of all key system stakeholders, a final decision on this is however currently still outstanding.

We are working tirelessly on other opportunities also to ensure that our forecast will remain positive should a worst case scenario materialize.

Kind regards

Tommy



On Mon, Oct 29, 2018 at 9:24 AM Thomas Cornelio <thomas.cornelio@36north.io> wrote:

Dear David,

Attached please find our second loan funding request.

Please note that we are working tirelessly to ensure that no further requests will be required and to commence paying back the amount loaned so far which we will hopefully be able to settle relatively quickly.

As you are aware both John and myself have halved our salaries as from last month to ensure that the business is in a better financial position until the contracts we are pursuing come in.

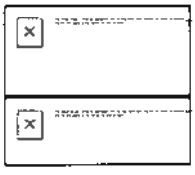
Kind regards

--

Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Tel: +350 2000 8140
Mob:+350 [redacted]



Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 21 November 2018 14:28
To: Thomas Cornelio
Cc: James Levy Qc; John Perez; Javier Chincotta
Subject: 36N Drawdown
Attachments: image001.png

Dear Tommy,

In our call today, I confirmed that James wishes to support the project notwithstanding the triggering of the 'Material Adverse Change' drawdown condition by the loss of the GOG contract and resulting negative cash flow.

We discussed the estimated cash flows in our call and settled on a funding requirement of £50,000 (taking account of the £25,000 which you indicated is in the bank) to cover the November and December 2018 deficits.

As indicated, the lender is willing to waive the 'Material Adverse Change' condition for the limited purpose of the present £50,000 drawdown and without prejudice to its right to re-assess whether to make further drawdowns if or when a further drawdown is requested.

If you are in agreement with the foregoing, please send us a signed drawdown request notice for £50,000.

Best regards

David

David Weber
Hassans International Law Firm
Madison Building, MidTown
Gibraltar GX11 1AA

T: (+350) 5600 1266
W: www.gibraltarlaw.com

From: Thomas Cornelio [mailto:thomas.cornelio@36north.io]
Sent: 12 November 2018 09:35
To: David Weber <David.Weber@hassans.gi>
Cc: James Levy QC <james.levy@hassans.gi>; John Perez <john.perez@36north.io>
Subject: Re: Drawdown Notice

Morning David,

Attached please find our latest cash flow forecast for the next 12 months as well the following reports showing all our expenses and revenue in detail to date:

1. Profit & Loss
2. Cash Summary
3. Balance Sheet

Note that I have deducted all revenue from GoG projects that we had anticipated to come over, we are now projecting for these to come back to us during the month of January. We are hopeful that these could come back earlier than this but it also remains a possibility that they may not come at all, at the moment it remains out of our control. We continue to have the full support of all key system stakeholders, a final decision on this is however currently still outstanding.

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 21 November 2018 14:33
To: David Weber
Cc: James Levy Qc; John Perez; Javier Chincotta
Subject: Re: 36N Drawdown
Attachments: image001.png

Dear David,

Thank you for your very clear email.

This is now our third month into the new venture and we are working around the clock to build up the business and I believe we have a lot to be excited about.

Note that we have not lost the Government national security contract, this is pending a decision from the CM and we have the full support of all stakeholders so we remain very confident that this will come. We are also currently marketing our platform internationally.

Kind regards

Tommy

On Wed, 21 Nov 2018, 14:23 David Weber <David.Weber@hassans.gi wrote:

Dear Tommy,

In our call today, I confirmed that James wishes to support the project notwithstanding the triggering of the 'Material Adverse Change' drawdown condition by the loss of the GOG contract and resulting negative cash flow.

We discussed the estimated cash flows in our call and settled on a funding requirement of £50,000 (taking account of the £25,000 which you indicated is in the bank) to cover the November and December 2018 deficits.

As indicated, the lender is willing to waive the 'Material Adverse Change' condition for the limited purpose of the present £50,000 drawdown and without prejudice to its right to re-assess whether to make further drawdowns if or when a further drawdown is requested.

If you are in agreement with the foregoing, please send us a signed drawdown request notice for £50,000.

Best regards

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 24 January 2019 12:31
To: James Levy Qc
Cc: David Weber; Javier Chincotta; John Perez
Subject: 36N Board
Attachments: 36 north cash flow - jan 19 to dec 19.pdf; 36 north cash flow - jan 19 to dec 19.xlsx; 36 north limited - 24012019 - meeting agenda.pdf; 36 north limited - balance sheet - jan 19.pdf; 36 north limited - cash summary - jan 19.pdf; 36 north limited - profit and loss - jan 19.pdf; drawdown request 23012019 - 36n.pdf

Dear James,

In preparation for our meeting this afternoon I have prepared a board pack. Attached please find the following documents:

1. Meeting Agenda
2. Cash Flow Forecast (pdf & excel formats)
3. P&L Account
4. Cash Summary
5. Balance Sheet
6. Draw down Request
7. Environment Contract - Upper Rock Nature Reserve System

Please note that I have placed a significant amount of effort on the environment contract in recent days and I believe it is a comprehensive document based on a good legal agreement template document. It has been reviewed briefly by my wife and she is happy with it.

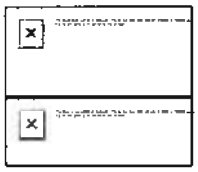
I look forward to our meeting later on today so that we can discuss the progress we have made and how we are preparing for a profitable 2019.

Kind regards

--
Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Tel: +350 2000 8140
Mob:+350 [redacted]



Agenda

1. Business update
2. Projects in development, on hold & business ideas.
3. Finances
4. Staff & Recruitment
5. Premises
6. Branding & Website
7. Any other business

Business Update

Our primary focus is currently with the complete overhaul of the Gibraltar Nature Reserve tourism product. An extensive contract has been prepared and can be found together with this board pack. Great effort has gone into this as it has great potential. The project requires a very significant investment in time with several cross platform software projects currently under development. Good progress has been made so far and an update is scheduled with Min Cortes for this afternoon.

We are currently catching up for lost time spent working on the national security, DSS, Education, BCA & Employment software, for which we received no renumeration for. However we remain quietly confident that these projects will come to us in the near future and boost our forecasted recurring revenue. All HMGOG heads of department continue to express their wishes that this projects are run by our team.

The overall aim is to ensure we have a significant international portfolio, a significant amount of effort is therefore going into ensuring that this is indeed the case.

Projects

SOFTWARE

In Development

1. Environment – Upper Rock Nature Reserve Ticket Management System & Environmental Portal

   The proposal was presented and endorced by Min Cortes and subsequently the CM. The system adds much needed control to the current cash/ticket system in place. It will generate very good revenue for the Government at no cost. We will earn 8.75% per ticket. Work for this project has already begun, with a live date of 1 Apr 19. The project is a very significant undertaking and requires a significant amount of hardware integration.

2. Phoenix Border Management – International (HMGOG, Sao Tome, Cameroon, Equatorial Guinea)

   We still remain confident that our Phoenix Border System will at some point be taken up by HMGOG, as the land border with Spain will be critical and all systems are currently vulnerable or not operational.

   Phoenix is now ready for operational deployment including the integration of mobile scanners and biometric hardware. Proposals have been sent to Cameroon, Equatorial Guinea and Tanzania. We are currently awaiting letters of Invitation in order to aquire visas. The first visit will be Equatorial Guinea 9 -14 Feb 19.

During a recent trip to Serbia, John briefed the National Security Advisor. Arrangements are being made to present to the Serbian and Montenegro Ministers responsible for Border Security.

A proposal bas been sent to the Deputy Premier of the British Virgin Islands (BVI) who has informed us that he will table our proposal with the Governor and the National Security Committee.

The following nations have also recently expressed Ian interest. Mauritania, Guinea Bissau and Gambia. Communication with the relevant administrations has started.

Pipeline

3. HMGOG Licensing Software

   Proposal has been submitted at a cost of £8k a month for a minimum period of 3 years. This project is designed to implement efficiency and increase revenue to the Ministry of Transport as the current system is currently manual and ineffective. A meeting with Min Balaban took place on the 14 Jan 19 in which he confirmed his support for the project and has applied for funding approval.

4. Mobile Automated Number Plate Recognition Platform
5. Mobile Passport | ID | Travel Document Scanner
6. DLT Exchange Trading Platform - Arbitrage
7. Social Media Data Mining
8. DLT Carbon Trading Platform
9. HMGOG Innovative Lottery Platform
10. Gibraltar Mail – Locker Delivery Service
11. 199 Emergency Call Handler Platform
12. Gibraltar Business Cloud Based Payroll System
13. Insurance Compliance – Vehicle & Vessel Government Management System
14. Civil Contingency & Disaster Management

    A proposal has been sent and approved by the Civil Contingency Minister. The module will cost £2K a month. Awaiting 2019/20 Goverment Budget approval. This is only the first of a series of modules.

15. Gibraltar Savings Bank
16. Phoenix Border Management System – British Independent Territories
17. GSLA Online Bookings
18. E-Visas Project
19. GHA WhatsApp Service
20. HMGOG Wireless Emergency Alert System
21. Gib Taxi Mobile | Online Booking Service

On Hold

1. HM GOG Border Management – National Security
2. Department of Social Security Management Platform
3. Government Payment Gateway
4. Education Student Management System
5. ERASMUS – HMGOG Employment Information Management System

6. Carnival Maritime Passenger Security Management System
7. Super Yacht Clearance Software

CONSULTANCY

1. Renewal energy cable project

   Masen Maroc has formally acknowledged their desire to provide Gibraltar with Renewable Energy. Two Chinese companies are willing to provide financing and carry out the surveys and subsequent works which are forecasted to cost in the region of £100M (Approximate guess). The terms of such a lending are still to be finalised as we seek clarity from the Government of Gibraltar as to how they wish to proceed. A long term business concept as part of an inward investment strategy needs to be discussed. A meeting with Minister Bossano is being arranged.

2. Kings Lines Oil & Fuel Depot (KLOFD)

   I recently met a group of business interlockers who represent a series of international Chinese energy and investment companies. They have recently delivered £2.5Bn of works in Serbia across various business sectors. Prior to our meeting they had conducted a thorough feasibility study of Gibraltar's economic potential. Bunkering and fuel storage is a key area of interest. Their intent is to provide fuel to the West which is currently deposited in Israel. KLOFD has previously been the subject of much interest with several extensive "fit for purpose" studies carried out in the process. I firmly believe, with the right investment and management, it can add growth to a GDP sector of our economy which is slightly strained at the moment. A without prejudice meeting has been arranged with CBF, who is interested, for the 30th Jan. The interlockers are now in possesion of all the necessary paperwork and engaged in a Q&A exercise.

3. Gibraltar Shopping Experience

   On the same note, the same business interlockers were keen to introduce the "mama shelter" concept to Gibraltar. The concept is centred on creating an urban environment experience. There are mama shelters in London, Paris, Prague, Rio, Los Angeles and Belgrade. The concept is centred on accommodation and restaurant facilities and modelled to cater for the business needs of the environment. In Belgrade it boasted all the top shopping brands which is also catered for in the model. There are no mama shelters in Spain or Morocco or a concentrated area of high street luxury brands to create a unique shopping experience. I do believe that a concept like this can work in Gibraltar, especially if the location is right. I have enquired about the old HMS Rooke site and the proposed Mariott Hotel location.

4. Ferry – Gibraltar Morocco Trade Opportunities
5. Wastage Disposal Morocco
6. Energy China – Infrastructure & Development Projects Africa
7. St Michael's Cave Experience

   This project has now been approved by Minister Cortes and has a proposed live date of 5 May 19. In partnership (50%) with Wright Tech, we are working with Projection Artworks a UK company to deliver a world class experience at St Michael's Cave using the latest projection mapping technologies. We still await the capital costs associated with the project, to complete our business case. The cave has a throughput just short of a million visitors a year. 36 North is expecting to generate around £500k a year from this project starting in May 2019.

8. Civil Contingency
9. Climate Finance

We are currently part of a working group consisting of Hassans and the Ministry of Environment. Our aim is to conceptually develop a niche market opportunity which is centred around blockchain from which we can trade carbon/energy related assets.

10. Moneycorp Coin Processing
11. Fin Tech Compliance

In partnership with the Albany Group we will be offering Gib companies on line KYC,EDD and CFT services. An initial meeting was held with GIB and a demo has been arranged for 1100hrs on Fri 25 Jan 19. We would like to offer this service to line Group and Abacus. It is also our intention to target the DLT industry. Introductions are welcomed.

12. Guinea Bissau

Mr Joao Bernando Vieira, the spokesperson of PAIGC and member of Politburo, will be visiting Gibraltar on 29 Jan for a demo of our Phoenix Border Management system. Mr Vieira is the nephew of the ex President of Guinea Bissau who served for a period of 25 years and is extremely well connected in West African region.

Finances

We had hoped to be in a better financial position at this moment in time, however we are now on the virge of signing several very lucrative contracts, with significant works already undertaken. We are also confident that initially forecasted projects will come to 36N in the not to distant future. This will result in a monthly recurring cash flow that is far higher than had been initially been anticipated.

Our cash flow forecast shows that even despite a rocky start, we should be in a strong position towards the end of 2019, with all loans paid back by November 2019 and with ~£400,000 in the bank available for dividends and R&D.

Both John Perez and myself continue to be on 50% reduced salaries and will continue to do so until the business performs as forecasted so as to prevent any further strain on the business during these initial stages.

Attached please find our current cash flow forecast, P&L account, cash summary and balance sheet.

A drawdown notice for £100,000 is also attached to this board pack. These funds will allow us to continue operating until our cash flow kicks in during April 2019.

Staff & Recruitment

Our two talented and highly skilled recruits continue to exceed our expectations and are extremely hard working. Any on site hardware installations have been sub contracted and this arrangement is working well for us thus far.

In order to deliver on our future project roadmap we will recruit at least one additional developer as from May 2019 when our revenue is forecasted to significantly increase.

Premises

Our current contract at World Trade Center expires in August 2019, we plan to move into larger offices as of September 2019.

Branding & Website

Our branding exercise and coporate website will be up and running as soon as we have finalised the software for the upper rock nature reserve which is scheduled for completion by the 1st April 2019.

36 North Ltd
Cash Flow Forecast
Jan 19 - Dec 19

	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Total	
Opening bank balances	20,527	(12,885)	53,703	20,266	60,160	103,862	163,190	196,692	226,470	259,522	292,600	331,139		
Income - Tech														
National Security				65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000	585,000	For GoG contracts
Dept. of Employment				3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	27,000	cash receipt assumed
Dept. of Education				775	775	775	775	775	775	775	775	775	6,975	1 month following sale
BCA scanners				400	400	400	400	400	400	400	400	400	3,600	
BCA mobile scanners				1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	9,000	
Gibair (IATA)				800	800	800	800	800	800	800	800	800	7,200	
URNR ANPR	500	500	500	750	750	750	750	750	750	750	750	750	8,250	
BCA upgrades				30,000									30,000	
Superyacht development/m'tce						55,000	1,850	1,850	1,850	1,850	1,850	1,850	66,100	
Licencing software				8,000	8,000	8,000	8,000	8,000	8,000	8,000	8,000	8,000	72,000	
Gib Cloud Payroll									500	550	600	700	2,350	
Mobile ANPRs						750	750	750	750	750	750	750	5,250	
Cameroon BMS						1,000	1,000	1,000	1,000	1,000	1,000	1,000	7,000	
Equatorial Guinea BMS						1,000	1,000	1,000	1,000	1,000	1,000	1,000	7,000	
Civil Contingency				2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	18,000	
URNR Ticketing					41,666	41,666	41,666	41,666	41,666	41,666	41,666	41,666	333,328	
	500	500	500	111,725	123,391	181,141	127,991	127,991	128,491	128,541	128,591	128,691	1,188,053	
Income - Consultancy														
GoG environmental consultancy	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	18,000	
Money Corp				2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	18,000	
	1,500	1,500	1,500	3,500	3,500	3,500	3,500	3,500	3,500	3,500	3,500	3,500	36,000	
Total income	2,000	2,000	2,000	115,225	126,891	184,641	131,491	131,491	131,991	132,041	132,091	132,191	**1,224,053**	
Expenditure														
Payroll:														
Directors	25,000	25,000	25,000	25,000	25,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	475,000	
Employees	6,125	6,125	6,125	6,125	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	104,500	
Social Insurance	522	522	522	522	696	696	696	696	696	696	696	696	7,655	
	31,647	31,647	31,647	31,647	35,696	60,696	60,696	60,696	60,696	60,696	60,696	60,696	587,155	
Premises:														
Rent	1,050	1,050	1,050	1,050	1,050	1,050	1,050	3,500	2,450	2,450	2,450	2,450	20,650	
Furniture								5,000					5,000	
	1,050	1,050	1,050	1,050	1,050	1,050	1,050	8,500	2,450	2,450	2,450	2,450	25,650	
Travel Expenses:														
Travel & accommodation costs	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000	
Entertainment	200	200	200	200	200	200	200	200	200	200	200	200	2,400	
	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	14,400	
Telecoms & IT:														
Internet and hosting	300	300	300	300	300	300	300	300	300	300	300	300	3,600	
Computer consumables	100	100	100	100	100	100	100	100	100	100	100	100	1,200	
Software licences	100	100	100	100	100	100	100	100	100	100	100	100	1,200	
	500	500	500	500	500	500	500	500	500	500	500	500	6,000	
Advertising & Marketing:														
Advertising & Marketing	500	500	500	500	500	500	500	500	500	500	500	500	6,000	
	500	500	500	500	500	500	500	500	500	500	500	500	6,000	
Legal & Professional:														
Legal fees	500	500	500	500	500	500	500	500	500	500	500	500	6,000	
Audit & accountancy						1,500							1,500	
	500	500	500	500	500	2,000	500	500	500	500	500	500	7,500	
Other expenses:														
Bank charges	15	15	40	40	40	40	40	40	40	40	40	40	430	
	15	15	40	40	40	40	40	40	40	40	40	40	430	
Capital Expenditure:														
Computers					4,000								4,000	
					4,000								4,000	
Dividends														
Total expenditure	35,412	35,412	35,437	35,437	39,486	65,986	64,486	71,936	65,886	65,886	65,886	65,886	**647,135**	
Draw down / (repayment) of facility	200,000	100,000		39,894	43,703	59,328	33,503	29,778	33,053	33,078	27,666		(0)	
Closing bank balance	***(12,885)***	***53,703***	***20,266***	***60,160***	***103,862***	***163,190***	***196,692***	***226,470***	***259,522***	***292,600***	***331,139***	***397,444***		
	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19		

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 19 February 2019 14:05
To: James Levy Qc
Subject: Letter Before Action
Attachments: preaction letter v1 19.2.19.pdf

Dear James

Please find attached final draft of the Letter Before Action for your review and comment. In particular, note the potential sensitivity regarding references to the CM's meeting with Gaggero.

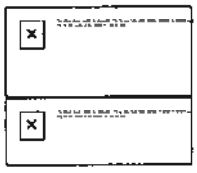
I would like to issue the letter as soon as possible and would welcome your comments. Happy to discuss further.

Kind regards

--
Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Tel: +350 2000 8140
Mob:+350 [redacted]



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Bland Limited
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PO Box 212
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GX11 1AA

Attn: Mr James Gaggero

19 February 2019

Dear Sirs

Outstanding Invoice no. 0002 dated 30 August 2018

We refer to the above matter and write further to the previous correspondence between our Mr Thomas Cornelio and your Mr James Gaggero and Mr Philip Navas. We would emphasise that this letter is being sent to you in accordance with the Practice Direction on Pre-Action Conduct and Protocols ("the Pre-Action Protocol"). In particular, we would refer you to paragraphs 13 to 16 of the Pre-Action Protocol concerning the Court's powers to impose sanctions for failing to comply with its provisions.

Circumstances resulting in the Debt becoming payable

Following the end of Mr Cornelio's employment with Bland Limited, you requested on 10th August 2018 that Mr Cornelio continue to run and maintain all your software platforms with Her Majesty's Government of Gibraltar ("HMGOG") on your behalf. This included:

1. Maintenance of Gibraltar's National Security Platform and cloud-based hardware and software services ("NSCIS Platform")
2. Maintenance of HMGOG Department of Employment software, ERASMUS
3. Maintenance of HMGOG Department of Education software
4. Maintenance of Borders and Coastguard Agency software
5. Maintenance and development of HMGOG Department of Social Security software

Collectively, "the HMGOG Projects"

On 10th August 2018, Mr Gaggero emailed Mr Cornelio and stated as follows:

> *"On the basis that you are no longer an employee I agree that we will settle any additional hours you have to work to ensure the operational reliability of the NSCIS*

platform so that national security is not undermined... I will be happy to pay you a per diem rate based on your current salary to get us through to a final agreement, which I trust won't be long in coming."

Mr Cornelio did not accept the terms of Mr Gaggero's offer and instead proposed:

"I will wait for the outcome of your meeting with the CM on Monday. We can then review this. At what time is your meeting? Hopefully we will have a clear path forward after this meeting has taken place on whatever is decided."

As evident from the above correspondence, it was Mr Cornelio's intention to negotiate the terms of the agreement with you once Mr Gaggero had met with the Chief Minister and the parties had clarification on how and by whom the HMGOG Projects would be managed in future. Mr Gaggero, however, either did not meet with the Chief Minister or did not provide Mr Cornelio with the clarification he had sought and the negotiations did not progress further.

To ensure that the HMGOG Projects continued to run smoothly, and, in particular, so that Gibraltar's national security was not compromised, iCode Limited continued to run the HMGOG Projects on your behalf between 11th August 2018 and 31st August 2018 ("the Relevant Period") as requested. Work carried out during the Relevant Period included (but was not limited to):

1. **NSCIS Platform**

    a. Providing support to all law enforcement departments and users, including several meetings and 24-hour support offered via email and voice calls.
    b. Assisting law enforcement in critical and time-sensitive cases in order to identify wanted individuals.
    c. Management of all system modules and services.
    d. Extensive development and testing of new system work flows in order to patch significant issues affecting the automated number plate recognition system, including the manual processing of thousands of entries affected by the system outage.

2. **Department of Employment – ERASMUS**

    a. Handling queries raised by HMGOG Digital Services team.
    b. Providing daily support to departmental staff including on site meetings, and support over email and voice calls.
    c. Provision and delivery of urgently requested custom reports.
    d. Change of system workflows to accommodate staff requirements.
    e. Bespoke and time-consuming solutions in relation to urgent requests made for parliamentary proceedings.

3. **Department of Education – Scholarship System**

    a. Providing daily support to departmental staff, including several meetings and support provided over email and voice calls.
    b. Provision of custom reports.
    c. Development of urgent works requested in order to assist with new student awards for the year.

d. Bespoke solution for invoicing, student contracts, document processing, letter management, tax department integration and payment voucher management

4. **Borders and Coastguard Agency**

a. Handling queries and providing daily support to departmental staff, inclusive of on-site meetings and support provided via email and voice calls.
b. Providing support and assistance on various mobile passport scanner issues experienced by staff.
c. Technical assistance on site outage, in particular at the cruise terminal.
d. Hardware support at the land border for vehicle and pedestrian crossing.
e. Provision of support to out of hours requests for remote system management and accessibility.

5. **Department of Social Security**

a. Working with the senior team at the department inclusive of several on site meetings.
b. Provision of services for urgent requests made directly by the ministry.
c. Integration with the HMGOG Housing Department information management system.
d. Urgent works pursuant to government policy for the deduction of rent from the existing Personal Cash Account platform.

All new projects for iCode Limited were on hold during the Relevant Period as Mr Cornelio's time was spent running and maintaining the HMGOG Projects as set out above. You will appreciate that this represented a significant loss of earnings for iCode Limited at a crucial stage of its development.

On 30th August 2018, Mr Cornelio provided Mr Gaggero with notice that iCode Limited would no longer continue to support the HMGOG Projects in any capacity as of 00:00 on 1st September 2018. Mr Cornelio emphasised that he had not yet been informed of how HMGOG wanted the HMGOG Projects managed in future and that this uncertainty combined with the breakdown in the parties' working relationship meant that iCode Limited could no longer continue to run the HMGOG Projects on your behalf. Mr Cornelio stressed that iCode Limited expected to be fairly remunerated for the substantial services provided during the Relevant Period and informed Mr Gaggero that he would shortly be receiving an invoice in this regard.

Mr Gaggero responded on the same day as follows:

> *"Like you I find myself awaiting the outcome of HMGoG's decision as to how they wish to proceed…On a more positive note the Peter Canessa has only just this afternoon confirmed that the CM is ready to meet me and a date has been set immediately following his return to Gib next week. More anon…*
>
> *…In the meantime I reiterate my appreciation for all you have done to ensure that the NSCIS platform has operated without a single discernible problem since you left the company. Thank you. I will make it plain to the CM the extent of your unfailing commitment during this period.*
>
> *In return I will of course honour my commitment to you to settle your fees for carrying out these services. And will ensure prompt payment the moment you submit your*

invoice... Again with many thanks for all you have done to assist the Government and ourselves during this difficult period."

It is evident from Mr Gaggero's email that at that stage he had not yet met the Chief Minister and/ or provided Mr Cornelio with the clarification he had sought in order to negotiate iCode Limited's fees for running the HMGOG Projects. It is also evident that Mr Gaggero was satisfied with the services rendered by iCode Limited during the Relevant Period and, as such, reiterated his commitment to ensure prompt payment of fees.

Following Mr Gaggero's assurances, iCode Limited sent Invoice 0002 on Thursday 30th August 2018 to both Mr Gaggero and Mr Navas in his capacity as Financial Controller. This invoice was calculated pursuant to Mr Cornelio's current salary and also includes fees for services provided out-of-hours and for Mr Cornelio's 24/7 availability for support and maintenance enquiries. The invoiced amount also takes into account the uncertain and time pressured arrangement between the parties, the risk and liability for iCode Limited in running and maintaining the HMGOG Projects, and iCode Limited's loss of earnings during the Relevant Period. It is iCode Limited's position that the invoiced amount is fair and proportionate in the circumstances.

On 31st August 2018, Mr Navas emailed Mr Cornelio and stated:

"...the invoice does not seem to reflect the agreed terms put forward by the Chairman in his email to you dated 10 August 2018 at 20:08:16 CEST.I would very much appreciate if the invoice can be reviewed, adjusted and re-sent based upon the terms clearly laid out in the aforementioned email communication."

Mr Cornelio subsequently replied:

"I am not aware of any agreed terms between myself and the chairman in respect of fees. On the email specified I can see that the chairman advised what he would be happy to pay, however this was obviously not agreed to.

The invoice has been reviewed, it takes into consideration the full responsibility, liability and work load taken on by continuing to work on and supporting all the eGov platforms (DSS, ETB, EDUCATION, BCA & NSCIS), furthermore it reflects the cost of having to put on hold working on projects for my new venture as a result of assisting Bland Limited during this difficult period of time.

I believe the invoice to be fair and proportionate."

Further correspondence between the parties ensued and Mr Gaggero subsequently informed Mr Cornelio that:

"The fact that you undertook to carry out the services provided (regarding NSCIS) on the basis of a clearly stated offer implies that you accepted my offer.

It is therefore not acceptable to unilaterally alter our agreement without bringing to my attention so much as a hint of your dissatisfaction during this period. Accordingly I am unwilling to settle your invoice as submitted.

I assure you I will honour my commitment to pay you on the basis laid out in my email of 10th August..."

Mr Cornelio responded as follows:

"You are fully aware that I never accepted your offer, in fact my suggestion was that we discuss this.

I am disappointed that despite the goodwill shown over the past three weeks you are once again refusing to pay for my time.

Since you have refused to pay the full invoice amount I am left with no alternative but to escalate the matter as appropriate."

Without prejudice to our contention that Mr Gaggero's offer was not accepted, it is noteworthy that at no point did he ask Mr Cornelio for information as to his current salary in order to affirm the terms of his offer or subsequently make payment pursuant to these terms. iCode Limited relies on this as further evidence that an agreement had not been concluded between the parties as Mr Gaggero was at all material times unaware of Mr Cornelio's current salary and the extent of your potential liability in fees to iCode Limited.

Payment of the Debt

iCode Limited sent invoice reminders to Mr Navas, on the following dates: 30th August 2018; 10th September 2018; 17th September 2018; 21st September 2018; 30th September 2018; 30th October 2018; 10th November 2018; 28th November 2018; 9th December 2018; 12th December 2018; 2nd January 2019; 7th January 2019; 8th January 2019; 9th January 2019; 13th January 2019; 16th January 2019; 18th January 2019; 21st January 2019; 24th January 2019; 7th February 2019; 11th February 2019; 18th February 2019. To date, you have refused to pay the Debt (or make any part payments towards payment of the Debt) and did not engage in any further correspondence save to say that iCode Limited should commence legal proceedings for recovery of the Debt.

In the circumstances, you are indebted in the sum of £48,685.28 plus interest from 1 September 2018 in the sum of £2,007.41 ("the Debt"). The Debt is payable immediately and does not include costs. Interest will continue to accrue at a daily rate of £11.67 per day calculated on an interest rate of 8% over the Bank of England base rate. An up to date Statement of Account is enclosed for ease of reference.

The Debt should be paid in full directly to iCode Limited pursuant to the payment details set out in Invoice No.002.

Relevant Documents

We enclose the following copy documents that are relevant to the Debt:

i. Correspondence between iCode Limited and Bland Limited;
ii. iCode Invoice No.002 dated 31st August 2018; and
iii. Up to date Statement of Account for the Debt.

Should you have any difficulty in identifying a document referred to in this letter please let us know.

Next Steps

An acknowledgment to this letter should be provided within 14 days and your full response should be provided no later than 21 days from the date hereof, namely by Tuesday 12th March 2019.

We reserve all our rights, including the right to commence legal proceedings against you (if necessary and appropriate without further notice to you) to obtain a Court judgment requiring you to pay the Debt plus interests and costs.

Yours faithfully

ICODE LIMITED

iCode Limited

Enc.

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 20 February 2019 11:43
To: James Levy Qc
Subject: Re: Letter Before Action
Attachments: image001.jpg; image002.jpg

Dear James,

Thank you for your measured reply.

Please give me a call when you have a 5 minute window so that we can discuss this and proceed accordingly.

Kind regards

Tommy

On Wed, Feb 20, 2019 at 11:39 AM James Levy QC <james.levy@hassans.gi> wrote:

Dear Tommy

Thank you for your e-mail of the 19th February.

The letter before action is perfectly in order. My concern is that I do not think you should throw the first bomb on this matter. I would prefer to wait for a week or so to see if we can get clarification of Government's attitude towards you and 36 North Limited.

Happy to discuss the matter with you over the phone.

Kind regards

James

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 19 February 2019 14:05
To: James Levy QC <james.levy@hassans.gi>
Subject: Letter Before Action

Dear James

Please find attached final draft of the Letter Before Action for your review and comment. In particular, note the potential sensitivity regarding references to the CM's meeting with Gaggero.

I would like to issue the letter as soon as possible and would welcome your comments. Happy to discuss further.

Kind regards

--

Thomas Cornelio, CTO
36 NORTH Limited

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 13 May 2019 15:50
To: James Levy Qc; David Dumas Qc
Subject: 36 North Limited

Privileged & Confidential

Dear James and David

Here is some background information and some immediate observations on the situation:

1. Shareholdings. Hassans through Astelon Ltd (a Hassans owned SPV) has a 50% shareholding in 36N Ltd, the remaining shares being held by TC.
   Under the SHA the shares were to be held 1/3 each between JP, TC and Astelon, but no shares have so far been issued to JP.

2. Directors. The sole director is TC, as JP has not yet been brought formally into 36N Ltd. Astelon has the right to nominate a director but has not yet exercised that right and meanwhile has the right to appoint an observer at board meetings.

3. Loan Facility. There was no payment for the acquisition of Asteleon's shareholding but Astelon granted 36N a a ?1m loan facility and has so far made loans totalling ?400,000 under it. While further advances might be requested under the loan facility, and they would have to be looked at on the merits at the time, the loan agreement contains both Material Adverse Change and Event of Default protections for the lender which would most likely allow Astelon to refuse to make further advances if there has been misbehaviour.

4. Civil actions against JP and TC. Representations were made by them to Hassans at the time of the formation of the JV in the form of a cash flow projection was produced by JP and TC for Hassans. That projection proved to be materially optimistic as key government orders were not forthcoming. Oral representations were made by JP and TC to JL and DHW during the negotiations that 36N would not use IP belonging to their former employer nor did the former employer have any term contracts with customers with which the new business might be claimed to be interfering. JP and TC confirmed that there were no post employment non-compete covenants.

Best regards

David

Moshe Levy

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 12 September 2019 20:04
To: David Weber
Cc: James Levy Qc; John Perez
Subject: Cash Flow Forecast
Attachments: 36 north cash flow - sept 19 to aug 20.pdf; 36 north cash flow - sept 19 to aug 20.xlsx

Dear David,

Please find attached the cash flow forecast for 36N for the period Sept 2019 - Oct 2020. When reviewing this please take the following into consideration:

1. STP set as £40k per month. Based on current tourist numbers, this may be closer to ~£60k per month.
2. Cave Experience set as £42k per month, based on current numbers it may be in the region of £61k per month.
3. JURA, due to a price increase by HMGOG in April 2020, this project will invoice at least £70k per month as from then. Note that in October we will receive payments for August, September and October. I have set this at £115k, however there is a very high chance this could in fact be well over, in the region of £180k depending on actual tourist numbers. For the financial year 20/21 JURA alone is expected to generate over £1m in revenue for us.

The forecast uses conservative estimates and shows 36N with a healthy £243k in the bank by month end August 2020 with the £476k loan fully paid. I would realistically expect an additional £500k in revenue based on my comments above which I have not included into the forecast, this would obviously further improve the cash flow.

Note that September is an expensive month as I need to make a one off £38k payment to the tax office as well as pay John and myself August's salary as we have not received any payment since June. This has all been modeled into the forecast for your review.

Please also note that our website is now live, I have provided this in several languages since our target market is international. You can review this at https://www.36north.io/

Happy to answer any questions you may have. I trust that you can appreciate that even despite the unfortunate events which have been unfairly brought upon us, we have still managed to pull through and secure three very significant contracts which has required monumental efforts. These accomplishments in themselves shows that if 36N is able to achieve this at the worst of times, it can no doubt achieve far more when there are better times to be had.

Kind regards

Tommy

--

Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

36 North Ltd
Cash Flow Forecast
Sep 19 - Aug 20

	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Total
Opening bank balances	3,000	(30,201)	44,322	32,845	18,968	22,223	38,548	51,573	67,867	86,362	108,907	133,462	
Income - Tech													
Nexus Border Management - STP						40,000	40,000	40,000	40,000	40,000	40,000	40,000	280,000
URNR ANPR	1,250	1,250	1,250	1,250	1,250	1,250	1,250	1,250	1,250	1,250	1,250	1,250	15,000
Gibraltar VET Clinic	190	190	190	190	190	190	190	190	190	190	190	190	2,280
Devils Gap CCTV Maintenance	95	95	95	95	95	95	95	95	95	95	95	95	1,140
Gib Cloud Payroll									500	550	600	700	2,350
Nexus Border Management - Guinea Bissau						25,000	25,000	25,000	25,000	25,000	25,000	25,000	175,000
JURA		115,000	20,000	17,500	17,500	17,500	25,000	40,000	50,000	70,000	80,000	85,000	537,500
CCTV & Building Access Control		500	500	1,000	1,000	1,500	1,500	2,000	2,000	2,500	2,500	2,500	17,500
The Cave Experience					42,000	42,000	42,000	42,000	42,000	42,000	42,000	42,000	336,000
Traffic & Parking Management								1,000	1,500	1,500	1,500	1,500	7,000
DLT Artificial Intelligence Engine - BOT							1,000	1,000	1,000	1,000	1,000	1,000	6,000
JURA Hardware Repayments (60k owed)		3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	33,000
Income - Consultancy													
GoG environmental consultancy	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	18,000
Total income	3,035	121,535	26,535	24,535	66,535	132,035	140,535	157,035	168,035	188,585	198,635	203,735	1,430,770
Expenditure													
Payroll:													
Directors	50,000	25,000	25,000	25,000	25,000	25,000	50,000	50,000	50,000	50,000	50,000	50,000	475,000
Employees	7,000	7,000	7,000	7,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	108,000
Social Insurance	522	522	522	522	696	696	696	696	696	696	696	696	7,655
Tax Owed	37,674												37,674
	95,196	32,522	32,522	32,522	35,696	35,696	60,696	60,696	60,696	60,696	60,696	60,696	628,329
Premises:													
Rent	1,575	1,575	1,575	1,575	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	26,300
	1,575	1,575	1,575	1,575	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	26,300
Travel Expenses:													
Travel & accommodation costs	5,000	5,000											10,000
Entertainment	100	100	100	100	100	100	100	100	100	100	100	100	1,200
	5,100	5,100	100	100	100	100	100	100	100	100	100	100	11,200
Telecoms & IT:													
Internet and hosting	300	300	300	300	300	300	300	300	300	300	300	300	3,600
Computer consumables	100	100	100	100	100	100	100	100	100	100	100	100	1,200
Software licences	100	100	100	100	100	100	100	100	100	100	100	100	1,200
CCTV & Access Control Equipment	4,000	200	200	600	600	750	750	900	900	1,200	1,200	1,200	12,500
	4,500	700	700	1,100	1,100	1,250	1,250	1,400	1,400	1,700	1,700	1,700	18,500
Advertising & Marketing:													
Advertising & Marketing	500	500	500	500	500	500	500	500	500	500	500	500	6,000
Website	3,000												3,000
	3,500	500	500	500	500	500	500	500	500	500	500	500	9,000
Legal & Professional:													
Legal fees	500	500	500	500	500	500	500	500	500	500	500	500	6,000
Audit & accountancy	100	100	100	100	100	100	100	100	100	100	100	100	1,200
Cave Experience Loan (£600k) 10 Yrs @ 9.9%					7,750	7,750	7,750	7,750	7,750	7,750	7,750	7,750	62,000
JURA Comission		6,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	26,000
	600	6,600	2,600	2,600	10,350	10,350	10,350	10,350	10,350	10,350	10,350	10,350	95,200
Other expenses:													
Bank charges	15	15	15	15	15	15	15	15	15	15	15	15	180
	15	15	15	15	15	15	15	15	15	15	15	15	180
Capital Expenditure:													
JURA Equipment	1,750												1,750
	1,750												1,750
Dividends													
Total expenditure	112,236	47,012	38,012	38,412	50,261	50,411	75,411	75,561	75,561	75,861	75,861	75,861	790,459
Draw down / (repayment) of facility	400,000 76,000				13,019	65,299	52,099	65,179	73,979	90,179	98,219	18,025	0
Closing bank balance	*(30,201)*	*44,322*	*32,845*	*18,968*	*22,223*	*38,548*	*51,573*	*67,867*	*86,362*	*108,907*	*133,462*	*243,311*	
	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20	

Moshe Levy

From: David Weber </o=first organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=david.webberbc5>
Sent: 16 September 2019 21:19
To: James Levy Qc
Subject: Cash Flow

Dear James

Lesley has sent a mail with some minor comments on the loan agreement - no need for you to spend time on them I will address them.

I would appreciate your guidance on one point, however. Lesley asks about the costs of the supplemental loan agreement so it can be factored into the cash flow.

The cost of the supplemental loan agreement will be modest, but there is also the question of the cost of the original transaction which under the SHA was to be billed to 36N Ltd.

At the time we didn't bill our fees as it would only have increased the loan. My question is whether when the loan has been paid off you would expect some part of the cash flow to be used to pay the original transaction costs at the same time as 50% surplus cash flow is being used to pay the deficit in the executive salaries?

Please can I have a steer from you.

Best regards

David

From: Lesley-Ann Saez <[redacted]>
Date: Monday, 16 Sep 2019, 8:48 pm
To: David Weber <David.Weber@hassans.gi>
Cc: Thomas Cornelio <thomas.cornelio@36north.io>, John Perez <john.perez@36north.io>
Subject: Re: Cash Flow

Dear David

Thank you for your emails and the draft agreement provided.

Our comments on the draft agreement are as follows:

- Clause 1.2: should the definition not be "Final Repayment Date" and not "Final Maturity Date"? It appears to be defined as Final Repayment Date in the Facility Agreement and in Clause 3.1 of the draft.
- Clause 3.1: we would wish to add words to the effect of "...unless otherwise agreed by the parties in writing" at the end of the sentence.
- Clause 3.2: as envisaged in the Cash Flow Forecast, we would want to clarify that the first of such pre-payments is to commence within 15 days of 31 January 2020.
- Clause 5.5: whilst we are happy with the wording of the written consents, please note that John is still abroad and will begin travelling back Tuesday evening with little to no internet access. Whilst all other signed documents can be provided sooner, the earliest I can get John's signed consent letter to you will be Thursday/Friday this week. We hope that this will not delay matters.
- Clause 8: we would be grateful if you could clarify the extent of the costs referred to or provide an estimate so that this can be factored in.

I trust that the amendments are uncontroversial but please do not hesitate to contact me should you wish to discuss.

I look forward to hearing from you.

Kind regards

Lesley

On Mon, Sep 16, 2019 at 7:09 PM David Weber <David.Weber@hassans.gi> wrote:

Dear All,

Thank you Tommy for the cash flow. I have attached it to the loan agreement.

Lesley, I also added a paragraph at the end of the agreement on costs.

If you are content, please sign the loan agreement in two duplicates, initial each page (including the cash flow schedule). I would appreciate if Lesley could arrange to have the originals sent to Midtown marked for my attention along with the signed consents in the form set out in clause 5. I will then arrange signature by Astelon Ltd and disbursement of funds.

Best regards

David

From: Thomas Cornelio <thomas.cornelio@36north.io>
Sent: 16 September 2019 17:20
To: David Weber <David.Weber@hassans.gi>
Cc: Lesley-Ann Saez <[redacted]>; John Perez <john.perez@36north.io>
Subject: Cash Flow

Dear David,

Attached please find amended cash flow with the requested changes in line with the new loan agreement.

Kind regards

--

Thomas Cornelio, CTO
36 NORTH Limited

World Trade Centre,
6 Bayside Road,
Gibraltar, GX11 1AA

Tel: +350 2000 8140
Mob:+350 [redacted]4



Moshe Levy

From: James Levy Qc </o=first organization/ou=first administrative group/cn=recipients/cn=james.levy>
Sent: 05 December 2019 10:03
To: David Weber
Subject: RE: 36 North and Astelon Ltd

Dear David
Thank you for your e-mail.
I think it would be harsh on them to send them a bill at this point. I think we will have to wait for them to receive more income before billing.
Let's discuss.
Kind regards
James

From: David Weber
Sent: 29 November 2019 15:42
To: James Levy QC
Subject: 36 North and Astelon Ltd
Dear James,
You will recall Tommy mentioned that they expect to start payments in December. I propose we send an invoice for the legal fees to date so the amount can be recorded in the 36N accounts for the current year. Currently WIP and disbursements are:
36N: WIP £49,812 Disbursements £499. Total £50,311.
Astelon Ltd: WIP £34,250.
Total billable amount: £84,561.
Please let me know whether you are going to put any more time on either folio before I issue the invoice. You recorded 10 hours on 36N and 22 hours on Astelon.
Best regards
David

INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

EXHIBIT HJML3 TO THE
WITNESS STATEMENT OF JAMES LEVY CBE KC
DATED 31 OCTOBER 2022

In The

Magistrates' Court, 32-36 Town Range, Gibraltar.

On Thursday 7th May 2020

Warrant to Enter and Search A Premises – Single Premises
Criminal Procedure and Evidence Act 2011, Schedule 1, Paragraph 12(a)

An application having been made by Detective Sergeant Paul Clarke of the Royal Gibraltar Police, I am satisfied that:-

The first set of access conditions specified in Paragraph 2 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are satisfied, and, that at least one of the further conditions set out in Paragraph 14 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are also fulfilled.

That there is at:-

Hassans International Law Firm, Madison Building, Midtown, Queensway, Gibraltar

material likely to be relevant evidence which is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

Authority is hereby given for any Constable to enter within one month from the date of this warrant the said premises and to search them and to seize material in respect of which the application is made.

The Constable may be accompanied by up to six other Constables or designated persons.

STIPENDIARY MAGISTRATE * GIBRALTAR *

Signature of Judge/Magistrate .....

Date 7th May 2020.

In The Magistrates' Court, 32-36 Town Range, Gibraltar.

Information in support of application for a 'Single Premises' search warrant

Criminal Procedure and Evidence Act Schedule 1 Paragraph 12(a) (first set of access conditions)

The information of Detective Sergeant Paul Clarke of the Royal Gibraltar Police, who upon oath states that:-

(a). There are reasonable grounds for believing:-

i. That an indictable offence has been committed, namely Conspiracy to Defraud contrary to Common Law;

ii. That there is material to which this information relates which consists of Special Procedure Material or includes Special Procedure Material and does not include Excluded Material on the premises specified in the application; or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify);

iii. That the material is likely to be of substantial value to the investigation in connection with which the application is made; and

iv. That the material is likely to be relevant evidence.

(b). Other methods of obtaining the material have not been tried because it appeared they were bound to fail;

(c). It is in the public interest, having regard:-

i. To the benefit likely to accrue to the investigation if the material is obtained; and

ii. To the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given.

AND that of the further conditions mentioned in para 12(a)(ii) of Schedule 1 of the Act, namely:-

a). that it is not practicable to communicate with any person entitled to grant entry to the premises to which the application relates;

b). that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material;

c). that the material contains information which;
i) is subject to a restriction or obligation such as is mentioned in section 15(2)(b) of the Criminal Procedure and Evidence Act 2011; and
ii) is likely to be disclosed in breach of it if a warrant is not issued;

d). that the service of notice of an application for an order under paragraph 4 of Schedule 1 to the Act may seriously prejudice the investigation.

The further conditions at **b & d,** above apply.

The material to which this application relates is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

The premises to which this application relates is:-

Hassans International Law Firm, Madison Building, Midtown, Queensway, Gibraltar

Signature of officer applying — Date 07/05/2020

Signature of officer approving application (Inspector or above) — Date 07/05/2020

Craig Goldwin

Name of officer approving application

ENDORSEMENT

(To be returned to the court of issue with the original copy of the Warrant)

1 The following items / No items* were found at:

.....

....

2 The following items other than items which were sought were seized
No other item was seized*

3 The search was conducted on (date) .....
between ..... am / pm* and ..... am / pm*
by (name all officers present)

4 A copy of this warrant was handed to the occupier / person in charge of the premises / left on the premises* (specify whereabouts)

Signature of Constable ..... Date .....

Name, Rank, No .....

Unit to which attached .....

* Delete as applicable

In The

Magistrates' Court, 32-36 Town Range, Gibraltar.

On Thursday 7th May 2020

Warrant to Enter and Search A Premises – Single Premises
Criminal Procedure and Evidence Act 2011, Schedule 1, Paragraph 12(a)

An application having been made by Detective Sergeant Paul Clarke of the Royal Gibraltar Police, I am satisfied that:-

The first set of access conditions specified in Paragraph 2 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are satisfied, and, that at least one of the further conditions set out in Paragraph 14 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are also fulfilled.

That there is at:-
[redacted]

material likely to be relevant evidence which is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

Authority is hereby given for any Constable to enter within one month from the date of this warrant the said premises and to search them and to seize material in respect of which the application is made.

The Constable may be accompanied by up to six other Constables or designated persons.

STIPENDIARY MAGISTRATE * GIBRALTAR *

Signature of Judge/Magistrate ..... Date 7th May 2020

In The Magistrates' Court, 32-36 Town Range, Gibraltar.

Information in support of application for a 'Single Premises' search warrant

Criminal Procedure and Evidence Act Schedule 1 Paragraph 12(a) (first set of access conditions)

The information of Detective Sergeant Paul Clarke of the Royal Gibraltar Police, who upon oath states that:-

(a). There are reasonable grounds for believing:-

i. That an indictable offence has been committed, namely Conspiracy to Defraud contrary to Common Law;

ii. That there is material to which this information relates which consists of Special Procedure Material or includes Special Procedure Material and does not include Excluded Material on the premises specified in the application; or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify);

iii. That the material is likely to be of substantial value to the investigation in connection with which the application is made; and

iv. That the material is likely to be relevant evidence.

(b). Other methods of obtaining the material have not been tried because it appeared they were bound to fail;

(c). It is in the public interest, having regard:-

i. To the benefit likely to accrue to the investigation if the material is obtained; and

ii. To the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given.

AND that of the further conditions mentioned in para 12(a)(ii) of Schedule 1 of the Act, namely:-

a). that it is not practicable to communicate with any person entitled to grant entry to the premises to which the application relates;

b). that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material;

c). that the material contains information which;
i) is subject to a restriction or obligation such as is mentioned in section 15(2)(b) of the Criminal Procedure and Evidence Act 2011; and
ii) is likely to be disclosed in breach of it if a warrant is not issued;

d). that the service of notice of an application for an order under paragraph 4 of Schedule 1 to the Act may seriously prejudice the investigation.

The further conditions at **b, & d,** above apply.

The material to which this application relates is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

The premises to which this application relates is:-

[redacted]

Signature of officer applying — Date 07/05/2020

Signature of officer approving application (Inspector or above) — Date 07/05/2020

Craig Goodwin.

Name of officer approving application

ENDORSEMENT

(To be returned to the court of issue with the original copy of the Warrant)

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by (name all officers present)

4 A copy of this warrant was handed to the occupier / person in charge of the premises / left on the premises* (specify whereabouts)

Signature of Constable ..... Date .....

Name, Rank, No .....

Unit to which attached .....

* Delete as applicable

Lewis Baglietto QC

From: Lewis Baglietto QC
Sent: 12 May 2020 23:03
To: (EUID) Llamas QC, Michael
Subject: James Levy
Attachments: Scanned from a Xerox Multifunction Printer.pdf

Dear Attorney

I write on behalf of my firm's senior partner James Levy QC in relation to the attendance of RGP at his home and office addresses earlier today.

The officers who attended informed him that they were investigating the offence of conspiracy to defraud in connection with the dishonest obtaining of a maintenance contract relating to the NCSIS platform. They told him, *in terrorem,* that they were in possession of a search warrant (although they left with him a copy of a *proforma* relating to section 21 warrants of arrest, it is plain that the warrant which they claim to have had must have been a section 12 warrant), and told him that unless he cooperated, the warrant would be executed. As you would expect of a person of Mr Levy QC's stature and standing, he agreed to cooperate. He permitted them to enter his home address, and to search it, which they did. Despite threatening to execute the warrant, the police officers declined to provide him with a copy, even though they left the *proforma*. They seized an ipad, and then left to search his office. At Hassans' offices, they entered his personal office, and asked for his iphone and copies of documents. Again, Mr Levy QC agreed to cooperate, and provided his phone, with the sim card removed (so as to allow him to continue to work).

I am extremely concerned by the apparent gross abuse of power that this conduct amounts to, and that the RGP has seen fit to proceed in this manner. Although Mr Levy has asked me to confirm that the officers in attendance were personally courteous to him at all times, it is absolutely unconscionable that they should have threatened to execute a warrant in order to secure entry so that police search powers could be used. Moreover, it is completely inexplicable how the RGP could have thought that any warrant was proper, let alone that any court could have considered that the statutory pre-conditions for the issue of a warrant were met. The issue of a warrant was unnecessary, oppressive and highly distressing to Mr Levy and his family. It directly impugned Mr Levy's reputation and dignity as an officer of the court, the senior partner of Gibraltar's largest law firm and a highly respected member of the local community. Putting aside the ridiculous notion that he is suspected of having been involved in this serious criminal activity, it is not even clear that a production order under section 13 could have been properly obtained. How could it have even been properly suggested that entry to the premises would not be granted unless a warrant was produced, or that the purpose of a search would be frustrated or seriously prejudiced?

Mr Levy and my firm are, in addition, highly aggrieved at the fact that the RGP have taken Mr Levy's tablet and mobile telephone, which, as you will appreciate, contain a vast amount of privileged and irrelevant information to which the RGP is clearly not entitled as a matter of trite law. Although the RGP undertook to engage an independent counsel in the UK to examine the material for LPP, this completely fails to provide the necessary assurances that LPP material, or unrelated personal, private and privileged information, will be adequately protected. Not only was the material not 'blue-bagged' in his presence (presumably because the RGP intend to copy the device thereafter elsewhere) but the exercise appears to be intended to be carried out outside Gibraltar.

As you know, legal professional privilege is sacrosanct. The prohibition on the production of privileged material in the Criminal Procedure Act and under the general law are total and the firm's many clients are entitled to have the protection of their privileged and confidential affairs guaranteed in any disclosure process.

I am therefore writing to you in your capacity as guardian of the public interest to seek your urgent intervention with a view to ensuring that all the seized material is returned forthwith. Notwithstanding Mr Levy's open and sincere cooperation (which continues), the RGP were simply not entitled to take the material. To the extent that RGP wishes to obtain the material afresh, then consideration should be given by it to the making of a proper *inter partes* section 13/Schedule 1 production order application.

To that end, I would be grateful if you could give me the opportunity to urgently meet with a view to further discussing the above concerns with you and the RGP. I would venture to say that we are dealing with a serious abuse of law and power here.

Kind regards,

Lewis Baglietto

GDPR IMPORTANT CHANGES TO OUR PRIVACY POLICIES

We have updated our Privacy Policy in line with the GDPR. This document explains how and why we collect, store, use and share personal data and it explains your rights, and how to contact us or supervisory authorities if you have a complaint. Please read it carefully. To find out more please visit our website to view our Privacy Policy.

This e-mail is confidential and may also be privileged. If you are not the intended recipient, please notify us immediately by return e-mail or by calling +350 20070000. You should not copy it or use it for any purpose nor disclose its contents to any other person. It is also recommended that any attachments in this message be scanned prior to opening, as we cannot accept liability for any loss or damage caused by software viruses.

Royal Gibraltar POLICE | *Delivering a Safer Gibraltar through Excellence in Policing*

Crime Division

New Mole House, Rosia Road, Gibraltar • Tel 200 52181 • Centrex 2340 • www.police.gi

12th May 2020

VOLUNTARY ATTENDANCE FOR POLICE INTERVIEW UNDER CAUTION

You are not obliged to say anything unless you wish to do so, but what you say may be put into writing and given in evidence.

The RGP are investigating offences against Part 15 of the Crimes Act 2011 (Computer Misuse) and Conspiracy to Defraud. This follows a complaint made in 2018.

In October 2018 Bland Limited uncovered evidence of computer misuse within the National Security Central Intelligence System ("NSCIS"). This system is an integral part of the national security of Gibraltar. The evidence suggests that without authority the NSCIS platform had been tampered with so that sensitive information would be diverted to unauthorised servers. In addition the performance of the platform was compromised by sabotage thereby undermining Gibraltar's national security.

A complaint was made to the Royal Gibraltar Police and in May 2019, John Perez, Thomas Cornelio, Edward Asquez (all former employees of Bland Limited) and Caine Sanchez (a senior civil servant) were arrested on suspicion of conspiracy to defraud Bland Limited of the NSCIS platform maintenance contract and for related offences pursuant to Part 15 of the Crimes Act 2011 (Computer Misuse).

Search warrants were executed at home and business addresses as a result of which numerous digital devices were seized. The evidence recovered has been forensically examined and affords reasonable grounds to suspect that you may have been involved in the said conspiracy, particularly in the planning and preparation stages and by improperly using your influence with a civil servant and others.

The evidence suggests that the conspiracy was to dishonestly obtain the NSCIS platform maintenance contract, and to have it transferred to 36 North Limited. According to Companies House records you are a shareholder of this company by virtue of a company wholly owned by Hassans named Astelon Limited, which owns 33% of the shares in 36 North Limited. You thereby hold over 10% of the shareholding in 36 North Limited and stood to directly benefit from the revenue created by the transfer of the NSCIS maintenance contract.

Whilst the evidence so far indicates that you may have been involved in conspiring to dishonestly obtain the NSCIS maintenance contract, the RGP are keeping an open mind and have a duty to follow all reasonable lines of enquiry.

The topic areas which we seek to explore in formal interview under caution include (but are not limited to) the following:

1. Your role and responsibilities with regard to Hassans International Law Firm
2. 36 North Limited (incl. the company formation / financing / business)
3. Astelon Limited (incl. the company formation / business)
4. Icode Limited
5. Communication / relationship with Thomas Cornelio
6. Communication / relationship with John Perez
7. Communication / relationship with Caine Sanchez
8. The National Security Central Intelligence System (NSCIS)
9. Communication with the Chief Minister in relation to any of the above
10. Evidence gathered from the search of your residence and workplace
11. Any other area relevant to this investigation

You are hereby invited to attend a voluntary interview under caution at New Mole House police station at 1000Hrs on Monday the 18th May 2020.

In the event that you unable to attend at this time please contact Detective Inspector Wyan by email at mark.wyan@royalgibpolice.gi.

The content disclosed in this document has been provided in order to assist you in responding to the police enquiries, and instructing legal representation. This is an ongoing police investigation and the information provided herein must not be disclosed to any third party without authority of the Royal Gibraltar Police.

ROYAL GIBRALTAR POLICE

Form SEA5

STATUTORY POWERS OF POLICE TO SEARCH PREMISES AND THE RIGHTS OF OCCUPIERS

THE OCCUPIER SHOULD KEEP THIS FORM IN A SAFE PLACE IN CASE IT IS NEEDED FOR FUTURE REFERENCE. THE STATUTORY POWERS TO SEARCH PREMISES AND OF THE RIGHTS OF OCCUPIERS ARE SUMMARISED BELOW

SUMMARY OF POWERS OF SEARCH UNDER THE CRIMINAL PROCEDURE AND EVIDENCE ACT 2011

Statutory Powers: The following summaries are taken from the Sections shown.

1. **Section 21 (Entry for purposes of arrest, etc):** A Police Officer may enter and search any premises for the purpose of:
   a) Executing a warrant of arrest issued in connection with or arising out of criminal proceedings / or a warrant of commitment issued under Section 52 of the Magistrates' Courts Act 1980;
   b) Arresting a person for an indictable offence; or
   c) Arresting a person for an offence under Section 79 of the Crimes Act 2011 (Prohibition of uniforms in connection with political objects), Sections 532, 533, 539, 540 or 541 of the Crimes Act 2011 (Offences relating to trespass on property), Section 53(3) of the Traffic Act 2005 (Failure to stop when required to do so by a Police Officer in uniform), and Section 62 of the Traffic Act 2005 (Driving, or being in charge, when under the influence of drink or drugs);
   d) Arresting any juvenile who has been remanded or detained under this Act;
   e) Recapturing a person who is, or is deemed for any purpose to be, unlawfully at large while liable to be detained in a prison or other place of detention;
   f) Recapturing a person who is unlawfully at large and whom the officer is pursuing; or
   g) Preventing death or personal injury or serious damage to property.
2. **Section 22(1) (Entry and Search after arrest – Inspector's PRIOR written authority required):** A Police Officer may enter and search any premises occupied or controlled by a person under arrest for an indictable offence, if he has reasonable grounds for suspecting there is on the premises evidence, other than items subject to legal privilege, that relates to that offence or to some other indictable offence connected with or similar to that offence. Except as provided by Section 22(5) (below), no search may take place under this Section unless an officer of the rank of Inspector or above has given written authority.
3. **Section 22(5) (Entry and Search after arrest – Inspector's prior authority not required but MUST be informed as soon as practicable after search):** A Police Officer may conduct a search as shown in paragraph 2 above without obtaining the written authority of an Inspector or above where the arrested person has not yet been taken to the Police Station and his/her presence is necessary elsewhere for the effective investigation of the offence.
4. **Section 54(2)(b) (Search upon arrest):** Where a person has been arrested for an indictable offence at a place other than a Police Station, Police Officer shall have the power to enter and search any premises in which he was when arrested, or immediately before he was arrested, for evidence relating to that offence for which he has been arrested.
5. **Reasonable Force:** In the exercise of a power to search premises, Police may use reasonable force to enter the premises and carry out the search.
6. **With Consent:** A Police Officer may enter and search any premises with the written consent of a person entitled to grant entry to the premises.

SUMMARY OF POWERS OF SEIZURE UNDER THE CRIMINAL PROCEDURE AND EVIDENCE ACT 2011

1. Where a Police Officer is searching premises under the powers conferred by Section 22, he may seize and retain evidence relating to the indictable offence for which the person is under arrest or evidence relating to another indictable offence connected with or similar to the indictable offence for which the person is under arrest.
2. Where a Police Officer is lawfully on premises, he may seize anything which he has reasonable grounds for believing:
   a) Has been obtained in consequence of an offence and that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed; or
   b) Is evidence in relation to an offence which he is investigating, or any other, being concealed, lost, altered or destroyed.
3. Instead of seizing property, an officer may require that the holder of the property retains it. If the holder then disposes, alters or destroys it, he may be liable to civil or criminal proceedings (Para. 7.4 of Code B – Codes of Practice).
4. Normally, no item may be seized which is subject to legal privilege (as defined in Section 14) (Para. 7.2 of Code B – Codes of Practice). There are, however, some exceptions to this rule (e.g. when powers are exercised under Sections 29 to 40 of the Criminal Procedure and Evidence Act 2011).
5. An officer may photograph or copy, or have photographed or copied, any document which he has the power to seize (Para. 7.5 of Code B – Codes of Practice).
6. Where information is held on a computer, an officer may require it to be produced in a legible form so that it can be taken away (Para. 7.6 of Code B – Codes of Practice).

RIGHTS OF THE OCCUPIER / OWNER OF PROPERTY

1. **General:** Searches must be made at a reasonable hour unless this might frustrate the purpose of the search (Para. 6.2 of Code B – Codes of Practice). If any of your property is kept by the Police, you are entitled, on request, to be provided with a list or description of the property within a reasonable time (Para. 7.16 of Code B – Codes of Practice). If you wish, you, or your representative will be allowed supervised access to your property so that you can examine it or have it photographed or copied. Alternatively you may be provided with a photograph or copy. In either case, you are responsible for the costs. Access, etc, will not be allowed if the officer in charge of an investigation believes that this would prejudice the investigation of an offence or any criminal proceedings (Para. 7.17 of Code B – Codes of Practice).
2. **Search Warrant:** A copy of the warrant should, if practicable, be given to the occupier before the search begins (Para. 6.8 of Code B – Codes of Practice). If the occupier is not present, copies of the warrant and this Notice should be left in a prominent place (Para. 6.8 of Code B – Codes of Practice).
3. **Search with Consent:** Consent to a search must be given in writing (Para. 5.1 of Code B – Codes of Practice). Consent must not be obtained under duress (Para. 5.3 of Code B – Codes of Practice). Where consent is withdrawn before the search is completed, the search must stop (Para. 5.3 of Code B – Codes of Practice). If you reside in a lodging house or similar accommodation, your landlord can consent to your room (or rooms) being searched if you are unavailable at the time and the matter is urgent (Note for Guidance 5A to Code B – Codes of Practice).
4. **Compensation for Damage:** Compensation may be payable in appropriate cases for damage caused in entering and searching premises. An application for compensation may be made in writing to: The Commissioner of Police; Police Headquarters; New Mole House Police Station; Gibraltar.
5. **Codes of Practice:** A copy of the *"Code of Practice for the Searching of Premises by Police Officers and the Seizure of Property found by Police Officers on Persons or Premises"* – Code B, is available for you to consult at any Police Station. This Notice is a summary only of the main provisions of the Code, which should be consulted if you require further details (Para. 6.7(e) of Code B – Codes of Practice).

The contents of this document will be processed in strict compliance with the Royal Gibraltar Police's policy on Data Protection, which has been complied in accordance with the provisions of the ***Data Protection Act 2004.***

Lewis Baglietto QC

From: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Sent: 12 May 2020 23:16
To: Lewis Baglietto QC
Subject: RE: James Levy

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Lewis,

I acknowledge receipt of your email below. I have passed it on to the Commissioner of Police and suggested to him that the three of us meet tomorrow in my office at 10.00 am. Can you please confirm it would be possible for you to attend. If so, I will confirm the meeting once I have heard from the Commissioner.

Michael

Michael Llamas CMG QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

HM Government of Gibraltar

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Please consider the environment before printing this email.

-----Original Message-----
From: Lewis Baglietto QC [mailto:lewis.baglietto@hassans.gi]
Sent: 12 May 2020 23:03
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Subject: James Levy

Dear Attorney

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The officers who attended informed him that they were investigating the offence of conspiracy to defraud in connection with the dishonest obtaining of a maintenance contract relating to the NCSIS platform. They told him, in terrorem, that they were in possession of a search warrant (although they left with him a copy of a proforma relating to section 21 warrants of arrest, it is plain that the warrant which they claim to have had must have been a section 12 warrant), and told him that unless he cooperated, the warrant would be executed. As you would expect of a person of Mr Levy QC's stature and standing, he agreed to cooperate. He permitted them to enter his home address, and to search it, which they did. Despite threatening to execute the warrant, the police officers declined to provide him with a copy, even though they left the proforma. They seized an ipad, and then left to search his office. At Hassans' offices, they entered his personal office, and asked for his iphone and copies of documents. Again, Mr Levy QC agreed to cooperate, and provided his phone, with the sim card removed (so as to allow him to continue to work).

I am extremely concerned by the apparent gross abuse of power that this conduct amounts to, and that the RGP has seen fit to proceed in this manner. Although Mr Levy has asked me to confirm that the officers in attendance were personally courteous to him at all times, it is absolutely unconscionable that they should have threatened to execute a warrant in order to secure entry so that police search powers could be used. Moreover, it is completely inexplicable how the RGP could have thought that any warrant was proper, let alone that any court could have considered that the statutory pre-conditions for the issue of a warrant were met. The issue of a warrant was unnecessary, oppressive and highly distressing to Mr Levy and his family. It directly impugned Mr Levy's reputation and dignity as an officer of the court, the senior partner of Gibraltar's largest law firm and a highly respected member of the local community. Putting aside the ridiculous notion that he is suspected of having been involved in this serious criminal activity, it is not even clear that a production order under section 13 could have been properly obtained. How could it have even been properly suggested that entry to the premises would not be granted unless a warrant was produced, or that the purpose of a search would be frustrated or seriously prejudiced?

Mr Levy and my firm are, in addition, highly aggrieved at the fact that the RGP have taken Mr Levy's tablet and mobile telephone, which, as you will appreciate, contain a vast amount of privileged and irrelevant information to which the RGP is clearly not entitled as a matter of trite law. Although the RGP undertook to engage an independent counsel in the UK to examine the material for LPP, this completely fails to provide the necessary assurances that LPP material, or unrelated personal, private and privileged information, will be adequately protected. Not only was the material not 'blue-bagged' in his presence (presumably because the RGP intend to copy the device thereafter elsewhere) but the exercise appears to be intended to be carried out outside Gibraltar.

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I am therefore writing to you in your capacity as guardian of the public interest to seek your urgent intervention with a view to ensuring that all the seized material is returned forthwith. Notwithstanding Mr Levy's open and sincere cooperation (which continues), the RGP were simply not entitled to take the material. To the extent that RGP wishes to obtain the material afresh, then consideration should be given by it to the making of a proper inter partes section 13/Schedule 1 production order application.

To that end, I would be grateful if you could give me the opportunity to urgently meet with a view to further discussing the above concerns with you and the RGP. I would venture to say that we are dealing with a serious abuse of law and power here.

Kind regards,

Lewis Baglietto

GDPR IMPORTANT CHANGES TO OUR PRIVACY POLICIES

We have updated our Privacy Policy in line with the GDPR.

Lewis Baglietto QC

From: Lewis Baglietto QC
Sent: 13 May 2020 09:35
To: (GLO) Llamas, Michael
Subject: RE: James Levy

Dear Michael

Sorry for not reverting earlier

I don't have an issue meeting later today, but, given the contents of my e-mail, the matter is obviously very urgent

Kind regards

Lewis

From: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Date: Wednesday, 13 May 2020, 8:27 am
To: Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Subject: Re: James Levy

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Lewis,

The Commissioner has reverted to me just now. He is amenable to meeting but later on today to allow him and his team to consider your email. I have accepted that and told him to revert to me with a time. I trust you don't have an issue with this.

ichael

Sent from my iPhone

>

Michael Llamas CMG QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

HM Government of Gibraltar

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Please consider the environment before printing this email.

On 12 May 2020, at 23:30, Lewis Baglietto QC <lewis.baglietto@hassans.gi> wrote:
>
> Dear Michael
>
> Many thanks for reverting so quickly. I appreciate it.
>
> Yes, I will be happy to meet with you and the Commissioner at your offices at 10am tomorrow
>
> Kind regards
>
> Lewis
>
>
>
>
> From: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi<mailto:michael.llamas@gibraltar.gov.gi>>
> Date: Tuesday, 12 May 2020, 11:15 pm
> To: Lewis Baglietto QC <lewis.baglietto@hassans.gi<mailto:lewis.baglietto@hassans.gi>>
> Subject: RE: James Levy
>
>
> CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.
>
> Dear Lewis,
>
> I acknowledge receipt of your email below. I have passed it on to the Commissioner of Police and suggested to hi that the three of us meet tomorrow in my office at 10.00 am. Can you please confirm it would be possible for you to attend. If so, I will confirm the meeting once I have heard from the Commissioner.
>
> Michael
>
>
> _____
> Michael Llamas CMG QC
> Attorney General
>
> Government Law Offices
> HM Government of Gibraltar
> 40 Town Range
> Gibraltar
> GX11 1AA
>
> Tel: (+350) 20051118
> michael.llamas@gibraltar.gov.gi

>
> www.gibraltar.gov.gi<http://www.gibraltar.gov.gi>
>
> The Attorney General
> _____
> HM Government of Gibraltar
>
> The content of this message and attachments contain confidential information for the attention of the addressee. You are hereby notified that any use, reproduction, distribution or dissemination of content and attached documents electronically, mechanically or otherwise is strictly prohibited without the prior written consent of the author. If you have received this message in error please notify the sender immediately. Any views or opinions expressed in this message or any attachments are those of the individual and may not necessarily reflect the views of the employer. E-mail communications are not secure therefore the sender and employer will not accept legal responsibility for the contents of this message.
>
> Please consider the environment before printing this email.
>
>
> -----Original Message-----
> From: Lewis Baglietto QC [mailto:lewis.baglietto@hassans.gi]
Sent: 12 May 2020 23:03
> To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
> Subject: James Levy
>
> Dear Attorney
>
> I write on behalf of my firm's senior partner James Levy QC in relation to the attendance of RGP at his home and office addresses earlier today.
>
> The officers who attended informed him that they were investigating the offence of conspiracy to defraud in connection with the dishonest obtaining of a maintenance contract relating to the NCSIS platform. They told him, in terrorem, that they were in possession of a search warrant (although they left with him a copy of a proforma relating to section 21 warrants of arrest, it is plain that the warrant which they claim to have had must have been a section 12 warrant), and told him that unless he cooperated, the warrant would be executed. As you would expect of a person of Mr Levy QC's stature and standing, he agreed to cooperate. He permitted them to enter his home address, and to search it, which they did. Despite threatening to execute the warrant, the police officers declined to provide him with a copy, even though they left the proforma. They seized an ipad, and then left to search his office.
t Hassans' offices, they entered his personal office, and asked for his iphone and copies of documents. Again, Mr Levy QC agreed to cooperate, and provided his phone, with the sim card removed (so as to allow him to continue to work).
>
> I am extremely concerned by the apparent gross abuse of power that this conduct amounts to, and that the RGP has seen fit to proceed in this manner. Although Mr Levy has asked me to confirm that the officers in attendance were personally courteous to him at all times, it is absolutely unconscionable that they should have threatened to execute a warrant in order to secure entry so that police search powers could be used. Moreover, it is completely inexplicable how the RGP could have thought that any warrant was proper, let alone that any court could have considered that the statutory pre-conditions for the issue of a warrant were met. The issue of a warrant was unnecessary, oppressive and highly distressing to Mr Levy and his family. It directly impugned Mr Levy's reputation and dignity as an officer of the court, the senior partner of Gibraltar's largest law firm and a highly respected member of the local community. Putting aside the ridiculous notion that he is suspected of having been involved in this serious criminal activity, it is not even clear that a production order under section 13 could have been properly obtained. How could it have even been properly suggested that entry to the premises would not be granted unless a warrant was produced, or that the purpose of a search would be frustrated or seriously prejudiced?
>
> Mr Levy and my firm are, in addition, highly aggrieved at the fact that the RGP have taken Mr Levy's tablet and mobile telephone, which, as you will appreciate, contain a vast amount of privileged and irrelevant information to

which the RGP is clearly not entitled as a matter of trite law. Although the RGP undertook to engage an independent counsel in the UK to examine the material for LPP, this completely fails to provide the necessary assurances that LPP material, or unrelated personal, private and privileged information, will be adequately protected. Not only was the material not 'blue-bagged' in his presence (presumably because the RGP intend to copy the device thereafter elsewhere) but the exercise appears to be intended to be carried out outside Gibraltar.
>
> As you know, legal professional privilege is sacrosanct. The prohibition on the production of privileged material in the Criminal Procedure Act and under the general law are total and the firm's many clients are entitled to have the protection of their privileged and confidential affairs guaranteed in any disclosure process.
>
> I am therefore writing to you in your capacity as guardian of the public interest to seek your urgent intervention with a view to ensuring that all the seized material is returned forthwith. Notwithstanding Mr Levy's open and sincere cooperation (which continues), the RGP were simply not entitled to take the material. To the extent that RGP wishes to obtain the material afresh, then consideration should be given by it to the making of a proper inter partes section 13/Schedule 1 production order application.
>
> To that end, I would be grateful if you could give me the opportunity to urgently meet with a view to further discussing the above concerns with you and the RGP. I would venture to say that we are dealing with a serious abuse of law and power here.
>
> Kind regards,
>
> Lewis Baglietto
>
> ----------
>
> GDPR IMPORTANT CHANGES TO OUR PRIVACY POLICIES
>
> We have updated our Privacy Policy in line with the GDPR.
> This document explains how and why we collect, store, use and share personal data and it explains your rights, and how to contact us or supervisory authorities if you have a complaint. Please read it carefully. To find out more please visit our website to view our Privacy Policy.
>
> This e-mail is confidential and may also be privileged. If you are not the intended recipient, please notify us immediately by return e-mail or by calling +350 20079000.
> You should not copy it or use it for any purpose nor disclose its contents to any other person. It is also recommended that any attachments in this message be scanned prior to opening, as we cannot accept liability for any loss or damage caused by software viruses.
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> GDPR IMPORTANT CHANGES TO OUR PRIVACY POLICIES
>
> We have updated our Privacy Policy in line with the GDPR.
> This document explains how and why we collect, store, use and share personal data and it explains your rights, and how to contact us or supervisory authorities if you have a complaint. Please read it carefully. To find out more please visit our website to view our Privacy Policy.
>
> This e-mail is confidential and may also be privileged. If you are not the intended recipient, please notify us immediately by return e-mail or by calling +350 20079000.
> You should not copy it or use it for any purpose nor disclose its contents to any other person. It is also recommended that any attachments in this message be scanned prior to opening, as we cannot accept liability for any loss or damage caused by software viruses.
> ----------

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International Law Firm

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F: +350 20071966
E: info@hassans.gi
www.gibraltarlaw.com

Your reference
Our reference LB/JM/
Date 13 May 2020

Direct email: lewis.baglietto@hassans.gi

DS Paul Richardson
Royal Gibraltar Police
New Mole House
Gibraltar

Dear Sir

Purported search warrant issued against James Levy QC in respect of [redacted] and Madison Building

I write on behalf of our senior partner James Levy QC.

As you know, on Tuesday 12th May 2020, , you and 2 other RGP Officers attended Mr Levy's offices and said that you had obtained a search warrant in respect of Mr Levy's involvement with 36 North Limited.

You stated that the warrant would be executed if Mr Levy did not cooperate in giving access to his home and office premises and to the documents being sought.

As would be expected of Mr Levy as an officer of the Court and a person of standing and integrity in the community, he agreed to co-operate and the RGP was permitted to enter his personal office and asked for his iphone and copies of documents. Again Mr Levy agreed to cooperate, providing his mini ipad and mobile phone with the SIM Card removed, as agreed by you (so as to allow him to continue to work). You then attended with Mr Levy to search his home and he has asked me to acknowledge that he was treated with courtesy throughout.

You will recall that during your visit, Mr Levy expressed his surprise and objection that you had seen it fit to apply for a warrant, when there could be no reasonable grounds to believe that his response to any request to enter his premises or be provided with documents, would be anything other than co-operative.

To this, the officers replied that they had obtained advice from the highest level which I understand to be a reference to the DPP.

Apart from the fact that it should have been plain to the RGP that a warrant was excessive, unjustified and unnecessary in the circumstances it should have been equally obvious, given the nature of the documents sought, that the documents would comprise Special Procedure Material.

As such, the only legal means of obtaining the documents (absent agreement) would be by obtaining a Production Order on notice to Mr Levy.

In the circumstances, any application for a warrant was highly irregular and contrary to law. I have made these points in the attached letter to the Attorney General.

Therefore and in order to enable Mr Levy to vindicate his legal rights, I ask you to provide, by noon tomorrow, copies of the following:

1. The Search Warrant;

2. The application for the Search Warrant;

3. Any written evidence filed in support of the application;

4. Any notes taken by the RGP of the hearing;

5. Any Order or Ruling made by the Stipendiary Magistrate;

6. Any instructions or briefing note issued by the RGP to the officers attending Mr Levy's home and offices;

7. The substance of the advice given to the RGP in relation to the merits of seeking the warrant.

In the meantime, as stated in our letter to the Attorney General, I request the immediate return today, of the material handed over to the RGP including any material copied or downloaded so far, as the retention, downloading and copying of such material is unlawful. To the extent that the RGP then wishes to obtain the material afresh, then consideration should be given by it to the making of a proper *inter partes* Section 13 / Schedule 1 Production Order application.

I look forward to hearing from you urgently and are copying this letter to the Attorney General, who has informed me that the Commissioner regrettably, refuses to meet with me as requested in my letter of last night.

Hassans
International Law Firm

Separately, in relation to Mr Levy's proposed voluntary interview on 18 May, I request prior disclosure of the matters proposed to be canvassed with Mr Levy during his interview, and of any documents intended to be put to him at the interview.

Yours faithfully

Lewis Baglietto

Cc Her Majesty's Attorney General

Hassans
International Law Firm

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Midtown, Queensway
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T: +350 20079000
F: +350 20071966
E: info@hassans.gi
www.gibraltarlaw.com

Direct email: lewis.baglietto@hassans.gi

Your reference
Our reference LB/JM/
Date 13 May 2020

Maurice Turnock Esq
Clerk to the Magistrates
32-36 Main Street
Gibraltar

Dear Sir

Re: James Levy QC - Search Warrant issued on or about 11 May 2020

We are investigating the lawfulness of a search warrant purportedly issued by the Magistrates' Court against Mr Levy. It appears that it was obtained by Superintendent Paul Richardson or under his authority. The search warrant raises huge questions of abuse of law/ misfeasance in public office which is extremely worrying. We have already raised this matter with the Attorney-General and write to you to obtain:

1. A copy of the application with all supporting evidence.

2. A copy of the transcript or clerk's note of any hearing.

3. Any ruling by the Magistrate or other written or recorded document.

The Search warrant appears to have allowed a search of Mr Levy's home and offices, which on the facts presented by the Royal Gibraltar Police, raise real issues of Legal Professional Privilege and Special Procedure Material. It is not understood how a search warrant could have been lawfully sought and issued in the circumstances.

Yours faithfully

Lewis Baglietto

c.c. Superintendent Paul Richardson

Lewis Baglietto KC

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 14 May 2020 10:03
To: Lewis Baglietto QC
Subject: OFFICIAL - Response to letter from Lewis Baglietto
Attachments: Response Letter to Lewis Baglietto 13th May.pdf; warrant home .pdf; warrant hassans.pdf; Voluntary attendance to police interview.pdf

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Mr Baglietto,
Attached please find a letter and other documents in response to your letter of 13th May 2020 to Det/Supt Paul Richardson.
Best wishes

Ian McGrail *OTM MSc*
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

Royal Gibraltar POLICE
Delivering a Safer Gibraltar through Excellence in Policing

PROJECT SERVATOR
TOGETHER, WE'VE GOT IT COVERED

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Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

14th May 2020

Our Ref: IM160

Mr Lewis Baglietto QC
PO Box 199
Madison Building
Midtown, Queensway
Gibraltar

Dear Sir,

I have been forwarded a copy of your letter addressed to Detective Superintendent Paul Richardson dated 13 May 2020 the contents of which have been noted.

I have been fully briefed as to the conduct of the investigation and given the seriousness of the allegations made and the matters raised. I have seen fit to respond directly.

At the outset I must point out that the sequence of events are not as you have described and I do not agree with you that there were reasonable grounds to believe that Mr Levy would have simply handed over his devices and documents.

Notwithstanding the fact the police attended with a search warrant issued by the Magistrates Court, an attempt was made to try and deal with the matter by consent. This involved Mr Levy consulting with 'senior silk' in private and informing the officers that he would consent to handing over the items sought as long as the interests of his clients were protected. Once the means in which they would be achieved was clear Mr Levy signed the relevant form after reading it and consulting with Mr Chincotta. Accordingly the search warrant was not executed but rather Mr Levy chose to hand over his devices voluntarily, albeit after some time and after extensive consultation.

I do not agree with you that warrant was excessive, unjustified or unlawful and in my view the action taken was both legitimate and proportionate in the circumstances. I do not think it would serve any purpose to enter into a discussion on the use of Productions Orders as opposed to a Search Warrant.

In relation to the items that you have requested I have attached a copy of the search warrant to this email. I am unable at this time to comply with your request for a copy of the application for the search warrant or any other written evidence as this could potentially compromise an ongoing investigation as Mr Levy has yet to be interviewed. The same applies to point 4 (any notes taken by the RGP of the hearing). The only order or ruling that I am aware of made by the Stipendiary Magistrate was the warrant itself. Although the DPP has been consulted on various non-operational issues concerning this investigation including the

status of various parties he has not provided advice on the application of a search warrant which remains an operational matter.

Please rest assured that the RGP has not copied or downloaded any material so far and in fact the devices remain sealed and I have assumed safe custody of them. I remain convinced of the legality of our course of conduct but undertake to postpone their submission to be examined for seven days from the date of this letter in the event that you may wish to make any legal challenge to this decision.

I would also ask you to please note that it is not a question of me refusing to meet with you and the Attorney General, but rather I view it as inappropriate given the circumstances in which we find ourselves which I trust you understand.

I enclose a copy of a notice regarding voluntary attendance for police interview. This sets out the topic areas which we seek to explore in the formal police interview. I should point that we have not shared this document with any other party. It would be very helpful if Mr Levy brings any material with him that may support his account or provide it in advance of his attendance. Additionally, as would be normal practice counsel will be provided with a pre-interview briefing

Finally, as you will no doubt be aware, Mr Levy undertook to voluntarily extract the relevant emails and other documents from Hassans servers and provide these to police along with all files concerning Astelon Ltd and 36 North Ltd. Grateful if you advise when these will be supplied to assist with our investigation.

Yours faithfully



Ian McGrail OTM MSc
Commissioner of Police

In The

Magistrates' Court, 32-36 Town Range, Gibraltar.

On Thursday 7th May 2020

Warrant to Enter and Search A Premises – Single Premises
Criminal Procedure and Evidence Act 2011, Schedule 1, Paragraph 12(a)

An application having been made by Detective Sergeant Paul Clarke of the Royal Gibraltar Police, I am satisfied that:-

The first set of access conditions specified in Paragraph 2 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are satisfied, and, that at least one of the further conditions set out in Paragraph 14 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are also fulfilled.

That there is at:-

[redacted]

material likely to be relevant evidence which is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

Authority is hereby given for any Constable to enter within one month from the date of this warrant the said premises and to search them and to seize material in respect of which the application is made.

The Constable may be accompanied by up to six other Constables or designated persons.

STIPENDIARY MAGISTRATE * GIBRALTAR *

Signature of Judge/Magistrate .....

Date 7th May 2020

In The Magistrates' Court, 32-36 Town Range, Gibraltar.

Information in support of application for a 'Single Premises' search warrant

Criminal Procedure and Evidence Act Schedule 1 Paragraph 12(a) (first set of access conditions)

The information of Detective Sergeant Paul Clarke of the Royal Gibraltar Police, who upon oath states that:-

(a). There are reasonable grounds for believing:-

i. That an indictable offence has been committed, namely Conspiracy to Defraud contrary to Common Law;

ii. That there is material to which this information relates which consists of Special Procedure Material or includes Special Procedure Material and does not include Excluded Material on the premises specified in the application; or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify);

iii. That the material is likely to be of substantial value to the investigation in connection with which the application is made; and

iv. That the material is likely to be relevant evidence.

(b). Other methods of obtaining the material have not been tried because it appeared they were bound to fail;

(c). It is in the public interest, having regard:-

i. To the benefit likely to accrue to the investigation if the material is obtained; and

ii. To the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given.

AND that of the further conditions mentioned in para 12(a)(ii) of Schedule 1 of the Act, namely:-

a). that it is not practicable to communicate with any person entitled to grant entry to the premises to which the application relates;

b). that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material;

c). that the material contains information which;
i) is subject to a restriction or obligation such as is mentioned in section 15(2)(b) of the Criminal Procedure and Evidence Act 2011; and
ii) is likely to be disclosed in breach of it if a warrant is not issued;

d). that the service of notice of an application for an order under paragraph 4 of Schedule 1 to the Act may seriously prejudice the investigation.

The further conditions at **b, & d,** above apply.

The material to which this application relates is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

The premises to which this application relates is:-

[redacted]

Signature of officer applying — Date 07/05/2020

Signature of officer approving application (Inspector or above) — Date 07/05/2020

Craig Goswell.

Name of officer approving application

ENDORSEMENT

(To be returned to the court of issue with the original copy of the Warrant)

1. The following items / No items* were found at:

.....

....

2. The following items other than items which were sought were seized
   No other item was seized*

3. The search was conducted on (date) .....
   between ..... am / pm* and ..... am / pm*
   by (name all officers present)

4. A copy of this warrant was handed to the occupier / person in charge of the premises / left on the premises* (specify whereabouts)

Signature of Constable ..... Date .....

Name, Rank, No .....

Unit to which attached .....

* Delete as applicable

In The

Magistrates' Court, 32-36 Town Range, Gibraltar.

On Thursday 7th May 2020

Warrant to Enter and Search A Premises – Single Premises
Criminal Procedure and Evidence Act 2011, Schedule 1, Paragraph 12(a)

An application having been made by Detective Sergeant Paul Clarke of the Royal Gibraltar Police, I am satisfied that:-

The first set of access conditions specified in Paragraph 2 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are satisfied, and, that at least one of the further conditions set out in Paragraph 14 of Schedule 1 to the Criminal Procedure and Evidence Act 2011 are also fulfilled.

That there is at:-

Hassans International Law Firm, Madison Building, Midtown, Queensway, Gibraltar

material likely to be relevant evidence which is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

Authority is hereby given for any Constable to enter within one month from the date of this warrant the said premises and to search them and to seize material in respect of which the application is made.

The Constable may be accompanied by up to six other Constables or designated persons.

STIPENDIARY MAGISTRATE * GIBRALTAR *

Signature of Judge/Magistrate .....

Date 7th May 2020

In The Magistrates' Court, 32-36 Town Range, Gibraltar.

Information in support of application for a 'Single Premises' search warrant

Criminal Procedure and Evidence Act Schedule 1 Paragraph 12(a) (first set of access conditions)

The information of Detective Sergeant Paul Clarke of the Royal Gibraltar Police, who upon oath states that:-

(a). There are reasonable grounds for believing:-

i. That an indictable offence has been committed, namely Conspiracy to Defraud contrary to Common Law;

ii. That there is material to which this information relates which consists of Special Procedure Material or includes Special Procedure Material and does not include Excluded Material on the premises specified in the application; or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify);

iii. That the material is likely to be of substantial value to the investigation in connection with which the application is made; and

iv. That the material is likely to be relevant evidence.

(b). Other methods of obtaining the material have not been tried because it appeared they were bound to fail;

(c). It is in the public interest, having regard:-

i. To the benefit likely to accrue to the investigation if the material is obtained; and

ii. To the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given.

AND that of the further conditions mentioned in para 12(a)(ii) of Schedule 1 of the Act, namely:-

a). that it is not practicable to communicate with any person entitled to grant entry to the premises to which the application relates;

b). that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material;

c). that the material contains information which;
i) is subject to a restriction or obligation such as is mentioned in section 15(2)(b) of the Criminal Procedure and Evidence Act 2011; and
ii) is likely to be disclosed in breach of it if a warrant is not issued;

d). that the service of notice of an application for an order under paragraph 4 of Schedule 1 to the Act may seriously prejudice the investigation.

The further conditions at **b & d**, above apply.

The material to which this application relates is:-

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

The premises to which this application relates is:-

Hassans International Law Firm, Madison Building, Midtown, Queensway, Gibraltar

Signature of officer applying — Date 07/05/2020

Signature of officer approving application (Inspector or above) — Date 07/05/2020

Craig Gowans

Name of officer approving application

ENDORSEMENT

(To be returned to the court of issue with the original copy of the Warrant)

1. The following items / No items* were found at:

.....

....

2. The following items other than items which were sought were seized
   No other item was seized*

3. The search was conducted on (date) .....
   between ..... am / pm* and ..... am / pm*
   by (name all officers present)

4. A copy of this warrant was handed to the occupier / person in charge of the premises / left on the premises* (specify whereabouts)

Signature of Constable ..... Date .....

Name, Rank, No .....

Unit to which attached .....

* Delete as applicable

Crime Division

New Mole House, Rosia Road, Gibraltar • Tel 200 52181 • Centrex 2340 • www.police.gi

12th May 2020

VOLUNTARY ATTENDANCE FOR POLICE INTERVIEW UNDER CAUTION

You are not obliged to say anything unless you wish to do so, but what you say may be put into writing and given in evidence.

The RGP are investigating offences against Part 15 of the Crimes Act 2011 (Computer Misuse) and Conspiracy to Defraud. This follows a complaint made in 2018.

In October 2018 Bland Limited uncovered evidence of computer misuse within the National Security Central Intelligence System ("NSCIS"). This system is an integral part of the national security of Gibraltar. The evidence suggests that without authority the NSCIS platform had been tampered with so that sensitive information would be diverted to unauthorised servers. In addition the performance of the platform was compromised by sabotage thereby undermining Gibraltar's national security.

A complaint was made to the Royal Gibraltar Police and in May 2019, John Perez, Thomas Cornelio, Edward Asquez (all former employees of Bland Limited) and Caine Sanchez (a senior civil servant) were arrested on suspicion of conspiracy to defraud Bland Limited of the NSCIS platform maintenance contract and for related offences pursuant to Part 15 of the Crimes Act 2011 (Computer Misuse).

Search warrants were executed at home and business addresses as a result of which numerous digital devices were seized. The evidence recovered has been forensically examined and affords reasonable grounds to suspect that you may have been involved in the said conspiracy, particularly in the planning and preparation stages and by improperly using your influence with a civil servant and others.

The evidence suggests that the conspiracy was to dishonestly obtain the NSCIS platform maintenance contract, and to have it transferred to 36 North Limited. According to Companies House records you are a shareholder of this company by virtue of a company wholly owned by Hassans named Astelon Limited, which owns 33% of the shares in 36 North Limited. You thereby hold over 10% of the shareholding in 36 North Limited and stood to directly benefit from the revenue created by the transfer of the NSCIS maintenance contract.

Whilst the evidence so far indicates that you may have been involved in conspiring to dishonestly obtain the NSCIS maintenance contract, the RGP are keeping an open mind and have a duty to follow all reasonable lines of enquiry.

The topic areas which we seek to explore in formal interview under caution include (but are not limited to) the following:

1. Your role and responsibilities with regard to Hassans International Law Firm
2. 36 North Limited (incl. the company formation / financing / business)
3. Astelon Limited (incl. the company formation / business)
4. Icode Limited
5. Communication / relationship with Thomas Cornelio
6. Communication / relationship with John Perez
7. Communication / relationship with Caine Sanchez
8. The National Security Central Intelligence System (NSCIS)
9. Communication with any other person in relation to any of the above
10. Evidence gathered from the search of your residence and workplace
11. Any other area relevant to this investigation

You are hereby invited to attend a voluntary interview under caution at New Mole House police station at 1000Hrs on Monday the 18th May 2020.

In the event that you unable to attend at this time please contact Detective Inspector Wyan by email at mark.wyan@royalgibpolice.gi.

The content disclosed in this document has been provided in order to assist you in responding to the police enquiries, and instructing legal representation. This is an ongoing police investigation and the information provided herein must not be disclosed to any third party without authority of the Royal Gibraltar Police.

MAGISTRATES' COURT
32-36 TOWN RANGE
GIBRALTAR

Tel: (+350) 200 75671 200 70471 [Clerk of the Magistrates' Court Office]
Fax: (+350) 200 40483
e-mail: maurice.turnock@gcs.gov.gi

Your Ref :
Our Ref :
Date : 15th May 2020

Lewis Baglietto Q.C.,
Hassans
P.O. Box 199
Madison Building
Midtown, Queensway
Gibraltar

Dear Sir

H J M Levy Esq., CBE, QC.

I write further to your letter of the 13th May 2020 setting out particulars of an investigation carried out by you in respect of a set of search warrants issued by the Magistrates' Court. You seek from me a copy of the application with all supporting evidence; a copy of the transcript or clerk's notes of any hearing; and any ruling of the Magistrate or other written or recorded document.

I note that your letter of request has been served on the Royal Gibraltar Police. I can confirm that I have (after receiving your letter via email) received from the Royal Gibraltar Police an objection to the supply of the information requested in particular to the disclosure of the material upon which the Magistrate considered the application. I can confirm that the application for the search warrants were conducted in camera and not recorded. There is, however, a written note of the Magistrate's reasons on the grant of the application.

In accordance with Rule 5.7(6)(d) CrimPR, the Court must not permit the information requested to be supplied to you until the Royal Gibraltar Police has at least 14 days in which to file a notice of objection. Once this is received the Court will determine whether a hearing is required or not.

Yours faithfully

Maurice Turnock
CLERK OF THE MAGISTRATES' COURT

cc. Superintendent Paul Richardson OTM

MAGISTRATES' COURT
32-36 TOWN RANGE
GIBRALTAR

Tel: (+350) 200 75671 200 70471 [Clerk of the Magistrates' Court Office]
Fax: (+350) 200 40483
e-mail: maurice.turnock@gcs.gov.gi

Your Ref :
Our Ref :
Date : 15th May 2020

Ian McGrail Esq., OTM
Commissioner of Police
New Mole House Police Headquarters
Rosia Road
Gibraltar

Attn: Superintendent Paul Richardson OTM

Dear Sir

H J M Levy Esq., CBE, QC.

I write further to a letter of the 13th May 2020 received by me via email from Lewis Baglietto QC and which you were copied.

I can confirm that I did receive and acknowledge an email from Superintendent Paul Richardson that same day objecting to the supply of the information requested in particular to the disclosure of the material upon which the Magistrate considered the application.

In accordance with Rule 5.7(6)(d) CrimPR, the Court must not permit the information requested to be supplied to Lewis Baglietto QC until the Royal Gibraltar Police has had at least 14 days in which to file a notice of objection with the Court setting out the following:

1. Whether the objection is to the supply of any part of the information requested, or only to the supply of a specified part, or parts, of it;
2. Whether the objection is to the supply of the information at any time, or only to its supply before a date or event specified by the Royal Gibraltar Police; and grounds for objection.

Once this is received the Court will determine whether a hearing is required or not.

Yours faithfully

Maurice Turnock
CLERK OF THE MAGISTRATES' COURT

cc. Lewis Baglietto QC., Hassans

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Your reference
Our reference LB/JM/
Date 15 May 2020

Direct email: lewis.baglietto@hassans.gi

H.M. Attorney General
Attorney General's Chambers
40 Town Range
Gibraltar

Dear Attorney

Schedule 1 paragraph 12 Criminal Procedure and Evidence Act 2011 search warrants granted on 7 May 2020 in respect of premises at [redacted]; and Hassans International Law Firm Madison Building

We refer to our earlier correspondence with you in this matter, dated 12 May 2020, and to the Commissioner of Police's attached letter dated 14th May in reply to our letter to Superintendent Richardson dated 13th May, which we copied to you. We are copying this letter to the Commissioner of Police.

Introduction

We set out in outline below the reasons why there are very good grounds for believing that the warrants were improperly procured and wrongfully granted (in the course of an *ex parte* hearing), and why the RGP officers acted unlawfully in attending the premises and using the threat that they would execute the warrants to obtain from Mr Levy QC the material that they sought.

As we have stated in my earlier letter, it is extraordinary that the RGP should have thought it appropriate to resort to the draconian route of Schedule 1 paragraph 12 search warrants, and no less extraordinary that the Stipendiary Magistrate should have thought it right and appropriate to grant the two applications. There were serious and multiple breaches of the statutory requirements and wholesale departures from best practice. There can be little surprise that, as we believe is the case, the DPP advised the Commissioner against the making of these applications.

The issue of the warrants was unnecessary and oppressive, and the threat to use them highly distressing. Their issue directly impugned, as we have stated, Mr Levy's reputation and dignity as an officer of the court, the senior partner of Gibraltar's largest law firm and as a highly respected member of the local community.

It was also a gross abuse of power for RGP to have threatened the use of previously obtained search warrants to secure compelled and involuntary consent to enter the two premises and seize materials. Indeed, the very fact that Mr Levy QC was prepared to allow the officers entry (notwithstanding the non-execution of the warrants) belies RGP's unsupported assertion to the Magistrate that there were reasonable grounds for believing that "*other methods of obtaining the material have not been tried because it appeared that they were bound to fail*" (Schedule 1, paragraph 2(b)(ii)) and that there was a basis upon which he could be additionally satisfied that "*(b) it is practicable to communicate with a person entitled to grant entry to the premises, but not practicable to communicate with any person entitled to grant access to the material*" or "*(d) service of notice of an application for an order under paragraph 4 may seriously prejudice the investigation*" (Schedule 1, paragraphs 14(b) and (d)). Either the warrants were needed and justified, or they were not, and it is simply not correct for the Commissioner to state, as he does in his letter of 14th May 2020, that the items sought were handed over consensually, thereby rendering the RGP action 'legitimate and proportionate'.

The Commissioner has, so far, unlawfully refused to provide any detail of the basis upon which the applications for the warrants was made. Indeed, on 12 May 2020, following the events in question, the RGP provided Mr Levy QC with a misleading *proforma* which wrongly suggested that the search powers were being exercised under the section 21 "Entry for the purposes of arrest etc" power.

The Commissioner's refusal to provide a copy of the applications for the issue of the warrants that were made by his officers, or of any evidence adduced in support, or of any notes made by the RGP during the *ex parte* Magistrates' Court hearing, on the basis this could 'potentially undermine an ongoing investigation as Mr Levy has yet to be interviewed' is perverse and wrong in law, and provides a further basis for a potential challenge.

There exists a stand-alone obligation on the *ex parte* applicant for a warrant, and on the court that granted it, to provide all relevant material adduced in support of the application: R(Energy Financing Team Ltd) v Bow Street Magistrates' Court [2005] EWHC 1626 (Admin) at para 27; R(Gittins) v Central Criminal Court [2011] EWHC 131 (Admin, at para 25(2); R(Faisaltex) v Crown Court at Preston [2008] EWHC 2832 (Admin) at para 35; R(S) v Chief Constable of the BTP [2013] EWHC 2189 at para 46.

The person who is seeking to challenge the grant of a warrant is entitled to know the basis upon which it was granted, and the case law simply does not provide, in the absence of a properly formulated application by the body that obtained the warrant for relevant information to be withheld on the basis that its disclosure would seriously prejudice the public interest: R (Haralambous) v Crown Court at St Albans & Anor [2018] UKSC 1, for refusal on any lesser basis.

In the absence of proper disclosure of the basis upon which the applications were made, it is not possible to be certain as to what transpired in the Magistrates' Court. The 'information' in support of both applications should have set out in writing, by direct reference to the particular facts of the investigation and the belief of the investigating officer(s), why the statutory requirements were met. They did not.

Instead, with the exception of a single reference in each information to the indictable offence said to be believed to have been committed, 'namely conspiracy to defraud' (which words are in a different font to the rest of the information), they are wholly silent, and contain only a bare rehearsal of the statutory criteria. In the absence of a record of what DS Clarke, the officer who made the applications, told the court orally, it is impossible to know what information, if any, the court was given any in support of the applications. It is also impossible to know if he properly discharged the plain duty upon him of making plain any information or material that weighed against the application.

Moreover, in the absence of any ruling (the Commissioner in his letter has confirmed that the Magistrate gave no ruling), the reasons for the grant of the warrants are completely unknown. It is difficult to avoid the conclusion that, rather than seeking authorisation to obtain material in relation to genuinely suspected offences, instead the police were on *"a fishing expedition in the hope of finding some material upon which the charge can be hung"*: Williams v. Summerfield [1972] 2 QB 512, per Lord Widgery CJ at 518.

The illegality of the process, and the unlawfulness of the warrants, would appear to be clearly established on the following grounds.

Statutory provisions

In order for a warrant to have been properly issued pursuant to Paragraph 12 of Schedule 1, the Magistrate must have needed to be satisfied:

(a) that

(i) either set of access conditions is fulfilled; and

(ii) any of the further conditions set out in Paragraph 14 is also fulfilled;

OR

(b) that –

(i) the second set of access conditions is fulfilled; and

(ii) an Order under Paragraph 4 in relation to the material has not been complied with.

It is clear from the warrants that the police relied on the first set of access conditions, namely:

"2. *The first set of access conditions is fulfilled if -*

(a) that there are reasonable grounds for believing that-

(i) an indictable offence has been committed;

(ii) there is material which consists of special procedure material or also includes special procedure material and does not also include excluded material on premises specified in the application, or on premises occupied or controlled by a person specified in the application;

(iii) the material is likely to be of substantial value (whether by itself or together with other material) to the investigation in connection with which the application is made; and

(iv) the material is likely to be relevant evidence;

(b) other methods of obtaining the material have –

(i) been tried without success; or

(ii) not been tried because it appeared that they were bound to fail; and

(c) it is in the public interest, having regard to –

(i) the benefit likely to accrue to the investigation if the material is obtained; and

(ii) the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given."

The further conditions set out in Paragraph 14 are as follows:

"14. The further conditions mentioned in Paragraph 12(a)(ii) are that –

(a) it is not practicable to communicate with any person entitled to grant entry to the premises;

(b) it is practicable to communicate with a person entitled to grant entry to the premises, but not practicable to communicate with any person entitled to grant access to the material;

(c) the material contains information which –

(i) is subject to a restriction or obligation such as is mentioned in section 15(2)(b); and

(ii) is likely to be disclosed in breach of it if a warrant is not issued;

(d) service of notice of an application for an order under paragraph 4 may seriously prejudice the investigation."

The informations stated that the requirements of Paragraphs 2 and 14(b) and (d) of Schedule 1 were fulfilled: "The further conditions at **b & d** above apply"

First set of Access conditions (Schedule 1, paragraph 2, and 12(a)(i))

First, in the absence of any information, it is not known on what basis the Stipendiary Magistrate had reasonable grounds for believing that an indictable offence had been committed (let alone in relation to Mr Levy QC, whose premises were the subject of the applications).

Paragraph 2 requires that the constable has reasonable grounds for believing the matters set out in paragraph 2(a). It is plain that a belief is more than a suspicion and that the need to have reasonable grounds for a belief imposes a higher threshold than the need to have reasonable grounds for a suspicion: R(S) (supra) at [61]; R (Eastenders Cash and Carry plc) v South Western Magistrates' Court [2011] 2 Cr App R 123. A mere assertion cannot suffice.

We do not know on what basis the court was persuaded that this requirement was met. In any event, it is a matter that the duty of candour, which rests upon an *ex parte* applicant (*In re* Stanford International Bank Limited and Another [2010] EWCA Civ 137; [2010] 3

W.L.R. 941 at para 191), absolutely demanded be brought to the attention of the Magistrate. It is far from clear that it was.

We also note the basis of RGP's apparent beliefs have altered since the warrants were obtained. In the note "Voluntary Attendance for Police Interview under Caution", a copy of which was given to Mr Levy QC on 12 May 2020, the RGP referred, at point 9 of the topic areas which they wished to explore in interview under caution, to 'Communication with the Chief Minister in relation to any of the above'. In the otherwise identical version provided under cover of the Commissioner's letter of 14 May 2020, that phrase has been removed.

Second, whilst it is plain from the warrants and from the informations in support, that the material sought consisted of or included Special Procedure Material, there appears to be no basis upon which the Magistrate could have had reasonable grounds for believing that there would be no "excluded material" on the premises.

As made clear in R(S) at [33] and [57], paragraph 2(a)(ii) is only fulfilled if the Court is satisfied with evidence that the items to be seized do not also contain "excluded material". As stated in R(S) at [57], a lawyer's mobile or laptop would certainly include 'special procedure material' and could possibly also comprise "excluded material". It is not clear on what basis DS Clarke satisfied the court that the devices would not contain "excluded material".

Third, the court had to be satisfied that the material sought would be of substantial value to the investigation and likely to be relevant evidence. Again, there is nothing to suggest that the police or court considered the balancing exercise which appraises, on the one hand, the benefit to the investigation of obtaining the information against, on the other hand, the seizure with the possibility that it would contain in it a mass of "excluded material" and/or material subject to LPP, which was not concerned with the investigation and the seizure of which might well cause considerable professional disruption: R(S) (supra). The court's attention should have been drawn to this point with an explanation as to why this balancing exercise should be resolved in favour of the police.

Taking into account that the investigation has, we understand, been ongoing for over 18 months, and that the other suspects have already been searched and questioned, it is not at all clear how this could have been demonstrated. Was it likely that material sought so belatedly would be of 'substantial value'? Seeking further evidence identical to what had already been obtained would not meet the statutory requirement.

Fourth, in relation to the requirements of paragraph 2(b), we note that the informations allege that other methods of obtaining the material had not been tried because it appeared that they were bound to fail. The court had to be satisfied of two things: that other methods of obtaining the material had not, in fact, been tried; and that DS Clarke believed any other method was bound to fail (*R v CCBTP* at [34]).

No basis upon which the court could have been so satisfied is provided in either information, and it is wholly implausible that any proper basis could have been advanced. The notion that Mr Levy QC, as an officer of the court and Queen's Counsel, would have refused a request is absurd and, of course, as noted above, the very fact that the police did obtain the material in the way they did (following the threat to execute the warrants and the clear misrepresentation that the warrants had been applied for on the advice of the DPP) supports this. As was noted in R(S), a practising solicitor against whom no allegation of dishonesty had previously been made would in the ordinary course of events be expected to comply with a request from the police to hand over a document or at least not to destroy material.

Fifth, the information also purports to deal with the unsubstantiated public interest requirements in 2(c) which we reserve our right to further comment once we have seen any further evidence in support. However, we note that the Magistrate in satisfying himself that the warrant was in the public interest would have had to have regard to two matters: 1. the benefit likely to accrue to the investigation if the material is obtained; and 2. the circumstances under which the person in possession of the material holds it.

Paragraphs 12(a)(ii)/14

The information states that the following further conditions in paragraph 12(a)(ii) of Schedule 1 apply (we take that to mean the conditions in paragraph 14 referred to in 12(a)(ii)), namely:

1. 14(b) - that it is practicable to communicate with a person entitled to grant entry to the premises, but it is not practicable to communicate with any person entitled to grant access to the material; and

2. 14(d) - that service of notice of an application for an Order under Paragraph 4 of Schedule 1 may seriously prejudice the investigation

First, in relation to 14(b), this is plainly untrue. If it was practicable to communicate with Mr Levy as the person entitled to grant entry to his office and home, it was obviously

practicable to communicate with him to grant access to the material (as proved to be the case). That such a statement should have been made on oath is nothing short of reckless and misleading.

Second, in relation to 14(d), it is impossible to see how the police could have so believed, or that the Magistrate could have been satisfied. Not only is this serious allegation not substantiated, but there can have been no basis for the notion that service of notice on Mr Levy of an application for an order under paragraph 4 of Schedule 1 risked him prejudicing the investigation (for example, by perverting the course of justice, or destroying or dissipating evidence) pending the hearing of an *inter partes* application for a production order.

Indeed, there was every reason for believing precisely the contrary. First, Mr Levy QC is the Senior Partner of Gibraltar's largest law firm, a Queen's Counsel, an officer of the Court, and a man of good character. As events transpired, the police themselves could not have believed that he would seriously prejudice the investigation, because they declined to execute the warrants they obtained, and allowed Mr Levy to remove his phone and copy the data before handing it over to them. They also now appear to trust him to provide voluntarily the emails they sought but failed to obtain. Secondly, the investigation has been ongoing for over 18 months, and Hassans acted, initially, for other suspects. The police knew that Mr Levy was aware of the investigation. Had he really wanted to destroy evidence, this could have been done months ago.

Width

The warrants at particular "(1)" sought the seizure of "*electronic devices (including but not limited to mobile telephones and computers) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device storing any of the aforementioned communications*".

These apparently unlimited terms were grossly wide. They were without limit in terms of scope or date, and completely failed to state what the sought material had to relate to. The plainly erroneous and inexplicable reference to '*any of the aforementioned communications*' (there being no such reference) simply reinforces the point.

It would have been quite impossible, within the four corners of the warrant, for a person executing it, or for the person whose premises are being searched, to be able to identify with any degree of certainty what the warrant authorised by way of seizure: McGrath v. Chief Constable of the Royal Ulster Constabulary [2001] 2 AC 731 at [18]; R (Energy

Financing Team Ltd) v. Bow Street Magistrates' Court (supra), at [24] and [37]; Power-Hynes v. Norwich Magistrates' Court [2009] EWHC 1512 (Admin), at [19] and [22]; R (Van der Pijl) v. Kingston Crown Court [2012] EWHC 3745, at [52]-[67]; C v. Nottingham and Newark Magistrates' Court [2013] EWHC 3790, at [48] and [51]. Particular (2) is similarly unrestricted in date range.

It follows that the warrants were grossly deficient on their face. The seizure of the phone and tablet would also necessarily have led to the seizure of a vast amount of irrelevant (and LPP) material that could not, on any view, have had any connection to the investigation and/or was not capable of being seized. The RGP took no steps to sift out this material.

LPP

Not only were the warrants drafted in impermissibly wide terms, but they contained no clear wording taking LPP material outside that which was authorised to be seized (R(A) v. Central Criminal Court [2017] EWHC 70 (Admin), at [81] and [84]). Nor can such an exclusion be implied from the wording of the warrant (cf. Gittins v Central Criminal Court [2011] EWHC 131 (Admin), at [36]-[37]).

A warrant which purports to authorise the seizure of LPP is invalid. See Gittins (above), per Gross LJ at [36(2)]:

> *"If on its true construction a warrant extends to material for which there are not reasonable grounds for believing that it does not consist of or include items subject to LPP then the warrant will be quashed, at least unless the offending passages can be severed. Such a warrant cannot be saved by precautions governing its execution on the day, such as, for example, the engagement of independent counsel."*

It was obvious that the search warrants would lead to the seizure of LPP material. However, the reality was that no consideration was likely to have been given at all to LPP material when applying for and issuing these search warrants. They are therefore invalid.

Conclusion

On any challenge by way of judicial review, the warrants are overwhelmingly likely to be declared to be unlawful for all or any of the reasons set out above.

Hassans
International Law Firm

We therefore request once again, as we have already requested also in the letter to Superintendent Richardson, that Mr Levy's possessions be returned to him.

We also seek an acknowledgment from RGP that they acted unlawfully in seeking and obtaining these warrants, and in entering Mr Levy's addresses. In this regard, we must record that Mr Levy has serious concerns that the RPG acted illegally, and we reserve his rights in this regard. If, indeed, RGP acted in this way in opposition to advice that it had received to the effect that the applications were inappropriate and unlawful, then it can only be concluded that there has been a gross abuse of executive power. On any basis these events are liable to have led to a serious loss of confidence in the RGP.

We look forward to hearing from you as a matter of urgency.

Yours faithfully

Lewis Baglietto

c.c. Commissioner of Police.

Lewis Baglietto QC

From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Sent: 16 May 2020 20:55
To: Lewis Baglietto QC
Cc: (RGP) McGrail, Ian M.Sc (OTM)
Subject: Pre Interview Disclosure
Attachments: Pre Interview Disclosure.pages; Timeline.pages

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Mr Baglietto,

In your recent communications with us you have sought further information from the police prior to formal police interview.

This is not normal practice however as this is a very complex investigation and in order for you to properly advise your client we have drafted the attached additional pre-interview disclosure with a simplified time-line.

Kind regards.

Paul Richardson
Det. Supt.

Serial	Date	Event
	01/12/2014	**BLAND:** National Security Central Intelligence System (NSCIS platform) developed and launched.
	18/02/2018	**36 NORTH:** Email from Eddie Asquez (Gmail) to John Perez (Gmail) detailing "letter of intent for 'JM' re 36 North" addressed to Jaime LEVY and "36 North Strategy".
	29/03/2018	**ASTELON** Limited No. 117165 Incorporated. 3000 ordinary shares. (Co-117165-2288101)
	23/04/2018	**36 NORTH:** Limited No. 117268 Incorporated. 3000 ordinary shares. (Document Co-117268-2292946)
	23/04/2018	**36 NORTH:** Perez and Cornelio appointed as Directors of 36 North Ltd.
	16/05/2018	**ICODE:** Limited No. 117376 Incorporated. 100 shares. (Co-117376-2297687)
	16/05/2018	**ICODE:** Cornelio appointed as sole shareholder of ICODE Ltd.
	20/06/2018	**36 NORTH:** Email from John Perez to Thomas titled 36 North Cash Flow which included the NSCIS Platform Global Invoice for £62,519 per month.
	22/06/2018	**36 NORTH**; [SUBSTITUTED] Return stamped, of Allotment of Shares made effected 22/06/2018, transferring 999 shares to ASTELON LIMITED, 1,000 shares to ICODE LIMITED, and 1,000 shares to John Christopher Perez, on behalf of LINE SECRETARIES LIMITED. (Co-117268-2306031)
	25/06/2018	**36 NORTH**; [SUBSTITUTED] Return of Particulars of Directors, appointing directors as from 23/04/2018 Thomas John Cornelio John Christopher Perez. Appointing as secretary, LINE SECRETARIES LIMITED. (Co-117268-2306017)
	03/07/2018	**36 NORTH**; Letter stamped, dated Monday 02/07/2018 to substitute Particulars of Directors claiming erroneous filing. (Co-117268-2309321)
	03/07/2018	**36 NORTH**; Return stamped, dated 25/06/2018 of appointment of corporate director CHEAM DIRECTORS LIMITED as from 23/04/2018. Appointment of LINE SECRETARIES LIMITED as Secretary as from 23/04/2018. Co-117268-2309322)

	04/07/2018	**36 NORTH**: Return stamped, of Allotment of Shares dated 25/06/2018 of allotment of 2,999 shares to LINE HOLDINGS LIMITED, disposal date 22/06/2018, on behalf of LINE SECRETARIES LIMITED. (Co-117268-2309768)
	04/07/2018	**36 NORTH**: Letter stamped, dated 02/07/2018 to substitute Return of Allotments and Return of Change of Members, claiming erroneous filing, Line Group. (Co-117268-2309767)
	10/07/2018	**RESIGNATIONS:** Perez and Cornelio provide notice of resignation from Bland.
	20/07/2018	**RESIGNATIONS:** Software Developers Joseph Benrimoj and Marius Zalkaulkas provide notice of resignation from Bland.
	22/07/2018	**36 NORTH**: ICODE, Astelon Ltd and John Perez Ltd each made 33% shareholders of 36 North.
	23/07/2018	**36 NORTH**: Stamped Memorandum of Association, dated 20/04/2018. (Co-117268-2313086)
	23/07/2018	**36 NORTH**: Stamped Articles of Association, dated 20/04/2018. (Co-117268-2313087)
	10/08/2018	**RESIGNATION:** Cornelio's employment terminated. Agreement reached for Cornelio to continue to maintain the NSCIS platform as a consultant.
	10/08/2018	**ICODE / 36N:** Cornelio appointed director of ICODE Ltd. ICODE and Astelon Ltd each allotted 50% shareholding in 36 North Ltd.
	11/08/2018	**BLANDS:** Cornelio commences Consultancy period
	20/08/2018	**RESIGNATION:** Joseph Benrimoj and Marius Zalkaulkas terminate employment with Bland.
	23/08/2018	**36 NORTH**; Return stamped, of Change of members, dated 23/08/2018 signed on behalf of LINE SECRETARIES LIMITED. Share transfer of 1,500 shares from LINE HOLDINGS LIMITED to ICODE LIMITED. Share transfer of 1,500 shares from LINE HOLDINGS LIMITED to ASTELON LIMITED. (Co-117268-2319880).
	23/08/2018	**36 NORTH**; Return stamped, Particulars of Directors dated 23/08/2018 signed on behalf of LINE SECRATARIES LIMITED. Appointment of Director, Thomas John Cornelio, on 10/08/2018. Termination of appointment as Director, CHEAM DIRECTORS LIMITED, on 10/08/2018. (Co-117268-2319899).

	30/08/2018	**TERMINATION OF CONSULTANCY:** Cornelio emails Gaggero stating he maintained NSCIS on behalf of Blands from 0000Hrs 11/08/2019 to allow time to resolve issue with HMGoG and to ensure Gibraltar's National Security. Gives notice to discontinue service with effect from 0000Hrs 01/09/18.
	09/09/2018	**RESIGNATION:** Perez terminates employment with Bland.
	[redacted]	
	04/10/2018	**CM INSTRUCTIONS:** 1110hrs email from Peter Canessa PPS to Chief Minister to Caine Sanchez stating the CM has instructed that access to our 'AZURE' system be given to Jonathan Galliano
	04/10/2018	**CM INSTRUCTIONS:** 1342Hrs email from Peter Canessa PPS to Chief Minister to Caine Sanchez stating the instruction from the CM are that Bland Ltd is to be provided with full control of the management, maintenance and support of the NSCIS platform.... Once the handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform'.
	05/10/2018	**CM INSTRUCTIONS:** Sanchez advises Corenlio via telephone of the instructions issued on 04/10/18.
	[redacted]	
	10/10/2018	**EMPLOYMENT OFFER -** Cornelio and Sanchez discuss employing Jonathan Galliano from Bland. Sanchez states he will speak to Jaime Levy.
	[redacted]	
	17/10/2018	**NSCIS INVOICE:** Sanchez refuses to pay NSCIS invoice.
	[redacted]	

	09-11/04/2019	**NSCIS CREDENTIALS:** Sanchez provides his personal NSCIS credentials to Cornelio.
	11-12/04/2019	**NSCIS REPORT:** Cornelio accesses NSCIS using Sanchez's credentials. Cornelio creates NSCIS report.
	16/04/2019	**NSCIS REPORT:** Sanchez sends the NSCIS report to Abert Mena.
	10/05/2019	**ARRESTS:** Search warrants executed at premises of Cornelio, Perez and Asquez. All three arrested
	14/05/2019	**ARREST:** Search warrant executed at premises of Sanchez. Sanchez arrested.
	24/07/2019	**SEARCH WARRANTS:** Search warrants executed at premises of BCA Employee.

DRAFT

VOLUNTARY ATTENDANCE FOR POLICE INTERVIEW UNDER CAUTION

Pre- Interview Disclosure

1. The following facts/topic areas are provided in order to allow you properly advise your client Haim Levy who has been requested to voluntarily attend New Mole House police station for a police interview at 1000Hrs on Monday 18th May 2020.

2. We are seeking an untainted account from your client and have considered what is appropriate to further disclose at your request prior to the formal police interview.

3. The background of the investigation was outlined in the document provided directly to Mr Levy on Tuesday 12th May 2020.

4. This is a complex and protracted investigation and the additional information provided below may assist you in properly advising your client.

5. BACKGROUND

6. The National Security Central Intelligence System (NSCIS) was developed over a period of time by Blands Ltd on behalf of HMGoG.

7. The evidence suggests that the departure of the following former employees of Bland Ltd was orchestrated and calculated to impede Bland Ltd in their ability to manage the NSCIS platform, those persons are: John Perez (the then CEO), Thomas Cornelio (senior software developer), and the remaining software developers. This occurred at the same time as the said individuals had set up in business together in the expectation of having the management contract of the NSCIS platform transferred to 36 North Ltd.

8. The evidence also suggests that a considerable number of computer misuse offences (in excess of 50) have been committed by Thomas Cornelio in connection with the NSCIS platform and that these offences interfered with the efficiency of the system, diverted sensitive personal data to servers associated with 36 North Ltd without authority and compromised the National Security of Gibraltar.

9. The evidence indicates that the computer misuse offences were committed to impede the efficient operation of Gibraltar's National Security platform to such an extent as to render it unreliable in the eyes of its users. These offences resulted in taking the NSCIS platform offline during which period Gibraltar's National Security

was compromised. It is alleged that the purpose of this was to put 36 North Ltd in the best position to take over the lucrative contract.

10. The evidence further suggests that Thomas Cornelio and John Perez approached the heads of law enforcement bodies who used the platform and encouraged them to complain about the failings of the system to Caine Sanchez (a civil servant who was the NSCIS lead within the Gibraltar Civil Service).

11. The evidence suggests that Caine Sanchez has acted improperly by providing confidential and or commercially sensitive information to persons involved in these offences and sought to use his influence for the benefit of 36 North Ltd and against the interests of Bland Ltd.

12. Furthermore the evidence suggests that Haim Levy either in his own right or through corporate structures owned and or controlled by Hassans, entered into a business relationship with 36N and its members, including the provision of business advice and financing. The evidence further suggests that Haim Levy became aware of the fact that Digital Forensic experts were conducting an investigation and that Thomas Cornelio was worried that they may uncover evidence that he had tampered with the system. Furthermore that Haim Levy was requested by other persons subject to this investigation to use his influence with influential persons within the Government for the benefit of 36N. It appears that a business relationship existed with Caine Sanchez – a Civil Servant.

13. I must stress again that the police are keeping an open mind as to Mr Levy's involvement but remind you that at this stage there are reasonable ground to suspect him of involvement in a conspiracy to defraud Bland Ltd. There may of course be explanations that will change this view.

14. We are seeking an account from Mr Levy as to the following:

<u>Hassans</u>

1. His position, role, responsibilities, accountability (to whom?) Scope and limitation in engaging in new business and investing in new business by way of financing their ventures.

<u>36 North Ltd (36N)</u>

2. His involvement with this entity from the beginning and including before its incorporation as a limited liability company.
3. How Hassans became involved in 36
4. The nature of the business of 36N including any business plan if relevant.
5. The financing of 36N by Hassans and what level of return was expected from the investment.
6. What was expected from Haim Levy as an associate of 36N
7. The corporate structure of 36N including its layered ownership.

8. Any KYC due diligence that was undertaken before participating in this business.

Astelon Ltd

9. The formation of this company and its purpose and ownership.

ICODE Ltd (1/3 shareholder in 36 North Ltd)

10. The business relationship with this company
11. Any KYC due diligence conducted in connection with this company

NSCIS platform

12. His understanding as to the ownership of the intellectual property of the platform given that the evidence suggests that it formed part of a 36N business plan. How was he satisfied that 36 North Ltd would be able to acquire the management of it given that Hassans invested in the company.
13. His understanding as to how the platform was to be removed from Blands and transferred to 36N.
14. Any knowledge that he had with regard to the malfunctioning of the platform and when he became aware of this.
15. Any knowledge that he may have with regard to the tampering with and/or sabotage of the NSCIS platform.
16. An explanation of what he did once he became aware of the alleged criminality of John Perez and Thomas Cornelio with regard to the reputational damage that may occur to himself and Hassan by being associated with them and 36 North through ownership of shares in 36N.

Communications and meetings with the following persons with regards to 36N and/or NSCIS
NOTE: Mr Levy retained a copy of the data on his mobile phone before eventually handing it over to police on the 12th May 2020 and has access to his email accounts. For this reason is should be possible for Mr Levy to extract the relevant conversations/emails from his own devices and may choose to provide these to police to support his account.

17. The persons are:
    a. Eddie Asquez (a former employee of Bland Ltd)
    b. John Perez
    c. Thomas Cornelio
    d. Caine Sanchez

18. Whether the relationship was purely business or lawyer client based (all persons)

19. Sanchez-
    a. explanation as to his business relationship with civil servant

b. when did he find out that Sanchez was arrested on suspicion of misconduct in public office and did he consider that Sanchez may have acted unethically and/or unlawfully in his dealings with Haim Levy

20. Any approach by Mr Levy to member of Government or the civil service in connection with 36N and or the NSCIS platform.

To further assist you advising your client a simplified timeline has also been included.

Lewis Baglietto QC

From: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Sent: 17 May 2020 14:56
To: Lewis Baglietto QC
Cc: (RGP) McGrail, Ian M.Sc (OTM) (Ian.McGrail@royalgib.police.gi); Charles Bonfante
Subject: RE: James Levy QC

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Dear Lewis,

Many thanks for your email below, the contents of which are noted and are consistent with what I communicated to you on Friday afternoon.

Kind regards,

Michael

From: Lewis Baglietto QC [mailto:lewis.baglietto@hassans.gi]
Sent: 17 May 2020 14:51
To: (GLO) Llamas, Michael <michael.llamas@gibraltar.gov.gi>
Cc: (RGP) McGrail, Ian M.Sc (OTM) (Ian.McGrail@royalgib.police.gi) <Ian.McGrail@royalgib.police.gi>; Charles Bonfante <charles.bonfante@hassans.gi>
Subject: James Levy QC

Dear Attorney,

Further to your confirmation that the Commissioner would be content with a written statement from Mr Levy in lieu of proceeding with the RGP's proposed interview tomorrow, I confirm that Mr Levy will give a written statement.

We will be in touch shortly regarding the scope, realistic timetable and procedural safeguards in relation to such statement. I assume that we should liaise with Detective Superintendent Richardson with regard to such matters.

In the circumstances, Mr Levy will therefore not be attending for interview tomorrow.

I am copying this e-mail to the Commissioner for his information, and also to Charles Bonfante of my firm, who will be assisting in this matter.

Kind regards,

Lewis Baglietto

GDPR IMPORTANT CHANGES TO OUR PRIVACY POLICIES

We have updated our Privacy Policy in line with the GDPR. This document explains how and why we collect, store, use and share personal data and it explains your rights, and how to contact us or supervisory authorities if you have a complaint. Please read it carefully. To find out more please visit our website to view our Privacy Policy.

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Lewis Baglietto QC

From: Lewis Baglietto QC
Sent: 18 May 2020 10:52
To: (RGP) McGrail, Ian M.Sc (OTM) (Ian.McGrail@royalgib.police.gi)
Cc: (EUID) Llamas QC, Michael; Charles Bonfante
Subject: James Levy QC

Dear Commissioner,

Further to my e-mail to the Attorney General below, please confirm that I am correct in assuming that, going forward, that we should liaise with Detective Superintendent Richardson in relation to the practicalities relating to Mr Levy's witness statement.

Kind regards,

Lewis Baglietto

From: Lewis Baglietto QC
Sent: 17 May 2020 14:51
To: (EUID) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi>
Cc: (RGP) McGrail, Ian M.Sc (OTM) (Ian.McGrail@royalgib.police.gi) <Ian.McGrail@royalgib.police.gi>; Charles Bonfante <charles.bonfante@hassans.gi>
Subject: James Levy QC

Dear Attorney,

Further to your confirmation that the Commissioner would be content with a written statement from Mr Levy in lieu of proceeding with the RGP's proposed interview tomorrow, I confirm that Mr Levy will give a written statement.

We will be in touch shortly regarding the scope, realistic timetable and procedural safeguards in relation to such statement. I assume that we should liaise with Detective Superintendent Richardson with regard to such matters.

In the circumstances, Mr Levy will therefore not be attending for interview tomorrow.

I am copying this e-mail to the Commissioner for his information, and also to Charles Bonfante of my firm, who will be assisting in this matter.

Kind regards,

Lewis Baglietto

Charles Bonfante

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 18 May 2020 12:03
To: Lewis Baglietto QC
Cc: Charles Bonfante
Subject: RE: James Levy QC

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Dear Mr. Baglietto

I refer to your email to the Attorney General of the 17th May 2020 concerning your client Mr. Levy and to which I was copied in.

I am aware that you have been provided with detailed further pre-interview disclosure at your request on Saturday 16th May 2020. This was done in order to allow you to properly advise your client in advance of the police interview which was originally planned. You may take the view that it would proper for Mr Levy to provide a written response to the police. This is acceptable to us. Once we receive the statement, we would then reconsider whether we would require further written particulars or the need to interview Mr Levy. As we have repeatedly said we are keeping an open mind. The scope of what is required has already been set out in detail in the pre-interview disclosure document referred to previously. As to the realistic timetable, we really need to have Mr Levy's account by Tuesday of next week (26th May). With regards to 'procedural safeguards' perhaps you could discuss this further with Detective Superintendent Richardson.

Yours sincerely,

Ian McGrail *OTM MSc*
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

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Lewis Baglietto QC

From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Sent: 19 May 2020 16:16
To: Charles Bonfante
Cc: Lewis Baglietto QC; (RGP) McGrail, Ian M.Sc (OTM)
Subject: RE: James Levy QC

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Charles,

Thank you for your email of today's date, the contents of which are noted. Please accept the pre-interview disclosure that I sent to Mr Baglietto on Sunday and marked 'draft' as the final version as the term 'draft' was not removed in error.

The Commissioner of Police had indicated that a response would be required by Tuesday 26th May 2020 as this will be a two full weeks after the RGP attended the offices of Hassans with a search warrant, which as you are aware was not in fact executed, as at that stage Mr Levy elected to provide the information that we sought voluntarily. When I left Hassans' premises on that day the Hassans IT expert was liaising with the RGP expert and we expected to have the relevant emails handed over in a matter of days. The reason for the need to deal with this issue expeditiously is because it has a significant impact on the conduct of this investigation with regards to other persons who remain on police bail. I have no issue with Mr Levy accessing his own material for the purpose of refreshing his memory and providing a copy of whatever he feels appropriate. I understand that Mr Levy does not use the computer in his office or use a computer in his home and so I presume that he would ask somebody to retrieve what he requires for him. If that is the case then that person should keep a record of what he he/she has been asked to retrieve and his/her actions.

Monday 25th May is a public holiday so I would ask that that you provide us on update on the status of Mr Levy's account by Friday 15th May 2020. We would then be in position to know how much longer is required and understand the reasons why. At that stage we may be in a position to allow a slightly longer period of time to complete the task.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent

Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile +350 56199004

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Please consider the environment before printing this email.

From: Charles Bonfante <charles.bonfante@hassans.gi>
Sent: 19 May 2020 13:53
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Cc: Lewis Baglietto QC <lewis.baglietto@hassans.gi>; (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: James Levy QC

Dear D/Supt Richardson,

I am assisting Mr Baglietto in this matter. The Commissioner has indicated to us that Mr Levy's statement is required by Tuesday 26 May. We must flag at this stage that although Mr Levy has begun the exercise, it will be impossible for him to review all the relevant correspondence (subject to the below) and draft a meaningful statement covering the many areas set out in the draft Pre-Interview Disclosure document by that deadline. As you know, drafting a meaningful statement takes time and more so in a case such as this and covering events that transpired a considerable time ago. That said, as mentioned, Mr Levy has started to prepare his statement and will endeavour to have his statement completed as soon as possible. I therefore suggest that we provide you with an update on the status of the statement on Monday 25 May.

We note that the draft Pre-Interview Disclosure document provided to us suggests that Mr Levy go through his correspondence in order to assist in the preparation of his statement. I will be grateful if you confirmed that you have no objection to Mr Levy refreshing his memory by reference to those materials as we do not wish his steps in this regard to be called into question at a later stage.

Please feel free to contact me directly on 54017157 should it assist in the liaison in this matter.

As ever,

Charles

Charles Bonfante
Barrister

Hassans
International Law Firm

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Your reference
Our reference LB/JM/
Date 20 May 2020

Direct e-mail: Lewis.Baglietto@hassans.gi

Mr Ian McGrail OTM
Commissioner of Police
New Mole House
Rosia Road
Gibraltar

Dear Commissioner

Schedule 1 paragraph 12 Criminal Procedure and Evidence Act 2011 search warrants granted on 7 May 2020 in respect of premises at [redacted] and Hassans International Law Firm Madison Building and proposed interview of James Levy QC

I refer to your letter dated 14th May, enclosing copies of the above search warrants and a copy of a notice regarding voluntary attendance for police interview, and to your email of 18th May 2020.

The points you refer to in your letter concerning the legality and propriety of the warrants as well as the manner in which Mr Levy was obliged to allow RGP access to his home address and to the seizure of the material are addressed in my letter to the Attorney General of 15th May 2020 which was copied to you. I, therefore, do not propose to repeat our response to those points here.

I note that you do not agree to provide us with the documents that we have requested from you relating to the RGP's application for the search warrants on the grounds that doing so may potentially prejudice the investigation "as Mr Levy has yet to be interviewed". I have also been informed by the Clerk of the Magistrates' Court that the RGP has lodged an objection with the court against our application to the court under Crim PR 5.7 for the application for the warrants and other related material to be provided to us from the court record.

I would, however, urge you to re-consider your position, and the objection that you have lodged with the court. Mr Levy QC is entitled, as the person challenging the warrants, to disclosure of the information laid in support of the application for the warrants, and to know

on what basis the application was made, including any further information or evidence given to the court: R (Energy Financing Team Ltd) v Bow Street Magistrates' Court; R(Gittins) v Central Criminal Court.

The only basis upon which disclosure may nevertheless be refused by the court under Crim PR 5.7(6) to (9) is if the relevant material is protected by public interest immunity because disclosure would cause substantial harm or serious prejudice to the public interest: R v Chief Constable ex parte Wiley; R (Haralambous) v Crown Court at St Albans; R(Terra Services Ltd) v NCA. The reason provided for refusing to provide the material, namely that the investigation would be 'prejudiced….as Mr Levy has yet to be interviewed' would fall far short of the necessary PII threshold to justify non-disclosure.

I also note from your letter that the DPP's advice was not sought on the application for search warrants. This is contrary to what Mr Levy was led to believe by Detective Superintendent Richardson, and contrary to what we understand was the position. We would be grateful for details of the extent to which the DPP was informed of the prospective warrant applications (on account, of course, of LPP, we do not seek details of any advice that he may have given).

I note your assurances that the RGP has not so far downloaded or copied any of the material taken from Mr Levy, and would not do so for 7 days from the date of your letter pending a legal challenge. I also understand from the Attorney General that you have given a further undertaking to the effect that that material would not be accessed until after the conclusion of the process under which Mr Levy is to provide a written statement. We are grateful to you for these assurances. We would ask, however, that you give a further assurance that the RGP *thereafter* refrains from examining the seized material without giving 21 days' notice, so that we may, if appropriate, seek legal relief in advance of the RGP gaining access. Such a further elapse of time would also allow a disclosure application, to which reference is made above, to be determined. We are plainly unable to reach a final view on the full extent of a challenge to the warrants without this information. The seized material cannot be examined until the court has ruled on the propriety and validity of your objection to disclosure, and we are given a reasonable period thereafter to consider our position in light of all or any of the information that is ordered to be disclosed.

Finally, we acknowledge, and are grateful for, your confirmation that Mr Levy is to provide a written statement. However, I note that your letter states that, following the provision of a written statement, the RGP will reconsider whether it would 'require further written particulars or the need to interview Mr Levy' (under caution). I am concerned about this. As you know, an interview under caution may only take place where there are grounds to suspect the interviewed person of the commission of an offence. Mr Levy, I presume, is not now so

Hassans
International Law Firm

suspected (otherwise he would not have been offered the opportunity of instead providing a written statement), but were he to become so, and to be interviewed under caution, he would then have lost, in relation to the pre-existing statement, the procedural protections that the law allows for suspected persons, and the statement would be potentially admissible against him. I would be grateful if you would confirm that he will not be interviewed under caution at a later stage.

I look forward to hearing from you.

Yours sincerely,

Lewis Baglietto

c.c. Her Majesty's Attorney General

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Ian McGrail OTM MSc
Commissioner of Police
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21st May 2020

Our Ref: IM166

Mr Lewis Baglietto QC
PO Box 199
Madison Building
Midtown, Queensway
Gibraltar

Dear Mr Baglietto,

Re - Mr James Levy QC

Thank you for your letter dated 20th May 2020, the contents of which are noted. Given some of the matters of law raised in your letter I have sought advice from the DPP.

I do not propose to repeat the RGP's position regarding the legality of the search warrant, suffice to say that our position remains that the warrant was properly and lawfully obtained.

You are correct to say that the RGP has objected to the disclosure of the documents used in support of the application of the warrant and that continues to be the RGP's fundamental position regarding full provision of all material. Notwithstanding this, I have instructed my officers to consider, if possible, making available a redacted version of those documents which may satisfy you regarding the basis upon which the application was made. Additionally, you have had made available to you substantial information in the pre-interview disclosure information. I hope that this combined will make the application to the Magistrate unnecessary. However, I must reiterate that any application for full disclosure of the documents will be resisted on the basis previously set out. Our view is that our objection is encapsulated within the Criminal Procedure Rules provisions identified by you in your letter.

As already explained, the DPP's advice was not sought in relation to whether a warrant should be applied for or how it would be executed. Such matters are operational in nature. The DPP's advice was however sought at various times in relation to status of all persons subject to the investigation. In this regard we remain convinced that the RGP's actions were lawful.

I note your request for further assurances from me regarding the examination etc of the material voluntarily provided by your client. In this regard, I can assure you that the material will not be examined without my giving you 7 days notice in advance of our intention to do so. This will give you ample opportunity to take whatever action you may deem necessary in the event that you are put on notice given that already 8 days since the items were handed over voluntarily.

Whilst on the matter of the material provided, I note that you have failed to respond to the point raised in earlier correspondence, namely that the material was provided voluntarily by your client and the warrant was not executed. On that basis I would be grateful if you would clarify the relevance of the challenge of the warrant. You will appreciate that this is an important issue for a number of reasons and clarity is required. Any suggestion that Mr Levy was coerced in to acting against his will and under threat of the execution of a warrant is strongly denied and will be apparent from any viewing of the Body Worn Video footage that was taken at the time.

Finally, for the avoidance of doubt, your client continues to be a suspect in this investigation. Your client has been given an opportunity to provide a prepared statement which may assist in the RGP's enquiries and clarify any involvement he may have had in the matter under investigation. Needless to say, the RGP must reserve the right to interview Mr Levy under caution at any time and it is a matter for you to advise your client on the effect of any statements he may or may not provide to the RGP. I must repeat that notwithstanding the above the RGP have an open mind and will review our position as and when evidence becomes available to us.

Yours sincerely

Ian McGrail OTM MSc
Commissioner of Police

Government Law Offices
HM Government of Gibraltar

Your Ref:
Our Ref: CMR/CRIM

Maurice Turnock
Clerk of the Magistrates Court
32-36 Town Range
Gibraltar

By email and by hand

22 May 2020

Dear Sirs

RE: Search Warrants granted on 7 May 2020 in respect of premises at [redacted] and Hassans International Law Firm Madison Building.

We refer to your letter dated 15th May 2020 regarding the above captioned matter sent in response to a letter dated 13th May 2020 from Lewis Baglietto of Hassans.

We also refer to Det Supt Richardson's e-mail of 15th May 2020 setting out the basis of the objection to an application seeking disclosure of the following documents (as contained in your letter dated 13th May 2020):

1. The Search Warrant;
2. The application for the search Warrant;
3. Any written evidence filed in support of the application;
4. Any notes taken by the RGP of the hearing;
5. Any Order or Ruling made by the Stipendiary Magistrate;
6. Any instructions or briefing note issued by the RGP to the officers attending Mr Levy's home and offices; and
7. The substance of the advice given to the RGP in relation to the merits of seeking the warrant.

Office of Criminal Prosecutions & Litigation
HM Government of Gibraltar • 6th Floor NatWest House, 57/63 Line Wall Road • Gibraltar GX11 1AA
t +350 20078882 e info.ocpl@gibraltar.gov.gi w gibraltar.gov.gi

(together "**The Documents**")

We hereby give formal notice pursuant to Rule 5.7 Crim PR of our objection to the application and attach a notice of objection.

Please note that the objection is only in relation to item 3 above and to the extent particularised in the attached notice of objection. For the avoidance of doubt, items 4, 6 and 7 do not and have not ever existed.

Yours faithfully

Christian M Rocca QC
Director of Public Prosecutions

NOTICE OF OBJECTION

PURSUANT TO RULE 5.7 OF THE CRIMINAL PROCEDURE RULES

In the matter of the search warrants granted on 7 May 2020 in respect of premises at [redacted] and Hassans International Law Firm Madison Building.

Further to the written application contained in a letter from Hassans dated 13th May 2020.

The matters required to be set out pursuant to 5.7(7) are as follows:

(a) The objection relates to parts only of the information requested. A redacted version of the material will be made available to both the Court and the Applicant together with, where possible, a summary of the redacted paragraphs to allow the applicant to understand the material properly without undermining the basis of the objection.

(b) The objection to the provision of parts of the information applies until such time as the RGP have concluded any enquiries into the involvement of Mr James Levy QC and, in particular, carried out any interviews it may require to conduct as a result.

(c) The objection to disclosure item 3 of The Documents is made on public interest immunity grounds, namely that it is not in the public interest to disclose the information as disclosure would seriously prejudice the investigation at this time and hence would cause harm to the public interest. Further details are contained in the e-mail of Det Supt Richardson's to 15th May 2020 setting out the basis of the objection to an application seeking disclosure of The Documents.

22 MAY 2020

CHRISTIAN M ROCCA QC
Director of Public Prosecutions

For and on behalf of
Her Majesty's Attorney General For Gibraltar

Lewis Baglietto QC

From: Charles Bonfante
Sent: 22 May 2020 13:28
To: (RGP) Richardson, Paul (OTM)
Cc: Lewis Baglietto QC; (RGP) McGrail, Ian M.Sc (OTM)
Subject: RE: James Levy QC

Dear Paul,

As envisaged Mr Levy's statement is not finalised. Mr Levy has been working on the document and has produced a draft which addresses the questions posed in the pre-interview disclosure document you provided, however, it still requires substantial work and review.

We estimate that an additional week will be required to complete the task. Given that this is a bank holiday weekend and that Mr Levy is unable to work on Saturdays or next Friday (which is a Jewish feast day) we are looking at Tuesday 2 June as the likely target date. Mr Levy will in any case continue working on the document and we propose to provide a further update on Wednesday 27 May. It may well be that the document is at a very advanced stage by then, if not complete.

As ever,

Charles

Charles Bonfante
Barrister

Hassans
International Law Firm

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The Legal 500 EMEA
The Legal 500 EMEA TOP TIER

From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Sent: 19 May 2020 16:16
To: Charles Bonfante <charles.bonfante@hassans.gi>
Cc: Lewis Baglietto QC <lewis.baglietto@hassans.gi>; (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: RE: James Levy QC

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Dear Charles,

Thank you for your email of today's date, the contents of which are noted. Please accept the pre-interview disclosure that I sent to Mr Baglietto on Sunday and marked 'draft' as the final version as the term 'draft' was not removed in error.

The Commissioner of Police had indicated that a response would be required by Tuesday 26th May 2020 as this will be a two full weeks after the RGP attended the offices of Hassans with a search warrant, which as you are aware was not in fact executed, as at that stage Mr Levy elected to provide the information that we sought voluntarily. When I left Hassans' premises on that day the Hassans IT expert was liaising with the RGP expert and we expected to have the relevant emails handed over in a matter of days. The reason for the need to deal with this issue expeditiously is because it has a significant impact on the conduct of this investigation with regards to other persons who remain on police bail. I have no issue with Mr Levy accessing his own material for the purpose of refreshing his memory and providing a copy of whatever he feels appropriate. I understand that Mr Levy does not use the computer in his office or use a computer in his home and so I presume that he would ask somebody to retrieve what he requires for him. If that is the case then that person should keep a record of what he he/she has been asked to retrieve and his/her actions.

Monday 25th May is a public holiday so I would ask that that you provide us on update on the status of Mr Levy's account by Friday 15th May 2020. We would then be in position to know how much longer is required and understand the reasons why. At that stage we may be in a position to allow a slightly longer period of time to complete the task.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent

Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]

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Please consider the environment before printing this email.

From: Charles Bonfante <charles.bonfante@hassans.gi>
Sent: 19 May 2020 13:53
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Cc: Lewis Baglietto QC <lewis.baglietto@hassans.gi>; (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: James Levy QC

Dear D/Supt Richardson,

I am assisting Mr Baglietto in this matter. The Commissioner has indicated to us that Mr Levy's statement is required by Tuesday 26 May. We must flag at this stage that although Mr Levy has begun the exercise, it will be impossible for him to review all the relevant correspondence (subject to the below) and draft a meaningful statement covering the many areas set out in the draft Pre-Interview Disclosure document by that deadline. As you know, drafting a meaningful statement takes time and more so in a case such as this and covering events that transpired a considerable time ago. That said, as mentioned, Mr Levy has started to prepare his statement and will endeavour to have his statement completed as soon as possible. I therefore suggest that we provide you with an update on the status of the statement on Monday 25 May.

We note that the draft Pre-Interview Disclosure document provided to us suggests that Mr Levy go through his correspondence in order to assist in the preparation of his statement. I will be grateful if you confirmed that you have no objection to Mr Levy refreshing his memory by reference to those materials as we do not wish his steps in this regard to be called into question at a later stage.

Please feel free to contact me directly on 54017157 should it assist in the liaison in this matter.

As ever,

Charles

Charles Bonfante
Barrister

Hassans
International Law Firm

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Midtown, Queensway, Gibraltar, GX11 1AA
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www.gibraltarlaw.com

GDPR IMPORTANT CHANGES TO OUR PRIVACY POLICIES

We have updated our Privacy Policy in line with the GDPR.
This document explains how and why we collect, store, use and share personal data and it explains your rights, and how to contact us or supervisory authorities if you have a complaint. Please read it carefully. To find out more please visit our website to view our Privacy Policy.

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Charles Bonfante
Barrister

Hassans
International Law Firm

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www.gibraltarlaw.com

From: Charles Bonfante
Sent: 27 May 2020 15:58
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>; Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Subject: RE: James Levy QC

Dear Paul,

'e are at an advanced stage in the preparation of Mr Levy's statement. As mentioned in my last email, this Friday is a Jewish feast day and Mr Levy will be unable to work on the statement from Thursday to Sunday.

In light of this and the final work that needs to be done we envisage being able to send you the statement during the course of next week.

As ever,

Charles

Charles Bonfante
Barrister

Hassans
International Law Firm

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Midtown, Queensway, Gibraltar, GX11 1AA
T +350 20079000 F +350 20071966
www.gibraltarlaw.com

From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 22 May 2020 15:16
To: Charles Bonfante <charles.bonfante@hassans.gi>
Cc: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: RE: James Levy QC

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Dear Charles,

I have been asked to respond to your email by Supt Richardson who has been committed with meetings today.

The content of your email has been noted and we look forward to an update on Wednesday 27th May.

Kind Regards,

Mark

Mark Wyan
Detective Inspector
Public Protection Unit

Crime and Protective Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 52181 Centrex: **2340**

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From: Charles Bonfante <charles.bonfante@hassans.gi>
Sent: 22 May 2020 13:53
To: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Subject: FW: James Levy QC

As ever,

Charles

Charles Bonfante
Barrister

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From: Charles Bonfante
Sent: 22 May 2020 13:28
To: '(RGP) Richardson, Paul (OTM)' <Paul.Richardson@royalgib.police.gi>
Cc: Lewis Baglietto QC <lewis.baglietto@hassans.gi>; (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: RE: James Levy QC

Dear Paul,

As envisaged Mr Levy's statement is not finalised. Mr Levy has been working on the document and has produced a draft which addresses the questions posed in the pre-interview disclosure document you provided, however, it still requires substantial work and review.

We estimate that an additional week will be required to complete the task. Given that this is a bank holiday weekend and that Mr Levy is unable to work on Saturdays or next Friday (which is a Jewish feast day) we are looking at Tuesday 2 June as the likely target date. Mr Levy will in any case continue working on the document and we propose to provide a further update on Wednesday 27 May. It may well be that the document is at a very advanced stage by then, if not complete.

As ever,

harles

Charles Bonfante
Barrister

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From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Sent: 19 May 2020 16:16
To: Charles Bonfante <charles.bonfante@hassans.gi>
Cc: Lewis Baglietto QC <lewis.baglietto@hassans.gi>; (RGP) McGrail, Ian M.Sc (OTM)

<Ian.McGrail@royalgib.police.gi>
Subject: RE: James Levy QC

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Dear Charles,

Thank you for your email of today's date, the contents of which are noted. Please accept the pre-interview disclosure that I sent to Mr Baglietto on Sunday and marked 'draft' as the final version as the term 'draft' was not removed in error.

The Commissioner of Police had indicated that a response would be required by Tuesday 26th May 2020 as this will be a two full weeks after the RGP attended the offices of Hassans with a search warrant, which as you are aware was not in fact executed, as at that stage Mr Levy elected to provide the information that we sought voluntarily. When I left Hassans' premises on that day the Hassans IT expert was liaising with the RGP expert and we expected to have the relevant emails handed over in a matter of days. The reason for the need to deal with this issue expeditiously is because it has a significant impact on the conduct of this investigation with regards to other persons who remain on police bail. I have no issue with Mr Levy accessing his own material for the purpose of refreshing his memory and providing a copy of whatever he feels appropriate. I understand that Mr Levy does not use the computer in his office or use a computer in his home and so I presume that he would ask somebody to retrieve what he requires for him. If that is the case then that person should keep a record of what he he/she has been asked to retrieve and his/her actions.

Monday 25th May is a public holiday so I would ask that that you provide us on update on the status of Mr Levy's account by Friday 15th May 2020. We would then be in position to know how much longer is required and understand the reasons why. At that stage we may be in a position to allow a slightly longer period of time to complete the task.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent

Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile + [redacted]

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Please consider the environment before printing this email.

From: Charles Bonfante <charles.bonfante@hassans.gi>
Sent: 19 May 2020 13:53
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Cc: Lewis Baglietto QC <lewis.baglietto@hassans.gi>; (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: James Levy QC

Dear D/Supt Richardson,

I am assisting Mr Baglietto in this matter. The Commissioner has indicated to us that Mr Levy's statement is required by Tuesday 26 May. We must flag at this stage that although Mr Levy has begun the exercise, it will be impossible for him to review all the relevant correspondence (subject to the below) and draft a meaningful statement covering the many areas set out in the draft Pre-Interview Disclosure document by that deadline. As you know, drafting a meaningful statement takes time and more so in a case such as this and covering events that transpired a considerable time ago. That said, as mentioned, Mr Levy has started to prepare his statement and will endeavour to have his statement completed as soon as possible. I therefore suggest that we provide you with an update on the status of the statement on Monday 25 May.

We note that the draft Pre-Interview Disclosure document provided to us suggests that Mr Levy go through his correspondence in order to assist in the preparation of his statement. I will be grateful if you confirmed that you have no objection to Mr Levy refreshing his memory by reference to those materials as we do not wish his steps in this regard to be called into question at a later stage.

Please feel free to contact me directly on 54017157 should it assist in the liaison in this matter.

As ever,

Charles

Charles Bonfante
Barrister

Hassans
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Your reference
Our reference LB/JM/
Date 28 May 2020

Maurice Turnock Esq
Clerk to the Magistrates
Magistrates' Court
32-36 Town Range
Gibraltar

By hand and by email to maurice.turnock@gcs.gov.gi

Dear Sir

Re: Application for the supply of information and documents from records and/or case material pursuant to Crim PR 5.7

We refer to our letter of 13 May 2020 ("the Application") requesting the provision of information and documents from the Magistrates' Court records relating to two search warrants issued on " May 2020 concerning Mr James Levy QC ("the Warrants").

We also refer to the DPP's letter of 22 May 2020 and the attached Notice of Objection, signed by the DPP but "[f]or and on behalf of Her Majesty's Attorney General For Gibraltar". There are a number of points to be made about the purported Notice of Objection.

First, we would respectfully point out that neither the DPP nor the Attorney General would appear to have any standing to object to the provision of the information requested in the Application. CrimPR 5.7(6)(b) clearly states that the objection is to be filed by "the person who applied for the order or warrant", i.e. the RGP. If in fact the Notice of Objection is filed for and on behalf of the RGP it should be stated on the document, and we reserve our client's rights in this regard.

Second, we would also note in this regard that where, as here, it is the police who are seeking to withhold information on public interest grounds, the PII claim must be supported by evidence, in this case, from the Commissioner of Police, or a very senior officer personally authorised by him: R(Golfrate Property Management Ltd) v Southwark Crown Court [2014] 2 CR App R 12 at [17]. The Notice of Objection neither contains nor refers to such evidence and is therefore inadequate.

Hassans
International Law Firm

Third, we note from your letter of 15 May 2020 that you received from the RGP an objection to the Application. We also note from the DPP's letter that on 15 May 2020 Det Supt Richardson emailed you setting out the basis of the RGP objection. We assume that that email is the objection you refer to in your letter. We were not copied into that objection and request that we be provided with a copy, not least because, according to the Notice of Objection, it sets out the basis of the objection to our disclosure application.

We have recently received from the DPP a copy of the information supplied in support of the application for the Warrants, in redacted form. Once this has been fully considered, we intend to file detailed representations in order to assist the court in determining the Application. We would observe straightaway, however, that, given that the majority of the information in support for the application for the Warrants has in fact now been disclosed, it is difficult to understand why, or on what basis, the RGP initially maintained that none of the information could be disclosed.

Given the nature of the objection raised in the DPP's Notice of Objection, and assuming that these are the RGP's, it is our respectful view that the Application ought to be dealt with at a hearing, which, pursuant to CrimPR 5."(6)(c), should be held in private. In this regard, the parties would be assisted by directions providing for the submission of written representations by the parties, and for the fixing of a date convenient to them and to the court.

Finally, we note that the Notice of Objection only objects to the provision of "Item 3", namely "Any written evidence filed in support of the applications for the Warrants". No objection is raised in respect of the other information/documents requested in the Application. We would therefore be grateful if the remainder of the items/documents requested in the Application which exist, and which are in your possession, could be provided to us at your earliest convenience.

Yours faithfully

Hassans

Hassans

CC Director of Public Prosecutions

Government Law Offices
HM Government of Gibraltar

Your Ref: LB/JM
Our Ref: CMR/CRIM

Mr Lewis Baglietto QC / Mr Charles Bonfante
Madison Building
Midtown Queensway
Gibraltar

By email

29 May 2020

Dear Sirs

RE: Application for the supply of information and documents from records and/ or case material pursuant to Crim PR 5.7.

We write further to your letter of the 28 May 2020 addressed to the Clerk of the Magistrates Court.

Before responding to the matters raised in your letter, we are concerned by your firm's insistence on conducting litigation by way of correspondence to the Court. This is neither appropriate nor necessary, particularly where the procedure governing your client's application is clearly contained within the Crim PR and there is likely to be a case management directions hearing in due course. We consider the matters raised in your letter should be reserved for oral or written submissions to the Court.

Dealing now with the matters raised in your letter, we adopt your numbering and comment as follows:

1. As you are aware the Office of Criminal Prosecutions and litigation regularly provides prosecutorial related legal advice to all law enforcement agencies including the RGP as well as other public authorities and Government Departments. In the circumstances, it should come as no surprise that the RGP has instructed this office in relation to this matter. For the avoidance of any doubt, the notice of objection filed on the 22nd May 2020 (the "Notice of Objection") was filed on behalf of the RGP and signed by the Director of Public Prosecutions for and on behalf of the Attorney-General whom instructs the DPP pursuant to section 59(3) of the Gibraltar Constitution Order 2006.

2. We respectfully disagree with your assertion that the Notice of Objection is inadequate. Rule 5.7 plainly states that the objector must give notice of the objection not more than 14 days after service of the request and that it must set out its grounds of objection [see Rules 5.7 (6) (b); and 5.7 (7)]. The RGP have complied with this requirement and there is nothing in this Rule or otherwise that requires the filing of evidence by the RGP at this stage. Following the receipt of the Notice, the Court may determine the application with or without a hearing [see Rule 6.7 (6) (c)].

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t +350 20078882 e info.ocpl@gibraltar.gov.gi w gibraltar.gov.gi

We anticipate the Court will want to hear arguments for and against the grant of your client's application and is likely to direct that evidence be filed and/or that representations be made by the parties in due course.

3. Please find enclosed a copy of Det Supt Richardson's email to the Clerk to which you refer in which he sets out the basis of the RGP's objection.

You should be pleased to note that we are in the process of finalising a further version of the RGP's application for the search warrant which slightly scales back the extent of the redactions made to the document which was provided to you on the 27th May 2020.

Yours faithfully



Christian M Rocca QC
Director of Public Prosecutions

Enc

(GLO) Gomez, Cecile

From: (GLO) Rocca, Christian
Sent: 29 May 2020 13:58
To: (GLO) Gomez, Cecile

Christian Rocca QC
Director of Public Prosecutions

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-----Original Message-----
From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Sent: 15 May 2020 12:21
To: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Cc: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>; (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>; (GCS) Turnock, Maurice <maurice.turnock@gcs.gov.gi>
Subject: FW: Letter to Magistrates - 15-05-20

Good morning Mr Rocca,

Please refer to the attached letter addressed to the Magistrates' Court by Lewis Baglietto QC on behalf of James Levy QC.

Having considered the matter within the very limited time available the reasons that we wish to object to this application are as follows:

1. Any release of the information to Mr Levy before he is formally interviewed would seriously prejudice this criminal investigation and any other on which the police rely on the obtaining of a search warrant prior to an interview. This is scheduled for 1000hrs on Monday 18th May 2020. The Commissioner of Police has undertaken to Mr Baglietto in writing that he will not to break the seals on the exhibit bags containing those devices for a period of 7 days. This is in order to allow Mr Baglietto to challenge the decision made to examine the devices in question. It appears clear to me that the real intention in accessing the material laid before the Magistrate is to place Mr Levy at an unfair advantage in advance of his interview. In my view the arms of the prosecution and defence are already out of balance in Gibraltar as there is no right for a court to draw an inference in certain circumstances, this is not the case in the United Kingdom who chose to amend their law precisely to address this imbalance. To allow the defence access to material that clearly articulates the full basis on which a suspicion on of criminal activity is based before the police have an opportunity to put those facts to a suspect in a formal interview would in my view make a mockery of the legal system and thereby contrary to the interests of justice.

2) Any release of the said information may, in addition, further prejudice this criminal investigation given that a number of other suspects continue on police bail. It is the intention of the investigating team to interview these suspects at length in the near future. A release of the information used to obtain the search warrant would therefore be out of the control of the RGP. We are already aware that there has been communication between Mr Levy and Mr Fischel as Mr Levy said so whilst we were at his office earlier this week. The information used as the basis of the application was detailed and referred to exhibits on which the RGP will seek to rely in any future proceedings.

3) In any event, it is argued that the devices obtained from Mr Levy were not obtained under the powers conferred by the said search warrant. The devices were voluntarily handed over by Mr Levy without the need to execute the warrant. Any argument as to the lawfulness of the warrant is, in my view, irrelevant in the circumstances. Given that they were handed over, any decision regarding the lawfulness of the application is incapable of having any impact upon this matter.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent

Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 47996 Centrex: 2329
Mobile [redacted]

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-----Original Message-----
From: Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Sent: 15 May 2020 09:39
To: (GCS) Turnock, Maurice <maurice.turnock@gcs.gov.gi>
Cc: (EUID) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi>; (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Subject: FW: Letter to Magistrates - 15-05-20

Dear Maurice

Please see attached letter.

Kind regards

Lewis

Government Law Offices
HM Government of Gibraltar

Your Ref:
Our Ref: JF/CG/CRIM

Mr Lewis Baglietto QC / Mr Charles Bonfante
Madison Building
Midtown Queensway
Gibraltar

By email

1 June 2020

Dear Sirs

RE: Application for the supply of information and documents from records and/or case material pursuant to Crim PR 5.7

Further to our letter dated 29 May 2020 and telephone call moments ago, please find enclosed a further redacted version of the RGP's application for the search warrant referred to in the final paragraph of our letter.

As discussed, there are portions of the redacted text which will be shown to you on the basis discussed on our telephone call.

Yours faithfully

Christian M Rocca QC
Director of Public Prosecutions

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t +350 20078882 e info.ocpl@gibraltar.gov.gi w gibraltar.gov.gi

Information supplied in support of application for search warrant: Criminal Procedure and Evidence Act 2011, Schedule 1 – First set of access conditions

(Criminal Procedure Rules, rr.47.26 & 47.30; s.13 & paragraphs 2 & 12 of Schedule 1, Criminal Procedure and Evidence Act 2011)

At Magistrates' Court on Thursday 7th May 2020.

Your Worship,

1. I am DS 130 Paul CLARKE of the Royal Gibraltar Police.
2. I am investigating offence of
    a. Conspiracy to Defraud contrary to Common Law.
3. My application has been approved by Detective Inspector Craig GOLDWIN

---

4. The overarching matter of this case is the compromise of the National Security of Gibraltar. This is due to actions performed by the subjects in relation to Computer Misuse by intentionally causing the NSCIS Platform to malfunction and agreements to commit fraud to achieve their objective.

5. This application applies to premises owned or controlled by Haim Levy namely his home address and the Offices of Hassans International Law Firm.

6. The information below has been obtained via various different sources of information and intelligence available to the Royal Gibraltar Police, and the circumstances of this case are as follows:

THE SUBJECTS

7. **Haim LEVY CBE QC** is a senior partner of law firm Hassans.
8. **Caine SANCHEZ** is a Senior Civil Servant employed by Her Majesty's Government of Gibraltar. He is the Principal Secretary to the Deputy Chief Minister of Gibraltar. Sanchez is the Government of Gibraltar's lead for the NSCIS platform.

9. **John PEREZ MBE** held the position of Chief Executive Officer of Bland Ltd between the 1st February 2010 and 10th September 2018. He was responsible for running Bland Group's interests in the Western Mediterranean and oversaw the senior management team who reported directly to him.

10. **Thomas 'Tommy' CORNELIO** held the position of Head of Software Development with Bland Ltd between 19th November 2012 and 10th August 2018. Between 11th – 31st August 2018, he remained with Bland working under a consultancy agreement. Thomas Cornelio was the architect of the NSCIS Platform.

11. **Edward ASQUEZ MBE** held the position of Operations Director with Bland Ltd between 24th June 2010 and 30th September 2018. He was employed by John Perez as they served together in the Gibraltar Regiment. He was tasked with a number of projects and was the ISO for Bland.

12. [redacted]

THE COMPLAINANT

13. **James GAGGERO** is the Chairman of the Bland Group of Companies. He has held this position since 1997. Between 1987 – 1997, he was managing Director of the Bland Group of Companies. Bland has been in the Gaggero family for over 200 years.

14. **HMGoG** have laid a claim on the ownership of the NSCIS Platform. The ownership of the Platform is in dispute.

THE COMPANIES

15. **Bland Limited ("Bland")** is part of the Bland Group of companies which is registered in Gibraltar. Bland Limited trades under a number of entities including Bland Travel (a travel and transport business), Bland DMC (a travel business), The Calpe Lounge (an airport VIP lounges business), Avis (a car hire business), Operational Support Group ("OSG"), Wavetecx (a computer development business) and Gibair (an airport ground handling business).

16. **36 North Limited ("36 North")** is a Gibraltar registered company incorporated on the 23rd April 2018. The company carries on business as a computer software and security systems developer. PEREZ and ICode Limited, together with Astelon Limited, are beneficial owners in the company (each having a 33% shareholding). Following their resignations from Bland Ltd, Cornelio and Perez went on to work on a full time basis at 36 North.

17. **ICode Limited ("ICode")** is a Gibraltar registered company beneficially owned by Cornelio and incorporated on the 16th May 2018 for the purpose of holding shares in 36 North.

18. **Astelon Limited ("Astelon")** is a Gibraltar registered company beneficially owned by Hassans International Law Firm and incorporated on the 29th March 2018 for the purpose of holding shares in 36 North. The company has a 33% shareholding in 36 North.

19. **Hassans International Law Firm** is a Gibraltar based international law firm. Haim Levy is a senior partner of Hassans.

THE NSCIS PLATFORM

20. The National Security Central Intelligence System ("the NSCIS platform") is a modular, centralised IT software system developed [redacted]

21. Thomas Cornelio, during the course of his employment with Bland, developed this system. The NSCIS Platform was first launched in December 2014 under the Frontier Management Project (FMP) and was subsequently developed over a number of years.

22. [redacted]. It is a key tool for law enforcement agencies in the protection of the National Security of Gibraltar.

23. Bland Limited state they own the NSCIS platform, the source code, object code and all database structures which form the platform. However this is contested by HMGoG.

24. The NSCIS platform is provided to HMGoG on the basis of an ongoing software license, for which HMGoG pay Bland a license fee. In addition, Bland provides continuing support and maintenance for the platform.

THIRD PARTY ACCOUNTS

25. Being the developer, Cornelio had an intimate knowledge of the NSCIS platform. [redacted]

d [redacted]

THE NSCIS PLATFORM AND WAVETECX

26. The contract for the NSCIS platform commenced under the Bland security company Operational Support Group ("OSG"). Bland later set up a separate company to develop, brand, market and commercially exploit the NSCIS platform abroad ("Wavetecx").

27. Wavetecx was set up around January 2017 and headed by Perez as CEO. He was assisted by Cornelio.

28. Cornelio managed Wavetecx on a day-to-day basis in his capacity as the Head of Software Development. Two Software Developers worked for Wavetecx – Joseph (Joey) Benrimoj and Marius Zalkaukas.

36 NORTH LIMITED

29. 36 North Limited is a private company limited by shares, with a registered office at 57/63 Line Wall Road, Gibraltar.

30. 36 North was incorporated on the 23rd April 2018. Whilst still employees of Bland, Perez and Cornelio were appointed directors of the company.

31. On the 22nd June 2018, Perez, ICode (beneficially owned by Cornelio) and Astelon Limited (beneficially owned by Hassans) each acquired a 33% shareholding in 36 North. Levy, having a 32% shareholding in Hassans, was therefore a 10% beneficial owner of 36 North [with the other partners each having a smaller share according to their respective interests in Hassans]. Perez and Cornelio were still employees of Bland.

32. There continued to be changes to the company formation during the proceeding months. However, the ultimate beneficial owners of 36 North remained as Perez, Cornelio and Hassans Law Firm [with Levy owning 10% beneficial share in the company owing to his 32% share in Hassans].

ALLEGATION

33. In October 2018, James GAGGERO engaged the assistance of Pricewaterhouse Cooper (PwC) and Red Maple (formerly Infosec Consulting) to regain control of the NSCIS Platform. Following the departure of Tommy Cornelio and John Perez, the platform malfunctioned. Gaggero reported this to the Commissioner of Police as he believed Tommy Cornelio and John Perez were responsible for this.

SEARCH WARRANTS AND ARRESTS

34. On 10th May 2019, the RGP executed search warrants at the home addresses of Cornelio, Perez, Asquez, and the offices of 36 North. A large number of electronic and documentary exhibits were seized.

35. Cornelio, Perez and Asquez were arrested during these search warrants.

36. On 14th May 2019, the RGP executed search warrants at the home address and office of Sanchez. A number of electronic and documentary exhibits were seized.

37. Sanchez was arrested the same day at Gibraltar Airport as he had been in London.

38. On 24th July 2019, the RGP executed search warrants at the home address and office of [redacted]. A number of electronic and documentary exhibits were seized.

39. [redacted] was not arrested at this time however he voluntary attended New Mole House Police Station.

40. Haim Levy has not yet been subject to Police Intervention.

BACKGROUND

41. Haim Levy is extremely influential in Gibraltar with very close connections to the Chief Minister and other HMGoG ministers. He is a senior partner of Hassans and has significant financial capabilities available to him.

CONSPIRACY TO DISHONESTLY OBTAIN THE NSCIS PLATFORM MAINTENANCE AGREEMENT

42. During the course of their employment with Bland, Perez and Cornelio, together with Levy, conspired to defraud Bland by dishonestly appropriating the NSCIS platform maintenance contract for their own benefit, via their company 36 North Limited.

43. They were assisted in attempting to obtain the NSCIS platform contract by Sanchez and to a lesser degree, Chipol both of whom are Senior Government officials.

44. The evidence in support of this offence can be divided into the following:

    a. Planning / Preparation to Obtain the NSCIS Platform (agreement / dishonesty);
    b. Appropriation of business commenced by Bland (dishonesty);
    c. Pressure and Government Officials / Undermining Bland (dishonesty);

d. Computer Misuse Offences / Knowledge of Computer Misuse Offences (dishonesty); and
e. NSCIS Report for Caine Sanchez (dishonesty).

Planning / Preparation to Obtain the NSCIS Platform Maintenance Contract

45. [Para 45 – 47 deal with communications between Levy and Sanchez concerning Wavetecx, John Perez, James Gaggero and the National Security Platform and a deal to remove the company from Blands].

48. During the course of 2018 Cornelio, Perez and Levy planned to obtain the NSCIS platform maintenance contract. This contract was the property of Bland and worth over £60,000 a month.

49. In an email sent from Perez to Cornelio, [redacted]. This [redacted] evidenced the intent of the suspects to obtain the contract for the benefit of their company, 36 North.

50. Between 23rd April 2018 and 22nd June 2018, the company 36 North Limited was incorporated, with Cornelio, Perez and Hassans each being 33% beneficial owners. It is believed the company was incorporated with the intent that it would obtain the benefit of the NSCIS platform maintenance contract.

51. In an email exchange dated [redacted] and whilst still employed by Bland, Perez sent an email [redacted] The document showed a forecasted revenue in favour of 36 North which included the NSCIS platform (Global invoice) for £62,519 per month.

52. This evidence is consistent with an agreement between the suspects to appropriate the NSICS platform maintenance contract, the property of Bland.

53. In addition to preparing to take the NSCIS platform maintenance contract, Cornelio and Perez dishonestly planned to hinder the ability of Bland to carry out their contractual obligations.

54. As part of this preparation, the suspects engineered a situation whereby they, together with a number of software engineers, would resign from the company at the same time.

55. Without prior notification, on the 10th July 2018, Perez and Cornelio handed in their resignations from Bland. In accordance with their respective contracts, the resignation of Perez was to take effect on the 9th September 2018 and the resignation of Cornelio was to take effect from the 10th August 2018.

56. On the [redacted] both software engineers sent a text to Cornelio in which they presented draft resignations. On the [redacted] Cornelio wrote to the engineers, [redacted]

57. On the [redacted] Cornelio wrote [redacted]

58. On [redacted] the software developers resigned from their employment with Bland to join 36 North. The resulting loss of staff undermined the ability of Bland to fulfil their NSCIS contractual obligations following the departure of Perez and Cornelio from the company.

59. On the [redacted] Cornelio wrote to one of the developers regarding Gaggero attempting to retain Bland projects saying, [redacted] He wrote on [redacted]

60. These actions were consistent with an agreement to undermine Bland, by diminishing their IT capabilities [and thereby their ability to maintain the platform] and appropriate the NSCIS platform maintenance contract.

61. On the [redacted] Perez wrote to Levy, "*Preparing for our departure* [redacted] *Everything else is now almost in place. John.*"

62. On the 30th August, and immediately prior to Cornelio terminating his consultancy, Levy wrote to Perez, "*John I just rang you to tell you everything is under control. I've been working with Tommy on the relevant letters. I am very confident that we will bring this to a close in a successful manner very shortly. You can rest assured I will do my best to help you in every way. I have great Respect and admiration for your ability and hard work. Do not worry if there is an attack I will help you to defend and to counter-attack. You're a military man so I'm writing to you in military terms.*"

Appropriation of Business Commenced by Bland

63. During the course of their employment with Bland Cornelio and Perez were involved in a number of projects. These included:

    a. A proposal for the Carnival Corporation for a "Centralised Vessel Security Management System"; and
    b. A "*Ministry of Defence and Public Security Border Management Proposal*" for Sao Tome and Principe.

64. In an email sent from Perez to Cornelio, dated the 24th February 2018, (and whilst still employees of Bland) Perez attached a "*Letter of Intent*". This letter purported that 36 North already had existing international contracts including Carnival Cruises and Sao Tome and Principe. These were in fact contracts that were being negotiated on behalf of Bland.

65. In respect of Sao Tome, the proposal stated, "*Contract about to be signed for 7 years. Contract worth 1.6m euros with a forecast 20% increase by year 3. Contract starts in Feb 18.*" Under the heading "*Carnival Cruise Lines*" is stated, "*Currently negotiating an APIS maritime system with Carnival who dominates 70% of the Cruise liner industry. A pilot platform has*

already been designed and discussed with Carnival CEO. A visit by Carnival's Head of Security and International representative will be visiting us in Mar 2018. Negotiation ongoing. Contract worth £175k per year."

66. It is clear that Cornelio and Perez intended to dishonestly appropriate the business of Bland commenced by them as employees of Bland and obtain the benefits for 36 North.

67. On the 6th July 2018, Perez discussed one of these projects, namely Carnival Cruises, with Levy, despite not having resigned from Bland. He wrote, *"James we have just finished with Carnival after a long day of negotiations. We have been successful and now moving to the pilot phase. Flying back tomorrow."*

68. In respect of the Sao Tome and Principe agreement, Cornelio specifically ensured that any signature would take place after he had resigned from Bland when he stated on the 24th July 2018, *"We can agree on timeline and agree a date to sign contract. After the 10th August"*

69. Both Sao Tome and Principe and the Carnival Security Management System continued to appear on the Agenda for 36 North after both Perez and Cornelio had left Bland.

70. On the 7th September 2018, and in respect of Sao Tome, Perez wrote to Levy, *"James this week we will be receiving a contract from São Tomé and Príncipe for review. The commercial elements of the contract have already been agreed in principle. We are also closing in on Equatorial Guinea."*

Pressure on HM Government of Gibraltar

71. [Para 71 – 89 relate to communications between Cornelio and Levy and another regarding placing pressure on HMGoG to transfer the NSCIS maintenance contract to 36 North and related issues].

Computer Misuse Offences

90. In furtherance of the agreement to obtain the NSCIS platform maintenance contract Cornelio committed numerous computer misuse offences. These offences were primarily designed to directly or indirectly disrupt the NSICS platform, and thereby bring into question the ability of Bland to maintain the said platform. As a direct consequence of his actions Cornelio compromised the national security of Gibraltar.

91. The Computer Misuse Offences are further detailed below.

NSCIS Report for Sanchez

92. On the 4th October 2018, Peter Canessa wrote to Caine Sanchez on behalf of the Chief Minister. In an email he wrote, *"Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be provided full control of the management, maintenance and support of the NSCIS platform ... Once the handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform."*

93. On the 5th October 2018 Sanchez contacted Cornelio and passed on these instructions.

94. On the 9th October 2018 Cornelio sent an email to Sanchez (with James Gaggero copied in) in which he confirmed that he would no longer access the NSCIS platform as well as writing, *"In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms."*

95. After the 31st August 2018, and subsequent to the instructions from the Chief Minister on the 4th October 2018, Cornelio was not authorised to access the NSCIS platform.

96. (para 96 & 97 refer to Cornelio and Sanchez accessing the NSCIS platform).
97.

98. On the 11th April 2019 Cornelio wrote to Levy, *"We are going to have a field day on the national security report..just wait until you see it. For now I am reviewing every single module 1 by 1.* [redacted] *"*

Knowledge of Computer Misuse Offences - Levy

99. [Para 99 & 100 relate to communication between Cornelio, Levy and another about apparent knowledge of the Computer Misuse Offences].

101. The evidence indicates that Levy discussed [redacted]

COMPUTER MISUSE OFFENCES

102. In furtherance of the agreement to obtain the NSCIS platform maintenance contract Cornelio committed numerous computer misuse offences. These offences were primarily designed to directly or indirectly disrupt the NSCIS platform, and thereby bring into question the ability of Bland to maintain the said platform. As a direct consequence of his actions Cornelio compromised the national security of Gibraltar. [redacted]

[redacted]

TERMINATION OF CONSULTANCY PERIOD

207. On the 1st September 2018 Cornelio terminated the consultancy period with Bland. In an email to James Gaggero, dated the 30th August 2018 he wrote, "*Please let this email serve as official notice that as of 00:00 on 1st September 2018 I will no longer be supporting the NSCIS platform in any capacity.*"

208. On the 9th October 2018 Cornelio sent an email to Sanchez (with James Gaggero copied in) in which he wrote, "*In fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms.*"

209. As of the 1st September 2018 Cornelio was no longer authorised by Bland to access the NSCIS platform.

210. However, Microsoft [redacted] revealed that Cornelio had logged on [redacted]

[redacted]

211. [Para 211 – 310 relate to 34 computer misuse and related offences committed by Thomas Cornelio].

NSCIS REPORT FOR SANCHEZ

311. On the 4th October 2018, Peter Canessa wrote to Caine Sanchez on behalf of the Chief Minister. In an email he wrote, "*Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be provided full control of the management, maintenance and support of the NSCIS platform … Once the handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform.*"

312. On the 5th October 2018 Sanchez contacted Cornelio and passed on these instructions.

313. On the 9th October 2018 Cornelio sent an email to Sanchez (cc. James Gaggero) in which he confirmed that he would no longer access the NSCIS platform as well as writing, "*in fact, as you are aware, our provision of support ended on 31 August 2018 and neither iCode Limited nor Thomas Cornelio have ongoing responsibilities to support these platforms.*"

314. Post 31st August 2018, Cornelio was not authorised to access the NSCIS platform. This was re-enforced by the instructions from the Chief Minister on the 4th October 2018.

315. [Para 315 – 317 relate to computer misuse offences committed by Cornelio].

318. On the 11th April 2019 Cornelio wrote to Levy, *"We are going to have a field day on the national security report..just wait until you see it. For now I am reviewing every single module 1 by 1. [redacted]."*

LEVY'S INVOLVEMENT

319. The above paragraphs demonstrate Levy was involved in the plan to remove the NSCIS contract from Bland at an early stage;

a. Messages [redacted] show communication discussing moving the contract away from Bland [redacted]. (Paras 45 to 47)

b. Levy was instrumental in the creation of 36 North. Firstly, by being owning 32% of shares of Astelon Ltd, who in turn own 33% of shares of 36 North. (Paras 31 to 32) On behalf of Hassans, he injected a large sum of money into 36 North.

c. He was using his influence with the Chief Minister to the advantage of 36 North.

d. He was regularly contacting both Cornelio and Perez in relation to 36 North whilst they were still employed by Blands and following their resignations. (Paras 61 to 89).

e. Communications show he was aware of the Computer Misuse Offences committed by Cornelio. (Paras 99 to 100).

320. I now seek to recover –

1. Electronic devices (including but not limited to mobile telephones and computers,) capable of sending and receiving text messages, instant messages and/or electronic mail, owned and/or used by Haim Levy and any device capable of storing any of the aforementioned communications.

2. Any documentation relating to 36 North Limited, Astelon Limited and/or Icode Limited whether held digitally or otherwise.

I submit to your Worship that there are reasonable grounds for believing that:

321. **Indictable offences have been committed;**

Conspiracy to Defraud contrary to Common Law.

322. **There is material that consists of special procedure material or includes special procedure material and does not also include excluded material on premises specified in the application.**

Data has been created or acquired in the course of the business of Hassans International Law Firm, of which the subject is a senior partner. As a law firm, this data is held under an express or implied duty of confidence the company owes to their clients.

The material sought does not include any Excluded Material (i.e. it's not medical records or journalistic material or material held under secrecy imposed by a specific enactment such as the Official Secrets Act).

E.g. the material sought consists of communications between the subjects of this application. This would not be classified as legally privileged material. This material does not however consist of anything which could be regarded as Excluded material - i.e. medical records, records relating to counselling or welfare assistance, or journalistic material. The material sought is not, and does not contain any Legal Privilege Material however it is understood legally privileged material may be present on digital devices which will be seized. All digital devices will be reviewed by an appointed independent legal representative prior to the OIC being given access to any material.

The material sought does not contain any Legal Privilege material.

323. **The material is likely to be of substantial value to the investigation and is likely to be relevant evidence.**

a. The material will assist to prove or disprove the subject's involvement in the offences stated. The material sought will show to what level the subject was involved with 36 North.

b. This information is relevant because it will identify to the OIC if the suspected offence has been committed by the subject.

I also ask your Worship to consider the following points;

324. **Other methods of obtaining the material have not been tried because it appeared they were bound to fail.**

The material sought is held by a subject in this case and it is feared if notice was given to the subject to provide this material to the OIC, the subject would destroy, alter, deface or conceal the material sought.

325. **It is in the public interest that access to the material sought should be given, having regard to the benefit likely to accrue to the investigation if the material is obtained and to the circumstances under which the person in possession of the material holds it.**

a. The offence is of a serious nature and the material sought is likely to be valuable evidence that cannot be obtained from any other source.

b. If access to the material sought is obtained under the power of the warrant I apply for, any professional or ethical duties of confidentiality which may exist between the subject and Hassans and those persons or business to whom the material refers will be preserved.

326. **Service of notice of an application for a Production Order or der under Para 4 Schedule 1 CPE Act may seriously prejudice the investigation.**

A key subject in this case is the person I would serve a Production Order for the material sought. In the circumstances it is highly likely that they would destroy, alter, deface or conceal the material sought because it is evidence sought by the OIC which may prove their involvement in the offence.

327. **For these reasons I ask your Worship to grant the search warrant(s) I apply for.**

Prepared By:
Paul CLARKE
Detective Sergeant 130
Money Laundering Investigation Unit
Royal Gibraltar Police
Email: paul.clarke@royalgib.police.gi

Lewis Baglietto QC

From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: 01 June 2020 14:09
To: Lewis Baglietto QC

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Dear Lewis,

Further to our brief telecon last week, does Tuesday or Wednesday at 2.00pm work for you? You could attend at the OCPL offices and I can show you the redacted portions as discussed and on the understanding that the information is not shared with any other person unless the court orders that those parts be provided to you.

Best regards,

Christian

Sent from my iPhone

Christian Rocca QC
Director of Public Prosecutions

Office of Criminal Prosecutions & Litigation
Government Law Offices
HM Government of Gibraltar
6th Floor, Natwest House
57/63 Line Wall Road
Gibraltar
GX11 1AA

Tel: (+350) 200 78882
Centrex: 2730
christian.rocca@gibraltar.gov.gi

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Government Law Offices

HM Government of Gibraltar

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Lewis Baglietto QC

From: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Sent: 03 June 2020 14:29
To: Charles Bonfante
Cc: (RGP) Wyan, Mark; Lewis Baglietto QC
Subject: RE: James Levy QC

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Dear Charles,

I write further to our telephone conversation of the 1st June 2020 and your email yesterday.

To date we have provided Mr Levy with:

1. A written outline of the allegation made against him on the 12.5.20. This was in advance of a request to attend a voluntary police interview under caution on 18.5.20.
2. On the 16.5.20 (and at Lewis Baglietto's request) a comprehensive document detailing the areas that we would seek to put to Mr Levy in the formal police interview including a timeline.
3. On the 22.5.20 a redacted version of the information laid before the Stipendiary Magistrate in order to obtain the search warrants.
4. A further redacted version of the information laid before the Stipendiary Magistrate in order to obtain search warrants with some redactions removed (what remains redacted concerns specific communication involving Mr Levy, computer misuse offences, other persons subject to this investigation and times and dates).
5. In addition, and following consultation with the DPP, we have agreed to allow a viewing of the redacted sections of the information which related to computer misuse offences only on a counsel to counsel basis on the understanding that no copy of this is provided.

Our understanding is that Mr Levy has offered to provide an account explaining his involvement in this matter and for that reason we agreed to postpone the interview until the account was provided. As I have mentioned on many occasions we are keeping an open mind and it may be that once we have considered Mr Levy's account we would be in a position to reconsider his status as a person who at this stage needs to be interviewed under caution in order to comply with the provisions of the Criminal Procedure and Evidence Act 2011 and Codes of Practice.

To provide more information at this stage would not in our view be appropriate. We have already clearly set out the areas that we would wish to consider in Mr Levy's account.
As with all police investigations we are seeking an untainted account and I would respectfully ask that we have Mr Levy's account without further delay.

Kind regards

Paul

Paul Richardson OTM
Det. Superintendent

Crime Protective Services Division
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **200 47996** Centrex: 2329
Mobile [redacted]

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From: Charles Bonfante <charles.bonfante@hassans.gi>
Sent: 02 June 2020 12:06
To: (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>
Cc: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>; Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Subject: RE: James Levy QC

Dear Paul

As I mentioned in our call yesterday Mr Levy's statement is at an advanced stage.

With regard to the allegation that Mr Levy had knowledge of the alleged computer misuse offences, I note, with thanks, your helpful indication that there is no evidence to suggest that Mr Levy was involved in any planning of the alleged sabotage to the NSCIS platform.

As I explained, we have reviewed the information laid before the magistrate in support of the application for the warrants ("the Information") and we cannot see that it discloses any grounds that can give rise to a reasonable suspicion that Mr Levy committed the offence of conspiracy to defraud. The offence of conspiracy to defraud must incorporate some unlawfulness, either in its objects or in it means (see Blackstones A5.64). Using lawful means to obtain a lawful result can never amount to a conspiracy to defraud.

Mr Levy is accused of conspiring with Mr Perez and Mr Cornelio to defraud Bland by "dishonestly appropriating the NSCIS platform maintenance contract for his own benefit, via their company 36 North Limited" (see paragraph 42 of the Information). The allegation against Mr Levy, as set out in the Information, is wholly predicated on discussions with Mr Perez and Mr Cornelio, whilst they were still employed by Bland, regarding the setting up of 36N and competing for the business of the maintenance of the NSCIS platform. This is not unlawful conduct.

Consequently, it is not understood on what basis Mr Levy is considered a suspect. It is essential that the basis on which he is considered a suspect, that is to say, the unlawful conduct that Mr Levy is alleged to have engaged in that would constitute the offence, is properly set out and understood so that it can be addressed directly in the statement. We would therefore be grateful if we were told precisely what unlawful acts on his part are suspected and what evidence or documents are causing the RGP particular concern so that Mr Levy can address these in his statement in order to avail himself of this opportunity to do so.

As ever,

Charles

Lewis Baglietto QC

From: Lewis Baglietto QC
Sent: 12 June 2020 14:51
To: '(GLO) Rocca, Christian'
Subject: RE:

Dear Christian,

Many thanks for confirming this.

Kind regards,

Lewis

From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: 12 June 2020 14:38
To: Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Subject:

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Dear Lewis,

Further to our telecon, I can confirm that the Mr Ullger (Acting COP) has confirmed that the items remain secured in the safe and that the undertaking given by the former COP is now given by him instead on the same terms.

Kind regards,

Christian

Charles Bonfante

From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 28 October 2020 15:18
To: Lewis Baglietto QC
Cc: Charles Bonfante; (RGP) Richardson, Paul (OTM); (GLO) Rocca, Christian
Subject: Police Investigation

Importance: High

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Mr Baglietto QC,

You will no doubt be aware that the police investigation involving 36 North Ltd has resulted in three persons being charged with conspiracy to defraud Bland Ltd and that they have now appeared before the Supreme Court of Gibraltar.

Following an extensive investigation we have concluded that Mr Levy is no longer considered a suspect in this matter. Given that Mr Levy has already provided a written submission further to questions posed by the investigating team, I should be grateful if you would consider editing Mr Levy's account with a view of it being included in the evidence in the form of a witness statement.

Finally, in the circumstances it is our intention to return the devices that were handed over to police voluntarily on the 12th May 2020. These items (which remain unexamined) may be collected from NMH during normal office hours or alternatively I could arrange for them to be dropped off to you.

Kind Regards,

Mark

Mark Wyan
Chief Inspector

Corporate Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 72500

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**D R A F T **

VOLUNTARY ATTENDANCE FOR POLICE INTERVIEW UNDER CAUTION

Pre- Interview Disclosure

1. The following facts/topic areas are provided in order to allow you properly advise your client Haim Levy who has been requested to voluntarily attend New Mole House police station for a police interview at 1000Hrs on Monday 18th May 2020.

2. We are seeking an untainted account from your client and have considered what is appropriate to further disclose at your request prior to the formal police interview.

3. The background of the investigation was outlined in the document provided directly to Mr Levy on Tuesday 12th May 2020.

4. This is a complex and protracted investigation and the additional information provided below may assist you in properly advising your client.

5. BACKGROUND

6. The National Security Central Intelligence System (NSCIS) was developed over a period of time by Blands Ltd on behalf of HMGoG.

7. The evidence suggests that the departure of the following former employees of Bland Ltd was orchestrated and calculated to impede Bland Ltd in their ability to manage the NSCIS platform, those persons are: John Perez (the then CEO), Thomas Cornelio (senior software developer), and the remaining software developers. This occurred at the same time as the said individuals had set up in business together in the expectation of having the management contract of the NSCIS platform transferred to 36 North Ltd.

8. The evidence also suggests that a considerable number of computer misuse offences (in excess of 50) have been committed by Thomas Cornelio in connection with the NSCIS platform and that these offences interfered with the efficiency of the system, diverted sensitive personal data to servers associated with 36 North Ltd without authority and compromised the National Security of Gibraltar.

9. The evidence indicates that the computer misuse offences were committed to impede the efficient operation of Gibraltar's National Security platform to such an extent as to render it unreliable in the eyes of its users. These offences resulted in taking the NSCIS platform offline during which period Gibraltar's National Security

was compromised. It is alleged that the purpose of this was to put 36 North Ltd in the best position to take over the lucrative contract.

10. The evidence further suggests that Thomas Cornelio and John Perez approached the heads of law enforcement bodies who used the platform and encouraged them to complain about the failings of the system to Caine Sanchez (a civil servant who was the NSCIS lead within the Gibraltar Civil Service).

11. The evidence suggests that Caine Sanchez has acted improperly by providing confidential and or commercially sensitive information to persons involved in these offences and sought to use his influence for the benefit of 36 North Ltd and against the interests of Bland Ltd.

12. Furthermore the evidence suggests that Haim Levy either in his own right or through corporate structures owned and or controlled by Hassans, entered into a business relationship with 36N and its members, including the provision of business advice and financing. The evidence further suggests that Haim Levy became aware of the fact that Digital Forensic experts were conducting an investigation and that Thomas Cornelio was worried that they may uncover evidence that he had tampered with the system. Furthermore that Haim Levy was requested by other persons subject to this investigation to use his influence with influential persons within the Government for the benefit of 36N. It appears that a business relationship existed with Caine Sanchez – a Civil Servant.

13. I must stress again that the police are keeping an open mind as to Mr Levy's involvement but remind you that at this stage there are reasonable ground to suspect him of involvement in a conspiracy to defraud Bland Ltd. There may of course be explanations that will change this view.

14. We are seeking an account from Mr Levy as to the following:

<u>Hassans</u>

1. His position, role, responsibilities, accountability (to whom?) Scope and limitation in engaging in new business and investing in new business by way of financing their ventures.

<u>36 North Ltd (36N)</u>

2. His involvement with this entity from the beginning and including before its incorporation as a limited liability company.
3. How Hassans became involved in 36
4. The nature of the business of 36N including any business plan if relevant.
5. The financing of 36N by Hassans and what level of return was expected from the investment.
6. What was expected from Haim Levy as an associate of 36N
7. The corporate structure of 36N including its layered ownership.

8. Any KYC due diligence that was undertaken before participating in this business.

Astelon Ltd

9. The formation of this company and its purpose and ownership.

ICODE Ltd (1/3 shareholder in 36 North Ltd)

10. The business relationship with this company
11. Any KYC due diligence conducted in connection with this company

NSCIS platform

12. His understanding as to the ownership of the intellectual property of the platform given that the evidence suggests that it formed part of a 36N business plan. How was he satisfied that 36 North Ltd would be able to acquire the management of it given that Hassans invested in the company.
13. His understanding as to how the platform was to be removed from Blands and transferred to 36N.
14. Any knowledge that he had with regard to the malfunctioning of the platform and when he became aware of this.
15. Any knowledge that he may have with regard to the tampering with and/or sabotage of the NSCIS platform.
16. An explanation of what he did once he became aware of the alleged criminality of John Perez and Thomas Cornelio with regard to the reputational damage that may occur to himself and Hassan by being associated with them and 36 North through ownership of shares in 36N.

Communications and meetings with the following persons with regards to 36N and/or NSCIS
NOTE: Mr Levy retained a copy of the data on his mobile phone before eventually handing it over to police on the 12th May 2020 and has access to his email accounts. For this reason is should be possible for Mr Levy to extract the relevant conversations/emails from his own devices and may choose to provide these to police to support his account.

17. The persons are:
    a. Eddie Asquez (a former employee of Bland Ltd)
    b. John Perez
    c. Thomas Cornelio
    d. Caine Sanchez

18. Whether the relationship was purely business or lawyer client based (all persons)

19. Sanchez-
    a. explanation as to his business relationship with civil servant

b. when did he find out that Sanchez was arrested on suspicion of misconduct in public office and did he consider that Sanchez may have acted unethically and/or unlawfully in his dealings with Haim Levy

20. Any approach by Mr Levy to member of Government or the civil service in connection with 36N and or the NSCIS platform.

To further assist you advising your client a simplified timeline has also been included.

Lewis Baglietto KC

From: Charles Bonfante
Sent: 06 November 2020 17:18
To: '(RGP) Wyan, Mark'; Lewis Baglietto QC
Cc: (RGP) Richardson, Paul (OTM); (GLO) Rocca, Christian
Subject: RE: Police Investigation

Dear Mark,

Thank you for your email below and for taking my phone call earlier this week.

I am grateful for your confirmation that the RGP, following an extensive investigation, have concluded that Mr Levy is not a suspect in this matter.

In our call you said the next step was for Mr Levy to decide whether he would like to be a prosecution witness. Mr Levy respectfully declines your invitation to be a prosecution witness in this case. I understand from our call that this now brings Mr Levy's involvement with the RGP to an end. Please do let me know if this is not the case or if you wish to discuss anything further.

I can confirm that I was handed My Levy's property by DC Currer.

As ever,

Charles

Charles Bonfante
Barrister and Acting Solicitor

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www.gibraltarlaw.com
Madison Building
Midtown, Queensway
Gibraltar, GX11 1AA
T: +350 20079000
F: +350 20071966
Hassans International Law Firm Limited - Registered in Gibraltar - Registration No. 115509

From: (RGP) Wyan, Mark <Mark.Wyan@royalgib.police.gi>
Sent: 28 October 2020 15:18
To: Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Cc: Charles Bonfante <charles.bonfante@hassans.gi>; (RGP) Richardson, Paul (OTM) <Paul.Richardson@royalgib.police.gi>; (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Subject: Police Investigation
Importance: High

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Mr Baglietto QC,

You will no doubt be aware that the police investigation involving 36 North Ltd has resulted in three persons being charged with conspiracy to defraud Bland Ltd and that they have now appeared before the Supreme Court of Gibraltar.

Following an extensive investigation we have concluded that Mr Levy is no longer considered a suspect in this matter. Given that Mr Levy has already provided a written submission further to questions posed by the investigating team, I should be grateful if you would consider editing Mr Levy's account with a view of it being included in the evidence in the form of a witness statement.

Finally, in the circumstances it is our intention to return the devices that were handed over to police voluntarily on the 12th May 2020. These items (which remain unexamined) may be collected from NMH during normal office hours or alternatively I could arrange for them to be dropped off to you.

Kind Regards,

Mark

Mark Wyan
Chief Inspector

Corporate Services
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 200 72500

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PROJECT SERVATOR
TOGETHER, WE'VE GOT IT COVERED

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□ic□elle□oo□□ gp□gi

Det□ils□
□□□e□Sgt Scott John O'Malley, Royal Air Force Police, Joint Provost and Security Unit □□PS□□
D□O□□□ □ Sep □□
□ddress□ [redacted]
Telep□one□ [redacted]
□□ □il□ [redacted] or scott□o□ □lley□□□□ □od□go□□□□

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Police Officer det□ils□
Co□ □issioner of Police□l□n McGr□il□RGP – □pplied for □□rr□nt □nd □□s senior in□estig□tor□
Detecti□e C□ief Inspector□□ □yne T□n□ridge□RGP – □xec□ted t□e □□rr□nt on t□e d□y in □□estion□

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Sgt Re□ecc□ □insey□□ □rse□PRMC□
[redacted] wife of Sgt Scott O'Malley – [redacted] of Sgt and Mrs O'Malley.

D□□ □ge in□ry□
□o d□□ □ge□no p□ysic□l in□ry□ □□otion□l in□ry□ □nxiety□stress □nd l□c□of sleep □re on□ going □it□ tre□t□ent fro□ t□e Senior Medic□l Officer □t t□e PRMC□De□ils To□er C□□p □nd Dr Me□i□ □t t□e Medic□l In□estig□tion □nit □t St □ernard's Hospital.

Pr□cis of e□ents□
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More □ro□dly □nder ci□il ter□s RGP officers □□□e □re□c□ed t□e □□□ □n rig□ts of □ll of □s citing t□is co□pl□int □nder □rticle□□□ of □□rope□n Co□rt of □□□ □n Rig□ts □□C□R□□nd □rticle □□□□□□□ □□ □n Rig□ts □ct □□R□□□□□□□ I □□s ne□er □nder □rrest □o□e□er□person□l □o□ile p□ones □ere sei□ed t□ere□y □re□c□ing □ny rig□ts to pri□□cy□ □

Fin□lly to end□□e □o□ld li□e to co□pl□in □□o□t t□e □nprofession□l □□y t□e se□rc□ □□s □ct□□lly cond□cted□ T□e RGP did not □e□r □ny PP□□not e□en t□e □ini□ □□ of □p□ir of glo□es □ere □orn□ no p□otogr□p□s □ere t□□en of t□e □rticles prior to t□e□ □eing sei□ed □nd □ore dist□r□ingly□no infor□ □tion □□s e□er so□g□t reg□rding t□e occ□p□nts of □pri□□te □o□e □ddresses □□ic□ incl□ded □y □ife □nd [redacted] □o □stific□tion □□s e□er gi□en on □□□t □rticles □ere sei□ed or not sei□ed□ □o □xpl□n□tion □□s e□er gi□en to □s reg□rding t□e po□ers □sed to sei□e or ret□in s□c□ □rticles□

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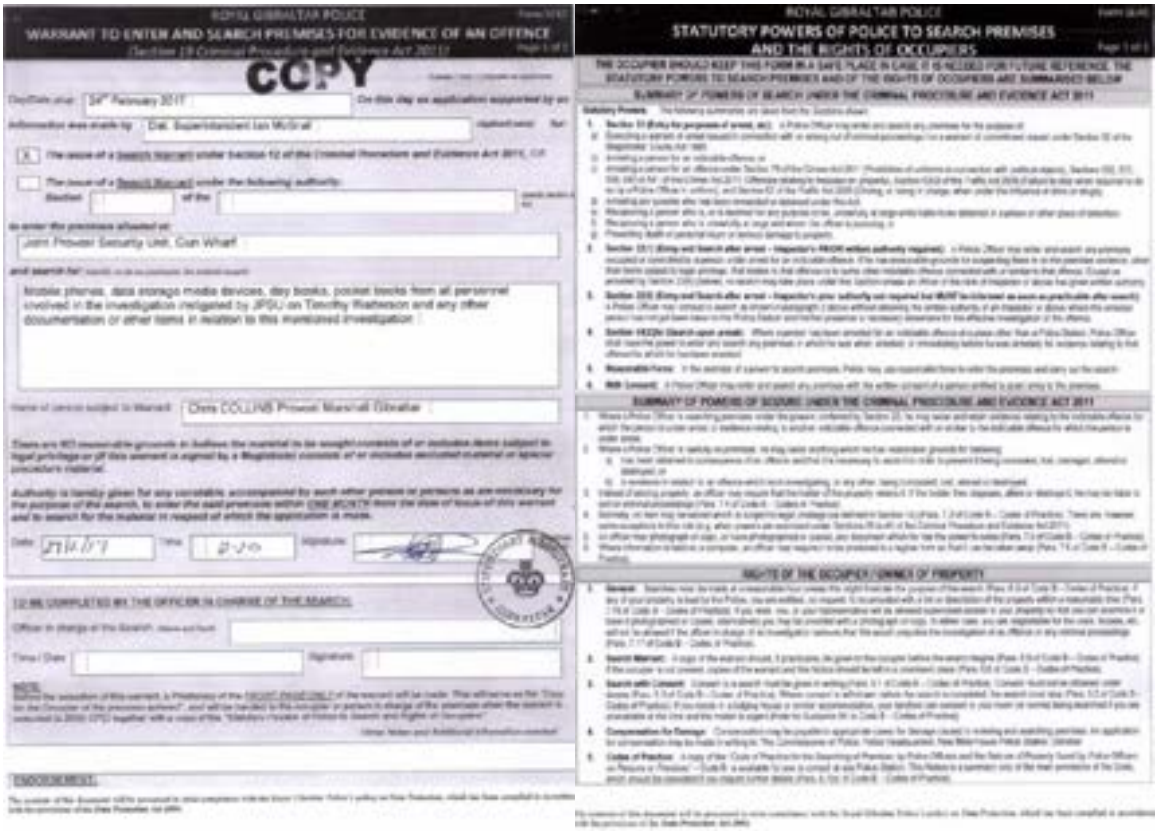
□t □pproxi□□tely □□□□ on □□ M□r □□□Mrs Cl□ire □ell recei□ed □T□C fro□ DCI □ □yne T□n□ridge □□o st□ted s□e □□s re□□ired to □ttend t□e □oint Pro□ost □nd Sec□rity □nit □□PS□ □□t Her Majesty’s □□□□l □□se Gi□r□lt□r□s□e □□s instr□cted to ro□nd □p □er te□□ □nd t□□t □e □□d □ □ □rr□nt to cond□ct □se□rc□ of □PS□ □nd t□□t □e □o□ld expl□in f□rt□er □pon □er □rri□□l□ □e s□id □e □o□ld not enter □ntil □er □rri□□l□

□t □□□□□□pon re□□est of t□e RGP□I escorted t□e RGP into □PS□ offices□DCI □ T□n□ridge□RGP spo□e to □e when they were interrupted by another RGP officer who stated “has the Warrant been served?” to which DI Tunbridge stated “yes”.

T□e □□rr□nt □□s □pplied for □y Det S□p McGr□il on □□ Fe□ □□ □nd signed □y t□e □□gistr□te on □□ Fe□ □□ □t □□□□□ T□e n□□e of t□e person s□□□ect to t□e □□rr□nt □□s C□ris COLLI□S Pro□ost M□rs□□l Gi□r□lt□r□ It st□ted t□e □□rr□nt □□s to enter t□e pre□ises sit□□ted □t “Joint Provost Security Unit, Gun Wharf” □nd se□rc□ for “Mobile Phones, data storage media devices, day books, poc□et □oo□s fro□ □ll personnel in□ol□ed in t□e in□estig□tion instig□ted □y □PS□ on Ti□ot□y □ □tterson □nd □ny ot□er doc□□ent□tion or ot□er ite□s in rel□tion to t□is □entioned in□estig□tion” I expressed □t t□e ti□e serio□s concerns □□o□t t□e leg□lity □nd necessity of t□e □□rr□nt □nd expressed concerns □□o□t □□□ing to s□rrender □y person□l □o□ile de□ice□


ROYAL GIBRALTAR POLICE

WARRANT TO ENTER AND SEARCH PREMISES FOR EVIDENCE OF AN OFFENCE

COPY

ROYAL GIBRALTAR POLICE

STATUTORY POWERS OF POLICE TO SEARCH PREMISES AND THE RIGHTS OF OCCUPIERS

□t □□□□ Mrs Cl□ire □ell□li□ised □it□ DCI T□n□ridge□ □g□in t□e □ □rr□nt □□s ser□ed on □er s□e stated her disbelief and “you are just about to serve a warrant on □not□er policing □gency□c□n yo□ □t le□st spe□□ □it□ Dep□ty Pro□ost M□rs□□ll □□ □□y□□DPM □□□?” DCI T□n□ridge st□ted t□□t □ decision □□d co□e fro□ □ig□er □nd t□□t □e □□s ser□ing t□e □ □rr□nt □nd t□□t DPM □□ needed to spe□□ □it□ t□e Co□ □issioner not □i□ □Mrs Cl□ire □ell signed □nd □□s gi□en t□e copy of t□e □□rr□nt□

□ot□ Mrs □ell □nd I contin□ed to express concerns to DCI T□n□ridge□ □e st□ted t□□t t□e decision □□d co□e fro□ □ig□er □p □nd □□s only □cting on orders□ □e st□ted t□□t □e □□d no c□oice □□t to c□rry o□t t□e □□rr□nt□ T□is st□te□ent did not see□ □ery gen□ine□

□t □□□□□Mrs □ell □□s escorted o□t of □PS□ offices to □ □e□icle □□ic□ □□s p□r□ed o□tside □PS□□ □□ere t□ey too□possession of □er Ser□ice Police □ote□oo□□ □o □□rr□nt □□s prod□ced to enter t□e □e□icle□ Mrs □ell □□s t□en escorted □□c□into t□e □PS□ □□ilding □nd □t □□□□□□er pri□□te person□l □o□ile de□ice □□s sei□ed□□ □ic□ cont□ined person□l infor□ □tion□ Mrs □ell □□nded □er □o□ile de□ice o□er □nder d□ress □nd □it□o□t consent eit□er □ritten or □er□□l□ Mrs □ell expressed □t t□e ti□e serio□s concerns □□o□t t□e leg□lity □nd necessity of t□e □□rr□nt □nd □□o□t □□□ing to s□rrender □er person□l □o□ile de□ice□□ □en s□e □□estioned t□e police officer □t t□e ti□e “why t□ey □re t□□ing □er person□l p□one” he replied “□ec□□se t□ey needed it”□

□t □□□□□Mr □ McDon□ld □□s escorted o□t of □PS□ to □is □e□icle□□ □ic□ □□s p□r□ed o□tside □PS□ □□ □ere t□ey too□possession of □is person□l □o□ile de□ice□cont□ining person□l infor□ □tion□ □o □□rr□nt □□s prod□ced to enter t□e □e□icle□ On completion of the search of Mr Macdonald’s office □e re□□ested if □e co□ld le□□e □s □e □□d □rr□nged to go in to To□n □it□ □is □ife□ T□is re□□est □□s denied □y RGP □□o st□ted t□□t t□ey □o□ld r□t□er re□ □in □ntil t□e se□rc□ of □PS□ □□s co□pleted□ Mr McDon□ld □□s not in □rrest □nd □is li□erty □□s denied□

□t □□□□□I □g□in spo□e □it□ DCI T□n□ridge c□□llenging t□e re□□ire□ent to sei□e □is person□l p□one□□s I □□s not in □rrest□l □g□in expressed □y concerns □nd t□e property t□ey □ere de□ □nding □ere □t □y □o□e □ddress [redacted]□

DCI T n ridge st ted t t I o ld e escorted to is o e ddress y n RGP officer nd I s to nd t e o er t ere t I dep rted PS in co p ny it n RGP officer to prod ce y o ile p ones t I entered y o e ddress t e RGP officer entered e ind e nin ited nd in front of y orried nd distr g t ife [redacted] and y [redacted], pon re est nd in fe r of eing rrested I nded o er nder d ress nd it o t consent eit er ritten or er I o er y o ile de ices d ty o ile p one nd ser ice police note oo T e RGP officer did not identify i self e did not s o e is rr nt c rd e did not st te t e gro nds for t ing y property e did not tell e t offence s eing in estig ted or t p rt e elie ed I pl yed in it e did not expl in t o ld ppen to y property nd did not gi e e receipt for t e property I s se ently ret rned to PS I s not in rrest t ny ti e o e er d ring t e co rse of t eir ctions t t d y I elie e t t I d een nl f lly det ined g inst y ill t le st et een t e o rs of nd on ed M r

t Miss L e ling s escorted o t of PS nd escorted y RGP to er li ing cco od ting t De il To er C p DTC in order to s rrender er personnel o ile de ice ic cont ined person l d te Miss e ling expressed er concerns t t e ti e e en st ting "she did not want to hand over her personal phone" but she was informed by RGP that "she had to" S e nded o er er p one it o t consent eit er ritten or er lly nd nder d ress Miss e ling s se ently ret rned to PS Miss e ling s not in rrest

I e y co pl int on t o pri ry gro nds t it e c o nting to rio s re c es n ely

T e RGP e no l f l t ority to sei e pri te o ile p ones nd e nl f lly nd illeg lly entered pri te pre ises y ic to sei e s c rticles T e RGP ere cting nder rr nt t t leg lly entitles t e to enter pre ises sit ted t oint Pro ost Sec rity nit G n rf – it does not extend to t e RGP escorting e to y SF t rop Point entering t ose pre ises nd it did not extend to t e RGP escorting Cpl e ling to er SL t DTC nd sei ing er pri te o ile p one I lso contend t t s c n escort in t ese circ st nces o nts to n infringe ent of li erty nd of t eir free o e ent nd co ld e considered s n nl f l 'detention' under such circumstances.

More ro dly nder ci il ter s RGP officers e re c ed t e n rig ts of PS st ff nder rticle of C R nd rticle R M ell FSgt M cdon ld Cpl e ling nd I ere not rrested o e er person l o ile p ones ere sei ed t ere y re c ing ny rig ts to pri cy correspondence letters telep one c lls nd e ils etc I o ld li e t is tter to e in estig ted nd recei e d ice on nder t legisl tion t e RGP c n interrog te y p one nd t e d issi ility of ny teri l o t ined y s c n intr si e interrog tion of person l d t

T ere is del y in t is co pl int ic is d e to ing een pro ised n independent re ie of t e ole in estig tion I e recently een infor ed ill no not t e pl ce t e re est of y C in of Co nd to it d e to on going legisl tion it GoG nd MOD t t co ld e i p cted y t is co pl int nd t e percei ed t re t of lo le el on going r ss ent fro t e RGP for t e re inder of y ti e ere in Gi r lt r ic t n f lly is no co ing to n end I still is t is co pl int to e p rs ed for y o n s nity e lt nd ell eing nd lso to get clos re for t s een ery diffic lt nd stressf l ont s

I gi e y consent for yo to p ss t e infor tion cont ined on t e letter to t e profession l st nd rds dep rt ent of t e RGP on connection it t e in estig tion of t is co pl int

Signed D te Sep

INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

SECOND WITNESS STATEMENT OF PAUL RICHARDSON

— — — — — — —

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EXHIBIT

SECOND WITNESS STATEMENT OF PAUL RICHARDSON : NOTES OF MEETINGS

Date and Source	Notes	Attendees
17.04.19 Outlook calendar	No notes in day books	Paul Richardson Mark Wyan
24.04.19 Operation Delhi day book	*Meeting DPP (CR) + MZ* *24.4.19 0930* *No Legal Privilege attaching to letter.* *_____ /_____ for criminal offence*	Christian Rocca Mark Zamitt Paul Richardson Brian Finlayson
26.04.19 Outlook calendar	No notes in day books.	Paul Richardson Mark Wyan
03.05.19 Outlook calendar	No notes in day books	Paul Richardson Mark Wyan
07.05.19 Outlook calendar	No notes in day books. Meeting went ahead the next day. See below.	Paul Richardson Neil Zammit Mark Wyan DC Paul Clarke
08.05.19	*8.5.19 1500* *Meeting JG, BF, PR, NZ, MW, DC Paul Clerk @ COP's office*	James Gaggero, Paul Richardson

Operation Delhi day book	*Re: TC taking platforms with him – why?* *JP and TC orchestrated departure followed soon* *After by 2 software developers* *Diary entries in Jan Feb for JP and JL* *JG is risk averse – they knew this* *therefore if he signed consultancy w. TC could* *avoid catastrophe and everything blowing* *up in his face* 1. *Would protect us.* 2. *Allow Caine Sanchez to allow them to* *Manage the system as per GoG's instructions* *(work with them and don't make anything* *Worse).* *21 days of work £48k and TC's claim sub to* *trigger a row.* *Sao Tome – JP advised of winning contract in Jan '18* *but not pursued (even though on their cash flow* *prediction) so as not to prejudice our investigation.* *NSCIS circa 50% of business of Co.* *Asquez interview – explore IP issue w. JL email.* *Liesel £0.5m contract with JP for ANPR – stopped by Albert Mena*	Neil Zammit Mark Wyan DC Paul Clarke Brian Finlayson,
09.05.19 Outlook calendar Operation Delhi day book	The notes set out below or notes of what Paul Richardson planned to say at the meeting rather than a record of what was actually said. *1000 Team meeting w. NCA - @ T/Wing* *PR BF MW NZ Paul Clarke Jason Oton Alfred Garcia*	Paul Richardson Brian Finlayson DCI Mark Wyan DI Neil Zammit DS Paul Clarke DC Jason Oton DC

	NCA *Phil Larratt – T/Manager Op Support* *Paul Donnington- Smith – Interview strategy: Cyber investigator* *Danny Bourne - Interview strategy: Cyber investigator* *Rosin Cullen (f) Digital Forensics* *Jamie Strachan (m) Digital Forensics* • *Intros* • *Roles* • *Thanks – assistance* • *Welcome NMH – arrange for induction, custody, loos etc* • *Coffee, tea biscuits* • *Fire Alarm – assembly point in patio – no test planned* • *I/D cards* • *Access to building. IPA directions* • *Relocation to downstairs board room* • *Overview of case* • *Sensitivity – Key players* • *Offences – <u>326, 364, 365, 366A</u> Crimes Act* • *<u>Data Protection</u> to follow on* • *<u>O.S.A</u> in consideration but not to be considered in depth in interview due to ? legislative deficiencies* *3 iterations of the Act in UK – 2 in Gib* *<u>Conspiracy to Defraud</u>* *<u>Case Overview</u>* *Refer to Project Bass report – since revised* *Draft statement of J Gaggero* *Jonathan Galliano* *Krishan Benyunes* *Rob Stemp – Red Maple* *Conspiracy to defraud Bland Group which compromised Gibraltar's*	Alfred Garcia DC NCA Phil Larratt Paul Donnington-Smith Danny Bourne Rosin Cullen Jamie Strachan

	*National Security * PTO* *<u>Key Players</u>* *JP EX RG Commanding Officer* *TC 'Boy Genius' – IT expert* *EA former RG RSM – Bag man* *Victim* *James Gaggero <u>Bland Group</u>* *Jonathan Galliano IT replacement for TC* *PWC – Project Bass Report* *Red Maple Tech. Robe Stemp Former GCHQ London* *Legally represented. By Peter Caruana QC, Guy Stagnetto QC* *Defence Legally consulted w. James Levy Hassans* *GOG Caine Sanchez – DCM PPS, Oversees contracts* *Contract £68k p.m. for NSCIS £816 p.a* *Company 36 North Ltd* *<u>Undermine National Security</u>* • *NSCIS platform developed by TC initially for DCM office to count persons entering exiting Gib for EU purposes* • *Sub developed for ANPR – Ports, Frontier, Runway and others* • *Facial recognition* • *Interpol Red Notices/Watch lists* • *Advance Passenger Info.* • *Data is collected and mined then processed formerly in Gib but later on cloud based servers – Microsoft azure*	

	Circa Feb '18 TC and JP through EA were planning to set up new business in breakaway from Blands and used the revenue stream from NSCIS platform as part of the projected income. *<u>July 18</u> orchestrated departure from Blands appears to be calculated to remove all capability from Blands to manage platform.* *CFO* *software dev chief resign, same day* *2 supporting IT code writers depart a week later and employed by 36 N* *Gaggero faced with existential crisis and CM advised of possible risk in managing national security* *Uncovered a series of what can only be described as prepared and well orchestrated illegal moves to sabotage the NCSIS platform and by* [redacted] *Team to investigate this. Collaboration w. RGP and NCA Cyber lead*	

	<u>Key Diff UK and Gib</u> *PACE* *Inference* *special warnings* *RIPA* *not yet* *Freedom of info not yet* *Data Protection and GDP are yes*	
13.05.19 Operation Delhi day book	*13..5.19. .09.25 Meeting @ #6. CM. Neil Costa, DPP Chris Rocca, Fin Secretary Mena- Darren Grech CS* - *COP outlines evidence against CS @ need to arrest, search and interview.* - *CS in UK to be recalled.* - *CM – Govt should be complainant* *- Will need to spk to Snr Partner at Hassans.*	Fabian Picardo Neil Costa Christian Rocca Albert Mena Darren Grech Ian McGrail Paul Richardson
03.07.19 Outlook calendar	No notes in day books	Paul Richardson Mark Wyan
03.07.19 Outlook calendar	No notes in day books	Paul Richardson Mark Wyan
16.07.19 Outlook calendar	No notes in day books.	Paul Richardson Mark Wyan
25.09.19	No notes in day books	Paul Richardson

Outlook calendar		Mark Wyan
08.11.19 Outlook calendar Operation Delhi day book	Irrelevant	Paul Richardson Mark Wyan
21.01.20 Outlook calendar	No notes in day books	John Field Mark Wyan Paul Clarke Paul Richardson
22.1.20 Operation Delhi day book	*Meeting w. MW* *MW raises , issue of def. E Asquez and re-interview/ statement set provisionally for Friday 24/1* *<u>History</u>* *30.7.19 Robert Fischel emails MW seeking info on what will happen on surrender of client Eddie Asquez* *30.7.19 MW replies suggesting meeting at NMH w. me and him* *30.7.19 RF suggests 31/7 nor 1/8* *Agreed to meet in Jury's Café for w/o*	Mark Wyan Paul Richardson

	Prejudice Meeting *Meeting @ Juiry's – MW & RF & Me* *Prepared st, of EA to be drafted by RG* *once he put it to client after he (RF)* *Returns from holiday. MW to email* *points to be covered & relevant docs.* *30.8.19 MW raises issue of RF now representing* *EA and JP and TC therefore possible conflict of interest.* *MW proposes discontinuing, prep. statement* *instructed to seek advice of DPP but to* *obtain prep statement unless DPP advises against.* *<u>Agreed:</u> EA should be released ASAP and prop. returned* *if no other evidence from remaining evidence* *trawl found - however ideally should provide* *account of dealings w. JL re-business plan.* *MW to arrange with RF possible prep ST on*	
29.01.20 Outlook calendar	No notes in day books	Ian McGrail Richard Ullger John Field Paul Richardson
07.02.20 Outlook calendar	No notes in day books	John Field Mark Wyan Paul Clarke Paul Richardson

03.03.20 Outlook calendar	No notes in day books.	Christian Rocca Mark Wyan Paul Richardson
05.03.20 Outlook calendar	No notes in day books	Paul Richardson Mark Wyan
17.03.20 Outlook calendar	No notes in day books.	Paul Richardson Mark Wyan
08.04.20 Delhi day book	*Wednesday 8th April 2020* *15.48 hours* *Video conference call w. DPP Chris Rocca & and Insp. Mark Wyan* *<u>Duration</u> 19'20"* *DPP had long chat w. MZ & pretty much agreed they were v. comfortable to run the case on the basis of Summary of evidence provided.* *No grounds at this stage to pull any prosecution.* *AG could speak to COP re: Public Interest.* *Re: Conspiracy to defraud charges - there is sufficient evidence to lead a jury to a realistic prospect of conviction.*	Christian Rocca Paul Richardson Mark Wyan

	Re: JL - Reasonable grounds to question, *would be a lingering doubt otherwise.* *Obligation to interview under caution.* *<u>Re: Computer Misuse</u> Offences - Always comfortable* *w. those offences.* *- Need to drill down in the detail re: ownership* *of the platform to determine which charges* *should go ahead, - ? need to revise to* *lessen number (of charges)* *Re: <u>Chipol</u> - …. Certainly had knowledge that he* *knew (post hacking) of involvement* *-discussed rationale as to/why he* *had not been arrested (Same as NDM* *for JL intervention)* *? better for Chipol to testify for Crown* *JL – Needs looking at – ownership may* *not be critical but may direct who is* *charged and w. what – Agrees completely.* *Let's drill down into this* *- <u>Public Interest?</u> - Not pulling - AG in full agreement.* *Names may come out at later stage.* *If we need to pull in Levy then so be it.*	
20.04.20 Whats App Operation Delhi day book.	*Monday 20.4.20 1551-1602* *Spoke to Chris Rocca DPP by WhatsApp call Re:* *MW's position on application of Mag Court rules r: -* *COVID-19* *Argument does not bite - intention of rules is to allow* *Mag Court to hold defendants appearance following arrest*	Chris Rocca Paul Richardson

	CPS advice re-social distancing (he had sight of) *our position is we are in a position to charge now* *if pushed and add further charges later if necessary.* *However, this would be messy and no rush needed* *to make a final decision. Serves no purpose to* *rush now in COVID-19 state of play - Still waiting* *for JL to be processed and US enq - ? effect on outcomes* *uncertain* *Our position - ready to charge - Covid came along interview of* *J L. Needed - US evidence delayed need,* *DPP had offered advice on realistic* *prospect of conviction and application of* *COVID-19 regs only - not bail which was a matter for the police*	
30.04.20 Operation Delhi day book	*09.30 <u>Friday 30 April 2020</u>* *Meeting: Chief Secretary Darren Grech, Lloyd Devincenczi, Paul Richardson, Mark Wyan. CoP* *<u>CoP</u> Raised contractual issue* • *Blands asserts ownership from outset w. supporting document.* • *DG received contract today- from email from someone -prev chief secretary who had dealt with John Perez* • *CoP – does not sit well with me as police officer – you never had this yesterday and now copies are being sent at 4 in the morning* • *Llyod – was asked to sit in this for the commercial side as watching brief* Email from Mark Wyan dated 20 November 2020: *Sir.* *These are my notes of the 30th April 2020.* *30/04/20 Meeting at No 6 with Mr Grech. Lloyd Divencenzi, CoP, PR and MW.*	Darren Grech Lloyd DeVincenzi Ian McGrail Paul Richardson Mark Wyan

	Discussion with Chief Sec regarding ownership of the NSCIS platform. *Contract sent to him by Robert Fischel as they did not have the document before. Reiterates that HMGoG are asserting ownership.* *They cannot provide any written evidence of ownership.* *CoP requests a formal complaint in the form of a witness statement if they wish to be complainants.* *Chief Secretary will begin internal disciplinary proceedings regarding CS if there is a police prosecution.* *CoP informs the Chief Sec that CS has been involved in corrupt practices.* *For his consideration of whether CS should be allowed to continue working or be interdicted.*	
04.05.20 (?) Operation Delhi day book	0945 Meeting w Attorney General Michael Llamas + Lloyd Devincenzi – CoP + Supt. Richardson.	Michael Lamas Lloyd DeVincenzi Ian McGrail Paul Richardson
13.05.20 Operation Delhi day book	***15:00 13 May 2020 AG DPP Lloyd Devincenzi – PR + CoP*** 1. *Why use most oppressive means to obtain info? Why not ask JL direct?* *CoP – Necessary – Prod Order Re: Whats App Messages & may not cooperate.* 2. *AG – Report & will never Budge.* *Going to rationalise the 76 charges and not budge from that position. And then advance w time on a legally certain position.* *AG's involvement (is/as deleted) This is a matter that needs a lot of care & attention* *COP - ? any doubt as to flaw in investigation* *offer every document to an independent police to examine our conduct. I'm being cornered. I'm not past my tenure – my ethics are up here – passionate - me visto por lo pieds Affront – to the legal position _* *AG - No one here questions your ethics.* *CoP – No Police Service would act w. same discretion.*	Michael Lamas Christian Rocca Lloyd DeVincenzi

	DPP – No doubt whatsoever about conduct of this investigation – Paul & I have been dealing w. this matter from early stages. *<u>DPP</u> I think we agree that the way in obtaining the evidence is an operational matter and we may have done it differently* *AG- You have rightly seeking our advice as to it likely to come....* *<u>CoP</u> -not inflexible- proposal. 3rd time* *We are doing a job – consulted with* *DPP – there is a case – I understand whole periphery. I cannot pull it – you can-* *AG - Does not need to get to that.* *DPP - evidential hurdle has been passed.* *S.38 – Remedy* *AG* re allegation …… *Magistrate made aware – of all info – info irrelevant as info handed over voluntary* *Letter from Lewis Baglietto delivered to AG* *Discussed.* *Agreed:* *CoP to write to Lewis Baglietto* *No material has been copied/ downloaded & remain in a sealed bag & will remain so for 7 days. Application to courts then do so* *Yes for Warrant*	

	NO, 2, 3, 4. *6 – none* *7- none* *Ref to not refusing to attend meeting.* *to pre-interview disclosure material*	
15.05.20 Operation Delhi day book	*16.55 Friday 15 May 2020 : - AG – DPP -CoP - Supt PR MW DI* *Much time w. Christian – heading towards collision* *Escalation – best avoided.* *What can we do to obtain what we need w/o a collision.* *Interview is a line of enquiry that is essential* *& both agree.*	Michael Lamas Christian Rocca Ian McGrail Paul Richardson
20.05.20 Outlook calendar entry.	No notes in day books.	Michael Lamas Christian Rocca Ian McGrail Paul Richardson
21.05.20 Outlook calendar	No notes in day books.	Christian Rocca Paul Richardson
22.05.20 Day book 2020	*Friday 22.5.2020* *0950 COP served with letter inviting to retire. Loss of confidence HE and CM*	Ian McGrail Wayne Tonbridge Cathal Yates

	- Main Collision at sea *- HMIC – Serious concerns – why not* *1000 Call from JG to personal mobile* *Needed to be chased a lot to make* *CM called last night* *<u>Brittle and Uncomfortable</u>* *Deploying a tactic to get wiggle room* *In light of what is brewing* *Peter C asserts uncategorically as to ownership* *CM v. much saying that ownership v. much in dispute and not willing to concede at this time.* *JG – gently reminds Govt. refused to sign the draft contract.* *Bottom line – clearly matter of dispute* *Does not want a major row w GoG as deal w. them on so many planes* *Pyrrhic victory* *"PC – <u>widening scope</u> of investigation is clearly causing them concerns"* *Not discussed. PC feels Govt. spooked by widening. Mena had distanced himself as partner of Hassans.* (A call regarding instruction of lawyers.)	Paul Richardson
25.05.20	No notes in day books	

Outlook calendar		
29.05.20 Outlook calendar	No notes in day books.	Christian Rocca Paul Richardson Mark Wyan
01.06.2020 Day Book 2020	*Monday 1st June 2020* *1.6.20 - 0900 SMT – COP – RI WT CY PR MK* …… *COP s.15 Letter* *We need to keep copy of everything sent to No 6* *Mark Garrett*	Ian McGrail Richard Ullger Wayne Tunbridge Cathal Yates Paul Richardson Michelle Knight
08.06.20 Day book 2020	*0940 Monday 8.6.20* *SMT RU WT CY PR MK* *COP departure* *Insp up for guard of honour* *No escort – P1 to home* *Need to keep OP Kram files live (John Field)* *HMIC – Action for RM - ? minister approval.* *To do – future – needs raising*	Richard Ullger Wayne Tonbridge Cathal Yates Paul Richardson Michelle Knight

	Touch base w. RM - ? working w. Mary de Santos *Patrol & Pursuit Policy – WT worked in this Sunday* *Recruitment – this week fitness/exam* *Promotion exam – next week* *HE – arrives BA flight Wed* *Thurs sworn in. 1100 No guard* *Visit to NMH Wed-Fri next week* *Beach season next week – coincides w.* *Summer hours – ½ rule unworkable* *? closing beach if too busy (happened on Sat).*	
17.06.20 Day book 2020	*0910 Wednesday 17th June 2020* *Mark Wyan* *Caine Sanchez. – No comment interview* *No current remote monitoring* *Andrew Cardona (Our recorders faulty)* *Friday Morning ? 10 O'Clock* *? Voluntary attendance or recall from bail* *Voluntary – if insist* *On leaving – the(n)* *Recall on further date* *To be set* *Interview strategy – Recent history to date* *Thanks* *Explain current status of invest.*	Paul Richardson Mark Wyan

	And thank *Explain strength of evidence* *Point out variance* *Invite further comment during* *or after interview whilst* *still on bail.* *<u>Perez and Asquez</u>* *Tues Morning* *Alpha first* *Fischel Represents* *No comment* *<u>Cornelio</u>* *No flights for next week* *Needs reschedule w. RF* *(tbc) tentative – Mon 29 and int Wed 1/7* *JL* *Needs steer from DPP as this affects* *Charges of others, Bail date = <u>22 July 20</u>* *Propose amending initial report w. output* *of re-interview of JP, EA and CS (but not* *wait for output of interview of TC for time reasons.* *Therefore need to re-submit report* *Include issues of ownership (new st. from Nicholas Gaggero)* *Azure ownership – oCan TC access storage in Blands name)* *Revised strategy Levy (review next week)* *CM Evidence not part of prosecution (and therefore* *interview strategy of the suspects) needs* *discussing w. DPP. Needs* *articulating in report – but reassess after*	

	Review of JL's account.	
25.09.20 Outlook calendar	No notes in day books	Paul Richardson Mark Wyan
23.10.20 Outlook calendar Day book 2020	*Friday 23rd October 2020* *Meeting DPP, MZ KD MW Paul Clerk* *Note: KD – Kerrin Drago – Crown Counsel* *Docket will be served in time but extension Needed for OCPPL to review ? 4-6/52* *70 days 25/Nov* *MW Final review – end of next week* *MoJ will thro resources if required.* *Disclosire plan needed* *Lawyer needed to form part of disclosure teams* *? Old AG's chambers*	
19.03.21 Outlook calendar	No notes in day book.	Paul Richardson Mark Wyan

24.03.21 Outlook calendar	No notes in day books	Paul Richardson Mark Wyan
25.03.21 Outlook calendar	No notes in day books	John Field Mark Wyan Paul Richardson?
17.05.21 Outlook calendar	No notes in day books	Paul Richardson Mark Wyan
28.05.21 Outlook calendar	No notes in day books	Paul Richardson Mark Wyan
21.07.21 Outlook calendar	No notes in day books	Paul Richardson Mark Wyan
28.05.21 Outlook calendar	No notes in day books	Paul Richardson Mark Wyan

Arrive Gib — Aug 2015
Oct '15

Close flights in bound / out bound ATC.

ATC work to me as aerodrome operator cannot discipline.

ATC contracted to MOD — not in command chain

Liz Hutchinson. 1.5.17 1855

Stn Cmdr
RAF Gib.
(1) SNR RAF on Gib.
(2). Aerodrome Operator
Respon. for Safe op
airfield in Gib.

? Rank

IMM. Line manager
|
C. of staff
|
2nd Rep. Officer
C. BC.

Resp. for staff.
14. Military Personnel.
19. L. E. C.

RAF SNR Officer but.

Role to ensure safe op.
Area for Civ + Military Aircraft.

aircraft can start up safely not regarding — ATC — me controller

Pilot & aircraft only conversation.

before start.

Aircraft start engines. NO. comment.

Only conv. between Pilot.

(1) Rd Sweepers – under whose Auth.

(2). Jurisdiction Clarity – AM Act for GCS
- Equiv of DPP.
- Chief Justice of GCS.
- HE.
-

Would you have done differently?

4th Col Green.

Note 8: ① Green email to CBF seeking clarity as to whether GDS laws can prevent family leaving.

② Is PM. Chris Collins able to interview him w/w/o ref to RGP?

∴ Intact to ignore GDS assertion of authority even though equip handed over!

Why was decision made to repatriate Watterson

Note.

① — Decision Statement - COS GDS.

⑨ - Medical St - Claire Bell to PMO. - Fitness for Interview 7/2/17.

Exhibit Bay AD/4 – handed over by Frank Green under strength of warrant.

doc 2
8.2.17
12:19
email from Col Green
to JFC – JCOS – Arfan.
re: legal position

doc 3 – 8/2/17
asks for
Chris Collins legal
Stance which
is sent.

what is a 'flag state'
re: application of AFA '06.
|
was accepted at face value?

doc 4
7/2. "COS discussed potential to
utilise a pre-planned military
flight to return seized assets
to UK, in support of UK
investigation –

explain "Jurisdiction formally
stepped aside"
HE ordering CBC to release.

Doc 7 – To PS Min AF dated 9/2/17
where at item 11 MOD accept
RGP had jurisdiction over
the asset.

Doc 6.
UK forces (Jurisdiction of Colonial Courts) order '65.
email from Chris Collins → COS Green
advising RGP may arrest but probably
cannot prosecute.
"In the course of duty"
does not include a criminal stance.

Doc 5
email Frank Green
to Arfan + remove
personnel prior
to meeting
on 22/2.

Welfare — Refreshments — Witness to interview

Time in custody

Have we treated you well?

Jurisdiction does not affect criminality – Personal actions

As comfortable as possible given the circumstances but serious matter – decision to arrest not taken lightly.

Many docs seized & ltd time to peruse.

DOB 27.04.62 Insp Alex Enriles Charles Gomez 46

Statement by Charles Gomez

- Col Green wishes to continue to cooperate fully w. the police.
- Complex issues of jurisdiction being followed up by lawyers in UK + BVI.
- Issue is of Jurisdictional divide.

x: Should not ~~to~~ answer Questions but to be helpful ~~be~~ it would be best if he could make a written st.

idea to make questions & take away

legal time timed & may lead to misunderstanding

& may lead to prosecution & exquisite agony of waiting for prosecution.

- No intent to hinder or hamper investigation.
- No offence intended by not answering now but in order to have time to produce coject.

Reports to Commander B.F.

(her orders / tasks by ~~[illegible]~~ are written by C.B.F.

Stn Commander

C.O. RG — not direct line Manager of annual.

admin

Chief of Staff

dep Commander

2nd Command.

all HQ Staff

except — Provost Marshall Staff

- Sep. of command

CBF — line Manager.

COS joint forces UK

not military personnel.

GDP - Mov to operate.

Abs clear w. regard to RG but not

Effectively AFA Act.

understanding based on no brief to the contrary - in Germany there a status of forces agreement in force which articulates any difference of applications

effectively takes change of conduct - Sovereignty on wales

↓

in GIS - 2 years - + 1 month.

- familiar w. Role of GDP + RGP etc.

↓

Prev. Served Afghanistan,
Iraq
Balkans
Central America
Europe
Far East.

Primarily Germany

effectively yes - but in Cyprus

understanding was no difference other than GIS Reg - As they are locally based & not full part of UK army.

B5525

My understanding in AFA applies worldwide –

? Supercede –

legal direction – ~~tied~~ Jurisdiction lay w Provost Marshall

did not understand application of AFA in GIB

→ Advice / discussions w. P.M Naval Service Prosecuting Authority.

did not speak direct x MOD central legal services

As a layman understanding cutting across an existing investigation – info

– Not on your mind to ~~[illegible]~~ remove waterson from jurisdiction it was a welfare issue.

1/09 – Rhiday Pulvoda

DPP advice not taken but ok followed.

COP – Reiterates our position

attempt to incriminate myself

why?

Pollard – political Advisor – Sovereignty

Liz. – incriminate herself – liable to be arrested did not hear clearly as ~~need to~~ near to aircraft.

not capable of instructing Mil. police to remove evidence from aircraft.

Clay Statt – Shd

53

Squadron Leader Chris Collins 2/3/17 24.6.79 —

No Significant Statement

Welfare – 01.26 – Fitness to proceed. Refreshments

- Warrants issued & executed + others interviewed.
- Rank
- Responsibilities for
- Responsible to 1st 2nd line Manager
- Powers derive from – ?
- time in Gib
- Brief Prior to deployment – ? Research Pts to legal
- Understanding of AFA & Application to Gib?
- Police Experience – Prev handling of sex offences cases – Training?
- Prev deployments w. ? UK jurisdictions / Law
- ✓ Relevance of Gibraltar law – his accountability to
- Application of PACE to him in Gib (CP+EAct)

- Understanding of Offence of Perverting Course of Justice
- what communication was there between Him –
- Police Officer assume that ignorance of law is no
- Explain where weight of evidence lies – intel
- Plan to Manage any offending in Gib re
- Warrant card
- Who arrested him & not family even tho

only arrested him to secure the property as no problems came w. him to Gib —

38 37 13

54

— difference in Caution in UK.
– no ref to negative inference
back in UK

Position here?

✓

Chief of Staff + Liz Hutchinson (Alex to brief on call log)

excuse

Offence took place in Leicestershire – UK police.

Offensive images ? downloaded / uploaded here ✓

we have possession of R. how would you progress that ? ability to obtain warrant for internet service provider, ✓

warrants

They precipitated the risk harm

55

Charles Same as other 2

except – aggravating feature – Already
Justice in
Interview
Officers
Always
underlying
Aware
Not
Divergence
Agreed
detailed

. 25 Feb'16 – GDS 29/2 starts work
. Reports to – Inv. Rep. to HQ PROV Marshall – Mr.
. Prior to GDS def School of Police – Portsmouth –
– dep. Sgt Cmdr No 5 Police Sqd. 400 Strong
– O.I.C Counter Intel RAF CRANWELL.
Started Aug 2002 → Falklands,
IRAQ
IRAQ x1
Afghanistan x2.

No discussion of Fam Ng.

56.

June '16 – Bail date

0130
light of day
not advisable in normal circumstance
of High Rank
wants to assist in resolving issues concerning us
legal action
that issues should have been resolved by lawyers & police men –
of opinion – not a simple issue – ok counsel
as Mr. Gothers will listen & later provide a
response in next 7 days.

Chief of Staff Admin Post. 1 year.
12 RAF across UK. 18 months.

wing

RAF

Sqd leader

flt

Sure Service policemen
in GPS — SO2 staff Officer J2
functional policy

OF 3 Nato Rank — OF 9.

1 Pilot Off
2 1
3
4 Sqd. leader

GPP — Mod employed Police force
Op. out of 1 believe Police Act —
Investigate local Civ. Matters.

59

(RGP) Richardson, Paul (OTM)

From: (RGP) Enrilles, Alexander (PS013)
Sent: 08 March 2017 14:17
To: (RGP) Richardson, Paul (OTM)
Subject: Interview Timings

Sir

Below are the timings as requested:

Hutchison: 1850hrs to 1955hrs, there was a brief interlude between 1940hrs and 1949hrs.

Green: 2227hrs to 0015hrs there was a brief interlude which I have recorded as being concluded at 0014hrs but did not record at what time it commenced.

Collins: 0123hrs to 0251hrs there were two interludes, 0218hrs to 0219hrs and then again 0237hrs to 0243hrs.

Kind Regards

Alex

Sent from my iPhone

OPERATION DELHI

[Project Bass]

SIO : D/Supt P. Richardson
deputy: DCI B. Filayson.
I/I (Local DC J. Obow

Crime Ref: [redacted]

Complainant: James Gaggero / chairman Bland

Complaint re: ① Thomas Cornelio — Head of SSFL
Resigned 10.7.18
→ Administrator

② John Perez

C.E.O – 1.2.10
10.7.18 Resigned w.e.f 9/9

3 x 3rd Party Accounts. Google Site Business email cloud services

NSCIS PLATFORM

National Security Cobral Intelligence System.

10.8.18 - Cornelio agrees to continue maintaining NSCIS on behalf of B.G Ltd as consultant for temp period (10.8.18 – 31.8.18 – terminated by Cornelio).

GROUP. Office: +44 [redacted]
Mobile: +44 [redacted]
email: chairman@blandgroup.com

wave development 19.11.12
wef. 9.8.18
access

NSIC Platform — Intellectual Property of Bland GROUP.
Clause 3.8 Employment Contract

HMGOG ongoing software license
Value circa [redacted] pm or [redacted] p.a.

CLOUD — Microsoft Azure.

- Waveteckx.com — Security Arm - OSG [Op. Support GROUP]
  - Set up separate division to develop brand + Market & commercially exploit NSICS abroad *
  - Waveteckx's owned on separate server/s controlled by Perez / Cornelio

Frontiersquare.gi

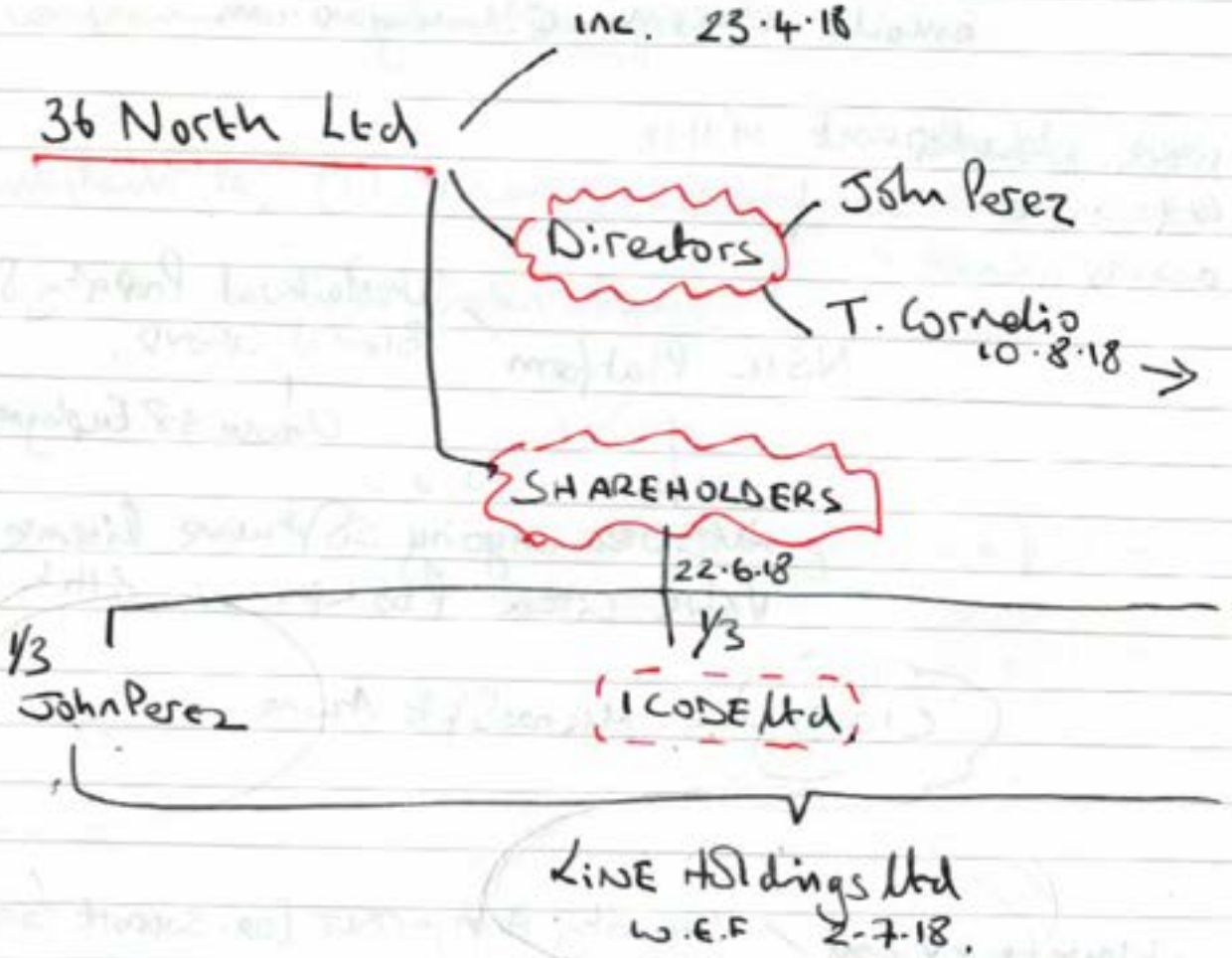
- NSCIS.eu.

* set up by John Perez Jan 2017 assisted by T. Cornelio

— TERMS?

(4)

COMPA N


Inc. 23.4.18
1. 36 North Ltd
Directors
John Perez
T. Cornelio
10.8.18 →
SHAREHOLDERS
22.6.18
1/3
1/3
John Perez
ICODE Ltd
LINE Holdings Ltd
W.E.F 2-7-18.


2. ICODE Ltd.
Inc 22.6.18.
Cornelio sole shareholder.

NIES

(5)

Resolved by Cheam Directors Ltd
ON 25/6/18.

y/3
Asteton Ltd.

(b)

Conduct Complained of:

(1) Between 24/4 + 3/7/18 - immediately after incorp. of 36 North Ltd & Cornelios acct as director & whilst an employee of B.G.

↓

Remotely accessed NSCIS Servers at 4 Govers + Po

↓

deployed: 1. Unencrypted, then 2. encrypted } Software no legitimate & thus

↓

Resulting in: Both Servers < Frontiers Ports →

(2) Programmed NSCIS Auto Nº Plate Recognition 'ANPR' & then 1.1.19 — BUT still allowed data to

(3) Stopped People Counting Application sending

(4) Caused Malfunction on 24/10/18 by raising

(7)

Port

Modification for purpose of his duties w/o authorisation

Transmitting info re: Vehicle data to 36 North - NSCIS-sql.database.windows.net

to stop sending data to Azure NSCIS Server on 1.7.18. be sent to 36 North Server.

data to Azure but allowed to 36 North.

36 North Server off-line.

(8)

Offences Alleged

128 (1)(c) Intellectual Property (copyright & Related
128 (2) – Criminal Liability for Making or dealing

Crimes Act 2011.

362 – Unauthorised Access to Computer Material

Summary. 12 months or 5 yrs Max or both – Indictment. 10 years.

364 – Unauthorised acts w. intent to impair, or w.

391 (1) – Theft

* 365 – Unauthorised interception of Computer

366 A – – Unauthorised Acts causing, or creating risk

DATA PROTECTION ACT 2004
175 – Unlawful obtaining of personal data.

OFFICIAL SECRETS ACT (1989 – uk)

Note: Email Peter Canessa → Caine Sanchez:
ensure Tommy Cornelis fully cooperates then has no access to platform, HOWEVER he ceased to be consultant on 1.9.18.

(9)

Rights) Act 2015.
an infringing article.

— Summary 12 months — or Stat. fine or both. Indictment 2 years

recklessness as to impairing operation of computer etc.

services. Summary 12 months or stat fine or both. Indictment 5 years.

of serious damage. Indictment life or fine or both.

(10)

NOTES: (1) No forensic Analysis of Four Corners Report Mentions "once NSCIS Migrates

(2) Have outstanding evidence lins been

(3) WARRANTS · Specifically for Computer

· Offence for not Cooper

· CoP Can issue Preservals

(4) 381(1) ? order to intercept electronic

(5) Role of GRA – Cyber Security Compliance Division

1st Action Plan Proposal.

✓ 1. Record Crime – done 7.1.~~18~~9 Restricted to

✓ 2. Establish Contact w. J.G – done 8.1.~~18~~9 11:00 telecon

✓ 3. Establish S.P.O.C(s) – done 8.1.~~18~~9 —

O Meet SPOCs

– 4. Determine evidence Seized thus far —

Server yet.
to Azure ∴ when?

Completed now?

ers.

ating.

ion of Data Order for ≤30 days 377 (1)

comms.

— They draw up codes of Practice.

CR 4074.

COD
PR
BF

COD
PR
BF

1. Phillip Navas - Accountant - Finance Director
2. Johnathan Galliano - tech guy (brother in GOG 17?)
3. John Paul Payas.

Jason Shur via Bob Russell:

(12)

Action Plan 1 cont...

+ 5. Determine evidence seizure of / plans to seize server @ 4 corners.

- 6. Seek expert evidence advice - Jason Eton via Bob Russell.

+ 7. Preservation of Data Order (dissuc COP)

- 8. Intel Package all players

9. Consider GRA consultation / Referral. defer

15.1.19 10:30 + 10. Initial statement from J.G.

11. Warrants Sec 375(1) CA 2011 — legal Advice. draft.

12 Analyst — Timeline — discuss

13. 1/d Team members — discuss

Action Plan 9.1.19. Meeting w. BF.

(1). Arrange Meet w. SPOCSX — Galliano / Navas / Sir P. — BF to arrange.

(2). Research Preservation of Data Order / warrants — (PR) (BF) - Legal Advice on. — Ref. to Sharon.

(3). As arranged at #1.

(4) Team Players — Analyst — Chris Santos (5) Evidence Recovery

13

Briefing w. COP + BF Fri 4.1.189.

John Perez shows up to see COP [WHEN?] & advises he is moving away from Gaggero & he is getting son ready to take over as C.E.O. System should not be affected - he would advise HMC too. Nothing sinister noted.

JG [James Gaggero, chairman of BG] Meets w. COP 1st w. JPP & then alone (JPP leaves) JG advises that JP. wants to leave. Tactical withdrawal then TC - poaching technical staff:

- COP HAS NOTES -

PWC - [redacted]

COP@ Border Conf in Madrid - [redacted] J.P there too.

JG Sees C.M. - buffer period w. Cornelio providing consultant cover. Then told to hand over keys.

JP - Seeks 2nd COP Meeting (COP HAS TXTS)
"To let you know we are pushing away from Gaggero. We have been waiting to see who Govt. Chooses to Manage the contract from the system - [redacted] ...

Q: How would you know?
A: Tommy is a wizard
COP: There may be implications to that.

(14)

8
115

Notes. Persons

Aaron Chipol – CEO B.C.A

John Rodriguez – Chief H.M.C.

36 N. Ltd → World Trade Centre.

T Cornelio – ? Spanish Residence

Bob Russell – S.I.F Cyber lead

James Wylman – (A) Chief Jersey

---

* Swimming Pool Pass – John Cortes. – Edwin Reyes. All 3 Read PWC Report.
  Handled – NP.

PWC – Neil Gray – Johnathan Holmes – overseeing Partner
  SNR Partner Cyber Security.
  or Rolan – N. Ireland?
  (Johnathan can facilitate).

also 3 fm prev. GCHQ w. 18/17 years as case Officers.
  Red Maple / Infotek.

(15)

8.1.19
11:00

Conference Call
COP's Office
COP PR BF. duration 30' approx.

James Gaggero
email chairman@blandgroup.com
Office +44 [redacted]
Mobile +44 [redacted]

To Raise:
- Four Corners Server
- PWC St/Exhibits
- SPOC 1. Phillip Navas - Accountant - Finance Dir.
  2. Jonathan Galliano - tech.
  3. John Paul Payas 4 - Guystagnetto - Co. Lawyer
  - Sir Peter C.
- Preservation of data Order.
- Contract value - R68k pm R816k p.a.
- Conv. letter to wit. st. supported by emails & Rel. docs.
- Logs of hardware etc/exhibits.

100% trust

Some baggage.

Note: Jason tasked w. looking at Project Bass report.

JG advised by COP - SIO & Dep.

JG had discussed w. H.E. Comfortable CM would act correctly.

as Resp. for Security in GIS.
72' together in UK.

* [illegible]

(16)

COP - Timeline for Action ? 1 Month
after 4 Corners seized then no element of surprise ∴ civil action may proceed.
search of local premises.
1 mile suspects to give initial AK.

Prosecution deadline not possible.

JG There still may be an innocent explanation - Court orders preventing deletion of data to follow. (COP mentions powers).

Next visit to GIS 1 Month. Can return if rec'd for 24'

COP - Seeks assurance that there will be no w/d of complaint in favour of civil Action - given.

JG Call me any time - file @ Convent Rame

COP Seperate Meeting w. 3 SPOC.

JG Audit trail will show no doubt that JP & TC brought this upon self.
JP left on good terms & was offered non-exec roles. 2 kids left soon after two - JP feigned surprise & then offered them jobs. @ 36N

Modus Op. - destroy & obfuscate ie

Note – Cloud based storage now.
I WILL SEE IT THROUGH TO END.

Need Evidence Recovery Strategy.

? Joint evidence team ? GC / PN

Grace Anne

Jeronimo?

Johnathan Galliano can reveal TC's habits
Re: Laptop etc.

COP – ? Meeting w Sir Peter to clear legal approach

JG – Not worried – Crime Priority – Need to be singular in focus – Aim to take people to court – Conduct was totally reprehensible – Premeditated – Malicious act to prejudice of own people – unforgiveable.

STRONG WORDS

11:15
9.1.19

WP - had rec'd call from JG @ 16:30 to advise that he spoken to legal teams & they are expecting our calls.

(2) J.P.P met w. ex Co. Colin Risso. - met for coffee -

wife - Patricia

Board directors
Money Corp - (also J.P).

JP offered / Market NCSIS to the board - ? any external customers would be interested in a Sular System.

11/1/19 - PR + BF @ Blands

Jonathan Galliano
Computer Sc. Degree

M. [redacted]
O. [redacted]
e. jonathan.galliano@blandgroup.com.

↓

9 years Gaming firm
infrastructure
database admin
Security - firewalls.

↓

e-money - Mastercard
- visa.

IT infrastructure
fraud etc.

2 year Sabatical
S/America wife + son

Returned 2016 - Set up own business

Init6 ltd.
(Reboot)

prev. worked w. Philip Navas (joint uni).

Met w. John Perez - who sought IT Audit.
Dec '16 (Consultancy).
Produced report. - Recommending
Central IT structure. - IT dept
3 x 1 Systems
1 helpdesk

Joined - not for IT but NCSS Project

(20)

JP - Offers jobs - starts Feb '17.

(1) - Krishan Benyunes
software developer
|
Helpdesk
technician

April '17
(prev under Tommy)
|
develop IT/help-desk

JP. Needed help to professionalise NSCIS,

Aim - unified IT structure
- lockdown - structure properly -
stable - backups - Reliability -
helpdesk.

[(2) Jan '18] Atila - Network Admin.

4 Projects live
1. NSCIS.
2. dept of employment - Recounts ETB
3. Education - Student Grants.
4. Social Services - in development

(Tommy - Group)
. Joey Benrimoj - 1 year out of uni
. Marius Zalkauskas - Lithuania supporting family back home
} left ? to Tommy.

21

Tommy Cornelio — software developer
\ prev. GIS telecom

[redacted] (ie @ 4 formers).

- Quite arrogant
  - dislikes questioned.
  - no personal issues
  - work clashes -
  - different priorities < quick to chart / fix later.

became less involved in int'l projects.

Not given approp. budget for NSCIS.

Reporting lines

Client Management < Johns / Tommy

NCIS

BCA — Johnathan Galliano
— Ltd Relationship
Aaron Chipol
Joe Mohiari

HMC
John Rodriguez

Pricing, invoicing, etc all thru. Carrie Sandeq #6.

(22)

Project began w. frontier data gathering for EU to monitor flows.

APN Recog.
Vehicle / person counting.
Facial Recog.

4 years migration to Security function.

APIS - Advanced Passenger Info airlines

then Airport.
Port
Cruise terminal.

Passport Scanning
APIS - Maritime.

Project Owner - John Rodriguez joint w. Caine Sanchez.

Met a few times

Very little dealings w.

under D.C.M. EU

V. little until recently.

23

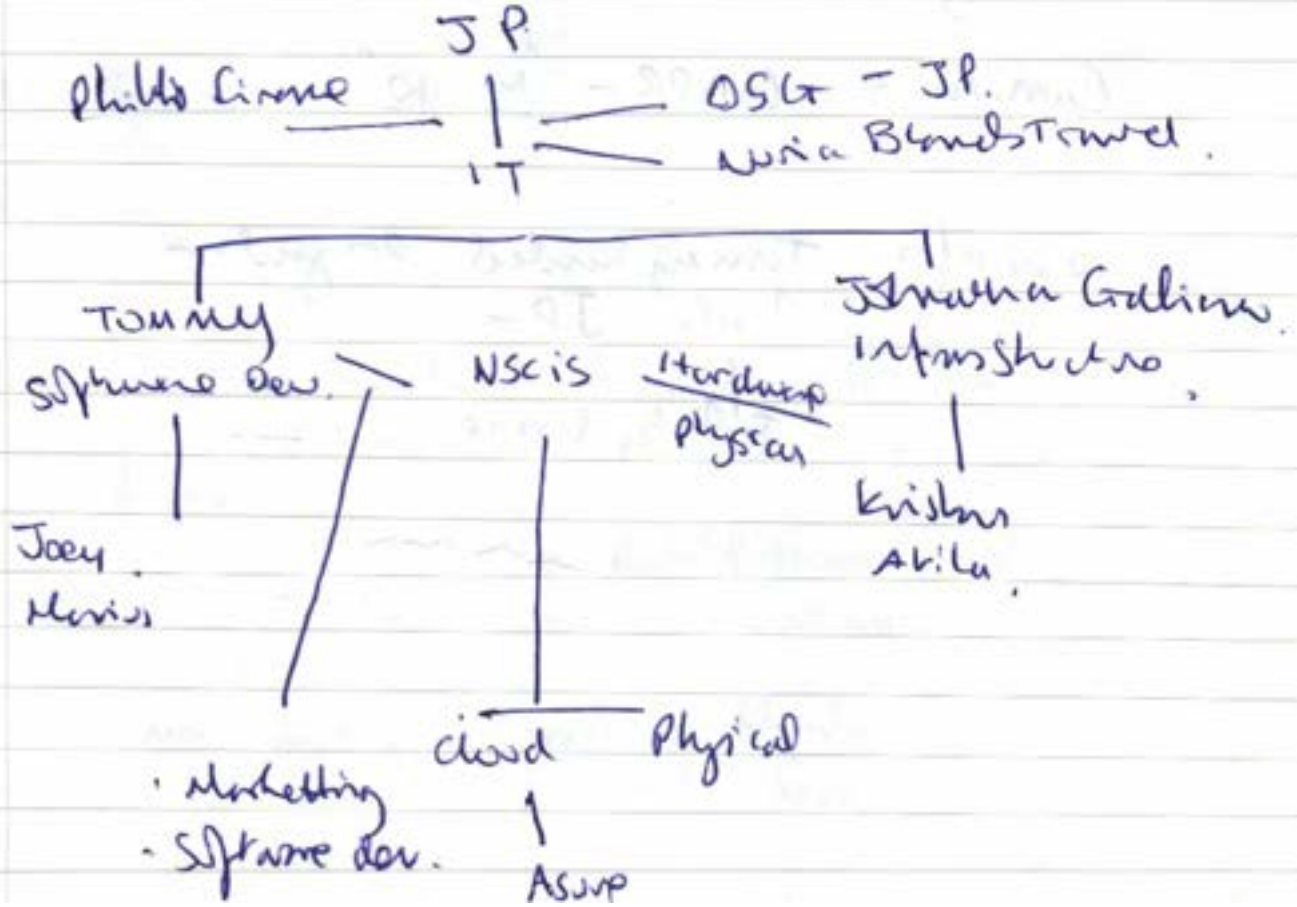
Made Resp. for OSG Systems — · CCTV
· Biometrics
· Prison

felt sidelined

considered leaving (just before probs kicked off)

[2017] JP + TC + Eddy Asquec went to Sao Tome to sell NSCIS (Oft w/Africa)

Challenged JP - No hardware elements @ that time.
- Carnival
- Inchcape Shipping.



(24)

Microsoft - Azure Cloud infrastructure.

Tommy responsible.

primarily - Europe N - Holland
Europe W - Ireland
Near GCHQ

Tommy Resignation - out of blue.

- well paid
- heard it was dead.
- safe & secure.

Selling NSCIS Abroad - ? never materialised

Carnival - GDPR - ∴ no go"

10 w 11/7 Tommy handed resignation
? also JP -

Tommy Surprise.

25

easy to work for home

Big fan of Cloud Computing — Software Dev. view does not have to deal w. Hardware.

via Laptop, PC, phone

TOMMY

Windows — Linux ϕ.

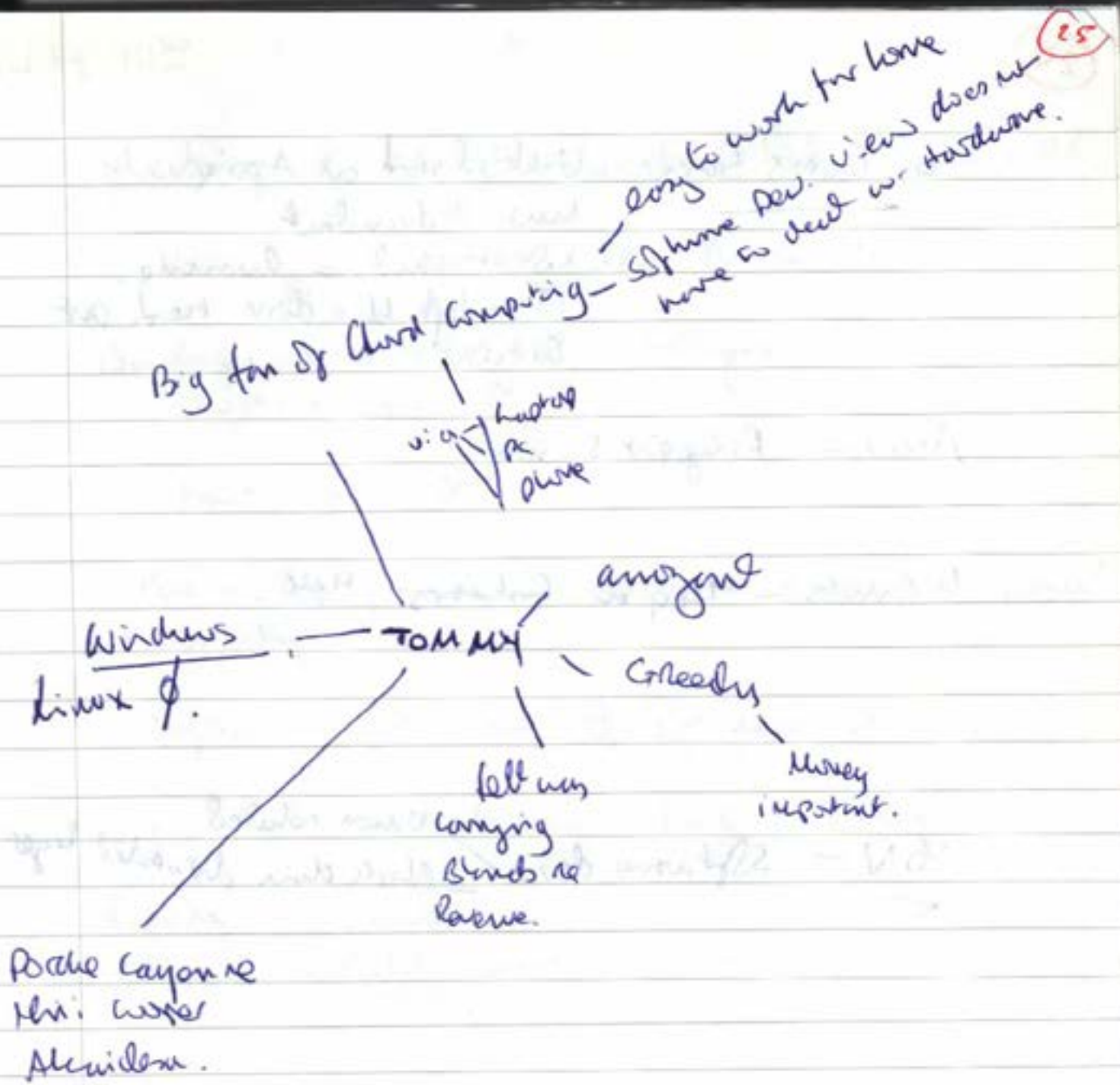
arrogant

Greedy

Money important.

felt was carrying Blonds re Revenue.

Porche Cayenne
Mini Cooper
Alcaidesa.



IP. addresses tie traffic to physical location.

Hardware — · Samsung Galaxy.
· Build an High Performance — not gaming.
· Laptop - work — (not apple),

now tagged as evidence at Blonds
John's PC, tablet, Server

20

4 Corners Sever - Virtualised on Azure
now Redundant
not touched. - Running.
1st on left blue door then past
Customs.

Access - Fingerprint Scanner.

4 Corners - Key w. ~~Customers~~ HMC.

36N - Software dev. / Union related
- Block chain distributed layer.

15.1.19 10^30 841 Europort

(27)

Meeting Patrick Cavanna + Sir Peter Cavanna QC.

v. Happy to assert later of complaint.

. Background of original employment
structure of Co,

. Contract w. GSK.

. PWC – Resp. for securing evidence in presentable format initially

. Infotech – forthdown of of data integrity.

tech. . No prev. contacts w. PWC / Infotech.

Patrick – , Jonathan.
. Philip Navas.
. JP Payas.

—— . ——

. Timeline – Circa 1 mon. – Dec.

. Docs Required / Provided – Thusfar

Patrick had asked Johnson Galliano to produce email / doc exchange between Cornelio +/or JG. particularly after 10/8 & 5/52 Consultancy Period

We will deal w. Galliano.

(28)

15.1.19 15:00 Conf. Call - DC Jason UTON . BF . PR
BSS Russell States of Jersey Police.

1. ? Site of Project Bass & thoughts on.

2. Seizure of Four Corners Server. ? physical.

3. Data Seizure Strategy. - Personal Devices.

Audio - Dan not in today.
my phone
ends after 18'

looked at PNC Report -
prev. got them to present evidence as primary source. Then verify it as HTC unit
①. ? have several unit contributed to final report - if so one person to qualify source material (ie under supervision)

4 Corners - in HMC server.
Mentioned Johnsonthan Galliano

if off line then forensically image & then rebuilt in HTC for slower time work.

important to know what hasn't been kept as much as what has - in terms of logs.

not dealing w. these investigations personally
Dan is through.

? Verification of PWC Report.

↓

Sph to author of Report.

|

Sek it out – who did what – when?

① – JO to Sph to Johnathan Galliano re Seizure of 4 Cornerd Servers.

–

② – vs/JO to Sph to PWC to progress thought process – & Sequencing of data Seizure for data verification.

③ – More than happy to work alongside JO. – ie Send Stuff Off to be verified

(30)

14^00-25/1. Meeting w. Dc Jason Oton / DCI Finlayson

Met w. Johnathan Galliano 17/1/19 who briefly explained server specs at 4 corners.

- Showed him exhibits @ Blands which are under lock & key. 3/4 bags - 2 w. towers. 1 w. laptops & ipads etc. All properly sealed in exhibit bags.

Action Dc Oton to take possession.

DCI - Prepare Exhibit book for op. Delhi.

Jason Meeting Johnathan today @ 4 Corners to assess seizure needs will take photos to discuss w. Bob Russell.

Johnathan explained that he expected same evidence will be available on 4 corners as that already seized. (Cloud data)

no tools to access.

Discuss

? Need to subcontract the examination of data seized offer from Red Maple Technologies who are visiting GB this month.

Action Discuss offer of asst. w. Red Maple - Rob Stamp - Chief techn. officer.

Jason

Confident he can do seizure on his own or w. support (Poss. Dan Taylor - Jersey -) local investigator.

Physical Equipment

5-6 disks - to be seized

Imaged locally

Reconstruct set up virtually.

Recreate the operating environment.

Nothing running yet.

? Integrity of system post migration to cloud.

Task Jason To ask Bob whether they can process the virtual or recommend an alternative possibly N.C.A

(1)

(2) To seize 4 Comers Server.

Note no concerns about Jason at 4 Comers.

Aim for next week Tues/Wed

Task Brian Contact DWC - begin st. process for their role + seizure.

... Bob Stemp.

(30)

28.1.19 14:00 Meeting JP Payan - COP - BF

COP Office. Tyrone Duarte — Cabre Hse. — Had some issues w Caine Sanchez can't be trusted.

Cab Office in London.

Last Tues, Wed, Thurs, Told him that CM had briefed him in London. → matter has been escalated up — Told I.M.

Tommy + John Trying to sell NSCIS platform in Morocco. -? MOU

? element of surprise lessened

Commercially more difficult if platform sold in Morocco.

Brancata also advised that T+J are trying to sell the platform.

They are carrying on as normal

Scoping for business w. Mir Balsam - portable radar w APNR

Eddie Asquez - trying to sell something to COP

Body Armours - Separate Company.

Software dev. angle provided by Tommy.

Tyrone Duane pev. intel. core.
? Contacts w. Morrocan ?

Reluctant to speak in detail on phone.

Brian Callaghan } over doors in Morrocco.
Albert Poggio }

Tyrone advised Callers not "to go there".

No progress w. Carnival Cruises.

San Tomé - no progress.

Microsoft HC in name of Tommy had to be taken control back using ex GCHQ contact.

— What do we need w. regard to investigating system once reconstructed.

(34)

09:10
31.1.19

Meeting Ab Stamp + BF – Elliot's Aftd.

Brought in Infosek & PWC simultaneously
+ infosek [redacted]

PWC – forensics.

Infosek – . denying unauthorised access.
[redacted]

PWC + Infosek work seperate.
Met to discuss Terms of engagement.

Worked w. Microsoft to get them their
System back.

Password protected System access & kept
Mobile No for Reset kept by Tommy.

Gib. tel No (corp) had been Rolled off
to Tommy personally to new private No

Microsoft – washington based
|
eventually believed them w. co. articles
of Association.

Microsoft Azure A/c name changed. to spain.

Lead through them.

Made it v. difficult "to get control back"

use of personal email A/c,

change of iphone name then No.

change of corp. A/c.

Microsoft could not break their terms + condition,

assisted after 2 days rather than 2 weeks.

· took copy of data
· duplicate data feed.

why? – Financially motivated
no fall out w. James – well paid
not a grudge.

Encrypted data stream.

Azure A/c – Blanch 36 N.) connection was only Encryption.

w/o this we would have found 36 N connection immediately.

Krishan decrypted the stream only overnight.

Config file –
i.p. address

... but use of VPN is.

36

No report prep. for Blands.

02³⁷ Thurs 18/10. October 2018.

Finally moved A/C from Tommy's to New A/C. (Root A/C Back - Moved over subscription of enterprise A/C).

Red Maple Technologies.
Rob Stamp.
Director + CTO
(Gloucester) Cheltenham.
rob@red

ARR. Tues 16/10/18
left Thurs 18/10/18.

LOGIC BOMBS

Kirkan originally found these.
- Red Maple reviewed Lock & found no more than Kirkan.

Traditionally does cybersecurity this was the most brazen attack we have come across.

57

16⁰⁰
5/2/19

Conference Call w. PWC.

DCI Finlayson + DC Jason Stu

✓ Johnathan-Holmes PWC. Partner.
diana.wolstenholme.
✓ Oliver. Smith
✓ ronan. Magee
} PWC. cyber response team. ✓
✓ philip.navas - Blanch.

Aims - Establish SPOC.
Evidential chain.
who will provide

Scott - Senior time.

2 pieces - Role - Landed on site
Nº of sources of evidence.
① downloads & no extracts
or forensic copies.
put on chain of custody.

Did not do everything

looked at 4 specific questions

lots not looked at as not in scope.

straightforward to provide wit. st. 1

Many issues rely on evidence seized.

Our conclusions are ones of fact.

[illegible] Re: Recommending a further

(38)

a little bit of guidance on what we expect.
we will consider & Revert by email.

Roman has done this for police from other jurisdictions previously. — PSNI — forensic reports — observations — findings + conclusions.

Will share a ver used before to see what they have done before.

Actions

JO. 1 Follow up Seizure of Exhibits from Blanch ✓
2 Seizure of servers from 4 corners ✓
3. Email Account — John Perez — Tommy Lomelio — Blanch.
Joey Berrimoj — Marius Zalkovskas ✓

BC. Write to Johnathan Holmes outlining evidential requirements for statement. ✓.

NPQ Met Graceanne Gear Re. E.I.O.
BC to draft application.
↓
— 1

(39)

1.3.19 14:50 Meeting BF + (Her) JO.

St. Rec'd from Roman McGee — needs elaborating.
No Report attached - but had been fine tuned.

Act. B.F to chase up St. w. explanation of Role + Qualifications + updated Report.

Explore cost of PWC doing work.

Action to discuss ? explore w. DDD issue of using same service provider — ask NCA / Bob Russell.

BF — EIO Template to be progressed for submission

Jason Oton

(1) Seizure of * exhibits - 13.2.19
* exhibit book opened (digital),
* Four Corners Server - 12.2.19
* email Server - 28.2.19 emailed Jonathan Galliano. will provide Per ask held in the 'cloud' email kept by 3rd party Co. Provider

JO task who would Bob Russell outsource the Cloud indexing / Benchmarking to?

BF. ↙ How much would this cost w. PWC.

40

0930 UFED - Analysis of tablets etc.

13.3.19.
1000 Project Bars Summary.

*1 [redacted]

*2 [redacted] (- Post 04/18)

[redacted] (7/10/18 - 17/10/18)

[redacted] (7/10 - 17/10)

NSCIS = National Security Central Intelligence System

Azure - Microsoft Cloud Based.

Needs

*1 To decompile + review source code associated w. post server to determine time bound operations. (Needs access to Four Corners server - (we have this.

*2 Review of service configuration files + source code to determine if code was present which would divert data. (GUID used as key to encrypt the code).

(40)

— Accessed by IP. address – assoc w. kcornelio@[redacted]
+ listed on Azure firewall as TOMMY HOME.

— System became unstable.

— Associated w. 36 North Ltd.

13.3.19. 12^25 Meeting w. COP & Martin Lennon - Regional director of Spain & Portugal NCA - British Embassy - Madrid.
Tel: + [redacted] Mob. +34 [redacted]
[redacted]. @ COP Office.

Martin undertook to speak to National Cyber Lead in UK tomorrow to seek advice or signposting for assistance in the areas outlined in prev. 2 pages. Will revert to COP.

13.3.19 13^00 Rec'd call from James Gaggero on my mobile phone. He sought assurances as to whether we still veried investigation as likely to proceed to Criminal ~~inv~~ charges. Delay explained at Rnd mentioned earlier meeting w. NCA (no names mentioned) Agreed to wait to pursue Kiwi interests after we had heard from NCA (? next week). He mentioned emails will contain discussions of budgets for 36 N. before JP + TC left - clearly showing prior intent.
Agreed to revert to JG by 21/3 (Thursday).

13.3.19 15^30 Met Jason Stu - DC.
- email server.
- St. Jshatham + other i/T
- Continue indexing servers (imaging)
- Imaging devices
- Sub Rep. on timelines for examination of all devices.

15.3.19 [redacted] 14[38]. Conf. Call w. Martin Lennon. CoP, A/CoP, PR.

Cybercrime can provide support.

Arrange for visit on site for brief + agree a strategy to move forward.

Martin R. fm leave 1/4/19.

CoP to fire email w. contact point,

& My availability 1/4 onwards or Thos 14/3 + Fri 15/3

19.4.19 04[00] OP deVeli - Team meeting. DCI BF, Jason Ohm Johan Waes.

① Draft st. ? w. Neil (CSL). for completion & signing.

② Timeline - Johan - to progress asap - this week.

③ (a) Jason - Pending st. w. Johnathan Gallicano. (he is drafting history to Jason to complete).

(b). 2 hard drives left to image then will return Towers. hard drives to be kept as originals. Password cracking software running for 3 weeks - (Boston)

(c). email - SET UP Tower -

Ani for warrant 30/4.

? addresses to be searched.

DiPaul Clerk – · Recce.
/ · Co Searches
? earlier stat. · St. follow up. (BF to forward w. our comments).

Next meeting when PS Zarinitt returns.

(45)

164.19
11.15

Meeting w. NCA. Cyberteam.

. Phil Larratt } NCA T/Manager Op. Support.
. Shona Kerr. }
. Martin Lemmon - FCO
. BF. N.2.

Shona Re: PWC Report.

. Externally verify Report & Reproduce it.
not usual to do this practice.
. Incident response - PWC Primary Role get Co. back on its feet.

PWC st. background + continuity.

Data Protection - not yet principal offences.
are computer Misuse offences.

Official Secrets Act - ? ~~to~~ Advice from AG at relevant time.

Warrants. Prev difficulties w. wording.

Interview Advisor - Danny Borne - DS Equivalent Spring Garden,
spoke to 1-3 Interview - Advisors.

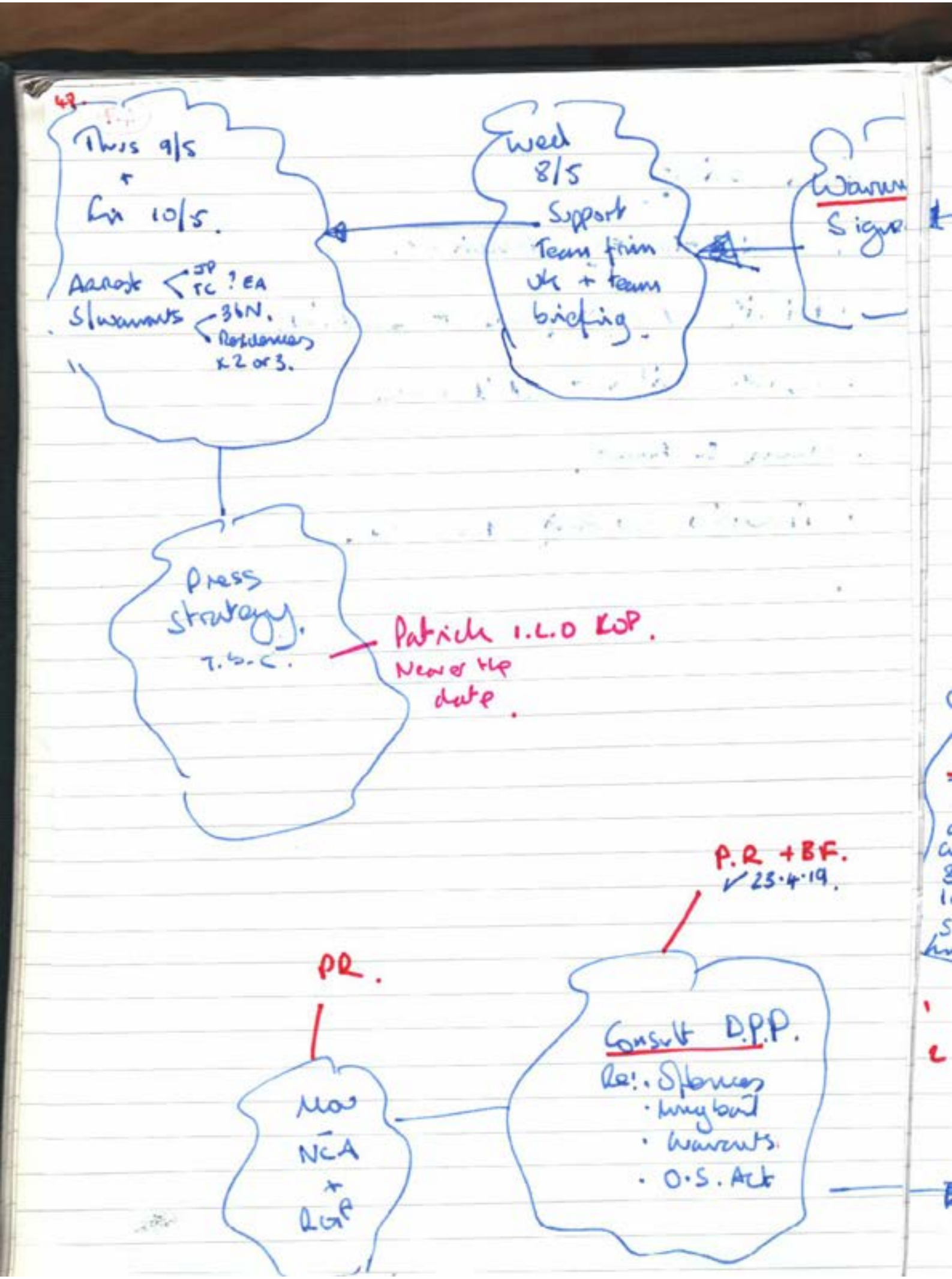
Phil to action this - PM -

Phil needs to speak to their Boss.
Interviewing Officer?,
? NCA tech Officer present.

(47)

Team Sick

- Confidentiality reminder.
- Prioritising & work flows + deadlines.
- Results driven – get it done.
- Need to know.
- Timelines working towards.



48.

Thurs 9/5
+
Fri 10/5.

Arrest < JP / TC ? EA
S/warrants < 36N. / Residences x2 or 3.

Wed 8/5
Support Team from UK + team briefing.

Warrants
Signed

Press strategy.
T.S.C.

Patrick I.L.O KOP.
Nearer the date.

P.R + BF.
✓ 23.4.19.

PR.

Mou
NCA
+
RGP

Consult D.P.P.
Re: · Offences
· Long bail
· Warrants.
· O.S. Act

49

TIMELINE!

Arrest Plan
drafted
T.C.
JP
? EA.

NEIL.

Intel
development
J.D.
T.C.
E.A. ?C.S.
· Social Media.
· vehicles. — ANPR
· utilities
· work place.
· Schools / spouse etc.
· 36N Recce.

JW
P.C
Next week
Output will feed
Interview + Arrest
strategies.

Corp
structure
unpick
all related
companies around
36N.
ICODE Ltd.
shareholders, directors etc. — timeline
[illegible] Holding Ltd

Mark Schembri
Next week.

Digital Forensic
Strategy
Dc J. Ohm + NCA.
Data Restraint Order

JD
NCA.

NLT
1/5/19
PNG update 26/4.

1 NZ + NCA
2 MW + MS.

employment
contracts

ETB Records.

Interview Plans
NZ+NCA = TC.
MW / MS = JP.
Key GIS ok differences
no comment strategy
[illegible]

NLT 2/5/19.



Meeting DPP [CR] + MZ.
24.4.19 09^{50}.

No legal Priorities attaching to letter.
—"— for Criminal Interest

1

08³⁰ Paul Chipolina D1 + DC1 BF Re: Meeting w.
24.4.19. Albert Mena.

Attended - Albert Mena chair
1600 Redondo Javier
23.4.19. Peter Canessa.
HMC - John Rodriguez, + Christian Bonnell
BCA - Aaron Chipol
Caire Sanchez -

AM. wanted everyone together as had dispute over payment (? Monthly) lots of Monies.

[redacted]

[redacted]

[redacted]

[redacted]

AM - CS had been doing checks in the last week or days.
Statistical data Re: frontier Caves. - Re
~~CS - had to~~ twitter feed. (Reputational damage).
? checks w. own Reg plate for ANPR.

HMC - [redacted]

53

AM – not happy to pay for things that don't work properly.

PC – (not mentioned in meeting) has instances where
(Kirbery)

[redacted]

they are splicing to soopliers.

PC – in Spain cameras are at waist height

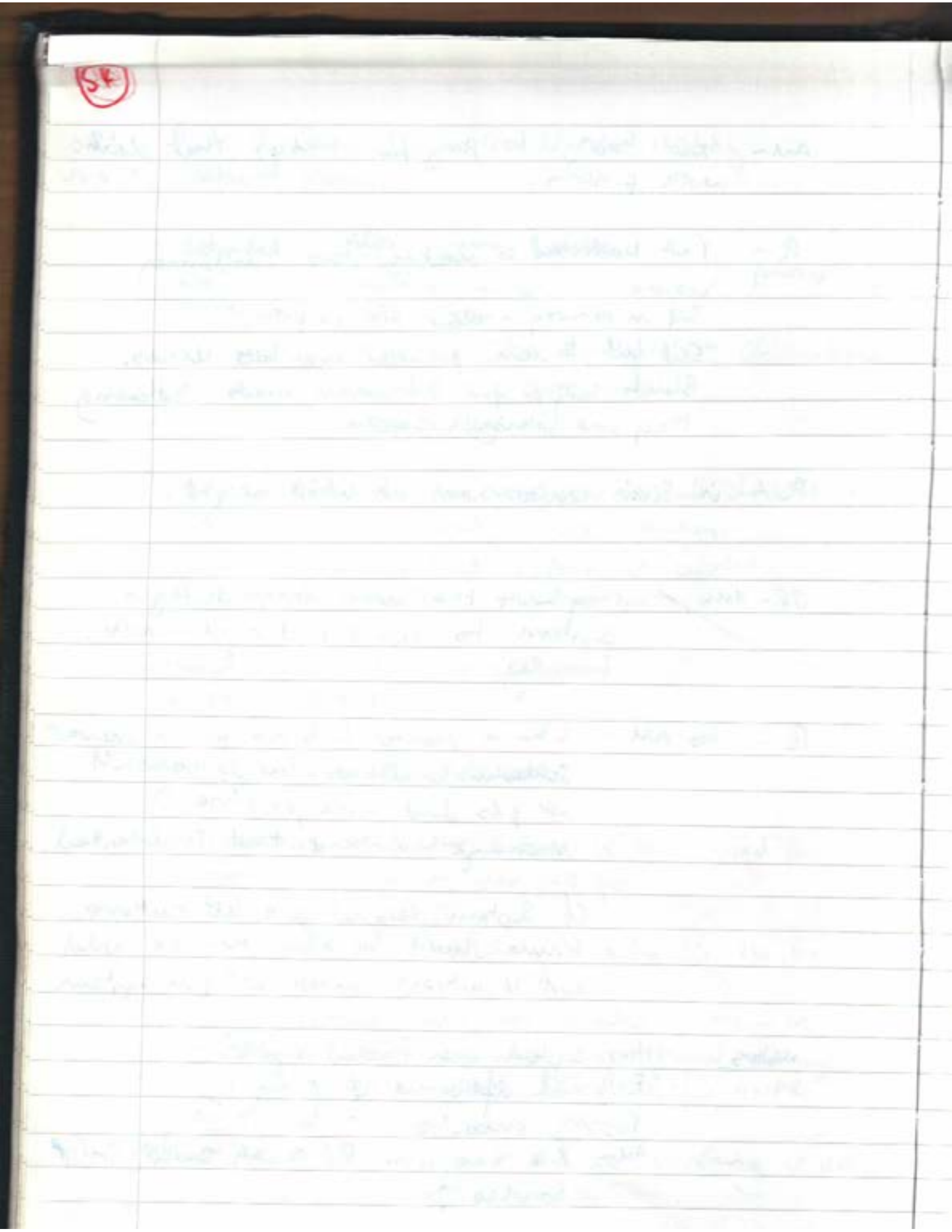
JR – HMC – [redacted]

PC – to AM – I have never had no for an answer
Johnathan Gulliano always helpful

[redacted]

cf [redacted]

issues
- Has system been hacked again?
- ? External influence @ play –
- Testing exercise. – Paul to Ron.
- AM – $ to come from EY to ask Quality of Service >



55

12.55 Call from J.G.

25.4.A PWC technical error
diversion of data.

1 of the diversion to 36N was on based on instruction.

Basically - whatever set of instructions data had to go to 36N regardless of instructions to the contrary.

Q 1st draft hurdles otherwise

↳ How long was data diverted for

Peter picked this us as asserted by PWC issues new report. - will be forwarded to us. "Stay harmless Agreement" has been signed.

JG's statement signed off.

Krishan + Ishwarkan drafted & cross referencing to JG's statement.

Should have All released this pm.

Patrick will call - + Claire direct.

100% aware of wavetx email - J. Levy.
All drafts

only discovered about 36N 10 days after leaving.

4.10.19 JG had advised CM that partner involved at Hassans was JL in private.

We concluded that JL must be an honest man.
Our assumption was that he would have been coerced by J.P one day as a business partner.

Led by greed of an opportunity too good to let go.

JP. "common endeavour"
30 N is joint venture.

JP was definitively involved.
was telling everyone that JL was involved,
entries for meetings.

Absolutely never mentioned this to me.
Never even hinted it to me

Only mention on JL was how good he was

Perez came warts + all
Shadow gene pool
Quirky ways
Took enough to. Smooth
Hardworking - Brittle character.
Manipulative according to staff

57

My view – Toxic people no dealings w. him – never had contact.

Had w/o Prejudice Meetings (x2) in presence of Guy Cressa w. JP where intellectual property had been discussed and he suggested that all that had to be done is re-write some lines of code.

Carie Sanchez – DCM Private Secretary
In on this issue all way thru.
He had demanded to be present during a meeting w. CM
JG will be blunt & open.
CM directed everyone not to repeat anything.
– Meeting covered all w. ~~JP~~ CM & group

No doubt he is a dishonest man

Carie Sanchez you are not to repeat any of this – detrimental to outcome.

w/ 3' JP called Guy Stagnetto – 5 pm 6 pm [illegible]

vitriolic

JP Payas.
JG
Nancy
JG.
Peter Cressa – one of Sidest friends in Grid.
Carie Sanchez

only attendees in meeting

(38)

JG Supined

- 10 July comes to GS.
- I'm leaving no intro.
- Stressed - family - own thing cryto currencies.
- Also mentioned TC leaving
  Crisis → Existential threat.
- 1st priority spk to 2 boys who ~~[illegible]~~ seemed fine
- ~~that time they~~ by end of week

Spoke to CM - Blanchs has major problem need to spk,
TOO busy - spk 13/8 when I return AK.

Met w. CM + Carie Sanchez
? dangerous ground - JL most powerful background mover.
? CM involved,
? C Sanchez —

CM - I need time.

Guy Stagnetto advises.

TC Resigning - end of time.
|
aware that CM had briefed & agreed
to await CM's decision
Brexit blew up.
10/8 Cornelio agreed to take over until CM marks
up his wd.
How could we make up loss of TC and manage
Platforms.
Carie Sanchez instructed Blanchs to work w TC

he is person I have confidence in.
· unfair to Blanch - as would be unaware of

Sept Meet CM 2nd time - Philip Navas now JSM
Galliano present - only him + JPP.

Updated on capability.

James I used to work for prev. CM - Sir J. Hassan,
Stalk - sit back on hands + waiting for
dust to settle then make a decision.

I don't trust the other side
IP. is an issue (intellectual property),

Tommy was being unhelpful.

3/10/18 - 3rd Meeting w. CM. at his Office
JP. JG CM - Jani Albert Mena,
v. detailed Meeting.
Is it possible that leak to ~~Fo~~ Guy Stang,
came from other source - ie Tommy Lomacio's
wife was para legal at Guy Stangmette
case had been moved to Peter Cavanaugh
need to take on Hassans.

CM James I have made up my mind
we will stick w. Blanch

In his view

Official Secrets Act – abs. black + white
case to answer.

Commercial side – selling product #

JP → affair Lisel Torres
└ ESK holiday paid by Eddy Asarez

has distorted moral compass. ~~[illegible]~~ Lise Lovat.

Eddie Asarez

Mate of JP.
Gofer – Bag carrier – note taker.
Made sense to have that level of support

When JP left – EA presented himself as lowest [illegible]
left after Perez.

JG had raised issues & possibly releasing
info. inadvertently to JP.
then became depressed – took days off
case of constructive dismissal.
director Mahey deal to let him go.
(Sept (end Aug) left w. £60k gratuity
Then discovered in April 18 he had
set up a company to work as JP was doing.

61

JP is the architect of the National Security framework – he knows everything about the risks

he chose to cross the line for criminal & fiduciary benefit.

He knew what he was doing.

He knew better – he could have walked away at any time.

Major

1408 Call ends

ENG W. HTC.

25.4.19.
15:00

Thunderbird email A/C for wavetecx.com

email from: Krishan Benjones < jhonesperez@[redacted]
TO: tommy@wavetecx.com
date: 24.2.18 1344Hrs.

"Tommy

Eddie had previously prepared the attached. Just have a read."

Regards

John.

Sent from iphone.

attachments – ① 36° North Strategy.

② John Perez – Jaime Henry business Proposal

Ref to eddie.asquez@[redacted]

25.4.19.
15:30

Meeting w. C/I Finlayson & Insp MW Re: Debrief of Ref Call of JG today.

Work flows Arising

Data Preservation order vk gmail hotmail Alcs.

I.L.O.R to obtain output from ↗

? Eddie Asavez involvement.

26.4.19. 08 08:50 Briefing - CoP - will provide daybook entries + whats app screen shots re. meetings / correspondence w. J.P. & [redacted]

Q. Can other authorised users allow access to the platform to someone who w. the right knowledge hack in thru a backdoor?

[redacted]

26.4.19. 09:40 Cont. call from Patrick Carmona + BF re draft statements.

? email concerning Kishan Benyues. to be shown? after sight of his draft statement.

(DT)

Meeting Progress - 26.4.19 PR BF P.B.

Paul Barker Tommy's House - [redacted]

- For sale - Prev F/B Mid feb.
- No Reply from House to House.
- Maisonette.
- Cameras o/s.
- Building Material o/s.
- PB lives this area - not been walking dog (beagle) not been 4 weeks.

M/U [redacted] [redacted]

Sm school? - Ryan Cornelio

BF - Hot desking at WTC,
36°N has name plate @ 'Regus'

26

65

26.4.19 15⁴⁰ COP Chronology Meeting w. COP & PR.

whatts ADD

11.7.18 – Can I come & see you – 5 mins. Its personal I want you to hear it from me. J.

No daybook note. – nothing sinister.

- I am leaving Blunts. – lost & wasted talent – conversations of ex comm. officers + COP's mooted.
- JG Morning in Sou.
- given all I have to give.

NO MENTION AT ALL ABOUT PLATFORM NO COMMENTS

11.10.18 I am do you have a window. AM. John 10 mins.

[redacted]

26.4.19 16⁰⁰ Called Jonathan Galliano.

– Not possible for continued hacking of platform confident that platform is secure.

Remote Access possible via Govt Portal or VDN into GSG

NSCIS users group – admin heads of clerks can add users. – John Rodriguez – Mohinani Carlo Sandoz

[redacted]

30·4·19 Call from James Gaggero

11^39 30/4/19.

Called to see whether things were progressing
Sh vis a vis Patrick getting St. Signed Off.
- we had agreed to have JG + Johan Gallianos
St. Signed Off by end of week.

Copies of exhibits to JG's St. had been
sent by Patrick.

IP = Intellectual Property.
Chairman - refers to JG - assumed.

Private & Confidential - w/o Prejudice Meetings w.
Guy Stagnetto Ex. JG + JP @ TSN Offices took place on
21·8·18 +
23·8·18. @ which JP explained that to
use the platform all they had to do
was re-write a few lines of code.

Aim of Meeting to try & understand whether JP was
honest - asking Q's he knew answer to
(Such as when did you plan to leave Blands?

Regarding Deleting of Email Accounts.
TC had said was saving money for Co. - i.e. a
pathological liar - bare faced lies

Re: Eddie Bradley

- Part of group email A/c deleted.
- Ex RSM of RG.
- Based Dubai.
- JP's consultant for overseas business
  ↳ worked for JP Ho no evidence of fees paid.

30.4.19. 14.30 Call from Phillip Lavatt NCA
- advised Re: 36°N operating location ? H of desking.
- to forward Gmail A/c's.
- to arrive Wed Morning for brief of team.
- Action set for Thurs / Fri.
- will forward interview Advisor details to NZ.
- Advised Re: Poss. Conspiracy to defraud Angle +/or Official Secrets Act.
- Draft MOO discussed & Agreed.

30.4.19. Called MZ → ? update Re: Official Secrets Act & Application in GIS thru English Application Act.
- ? use CPS (NK) guidelines
- will consult w. D.P.P.

2.5.19.
16.30
25'

Call from JG.

CM gave signal of instruction — JG needs to be less ambiguous —

CS left me in no doubt was absolutely trying to [illegible]

2.5.19.
16:30
25'

Call from JG.

CM gave sight of instruction — JG needs to be less ambiguous —

CS left me in no doubt was absolutely trying to aid & abet JP + TC.

? CM uncertain

Change of status of T.C on 10/8 from employee to paid consultant.

CS insisted that TC gives access to all platforms areas.

? CM in 2 minds to see where to put platform.

CM had admitted to JG that in October meeting that he had been discussing the platform w. J.C. His view that JC was leaning on CM.

My judgement is that CM has acted correctly throughout — I will not hesitate to act otherwise if required as did w. JB re: tobacco.

One or 2 tactical mistakes.

TC + JP paying themselves £300k each.

File Note Op DELHI

8.5.19 1445Hrs – Peter Caruana by phone

Wanted to ensure that there was nothing from the Civil Side to conflict with our actions whatever they may be.

By next week intends serving civil document – part of claim. Set out in glorious technicolour detail – key players will have full story. 24 sheets of paper.

Client's concern we would not want to detract from sequential interview process.

Respond professional level ground.

I don't want too much detail – I'm happy to proceed on that this basis.

(67)

K 65a

~~8.10~~
8.5.19
14:45

Peter Corvan

Nothing Civil side to conflict w. our actions – whatever they may be.

By next week – involve Sarah Civil doc – part of claim

Sets out ending story in previous technicolour detail

Key players will have full story.

25 sheets of paper

Client's answer we would not want to debut from sequential interview process

Resonant professional level ground

1. do not want to mix detail his AM happy | to proceed on this basis

(67)

8.5.19 15⁰⁰ Meeting JG BF, PR, NZ, MW DcPaul Clerk @ COP's Office.

Re: TC taking Platforms w. him - why?

JP + TC orchestrated departure followed soon after by 2 software developers.
Diary entries in Jan Feb for JP + J.L

JG - is Risk Averse - they New this.

∴ If he signed consultancy w. TC could avoid catastrophe & everything blowing up. in his face.

1. would protect us.
2. Allow Cave Sunder to allow them to manage the system as per GOG's instructions (work w. them & don't make anything ~~worse~~ worse).

21 days of work R48k + TC's claim sub to trigger a row.

Soo Tune - JP advised of winning contract in Jan '18 but not pursued (even tho on their cost flow prediction) so as not to prejudice our investigation

NSCIS - circa 50% of business of co.

Asquer interview - explore IP issue w. JL email

Liesel £0.5M. contract w. JP for ANPR - stopped by Albert Mann -

Thursday 9. May 2019.

10:00 Team Meeting w. NCA - @ T/wing.

PR BF MM NZ Paul Clark. Jasmine Alfred Garcia

NCA: - Phil Lamult - T/Manager op. Support.
- Paul Donnington Smith - Interview Strategy: Cyber Investigator
- Darry Boone —"—
- Rosin Cullen (F) Digital Forensics
- Jamie Strachan (M). —"—

- Intros
- Roles.
- Thanks, - Assistance.
- welcome NMH - arrange for induction loos etc. / custody
- Coffee tea biscuits.
- Firearm - assembly point in Ratio - no test planned
- I/D Cards.
- Access to building. IPA directions.
- Relocation to Downstairs Board Room.

- Review of cases
- Sensitivity - Key Players.
- Offences - 326, 364, 365 366A Crime act
  Data Protection - to follow on.
  O.S.A in consideration but not to be considered in depth in interview due to? legislative deficiencies.
  2 iterations of the Act in ok - 2 in GOS
  Conspiracy to defraud

victim

Def

GOL

Cul

Com

~~Ass~~ Case overview.

Refer to Project Bass Report - since revised draft statement of J. Gaggero
Johnathan Galliano
Kishan Banjoney
Rob Stamp - Red Maple

Conspiracy to defraud Bland Group which compromised Gibraltar's National Security. * PTO

Key players.

J.P - ex RG Commanding Officer
TC - "Boy Genius" - IT expert.
E.A - former RG RSM - Boy Mann
Bradley.

Victim. James Gaggero - Bland Group.
Johnathan Galliano IT replacement for TC.
PWC Project Bass Report.
Red Maple Tech. Rob Stamp - Former GHQ lockdown.
Legally represented by Peter Carvana QC.
Guy Stagnetto QC.

Defence legally consulted w. James Levy Hassons.
+

GSH Caine Sandez - DCM P.D.S.
Overseen contracts

Contract £68k p.m. for NCCS. £816 p.a.

Company 36 North Ltd.

Undermine National Security.

NSCIS Platform developed by TC initially for
- ACM office to count persons entering exiting GIS for FU purposes.
- Sub. developed for . ANPR ← Ports, Frontier, Runway + others.
  - . Facial Recognition
  - . Interpol Red Notices / watch lists.
  - . Advance Pass. Info.
- Data is collected & mined then processed ~~[illegible]~~ formerly in GIS but later on Cloud based Servers – Microsoft Azure.

- Circa Feb ~~18~~ TC + JP thus E.A were planning to set up new business ~~[illegible]~~ in breakaway from Blands + used the revenue stream from NSCIS Platform as part of their ~~[illegible]~~ projected income.

- July '18 orchestrated departure from Blands appears to be calculated to remove all capability from Blands to Manage platform
  - . C.F.O.
    Software dev. chief } Resign same day
  - . 2 supporting IT code writers depart a week later & employed by 36N.
  - . Gaggero faced w Existential crisis & CM advised of possible risk in managing National security

- Uncovered a Serious of what can only be described as preplanned & well

orchestrated illegal moves to sabotage the NCSIS platform & ~~those~~ by
- use of denial of service.
- time bomb events indexing causing systems freezing.
- Diversion of data captured by NSCIS to private server.
- Unlawful/unauthorised remote access of NSCIS platform.
- Encryption of code.

Resolving in NSCIS going off line meaning no ability to check for wanted notices, persons of interest ~~etc~~ ~~[illegible]~~ compromising surveillance etc.

Team to investigate this collaboration w, RBP & NCA, Cyber Team.

Key diff UK + GDS.

PACE – . Inference
. Special warning.
RIPA . Not yet.
Freedom of Info – Not yet.

Data Protection + GDPR yes.

0730 Fri 10. May ~~Roo~~ 2019.

- Briefing - Full arrest/search team.

Powers under C.M. Act for Password.

· S10 - Deputy S10. Legal enquiries direct to me / Brian.

0910 Called DPP Re: ? conflict of interest in JP consulting P Jaime Levy. NZ had instructed teams @ Perez's use not to allow contacting JL as he was a person of interest.

DPP advice. No power to restrict contacting JL as lawyer (AS opposed to UK) however it would be inappropriate for JL to advise as he would be a witness in this matter & has advised on creation of 3LN. May be a matter for referral to Bar council as this is a conduct matter "professionally embarrassed".

0927 Decision re: advice reversed & NZ instructed to inform team immediately.

10/5/19 Team Brief - de
00:30. BF - MW - NZ - MG - Paul Clark - Pat Burke
Alfred Garcia + Pat Gonzalez.

Pat Re Asquez.

WOA 09:00
arrested - ~~should~~ Stock.

" lo unico que puede ser es de Blands". (to wife),

Angry - pissed off.

Children up stairs sleep.

"No sabe lo que le espera a este"
este lo voy a quemar - no le vas a pisar Gibraltar
otra vez".

Wanted to speak to Patrick Canessa - (now crown
counsel). Pat spoke to PC Re advising another
lawyer - ref. to Charles Bonfante.

" ~~I am~~ to Bonfante - "I want you to know what
my version of the story".

Loads of docs seized - Re: energy companies.
? few docs of relevance

'phone belonged to Cornelio. (old smart phone).

2 Mobile phones in use.
Laptop - on + being used + 2 pen drives

another 'phone - given by Cornelio not used for 2 years.

ipad pro - in Son's bedroom - (in use).

└ confirmed turns 7A's - p/word handed over.

Action: Dan Boone to preserve any foreign Email accounts.

Priority Cornelio's old phone.

Phone's from Mom & daughter to be returned.

Sgt Garrett. - Rolex Residence.

0904 arrest - Continued ok.
personal phone seized at door - 'phone - handed over p/word.
I/Tures A/C i/d & preserve.

I/T seized - family items to be returned.
: Mac - 3 Paper correspondence - Apple Macbook - old Blonds laptop.

No significant statement.

wife showed up 10^25 to wife
"This is to do w. Blonds"

one room as store room - "paper bomb"

No legal privilege claimed - take what you need. Initally wanted lawyer present. Passwords handed over.

Initally wanted to call JL - declined as could call from custody. Called ~~[illegible]~~ and left Messages - spoke to Max; Torres & MG spoke to Damien Martinez & advised as to offences arrested. Was going to send lawyer.

David Dorras 11^{40} Called house + spoke to Perez + MG - what's intention.

- No power on laptop from Blanch.

09^{10} Called DPP Chris Rocca - Re: Jamie Levy representing John Perez. JP had been prevented from calling him by DS on scene on instructions from DS Zammitt This would be a matter of professional misconduct & ∴ a referral to standards committee. This does not extend to other lawyers in same chambers.

~~[illegible]~~
09^{27} Decision to prevent access to JL Revoked.

Friday 10. May. 19 Cont.

14:10 Team debrief 2

Sgt Finnegan – Cornelio.
Sgt Coffman. – 36°
NZ BF MW PC. Paul + Pat Bourne NCA.

09:00 TC Acrot
"This is what happens when you piss off important people"

100% cooperative – P/words + Pins. All handed.

Paul Smith – fingerprint readers for BCA.

No initial request for legal advice.

Sought to wife re: kids – after reading Jim's wife trying to push lawyer on to him.

Mavis – insurtable
Bevinny – ? Nervous

~~Pat Bourne~~ Perez asked where he was. Jim.
Danny Bourne.
SF ~~SA~~ 36N + Asthem also is Mon Drawer in kitchen.
SC. Handwritten notes re: ANDR – in Black journal.

All i/T in Office looked V. new.

? Fast Track.

3 desktops — 2 from the 2.

1 - TC has received Messages.

/

Click for keydates on TC's phone and keydates.

JP 'Signature held at St Pure

/

To PB

/.

TC's phone has folder called ANPR.

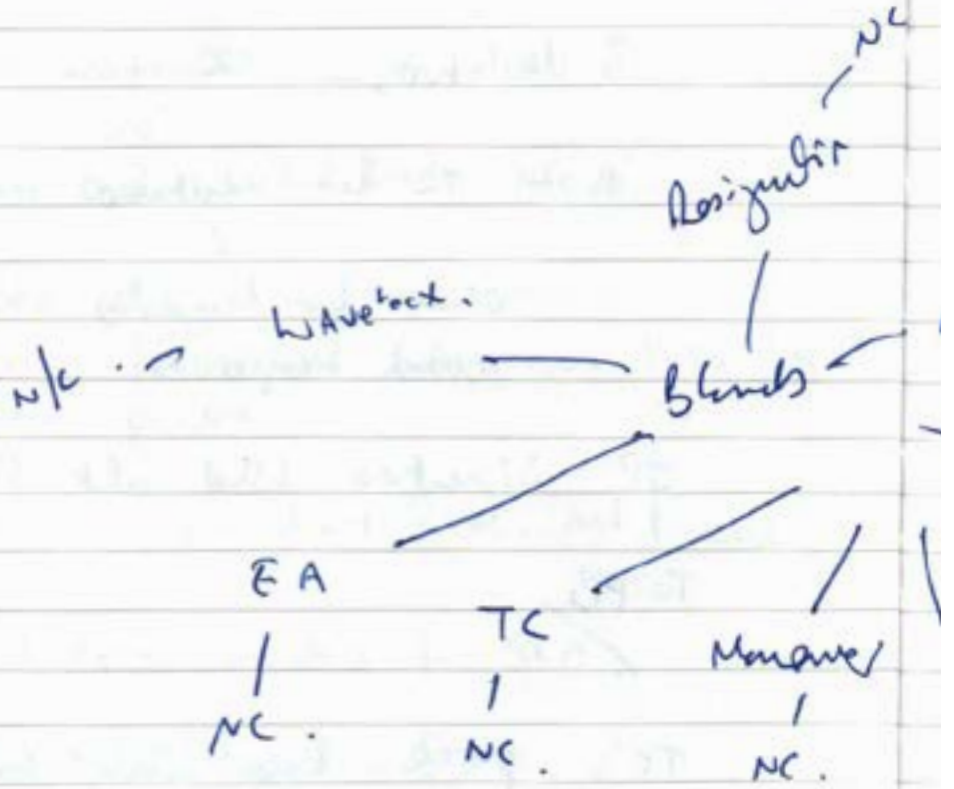
10.7.19. Remote Monitoring of Interview of John Perez — By PR.
16'5 – 16²⁵

NC

Resignation

Wavetext.

N/C



Blanks

EA

NC.

TC

NC.

Maneuver

NC.

Already told Offices.

Passwords.

"You can access whatever you need to".

(74)

Daniel Boone – Paul Donnington Smith – NZ. David Dumas QC. Mark Wyan / Paul Clark.

No comments.

pre employment — no comment.

Co. Structure – NC.

Rep. Lines – NC.

Tommy Cornelio – N2 – 180 Paul Clark. –

1
1700

Significant statement – No comment — but needed hard –

Advice from lawyer suggests that nothing substantial with which to advise on ∴ no comment.

NSDS in agreement but no verbal response.

Owen We have no idea on what the basis of the charges are – Absolutely impossible.

NSCIS platform – baby – child – NSDS seeks approval from lawyer to comment.

Over Switch - TSN. - NCA discussed + PR for chem stream monitoring. (81)

David Domas – Martinez, MW/PC.

17[26]

No comment – System Crashed –

7[46]

19[00] Circa – In Patio w. David Domas + Damen Martinez + Insp M. Wyan.
David had asked to see me re: length of time he would be in NMH as had family issues (daughter pram). Inf. difficult to say as TC needed re-interviewed, as did poss.
EA. I ~~asked why~~ I explained

2000. 10.5.19. 2nd Interview Tommy Cornelio – Smith TSN – Follows second staged disclosure.

14.4.19 #21[55] DOC "NSCIS Review April 2019"
found on TC's whatsapp messages
Sent to? John Perez.
date/time sent: 22/4/19.

10/5/19 → Re: Disclosure
21[10]

21[15] Note under door Re: CM forbidding Tommy Cornelio near any 3rd Party having access to the platform.

21[24]

Sat. 11.5.19 – tel call 1001–1012 from James Gaggero.

- JG had heard of arrests from employee.
- Informed him that interview had been running upto Midnight w. technical asst. from NCA.
- Bail for 6 Months
- Next step to regroup w. team. Advised that delay due to data extraction would be protracted, & will need to prepare for further interviews.
- Press release to be issued but no names (in company).
- CDP had wanted us to call yesterday

– DS Neil Zammit / NCA Paul Donnington-Smith.

but too busy – apologised.
Re: Civil Action must see the evidence (Project Bass) disclosed yesterday tho not in detail.
Need to consider now how/if any further disclosure of evidence pre interview through civil action might prejudice investigation.

5G Approach

– News on at 9pm.
Midnight may streams (catchup).

"Can't express my sincerest appreciation for all your efforts & best wishes"

"No pressure for heads up."

13.5.19.

13.5.19. Meeting @ #6. CM. Min Costa, DPP Chi Roma.
0925 Fin. Secretary Mena - Dawn Greech CS.
- WP outlines evidence against CS & need to arrest, search & interview.
- CS in UK - to be recalled.
- CM - Govt should be complainant
- will need to spk to SNR Porter at Hassans.

14.5.19 Call from James Gaggero - 9.
11⁰⁰

Sorry for causing any angst - had sleepless night.

Will forward all 3 emails from Peter Canessa. leaves @ 04⁰⁰ tomorrow.

This relates to him stopping CM o/s No 6 & advising I hear its going down today or words to that effect.

Interview Caine Sanchez. 14.5.19. 19^15 Lead HW. (87)
Legal - Andrew Cardona - downstream BF + PR #2 Paul Clark.

15^15 arrested. - Summary of facts.

PPS for 2011 - DCM 2011.

Reports to DCM.

No Responsibility for Contractual Matter.
└ but EU - ? civil legislation. V. wide ranging.

NSCIS - Tell me.

initially frontier Q's - then Law enforcement tool - I am main person dealing w. platform. Since 2013-14 when frontier Q's started

1920 V Leland. Smiles. I am System administrator - overall responsibility for platform w. Govt.

Audit trail - each dept has super user.

Short breaks for legal consultation

1920. At this point exercise right to silence.

Mark Reiterates seriousness of offence.

Not prepared to discuss 36N - nothing to do w. me -

Relationship w. T. C - no comment.

14/5 1834 Prepared St. of TC Read out. Lunger seeks 5 mins

then no comment.

(UW) Evidence to corroborate Prep. St.

Agrees what NSCS is part of Nat Security structure.

email from Peter Canessa o.b.o. CM. — (N/C),

TC email → CS govt A/C - confirming no further

Kel - CS insp initial - lots of chats going back a

Chat logs - ? only deleted those. (N/C)

Business Proposal w. T/C. (N/C) —

Re 11/10. Mentions JL i/d as Jamie Levy.

T/C trying & take a tougher stance w. Blands. —

once I get home.

2000 V. Strong summary of intent - (N/C).

PC - if we are wrong then p's tell us -

9/4 - Tummy can we meet - (Re compiling Report).

2009 - Good summary - no response

– then no comment.

to read due, another short break. Restart 1940 no lawyer
1945.

e.

– ter access to nscis. – N/C.

a long time – but JP – TC both deleted. Blank

– Relevance discussed after questioned then N/C.

Practically impossible to take away contract from Blank

– Abused your position for your / TC advantage.

N/C

N/C – "Not at this stage"

20[illegible] Chat logs re: Drafting report [illegible] out. "This is g
the system if asked. (N/C). V. damning.

email to C/S Re: the review discussed

2015 - Large summary up - good explanation of facts
emphasis on allowing access to whole list of [illegible]

(R) - Massive amount of trust in your position
(? only trust T/C - best person in gov

? believe have authority of GOC - (N/C).

20[22] MW [illegible] You asked for evidence you were given
advised as to for thoughts in fabricating a

15.5.19 16[30] (1'47") Call from Sir Peter Cavanagh - I advised that C

22.5.19 Danny Bosine NCA.
10[45]

- waiting for Sheer FBI liaison officer Re: Preservation o
- T.O.R for CPS - . Summary of investigation
  - what have we preserved.
  - knowledge from data linked to the
  - what benefit?
- List of Preserved Accounts.
- When we send initial ICOR then wait for data
  establish whether any other items (email

good news" Nation of lying about who accessed

by MW - N/C
Sensitive data.

- High ranking -

to sort this out - N/C.

is and now refuse to give A/C.
and A/C annul the facts as disclosed.

Civil Action now would have no significant impact on invest.

orders.

investigation

recovery to find to
A/C) need preserving.

13.6.19
1130

Brief – Insp Wyan on my return from leave.

(1) · St J.G – has been reviewed – needs signing off after considering MW's recommendations.

(2) · St. of Officers – Mostly done.
? Me as SIO (Needed?)
CoP – drafting his.

(3). Exhibits – All logged in on Excel sheet by Paul Clarke including HTC stuff.

(4). Items Returned – MW. to confirm what has been returned.

(5). Chat log extractions All reviewed by MW who has highlighted relevant parts.

(6). Key Word Searches Alfred away last week Jason this week – still reading analyzing results from phones, personal computers etc.

(7). Aaron Chipsh · Reviews Insp Chipshire's report. BF – states unethical but not illegal?

(8) Caine Sanchez Computer still under Review.

(9). Draft MLA's (was being processed by CI BF).

14.6.19 Danny Boone NCA.
12:00

- All images now forensically examined.
- Roisin A/C next week.
- Commence work w/c 24/6.
- estimated time needed 20' per person dist longer for larger devices - large list.
- 7 exhibits to be retrieved.

* Need another copy of PWC image as HD failed
needs resolving asap - Jason to facilitate



Public Officer — person who carries out a public duty or an office of trust.

- an officer who discharges any duty in which the public are interested, more closely so if he is paid out of a fund provided by the public.

Offence - Common law - indictable only - Max Life.
Confined to ~~those~~. - Strictly - by Court of Appeal

→ Confined to Public Office Holders ∝ is committed

when Office Holder acts or fails to act
/
in a way that constitutes a
breach of duties of that office.

Public

DPP's advice as to whether appropriate
to prosecute

where clear Statutory Offence exists then that
is preferred.

DEFINITION the Offence is committed when.

- A public Officer acting as such,
- wilfully neglects to perform his duty and/or
  wilfully misconducts himself;
- to such a degree as to amount to an abuse
  of the public's trust in the Office Holder;
- without reasonable excuse or justification.

14.6.19
10:30

Daniel Bourne

Stalled by UK not progressing Dehli items – they have been taken to UK & processed there.

? Push UK or explore returning exhibits to Gils for local processing.

Action – Me to follow up w. Phil.

MCA – Prev. tasked to NZ by BF – no progress ∴ MW tasked O'Clerk to draft for him to review.

10:35
14.6.19

Call from Danny Bourne – will follow up. UK enquiries w. technical team in London w Jamie / Rachid.
? Jamie will give us a call direct.

(95)

25.6.19. 14⁰⁰

Team Meeting Re: Progress Update.

PR BF MW J.O AG Apologies P.C.

Agenda - update MW
to include statements - JG, Jon Gall, K.B.
Progress on JP.
AC.
TC.
CS.

MW - most Police Officers St. already obtained
ie -"- Pending completion of analysis.
Review of St. of James Gaggo.
(Patrick unavailable).

Major Review of J. Galliano St.

Review of K. Benyuyes - needs
deconflict statements for technical descriptions.

PWC Roman McGhee statement - only
tenders their Report.
Revised Project Bass Report.
Hoping for much more explanation
+ exhibits.

Rob Stamp - Reviewed - Needs much
more evidence in writing

Steve Mason - As Rob Stamp

ICOR – 1st draft completed.
Paul Clark drafted – based on the example.
Graceanne –
Expects to pass on for review by Me/BF
at end of this week.

Exhibits List now complete.
Mainly all digital based.

Phone logs Approx 35 logs. Reviewed & highlighted.
Now will compile & cross ref. as
comparative evidence.

Forensic Analysis ? AG advises of possible management
issues w. processing Dell items.

AG – Corrupt image of Blands Server
JO advises that this takes 4 disks
1TB.
Need to i/d which Disk needs
Rectoring.

Arrange conf. call w. Phil.

Will run images thru New
data sifting prog. "Analyticals"
can process 3-4 devices simultaneously.

Interviews — All Sent for transcription.

Evidence — Chipol: - Interview under caution.
- Arrange meeting DPP.

(AG). Carla Sanchez - Phone to Celebrite
will have access to email
(yahoo a/c).

→ External disks still need processing.
v. strict search parameters
— date of investigation.
(Oct 17 - May 18)
Keyword Search.

Chipol Main issues.

1. — Immigration Act breaches - ? harbouring.

2 — Misconduct in Public Office - undermining of Blands
I.F.O 36 N.

3 — Disclosure of Sensitive info to Tammy Cornelia
? also allowed T/C to access NSCIS remotely.

Team Meeting: 16. July. 2019 08³³.

PR: BF: MW: PC:

Issues re: Anne Chapel.

Phil
Dan
Rosen
Jami
shoru
Ava
Me

+12

(99)

Phil
Don
Roisin
Janice
Shona
Ava
Me

NCA Meeting 14/8/19. 13^{00} –
Bail 12/11/19.

Axiom review package for review for Keyword Searches.
Finished this A.M – now on handdisk for removal to LTS.

IEF – Internet extraction finder
↓ replaced by.
Axiom
└ can view files w/o license,
– download – 30 day free sample.

Parallelling the work –
+12 — PWC – Recreation of Project Bass.

Time – not able to offer until viewing data (Roisin). – Had only just finished portable data file extracts this a.m..

Base 64 – "Encryption" uncovered by Kirkham Burgess.
└ forward Krishan's St. to Roisin.

McGill +/or Report – discuss w. Mark Wyer implication thereof.

? Redeview of 1

Preservation Orders USA

Met w. Adam Parsons.

Send ILOR to Dan.

Gets ILOR for UK GF preservation.

27.8.19. → Danny Boone

Advise info that PW only 1 image on h/d order tried to send by AF though

? take the other 3 images over to UK.

Conference Call AG + MW discussing

Prob. re TC's 4 x TB (12) NAS.

US to reimburse the costs — ~~[illegible]~~ arrange w. Shuna.

30.8.19 08:00 Meeting w. Mark Wyman + Paul Clark. Re: Robert Fischel.

- now representing JP + TC as well as Asquez.

∴ ? conflict of interest.

- MW proposes discontinuance of offer to Sub prep. statement.
- Instructions — Spk to DPP — get Prep. St. (unless DPP advises otherwise & w/o it we have little indication of defence.

11⁰⁰ Brief by DCI Finlayson Post Return from Leave.

17.9.19. Allegation of data breach made by Phillips & Co against Blands.
COP - BF + MW → DDD + MZ. Reassured Darren Grech (Chief Sec).
Complainant cannot be Carie Sanders must be GOT who will not be making a complaint.

Cut short - COP Meeting
11³⁰ 1/. HMIC Min crime standards.
12³⁰ 2/ Promboards brief on assessments.

Tues 17. September 2019

15:5
[NMH] Meeting Tito Gato. - HMGOLT D.P.O.

. Referral by COD 17/9 09:09 to Chief Sec.

- Project Bass Report
- PWC Dec 2018.
- Blands - HMGOLT.
- NSCIS - ANPR, Facial Recog, Interpol wanted, Ports of entry. Other persons of interest.
- Data → 4 Corners Server + Blands.
- Diverted to (in addition to ↑) "36north-nscis-sql.database.windows.net."
- 36North = Tommy Cornelio + John Perez.

- Review of Service Configuration files
- [redacted] Secondary database connection relating to 36North was entered before the original connection to a Bland ltd controlled database

TG - Office of Dept. CM would be data Controller as head of dept.

Blands = Data Processors.

Missing - Contract setting

Lack of Data Processing Agreement.

(103)

Preliminary: Breaches of Security

1. Sharing of PW - April 17.

[redacted]

3. Siphoning of data.

4. Cloud/Server storage - US.

GDPR - May 28 · 2018.

Prev. Data Prot. Act 2018 only.

Usually 72' Requirement to refer to ~~DPA~~ GDPA

Thursday 19.9.19.

19.9

10^{30} Meeting GRA - Europart

14^{2}

1^{45} Paul Canessa - Bradley Tosso, Tito Gamo.
BF + PR

Re: Data Protection breach.

& Unofficially approached & advised some time ago.

1. Tito to make Referral.
2. DProtection invest. to commence however not to interfere w. Criminal investigation.

TO DO

MW - between DPC + COP. ? today ^ b4 referral by Tito (breach notification).
- DPC will send request for add info to Tito. +/or RGP.
- MW to coordinate communication between DPC + individuals.

TITO - SAR -

Bradley - New updated guide on SAR's on website.

(105)

19.9.19

14[20]

Call from Dan Boone NCA.

- Roisin still not Rec'd info requested. Not all files required were on the drive ∴ cannot reconstruct programme to Mirror PWC work. Not fully aware of technical details
- Phil suggests "getting over to Gils (Roisin to deal w. Jason direct)" (AG not as proficient w. PC's as w. tel).
- ? to arrive Gils next Wed. (25/9) t.b.c.

7.11.19
12.00

Tel call to DPP - Chris Rocca Centrex [redacted]

- Called Re concerns that MW (present at time of call) had Re Robert Fishel's email of the 6.11.19 suggesting he had met w. DPP & some discussion of case had happened which we were unaware of. ("I have mentioned this case ~~to~~ to the DPP, who I understand is more than willing to speak to yourself or Supt. Richardson in connection w. the progress of this matter.
- Confirmed that he had met RF in connection w. other matter & at end RF had asked whether CR new of this case. CR had replied only an overview of it & RF had pushed to see whether his chiefs - Perez, Cornelio, Asquez would be charged or released because he did not want them rebailed.
- CR had said if charged ok but saw not reason why could not be released & then charged at some point in the future but did not get involved in op. matters.
- I mentioned not comfortable w. releasing ~~to~~ 10 or on bail as still waiting for NCA stuff back from UK before deciding charge could be made & presentionally would appear poor for victim. The issue of reasons for bail were mentioned briefly & DPP advises no issue either way - ie bail extension or Release under investigation - it was a matter for us. Adding he was not comfortable w. RF's wording in his email (implying he had been copied in to ~~the~~ the

10.00

email to us by RF (although this is not apparent from the email ~~header~~ header.

10:00 Team Meeting 8. Nov. 2019
DCI BF - INSP MW DS Paul Clarke.

- Updated on progress reports sub by MW on 14.10.19 my reply of 16/10.

Discussed number of issues not included in report of 14/10 or my reply of 16/10 w. 2nd report of . Expressed frustration at still not clear about extent of outstanding work particularly the digital forensics, with LOR & the output from Prev. interviews. I produced detailed list of summarised points that needed covering & MW offered to address these over the weekend w. DS Clarke assisting on Sunday. Bail or Released under investigation discussed. BF & I share view that Rebail is best option for JP + TC due to seriousness of offence & changes should be preferred in a period of months. Answer issues differs as he has been rebailed once already. Bail Act does not apply to GB but MW refers to UK Best practice nonetheless. [Special warnings + right to draw inference apply in UK but not here so not equal playing field in my view]. important to consider where we are w. regard to interviews - which were not included in MW's reports. For Review Monday

13.11.19
14^05

Call from Gaggero, James.

- Had Rec'd call from PWC Re: extra costs for producing Project Bass Report for Court use "Eye watering figure" (10's of £1k).
- No problem expending money but cannot open Pandoras Box. ? ~~Gold~~ Goal Posts Keep changing follow MW + PC's contact?
- Need to be v. precise w. what is required from PWC – then they will cost.
- MW had pre-said not some PWC were Right people to follow up Project Bass.
- Reassurances that JG is v.v. moon a side
- does not want investigation to run into sand due to technicality.

Re: ownership of Platforms.

- Gold had declined to assert ownership (to us).
- Peter Cavana had assessed situation & "given verdict that it was Clear cut" i.e. Blands owned as HMGOLD have paid license fees monthly & continue to pay since dispute arose in 2014 when Master Agreement drafted by Lawyers in London in 2014 & given to the then Chief Sec – Richard Garcia to sign by John Perez. No further contract entered into or alternative document proposed.
- Invoice specifically mentions 'Licence fees"

15.11.19
12:10

Meeting w. MW + Paul Clarke

(109)

- Discussed call from JG of 13th inst.
- Discussed PNC & extra work & funding
  ? pub better for Police to pay to ensure impartiality — me to discuss w. COP.
- Propose Meeting w. PNC in Cowlers
  ? w. JG. — (PNC based in Dublin).
  to limit extent of work Reconvened & logistics.
- Work flows for bail period
  - Finish Digital Forensics, —
  - Follow up int'l LOR, —
  - Bottom at ownership issues — MW proposes as fall back position of Conspiracy to deprive Blanks of Maintenance contract (as opposed to platform)
  - Plan for re: interview.
- Financial Investigation of CarioSandoc (+JP?) + TC — new car → source of funds etc. MW to refer to TT — who will provide guidance to Paul Clarke.

11.12.19 16^30 Meeting MW London Pea PWC meeting

Aim: For PWC to be able to conclude that the evidence obtained in Project Bass was as Malicious attempt to undermine the NSCIS platform & ∴ Blend. ?Se

options - Produce (i) Factual Report
what they did & the Results however would not be able to draw conclusions from opinions.

preferred. ← (ii) Expert Report / statement.

∴ what is minimum they require to do either option (i) or (ii).

Note: Experts have to sign declaration of independence to Court.

· Email Review - Wavetex - Ref to in JG + Johnson Gulliano's St
∴ ? need.

· For Corners Server. Forensic Seizure done & Analysis completed by Jon Gulliano (Not Mirrored by NCA).
(only Refers to database connection strings).
? No need to refer this to PWC.

(111)

Simulation of database re-indexing - ? Can they rely on Jonathan's work or do they need to do this themself.

? Need for PWC to do this work.

?Sensitive Data provision?

Code Review — PWC have not performed any wider software code review. Johnson has checked & found nothing ∴ ? no need for further exploration.

Interview Thomas Conetic — Not possible.

Data Verification. No need to verify company records. — No Need

? Share Jon. Gallianos St w. them for comment.

Meeting PWC - Lunch Moore 12.12.19, 11:00

- Ronana McGee.
- Johnathan Holmes, Forensic Partner.
- Paul Scott - tech.
- Ian Clements - Expert witness.

- Mark Lyon -
- Paul Richardson -

[redacted]

Needs

1. PWC Project Bass in blue by Blue detailed account.

2. Review Johnathan Galliano's work w. opinion as to good practice / bad practice etc.

11:00
21.1.
Ends
1220
PWC
Urg
Ass

11:00 21.1.20 Team Meeting MW PC + John Field (113)

Ends 1220. * Roisin needs access to the PC used to encrypt the data on site (in order to add more value to her work which is led to Project Bass Report & not in full.

PWC. PWC cannot supply 'expert' evidence as 'not on service they supply their clients' They can supply st. of fact for between 35-50 lk. (Top end expected). This would mean if supplied we would still need expert evidence to show independence. Discussed whether Jon. Galliano could evidence seizure + imaging of Blands Servers & explore whether Roisin (NCA) could enlarge on her original work to cater for DDOS attack (see *) ↑
MW to explore evidencing the seizure / imaging.
PC to explore further NCA assistance.

Charges over 50 now considered for TC however this would only be relying on John Galliano's (non independent evidence) & DPP (Met last Fri w. MW+PC) seeks reassurance of independent expert evidence.

Decision to restrict investigation to what we can reasonably prove within our limited means.

Asover Discussed prev. offer to supply Prepared St. (agreed w. Robert Fidel but advised against at the time by DPP. Agreed Finnish digital forensic trawl for Asover + Prepare to bring in for bail for interview + / or statement after release (if evidence not found).

Interview order (at 21.1.20).

Asavez → Perez/Chipol → Sanchez — TC.

DJQ need to liaise w. NCA for Paul Donnington Smith to attend TC interview (+ offer to defence).

Digital Forensics Remaining. @ 21/1/20.

Priority	Name		Complete	Search Ready	Pending Forensication
	Caine Sanchez	12	∅	5	6 (+1 email)
1	Asavez	6	2	4	∅
	John Perez	7	2	1	4
	36N	5	3	1	1
2	Aaron Chipol	3	∅	1	2
	Tommy Cornelio	14	7	5	2
	Total = 47		14 +	17 +	16

47

(115)

Wed 22.1.2020 Meeting w. MW.

MW raises issue of def. E. Asquez + Re-interview/ statement set provisionally for Fri 24/1.

History

30.7.19. Robert Fischel emails MW seeking info on what will happen on surrender of client Eddie Asquez.

30.7.19 MW replies suggesting meeting at NMH w. me + him

30.7.19 RF suggests 31/7 or 1/8
Agreed to meet in Jories Café for w/o prejudice Meeting.

Meeting @ Jories - MW + RF + me.
Prepared St. of EA to be drafted by RF once he puts it to client after he (RF) returns from holiday. MW to email points to be covered + relevant docs.

30.8.19. MW raises issue of RF now representing EA + JP + TK ∴ possible conflict of interest
MW proposes discontinuing Prep. statement instructed to seek advice of DPP but to obtain prep. st. unless DPP advises against.

Agreed: EA should be released asap + PNP returned
it is over evidence from remaining evidence
trend found - however ideally should provide
Account of dealings w. JL Re: business plan
MW to arrange w. RF possible prep st on

Saturday 1. Feb. 2020.

Review of HD - PR Toshiba HD-01. Magnet Axiom.

Search of 'NSCIS' produced 2,243 Hits from 238,534 records.

30.8.18 - email Chairman — CS. Re: "End of Support"

..."I will undertake to do all possible to assist but as you know and accepted, your decision to enable TC to cut Blands out of the loop has serious set back our ability to help & we now have no idea what actions have been carried out during the last 3 weeks....

Search of chief Minister = 542 hits but include all ref to Office of deputy chief minister

Note: CS seems to send messages to himself from himself, which appear to contain email text content from emails from TC. It suggests that TC is emailing CS to a private email A/C & CS is forwarding the content to himself eg. 8.8.18 09:53

30.7.18 10:36 Note: email from CS to Jon Galliano seeking assistance about IT Matters - "It is just that I find it strange that so many things are happening lately or not reported before

(117)

this concerns UPS + Alert for device wtx-pos-ssv-01
NSR - detailed tech knowledge ? provided
by TC. - "I do not want to escalate
further".

Search 'Lewis' - 1,655 hits. (most property related)

search self - "19 PTC fade on 100% to stephen Nugent"
from OCM (Lima, Kelly).

Search 36N = 2735 results.

email from TC - CS date 16/11/18.
"we have now finalised our non anticipated
complete border management system."
... grateful if you would be able to meet w.
me to go over the proposal & product demo."

attachment "36N are delighted to be extended
the opportunity to sub. this proposal"
ready for immediate deployment.

∴ after being instructed by CM to hand over all
management to Blands (Oct 18) - TC still invited to
sub proposal?

12^30 Meeting Insp. Mark Wyan Re: Digital Forensics
10.2.20.

Pre Sluma discussion.

Q. Evidence of fact / witness? nothing precludes giving evidence in law however NCA policy seems to vary from this.

Q. If not possible to use Roisin as expert then where do do they get their expert from.

→ If factual witness then need to determine which extra work needs doing?
this relates to connection strings to 36N & "time bomb" & Boolean variables.
Mainly relate to Port Severs which is work that Roisin is familiar with.

Compare source code [redacted]

10.2.20.
14^15 Sluma Expert - fine on email to legal
not as expert w/ England + Wales.
lawyer to lawyer exchange.
Needs ironing out. does not give opinion in UK

will find out who they used - will revert.

Only had one instance where expert Evidence prev. required

NCA have only given evidence of fact.

Meeting w. Insp Wyan — Update. 12.2.20.

09³⁰

(1). Re: QL email to MW Re: allegation 2 — "we have no Rec'd no complaint"

(2). Need to include Sandoz involvement by TxT to JL as this has not been included.

Payriate + Number Serials then discuss approach to JL for interview.

13.2.20. Meeting Insp Wyan Re: Software Developer.
14^45

Joey Benrimoj

Logs show he was accessing the logs up to 5.10.18. (The day TC was officially told not to access the system).

Prev. Chris Finan had written in seeking info as to whether he was a suspect. Replied - not yet - subject to evidence trawl.

MW approached him 1-1/2 weeks ago to come in as witness - replied as needed to speak to CF - would revert - so far as $ no response.

Also spoke to ~~Mario~~ Marius ~~Zalkauskas~~ Zalkauskas said would consider + revert but has not done so.

issue? arrest or request.

Instructions Advise Joey Benrimoj that evidence reviewed has suggested he accessed the NSC is platform post employment & ∴ they have been unlawful - keeping open mind - request for voluntary attendance interview - failing that necessity to arrest them.

- Review Chisholm's position re: bail ___.

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17.2.20 Review of Main Issues to put to James Levy.

Date.	Serial(s).	Topic(s)
1. 28.2.17 2. 19.1.2018. 8. 20.7.18 10. 10.8.18. 11. 14.8.18.	1, 2 8, 10, 11	1 Relationship w. Caine Sanchez viz-a-viz the Security platform, 2 Civil Servant Offering proposal for investment. 8. CS advise JL of conversation w. JG. 10 Give CM a nudge pls, CS advising JL that he was advising 36N which contracts to sign.
18.2.18.	3.	Advice given to 36N Re: NSCIS etc & business relationship history -
28.3.18.	4. 5.	History & Purpose of Astelon Ltd. & its relationship w. 36N.
6.7.18.	7.	Business w. Blands / 36N Re: Carnival Cruises.
20.8.18.	12.	Knowledge of 36N operating NSCIS whilst 'out of contract'
21.8.18	13. 14. 16, 19 22, 23, 27	Relationship w. TC & interceding on his behalf w. CM. (13 Sabotage).
30.8.18.	15. 21,	Relationship w JP & defending any counter-attack - why so confident & closing the matter?
5.9.18.	17.	Hassans Relationship w. 36N, Astelon Ltd & icode Ltd - Ownership structure, & Management (dictators) Use of position of influence w. CM. (24 27.2.18)

Date	Serial Nº's.	Topics.
~~8.7.18~~	18	São Tomé & Principe business venture - Blanks business not to be claimed by 36N.
27.8 3.5.19	19 20, 24, 31, 12 13 10,	TC Relationship w. CM as CM +/or board & Partners @ Hussains. TC seeks permission to email CM.
11.4.19	27, 28, 29	National Security vulnerability - knowledge of TC accessing HP system in 11.4.19. - concerns. [redacted]
23.4.19	30	Relationship w. Albert Nora - TC seeks confirmation of any retention of his Report & National Security system sent to AM by TC.

18.2.20 16⁰⁰ Meeting w. Insp. Wyan to discuss issues surrounding the conduct of Jaime Levy & whether this amounted to criminal conduct or 'sharp / (? unethical) business practice.

The issues – (i.e. the concern relating to conduct) were mapped out and categorised as to evidence of unethical / sharp business practice but which still demonstrates possible motive for committing a crime of conspiracy to defraud / corruption related offence or whether the conduct could be reasonably said to amount to criminal conduct (either of the two offences mentioned above).

The conduct was set out & categorised as described above. One possible offence was i/d – that of JL conspiring w. CS. TC + JO to defraud Blands of the maintenance contract for the NSCIS platform.

A brief summary of the evidence was listed to support the allegation & the suspicion defined after considering the available (thus far) evidence as

What has JL done which may be construed as evidence of Criminal Conduct &/or unethical behaviour +/or Sharp business practice?

1. JL is presumed to have brought the 36N business venture to Hassans as he has been in communication w. JP + EA as far back as Feb 2018 regarding their appropriation of the NSCIS platform. He has a personal interest in the venture as he is the majority shareholder (32%) of Line Holdings Ltd along w. the other partners of Hassans. Other partners w. significant shareholding include FB Recm @ ~~2.73%~~ 2.04% & AM Hafs @ 2.94%. (— the other partners' shareholding ranges from 2.52% → 0.68%. Line Holdings Ltd owns ~~75~~ of Asteion Ltd which has a 3,000 x £1 share capital. The remaining shareholders are JP @ 1,000 (originally Hassans held 500 in trust for JP thru Line Holdings Ltd) & 500 were held on JP's behalf by Icade Ltd Icade Ltd holds the remaining 1,000 shares. Icade is owned by IC in its entirety. As JL owns 32% of Line Holdings Ltd which owns 33% of Asteion - which in turn owns 100% of 36N ∴ JL owns 10.56% of 36N in addition 36N Ltd is directed by Cheam Directors Ltd which are believed to be owned by Hassans. Hassans are believed to have lost 36N £1M & ∴ have motive to ensure the venture works to safeguard their investment, JL has a controlling influence on 36N as shareholder (both in his own right and part of Hassans) + was involved in the set up from the beginning.

SHAREHOLDING

THE OBFUSCATION of ownership + directorship of → 36 North Ltd

3,000 × £1 shares

1/3 → 1000 shares owned by Astelon Ltd → owned by Line Holdings Ltd → owned by Partners of Hassans:
JL = 32%
FB + AM = 2·94%

1/3 → John Perez

1 code Ltd → 100 shares issued all taken by TC.

∴ JL owns 32% of Line Holdings Ltd which owns 100% of Astelon Ltd which holds 33% shares of 36N
∴ JL owns 32% of 33% of 36N or 10·56%.

The directors or 36. are Cheam Directors Ltd.

Shareholders = Line Group Ltd.

Directors
- Susan Gager
- Iwan Isaad
- Ian Felice
- Mark Okes-Poysey

Civil Servant CS

dishonesty

(2). JL may have sought to use his personal influence relationship w. the CM to his own/36N's Advantage by applying Criminal? pressure & disclosing things to the CM ~~that ones~~ w. a view of the CM removing the Maintenance contract from Blands and awarding it to 36N. This would have been for the obvious benefit of himself as a shareholder of 10.56% - & for Hassans Partners collectively who own 33% of 36N, [and ~~indirectly~~ indirectly of the CM + FS who each own 2.94% of 36N]. The obfuscations of the ownership + directorship of 36N would seem to be deliberate in hiding who is behind a company that would benefit from public funds (in the event that 36N was successful in taking over the contract).

(3). JL Rec'd business proposals from a serving senior Civil Servant. (unethical / motive).

(4). JL was aware that 36N sought to take business from Blands (Carnival Cruises + STP) which they touted for at Blands expense & whilst employed by them. (unethical / motive)

(5). JL Did not challenge TC's accessing of NSCIS after he was no longer an employee of Blands +/or acting as a consultant (unethical / motive).

(6). JL Did not challenge TC's Report [redacted] NSCIS & appears to have been sent a copy of it. (unethical / motive).

The Evidence Supporting Conduct item 2 is:

S.O.E JL

Serial Notes.

~~10 JL was asked to give the CM 'a wudge' by CS on 10.8.18~~

See Attached Printouts.

We Suspect on reasonable grounds that JL has used his influence w. the CM, Gaia Sandez and possibly AM to persuade the CM to transfer the maintenance of NSCIS contract from Blands to BGN. A company which he owns a personal 10.56% stake interest in as well as being exposed by loan thru Hassans.

We therefore have reasonable grounds to Suspect that JL TC JP + CS ~~corrupted~~ conspired to defraud Blands of the NSCIS Maintenance contract.

There is a fine line between sharp business practice & unethical / criminal conduct. It is necessary to put questions to JL formally in interviews to determine where this conduct lies. ~~This sho~~

Thursday 27.2.20

File note: At approx 19^15 26.2.20 I was returning from a walk when I met Eddie Asquez leaving my estate w. his dog. I was not certain if it was him even tho. we live in same estate. I asked him if he was E.A & when he replied that he was I introduced myself as a neighbour & SIO of Op. Dehli. I asked whether he had rec'd a request thru RF to give his version of events as we had been led to believe sometime ago that this was likely but that RF was was waiting for him (EA) to respond. EA replied that he had rec'd the request via RF & replied to him soon after stating that he wanted to give a full explanation as he had nothing to hide but RF had advised to wait until we investigated this complaint against JG & that they had sub. a substantial file showing that JG was the real culprit in this matter. I explained that we had responded to those allegations already & EA said he recalled that Insp Wyan had & that RF had written since to again. EA explained that this matter had had an affect on him & that he thinks of it at night when he goes to bed & in the a.m when he wakes up. I explained that I fully understood & that we were keen to exclude him from the enquiry if his explanation for the involvement that we were aware of held up. ATM we had no explanation from him. He explained that he fully understood & but needed to follow the advice of RF. I replied I agreed, RF must advise him in

in his client's best interests, him and TC + JP. EA added that he was sure that the police would investigate the matter fully & understood they had a job to do... He had no rights so far.
Nothing related to the evidence was discussed which may be considered an interview. I had mentioned the only significant thing I understood we were seeking an explanation for was the drafting of the letter & JL which he absolutely knew about. I explained we could not discuss this o/s of a formal police interview. Shortly after we shook hands & left on our own separate ways.

At 1952 same date I called DI Myers & briefed him on this encounter.

7th April 2020.

10:20

- Call from Danny Boone NCA.

- Paul Donnington Smith now on Paternity Leave ∴ can't assist.

- Exploring possibility of remote participation in interview – ? NCA Johnny McGee can assist.

- will confirm once we have technical means to allow remote monitoring in interview.

Wednesday 8th April 2020.

1548

Video conference call w. DPP chis Bucca & Insp. Mark Wynn.

Duration: 19' 20"

DPP had had long chat w. MZ & pretty much agreed that they were v. comfortable to run w. the case on the basis of the summary of evidence provided.
- No grounds at this stage to pull any prosecution.
- Acc would speak to CPS re public interest.

re: Conspiracy to defraud charges - there is sufficient evidence to lead a jury to a realistic prospect of conviction.

1551

re: J.L —. Reasonable grounds to question.
. would be a lingering doubt otherwise
. Obligation to interview under caution.

re: Computer Misuse Offences - always comfortable w. those offences.

- Need to drill down in the detail re: ownership of the platform to determine which charges should go ahead. — ? need to raise to lesser number (of charges).

- re: Chisti - Celebrity had knowledge that he knew [illegible] of [illegible] information
- discussed timeline as to why he

had not been arrested (same as NDM for JL intervention)
? better for chiefs to testify for crown.

JL — Needs looking at — ownership may not be critical but may direct who is charged and on what — Agrees completely.
: let's drill down into this

— Public Interest? not pulling — AG infull agreement

· Names may come out at later stage

· if we need to pull in Leng then so be it.

1551–1603 Monday 20.4.2020.

Spoke to Chris Rocca — DDD by what App. call Re: MW's position on application of Mag. Court Rules Re: Covid 19.
· Argument does not bite — intention of Rules is to allow Mag. Court to hold first appearance following arrest
· CPS advice Re: Social distancing. — (he had sight of).
· our position is we are in a position to change now if pushed & add further changes later if necessary however this would be messy & no rush needed to make final decision serves no purpose to rush now in Covid 19 state of play — still waiting for JL to be processed & VS ENQ — ? effect on outcomes uncertain.
Our position — Ready to change — Covid came along — Interview of SL needed — VS evidence delayed — Need

- 134

~~[illegible]~~ DDP had offered advice on realistic prospect of conviction & application of ~~Bail~~ ~~[illegible]~~ Covid 19 Regs only - not Bail which was matter for police.

↓ — OP FUSION E. I. E. (3) — ↓

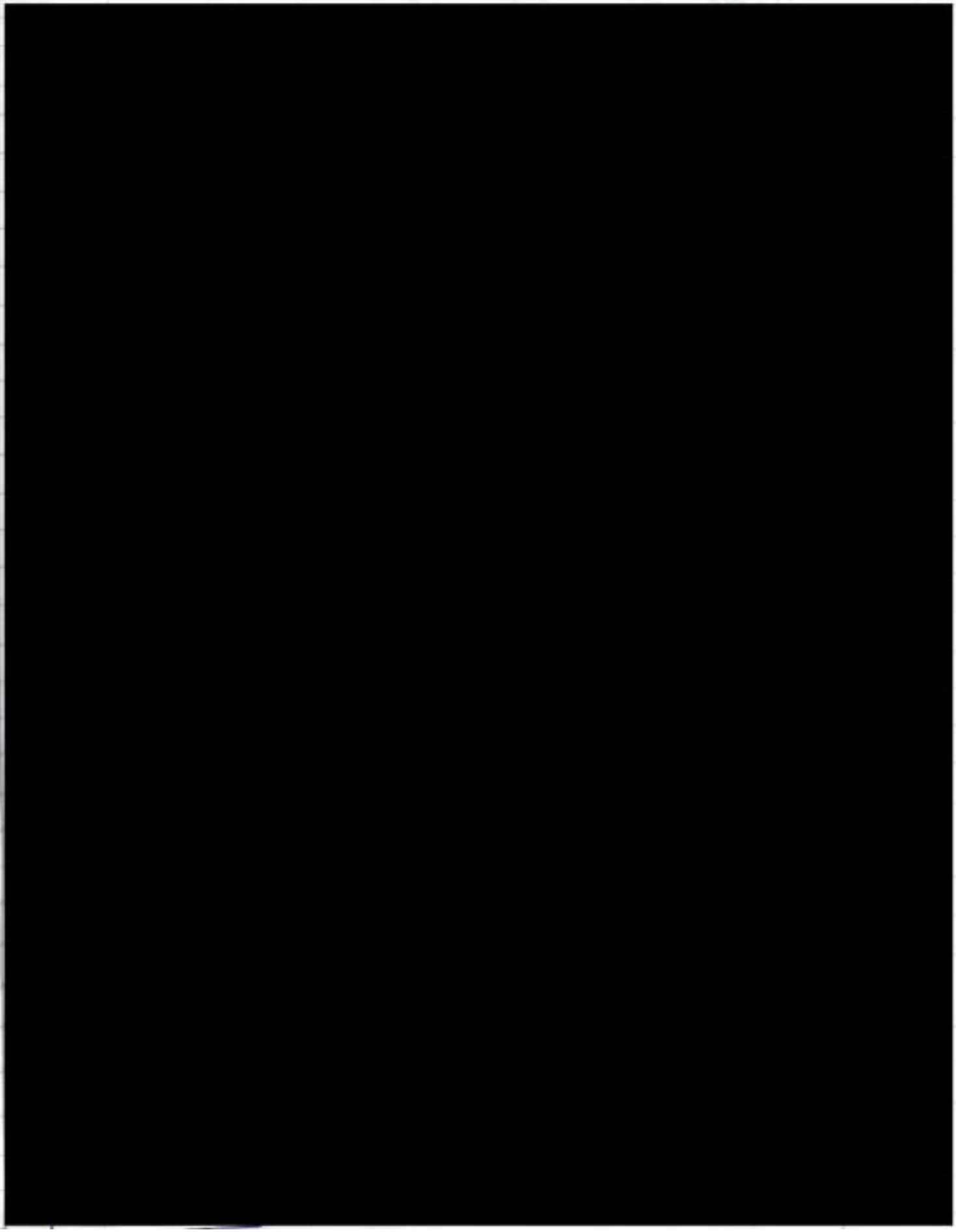
12.30 Briefing DI Goldwin + DS Garrett Re: Op Fusion.

[redacted]



(3)

(4)



15

09³⁰ Friday 30th April 2020.

. Meeting: Chief Secretary Damien Green, Lloyd Devineney; Paul Richardson, Mark Wyan. COP.

COP Raised contractual issue

- Blunts asserts ownership from onset w. supporting document.

- DG Received contract today - from email from Supreme - Prev. Chief Secretary who had dealt w. John Perez.

- COP - does not sit well w. me as police officer - You never had this yesterday & now copies are being sent at 4 in the morning

- Lloyd - was asked to sit in on this for the commercial side as watching brief.

0945 Meeting w. Attorney General Michael ~~Lhyan~~ Lhamy + Lloyd Devincenzi – CoP + Supt. Richardson.

P.137

(RGP) Richardson, Paul (OTM)

From: (RGP) Wyan, Mark
Sent: 20 November 2020 09:45
To: (RGP) Richardson, Paul (OTM)
Subject: Notes of Meeting with CS 30.04.20

Sir,

These are my notes for the 30th April 2020.

30/4/20	Meeting at No 6 with Mr Grech. Lloyd Divencenzi, CoP, PR and MW. Discussion with Chief Sec regarding ownership of the NSCIS platform. Contract sent to him by Robert Fischel as they did not have the document before. Reiterates that HMGoG are asserting ownership. They cannot provide any written evidence of ownership. CoP requests a formal complaint in the form of a witness statement if they wish to be complainants. Chief Sec will begin internal disciplinary proceedings regarding CS if there is a police prosecution. CoP informs the Chief Sec that CS has been involved in corrupt practices. For his consideration of whether CS should be allowed to continue working or be interdicted.

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1250. {Thursday 7. May 2020}

Conference call James Gaggero - CoP Office.

13° CoP - Det Sept. PR.

Not been chasing for updates to avoid being a pain

· April would have come to a head (diary entry for extended bail) since come & gone -

· wants sense of direction - but cognizant of current covid situation.

WP. Thanks for patience
· Id criminal ~~ifc~~ liability for all 4 on bail & have consulted w. DPD.
- V. sensitive exec. action. pending - not to be discussed by 'phone.

JG. Do not feel that you have to brief me on anything.

WP - Not surveyed by RF letter.

Me: Robert Fischel assertions of ownership.
Needs Reb. Hal.
· A/c's not reflecting ownership of Assets.
· Govt. assert. ownership.
· Apology for not updating —
· ? in GIS
· Reassure ~~for~~ independence of investigation & depth & breadth of scope.
· Re-build ~2 ~~G~~ against strongest objections on legal grounds.
· US / UK int'l enquiries — Covid delay.
→ Grateful for not seeking updates.

? Walk away — w. offer —
? Private & confidential Meeting — bring into play — why not?
· Grey Man in ~~the~~ joint Meeting w. COP — Made him feel v. uncomfortable of Govt. involvement (Grey Man had approached him).
· ~~the~~ Grey Man feels let down & betrayed

email Re: IP - JL - JP. — This is a problem how are you going to sort it out — "I will speak to the chairman" ∴ at that stage there was no clarity.

Stuck in UK. but team will be fully available not budgetary ~~complaint~~ restrictions.

JG will ~~to~~ speak to individuals 1? Peter

140

Hit the bull's eye - Re w/o Prejudice meeting - Guy Stagnetto As independent witness.

- Are they prepared to reveal contents

- They thought we would roll over & die, would have no appetite for a fight - just roll over & die

Red Maple - Your enemy are Socio-parts prepared to manipulate people w/ no conscious as to fall out.

CIP - ? Lamper Civil Action

JG - Temp. pulled fire case but no pulling back now.

1. warn staff that we will engage,

2. Speak to Guy - Re: Criminal Action,

3. Speak to appropriate level, cont, to address ownership as far as possible.

+ 44 [redacted]

1st Conversation w. JL - His partner had called him + advise him to ~~sort~~ call him & deal w J.G direct.

(Christmas) Social Event - Met COP - in narrow corridor - face to face - not able to avoid JL Reach out shook hand - ~~same~~ How nice to see you again - Been threw war - Shame you never got in touch - avoided a lot of pain

Responded - yes Shocked - now trying to get back 1/4 or 1/2 PM. that they are me. Believed they were honest or true as they had worked for him? How had they got away w it for so long.

JL I think this been a v. bad experience

JG - I feel that you have been as much

a victim is this as Me.

Had advised Mark that ~~to~~ it may be worth approaching him J.L.

Has taped conversation w. Cine Sandey Re: conceding ownership.

will provide copy of conversation

taping of conversation seems I have been so fatidicious.

Right, honourable & ethical. insistent On the I

13th Monday 11. May. 2020

Call from JG to Personal Mobile duration 1'

- Confirmed receipt of email w. attachments + audio file - forwarded to & discussed w. M.U.
- Confirms meeting w. CM tomorrow (Call or meeting physical) & will Revert.
- Lucy ~~of~~ Stagnetto awaits our contact.
- Staff @ Blunts prompted to Expect our contact.

Tuesday 12 May 2020.

12.30 At Hassans 11th floor Board Room 2 Re. interview of J.L. Met Javier Chinchilla w. Dr Mark Wyan – Javier is Managing Partner of Hassans –

Explain:

· Thanks for seeing us –
· Apology for not being clear before Meeting
· Need to be discrete as possible – V. Sensitive.

12.50 Javier calls Janine by 'phone – Can't do now – will speak tomorrow – consequences.

13.04 Call back JL –
When do you want to Search – to discuss w. my family. Offered to Ask family to exercise – No I have no Secrets from my family. Will come in to Office & May see what I say will avoid need to Search.

PIN – will give w. PIN.

13.55 JL leaves room w. JC to consult privately before deciding whether to challenge S.W.

15.14. 5763. 1 page + phone The Penthouse 8 Gov Lane [illegible] office – hands over 1 pad the [illegible]

15:00 13. May. 2020. AG DPP Lloyd Dewinsen — P.R. + WP

1. Why use most oppressive means to obtain info. Why not ask JC direct.

WP. - Necessary - Prod order Re: What's App Messages & May not cooperate.

2 AG - Repeat & will never Budge. going to Rationalise the 76 changes and not budge from that position. And then advance w. force on a legally certain position.

AG's instrument of this is Matter that needs a lot of care & ~~into~~ attention

WP. ? Any doubt as to flaw in investigation offer every document to an independent police to examine our conduct. I'm being cornered. I'm not lost my tenure — my ethics are up here — passionate — the vito & can be pied. Affront - to the legal position.

AG - No one here questions your ethics.

WP - No police service would act w. same discretion.

DPP - No doubt whatsoever ~~that~~ about conduct of this investigation - Paul & I have been dealing w. this Matter

from early stages.

DPP I think we agree that the way is obtaining the evidence is an operational matter & we may have done it differently

AG You have rightly seeking our advice as to it likely to come.

WP. — not inflexible — proposal. 5th time we are doing a job — consulted w. DPP — there is a case — I understand whole reliance. I can not pull it — you can —

AG — does not need to get to that.

DPP — Evidential hurdle has been passed.

S. 58 — Remedy.

AG Re alleg.

Impor

Magistrate made aware — of all info. info irrelevant as info handed over voluntary.

Letter from Lewis Baglietto delivered to AG discussed

146

Agreed: ☐

CoP to write to Lewis Baglietto

- no material has been copied/downloaded & remains in a sealed bag & will remain so for 7 days. Application to Courts then do so

Yes for warrant.

NO 2, 3, 4,

6 - None

7 - None.

Ref: to not refusing to attend meeting

to Pre Interview ~~[illegible]~~ disclosure material.

Friday

16^{55} 15th May, 2020: — AG - DPP - COP - S.pt PR MN DI

Much time w. Christian - heading towards collision
escalation - best avoided.

What can we do to obtain what we need w/o
a collision.

- Interview is a line of enquiry that is essential
- & both agree.

14^{15} 19/5/20.

Charles Bonfante Re: Saine Henry - Mark Wyan
email 13^{53} 19/5.
Refers to COP email - St. to be ready by 26/5 -
it will be impossible to review all
relevant correspondence.

update on Mon 25/5 (P.H).
- draft was inc. in error.

Time frame - 2 weeks since.
bearing on others on bail
grateful..

Monday 1st June 2020.

17:00
8' 39"

Return call from Charles Bonfante Re J.L.

- Rec'd info (Redacted) for warrant.
- ? witness st.
- Assets - what we allege he has done is lawful.
- will write explaining this
- Not clear what offence needs to be answered.
- Quite advanced in preparing emails
- When (JL) became aware of sabotage is key - timing. Conspiracy only then.
- No offence seems to be disclosed.
- Need to get to the heart of the issue.
- will write to make that point.

Thursday 2nd July 2020

1655 - 17⁰⁰ Call to Chris Rocca DPP.

- Legal Privilige Re: disclosure.
- Progress discussed.

- Fiscal sent email to < Chris Rocca Re: Conduct
  < ACT

Updated Re:
- Action Plan
- 4 Interviews.
- Review JL
- Sub Rep. to DPP.
- Meet to discuss.

150

Tuesday 25.8.20.

11³⁷ Conference call J. Gaggero + MW
to +44 [redacted]

35'20"

Welfare check Re: post Serious RTA.

- Had spoken to Ian M - on human basis sorry for situation that had arisen.
- Did not discuss case
- None of reasons for departure shared by IM.

Briefed as to update:
- Proactive inv. complete.
- DPD Revising over 100 page summary.
- No indication of backing out - (sought comfort)

JG — · Delighted to hear that.
- Defence using 'smoke & mirrors'
- CPS robust enough
- Concerns about Patrick Canessa (now at OCPL) as in close friend of JP from RG.
  ∴ Some degree of concern.

Re: Non-Payment of NSCIS Fees.

- CS had argued [redacted] they would not pay year
- Once Nana (FS) was satisfied [redacted] we will put it back to the right level - until then £15-17K docked (arbitrary amount)
- [redacted] → following

151

year all equipment reinstalled - CS off scene & Mena running show. Needed HMGOG System in place to upgrade - 2/3 delay by HMGOG. Oct '19 sorted out by AM (F/S) recusing himself as he is a Hassans man ∴ Ref to Darren Grech (Chief Sec).

- Feb '20 - Sono met Mena & referred him to Darren Grech ∴ "Issue is about ownership" Never been raised before then Matter remained more in conversation w. CM in ~~2018~~ 2018 when Master Contract discussed.

- Still assert ownership of IP - No signed contract
- will always be very vulnerable to a physic victory - Small town like GIB - v. undesirable outcome.

Fundamental Issue Now paid £15k p.m (50 as opposed to 65)

[redacted]

OTR Not formal complaint Always v. clear to clear between right & wrong. Gray Man caused HMGOG to become much more anxious - Suspicious but no ability to assert this. Always worried about Gray Man & influence on HMGOG but no Reason to ~~suspect~~ believe they were acting unethically.
Brexit + Corona ∴ V. Busy.

· Cortes still giving SGN contracts
· People speaking w. forked tongue - still to large extent.

· No offer made for NSCIS.

· No representation ever from HMGOL as to ownership. Only ever once w. CS+CM in the first meeting.

- just taken morphine for the day.

- Nicholas conscientious not to pass much over to him to aid recovery.

20 #'s inc ribs ∴ breathing painful.

Immense appreciation to MW.

Still v. committed.

James Gaggero.
1433 15/9
Consulted Re: Press Release - Sh will Retain from comment until after trial

Wednesday 23.9.20.

2730 CR. · Cabinet pressure of CM – Michael called yesterday –
· Police do not need complainant tho nice to tick box.

0945–0446. · JB (min) saying need Cabinet approval to act in all our names.
· Govt on name in S/W
· Political matter for Govt, they want to see the evidence – some confusion as to whether Sanchez is
· Decision to charge on advice of DPD not for Cabinet to decide.
? we will agree to be a complainant if we see evidence.
· would proceed w/o HMGOG complaint – May affect misconduct charge – but DPD will still proceed.
· JB – OYE – ? undermine FP.

10^20 Briefed COP + CY.

4

OP Delhi Disclosure. 10.12.20.

Meeting: MW – MZ – Dr Danny Saxby.

MZ – OPP had once eta to finish
MZ had met w. team at old OCPC office & now understands process & systems.
· Unlikely to meet task w/i next 4/12 (we have already consumed 2/12 of 6/12)

Problems: · Cabling.
· Alarms / CCTV.
· Computers
· Office Accomodation.

PCMM = 20.Jan.21 – not for disclosure purposes – next March review then trial date.

Quantity work done / pending.

DS – Still at v. beginning stage
extent of problem larger than initially expected.
UFED
XRY
IEF Reader } not allowing bulk keyword searches

Multiple images of same devices – ie cellbrite + ufed ∴ duplication.

MZ – 2 officers on Axiom – Danny Saxby
Richard Greaves + David Hadlow (Acc Report 1)

dealing w. . Cellbrite + XRY - (whatsapp).

DS 14+15 lever arch files need revamping as descriptions on schedules not accurate enough ~~[illegible]~~ + Cohin Tester re-doing.

Me - Propose liaison w. NCA Cyber Team for advice / coaching.

DS - We have 5 hardrives - 1 done but now needs re-processing w. keyword searches from Sandez. Still not at max productivity due to office move - cabling not sorted out.

M2 Cabling not ready for 2-3 days & switch off for 1 day or so whilst infrastructure sorted out.

DS/ Radka assisting w ECU move - needs to stop. Jamie Conner not down yet - still assisting at NMH -
PC Problems - PC's had not been updated & no issues resolved.

Me Admin support offered - To start Monday.
A. - not ready for this yet.

M2 Trial date will be set regardless of whether disclosure obligations being completed.

Me Re: disclosure strategy - M2 to draft in liaison w. NCA - had prev considered w.l scope all the way back to 2010 when not needed.

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A M2 set from 2017 - date on review.

Management doc prep for QC but strategy not yet drafted.

C.O Francesca / [illegible] had been assisting on O/T basis but not fully understanding case.

(11)

Wednesday 3rd Feb 2021

04½ Chris Rocca DPD Re: OP Delhi & ?
providing CM w. copy of Application to
dismiss sub by C. Sandoz.

· Cons evidence may be seen as tainted as
CM is witness. ∴ no to sharing applications

· SSS SS4 – Conspiracy to defeat – Common
Law abolishing yet 34 creates offence.

· Re: brief CM but not provide copy
"– don't disagree – not yet public che"

12¹⁰ (ue) COP conversation w. CM Re: Delhi.
12¹⁵ (CM). · v. Busy w. Brexit & covid.
· needs revised latest date for sub
(? prep by to end of Feb)
Me to speak to DPP & ask him.
· DPP confident even w/o CM St.

44

Monday 1st March 2021 cont...

JP Delhi

08:40 – 08:50 Briefing by CS MW.

MW. Disclosure team have ild emails from private a/c of Leisel Torres → 36N email A/C copying in CM + 8 F/S + others i.e. Sy. upper [illegible] nature reserve contract. & JP issuing her instructions on what to do. Govt facilitates loan to 36°N prior to getting contract which they then get. ∴ it appears as the she (LT) has facilitated contract for 36 North. ∴ Misconduct in Public Office potentially; + ? difference in how we treat CS.

M2 briefed MW → M2 briefed DPD. does not directly affect Delhi Overwriting ? refer to Crime for New investigation + LT had affair w. JP ∴ motive.

DPD shares same views as M2.

MW not seen email thread yet himself.

Updates on disclosure 88% Examined 64% Scheduled.

09:50 A/COP + COP briefed – refer to ECU for investigation.

10:10 SMT – COP A/COP MR JF NR

COP end Sy Month – Cri + Non SBA / RGP Meeting + presentations – COP + SB HMIC to Monitor – Need to test presentations.

Monday 25th January 2021

14:30 Disclosure brief MW.

(1). XRY - Cellbrite issue - Danny Saxby will call NCA Danny Bosme re: duplication of work

(2). Policy decision - ? email forwarding to be inc. rather than individual - MW says yes as long as description good.

(3) Chats - All chats as one item but highlight bits that undermine or assist. MW to discuss w. M2 but prob. ok.

(4) Chats - 1 mention of 1 hit in a chat that otherwise only deals w. say Thoughts - should not be included M2 to be included.

(5). Cryptocurrency - ON TC's device - to be excluded as does not undermine or assist.

(6). Shred Hardcopies of printed material + only process digital evidence of same to avoid duplication of work.

(7). Duplication between exhibits & disclosure - Dr Jamie Curner to deconflict.

(8). Google Searches. - Most irrelevant - to disregard general searches but apply to those that include suggestion of criminality.

(9). MW still believes we are on track (timewise). no further resources needed at this stage. Last update = 50% done.

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Thursday 4th March 2021

15:20 Tel con w. M2 - disclosure issues.

Advised M2 that Chief Sci had seen working on his pt. w. CN yesterday a.m. but pt. may be ready for PCMH tomorrow.

159

Friday 5th March 2021

(RGP) Richardson, Paul (OTM)

From: (GLO) Zammit, Mark Clive [redacted]
Sent: 07 March 2021 16:28
To: (RGP) Saxby, Daniel (PC205)
Cc: (RGP) Richardson, Paul (OTM); (RGP) Wyan, Mark
Subject: R v Cornelio, Perez & Sanchez

Good afternoon

Following Friday's PCMH the Chief Justice has issued the following directions:

1. **The Prosecution to file and serve initial disclosure by 4 June 2021.**
2. Any application to dismiss the case by JP / TC to be filed by 25 June 2021.
3. The Defendants to file Skeleton Arguments no less than 21 days before the hearing date.
4. The Crown to file it Skeleton Arguments no less than 7 days before the hearing date.
5. Hearing date to be set down on or after 19 July 2021. Estimated duration of 2 days.
6. The Defendants are bailed to 19 July 2021 at 10am and bail would be extended in their absence if the hearing date is after the 19 July 2021.

The Judge has indicated that, *subject to the applications to dismiss*, the trial would possibly take place during Oct / Nov.

You will note at No.1 above the 4 June date which I understand CI Wyan will discuss further with you on Monday.

P. Richardson Supt.
Daytona 2019

(1) (1)

Wed 2.1.19. WP. Meeting. I.M. RM RV AR JF NR
D9:00

[redacted]

Hacking Inv. – Timeline
Arrange Meeting – B.F +/or WP.
–? NCA Cybers? ? Spanish Angle.
Where are we – ? Paul Crefell
Metpol cybercrime lead / Jessey.
Cyber. SIO.

3.

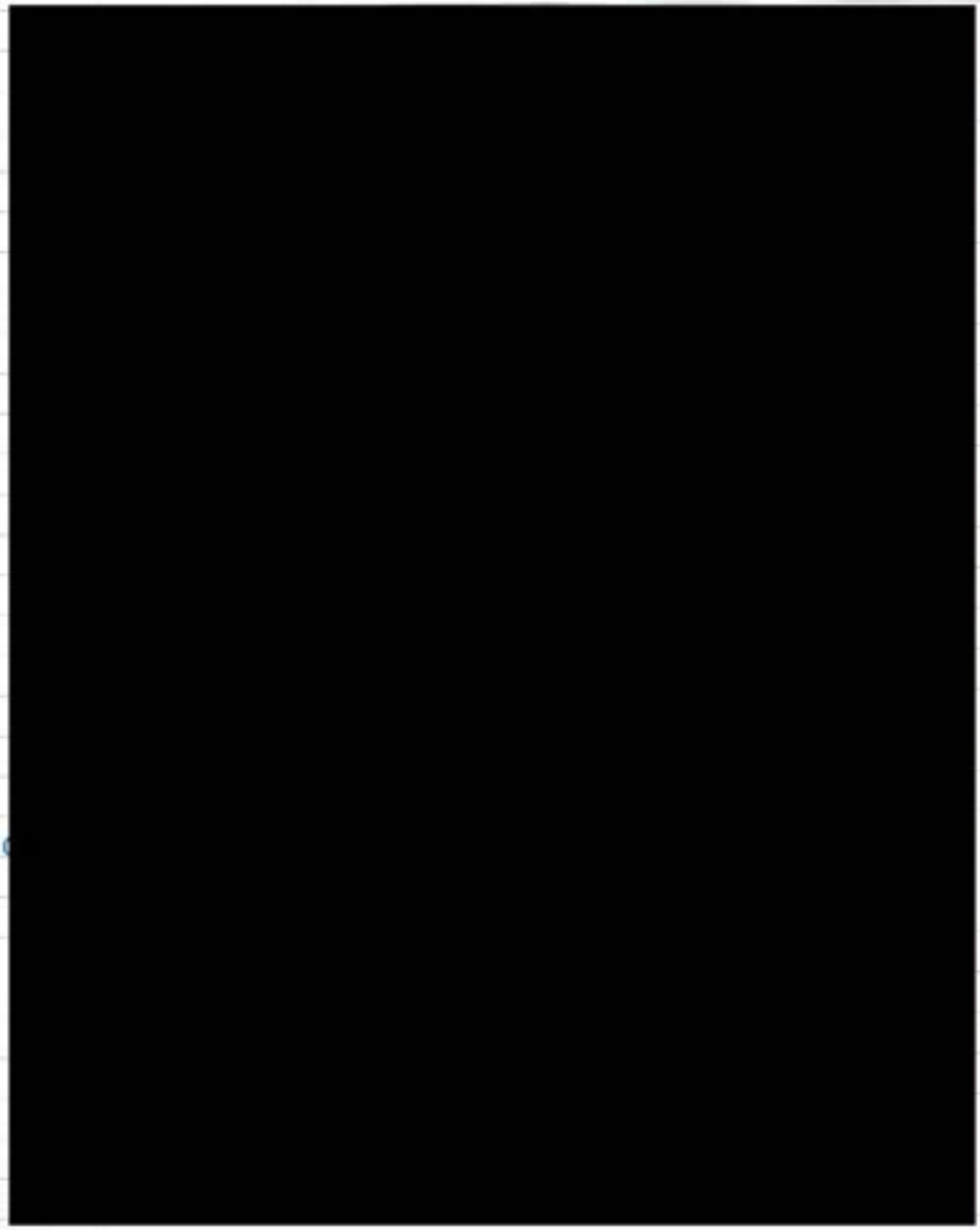
[redacted]

S. Harding Inv. – discuss w. DF.

7

Op. Delhi Crisis Recorded

Brian.



28

[redacted]

OP Dehli. Met with Red Maple Thurs, drafting gt.
telecom w. Pure Tues 4pm.

[redacted]

35

0910 Pre SUT Briefing. PR BF CS. DQR. TT.
11.2.19.

[redacted]

36

[redacted]

OD. Delhi:

- ? Server to be seized today (HW week).
- Pick up exhibits – [illegible]
- St. HW Cowana – close up.
- St. Pending PWC – Conference call
- Red Maple meeting.

[redacted]

43 44

18.2.19. Pre SMT.

09^{10}.

CI BF, DQ, PC, C.G.

[redacted]

45

[redacted]

OP Dorthi

E10 from Sub.
Seized Server + Exhibits
St. pending PC → Red Maple.

[redacted]

57

[redacted]

15.4.19 OP Rhino

T/Manager OP Support NCA,

Phillip Lamatt + Shona Kerr – tech Manager.

Mon 15/4 – am 2040 Malaga.
Wed 17/4 depart 11⁰⁰ GB.

Shona Drafting DF Strategy.

Phil – advise re: investigation.

58

16.4.19. A.A.P. Re. PSD

09⁰⁰

Dave Roberts – Steve Strong – Jan Berry – prev 58 years kent. prev. chair of Poli

will see 100. pax approx.

Prev. Meeting w. Henry | Maurice Police Fed & Richard Ulager Re. Prev. Police Fed Survey.

DR. Understanding – · Grievance Procedures.
· Allegations of Bullying.
· Unreported issues & why not.

Pre SMT.

23.4.19.
08⁴⁰.

[redacted]

59.

[redacted]

[redacted]

Dehli – NCA last week.
Now – Return Cts next wed.
arrests + interview Thurs / Fri
IT Support – Interview Support.

[redacted]

64

Mon 5.5.19 PM SMT Meeting.

[redacted]

65

Dehli, Mov to be signed.

[redacted]

[redacted]

66

[redacted]

Brian Meeting 10th Meeting A. Mora.
J. Medrado

Re: NSCIS

[redacted]

67

Dohli

pans?
Brief Custody teams/ops

Wed. 8.5.19.

[redacted]

26.6.19 14:00 HMIC Meeting COP's Office COP, ACOP, WT, PR, JF, BF, NR, RP. Damian Angela. E.L.

Prev. inspection published Feb 2016

5 areas for improvement Crime,

1. auditing crime records.

2. recording practice for detected crime

3. Supervision of investigations.

4. i/d of vulnerable & repeat victims.

5. Extent of patrolling.

deadline for improvements → Oct. 2016.

? Prev. Working Group led by A/c Hifsud - ? Progress.

Next PSI. Fed Survey v soon - ? few weeks.
Joint approach w. RCP.

Terms of Ref.

1a COP invites all to dip sample Crime Books.
- long standing CRP's outstanding.
- Prev 600 Crimes o/s - Now 300 +
  - Resilience w. Johnathan Dexoisa (PS Barker)
  - Prev. ~~all~~ (currently) All sgts on ART - need to sign off when I could do.

90

1a. NO.
b. ?
c. NO
d. Cavallo dealing
e. Yes largely.
f.

Rv to form working Gens.



104



(c). [redacted]

10.00 SMT, COP: CY: PR: NR: PP: (CD).

Dehli → To proceed ~~[illegible]~~ Wed/Thurs.
A/c UD to facilitate in CM
warrant & voluntary attendance.
issues of arrest → +/or interdiction
(GIS PLC reputation.
Whats APP to see straight away.

17.9.19
11:30

COP - A/COP - BF Re: HMIC.

COP - Prev. visit to Cyprus w. HMIC was impressed w. their Methods
Brought back guidelines for investigation.
- Never got it off the ground.
- I.M → WT → RP - Needs doing.
- farm out to Ret'd officer eg: Richard Mifsud.
- HMIC - to be advised - work in progress.

RM - Minimum standards of Crime Screening & Investigation.
Working by Spirit of it.

Minimum + (? Max) Crime Screening + Inv.

Roy Perez - File from SBA Cyprus to deliver to COP to Take up w. RM.

Me + Brian to Review 2 vol doc electronically & forward to RV.

160

Pre SMT . 21. October . 2019

09⁰⁰ T.T. – P.C.

[redacted]

~~+69~~
(6)

[redacted]

OP Dehli bail 12th November.

[redacted]

169

Friday 8th November 2019

- OP Delhi – Review – bail = Tues 12/Nov/2019.

[redacted]

[redacted]

188

Monday 13th January 2020

Pre: SMT. - JF; CG; OQ; MW (excused).

Op. Dehli - Need investigation plan for next 2 weeks leading to Re-interview.

[redacted]

189

[redacted]

Pre SMT.

ECU 3 Offices.

1. (Ex OI) OI Delhi. 2 (+ Lakhy Grove).
2. MLIU (ex. Spt Mr Grant). 6.
3. Fixed. 4.

Plan – Move MLIU → Fixed – OS – 5 x DC's
2 CIU.

[redacted]

Supt. Richardson

Day book

Fri 31. January 2020.

1

Friday 31st January 2020.

Agenda:

[redacted]

✓. Write to NCA Martin Lemon. - Op Dehli

✓. Discuss Op Dehli add. work for NCA w. Phil Larrett.

[redacted]

Note: [redacted]

4

Present. Monday 3. Feb. 2020 JF. PC MW DO FLT.

09:00

[redacted]

JP Dehli. 21 specs pending for PC forensic.

[redacted]

6

Tuesday 4th February 2020.

09⁰⁰. [redacted]

08⁴⁵

Ol Delhi - US MLA leaves discussed w. A/WF & ? need to collect evidence from warrants.

8

Thursday 13 · February · 2020.

10:15 COP | Police fed board meeting @ T/wing.

Main Points

COP: 1. Respect & Courtesy.
2. Lines of Responsibility Re approaching Press.
3. Strained Relationship.

MM. Confirms still warranted Officer but seeks to be of side discipline code for conduct relevant to Convenor duties.

Agreed: Mediation.
All to propose participants for Review team.

NB - Disciplinary Inv. to be Stated.

MM - when COP points out that insp. ranks are not in agreement MM Responds "they only represent 12% of the Membership".

12:00 Spoke to DI Paul Clipstrin Re: Interviews for Force Intel & suitability of Candidates - to explore other potential candidates w/ Training dept Records.

15:30 Briefed CI PSD RP Re: Op. Fusion w/ Supt. CY.

10

Thursday 20th Feb. 2020

TODO: o. [redacted]

o. [redacted]

✓ . [redacted]

✓ . Chase up Thoisino/Shonakeur (NCA).

✓ . Finish JL Review to brief COP.

[redacted]

22

SUNDAY . 8 . March 2020.

05⁰⁰
CoP office.
. Collision at Sea. circa 3 mile limit.
. Bravo + other vessel Approx 03⁴⁰.
. 1 fatality.
. Serious injury (R) Shoulder open #.
. 2 others ~~uninjured~~ ∴ 4 persons
injured but not serious.
. Suspect Rhib turned by Bravo to Bravo Base.
. Injuries on HMC vessel.
. Critical Incident.
. CAD. CoP - (Met at door to NMH).
. 1 PS Stone, Acherly, Fortunato - 1
. Called out - Insp Tonbridge - HR.
Family Liaison Office - Insp Alex Fraser PSD.
- Insp Fernandez. PMB. -
- Insp Chipotrin - Spanish Liaison.
. Paul Barker Media. (Clickona).
- Post incident procedure.
- CoP - Considers suitability of RCSP investigating their selves.
- CI Field SIO.
- CoP - to advise HE CM.
-- - Prefer option small islands for PSD team or ? Hampshire / Met

Vessels @ PMB - Heroin forced in the hand + screening.
- Need to safeguard i/d of officers -
- Communicate to workforce
- Welfare of colleagues.
- Revealing i/d of officers - danger.

Security @ · Base.
· Hospital
· NHH
· [illegible]

05[50] 2nd fatality confirmed. (call from [illegible])
i/d - of deceased unknown.

05[54] - Maurice Morello — Chair Police Fed, arrives, had been called at 5 to 4 whilst in Spain.

All Media release thru COP.

COP. initial statement.
- context - close to night.
- Law enforcement
- Weather.
- Community impact. - Return of Civilian from Spain BH [illegible].

- [redacted] - Tracey Bitter der - Alan Bastrann..

Me - to prepare list of Actions.

FLO - to be appointmented - ? Annabelle / Louise.

05[55] Briefed TT.

?COP - brief. Chief GDP officer.
06[10] - Rob Allen.
06[18] Spanish COP Policia Nacional Advised.

24 Mark Wood GDP – CoP Calls.

1 RIP – Mohammed. Other 3 – 1

06:30 CoP units. PMB Crew at ABE Suite.
PC [redacted] (Insp Fernandez),

3x Suspect occupants – 1 portuguese.
2 x Lewis
1 unknown.

1 RIP – Lewis.

06:45 CoP Calls Fernando Guardian Civil,

06:50 Gold Group Recommend. IM, PR, JF PC.
NR arrives

07:15 HMC Offices will be brought up for PIP ?

07:50 Gold Group Re-convened: IM PR JF NR TT PC, AE.
- Actions list checked.
- JF advises that Port not aware – ACS off?

Awareness notice – RGP, HMC, GDP, BCA, Environment.
MOD. GDS Sued.

Gold command – Resilience
1. assume Gold command when CoP away.

PIP – short statement today RTW – Tues.
RTW Strategy – ~~Action~~ Reassignment
von PMB Role.

25

Press –

John F All 4 i/d.
GC/PN engaged to help bare family.

Collison – Front PMB to Rear of Suspect vessel.
14M 4 x 300 hp. Good Radar.
PMB – Collar damaged.

Windy Port / No coordinates.

Nordic (? injured party). [redacted] injury
La Mercedes.

Ian Vedey 04[illegible] Port – [illegible] Tarifa Traffic
incident at La Atunera – serious incident.

1st Fatality remains on board PMB.

AIS – either off or Malfunctioned – (Port).

Alex. – First handed to CAD in PMB
advising of fatality. No advise of
Chase – No contact over than Reporting
on duty. PMB crew declined
to send officer on injured parties
– on their vessel on tow for
Safety Reasons.

– ECHR – Considerations.
NK investigation.
Chase at Sea guidelines,
Training Records,

26

Marine Investigator

TT – Cover to Tues 08th Security

09:15 GDP Contingent arrive – CI Markwood
(+44) [redacted]. Sspt – Brian Johnson. Ex SB
CI – Jim Canfield PIP Manager

· Safety + Security of Police personnel / estate

No photos – of vessel.

0940 JF. 36°09N 5° 12' W. 6.54 NM.
East of Playas de Santa Barbara.

10:25 Meeting w. ALT M.L.

· Call from Guardia Civil – Response.
· Suspect vessel. – description – Type. Fuel. Illicit purpose.
· Suspect Activity
Protocol. Import Spain + GIS
· Chase ensued.
V. sad but as a result of criminal action.
· Assuming all was going well.
· Need to include 'cooperation'
· ALT to review draft of next press release.

11:15 Agreed to stay in Zonas de Este en caso
Fernando – que la tenemos volviera
rumbo hacia ~~Sur~~ Sur este.
lo que hay grabado.
Hay comunicación Vuestra.

27

Meet tomorrow Morning 11.30 COP Office

12.15 HE ad [illegible]

Michael Clarkes [redacted]

12.50 Stood down

28

Monday 9. March 2020. P.H

11³⁰ Meeting w. COP –

For log

Advised – txt Joey Britto. chair CEO.

10M – Gary Roberts – difficulty leaving island due to Phase – Administration.

? Remote oversight of investigation by ~~Gwens~~ Jersey Robin Smith – Chief offered to Manage.

12¹⁰ Call to DI Chipolina/Perera Re: Algeciras Univ
– GC opened investigation as Spanish Nationals deceased. regardless of whether incident occurred in Spanish or 'disputed' waters Spanish seek to be kept informed.

Suspects deceased Resided La Linea – La Castañitas.

12¹⁰ Meeting HE NP + AG ML. COP.

- Briefing Algeciras.
- Exact coordinates of collision still not determined
- GC had plotted the vessel before – for crew change.
- 10 min chase in a annual GIS waters
- Chris Fuchs appointed. – Verally
- 2 RIP Resident in La Linea. Castañitas
- Coforal need to bury dead asap.
- Forensic Pathologist asap.

29

- 10' chase. direction yet unknown.
- Bail to Jove.
- Pursuit not reported to CAD.
- Need to establish communication lines
  ? GC – PMB – GC or vice versa
- community impact.
- chk. PMB duty mobile.
- Managed investigation under small islands chief + agreed

AG – Essential to establish line of communication
- to demonstrate that 2 forces were talking to each other. who initiated it is not fatal. who made 1st call.

- Useful – where were they arrested?

- Element of chase w/1 BGTW.

GP . Interrogate our own devices – · AIS,
· Phones
· GPS

Chase vs Windmill Hill obs

AG – Suggest no more comments until clearer view.

13:10 Call to Brian Johnson.

13:20 Meeting Sept. Brian Johnson GDP.

so not current but willing subject to force consent.

30

13[55] Meeting John Field / Sean Perera, COP's Office.
- Phone records from PMB only Mobile only keeps last 5 records - need to obtain same w. warrant / print out / ufed. to expedite.
- AIS - SD card data extraction - expedite
- PM - ~~[illegible]~~ NO Forensic pathologist available to come until Sunday 15/3 to expedite alternative
- Wridy / Port - chase up & confirm their accounts in writing.

20[30] Call to Albert Bohagiar ex PMB Inp.
- had given instructions for AIS always on.
-

31

Tuesday 10th March 2020

09⁰⁰ Meeting COP – dci JF CI NR
Re: OP Kram – fatal collision @ Sea.

JF – AIS – Suspect RHIB – only maps.
PMB plane – imaged
H.O forensic pathologist, enacted
FLO Nat Passions – family seeking date of PM.
St. Pending Port – windy → HMC
RGPMB – AIS / RGP.
AIS – Transponder – does not record.
Switch off HW software. ? PW protected.
Suspect RHIB – Display screenshots.
Last Record from GPS.
6.64NM Lost contact 03⁰⁰ 8/3/20.
east of Playa Santa Barbara. ? point of impact.
3 journeys recorded

COP Officers – need to be told to tell truth,
even if this maybe breach of orders.
Integrity not to be put at risk.
GIS. as motion is responding to cooperation
request.
Need to lighten up methodologies
N 36° 09.955'
JSM GHIO to plot coordinates accurately.
w. BGTW Map superimposed.

COP — will call NPOC seeking investigating
teams – MOP no capacity – small islands
no cap practically grounded – Jersey only
can over SNR officer independent oversight.

32

- Need Henin fencing.
- Officers' accounts - open + honest.
- Force Intel to start collecting Media / social Media.
- For i/d possible witnesses - threads - Public Impact.
- Facebook a/c of Offices i/d to be disactivated.

Phil Mandel

[redacted] - letterhead

AIS on 4-47

6.34 bkm beyond B4TW HMC Seeker

11:20 Meeting COP + Christian Bowell. HMC Cop's Office.

HMC Meet 1 nm off catalan Bay
B4 door closed. All inside
RHIB 2 'bodies' one on top of each other.
"Mi sis mi sis toda via esta vivo"
pneumatic @ base
P.Lot en route (Kyle Galea recovers). avia
problems con los motores, esta dara
que accidente no paso afuera de
alcaidesa en aguas Españolas"
Nostros acamatmos de Sovir.

HMC Seeker - Kyle Galea. called
- Dale Lamagna
Dylan Sarnide.
Dale Vallejo ! Coleman
Brendan Ryan
Aidan Hanglin.

33

HMC took all 3 back. (all except R, D).

4 engines generate a lot of spray + this impacts on visibility.

Kyle on Speaker phone

Main concern - ? Nordin - Pelo Rizaou
So sólo esta muriendose
salvavemelo x 2 - toda vida esta mira
preserving life.
Move 2 that one ok in Bow.
1 HMC starts CPR -
bastante mal -
obv. was an accident but not in Gibraltar
I have passed the coordinates to my jefe -
was v. nervous - wanted to be w. uncle
& was allowed.

"el outgoing crew - change over - lo
motores se estaba fallando - hence lo
que a pasado"

? not alive at point of HMC intervention
after just dead or dying - bleeding
bastante.

14.30 JF Requests to remove B4 from Hand to water
for service to other vessel - Refused.

JF Requests to continue intrusive search
for drugs on suspect vessel inc. drilling small
holes - Refused.

34

Roy Perez suggests using David Rouse – the forensic pathologist as used by defence.
RP used this person 3 x prev.
sent message to HMC CP asking for tel. call,
Replied 'soon'

15:10 Meeting COP – JP NR.

Met PM – . Accommodation – ? Force Hdl.
· Terms of Ref.
· Policy log / file.
? JDs description ?

*: HOT pursuit unclear – to Research
(RP advises).
? 12 mile jurisdiction to East. (RP – I should
to be corrected.

PM – 12:00 tomorrow.

35

Wednesday 11. March 2020.

08:00 CoP Meeting - OP Kram
- UK Pathologists concerns re use of non-GP licensed pathologist.

10:00 Meeting w. John Gittio - deputy Capt of Port re: charts of BGTW / int'l waters.

12:00 Meeting CoP re: OP Kram - discussions w. Met Pol PSD Team.

Gary T. Smith [redacted] SIO. DPS director of Prof. S [redacted] Chief Insp.

- PIP policy
- PIM Records
- Press statement
- SIO Logs.
- Intel pic of Deceased ~~of~~ & Sirius.
- TOR - CoP dealing.

- FCO - Speed up S.36 application Police Act 1996.

potentially 4-5 to attend.

Prep. forms for screening

Briefing Paper of Incident.
— , — Customs

36

1705 Tosch base call w. Gary Smith – Met Pol, will send local legislation + key differences.

37

Thursday 12 March 2020.

Meeting CWP A/CWP CY PR Re: op Kram.

- tel. timeline
- deployment log of B4.
- Ais Record over 10 days use ? logs.
  - who chks.

Marina Investigator - to coincide w. Metpol visit.

JF family disconnected from whatsapp group w. FLO - all comms thru CF. (lawyer).

Me to do - File note brief.
JF - Training records.
PMB Historical chase database.

RP - to redo A3 Map w. smaller cross.

Exhibits register -
Hand over process -
CWP prof. presentation. - Digital Map w.
suspect vessel photo

How far out of BGTW is distance into Spanish waters.

Sea state on day in question.

13

Friday 13th March 2020.

Remove keys - or change ~~[illegible]~~ lock -

Secure filing cabinet.

EZY 8901 - 1. Gary Smith
2. Michael Moore
3. Christopher Griffith.
4. Emma Duffee.

} Am Fri 13/3 @ 10^{55}

BA 0490 - 1. Trevor Morgan. Am 16^{30}.
2. Neil Rawlinson ETA 16^{34}

Put crew change over on Atmara beach.

Friday 13th March 2020.

08:15 COP Brief Ex. OP team - D/COP JF PR NR.

18:00 Met PSD PSD team Briefing @ Cop Office.

COP, A/COP, PR, JF, NR, Dc Steve Palmer - CSM.
All b ok team. Gary Smith, Michael Moore, Christopher Griffith, Emma Duffee - Trevor Morgan, Neil Rankin.

Sunday. 15. 3. 20.

Visit to limits of BGTW w. Met PSD team OP team in HMC Vessel Searcher.

48

Thursday 26th March 2020.

09:00 SMT: IM RU CY PR NR. EL. APOLLO. LD.

[redacted]

14:55
COP
ACOP
PS McClurk

1

[redacted]

(3). Prepare Reply →

Link footage of GPS Replay – w. Gary
& intent to release from arrest –
+ ? Interview as witnesses.

Metpol Covid – returned to UK Early

(4).

→ Release Marine Report asap to Metpol
They are RCP offices – even tho
not final product

already copied is.

59

[redacted]

14:50 21.4.20. – Meeting RP. JF Sein Perera Re: OP Kram.
9.4.20

OP KRAM

Roles. RP – Liaison w. Chris Linch.
SP – Coroner's Officer.
JF – Met Pol Liaison

Coordination 1 weekly Meeting with all 3.
SP to Sub weekly update to JF & to include feedback from RP.

1st Rep. by Wed 11:00 for GP Meet w. ACT.

Coroner briefed by PR – agrees to w/hold Return of 'phones until one establish whether deceased was in fact the coroner.

63

Thursday 23rd April 2020

09.00 SMT: IM RU CY WT PR DR LD.

[redacted]

10.00 Meeting w. Mark + Paul – re Dehli w COP/A/COP

P34 – Conspiracy to defraud.

bit of disbelievement.

P10 – (Pa. 54) Juice comes out. Excellent evidence

J. Rodriguez statement pending – now urgent.

P79 27.5.19

80. 19 Nov 18.

162 – undetermined handling – ? forward handling

? Wavetech tutes on TC's computers?

Crypto Currency – needs explanation.

66

Monday 4th May 2020.

09:00 [redacted]

08:20

Thursday 7. May 2020.

08:40 OP Kram briefing COP A/COP LY PR RP, + Sean Bison + John Field.

- Crim letter re: Property.
- HM Coroner position re: independence & inquisitorial nature of invest.
- Planes A4K + no certainty of Output. time scale ? 3/12 +
- HMC to strike the arrangement direct w. Metpol team to determine
- How was Marlow Chicken / Nisney case handled w. regard to appointment of Coroner's Officer.
- UK team may not want

OP. Kram.

7.5.20

Prev. Case Review – deaths in custody.

Clive Nuñez
14.10.2001.
Man Castree.
Stephen Gordon – Met Pol det Supt.
Mary Doyle – Met OP det Insp.

Matthew Chichon OP Haami

our PSD Report. 5.12.03. CI E Jones.

70

Monday 11th May 2020.

09:00 SMT: IM RW. CY PR BF APosso MK.

[redacted]

Q. Solution → ① . Internet travel the prev collisions to
Unit we Andy Watson,
• . Historical ACS data,

Cofonable to Read Pdf amendments.

Meitele - amies SSN / Mus

71

Thursday 14 May. 2020.

13⁴⁵ Meeting OP Kram - Solis Report — COP A/COP JF RV.

Friday 15 May 2020.

Meeting ACT - DPP - COP - Me - MWyan.
OP Dehli.

Op Kram
Coroner needs to write to Metpol seeking their allocating one officer as Coroner's Officer.
Sean Petersen should be liaison officer.
- Spanish Parliamentary
- Chipping to link up to Sean as official request expected from GTC to once what is being done here & they may use that in Spain?
? one of the survivors said to press that their vessel was stopped & no chase?

72

Tuesday 19th May 2020

14:30 OP Kram briefing - COP A/COP John Field PR.

JF 3' Meeting w. Merkle - will consider his report in light of our observations but says in his opinion we should have kept a larger distance. Will now be a more balanced report.

JF - to inform Gary of what has been agreed pending their (Metpol) update.

Gary has requested that we serve notices of investigations to PMB crew that they have prepared.

COP New Spanish judge - female - unsure of ICOR process etc & sought advice from other judge seeking info as to state of our investigation & ∴ may no need for further judicial investigation

Friday 22. 5. 2020.

COP, A/COP, WT CY PR.

09.50 COP served w letter inviting to retire. Loss of confidence HE + CM.

- Main collisions at sea
- HMIC - serious concerns - why not

10.00 Call from JG. to Personal Mobile,

Needed be closed a lot to make CM called last night.
- Brittle & uncomfortable
deploying a tactic to get wriggle room in light of what is brewing
Peter C. Reassets unequivocally as to ownership.
CM v. much saying that ~~that~~ ownership v. much in dispute & NOT willing to concede at this time.
JG - gently reminds that refused to sign the draft contract.
bottom line - clearly matter of dispute.
Does not want a major row w. GOG as deal w. them are so many planes.
Physic victory
"PC - widening scope of investigation is clearly causing them concerns"
not discussed. PC feels that spoached by widening. Mama had dismissed himself as partner of Hassans.

74 13'
22.5.20.

Call from Peter Cowana QC. from TO [redacted]

① . Not at liberty to for not reasons NSF able to

become aware of potential legal situation between RGP & Govt. Not aware of any link whatsoever of any link between this ~~to~~ and Blonds case - & would not be be able to free to advise you - read between the lines -

Can't spk frankly - ~~Gandhi can~~ Can't - remain position - can't remain is that position - Can't discuss ~~the~~ to you.

Must go to to Sincere w. professional skill & prof. courage - ... to

2 people in Gib only - ①. Danny Feetham (Hassans). - w

② ~~Charles~~ Charles Gomez → Mayonjay Mixed Reputation, but courageous stands up.

③. No visibility - SEEK advice from outside from funding

difficulty in turning around what is needed ~~self~~ w/o conflicting.

75

11:30 Call to Sgt (ag) Gary Smith [redacted].
26.5.20

Agreed w. Ian McGrail to send briefing update last week but didn't get around to it – updated briefing notes.

No interim report on DSI investigation.

Outcome report on completion – will include all recommendations.

Should be w

Couple of calls from Phil Culligan last week – he is under pressure from his bosses as civil claim;-

Chked on phone – for dates.
Would never give anything to him w/o going to Ian 1st.
21-5-00. Thursday.
15-5-00. "

Phil he has asked for interim report – Said would give a copy.

Have a look at my report & let me know if you need anything else.

76

Monday 1st June 2020.

08:15 Pre SMT: CI JF, OA, CG.

CG - [redacted]

Opkrans.

OCI - Video conf Meikle + Neil (MPS).
to discuss Meikle.

[redacted]

? [redacted]

78

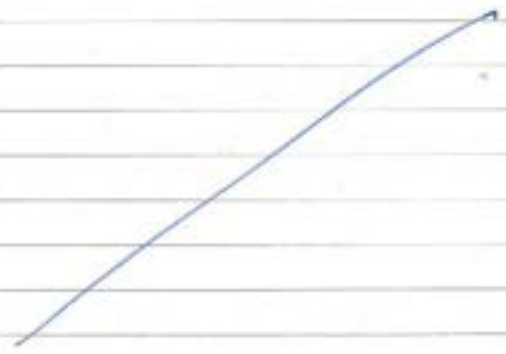
[redacted]

1.6.20 SMT. — COP — RU WT CY PR MK.
09⁰⁰

[redacted]

COP. 5.15 letter.

We need to keep copy of everything sent to Nº 6.
Mark Garnet



79

09⁴⁰ Monday 8.6.20 SMT. RV WT CY. PR M.K

CoP departure.

INSP UP. for Guard of honour.

NO escort - PI - to home.

Need to keep OP Kram files live. (John Field).

HMIC - Action for RM - ? Minister approval.
To do - future - Needs Easing -
Touch base w. RM - ? working w. Mary de Santis.

Patrol a Posit Policing - WT worked on this Sunday.

Remitment - this week fitness / exam

Promotion exam - Next week.

HE - arrives BA Flight wed
Thurs. Sworn in. 11⁰⁰ No Guard.
visit to NMH wed-fri next week.

- Beach Season next week - coincides w
Summer hours - 1/2 me unworkable.
? closing beach if too busy (happened on Sat).

80

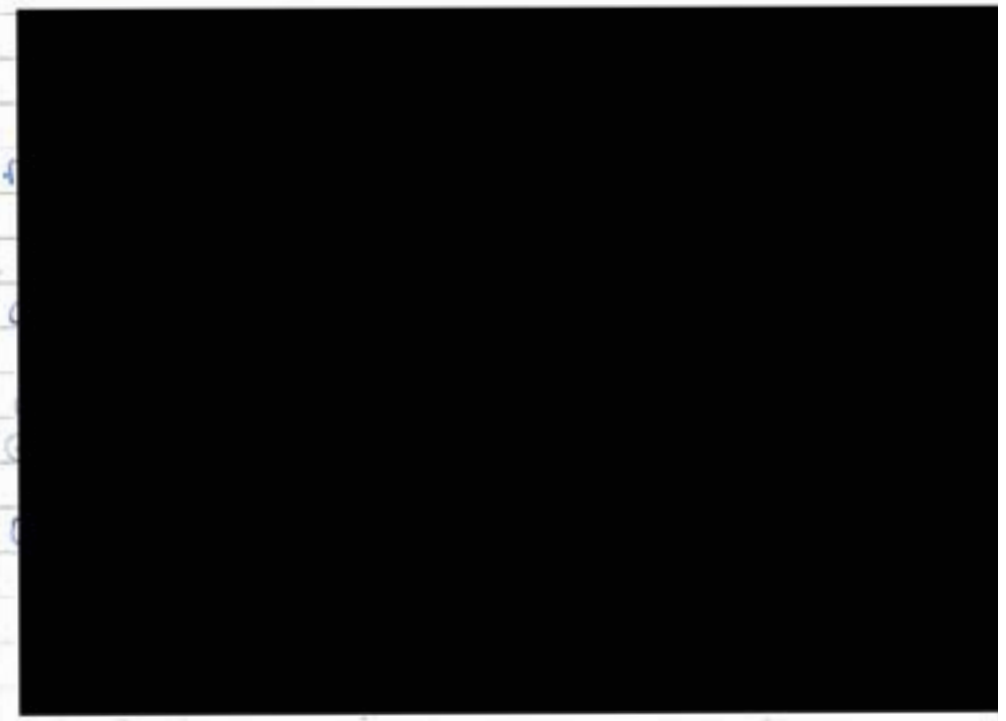
Wednesday 10th June 2020.

11:00 STM – A/COP RV (A/COP) & CY, WT, PR.

Monday 16th June 2020

Pre SMT. JF – DQ – CGT – PC.

JF. [redacted]



DQ

CGT –

1

PC AMIC – pass up through DCI – APP org. vetting.
· China repatriation.

81

Command Team ~~Meeting~~ Meeting 16. June. 2020.

A/C RV. WT CY PR OR Paul Bashe / Leanne D.

- New Minutes format - Template to be reviewed.

[redacted]

- HE Visit — Policing Plan Review.
  View Powerpoint for updates.

- OP Delhi - A/C to ask ex-wp to forward email from James Gaggero Reid last week.

84

09:10

Wednesday 17th June 2020

Mark Wyan

Carie Sanchez - No comment interview
no comment remote monitoring.
(our recorders faulty).
Friday Morning ? 10'o clock.
Interview Strategy

Andrew Cardona Rep

? voluntary attendance or recall from bail

Recent history to date
thank.
explain current status of invest & thank.
Explain strength of evidence.
Point out variance
Invite further comment during or after interview whilst still on bail.

voluntary - if insist on leaving - the recall on further date to be set.

Perez + Alvarez - Tues Morning.
Alpha 1st
Cascad Represent. No comment

Cornelio. No flights for next week
needs reschedule on R.F
(Hx) tentative - Mon 29 am 1st Wed 1/7

85

JL – Needs steer from DPP – as this affects charges of others. Bail date = 22 July 20.

propose amending initial report w. output of reinterview of JP, EA + CS. (but not wait for output of interview of TC for time reasons.

∴ need to resubmit report.
- include issues of ownership (New st. from Nicholas Gaggero),

- Arrive ownership → (can TC access storage in Blunds name).

- Revised strategy key. (Review next week).

CM evidence not part of prosecution (a ∴ interview strategy of the suspects) needs discussing w. DPP. Needs articulating in report. – but reasons after review of JL's account.

87

Wed. 24 · June · 2020.

RW CY WT PR MK.

Subject MOJ Meeting 23/6 debrief.

- Approval for extra 10.

- Movement - Still need discussing w. Min Wola
  will revert this week.
  MK to chase up w. Min Sec. (Natalie).
  Me to send update to Edgar.

- Barrio — Tangier Care Home.

Conduct & Performance Regs. Kev. Wanish to meet w Johnathan Tirado.

- Welfare Officer — Not to be employed by force, increased Central Support.

-

- Richard Mifsud — Contract worker — 2/3 months Re-sub.

- Husbandry - Can't see happening now -? Restructure.

- Data Protection Officer - Can't be formed out.

- AOB - Frontier Q — BCA Loop,
  Traffic Mun. Offices Frontier
  RGP - D.T.Rd.

- IDA — Aware w. AG. ? progress

96

Monday 27th July 2020. PresMT

DCI MW N2 CG.

N2. [redacted] situation.

s Msg.

ECU 4 DC's.

FI 1 DC (Maer).

PPU. Ø DC Mark Massiar.

DS Dom violence / victim (Paul Clerk).

? 80 Redundancies @ Hussons - wife of John Emma.

97

[redacted]

Ophrum Return 6/8 — 16/8.

New Officer to be sworn in DC Jay Lowe.

Significant St. from witness Nordin Oris Larsen from RNIB.

—"— Bruno Miguel Serrano —"—.

Briefings w. RGP, FIO, DPP, AG, Governor.

Criminal interview RGP Officer 1 Tues 11/8.

—"— 2 Wed 12/8

[redacted]

103

Monday 10th August 2020.

RD

Pre SMT: RP JD SR. AL AE. SP.

[redacted]

OPkrms ? Officers to be interviewed today
Sig witnesses - serious [illegible] could
not travel.

[redacted]

105

[redacted]

- nothing further organised.

10.8.20 OP Delhi. Fiscal supplied new response post interview - MW Pertaining over weekend - Final report to OPD this week.

[redacted]

109

[redacted]

17.8.20 Dehli – Complaint now rec'd from HM Govt. (Friday).

[redacted]

118
14/9/20

10⁰⁰ SMT. COP, WT, PR, JF, DR LD.

OP. Dorsh — Ask DPP Re: Press Release ✓

[redacted]

140

Friday 23rd October 2020.

Meeting DPP, MZ, KD, MW Paul Clark.

- Docket will be served in time but extension needed for DCPL to Review. ? 4-6/52.

70 days 25/NW.

MW - Final Review - end of next week.

MoS will thus accordingly if required.

- Disclosure Plan needed.
- Lawyer needed to form part of disclosure team
- ? Old AG's Chambers

143

29.10.20

Delhi Disclosure: Spk to Nolan + John re releasing people.

IOM - Policy / Programme.

Results - ? the disclosure trained

Premises - Pack Clerk to explore + furnish. OCPI top floor, Secure storage room,



[redacted]

10:30

145

Friday 30. October 2020

Meeting w. Cl Mark Lyon re. disclosure for Op Delhi. O/re expectation.

? Use DC Conner as asst. to DC Sarby to cover principal disclosure officer.
yes - lead disclosure officer will make the appropriate.
to start work on disclosure Mon/Tues next week.

dogs. · Radha (dog).
Stiff · Gavrieri
OPS cst. · Hadhow (broken Ankle).
Crime. · ? Carmona.

1 Full time civilian - 6-8 M items for listing.

? To start → Mon - 1

[redacted]

148

Wednesday 4th October 2020.

08:00 Command Meeting: COP, A/COP, PR, JF, DQ.

[redacted]

Rogers (AA) starts w. Delhi disclosure team on Meeting. + Francesca part time if necessary then Michelle KH too.

160

14.50 - Review of MW email Re: OP Delhi & CM examiner.

Initial approach? via COP - w. covering note & pre-phone call.

Need to write initials in comms log in full
ie JP = John Perez, etc.

CM Evidence Doc para. 84.

"Yep. Please tell him (you - the CM).

Need to explain reasons for authority to allow TC to access system.

? Why do we need to know
a. nature of discussions of those meetings, &
b. what was agreed Re: NSCIS.

Covering note.

This follows an extensive Review by DPP. + (3 persons in Supreme Court).

Duty to pursue reasonable lines (pursuant to 3.5 Code of Practice on the recording, retention & disclosure of material

Invite to make St. to cover the following lines of enquiry - Many prefer to meet n discuss bot.

Is CM a witness i/d in a defence St. under S. 243(2) CPC? If so provisions of Code of Practice

161

Apply.

~~OPkrant~~.

Friday 27th November 2020.

[redacted]

162

Monday 30th November 2020.

(1) Pre SMT: AE JD SP → QP A/L

Delhi move to Old OCPL premises.

- CCTV installation in progress. Scheduled for completion on Monday.
- Alarm System by end of week.
- (SIM card for Alarm @ £12-15 pm Recurrent)
- Delhi not dependent on network but will need wifi until ITLD connect VPN → 12-13 £k.
- Moving today
- chairs to be Cleaned Tues - Computers now 3/7 by Wed.

(2) [redacted]

(3)

(4)

Monday 7th December 2020.

SMT Remote from home [relating to covid]

Movement of ECU / Delhi

Still pending several PC's (last one supplied not of sufficient spec & unsuitable for sending large files)
- Still no printer access.
- No extension cables.
- Network – only 2 PC's can connect to network (Plus server).
- No telephone
- No wifi.

CCTV + ✓

Alarm system – was being installed on Friday

Require shredder + keypress – ? pending approval

Locks ✓ all changed.

[redacted]

171

Monday 14th December 2020.

0900 OP Delhi IT advises that latest ver. of windows and needed to roll back.

ReSMT Towers now Ready
Monitors need to be brought down.
Cabling. - might be back today (started last week a couple of days & left for "emergency"
- Civilian - no work station " need to work on something -
Alarm system needs connecting to CAD.

[redacted]

173

1000 SMT: Remote - RU CY PR JF NR DR.

- Delhi - Close up IT recabling - w. Daniel

Work not to stop over Christmas break - Officer to remain on secondment & ops to provide alternative cover - ie close down Maniesation Me. to follow up w. Nolan.

16:00 [redacted]

175

By phone - OP Delhi [redacted].

09.00 Call from James Gaggero.

|

09.09 No pain - but not been sleeping almost back to normal.

Brief got in touch w. DI (S.C) wyam - 37 comments - answered on basis of Q ~~posted~~ posed.

Re: Payrise - not after arrest but had been granted before. Answered Black & White consulted lawyer - need to answer more fully - not just truth ∴ latest response very comprehensive - declaration of truth.

- Re: Caire Sandoz - 1st conversation - if CPS need formal recording will of course produce it - not comfortable w. it as had recorded Sandoz w/o his knowledge/consent. will be supportive & cooperative.
- Had not understood Q. in this format as never exposed to this before

NB. This call follows my email to SG As acknowledgement of his statement to MW (on A/L)

[redacted]

179

Friday 18th December 2020.

11:00 Delhi Disclosure Meeting at Sir Joshua Hassan House
M2 - Danny Saxby DC, DC Colin Tester, David Hadlow.

Discussed - NCA disclosure strategy.
NCA offer of assistance - Officers to email
the questions to put to NCA in Remote Teams meeting.

? Need to work over Christmas period (Ralka + Daniel Saxby on leave + Mark Wagon). Richard Guarnieri Returns from leave but needs to isolate as was in UK.
- Offered staff opportunity to work Tues - Thurs after Christmas but not compulsory.
- NR agreed to come in if required but thought best to wait for Newsfear a Regroup after NCA meeting.

186

Monday 11. January 2021.

Pre SMT - Results: CI RR - AE, SP,

[redacted]

2nd

187

[redacted]

11.1.21

Delhi – No tel.
Now working at full speed.
Michelle deployed
Covid constant spacing in offices.
Overtime awarded over weekend.
└ David, Daniel, Nadhan, Michelle, Delhi shift.

[redacted]

Ok Kram – to be handed over to professionalism
(bundle) – progressing w. HM Coroner

Action [redacted]

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(1)

Monday 18th January 2021.

09⁰⁰. Pre SMT: Via teams RD, JD, AE (work from home).
SP - not available - work from home spain.

OP Delhi.

MW: 50% of examination done
scheduling underway
Team now @ full strength.
Tentatively hopeful will meet deadline
PCMH 20/1/21.
deadline for disclosure 3/2 hence.

RP. OP Kram.
Shown Peralta consulted Re: Net proposed
Charge of 2x disobedience to orders as 2x neglect
thought to have occurred OOJ. PSD
disagree given implied extra territoriality
of discipline offence cases.

[redacted]

(11)

Wednesday 3rd Feb 2021

09:32 Chris Rocca DPD Re: OP Delhi & ?
providing CM w. copy of Application to
dismiss sub by C. Sanchez.

· Fair evidence may be seen as tainted as
CM is witness. ∴ no to sharing applications

· S35 S34 – conspiracy to defraud – common
law abolishing yet 34 creates offence.

· Re: brief CM but not provide copy
"– don't disagree – not yet public che"

12:10 (ME) COP conversation w. CM Re: Delhi.
12:15 (CM) · v. Busy w. Brexit & covid.
· needs revised latest date for sub
(? prep by to end of Feb)
Me to speak to DPD & ask him.
· DPP confident even w/o CM St.

(13)

Monday 8th February 2021

09:00 Pre SMT. RP - AG - Jon

OPKRM - , Ray Meeting w. John F.
· email from Neil - Net PSL
· need to revise notices of investigation
(Jurisdictional issues remain).

RP.

[redacted]

(14)

AE.

[redacted]

Delhi Reviewed 52%.
Scheduling 58%.
O/T 2' per day
2' weekend.
MW to drop closer for Ch. Sec.

39

Wednesday 24 February 2021.

12:15 [redacted]

14:00 Meeting w. CC Mark Zamitt + CI M Nyan
Re: Op. Delhi Disclosure.

- Ben Cooper QC had made representations i.r.o of his clients JP + TC vice versa not having a fair trial as had there been any consistency in the drafting of the indictments they would have included J.L.
∴ as part of disclosure exercise we should disclose to prosecutor material relevant to dealing w. JL - inc my NDM assessment - MW's rationale for no longer dealing w JL as possible suspect i.r.o conspiracy to defraud.
- Agreed - would carry out disclosure exercise & consider contents - if necessary MZ to arrange meeting w. DPP.

14:30 Briefed COP/+ A/WD Re: 'Meeting w. M2 as approach will be needed to former COP IM for his events Re: JL.

Monday 1st March 2021 cont...

OP Delhi

08:40 – Briefing by CI MW.

08:50 –

MW. Discharge team have ild emails from private a/c of Leisel Towers → 36N email A/C copying in CM + 8 F/S + others ∴ no of upper risk nature reserve contract – & JP issuing her instructions on what to do. Govt facilitates loan to 86°N plan & getting contract which they then get. ∴ it appears as tho she (LT) has facilitated contract for 36 North. ∴ Misconduct in Public Office potentially + ? difference in how we treat CS.

M2 briefed MW → M2 briefed DPD. does not directly affect Delhi Overview ? refer to Crime for New investigation + LT had affair w. JP ∴ motive.

DPD shares same views as M2.

MW not seen email thread yet himself

Updates on discharge 88% Examined 64% Scheduled.

09:50 A/COP + COP briefed – refer to ECU for investigation.

10:00 SMT – COP A/COP MC JF NR

COP [redacted]

52

Monday 8th March 2021.

PreSMT. Team Meeting: RP. AE. SP. JD.

OP Delhi 89% 64%.

email from NZ 7.3.21 post PCMH.

- disclosure to file + serve by 4.6.21.
- Application to dismiss by 25.6.21.
- Def. to file skeleton arguments ≤ 21 days of hearing
- Hearing date to be set on or after 19.7.21 estimated duration of 2 days.
- def. bailed to 19.7.21
- Trial estimated Oct/Nov.

Still no update from CM or Chief Sec re: this st. to raise w. COD in SMT.

[redacted]

57

Monday 22nd March 2021

09:00. Pre SMT Teams Meeting.

22/3
22/3
22/3
25/3
22/3

[redacted]

Delhi

99% examined 75% Scheduled
CS St. Rec'd - Dr Little Valve - CM to Meet MW.

OPKram

PSD investigation : Nat Rawlinson Metpol Insp.
? New notices to be reinterviewed - Medical assessments pending date to be interviewed t.b.c.

[redacted]

[redacted]

1000 SMT Primer - M/S Teams - COP, A/COP, JF, NR, PR, DR

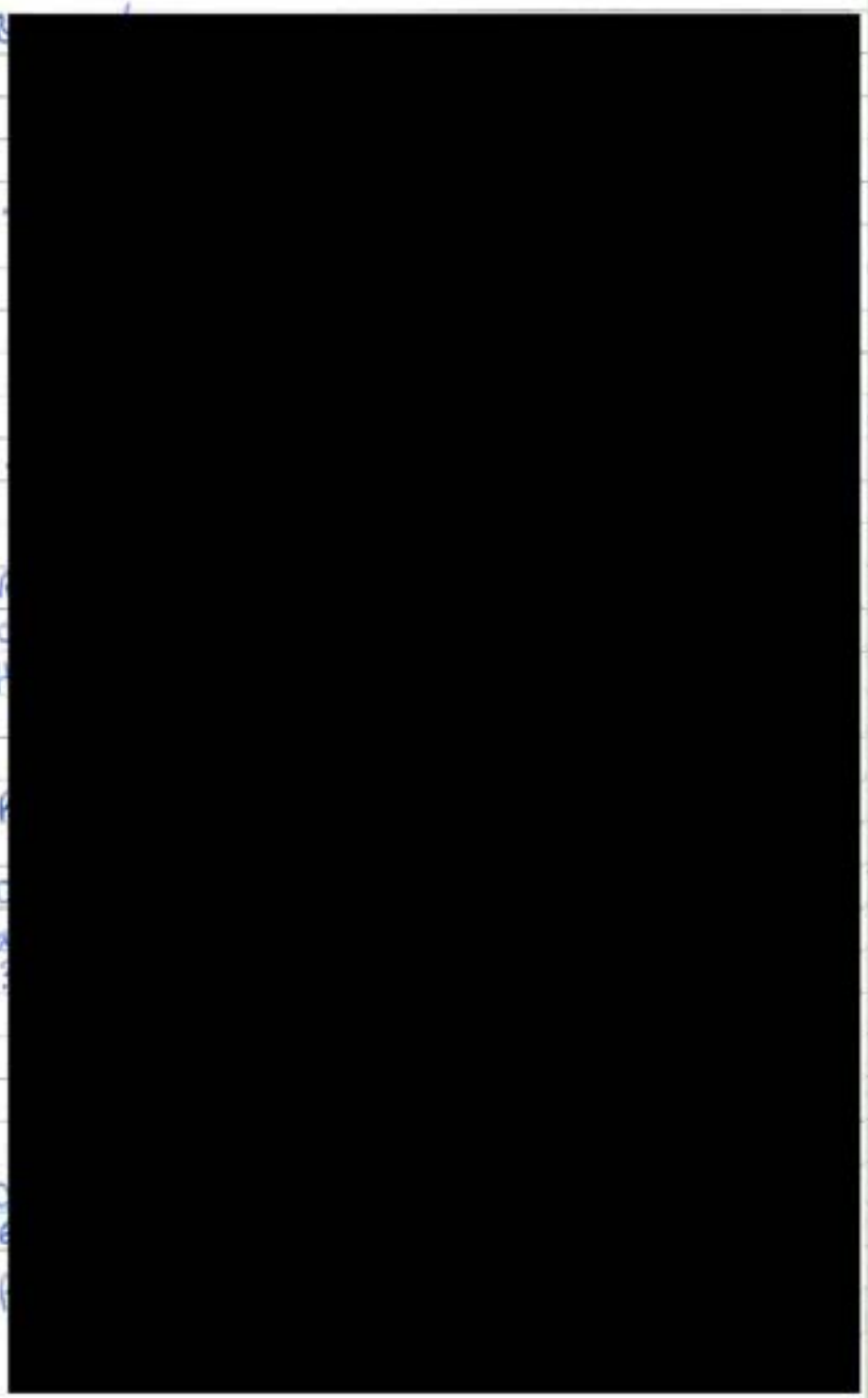
Zero hours contracts approved for next F.Y.

OK Kam Disciplinary hearing needs to take place post inquest but personality work can proceed.

[redacted]

64.

Monday 12th April 2021



65

Pre SMT brief

[redacted]

66'

[redacted]

RP

OP Kram. Method [illegible] to [illegible] to [illegible]
- is [illegible] to interview 2 officers,
- Charles [illegible] to agree [illegible]
- then [illegible] Assessment.

[redacted]

73

Monday 19th April 2021.

Pre SMT Meeting: S.P (with: CIRR, AE, JD - Bronze Commander PSD Training & JD CSL).

[redacted]

OP Delhi

100% Examined 100% Scheduled
disc 3 Commerses - i/d what undermines prosecution
tidy up duplication.
Removing evidence from schedule.

aim to sub initial disclosure by 3/5.

Released today Gwanesi - Corp Services.
Tester - D/Sowand.

Remarks Quixby - Almeid, Hadlowe - Michelle
/
Ward Sywedde

Need to review defence statement once it
submitted. ? keep on skeleton team, or
re-instate as & when required.

[redacted]

78

Thursday 6th May 2021

Note - On leave 27/4 — 5/5 inc.

09.00 Delhi brief by MW

· Awaiting report by the IT expert.

· AG considering whether to discontinue on grounds of public interest.

process
1. Expert evidence Rec'd.
2. Evidential Reevaluation.
3. Public Interest considerations.
   i/ Schrieger talks.
   ii/ Chipol & Sandec involvement
   iii/ Border + Security of CIS.
   iv/ Caire Sandec on board of BCA/
   v/ O.
4. Disclosure
5. defence st.
6. 21st July - No case to answer. Submission.
7. Arraignment
8. Trial.

Initial disclosure had been delayed by DPP on consultation w. AG who is considering Expert IT evidence. Concerns Re: conclusions that Johnathan Gallamo had made ∴ ? has evidential threshold been met. Expert Dr. Paul Norton aims to complete by end of this week.

102

Pre SMT 15th June 2021 - Tues.

08.50 Handover to Supt (des) MW.

Op Delhi Chasers to CM + Chief Sect Sent 11/5 for statements at requests of DPM

[redacted]

Shane Danino

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 09 September 2019 15:30
To: (NO6) Britto, Joey
Subject: OFFICIAL - STAFF IN CONFIDENCE (PS [redacted]
Attachments: 1. CoP letter to GPA Dr Britto re PS 8 [redacted] Emails from Insp [redacted], Insp [redacted] & CI [redacted].pdf; 1.2 Copies of day book entries from Supt [redacted] & CoP.pdf; 1.3 Statistics [redacted] tegories of criminal cautuions for the past 18 months.pdf; 1.4 Cautioning Policy.pdf

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Dear Mr Chairman –
This is the first of 3 emails containing attachments of scanned documents appertaining to allegations made by Police Sergeant [redacted] Sergeant.
All these documents form part of a bundle which I have prepared in hard copy and which will be delivered to the GPA offices first thing on Wednesday 11th September.

For ease of reference, particularly for the digital copies, I have numbered the documents in the order you should read them with the first one being a letter from me to yourself. There is only one set of documents that I can send by email and that is the bundle of documentary exhibits – the file is simply too big and the email server won't l3et me send it. If you still want a digital version of this bundle in addition to the hard copy one I can do so by saving it to a USB drive – please advise.

I make myself available to answer any questions The Authority may have on this matter.

Yours faithfully
Ian

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

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Commissioner of Police
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9th September 2019

Our Ref: IM109

Dr J Britto
Chairman
Gibraltar Police Authority
Unit 25B Casemates
Casemates Square
Gibraltar

Dear Mr Chairman,

Re: Allegation made by Police Sergeant No 8 [redacted]

I refer to the above captioned matter which I understand the Assistant Commissioner, [redacted] brought to your notice in my absence whilst on annual leave. Incidentally, I advised Mr [redacted] to confer the matter with you in the interests of transparency.

PS [redacted] has made extremely serious allegations against a senior officer, chief inspector [redacted] In his apparent and vehement opinion, PS [redacted] alleges that the chief inspector has committed criminal offences. [redacted] The latter has been allocated to Supt [redacted] Divisional Commander of the Operations Division where both PS [redacted] and CI [redacted] are currently assigned to. I also understand that PS [redacted] himself has already communicated his allegations to The Authority, though I do not know the extent of detail he has provided.

In this letter I intend to explain a determination that I am making in respect of the alleged criminality and the rationale for making this determination. I am totally confident that my determination is the correct and proper one. In principle, there are no provisions for me to seek The Authority's sanction on the decision I have reached, however, given that PS [redacted] has also brought the matter to the Authority's notice I feel it is only proper that I engage with yourselves to demonstrate total transparency. Additionally, you will learn from the contents of this letter

that not only are the allegations tremendously ill founded, but that unaware to PS [redacted] I am personally involved in the activity that he is claiming to be criminal behaviour. Consequently, for this latter reason I would ask that in the event of you having the slightest of concerns with my determination, that you consider referring the matter to HM Attorney General. In effect, I am asking you to invoke the spirit of Regulation 17(1) of the Police Complaints Regulations 2008 even though the circumstances of this case are not applicable. In fact, I would greatly welcome you referring the matter to the AG to state whether criminal proceedings should be instituted, or not. Given how this has the potential to spiral out of context, more so with the emotions being displayed by PS [redacted] I feel it is in the interests of all concerned that the AG is consulted.

Brief background

[redacted]

On 05 08 2019, whilst on certified sick leave and acting of his own accord without reporting his presence and/or intentions to any supervisory officer, PS [redacted] attended Central Police Station at Casemates where he conducted an investigation into circumstances surrounding the cautioning of [redacted] on 09 07 2018 and [redacted] on 30 07 2019. Both these young men are sons of retired RGP officers. PS [redacted] arrived at the conclusion that CI [redacted] conduct in respect of these two cautions amounted to the very serious criminal offence of Misconduct in Public Office. The PS compiled a statement of his actions. He also tendered as exhibits pertinent screen shots of the cyclops platform and custody records, which he had researched and accessed.

On 29 08 2019 PS [redacted] left a bundle of papers at New Mole House reception for the attention of AC [redacted] This bundle contained a report where he makes the criminal allegation against CI [redacted] supported by the exhibits he gathered, together with a separate report concerning

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a [redacted] against the same senior officer. The full file of the papers submitted by the PS is appended to this report.

[redacted]

Determination

At this point, [redacted] I share exactly the same view in respect of the criminal allegation. In arriving at my determination I have given due consideration that the [redacted] is inextricably linked to the allegation.

I will now address the most serious of issues at stake, and that is, the allegation of criminality against CI [redacted] It is with extreme regret that I find myself having to explain that PS [redacted] allegations are totally ill-founded. At this time, I cannot deduce whether PS [redacted] thought process has been clouded by his current mental health state, whether he is being spiteful and expressing retribution against CI [redacted] or whether it is a question of sheer incompetence and inability to exercise reasonable sound judgement. Unfortunately, PS [redacted] seems to have convinced himself that offences have been committed by CI [redacted] without knowing the full facts of the circumstances surrounding the disposal of both of the cases in question.

I will attempt to be brief in my address to fully exonerate CI [redacted] from any wrongdoing whatsoever: In the case of the caution administered on [redacted] it was not CI [redacted] who decided this course of action. This case was discussed by myself with Supts [redacted] and AC [redacted] (then Supt) on whether it merited the subject receiving a caution. It was ultimately my decision, though supported by my colleagues, that a caution was an appropriate course of action. Both Supt Yeats and I made notes in our respective daybooks as follows;

> 09 07 2018 Supt [redacted] - *"@0830 CoP re [redacted] Accept caution for MDMA. Weigh drugs and offer caution. NFA action on other wrapper. Spoke to [redacted] and gave instructions."*
>
> 09 07 2018 CoP McGrail – *"Discussion with [redacted] and [redacted] ref arrest of [redacted] for possession of a Class –A –small amount. Accepted part of the drugs found/recovered by PC Bassadone – not all. 1st time offender – very remorseful, extremely affected - out of character. Spoke with father, [redacted] who specifically asked that his son received no special treatment. Notwithstanding, situation merits caution which I authorise."*

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I attach copies of the above mentioned entries. This decision was made in accordance with the Force's Cautioning Policy, and in any event, the decision to caution was not made by C [redacted] He was merely instructed to administer the caution by Supt [redacted]

In the case of [redacted] I was briefed by CI [redacted] during an occasion I visited him at his office. Unfortunately, I cannot recall the date/time. CI [redacted] explained his intentions to caution [redacted] and provided his reasons. In his explanations, the CI mentioned the amount/weight/type of the drugs [redacted] had been arrested for and other factors, which are too sensitive to disclose in this report. However, I am happy to verbally explain what these were in extreme total confidence if required. CI [redacted] did not have to consult his intended course action with me. It is within his authority to determine this, he nonetheless felt it right to mention it to me in passing, merely because of the relationship the individual had with a retired police officer. What I can you assure is that the reasons applied to afford the caution fell well within the remit of Force policy. I agreed with his rationale and by doing so gave tacit approval for the caution to be afforded. The actual administering of [redacted] caution was carried out by a custody sergeant on instructions from CI [redacted]

When deciding whether to charge, the deciding officer needs to consider two things; that on the evidence available there is a likelihood of conviction and secondly, that it is in the public interest. In both cases, it is clear that the first test has been met. Equally, in both cases it is the public interest test that has steered the outcome to an out of court disposal, i.e. a caution.

In the case of Mr [redacted] and as I recorded in my day book, he accepted his guilt, he was remorseful and was a first time offender. All are circumstances contained in our Cautioning Policy as points to consider when deciding whether to administer a caution. In the case of Mr [redacted] the same applies, with the additional considerations, which weighed the public interest decision further away from prosecution to a caution. As I said, I am happy to elaborate in person.

It follows that unless PS [redacted] is suggesting that some of the circumstances described have been fabricated or are untrue [he does not in any of the material supplied], and known by either me of three of my senior officers, which is clearly not the case; or that law, procedure and policy have not been followed, which they have, then there is no circumstance in which wither either of these cautioning decisions can be challenged, let alone amount to conduct which could be construed as Misconduct in Public Office.

To further re-inforce my determination and the extent of which the Cautioning Policy is applied, I wish to bring to your notice statistics regarding cases for which offenders have received [criminal] cautions in the past 18 months. They number 221 in total (including Yome and [redacted]. These cautions include offences the likes for which [redacted] and [redacted] were cautioned for. Nothing out of the norm has been applied in their respective cases and there is an audit trail of the process in the cyclops system. Of the 221 criminal cautions recorded, one of them concerns

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a caution of a police officer (now no longer in service) for assault on his wife. I also attach for your information the list of these 221 cases, which were disposed of by way of caution. These figures do not include cautions afforded for traffic offences which by far exceed these figures.

For your reference, I include a copy of the Cautioning Policy. This policy was originally created in the early 2000's. I do believe that the AG at the time, Ricky Rhoda CBE QC, was consulted and agreed with its principles and purpose which you will read are self-explanatory.

It may well be the case that PS [redacted] does not agree with the decisions taken in these two cases and thinks that CI [redacted] has wanted to brush them under the carpet. Evidently, this is not the case as recognised and approved due process has been followed, therefore there cannot be a question of criminal liability. PS [redacted] could perhaps be right had the individuals concerned been released from arrest without facing any due process or without justification, but I reiterate certainly not against Mr. [redacted] One thing is to disagree with a management decision and another is to cast a serious wild allegation without knowing the full and true facts! I query why PS [redacted] is only limiting his concerns to these two cases and conveniently does not show interest in the many other cautions administered by other approved officers. It is evident that PS [redacted] is arriving at the erroneous conclusion that [redacted] and [redacted] have received some sort of preferential treatment and is frivolously using this in an attempt to taint CI [redacted] – all this arising from the management intervention alluded to earlier on. By default, the PS has concluded that simply because the individuals concerned are related to retired police officers, they are not entitled to exactly the same considerations and treatment that the other 219 cautioned persons have been afforded. I am hoping you will agree that PS [redacted] clear standpoint is a totally biased one designed to put CI [redacted] in a position that in my view he does not deserve to be in.

There are too many other erroneous assumptions contained in PS [redacted] allegation, some more serious than others. I feel, however, obliged to have to draw correction to one of the other serious assumptions described by the PS in his report; that [redacted] should have faced a charge of possession with intent to supply. He bases his argument solely on the weight of the drugs found suggesting this amount is inconsistent with personal use when it is actually not. You will learn, once you consult with the AG, that weight alone, particularly the weight in this case, is totally insufficient evidence to proffer the charge suggested by the PS – there has to supporting evidence of the intent to supply and in this case it was non-existent. I can only put this error of assumption on the part of the PS to his lack of experience in dealing with drugs cases and knowledge of case law.

For the reasons highlighted above, I cannot classify PS [redacted] allegation as a crime. It is my intention to write to the officer advising him that I have considered the documents he presented and that I have communicated my determination to The Authority for you consult with the AG. Out of prudency, I do not intend to disclose my determination to the PS just yet to allow The Authority/AG to formulate an opinion on it. I am confident that not only will the AG advise that under the circumstances as explained in this report, CI [redacted] is not criminally liable for any offence, he will also determine that no criminal offence is disclosed at all. I feel it is important this key

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determination is made as soon as possible so that I can then begin to deal with what no doubt will be an undesirable wake arising from PS [redacted] actions.

You will have to excuse the passionate tone of this letter, but I have to relate it such as it is, the truth.

As ever, I remain at your disposal for anything else concerning this matter.

Yours faithfully

Ian McGrail OTM MSc
Commissioner of Police

Enc.

PS [redacted] criminal allegation with supporting docs & 2x grievance response

Initial response by CI [redacted] to the allegations

Emails from Insp [redacted] Insp [redacted] & CI [redacted]

Copies of day book entries from Supt [redacted] & CoP

Copy of Cautioning Policy

Statistics & categories of criminal cautions for the post 18 months

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Monday 9th July 2018

@ 0830 Cop Re [redacted] Accept caution for MDMA. Weigh drugs and other caution. NFA on other wrapper. Spoke to [redacted] and gave instructions.

Extract of Day Book dated 9th July 2018.

[redacted]

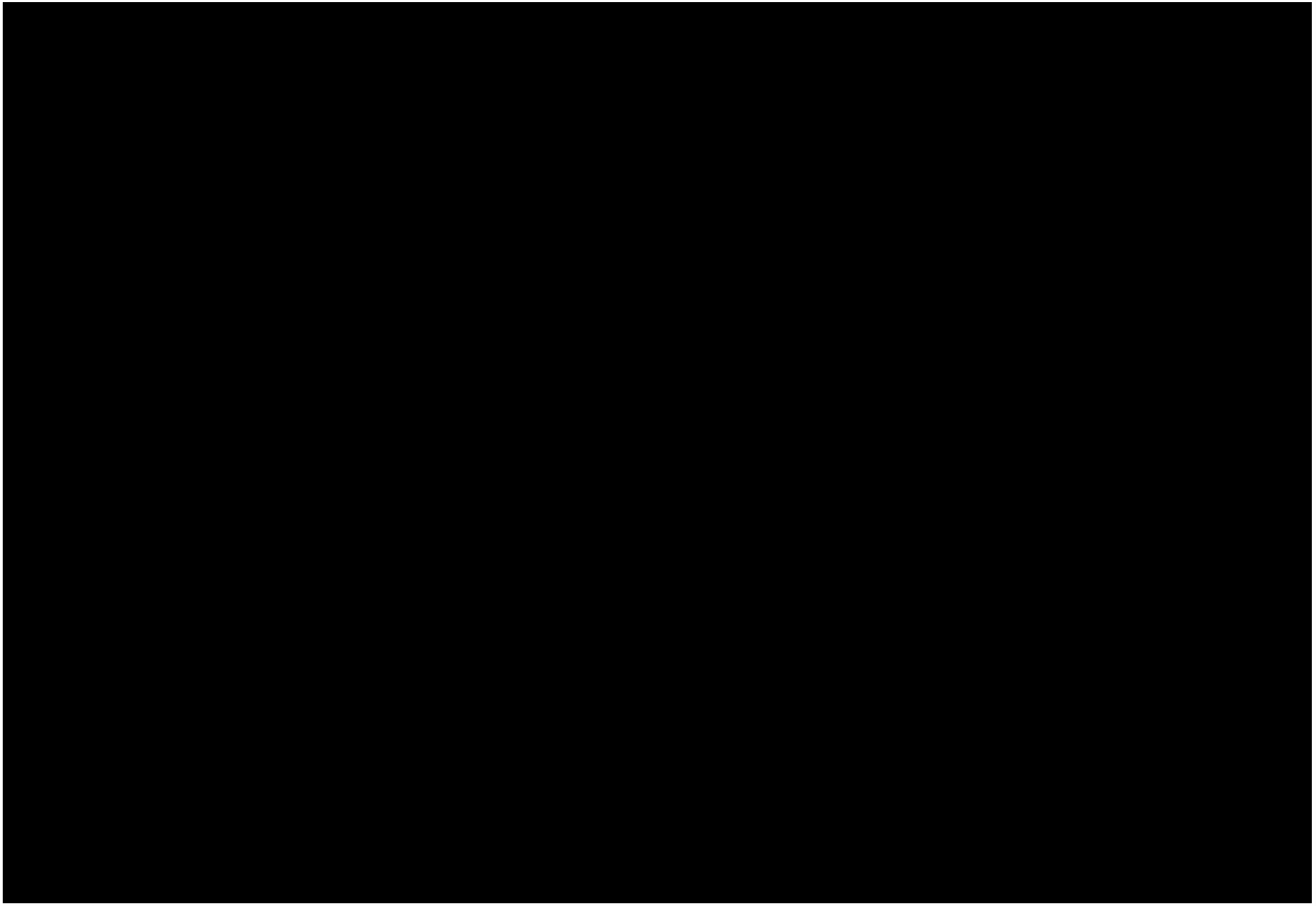
SUPERINTENDENT

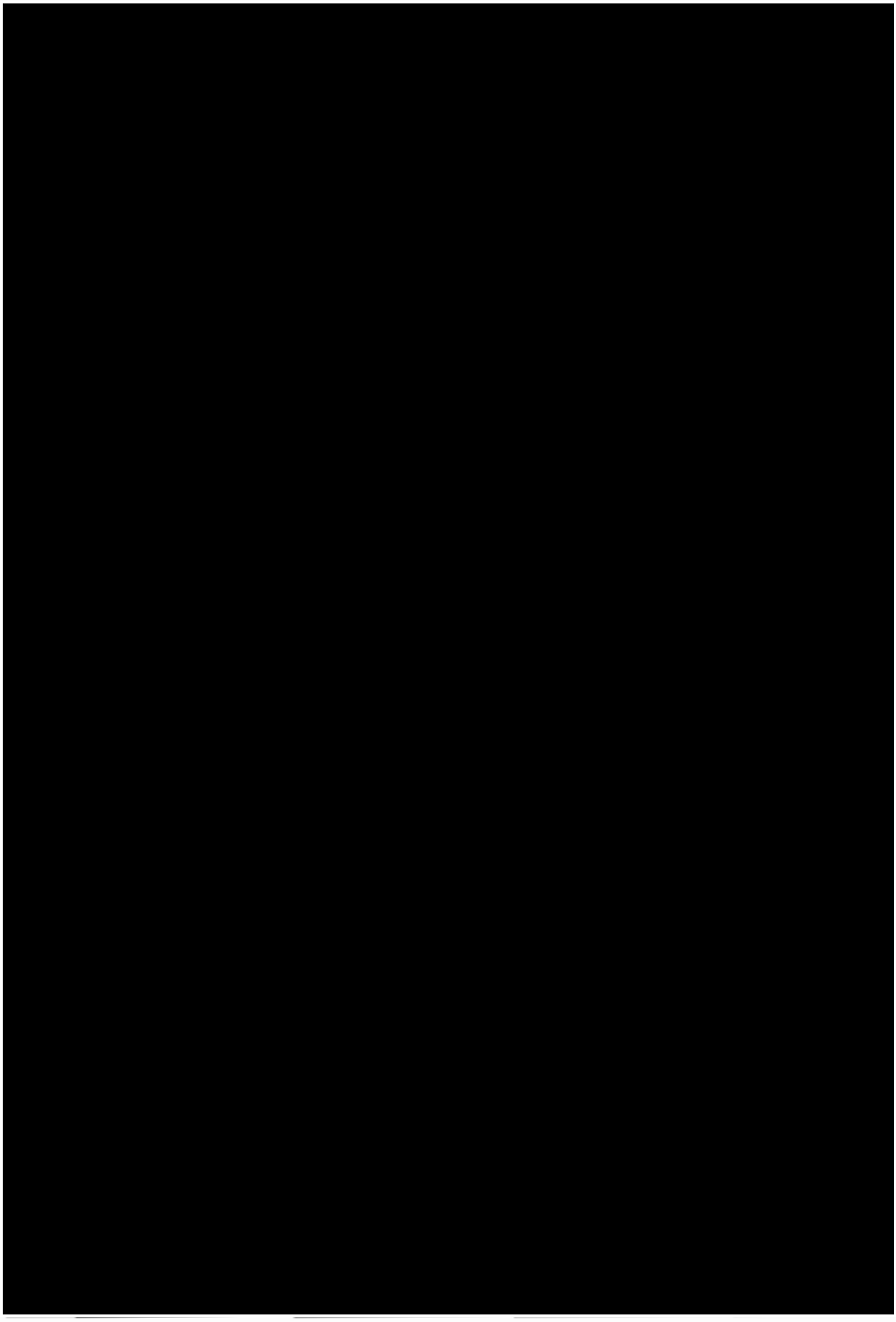
55

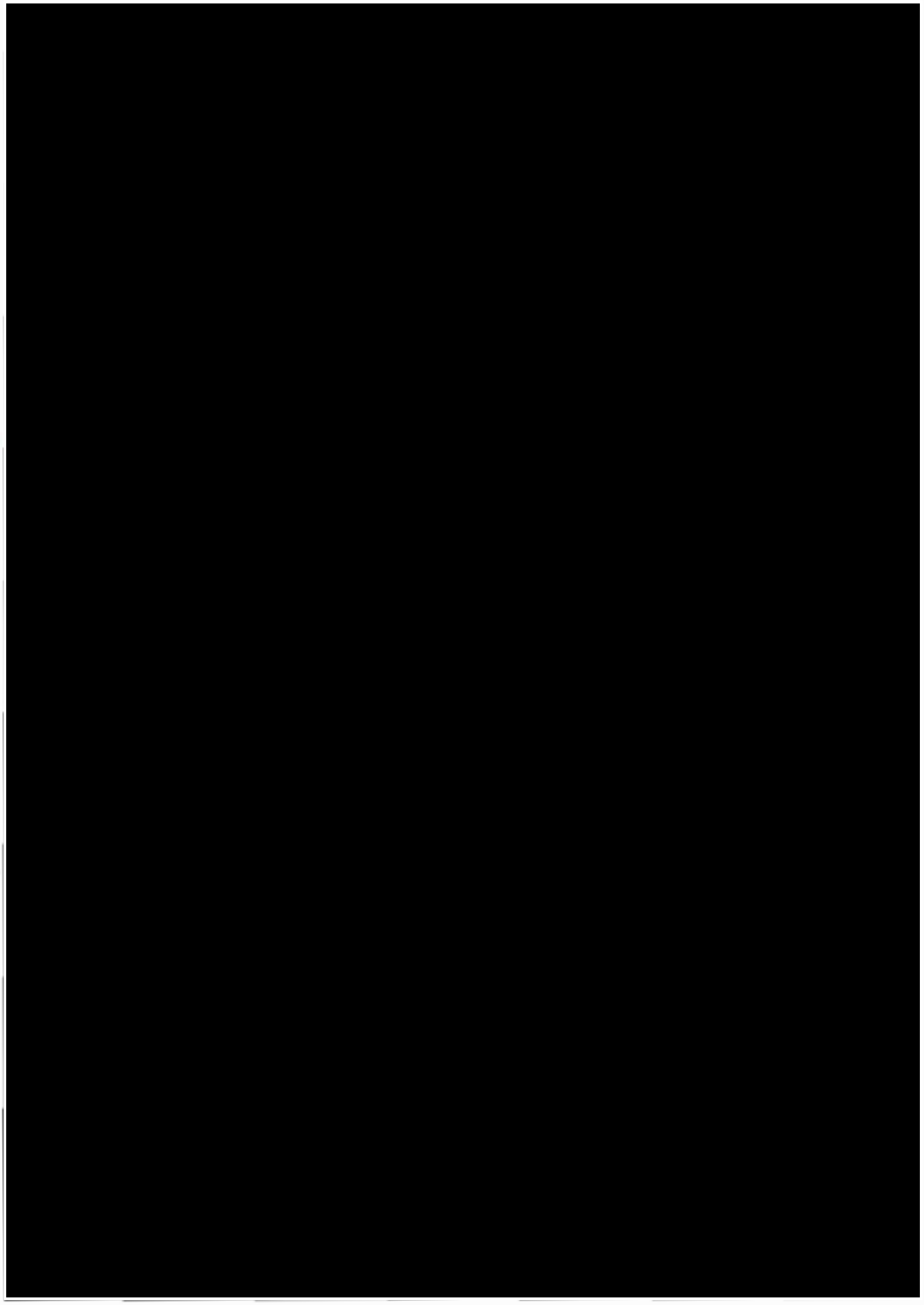
[redacted]

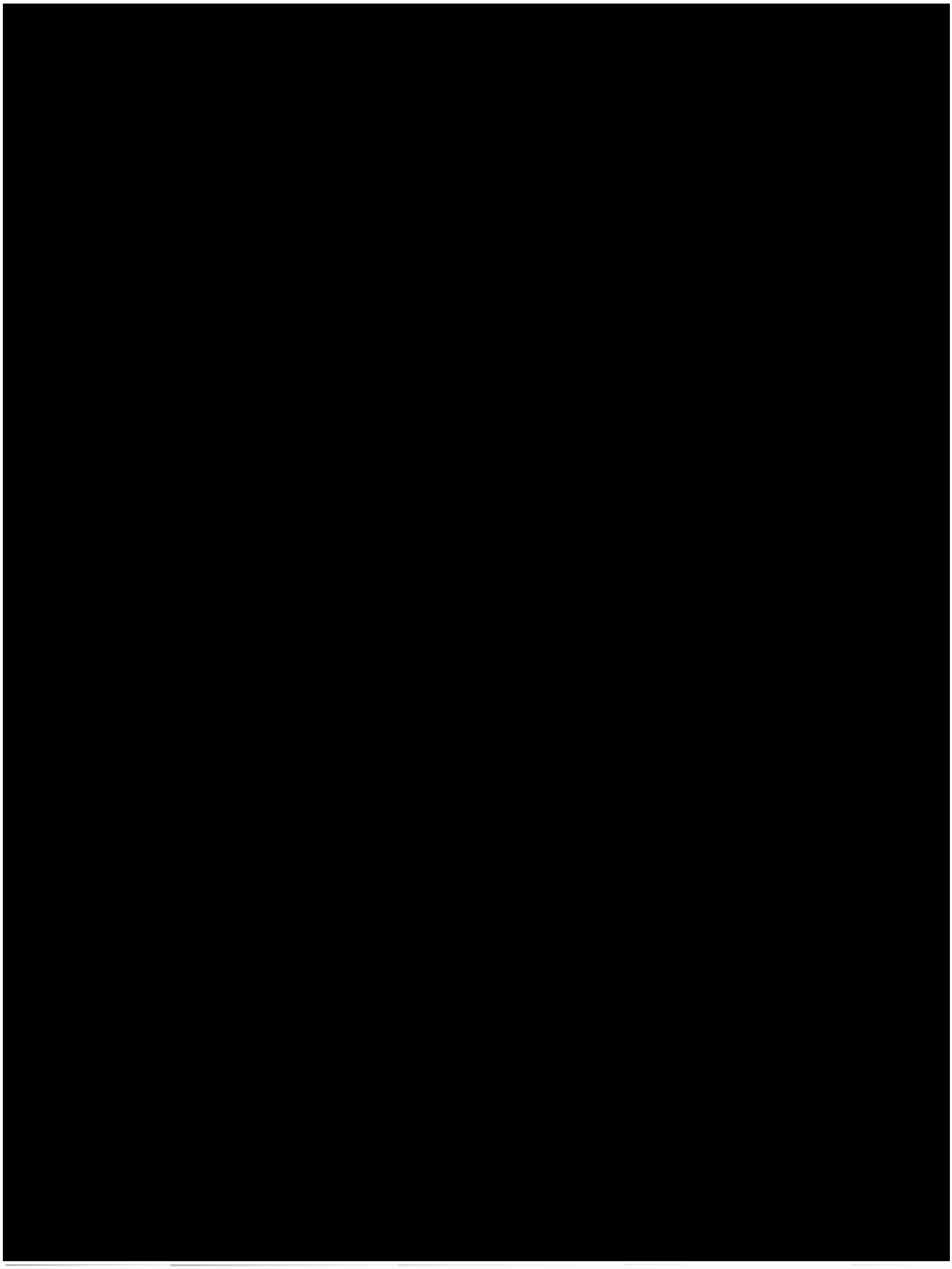
– Discussion with [redacted] next
ament of [redacted] for possession
of Class-A – small amount. Accepted part
of the drugs found/recovered by Pi Sarmdine
– not all. 1st time offender – very
remorseful, extremely affected – out of character.
Spoke with father [redacted] who specifically
asked that his son received no special treatment.
Notwithstanding, situation merits caution which
I am thinking.

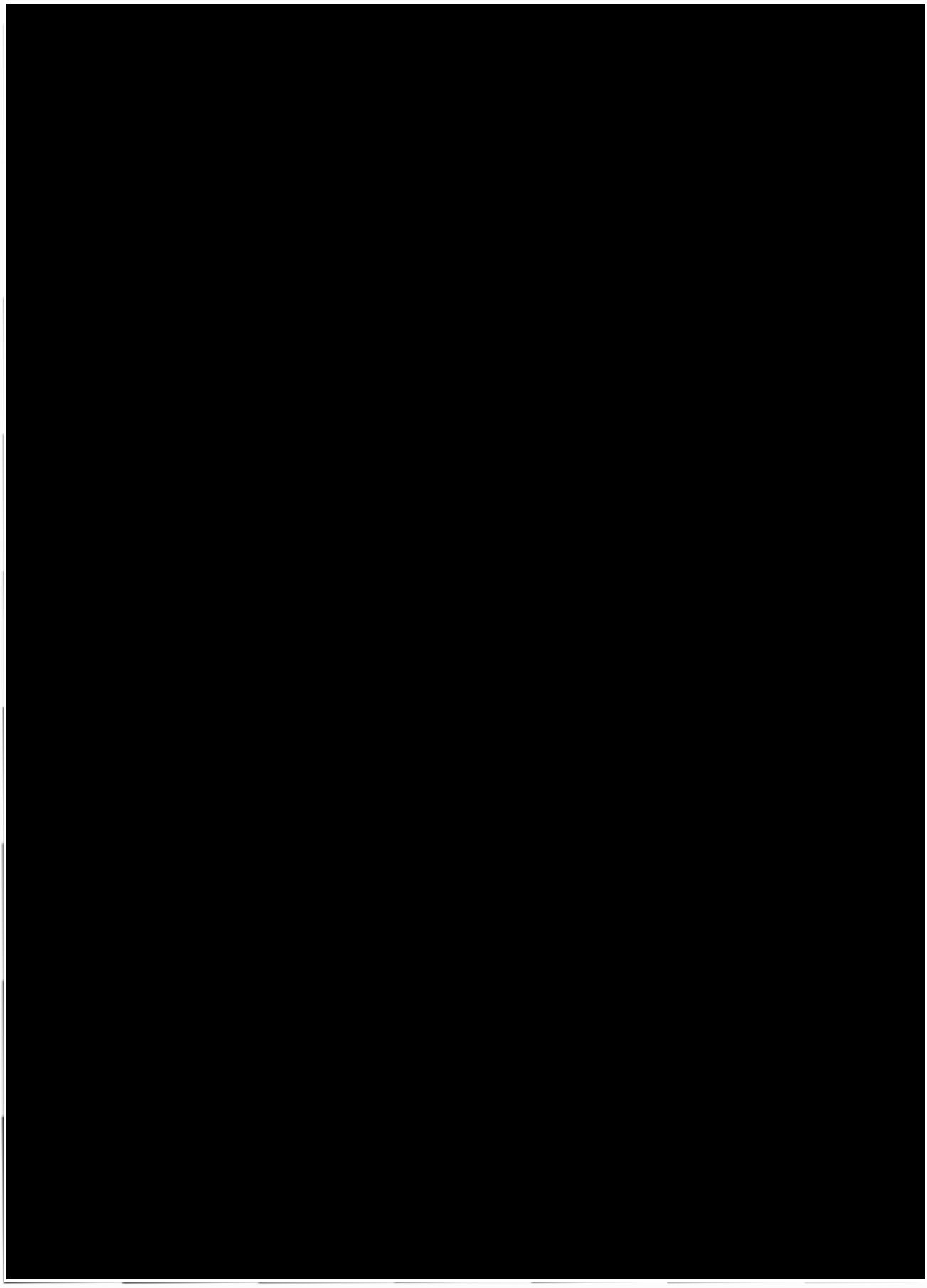
Photocopy of Page 55 of my day book commenced
on 1.5.2018 [signature] CP.

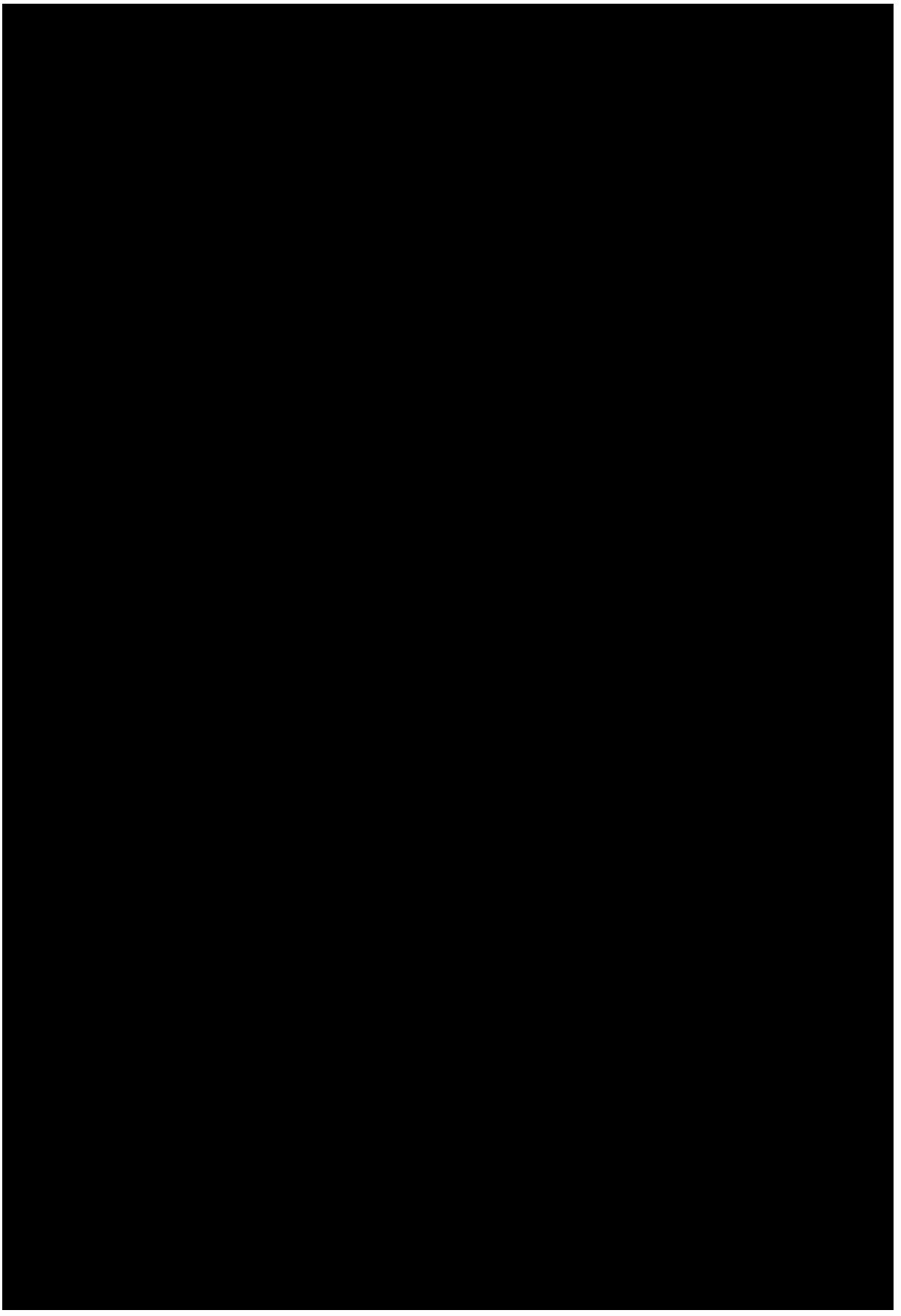


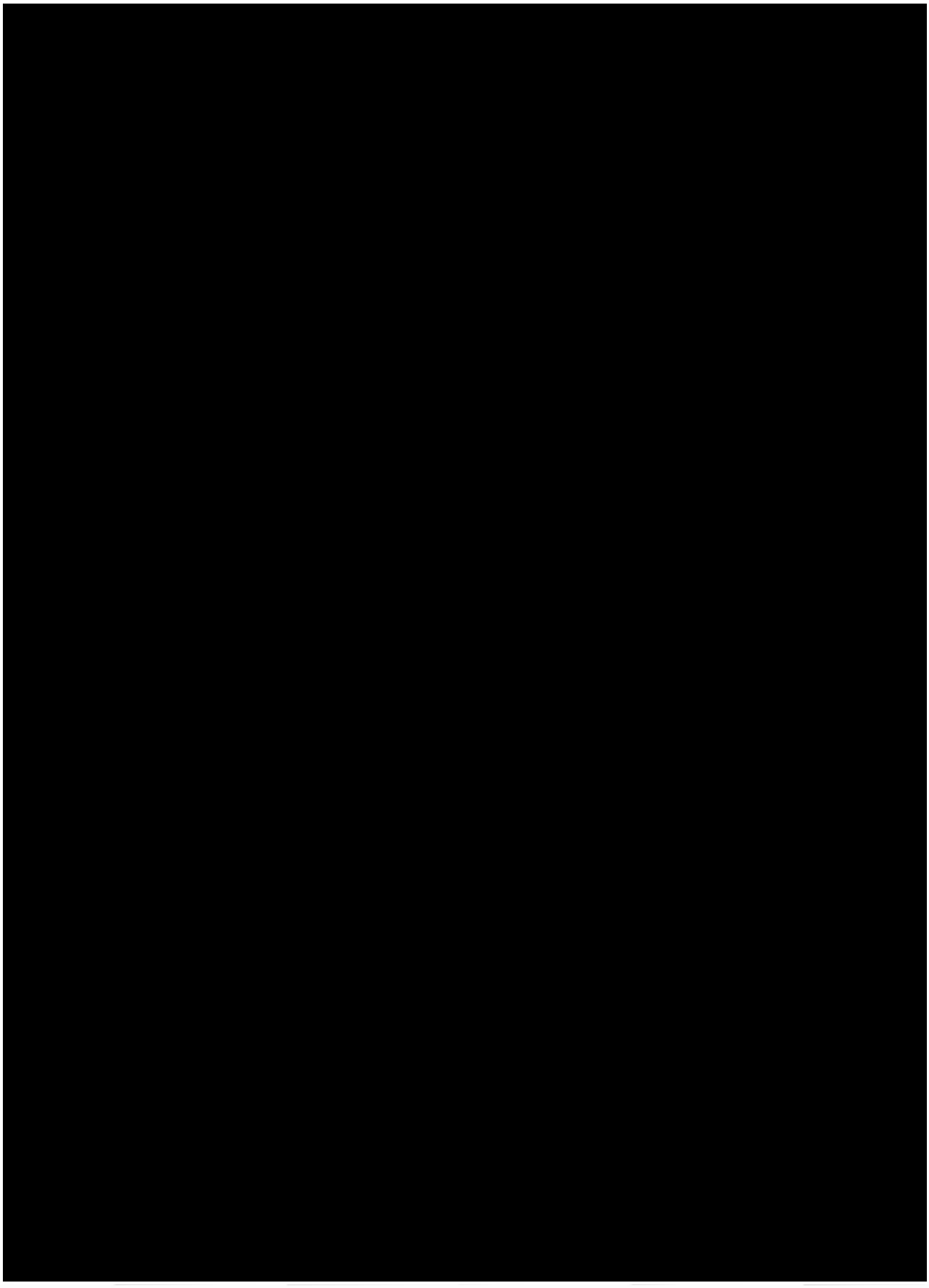


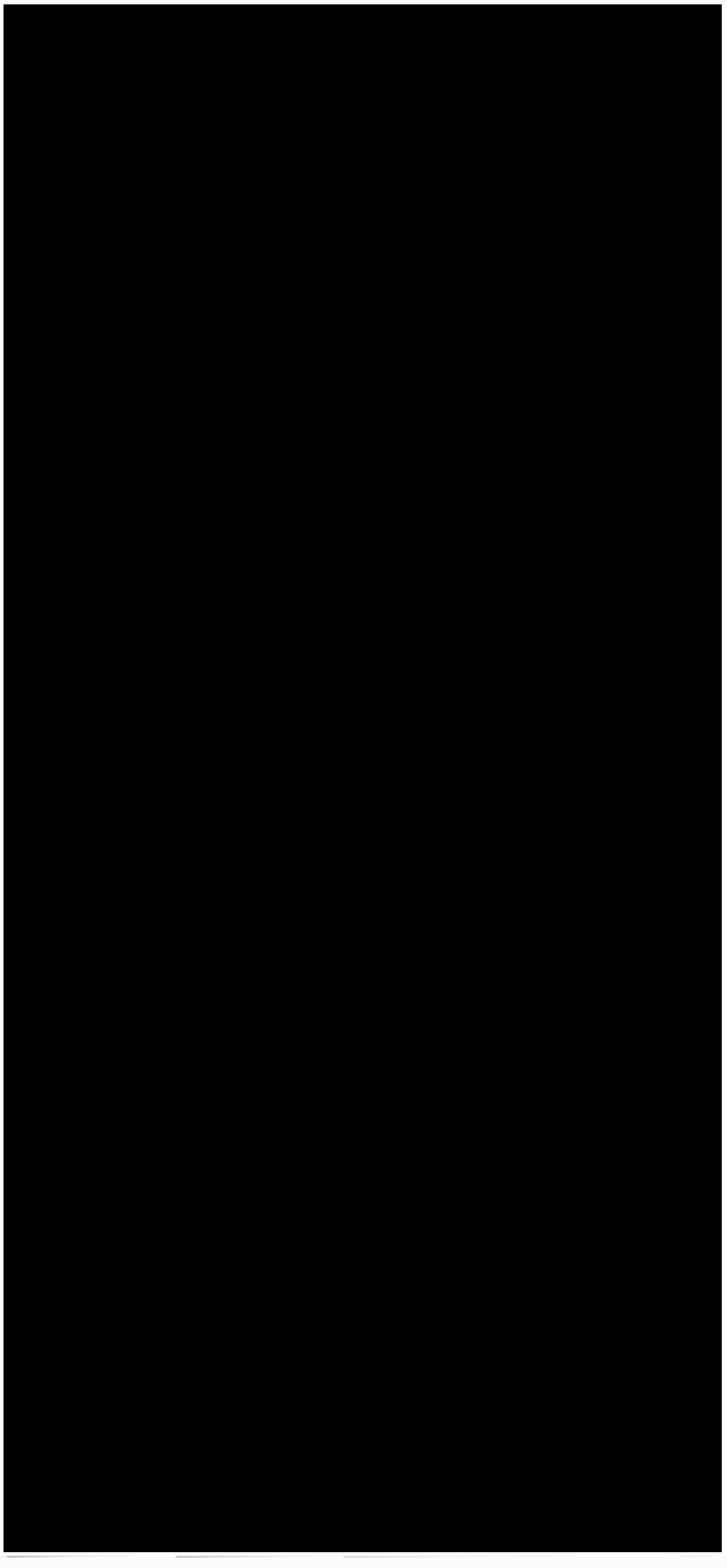






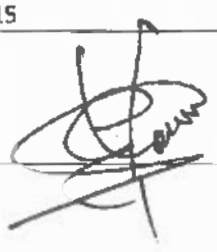






Policy Document

Policy Title	CAUTIONING POLICY
Policy Statement	*The Royal Gibraltar Police recognises the value of cautioning offenders in appropriate circumstances, as an alternative to prosecution, and as a means of diversion from the Criminal Justice System.* *This Policy will be applied to all age groups; the types of offences eligible for consideration are indicated within in the document.*

Managing Information	
Policy Owner	Superintendent Operations
Policy Author	Staff Officer
Approved at	SMT
Approved by	CoP
Approval Date	February 2015
Signature	

To be completed by Corporate Development & Policy only	
Reviewed	April 2017
Reviewed by	Chief Inspector Operations
Next Review Date	April 2018

ROYAL GIBRALTAR POLICE

CAUTIONING POLICY

The aim of this document is to offer guidance on the cautioning of offenders, to ensure there is an effective method of dealing with a wide range of offenders and offences provided certain criteria is met. Properly used, cautioning is an effective form of disposal, and in appropriate circumstances can be applied to offenders irrespective of their age.

The overriding issue with regards the application of this policy is consistency, although it must be understood that there are no hard and fast rules dictating the circumstances in which a caution should be administered. It is very much a judgmental use of discretion and common sense which, when coupled with the proper use of the cautioning system, will provide equitable results.

This document will assist decision makers in considering the effectiveness of cautioning of an offender(s), or whether another course of action is a more appropriate means of disposal.

Whilst the aim of this document is for all decisions to caution or otherwise to be at the discretion of the police, it is recognised that there may be particular instances where the matter may be need to be referred, in the first instance, to a senior line manager, and where necessary, to HMGoG Government Law Office (GLO) Office of Criminal Prosecutions & Litigation for advice and final determination.

In order to assist in the decision making process, a **'caution checklist'** and a **'gravity factor'** table have been included in this document.

Offences considered appropriate for consideration under the cautioning system are also listed in this document.

CAUTIONING POLICY GUIDANCE DOCUMENT

The Royal Gibraltar Police recognise the value of cautioning offenders in appropriate circumstances as an alternative to prosecution, and as a means of diversion from the Criminal Justice System.

This Policy will be applied to all age groups; the types of offences eligible for consideration are also indicated in the document.

A monitoring system for the cautioning policy will be managed by Records Department. Monthly statistical data will show comparisons between prosecutions and cautioning trends.

INTRODUCTION

This document is not intended to replace the fixed penalty system or cautions for minor traffic offences[1].
The community attaches great importance to the misuse of drugs and the effect on the social fabric of society, and as a result, careful consideration needs to be given with regards the application of this policy to drugs-related offences. In order to ensure that this cautioning policy reflects the prevailing wishes of the community, there is a need to ensure the RGP maintains an effective working relationship with HM Government of Gibraltar's Drugs Strategy Co-coordinator/Head of Rehabilitation Services.

The guidelines set the standards for cautioning throughout the service, with its aims being:

- To deal quickly and efficiently with less serious offences
- To divert offenders from the criminal justice system
- To consider the effect of previous cautions on re-offending individuals and if need be to further consider the exercise of additional cautions.

It is possible that consideration of additional/further cautions could undermine public confidence in the police and the upholding of the law, and could also be deemed NOT to be in the best interests of an offender. Prosecution may ultimately be of benefit to all parties involved, although ultimately, each case should be considered on its own merits, having due regard to all the circumstances of the case.

In consultation with a senior line manager (Divisional Commander) a determination may be made to select the best-suited process for a re-offending individual.

[1] The additional case disposal involving 'handing over' procedure for military cases can no longer be applied post Criminal Procedure & Evidence Act 2011

Having established that an offence is one suitable for caution, the following must be considered:

- The Public Interest
- The victim
-

PUBLIC INTEREST

If the cautioning criterion is satisfied, the implications to the public interest should then be considered.

In considering the exercise of the cautioning system, due regard must be had on whether prosecution or caution best serves the public interest, with the seriousness of the offence and the interest of the victim amongst the factors to be considered.

The penalty likely to be imposed by a court must also be considered. By way of guidance, a less serious offence, which when considered with the offenders previous record and circumstances is likely to attract a conditional discharge, should normally be considered as suitable for caution.

The public interest requires that consideration ought to be given to an offender's age and physical and mental health. Whilst there is no obligation to administer a caution or infer to any person that they have an absolute right to be cautioned, these factors together with a common sense approach must be adopted in the context of the prevailing circumstances of the case.

THE VICTIM

The victim of an offence plays an important part in the exercise of the cautioning policy, and wherever possible, full consultation should take place, with a victim's views assisting in the decision making process. The significance of the harm or loss suffered by the victim, including any psychological effects or continuing threat from the offender should be considered together with their own personal circumstances.

Before a caution is administered, it is desirable that the victim should be contacted to establish:

- His or her view about the offence.
- The nature and extent of any harm or loss, and their significance relative to the victim's circumstances.
- Whether the offender has made any form of reparation or paid any compensation.

If a caution is being considered, (or is likely to be considered) its significance should be explained to the victim. It should however be noted that the discretion to caution is **not**

dependent on the victim's views, but rests solely with the officer considering the case disposal.

In some cases where cautioning might otherwise be appropriate, prosecution may be required in order to protect the victim from further interference by the offender. The victim should be informed of the final decision.

GROUP OFFENCES

The experience and circumstances of offenders involved in group offences can vary greatly, as can their degree of involvement.

Although consistency and equitable resolution are important considerations in the decision to charge or caution, each offender should be considered separately, if the circumstances of the case allow. It may be the case that different methods of disposal are justified for each of the individuals concerned.

OTHER CONSIDERATIONS

Another factor common to circumstances in Gibraltar is that offenders may be related to officers involved in the case, are friends or are related to persons known to the officers. In order to ensure the probity of the cautioning policy, these instances must be brought to the attention of the Inspector responsible for a unit/department, who will refer any recommendation for caution to the Divisional Commander. In these instances, there may be a requirement to seek independent advice from HMGoG Office of Criminal Prosecutions & Litigation.

ASSISTANCE IN THE DECISION MAKING PROCESS

The decision to exercise a caution or to charge an offender must be made at the conclusion of the investigative process.

A caution must never be seen as a substitute for evidence gathering, and cautioning should only be considered where there is sufficient evidence to secure a realistic prospect of conviction. It may well be that such an overwhelming case relies on the defendant's own admission. Officers charged with considering case disposal by way of caution must first conclude that there is/would be sufficient evidence to prosecute.

The equitable use of the discretion to caution is very much a matter of common sense, and the following questions should be considered in every case:

- Whether the circumstances are such that the caution is likely to be effective
- Whether the caution is appropriate for the offence
- Whether the offender recognizes the gravity of his actions; and
- Whether the offender is aware of the implications of a caution being administered.

THE OFFENCE

This cautioning policy may be applied to all but the most serious of offences. In the main, the authority on whether case disposal can proceed by caution or otherwise rests at the rank of Inspector or above. All requests for cautions are passed to the Inspector, Specialist Operations for final approval. If he is unavailable, the final approval will be authorized by the Duty Inspector for that day. In cases where suitability is doubted an officer of at least the rank of Chief Inspector (usually CI Ops) will be consulted.

There will be instances when more than one offence is revealed, and it will be necessary to consider the circumstances of all the offences when deciding whether to charge or caution.

If a determination is made to caution for one offence, it would not normally be appropriate to prosecute the remaining offences arising from the same incident, e.g. traffic matters allied to an offence of taking a conveyance. If court proceedings are considered appropriate, then all associated matters must be resolved in a like manner.

In instances when multiple offences are being considered, the decision to exercise the discretion to caution or prosecute should be based on the most serious offence.

DRUG OFFENCES

The application of a caution for drug related offences is restricted to that of simple possession of drugs only. A decision to caution may only be taken after having considered the issues contained in the 'gravity' table e.g. if the possession is of a small quantity, and the gravity factor weighs in favour of possession for personal use, then a caution is appropriate.

Prosecution will normally be appropriate where offenders:

- Are found in unlawful possession of controlled drugs when arrested for other matters, for which they will be charged
- Are on bail for other offences
- Have a previous caution or conviction for drugs, or have previous criminal convictions of a nature that suggests a caution for drugs related offences would serve no useful purpose

Conversely, the fact the offender has no previous conviction for drugs related crime is not a bar to prosecution.

The Royal Gibraltar Police are as a matter of policy not in favour of the legalisation or decriminalisation of drugs, however, cautioning as described above remains an option for both adults and juveniles. Any social or judicial developments regarding the misuse of drugs, which may have a direct or indirect implication on this policy will be monitored

in consultation with HMGoG Drugs Strategy Coordinator/Head of Rehabilitation Services and the applicable HM Government's strategy to combat drugs misuse.

OTHER CONSIDERATIONS

The cautioning system is a complete and effective disposal of a case ***but should never*** be used purely as a matter of expediency.

If there is doubt on whether to caution or prosecute, the matter should be referred to the relevant Divisional Chief Inspector for advice, and if necessary, further advice sought from HMGoG GLO Office of Criminal Prosecution & Litigation.

It will not always be possible to exercise the discretion to caution soon after an incident. In particularly complex matters, whilst the discretion to caution is being considered, the offender should be bailed out for as short a period of time as possible.

Following the introduction of the Criminal Procedure & Evidence Act 2011, HM Forces personnel will be dealt with as any other offender whose case falls within the ambit of the cautioning system.

OTHER RELEVANT FACTORS

An essential element in the exercise of the discretion to caution (as indeed when prosecuting) is that the offender is capable of understanding the consequences of their actions and the route taken to resolve the issue. This understanding involves an offender admitting to an offence, understands the implications of a caution and is in a position to agree to be cautioned. In cases where an individual may not be capable of this understanding, it is necessary to consider seeking the assistance of other qualified personnel [eg Gibraltar Health Authority / Care Agency].

It could be that for mental health reasons, a caution may not be the appropriate method of disposal.

ADMINISTRATION OF THE CAUTION

The caution will be administered in formal surroundings by a police officer in uniform of at least the rank of Sergeant (usually the Custody Sergeant), however, there may be circumstances where the offence or other relevant factors determine that an officer of not less than the rank of Inspector should administer the caution. This determination should be made by an officer of the rank of Inspector (or above) who is considering whether case disposal is appropriate by way of caution.

Where a person is elderly, infirm, or otherwise vulnerable, a caution may be administered less formally, perhaps at the offender's home, and in the presence of a

friend, relative or other appropriate adult. A juvenile must always be cautioned in the presence of a parent, guardian or other appropriate adult.

When administering a caution, the offender should always be made aware of the following:

(i) that their actions amount to a criminal offence; and

(ii) as a consequence they would normally appear before a court; and

(iii) if convicted, they would have a criminal record

The emphasis should then change to outlining the positive benefits of receiving a caution and therefore not entering the Criminal Justice System. The offender's attention should be drawn to:

(i) the effect a criminal conviction/record would have on their future prospects (this point is particularly important for juveniles and parents); and that

(ii) what happens to them in the future will be dictated entirely by their own actions.

When administering cautions for Drug offences, drug rehabilitation/abuse advice literature (which should be available at Custody Suite) should be handed over to the person receiving the caution.

After the caution has been administered, the offender should sign the ***certificate of caution form***, which should be attached to the relevant case file. It is important that the officer administering the caution ensures the offender fully understands the contents of the Caution certificate/form.

GENERAL PRINCIPLES

EVERY CASE IS UNIQUE. When embarking on the decision making process, the first consideration must always be the nature of the offence.

Once the offence has been considered against the gravity factor table, the appropriateness of a caution for the offender should be considered.

The question of whether an offender should be prosecuted or diverted from the criminal justice system should only occur once it has been determined that there is sufficient evidence to secure a realistic prospect of conviction.

Additionally, a caution can only be considered when:

- The individual admits the offence
- The individual (or in the case of a juvenile or vulnerable person, the parents or guardian) understands the significance of a caution and gives an informed consent to being cautioned.

CAUTION CHECKLIST

This form should be used where consideration is given to disposal of a case by way of a caution. Completed forms should be attached with the relevant case file.

It is imperative that all offences are fully investigated and the caution procedure is not used merely as a means to expedite the release of offenders from custody.

THE OFFENCE

1.	Is there sufficient evidence of guilt to secure a realistic prospect of conviction?	YES/NO
2.	Are the circumstances of this offence suitable for caution?	YES/NO
3.	Has the Gravity Table been consulted?	YES/NO

VIEWS OF THE VICTIM & ARRESTING OFFICER

4.	Has the victim been contacted and their views sought?	YES/NO
5.	Does the victim support the use of a caution in this case?	YES/NO
6.	Is there any continuing threat from the offender?	YES/NO
7.	Have the views of the arresting officer been considered?	YES/NO

THE OFFENDER

8.	Does the offender admit the offence?	YES/NO
9.	Does the offender express any regret/remorse etc?	YES/NO
10.	Does the offender understand the significance of a caution and consents to being cautioned?	YES/NO

PREVIOUS CRIMINAL HISTORY

11.	Are there any current court orders or outstanding cases?	YES/NO
12.	Does the offender have any recent convictions/cautions?	YES/NO
13.	Is the current offence and previous offences of a similar nature?	YES/NO

PUBLIC INTEREST

14. Has the likely sentence of a court been considered? YES/NO

OFFENCE Examples	GRAVITY SCORE	OFFENCE SPECIFIC (+)	GRAVITY FACTORS (-)
ASSAULTS			
Assault on Police / Resisting police	4	Sustained assault Attempt to prevent arrest of another Premeditation Any injuries caused Group action	Minor assault Unaware person was Police Officer Impulsive action
Obstructing Police	3	Attempt to prevent arrest of another Premeditation Group action	Minor obstruction Unaware person was a Police Officer Impulsive action
Common Assault / A.B.H.	2	Injury caused Deliberate aggression without provocation (only fortunate that injuries not more serious) Premeditation Domestic violence Group action	Trivial nature of action Impulsive action. Minor injury (A.B.H.)
BREACHES OF THE PEACE			
Conduct likely to cause a breach of the peace	3	Racial or religious overtones Group action Risk of escalation	No risk of escalation
Violent Behaviour / Affray / Alarm /Distress /Harassment offences	3	Risk of escalation/busy public place Group action People put in fear Use of weapons	No risk of escalation
Disorderly conduct in a Police Station	3	Defendant acting in aggressive manner which could spark off serious incident with group Risk of escalation	Impulsive action in presence of Police only Non threatening

OFFENCE	GRAVITY SCORE	OFFENCE SPECIFIC (+)	GRAVITY FACTORS (-)
DRUGS			
Possession of Drugs- Class 'A', 'B' or 'C'	3	Large Quantities Group Involvement	Small quantities for personal use. ('A' class only with authority of C.I. or above)
DRUNKENNESS			
Disorderly Conduct Whilst Intoxicated	3	Risk of escalation Busy public	Only witnessed by a Police Officer and little inconvenience to public Non threatening
Found Intoxicated	1	Appears to have a serious alcohol problem	Only witnessed by a Police Officer and little inconvenience to public Non threatening
Urinating in a Public Place	3	Presence of public in broad daylight Busy public place	No public present Witnessed by Police No offence to anyone
DISHONESTY			
Theft	3	Planned Sophistication Organised team Adult involving children Significant related damage Unrecovered property of considerable value Value + £200 (approx)	Theft for reasons of poverty/personal need Coercion from others in group on reluctant offender Value - £50 (approx)
Handling stolen Goods	3	Property stolen to order Professional receiver Adult involving children Property of high value	Receiving under pressure from another
Obtaining services by Deception	3	Sophistication Organised team Unrecovered property of considerable value Value £200 + (approx)	Theft for reasons of poverty/personal need Coercion from others in group on reluctant offender Value - £50 (approx)

OFFENCE	GRAVITY SCORE	OFFENCE SPECIFIC (+)	GRAVITY FACTORS (-)
Fraud by False Representation	3	Sophistication Two or more involved Committed over lengthy period Unrecovered property of considerable value Value £200 + (approx)	Theft for reasons of poverty/personal need Coercion from others in group on reluctant offender Value - £50 (approx)
DISHONESTY			
Making off Without Payment	3	Deliberate plan Two or more involved Large sum	Impulsive action Small sum
Taking a Vehicle Without consent	3	Premeditated Group action Related damage	Vehicle taken from family member
CRIMINAL DAMAGE			
Criminal Damage	4	Damage deliberate rather than reckless Potential of greater danger Group offence Damage £200 + (approx)	Impulsive action Damage - £50 (approx)

THE ABOVE EXAMPLES ARE NOT EXHAUSTIVE, AND THERE MAY BE MANY OTHER (SIMILAR) OFFENCES THAT COULD ALSO BE CONSIDERED UNDER THE CAUTIONING POLICY.

GENERAL FACTORS FOR ALL OFFENCES

+	-
Conviction is likely to result in significant sentence	Conviction is likely to result in small or nominal penalty
Weapon used or violence threatened during commission of offence	Genuine mistake or understanding
Offence against public servant (e.g. Police, Nurse, Prison Officer)	Loss or harm is minor
Offender is in a position of trust – e.g. banker, solicitor, or baby-sitter, or child minder	Prosecution is likely to have bad effect on victim's physical or mental health
Offender is ringleader or organizer of offence	Vulnerability of the offender
Evidence of premeditation	Provocation from victim or victim's group
Evidence that offence carried out by group	Age of offender- under 17 or over 60 years
Offence committed whilst person on bail- granted by Police or a Court- or is under a Court order	Accused was influenced by others more criminally sophisticated
Offender has a previous warning, caution or conviction relevant to the present offence	Offender has put right harm or loss caused, or has expressed regret of offered reparation or compensation
Victim was vulnerable or was put in considerable fear or suffered personal attack or damage or disturbance	Offender is or was at the time of offence suffering from significant mental or physical ill-health
Offence motivated by discrimination against victim's racial or ethnic origin or religious beliefs, gender, political views or sexual preference	Details could be made that could harm sources of information or national security
There are grounds for believing the offence is likely to be repeated or continued- e.g. by a history of recurring conduct	

CAUTION CERTIFICATE

RCI No. | Police Station

Officer in case | Division

Name

Address

Date of Birth (D D M M Y Y) Age Yrs Sex M F I/C No

Previous Caution(s) Yes No Please tick one of the boxes

OB No

Details of Offence

Please read the declaration below and make sure you understand it before you sign.

1. **I have admitted to committing the offence(s) shown above. A caution is not a criminal conviction, but I understand that details of the caution will be kept on police databases.**

2. **The seriousness of this offence(s) and the potential repercussions it may have/have had on me in the event of this matter being taken before the Magistrates'/Supreme Court, has/have been explained to me.**

3. **If new evidence comes to light suggesting that the offence(s) I have committed are more serious, you might still take action against me.**

4. **If I am charged with another offence and I am found guilty by a Court of further offence(s), the Court will be informed that I received this caution.**

5. **If I apply for certain jobs, either paid or unpaid, that require a criminal records check, either through a Subject Access Request or Vetting I understand that you might give my new employer information about this caution, specifically where it involves working with children or vulnerable adults or in any other circumstance that may require such disclosure by law..**

Signature of person being cautioned _____

Signature of "appropriate adult" in Juvenile cases: _____

Signature of Solicitor (if present) _____ Signature of Interpreter (if present) _____

On (Date) | | | | | | | | At (Time) _____

At New Mole Police Station I cautioned the above named for the offence(s) listed above.

_____

Sgt/Inspector/Chief Inspector/Superintendent

Shane Danino

From: (RGP [redacted]
Sent: 03 O 3
To: Dr Joey Britto
Subject: PS [redacted]

Good afternoon Joey,

I want to share with you some correspondence I have recently had with PS [redacted]. I think it is important that you are aware of it, seeing his defiant stance towards the RGP and indeed the GPa and the AG.

Best wishes

[redacted]
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
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Royal Gibraltar POLICE
Delivering a Safer Gibraltar through Excellence in Policing

PROJECT SERVATOR
TOGETHER, WE'VE GOT IT COVERED

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Please consider the environment before printing this email.

From: [redacted]
Sent: 03 October 2019 1:20 PM
To: [redacted]
Subject: RE: Update Request

Dear Sergeant [redacted],

Your response to me suggesting that there is a total lack of transparency and accountability in the Royal Gibraltar Police is totally absurd, one which I take great offence of. The RGP is one of the most scrutinised

institutions in Gibraltar and we will continue to be as such. Our determination of your allegation was submitted to the HM Attorney General by the Gibraltar Police Authority for further transparency, primarily to ensure that exactly these unbecoming and unwarranted insinuations you are now claiming, received independent oversight.

Furthermore, in your email to me on the 3rd of September 2019, you also questioned my integrity as a police officer when I was handling your complaint. Your response then, and today, regarding the RGP, is now demonstrating to me that you have no regard for the RGP, the command and any of the structures in place, including the Gibraltar Police Authority and HM Attorney General.

I am extremely disappointed in the choice of language and accusatory sense of judgement in your emails to me, which are an indication of a defiant character who cannot come to terms with a determination which does not suit you. In this regard, as the senior officer with responsibility for discipline and conduct in the RGP, I will be giving further consideration to your comments keeping all my options open.

[redacted]
Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: **2271**

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From: [redacted]
Sent: 02 October 2019 5:59 PM
To: [redacted]
Subject: Re: Update Request

Good evening Sir,

Thank you for your response, albeit you did not answer much, if any of my queries.

I look forward to hearing from Mr [redacted] in relation to my [redacted] although I do not hold much hope of a positive outcome, given the standard of the investigation into my criminal complaint.

It would seem, for now at least, the RGP are answerable to no one in Gibraltar and are free to conduct themselves as they please with no repercussions. I look forward to speaking with HMICFRS later this month and apprising them of the circumstances.

Best regards,
[redacted]

On Wed, Oct 2, 2019 at 4:31 PM (RGP) [redacted] wrote:

Dear Sergeant [redacted]

Thank you for your email. I hope you are well and recovering.

Yesterday I wrote to you an official letter and this was sent to your registered address at Eurotowers, the contents of which I thought was best served by letter than by email. Contained in that letter is the advice provided by Her Majesty's Attorney General, of which the contents are as follows:

I write in furtherance to the Commissioner's letter to you dated the 9th of September 2019.

I can confirm to you that the Gibraltar Police Authority, having consulted with HM Attorney General has responded to the Commissioner's determination in relation to your allegation of misconduct in public office against CI [redacted] In his response the Chairman of the Gibraltar Police Authority has stated, that no criminal liability can be attached to the actions of CI [redacted] and that no criminal offences are disclosed against anyone.

The complaint made by you will therefore not be recorded as a 'Crime' and will be instead filed as a 'No Crime' incident.

I am sorry to hear that your allegation of crime has caused you stress and anxiety, but in this case on the advice provided you are not regarded as a victim as you claim.

With regards to your [redacted] this has been passed on to Superintendent [redacted] who I know has already undertaken some work and intends contacting you to meet up to discuss this further. In actual fact he asked me only this week should he contact you, taking into consideration your current absence from work and my advice was to do so, but of course only in Gibraltar. So expect a call or text from him soon.

With best wishes

[redacted]

Assistant Commissioner

New Mole House, Rosia Road, Gibraltar, GX11 1AA

Tel: (+350) 20072500 Centrex: **2271**

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Please consider the environment before printing this email.

From: [redacted]
Sent: 02 October 2019 3:53 PM

To: (RGP)[redacted]
Subject: Update Request

Good afternoon Sir,

As you are aware, on Tuesday 27th August 2019, I submitted a case file including a [redacted] and criminal complaint against Chief Inspector [redacted]. I am writing to you in this instance requesting an update on both files.

On Thursday 12th September 2019, I received correspondence from Commissioner McGrail informing me that my criminal complaint had been referred to the Attorney General and GPA, however since then I have not received any further update on the status of the investigation. Regardless of whether I am a Police Officer or not, as a reporter of a crime I am entitled to victim support. Particularly when it has caused me to suffer significant stress and anxiety.

I have never been contacted by the investigating officers to confirm my version of events or to extract any potential further information which may assist the case. I may not wish to enter Gibraltar, but I am still contactable.

I would also like to know if key witnesses mentioned in the case have been asked to provide a statement and if they were provided to the AGs, along with all of the documentation I submitted?

Having read the GPF survey I am aware of at least one comment which further corroborates the criminal allegation stating, *"Officers being asked to change weights in relation to drug charges because it's an ex-senior high ranking officer's family member."* Have attempts been made by the investigating officers to speak with this officer? I was able to find out the identity of the commenting officer within an hour of reading the survey without breaching any data protection, I'm sure the officers investigating the case would be as successful.

In relation to my [redacted] the targeted 28 days to resolve have now passed, actually 36 days have passed, and I have received no update in relation to the document or explanation as to why the deadline has been extended. Even though the policy states the grievance can be progressed in my absence from work.

I would also refer to numerous comments made in yesterday's survey which highlight the Chief Inspector's conduct as a bully, and again, I know from the sources of the submitted comments that they referred to Mr [redacted] before being redacted. Is anything going to be done about this?

In a previous email I was challenged for questioning the integrity of the investigation, however it would seem from reading the comments on the survey that this was not without reason. It is abundantly clear from the survey that the vast majority of officers in the RGP do not have faith that senior management will support them or impartially & comprehensively investigate senior officers.

Thus, I would ask you plainly Sir, and with respect, are the RGP finally going to challenge and reprimand an officer who is a widely known bully and operates with corrupt practices, or are the RGP going to continue to protect this officer and endorse his behaviour?

Regards,

[redacted]

Shane Danino

From:	Dr Joey Britto <joey.britto@gibtelecom.net>
Sent:	05 September 2019 07:51
To:	Ernest Gomez; (Youth) Figueras, Rebecca; (NO6) Grech, Darren; Claire Pizzarello; (TAX) Carreras, Frank; Julio Alcantara; Nick Pyle (nick.pyle@fco.gov.uk); Nadine Collado (nadine.collado@unigib.edu.gi); Edgar Lavarello (edgar.c.lavarello@gi.pwc.com)
Cc:	(GPA) Hanglin, Elka; Grace Anne Raineri
Subject:	Re: Report - PS [redacted]
Attachments:	Letter GPA [redacted] 07Aug19.docx

Dear colleagues,

Please see letter from RGP and subsequent emails from PS [redacted] below. You will see that, essentially, it is a complaint from one officer against another - a [redacted] and a 'criminal complaint'. I have asked for the documentation he mentions. Having said this, if it is a criminal complaint, this is not for PCB as he is not a member of the public.

The criminal complaint is being assessed and clearly, we shall ensure that due process is followed. As soon as I obtain a report from the Commissioner and the documentation, I shall have to call a meeting at short notice to discuss this further and decide whether we need to take advice and so on. At present, no action is required and the Commissioner and Assistant Commissioner are dealing with this.

Kind regards,

Joey

1.

-----Original Message-----
From: Gibraltar Police Authority [mailto:info_@gpa.gi]
Sent: 30 August 2019 08:38
To: (GPA) Info < info@gpa.gi>
Subject: Form record received

Record saved to database with ID: 74

Form ID: 3
Form title: Contact_GPA
Form name: Contact_GPA
Submitted at: 2019-08-30 08:37:45
Submitter IP: 83.45.41.37
User-ID: 0
Username: -
User full name: -

Submitter provider: Unknown
Submitter browser: Mozilla/5.0 (Macintosh; Intel Mac OS X 10_12_6) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/76.0.3809.100 Safari/537.36 Submitter operating system: mac

Name:: [redacted]
Email:: [redacted]
Subject:: RGP [redacted] and Criminal Complaint
Message:: Dear Sir / Madam,

My name is [redacted] and I am a serving Police Sergeant with the Royal Gibraltar Police. I respectfully request that this email be forwarded on to Dr Joseph Britto, Gibraltar Police Authority Chairman.

I am aware that on Wednesday 7th August 2019, Dr Britto received correspondence from Assistant Commissioner of Police [redacted], in relation to my absence from work and subsequent [redacted]

It is my concern that this was not an accurate and fair reflection of the circumstances as it did not take into consideration my version of events, and solely relied upon the account provided by Chief Inspector [redacted].

On the morning of Tuesday 27th August 2019, I submitted a [redacted] file as well as a criminal complaint against Mr [redacted] or the offences of Misconduct in Public Office and Per [redacted] Course of Justice. The said criminal [redacted]laint is corroborated by 27 documentary exhibits tendered in evidence.

In view of transparency, if the RGP have not already provided copies of these documents, I would request that Dr Britto contact the RGP and request them.

The documents enclosed in the file submitted to the RGP that Dr Britto should receive in his copy are as follows;

[redacted] report
Additional report in relation to [redacted] Item list Six individual items as described on item list and referred to in [redacted] document Criminal complaint report in relation to Misconduct in Public Office and Perverting the Course of Justice against Chief Inspector [redacted] Statement of Police Sergeant [redacted] in relation to criminal complaint
Exhibit list
27 documentary exhibits with their attached exhibit labels

If Dr Britto is unsuccessful in his attempt to gain access to a copy of the aforementioned documents, please advise me and I will furnish him with copies.

I would greatly appreciate being contacted by a representative of the GPA to confirm receipt of this email, and I can be contacted via [redacted] and by telephone on 0034677127772.

Best regards,
[redacted]
Police Sergeant
Royal Gibraltar Police

2.

From: [redacted]
Sent: 30 August 2019 13:13:53

To: (GPA) Hanglin, Elka
Subject: Re: Form record received

Dear Elka,

For the time being, please forward the contents of my email to the Chairman of the Police Authority for his information. Assistance Commissioner [redacted] is already dealing with my criminal complaint, and I would expect that he has already informed the PCB of this.

I am aware that correspondence was passed to Dr Britto by RGP senior management stating that they had concerns over my professional competency and commitment to the RGP, and that I desired to submit a [redacted] claim against my line managers for having addressed my poor performance.

[redacted]

I believe the contents of the report submitted to Dr Britto on 7th August to be misrepresented and I would seek that Dr Britto requests copies of the files I submitted to the RGP in order that transparency is restored, and that both accounts are considered.

Best regards,
[redacted]

Shane Danino

From: Dr Joseph J Britto <joey.britto@gibtelecom.net>
Sent: 02 October 2019 12:54
To: (NO6) Grech, Darren; Edgar Lavarello (edgar.c.lavarello@gi.pwc.com); Ernest Gomez [redacted]; Claire Pizzarello (claire.pizzarello@hassans.gi); Julio Alcantara [redacted] Nick Pyle (nick.pyle@fco.gov.uk); (Youth) Figueras, Rebecca; (TAX) Carreras, Frank; Nadine Collado (nadine.collado@unigib.edu.gi)
Cc: (GPA) Secretary
Subject: Update of Criminal Complaint - PS [redacted]

Dear colleagues,

Our last meeting refers.

By way of update:

I have obtained clarification legal advice from the AG's office - the internal criminal claim made against PS [redacted] Chief Inspector (by PS [redacted] has no basis. If you recall this is in connection with the cautioning of individuals and the AG finds that the RGP's Cautioning Policy was applied at all times and there is absolutely no evidence of any wrong doing.

Kind regards,

Joey

Dr Joseph J Britto
Chair
Gibraltar Police Authority

ROYAL GIBRALTAR POLICE

STATEMENT OF WITNESS

Criminal Procedure and Evidence Act 2011 ss. 187 and 405, Criminal Procedure Rules r 16.2

CR/OB No [ ][ ] --- [ ][ ] --- [ ][ ][ ][ ][ ][ ][ ][ ] --- [ ]

Surname [redacted] Forenames [redacted]

Age of witness (if over 18 enter over 18): **Over 18**

Occupation: **Police Sergeant No. 8**

This statement (consisting of 9 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 9th day of August 2019

Signed: _____

I am the above mentioned person.

I have complete 4 year's service with the Royal Gibraltar Police and 6 years service with Police Scotland. This statement is in relation to a complaint against Chief Inspector [redacted] of the Royal Gibraltar Police for the offences of Misconduct in Public Office and Perverting the Course of Justice.

About 0700 hours, Tuesday 30th of July 2019, I arrived at New Mole House Police Station to commence my duties as Custody Sergeant.

At this time, I was informed by the nightshift Custody Sergeant that there was a copy of a Police Caution docket within the custody tray for a Mr [redacted] and that Chief Inspector [redacted] would be dealing with it personally later in the afternoon, but that the Bail Return was not on the Cyclops Custody whiteboard as per the normal procedure for a

Signed: _____ **Signature Witnessed by:** _____

(NOTE: FILL IN WIT2 FORM OVERLEAF)

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defendant surrendering to their bail with a specified time. I was further informed that [redacted] had keys to collect from Police and that they were reported to be within the Traffic compound. I then signed the Custody Handover book making note of the [redacted] entry, and continued with my duties as Custody Sergeant.

Later in the morning, the aforementioned Caution docket for [redacted] was removed from Custody and I believe taken to Mr [redacted] office by PS [redacted]

About 1345 hours, same date, I completed my entry to the handover book and shortly afterwards PS [redacted] arrived in the Custody suite to relieve me from my duties as he prepared to commence duty at 1400 hours. I then went over the handover with PS [redacted] and at this time informed him that [redacted] would be attending NMH later in the afternoon to be Cautioned on authorisation of Mr [redacted] At this, PS [redacted] expressed his shock to me that [redacted] was receiving a Police Caution as he knew the details of [redacted] arrest, being that he was in possession of a significant amount of Cannabis, namely 75 grams. Prior to this I did not know the reason for the Caution and had not read the Caution Certificate before it was removed from the Custody suite.

About 1350 hours, same date, whilst still in the process of handing over to PS [redacted] Mr [redacted] entered the Custody suite and at this time I asked the Chief Inspector where the Caution docket for [redacted] was as I was completing the handover with the late shift Custody Sergeant. Mr [redacted] then responded to me by asking why I was asking for it, to which I stated that PS [redacted] would require it for [redacted] attendance to Custody if he were surrendering to his Bail. Mr [redacted] then stated to me that he would be dealing with it, before engaging with PS [redacted] in Spanish in both my presence and the presence

Signed: _____ Signature Witnessed by: _____

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of the late shift Jailer PC [redacted] and then leaving the Custody suite. I then asked PC [redacted] what Mr [redacted] has said in Spanish and he informed me that a translation to English equated to "I'm dealing with it, then I will give it to you and you put it at the top, the bottom, the middle or wherever."

Having worked with PS [redacted] for some time now, I know him to be a diligent and committed Custody Sergeant who many officers, including myself, will go to for advice regarding Custody matters, and at this time it was my opinion that PS [redacted] was concerned by his aforementioned conversation with Mr [redacted]

It should be noted that all of the aforementioned will be recorded on the Custody CCTV system which has microphones for sound.

About 2000 hours, Friday 2nd August 2019, I attended at Central Police Station, Casemates Square, in order to review the Custody record for [redacted] I had been concerned that if the information I had received was in fact correct, that [redacted] who I know to be the son of an ex-police officer Ex PC [redacted] may have received a Police Caution unjustifiably and without reasonable excuse. It was also my concern that as I handed this over to the late shift Custody Sergeant, that if any wrong doing had taken place then I would not be complicit.

Upon reviewing the Custody Record and relevant Crime entry relating to [redacted] I observed that he had in fact been released with a Police Caution for Possession of a Controlled Class B Drug contrary to Section 506(2) of the Crimes Act 2011 and the Custody Record disposed of with the comment "DP afforded a caution for the offence of possession of a controlled drug class B, Authority for Caution granted by Chief Inspector [redacted] Caution

Signed: _____ Signature Witnessed by: _____

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copy scanned into documents."

I then left Central Police Station and returned home where I agonised over my findings before confiding in other fellow Police Officers over the next few days, who informed me that they were aware this was not the first time Mr [redacted] had conducted himself in this manner, and had previously abused his authority to authorise a Police Caution fo[redacted] the son of the retired Police Commissioner under questionable circumstances.

About 2200 hours, Monday 5th August 2019, I made the conscious decision to investigate this further as per the Police Powers invested in me by the Government of Gibraltar as I believed a criminal act may have taken place and attended at Central Police Station, where I reviewed the circumstances of the arrests of both [redacted] and [redacted]

About 2225 hours, same date, I accessed the Custody module of the Police Cyclops system and opened [redacted] ecord, file number CU/19/1263/C. At this time I confirmed a number of points which gave me cause for concern. Namely that;

- [redacted] had been arrested for Possession of a Controlled drug for having possession of 75 grams of Cannabis (the weight of which was weighed in the presence of [redacted].
- The necessity for arrest at this time was recorded as to Allow the prompt and effective investigation, and the detention reason to Obtain evidence by questioning (s58(2)(b) CP&E), and Secure and Preserve Evidence (s58(2)(a) CP&E).
- [redacted] was arrested near to Eastern Beach, at 1850 hours, 28/07/2019, on what would reasonably be expected to have been a busy location at the time.
- I noted on the Custody Record that PS [redacted] recorded that there was no

evidence of Alcohol, however there was evidence of Drugs.

- I noted on the Custody Record that PS [redacted] recorded that on the Medical/Risk Assessment Care and Treatment of Detained persons tab under question "i. Do you have any Drug or Alcohol dependencies?" that [redacted] responded that he had an addiction. This was evidenced by PS [redacted] as "Addicted to something but won't disclose what it is."
- I noted that at the time of arrest the amount of drugs found were thought to be serious enough that a Search Warrant was carried out at the residence of [redacted] and that [redacted] was present for this search.
- [redacted] was interviewed at 2201 hours by PC [redacted]
- I noted that [redacted] was bailed out in the sum of £250.00 to appear at New Mole House Police Station at 2300 hours on Saturday 19th October 2019.
- I noted that at 1544 hours, Tuesday 30th July 2019, eleven weeks and 4 days early, [redacted] surrendered to his bail and a short time later was interviewed by PC [redacted] at 1553 hours.
- No consideration appears to have been given to applying the charge of Possession of a Controlled Drug with Intent to Supply.
- I noted that at 1627 hours, same date, the Custody Record was Disposed of with the comment "DP afforded a caution for the offence of possession of a controlled drug class B, Authority granted by Chief Inspector [redacted]. Caution copy scanned into documents."
- I then investigated the Crime entry in relation to [redacted] CR/19/5229/Q and

Signed: _____ Signature Witnessed by: _____

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confirmed its contents to be consistent with the Custody Record.

- I then investigated the Occurrence Book entry in relation to [redacted] OB/19/13100/X and confirmed its contents to be consistent with the Custody Record.

The aforementioned was documented, which **I now tender in evidence as;**

SS/1 - 1 x Screenshot of Cyclops Custody module showing record of [redacted]

SS/2 - 1 x Screenshot of Cyclops Custody Record of [redacted] showing Caution authorised by Cl [redacted]

SS/3 - 1 x Screenshot of Cyclops Custody Record of [redacted] showing log entries made to record

SS/4 - 1 x Screenshot of Cyclops Custody Record showing drugs weighed 75g

SS/5 - 1 x Screenshot of Cyclops Custody Record detailing [redacted] taken to his residence to witness Search Warrant be executed

SS/6 - 1 x Screenshot of Cyclops Custody Record of [redacted] detailing grounds for arrest

SS/7 - 1 x Screenshot of Cyclops Custody Record of [redacted] showing relative Crime and OB numbers

SS/8 - 1 x Screenshot of Cyclops Custody Record of [redacted] documents tab detailing scans submitted to record

SS/9 - 1 x Custody Record of [redacted]

SS/10 - 1 x Scan of Caution docket cover which has note on front indicating [redacted] is to be Cautioned on instructions of Mr [redacted]

SS/11 - 1 x Scan of page 2 of Caution docket

Signed: _____ **Signature Witnessed by:** _____

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SS/12 - 1 x Scan of Caution Certificate

SS/13 - 1 x Screenshot of Cyclops Crime Entry CU/19/5229/Q

SS/14 - 1 x Screenshot of Cyclops Occurrence Book entry OB/19/13100/X

I then acted on information received from colleagues and investigated the circumstances of [redacted] arrest on 30/06/2018. Firstly I reviewed the Custody entry, CU/18/618/K, on the Cyclops system. Upon doing so I observed a number of anomalies, which are outlined below;

- [redacted] was arrested at 2345 hours, 30/06/2018, at Wellington Front for the offence of Possession of a Controlled Class A Drug contrary to Section 506(2) of the Crimes Act 2011
- [redacted] was then conveyed to NMH Police Station where he arrived at 0005 hours, 01/07/2018, and his detention was authorised by now retired PS [redacted] at 0134 hours, same date.
- The necessity for arrest being noted to Allow the prompt and effective investigation and detention reason to Obtain evidence by questioning (s58(2)(b) CP&E).
- At this time, it was recorded by PS [redacted] that [redacted] exhibited evidence of both Alcohol and Drugs.
- About 0138 hours, same date, the drugs found in the possession of [redacted] were weighed within the Custody suite in the presence of [redacted] the result of which was **0.9** grams.
- [redacted] was then taken for interview before being bailed out to return to NMH Police Station at 1200 hours on 14/08/2019.

Signed: _____ Signature Witnessed by: _____

The contents of this document will be processed in strict compliance with the Royal Gibraltar Police's policy on Data Protection, which has been compiled in accordance with the provisions of the *Data Protection Act 2004*

- The Occurrence Book entry, OB/18/7453/J, states that when [redacted] was arrested he was asked if the white powder found by police was Cocaine, to which he nodded his head.
- About 1620 hours, Monday 9th July 2018, five weeks and one day early, [redacted] returned from his bail and was booked in by Chief Inspector [redacted].
- About 1621 hours, same date, [redacted] was cautioned by Chief Inspector [redacted] for the offence of Possession of a Controlled drug, namely MDMA weighing **0.2** grams. Contrary to the Custody Record and Crime Report, which read **0.9** grams.
- Chief Inspector [redacted] then updated and disposed of the Cyclops Custody Record with the entry "Cautioned by myself."

The aforementioned was documented, which **I now tender in evidence as;**

SS/15 - 1 x Screenshot of Cyclops Custody module showing record of [redacted]

SS/16 - 1x Screenshot of Cyclops Custody Record of [redacted] showing entries of CI FIELD Cautioning and Disposing of Custody Record

SS/17 - 1 x Screenshot of Cyclops Custody Record of [redacted] detailing grounds for arrest

SS/18 - 1 x Screenshot of Cyclops Custody Record of [redacted] Events tab containing Logs entered by Mr [redacted]

SS/19 - 1 x Custody Record of [redacted]

SS/20 - 1 x Screenshot of Cyclops Crime Entry CR/18/2742/V further evidencing weight of drugs upon arrest as being 0.9g

SS/21 - 1 x Screenshot of Cyclops Crime Entry of [redacted] Diary & Tasks tab

Signed: _____ Signature Witnessed by: _____

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highlighting entry made by Mr [redacted]

SS/22 - 1 x Screenshot of Cyclops documents tab from [redacted] Crime Entry showing part 1 of Caution Certificate

SS/23 - 1 x Screenshot of Cyclops documents tab from [redacted] Crime Entry showing part 2 of Caution Certificate detailing MDMA as drugs and weight as 0.2g not 0.9g

SS/24 - 1 x Screenshot of Cyclops documents tab from [redacted] Crime Entry showing part 3 of Caution Certificate with signature of CI [redacted]

SS/25 - 1 x Screenshot of Cyclops documents tab from [redacted] Crime Entry showing scan of Custody Record with Log stating drugs weighed 0.9g

SS/26 - 1 x Screenshot of Cyclops Occurrence Book entry stating [redacted] indicated to officers he was in possession of Cocaine

I thereafter compiled the aforementioned in a case file with exhibits and a report which I **now tender in evidence as;**

SS/27 – 1 x Police Report outlining circumstances of Misconduct in Public Office and Perverting the Course of Justice by Mr [redacted]

before submitting the said case file to Superintendent [redacted] and AC [redacted] for their review.

Signed: _____ **Signature Witnessed by:** _____

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scott.strachan@royalgib.police.gi

9th August 2019

FAO SUPERINTENDENT [redacted] & AC [redacted]

Subject: MISCONDUCT IN PUBLIC OFFICE & PERVERTING THE COURSE OF JUSTICE

Sir,

As part described in document 1, it has come to my attention that Chief Inspector [redacted] acting in Public Office has willfully neglected to perform his duty and willfully misconducted himself, to such a degree as to amount to an abuse of the public's trust, without reasonable excuse or justification. CI [redacted] has committed this offence on at least two occasions and evidence of both is attached to this document.

About 1850 hours, Sunday 28th July 2019, [redacted] near to the MVT Test Centre, Eastern Beach, Gibraltar, was arrested by PC 68 [redacted] for Possession of a Controlled Class B Drug contrary to Section 506(2) of the Crimes Act 2011. [redacted] was thereafter conveyed to New Mole House Police Station where he arrived at 1915 hours, and his detention was authorized by PS [redacted] at 1947 hours. The necessity for arrest at this time was recorded as to Allow the prompt and effective investigation, and the detention reason to Obtain evidence by questioning (s58(2)(b) CP&E), and Secure and Preserve Evidence (s58(2)(a) CP&E).
The drugs found in [redacted] possession were weighed in the presence of [redacted] in custody and found to weigh 75 grams of Cannabis.

Whilst processing [redacted] it was noted by PS [redacted] on the Medical/Risk Assessment Care and Treatment of Detained Persons tab of the Custody Record that there was no evidence of Alcohol however there was evidence of Drugs. It was further noted by PS [redacted] on question "i. Do you have any Drug or Alcohol dependencies?" that [redacted] responded that he had an addiction. This was evidenced by PS [redacted] as "Addicted to something but won't disclose what it is."

About 2018 hours, same date, a Search Warrant was executed at [redacted] residence, it is believed due to the amount of drugs found in [redacted] possession, and he was taken to his residence to be present for this search from custody before returning to his cell at 2110 hours. [redacted] was then interviewed at 2201 hours by PC BASSADONE.

About 2316 hours, same date, [redacted] was bailed out in the sum of £250.00 to appear at New Mole House Police Station at 2300 hours on Saturday 19th October 2019.

About 1544 hours, Tuesday 30th July 2019, [redacted] surrendered to his bail and a short time later was interviewed by PC [redacted] at 1553 hours.

About 1627 hours, same date, the Custody Record was Disposed of with the comment "DP afforded a caution for the offence of possession of a controlled drug class B, Authority granted by Chief Inspector [redacted]. Caution copy scanned into documents."

Cannabis Resin has a street value of approximately £30 per quarter ounce (7 grams), as [redacted] was in possession of over two and a half ounces, more than ten times this amount (75 grams), the street value of the drugs would be in excess of £300. With this quantity of drugs being stored in his motorcycle at the time and place where it was located, given how busy the location was with potential customers, it would be reasonable to infer that [redacted] was in Possession of a Controlled drug with Intent to Supply.

The aforementioned, together with the fact [redacted] presented himself before the Custody Sergeant under the influence of drugs, stated he had an addiction and likely a habitual drug user, gives absolutely no reasonable excuse or justification to be authorised a Police Caution.

The Ministry of Justice provides guidelines that;
"A simple caution must not be given if the decision-maker considers that it is in the public interest for the offender to be prosecuted."

In this instance it was in the public interest for [redacted] to be prosecuted for this offence and the reason he was not prosecuted is believed to be because he is the son of retired Police Officer ex-PC [redacted].

This is not the first time Chief Inspector [redacted] has conducted himself in this manner.

About 2345 hours, Saturday 30th June 2018, [redacted] at Wellington Front, Gibraltar, was arrested by PC BASSADONE for the offence of Possession of a Controlled Class A Drug contrary to Section 506(2) of the Crimes Act 2011. [redacted] was then conveyed to NMH Police Station where he arrived at 0005 hours, 01/07/2018, and his detention was authorised by now retired PS [redacted] at 0134 hours, same date. The necessity for arrest being noted to Allow the prompt and effective investigation and detention reason to Obtain evidence by questioning (s58(2)(b) CP&E). At this time, it was recorded by PS [redacted] that [redacted] exhibited evidence of both Alcohol and Drugs.

About 0138 hours, same date, the drugs found in the possession of [redacted] were weighed within the Custody suite in the presence of [redacted], the result of which was **0.9** grams. [redacted] was then taken for interview before being bailed out to return to NMH Police Station at 1200 hours on 14/08/2018.

About 1620 hours, Monday 9th July 2018, [redacted] returned from his bail and was booked in by Chief Inspector [redacted].

About 1621 hours, same date, [redacted] was cautioned by Chief Inspector [redacted] for the offence of Possession of a Controlled drug, namely MDMA weighing **0.2** grams. Contrary

to the Custody Record and Crime Report, which read **0.9** grams. Chief Inspector [redacted] then updated and disposed of the Cyclops Custody Record with the entry "Cautioned by myself."

In this instance not only is CI [redacted] in Misconduct in Public Office, but he has also knowingly committed the offence of Perverting the Course of Justice.

As defined by the Crown Prosecution Service;

The offence of Perverting the Course of Justice is committed when an accused:

- *does an act or series of acts;*
- *which has or have a tendency to pervert; and*
- *which is or are intended to pervert;*
- *the course of public justice.*

The offence is contrary to common law and triable only on indictment. It carries a maximum penalty of life imprisonment and/or a fine. The course of justice must be in existence at the time of the act(s). The course of justice starts when:

- *an event has occurred, from which it can reasonably be expected that an investigation will follow;*
- *investigations which could/might bring proceedings have actually started; or*
- *proceedings have started or are about to start.*

Guidance in respect of Charging Practice for Public Justice Offences is further detailed by CPS as;

The following factors will be relevant to all public justice offences when assessing the relative seriousness of the conduct and which offence, when there is an option, should be charged. Consider whether the conduct:

- *was spontaneous and unplanned or deliberate and elaborately planned;*
- *was momentary and irresolute or prolonged and determined;*
- *was motivated by misplaced loyalty to a relative/friend or was part of a concerted effort to avoid, pervert, or defeat justice;*
- *whether the activities of the defendant drew in others;*
- *was intended to result in trivial or 'serious harm' to the administration of justice;*
- *actually resulted in trivial or 'serious harm' to the administration of justice.*

Examples of 'serious harm' include conduct which:

- *enables a potential defendant in a serious case to evade arrest or commit further offences;*
- *causes an accused to be granted bail when he might otherwise not have;*

- *avoids a police investigation for disqualified driving or other serious offences;*
- *misleads a court;*
- *puts another person in real jeopardy of arrest/prosecution or results in the arrest/prosecution of another person;*
- *avoids a mandatory penalty such as disqualification*
- *results in the police losing the opportunity to obtain important evidence in a case.*

Mr [redacted] has authorised a Police Caution after the disposal, tampering and fabrication of evidence by altering and falsifying evidence so that the Caution issued read **0.2** grams instead of **0.9** grams. In context this is the equivalent of the street value for the drugs initially costing in the region of £50 to the street value equating to zero. It should further be noted that the Occurrence Book entry OB/18/6453/J dated 01/07/2018, submitted at 0132 hours, states that at the time of police seizing the powder, [redacted] was asked under caution if it was Cocaine found in his possession (not MDMA), to which he is stated to have nodded in agreement.

It is also not force policy to Caution for Possession of a Controlled Class A Drug contrary to Section 506(2) of the Crimes Act 2011, and Mr [redacted] acted in Misconduct in this case by not proceeding to prosecute [redacted] It is further believed that once again Mr [redacted] motive for not proceeding to prosecute [redacted] is that he was a retired Police Commissioners son.

It is in the public interest that in both cases outlined above, both persons should have been prosecuted for their respective offences. Notwithstanding this, members of the public in Gibraltar are prosecuted on a daily basis for incidents of possessing controlled drugs with circumstances and amounts of drugs less than described above. These have been immoral and corrupt acts by Mr [redacted] and he has aided in two offenders evading appropriate justice, when everyday people of Gibraltar have not had the same opportunity.

The community of Gibraltar trusts the Royal Gibraltar Police to maintain public order and safety, enforce the law, prevent and detect crime, investigate criminal activities, and bring forth offenders to justice. Mr [redacted] has breached the trust of the public through his Misconduct and in turn jeopardised the reputation of the RGP and all of the hard-working officers associated with the organisation.

Police Officers of lower ranks than Mr [redacted] have been interdicted and investigated for far less serious offences in comparison to the aforementioned, and it is expected that if the RGP is committed to eradicating and expelling any corruption within its ranks that the same actions be taken in respect of a Chief Inspector.

The Police (Discipline) Regulations 1991 outline a number of regulations which have been breached in this case, namely;

- Discreditable Conduct
- Neglect of Duty
- Falsehood or Prevarication
- Corrupt or Improper Practice

- Abuse of Authority
- Criminal Conduct

It does not seem appropriate, facts considered, that Mr [redacted] only be dealt with by way of Police disciplinary procedures for his conduct and should also answer for his actions before a court.

Attached to this report is my statement in relation to the matter, whereby I have tendered 27 documentary files in evidence. The exhibits themselves are also included along with an Exhibit List.



[redacted]
Police Sergeant 8

Royal Gibraltar POLICE | *Delivering a Safer Gibraltar through Excellence in Policing*

Operations Division

New Mole House, Rosia Road, Gibraltar • Tel (+350) 200 72500 • Centrex 2213 • www.police.gi

30th August 2019

To Commissioner of Police;

Subject: Allegation of Misfeasance in Public Office.

References-

- Pre-existing grievance documentation
- Cautioning Policy
- Custody Record [redacted]
- Caution of [redacted]
- Custody Record of [redacted]
- Caution of [redacted]

Sir,

I start by denying the allegation that PS 8 [redacted] has wrongly accused me of. In my 27 years service, I have never had my integrity questioned by anyone this way. For me it is disheartening that a young and relatively inexperienced sergeant has decided to question a decision from a senior officer without knowing the full particulars and my rationale behind my decision process. Not only has he questioned me, but also the RGP. He has made a criminal allegation against me regarding a serious offence.

What surprises me even further is that he was not the custody sergeant in any of the cases, he did not process them, interview or caution any of the two subjects. He was not the OiC either, so I can safely assume the fact that he has been fed these two instances by someone else. In addition, I have asked myself, why now? Again I can safely assume that it is to add weight to the wrongful [redacted]ne has also lodged against me.

Another issue is that he is on CSL with stress and unfit to come to work, but yet he has the time, the right mental state of mind to come to the station after hours and trawl the databases to extract information in an attempt to substantiate his ill-founded allegation and find anything against me.Taking into consideration his present medical diagnosis, is he in a position to conduct such an investigation?

On another note, If he was investigating this I would agree that access would be legitimate but if he isn't, does he have the right to access this information legitimately for his own personal means? I would intend to say no.

What is very clear to me is that he is being vindictive towards me and without justification. His [redacted] holds no water and this allegation lacks foundation. It is a shame that despite having an open door policy he has not wanted to seek clarity in respect of my decision process. First of all, that I would not have been required or obliged to give to him an explanation but secondly, I would have done so for transparency issues. I am not one to hide.

I recognize the value of cautioning offenders in appropriate circumstances as an alternative to prosecution, and as a means of diversion from the Criminal Justice System. I have dealt with many, many cautions throughout my career. I have personally administered cautions as a Sergeant, as an Inspector and now in my current rank. Nowadays in my present post as Chief Inspector Operations for Response Teams I am often consulted by both sergeants and inspectors. This is nothing new, when a case presents a peculiar issue or something out the norm I am consulted straight away, after all, I am responsible for monitoring and assuring quality. When considering drug offences for small quantities for personal use regarding 'A' class drugs, this lies with the authority of a C.I. or above.

The majority of the cases are dealt with through the approval of the existing permanent Response Team Inspectors. In many of them, I am not consulted or am I in the know that the caution is being administered. In many other instances I have interjected and provided a steer for caution but in any event, something that may well have occurred without my intervention.

Prior cyclops, these cautions would have come out in the OB, the daily reports. Now they are not and we only learn of them if one accesses the crime or custody entry.

Arrest and caution of [redacted]

The subject was arrested on the 30th of June 2018 for possession of a controlled drug [one wrapper weighing 0.2g] that was subsequently tested and gave a positive reaction to MDMA. The DP admitted it was his and was bailed out.

This offence fell within the cautioning criteria and on this occasion I interjected shortly after the arrest and facilitated the caution. The DP had no previous convictions. As mentioned prior, I have intervened in many other cases and this was simply another case. In any event, this would have landed on my desk.

I personally recalled him from bail and administered the caution on the 9th of July 2018.

Arrest and caution of [redacted]

The subject was arrested on the 28th of July 2019 for possession of approximately 75g [two pieces] of cannabis resin. The DP at the time did not make a clear admission and was bailed out.

Again this offence fell within the cautioning criteria. It is right to say that the amount is not the ordinary amount found on consumers but the weight did not represent an obstacle for me as we [RGP] have cautioned for larger amounts. The DP had no previous convictions.

I did not intervene in this one until I was contacted by the DP's father, [redacted] sr, an ex police officer. The latter has provided information in the past and has always proved reliable. He asked me to consider administering a caution to his son who would make a clear admission at a later date. He reiterated that he had provided information in the past and would certainly continue to do so. I will not comment in cases provided. The amount this sort of fine would attract would be in the region of £300 to £500 for a first time offender and when weighed up against a possible detection of a supplier, it was a clear to me that this was a win win for us. In any event, there was nothing untoward to suggest that this offence would not have been dealt with as a caution when looked into by a RT Inspector. I would have certainly been consulted due to the weight of the drug, either way I would have had some involvement.

I decided to intervene and administer the caution myself. Unfortunately on the day in question I was unable to do so and so I left instructions for this to take place.

I would like to add that in both cases, there was consultation with other senior officers but I took the lead and facilitated them.

It is a real shame, or maybe a lack of being just, that the sergeant has not dug up more cautions that I have facilitated or administered. If he is saying I have abused my position because these two latest subjects came from a police background, maybe he should have compared the ratios for my previous cautions. I can assure you, I have cautioned or facilitated these to a much larger ratio of non police background offenders than those with police backgrounds. Following from this then, do those with a police background not merit cautions? Food for thought.

As I mentioned before, this is a clear case of victimization. Had these cautions been administered by any other senior officer would he have lodged this accusation? I don't think so, this is just what I asked him to do on a particular task [evidenced in the [redacted]], put more meat on the bone. He is trying to throw anything at me to cloud the real issue at hand. This sergeant has a problem of being challenged and asked to account for himself.

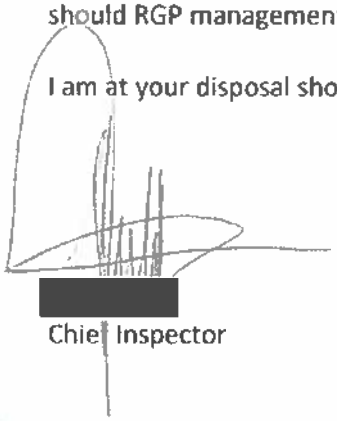
At the writing of this report, I have just been contacted by a sergeant seeking my views to caution two persons for a small amount of MDMA. I specifically asked him if they had a police background as this is relevant to this report, his answer was no. I will be meeting the sergeant to discuss the details of the arrest and see if they merit the caution.

Rest assured this will not end here. He likes getting his way and when he doesn't he will challenge those in authority.

I respectfully request that seeing that you will be seeking advice from the Director of Public Prosecution you enquire on my behalf of what recourse I may have. I am contemplating legal

action as this is a clearly vindictive towards me and I do not take lightly the accusation made by this young and inexperienced sergeant. I can't accept this and in my humble opinion neither should RGP management.

I am at your disposal should you require anything else.



[redacted]

Chief Inspector

The Attorney General
HM Government of Gibraltar

Dr J Britto
Chairman
Gibraltar Police Authority
Unit 25B Casemates
Casemates Square
Gibraltar

30 September 2019

Dear Sir

RE: ALLEGATIONS MADE BY POLICE SERGEANT No. 8 [redacted]

I refer you to the above-described matter. I have now had an opportunity to peruse the documents forwarded to me by yourself and consider whether these support the allegations made by PS [redacted] against Chief Inspector [redacted] Both officers are members of the Royal Gibraltar Police.

Background

PS [redacted] submitted a report on 9 August 2019 to Superintendent [redacted] and Assistant Commissioner [redacted], alleging that on two separate occasions CI [redacted] committed the offence of "Misconduct in a Public Office" when applying a caution in respect of two individuals for the offence of possession of drugs. These two individuals, [redacted] and [redacted] are the sons of retired police officers. PS [redacted] alleges that CI [redacted] abused his authority and discretion when deciding to caution rather than charge these two for the offences committed.

In reviewing the decision to caution rather than to charge Mr [redacted] and Mr [redacted] I have taken into account the following documents:

1. Report submitted by PS [redacted] to Assistance Commissioner [redacted] and Superintendent [redacted].
2. Witness Statement of PS [redacted]
3. List of Exhibits by PS [redacted]
4. Grievance submitted by PS [redacted]
5. Report by CI [redacted]
6. Email thread between CI [redacted] Inspector [redacted] and Inspector [redacted]
7. Extracts from Superintendent [redacted] and Commissioner of Police Daybook

8. Caution by Police for years 2018/19 and April-September 2019

9. Royal Gibraltar Police Cautioning Policy

Mr [redacted] was arrested on 28 July 2019 for possession of 70g of Cannabis Resin. It appears that other than the fact that 70g is a larger amount than is usually found on a consumer, there appears to be nothing else to suggest that Mr [redacted] was involved in supplying drugs. No scales, list or other drugs paraphernalia was found. Furthermore, Mr [redacted] came well within the cautioning criteria as set out in the Royal Gibraltar Police Cautioning Policy. He had no previous convictions and he admitted the offence. The quantity itself, although not small, is not an amount which on its own would allow one to infer that it must have been intended to supply. Furthermore, if convicted, it is unlikely to have attracted a significant sentence.

In light of the above, I am of the opinion that the decision to caution Mr [redacted] cannot be seen as unreasonable or indeed an abuse of the discretion to caution. As such, CI [redacted] actions cannot, to a criminal standard, be described as "misconduct in a public office".

It is also of note that CI [redacted] decision was referred to senior management before it was executed, who endorsed his actions.

In the matter of Mr [redacted] it is clear from the correspondence that the decision itself was taken by the Commissioner of Police. Consequently, the allegations against CI [redacted] that his decision to caution Mr [redacted] constituted the offence of "misconduct in a public office" fails at its first hurdle. Mr [redacted] was arrested on 30 June 2018 for possession of MDMA, a Class A drug. Again, other than the drugs, nothing else was found in his possession and there is no suggestion he was involved in the supply of drugs.

As before, the decision itself falls within the parameters as set out by the Royal Gibraltar Police Cautioning Policy. This allows for a caution to be administered even for a Class A drug. To note, Mr [redacted] had no previous convictions, and admitted the offence. The amount was small and unlikely to attract a significant sentence. The decision to caution is not an abuse of the discretion to caution a Defendant, and so cannot attract a charge of "misconduct in a public office".

Should you wish to discuss the above any further please do not hesitate to contact me.

Yours faithfully,

Michael Llamas QC
H.M. Attorney General for Gibraltar

GIBRALTAR POLICE AUTHORITY
(The Community in Policing)

October 1st 2019

Dear Commissioner,

Re: Allegations against CI [redacted] by PS [redacted]

I have sought legal advice from HMGoG's Attorney General on this matter given the seriousness of the allegations directed against CI [redacted]

I am happy to confirm that none of the actions taken by CI [redacted] as described in PS [redacted] submissions, can be construed as 'Misconduct in Public Office', given that CI [redacted] acted in accordance with the RGP's current Cautioning Policy.

I can also confirm that the advice I have obtained also serves to affirms that no crime has been committed either by CI [redacted] or anybody else within the RGP, in relation to the cautioning of the individuals mentioned in the allegations.

Please do not hesitate to contact me should you require any further information or clarification.

Yours

Dr J J Britto
Chair
Gibraltar Police Authority

Encs: Letter to GPA from AG

Unit 25B Casemates Square, Gibraltar
Tel: (+350) 20040918, E-mail: secretary@gpa.gi

COMMISSIONS OF INQUIRY ACT

RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

ISSUE OF COMMISSION

Attached is the Appendix marked "Appendix B" referred to in the Sworn Witness Statement of Dr Joey Britto sworn this 13th day of May 2022 and supplemented by the Second, Third and Fourth Witness Statements of Dr Joey Britto sworn on 29th June 2023, 06th July 2023 and 12th March 2024 respectively.

Before me

COMMISSIONER FOR OATHS

KYRA CERISOLA
COMMISSIONER FOR OATHS
GIBRALTAR

COMMISSIONS OF INQUIRY ACT

RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

ISSUE OF COMMISSION

APPENDIX B
LIST OF DOCUMENTS

DOC No.	DATE	DOCUMENT TYPE	DESCRIPTION	EXHIBITED (Yes[Y] /No [N])
1	19 February 2020	EMAIL	Email from Mr N Pyle (Interim Governor) to Dr Britto	Y
2	16 May 2020	EMAIL	Email from Interim Governor to Dr Britto	Y
3	18 May 2020	TYPED DOCUMENT	Informal Note of 18 May 2020 Meeting	Y
4	21 May 2020	MINUTE	GPA Meeting	Y
5	22 May 2020	LETTER	First Letter from GPA to Mr McGrail	Y
6	22 May 2020	LETTER	Second Letter from GPA to Mr McGrail	Y
7	22 May 2020	EMAIL	Email from Dr Britto to Mr McGrail	Y
8	29 May 2020	LETTER	Charles Gomez & Co to Dr Britto	Y
9	29 May 2020	EMAIL	Charles Gomez & Co (Nicholas Gomez) to Dr Britto	Y

			& acknowledgment from Dr Britto	
10	01 June 2020	MINUTE	GPA Meeting	Y
11	01 June 2020	EMAIL	Email from Dr Britto to Attorney General, Mr Michael Llamas Q.C	Y
12	03 June 2020	EMAIL/LETTER	Covering email and letter from Interim Governor to Dr Britto	Y
13	05 June 2020	EMAIL/LETTER	Covering email and letter from Attorney General to Dr Britto	Y
14	05 June 2020	LETTER	Letter from Chief Minister to Dr Britto	Y
15	05 June 2020	LETTER	Letter TSN to Charles Gomez & Co	Y
16	05 June 2020	EMAIL	Email from Charles Gomez & Co to Mr James Neish Q.C of TSN	Y
17	05 June 2020	LETTER	Letter from GPA to Interim Governor	Y
18	05 June 2020	LETTER	Letter from GPA to Chief Minister	Y
19	08 June 2020	EMAIL	Email from Chief Secretary	Y
20	09 June 2020	PUBLIC STATEMENT	GPA statement	Y
21	04 February 2022	LEGAL NOTICE	Legal Notice LN. 2022/034	N
22	04 February 2022	LETTER	Charles Gomez & Co Letter addressed personally to Dr Britto	Y
23	17 February 2022	LETTER	TSN to Charles Gomez & Co	Y
24	04 April 2022	LETTER	Attias & Levy letter to Dr Britto	N

25	07 August 2019	EMAIL	Email from Mr McGrail to Dr Britto attaching copy of his email to the Chief Secretary, Darren Grech of 24th July 2019	Y
26	04/05 February 2020	EMAIL/LETTER	Email from Mr McGrail dated 4th February 2020 to Dr Britto attaching copy of letter from him to Dr Britto dated 5th February 2020 (IM148)	Y
27	07 February 2020	EMAIL/LETTER	Email from Mr McGrail dated 7th February 2020 to Dr Britto attaching copy of letter from him to Dr Britto dated 7th February 2020 (IM150)	Y
28	06 July 2020	MINUTE	GPA Meeting	Y
29	03 July 2020	EMAIL	Copy of email dated 22nd June 2020 from Mr Maurice Morello to Dr Britto	Y
30	09 September 2019	EMAIL	Email from Mr Ian McGrail to Dr Joey Britto	Y
31	09 September 2019	LETTER	Letter from Mr Ian McGrail to GPA relating to allegations made by Police Sergeant No.8 [redacted]	Y
32	09 July 2018	NOTES	Extract of entry made in Superintendent [redacted] day book dated 9th July 2018	Y
33	01 May 2018	NOTES	Extract of entry made in Commissioner of	Y

			Police, Ian McGrail's day book dated 1st May 2018	
34	2018/2019	STATISTICS	Cautions Police Year 18/19	Y
35	February 2015	POLICY DOCUMENT	Cautioning Policy- Royal Gibraltar Police	Y
36	03 October 2019	EMAIL	Copy of email correspondence between Assistant Commissioner [redacted] and Police Sergeant [redacted]	Y
37	05 September 2019	EMAIL	Email from Dr Joey Britto to other members of the GPA copying emailed dated 30th August 2019 from Police Sergeant [redacted]	Y
38	02 October 2019	EMAIL	Email from Dr Joey Britto to other members of the GPA following Attorney General's advice	Y
39	09 August 2019	WITNESS STATEMENT	Witness statement of Police Sergeant No.8 [redacted] made to the Royal Gibraltar Police	Y
40	09 August 2019	REPORT	Report made by Police Sergeant [redacted] regarding Misconduct in Public Office & Perverting the Course of Justice	Y
41	30 August 2019	REPORT	Report by Chief Inspector [redacted] in respect of Police Sergeant [redacted] allegations	Y

42	30 September 2019	LEGAL OPINION	HM Attorney General's advice to the GPA in respect of Police Sergeant [redacted] allegations	Y
43	01 October 2019	LETTER	Letter from GPA to Commissioner of Police following receipt of HM Attorney General's advice	Y
44	06 February 2020	MINUTE	GPA meeting	Y
45	27 February 2020	MINUTE	GPA meeting	Y

DOC 44

MINUTES OF MEETING OF THE GIBRALTAR POLICE AUTHORITY HELD ON THURSDAY 6th FEBRUARY 2020 at 09:30 a.m.

Present:	Dr Joey Britto **(Ch)** Mr Ernest Gomez **(EG)** Ms Claire Pizarello **(CP)** Mr Julio Alcantara **(JA)** Mr Edgar Lavarello **(EL)** Miss Rebecca Figueras **(RF)** Ms Nadine Collado **(NC)** Mr Frank Carreras **(FC)** Mr Darren Grech **(DG)**	Chairman
In attendance:	Ms Elka Hanglin **(Sec)**	Secretary
Apologies:	Mr Nick Pyle **(NP)**	

Item	Discussion and Decisions	Action
Declarations of Interest	There was nothing to report on this matter.	
1. Item 1 – Approval of minutes of the meeting of 5th December 2019.	The minutes of the meeting held on 5th December were approved.	Sec
2. Item 2 – Matters arising from the minutes of meeting of the 5th December 2019.	**Item 3.3 – Community Engagement** The Ch informed the meeting that a total of 3004 survey responses had been received this year, compared to a total of 2960 responses received the previous year. The staff had distributed surveys by hand to Westside School, Bayside School and the College of further education. The responses are now in the process of being analysed. Once analysed, the Ch would liaise with Supt Ullger in order to reinforce what the Authority feels is of importance into the policing plan. The Ch asked the members to delve into their focus groups and see whether there were any specific observations or stances that should be included in the Policing Plan. RF mentioned that community policing is an issue that always seems to surface. As a result of this, the Ch suggested meeting with CI Nolan Romero.	Ch All members Elka to call CI Nolan Romero

		and seek his views, initially.
3. Item 3 – Sub-committees' Reports.	**1. Policing Plan/Annual Report** The Ch mentioned that the CoP should write a more elaborate introduction on the PP by putting everything into context in order to avoid people from having to dive straight in to 'dry' statistics. The Ch informed the meeting that the Policing Plan is a subset of the overall 3 year plan. The policing year is equal to the financial year. **2. Police Complaints Board** FC read his report to the meeting. It was as follows: In 2019, a total of 24 complaints were received. Most were based on abuse of authority on part of the police officers. Of these 24, 8 complaints were not sustained, one was sustained, 3 were withdrawn, and 4 were subjudice. Currently, there are 8 ongoing cases of which two have requested for a review. One of them has been submitted back to the investigating team for review to see if what the complainant provides as new evidence has any bearing on their decision. One complaint is currently on hold as there is a criminal investigation carried out by the police. In 2020, there are currently 3 ongoing complaints on abuse of authority. One of the complaints was made over 3 years ago. However it has been decided to take on the complaint due to an error on part of the staff when writing out his email address. This complainant proved to be aggressive with the staff. As a result of the above, the staff is liaising with CI Perez and is now in the process of installing panic buttons in the office. **3. Community Engagement** It was agreed that changes to the survey should be implemented for next year, specifically on the type of questions being asked. NC and RF volunteered to suggest changes and then circulate to all members for their views and comments. Views on the current website were also sought from members given Chair not happy with the present one.	Sec NC & RF

	4. Financial Control EL presented the figures for December 2019. EL mentioned that there were little differences in the accounts which were over budget compared to those of the month before. The largest over budget spend was in overtime. This was as a result of additional operational matters such as ad hoc emergencies and organised events such as the GMF and GFA. JA asked whether the RGP were compensated for these organised events and EL confirmed that they were but that the income would be posted by Treasury into another head. JA wanted to know why the income was not married to the expense and shown in this report and EG replied that that would require the RGP to have a devolved budget which was a step too far for GOG. Other smaller accounts which were also over budget were briefly discussed but EL explained that they were the same accounts that were over budget the previous month. EL mentioned that HMIC had taken two years to submit the invoice from the last inspection held in 2015. Consequently, funds for the inspection held in 2019 would be added into the GPA's budget for 2020/2021. Next financial year's estimates to include funding for HMIC **5. HR/Training/Professional Standards.** Nothing to report on this matter. **6. Legislation/GPA Procedures** **Legislation** Nothing to report on this matter.	
5. Item 5 – Any other Business	**Panorama** The Ch informed the meeting that the Panorama had submitted questions to the secretary asking the ins and outs of the GPA. The Authority speculated that Panorama's source is the GPA's website which hasn't been updated in a while. The Authority agreed not to reply to their questions.	Ch

	Meeting with GPF & CoP The Ch gave an overview of the situation between the GPF and the RGP. He mentioned that he had asked the GPF for a policy based on the dignity at work, however the GPA would have to be the appellant body. The Ch suggested that the Authority should advise the CoP to seek guidance on how federations in the UK function. He also suggested advising the CoP to take a step back on the proposed disciplinary action against the GPF. However, the Authority will listen to his views on the matter at the meeting at 10:30 a.m.	
6. Item 6 – Confirmation of next meeting	The next meeting will take place on Thursday 27th February 2020 at 9:30a.m.	Sec

The CoP joined the meeting and explained the situation between the GPF and the RGP. The meeting ended with the CoP agreeing to go down the route of mediation and review.

DOC 45

MINUTES OF MEETING OF THE GIBRALTAR POLICE AUTHORITY HELD ON THURSDAY 27th FEBRUARY 2020 at 09:30 a.m.

Present:	Dr Joey Britto **(Ch)** Mr Ernest Gomez **(EG)** Ms Claire Pizarello **(CP)** Miss Rebecca Figueras **(RF)** Ms Nadine Collado **(NC)** Mr Frank Carreras **(FC)**	Chairman
In attendance:	Ms Elka Hanglin **(Sec)**	Secretary
Apologies:	Mr Darren Grech **(DG)** Mr Julio Alcantara **(JA)** Mr Edgar Lavarello **(EL)** Mr Nick Pyle **(NP)**	

Item	Discussion and Decisions	Action
Declarations of Interest	RF declared that her partner was applying for the RGP. RF would not be in a position to comment on any documents circulated in relation to his application or volunteer to be part of the recruitment board.	
1. Item 1 – Approval of minutes of the meeting of 6th February 2019.	The minutes of the meeting held on 6th February were approved.	Sec
2. Item 2 – Matters arising from the minutes of meeting of the 6th February 2019.	Matters arising were discussed under Item 3 – Sub-committee Reports.	
3. Item 3 – Sub-committees' Reports.	**1. Policing Plan/Annual Report** The Ch informed the meeting that he had received the first draft of the policing plan from AC Richard Ullger. AC Ullger had informed the Ch that the policing plan was not too different from the previous year, except that the RGP are now using a new risk assessment methodology as used in the UK. The Ch informed the meeting that the CoP and the AC had both received the survey results at the same time as the Authority.	

	The Ch will ensure that the main trends emerging from the public consultation survey are reflected in the Plan. The Ch will circulate once finalised.	Ch
	2. Police Complaints Board	
	The Ch informed the meeting that he had communicated to the CoP that every person going to the RGP to make a complaint were being redirected to the PCB, regardless of the nature of the complaint. It was noted that there is no current protocol outlining a 'threshold' as to the type of complaints that should be directed at the PCB and which ones should really be addressed directly by the RGP. The Ch informed the meeting that he had checked the Policing College website for information on how policing works in the UK – UK forces tend to deal with complaints of a more minor nature themselves – it was noted that the PCB seem to deal with ALL complaints against police officers. The Ch informed the meeting that a high percentage of the public believe that the Authority is part of the RGP. Even the GPA logo closely resembles that of the RGP. FC informed the meeting that he and the Ch had met with senior command of the RGP to discuss a number of issues and concerns arising from a number of complaints which could subsequently affect the results of the PCB's investigations. FC referred to one complaint where the incriminated officer refused to give a statement. However, there is provision in the law to allow an officer not to give a report. The CoP had informed FC at the meeting that if a similar incidence were to occur in the future, the PCB should side with the complainant. However, FC did not think it was fair to do that. FC mentioned that findings of the board are now being questioned by a lot of the complainants. This has happened on two occasions. The latest complainant was informed that his complaint in relation to his assault was time barred and thus could not be investigated. However, the PCB did investigate why it had taken the RGP so long to investigate the assault. FC would draft a letter informing the complainant that his complaint in relation to his assault does not come under the remit of the PCB and his complaint should be directed to the RGP. It was agreed that complaints where the PCB feel can be resolved face to face will be directed to the RGP. FC reported that there were 8 ongoing cases from 2019 and 3 ongoing cases in 2020. One complaint was withdrawn by the complainant.	FC

	3. Community Engagement The Ch, NC and RF met on Monday to review the questions on the current public consultation survey. The Ch tabled the reviewed survey and mentioned that many of the questions were repeated and meaningless. Questions were amended to reflect more of what the police does on a day to day basis. Data will consequently be more relevant to policing. The Sec would circulate the reviewed changes to all members. The Ch informed the meeting that he had seen the revised RGP website and stated that it was excellent and contained a lot of information for the community. The Ch informed GPA that he was working on minor changes to the wording of the ACT to ensure a) that the reality of what the GPA actually does is better reflected and b) that the evolution of the RGP, in terms of its responsibilities towards 'community engagement' are also better reflected. The Ch mentioned, as an example, that whereas the Act expects the GPA to keep the public informed of policing issues, it was actually the RGP that is currently doing this. He also pointed out that this approach made more sense. Chief Insp Nolan Romero joined at the request of the GPA to assist in gaining a better understanding of the work that the RGP does within the wider community and to inform the GPA about the means by which the RGP interacts with the community. This proved to be a very useful and informative exercise. The GPA then discussed (with CI Romero) different ways and means to ensure that the general public is kept informed about the good work the RGP does in this respect. **4. Financial Control** Nothing to report. **5. HR/Training/Professional Standards.** Nothing to report. **6. Legislation/GPA Procedures** Nothing to report.	Sec Sec

5. Item 5 – Any other Business	**Recent Press article(s)** Recent press 'coverage' of the GPA and RGP was discussed. GPA would continue to monitor but it was, again, decided that it was best not to respond.	
6. Item 6 – Confirmation of next meeting	The next meeting will take place on Thursday 9th April 2020 at 9:30a.m.	Sec

Francis Carreras OBE
In his capacity as member of the Gibraltar Police Authority
and Chairman of the Police Complaints Board
2nd Witness Statement
Exhibit FC1
Index
Dated 9 March 2023

COMMISSIONS OF INQUIRY ACT

RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

ISSUE OF COMMISSION

Attached is an Index of the documents annexed hereto marked exhibit "FC1" referred to in the Sworn Second Witness Statement of Francis Carreras OBE sworn this 9th day of March 2023.

Before me

COMMISSIONER FOR OATHS

SIAN I. SANTOS
COMMISSIONER FOR OATHS
GIBRALTAR

COMMISSIONS OF INQUIRY ACT

RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

ISSUE OF COMMISSION

EXHIBIT FC1

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DOC 1

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Our Ref: CS/ST/
Your Ref:

16 February 2023

For the attention of Mr Francis Carreras

Gibraltar Police Authority
C/O TSN
Burns House
19 Town Range
Gibraltar

BY EMAIL ONLY:
jn@tsnlaw.com
sdanino@tsnlaw.com

Dear Sirs,

Re: Inquiry into the Retirement of the Former Commissioner of Police ("the Inquiry") – Mr Francis Carreras

We are grateful for the witness statement provided to the Inquiry by your client, Mr Frank Carreras, in response to the Inquiry's request for evidence from several past and present members of the Gibraltar Police Authority dated 23 September 2022. We repeat the information set out in that letter as to the Inquiry's remit and evidence gathering powers.

According to paragraph 1 of Mr Carreras's statement, it was made in his capacity as a member of the Gibraltar Police Authority. However, as he notes in paragraph 10, Mr Carreras also held the role of Chairman of the Police Complaints Board ("**PCB**") during the relevant period. It appears that he remains in this role.[1]

We therefore request that Mr Carreras provides:

1. A further statement under oath addressing the following questions:

    a. In paragraph 10, Mr Carreras describes receiving complaints from two individuals about Mr McGrail's handling of the Airport Incident. Were these complaints and/or the outcome that "*the PCB did not find that Mr McGrail had abused his authority*" communicated to anyone outside the Police Complaints Board, including but not limited to Mr Nick Pyle, Mr Michael Llamas or Mr Fabian Picardo?

[1] http://www.gpa.gi/police-complaints-board.html

b. In paragraph 21, Mr Carreras states that he is "*not aware of any allegations or complaints made in respect of bullying and/or intimidation by Mr McGrail*". Please confirm whether this statement is intended to refer to complaints made to the GPA, or whether it is also Mr Carreras's evidence that no complaints of this nature were made to the Police Complaints Board.

c. Were any further complaints received by the Police Complaints Board in respect of Mr McGrail's involvement in any of the following matters, as defined in the Inquiry's Provisional List of Issues:[2]

   i. The Assault Investigation;
   ii. The Incident at Sea;
   iii. The HMIC Report;
   iv. The Conspiracy Investigation and/or Search Warrants;
   v. The Federation Complaints; or
   vi. The Alcaidesa Claims.

d. If yes, were any of these complaints and/or the outcome of any investigation communicated to anyone outside the Police Complaints Board, including but not limited to Mr Nick Pyle, Mr Michael Llamas or Mr Fabian Picardo?

2. Any documents or communications (including but not limited to electronic communications such as emails, word documents, PDFs and SMS, WhatsApp or other instant messages) in your possession or control relevant to the matters in paragraph 1 above. Please note that all electronic documents are to be provided in their native format with the original metadata preserved.

Please provide us with the requested statement and documents by **2 March 2023** (**'the Deadline'**) We would be willing to consider reasonable requests for additional time, if so required.

In the meantime, if you have any queries or concerns please do not hesitate to contact us.

Yours faithfully

TRIAY.

Triay Lawyers

[2] https://coircomp.gi/wp-content/uploads/2022/09/Provisional-List-of-Issues-22.09.22.pdf

DOC 2

ROYAL GIBRALTAR POLICE

WARRANT TO ENTER AND SEARCH PREMISES FOR EVIDENCE OF AN OFFENCE

(Section 19 Criminal Procedure and Evidence Act 2011)

COPY

Day/Date 24th February 2017 On this day an application supported by an information was made by Det. Superintendent Ian McGrail (Applicant name) for:

[X] The issue of a Search Warrant under Section 19 of the Criminal Procedure and Evidence Act 2011, OR

[ ] The issue of a Search Warrant under the following authority:

Section [ ] of the [ ] Act

to enter the premises situated at:

Joint Provost Security Unit, Gun Wharf

and search for: (briefly as to re premises the material sought)

Mobile phones, data storage media devices, day books, pocket books from all personnel involved in the investigation instigated by JPSU on Timothy Watterson and any other documentation or other items in relation to this mentioned investigation

Name of person subject to Warrant: Chris COLLINS Provost Marshal Gibraltar

There are NO reasonable grounds to believe the material to be sought consists of or includes items subject to legal privilege or (if this warrant is signed by a Magistrate) consists of or includes excluded material or special procedure material.

Authority is hereby given for any constable, accompanied by such other person or persons as are necessary for the purpose of the search, to enter the said premises within ONE MONTH from the date of issue of this warrant and to search for the material in respect of which the application is made.

Date 24/2/17 Time 0910 Signature

TO BE COMPLETED BY THE OFFICER IN CHARGE OF THE SEARCH:

Officer in charge of the Search (name and rank)

Time / Date Signature

NOTE:
Before the execution of this warrant, a Photocopy of the FRONT PAGE ONLY of the warrant will be made. This will serve as the "Copy for the Occupier of the premises entered", and will be handed to the occupier or person in charge of the premises when the warrant is executed (s.20(4) CPE) together with a copy of the "Statutory Powers of Police to Search and Rights of Occupiers"

Other Notes and Additional information overleaf

ENDORSEMENT

The contents of this document will be processed in strict compliance with the Royal Gibraltar Police's policy on Data Protection, which has been compiled in accordance with the provisions of the Data Protection Act 2004

3

ROYAL GIBRALTAR POLICE

STATUTORY POWERS OF POLICE TO SEARCH PREMISES AND THE RIGHTS OF OCCUPIERS

THE OCCUPIER SHOULD KEEP THIS FORM IN A SAFE PLACE IN CASE IT IS NEEDED FOR FUTURE REFERENCE. THE STATUTORY POWERS TO SEARCH PREMISES AND OF THE RIGHTS OF OCCUPIERS ARE SUMMARISED BELOW

SUMMARY OF POWERS OF SEARCH UNDER THE CRIMINAL PROCEDURE AND EVIDENCE ACT 2011

Statutory Powers: The following summaries are taken from the Sections shown

1. **Section 21 (Entry for purposes of arrest, etc):** A Police Officer may enter and search any premises for the purpose of
   a) Executing a warrant of arrest issued in connection with or arising out of criminal proceedings / or a warrant of commitment issued under Section 53 of the Magistrates' Courts Act 1980;
   b) Arresting a person for an indictable offence; or
   c) Arresting a person for an offence under Section 79 of the Crimes Act 2011 (Prohibition of uniforms in connection with political objects), Sections 332, 333, 339, 340 or 341 of the Crimes Act 2011 (Offences relating to trespass on property), Section 53(3) of the Traffic Act 2011 (Failure to stop when required to do so by a Police Officer in uniform), and Section 62 of the Traffic Act 2011 (Driving, or being in charge, when under the influence of drink or drugs);
   d) Arresting any juvenile who has been remanded or detained under this Act;
   e) Recapturing a person who is or is deemed for any purpose to be, unlawfully at large while liable to be detained in a prison or other place of detention;
   f) Recapturing a person who is unlawfully at large and whom the officer is pursuing; or
   g) Preventing death or personal injury or serious damage to property.
2. **Section 22(1) (Entry and Search after arrest – Inspector's PRIOR written authority required):** A Police Officer may enter and search any premises occupied or controlled by a person under arrest for an indictable offence, if he has reasonable grounds for suspecting there is on the premises evidence, other than items subject to legal privilege, that relates to that offence or to some other indictable offence connected with or similar to that offence. Except as provided by Section 22(5) (below), no search may take place under the Section unless an officer of the rank of Inspector or above has given written authority.
3. **Section 22(3) (Entry and Search after arrest – Inspector's prior authority not required but MUST be authorised as soon as practicable after search):** A Police Officer may conduct a search as shown in paragraph 2 above without obtaining the written authority of an Inspector if above where the arrested person has not yet been taken to the Police Station and he/she considers it necessary elsewhere for the effective investigation of the offence.
4. **Section 94(2)(b) (Search upon arrest):** Where a person has been arrested for an indictable offence at a place other than a Police Station, Police Officer shall have the power to enter and search any premises in which he was when arrested, or immediately before he was arrested, for evidence relating to the offence for which he has been arrested.
5. **Reasonable Force:** In the exercise of a power to search premises, Police may use reasonable force to enter the premises and carry out the search.
6. **With Consent:** A Police Officer may enter and search any premises with the written consent of a person entitled to grant entry to the premises.

SUMMARY OF POWERS OF SEIZURE UNDER THE CRIMINAL PROCEDURE AND EVIDENCE ACT 2011

1. Where a Police Officer is searching premises under the powers conferred by Section 22, he may seize and retain evidence relating to the indictable offence for which the person is under arrest or evidence relating to another indictable offence connected with or similar to the indictable offence by which the person is under arrest.
2. Where a Police Officer is lawfully on premises, he may seize anything which he has reasonable grounds for believing
   a) Has been obtained in consequence of an offence and that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed; or
   b) Is evidence in relation to an offence which he is investigating, or any other, being concealed, lost, altered or destroyed.
3. Instead of seizing property, an officer may require that the holder of the property retains it. If the holder then disposes, alters or destroys it, he may be liable to civil or criminal proceedings (Para. 7.4 of Code B - Codes of Practice).
4. Normally, no item may be seized which is subject to legal privilege (as defined in Section 14) (Para. 7.2 of Code B - Codes of Practice). There are however some exceptions to this rule (e.g. when powers are exercised under Sections 23 to 40 of the Criminal Procedure and Evidence Act 2011).
5. An officer may photograph or copy, or have photographed or copied, any document which he has the power to seize (Para. 7.8 of Code B - Codes of Practice).
6. Where information is held on a computer, an officer may require it to be produced in a legible form so that it can be taken away (Para. 7.6 of Code B - Codes of Practice).

RIGHTS OF THE OCCUPIER / OWNER OF PROPERTY

1. **General:** Searches must be made at a reasonable hour unless the might frustrate the purpose of the search (Para. 6.2 of Code B - Codes of Practice). If any of your property is kept by the Police, you are entitled, on request, to be provided with a list or description of the property within a reasonable time (Para. 7.10 of Code B - Codes of Practice). If you wish, you, or your representative will be allowed supervised access to your property so that you can examine it or have it photographed or copied. Alternatively you may be provided with a photograph or copy in other cases you are responsible for the costs. Access, etc. will not be allowed if the officer in charge of an investigation believes that this would prejudice the investigation of an offence or any criminal proceedings (Para. 7.11 of Code B - Codes of Practice).
2. **Search Warrant:** A copy of the warrant should, if practicable, be given to the occupier before the search begins (Para. 5.8 of Code B - Codes of Practice). If the occupier is not present, copies of the warrant and the items should be left in a prominent place (Para. 5.8 of Code B - Codes of Practice).
3. **Search with Consent:** Consent to a search must be given in writing (Para. 5.1 of Code B - Codes of Practice). Consent must not be obtained under duress (Para. 5.3 of Code B - Codes of Practice). Where consent is withdrawn before the search is completed, the search must stop (Para. 5.3 of Code B - Codes of Practice). If you reside in a lodging house or similar accommodation, your landlord can consent to your room (or rooms) being searched if you are unavailable at the time and the matter is urgent (Note for Guidance 5A to Code B - Codes of Practice).
4. **Compensation for Damage:** Compensation may be payable in appropriate cases for damage caused in entering and searching premises. An application for compensation may be made in writing to: The Commissioner of Police, Police Headquarters, New Mole House Police Station, Gibraltar.
5. **Codes of Practice:** A copy of the "Code of Practice for the Searching of Premises by Police Officers and the Seizure of Property found by Police Officers on Persons or Premises" - Code B, is available for you to consult at any Police Station. This Notice is a summary only of the main provisions of the Code, which should be consulted if you require further details (Para. 1.1(a) of Code B - Codes of Practice).

The contents of this document will be processed in strict compliance with the Royal Gibraltar Police's policy on Data Protection, which has been amended in accordance with the provisions of the Data Protection Act 2004.

DOC 3

Police Complaints Board, Complaint against an RGP Officer(s)

[redacted]

Details:

Name: Sgt Scott John O'Malley, Royal Air Force Police, Joint Provost and Security Unit (JPSU)

[redacted]

Who:

Police Officer details:
Commissioner of Police, Ian McGrail, RGP – Applied for warrant and was senior investigator.
Detective Chief Inspector, Wayne Tunbridge, RGP – Executed the warrant on the day in question.

Where:

JPSU offices, Gunwharf, HM Naval Base

[redacted]

When:

1 Mar 17, 1400 – 1540

What:

Who was involved?
Sgt Scott O'Malley
MAA Claire Bell
FS Al Macdonald
Cpl Leanne Buehling

What:

DCI Tunbridge acted outside the remit of the warrant that was served on JPSU by seizing my personal devices from my home address, neither I or my home address were specified on the warrant, I did not consent verbally or in writing to this, he breached both the human rights act (Article 8) in relation to the above named people involved and also Para 5.3 of Code B – Codes of Practice. I also believe I was unlawfully detained for a period of time at JPSU and also within my own house whilst my personal items were being seized.

Witnesses:

Sgt Rebecca Kinsey, Nurse, PRMC.
[redacted] wife of Sgt Scott O'Malley · [redacted] daughter of Sgt and Mrs O'Malley.

Damage/injury:

No damage, no physical injury. Emotional injury: [redacted]

Précis of events:

On 1 Mar 17 it is my belief that the RGP clearly acted outside the extent of a Warrant that was served upon my place of work, taking personnel either to their private motor vehicles, private home addresses or private living Accommodation to make various seizures of Private Mobile phones and other articles. It is my belief that the RGP had no lawful authority to seize private mobile phones and unlawfully and illegally entered private premises and vehicles to seize such items.

The RGP were acting under a warrant that legally entitled them to enter premises situated at Joint Provost Security Unit, Gun Wharf, and upon Sqn Ldr Chris Collins whom was not present at the scene. – it does not extend to the RGP escorting Mrs Bell to a private motor vehicle to seize an article, it did not extend to RGP escorting Mr McDonald to his private motor vehicle, in order to seize his private mobile phone, it did not extend to the RGP escorting me to my family home at [redacted] and entering those premises, to seize my private mobile phone and it did not extend to the RGP escorting Miss Buehling to her private living accommodation at Devils Tower Camp, entering those premises and seizing her private mobile phone. I also contend that such an escort in these circumstances amounts to an infringement of our liberty and of our free movement and could be considered as an unlawful 'detention' under such circumstances.

More broadly under civil terms RGP officers have breached the human rights of all of us citing this complaint under Article 5/7/8 of European Court of Human Rights (ECHR) and Article 7/8, Human Rights Act (HRA) 1998. I was never under arrest however; personal mobile phones were seized thereby breaching any rights to privacy.

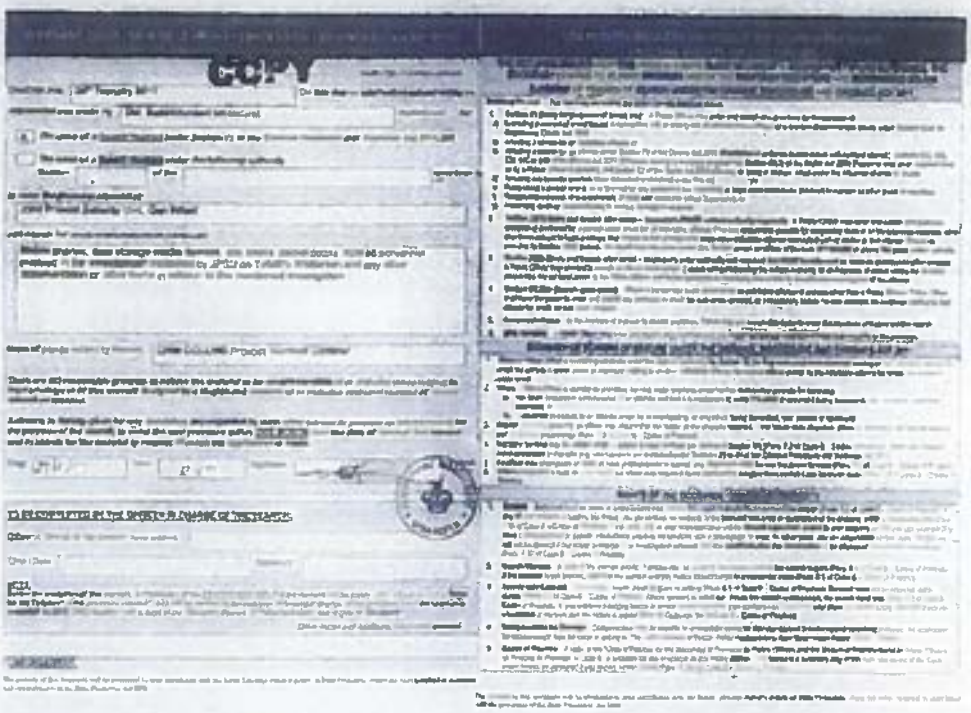
Finally, to end, we would like to complain about the unprofessional way the search was actually conducted. The RGP did not wear any PPE, not even the minimum of a pair of gloves were worn, no photographs were taken of the articles prior to them being seized and more disturbingly, no information was ever sought regarding the occupants of a private home addresses which included my wife and [redacted] daughter. No justification was ever given on what articles were seized or not seized. No Explanation was ever given to us regarding the powers used to seize or retain such articles.

Below is an accurate précis of the events that occurred on 1 Mar 17 and a copy of the warrant served.

At approximately 1340 on 21 Mar 17, Mrs Claire Bell received a T/C from DCI Wayne Tunbridge who stated she was required to attend the Joint Provost and Security Unit (JPSU) at Her Majesty's Naval Base Gibraltar, she was instructed to round up her team and that he had a Warrant to conduct a search of JPSU and that he would explain further upon her arrival. He said he would not enter until her arrival.

At 1400, upon request of the RGP, I escorted the RGP into JPSU offices. DCI W Tunbridge, RGP spoke to me when they were interrupted by another RGP officer who stated "has the Warrant been served?" to which DI Tunbridge stated "yes".

The warrant was applied for by Det Sup McGrail on 24 Feb 17 and signed by the magistrate on 27 Feb 17 at 1220. The name of the person subject to the warrant was Chris COLLINS Provost Marshal Gibraltar. It stated the warrant was to enter the premises situated at "Joint Provost Security Unit, Gun Wharf" and search for "Mobile Phones, data storage media devices, day books, pocket books from all personnel involved in the investigation instigated by JPSU on Timothy Watterson and any other documentation or other items in relation to this mentioned investigation" I expressed at the time serious concerns about the legality and necessity of the warrant and expressed concerns about having to surrender my personal mobile device.



At 1405 Mrs Claire Bell, liaised with DCI Tunbridge. Again the Warrant was served on her she stated her disbelief and "you are just about to serve a warrant on another policing agency, can you at least speak with Deputy Provost Marshall (Navy) (DPM (N))?" DCI Tunbridge stated that a decision had come from higher and that he was serving the Warrant and that DPM (N) needed to speak with the Commissioner not him. Mrs Claire Bell signed and was given the copy of the warrant.

Both Mrs Bell and I continued to express concerns to DCI Tunbridge. He stated that the decision had come from higher up and was only acting on orders. He stated that he had no choice but to carry out the warrant. This statement did not seem very genuine.

At 1417, Mrs Bell was escorted out of JPSU offices to a vehicle which was parked outside JPSU, where they took possession of her Service Police Notebook. No warrant was produced to enter the vehicle. Mrs Bell was then escorted back into the JPSU building and at 1425; her private personal mobile device was seized, which contained personal information. Mrs Bell handed her mobile device over under duress and without consent either written or verbal. Mrs Bell expressed at the time serious concerns about the legality and necessity of the warrant and about having to surrender her personal mobile device, when she questioned the police officer at the time "why they are taking her personal phone" he replied "because they needed it".

At 1419, Mr A McDonald was escorted out of JPSU to his vehicle, which was parked outside JPSU, where they took possession of his personal mobile device, containing personal information. No warrant was produced to enter the vehicle. On completion of the search of Mr Macdonald's office he requested if he could leave as he had arranged to go in to Town with his wife. This request was denied by RGP who stated that they would rather remain until the search of JPSU was completed. Mr McDonald was not in arrest and his liberty was denied.

At 1515, I again spoke with DCI Tunbridge challenging the requirement to seize his personal phone, as I was not in arrest, I again expressed my concerns and the property they were demanding were at my home address [redacted]

DCI, Tunbridge stated that I would be escorted to his home address by an RGP officer and I was to hand them over there. At 1516, I departed JPSU in company with an RGP officer to produce my mobile phones. At 1538, I entered my home address, the RGP officer entered behind me uninvited and in front of my worried and distraught wife, [redacted] daughter, [redacted] upon request and in fear of being arrested I handed over under duress and without consent either written or verbal over, my mobile devices, duty mobile phone and service police notebook. The RGP officer did not identify himself, he did not show me his warrant card, he did not state the grounds for taking my property, he did not tell me what offence was being investigated or what part he believed I played in it, he did not explain what would happen to my property and did not give me a receipt for the property. I subsequently returned to JPSU. I was not in arrest at any time however during the course of their actions that day I believe that I had been unlawfully detained, against my will at least between the hours of 1400 and 1540 on Wed 1 Mar 17.

At 1600, Miss L Buehling was escorted out of JPSU and escorted by RGP to her living accommodating at Devil Tower Camp, (DTC) in order to surrender her personnel mobile device, which contained personal date. Miss Buehling expressed her concerns at the time even stating "she did not want to hand over her personal phone" but she was informed by RGP that "she had to". She handed over her phone without consent either written or verbally and under duress. Miss Buehling subsequently returned to JPSU. Miss Buehling was not in arrest.

I make my complaint on two primary grounds but with each amounting to various breaches namely:

1. The RGP have no lawful authority to seize private mobile phones and have unlawfully and illegally entered private premises by which to seize such articles. The RGP were acting under a warrant that legally entitles them to enter premises situated at Joint Provost Security Unit, Gun Wharf – it does not extend to the RGP escorting me to my SFA at Europa Point entering those premises and it did not extend to the RGP escorting Cpl Buehling to her SLA at DTC and seizing her private mobile phone. I also contend that such an escort in these circumstances amounts to an infringement of liberty and of their free movement and could be considered as an unlawful 'detention' under such circumstances.

2. More broadly under civil terms RGP officers have breached the human rights of JPSU staff under Article7/8 of ECHR and Article 7/8, HRA 1998. MAA Bell, FSgt Macdonald, Cpl Buehling and I were not arrested however personal mobile phones were seized thereby breaching any rights to privacy, correspondence, letters, telephone calls and emails etc. I would like this matter to be investigated and receive advice on under what legislation the RGP can interrogate my phone and the admissibility of any material obtained by such an intrusive interrogation of personal data.

There is a delay in this complaint which is due to having been promised an independent review of the whole investigation. I have recently been informed will now not take place, the request of my Chain of Command to wait due to on-going legislation with GoG and MOD that could be impacted by this complaint and the perceived threat of low-level on-going harassment from the RGP for the remainder of my time here in Gibraltar, which thankfully is now coming to an end. I still wish this complaint to be pursued for my own sanity, health and wellbeing and also to get closure for what has been a very difficult and stressful two and a half years.

Finally, we have heard that the investigation is not formally closed, the Chief of Police has threatened to reopen the case at any time and that I may have been part of this wider investigation to that end, in line with the Subject Access Request, I wish to know what information the RGP hold on me.

I give my consent for you to pass the information contained on the letter to the professional standards department of the RGP on connection with the investigation of this complaint.

Signed: SO'MALLEY Date: 19-Aug-19

DOC 4

Police Complaints Board, Complaint against an RGP Officer(s)

[redacted]

Details:

Name: Mrs C L Bell. Royal Navy Police

[redacted]

Who:

Police Officer details:
Commissioner of Police, Ian McGrail, RGP – Applied for warrant and was senior investigator.
Detective Chief Inspector, Wayne Tunbridge, RGP – Executed the warrant on the day in question.

Where:

JPSU offices, Gunwharf, HM Naval Base
Private Motor Vehicle (PMV) (Mr Macdonald).

When:

1 Mar 17, 1400 – 1540

What:

Who was involved?
Mrs Claire Bell
Mr Scott O'Malley
Mr Al Macdonald
Mrs Leanne Buehling

What:

DCI Tunbridge acted outside the remit of the warrant that was served on JPSU by seizing articles namely my Service Police Notebook from a PMV belonging which belonged to Mr Macdonald, neither I or the PMV were specified on the warrant, I did not consent verbally or in writing to this, DCI Tunbridge breached both the human rights act (Article 8) in relation to the above named people involved and also Para 5.3 of Code B – Codes of Practice by seizing my private mobile telephone. I also believe I was unlawfully detained for a period of time at JPSU whilst my personal mobile telephone was being seized.

Witnesses:

Mr Scott O'Malley
Mr Al Macdonald
Miss Leanne Buehling

Damage/injury:

No damage (unsure if my personal mobile telephone has been interrogated by the RGP), no physical injury. Emotional injury: [redacted]

Précis of events:

On 1 Mar 17 it is my belief that the RGP clearly acted outside the extent of a Warrant that was served upon my place of work, taking personnel either to their private motor vehicles, private home addresses or private living Accommodation to make various seizures of Private Mobile phones and other articles. It is my belief that the RGP had no lawful authority to seize private mobile phones and unlawfully and illegally entered private premises and vehicles to seize such items.

The RGP were acting under a warrant that legally entitled them to enter premises situated at Joint Provost Security Unit, Gun Wharf, it did not extend to, the RGP escorting myself to a Private Motor Vehicle (PMV) to seize my private mobile telephone, it did not extend to RGP escorting Mr McDonald to his PMV, in order to seize his private mobile phone, it did not extend to the RGP escorting Mr O'Malley to his family home at [redacted] and entering those premises, to seize his private mobile phone and it did not extend to the RGP escorting Miss Buehling to her private living accommodation at Devils Tower Camp, entering those premises and seizing her private mobile phone. I also contend that such an escort in these circumstances amounts to an infringement of our liberty and of our free movement and could be considered as an unlawful 'detention' under such circumstances.

More broadly under civil terms RGP officers have breached the human rights of all of us citing this complaint under Article7/8 of European Court of Human Rights (ECHR) and Article 7/8, Human Rights Act (HRA) 1998. I was never under arrest however; my personal mobile telephone was seized thereby breaching any rights to privacy.

Finally, to end, I would like to complain about the unprofessional way the search was actually conducted. The RGP did not wear any PPE, not even the minimum of a pair of gloves were worn, no photographs were taken of the articles prior to them being seized and more disturbingly, no information was ever sought regarding the occupants of a private home addresses which included Mr O'Malley's wife and [redacted] daughter. No justification was ever given on what articles were seized or not seized. No Explanation was ever given to us regarding the powers used to seize or retain such articles.

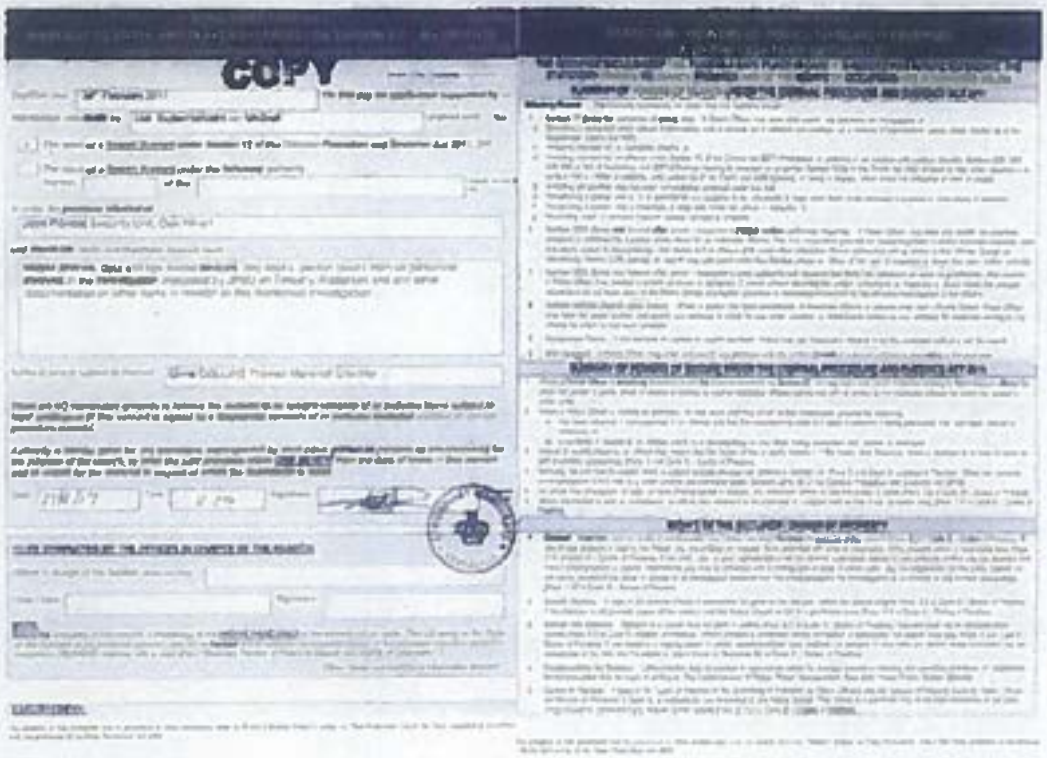
Below is an accurate précis of the events that occurred on 1 Mar 17 and a copy of the warrant served.

At approximately 1340 on 1 Mar 17, I received a telephone call from DCI Wayne Tunbridge who stated I was required to attend the Joint Provost and Security Unit (JPSU) at Her Majesty's Naval Base Gibraltar, I was instructed to round up my team and that he had a Warrant to conduct a search of JPSU and that he would explain further upon her arrival. He said he would not enter until my arrival. I left my house immediately leaving my wife in a very distressful state as she did know what may happen to me.

At 1400, upon request of the RGP, Mr O'Malley escorted the RGP into JPSU offices. DCI W Tunbridge, RGP spoke to him when they were interrupted by another RGP officer who stated, "has the Warrant been served?" to which DCI Tunbridge stated "yes".

The warrant was applied for by Det Sup McGrail on 24 Feb 17 and signed by the magistrate on 27 Feb 17 at 1220. The name of the person subject to the warrant was **Chris COLLINS** Provost Marshal Gibraltar. It stated the warrant was to enter the premises situated at "**Joint Provost Security Unit, Gun Wharf**" and search for "Mobile Phones, data storage media devices, day books, pocket books from all personnel **involved in the investigation** instigated by JPSU on Timothy Watterson and any other documentation or other items in relation to this mentioned investigation"

Mr O'Malley expressed at the time serious concerns about the legality and necessity of the warrant and expressed concerns about having to surrender his personal mobile device.



At 1405, I liaised with DCI Tunbridge. the Warrant was served on me, in disbelief I stated, "you are just about to serve a warrant on another policing agency, can you at least speak with Deputy Provost Marshall (Navy) (DPM (N))?" DCI Tunbridge stated that a decision had come from higher and that he was serving the Warrant and that DPM (N) needed to speak with the Commissioner not him. I signed the warrant and was subsequently given a copy of the warrant.

Both myself and Mr O'Malley continued to express concerns to DCI Tunbridge regarding the seizure of our private mobile telephones. He stated that the decision had come from higher up and was only acting on orders. He stated that he had no choice but to carry out the warrant. This statement did not seem very genuine.

DCI Tunbridge stated to me "in a few days we will be laughing about this over a few beers", I replied to DCI Tunbridge "we will never laugh about this, nor will we ever have a beer together"

At 1417, I was escorted out of JPSU offices to a vehicle which was parked outside JPSU, where they took possession of my Service Police Notebook. No warrant was produced to enter the PMV. I was then escorted back into the JPSU building and at 1425, my private personal mobile telephone was seized, which contained personal information and the device was my only way of communicating to my family back in the UK. In fear of being arrested, I handed my mobile telephone over to the police officer, under duress and without consent either written or verbal. I expressed at the time serious concerns about the legality and necessity of the warrant and about having to surrender my personal mobile device, when I questioned the police officer at the time "why they are taking my personal phone" he replied, "because they needed it".

The RGP officer did not identify himself, he did not show me his warrant card, he did not state the grounds for taking my property, he did not tell me what offence was being investigated or what part he believed I played in it, he did not explain what would happen to my property and did not give me a receipt for my personal property. I was not in arrest at any time however during course of the day I do believe that I had been unlawfully detained against my will at least between the hours of 1400 and 1540 on Wed 1 Mar 17.

At 1419, Mr A McDonald was escorted out of JPSU to his vehicle, which was parked outside JPSU, where they took possession of his personal mobile device, containing personal information. No warrant was produced to enter the vehicle. On completion of the search of Mr Macdonald's office he requested if he could leave as he had arranged to go in to Town with his wife. This request was denied by RGP who stated he had to remain until the search of JPSU was completed. Mr McDonald was not in arrest and his liberty was denied.

At 1515, Mr O'Malley again spoke with DCI Tunbridge challenging the requirement to seize his personal phone, as he was not in arrest, he again expressed his concerns and the property they were demanding were at his home address [redacted]

DCI, Tunbridge stated that he would be escorted to his home address by an RGP officer and he was to hand them over there. At 1516, he departed JPSU in company with an RGP officer to produce his mobile phones. At 1538, Mr O'Malley entered his Service Family Accomodation (SFA) the RGP officer entered behind him, uninvited and in front of his very worried and distraught wife, [redacted] and [redacted] daughter, [redacted] in fear of being arrested, under duress and without consent either written or verbal he handed over his mobile devices, duty mobile phone and service police notebook. The RGP officer did not identify himself, he did not show him his warrant card, he did not state the grounds for taking his property, he did not tell him what offence was being investigated or what part he believed Mr O'Malley played in it, he did not explain what would happen to his property and did not give him a receipt for the property. Mr O'Malley subsequently returned to JPSU. He was not in arrest at any time however during the course of that day I believe that he had been unlawfully detained, against his will at least between the hours of 1400 and 1540 on Wed 1 Mar 17.

At 1600, Miss L Buehling was escorted out of JPSU and escorted by RGP to her Service Living Accommodating (SLA) at Devil Tower Camp, (DTC) to surrender her personnel mobile device, which contained personal date. Miss Buehling expressed her concerns at the time even stating, "she did not want to hand over her personal phone" but she was informed by RGP that "she had to". She handed over her phone without consent either written or verbally and under duress. Miss Buehling subsequently returned to JPSU. Miss Buehling was not in arrest.

I make my complaint on two primary grounds but with each amounting to various breaches namely:

1. The RGP have no lawful authority to seize private mobile phones and have unlawfully and illegally entered PMV and private premises by which to seize such articles. The RGP were acting under a warrant that legally entitled them to enter premises situated at Joint Provost Security Unit, Gun Wharf – it did not extend to the RGP escorting me to a PMV, escorting Mr O'Malley to the SFA at Europa Point entering those premises and making seizures, it did not extend to the RGP escorting Miss Buehling to her SLA at DTC and seizing her private mobile phone. I also contend that such an escort in these circumstances amounts to an infringement of liberty and of theirs and my own free movement and could be considered as an unlawful 'detention' under such circumstances.

2. More broadly under civil terms RGP officers have breached my human rights under Article7/8 of ECHR and Article 7/8, HRA 1998. Mr O'Malley, Mr Macdonald, Miss Buehling and I were not arrested however personal mobile phones were seized thereby breaching any rights to privacy, correspondence, letters, telephone calls and emails etc. I would like this matter to be investigated and receive advice on under what legislation the RGP can interrogate my phone and the admissibility of any material obtained by such an intrusive interrogation of personal data.

There has been a delay in submitting my complaint, due to being informed by GoG and the MOD that and independent enquiry would take place, which would have highlighted the unlawful actions of the RGP and the unlawful treatment of MOD personnel. However, that enquiry has not taken place and is not taken place. There is also a delay in submitting this complaint due to the fear and threat of low-level harassment from the RGP, whilst I was still in Gibraltar. Now I am safely back in the UK away from the RGP who I view as having acted unlawfully, unethically and unscrupulously in this instance, I wish to submit my complaint.

Finally, I have been informed that the now Commissioner of Police, Ian McGrail at a recent conference stated that the investigation could be re-opened at any time **"he wishes"**. I am seriously concerned with this comment. I had in the past been informed that I may have been part of the wider investigation, which may have resulted in my arrest, to that end in line with the Subject Access Request, I wish to know what information the RGP hold on me.

I give my consent for you to pass the information contained on the letter to the professional standards department of the RGP in connection with the investigation of this complaint.

Signed:  Date: 19-Aug-19

DOC 5

(GPA) Hanglin, Elka

From: (GPA) Hanglin, Elka
Sent: 24 October 2019 12:34
To: 'O'Malley, Scott Sgt (RAFP-HQ A5 Policy FS2)'
Subject: PCB Complaint

Dear Mr O'Malley,

REFERENCE COMPLAINT N° 19-19

We acknowledge registration of your complaint date 20th August 2019. Please quote this reference with any correspondence.

It is the resolution of the Police Complaints Board to settle complaints in a targeted time of 12 weeks. However complex complaints may take longer, just as simple complaints may take less time to settle.

The Police Complaints Board undertakes to keep you informed of the progress of your complaint at regular intervals and would like to assure you that your complaint will be dealt with as expeditiously as possible.

If you need any further information please do not hesitate to contact me.

Kind regards

E. Hanglin (Ms)
Secretary

DOC 6

(GPA) Hanglin, Elka

From: (GPA) Hanglin, Elka
Sent: 24 October 2019 12:37
To: 'Claire.Bell644@mod.gov.uk'
Subject: PCB Complaint

Dear Mrs Bell,

REFERENCE COMPLAINT Nº 19-19

We acknowledge registration of your complaint date 21st August 2019. Please quote this reference with any correspondence.

It is the resolution of the Police Complaints Board to settle complaints in a targeted time of 12 weeks. However complex complaints may take longer, just as simple complaints may take less time to settle.

The Police Complaints Board undertakes to keep you informed of the progress of your complaint at regular intervals and would like to assure you that your complaint will be dealt with as expeditiously as possible.

If you need any further information please do not hesitate to contact me.

Kind regards

E. Hanglin (Ms)
Secretary

DOC 7

PCB

19/19

PCB COMPLAINT PROGRESS REGISTER

Name. Scott Omalley

Complaint received on 28th August 19

File opened. 24/10/19

First progress letter sent on 24/10/19

Complaint sent to Prof Standards 21/10/19

Complaint given to Committee Members.....and.....
On .....

Docket received on .....

Given to Committee Members on.....

Actions taken. .....

Sub-Committee recommends .....

File Closed. .....

DOC 8

PCB

20/19

PCB COMPLAINT PROGRESS REGISTER

Name. Claire Bell

Complaint received on 20th August 19

File opened. 24th oct 19

First progress letter sent on 24th oct 19

Complaint sent to Prof Standards 21/10/19

Complaint given to Committee Members.....and.....
On .....

Docket received on .....

Given to Committee Members on.....

Actions taken. .....

Sub-Committee recommends .....

File Closed. .....

DOC 9

(GPA) Raineri, Grace Anne

From: (GPA) Hanglin, Elka
Sent: Friday, 22 May 2020 11:15
To: (TAX) Carreras, Frank
Cc: (GPA) Raineri, Grace Anne
Subject: Fw: Complaint

Frank,

please see below

Regards

Elka

From: [redacted]
Sent: 22 May 2020 11:09
To: (GPA) Hanglin, Elka; (GPA) Raineri, Grace Anne
Subject: Complaint

Good Morning Elka and Grace,

I hope you are well and keeping safe, are you able to provide me with an update regarding the complaint I made against the RGP on 19 Aug 19. I received an email from grace on 13 Feb stating "the investigating team is due to report back to the complaints board shortly and should be getting a reply", I do fully appreciate that a delay has been incurred due to the pandemic, I would just like to enquire as to what stage the complaint process is at this moment in time.

Kind regards

Claire Bell

From: Bell, Claire [redacted]
Sent: 10 March 2020 14:09
To: 'elka.hanglin [redacted]
Subject: Complaint

Good afternoon Elka,

I hope you are well in the absence of Grace Anne are you able to provide me with an update regarding the complaint I made against the RGP on 19 Aug 19.

Kind regards

Claire Bell

(GPA) Raineri, Grace Anne

From: (GPA) Raineri, Grace Anne
Sent: Friday, 20 March 2020 10:51
To: Claire.Bel[redacted]
Subject: RE: Complaint

Dear Mrs Bell,

Hope you are well.

We apologise for the delay in submitting our report. Unfortunately with the COVID-19 issue complaints are taking longer to be resolved.

Thank you for your understanding.

Kind regards

Grace Raineri
Secretary

Police Complaints Board
25B Casemates Square
Gibraltar

Tel: (+350) 20051654
[redacted]

From: Claire.Bel[redacted]
Sent: 10 March 2020 13:04
To: (GPA) Raineri, Grace Anne[redacted]
Subject: Complaint

Good afternoon Grace Anne,

I hope you are well, I was just enquiring as to an update regarding my complaint against the RGP which was submitted on 19 Aug 19.

Kind regards.

Claire Bell

(GPA) Raineri, Grace Anne

From: (GPA) Raineri, Grace Anne
Sent: Wednesday, 12 February 2020 09:38
To: claire bell
Subject: RE: Police Complaint

Good morning Mrs Bell,

Many thanks for your email.

The investigating team is due to report back to the complaints board shortly and you should be getting a reply to your complaint once the report is received.

Kind regards

Grace Raineri
Secretary

Police Complaints Board
25B Casemates Square
Gibraltar

Tel: (+350) 20051654
[redacted]

From: claire bell [redacted]
Sent: 10 February 2020 12:00
To: (GPA) Raineri, Grace Anne [redacted]
Subject: Re: Police Complaint

Good afternoon Grace

I hope you are well, Is there any further development regarding my complaint against the RGP.

Kind regards

Claire

Get Outlook for iOS

From: (GPA) Raineri, Grace Anne [redacted]
Sent: Monday, January 6, 2020 11:34:18 AM
To: Clairebell [redacted]
Subject: Re: Police Complaint

Dear Mrs Bell,

Your email of 19th December refers.

I wish to take this opportunity to wish you a happy and a prosperous 2020.

Please be advised that the Investigation has not yet been finalised and is still ongoing.

We will revert to you as soon as the complaint has been determined.

Kind regards

Grace Raineri
Secretary

Police Complaints Board
25B Casemates Square
Gibraltar

Tel: (+350) 20051654
[redacted]

From: Bell, Claire CPO [redacted]
Sent: 19 December 2019 09:50
To: (GPA) Raineri, Grace Anne [redacted]
Subject: RE: Police Complaint

Grace,

I hope you are well, can I ask for any update on my complaint be forwarded to the following email address.

[redacted]

Merry Christmas and a Happy new year

Kind regards

claire

From: (GPA) Raineri, Grace Anne [redacted]
Sent: 04 December 2019 10:51
To: Bell, Claire CPO (NAVY POLICE-HQ PSU MAA) [redacted]
Subject: RE: Police Complaint

Dear Mrs Bell,

Many thanks for your email.

The Police Complaints Board is aware of the time it's taking for this complaint to be resolved, but as you can understand this is a complex case and is an ongoing case.

The Chairman of the Police Complaints Board will notify you of the decision once the case is finalised.

Kind regards

Grace Raineri

Secretary

Police Complaints Board
25B Casemates Square
Gibraltar

Tel: (+350) 20051654
[redacted]

From: Bell, Claire CPO [redacted]
Sent: 03 December 2019 12:34
To: (GPA) Hanglin, Elka [redacted]
Cc: (GPA) Raineri, Grace Anne [redacted]
Subject: FW: Police Complaint

Good Afternoon Elka,

We are now approaching nearly 15 weeks since I submitted my complaint on 20 Aug 19, I completely understand it is the resolution of the Police Complaints Board to settle complaints in a targeted time frame of 12 weeks, however complex complaints may take longer, I suspect as mine is yet to be resolved it is being treated as complexed. Please may I request an update on my complaint.

Kind regards

Claire Bell

From: Bell, Claire CPO [redacted]
Sent: 20 August 2019 12:01
To: elka.hanglir [redacted]
Subject: Police Complaint

Good Morning Elka,

PSB, I had forwarded my completed complaint file to Michelle Hook, but I believe I should forward it to you.

Kind regards

Claire Bell

From: Bell, Claire CPO [redacted]
Sent: 19 August 2019 14:28
To: michelle.hook [redacted]
Subject: Police Complaint

Good afternoon michelle,

PFA a completed complaint file, within the file is a detailed account why I feel I have been the victim of inappropriate conduct by the RGP

I look forward to your response.

Kind regards

Claire Bell

DOC 10

RS

Royal Gibraltar POLICE

Delivering a Safer Gibraltar through Excellence in Policing

Ian McGrail OTM MSc
Commissioner of Police
New Mole House, Rosia Road, Gibraltar • Tel (+350) 20072500 • Centrex 2210 • www.police.gi

Our Ref:- IM/121

4th November 2019

Mr Frank Carreras OBE
Police Complaints Board
25B Casemates Square
Gibraltar

Dear Mr Carreras,

RE:- Complaint made by Mr Scott O'Malley and Ms Claire Bell

I have been requested by yourself to provide information in response to a complaint received by the Police Complaints Board from the two above mentioned persons.

I understand that your request is pursuant to Regulation 9(1) of the Police Complaints Regulations 2006 and the information I am imparting will then be considered by you to determine whether a formal investigation is required under Regulation 12(1).

I further understand that the complainants have named Supt Tunbridge and myself in their respective submissions as the officers responsible for the alleged breaches of professional standards. In this report and accompanying appendices I will endeavor to provide you with as much assistance possible to aid your decision making process.

CONTEXT

The submissions by Ms Bell and Mr O'Malley are borne out from the infamous incident of the 8th February 2017 when the RGP made a key intervention to prevent a military aircraft from departing RAF Gibraltar with a suspected offender and evidence on board. I feel it is important to make this the starting point in my response to the complaints as it provides context to all the events that unfolded post to the said intervention and this includes the contact RGP officers had with the complainants. In this regard I append my report **(Appendix – A)** of the incident dated 10th February 2017 addressed to the Commissioner of Police and a covering report by the then Commissioner Mr Edward Yome. Both these reports were shared by Mr Yome with His Excellency the Governor and Chief Minister.

At the time of this incident I held the rank of Detective Superintendent and was the Divisional Commander of the Crime and Protective Services Division which is basically the detective division. Supt Wayne Tunbridge was my deputy and held the rank of Detective Chief Inspector.

It is also important at this stage to highlight that I have not had any personal dealings or contact with Ms Bell on this matter other than her being present at a meeting in the Attorney General's office on 22nd February 2017 which was attended by the Provost Marshall (Navy) Cmndr Jack Hawkins and his deputy. She offered no input at this meeting and there was no need for me to engage with her either – she merely sat in.

As far as Mr O'Malley is concerned, the only contact I have had with him was on the 8th February 2017 as described in my report (Appendix- A page 10, 4th paragraph down and page 11, 3rd paragraph down). This contact was very brief, courteous and professional. My understanding is that Mr O'Malley has made absolutely no reference to this encounter and therefore it is not subject of his complaint.

I have not had any further contact whatsoever with Ms Bell or Mr O'Malley.

EVENTS OF THE 1ST March 2017

Several meetings were held to discuss the behaviours and potential criminal liabilities between 4th and 8th February 2017 of Colonel Frank Green the Chief-of-Staff for British Forces Gibraltar, Squadron Leader Chris Collins RAF Police and head of Gibraltar Joint Provost Security Unit and Wing Commander Liz Hutchinson Station Commander for RAF Gibraltar. An executive decision was taken that the three had to face due process for possible criminal offences. Consequently, plans were initiated to (i) secure evidence to support our suspicions that they had attempted and conspired to pervert the course of justice and had also obstructed police in the execution of our duty and (ii) to arrest the said three military officials and pursue a criminal investigation under the code name Operation 'Apache'. Supt Tunbridge was appointed Senior Investigating Officer (SIO) for this operation.

In brief, a plan was devised which entailed searching the offices of Colonel Green at The Tower, the premises of the Joint Provost Security Unit (JPSU) under the control of Squadron leader Collins at Gun Wharf and the offices of Wing Commander Hutchinson at RAF Gibraltar as indeed the western hangar. The arrest of these officials was also factored in to the plan. Members of the Crime and Protective Services Division were split up in to three groups each headed by a senior ranking police officer. Ch Insp Perez (then an inspector) and his team were assigned to deal with Wing Commander Hutchinson and RAF Gibraltar, Supt Tunbridge and his team were detailed to the JPSU and I led a team that was to tackle The Tower.

Given the high profile exposure the matter had previously attracted and was likely to attract once we carried out further executive action, I took it upon myself to lay the information before the stipendiary magistrate and apply for search warrants for the premises referred to above. That I obtained all four warrants under my name did not mean that personally I had to be present at the searches or execute the warrants myself. Once signed by the relevant authority, a search warrant can be executed by any constable even if they are not the one named on the warrant.

The strike was planned to occur simultaneously on 1st March once we had established that Squadron Leader Collins was airborne on a return flight from the UK to Gibraltar. A simultaneous strike is a recognized police tactic when tackling more than one location which are subject of the same operation. The purpose of this is obvious; to try and ensure the rounding up of suspects and evidence and mitigate risk of the disposal or attempted disposal of evidence or indeed the absconding of suspects or the warning of each other of the police action.

There is no requirement for me to offer explanations on the actions carried out by Ch Insp Perez's team at RAF Gibraltar as these are not subject of any complaint. I will therefore focus on the actions that both Supt Tunbridge and I carried out.

You will straight away realize that I had no dealings with the complainants as alluded to earlier in this report. However, I will be explaining my actions on the day which will disclose a very similar situation to the one my colleague Supt Tunbridge faced at JPSU Gunwharf. Unlike the latter, my actions have not given cause for a complaint from the persons I dealt with at The Tower.

At 1325Hrs on 1st March 2019, whilst maintaining open communications with the two other strike teams I gave the go-ahead to proceed to enter the premises covered by the search warrants. In my case, once inside The Tower courtyard I detailed some officers to cover the offices of the Chief-of-Staff Colonel Green (the office subject of the warrant) whilst I made my presence known at the office of the Commander British Forces (CBF), Commodore Mike Walliker. With him in the office at the time was the Command Secretary Mr Richard Johnson. Though both these gentlemen knew who I was I nonetheless identified myself with my warrant card and explained that I was acting in the execution of my duty as a police officer within The Tower. I proceeded to explain the reasons why I was there with a team of RGP officers. I also explained to them what my intentions were and showed CBF the search warrant for Colonel Green's office.

Together with CBF we walked over to Colonel Green's office where upon entry and explaining to the Colonel the reasons for the RGP's presence there, I arrested Colonel Green on suspicion of (i) attempting to pervert the course of justice, (ii) conspiracy to pervert the course of justice and (iii) obstructing police. I showed him the search warrant for his office which was then executed by my team.

During the course of the search I was made aware of certain documentation which had been circulated by the Command Secretary to the persons subject of the investigation. In essence, the Command Secretary was requesting 'duty reports' from these military officials to explain their respective accounts of the events of the 8th February. Clearly, this information was of relevance to the investigation and therefore it prompted me to speak to the Command Secretary and ask him whether he was willing to share with me the responses these senior military officials had provided to him. His response was that he would need to consult with London (MoD) before considering my request. Anticipating a negative response to my request I duly acknowledged his response but told him that I would be seeking another search warrant from the stipendiary magistrate for his office to seize the information sought. I stepped out of CBF's office and detailed an officer to remain outside the Command Secretary's office to control and restrict access to this office whilst I made a call to the courts. I was encountering difficulties in reaching the stipendiary magistrate and during the course of my attempts, I was approached by the Command Secretary who informed me that he had consulted with London and was happy to volunteer the information I was seeking. Consequently, a member of my team accompanied the Command Secretary to his office where he proceeded to hand over the data requested.

I draw significance to this procedure because of the similarity of the actions carried out with Ms Bell and Mr O'Malley which are now subject of a complaint. My actions at The Tower were legitimate; I only had a search warrant for Colonel Green's office – a need arose where I required data from another office not covered by the warrant – had the Command Secretary not volunteered the data, I would have required a search warrant for his office to seize the data – the fact that he agreed to voluntarily hand over the data precluded the need to obtain a warrant. It was not deemed to be a search by my team but rather a voluntary handing over of the data by the Command Secretary. You will no doubt appreciate the correlation to the circumstances of the complaint by

Ms Bell and Mr O'Malley. Incidentally, the Command Secretary has not raised any issues whatsoever concerning the procedure I have explained.

Turning to the intervention by Supt Tunbridge and his team at JPSU Gun Wharf, I would ask you to refer to Mr Tunbridge's report which is filed in this bundle as **Appendix – B.** I do not intend rehearsing the contents of his report save to say that the allegations contained are refuted. Supt Tunbridge further explains how his team acted within the law.

Moreover, I would ask that in making your determination on whether RGP officers breached professional standards and code of ethics as alleged by Ms Bell and Mr O'Malley, you consider that both these persons are fully trained up [services] police officers who held supervisory/managerial positions in JPSU. As police officers they very well know what powers we possess and the rights of those we deal with in investigations. I find it incomprehensible that two seasoned police officers would not challenge on the spot any activity which was illegitimate and an abuse of police powers.

Our interest in both Ms Bell and Mr O'Malley as with the other members of the JPSU was to understand their involvement in the circumstances surrounding Sgt Watterson's detention. Until that point we had not found anything to suggest either were suspects in the investigation but we still needed to delve further and we relied on their co-operation. It is my submission to you that this co-operation was forthcoming and that the RGP officers acted in very much the same way that I did with the Command Secretary at The Tower. It was no doubt a very uncomfortable experience for Ms Bell and Mr O'Malley as indeed it was for the RGP. In her complaint Ms Bell vents her annoyance expressing disbelief that we were serving a warrant on another policing agency. It could be safely inferred that she was suggesting our actions were improper. What she fails to understand is that the warrant was signed by a judge and therefore any suggestion that there was improper practice is actually undermining of the authority of the issuing judge – I reckon she needs to realize this. However, my officers acted with a lot of tact and respect. These two persons could have very simply exercised their right to question/challenge our actions, refuse to co-operate and decline to hand over their personal mobile phones. This would have been a very prudent and proper response by a police officer who felt he/she were being treated unlawfully as they allege. Had they presented a challenge it would have been respected and it would have obliged us to obtain a search warrant. There was no expression of a challenge and neither was there any indications that they felt as they described in their submission to the PCB. The officers attending to them report that they were co-operative.

AFTERMATH

It is very regrettable that they feel so hard done by the actions carried out by the RGP officers acting in the execution of their duty. I also query the motives of why they are now airing these grievances. I say so because apologies were in fact received from the MoD's Rear Admiral Radakin, then Chief of Joint Forces Command in UK, now promoted to Admiral and First Sea Lord of the Royal Navy. This apology indeed accepted the MOD's (JPSU) ill-informed jurisdictional posture. There was an acceptance that all the activity conducted by JPSU staff (which includes the complainants) was *ultra vires* given that the UK Armed Forces Act 2006 which they claimed gave them jurisdiction to operate did not actually extend to Gibraltar. Further apologies were received from Colonel Green, Squadron Leader Collins (Ms Bell's and Mr O'Malley's boss) and Wing Commander Hutchinson. I attach all these apologies as **Appendix –C**. In none of these apologies is there the slightest of suggestions or inclinations of any abuse of position from the RGP. One would have thought that Ms Bell and Mr O'Malley would have raised their complaints to their superiors who, in turn, being the responsible organization that the MOD is, would have made the necessary representations to the Commissioner of Police, Government of Gibraltar or

HE the Governor – no such representations have been made or are expected to made simply because all the RGP activity was vindicated as lawful and correct.

I would now like to comment on the penultimate paragraphs contained in both written complaints: That the complainants have been informed (source unknown) that I am supposed to have stated that the investigation could be re-opened at any time I wished. I categorically do not associate myself with any commentary of this sort and I would ask you to query from where this originates from as I would personally want to challenge it as a mistake at best or lie at worst.

Finally, I also attach a letter dated 5th September 2017 **(Appendix – D)** from the previous Chairman of the Gibraltar Police Authority, Mr John Goncalvez to the Chief Minister of the Government of Gibraltar following an [independent] assessment of the actions carried out by the RGP in what was termed as the Watterson enquiry. One can argue that the 3rd paragraph of this letter when read together with the four letters of apology earlier referred to wraps up what in essence was a correct and justified operation undertaken by the RGP.

I trust that the information contained in this report and accompanying appendices will assist you in making a determination on whether the matter warrants a formal investigation or not. Please do not hesitate to revert if you require any further information.

Yours

Ian McGrail
Commissioner of Police

Encl

Appendix – A	*(i) Copy of covering report dated 13th February 2017 by Eddie Yome CoP (rtd)*
	(ii) Copy of report dated 10th February by the Supt Ian McGrail (now commissioner of RGP)
Appendix – B	*Original report by Wayne Tunbridge dated 25th October 2019*
Appendix – C	*Copy of letter of apology from then Rear Admiral Tony Radakin (now Admiral and First Sea Lord of the RN)*
	Copy of letter of apology from Colonel Frank Green Chief-of-Staff British Forces Gibraltar
	Copy of letter of apology from Squadron Leader Chris Collins RAF Police & head of JPSU Gibraltar
	Copy of letter of apology from Wing Commander Liz Hutchinson RAF Gibraltar Station Commander
Appendix – D	Copy of letter from GPA Chair to CM dated 15th September 2017

ROYAL GIBRALTAR POLICE

Commissioner's suite
COP

Police Headquarters, New Mole House, Rosia Road, Gibraltar
[redacted]

RE: RAF Sergeant WATTERSON 13th February 2017

Dear Sirs

Please see attached report submitted by Superintendent McGrail in relation to RAF Sergeant WATTERSON.

This clearly was a sad disappointing day for Law Enforcement in Gibraltar and more so for relations between Gibraltar Forces Command and the RGP.

I do not wish to repeat what is already contained in this report which is quite detailed, but just to echo some of the points which I personally dealt with.

From the outset I wanted a pragmatic and sensible approach notwithstanding I had firm footing on jurisdiction and Gibraltar law. I even went as far as involving the AGs chambers at an early stage to provide legal advice by asking Ricky Rhoda to personally speak to GFC but again to no avail.

To me this was a complete disregard and lack of respect to our Attorney General.

Add insult to injury the matter deteriorated very rapidly when clearly senior MOD officers were being deceitful and evasive to the point that we had no alternative but to obtain a Chief Justice's warrant to make these officials see the gravity of the situation and see sense.

Armed with this warrant I informed the Chief of Staff and later Commander British Forces that I was being pushed against the wall to a place that I would not rather be, and as the last resort, we would now be in a position to execute this warrant on another Law Enforcement body (RNPM) something which I was very reluctant to do. I believe I showed great restraint in holding back from doing this.

A conversation with Commander Jack Hawkins (Chief of RNP- UK) then revealed and confirmed that the evidence was on the aircraft and I then instructed for this aircraft to be held back from departing. CBF then saw sense in de-escalating everything and I believe instructed for the aircraft to return to the stand and for Watterson and the evidence to be disembarked. I was then given his reassurance that the computer devices would be handed over to the RGP. After this was done I allowed for the aircraft to depart.

Even then I proposed that we should join up in taking this forward and for the RNPM officers to assist in the retrieval of evidence and to assist with the Forensics. Finally they acceded and we are now working together.

INVESTORS IN PEOPLE

As I said it was a disappointing day and not one to gloat about but clearly we must not find ourselves in such circumstances ever again why I have proposed a meeting on the 22nd February of all stakeholders. The Attorney General has welcomed such a meeting which he will chair at his offices at No.6.

I strongly believe that MOD senior officials did not behave appropriately and had they used some practical common sense, we could have averted this situation. More worryingly they showed lack of respect by challenging the Attorney General and the Commissioner of Police both Constitutional posts.

I am willing to discuss this further should you so wish.

Kind regards

Eddie



Edward Yorke CPM
Commissioner of Police
Past President European Association of Airports & Seaports Police (EAASP)
Vice President IAASP
Calpe House Trustee

INVESTORS IN PEOPLE

ROYAL GIBRALTAR POLICE
Detective Superintendent Ian McGrail OTM M.Sc.
Crime & Protective Services

Police Headquarters, New Mole House, Rosia Road, Gibraltar
[redacted]

OFFICIAL SENSITIVE

10th February 2017

Commissioner of Police;

Sir,

RE:- Investigation in to RAF Sgt WATTERSON

This report provides COP with the chronological sequence of events as I have them and with as much a detailed account as I know it to be regarding the above captioned matter. Enquiries are continuing to elicit further information with regards to both the investigation in to Sgt WATTERSON and to the issues that arose once the RGP took an interest in the matter. I would therefore ask you to understand that this paper may not contain all the answers to questions you may have after absorbing the contents herein. On occasions during this report I have also commented on my *prima facie* observations on matters arising, obviously from a professional local application.

In the early hours of 4th February 2017, an email was received at RGP Command & Despatch from colleagues in the GDP advising that the JPSU had the previous day (3rd Feb 2017) effected the arrest of a serviceman, Sgt WATTERSON, in Gibraltar, on suspicion that this man was in possession of indecent imagery of children. His residence at [redacted] had been searched by JPSU and computers and data storage devices had been seized. That Sgt WATTERSON had since been released from his arrest and had undergone a psychiatric assessment which determined that he was at high risk of self harm. At that point no further details were available to the GDP.[1]

This information was forwarded by CAD to our Public Protection Unit for their information. Coincidentally, Det/Insp Enriles, o.i.c of the PPU, happened to be the RGP duty officer that morning and on reading the communication sought further details from GDP Sgt Hosken who unfortunately was unable to help any further as they [the GDP] had no additional information to share.

Consequently, Det/Insp Enriles contacted the JPSU Master-at-Arms Claire BELL who informed of the following; that Timothy WATTERSON moved to Gibraltar [redacted] That they had received information from their Force Intel Bureau in UK via the National Crime Agency/Leicestershire Police that an IP address in the UK had uploaded an indecent Cat B image of a prepubescent female exposing herself. This image had been uploaded during the course of June 2015 to an IP address allocated to WATTERSON at his previous posting address in Leicestershire, UK. MA BELL

[1] It is believed GDP only communicated the matter to RGP in the context of the WATTERSON's risk of self harm.

OFFICIAL SENSITIVE

further informed that as a result of this information they had arrested him on suspicion of possession of indecent images and seized various data storage devices in the residence.[2] The authority to arrest was provided to Det/Insp Enriles as Sec 42 & 67 of the Armed Forces Offences Act 2006 UK that she claimed extended them jurisdiction in Gibraltar. No reference to Gibraltar law was made. I also understand that the authority to search WATTERSON's residence was Sections 79 & 80 Chapter 4 of JSP 830 (I believe these to be their version of our codes of practice). WATTERSON was detained by JPSU at their premises.[3]

JPSU procedures are actually based on the UK's Police and Criminal Evidence Act (PACE) so when he was processed by the services police he elected the right to free and independent legal advice – there being no such duty solicitor scheme in Gibraltar the MA explained they would have to fly out one from the UK! Due to this untidy situation the JPSU were compelled to release WATTERSON from his arrest and he was informed that he may be seen at a later date. The devices seized from the search of the residence were retained with the intention of subjecting them to forensic analysis.[4]

MA BELL further explained that post to his release from arrest WATTERSON had also been also psychiatrically assessed by MOD (Gibraltar) medical personnel and this revealed that he might be a risk to himself. Because of this development JPSU appointed him a 24/7 'chaperone' for his own safety and instructed that he was not to return to the matrimonial home.[5] In the meantime, MOD social services SSAFA would be conducting assessment of [redacted] No reference was made of any intended actions with Mrs WATTERSON.

Det/Insp ENRILES expressed his concerns to MA BELL that these type of investigations required the sharing of information at far an earlier stage given the potential local implications. Neither did we have any photograph of the subject to assist us in the identification and generating awareness of him. Although provisionally housed at Devil's Tower Camp, he was still free to roam about Gibraltar as long as the chaperone remained with him. To this Det/Insp Enriles highlighted that notwithstanding the measures in place these could be deemed insufficient and may not necessarily prevent an act of self harm or an attempt on his life, or even prevent him from committing further offences. Det/Insp ENRILES added that even though WATTERSON had not been in our jurisdiction for long he had still had opportunities to interact with members of the public/children and therefore there was a need to properly risk assess him. MA BELL agreed with the Det/Insp and arranged to share WATTERSON's photograph for the purpose of creating awareness for RGP personnel.

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[2] On the facts available, the action taken by JPSU in pre-emptively arresting Watterson at such an early stage is not regarded in the RGP, or indeed by UK civilian police as best practice and procedure.

[3] JPSU premises are not regarded in Gibraltar law as a designated police station for the detention of persons under arrest. Neither can the JPSU grant and or impose bail conditions post to an arrest.

[4] This begs the question of whether in effect the search and seizure of the devices from the residence and their continued detention retains any legitimacy. I say so because no search warrants were issued for this process & therefore it could potentially be regarded as a tactical short circuit of proper procedures which in turn could be calculated to be an abuse of powers. i.e. Police cannot go about arresting individuals and search their properties without a warrant, then release the person from arrest and retain the exhibits found for further investigation. I may be wrong but it certainly looks a very odd and I dare say unprofessional unethical practice, if not an illegal one.

[5] I am presuming that the power to impose these control measures is provided by military law.

As is common and proper practice in these types of cases, on Monday 6th February, Det/Insp ENRILES, began to make arrangements [redacted] and for the purpose of information sharing. Equally, considerations were given to convene a Multi-Agency Public Protection Arrangement (MAPPA) strategy meeting to discuss Sgt WATTERSON as a person of interest in the context of sex offender management.[5] Very surprisingly, at 1730Hrs on 6/2/17 the position of SSAFA was that no strategy meeting would take place involving Gibraltar authorities and more worryingly still, that Gibraltar Social Services should not have been in the know of the matter.

On Tuesday 7th February 2017, I contacted Provost Marshall (PM) Chris COLLINS and very briefly expressed my concerns on how the matter was being handled. I arranged for him to meet with Det Ch/Insp TUNBRIDGE and Det/Insp ENRILES @1100Hrs at Bleak House.[7] This meeting was attended by PM COLLINS and MA BELL. They provided a brief along the lines of what MA BELL had provided to Det/INSP ENRILES at the weekend.

Det Ch/Insp TUNBRIDGE then raised the following question; why had the RGP not been notified by JPSU of this on-going investigation? PM COLLINS stated that the suspect was a serving member of the military stationed in Gibraltar and residing in MOD property. That the offence being investigated occurred in the UK and under the Armed Forces Act 2006 they had the legal powers to assert jurisdiction in the manner they had whereas the RGP did not have any locus. Det Ch/Insp TUNBRIDGE accepted that the RGP had no authority over a UK investigation. However, he explained that it was erroneous to suggest that the RGP had no jurisdiction on crimes that may have occurred or were occurring *anywhere* in Gibraltar including within the MOD estate. It was precisely this that we were concerned about. If the JPSU suspected the computer devices seized from WATTERSON's house were believed to contain indecent imagery of children, then even if these may have been uploaded in the UK, they were now in the jurisdiction of Gibraltar and in breach of Gibraltar Law. We further expressed concern that WATTERSON (or anyone else in the household) may have accessed or been involved with other child sexual exploitation data or activity whilst here in Gibraltar in addition to whatever he was suspected to have accessed in the UK. PM COLLINS did not accept this position and maintained that the JPSU had full jurisdiction of the case.

Det Ch/Insp TUNBRIDGE respectfully asked PM COLLINS to hand over the exhibits seized from the residence to the RGP but the latter re-asserted his position that he would retain them under the authority vested by the Armed Forces Act 2006 UK which he claimed extended to Gibraltar. PM COLLINS further revealed that if when examined in the UK, the devices contained any incriminating evidence, they would fly WATTERSON back to the UK to answer to any potential charges.[8] This meeting ended at 1200Hrs and Det Ch/Insp TUNBRIDGE advised PM COLLINS that he would be referring the matter up to RGP senior management and that further contact would be made with him later.

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[5] Deemed to be best practice in these types of criminal investigations.

[7] Ironically DCI Tunbridge and DI ENRILES were attending a training session arranged by Social Services on child protection and safeguarding which was also being attended by SSAFA. The main theme running through this training session being that of multi agency partnership work and information sharing.

[8] This was the first occasion the RGP requested to take over the [local] angle of the investigation from JPSU on the back of there being reasonable suspicions that offences may have been commited in Gibraltar.

I was then briefed by Det Ch/Insp TUNBRIDGE on JPSU's entrenched posture. Whilst I was 100% absolutely certain of the RGP's position on this[9], I asked Det Ch/Insp TUNBRIDGE to consult with the Office of Criminal Prosecutions and Litigation to seek their views on what the position was when two authorities were claiming jurisdiction over a matter. Consequently, senior counsel Ricky RHODA CBE QC confirmed the RGP's position also expressing concern that if the RGP were claiming jurisdiction on the basis of there possibly being offences disclosed locally, that a [coerced] repatriation[10] of WATTERSON by the MOD to potentially face charges in the UK could be deemed to be unlawful - that the proper way to do this was via established judicial processes i.e. European Arrest Warrant.

At 1254Hrs Det Ch/Insp Tunbridge and Det/Insp ENRILES again held a telecon with PM COLLINS explaining that our legal services had confirmed the RGP's position regarding primacy and the fact that local legislation would be applicable over the Armed Forces Act 2006.[11] PM COLLINS reiterated his position *viz* the UK's Armed Forces Act 2006 adding his legal advisors had confirmed otherwise and therefore he would not be relinquishing conduct of the investigation, basically disregarding local legislation and our standpoint.[12] It was also disclosed by PM COLLINS that arrangements were already made to despatch the exhibits to the UK on Wednesday 8th February 2017 to submit them to forensic analysis. Det Ch/Insp TUNBRIDGE told PM COLLINS that he would contact him soonest.

Det Ch/Insp TUNBRIDGE reverted to me with this and we discussed what in my view was a very reasonable proposal which would satisfy the RGP and JPSU needs. In essence this was that in recognising there was a UK investigation taking place and in order not to affect this, we could conduct a parallel examination of the devices seized. This could be achieved by the RGP Hi-Tech Crime Unit officer mirroring the devices seized so that he could examine these 'working copies' to determine if there was evidence to support the reasonable grounds we had that there were offences disclosed in Gibraltar. That the JPSU could also have these devices examined in the UK in furtherance of their own investigation of offences taking place there. We run this proposal past Mr RHODA with a view of de-conflicting the matter in the most pragmatic way, though it must be said that there was no obligation on our part to be as flexible as we were being with the suggested proposal – in other words, we could assert full jurisdiction on the basis that we suspected an offence had been committed in our jurisdiction. However, the proposal recognised and respected the JPSU's interest with regards to the UK investigation. It was being done in the spirit of good relations and mutual respect between agencies.

At 1508Hrs Det Ch/Insp TUNBRIDGE and Det/Insp ENRILES held yet another telecon with PM COLLINS and discussed the said proposal explaining how we acknowledged his investigation and how our suggestion would not hinder it. The reasons why we reasonably suspected that offences had been committed in Gibraltar were re-stated. Unfortunately, PM COLLINS refused this course

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[9] Police Act 2006 Part IV s.28 & s.29 Constitution & Employment of the Force. There shall continue to be established in Gibraltar a Police Force, to be known as the Royal Gibraltar Police. The Force shall be employed *in and throughout* Gibraltar for the maintenance of law and order & the prevention and detection of crime amongst other objectives.

[10] A back door extradition?

[11] The UK protocol between the Director of Public Prosecutions & Director of Service Prosecutions & MOD para 3.1 states *… where there are overlapping civilian and service jurisdictions and authorities within England & Wales, the civilian authorities have precedence…..*

[12] Second occasion that our request to assume the lead in the local investigation had been denied by JPSU

of action stating it could damage the integrity of the exhibits and would be detrimental to the investigation.[13] PM COLLINS' alternative was for the forensic analysis to be conducted in the UK and if anything relating to Gibraltar were uncovered he would take legal advice on whether to release this evidence to the RGP.[14] Det Ch/Insp TUNBRIDGE further attempted to make PM COLLINS comprehend that the question of jurisdiction was very clear and technically, if need be, the RGP could retrieve the said devices from JPSU's possession, something which we did not want to do hence our continued discussions. PM COLLINS' position did not change[15].

I was kept briefed by Det Ch/Insp Tunbridge of the lack of progress and in turn I briefed COP where we agreed that the position of the RGP was as we were articulating it from the outset. We agreed that I would seek a meeting with Chief of Staff Col GREEN to pursue the matter with a view of arriving at the most pragmatic solution to the status quo.

Consequently, at 1630Hrs I attended The Tower at HM Naval Base and met with Col Green. PM COLLINS was also present. I projected the RGP's desire to de-conflict the matter in the most conventional of ways to be expected from both MOD and us. There were valuable lessons to be learnt from the whole experience and no doubt we should, as senior personnel, provide the clarity necessary so that our respective practitioners were able to work in the best possible [technical] environment. I referred to the need for better understanding of each other's roles and responsibilities and how establishing a set protocols or memorandum of understanding would perhaps address the dilemmas we were facing. We were nonetheless still left with un-doing the issues on this particular case. I highlighted how in investigations of sex offences and particularly where there were children involved the best practice dictated sharing of information.[16] In this case it was seemingly lacking as many of the key stake holders who could bring information to be shared were not even aware of JPSU's investigation.

I went over all the circumstances already related to earlier in the report. I then explained that the situation was seemingly escalating to the extent where the MOD's entrenched position did not fare well for relations with the RGP and by default the wider community in Gibraltar. I was taken quite aback when PM COLLINS stated that his mandate was very clear; that he had to look after the interests of the troops and the UK investigation. I acknowledged what he was saying but I explained that actually my mandate extended further than his – that when it came to criminal investigations, I had to look after the interests of Gibraltar PLC and that included everyone in the territory inclusive of MOD personnel.

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[13] Clearly an expression of mistrust towards the RGP displayed by PM COLLINS who also constantly stated that he had to ensure the investigation abided to UK standards implying the RGP's standards were not sufficient. The Home Office standards were constantly repeated by him in this context.

[14] This suggestion basically undermines the RGP's ability to conduct enquiries of potential offences occurring in the jurisdiction. Having the appropriate resources to conduct the examinations locally, it would be wholly unethical that we would have to rely on another agency to search for the evidence and then live in the hope that it could be released back to the RGP.

[15] The third occasion JPSU were refusing to oblige to our requests.

[16] The Bichard Inquiry report into the Soham murders identified one of the main shortfalls to be failure to share information effectively. This inquiry revolutionized processes for the UK police and social services and which the RGP have stringently put in place. Similary, the Rotherham Child Sexual Exploitation scandal - an independent inquiry by Prof Alexis Jay published in Aug 2014 condemned the failure of the authorities in Rotherham to act effectively against the abuse or even, in some cases, to acknowledge that it was taking place.

I expressed dissatisfaction on how the JPSU were handling the matter and how the overall risks attached to this case were not being properly addressed. I described how the RGP operate to best practice and procedures on these type of investigations – that we had a forensic computer expert, dedicated risk managers and all the supporting infrastructure for such an investigation which evidently the MOD did not have in Gibraltar as had been proven with the inability to proceed with the interviewing of WATTERSON and provide free/independent legal advice, their inability to impose grant/impose bail conditions or even custody facilities[17]. Whilst I was assured that WATTERSON was being 'properly managed', I was not reassured that he may have already committed further offences whilst in Gibraltar. I also enquired as to [redacted] The focus was solely on WATTERSON and it was mentioned that they already had evidence against him of having committed an offence in the UK. This caused me to suspect that there was probably more to the case than what met the eye. PM COLLINS' response was that he was under no obligation to discuss his investigation strategies with me. In turn, this further enhanced suspicions that offences had been committed in Gibraltar as otherwise why would the JPSU seize computers and other devices if they did not believe them to contain incriminating material. All these concerns I shared with Col Green and PM COLLINS adding that I was duty bound to investigate WATTERSON locally – I could simply not leave such a serious matter walk under my nose in the jurisdiction of Gibraltar. I explained how in the past the RGP had assumed the lead and conduct of serious criminal investigations within the MOD estate ranging from serious assaults on MOD [children] dependants where the assailant was a serviceman to the sudden death of senior MOD official as only two examples. I referred to these matters simply to highlight our argument from the outset that the RGP had primacy in the jurisdiction.[18]

I conveyed my concerns to the two gentlemen that there were too many factors in terms of possible local victims, possible crimes committed here, public perception of the RGP and the legal position on jurisdiction amongst others that compelled the RGP to have a say on the matter. I did, however, state that there was still room to work the matter together to oblige to both agency's needs. Col GREEN asked me what actions the RGP would take if indeed incriminating material were found in any of the devices seized to which I explained that there would certainly be an intervention on our part to probe in to the matter further. This was totally mis-construed by Col GREEN who argued that going in *"guns blazing"* would compromise the UK investigation. This argument fazed me as Col GREEN was being critical of a potential action the RGP could consider, but not necessarily carry out, when in fact the JPSU's intervention had already precisely done what he was advocating should not be done.

The proposal to run a parallel investigation was flatly discarded by PM COLLINS who said he had top cover from his superiors in the UK that he was on solid footing to retain conduct of the investigation. He argued that my proposal would put in jeopardy the integrity of the exhibits seized as the examinations he would subject them to comply with Home Office Standards and as the RGP was not a Home Office force there would be a conflict. He added that there was nothing in military protocols that obliged him to consider what I was proposing. In what was a clear moment of forceful assertion of his stance, PM COLLINS told Col GREEN that the solution to the matter was to put WATTERSON on a plane to the UK at the earliest opportunity. I interjected stating that if he was contemplating this course of action it would certainly bring about a

[17] These are issues that should have been given the important consideration they merit before effecting the arrest.
[18] Fourth occasion that the RGP requested to take over the conduct of the investigation.

considerable and detrimental strain to MOD/RGP/GOG relations. I equally mentioned that the RGP could actually be driven to impose executive action over the JPSU but that I stressed my intentions were not to go down that route but rather to resolve the issues by discussion amongst us senior law enforcement officials in order to prevent any further escalation which could jeopardise relations. I informed them both that I would be reporting up COP on this meeting.

Sir, I can assure you I tried every possible influencing and negotiating tactic I could think of to resolve the impasse but unfortunately they did not shift from their stance. Before concluding the meeting at 1800Hrs I asked PM COLLINS to refer the arguments I had posed on behalf of the RGP to his superiors in UK so that at least they could have a balanced and more objective understanding of the whole matter. I asked PM COLLINS to do this as a matter of urgency and before any decision was taken to fly out the exhibits and/or WATTERSON. He assured me he would do so. We agreed that he would revert to me once his superiors had taken a view.

I then returned to NMH where I briefed COP on the unfortunate non-progress and on the concerns I had that PM COLLINS and Col GREEN were contemplating actions which would totally bypass the RGP's position on the matter. That evening/night I am aware COP tried unsuccessfully on numerous times to contact CBF who was out of the jurisdiction.

Not having heard from PM COLLINS on what his superiors in UK had to say, at 2130Hrs I phoned him but there was no response. At 2134Hrs I phoned him again and I received no response. Whilst waiting hopefully for a return call from him I conducted some research on the applicability of the UK's Armed Forces Act 2006 in Gibraltar and to my understanding found that it was not applicable.[19] I also looked up service police protocols and what they had to say on the matter and I was not surprised to read that there were provisions stating that local legislation might impose similar jurisdictional arrangements to those PM COLLINS was claiming.[20] Then again, irrespective of whether the Armed Forces Act 2006 is not applicable to Gibraltar and whether service police protocols have seemingly not been abided by, I would like to restate the fact that the RGP has primacy over the matter as enshrined in Gibraltar law.

The matter was now becoming time critical as the plans by MOD (Gibraltar) to fly out the exhibits and possibly WATTERSON were proceeding. I was encountering problems in contacting PM COLLINS and so was COP in reaching CBF. We agreed to a number of actions as follows;

- RGP SB to check passenger manifests to see if WATTERSON was booked on a flight departing Gibraltar Airport.
- Cover crucial areas to prevent WATTERSON from being whisked away.
- Make the necessary arrangements to retrieve exhibits seized from the residence if the JPSU did not change their position. This would be done by applying for a search warrant at the courts.

At 2212Hrs PM COLLINGS returned my call and I shared with him my understanding and interpretation of both the Armed Forces Act 2006/2016 and the service police protocols. Unfortunately again my discussions and arguments as referred to in the preceding paragraph practically fell in deaf ears.[21] He reaffirmed that his position had not changed and that his plans to

[19] Sec13 of the AFA2016 when read with the AFA2006 actually excludes Gibraltar in its application. This requires official legal interpretation.
[20] Joint Service Publications 830 Chapter 3 Jurisdiction & time limits. Part 3 sec62(c)
[21] Fifth occasion that JPSU is asked to hand over the investigation.

fly out the exhibits the next day were still on track. I asked him whether it was also intended to fly WATTERSON out and he replied by saying he was not at liberty to discuss his investigation strategies with me. I told him that CoP was trying to contact CBF and had left numerous messages for his calls to be returned but that he had not been successful in reaching him. I further told him that it would only be proper that he stalled his plans until CoP and CBF spoke. In response to this PM COLLINS told me that CoP should call Col GREEN, but that in any case he was not answerable to the Command in Gibraltar but rather to the Provost Marshall (Navy) in the UK. I asked him whether he had received any response from his superiors on what had agreed at the meeting in The Tower. He said that his superiors would probably get back to him the following morning but that at present his intentions remained unchanged.

Still concerned that JPSU would continue to entirely disregard our claims we discussed our tactical options and COP sanctioned that we should proceed to retrieve the exhibits. The intention was to meet up with PM COLLINS once again and ask for the exhibits to be handed over and to only resort to executing the warrant if there was non-compliance on his part. COP also sanctioned any other action falling out from any non-compliance after the warrant had been executed.[22] Consequently, Det/Insp ENRILES and Det/Con HOWARD left NMH to apply for a warrant from the Stipendiary Magistrate to search the JPSU premises at Gun Wharf.

At 2243Hrs I again contacted PM COLLINS asking him to meet with me. The plan was to offer the opportunity once again for the exhibits to be handed over and then, if this was not forthcoming, to proceed and execute the warrant. However, he said that he would not meet at such late hour. We arranged that I would go down to his offices early the next day.

At 2330Hrs, I was informed by Det/Insp ENRILES that the Stipendiary Magistrate had not granted the warrant on the basis that he felt there was insufficient suspicion to believe that the computer devices seized from WATTERSON contained incriminating data of offences committed in Gibraltar.[23] This clearly caused for a re-think of our options which included making a fresh application for the warrant in the morning. I then stood down the team for the night.

At 0845Hrs on Wednesday 8th February 2017, I attended the Office of Prosecutions and Criminal Litigation to seek legal support to make the MOD accept that the RGP had primacy in the matter. Mr RHODA's view was that we should try and avoid taking executive action against the JPSU and pursue discussions to reach a pragmatic solution, however, if these failed he agreed and accepted that we were then left with no option other than to either succumb to the JPSU's posture or indeed proceed with a fresh application for a search warrant and seize the property in question. Understandably so, Mr RHODA was puzzled as to why the situation had reached the levels it had within the MOD. During the course of the morning Senior Counsel RHODA spoke with (i) the Acting Governor, Mr Nick PYLE and (ii) Col GREEN in yet a further attempt to convince them to accede to the RGP's requests. He also tried contacting the Command Secretary but he was not contactable.

I am aware that both Mr PYLE and Col GREEN asked Mr RHODA to request the RGP to defer any intended action as both were seeking legal advice from the FCO and UK military respectively as to

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[22] Possible offences of obstructing police to be considered and executive action followed through in this regard.
[23] Though respecting the Magistrates views for the non-granting of the search warrant, we believed he may have erred in his decision.

whether the RGP had primacy in the matter. When Mr RHODA relayed this to me I expressed resentment as essentially we were being asked to be subservient to UK legal advice when the local position was already well affirmed. I then returned to NMH and reported these latest discussions to COP who then gave me instructions to re-apply for another search warrant to the Chief Justice. I proceeded to do this and having spoken to the Registrar of the Supreme the matter was listed for 1500Hrs that same day.

Throughout the day I sought updates on possible intelligence relating to WATTERSON flying out and SB confirmed that he was not booked on any commercial flight departing from Gibraltar Airport. I still asked SB to remain vigilant at the airport in the event that JPSU staff were spotted attempting to take out the exhibits on a commercial flight.

At around 1400Hrs, it was brought to my notice that a military aircraft had just landed at RAF Gibraltar on an approximate 1-hour stop over. This straight away caused me to suspect that the exhibits and/or WATTERSON could be put on this RAF plane taken out of Gibraltar. I relayed this to COP who asked for contingencies to be put in place to prevent the aircraft from departing if our suspicions were confirmed.[24] You can appreciate how time critical the situation was getting with on the one hand the application for the warrant being heard at 1500Hrs which coincided with the possible departure of the military flight.

I also learnt that the Acting Governor would see both CoP and Col GREEN at The Convent after a separate [firearms capability] meeting which was being attended by both. The matter would again be discussed. It was COP's intentions at this meeting to seek assurances from Col GREEN that the aircraft would be carrying the exhibits. As it happened Col GREEN did not attend the said meeting.

At approximately 1430Hrs Insp PERERA was instructed to position himself in a marked police car by the south barrier opposite GDP post and await instructions. His position was by the very start of the pedestrian and bicycle lane next to the police post. At about 1514Hrs and unable to discuss the matter with Col GREEN and Acting Governor you directed that we contact PM COLLINS to seek the assurances. Det Ch/Insp Tunbridge tried contacting him to no avail as his mobile phone was switched off. We contacted the JPSU offices requesting to speak to PM COLLINS and RAF Sgt O'Malley stated that he was at a meeting with Col GREEN and was unavailable. We explained how imperative it was that we spoke to PM COLLINS as this was in relation to the on-going WATTERSON matter. Sgt O'Malley undertook to contact PM COLLINS for us.

At approximately 1520Hrs, at the Supreme Court, the Chief Justice, heard my application for the warrant to search for the property seized from WATTERSON's residence by the JPSU. Det/Insp ENRILES, Senior Counsel RHODA and Crown Counsel ZAMMIT supported my application. I took to the witness stand and under oath relayed my information and reasonable suspicions and how time critical the situation was, explaining that we also suspected the property we were looking for could well be on board a military aircraft that was about to depart. Det/Insp ENRILES also had to take the stand as the CJ wanted to know on what basis the Stipendiary had declined the granting of the warrant the previous day. At the end of the application, the CJ granted me the warrant but not before underscoring that it was not a good day for law enforcement when one agency had to

[24] Police powers to stop and search Sec 61(b) of the Criminal Procedure and Evidence Act 2011 & Sec 260 of the Crimes Act 2011

take executive action against another law enforcement agency in this fashion. I had to concur with the CJ on this.

As I left the Supreme Court at 1540Hrs, I learnt that the military aircraft was starting it engines but was still at its stand - the barriers to the stop traffic across the airfield were down. I also learnt that the GDP officer at the south barrier had been instructed to request Inspector PERERA to move away from his position as his presence interfered with air movements. The GDP officer was informed that we had an operation on-going and we were exercising our duties in the said operation. Insp PERERA referred the GDP officer to contact his superiors. Supt ULLGER also received information from Air Traffic Control that all flights would be diverted because of our presence, including commercial flights.

Throughout this time Det Ch/Insp TUNBRIDGE was continuously trying to raise PM COLLINS to no avail. Sgt O'Malley also confirmed that he had not been able to contact PM COLLINS either. Sgt O'Malley was asked whether he could confirm if the exhibits in question had been transported on to the military aircraft that was shortly scheduled to depart to which he stated that he was not in a position to respond to that question but acknowledged the importance of the request. Our suspicions that the exhibits were on board the aircraft were growing by the second.

At the airfield, GDP were being instructed by ATC to insist that Insp PERERA moved from his position or alternatively, if he was not going to move, to hand over the keys to the patrol car as otherwise the military aircraft would not be able to take off. They were informed again that there was a police operation in place and he would not move from his position or indeed hand over the keys to the patrol car. Insp PERERA noted the arrival at the location of Stn Cmdr Liz HUTCHINSON.

At approximately 1545Hrs I arrived at JPSU HQ in Gun Wharf together with other officers. I identified myself to staff and asked for PM COLLINS. Sgt O'Malley informed us that PM COLLINS was not there but that he would call him and tell him we were at his office. A few minutes later, Sgt O'Malley told me that PM COLLINS was on his way to the office to meet us.

At about 1551Hrs, the military aircraft was seen to slowly move from its stand towards the boundary of the RAF apron. Simultaneous to this Insp PERERA noted a MOD sweeper vehicle yellow in colour driven by a civilian driver known to be either [redacted] drive towards the RGP patrol car and manoeuvre to block the patrol car which at the time was static. This caused Insp PERERA to circumvent the MOD vehicle so that the RGP vehicle was not blocked in. Insp PERERA then slowly moved up the cycle lane northbound to the middle of the runway. The RGP had it blue lights on. Seconds later Inspector PERERA moved further northwards and stopped the patrol car by the north barrier.

At approximately 1555Hrs a GDP dog section patrol car driven by GDP PC Diani with RAF Stn Cmdr Liz HUTCHINSON in the front passenger seat drove up to Insp PERERA's position. Stn Cmdr HUTCHINSON told Insp PERERA that she knew what the RGP was doing and that she was "fed up of these silly games", adding that we were preventing a military aircraft from taking off and also endangering the said aircraft. Insp PERERA retorted that if the military aircraft remained by the apron where it currently was, no one would be endangered adding that if she knew what the police operation was about she should understand that we were exercising our duties in respect of this operation. Insp PERERA who at the time was on speaker phone with Ch Insp FINLAYSON and

Supt ULLGER passed on his phone to Stn Cmdr HUTCHINSON as Supt ULLGER wanted to speak with her.

Supt ULLGER informed Stn Cmdr HUTCHINSON that there was an on going police investigation whereby it was strongly suspected that there were items on the aircraft which were linked to the investigation and that we wanted to retrieve them. She was also told that we were desperately trying to contact Col GREEN but had been unable to locate him. Supt ULLGER asked her to please check the manifest to establish whether such items (computers and mobile phones) were on board. She agreed to revert to Supt ULLGER once she had checked the manifest.

At 1559Hrs Stn Cmdr HUTCHINSON called Supt ULLGER and stated that she had the manifest before her and that there was no computer equipment or phones logged in it. She was told that it was suspected that also on-board the aircraft was the serviceman subject of the investigation together with the exhibits appertaining to the case. She was informed that we had a warrant issued by the Chief Justice to retrieve these items which were in the possession of JPSU and that if she had any information she should be disclosing this to him. She was warned of the possible consequences of not co-operating with the requests. To this she stated that she would get back to Supt ULLGER. By responding as she did she was clearly revealing that she was withholding information. However, her word was taken at face value given the responsible post she holds and so the RGP patrol car with Insp PERERA was stood down and moved away from the airfield. Shortly after the aircraft returned to its stand within the apron.

At around 1615Hrs, whilst awaiting the arrival of PM COLLINS at the JPSU HQ at Gun Wharf I was asked by Sgt O'MALLEY to speak to Cmdr Jack Hawkins, PM COLLIN's line manager in the UK. The whole issue of whose jurisdiction over the matter was discussed with each of us arguing our respective positions. Cmdr Hawkins could not understand why we were taking such an interest in this case when the original offence had been disclosed in the UK. I repeated the RGP's position in the same way as it had been promulgated to PM COLLINS and Col GREEN. I also explained that in the absence of the JPSU co-operating with the RGP we had had to resort to securing a warrant from the Supreme Court of Gibraltar to retrieve the exhibits. Unsatisfied with what I saying Cmdr HAWKINS said he wanted to speak to the Chief Justice or a more senior police officer than me. PM COLLINS arrived at JPSU HQ at approximately 1625Hrs (40 minutes after I had arrived at the JPSU premises) whilst I was on the phone to his line manager.

PM COLLINS did not make himself available to me and I exercised great restraint in not asserting my authority under the circumstances and execute the warrant. Believe it or not I was still hopeful that PM COLLINS or his superiors would see sense and appreciate the levels this had reached. It was not to be and when I eventually was able to speak to PM COLLINS I expressed how unprofessional he had been in shunning me in the way he had. I accepted that this was an awkward for situation both of us but we had to be professional and resolve it without further conflict. I informed him that I would rather not execute the warrant and that we could still work the matter out favourably for both. PM COLLINS continued in his rigid way that he was at no liberty to discuss the matter with me. He kept receiving phone calls which he took in private. During one of these breaks in our conversation, I received reliable information that it was very likely that both the exhibits and WATTERSON were in fact on board the aircraft. This I relayed to my colleagues dealing with the airport side of the operation.

At 1629Hrs Supt ULLGER again called up Stn Cmdr HUTCHINSON asking for any update to their last conversation. She insisted that she could not see anything in the manifest to suggest computers were on board. Supt ULLGER told her to stop being selective with words as she perfectly knew what he was on about i.e. that we were seeking out property/exhibits relating to the WATTERSON investigation. She was warned yet again to which she nervously replied that she would call Supt ULLGER back.

At 1650Hrs Supt ULLGER again called Stn Cmdr HUTCHINSON and this time told her we had information that someone had disembarked from the aircraft with items. She was asked to confirm this and she replied that no-one or any cargo had been come off the aircraft. Supt ULLGER expressed his deep dissatisfaction at the misleading responses she was providing, informing her that RGP officers with eyeball on the aircraft had seen this happen. She again stated that she would revert to the Supt. She was reminded about the existence of the warrant and the fact that she could potentially be obstructing police in the execution of our duties. By this stage and by the tone of her voice Supt ULLGER made out that Stn Cmdr was clearly nervous and somewhat confused.

At 1659Hrs, Supt ULLGER called Stn Cmdr HUTCHINSON and told her that the traffic barriers had been down for an inordinate amount of time causing major disruption on all our roads. There was also a potential for public disorder amongst thousands of disgruntled pedestrians and motorists who had been held up for over two and a half hours. He requested that traffic was allowed to circulate forthwith. She stated that pedestrians would be released immediately but when pressed to release vehicular traffic too she said she was working on it.

A RGP patrol car was again despatched to the airfield. Insp PAYAS who was in this patrol car positioned it in the same spot as Insp PERERA had initially positioned himself. He was again approached by a GDP officer who asked him to move the patrol car out of from the airfield or hand over the keys. This was denied on the same basis as earlier. The yellow MOD road sweeper again drove towards the RGP patrol car to block its position and causing Insp PAYAS to evade this manoeuvre. The driver of the sweeper vehicle, Ms MUSCAT was spoken to and advised to desist in her actions as she was rendering herself liable to arrest for obstructing police. She obliged and moved her works vehicle to the area of the western hangar.

At this juncture COP informed me that on conversations with Cmdr Hawkins the latter had pleaded to COP to allow the aircraft to depart as the evidence was required in the UK to pursue the investigation against WATTERSON. This then uncovered the truth which confirmed that the evidence and WATTERSON were on the flight although the three senior MOD officials were saying different, clearly to deceive us.

Around this time, I enquired from PM COLLINS whether the exhibits we wanted to seize were in the building and he replied in the negative. I went to on to inform him that I practically knewthat both WATTERSON and the exhibits were on board the aircraft and that we would proceed to retrieve them. He made no remark to this but I noted he suddenly became very pale and uneasy. I became concerned that he had become unwell but he reassured me he was ok. He took one further private call and after that call his behaviour completely changed. He mellowed to suggest that we should explore the running of a parallel investigation and that he would be making available the exhibits for the RGP to examine. I informed him that this course of action was the

one I had suggested initially but had not met with his approval. I added that all the conflict and tensions experienced during the past few days could have been well averted.

The warrant issued by the Chief Justice was not executed in the end. At approximately 1745Hrs I was notified by COP that he had received assurances from the CBF that the exhibits would be handed over to the RGP in due course. Consequently, I returned to NMH where we held a de-brief and I arranged for an investigation team to liaise with JPSU to proceed with the investigation. The RGP vehicle positioned by the south barrier had also been recalled to NMH at 1745Hrs.

Final observations

You will no doubt have grasped how the escalation of tension was not down to lack of will or desire on our part to resolve the issues in a 'grown up' manner. In fact, as alluded to throughout the chronology of events, we made numerous requests for the handing over of the conduct of the [local] investigation. Sadly, we were taken to the limits only to finally achieve what we are perfectly entitled to. I take the following most salient moments as key to how the matter escalated to the levels they did with I dare say a clear devious intent on the part of the senior military officials we were dealing with;

- The poor judgement by JPSU of not sharing with the Gibraltar authorities the fact that they had a potential sex offender(s) in the jurisdiction and where it was reasonably suspected that offences may have been committed locally.
- The lack of supporting legal/tactical/logistical infrastructure for the JPSU to conduct enquiries in a territory where they claim to have jurisdiction and which in essence can lead to abuses of process.
- The lack of clarity on the part MOD's part as to who has primacy in Gibraltar.
- The local interpretation that the Armed Forces Act 2006 & 2016 are not applicable in Gibraltar; meaning the actions carried out JPSU could be construed as *ultra vires*.
- The intent by Col GREEN and PM COLLINS to disregard the authority of the RGP to assert jurisdiction over the local aspect of the investigation and undermine this authority further by making arrangements to sneak out the exhibits and WATTERSON when it was perfectly clear that the RGP had a [big] claim on the matter.
- The seemingly devious conspiracy employed by Col GREEN, PM COLLINS and Stn Cmdr HUTCHINSON to ensure the RGP could not discharge their lawful duty and create a situation to exert pressure on the RGP to relent in our efforts. This includes (i) the instructions issued to civilian MOD drivers to block the path of two RGP patrol cars who were legitimately engaged in a police operation, (ii) the misleading and obstructive attitude displayed by the Stn Cmdr regarding the exhibits and person on board the aircraft (iii) the unhelpful attitudes and stances displayed by Col GREEN and PM COLLINS throughout, (iv) the traffic chaos and potential public order situation created due to the very long time the traffic barriers were closed when there was no need for this.

Finally, you may have a different view to me on this but, Sir, I submit to you that there has certainly been a serious breach of trust and confidence by, in my view, the three senior military officials referred to in this report. It will be awkward to say the least to re-establish this trust and confidence wherever and whenever our respective roles coincide in the future.

COP has requested a meeting between the under mentioned parties to be held at the office of Her Majesty's Attorney General for Gibraltar Michael LLAMAS QC at 1130Hrs on Wednesday 22nd February 2017 to discuss issues to prevent a repetition on of events described in this report.

HMAG Michael LLAMAs QC
Senior Counsel Rickey RHODA QC
COP Eddie YOME
CBF Mike WALLIKER
Provost Marshall (Navy) Cmndr Jack HAWKINS
Provost Marshall Legal Advisor

I have relayed this meeting request to PM COLLINS and I am waiting for a response on acceptance or otherwise from Cmdr HAWKINS and the UK legal advisor for the services police.

Ian McGrail *OTM M.Sc.*
Detective Superintendent
Crime & Protective Services Division

Superintendent Tunbridge
Operations Division

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25th October 2019

To: Commissioner of Police

Attn: Frank Carreras OBE - PCB

Subject: OP APACHE – Complaint made to the PCB by Scott O'Malley and Claire Bell

Background to the matter in question:

In February 2017, I held the position of Detective Chief Inspector of the Crime & Protective Services Division. Detective Superintendent McGrail (now COP) was my direct line manager. In respect of Op Apache, I was the designated Senior Investigating Officer (SIO).

The events leading up to the commencement of Operation Apache & the incidents of the 8th February 2017 are described in full in the Commissioner's report submitted on this matter and I would respectfully ask you to refer to his report.

On receiving the initial information reference Watterson on the 4th February 2017, over the subsequent days, I had (together with Insp Enriles) a number of meetings and telephone conversations with the JPSU to attempt to deal with the matter appropriately, but to no avail. Consequently, on the 8th February 2017, the incident at the runway and South Dispersal transpired, whereby Watterson was attempted to be flown out of Gibraltar to the UK, together with exhibits that the JPSU had seized.

On the 8th February 2017, on receiving information that Watterson was to be removed from Gibraltar, together with the arrival of a military aircraft at the South Dispersal, prior to the incident at the runway, I spoke with Sergeant O'Malley over the telephone. The calls were as follows:

1. At 1519hrs - I telephoned the JPSU on call mobile and requested to speak with Provost Marshall Collins (as his mobile was switched off). JPSU Sergeant O'Malley stated that Collins was in a meeting with the Chief of Staff and was unavailable. I explained to him that it was imperative that contact was made, as this was in relation to the ongoing Watterson matter, to which the Sergeant took my contact number and confirmed he would call back ASAP.

2. At 1531hrs – As I had not received a call back, I again telephoned the JPSU on call mobile and again requested to speak with Collins. Sergeant O'Malley confirmed that he had had no luck. I asked him if he could confirm if the exhibits in question were still in Gibraltar and if they had been transported to the Military aircraft, which had just landed at North Front, to which he answered that he was unable to answer that, but understood the importance of my request. Again, he stated that he would attempt to contact Collins.

It was very clear that we were making no headway with the JPSU; we believed that this was all a ploy to enable the JPSU to continue with their planned manoeuvre to gain the advantage and be able to remove Watterson from Gibraltar. What must not be forgotten is that the JPSU were using these tactics, at the same time as senior Military personnel in Gibraltar informed the RGP that neither Watterson nor the exhibits were on the military aircraft. Therefore, with a search warrant (though not executed) together with other officers I entered the JPSU building and awaited the arrival of Collins.

In reality, both Watterson and the exhibits were in fact on the said aircraft, whereby they were subsequently removed and handed over to the RGP.

As per my Policy File Entry No.8 (pages 2689-2691), dated the 24th February 2017, in respect of the incident at RAF Gibraltar on the 8th February 2017 and to further our investigation the decision was made to (after consultation with the OCPL) apply for Search Warrants, under Section 19 of the Criminal Procedure and Evidence Act 2011 for the following offences:

1. Attempting to pervert the cause of Justice, contrary to Common Law
2. Conspiracy to pervert the cause of Justice, contrary to Common Law

There would be four Search Warrants applied for, in respect of the following premises and named persons:

1. Room 26, The Tower, HM Naval Base, in the name of Col Frank Green
2. Joint Provost Security Unit (JPSU), Gun Wharf, in the name of Provost Marshall Chris Collins
3. RAF Station HQ, Mouchotte Building, Spitfire Way, RAF Gibraltar, in the name of Wing Commander Liz Hutchinson
4. Air Movements Office, Western Hanger, RAF Gibraltar, in the name of Wing Commander Liz Hutchinson

In relation to the Search Warrant at the JPSU, the aim of the search was to seize, *"mobile phones, data storage media devices, day books, pocket books from all personnel involved in the investigation instigated by JPSU on Timothy Watterson and any other documentation or other items in relation to this mentioned investigation".*

As per my Policy File entry No.8, page 2690, I state that, *"the reason for obtaining these said search warrants is that we have during the course of the investigation (Op Apache) suspected that the subjects named in the warrants conspired with others to pervert / obstruct RGP investigating officers (namely their actions of the 8/2/17) from accessing material pertinent to the enquiry, in the full knowledge that the RGP were exercising their lawful duties and the material in question was required to pursue the investigation. The course of public justice could thus not be fulfilled, with the extent of their actions culminating with a concerted attempt by all 3 named persons to take the exhibits in question out of Gibraltar, by flying them on a military plane back to the UK".*

In order to ascertain / investigate the extent of the believed conspiracy within the JPSU, we required *"mobile phones, data storage media devices, day books, pocket books from all personnel involved in the investigation instigated by JPSU".* This meant that we required these items from all the staff members within the JPSU and not just the Provost Marshall. The JPSU is a very small department, with limited personnel, so it was correct to believe that all its members would have been heavily involved in an investigation of this type and the transfer of Watterson and the exhibits to RAF Gibraltar and onwards to the UK.

The Stipendiary Magistrate, Mr Pitto authorized the said warrants on the 27th February 2017.

On Wednesday the 1st March 2017, the decision was made to execute the said search warrants. The four search warrants would be executed simultaneously and I would lead the team to the JPSU building. Prior to 1350hrs, same date, I telephoned JPSU's Master of Arms Claire Bell and requested that she and her JPSU officers attend their office immediately, as I was in possession of a search warrant for their offices. At about 1353hrs, together with other RGP Detectives in plain clothes and a uniformed SOCO officer under my command entered the JPSU building for the purpose of executing the said search warrant. Sergeant Scott O'Malley of the JPSU allowed the RGP access into the said building, where I identified myself (though he already knew who I was from previous meetings) and my officers and the reasons for our presence was explained to him, he was shown the search warrant and explained the items that we would be seizing. In addition, present within the said building were other JPSU staff members, namely:

1. Allan MacDonald
2. Matthew Hempstead

Shortly after, and because of my request, Claire Bell arrived at the JPSU building, as so did Leanne Buehling. As I had already done so with Sergeant O'Malley, I explained to her the reasons for our presence, showed her the said search warrant and highlighted the items we would be seizing. As can be seen on the said search warrant / Search Register on Page 1, section 1, Claire Bell signs as

"Yes" the relevant section stating, *"Was the owner/occupier handed a copy of Warrant/Authority **AND** of his Rights/Entitlements"*. Claire BELL had all the facts and reasons handed to her and explained. At the time, Provost Marshal Collins, the head of the JPSU was not in the building, as he was travelling at the time back from the UK and would be landing at the Gibraltar Airport later that afternoon. Meaning that Claire Bell, as Master at Arms was the senior officer of the JPSU present at that time.

At this time, Bell and O'Malley did raise concerns over the validity of the said search warrant and the seizing of pocket books, mobiles from all JPSU staff and referring to the fact that they were also Police. I explained that the reasoning behind this was covered in the search warrant and was all part of the suspected conspiracy.

During the course of the search, Sergeant O'Malley stated that he had his pocket book and mobiles at his residence. He was not under arrest, so we had no power to seize the said items. We were also not in possession of a search warrant for his residence. However, I asked him if he would voluntarily hand them over to Police, to which he answered in the affirmative. At no time did I or any of my officers' present, cause any intentional duress to any of the JPSU personnel present. There were no threats of arrest, no threats of violence, any constraints or any other action implied or used to coerce any of the JPSU personnel in doing something against their will or better judgement. This was also the case in respect of Bell and Buehling and their voluntary handing over of their items.

As a result, at about 1525hrs, Sergeant O'Malley left the JPSU building accompanied by only DC 127 Garcia-White and they went straight to his residence to recover the said items, as per the Search log, page 3A. DC Garcia-White (in plain clothes) entered the said residence with O'Malley and they were inside for no longer than 5 minutes, as O'Malley went straight for the items requested. No search of the residence was conducted as only the items requested were required. O'Malley's wife and child were in the house at the time, but friendly conversation between them all transpired during the said 5 minutes. At no time during this time did O'Malley inform the officer of his concerns about voluntarily handing over the items to Police. DC Garcia-White was present when we first entered the JPSU offices, whereby I informed the JPSU staff present that the persons with me were all RGP officers.

Subsequently, as per the Search log, page 4B the following items were voluntarily handed over by O'Malley from within his residence, at [redacted] between 1538hrs and 1544hrs:

1. Exhibit Book Entry No.24 – 1 x Black in colour Samsung mobile phone – LMGW/Telephone/1
2. Exhibit Book Entry No.25 – 1 x Black in colour Nokia 635 mobile phone and cable – LMGW/Telephone/2

3. Exhibit Book Entry No.26 – 1 x Note 3 Samsung mobile phone, 1 x Black phone case & 1 x white cable – LMGW/Telephone/3
4. Exhibit Book Entry No.27 – 1 x Pocketbook of Sergeant O'Malley – LMGW/DOC/5

At 1545hrs, I left the JPSU building, leaving DS 11 Goldwin and DS 10 Bautista in charge. At this stage, Sergeant O'Malley and DC Garcia-White had not returned to the JPSU building. I then made my way to the Gibraltar Airport awaiting the arrival of Provost Marshall Collins. On arresting Collins, I transferred him to NMH and I did not return to the JPSU building. I was not informed of any concerns or issues raised by any of the JPSU staff during the period that I was not there. The search terminated at 1631hrs, with no arrests made.

In the Exhibit Book, appertaining to the search at the JPSU building, entry numbers 3, 4, 10 & 11 show the exhibits handed over by O'Malley. These were recorded on a standard exhibits form with set headers referring to who seized and where items were seized. The relevant entries state that all four exhibits were seized (set header) from 19 West Walk, Europa Point and that the items were seized (set header) by, *"DC 127 Garcia White (handed over by Sgt Scott O'Malley)"*.

Within the Criminal Procedure and Evidence Act 2011, Codes of Practice, Code B refers to the Codes of practice for searches of premises by Police officers and the seizure of property found by police officers on persons or premises. For the purposes of this Code, 'premises' as defined in this Act section 2, includes any vehicle, vessel, aircraft or hovercraft any stall, tent or moveable structure (including an offshore installation) and any other place whatever, whether or not occupied as land.

The pertinent section for this matter is Code B5 - Search with consent, which states:

"B5.1. Subject to paragraph B5.3, if it is proposed to search premises with the consent of a person entitled to grant entry, the consent must, if practicable, be documented in the Search Register. The officer must make any necessary enquiries to be satisfied the person is in a position to give such consent (see Notes 5A and B).

B5.2. Before seeking consent the officer in charge of the search must state the purpose of the proposed search and its extent. This information must be as specific as possible, particularly regarding the articles or persons being sought and the parts of the premises to be searched. The person concerned must be clearly informed he or she is not obliged to consent and anything seized may be produced in evidence. If at the time the person is not suspected of an offence, the officer must say this when stating the purpose of the search".

B5.3. An officer cannot enter and search or continue to search premises under paragraph B5.1 if consent is given under duress or withdrawn before the search is completed".

Both Sergeant O'Malley and Master at Arms Bell are senior members of the JPSU locally and work under the ethos and rules of UK PACE. They fully knew that they were not under arrest, what my

limitations were and its implications. They both volunteered consent for the said items to be handed over and did not do so under any form of duress nor did they withdraw their consent at any stage. If they had not given their consent, the handing over of their items would not have occurred. The search at the JPSU building would have continued, and further search warrants to be able to search other identified locations would have had to been obtained. However, this was not required, as with their consent the searches were carried out.

The following are the Notes for Guidance for Code B for this section and state the following:

5A. In a lodging house or similar accommodation, every reasonable effort should be made to obtain the consent of the tenant, lodger or occupier. A search should not be made solely on the basis of the landlord's consent unless the tenant, lodger or occupier is unavailable and the matter is urgent.

5B. If the intention is to search premises under the authority of a warrant or a power of entry and search without warrant, and the occupier of the premises co-operates in accordance with paragraph B6.4, there is no need to obtain written consent.

In respect of section B6.4 (Entry without consent), the Searching of premises - general considerations, it states:

B6.4. The officer in charge of the search must first try to communicate with the occupier, or any other person entitled to grant access to the premises, explain the authority under which entry is sought and ask the occupier to allow entry, unless–

(a) The search premises are unoccupied;
(b) The occupier and any other person entitled to grant access are absent;
(c) There are reasonable grounds for believing that alerting the occupier or any other person entitled to grant access would frustrate the object of the search or endanger officers or other people".

Both Bell and O'Malley refer to Paragraph 5.3 of Code B of the Codes of Practice and that their permission was only given under duress. I categorically deny that any form of duress was directed to Bell, O'Malley or any other member of the JPSU by myself or any of my officers present.

Bell alleges that during the search warrant I said *"in a few days we will be laughing about this over a few beers"*, to which she replied to me *"we will never laugh about this, nor will we ever have a beer together"*. I was involved with this matter from the very outset. Not only was I the SIO for this operation, I was also the senior line manager in charge of our Public Protection Unit, incorporating our Safeguarding team. In addition, I was the chair for the Gibraltar Public Protection Panel, managing Gibraltar's registered sex offenders, through our Designated Risk Managers. I was fully aware of the seriousness of the allegations against Watterson, the risk this created, its implications and consequences for the local community. But, also how wrongly the JPSU had "policed" the Watterson matter, contrary to local MAPPA policy.

I would like to point out that during the days leading up to the 8th February 2017, I had gone to numerous meetings with both Collins and Bell, with senior Military personnel based in Gibraltar, received / read correspondence from very senior UK based military personnel, with the Attorney General, with the OCPL and senior RGP officers. As a result, I was more than fully aware of the serious implications and possible consequences this operation could create for HMGOG, the RGP and MOD future cooperation. I was physically at the runway on the 8th February 2017 and saw firsthand the impact our actions had on public confidence and subsequently evidenced via the international press. Her comments suggest that I was not taking the matter seriously and making jest out of it all. For the reasons I have stated above, I would not have made a comment of this type and I did not make this comment.

From the outset the JPSU staff acted totally outside of their local remit and without absolutely any appropriate authority when arresting Watterson, searching his residence and seizing exhibits and were actively involved in the attempted removal of Watterson by air. There was a clear display of unprofessional behaviour and a disregard and contempt of RGP authority and powers and Gibraltar PLC legislation.

It is important to remember that the JPSU's senior officer locally and two other individuals out of the top three military personnel in Gibraltar were in fact arrested for the offences stated above, whereas the RGP's actions were justified and backed with a search warrant legally obtained and with the support of the Attorney General and the OCPL.

Please do not hesitate to contact me if you require any further details or any clarification.

Wayne Tunbridge
Superintendent Operations
The Royal Gibraltar Police

Rear Admiral A D Radakin



Chief of Staff
Joint Forces Command
Northwood Headquarters
Sandy Lane
NORTHWOOD
Middlesex
HA6 3HP

[redacted]

8 March 2017

Dear Commissioner,

I am writing on behalf of Joint Forces Command – the organisation that commands and is responsible for the UK's permanent joint overseas bases – in respect of the ongoing investigations surrounding events on the 8th February, which unfolded in Gibraltar, in particular around Gibraltar International Airport.

There are a number of points that it seems appropriate to reflect to you. It is hoped these reflections are helpful to you on several accounts:

(1) first to acknowledge the role, advice and direction that Joint Forces Command provided to Commander British Forces Gibraltar on the legal issues impacting on the events of 8th February;

(2) secondly, to recognise and support the individuals involved and who are presently under your arrest and whose actions under your investigations were under the auspices of Joint Forces Command in the fulfilment of their duties. In doing so, it is understood these individuals' actions may have clashed with the responsibilities that your officers properly sought to fulfil; and

(3) finally, to reassure you about the seriousness with which Joint Forces Command views the allegations that have been made, the eagerness to try and satisfactorily settle – to everyone's satisfaction – the concerns with which the Royal Gibraltar Police are understandably investigating, and our genuine enthusiasm – if possible – to use these events as a platform to grow an even better understanding between our respective organisations and to build an even stronger and mutually respectful and beneficial future together.

Taking these points in turn:

Joint Forces Command regrets the events that took place in Gibraltar on the 8th February. This includes the events at Gibraltar International Airport and the dispute as to jurisdiction that led to the confusion by British Forces Gibraltar over the appropriate handling of the individual suspected of downloading indecent material whilst in the United Kingdom; and the detailed management of this particular case. It was the view of Joint Forces Command that the case was to be subject to exclusive Service Police jurisdiction – which turned out not to be correct. This was on the basis that Joint Forces Command was unaware of any potential offences that had been committed by the alleged suspect whilst in Gibraltar or of your suspicions in this respect.

It is acknowledged that in responding to your desire to explore potential illegal activities by

the suspect, Joint Forces Command and subsequently British Forces Gibraltar did not immediately recognise the jurisdictional legal primacy in this case for you to investigate, and if necessary, prosecute the individual were he to be found to have committed a similar or other offence in Gibraltar. I want to reassure you that subsequent additional advice, including at a senior legal level in the Ministry of Defence, recognises the legal primacy point in this case. Joint Forces Command now, therefore, fully understands and respects your legal primacy in this case as the law currently stands today.

We are aware that Her Majesty's Government of Gibraltar has prioritised the drafting of legislation and an MoU that will clearly spell out our respective, complementary jurisdictional roles. It would also be highly desirable for agreement to be reached between our respective agencies setting out the practical application of jurisdiction for the period between now and the enactment of such legislation.

In the course of the events that unfolded on the 8th February, it is considered very important by Joint Forces Command that you should understand that at all material times our people acted in good faith and to implement the direction and guidance provided by Joint Forces Command and Provost Marshal (Navy). They were not on a "frolic of their own" in any sense and were therefore not consciously seeking to deny your officers jurisdiction, or disrespect your officers' lawful instructions. They were acting entirely in keeping with the instructions they were receiving, albeit, with the benefit of hindsight, in a manner which did not assist in resolving matters as expeditiously as all would have preferred.

I think it is important for you to be made aware that there was a decision, as part of the Joint Forces Command application of our duty of care to our personnel, to return the suspect to the United Kingdom for the individual's own welfare. Again, this decision was based on the view that jurisdiction to deal with the offence in question remained exclusively with Forces law enforcement agencies – which turned out not to be correct. It was in pursuance of this requirement and judgement that more appropriate care would be afforded the suspect in the United Kingdom, that British Forces Gibraltar personnel were instructed to facilitate the opportunity of a military aircraft to both return the individual to the United Kingdom and to transport potentially incriminating evidence for forensic examination. I should clarify that, fundamentally, this was because the facilities at RAF Brize Norton were considered more appropriate for looking after the individual than those of British Forces Gibraltar; and, ordinarily, the capability for Service Police investigations overseas which require electronic and communications forensic analysis is held in the United Kingdom. It is in seeking to implement this approach that, unfortunately, personnel from British Forces Gibraltar had what were clearly unfortunate altercations with officers of the Royal Gibraltar Police who were acting in the lawful execution of their duties. I cannot emphasise to you how much we regret, with the benefit of hindsight and the later legal advice we have received, that we were not better able to cooperate with those of your officers in question. These altercations should not have happened and any active disagreement as to jurisdiction should, in any event, have been handled in the more dignified and usual manner for issues of this type. I must express to you in particular our genuine regret to hear accusations that British Forces Gibraltar personnel behaved disrespectfully towards officers of the Royal Gibraltar Police and that they were inconsiderate of the requirements under which your officers were seeking to undertake their lawful activities and investigations. That is not in the nature of the relationship we have long enjoyed between our organisations.

It is hoped, sincerely, that these events can be used to assist us all in a clearer understanding of the Royal Gibraltar Police's jurisdiction in respect of criminal matters and British Forces Gibraltar's application of service law; and that – looking ahead – there are considerable opportunities to enable our respective law enforcement agencies and leadership to work even more closely together. There are numerous significant opportunities to enable this: the routine business of service people in Gibraltar; the joint policing that is usually put in place for the arrival and duration of Royal Navy warships and submarines; and the ambition that we all have to draw further on various Gibraltar Parliament statutes

anticipated to be enacted later this year and which will provide a stronger and clearer platform for continued co-operation and enhanced security measures and resilience for Gibraltar.

It is hoped that this contextual information is of assistance in providing an appropriate and accurate background for many of the actions that Service Personnel took in the course of their duties in respect of the events and associated interactions that flowed from the 8th February incident.

Joint Forces Command assures you that there was not and never envisaged any intention to attempt to fetter the Royal Gibraltar Police's jurisdiction. That it appeared otherwise is deeply regretted. It is sincerely hoped that our future interactions are on a more positive basis and that we collectively work together to enhance the security of the United Kingdom and Gibraltar.

Yours sincerely,

Tony Radakin

Copy to:

External:
FCO/HE the Governor of Gibraltar
HMGoG/AG
FCO/Dir Europe
MoD/CLS Dir
MoD/DISP

Internal:
Comd JFC
DirResPol
CBF Gibraltar

Colonel F Green Late RE
HQ British Forces Gibraltar
Room 25
The Tower
BFPO 52

[redacted]

Date: 9 March 2017

Dear Commissioner,

Re: Watterson

I write further to the events of 7-8 February 2017 in respect of the investigation by the RGP into the above captioned member of Her Majesty's Forces stationed in Gibraltar.

As you know, on those days I was in contact with officers of the Royal Gibraltar Police (RGP) as events unfolded in relation to your ongoing investigation into the above-captioned.

I have had sight of a letter that the Chief of Staff Joint Forces Command, Rear Admiral Tony Radakin, has sent to you dated 8 March 2017.

I note that the communication from Rear Admiral Radakin serves to clarify the position of the Ministry of Defence as to jurisdiction in respect of the above captioned. The letter also makes clear that, at all times, I was acting in the fulfilment of my duties as directed by my superiors, and on the advice from Joint Forces Command and Provost Marshal (Navy).

It now transpires that the advice on jurisdiction, which formed the basis for my directed actions, was not correct. I clearly did not know this at the time of the events and was, indeed, led to believe the opposite.

I would welcome the opportunity to come to see you for a face-to-face meeting as a further step towards the reconciliation we all seek and the restoration of the excellent relationship I have always enjoyed with the RGP.

Yours Sincerely

Provost Marshal (Gibraltar)
JPSU
British Forces Gibraltar
The Tower
BFPO 52
[redacted]

Edward Yome CPM
Commissioner
Royal Gibraltar Police
New Mole House
Rosia Road
Gibraltar

Our Reference: JPSU/0422/13/2017

Date: 9 March 2017

Dear Commissioner

Re: Watterson

I write further to the events of 7-8 February 2017 in respect of the investigation by the RGP into the above captioned member of Her Majesty's Forces stationed in Gibraltar.

As you know, on those days I was in contact with officers of the Royal Gibraltar Police (RGP) at JPSU Gun Wharf as events unfolded in relation to your ongoing investigation into the above-captioned.

I have had sight of a letter that the Chief of Staff Joint Forces Command, Rear Admiral Tony Radakin, has sent to you dated 8 March 2017.

I note that the communication from Rear Admiral Radakin serves to clarify the position of the Ministry of Defence as to jurisdiction in respect of the above captioned. The letter also makes clear that, at all times, I was acting in the fulfilment of my duties as directed by my superiors, and on the advice from Joint Forces Command and Provost Marshal (Navy).

It now transpires that the advice on jurisdiction, which formed the basis for my directed actions, was not correct. I clearly did not know this at the time of the events and was, indeed, led to believe the opposite.

In light of the above, it will be evident to you that my actions on the dates in question at JPSU Gun Wharf were at all times taken in the good faith belief that my superiors were directing me to act in keeping with the law.

In particular, it was evidently not my intention to obstruct any officer of the RGP in the lawful performance of their duties, nor to obstruct their investigation, even less to have attempted to pervert, or to conspire to pervert, the course of justice. Nothing could have been further from my mind. Indeed, as a member myself of Her Majesty's Armed Forces, I am entirely committed to the observance of the law and of the rule of law. If any of my actions are seen by you as even remotely giving that impression, I sincerely and unreservedly apologise.

You will therefore not be surprised to know that I thoroughly regret the events that took place and wholeheartedly apologise if any of my actions are or were seen by you or your officers as any conscious desire or intent by me to obstruct any investigation by the RGP or to disrespect the RGP. I deeply regret that my actions may have led to this perception. I would wish to reiterate that I was acting in support and in furtherance of the MoD's understanding of its legal position and I was at all times seeking to fulfil my obligations as a directed member of a disciplined, uniformed, body with integrity and honesty.

It goes without saying that I fully respect the RGP and have worked well with them as an equal partner agency before the events of the past weeks. I sincerely hope that JPSU generally, and myself personally, will be able to return to the previously prevailing normality in which we both contribute towards the policing and security of Gibraltar, to the mutual benefit of this whole community and the United Kingdom. With the benefit of hindsight, if such an event occurred again I would seek to ensure a more constructive dialogue at an earlier stage and would certainly not act as I did on this disagreeable occasion.

I would welcome the opportunity to come to see you for a face-to-face meeting as a further step towards the reconciliation we all seek and the restoration of the excellent relationship I have always enjoyed with the RGP.

Yours Sincerely

Chris Collins

C M COLLINS
Squadron Leader

Royal Air Force Gibraltar

Wing Commander L Hutchison
Station Commander
Station Headquarters
Mouchotte Building
Spitfire Way
RAF Gibraltar
BFPO 52
[redacted]

9th March 2017

Dear Commissioner,

Re: Watterson

I write further to the events of 7-8 February 2017 in respect of the investigation by the RGP into the above captioned member of Her Majesty's Forces stationed in Gibraltar.

As you know, on those days I was in contact with officers of the Royal Gibraltar Police (RGP) at Gibraltar International Airport as events unfolded in relation to your on-going investigation into the above-captioned.

I have had sight of a letter that the Chief of Staff Joint Forces Command, Rear Admiral Tony Radakin, has sent to you dated 8 March 2017.

I note that the communication from Rear Admiral Radakin serves to clarify the position of the Ministry of Defence as to jurisdiction in respect of the above captioned. The letter also makes clear that, at all times, I was acting in the fulfilment of my duties as directed by my superiors, and on the advice from Joint Forces Command and Provost Marshal (Navy).

It now transpires that the advice on jurisdiction, which formed the basis for my directed actions, was not correct. I clearly did not know this at the time of the events and was, indeed, led to believe the opposite.

In light of the above, it will be evident to you that my actions on the dates in question at Gibraltar International Airport were at all times taken in the good faith belief that my superiors were directing me to act in keeping with the law.

In particular, it was evidently not my intention to obstruct any officer of the RGP in the lawful performance of their duties, nor to obstruct their investigation, even less to have attempted to pervert, or to conspire to pervert, the course of justice. Nothing could have been further from my mind. Indeed, as a member myself of Her Majesty's Armed Forces, I am entirely committed to the observance of the law and of the rule of law. If any of my actions are seen by you as even remotely giving that impression, I sincerely and unreservedly apologise.

You will therefore not be surprised to know that I thoroughly regret the events that took place and wholeheartedly apologise if any of my actions are or were seen by you or your officers as any conscious desire or intent by me to obstruct any investigation by the RGP or to disrespect the RGP. I deeply regret that my actions may have led to this perception. I would wish to reiterate that I was acting in support and in furtherance of the MoD's understanding of its legal position and I was at all times seeking to fulfil my obligations as a directed member of a disciplined, uniformed, body with integrity and honesty.

It goes without saying that I fully respect the RGP and have worked well with them as an equal partner agency before the events of the past weeks. I sincerely hope that RAF Gibraltar generally, and myself personally, will be able to return to the previously prevailing normality in which we both contribute towards the policing and security of Gibraltar, to the mutual benefit of this whole community and the United Kingdom. With the benefit of hindsight, if such an event occurred again I would seek to ensure a more constructive dialogue at an earlier stage and would certainly not act as I did on this disagreeable occasion.

I am also particularly regretful if our inability to cooperate more effectively on the days in question resulted in inconvenience to the public.

I would welcome the opportunity to come to see you for a face-to-face meeting as a further step towards the reconciliation we all seek and the restoration of the excellent relationship I have always enjoyed with the RGP.

Yours sincerely

L Hawkins

GIBRALTAR POLICE AUTHORITY
(The Community In Policing)

5th September 2017

Hon Fabian Picardo QC MP
Chief Minister
Office of the Chief Minister
No 6 Convent Place
Gibraltar

GP/0/34-17
ROYAL GIBRALTAR
OFFICE OF THE
11/09/2017
[illegible]

Dear Chief Minister,

Re.: Wanerson Inquiry

I refer to your request to the Gibraltar Police Authority ("GPA") to enquire from the Royal Gibraltar Police ("RGP") into the events that transpired on and around 8th February 2017 relating to Sergeant Wanerson (the "Wanerson Incident").

We have reviewed the relevant reports prepared by the RGP in respect of the Wanerson Incident, and have further discussed and raised questions relating to the effectiveness and probity of policing in Gibraltar by the RGP in connection therewith. In particular, we have interviewed the Commissioner of Police and his most senior ranking officers in relation to the Wanerson Incident, being careful to understand the thought processes and considerations of the RGP officers involved in the Wanerson Incident, including but not limited to (i) whether the consequences of the actions and restraint of the relevant RGP officers throughout the Wanerson Incident were considered and deliberated; (ii) whether the actions of, and restraint shown by, the relevant RGP officers throughout the Wanerson Incident were necessary and proportional; and (iii) whether with the benefit of hindsight any actions could or should have been taken differently by the RGP.

The GPA has come to the firm conclusion that the actions of and the restraint shown by the relevant RGP officers during the Wanerson Incident were considered, deliberated, entirely proportional and highly commendable. As such, we do not doubt the effectiveness and probity of the policing demonstrated by the RGP in respect of

No.1, Casemates House, Casemates Square, Gibraltar
[redacted]

the Waterton Incident. We would take the liberty of adding, though it may not be our place to do so, that the actions of certain MOD personnel in respect of the Waterton Incident deserve censure and that you should consider whether a full inquiry ought to be undertaken by a body independent of the RGP and the MOD so that lessons may be learnt from this incident.

I remain at your disposal should you wish to discuss this matter further.

Yours sincerely



J C Gonsalves MBE
Chairman

No 1, Seamans House, Seamans Steps, Gibraltar

[redacted]

Police Complaints Board, Complaint against an RGP Officer(s)

[redacted]

Details:

Name: Mrs C L Bell, Royal Navy Police

[redacted]

Who:

Police Officer details:
Commissioner of Police, Ian McGrail, RGP – Applied for warrant and was senior investigator.
Detective Chief Inspector, Wayne Tunbridge, RGP – Executed the warrant on the day in question.

Where:

JPSU offices, Gunwharf, HM Naval Base
Private Motor Vehicle (PMV) (Mr Macdonald).

When:

1 Mar 17, 1400 – 1540

What:

Who was involved?
Mrs Claire Bell
Mr Scott O'Malley
Mr Al Macdonald
Mrs Leanne Buehling

What:

DCI Tunbridge acted outside the remit of the warrant that was served on JPSU by seizing articles namely my Service Police Notebook from a PMV belonging which belonged to Mr Macdonald, neither I or the PMV were specified on the warrant, I did not consent verbally or in writing to this, DCI Tunbridge breached both the human rights act (Article 8) in relation to the above named people involved and also Para 5.3 of Code B – Codes of Practice by seizing my private mobile telephone. I also believe I was unlawfully detained for a period of time at JPSU whilst my personal mobile telephone was being seized.

Witnesses:

Mr Scott O'Malley
Mr Al Macdonald
Miss Leanne Buehling

Damage/injury:

No damage (unsure if my personal mobile telephone has been interrogated by the RGP), no physical injury. Emotional injury: [redacted]

Précis of events:

On 1 Mar 17 it is my belief that the RGP clearly acted outside the extent of a Warrant that was served upon my place of work, taking personnel either to their private motor vehicles, private home addresses or private living Accommodation to make various seizures of Private Mobile phones and other articles. It is my belief that the RGP had no lawful authority to seize private mobile phones and unlawfully and illegally entered private premises and vehicles to seize such items.

The RGP were acting under a warrant that legally entitled them to enter premises situated at Joint Provost Security Unit, Gun Wharf, it did not extend to, the RGP escorting myself to a Private Motor Vehicle (PMV) to seize my private mobile telephone, it did not extend to RGP escorting Mr McDonald to his PMV, in order to seize his private mobile phone, it did not extend to the RGP escorting Mr O'Malley to his family home at [redacted] and entering those premises, to seize his private mobile phone and it did not extend to the RGP escorting Miss Buehling to her private living accommodation at Devils Tower Camp, entering those premises and seizing her private mobile phone. I also contend that such an escort in these circumstances amounts to an infringement of our liberty and of our free movement and could be considered as an unlawful 'detention' under such circumstances.

More broadly under civil terms RGP officers have breached the human rights of all of us citing this complaint under Article7/8 of European Court of Human Rights (ECHR) and Article 7/8, Human Rights Act (HRA) 1998. I was never under arrest however; my personal mobile telephone was seized thereby breaching any rights to privacy.

Finally, to end, I would like to complain about the unprofessional way the search was actually conducted. The RGP did not wear any PPE, not even the minimum of a pair of gloves were worn, no photographs were taken of the articles prior to them being seized and more disturbingly, no information was ever sought regarding the occupants of a private home addresses which included Mr O'Malley's wife and [redacted] daughter. No justification was ever given on what articles were seized or not seized. No Explanation was ever given to us regarding the powers used to seize or retain such articles.

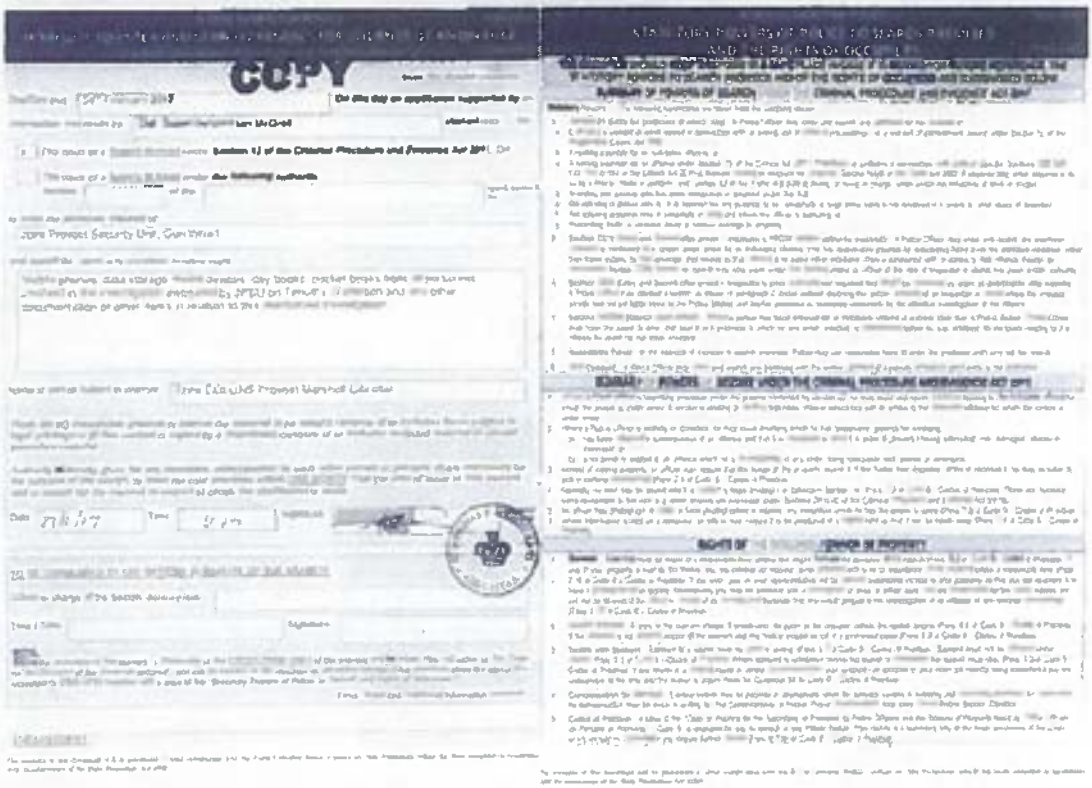
Below is an accurate précis of the events that occurred on 1 Mar 17 and a copy of the warrant served.

At approximately 1340 on 1 Mar 17, I received a telephone call from DCI Wayne Tunbridge who stated I was required to attend the Joint Provost and Security Unit (JPSU) at Her Majesty's Naval Base Gibraltar, I was instructed to round up my team and that he had a Warrant to conduct a search of JPSU and that he would explain further upon her arrival. He said he would not enter until my arrival. I left my house immediately leaving my wife in a very distressful state as she did know what may happen to me.

At 1400, upon request of the RGP, Mr O'Malley escorted the RGP into JPSU offices. DCI W Tunbridge, RGP spoke to him when they were interrupted by another RGP officer who stated, "has the Warrant been served?" to which DCI Tunbridge stated "yes".

The warrant was applied for by Det Sup McGrail on 24 Feb 17 and signed by the magistrate on 27 Feb 17 at 1220. The name of the person subject to the warrant was **Chris COLLINS** Provost Marshal Gibraltar. It stated the warrant was to enter the premises situated at "**Joint Provost Security Unit, Gun Wharf**" and search for "Mobile Phones, data storage media devices, day books, pocket books from all personnel **involved in the investigation** instigated by JPSU on Timothy Watterson and any other documentation or other items in relation to this mentioned investigation"

Mr O'Malley expressed at the time serious concerns about the legality and necessity of the warrant and expressed concerns about having to surrender his personal mobile device.



At 1405, I liaised with DCI Tunbridge. the Warrant was served on me, in disbelief I stated, "you are just about to serve a warrant on another policing agency, can you at least speak with Deputy Provost Marshall (Navy) (DPM (N))?" DCI Tunbridge stated that a decision had come from higher and that he was serving the Warrant and that DPM (N) needed to speak with the Commissioner not him. I signed the warrant and was subsequently given a copy of the warrant.

Both myself and Mr O'Malley continued to express concerns to DCI Tunbridge regarding the seizure of our private mobile telephones. He stated that the decision had come from higher up and was only acting on orders. He stated that he had no choice but to carry out the warrant. This statement did not seem very genuine.

DCI Tunbridge stated to me "in a few days we will be laughing about this over a few beers", I replied to DCI Tunbridge "we will never laugh about this, nor will we ever have a beer together"

At 1417, I was escorted out of JPSU offices to a vehicle which was parked outside JPSU, where they took possession of my Service Police Notebook. No warrant was produced to enter the PMV. I was then escorted back into the JPSU building and at 1425, my private personal mobile telephone was seized, which contained personal information and the device was my only way of communicating to my family back in the UK. In fear of being arrested, I handed my mobile telephone over to the police officer, under duress and without consent either written or verbal. I expressed at the time serious concerns about the legality and necessity of the warrant and about having to surrender my personal mobile device, when I questioned the police officer at the time "why they are taking my personal phone" he replied, "because they needed it".

The RGP officer did not identify himself, he did not show me his warrant card, he did not state the grounds for taking my property, he did not tell me what offence was being investigated or what part he believed I played in it, he did not explain what would happen to my property and did not give me a receipt for my personal property. I was not in arrest at any time however during course of the day I do believe that I had been unlawfully detained against my will at least between the hours of 1400 and 1540 on Wed 1 Mar 17.

At 1419, Mr A McDonald was escorted out of JPSU to his vehicle, which was parked outside JPSU, where they took possession of his personal mobile device, containing personal information. No warrant was produced to enter the vehicle. On completion of the search of Mr Macdonald's office he requested if he could leave as he had arranged to go in to Town with his wife. This request was denied by RGP who stated he had to remain until the search of JPSU was completed. Mr McDonald was not in arrest and his liberty was denied.

At 1515, Mr O'Malley again spoke with DCI Tunbridge challenging the requirement to seize his personal phone, as he was not in arrest, he again expressed his concerns and the property they were demanding were at his home address [redacted]

DCI, Tunbridge stated that he would be escorted to his home address by an RGP officer and he was to hand them over there. At 1516, he departed JPSU in company with an RGP officer to produce his mobile phones. At 1538, Mr O'Malley entered his Service Family Accomodation (SFA) the RGP officer entered behind him, uninvited and in front of his very worried and distraught wife, [redacted] and [redacted] daughter, [redacted] in fear of being arrested, under duress and without consent either written or verbal he handed over his mobile devices, duty mobile phone and service police notebook. The RGP officer did not identify himself, he did not show him his warrant card, he did not state the grounds for taking his property, he did not tell him what offence was being investigated or what part he believed Mr O'Malley played in it, he did not explain what would happen to his property and did not give him a receipt for the property. Mr O'Malley subsequently returned to JPSU. He was not in arrest at any time however during the course of that day I believe that he had been unlawfully detained, against his will at least between the hours of 1400 and 1540 on Wed 1 Mar 17.

At 1600, Miss L Buehling was escorted out of JPSU and escorted by RGP to her Service Living Accommodating (SLA) at Devil Tower Camp, (DTC) to surrender her personnel mobile device, which contained personal date. Miss Buehling expressed her concerns at the time even stating, "she did not want to hand over her personal phone" but she was informed by RGP that "she had to". She handed over her phone without consent either written or verbally and under duress. Miss Buehling subsequently returned to JPSU. Miss Buehling was not in arrest.

I make my complaint on two primary grounds but with each amounting to various breaches namely:

1. The RGP have no lawful authority to seize private mobile phones and have unlawfully and illegally entered PMV and private premises by which to seize such articles. The RGP were acting under a warrant that legally entitled them to enter premises situated at Joint Provost Security Unit, Gun Wharf – it did not extend to the RGP escorting me to a PMV, escorting Mr O'Malley to the SFA at Europa Point entering those premises and making seizures, it did not extend to the RGP escorting Miss Buehling to her SLA at DTC and seizing her private mobile phone. I also contend that such an escort in these circumstances amounts to an infringement of liberty and of theirs and my own free movement and could be considered as an unlawful 'detention' under such circumstances.

2. More broadly under civil terms RGP officers have breached my human rights under Article7/8 of ECHR and Article 7/8, HRA 1998. Mr O'Malley, Mr Macdonald, Miss Buehling and I were not arrested however personal mobile phones were seized thereby breaching any rights to privacy, correspondence, letters, telephone calls and emails etc. I would like this matter to be investigated and receive advice on under what legislation the RGP can interrogate my phone and the admissibility of any material obtained by such an intrusive interrogation of personal data.

There has been a delay in submitting my complaint, due to being informed by GoG and the MOD that and independent enquiry would take place, which would have highlighted the unlawful actions of the RGP and the unlawful treatment of MOD personnel. However, that enquiry has not taken place and is not taken place. There is also a delay in submitting this complaint due to the fear and threat of low-level harassment from the RGP, whilst I was still in Gibraltar. Now I am safely back in the UK away from the RGP who I view as having acted unlawfully, unethically and unscrupulously in this instance, I wish to submit my complaint.

Finally, I have been informed that the now Commissioner of Police, Ian McGrail at a recent conference stated that the investigation could be re-opened at any time **"he wishes"**. I am seriously concerned with this comment. I had in the past been informed that I may have been part of the wider investigation, which may have resulted in my arrest, to that end in line with the Subject Access Request, I wish to know what information the RGP hold on me.

I give my consent for you to pass the information contained on the letter to the professional standards department of the RGP in connection with the investigation of this complaint.

Signed:  Date: 19-Aug-19

DOC 11

In the matter of the Police Act, 2006

And

In the matter of the complaint by Claire Bell against the Royal Gibraltar Police

A complaint has been lodged by Mrs Claire Bell (the complainant) against the Royal Gibraltar Police ("RGP") alleging that Commissioner of Police Ian McGrail and Detective Chief Inspector Wayne Tunbridge acted outside the remit of a search warrant served on the Joint Provost and Security Unit (JPSU) and that the RGP carried out the search in a very unprofessional manner.

A sub-committee of the Police Complaints Board was constituted to investigate the complaints. Pursuant to regulation 3(3) of the Police Complaints Regulations, 2008, the Board has the power to regulate its own proceedings, to consider and investigate complaints.

The complaint was presented to the members of the sub-committee who have investigated the complaint.

The sub-committee has read the report submitted by the complainant who alleges that on 1 March 2017, the RGP acted outside the remit of a search warrant served on the JPSU by escorting her to her motor vehicle which was parked outside the JPSU and taking possession of her Service Police Notebook. The complainant further alleges that she handed over her mobile phone under duress and without her written or verbal consent. The complainant contends that the search warrant entitled the RGP to enter and search the JPSU but it did not extend to her vehicle or to the residence of other JPSU personnel. The complainant further alleges that RGP officers breached her rights under the European Convention on Human Rights and under the Human Rights Act 1998. She claims that because she was not arrested and having her personal mobile phone and the Service Police Notebook seized, this action breached her rights to privacy, correspondence, letters, telephone calls and emails.

The sub-committee also notes the complainant's concern regarding a statement made by Commissioner of Police, Ian McGrail in a recent conference that **"he could re-open the investigation at any time, if he so wished."** However, when asked, Commissioner of Police Ian McGrail categorically denied having made such a statement.

The sub-committee has also read the report and supporting documents submitted by the RGP outlining the said events according to police records. It has taken note of the fact that at the time when the search warrant was executed, Commissioner of Police Ian McGrail held the position of Detective Superintendent and Superintendent Tumbridge held the position of Detective Chief Inspector. The sub-committee also notes that the aim of the search warrant was to seize mobile phones, data storage media devices, day books, pocket books and all other material in the possession of those individuals involved in the investigation instigated by JPSU on Timothy Watterson.

The sub-committee notes from the report submitted by Superintendent Tumbridge that on 1 March 2017, he executed the search warrant and that he identified himself and his men to Mr Scott O'Malley who allowed them access into the JPSU building. Superintendent Tumbridge claims that he served the complainant with the search

warrant and explained to her the reason for his presence and informed her of the items he would be seizing. It is also noted that the warrant was signed by the complainant and later the RGP provided her with a copy.

Notwithstanding the above and the fact that the warrant allowed for the seizure of certain items, it is noted that the complainant expressed her concern over the legality and necessity of the search warrant and the surrendering of the Service Police Notebook and mobile phone. Superintendent Tumbridge claims that he explained to the complainant that the reason for seizing the material was covered in the search warrant and it was all part of the suspected conspiracy.

The sub-committee also notes that Commissioner of Police Ian McGrail was the officer who applied to the Court for the issue of a warrant to enter and search the said premises and understands that he did not physically partake in the search of the JPSU or the complainant's motor vehicle.

In his report, Superintendent Tumbridge explains that the items seized were handed over by the complainant and other JPSU personnel to the RGP voluntarily and that at no time did he or any of his men cause any intentional duress to the complainant or to any other JPSU personnel. He further claims that there were no threats of arrest, no threats of violence, any constraints or any other action implied or used to coerce the complainant in doing something against her will or better judgment. This is in conflict with the statement made by the complainant in that the items were taken without her oral or written consent. Superintendent Tumbridge acknowledges that the complainant was not under arrest and therefore he had no power to seize the items. He further confirms that he was not in possession of a warrant to search the complainant's vehicle.

In arriving at its decision, the sub-committee has considered all the reports, statements and evidence submitted by Mrs Claire Bell, the Commissioner of Police Ian McGrail, Superintendent Tumbridge and has also taken note of the advice provided by Counsel.

The sub-committee finds that:

The RGP were legally entitled to enter and carry out a search of the JPSU and seize the equipment authorise under the warrant;

The warrant did not extend to the complainant's motor vehicle or to the residence of the other JPSU personnel and therefore the RGP were not legally entitled to enter and search the said premises and motor vehicle without the prior permission of the complainant in the case of her motor vehicle and the other JPSU personnel in respect of their respective residence (this is acknowledged by the RGP in their report). However, there are conflicting statements from both the complainant and the RGP in relation to the seizure of the equipment from the complainant's vehicle. The complainant alleges that she did not grant permission to the RGP to escort her to her vehicle and seize the material sought. She further alleges that such an escort amounted to an infringement of her liberty and free movement and could be considered as an unlawful detention. It is alleged by the RGP that the complainant and all JPSU personnel handed over all material voluntarily.

On the basis of the above and considering all the evidence presented, the sub-committee has come to the conclusion that there is insufficient evidence to find, on a balance of probabilities, that the RGP acted unlawfully and illegally when entering the residence of the JPSU personnel and the complainant's vehicle to obtain the

equipment sought and that the action of the RGP did not breach any human rights afforded of the complainant and other JPSU staff under the European Convention on Human Rights and the Human Rights Act 1998.

The Police Complaints Board has considered the findings of the sub-committee and finds that the RGP did not act unprofessionally in the execution of their duties and, therefore, the complaint has not been sustained. The complaint made against the Commissioner of Police Ian McGrail and Superintendent Wayne Tumbridge is, therefore, dismissed.

Dated this 29 May 2020.



Chairman
Police Complaints Board

DOC 12

In the matter of the Police Act, 2006

And

In the matter of the complaint by Scott John O'Malley against the Royal Gibraltar Police

A complaint has been lodged by Mr Scott John O'Malley (the complainant) against the Royal Gibraltar Police ("RGP") alleging that Commissioner of Police Ian McGrail and Detective Chief Inspector Wayne Tunbridge acted outside the remit of a search warrant served on the Joint Provost and Security Unit (JPSU) and that the RGP carried out the search in a very unprofessional manner.

A sub-committee of the Police Complaints Board was constituted to investigate the complaints. Pursuant to regulation 3(3) of the Police Complaints Regulations, 2008, the Board has the power to regulate its own proceedings, to consider and investigate complaints.

The complaint was presented to the members of the sub-committee who have investigated the complaint and have established that:

The complainant alleges that on 1 March 2017, the RGP acted outside the remit of a search warrant served on the JPSU by escorting him to his family home at Europa Point, entering the said premises and seizing his mobile phones and other material without his written or verbal consent. The complainant contends that the search warrant legally entitled the RGP to enter and search the JPSU but it did not extend to his home. The complainant further alleges that the RGP officers breached his rights under the European Convention on Human Rights and under the Human Rights Act 1998. He claims that because he was not arrested and having his personal mobile phones seized, this action breached his rights to privacy, correspondence, letters, telephone calls and emails.

The sub-committee also notes the complainant's concern regarding a statement made by Commissioner of Police, Ian McGrail in a recent conference that **"he could re-open the investigation at any time, if he so wished."** However, when asked, Commissioner of Police Ian McGrail categorically denied having made such a statement.

The sub-committee has also read the report and supporting documents submitted by the RGP outlining the said events according to police records. It has taken note of the fact that at the time when the search warrant was executed, Commissioner of Police Ian McGrail held the position of Detective Superintendent and Superintendent Tumbridge held the position of Detective Chief Inspector. The sub-committee also notes that the aim of the search warrant was to seize mobile phones, data storage media devices, day books, pocket books and all other material in the possession of those individuals involved in the investigation instigated by JPSU on Timothy Watterson.

The sub-committee notes from the report submitted by Superintendent Tumbridge that on 1 March 2017, he executed the search warrant and that he identified himself and his men to the complainant who allowed them access into the JPSU building. Superintendent Tumbridge claims that he showed the complainant the search warrant and explained to him the reason for his presence and informed him of the items he would be seizing.

Notwithstanding the above and the fact that the warrant allowed for the seizure of certain items, it is noted that the complainant expressed his concern over the legality and necessity of the search warrant and the surrendering of his pocket books and mobile phones.

The sub-committee also notes that the Commissioner of Police Ian McGrail was the officer who applied to the Court for the issue of the warrant to enter and search the JPSU and understands that he did not physically take part in the search of the said premises or the complainant's residence.

In his report, Superintendent Tumbridge explains that the complainant notified him that he had his pocket book and mobile phones in his residence and when asked, he confirmed that he was willing to hand them over voluntarily. This is in conflict with the statement made by the complainant that the items were taken without his consent. Superintendent Tumbridge acknowledges that the complainant was not under arrest and therefore he had no power to seize the items. He further confirms that he was not in possession of a warrant to search the complainant's residence.

It is claimed by Superintendent Tumbridge that at no time did he or any of his men cause any intentional duress to the complainant or to any other JPSU personnel. He further claims that there were no threats of arrest, no threats of violence, any constraints or any other action implied or used to coerce the complainant in doing something against his will or better judgment.

The sub-committee also notes from the report submitted by Superintendent Tumbridge that the complainant was accompanied to his residence by DC 127 Garcia-White and upon entering the said premises, the complainant handed over to DC 127 Garcia-White a black coloured Samsung mobile phone, a black coloured Nokia 635 mobile phone and cable, a Note 3 Samsung mobile phone with a black case and cable and a pocket book belonging to the complainant. It is claimed that at no time did DC 127 Garcia-White carry out a search of the said residence and that at no time did the complainant inform DC 127 Garcia-White of his concerns about voluntarily handing over these items.

In arriving at its decision, the sub-committee has considered all the reports, statements and evidence submitted by Mr Scott John O'Malley, the Commissioner of Police Ian McGrail, Superintendent Tumbridge and has also taken note of the advice provided by Counsel.

The sub-committee finds that:

The RGP were legally entitled to enter and carry out a search of the JPSU and seize the equipment authorise under the warrant.

The warrant did not extend to the residence of the complainant and therefore the RGP were not legally entitled to search the said premises without the complainant's permission (this is acknowledged by the RGP in their report). However, there are conflicting statements from both the complainant and the RGP in relation to the seizure of the equipment from the complainant's residence. The complainant alleges that he did not grant permission to the RGP to escort him to his residence, enter the said premises and seize the equipment sought. He further alleges that such an escort amounted to an infringement of his liberty and free movement and could be considered as an unlawful detention. Superintendent Tumbridge alleges that

when the complainant informed him that he had his pocket book and mobiles in his residence, he asked him whether he would voluntarily hand them over to the RGP to which he replied in the affirmative.

On the basis of the above and considering all the evidence presented, the sub-committee has come to the conclusion that there is insufficient evidence to find, on a balance of probabilities, that the RGP acted unlawfully and illegally when accompanying the complainant and entering his residence to obtain the equipment sought and that the actions of the RGP did not breach any human rights afforded to the complainant and other JPSU staff under the European Convention on Human Rights or the Human Rights Act 1998.

The Police Complaints Board has considered the findings of the sub-committee and finds that the RGP did not act unprofessionally in the execution of their duties and, therefore, the complaint has not been sustained. The complaint made against the Commissioner of Police Ian McGrail and Superintendent Wayne Tumbridge is, therefore, dismissed.

Dated this 29 May 2020.

Chairman
Police Complaints Board

DOC 13

(GPA) Secretary

From:	O'Malley, Scott Sgt [redacted]
Sent:	Tuesday, 7 July 2020 14:20
To:	(GPA) Secretary
Subject:	PCB Ruling
Attachments:	Warrant.pdf

Good afternoon,

Under the Police Complaints Regulations, 2008 I am entitled to request that the Gibraltar Police Authority review the decision of the Police Complaints Board.

'I consider that the decision or recommendation of the Board was manifestly wrong or perverse and that no reasonable Board properly considering the complaint could have come to that decision or recommendation.'

I maintain that I have been the victim of inappropriate conduct by RGP police officers.

I hope that amongst other things the result of my complaint is intended to be of help to the RGP in identifying and addressing areas of police performance.

Having read the response of the board I wish a review as I disagree with the original findings for the following reasons.

1. Firstly, and in addition to my original complaint, it should be noted that the focus of the RGP investigation should have always and only centred on Sgt Timothy Watterson, NOT members of JSPSU. Watterson was a member of HM Forces and British citizen, who committed a crime in the UK prior to arriving in Gibraltar. Whilst a great deal was made of the Armed Force Act amendment, 2016, removing jurisdiction from the service police, the NATO Statement of Force Agreement (SOFA) dated 19 Jun 51, is and always was in force. This states in Article VII
    a. Subject to the provisions of this Article,
    b. the military authorities of the sending State shall have the right to exercise within the receiving State all criminal and disciplinary jurisdiction conferred on them by the law of the sending State over all persons subject to the military law of that State;
    c. the authorities of the receiving State shall have jurisdiction over the members of a force or civilian component and their dependents with respect to offences committed within the territory of the receiving State and punishable by the law of that State.
2. This should have allowed members of HM Forces military police to investigate the alleged offences carried out by Sgt Watterson. In regard to primacy and jurisdiction, early co-operation between RGP and JSPSU could have jointly, quickly and satisfactory resolved the alleged crimes carried out by Watterson. Instead RGP took over the investigation, they did not find any evidence of offences, they allowed a suspected paedophile back on to the streets of Gibraltar and caused a delay of over 16 weeks. A subsequent UK military investigation proved his guilt, resulting in a custodial sentence of 2 years 9 months.
3. How many other RGP investigations have allowed 'guilty' suspects back on the streets of Gibraltar, either civilian or military?
4. On reflection I now believe that the allegations and actions by RGP against JSPSU and members of HM Forces in Gibraltar we politically motivated and lead to an unnecessary, malicious investigation, into not only myself but all my colleagues whom were affected by this investigation.
5. I would like to see the strategy and decision log for the investigation that shows the reasons, grounds and necessary criteria for the arrests, searches and subsequent seizures of devices, for what were extremely serious allegations. I would also like to see the original warrant, what it contained and why it was refused the first time, the codes state 'B3.8. If a search warrant application is refused, a further application may not be made for those premises unless supported by additional grounds' what were the additional grounds? The codes also state 'Unless sub-paragraph B6.4(c) applies, if the premises are occupied the officer, subject to paragraph B2.9,

must, before the search begins– (a) **identify himself or herself, show his or her warrant card (if not in uniform) and state the purpose of and grounds for the search**;' This did not happen at Gunwharf nor at [redacted]

6. Your report is dated 29 May 20, why did it take until 12 Jun 20 for me to receive this report? My original complaint dates from an incident on 1 Mar 17, and my complaint was submitted on 19 Aug 19, over 10 months ago.
7. It was stated that I gave consent to hand over my note book, mobile phone and electronic devices and that I gave consent to allow DC 127 Garcia-White into my property. I did not, I wish to make this extremely clear, at no time did I give permission verbally or in writing, I would like to know where the written evidence to the contrary is recorded and if so see a copy of the written record?
8. Form SEA2 – Warrant to enter and search premises for evidence of an offence, details JSPSU, Gun Warf, and Chris COLLINS, Provost Marshall Gibraltar. It does not state [redacted] and it does not name me, it does not specify my personal electronic items.
9. I want to see the written copy of the warrant allowing my items to be seized and my premises to be entered.
10. If, as DI Tunbridge states, I gave consent, provide me with a copy of the relevant pages of his police notebook showing what I agreed to, where I gave my written consent and where I signed.
11. Form SEA5 – Statutory powers of police to search premises and the rights of occupiers, (attached) states a copy of the warrant should, if practicable be given to the occupier before the search begins (Para 6.8 of code B – Codes of practise). This did not happen.

and

12. Search with consent: Consent of search must be **given in writing** (Para 5.1 of Code B – Codes of practice). **Consent must not be obtained under duress** (Para 5.3 of Code B – Codes of Practice). I did not give my consent in writing and I was under duress.
13. I want to see a copy of my written consent in the search register. The codes state 'B5.1. Subject to paragraph B5.3, if it is proposed to search premises with the consent of a person entitled to grant entry, the consent must, if practicable, be documented in the Search Register. The officer must make any necessary enquiries to be satisfied the person is in a position to give such consent (see Notes 5A and B).'
14. As already explained in my original complaint any inferred co-operation was under duress from RGP officers. Ian McGrail stated to me in a meeting a few days prior, that he has previously arrested other police officers (although he did not explain what for), implying that he may arrest me. At the time of this incident, RGP officers had already arrested the Chief of Staff, the Station Commander and Provost Marshall Gibraltar. They were arrested for conspiracy to pervert the course of justice, I believe that this could carry a life sentence in prison if found guilty? I was most definitely under duress and did not want to be arrested next!
15. The implication from your report is that Ian McGrail, DI Tunbridge and DC Garcia White are being completely honest and due the fact our statements differ I must be lying? I do not accept this. I have provided written evidence to back up my concerns and complaint. Where is the documentary evidence from the RGP to prove I gave my consent, to prove they acted lawfully in their actions and did not breach my human rights?
16. DI Tunbridge stated I was under no obligation to hand over my personal items, he never said or explained this at the time, what would have happened had I not handed them over? I expect I would have been arrested, surely you can understand my thought processes and the duress from internal and external factors that affected my decisions?
17. Whilst I agree that I did physically hand over these items, I stated my reluctance to DI Tunbridge and DC Garcia-White several times at the time, this was met with negative response. Where were my response recorded? Have you checked their police pocket books?
18. In the report DI Tunbridge stated that 'at no time did he or any of his men did not cause any intentional duress to the complainant' he is therefore implying that he recognised I was under duress whether intentional or not.
19. Having been dealt with by the RGP, in line with the guidance provided in the Freedom of Information Act 2018, I am now formally requesting copies of all reports and associated documents pertaining to me, including but not limited to:
    a. RGP Pocket books
    b. RGP Reports
    c. RGP Risk assessments
    d. RGP Intelligence reports
    e. RGP Surveillance logs

f. RGP Evidence labels
g. RGP Property logs (showing how my property was held, who had access to my property and what was done with it, in regard to data protection) I also wish to see a copy of the final report showing that I am not a person of interest or suspect in any RGP investigation.

20. Have copies of my personal data been made?
21. What is being done to secure that data?
22. How and when I can apply to have it destroyed?
23. If no such copy exists, then why were my items seized in the first place?
24. This whole episode has now dragged on for over three years, what was the outcome of the investigation? I believe the investigation has been suspended, if not closed with no one involved facing any charges, I believe I have been used by the RGP and more widely the government of Gibraltar as a pawn to score political points in an investigation whereby RGP allowed a paedophile back on to the streets. Thankfully, HM Forces Police investigated him thoroughly and he was found in possession of over 30,000 indecent images of children and sentence to 2 years 9 months in prison. He should have been the focus of the RGP not my colleagues and me!
25. Even now, the thought of returning to Gibraltar sends a shiver down my spine, this whole experience has ruined the memories of what should have been an enjoyable tour in a beautiful country.

Finally, as a minimum I would like the GPA to confirm that the RGP accept that the way that they acted against me was inappropriate for the circumstances, that I did nothing wrong, that calling my professionalism in to question was in itself unprofessional, and in hindsight highly inaccurate, I want an apology for their actions at the time and their treatment of JSPSU and me subsequently, (they even mistook me for Mr Collins when I went to New Mole House to try and recover my seized items[1]), lastly and importantly I wish to be compensated for the time wasted and distress caused.

Regards,

Scott

[1]My personal items were handed to colleagues not to me, I was not invited to check or sign for them.

From: (GPA) Secretary [redacted]
Sent: 12 June 2020 11:00
To: O'Malley, Scott Sgt [redacted]
Subject: PCB Ruling

Dear Mr O'Malley,

YOUR COMPLAINT AGAINST THE ROYAL GIBRALTAR POLICE

I enclose with this email a copy of the Ruling of the Police Complaints Board in the matter of your complaint against the Royal Gibraltar Police.

The purpose of an investigation by the Police Complaints Board is to determine whether a member of the public has been the victim of inappropriate conduct by a police officer and whether a complaint should be upheld fully or in part, or not upheld. The investigation of a complaint and its outcome as determined by the PCB is also intended to be of help to the RGP in identifying and addressing areas of police performance that require revisiting. A PCB report may not be used as evidence in any legal proceedings or in any Court of Law.

Under the Police Complaints Regulations, 2008 you are entitled to request that the Gibraltar Police Authority should review the decision of the Police Complaints Board provided that your reason for requesting a review meets the criteria laid down in Regulation 15(2) to 15(5) of the aforementioned Regulations. A copy of the relevant sub-regulations is enclosed with this email. If you wish to request that the Authority should review your case, you should address your request to **The Secretary,Gibraltar Police Authority, Unit 25B**

Casemates Square, Gibraltar. A request for a review needs to be made within 28 days of receipt of this letter containing the ruling of the Police Complaints Board.

Yours sincerely

E. Hanglin (Ms)
Secretary

DOC 14

(GPA) Secretary

From: Claire.Bell[redacted]
Sent: Wednesday, 8 July 2020 11:00
To: (GPA) Secretary
Subject: PCB Ruling

(GPA) Secretary [redacted]

Good Afternoon,

Under the Police Complaints Regulations, 2008 I am entitled to request that the Gibraltar Police Authority review the decision of the Police Complaints Board.

'I consider that the decision or recommendation of the Board was manifestly wrong or perverse and that no reasonable Board properly considering the complaint could have come to that decision or recommendation.'

Having read the response of the board, the board agreed that the search warrant did not extend to my Private Motor Vehicle and therefore RGP were not legally entitled to enter and search and seize my property, however the board concluded there was insufficient evidence to find on the balance of probabilities that the RGP acted unlawfully and illegally when entering my PMV and seizing my personal mobile telephone. The decision is based on "conflicting statements".

If, as DI Tunbridge states, I gave consent, for my PMV to be searched and my personal mobile phone to be seized please can you confirm the board was provided with a copy of the relevant pages of the police notebook showing what I agreed to, a copy of the documents where I gave my written consent and where I signed. (Search with consent: Consent of search must be **given in writing** (Para 5.1 of Code B – Codes of practice). A police officer acting lawfully and in accordance with RGP codes of practice would have some record of my signature where I am giving written or verbal consent.

Can you confirm that it has been evidenced to the board of my written consent in the search register. The codes state 'B5.1. Subject to paragraph B5.3, if it is proposed to search premises with the consent of a person entitled to grant entry, the consent must, if practicable, be documented in the Search Register. The officer must make any necessary enquiries to be satisfied the person is in a position to give such consent (see Notes 5A and B).'

Can you please confirm the board was provided with a copy of the strategy and decision log for the investigation that shows the reasons, grounds and necessary criteria for the arrests, **searches and subsequent seizures of devices.**

Can you please confirm the board viewed a copy of the original search warrant that was applied for and refused, were the board furnished with the reasons why it was originally refused and IAW codes what were the additional grounds provided in order to get the second search warrant approved. (codes state 'B3.8. If a search warrant application is refused, a further application may not be made for those premises unless supported by additional grounds)

If the board did view all the aforementioned documents can I please have a copy.

Let me make this very clear, I never verbally gave consent for my PMV to be searched and I never gave consent in writing. I disputed the legality of the search and the seizure from the outset to Wayne Tunbridge and other officers present. I complained immediately to my CoC about the unlawful search, search and treatment by the RGP (which I have kept an email record of). My private mobile phone was handed over under duress, I opened my vehicle up for the RGP to search under duress. **Consent must not be obtained under duress** (Para 5.3 of Code B – Codes of Practice)

The ordinary dictionary meaning of duress taken from oxford languages. "Threats, violence, constraints or other actions used to coerce someone into doing something against their will or better judgement"

I was frightened of Wayne Tunbridge and the power he had, I was so frightened of the prospect of being arrested by RGP, I had already heard that they had arrested my immediate line manager, my station commander and my chief of staff. A few days previous to this incident I had attended a meeting with Wayne Tunbridge, he was very angry that we had made an arrest of a serviceman, he was angry and shouted in a very threatening manner that "I hadn't heard the last of this" and "things will go higher". So having first-hand knowledge of his threatening behaviour, coupled with the fact that Mr O'Malley had also informed me that in a meeting he had attended with Ian McGrail a few days prior, Ian Mcgrail had stated "he had previously arrested other police officers", implying to Mr O'Malley, he could arrest him. Because of the behaviour of the these 2 RGP high ranking officers, I had no other option than to hand over my personal mobile phone under duress and let the RGP enter my PMV under duress.

Wayne Tunbridge has stated I was under no obligation to hand over my personal items, he never said or explained this at the time. Was the board provided with any evidence that he stated this to me. If so can I please be provided with this. I assure you If he had stated this to me do you think I would have handed over my personal mobile phone, of course I would not have. I stated my reluctance numerous times and the only response was we need your phone.

I have tried not to be drawn into the investigation regarding Sgt Timothy Watterson, or the "The RUNWAY incident", but I feel the treatment of myself and my other colleges was a direct result from the arrest of Watterson which angered both Wayne Tunbridge and Ian Mcgrail. Not only have I endured this unlawful treatment and behaviour by the RGP, but as a resident of Gibraltar I was gravely concerned that the RGP retained items that they were unable to forensically exploit because they did not have the correct skills or equipment to do so. As soon as the Service Police recommenced their forensic exploitation in the UK, as was intended, 40000+ images were recovered evidentially. The RGP interference delayed this sexual predator being brought to justice for at least 16 weeks. RGP releasing a sexual predator back into the Gibraltar community was absolutely frightening. Thankfully, the actions of the Service Police resulted in Watterson being convicted of sexual offences and being awarded a custodial sentence. It is my belief Wayne Tunbridge and Ian McGrail lost focus of a sexual predator in Gibraltar because they were so angry that Service Police had made the original arrest.

And now having endured all of this from the RGP, I receive the Independent Boards decision which in summary has determined there is insufficient evidence to find the RGP acted unlawfully. You have excepted that Ian McGrail and Wayne Tunbridge are being completely honest and due to the fact our statements differ I must be lying? The board is questioning my integrity without evidence to the contrary or you have not provided me with such evidence.

The facts are that RGP cannot provide you with any documented evidence that stated I provided written or verbal consent, to search my PMV and Seize my Personal Mobile phone. I have provided you with details regarding why I felt I was under duress. I think you may have to question Wayne Tunbridge integrity and ask yourself "do you think if a high ranking police officer told me, Scott O'Malley and Leanne Beuhling that we were under no obligation to hand over our personalised items, that we would have" of course we wouldn't have. I certainly would not have.

I contend it is incumbent on the board to view the paperwork referred to above wherein I signed as consenting to the process described. This paperwork is mandatory in RGP/Gibraltar codes of practice and as I never signed any such undertaking, I submit you have not reached an appropriate threshold to find against my complaint giving the failings to act in accordance with said codes of practice are absolute.

Please accept this email as my formal application to appeal the decision.

Kind regards

Claire Bell

DOC 15

(GPA) Hanglin, Elka

From: Dr Joey Britto [redacted]
Sent: Tuesday, 1 September 2020 21:20
To: (GPA) Hanglin, Elka
Cc: (TAX) Carreras, Frank
Subject: Review of Complaint - PCB Complaints against RGP Officers by SGT Scott O'Malley and Mrs Claire Bell

Elka

Please send and sign as gpa secretary on behalf of the Chair, GPA.

Thanks.

Regards

Joey

Dear

I write to you in respect of your request to review a decision by the Police Complaints Board (PCB).

I should point out this matter did not qualify for an appeal, given that you have not provided new evidence and the GPA certainly does not accept that the decision of the PCB could, in any way, be construed as 'perverse'.

In any case, we have reviewed the case with the PCB chair and find that I cannot find fault in the way your complaint has been dealt with.

I also take this opportunity to add that this is the extent of the action that the Authority is able to take under the circumstances and the pertinent regulations.

Yours etc

DOC 16

[GPA] Secretary

From: (GPA) Secretary
Sent: Wednesday, 2 September 2020 09:42
To: O'Malley, Scott Sgt [redacted]
Subject: RE: PCB Ruling

Dear Mr O'Malley,

I write to you in respect of your request to review a decision by the Police Complaints Board (PCB).

I should point out this matter did not qualify for an appeal, given that you have not provided new evidence and the GPA certainly does not accept that the decision of the PCB could, in any way, be construed as 'perverse'.

In any case, we have reviewed the case with the PCB chair and find that I cannot find fault in the way your complaint has been dealt with.

I also take this opportunity to add that this is the extent of the action that the Authority is able to take under the circumstances and the pertinent regulations.

Kind regards

G. Raineri (Mrs)
GPA Secretary on behalf of the GPA Chair

From: (GPA) Secretary
Sent: Friday, 21 August 2020 08:39
To: O'Malley, Scott Sgt [redacted]
Subject: RE: PCB Ruling

Dear Scott,

This is still ongoing. Once your review is finalised by the GPA, I will communicate their decision to you.

Regards

Elka

From: O'Malley, Scott Sgt [redacted]
Sent: Thursday, 20 August 2020 07:09
To: (GPA) Secretary [redacted]
Subject: RE: PCB Ruling

Elka,

I note your response from 9 Jul 20, below, are you able to provide me with an update or a time scale as to when I will receive an outcome of the GPA review please?

Regards,

Scott

From: (GPA) Secretary [redacted]
Sent: 09 July 2020 08:15
To: O'Malley, Scott Sgt [redacted]
Subject: RE: PCB Ruling

Dear Scott,

I acknowledge receipt of your email. Please bear with us whilst the GPA reviews your case.

Kind regards

Elka

From: O'Malley, Scott Sgt [redacted]
Sent: Tuesday, 7 July 2020 14:20
To: (GPA) Secretary [redacted]
Subject: PCB Ruling

Good afternoon,

Under the Police Complaints Regulations, 2008 I am entitled to request that the Gibraltar Police Authority review the decision of the Police Complaints Board.

'I consider that the decision or recommendation of the Board was manifestly wrong or perverse and that no reasonable Board properly considering the complaint could have come to that decision or recommendation.'

I maintain that I have been the victim of inappropriate conduct by RGP police officers.

I hope that amongst other things the result of my complaint is intended to be of help to the RGP in identifying and addressing areas of police performance.

Having read the response of the board I wish a review as I disagree with the original findings for the following reasons.

1. Firstly, and in addition to my original complaint, it should be noted that the focus of the RGP investigation should have always and only centred on Sgt Timothy Watterson, NOT members of JSPSU. Watterson was a member of HM Forces and British citizen, who committed a crime in the UK prior to arriving in Gibraltar. Whilst a great deal was made of the Armed Force Act amendment, 2016, removing jurisdiction from the service police, the NATO Statement of Force Agreement (SOFA) dated 19 Jun 51, is and always was in force. This states in Article VII
    a. Subject to the provisions of this Article,
    b. the military authorities of the sending State shall have the right to exercise within the receiving State all criminal and disciplinary jurisdiction conferred on them by the law of the sending State over all persons subject to the military law of that State;
    c. the authorities of the receiving State shall have jurisdiction over the members of a force or civilian component and their dependents with respect to offences committed within the territory of the receiving State and punishable by the law of that State.
2. This should have allowed members of HM Forces military police to investigate the alleged offences carried out by Sgt Watterson. In regard to primacy and jurisdiction, early co-operation between RGP and JSPSU could have jointly, quickly and satisfactory resolved the alleged crimes carried out by Watterson. Instead RGP took over the investigation, they did not find any evidence of offences, they allowed a suspected paedophile back on to the streets of Gibraltar and caused a delay of over 16 weeks. A subsequent UK military investigation proved his guilt, resulting in a custodial sentence of 2 years 9 months.

3. How many other RGP investigations have allowed 'guilty' suspects back on the streets of Gibraltar, either civilian or military?
4. On reflection I now believe that the allegations and actions by RGP against JSPSU and members of HM Forces in Gibraltar we politically motivated and lead to an unnecessary, malicious investigation, into not only myself but all my colleagues whom were affected by this investigation.
5. I would like to see the strategy and decision log for the investigation that shows the reasons, grounds and necessary criteria for the arrests, searches and subsequent seizures of devices, for what were extremely serious allegations. I would also like to see the original warrant, what it contained and why it was refused the first time, the codes state 'B3.8. If a search warrant application is refused, a further application may not be made for those premises unless supported by additional grounds' what were the additional grounds? The codes also state 'Unless sub-paragraph B6.4(c) applies, if the premises are occupied the officer, subject to paragraph B2.9, must, before the search begins– (a) **identify himself or herself, show his or her warrant card (if not in uniform) and state the purpose of and grounds for the search**;' This did not happen at Gunwharf nor at [redacted]
6. Your report is dated 29 May 20, why did it take until 12 Jun 20 for me to receive this report? My original complaint dates from an incident on 1 Mar 17, and my complaint was submitted on 19 Aug 19, over 10 months ago.
7. It was stated that I gave consent to hand over my note book, mobile phone and electronic devices and that I gave consent to allow DC 127 Garcia-White into my property. I did not, I wish to make this extremely clear, at no time did I give permission verbally or in writing, I would like to know where the written evidence to the contrary is recorded and if so see a copy of the written record?
8. Form SEA2 – Warrant to enter and search premises for evidence of an offence, details JSPSU, Gun Warf, and Chris COLLINS, Provost Marshall Gibraltar. It does not state [redacted] and it does not name me, it does not specify my personal electronic items.
9. I want to see the written copy of the warrant allowing my items to be seized and my premises to be entered.
10. If, as DI Tunbridge states, I gave consent, provide me with a copy of the relevant pages of his police notebook showing what I agreed to, where I gave my written consent and where I signed.
11. Form SEA5 – Statutory powers of police to search premises and the rights of occupiers, (attached) states a copy of the warrant should, if practicable be given to the occupier before the search begins (Para 6.8 of code B – Codes of practise). This did not happen.

and

12. Search with consent: Consent of search must be **given in writing** (Para 5.1 of Code B – Codes of practice). **Consent must not be obtained under duress** (Para 5.3 of Code B – Codes of Practice). I did not give my consent in writing and I was under duress.
13. I want to see a copy of my written consent in the search register. The codes state 'B5.1. Subject to paragraph B5.3, if it is proposed to search premises with the consent of a person entitled to grant entry, the consent must, if practicable, be documented in the Search Register. The officer must make any necessary enquiries to be satisfied the person is in a position to give such consent (see Notes 5A and B).'
14. As already explained in my original complaint any inferred co-operation was under duress from RGP officers. Ian McGrail stated to me in a meeting a few days prior, that he has previously arrested other police officers (although he did not explain what for), implying that he may arrest me. At the time of this incident, RGP officers had already arrested the Chief of Staff, the Station Commander and Provost Marshall Gibraltar. They were arrested for conspiracy to pervert the course of justice, I believe that this could carry a life sentence in prison if found guilty? I was most definitely under duress and did not want to be arrested next!
15. The implication from your report is that Ian McGrail, DI Tunbridge and DC Garcia White are being completely honest and due the fact our statements differ I must be lying? I do not accept this. I have provided written evidence to back up my concerns and complaint. Where is the documentary evidence from the RGP to prove I gave my consent, to prove they acted lawfully in their actions and did not breach my human rights?
16. DI Tunbridge stated I was under no obligation to hand over my personal items, he never said or explained this at the time, what would have happened had I not handed them over? I expect I would have been arrested, surely you can understand my thought processes and the duress from internal and external factors that affected my decisions?

17. Whilst I agree that I did physically hand over these items, I stated my reluctance to DI Tunbridge and DC Garcia-White several times at the time, this was met with negative response. Where were my response recorded? Have you checked their police pocket books?
18. In the report DI Tunbridge stated that 'at no time did he or any of his men did not cause any intentional duress to the complainant' he is therefore implying that he recognised I was under duress whether intentional or not.
19. Having been dealt with by the RGP, in line with the guidance provided in the Freedom of Information Act 2018, I am now formally requesting copies of all reports and associated documents pertaining to me, including but not limited to:
    a. RGP Pocket books
    b. RGP Reports
    c. RGP Risk assessments
    d. RGP Intelligence reports
    e. RGP Surveillance logs
    f. RGP Evidence labels
    g. RGP Property logs (showing how my property was held, who had access to my property and what was done with it, in regard to data protection) I also wish to see a copy of the final report showing that I am not a person of interest or suspect in any RGP investigation.
20. Have copies of my personal data been made?
21. What is being done to secure that data?
22. How and when I can apply to have it destroyed?
23. If no such copy exists, then why were my items seized in the first place?
24. This whole episode has now dragged on for over three years, what was the outcome of the investigation? I believe the investigation has been suspended, if not closed with no one involved facing any charges, I believe I have been used by the RGP and more widely the government of Gibraltar as a pawn to score political points in an investigation whereby RGP allowed a paedophile back on to the streets. Thankfully, HM Forces Police investigated him thoroughly and he was found in possession of over 30,000 indecent images of children and sentence to 2 years 9 months in prison. He should have been the focus of the RGP not my colleagues and me!
25. Even now, the thought of returning to Gibraltar sends a shiver down my spine, this whole experience has ruined the memories of what should have been an enjoyable tour in a beautiful country.

Finally, as a minimum I would like the GPA to confirm that the RGP accept that the way that they acted against me was inappropriate for the circumstances, that I did nothing wrong, that calling my professionalism in to question was in itself unprofessional, and in hindsight highly inaccurate, I want an apology for their actions at the time and their treatment of JSPSU and me subsequently, (they even mistook me for Mr Collins when I went to New Mole House to try and recover my seized items[1]), lastly and importantly I wish to be compensated for the time wasted and distress caused.

Regards,

Scott

[1]My personal items were handed to colleagues not to me, I was not invited to check or sign for them.

From: (GPA) Secretary [redacted]
Sent: 12 June 2020 11:00
To: O'Malley, Scott Sgt [redacted]
Subject: PCB Ruling

Dear Mr O'Malley,

YOUR COMPLAINT AGAINST THE ROYAL GIBRALTAR POLICE

I enclose with this email a copy of the Ruling of the Police Complaints Board in the matter of your complaint against the Royal Gibraltar Police.

The purpose of an investigation by the Police Complaints Board is to determine whether a member of the public has been the victim of inappropriate conduct by a police officer and whether a complaint should be upheld fully or in part, or not upheld. The investigation of a complaint and its outcome as determined by the PCB is also intended to be of help to the RGP in identifying and addressing areas of police performance that require revisiting. A PCB report may not be used as evidence in any legal proceedings or in any Court of Law.

Under the Police Complaints Regulations, 2008 you are entitled to request that the Gibraltar Police Authority should review the decision of the Police Complaints Board provided that your reason for requesting a review meets the criteria laid down in Regulation 15(2) to 15(5) of the aforementioned Regulations. A copy of the relevant sub-regulations is enclosed with this email. If you wish to request that the Authority should review your case, you should address your request to **The Secretary,Gibraltar Police Authority, Unit 25B Casemates Square, Gibraltar.** A request for a review needs to be made within 28 days of receipt of this letter containing the ruling of the Police Complaints Board.

Yours sincerely

E. Hanglin (Ms)
Secretary

DOC 17

[GPA] Secretary

From: (GPA) Secretary
Sent: Wednesday, 2 September 2020 09:44
To: Claire.Bell [redacted]
Subject: RE: PCB Ruling

Dear Ms Bell,

I write to you in respect of your request to review a decision by the Police Complaints Board (PCB).

I should point out this matter did not qualify for an appeal, given that you have not provided new evidence and the GPA certainly does not accept that the decision of the PCB could, in any way, be construed as 'perverse'.

In any case, we have reviewed the case with the PCB chair and find that I cannot find fault in the way your complaint has been dealt with.

I also take this opportunity to add that this is the extent of the action that the Authority is able to take under the circumstances and the pertinent regulations.

Kind regards

G. Rainerl (Mrs)
GPA Secretary on behalf of the GPA Chair

From: (GPA) Secretary
Sent: Monday, 10 August 2020 07:41
To: Claire.Bell [redacted]
Subject: RE: PCB Ruling

Good morning Claire,

I can confirm it is being looked at. Apologies as I do not know how long it is going to take but it is being looked at!

Regards

Elka

From: Claire.Bell [redacted]
Sent: Friday, 7 August 2020 10:07
To: (GPA) Secretary [redacted]
Subject: RE: PCB Ruling

Good afternoon Elka

I hope you are well, it's been a little over 4 weeks since I submitted my request for a review, is it possible to request an update please.

Kind regards.

Claire

From: (GPA) Secretary [redacted]
Sent: 09 July 2020 08:15
To: Bell, Claire CPO [redacted]
Subject: RE: PCB Ruling

Dear Claire,

I acknowledge receipt of your email. Please bear with us whilst the GPA reviews your case.

Kind regards

Elka

From: Claire.Bel [redacted]
Sent: Wednesday, 8 July 2020 11:00
To: (GPA) Secretary [redacted]
Subject: PCB Ruling

(GPA) Secretary [redacted]

Good Afternoon,

Under the Police Complaints Regulations, 2008 I am entitled to request that the Gibraltar Police Authority review the decision of the Police Complaints Board.

'I consider that the decision or recommendation of the Board was manifestly wrong or perverse and that no reasonable Board properly considering the complaint could have come to that decision or recommendation.'

Having read the response of the board, the board agreed that the search warrant did not extend to my Private Motor Vehicle and therefore RGP were not legally entitled to enter and search and seize my property, however the board concluded there was insufficient evidence to find on the balance of probabilities that the RGP acted unlawfully and illegally when entering my PMV and seizing my personal mobile telephone. The decision is based on "conflicting statements".

If, as DI Tunbridge states, I gave consent, for my PMV to be searched and my personal mobile phone to be seized please can you confirm the board was provided with a copy of the relevant pages of the police notebook showing what I agreed to, a copy of the documents where I gave my written consent and where I signed. (Search with consent: Consent of search must be **given in writing** (Para 5.1 of Code B – Codes of practice). A police officer acting lawfully and in accordance with RGP codes of practice would have some record of my signature where I am giving written or verbal consent.

Can you confirm that it has been evidenced to the board of my written consent in the search register. The codes state 'B5.1. Subject to paragraph B5.3, if it is proposed to search premises with the consent of a person entitled to grant entry, the consent must, if practicable, be documented in the Search Register. The officer must make any necessary enquiries to be satisfied the person is in a position to give such consent (see Notes 5A and B).'

Can you please confirm the board was provided with a copy of the strategy and decision log for the investigation that shows the reasons, grounds and necessary criteria for the arrests, **searches and subsequent seizures of devices.**

Can you please confirm the board viewed a copy of the original search warrant that was applied for and refused, were the board furnished with the reasons why it was originally refused and IAW codes what were the additional grounds provided in order to get the second search warrant approved. (codes state 'B3.8. If a search warrant application is refused, a further application may not be made for those premises unless supported by additional grounds)

If the board did view all the aforementioned documents can I please have a copy.

Let me make this very clear, I never verbally gave consent for my PMV to be searched and I never gave consent in writing. I disputed the legality of the search and the seizure from the outset to Wayne Tunbridge and other officers present. I complained immediately to my CoC about the unlawful search, search and treatment by the RGP (which I have kept an email record of). My private mobile phone was handed over under duress, I opened my vehicle up for the RGP to search under duress. **Consent must not be obtained under duress** (Para 5.3 of Code B – Codes of Practice)

The ordinary dictionary meaning of duress taken from oxford languages. "Threats, violence, constraints or other actions used to coerce someone into doing something against their will or better judgement"

I was frightened of Wayne Tunbridge and the power he had, I was so frightened of the prospect of being arrested by RGP, I had already heard that they had arrested my immediate line manager, my station commander and my chief of staff. A few days previous to this incident I had attended a meeting with Wayne Tunbridge, he was very angry that we had made an arrest of a serviceman, he was angry and shouted in a very threatening manner that "I hadn't heard the last of this" and "things will go higher". So having first-hand knowledge of his threatening behaviour, coupled with the fact that Mr O'Malley had also informed me that in a meeting he had attended with Ian McGrail a few days prior, Ian Mcgrail had stated "he had previously arrested other police officers", implying to Mr O'Malley, he could arrest him. Because of the behaviour of the these 2 RGP high ranking officers, I had no other option than to hand over my personal mobile phone under duress and let the RGP enter my PMV under duress.

Wayne Tunbridge has stated I was under no obligation to hand over my personal items, he never said or explained this at the time. Was the board provided with any evidence that he stated this to me. If so can I please be provided with this. I assure you If he had stated this to me do you think I would have handed over my personal mobile phone, of course I would not have. I stated my reluctance numerous times and the only response was we need your phone.

I have tried not to be drawn into the investigation regarding Sgt Timothy Watterson, or the "The RUNWAY incident", but I feel the treatment of myself and my other colleges was a direct result from the arrest of Watterson which angered both Wayne Tunbridge and Ian Mcgrail. Not only have I endured this unlawful treatment and behaviour by the RGP, but as a resident of Gibraltar I was gravely concerned that the RGP retained items that they were unable to forensically exploit because they did not have the correct skills or equipment to do so. As soon as the Service Police recommenced their forensic exploitation in the UK, as was intended, 40000+ images were recovered evidentially. The RGP interference delayed this sexual predator being brought to justice for at least 16 weeks. RGP releasing a sexual predator back into the Gibraltar community was absolutely frightening. Thankfully, the actions of the Service Police resulted in Watterson being convicted of sexual offences and being awarded a custodial sentence. It is my belief Wayne Tunbridge and Ian McGrail lost focus of a sexual predator in Gibraltar because they were so angry that Service Police had made the original arrest.

And now having endured all of this from the RGP, I receive the Independent Boards decision which in summary has determined there is insufficient evidence to find the RGP acted unlawfully. You have excepted that Ian McGrail and Wayne Tunbridge are being completely honest and due to the fact our statements differ I must be lying? The board is questioning my integrity without evidence to the contrary or you have not provided me with such evidence.

The facts are that RGP cannot provide you with any documented evidence that stated I provided written or verbal consent, to search my PMV and Seize my Personal Mobile phone. I have provided you with details regarding why I felt I was under duress. I think you may have to question Wayne Tunbridge integrity and ask yourself "do you think if a high ranking police officer told me, Scott O'Malley and Leanne Beuhling that we were under no obligation to hand over our personalised items, that we would have" of course we wouldn't have. I certainly would not have.

I contend it is incumbent on the board to view the paperwork referred to above wherein I signed as consenting to the process described. This paperwork is mandatory in RGP/Gibraltar codes of practice and

as I never signed any such undertaking, I submit you have not reached an appropriate threshold to find against my complaint giving the failings to act in accordance with said codes of practice are absolute.

Please accept this email as my formal application to appeal the decision.

Kind regards

Claire Bell

INQUIRY INTO THE RETIREMENT OF

THE FORMER COMMISSIONER OF POLICE

EXHIBIT 43
TO THE SECOND RESPONSIVE AFFIDAVIT OF IAN MCGRAIL

BEFORE ME



A Commissioner for Oaths

James Gerard Oton
Commissioner For Oaths

Date 22/3/24 Fee pd.

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

Provost Marshal (Gibraltar)
JPSU
British Forces Gibraltar
The Tower
BFPO 52

Telephone Gibraltar: (00350) 2005 5983
Military Network: [redacted]
Email: [redacted]

Edward Yome CPM
Commissioner
Royal Gibraltar Police
New Mole House
Rosia Road
Gibraltar

Our Reference: JPSU/0422/13/2017

Date: 9 March 2017

Dear Commissioner

Re: Watterson

I write further to the events of 7-8 February 2017 in respect of the investigation by the RGP into the above captioned member of Her Majesty's Forces stationed in Gibraltar.

As you know, on those days I was in contact with officers of the Royal Gibraltar Police (RGP) at JPSU Gun Wharf as events unfolded in relation to your ongoing investigation into the above-captioned.

I have had sight of a letter that the Chief of Staff Joint Forces Command, Rear Admiral Tony Radakin, has sent to you dated 8 March 2017.

I note that the communication from Rear Admiral Radakin serves to clarify the position of the Ministry of Defence as to jurisdiction in respect of the above captioned. The letter also makes clear that, at all times, I was acting in the fulfilment of my duties as directed by my superiors, and on the advice from Joint Forces Command and Provost Marshal (Navy).

It now transpires that the advice on jurisdiction, which formed the basis for my directed actions, was not correct. I clearly did not know this at the time of the events and was, indeed, led to believe the opposite.

In light of the above, it will be evident to you that my actions on the dates in question at JPSU Gun Wharf were at all times taken in the good faith belief that my superiors were directing me to act in keeping with the law.

In particular, it was evidently not my intention to obstruct any officer of the RGP in the lawful performance of their duties, nor to obstruct their investigation, even less to have attempted to pervert, or to conspire to pervert, the course of justice. Nothing could have been further from my mind. Indeed, as a member myself of Her Majesty's Armed Forces, I am entirely committed to the observance of the law and of the rule of law. If any of my actions are seen by you as even remotely giving that impression, I sincerely and unreservedly apologise.

You will therefore not be surprised to know that I thoroughly regret the events that took place and wholeheartedly apologise if any of my actions are or were seen by you or your officers as any conscious desire or intent by me to obstruct any investigation by the RGP or to disrespect the RGP. I deeply regret that my actions may have led to this perception. I would wish to reiterate that I was acting in support and in furtherance of the MoD's understanding of its legal position and I was at all times seeking to fulfil my obligations as a directed member of a disciplined, uniformed, body with integrity and honesty.

It goes without saying that I fully respect the RGP and have worked well with them as an equal partner agency before the events of the past weeks. I sincerely hope that JPSU generally, and myself personally, will be able to return to the previously prevailing normality in which we both contribute towards the policing and security of Gibraltar, to the mutual benefit of this whole community and the United Kingdom. With the benefit of hindsight, if such an event occurred again I would seek to ensure a more constructive dialogue at an earlier stage and would certainly not act as I did on this disagreeable occasion.

I would welcome the opportunity to come to see you for a face-to-face meeting as a further step towards the reconciliation we all seek and the restoration of the excellent relationship I have always enjoyed with the RGP.

Yours Sincerely

Chris Collins

C M COLLINS
Squadron Leader

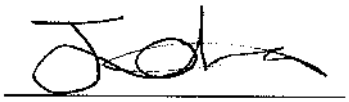
INQUIRY INTO THE RETIREMENT OF

THE FORMER COMMISSIONER OF POLICE

EXHIBIT 44

TO THE SECOND RESPONSIVE AFFIDAVIT OF IAN MCGRAIL

BEFORE ME



A Commissioner for Oaths

James Gerard Oton
Commissioner For Oaths

Date 22/3/24 Fee pd.

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

ROYAL GIBRALTAR POLICE
STATEMENT OF WITNESS

Criminal Procedure and Evidence Act 2011 ss. 187 and 405; Criminal Procedure Rules r 27.2

Surname: MANDLEBERG Forenames: Philip Paul

Age of witness (if over 18 enter over 18): Over 18 (09/12/1979)

Occupation: VTS Manager, Port Authority

This statement (consisting of 3 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 11th of March 2020

Signed .....

My name is Philip Paul MANDLEBERG and I am a VTS Manager with the Gibraltar Port Authority. I have officially been the VTS Manager for approximately 2 years. I have been employed with the Port Authority for approximately 13 years. My main role within the VTS Centre is the overlooking of all VTW operations which include all commercial vessels calls and safety of navigation within BGTW as some of the primary functions

This statement is in relation to an incident which took place at sea on the early morning of the 8th of March 2020 involving a Royal Gibraltar Police vessel.

Following this incident, the Royal Gibraltar Police contacted my office and requested information with regards to the incident. The Royal Gibraltar Police provided me a coordinate and asked for references in relation to this from land and from BGTW. As a result of the request, I produced two screensnots from our VTS system. I also provided one copy of a google map showing where the

Signed: P. MANDLEBERG Signature Witnessed by: DC 201 VILERIO

(NOTE: FILL IN PAGE OVERLEAF)

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position would intersect land if a direct line was drawn to shore I handed these screenshots to DC 201 VILERIO and exhibited them as PM/co-ordinate/1. PM/co-ordinate/2 and PM/PLAYASANTABARBARA/1

I also produced a CD showing a video of the VTS recording of the RGP Sir John Chapple and HMC Seekers' movements early morning on the 8th March 2020. Upon request, I produced a second identical CD from the exact same source which the Police will be using as their Working Copy I exhibited both CDs as PM/PLAYBACKREQUEST/8-3-2020/1 and /2 respectively

Our VTS systems record on a 24/7 basis with all sensors available to us. The sources used to produce the recordings in the videos are AIS and radar. The limitations to the AIS is that AIS is only displayed when the target craft has it's AIS switched on According to the recording that I have given the Police, the Sir John Chapple appeared to have it's AIS turned off until it was activated at 0447hrs on the 8th March 2020 I can identify this due to the vessel's AIS suddenly appearing at that time Port radars are not configured to detect small crafts as they are set up to prioritise range and large vessels The RGP Sir John Chapple's activation of AIS can also be seen on the free internet AIS tracking system 'MarineTraffic'

Signed: P. MANDLEBERG

Signature Witnessed By: DC 201 VILERIO

OFFICIAL – CRIME (WHEN COMPLETE)

ROYAL GIBRALTAR POLICE

STATEMENT OF WITNESS

Criminal Procedure and Evidence Act 2011 ss. 187 and 405. Criminal Procedure Rules r 16.2

CR/OB No

Surname: MANDLEBERG Forenames: PHILIP PAUL

Age of witness (if over 18 enter over 18): OVER 18 (09/12/1979)

Occupation: VTS MANAGER, PORT AUTHORITY

This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 11th day of MARCH 2020

Signed P Mandleberg

My name is PHILIP PAUL MANDLEBERG and I am a VTS Manager with the Gibraltar Port Authority. I have officially been the VTS manager for approximately 2 years. I have been employed with the Port Authority for approximately 12 years. My main role within the VTS centre is the overlooking of all VTS operations which include all commercial vessel calls and safety of navigation within BGTW as some of the primary functions.

This statement is in relation to an incident

Signed: P Mandleberg Signature Witnessed by: [signature]

(NOTE: FILE IN PAGE OVERLEAF)

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OFFICIAL – CRIME (WHEN COMPLETE)

Cont. of statement of: P. MANDLEBERG

which took place at sea on the early morning of the 8th of March 2020 involving a Royal Gibraltar Police vessel.

Following this incident, the Royal Gibraltar Police contacted my office and requested information with regards to the incident. The Royal Gibraltar Police ~~offered~~ provided me ~~coordinates~~ a coordinate and asked for references in relation to this from land and from BGTW. As a result of the request, I produced two screenshots from our VTS system. I also provided one copy of a google map showing where the position would intersect land if a direct line was drawn to shore. I handed these screenshots to DC 201 Videnes and exhibited them as PM/co-ordinate/1, PM/co-ordinate/2 and PM/PLAYASANTABARBARA/1. I also produced a CD showing a video of the VTS recording of the RGP Sir John Chapple and HMC Seeker's movements early morning on the 8th March 2020 upon request. I produced a second identical CD from the exact same source which

Signed: [signature] Signature Witnessed By: [signature]

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OFFICIAL CRIME (WHEN COMPLETE)

CR/OB No [ ] - [ ] - [ ] - [ ] - Page No. 3

Cont. of statement of P. MANNEDING

the Power will be using as their working copy. I exhibited both CDs as Pu/Playback Request/8-3 1000 /1 and /2 respectively.

Our VTS systems record on a 24/7 basis with all sensors available to us. The sources used to produce the recordings in the videos are AIS and radar. The limitations to the AIS is that AIS is only displayed when the larger craft has its AIS switched on. According to the recording that I have given the Power, the St John Chapple appeared to have its AIS turned off until it was activated at 0947hrs on the 5th March 2020. I can identify this due to the vessels AIS suddenly appearing at that time. Point radars are not configured to detect small crafts as they are set up to prioritise range and large vessels. The RCP St John Chapple's activation of AIS can also be seen on the Fare internet AIS monitoring system "MARINETRAFFIC".

P. Mannedeing

Signed P. Mannedeing Signature Witnessed by: [signature]

This statement of this [illegible] will be processed [illegible] the Police's policy [illegible] provision of the Data Protection Act 2004

ROYAL GIBRALTAR POLICE

STATEMENT OF WITNESS

Criminal Procedure and Evidence Act 2011 ss. 187 and 405; Criminal Procedure Rules r 16.2

CR/OB No [ ] – [ ] – [ ] [ ] [ ] – [ ]

Surname: **Mandleberg** Forenames: **Philip Paul**

Age of witness (if over 18 enter over 18): **Over 18 (09/12/1979)**

Occupation: **VTS Manager, Port Authority.**

This statement (consisting of 4 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 29th day of April 2020

Signed: P. Mandleberg.

I am the above described person and I make this statement in relation to the collision at sea in the early hours of the 8th of March 2020 and is in addition to my statement dated the 11th March 2020

I was asked by the Police to view the Thermal Camera Footage **(Exhibit MG/WHSS/VIDEO/1B refers)**. I was asked if I could identify two vessels in the background of the footage "RGP Chase Part 1". I viewed the footage at my offices in the Port Authority VTS centre at Lathbury Port Office. As the footage was playing I observed at the bottom of the thermal footage there is a Azimuth reading which is present and indicates the direction the camera is pointing. I enquired with Windmill Hill Signal Station (WHSS) as to the location of the camera and worked out the bearing line indicated by the azimuth. They informed me that the camera was the one located in the area Devils Tower

Signed: P. Mandleberg Signature Witnessed by:

(NOTE: FILL IN WIT2 FORM OVERLEAF)

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Camp and the airfield on the eastern side of Gibraltar. The Azimuth readings go from 0 (0 indicating true north) to 6400 which would equate to 360 degrees. Therefore to work the degrees I would divide 6400 by 360 and this would give me the value of 1 degree which works out to be approximately 17.7. You then take the total azimuth reading and divide it by 17.7 which would give you an approximate degree angle. The approximate degree angle will allow me to find the bearing of the vessel. I would like to add that this is not an exact measurement as there can be room for error. However I was assisted by the VTS replay footage which allowed me to understand what was being shown on the Thermal footage. Upon seeing the footage as the pursuit is ongoing both vessels pass in front of a larger vessel in the background. The 1st larger vessel has an azimuth reading which is approximately 0508.5. this was at 18:39 minutes during the footage "RGP Chase part 1". I was able to work out the bearing line and with the help of the VTS playback determine the position the camera was viewing and thus estimate which vessel was being viewed by the thermal camera.

It is strongly suspected that the vessel in question is the cable laying vessel TELIRI (IMO 9105869). From the thermal footage you can observe two heat signatures which I would suspect to be coming from the funnels of the vessel. I would also say that the overall shape of the vessel matches photographs of the vessel available through open source searches. I have copied one of these images **which I now tender in evidence as Exhibit PM/Teliri/1**. I also now **tender in evidence exhibit PM/Thermal-Image/1** which is an image which appears to show the two heat signatures coming from the two funnels of the vessel. Furthermore I would also like to **tender into evidence Exhibit PM/VTS/1** which is a close up screen shot of the VTS system at a time recorded of 0341hrs on the 8th of

Signed: P. Mandleberg Signature Witnessed by:

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March 2020. This shows the direction of the bow of the vessel which is very similar to the one seen in the thermal footage.

As the chase continues, they pass in front of a second large ship. The 2nd larger vessel has an azimuth reading which is approximately 0903.4. this was at 22:23 minutes during the footage "RGP Chase part 1".I was able to work out the bearing line and with the help of the VTS playback determine the position the camera was viewing and thus estimate which vessel was being viewed by the thermal camera

It is strongly suspected that the vessel in question is the crude oil tanker Seaways Rosalyn (IMO 9234666). From the thermal footage you can observe the outline of the ships tower structure and the wide flying bridges. I would also say that the overall shape of the vessel matches photographs of the vessel available through open source searches. I have copied one of these images **which I now tender in evidence as Exhibit PM/RosalynSeaways/1**. I also now **tender in evidence exhibit PM/Thermal-Image/2** for comparison purposes.

Furthermore I would also like to **tender into evidence Exhibit PM/VTS/2** which is a close up screen shot of the VTS system at a time recorded of 0341hrs on the 8th of March 2020. This shows the direction of the bow of the vessel which is very similar to the image seen in the thermal footage.

At this point the recording ends in "RGP Chase Part 1".

On a later date I was asked to go through the footage "RGP Chase Part 2" and again try to identify the larger ships in the footage.

The camera being used in this footage is the camera located above Windmill Hill Signal Station and is facing the Eastside of the Gibraltar.

Signed: P Mandleberg Signature Witnessed by:

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At the beginning of the footage, you can see there is a large vessel located at 1038Az Again by working out the conversion units between Azimuth and degrees and the playback facility on the VTS System I have been able to identify this vessel as the Seaways Rosalyn.

At 01:27minutes during the video the footage comes across another vessel located at 1149.9Az I worked out from the Azimuth reading that the vessel was located at approximately 69 degrees and with the assistance of the VTS playback system I was able to ascertain the vessel along that angle was the bulk carrier Lady Saliha. **I now tender into evidence exhibit PM/VTS/3** which shows a screen shot of the VTS system at 0337hrs on the 8th of March 2020 and two screen shots of the vessel which I observed in the thermal footage and the relevant Azimuth reading of each vessel. **I would also like to tender in evidence as Exhibit PM/LadySaliha/1** which is a photo of the vessel retrieved from open source searches.

At 02:29 minutes during the footage it appears the collision between the two vessels occurs The azimuth reading at this point is 1099 5, I have converted the Azimuth reading into a degree reading and using the VTS playback system, I have drawn a line out with this degree angle. The line will only show an approximate angle at which the collision occurred and not the distance from the camera as the zoom factor is unknown. I have prepared a document which shows a copy of the image from the thermal footage on the left hand side and two screen shots from the VTS system, the right hand side screen shot is a zoomed in version of the image on the left. Both these images have the aforementioned line showing the approximate angle of the collision. **I now tender this in evidence as Exhibit PM/VTS/4.**

Signed: P. Mandleberg Signature Witnessed by:

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At about 40:26 in the video the camera moves to observe a vessel transiting the area, this vessel appears to have a reading of approximately 1668.1 Azimuth, using the VTS playback system and converting the azimuth reading to a degree angle I have been able to identify the vessel and the Mistress, a local service launch owned by shipping company Tarik Limited. **I now tender in evidence Exhibit PM/VTS/5** which is a document which is shows a screen shot from the thermal footage showing the vessel "Mistress" and a screen shot from the VTS playback system illustrating the location and course of the Mistress vessel.

At 55:14minutes on the thermal footage, the customs vessel HMC Seeker is seen to arrive and come alongside the Sir John Chapple and the suspect Rhib. The approximate azimuth reading where this takes place is 1291.6Az. Again using the playback feature I have been able to prepare a document which shows a copy of the VTS image and a screen shot of the thermal image, **I now tender this in evidence as Exhibit PM/VTS/6.**

I then continued with my other duties

Signed: P. Mandleberg Signature Witnessed by:

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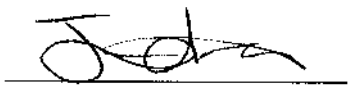
INQUIRY INTO THE RETIREMENT OF

THE FORMER COMMISSIONER OF POLICE

EXHIBIT 45
TO THE SECOND RESPONSIVE AFFIDAVIT OF IAN MCGRAIL

BEFORE ME



A Commissioner for Oaths

James Gerard Oton
Commissioner For Oaths

Date 22/3/24 **Fee pd.**

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

Personnel assigned to the collision at sea incident (Op Kram)

(Identified from data disclosed)

	Officer	Role assigned
1	CoP Ian McGrail	Gold command – overall in charge
2	Supt Paul Richardson	Deputy commander
3	Det Ch Insp John Field	Provisional Senior Investigating Officer
4	Insp Sean Perera	Coroner's Officer
5	Insp Paul Chipolina	Liaison with Spanish law enforcement / media officer
6	Insp Tom Tunbridge	Operations administration / HR/ logistics
7	Det/Sgt Mark Garratt^	CID Officer detailed to establish location of incident
8	Det/Sgt Sam Cottam	CID Officer detailed to establish location of incident
9	DC Stephen Palmer*	Crime Scene Manager (Co-ordinated the forensic evidence gathering from the several scenes)
10	DC Joseph Victory	Crime Scene Investigator
11	DC Manuel Vilerio	CID Officer detailed to conduct several enquiries
12	DC John Victor	CID Officer detailed to conduct several enquiries
13	DC Kyle Golledge	CID officer detailed to conduct several enquiries
14	DC Elias Rahmouni	CID officer detailed to conduct several enquiries
15	PC Natalie Pasano	Family Liaison Officer
16	Ch Insp Nolan Romero	Post Incident Procedure Manager
17	Insp Alex Enriles	Professional Standards
18	PS Maurice Morello	GPF / Welfare
19	Insp Albert Fernandez	GPF / officer in charge of RGP's Marine Section
20	PS Stuart Manfred	Professional Standards

^ I would expect that more detectives from the Crime Division would have assisted in the investigation but I have not been able to identify any others from the documents disclosed.

**Because of the nature of the investigation involving multiple scenes (3 x vessels – RGP interceptor, suspect RHIB and HMC patrol vessel) I would expect in all likelihood that messers Palmer and Victory would have been assisted by two other crime scene investigators but I cannot see them named anywhere in the documents disclosed. I believe the RGP had 5 crime scene investigators at the time and at least two more would have partaken in this investigation.*

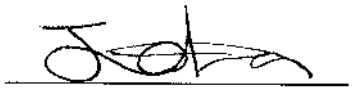
Many of the above mentioned officers continued to support the independent team from the Metropolitan Police Service (MPS) who assumed conduct of the investigation. This assistance was effective during the time the MPS team were in Gibraltar and remained in place after they left until the investigation was concluded.

INQUIRY INTO THE RETIREMENT OF

THE FORMER COMMISSIONER OF POLICE

EXHIBIT 46
TO THE SECOND RESPONSIVE AFFIDAVIT OF IAN MCGRAIL

BEFORE ME



A Commissioner for Oaths

James Gerard Oton
Commissioner For Oaths

Date 22/3/24 Fee pd.

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

Message

From: (MIN) Picardo, Fabian [fabian.picardo@gibraltar.gov.gi]
Sent: 25/06/2019 21:40:44
To: Dr Joey Britto <[redacted]> [redacted]]; Edward Davis (Sensitive) <Edward.Davis@fco.gov.uk> [Edward.Davis@fco.gov.uk]
CC: (RGP) McGrail; Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi> [Ian.McGrail@royalgib.police.gi]; (MIN) Costa; Neil <neil.costa@gibraltar.gov.gi> [neil.costa@gibraltar.gov.gi]
Subject: Re: panorama article

Dear all, Ian,

Needless to say, I have been fully appraised during my time as CM of the progress of this matter. I have supported the actions taken by successive Commissioners in respect of dealing with the aftermath of this matter (but not the actions challenged in Spain). I have no issue with the manner in which past and current CoPs have answered questions on this.

Reality check - we all know what is really behind this type of negative reporting.

Very best wishes - and my fulsome support,

Fabian

Sent from my BlackBerry — the most secure mobile device

From: [redacted]
Sent: 25 June 2019 16:28
To: Edward.Davis@fco.gov.uk
Cc: Ian.McGrail@royalgib.police.gi; fabian.picardo@gibraltar.gov.gi; neil.costa@gibraltar.gov.gi
Subject: Re: panorama article

Commissioner,

We spoke earlier.

It goes without saying that the GPA also fully supports you in the defence of the truth.

Regards

Joey

Sent from my iPhone

On 25 Jun 2019, at 16:11, Edward Davis (Sensitive) <Edward.Davis@fco.gov.uk> wrote:

> Dear Commissioner,

Thank you. Very clear. Let's speak more tomorrow. As ever, you have my full support in defending the truth as it relates to your Force's and your Officers' reputation.

Kind regards,
Ed

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 25 June 2019 16:00
To: Edward Davis (Sensitive) <Edward.Davis@fco.gov.uk>; (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>; (MIN) Costa, Neil <neil.costa@gibraltar.gov.gi>; Director Education <[redacted]>
Subject: FW: panorama article

Dear YE, CM, MoJ, AG and Mr Chairman,

You may have already read the continued rhetoric from Panorama, this time hitting out on the Alcaidesa incident of *circa* 10 years ago. They are claiming the RGP has mislead and covered up the matter of two officers appearing before a Spanish Court in connection with this matter.

For the record, my responses to Panorama have been truthful – the officers concerned hold no criminal record in Spain. The type of sanction they received was cancelled after 6 months from 15th November 2018 when they appeared before the court and in accordance with Spanish law. I am in the process of finding out whether the sanctions are simply regarded as spent or completely wiped off the records. In either case, our officers can safely say that they do not have any criminal record in Spain.

GBC and the Chronicle have also been asking questions of the back of the Panorama report and our response has been the same one we gave Panorama.

Regards
Ian

<image001.jpg>
Ian McGrail *OTM MSc*
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210
<image004.png>
Web: www.police.gi
Follow Us on Twitter: @rgpolice
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<image005.png>

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Please consider the environment before printing this email.

From: (RGP) Payas, Patrick <Patrick.Payas@royalgib.police.gi>
Sent: 25 June 2019 09:41
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: (RGP) Payas, Patrick <Patrick.Payas@royalgib.police.gi>
Subject: panorama article

Sir,

PSA as requested.

Pat

<image001.jpg>

Patrick Payas
Inspector
Staff Officer to the Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **/20043923 / 20048007** Centrex: **2204/2202**
<image006.png>
Web: www.police.gi
Follow Us on Twitter: @rgpolice
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<image005.png>

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Fabian Picardo QC MP
Chief Minister

Office of the Chief Minister
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel:(+350) 20070071
Fax:(+350) 20076396

fabian.picardo@gibraltar.gov.gi

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Office of the Chief Minister

HM Government of Gibraltar

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From: Edward Davis (Sensitive) <Edward.Davis@fco.gov.uk> on behalf of Edward Davis (Sensitive)
Sent: 25 June 2019 16:12
To: (rgp) mcgrail; Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>; (min) picardo; Fabian <fabian.picardo@gibraltar.gov.gi>; (min) costa; Neil <neil.costa@gibraltar.gov.gi>; Director Education <joey.britto@gibraltar.gov.gi>
Subject: RE: panorama article

Dear Commissioner,

Thank you. Very clear. Let's speak more tomorrow. As ever, you have my full support in defending the truth as it relates to your Force's and your Officers' reputation.

Kind regards,
Ed

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 25 June 2019 16:00
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For the record, my responses to Panorama have been truthful – the officers concerned hold no criminal record in Spain. The type of sanction they received was cancelled after 6 months from 15th November 2018 when they appeared before the court and in accordance with Spanish law. I am in the process of finding out whether the sanctions are simply regarded as spent or completely wiped off the records. In either case, our officers can safely say that they do not have any criminal record in Spain.

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Ian

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

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Sent: 25 June 2019 09:41
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Cc: (RGP) Payas, Patrick <Patrick.Payas@royalgib.police.gi>
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Sir,

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Inspector
Staff Officer to the Commissioner of Police

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Tel: (+350) **/20043923 / 20048007** Centrex: **2204/2202**

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Sent: 25 June 2019 16:00
To: Edward Davis (Sensitive) <Edward.Davis@fco.gov.uk>; (min) picardo; Fabian <fabian.picardo@gibraltar.gov.gi>; (min) costa; Neil <neil.costa@gibraltar.gov.gi>; Director Education <joey.britto@gibraltar.gov.gi>
Subject: FW: panorama article

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Ian McGrail ***OTM MSc***
Commissioner of Police

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Please consider the environment before printing this email.

From: (RGP) Payas, Patrick <Patrick.Payas@royalgib.police.gi>
Sent: 25 June 2019 09:41
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: (RGP) Payas, Patrick <Patrick.Payas@royalgib.police.gi>
Subject: panorama article

Sir,

PSA as requested.

Pat

Patrick Payas
Inspector
Staff Officer to the Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) **/20043923 / 20048007** Centrex: **2204/2202**

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From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 10 December 2018 13:36
To: (glo) llamas qc; Michael <michael.llamas_QC@gibraltar.gov.gi>
Subject: RE: OFFICIAL - Alcaidesa incident

Glad it is all over now, but cognisant of the fact that they stuck to their intentions of pursuing the prosecution – a good lesson learnt indeed.

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

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From: (GLO) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi>
Sent: 10 December 2018 13:35
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Subject: RE: OFFICIAL - Alcaidesa incident

Ian, how do you feel about this ? M

Michael Llamas QC
Attorney General

Government Law Offices
HM Government of Gibraltar
40 Town Range
Gibraltar
GX11 1AA

Tel: (+350) 20051118
michael.llamas_QC@gibraltar.gov.gi

www.gibraltar.gov.gi

The Attorney General

HM Government of Gibraltar

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Please consider the environment before printing this email.

From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: Monday, 10 December 2018 13:33
To: (MIN) Costa, Neil <neil.costa@gibraltar.gov.gi>; (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>; (GLO) Llamas QC, Michael <michael.llamas_QC@gibraltar.gov.gi>
Cc: Cathal Yeats (external) <cathal.yeats@royalgib.police.gi>
Subject: OFFICIAL - Alcaidesa incident

Dear all –
Just a quick line to advise you that the prosecution case in Spain arising from the executive action taken in Alcaidesa in the wake of the Cellini armed robbery has concluded. Two serving officers, an ex-officer and two local men appeared before a judge in Algeciras where the case was disposed of via a somewhat administrative method with the 5 defendants accepting pre-determined fines rather than proceeding to a full blown hearing. These fines were dished out as follows;-

Ch Insp [redacted] and Ch Insp [redacted] who faced a charge of civil trespass (no equivalent Gibraltar offence to compare with) were fined 450Euros each.
[redacted] (father in law to Nickey Vinales, proprietor of the residence in Alcaidesa) , who faced a charge of civil trespass was fined 450Euros.
Ex PC [redacted] and [redacted] faced charges of criminal trespass (equivalent of burglary – trespass with intent to steal) were fined 900Euros and 1800Euros respectively.

Total fines amount to 4050Euros

All these convictions will remain on record for a period of 6 months after which they will be regarded as spent. As far as the serving officers are concerned, they were dealt with via the discipline process way back when the incident happened. Therefore, the latest outcome from the Spanish court brings total closer to the matter requiring no further actions locally.

Regards
Ian

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
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From: (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>
Sent: 10 December 2018 13:45
To: (RGP) McGrail, Ian M.Sc (OTM); (MIN) Costa, Neil; (GLO) Llamas QC, Michael
Cc: (RGP) Yeats, Cathal
Subject: Re: OFFICIAL - Alcaidesa incident

Categories: Taegon

Very good news.

Sent from my BlackBerry — the most secure mobile device
From: Ian.McGrail@royalgib.police.gi
Sent: 10 December 2018 13:33
To: neil.costa@gibraltar.gov.gi; fabian.picardo@gibraltar.gov.gi; michael.llamas_QC@gibraltar.gov.gi
Cc: cathal.yeats@royalgib.police.gi
Subject: OFFICIAL - Alcaidesa incident

Dear all –
Just a quick line to advise you that the prosecution case in Spain arising from the executive action taken in Alcaidesa in the wake of the Cellini armed robbery has concluded. Two serving officers, an ex-officer and two local men appeared before a judge in Algeciras where the case was disposed of via a somewhat administrative method with the 5 defendants accepting pre-determined fines rather than proceeding to a full blown hearing. These fines were dished out as follows;-
Ch Insp [redacted] and Ch Insp [redacted] who faced a charge of civil trespass (no equivalent Gibraltar offence to compare with) were fined 450Euros each.
[redacted] (father in law to Nickey Vinales, proprietor of the residence in Alcaidesa) , who faced a charge of civil trespass was fined 450Euros
Ex PC [redacted] and [redacted] faced charges of criminal trespass (equivalent of burglary – trespass with intent to steal) were fined 900Euros and 1800Euros respectively.
Total fines amount to 4050Euros
All these convictions will remain on record for a period of 6 months after which they will be regarded as spent. As far as the serving officers are concerned, they were dealt with via the discipline process way back when the incident happened. Therefore, the latest outcome from the Spanish court brings total closer to the matter requiring no further actions locally.
Regards
Ian

Ian McGrail ***OTM MSc***
Commissioner of Police
New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

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Message

From:	(RGP) McGrail, Ian M.Sc (OTM) [(RGP) McGrail, Ian M.Sc (OTM)]
on behalf of	(RGP) McGrail, Ian M.Sc (OTM) [(rgp) mcgrail, ian m.sc (otm)]
Sent:	04/04/2018 14:39:08
To:	fabian.picardo@gibraltar.gov.gi <fabian.picardo@gibraltar.gov.gi> [fabian.picardo@gibraltar.gov.gi]; (MIN) Costa; Neil <neil.costa@gibraltar.gov.gi> [neil.costa@gibraltar.gov.gi]
CC:	SMT <SMT@royalgib.police.gi> [SMT@royalgib.police.gi]
Subject:	OFFICIAL - SENSITIVE - Meeting with GC Algeciras

Dear All –
This morning I paid a courtesy call on the GC senior command in Algeciras. Accompanying me was Supt Ullger and DS Alman (SB). The basis of the meeting was to introduce myself as the new incoming CoP.
Present at the meeting were the following;-

Jesus Narciso Nunez Calvo – Coronel Jefe de Comandancia
Fernando Lopez-Rey Quintero – Teniente Coronel – Jefe de Operaciones
Jeronimo Pacheco Polo – Comandante – Jefe de Policia Judicial e Informacion
Joaquin Franco Ruiz – Capitan – Schengen Liaison Officers – Jefe de la Unidad Organica de Policia Judicial

We later also met with Alejandro Gamero Rios, Comandante Jefe de Personal y Apoyo.

Nunez Calvo welcomed the RGP contingent and provided a very detailed and contextual account of what he termed to be the areas of most concern to the GC and the Spanish state which could be addressed by mutual co-operation. He was very up to date with the ongoing endeavours to formalise co-operation agreements and even alluded to the agreement signed by the UK and Spanish Governments back in 2000 which he was aware was currently being reviewed. Though cordial in demeanour, Nunez was upfront with very 'Madrid central government' language consistently describing Gibraltar as a *colony* and the term *bi-lateral discussions* on law enforcement matters between Spain and UK featuring prominently in his very well rehearsed address to us. He highlighted the following areas where he felt that mutual co-operation was essential –(i) counter terrorism, (ii) organised crime – anti money laundering, (iii) illegal migration & human trafficking and (iv) tobacco smuggling.

He clearly towed the Spanish State line that Gibraltar is a hive for money laundering yet he was unable to qualify, when challenged, whether he had any specific information we could action upon. He was advocating to embellish and formally recognising the status of liaison officers on both jurisdictions so that mutual co-operation could be progressed – and what he means by this is similar to the way other nations enjoy the status of police liaison officers in each others' jurisdictions. Nunez was all for joint operations to tackle organised criminality but that he needed internal ministry cover. On counter terrorism we were both on completely the same page and I do not envisage any issues at all in this space. He expressed some concern at the challenges both Spain and Gibraltar would be facing (and to an extent they are already facing) in terms of the Straits of Gibraltar being exploited as an illegal migration route - he only saw the situation worsening. He left tobacco smuggling for last and was very critical of the situation and was requesting Gibraltar law enforcement agencies to be more robust in this area.

@ CM-MoJ
I was able to discuss the ongoing prosecution of the two RGP officers and three other Gibraltarians dating back to 2010, unfortunately and infamously remembered as the Alcaidesa incident. They expressed surprise that the matter was still active and would have expected it to have been archived. They have undertaken to enquire from the Fiscalia the reasons why this case has <u>not</u> been archived. Hopefully I will receive some further information by the end of this week but given the interest Panorama is expressing in the matter I ask whether you are satisfied with the responses we have provided. Unfortunately we cannot throw any more light on the matter. However, I remain alive to the potential [political] damage this intended article by Panorama could bring about.

KR
Ian

Ian McGrail *OTM M Sc.*
Commissioner of Police (Designate)

Working Together to make Our Community Safer

Crime & Protective Services Division, New Mole House, Rosia Road, Gibraltar GX11 1AA
☎(office) +350 20072500 Ext 2226 | ☎(mob) [redacted] | w www.police.gi

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Message

From: (NO6) Stuart Green [stuart.green@gibraltar.gov.gi]
Sent: 03/04/2018 15:39:25
To: (RGP) McGrail; Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi> [Ian.McGrail@royalgib.police.gi]
CC: (RGP) Chipolina; Paul <Paul.Chipolina@royalgib.police.gi> [Paul.Chipolina@royalgib.police.gi]; (MIN) Costa; Neil <neil.costa@gibraltar.gov.gi> [neil.costa@gibraltar.gov.gi]; (MIN) Picardo; Fabian <fabian.picardo@gibraltar.gov.gi> [fabian.picardo@gibraltar.gov.gi]
Subject: OFFICIAL - SENSITIVE FW: Press questions

Dear Ian,

As you mentioned a meeting with the GC Colonel tomorrow, I suggested to CM that we should ask Panorama to hold the story for 24 hours in case there were overnight developments. CM agreed with the idea but Panorama say that they plan to run the story tomorrow regardless. If there is a further development, they will then update their story on Thursday. CM therefore suggests that you send your answers to Panorama today – at least you will get your side of the story covered. He is content with all your suggested answers.
Regards,

Stuart

Stuart Green
Senior Press Officer

No.6 Convent Place
HM Government of Gibraltar
No.6 Convent Place
Gibraltar
GX11 1AA

Tel:(+350) 20043057
Centrex:3438/ 2823
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HM Government of Gibraltar

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From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: Tuesday, April 3, 2018 4:00 PM
To: (MIN) Costa, Neil <neil.costa@gibraltar.gov.gi>; (MIN) Picardo, Fabian <fabian.picardo@gibraltar.gov.gi>; (NO6)

Stuart Green <stuart.green@gibraltar.gov.gi>
Cc: SMT <SMT@royalgib.police.gi>; (RGP) Chipolina, Paul <Paul.Chipolina@royalgib.police.gi>
Subject: OFFICIAL - SENSITIVE FW: Press questions

Dear MoJ and CM
I refer to the below email from Panorama who are asking about the pending case before the courts in Spain dating back to 2010 – the Alcaidesa incident.

We are working with the Spanish lawyers behind the scenes to bring about the best outcome for all concerned (the 2 serving officers, Mr Nicky [redacted], his father in law Mr [redacted] and Ex-PC [redacted]. Incidentally, I have also scheduled meeting with the GC Colonel in Algeciras tomorrow morning and was going to sound out his position on the matter then. However, we are basically of the view that any write up which Panorama will come up with will do no favours to the accused given that they have already suggested the case has serious political implications - from this I take that this is the spin they are intending to give their story. The last we would want on this is for it to be politicised. It is indeed a shame if they go down this road, more so in light of the recent less hostile stance expressed by Spain towards Gibraltar. Notwithstanding, I have added [in red] the potential replies we are considering to push out but would seek your views beforehand. We note that Panorama are seeking responses from No 6, The Convent and GPA. The proposed responses are short and factual but we can all anticipate an 'attack' of some sort give their reporting style.

Happy to discuss the matter further if you feel it necessary.

regards
Ian

Ian McGrail *OTM M.Sc.*
Commissioner of Police (Designate)

Royal Gibraltar POLICE
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Crime & Protective Services Division, New Mole House, Rosia Road, Gibraltar GX11 1AA
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From: (RGP) Chipolina, Paul
Sent: 03 April 2018 14:52
To: SMT <SMT@royalgib.police.gi>
Subject: FW: Press questions

Sir

Below email from Panorama refers, to which I have not responded - grateful for direction re: response

Regards

Paul

Paul Chipolina *M.Sc*
Detective Inspector

Royal Gibraltar POLICE
Working Together to make Our Community Safer

Special Branch | Crime & Protective Services Division
New Mole House, Rosia Road, Gibraltar GX11 1AA | T (+350) 20078854 c 2223
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INVESTORS IN PEOPLE | Gold

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From: Douglas [mailto:douglas@panorama.gi]
Sent: 03 April 2018 13:01
To: (RGP) Media
Cc: jason.easter@fco.gov.uk; fabian.picardo@gibraltar.gov.gi; 'Michelle Hook'
Subject: Press questions

Can you confirm that RGP officers (at least two) including one ex-officer as recently as last week, appeared in a Spanish court in San Roque and charged with Spanish (criminal) offences in relation to an incident that goes back to 2010.
The RGP confirms that two of its officers are still undergoing legal proceedings in relation to the incident referred to.
or
Whilst it is true to say that two serving RGP officers attended the San Roque courts last week this was for a procedural matter where they were served with certain documentation.

Can you also confirm if the said case has now been passed to the 'Juzgado Provisional in Algeciras'
This also confirmed
or
The RGP is aware the matter has been passed to Algeciras.

Can you confirm the nature of the charges these officers are answering to the Spanish court(s)?
The RGP officers are facing legal proceedings in respect one count of trespass
or
That remains to be finally determined though it is our understanding they are relatively minor.

Exactly how many serving and non-serving officers are involved?
As per 1st question
or
The RGP can confirm that two serving officers are alleged to have committed offences in Spain

What kind of legal representation are the officers receiving or is available to them?
The officers have a Spanish lawyer representing them and have had so from the outset.

What steps have been taken (if any) by the authorities in Gibraltar at the highest level to ensure the welfare and rights of the officers concerned have been upheld at all times and not abused, considering this case/incident occurred 8 years ago?
The matter is being closely followed by officials in Gibraltar. The officers have been afforded the necessary support. As the matter is sub-judice we would not wish to comment any further.
or
As we have previously answered, the officers are in receipt of the necessary legal representation. This encompasses a watching brief on the respect for their rights. The RGP's welfare procedures have and remain in place for the officers concerned

*As you can appreciate this issue is not only of important public interest but also has serious political implications and why we would appreciate a prompt reply.

Best Regards

Douglas Cumming

Gibraltar Panorama
gibnews@panorama.gi
Tel: 20079797

INQUIRY INTO THE RETIREMENT OF

THE FORMER COMMISSIONER OF POLICE

EXHIBIT 47

TO THE SECOND RESPONSIVE AFFIDAVIT OF IAN MCGRAIL

BEFORE ME

A Commissioner for Oaths

James Gerard Oton
Commissioner For Oaths

Date 22/3/24 **Fee** ~~pd.~~

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

From: (RGP) Field, John
Sent: 11 February 2020 08:20
To: (RGP) McGrail, Ian M.Sc (OTM); (RGP) Ullger, Richard
Subject: FW: GPF LETTER REPLY INSPECTORS
Attachments: GPF LETTER REPLY INSPECTORS.doc

FYI

From: (RGP) Fernandez, Albert
Sent: 10 February 2020 08:09
To: (RGP) Field, John ; (RGP) Olivera, John (Insp) ; (RGP) Lutkin, John (PS023) ; (RGP) Desoiza, Jonothan (Insp) ; (RGP) Chipolina, Paul ; (RGP) Barker, Paul (PS018) ; (RGP) Tunbridge, Thomas ; (RGP) Fernandez, Albert ; (RGP) Perera, Sean ; (RGP) Quigley, Dylan ; (RGP) Goldwin, Craig (Insp) ; (RGP) Wyan, Mark
Subject: GPF LETTER REPLY INSPECTORS

Gentlemen

Please find attached the response from our Federation Chairman. I look forward to receiving your comments regarding the said.

Albert Fernandez
Police Inspector
Special Operations

Gibraltar Police Federation
Unit 1.12
Retrenchment Block
PO Box. 1325
Gibraltar
GX11 1AA
Tel: +350 200 50199
Centrex: 2284
Email: chair@gibpolfed.org

Subject – Inspector/Chief Inspectors letter to GPF

Date: 07/02/2020

Dear Mr Fernandez,

Thank you for your letter received on 4th February 2020.

Let me put you at ease that the Gibraltar Police Federation did not endorse the Panorama article when it reposted this on Facebook. The point of our post was to highlight how independent the GPF was when their Chairman and Secretary were being investigated when acting in their capacity as convenors.

We spoke at the Board meeting about the wording that was used in the caption to introduce the Facebook post which we agreed could have been worded differently. It was also agreed to share with other Board members any post that could be controversial, before uploading to Facebook. This however does not mean that we will not be challenging the organisation when necessary.

The Panorama article makes mention of HE, HMGoG and the GPA. The GPF does not agree with any of the comments made against the above. In fact, a couple of days later we had a meeting which had already been scheduled with the GPA. The Panorama article was not on the agenda but I thought it appropriate to bring the matter up and reinforce the fact that we did not endorse the comments of the Panorama. Our relationship with the GPA is very good, and they are 100% supportive of the GPF.

Our relationship with HMGoG is also very good, who I can confirm are 100% behind the GPF.

I must reinforce again that the GPF did not at any point approach the Panorama newspaper. It was the organisation that fed the information to the Panorama and as a result the article was published.

You make mention in your letter to "airing dirty laundry" in public and keeping things "in house". Unfortunately, sometimes matters have to be made public, in order to get results. The GPF survey that has been shared with the media for the past two years is a clear example of this. As a result of this going public, and external pressures, we are finally seeing some of the issues raised by our members in the survey being dealt with.

The fact that we have aired this matter in the media has also given us the unexpected support of the three local trade unions which I have never seen before in my policing career.

Their may be a perception between members that the relationship between the GPF and Command is not good and things are not progressing. This is not true and I can inform you that we are working closely with Command on issues such

as morale, bullying, the grievance procedure, wellbeing, and the conditions of service, which needs to be revamped completely.

You did not mention in your letter, but we did discuss in the Board meeting that the Inspector/ Chief Inspectors felt they were being "forgotten" and "not backed up". This cannot be further from the truth. It is difficult to keep all members happy but both myself and the Secretary strive to work for all members not only for the Constable and Sergeants rank.

If there are any Inspectors that wish to speak to me directly, you can inform them that they can call me 24/7, I am always open to any suggestions that might improve the way that we do our business.

For sake of clarity, I would like to inform the Inspectors/ Chief Inspectors that in my nearly 21 years of service, I have never been disciplined. In my term as Chairman, I have received a written warning for an exchange of emails with senior command in relation to the Gift fund and two reg 9 notices, the last one after the latest Facebook post.

The Secretary also has an unblemished discipline record in his years as a police officer. During his term as Secretary, he has also received a written warning and has been served with two reg 9 notices.

When you meet up at a later date and discuss the matter with the Inspectors / Chief Inspector I would be grateful to know what the general feeling is amongst them in relation to this.

Yours sincerely

Maurice Morello
Chairman

21:12

Gibraltar Police Fede...
97 posts

Posts Replies Media Likes

Gibraltar Polic... · 14/02/2020

Thank you @Euro_COP for your continued support.

In fact, yesterday, the GPF Board, @RGPolice Commisioner of Police @CoPlanMcGrail, @ACRichardUllger and Command Team, had a very productive meeting regarding their future working relationship and how this could be achieved.



The new Chairman of the Royal Gibraltar Police Federation, Maurice Morello, has said that he is prioritising combating top-down bullying within the force, something a recent survey has highlighted as a big problem.

Nigel Dennis Head of Office and Spokesperson for EuroCOP said:

"It is always extremely disappointing to observe when employer, employee representatives are reported as being hostile and fractious.

"There is a real risk of a breakdown in employee relations as is the case within the Royal Gibraltar Police relating to allegations of alleged institutional bullying.

"The debate which has recently been widely publicised in the Gibraltar media

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 28 February 2020 12:23
To: Federation Chairman; Federation Secretary
Cc: (RGP) Ullger, Richard
Subject: FW: OFFICIAL - Terms of Reference for review

Gents – many thanks for this morning's contribution to the subject matter. I am happy that we have agreed to the common terms of reference for the review. For the record these are as follows:-

"To provide independent support to the RGP Commissioner of Police and Gibraltar Police Federation (GPF) by examining and advising on the differing standpoints between the GPF and RGP of the current [Federation] model and make recommendations to afford clarification on roles of the parties to ensure a better understanding of each of their respective positions in terms of their working relationship and responsibilities"

We also mentioned that before we proceed to engage the review team that there consensus between us in accepting the outcomes and any recommendations arising from the review as binding - we agreed this.

We further agreed on the desired composition of the review team as follows;-

A UK PFEW National Board representative
A UK PFEW Regional Board Chair or Secretary
A senior police officer ACC rank or above
A senior police officer of either the States of Jersey of Police, Guernsey Police of Isle of Man Police (to bring the small island context to the review team).

Finally, we agreed that I would email HMI Matt Parr and seek his assistance in putting together the members of the said review team.

Wishing you all a good weekend
regards

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

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Please consider the environment before printing this email.

From: (RGP) McGrail, Ian M.Sc (OTM)
Sent: 27 February 2020 14:10
To: 'Federation Chairman'
Cc: (RGP) Ullger, Richard ; Federation Secretary
Subject: RE: OFFICIAL - Terms of Reference for review

Dear Mr Chairman
Many thanks for sharing the GPF's proposed TORs for the review.

Below please find mine. I have included two versions for discussion tomorrow. You will note that the final version will bear very similar resemblance to both our proposals.

Version 1
"To provide independent support to the RGP Commissioner of Police and Gibraltar Police Federation (GPF) by examining and advising on the differing standpoints between the GPF and RGP of the current [Federation] model and make recommendations to afford clarification on roles of the parties to ensure a better understanding of each of their respective positions in terms of their working relationship."

Version 2
"To provide independent support to the RGP Commissioner of Police and Gibraltar Police Federation (GPF) by examining and advising on the differing standpoints between the GPF and RGP of the current [Federation] model and make recommendations to afford clarification to each of the parties to ensure a better understanding of each of their respective positions."

Reasonable questions to ask from the review team in my view are also the following;

- The [GPF] model operated - is this like the UK National Board or more like a UK Branch Board?
- Which is the most appropriate model to apply when read with the extant regulations and the Gibraltar jurisdictional context (size of force, membership of the GPF etc) ?
- The extent the GPF should be independent from the RGP. Eg Any limitations? Governance arrangements? Communicating with Trade Unions etc
- The status of the two full time post holders of Chair and Sec *viz* their positions in the organisation & GPF. Eg Should they be the same as the other 6 GPF Board members or be treated differently *viz* code of ethics and standards of professional behaviour?
- Opinion on the ToC's as you ask in your proposal.

I look forward to a constructive meeting tomorrow.
Regards

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

Royal Gibraltar POLICE
Delivering a Safer Gibraltar through Excellence in Policing

PROJECT SERVATOR
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Please consider the environment before printing this email.

From: Federation Chairman <chair@gibpolfed.org>
Sent: 27 February 2020 12:09
To: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Cc: (RGP) Ullger, Richard <Richard.Ullger@royalgib.police.gi>; **Federation Secretary** <secretary@gibpolfed.org>
Subject: RE: OFFICIAL - Terms of Reference for review

Sir,

After consulting with the Board the following TOR have been identified:

1. Clarity on the independence of GPF
2. Discipline [acting in the capacity as convenors] which also encompasses how and if Board members can be disciplined when GPF makes a "controversial" decision as a Board
3. Deployment of convenors by SMT
4. Outreach to Media
5. Events

The Convenors TOC'S [as supplied] is what we essentially wish to achieve.

Kind Regards

Maurice Morello
Chairman

Gibraltar Police Federation
Unit 1.12 Retrenchment Block
PO Box 1325
Gibraltar
GX11 1AA

Centrex: 2284
Tel: +350 20050199
Mob: +350 56327000

Email: chair@gibpolfed.org

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From: (RGP) McGrail, Ian M.Sc (OTM) <Ian.McGrail@royalgib.police.gi>
Sent: 24 February 2020 15:00
To: Federation Chairman <chair@gibpolfed.org>; Federation Secretary <secretary@gibpolfed.org>
Cc: Command Team <CommandTeam@royalgib.police.gi>
Subject: OFFICIAL - Terms of Reference for review

Gents –
I refer to our meeting of 13th February where we agreed to arrange for an independent review to clarify our differing standpoints which we accepted were contributing to a deteriorating relationship between the command team and yourselves. In this regard I suggest that we exchange ideas of what the terms of this review should entail before proceeding any further.

Could I ask that we exchange our respective proposed TORs by close of play this coming Thursday 27th February and then convene to meet to discuss these on Friday 28th February @ 0930Hrs.

Regards

Ian McGrail ***OTM MSc***
Commissioner of Police

New Mole House, Rosia Road, Gibraltar, GX11 1AA
Tel: (+350) 20072500 Centrex: 2210

Web: www.police.gi
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INQUIRY INTO THE RETIREMENT OF

THE FORMER COMMISSIONER OF POLICE

EXHIBIT 48
TO THE SECOND RESPONSIVE AFFIDAVIT OF IAN MCGRAIL

BEFORE ME

A Commissioner for Oaths

James Gerard Oton
Commissioner For Oaths

Date 22/3/24 Fee pd.

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

RE: Personal Tax and Social Insurance

Sat, 10/08/2022 11:10 AM

From: [ianmcgrail[redacted]
To: ["'(NO6) Grech, Darren'" <darren.grech@gibraltar.gov.gi>]
Bcc: ["Charles@gomezco.gi" <charles@gomezco.gi>, "Nick@gomezco.gi" <nick@gomezco.gi>]

Sent: 07 October 2022 10:37
To: ianmcgrai[redacted]
Subject: Re: Personal Tax and Social Insurance

Dear Ian,

I hope you are well. I apologise for the delay in communicating with you.

At no point did I agree with you that your pension would be exempt from income tax. In this respect, I refer to your email of 11 May 2021 at 10.05, where, in fairness to you, you noted that it was your understanding that your pension would not accrue tax payments and not that we had reached such agreement.

I therefore consider the matter closed.

With best wishes,

Darren

Darren Grech
Chief Secretary
HM Government of Gibraltar
No 6 Convent Place
Gibraltar

Darren Grech
Chief Secretary

Office of the Chief Secretary
HM Government of Gibraltar
No.6 Convent Place
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Tel: +(350) 20051752
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HM Government of Gibraltar

Office of the Chief Secretary

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Darren Grech
Chief Secretary

Office of the Chief Secretary
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Gibraltar
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HM Government of Gibraltar

Office of the Chief Secretary

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[redacted]

Re: Request for meeting with Ch Sec

Mon, 11/28/2022 04:59 PM

From: [Ian McGrail [redacted]
To: ["[No6] CS Mailbox" <cs@gibraltar.gov.gi>]

Dear Giselle -
Many thanks. However, the response is surprising given that I have been in correspondence with the Chief Secretary since May 2021 and he had repeatedly assured me that my matter was close to being resolved, only to write back recently saying that the matter was now closed which I understand to mean that I will not have my personal tax status amended.

It is absolutely right that every interaction including meetings should be disclosed to the Inquiry because I have nothing to hide and I would expect for the Chief Secretary to be in the same position.

The record shows that the Chief Secretary was well disposed to accepting the change to my tax status as we both agreed in June 2020, so I can only imagine that somebody has put pressure on him to change his position. The Chief Secretary is the Government's top civil servant & is required to act independently of political influence. I will therefore be passing this sorry state of affairs to my legal team for use as they consider best and also bring it to the Inquiry's attention without delay.

I am sorry that it has come to this because I had held the Chief Secretary in high esteem personally but perhaps he might reconsider his position. I also reserve all my rights

Kind regards
Ian

Sent from my iPhone

> On 28 Nov 2022, at 15:27, [No6] CS Mailbox <cs@gibraltar.gov.gi> wrote:

Dear Ian

Please note that the Chief Secretary will not be able to meet with you whilst the inquiry is ongoing. At present any meeting that he holds with you and whatever is discussed is disclosable.

Regards
Giselle

From: Ian McGrail [redacted]
Sent: 15 November 2022 13:28
To: [No6] CS Mailbox <cs@gibraltar.gov.gi>
Subject: Fwd: Request for meeting with Ch Sec

You don't often get email from [redacted] Learn why this is important

Dear Giselle -
My email below of 2nd November 2022 refers.

Could you please advise me whether you have been able to fix a date/time for the meeting I have requested with Mr Grech.

Kind regards
Ian

Sent from my iPhone

Begin forwarded message:

> **From:** Ian McGrail [redacted]
> **Date:** 2 November 2022 at 08:07:39 CET
> **To:** "[No6] CS Mailbox" <cs@gibraltar.gov.gi>
> **Subject: Re: Request for meeting with Ch Sec**
>
> Dear Giselle -
> I am wondering whether you have been able to find a slot for me to meet with the Chief Secretary.
> Best wishes
> Ian
>
> Sent from my iPhone
>
> > On 19 Oct 2022, at 17:52, Ian McGrail [redacted] > wrote:
> >
> > Dear Giselle -

Many thanks for your response.
I await to hear from you at your earliest convenience.
Best wishes
Ian

Sent from my iPhone

> On 19 Oct 2022, at 17:03, [No6] CS Mailbox <cs@gibraltar.gov.gi> wrote:
>
> Dear Ian
>
> As per our telecom this morning I would like to acknowledge receipt of your emails.
>
> Unfortunately the Chief Secretary's diary is quite full this week with him being away from Gibraltar next week. Please note that once he returns to the office we will endeavour to find a suitable date and notify you of said details.
>
> Regards
> Giselle
>
> **From:** Ian McGrail [redacted]
> **Sent:** 17 October 2022 08:52
> **To:** [No6] CS Mailbox <cs@gibraltar.gov.gi>
> **Subject:** Fwd: Request for meeting with Ch Sec
>
> > You don't often get email from [redacted] Learn why this is important
>
> I refer to my email below of last week (10th October 2022) requesting a meeting with the Chief Secretary.
>
> I have not received a response to my email which is why I am chasing you to enquire whether a time/date has been arranged for the meeting.

Sincerely
Ian McGrail

Sent from my iPhone

Begin forwarded message:

From: [redacted]
Date: 10 October 2022 at 09:18:00 CEST
To: cs@gibraltar.gov.gi
Subject: Request for meeting with Ch Sec

Good morning –
I phoned the Chief Sec's personal secretary a few moments ago on 20051752 seeking an appointment to meet with the Chief Sec, Mr Darren Grech.

I have been asked to email this address to request this meeting and provide a brief explanation of why I am seeking the meeting.

I have been in communication with Mr Grech since May 2021 regarding a personal matter related to my income tax and social insurance status post to my retirement from public service in June 2020. Mr Grech is fully up to speed with my case. I emailed him on Saturday 8th October 2022 informing him that I would be contacting his office to arrange for this meeting.

I look forward to receiving a time/date to attend.

Best wishes
Ian McGrail

[redacted]

INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

EXHIBIT LB1 TO THE
AFFIDAVIT OF LEWIS BAGLIETTO
DATED 27 MARCH 2024

This is the Exhibit marked "LB 1" referred to in the Affidavit of Lewis Baglietto.

at 13/15 Giro's Passage, Gibraltar

This 27TH day of MARCH 2024

Before me,

.....

COMMISSIONER FOR OATHS
Jenssen Paul Ellul
Commissioner for Oaths
13/15 Giro's Passage, Gibralta

"LB 1"

From: Lewis Baglietto QC
Sent: 01 June 2020 14:53
To: '(GLO) Rocca, Christian'
Subject: RE:

Dear Chris,

Many thanks for your e-mail.

As confirmed on the telephone, I'll come round to your offices at 2.30 pm tomorrow.

Best wishes,

Lewis

From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: 01 June 2020 14:09
To: Lewis Baglietto QC <lewis.baglietto@hassans.gi>
Subject:

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Lewis,

Further to our brief telecon last week, does Tuesday or Wednesday at 2.00pm work for you? You could attend at the OCPL offices and I can show you the redacted portions as discussed and on the understanding that the information is not shared with any other person unless the court orders that those parts be provided to you.

Best regards,

Christian

Sent from my iPhone

Christian Rocca QC
Director of Public Prosecutions

Office of Criminal Prosecutions & Litigation
Government Law Offices
HM Government of Gibraltar
6th Floor, Natwest House
57/63 Line Wall Road
Gibraltar
GX11 1AA

Tel: (+350) 200 78882
Centrex: 2730
christian.rocca@gibraltar.gov.gi

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"LB 1"

From: (GLO) Rocca, Christian <christian.rocca@gibraltar.gov.gi>
Sent: 12 June 2020 14:28
To: Lewis Baglietto QC

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Lewis,

Called you but you were at lunch I believe. Can you please give me a call when you have a moment?

Best regards,

Christian

INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

EXHIBIT "LB2"

This is the Exhibit marked "LB2" referred to in the Second Affidavit of Lewis Baglietto.

SWORN by the above-named deponent

At MADISON BUILDING Gibraltar

This 3 day of May 2024

Before me,

COMMISSIONER FOR OATHS

Jeevan Daswani
Barrister-at-Law & Acting Solicitor
Commissioner for Oaths

"LB2" Hassans International Law Firm

Telecons LB/CR 27/5.

am. CR says Mays ct - not recorded. Maybe written
Despite ~~diff~~ operational differences thinks warrant [illegible]
But agrees no risk of destruction/concealment.
once JL ~~and~~ is interviewed if that happens will impact
on ability to withhold disclosure. RGP wanted a blanket
PII objection. In light of caselaw CR pushed back on
LB asked what was evidence. CR said some text that
messages. ~~CR said~~ with care and ones. JL needs to
be given the chance to respond. CR doesn't read
those texts as "maliciously" as others, but understands
there are some q's to be answered. He thinks J has clear
answer; Not involved in details of the many deals he's
asked to take part in. Finger in every pie. So what if friend
of CM. ~~That's~~ Not a crime to talk to CM.
LB asked if we could be shown redacted paras.
CR understood that no prejudice if JL had access to
his emails/texts and LB said Richardson had confirmed
JL could refresh his memory. (PTO am cont'd)

pm: we discussed LB giving undertaking re: not discussing TC sections
if shown. CR said he'll ask RGP, but could sit with LB + show him anyway

- ~~what~~ show draft statement

- What precisely is being alleged
- We'll answer that?

- How can ~~be~~ you steal if ~~you~~ ~~be~~ JG
wanted to do a deal and you
were more than happy to bow out.
Didn't need this hassle.
(Defend / counter-attack)

CM, ~~the~~ said that ~~what~~ he did not think enough
aid on J at moment to go to jury.
still had to tick box and pursue line of
enquiry as otherwise risked abuse arguments
eg, why didn't you pursue that line of
enquiry
"We are trying to square the circle;
we've made the enquiries"
That said, CR thinks there are reasonable
grounds to enquire - even tho answers
will negate this.

LB said what offence? Interfering/ poaching
not enough

CR said inclined to agree / initial reaction
But s.o. in Chambers had found
something in Archbold that said that
sharp business practice may be sufficient.

~~[illegible]~~ Time sensitivity with statement,
as warrant only valid for 30 days

"LB2"

TYPED-UP VERSION OF LB NOTE OF TELECON WITH DPP ON 27/05/20

Telecons LB/CR 27/5

a.m.
CR says Mags Ct not recorded. Maybe written ruling.
Despite ~~diff~~ operational differences thinks warrant lawful
But agrees no risk of destruction/concealment
Once JL is interviewed if that happens will impact on ability to withhold disclosure.
RGP wanted a blanket PII objection.
In light of caselaw CR pushed back on that.
LB asked what was evidence.
CR said some text messages ~~CR said~~ with Cane [sic] and others. JL needs to be given chance to respond.
CR doesn't read those texts as "maliciously" as others, but understands there are some q's to be answered
He thinks J *[JL]* has clear answer; Not involved in details of the many deals he's asked to take part in. Finger in every pie.
So what if friend of CM. ~~That's~~ Not a crime to talk to CM.
LB asked if we could be shown redacted paras.
CR understood that no prejudice if JL had access to his e-mails/texts and LB said that Richardson had confirmed JL could refresh his memory (PTO am contd)

p.m we discussed LB giving undertaking re: not discussing TC sections if shown. CR said he'll ask RGP, but could sit with LB and show him anyway

---

- ~~What~~ Show draft statement

- What precisely is being alleged. We'll answer that?

- How can he you steal if JG wanted to do a deal and you were more than happy to bow out.

- Didn't need this hassle.

[Defend -/counter-attack]

[TURN PAGE]

CM/ [*SIC*] He said that he did not think enough evid*[ence]* on J at moment to go to jury.
Still had to tick box and pursue line of enquiry as otherwise risked abuse arguments.
Eg/ Why didn't you pursue that line of enquiry
"We are trying to square the circle; We've made the enquiries"
That said, CR thinks there are reasonable grounds to enquire – even tho*[ugh]* answers will negate this.

LB said what offence? Interfering/poaching not enough

CR said inclined to agree/initial reaction
But s.o. *[someone]* in Chambers had found something in Archbold that said that sharp business practice may be sufficient

~~Re: was~~ Time sensitivity with statement as warrant only valid for 30 days